

Prior to the commencement of the meeting, the Mayor will make the following declaration:

“I acknowledge the Tasmanian Aboriginal Community as the traditional custodians of the land on which we meet today, and pay respect to elders, past and present”.

The Mayor also to advise the Meeting and members of the public that Council Meetings, not including Closed Meeting, are audio-visually recorded and published to Council’s website.

COUNCIL MEETING
TUESDAY 14 JUNE 2016

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BUSINESS TO BE CONDUCTED AT THIS MEETING IS TO BE CONDUCTED IN THE ORDER IN WHICH IT IS SET OUT IN THIS AGENDA UNLESS THE COUNCIL BY ABSOLUTE MAJORITY DETERMINES OTHERWISE

COUNCIL MEETINGS, NOT INCLUDING CLOSED MEETING, ARE AUDIO-VISUALLY RECORDED AND PUBLISHED TO COUNCIL’S WEBSITE

1. APOLOGIES

Nil.

2. CONFIRMATION OF MINUTES

(File No 10/03/01)

RECOMMENDATION:

That the Minutes of the Council Meeting held on 23 May 2016, as circulated, be taken as read and confirmed.

3. MAYOR'S COMMUNICATION**4. COUNCIL WORKSHOPS**

In addition to the Aldermen's Meeting Briefing (workshop) conducted on Friday immediately preceding the Council Meeting the following workshops were conducted by Council since its last ordinary Council Meeting:

PURPOSE	DATE
Budget Matters	
TasWater Proposal for Distribution Capping	30 May
IT Systems Replacement	
Local Government Act Review	6 June

RECOMMENDATION:

That Council notes the workshops conducted.

5. DECLARATIONS OF INTERESTS OF ALDERMAN OR CLOSE ASSOCIATE (File No)

In accordance with Regulation 8 of the Local Government (Meeting Procedures) Regulations 2015 and Council's adopted Code of Conduct, the Mayor requests Aldermen to indicate whether they have, or are likely to have a pecuniary interest (any pecuniary benefits or pecuniary detriment) or conflict of interest in any item on the Agenda.

6. TABLING OF PETITIONS

(File No 10/03/12)

(Petitions received by Aldermen may be tabled at the next ordinary Meeting of the Council or forwarded to the General Manager within seven (7) days after receiving the petition.

Petitions are not to be tabled if they do not comply with Section 57(2) of the Local Government Act, or are defamatory, or the proposed actions are unlawful.

The General Manager will table the following petitions which comply with the Act requirements:

7. PUBLIC QUESTION TIME

Public question time at ordinary Council meetings will not exceed 15 minutes. An individual may ask questions at the meeting. Questions may be submitted to Council in writing on the Friday 10 days before the meeting or may be raised from the Public Gallery during this segment of the meeting.

The Chairman may request an Alderman or Council officer to answer a question. No debate is permitted on any questions or answers. Questions and answers are to be kept as brief as possible.

7.1 PUBLIC QUESTIONS ON NOTICE

(Seven days before an ordinary Meeting, a member of the public may give written notice to the General Manager of a question to be asked at the meeting). A maximum of two questions may be submitted in writing before the meeting.

Questions on notice and their answers will be included in the minutes.

Nil.

7.2 ANSWERS TO QUESTIONS ON NOTICE

The Mayor may address Questions on Notice submitted by members of the public.

Nil.

7.3 ANSWERS TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil.

7.4 QUESTIONS WITHOUT NOTICE

The Chairperson may invite members of the public present to ask questions without notice.

Questions are to relate to the activities of the Council. Questions without notice will be dependent on available time at the meeting.

Council Policy provides that the Chairperson may refuse to allow a question on notice to be listed or refuse to respond to a question put at a meeting without notice that relates to any item listed on the agenda for the Council meeting (note: this ground for refusal is in order to avoid any procedural fairness concerns arising in respect to any matter to be determined on the Council Meeting Agenda).

When dealing with Questions without Notice that require research and a more detailed response the Chairman may require that the question be put on notice and in writing. Wherever possible, answers will be provided at the next ordinary Council Meeting.

8. DEPUTATIONS BY MEMBERS OF THE PUBLIC

(File No 10/03/04)

(In accordance with Regulation 38 of the Local Government (Meeting Procedures) Regulations 2015 and in accordance with Council Policy, deputation requests are invited to address the Meeting and make statements or deliver reports to Council)

9. MOTIONS ON NOTICE

Nil.

10. REPORTS FROM OUTSIDE BODIES

This agenda item is listed to facilitate the receipt of both informal and formal reporting from various outside bodies upon which Council has a representative involvement.

10.1 REPORTS FROM SINGLE AND JOINT AUTHORITIES

Provision is made for reports from Single and Joint Authorities if required

Council is a participant in the following Single and Joint Authorities. These Authorities are required to provide quarterly reports to participating Councils, and these will be listed under this segment as and when received.

- **SOUTHERN TASMANIAN COUNCILS AUTHORITY**
Representative: Ald Doug Chipman, Mayor or nominee

Quarterly Reports

March Quarterly Report pending.

Representative Reporting

- **COPPING REFUSE DISPOSAL SITE JOINT AUTHORITY**
Representatives: Ald Jock Campbell
(Ald Peter Cusick, Deputy Representative)

Quarterly Reports

March Quarterly Report pending.

The Copping Refuse Disposal Site Joint Authority has distributed the Quarterly Summary of its Meetings for the period ending 31 May 2016.

Representative Reporting

- **SOUTHERN WASTE STRATEGY AUTHORITY**
Representative: Ald Richard James
(Ald Sharyn von Bertouch, Proxy)

Quarterly Reports

September and March Quarterly Reports pending.

Representative Reporting

- **TASWATER CORPORATION**



Copping Refuse Disposal Site Joint Authority

27 May 2016

Mr A Paul
General Manager
Clarence City Council
P O Box 96
ROSNY PARK TAS 7018

Mr Robert Higgins
General Manager
Tasman and Sorell Councils
P O Box 126
SORELL TAS 7172

Mr Gary Arnold
General Manager
Kingborough Council
Locked Bag 1
KINGSTON TAS 7050

Dear General Manager,

COPPING REFUSE DISPOSAL SITE JOINT AUTHORITY REPORTS

Participating Councils and the Director of Local Government have reached agreement on the establishment of consistent reporting arrangements for the Authority. The following advice regarding matters discussed at recent Authority and Board meetings is now provided for inclusion in your General Manager's routine report to your Council.

Authority Meeting held on 26 May 2015

- The Minutes of the Authority's General Meeting held on 25 February 2016 were accepted.
- The Minutes of the Authority's electronic meetings held on 29 March 2016 and 26 April 2016 were accepted.
- The Minutes of the Southern Waste Solutions Board for meetings held on 17 February 2016, 23 March 2016 and the electronic meeting 7 April 2016 were noted.
- The March 2016 Quarterly Report was presented and accepted.
- An updated Strategic Plan (2016/17 – 2020/21) was noted and endorsed.
- The Business Plan 2016/17 – 2018/19 and Budget 2016/17 was noted and endorsed.
- The Contractual, Statutory and other obligations report was noted and endorsed.
- The new technology update was received and noted.
- An application for a new Leasehold Certificate of Title was approved.
- A report detailing proposed amendments to the Authority's Rules was received and endorsement given to commence the approval process.
- An update on the C Cell Project was provided and a number of issues discussed.

.....
Copping Refuse Disposal Site Joint Authority trading as **SOUTHERN WASTE SOLUTIONS**

Level 4, 29 Elizabeth Street, Hobart
Mobile: +61 0418 990 868 E-Mail: inelson@nelsonhr.com.au
ABN: 87 928 486 460



Copping Refuse Disposal Site Joint Authority

(**Note:** Minutes of meeting of the Authority may be tabled in open Council meeting unless they contain confidential material. Given its commercial in confidence content The Quarterly Report, Business Plan, Budget and Contractual, Statutory and other obligations reports are requested to be tabled in Closed Meeting). Any Closed Meeting items considered by the Authority should also be tabled only in Closed Meeting of Council.

Board Meeting held on 17 February 2016

Matters dealt with:

- The Minutes of the Board meeting held 16 December 2015 and the minutes of electronic meetings held on 20 January 2016 and 29 January 2016 were accepted.
- The Monthly Operational Overview and Financial Report for January 2016 was received and noted.
- A Balanced Scorecard report was provided and noted.
- An Investment Policy was endorsed (as amended) and recommended to the Authority for approval.
- A proportionate payment request was endorsed for communication to each Participating Council.
- The Board requested that the Secretary review the CEO's contract and the performance review form.

Board Meeting held on 23 March 2016

Matters dealt with:

- The Minutes of the Board meeting held 17 February 2016 were accepted.
- The Monthly Operational Overview and Financial Report for February 2016 was received and noted.
- Draft budget was provided by the CEO and noted by the Board.
- A draft Strategic Plan was discussed.
- The CEO's contract of employment was discussed including renewal, including matters related to the renewal.
- The Board resolved to conduct a skills assessment to determine the likely future skills required by the Board.
- The proportionate payment request was reconsidered due to changed circumstances.

.....
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Copping Refuse Disposal Site Joint Authority

- The Board authorised the CEO to negotiate the replacement of the walking floor with Break-O-Day Council.

Electronic Board Meeting held on 7 April 2016

Matters dealt with:

- Approval for the CEO to purchase a second-hand generator for the Lutana Waste Transfer Station to ensure energy security at the site.

(Note: As minutes of meetings of the Board are commercial in confidence it is requested that these be held on file and may be perused by Aldermen / Councillors but not tabled at Council meetings)

Yours sincerely,

Ian Nelson
Secretary

.....
Copping Refuse Disposal Site Joint Authority trading as **SOUTHERN WASTE SOLUTIONS**

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10.2 REPORTS FROM COUNCIL AND SPECIAL COMMITTEES AND OTHER REPRESENTATIVE BODIES

EVENTS SPECIAL COMMITTEE

CLARENCE JAZZ FESTIVAL

Chairperson's Report – June 2016 (Mayor Doug Chipman)

Clarence Jazz Festival Report 2016

Council's premier event the Clarence Jazz Festival held its 20th consecutive festival in February showcasing 130 musicians and 18 dancers including an 18 piece big band from Sydney, who offered their performance for the cost of accommodation only.

The Clarence Jazz Festival momentum is growing and we now have solid evidence that interstate supporters return each year from Queensland and New South Wales. The positive reactions of people to Clarence City Council presenting 8 days of mostly free entertainment in beautiful surroundings is prodigious.

The Events Special Committee is working on ways to leverage the popularity of the festival to help promote other assets in Clarence such as Kangaroo Bay and Richmond. In 2016 we lay claim to the name: Clarence Jazz Festival – Tasmania's Home of Jazz.

The following is a breakdown of times, venues and attendance and comments on the event.

Date and Time	Where	Estimated Attendance	Comments
Sunday, 21 February 6 till 8pm	Calverton Oval, South Arm	300	Peninsula residents fully supported the opportunity for a cultural event at South Arm. Council partnered with SAPRA who provided the bbq and bar and community hall facilities.
Monday, 22 February 6 till 8pm	Montagu Bay Primary School Oval	300	This was the first time the festival has been held at a school after being approached by the Parents and Friends Association who provided the bbq and bar and access to school facilities.
Tuesday, 23 February 6 till 8pm	Simmons Park, Lindisfarne	280	The new stage at Simmons Park was very well received by the audience. Bellerive Rotary provided the bbq and bar.
Wednesday, 24 February 6 till 8pm	Rosny Farm	180	Rain kept audience numbers down and the performance was moved from the grass indoors to the Barn.
8 till 10	Jazz Lounge	120	At capacity.
Thursday, 25 February 6 till 8pm	Rosny Farm	200	Strong wind and predicted rain meant the outdoor performances were moved to the Barn.
8 till 10	Jazz Lounge	120	At capacity.

Friday, 26 February 6 till 9.30pm	Bellerive Boardwalk	700	Youth night – always attracts families and a younger audience.
6.30 till 8.30 pm	Jazz Lounge	100	Ticketed event.
9 till 11.30pm		120	Free event.
Saturday, 27 February 3 till 9.30	Bellerive Boardwalk	2500	Perfect conditions saw the Boardwalk operating at capacity.
2 till 4pm	Jazz Lounge	70	Free event
6.30 till 8.30pm		100	Ticketed event
9 till 11.30pm		80	Free event
Sunday, 28 February 1 till 6	Bellerive Boardwalk	1200	Cold and windy weather kept the numbers down on finale day.

The following table highlights the Clarence Jazz Festival within the context of the Events Plan.

Action		What we Did	The Future
1:3	Work with volunteer groups were appropriate	Worked with: Sandford Scouts and Rovers Hobart Jazz Club Rotary Club of Bellerive SAPRA Montagu Bay Parents and Friends Association	We have an on-going relationship with some of these groups and the venues will dictate who we invite to join us during the Twilight Concerts.
1:5	Aim to provide events in different locations across the city	Concerts at: South Arm Montagu Bay Lindisfarne Rosny Farm Bellerive Boardwalk	The Twilight Concerts provide us with the opportunity to move the festival into different suburbs or towns each year.
1:7	Collaborate with Marketing and Communication to increase awareness of all events and activities taking place city-wide	<ul style="list-style-type: none"> • 12,000 programs distributed around Clarence, greater Hobart, the LINC and Jazz Club's state-wide • Program on Council's website and each separate concert on the Arts and Events website • Increased Facebook presence prior and during the festival. We also had: <ul style="list-style-type: none"> • 200 posters distributed • Arts and Events eNews • Press ads in ESS/Hobart Observer/The Mercury 	Plan to review the marketing strategy including the production and distribution of printed material.

		<ul style="list-style-type: none"> • Road signs • Convenor Ald Heather Chong interviewed on ABC Radio • Southern Cross Network TV and Radio ads 	
1:8	Maintain a strong and relevant presence with social media prior, during and post Council events	<ul style="list-style-type: none"> • Daily posts of photos or video snippets. • Began an Instagram account specifically for Jazz Festival photos. 	Increased “Likes” and “Follows”.
1:9	Develop methods of community interaction with our social media, ie down-loading photos from events onto our Facebook page	<ul style="list-style-type: none"> • Facebook photos that we “tag” with a musicians name are shared and liked, creating an immediate interest. 	The statistics demonstrate that people respond well to the photo albums of each concert. We will investigate how we can leverage and expand on this.
2:1	Access marketing budget to advertise in state and national tourism magazines those activities in the City Events and Rosny Farm programs which will attract visitors into the City	<ul style="list-style-type: none"> • ad on the Campervan and Motorhome website • State Cinema advertising • Press Ad in Australian Seniors magazine • Southern Cross Network reduced fees for TV and radio ads 	Refer 1.7
2:2	Continue to build good relationships with “The Mercury” (via reporters) and local publications for increased editorial	<ul style="list-style-type: none"> • Two editorials in “The Mercury” • Editorial in Eastern Shore Sun and Hobart Observer 	Find a strategic approach to increase “The Mercury’s” support prior and during the festival.
2:3	Determine how people heard about the event and where they are from	<p>310 people filled out a survey:</p> <p>48% are Clarence residents 26% from greater Hobart 5% are interstate visitors Average age is 52.5</p>	Most people surveyed already know the festival is on. Road signs, press ads, web and social media were high on the list of how people heard about it.
2:6	Use the Clarence Jazz Festival as a tool to market the city nationally	Refer to 2.1	Increase the national campaign and package more reasons to come to Clarence during the Jazz Festival i.e. golf courses, Richmond, wineries, Bellerive Oval.

3:1	Provide performance opportunities at as many Council events as possible for individuals, schools, bands and community art groups	Council hired: 107 local musicians 25 interstate musicians 18 dancers The Festival Ambassador did 3 workshops with young people; - the 2 Scholarship students - Clarence High School - Rosny College and 2 private lessons.	Maintain a strong focus on local artist and content.
3:3	Ensure an element of professional development is evident at the Jazz Festival	The Scholarship program provided free tuition in improvisation for 6 months. The 2 recipients then workshoped and rehearsed before performing at the Boardwalk on Friday night.	Continue the scholarship program, and showcase “where are now” in 2017.
3:5	Support professional artists through programs such as the Clarence Jazz Festival Artist in Residence	Local composer Kelly Ottaway was commission to write the <i>Clarence Jazz Suite</i> .	Make use of Clarence Jazz Suite wherever possible.
4:2	Develop strong relationships with organisations and individuals that have an interest in events and continue to foster good relationships with sponsors and promoters, and seek out new opportunities	Sponsors and supporters were: <ul style="list-style-type: none"> • Southern Cross • Veolia • Captain Bligh, Pagan Cider and Bream Creek Vineyard • Hobart Jazz Club • 96.1 • ABC Radio 	Currently our sponsors are media partners or businesses involved directly in the festival. Sponsorship is increasingly hard to secure and Council should consider carefully what messages it is prepared to relinquish for sponsorship dollars i.e. not naming rights.
4:6	Continue to grow the Clarence Jazz Festival as the city’s signature event	Presented a strong program attended by approximately 7,000 people	Use the 2017 21 st birthday celebration to leverage national advertising for Clarence.

Summary

The Events Special Committee endorsed a number of recommendations for the 2017 Clarence Jazz Festival including:

- Increase the program, the number of venues, and interstate artists to create a very special 21st birthday celebration of the Clarence Jazz Festival.
- Develop new marketing strategy that uses the Clarence Jazz Festival as a tool to market the city's attractions ie golf courses, wineries, Richmond and Bellerive Oval.

In 2017 the Festival will be held from 18 to 26 February inclusive.

RECOMMENDATION:

That the Chairperson's Report be received by Council.

11. REPORTS OF OFFICERS

11.1 WEEKLY BRIEFING REPORTS

(File No 10/02/02)

The Weekly Briefing Reports of 23 and 30 May and 6 June 2016 have been circulated to Aldermen.

RECOMMENDATION:

That the information contained in the Weekly Briefing Reports of 23 and 30 May and 6 June 2016 be noted.

11.2 DETERMINATION ON PETITIONS TABLED AT PREVIOUS COUNCIL MEETINGS

Nil.

11.3 PLANNING AUTHORITY MATTERS

In accordance with Regulation 25 (1) of the Local Government (Meeting Procedures) Regulations 2015, the Mayor advises that the Council intends to act as a Planning Authority under the Land Use Planning and Approvals Act 1993, to deal with the following items:

11.3.1 DEVELOPMENT APPLICATION D-2016/122 - 58 CAMBRIDGE ROAD, BELLERIVE - CHANGE OF USE TO OFFICE AND ADDITION
(File No D-2016/122)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for a Change of Use to “Office” and Deck additions at 58 Cambridge Road, Bellerive.

RELATION TO PLANNING PROVISIONS

The land is zoned Particular Purpose 4 – Kangaroo Bay (village) and subject to the Parking and Access, Waterway and Coastal Protection and Inundation Prone Areas Codes under the Clarence Interim Planning Scheme 2015 (the Scheme). In accordance with the Scheme the proposal is a Discretionary development.

LEGISLATIVE REQUIREMENTS

The report on this item details the basis and reasons for the recommendation. Any alternative decision by Council will require a full statement of reasons in order to maintain the integrity of the Planning approval process and to comply with the requirements of the Judicial Review Act and the Local Government (Meeting Procedures) Regulations 2015.

Council is required to exercise a discretion within the statutory 42 day period which was extended with the consent of the applicant until 15 June 2016.

CONSULTATION

The proposal was advertised in accordance with statutory requirements and 1 representation was received raising the following issues:

- access for building works and the need for an indemnity;
- storage of building materials on adjoining land without approval and impact on marine slipway; and
- balcony appears to encroach onto adjoining land.

RECOMMENDATION:

- A. That the Development Application for a Change of Use to Office and an addition at 58 Cambridge Road, Bellerive (Cl Ref D-2016/122) be approved subject to the following conditions and advice.
1. GEN AP1 – ENDORSED PLANS.
 2. The development must meet all required Conditions of Approval specified by TasWater notice dated 30 March 2016 (TWDA 2016/00377-CCC).
- B. That the details and conclusions included in the Associated Report be recorded as the reasons for Council’s decision in respect of this matter.

DEVELOPMENT APPLICATION D-2016/122 - 58 CAMBRIDGE ROAD, BELLERIVE - CHANGE OF USE TO OFFICE AND ADDITION /contd...

ASSOCIATED REPORT**1. BACKGROUND**

No relevant background.

2. STATUTORY IMPLICATIONS

2.1. The land is zoned Particular Purpose 4 – Kangaroo Bay (Village) under the Scheme.

2.2. The land is covered by the Coastal Inundation Hazard Area and Waterway and Coastal Protection Area codes. The proposal meets the Acceptable Solutions for both Codes and therefore they are not relevant to the assessment of the application.

2.3. The proposal is discretionary because it does not meet certain Acceptable Solutions under the Scheme.

2.4. The relevant parts of the Planning Scheme are:

- Section 8.10 – Determining Applications;
- Section 10 – Particular Purpose 4 – Kangaroo Bay (Village) Zones; and
- Section E6.0 – Parking and Access Code.

2.5. Council's assessment of this proposal should also consider the issues raised in any representations received, the outcomes of the State Policies and the objectives of Schedule 1 of the Land Use Planning and Approvals Act, 1993 (LUPAA).

3. PROPOSAL IN DETAIL

3.1. The Site

The site is a 164m² commercial lot which contains an existing butcher shop on the ground level fronting Cambridge Road and a dwelling on the first floor. At the rear of the title boundary is an area of land that adjoins the slip yard associated with the Bellerive Yacht Club (BYC).

The existing building is located within the strip of shops located on the western side of Cambridge Road and shares a common wall with both shops on either side.

3.2. The Proposal

The proposal is for a Change of Use for the ground floor from shop to “Office”. The proposal is also for additions consisting of a deck on the western elevation of both the proposed office and the existing dwelling. The proposal includes the extension of a wall on the northern elevation to meet the building requirements relating to fire separation.

The western elevation of the building facing Kangaroo Bay is proposed to be refurbished and includes the addition of full-length windows and glazed doors on both floors.

There are no changes proposed to the exterior of the building fronting Cambridge Road except for a new glazed door to replace the existing door.

4. PLANNING ASSESSMENT

4.1. Determining Applications [Section 8.10]

“8.10.1 In determining an application for any permit the planning authority must, in addition to the matters required by s51(2) of the Act, take into consideration:

- (a) all applicable standards and requirements in this planning scheme; and*
- (b) any representations received pursuant to and in conformity with ss57(5) of the Act;*

but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised”.

Reference to these principles is contained in the discussion below.

4.2. Compliance with Zone and Codes

The proposal meets the Scheme's relevant Acceptable Solutions of the Particular Purpose 4 – Kangaroo Bay (Village) Zone and Parking and Access Codes with the exception of those described below.

Particular Purpose 4 – Kangaroo Bay (Village) Zone

Clause	Standard	Acceptable Solution (Extract)	Proposed
35.4.3 A1	Setbacks	The development complies with a three-dimensional building envelope described within an approved plan of subdivision.	There is no three-dimensional building envelope described within an approved plan of subdivision.

The proposed variation can be supported pursuant to the following Performance Criteria.

Performance Criteria	Comment
(a) Setbacks from frontages to the boardwalk and Kangaroo Bay Drive and to be sufficient to contain activities within development forecourts.	The site is adjoined to the west by Crown owned land which contains the slipway for the Bellerive Yacht Club and therefore does not have a frontage to the boardwalk.
(b) Setbacks between buildings are sufficient to allow for view corridors through and beyond the area.	The existing building has common walls with building on both the northern and southern elevations which do not allow view corridors through and beyond the area. The proposal will not change the existing situation.

5. REPRESENTATION ISSUES

The proposal was advertised in accordance with statutory requirements and 1 representation was received. The following issues were raised by the representor.

5.1. Access for Building Works and the Need for an Indemnity

The representor is concerned that the building works may require access across the adjoining property which contains the Bellerive Yacht Club (BYC) and this may require a license agreement and indemnity in favour of the BYC in the event of any personal injury or property damage.

- **Comment**

The above concerns are not relevant to the consideration of the planning application and are matters for the owners of the subject and adjoining property to resolve if necessary.

5.2. Storage of Building Materials on Adjoining Land without Approval and Impact on Marine Slipway

The representor is concerned that the building works may require storage on land containing the Bellerive Yacht Club (BYC).

- **Comment**

Again, this is not relevant to the application.

5.3. Balcony Appears to Encroach onto Adjoining Land

The representor is concerned that the decks appear to encroach over the land containing the Bellerive Yacht Club.

- **Comment**

The proposal plans show all proposed works contained within the title boundaries.

6. EXTERNAL REFERRALS

The proposal was referred to TasWater, which has provided a number of conditions to be included on the planning permit if granted.

7. STATE POLICIES AND ACT OBJECTIVES

7.1. The proposal is consistent with the outcomes of the State Policies, including those of the State Coastal Policy.

7.2. The proposal is consistent with the objectives of Schedule 1 of LUPAA.

8. COUNCIL STRATEGIC PLAN/POLICY IMPLICATIONS

There are no inconsistencies with Council's adopted Strategic Plan 2010-2015 or any other relevant Council Policy.

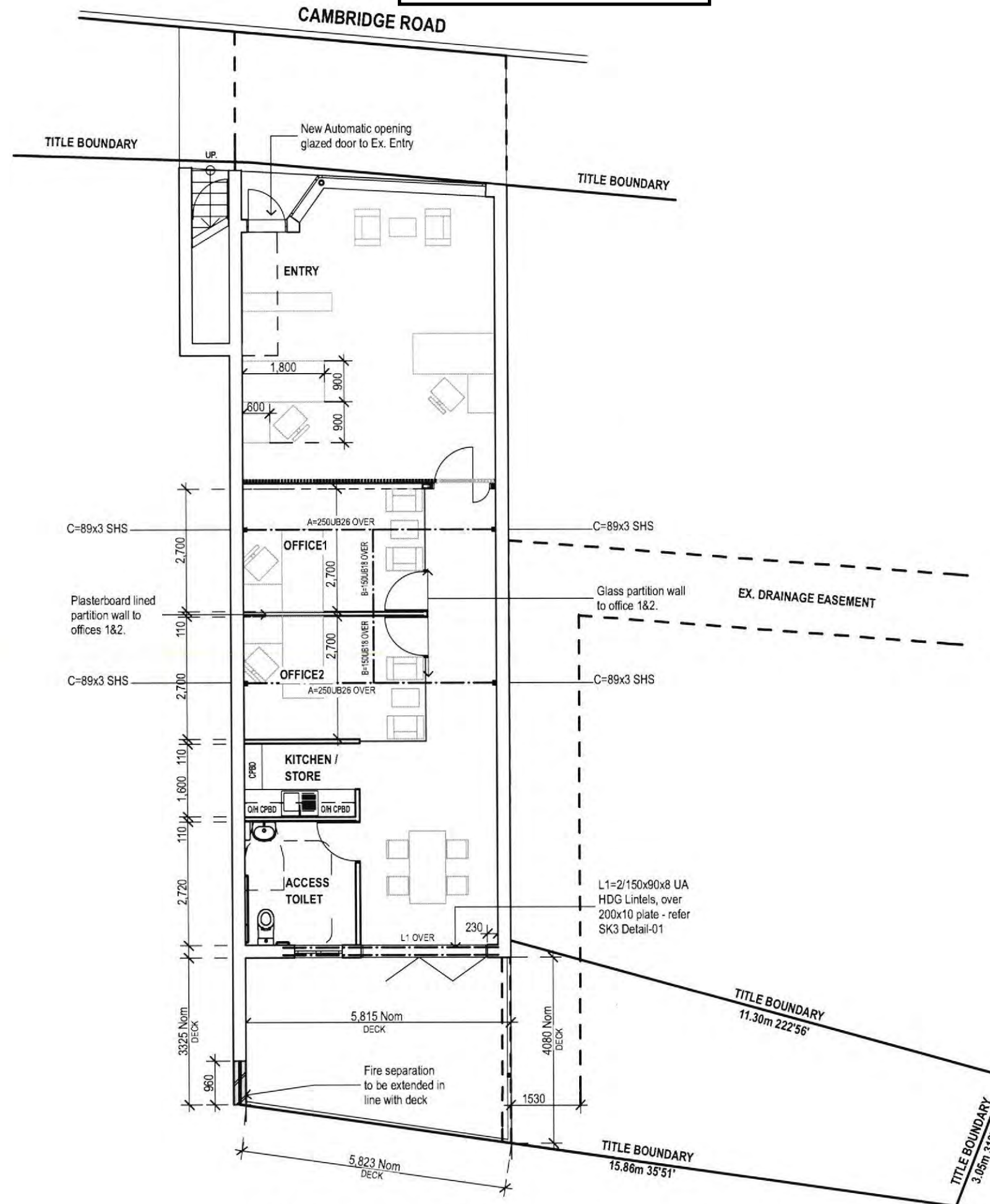
9. CONCLUSION

The proposal for a Change of Use to "Office" and Deck additions is recommended for approval.

Attachments: 1. Location Plan (1)
2. Proposal Plan (4)
3. Site Photo (1)

Ross Lovell
MANAGER CITY PLANNING

Attachment 2



A Issue for demolition 15-04-16
Status/Rev Issue Date

Project Name
**Cambridge Road
Office / Apartment**

Address
**60 Cambridge Road
Bellerive**

Client
Craig Bligh

Drawing Title
**Proposed Ground
Floor Plan**

Status Drawing No. Revision
D 400 A

DO NOT SCALE DRAWING
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Plot Date
19/04/2016
Project No.
1601
Scale @ A3:
1:100
NORTH

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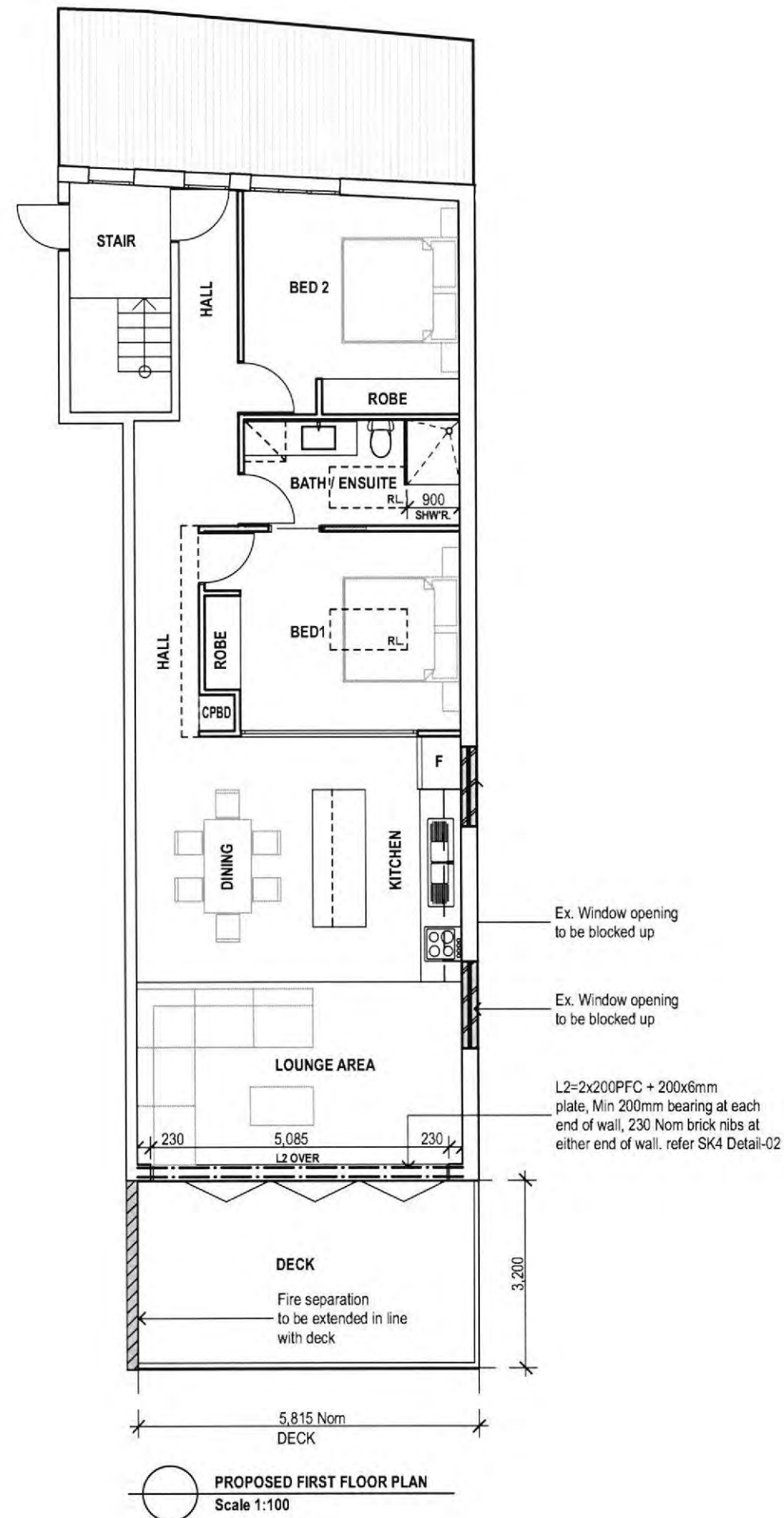
25 Arthur St
North Hobart, 7000

PO Box 114
North Hobart, 7002

abn. 300474080443

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A	Issue for demolition	15-04-16
Status/Rev	Issue	Date

Project Name	Cambridge Road Office / Apartment
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Address	60 Cambridge Road Bellerive
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Client	Craig Bligh
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Drawing Title	Proposed First Floor Plan
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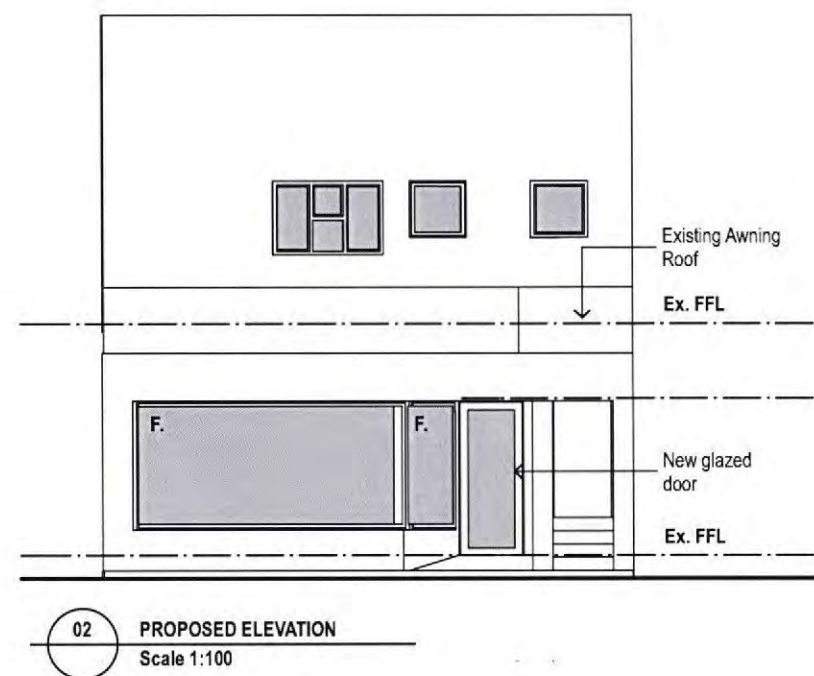
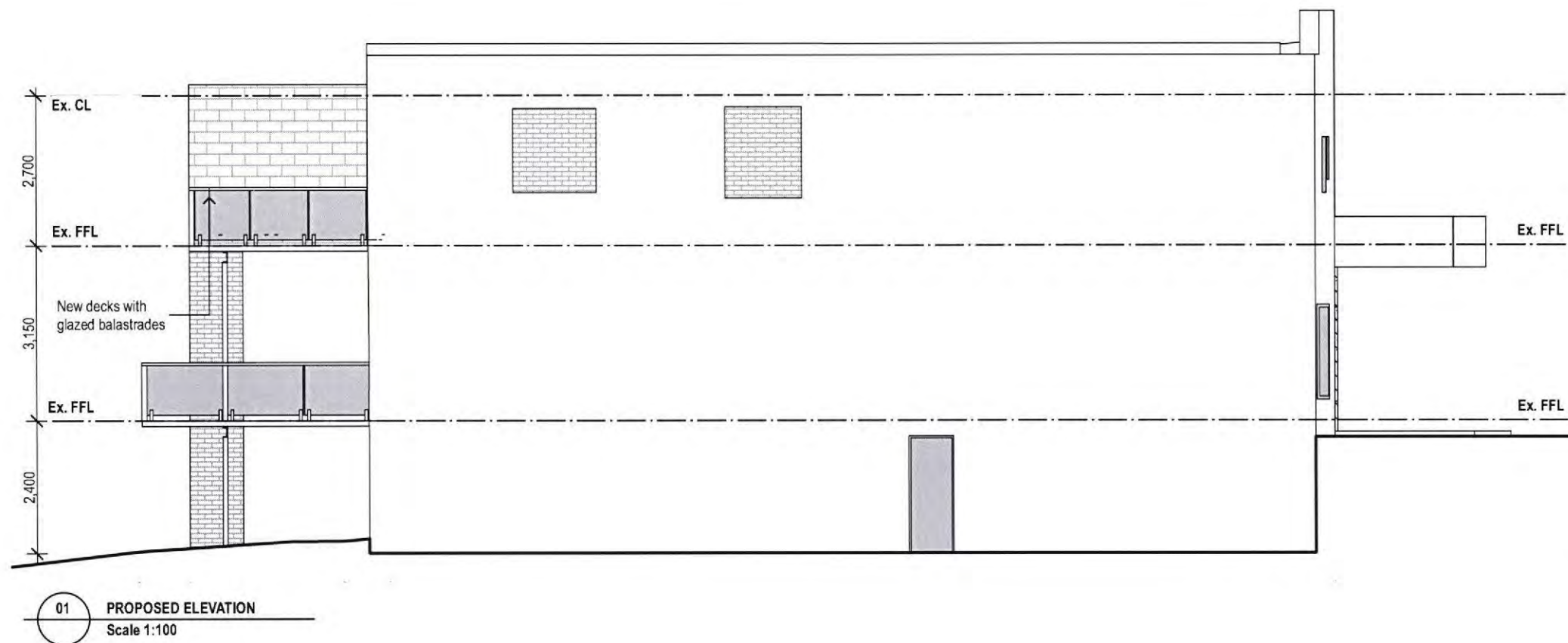
Status	D	Drawing No.	401	Revision	A
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Project No.	1601	
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A Amend deck 08-04-16
Status/Rev Issue Date

Project Name
**Cambridge Road
Office / Apartment**

Address
**60 Cambridge Road
Bellerive**

Client
Craig Bligh

Drawing Title:
**Proposed Elevation
Sheet 1**

Status	Drawing No.	Revision
D	500	A

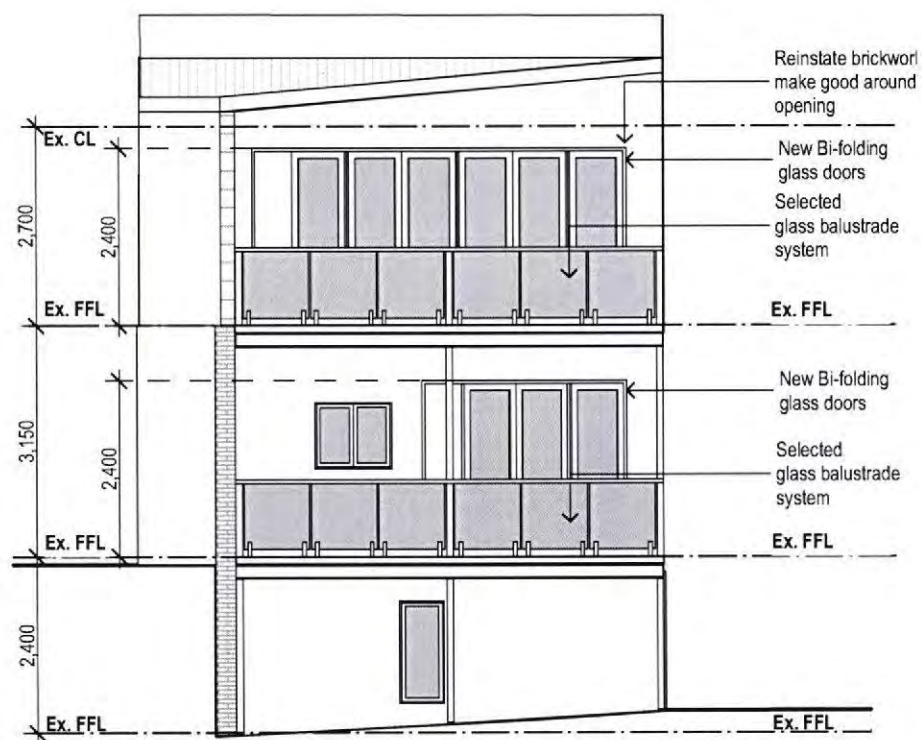
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Plot Date: 19/04/2016	
Project No. 1601	
Scale @ A3: 1:100	

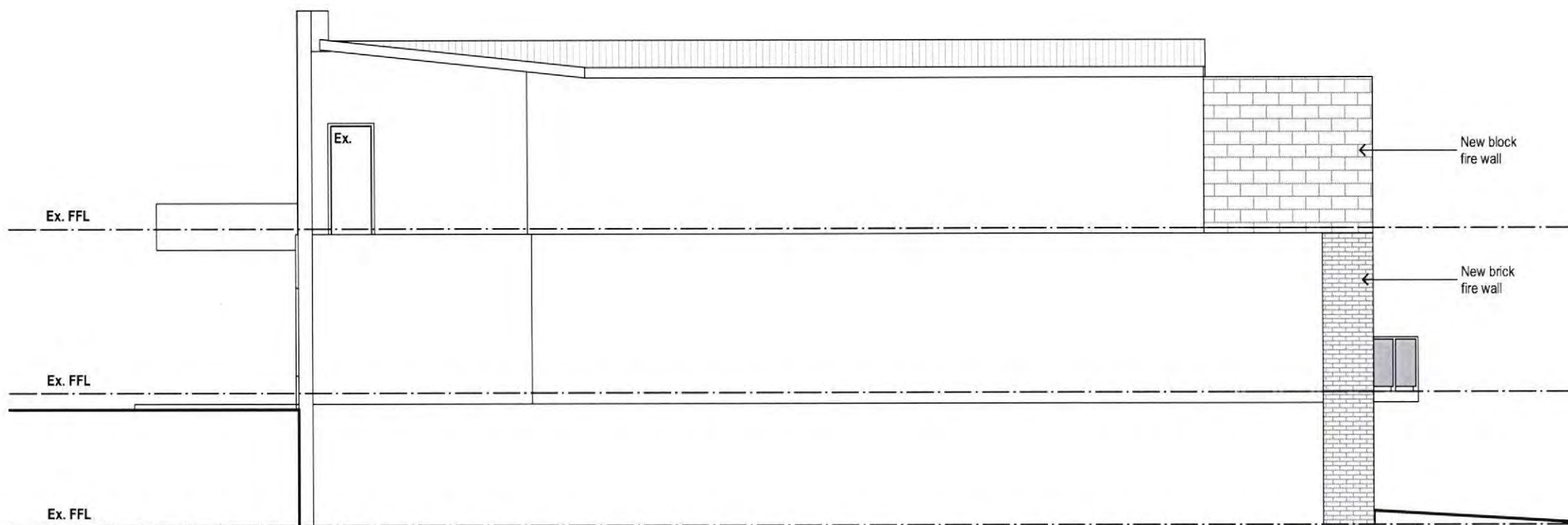
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03 PROPOSED ELEVATION
Scale 1:100



04 PROPOSED ELEVATION
Scale 1:100

B	Amend openings	15-04-16
A	Amend deck	08-04-16
Status/Rev	Issue	Date

Project Name
**Cambridge Road
Office / Apartment**

Address
**60 Cambridge Road
Bellerive**

Client
Craig Bligh

Drawing Title
**Proposed Elevations
Sheet 2**

Status	Drawing No.	Revision
D	501	B

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Project No: 1601	
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Attachment 3

58 Cambridge Road, BELLERIVE



Site viewed from Cambridge Road, looking west

11.3.2 DEVELOPMENT APPLICATION D-2016/154 - 13 NORTH TERRACE, LAUDERDALE - DEMOLITION AND ADDITIONS TO RESTAURANT
(File No D-2016/154)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for demolition and additions to the Restaurant at 13 North Terrace, Lauderdale.

RELATION TO PLANNING PROVISIONS

The land is zoned Open Space and subject to the Waterway and Coastal Protection, Inundation Prone Areas, Coastal Erosion Hazard and Parking and Access codes under the Clarence Interim Planning Scheme 2015 (the Scheme). In accordance with the Scheme the proposal is a Discretionary development.

LEGISLATIVE REQUIREMENTS

The report on this item details the basis and reasons for the recommendation. Any alternative decision by Council will require a full statement of reasons in order to maintain the integrity of the Planning approval process and to comply with the requirements of the Judicial Review Act and the Local Government (Meeting Procedures) Regulations 2015.

Council is required to exercise a discretion within the statutory 42 day period which was extended with the consent of the applicant until 16 June 2016.

CONSULTATION

The proposal was advertised in accordance with statutory requirements and 2 representations were received raising the following issues:

- lack of car parking;
- development encroaching the walkway and parked cars blocking access to the path;
- long opening hours result in loss of amenity from noise;
- security alarm going off at night;
- demolition of the sandstone wall and the proposed metal screen; and
- vegetation clearing.

RECOMMENDATION:

A. That the Development Application for demolition and additions to the Restaurant at 13 North Terrace, Lauderdale (CI Ref D-2016/154) be approved subject to the following conditions and advice.

1. GEN AP1 – ENDORSED PLANS.
2. ENG M5 – EROSION CONTROL.
3. All new development must be located wholly within the title boundaries of the site.

4. The opening hours must be in accordance with the permit for D-1994/252.
 5. The development must meet all required Conditions of Approval specified by TasWater notice dated 14/04/2016 (TWDA 2016/00475).
- B. That the details and conclusions included in the Associated Report be recorded as the reasons for Council's decision in respect of this matter.

ASSOCIATED REPORT

1. BACKGROUND

The restaurant was first approved on the subject property in 1994. Prior to this the building was used as dwelling and also as a post office for many years. The planning permits issued for the site include the following:

- D-1994/147 – Extensions to Restaurant, approved 15 August 1994;
- D-1994/252 – Increased hours of operation, approved 28 November 1994;
- D-2011/314 – Additions to Restaurant, approved 16 January 2011;
- D-2015/147 – Alterations to Restaurant, approved 2 June 2015 but not commenced; and
- D-2015/311 – Additions to Restaurant, approved 9 September 2015 but not commenced.

2. STATUTORY IMPLICATIONS

2.1. The land is zoned Open Space under the Scheme.

2.2. The use is discretionary in the zone, however, it has permitted status in accordance with Clause 9.2 of the Scheme which provides that proposals for a use classed as Discretionary in the Use Table, must be considered as permitted if the proposal for development does not establish a new use or substantially intensify the use.

The proposal does not increase the existing and approved dining area on the site and therefore is considered to meet this Scheme provision.

- 2.3.** The site is covered by the Parking and Access Code, Waterway and Coastal Protection Code, Inundation Areas Code and the Coastal Erosion Hazard Codes.
- 2.4.** The development meets the Acceptable Solutions for the Inundation Areas Code, however, is discretionary as it requires variations under the Parking and Access, and Coastal Erosion Hazard Codes. The proposal is exempt under the Waterway and Coastal Protection Code as the site is connected to reticulated sewer.
- 2.5.** The relevant parts of the Planning Scheme are:
- Section 8.10 – Determining Applications;
 - Section 10 – Open Space Zones;
 - Section E6.0 – Parking and Access Code; and
 - Section E16.0 – Coastal Erosion Hazard Code.
- 2.6.** Council's assessment of this proposal should also consider the issues raised in any representations received, the outcomes of the State Policies and the objectives of Schedule 1 of the Land Use Planning and Approvals Act, 1993 (LUPAA).

3. PROPOSAL IN DETAIL

3.1. The Site

The site is contained within CT 130220/1 and has an area of 941m². The site is located on the northern bank of the Ralphs Bay Canal and contains a restaurant which has operated on the site for around 20 years. The site contains 5 car parking spaces contained within the lot boundaries.

The site is surrounded by Open Space zoned land which includes a public walkway along the canal banks. The existing dining area overhangs a small part of the footway which is noted on the title for the site.

3.2. The Proposal

The proposal is to demolish the western section of the building which includes the kitchen, storerooms and bar area and rebuild with a different layout and an increase in the floor area from 107m² to 123m².

The proposal includes a new, covered, delivery and storage area, 38m² in area and located to the west of the building which is accessed through timber and steel gates.

The new section of the Restaurant will be clad in a combination of cement sheeting and steel cladding.

The existing dining area is to remain and a 60m² deck is shown on the eastern and northern elevation of the dining area. A 60m² deck was approved in Stage 2 of D-2011/314 but could not be constructed until the site was connected to the reticulated sewer system. Although this deck is included in the proposal plans, a deck of the same size in the same location and with a similar configuration has already been approved and therefore the additional floor area of the deck cannot be considered in the assessment of this application, particularly when considering car parking requirements.

The existing area under the dining room is to be screened with steel mesh to provide secure storage and prevent vermin inhabitation.

The entrance to the restaurant will be altered to provide for a ramp from North Terrace Road.

The existing hours of operation approved by D-1994/252 are not proposed to be changed and allow the restaurant to be open within the following times:

Monday: 9am to 9pm;

Tuesday to Thursday: 9am to 10pm;

Friday to Saturday: 9am to 12am (Midnight); and

Sunday: 8am to 9pm.

4. PLANNING ASSESSMENT

4.1. Determining Applications [Section 8.10]

“8.10.1 In determining an application for any permit the planning authority must, in addition to the matters required by s51(2) of the Act, take into consideration:

- (a) all applicable standards and requirements in this planning scheme; and*
- (b) any representations received pursuant to and in conformity with ss57(5) of the Act;*

but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised”.

Reference to these principles is contained in the discussion below.

4.2. Compliance with Zone and Codes

The proposal meets the Scheme’s relevant Acceptable Solutions of the Open Space Zone and the Parking and Access and Coastal Erosion Hazard Codes with the exception of the following.

Open Space Zone

Clause	Standard	Acceptable Solution (Extract)	Proposed
19.4.2 A1	Setback	Building setback from frontage must be no less than 5m.	The proposed building will be located 260mm to the northern boundary.

The proposed variation can be supported pursuant to the Performance Criteria P1 of the Clause 19.4.2 for the following reason.

Performance Criterion	Comment
Building setback from frontage must satisfy all of the following: (a) be consistent with any Desired Future Character Statements provided for the area;	There are no Desired Future Character Statements for this zone.
(b) enhance the characteristics of the site, adjoining lots and the streetscape.	The existing building has an awning extending to within 760mm of the northern boundary and an outdoor dining area located up to this boundary. The walls of the proposed building step out to 260mm from the northern boundary for a distance of 5.5m and then step in to follow the line of the walls of the existing building. The roof continues to the boundary to provide for a covered ramp and entrance to the restaurant. The proposal is to replace part of the existing building with a building of similar proportions and setback to the street. On this basis, the proposal is not considered to have a detrimental effect on the characteristics of the site, adjoining lots and the streetscape.

Clause	Standard	Acceptable Solution (Extract)	Proposed
19.4.3	Landscaping	Landscaping along the frontage of a site must be provided to a depth of no less than 2m.	The applicant has proposed creeper vegetation on the concrete walls located on the front boundary. The remainder of the site contains existing landscaping which extends up to the site boundaries which are to be retained.

The proposed variation can be supported pursuant to the Performance Criteria P1 of the Clause 19.4.3 for the following reason.

Performance Criterion	Comment
Landscaping must be provided to satisfy all of the following: (a) enhance the appearance of the development;	The existing restaurant has minimal landscaping between the building and the road frontage and the outdoor eating area is located right up to the boundary. Sandstone walls are located along the boundary, in front of the restaurant. As the remainder of the site has a large amount of vegetation along the frontage and the existing vegetation between the building and frontage is minimal, the proposal is considered to meet the Performance Criteria.
(b) provide a range of plant height and forms to create diversity, interest and amenity;	The existing vegetation on the site has a range of plant height and forms.
(c) not create concealed entrapment spaces;	The proposal will not result in concealed spaces.
(d) be consistent with any Desired Future Character Statements provided for the area.	There are no Desired Future Character Statements provided for the area.

Parking and Access Code

Clause	Standard	Acceptable Solution (Extract)	Proposed
E6.6.1 A1	Number of car parking spaces	A Restaurant requires 15 car parking spaces for 100m ² of floor area or 1 space for each seat, whichever is the greater. The additional floor area of 54m ² requires 8 additional car spaces to be provided on-site.	No additional car parking spaces are proposed.

The proposed variation can be supported pursuant to the Performance Criteria P1 of the Clause E6.6.1 for the following reason.

Performance Criterion	Comment
The number of on-site car parking spaces must be sufficient to meet the reasonable needs of users, having regard to all of the following: (a) car parking demand;	The proposal is increasing the floor area of the kitchen, toilets and storage areas of the development. However, the proposal is not increasing the floor area of the existing and approved dining area. On this basis, it is considered that car parking demand will not be increased as a result of the development.
(b) the availability of on-street and public car parking in the locality;	There is a long history of use of the adjacent Council carpark on Crown land to the east of the site for parking by patrons of the restaurant.
(c) the availability and frequency of public transport within a 400m walking distance of the site;	There is limited public transport to Lauderdale, however, there is sufficient public car parking available in the adjacent car park.
(d) the availability and likely use of other modes of transport;	Patrons would typically drive to the site, or walk if living locally.
(e) the availability and suitability of alternative arrangements for car parking provision;	The on-going use of the adjacent Council car park is considered to be satisfactory as there is no increase in the number of patrons that can be accommodated within the existing and approved restaurant.
(f) any reduction in car parking demand due to the sharing of car parking spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces;	Not relevant.
(g) any car parking deficiency or surplus associated with the existing use of the land;	The site has sufficient area to contain only 5 car parking spaces and the majority of parking is located within the adjacent Council car park.

(h)	any credit which should be allowed for a car parking demand deemed to have been provided in association with a use which existed before the change of parking requirement, except in the case of substantial redevelopment of a site;	As discussed, there has been a long history of car parking on the adjacent Council car park and previous applications have waived the car parking requirements. In particular, the development approved by D-2011/134 which approved extensions to the restaurant, including a 60m ² deck in Stage 2, waived the requirement for additional car parking on the basis that the 5 spaces located within the lot boundaries and the adjacent Council car park provided adequate car parking for the increased demand generated by the development.
(i)	the appropriateness of a financial contribution in-lieu of parking towards the cost of parking facilities or other transport facilities, where such facilities exist or are planned in the vicinity;	A cash-in-lieu contribution is not appropriate as the existing car parking arrangements are considered to meet the demand generated by the development and there are no plans to develop public car parking in the area.
(j)	any relevant parking plan for the area adopted by Council;	Not relevant.
(k)	the impact on the historic cultural heritage significance of the site if subject to the Local Heritage Code.	Not relevant.

Coastal Erosion Hazard Code

Clause	Standard	Acceptable Solution (Extract)	Proposed
E16.7.1 A1	Building and Works	No Acceptable Solution.	Demolish and rebuild part of the existing building with an increase in the floor area of 53m ² , 38m ² which is non-habitable.

The proposed variation can be supported pursuant to the Performance Criteria P1 of the Clause E16.7.1 for the following reason.

Performance Criterion	Comment
Buildings and works must satisfy all of the following: (a) not increase the level of risk to the life of the users of the site or of hazard for adjoining or nearby properties or public infrastructure;	Council's engineers have assessed the proposal and consider that as the development has only a minor increase in the floor area of the existing building, it does not increase the level of risk to the life of the users of the site or of hazard for adjoining or nearby properties or public infrastructure.
(b) erosion risk arising from wave run-up, including impact and material suitability, may be mitigated to an acceptable level through structural or design methods used to avoid damage to, or loss of, buildings or works;	Not relevant.
(c) erosion risk is mitigated to an acceptable level through measures to modify the hazard where these measures are designed and certified by an engineer with suitable experience in coastal, civil and/or hydraulic engineering;	Council's engineers consider that as the development involves only a minor increase to the footprint of the building on the site, the erosion risk from the development is not considered to warrant any specific measures.
(d) need for future remediation works is minimised;	As above.
(e) health and safety of people is not placed at risk;	The proposal is not increasing the risk to the health and safety of people, as discussed above.
(f) important natural features are adequately protected;	The canal which bounds the site will not be adversely affected by the development.
(g) public foreshore access is not obstructed where the managing public authority requires it to continue to exist;	The title for the site includes a footway located along the southern boundary of the site and which is located under the dining room above. The proposal does not include alterations to this part of the building and will not affect the existing access to the footway along the banks of the canal.
(h) access to the site will not be lost or substantially compromised by expected future erosion whether on the proposed site or off-site;	Access to the site is not changing.

(i) provision of a developer contribution for required mitigation works consistent with any adopted Council Policy, prior to commencement of works;	Not required.
(j) not be located on an actively mobile landform.	Not relevant.

5. REPRESENTATION ISSUES

The proposal was advertised in accordance with statutory requirements and 2 representations were received. The following issues were raised by the representors.

5.1. Lack of Car Parking

Concern was raised that the Council car park does not meet the demand for car parking generated by the restaurant and other user groups using the beach and other recreation areas.

- **Comment**

As discussed above, the existing restaurant has a long history of using the adjacent Council car park. The proposal does not increase the area of the dining room and therefore the number of patrons will not be increasing as a result of the development. On this basis, it is not appropriate or reasonable to impose additional car parking for the development. Notwithstanding the above, Council records indicate that there has not been any complaints regarding car parking for the site.

5.2. Development Encroaching the Walkway and Parked Cars Blocking Access to the Path

Concern was raised that entrance to the public walkway along the canal banks is often blocked by parked cars and that the proposed steel screening under the dining room will block the public walkway.

- **Comment**

The title includes a footway located along part of the southern boundary which goes underneath the dining room above. The proposal plans show that the proposed screening does not encroach within the footway and therefore this concern does not have determining weight. The concerns regarding the cars blocking the access cannot be considered as part of this application as although it may relate to restaurant patrons, the car park is also used by other members of the community. However, this issue has been referred to Council's Asset Management department to investigate further.

5.3. Long Opening Hours Result in Loss of Amenity from Noise

Concern was raised that the opening hours of the restaurant exceed other local businesses in the area and results in a loss of amenity due to noise from people leaving the restaurant late at night.

- **Comment**

The proposal is not changing the existing approved hours of operation which were approved by D-1994/252 and have been detailed previously in this report. Notwithstanding the above, the restaurant has been operating for over 20 years and a search of Council records shows that there have not been any complaints regarding noise received from residents in the area.

5.4. Security Alarm Going Off at Night

Concern was raised regarding the security alarm going off at night.

- **Comment**

This is not a planning issue and cannot have determining weight.

5.5. Demolition of the Sandstone Wall and the Proposed Metal Screen

Concern was raised that the demolition of the existing sandstone wall located along the frontage of the site will have a detrimental impact on the historical significance of the site and the concrete wall is at odds with the coastal environment.

- **Comment**

Clause 8.10.1 provides that Council can only consider the discretions applied for in the application. There are no applicable standards regarding colours and materials and therefore this issue cannot have determining weight. In addition, the site is not covered by the Historic Heritage Code and therefore there is no ability of Council to require the retention of the sandstone walls.

5.6. Vegetation Clearing

Concern was raised that the owners of the site have cleared some salt bush from the site which has been pushed into the canal banks, blocking the walkway.

- **Comment**

This issue is not a planning matter and cannot have determining weight as discussed previously.

6. EXTERNAL REFERRALS

The proposal was referred to TasWater, which has provided a number of conditions to be included on the planning permit if granted.

7. STATE POLICIES AND ACT OBJECTIVES

7.1. The proposal is consistent with the outcomes of the State Policies, including those of the State Coastal Policy.

7.2. The proposal is consistent with the objectives of Schedule 1 of LUPAA.

8. COUNCIL STRATEGIC PLAN/POLICY IMPLICATIONS

There are no inconsistencies with Council's adopted Strategic Plan 2010-2015 or any other relevant Council Policy.

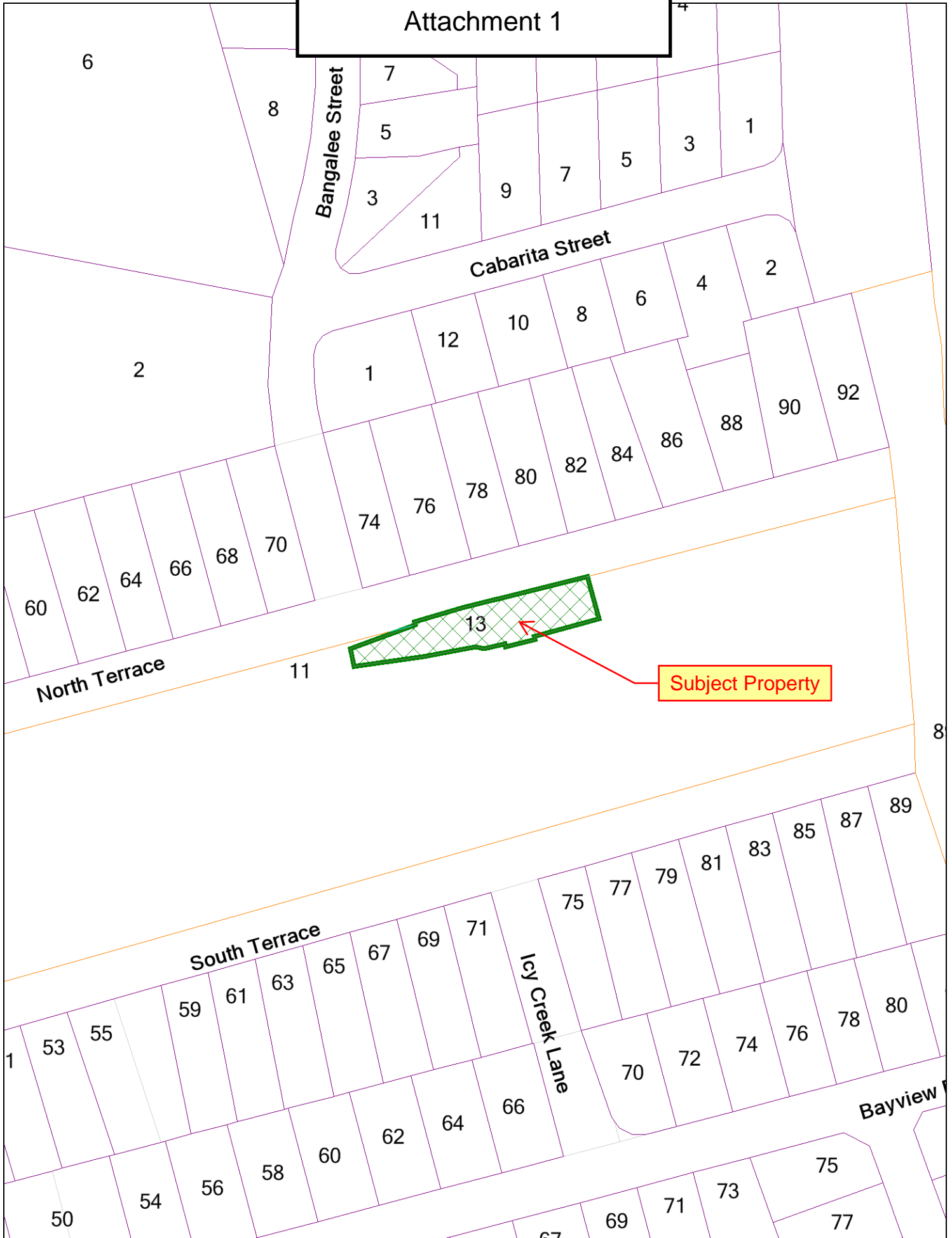
9. CONCLUSION

The proposal for a partial demolition and alterations and additions to the existing restaurant is recommended for approval subject to reasonable and relevant conditions.

Attachments: 1. Location Plan (1)
2. Proposal Plan (7)
3. Site Photo (1)

Ross Lovell
MANAGER CITY PLANNING

Attachment 1



Disclaimer: This map is a representation of the information currently held by Clarence City Council. While every effort has been made to ensure the accuracy of the product, Clarence City Council accepts no responsibility for any errors or omissions. Any feedback on omissions or errors would be appreciated. Copying or reproduction, without written consent is prohibited. **Date:** Tuesday, 31 May 2016 **Scale:** 1:1,503 @A4



SITE INFORMATION:	
BAL RATING:	N/A
CORROSION ENVIRONMENT:	MODERATE
DESIGN WIND SPEED:	N3
SOIL CLASSIFICATION:	N/A
CLIMATE ZONE:	7
LAND TITLE REFERENCE:	139220/1
SITE AREA:	941m2
EXISTING SITE COVERAGE:	211.6m2 - 22.5%
PROPOSED SITE COVERAGE:	270.8m2 - 28.7%

ALTERATION AND ADDITION

13 NORTH TERRACE

LAUDERDALE

REVISION NOTES:	REV.	DESCRIPTION	DATE
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MCCARTHY REED
ARCHITECTS
M: 0419 132 038 - STEVE MCCARTHY
M: 0400 672 203 - ALEX REED
ABN: 41 943 954 898 CC: 6311

ALTERATION + ADDITION
13 NORTH TERRACE
LAUDERDALE
SMITH

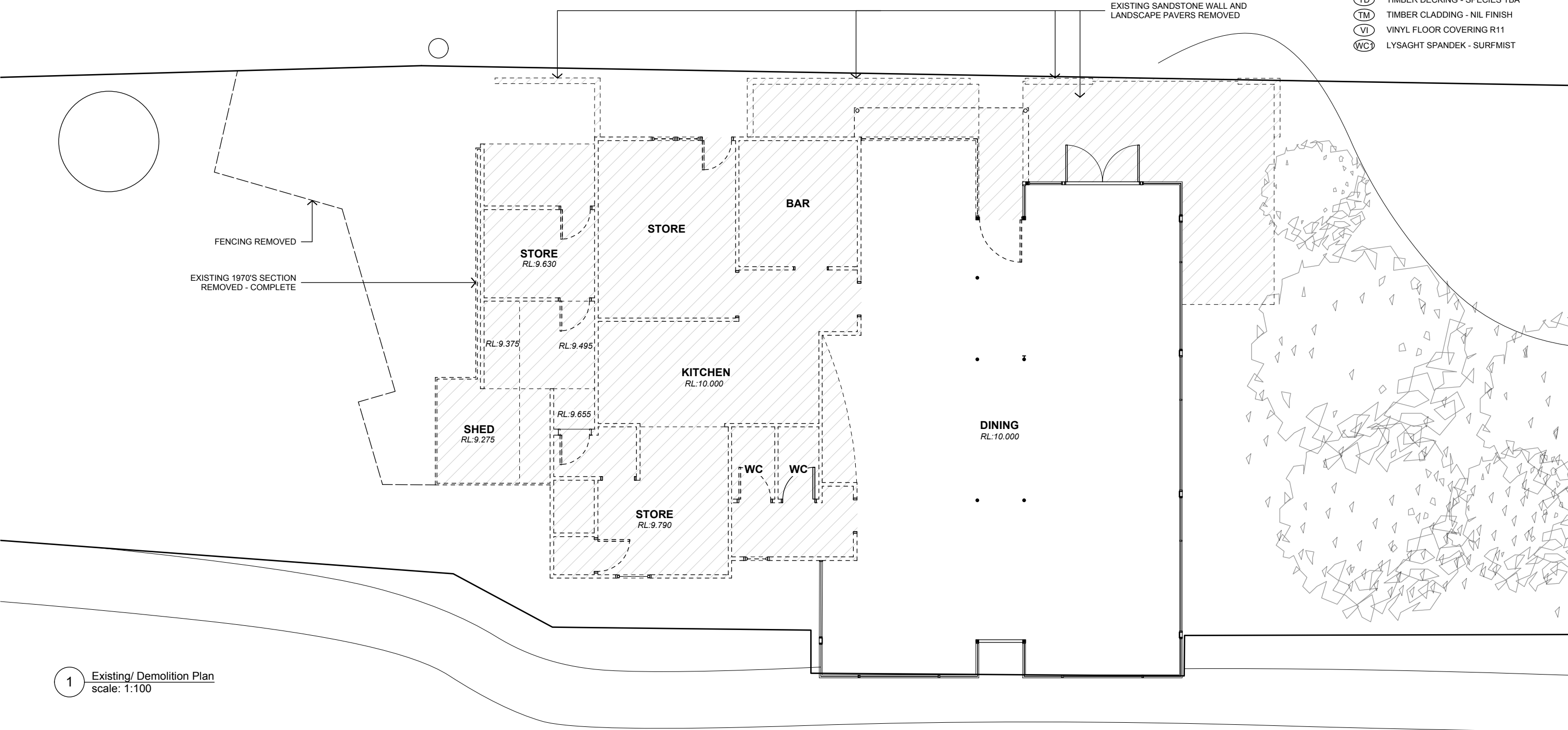
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STAGE :	DESIGN DEVELOPMENT
SCALE :	1:200 @ A3
REVISION :	-



A001

MATERIALS:

- (BW) CONCRETE BLOCKWORK
- (CO) CONCRETE PAVING - EXPOSED AGGREGATE
- (CO1) CONCRETE SLAB - HONED AND POLISHED
- (CO2) OFF-FORM CONCRETE WALL
- (EX) EXISTING
- (FC) CEMINTEL - BARESTONE - CEMENT SHEET
- (GL) GLAZING
- (RS1) KLIPLOK ROOF SHEETING
- (ST) STEEL BALUSTRADE - POWDERCOAT FINISH
- (TD) TIMBER DECKING - SPECIES TBA
- (TM) TIMBER CLADDING - NIL FINISH
- (VI) VINYL FLOOR COVERING R11
- (WC1) LYSAGHT SPANDEK - SURFMIST



REVISION NOTES: REV. DESCRIPTION

DATE

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ARCHITECTS
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M: 0400 672 203 - ALEX REED
ABN: 41 943 954 898 CC: 6311

ALTERATION + ADDITION
13 NORTH TERRACE
LAUDERDALE
SMITH

JOB No: 16.10
DRAWING: EXISTING DEMOLITION
STAGE: DESIGN DEVELOPMENT
SCALE: AS SHOWN @ A3
REVISION: -



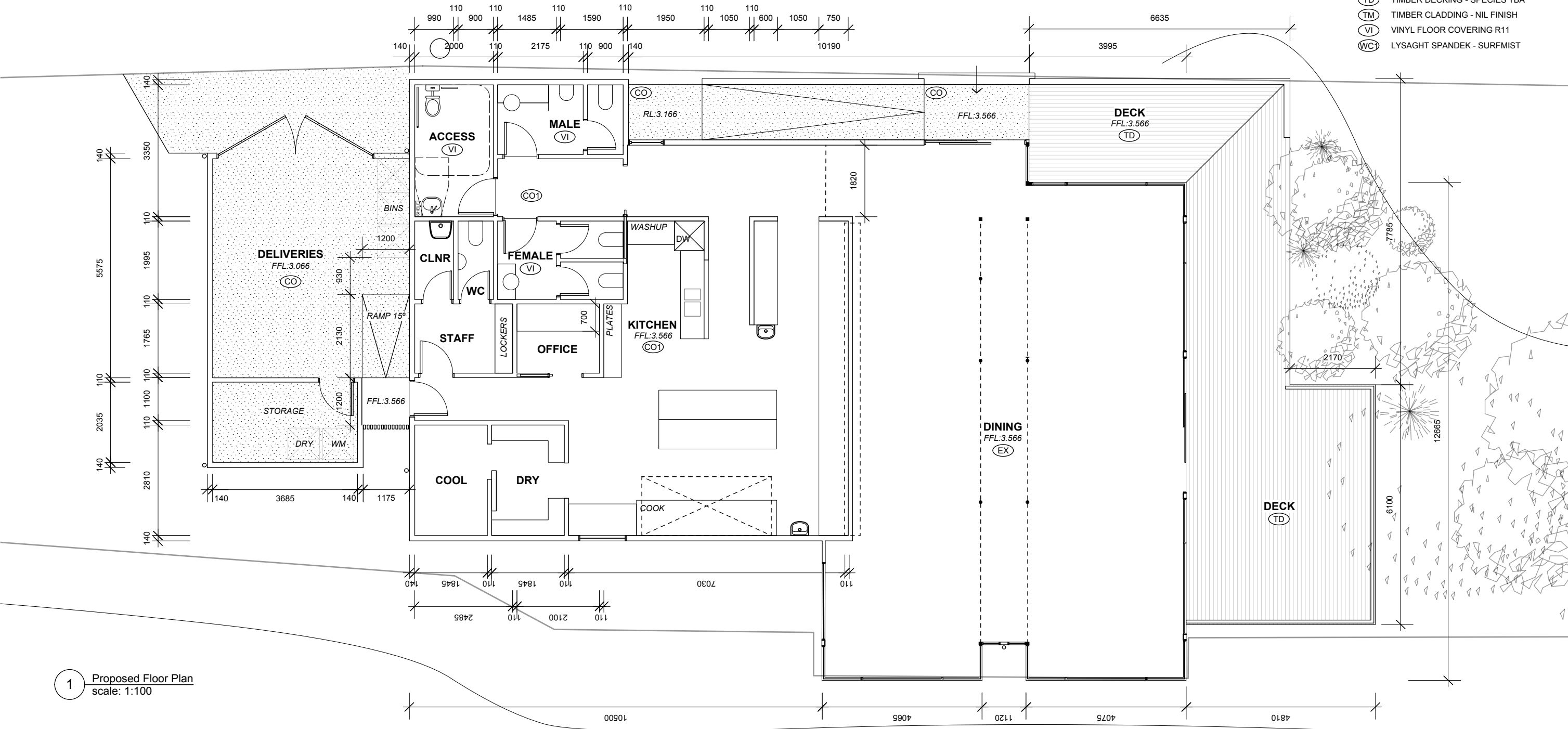
A201

Agenda Attachments - 13 North Terrace, Lauderdale - Page 3 of 9

DATE: 03.05.2016

MATERIALS:

- (BW) CONCRETE BLOCKWORK
- (CO) CONCRETE PAVING - EXPOSED AGGREGATE
- (CO1) CONCRETE SLAB - HONED AND POLISHED
- (CO2) OFF-FORM CONCRETE WALL
- (EX) EXISTING
- (FC) CEMINTEL - BARESTONE - CEMENT SHEET
- (GL) GLAZING
- (RS1) KLIPLOK ROOF SHEETING
- (ST) STEEL BALUSTRADE - POWDERCOAT FINISH
- (TD) TIMBER DECKING - SPECIES TBA
- (TM) TIMBER CLADDING - NIL FINISH
- (VI) VINYL FLOOR COVERING R11
- (WC1) LYSAGHT SPANDEK - SURFMIST



1 Proposed Floor Plan
scale: 1:100

REVISION NOTES:	REV.	DESCRIPTION	DATE
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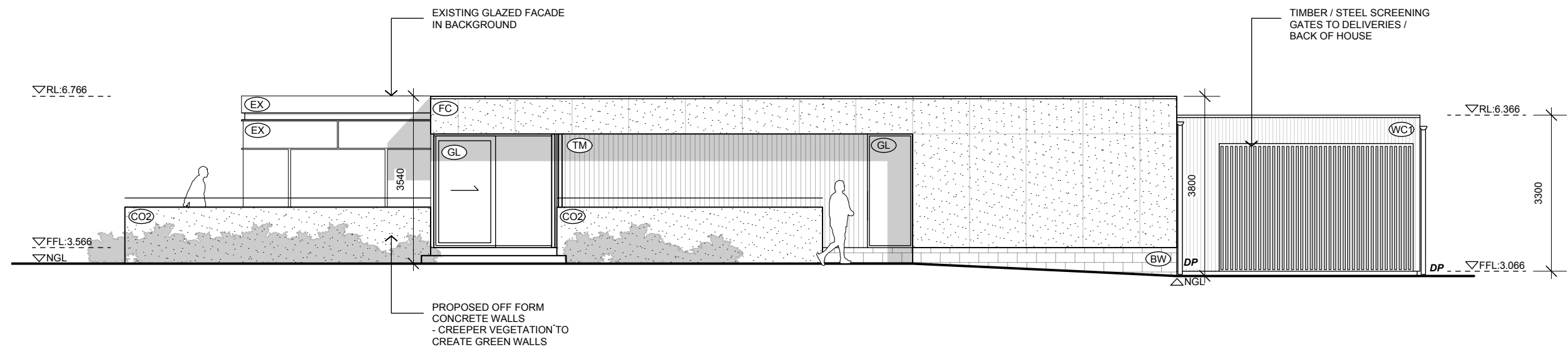
NORTH REED
ARCHITECTS
M: 0419 132 038 - STEVE MCCARTHY
M: 0400 672 203 - ALEX REED
ABN: 41 943 954 898 CC: 6311

ALTERATION + ADDITION
13 NORTH TERRACE
LAUDERDALE
SMITH

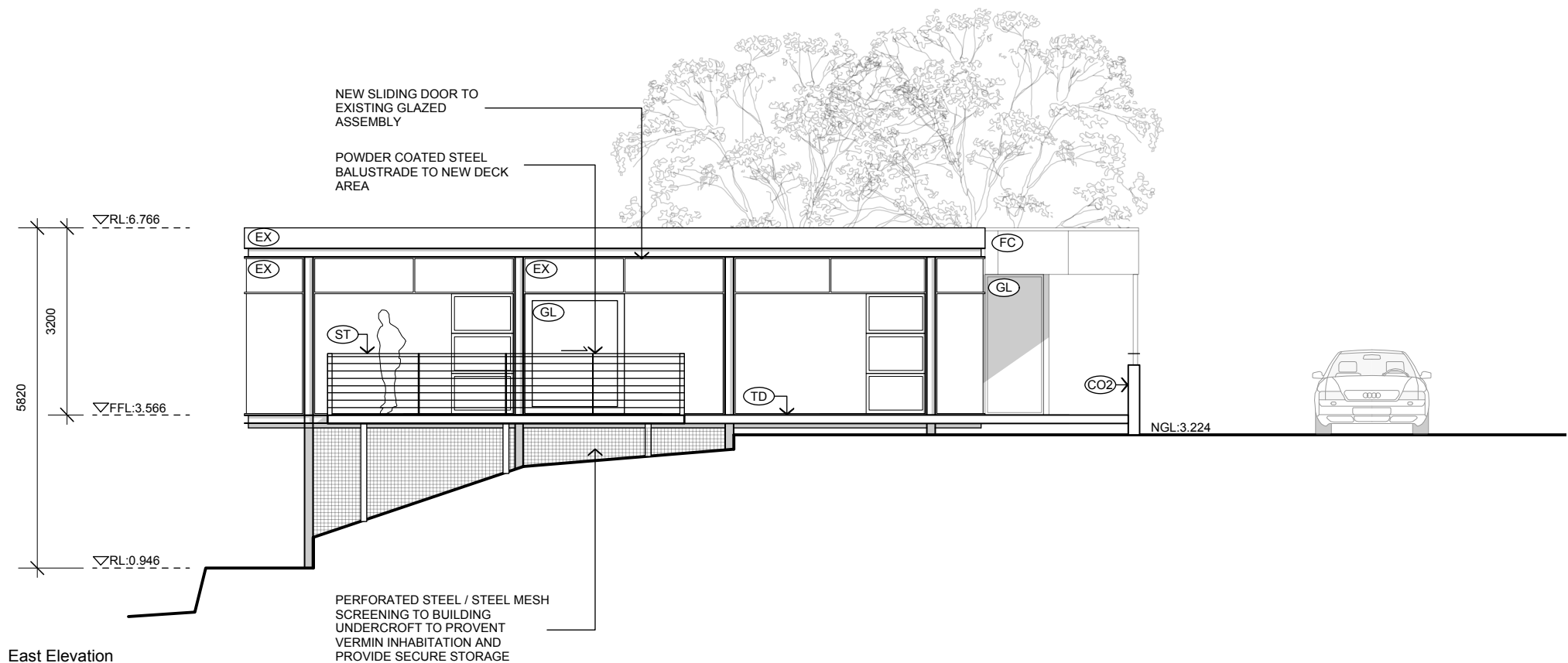
JOB No: 16.10
DRAWING: PROPOSED PLAN
STAGE: DESIGN DEVELOPMENT
SCALE: AS SHOWN @ A3
REVISION: -



A202



1 North Elevation
scale: 1:100



2 East Elevation
scale: 1:100

MATERIALS:

(BW)	CONCRETE BLOCKWORK
(CO)	CONCRETE PAVING - EXPOSED AGGREGATE
(CO1)	CONCRETE SLAB - HONED AND POLISHED
(CO2)	OFF-FORM CONCRETE WALL
(EX)	EXISTING
(FC)	CEMINTEL - BARESTONE - CEMENT SHEET
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(ST)	STEEL BALUSTRADE - POWDERCOAT FINISH
(TD)	TIMBER DECKING - SPECIES TBA
(TM)	TIMBER CLADDING - NIL FINISH
(VI)	VINYL FLOOR COVERING R11
(WC)	LYSAGHT SPANDEK - SURFMIST

DA

A301

REVISION NOTES: REV. DESCRIPTION

DATE

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ARCHITECTS

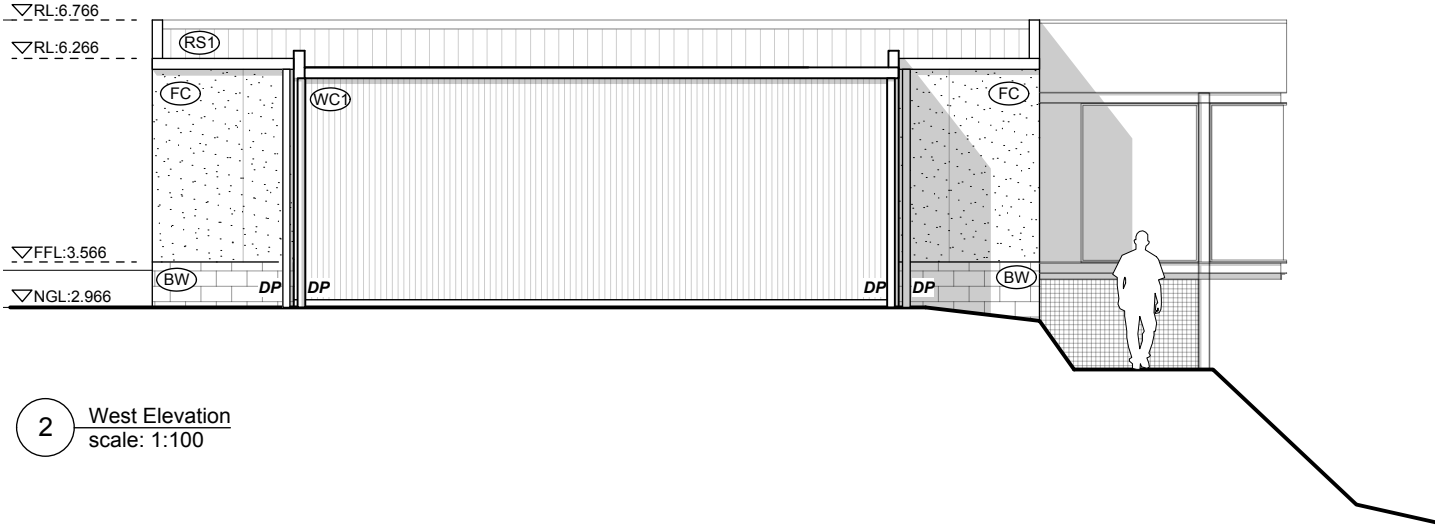
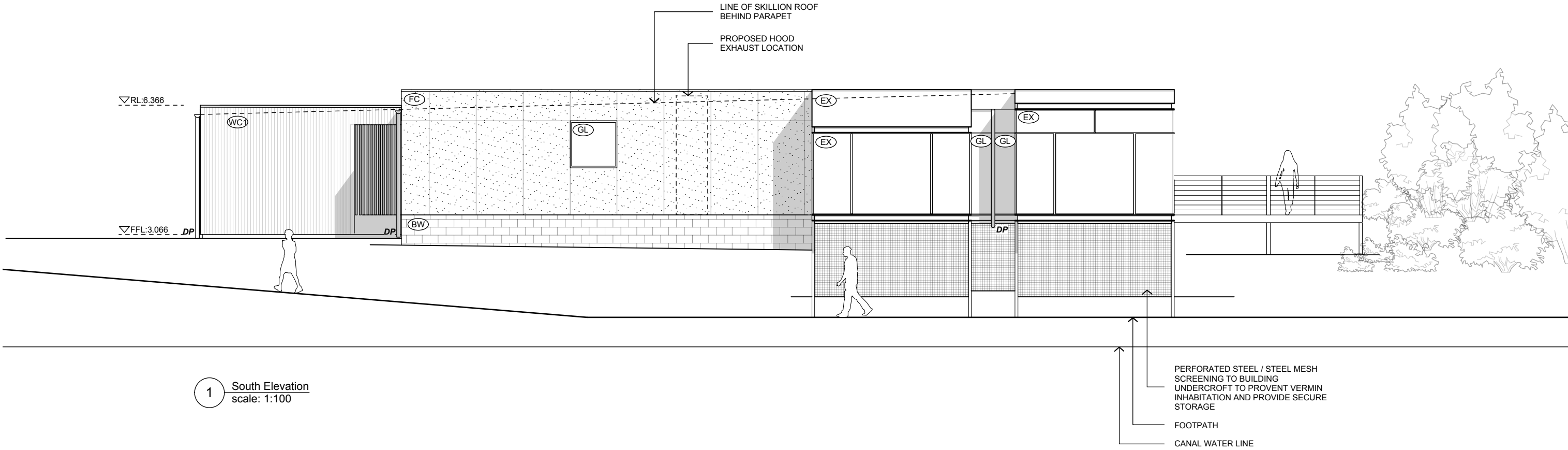
M: 0419 132 038 - STEVE MCCARTHY
M: 0400 672 203 - ALEX REED
ABN: 41 943 954 898 CC: 6311

ALTERATION + ADDITION
13 NORTH TERRACE
LAUDERDALE
SMITH

JOB No: 16.10
DRAWING: ELEVATIONS
STAGE: DESIGN DEVELOPMENT
SCALE: AS SHOWN @ A3
REVISION: -

Agenda Attachments - 13 North Terrace, Lauderdale - Page 5 of 9

DATE: 03.05.2016



MATERIALS:

- (BW) CONCRETE BLOCKWORK
- (CO) CONCRETE PAVING - EXPOSED AGGREGATE
- (CO1) CONCRETE SLAB - HONED AND POLISHED
- (CO2) OFF-FORM CONCRETE WALL
- (EX) EXISTING
- (FC) CEMINTEL - BARESTONE - CEMENT SHEET
- (GL) GLAZING
- (RS1) KLIPLOK ROOF SHEETING
- (ST) STEEL BALUSTRADE - POWDERCOAT FINISH
- (TD) TIMBER DECKING - SPECIES TBA
- (TM) TIMBER CLADDING - NIL FINISH
- (VI) VINYL FLOOR COVERING R11
- (WC1) LYSAGHT SPANDEK - SURFMIST

REVISION NOTES: REV. DESCRIPTION DATE

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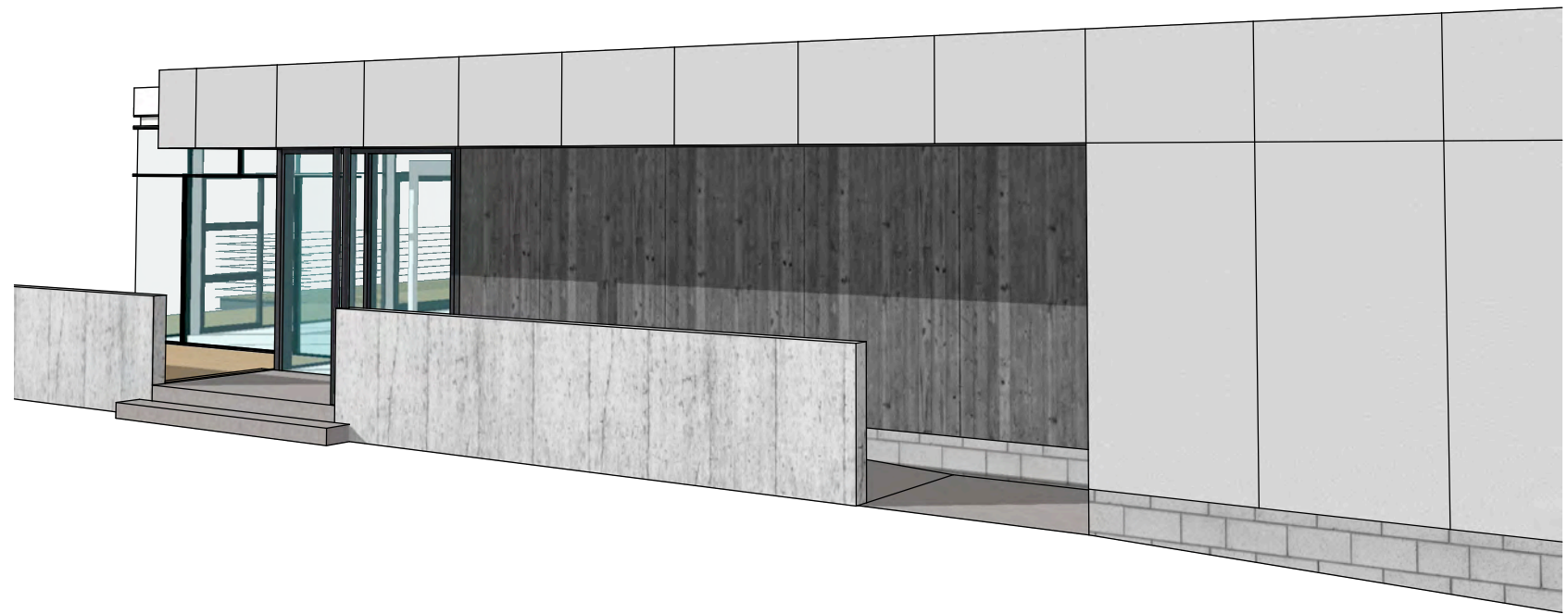
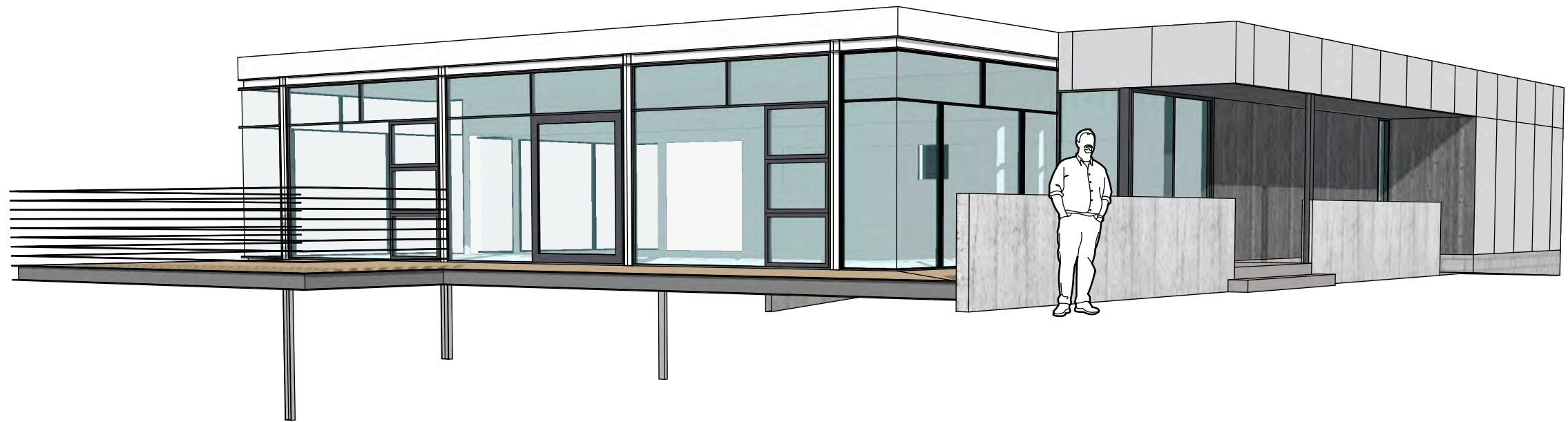
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M: 0400 672 203 - ALEX REED
ABN: 41 943 954 898 CC: 6311

ALTERATION + ADDITION
13 NORTH TERRACE
LAUDERDALE
SMITH

JOB No: 16.10
DRAWING: ELEVATIONS
STAGE: DESIGN DEVELOPMENT
SCALE: AS SHOWN @ A3
REVISION: -

A302

Agenda Attachments - 13 North Terrace, Lauderdale - Page 6 of 9
DATE: 03.05.2016



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A801

REVISION NOTES: REV. DESCRIPTION

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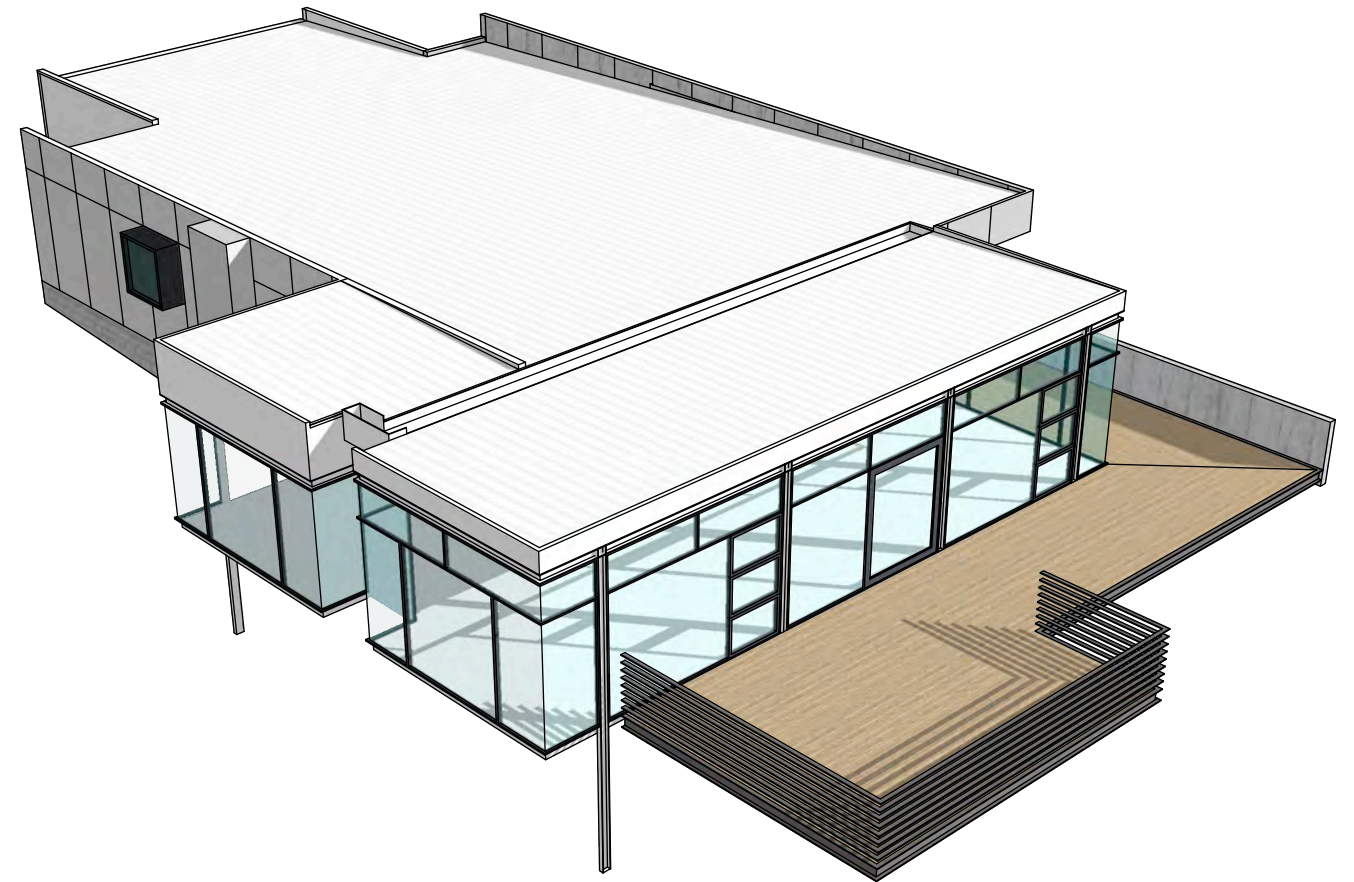
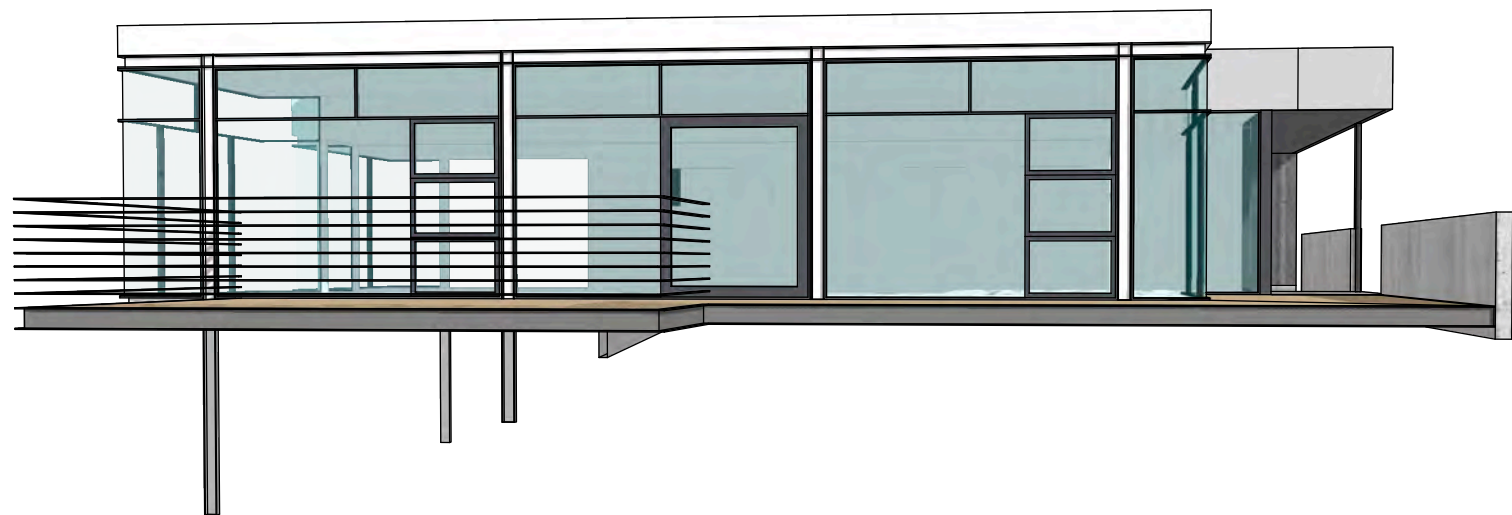
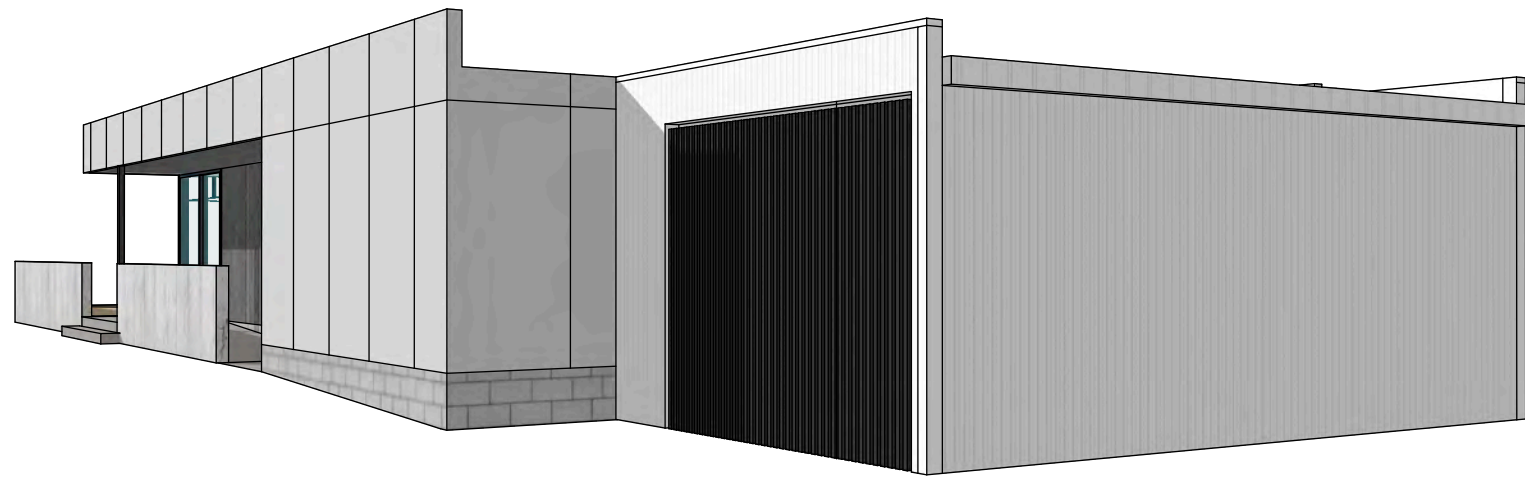
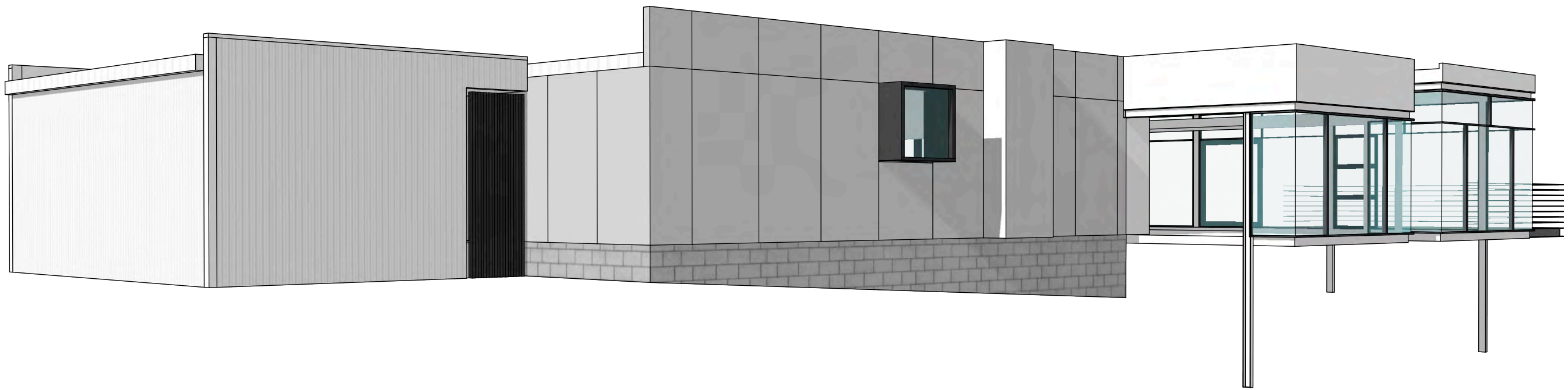
ALTERATION + ADDITION
13 NORTH TERRACE
LAUDERDALE
SMITH

JOB No: 16.10
DRAWING: MODEL IMAGES
STAGE: DESIGN DEVELOPMENT
SCALE: AS SHOWN @ A3
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Agenda Attachments - 13 North Terrace, Lauderdale - Page 7 of 9

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M: 0400 672 203 - ALEX REED
ABN: 41 943 954 898 CC: 6311

ALTERATION + ADDITION
13 NORTH TERRACE
LAUDERDALE
SMITH

JOB No: 16.10
DRAWING: MODEL IMAGES
STAGE: DESIGN DEVELOPMENT
SCALE: AS SHOWN @ A3
REVISION: -

Agenda Attachments - 13 North Terrace, Lauderdale - Page 8 of 9

DATE: 03.05.2016

Attachment 3

13 North Terrace, LAUDERDALE



Site viewed from South Terrace, looking northwest



Site viewed from North Terrace, looking southeast

**11.3.3 DEVELOPMENT APPLICATION D-2016/125 - 33 HOWRAH ROAD,
HOWRAH - DWELLING**
(File No D-2016/125)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for a Single Dwelling at 33 Howrah Road, Howrah.

RELATION TO PLANNING PROVISIONS

The land is zoned General Residential and is affected by the Waterway and Coastal Protection, the Inundation Prone Areas and the Coastal Erosion Hazard Codes under the Clarence Interim Planning Scheme 2015 (the Scheme). In accordance with the Scheme the proposal is a Discretionary development.

LEGISLATIVE REQUIREMENTS

The report on this item details the basis and reasons for the recommendation. Any alternative decision by Council will require a full statement of reasons in order to maintain the integrity of the Planning approval process and to comply with the requirements of the Judicial Review Act and the Local Government (Meeting Procedures) Regulations 2015.

Council is required to exercise a discretion within the statutory 42 day period which has been extended to expire on 16 June 2016.

CONSULTATION

The proposal was advertised in accordance with statutory requirements and 1 representation was received raising the following issues:

- overshadowing;
- rear setback;
- views;
- loss of privacy; and
- alteration to southern fence.

RECOMMENDATION:

A. That the Development Application for Dwelling at 33 Howrah Road, Howrah (Cl Ref D-2016/125) be approved subject to the following conditions and advice.

1. GEN AP1 – ENDORSED PLANS.
2. ENG A1 – NEW CROSSOVER [TSD-RO9] [3.6M].
3. ENG A7 – REDUNDANT CROSSOVER.
4. ENG S1 – INFRASTRUCTURE REPAIR.

5. Prior to granting of a building permit, a report, prepared by a suitably qualified engineer, is to be submitted to Council's Group Manager Asset Management confirming the integrity of the sea wall and whether any additional stabilisation and/or reinforcement measures are required to resist erosion of the embankment and sea wall from wave run-up. Once this report has been approved by Council, any recommendations will form part of the permit.
 6. Prior to granting of a building permit, a geotechnical report must be submitted to Council's Group Manager Asset Management confirming that the dwelling foundations will be founded on a stable foundation layer. Once this report has been approved by Council, any recommendations will form part of the permit.
 7. The development must meet all required Conditions of Approval specified by TasWater notice dated 1/04/2016 (TWDA 2016/00388-CCC).
- B. That the details and conclusions included in the Associated Report be recorded as the reasons for Council's decision in respect of this matter.

ASSOCIATED REPORT

1. BACKGROUND

No relevant background.

2. STATUTORY IMPLICATIONS

- 2.1. The land is zoned General Residential and is affected by the Waterway and Coastal Protection, the Inundation Prone Areas and the Coastal Erosion Hazard Codes under the Scheme.
- 2.2. The proposal is discretionary because it does not meet all of the Acceptable Solutions for the zone and codes under the Scheme.
- 2.3. The relevant parts of the Planning Scheme are:
 - Section 8.10 – Determining Applications;
 - Section 10 – General Residential Zone; and
 - Section E6.0 – Waterway and Coastal Protection, Inundation Prone Areas, and Coastal Erosion Hazard Codes.

- 2.4.** Council's assessment of this proposal should also consider the issues raised in any representations received, the outcomes of the State Policies and the objectives of Schedule 1 of the Land Use Planning and Approvals Act, 1993 (LUPAA).

3. PROPOSAL IN DETAIL

3.1. The Site

The site is regularly shaped 547m² lot on the western side of Howrah Road, adjacent to the southern end of Howrah Beach. The land slopes moderately down from the road to the beach. There is no existing development or significant vegetation on-site.

3.2. The Proposal

The proposal is for the construction of a new dwelling at 33 Howrah Road, Howrah. The street front elevation will appear to be predominantly single storey, with a central pop-top upper storey. From the waterfront the dwelling will appear to be 3 storeys. The dwelling will comprise a 2 car garage and an open living dining and kitchen area on the main, street level, with a master bedroom with ensuite and walk in wardrobe on the upper level and 2 bedrooms, a bathroom and laundry on the lower level. There is an outdoor kitchen and dining area, as well as walled garden at the front of the dwelling, and deck areas which extend the living area to the rear (waterfront side) of the dwelling.

4. PLANNING ASSESSMENT

4.1. Determining Applications [Section 8.10]

“8.10.1 In determining an application for any permit the planning authority must, in addition to the matters required by s51(2) of the Act, take into consideration:

- (a) all applicable standards and requirements in this planning scheme; and*
- (b) any representations received pursuant to and in conformity with ss57(5) of the Act;*

but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised”.

Reference to these principles is contained in the discussion below.

4.2. Compliance with Zone and Codes

The proposal meets the Scheme's relevant Acceptable Solutions of the General Residential Zone and Waterway and Coastal Protection, the Inundation Prone Areas and the Coastal Erosion Hazard Codes with the exception of the following.

General Residential Zone

Clause	Standard	Acceptable Solution (Extract)	Proposed
10.4.2 A1	Setback and building envelope for all dwellings	<p>Unless within a building area, a dwelling, excluding protrusions (such as eaves, steps, porches, and awnings) that extend not more than 0.6m into the frontage setback, must have a setback from a frontage that is:</p> <p>(a) if the frontage is a primary frontage, at least 4.5m, or, if the setback from the primary frontage is less than 4.5m, not less than the setback, from the primary frontage, of any existing dwelling on the site; or</p> <p>(c) if for a vacant site with existing dwellings on adjoining sites on the same street, not more than the greater, or less than the lesser, setback for the equivalent frontage of the dwellings on the adjoining sites on the same street; or</p>	The pergola is proposed to have a setback of 3.8m from the front boundary.

The proposed variation can be supported pursuant to the following Performance Criteria.

P1 - A dwelling must:

Performance Criterion	Comment
<i>“(a) have a setback from a frontage that is compatible with the existing dwellings in the street, taking into account any topographical constraints; and</i>	There are several dwellings nearby along Howrah Road with setbacks less than the proposed.
<i>(b) if abutting a road identified in Table 10.4.2, include additional design elements that assist in attenuating traffic noise or any other detrimental impacts associated with proximity to the road”.</i>	Not applicable.

General Residential Zone

Clause	Standard	Acceptable Solution (Extract)	Proposed
10.4.2 A3	Setback and building envelope for all dwellings	<p>A dwelling, excluding outbuildings with a building height of not more than 2.4m and protrusions (such as eaves, steps, porches, and awnings) that extend not more than 0.6m horizontally beyond the building envelope, must:</p> <p>(a) be contained within a building envelope (refer to Diagrams 10.4.2A, 10.4.2B, 10.4.2C and 10.4.2D) determined by:</p> <p>(i) a distance equal to the frontage setback or, for an internal lot, a distance of 4.5m from the rear boundary of a lot with an adjoining frontage; and</p> <p>(ii) projecting a line at an angle of 45 degrees from the horizontal at a height of 3m above natural ground level at the side boundaries and a distance of 4m from the rear boundary to a building height of not more than 8.5m above natural ground level.</p>	<p>The dwelling will be outside the building envelope in the front and rear setbacks.</p> <p>The dwelling exceeds the maximum building height (and therefore is outside the building envelope described in Clause 10.4.2 A3 (a)(ii) by 0.5m at the highest point of the building.</p> <p>The garage on the southern side is outside the building envelope by 2m in height at the western end, reducing down to a compliant height by the eastern end.</p> <p>As the front of the building encroaches into the front setback, it is also outside the building envelope as described at clause 10.4.2 A3 (a)(i).</p>

The proposed variation can be supported pursuant to the following Performance Criteria.

“P3 - The siting and scale of a dwelling must:

Performance Criterion	Comment
<i>(a) not cause unreasonable loss of amenity by:</i>	
<i>(i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining lot; or</i>	The proposed new dwelling does not overshadow the habitable rooms of any adjacent dwellings.
<i>(ii) overshadowing the private open space of a dwelling on an adjoining lot; or</i>	The development overshadows a section of the outdoor space of the dwelling to the south, which is exposed to the road and does not appear to constitute the primary private open space for the dwelling. Notwithstanding this, this section of the property still receives sunlight during the day on 21 July, moving across the area throughout the day. Further, the majority of the private open space is to the west (waterfront side) of the dwelling and is not impacted at all by the proposed development.
<i>(iii) overshadowing of an adjoining vacant lot; or</i>	Not applicable.
<i>(iv) visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining lot; and</i>	The southern façade of the proposed dwelling has various elements at various heights and setbacks to the southern boundary. As such the bulk of the building is satisfactory. It is also noted that the application was advertised, and the bulk of the building at this boundary did not form part of the representor concern.
<i>(b) provide separation between dwellings on adjoining lots that is compatible with that prevailing in the surrounding area”.</i>	The setback to the northern boundary complies with the building envelope. The setback to the southern does not meet the building envelope, however, there is sufficient setback on the adjacent property to provide separation between the building on this and the adjacent southern site.

General Residential Zone

Clause	Standard	Acceptable Solution (Extract)	Proposed
10.4.6 A1	Privacy for all dwellings	A balcony, deck, roof terrace, parking space, or carport (whether freestanding or part of the dwelling), that has a finished surface or floor level more than 1m above natural ground level must have a permanently fixed screen to a height of at least 1.7m above the finished surface or floor level, with a uniform transparency of no more than 25%, along the sides facing a: (a) side boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of at least 3m from the side boundary; and (b) rear boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of at least 3m from the rear boundary; and	The deck on the main level of the dwelling is proposed to have a setback of 0.9m to the rear boundary at the closest point, and approximately 2.4m from the southern boundary, increasing to 3.1m where it connects to the dwelling. No screening is proposed.

The proposed variation can be supported pursuant to the following Performance Criteria.

“P1 - A balcony, deck, roof terrace, parking space or carport (whether freestanding or part of the dwelling) that has a finished surface or floor level more than 1m above natural ground level, must be screened, or otherwise designed, to minimise overlooking of:

Performance Criterion	Comment
<i>(a) a dwelling on an adjoining lot or its private open space; or</i>	The location and orientation of the deck is such that the users of the deck will be looking toward the water and not back up into the private open space of the adjacent dwelling to the south.
<i>(b) another dwelling on the same site or its private open space; or</i>	Not applicable.
<i>(c) an adjoining vacant residential lot”.</i>	Not applicable.

General Residential Zone

Clause	Standard	Acceptable Solution (Extract)	Proposed
10.4.7 A1	Frontage fences for all dwellings	A fence (including a free-standing wall) within 4.5m of a frontage must have a height above natural ground level of not more than: (a) 1.2m if the fence is solid; or (b) 1.8m, if any part of the fence that is within 4.5m of a primary frontage has openings above a height of 1.2m which provide a uniform transparency of not less than 30% (excluding any posts or uprights).	It is proposed to construct a solid 2.1m high fence to the northern half of the front boundary, and the northern boundary to create a private courtyard.

The proposed variation can be supported pursuant to the following Performance Criteria.

“P1 - A fence (including a free-standing wall) within 4.5 m of a frontage must:

Performance Criterion	Comment
<i>(a) provide for the security and privacy of residents, while allowing for mutual passive surveillance between the road and the dwelling; and</i>	The fact that the fence only encloses half of the front of the property ensures that passive surveillance is still possible between the street and the entry to the dwelling.
<i>(b) be compatible with the height and transparency of fences in the street, taking into account the: (i) topography of the site; and (ii) traffic volumes on the adjoining road”.</i>	There are several fences in the immediate area of similar height which screen the entirety of the front of the property. Given the topography of the site at the rear, and the high traffic volumes along the road, it is considered appropriate to construct such a fence to provide private open space for the dwelling at the front of the property.

Coastal Erosion Hazard Code

Clause	Standard	Acceptable Solution (Extract)	Proposed
E16.7.1 A1	Buildings and Works	No Acceptable Solution.	A new dwelling is proposed for the site.

The proposed variation can be supported pursuant to the following Performance Criteria.

“P1 - Buildings and works must satisfy all of the following:

Performance Criterion	Comment
<i>(a) not increase the level of risk to the life of the users of the site or of hazard for adjoining or nearby properties or public infrastructure;</i>	Council engineers have assessed the proposal and found that there is no risk to users of the site, or to adjacent dwellings or nearby public infrastructure.
<i>(b) erosion risk arising from wave run-up, including impact and material suitability, may be mitigated to an acceptable level through structural or design methods used to avoid damage to, or loss of, buildings or works;</i>	Council engineers have assessed the proposal and found that there is minimal risk from wave run up for the proposed new dwelling. A condition should be included in the permit confirming that the construction methods will achieve this.
<i>(c) erosion risk is mitigated to an acceptable level through measures to modify the hazard where these measures are designed and certified by an engineer with suitable experience in coastal, civil and/or hydraulic engineering;</i>	Council Engineers have assessed the proposal and found that the risk of erosion is adequately mitigated through the dwelling design. However, a condition requiring an engineering report to confirm this has been included to ensure compliance.
<i>(d) need for future remediation works is minimised;</i>	The proposed development is unlikely to result in the need for future remediation.
<i>(e) health and safety of people is not placed at risk;</i>	The construction of the dwelling will not increase any risk to the health and safety of people.
<i>(f) important natural features are adequately protected;</i>	There are no natural features compromised by the proposed development.
<i>(g) public foreshore access is not obstructed where the managing public authority requires it to continue to exist;</i>	The development is contained entirely within the private property and does not impact public access to the foreshore.
<i>(h) access to the site will not be lost or substantially compromised by expected future erosion whether on the proposed site or off-site;</i>	Access to the site will not be lost or compromised by expected future erosion as it is well above the erosion risk.

(i) <i>provision of a developer contribution for required mitigation works consistent with any adopted Council Policy, prior to commencement of works;</i>	Not applicable.
(j) <i>not be located on an actively mobile landform”.</i>	The site does not constitute an actively mobile landform.

5. REPRESENTATION ISSUES

The proposal was advertised in accordance with statutory requirements and 1 representation was received. The following issues were raised by the representor.

5.1. Overshadowing

The representor is concerned that the development will result in overshadowing of the property to the south for most of the day year-round. They have indicated a desire to build a new dwelling for which the detriment will be increased beyond that experienced by the existing.

- **Comment**

There are no plans currently before Council for redevelopment of the site. As there is an existing dwelling on the site, there is no capacity to consider the impacts of the proposal to develop the adjacent lot beyond the current circumstance.

The shadow diagrams accompanying the application show that the adjacent dwelling to the south will not be overshadowed by the proposed development. They also show that there is a small portion of the outdoor space on the northern side of the dwelling which is overshadowed, but that it will receive sunlight to different sections throughout the day. It is further noted that there is significant outdoor space to the west of the adjacent dwelling which is not overshadowed at all by the proposed development.

As such, it is considered that the proposal adequately considers the existing development on the adjacent property to the south and no modification to the design should be required.

5.2. Rear Setback

The representor has indicated that the proposed dwelling is setback less than the 4m provided for by the acceptable solution. They have suggested that this is inconsistent with the surrounds and will result in a loss of amenity for surrounding landowners and will impose upon beachgoers.

- **Comment**

The proposed rear setback is consistent with the recently approved alterations at 31 Howrah Road and is also comparable to that of 29 Howrah Road. As such, there is a consistent approach for this building line toward the waterfront in this area.

In any event, the Performance Criteria at Clause 10.4.2 P3 do not provide any scope to consider consistency with adjacent setbacks, or the impact of the development on a public space, so this cannot be considered grounds for requiring any modification to the permit.

5.3. Views

The representor is concerned that the proposed rear setback will result in a loss of views for surrounding waterfront residences.

- **Comment**

The different elements in the façade break the visual massing of the building for this elevation. As such, the apparent scale is reduced through the design so as to be comparable with nearby properties.

There is no capacity in the Performance Criteria at Clause 10.4.2 P3 to consider the loss of views as a result of the setback variation.

As such, there is no capacity for this concern to impact upon the determination of this application.

5.4. Loss of Privacy

The representor has asserted that the southern elevation of the dwelling does not meet the privacy standards of the scheme in terms of setbacks from windows to boundaries.

- **Comment**

The only window on the southern side of the dwelling is in the garage, above the laundry sink. This window faces west, but is angled so that it is oriented slightly toward the southern boundary.

However, as this is not a habitable room, there is no minimum setback requirement to the adjacent property.

As such, this is not a matter for consideration for this proposal.

5.5. Alteration to Southern Fence

The representor is concerned that the design shows a boundary wall for the garage on the southern side of the proposed new dwelling. The representor has recently constructed a new fence at their own expense. They have indicated a desire for compensation for the cost of this fence should any modification or demolition be necessitated through the proposed works.

- **Comment**

Fencing is a civil matter and compensation for costs is beyond the scope of Council's powers. As such this is not a matter that can have any impact upon the determination of the application.

6. EXTERNAL REFERRALS

The proposal was referred to TasWater, which has provided a number of conditions to be included on the planning permit if granted.

7. STATE POLICIES AND ACT OBJECTIVES

7.1. The proposal is consistent with the outcomes of the State Policies, including those of the State Coastal Policy.

7.2. The proposal is consistent with the objectives of Schedule 1 of LUPAA.

8. COUNCIL STRATEGIC PLAN/POLICY IMPLICATIONS

There are no inconsistencies with Council's adopted Strategic Plan 2010-2015 or any other relevant Council Policy. Developer contributions are not required to comply with any Council policies.

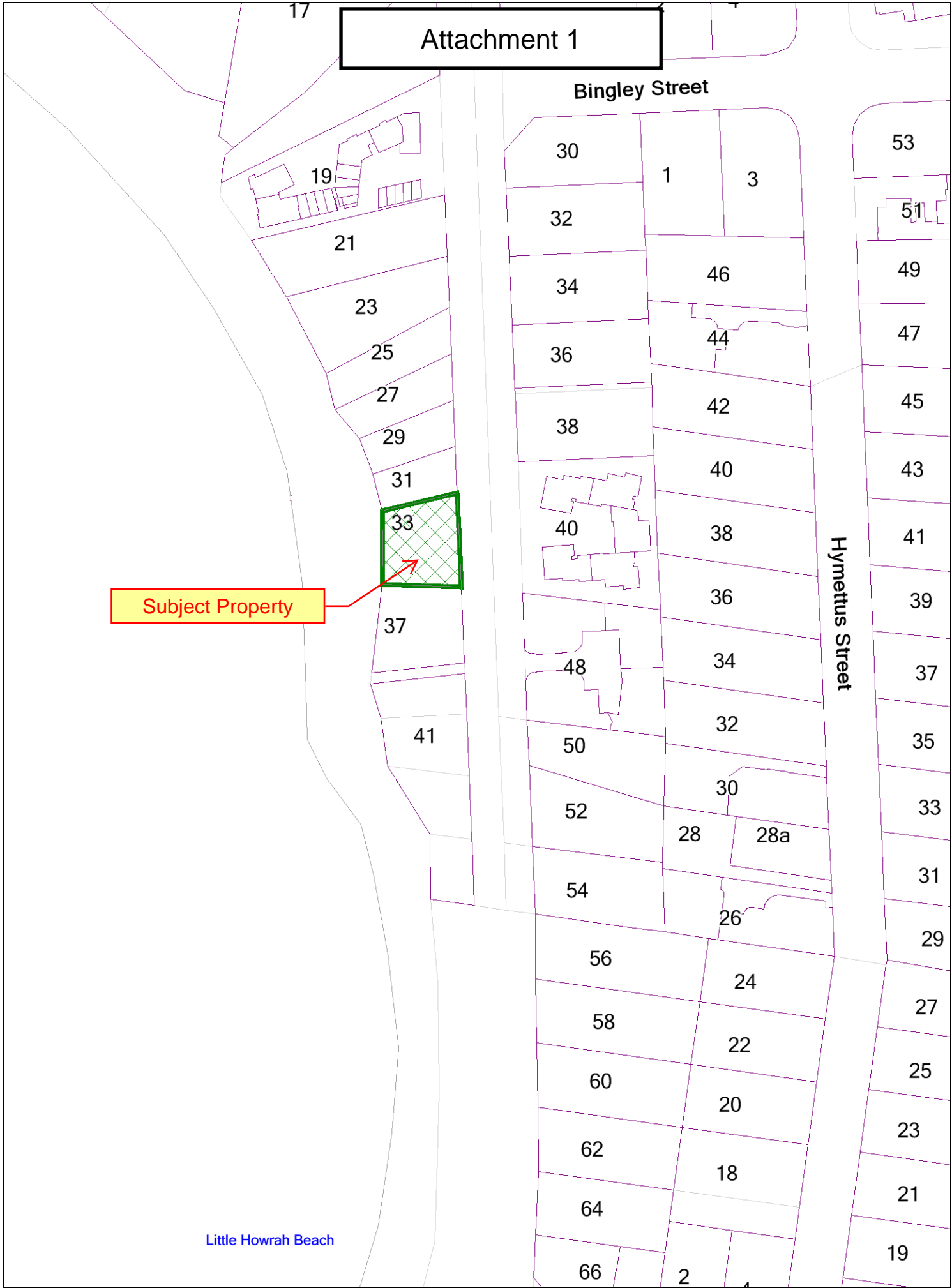
9. CONCLUSION

The proposal is for the construction of a new dwelling at 33 Howrah Road, Howrah. The proposal meets the relevant Acceptable Solutions and Performance Criteria of the Scheme and as such is recommended for conditional approval.

Attachments: 1. Location Plan (1)
2. Proposal Plan (8)
3. Site Photo (1)

Ross Lovell
MANAGER CITY PLANNING

Attachment 1





Elevated View From Howrah Beach Colours Indicative only



Elevated View From Howrah Road Colours Indicative only

PROJECT DATA
KEY PROPOSAL STATISTICS

TITLE	VOLUME 166234
Folio	1
LOCATION:	LOT 1 & LOT 2, 33-55 Howrah Road
SITE AREA	547m2
SITE COVERAGE (36%)	Ground Floor Footprint
GROSS FLOOR AREA:	
LOWER FLOOR	76.20m2
GROUND FLOOR	199m2 (Ground Floor Footprint)
DECK Ground Floor	45.30m2
DECK Upper Floor	8.75m2
NUMBER OF STOREYS	3
PEAK BUILDING HEIGHT	9,250mm
VEHICULAR CROSSOVER WIDTH	5.5m

DRAWING LIST
Sheet A. 01 Cover Sheet
Sheet A. 02 Existing Conditions/Site Analysis
Sheet A. 03 Site/Roof Plan
Sheet A. 04 Ground Floor Plan/Shadow Diagrams
Sheet A. 05 Upper/lower Floor Plans
Sheet A. 06 Elevations N/S
Sheet A. 07 Elevations E/W/Section A A
Sheet A.08 Building Envelope

SCHEDULE OF FINISHES	
Roof	Customorb 'basalt'
Windows	Aluminium powder coated 'basalt'
Wall residence	Applied finish over blockwork finish Dulux B3 Berkshire White
Courtyard wall	Applied finish over blockwork Dulux B3 Berkshire White
Soffit & Spandrel	T& G Tas Hardwood clear finish
Decking 'Modwood'	Silver gum

Client:

Dennis Castellarin

Site
Address:

Nº 33 to 35 Howrah Road
Howrah

Drawing
Number:

Jenarc A2-0

File
Number:

MAP/16/010

Drawn by:

IJ

Checked by:

IJ

Issue
by:

IJ

Comments:

Sheet
Original:

A - 2

Scale:

As Shown

Title:

Concept Design

map
modern architecture practice

Registered Architects

Leon Jenkins

34 Silwood Avenue
Howrah Tas 7018
Phone: (03) 6244 4850
Mobile: 0419 894 623
Email: maparch@netspace.net.au

TCC No: 1003
QCC No: 4833

Client:

Dennis Castellarin

Site Address:

Nº 33 to 35 Howrah Road
Howrah

Drawing Number:

Jenarc A2-0

File Number:

MAP/16/010

Drawn by:

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Checked by:

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Issue by:

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Comments:

Sheet Original:

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Scale:

As Shown

Title:

Concept Design

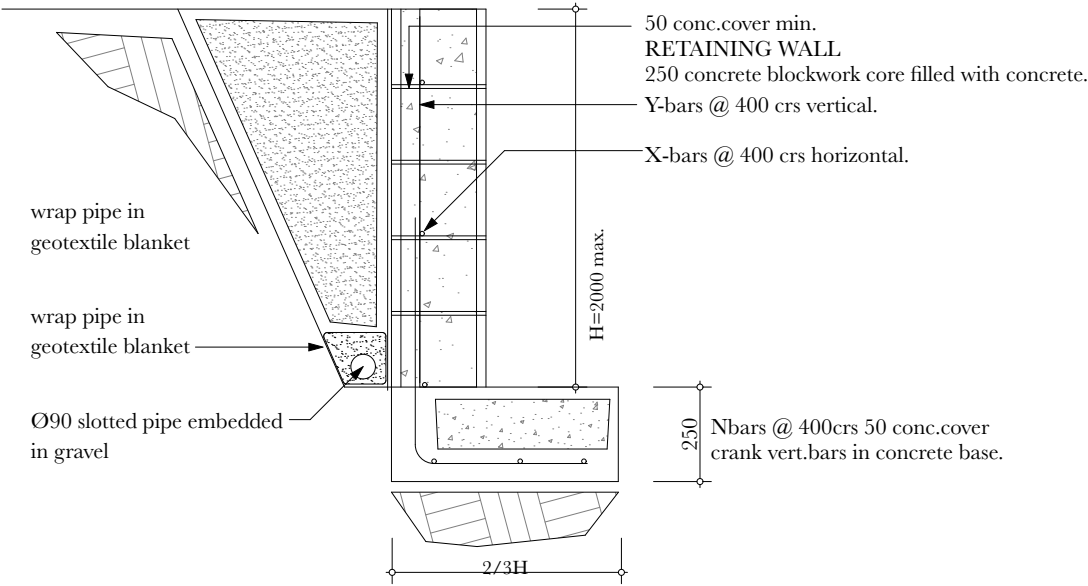
Registered Architects
Leon Jenkins
34 Silwood Avenue
Howrah Tas 7018
Phone: (03) 6244 4850
Mobile 0419 894 623
Email: maparch@netspace.net.au

TCC No: 1003
QCC No: 4833

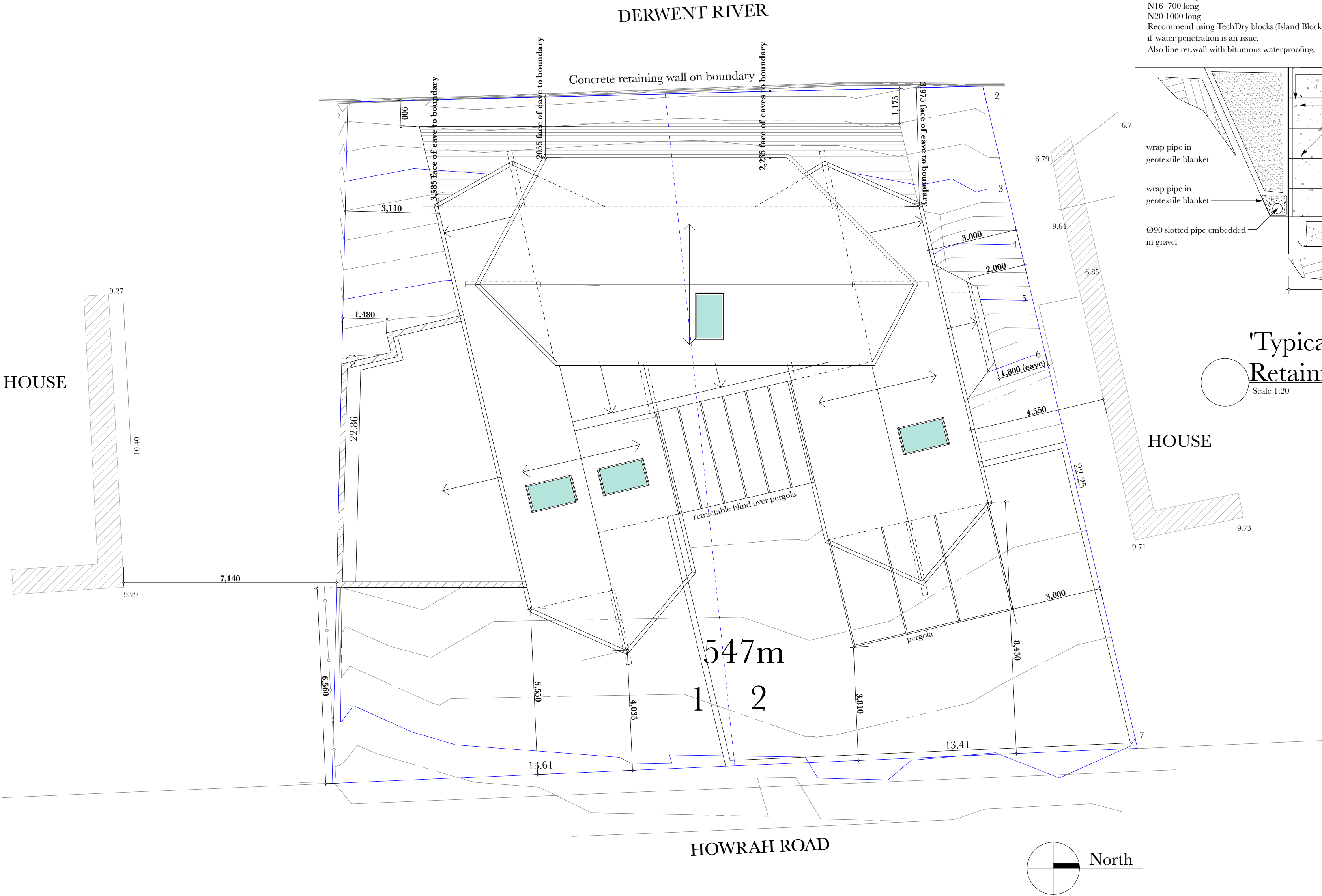
RETAINING WALL HEIGHT TABLE
200/250 concrete blockwork core filled with concrete.

Height	X-bars	Crs	Y-bars	Crs
H < 1200	N12	400	N12	400
H < 1600	N16	400	N16	400
H < 2000	N16	400	N20	400

STEEL REINFORCEMENT LAPPED SPLICES
N12 450 long
N16 700 long
N20 1000 long
Recommend using TechDry blocks (Island Blocks)
if water penetration is an issue.
Also line ret.wall with bitumous waterproofing.



'Typical' Boundary Retaining Wall
Scale 1:20



Site/Roof Plan
Scale 1:100

PROJECT CONSULTANTS:

Engineer:

Surveyor:
Rogerson & Birch

Contact: Andrew Birch
m: 0419 594 966



Local time of rise and set

	Sun	Mercury	Venus	Mars	Jupiter	Satin
June 21	7.41 - 16.44	6.56 - 16.01	10.14 - 19.40	11.29 - 22.22	0.20 - 12.32	12.24 - 0.10
December 21	4.28 - 19.51	4.22 - 19.17	2.10 - 15.59	5.14 - 20.39	11.40 - 0.11	0.56 - 13.36

Client:

Dennis Castellarin

Site Address:

Nº 33 to 35 Howrah Road
Howrah

Drawing Number:

Jenarc A2-0

File Number:

MAP/16/010

Drawn by:

IJ

Checked by:

IJ

Issue by:

IJ

Comments:

Sheet Original:

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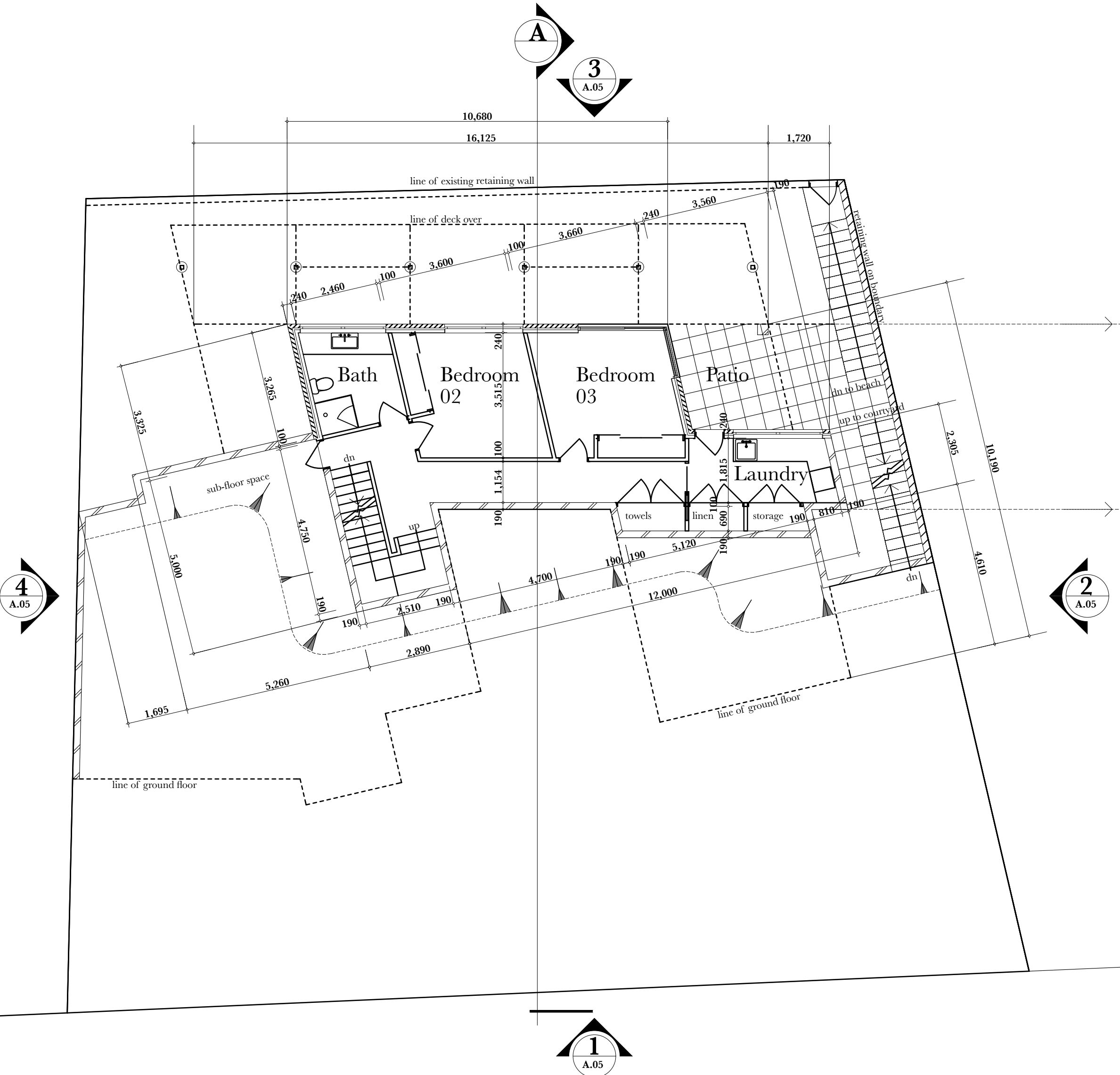
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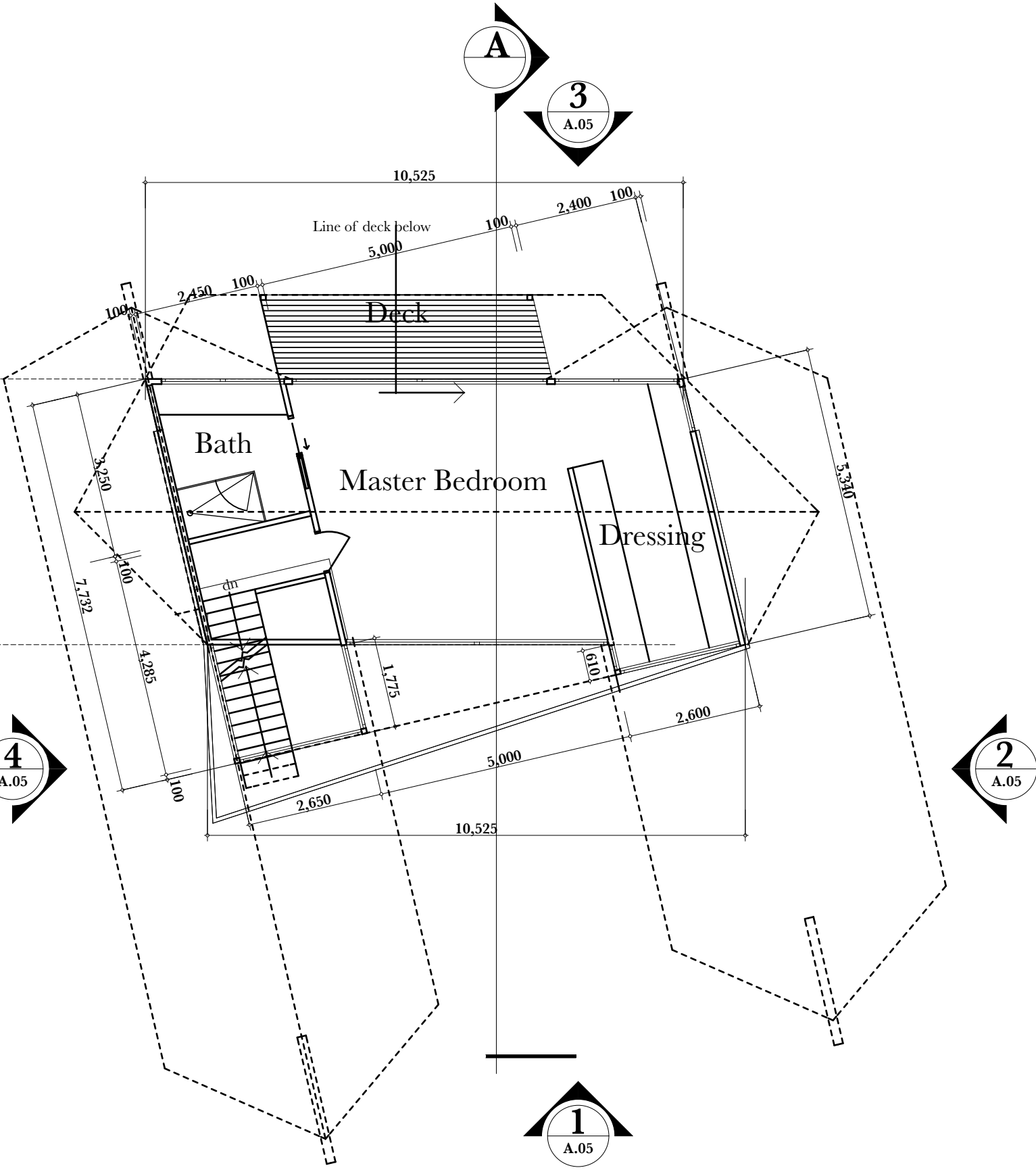
Concept Design

Registered Architects
Leon Jenkins
34 Silwood Avenue
Howrah Tas 7018
Phone: (03) 6244 4850
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Email: maparch@netspace.net.au

TCC No: 1003
QCC No: 4833



Lower Floor Plan (76.20m2)
Scale 1:100



Upper Floor Plan (76.20m2)
Scale 1:100

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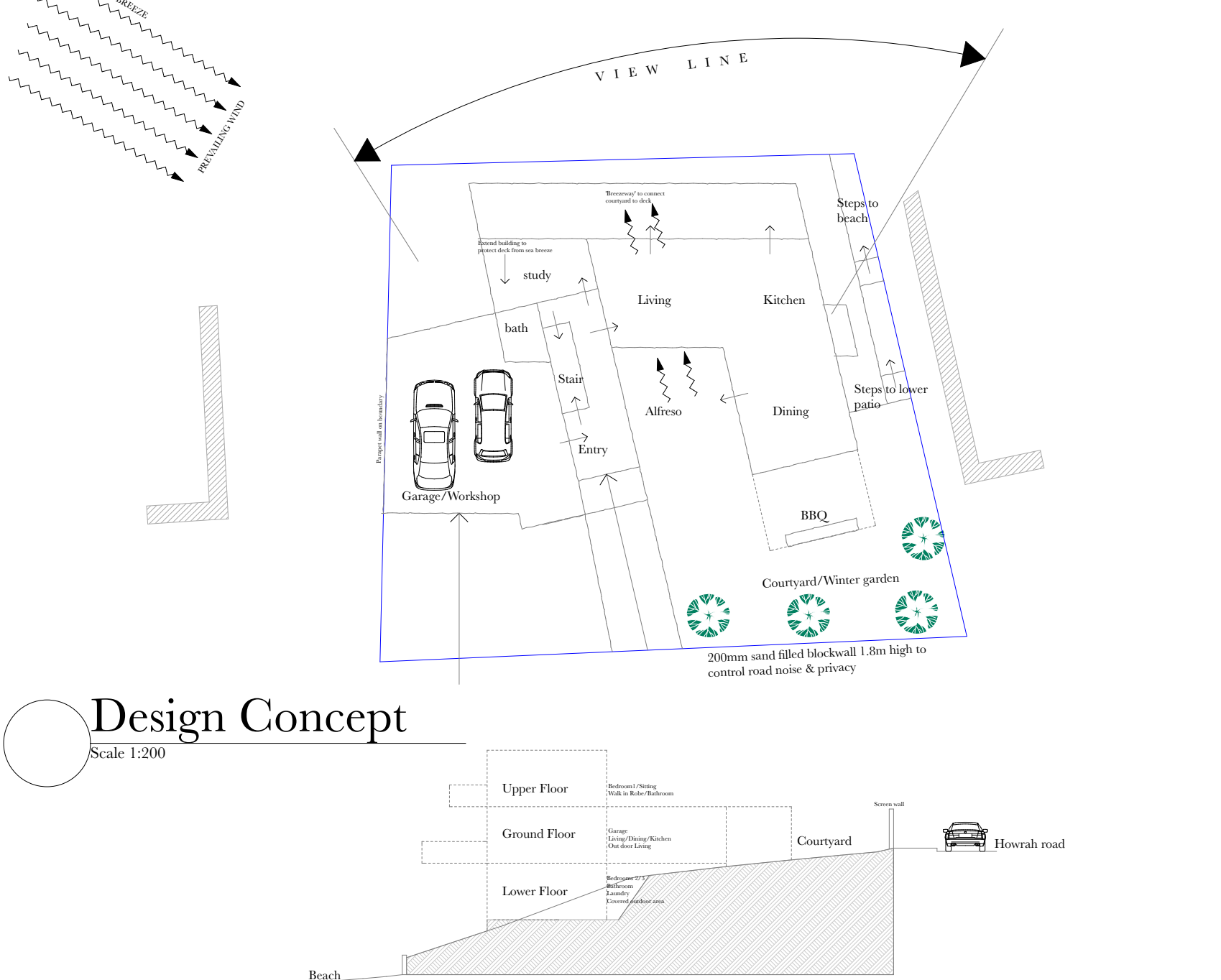
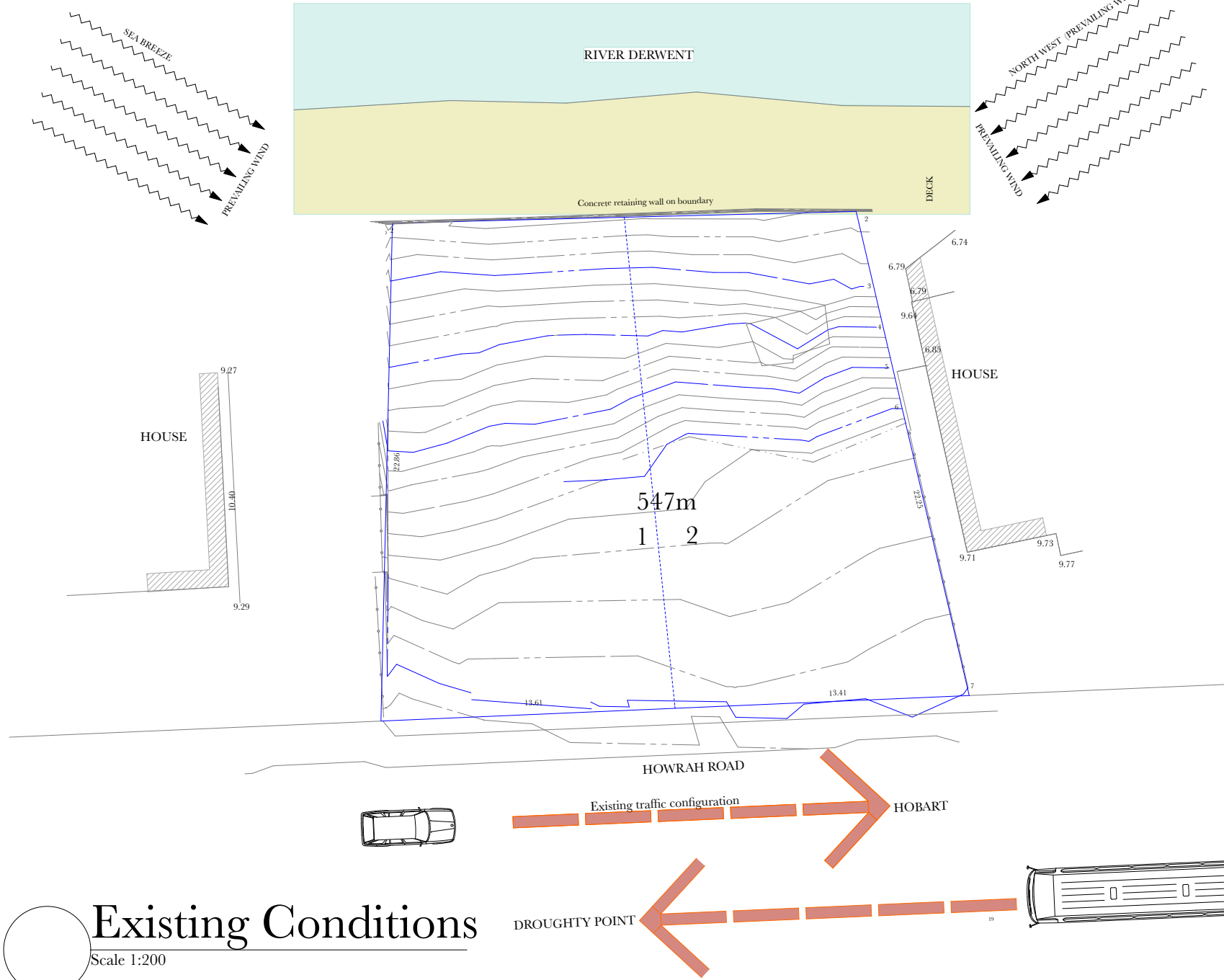
map
modern architecture practice

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Site Analysis Check List
On-site features that provide opportunities or constraints, such as orientation of the allotment, drainage, trees, views or soil types
Contours and existing vegetation
View to and from site
Sun path winter and summer
Existing drainage, services and easements
Contaminated soils and filled areas.
Existing buildings, especially any that should be retained
Access and connection points
Orientation and microclimate
Noise sources
Fences (existing and proposed), boundaries and easements
Location of existing adjoining buildings
Views and solar access enjoyed by adjacent residents

Design Philosophy

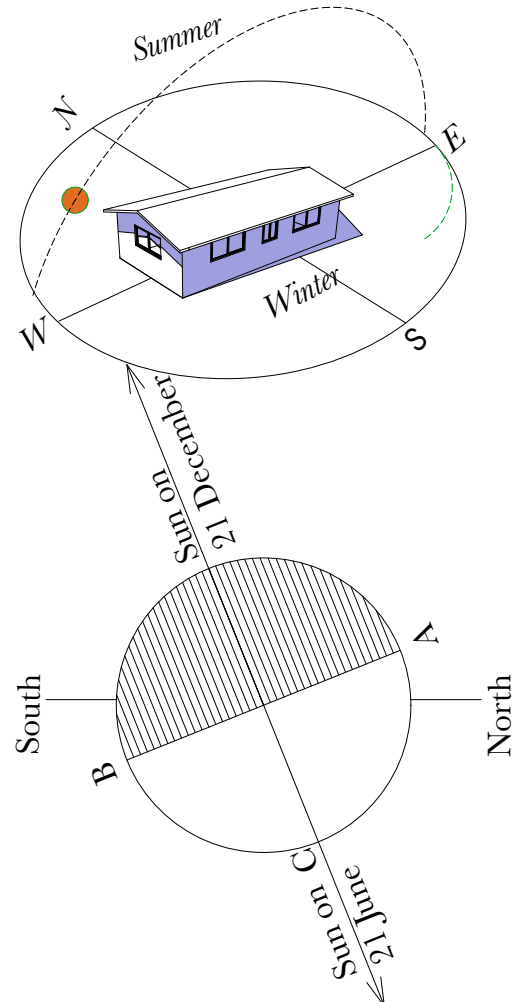
"An important aspect of architecture is its sculptural properties. My plans seldom have explicitly geometric orders. And I don't believe in formalism per se. However, I do believe that architecture should make strong and clear statements in three dimensions, since it is in such statements where much of the feeling and public presence of architecture resides"

Architecture is most effective when it is simple, but provocative; when it is based on directness of an evocative form; when it questions the beholder; when the difference becomes that slight shift distinguishing neutral background from emotional engagement.

More attention should be given to studying one's own architectural history and to involve people who have spent many years crafting quality buildings in making the architecture.

Two rules of architecture are to develop an intimate understanding of materials and to work with few materials. When architects understand and respond to the materials they are using and not simply to the fashion of the time, then particularly fine buildings can be created. 'IJ'

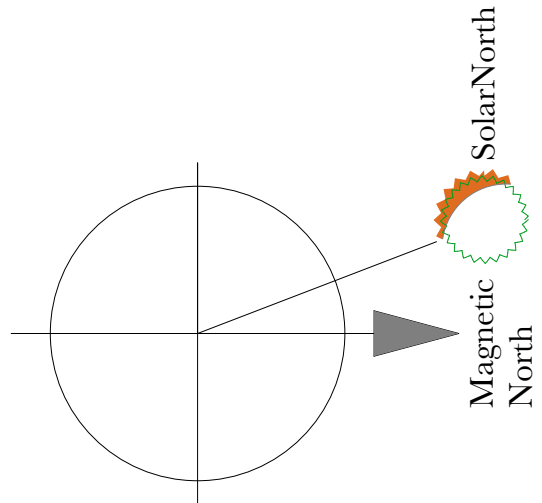
- Client brief
- Budget Constraints
- Expectations
- Compliance with council planning scheme



Summer and Winter

The boundary AB between sunlight and shadow - between day and night - is always perpendicular to the Earth - Sun line, as it was in the example shown at the beginning.

But because of the tilted axis, as each point on Earth is carried on its daily trip around the rotating Earth, the part of the trip spent in daylight (unshaded part of the drawing) and in the shadow (shaded) are usually not equal. North of the equator, day is longer than night, and when we get close enough to the north pole, there is no night at all. The sun is then always above the horizon and it just makes a 360-degree circuit around it. That part of Earth enjoys summer.



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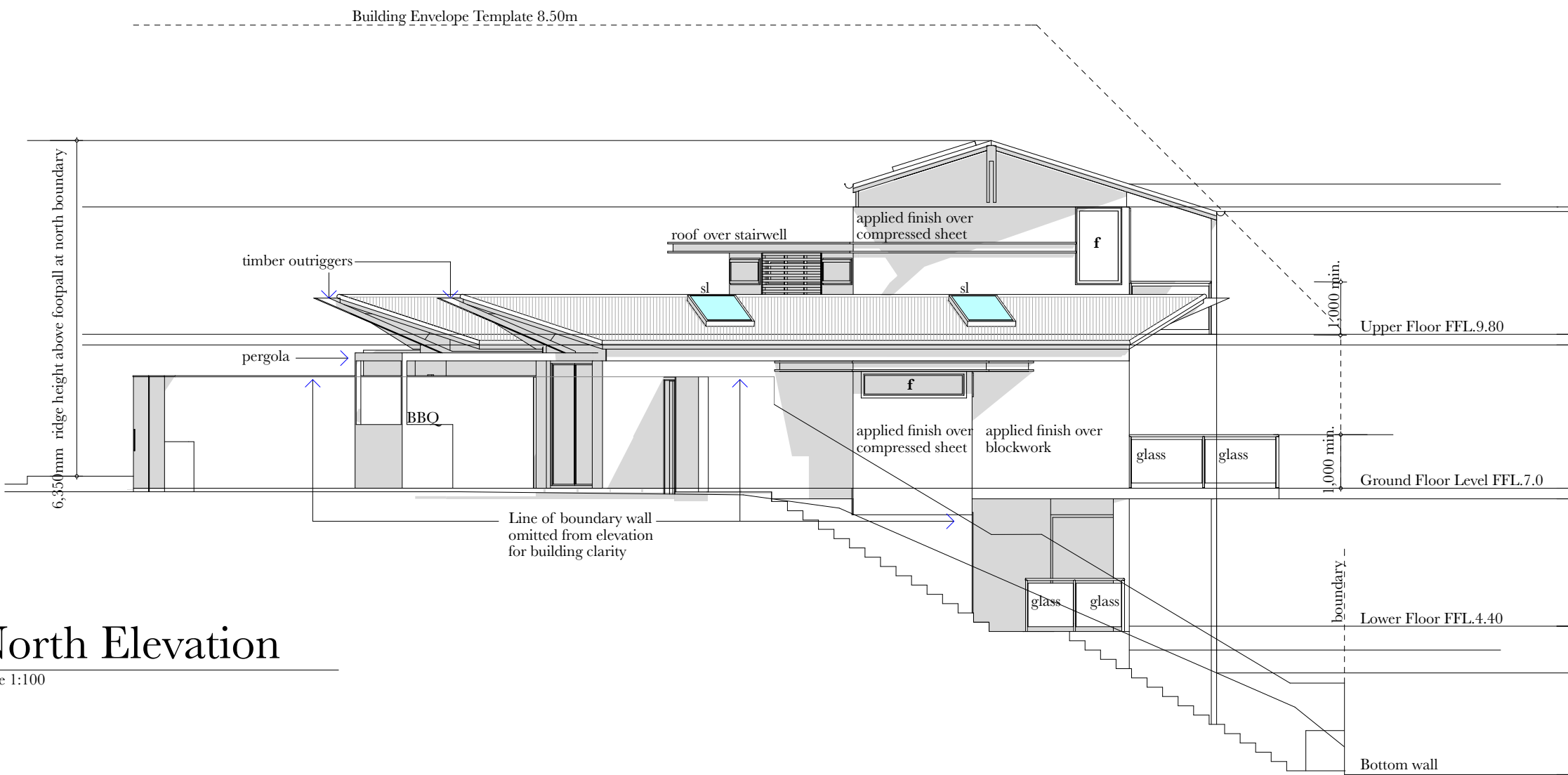
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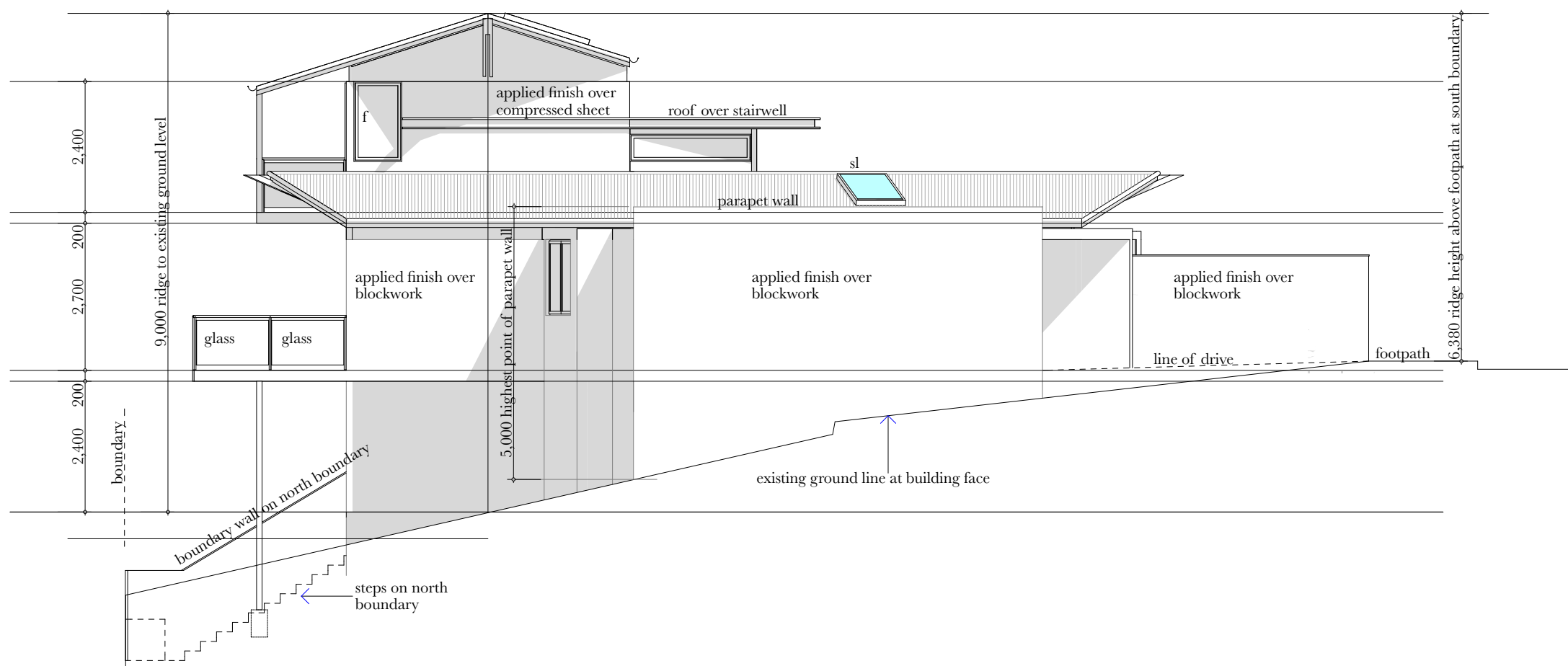
QCC No: 4833



2

North Elevation

Scale 1:100



4

South Elevation

Scale 1:100

Client:

Dennis Castellarin

Site

Address:

Nº 33 to 35 Howrah Road
Howrah

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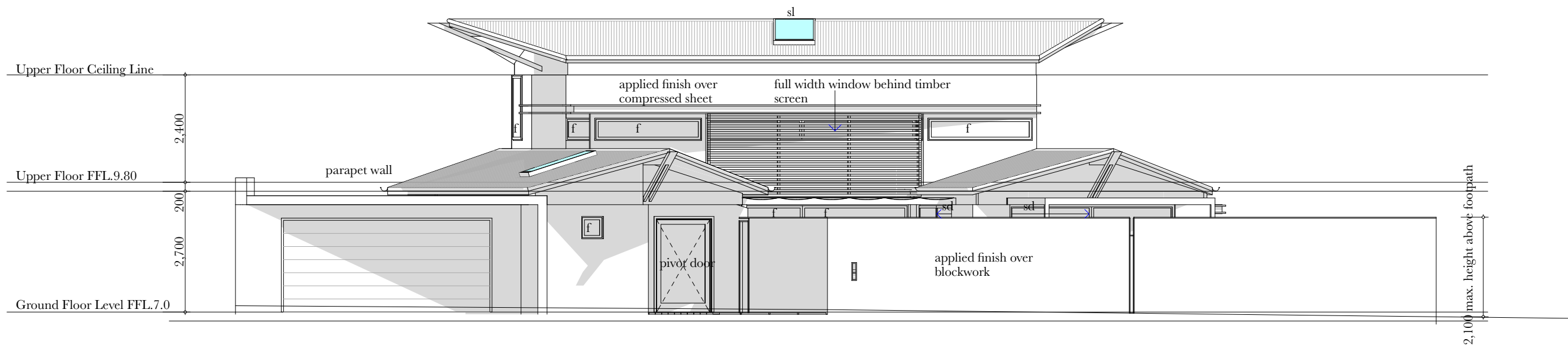
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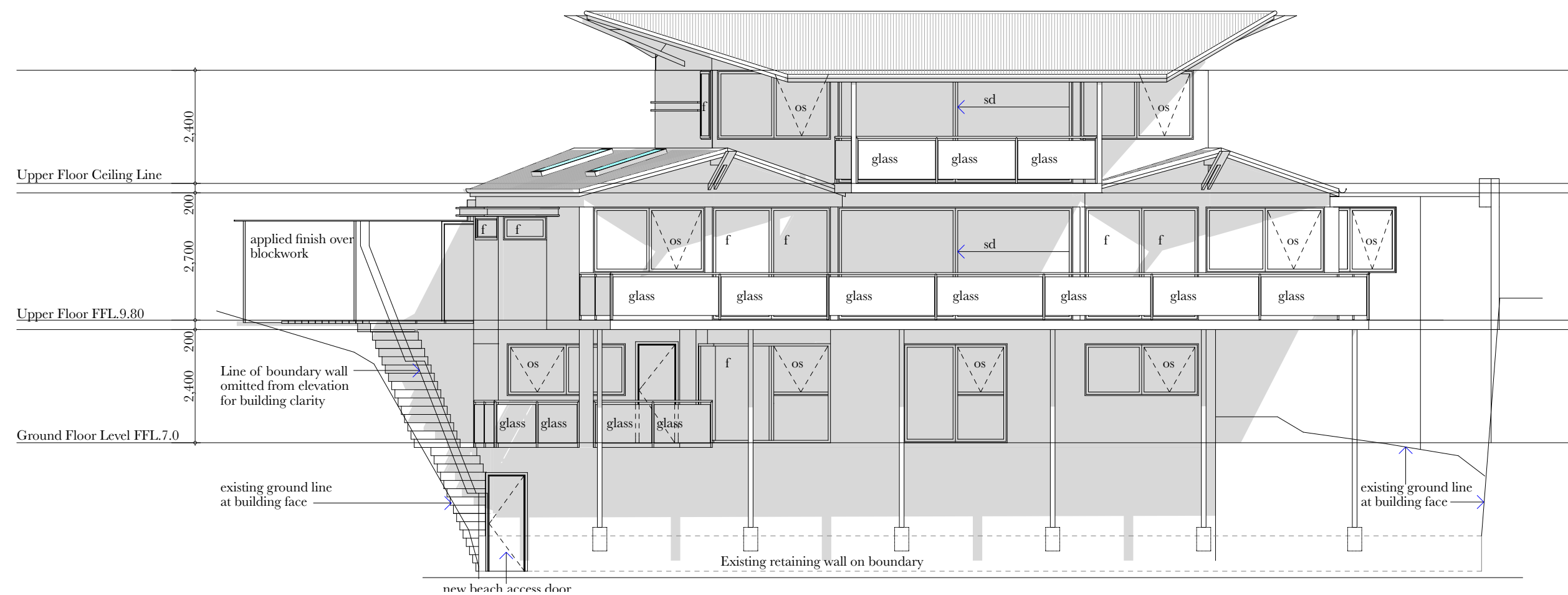
1 East Elevation

Scale 1:100



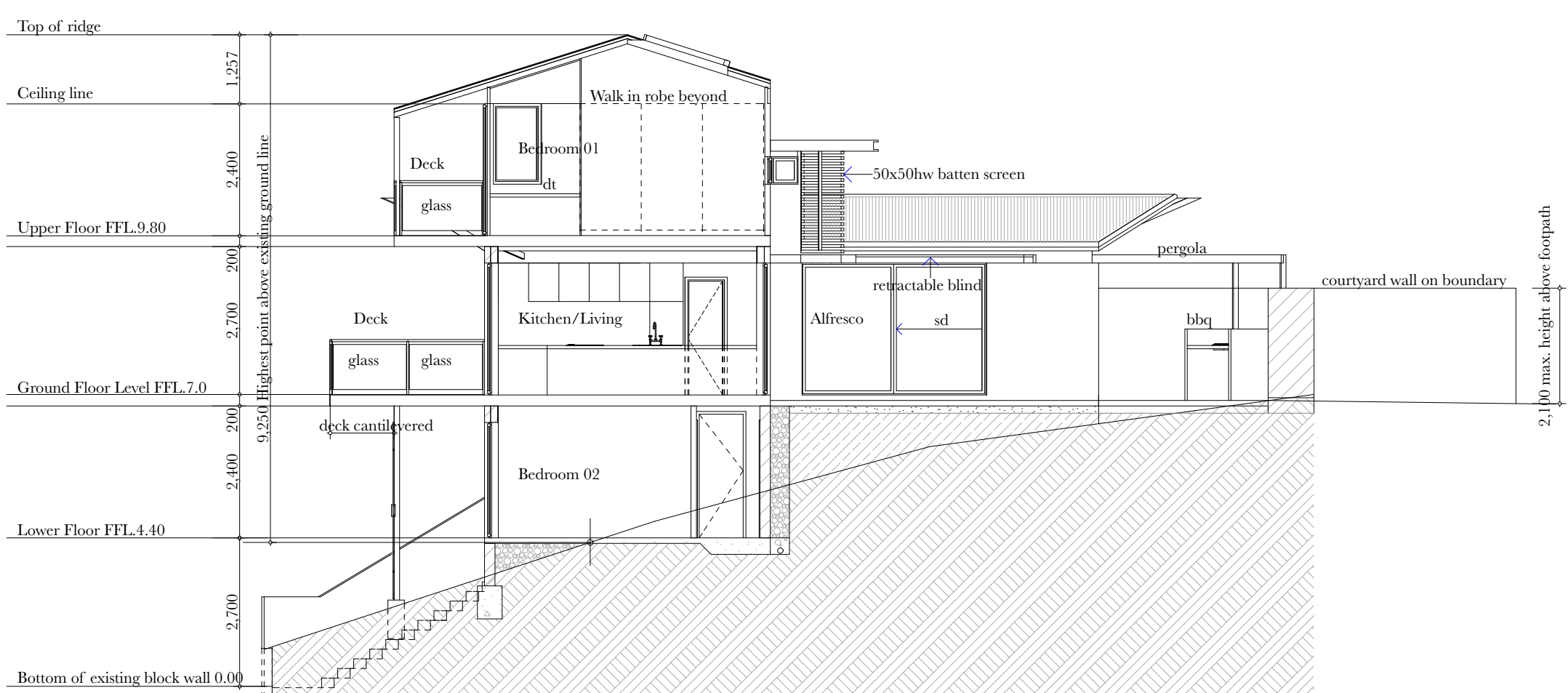
3 West Elevation

Scale 1:100



Section A A

Scale 1:100



Client:

Dennis Castellarin

Site

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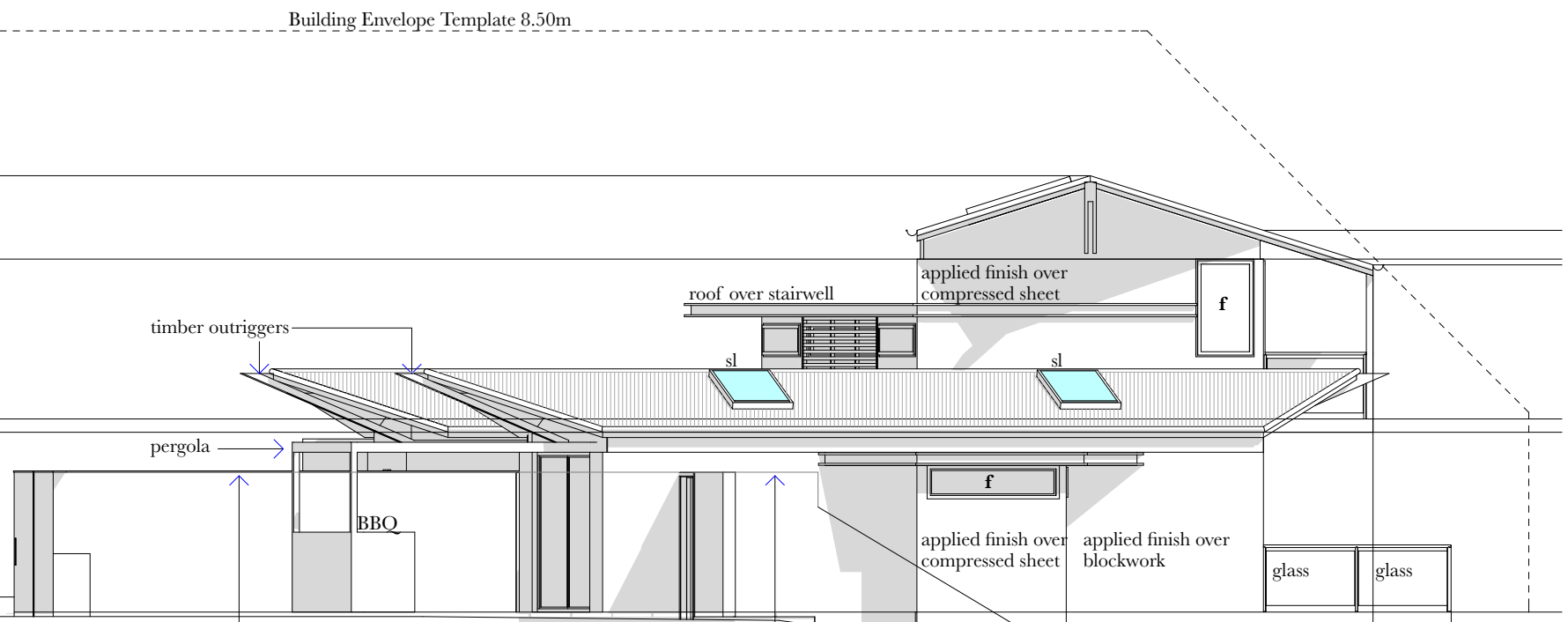
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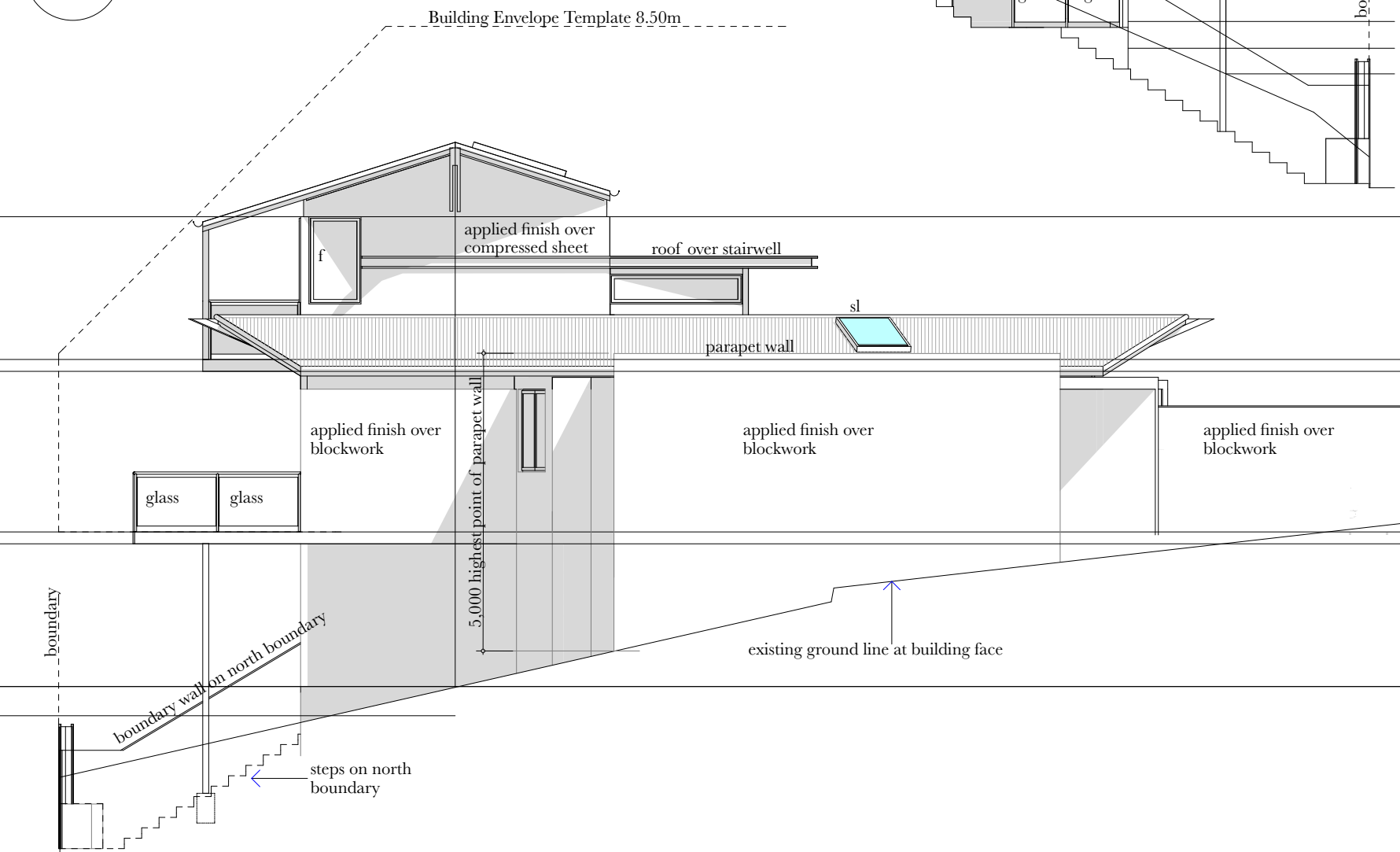
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QCC No: 4833



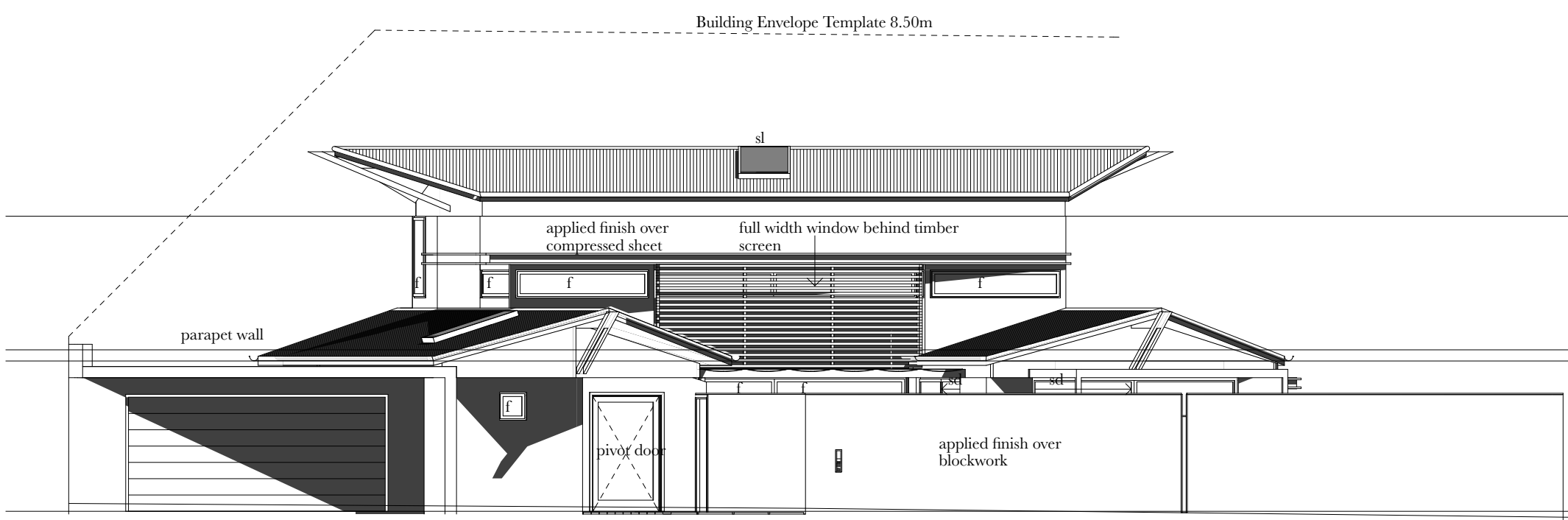
2 North Elevation

Scale 1:100



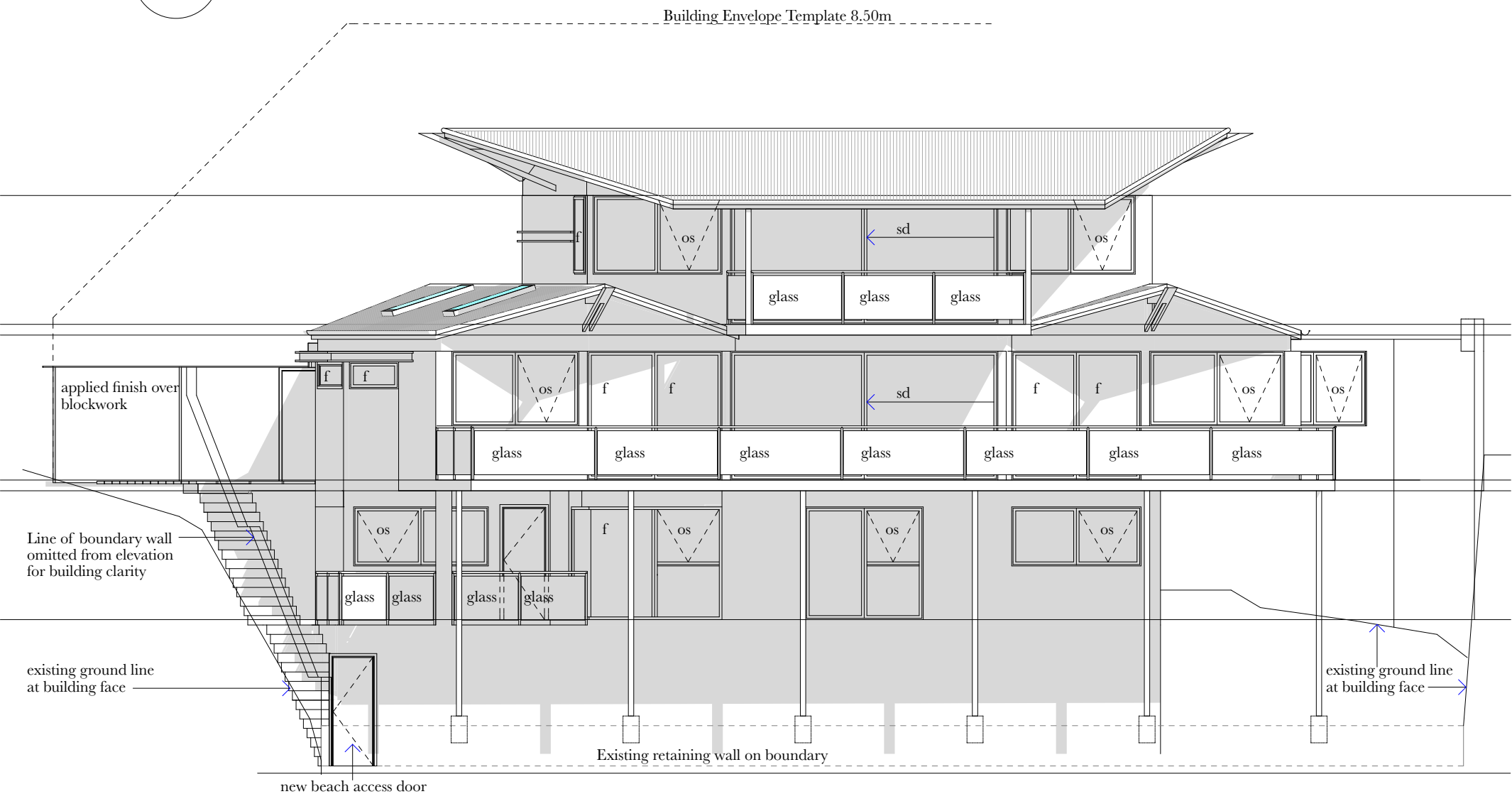
4 South Elevation

Scale 1:100



1 East Elevation

Scale 1:100



3 West Elevation

Scale 1:100

Attachment 3

33 Howrah Road, HOWRAH



Site viewed from Howrah Road

11.3.4 DEVELOPMENT APPLICATION D-2015/407 - 2 AND 12 SPITFARM ROAD, OPOSSUM BAY - DWELLING
(File No D-2015/407)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for a Dwelling at 2 and 12 Spitfarm Road, Opossum Bay.

RELATION TO PLANNING PROVISIONS

The land is zoned Village and subject to the Coastal Erosion Hazard, Waterway and Coastal Protection and the On-Site Wastewater Management Codes under the Clarence Interim Planning Scheme 2015 (the Scheme). In accordance with the Scheme the proposal is a Discretionary development.

LEGISLATIVE REQUIREMENTS

The report on this item details the basis and reasons for the recommendation. Any alternative decision by Council will require a full statement of reasons in order to maintain the integrity of the Planning approval process and to comply with the requirements of the Judicial Review Act and the Local Government (Meeting Procedures) Regulations 2015.

Council is required to exercise a discretion within the statutory 42 day period which has been extended to 16 June 2016 with the written agreement of the applicant.

CONSULTATION

The proposal was advertised in accordance with statutory requirements and 6 representations were received raising the following issues:

- scale of building;
- clarification of building height on amended plans;
- overshadowing;
- impact on amenity;
- landscaping;
- property access;
- fencing;
- waterway and coastal protection;
- inundation;
- coastal erosion;
- intensification of use;
- boat shed;
- holiday home;
- wastewater disposal;
- Scheme requirements;
- use of right-of-way access during construction; and
- asbestos removal and safety during construction.

RECOMMENDATION:

- A. That the Development Application for Dwelling at 2 and 12 Spitfarm Road, Opossum Bay (CI Ref D-2015/407) be approved subject to the following conditions and advice.
1. GEN AP1 – ENDORSED PLANS.
 2. GEN AP3 – AMENDED PLAN [a section between the wastewater irrigation area and building/building foundations resulting in horizontal separation of a minimum 2m].
 3. ENG M5 – EROSION CONTROL.
 4. ENG S1 – INFRASTRUCTURE REPAIR.
 5. Prior to the issue of a building permit, a detailed design must be submitted in accordance with the recommendations of the Coastal Vulnerability Assessment prepared by Geo-Environmental Solutions dated September 2015 to the satisfaction of Council's Group Manager Asset Management. The foundations of the dwelling must be designed and constructed in such a matter as to extend into the stable foundation layer.
 6. A plan for the management of demolition and construction works must be submitted and approved by Council's Manager City Planning prior to the issue of a Building Permit. The plan must outline the proposed demolition and construction practices in relation to:
 - parking for employees involved in demolition and construction;
 - proposed fencing/screening of the site from the beach and the reserve, and public walkway at 2 Spitfarm Road;
 - any areas of the reserve that may need to be used for storage or work areas;
 - procedures to prevent soil and debris being carried onto the beach, the reserve and public walkway; and
 - how works would be undertaken generally in accordance with "Wetlands and Waterways Works Manual" (DPIWE, 2003) and "Tasmanian Coastal Works Manual" (DPIPWE, Page and Thorp, 2010).
- The developer must obtain approval for the use of Council land during construction.
- B. That the details and conclusions included in the Associated Report be recorded as the reasons for Council's decision in respect of this matter.

DEVELOPMENT APPLICATION D-2015/407 - 2 AND 12 SPITFARM ROAD, OPOSSUM BAY – DWELLING /contd...

ASSOCIATED REPORT**1. BACKGROUND**

The application was first advertised on 3 February 2016, with 4 representations being received. In response to the issues raised, the applicant decided to redesign the proposed dwelling in an attempt to reduce impact on surrounding properties. The amended plans feature a smaller building with reduced site coverage, floor area and maximum height and increased boundary setback distances. The amended proposal was readvertised with 2 of the original representors lodging revised submissions. The amended plans are the subject of this report.

2. STATUTORY IMPLICATIONS

- 2.1.** The land is zoned Village under the Scheme.
- 2.2.** The proposal is discretionary because it does not meet the Acceptable Solutions prescribed in the Village zone and the Stormwater Management, Waterway and Coastal Protection, Coastal Erosion Hazard and On-Site Wastewater Management Codes.
- 2.3.** The relevant parts of the Planning Scheme are:
 - Section 8.10 – Determining Applications;
 - Part D – Village Zone; and
 - Part E – Stormwater Management, Waterway and Coastal Protection, Coastal Erosion Hazard and On-Site Wastewater Management Codes.
- 2.4.** Council's assessment of this proposal should also consider the issues raised in any representations received, the outcomes of the State Policies and the objectives of Schedule 1 of the Land Use Planning and Approvals Act, 1993 (LUPAA).

3. PROPOSAL IN DETAIL

3.1. The Site

The site has an area of 326m² and a slope of approximately 1 in 6.5 towards the western side of the lot. Access to the site is via a right-of-way (ROW) extending from Spitfarm Road over the Council-owned Opossum Bay Park (2 Spitfarm Road). An existing dwelling constructed of cement sheeting is contained on the property. No car parking is currently provided on-site.

The area surrounding the subject site is similarly zoned Village featuring properties mainly containing Single Dwelling developments, many of which originated as shacks. The Derwent River/Opossum Bay Beach adjoins the lot to the west, while a public walkway adjoins the southern boundary of the site. A Single Dwelling is located on the opposite side of the walkway at 7 Pier Road. Land immediately to the east contains Opossum Bay Park. The property adjacent the northern boundary of the site at 14 Spitfarm Road contains a Single Dwelling and benefits from the same ROW access as the subject property.

3.2. The Proposal

The proposal is for demolition of the existing dwelling and construction of a new 2 storey dwelling. The dwelling would contain 3 bedrooms, 4 bathrooms, a laundry, storage room, an open plan living/kitchen/dining area and 2 timber decks.

The proposed dwelling will have a height of 7.29m at its highest point above natural ground level and will be constructed using cement sheeting on the walls with a corrugated iron roof. The dwelling would have setbacks of 4m from the western boundary, 3.18m from the northern side boundary, 2.9m from the eastern side boundary and 0.96m from the southern boundary.

Wastewater would be managed using an aerated wastewater treatment system upslope of the dwelling on the eastern side of the site. Effluent would be irrigated through a subsurface land application system applied through a raised bed.

A coastal vulnerability assessment has been submitted, which details the likely impacts of coastal erosion on the proposed development and contains recommendations on how the building should be constructed.

The application proposes to retain the existing parking and access arrangement and therefore no parking spaces are proposed on-site.

4. PLANNING ASSESSMENT

4.1. Determining Applications [Section 8.10]

“8.10.1 In determining an application for any permit the planning authority must, in addition to the matters required by s51(2) of the Act, take into consideration:

- (a) all applicable standards and requirements in this planning scheme; and*
- (b) any representations received pursuant to and in conformity with ss57(5) of the Act;*

but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised”.

Reference to these principles is contained in the discussion below.

4.2. Compliance with Zone and Codes

The proposal meets the Scheme’s relevant Acceptable Solutions (zone and codes) with the exception of the following.

Village Zone

Clause	Standard	Acceptable Solution (Extract)	Proposed
16.4.2 A2	Building Setback from boundaries	Building setback from side and rear boundaries must be no less than: (a) 2m; or (b) half the height of the wall, whichever is the greater.	Setback of 0.96m from the southern boundary – Setback of 2.93m required to meet Acceptable Solution (variation of 1.97m)

The proposed variation can be supported pursuant to the Performance Criteria P2 of Clause 16.4.2 for the following reasons.

Performance Criteria	Comment
<p><i>P2</i> <i>Building setback from side and rear boundaries must, taking into account aspect and slope, satisfy all of the following:</i> <i>(a) be sufficient to prevent unreasonable adverse impacts on residential amenity on adjoining lots by:</i></p>	<p>See below.</p>
<p><i>(i) overlooking and loss of privacy.</i></p>	<p>The southern elevation of the building does not contain any upper-storey windows of habitable rooms. A living area window with a sill height of 1.8m above finished floor level would be located on the lower-storey of the southern elevation and would be located below the floor level of the adjacent dwelling at 7 Pier Road. On this basis there would be no overlooking or unreasonable loss of privacy to adjoining residential properties.</p>
<p><i>(ii) overshadowing and reduction of sunlight to habitable rooms and private open space on adjoining lots to less than 3 hours between 9.00am and 5.00pm on 21 June or further decrease sunlight hours if already less than 3 hours.</i></p>	<p>Shadow diagrams submitted by the applicant show that the proposed dwelling would marginally increase shadowing of the property at 7 Pier Road by approximately 1 hour per day. Depth of overshadowing would also marginally increase; however, direct sunlight to windows of habitable rooms of 7 Pier Road (located on the north-west elevation) would not be reduced below 3 hours on 21 June. The vast majority of the private open space at 7 Pier Road would easily achieve 3 hours of direct sunlight on 21 June.</p>
<p><i>(iii) visual impact, when viewed from adjoining lots, through building bulk and massing.</i></p>	<p>The proposed building is of a size and scale that is commensurate with other buildings in the surrounding area. The building would step down with the slope of the land, which would reduce the bulk of the building and help preserve views of the surrounding area from neighbouring buildings.</p>

Waterway and Coastal Protection Code

Clause	Standard	Acceptable Solution (Extract)	Proposed
E11.7.1 A1	Buildings and Works	Building and works within a Waterway and Coastal Protection Area must be within a building area on a plan of subdivision approved under this planning scheme.	New building – Title contains no building area approved under the Scheme.

The proposed variation can be supported pursuant to the Performance Criteria P1 of Clause 11.7.1 for the following reasons.

Performance Criteria	Comment
<i>P1 Building and works within a Waterway and Coastal Protection Area must satisfy all of the following:</i>	See below.
<i>(a) avoid or mitigate impact on natural values;</i>	The building would be constructed within the curtilage of the existing dwelling. The property is located within an existing settlement meaning the natural values of the land are significantly altered from the original state. To avoid further impact on natural values during construction activities, a condition is recommended that would require works to be undertaken in accordance with the “Wetlands and Waterways Works” and “Tasmanian Coastal Works Manuals”.
<i>(b) mitigate and manage adverse erosion, sedimentation and run-off impacts on natural values;</i>	A condition is recommended that would require works to be undertaken in accordance with a soil and water management plan in order to control the impact of erosion, sedimentation and run-off during construction. The existing method of stormwater disposal (piped and drained to the beach) is satisfactory and would be retained.
<i>(c) avoid or mitigate impacts on riparian or littoral vegetation;</i>	The building would be constructed within the curtilage of the existing dwelling. Of the minor amount of littoral vegetation remaining, most would be retained within the landscape zone as shown on the proposed site plan.

(d) <i>maintain natural streambank and streambed condition, (where it exists);</i>	Not applicable - the subject property does not contain any watercourses.
(e) <i>maintain in-stream natural habitat, such as fallen logs, bank overhangs, rocks and trailing vegetation;</i>	Not applicable.
(f) <i>avoid significantly impeding natural flow and drainage;</i>	Not applicable.
(g) <i>maintain fish passage (where applicable);</i>	Not applicable.
(h) <i>avoid landfilling of wetlands;</i>	The proposal does not include landfilling.
(i) <i>works are undertaken generally in accordance with “Wetlands and Waterways Works Manual” (DPIWE, 2003) and “Tasmanian Coastal Works Manual” (DPIPWE, Page and Thorp, 2010), and the unnecessary use of machinery within watercourses or wetlands is avoided.</i>	As discussed, a condition is recommended that would require works to be undertaken in accordance with the manuals.

Coastal Erosion Hazard Code

Clause	Standard	Acceptable Solution (Extract)	Proposed
E16.7.1 A1	Buildings and Works	No Acceptable Solution	Building in Medium and Low Risk Hazard Areas

It is considered that the proposed variation can be supported pursuant to the Performance Criteria P1 of Clause 16.7.1 for the following reasons.

Performance Criteria	Comment
<i>“P1 - Buildings and works must satisfy all of the following:</i>	See below.
(a) <i>not increase the level of risk to the life of the users of the site or of hazard for adjoining or nearby properties or public infrastructure;</i>	The applicant has submitted an expert’s coastal vulnerability assessment. Based on the information given in the assessment, the proposed building would not increase the level of risk to the life of the users of the site or cause a hazard for adjoining or nearby properties or public infrastructure.

(b) <i>erosion risk arising from wave run-up, including impact and material suitability, may be mitigated to an acceptable level through structural or design methods used to avoid damage to, or loss of, buildings or works;</i>	The coastal vulnerability assessment demonstrates that the risk of erosion arising from wave run-up can be effectively managed through engineering design, such as founding the dwelling and retaining wall on stable bedrock. The structures proposed would not pose a hazard to adjoining properties.
(c) <i>erosion risk is mitigated to an acceptable level through measures to modify the hazard where these measures are designed and certified by an engineer with suitable experience in coastal, civil and/or hydraulic engineering;</i>	The coastal vulnerability assessment states that the building, in particular its foundations, can be designed to mitigate risk to an acceptable level.
(d) <i>need for future remediation works is minimised;</i>	The coastal vulnerability assessment states that the building can incorporate the use of steel and concrete to minimise the requirement for future remediation works.
(e) <i>health and safety of people is not placed at risk;</i>	The coastal vulnerability assessment states that building foundations can be reinforced to reduce risk to the health and safety of people.
(f) <i>access to the site will not be lost or substantially compromised by expected future erosion whether on the proposed site or off-site;</i>	The access driveway is outside the Coastal erosion hazard area and therefore will not be subjected to coastal erosion.
(g) <i>provision of a developer contribution for required mitigation works consistent with any adopted Council Policy, prior to commencement of works;</i>	No mitigation works in accordance with any adopted Council Policy are required.
(h) <i>not be located on an actively mobile landform”.</i>	The property is not located on an actively mobile landform.

On-Site Wastewater Management Code

Clause	Standard	Acceptable Solution (Extract)	Proposed
E23.10.1 A1	Location of land application areas	Horizontal separation distance from a building to a land application area (area of land used to apply effluent from a wastewater treatment unit or reserved for future application) must comply with one of the following: (a) be no less than 6m;	Land application area upslope of proposed building

		(b) be no less than; (i) 2m from an upslope or level building; (ii) if primary treated effluent be no less than 4m plus 1m for every degree of average gradient from a downslope building; (iii) if secondary treated effluent and subsurface application, no less than 2m plus 0.25m for every degree of average gradient from a down slope building.	
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It is considered that the proposed variation can be supported pursuant to the Performance Criteria P1 of Clause E23.10.1 for the following reasons.

Performance Criteria	Comment
<i>“P1 - Horizontal separation distance from a building to a land application area must satisfy all of the following:</i>	Council’s Environmental Health Officer advised that the Performance Criteria is satisfied for the following reasons:
<i>(a) effluent must be no less than secondary treated effluent standard and applied through a subsurface land application system</i>	Effluent would be secondary treated.
<i>(b) be no less than 2m”.</i>	The applicant has advised that the eastern end of the building would be cantilevered to ensure that the land application area has a horizontal separation of 2m from the building. A condition requiring a section drawing confirming same is recommended.

On-Site Wastewater Management Code

Clause	Standard	Acceptable Solution (Extract)	Proposed
E23.10. 1 A2	Location of Land Application Areas	<p>Horizontal separation distance from downslope surface water to a land application area must comply with any of the following:</p> <p>(a) be no less than 100m;</p> <p>(b) if the site is within a high rainfall area or the site soil category is 4, 5 or 6, be no less than the following:</p> <p>(i) if primary treated effluent standard or surface application, 50m plus 7m for every degree of average gradient from downslope surface water;</p> <p>(ii) if secondary treated effluent standard and subsurface application, 50m plus 2m for every degree of average gradient from down slope surface water.</p> <p>(c) if the site is not within a high rainfall area or the site soil category is not 4, 5 or 6, be no less than the following:</p> <p>(i) if primary treated effluent 15m plus 7m for every degree of average gradient from downslope surface water;</p> <p>(ii) if secondary treated effluent and subsurface application, 15m plus 2m for every degree of average gradient from down slope surface water.</p>	<ul style="list-style-type: none"> - land application area within 100m of surface water; - the site is within a low rainfall area an effluent is secondary treated – 33m separation distance required from surface water (22m provided).

It is considered that the proposed variation can be supported pursuant to the Performance Criteria P2 of Clause E23.10.1 for the following reasons.

Performance Criteria	Comment
<i>“P2 - Horizontal separation distance from downslope surface water for a land application area must satisfy all of the following:</i>	Council’s Environmental Health Officer advised that the Performance Criteria is satisfied for the following reasons:
<i>(a) effluent must be no less than secondary treated effluent standard and applied through a subsurface land application system;</i>	The effluent would be secondary treated and would be irrigated through a subsurface land application system applied through a bed constructed in fill designed to ensure that there would be no pollution of the nearby beach.
<i>(b) be no less than 15m;</i>	The proposal plans demonstrate that the land application area would be more than 15m from surface water.
<i>(c) the surface water is not of high resource or environmental value;</i>	Nearby surface water (Derwent River) is not of high resource or environmental value.
<i>(d) the average gradient is no more than 16 degrees;</i>	The average gradient of the site is less than 16° (approximately 9°).
<i>(e) the site is not in a flood prone area with an ARI of no less than 20 years;</i>	The site is not in flood prone area and is not located within the Inundation Prone Areas Code.
<i>(f) either of the following applies: (i) the site soil category is 1, 2 or 3; (ii) a raised bed is used”.</i>	The applicant proposes a raised bed constructed using category 1 soil.

On-Site Wastewater Management Code

Clause	Standard	Acceptable Solution (Extract)	Proposed
E23.10.1 A3	Location of Land Application Areas	Horizontal separation distance from a property boundary to a land application area must comply with either of the following: (a) be no less than 40m from a property boundary; (b) be no less than: (i) 1.5m from an upslope or level property boundary; and (ii) if primary treated effluent 2m for every degree of average gradient from a downslope property boundary; or (iii) if secondary treated effluent and subsurface application, 1.5m plus 1m for every degree of average gradient from a downslope property boundary.	Land application area does not achieve required horizontal separation distance from downslope (northern) property boundary – separation of 5m proposed – 10.5m required

It is considered that the proposed variation can be supported pursuant to the Performance Criteria P3 of Clause E23.10.1 for the following reasons.

Performance Criteria	Comment
<i>“P3 - Horizontal separation distance from a property boundary to a land application area must satisfy all of the following:</i>	Council’s Environmental Health Officer advised that the Performance Criteria is satisfied for the following reasons:
<i>(a) effluent must be no less than secondary treated effluent standard and applied through a subsurface land application system;</i>	The effluent would be secondary treated and would be irrigated through a subsurface land application system applied through a bed constructed in fill.
<i>(b) be no less than 1.5m</i>	The minimum horizontal distance from the property boundaries to the land application area is 1.5m.
<i>(c) the average gradient is no more than 16 degrees;</i>	The average gradient of the site is less than 16° (approximately 9°)

<p><i>(d) either of the following applies:</i></p> <p><i>(i) the vertical separation between the land application area and groundwater or any limiting layer is no less than 1.5m;</i></p> <p><i>(ii) a raised bed is used to achieve a minimum vertical separation of 1.5m between the land application area and groundwater or any limiting layer”.</i></p>	<p>There is no limiting layer or ground water on the site within 1.5m of the land application area.</p>
---	---

5. REPRESENTATION ISSUES

The proposal was advertised in accordance with statutory requirements and 6 representations were received. The following issues were raised by the representors.

5.1. Scale of Building

Representors raised concern that the original building proposal was of a scale not commensurate with other residential buildings in the area and would have an unreasonable impact on residential amenity. Representors were concerned that the proposed building would be too high and setback too closely to boundaries. Representors did not raise any direct concerns about the scale of the amended building design.

- **Comment**

The amended proposal requires a variation to the setback requirement relating to the southern side boundary. As discussed, the proposal satisfies the Performance Criteria relating to building setback. The 0.96m setback from the southern side boundary is consistent with the setbacks of other buildings fronting the coastal reserve, some of which feature boundary walls.

5.2. Clarification of Building Height on Amended Plans

One representor has raised concern that the amended plans indicate a maximum building height exceeding 9.5m.

- **Comment**

The proposal plans show that the maximum height of the building would be 7.29m above natural ground level.

5.3. Overshadowing

One representor has raised concern that the proposed building would overshadow the dwelling and outdoor space of 7 Pier Road.

- **Comment**

As discussed, the proposed building would not cause an unreasonable amount of overshadowing of adjacent properties and satisfies the Performance Criteria relating to the requested building setback variation.

5.4. Impact on Amenity

Representors raised concern that the originally advertised plans would have an unreasonable impact on the amenity of surrounding properties due to the size and site coverage of the building. Also raised as issues were loss of view, privacy and impact on neighbourhood character. One representor has stated that the proposal does not comply with the Local Area Objectives and Desired Future Character Statements for the zone.

- **Comment**

As discussed, the applicant decided to redesign the proposed dwelling in an attempt to address the issues raised in the initial advertising period. None of the above issues raised during the first advertising period were raised in relation to the amended plans. As discussed, the amended plans have been assessed as complying with the relevant Performance Criteria.

The Village zone does not contain any Local Area Objectives or Desired Future Character Statements.

5.5. Landscaping

One representor has raised concern that no landscaping would be provided on-site.

- **Comment**

The Scheme does not require the provision of landscaping for a Single Dwelling in a Village zone.

5.6. Property Access

Representors have raised concern that the property is accessed via a ROW and that parking on the site is a problem. Another representor is concerned that emergency services would not be able to access the property or the beach.

- **Comment**

The application does not propose any change to the existing access and parking arrangements.

5.7. Fencing

A representor has raised concern that the proposal does not comply with the fencing requirements in Clause 16.4.6 of the Scheme, including requirements for frontage fences.

- **Comment**

The proposal plans indicate that fencing of the property would not exceed 1.8m above natural ground level (Clause 16.4.6 provides for a height up to 2.1m). As the property does not contain a frontage boundary (ie a boundary directly adjacent to a public road), the frontage fence requirements do not apply.

5.8. Waterway and Coastal Protection

Representors have raised concern that the proposal does not comply with the requirements of the Waterway and Coastal Protection Code in that the proposed dwelling would be closer to the foreshore than the existing.

- **Comment**

The proposed dwelling would be located approximately 3m closer to the foreshore. The Waterway and Coastal Protection Code does not dismiss development being located closer to the foreshore where compliance with the relevant standards of the Code can be demonstrated. As discussed, the proposal complies with the Performance Criteria of the Code.

5.9. Inundation

Representors have raised concern that the proposal does not comply with the requirements of the Inundation Prone Areas Code.

- **Comment**

The property is not located within the Inundation Prone Areas Code.
The requirements of the Code do not apply to this proposal.

5.10. Coastal Erosion

Representors have raised concern that the proposal does not comply with the requirements of the Coastal Erosion Hazard Code.

- **Comment**

As discussed, Council's Development Engineer has advised that the proposal satisfies the requirements of the Coastal Erosion Hazard Code.

5.11. Intensification of Use

One representor has raised concern that the proposal does not comply with Clause 9.2.1 of the Scheme as it would result in a substantial intensification of the use.

- **Comment**

Clause 9.2.1 (Development for Existing Discretionary Uses) of the Scheme is not relevant to the assessment of this proposal as a Single Dwelling is a permitted use in a Village zone.

5.12. Boat Shed

A representor raised concern that the originally advertised plans proposed a boat shed on to the beach.

- **Comment**

The amended proposal no longer includes the proposed boat shed.

5.13. Holiday Home

Several representors have raised concern that the proposed building would be a holiday home for the owner and would not be used as a permanent residence. One representor is concerned that the building could be used as a party or event venue.

- **Comment**

Based on the information given in the application, the proposal has been classified as a Single Dwelling under the Scheme. Any alternative activities (such as Tourist Accommodation) would need to be undertaken in accordance with the Scheme.

5.14. Wastewater Disposal

Representors have sought clarification on how wastewater would be managed.

- **Comment**

As discussed, wastewater would be managed using an aerated wastewater treatment system with effluent irrigated through a subsurface land application system applied through a raised bed. Council's Environmental Health Officer has advised that the proposed system satisfies the requirements of the On-site Wastewater Management Code.

5.15. Scheme Requirements

Representors have raised concern that the Clarence Interim Planning Scheme 2015 provides for use and development in Opossum Bay, which was previously prohibited by the Clarence Interim Planning Scheme 2007. Furthermore, representors are concerned that the current Scheme does not have regard to the objectives of the Opossum Bay Structure Plan 2007, which should include lower maximum height limits for buildings adjacent to the foreshore.

- **Comment**

As discussed above, the proposal complies with the development standards for buildings in a Village zone. The standards of the Village zone are based on the Southern Tasmania Regional Model Planning Scheme template.

Previously, Council had initiated an amendment to the Clarence Planning Scheme 2007 to incorporate some of the recommendations of the Opossum Bay Structure Plan into special planning controls. A decision on the amendment had not been made by the time the 2007 Scheme was superseded by the current Scheme. Accordingly, the Structure Plan has no statutory weight.

5.16. Use of Right-of-Way Access During Construction

A representor has raised concern that the ROW access to 14 Spitfarm Road would be blocked by builders during construction of the proposed dwelling.

- **Comment**

Due to the constraints of the subject property (access and limited land area), it is recommended that a condition be included on the planning permit, if granted, which would require the developer to submit a construction management plan.

5.17. Asbestos Removal and Safety During Construction

A representor has sought clarification on the safe removal of asbestos during demolition of the existing building. The representor has also requested that a safety fence be erected around the site during building construction.

- **Comment**

These issues are not relevant to the assessment of this application. Such matters, including the safe removal of asbestos, are dealt with under the Building Act. Council's Building Officer has advised that fencing of the site is only required where the site is a place of employment (as opposed to the building being constructed by the owner).

6. EXTERNAL REFERRALS

No external referrals were required or undertaken as part of this application.

7. STATE POLICIES AND ACT OBJECTIVES

7.1. The proposal is consistent with the outcomes of the State Policies, including those of the State Coastal Policy.

7.2. The proposal is consistent with the objectives of Schedule 1 of LUPAA.

8. COUNCIL STRATEGIC PLAN/POLICY IMPLICATIONS

There are no inconsistencies with Council's adopted Strategic Plan 2010-2015 or any other relevant Council Policy.

9. CONCLUSION

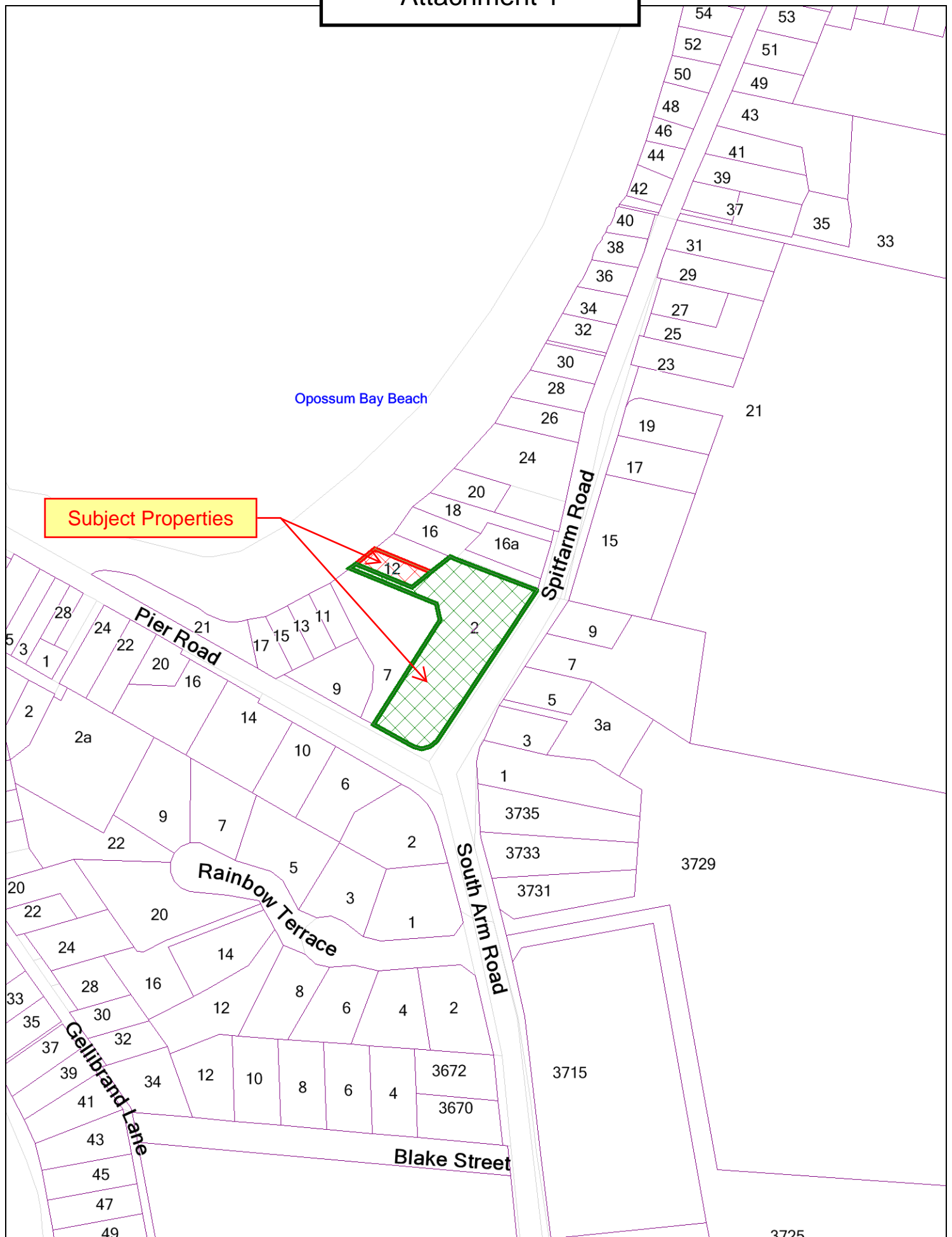
The proposal seeks approval for a new dwelling at 12 Spitfarm Road, Opossum Bay. The application meets the relevant acceptable solutions and performance criteria of the Scheme.

The proposal is recommended for approval subject to conditions.

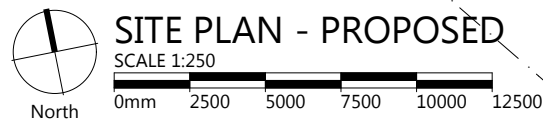
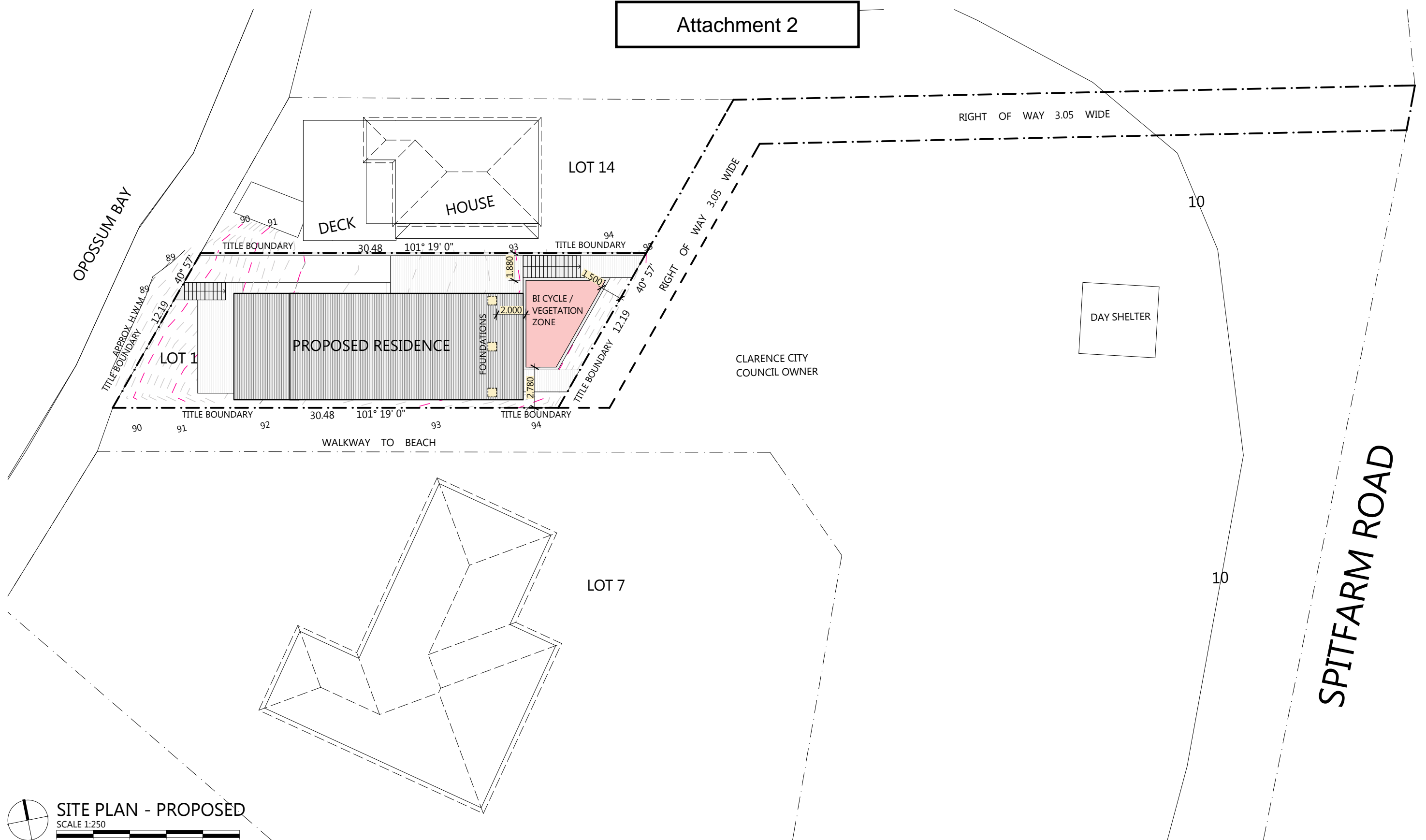
Attachments: 1. Location Plan (1)
2. Proposal Plan (6)
3. Site Photo (2)

Ross Lovell
MANAGER CITY PLANNING

Attachment 1



Disclaimer: This map is a representation of the information currently held by Clarence City Council. While every effort has been made to ensure the accuracy of the product, Clarence City Council accepts no responsibility for any errors or omissions. Any feedback on omissions or errors would be appreciated. Copying or reproduction, without written consent is prohibited. **Date:** Friday, 3 June 2016 **Scale:** 1:2,414 @A4



12 SPITFARM ROAD, OPOSSUM BAY

JMC PROPERTY GROUP

REVISION

Issue	Date	Description	Int.	App.
P5	12.02.16	PRELIMINARY ISSUE	MG	SC
P6	13.04.16	PRELIMINARY ISSUE	BT	SC
P7	02.05.16	PRELIMINARY ISSUE	BT	SC

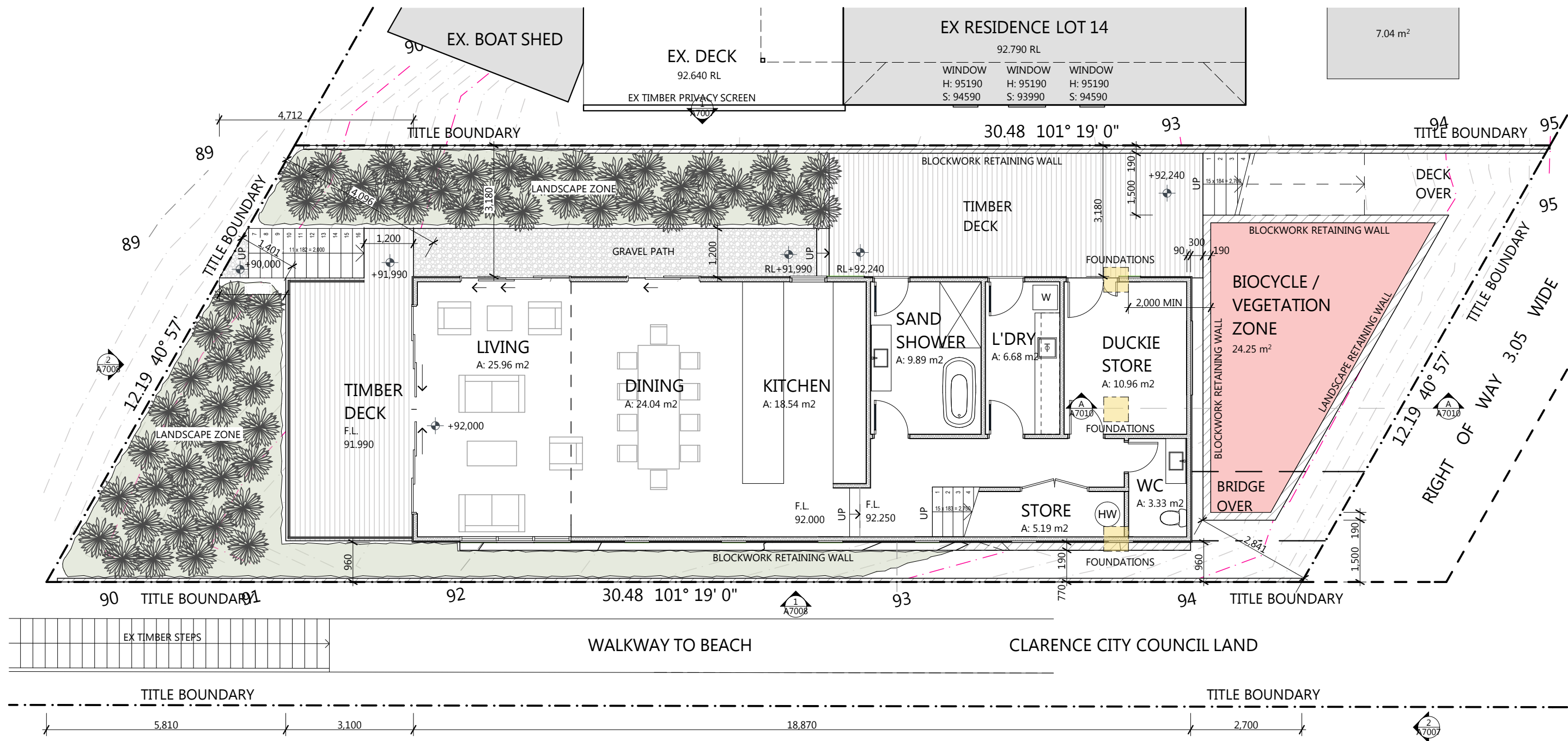
PRELIMINARY

151013

SHEET SIZE: A3 (LANDSCAPE)

A7000/P7

ARTAS
ARCHITECTS



GROUND FLOOR PLAN
SCALE 1:100
0mm 1000 2000 3000 4000 5000

12 SPITFARM ROAD, OPOSSUM BAY

JMC PROPERTY GROUP

R E V I S I O N		
Issue	Date	Description
P12	23.03.16	PRELIMINARY ISSUE
P13	02.05.16	PRELIMINARY ISSUE
P14	04.05.16	PRELIMINARY ISSUE

Int.	App.
BT	SC
BT	SC
BT	SC

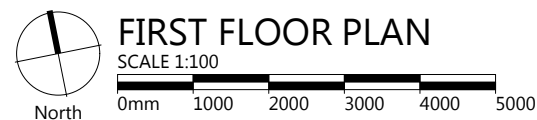
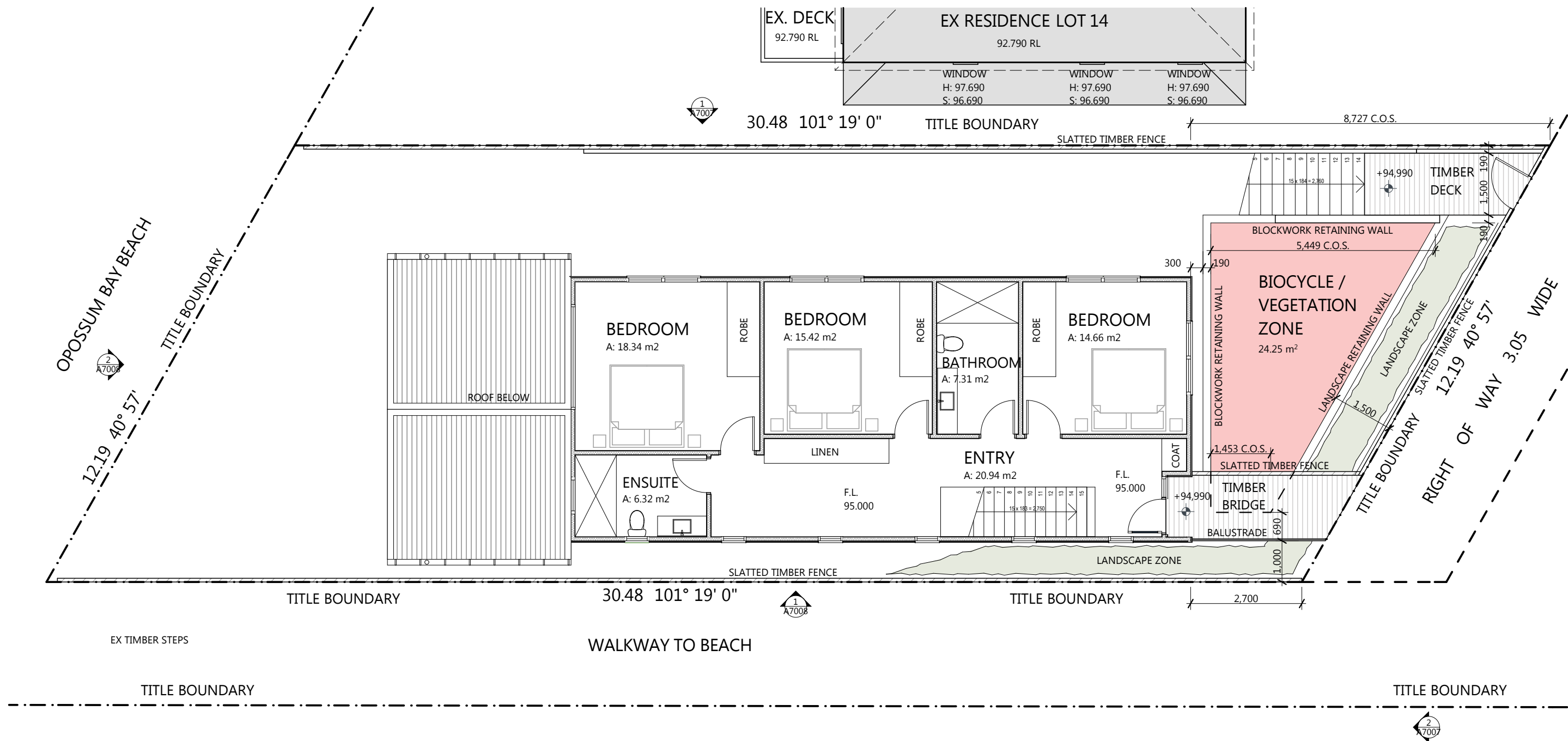
PRELIMINARY

151013

SHEET SIZE: A3 (LANDSCAPE)

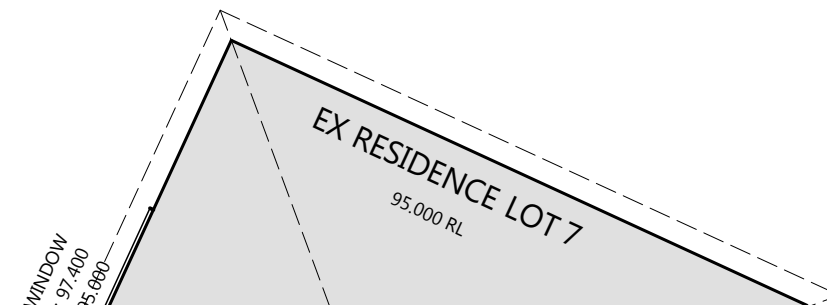
A7005/P14

ARTAS
ARCHITECTS



FIRST FLOOR PLAN

SCALE 1:100



12 SPITFARM ROAD, OPOSSUM BAY

JMC PROPERTY GROUP

REVISION

Issue	Date	Description	Int.	App.
P10	29.02.16	PRELIMINARY ISSUE	BT	SC
P11	23.03.16	PRELIMINARY ISSUE	BT	SC
P12	23.03.16	PRELIMINARY ISSUE	BT	SC
P13	02.05.16	PRELIMINARY ISSUE	BT	SC

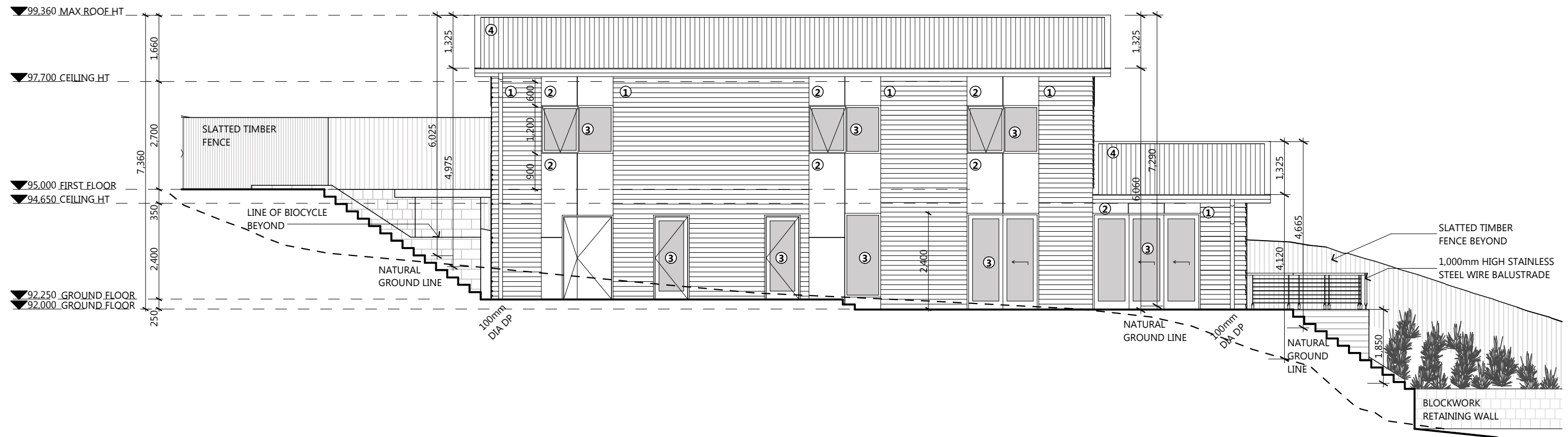
PRELIMINARY

151013

SHEET SIZE: A3 (LANDSCAPE)

A7006/P13

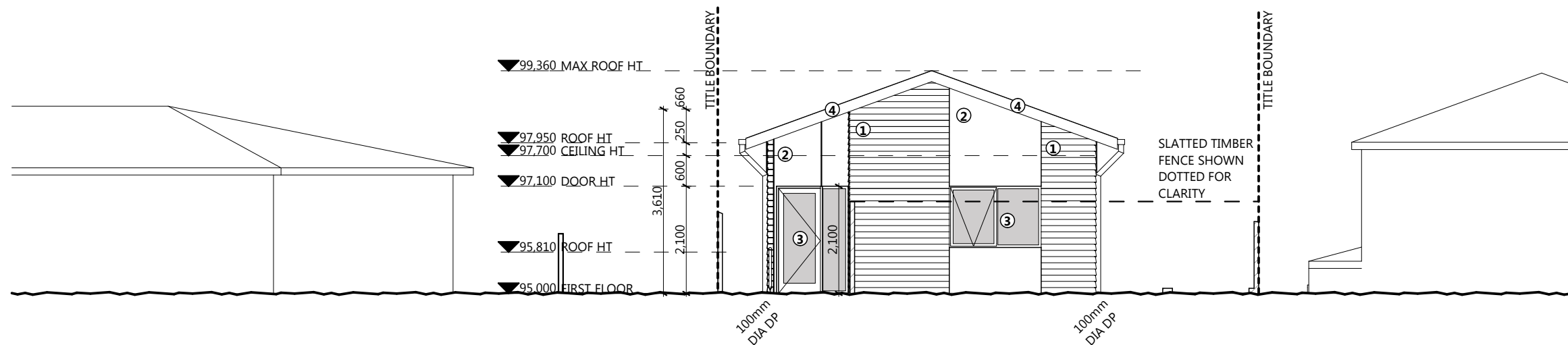
ARTAS
ARCHITECTS



1 NORTH ELEVATION
SCALE 1:100
0mm 1000 2000 3000 4000 5000

EXTERNAL ELEVATIONS LEGEND

- ① FIBRE CEMENT WEATHERBOARD EXTERNAL CLADDING. PAINT FINISH
- ② 10mm EXPRESSED JOINTED 8mm THICK FIBRE CEMENT CLADDING. PAINT FINISH.
- ③ POWDERCOATED ALUMINIUM FRAMED GLAZED WINDOWS AND DOORS.
- ④ COLORBOND ULTRA ROOF SHEETING WITH COLORBOND ULTRA FASCIA, BARGE CAPPING AND GUTTER SYSTEMS.



2 EAST ELEVATION
SCALE 1:100
0mm 1000 2000 3000 4000 5000

12 SPITFARM ROAD, OPOSSUM BAY

JMC PROPERTY GROUP

REVISION

Issue	Date	Description	Int.	App.
P9	22.02.16	PRELIMINARY ISSUE	BT	SC
P10	29.02.16	PRELIMINARY ISSUE	BT	SC
P11	23.03.16	PRELIMINARY ISSUE	BT	SC
P12	02.05.16	PRELIMINARY ISSUE	BT	SC

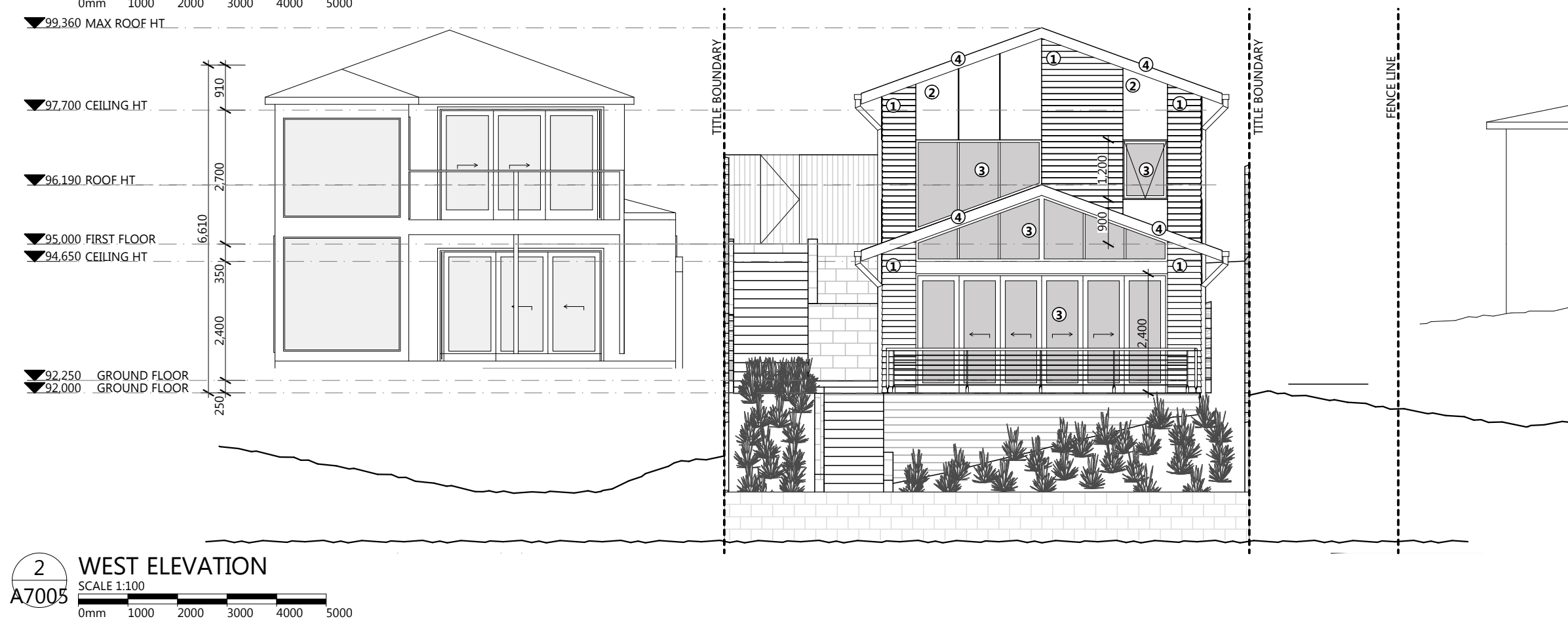
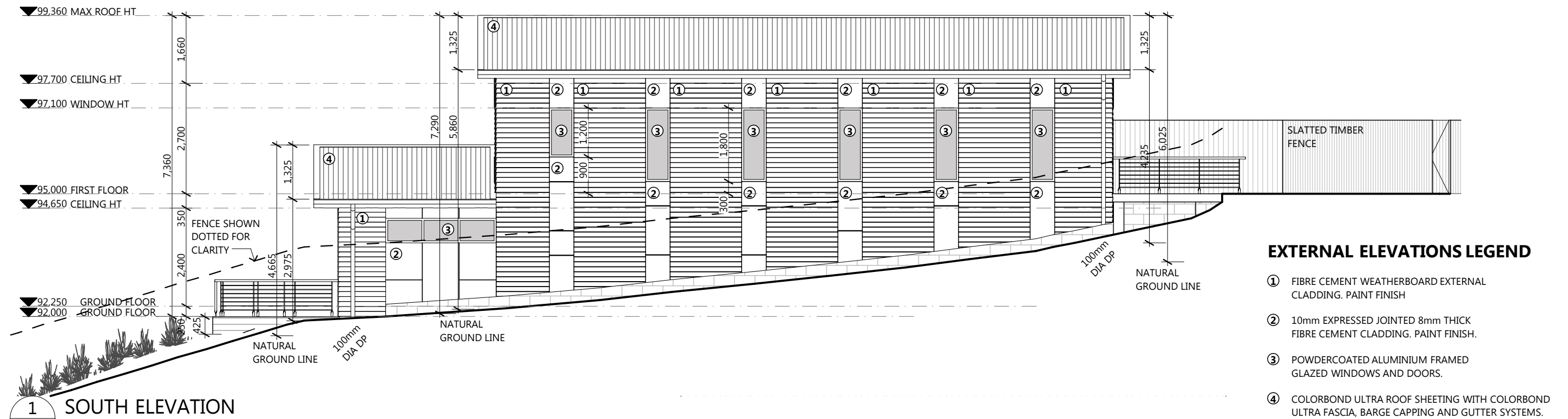
PRELIMINARY

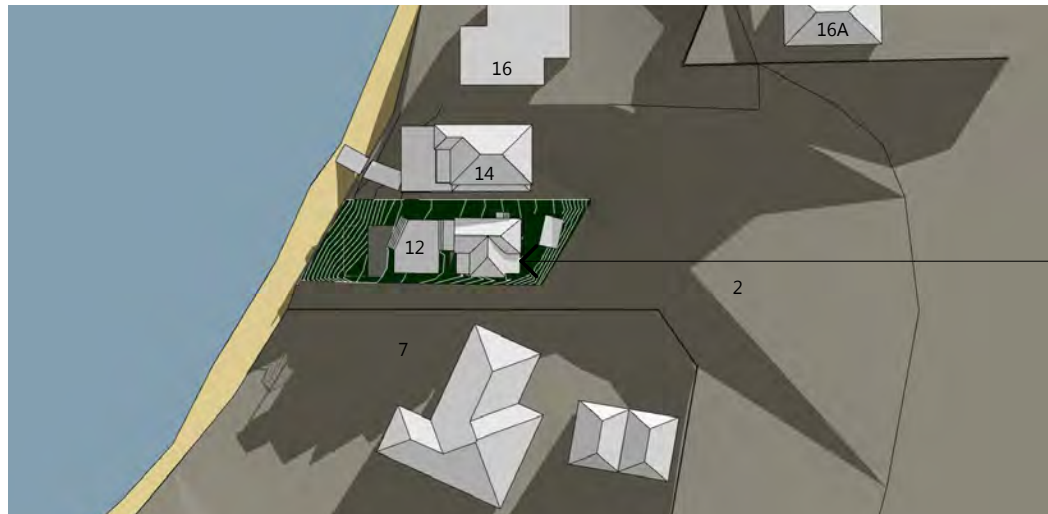
151013

SHEET SIZE: A3 (LANDSCAPE)

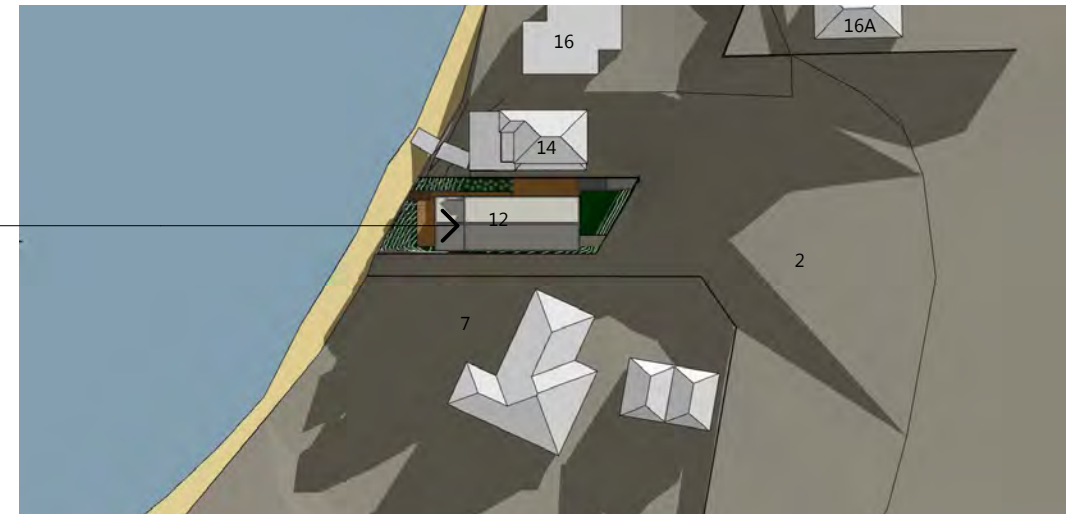
A7007/P12

ARTAS
ARCHITECTS

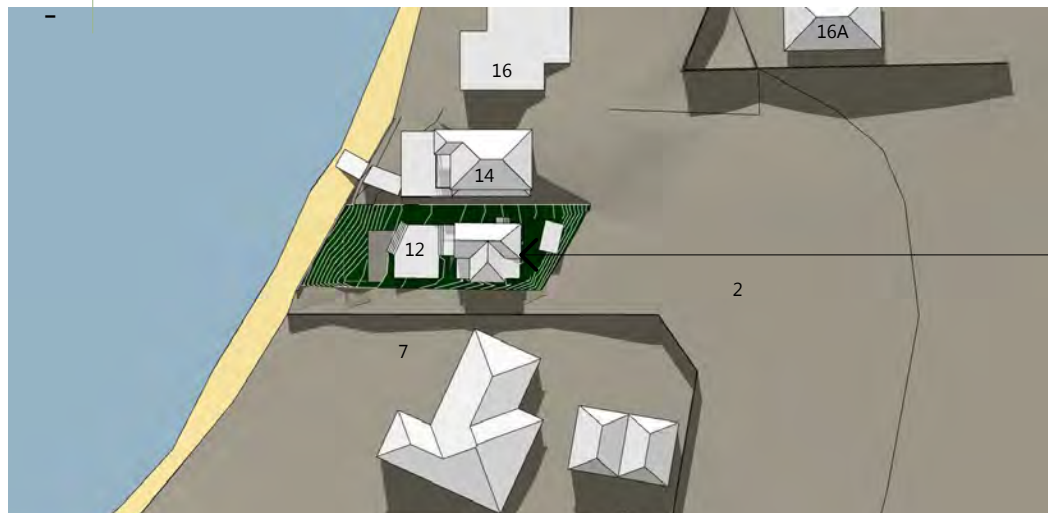




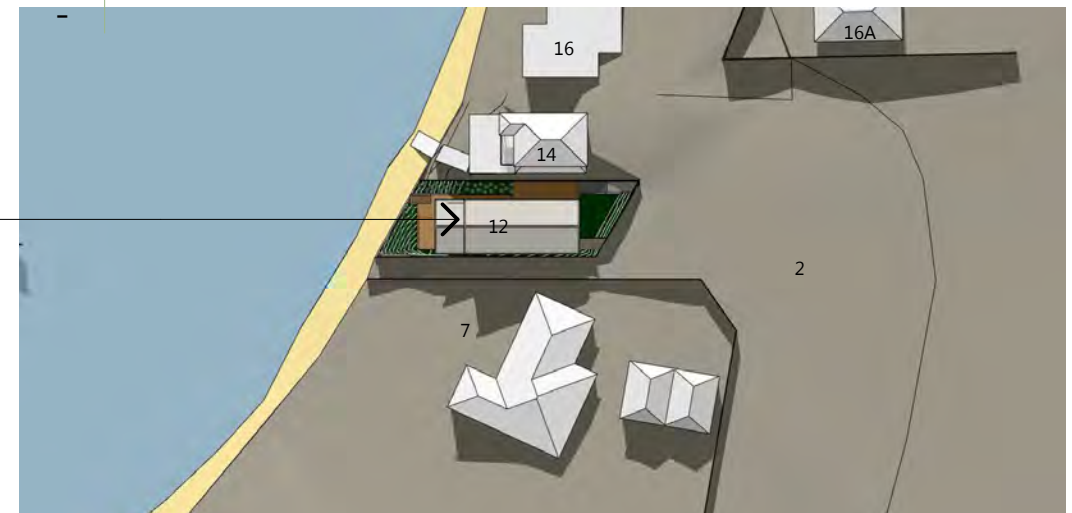
SUN STUDY 9:00AM JUNE 21 - EXISTING



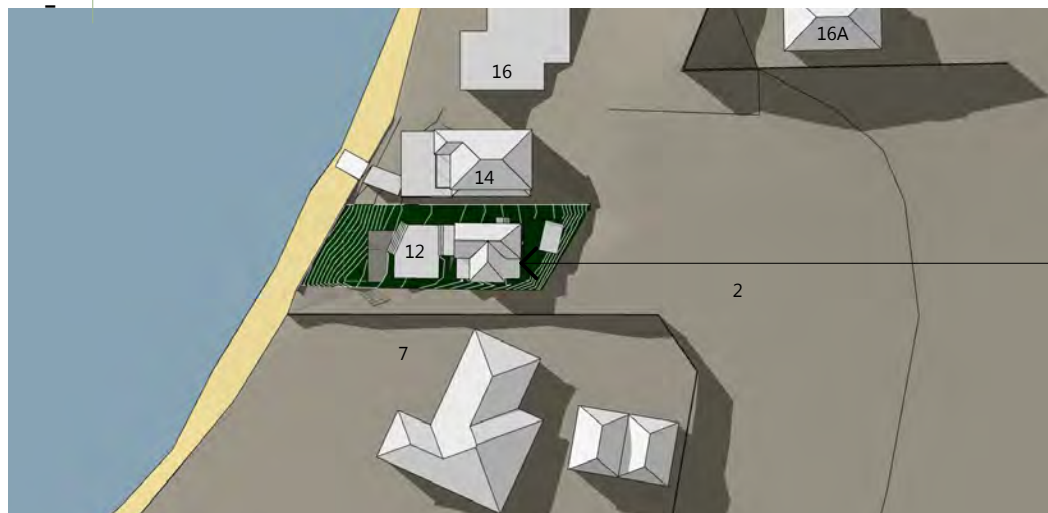
SUN STUDY 9:00 AM JUNE 21 - PROPOSED



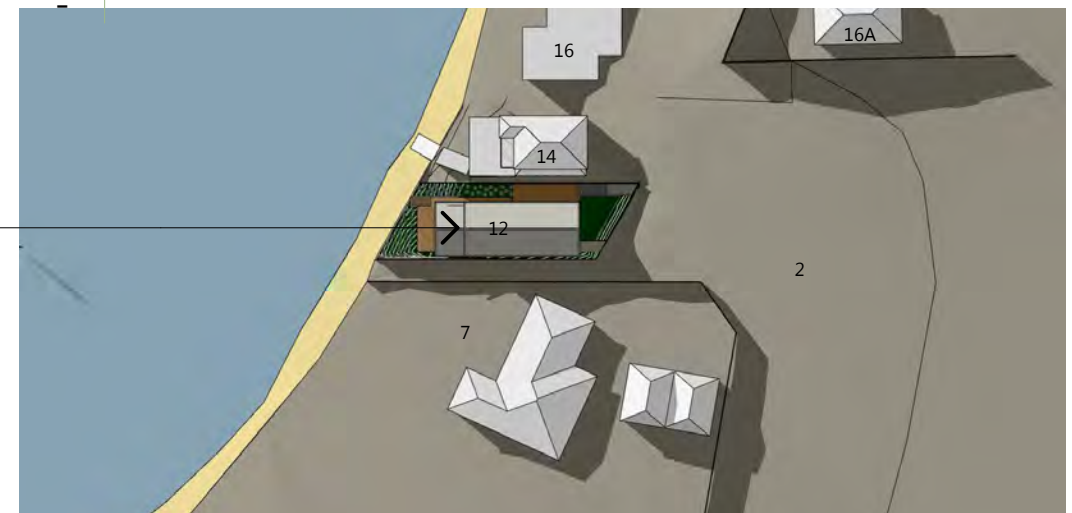
SUN STUDY 12:00PM JUNE 21 - EXISTING



SUN STUDY 12:00 PM JUNE 21 - PROPOSED



SUN STUDY 3:00PM JUNE 21 - EXISTING



SUN STUDY 3:00 PM JUNE 21 - PROPOSED

PROPOSED RESIDENCE
EXISTING RESIDENCE

PROPOSED RESIDENCE
EXISTING RESIDENCE

PROPOSED RESIDENCE
EXISTING RESIDENCE

12 SPITFARM ROAD, OPOSSUM BAY

JMC PROPERTY GROUP

REVISION

Issue	Date	Description	Int.	App.
P3	12.02.16	PRELIMINARY ISSUE	MG	SC
P4	06.04.16	PRELIMINARY ISSUE	MG	SC
P5	03.05.16	PRELIMINARY ISSUE	BT	SC

PRELIMINARY

151013

SHEET SIZE: A3 (LANDSCAPE)

A7002/P5

ARTAS
ARCHITECTS

Attachment 3

2 & 12 Spitfarm Road, OPOSSUM BAY



Site viewed from Opossum Bay Beach showing existing dwelling and 14 Spitfarm Road (left) and 7 Pier Road (right)



Site viewed from right-of-way at rear showing existing dwelling



Site viewed from within boundaries showing relationship with public walkway and 7 Pier Road



7 Pier Road as viewed from front deck of the existing dwelling on the subject site

11.3.5 DEVELOPMENT APPLICATION D-2016/117 - 9 ESPLANADE, SEVEN MILE BEACH - DWELLING
(File No D-2016/117)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for a Dwelling at 9 Esplanade, Seven Mile Beach.

RELATION TO PLANNING PROVISIONS

The land is zoned Village under the Clarence Interim Planning Scheme 2015 (the Scheme). The site is subject to the Inundation Prone Areas, Coastal Erosion Hazard, Parking and Access and On-site Wastewater Management Codes, and in accordance with the Scheme the proposal is a Discretionary development.

LEGISLATIVE REQUIREMENTS

The report on this item details the basis and reasons for the recommendation. Any alternative decision by Council will require a full statement of reasons in order to maintain the integrity of the Planning approval process and to comply with the requirements of the Judicial Review Act and the Local Government (Meeting Procedures) Regulations 2005.

Council is required to exercise a discretion within the statutory 42 day period which was extended with the consent of the applicant and expires on 16 June 2016.

CONSULTATION

The proposal was advertised in accordance with statutory requirements and 1 representation was received raising solar access as an issue.

RECOMMENDATION:

- A. That the Development Application for a Dwelling at 9 Esplanade, Seven Mile Beach (CI Ref D-2016/117) be approved subject to the following conditions and advice.
 - 1. GEN AP1 – ENDORSED PLANS.
 - 2. ENG A1 – NEW CROSSOVER [TSD-R03]. Delete “3.0” and replace with “3.6m.” Insert after “property boundary” “and continue for the length of the access strip to the body of the balance lot at that width”.
- B. That the details and conclusions included in the Associated Report be recorded as the reasons for Council’s decision in respect of this matter.

DEVELOPMENT APPLICATION D-2016/117 - 9 ESPLANADE, SEVEN MILE BEACH – DWELLING /contd...

ASSOCIATED REPORT**1. BACKGROUND**

The subject lot was created by subdivision approved on 25 June 2007 under SD-2007/33.

2. STATUTORY IMPLICATIONS

2.1. The land is zoned Village under the Scheme.

2.2. The proposal is discretionary because it does not meet all the Acceptable Solutions under the Scheme.

2.3. The relevant parts of the Planning Scheme are:

- Section 8.10 – Determining Applications;
- Section 10 – Village Zone;
- Section E6.0 – Parking and Access Code;
- Section E15.0 – Inundation Prone Areas Code (low);
- Section E6.0 – Coastal Erosion Hazard Code (low); and
- Section E23.0 – On-site Wastewater Management Code.

2.4. Council's assessment of this proposal should also consider the issues raised in any representations received, the outcomes of the State Policies and the objectives of Schedule 1 of the Land Use Planning and Approvals Act, 1993 (LUPAA).

3. PROPOSAL IN DETAIL

3.1. The Site

The site is a 1047m² vacant internal lot with a 3.6m wide access strip and vehicular access from the Esplanade. The surrounding lots contain a combination of single and 2 storey dwellings. The lot is fenced using palings, is clear of significant vegetation and generally level.

3.2. The Proposal

The proposal is for the construction of a double storey, 4 bedroom Single Dwelling on the subject property. The lower level of the dwelling would have a double-car garage, 2 bedrooms, associated amenities and entry areas, and laundry facilities. The upper floor would be comprised of the master bedroom, kitchen/living/dining areas associated amenities, study (fourth bedroom) and deck area.

The dwelling would be 7.4m in height from natural ground level, would have a total floor area of 374.4m² and would be sited approximately in the centre of the lot. It would be clad using a combination of face brick, pine, weatherboards and Colorbond.

The applicant proposes to seal the driveway in response to the Coastal Erosion Hazard Code, which affects only 5.7 percent of the south-eastern part of the site and therefore the driveway access only.

The finished floor level of the dwelling would be 3.54m AHD, which is in excess of the 3.2m AHD finished floor level requirement of the Inundation Prone Areas Code for low risk areas.

4. PLANNING ASSESSMENT

4.1. Determining Applications [Section 8.10]

“8.10.1 In determining an application for any permit the planning authority must, in addition to the matters required by s51(2) of the Act, take into consideration:

- (a) all applicable standards and requirements in this planning scheme; and*

*(b) any representations received pursuant to and in conformity with ss57(5) of the Act;
but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised”.*

Reference to these principles is contained in the discussion below.

4.2. Compliance with Zone and Codes

The proposal meets the Scheme’s relevant Acceptable Solutions of the Village zone, Parking and Access Code, Inundation Prone Areas Code, Coastal Erosion Hazard Code and On-site Wastewater Management Code with the exception of the following.

Village Zone

Clause	Standard	Acceptable Solution (Extract)	Proposed
16.4.2 A2	Setback	Building setback from side and rear boundaries must be no less than: (a) 2 m; (b) half the height of the wall (being 3m), whichever is the greater.	The northern corner of the dwelling would be setback 1.94m from the north-eastern property (variation of 1.06m), and the south-western corner would be setback 2.05m from the south-western boundary (variation of 0.95m).

The proposed variation can be supported pursuant to the Performance Criteria P2 of the Clause 16.4.2 for the following reasons.

Performance Criterion	Comment
<p>“P2 - <i>Building setback from side and rear boundaries must satisfy all of the following:</i></p> <p><i>(a) be sufficient to prevent unreasonable adverse impacts on residential amenity on adjoining lots by:</i></p> <p><i>(i) overlooking and loss of privacy;</i></p>	<p>The proposed dwelling would be separated approximately 11.5m from the neighbouring dwelling to the south-west and by 5.5m from the neighbouring dwelling to the north-east. The proposed dwelling would be oriented to the south-east, towards the Esplanade and the beach. The internal and outdoor living areas would be oriented to the south-east and north-west, capturing both available sunlight and views – and more significantly away from the living and outdoor areas of both neighbouring dwellings as required by this criterion.</p>

<p><i>(ii) overshadowing and reduction of sunlight to habitable rooms and private open space on adjoining lots to less than 3 hours between 9.00am and 5.00pm on 21 June or further decrease sunlight hours if already less than 3 hours;</i></p>	<p>The applicant has submitted shadow diagrams as part of the application documentation to reflect the impact of the proposal upon surrounding development. The submitted diagrams reflect the impact at the Equinox (22 September) rather than at Winter Solstice (21 June). Amended plans were provided following the advertising period and in response to the representation received, which relate to Winter Solstice. It is reasonably concluded based on the amended plans provided that there would be in excess of 3 hours of sunlight available to the habitable rooms and private open space associated with both neighbouring properties nearest the proposed dwelling (being 5A Esplanade and 27 Cobblers Court) on 21 June. On this basis it is considered that there would not be an unreasonable loss of amenity by overshadowing of neighbouring open space areas, or habitable rooms.</p>
<p><i>(iii) visual impact, when viewed from adjoining lots, through building bulk and massing; taking into account aspect and slope”.</i></p>	<p>The area is characterised by a range of dwelling styles and types and the proposed dwelling (whilst being double storey) would be of a similar height to the more recently constructed dwellings in the Esplanade area. It would be clad using similar materials to other dwellings in the vicinity of the site and it is considered that the appearance of bulk as considered by this criterion would be limited.</p>

Coastal Erosion Hazard Code

Clause	Standard	Acceptable Solution (Extract)	Proposed
E16.7.1 A1	Buildings and works	No acceptable solution.	The development of a new dwelling within a Coastal Erosion Hazard Area.

The proposed variation can be supported pursuant to the following Performance Criteria.

Performance Criterion	Comment
<p><i>“Buildings and works must satisfy all of the following:</i></p> <p><i>(a) not increase the level of risk to the life of the users of the site or of hazard for adjoining or nearby properties or public infrastructure;</i></p>	<p>The Coastal Erosion Hazard Code applies to only 5.7% of the site, being the south-eastern most part of the site and the site of the driveway only. It is not relevant to the site of the dwelling. The applicants propose to seal the driveway to ensure the site would not be compromised by future erosion, thus satisfying this criterion in that it would not increase the level of risk to the life of the users of the site or of hazard for adjoining or nearby properties or public infrastructure. A condition reflecting this requirement has been included.</p>
<p><i>(b) erosion risk arising from wave run-up, including impact and material suitability, may be mitigated to an acceptable level through structural or design methods used to avoid damage to, or loss of, buildings or works;</i></p>	<p>Council’s Engineers are satisfied that the site is sufficiently separated from the ocean to ensure wave run-up is not likely to present a risk to the site.</p>
<p><i>(c) erosion risk is mitigated to an acceptable level through measures to modify the hazard where these measures are designed and certified by an engineer with suitable experience in coastal, civil and/or hydraulic engineering;</i></p>	<p>Not considered necessary, in that the proposed driveway access would be sealed to mitigate the low risk identified by erosion.</p>
<p><i>(d) need for future remediation works is minimised;</i></p>	<p>Remediation works not considered necessary in that the small portion of the site affected by this code is generally level and with the sealed driveway there is no necessity for remediation.</p>
<p><i>(e) health and safety of people is not placed at risk;</i></p>	<p>The proposal is not increasing the risk to the health and safety of people, due to the measures referred to above.</p>
<p><i>(f) important natural features are adequately protected;</i></p>	<p>Not relevant to this site.</p>
<p><i>(g) public foreshore access is not obstructed where the managing public authority requires it to continue to exist;</i></p>	<p>There are no public access areas within proximity of the site that would be compromised.</p>

<i>(h) access to the site will not be lost or substantially compromised by expected future erosion whether on the proposed site or off-site;</i>	Access to the site is not changing.
<i>(i) provision of a developer contribution for required mitigation works consistent with any adopted Council Policy, prior to commencement of works;</i>	Not required.
<i>(j) not be located on an actively mobile landform”.</i>	Not relevant.

5. REPRESENTATION ISSUES

The proposal was advertised in accordance with statutory requirements and 1 representation was received. The following issues were raised by the representor.

5.1. Solar Access

The representation raised concern that the proposed development would have an adverse impact in terms of available sunlight to neighbouring residences, with submission that the proposal does not accurately identify seasonal variation (for available sunlight to the living areas of neighbouring dwellings) as part of the submitted documentation.

It was further submitted by the representors that it would be more appropriate, on the basis of the overshadowing to occur, that the dwelling be modified to be single storey.

- **Comment**

The applicant submitted shadow diagrams as part of the application to address the likely impact of the proposal upon surrounding development, both in respect of the impact at the Equinox (22 September) and in response to the representation issues as discussed above, at Winter Solstice (21 June).

It is reasonably concluded from the submitted plans that there would be in excess of 3 hours of sunlight available to the habitable rooms and private open space associated with both neighbouring properties nearest the proposed dwelling (being 5A Esplanade and 27 Cobblers Street) on 21 June.

On this basis it is considered that there would not be an unreasonable loss of amenity by overshadowing of neighbouring open space areas, or habitable rooms. Whilst the discretion sought relates to the separation distance of the proposed dwelling from the north-eastern and south-western boundaries, it is considered that overshadowing would be comparable to a dwelling that was able to meet the acceptable solution under the Scheme. Consideration of the floor plan of the neighbouring properties confirms this, supported by an inspection of the site and surrounds. The issues raised by the representation are therefore considered not to be of determining weight.

6. EXTERNAL REFERRALS

No external referrals were required or undertaken as part of this application.

7. STATE POLICIES AND ACT OBJECTIVES

7.1. The proposal is consistent with the outcomes of the State Policies, including those of the State Coastal Policy.

7.2. The proposal is consistent with the objectives of Schedule 1 of LUPAA.

8. COUNCIL STRATEGIC PLAN/POLICY IMPLICATIONS

There are no inconsistencies with Council's adopted Strategic Plan 2010-2015 or any other relevant Council Policy.

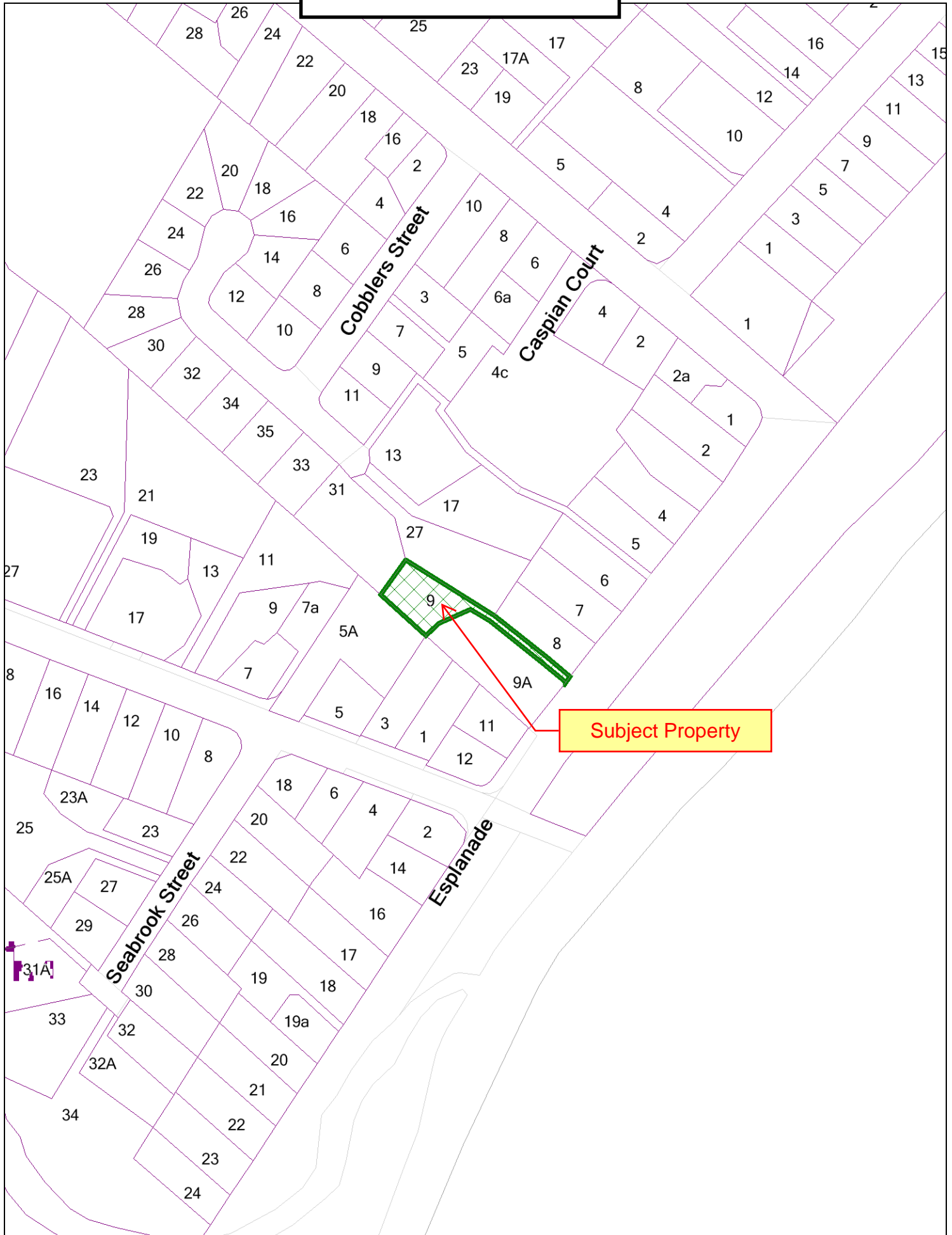
9. CONCLUSION

The proposal for the development of a Single Dwelling at 9 Esplanade, Seven Mile Beach is considered to meet the Performance Criteria of the Village zone and Coastal Erosion Hazard Code standards and is therefore recommended for approval subject to conditions.

Attachments: 1. Location Plan (1)
2. Proposal Plan (8)
3. Site Photo (1)

Ross Lovell
MANAGER CITY PLANNING

Attachment 1

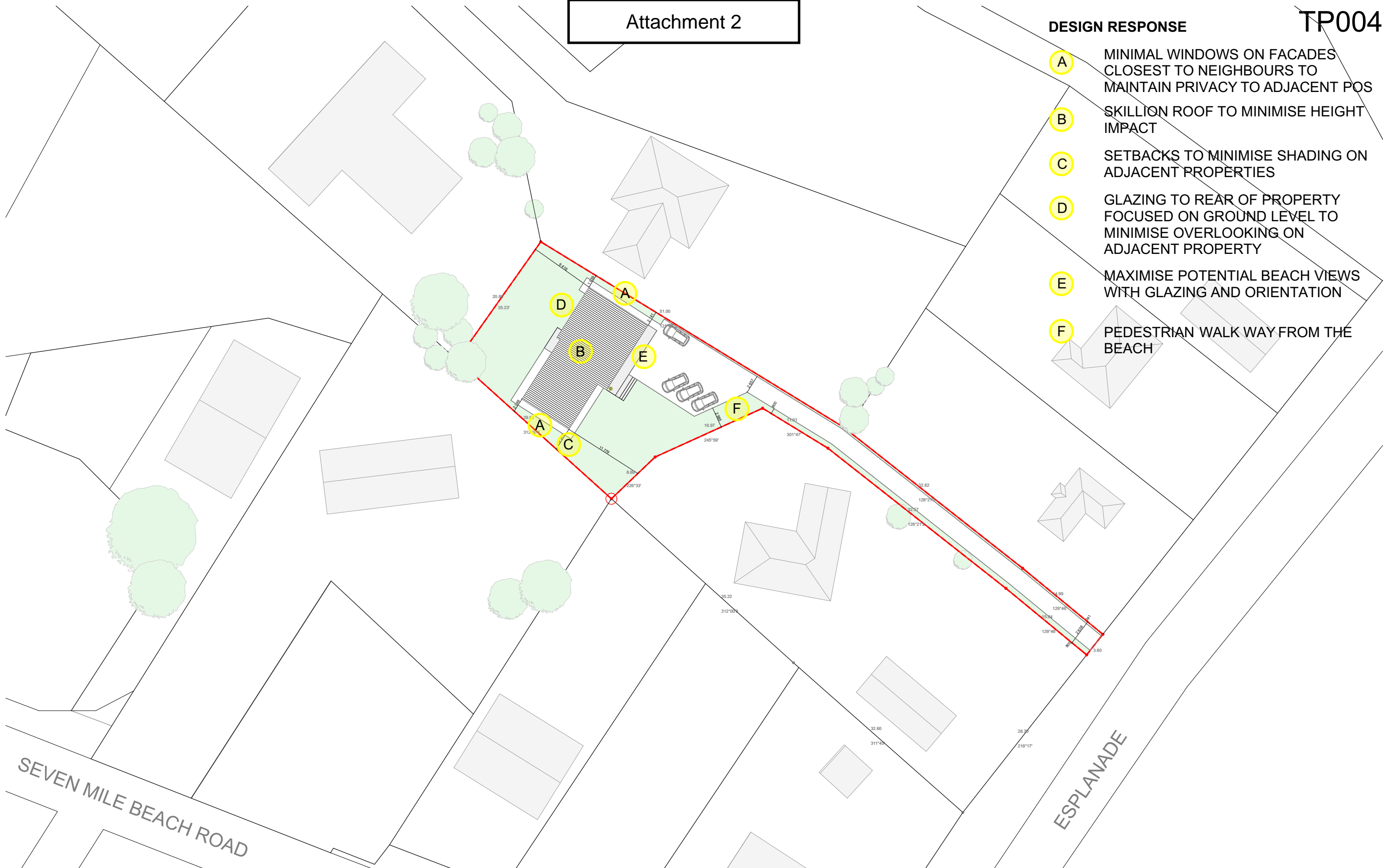


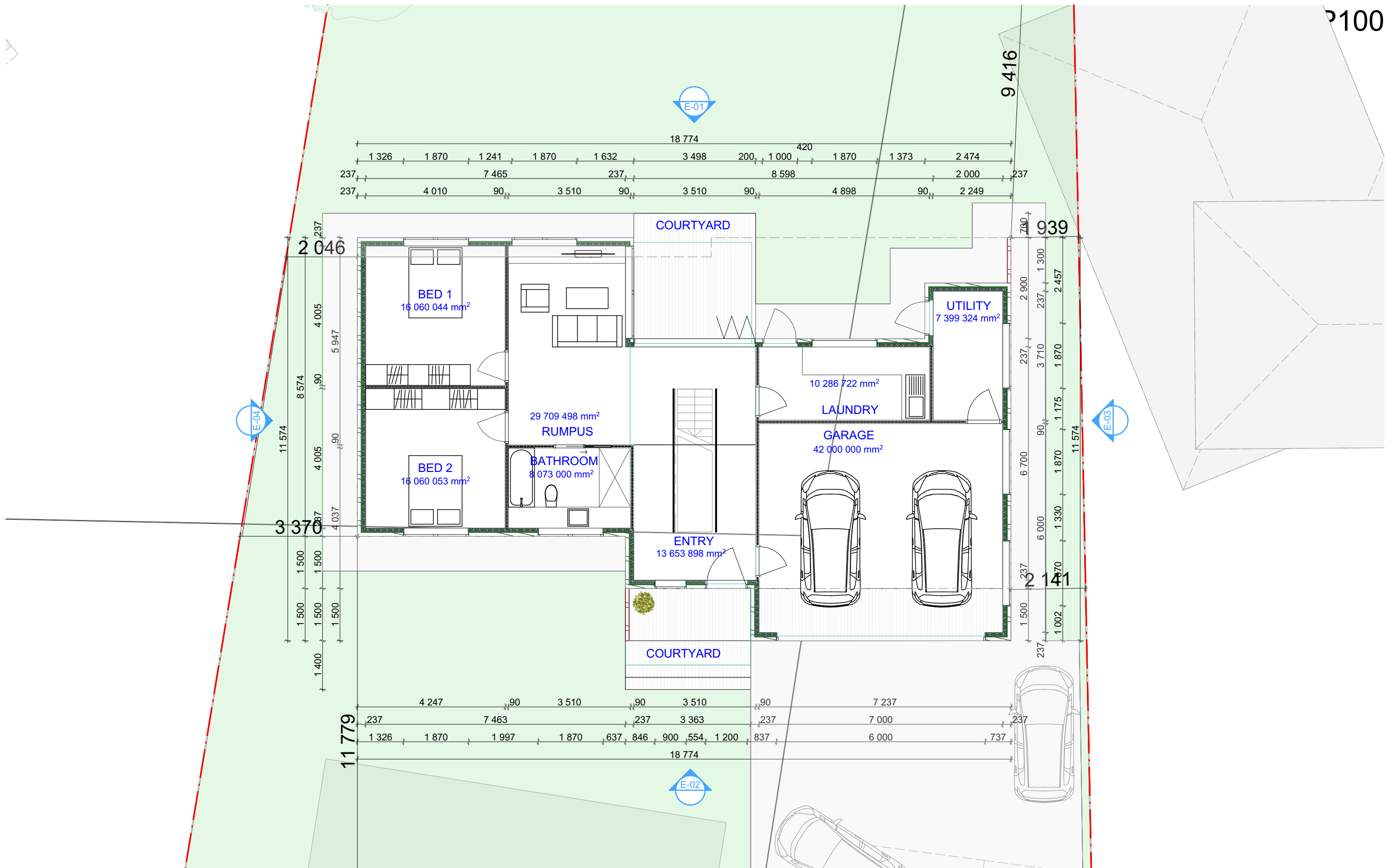
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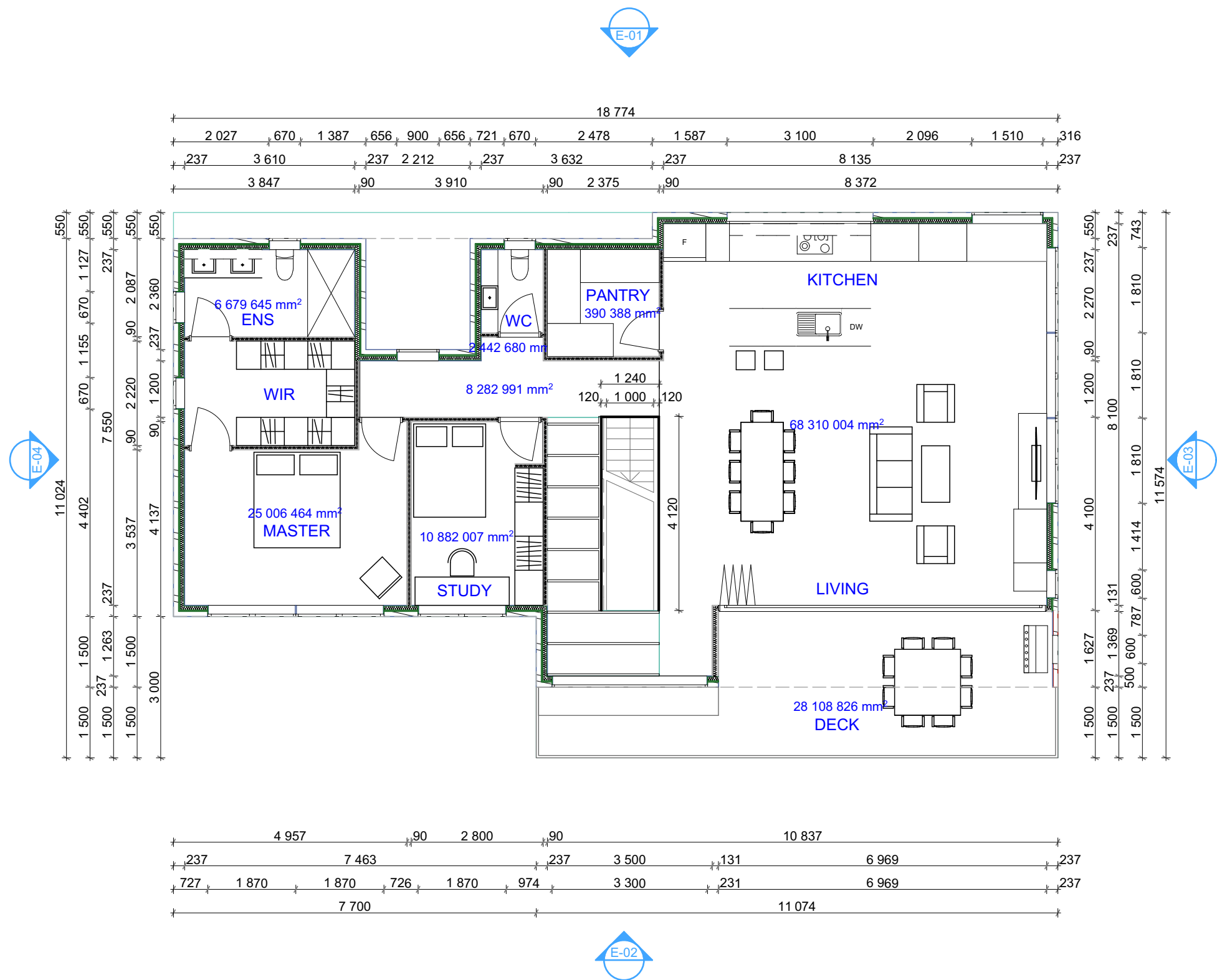


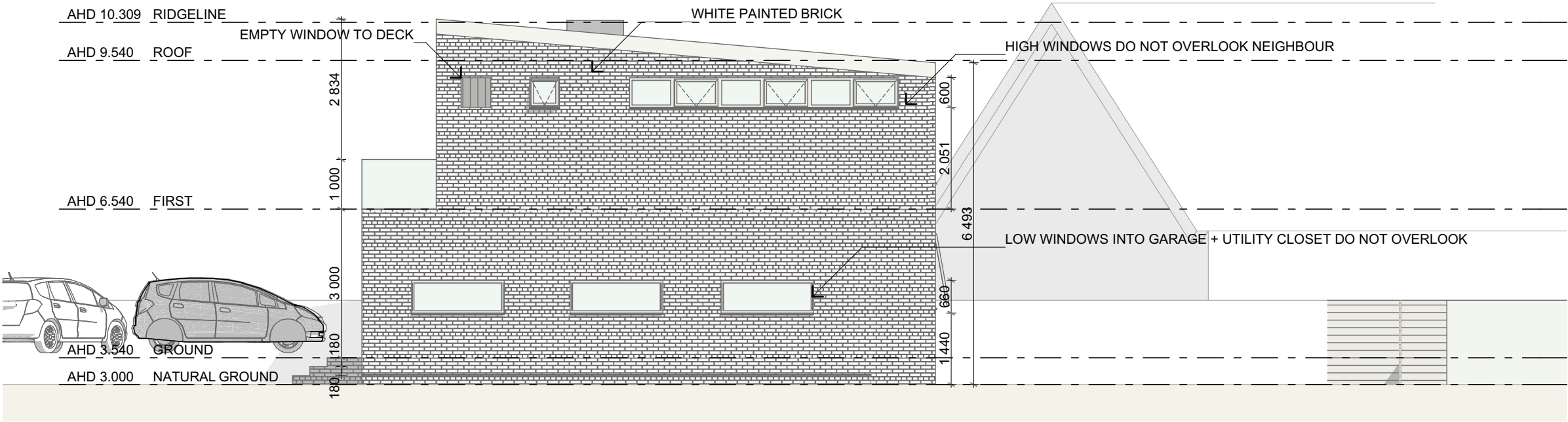
Disclaimer: This map is a representation of the information currently held by Clarence City Council. While every effort has been made to ensure the accuracy of the product, Clarence City Council accepts no responsibility for any errors or omissions. Any feedback on omissions or errors would be appreciated. Copying or reproduction, without written consent is prohibited. **Date:** Tuesday, 31 May 2016 **Scale:** 1:2,352 @A4

- A** MINIMAL WINDOWS ON FACADES CLOSEST TO NEIGHBOURS TO MAINTAIN PRIVACY TO ADJACENT POS
- B** SKILLION ROOF TO MINIMISE HEIGHT IMPACT
- C** SETBACKS TO MINIMISE SHADING ON ADJACENT PROPERTIES
- D** GLAZING TO REAR OF PROPERTY FOCUSED ON GROUND LEVEL TO MINIMISE OVERLOOKING ON ADJACENT PROPERTY
- E** MAXIMISE POTENTIAL BEACH VIEWS WITH GLAZING AND ORIENTATION
- F** PEDESTRIAN WALK WAY FROM THE BEACH









N

North Elevation

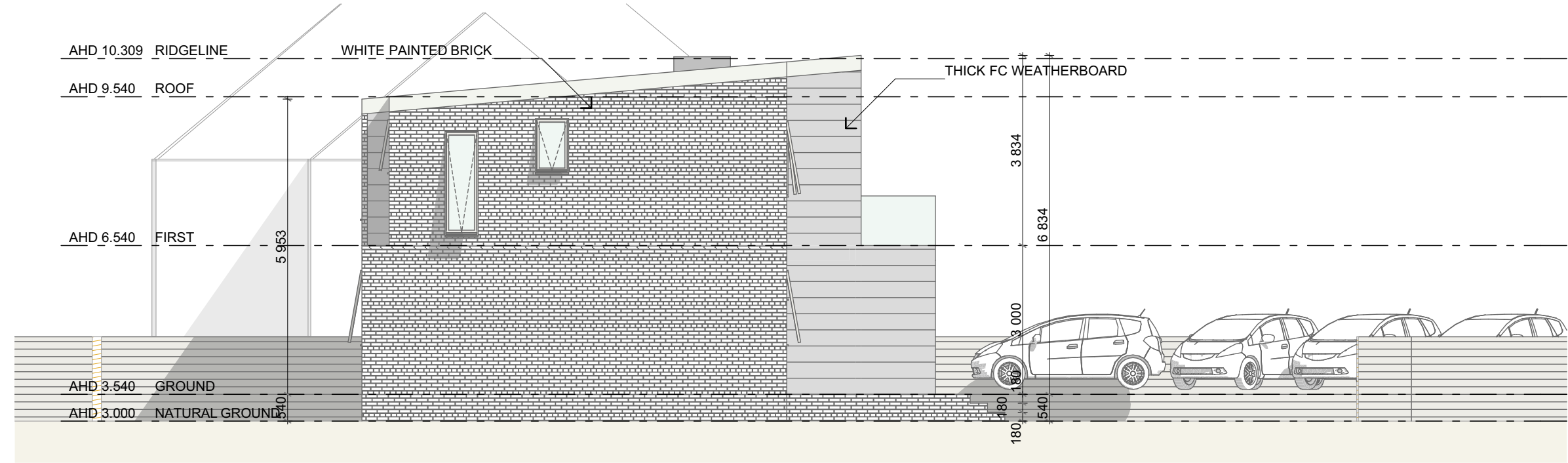
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WHITE PAINTED BRICK



CYPRESS PINE TnG



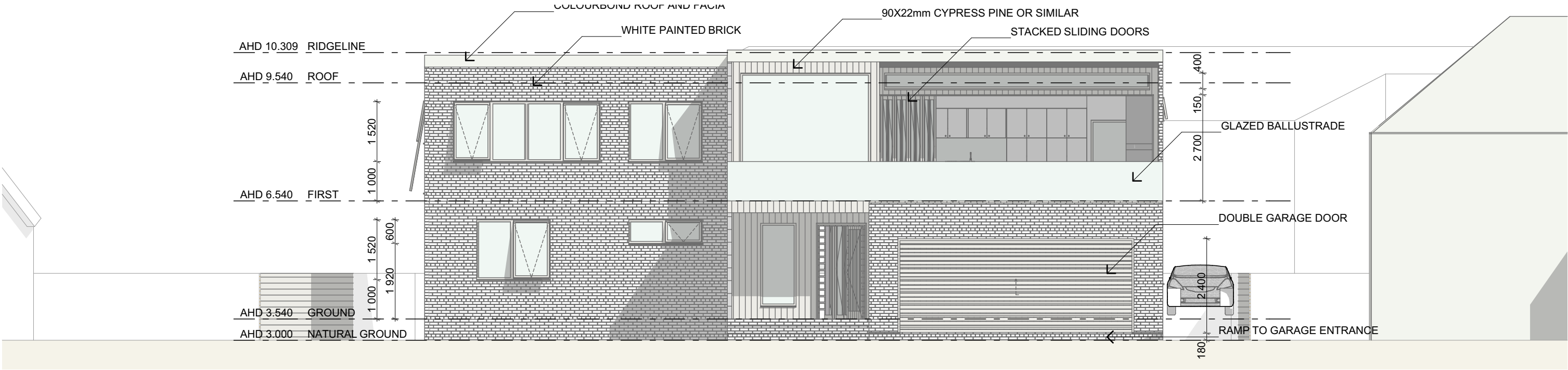
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South Elevation

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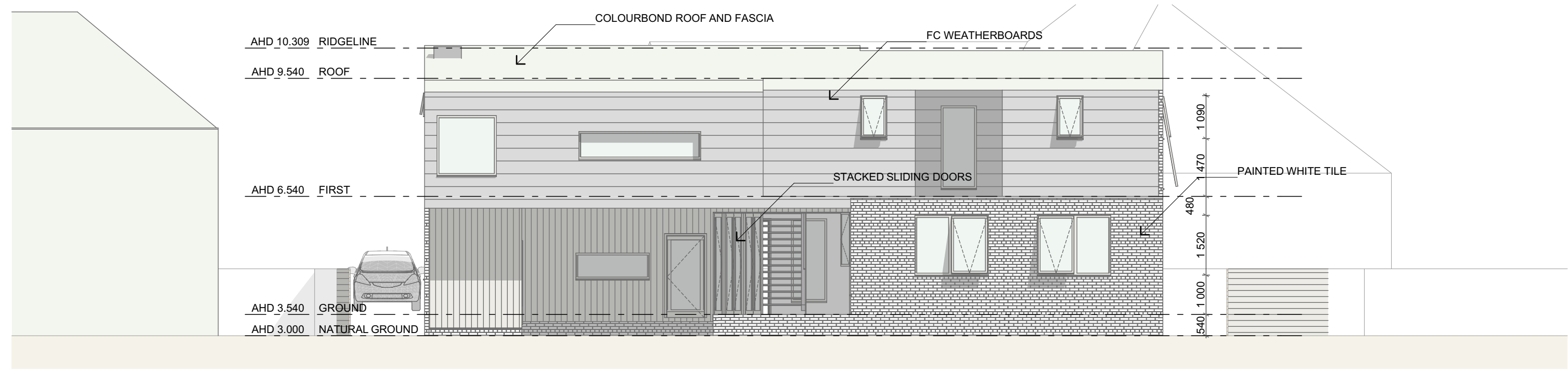
FC WEATHERBOARDS



E

East Elevation

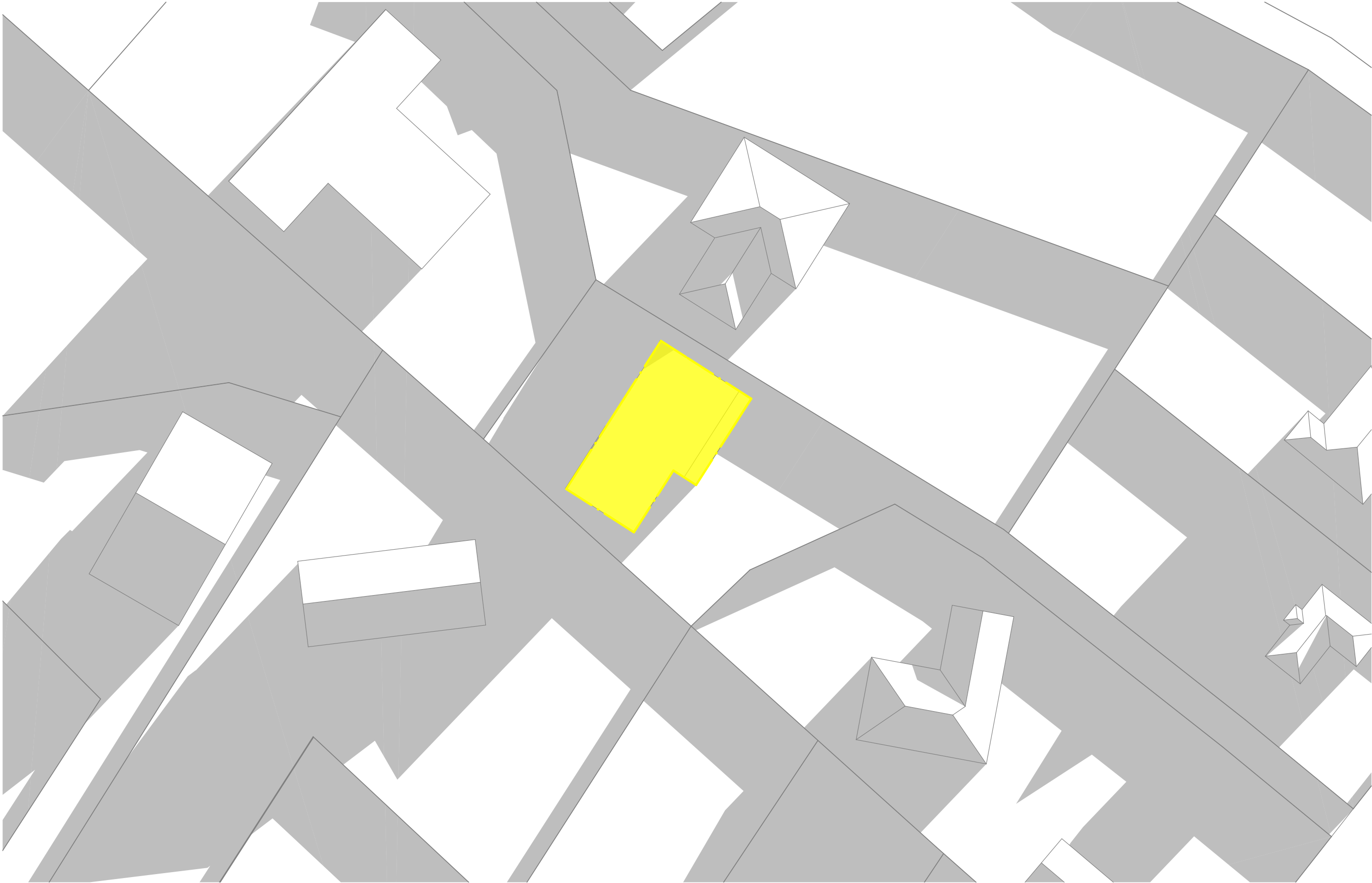
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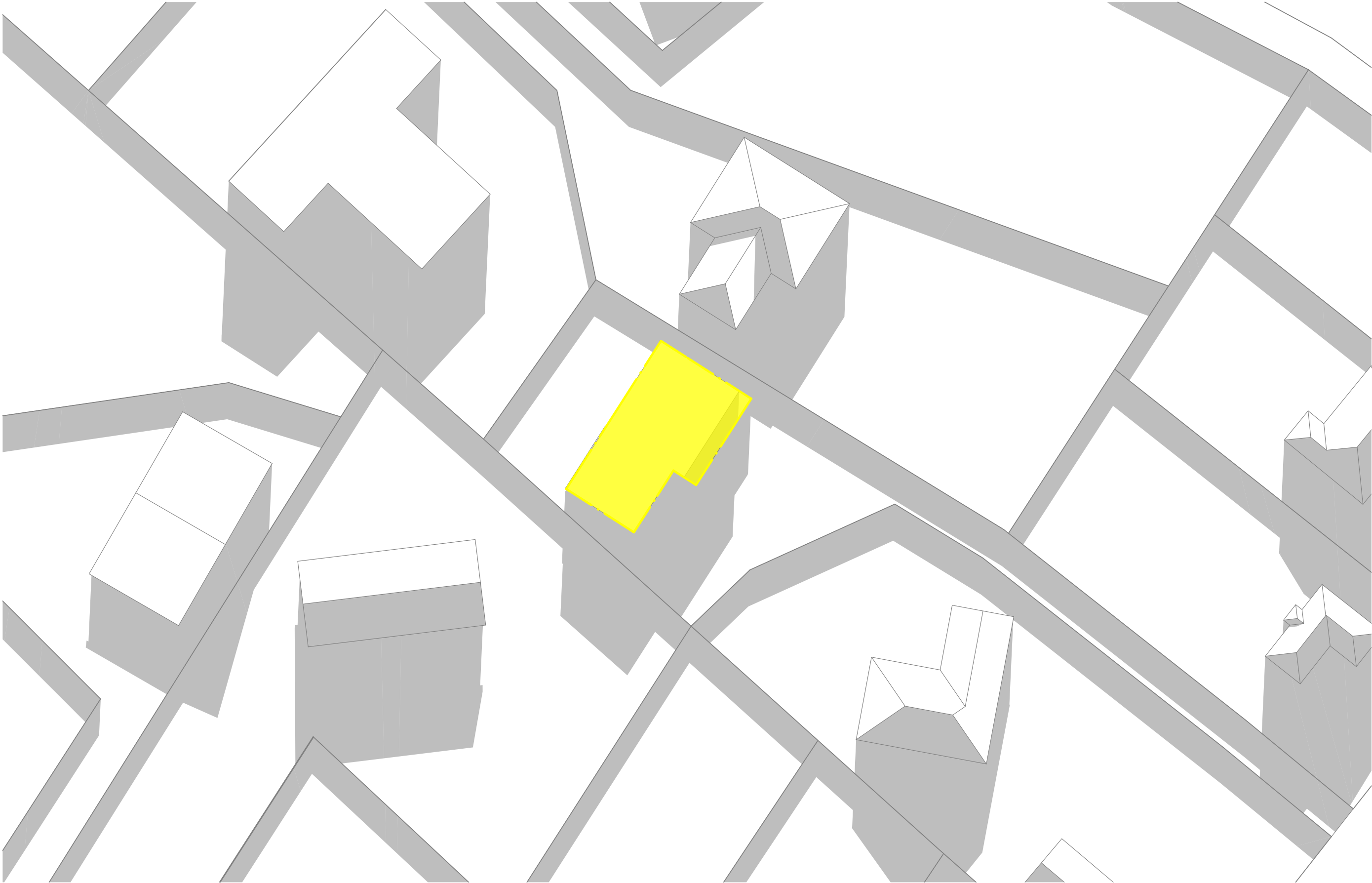


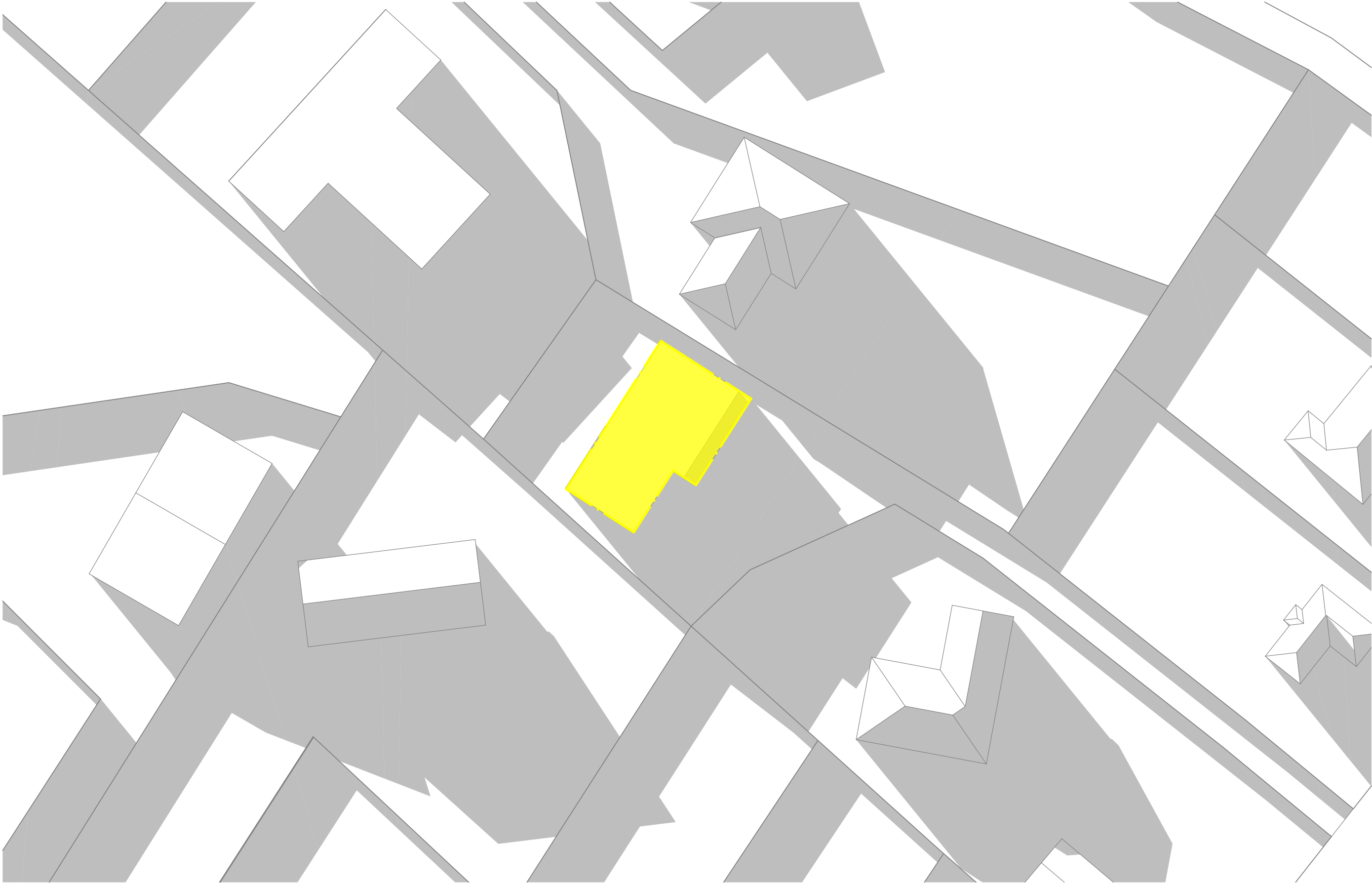
W

West Elevation

1:100







Attachment 3

9 Esplanade, SEVEN MILE BEACH



Site viewed from the Esplanade, looking northwest



Aerial image of subject property

11.3.6 DEVELOPMENT APPLICATION D-2015/101 - 10 ELECTRA PLACE, MORNINGTON - CHANGE OF USE TO GYMNASIUM
(File No D-2015/101)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for a partial Change of Use to a Gymnasium at 10 Electra Place, Mornington.

RELATION TO PLANNING PROVISIONS

The land is zoned Light Industrial and subject to the Parking and Access and Signs Codes under the Clarence Interim Planning Scheme 2015 (the Scheme). In accordance with the Scheme the proposal is a Discretionary development.

LEGISLATIVE REQUIREMENTS

The report on this item details the basis and reasons for the recommendation. Any alternative decision by Council will require a full statement of reasons in order to maintain the integrity of the Planning approval process and to comply with the requirements of the Judicial Review Act and the Local Government (Meeting Procedures) Regulations 2015.

Council is required to exercise a discretion within the statutory 42 day period which expires on 16 June 2016.

CONSULTATION

The proposal was advertised in accordance with statutory requirements and 1 representation was received raising the following issues:

- noise; and
- safety.

RECOMMENDATION:

A. That the Development Application for a partial Change of Use to a Gymnasium at 10 Electra Place, Mornington (CI Ref D-2015/101) be approved subject to the following conditions and advice.

1. GEN AP1 – ENDORSED PLANS.
2. New lots in accordance with the approved boundary adjustment SD-2016/9, dated 2 May 2016, must be created by the Land Titles Office within 6 months of the date of this permit.

3. An amended site plan showing a minimum of 23 car parking spaces must be submitted to and approved by Council's Manager City Planning prior to the sealing of the Final Plan of Survey by Council. Each space, including disabled parking, must be clearly marked and used solely for parking purposes and must include the layout of the car parking area, designed with suitable manoeuvring areas in accordance with Section E6.0 (Parking and Access Code) of the Clarence Interim Planning Scheme 2015.
 4. The 9 deficient parking spaces must be provided on the adjacent vacant lot (CT 144362/4) to the north-west, until such time as Conditions 2 and 3 above are met.
 5. GEN S7 – SIGN MAINTENANCE.
 6. ADVICE – The use is not to cause an environmental nuisance to the owners or occupiers of land in the surrounding area by reason of noise emanating from the site. The Environmental Management and Pollution Control Act, 1994 provides guidance for what is appropriate.
- B. That the details and conclusions included in the Associated Report be recorded as the reasons for Council's decision in respect of this matter.

ASSOCIATED REPORT

1. BACKGROUND

This application was lodged retrospectively with Council on 17 March 2015. This application has been considered in conjunction with a second application approved by Council on 2 May 2016 under SD-2016/9 for the adjustment of boundaries between 2 lots within the same ownership, to transfer 508m² from an adjoining vacant lot to the lot that supports the building and contained businesses.

The purpose of the approved boundary adjustment is to provide for additional parking in conjunction with the use of the building and the combination of the 3 existing tenancies being the proposed gymnasium (Crossfit Colossus), motor mechanic (Vroom) and plumbing business (Howrah Plumbing).

Through negotiation with the landowner and applicant and Council's recent planning permit for the boundary adjustment, this application has been made a valid application under the Scheme and has progressed through the assessment process. During this time, however, the gymnasium has been operating from the subject property without the appropriate planning permit in place.

2. STATUTORY IMPLICATIONS

2.1. The land is zoned Light Industrial under the Scheme.

2.2. The proposal is discretionary because it does not meet all the Acceptable Solutions under the Scheme.

2.3. The relevant parts of the Planning Scheme are:

- Section 8.10 – Determining Applications;
- Section 24.0 – Light Industrial Zone;
- Section E6.0 – Parking and Access Code; and
- Section E17.0 – Signs Code.

2.4. Council's assessment of this proposal should also consider the issues raised in any representations received, the outcomes of the State Policies and the objectives of Schedule 1 of the Land Use Planning and Approvals Act, 1993 (LUPAA).

3. PROPOSAL IN DETAIL

3.1. The Site

The site is comprised of 2 lots, 1 being a vacant lot used for car parking and the second, for 3 businesses described above, being a motor mechanic, plumbing business and gym operating from the third tenancy.

The building is divided internally for the 3 tenancies and provides a total of 25 existing spaces within the lot boundaries. These spaces are labelled in part for the respective tenancies and 13 of the existing spaces (historically) overhang part of the road reserve at Electra Place, which has been sealed.

The existing lots are 2835m² and 1311m² in size respectively, each with in excess of 50m frontage to Electra Place. Tenancies 1, 2 and 3 have floor areas of 315m², 300m² and 400m² respectively.

3.2. The Proposal

The proposal is to change the use of Tenancy 1 to a gymnasium. The business is a style of gym that is operated by group exercise classes and personal training and is known as a “crossfit” style of training.

The attachments include a floor plan and elevations of the building, illustrating the extent of Tenancy 3 which has a floor area of 300m². The business employs 1 full time and 1 permanent part time staff, operates from Monday to Saturday and has a membership base at present of 70 persons. Classes have a maximum capacity of 12, are 1 hour in length and are operated from 6.00am to 7.45pm.

Two signs are proposed, 1 being a wall sign advertising the business name with an area of 0.5m² and erected above the main pedestrian access door and a second sign of 2.4m² to be erected above the main roller access door on the north-eastern building elevation.

The business has 3 allocated parking spaces (in accordance with previous permits) within the lot boundaries at present and overflow parking is provided on the adjoining vacant lot, in the same ownership. The adjacent lot is sealed and marked for parking purposes and under the same ownership. A total of 14 formal spaces exist on the site at present.

4. PLANNING ASSESSMENT

4.1. Determining Applications [Section 8.10]

8.10.1 In determining an application for any permit the planning authority must, in addition to the matters required by s51(2) of the Act, take into consideration:

- (a) all applicable standards and requirements in this planning scheme; and*
- (b) any representations received pursuant to and in conformity with ss57(5) of the Act;*

but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.

Reference to these principles is contained in the discussion below.

4.2. Compliance with Zone and Codes

The proposal meets the Scheme's relevant Acceptable Solutions of the Light Industrial Zone, Parking and Access and Signs Codes with the exception of the following.

Signs Code

Clause	Standard	Acceptable Solution (Extract)	Proposed
E17.7.1 A1	Standards for signs	A sign must comply with the standards listed in Table E.17.2 (maximum single wall sign size of 2m ²) and be a permitted sign in Table E17.3 (one wall sign only per elevation).	There would be 2 wall signs on the same elevation, and the larger of the proposed signs would have an area of 2.4m ² .

The proposed variation can be supported pursuant to the following Performance Criteria P1 to the above clause for the following reasons.

Performance Criterion	Comment
<p><i>“P1 - A sign not complying with the standards in Table E17.2 or has discretionary status in Table E17.3 must satisfy all of the following:</i></p> <p><i>(a) be integrated into the design of the premises and streetscape so as to be attractive and informative without dominating the building or streetscape;</i></p>	<p>The larger of the 2 proposed wall signs would exceed the 2m² size restriction as a permitted sign.</p> <p>The sign would be 2.4m² and at that scale is considered to be consistent with the design of the building and existing signage on the same and north-western elevations of the building, and with surrounding businesses.</p>
<p><i>(b) be of appropriate dimensions so as not to dominate the streetscape or premises on which it is located;</i></p>	<p>The proposed sign would be of a size and location consistent with the existing and surrounding businesses in Electra Place.</p>

(c) <i>be constructed of materials which are able to be maintained in a satisfactory manner at all times;</i>	The sign would be an aluminium sign, with appropriate graphics. Such a sign would be practical to maintain and a condition should be included regarding management.
(d) <i>not result in loss of amenity to neighbouring properties;</i>	As above.
(e) <i>not involve the repetition of messages or information on the same street frontage;</i>	Whilst 2 signs are proposed for the main elevation, the smaller is located above the pedestrian door and a business identification type wall sign. The larger wall sign would be readily visible from passing visitors to the area.
(f) <i>not contribute to or exacerbate visual clutter;</i>	It is considered that the subject signage would be consistent with the nature of surrounding business identification signage, in terms of both the number and location of signs.
(g) <i>not cause a safety hazard”.</i>	The proposed sign would not obscure any other signage, or sight distances to or from the site.

Signs Code

Clause	Standard	Acceptable Solution (Extract)	Proposed
E17.7.1 A2	Standards for signs	The number of signs per business per street frontage must comply with all of the following: (a) maximum of 1 of each sign type;	There would be 2 wall signs on the same building elevation.

The proposed variation can be supported pursuant to the following Performance Criteria P2 to the above clause for the following reasons.

Performance Criterion	Comment
“P2 - <i>The number of signs per business per street frontage must:</i> (a) <i>minimise any increase in the existing level of visual clutter in the streetscape; and where possible, shall reduce any existing visual clutter in the streetscape by replacing existing signs with fewer, more effective signs;</i>	As discussed above, it is considered that the subject signage would be consistent with the nature of surrounding business identification signage, in terms of both the number and location of signs.

(b) <i>reduce the existing level of visual clutter in the streetscape by replacing, where practical, existing signs with fewer, more effective signs;</i>	The applicant has proposed 2 wall signs, 1 having an area of 0.5m ² . At this size, it is considered that the 2 wall signs proposed would not create visual clutter as described by this performance criterion.
(c) <i>not involve the repetition of messages or information”.</i>	As above, it is considered that the smaller sign in conjunction with the main (larger) wall sign would not have an adverse impact upon the streetscape at this point, or create repetition.

Parking and Access Code

Clause	Standard	Acceptable Solution (Extract)	Proposed
E6.6.1 A1	Number of car parking spaces	The number of on-site car parking spaces must be: (a) no less than the number specified in Table E6.1.	Shortfall of 9 parking spaces within existing lot boundaries, for proposed change of use.

In respect of the Parking and Access Code, Clause E6.6.1 of the Scheme requires that the number of spaces must be in accordance with Table E6.1, which requires that a Fitness Centre be provided with 4.5 spaces per 100m² of floor area.

The permit granted by Council under D-2006/186 on 28 July 2006 for the site requires the provision of a total of 14 parking spaces for the whole of the site. On this basis and given the proposed change of use, the provision of an additional 9 parking spaces (to be contained entirely within the lot boundaries) is required. Provision for these spaces within the lot boundary will be facilitated by the recently approved boundary adjustment, when the lots are created.

To formalise the parking arrangement, it is appropriate to include permit conditions, the first of which must require that the Final Plan of Survey for the newly created lot to be registered with the Land Titles Office within 6 months of the date of the permit.

A condition requiring the provision of an amended site plan reflecting the new lot boundaries and a minimum provision of 23 spaces must be also provided prior to the sealing of the Final Plan of Survey by Council.

Noting, however, that this application is retrospective, the proposal is effectively seeking a variation to the parking requirements of Clause E6.6.1 by 9 spaces, for such period of time as the formal creation of the new lot the subject of the recently approved boundary adjustment.

The proposed variation can be supported pursuant to the following Performance Criteria P1 to the above clause for the following reasons.

Performance Criterion	Comment
<p><i>“P1 - The number of on-site car parking spaces must be sufficient to meet the reasonable needs of users, having regard to all of the following:</i></p> <p><i>(a) car parking demand;</i></p>	<p>Parking associated with the business is occurring both within the boundaries of the existing lot and on the adjoining vacant lot, which is sealed and marked for parking purposes and under the same ownership. An appropriate condition must be included to require that the new lot be created to formalise the parking arrangement.</p>
<p><i>(b) the availability of on-street and public car parking in the locality;</i></p>	<p>The proposal is not reliant upon on-street parking.</p>
<p><i>(c) the availability and frequency of public transport within a 400m walking distance of the site;</i></p>	<p>The proposal is not of a nature reliant upon public transport, however, Cambridge Road is an identified transport corridor.</p>
<p><i>(d) the availability and likely use of other modes of transport;</i></p>	<p>Not relevant.</p>
<p><i>(e) the availability and suitability of alternative arrangements for car parking provision;</i></p>	<p>As discussed above, there is a shortfall of 9 parking spaces within the existing lot boundaries for the proposed change of use, but alternative arrangements have been made for parking by the recently approved boundary adjustment (SD-2016/9) to provide the required spaces.</p> <p>Such an alternative arrangement satisfactorily addresses the performance criterion.</p>

(f) <i>any reduction in car parking demand due to the sharing of car parking spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces;</i>	Whilst an alternative arrangement is proposed, the formal modification of the title boundaries will enable the proposal to meet the relevant Scheme requirements, upon creation of the new title.
(g) <i>any car parking deficiency or surplus associated with the existing use of the land;</i>	Not relevant.
(h) <i>any credit which should be allowed for a car parking demand deemed to have been provided in association with a use which existed before the change of parking requirement, except in the case of substantial redevelopment of a site;</i>	The existing parking credit for the whole of the site is 14, meaning that with a shortfall of 9 spaces there will be a total of 23 spaces required under the Scheme for the site.
(i) <i>the appropriateness of a financial contribution in lieu of parking towards the cost of parking facilities or other transport facilities, where such facilities exist or are planned in the vicinity;</i>	A financial contribution is not considered appropriate, in that the required spaces will be provided (formally and within the lot boundaries) upon creation of the approved new lot. In the interim, it is noted that the parking spaces are provided on the adjacent lot and already utilised by the business.
(j) <i>any verified prior payment of a financial contribution in lieu of parking for the land;</i>	Not relevant.
(k) <i>any relevant parking plan for the area adopted by Council;</i>	There is no relevant parking plan for the subject area.
(l) <i>the impact on the historic cultural heritage significance of the site if subject to the Local Heritage Code”.</i>	Not relevant.

5. REPRESENTATION ISSUES

The proposal was advertised in accordance with statutory requirements and 1 representation was received. The following issues were raised by the representor.

5.1. Noise

The representor raised concerns in relation to noise levels associated with the change of use, noting that the business involves “excessive banging on wall and floor”.

- **Comment**

The proposal meets the relevant Use Standards of the Light Industrial zone, in respect of noise, noting that the standards at Clause 24.3.2 are relevant to the impact upon residential amenity on land within a Residential zone. The nearest land within the residential zone is 105m to the south-west of the subject property, meaning that the Scheme does not provide scope to limit the hours of operation or noise output of the proposed use.

The Environmental Management and Pollution Control Act 1994, however, does provide that use must not cause unreasonable nuisance to owners or occupiers of land in the surrounding area by reason of noise, smell, fumes, dust or other pollutants emanating from the site. It is reasonable to alert the business operators to this by advice on a permit, if granted by Council.

5.2. Safety

Concerns were raised by the representor that safety is compromised by the business, in terms of gym clients running in car parking areas associated with the site and in Electra Place itself, both during daylight hours when the area is busy and at night, noting that no visual aids are used.

- **Comment**

Whilst the concerns of the representor are noted, this is not a relevant planning consideration.

6. EXTERNAL REFERRALS

No external referrals were required or undertaken as part of this application.

7. STATE POLICIES AND ACT OBJECTIVES

7.1. The proposal is consistent with the outcomes of the State Policies, including those of the State Coastal Policy.

7.2. The proposal is consistent with the objectives of Schedule 1 of LUPAA.

8. COUNCIL STRATEGIC PLAN/POLICY IMPLICATIONS

There are no inconsistencies with Council's adopted Strategic Plan 2010-2015 or any other relevant Council Policy.

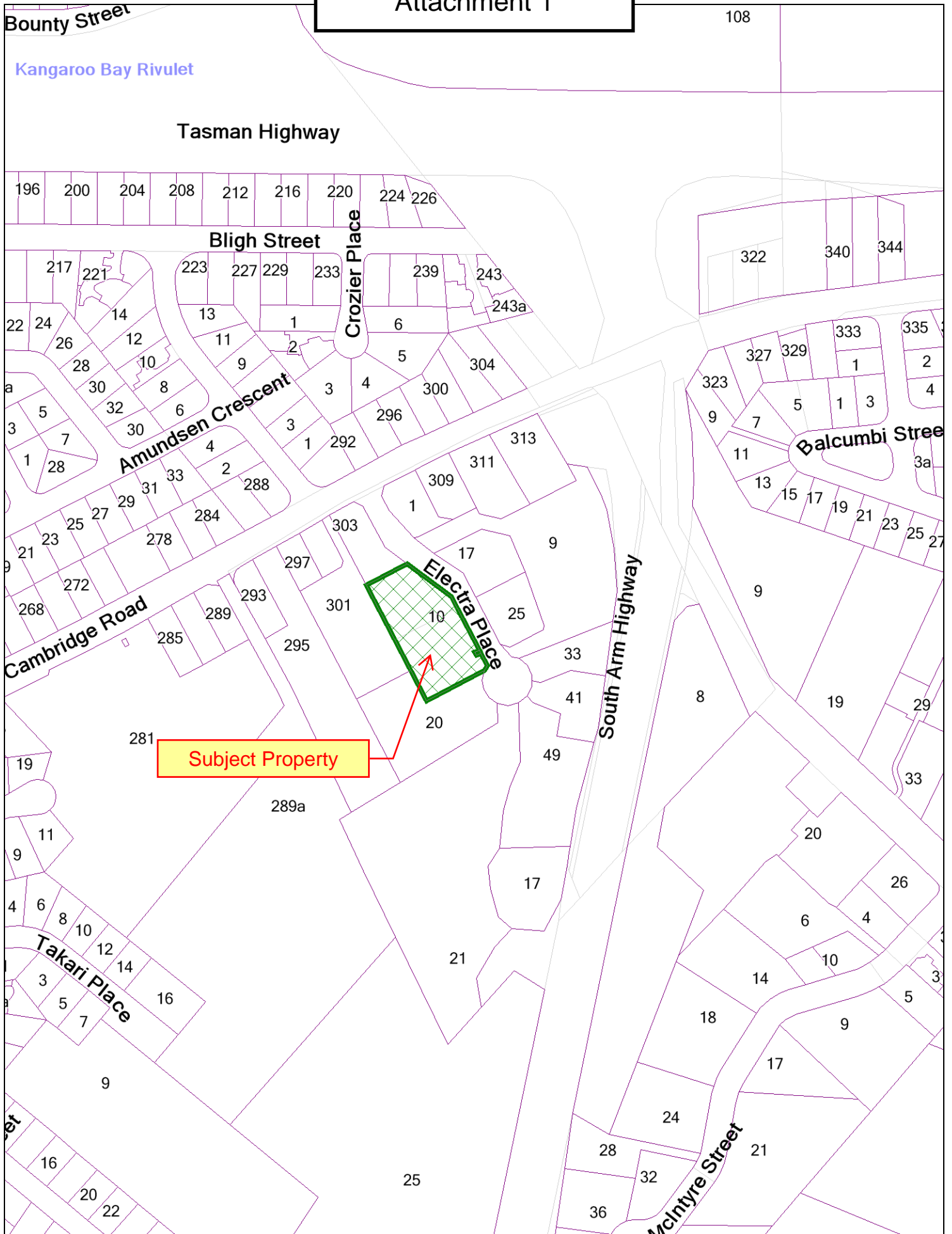
9. CONCLUSION

The proposal is for the Change of Use of part of an existing building known as Tenancy 1 at 10 Electra Place, Mornington to a Gymnasium. It is considered that the proposal is consistent with the relevant requirements of the Scheme and with the inclusion of appropriate conditions is recommended for approval.

Attachments: 1. Location Plan (1)
2. Proposal Plan (5)
4. Site Photo (1)

Ross Lovell
MANAGER CITY PLANNING

Attachment 1



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Attachment 2

Appendices 2 – Current Signage



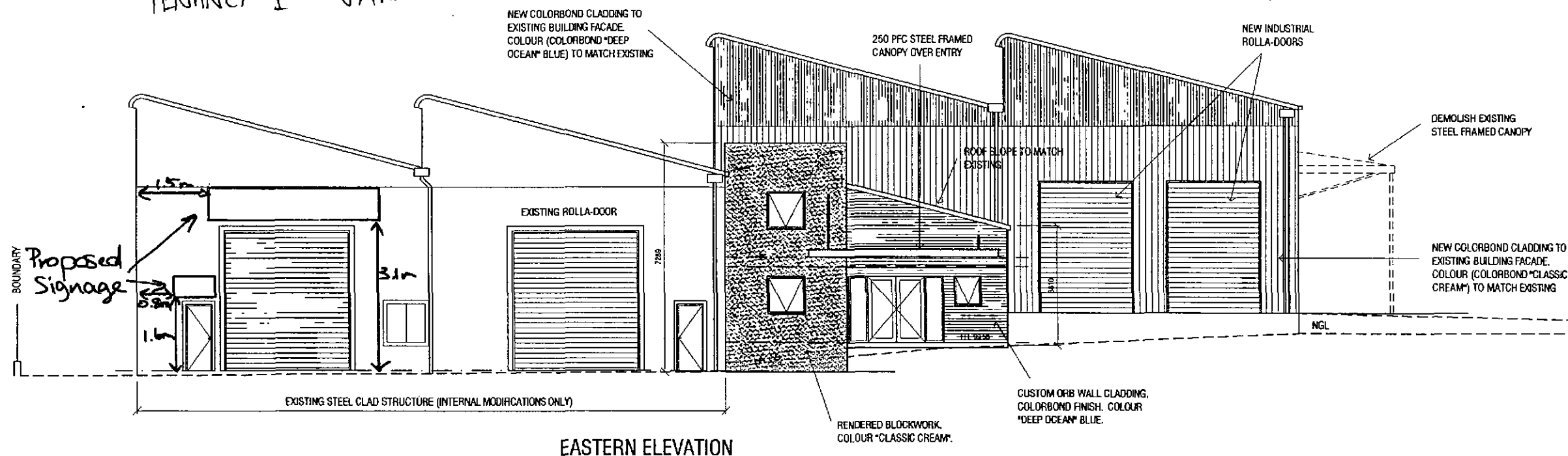
TENANCY 1 - GYMNASIUM

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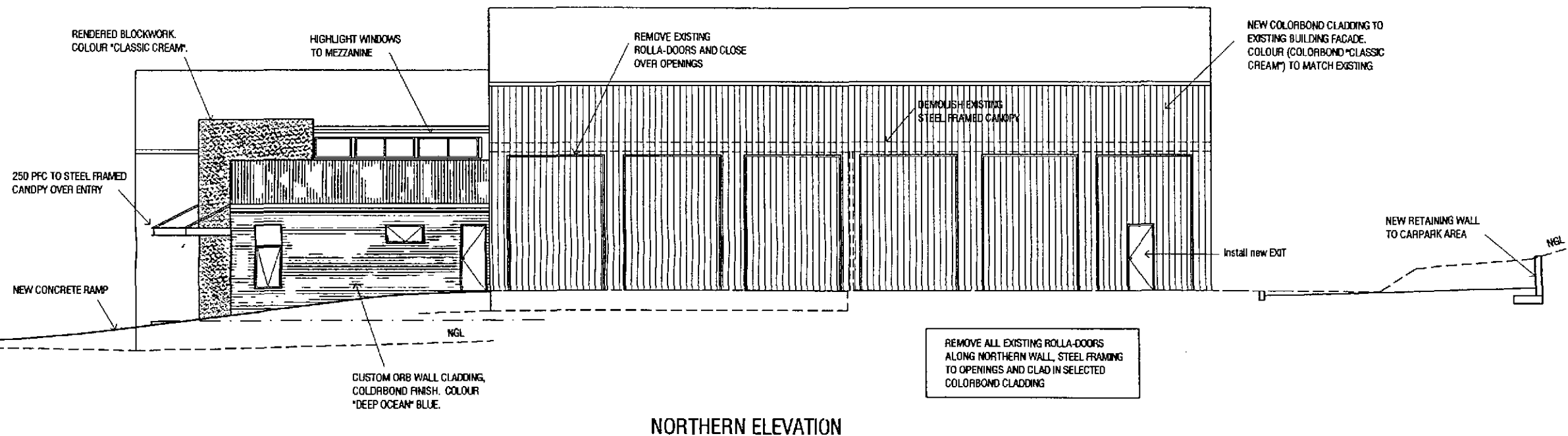
9 APR 2015

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D-2015/101



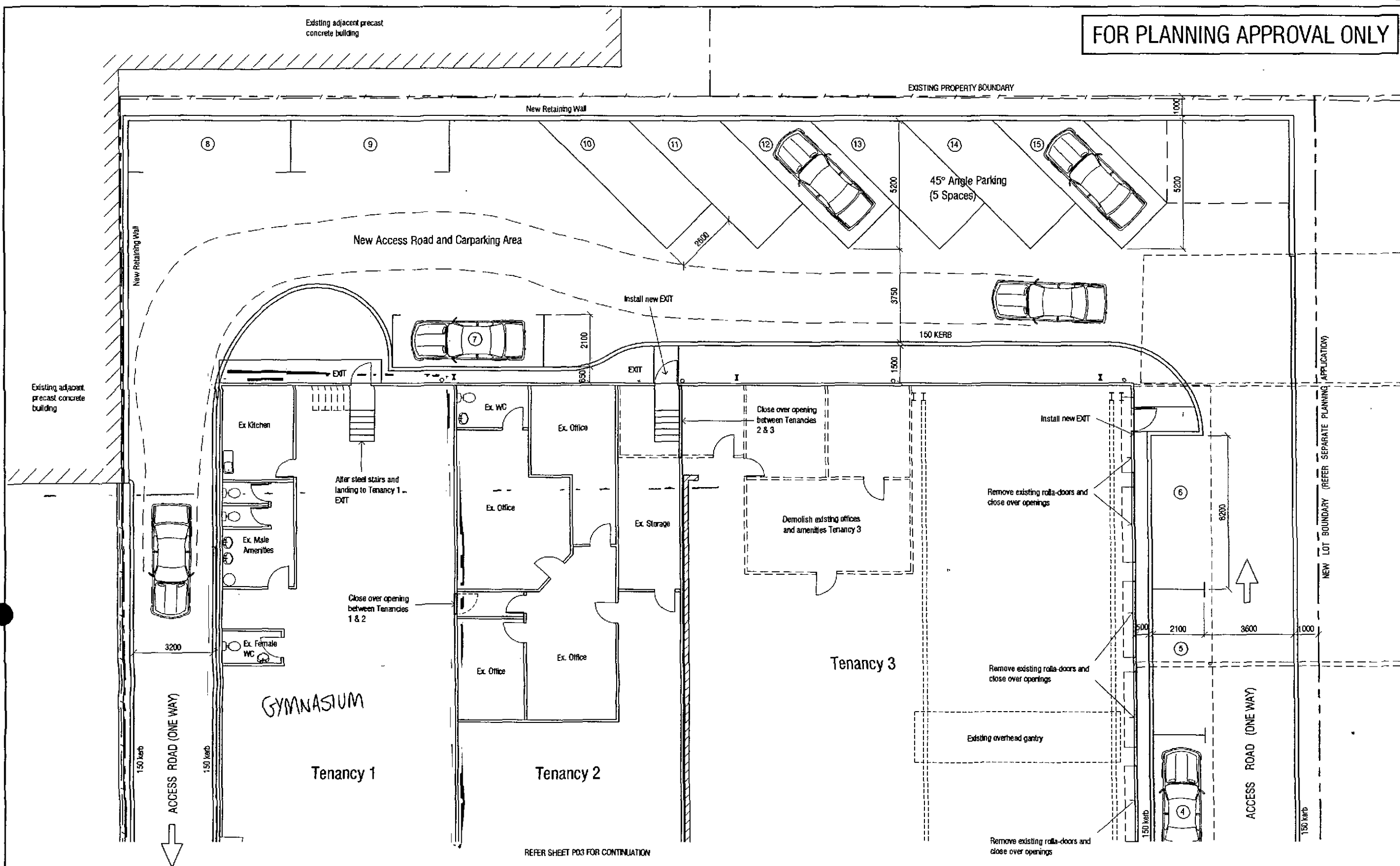
EASTERN ELEVATION



NORTHERN ELEVATION

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				CHECKED	APPROVED	PROJECT	10 ELECTRA PLACE, MORNINGTON		
				LFH		10 ELECTRA PLACE REDEVELOPMENT	PROPOSED SITE REDEVELOPMENT ELEVATIONS		
				SCALE:		DATE	CAD FILE No:	SHEET 5 of 6	A2
				1:100		MARCH 2006	howrah3.dwg		



Lower Level Redevelopment Plan

NO.	Revision	Date	<p>COPYRIGHT: "This document is and shall remain the property of Henry CAD Design & Consulting. The document may only be used for the purpose for which it was commissioned and in accordance with the terms of engagement for the commission. Unauthorised use of this document is prohibited."</p> <p>Henry CAD design and consulting Unit 10 128 Cambridge Rd Runcorn WA27 9TB Ph (81) 4244 4339 Fax (81) 8744 0755</p>	DESIGNED PAH	DRAWN PAH	CLIENT HANS VERDOW	<p>DRAWING TITLE HOWRAH PLUMBING 10 ELECTRA PLACE, MORNINGTON PROPOSED SITE REDEVELOPMENT LOWER LEVEL FLOOR PLAN - SHEET 1 OF 2</p>	DWG NO 20530-P02	REV
				CHECKED LFH	APPROVED	PROJECT 10 ELECTRA PLACE REDEVELOPMENT			
				SCALE: 1:100	DATE: MARCH 2006	CAD FILE No. howrah3.dwg		SHEET 2 of 6	A2



UNIT 1 - 2 KENNEDY DRIVE
CAMBRIDGE PARK 7170
PHONE: (03)6248 5898
WEB: www.rbsurveyors.com.au
EMAIL: admin@rbsurveyors.com

This plan has been prepared only for the purpose of obtaining preliminary subdivisional approval from the local authority and is subject to that approval

All measurements and areas are subject to the final survey

OWNER HOWRAH PLUMBING PTY LTD

TITLE REFERENCE C.T.144362/1 & C.T.144362/2

PROPOSED EASEMENTS AS REQUIRED

10 ELECTRA PLACE
MORNINGTON

GRANTEE SEE TITLE

Base image by TASMAP (www.tasmap.tas.gov.au), © State of Tasmania
Base data from the LIST (www.thelist.tas.gov.au), © State of Tasmania

SCALE 1:500

DATE 2-3-2016

MUNICIPALITY CLARENCE

REF. NO. HOWRP02
945103

PROPOSED SUBDIVISION

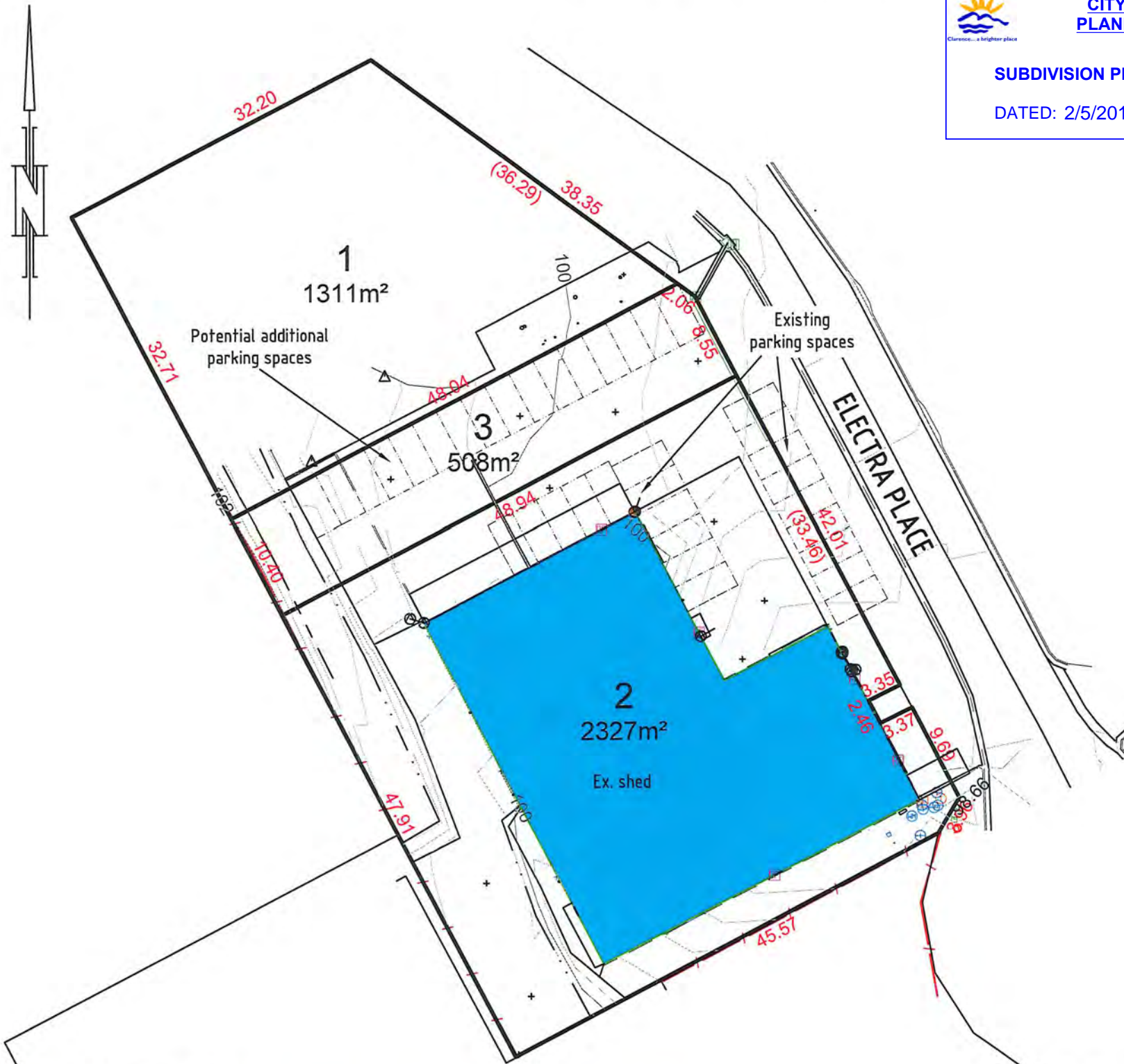
LOT 3 TO BE ADDED TO LOT 2



CITY OF CLARENCE
PLANNING APPROVAL

SUBDIVISION PERMIT NO: SD-2016/9

DATED: 2/5/2016



LOCATION PLAN



Attachment 3

10 Electra Place, MORNINGTON



Site viewed from Electra Place, looking southwest (Image courtesy www.google.com.au)



Aerial image of site, showing parking area to northwest of main building

11.3.7 AMENDMENT APPLICATION A-2015/2 - 15 DYSART STREET AND 443 CLIFTON BEACH ROAD, CLIFTON BEACH - SECTION 43A REZONING AND 13 LOT SUBDIVISION (SD-2015/50)

(File No A-2015/2)

EXECUTIVE SUMMARY**PURPOSE**

The purpose of this report is to consider the application made for a combined Section 43A application for a planning scheme amendment and 13 lot subdivision at 15 Dysart Street and 443 Clifton Beach Road, Clifton Beach.

RELATION TO PLANNING PROVISIONS

The land is zoned Rural Living and is not subject to any spatial codes under the Clarence Interim Planning Scheme 2015 (the Scheme).

The proposed residential subdivision is currently prohibited under the Scheme.

The former provisions of the Land Use Planning and Approvals Act, 1993 (LUPAA) are defined in Schedule 6 - Savings and Transitional Provisions of the Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015 which commenced on 17 December 2015.

Essentially, the Savings and Transitional Provisions apply to existing planning schemes in force prior to the approval of the Tasmanian Planning Scheme Local Provisions Schedule and include the Clarence Interim Planning Scheme 2015.

Section 43A(1) of LUPAA provides for the lodging of an application for a permit which would not be allowed if the planning scheme were not amended as requested.

LEGISLATIVE REQUIREMENTS

The report on this item details the basis and reasons for the recommendation. Any alternative decision by Council will require a full statement of reasons in order to maintain the integrity of the Planning approval process and to comply with the requirements of the Judicial Review Act and the Local Government (Meeting Procedures) Regulations 2015.

CONSULTATION

Applications made under Section 43A are not formally open for public comment until after Council has agreed to certify the Amendment and it has been publicly advertised. Draft Permit conditions would also be advertised for public comment as part of the public consultation process for the combined amendment (rezoning and Specific Area Plan) and development of the site.

RECOMMENDATION:

- A. That Council resolves not to initiate and certify draft Amendment A-2015/2 at 15 Dysart Street and 443 Clifton Beach Road, Clifton Beach under Section 34 and Section 35 of the Land Use Planning and Approvals Act, 1993 respectively.

- B. That the details and conclusions included in the Associated Report be recorded as the reasons for Council's decision in respect of this matter.

ASSOCIATED REPORT

1. BACKGROUND

- 1.1** The subject site and immediately adjoining properties were zoned “Village” under the provisions of the Eastern Shore Planning Scheme Area 2 1986 (ESA2PS1986). An extract of the ESA2PS1986 Zoning Map including the subject lot, is included in the attachments.
- 1.2** Under the ESA2PS1986 the site was subject to a Subdivision Density Rating Overlay which identified the subject site as “DR3”. The ESA2PS1986 Density Table (at Schedule 2.2) qualified DR3 as having a maximum density of 1 lot per 2ha within a minimum lot size of 0.4ha. An extract of the ESA2PS1986 Subdivision Density Rating Overlay including the subject lot is included in the attachments.
- 1.3** The previous Clarence Planning Scheme 2007 (CPS2007) was approved on 1 April 2007 superseding the ESA2PS1986. The CPS2007 dispensed with the average lot size/density rating system to regulate subdivision and reverted to specified minimum lot sizes. Under the CPS2007 the subject site was zoned Rural Residential and subject to a minimum lot size of 2ha. An extract of the CPS2007 Zoning Map including the subject lot is included in the attachments.
- 1.4** Following its adoption of the Clarence Residential Strategy 2008, Council initiated Amendment A-2008/34 to implement the associated recommendations. Amendment A-2008/34 was approved by the former Resource Planning and Development Commission (RPDC) on 16 February 2009, becoming effective on 23 February 2009. The amendment articulated strategic considerations within the Scheme's Planning Policy Framework and most significantly replaced the “Strategic Land Use Plan – Settlement” with one that reflected the Urban Growth Boundary (CPS2007-UGB) identified in the Clarence Residential Strategy 2008.

The CPS2007 Strategic Land Use Plan – Settlement plan approved as part of A-2008/34 included the subject site within the CPS2007-UGB. An extract is included in the attachments.

- 1.5** The Southern Tasmanian Regional Land Use Strategy 2010-2035 (STRLUS) was approved by the Minister for Planning on 27 October 2011 and amended as part of a “housekeeping” review on 1 October 2013. Under the STRLUS the Clifton Beach settlement is outside of the Urban Growth Boundary applicable to the Metropolitan Area of Greater Hobart and falls within the description of “Other small settlement”. Table 3: Growth Management for Settlements (on Page 89) identifies Clifton (Beach) as a “Dormitory Suburb” with a specific and very low growth strategy intended to be achieved through consolidation.

Recent history confirms that the TPC is bound by its interpretation of the STRLUS when making its decisions. For this reason the STRLUS forms the substantive part of this assessment and is discussed in further detail within the body of this report.

2. STATUTORY IMPLICATIONS

- 2.1.** The land is zoned Rural Living under the Scheme.
- 2.2.** The proposed subdivision is currently prohibited under the Scheme.
- 2.3.** The Savings and Transitional Provisions of LUPAA (Schedule 6) specifies that the former Act applies to existing planning schemes in force prior to the approval of the Tasmanian Planning Scheme Local Provisions Schedule ie the Clarence Interim Planning Scheme 2015. Section 43A(1) of the former Act provides for the lodging of an application for a permit which would not be allowed if the planning scheme were not amended as requested.
- 2.4.** The proposal is submitted under Section 43A of LUPAA and is seeking a combined Planning Scheme Amendment and development approval for a 13 lot subdivision.

2.5. If certified, the application will then be advertised for public comment and subject to further review on the basis of any representations received by Council, prior to it being forwarded to the Tasmanian Planning Commission (TPC) for final consideration. In addition, should it be considered appropriate, under Section 35, Council has the power to direct that the amendment be modified.

2.6. The relevant parts of the Planning Scheme are:

- Section 8.10 – Determining Applications;
- Section 8.11 – Conditions and Restrictions on a Permit;
- Section 12.0 – Village Zones;
- Section 13.0 – Rural Living Zones and;
- Section E5.0 – Road and Railway Assets Code;
- Section E6.0 – Parking and Access Code;
- Section E7.0 – Stormwater Management Code; and
- Section E23.0 – On-Site Wastewater Management Code.

3. PROPOSAL IN DETAIL

3.1. The Site

The site comprises 3.573ha and consists of 2 adjoining properties at 15 Dysart Street and 443 Clifton Beach Road, Clifton Beach (CT 9247-7 and CT 144221-8 respectively) as shown in the attachments.

The property at 443 Clifton Beach Road has an area of approximately 1.759ha with access and frontage to Clifton Beach Road. The property is relatively flat and currently developed with a 1970s brick veneer house and associated outbuildings. This property shares a common boundary with 15 Dysart Street to the south-east and to the north-east has a 16m frontage to Council's public open space linking Dysart Street through to Bicheno Street.

This land is bounded to the north and east by larger rural living lots developed with Single Dwellings. To the west the land abuts 2 small village lots fronting Clifton Beach Road.

Fifteen Dysart Street has an area of approximately 1.814ha, is currently vacant and also relatively flat with a slope of approximately 1:30 falling south-east towards Dysart Street and Clifton Beach.

The land is located approximately 200m from the beach (at its closest point) and ranges in elevation from approximately 5m to 10m AHD. The property is accessed from Dysart Street and is separated from the beach by the coastal dunes and a small Council maintained park adjacent to the Clifton Beach Surf Lifesaving Club.

This land is bounded to the south and west by 13 smaller village lots fronting both Clifton Beach Road and Dysart Street.

3.2. The Amendment (A-2015/2)

It is proposed to amend the Scheme in the following manner:

- **Rezoning**

It is proposed to rezone both of the properties at 15 Dysart Street and 443 Clifton Beach Road, Clifton Beach from “Rural Living” to “Village” as shown in the attachments.

- **Specific Area Plan**

It is proposed to introduce a new Specific Area Plan called the Clifton Beach Specific Area Plan (SAP). The proposed SAP introduces controls relating to use, development and subdivision to ensure residential and residential compatible uses and an efficient road layout. A copy of the applicant’s proposed SAP is included in the attachments.

3.3. Modified Amendment

Section 35 of LUPAA specifies that after preparing a draft Amendment Council must determine whether (or not) the draft Amendment meets the requirements of Section 32. Under Section 35, should Council be satisfied that the Amendment is in order it may certify the Amendment as meeting the requirements of Section 32.

However, pursuant to Section 35(b), if Council is not satisfied that the amendment meets the requirements of Section 32, then it should proceed to modify the Amendment until it does.

In this instance it is considered that the proposed SAP would introduce unnecessary duplication and complexity in development assessment. Additionally, the provisions would introduce controls that differ from those applicable to the immediately adjoining and similarly zoned land.

With the exception of the controls relating to future road alignment, no justification was provided for the additional provisions and for this reason it is considered that the draft SAP could compromise Section 32(e) and (f).

Accordingly, should Council resolve to initiate the Amendment it is recommended that prior to certification the draft Amendment be modified as follows:

1. Reduce the purpose of the SAP to: *“To guide subdivision and development to ensure an efficient road layout providing a high level of connectivity, safety and amenity”*.
2. Specify that the SAP does not apply to use.
3. Delete the Use Table.
4. Delete the Use Standards.
5. Delete the Landscaping Standards.
6. Delete the Outbuilding Standards.
7. The “Future Development” Acceptable Solutions A1 and A2 and Performance Criteria P1 and P2 condensed into one standard (respectively) and renamed “Development Standards”.

It is considered that the modified SAP, in conjunction with the underlying zone provisions (Village), would provide sufficient regulation of use and development commensurate with the surrounding development. The remaining provisions relating to the future road alignment would provide certainty around access, road connectivity and circulation.

Should Council resolve to initiate this Amendment preference would be for the modified Amendment described above. Following the development of a revised SAP a subsequent report would be prepared for Council's consideration prior to Certification and exhibition.

3.4. The Subdivision (SD-2015/50)

SD-2015/50 is for a 13 lot residential subdivision of 15 Dysart Street, Clifton Beach. While the property at 443 Clifton Beach Road forms part of the proposed Amendment, it is not proposed to subdivide this land as part of this application. However, a concept development plan was provided demonstrating how this land could be subdivided in the future to enable the construction of a connecting road from 15 Dysart Street to Clifton Beach Road. The concept development plan provides for 7 lots and the retention of the existing house. A copy of both the proposed subdivision plan and concept development plan is included in the attachments.

The proposal is to be developed in 3 sequential stages progressing northwards from Dysart Street. A copy of the proposed staging plan is shown in the attachments. However, it should be noted that the plan reflects the initially submitted proposal that proposed a road reservation of 15m in width which was subsequently amended to 18m in later plans which are the subject of this report.

The lots range in area from 1003m² up to 1316m² and with the exception of Lot 6 (1238m²), which is an internal lot, all lots have full frontages to the proposed road. Primary drainage is proposed to be via a stormwater swale within the road reservation and a 2.5m wide drainage easement through the rear of the lots on the eastern side of the proposed road.

The lots are unable to be serviced with reticulated water and sewerage and the application was accompanied by a wastewater geotechnical assessment report by Rock Solid Geotechnics Pty Ltd supporting the proposal.

No public open space is proposed as part of the subdivision. However, a cash contribution in-lieu of land could be required in accordance with Council Policy should it proceed.

4. PLANNING ASSESSMENT

4.1. Zones

As previously stated the subject land is currently zoned Rural Living. The Rural Living zone specifies a minimum lot size of 2ha and the proposed subdivision is currently prohibited and the reason behind the draft Amendment.

Should the proposed rezoning to Village ultimately be approved by the TPC the relevant provisions contained within the zone relate to lot size, building areas, internal lots and construction of roads, ways and public open space and services.

The proposed subdivision meets all relevant Acceptable Solutions of the Village zone. However, due to no Acceptable Solution being provided for, internal lots, construction of roads, ways and public open space requires an assessment against the Performance Criteria.

The proposal includes 1 internal lot (Lot 6) which is required to enable efficient use of land, a suitable road configuration linking Dysart Street to the property at 443 Clifton Beach Road incorporating a vehicular turning area (to be developed in the second stage) and no public open space.

Subject to the initiation of this Amendment, the proposal could be supported subject to relatively standard conditions relating to designs, the requirement to construct the turning area as part of the first stage. A cash contribution in-lieu of public open space not provided on-site is discussed in further detail later in this report.

4.2. Road and Railway Assets and Parking and Access Codes

The subdivision involves the construction of a new junction and vehicle crossovers associated with each of the proposed lots. For this reason the proposal requires an assessment under both the Road and Railway Assets and Parking and Access Codes.

The proposal meets the Scheme's relevant Acceptable Solutions of both the Road and Railway Assets and Parking and Access Codes with the exception of the following.

Standard: Sight distance at accesses, junctions and level crossings		
Clause	Acceptable Solution (Extract)	Proposed
E.5.6.4 (a)	an <u>access</u> or <u>junction</u> must comply with the Safe Intersection Sight Distance shown in Table E5.1; which in this case is 80m for road with a speed limit of 60km or less.	Approximately 30m at the proposed Dysart Street junction.

In this instance the proposed variation could be supported pursuant to the Performance Criteria for the following reasons:

- Dysart Street is a low speed environment serving local residential traffic;
- The variation relates to eastern sightline and the area to the east of the proposed Dysart Street intersection provides access to a limited number of dwellings (13);
- The variation is due to the intersection being proposed to be located on the inside bend of Dysart Street and it is not possible for it to be located elsewhere; and

- Subject to conditions relating to design the intersection could be constructed to Council's standards.

4.3. Stormwater Management Code

The subdivision requires assessment under the Stormwater Management Code. Council's Asset Management Engineers advise that stormwater can be appropriately managed through suitable conditions. Specifically the solution would need to incorporate Water Sensitive Urban Design principles and include the development of a stormwater detention/soakage/rainwater garden on Council's Dysart Street public open space area.

4.4. On-Site Wastewater Management Code

The subdivision is within an area un-serviced with reticulated sewerage. For this reason the proposal requires an assessment under the On-Site Wastewater Management Code.

The proposal meets the Scheme's relevant Acceptable Solutions with the exception of the following.

Standard: Development Standards for New Lots		
Clause	Acceptable Solution (Extract)	Proposed
E.23.9.1	A new lot must have an area no less than 5,000m ² .	Lots size range between 1003m ² to 1316m ² .

In this instance the proposed variation could be supported pursuant to the Performance Criteria for the following reason.

- The proposal was accompanied by a wastewater assessment report demonstrating that the areas of the new lots are adequate to accommodate a land application area of sufficient size to comply with the requirements of AS/NZ1547 for a dwelling containing a minimum of 3 bedrooms.

5. CONSULTATION

Applications for Planning Scheme Amendments are not formally open for public comment until after Council has resolved to initiate and certify the Amendment. Should this be the case, the draft Amendment and associated draft permit (if supported) will be publicly exhibited in accordance with the statutory requirements.

6. EXTERNAL REFERRALS

The proposal was referred to TasWater, who advised that: *“Pursuant to the Water and Sewerage Industry Act 2008 (TAS) Section 56P(2)(a) TasWater does not object to the proposed development and no conditions are imposed”*.

7. COUNCIL COMMITTEE RECOMMENDATION

The proposal was not specially referred to any Council committees. Notwithstanding this, should the Amendment be initiated, any committee comments or recommendations received during the public exhibition period may be considered as part of Council’s Section 39 report.

8. STATE POLICIES AND ACT OBJECTIVES

An Amendment is to further the objectives of LUPAA. The objectives of Schedule 1 of LUPAA are:

PART 1 - Objectives of the Resource Management and Planning System of Tasmania

“(a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity”.

Development is generally considered sustainable when there are no demonstrable adverse effects upon natural resources, ecological processes or genetic diversity.

The proposal and accompanying documentation demonstrate that the area of land could be rezoned, subdivided and serviced appropriately with negligible impact on ecological processes and genetic diversity of significance.

“(b) to provide for the fair, orderly and sustainable use and development of air, land and water”.

Subject to an assessment against the STRLUS discussed in detail later within this report, it is considered that the modified SAP and the staged approach to subdivision are consistent with the above.

“(c) to encourage public involvement in resource management and planning”.

Should Council resolve to initiate and certify the Amendment, it (along with any draft permit conditions) will be advertised for public comment.

“(d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c)”.

If initiated by Council and ultimately approved by the Tasmanian Planning Commission, the proposal could facilitate economic development through construction works, on-going infrastructure maintenance, subsequent residential construction and associated on-going servicing.

“(e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State”.

Development achieved through the Amendment requires co-operative planning between the developers, Council and to a degree, the general community.

PART 2 - Objectives of the Planning Process Established by this Act

“(a) to require sound strategic planning and co-ordinated action by State and local government”.

The most relevant strategic considerations are application of the State Coastal Policy and the Southern Tasmanian Regional Land Use Strategy (STRLUS). An assessment against both of these documents is discussed in further detail below. Should Council resolve to initiate and certify the Amendment it would be subject to the Tasmanian Planning Commission's assessment and determination.

“(b) to establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land”.

Initiation of this Amendment requires demonstration the proposal is consistent with the STRLUS and adopted State Policies. As discussed below, it is considered this objective is not met.

“(c) to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land”.

The subject land is not subject to any spatial Codes that would indicate a need for special environmental considerations. The proposal was accompanied by a Geotechnical Assessment demonstrating that the land could be developed with suitable on-site wastewater systems.

The proposed subdivision would provide both social and economic benefits. This would be realised in the shorter term through the creation of jobs during the development phase. In the longer term, the increased population would have positive social implications for community development and result in more effective utilisation of existing infrastructure, including public open space and service roads.

“(d) to require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels”.

The proposal provides for a consolidated residential expansion in an area that does not conflict with State Policies. However, it is considered that the proposal does not satisfy the requirements of the STRLUS which is discussed in detail below.

“(e) to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals”.

The Amendment has been submitted under the provisions of Section 43A of LUPAA and linked to a subdivision proposal and is consistent with this requirement.

“(f) to secure a pleasant, efficient and safe working, living and recreational environment for all Tasmanians and visitors to Tasmania”.

The proposal would provide additional housing opportunities in a desirable coastal settlement.

“(g) to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value”.

The proposed Amendment and associated subdivision will not impact on any significant building or place.

“(h) to protect public infrastructure and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community”.

The existing infrastructure combined with the proposed extensions to it can adequately cater for the subsequent development of the site.

“(i) to provide a planning framework which fully considers land capability”.

Subject to appropriate conditions the land is capable of supporting the proposal as previously discussed and demonstrated through the accompanying geotechnical report.

Subject to an assessment against both the State Coastal Policy and the STRLUS, discussed in further detail below, it is considered that the proposed Amendment (modified as recommended) and the associated subdivision meets all of the stated objectives.

9. STRATEGIC PLAN/POLICY IMPLICATIONS

9.1. State Coastal Policy

The State Coastal Policy 1996 is applicable to the subject site. The outcomes of the policy are discussed below.

Natural Resources and Ecosystems – Section 1.1

The 6 issues relevant under these outcomes are native flora and fauna diversity and habitats, weed management, water quality, sustainability of major ecosystems and natural processes, the protection of coastal features (ecological, geological and geomorphological) and compatibility with natural landscapes.

The site is located behind the dune system and is predominately cleared of vegetation indicating that the subdivision will not impact any threatened species of coastal values.

Pollutants associated with stormwater can be managed through the incorporation of WSUD techniques and appropriate conditions.

Cultural and Historic Resources – Section 1.2

Although an Aboriginal Heritage Assessment was not provided as part of the application, the site has been disturbed, mostly cleared of standing vegetation and not known to be a significant site or contain relics.

Notwithstanding this, should the site be found to contain any relics protected under the Aboriginal Relics Act, 1975 it is the responsibility of the developer to ensure compliance with the provisions of that Act. Accordingly, should the amendment be initiated and the subdivision supported then it is recommended that the draft permit contain advice to this effect.

Cultural Heritage – Section 1.3

The site does not contain any buildings of heritage significance.

Coastal Hazards – Section 1.4

The land proposed to be rezoned and subdivided is not located on mobile landforms and is on the northern side of Dysart Street, behind the Surf Club and Council's public open space.

Coastal Uses and Development – Section 2.1

The Policy requires that siting, construction and maintenance of buildings, engineering works and other infrastructure will be sensitive to the natural and aesthetic qualities of the coastal environment. Furthermore, water discharge into the Coastal zone must comply with the provisions of the Environmental Management and Pollution Control Act, 1994 (EMPCA).

The Amendment and associated subdivision ensures that future residential development will be located away from major drainage lines and setback a minimum of 180m from the shoreline, clear of potentially mobile coastal land.

Urban and Residential Development – Section 2.4

The Policy requires that development is located so as to minimise or avoid adverse impacts on environmentally sensitive coastal areas. The Policy advocates compact residential settlements and discourages "ribbon development" or unrelated cluster developments along the coast.

The proposed Amendment and associated subdivision represents an infill/consolidation of the existing settlement and is considered consistent with this requirement.

Transport – Section 2.5

The Policy requires that all transport infrastructure is consistent with the Policy and that coast-hugging roads are avoided, with vehicular access to the coast being provided by spur roads. The proposal requires the construction of one new internal road consistent with its requirement.

Public Access and Safety – Section 2.6

The Policy requires that the public be provided with access to the coast from both land and water where it does not conflict with environmental or cultural values. Public access to the foreshore reserve currently exists and will not be compromised by the proposal.

Public Land – Section 2.7

The Policy requires that use of public land is to be sensitive to the coastal environment. No new areas of public open space are proposed and the existing public open space around the foreshore is currently used for passive recreational purposes and will not be compromised by the proposal.

Recreation – Section 2.8

The Policy requires that recreation opportunities will be located only in locations that do not conflict with sensitive coastal ecosystems. No new areas of public open space are proposed.

Public Participation – Section 3.3

Should Council initiate and certify either the proposed Amendment or a modified Amendment it will be advertised in accordance with the statutory requirements.

9.2. State Policy on the Protection of Agricultural Land 2009

The land is not agricultural land.

9.3. State Policy on Water Quality Management 1997

The purpose of the State Policy on Water Quality Management 1997 is: *“To achieve the sustainable management of Tasmania's surface water and groundwater resources by protecting or enhancing their qualities while allowing for sustainable development in accordance with the objectives of Tasmania's Resource Management and Planning System”.*

Given that the site is not serviced by reticulated water, sewerage and stormwater any potential impact on water quality relating to waste discharge, erosion and stormwater management could be addressed through suitable permit conditions.

9.4. Section 32 - Requirements for Preparation of Amendments

Section 32(1) of LUPPA specifies that amendments to planning schemes must:

- “(e) must, as far as practicable, avoid the potential for land use conflicts with use and development permissible under the planning scheme applying to the adjacent area; and*
- (ea) must not conflict with the requirements of section 30O; and*
- (f) must have regard to the impact that the use and development permissible under the amendment will have on the use and development of the region as an entity in environmental, economic and social terms”.*

In this context the proposal represents the consolidation of the existing Clifton Beach Settlement. While the proposed subdivision would have been prohibited under each of the previous planning schemes the land was included within the CPS2007 Settlement Plan’s Urban Growth Boundary as shown in the attachments.

The proposed zoning and associated modified SAP would be unlikely to introduce any land use conflict with the adjoining land zoned Village to the south and east and Rural Living zoned land to the north and west. In terms of the potential introduction of land use conflict, the Amendment represents a shift in the Village/Rural Living zone delineation rather than a “rezoning” per say.

The requirements of Section 30O is specifically addressed in detail below.

Section 32(2) of LUPAA specifies those elements of Section 20 - What Can a Planning Scheme Provide For also apply to amendments to planning schemes. In this instance it is considered that the proposed Amendment is consistent with the relevant requirements.

Section 30O(1) of LUPAA provides that an amendment to an Interim Planning Scheme may only be made to a: *“local provision of a planning scheme, or to insert a local provision into, or remove a local provision from, such a scheme, if the amendment is, as far as is, in the opinion of the relevant decision-maker within the meaning of section 20(2A), practicable, consistent with the regional land use strategy”*. (Emphasis added).

The proposed Amendment relates to local application of zones and the development of a SAP and on this basis relates to a “local provision”.

Whether or not the proposal is consistent with the regional strategy is less clear and requires discussion. It is considered that Council’s position on this matter should determine whether or not the Amendment (or modified Amendment) ought to be initiated.

Council is familiar with the STRLUS’s Urban Growth Boundary (UGB) which is used to guide the growth and development within the “Metropolitan area of Greater Hobart”. In this instance according to Table 2: The Settlement Network on Pages 87 and 88 of the STRLUS, the Clifton Beach settlement falls within the definition of “Other Small Settlement” and therefore is not constrained by the mapped UGB.

Table 2 defines “Other Small Settlement” as follows:

OTHER SMALL SETTLEMENT	
Description	Residential settlements with limited or no services and commercial activity in a defined spatial area. Often shack settlements that have more recently established a more permanent population.
Population*	Up to 200 (excluding any surrounding rural living areas).

Utility	Connections Electricity.
Services	Services May have local convenience shop or community hall

** Permanent population as opposed to peak population during holiday months.*

Table 3: Growth Management Strategies for Settlements on Page 89 of the STRLUS prescribes the following growth scenario for Clifton as follows:

SETTLEMENT	PROPOSED REGIONAL FUNCTION	GROWTH STRATEGY*	GROWTH SCENARIO
Clifton	Dormitory Suburb	Very Low	Consolidation
<i>*For all settlements categorised as ‘township’ or lesser, the growth strategy indicated does not preclude growth possible under existing capacity</i>			

The Regional Growth Management Strategy at Section 19.5.2 (Page 86) specifies that the settlements across the region are divided into 4 categories reflecting the intended increase in the number of potential dwellings.

The “Very Low Growth” strategy applicable to Clifton Beach specifies:

“No new potential dwellings except single dwellings on existing lots or where there is existing low density subdivision potential subject to demonstrating that:

- there will be no off-site impacts from on-site waste water disposal;*
- there is adequate provision of potable water either through reticulation or tank water; and*
- hazard and natural values constraints are adequately addressed.*

The growth strategies also need to be considered against the growth scenario.

The growth scenarios are categorised into Mixed and Consolidation”.

The “Consolidation” growth scenario is applicable to Clifton Beach. The STRLUS specifies that: *“A consolidation scenario indicates that growth should be predominantly from infill development which can involve development of existing subdivided lots, subdivision of existing zoned but vacant or developed residential, construction of additional dwellings on existing developed lots, redeveloping existing developed lots”*.

It follows that under the STRULS, vacant lots within existing settlements assigned a “Very Low” Growth Strategy may be developed with Single Dwellings or subdivided at low densities where the zone provides but not rezoned to enable an increase in development potential. On this basis, the Amendment should not be initiated.

Notwithstanding this very restrictive view, the site and its immediate surrounds were included within the CPS2007’s Urban Growth Boundary. It is considered that the proposal satisfies the intent of the STRLUS by providing a limited number of additional lots in a manner that could only be described as infill or consolidation. Accordingly, and despite technical interpretation, it is considered that the proposal is strategically founded.

The applicant provided a detailed submission addressing requirements of the Southern Tasmanian Regional Land Use Strategy 2010-2035 (STRLUS), a copy of which is included in the attachments. The applicant’s submission closely aligns with the assessment outlined above with the notable exception of the interpretation of the STRLUS’s “Very Low” Growth Strategy.

Should Council resolve to initiate this Amendment (or a modified version of it) it will have to present its case to the TPC who will ultimately determine the matter.

10. COUNCIL STRATEGIC PLAN/POLICY IMPLICATIONS

There are no inconsistencies with Council’s adopted Strategic Plan 2010-2015 or any other relevant Council Policy.

Public Open Space

The primary purpose of Council's Public Open Space Policy (2013) is to ensure the delivery of adequate and appropriate Public Open Space (POS) to serve the needs of the existing and future population in Clarence. The policy is used to assist Council to exercise its discretion and provide a framework to deliver a consistent approach to the consideration of POS, or alternatively the payment of cash-in-lieu of it.

Clarence has developed a comprehensive suite of strategies that either deliver or rely on POS related outcomes including but not limited to:

- Clarence Tracks and Trails Strategy 2012;
- Positive Ageing Plan 2012-2016;
- Clarence Coast and Bushland Strategy (August 2011);
- Community Health and Wellbeing Plan 2013-2018; and
- Draft Sport and Active Recreation Strategy.

Together these strategies assist Council to deliver a range of active and passive recreational opportunities at both local and regional level.

The subject site is proposed to be zoned Village, within an established residential settlement and provided with a high level of access to both local and regional recreational opportunities. It is considered that the development resulting from an approval of this application will, or is likely to, increase residential density creating further demand on Council's POS network and associated facilities.

No POS land is proposed to be provided to Council as part of this application and nor is it considered desirable to require it on this occasion. Notwithstanding this, it is appropriate that the proposal contributes to the enhancement of Council's POS network and associated facilities. In this instance there are no discounting factors that ought to be taken into account that would warrant a reduction of the maximum POS contribution.

While Section 117 of the Local Government Building and Miscellaneous Provision Act, 1993 (LGBMP) provides for a maximum of up to 5% of the value of the entire site to be taken as cash-in-lieu of POS, it is considered appropriate to limit the contribution only to each additional lot created, representing the increased demand for POS generated by the proposal and not the entire site which is the subject of the application.

The proposed subdivision at 15 Dysart Street, Clifton Beach is currently prohibited under the provisions of the Scheme. For this reason the applicant has lodged under Section 43A of LUPAA which provides for the concurrent consideration of a Planning Scheme Amendment and associated Application for Development/Use or Subdivision that would otherwise be prohibited.

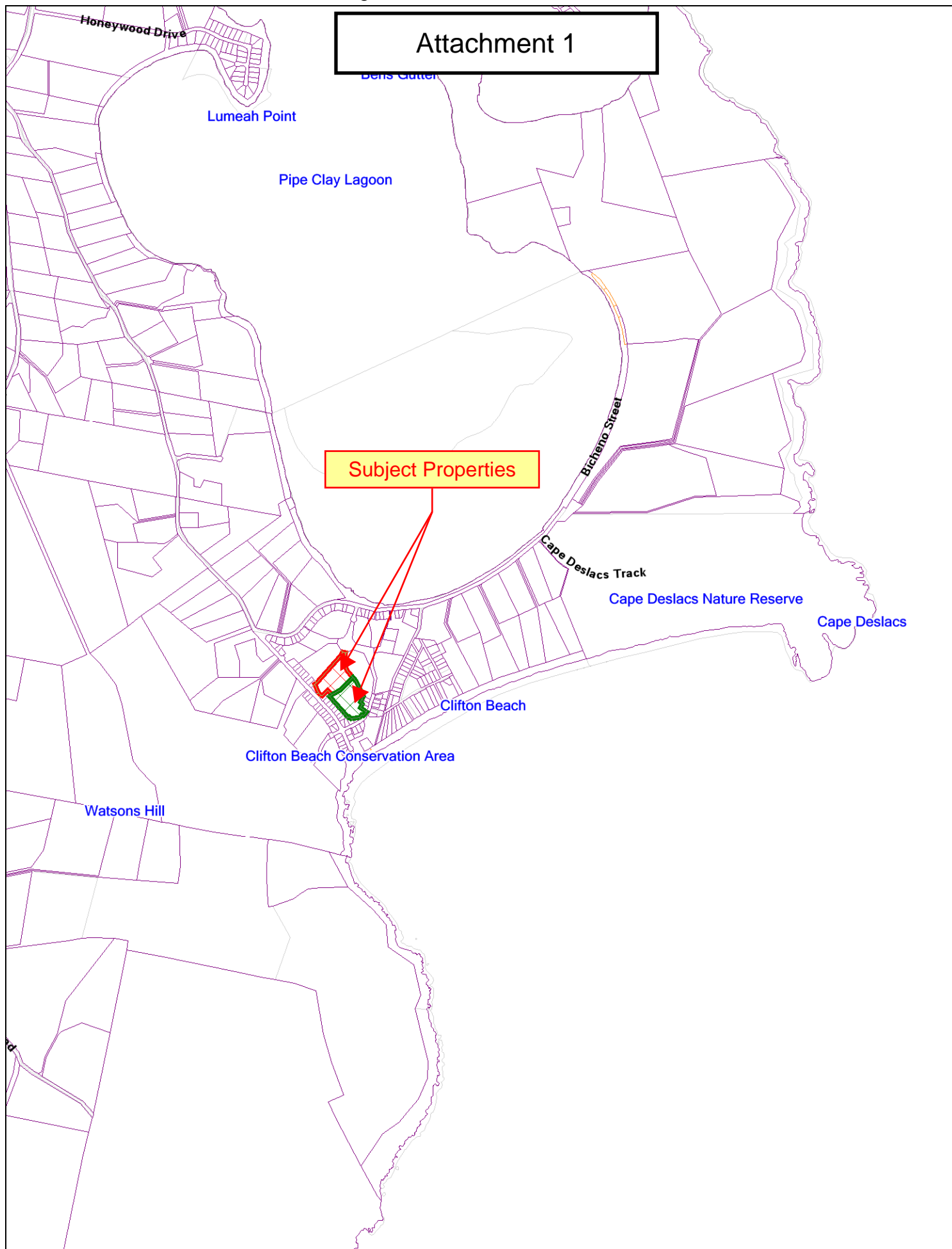
In this instance the proposed Amendment involves the rezoning of the land at 15 Dysart Street and 443 Clifton Beach Road and the development of a Specific Area Plan for the 2 properties.

While it is considered that the proposal has merit, for the reasons outlined in this report it is considered that the proposal does not satisfy all of the requirements of Section 32 of LUPPA (specifically Section 30O relating to the application of the STRLUS). On this basis it is considered that initiation of the Amendment would be premature and for this reason it is recommended that the proposed Amendment should not be initiated.

- Attachments:
1. Location Plan (1)
 2. Previous Planning Controls Applicable to Clifton Beach (2)
 3. Proposal Plan (2)
 4. Staging Plan (reflecting initially proposed 15m wide road reservation and associated lot sizes) (1)
 5. Applicant's Planning Report (14)
 6. Applicant's proposed SAP (6)
 7. Site Photos (2)

Ross Lovell
MANAGER CITY PLANNING

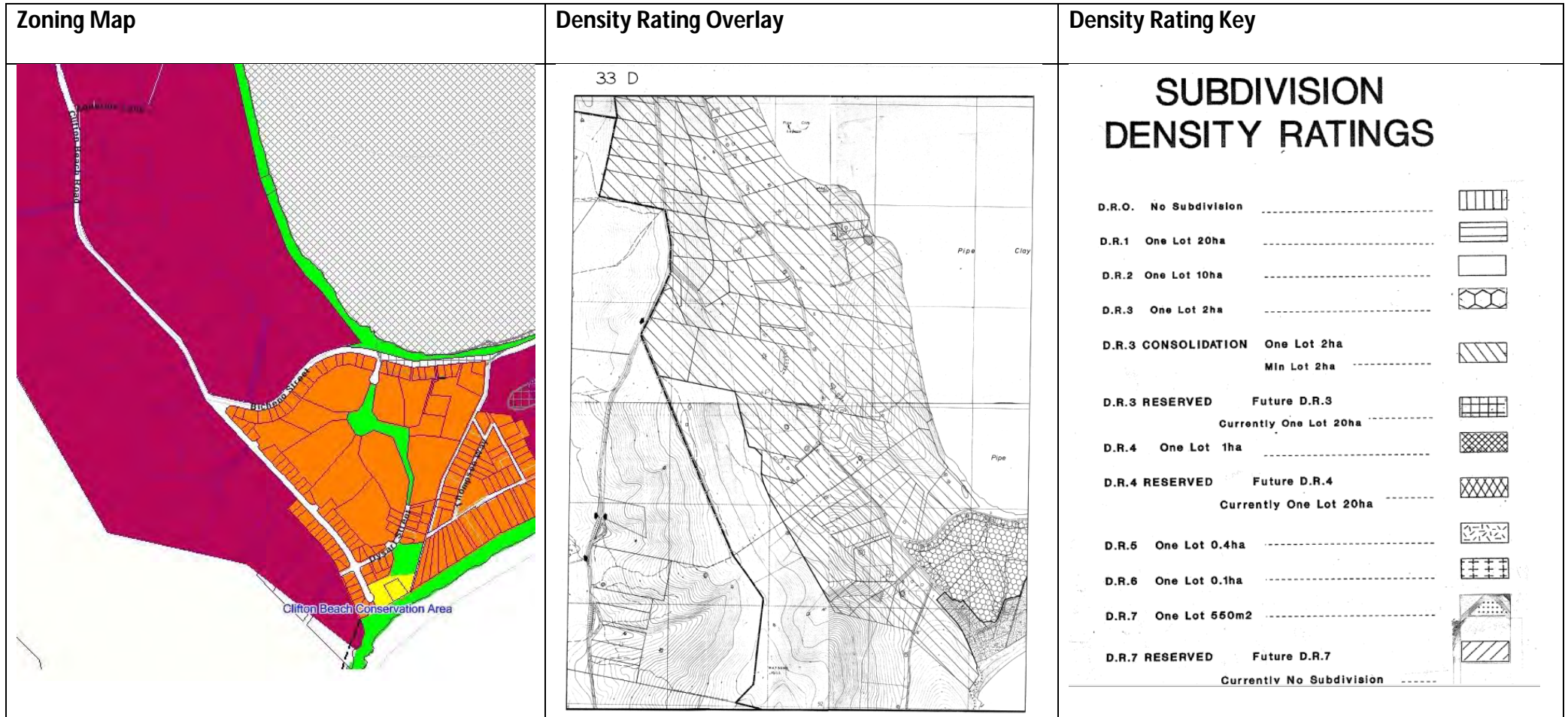
Location Plan – 15 Dysart Street & 443 Clifton Beach Road



Disclaimer: This map is a representation of the information currently held by Clarence City Council. While every effort has been made to ensure the accuracy of the product, Clarence City Council accepts no responsibility for any errors or omissions. Any feedback on omissions or errors would be appreciated. Copying or reproduction, without written consent is prohibited. **Date:** Friday, 3 June 2016 **Scale:** 1:23,040 @A4

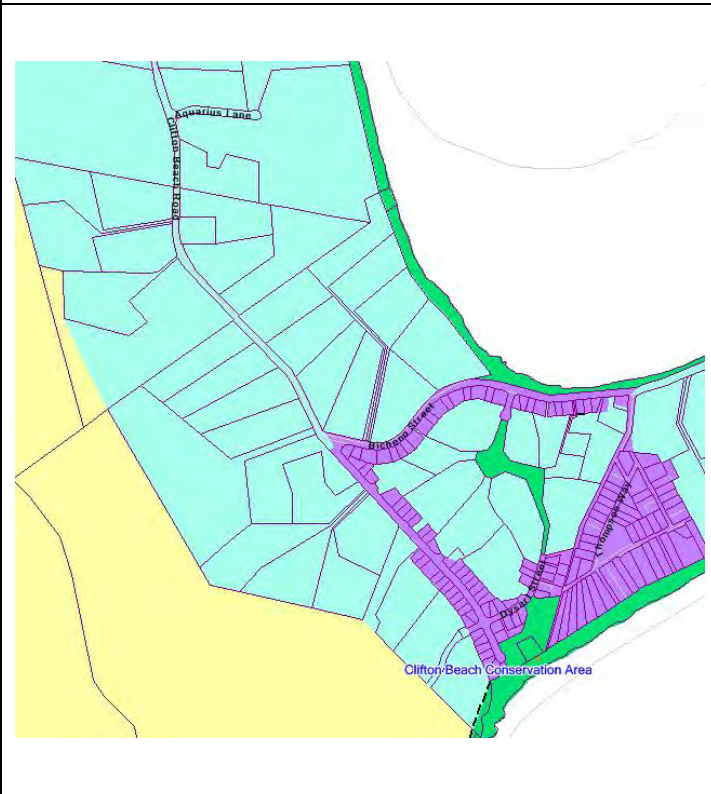
Previous Planning Controls Applicable to Clifton Beach

Eastern Shore Area 2 Planning Scheme 1986

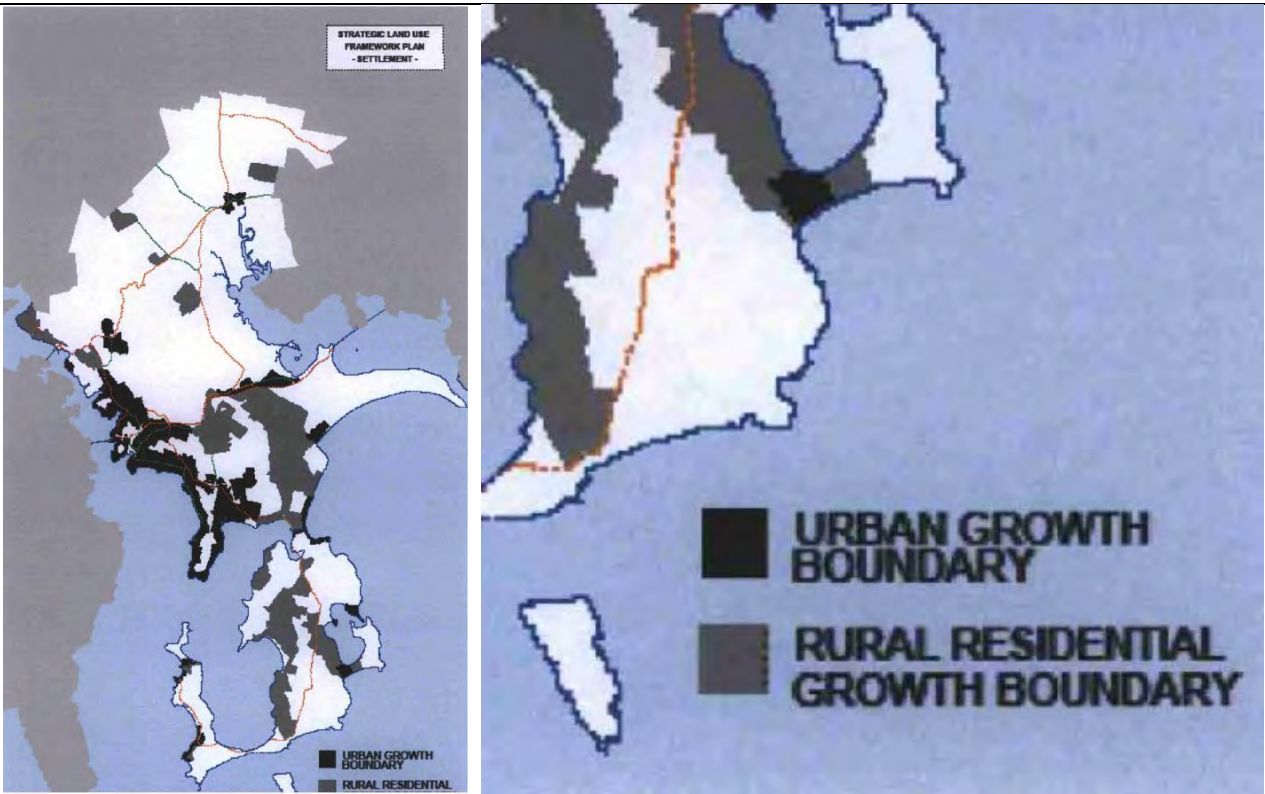


Clarence Planning Scheme 2007

Zoning Map



Strategic Land Use Plan – Settlement



PLAN OF SUBDIVISION



PDA Surveyors

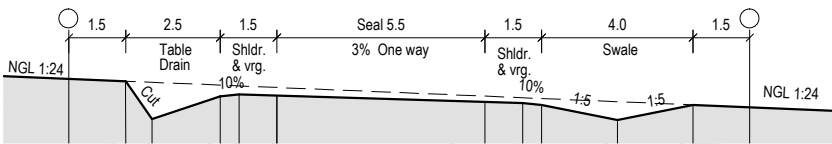
Surveying, Engineering & Planning

127 Bathurst Street Hobart,
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FAX: +61 03 6234 5085
EMAIL: pda.hbt@pda.com.au

Owner	Craig McDowall Terry & Kathryn Jane Terry			Location	15 Dysart Street, Clifton Beach			This plan has been prepared only for the purpose of obtaining preliminary subdivision approval from the Council and the information shown hereon should be used for no other purpose.			
Folio Ref.	FR 9247/7			Council	Clarence City Council Clarence Interim Planning Scheme 2015						
Schedule Of Easements	Existing Drainage Easement 1.52 Wide over Lot 1 to be carried forward. Proposed Drainage Easement 2.50 Wide over lots 10, 11, 12 in favour of Lots 9 - 12.										
Scale	1:1000	Date	23 February 2016	Our Ref.	S764C-1C	Map ref:	5452	GDA94 Centroid: E	542 675	N	5 240 180



TYPICAL 18.0m ROAD RESERVE
Scale 1:200

LEGEND

- TITLE/PROPOSED BOUNDARY
- SURROUNDING BOUNDARY
- / - / - / - FENCE
- V - A - OVERHEAD POWERLINE
- - - - - OPEN DRAIN
- w - w - WATERMAIN
- s - SEWER
- sw - STORMWATER
- TPIT
- 0.2m CONTOUR INTERVAL
- [10m 15m] TYPICAL BUILDING AREA



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EMAIL: pda.hbt@pda.com.au

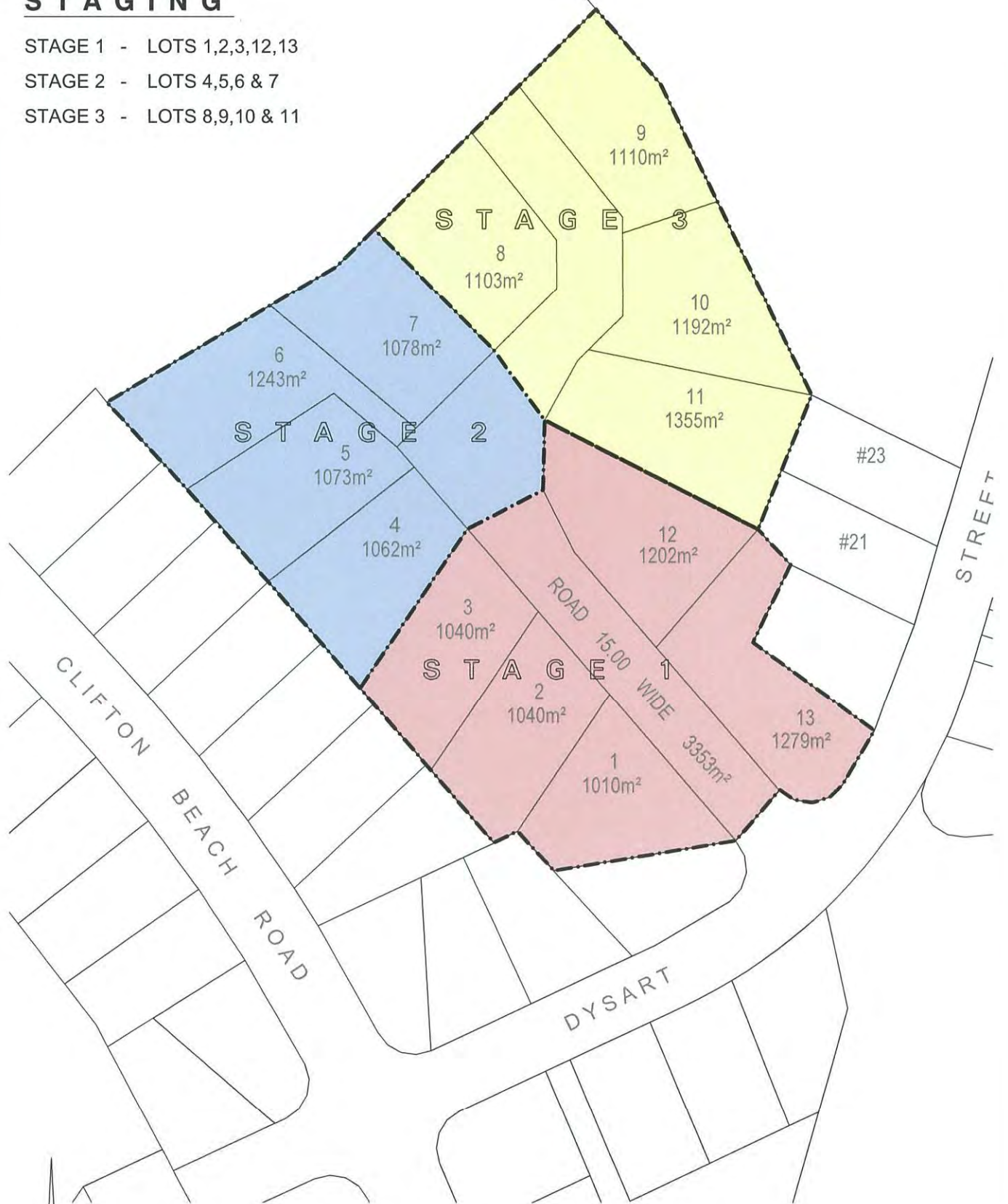
Agenda Attachments - 15 Dysart Street & 443 Clifton Beach Road - Page 5 of 28

STAGING

STAGE 1 - LOTS 1,2,3,12,13

STAGE 2 - LOTS 4,5,6 & 7

STAGE 3 - LOTS 8,9,10 & 11

**STAGING PLAN**

0 10 20 30 40 50

**PDA Surveyors**

ASN 71 217 806 325

Surveying, Engineering & Planning

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STAGING PLAN - PROPOSED SUBDIVISION (FR 9247/7)
15 DYSART STREET, CLIFTON BEACH RD,
CLIFTON BEACH
for C.M. & K.J. TERRY

SCALE PAPER

1 : 1250 (A4)

JOB NUMBER DRAWING

S764C - 4

SURVEYOR	-	DRAWN	MK	DATE	14 October 2015
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Attachment 5

The General Manager
Clarence City Council
Po Box 96
Rosny Park TAS 7018

CM & KJ TERRY
337 Davey Street
Tasmania 7004

19 October 2015

Dear Sir

Application for re-zoning and 13 Lot subdivision 15 Dysart Street and 443 Clifton Beach Road - Clifton Beach

The following development application is submitted under section 43A of the *Land Use and Planning Approvals ACT 1993* as a combined rezoning and 13 lot subdivision. In support of this application the following documents are attached.

1. Copy of CT 9247-7 - CM & KJ Terry owners.
2. Copy of CT 144221-8 – SA Leitch and HL Reid owners.
3. Completed Clarence City Council Planning application form
4. Proposed plan of subdivision S764C-1B
5. Proposed plan of subdivision with aerial photo overlay S764C-1(p)
6. Rezoning plan S764C-3
7. Proposed staging plan S764C-4
8. Concept future development plan S764C-2 outlining how CT 144221-8 (443 Clifton Beach Road) could be developed in the future.
9. Specific area plan S764C-5
10. Geotechnical report by Rocksolid Geotechnics
11. Land Owners consent for CT 144221-8
12. Cheque for \$5,997.00 comprising
 - a. advertising and notification \$1,145.00
 - b. S43 assessment \$3,000.00
 - c. TPC Costs \$ 292.00
 - d. Subdivision assessment \$1,560.00

CM & KJ Terry are submitting this application as the owners of CT 9247-7 and on behalf of SA Leitch & HL Reid the owners of CT 144221-8. A signed owner's consent form is attached confirming agreement to the lodging of this application for rezoning of CT 144221-8.

LOCATION

Clifton Beach is located in the City of Clarence approximately 20 km (20 minute drive) south east of the Hobart Central Business District. It is a small coastal village area located 3.5 km off the South Arm highway via Clifton Beach Road and is situated between Pipeclay Lagoon and Frederick Henry Bay. It is best known for its iconic surf beach and is the home of the Clifton Beach Surf Lifesaving Club. During summer months Clifton Beach is a very popular destination for beach goers and surfers. The close proximity to the beach and the city make Clifton Beach a lifestyle destination for residents and visitors alike.



Location Plan – Plan #1

THE SITE

The site comprises 3.573ha and consists of two adjoining properties; one vacant and one improved property incorporating a 1970s brick veneer house. The site adjoins two other large parcels of land to the north and east and eighteen small village lots along Clifton Beach Road and Dysart Street.

CT 144221-8 is accessed off Clifton Beach Road, the main feeder road connecting through to the South Arm Highway and adjoins CT 9247-7 on its eastern boundary. To the north of this lot is a large area of existing public open space that links Dysart Street through to Bicheno Street. The title contains some 1.759ha of land.

CT 9247-7 is accessed off Dysart Street a formed Council road and is separated from the beach by the coastal dunes and a small council maintained park adjacent to the Clifton Beach Surf Lifesaving Club. The title contains some 1.814ha of land that generally slopes south east towards Dysart Street and Clifton Beach. The site is located in close proximity to the beach and the elevation of the site varies from approximately 5m to 10m above mean sea level.

The effects of climate change and sea level rise on coastal areas are well documented and are addressed by various codes listed under Part E of the *Clarence Interim Planning Scheme 2015*. The proposed site is well protected and elevated such that if approved by Council there will be certainty that future development will not be affected by climate change influences such as sea level rise. Furthermore the site is located close to all available development infrastructure and adjoins existing Village zoned land on two sides.



Site Plan - Plan #2

ZONING

Under the *Clarence Interim Planning Scheme 2015*, 15 Dysart Street and 443 Clifton Beach Road are zoned Rural Living as coloured dark pink on the planning scheme extract shown below. The adjoining land shown orange is zoned Village and the land coloured green is zoned Open Space. The linear nature of the Village zoning is a direct result of the original village subdivision that predominantly followed the road network existing at that time.



EXISTING ZONING - Plan #3

OVERLAYS

The extract below is from lplan map and shows the Tasmanian interim planning scheme overlays that relate to the Clifton Beach site. It can be seen that the site (outlined in blue) is not subject to any existing planning scheme overlays. There are no existing mapped controls that need to be taken into consideration in assessing this site for development.



Planning Scheme Overlays - Plan #4

Coastal Inundation

The following extract shown below is from the Coastal Inundation overlay of the *Clarence Interim Planning Scheme 2015*. It clearly shows that the site (coloured red for identification purposes) is not subject to inundation which is shown with light blue hatching.



Coastal Inundation- Plan #5

Coastal Erosion Hazard Management

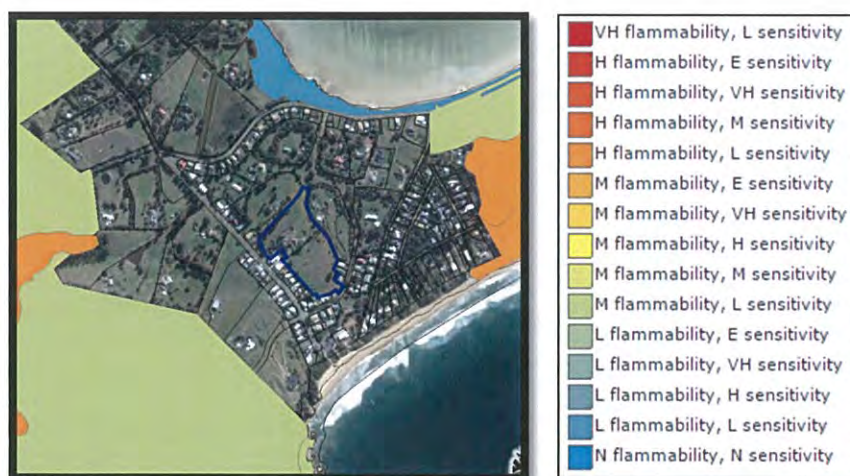
The following extract is from the Coastal Erosion Hazard Management overlay of the *Clarence Interim Planning Scheme 2015*. It clearly shows that the site (coloured blue for identification purposes) is not within the existing defined coastal erosion hazard management area shown as red hatching on the overlay.



Coastal Erosion Hazard Management- Plan #6

Bushfire Prone Areas

The following extract from LIST-map shows that the site is not within a bushfire prone area. The site (shown outlined in blue) and surrounding properties are all maintained urban lands where open grassed areas are regularly mown and the majority of vegetation is introduced exotic species. There is little or no accumulated flammable material and being an urban area the threats associated with bushfire are well maintained and controlled. The site is flat and does not adjoin any bushfire prone land. For these reasons no Bushfire Hazard Management plan is required as part of this application.

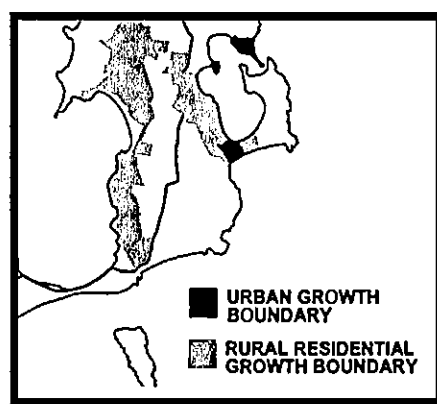


Bushfire Prone Areas - Plan #7

URBAN GROWTH

The Clarence municipality is recognised as having many attractive and desirable areas with varying amenity in which to live. The Council's residential strategy and planning for change within the City's suburbs demonstrates an understanding of the specific local character of the suburbs and the needs of the residents of the municipality. Clifton Beach is typical of this situation with less than 10 vacant village lots within the surrounding village area that comprises more than 140 village zoned lots. Currently there are no vacant lots available for purchase within the Clifton Beach Village zone. Further, the majority of the Village lots were created when the land was first subdivided over 40 years ago and have been held in the same ownership for many years with little opportunity for new home owners to purchase. Clifton Beach is a destination centre for activity based home owners that is both vibrant and attractive as a desirable community in which to live. Changes in population structure are generating new housing needs, which are not adequately catered for by the existing Clifton Beach housing stock. Planning for growth is essential and it is equally important that policy and the planning process have the flexibility to provide for change and new community requirements as they arise.

In recognition of this Clarence developed a Strategic Land Use Framework Plan under the *Clarence Planning Scheme 2007* to provide direction, order and structure for future development. This plan identified the strategic direction for future housing opportunities within the municipality by assessing a range of criteria including location, land suitability, market demand and cost efficient service delivery. This resulted in a defined urban growth boundary to manage the growth of suburbs and villages within Clarence. Growth areas were identified as those areas that provided the best opportunities for future growth that best utilised existing infrastructure. The below extract from the 2007 Planning Scheme, identified that part of Clifton Beach between Pipeclay Lagoon and Frederick Henry Bay as a future urban growth area.



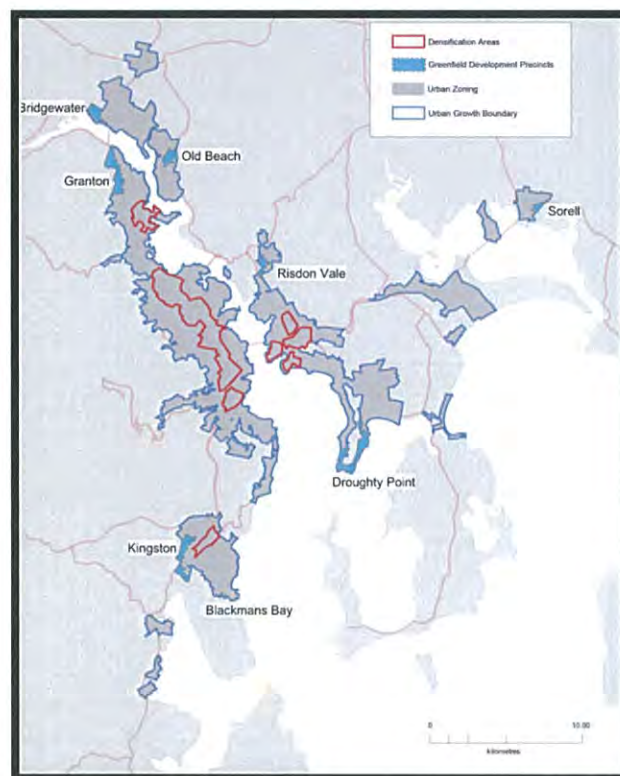
Urban Growth - Plan #8

The purpose of the growth boundary was to identify a land supply for the various suburbs and villages representing certain market segments. This approach allowed consideration of demand and supply issues for particular suburbs, rather than simply looking at a forecast based on total supply within the City's overall land bank. The residential strategy urban growth boundary assisted Council in supporting amendments and permits for new subdivisions. The urban growth boundary also assisted strategic planning for growth by discouraging amendments to expand growth into new

areas, rather than into the planned growth areas promoting a sustainable form of urban growth and providing greater certainty in the provision of infrastructure in an efficient way.

The designated Clifton Beach growth area under the 2007 Planning Scheme incorporated 10 or more properties that were zoned rural residential that were located within the confines of the existing village zoned lots at Clifton Beach. Rezoning land within this rural living zone for the purpose of consolidation is in accordance with the Southern Tasmanian Regional Land Use Strategy 2010-2035 (STRLUS) regional policy SRD 1.3.

While the new *Clarence Interim Planning Scheme 2015* has an Urban Growth Boundary overlay, it is very different to the urban growth boundary under the previous planning scheme. In fact it is the residential urban growth boundary that was developed by the STRLUS in its regional residential development strategy.



**Southern Tasmanian Regional Land Use Strategy
Residential development areas - Plan #9**

Regional strategies are designed to be living documents responsive to future changes and challenges as and when they arise. The very nature of a regional strategy precludes detail of individual scenarios and cases. The STRLUS regional policy SRD 1.2 states that residential growth should be managed through the hierarchy of the planning process. It is submitted that this application addresses that hierarchy at all levels. It has considered the regional strategy and local development through the proposed rezoning of the site and the subsequent subdivision application as the process to implement that strategic direction. The STRLUS focuses on residential development of green field

development sites that are able to be provided with the full development infrastructure and services.

Village zones by their very nature often do not have all of the services available that are expected in a residential lot. To this end development within Village zoning is usually small scale development that is driven by local demand and needs to be assessed on the developments individual merits. The land in this application adjoins the existing Village zone and is able to be efficiently serviced by stormwater, road, telecommunications and electricity.

In further considering the STRLUS it is noted that Clifton Beach was assessed along with a number of other settlements as a “small settlement” and as having a “very low” growth strategy with “consolidation” as the most likely growth scenario.

The population of Clifton Beach as recorded in the 2011 ABS figures was 555. Using the STRLUS definition for “small settlement” as having a population of 200 Clifton Beach should possibly have been assessed as a Village. Currently Clifton Beach has no residential land available for further development and given the size of the existing village zoned lots there is also no potential for any infill development within the existing Village zone meaning that it could only be assessed as having a very low growth rate.

The STRLUS defines Very Low Growth as *“no new dwellings except single dwellings on existing subdivided lots, subject to demonstrating that:*

- there will be no off-site impacts from on-site waste water disposal;*
- adequate provision of potable water either through reticulotion or tank water; and*
- odddressing hazard and natural values constraints”.*

The proposal as submitted will meet all of the STRLUS requirements for very low growth rate. As there are no vacant lots currently available for development the proposed creation of 13 additional lots will provide an opportunity for a low growth rate in the Clifton Beach area.

In order for there to be growth or consolidation there has to be a potential for development. At this time there is clearly very limited availability and given the ribbon nature of the existing Village zoning such infill development is not a possibility at Clifton Beach. Rezoning the proposed site will facilitate a cluster or community of residential housing that meets all of the required development controls and consolidates development in the heart of the existing Village area. Such consolidation will provide opportunity and address community needs and expectations. The proposed interconnecting road when connected will facilitate improved traffic circulation allowing the free flow of traffic through what will be the centre of Clifton Beach.

CONSIDERATION OF STATE POLICIES

State Policy on the Protection of Agricultural Land (Adopted 6 October 2000)

- *To provide a consistent framework for planning decisions involving agricultural land by ensuring that the productive capacity of agricultural land is considered in all planning decisions.*
- *To foster the sustainable development of agriculture in Tasmania by:*
 - *enabling farmers to undertake agricultural activities without being unreasonably constrained by conflicts with adjoining non-agricultural land users; and*
 - *providing greater direction and certainty for landowners, developers, land managers and the community in planning decisions involving agricultural land.*

This application for re-zoning and subdivision is not contrary to this state policy as it does not deal with agricultural land and it is not located adjacent to any agricultural land.

State Policy on Water Quality Management (Adopted 26 September 1997)

- *Focus water quality management on the achievement of water quality objectives which will maintain or enhance water quality and further the objectives of Tasmania's Resource Management and Planning System;*
- *Ensure that diffuse source and point source pollution does not prejudice the achievement of water quality objectives and that pollutants discharged to waterways are reduced as far as is reasonable and practical by the use of best practice environmental management;*
- *Ensure that efficient and effective water quality monitoring programs are carried out and that the responsibility for monitoring is shared by those who use and benefit from the resource, including polluters, who should bear an appropriate share of the costs arising from their activities, water resource managers and the community;*
- *Facilitate and promote integrated catchment management through the achievement of objectives (1) to (3) above; and Apply the precautionary principle to Part 4 of this Policy.*

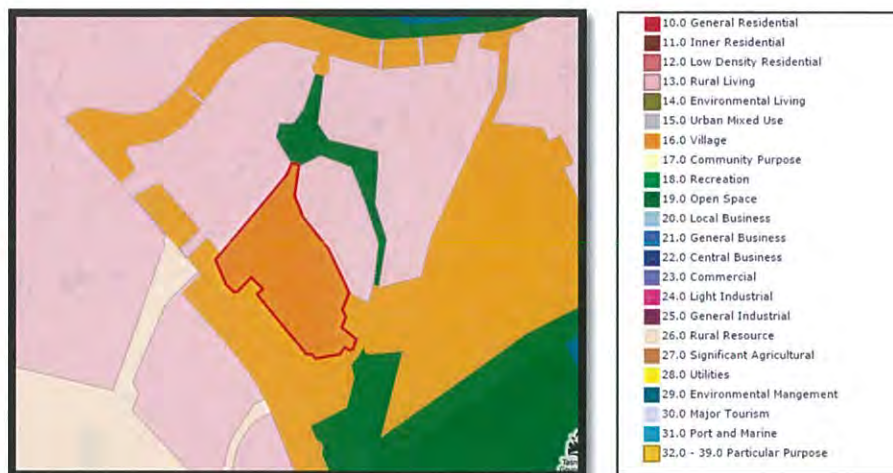
The future development of this site will be designed and constructed using water sensitive urban design parameters to ensure that any impact is minimal. Stormwater run-off will be controlled via swale drains and lot size is such that onsite absorption will be achieved.

State Coastal Policy (Adopted 16 April 2003)

- *Natural and cultural values of the coast shall be protected.*
- *The coast shall be used and developed in a sustainable manner.*
- *Integrated management and protection of the coastal zone is a shared responsibility.*

While this site is within the area covered by the State coastal policy this application for re-zoning and subdivision is not contrary to the intent of that policy. The proposed development represents consolidation of an existing development cluster at Clifton Beach and does not promote or constitute coastal ribbon development.

PROPOSED RE-ZONING



Rezoning Plan - Plan #10

The attached rezoning plan S764C-3 shows the extent of the proposed change to the existing Village zone. This rezoning application seeks to rezone the site (shown outlined in red on Plan #10) from Rural living to Village. While the proposed rezoning area is only a small part of the area that was previously identified for urban growth it does comprise approximately 3.57ha of land in two separate titles and ownership. Rezoning this site will provide opportunity for growth through the consolidation of development within the existing village area. While it is recognised that for strategic reasons Council may wish to consider rezoning a larger area we believe that it would be premature and potentially create and oversupply at this time. A large scale strategic rezoning is not considered practical or feasible as the complexities of involving a larger number of privately owned properties in a combined application make such a coordinated approach extremely difficult unless you are the planning authority.

The intent of the Village zone is detailed in the zone purpose within the planning scheme ordinance. Key amongst the six stated objectives is purpose statement 1.2 *"to provide residential and associated development in small communities"* and statement 1.6 *"to provide for the efficient utilisation of existing reticulated services in serviced village"*. Objective 1.3 states *"to ensure development is accessible by walking and cycling"*. This proposal addresses and satisfies each of these three zone purpose statements and will create the potential for alternative uses as suggested in zone purpose statements 1.1, 1.4 and 1.5.

This application will provide considered, logical, timely and orderly development that will create opportunity for the community with minimal impact. No impediments, controls or overlays that restrict the proposed site or impact on the future development potential of this land have been identified in researching this application.

In considering this amendment Council have recommended that a development plan be prepared to substantiate that the proposed re-zoning will facilitate the future growth of the village area and to guide appropriate future development of CT 144221-8. An indicative draft future development plan

showing how the this property can be effectively and economically developed, retaining the existing house, providing a through road and a linkage to the public open space to the north has been included in this application. Refer to the attached Draft future development plan S764C-2.

To provide certainty for Council in approving this proposed rezoning and 13 lot subdivision we propose the creation of a specific area plan under Part F of the *Clarence interim planning scheme. 2015*. The intent of this specific area plan is to provide control and direction in regards to the future development of CT 144221-8 by defining the “future road” corridor through that site, linking the proposed subdivision road on CT 9247-7 through to Clifton Beach Road. To illustrate this we have prepared the attached specific area plan S764C-5.

In considering this application it is necessary to consider the strategic objectives of the *Land Use Planning and Approval Act 1993* and the planning system of Tasmania. The primary objective of the planning system is to promote sustainable development and to protect and maintain the ecological processes and genetic diversity. This application has established that it will facilitate infill, consolidation within an existing developed area that is not subject to any existing environmental development controls. The sustainability of this type of development is further supported by the regional policies of the STRLUS. Compliance with the STRLUS policies has been addressed elsewhere in this report. The development of this site will not impact on the ecological processes and genetic diversity relating to this site and its surrounds. It will result in fair, orderly and sustainable use and development of the proposed site.

This application fulfils the objectives of the Resource Management and Planning System of Tasmania as set out in Schedule 1 of the Land Use Planning and Approvals Act 1993.

It is submitted that this application complies with all relevant policies and objectives that must be considered in assessing the proposed rezoning of this site.

SUBDIVISION DEVELOPMENT CONTROLS

Under the *Clarence Interim Planning Scheme 2015* the site is currently zoned Rural Living. The minimum lot size under this zone is 2.0ha. CT 9247-7 as it exists is a subminimum lot of 1.814ha created in 1977, well before the current planning scheme came into effect. As currently zoned there is no development potential for this title via subdivision.

The proposed rezoning to Village Zoning will result in the following subdivision development controls:

- The minimum lot size for subdivision is 1000m²
- Lots must have frontage of 15m except for internal lots

The proposed plan of subdivision S764C-1B is compliant with the the Village Zone development control requirements.

STAGING

The proposed development of 13 village lots will be created in three stages as shown on the attached Staging plan S764C-B.

- Stage 1 is to include lots 1, 2, 3, 12 & 13
- Stage 2 is to include lots 4, 5, 6 & 7
- Stage 3 is to include lots 8, 9, 10, & 11

Staging may be varied with the approval of the Clarence City Council.

PROPOSED SERVICE INFRASTRUCTURE

Roads

Dysart Street is a fully constructed council maintained road located in the centre of the village of Clifton Beach. It is a nominal 4.5m bitumen pavement with gravel shoulders and grassed swale drains to provide for stormwater collection and drainage. It does not have any formed footpath or landscaping. The proposed subdivision road is designed to be in keeping with the existing Village amenity utilising low impact design parameters compliant with the planning scheme and current IPWEA guidelines. The title to the existing site was created in 1977 and was setup with future development in mind. The access off Dysart Street is splayed and setback to allow a future road intersection. Dysart Street is a small feeder road with minimal traffic volume and very limited traffic speed with good alignment and visibility at the proposed new road intersection. There are currently 18 properties that use Dysart Street, estimated to generate 144 traffic movements a day or 6 traffic movements per hour. The creation of an additional 13 lots when fully developed would cause this to increase to an estimated 256 traffic movements per day or 11 per hour. This small increase in traffic numbers will not result in any real discernible change in the existing traffic movements. It would be anticipated that Dysart Street usage will decrease when the proposed subdivision road has connection through to Clifton Beach Road as some of the internal traffic would exit via the shorter and more direct route.

Power

Overhead power is available via a power pole located in Dysart Street, directly opposite the proposed road. Subject to design and advice from TasNetworks it is envisaged that underground power would be provided to all proposed lots within the subdivision.

Telecommunications

Telecommunications cabling passes across the frontage of the property and subject to design requirements would be extended into the proposed subdivision to service the lots utilising the power cable trenching.

Drainage

Stormwater from the lots will be retained on site in accordance with the geotechnical report. The proposed lots are all approximately 300m² larger than the existing adjoining village lots (that all are designed to retain their stormwater and waste water on site). Subject to proper design this extra land will ensure that all the proposed lots will have the capacity to retain all drainage on site.

Additional surface run off from driveways and the proposed road will be minimal but it is proposed that it is collected in open shallow swale drains along the proposed road with any excess water drained to the existing culvert located at the Dysart Street property entrance. This culvert currently directs excess stormwater runoff from Dysart Street into the adjoining low lying Council park for absorption.

Water Reticulation

The proposed development site is not currently serviced by reticulated water or a sewage scheme and thus does not require TasWater consideration.

Wastewater Disposal

The attached geotechnical report concludes that each lot will require a maximum of 560 m² of usable wastewater land application area for onsite waste water disposal from a 4 bedroom dwelling. Given that the footprint of a large dwelling would be expected to be no more than 200m² this leaves an area of at least 250m² for driveways, hardstand, sheds and setbacks on all of the proposed lots.

Waste Collection

The proposed road has been designed so that small vehicles will have the ability to turn in the 12m diameter turning area and vehicles up to 8.8m will be able to use the turning area for a three point turn. The proposal is based on the continuation of the road through the northern title, however until such time as the access through that title becomes available vehicles will be able to turn in the turning area provided at the bend in the proposed road. The lot configuration is designed to facilitate a standard access design in accordance with IPWEA design standards. This will allow Waste collection trucks to be able to drive the length of the road collecting bins and execute a simple three point turn and exit the site collecting the bins on the opposite side of the road.

Easements

CT 9247-7 is subject to an existing drainage easement that is to be carried forward over proposed lot 1. New easements will be created as required over any new service infrastructure and drainage and will be determined at the time of final engineering design and or after construction.

Public Open Space


This application should be assessed in accordance with the *Clarence City Council Public Open Space Policy 2013*. It should be noted that two public recreation areas exist in close proximity to the site, not considering the nearby Clifton beach. Directly opposite the Dysart street entrance is a small park maintained by Council and at the end of Dysart Street a larger area of Public open space links Dysart Street through to Buckland and Bicheno streets. Given the areas available in the immediate vicinity the dedication of additional public open space to be maintained by Council would not be desirable in this location.

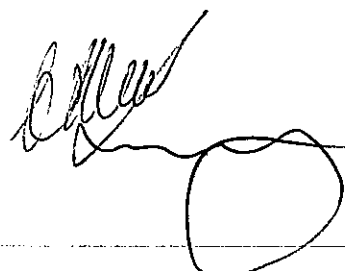
The objectives of the Village zone are detailed in section 16.1.1 of the *Clarence Interim Planning Scheme 2015* under the 6 separate zone purpose statements. This proposed subdivision will provide development opportunity at a scale and in a location that aligns with the intent of these statements. The zone purpose statements suggest that Village zoning should create a mix community service, residential, shopping and office based employment. Whether the use of any Village zoned lot is residential or some other allowable use under the zoning is dependent on Council approval of that use. The purpose of this subdivision is to provide residential land as a demand for that type of use exists. At this point in time Clifton Beach does not have the population to support other such uses as suggested in the scheme. The proposed subdivision will provide infill residential development and efficient utilisation of existing reticulated services.

As the owners of this property we are aware that the titles to the 15 existing neighbouring village zoned properties are each around 700m². Due to the size and design of some of these they do not have sufficient area to properly contain their stormwater and waste water onsite. We have been approached by several neighbours who wish to purchase additional land to add to their existing titles. The new *Clarence Interim Planning Scheme 2015* under section 9.3(e) does not permit an adjustment of title boundaries if the boundary aligns with a zone boundary. Approving the rezoning of this land to Village zoning will facilitate the option to consider boundary adjustments with neighbouring properties.

We trust that this submission has addressed all aspects required for your consideration and assessment of both the re-zoning of this site and the proposed 13 lot subdivision. Should further information be required please do not hesitate to contact the writer directly to discuss.

Yours faithfully


Kathryn and Craig Terry



F ## Clifton Beach Specific Area Plan

F##.1 Purpose of the Clifton Beach Specific Area Plan

The purpose of this Plan is to:

- (a) To guide subdivision and development to ensure an efficient road layout providing a high level of connectivity, safety and amenity;
- (b) To provide for residential use or development at a density that is consistent with infrastructure and environmental constraints
- (c) To provide for limited tourism and recreational uses that are compatible with a high standard of residential amenity.

F##.2 Application of the Clifton Beach Specific Area Plan

This Plan applies to the area of land designated as F##.0 on the Planning Scheme Maps.

F##.3 Use Table and Use Standards

F##.3.1 Use Table

In addition to the Village Zone Use Table at ##, the following Use Table prevails in relation to the listed uses for the area subject to this Plan.

Objective: To promote the purpose of this Plan by limiting uses that would have an undue impact on residential amenity.	
No permit required	
Use class	Qualification
Education and occasional care	Only if for home-based child care in accordance with a licence under the Child Care Act 2001
Natural and cultural values management	
Passive recreation	
Utilities	Only if minor utilities.
Permitted	
Use Class	Qualification
Residential	Only if single dwelling or home based business

Discretionary	
Use Class	Qualification
Residential	Only for ancillary dwelling
Visitor accommodation	

F##.3.2 Use Standards

Objective: To ensure that the character of the affected area remains predominantly residential.

Acceptable Solutions	Performance Criteria
A1 Non-residential use does not occur on two or more adjoining sites with adjoining frontages.	P1 No performance criteria
A2 A children's day care centre must operate from a building otherwise used as a dwelling and must only employ residents of that dwelling.	P2 No performance criteria

F##.4 Development Standards for Buildings and Works

F##.4.1 Site coverage

Objective: To ensure that sufficient area remains for outdoor activity and on-site waste and storm water systems

Acceptable Solutions	Performance Criteria
A1 Site coverage does not exceed 25% (nominal) of the site area or 250m ² (nominal), whichever is the greater.	P1 Sufficient area remains for on-site waste and storm water systems to service the proposed development; and Total site coverage does not exceed 450m ²

F##.4.2 Landscaping

Objective: To ensure that future development complements the character of Clifton Beach.

Acceptable Solutions	Performance Criteria
A1 Other than for an internal lot, not less than 50% of the site area between the lot frontage and the frontage setback must be landscaped.	P1 No performance criteria

F##.4.3 Outbuildings

Objective: To ensure that the size and number of outbuildings does not detract from the amenity of the area and does not visually dominate an associated dwelling.

Acceptable Solutions	Performance Criteria
A1 Outbuildings (including garages and carports not incorporated within the dwelling) must comply with all of the following: (a) have a combined floor area no more than 80 m ² ; (b) have a wall height no more than 5.5 m and a building height not more than 6.5 m; (c) have setback from frontage no less than that of the existing or proposed dwelling on the site.	P1 Outbuildings (including garages and carports not incorporated within the dwelling) must be designed and located to satisfy all of the following: (a) be less visually prominent than the existing or proposed dwelling on the site; (b) be consistent with the scale of outbuildings on the site or in close visual proximity (c) be consistent with any Desired Future Character Statements provided for the area or, if no such statements are provided, have regard to the landscape.

F##.4.4 Future Development

Objective: To ensure that development does not compromise a future subdivision layout generally in accordance with Figure 1.

Acceptable Solutions	Performance Criteria
<p>A1</p> <p>Development not associated with road construction must be setback from any future road alignments shown in Figure 1 attached to this Plan in accordance with the frontage setback requirements contained in the Village Zone at ##.</p>	<p>P1</p> <p>Development within the road alignments shown in Figure 1 attached to this Plan must demonstrate that it will not prevent a suitable alternative road connection from being constructed linking Dysart Street to Clifton Beach Road..</p>
<p>A2</p> <p>Development must be setback from the future road corridor shown in Figure 1 attached to this Plan in accordance with the setback requirements contained in the Village Zone at ##.</p>	<p>P2</p> <p>Development must demonstrate that it will not prevent the construction of a future road linking Dysart Street to Clifton Beach Road in accordance with Figure 1 or a suitable alternative</p>

F##.5 Subdivision and Future Road Connections

Objective: To ensure that any future subdivision layout provides road connectivity between Dysart Street and Clifton Beach Road.

Acceptable Solutions	Performance Criteria
<p>A1</p> <p>The lot layout must provide for the construction of a road generally in accordance with the Road Layout Plan shown in Figure 1 attached to this Plan.</p>	<p>P1</p> <p>Roads must be generally in accordance with the Road Layout Plan shown in Figure 1 attached to this Plan, but may be realigned, provided it is consistent with a suitable road connection between Dysart Street and Clifton Beach Road.</p>

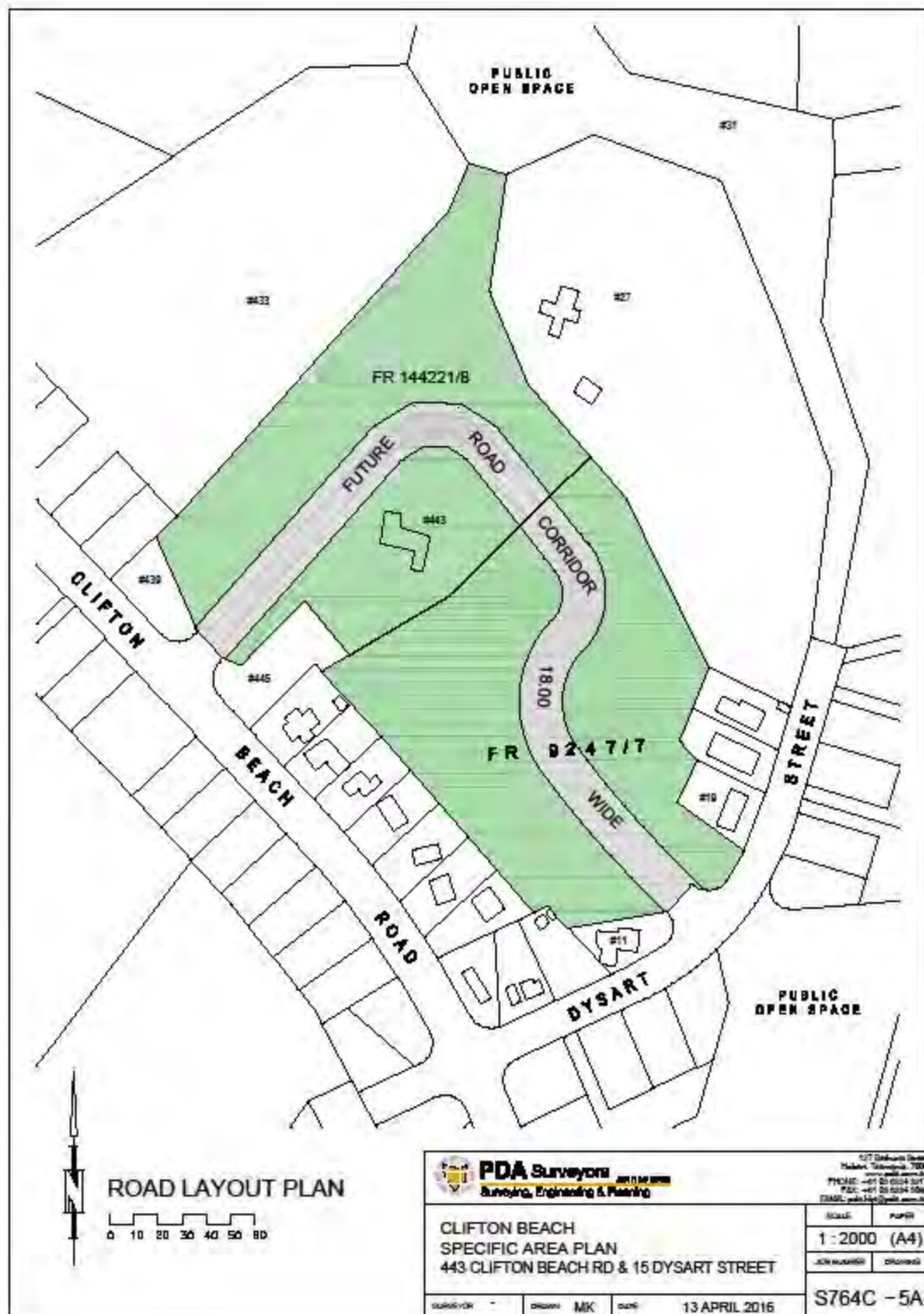
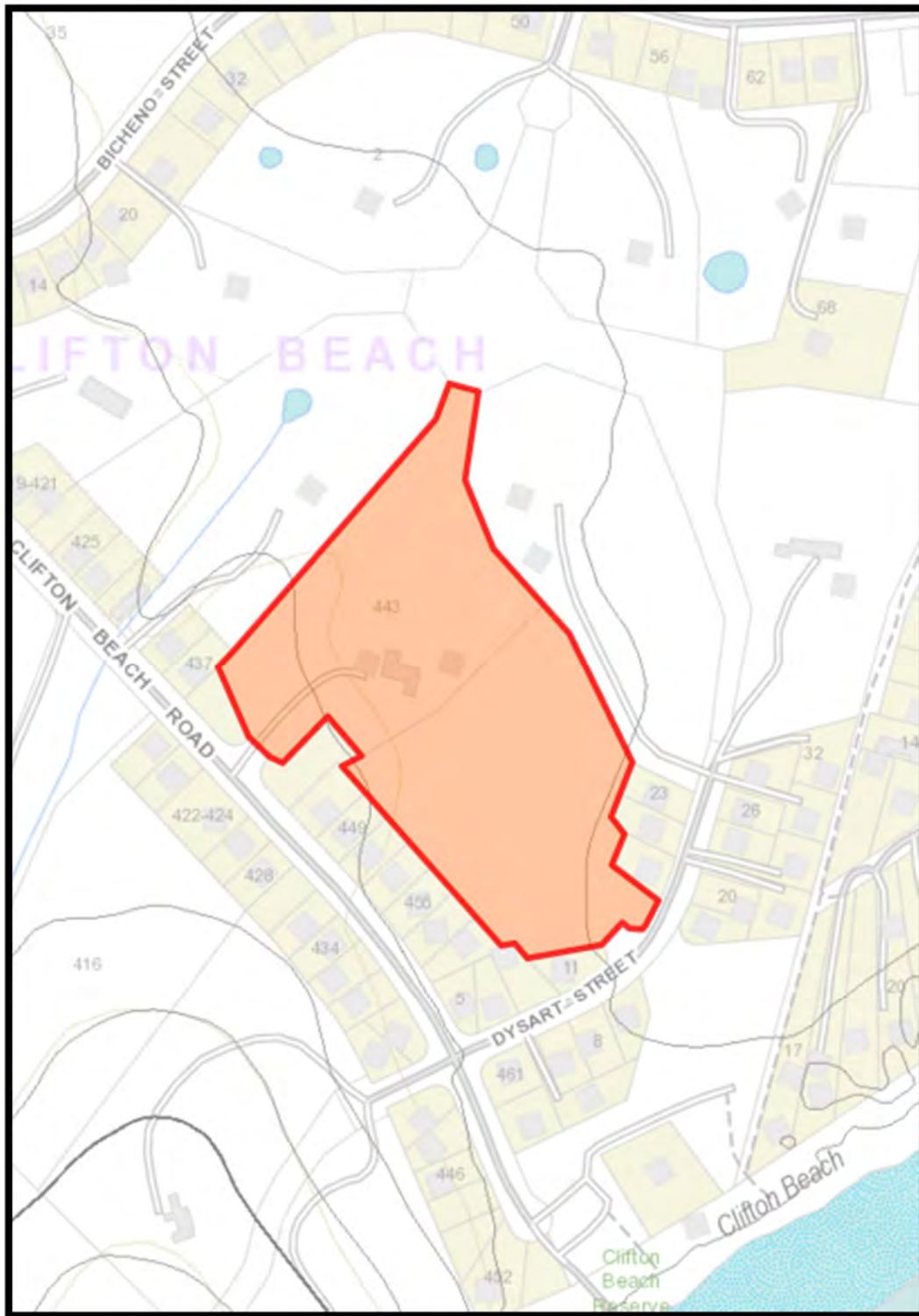


FIGURE 1



Area covered by SAP

Site Photos

15 Dysart Street, Clifton Beach



Taken from the entrance at Dysart St looking North



From the western boundary looking east along the northern boundary



From the south western corner looking north-west east along the existing Rural Living/Village zone boundary.

11.3.8 SUBDIVISION APPLICATION SD-2015/52 - 21 AND 87 DELPHIS DRIVE, SANDFORD - 7 LOT SUBDIVISION
(File No SD-2015/52)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for a 7 lot Subdivision at 21 and 87 Delphis Drive, Sandford.

RELATION TO PLANNING PROVISIONS

The land is zoned Rural Living and subject to the Bushfire Prone Areas, Landslide, Road and Rail Asset and Attenuation codes and the Sandford Specific Area Plan under the Clarence Interim Planning Scheme 2015 (the Scheme). In accordance with the Scheme the proposal is a Discretionary development.

LEGISLATIVE REQUIREMENTS

The report on this item details the basis and reasons for the recommendation. Any alternative decision by Council will require a full statement of reasons in order to maintain the integrity of the Planning approval process and to comply with the requirements of the Judicial Review Act and the Local Government (Meeting Procedures) Regulations 2015.

Council is required to exercise a discretion within the statutory 42 day period which expires on 28 June 2016.

CONSULTATION

The proposal was advertised twice to meet statutory requirements and 7 representations were received (3 of which were essentially duplicated across both advertising periods) raising the following issues:

- Attenuation Code compliance;
- landowner notification;
- accuracy of proposal plan;
- right-of-way;
- inconsistent with zone purpose;
- accuracy of BHMP;
- agricultural land;
- inconsistent with area;
- impacts of adjacent quarry;
- advice of former owner;
- traffic;
- use and maintenance of application site;
- condition of fencing; and
- stormwater run-off.

RECOMMENDATION:

- A. That the application for a 7 lot Subdivision at 21 and 87 Delphis Drive, Sandford (CI Ref SD-2015/52) be approved subject to the following conditions and advice.

1. GEN AP1 – ENDORSED PLANS.
 2. GEN AP3 – AMENDED PLANS [the relocation of the right-of-way through 21 Delphis Drive so that it can access the right-of-way over 87 Delphis Drive without the requirement for earthworks or the removal of the dam. The new right-of-way must be contained within the boundaries of a single lot].
 3. GEN F2 – COVENANTS [the design and construction of any future sensitive use being in accordance with the requirements of the Attenuation Code of the Clarence Interim Planning Scheme 2015, or its successor.] insert “If the quarry at 100 School Road is still active at the time of sealing the final plans of subdivision,” at the start of the condition.
 4. GEN POS4 – POS CONTRIBUTION [4%] [1 - 3 and 5 - 8].
 5. ENG A1 – NEW CROSSOVER [TSD-R03] [3.6m].
 6. ENG M2 – DESIGNS SD add dot point;
 - Appropriate street lighting at the intersection of Delphis Drive and the new road.
 7. ENG M7 – WEED MANAGEMENT PLAN.
 8. ENG M8 – EASEMENTS.
 9. ENG R1 – ROAD NAMES.
 10. ENG R2 – URBAN ROADS.
 11. ENG R5 – ROAD EXTENSION.
 12. All road alignment must comply with the recommendations of the Traffic Impact Statement, prepared by Milan Prodanovic, submitted to Council on 31 March 2016.
 13. ENG S1 – INFRASTRUCTURE REPAIR.
 14. ENG S2 – SERVICES.
 15. ENG S5 – STORMWATER PRINCIPLES.
 16. PROP 3 – TRANSFER.
 17. EHO 4 - NO BURNING.
- B. That the details and conclusions included in the Associated Report be recorded as the reasons for Council’s decision in respect of this matter.

SUBDIVISION APPLICATION SD-2015/52 - 21 AND 87 DELPHIS DRIVE, SANDFORD - 7 LOT SUBDIVISION /contd...

ASSOCIATED REPORT**1. BACKGROUND**

This land was originally the subject of a Section 43a Application which was supported by Council, but ultimately refused by the Tasmania Planning Commission (TPC). This refusal was largely based on an inconsistency with the Southern Tasmanian Regional Land Use Strategy (STRLUS). The STRLUS was subsequently amended.

A second rezoning application, without the subdivision attached was then resubmitted and again supported through Council. This amendment was approved by the TPC and saw the land rezoned from Rural to Rural Residential and the Sandford Development Plan (DPO 19) was introduced to the Scheme.

Through the introduction of the Clarence Interim Planning Scheme 2015 the former DPO 19 has been modified and included as the Sandford Specific Area Plan.

The current subdivision application is similar to that originally supported by Council through the initial Section 43a Process, with a minor realignment of the proposed road.

2. STATUTORY IMPLICATIONS

2.1. The land is zoned Rural Living and subject to the Bushfire Prone Areas, Landslide and Attenuation codes and the Sandford Specific Area Plan under the Scheme.

2.2. The proposal is discretionary because it does not meet the Acceptable Solutions under the Scheme.

2.3. The relevant parts of the Planning Scheme are:

- Section 8.10 – Determining Applications;

- Part D – Rural Living Zone;
- Part E – Bushfire Prone Areas, Landslide, Road and Rail Asset and Attenuation Codes; and
- Part F – Sandford Specific Area Plan.

2.4. Council’s assessment of this proposal should also consider the issues raised in any representations received, the outcomes of the State Policies and the objectives of Schedule 1 of the Land Use Planning and Approvals Act, 1993 (LUPAA).

3. PROPOSAL IN DETAIL

3.1. The Site

The site is a 17.13ha lot on the western side of the corner of South Arm Road and Delphis Drive. The land slopes up toward a ridge about 2/3 of the depth of the block which is the location of the existing dwelling on the site. There are a number of outbuildings and animal shelters scattered around the property. There are also several dams of varying size located throughout the property and a limited number of scattered trees, mostly around the dwelling, with managed grassland for the remainder of the site. The site has a secondary, unconstructed access provided via a right-of-way to the north-western corner from School Road, which crosses 87 Delphis Drive.

3.2. The Proposal

The proposal is for a subdivision creating 8 (7 new plus one existing) rural living lots, as well as a road lot. The lots range in size from 2ha to 2.35ha.

4. PLANNING ASSESSMENT

4.1. Determining Applications [Section 8.10]

“8.10.1 In determining an application for any permit the planning authority must, in addition to the matters required by s51(2) of the Act, take into consideration:

- (a) all applicable standards and requirements in this planning scheme; and*
- (b) any representations received pursuant to and in conformity with ss57(5) of the Act;*

but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised”.

Reference to these principles is contained in the discussion below.

4.2. Compliance with Zone, Codes and Special Area Plan

The proposal meets the Scheme’s relevant Acceptable Solutions of the Rural Living Zone and subject to the Bushfire Prone Areas, Landslide, Road and Rail Asset and Attenuation codes and the Sandford Specific Area Plan with the exception of the following.

Rural Living Zone

Clause	Standard	Acceptable Solution (Extract)	Proposed
13.5.1 A3	Lot Design	The frontage for each lot must be no less than the following, except if for public open space, a riparian or littoral reserve or utilities and except if an internal lot: <ul style="list-style-type: none"> • 40m. 	Frontages ranging from 25m to 195m.

The proposed variation can be supported pursuant to the following Performance Criteria.

Performance Criterion	Comment
<i>“The frontage of each lot must provide opportunity for reasonable vehicular and pedestrian access and must be no less than 6m”.</i>	Frontages provided range from 25m to 195m providing adequate width for both vehicular and pedestrian access. The frontages are reduced due to the irregular configuration dictated by the property.

Rural Living Zone

Clause	Standard	Acceptable Solution (Extract)	Proposed
13.5.2 A1	Roads	The subdivision includes no new road.	A new road is proposed to provide access to all subdivision lots.

The proposed variation can be supported pursuant to the following Performance Criteria.

“The arrangement and construction of roads within a subdivision must satisfy all of the following:

Performance Criterion	Comment
<i>(a) the appropriate and reasonable future subdivision of the entirety of any balance lot is not compromised;</i>	The lot is subdivided to the maximum potential through this application. As such, there is no balance land to consider access for.
<i>(b) the route and standard of roads accords with any relevant road network plan adopted by the Planning Authority;</i>	The road is consistent with the Sandford Specific Area Plan.
<i>(c) the subdivision of any neighbouring or nearby land with subdivision potential is facilitated through the provision of connector roads and pedestrian paths, where appropriate, to common boundaries;</i>	Subdivision of the adjacent lots was considered in the development of the Sandford Specific Area Plan, which provided for pedestrian and vehicular connections as appropriate. The proposal is consistent with this Plan and therefore is not required to provide any additional connectivity to any adjacent land.
<i>(d) an acceptable level of access, safety, convenience and legibility is provided through a consistent road function hierarchy;</i>	The road is consistent with the surrounding road hierarchy.
<i>(e) cul-de-sac and other terminated roads are not created, or their use in road layout design is kept to an absolute minimum;</i>	Cul-de-sac design is the only option for the size and dimension of the parent title. The design minimises the requirement by only proposing one cul-de-sac.
<i>(f) internal lots are not created;</i>	No internal lots are created.
<i>(g) connectivity with the neighbourhood road network is maximised;</i>	Connectivity is consistent with the Sandford Specific Area Plan, which provided for pedestrian and vehicular connections as appropriate. The proposal is consistent with this Plan and therefore is not required to provide any additional connectivity to any adjacent land.

(h) <i>the travel distance between key destinations such as shops and services is minimised;</i>	The design provides the most direct access from the created lots to the main roads and therefore shops and services.
(i) <i>walking, cycling and the efficient movement of public transport is facilitated;</i>	The road reservation is of sufficient width to accommodate walking and cycling. Public transport is not provided in areas with such low population density off the main arterial roads, so provision for it is not necessary.
(j) <i>provision is made for bicycle infrastructure on new arterial and collector roads in accordance with Austroads Guide to Road Design Part 6A;</i>	The proposed road is not an arterial or collector road.
(k) <i>multiple escape routes are provided if in a bushfire prone area.</i>	A right-of-way is proposed through Lot 6 to the existing right-of-way over 84 Delphis Drive. This will be emergency egress only and as such no works are proposed to the right-of-way.

Rural Living Zone

Clause	Standard	Acceptable Solution (Extract)	Proposed
13.5.3 A2	Ways and public open space	No Acceptable Solution	It is not proposed to provide any Public Open Space as part of this application.

The proposed variation can be supported pursuant to the following Performance Criteria.

Performance Criterion	Comment
<i>“Public Open Space must be provided as land or cash-in-lieu, in accordance with the relevant Council policy”.</i>	<p>The primary purpose of Council’s Public Open Space Policy (2013) is to ensure the delivery of adequate and appropriate Public Open Space (POS) to serve the needs of the existing and future population in Clarence. The policy is used to assist Council to exercise its discretion and provide a framework to deliver a consistent approach to the consideration of POS, or alternatively the payment of cash-in-lieu of it. Clarence has developed a comprehensive suite of strategies that either deliver or rely on POS related outcomes including but not limited to:</p> <ul style="list-style-type: none"> • Clarence Tracks and Trails Strategy 2012; • Positive Ageing Plan 2012-2016; • Clarence Coast and Bushland Strategy (August 2011); • Community Health and Wellbeing Plan 2013-2018; and

	<ul style="list-style-type: none"> • Draft Sport and Active Recreation Strategy. Together these strategies assist Council to deliver a range of active and passive recreational opportunities at both local and regional level. The proposal plan does not include the provision of any trail connections. <p>In accordance with Council's POS Policy it is considered appropriate to require a cash contribution for 4% of the value of the created lots (Lots 1 - 3 and 5 - 8).</p> <p>The requiring a cash contribution for 4% of the value of the land will reflect the likely increase demand that future development will place on Council's POS local and regional network and associated facilities through the creation of the 16 additional lots.</p>
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Landslide Code

Clause	Standard	Acceptable Solution (Extract)	Proposed
E3.8.1 A1	Subdivision	No Acceptable Solution	7 lot plus balance subdivision.

The proposed variation can be supported pursuant to the following Performance Criteria.

“Subdivision of a lot, all or part of which is within a Landslide Hazard Area must be for the purpose of one of the following:

Performance Criterion	Comment
<i>(a) separation of existing dwellings;</i>	Lot sizes are adequate to provide separation between any future dwellings on the lots.
<i>(b) creation of a lot for the purposes of public open space, public reserve or utilities;</i>	Not applicable.

<p>(c) <i>creation of a lot in which the building area, access and services are outside the High Landslide Hazard Area and the landslide risk associated with the subdivision is either:</i></p> <p>(i) <i>acceptable risk, or</i></p> <p>(ii) <i>capable of feasible and effective treatment through hazard management measures, so as to be tolerable risk”.</i></p>	<p>All lots are within the low risk area and are of sufficient size that any future development can adequately mitigate against risks.</p>
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Attenuation Code

Clause	Standard	Acceptable Solution (Extract)	Proposed
E9.7.2	Development for sensitive use in proximity to use with potential to cause environmental harm	No Acceptable Solution.	It is proposed to create new lots capable of containing future residential development in close proximity to the Quarry at 100 School Road.

The proposed variation can be supported pursuant to the following Performance Criteria.

“P1 - Development for sensitive use, including subdivision of lots within a sensitive zone, must not result in potential to be impacted by environmental harm from use with potential to cause environmental harm, having regard to all of the following:

Performance Criterion	Comment
<p>(a) <i>the nature of the use with potential to cause environmental harm; including:</i></p> <p>(i) <i>operational characteristics;</i></p> <p>(ii) <i>scale and intensity;</i></p> <p>(iii) <i>degree of hazard or pollution that may emitted from the activity;</i></p>	<p>The quarry has approval to continue operating into the future, with some level of site activity occurring most days (albeit not often blasting). However, there is a finite amount of material that can be extracted from the site under this approval. Once the extraction is completed, the conflict will be resolved. It has been estimated that there is another 7 - 10 year of extraction life for the quarry in terms of material to be extracted at the current extraction rate.</p>

<i>(b) the degree of encroachment by the sensitive use into the Attenuation Area or the attenuation distance;</i>	As the parent lot is already utilised for residential use and development, the encroachment of the use cannot be said to encroach further into the attenuation areas as specified by the Scheme. However, as it is arguable that once the lots are created the intensity of the encroachment will increase, as such it is appropriate to condition that suitable covenants be included in the titles for all lots created, requiring attenuation to protect future dwellings from the on-going operation of the quarry at 100 School Road.
<i>(c) measures in the design, layout and construction of the development for the sensitive use to eliminate, mitigate or manage effects of emissions”.</i>	It is not possible to consider this until such time as applications for sensitive uses have been presented to Council. However, it is appropriate to condition that suitable covenants be included in the titles for all lots created, to alert future owners that attenuation may be required to protect future dwellings from the on-going operation of the quarry at 100 School Road.

5. REPRESENTATION ISSUES

The proposal was advertised in accordance with statutory requirements and 7 representations were received (3 of which were essentially duplicated across both advertising periods). The following issues were raised by the representors.

5.1. Attenuation Code Compliance

One representor has expressed concern that the application shows no regard for the Attenuation code. They have indicated a belief that the application should not be supported because any residential development of the created lots, particularly Lots 5 and 6, will result in potential to fetter the use of the adjacent quarry at 100 School Road.

- **Comment**

As discussed above, it is not considered necessary to require any detailed response to the code at this time because there are a variety of options that can be utilised in the building phase for Single Dwellings, which will result in protection of the amenity of the occupants whilst ensuring the on-going use of the quarry. Conditions ensuring that this occurs are discussed above.

5.2. Landowner Notification

A representative of the owner of 87 Delphis Drive has indicated that the applicant has not notified the landowner of their intention to apply over the land. They have suggested that this means the application does not comply with Section 52 of LUPAA.

- **Comment**

The application form as signed and submitted by the applicant includes a statutory declaration to the effect that the applicant has notified all landowners involved prior to lodgement of the application.

5.3. Accuracy of Proposal Plans

One representor has indicated that there is a significant dam in the north-western corner of the site which has not been demonstrated on the proposal plan and poses an impediment to the ability to access and utilise the right-of-way over 87 Delphis Drive as shown on the plan.

- **Comment**

The dam on-site is located across the boundaries of Lots 6 and 7, in the north-western corner of the application site. This will impact the ability to access the right-of-way over 87 Delphis Drive for emergency egress. Accordingly, an amended plan should be required, detailing the relocation of the right-of-way through 21 Delphis Drive so that it can access the right-of-way over 87 Delphis Drive without the requirement for earthworks or the removal of the dam. The new right-of-way should be required to be contained within the boundaries of a single lot to enable fencing of the created lots.

5.4. Right-of-Way

Several issues were raised regarding the reliance of the application upon the utilisation of the existing right-of-way over 87 Delphis Drive as a secondary, emergency egress from the subdivided lots.

The first concern raised is a belief that the original granting of the right-of-way was to facilitate occasional farm access and not intended for anything of a larger scale.

- **Comment**

The right-of-way is not qualified as such in the schedule of easements. As such, there is no capacity to assess what the original intent in granting the right-of-way was.

In any event, a recent RMPAT decision (for 211 School Road and for 210 Prospect Road and 69 Germain Court) has made it clear that Council has no capacity to have any regard for such issues and is confined to assessing the application presented. Any inconsistency in the intention and the proposed use of the right-of-way is a civil matter between the 2 landowners.

As such, this matter cannot influence the determination of the application.

The second concern raised is that no design details are provided for upgrades that might be required to the right-of-way in order to provide the described emergency egress.

- **Comment**

The application describes an unconstructed right-of-way to be utilised in emergencies only. As such, it does not envisage any specific design or development being necessary to achieve this outcome.

The third concern raised is that if the right-of-way is permanently open it will have the potential to create a “rat-run” or shortcut through 87 Delphis Drive for vehicles seeking a more direct access to the main road network.

- **Comment**

As stated above, no works to upgrade the right-of-way are proposed because it is merely an emergency escape route. Accordingly, the right-of-way will cross an existing grassed area from the proposed new road and will utilise the existing condition of 87 Delphis Drive.

This means that it will not appear to be a road, or even a driveway and therefore will not be utilised as a daily shortcut for people residing in or near the created lots.

5.5. Inconsistent with Zone Purpose

One representor has indicated that the use of the right-of-way for emergency egress is not consistent with the purpose of the zone because it will require that there be no fencing that prevents access over the right-of-way. The representor asserts that this will prevent the containment of pets and livestock within 87 Delphis Drive, which they believe is inconsistent with the purpose of the zone.

- **Comment**

The existence of the right-of-way and therefore the ability of the owners of 21 Delphis Drive is a civil matter. Notwithstanding this, it is an existing right, which can be used at any time currently, preventing the ability of the owners of 87 Delphis Drive to secure this portion of their site currently.

The proposal does not seek to make it primary, or even occasional access to the subdivision site, it only seeks to retain access for all lots in the subdivision for emergency egress purposes.

As such, there is no anticipated change to the intensity of use of the right-of-way and the ability to fence between the lots should not form part of the consideration of this proposal.

5.6. Accuracy of BHMP

One representor highlighted that the Bushfire Hazard Management Plan (BHMP) refers to a clause which does not form part of the Clarence Interim Planning Scheme 2015.

- **Comment**

There appears to be a typographical error in the BHMP in that the bushfire assessor has incorrectly referenced Table E3 of the Bushfire Prone Areas Code (presumably because it is nested under Clause E1.6.1.2 of the Scheme on iplan). However, within the sentence mentioned, there is also discussion of the purpose for the incorrect reference (access to the subdivided lots) and reference to the correct table of the Scheme. Therefore, there is sufficient guidance within the BHMP to ensure that the subdivision will comply with Scheme requirements. As such, this should not affect the determination of the application.

5.7. Agricultural Land

One representor asserts that the subject land is agricultural land and as such is not appropriate for subdivision into the lot sizes proposed as part of this application. They have indicated a desire for the land to be retained as it is and utilised for agricultural purposes.

- **Comment**

The future use of this land was fully considered through the amendment process of 2011 and 2012. The Scheme was amended to reflect the decision that the land was not suitable for agriculture due to site constraints. As such, it is not possible to consider whether the Rural Living zoning is appropriate in the assessment of this proposal.

5.8. Inconsistent with Area

One representor has suggested that the proposed lot areas are much smaller than those of the surrounding area and as such the proposal should not be supported.

- **Comment**

The lot sizes are permissible under the Rural Living zone. Further, the lot configuration is consistent with that envisaged by the Sandford Special Area Plan. Therefore, this is not a matter that can be considered in the assessment of this proposal.

5.9. Impacts of Adjacent Quarry

One representor considers it unfair to put the onus of protecting the amenity of any future sensitive uses of the created lots on the owners of these lots. The representor has suggested that the subdivision should not be considered and the land should be retained as farmland.

- **Comment**

The Scheme provides for subdivision down to 2ha lots. The consideration of whether this is an appropriate lot size was considered through the Planning Scheme Amendment process and is no longer relevant to consideration of lot size or whether the land should be retained as farming land.

Council is constrained to consider the proposal within the parameters of the current planning provisions affecting the site.

As discussed above, there is no clear guidance regarding subdivision within the Attenuation code. It is required that Council consider the subdivision in terms of the likely future use, but the performance criteria indicate that design and construction methods can be utilised to ensure that any residential use does not conflict with the on-going operation of the adjacent quarry. To ensure that future lot purchasers are aware of their obligation, should they wish to undertake residential development, suitable covenants should be placed on the created lots detailing the design and construction requirements.

5.10. Advice of Former Owner

One representor was informed, at the time of purchasing their nearby property, by the former owner of the application site that it would not be further subdivided. They have indicated that this should be enforced.

- **Comment**

The former owner was not in a position to offer such guarantees. In any event, in assessing this proposal Council can only have regard to the provisions of the Scheme, which clearly allow for subdivision of this nature.

5.11. Traffic

One representor has expressed concern that this application, in conjunction with the recent approval for 87 Delphis Drive, will result in an increase in traffic beyond that which Delphis Drive is safely capable of supporting.

- **Comment**

A Traffic Impact Assessment (TIA) was submitted with the application which provides detail of the expected traffic speeds and safety of entrance to both the created lots and from the new road onto Delphis Drive. The TIA indicates a requirement for a speed limit of 50km/h given the number of dwellings accessed from the road. Council's Engineers have assessed the proposal and are satisfied that Delphis Drive is of a sufficient standard to absorb the likely increase in traffic resulting from this subdivision.

The proposal will require the imposition of Council's standard subdivision conditions for roadworks. In particular these will require the submission of detailed engineering designs for approval. In this case it is noted that while the TIA suggests likely traffic speeds given the function of the proposed road and determines that sight distance requirements are met, the engineering plans will be required to meet Council's adopted design standards and this will ensure a consistent standard of road construction throughout the area.

5.12. Use and Maintenance of Application Site

One representor has indicated a number of uses of the application site which they feel are devaluing nearby land due to the untidy appearance of the site. They have requested that the site be required to be cleaned up as part of any approval granted for the site.

- **Comment**

This is not the appropriate process for the consideration of on-going concerns regarding the upkeep of the application site. This is a matter best addressed through separate process and has been referred onto Councils Environmental Health Officers for assessment.

Therefore, there is no scope to consider this matter in the determination of this application.

5.13. Condition of Fencing

One representor has suggested that the existing fencing of the property is in poor repair and requested that the developer be required to repair the fences as part of any approval granted.

- **Comment**

Fencing is a civil matter and as such Council has no capacity to require its repair and maintenance.

5.14. Stormwater Run-off

Representors are suggesting that there is an existing stormwater management problem associated with this property. They have indicated that they believe it will be exacerbated by the proposed subdivision and requested that it be considered in any approval granted.

- **Comment**

Council's Engineers have assessed the proposal and are satisfied that any future development of the lots will be capable of retaining any additional stormwater flows on-site. This will be a matter for consideration at the time of these developments and is not a consideration in the determination of the subdivision proposal.

Similarly, the stormwater from the road will be able to be appropriately managed at the time of construction. The approved permit will include a requirement for engineering designs for the works which will ensure that the construction is appropriate and adequate to achieve this.

6. EXTERNAL REFERRALS

No external referrals were required or undertaken as part of this application.

7. STATE POLICIES AND ACT OBJECTIVES

7.1. The proposal is consistent with the outcomes of the State Policies, including those of the State Coastal Policy.

7.2. The proposal is consistent with the objectives of Schedule 1 of LUPAA.

8. COUNCIL STRATEGIC PLAN/POLICY IMPLICATIONS

There are no inconsistencies with Council's adopted Strategic Plan 2010-2015 or any other relevant Council Policy.

Developer contributions are required to comply with Councils Public Open Space Policy.

9. CONCLUSION

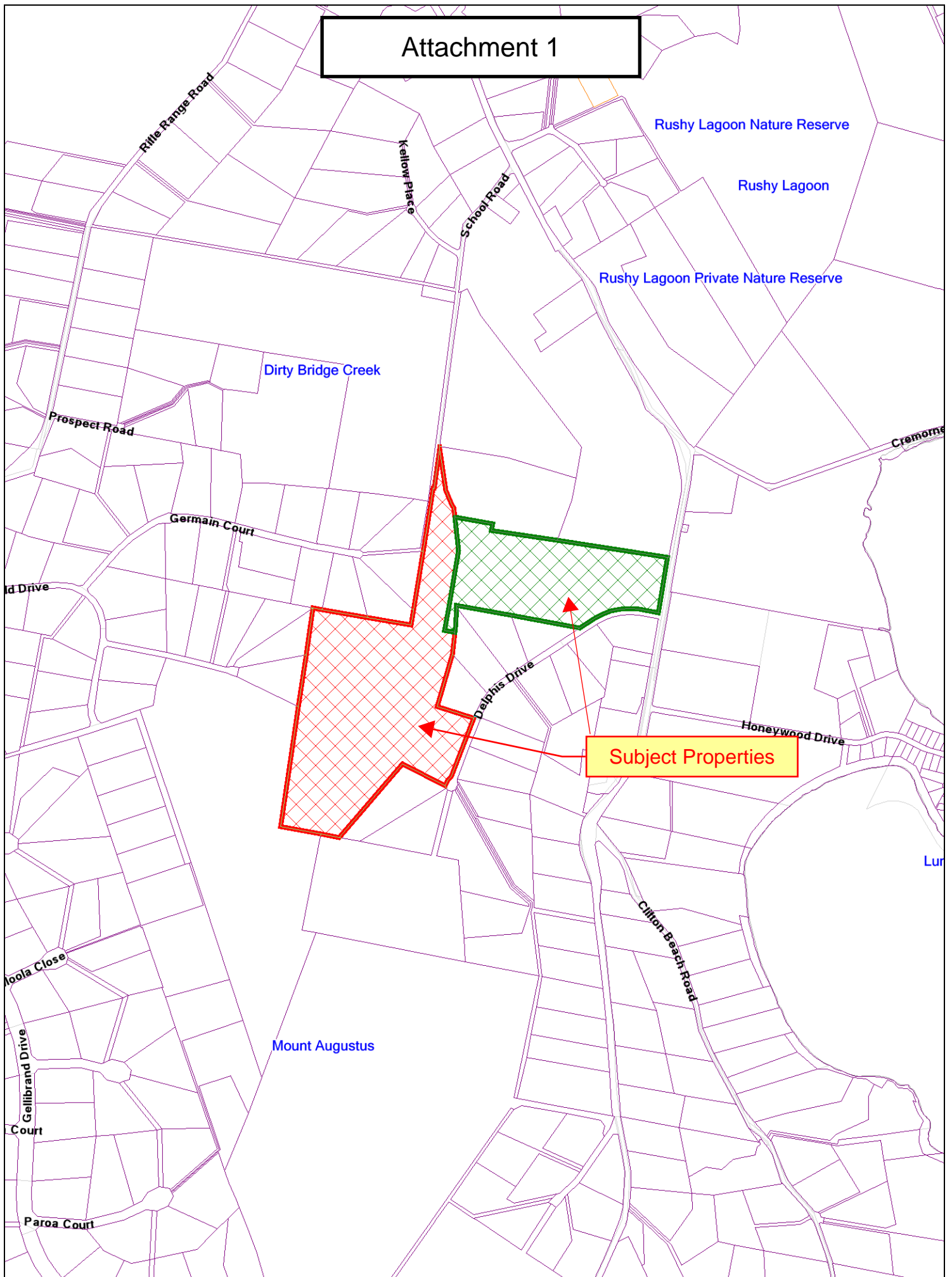
The proposal is for a 7 lot plus balance subdivision of the land at 21 Delphis Drive, Sandford. The proposal meets the Acceptable Solutions and Performance Criteria for the Zone, Codes and Specific Area Plans applicable to the site. It is therefore recommended for conditional approval.

Attachments: 1. Location Plan (1)
2. Proposal Plan (2)
3. Site Photo (1)

Ross Lovell
MANAGER CITY PLANNING

Council now concludes its deliberations as a Planning Authority under the Land Use Planning and Approvals Act, 1993.

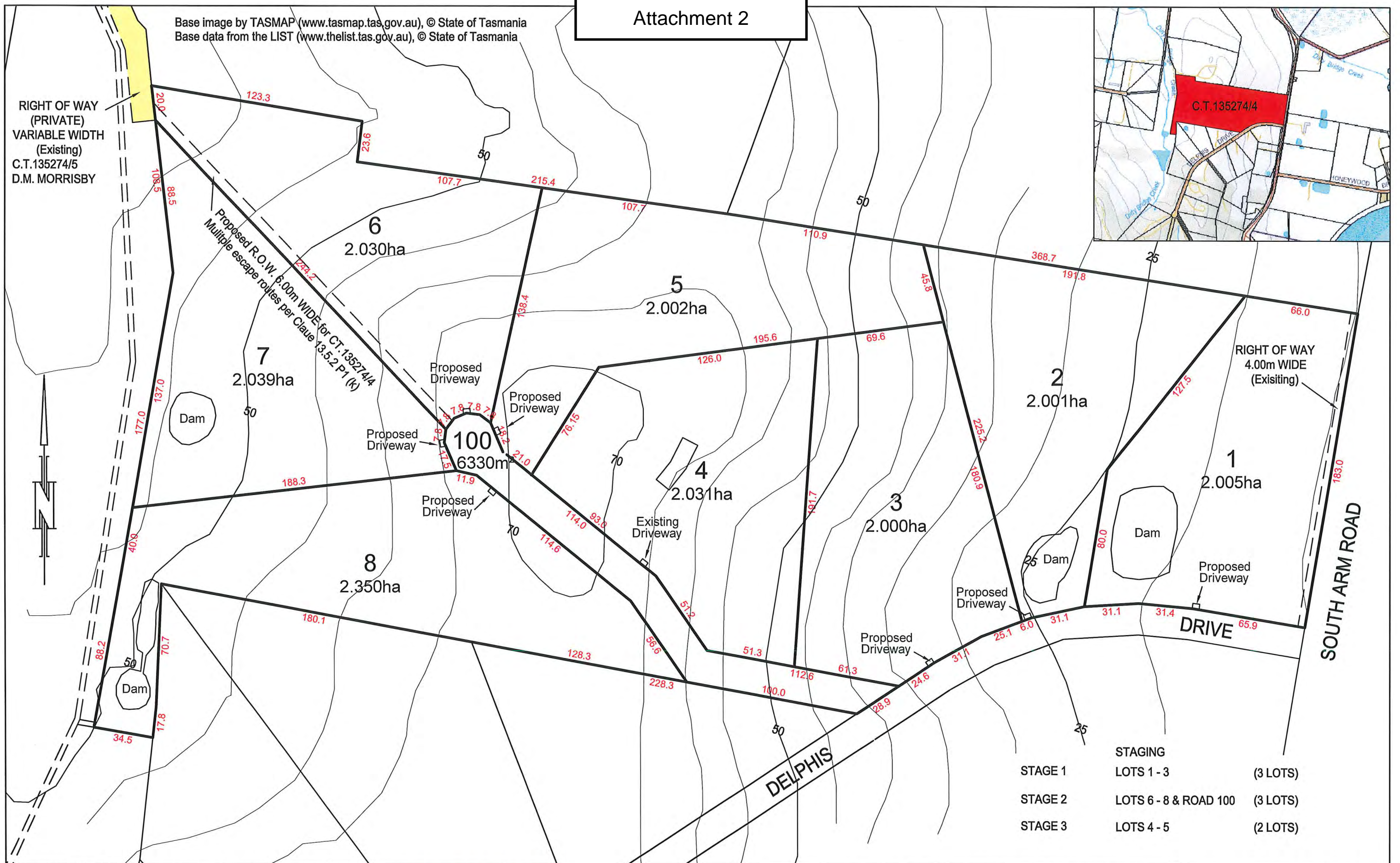
Attachment 1



Printed: Friday, 3 June 2016 **Scale:** 1:15,630 @A4

Attachment 2

Base image by TASMAP (www.tasmap.tas.gov.au), © State of Tasmania
Base data from the LIST (www.thelist.tas.gov.au), © State of Tasmania



This plan has been prepared only for the purpose of obtaining preliminary subdivisional approval from the local authority and is subject to that approval

All measurements and areas are subject to the final survey

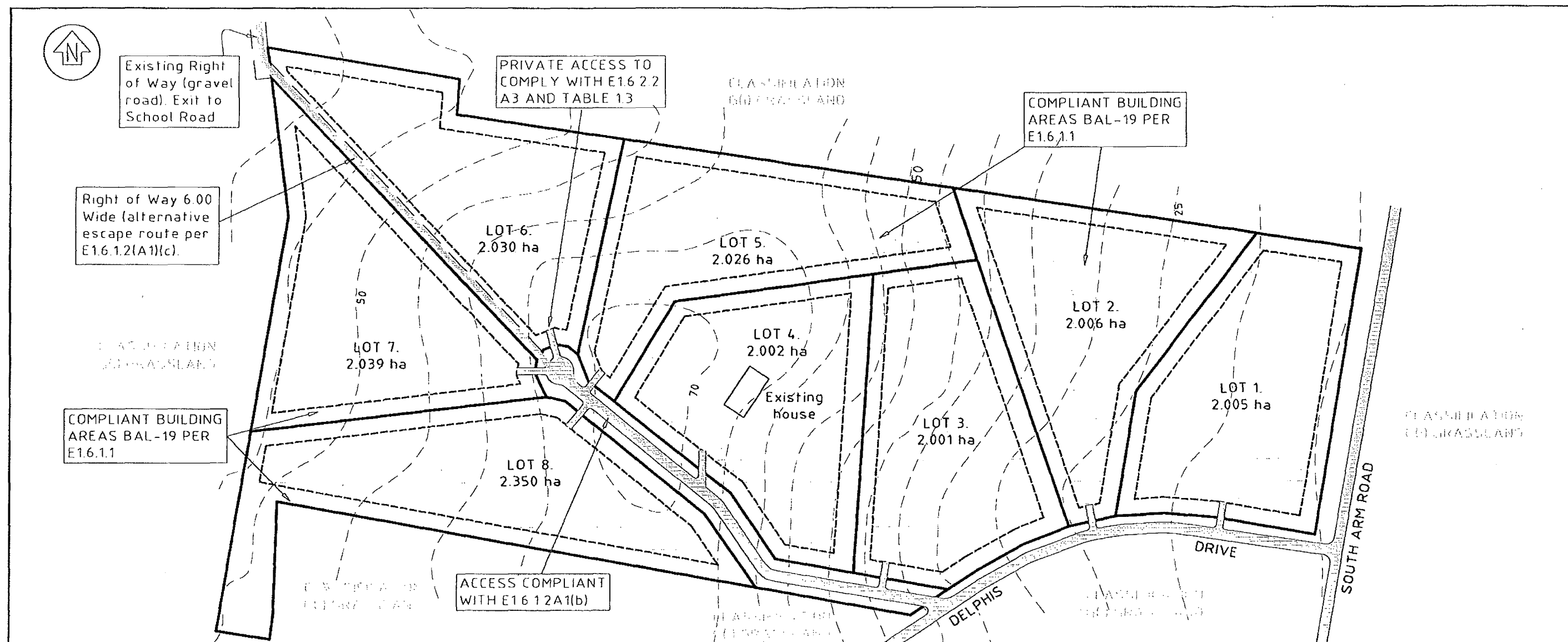


UNIT 1 - 2 KENNEDY DRIVE
CAMBRIDGE PARK 7170
PHONE: (03)6248 5898
WEB: www.rbsurveyors.com.au
EMAIL: admin@rbsurveyors.com

OWNER: CARLA JANE MARSH & DOROTHY MARIE MORRISBY
TITLE REFERENCE: C.T.135274/4 & C.T.135274/5
LOCATION: 21 DELPHIS DRIVE & 87 DELPHIS DRIVE
SANDFORD

Proposed Subdivision

Date:	Reference:
13-05-2016	BROWG02 9283-02b
Scale:	Municipality:
1:2000 (A3)	Clarence



NOTES:

1) Design and construction standards of new dwellings are capable of compliance with BAL-19 of AS 3959-2009.

2) Assessment of the predominant vegetation within and surrounding the site indicates that generally, grasses are kept to a minimal fuel condition through grazing and slashing on a regular basis. Analysis of historical aerial photography over the past 15 years identifies grass has at times exceeded 100mm in height. On this premise, and the consideration that the conversion of the site from agricultural use to rural living will modify land use and the current management regimen cease, it has been considered likely that the vegetation will at times exceed 100mm in height, presenting a limited bushfire risk, and as such has been assessed as Classification G(i):Grassland.

3) "Compliant Building Areas" indicate portions of each lot capable of compliance with bushfire attack level of BAL-19 per E1.6.1.1 A1(b), Bushfire Prone Areas Code, Clarence Interim Planning Scheme 2015. Building areas are set-back from property boundaries in accordance with the minimum dimensions of Table 2.4.4, AS 3959-2009 (10 metres on side slope and up slope), 11-13 metres down slope) based on the predominant vegetation on, and surrounding the lots being Classification G(i):Grassland.

4) Subdivision access is capable of compliance with E1.6.1.2 A1(c) as follows:

- The layout of the subdivision road, and the availability of access routes to the proposed house sites and alternative escape routes is consistent with the objective, providing for safe access for occupants, fire fighters and emergency services personnel. An alternative escape route is to be established and constructed along the south western boundary of Lot 6 as shown on the plan. At the time of development of the lots for residential purposes, access is to be provided to the proposed house sites in accordance with the requirements of E1.6.2.2 A3, and Table 1.3, Bushfire Prone Areas Code, Clarence Interim Planning Scheme 2015.

5) No reticulated water supply is available to the site. As such, at the time of development of each lot for residential purposes, a dedicate static supply of water is to be provided for fire fighting purposes in accordance with E1.6.13 A2(d), Bushfire Prone Areas Code, Clarence Interim Planning Scheme 2015 as follows:

- The water supply is to be dedicated solely for fire fighting purposes,
- The water supply is to be accessible by fire fighting vehicles, and
- The water supply is to be located within 3 metres of a hardstand area.

The configuration of the lots, and the topography of the surrounding terrain will not compromise the capacity of each lot to accommodate the dedicated fire fighting supply of water

N M Creese
Accredited Bushfire Management
Practitioner BFP-118
7th December 2015

Disclaimer:

AS 3959-2009 cannot guarantee that a dwelling will survive a bushfire attack, however the implementation of the measures contained within AS 3959-2009, this plan and accompanying report will improve the likelihood of survival of the structure. This plan and accompanying report are based on the conditions prevailing at the time of assessment. No responsibility can be accepted to actions by the land owner, governmental or other agencies or other persons that compromise the effectiveness of this plan. The contents of this plan are based on the requirements of the legislation prevailing at the time of report.

Assessed bushfire attack level:
BAL-19

LARK & CREESE Pty Ltd
Land & Engineering Surveyors

62 Channel Highway, Kingston 7050
Ph. 62296563 Mobile: 0427 879 023
Email: info@larkandcreese.com.au
Web: www.larkandcreese.com.au

BUSHFIRE HAZARD MANAGEMENT PLAN

Owner: C A Marsh

Location: 21 Delphis Drive, Sandford

Title Reference: C.T. 135274-4

PID: 2053739

Scale: 1:2500

Date: 7th Dec 2015

Surveyors Ref No. 15549

Note: This plan has been prepared for the purpose of compliance with AS3959-2009 and Tasmania Fire Service Guidelines. This plan is not to be used for any other purpose without the express permission of Lark & Creese.

The details depicted on this plan have been obtained from a combination of field survey, aerial photography and mapping and as such may not represent the precise nature of the site.

Attachment 3

21 & 87 Delphis Drive, SANDFORD



Site viewed from Delphis Drive



Site viewed from School Road

11.4 CUSTOMER SERVICE

Nil Items.

11.5 ASSET MANAGEMENT

Nil Items.

11.6 FINANCIAL MANAGEMENT

Nil Items.

11.7 GOVERNANCE**11.7.1 DRAFT TASMANIAN CAT MANAGEMENT PLAN – OPEN FOR PUBLIC COMMENT**

(File No 05-01-01)

EXECUTIVE SUMMARY**PURPOSE**

To consider the Draft Tasmanian Cat Management Plan and provide comment to the State Government in relation to the management of cats in Tasmania.

RELATION TO EXISTING POLICY/PLANS

Nil.

LEGISLATIVE REQUIREMENTS

Nil.

CONSULTATION

Comments on the Draft Tasmanian Cat Management Plan are invited by close of business Thursday, 30 June 2016.

FINANCIAL IMPLICATIONS

Not applicable.

RECOMMENDATION:

- A. That Council notes the Draft Tasmanian Cat Management Plan and endorses the response for sending onto the State Government for consideration.
- B. That Council considers its position in whether to develop a Cat Management Policy and By-law for the City once the Plan is adopted and legislative changes are enacted.

ASSOCIATED REPORT**1. BACKGROUND**

- 1.1. The Tasmanian Government has released the Draft Tasmanian Cat Management Plan (TCMP) for public comment. Public comment is being sought on the information and recommendations in this draft plan before it is finalised.

- 1.2.** The purpose of the TCMP is to improve the management of feral, stray and domestic cats in Tasmania and reduce the negative impacts they have on the environment, agriculture and human health.
- 1.3.** The TCMP relies on all levels of Government as well as the community to work co-operatively.
- 1.4.** Council last considered the issue of cat control when the Cat Management Act, 2009 legislation came into effect on 1 July 2012. Council's position is that we will only be responsible for cats on Council owned land. However Council resolved to "seek a report on the scope and requirements for Council manage both domestic and feral cats in Clarence within the context of the Cat Management Act 2009 and/or possible introduction of a suitable Council By-law..." in January 2015; the report was deferred pending the development of TCMP.

2. REPORT IN DETAIL

- 2.1.** The Draft TCMP is built around 7 objectives:
 - encouraging responsible ownership of pet cats;
 - promoting best practice techniques to guide the planning, management and control of stray and feral cats;
 - increasing community awareness and involvement;
 - improving the knowledge about feral cats to better inform management;
 - minimise impacts of cats in areas of high conservation value and agricultural assets; and
 - undertake legislative amendments to facilitate and support other objectives.
- 2.2.** Council has been asked to respond to the Draft TCMP through a series of 9 questions and additional comments (refer to attached template).
- 2.3.** The public consultation for the Draft TCMP closes on 30 June 2016.

2.4. Council needs to consider the draft TCMP in the context of what our situation is in regard to cats in the municipality. Unfortunately we have insufficient data and knowledge about cats in Clarence, for example:

- We do not know how many cats and what type of cats we have in the City.
- We do not know how many complaints we have and for what?
- We do not know if we have a problem and if so, what is the extent of it?
- How will we manage it?
- What resources will be required?
- Whether By-laws will be required?
- Do we need to introduce a Cat Management Policy?

Consequently it is difficult to gauge the impact of cats in Clarence because of the lack of data, insufficient knowledge about how best to manage cat “problems/issues” and estimating the extent of potential public response.

It is not known how many colonies of feral cats there are in the city and what impact they are having on the environment, human health and agriculture. The management of feral cats can range from their destruction; catching and returning them after de-sexing and vaccination; to leaving them as is if it is a well-established contained population that is having negligible impact.

Similarly it is not known how many stray cats there are and where they roam. Again we do not have a position in respect to their management.

While the number of domestic cats is not known an estimate based on general research would put it between 10,000 to 15,000 cats based on our population. Complaints from the public about cats, including those straying onto private property uninvited, are not recorded; anecdotally it is about 3 to 4 complaints a week.

- 2.5.** The TCMP addresses some of the issues raised by Council, eg microchipping, de-sexing and licencing of cats where more than 3 cats are being kept. The other issues of vaccinations, feral cat management and cost neutral approaches have been identified but more research is needed to develop effective responses.
- 2.6.** The TCMP and legislation will still provide Councils with option of developing By-laws to further management cats in their municipalities, eg registration of cats or declaring restricted and prohibited areas.
- 2.7.** Council currently has agreements with the Hobart Cats Home and the RSPCA. These agreements may need amendment when the TCMP and legislation changes are enacted and if Council develops its own policy and By-law.

3. CONSULTATION

3.1. Community Consultation

Comments on the Position Paper are invited from all members of the community, including cat owners, organisations and those with knowledge or interest in cat management.

3.2. State/Local Government Protocol

The Plan has been developed with the Tasmanian Cat Management Reference Group. The organisations represented on the reference group included:

- The Hobart Cate Centre;
- The RSPCA;
- The Tasmanian Farmers and Graziers Association;
- The Tasmanian Conservation Trust;
- The Australian Vets Association;
- The Cat Association of Tasmania;
- Landcare Tasmania;

- Local Government Association of Tasmania
- Tasmanian Natural Resource Management Regional bodies (represented by NRM South); and
- University of Tasmania.

3.3. Other

A Workshop was conducted with Aldermen on 16 May 2016.

4. STRATEGIC PLAN/POLICY IMPLICATIONS

Nil.

5. EXTERNAL IMPACTS

Not applicable.

6. RISK AND LEGAL IMPLICATIONS

This is a Draft Plan. Unable to determine the extent of risk and legal implications at this time as legislation has not been introduced, nor has agreement been reached between the levels of government about who is responsible for what, however, it is likely Local Government will have significant responsibilities. Council may wish to consider developing a By-Law if the revised Cat Management Act does address its concerns.

7. FINANCIAL IMPLICATIONS

Unable to determine the extent of financial implications at this time as legislation has not been introduced; because there is a lack of data, as well as knowledge gaps in how best to manage cats; and the roles and responsibilities between the levels of government in respect to cat management have not been agreed. In the 2016/2017 Estimates \$5,000 has been allocated for the management of cats.

8. ANY OTHER UNIQUE ISSUES

Nil.

9. CONCLUSION

9.1. The purpose of the TCMP is to improve the management of feral, stray and domestic cats in Tasmania and reduce the negative impacts they have on the environment, agriculture and human health.

9.2. It is not possible to determine the risk, legal and financial implications for Council at this time as there is no detail in regard to what role Council may play in administration or resourcing of any cat legislation that will be introduced.

Attachments: 1. Draft Tasmanian Cat Management Plan Submission Template
April 2016 (7)

Andrew Paul
GENERAL MANAGER

Draft Tasmanian Cat Management Plan

Submission Template

April 2016



1. Introduction

About the submission template

This template has been prepared to assist you to provide feedback to the *Draft Tasmanian Cat Management Plan* (the “Plan”). It is intended to be used in conjunction with the *Tasmanian Cat Management Plan - Background Paper*, which provides background to the management and impacts of cats in Tasmania and supports the objectives and recommendations of the Plan.

The template lists the questions, based on the Plan’s seven objectives and provides response boxes so you can comment on each question. At the end of the template, space is provided for respondents to provide any other comments.

How to fill in the template

In response boxes containing ‘Click here to enter text’, click on the text and start typing. The box will expand as you type.

You don’t have to answer all questions. You may answer as many or as few of the questions as you wish.

How to submit

Submissions must be made in writing and be received by 30 June 2016 either:

by email to catmanagementplan@dpiwwe.tas.gov.au or

by post to:

Draft Tasmanian Cat Management Plan
Biosecurity Tasmania,
DPIWWE
GPO Box 44
HOBART TAS 7001

Once submitted

If you submit feedback via email, an acknowledgement of receipt will be sent by return email. Please provide your postal address on the following page, if you wish to receive an acknowledgement of receipt by post.

All submissions will be made available for public viewing on DPIWWE’s website unless a specific request is made in writing for confidentiality at time of submission (However, see below on the *Right to Information Act 2009*).

The Right to Information Act 2009 and confidentiality

By law, information provided to the Government may be provided to an applicant under the provisions of the *Right to Information Act 2009* (RTI). If you have indicated that you wish all or part of your submission to be confidential, the statement that details your reasons will be taken into account in determining whether or not to release the information in the event of an RTI application for assessed disclosure.

No personal information other than the name of individual submitters will be disclosed.

All submissions will be considered by the project team when reporting to the Minister for Primary Industries and Water and in the development of recommendations for the Minister.

Further Information

Additional documents related to the Tasmanian Cat Management Plan can also be found on the webpage www.dpipwe.tas.gov.au/catmanagementplan, including:

- Summary of the Plan (4 pages), and
- A Background Paper, including detail on the evidence base behind the proposals in the Plan (44 pages).

Links to other information on cat management can also be found on the web page.

Your details

NAME:

John Toohey

ORGANISATION:

(if responding on behalf of the organisation)

Clarence City Council

POSITION IN ORGANISATION:

(if responding on behalf of the organisation)

Manager Health and Community Development

POSTAL ADDRESS:

Address Line 1:

PO Box 96

Address Line 2:

Click here to enter text.

Town:

ROSNY PARK

State:

TASMANIA

Postcode:

7018

2. Consultation

QUESTION 1: Does the Draft Tasmanian Cat Management Plan and its supporting Background Paper adequately address the issue of managing domestic, stray and feral cats in Tasmania, particularly in relation to roles and responsibilities, breeding of cats, cat-borne diseases, environmental, agricultural and human health impacts and existing legislation.

Answer:

- Generally yes however because of knowledge gaps and poor data it is not easy to implement effective management plans for the 3 categories of cats – feral, stray and domestic.
- Need a clear distinction of the 3 categories of cats

Question 2): Will the actions proposed in Objective 1 of the Plan lead to greater levels of responsible ownership of pet cats amongst the community? Proposals in Objective 6, regarding legislative amendments, are expected to also contribute to this objective.

Answer:

Yes but need to determine:

- Scope
- Who does what?
- Who funds what?
- And to what level?

Question 3): Objective 2 of the Plan focuses on promoting best practice techniques to guide the planning, management and control of stray and feral cats. Do you believe the proposed actions can achieve this?

Answer:

Potentially yes but as stated there is a need to do more research, particularly in respect to:

- Identifying any communities of feral cats
- Making clear distinction between feral, stray and domestic cats
- Developing management techniques for each category of cat

Question 4): The actions in Objective 3 are aimed at increasing community awareness and involvement. Do you think the proposed actions are likely to achieve the aim of this objective?

Answer:

Potentially yes but lacking details:

- **Who will be funding the community awareness campaign?**
- **Will campaigns be on-going?**
- **With programs also to be aimed at school children?**

Question 5): Objective 4 recognises there are gaps in our knowledge about feral cats and aims to improve our understanding of the behavior and interactions of feral cats to better inform management. Do you agree that the proposed actions can achieve this?

Answer:

Agree that not enough research is being done:

- **We don't have enough knowledge how best to go about it**
- **Who will pay for the research?**
- **Who will coordinate and manage the research?**

Question 6): A strong focus of the Plan is to put in place actions that will minimise impacts of cats in areas of high conservation value and agricultural assets. Do you think the actions in Objective 5 can successfully achieve this?

Answer:

Refer to previous comments

Question 7): Objective 6 proposes a number of amendments to the *Cat Management Act*, including introducing new measures. Do you agree with these amendments and do you believe they will lead to greater levels of responsible cat ownership in Tasmania?

Answer:

Agree to:

- Lower the age for compulsory desexing and microchipping
- Improved arrangements for landowners
- Changes to cat breeders
- Code of Practice
- Support the removal of the care agreement
- Limit the number of cats owned to 4 without a “licence”

Registration of cats:

- Can be a means of revenue to offset cat management for Council
- Hasn't been particularly successful in other jurisdictions
- A matter for each Council through a By-Law

Confining a cat to a property – this will be difficult to police

- What penalties for non-compliance
- Determining ownership of the cat
- Catching cats
- Allowance for walking cats on-lead outside property
- Needs phasing in over time with an education program
- How big a problem is it?

Resource Implications

- It is unclear at this time due to a lack of data and knowledge about effective management plans

Question 8): Both State and Local Government have a role to play in cat management, however, under existing arrangements, those roles and responsibility are not clearly defined. Objective 7 seeks to ensure that both levels of government work together to clearly establish their responsibilities. What do you believe are the roles and responsibilities that each of the two different levels of Government have?

Answer:

If it was to mirror the Dog legislation most of the day to day responsibility would be left to Councils.

Responsibility to police those advertising cats for sale (other than registered breeders) in newspapers and on-line?

Suggest that the State Government should be responsible for:

- State-wide education programs
- Free or reduced fees for desexing & microchipping of cats for 2 years
- Setting a schedule for offences and associated penalties
- Research
- Money to enhance cat management facilities
- Be responsible for all cat activities on its own land (including complaints)

Question 9): Are there actions or recommendations that you believe are missing from any of the objectives in the Plan?

Answer:

Further clarification on:

- restrictions to sell non desexed and microchipped kittens i.e. pet shops
- Appropriate schedule of offences and penalties
- Cat attacks & nuisances

Other Comments?

Answer:

Impounding Cats

- Will the RSPCA and Hobart Cats Centre cope with the possibility of increased number of cats impounded?

Thank you for taking the time to comment on the Tasmanian Cat Management Plan and related documents.

11.7.2 ADOPTION OF NEW CODE OF CONDUCT

(File No 10-01-07)

EXECUTIVE SUMMARY**PURPOSE**

To formally consider the adoption of the model code as Council's Code of Conduct.

RELATION TO EXISTING POLICY/PLANS

Council previously established its own formal Code of Conduct with supporting Code of Conduct Panel Procedures. These policies have been superseded by the introduction of a state-wide model Code of Conduct and a new centralised complaints and hearings process that will apply for all Tasmanian Local Government elected members.

LEGISLATIVE REQUIREMENTS

Under the Local Government Act, 1993, Council is now required to adopt a Code of Conduct based on the Model Code.

CONSULTATION

Extensive consultation has occurred in the lead up to the new legislative provisions. No further consultation with external parties is required in respect to consideration of this matter.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the adoption of the model code.

RECOMMENDATION:

- A. That Council formally adopts the model Code of Conduct [Schedule 1 of the Local Government (Model Code of Conduct) Order 2016].
- B. That Council considers whether it wishes to seek Ministerial approval to further vary the Code by the inclusion of additional provisions in the Schedule to the Code (Part 9).

ASSOCIATED REPORT**1. BACKGROUND**

- 1.1.** Council's initial Code of Conduct was adopted by Council at its Meeting on 26 June 2006. The Code has previously been revised in 2008, 2010 and 2014.
- 1.2.** The Local Government Act, 1993 has now placed a requirement on all Councils to adopt the model Code of Conduct.

2. REPORT IN DETAIL

- 2.1.** Council has been an active participant in the consultation process for this legislative reform measure and has advocated a state-wide consistency on Code of Conduct matters.
- 2.2.** Considerable background work has occurred in order to achieve a consistent and centrally management framework for the administering of Code of Conduct matters within Tasmania Local Government. All background material has been distributed to Aldermen with covering memo comments and the matter has been briefly discussed at an alderman Workshop.
- 2.3.** The new legislative framework now requires that all Councils adopt a Code of Conduct that includes the model Code prescribed in the Local Government (Model Code of Conduct) Order 2016. Savings provisions will govern the transitions between Council's former Code of Conduct and that of the "model" Code.
- 2.4.** The date by which all Councils must adopt their new Code of Conduct is 12 July 2016. The intention of this report is to satisfy this statutory timeframe and obligation requirement in the first instance.
- 2.5.** Councils are permitted, under the new Code provisions, to also, subject to Ministerial approval, incorporate additional code provisions in the Schedule (Part 9) of the model Code. It would be expected that this process will be more time consuming to pursue than the immediate timeframe contemplates. The process outlined requires that this approval must be obtained prior to a Council's formally adopting of those inclusions.
- 2.6.** It has been suggested in feedback from Alderman on the new Code framework that consideration could be given to the inclusion of Council's more recently adopted Gifts and Benefits provisions within its current Code. These provisions are quite detailed and well developed and are couched in terms of providing clear guidelines on how responses to gestures of gifting and providing benefit should be managed in certain scenarios.

- 2.7.** Council's current Code provisions content can be read as being generally complimentary rather than conflicting with the new Model Code. The model Code deals with Gifts and Benefits under Part 6 generally in principle terms but does not take into account the context scenarios that occur.
- 2.8.** The new model Code does contemplate that a Council will have its own Policy in respect to Gifts and Benefits, but in this context, only references the threshold that may be stated in a Council's policy as to what may be regarded as a token Gift (both the current and the Model code set this at \$50.00 value).
- 2.9.** In the context of the above observations, rather than lose the important work that Council has recently undertaken in this area, a Policy which retains Council's current Gifts and Benefits details would be a useful transition and this is proposed for adoption under a separate Report on this agenda. In addition to this matter, the separate report also proposes some of the current code details into Council's Meeting Procedures Policy.
- 2.10.** Council may still wish to seek ministerial approval to include some policy provisions into the newly adopted Code of Conduct and this can be dealt with as a subsequent initiative. For example, Council may wish to attach a schedule providing for the Alderman's Claims and Expenses Policy or a Gifts and Benefits Policy.

3. CONSULTATION

3.1. Community Consultation

Not required.

3.2. State/Local Government Protocol

Extensive consultation has occurred on the proposal for a state-wide applicable framework for the consistent management of Code of Conduct matters.

3.3. Other

Internal consultation by way of a discussion at an Aldermen's Workshop has occurred.

4. STRATEGIC PLAN/POLICY IMPLICATIONS

4.1. Council previously established its own formal Code of Conduct with supporting Code of Conduct Panel Procedures.

4.2. These policies have been superseded by the introduction of a state-wide model Code of Conduct and a new centralised complaints and hearings process that will apply for all Tasmanian Local Government elected members.

4.3. Some policy implications have been identified in the context of the new Code of Conduct requirements that warrant consideration of some related policy matters. This is dealt with under a separate item on this agenda.

5. EXTERNAL IMPACTS

None identified.

6. RISK AND LEGAL IMPLICATIONS

6.1. Under the Local Government Act, 1993 and the Local Government (Model Code of Conduct) Order 2016, Council is required to adopt a new Code of Conduct based on the Model Code. The Local Government Act, 1993 also places a requirement on the timeframe for adoption in the undertaking of reviews following each update of the Model Code and following each ordinary Council Election.

6.2. Under section 28T of the Local Government Act, 1993 (Code of Conduct) provides as follows:

- within 3 months after the Model Code of Conduct is made by Ministerial order, a Council must adopt the Model Code of Conduct, either with or without permitted variations, as its code of conduct relating to the conduct of its councillors;

- the date by which all Councils must adopt the Code of Conduct is 12 July 2016;
- fourteen days after adopting the Model Code of Conduct, a Council is to provide a copy to the Director of Local Government;
- any variations made to the Model Code of Conduct by a Council must be approved by the Minister responsible for Local Government. In practice, this means that before a Council can adopt the Model Code of Conduct (with variations) as its Code of Conduct, the Council will need to obtain approval from the Minister regarding the variations and a request for approval is to be made in writing.

6.3. Section 28T also provides that any variation to the Model Code of Conduct made by a Council is to be set out in a schedule to the Model Code of Conduct. This means that the Model Code of Conduct will remain consistent across local government, with any supplementary Council policies/procedures included as attached schedules to the Model Code of Conduct.

6.4. There are some transitional arrangements regarding the running-off period for complaints under the current Code of Conduct, at the end of which time the current Code of Conduct will lapse and Council's contractual engagement of its Code of Conduct Chairperson will be concluded.

7. FINANCIAL IMPLICATIONS

There are no financial implications associated with the adoption of the Code of Conduct.

8. ANY OTHER UNIQUE ISSUES

A request for approval to vary the Model Code of Conduct (any variations to be included in a schedule accompanying the code) is to be made in writing to the Minister (GPO Box 123 Hobart Tasmania 7001) and the Council will need to allow at least 3 weeks for the Minister's decision.

9. CONCLUSION

9.1. The intention of this report is to satisfy this statutory timeframe and obligation requirements in the first instance.

9.2. If Council wishes to consider further the inclusion of certain Policy provisions into the Schedule of the newly adopted Code of Conduct (refer to draft Attachment 1 and supporting Guidelines Attachment 2) this can be dealt with as a subsequent initiative.

Attachments: 1. Draft of the New Code of Conduct for Adoption (4)
2. Code of Conduct Guidelines (7)

Andrew Paul
GENERAL MANAGER



CLARENCE CITY COUNCIL

Code of Conduct

PART 1 - Decision Making

1. A councillor must bring an open and unprejudiced mind to all matters being decided upon in the course of his or her duties, including when making planning decisions as part of the Council's role as a Planning Authority.
2. A councillor must make decisions free from personal bias or prejudgement.
3. In making decisions, a councillor must give genuine and impartial consideration to all relevant information known to him or her, or of which he or she should have reasonably been aware.
4. A councillor must make decisions solely on merit and must not take irrelevant matters or circumstances into account when making decisions.

PART 2 - Conflict of Interest

1. When carrying out his or her public duty, a councillor must not be unduly influenced, nor be seen to be unduly influenced, by personal or private interests that he or she may have.
2. A councillor must act openly and honestly in the public interest.
3. A councillor must uphold the principles of transparency and honesty and declare actual, potential or perceived conflicts of interest at any meeting of the Council and at any workshop or any meeting of a body to which the councillor is appointed or nominated by the Council.
4. A councillor must act in good faith and exercise reasonable judgement to determine whether he or she has an actual, potential or perceived conflict of interest.
5. A councillor must avoid, and remove himself or herself from, positions of conflict of interest as far as reasonably possible.
6. A councillor who has an actual, potential or perceived conflict of interest in a matter before the Council must—

- (a) declare the conflict of interest before discussion on the matter begins; and
- (b) act in good faith and exercise reasonable judgement to determine whether the conflict of interest is so material that it requires removing himself or herself physically from any Council discussion and remaining out of the room until the matter is decided by the Council.

PART 3 - Use of Office

1. The actions of a councillor must not bring the Council or the office of councillor into disrepute.
2. A councillor must not take advantage, or seek to take advantage, of his or her office or status to improperly influence others in order to gain an undue, improper, unauthorised or unfair benefit or detriment for himself or herself or any other person or body.
3. In his or her personal dealings with the Council (for example as a ratepayer, recipient of a Council service or planning applicant), a councillor must not expect nor request, expressly or implicitly, preferential treatment for himself or herself or any other person or body.

PART 4 - Use of Resources

1. A councillor must use Council resources appropriately in the course of his or her public duties.
2. A councillor must not use Council resources for private purposes except as provided by Council policies and procedures.
3. A councillor must not allow the misuse of Council resources by any other person or body.
4. A councillor must avoid any action or situation which may lead to a reasonable perception that Council resources are being misused by the councillor or any other person or body.

PART 5 - Use of Information

1. A councillor must protect confidential Council information in his or her possession or knowledge, and only release it if he or she has the authority to do so.
2. A councillor must only access Council information needed to perform his or her role and not for personal reasons or non-official purposes.

3. A councillor must not use Council information for personal reasons or non-official purposes.
4. A councillor must only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.

PART 6 - Gifts and Benefits

1. A councillor may accept an offer of a gift or benefit if it directly relates to the carrying out of the councillor's public duties and is appropriate in the circumstances.
2. A councillor must avoid situations in which the appearance may be created that any person or body, through the provisions of gifts or benefits of any kind, is securing (or attempting to secure) influence or a favour from the councillor or the Council.
3. A councillor must carefully consider –
 - (a) the apparent intent of the giver of the gift or benefit; and
 - (b) the relationship the councillor has with the giver; and
 - (c) whether the giver is seeking to influence his or her decisions or actions, or seeking a favour in return for the gift or benefit.
4. A councillor must not solicit gifts or benefits in the carrying out of his or her duties.
5. A councillor must not accept an offer of cash, cash-like gifts (such as gift cards and vouchers) or credit.
6. A councillor must not accept a gift or benefit if the giver is involved in a matter which is before the Council.
7. A councillor may accept an offer of a gift or benefit that is token in nature (valued at less than \$50) or meets the definition of a token gift or benefit (if the Council has a gifts and benefits policy).
8. If the Council has a gifts register, a councillor who accepts a gift or benefit must record it in the relevant register.

PART 7 - Relationships with Community, Councillors and Council Employees

1. A councillor–
 - (a) must treat all persons with courtesy, fairness, dignity and respect; and
 - (b) must not cause any reasonable person offence or embarrassment; and

- (c) must not bully or harass any person.
- 2. A councillor must listen to, and respect, the views of other councillors in Council and committee meetings and any other proceedings of the Council, and endeavour to ensure that issues, not personalities, are the focus of debate.
- 3. A councillor must not influence, or attempt to influence, any Council employee or delegate of the Council, in the exercise of the functions of the employee or delegate.
- 4. A councillor must not contact or issue instructions to any of the Council's contractors or tenderers, without appropriate authorisation.
- 5. A councillor must not contact an employee of the Council in relation to Council matters unless authorised by the General Manager of the Council.

PART 8 - Representation

- 1. When giving information to the community, a councillor must accurately represent the policies and decisions of the Council.
- 2. A councillor must not knowingly misrepresent information that he or she has obtained in the course of his or her duties.
- 3. A councillor must not speak on behalf of the Council unless specifically authorised or delegated by the Mayor or Lord Mayor.
- 4. A councillor must clearly indicate when he or she is putting forward his or her personal views.
- 5. A councillor's personal views must not be expressed in such a way as to undermine the decisions of the Council or bring the Council into disrepute.
- 6. A councillor must show respect when expressing personal views publicly.
- 7. The personal conduct of a councillor must not reflect, or have the potential to reflect, adversely on the reputation of the Council.
- 8. When representing the Council on external bodies, a councillor must strive to understand the basis of the appointment and be aware of the ethical and legal responsibilities attached to such an appointment.

SCHEDULE - PART 9 - Variation of Code of Conduct



CLARENCE CITY COUNCIL

CODE OF CONDUCT GUIDELINES

1. Introduction

1.1. Purpose of code of conduct

This Code of Conduct sets out the standards of behaviour expected of the councillors of the Clarence City Council, with respect to all aspects of their role.

As leaders in the community, councillors acknowledge the importance of high standards of behaviour in maintaining good governance. Good governance supports each councillor's primary goal of acting in the best interests of the community.

Councillors therefore agree to conduct themselves in accordance with the standards of behaviour set out in the Code of Conduct.

This Code of Conduct incorporates the Model Code of Conduct made by Order of the Minister responsible for local government.

1.2. Application of code of conduct

This Code of Conduct applies to a councillor whenever he or she:

- conducts council business, whether at or outside a meeting;
- conducts the business of his or her office (which may be that of mayor, deputy mayor or councillor); or
- acts as a representative of the Council.

A complaint of failure to comply with the provisions of the Code of Conduct may be made where the councillor fails to meet the standard of conduct specified in the Model Code of Conduct.

1.3. Standards of conduct prescribed under the Model Code of Conduct

The model code of conduct provides for the following eight standards of conduct (refer to Section 4 for details):

1.3.1. Decision making

A councillor is to bring an open and unprejudiced mind to all matters being considered in the course of his or her duties, so that decisions are made in the best interests of the community.

1.3.2. Conflict of interest

A councillor effectively manages conflict of interest by ensuring that personal or private interests do not influence, and are not seen to influence, the performance of his or her role and acting in the public interest.

1.3.3. Use of office

A councillor uses his or her office solely to represent and serve the community, conducting himself or herself in a way that maintains the community's trust in the councillor and the Council as a whole.

1.3.4. Use of resources

A councillor uses Council resources and assets strictly for the purpose of performing his or her role.

1.3.5. Use of information

A councillor uses information appropriately to assist in performing his or her role in the best interests of the community.

1.3.6. Gifts and benefits

A councillor adheres to the highest standards of transparency and accountability in relation to the receiving of gifts or benefits, and carries out his or her duties without being influenced by personal gifts or benefits.

1.3.7. Relationships with community, councillors and council employees

A councillor is to be respectful in his or her conduct, communication and relationships with members of the community, fellow councillors and Council employees in a way that builds trust and confidence in the Council.

1.3.8. Representation

A councillor is to represent himself or herself and the Council appropriately and within the ambit of his or her role, and clearly distinguish between his or her views as an individual and those of the Council.

1.4. Principles of good governance

By adopting this Code of Conduct, councillors commit to the overarching principles of good governance by being:

- *Accountable – Explain, and be answerable for, the consequences of decisions made on behalf of the community.*
- *Transparent – Ensure decision making processes can be clearly followed and understood by the community.*
- *Law-abiding – Ensure decisions are consistent with relevant legislation or common law, and within the powers of local government.*
- *Responsive – Represent and serve the needs of the entire community while balancing competing interests in a timely, appropriate and responsive manner.*
- *Equitable – Provide all groups with the opportunity to participate in the decision making process and treat all groups equally.*
- *Participatory and inclusive – Ensure that anyone affected by or interested in a decision has the opportunity to participate in the process for making that decision.*
- *Effective and efficient – Implement decisions and follow processes that make the best use of the available people, resources and time, to ensure the best possible results for the community.*
- *Consensus oriented – Take into account the different views and interests in the community, to reach a majority position on what is in the best interests of the whole community, and how it can be achieved.*

2. Legislation

The code of conduct framework is legislated under the *Local Government Act 1993* (the Act). The Act is available to view via the Tasmanian Legislation Website at www.thelaw.tas.gov.au.

2.1. Code of conduct

Tasmanian councillors are required to comply with the provisions of the Council's Code of Conduct while performing the functions and exercising the powers of his or her office with the council.

The Code of Conduct incorporates the Model Code of Conduct (made by order of the Minister responsible for local government) and may include permitted variations included as attached schedules to the Model Code of Conduct.

2.2. Making a code of conduct complaint

A person may make a code of conduct complaint against one councillor in relation to the contravention by the councillor of the relevant council's code of conduct.

A person may make a complaint against more than one councillor if the complaint relates to the same behaviour and the same code of conduct contravention.

Code of conduct complaints are lodged with the general manager of the relevant council and must comply with legislative requirements, as outlined below.

A complaint may not be made by more than two complainants jointly.

A code of conduct complaint is to:

- *be in writing;*
- *state the name and address of the complainant;*
- *state the name of each councillor against whom the complaint is made;*
- *state the provisions of the relevant code of conduct that the councillor has allegedly contravened;*
- *contain details of the behaviour of each councillor that constitutes the alleged contravention;*
- *be lodged with the general manager within six months after the councillor or councillors against whom the complaint is made allegedly committed the contravention of the code of conduct; and*
- *be accompanied by the code of conduct complaint lodgement fee.*

Once satisfied that the code of conduct complaint meets prescribed requirements, the General Manager forwards the complaint to the Code of Conduct Panel.

2.3. Code of conduct complaint lodgement fee

The code of conduct complaint lodgement fee is prescribed under Schedule 3 (Fees) of the Local Government (General) Regulations 2015. The lodgement fee is 50 fee units (\$75.50 in 2015/16).

3. Further assistance

3.1. Councillor dispute resolution

Councillors commit to developing strong and positive working relationships and working effectively together at all times.

Prior to commencing a formal code of conduct complaint, the councillors who are parties to any disagreement should endeavour to resolve their differences in a courteous and respectful manner, recognising that they have been elected to act in the best interests of the community.

A council's internal dispute resolution process should be the first step that is taken when there is a dispute between councillors.

A councillor who is party to any disagreement should request the Mayor (or Lord Mayor) or the General Manager to assist that councillor in resolving the disagreement informally.

If the informal assistance does not resolve the disagreement, the General Manager may, with the consent of the parties involved, choose to appoint an external mediator to assist in the resolution of the disagreement. If an external mediator is appointed, councillors who are party to the disagreement must strive to cooperate with the mediator and use their best endeavours to assist the mediator and participate in the mediation arranged.

Where a matter cannot be resolved through internal processes, the next step may be to lodge a formal code of conduct complaint.

Councillors should only invoke the provisions of the Code of Conduct in good faith, where it is perceived that another councillor has not complied with the provisions or intent of the Code of Conduct.

3.2. Complaints under the Local Government Act 1993

The Director of Local Government is responsible for the investigation of complaints regarding alleged breaches of the Act.

Any person can make a complaint to the Director, via the Local Government Division (contact details below), in accordance with section 339E of the Act, where it is genuinely believed that a council, councillor or general manager may have committed an offence under the Act or failed to comply with the requirements of the Act.

To make a complaint, it is recommended that you first contact the Local Government Division to discuss whether the matter is something that the Division can assist with.

3.3. Public Interest Disclosure

Any instances of suspected corrupt conduct, maladministration and serious and substantial waste of public resources or substantial risk to public health or safety or to the environment should be reported in accordance with the *Public Interest Disclosures Act 2002*. Disclosures may be made to the Tasmanian Ombudsman or the Tasmanian Integrity Commission.

3.4. Key contacts

The General Manager

Clarence City Council

38 Bligh Street Rosny Park 7018

PO Box 96 Rosny Park 7018

Phone: (03) 62179500 Fax: (03) 62458700

Email: clarence@ccc.tas.gov.au

Web: www.ccc.tas.gov.au

Department of Premier and Cabinet's Local Government Division

Executive Building, 15 Murray Street, HOBART TAS 7000

GPO Box 123, HOBART TAS 7001

Phone: (03) 6232 7022 Fax: (03) 6232 5685

Email: lgd@dpac.tas.gov.au

Web: www.dpac.tas.gov.au/divisions/local_government

The Tasmanian Integrity Commission

Surrey House, Level 2, 199 Macquarie Street, HOBART TAS 7000

GPO Box 822, HOBART TAS 7001

Phone: 1300 720 289

Email: mper@integrity.tas.gov.au

Web: www.integrity.tas.gov.au

Ombudsman Tasmania

NAB House, Level 6, 86 Collins Street, HOBART TAS 7000

GPO Box 123, HOBART TAS 7001

Phone: 1800 001 170

Email: ombudsman@ombudsman.tas.gov.au

Web: www.ombudsman.tas.gov.au

11.7.3 DERWENT ESTUARY PROGRAM - RESTRUCTURE

(File No 12-12-00)

EXECUTIVE SUMMARY**PURPOSE**

The purpose of this report is to enable Council to consider the restructure of the Derwent Estuary Program to a not-for-profit Company limited by Guarantee.

RELATION TO EXISTING POLICY/PLANS

Council is currently a member of the Derwent Estuary Program (DEP) under its current structure as a Regional partnership between Local Government, State Government and local businesses including Nyrstar and Norske Skog.

LEGISLATIVE REQUIREMENTS

Nil.

CONSULTATION

The proposal has been endorsed by the DEP steering committee which encompasses the General Managers of the member Councils, Secretary of DPIPW and Senior Managers of member partners.

FINANCIAL IMPLICATIONS

It is expected that there would be little if any financial implications other than some cost associated with reporting and statutory compliance.

RECOMMENDATION:

- A. That Council give, in principle, support to the Derwent Estuary Program becoming a not for profit company limited by guarantee.
- B. That Council give, in principle, agreement to becoming a member of the Company and that Council formally determine whether or not to become a member following receipt and consideration of the proposed company constitution.

ASSOCIATED REPORT**1. BACKGROUND**

- 1.1. The Derwent Estuary Program (DEP) is a regional partnership between local governments, the Tasmanian State Government, businesses, scientists and the community. The DEP was formed in 1999 and has been nationally recognised for excellence in co-ordinating initiatives to reduce water pollution, conserve habitat and species, monitor river health and promote greater use of the foreshore.

- 1.2.** The program is renowned for the strong scientific basis of its decision making.

2. REPORT IN DETAIL

- 2.1.** The DEP is seeking to register the organisation as a not-for-profit company limited by guarantee.

- 2.2.** This has many advantages to the organisation, in particular:

- provides a governance structure that will allow the DEP to expand critical research and management of the Derwent River and Estuary;
- will enable the DEP to apply for non-government grants and philanthropic donations;
- addresses perceptions of alignment; and
- provides greater flexibility around staffing, finances, contracts and other administrative needs.

- 2.3.** The transition from a partnership to not-for-profit limited by guarantee can be achieved with minimal disruption.

- 2.4.** Whilst the DEP has operated successfully for a number of years as a partnership agreement, hosted by the State Government, this relatively informal structure does not meet the needs of the organisation. At present the DEP is trying to operate as a small not-for-profit but within the administrative requirements of the State Government. The DEP needs a more informal governance structure that allows it to adapt to changing circumstances and provides greater flexibility around staffing, finances, contracts and other administrative needs.

3. CONSULTATION

The proposal has been endorsed by the DEP steering committee which encompasses the General Managers of the member Councils, Secretary of DPIPWE and Senior Managers of member partners.

4. STRATEGIC PLAN/POLICY IMPLICATIONS

Nil.

5. EXTERNAL IMPACTS

As a not-for-profit company limited by guarantee the DEP would enhance their capacity to seek funding grants from federal agencies and the philanthropic sector.

6. RISK AND LEGAL IMPLICATIONS

Prior to formally signing on as a member of the new company it would be appropriate to formally consider the new constitution first to ensure that the constitution reflects Councils understanding of the company's role.

7. FINANCIAL IMPLICATIONS

7.1. It is expected that there would be little if any financial implications other than some cost associated with reporting and statutory compliance.

7.2. Council currently contributes around \$52,000 annually plus some in-kind contributions to the DEP.

8. ANY OTHER UNIQUE ISSUES

None apparent.

9. CONCLUSION

9.1. It is in the interests of the DEP to become a not-for-profit limited by guarantee.

9.2. Whilst Council should support the change and give in principle support to becoming a member of the not-for-profit company this final step should not be taken until we have had an opportunity to consider the constitution when prepared.

Attachments: Nil.

Andrew Paul
GENERAL MANAGER

11.7.4 REVIEW OF LOCAL GOVERNMENT ACT, 1993 - DISCUSSION PAPER
APRIL 2016
(File No)**EXECUTIVE SUMMARY****PURPOSE**

To consider Council's response to a discussion paper on the review of the Local Government Act, 1993 prepared by the Division of Local Government.

RELATION TO EXISTING POLICY/PLANS

A portion of the response to this paper relates to a number of existing Council policies.

LEGISLATIVE REQUIREMENTS

There are no statutory requirements associated with the purpose of the discussion paper, however, Council is in the practice of providing responses to such legislative reviews.

CONSULTATION

The discussion paper has been circulated to all Councils in accordance with the standing State/Local Government consultation protocols.

FINANCIAL IMPLICATIONS

Some financial implications will occur should the reforms identified in the paper take place, however, it is difficult to quantify at this stage. The extent of this will become clearer in the next drafting phase of the regulations.

RECOMMENDATION:

- A. That Council notes the issues contained in the Review of the Local Government Act, 1993 Discussion Paper April 2016.
- B. That Council endorses the response comments included in the Draft response "Schedule" to the Discussion Paper for submission to the Local Government Division and LGAT.
- C. That Council expresses its concern at the recent emerging trend to unnecessarily increase the level of detailed prescription in the Local Government Act, 1993 which is evidenced in the manner in which issues have been raised in the discussion paper.

REVIEW OF LOCAL GOVERNMENT ACT 1993 - DISCUSSION PAPER APRIL 2016 /contd...

ASSOCIATED REPORT**1. BACKGROUND**

- 1.1.** The Director of Local Government, in association with the Local Government Association of Tasmania (LGAT), has distributed a Discussion Paper on the Review of the Local Government Act, 1993 to Tasmanian Councils for their input into the content of the draft.
- 1.2.** The focus of the review discussion paper centres on the electoral and governance provisions of the Act.

2. REPORT IN DETAIL

- 2.1.** The object of the review is to consider all aspects of the Local Government Act, 1993 that deal with representation and the roles and responsibilities of elected representatives.
- 2.2.** As is the recognised practice a discussion paper has been prepared by the Local Government Division based on the issues. It is clear from the areas identified in this review that it is in response to a number of issues within the industry that have arisen over recent times. The discussion paper seeks to pose a range of key questions on these matters and seeks to gain feedback and response on a number of key aspects of the legislation. There are a number of areas that directly relate to election and elected member matters.
- 2.3.** Details of the review and discussion paper have been distributed to Aldermen and it has been the subject of Alderman Workshop discussions. The views expressed from these discussions have been incorporated in a draft Council response Schedule (refer Attachment 1). As agreed the draft covers just those matters that were discussed at the Workshop and policy positions that have previously been adopted by Council. Aldermen were also encouraged to provide their own input into the review.

- 2.4.** A key issue in the Workshop discussions centred on concerns held on what appears to be an emerging focus to increase the level of prescription into the Local Government Act, 1993 contrary to its earlier intended approach of being structured as “enabling” legislation.

3. CONSULTATION

3.1. Community Consultation

As with all local government related regulatory reviews this regulations review is the subject of community consultation and open to public submissions.

3.2. State/Local Government Protocol

The paper has been circulated to all Councils in accordance with the standing State/Local Government consultation protocols. Given the acute timing of the review an interim response has been provided and the Local Government Division is aware that formal Council consideration and response will still occur.

3.3. Other

The draft response to the Discussion Paper has been circulated to Aldermen and discussed at an Aldermen Workshop and further input has been incorporated.

4. STRATEGIC PLAN/POLICY IMPLICATIONS

A portion of the response to this paper relates to a number of existing Council policies.

5. EXTERNAL IMPACTS

Not applicable.

6. RISK AND LEGAL IMPLICATIONS

There are no statutory requirements associated with the purpose of the discussion paper, however, Council is in the practice of providing responses to such legislative reviews.

7. FINANCIAL IMPLICATIONS

Some financial implications will occur should the reforms identified in the paper take place, however, it is difficult to quantify at this stage. The extent of this will become clearer in the next drafting phase of the regulations.

8. ANY OTHER UNIQUE ISSUES

Given the timing of the review and the schedule of budget workshop it has been difficult to gain sufficient time in order to gain full coverage of the matters that the review has raised.

9. CONCLUSION

- 9.1.** Council is in the practice of providing responses to the legislative reform reviews that are conducted on a routine basis.
- 9.2.** Both the discussion paper and Council's response have been drafted on the discussion of the open principles associated with the key questions posed in the discussion paper.
- 9.3.** The response from the local government industry may vary on the subject areas covered and as such a clear indication of any change will not occur until the next phase of the consultation process.

Attachments: 1. Draft "Schedule" Response to the April 2016 Discussion Paper on the Review of the Local Government Act, 1993 (14)

Andrew Paul
GENERAL MANAGER

ATTACHMENT 1

SECTION 1 THE PEOPLE WHO LEAD AND SERVE OUR COMMUNITY							
Subject	Question	Council Position	Agree	Disagree	Divergent view	No response	Other Options
What is the role of the Mayor (Pages 5-8)	Question 1: What should the leadership role of the Mayor include?		N/A	N/A	N/A	No Response Provided	
	Question 2: What should the requirement for the Mayor to liaise with the General Manager include?		N/A	N/A	N/A	No Response Provided	
	Question 3: Should Mayors be required to undertake induction and training, particularly in the development of leadership skills?		Agreed				

Subject	Question	Council Position	Agree	Disagree	Divergent view	No response	Other Options
	Question 4: Should Mayors be given a casting vote when decisions are tied so that tied decisions are not automatically determined in the negative?	That the status quo of tied vote being determined in the negative.		Disagree The position of Mayor should hold a casting vote			
	Question 5: Should the provisions requiring a person to be both a Mayor and Councillor candidate remain?	That change to the current is not favoured. It is considered to be prohibitive and unfair that unsuccessful Mayoral candidates would be precluded from the opportunity to seek to be councillor representative	Agreed that current provision remain.				
What is the role of the Deputy Mayor? (Page 9)	Question 6: What should the role of Deputy Mayor include?	No Response Provided	N/A	N/A	N/A	No Response Provided	
	Question 7: Should Deputy Mayors be appointed by the Council rather than popularly elected?	That current provisions for popular election of Deputy Mayor remain including the current provisions that deal with extraordinary vacancies and by elections.		Disagreed			

Subject	Question	Council Position	Agree	Disagree	Divergent view	No response	Other Options
What is the role of an individual Councillor? (Pages 10-12)	Question 8: How should Mayors fulfil their role of overseeing Councillors in the performance of their functions?	No Response Provided	N/A	N/A	N/A	No Response Provided	
	Question 9: What protocols should Councils develop to guide interactions between Council staff and Councillors?	No Response Provided	N/A	N/A	N/A	No Response Provided	
	Question 10: Should elected members be required to participate in induction and professional development programs and if so, what sort of training should they do?		Agreed				
How is the General Manager appointed and managed? (Page 13)	Question 11: What role should Mayors have in relation to the appointment and performance appraisal of General Managers?	That the full Council be involved in the appointment of General Manager. That performance appraisals be conducted by a Panel of Aldermen appointed by the Council and that the Mayor be included on the Panel by virtue of close interaction between the respective roles.	N/A	N/A	N/A		

Subject	Question	Council Position	Agree	Disagree	Divergent view	No response	Other Options
	Question 12: Should the Act include principles for the selection, reappointment and performance appraisal of General Managers?	The basis of selection and performance appraisal is a matter for Councils to determine. This may be based on unique circumstances and outcomes being sought. Council's discretion should not be fettered, constrained or narrowing in these processes base on legislative prescription.		Disagree			
What is the role of the General Manager? (Pages 14-16)	Question 13: What should the requirement for General Managers to liaise with Mayors include?	Prescriptive change to the current provision on this matter is not favoured.					
	Question 14: What level of information should be provided to the Council by the General Manager?	Change to the current is not favoured. There is already sufficient prescriptive detail in the provision of information in the Act.	N/A	N/A	N/A		
	Question 15: Is a Council's organisational structure a strategic or operational matter?	The Council's organisational structure is regarded as operational. Councils act as a non-executive Board.	N/A	N/A	N/A		

SECTION 2 MONITORING HOW EFFECTIVELY COUNCILS SERVE OUR COMMUNITY							
Subject	Question	Council Position	Agree	Disagree	Divergent view	No response	Other Options
What is the difference between the Local Government Board and a Board of Inquiry? (Pages 17-19)	Question 17: Is it necessary to have two separate bodies to perform the functions of conducting strategic review of and investigations into Councils or should the two be combined?	Consideration should be given to providing more flexibility to the role of the Local Government Board to conduct reviews in a less formalised and expedient manner.					
	Question 18: How can the processes for a Local Government Board review or Board of Inquiry investigation be improved?	No Response Provided	N/A	N/A		No Response Provided	
	Question 19: Are the potential outcomes of a review or inquiry sufficient? Or should the Act provide additional potential outcomes following an inquiry or review such as the suspension or dismissal of an individual Councillor?	No Response Provided	N/A	N/A		No Response Provided	

Subject	Question	Suggested Proposal	Previous Council Position	Agree	Disagree	Divergent view	No response	Other Options
What is the role of the Director of Local Government? (Paged 20-23)	Question 20: Should the Director of Local Government have the power to summons Councillors and Council staff as part of his/her investigation?	No Response Provided					No Response Provided	
	Question 21: Does the Director have sufficient power to enable him/her to support Councils and Councillors to practice good governance and comply with the Act (especially following an investigation)?	No Response Provided					No Response Provided	
	Question 22: Should the Act contain a mechanism to dismiss a Council and/or individual Councillor following an investigation by the Director of Local Government?	No Response Provided					No Response Provided	

Subject	Question	Suggested Proposal	Previous Council Position	Agree	Disagree	Divergent view	No response	Other Options
	Question 23: Should the Act provide a mechanism for more rapid intervention (such as a performance improvement order) in the instance where it is evident a council and/or individual councillor's performance is significantly impacting on the governance of the council and/or the service provided to the community?	No Response Provided					No Response Provided	
	Question 24: Does the Act provide sufficient powers to suspend or dismiss an individual Councillor for breaches of the Act?	No Response Provided					No Response Provided	
	Question 25: Do the penalty provisions in the Act need to be both increased and broadened to include other important sections of the Act?	No Response Provided					No Response Provided	

Subject	Question	Council Position	Agree	Disagree	Divergent view	No response	Other Options
How is the financial management of Councils monitored? (Page 24)	Question 26: Should Councils be required to report to the minister on the actions taken in response to the Auditor-General's findings on their financial statements?	This would be an unnecessary prescription that can be addressed through annual audit processes.					
	Question 27: Does the Act provide for best practice in relation to keeping record and reporting financial activities and transactions?	This can be addressed through instructions for Tas Audit Office.					
	Question 28: Has recent reform of Part 7 (Administration) and Part 8 (Financial Management) of the Act achieved the desired outcomes in relation to financial management and reporting?	No Response Provided				No Response Provided	

SECTION 3 FAIR AND TRANSPARENT LOCAL GOVERNMENT ELECTIONS							
Subject	Question	Council Position	Agree	Disagree	Divergent view	No response	Other Options
Who can vote in Local Government elections? (Pages 25-27)	Question 29: Should the General Manager's Roll be retained or abolished?	GM Roll to be retained.					
	Question 30: If it is retained should the General Manager's Roll be amended so it includes inly Australian citizens or permanent residents living in the municipality, not non-permanent residents?	That the current basis for election franchise be retained as appropriate for local government elections.					
	Question 31: If it is retained should the General Manager's Roll continue to include people who own or occupy property in the municipality or are the nominee of a corporate body in the municipality?	Council supports these recognised franchises.					

Subject	Question	Council Position	Agree	Disagree	Divergent view	No response	Other Options
	Question 32: If the General Manager's Roll is retained, should it be amended so a person may only vote in one municipality rather than in any municipality where they own or occupy property?	An elector entitlement should not be restricted to the municipal area in which they live.					
How much can electoral candidates spend on electoral advertising? (Page 28)	Question 34: Should electoral campaign advertising expenditure limits be abolished, retained or increased?	Council supports equitable treatment of expenditure for all candidates having regard to those who are new candidates and those seeking re-election. The difficulty and distortions created by defining expenditure and sign quantity thresholds is particularly noted.					A threshold system that achieves a single measure across all candidate activity needs to be considered.
Can a candidate receive donations for an elections campaign? (Pages 29-30)	Question 35: Should there be restrictions on the donations local government electoral candidates are permitted to receive? If so, what should the restrictions include?	Council supports full disclosure of political donations.					

Subject	Question	Council Position	Agree	Disagree	Divergent view	No response	Other Options
	Question 36: Should local government electoral candidates disclose who they receive election campaign donations from and the monetary value of the donations?	Council has adopted a policy position that supports this requirement principle, however, such a requirement needs to cover all aspects of campaign contribution/donations if it is to be introduced.					
	Question 37: If candidates are required to disclose donations received, should there still be limits on campaign advertising expenditure?	Value shouldn't take precedence over disclosure requirements as the nature of some donations can be difficult to measure in monetary and meaningful threshold terms.					
Is electoral campaign advertising regulated? (Pages 31-32)	Question 38: Should online electoral campaign advertising be included in the existing advertising regulations?	Electoral advertising should be dealt with as a blanket electoral campaign expenditure threshold that takes into account all form of electoral campaigning.					
	Question 39: Should internet advertising be included in the expenditure limit (if there is a limit)?	Council recognises that this is a difficult area to manage					

Subject	Question	Council Position	Agree	Disagree	Divergent view	No response	Other Options
	Question 40: Should an electoral candidate be able to name another candidate in campaign advertising?	The naming of another electoral candidate is not considered appropriate.					

SECTION 4 REGIONAL BODIES							
Subject	Question	Council Position	Agree	Disagree	Divergent view	No response	Other Options
(Page 33)	Question 41: Should the regional bodies have a common governance structure or should there be a flexible approach on how they operate?	It is considered that such a measure is unnecessary “red tape”.					
	Question 42: How will legislative recognition and prescription of common over-riding functions add value to regional decision making? How will it add value to the sector as a whole?	No Response Provided.				No Response Provided	
	Question 43: What roles and functions of regional bodies should be specified in the Act?	It is considered that such a measure is unnecessary “red tape”.					

SECTION 5 REDUCING RED TAPE						
(Page 34)	Question 44: Are there any opportunities for reducing red tape in the Act to enable Councils to more efficiently govern themselves?	Examples of where “red tape” processes could be reduced: By-laws, town nomenclature; special/local rating positions; sale/disposal of Council land; GM electoral roll closure requirements; sale of land for unpaid rates				

11.7.5 COUNCIL POLICY – RECEIPT OF GIFTS AND BENEFITS/MEETING PROCEDURES

(File No)

EXECUTIVE SUMMARY**PURPOSE**

To consider the adoption of 2 policies to complement the newly adopted Code of Conduct.

RELATION TO EXISTING POLICY/PLANS

Council has a current Code of Conduct and a Meeting Procedures Policy.

LEGISLATIVE REQUIREMENTS

Council is required to adopt a Code of Conduct based on a State-wide model code by 12 July 2016.

CONSULTATION

A Council Workshop was held on 26 April 2016 to canvass whether Council wished to seek variation to the model Code to include aspects of its own Code or existing policies.

FINANCIAL IMPLICATIONS

There will be no financial implications as a result of adopting the proposed Policies.

RECOMMENDATION:

- A. That Council adopts the Gifts and Benefits Policy.
- B. That Council adopts the revised Meeting Procedures Policy.

ASSOCIATED REPORT**1. BACKGROUND**

Council is required to adopt a new Code of Conduct based on a State-wide model Code. A report regarding the adoption of this Code is included as a separate report on this Agenda. The model Code includes provision for Councils to have their own policies to support some aspects of the model Code.

2. REPORT IN DETAIL

- 2.1.** An Aldermen's Workshop was held on 26 April 2016 to discuss the proposed model Code and whether Council considered that any of its current Code contents should be included in the model Code. Of particular concern at the Workshop was that some aspects of Council's current code, particularly the guidelines regarding receipt of gifts and benefits would be lost if not captured in some way. The options for Council are either to seek Ministerial approval to vary the new Code to include additional provisions/guidelines on these matters or to retain the information/guidelines as a separate policy.
- 2.2.** Given the potentially lengthy process to seek and obtain Ministerial approval, it is recommended that Council adopts its current gifts and benefits guidelines as a policy to complement the provisions in the model Code of Conduct. A copy of the proposed Gifts and Benefits Policy is attached (refer Attachment 1).
- 2.3.** The model Code also includes some provisions relating to conduct at Council Meetings. Council's current Meeting Procedures Policy contains some provisions relating to conduct but is also a comprehensive guide to general meeting procedure. Council's current Meeting Procedures Policy has been revised to incorporate the provisions in the model Code and also to update the relevant parts of the Policy following changes to the Local Government (Meeting Procedures) Regulation in 2015. A copy of the revised Policy is attached (refer Attachment 2).
- 2.4.** It would be prudent to adopt these policies as an interim measure, however, it is still open for Council to seek Ministerial approval in future to vary the Model code.

3. CONSULTATION

3.1. Community Consultation

Nil.

3.2. State/Local Government Protocol

Nil.

3.3. Other

Nil.

4. STRATEGIC PLAN/POLICY IMPLICATIONS

Council's current Code of Conduct contains guidelines relating to Gifts and Benefits and Council also has a current Meeting Procedures Policy. Adopting the 2 proposed policies would retain a level of detail relating to Clarence, not currently in the model Code.

5. EXTERNAL IMPACTS

Not applicable.

6. RISK AND LEGAL IMPLICATIONS

Council is required to adopt a Code of Conduct based on the model Code of Conduct by 12 July 2016.

7. FINANCIAL IMPLICATIONS

There will be no financial implications as a result of adopting the proposed Policies.

8. ANY OTHER UNIQUE ISSUES

Nil.

9. CONCLUSION

9.1. Council is required to adopt a Code of Conduct based on a State-wide model code by 12 July 2016. Council may choose to seek Ministerial approval to vary the code to include additional guidelines etc or may prefer to adopt this additional material as policy documentation.

9.2. It is recommended that Council adopts the proposed Policies as means of retaining the level of detail contained in Council's own documentation, and to complement the provisions in the model Code.

Attachments: 1. Proposed Gifts and Benefits Policy (5)
2. Revised Meeting Procedures Policy (15)

Andrew Paul
GENERAL MANAGER



TITLE	CLARENCE CITY COUNCIL GIFTS & BENEFITS – POLICY, GUIDELINES and PROCEDURES
APPROVAL DATE	Council Meeting TBC
REVISION DATES	New Policy - June 2016 (Source: former Code of Conduct provisions)
ASSOCIATED LEGISLATION	<i>Local Government Act 1993</i> <i>Local Government (Model Code of Conduct) Order 2016</i> <i>Right to Information Act 2012</i>
ASSOCIATED POLICIES	Clarence City Council Code of Conduct
POLICY RESPONSIBILITY	Corporate Support Workgroup
REVIEW	To coincide with each post ordinary council election review of the Council's adopted Code of Conduct or on the request of the Council.

1. Definitions

“Code of Conduct” means the Clarence City Council Code of Conduct as adopted by the Council from time to time.

“gifts and benefits” has the same meaning as that provided for in the Clarence City Council Code of Conduct.

“Gifts Register” is the Register maintained by the General Manager for the purpose of recording the receipt of Gifts and Benefits as declared by an alderman.

2. Policy Statement

The purpose of Clarence City Council Gifts & Benefits – Policy, Guidelines and Procedures is to define the Council's policy and guidelines for Aldermen regarding the receipt of Gifts and Benefits.

3. Policy Objective

The policy and guidelines are intended to be read in addition and complimentary to the Council's adopted Code of conduct.

The objectives of the policy are to:-

- Establish clear articulation on what is regarded as “token” Gifts and Benefits and what may be regarded as “non-token”;
- Establishes the basis for the continuation of Council's use of a Gifts and Benefits Register and related protocols;
- Provide guidance to the Council and Aldermen on how to consider gestures of Gifts and Benefits based on the common scenarios that may arise;
- in how to respond Guide the conduct of the Council meetings;
- Give clarity to the protocols and requirements for conducting specific formal proceedings;
- Provide the public with an outline of how the Council and its aldermen intend to respond to and have regard for Gift and Benefit gestures presented through public and civic engagement.

4. Policy Guidelines

4.1. General Principles to be Applied in the Acceptance of Gifts and Benefits

Aldermen must avoid the receipt of gifts and benefits that would compromise their impartiality in the performance of their role.

Council recognises that the Aldermen hold a position of trust in the community. Aldermen in the conduct of their role should not misuse or derive undue benefit from their position.

The Act prohibits an Alderman making a demand or request for any gift, or benefit for themselves or anyone else, in connection with Aldermen's functions.

The code provides the following guidelines on the acceptance of gifts and benefits.

An Alderman is to take great care when considering the acceptance of offers of gifts or benefits and consider the following:

- that they never accept a gift, benefit or money, whatever the value, if the apparent purpose is to influence the way in which he or she performs their Aldermanic functions;
- that although it is generally accepted that Aldermen are often extended hospitality in their civic capacity, such benefits are to be considered in the context of this policy;

- Any invitation, hospitality or gift is not able to be perceived to be for the purpose of influencing the decision making functions of the Council;
- the public perception that may be drawn or generated from the receiving of any gift even of nominal value;
- that they not seek (directly or indirectly) from any person or body, any immediate or future gift, reward or benefit for themselves or for any other person or body; and
- that they not receive or seek (directly or indirectly) from any person or body, any immediate or future gift, reward or benefit for immediate family members.

4.2. **Courtesy and Public Interest Considerations**

An Alderman may accept a gift on behalf of the Council in the following circumstances

- Where the value of the gift is greater than \$300; and
- Where refusal of a gift could cause embarrassment or offence.

In such circumstances Aldermen are required to give explanation to the provider of the gift why the gift is unable to be accepted personally and further explain that the gift will become the property of the Council.

The gift and background details are to be communicated to the General Manager whenever this occurs and will be recorded in the Gifts and Benefits Register.

4.3. **Category/Nature of Gift**

The following provides clear definition of the circumstances and nature of gifts which are declarable and non-declarable under Council's Code.

Gifts can only be accepted under Categories A and B provided that the gift was not intended as a bribe or expressly sought by the Alderman from the provider. Aldermen should take care in considering the underlying motive of multiple gifts from a single source.

- **Category A**

Non-declarable gifts of nominal value and moderate acts of hospitality include:-

- gifts of a nominal value (less than \$50) that are infrequently offered;
- free meals of a modest nature provided when formally representing/attending Council at work related event such as training workshops or seminars;

- refreshments of a modest nature provided by a constituent (eg cup of tea);
- free or subsidised meal of a modest nature generally seen as one course (no alcohol) provided infrequently that has been arranged primarily for or in connection with discussion of official business; and
- marketing or corporate memento of limited value.

- **Category B**

Declarable gifts or benefits of value which include:-

- invitations to a corporate box at a sporting event or other entertainment;
- free or discounted tickets to major sporting events, corporate hospitality at a corporate facility at a major sporting event, frequent use of facilities, travel or vehicles; and
- gifts of value \$50 - \$300.

Note: Gifts received under this category must be declared in the gift register within 10 days of receipt by communication to the General Manager

- **Category C**

The following gifts are prohibited and must never be accepted:

- money;
- free or subsidised meals provided by a potential supplier; contractor or developer;
- gift vouchers;
- monetary discounts;
- cumulative value of gifts received from the same party in excess of \$300 in any 6 month period;
- preferential treatment including that which would result in a pecuniary benefit; and
- disposition of property or bequest.

4.4. Civic and Public Role

In recognition of an Alderman's civic and public role and the gestures of hospitality inherent in the performance of their role the following specific provisions and definitions are to be applied in respect to such hospitality:-

- Hospitality is not regarded as a gift:-
 - provided it is to attend a function in an official capacity and is not excessive;
 - if involving invitation to an event in official capacity as Mayor or Councillor (eg, dignitary or on behalf of Council);
 - if it is refreshments provided whilst being a guest speaker at a conference seminar or meeting;

- if it is refreshments or a modest meal offered during a meeting attendance/working group i.e a simple courtesy in recognition of time provided; and
 - it is an invitation to attend local cultural and sporting events (local football game, regatta, carnival) –i.e. regarded as token gift not requiring declaration.
- Hospitality is regarded as a declarable gift:-
 - where attendance at an event or function is from free tickets received where there are no official duties; or free membership; and
 - where the hospitality is generous and of declarable value.
 - Gifts offered as acknowledgement for giving a presentation provided whilst being a guest speaker at a conference seminar or meeting must be considered in the context of value thresholds for non-declarable and declarable gifts.

4.5. Political Donations

Council recognises that from time to time an Alderman may receive donations or support towards the conduct of their election campaigns. Further, the monitoring and regulation of the appropriate conduct of candidates at council elections is administered by the Tasmanian Electoral Commissioner.

It is appropriate that the Council and its adopted practices and policies remain neutral and independent of any involvement or overview of any person (whether they are an incumbent alderman on the Clarence City Council or an independent party) who may be involved in the contesting of a Council election. Accordingly, the Code does not recognise political and election campaign donations as falling within the grants and benefits requirements of the Code.

4.6. Gift Register

All notifications required by this code of gifts and benefits received by an Aldermen must be communicated to the General Manager within 10 days of the receipt of the gift by that Alderman.

The General Manager will maintain a register of declarations received to be known as the “Gifts and Benefits Register”. Access to the details held in the Register are to be administered in the same manner as the requirements associated with the declaration of pecuniary interests under the Local Government Act 1993, or, in accordance with the requirements and obligations of any other relevant legislation.

ATTACHMENT 2



Clarence City Council

38 Bligh Street Rosny Park
Tasmania Australia
P O Box 96 Rosny Park 7018

TITLE	CLARENCE CITY COUNCIL MEETING PROCEDURES POLICY
APPROVAL DATE	Council Meeting TBC
REVISION DATES	2006; Oct 2009; and Feb 2016
ASSOCIATED LEGISLATION	<i>Local Government Act 1993</i> <i>Local Government (Meeting Procedures) Regulations 2015</i> <i>Local Government (Model Code of Conduct) Order 2016</i> <i>Right to Information Act 2012</i> <i>Personal Information Protection Act 2004</i> <i>Archives Act 1983</i>
ASSOCIATED POLICIES	Policy and Operational Framework for the Clarence City Council (Planning Authority) Meetings Privacy Policy Freedom Of Information Policy Council Information and Records Operational Policy Audio Visual Recording Of Council Meetings Policy
POLICY RESPONSIBILITY	Corporate Support Workgroup
REVIEW	On the request of the Council or on an as needs basis.

1. Definitions

None specified.

2. Policy Statement

The purpose of Clarence City Council Meeting Procedures Policy is to provide an outline for the conduct of the Council and Council Committee meetings, the conduct of Council business and the proceedings and related decision making processes of the elected Council.

3. Policy Objective

The policy guidelines are in addition and complimentary to the Local Government (Meeting Proceedings) Regulations 2015.

The objectives of the policy are to:-

- Guide the conduct of the Council meetings;
- Give clarity to the protocols and requirements for conducting specific formal proceedings;
- Provide the public with an outline of how Council's meetings function and outline the means by which public engagement is facilitated.

4. Policy Guidelines

4.1. Council Meeting Agenda and Report Formats

4.1.1. Agenda Format

The following format outlines the standing items and business order for Council Meetings:-

1. Attendance and Apologies
2. Confirmation of Minutes
3. Mayor's Communication
4. Council Workshops
5. Declarations of Pecuniary Interests of Aldermen or Close Associate
6. Tabling of Petitions
7. Public Question Time
 - 7.1 Public Questions on Notice
 - 7.2 Answers to Questions on Notice
 - 7.3 Answers to Previous Questions Taken on Notice
 - 7.4 Questions without Notice
8. Deputations by Members of the Public
9. Motions on Notice
10. Reports from Outside Bodies
 - 10.1 Reports from Single and Joint Authorities
 - 10.2 Reports from Council and Special Committees and other Representative Bodies
11. Reports from Officers
 - 11.1 Weekly Briefing Reports
 - 11.2 Determination on Petitions Tabled at Previous Council Meetings
 - 11.3 Planning Authority Items
 - 11.4 Customer Service Items
 - 11.5 Asset Management Items
 - 11.6 Financial Management Items
 - 11.7 Governance Items
12. Aldermen's Question Time
13. Closed Meeting
 - 13.1 Applications for Leave of Absence

4.1.2. Report Format

The following format outlines the content details for agenda items and associated reports listed on Council Meeting Agendas:-

Title

Executive Summary

- Purpose
- Relation to Existing Policy/Plans
- Legislative Requirements
- Consultation
- Financial Implications

Recommendation

Associated Report

1. Background
2. Report in Detail
3. Consultation
4. Strategic Plan/Policy Implications
5. External Impacts
6. Risk and Legal Implications
7. Financial Implications
8. Any other Unique Issues
9. Conclusion

4.2. Confirmation of Minutes

The Council or Council committee is to ensure that the minutes of any previous ordinary or special meeting not then confirmed are to be submitted for confirmation.

Council may resolve to amend the minutes of a meeting prior to confirmation.

In accordance with Regulation 36 of the Local Government (Meeting Procedures) Regulations 2015, debate of any matter referred to in minutes submitted for confirmation is not permissible except to question the accuracy of the minutes as a record of the meeting to which they relate.

4.3. Mayor's Communication

Immediately after confirmation of the minutes at a Council Meeting, the Mayor or Chairperson may make any communication to the Council which the Mayor or Chairperson considers necessary.

4.4. Public Question Time

In accordance with the Local Government (Meeting Procedures) Regulations 2015, a period of fifteen minutes for “public question time” will be set aside at ordinary Council Meetings for members of the community to ask questions relating to Council activities.

Public question time provides an opportunity for people to ask questions about Council’s activities, not make statements. Anyone wishing to address Council and make a statement may do so under the Deputation section of the Council Meeting Agenda.

The procedures for the conduct of public question time at meetings of the Clarence City Council are set out below.

4.4.1. Asking a Question

Anyone may ask a question. A person may ask a maximum of three questions per meeting. Questions may be submitted in two ways:

- a. Two questions can be submitted in writing and be “put on notice” before the Council Meeting.
- b. One question may be raised from the public gallery “without notice” during public question time.

4.4.2. Putting a Question on Notice

1. Members of the public are encouraged to submit a question in writing and be put on notice to address the Council in the public question time. Council recommends this option, as it will enable Council to provide a more “well-researched” and complete response.
2. A maximum of two questions may be submitted in writing before the meeting.
3. To submit a question in writing, members of the public will need to fill out a question registration form. These are available at Council offices and on the Council website.
4. Forms will need to be lodged at the Council Offices no later than 5 p.m. on the Friday 10 days before the scheduled meeting.
5. Question registration forms can be lodged by:
Mail: PO Box 96, Rosny Park 7018
In person: 38 Bligh Street, Rosny Park
Fax: (03) 6245 8700
6. The registered questions to be answered at the Council Meeting will be listed on the agenda for the scheduled meeting.

7. Each person whose registration form has been accepted or declined will be advised by no later than the Friday of the week before the scheduled meeting.
8. When contacted, a person who has submitted a question registration form will need to confirm their presence at the meeting for their question to be read.
9. The name of the person asking a question on notice and the question together with the answer will be included in the meeting agenda and minutes.

4.4.3. Questions Without Notice

1. Priority will be given to questions on notice over questions without notice asked from the public gallery.
2. Questions without notice will be dependent on available time at the meeting (maximum 15 minutes).
3. Questions without notice are permitted at the discretion of the Chairperson.
4. Provided time is available, each person in the public gallery will be given an opportunity to ask one question without notice.
5. Subject to available time and in the event that no other persons seek to ask questions without notice at the meeting the Chairperson may allow further questions from persons in the public gallery. (Note: this is in recognition of the discretion of the Chairperson provided for under Regulation 31 (2) (b) in respect to questions without notice.)

4.4.4. Questions May be Refused in Certain Circumstances

The Chairperson may refuse to allow a question on notice to be listed or refuse to respond to a question put at a meeting without notice that:

- relates to any item listed on the agenda for the Council meeting (note: this ground for refusal is in order to avoid any procedural fairness concerns arising in respect to any matter to be determined on the Council Meeting Agenda);
- is unlawful in any way;
- contains defamatory remarks, offensive or improper language;
- questions the competency of Council staff or Aldermen;
- relates to the personal affairs or actions of Council staff or Aldermen;
- relates to confidential matters, legal advice or actual or possible legal proceedings;

- relates to any matter which would normally be discussed in the closed section of the Council Meeting pursuant to Regulation 15 of the Local Government (Meeting Procedures) Regulations 2015;
- is, in the reasonable opinion of the Chairperson, proffered to advance a particular point of view rather than to make a genuine enquiry;
- is vague in nature or irrelevant to Council;
- is not related to Council activities; or
- is a question that has been substantively asked at the previous Council Meeting.

4.4.5. At the Meeting

- 1 Public question time will continue for no more than fifteen minutes.
- 2 At the Council Meeting, public question time will be held early on the Council Meeting Agenda. This is usually shortly after the meeting commences at 7.30pm.
- 3 At the beginning of public question time, the Chairperson (usually the Mayor) will firstly refer to questions on notice. The Chairperson will ask each person who has a question on notice to come forward to the microphone and state their name and where they are from (suburb or town) before asking their question(s).
- 4 The Chairperson will then ask anyone else with a question without notice to come forward to the microphone and give their name and where they are from (suburb or town) before asking their question.
- 5 If called upon by the Chairperson, a person asking a question without notice may need to submit a written copy of their question to the Chairperson in order to clarify the content of the question.
- 6 A member of the public may ask a Council officer to read their question for them.
- 7 If accepted by the Chairperson, the question will be responded to, or, it may be taken on notice as a question on notice for the next Council meeting. Questions will usually be taken on notice in cases where the questions raised at the meeting require further research or clarification.
8. The Chairperson may direct an Alderman or Council officer to provide a response.
9. All questions and answers must be kept as brief as possible.
10. There will be no debate on any questions or answers.
11. In the event that the same or similar question is raised by more than one person, an answer may be given as a combined response.

12. Questions on notice and questions without notice raised during public question time and their responses will be minuted.
13. Once the allocated time period of fifteen minutes has ended, the Chairperson will declare public question time ended. At this time, any person who has not had the opportunity to put forward a question will be invited to submit their question in writing for the next meeting.

Protocol Notes

- Council officers may be called upon to provide assistance to those wishing to register a question, particularly those with a disability or from non-English speaking cultures, by typing their questions.
- The Chairperson may allocate a maximum time for each question, depending on the complexity of the issue, and on how many questions are asked at the meeting. The Chairperson may also indicate when sufficient response to a question has been provided.
- Limited Privilege: Members of the public should be reminded that the protection of parliamentary privilege does not apply to local government, and any statements or discussion in the Council Chamber or any document produced are subject to the laws of defamation.

4.5. Deputations

In accordance with the provisions of Regulation 38 of the Local Government (Meeting Procedures) Regulations 2015, the following policy, guidelines and conditions apply for the attendance of deputations at Council Meetings.

4.5.1. Public Participation segment of Council Meeting

As a standing practice the Council provides an opportunity for members of the public to request the opportunity to make a statement at Council meetings.

1. Members of the public are, at the invitation of the Chairperson of the meeting, permitted to make a statement at any ordinary meeting of Council provided the statement does not relate to a topic which is the subject of a motion of revocation which is to be discussed at the meeting which they address.
2. A maximum of fifteen minutes is to be set aside for public participation at ordinary Council Meetings.
3. Not more than five members of the public are to be permitted to address the Council at any one meeting.

4. The duration of any statement is not to exceed three minutes.
5. Any member of the public wishing to make a statement shall indicate his/her desire and subject matter, in writing, to the General Manager by lunch-time (12 noon) on the Friday preceding the meeting.
6. The subject of any statement can relate to a matter currently before, or at some future stage to come before the Council, or any other matter of general relevance to the interests of the City.

Protocol Notes

- The speaker is required to follow the direction of the Chairperson in relation to how and when they may make the statement.
- When the speaker has been invited forward by the Chairperson they are to introduce themselves to the meeting, stating where they are from (town or suburb) before commencing their statement.
- The speaker is reminded that Council Meetings are open forums and unlike State and Commonwealth parliaments these meetings do not have protection from parliamentary privilege. This means any statement made will need to take into account the rights of other persons.
- At the meeting the speaker is fully responsible to ensure that the statement is accurate and that the statement is not defamatory, does not disclose any confidential information or personal information and does not disclose any commercial-in-confidence information.
- Should the statement be defamatory or disclose confidential information or personal information, or disclose commercial-in-confidence information then the speaker agrees that they will be fully responsible for any issues which follow from the statement.

4.5.2. Other Deputations

A formal deputation may be received by Council or any committee of the Council upon invitation of the Chairperson. The procedures and conditions in relation to formal deputation requests are as follows:

1. A written request may be submitted to the Chairperson:
 - from the persons who intend to comprise the deputation; and
 - setting out the recommendation, request, or other matter which, it seeks to be placed before the Council or committee.
2. The Chairperson is to decide whether or not the deputation requested will be invited.
3. If the Chairperson decides that a deputation will be invited, the Chairperson is to indicate to the General Manager the meeting at which the deputation will be received.
4. The General Manager, upon being informed of the matters referred to above is to:
 - include in the notice of meeting advice of the proposed deputation and its purpose; and
 - notify the persons that the request has been granted, and the meeting at which the deputation will be received.
5. A recommendation, request or other matter placed before a Closed Meeting of the Council or committee, is not to be considered until the deputation has withdrawn from the meeting unless the Chairperson has invited them to remain in the meeting room.
6. A deputation is:
 - not to exceed three persons; and
 - not to address the meeting for a period longer than fifteen minutes.

4.6. Motions on Notice

In accordance with Regulation 16(5) of the Local Government (Meeting Procedures) Regulations 2015, an Alderman may give notice of a motion which that Alderman intends to move at a meeting.

When an Alderman intends to give notice of a motion, that Alderman is to submit to the General Manager on the Friday ten days before the meeting at which it is to be listed, a signed copy of the motion, together with supporting information and reasons prepared by that Alderman explaining the motion and its effect on previous decisions or policies of the Council.

The General Manager is to notify the substance of the motion in the notice of the next meeting and is to incorporate the Alderman's motion and supporting information and reasons in the agenda of that meeting. In the case of motions on notice to overturn previous resolutions of Council, the General Manager is to include advice as to whether or not:

- a. the original motion directed that certain actions be taken; and
- b. that action has been wholly or substantially carried out.

A maximum of two notices of motion may be submitted by an Alderman for any one meeting of the Council.

In considering a notice of motion the Council is to have regard to the advice provided by the General Manager in respect of the motion.

4.7. Briefing Report Items

Only reports which are of an informative nature and which do not require formal consideration by the Council, be included in the Weekly Briefing Report; and that an item for noting regarding the Weekly Briefing Report be included in the Agenda for the Council Meeting.

4.8. Aldermen's Question Time

In recognition of the provisions of Regulation 29 of the Local Government (Meeting Procedures) Regulations 2015, Aldermen are permitted to submit a maximum of two questions without notice at a Council Meeting. Council places no limitation on the number of questions that Aldermen may put on notice to be listed for answer at a forthcoming Council Meeting.

The Chairperson or Alderman asked a question on notice is not to answer it unless the Alderman giving notice, or an Alderman at the request and on behalf of that Alderman, is present at the meeting to ask the question formally.

A question on notice that has been answered, together with the answer, is to be recorded in the minutes of the meeting at which the answer was given.

In accordance with Regulation 30 of the Local Government (Meeting Procedures) Regulations 2015 a Question on Notice is to be submitted in writing seven days before the Meeting.

4.9. Closed Meetings

Council, in accordance with the procedures and intentions of the Local Government (Meeting Procedures) Regulations 2015, will deal with the following matters in Closed Meeting:

- a. personnel matters including complaints against an employee of the Council;
- b. industrial matters relating to a person;
- c. contracts for the supply and purchase of goods and services;
- d. the security of property of the Council;
- e. proposals for the acquisition of land or an interest in the land or for the disposal of land;
- f. information provided to the Council on the condition it is kept confidential;
- g. trade secrets of private bodies;
- h. matters relating to actual or possible litigation taken by or involving the Council or an employee of the Council;
- i. applications by Aldermen for Leave of Absence;
- j. the personal affairs of any person.

Council will publish certain Closed Meeting decisions in the public Minutes without disclosure of Motion details and how votes were cast. (Note: publication based on express authorisation in the Closed Meeting decision) (**Inserted:** Council decision 22/02/16)

4.10. Recording of Proceedings

The following record of proceedings will apply to Council meetings in addition to the procedures outlined in the Local Government (Meeting Procedures) Regulations 2015.

4.10.1. Lapse of Motion

A motion lapses if it is not seconded and is not to be recorded in the minutes of the meeting.

4.10.2. Words may be Taken Down

An Alderman may request the General Manager to record in the minutes of the meeting any words spoken by another Alderman when addressing the Chairperson, unless, in the opinion of the Chairperson, the request is made vexatiously or with the sole intention of hindering the meeting.

4.10.3. Abstaining from Vote

An Alderman who fails to vote in the manner applicable in the circumstances is taken to have abstained from the vote.

An Alderman not in his or her seat or at the meeting table when a motion is put, is taken to have abstained from the vote.

Immediately after a motion has been put and before the meeting has proceeded to the next item of business, an Alderman may request that his or her abstaining vote be recorded, and upon such a request the General Manager is to record the name and details of his or her abstaining vote in the minutes of the meeting.

4.10.4. Reasons for Decisions

The Council's decision making role and related processes are subject to the provisions of the *Judicial Review Act 2000*. Any determining decisions made by the Council, particularly those making determinations based on formal statutory approval processes, will require a full statement of reasons in order to maintain the integrity of those processes.

Where appropriate, Aldermen are to provide reasons to support motions being decided upon by the Council in order to comply with the requirements of the *Judicial Review Act 2000*.

4.11. Meeting Conduct

The Mayor and Aldermen are responsible to ensure that Council and Committee meetings are conducted in a manner which promotes a positive image of the Council.

Council and Committee Meetings are the principal means by which Aldermen represent the community. Meetings must focus on the business of Council and provide an environment for transparent and healthy debate on matters requiring decision making.

4.11.1. General Meetings Conduct

The following are key elements in the conduct of meetings:

- the Mayor or appointed Chairperson chairs meetings of the Council or Council Committee at which he or she presides and in doing so will act to:
 - retain control at all times;
 - be consistent and facilitate impartial debate; and
 - ensure that the business is conducted in a proper manner.
- Aldermen should be committed to paying respect to the Chair at meetings and follow the directions and rulings made by the Chair;
- the Chair allows fair debate and participation by all Aldermen;
- the Mayor and Aldermen are to be addressed by their respective titles;
- each Alderman's views should be considered on merit;

- each Alderman should respect the rights of other Aldermen and officers to have a fair opportunity to speak without interruption whilst holding the floor; and
- Aldermen are to act in a manner that does not interrupt the proceedings of a meeting.

4.11.2. Conduct of Meetings in Relation to Chairperson

1. The Chairperson need not stand when addressing the Council.
2. The Chairperson is to call on items listed on the formal agenda for consideration and until called on, no discussion or debate on motions is to ensue.
3. Before an item is discussed or debated there is to be a motion moved, seconded and accepted by the Chairperson.
3. In accordance with Regulation 10 of the Local Government (Meeting Procedures) Regulations 2015, if the Chairperson has moved or seconded a motion before the Meeting, the Chairperson is to vacate the Chair until the motion has been dealt with.
5. The Chairperson may remain in the Chair to address the meeting on any motion before the Chair which has not been moved or seconded by the Chairperson.
6. An Alderman proposing or speaking to a motion or discussing any matter under consideration is to stand and address the Chairperson.
7. If two or more Aldermen rise simultaneously to address the Chairperson, the Chairperson is to decide the order in which they are to address the meeting.
8. An Alderman, when addressing the Chairperson, is to refer to the Mayor, Deputy Mayor and Aldermen by their respective titles.
9. Aldermen should not repeatedly disregard the directions and rulings of the Chairperson.

4.11.3. Digression, Personal Comments, or Improper Imputations

When addressing the Chairperson, a member is not to:

- digress from the subject under discussion; or
- make any personal comments regarding any other Alderman; or
- impute an improper motive to any other Alderman; or
- repeatedly annoy another Alderman; or

- use an expression which, in the opinion of the Chairperson, is capable of being applied to another Alderman so as to cause offence to that other Alderman.

4.11.4. Interruption of Speaker by Alderman

When an Alderman is addressing the Chairperson, no other Alderman is to:

- converse aloud; or
- create any disturbance; or
- interrupt the speaker or interject except:
 - to request that any words spoken be noted; or
 - to call attention to a point of order; or
 - to call attention to the want of a quorum.

4.12. Representatives of the Council

1. The Mayor is to be the Council's representative on the Local Government Association of Tasmania, Australian Mayoral Aviation Council, Counter Disaster Committee, Southern Tasmanian Councils Board (Authority to be formalised), Southern Water (Council's Proxy Appointee); unless the Mayor declines that appointment, in which case, he or she may appoint another member to be the Council's representative.
2. With the exception of appointments made by the Council under any other Act, all representative appointments of the Council on boards, authorities, special committees, community committees and outside bodies expire at the first Council Meeting following every ordinary Council election.
3. At the first Council Meeting following every ordinary Council election the Council is to elect its representatives, to fill the expired terms referred to in "2" above.

Where there are two or more positions to filled to represent Council on a particular body, then each position is to be dealt with as a separate election in accordance with the following election process.

The election process for filling of the expired terms is to be in accordance with the following procedures:

- a. nominations put before the meeting do not require a seconder, however, the nomination must be accepted by the nominee;
- b. in the event that there are two or more nominations received, the nominee members must leave the meeting room whilst the election takes place;
- c. if there are more than two candidates for an appointment then the election is to be conducted in the following manner:
 - the vote is to be taken in stages;
 - the candidate having the least number of votes is to be eliminated from the ballot and excluded from the next stage of the ballot;
 - the candidate member who has been excluded from the ballot is entitled to return to the meeting room and thereafter is entitled to take part in the voting for the remaining candidates;
 - this procedure is to be followed until the number of candidates has been reduced to two;
- d. if there is a tie in the number of votes cast for two or more nominee members, the nominee eliminated or the successful nominee, whichever the case may require, is to be determined by lot.

4. In the event that there is a casual vacancy for a representative appointment made by Council then the Council is to elect a replacement appointee to fill the vacancy at the earliest available meeting of the Council in accordance with the above election process.

12. ALDERMEN'S QUESTION TIME

An Alderman may ask a question with or without notice at Council Meetings. No debate is permitted on any questions or answers.

12.1 QUESTIONS ON NOTICE

(Seven days before an ordinary Meeting, an Alderman may give written notice to the General Manager of a question in respect of which the Alderman seeks an answer at the meeting).

Nil.

12.2 ANSWERS TO QUESTIONS ON NOTICE

Nil.

12.3 ANSWERS TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil.

12.4 QUESTIONS WITHOUT NOTICE

An Alderman may ask a Question without Notice of the Chairman or another Alderman or the General Manager. Note: the Chairman may refuse to accept a Question without Notice if it does not relate to the activities of the Council. A person who is asked a Question without Notice may decline to answer the question.

Questions without notice and their answers will not be recorded in the minutes.

The Chairman may refuse to accept a question if it does not relate to Council's activities.

The Chairman may require a question without notice to be put in writing. The Chairman, an Alderman or the General Manager may decline to answer a question without notice.

13. CLOSED MEETING

Regulation 15 of the Local Government (Meetings Procedures) Regulations 2015 provides that Council may consider certain sensitive matters in Closed Meeting.

The following matters have been listed in the Closed Meeting section of the Council Agenda in accordance with Regulation 15 of the Local Government (Meeting Procedures) Regulations 2015.

13.1 APPLICATIONS FOR LEAVE OF ABSENCE

13.2 AUDIT PANEL

13.3 TENDER – ICT CORE BUSINESS SYSTEMS

13.4 JOINT AUTHORITY MATTER

These reports have been listed in the Closed Meeting section of the Council agenda in accordance with Regulation 15 of the Local Government (Meeting Procedures) Regulation 2015 as the detail covered in the report relates to:

- information that, if disclosed, is likely to give a commercial advantage or disadvantage to a person with whom council is conducting or proposes to conduct, business;
- commercial information of a confidential nature that, if disclosed, is likely to prejudice the commercial position of the person who supplied it, or confer a commercial advantage on a competitor of the council; or reveal a trade secret;
- contracts and tenders for the supply of goods and services;
- applications by Aldermen for a Leave of Absence.

Note: The decision to move into Closed Meeting requires an absolute majority of Council.

The content of reports and details of the Council decisions in respect to items listed in “Closed Meeting” are to be kept “confidential” and are not to be communicated, reproduced or published unless authorised by the Council.

PROCEDURAL MOTION

“That the Meeting be closed to the public to consider Regulation 15 matters, and that members of the public be required to leave the meeting room”.