

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.

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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**

Ald Hulme

**2. CONFIRMATION OF MINUTES**

(File No. 10/03/01)

**RECOMMENDATION:**

That the Minutes of the Council Meeting held on 27 February 2017, 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**

Presentation regarding Open Space Strategy  
SGS Economics Briefing on Final Report; and  
Binzhou Delegation

**DATE**

6 March

Clarence Senior Citizens Update on Strategic Plan for their  
Facility in Alma Street, Bellerive  
Consultant Presentation regarding Community Facility  
In Risdon Vale Precinct  
SGS Report for Greater Metropolitan Hobart Council  
Binzhou Travel Arrangements

14 March

**RECOMMENDATION:**

That Council notes the workshops conducted.

<b>5. DECLARATIONS OF INTERESTS OF ALDERMAN OR CLOSE ASSOCIATE</b> (File No)
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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****9.1 NOTICE OF MOTION- ALD CUSICK  
VOLUNTARY MERGERS**

(File Nos 10-03-05; 10-13-01)

In accordance with Notice given Ald Cusick intends to move the following Motion:

1. That Council resolves that Clarence City Council does not wish to participate in any of the voluntary merger options identified in the SGS report into Local Government Reform in Greater Hobart; and advise the Minister for Local Government and Hobart, Kingborough and Glenorchy Councils accordingly.
2. That Council pursue Option 3 as identified in the SGS report, that being a Strategic alliance of the 4 Councils; and advise the Minister for Local Government and Hobart, Kingborough and Glenorchy Councils accordingly.
3. That the General Manager be requested to report back to Council at their next Ordinary Meeting on options to best achieve a strategic alliance between the 4 Councils to provide for a stronger and more cohesive Greater Hobart.

**EXPLANATORY NOTES**

The SGS report entitles “Greater Hobart; Local Government Reform”, being:

- Option 1 - Business as Usual;
- Option 2 - Merger of all 4 Councils (Kingborough, Hobart Glenorchy and Clarence);
- Option 3 - Strategic alliance between all 4 Councils;
- Option 4 - Merger of 3 Councils (Clarence, Glenorchy and Hobart);
- Option 5 - Merge of 2 Councils (Hobart and Glenorchy).

The report finds that none of the merger options (Options 2, 4 and 5) provide any direct financial benefits to Council or the Clarence community.

Whilst the report finds that there are significant “wider community benefits”, these are intangible benefits that provide no direct financial gain,

Such wider community benefits could likely be reasonably achieved through a “strategic alliance” as identified in Option 3 of the report.

**NOTICE OF MOTION- ALD CUSICK  
VOLUNTARY MERGERS /contd...**

It is likely that the best option for Clarence City Council to pursue is Option 3 being a Strategic alliance.

Council could request the General Manager to report back to Council on options to pursue a strategic alliance.

P Cusick  
**ALDERMAN**

***GENERAL MANAGER'S COMMENTS***  
***A matter for Council***

**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**

September Quarterly Report pending.

**Representative Reporting**

- **COPPING REFUSE DISPOSAL SITE JOINT AUTHORITY**

Representatives: Ald Jock Campbell  
(Ald James Walker, Deputy Representative)

**Quarterly Reports**

The Copping Refuse Disposal Site Joint Authority has distributed the Quarterly Summary of its Meetings for the period ending 31 December 2016 (Attachment 1).

The Copping Refuse Disposal Site Joint Authority has also distributed its Quarterly Report for the period 1 October to 31 December 2016.

In accordance with Regulation 15 of the Local Government (Meeting Procedures) Regulations 2015 the Report will be tabled in Closed Meeting.

**Representative Reporting**

- **SOUTHERN WASTE STRATEGY AUTHORITY**

Representative: Ald Richard James  
(Ald Sharyn von Bertouch, Proxy)

**Quarterly Reports**

September Quarterly Report pending.

**Representative Reporting**

- **TASWATER CORPORATION**



## Copping Refuse Disposal Site Joint Authority

7 March 2017

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

Mr Robert Higgins  
General Manager  
Tasman and Sorell Councils  
PO 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 23 February 2017**

- The Minutes of the Authority's General Meeting held on 24 November 2016 were accepted.
- The Minutes of the Southern Waste Solutions Board for meetings held on 19 October 2016, 16 November 2016 and 15 December 2016 were noted.
- The December 2016 Quarterly Report was presented and accepted.
- The Authority approved the amended Authority Rules which commences the approval process under the *Local Government Act 1993* (Tas). The amended Rules will be subject to General Manager certification, legal review and approval by each Participating Council before final approval by the Authority.
- The SWS Board Chair provided an update on Board activities including the financial result for the end of the second quarter.
- The C Cell Pty Ltd Board Chair provided an update on Board activities including that construction of the C Cell is on schedule and that a Right to Information request remains unresolved.
- Three items were dealt with in 'Closed Meeting'.

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

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# 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 19 October 2016**

Matters dealt with:

- The Minutes of the Board meeting held 21 September 2016 were accepted.
- The Monthly Operational Overview and Financial Report for September 2016 was received and noted.
- The Authority Quarterly Report to September 2016 was provided and noted.
- The TasCorp Statement by Directors was approved for forwarding to TasCorp.
- The Tasmanian Audit Office audit report for the 2015/16 financial year for Southern Waste Solutions was received and noted. The report was unqualified.
- The Strategic Plan 2016/17 – 2020/21 and Business Plan 2016 – 2017 were noted for formal adoption by the Authority at its Annual General Meeting.
- An Acting CEO was appointed for the period of the CEO's annual leave.
- Authorised media contacts were agreed for the period of the CEO's annual leave.
- The Board requested that the CEO develop a plan to generate C Cell customers.

## **Board Meeting held on 16 November 2016**

Matters dealt with:

- The Minutes of the Board meeting held 19 October 2016 were accepted.
- The Monthly Operational Overview and Financial Report for October 2016 was received and noted.
- The process for approving the sub-lease of Lot 4 of the Copping Site was approved.
- A director's meeting with a company promoting pyrolysis recovery systems.
- An update on expected networking opportunities in respect to the C Cell project.

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## Copping Refuse Disposal Site Joint Authority

### Board Meeting held on 15 December 2016

Matters dealt with:

- The Minutes of the Board meeting held 16 November 2016 were accepted.
- The Monthly Operational Overview and Financial Report for November 2016 was received and noted.
- Augmentation of the lower concrete slab at the Lutana site was approved.
- The resignation of the Business Manager was noted.
- The Board requested that the CEO organise Board site visits to the Copping and Lutana sites.
- The Board sought an update from the CEO on arrangements between Glenorchy City Council and SWS in respect to the Lutana 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

.....  
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<b>10.2 REPORTS FROM COUNCIL AND SPECIAL COMMITTEES AND OTHER REPRESENTATIVE BODIES</b>
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## **11. REPORTS OF OFFICERS**

### **11.1 WEEKLY BRIEFING REPORTS**

(File No 10/02/02)

The Weekly Briefing Reports of 27 February and 6 and 13 March 2017 have been circulated to Aldermen.

#### **RECOMMENDATION:**

That the information contained in the Weekly Briefing Reports of 27 February and 6 and 13 March 2017 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-2017/36 - LOT 3, 9 TALUNE STREET, LINDISFARNE (CT172809/3) - DWELLING**  
(File No D-2017/36)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for a dwelling at Lot 3, 9 Talune Street, Lindisfarne (CT172809/3).

**RELATION TO PLANNING PROVISIONS**

The land is zoned General Residential and is subject to the Parking and Access Code and Stormwater Management Code 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 22 March 2017 as agreed with the applicant.

**CONSULTATION**

The proposal was advertised in accordance with statutory requirements and 3 representations were received raising the following issues:

- overshadowing;
- loss of privacy; and
- location of wood heater flue.

**RECOMMENDATION:**

A. That the Development Application for a Dwelling at Lot 3, 9 Talune Street, Lindisfarne (CT172809/3) (CI Ref D-2017/36) be approved subject to the following conditions and advice:

1. GEN AP1 – ENDORSED PLANS.

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-2017/36 - LOT 3, 9 TALUNE STREET, LINDISFARNE (CT172809/3) – DWELLING /contd...**

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**ASSOCIATED REPORT****1. BACKGROUND**

The lot was created in January 2017 by way of subdivision approval SD-2015/53 resulting in the creation of 4 lots. The lots associated with this subdivision are arranged in a linear arrangement extending from Talune Street to the high water mark of the Derwent River.

The title for the property was only recently issued and subsequently the property was re-numbered from 9 Talune Street to 9b Talune Street. The re-numbering occurred subsequent to publicly exhibiting the proposal hence the property has been referred to as Lot 3, 9 Talune Street.

**2. STATUTORY IMPLICATIONS**

**2.1.** The land is zoned General Residential 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;
- Section 10.4 – General Residential Zone;
- Section E6.0 – Parking and Access Code; and
- Section E7.0 – Stormwater 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 subject site has a land area of 550m<sup>2</sup> and forms an internal lot provided with a Right-of-Way to Talune Street via Lot 2 (to the north). The western portion of the site is also burdened with a Right-of-Way benefiting the 2 lots to the south. The site has an irregular configuration, with a significant proportion of the site burdened by a Right-of-Way and service easement. The site is level and a single storey dwelling is presently under construction on the nearby Lot 1, 9 Talune Street. The site adjoins a longstanding Multiple Dwelling development to the east and single storey detached dwellings on all remaining elevations.

#### **3.2. The Proposal**

The proposal is to construct a contemporary 2 storey dwelling with integrated garage. The dwelling would be positioned within the centre of the lot with the garage extending to the rear (southern) boundary. The lower level of the dwelling would have a gross floor area of 177m<sup>2</sup> with the upper level occupying a considerably lesser floor area of 37m<sup>2</sup>. The lower level would contain 2 bedrooms, laundry, open plan living space and a double garage with the upper level containing a master bedroom. The dwelling design would be highly articulated through the use of differing external cladding materials and articulated walls, however, the overall visual aesthetic of the dwelling offers simple, clean lines and a flat roof profile. The upper level occupies approximately 1/3 of the floor area of the ground floor and would reach a maximum height of 6.718m above natural ground level. A small deck would extend from the western elevation of the upper level.

The western elevation of the dwelling would be staggered to correspond with the curvature in the western boundary of the site which corresponds with the Right-of-Way servicing the site and 2 lots further to the south.

**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, Parking and Access Code and Stormwater Management Code with the exception of the following.

**General Residential Zone**

<b>Clause</b>	<b>Standard</b>	<b>Acceptable Solution (Extract)</b>	<b>Proposed</b>
10.4.2 A3	Setbacks 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>Non-compliance - The eastern elevation of the upper level stairwell (timber clad section) would protrude the building envelope established by Acceptable Solution A3 for a distance of 0.3m. The stairwell has an overall length of 3m with the remainder of the upper level setback further from the eastern side boundary.</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; and</p> <p>(b) only have a setback within 1.5m of a side boundary if the dwelling:</p> <p>(i) does not extend beyond an existing building built on or within 0.2m of the boundary of the adjoining lot; or</p> <p>(ii) does not exceed a total length of 9m or one-third the length of the side boundary (whichever is the lesser).</p>	<p>The proposed garage would also offer a nil setback from the rear (southern) property boundary.</p> <p>Complies</p>
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The proposed variation can be supported pursuant to the Performance Criteria (P3) of the Clause 10.4.2 for the following reasons.

<b>Performance Criteria</b>	<b>Comment</b>
<p><i>“P3 – The siting and scale of a dwelling must:</i></p> <p><i>(a) Not cause unreasonable loss of amenity by:</i></p>	Refer to below
<p><i>(i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining lot;</i></p>	<p>The minor encroachment associated with the eastern elevation of the upper level relates to a 3m wide section of wall associated with the upper level stairwell. The degree of encroachment is shown on the elevation plans and is included in Attachment 2.</p> <p>Units 1/13 Talune Street and 4/11 Talune Street contain bedroom windows on the western elevation.</p>

	<p>Shadow diagrams have been submitted with the application demonstrating that the development would overshadow the western elevation of these units from 2.00pm onwards on 21 June.</p> <p>The very small protrusion beyond the permitted envelope is not likely to result in any unreasonable impact upon solar access to the habitable room windows associated with the units located immediately to the east at 4/11 Talune Street and 1/13 Talune Street than would exceed that caused by a dwelling complying with the permitted building envelope. It is considered that the shadowing effect would not be beyond that which would have been caused had the permitted building envelope been adhered to. The impacts from the proposed dwelling would in fact be considerably less than an upper level building design extending for a greater distance along the eastern elevation and complying with the building envelope. A comparison of a developments impacts against a permitted design is an acceptable planning practice as determined in <i>Rowell v Clarence City Council</i> [2012] TASRMPAT 94 (25 June 2012). This decision is relevant in this case, in that the degree of impact arising from a development is required to be considered against the permitted building envelope standard as opposed to the impact compared with a presently vacant site.</p>
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<p><i>(ii) overshadowing the private open space of a dwelling on an adjoining lot; or</i></p>	<p>As indicated above, it has been established that the proposed dwelling will impact on the units directly to the east through afternoon sunlight loss. The shadow diagrams demonstrate that no greater than 50% the private open space of Units 4/11 and 1/13 Talune Street would be shadowed by the proposed dwelling at 3.00pm on 21 June, meaning that the occupants will have access to sunlight at various locations within the private open space throughout the day.</p> <p>In addition, the existing vegetation along the western boundary of Unit 1/13 Talune Street will absorb some of this shadowing impact.</p>
<p><i>(iii) overshadowing of an adjoining vacant lot; or</i></p>	<p>The location of the proposed garage in relation to the rear boundary would not unreasonably overshadow the adjoining lot to the south, as the submitted shadow diagrams demonstrate that the shadowing impact would be confined to the northern ¼ of the lot and would shift from the north-western corner early in the morning to the north-eastern corner late in the afternoon on 21 June. The shadowing cast upon this lot would be sufficiently confined to the northern boundary that a future residence and private open space could be designed to avoid this area of land subject to overshadowing. It is also noted that the proposed garage would maintain a low height profile of 2.9m, which is not significantly higher than a 2.4m high detached outbuilding, which is exempt from the building envelope standard.</p>

<p><i>(iv) visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining lot; and</i></p>	<p>The lower level of the proposed dwelling would be sited 2.5m to 3.95m from the eastern side boundary and the eastern wall would be staggered. The eastern elevation of the upper level would be sited 2.7 – 3.5m from the eastern side boundary with the majority of this upper level being setback further than the lower level. It is possible for a far greater upper level wall length alongside the eastern side property boundary whilst still remaining in the permitted building envelope. The short dimension of the upper level, staggered setback from the eastern side boundary and use of various building materials acts to minimise visual bulk when viewed from the habitable room windows and private open space associated with the units to the east at 1/13 Talune Street and 4/11 Talune Street. The main living room windows for both of these units face east and north as opposed to west, meaning the dwelling would not feature within the outlook from the living space.</p> <p>The dwelling be visible from the private open space of each dwelling, however, given the small degree of building encroachment, the visual impact arising from the non-compliance is unlikely to be perceivable against a compliant building location. On this basis, no unreasonable visual impacts caused by the apparent scale, bulk or proportions of the dwelling are expected to arise.</p>
<p><i>(b) provide separation between dwellings on adjoining lots that is compatible with that prevailing in the surrounding area”.</i></p>	<p>The proposed dwelling setback from the eastern side boundary is greater than the dwelling separation offered by the linear row of units located directly to the east therefore the proposed horizontal separation would be consistent with that prevailing within the surrounding area.</p>

**General Residential Zone**

<b>Clause</b>	<b>Standard</b>	<b>Acceptable Solution (Extract)</b>	<b>Proposed</b>
10.4.6 A1	Privacy for all dwellings	<p>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:</p> <p>(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</p> <p>(b) rear boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of at least 4m from the rear boundary; and</p> <p>(c) dwelling on the same site, unless the balcony, deck, roof terrace, parking space, or carport is at least 6m:</p> <p>(i) from a window or glazed door, to a habitable room of the other dwelling on the same site; or</p> <p>(ii) from a balcony, deck, roof terrace or the private open space, of the other dwelling on the same site.</p>	<p>Non-compliance - The proposed upper level west facing deck would be sited 1.8m from the north-western side property boundary as opposed to the 3m setback required by the Acceptable Solution.</p> <p>Complies – not applicable.</p> <p>Complies – not applicable.</p>

The proposed variation can be supported pursuant to the Performance Criteria (P1) of the Clause 10.4.6 for the following reasons.

<b>Performance Criteria</b>	<b>Comment</b>
<i>“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 or:</i>	Refer to below
<i>(a) a dwelling on an adjoining lot or its private open space; or</i>	Not applicable
<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>	The adjoining lot to the west is presently vacant. Given the location of the shared access driveway hard against the boundary between the subject site and Lot 2, 9 Talune Street (9c Talune Street), the available separation from the deck to an area which could be utilised as private open space or developed with a dwelling would be 6m. The deck would face the shared road and given its meandering alignment, this results in an off-set alignment from the area of Lot 2, which can be developed. It is therefore considered that the deck has been designed and located to minimise direct overlooking of this adjoining vacant residential lot and no modifications to the deck design (including screening) are deemed necessary.

## **5. REPRESENTATION ISSUES**

The proposal was advertised in accordance with statutory requirements and 3 representations were received. The following issues were raised by the representors.

### **5.1. Overshadowing**

Concern has been raised that the proposed dwelling, including the proximity of the proposed garage to the rear boundary, will cause overshadowing of the units located at 4/11 and 1/13 Talune Street, particularly the private open space of these units which is used for vegetable growing and outdoor recreation.

- **Comment**

The overshadowing impacts arising from this development have been considered under Section 4.2 of this report and determined that no detrimental overshadowing impact upon the directly adjoining units to the east.

## **5.2. Loss of Privacy**

The representor has raised concern that the proposed upper level of the dwelling will contain windows on the eastern elevation which will overlook the units located at 4/11 and 1/13 Talune Street and that this will result in a loss of privacy.

- **Comment**

The eastern elevation upper level windows are not habitable rooms (ie they form a bathroom and stairwell windows). There is therefore no requirement for these windows to be treated in some form to prevent overlooking under Acceptable Solution 10.4.6 A2 of the General Residential Zone. It is, however, noted that the bathroom window would have a sill height of 1.7m above floor level meaning it would not be possible to view out of this window. The stairwell windows would also be used infrequently and would not be used for extended periods of time, meaning no overlooking would result from the use of the stairs. Compliance with Acceptable Solution 10.4.6 A2 of the Scheme precludes the ability to require modifications to the east facing windows design.

## **5.3. Location of Wood Heater Flue**

Concern has been raised that the wood heater flue will impact upon the air quality of adjoining/nearby residences due to the low height of the flue and direction of the prevailing winds.

- **Comment**

This is not a relevant planning consideration, however, the chimney flue has been located to comply with the requirements of the National Construction Code and the design of the wood heater will be required to comply with current Australian Standards.

#### **5.4. Overshadowing Impact on Solar Arrays**

Concern has been raised that the proposed dwelling will overshadow the solar panels installed on the unit at 1/13 Talune Street.

- **Comment**

Solar panels fixed on a roof form an exempt structure and that the Planning Scheme does not provide any consideration to the impact of a development upon solar panel power generation.

#### **5.5. The Proposed Dwelling is out of Character with the Prevailing Single Storey Developments in Talune Street**

Concern has been raised that the proposed development being 2 storey is out of character with the single storey development within the area.

- **Comment**

The Scheme does not prevent the construction of a 2 storey dwelling on the basis single storey dwellings dominate the streetscape. It is noted that there are many examples of 2 storey dwellings to the west of the site (Lanrick Court) and on the adjoining lot at 9 Talune Street.

### **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 2016-2026 or any other relevant Council Policy.

**9. CONCLUSION**

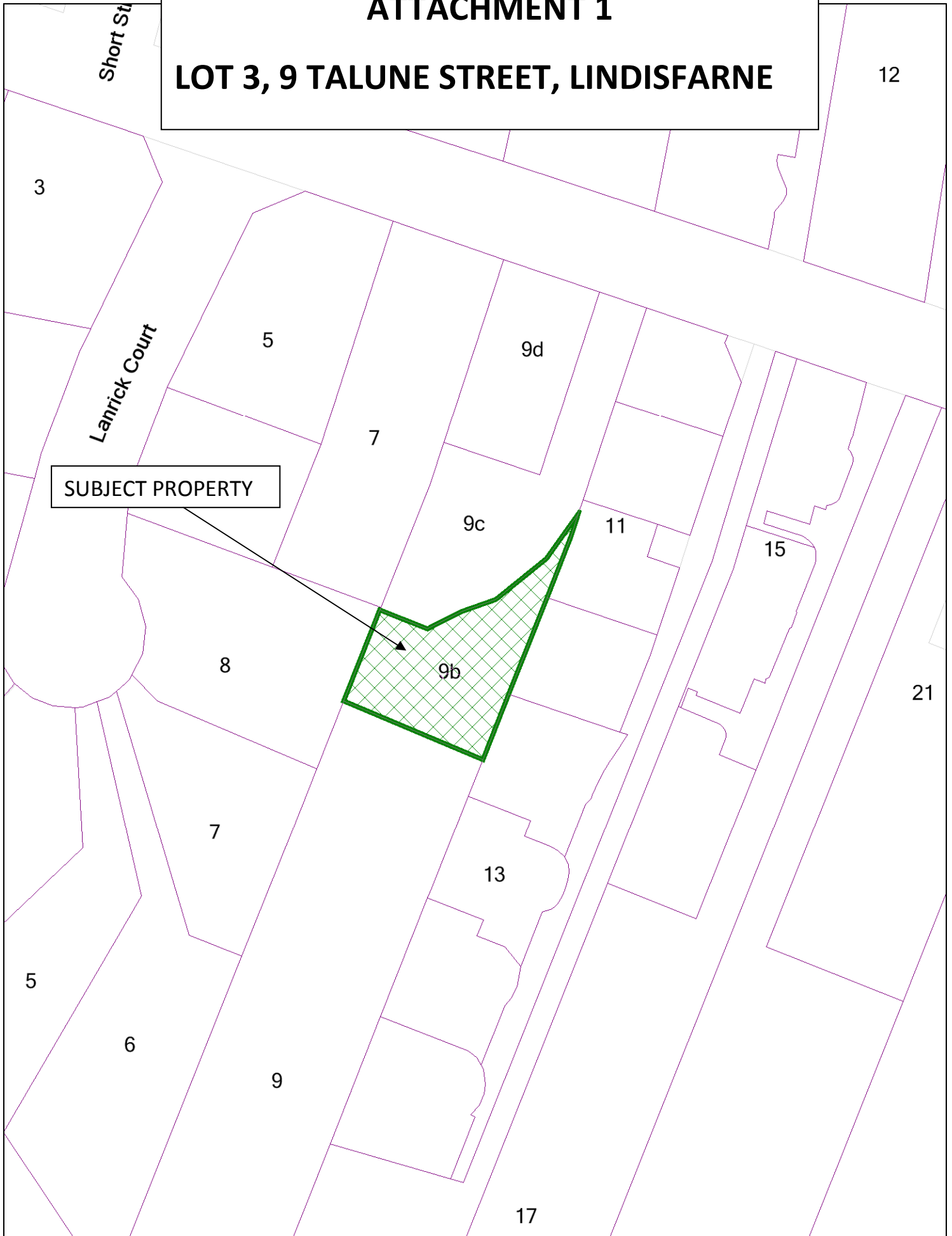
The proposal seeks approval for a dwelling at Lot 3, 9 Talune Street, Lindisfarne. The application meets the relevant acceptable solutions and performance criteria of the Scheme. Accordingly, the application is recommended for conditional approval.

Attachments: 1. Location Plan (1)  
2. Proposal Plan (10)  
3. Site Photo (2)

Ross Lovell  
**MANAGER CITY PLANNING**

# ATTACHMENT 1

## LOT 3, 9 TALUNE STREET, LINDISFARNE



DRAWING INDEX

000	Cover Sheet + Location Plan
100	Existing site plan
101	Site plan
102	Ground floor
103	First floor
301	Elevations (1)
302	Elevations (2)
400	Sections
500	Shadow diagrams (1)
501	Shadow diagrams (2)
700	Perspectives (1)
701	Perspectives (2)

The  
Subdivision



Location plan



West View


B	Amendments	02/02/17
A	DA Issue	30/01/17
Status/Rev	Issue	Date

Project Name
New Residence
Address
Lot 3 / 9 Talune St Lindisfarne Hobart 7015

Client
D & L Neal

Drawing Title:
Cover Sheet

Status:	Drawing No.:	Revision:
B	000	B

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Existing site plan 1:500

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Status/Rev Issue Date

Project Name  
**New Residence**


Address  
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Lindsfarne  
Hobart 7015**

Client  
**D & L Neal**

Drawing Title:  
**Existing Site plan**

Status:	Drawing No.:	Revision:
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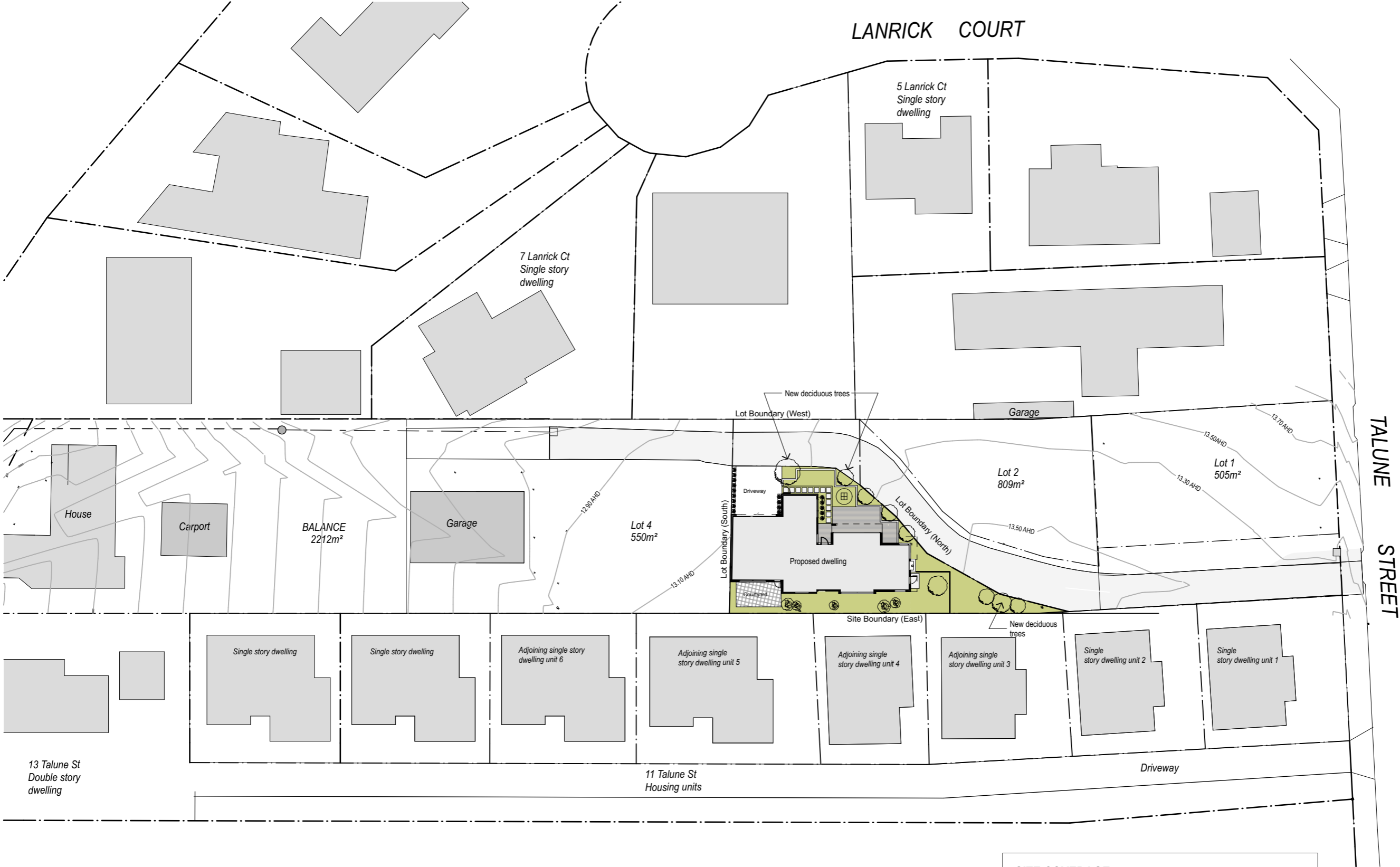
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Proposed Site Plan 1:500

SITE COVERAGE:

Schedule of Areas:	
Roofed area	203m <sup>2</sup>
Building coverage	179m <sup>2</sup>
Floor area (inc ground + first + garage)	214m <sup>2</sup>
Garage area	52m <sup>2</sup>
Site area:	550m <sup>2</sup>
Site coverage:	32.5%
Carspaces:	Agenda Attachments - lot 3, 9 Talune Street, Lindsif

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A DA Issue 30/01/17  
Status/Rev Issue Date

Project Name  
**New Residence**

Address  
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Hobart 7015**

Client  
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Drawing Title:  
**Proposed Site Plan**

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<b>B</b>	<b>101</b>	<b>B</b>

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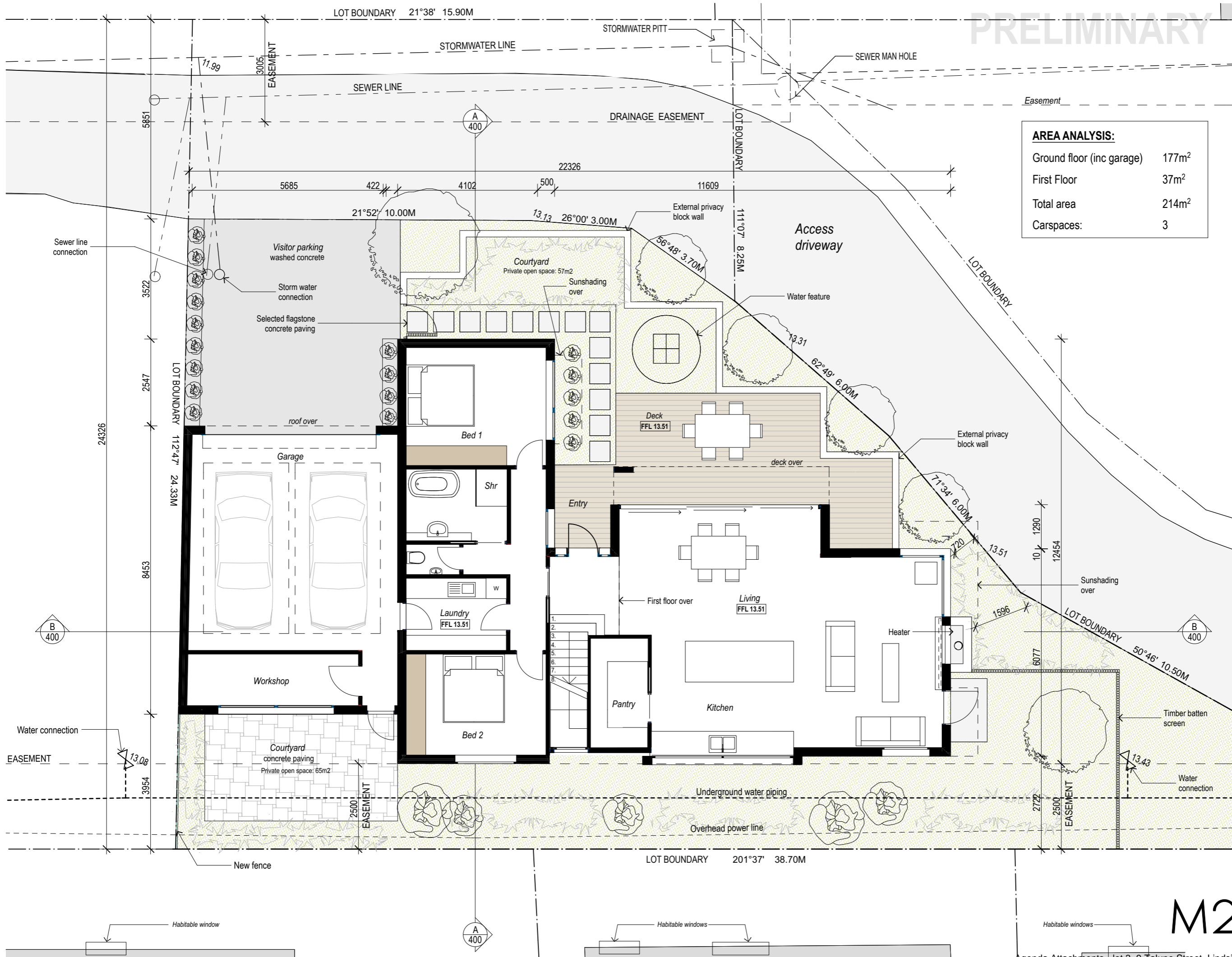
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AREA ANALYSIS:	
Ground floor (inc garage)	177m <sup>2</sup>
First Floor	37m <sup>2</sup>
Total area	214m <sup>2</sup>
Carspaces:	3

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A DA Issue 30/01/17  
Status/Rev Issue Date

Project Name  
**New Residence**

Address  
**Lot 3 / 9 Talune St  
Lindisfarne  
Hobart 7015**

Client  
**D & L Neal**

Drawing Title:  
**Ground floor**

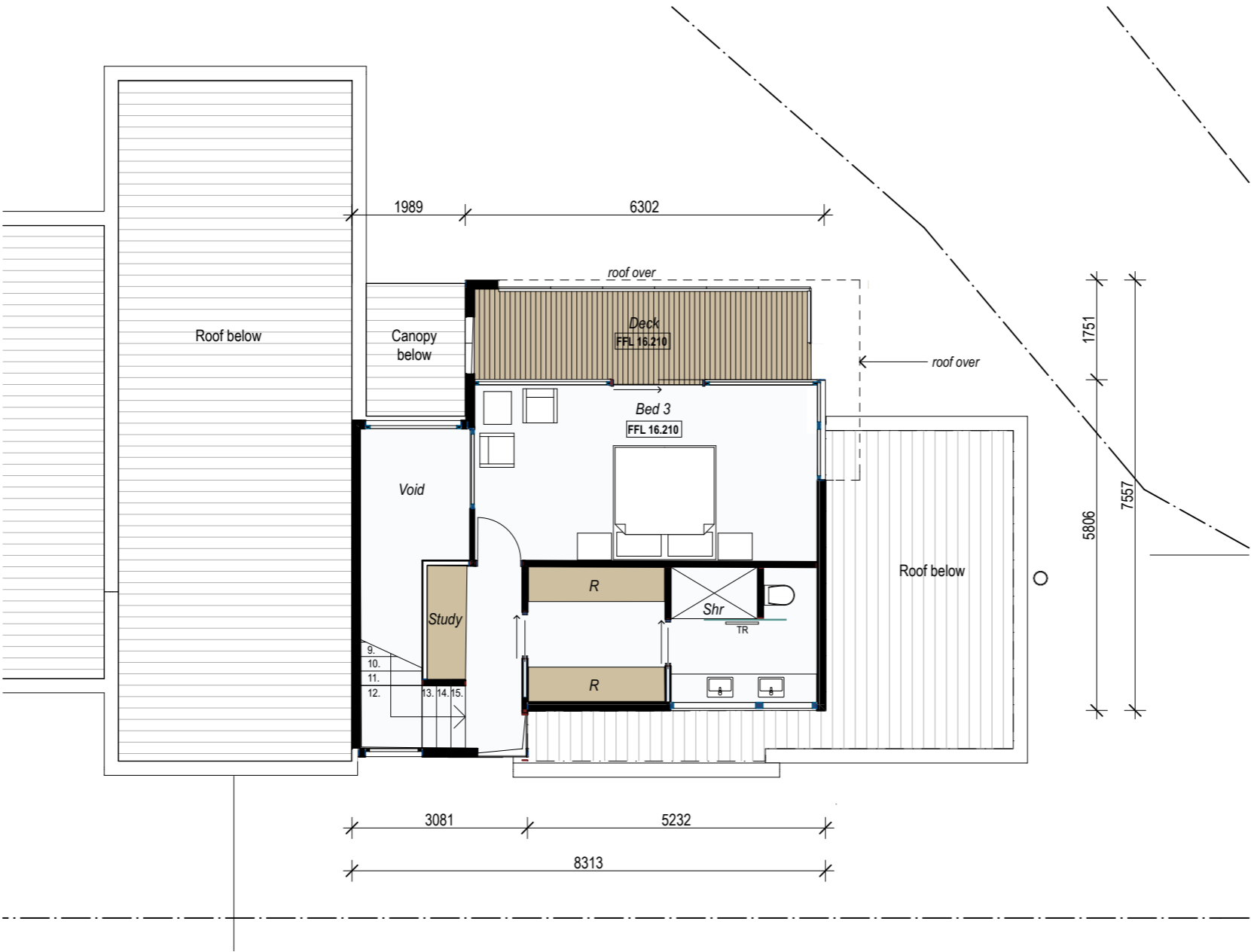
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AREA ANALYSIS:	
Ground floor (inc garage)	177m <sup>2</sup>
First Floor	37m <sup>2</sup>
Total area	214m <sup>2</sup>
Carspaces:	3

Proposed First Floor

1:100


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A	DA Issue	30/01/17
Status/Rev	Issue	Date

Project Name
New Residence
Address
Lot 3 / 9 Talune St Lindisfarne Hobart 7015

Client
D & L Neal

Drawing Title:
First Floor

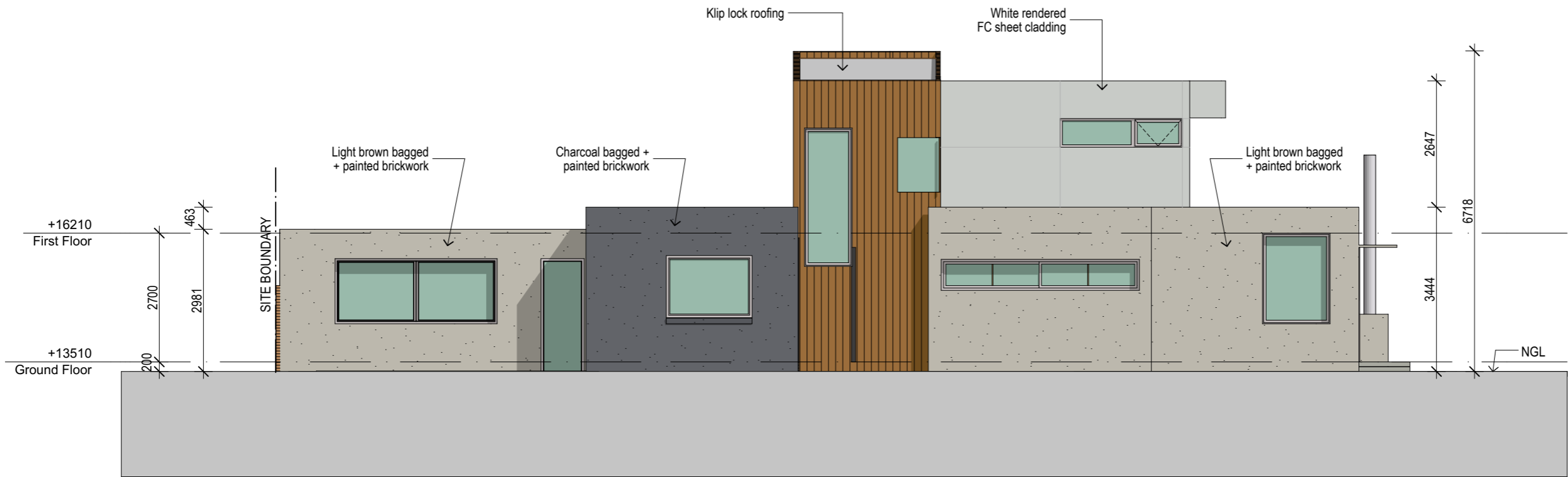
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North Elevation 1:100



East Elevation 1:100

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Status/Rev Issue Date

Project Name

New Residence

Address

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Lindisfarne  
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Client

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Drawing Title:

Elevation Sheet 1

Status:

B

Drawing No.:

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Revision:

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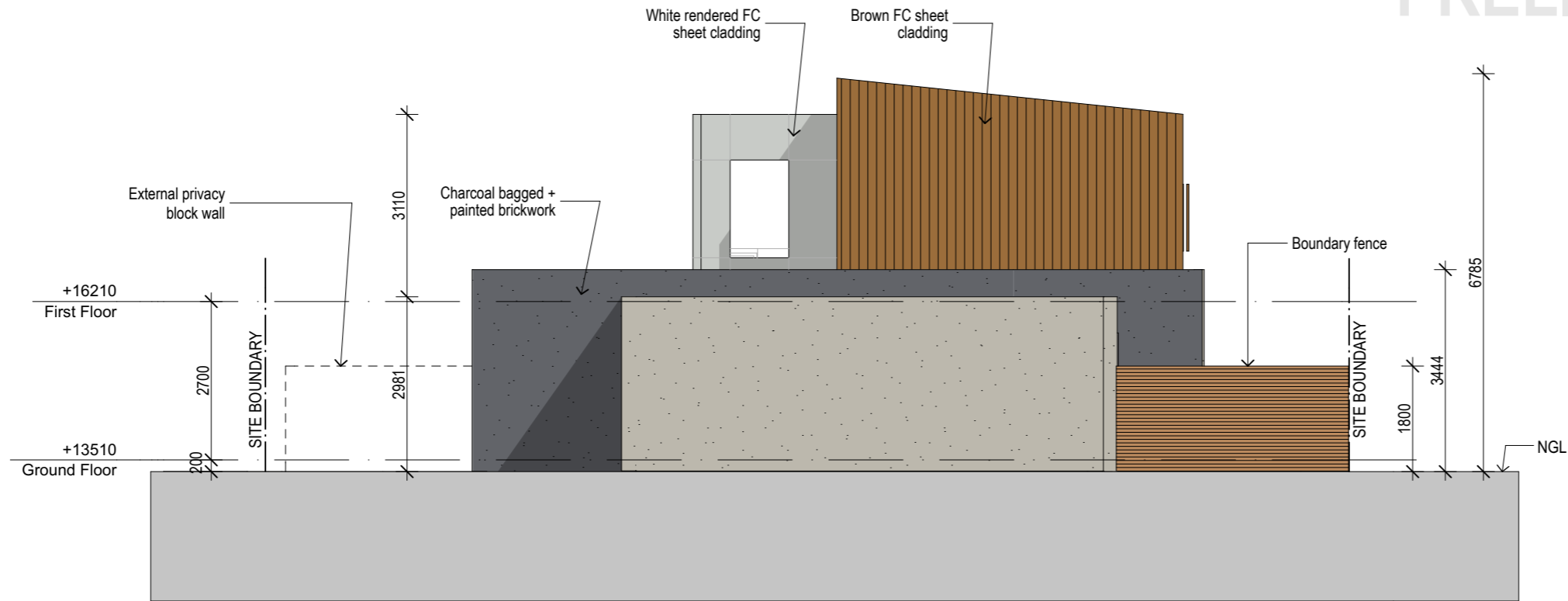
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South Elevation 1:100



West Elevation 1:100

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
Project Name  
**New Residence**

Address  
**Lot 3 / 9 Talune St  
Lindisfarne  
Hobart 7015**

Client  
**D & L Neal**

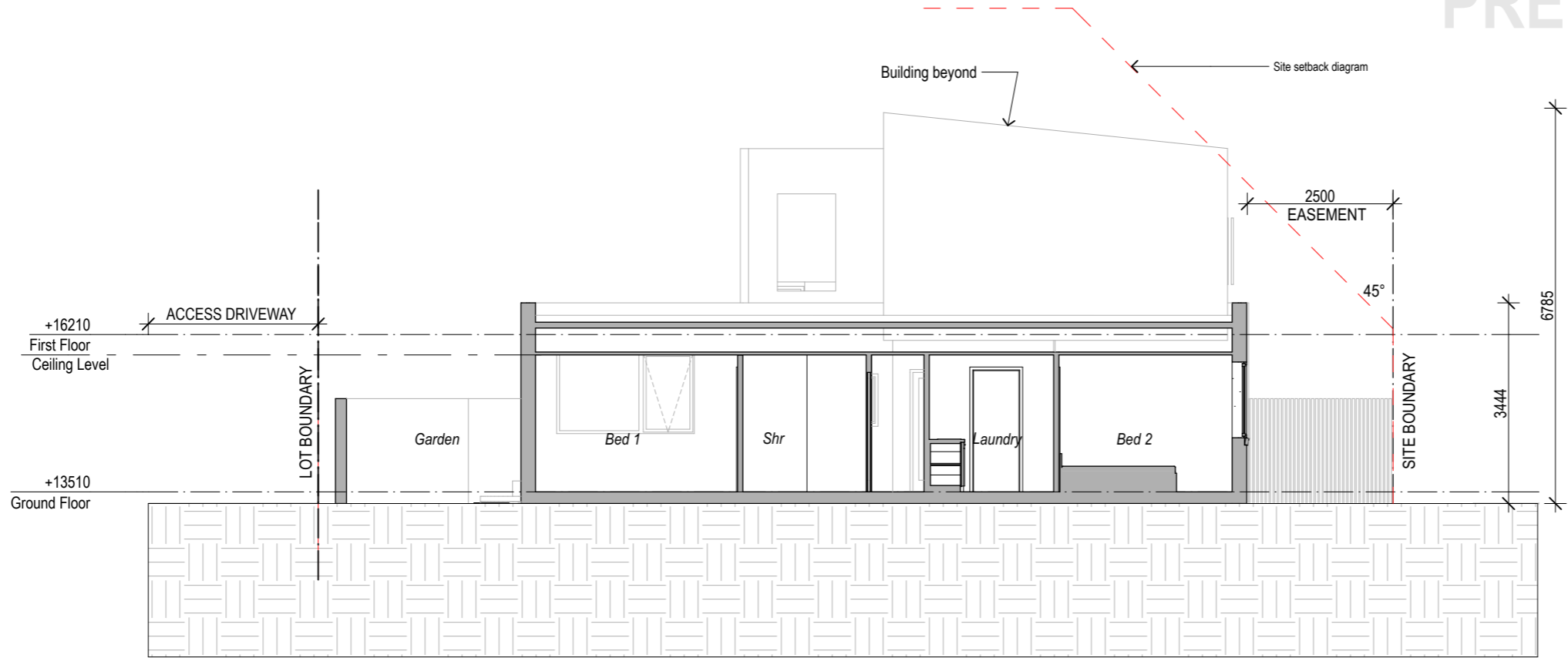
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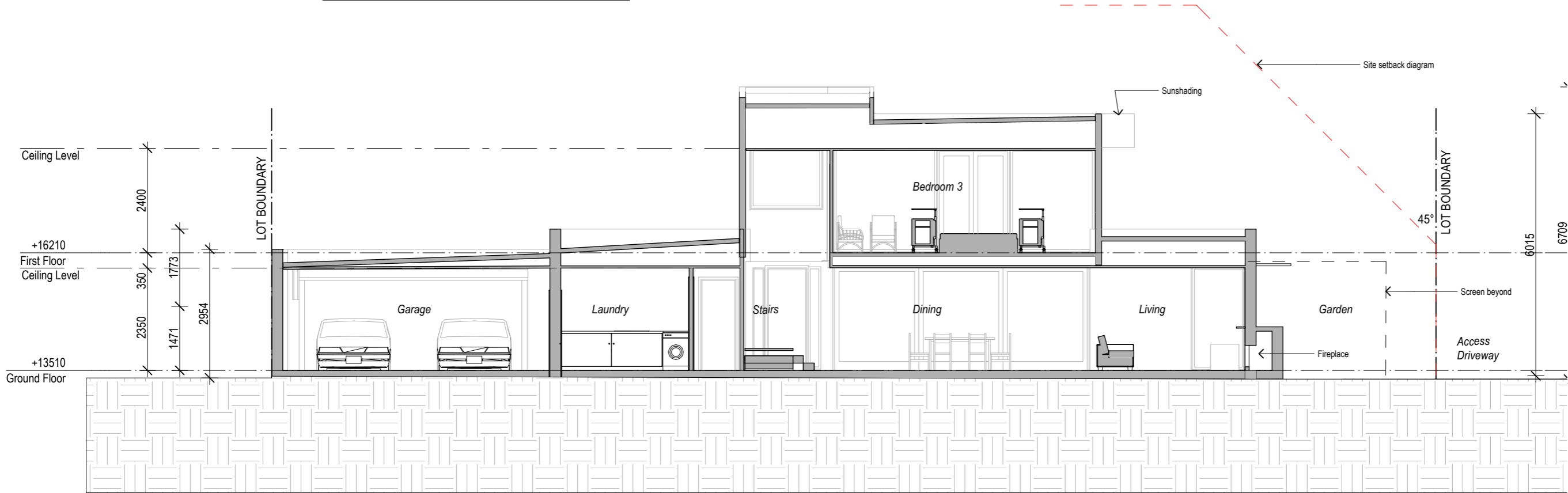
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Section A 1:100



Section B 1:100

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Drawing Title:  
**Sections**

Status:	Drawing No.:	Revision:
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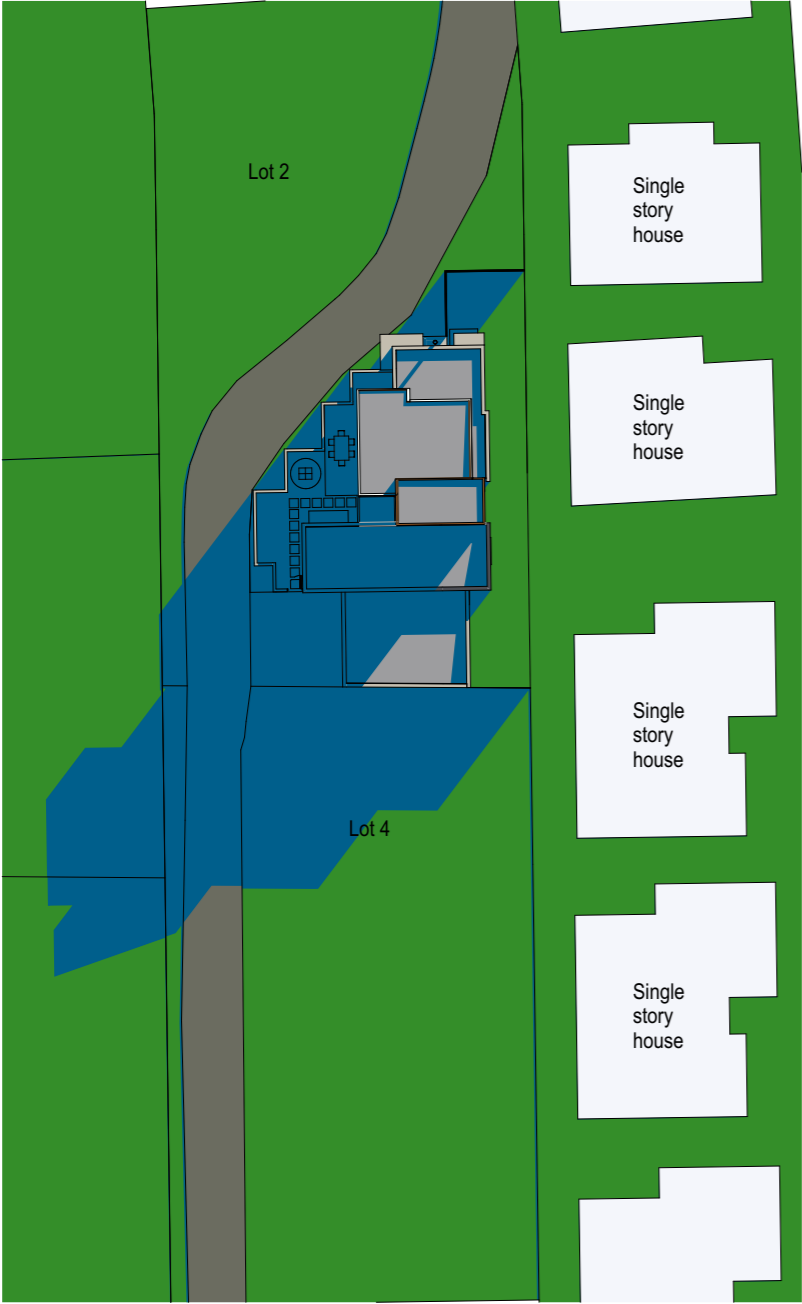
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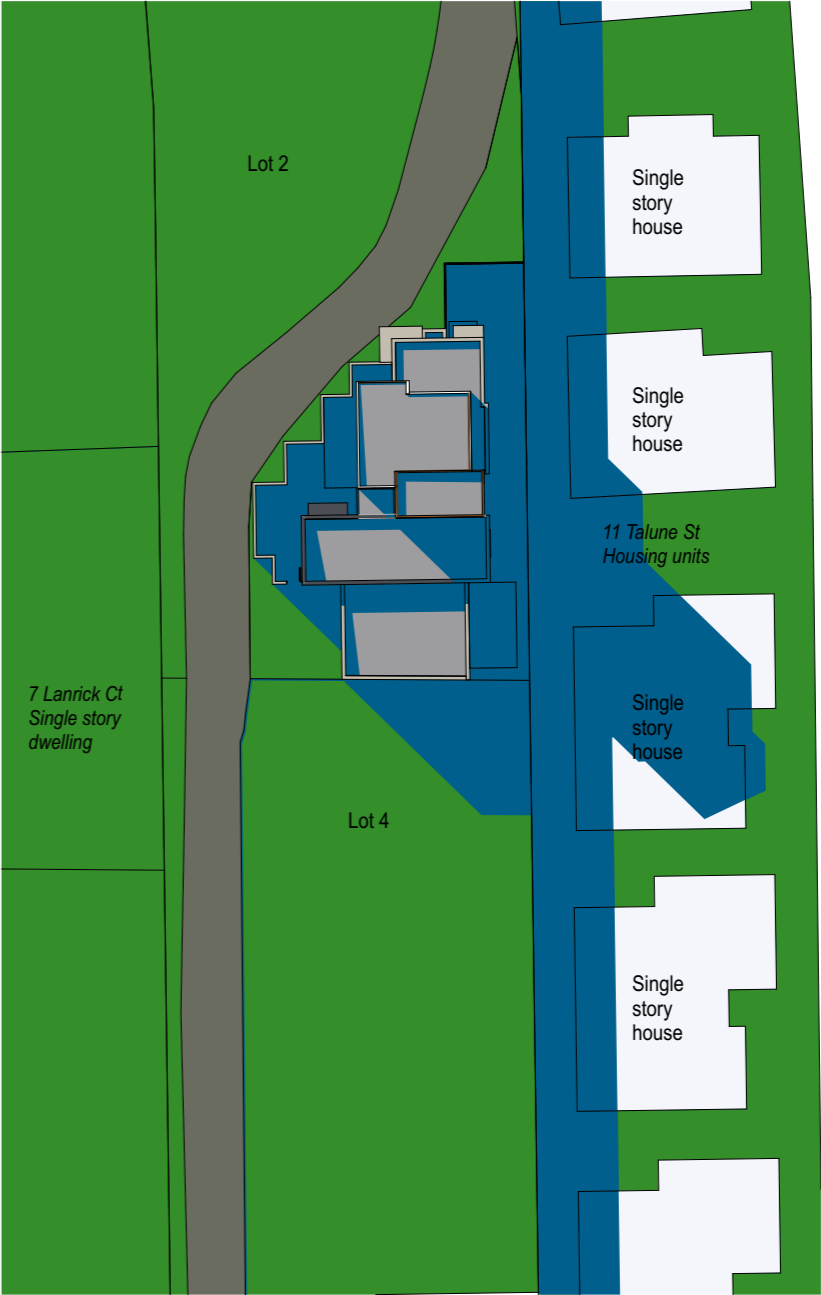
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SHADOW DIAGRAM @ JUNE 21, 9AM  
SCALE, 1:500



SHADOW DIAGRAM @ JUNE 21, 12PM  
SCALE, 1:500



SHADOW DIAGRAM @ JUNE 21, 3PM  
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
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**Shadow diagrams (1)**

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SHADOW DIAGRAM @ SEPT 22, 9AM  
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SHADOW DIAGRAM @ SEPT 22, 12PM  
SCALE, 1:500



SHADOW DIAGRAM @ SEPT 22, 3PM  
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Project Name  
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
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Client  
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**Shadow diagrams (2)**

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**Lot 3, 9 Talune Street, Lindisfarne (CT172809/3)**



**The subject site when viewed from Talune Street, Lindisfarne. The dwelling visible under construction is located on 9d Talune Street (and separated from the subject site by 9c Talune Street).**



**The subject site is located between the shared Right of Way (foreground) and the garage associated with 9 Talune Street (background).**



**Units 4/11 and 1/13 Talune Street when viewed to the east of the subject site. These units have the greatest potential to be impacted by the development.**

**11.3.2 SUBDIVISION APPLICATION SD-2016/41 - 352 GELLIBRAND DRIVE, SANDFORD - 3 LOT SUBDIVISION**  
(File No SD-2016/41)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for a 3 lot subdivision at 352 Gellibrand Drive, Sandford.

**RELATION TO PLANNING PROVISIONS**

The land is zoned Rural Living and subject to the Bushfire-Prone Areas, Landslide, Road and Railway Assets, Parking and Access, Stormwater Management, Waterway and Coastal Protection, Coastal Erosion Hazard and Natural Assets 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 22 March 2017 with the written agreement of the applicant.

**CONSULTATION**

The proposal was advertised in accordance with statutory requirements and 3 representations were received raising the following issues:

- vehicle access; and
- public open space (POS).

**RECOMMENDATION:**

- A. That the application for a 3 lot Subdivision at 352 Gellibrand Drive, Sandford (CI Ref SD-2016/41) be approved subject to the following conditions and advice.
1. GEN AP1 – ENDORSED PLANS.
  2. GEN AP3 – AMENDED PLAN [outbuildings located on the southern side of the existing dwelling having a minimum setback of 20m from the southern boundary of Lot 2].
  3. The existing animal shelter on Lot 1 is to be demolished prior to the sealing of the final plan of survey.

4. The use or development must only be undertaken and maintained in accordance with the endorsed Bushfire Hazard Assessment Report and Bushfire Hazard Management Plan prepared by Suzie Gifford, unless an alternative Bushfire Hazard Management Plan is approved by Council.
  5. GEN POS4 – POS CONTRIBUTION [4%] [Lots 1, 3 and 4].
  6. Fencing of the boundaries of Lots 3 and 4, which are located within the Natural Assets Code of the Clarence Interim Planning Scheme 2015, must be undertaken in accordance with the recommendations of the Natural Values Assessment prepared by Tasflora dated December 2016.
  7. ENG M7 – WEED MANAGEMENT PLAN.
  8. ENG A1 – NEW CROSSOVER [TSD-R03 and TSD-R04][3.6m WIDE].
  9. ENG A3 – COMBINED ACCESSES [TSD-R03 and TSD-R04].
  10. ENG A7 – REDUNDANT CROSSOVER.
  11. ENG M2 – DESIGNS SD - Delete “road design (including line marking), road stormwater drainage, and stormwater drainage”.
  12. ENG S1 – INFRASTRUCTURE REPAIR.
  13. The development must meet all required Conditions of Approval specified by TasWater notice dated 21 September 2016 (TWDA 2016/01363-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 Rural Living and subject to the Bushfire-Prone Areas, Landslide, Road and Railway Assets, Parking and Access, Stormwater Management, Waterway and Coastal Protection and Natural Assets Codes.

**2.2.** The proposal is discretionary because it does not meet the Acceptable Solutions prescribed in the Rural Living Zone, Landslide, Stormwater Management, Coastal Erosion Hazard and Natural Assets Codes.

**2.3.** The relevant parts of the Planning Scheme are:

- Section 8.10 – Determining Applications;
- Section 9.7 – Subdivision;
- Part D – Rural Living Zone; and
- Part E – Bushfire-Prone Areas, Landslide, Road and Railway Assets, Parking and Access, Stormwater Management, Waterway and Coastal Protection, Coastal Erosion Hazard and Natural Assets 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 land has an area of 8.143ha and contains an existing Single Dwelling and outbuildings. The site has frontage and vehicle access to Gellibrand Drive. The existing access crossover is shared with 330 Gellibrand Drive. The south-western side of the property is covered in native vegetation and included within the Natural Assets Code of the Scheme.

The surrounding area is similarly zoned Rural Living containing land mostly occupied with Single Dwellings. The land overlooks Ralphs Bay; separated by a Crown-owned foreshore reserve. The reserve contains the Ralphs Bay Foreshore Track.

### **3.2. The Proposal**

The proposal is for a 3 lot subdivision plus the balance lot. Lot 2 would contain the existing dwelling and outbuildings. An outbuilding on the northern side of the dwelling would have a setback of 10m from the proposed boundary between Lots 1 and 2. Two outbuildings on the southern side of the existing dwelling would have a minimum setback of 20m. An existing animal shelter located within the boundaries of the proposed Lot 1 would be demolished.

Lots 1, 2, and 3 would each have an area of 2ha, while Lot 4 would have an area of 2.09ha. The applicant has advised that Lot 1 would use the existing vehicle access, while Lots 2, 3 and 4 would have new accesses onto Gellibrand Drive. The applicant has indicated that Lots 2 and 3 would have a combined access.

The applicant has provided a bushfire hazard assessment, including a bushfire hazard management plan, which demonstrates building areas on Lots 1, 3 and 4 which could be adequately protected from bushfire. The bushfire hazard management plan also identifies a bushfire hazard management zone in the area around the existing dwelling.

The applicant has also submitted a Natural Values Assessment, which indicates that the subdivision works (only boundary fencing within the Natural Assets Code), would have a negligible impact on natural values.

## **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 Rural Living Zone and Bushfire-Prone Areas, Landslide, Road and Railway Assets, Parking and Access, Stormwater Management, Waterway and Coastal Protection, Coastal Erosion Hazard and Natural Assets Codes with the exception of the following.

##### **Rural Living Zone**

<b>Clause</b>	<b>Standard</b>	<b>Acceptable Solution (Extract)</b>	<b>Proposed</b>
13.5.1 A2	Lot Design – Building Area	<p>The design of each lot must provide a minimum building area that is rectangular in shape and complies with all of the following:</p> <ul style="list-style-type: none"> <li>(a) clear of the frontage, side and rear boundary setbacks;</li> <li>(b) not subject to any codes in this planning scheme;</li> <li>(c) clear of title restrictions such as easements and restrictive covenants;</li> <li>(d) has an average slope of no more than 1 in 5;</li> <li>(e) has a separation distance no less than: <ul style="list-style-type: none"> <li>(i) 100m from land zoned Rural Resource;</li> <li>(ii) 200m from land zoned Significant Agriculture;</li> </ul> </li> <li>(f) has a setback from land zoned Environmental Management no less than 100m;</li> <li>(g) is a minimum of 30m x 30m in size.</li> </ul>	<ul style="list-style-type: none"> <li>- Lot 3 building area located 19m from the proposed north and south boundaries [20m required to comply with (a)].</li> <li>- All building areas subject to the Bushfire-Prone Areas Code.</li> </ul>

The proposed variation can be supported pursuant to the Performance Criteria P2 of Clause 13.5.1 for the following reasons.

<b>Performance Criteria</b>	<b>Comment</b>
<i>“P4 - The design of each lot must contain a building area able to satisfy all of the following:</i>	See below
<i>(a) is reasonably capable of accommodating residential use and development;</i>	All lots satisfy the minimum lot size standards for the zone and are of sufficient width and length to provide adequate opportunity for siting of buildings in accordance with zone building setback requirements.
<i>(b) meets any applicable standards in codes in this planning scheme;</i>	The proposal satisfies the requirements of the Bushfire-Prone Areas Code.
<i>(c) enables future development to achieve reasonable solar access, given the slope and aspect of the land;</i>	The relatively gentle slope of the land would provide the nominated building areas with excellent solar access.
<i>(d) minimises the requirement for earth works, retaining walls, and cut and fill associated with future development;</i>	None of the nominated building areas exceed a natural ground level slope of 1 in 5.
<i>(e) is sufficiently separated from the land zoned Rural Resource and Significant Agriculture to prevent potential for land use conflict that would fetter non-sensitive use of that land and the separation distance is no less than:</i>	Building area would be located a minimum of 500m from a Rural Resource Zone. Sandford does not contain any zoned Significant Agriculture.
<i>(i) 40m from land zoned Rural Resource;</i>	As above
<i>(ii) 80m from land zoned Significant Agriculture;</i>	As above
<i>(f) is setback from land zoned Environmental Management to satisfy all of the following:</i>	The building area on Lot 1 is located over 100m from the Environmental Management Zone (Ralphs Bay).
<i>(i) there is no significant impact from the development on environmental values;</i>	Building areas are located clear of the Natural Assets and the Waterway and Coastal Protection Codes.
<i>(ii) the potential for the spread of weeds or soil pathogens onto the land zoned Environmental Management is minimised;</i>	It is recommended that the planning permit, if granted, be conditioned to require the submission of a weed management plan as suggested in the Natural Values Assessment submitted by the applicant.

<i>(iii) there is minimal potential for contaminated or sedimented water run-off impacting the land zoned Environmental Management;</i>	The building areas are of sufficient area and of sufficient distance from the Bay to ensure that sedimented water run-off, including wastewater disposal areas, do not impact the land zoned Environmental Management.
<i>(iv) there are no reasonable and practical alternatives to developing close to land zoned Environmental Management”.</i>	The bushfire hazard assessment has identified the areas on each lot, which are the most suitable for protecting dwellings from the threat of bushfire.

**Rural Living Zone**

<b>Clause</b>	<b>Standard</b>	<b>Acceptable Solution (Extract)</b>	<b>Proposed</b>
13.5.1 A5	Lot Design – Setback for Existing Buildings	Setback from a new boundary for an existing building must comply with the relevant Acceptable Solution for setback (20m from a side boundary)	The existing outbuilding located to the north of the existing dwelling on Lot 2 would be located 10m from the proposed northern side boundaries of Lot 2.

The proposed variation can be supported pursuant to the Performance Criteria (P5) of Clause 13.5.1 (13.4.2 A2) for the following reasons.

<b>Performance Criteria</b>	<b>Comment</b>
<i>“P2 - Building setback from side and rear boundaries must maintain the desirable characteristics of the surrounding landscape and protect the amenity of adjoining lots, having regard to all of the following:</i>	See below
<i>(a) the topography of the site;</i>	In normal circumstances, the topography of the site would not prevent the building being setback 20m from the property boundaries; however, the proposed lot has been designed to provide a suitable setback from the existing building while achieving the required minimum lot size for the zone.

<i>(b) the size and shape of the site;</i>	The landscape does not prevent the proposed lot from being of a shape and size in which a 20m building setback from boundaries could be achieved; however, the proposed lot has been designed to provide a suitable setback from the existing building while achieving the required minimum lot size for the zone.
<i>(c) the location of existing buildings on the site;</i>	As discussed above, the proposed lot has been designed to provide a suitable setback from the existing building while achieving the required minimum lot size for the zone.
<i>(d) the proposed colours and external materials of the building;</i>	The colours and external materials of the building (corrugated iron, colour cream) blend with the surrounding environment.
<i>(e) visual impact on skylines and prominent ridgelines;</i>	Not applicable – the building is existing.
<i>(f) impact on native vegetation;</i>	Not applicable – the building is existing.
<i>(g) be sufficient to prevent unreasonable adverse impacts on residential amenity on adjoining lots by:</i> <i>(i) overlooking and loss of privacy;</i> <i>(ii) visual impact, when viewed from adjoining lots, through building bulk and massing;</i>	The existing outbuilding is single-storey, non-habitable structures, which would not overlook other lots and do not have significant visual bulk.
<i>(h) be no less than:</i> <i>(i) 10m; or</i> <i>(ii) 5m for lots below the minimum lot size specified in the acceptable solution; or</i> <i>(iii) the setback of an existing roofed building (other than an exempt building) from that boundary.</i> <i>unless the lot is narrower than 40m at the location of the proposed building site”.</i>	The existing outbuilding would be 10m from the proposed lot boundaries.

**Rural Living Zone**

<b>Clause</b>	<b>Standard</b>	<b>Acceptable Solution (Extract)</b>	<b>Proposed</b>
13.5.3 A2	Public Open Space Contribution	No Acceptable Solution.	No land proposed as Public Open Space (POS)

The proposed variation can be supported pursuant to the Performance Criteria P2 of Clause 13.5.3 for the following reasons.

<b>Performance Criteria</b>	<b>Comment</b>
<i>“P2 - Public Open Space must be provided as land or cash-in-lieu, in accordance with the relevant Council Policy”.</i>	As discussed in Section 8 of this report, it is recommended that a cash payment in-lieu of POS payment be required as a permit condition.

### **Rural Living Zone**

<b>Clause</b>	<b>Standard</b>	<b>Acceptable Solution (Extract)</b>	<b>Proposed</b>
13.5.4 A3	Services – New Lots	Each lot must be connected to a stormwater system able to service the building area by gravity.	Stormwater would be disposed of on-site with soakage devices.

The proposed variation can be supported pursuant to the Performance Criteria (P3) of Clause 13.5.1 for the following reasons.

<b>Performance Criteria</b>	<b>Comment</b>
<i>“P3 - Each lot must be capable of accommodating an on-site stormwater management system adequate for the likely future use and development of the land”.</i>	Council’s Development Engineer has advised that each of the lots has sufficient area to enable all stormwater to be retained and/or reused on the site.

### **Landslide Code**

<b>Clause</b>	<b>Standard</b>	<b>Acceptable Solution (Extract)</b>	<b>Proposed</b>
E3.8.1	Subdivision of land within a landslide hazard area	No Acceptable Solution for Subdivision.	The western boundary of the subject site skirts the landslide hazard area (low risk - 4.5% of property affect by the Code). No nominated building areas would be affected.

The proposed variation can be supported pursuant to the Performance Criteria P1 of Clause E3.8.1 for the following reasons.

<b>Performance Criteria</b>	<b>Comment</b>
<i>“P1 - 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:</i>	See below
<i>(a) separation of existing dwellings;</i>	The subdivision is not for the purpose of separating existing dwellings.
<i>(b) creation of a lot for the purposes of public open space, public reserve or utilities;</i>	The subdivision is not for the purpose of creating a lot for public open space, public reserve or utilities.
<i>(c) 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> <i>(i) acceptable risk, or</i> <i>(ii) capable of feasible and effective treatment through hazard management measures, so as to be tolerable risk”.</i>	Council’s Development Engineer has advised that the proposal is an acceptable risk under the Code. Boundary fencing is the only infrastructure, which would be erected in the Landslide Hazard Area as part of this development.

#### **Coast Erosion Hazard Code**

<b>Clause</b>	<b>Standard</b>	<b>Acceptable Solution (Extract)</b>	<b>Proposed</b>
E16.8.1 A1	Subdivision in a Coastal Erosion Hazard Area	No Acceptable Solution for Subdivision.	The western boundary of the subject site skirts the Coastal Erosion Hazard Area (high risk – 0.5% of property is affected by the Code). No nominated building areas would be affected.

The proposed variation can be supported pursuant to the Performance Criteria P1 of Clause 16.8.1 for the following reasons.

<b>Performance Criteria</b>	<b>Comment</b>
<i>“P1 - Subdivision of a lot, all or part of which is within an Coastal Erosion Hazard Area must be for the purpose of one or more of the following:</i>	See below
<i>(a) separation of existing dwellings;</i>	The subdivision is not for the purpose of separating existing dwellings.

<i>(b) creation of a lot for the purposes of public open space, public reserve or utilities;</i>	The subdivision is not for the purpose of creating a lot for public open space, public reserve or utilities.
<i>(c) creation of a lot in which the building area, access and services are outside the Coastal Erosion Hazard Area”.</i>	The proposal plans indicate that the building areas would be located outside the Coastal Erosion Hazard Area. The proposal therefore satisfies this criterion.

**Coast Erosion Hazard Code**

<b>Clause</b>	<b>Standard</b>	<b>Acceptable Solution (Extract)</b>	<b>Proposed</b>
E16.8.1 A2	Subdivision in a Coastal Erosion Hazard Area	No Acceptable Solution for Subdivision.	The western boundary of the subject site skirts the Coastal Erosion Hazard Area (high risk – 0.5% of property is affected by the Code). No nominated building areas would be affected.

The proposed variation can be supported pursuant to the Performance Criteria P2 of Clause 16.8.1 for the following reasons.

<b>Performance Criteria</b>	<b>Comment</b>
<i>“P1 - Subdivision must satisfy all of the following:</i>	Council’s Development Engineer has made the following comments.
<i>(a) not increase risk to adjoining or nearby property;</i>	The subdivision would not result in an increased risk to adjoining or nearby property. Only boundary fencing would be located within the Coastal Erosion Hazard Area in this development.
<i>(b) any increased reliance on public infrastructure must not result in a unacceptable level of risk;</i>	The subdivision would not result in an increased reliance on public infrastructure.
<i>(c) need for future remediation works is minimised;</i>	Boundary fencing is unlikely to require significant future remediation works.
<i>(d) access to the lot will not be lost or substantially compromised by coastal hazards on or off-site;</i>	Lot access would not be located in the Coastal Erosion Hazard Area.
<i>(e) no building area is located within the Coastal Erosion Hazard Area;</i>	The proposal plans indicate that the building areas would be located outside the Coastal Erosion Hazard Area.

<i>(f) 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 would be required.
<i>(g) not be prohibited by the relevant zone standards”.</i>	The proposed subdivision is discretionary.

**Natural Assets Code**

<b>Clause</b>	<b>Standard</b>	<b>Acceptable Solution (Extract)</b>	<b>Proposed</b>
E27.9.1 A1 (Negligible Impact) – Natural Assets Code	Subdivision	No Acceptable Solution	Boundary fencing on the northern boundaries of Lots 3 and 4 would be within the Natural Assets Code (approximately 175m of fencing on each boundary). The natural values assessment submitted by the applicant indicates that the subdivision works would have a negligible impact on natural values.

The proposed variation can be supported pursuant to the Performance Criteria P1 of Clause E27.9.1 for the following reasons.

<b>Performance Criteria</b>	<b>Comment</b>
<p><i>“P1</i></p> <p><i>(a) Subdivision works, including accesses, fences and service locations are designed to minimise the clearance of native vegetation; and</i></p>	<p>The natural values assessment states that fencing works would have no direct impact on natural values, provided that the fences are located to minimise the loss of any large Eucalyptus globulus (blue gum) trees. It also states that other native trees along the required fence line may be removed without significant impact on natural values. The natural values assessment also recommends minimising soil disturbance during construction and preparation of a weed management plan.</p> <p>It is recommended that a condition requiring the submission of a weed management plan be included on the planning permit, if granted.</p>

(b) <i>Lots must be designed to contain a building envelope which reduces clearance of native vegetation to the minimum extent necessary to contain the anticipated use and any clearance required for bushfire management”.</i>	The proposal plans indicate that the building areas would be located outside the Natural Assets Code.
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## **5. REPRESENTATION ISSUES**

The proposal was advertised in accordance with statutory requirements and 3 representations were received. The following issues were raised by the representors.

### **5.1. Vehicle Access**

A representor has raised concern that the current access to the property (shared with 330 Gellibrand Drive) is unsealed and results in gravel washing onto Gellibrand Drive during rain events causing traffic safety problems.

- **Comment**

Council’s Development Engineer has assessed the proposal and has recommended that the planning permit, if granted, be conditioned to require the existing access to be upgraded to Council’s standard for rural accesses. This would require the developer to construct a drainage culvert underneath the access and to seal the access to the property boundary, which would prevent gravel from being washed onto the road surface.

### **5.2. Public Open Space**

Representors have suggested that the proposal be modified to include a POS walkway linking Gellibrand Drive with the Ralphs Bay Foreshore track on the western side of the site.

- **Comment**

As discussed in Section 8 of this report, it is recommended that a cash contribution be made in-lieu of public open space. Council's Tracks and Trails Strategy does not identify a need for a track through the subject site. An assessment of the POS walking tracks in the area has revealed that access to the Ralphs Bay walking track from Gellibrand Drive is available approximately 320m to the north of the subject site, and approximately 640m to the south of the site from the end of Tradewind Terrace. Council's Tracks Planning Officer has not recommended that POS be sought on this occasion. It is considered that the connectivity between the foreshore walking track and Gellibrand Drive is already at an acceptable level and that the benefit of a further connection would be outweighed by on-going maintenance costs.

## **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**

There are no inconsistencies with Council's adopted Strategic Plan 2016-2026 or any other relevant Council Policy.

## **8. COUNCIL STRATEGIC PLAN/POLICY IMPLICATIONS**

The primary purpose of Council's Public Open Space Policy (2013) is to ensure the delivery of adequate and appropriate POS to serve the needs of the existing and future population of 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 zoned Rural Living and would be afforded a high level of access to both local and regional recreational opportunities. The site would also benefit from its proximity to Council's POS network and associated facilities, in particular the Ralphs Bay Foreshore Track running along the western boundary of the site.

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.

While Section 117 of the Local Government (Building and Miscellaneous Provisions) Act 1993 provides for a maximum of up to 5% of the value the entire site to be taken as cash-in-lieu of POS, should a permit be granted for the subdivision, it would be considered appropriate to limit the contribution only to the additional lots created (Lots 1, 3 and 4), representing the increased demand for POS generated by the proposal and not the entire subject site. Due to the location of the site and the areas of each lot, which would provide opportunity for private recreation on the land, it is considered that the proposal would not generate a significant demand for, or derive benefit from local POS facilities. A reduction of the maximum 5% cash-in-lieu of POS contribution is therefore considered warranted. On this basis it is considered unnecessary to charge a contribution for local facilities. Accordingly, the contribution should reflect the likely increased demand on regional facilities.

Given that an area of POS can function at both the regional and local level it is difficult to quantify the ratio between the two. However, it is noted that for previous subdivisions, which involve land benefitting only from provision of regional facilities, a contribution of 4% of the value of the land has been charged.

It is also recommended on this occasion that a total of 4% of the value of Lots 1, 3 and 4 be charged as a contribution to the provision of POS at the regional level. A suitable condition is recommended.

There are no inconsistencies with Council's adopted Strategic Plan 2016-2026 or any other relevant Council Policy.

## **9. CONCLUSION**

The proposal seeks approval for a 3 lot plus balance subdivision at 352 Gellibrand Drive, Sandford. The application meets the relevant Acceptable Solutions and Performance Criteria of the Scheme.

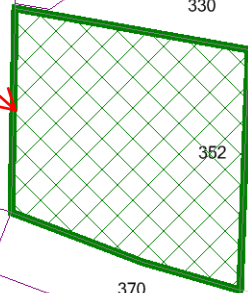
The proposal is recommended for approval subject to conditions.

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

Ross Lovell  
**MANAGER CITY PLANNING**

# Attachment 1

Subject property



**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, 7 March 2017 **Scale:** 1:9,406 @A4

J.B.MEDBURY PTY.LTD.  
159 CILWEN RD CAMBRIDGE

PROPOSED SUBDIVISION

Ph. (03) 62 485419  
PO BOX 403 ROSNY PARK 7018  
Email: medbury@optusnet.com.au

OWNER: G C M & K L HOLM FOLIO REF: FR 51682-1 PROPOSED EASEMENTS as shown		LOCATION 325 GELLIBRAND DRIVE SANDFORD GRANTEE Part of 1453 ac gtd to Sir George Best Robinson		IMPORTANT NOTE  This plan was prepared for G C M & K L Holm as a proposed subdivision application to the Clarence City Council and should not be used for any other purpose. The dimensions, areas and total number of lots shown hereon are subject to field survey and also to the requirements of council and any other authority which may have requirements under any relevant legislation. In particular, no reliance should be placed on the information on this plan for any financial dealings involving the land. This note is an integral part of this plan.
Scale: 1:1500	Municipality: Clarence	Date: 01-06-2016	Ref No. 16007/91062	

- Ⓐ 538859.709, 5239690.670

Ⓑ 538757.400, 5239708.873

Ⓒ 538650.743, 5239727.849

Ⓓ 538571.131, 5239742.012
- Ⓔ 538569.906, 5239672.822

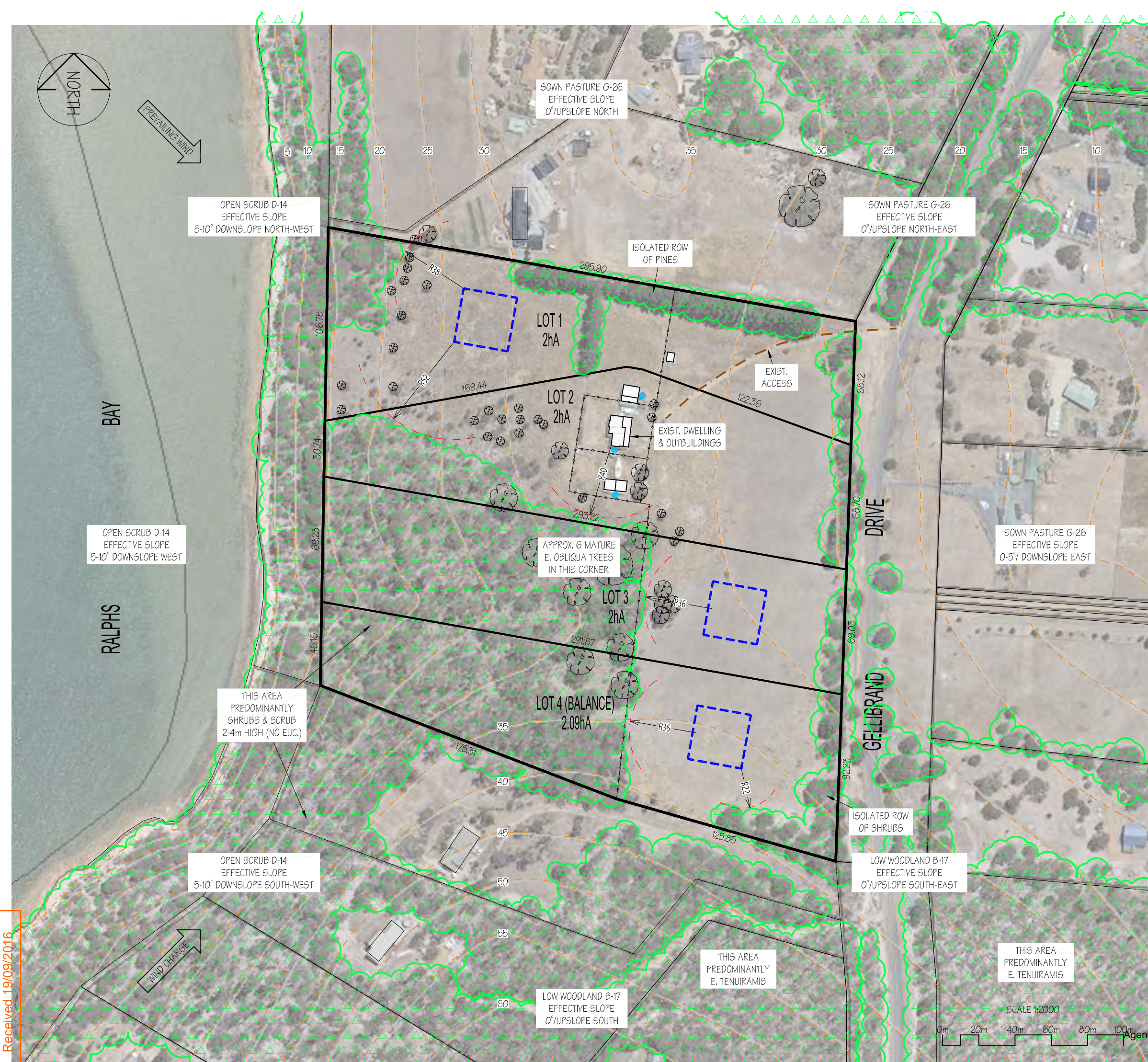
Ⓕ 538641.608, 5239660.067

Ⓖ 538745.201, 5239641.638

Ⓗ 538857.156, 5239621.721







Received 19/09/2016



NOTE:  
THIS PLAN IS FOR SITE ANALYSIS PURPOSES ONLY AND IS  
NOT TO BE UTILISED AS THE BUSHFIRE MANAGEMENT PLAN.

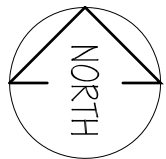
### LEGEND

-  STANDING VEGETATION
-  ASSESSED BUILDING AREA
-  EXISTING STATIC WATER STORAGE
-  EXISTING ACCESS

**gifford**  
bushfire risk assessments

386 Bakers Creek Road  
Lucaston TAS 7109  
P : 62641946 M: 0407 664617  
suzie@giffordbuildingdesign.com.au

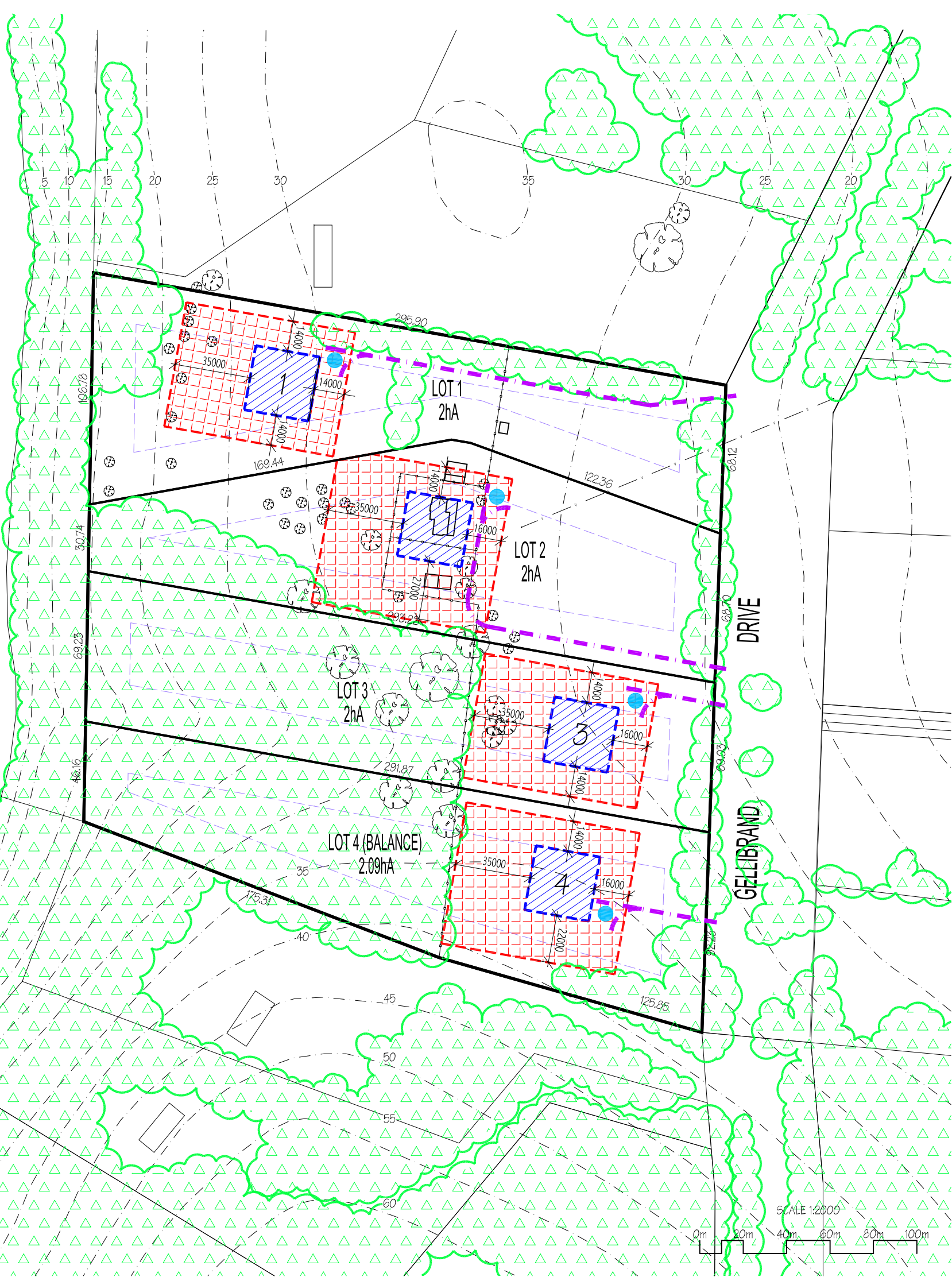
PROPOSED SUBDIVISION  
352 GELLIBRAND DRIVE, SANDFORD  
SITE ASSESSMENT - SCALE 1:2000 @ A3  
PAGE 1 OF 1  
Agenda Attachments - 352 Gellibrand Drive, Sandford - Page 3 of 16  
19/09/2016



RATING TABLE	
LOT	BAL
LOT 1	12.5
LOT 2	12.5
LOT 3	12.5
BALANCE LOT 4	12.5

BAY

RALPHS



### CLASSIFICATION

INDICATIVE BUILDING AREAS\* WITH BAL-12.5 SEPARATION DISTANCES DETERMINED IN ACCORDANCE WITH METHOD 1 OF AS-3959-2009 CONSTRUCTION OF BUILDINGS IN BUSHFIRE PRONE AREAS HAVE BEEN NOMINATED FOR THIS DEVELOPMENT IN ACCORDANCE WITH IPD1 E1.6.1.1 - BUSHFIRE PRONE AREAS CODE ACCEPTABLE SOLUTION A1 (b).

### CONSTRUCTION

CONSTRUCT HABITABLE BUILDINGS (& OUTBUILDINGS LOCATED WITHIN 6m) IN ACCORDANCE WITH THE RELEVANT SECTIONS OF AS-3959-2009 FOR THE SPECIFIED BAL & TO THE REQUIREMENTS OF THE BUILDING AMENDMENT (BUSHFIRE-PRONE AREAS) REGULATIONS 2016 INCORPORATING CLAUSE 4.1 OF THE DIRECTOR'S DETERMINATION FOR BUILDING IN BUSHFIRE-PRONE AREAS. HIGHER LEVELS OF CONSTRUCTION SHALL BE ACCEPTABLE.

### PUBLIC & FIRE FIGHTING ACCESS

GELLIBRAND DRIVE PROVIDES PUBLIC & FIRE FIGHTING ACCESS WHICH IS CONSISTENT WITH THE OBJECTIVES OF IPD1 CLAUSE E1.6.1.2. GELLIBRAND DRIVE ALSO PROVIDES CONNECTIVITY / ALTERNATIVE ESCAPE COMPLIANT WITH CLAUSE 13.5.2 P1 (k) OF THE SCHEME.

PUBLIC & FIRE FIGHTING ACCESS MEETS THE ACCEPTABLE SOLUTIONS OF IPD1 CLAUSE E1.6.1.2 A1 (a) & IT CERTIFIED THAT THERE IS INSUFFICIENT INCREASE IN RISK FROM BUSHFIRE TO WARRANT SPECIFIC MEASURES FOR PUBLIC ACCESS IN THE SUBDIVISION FOR THE PURPOSES OF FIRE FIGHTING.

INDICATIVE 4m WIDE, ALL WEATHER, PRIVATE ACCESS FROM GELLIBRAND ROAD TO WITHIN 3m OF THE FIRE-FIGHTING WATER SUPPLY CONNECTION POINT & WITHIN 90m OF THE FURTHEST PART OF EACH INDIVIDUAL BUILDING AREA. CONSTRUCTED IN ACCORDANCE WITH THE REQUIREMENTS OF TABLE 4.2 (b) OF THE DIRECTOR'S DETERMINATION FOR BUILDING IN BUSHFIRE-PRONE AREAS. EXACT LOCATION & CONSTRUCTION OF PRIVATE ACCESS TO BE PROVIDED AS PART OF INDIVIDUAL DEVELOPMENT APPLICATIONS FOR FUTURE DEVELOPMENT ON EACH LOT.

### WATER SUPPLY FOR FIRE FIGHTING PURPOSES

INDICATIVE STATIC FIRE FIGHTING WATER SUPPLY FOR EACH INDIVIDUAL BUILDING AREA MEETS THE ACCEPTABLE SOLUTIONS OF IPD1 E1.6.1.3, A2 (b). SELECT & INSTALL IN ACCORDANCE WITH THE REQUIREMENTS OF TABLE 4.3B OF THE DIRECTOR'S DETERMINATION FOR BUILDING IN BUSHFIRE-PRONE AREAS. EXACT LOCATION & METHOD OF STATIC FIRE FIGHTING WATER SUPPLY TO BE PROVIDED AS PART OF INDIVIDUAL DEVELOPMENT APPLICATIONS FOR FUTURE DEVELOPMENT ON EACH LOT.

### HAZARD MANAGEMENT

ESTABLISH HAZARD MANAGEMENT AREAS (IN ACCORDANCE WITH SEPARATION DISTANCES AS SHOWN) IN WHICH FUELS ARE REDUCED SUFFICIENTLY, & OTHER HAZARDS ARE REMOVED SUCH THAT THE FUELS & OTHER HAZARDS DO NOT SIGNIFICANTLY CONTRIBUTE TO THE BUSHFIRE ATTACK.

LIMITED AMOUNTS OF LOW FLAMMABILITY PLANTS ACCEPTABLE IN THE HMA. CAN INCLUDE MAINTAINED LAWN (SHORT CROPPED & KEPT TO A NOMINAL HEIGHT OF 100mm), PATHS, PAVING, SWIMMING POOLS, LOW FLAMMABILITY ORNAMENTAL GARDENS, VEGETABLE GARDENS, ON-SITE WASTE DISPERSION & THE LIKE. LANDSCAPE WITH FIRE RESISTING PLANTS TO ABSORB HEAT FROM AN APPROACHING BUSHFIRE, TRAP BURNING EMBERS & SPARKS & REDUCE WIND SPEEDS. PREFERENCE SHOULD BE GIVEN TO LOW GROWING PLANTS & GROUND COVERS. DO NOT PLANT ADJACENT TO WALLS & DECKS OR DIRECTLY UNDER GLAZED ELEMENTS.

HAZARD MANAGEMENT DOES NOT REQUIRE THE REMOVAL OF ALL TREES. LIMITED AMOUNTS OF TREES & SHRUBS (PREFERABLY FIRE RESISTANT) MAY BE RETAINED / PLANTED IN ROWS & CLUMPS AT SPACING GREATER THAN 20m FROM EACH OTHER & FROM THE BUSHFIRE THREAT. TREES SHOULD NOT OVERHANG BUILDINGS. CREATE HORIZONTAL SEPARATION BETWEEN TREE CROWNS & VERTICAL SEPARATION BETWEEN GROUND LEVEL VEGETATION & THE CANOPY BY PRUNING LOWER BRANCHES. PERIODICALLY REMOVE FINE FUELS (LEAVES, BARK AND FALLEN BRANCHES) FROM BELOW TREES.

### NOTE

\*DEVELOPMENT IS NOT LIMITED TO THE BUILDING AREAS INDICATED. ALTERNATIVE BUILDING AREAS WHICH ARE LOCATED WITHIN HAZARD MANAGED SEPARATION DISTANCES IN ACCORDANCE WITH THE TABLE BELOW COULD ALSO BE CONSIDERED TO COMPLY WITH IPD1 E1.6.1.1 ACCEPTABLE SOLUTION A1 (b).

N.B. ALTERNATIVE BUILDING AREAS WOULD LIKELY REQUIRE CLEARANCE OF VEGETATION WHICH WOULD TRIGGER THE BIODIVERSITY CODE.

BAL 12.5 SEPARATION DISTANCES			
SLOPE UNDER VEG	GRASSLAND	WOODLAND	SCRUB
UPSLOPE & 0°	14-<50	22-<100	27-<100
DOWNSLOPE >0-5°	16-50	26-<100	31-<100
DOWNSLOPE >5-10°	19-<50	32-<100	35-<100
DOWNSLOPE >10-15°	22-<50	40-<100	39-<100
DOWNSLOPE >15-20°	25-<50	48-<100	43-<100

### LEGEND

- INDICATIVE STATIC WATER STORAGE
- INDICATIVE PRIVATE ACCESS
- INDICATIVE 30m x 30m BUILDING AREA
- BAL 12.5 HMA - DISTANCES AS SHOWN
- STANDING VEGETATION

**gifford**  
bushfire risk assessments

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### PROPOSED SUBDIVISION

352 GELLIBRAND DRIVE, SANDFORD

BHMP - SCALE 1:2000 @ A3

PAGE 1 OF 1

Agenda Attachments - 352 Gellibrand Drive, Sandford 16 September 2016

Received 19/09/2016

**352 Gellibrand Drive, SANDFORD**



**Site viewed from Gellibrand Drive showing existing access**



**Site viewed from Gellibrand Drive showing existing property frontage**



**Site viewed from existing driveway showing building areas for lots 3 and 4**



**Site viewed from existing driveway showing existing buildings**

**11.3.3 SUBDIVISION APPLICATION SD-2016/52 - 128 AND 130 TRANMERE ROAD, HOWRAH - 2 LOT SUBDIVISION**  
(File No SD-2016/52)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for a 2 lot subdivision (2 existing lots into 4 lots) at 128 and 130 Tranmere Road, Howrah.

**RELATION TO PLANNING PROVISIONS**

The land is zoned General Residential and subject to the Road and Railway Assets 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 expires with the written consent of the applicant on 22 March 2017.

**CONSULTATION**

The proposal was advertised in accordance with statutory requirements and 9 representations (received from 6 representors) were received raising the following issues:

- adverse impact upon privacy;
- overshadowing;
- noise;
- traffic;
- impact upon pedestrian movements;
- stormwater drainage;
- property devaluation;
- inconsistency with character of area;
- condition of footpath; and
- failure to meet lot size/frontage requirements.

**RECOMMENDATION:**

A. That the application for a 2 lot Subdivision at 128 and 130 Tranmere Road, Howrah (Cl Ref SD-2016/52) be approved subject to the following conditions and advice.

1. GEN AP1 – ENDORSED PLANS.
2. GEN POS 4 – POS CONTRIBUTION [5%] [Lots 2 and 3].

3. GEN AP2 – STAGING.
  - Stage 1 – Lot 4;
  - Stage 2 – Lot 1; and
  - Stage 3 – Lots 2 and 3.
4. ENS S2 – SERVICES.
5. ENG S4 – STORMWATER CONNECTION.
6. A 5.5m wide kerb and gutter crossing must be provided to the combined access to Lots 2 and 3 and must be constructed in accordance with TSD-R09. This width must be extended a minimum of 7.5m along the access way and continued to the lot proper having a minimum trafficable width of 3.0m. The driveway design must additionally incorporate a pedestrian facility with a minimum width of 1.0m for access to Lots 2 and 3.

This access must be inspected by Council prior to sealing or pouring new concrete. Following construction, the crossover must be maintained or repaired by the owner at the owner's expense, in accordance with any directions given by Council to the owner.
7. ENG M2 – DESIGNS SD [delete “road design” and “road stormwater drainage”].
8. ENG M5 – EROSION CONTROL.
9. GEN F3 – ENDORSEMENTS.
10. The development must meet all required Conditions of Approval specified by TasWater notice dated 21 December 2016 (TWDA 2016/01909-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.

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## **ASSOCIATED REPORT**

### **1. BACKGROUND**

No relevant background.

### **2. STATUTORY IMPLICATIONS**

**2.1.** The land is zoned General Residential under the Scheme.

- 2.2.** The proposal is discretionary because it does not meet certain Acceptable Solutions under the Scheme.
- 2.3.** The relevant parts of the Planning Scheme are:
- Section 8.10 – Determining Applications;
  - Section 10.0 – General Residential Zone;
  - Section E5.0 – Road and Railway Assets Code; and
  - Section E6.0 – Parking and Access 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 parcels each with an area of 964m<sup>2</sup>, located within an established residential area at Tranmere Road, Howrah. Each supports an existing dwelling with established gardens and has frontage and existing vehicular access to Tranmere Road.

The lots slope down to the south-west towards Tranmere Road and there are no easements or covenants that affect the subject properties.

#### **3.2. The Proposal**

The proposal is for a 2 internal lot subdivision at 128 and 130 Tranmere Road, Howrah. The proposed lots would be 492m<sup>2</sup> and 464m<sup>2</sup> respectively, leaving the 2 dwellings on lots of 520m<sup>2</sup> and 450m<sup>2</sup>.

The 2 lots with direct frontage to Tranmere Road would have 18.82m and 16.77m of frontage each, whilst the internal lots (Lots 2 and 3) would each have 2.0m frontage and reciprocal rights-of-way. Lots 1 and 4 would also each incorporate a 1.0m wide right-of-way, in addition to the same reciprocal right-of-way arrangement providing a total of 6.0m for access.

The proposed (shared) access strips would be 27.74m in length and both the existing dwellings would be setback in excess of 5.8m from the proposed rear boundaries of each respective lot.

The development would be undertaken in stages with Stage 1 being Lot 4, Stage 2 being Lot 1 and Stage 3 being Lots 3 and 4.

#### **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 the Road and Railway Assets and Parking and Access Codes with the exception of the following.

##### **General Residential Zone**

<b>Clause</b>	<b>Standard</b>	<b>Acceptable Solution</b>	<b>Proposed</b>
10.6.1 A4	Lot design	No lot is an internal lot.	Two internal lots are proposed.

The proposed variation can be supported pursuant to the Performance Criteria P4 of Clause 10.6.1 for the following reasons.

<b>Performance Criterion</b>	<b>Comment</b>
<i>“An internal lot must satisfy all of the following:</i>	Tranmere Road was in existence at the time the planning scheme came into effect.
<i>(a) the lot gains access from a road existing prior to the planning scheme coming into effect, unless site constraints make an internal lot configuration the only reasonable option to efficiently utilise land;</i>	
<i>(b) it is not reasonably possible to provide a new road to create a standard frontage lot;</i>	There is insufficient width between the 2 existing dwellings on the lots to construct a new road to provide access to the rear of both lots.
<i>(c) the lot constitutes the only reasonable way to subdivide the rear of an existing lot;</i>	The rear of the subject property can only be accessed from Tranmere Road, being surrounded by private properties to the rear, meaning that the proposed internal lots are the only possible option for subdivision of the land at the rear.
<i>(d) the lot will contribute to the more efficient utilisation of residential land and infrastructure;</i>	The proposed development can be appropriately accommodated by existing infrastructure networks, and the Scheme permits the creation of lots of the size and nature proposed – concluding that the proposal would be an efficient use of residential land and infrastructure as envisaged by the zone.
<i>(e) the amenity of neighbouring land is unlikely to be unreasonably affected by subsequent development and use;</i>	The future development of each of the proposed lots would be subject to the relevant Use and Development Standards of the Scheme, which give consideration to amenity impacts upon neighbouring residents. The subdivision itself (proposed by this application) would have little impact, beyond the provision of service connections and driveway construction.
<i>(f) the lot has access to a road via an access strip, which is part of the lot, or a right-of-way, with a width of no less than 3.6m;</i>	The proposed internal lots would have access via an access strip with a total width of 4.0m with reciprocal rights-of-way, being in excess of the minimum requirement of 3.6m.

<i>(g) passing bays are provided at appropriate distances to service the likely future use of the lot;</i>	Council's Engineers are satisfied with the length of the proposed access strip, in that it does not trigger a requirement for passing bays in this instance.
<i>(h) the access strip is adjacent to or combined with no more than 3 other internal lot access strips and it is not appropriate to provide access via a public road;</i>	The proposed access strips (with reciprocal rights-of-way) would result in 2 adjacent only, thus satisfying this requirement.
<i>(i) a sealed driveway is provided on the access strip prior to the sealing of the final plan.</i>	A condition is recommended requiring that a sealed driveway be provided, in accordance with Council Policy and to satisfy this requirement.
<i>(j) the lot addresses and provides for passive surveillance of public open space and public rights-of-way if it fronts such public spaces".</i>	Not applicable, as the site does not adjoin any public open space or rights-of-way.

**General Residential Zone**

<b>Clause</b>	<b>Standard</b>	<b>Acceptable Solution</b>	<b>Proposed</b>
10.6.1 A5	Lot design	Subdivision is for no more than 3 lots.	A total of 4 lots (2 existing lots into 4) are proposed.

The proposed variation can be supported pursuant to the Performance Criteria P4 of Clause 10.6.1 for the following reasons.

<b>Performance Criterion</b>	<b>Comment</b>
<i>Arrangement and provision of lots must satisfy all of the following:</i> <i>(a) have regard to providing a higher net density of dwellings along;</i> <i>(i) public transport corridors;</i> <i>(ii) adjoining or opposite public open space, except where the public open space presents a hazard risk such as bushfire;</i> <i>(iii) within 200m of business zones and local shops;</i>	<p>The proposed development and number of lots has regard to a higher net density, in that the proposal satisfies the minimum lot size requirements of the Scheme, which requires that the new lots are each in excess of 400m<sup>2</sup> being the prescribed minimum for lots within 400m of a public transport corridor (Tranmere Road).</p>
<i>(b) will not compromise the future subdivision of the entirety of the parent lot to the densities envisaged for the zone;</i>	The proposal is for the subdivision of the whole both parent lots, consistent with the prescribed densities within the zone.

<i>(c) staging, if any, provides for the efficient and ordered provision of new infrastructure;</i>	Staging is proposed that separates the existing dwellings as the first of the stages, and creates the vacant (internal) lots to the rear as the third stage. This represents efficient and orderly development in that Council's existing transport and service networks are capable of accommodating the development as proposed.
<i>(d) opportunity is optimised for passive surveillance between future residential development on the lots and public spaces;</i>	Not applicable
<i>(e) is consistent with any applicable Local Area Objectives or Desired Future”.</i>	Not applicable

**General Residential Zone**

<b>Clause</b>	<b>Standard</b>	<b>Acceptable Solution</b>	<b>Proposed</b>
10.6.3 A1	Ways and Public Open Space	No acceptable solution.	Payment of cash-in-lieu of the provision of physical open space.

The proposed variation can be supported pursuant to the Performance Criteria P1 of Clause 10.6.3 for the following reasons.

<b>Performance Criterion</b>	<b>Comment</b>
<i>“P1 - The arrangement of ways and public open space within a subdivision must satisfy all of the following: (a) connections with any adjoining ways are provided through the provision of ways to the common boundary, as appropriate;</i>	Not relevant
<i>(b) connections with any neighbouring land with subdivision potential is provided through the provision of ways to the common boundary, as appropriate;</i>	Not relevant
<i>(c) connections with the neighbourhood road network are provided through the provision of ways to those roads, as appropriate;</i>	Not relevant
<i>(d) convenient access to local shops, community facilities, public open space and public transport routes is provided;</i>	Not relevant

<i>(e) new ways are designed so that adequate passive surveillance will be provided from development on neighbouring land and public roads as appropriate;</i>	Not relevant
<i>(f) provides for a legible movement network;</i>	Not relevant
<i>(g) the route of new ways has regard to any pedestrian and cycle way or public open space plan adopted by the Planning Authority;</i>	Not relevant
<i>(h) Public Open Space must be provided as land or cash-in-lieu, in accordance with the relevant Council Policy;</i>	The applicant proposes to pay cash-in-lieu of the provision of open space, in accordance with Council's Public Open Space Policy. An appropriate permit condition has been included above to reflect this requirement in relation to Lots 2 and 3.
<i>(i) new ways or extensions to existing ways must be designed to minimise opportunities for entrapment or other criminal behaviour including, but not limited to, having regard to the following: (i) the width of the way; (ii) the length of the way; (iii) landscaping within the way; (iv) lighting; (v) provision of opportunities for 'loitering'; (vi) the shape of the way (avoiding bends, corners or other opportunities for concealment).</i>	Not relevant

## **5. REPRESENTATION ISSUES**

The proposal was advertised in accordance with statutory requirements and a total of 9 representations were received, noting that of those, 2 were duplicates and 2 separate representations were received from 1 representor. The following issues were raised by the representors.

### **5.1. Adverse Impact Upon Privacy**

The representations raised the impact of the proposed development upon the privacy of the area, in relation to the future construction of dwellings on the 2 proposed lots.

- **Comment**

The development of each lot is not proposed at this time and, if this subdivision is approved, any future development would be subject to the relevant use and development standards of the General Residential Zone, which include consideration of privacy should a variation to the prescribed building envelope and setback standards be sought.

Given that this issue is not relevant to the subdivision itself, it is not of determining weight

## **5.2. Overshadowing**

The representations raise overshadowing as justification for refusal of this proposal, in relation to the future development of dwellings on the subject property and possible impacts on the availability of sunlight to neighbouring development.

- **Comment**

As noted above, future development would be subject to the relevant use and development standards of the General Residential Zone which include consideration of solar access should a variation to the prescribed building envelope and setback standards be sought.

Given that this issue is not relevant to the subdivision, it is not of determining weight

## **5.3. Noise**

Concerns are raised by the representations that noise generated by future residential land use and including external plant (such as poorly placed air conditioning or heat pump units), in relation to existing residential development within proximity of the site.

- **Comment**

As discussed above, future development of the land would be subject to the applicable use and development standards of the zone, at that time. This issue is not relevant to this subdivision.

**5.4. Traffic**

The representations raised the impact of the proposal upon traffic movements and safety along Tranmere Road in proximity of the site as an issue. The likely number of vehicles per new dwelling is raised as being of concern to the representors, given the size of the lots and the apparent lack of space for cars reversing onto Tranmere Road. Lack of on-street parking and traffic congestion are raised as being of concern.

- **Comment**

Council's Engineers have assessed the proposed development and are of the view that the development satisfies the relevant standards in terms of sight distances for new access - with the inclusion of appropriate conditions relating to the construction (and sealing) of the shared right-of-way access. Appropriate conditions have been included above in relation to service connections and access.

The Scheme allows for vehicles associated with future Single Dwellings on the site to enter the site in a forward direction and exit in reverse. That said and given the size of the proposed lots, future residential development may also provide for forward egress.

The parking requirements of the Scheme would be addressed at the time of a future proposal for development of the proposed 2 vacant lots, specifically in relation to the nature of the development proposed.

**5.5. Impact Upon Pedestrian Movements**

Pedestrian access and safety is raised by the representations as a significant concern. This relates to the proximity to an existing bus stop, poor visibility and speed of vehicles using Tranmere Road.

- **Comment**

As discussed above, Council's Engineers are satisfied that the proposal meets the relevant Australian Standard for sight distance.

It is noted, however, that in order to provide for safe pedestrian movements to Tranmere Road from Lots 2 and 3, that a condition has been recommended requiring provision for pedestrian access to be made as part of the shared driveway arrangement. This will ensure consistency with the relevant standards and address this concern in part.

#### **5.6. Stormwater Drainage**

One representor raised concerns in relation to stormwater drainage and “seepage” in the vicinity of the subject land and more broadly in Howrah. It is submitted that agricultural drains have been used within the boundaries of some properties, to avoid impacts on buildings caused by damp and suggested that a similar arrangement should be used for Lots 2 and 3 of the proposed subdivision.

- **Comment**

Council’s Engineers have considered the proposed development and have proposed permit conditions relevant to stormwater management, access and pavement construction. These are included above and provide that detailed engineering designs are also required to demonstrate that stormwater run-off from the site and likely future impervious areas could be appropriately drained to the existing infrastructure network, as required by the relevant Australian and Tasmanian Standards.

#### **5.7. Property Devaluation**

A drop in property value was raised by several representors as being of concern and justification for the refusal of the proposal. The specific concerns relate to the size of future dwellings, privacy and “feel of the area and the resultant negative impact anticipated on property values.

- **Comment**

Impacts on property values are not a relevant planning consideration. Issues relative to privacy and character are discussed separately elsewhere.

**5.8. Inconsistency with Character of Area**

The representations raised concerns that the proposed density of development would be inconsistent with the character of the area, which is represented by spaciousness and Single Dwellings on large lots.

- **Comment**

The proposed development is a subdivision that accords with the minimum lot sizes prescribed by the General Residential Zone. Lots of the size and nature proposed are envisaged by the Scheme and given that the proposal satisfies the relevant Acceptable Solutions and Performance Criterion, this is not an issue that justifies refusal of the proposal.

**5.9. Condition of Footpath**

The poor condition of the footpath along Tranmere Road was raised by the representations as an issue in respect of the proposed subdivision, in relation to safety of pedestrians walking past and in the vicinity of the site.

- **Comment**

The proposed development is not related to the condition of the footpath in the vicinity of the site. This is a maintenance issue addressed by Council's Asset Management Group and not relevant to the Scheme or the determination of the application.

That said, the condition of the footpath has been raised with Council's Asset Management Group and an inspection will be undertaken to determine if urgent work is required outside Council's regular footpath maintenance program.

**5.10. Failure to Meet Lot Size/Frontage Requirements**

One representation submits that the proposal fails to meet both the acceptable solutions and performance criteria in relation to the minimum lot size and frontage provisions of the Scheme and should therefore be refused.

- **Comment**

The specific clause referred to by the representor is Clause 10.6.1 of the Scheme, which relates to lot design. Firstly and in relation to minimum lot sizes, the proposal does satisfy the minimum lot size requirements in that the lots are each in excess of 400m<sup>2</sup>, which is the prescribed minimum for lots within 400m of the Tranmere Road public transport corridor.

Secondly and in relation to frontage, each of the proposed lots fronting Tranmere Road has in excess of 12m road frontage, whilst the 2 internal lots have the minimum required frontage (via reciprocal rights-of-way) of 3.6m as required by Clause 10.6.1 P4(f) of the Scheme.

Thirdly and in relation to the number of lots, the application is for the creation of 4 lots in total (2 existing into 4 new). It is considered that the proposal satisfies the relevant Scheme requirements of Clause 10.6.4 P5, for the reasons discussed above.

## **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 2016-2026 or any other relevant Council Policy.

A developer contribution is required to comply with Council's Public Open Space Policy in that the development resulting from an approval of this application 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, 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 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 (Lots 2 and 3), representing the increased demand for POS generated by the proposal and not the entire site the subject of the application.

An appropriate condition has therefore been included above in relation to payment of cash-in-lieu of the provision of open space, as discussed.

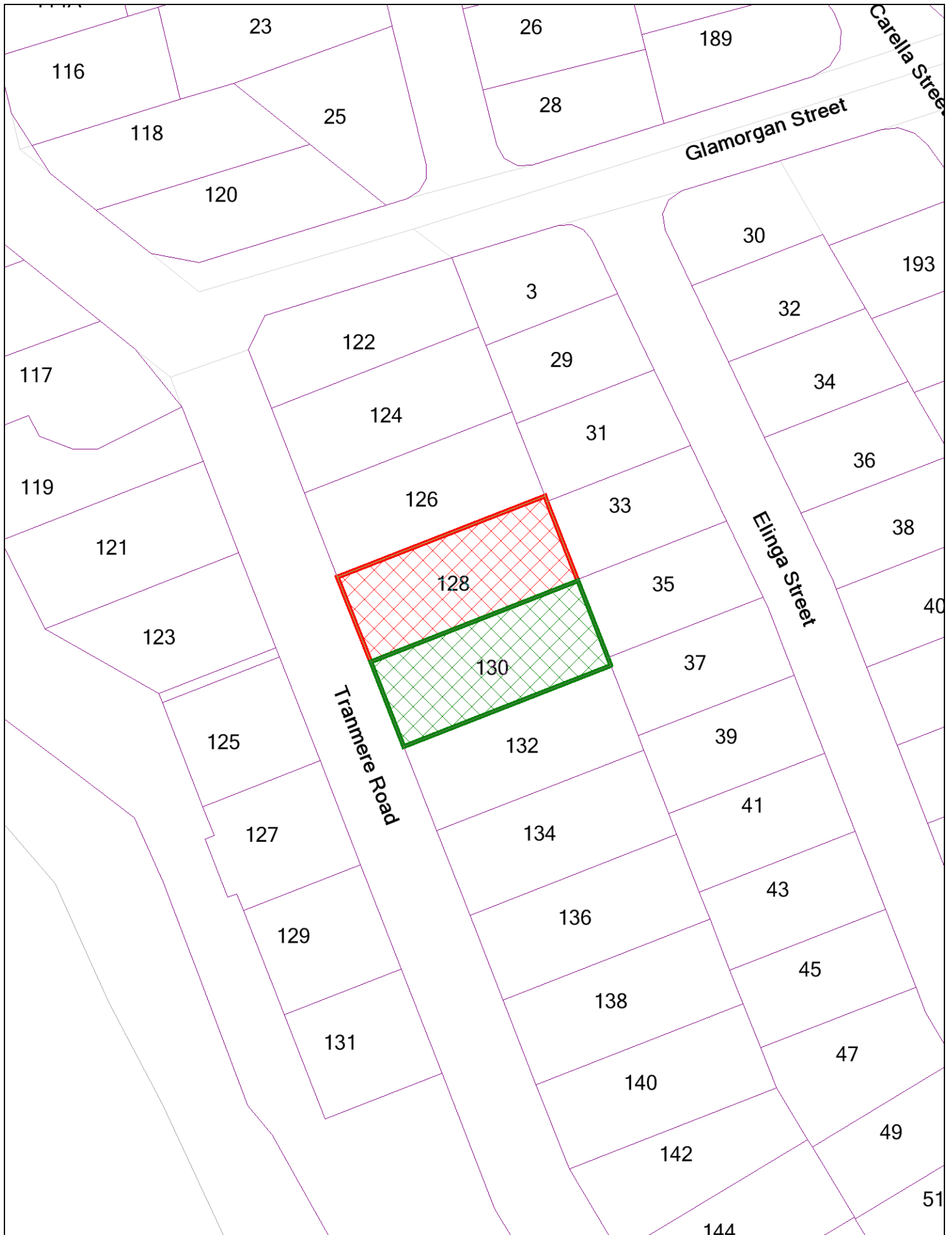
## **9. CONCLUSION**

The proposal is for a 2 lot subdivision (2 existing lots into 4 lots) at 128 and 130 Tranmere Road, Howrah. The proposal satisfies the relevant requirements of the Scheme and is therefore recommended for approval, subject to conditions.

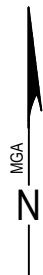
Attachments: 1. Location Plan (1)  
2. Proposal Plan (1)  
3. Site Photo (1)

Ross Lovell  
**MANAGER CITY PLANNING**

# Clarence City Council

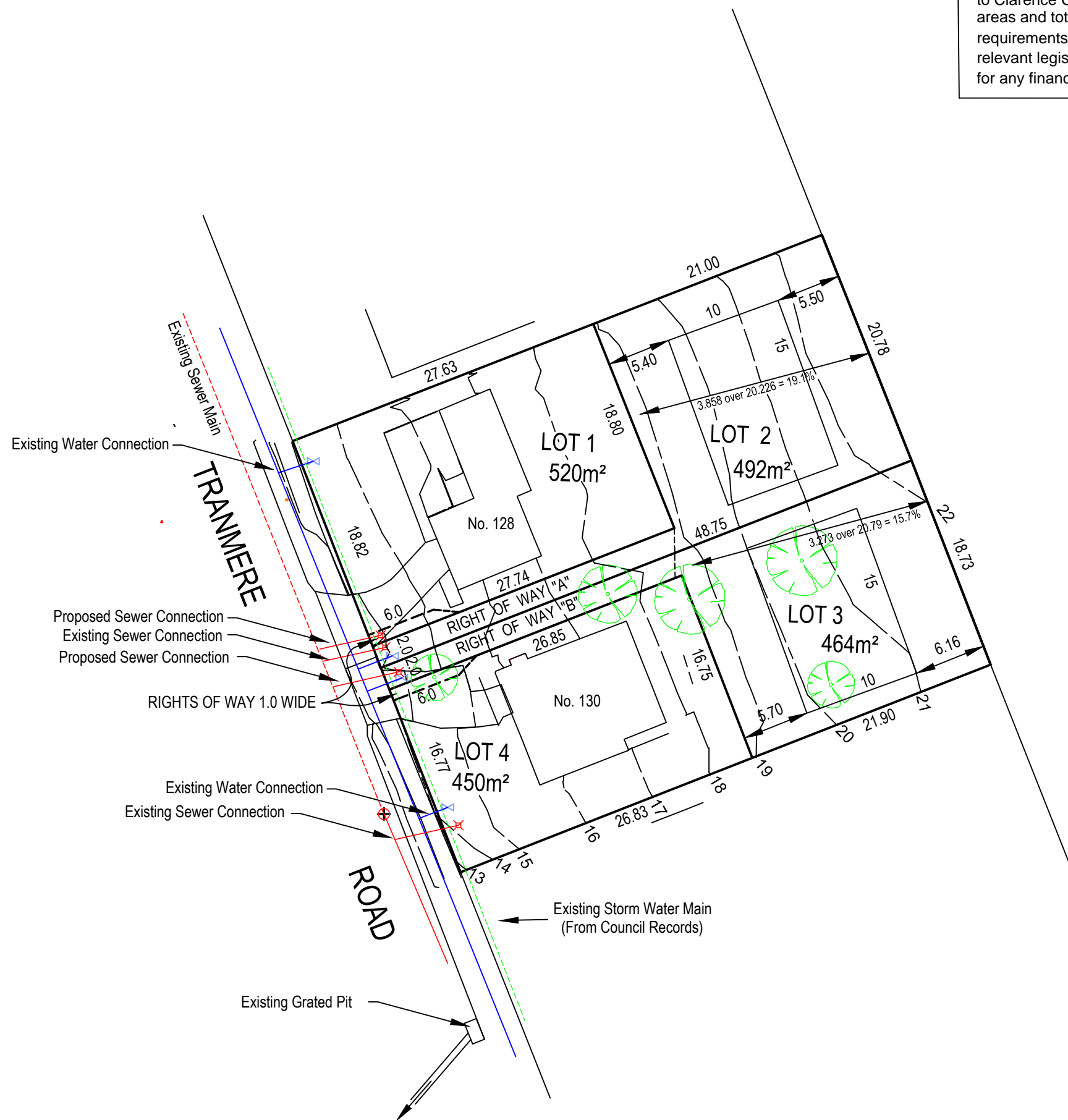


**Disclaimer:** This map is a representation of the information currently held by Clarence City Council. While every effort has been made to ensure the accuracy of the product, Clarence City Council accepts no responsibility for any errors or omissions. Any feedback on omissions or errors would be appreciated. Copying or reproduction, without written consent is prohibited. **Date:** Wednesday, 8 March 2017 **Scale:** 1:1,047 @A4



#### IMPORTANT NOTE

This plan was prepared as a proposed subdivision to accompany a subdivision application to Clarence City Council and should not be used for any other purpose. The dimensions and total number of lots shown hereon are subject to field survey and also to the requirements of Council and any other authority which may have requirements under any relevant legislation. In particular, no reliance should be placed on the information on this plan for any financial dealings involving the land. This note is an integral part of this plan.




#### PROPOSED STAGES

STAGE 1 LOT 4

STAGE 2 LOT 1

STAGE 3 LOT 3 & 4

AMENDMENTS			 <b>LEARY &amp; COX</b> LAND & ENGINEERING SURVEYORS	Unit G04 40 Mole Street, HOBART TAS 7000 P 03 6118 2030 E admin@learyandcox.com	Project Name and Address <b>128 - 130 TRANMERE ROAD HOWRAH</b>	Drawing Title <b>PLAN OF SUBDIVISION</b>	Client <b>T &amp; F WALSH CT.12491 - 64 &amp; 65</b>	SCALE 0 5 10 15 1:400 at A3	Contour Interval <b>1.00</b>	Date <b>25 / 1 / 17</b>	FILE REF: <b>9491</b>		
No.	Revision/Issue	Date									SHEET <b>1 of 1</b>	Geochil Ref <b>949101</b>	AutoCAD Ref <b>949101</b>
											DRAWN <b>NL</b>	Horz: <b>MGA</b>	Vert: <b>AHD</b>
											CHKD <b>ML</b>		

## **128 & 130 Tranmere Road, HOWRAH**



**Site viewed from Tranmere Road, looking east**



**Site of proposed Lot 2, viewed from rear of dwelling at 128 Tranmere Road looking east**



**Site of proposed Lot 3, viewed from rear of dwelling at 130 Tranmere Road looking east**

**11.3.4 DEVELOPMENT APPLICATION D-2017/54 - 34 OAKBANK ROAD, OTAGO  
- DWELLING**  
(File No D-2017/54)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for a dwelling at 34 Oakbank Road, Otago.

**RELATION TO PLANNING PROVISIONS**

The land is zoned Rural Living and subject to the Bushfire Prone Area, Parking and Access and Stormwater 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 expires on 28 March 2017.

**CONSULTATION**

The proposal was advertised in accordance with statutory requirements and 1 representation was received raising the issue of stormwater drainage.

**RECOMMENDATION:**

- A. That the Development application for Dwelling at 34 Oakbank Road, Otago (CI Ref D-2017/54) be approved subject to the following conditions and advice.
  - 1. GEN AP1 – ENDORSED PLANS.
  - 2. ADVICE 3 – SPECIAL PLUMBING ADVICE.
- 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-2017/54 - 34 OAKBANK ROAD, OTAGO – DWELLING /contd...**

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**ASSOCIATED REPORT****1. BACKGROUND**

Planning approvals D-2015/187 and D-2014/296 were granted by Council for an outbuilding.

The outbuilding approved under D-2015/187 has been constructed and achieves a 3m setback from the East Derwent Highway frontage.

**2. STATUTORY IMPLICATIONS**

**2.1.** The land is zoned Rural Living under the Scheme.

**2.2.** The proposal is discretionary because it does not meet certain Acceptable Solutions under the Scheme. The proposal seeks a variation to the front and side setback requirements, setback to land zoned (Rural Resource) along with a variation to the combined gross floor area of buildings on-site.

**2.3.** The relevant parts of the Planning Scheme are:

- Section 8.10 – Determining Applications;
- Section 10 – Rural Living Zones; and
- Section E6.0 – Bushfire Prone Area, Parking and Access, Stormwater Management, 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 is a regularly shaped 4872m<sup>2</sup> lot (CT Ref: 52296/1) with frontage to East Derwent Highway to the north-east and an access strip to Oakbank Road to the north-west. The site contains an existing water tank and 150m<sup>2</sup> outbuilding. The land slopes down toward the west with no significant vegetation on-site.

The surrounding 3 properties contain Single Dwellings.

#### **3.2. The Proposal**

The proposal is for a 366m<sup>2</sup> single storey 4 bedroom dwelling, sundeck and integrated 2 car garage.

The dwelling would have a maximum height of 7m and is 29m long x 10.5m wide (excluding the sundeck which protrudes from the centre of the front 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 Rural Living Zone and Codes with the exception of the following.

**Rural Living Zone**

Clause	Standard	Acceptable Solution (Extract)	Proposed
13.4.2 A1	Setback	Building setback from frontage must be no less than: 20m	The property has 2 frontages. The proposed dwelling would be located 19.8m from the East Derwent Highway and 43m from the Oakbank Road.

The proposed variation can be supported pursuant to the Performance Criteria P1 of the Clause 13.4.2 for the following reasons.

Performance Criteria	Comment
Building setback from frontages must maintain the desirable characteristics of the surrounding landscape and protect the amenity of adjoining lots, having regard to all of the following:  (a) the topography of the site;	The site slopes down towards the Oakbank Road frontage. Due to the topography of the site, the dwelling would not be visible from the East Derwent Highway frontage. The existing outbuilding is not visible from the East Derwent Highway frontage due to the slope of the site and established vegetation in the highway reservation.
(b) the prevailing setbacks of existing buildings on nearby lots;	There is no prevailing setback for existing buildings on lots nearby, however, the directly adjacent lots have setbacks to the East Derwent Highway of approximately 51m and 56m.
(c) the size and shape of the site;	The lot is an internal lot with a 30m long access strip. The shape of the lot is otherwise rectangular and is approximately 100m long with the width varying from 47m to 59m across the site. The lot is approximately 48m wide at the location of the dwelling and is below the minimum lot size for the Rural Living Zone in Otago of 1ha.
(d) the location of existing buildings on the site;	The existing outbuilding is the only building on the site and located approximately 16m closer to the East Derwent Highway frontage than the dwelling.
(e) the proposed colours and external materials of the building;	The dwelling would be brick with a Colorbond roof and is unlikely to have an unreasonable effect on the amenity of adjoining lots.

(f) the visual impact of the building when viewed from an adjoining road;	The dwelling will be located behind the existing outbuilding from the East Derwent Highway perspective. As the property is an internal lot and access from a right-of-way, visual impacts from Oakbank Road are not considered to be significant.
(g) retention of vegetation:	The site is clear of vegetation.
(h) be no less than: (i) 15m; or (ii) 5m for lots below the minimum lot size specified in the acceptable solution; or (iii) the setback of an existing roofed building (other than an exempt building) from that boundary.	As the lot size is below the minimum lot specified for Otago (1ha), the proposed setback to the East Derwent Highway frontage of 19.8m complies with h (ii) and h (iii).

### **Rural Living Zone**

<b>Clause</b>	<b>Standard</b>	<b>Acceptable Solution (Extract)</b>	<b>Proposed</b>
13.4.2 A2	Setback	Building setback from side and rear boundaries must be no less than 20m	It is proposed that the dwelling be located 6.5m from the northern side boundary and 8.4m from the southern side boundary.

The proposed variation can be supported pursuant to the Performance Criteria P2 of the Clause 13.4.2 for the following reasons.

<b>Performance Criteria</b>	<b>Comment</b>
Building setback from side and rear boundaries must maintain the desirable characteristics of the surrounding landscape and protect the amenity of adjoining lots, having regard to all of the following: (a) the topography of the site;	Due to the downward slope towards Oakbank Road, the construction of the dwelling includes modification of natural ground level at each of the side boundaries. These earthworks would achieve a 3.4m setback from the northern side boundary and 9.3m from the southern side boundary.

(b) the size and shape of the site;	As per the above the length of the site is approximately 100m. As the dwelling is approximately 10m wide it will not significantly alter the desirable characteristics for the surrounding landscape despite the side setbacks not meeting the Acceptable Solution requirement of 20m. Due to the size of the lot being substandard, it would be difficult for a proposal to meet the required side setbacks of 20m.
(c) the location of existing buildings on the site;	As previously mentioned, the only existing building on-site is the outbuilding. Whilst the outbuilding achieves a greater side setback than the dwelling of 14.9m to the northern side boundary and 19.3m to the southern side boundary it also does not meet the requirements of the Acceptable Solution due to the constraints of the lot size.
(d) the proposed colours and external materials of the building;	As discussed previously
(e) visual impact on skylines and prominent ridgelines;	As discussed previously
(f) impact on native vegetation;	Not applicable
(g) be sufficient to prevent unreasonable adverse impacts on residential amenity on adjoining lots by: (i) overlooking and loss of privacy; (ii) visual impact, when viewed from adjoining lots, through building bulk and massing;	The single storey dwelling will not have a significant impact on the residential amenity of adjoining lots. The dwelling has 1 bedroom window along each side setback and the finished floor level of each bedroom is less than a metre from natural ground level. The rear of the property faces the East Derwent Highway and the front of the dwelling is located 43m from the western boundary and approximately 106m from Oakbank Road.
(h) be no less than: (i) 10m; or (ii) 5m for lots below the minimum lot size specified in the acceptable solution; or (iii) the setback of an existing roofed building (other than an exempt building) from that boundary. unless the lot is narrower than 40m at the location of the proposed building site.	As the lot size is below the minimum lot specified for Otago, the proposed setback to the side setbacks complies with h (ii).

**Rural Living Zone**

<b>Clause</b>	<b>Standard</b>	<b>Acceptable Solution (Extract)</b>	<b>Proposed</b>
13.4.2 A3	Setback	Building setback for buildings for sensitive use (including residential use) must comply with all of the following: Be sufficient to provide a separation distance from land zoned Rural Resource no less than 100m;	The dwelling would be located 76m from the Rural Resource zone.

The proposed variation can be supported pursuant to the Performance Criteria P3 of the Clause 13.4.2 for the following reasons.

<b>Performance Criteria</b>	<b>Comment</b>
Building setback for buildings for sensitive use (including residential use) must prevent conflict or fettering of primary industry uses on adjoining land, having regard to all of the following: (a) the topography of the site;	Whilst the property is setback less than 100m land zoned Rural Resource, the Rural Resource zone is located on the other side of the East Derwent Highway. With a 4 lane Highway separating the property from the Rural Resource Zone, impacts to sensitive use are not anticipated.
(b) the prevailing setbacks of existing buildings on nearby lots;	As discussed previously there is not a prevailing setback of buildings on nearby lots.
(c) the size of the site;	As previously discussed
(d) the location of existing buildings on the site;	As previously discussed
(e) retention of vegetation;	Not applicable
(f) the zoning of adjoining and immediately opposite land;	The property adjoins lots zoned Rural Living and Utilities (East Derwent Highway). The Rural Living lots in the area already contain residential dwellings.
(g) the existing use on adjoining and immediately opposite sites;	The Rural Resource Zone is located at the property address 2200 East Derwent Highway which is adjacent the Utilities Zone (East Derwent Highway) and therefore does not adjoin 34 Oakbank Road.
(h) the nature, frequency and intensity of emissions produced by primary industry uses on adjoining and immediately opposite lots;	Not applicable

(i) any proposed attenuation measures;	Not applicable
(j) any buffers created by natural or other features.	Not applicable

**Rural Living Zone**

Clause	Standard	Acceptable Solution (Extract)	Proposed
13.4.3 A3	Design	The combined gross floor area of buildings must be no more than: 375m <sup>2</sup> .	The combined gross floor area of buildings on-site is 516m <sup>2</sup> .

The proposed variation can be supported pursuant to the Performance Criteria P3 of the Clause 13.4.3 for the following reasons.

Performance Criteria	Comment
The combined gross floor area of buildings must satisfy all of the following: (a) there is no unreasonable adverse impact on the landscape;	The combined gross floor area of buildings on-site is not expected to have an unreasonable adverse impact on the landscape. The existing outbuilding and proposed dwelling will result in site coverage of approximately 10.59%.
(b) buildings are consistent with the domestic scale of dwellings on the site or in close visual proximity;	The dwelling is single storey and consistent with residential development in the area in terms of domestic scale.
(c) be consistent with any Desired Future Character Statements provided for the area.	Not applicable

**Rural Living Zone**

Clause	Standard	Acceptable Solution (Extract)	Proposed
13.4.3 A4	Design	Fill excavation must comply with all of the following: (a) height of fill and depth of excavation is no more than 1m from natural ground level, except where required for building foundations.	Excavation required is 1.2m below natural ground level to allow access into the garage.

The proposed variation can be supported pursuant to the Performance Criteria P4 of the Clause 13.4.3 for the following reasons.

<b>Performance Criteria</b>	<b>Comment</b>
Fill and excavation must satisfy all of the following: (a) does not detract from the landscape character of the area;	The amount of excavation required exceeds the amount stated in the Acceptable Solution by approximately 0.2m. This increase is not considered significant or likely to detract from the landscape character of the area.
(b) does not unreasonably impact upon the privacy for adjoining properties;	As the increase is very minor and due to the size of the site, it is very unlikely that there would be an unreasonable impact to adjoining properties.
(c) does not affect land stability on the lot or adjoining land.	As above. In addition, a retaining wall is shown on the south-eastern elevation adjacent the garage.

## **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. Stormwater Drainage**

The representor is concerned that the proposed development would contribute to stormwater build-up in the drains in Oakbank Road. The representor is concerned that a number of properties discharge stormwater into the road side drain, which could result in flooding of his property (specifically the laundry and garage).

- **Comment**

The proposal meets the Acceptable Solution E7.7.1 A1 of the Stormwater Management Code.

Notwithstanding the above, stormwater run-off would be managed via the existing site spoon drain, additional grated trench and stormwater grated pit. The pit connects to Council's existing stormwater main which is located on Oakbank Road near the property boundary. The pit provides the discharge point for stormwater from the property.

Council's Engineers have advised that stormwater flows emanating from the site were considered as part of the original subdivision of the land.

Furthermore, Councils Engineers consider the representor's concerns are unrelated to development upstream and will provide assistance to help identify the specific concerns that have been raised with regards to their property.

## **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 2016-2026 or any other relevant Council Policy. Developer contributions are not required to comply with any Council Policies.

## **9. CONCLUSION**

The proposal is for construction of a dwelling at 34 Oakbank Road, Otago. The proposal satisfies the requirements of the Scheme and is recommended for approval.

Attachments: 1. Location Plan (1)  
2. Proposal Plan (4)  
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.



**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, 10 March 2017 **Scale:** 1:1,602 @A4



### SITE INFORMATION

34 Oakbank Road,  
Otago Bay TAS 7071

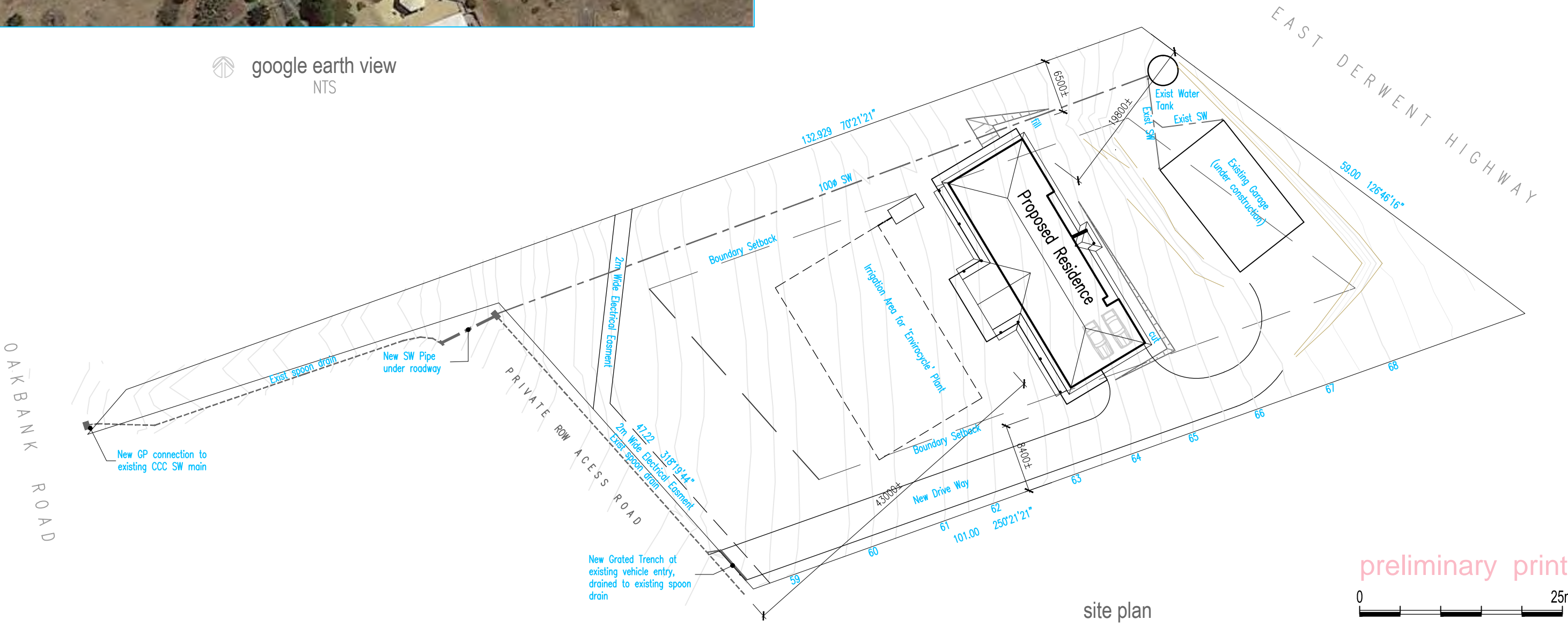
SITE AREA	4872m <sup>2</sup>
Existing Building Footprint	150m <sup>2</sup> (existing garage)
Proposed Residence Footprint	366m <sup>2</sup>
Total Building Footprint	516m <sup>2</sup> ±
Proposed Plot Ratio	%±

ITEM	RATING	REFERENCE / NOTES
Development Class	1a	NCC-2015-BCA Vol 1, Section A3.2
Planning Zone		

### Drawing Sheet Index :

Sheet 1 :	Cover Sheet - Site Plan, Location Plan
Sheet 2 :	Floor Plans
Sheet 3 :	Elevations
Sheet 4 :	Elevations

google earth view  
NTS



site plan

preliminary print

Scale 1:500 At A3

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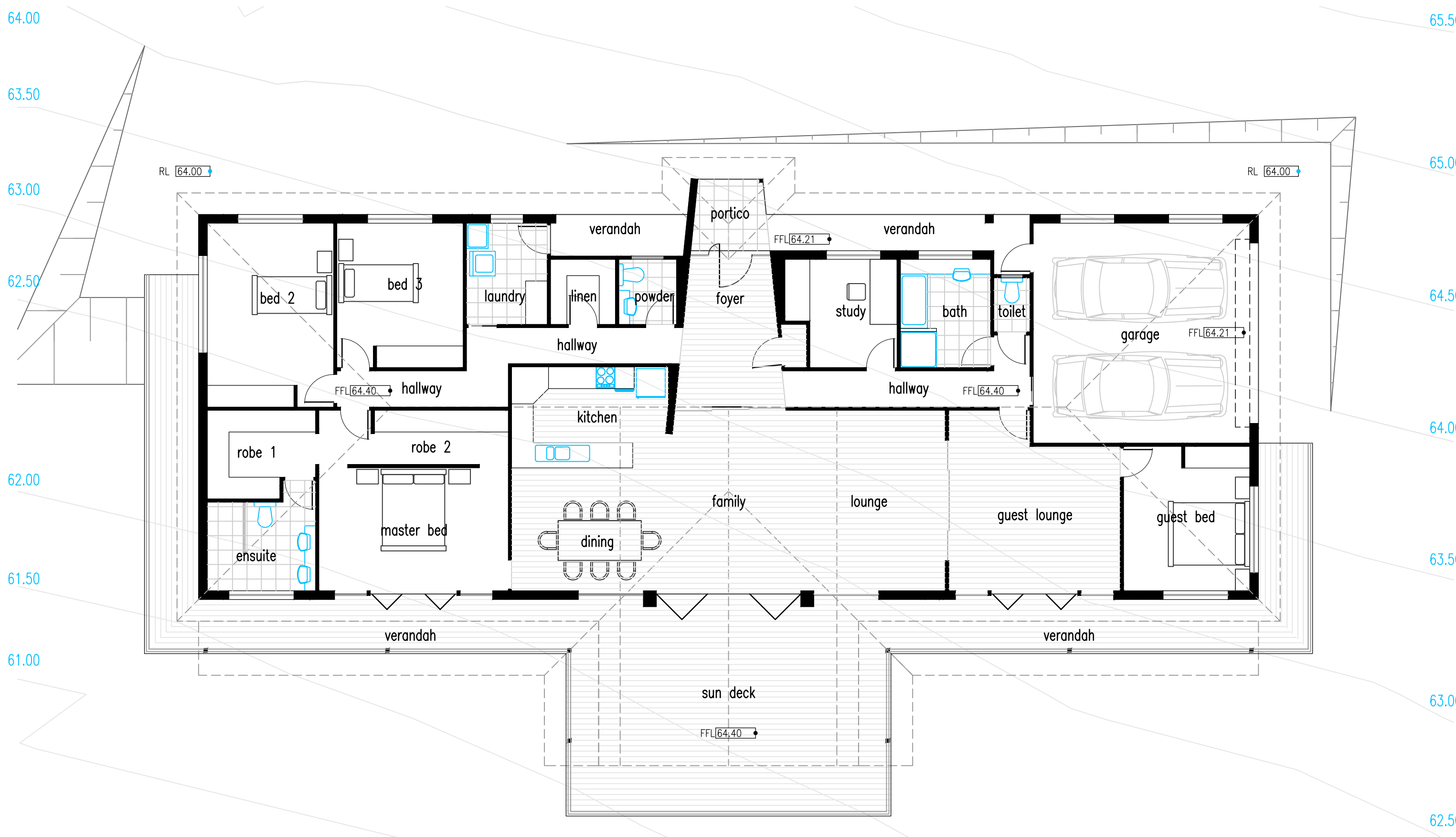
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ACAD FILE	1612
DRAWN	ANIKER



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CLIENT	W & C LING 34 OAKBANK ROAD, OTAGO BAY 7017
DRAWING	DESIGN DEVELOPMENT - SITE DEVELOPMENT PLAN
NUMBER	DD 1612 01

BAR SCALE	
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Scale 1:100 At A3	



preliminary print

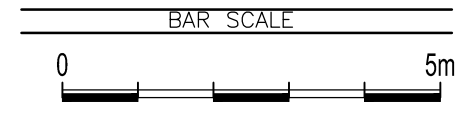
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REVISION	
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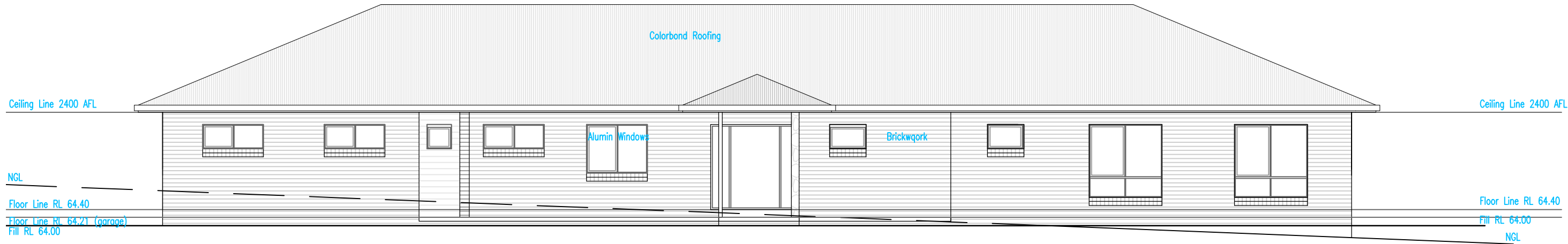
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DATE	3Nov16
ACAD FILE	1612
DRAWN	ANIKER



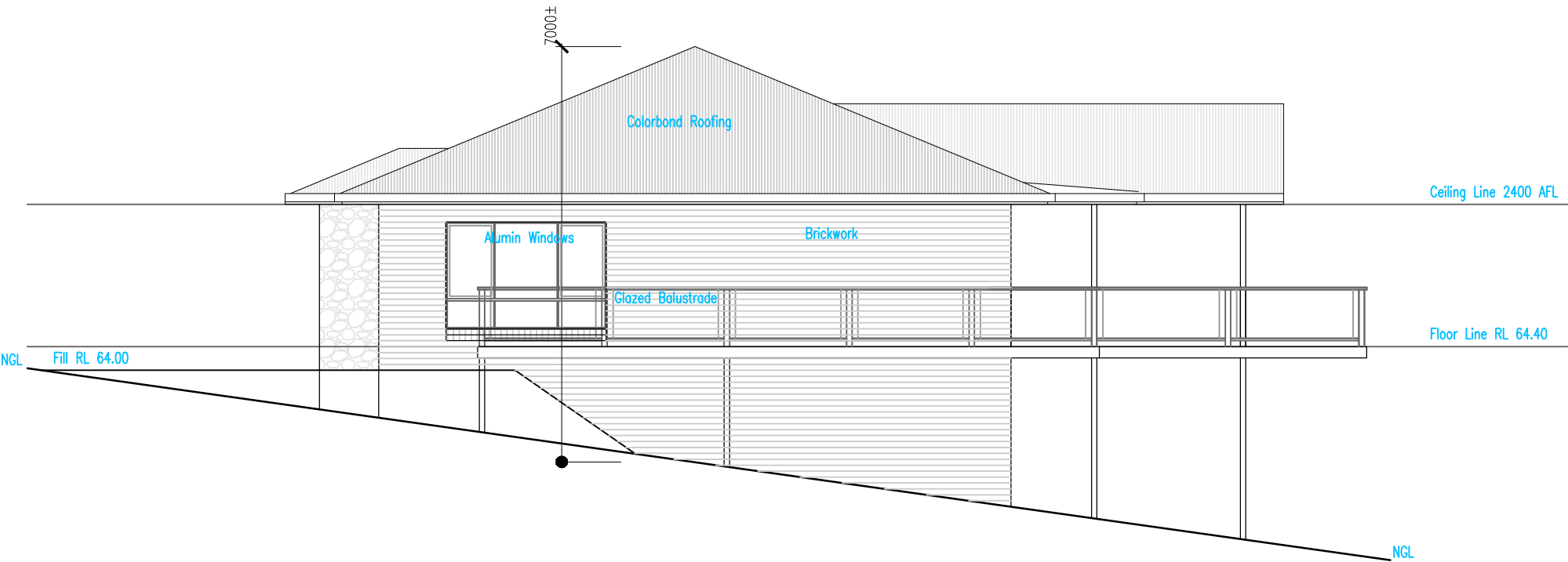
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CLIENT	W & C LING 34 OAKBANK ROAD, OTAGO BAY 7017
DRAWING NUMBER	DESIGN DEVELOPMENT - FLOOR PLAN DD 1612 02



Scale 1:100 At A3



north eastern elevation



north western elevation

materials schedule



roofing



gutter & fascia



brick work



window frames

preliminary print

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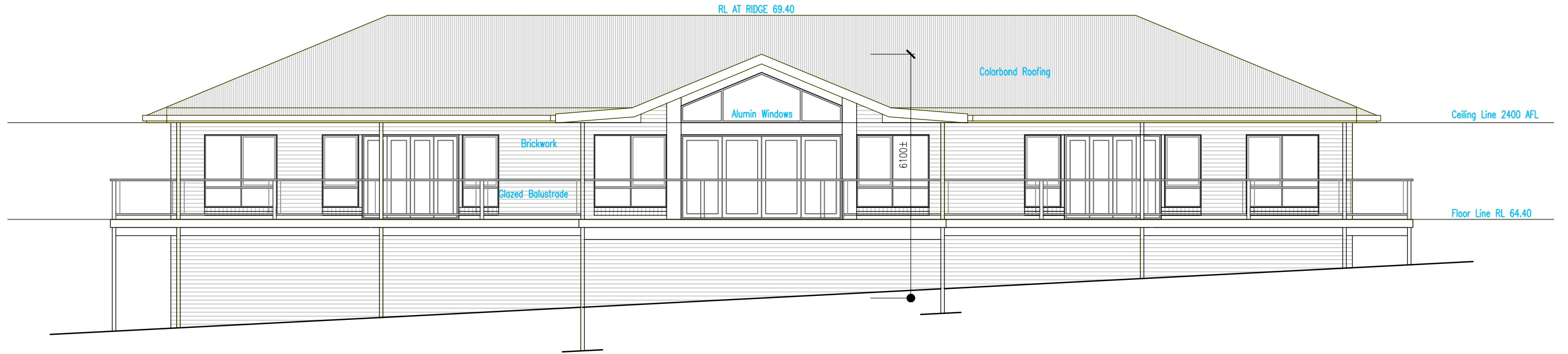
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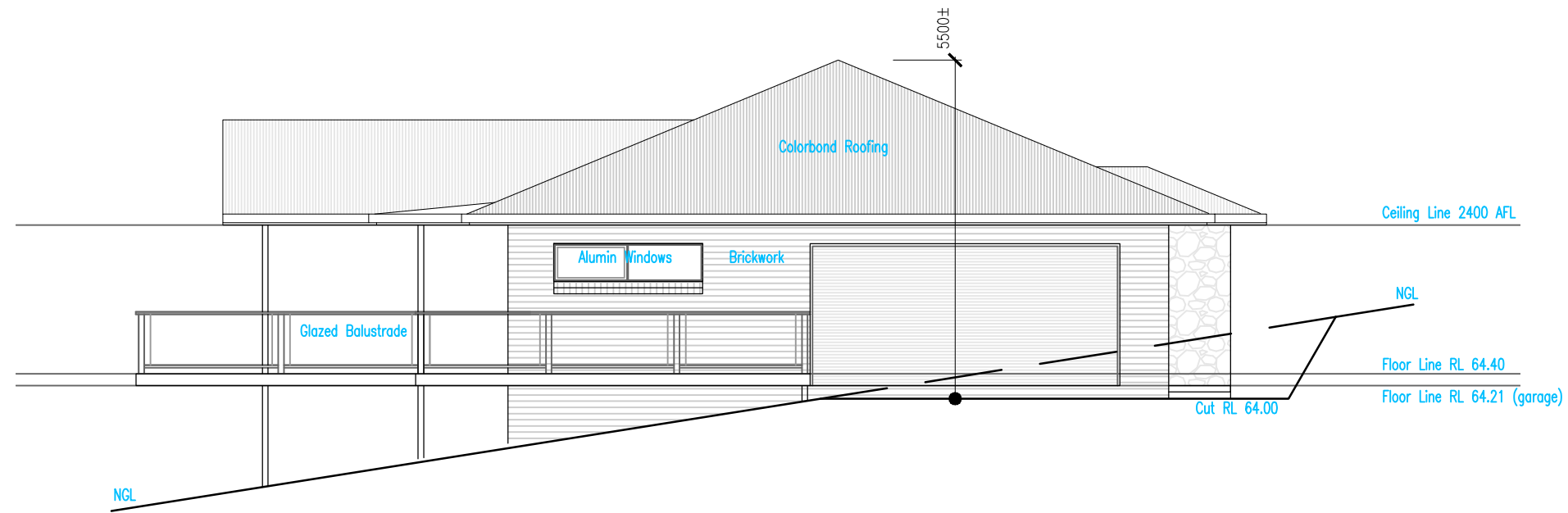
NORTH
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PROJECT	PROPOSED NEW RESIDENCE 34 OAKBANK ROAD OTAGO BAY 7017
CLIENT	W & C LING 34 OAKBANK ROAD, OTAGO BAY 7017
DRAWING	DESIGN DEVELOPMENT – ELEVATIONS
NUMBER	DD 1612 04

BAR SCALE	
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Scale 1:100 At A3	



south western elevation



south eastern elevation

### materials schedule



roofing



gutter & fascia



brick work



window frames

preliminary print

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REVISION		
NO	DATE	

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SCALE 2	NA
DATUM	STATE
DATE	2Nov16
ACAD FILE	1612
DRAWN	ANIKER

NORTH
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PROJECT	PROPOSED NEW RESIDENCE 34 OAKBANK ROAD OTAGO BAY 7017
CLIENT	W & C LING
DRAWING NUMBER	DESIGN DEVELOPMENT – ELEVATIONS DD 1612_03

BAR SCALE	
0	5m
Scale 1:100 At A3	

### **34 Oakbank Road, OTAGO**



**Site viewed from access off Oakbank Road**

<b>11.4 CUSTOMER SERVICE</b>
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Nil Items.

**11.5 ASSET MANAGEMENT**

Nil Items.

**11.6 FINANCIAL MANAGEMENT**

Nil Items.

**11.7 GOVERNANCE****11.7.1 DRAFT DOG CONTROL AMENDMENT BILL 2017**

(File No 05-02-05)

**EXECUTIVE SUMMARY****PURPOSE**

To consider the draft Dog Control Amendment Bill 2017 from the State Government in relation to the management of dogs in Tasmania.

**RELATION TO EXISTING POLICY/PLANS**

Nil.

**LEGISLATIVE REQUIREMENTS**

Nil.

**CONSULTATION**

The State Government has sought comments from stakeholders, including Local Government, on the draft Dog Control Amendment Bill 2017 by Friday, 7 April 2017.

**FINANCIAL IMPLICATIONS**

Not applicable at this time.

**RECOMMENDATION:**

That Council notes the draft Dog Control Amendment Bill 2017 and endorses and forwards this report to the State Government for consideration.

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**ASSOCIATED REPORT****1. BACKGROUND**

- 1.1.** In October 2013, the Department of Premier and Cabinet's Local Government Division released an issues paper seeking comment on a number of proposed amendments to the Dog Control Act 2000.
- 1.2.** The Dog Control Act provides a legislative framework for the management of dogs in Tasmania.
- 1.3.** The State Government has invited comments from stakeholders, including Local Government, in relation to the draft Dog Control Amendment Bill. Comments will be considered by the Local Government Division.

## **2. REPORT IN DETAIL**

**2.1.** The Department of Premier and Cabinet has provided Local Government with the opportunity to comment on a number of proposed amendments to the Dog Control Act 2000.

**2.2.** A number of proposed amendments have been included in the draft Amendment Bill as follows.

- Exempt greyhounds that have graduated from the Greyhound Adoption Program (GAP) from the requirement to wear a muzzle in a public place (Section 18). All greyhounds in a public place (including off lead areas) would still be required to be secured and restrained by a lead not exceeding 2m in length.

### **Comment**

The change is supported but it should be extended to other former racing greyhounds who have undertaken a similar program to GAP, as well as to greyhounds that have never been involved in racing.

- Allow Councils to declare areas of Council controlled land from which dogs are restricted permanently. Based on health, safety and welfare related concerns it is proposed to amend Section 23 of the Act to allow Councils to restrict dogs permanently from Council controlled land. Provisions under the Act that require a Council to publicly notify the details of the area declared as restricted and the conditions and reasons for the declaration will remain, as will the provision for a Council to be required to review any declaration at least every 5 years and invite submissions as part of the review.

### **Comment**

This change is supported. This change simplifies the wording of declaration for areas such as Little Howrah Beach and so provides greater clarity for the public.

- Amend Section 15 (2) of the Act to require a dog owner to inform a Council of their dog's microchip number. Section 15A of the Act currently requires owners of a dog over the age of 6 months to have their dog microchipped. However, there is no mandatory provision requiring the owner of a dog to notify the relevant Council of the animal's microchip number. The proposed amendment would simply make it obligatory for dog owners to fill out this section on the form. The amendment would also enable Councils to correctly identify dogs found at large and maintain correct databases of dogs in their municipal area.

**Comment**

This change is supported.

- Require a dog owner to inform the relevant Council when a dangerous dog is transferred to its municipal area. While Sections 34A and 34B of the Act require a "prospective owner" of a dangerous dog to request an approval from the municipality they reside in to transfer ownership of a dangerous dog, there are no such provisions to notify Council of a dangerous dog is transferred between municipal areas. The proposed amendment will address the current loophole in the Act and would provide Councils with better information on the number and location of dangerous dogs in their municipal area.

**Comment**

This change is supported.

- Extend the time required to respond to a destruction of a dangerous dog notice from 14 to 28 days. Section 39A (6) of the Act permits the owner of a dangerous dog served with a destruction notice to appeal the decision to a Magistrates Court within 14 days. The proposed amendment to extend the appeal timeframe from 14 to 28 days will provide administrative consistency with the Magistrates Court (administrative Appeal Division) Act 2001.

**Comment**

This change is supported.

- The proposed amendment to Section 41 (3) of the Act provides clarity for persons carrying out primary production relating to livestock on rural land to destroy any dog found at large on that land. This would be particularly relevant if legal proceedings were to occur against a person who had destroyed a dog under this provision of the Act.

**Comment**

This change is supported.

- Clarify Section 42 of the Act to allow Councils to seize and/or destroy a dog. Currently Section 42 provides for a Council to “seize or destroy a dog” if they are satisfied the dog is likely to cause, or has caused injury or death to a person or animal, or is found seriously injured/distressed or disabled. A minor amendment is proposed to change the term “seize or destroy a dog” to “seize and/or destroy a dog”. This will clarify that an animal can be seized and destroyed if injured or has injured or killed another person or animal.

**Comment**

This change is supported.

- Clarify the relationship between Section 4 of the Act describing effective control for all dogs and Section 32 of the Act describing the control of dangerous or restricted breed dogs. The proposed amendment specifies effective control of dogs that are not dangerous or restricted breed dogs and dogs that are dangerous or restricted breed dogs. Types of premises have also been defined to clarify when effective control of a dog is required. A definition of guard dog has also been included.

#### **Comment**

This change is supported.

**2.3.** After the initial consultation on the issues paper in 2013, a further matter was raised in relation to DNA testing. Whilst this matter has not been included in the draft Amendment Act, the Local Government Division is now requesting comment on the matter. If appropriate, the matter may be included in the draft Bill prior to finalisation of the legislation.

- Council authorised officers are responsible for investigating and gathering evidence related to dog attacks. However, the Act does not allow officers to take DNA samples to identify dogs that may have been involved in an attack. To address this deficiency it is proposed the Act is amended to:
  - provide that authorised officers can take DNA samples from a dog suspected of being involved in an attack; and
  - that the authorised officer must be trained and comply with procedures when taking a DNA sample.

#### **Comment**

This change is supported. This addresses a problem that is encountered in determining proof of a dog attack where there are no direct witnesses to the incident.

- 2.4.** Comments are to be returned to the Department of Premier and Cabinet, Local Government Division, by 7 April 2017.

**3. CONSULTATION**

**3.1. Community Consultation**

Nil.

**3.2. State/Local Government Protocol**

Comments on the draft Dog Control Amendment Bill 2017 are invited from Local Government by close of business Friday, 7 April 2017.

**3.3. Other**

Not applicable.

**4. STRATEGIC PLAN/POLICY IMPLICATIONS**

Nil.

**5. EXTERNAL IMPACTS**

Not applicable.

**6. RISK AND LEGAL IMPLICATIONS**

Nil.

**7. FINANCIAL IMPLICATIONS**

Nil.

**8. ANY OTHER UNIQUE ISSUES**

Nil.

**9. CONCLUSION**

That Council notes the Dog Control Amendment Bill 2017 and in general supports the proposed changes in the Bill as well as the inclusion of DNA testing and will forward any comments to the State Government for consideration.

Attachments: 1. Draft Dog Control Amendment Act 2017 (17)

Andrew Paul  
**GENERAL MANAGER**

TASMANIA

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**DOG CONTROL AMENDMENT BILL 2017**

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**CONTENTS**

1. Short title
2. Commencement
3. Principal Act
4. Section 3 amended (Interpretation)
5. Section 4 amended (Dog under effective control)
6. Section 5 substituted
  5. Dog at large
7. Section 9 amended (Application for registration)
8. Section 11 amended (Collars)
9. Section 12 amended (Cancellation of registration)
10. Section 13 amended (Change of owner)
11. Section 14 amended (Change in address)
12. Section 15 amended (Register)
13. Section 18 amended (Greyhounds)
14. Section 19 amended (Dogs attacking persons or animals)
15. Section 23 amended (Restricted areas)
16. Section 25 amended (Date and period of declaration)
17. Section 30 amended (Guard dogs)
18. Section 32 amended (Control of dangerous dogs and restricted breed dogs)
19. Section 34BA inserted
  - 34BA. Change of municipal area in which dangerous dog or restricted breed dog is usually kept

20. Section 39A amended (Destruction of dangerous dog if enclosure not suitable)
21. Section 41 amended (Attacking dogs)
22. Section 42 amended (Destruction of dog)
23. Section 45 amended (Removal of faeces)
24. Section 46 amended (Dogs creating nuisance)
25. Section 72 amended (Entering premises)
26. Repeal of Act

DRAFT

# DOG CONTROL AMENDMENT BILL 2017

*(Brought in by the Minister for Planning and Local Government, the Honourable Peter Carl Gutwein)*

## A BILL FOR

### **An Act to amend the *Dog Control Act 2000***

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

#### **1. Short title**

This Act may be cited as the *Dog Control Amendment Act 2017*.

#### **2. Commencement**

This Act commences on the day on which this Act receives the Royal Assent.

#### **3. Principal Act**

In this Act, the *Dog Control Act 2000*\* is referred to as the Principal Act.

#### **4. Section 3 amended (Interpretation)**

Section 3 of the Principal Act is amended as follows:

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\*No. 102 of 2000

*Dog Control Amendment Act 2017*  
*Act No. of*

s. 4

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- (a) by inserting the following definition after the definition of *general manager*:

***guard dog*** means a dog used to guard premises that are not residential premises;

- (b) by inserting the following definition after the definition of *licence*:

***microchip number***, in relation to a dog, means the unique identifying number associated with an approved microchip implanted in the dog;

- (c) by inserting “and includes private premises and a public place” after “or land” in the definition of *premises*;

- (d) by inserting the following definition after the definition of *premises*:

***private premises*** means premises that are not a public place;

- (e) by inserting the following definition after the definition of *registration disc*:

***residential premises*** means any premises lawfully used as a residence;

- (f) by inserting the following definition after the definition of *tranquilliser device*:

***trialling*** means agility trialling, endurance trialling, herding

*Dog Control Amendment Act 2017*  
*Act No. of*

s. 5

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trialling, lure coursing trialling, obedience trialling, retrieving trialling, tracking trialling, or any other event in which dogs, and persons in charge of those dogs, are engaged in competition in respect of dog behaviours;

**5. Section 4 amended (Dog under effective control)**

Section 4 of the Principal Act is amended as follows:

(a) by omitting from subsection (1) “dog” first occurring and substituting “dog, other than a dangerous dog or a restricted breed dog,”;

(b) by inserting the following subsection after subsection (1):

(1A) A dangerous dog or a restricted breed dog is under the effective control of a person in a public place, including an area where a dog must be on a lead or is not required to be on a lead, if –

(a) the person is over the age of 18 years; and

(b) the dog is wearing a muzzle so as to be unable to bite a person or animal; and

*Dog Control Amendment Act 2017*  
*Act No. of*

s. 5

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- (c) the dog is on a lead that is not more than 2 metres long, is held by hand, and is sufficient to control and restrain the dog; and
  - (d) the dog is wearing an approved collar.
- (c) by omitting from subsection (2) “dog” first occurring and substituting “dog, other than a dangerous dog or a restricted breed dog,”;
- (d) by omitting from subsection (2)(d) “obedience or agility trials” and substituting “trailing”;
- (e) by omitting from subsection (3) “the dog” first occurring and substituting “a dog, other than a dangerous dog or a restricted breed dog,”;
- (f) by omitting from subsection (4) “dog” first occurring and substituting “dog, other than a dangerous dog or a restricted breed dog,”;
- (g) by inserting the following subsection after subsection (4):
  - (4A) A dangerous dog or a restricted breed dog is under the effective control of a person on private premises if –

*Dog Control Amendment Act 2017*  
*Act No. of*

s. 5

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- (a) the dog is a guard dog in respect of the premises and the dog is securely confined to those premises; or
- (b) the dog is in an enclosure that complies with the requirements prescribed for the purposes of section 32(2); or
- (c) the person is over the age of 18 years and the dog –
  - (i) is wearing a muzzle so as to be unable to bite a person or animal; and
  - (ii) is on a lead that is not more than 2 metres long, is held by hand, and is sufficient to control and restrain the dog; and
  - (iii) is wearing an approved collar.
- (h) by omitting from subsection (5)(a) “dogs” and substituting “dogs, other than dangerous dogs or restricted breed dogs”;

*Dog Control Amendment Act 2017*  
*Act No. of*

s. 6

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- (i) by omitting from subsection (5)(b) “dogs” and substituting “dogs, other than dangerous dogs or restricted breed dogs”;
- (j) by inserting the following subsection after subsection (5):

(6) A person, at any one time, must not have in his or her charge, on a lead on a footpath, or on a lead in a public place, more than –

- (a) one dangerous dog; or
- (b) 2 restricted breed dogs.

Penalty: Fine not exceeding 20 penalty units.

**6. Section 5 substituted**

Section 5 of the Principal Act is repealed and the following section is substituted:

**5. Dog at large**

A dog is at large if –

- (a) it is in a public place and it is not under the effective control of a person; or
- (b) it is in or on a public place, or private premises, without the consent of the occupier, if any.

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**7. Section 9 amended (Application for registration)**

Section 9 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

- (2) An application for registration is to –
- (a) be in an approved form; and
  - (b) be accompanied by the appropriate registration fee; and
  - (c) include the microchip number of the dog.

**8. Section 11 amended (Collars)**

Section 11(2)(e) of the Principal Act is amended by omitting “obedience or agility trials” and substituting “trialling”.

**9. Section 12 amended (Cancellation of registration)**

Section 12 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “registered” after “a”;
- (b) by inserting in subsection (1) “, of the council of the municipality in which the dog is registered,” after “manager”;
- (c) by omitting paragraph (b) from subsection (1) and substituting the following paragraph:

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- (b) beginning to usually keep the dog on premises in another municipality.
- (d) by omitting from subsection (2)(b) “transfer to” and substituting “dog beginning to be usually kept by its owner on premises in”.

**10. Section 13 amended (Change of owner)**

Section 13 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “, of the council of the municipality in which the dog is registered,” after “manager”;
- (b) by omitting from subsection (1) “change” and substituting “transfer”;
- (c) by omitting from subsection (2) “change” first occurring and substituting “transfer”;
- (d) by inserting in subsection (2) “, of the council of the municipality in which the dog is registered,” after “manager”;
- (e) by omitting from subsection (2) “change” third occurring and substituting “transfer”.

**11. Section 14 amended (Change in address)**

Section 14 of the Principal Act is amended as follows:

- (a) by inserting “, of the council of the municipality in which the dog is registered,” after “manager”;
- (b) by omitting “the transfer of a dog to” and substituting “beginning to usually keep the dog at”;
- (c) by omitting “for a period exceeding 60 days”.

**12. Section 15 amended (Register)**

Section 15(2) of the Principal Act is amended by inserting after paragraph (f) the following paragraph:

- (fa) the microchip number of the dog; and

**13. Section 18 amended (Greyhounds)**

Section 18 of the Principal Act is amended by omitting subsection (2) and substituting the following :

- (2) Subsection (1)(a) does not apply if –
  - (a) the greyhound –
    - (i) has successfully completed the Greyhound Adoption Program

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Tasmania as administered  
by Tasracing; and

(ii) is the subject of  
certification by the  
Greyhound Adoption  
Program Tasmania  
indicating that the  
greyhound is not required  
to wear a muzzle; or

(b) the greyhound is engaged in  
racing, trialling or showing.

(3) Subsection (1)(b) does not apply if the  
greyhound is engaged in racing, trialling  
or showing and is under the effective  
control of a person in accordance with  
section 4(3).

(4) In this section –

***Tasracing*** means Tasracing Pty Ltd as  
established under the *Racing*  
*(Tasracing Pty Ltd) Act 2009*.

**14. Section 19 amended (Dogs attacking persons or  
animals)**

Section 19(4) of the Principal Act is amended by  
omitting “guarding non-residential premises”  
and substituting “being used to guard premises  
that are not residential premises”.

**15. Section 23 amended (Restricted areas)**

Section 23(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “lead.” and substituting “lead; or”;
- (b) by inserting the following paragraph after paragraph (b):
  - (c) at all times.

**16. Section 25 amended (Date and period of declaration)**

Section 25(b) of the Principal Act is amended by omitting “declaration” and substituting “declaration, other than a declaration under section 23(1)(c),”.

**17. Section 30 amended (Guard dogs)**

Section 30(1) of the Principal Act is amended by inserting “premises” after “residential”.

**18. Section 32 amended (Control of dangerous dogs and restricted breed dogs)**

Section 32 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “in a public place” and substituting “not on premises at which the dog is usually kept”;

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- (b) by omitting from subsection (2) “not in a public place” and substituting “on premises at which the dog is usually kept”.

**19. Section 34BA inserted**

After section 34B of the Principal Act, the following section is inserted in Division 3:

**34BA. Change of municipal area in which dangerous dog or restricted breed dog is usually kept**

An owner of a dangerous dog, or a restricted breed dog, who ceases to usually keep the dog on premises situated in a municipality must, within 14 days of beginning to usually keep the dog on premises situated in another municipality, notify the general manager of the other municipal area.

Penalty: Fine not exceeding 20 penalty units.

**20. Section 39A amended (Destruction of dangerous dog if enclosure not suitable)**

Section 39A(6) of the Principal Act is amended by omitting “14” and substituting “28”.

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**21. Section 41 amended (Attacking dogs)**

Section 41 of the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (3):

(3A) For the purposes of subsection (3), a person is carrying on primary production relating to livestock on rural land if –

- (a) the person is carrying on a primary production activity, within the meaning of the *Primary Produce Safety Act 2011*, in respect of livestock; and

- (b) that primary production activity is being carried on on land that is not within any city or town.

- (b) by inserting the following subsection after subsection (4):

- (5) In this section –

***livestock*** means alpaca, buffalo, camels, cattle, deer, emus, goats, horses, ostriches, pigs, poultry or sheep.

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**22. Section 42 amended (Destruction of dog)**

Section 42(1) of the Principal Act is amended by inserting “, or both seize and destroy a dog,” after “dog”.

**23. Section 45 amended (Removal of faeces)**

Section 45(1) of the Principal Act is amended by omitting “owned” and substituting “owned, or leased,”.

**24. Section 46 amended (Dogs creating nuisance)**

Section 46 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “in a public place”;
- (b) by omitting subsection (2).

**25. Section 72 amended (Entering premises)**

Section 72 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “private”;
- (b) by omitting from subsection (2) “the” second occurring.

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**26. Repeal of Act**

This Act is repealed on the three hundred and sixty fifth day from the day on which this Act commences.

DRAFT

**11.7.2 VISIT TO BINZHOU CITY**

(File No 22-08-01)

**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to note Council's delegation in response to an invitation from the City of Binzhou to visit their city in May of this year.

**RELATION TO EXISTING POLICY/PLANS**

In 2013, Council received a report which noted that any future sister city/friendship city arrangements should be focused on China, India, Indonesia, Japan and South Korea.

**LEGISLATIVE REQUIREMENTS**

Nil.

**CONSULTATION**

Initial contact has been made with Australian Government representatives based in China who have provided advice in regard to a proposed visit. Further consultation in respect to this matter has occurred at Alderman's Workshop.

**FINANCIAL IMPLICATIONS**

Initial cost estimates are that the visit may cost up to \$3,500 per participant.

**RECOMMENDATION:**

That Council notes the make-up of the official delegation to Binzhou City will comprise the Mayor, Ald Chong, Ald von Bertouch, Ald Walker and the General Manager; with Ald Thurley, Ald Hulme and Ald Peers also participating in the delegation at their own expense.

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**ASSOCIATED REPORT****1. BACKGROUND**

- 1.1.** Following a visit to the City of Clarence by the Deputy Mayor and officials from Binzhou City in China, an invitation was received for a Clarence delegation to make a reciprocal visit to Binzhou.
- 1.2.** Council, at its Meeting of 27 February 2017 confirmed its intention to send a delegation to visit Binzhou City.

## 2. REPORT IN DETAIL

- 2.1.** The invitation to visit Binzhou City is to further explore opportunities for co-operation in relation to tourism, sport, education and investment.
- 2.2.** The invitation notes that the most convenient time to visit Binzhou City is in April/May of this year. Based on advice, a 3 day visit to Binzhou City by a delegation headed by the Mayor is now scheduled to occur between the 9<sup>th</sup> – 14<sup>th</sup> May 2017.
- 2.3.** The key purpose of the visit is to obtain an overview of what sectoral opportunities may exist for cultural and investment links between Binzhou City and Clarence City.
- 2.4.** Council, at their Meeting of 27 February 2017 resolved as follows:
- “A. *That Council accept the invitation of Binzhou City to send a delegation of Council to Binzhou.*
- B. *That a delegation comprising the Mayor, 2 or 3 Aldermen and the General Manager be authorised to visit Binzhou for the purposes outlined in the report.*
- C. *That if requested by Binzhou the Mayor be authorised to sign a Memorandum of Understanding between Binzhou and Clarence to explore opportunities for closer co-operation and a longer term relationship between the 2 cities”.*
- 2.5.** The make-up of the delegation was considered at an Aldermen’s Workshop. The Aldermen who have been put forward to join with the Mayor and General Manager as the make-up “official” delegation party approved by the Council are:
- Ald Chong;
  - Ald von Bertouch; and
  - Ald Walker.

- 2.6.** An option for other aldermen to accompany the visit at their own personal expense has been provided. Aldermen Thurley, Hulme and Peers have taken up this opportunity.

**3. CONSULTATION**

This matter has been the subject of discussion at a number of Aldermen's Workshops.

**4. STRATEGIC PLAN/POLICY IMPLICATIONS**

In 2013, Council received a report which noted that any future sister city/friendship city arrangements should be focused on China, India, Indonesia, Japan and South Korea.

**5. EXTERNAL IMPACTS**

Not applicable.

**6. RISK AND LEGAL IMPLICATIONS**

Nil.

**7. FINANCIAL IMPLICATIONS**

Initial estimates are that the visit may cost up to \$3,500 per participant. The cost associated with the formal delegation will be funded from a mix of Alderman travel entitlements and sister city funding.

**8. ANY OTHER UNIQUE ISSUES**

Nil.

**9. CONCLUSION**

- 9.1.** Council has been invited to send a delegation to Binzhou City following a recent visit by Binzhou City officials to Clarence.

- 9.2.** The official delegation which shall accompany the Mayor and General Manager to Binzhou City is now presented for formal noting.

Attachments: Nil.

Andrew Paul  
**GENERAL MANAGER**

**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 REPORTS FROM SINGLE AND JOINT AUTHORITIES
- 13.3 PROPERTY MATTER - BELLERIVE
- 13.4 TENDER T1119-16 – CAMBRIDGE OVAL – STORMWATER HARVESTING AND REUSE SCHEME – STAGE 1 WORKS
- 13.5 QUOTATION Q1149-17 – LAUDERDALE OVAL SPORTSGROUND LIGHTING CONSTRUCTION

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:

- contracts and tenders for the supply of goods and services;
- proposals to acquire land or an interest in land or for the disposal of land;
- information of a personal and confidential nature or information provided to the council on the condition it is kept confidential;
- 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”.