

**COUNCIL MEETING**  
**MONDAY 11 MAY 2015**  
**TABLE OF CONTENTS**

<b>ITEM</b>	<b>SUBJECT</b>	<b>PAGE</b>
1.	APOLOGIES .....	3
2.	CONFIRMATION OF MINUTES .....	3
3.	MAYOR'S COMMUNICATION.....	3
4.	COUNCIL WORKSHOPS.....	3
5.	DECLARATIONS OF INTERESTS OF ALDERMAN OR CLOSE ASSOCIATE .....	4
6.	TABLING OF PETITIONS .....	5
7.	PUBLIC QUESTION TIME .....	6
7.1	PUBLIC QUESTIONS ON NOTICE .....	6
7.2	ANSWERS TO QUESTIONS ON NOTICE.....	6
7.3	ANSWERS TO PREVIOUS QUESTIONS TAKEN ON NOTICE .....	7
7.4	QUESTIONS WITHOUT NOTICE .....	7
8.	DEPUTATIONS BY MEMBERS OF THE PUBLIC.....	8
9.	MOTIONS ON NOTICE .....	9
9.1	NOTICE OF MOTION – ALD DOUST ROSNY PARK GOLF COURSE .....	9
10.	REPORTS FROM OUTSIDE BODIES .....	11
10.1	REPORTS FROM SINGLE AND JOINT AUTHORITIES.....	11
	• SOUTHERN TASMANIAN COUNCILS AUTHORITY	
	• COPPING REFUSE DISPOSAL SITE JOINT AUTHORITY	
	• SOUTHERN WASTE STRATEGY AUTHORITY	
	• TASMANIAN WATER CORPORATION	
10.2	REPORTS FROM COUNCIL AND SPECIAL COMMITTEES AND OTHER REPRESENTATIVE BODIES ..	11
11.	REPORTS OF OFFICERS .....	12
11.1	WEEKLY BRIEFING REPORTS .....	12
11.2	DETERMINATION ON PETITIONS TABLED AT PREVIOUS COUNCIL MEETINGS .....	13
11.2.1	PETITION – BELLERIVE BEACH PARK CAR PARK.....	13

**11.3 PLANNING AUTHORITY MATTERS**

- 11.3.1 DEVELOPMENT APPLICATION D-2014/440 - 13, 19 AND 21 KENT STREET, LINDISFARNE - DWELLING, STUDIO AND CARPORT .....20
- 11.3.2 DEVELOPMENT APPLICATION D-2015/98 - LEVEL 3, 31 CAMBRIDGE ROAD, BELLERIVE - CHANGE OF USE TO CONSULTING ROOMS .....49

**11.4 CUSTOMER SERVICE - NIL ITEMS****11.5 ASSET MANAGEMENT**

- 11.5.1 LAUDERDALE TO ROKEBY WALKING TRACK .....73

**11.6 FINANCIAL MANAGEMENT - NIL ITEMS****11.7 GOVERNANCE**

- 11.7.1 QUARTERLY REPORT TO 31 MARCH 2015 .....92
- 11.7.2 LOCAL GOVERNMENT (MEETING PROCEDURES) REGULATIONS 2015 CONSULTATION PAPER ....94
- 11.7.3 KANGAROO BAY – BREAKWATER PIER .....115
- 11.7.4 AIRPORT RATING – AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION MOTION .....120
- 11.7.5 BUSINESS EAST REQUEST FOR FUNDING SUPPORT .....123
- 11.7.6 BELLERIVE OVAL DEVELOPMENT – LESSOR’S CONSENT.....130
12. ALDERMEN’S QUESTION TIME.....160
- 12.1 QUESTIONS ON NOTICE.....160
- 12.2 ANSWERS TO QUESTIONS ON NOTICE.....160
- 12.3 ANSWERS TO PREVIOUS QUESTIONS TAKEN ON NOTICE.....160
- 12.4 QUESTIONS WITHOUT NOTICE .....160
13. CLOSED MEETING.....161
- 13.1 APPLICATIONS FOR LEAVE OF ABSENCE
- 13.2 TENDER T1028-15 - DDA FACILITIES UPGRADE – HOWRAH RECREATION CENTRE, HOWRAH
- 13.3 PROPERTY MATTER - ROKEBY

**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**

**1. APOLOGIES****2. CONFIRMATION OF MINUTES**

(File No. 10/03/01)

**RECOMMENDATION:**

That the Minutes of the Council Meeting held on 20 April 2015, as circulated, be taken as read and confirmed.

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

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

**PURPOSE****DATE**

Budget Discussions  
IT Strategy Plan  
Statewide Planning Scheme  
Local Government (Meeting Procedures)  
Regulations 2005

27 April

Budget Discussions  
Bi-ennial Parking Survey  
Signage at Recreational Facilities  
Rating Policy

4 May

**RECOMMENDATION:**

That Council notes the workshops conducted.

**5. DECLARATIONS OF INTERESTS OF ALDERMAN OR CLOSE ASSOCIATE**

File No

In accordance with Regulation 8 of the Local Government (Meeting Procedures) Regulations 2005 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.

**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.

Mr D Griggs of Risdon Vale has given notice of the following Questions:

**1. ALDERMEN ENTITLEMENTS REPORTING**

Will Council on their website please publish all expenses for which Aldermen make claims for and for which Council pays, on a monthly basis for ratepayers to view?

**2. COMMUNITY ENGAGEMENT FORUM**

Will Council consider community engagement forums held every three months at different locations throughout the City of Clarence with Aldermen and senior Council staff present to enable residents enhanced access to Council with these forums to be well advertised ahead of time?

**7.2 ANSWERS TO QUESTIONS ON NOTICE**

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

### **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.

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.

Questions without notice and their answers will not be recorded.

**8. DEPUTATIONS BY MEMBERS OF THE PUBLIC**

(File No 10/03/04)

(In accordance with Regulation 38 of the Local Government (Meeting Procedures) Regulations 2005 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 DOUST  
ROSNY PARK GOLF COURSE**  
(File No)

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

“That Council request the Minister administering the Crown Lands Act 1976 to amend the current restriction on the Rosny Park Golf Course title to provide for the land to be utilised for additional purposes, other than as a Public Golf Course, such as parklands, gardens, passive recreation and their related community facilities”.

**EXPLANATORY NOTES**

1. The Rosny Park Golf Course was transferred to Council in February 2008 by the Crown.
2. The transfer contained a restriction reserving unto the Crown the right to resume the land at no cost to the Crown.
  - (a) if in the opinion of the Minister administering the Crown Lands Act 1976 (“the Minister”) that the land is not being used for Public Golf Course purposes; or
  - (b) if having been used for Public Golf Course purposes in the opinion of the Minister it is no longer being so used;
  - (c) if the Minister is satisfied that in accordance with Section 12(4) of the said Act the land will not be required for Public Golf Course purposes; or
  - (d) if the land is sold without the prior written consent of the Minister; or
  - (e) if the land is used for a purpose other than for Public Golf Course purposes without the prior written consent of the Minister.
3. The current lease for the Golf Course expires in 2020.
4. \It is important that Council undertakes some strategic planning for the site for the period beyond 2020.
5. In the event that the site in the future becomes non-viable as an operating Public Golf Course it is important that a broader range of uses are permitted on this strategically important piece of land.
6. The land is an important “green space” in the heart of the Rosny Park precinct and should remain as such into the future.

**NOTICE OF MOTION – ALD DOUST /contd...**

7. Any future uses of the land beyond Public Golf Course should be limited to community facilities, parklands, gardens or passive recreation purposes.
8. It is appropriate at this time to request the Minister to amend the restriction.

D Doust  
**ALDERMAN**

***GENERAL MANAGER'S COMMENTS***

*A matter for Council determination*

**10. REPORTS FROM OUTSIDE BODIES**

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

**10.1 REPORTS FROM SINGLE AND JOINT AUTHORITIES**

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

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

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

**Quarterly Reports**

March Quarterly Report pending.

**Representative Reporting**

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

**Quarterly Reports**

March Quarterly Report pending

**Representative Reporting**

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

**Quarterly Reports**

March Quarterly Report pending.

**Representative Reporting**

- **TASWATER CORPORATION**

**10.2 REPORTS FROM COUNCIL AND SPECIAL COMMITTEES AND OTHER REPRESENTATIVE BODIES**

## **11. REPORTS OF OFFICERS**

### **11.1 WEEKLY BRIEFING REPORTS**

(File No. 10/02/02)

The Weekly Briefing Reports of 20 and 27 April and 4 May 2015 have been circulated to Aldermen.

#### **RECOMMENDATION:**

That the information contained in the Weekly Briefing Reports of 20 and 27 April and 4 May 2015 be noted.

**11.2 DETERMINATION ON PETITIONS TABLED AT PREVIOUS COUNCIL MEETINGS****11.2.1 PETITION – BELLERIVE BEACH PARK CAR PARK**

(File No D006/3)

**EXECUTIVE SUMMARY****PURPOSE**

To consider the petition presented at Council's Meeting on 20 April 2015 from 647 signatories requesting Council maintain the existing Bellerive Beach Park Car Park in its current location and to reaffirm and honour the 2012 Bellerive Beach Park Master Plan.

**RELATION TO EXISTING POLICY/PLANS**

Not applicable.

**LEGISLATIVE REQUIREMENTS**

Section 60 of the Local Government Act, 1993 requires Council to formally consider petitions within 42 days of receipt.

**CONSULTATION**

Consultation was undertaken on the revised Master Plan for the redevelopment of the Bellerive Beach Park with the broader community.

**FINANCIAL IMPLICATIONS**

Not applicable.

**RECOMMENDATION:**

- A. That Council notes the intent of the petition.
- B. That Council advises the petitioners that Council confirms its decision of 16 March 2015:

“A. *In response to the community information program on the revised Bellerive Beach Park Master Plan, Council modifies the revised Bellerive Beach Park Master Plan with the following enhancements:*

- *further review kayak drop off facility required to enhance safety;*
- *further review DDA parking closer to beach;*
- *consider bus parking for small buses eg Southern Support School; and*
- *develop the recommendations from Pitt & Sherry safety assessment into the final detailed design.*

B. *Council authorises the General Manager to advise the community members who provided feedback to the community information process of Council's decision.*

- C. *That implementation of the Bellerive Beach Park Master Plan be staged over 3 financial years subject to Council approval as part of future Annual Plans.*
- D. *That Stage 1 be listed for consideration as part of Council's 2015-2016 Capital Works Program".*

---

## ASSOCIATED REPORT

### 1. BACKGROUND

A petition was tabled at Council's Meeting on 20 April 2015. The petition was signed by 647 people requesting:

*"We, the undersigned, petition the Mayor and Aldermen of the City of Clarence to maintain the existing Bellerive Beach Car Park in its current location and to reaffirm and honour the 2012 Bellerive Beach Master Plan. The current location of the car park has an excellent safety record with two reported incidents of injuries to pedestrians over a 14 year period. The current site of this car park provides a special and unique amenity because of its highly valued proximity to the beach with views of the estuary, enjoyed by all users. We ask that the sunny, grassed, open, green space beside Derwent Street is maintained as a picnic and recreational space and a place where birds and animals can forage.*

*We consider that access to the car park from Queen Street is essential on event days to give beach users a reasonable chance of enjoying the park's facilities and amenities. We strongly do not want parking access to Bellerive Beach Park blocked off and commandeered for event purposes.*

*We respectfully ask Clarence City Council to honour the 2012 Bellerive Beach Master Plan, to maximize the amenity of this park for a wide range of recreation purposes, at all times".*

### 2. REPORT IN DETAIL

- 2.1.** The response to the original 2012 Bellerive Beach Park Master Plan indicates that the community values this park and has indicated strong views for its development. In response to Council's funding allocation, Council officers commenced the detailed design process to flesh out the concept plan into a design development plan suitable to call Tenders for construction.

As part of that process it became evident that the original layout design has inherent hazards and associated risks which needed to be addressed.

- 2.2.** Both Council and its Clarence Access and Facilities Committee were presented with workshops on the revised Bellerive Beach Park Master Plan, which incorporates best practice safety for playground/traffic interaction as well as providing for a continuum of public open space in the park.
- 2.3.** In accordance with Council's resolution from its Meeting on 12 January 2015, the community information program for the Revised Bellerive Beach Park Master Plan concept involved the following strategies:
- mail out to all households within the 7018 postcode area to ensure local users are covered; letters were sent to 10,982 properties;
  - newspaper advertisement to capture occasional non-local users;
  - a copy of the Revised Master Plan and letter used in the mail out be included on Council's website; and
  - a copy of the Revised Master Plan and letter used in the mail out be displayed in the Council offices along with feedback forms for the public to respond.
- 2.4.** The letter invited residents/respondents to provide suggestions to further enhance the facilities contained in the revised Master Plan; 7 key elements were identified:
- picnic plaza;
  - all abilities play space;
  - beachfront promenade;
  - gym equipment and bike path;
  - car park and drop off zone;
  - open "Kick About" lawn; and
  - all abilities design/universal access.

- 2.5.** By the closing date of 20 February 2015, 259 responses were received representing a response rate of 2.35%. The response represents approximately 0.5% of the population of the City. Meta data summary of all responses is contained in the table below.

Description	Number	Percentage
Fully supported	45	17.4
Enhancement suggestions	105	40.5
Outright opposition	65	25.1
Other – unrelated to Master Plan	44	17
<b>Total</b>	<b>259</b>	<b>100</b>

Council considered the results of the community consultation at its Meeting on 16 March 2015 and resolved:

- “A. In response to the community information program on the revised Bellerive Beach Park Master Plan, Council modifies the revised Bellerive Beach Park Master Plan with the following enhancements:*
- further review kayak drop off facility required to enhance safety;*
  - further review DDA parking closer to beach;*
  - consider bus parking for small buses eg Southern Support School; and*
  - develop the recommendations from Pitt & Sherry safety assessment into the final detailed design.*
- B. Council authorises the General Manager to advise the community members who provided feedback to the community information process of Council’s decision.*
- C. That implementation of the Bellerive Beach Park Master Plan be staged over 3 financial years subject to Council approval as part of future Annual Plans.*
- D. That Stage 1 be listed for consideration as part of Council’s 2015-2016 Capital Works Program”.*

- 2.6.** The petition specifically requested Council to maintain the existing Bellerive Beach Park Car Park in its current location and to reaffirm and honour the 2012 Bellerive Beach Park Master Plan. Council has considered the issues and resolved to revise the Master Plan by relocating the car park area to Derwent Street.

**3. CONSULTATION**

**3.1. Community Consultation**

Consultation was undertaken with the broader community utilising a number of methods.

**3.2. State/Local Government Protocol**

Nil.

**3.3. Other**

Nil.

**4. STRATEGIC PLAN/POLICY IMPLICATIONS**

Council's Strategic Plan 2010-2015 includes the following Strategy to: *“Develop plans to improve the amenity of public spaces”*.

**5. EXTERNAL IMPACTS**

Not applicable.

**6. RISK AND LEGAL IMPLICATIONS**

Section 60 of the Local Government Act, 1993 requires Council to formally consider petitions within 42 days of receipt.

**7. FINANCIAL IMPLICATIONS**

Nil.

**8. ANY OTHER UNIQUE ISSUES**

Not applicable.

## **9. CONCLUSION**

Council and its community have consulted, reviewed and considered the Bellerive Beach Park a number of times since the process commenced in 2011. The Revised Bellerive Beach Park Master Plan has addressed the inherent hazards and associated risks of the original layout design and incorporates best practice safety for playground/traffic interaction as well as providing for a continuum of public open space in the park.

Attachments: Nil.

John Stevens

**GROUP MANAGER ASSET MANAGEMENT**

### **11.3 PLANNING AUTHORITY MATTERS**

In accordance with Regulation 25 (1) of the Local Government (Meeting Procedures) Regulations 2005, 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-2014/440 - 13, 19 AND 21 KENT STREET, LINDISFARNE - DWELLING, STUDIO AND CARPORT**  
(File No D-2014/440)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for a Single Dwelling at 21 Kent Street, Lindisfarne.

**RELATION TO PLANNING PROVISIONS**

The land is zoned Rural Residential under the Clarence Planning Scheme 2007 (the Scheme). In accordance with the Scheme the proposal is a Discretionary development relating to a proposed boundary setback variation.

**LEGISLATIVE REQUIREMENTS**

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

Council is required to exercise a discretion within the statutory 42 day period, which has been extended to 13 May 2015 with the written agreement of the applicant.

**CONSULTATION**

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

- boundary setback variation;
- development on skyline;
- layout of proposed development;
- right-of-way access;
- location of existing driveway and right-of-way;
- wheelie bin collection;
- suitability of the land for development;
- bushfire management;
- ancillary dwelling;
- traffic impact on 148 Begonia Street;
- on-site stormwater disposal;
- services;
- inclusion of 13 Kent Street in application;
- zoning of 13 Kent Street;
- vegetation removal; and
- notification of application.

**RECOMMENDATION:**

- A. That the Development Application for Dwelling, Studio and Carport at 13, 19 and 21 Kent Street, Lindisfarne (CI Ref D-2014/440) be approved subject to the following conditions and advice.

1. GEN AP1 – ENDORSED PLANS.
  2. GEN M8 – SINGLE DWELLING (replace “building” with “studio”).
  3. 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 Michael Eastwood, unless an alternative Bushfire Hazard Management Plan is approved by Council.
- B. That the details and conclusions included in the Associated Report be recorded as the reasons for Council’s decision in respect of this matter.

---

## **ASSOCIATED REPORT**

### **1. BACKGROUND**

The property is identified as Lot 1 on Sealed Plan 53545 dated 16 June 1992. The current arrangement of the lots shown on the plan was approved by Council on 18 January 1990 (SD-3064), as a rearrangement of a plan of subdivision previously approved in 1987.

### **2. STATUTORY IMPLICATIONS**

- 2.1. The land is zoned Rural Residential under the Scheme.
- 2.2. The proposal is a Discretionary development, due to proposed variations to the boundary setback requirements of the Scheme.
- 2.3. The relevant parts of the Planning Scheme are:
  - Section 2 – Planning Policy Framework;
  - Section 3 – General Provisions; and
  - Section 6 – Rural Residential zone.
- 2.4. Council’s assessment of this proposal should also consider the issues raised in any representations received, the outcomes of the State Policies and the objectives of Schedule 1 of the Land Use Planning and Approvals Act, 1993 (LUPAA).

### **3. PROPOSAL IN DETAIL**

#### **3.1. The Site**

The site has an area of 1958m<sup>2</sup> and is currently vacant and mostly cleared of vegetation. The land is rectangular in shape; narrowing towards the south-east boundary of the site. The site has a maximum width of 30m and a minimum width of 18m. The site is generally flat with a slope of approximately 1 in 18 (5%) towards the south-east of the site.

The property has frontage and vehicle access to Kent Street via a right-of-way (ROW) over 19 Kent Street. The ROW has recently been installed in favour of 21 Kent Street and incorporates an existing sealed driveway. The ROW was granted by the owner of 19 Kent Street as the subject title was land-locked, having previously formed part of 19 Kent Street. There are 7 titles, including the subject lot, which benefit from the ROW.

The surrounding area to the north and west of the site is similarly zoned Rural Residential containing a number of Single Dwelling developments. The property to the south of the site (13 Kent Street) is zoned Low Density Residential and contains a dwelling. The land to the north of the site is zoned Residential and has approval for a 118 lot residential subdivision.

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

The proposal is for a dwelling, carport and “studio”. The dwelling would be single-storey and would contain 3 bedrooms, 2 bathrooms and an open plan living area. The proposed carport would cater for 2 vehicles while the proposed studio would contain a rumpus room, ensuite and bedroom. The combined floor area of the dwelling, carport and studio would be approximately 300m<sup>2</sup>.

The applicant has advised that the studio would be used as a fourth bedroom and studio/rumpus room. The applicant has provided a written statement that approval is not sought for an Ancillary Dwelling. The applicant has made the following comments on the proposed use of the studio:

- “• *The studio would allow our client who is wheelchair bound to have a studio that can be used for numerous purposes.*
- *Initially the studio would provide an area that is close by, but detached from the house, this will allow our client the opportunity to do hobbies that are convenient for her in a studio type atmosphere - eg not in her everyday living space.*
- *The Studio/Rumpus also allows space for any in house physio that our client may require - and associated exercise equipment.*
- *Having the fourth bedroom in the studio would allow our clients' family members a bedroom that does not feel imposing on our client - this will allow family members to help out as often as they feel able.*
- *If at any stage in the future our client requires a 'Live In' carer this studio will provide a fourth bedroom with attached ensuite for the 'live in' carer. Having a bedroom in the studio would provide a level of privacy for our client and for the carer.*
- *The Studio does not have a Kitchen or a Laundry, and is therefore not designed to be rented out to third parties”.*

The buildings would have a maximum height of 4.622m above natural ground level. The proposed dwelling would have a setback of 3.971m from the northern side boundary, while the proposed studio would have a setback of 3.645m from the northern side boundary. The dwelling, “studio” and carport would have setbacks of 4.825m, 4.559m and 1m from the southern side boundary respectively. The application proposes a variation to the standard boundary setback requirement of 10m from the side boundaries. The applicant has advised that the proposed carport would be located 1m from the southern side boundary in order to provide sufficient separation from the dwelling and studio and to ensure that there is sufficient room for landscaping and vehicle movement.

No other aspect of the application requires discretionary assessment and the proposal would otherwise be exempt if not for the proposed setback variations.

The applicant proposes to connect the development to the reticulated sewer system via a pipeline easement over 13 Kent Street.

#### **4. PLANNING ASSESSMENT**

##### **4.1. Planning Policy Framework [Section 2]**

The relevant elements of the Planning Policy Framework are contained in Section 2.2.3(a)(iii) – Rural Residential Land Use. In particular, the Key Objectives include the following.

- “• *To provide rural residential land as part of ensuring attractive housing choices within the City.*
- *To protect the safety and amenity of rural residential areas adjacent to conflicting or strategic land uses and environments including industrial development and extractive industry.*
- *To enhance the appearance and amenity of rural residential areas.*
- *To ensure that rural residential development is located where its impact on the natural environment and delivery of services and infrastructure is sustainable”.*

Reference to these principles is contained in the discussion below.

##### **4.2. General Decision Requirements [Section 3.3.1]**

The relevant General Decision Requirements of this part are:

- “(a) *General requirements:*
  - (v) *The Specific Decision Requirements of the Zone, Overlay or Specific Provision.*
  - (vii) *Any representation made in accordance with Section 43F(5) or Section 57(5) of the Act.*
- (c) *Infrastructure requirements:*
  - (i) *The availability of existing public utility services.*
  - (vi) *The provision of access, loading, parking and manoeuvring of vehicles.*

- (d) *Design suitability requirements:*
- (ii) *The position and scale of buildings in relation to boundaries or to other buildings, their density, character, height and harmony in design of facades.*
- (e) *Environmental requirements:*
- (i) *If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the lot boundaries of each lot”.*

Reference to these principles is contained in the discussion below.

#### **4.3. Zone**

**Table 1: Assessment against the Zone use and Development Standards (Variation to a Permitted Standard requires Exercise of Discretion)**

	<b>Required</b>	<b>Provided</b>	<b>Compliance</b>
<b>Setbacks</b>			
<b>Front</b>	15m	250m	complies
<b>Rear (SE)</b>	10m	20.255m	complies
<b>Side (NE)</b>	10m	Dwelling - 3.971m “Studio” – 3.645m	does not comply
<b>Side (SW)</b>	10m	Dwelling - 4.825m Carport – 1m “Studio” – 4.559m	does not comply
<b>Side (NW)</b>	10m	13.68m	complies
<b>Height</b>	7.5m	Dwelling - 4.622m Carport – 3.557m “Studio” – 3.761m	complies
<b>Site coverage</b>	maximum of 391m <sup>2</sup>	316m <sup>2</sup>	complies

As detailed in the above table, the proposal fails to comply with the boundary setback requirements for the north-east and south-west side boundaries. Clause 6.3.3(g)(ii) of the Scheme states that a variation to the setback requirement may be granted where the existing lot is less than 2ha. As discussed, the subject site has a small area of 1958m<sup>2</sup> and is narrow in width. When the normal 10m boundary setback requirements for the zone are factored in, the area available for siting of buildings means it would be almost impossible for the setback requirements to be met, as shown in the attached diagram.

#### **4.4. Specific Decision Requirements**

A permit may be granted for a variation to the setback requirements in accordance with relevant Specific Decision Requirements of the zone. The relevant requirements are addressed as follows.

*“(a) The design, colours and materials should complement the rural nature of the zone. Architectural expression is preferred to ensure the zone reflects currency with modern design and construction techniques”.*

The proposed single storey buildings would be clad using white weatherboards with zincalume gable roofs. The building designs, colours and materials are considered to be compatible with the rural residential nature of the zone.

*“(c) Buildings should be sited away from the skyline and prominent ridgelines to avoid being silhouetted against the sky when generally viewed from a public place”.*

The site is relatively flat and located on top of a small hill, which is not considered to be a prominent ridgeline. The site is concealed from surrounding areas, particularly due to the location of existing vegetation surrounding the site. Notwithstanding this, there are no other alternative options to siting the buildings given the small area of the subject site.

*“(h) Appropriate separation should be provided between buildings and boundaries to provide adequate visual separation”.*

The proposed buildings would be located approximately 30m from the nearest buildings on the adjoining lots at 11 and 19 Kent Street. As discussed above, the area and shape of the subject lot mean that it would be almost impossible for the developer to meet the 10m setback requirements of the zone. Given the constraints and topography of the site and the location of surrounding buildings and vegetation, it is considered that adequate setback distances have been achieved to provide adequate visual separation between buildings and boundaries.

*“(i) Development should be of domestic scale”.*

The proposed buildings are single-storey and would have a combined floor area of approximately 250m<sup>2</sup>.

As discussed above, the building design, scale and layout is sympathetic to the rural residential nature of the zone, while the location of surrounding buildings and vegetation would ensure that adequate visual separation is provided between buildings and boundaries.

#### **4.5. External Referrals**

The proposal was referred to TasWater, which has advised that it does not require any conditions to be included on the Planning permit if granted.

### **5. OTHER ISSUES**

A bushfire management report and plan has been submitted to demonstrate compliance with Planning Directive No 5 Bushfire-Prone Areas Code. The plan was prepared by an accredited bushfire assessor in support of the application.

The plan and associated report details how the site is to be maintained in order to protect the development from the threat of bushfire. A suitable condition is recommended, which would require the development to be undertaken in accordance with the endorsed bushfire hazard assessment report and bushfire hazard management plan.

### **6. REPRESENTATION ISSUES**

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

#### **6.1. Boundary Setback Variation**

One representor has raised concern that the proposed carport, which would have a setback of 1m from the south-west boundary of the site, should have a 10m setback from the boundary.

Another representor believes that the proposed buildings should be moved further towards the Residential zone on the north-eastern side boundary of the site in order to increase the setbacks to adjoining land within the Rural Residential zone. One representor has noted that the owner of 15 Kent Street was not granted approval for a variation to the 10m setback requirement.

- **Comment**

As discussed above, the proposed boundary setback variation is considered acceptable given the constraints of the site. The application is consistent with the Specific Decision Requirements of the zone. Council's previous decision regarding 15 Kent Street is not relevant to the assessment of this application, as that proposal involved a garage on land with attributes unlike the subject property.

The applicant has advised that they have investigated moving the carport a further 1m from the boundary; however, the applicant is not prepared to move the carport without also moving the "studio". The applicant has advised that they would prefer to leave the carport and studio in the positions proposed and this is considered less detrimental than the alternatives. As discussed above, the proposal provides adequate visual separation between the proposed buildings and existing buildings on adjacent lots.

## **6.2. Development on Skyline**

One representor has raised concern that the proposed buildings would be located on the skyline and has stated that the proposal does not meet the Scheme requirement that buildings be sited away from the skyline and prominent ridgelines.

- **Comment**

As discussed above, the proposal is considered to meet the requirement that buildings be sited away from the skyline and prominent ridgelines.

**6.3. Layout of Proposed Development**

One representor has raised concern that 3 separate buildings would impact the amenity of the area and that all 3 buildings should be under 1 roof.

- **Comment**

The application seeks approval for boundary setback variations as discussed above. The use itself is permitted (exempt). Otherwise, the layout of the proposed development is a matter for the owners of the site.

**6.4. Right-of Way Access**

Several representors have raised concern that the existing ROW driveway is unsuitable for access to multiple properties, as it does not provide for suitable vehicle manoeuvring and access for emergency vehicles. Representors have stated that it has been difficult for emergency services to locate certain properties on the ROW. Representors have reported at least 1 accident occurring on the ROW. One representor has stated that the owners of 13, 19 and 21 Kent Street should pay for future upgrades to the ROW driveway.

- **Comment**

Council's Development Engineer has advised that the access to the site satisfies the requirements of Section 8.1 - Off-Street Parking and Loading of the Scheme. According to the land titles for the relevant subject sites, the owner of 19 Kent Street, which contains the ROW, is simply required to provide access to lots benefitting from the ROW over the land. It is a civil matter between the respective landowners to ensure that the ROW is managed to provide an agreeable standard of access to the lots.

Council's Shared Rights-of-Way Policy was introduced in 1987. The Policy is intended to ensure that no more than 4 properties would benefit from a ROW so that the types of issues raised above can be avoided.

**6.5. Location of Existing Driveway and Right-of-Way**

One representor has raised concern that the existing driveway is not located within the ROW. The representor has also stated that a title search conducted on 6 February 2015 showed no ROW and service easements benefitting the subject site.

- **Comment**

The applicant has provided title information dated 18 February 2015 showing that documentation to transfer a ROW and an appropriate service easement in favour of the subject property was lodged with the Land Titles Office. The ROW easement was created under the Land Titles Act, 1980 under which Council approval is not required for the creation of a ROW. This demonstrates that the subject property has a legal right of access via the ROW and an appropriate service easement. The transfer of the ROW and easement has now been completed and registered on the land title. The existing driveway appears to be located within the ROW; however, it is the responsibility of the owner of the site to ensure that the site is accessed within the bounds of the ROW.

**6.6. Wheelie Bin Collection**

Three representors have raised concern that the footpath in Kent Street outside the existing ROW driveway would not cater for additional placement of wheelie bins on garbage collection days.

- **Comment**

This issue is not relevant to the assessment of this application for boundary setback variations. It is considered that there would be room on the footpath within Kent Street for the placement of bins.

**6.7. Suitability of the Land for Development**

Three representors have stated that they were unaware of the existence of the subject land title and have questioned how the site can be suitable for development.

- **Comment**

As discussed the certificate of title shows that the property was created on 16 June 1992 and has previously formed part of 19 Kent Street. As discussed, the property now has legal right of access by ROW created under the Land Titles Act, 1980 and is therefore suitable for development.

#### **6.8. Bushfire Management**

Several representors have questioned aspects of the bushfire management report and plan, most significantly the suitability of the existing ROW to cater for fire-fighting vehicles. The representors have also questioned the proposed emergency escape/alternative access routes over 11 Kent Street and have stated that the owner of 19 Kent Street has refused requests for fuel reduction burns on that property. One representor has questioned the accredited bushfire assessor's determination that the proposed buildings could be constructed to a bushfire attack level rating of 19 on the north-eastern boundary.

- **Comment**

In accordance with Section 51(2)(d) of LUPAA, Council must accept any relevant bushfire hazard management plan that has been certified as acceptable by an accredited person. The plan and report detail how the access is to be managed to provide passage for fire-fighting vehicles. Matters regarding fuel reduction burning on neighbouring properties are not relevant to the assessment of this application.

#### **6.9. Ancillary Dwelling**

Four of the representations have raised concern that the proposed studio is a separate dwelling, which would be out of character for the area and rented to third parties.

- **Comment**

The application is for a Single Dwelling only and does not seek approval for either a Multiple Dwelling or Ancillary Dwelling development. The Scheme definition for a Dwelling is:

*“Part of a building, a building or buildings on a lot, together with any associated domestic outbuildings, used for human habitation purposes which must include:*

- *a kitchen sink and facilities for the preparation and cooking of food; and*
- *a bath or shower; and*
- *clothes washing facilities, comprising at least one washtub and space in the same room for a washing machine; and*
- *a toilet and washbasin.*

*If any of the facilities listed above are detached from the main building, they must be set aside for the exclusive use of the occupants of the building”.*

Although the “studio” would form a separate building, it is proposed as part of the main Single Dwelling. The proposed “studio” would not contain a kitchen or laundry, which would need to be provided in order to constitute a separate dwelling. In accordance with the Scheme definition above, a condition is recommended, which would state that the “studio” is approved as part of the Single Dwelling and must not be used for independent accommodation.

#### **6.10. Traffic Impact on 148 Begonia Street**

One representor claims that the increase in traffic along the ROW over 19 Kent Street would adversely impact on surrounding neighbours, including 148 Begonia Street. The representor has not elaborated on how neighbouring properties would be adversely affected.

- **Comment**

As discussed, the proposal meets the relevant access requirements of the Scheme.

#### **6.11. On-site Stormwater Disposal**

One representor has raised concern that the proposed method of stormwater disposal (an on-site trench) would cause water to run-off onto the adjacent property at 166 Begonia Street.

- **Comment**

Council's Development Engineer has advised that there is adequate area (1958m<sup>2</sup>) for a stormwater disposal trench to be appropriately located on the site. An appropriate stormwater disposal site will be determined as part of the building and plumbing application process.

#### **6.12. Services**

One representor has raised concern that the proposed development would not be connected to a reticulated water supply.

- **Comment**

The applicant does not propose to connect the development to a reticulated water supply. The development would be serviced using on-site water storage tanks. There is no Scheme requirement for the development to be connected to a reticulated water supply. TasWater has advised that it can provide a sewer connection to the property.

#### **6.13. Inclusion of 13 Kent Street in Application**

Two representors have enquired as to why 13 Kent Street has been included as 1 of the properties affected by this application.

- **Comment**

As mentioned, the development is proposed to be connected to the reticulated sewer system via a pipeline within an easement over 13 Kent Street. All properties affected by a proposed development are included in the application.

#### **6.14. Zoning of 13 Kent Street**

Two representors have enquired as to why the zoning of 13 Kent Street is Low Density Residential rather than Rural Residential similar to most of the adjoining properties.

- **Comment**

This issue is not relevant to consideration of this application; however, the Low Density Residential zone was applied to 13 Kent Street when the current scheme was introduced in 2008. Previously 13 Kent Street was zoned Residential A under the Eastern Shore Area 2 Planning Scheme 1986.

#### **6.15. Vegetation Removal**

Two representors have raised concern that a number of trees have recently been removed from the subject property. One of the representors claims the trees were removed illegally.

- **Comment**

It is noted that some trees have recently been removed from the site. The site is not located within the Vegetation Management Overlay and so the vegetation can be removed at the owner's discretion at any time.

#### **6.16. Notification of Application**

One representor has queried the placement of the on-site notice during the advertising period for the application and has stated that they received no letter notifying them of the proposed development.

- **Comment**

The application was advertised in accordance with the requirements of Section 57 of LUPAA. The representor in question does not own a property directly adjoining the subject site.

### **7. STATE POLICIES AND ACT OBJECTIVES**

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

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

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

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

**9. CONCLUSION**

The proposal seeks approval for a Single Dwelling at 21 Kent Street, Lindisfarne. The proposal is consistent with the Use and Development Standards and Specific Decision Requirements of the Rural Residential zone.

The proposal is recommended for approval subject to conditions.

Attachments: 1. Location Plan (1)  
2. Proposal Plan (7)  
3. Site Photo (2)  
4. Diagram Showing Scheme Setback Requirement (1)  
5. Preliminary Engineering Design (2)




Ross Lovell  
**MANAGER CITY PLANNING**

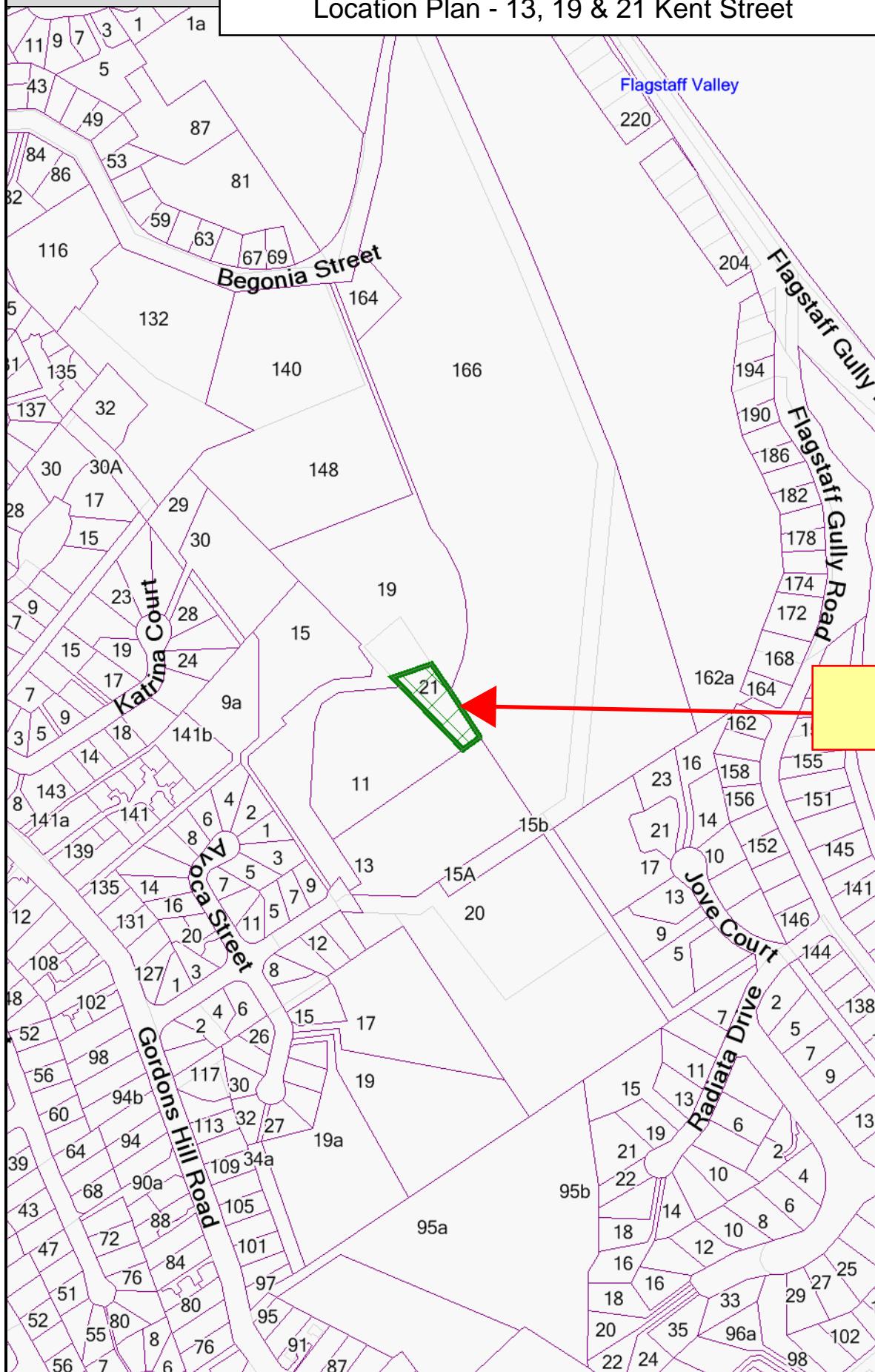
# Attachment 1

**Date:**  
Monday, 20 April 2015

## Location Plan - 13, 19 & 21 Kent Street

### Legend

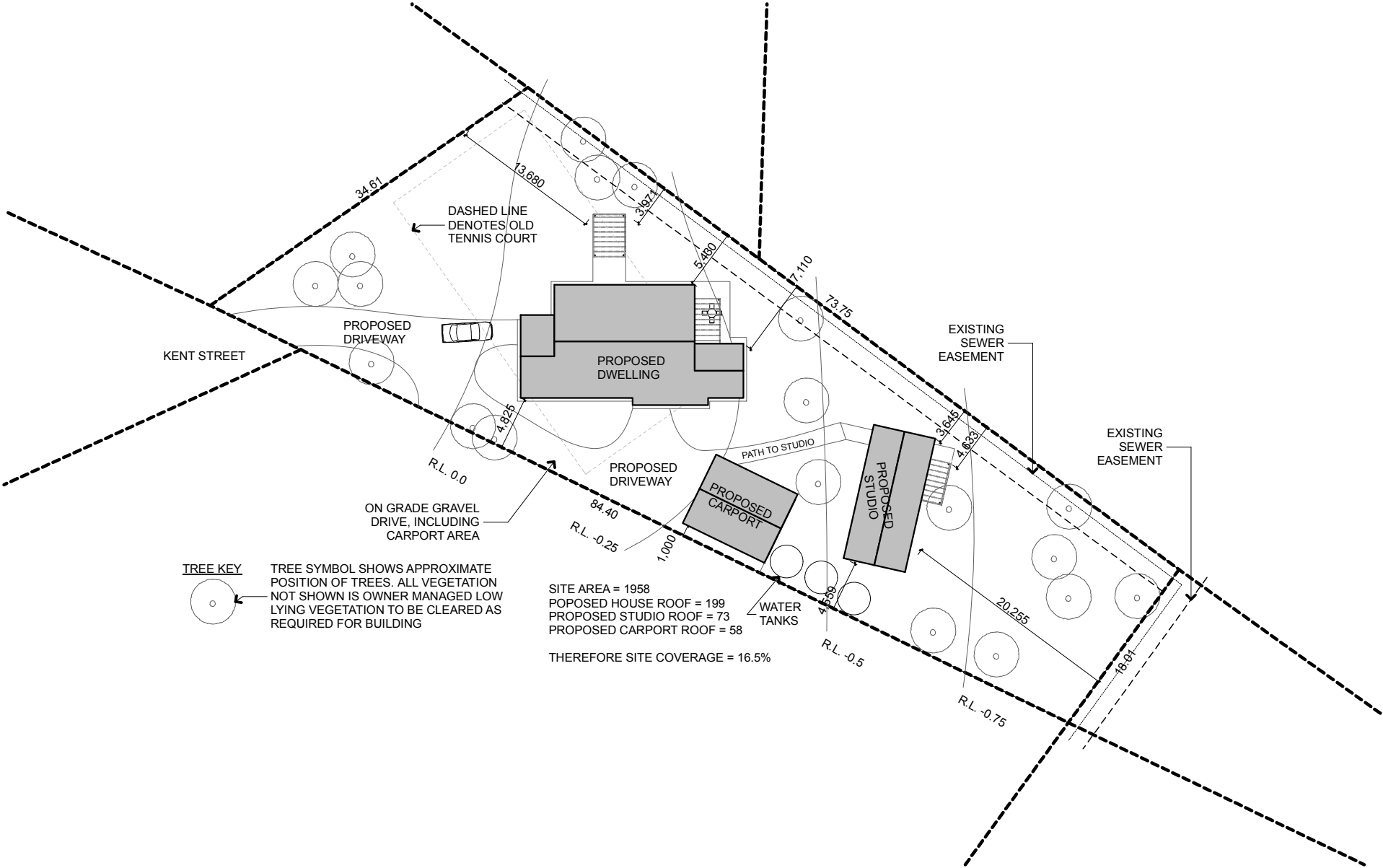
-  **Property**
-  **Title**
-  **Map Extents**



Subject Site

### 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.

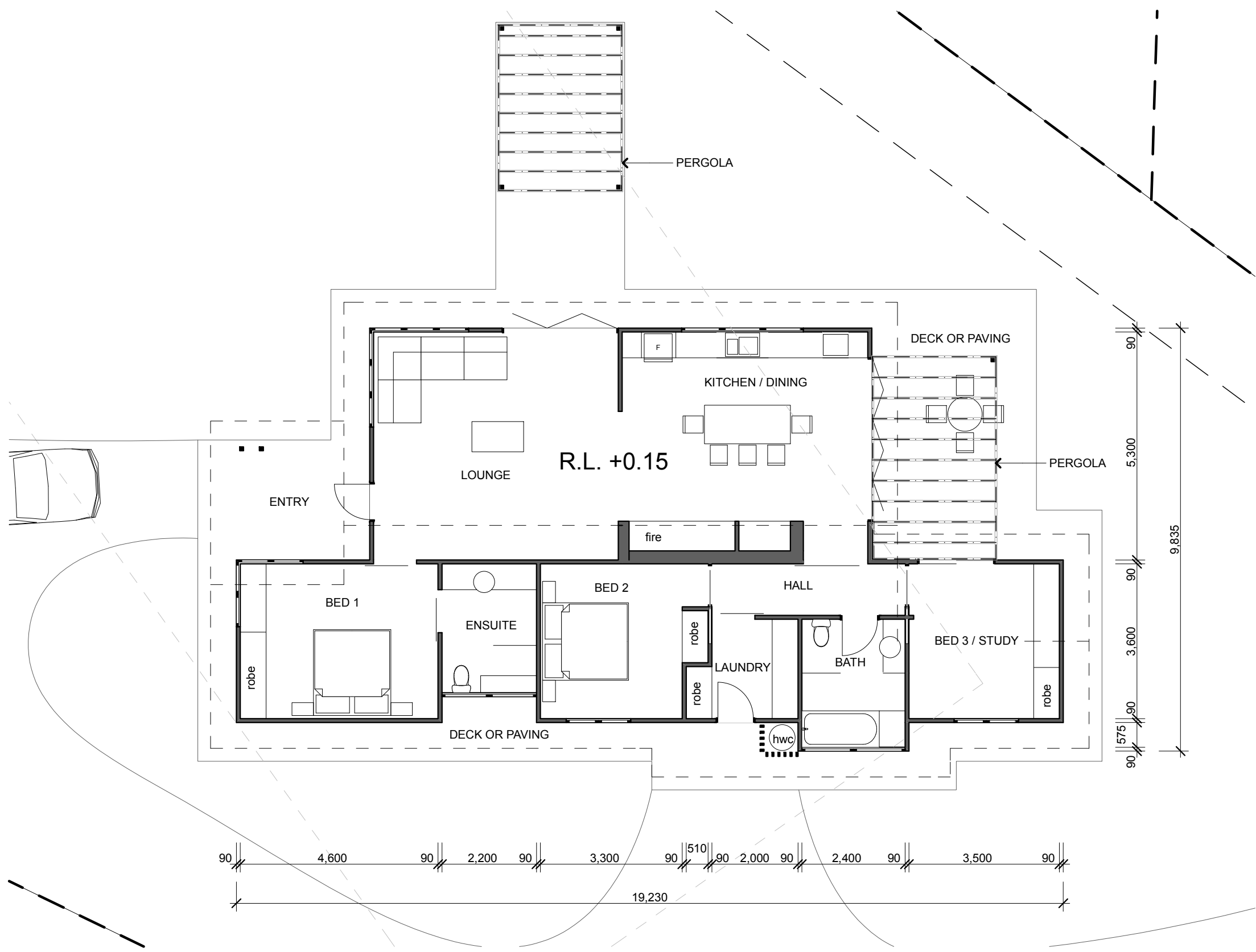


1 Site Plan  
1:500

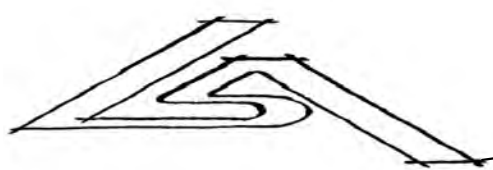


project details

Client: E Cowley  
Address: 21 Kent Street, Lindisfarne  
Project Type: New Dwelling & Studio

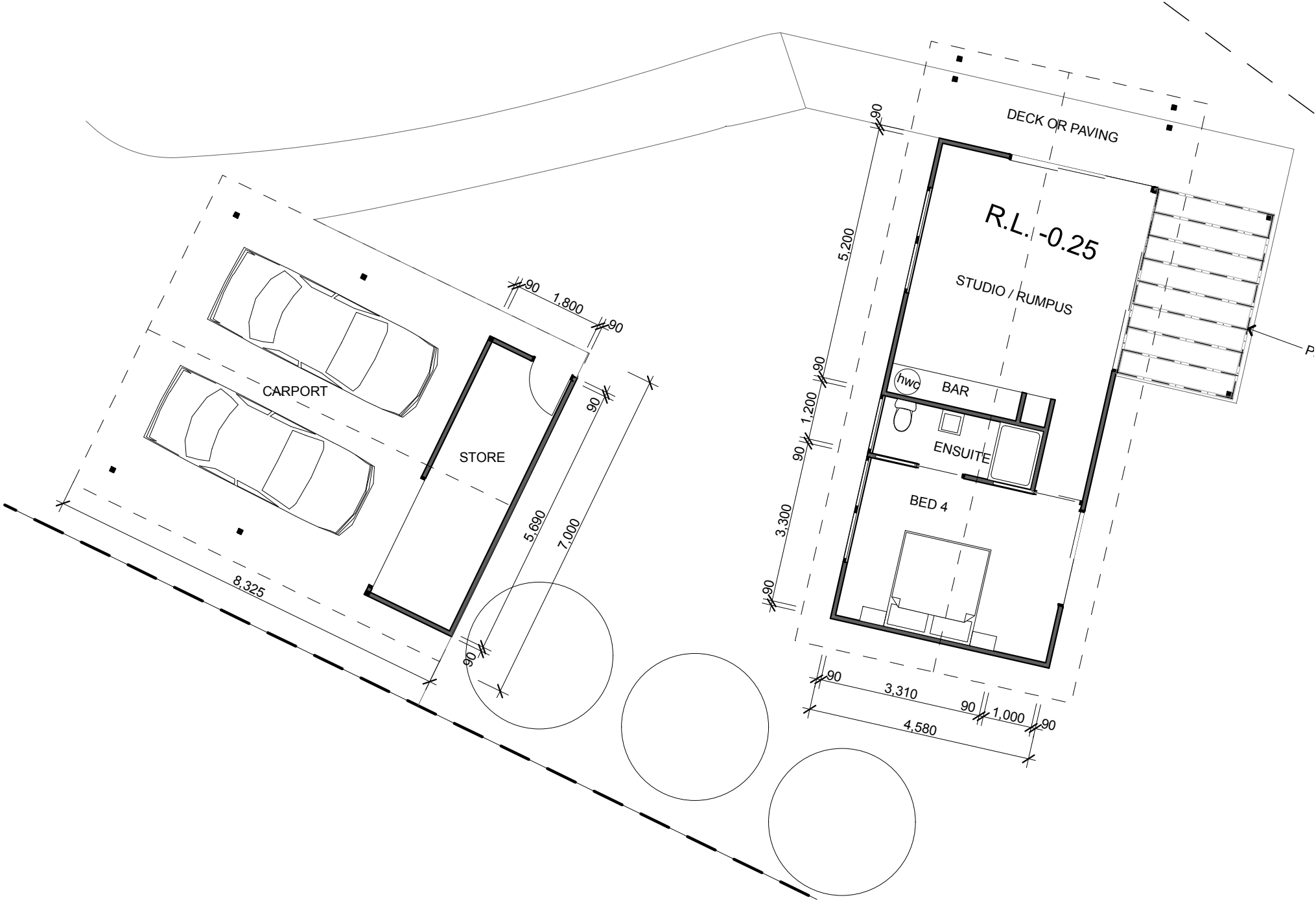


1 Floor Plan - Dwelling  
1:100



project details

Client: E Cowley  
Address: 21 Kent Street, Lindisfarne  
Project Type: New Dwelling & Studio

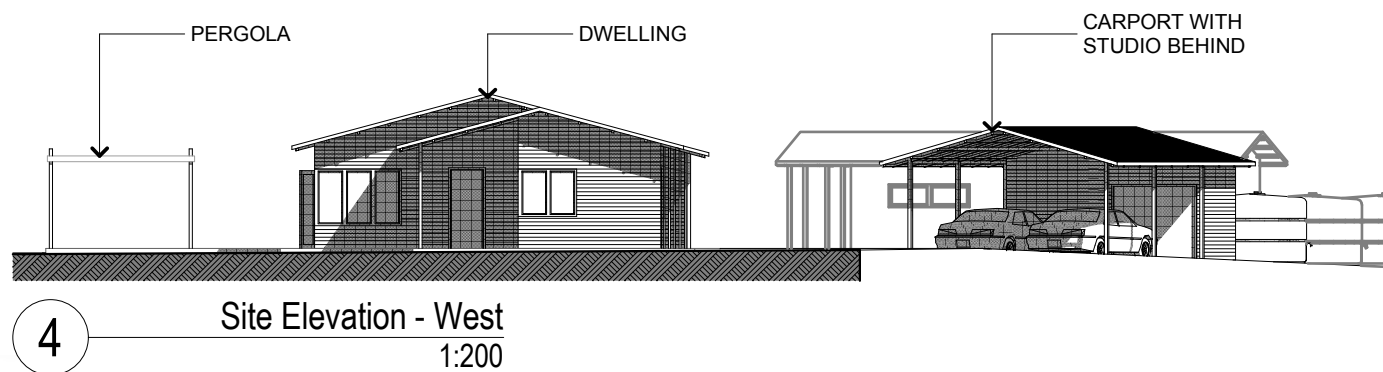
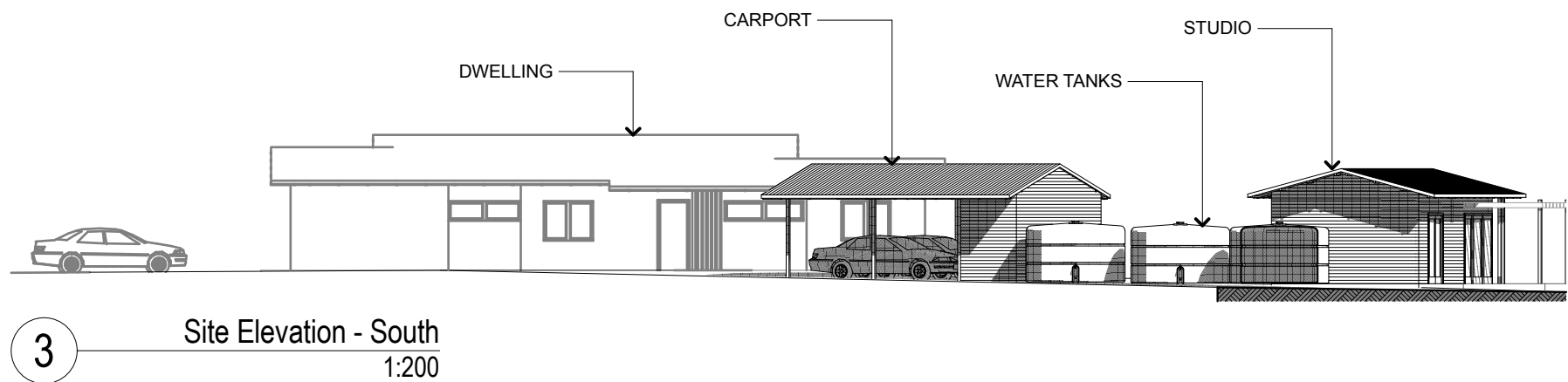
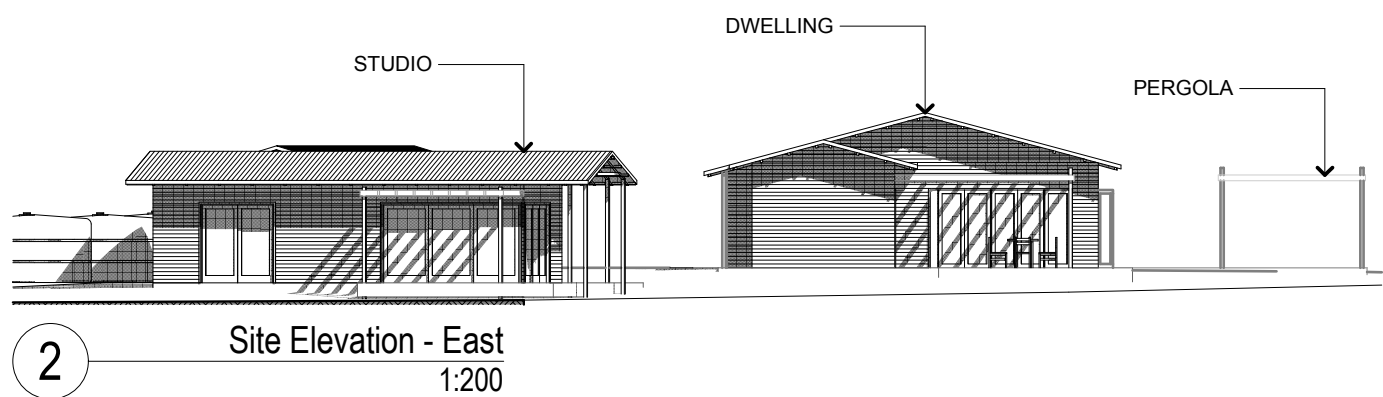
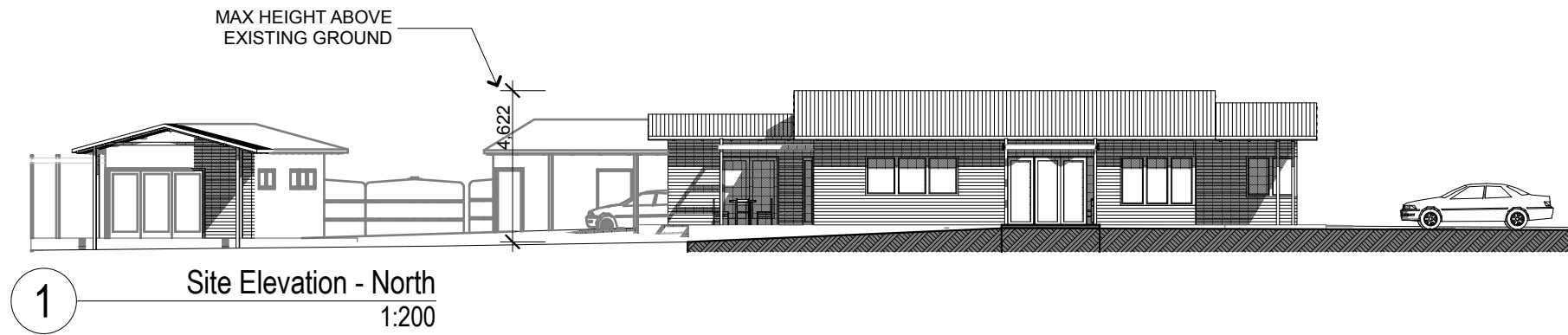


1 Floor Plan - Studio / Carport  
1:100



**project details**

Client: E Cowley  
Address: 21 Kent Street, Lindisfarne  
Project Type: New Dwelling & Studio

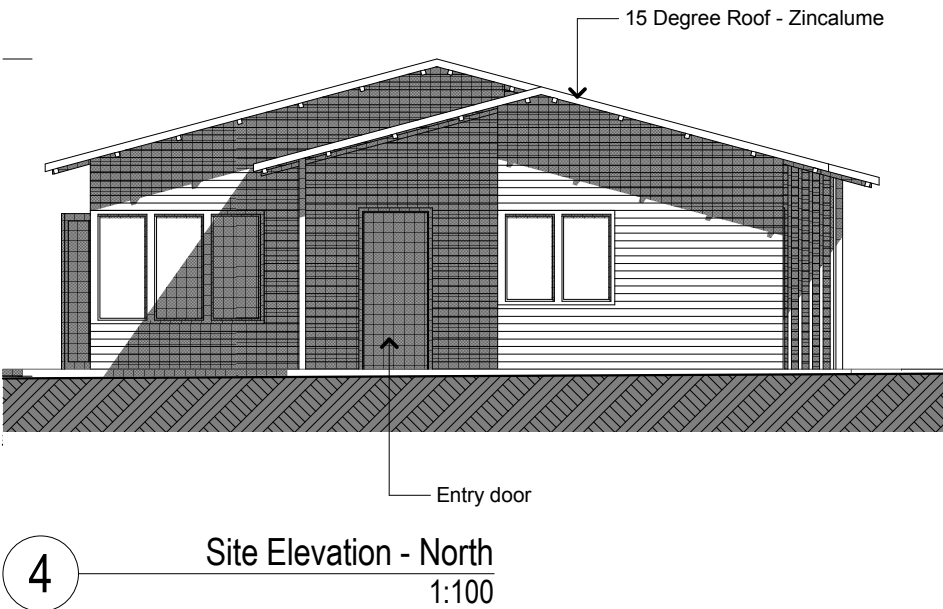
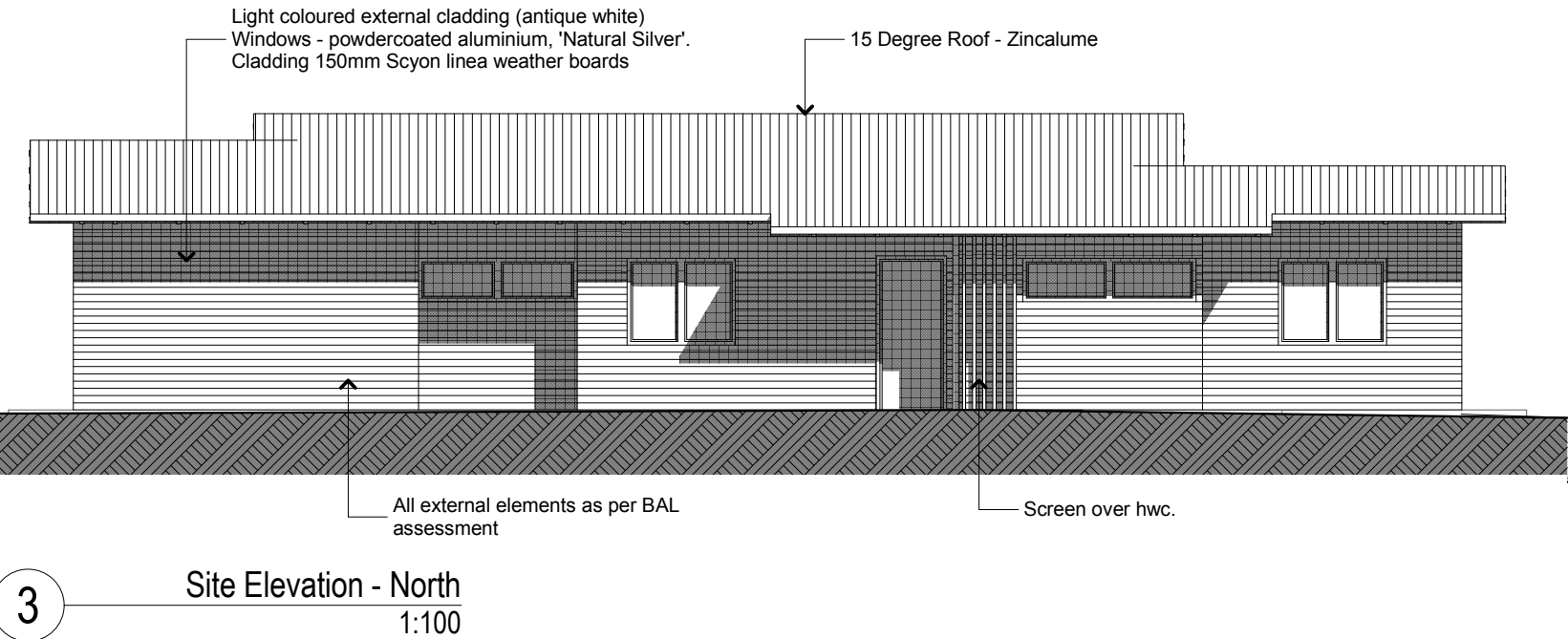
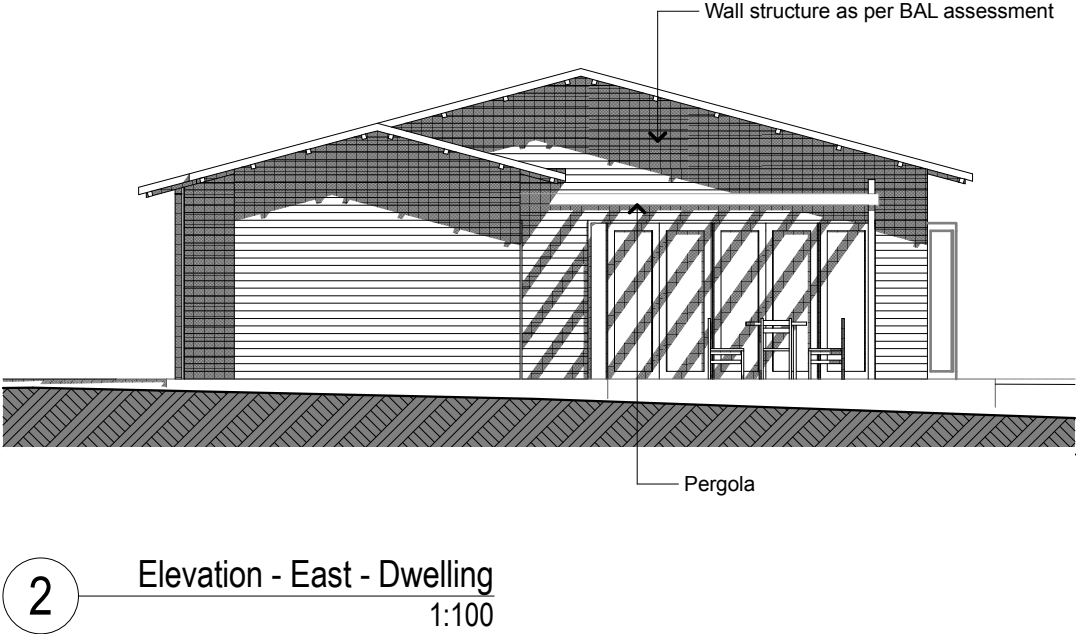
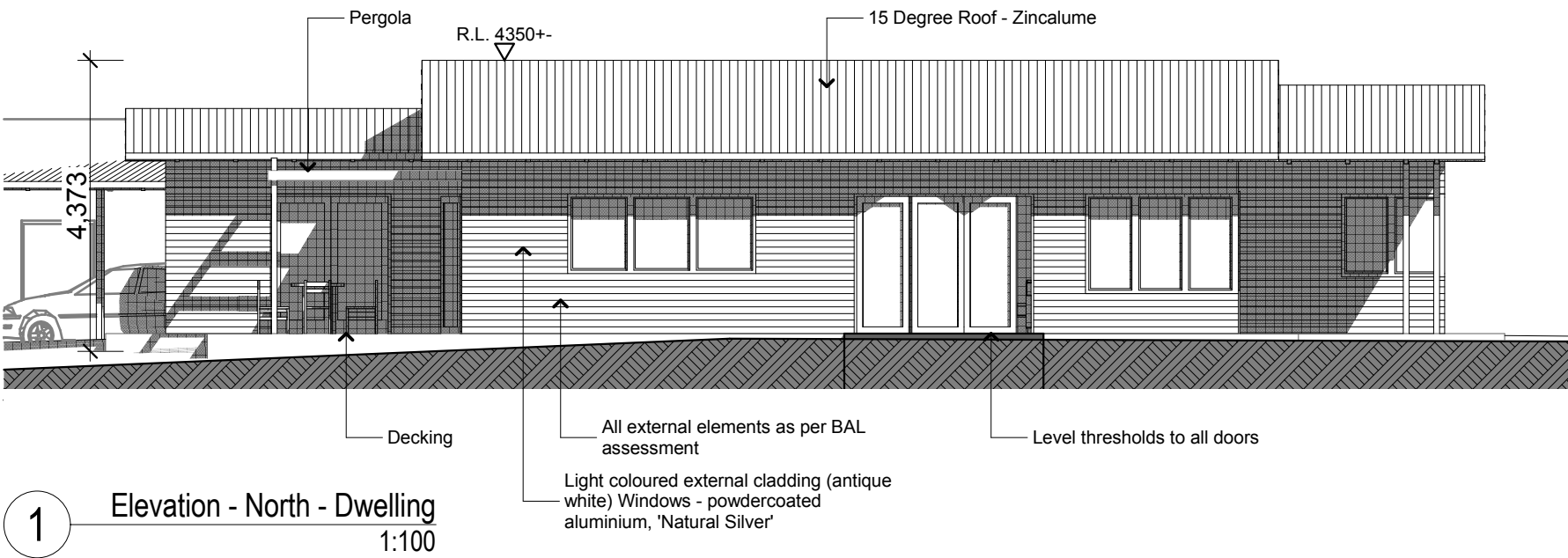


project details

Client: E Cowley  
Address: 21 Kent Street, Lindisfarne  
Project Type: New Dwelling & Studio

Scale: as noted @ A3  
Date: 09/2014  
Project Status: DA

Project No: 121  
Drawing No: 301 E

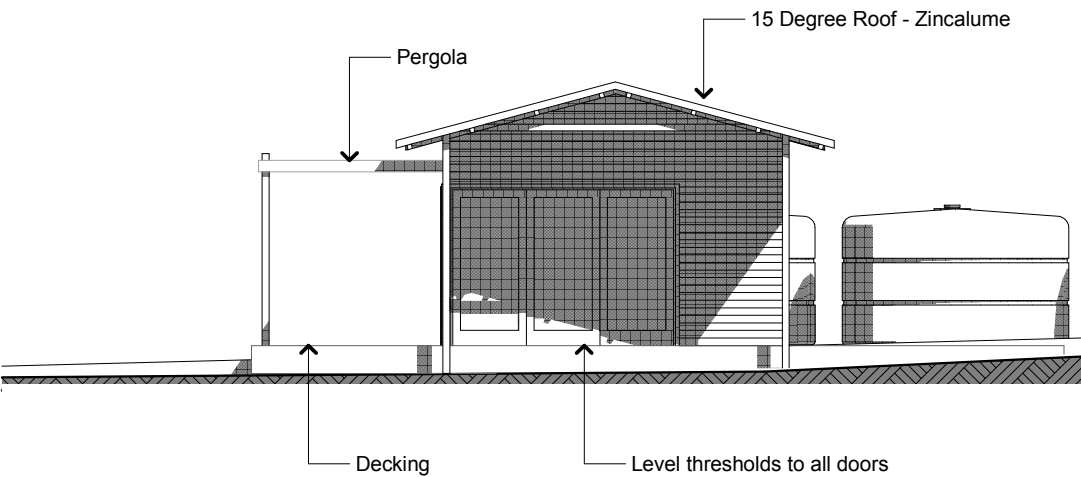


**project details**

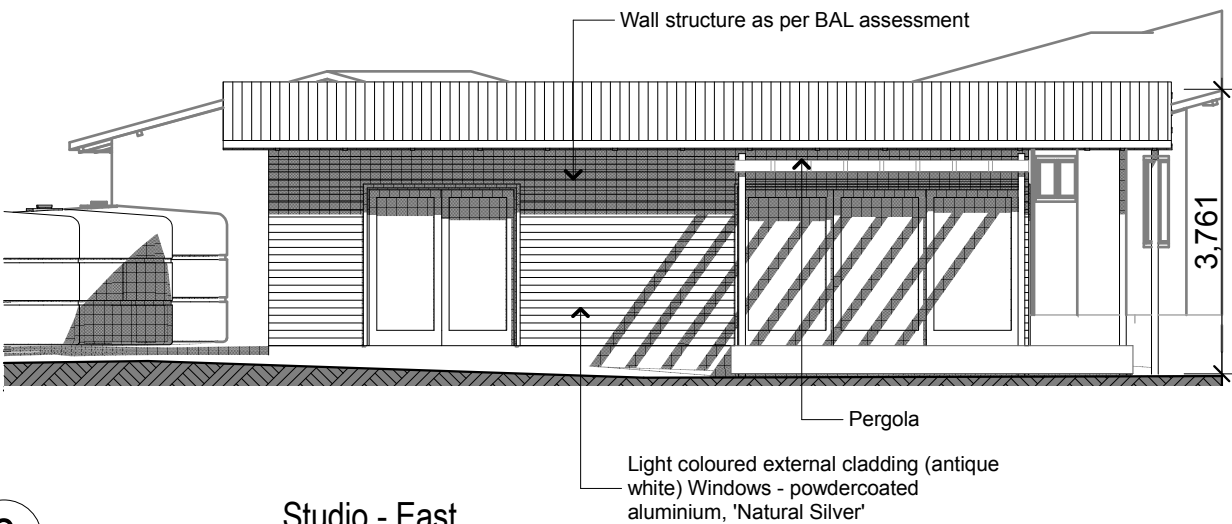
Client: E Cowley  
Address: 21 Kent Street, Lindisfarne  
Project Type: New Dwelling & Studio

Scale: as noted @ A3  
Date: 09/2014  
Project Status: DA  
Agenda Attachments - 13, 19 & 21 Kent Street - Page 6 of 13

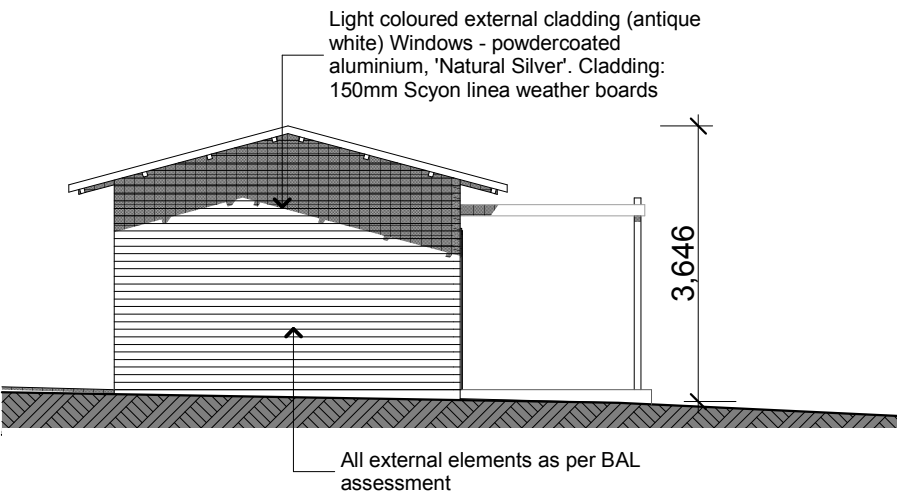
Project No: 121  
Drawing No: 302 E



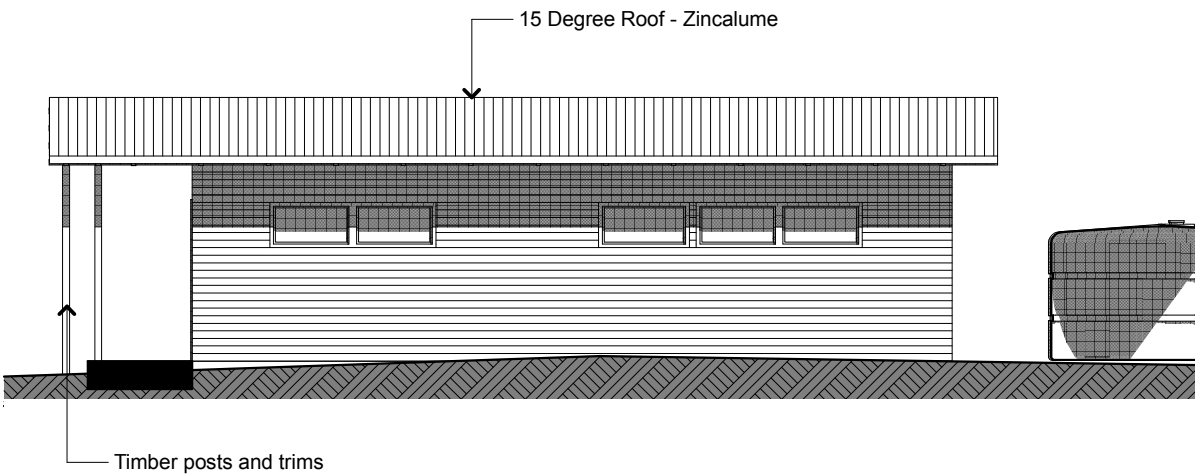
1 Studio - North  
1:100



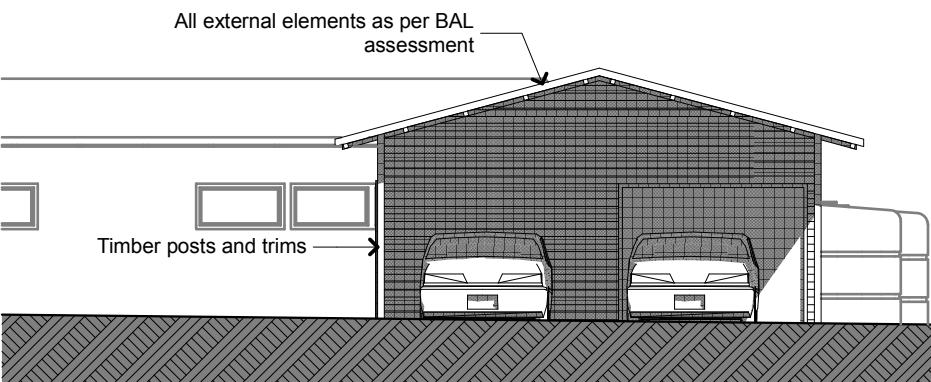
2 Studio - East  
1:100



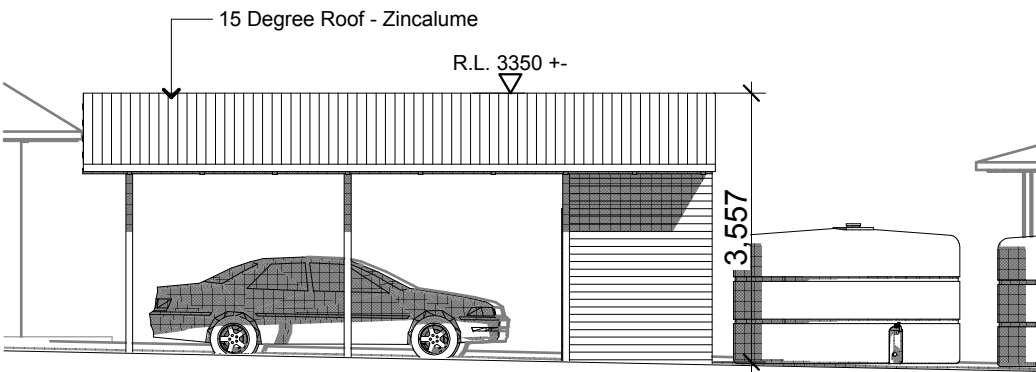
3 Studio - South  
1:100



4 Studio - West  
1:100



5 Carport TYP.  
1:100



6 Carport TYP.  
1:100

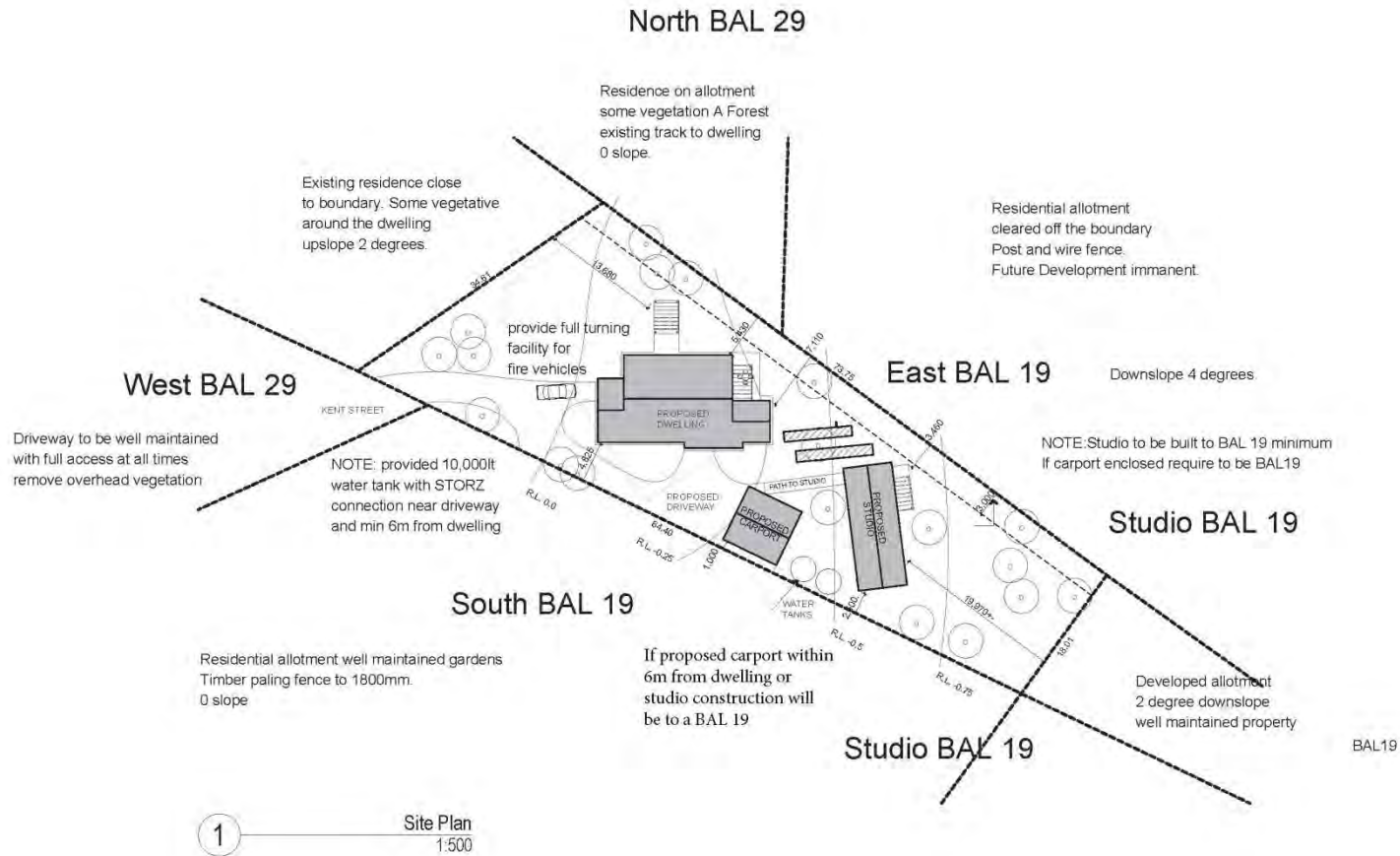


project details

Client: E Cowley  
Address: 21 Kent Street, Lindisfarne  
Project Type: New Dwelling & Studio

Scale: as noted @ A3  
Date: 09/2014  
Project Status: DA  
Agenda Attachments - 13, 19 & 21 Kent Street - Page 7 of 13

Project No: 121  
Drawing No: 303 E



# Attachment 3

**13, 19 & 21 Kent Street, LINDISFARNE**



**View from Kent Street showing entrance onto existing driveway ROW**



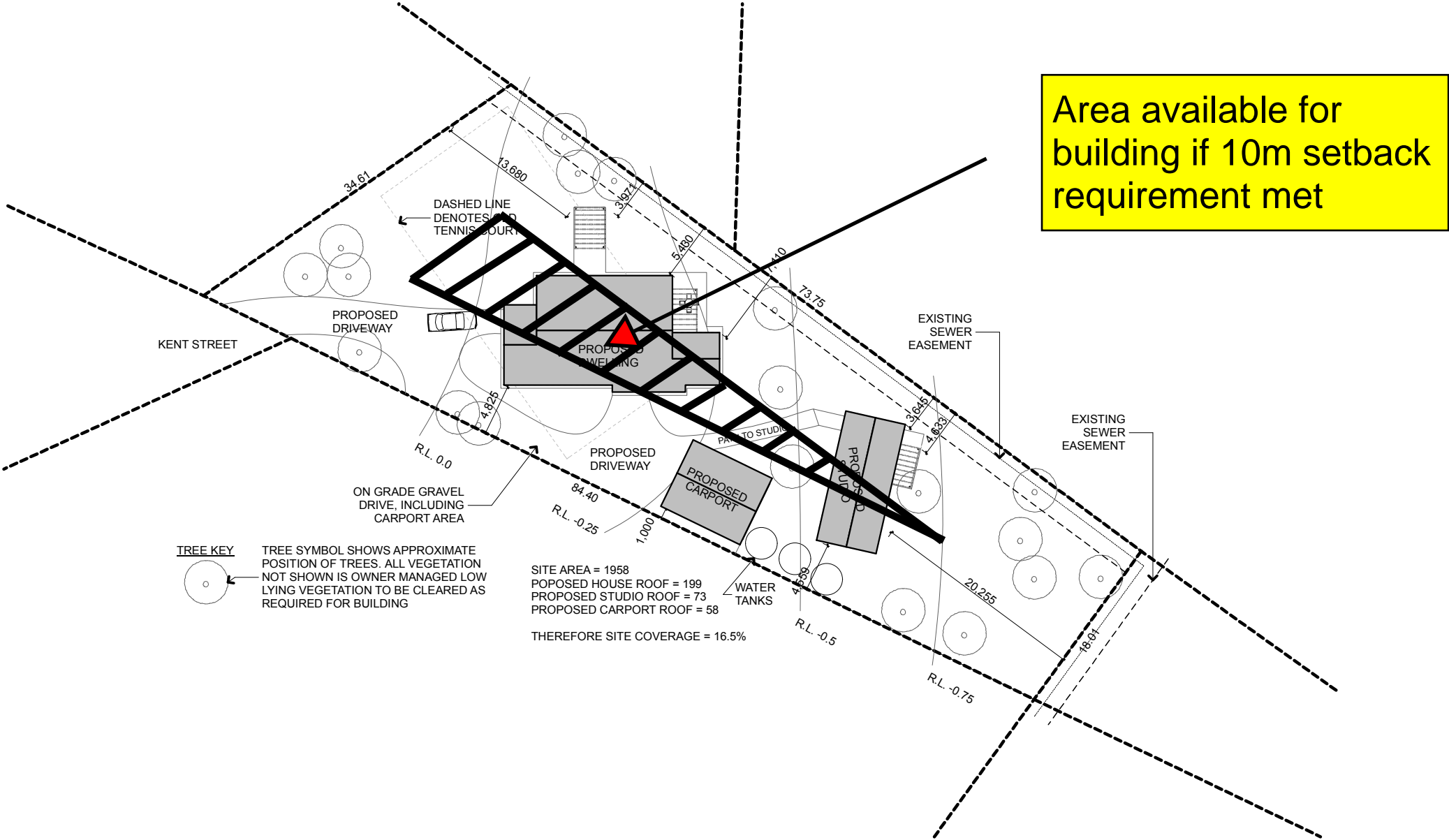
**View from top of Kent showing footpath outside entrance to driveway**



**View of existing driveway ROW outside access to 11 Kent Street**



**View of subject site looking east**



1 Site Plan  
1:500



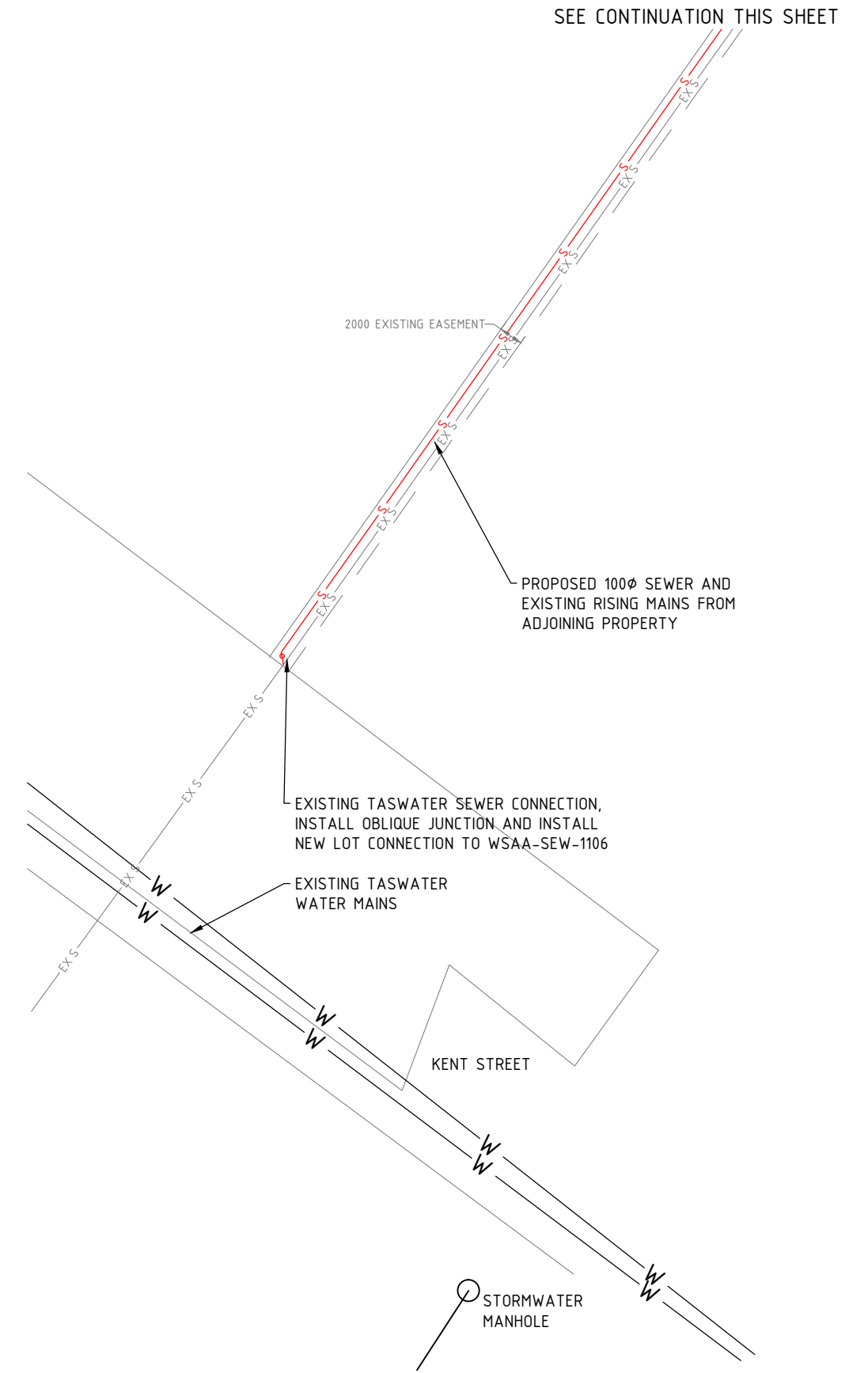
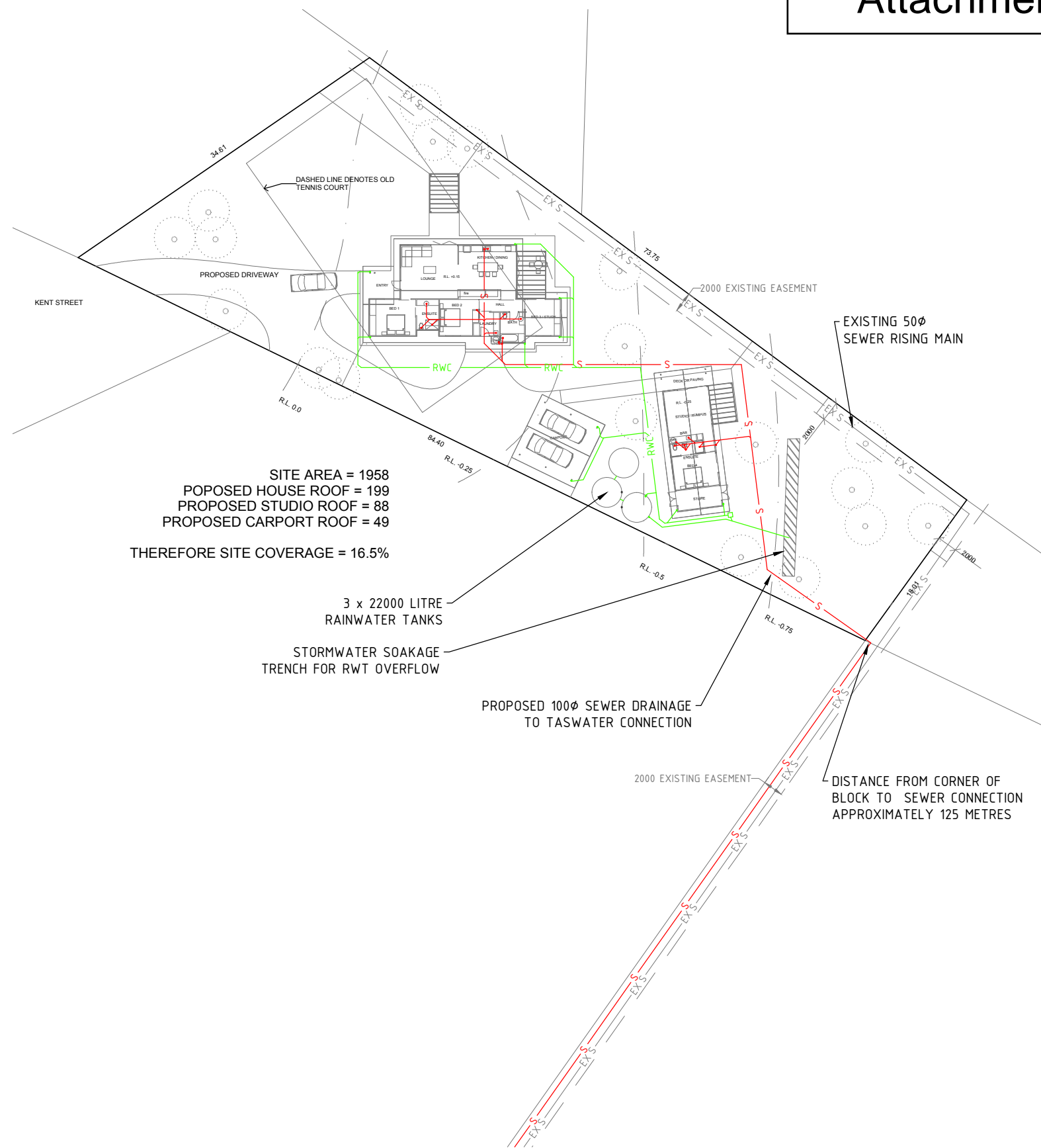
project details


Client: E Cowley  
Address: 21 Kent Street, Lindisfarne  
Project Type: New Dwelling & Studio

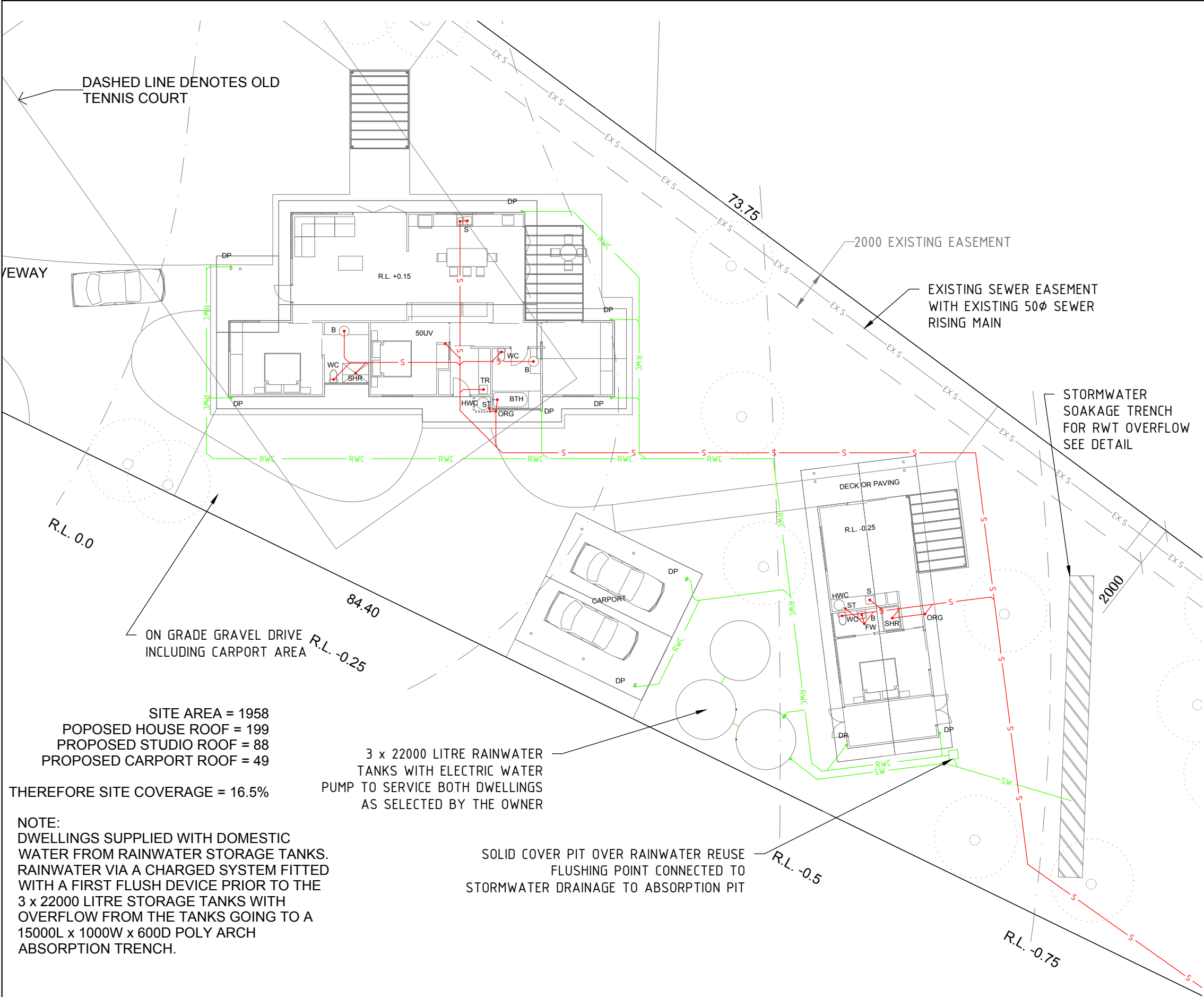
Scale: as noted @ A3  
Date: 09/2014  
Project Status: DA  
Agenda Attachments - 13, 19 & 21 Kent Street - Page 11 of 13

Project No: 121  
Drawing No: 101 E

# Attachment 5



			 <div>ALDANMARK <small>Pty. Ltd.</small> CONSULTING ENGINEERS  Level 9, 65 Murray Street Hobart Tas 7000 P: 03 6234 8666 F: 03 6234 8988 E: mail@aldanmark.com.au W: www.aldanmark.com.au</div>	CLIENT: EVIE COWLEY	SHEET: SITE WORKS PLAN	DRAWN: SL	APPROVED: SB		
				ADDRESS: 19 KENT STREET LINDISFARNE, TAS, 7015	PROJECT: NEW DWELLING & STUDIO	SCALE: 1:500	SIZE: A3	DATE: 27-02-15	
					ISSUE: BUILDING APPROVAL	PROJECT No. 15E99-23	SHEET No. 403		REV No. 0
0	BUILDING APPROVAL	27/02/15					Agenda Attachment 5 - 19 Kent Street Page 10 of 13		
REV.	DESCRIPTION	DATE							



LEGEND:

- EX S EXISTING SEWER PIPE
- EX SW EXISTING STORMWATER PIPE
- S DN100 UPVC SN4 SEWER PIPE UNO
- SW DN100 UPVC SN4 STORMWATER PIPE UNO
- RWC DN100 UPVC SN4 RAINWATER COLLECTION PIPE UNO
- DN90 PVC SLOTTED PIPE UNO
- B BASIN (DN40)
- BTH BATH (DN40)
- DP DOWNPIPE TYPE uPVC UNO
- FW FLOOR WASTE GULLY (DN80/65)
- GP 300sq. x 450d GRATED PIT 'ACO TYPE 33' OR EQ.
- IO INSPECTION OPENING
- ORG OVERFLOW RELIEF GULLY (DN100) PROVIDE TAP OVER
- S SINK (DN50)
- SHR SHOWER (DN50 / DN100 HOBLESS SHOWER)
- ST SAFE TRAY + TUNDISH FOR HWC (DN50)
- TR TROUGH (DN50)
- UV UPSTREAM VENT
- WC WATER CLOSET (DN100)
- NOTE:
  - UNO = UNLESS NOMINATED OTHERWISE (ON PLAN OR DETAIL)
  - EQ. = EQUIVALENT

SITE AREA = 1958  
POPOSED HOUSE ROOF = 199  
PROPOSED STUDIO ROOF = 88  
PROPOSED CARPORT ROOF = 49  
THEREFORE SITE COVERAGE = 16.5%

NOTE:  
DWELLINGS SUPPLIED WITH DOMESTIC WATER FROM RAINWATER STORAGE TANKS. RAINWATER VIA A CHARGED SYSTEM FITTED WITH A FIRST FLUSH DEVICE PRIOR TO THE 3 x 22000 LITRE STORAGE TANKS WITH OVERFLOW FROM THE TANKS GOING TO A 15000L x 1000W x 600D POLY ARCH ABSORPTION TRENCH.

3 x 22000 LITRE RAINWATER TANKS WITH ELECTRIC WATER PUMP TO SERVICE BOTH DWELLINGS AS SELECTED BY THE OWNER

SOLID COVER PIT OVER RAINWATER REUSE FLUSHING POINT CONNECTED TO STORMWATER DRAINAGE TO ABSORPTION PIT

0	BUILDING APPROVAL	27/02/15
REV.	DESCRIPTION	DATE



ALDANMARK

Pty. Ltd.

CONSULTING ENGINEERS

Level 9, 65 Murray Street

Hobart Tas 7000

P: 03 6234 8666

F: 03 6234 8988

E: mail@aldanmark.com.au

W: www.aldanmark.com.au

CLIENT: EVIE COWLEY	SHEET: HYDRAULIC SERVICES LAYOUT	DRAWN: SL	APPROVED: SB
ADDRESS: 19 KENT STREET LINDISFARNE, TAS, 7015	PROJECT: NEW DWELLING & STUDIO	SCALE: 1:200	SIZE: A3
ISSUE: BUILDING APPROVAL	Agenda Attachment 15E99-23	PROJECT No. 15E99-23	DATE: 27-02-15
		SHEET No. 404	REV No. 0

**11.3.2 DEVELOPMENT APPLICATION D-2015/98 - LEVEL 3, 31 CAMBRIDGE ROAD, BELLERIVE - CHANGE OF USE TO CONSULTING ROOMS**  
(File No D-2015/98)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for a Change of Use from Office to Consulting Rooms at 31 Cambridge Road, Bellerive.

**RELATION TO PLANNING PROVISIONS**

The land is zoned Commercial and subject to the Bellerive Centre Overlay under the Clarence Planning Scheme 2007 (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 2005.

Council is required to exercise a discretion within the statutory 42 day period which has been extended to expire on 12 May 2015.

**CONSULTATION**

The proposal was advertised in accordance with statutory requirements and no representations were received.

**RECOMMENDATION:**

- A. That the Development Application for Change of Use to Consulting Rooms at Level 3, 31 Cambridge Road, Bellerive (C1 Ref D-2015/98) be approved subject to the following conditions and advice.
1. GEN AP1 – ENDORSED PLANS.
  2. Not more than 7 full time equivalent allied health and holistic wellness practitioners may receive patients on-site at any one time.
  3. The consulting rooms must only be used by the following practitioners: specialist medical practitioners; nurse practitioners; midwives; lactation consultants; child health nurses; physiotherapists; osteopathy, exercise physiology; occupational therapists; speech therapists; psychologists; dieticians; nutritionist; naturopaths; wellness coaches; hypnotherapists; Bowen therapy/baby Bowen; massage therapists; reiki; acupuncturists; Feldenkrais; chakra balancing and crystal healing.
  4. GEN C2 – CASH-IN-LIEU. [\$50,000] [5 spaces].

- 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 Commercial and subject to the Bellerive Centre Overlay under the Scheme.

**2.2.** The proposal is for a Change of Use to Consulting Rooms and seeks a variation of 27 car parking spaces, which is Discretionary under the Scheme.

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

- Section 2 – Planning Policy Framework;
- Section 3 – General Provisions;
- Section 6 – Commercial zones;
- Section 7 – Bellerive Centre Overlay; and
- Section 8.1 – Off-Street Car Parking and Loading.

**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 Level 3 of the Bellerive Quay Building, located at 31 Cambridge Road, Bellerive. It is the whole of level 3 of Strata "Flat 2" and has a total floor area of 336m<sup>2</sup>. The existing use of this tenancy is approved as office.

### **3.2. The Proposal**

The proposal is for a Change of Use from Office to Consulting Rooms which is described by the proponent as a holistic wellness centre. The centre will comprise allied health practitioners (the term “allied health” does not apply to medical health professionals such as doctors, surgeons or dentists) and holistic wellness practitioners. The practitioners to be working from the site were purported by the applicant’s original documentation to be specialist medical and nurse practitioners, midwives, child health nurses, physiotherapists, occupational therapists, psychologists, dieticians, naturopaths, Bowen and massage therapists and acupuncturists. However, a brochure for the proposed “holistic wellness centre” provided by the proponent subsequent to advertising the application provides the following list of practitioners:

- specialist medical practitioners:
- nurse practitioners;
- midwives;
- lactation consultants;
- child health nurses;
- physiotherapists;
- osteopathy;
- exercise physiology;
- occupational therapists;
- speech therapists;
- psychologists;
- dieticians;
- nutritionist;
- naturopaths;
- wellness coaches;
- hypnotherapists;
- Bowen therapy/baby Bowen;
- massage therapists;

- reiki;
- acupuncturists;
- Feldenkrais;
- chakra balancing; and
- crystal healing.

The proposal will divide the tenancy into a reception/waiting area, a treatment room, a large therapy assessment area, a lunch room, a central amenities and stairs area and 8 offices. One of the offices is for the practice manager and the remaining 7 are for consultants (1 of whom works 3 days a week as a nurse and 2 days a week as a business manager).

There are no external works associated with this application.

#### **4. PLANNING ASSESSMENT**

##### **4.1. Planning Policy Framework [Section 2]**

The proposed use is consistent with the Objectives identified in the Scheme's Planning Policy Framework, in particular Section 2.2.3(c)(i) - Economic Development as it may contribute positively to the economic development of Bellerive and Clarence generally through an increase in local business spending. Increasing these services will attract a greater number of people and other businesses in the area will benefit.

Additionally, the Clarence Planning Policy, Cash-in-Lieu for Car Parking of Section 2.3.2 is relevant. The purpose of this policy is to “*provide an alternative for developers who are unable to provide on-site car parking generated by their commercial proposals*”. Should Council consider a cash-in-lieu contribution for car parking appropriate, the rate of payment in Bellerive is \$10,000 per space in accordance with Clause 2.3.2(c) – Cash-in-Lieu for Car Parking.

Reference to these principles is also contained in the discussion below.

#### **4.2. General Decision Requirements [Section 3.3.1]**

- “(a) *General requirements:*
- (i) *The Objectives of the Act.*
  - (iv) *The Purposes of the Zone.*
  - (v) *The Specific Decision Requirements of the Zone, Overlay or Specific Provision.*
  - (ix) *The impact upon established retail and industrial hierarchies or rural industries and their need for growth and investment.*
- (c) *Infrastructure requirements:*
- (i) *The availability of existing public utility services.*
  - (vi) *The provision of access, loading, parking and manoeuvring of vehicles.*
  - (viii) *The need for access to public transport facilities”.*

The proposal has been considered and is in keeping with the General Requirements of the Scheme, except Clause 3.3.1(c)(vi) being parking provision and which is discussed in more detail below.

#### **4.3. Commercial Zone**

The purpose of the Commercial zone is to encourage a range of business centres for retailing and other complimentary commercial, entertainment and community uses.

The proposal is defined as “Consulting Rooms or Health Centre”. This is a Discretionary use in the zone.

As there is no development proposed to accompany the Change of Use, there are no relevant Use and Development Standards for the application.

#### **4.4. Bellerive Centre Overlay**

The purpose of the Bellerive Centre Overlay is to provide a positive direction for the Bellerive Village commercial area by providing new commercial and community opportunities, whilst maintaining the character of the area. This is to be achieved by encouraging commercial redevelopment at a human scale.

The proposal is for the internal fit-out of an existing office building, with no external alterations proposed. As such, there are no relevant development standards for the proposal and it is not inconsistent with the Bellerive Centre overlay.

#### **4.5. Off-Street Car Parking and Loading**

##### **Purpose**

The purpose of Section 8.1 of the Scheme relating to Off-Street Parking and Loading is:

- “(a) To ensure the provision of an appropriate number of car parking spaces, having regard to the activities on the land and the nature of the locality.*
- (b) To ensure that the design and location of car parking areas:*
- (i) Achieves a good standard of urban design.*
  - (ii) Creates a safe environment for users at all times.*
  - (iii) Enables easy and efficient use.*
  - (iv) Protects the role and function of nearby roads.*
  - (v) Facilitates the use of public transport and the movement and delivery of goods”.*

##### **Parking Demand under the Scheme**

The use is defined as “Consulting Rooms” which is defined as: *“Land used by a medical, dental practitioner, or by a registered practitioner of any therapeutic art or science, including a maternal and child welfare centre, an x-ray centre, a medical clinic and a community health centre”.*

The proposed car parking demand calculated as per the Parking Table at Clause 8.1.5 of the Scheme is as follows.

<b>Land Use</b>	<b>Generator</b>	<b>Rate</b>	<b>Number of Bays Required</b>	<b>Number of Credits from Previous Approved Use</b>
Consulting Rooms or Health Centre	7 Consultants	5 per practitioner	35	336m <sup>2</sup> @ 1/45m <sup>2</sup> (office) = 8
<b>Total Deficit</b>			35 - 8	<b>27</b>

The application is for a Change of Use from Office to Consulting Rooms with up to 7 full time equivalent practitioners on-site at any one time. This generates a car parking demand of 5 spaces per practitioner, or 35 spaces. The previous use of the site was an Office, which generates a car parking demand of 1 space per 45m<sup>2</sup> of leasable floor area. This provides a car parking credit of 8 spaces. As such, the proposal under the parking table would require an additional 27 car parking spaces.

Council may accept a cash-in-lieu payment for car spaces that cannot be provided on-site pursuant to Clause 8.1.3(v) and Clause 2.3.2(c) of the Scheme at \$10,000 per space in Bellerive. Accordingly, Council could require a cash-in-lieu contribution of \$270,000 for the 27 car parking space shortfall should it wish to do so.

#### **Application of the Cash-in-Lieu Policy in Bellerive**

Council has sought to apply its Cash-in-Lieu Policy over a number of years. However, this was tested in the case of an application for residential and commercial tenancies at 3 Clarence Street. The proponent appealed Council's refusal on a number of grounds which included a deficiency of 15 on-site car parking spaces. In handing down its decision of 23 September 2011, which overturned Council's decision, the Resource Management and Planning Appeals Tribunal (RMPAT) decided that there was sufficient car parking in the local area to waive the Scheme requirement for car parking.

Council applied a cash-in-lieu requirement for 8 car parking spaces for a residential and commercial development (D-2013/418) at 14-18 Cambridge Road in July last year. The proponent did not appeal Council's decision.

In April last year, Council also approved a general practitioners surgery at 48 Cambridge Road with a cash-in-lieu requirement for a deficit of 15 on-site car parking spaces. The proponent appealed Council's decision and the matter was eventually settled through mediation.

It was agreed that part of the cash-in-lieu contribution be paid with the balance of spaces provided by private arrangement (details to be submitted to Council annually).

So far the arguments for waiving car parking have generally focused on whether there is sufficient car parking in the locality. This issue is further considered in the section below.

### **The Case for Waiving Car Parking in Bellerive**

The relevant Use and Development Standards listed at Clause 8.1.3 are:

*“(iv) A permit may be granted to:*

- *reduce the number of car spaces required or to waive the requirement for onsite car parking.*

*The application to reduce, waive or vary must be considered as a Discretionary Development in accordance with Clause 3.1.8”.*

In determining such an application regard must be had to Specific Decision Requirement Clause 8.1.4(h):

*“The requirement for car spaces will only be reduced or waived, where it is justified that:*

- (i) The supply of car parking in the locality is in excess of the anticipated demand;*
- (ii) Reduction in car parking demand is due to the sharing of car spaces by multiple uses because of variation of car parking demand over time;*
- (iii) The existing use of the land or previous approvals have already resulted in a car parking supply deficiency;*
- (iv) Local traffic management dictate a reduced demand;*
- (v) Local amenity, including pedestrian amenity, will be significantly enhanced; or*
- (vi) Any relevant Clarence Planning Policy”.*

Council undertakes a parking occupancy survey every 2 years and reviews its activity centre parking strategy. The latest survey was carried out in early December 2014. This survey found the off-street car parking adjacent to the subject site has already reached nearly 80% occupancy, with some peak hour occupancy close to 90%. Council’s acceptable service level on a car park close to a commercial area is generally 85%.

The Percy Street car park on the opposite side of the road has an occupancy level of 60%. All the on-street parking restrictions are 1 hour parking or less, which may not necessarily be suitable for the applicant's business. As such, Council's Traffic Engineer advises that demand for car parking in the locality is at capacity.

No evidence has been provided by the applicant of a reduction in car parking demand due to the sharing of car spaces by multiple uses because of variation of car parking demand over time. There is no evidence to support waiving the requirement for on-site car parking in this regard.

### **The Case for Varying the Parking Standard**

In support of this application a planning submission has been provided. The submission compares the proposed use with that of the "most intensive form of development" which can be considered under the definition, being general practice or the like, in which a practitioner receives 4 patients in an hour. In the applicant's submission, the subject practitioners will see a maximum of 6-7 clients per day. The applicant contends the following allied practitioners are constrained by the medical benefits scheme which restricts them to billing Medicare to just 3 patients per hour:

- physiotherapists;
- osteopathy;
- occupational therapists;
- speech therapists;
- psychologists; and
- dieticians.

Whilst some allied health practitioners could potentially see more patients per hour they would not get the Medicare refund which makes this unlikely. Some of the practitioners listed would only see 1 or 2 patients per hour.

The proponent's "holistic wellness centre" will also comprise the following medical and holistic healing practitioners:

- specialist medical practitioners;
- nurse practitioners;
- midwives;
- lactation consultants;
- child health nurses;
- exercise physiology;
- nutritionist;
- naturopaths;
- wellness coaches;
- hypnotherapists;
- Bowen therapy/baby Bowen;
- massage therapists;
- reiki;
- acupuncturists;
- Feldenkrais;
- chakra balancing; and
- crystal healing.

Whilst it is unclear how many patients the above practitioners will receive, it is considered reasonable that most, if not all, would see less than a general practitioner. The applicants further contend that about 50% of their practice will be out-reach and thereby have a much lesser impact on car parking.

The proponent has also indicated that as 1 of the practitioners is part time, the Scheme requirement should apply a commensurate reduction of 2 spaces. This rationale ignores a "worst case scenario" where all practitioners are receiving patients.

On this basis the applicants believe that the practice will require 25% of the car parking of a general practitioner and contend that the car parking requirement should be reduced accordingly.

In the absence of any empirical evidence it is impossible to realise a suitable figure based on the future operation of the practice. Notwithstanding this, it is recognised that car parking demand for such a practice is likely to be significantly less than the Scheme standard, which considers a worst case scenario of general practitioners and an alternative rate should be considered. A review of comparable parking rates has been considered below.

- The City of Hobart Planning Scheme requirement for consulting rooms is 1 space per 30m<sup>2</sup>. Based upon the Bellerive floor area of 336m<sup>2</sup> this equates to a requirement of 12 spaces.
- The Glenorchy Planning Scheme requirement for consulting rooms is 4 spaces per consulting room or 1 space per 25m<sup>2</sup> of Gross Floor Area (GFA) with a minimum of 4 spaces (whichever is greater). A maximum of 28 spaces would be required.
- The Kingborough Planning Scheme requires 1 space per 30m<sup>2</sup> (12 spaces) or 4 spaces per consulting room whichever is greater (28 spaces would be required).
- The Clarence Draft Interim Planning Scheme was endorsed by Council at its Meeting on 17 March 2014. In accordance with the regional provisions the parking requirement is 5 spaces for each person providing health services. A minimum of 35 spaces would be required.

- The minimum number of parking spaces required by medical centres is 4 per 100m<sup>2</sup> gross floor area based on the New South Wales Roads and Traffic Authority (RTA) survey conducted in 1991. This rate is based on Sunday and Monday parking figures and reflects the mean parking demand surveyed on those days. For reference the 85th percent demand produced a rate of 5 spaces per 100m<sup>2</sup> gross floor area. As the average length of stay at a medical centre is approximately 27 minutes, parking facilities must be provided in a convenient location.

The property has a floor area as described in the title of 336m<sup>2</sup> would require a total of 13 spaces.

Although none of the above examples fully describe the operation of the applicant's practice, it is considered that the RTA figure provides a significant discount and therefore might be appropriate, bearing in mind the nature of the proposed business model.

On this basis (discounting the 8 spaces credited to the approved Office floor area) there is a net increase in demand for 5 car parking spaces. As the supply of car parking in the local area is at capacity, it is appropriate for Council to apply a cash-in-lieu requirement in order to facilitate further public car parking in the future. As such, under the policy for cash-in-lieu the requirement is \$50,000 (5 x \$10,000).

If this figure is considered reasonable it can only be applied specifically to the applicant's practice of allied health professionals with a suitable condition of any approval prohibiting use by any other health care professionals (general practitioner, dentist etc).

It would appear appropriate for Council to seek cash-in-lieu for the deficit of additional car parking spaces which are generated by the development but which cannot be provided on-site. This is consistent with recent decisions in respect of recent developments.

In this case, cash-in-lieu payment can be directed into a fund to develop more car parking in Bellerive, to serve this business. Council has shown its commitment already by its previous redevelopment of the Percy Street car park where it purchased additional land to expand public car parking.

#### **4.6. External Referrals**

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

### **5. STATE POLICIES AND ACT OBJECTIVES**

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

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

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

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

**6.2.** Developer contributions are required to comply with Council's Cash-in-Lieu for Car Parking Policy. The Cash-in-Lieu for Car Parking Policy in the Scheme requires \$10,000 per space for the Bellerive area. The applicant has requested this amount to be waived but, as discussed above, it is considered appropriate for Council to seek cash-in-lieu for the deficit of 5 additional car parking spaces which are generated by the development but which cannot be provided on-site.

**6.3.** In the future, the new Interim Planning Scheme will allow greater local flexibility in administering the Car Parking Code. It will do this by allowing an adopted local car parking plan for each centre to be developed in order to provide clearer direction for car parking requirements in the unique situation of those centres. It is appropriate, given Bellerive's recent history that a car parking plan be developed for the centre in the short-term.

**7. CONCLUSION**

The proposed Change of the Use at 31 Cambridge Road, Bellerive from office to Consulting Rooms is recommended for conditional approval. The applicant requests that all deficit parking be waived and consequently no cash-in-lieu parking contribution should be required. For the reasons set out in the report, this is not considered appropriate. However, it is recommended that the resulting deficiency of car parking be dealt with by condition imposing a cash-in-lieu payment of \$50,000.

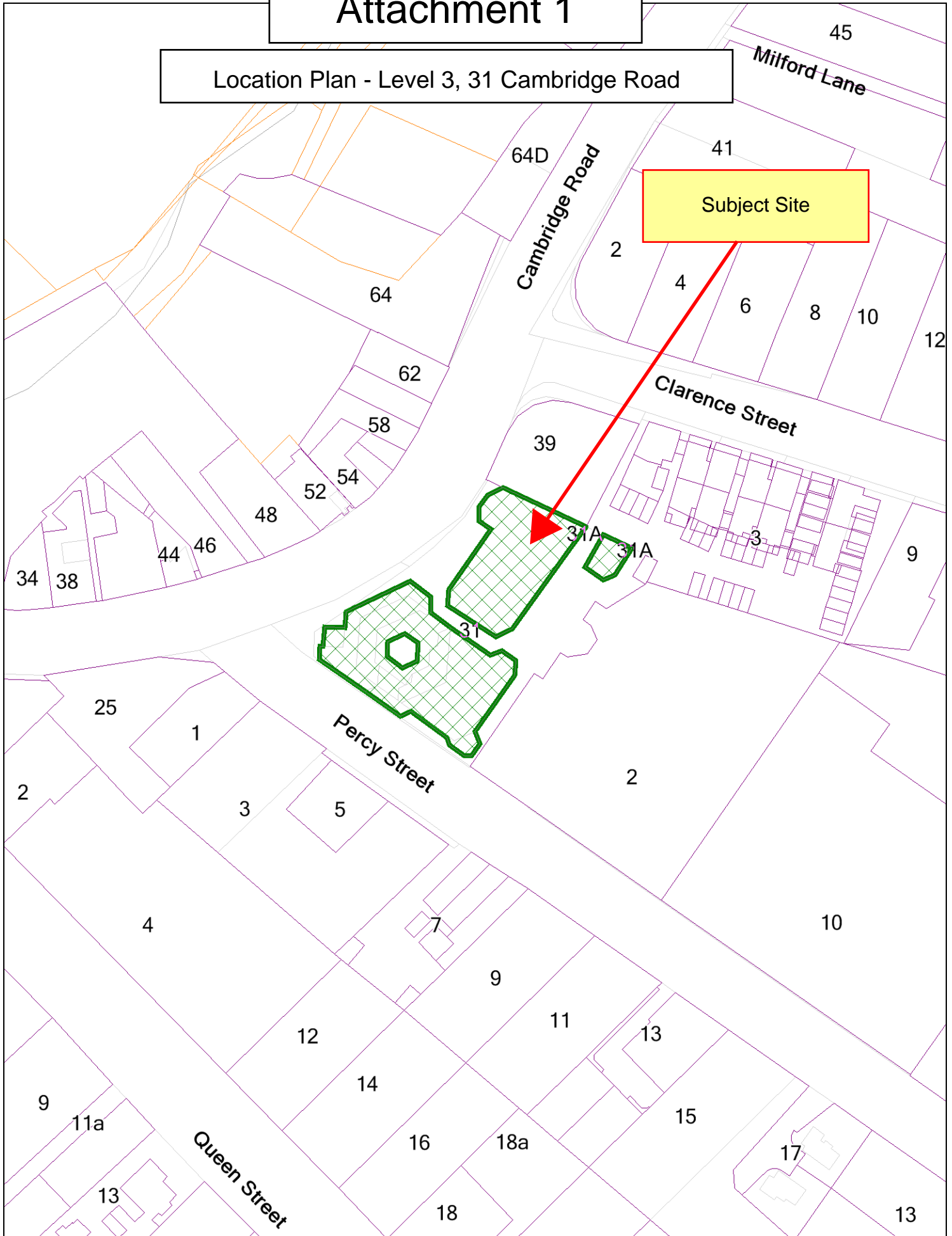
Attachments: 1. Location Plan (1)  
2. Proposal Plan (7)  
3. Site Photo (1)

Ross Lovell  
**MANAGER CITY PLANNING**

Council now concludes its deliberations as a Planning Authority under the Land Use Planning and Approvals Act, 1993.

# Attachment 1

## Location Plan - Level 3, 31 Cambridge Road



**Disclaimer:** This map is a representation of the information currently held by Clarence City Council. While every effort has been made to ensure the accuracy of the product, Clarence City Council accepts no responsibility for any errors or omissions. Any feedback on omissions or errors would be appreciated. Copying or reproduction, without written consent is prohibited. **Date:** Thursday, 30 April 2015 **Scale:** 1:1,108 @A4

# Attachment 2

ireneinc &  
smithstreetstudio

PLANNING & URBAN DESIGN

16 March 2015

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

Via email: [cityplanning@ccc.tas.gov.au](mailto:cityplanning@ccc.tas.gov.au)

Dear Sir

## 31 CAMBRIDGE ROAD, BELLERIVE - BELLERIVE QUAY HEALTH HUB

Please find attached an application for change of use to consulting rooms including internal alterations Level 3 Bellerive Quay, 31 Cambridge Road, Bellerive.

The area proposed for the development is currently vacant, but was previously approved as offices. The following figure describes the location:



The subject site is within the Commercial zone and is also within the Bellerive Centre overlay. Consulting Rooms are a discretionary use in the zone.

smithstreetstudio | ireneinc

49 Tasma St, North Hobart, TAS 7000

Tel (03) 6234 9281

Fax (03) 6231 4727

Mob 0418 346 283

Email [planning@ireneinc.com.au](mailto:planning@ireneinc.com.au)

Agenda Attachments - Level 3, 31 Cambridge Road - Page 2 of 9

The purpose of the zone is as follows:

- (a) *To implement the Planning Policy Framework.*
- (b) *To encourage a range of business centres for retailing and other complementary commercial, entertainment and community uses.*

The use proposed falls within the broad definition provided for within the Scheme as a Consulting Rooms, as it is intended that the facility will provide a wide range of conventional and holistic medicine under one roof to provide clients a one stop shop approach to the management of their treatment.

No general practice services will be provided as part of the medical services based at the facility.

Practitioners will include specialist medical and nurse practitioners, midwives, child health nurses, physiotherapists, occupational therapists, psychologists, dieticians, naturopaths, Bowen and massage therapists and acupuncturists.

The proposed use is considered to be consistent with the zone purpose in that the location proposed within Bellerive Village is suitable for the provision of health and supportive therapies proposed.

As a change of use requiring only internal alterations there are no Use and Development Standards for the zone which are relevant, however the following Specific Decision Requirements are relevant for consideration:

- c) *An integrated approach to adequate pedestrian, bicycle and car access to the site and movement within the area should be undertaken.*
- ...(j) *Sufficient carparking should be provided on site to meet differing levels of commercial and residential needs. Safe and convenient access is to be provided to all parking areas...*

Specific comment in relation to the parking and access is included below against the relevant provisions for Off-Street Car Parking & Loading.

#### PARKING GENERATION IN ACCORDANCE WITH TABLE 8.1.5

The provision of part 8.1 of the Scheme required parking be provided at a rate in accordance with the following, accounting for the increase in parking generated by the development over what has been previously approved.

USE	CAR SPACE MEASURE	RATE
Consulting Rooms or Health Centre	Car spaces to each practitioner	5
Office	Spaces per 45m <sup>2</sup>	1

The existing floor area calculated on the proposal plans is 364m<sup>2</sup> (without the shared stair and lift area) this floor area generates 8 parking spaces in accordance with the Table 8.1.5.

The proposed development includes 8 offices (including one marked as physio) 7 of these offices will be used as consulting rooms the other office being for the practice manager who does not see patients. One of the 7 consulting rooms will be dedicated to the business manager who is also a nurse practitioner who will see patients on only 3 days out of a five day week with the remaining time spent in administration. There are additionally a treatment room and a therapy assessment area however these will not generate additional parking demand as they will only be used by practitioners and their clients when they require space or equipment not provided in their own offices.

The number of full time equivalent practitioners is therefore 6.6. In accordance with the car parking table the generation of parking is therefore 33 spaces. The increase in parking generated by the development proposed (in accordance with the Table) is therefore 25 spaces.

## PARKING GENERATION ANALYSIS

The approved use of Level 3 is as offices. A review of the floor are available indicates that 24 people could easily be accommodated within an office layout. Notwithstanding that the generation indicated by the Scheme is for 8 spaces. This appears to indicate that the Scheme does not envisage that every person who works in or clients who visit an office would be accounted for by provision of a parking space. In doing this the Scheme acknowledges that alternate transport options are available for people and that a certain amount of offsite parking in an areas can accommodate shared trips to commercial centres.

The generation of 5 spaces per practitioner required as the permitted standard of parking provision for the defined use is setting a standard the scheme envisages as being appropriate for the most intensive form of development which that definition accommodates, being:

*Consulting Rooms or Land used by a medical, dental practitioner, or by a registered Health Centre practitioner of any therapeutic art or science, including a maternal and child welfare centre, an x-ray centre, a medical clinic and a community health centre.*

The more intensive operations which would fall within this definition would appear to be things like public health clinic or general practice surgeries where the appointments are short and it is the practice to have high turnover of patients waiting to see the doctors.

Unlike a general practice or public health clinic the proposed facility operates at much less intensity, with appointment time being an hour in length and by prior appointment, and with each practitioner seeing a maximum of 6-7 clients a day. The one stop approach the facility is aimed at providing also means that it is likely that clients may see more than one practitioner per visit meaning that the overall daily visits are further reduced.

It is therefore the case that the facility will in reality generate only 25% of the daily clients that a general practice would (hourly appointments v 15 minute appointments).

The facility is intended to operate with maximum staff of 10 (maximum 7 practitioners at any one time plus 3 administration) and a maximum of 7 clients with practitioners. On this basis even with a full further 7 clients waiting the total number of people on site would be 24, the equivalent number as the conservative estimate of possible office accommodation.

On the basis of this the generation of parking is considered to be (6.6 practitioners x 5 spaces) x 25% which equates to 8.25 spaces. As the existing office approval accounts for 8 spaces the shortfall of parking is less than 1 space.

It is therefore requested that Council waive this shortfall on the basis the above and given that the total number of staff and clients on site at any one time is not likely to exceed the equivalent number people accommodated if the space was fully occupied as offices.

Should you have any questions in relation to any of the above or any other aspect of the application, please contact me to discuss.

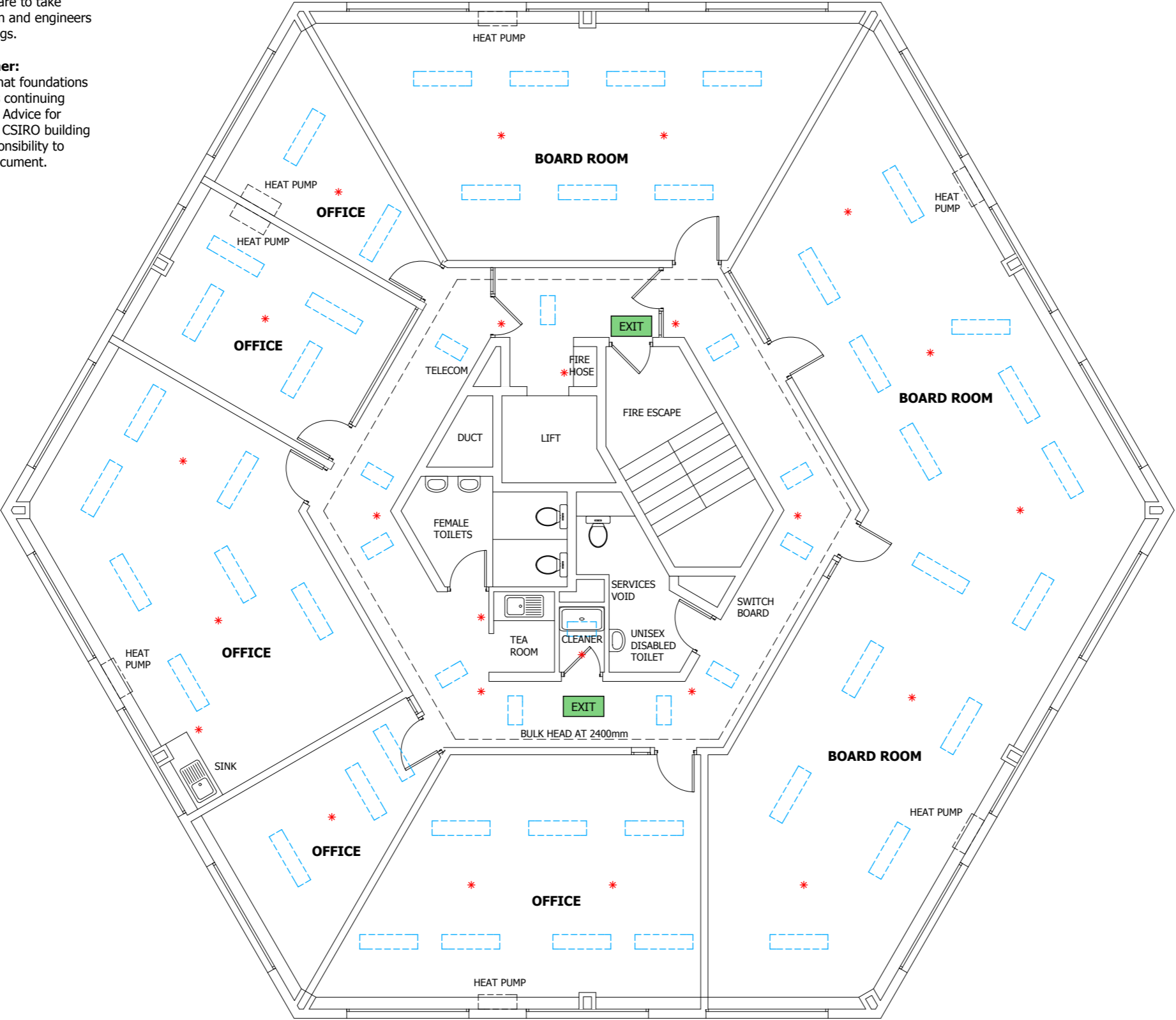
Yours faithfully



Jacqui Blowfield  
Senior Planner  
IRENEINC PLANNING

**Note:**  
Builder and subcontractors to verify all dimensions and levels prior to the commencement of any work. Give 24 hours minimum notice where amendments are required to design of working drawings. These drawings are to be read in conjunction with engineers and surveyors drawings and notes. Do not scale drawings. Dimensions are to take preference over scale. Building specification and engineers drawings shall override architectural drawings.

**Important Notice for Attention of Owner:**  
The owners attention is drawn to the fact that foundations and associated drainage in all sites requires continuing maintenance to assist footing performance. Advice for foundation maintenance is contained in the CSIRO building technology file 18 and it is the owners responsibility to maintain the site in accordance with this document.



**PRECISION**  
DESIGN & DRAFTING

Katie Court

a : 17 Waverley Avenue,  
Mount Stuart. TAS. 7000

m : 0400 598 990

e : katie.court1@gmail.com

JOB : WELLNESS FACILITY

AT : LEVEL 3, 31 CAMBRIDGE  
ROAD, BELLERIVE

FOR : MS L SPROULE

DRAWING TITLE :

**EXISTING  
FLOOR PLAN**

DRAWN:	DATE:	DWG NO. :
KC	27.01.15	

SCALE:  
1:100

**01**

**Note:**  
Builder and subcontractors to verify all dimensions and levels prior to the commencement of any work. Give 24 hours minimum notice where amendments are required to design of working drawings. These drawings are to be read in conjunction with engineers and surveyors drawings and notes. Do not scale drawings. Dimensions are to take preference over scale. Building specification and engineers drawings shall override architectural drawings.

**Important Notice for Attention of Owner:**  
The owners attention is drawn to the fact that foundations and associated drainage in all sites requires continuing maintenance to assist footing performance. Advice for foundation maintenance is contained in the CSIRO building technology file 18 and it is the owners responsibility to maintain the site in accordance with this document.

**NOTES:**

2 LIGHT, 36W FLUORESCENT LIGHT FITTINGS ADJUSTED TO SUIT NEW PARTITION WALLS.  
(EXACT LOCATIONS TO BE CHECKED ONSITE)

PENDANT LIGHT FITTING (28W)

RECESSED LED DOWN LIGHT (15W)

EXISTING EXIT LIGHTING  
(EXACT LOCATIONS TO BE CHECKED ONSITE)

EXISTING FIRE SPRINKLER  
(EXACT LOCATIONS TO BE CHECKED ONSITE)

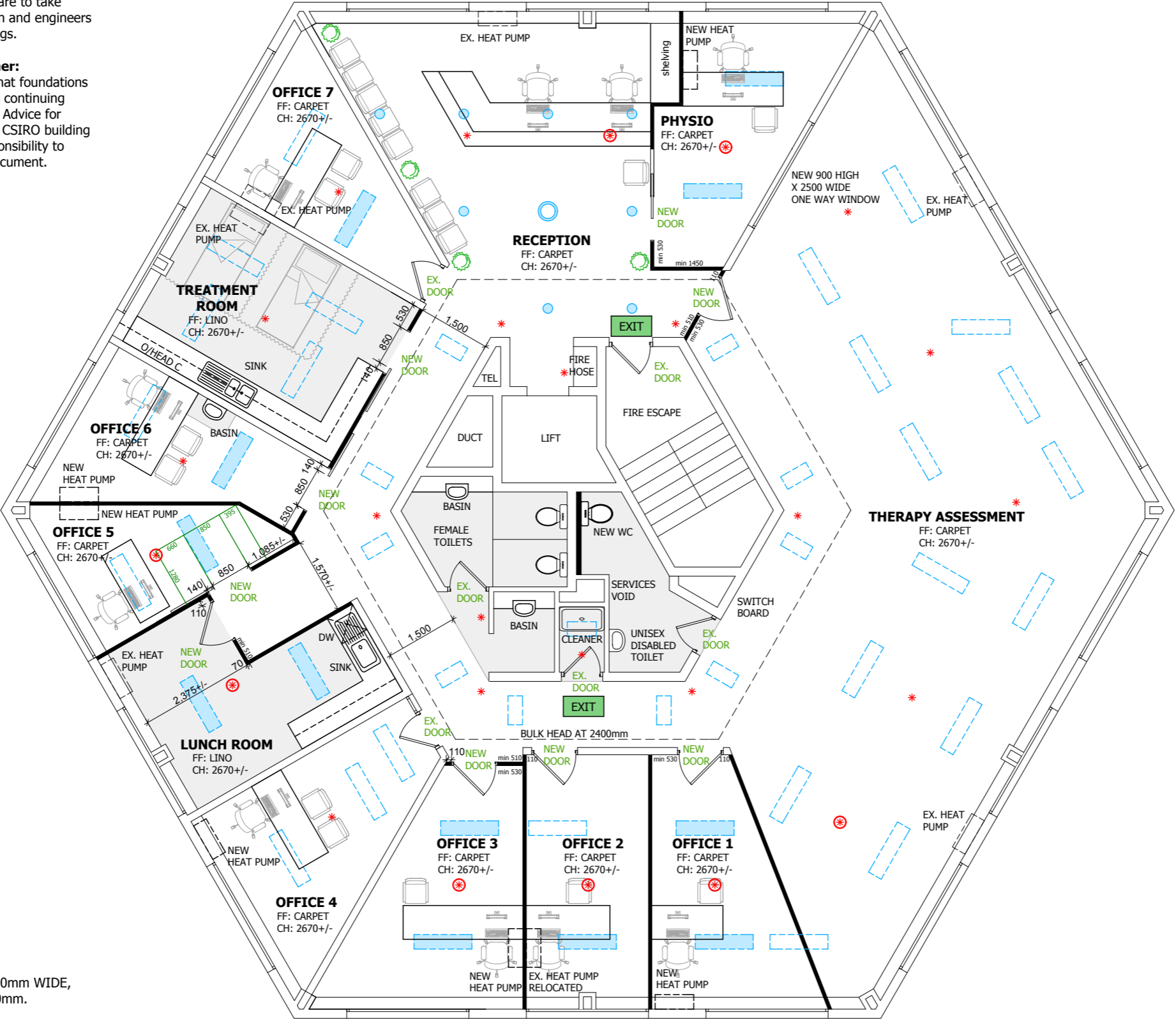
NEW FIRE SPRINKLER TO MATCH EXISTING. SPRINKLER ALTERATIONS AND ADDITIONS BY LICENSED TFS CONTRACTOR, WITH CERTIFICATION PROVIDED UPON COMPLETION.

ALL NEW DOORS TO BE A MINIMUM OF 920mm WIDE, WITH A MINIMUM CLEAR OPENING OF 850mm.

REFER TO as 1428.1 - 2009 13.3 CIRCULATION SPACES AT DOORWAYS FOR MINIMUM DISTANCES FROM ADJACENT WALLS.

ALL NEW STUDWORK 70mm.

© THIS PLAN MAY NOT BE USED FOR ANY PURPOSE WITHOUT THE CONSENT OR LICENSE OF PRECISION DESIGN AND DRAFTING



**PRECISION**  
DESIGN & DRAFTING

Katie Court

a : 17 Waverley Avenue,  
Mount Stuart. TAS. 7000

m : 0400 598 990

e : katie.court1@gmail.com

JOB : WELLNESS FACILITY

AT : LEVEL 3, 31 CAMBRIDGE  
ROAD, BELLERIVE

FOR : MS L SPROULE

DRAWING TITLE :

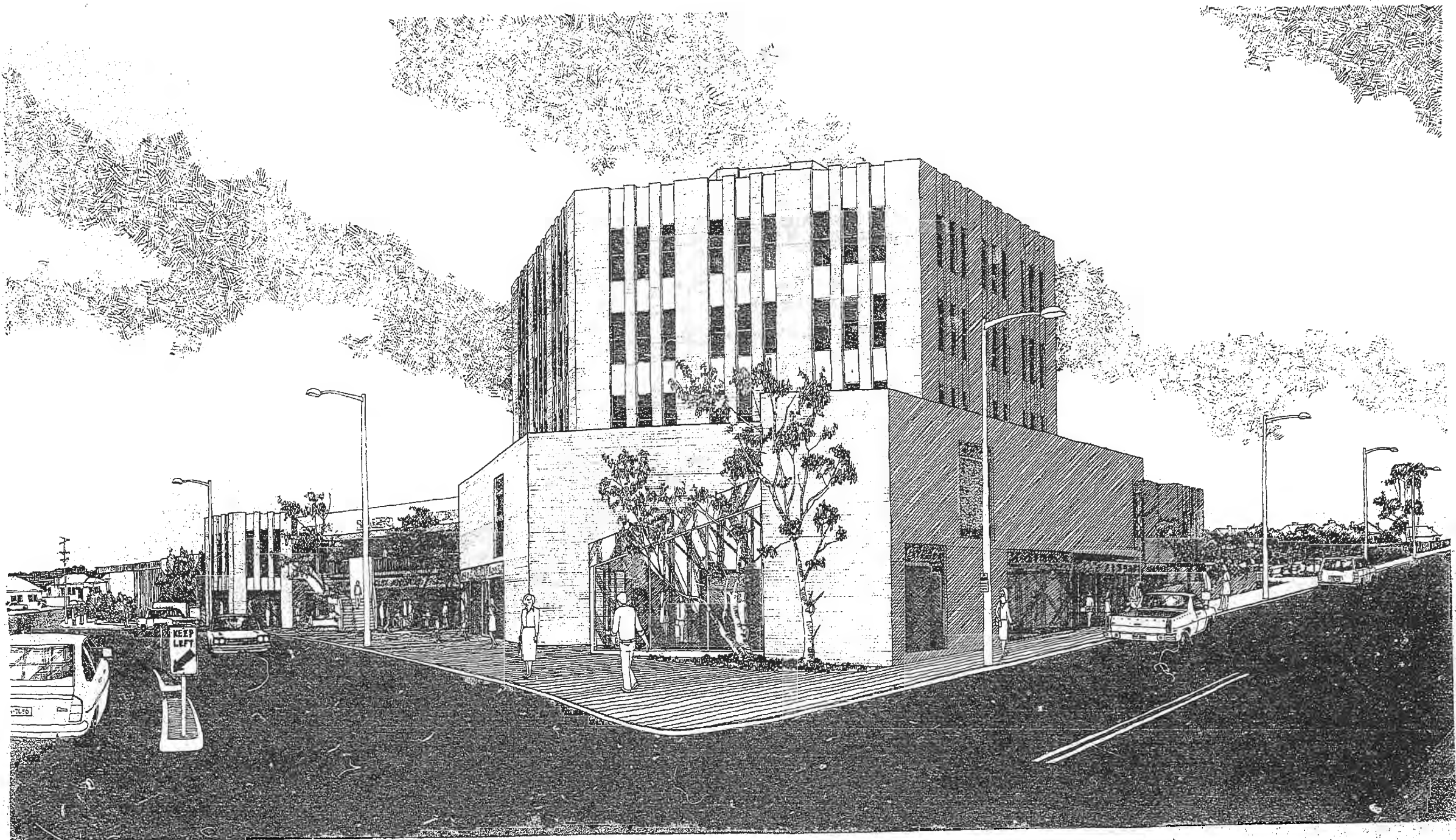
**PROPOSED  
FLOOR PLAN**

DRAWN: DATE: DWG NO. :  
KC 04.02.15

SCALE:  
1:100

**02**

EXISTING PLAN  
NO CHANGES PROPOSED



PERSPECTIVE

BELLERIVE QUAY

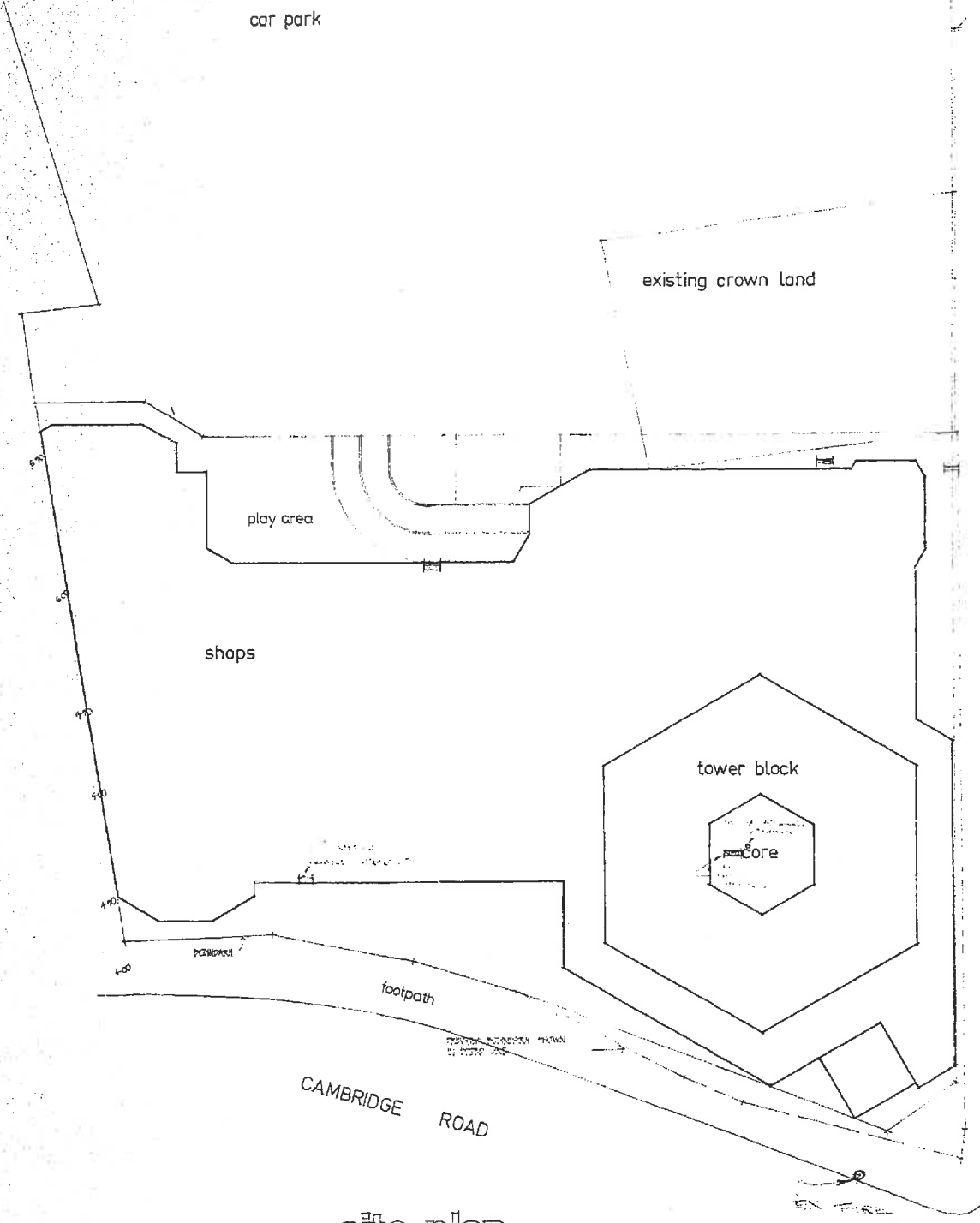
ALEX KOSTROMIN ASSOCIATES ARCHITECTS

NEIL RICHARDSON

PHONE 231065.. 223-80/12

9

EXISTING PLAN  
NO CHANGES PROPOSED



site plan

1:100 METRIC

223-80/13

MUNICIPALITY OF CLARENCE  
APPROVED  
Subject to compliance with the Act and Regulations the plan  
may be continued subject to the conditions that the plan  
shall be renewed.  
27/1/88  
Building Surveyor

DEPT. LABOUR & INDUSTRY  
IND. SAFETY HEALTH & WELFARE ACT  
APPROVED  
THIS APPROVAL DOES NOT INCLUDE MACHINERY  
NOR IS IT A RELEASE FROM OBLIGATIONS UNDER  
ANY OTHER ACT.  
12 MAY 1988  
J. L. BERRY  
SEC. FOR LAB.

THIS D.I. APPROVAL IS SUBJECT  
TO THE FOLLOWING REQUIREMENTS  
Subject to conditions  
as per covering letter  
dated 17th May  
1988  
17/5/88

PERCY STREET

TASMANIA FIRE SERVICE  
APPROVED  
Subject to attached conditions  
16-4-80  
F.P.D.

project: bellertive quay  
scale: 1:200  
date: 1/8/80  
drawing: site plan  
alex kostromin associates  
consulting architects  
11 Waverley St  
Hobart  
Tas 7000  
drawing no. 730  
sheet no. 1 of 1  
89-79  
100 no.

## Attachment 3



**Figure 1. Site viewed from Cambridge Road, looking southeast**



**Figure 2. Site viewed from Percy Street, looking northwest**

<b>11.4 CUSTOMER SERVICE</b>
------------------------------

Nil Items.

**11.5 ASSET MANAGEMENT****11.5.1 LAUDERDALE TO ROKEBY WALKING TRACK**

(File No 04-04-03)

**EXECUTIVE SUMMARY****PURPOSE**

To report on the results of the public survey and to seek Council's approval of the next stage in the process to create a foreshore walking track between Lauderdale and Rokeby.

**RELATION TO EXISTING POLICY/PLANS**

Council's Strategic Plan 2010-2015 is relevant.

**LEGISLATIVE REQUIREMENTS**

Nil.

**CONSULTATION**

Discussions have been held with the 5 affected property owners on the possibility of a Lauderdale to Rokeby walking track, a section of which will cross their respective properties.

A survey has been conducted to determine the likely usage of a walking track between Lauderdale and Rokeby and the community's preferred route for the walking track.

**FINANCIAL IMPLICATIONS**

The walking track from Lauderdale to Rokeby has not been funded by Council and will be listed for consideration in the future Capital Works Program.

**RECOMMENDATION:**

- A. That Council confirms its decision of 26 May 2014 that the foreshore option shown on the attached plan remains Council's preferred route for the Clarence Foreshore Trail from Lauderdale to Rokeby.
- B. That Council authorises the General Manager or his nominated representatives to:
  - (a) commence the process of negotiating with the owners of private land, which the Clarence Foreshore Trail will pass through, the acquisition, by compulsory process if necessary, of appropriate access rights;
  - (b) negotiate with the Crown for the right to extend the Clarence Foreshore Trail over the Crown reservations that lie to the east and west of the affected private properties;
  - (c) negotiate agreement with Tasmania Police for the Clarence Foreshore Trail to pass through the Police Academy property;
  - (d) subject to the above or satisfactory progress with the same, to proceed with design and costing of the Clarence Foreshore Trail; and
  - (e) list the construction of the Clarence Foreshore Trail in a future capital works program.

**LAUDERDALE TO ROKEBY WALKING TRACK /contd...**

---

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

- 1.1.** The Clarence Tracks and Trails Strategy 2012 established the Clarence Foreshore Trail as 1 of the 6 significant trails for priority track development. The associated Tracks and Trails Action Plan 2008 - 2013 lists the creation of a walking track along the foreshore between Lauderdale and Rokeby as an immediate action to address missing links in the Clarence Foreshore Trail.
- 1.2.** The consultation relating to the Tracks and Trails Action Plan 2008 – 2013 revealed that 13% of respondents recognised the missing connection between Lauderdale and Rokeby as important. The main concern identified was the unsafe nature of walking and cycling along South Arm Highway, which is currently the only option for those wanting to cycle or walk between Lauderdale and Rokeby.
- 1.3.** The original proposed route is shown on Attachment 1 and connects Lauderdale along the foreshore to the Tasmania Police property progressing to South Arm Highway and connecting to Oakdowns and Rokeby. There are 5 properties which the Clarence Foreshore Trail will pass through all of which have title to the high water mark, these being 231-291 South Arm Highway. Whilst 219 and 227 South Arm Highway have public open space at the foreshore, which is in Crown ownership. To the east of 291 South Arm Highway there exists a reserve in the ownership of the Crown, which is incorporated in the Ralphs Bay Conservation Area under the management of Parks and Wildlife Service.
- 1.4.** At its Meeting on 21 October 2013, Council resolved the following:

*“A. That Council adopts the attached plan as the preferred walking track from Lauderdale to Rokeby.*

- B. That Council authorise the General Manager to negotiate with each of the owners to secure a licence or easement of right-of-way over their title for the walking track as a temporary position.*
- C. That Council authorise the General Manager to request the Crown acquire the '100ft reservation' from each title to ensure a continuous foreshore reservation that allows for public access.*
- D. That Council authorise the General Manager to obtain written approval from Tasmania Police to allow for a connection from the foreshore to South Arm Highway through the Police Academy.*
- E. That Council authorise the General Manager to obtain written approval from Parks and Wildlife Service for the construction of a walking track along the foreshore.*
- F. The Lauderdale to Rokeby walking track be listed for consideration in the 2014/2015 Capital Works Program”.*

**1.5.** In accordance with “B” above Council officers received only 2 responses from residents to meet with the residents, or their representatives and given that lack of response it was decided to seek further direction from Council before proceeding with other actions arising from the 21 October 2013 Meeting that may be pre-emptive. Following a further Council Workshop on 14 April 2014, at its Meeting on 26 May 2014, Council resolved:

- “A. That Council adopts the attached plan as the preferred walking track from Lauderdale to Rokeby.*
- B. That Council authorises the General Manager or his nominated representatives to meet with each of the 5 property owners to discuss options in relation to the walking track and report the findings back to Council.*
- C. That Council authorises the General Manager to negotiate an agreement with Tasmania Police to allow for a walking track from the foreshore to South Arm Highway through the Police Academy.*
- D That the Council decision in respect to this matter be made available for release to the public to facilitate open dialogue”.*

- 1.6.** In accordance with “B” above a meeting was held on Thursday, 7 August 2014 with residents of properties affected by the proposed walking track. Three of the affected property owners attended the meeting along with 1 resident who resides on the northern side of South Arm Highway. A further owner was subsequently represented by their legal representative and the remaining 2 property owners were unable to be contacted. The residents who attended the meeting expressed their concerns in relation to the walking track along the foreshore and were generally opposed to the walking track impacting their properties. The residents requested that Council investigate the option of constructing a track along the northern side of South Arm Highway between Oakdowns and Lauderdale.
- 1.7.** A further Workshop was held on Monday, 24 November 2014 at which Council requested officers to conduct a survey to determine likely numbers that would use the track between Lauderdale and Rokeby and giving people 3 options for a walking track between Lauderdale and Rokeby from which to choose. This agenda item is the report back on the results of the survey.

## **2. REPORT IN DETAIL**

- 2.1.** An online survey was made accessible via Council’s website with notices placed at Lauderdale Primary School and local shops directing people to the online survey. An article was published in the Eastern Shore Sun and a box was placed in Council’s foyer for people to place their hand-written responses into. The survey concluded on Friday, 27 March 2015 with 544 responses received, which were presented at Council’s Workshop held on Monday, 13 April 2015.
- 2.2.** The survey sought information on 2 questions; each question and its response data is dealt with separately.

**2.3. Question 1 – What is your preferred alignment for the trail?**

What is your preferred alignment for the trail		
Answer Options	Response Percent	Response Count
Option 1 - A footpath along the high side of South Arm	20.5%	111
Option 2 - A footpath along the low side of South Arm	13.7%	74
Option 3 - A trail along the foreshore of Ralphs Bay	65.8%	356
<b>answered question</b>		<b>541</b>
<b>skipped question</b>		<b>3</b>

The results show that there is strong support for a trail along the foreshore, 65.8%, second preference is a path along the high or northern side of South Arm Highway, 20.5% and the least preferred option is a path along the low or southern side of South Arm Highway, 13.7%.

**2.4. Question 2 – How often do you think you would use a trail between Rokeby and Lauderdale? (Please select 1)**

How often do you think you would use a trail between Rokeby and Lauderdale? (Please select one)		
Answer Options	Response Percent	Response Count
Nearly every day	15.9%	85
Weekly	43.6%	233
Monthly	32.0%	171
Yearly	8.0%	43
Never	0.6%	3
<b>answered question</b>		<b>535</b>
<b>skipped question</b>		<b>9</b>

Based on the above responses it is clear that should Council build the trail between Rokeby and Lauderdale then the majority of people would use the path at least once a month, with the greater percentage of people nominating they would use the path weekly. This response indicates that this path is highly desired and when built will be well utilised.

**2.5. Postcode of Respondents to Survey**

To gain an idea of whether local residents would use the trail, the request to provide the postcode of the respondent indicates this. The results were:

**Option 1 – High Side of South Arm Road**

7019 - Rokeby/Clarendon Vale/Oakdowns	32.4%
7020 - Clifton/Sandford	12.9%
7021 - Lauderdale	28.7%
7170 - Acton/Cambridge/Roches Beach	10.2%
Other locations – (5)	15.8%

**Option 2 – Low Side of South Arm Road**

7018 - Rosny/Bellerive/Howrah	11.0%
7019 - Rokeby/Clarendon Vale/Oakdowns	20.5%
7020 - Clifton/Sandford	13.7%
7021 - Lauderdale	32.9%
Other locations (8)	21.9%

**Option 3 – Foreshore Track**

7018 - Rosny/Bellerive/Howrah	16.3%
7019 - Rokeby/Clarendon Vale/Oakdowns	14.5%
7020 - Clifton/Sandford	13.0%
7021 - Lauderdale	21.4%
7170 - Acton/Cambridge/Roches Beach	10.6%
Other locations (23)	24.2%

It is important to know what percentage of respondents relates to local residents who would most likely use the track on a regular basis when constructed.

The percentage of local residents across all 3 options varies from 75.8% to 84.2%, which is significant and indicates that they would use the track regularly, as opposed to potentially infrequent use from people who reside some distance from the track, ie Hobart or Kingston.

- 2.6.** At Council's Workshop held on Monday, 13 April 2015 Aldermen requested a further summary of the residential postcodes of respondents for each of the 3 options based on daily and weekly usage. The tables below summarise the data for each of the options. The percentage figures are a percentage of the total number of respondents for the survey.

<b>OPTION 1 – North side of South Arm Highway</b>					
<b>Daily – 25 responses</b>			<b>Weekly – 51 responses</b>		
<b>Suburb</b>	<b>No</b>	<b>%</b>	<b>Suburb</b>	<b>No</b>	<b>%</b>
Rokeby/Clarendon Vale/Oakdowns	10	1.8	Lindisfarne/Geilston Bay	1	0.2
Clifton/Sandford	5	0.9	Risdon Vale	1	0.2
Lauderdale	8	1.5	Rosny/Bellerive/Howrah	2	0.4
Not Supplied	2	0.4	Rokeby/Clarendon Vale/Oakdowns	16	2.9
			Clifton/Sandford	5	0.9
			Lauderdale	16	2.9
			Acton/Cambridge/Roches Beach	5	0.9
			Not Supplied	5	0.9

<b>OPTION 2 – South side of South Arm Highway</b>					
<b>Daily – 16 responses</b>			<b>Weekly – 41 responses</b>		
<b>Suburb</b>	<b>No</b>	<b>%</b>	<b>Suburb</b>	<b>No</b>	<b>%</b>
Rosny/Bellerive/Howrah	1	0.2	Rosny/Bellerive/Howrah	5	0.9
Rokeby/Clarendon Vale/Oakdowns	7	1.3	Rokeby/Clarendon Vale/Oakdowns	6	1.1
Clifton/Sandford	2	0.4	Clifton/Sandford	8	1.5
Lauderdale	3	0.6	Lauderdale	18	3.3
Cremorne	1	0.2	Not Supplied	4	0.8
Dodges Ferry/Primrose Sands	1	0.2%			
Not Supplied	1	0.2			

<b>OPTION 3 – Foreshore Track</b>					
<b>Daily – 44 responses</b>			<b>Weekly – 141 responses</b>		
<b>Suburb</b>	<b>No</b>	<b>%</b>	<b>Suburb</b>	<b>No</b>	<b>%</b>
Rosny/Bellerive/Howrah	4	0.8	Hobart	2	0.4
Rokeby/Clarendon Vale/Oakdowns	11	2.0	Battery Point/South Hobart	1	0.8
Clifton/Sandford	7	1.3	Moonah/Lutana	1	0.2
Lauderdale	14	2.6	Glenorchy	1	0.2
Dulcot/Richmond	1	0.2	Lindisfarne/Geilston Bay	3	0.6
Acton/Cambridge/Roches Beach	3	0.6	Rosny/Bellerive/Howrah	18	3.3
Not Supplied	4	0.8	Rokeby/Clarendon Vale/Oakdowns	27	5.0
			Clifton/Sandford	20	3.7
			Lauderdale	38	7.0
			Cremorne	4	0.8
			Acton/Cambridge/Roches Beach	18	3.3
			Midway Point/Penna	1	0.2
			Sorell/Orielton	1	0.2
			Railton	1	0.2
			Not Supplied	5	0.9

- 2.7.** As expected the results indicate that the highest numbers of proposed daily and weekly usage were likely to be by local residents across all 3 options. Option 3 had the highest number of daily and weekly users from locals; reinforcing that they would most likely be the people to use the track regularly, as opposed to potentially infrequent use from people who reside some distance from the track.
- 2.8.** If Council wishes to proceed with the Clarence Foreshore Trail as indicated by the community survey and reflected in Council's adopted Tracks and Trails Strategy and Action Plan, then Council needs to consider that to implement the plan and given the opposition expressed so far by some of the affected private property owners, it may need to compulsorily acquire either the necessary land or access rights from each of the 5 owners.

**2.9.** Previously Council officers have sought the advice of the Office of the Valuer General for indicative valuations of acquiring from each of the affected owners either freehold land on which to build the Clarence Foreshore Trail, or public rights of footway over the 5 properties in question.

**2.10.** The Office of the Valuer General has provided an indicative valuation of:

- \$162,000 being the land values only of all 5, 100 foot wide “Reserves” at the bottom of each property adjacent to the High Water Mark; and
- \$34,000 being the value of a public right-of-way crossing all 5 properties.

It is important to realise the amounts stated relate to land value only and what is ultimately payable by Council may exceed these amounts as the owners individually negotiate a final compensation sum. It is likely that such negotiations will have regard to the “injurious affection”, which compensates for things other than simple loss of land area, such as loss of privacy or amenity. As well, Council would be obliged to pay all legal and valuation costs which the owners incur in arriving at an agreed amount of compensation.

**2.11.** It is recommended that Council only consider acquiring rights of public footway over the 5 properties. A suitable corridor to accommodate the Clarence Foreshore Trail would only need to be around 5m wide. It would not be necessary to acquire the freehold of the whole of the 100 foot high water mark reserve shown on the title of each property to achieve this. To do so would be far more expensive than simply acquiring an access rights. Further, acquiring freehold would also effectively alienate the balance titles of each property from high water mark and could incur significant amounts of compensation for injurious affection of each property, if only by loss of high water mark title.

**2.12.** If any acquisition is limited only to a strip of land wide enough to accommodate the Clarence Foreshore Trail, both the land cost and injurious affection components of the acquisition would be substantially reduced. The owners would still own the land to high water mark and their legal access to the water would not be impeded. The Clarence Foreshore Trail may even have the effect of enhancing the amenity of the properties to a degree by giving them direct access to the Clarence Foreshore Trail. Concerns over matters such as fencing, gates, visual screening and signage to make it clear that Clarence Foreshore Trail users were passing through private property would be dealt with in early dealings with the owners and on-going formal assurances could be provided on such matters. A Part 5 Agreement with each of the owners would be the best way of recording Council's on-going construction, maintenance and other obligations. The benefit of such agreements would pass to subsequent owners of each property.

**2.13.** Costs associated with the project can be summarised as follows:

**Acquisition**

- Cost of acquiring access rights: \$ 34,000

**Infrastructure**

- Walking track construction: \$167,500
- 3 watercourse crossings: \$ 30,000
- Fence (Academy property): \$120,000
- Fence (5 subject properties): \$ 50,000
- Signage: \$ 5,000

**Legal**

- Estimated "injurious effect on property": \$150,000
- Legal and survey costs: \$ 50,000

**Total** **\$616,500**

It is stressed again that the above estimate for “injurious effect on property” may be subject to increase depending on the outcome of compensation negotiations with each of the 5 affected owners.

### **3. CONSULTATION**

#### **3.1. Community Consultation**

Discussions have been held with the 5 property owners.

#### **3.2. State/Local Government Protocol**

The Crown has been informed of Council’s interest in constructing the Clarence Foreshore Trail. Discussions have been held with Tasmania Police in regards to the proposed track having a connection from the foreshore to South Arm Highway through the Police Academy.

Communication is required with Parks and Wildlife Service in order to obtain approval for the construction of the Clarence Foreshore Trail along the foreshore.

#### **3.3. Other**

Nil.

### **4. STRATEGIC PLAN/POLICY IMPLICATIONS**

**4.1.** Council’s Strategic Plan 2010-2015 within the Goal Area Social Inclusion includes the following Community Safety and Well-being Strategy to: *“Provide essential infrastructure to support, sustain and enhance community safety and social well-being”*.

**4.2.** Council’s Strategic Plan 2010-2015 within the Goal Area Social Inclusion includes the following Public Spaces and Amenity Strategy to:

- “Develop plans to improve the amenity of public spaces, including:*
  - Future needs for public open space and recreation facilities”*.

**5. EXTERNAL IMPACTS**

Nil.

**6. RISK AND LEGAL IMPLICATIONS**

**6.1.** Negotiations to date with both the Crown and Tasmania Police have been encouraging in respect of the necessary links for the Clarence Foreshore Trail to the east and west of the 5 affected private properties. It is accepted that there may be some continuing resistance on the part of the owners of the 5 affected private properties to any acquisition. Such resistance may take the form of a challenge to Council's legal right to do so. The basis of that right needs to be explained.

**6.2.** Councils have a clear right to acquire, by various means, easements to allow it to perform its statutory functions. Such easements typically allow Council workers or contractors to enter onto land of others to do a range of things. However, what has not been so clear is the basis on which a Council can acquire easements to allow the general public to pass over private land. Council has obtained external legal advice on this issue in the form of a letter of advice from M+K Dobson Mitchell Allport dated 8 August 2013, which appears as Attachment 2 to this report. The advice concludes that:

*“...Section 4 of the Highways Act empowers Council to acquire for the public a right to pass and re-pass over land for the purposes of the Clarence tracks and trails network”.*

**6.3.** Notwithstanding this, M+K Dobson Mitchell Allport's advice, depending on the strength of feeling amongst some or all of the affected residents to the Clarence Foreshore Trail being constructed through their lands, resistance to any acquisition could, in a worst case scenario, result in a Court challenge against Council attempting to acquire the easements. However, should any such challenge be successful, it would appear that it would still be open to Council, should it wish to do so, to instead acquire the freehold necessary to accommodate the Clarence Foreshore Trail albeit at a higher price than acquiring easements as indicated in Section 2.10 of this report.

- 6.4.** Another legal risk may be the possibility that negotiations over the amount of compensation payable break down to the point that Court intervention is required. In this scenario, as well as that outlined in Section 6.3, any outcome which was not in Council's favour would carry with it the risk of Council having to pay the legal costs of the other party/ies.

## **7. FINANCIAL IMPLICATIONS**

- 7.1.** The Clarence Foreshore Trail from Lauderdale to Rokeby has not been funded by Council at this time. The infrastructure costs associated with the project have been estimated at \$432,500, with acquisition costs of \$34,000 for the easement and injurious effect of the order of \$150,000, giving a total project cost of approximately \$616,500. It is stressed again that the above estimate may be subject to increase depending on the outcome of compensation negotiations with each of the 5 affected owners.
- 7.2.** Additionally, the acquisition costs will come from Council's Public Open Space fund but will still require Council to consider the overall allocation as part of any amendment to the Annual Estimates or a Budget allocation for a future Annual Plan.

## **8. ANY OTHER UNIQUE ISSUES**

Nil.

## **9. CONCLUSION**

- 9.1.** The creation of the Clarence Foreshore Trail along the foreshore between Lauderdale and Rokeby is recognised in the Tracks and Trails Strategy 2008 - 2013 as a high priority.
- 9.2.** The results of the survey clearly indicate that the preferred route for the Clarence Foreshore Trail from Lauderdale to Rokeby is along the foreshore and the responses indicate that such a track will be well utilised.

- 9.3.** For this project to proceed it would be advantageous to have agreement with each of the 5 property owners between 231 and 291 South Arm Highway for the Clarence Foreshore Trail to cross their land. Should any one of the owners be unwilling to negotiate on the issue of access or to negotiate on reasonable terms, Council would be obliged to resort to the process of compulsory acquisition of the necessary access rights.

Attachments: 1. Recommended Final Alignment Clarence Foreshore Trail – Lauderdale to Rokeby (1)  
2. Letter of Advice from M+K Dobson Mitchell Allport Lawyers (3)

John Stevens

**GROUP MANAGER ASSET MANAGEMENT**

Clarence Foreshore Trail - Rokeby to Lauderdale



- Proposed trails on Crown Land
- Existing trails
- - - 5 properties with title to high watermark
- - - Howrah to Rokeby Cycleway (Proposed extension as part of South Arm Hwy upgrade)

## Attachment 2

TASMANIA VICTORIA NEW SOUTH WALES QUEENSLAND



Our Reference: ABW/5002321:ske  
Your Reference:

8 August 2013

Mr Steve Wicks  
Corporate Lawyer  
Clarence City Council  
DX 70402  
ROSNY PARK

Established 1834  
Dobson Mitchell & Allport Pty Ltd  
ABN 86 143 016 586  
Website [www.doma.com.au](http://www.doma.com.au)

Hobart  
59 Harrington St.  
GPO Box 20  
DX 102 Hobart  
Hobart TAS 7001  
Telephone +61 3 6210 0000  
Facsimile +61 3 6210 0099

Dear Steve

### Advice – Public Rights of Way over private property

#### Acquisition of easement in gross

Section 5 of the *Land Acquisition Act* provides that where an acquiring authority is authorised by a special Act to acquire land required for it for the purposes of the authority, it is to be acquired as provided by the *Land Acquisition Act*.

A "special Act" is defined by the *Land Acquisition Act* as meaning an act authorising the acquisition of land for the purpose of an acquiring authority, other than the Crown.

The definition of "land" in the *Land Acquisition Act* includes any estate in the land. "Estate" is defined in that Act as including an easement.

Therefore, if a council is authorised by special Act to acquire land for the purposes of the authority, it can acquire an easement for those purposes, in accordance with the *Land Acquisition Act*.

Under the *Local Government Act*, section 176, a council may acquire land for prescribed purposes. Regulation 38 provides that a council may acquire land under section 176 of the Act for the purpose of, among other things, the establishment of or extension to public land. Section 177A provides that any land that provides health or recreation is public land.

So, the *Local Government Act*, being a "special Act" for the purposes of the *Land Acquisition Act*, empowers a council to acquire an easement for the purpose of extending land which is used for public recreation. One of Clarence City Council's trails, or an extension to such a trail, or a

Business contracts + advice  
Litigation dispute resolution  
Workplace relations  
Family law

Tax + superannuation  
Intellectual property + trade  
Residential property  
Migration

Planning, environmental + local govt  
Personal injuries + workers compensation  
Wills + estate planning/probate  
Insurance law  
Banking + finance law

A member of the M+K Lawyers group

your firm.

## Attachment 2

-2-

formalisation of such a trail, would satisfy that proposition.

Section 90A of the *Conveyancing & Law of Property Act* provides that, notwithstanding any law or rule of law to the contrary, it shall be deemed to be possible and lawful to create or acquire by compulsory process in favour of a local authority, an easement without a dominant tenement. Therefore, it is possible to create an easement in gross in favour of a council. However, would an easement in gross enable the public generally to use the land which is the subject of the easement?

### Highway?

An answer may be in section 4 of the *Highways Act*. That provides that any authority empowered to take land for road, street or other kind of highway may, in lieu of taking land, acquire for the public a right to pass and re-pass over the land by the same process and form, as nearly maybe, as that by which it may take the land.

A highway can be a footway. In *Leslie v City of Essendon* [1952] VLR 222, Sholl J observed at page 230 that at common law, the word "highway" is the genus of all public ways, as well as cart, horse and footways. Further, a public highway may be a footway, appropriated to the sole use of pedestrians.

The High Court in *Keilor v O'Donohue* (1971) 126 CLR 353 considered the nature of a public right of way. On this point, Windyer J (with whom Owen J agreed) at para 4 firstly noted that the phrase "public highway" obtained its meaning from common law and he held that "the characteristic for law of a highway is simply that it is a way over which all members of the public are entitled to pass and re-pass on their lawful occasions. The adjective "public" in the phrase "public highway" in the Act is thus a redundancy".

Also, the Queensland Court of Appeal in *Aorangi v Brambles Aust Ltd* [2001] QCA 200, referred to Keilor and held that the authorities do not insist that a highway is that which is traversed by wheeled vehicles. It was enough that they are ways open to the public to "pass and re-pass", and consequently a footpath met the description of a highway.

Therefore, if the land that is proposed to be the subject of any easement or "public right to pass and re-pass", is to be part of the formal tracks and trails network, it is certainly arguable that it is a, for the purposes of section 4 of the *Highways Act*, an "other kind of highway".

### Easement?

In *Keilor*, Windeyer J went on to consider in paragraph 13 that a public right of way is not, properly called, an easement. He observed for a true easement to exist, there must be a dominant as well as a servient tenement. However, he went on to say that *"we need not be pedantically fastidious about the word, for the right of the public to pass and re-pass along the highway is certainly in the nature of an easement. But the suggestions that the effect of the common reservation in a Crown grant was simply to enable the Crown to create such a right over private land cannot be sustained. A highway is created by dedication by the proprietor of land of a right of way over a particular stretch of his land and its acceptance by the public. At common law the land then remains in private ownership but subject to the public right of passage"*.

All of this considered, in my opinion, section 4 of the *Highways Act* empowers Council to acquire for the public a right to pass and re-pass over land for the purposes of the Clarence tracks and trails network, and that although this public right of way is not strictly an easement, it is certainly in the nature of an easement. In my view, the *Highways Act* is a "*special Act*" for the purposes of the *Land Acquisition Act*.

Having concluded that it is legally possible for Council to do so, the question of whether it is practical to do so raises a whole series of other questions which I understand are being considered by Council separately.

Yours sincerely



**M+K dobson mitchell allport**

ANDREW WALKER

Principal

TEL: +61 3 6210 0048 | FAX: +61 3 6210 0099

EMAIL: [andrew.walker@doma.com.au](mailto:andrew.walker@doma.com.au)

**11.6 FINANCIAL MANAGEMENT**

Nil Items.

**11.7 GOVERNANCE****11.7.1 QUARTERLY REPORT TO 31 MARCH 2015**

(File No 10/02/05)

**EXECUTIVE SUMMARY****PURPOSE**

To consider the General Manager's Quarterly Report covering the period 1 January 2015 to 31 March 2015.

**RELATION TO EXISTING POLICY/PLANS**

The Report uses as its base the Annual Plan adopted by Council and is consistent with Council's previously adopted Strategic Plan 2010-2015.

**LEGISLATIVE REQUIREMENTS**

There is no specific legislative requirement associated with regular internal reporting.

**CONSULTATION**

Not applicable.

**FINANCIAL IMPLICATIONS**

The Quarterly Report provides details of Council's financial performance for the period. The report also details a number of proposed changes to budget allocations within the capital expenditure programme, which are contained within the recommendation. With the exception of the Mens Shed Howrah project, which requests additional funding of \$5,000, the proposed budget changes are cost neutral in that they are either reallocations of approved funding or offsetting reductions in project budgets and grant funding.

**RECOMMENDATION:**

- A. That the Quarterly Report to 31 March 2015 be received.
- B. That Council amends the 2014-2015 Estimates, consistent with advice contained within the Report, as follows:
  - a. Reduction in both the grant income estimates and capital expenditure estimates in respect of the following projects and respective amounts:
    - Risdon Vale Mountain Bike Path: grant \$176,000; expenditure \$176,000;
    - Men's Shed Howrah: grant \$73,000; expenditure \$68,000; and
    - Lindisfarne Tennis Club Resurfacing: grant \$47,714; expenditure \$47,714.
  - b. Transfer the estimate of \$52,000 in respect of general playground softfall within the Communities and People Program to the Bellerive Beach Park project.

- c. Transfer of \$124,000 to the Pass Road Multi-user Path Extension from various project estimates within the Roads Program off-set by identified savings.
- d. Transfer of \$350,000 from Major Digouts to Footpath Remediation within the Roads Program.
- e. Transfer of the Bellerive Beach Car Park Estimate (\$500,000) from the Passive Recreation Program to the Roads Program.

**NB: An absolute majority is required for a decision on this matter.**

---

## **ASSOCIATED REPORT**

The Quarterly Report to 31 March 2015 has been provided under separate cover.

Andrew Paul  
**GENERAL MANAGER**

**11.7.2 LOCAL GOVERNMENT (MEETING PROCEDURES) REGULATIONS 2015  
CONSULTATION PAPER**

(File No 02-02-01)

**EXECUTIVE SUMMARY****PURPOSE**

To consider Council's response to a consultation paper on the review of the Local Government (Meeting Procedures) Regulations 2015 prepared by the Division of Local Government.

**RELATION TO EXISTING POLICY/PLANS**

Some of the response to this paper relates to a number of existing Council policies.

**LEGISLATIVE REQUIREMENTS**

There are no statutory requirements associated with the discussion/consultation papers, however, Council is in the practice of providing responses to such legislative reviews.

**CONSULTATION**

The consultation paper has been circulated to all Councils in accordance with the standing State/Local Government consultation protocols.

**FINANCIAL IMPLICATIONS**

Some financial implications may occur should the reforms identified in the paper take place; however, it is unlikely to be of any significance.

**RECOMMENDATION:**

- A. That Council notes the issues and proposals contained in the Review of Local Government (General) Regulations 2015 Consultation Paper.
- B. That Council endorses the response comments and recommendations included in the Draft response to the Consultation Paper for submission to the Local Government Division.
- C. That as previously resolved, Council further consider its position in respect to the consideration of matters in "Closed Meeting" at a further Council Workshop; noting that this will be in the context of in house policy and will fall outside the consultation period allowed for the review.

---

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

- 1.1. The Director of Local Government, in association with the Local Government Association, has distributed a Consultation Paper on the Review of the Local Government (Meeting Procedures) Regulations 2005 to Tasmanian Councils.

The Paper seeks input from Councils on a range of proposed changes to the regulations.

- 1.2.** An earlier consultation round on this review occurred in 2014.

## **2. REPORT IN DETAIL**

- 2.1.** The object of the review is to consider the full content of the existing Local Government (Meeting Procedures) Regulations 2005. These regulations have been in place for a number of years; are due to expire by statutory requirement in June 2015 and it is now appropriate that a periodic review is undertaken.
- 2.2.** As is the recognised practice a Consultation Paper has been prepared by the Local Government Division based on the issues that have arisen from the regulation matters over recent years. The regulations in the main, deal with routine meeting procedure matters and whilst much of the current procedural framework within the regulations is proposed to remain unchanged, there are however, a number of areas that have been identified in the Consultation Paper upon which feedback from Councils is being sought.
- 2.3.** A draft response paper has been the subject of detailed Alderman Workshop discussions and arising from these discussions some further response comments have been incorporated, as tracked changes in the draft response (refer to Attachment 1). Independent to the Consultation Paper process Council had previously committed to list a Workshop discussion to consider its procedures and practices regarding matters listed for “Closed Meeting” consideration. As this subject matter was one of the matters specifically identified for response in the Consultation Paper, it has been held over and response comments have been removed from the draft.
- 2.4.** Any consideration of this aspect of the regulations will now need to be conducted as an in house policy/process, as the time allowed for submissions will have concluded to allow for the replacement regulations to be introduced before the current regulations expire in June 2015.

### **3. CONSULTATION**

#### **3.1. Community Consultation**

As with all local government related regulatory reviews this regulations review is the subject of community consultation and open to public submissions.

#### **3.2. State/Local Government Protocol**

The Consultation Paper has been circulated to all Councils in accordance with the standing State/Local Government consultation protocols. The time for responses to this review process has been relatively short and is to conclude on 5 May 2015. Whilst an interim response has been provided, the LGAT and Local Government Division are aware that formal Council consideration and response will still occur.

#### **3.3. Other**

The draft response to the Consultation Paper has been circulated to Aldermen and discussed at an Aldermen Workshop and further input has been incorporated.

### **4. STRATEGIC PLAN/POLICY IMPLICATIONS**

A portion of the response to this paper relates to a number of existing Council policies.

### **5. EXTERNAL IMPACTS**

Not applicable.

### **6. RISK AND LEGAL IMPLICATIONS**

There are no statutory requirements associated with discussion/consultation papers, however, Council is in the practice of providing responses to such legislative reviews.

### **7. FINANCIAL IMPLICATIONS**

Some financial implications may occur should the reforms identified in the paper take place; however, it is unlikely to be of any significance.

**8. ANY OTHER UNIQUE ISSUES**

None identified.

**9. CONCLUSION**

**9.1.** Council is in the practice of providing responses to the legislative reform reviews that are conducted on a routine basis.

**9.2.** The Consultation Paper has been drafted based on incidents and matters raised within the local government industry and these matters have been considered in the draft Council's response. The response from the local government industry may vary on the subject areas covered and as such, a clear indication of any late stage change will not occur until the final regulations have been introduced in June 2015.

Attachments: 1. Draft Response to the Discussion Paper on the Review of Local Government (Meeting Procedures) Regulations 2015 (17)

Andrew Paul  
**GENERAL MANAGER**

# **Local Government (Meeting Procedures) Regulations 2015**

## **(Consultation Draft)**

CONSULTATION PAPER – APRIL 2015

# Introduction

The *Local Government (Meeting Procedures) Regulations 2005* (the Regulations), which are available at [www.thelaw.tas.gov.au](http://www.thelaw.tas.gov.au), provide a uniform and comprehensive set of rules for the conduct of council meetings.

The Regulations expire on 29 June 2015 and must be replaced or redeveloped by this time. The Local Government Division has now released a consultation draft of *Local Government (Meeting Procedures) Regulations 2015* for comment.

The draft regulations build on, and are intended to improve, the existing regulatory framework and accordingly include proposed changes to the existing regulations based on feedback received from councils from consultation in May 2014. The regulations make changes in the following key areas:

- Exclusion of attendance of meetings by virtual attendance (that is attending a meeting by electronic communication such as video link or skype)
- Clarification of motions to overturn decisions
- Clarification of definitional issues around council meetings and public question time.

Comment is also sought on the following issues:

- the scope of the reasons specified in the Regulations for which a council can enter into closed session in council meetings and committee meetings (e.g. commercial-in-confidence matters, and personnel, industrial or security matters); and
- whether there should be express limitations on a chairperson's power to adjourn a council meeting (noting that the use of the power to adjourn under regulation 13 must be reasonable, in good faith, and having regard to proper purpose).

The list of issues provided below is not intended to be exhaustive and the Local Government Division (LGD) welcomes feedback on any other matters associated with the Regulations.

# Proposed changes in the Regulations

## 1. EXPRESS EXCLUSION OF VIRTUAL ATTENDANCE AT COUNCIL MEETINGS

**Proposed change:** Consultation with councils revealed a range of concerns about both the principle of virtual attendance (beyond a minimum number of meetings) and the technical issues associated with virtual attendance (that is, attending a meeting by electronic communication such as video link or skype).

The draft regulations will remove uncertainty in the existing regulations as to whether a councillor may attend a meeting without being physically present by expressly excluding attendance at a meeting virtually.

### COMMENT:

The suggestion to expressly exclude non-physical attendance and participation at Council meetings appears to be a retrogressive move given:-

- current available technology;
- the general recognition of electronic meeting attendance within the corporate sector;
- the likelihood of greater distances within municipal areas in the foreseeable future; and
- access and equity implications for those persons with physical impediment (whether temporary or permanent) who would be precluded from participating in the decision making.

The reasonable expectation that Aldermen are present active and accessible within the community that they serve is the underlying objective in preferring/ requiring meeting attendance in person. Notwithstanding this, it is considered that it would be useful for Councils to have the ability to enable such participation to occur.

There is scope to place some limitation on an Alderman's use of electronic meeting attendance (ie based on extenuating circumstances, temporary in nature limitation on the

extent of the periods of use etc) so that it is not able to be used as a simple alternative to the more representative and favourable “physical” attendance at meetings.

Discretion on the availability of remote meeting attendance should be left to the Council. This discretion could follow the principles and procedures applicable to leave of absence applications where such attendance is sought in advance and that the Council is then able to overview the necessity and/or reasonableness of the request.

**RECOMMENDATION:**

That the blanket express exclusion of electronic non-physical attendance not be supported.

## 2. DEFINITION OF PECUNIARY INTEREST (REGULATION 3)

**Proposed change:** The definition of pecuniary interest in regulation 3 has been amended to provide consistency with the definition of pecuniary interest under section 49 of the Act.

**COMMENT:**

The proposed definition is logical and appropriate.

**RECOMMENDATION:**

That the proposed change be supported.

## 3. PUBLIC NOTIFICATION OF COUNCIL MEETINGS VIA NEWSPAPERS (REGULATIONS 7 AND 13)

**Proposed change:** Advertising via local newspapers is an added cost to councils that provides little benefit as constituents are informed of upcoming meetings via council websites and newsletters, and other means. The draft regulations:

- remove the requirement under subregulation 7(2) for a general manager to publish a notice in a local newspaper specifying the time and place of each ordinary meeting.

- insert the requirement for a council to, at least once in each year, publish the times/places of scheduled ordinary meetings and council committee meetings, via a notice in a local newspaper, on its website, and to make the schedule available for public viewing at the council office.
- require that a council is to immediately notify the public of any change to its schedule of meetings, in the same way as outlined above.
- retain the requirement (currently under subsection 7(2)) for a council to publish a newspaper notice regarding special meetings, including the additional special meeting notice requirements under subsection 7(3), and insert a new requirement for a council to publish notice of special meetings on its website.
- retain the requirement under subregulation 13(6) for a council to publish notice of the adjournment of a meeting which would allow a special meeting to be convened.

COMMENT:

The proposed change to meeting advertisements was supported by Council in the earlier consultation round.

RECOMMENDATION:

That the proposed change be supported.

## 4. PUBLIC ACCESS TO MEETING AGENDAS (REGULATION 9)

**Proposed change:** Currently councils have the option to make the agenda for a meeting available at either the public office or on the website of the council. The draft regulations require councils to make available at its public office, and on its website, a copy of a meeting agenda and associated reports/documents.

COMMENT:

The proposed change to meeting papers was supported by Council in the earlier consultation round.

RECOMMENDATION:

That the proposed change be supported.

## 5. COUNCIL COMMITTEE MEETING REQUIREMENTS (REGULATIONS 7, 8 AND 9)

**Proposed change:** Sections 7 (notice of meetings), 8 (agenda) and 9 (public access to documents) of the draft regulations provide that the time-requirements relating to ordinary meetings also applies to council committee meetings.

COMMENT:

Although the Council does not currently have any Council Committees the proposed change to clarify that the same provisions apply to both Council meetings and Committee meetings was supported by Council in the earlier consultation round.

RECOMMENDATION:

That the proposed change be supported.

## 6. ROLE OF THE CHAIRPERSON (REGS 10 AND 22)

**Proposed change:** No changes are proposed to the role of the chairperson. An amendment requiring the chairperson to step down during debate was considered during consultation but feedback from councils indicates that it is generally understood that a mayor has a dual role to chair meetings and represent the community as a councillor. Equally an amendment could have created confusion, especially in terms of chairing arrangement during such discussion.

COMMENT:

The proposed change to require the chairperson to step down during debate was opposed by Council in the earlier consultation round.

RECOMMENDATION:

The proposed non-change to this provision be noted.

## 7. ADJOURNMENT OF MEETINGS (REGULATION 13)

**Proposed Change:** clarification that either the meeting or 'the business of the meeting' may be adjourned. The power to adjourn the meeting rests with the Chairperson. If the meeting is adjourned the next meeting is a continuation of the meeting.

**Issue:** The Local Government Division is seeking comment on whether there should be limitations on the chairperson's power to adjourn expressly included in the Local Government Regulations.

### **Circumstances in which it is appropriate to adjourn**

The Western Australian Department of Local Government meeting guide identifies a role for the Chairperson in adjourning the meeting when the meeting circumstances 'justify that course'. It identifies that the power to adjourn can be a useful tool for the Chairperson to defuse the situation if disorder occurs at either a council or committee meeting, or a public meeting called by council.

The guide also identifies four circumstances in which a procedural motion to adjourn the debate is useful or appropriate, when:

- more information and/or more time is needed to consider the issue and develop other options;
- it is likely that coming events may change the situation;
- a wider range of views beyond the meeting are necessary, or
- the pressure of time dictates bringing forward other urgent business.

In NSW, the chairperson is responsible for adjourning the meeting or, in the chairperson's absence, the majority of councillors or failing that the general manager. The NSW meetings practice note published by the NSW Department of Local Government states that the next ordinary meeting can (particularly where the business of the meeting may have been controversial) be held first with the business of the adjourned meeting following. However in Victoria, councils are required to deal with the adjourned business before commencing a new meeting.

Potential options under consideration:

**Option 1 – A limitation to the Chairperson's power to adjourn be included**

The regulation could be amended to require that the Chairperson's proposal to adjourn the meeting is confirmed by a simple majority of the council.

In South Australia, it is required in the regulations that a formal motion for an adjournment of either the question or the meeting must include the reasons for adjournment and the details for resumption.

**Option 2 – No change to meeting regulations**

The use of the power to adjourn under regulation 13 must be reasonable, in good faith, and having regard to proper purpose.

COMMENT:

The background reasons for this matter being raised at this stage of the review process are readily apparent. Currently this power of the chairperson must be exercised with sound justifiable reasons. It is noted that this provision is both a power and a responsibility and goes to the core of the responsibility of sound chairpersonship. It is also noted that the prevailing legislative treatment on this matter is that the chairperson is appropriately empowered to effect the adjournment of meetings. This matter was not dealt with by Council in the earlier consultation round.

RECOMMENDATION:

That Option 2 be supported.

## 8. CLOSED MEETINGS AND MINUTES OF CLOSED MEETINGS (REGULATION 15 AND 34)

**Issue:** A potential change to the scope of issues for which council may move into a closed meeting. Currently the regulations require a council or council committee to record in the open minutes:

- the grounds for the closure of the meeting

- the fact that the matter was discussed.

The details of the outcome is not to be recorded unless the council or council committee determines otherwise.

Options under consideration:

- **Option 1** - No change;
- **Option 2** - Procedural change i.e. a two-step consideration process for closed council matters; and
- **Option 3** - Adjusting the scope of the grounds for which a meeting can be closed.

These options are outlined in more detail below.

**Option 1 - No change**

No change to the existing provisions however guidance could be provided by the Local Government Division to support the existing provisions, for example, by encouraging the maximum transparency in the councils' minutes regarding the closed council matter under discussion and providing some examples.

**Option 2 - Procedural change i.e. a two-step consideration process for closed council matters**

The regulations could be amended to require a two-step consideration process before a council meeting can be closed as currently required in New South Wales and South Australia.

For example, in NSW **no discussion is required** to close a meeting for three types of matters:

- personnel matters concerning particular individuals;
- matters involving the personal hardship of a resident or ratepayer; or
- matters that would disclose a trade secret.

However, for other matters the council or council committee must satisfy itself that the discussion of the matter in an open meeting would, on balance, **be contrary to the public interest**.

The double consideration process requires the council to demonstrate (and provide its reasoning) as to why it would be in the public interest for it to close the meeting. For example, in respect to the sale of council land, a meeting might be open for the discussion of the reasons justifying the sale of the land but move into closed session for the discussion of the valuation and reserve price.

A council might argue under the two-step process that the disclosure of a reserve price would, on balance be contrary to the public interest because it would put the council at a competitive disadvantage in its negotiations preventing it from achieving a 'best value for money' outcome for the community.

New South Wales legislation also allows members of the public to make representations to or at the open part of a meeting as to whether that part of the meeting should be closed. New South Wales legislation requires councils to close their meeting for only so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security.

This option has the potential to provide greater transparency about the issues under discussion and the public interest reasons for moving into closed council.

### **Option 3 - Adjusting the scope of the grounds for which a meeting can be closed**

The scope of the current provisions for closure of a council meeting under regulation 15 of the regulations is currently worded broadly.

Comparative examples of reasons for entry into closed session in respect to personal information:

- *'The personal affairs of any person' (TAS)*
- *'Personal hardship of any resident or ratepayer' (NSW and Vic)*
- *'Disclosure of information concerning the personal affairs of any person, living or dead' (SA)*
- *No comparable provision other than 'rating concessions' (Qld)*

Comparative examples of reasons for entry into closed session in respect to commercially advantageous information:

- *'Contracts for the supply and purchase of goods or services' and 'Trade secrets of private bodies (TAS)*
- *'Commercial information of a confidential nature' and 'Tenders for goods or services (SA)*
- *'Information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business' and 'Commercial information of a confidential nature that would, if disclosed:*
  - *Prejudice the commercial position of the person who supplied it, or*
  - *Confer a commercial advantage on a competitor of the council, or*
  - *Reveal a trade secret. (NSW and Vic)*

#### Other minor clarifications proposed under Regulation 15

- It is proposed to clarify subregulation 15(4) to provide that actual or possible legal action involving the council does not include objector appeals under section 178 of the Act.
- It is proposed to clarify the requirement that a general manager record the reason (grounds) for closing a meeting in the open minutes of the meeting by:
  - removing the word 'only' in subregulation 34(1)(a); and
  - linking subregulation 34(1) to subregulation 15(5).
- Clarify that the General Manager is to liaise with the Mayor in preparing the agenda for a council meeting.

#### COMMENT:

~~Some of the matters identified for possible change regarding Closed Meeting provisions were not canvassed or dealt with by Council in the earlier consultation round.~~

The Council has previously indicated that it considered the current “closed meeting” provisions are appropriate however did support clarification that would expressly exclusion of Public Land disposal (Section 178) representations and appeals being dealt with in “closed meeting”.

The current provisions provide councils with the option, at its discretion, to deal with those “closed meeting” matters (as per the current matters listed in the regulations) in open council meeting. It is considered that the introduction of a mandated double consideration on closed meeting matters would be overly complex and difficult to manage i.e. access, meeting papers, etc.

Additionally whilst it is stated that the current provisions are broadly stated, they nonetheless are sufficiently clear as to limit the extent to which the “closed meeting” option can be used. By and large they are effective in ensuring that a high level of accountability and transparency occurs. There is always a hidden danger in any exercise of more prescriptive drafting to then inadvertently miss elements of important “sensitivity” recognition. Little has been presented by way of issue to indicate a need for change in this area of the regulations.

The comment stated under minor clarifications under Regulation 15 that purports to “Clarify that the General Manager is to liaise with the Mayor in preparing the agenda for a council meeting” is difficult to place in context. This does not appear to have been included in the drafting and does not link cleanly with this Regulation. Nonetheless, if it is contemplated that there should be an obligation for a general manager to consult with a mayor on the content of a council agenda, it is considered that this would be a flawed proposal. It has the potential to impact of the clear delineation of responsibilities between a general manager and their council which forms the basis of the current Local Government Act. The general manager is obliged under the regulations to provide independent and impartial advice to their council as a whole.

#### RECOMMENDATION:

That the no change Option 1 be supported and that the suggestion obliging a general manager to liaise with the mayor on agendas not be supported.

## 9. MOTIONS (REGULATION 16)

**Proposed change:** The draft regulations clarify that:

- subregulation 16(1) relates to a motion made at a meeting and not to requiring a councillor to provide advanced written notice to the general manager under subregulation 16(5).
- subregulation 16(5) relates to providing written notice of a motion to be placed on the agenda.
- the power for a chairperson to rule that a motion will not be discussed under subregulation 16(9), applies only to motions for which written notice has not been provided.

### COMMENT:

These matters are dealt with as drafting clarification only and were supported by Council in the earlier consultation round.

### RECOMMENDATION:

That the changes be supported.

## 10. SPLITTING A MOTION (REGULATION 17)

**No change proposed:** councillors can already move any motion desired.

### COMMENT:

Nil

### RECOMMENDATION:

That the no change proposal be noted.

## 11. MOTION TO OVERTURN A DECISION (REGULATION 18)

**Proposed change:** The draft regulations clarify that:

A council decision can be overturned in whole or in part. This can occur by a motion directly rescinding the decision or by a motion that conflicts with or is contrary to the decision. This must occur by absolute majority in council meetings and by simple majority in council committee meetings. The General Manager is to provide a report to the council that a decision is being overturned and whether the original resolution had directed that any action be taken and additionally whether that action had been carried out.

**COMMENT:**

These matters are dealt with as drafting clarification only and were supported by Council in the earlier consultation round.

**RECOMMENDATION:**

That the changes be supported.

## 12. DISCUSSION OF RESOLVED MATTER (REGULATION 19)

**Proposed change:** The draft regulations clarify that regulation 19 only relates to matters in respect of which a decision was made earlier by the council **at the same meeting**

**COMMENT:**

These matters are dealt with as drafting clarification only and were supported by Council in the earlier consultation round. It reflects current practice however will now require a formalisation motion to recommit the item.

**RECOMMENDATION:**

That the changes be supported.

### 13. PROCEDURAL MOTIONS (SUBREGULATION 20(1)(B))

**No change proposed:** The phrase 'that the matter be deferred' is sufficiently broad to cover both deferring the matter to later in the same meeting and deferral to a later meeting.

**COMMENT:**

The proposal not to change this provision reflects the Council's adopted position in the earlier consultation round.

**RECOMMENDATION:**

That the changes be supported.

### 14. AUDIO RECORDING OF MEETINGS (SUBREGULATION 33)

**Proposed change:** The draft regulations will be amended so that if there is any dispute in relation to the minutes, the Council is to review the audio tape and confirm the minutes by a motion that the Council is to amend the minutes, if necessary, on the basis of the audio recording.

**COMMENT:**

The proposal to allow Council's to refer to recording of meetings to correct minutes of meeting is considered a practical solution.

**RECOMMENDATION:**

That the changes be supported.

## 15. MINUTES OF CLOSED MEETINGS (SUBREGULATION 34(3))

**Proposed change:** Subregulation 34(3) of the draft regulations refers to the release of 'minutes' to the public rather than 'matters' to the public. This provides increased clarity for councillors in terms of what information is authorised for public release.

### COMMENT:

This matter is dealt with as drafting clarification only and removes the ambiguity of the current wording.

### RECOMMENDATION:

That the changes be supported.

## 16. PUBLIC AVAILABILITY OF MINUTES (REGULATION 35)

**Proposed change:** Regulation 35 of the draft regulations provides that a council is to make confirmed meeting minutes available for public inspection or purchase, via its public office or free via its website.

### COMMENT:

The proposed drafting differs from the current wording only to the effect that inspection of minutes at the offices is free – a long established practice at Clarence.

### RECOMMENDATION:

That the changes be supported.

## 17. HINDERING/DISRUPTING COUNCIL MEETINGS (REGULATION 41)

**Proposed change:** Proposed changes to regulation 41 clarify that for the purposes of subregulation 41(2) it is a reasonable step for the chairperson to request the assistance of a police officer to remove a member of the public from a meeting.

### COMMENT:

The current provision limits the authority of the chairperson to seek the assistance of police in the removal of a person from the Closed Meeting section only. This provision is reworded to address the anomaly and will also enable police assistance in the removal of a person who disrupts a meeting.

### RECOMMENDATION:

That the changes be supported.

**11.7.3 KANGAROO BAY – BREAKWATER PIER**

(File No K021-20)

**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the possible lodgement of a Development Application for a breakwater/pier at Kangaroo Bay.

**RELATION TO EXISTING POLICY/PLANS**

Council has previously adopted a Kangaroo Bay Master Plan that provides guidance in relation to the provision of strategic infrastructure within the Kangaroo Bay precinct. Whilst the establishment of the breakwater/pier is not identified in the Master Plan the provision of quality public infrastructure is generally supported by the Master Plan.

**LEGISLATIVE REQUIREMENTS**

The provision of a breakwater/pier in Kangaroo Bay would require development approvals from both Council and State authorities.

**CONSULTATION**

There has been no public consultation to date. The breakwater/pier proposal was raised with Council by the Bellerive Yacht Club.

**FINANCIAL IMPLICATIONS**

As part of the Kangaroo Bay Crown land transfer to Council, Council has committed, subject to conditions, to make a financial contribution to the proposed breakwater.

**RECOMMENDATION:**

That Council agrees to lodge a development application for the proposed breakwater/pier proposal for Kangaroo Bay noting the following:

- that the development application be based on the technical reports prepared by the Bellerive Yacht Club;
- that the development application is for the breakwater/pier only;
- that the development application make provisions for the breakwater/pier to provide a high standard of public facility and access; and
- that in lodging the development application Council is not committing to the funding of the infrastructure.

---

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

- 1.1.** The Bellerive Yacht Club (BYC) has prepared a master plan for future development of the BYC marina.

- 1.2. As part of the master plan it was identified that to enable any further development of the marina a breakwater would need to be built to “protect” any further marina development.
- 1.3. The provision of a breakwater in Kangaroo Bay potentially creates infrastructure that could provide for additional public facility including a jetty, ferry wharf and an extension to the Kangaroo Bay boardwalk.
- 1.4. The BYC wrote to Council noting that whilst the breakwater was an integral component of their potential marina development, such a facility could also provide for significant public facility and as such they requested Council give consideration to taking ownership of the facility and lodging the development application.

## **2. REPORT IN DETAIL**

- 2.1. The BYC has proposed a master plan for redevelopment of their Bellerive marina.
- 2.2. A key element of any marina development is the provision of a breakwater in Kangaroo Bay to provide protection for marina infrastructure.
- 2.3. The potential exists for a breakwater to provide additional public facility and amenity by way of future ferry pier/wharf, public walkway, public seating and as an extension to the Kangaroo Bay boardwalk.
- 2.4. Any expanded facility of a breakwater/pier may reasonably be expected to be provided as public facilities rather than facilities provided by BYC as part of their breakwater.
- 2.5. Accordingly, the BYC have written to Council requesting Council take “ownership” of the proposal and lodge a development application for the proposed structure.

- 2.6.** In considering the request Council should note that the estimated cost subject to detailed design and costings may be in the order of \$3M.
- 2.7.** Council has agreed to enter into an agreement with the State Government in regard to the transfer of Crown land at Kangaroo Bay to Council to contribute a sum towards the cost of the proposed breakwater/pier.
- 2.8.** In addition to this sum there remains a significant shortfall in funding the breakwater/pier.
- 2.9.** Should Council agree to lodge a development application it should be on proviso that, in doing so, Council is not committing to any additional funding to build or construct the breakwater/pier.
- 2.10.** The BYC have prepared a number of technical, engineering and environmental reports that would support a development application.
- 2.11.** Should Council agree to lodge the development application it should be on the proviso that such designs and reports are provided to Council at no cost by the BYC.
- 2.12.** Should Council agree to lodge a development application it should be on the proviso of enhanced public facilities and amenity to be consistent with the Kangaroo Bay boardwalk and should be of sufficient standard to enable the utilisation of the breakwater/pier for passenger ferry services.
- 2.13.** Council does not need to determine the “ownership” of the breakwater/pier at this time.

### **3. CONSULTATION**

There has been no public consultation in regard to this proposal.

**4. STRATEGIC PLAN/POLICY IMPLICATIONS**

Council has previously adopted a Kangaroo Bay Master Plan that provides guidance in relation to the provision of strategic infrastructure within the Kangaroo Bay precinct. Whilst the establishment of the breakwater/pier is not identified in the Master Plan the provision of quality public infrastructure is generally supported by the Master Plan.

**5. EXTERNAL IMPACTS**

External impacts will be addressed as part of any development application process. Any development application would be required to go through a detailed assessment process.

**6. RISK AND LEGAL IMPLICATIONS**

There are no additional risks identified beyond any normal development application process.

**7. FINANCIAL IMPLICATIONS**

The estimated cost of the project is in the order of \$3M. This sum is currently not fully funded. Should Council agree to lodge the development application it should be noted in doing so that Council is not committing to funding the current shortfall in the overall project funding.

**8. ANY OTHER UNIQUE ISSUES**

None apparent at this time.

**9. CONCLUSION**

The proposed breakwater/pier potentially could provide enhanced benefit by way of ferry loading/berthing facilities and other public amenity. Given the potential public benefit it is reasonable for Council to lodge the development application.

In lodging the application it should be noted that:

- the application is for the breakwater/pier only, not the BYC marina development;
- that the application is based on the technical reports prepared by the BYC;
- that the application provides for a high standard of public facility and access; and
- that in lodging the development application Council is not committing to the funding of the infrastructure.

Attachments: Nil.

Andrew Paul  
**GENERAL MANAGER**

**11.7.4 AIRPORT RATING – AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION MOTION**  
(File No 10-04-07)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to enable Council to consider a motion submitted to the Australian Local Government Association National Conference with respect to the rating of airports.

**RELATION TO EXISTING POLICY/PLANS**

Not applicable.

**LEGISLATIVE REQUIREMENTS**

There is no legislative requirement for airports to pay local rates. The Commonwealth Airport lease provides for airports to pay a “rates equivalent”.

**CONSULTATION**

Council has been in consultation with the Northern Midlands Council and the Australian Mayoral Aviation Council (AMAC) in regard to a suitably worded motion in respect of airport rating for submission to the Australian Local Government Association national conference. The wording of the motion proposed by Northern Midlands Council is:

*“That the Australian Local Government Association (ALGA) make representations to the relevant Australian Government Ministers requesting that the Minister enforce the requirements of the Commonwealth Airport leases in respect to airport lessees making the as levied rate equivalent payments as required under Clauses 26.1 and 26.2 of the airport leases”.*

**FINANCIAL IMPLICATIONS**

The question of “rate equivalent” payments made by airports under the requirements of their Commonwealth leases is a significant component of Council’s “rate” revenue.

**RECOMMENDATION:**

That Council agrees to second and support the Northern Midlands Council motion.

---

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

- 1.1.** Commonwealth owned airports on Commonwealth land are exempt from paying rates as required under State legislation.

- 1.2.** Commonwealth owned airport operators are, however, required under the terms of their leases to pay the Councils a “rate equivalent”.

## **2. REPORT IN DETAIL**

- 2.1.** In the past 2 years some airport operators, due primarily to objections to Valuer-General valuations, have not paid the amount levied by Councils as “rate equivalents”.
- 2.2.** This is despite an understanding by Councils that Clauses 26.1 and 26.2 of their Commonwealth lease requires that they make a “rate equivalent” payment.
- 2.3.** Council has no legal standing in seeking to enforce “rate equivalent” payments and is reliant on the lessor, the Australian Government, to enforce compliance with the Commonwealth leases.
- 2.4.** Representations have been made to the appropriate Australian Government Minister and the Commonwealth Department of Infrastructure and Regional Development to enforce the requirements of the leases to ensure that all Commonwealth owned airports pay the as levied amount of “rate equivalents”.
- 2.5.** Such representations to date have appeared largely unsuccessful.
- 2.6.** Northern Midlands Council has submitted a motion to the Australian Local Government Associations (ALGA) annual conference seeking the support of ALGA to request the relevant Minister/s to enforce the requirements under the lease.
- 2.7.** The Motion is as follows: *“That the Australian Local Government Association (ALGA) make representations to the relevant Australian Government Ministers requesting that the Minister enforce the requirements of the Commonwealth Airport leases in respect to airport lessees making the as levied rate equivalent payments as required under Clauses 26.1 and 26.2 of the airport leases”.*

**2.8.** Northern Midlands Council have requested Council support and second the motion at the ALGA conference.

**2.9.** It is in Councils interest to support the motion to ensure that the leases are appropriately enforced.

**3. CONSULTATION**

Council has been in consultation with the Northern Midlands Council and the Australian Mayoral Aviation Council (AMAC) in regard to a suitably worded motion in respect of the airport rating for submission to the Australian Local Government Association national conference.

**4. STRATEGIC PLAN/POLICY IMPLICATIONS**

Nil.

**5. EXTERNAL IMPACTS**

Nil.

**6. RISK AND LEGAL IMPLICATIONS**

None apparent.

**7. FINANCIAL IMPLICATIONS**

The question of “rate equivalent” payments made by airports under the requirements of their Commonwealth leases is a significant component of Council’s “rate” revenue.

**8. ANY OTHER UNIQUE ISSUES**

Nil.

**9. CONCLUSION**

It is in Council’s interests to support the motion.

Attachments: Nil.

Andrew Paul  
**GENERAL MANAGER**

**11.7.5 BUSINESS EAST REQUEST FOR FUNDING SUPPORT**

(File No 20-21-04)

**EXECUTIVE SUMMARY****PURPOSE**

To consider a request from Business East Inc for funding support of their small business advisory service and the Business Excellence Awards.

**RELATION TO EXISTING POLICY/PLANS**

Council's Strategic Plan 2010-2015 seeks to provide for the sustainable economic growth of the City and to work in partnership with government and industry groups to identify appropriate commercial and development opportunities within Clarence.

**LEGISLATIVE REQUIREMENTS**

Not applicable.

**CONSULTATION**

Not applicable.

**FINANCIAL IMPLICATIONS**

Council's draft 2015-2016 budget has a budget provision for the support of Business East Services.

**RECOMMENDATION:**

That subject to the 2015-2016 budget approval, Council provides funds to Business East Inc towards a local small business advisory service, together with an amount of \$2,500 for sponsorship of the 2015 Clarence Business Excellence Awards.

---

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

- 1.1.** Business East Inc is a not-for-profit incorporated association which was established essentially as a vehicle to provide an enterprise centre service in the Clarence area.
- 1.2.** Since 1998 the State Government has had a network of business enterprise centres to provide free business advisory services to small business, particularly new business start-ups. This funding support from the State Government was provided to Business East up until mid-2013.

- 1.3.** Council also provided supplementary financial support to Business East since 1998 in order to assist in the sustainability of the enterprise service model and to enhance the range of services provided. This funding support was made in accordance with an annual Service Agreement.
- 1.4.** As a result of a tender process undertaken by the State Government in 2013-2014, a number of long-standing service providers, including Business East Inc, did not have their contracts renewed. A new contract for a 3 year period commencing 2013-2014 was entered into with Digital Coaching and Consultation Pty Ltd.
- 1.5.** Business East Inc has continued to operate an enterprise centre, using its cash reserves pending the development of alternative income sources.
- 1.6.** Council in 2013-2014 allocated funding support to Business East Inc (to a maximum value of \$31,000) providing it was for specific projects such as business briefing forums and seminars and a business skills and development program supported by a service agreement.
- 1.7.** Council also maintained its support of the annual Business Excellence Awards (\$6,000).
- 1.8.** Council's 2014-2015 budget allocation to Business East has been withheld pending establishment of the role of the organisation in the context of revised State funding arrangements (see below).

## **2. REPORT IN DETAIL**

- 2.1.** In August 2014, the State Government wrote to Council advising that it would make a \$50,000 grant per year for 2 years (2014-2015 and 2015-2016) for the purpose of supporting Business East Inc to undertake projects that complement the new Enterprise Centres Tasmania (ECT) service.

- 2.2.** The grant was conditional on it not being used for the business advocacy service, as this was already covered under a current ECT contract following a tender process in 2013. The grant which is to be supported by a service agreement is therefore for specific projects, including the Business Excellence Awards that Council had already agreed to fund.
- 2.3.** A letter dated 24 March 2015 has been received from Business East requesting funding of \$25,000 to be applied towards the costs of a small business advisory local shop front service and a further \$6,000 towards the Business Excellence Awards so that Council retains sponsorship rights of the function (refer Attachment 1).
- 2.4.** The request, if agreed to requires Council to re-direct its funds for specific projects to business advisory services, which typically includes staff costs, administrative costs and office accommodation.
- 2.5.** Business East Inc have indicated that to continue to remain viable as an entity, noting that cash reserves are being used currently to support the business, Council's continued funding support is essential. The State Government have provided grant funding to ensure programs such as the Business Skills Seminar program, Youth Enterprise Development program, Women in Business development program and business briefing forums continue. It is understood that the State Government funding is contingent on Council maintaining its funding support.
- 2.6.** Under the circumstances, it is reasonable to apply funds provided in Council's draft 2015-2016 budget (\$24,000) towards Business East's local small business advisory service, noting that the State funding will cover specific projects and events.

**2.7.** In relation to the Business Excellence Awards, this event has become successful and is the only local event that provides an opportunity to recognise business excellence. The cost of the 2014 Awards was \$8,464. To retain naming rights sponsorship, a contribution of \$2,500 could be provided in 2015-2016, noting that the State Government grant supports the awards to the value of \$6,000.

### **3. CONSULTATION**

#### **3.1. Community Consultation**

Nil.

#### **3.2. State/Local Government Protocol**

Nil.

#### **3.3. Other**

Nil.

### **4. STRATEGIC PLAN/POLICY IMPLICATIONS**

Council's Strategic Plan 2010-2015 seeks to provide for the sustainable economic growth of the City and to work in partnership with government and industry groups to identify appropriate commercial and development opportunities within Clarence.

### **5. EXTERNAL IMPACTS**

Nil.

### **6. RISK AND LEGAL IMPLICATIONS**

Nil.

### **7. FINANCIAL IMPLICATIONS**

Council's draft 2015-2016 budget has a budget provision to continue to support Business East services.

### **8. ANY OTHER UNIQUE ISSUES**

Nil.

**9. CONCLUSION**

- 9.1.** Business East Inc has requested that Council's funding support, previously directed towards specific projects, be re- directed to meet the costs of their small business advisory service local and shop front office. Continued sponsorship by Council of the Business Excellence Awards has also been requested.
- 9.2.** Given that the State Government are providing a grant to fund Business East Inc projects for 2014-2015 and 2015-2016 and it is not to be used for a business advisory service, it is considered appropriate to support the on-going viability of the Centre by providing Council's allocated funds to the business advisory service, subject to a service agreement being established including reporting requirements.
- 9.3.** To retain naming rights sponsorship of the Business Excellence Awards, it is proposed to provide sponsorship support of \$2,500 in 2015-2016.

Attachments: 1. Correspondence from Business East dated 24 March 2015 (2)

Andrew Paul  
**GENERAL MANAGER**

24 March 2015

Mr Andrew Paul

General Manager

Clarence City Council

PO Box 96

Rosny Park Tas 7018



20-21-04  
**RECEIVED**

12 5 MAR 2015

**BY: RECORDS**

Dear Mr Paul

**Clarence City Council Funding Business East Inc.**

We understand that the State Government has agreed to provide \$50,000 to support the delivery of a business briefing and communications program and an enterprise culture and business development program in the Clarence municipality that complements the Enterprise Centres Tasmania (ECT) service.

A number of the activities under the State Government program were previously funded by the Clarence City Council, such as Clarence Business Excellence and Service Awards, Women in Business Development Program, annual Clarence special event (Business Forum) plus others.

In view of the fact that the State Government is now going to provide funding for the events we request that the Council funding of \$25,000 (plus GST) be applied towards the small business advisory service local shopfront service. We mention that we still have new and existing clients seeking our service which leads to new businesses being established or expansion of existing businesses. All this generates income for the Clarence City Council through rates, planning approval fees and creates jobs which contribute to the Tasmanian economy.

We mention that over the years we have developed a very good rapport with the business community and we would not like to see this diminish.

We also request that the Council continue to provide the \$6,000 plus GST towards the Business Excellence and Service Awards event so as to retain the sponsorship rights for the function.

We look forward to receiving your favourable response.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'John Beard', written over the printed name.

John Beard

Manager

**11.7.6 BELLERIVE OVAL DEVELOPMENT – LESSOR’S CONSENT**

(File No D006-15L)

**EXECUTIVE SUMMARY****PURPOSE**

The Lease between Council and Cricket Tasmania (CT) requires that any further development at the Bellerive Oval requires the Lessor’s approval in writing.

**RELATION TO EXISTING POLICY/PLANS**

Council’s Strategic Plan 2010- 2015 is relevant.

**LEGISLATIVE REQUIREMENTS**

The Telecommunications Act, 1997 is applicable.

**CONSULTATION**

Nil.

**FINANCIAL IMPLICATIONS**

The approval of the Lessor to allow further development of Bellerive Oval has no direct financial implications.

**RECOMMENDATION:**

- A. That Council grants its conditional consent for the further development of a communications tower classed as having “low impact” under the Telecommunications Act 1997 at the Bellerive Oval subject to the scale and scope of the community feedback for the proposed facility
- B. That Council authorises the General Manager to finalise arrangements on behalf of the Council as the Lessor and Landowner approving:
  - the further development for a communications tower classed as having “low impact” under the Telecommunications Act 1997 at the Bellerive Oval and
  - the basis of the sub-tenancy arrangements arising from the installation of the communications tower.

---

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

- 1.1. Council and CT entered into a Lease dated 9 October 2001 for the use by CT of the Bellerive Oval. That Lease is for a period of 45 years. There are options included in the Lease for it to be extended.

- 1.2.** The CT proposes to further develop the Bellerive Oval by the installation of an Optus mobile phone tower on the roof of the Chairman's Building in the north-west corner of the Bellerive Oval. A sketch of the proposed installation is contained in the submission from Optus, which is Attachment 1.
- 1.3.** The Lease between Council and CT contains provisions to allow for further development of the Bellerive Oval. The processes involved revolve around the relationship that Council and CT have as Landowner/Lessor and Lessee.

## **2. REPORT IN DETAIL**

- 2.1.** Specifically the Lease sets out that any development at the Bellerive Oval, which includes demolition or alteration, requires the Lessor's approval in writing. This is a standard requirement of any Lease and exists to ensure the Landowner's rights are protected from inappropriate development.
- 2.2.** Once CT, as Lessee, has identified a development then the Lease states that Council and CT must hold a Bellerive Oval Management Committee meeting and consult regarding the proposed further development. The Bellerive Oval Management Committee comprises of equal numbers of Council officers and CT personnel, as well as a representative of the local football and cricket club who attend ex officio. It is proposed that a meeting of the Bellerive Oval Management Committee be held once Council officers have Council's view on the proposed development.
- 2.3.** The proposed development of a communications tower is to be undertaken by Daly International for telecommunications carrier Optus. Council would be familiar with other telecommunication installations throughout the City, including a number which are already located and involve the leasing of Council land. These installations are designed around local topography to give network coverage. With all such installations these works are required to go through the normal planning approval processes unless the works are classed as having "low impact" under the Telecommunications Act, 1997.

- 2.4.** The Optus installation at Bellerive is proposed to be 6 panel antennas attached to the roof of the Chairman's Building. Optus advise that the facility is "low impact" and is exempt from Planning approval. Council officers have checked the definitions of "low impact" under the Telecommunications (Low-impact Facilities) Determination 1997, Schedule 1. As the facility involves panel antennae not longer than 2.8m which protrudes no more than 3m from an existing structure then the facility is low impact according to the Schedule 1 and as Optus state is exempt from Planning approval.
- 2.5.** On the basis a development application is not required, Council as Lessor/owner still must approve any works on the lease area.
- 2.6.** The Lease also makes provision for the General Manger to act as the agent of Council as Lessor and discharge any function or exercise any powers under the Lease except:
- discharge or release the Lessee from any of its obligations under the Lease;
  - terminate the Lease; or
  - alter or waive any term or condition of the Lease.

Obviously under these powers the General Manager could approve the further development work at Bellerive Oval. However, given the community feeling regarding development at Bellerive Oval, it is appropriate that Council consider authorising the General Manager to undertake the Lessor's approval on its behalf in this particular case.

- 2.7.** The Lease further provides that any further development of the Bellerive Oval is to be in accordance with Council's Strategic Plan and that if it is in accordance, then the Lessor is not to unreasonably withhold its consent as Landowner for the lodgement of a development application (if required) for that development.

Even though a development application is not required in this case the intent of the Lease is that approvals should not be unreasonably withheld if the works are in accordance with Council's Strategic Plan. On that basis Council can grant consent for the development

### **3. CONSULTATION**

#### **3.1. Community Consultation**

Daly International proposes to undertake a community consultation process for this installation. Details of the proposal consultation are in Attachment 1.

#### **3.2. State/Local Government Protocol**

Not applicable.

#### **3.3. Other**

Discussion between Council officers, CT and the Bellerive Oval Management Committee regarding the proposed further development of the Bellerive Oval will be undertaken once Council have determined their view on the proposed works.

### **4. STRATEGIC PLAN/POLICY IMPLICATIONS**

**4.1.** Council's adopted Strategic Plan has the Strategy to: *"Plan and advocate for necessary infrastructure to support development – water, gas, energy, transport, telecommunications, community facilities"*.

**4.2.** On the basis of the above Strategic Plan strategy the proposed further development of the Bellerive Oval involving an Optus mobile phone installation is consistent with Council's Strategic Plan.

### **5. EXTERNAL IMPACTS**

The installation presents as an "industrial" intrusion on the architecture of the buildings at Bellerive Oval, which may alter visual amenity for local residents. While no Planning approval is necessary these issues may surface as part of the community consultation program that Optus propose to undertake for the facility.

On that basis it may be possible as part of owner's consent to make consent conditional on the scale and scope of the community feedback for the proposed facility

## **6. RISK AND LEGAL IMPLICATIONS**

- 6.1.** The installation of telecommunications equipment comes under the provision of the Australian Government's Telecommunications Act, 1997. Within the Act there are provisions for exempting certain classes of works described as "low impact" from relevant Planning legislation. This installation is considered "low impact".
- 6.2.** The Lease provisions require Council, as Lessor and Landowner, to approve any further development of the Bellerive Oval.
- 6.3.** The Lease provisions require the Lessee to get the written consent of the Lessor before the Lessee commits to any obligation, contract, understanding or other commitment on the land at Bellerive Oval. In effect this means any sub-leases or sub-tenancies need Council's approval in writing.

## **7. FINANCIAL IMPLICATIONS**

There are no direct financial implications for Council by the provision of Council's consent for the further work.

## **8. ANY OTHER UNIQUE ISSUES**

It is important to note that Council approval under the Lease does not constitute an approval under the Clarence Planning Scheme 2007. If the development is deemed "low impact" under the Telecommunications Act, 1997 then no development application is required. If it is not "low impact" then a separate application and consideration of the proposed mobile phone installation for Development Approval is required. It should be noted that the proposed mobile phone installation is a Discretionary matter under the Clarence Planning Scheme 2007.

## **9. CONCLUSION**

**9.1.** The Lease provides that any further development of the Bellerive Oval is to be in accordance with Council's Strategic Plan and that if it is in accordance, then the Lessor is not to unreasonably withhold its consent as Landowner for the lodgement of a development application (if required) for that development. Even though a development application is not required in this case the intent of the Lease is that approvals should not be unreasonably withheld if the works are in accordance with Council's Strategic Plan. On that basis Council can grant conditional consent for the development dependent on the scale and scope of the community feedback for the proposed facility

**9.2.** It is recommended that should Council agree to provide its consent for the proposed works that authority is provided to the General Manager to finalise arrangements on behalf of Council as the Lessor and Landowner approving:

- the further development for a communications tower classed as having "low impact" under the Telecommunications Act, 1997 at the Bellerive Oval; and
- the basis of the sub-tenancy arrangements arising from the installation of the communications tower.

Attachments: 1. Letter from Daly International (24)

John Stevens

**GROUP MANAGER ASSET MANAGEMENT**



17 April 2015

Planning Officer  
Clarence City Council  
PO Box 96  
Rosny Park  
TASMANIA TAS 7018

**OPTUS**

*Doc 15*  
**RECEIVED**

20 APR 2015

**BY: RECORDS**

**Re: Notification of a proposed rooftop installation of new telecommunications equipment at the Blundstone Arena, 15 Derwent Street, Bellerive TAS 7018**

We are writing on behalf of Optus and Vodafone Hutchison Australia ("Vodafone") to inform you of a proposal to upgrade a base station at the above address. Optus & Vodafone are inviting Council to provide feedback on a proposed community notification plan (Appendix A).

The Mobile Phone Base Station Deployment Code C564:2011 (*known as the Code*) provides the framework for Councils and communities to be informed, consulted and engaged in relation to the deployment of mobile phone infrastructure.

To achieve these outcomes, we have formulated a draft consultation plan (6.2.2) which identifies key stakeholders who may have an interest in the proposal.

The draft consultation plan includes a description of the proposed facility. It is considered to be a Low Impact Facility in accordance with the *Telecommunications (Low-impact Facilities) Determination 1997*. The reasons for this conclusion are outlined in the attached document.

The Code requires telecommunications carriers to invite Council to comment on:

- the suitability of the draft consultation plan for this community;
- whether there are any additional key stakeholders who should be included as Interested and Affected Parties; and
- whether there are any significant events within the community that the Carrier should be aware of in developing the draft consultation plan.

We invite Council to provide us with written feedback on the attached draft consultation plan within 10 business days by the **Thursday, 7 May 2015** (in accordance with section 6.5.4).

Feedback can be submitted to Petra Kovacs at Level 10, 601 Bourke Street Melbourne VIC 3000 or by email to [PKovacs@dalyinternational.com.au](mailto:PKovacs@dalyinternational.com.au).

Vodafone will review the draft consultation plan having regard for any comments received and will inform Council once we commence the formal notification process.

**DALY**  
INTERNATIONAL

F6.2.3 Invitation to Council to comment on Draft Consultation Plan – Bellerive Oval



Yours sincerely

**Petra Kovacs**  
**Senior Town Planner**  
Daly International  
T 03 9628 5314  
PKovacs@dalyinternational.com.au

**Additional Information – Planning and EMR compliance regulations**

**Site Name:** Bellerive Oval  
**Site Number:** 780000

The proposed site at 1095 Frankston-Dandenong Road, Carrum Downs VIC 3201, is considered to be a Low Impact Facility in accordance with the *Telecommunications (Low-impact Facilities) Determination 1997*.

The reasons for this conclusion are based on the classification of the following components of the proposed facility in relation to the Determination. Please see Appendix C for preliminary drawings of the proposal and site layout.

<b>Land Use Classification</b>	Recreation Zone
<b>EME/EMR compliance</b>	This facility is designed to comply with the ACMA EMR regulatory arrangements. Further information is available at <a href="http://www.rfnsa.com.au">www.rfnsa.com.au</a>
<b>Facility</b>	<b>Complies with item in the Telecommunications (Low-impact Facilities) Determination 1997 Determination</b>
Antenna – <ul style="list-style-type: none"><li>Installation of six (6) panel antennas, attached to the rooftop of the cricket ground's main building.</li></ul>	Schedule Part 1 – Radio Facilities  Antennas are radio facilities complying with the requirements of Part 1, Items 3  Panel, yagi or other like antenna (a) not more than 2.8 metres long; and (b) if the antenna is attached to a structure — protruding from the structure by not more than 3 metres; and (c) either:



	<ul style="list-style-type: none"><li>(i) colour-matched to its background; or</li><li>(ii) in a colour agreed in writing between the carrier and the relevant local authority</li></ul>
Equipment shelter –  Installation of five (5) outdoor equipment units (ODU's) with combined base area of not more than 7.5 sq m.	Schedule Part 3 – Above Ground Housing  equipment shelter: <ul style="list-style-type: none"><li>(a) used solely to house equipment used to assist in providing a service by means of a facility mentioned in Part 1; and</li><li>(b) not more than 3 metres high; and</li><li>(c) with a base area of not more than 7.5 square metres; and</li><li>(d) either:<ul style="list-style-type: none"><li>(i) colour-matched to its background; or</li><li>(ii) in a colour agreed in writing between the carrier and the relevant local authority</li></ul></li></ul>
Ancillary facilities such as antenna mounts, cable tray, feeders, remote radio units, and safety items such as walkways, handrails and cage ladders and other related items are deemed to be low impact facilities	Part 3.1 (4) of the Determination.

A copy of the proposed design and Environmental EME report is attached (Appendix B)



**Appendix A** Draft Consultation Plan



## Consultation Plan – RFNSA site 7018011

Code Ref:	6.3.1	
Carrier:	Vodafone	
Consultation Plan version number:	Version 1	

Site Name:	Bellerive Oval
Site Address:	Blundstone Arena, 15 Derwent Street, Bellerive, TAS 7018
Map:	 <p>Source: Google Maps</p>
Council:	Clarence City Council



	<b>What is proposed?</b>	Vodafone proposes to install a mobile network facility atop of Blundstone Stadium roof located at Bellerive oval.
	<b>Why is this site required?</b>	To provide enhanced coverage to the Blundstone stadium and immediate residential dwellings surrounding the stadium: <ul style="list-style-type: none"><li>• to meet increased demand for services placed on our network; and</li><li>• to improve and maintain local mobile network services, both voice and data</li></ul>
	<b>Site Proposal Details</b>	<p>The proposal is co-location on an existing commercial rooftop in a commercial area. The co-location will consist of:</p> <ul style="list-style-type: none"><li>• Six (6) panel antennas not greater in length than 2.8m</li><li>• Installation of VHA equipment shelter with base areas not more than 7.5 sq m.</li><li>• Associated infrastructure such as remote radio units, amplifiers, diplexers, triplexers, mounts, feeders, cable trays, and other associated infrastructure will be included if necessary to facilitate the safe operation of the facility.</li></ul> <p>Vodafone regards the proposed installation as Low-impact Facility under the <i>Telecommunications (Low-impact Facilities) Determination 1997</i> ("The Determination") based on the descriptions above.</p>

### Stakeholders

Code Ref:	Identified Stakeholder	Stakeholder Details	How
6.4.5	All – (Public Notification)	General Public	Website Per Code Ref: 6.4.5 to 6.4.8 and Appendix E – Communication information formats- E1 Website information, to include: <ul style="list-style-type: none"><li>• the address of the proposed site;</li><li>• a description of the proposal;</li><li>• the rationale for the proposal;</li><li>• whether or not the Carrier considers the proposal is low impact;</li></ul>



- alternate options and opportunities for co-location considered;
- any key dates (e.g. submission dates, construction dates);
- Consultation Symbol;
- an ARPANSA EME report for the proposal;
- a link to the Communications Alliance information portal;
- phone and email address for more information or making a submission.

#### Notice in Newspaper

Newsletter and Newspaper Advertisement to typically include:

- Overview of proposal
- Overview to consultation process
- References to information on radio emissions
- Carrier's phone contact for development/construction issues and for references to EME information
- An invitation and timeframe for making submissions on the proposed work

#### Signage on Site

Signage per Code Ref 6.4.9 to 6.4.12 and Appendix E - Communication information formats E3 On-site signage must:

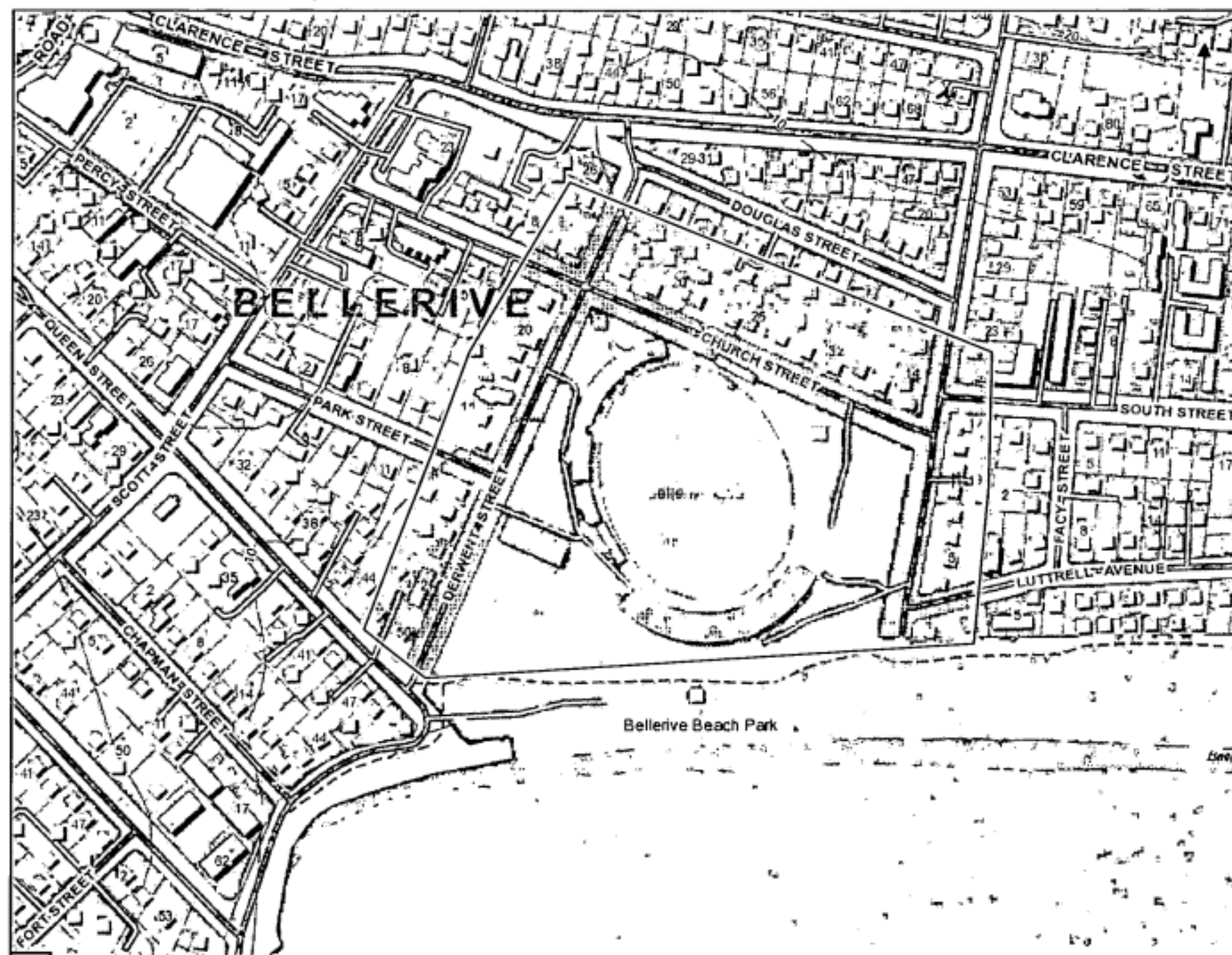
- be clearly visible and legible from a public road or footpath,
- be weatherproof if installed externally.
- not be removed by the Carrier until construction is complete.



6.4.1	Clarence City Council		<p>Planning Officer Planning Department</p> <p>Letter to council Letter and Envelope per Code Ref 6.4.1 &amp; 6.4.4 and Appendix E Communication Information Formats - E2, to include:</p> <ul style="list-style-type: none"><li>• intended actions regarding Details of the proposed work</li><li>• A statement as to the "Low Impact" classification of the proposal and reasons for that classification</li><li>• Statement of compliance with Australian Communications and Media Authority (ACMA) Electromagnetic Radiation (EMR) regulations</li><li>• Report on estimated EME levels (ARPANSA format)</li><li>• References to information on radio emissions</li><li>• Carrier's phone contact for development/construction issues and for references to EME information</li><li>• Timeframe for comment on the proposed work (20 working days)</li><li>• A subsequent letter summarising the outcome of the consultation activities after the consultation period and prior to commencement of construction activities on site.</li></ul>
-------	-----------------------	--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------



Notification Map





<b>6.3.5(b)</b>	<b>Justification of Distance for letterbox notification</b>	The rooftop facility will be the most visible from the Derwent Street as this is the direction the antenna are facing. The large area of the stadium and the encircling structure of the stadium will serve to shield the antenna from the majority of public view sheds. Hence the street frontages in closest proximity to the antenna, Church and Derwent Street, have been included in the notification. Properties bordering on the eastern side of the oval have also been included purely for the reason that they are on the perimeter of the subject property to where the antenna will be located.
-----------------	-------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<b>Interested and affected parties</b>		
<b>Code Ref:</b>	<b>Question</b>	<b>Answer</b>
<b>D2.2b</b>	<b>How were community sensitive locations determined?</b>	<p>The following activities were undertaken in order to determine as possible:</p> <ul style="list-style-type: none"> <li>• Potential sensitive locations identified during initial field visits to site</li> <li>• Desktop study using online resources (Government websites (Commonwealth, State &amp; Local), Heritage registers, Google Maps, School websites etc)</li> <li>• Search of registers such as Councils Zoning &amp; Overlay maps</li> <li>• Search of any applicable heritage registers</li> </ul>
<b>D2.2c</b>	<b>What are the desired outcomes from Stakeholder analysis?</b>	<ul style="list-style-type: none"> <li>• To identify and notify the interested and affected parties who are impacted by the proposal</li> <li>• To determine effective communication methods with interested and affected parties; and</li> <li>• To develop a Consultation Plan that establishes a level of trust with relevant interested and affected parties</li> </ul>
<b>D2.2 a&amp;g</b>	<b>Site Selection</b>	<p><b>Answer:</b></p> <p>In selecting the proposed site, Vodafone has used industry best practice in assessing potential candidate sites, taking into account technical and non technical criteria including:</p> <ul style="list-style-type: none"> <li>• The coverage service objectives;</li> <li>• The potential to co-locate at an existing telecommunications or building structure;</li> <li>• The visual impact on the surrounding area;</li> <li>• The need to obtain relevant town planning approvals;</li> <li>• The proximity to community sensitive sites;</li> <li>• Areas of environmental heritage or significance;</li> </ul>



		<ul style="list-style-type: none"> <li>• Ability to secure tenure;</li> <li>• Availability of public utilities, such as power;</li> <li>• Minimisation of electromagnetic radiation (EMR) and exposure to the public and;</li> <li>• Cost factors</li> </ul>	
		Candidate	Reason
		All Candidates considered were located within Bellrive Oval as this area is the main target for wireless coverage.	Various points on the main office rooftop were considered for siting antenna. Considerations such as structural stability and antenna proximity to grandstand members was taken into consideration when selecting the final rooftop location. Co-location on the stadium's large floodlights was also considered but discounted due to difficulties posed by the antenna to the maintenance crew when servicing the lights. The immediate area is residential and provided little opportunity for a Greenfield proposal. A Greenfield monopole was considered in an unused area on the north eastern perimeter of the stadium (pitch practice area).
D2.2 i	How do intend to respond to feedback from interested parties?	<p>Vodafone will endeavour to respond in writing (including email):</p> <ul style="list-style-type: none"> <li>• For a non-complex inquiry, within 2 days</li> <li>• For a complex inquiry an acknowledgment will be provided with 2 working days of receipt, and where possible respond to within 10 working days.</li> </ul> <p>From time to time delays may occur in the ability to provide information in a timely manner. In such cases Vodafone will attempt to contact the stakeholder making the inquiry to explain the reason for the delay and advise on the new timeframe for a response.</p>	
Code Ref:	Stakeholder	Comments	Contact Details/How
6.4.1	Persons who reside in the immediate vicinity as identified in the Notification Map	The area is predominantly residential.	<p>Letter to Parties in the immediate vicinity: Letter and Envelope per Code Ref 6.4.1 &amp; 6.4.4 and Appendix E –E2 to include:</p> <ul style="list-style-type: none"> <li>• Details of the proposed work</li> <li>• A statement as to the "Low Impact" classification of the proposal and reasons for that classification</li> <li>• Statement of compliance with Australian Communications and Media Authority (ACMA) Electromagnetic Radiation (EMR) regulations</li> <li>• Report on estimated EME levels (ARPANSA format)</li> </ul>



			<ul style="list-style-type: none"><li>• References to information on radio emissions</li><li>• Carrier's phone contact for development/construction issues and for references to EME information</li><li>• An invitation and timeframe for making submissions on the proposed work (15 working days)</li></ul>
<b>6.4.1</b>	<b>Julie Collins</b> <b>Member for Franklin</b> PO Box 38 Rosny Park TAS 7018		Letter to Occupiers of Sensitive Locations in the vicinity of the site Letter and Envelope per Code Ref 6.4.1 & 6.4.4 and Appendix E - E2 to include: <ul style="list-style-type: none"><li>• Details of the proposed work</li><li>• A statement as to the "Low Impact" classification of the proposal and reasons for that classification</li><li>• Statement of compliance with Australian Communications and Media Authority (ACMA) Electromagnetic Radiation (EMR) regulations</li><li>• Report on estimated EME levels (ARPANSA format)</li><li>• References to information on radio emissions</li><li>• Carrier's phone contact for development/construction issues and for references to EME information</li><li>• An invitation and timeframe for making submissions on the proposed work (15 working days)</li></ul>
<b>6.4.1</b>	<b>Vanessa Goodwin</b> <b>Pembroke Division</b> 3/90 Clarence Street Bellerive TAS 7018		Letter to Occupiers of Sensitive Locations in the vicinity of the site Letter and Envelope per Code Ref 6.4.1 & 6.4.4 and Appendix E - E2 to include: <ul style="list-style-type: none"><li>• Details of the proposed work</li><li>• A statement as to the "Low Impact" classification of the proposal and reasons for that classification</li><li>• Statement of compliance with Australian Communications and Media Authority (ACMA)</li></ul>

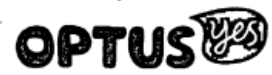


			<p>Electromagnetic Radiation (EMR) regulations</p> <ul style="list-style-type: none"><li>• Report on estimated EME levels (ARPANSA format)</li><li>• References to information on radio emissions</li><li>• Carrier's phone contact for development/construction issues and for references to EME information</li><li>• An invitation and timeframe for making submissions on the proposed work (15 working days)</li></ul>
	<p><b>Bellerive Primary School Principal</b> 20 Leslie Street Bellerive 7018 Tasmania</p>		<p>Letter to Occupiers of Sensitive Locations in the vicinity of the site Letter and Envelope per Code Ref 6.4.1 &amp; 6.4.4 and Appendix E - E2 to include:</p> <ul style="list-style-type: none"><li>• Details of the proposed work</li><li>• A statement as to the "Low Impact" classification of the proposal and reasons for that classification</li><li>• Statement of compliance with Australian Communications and Media Authority (ACMA) Electromagnetic Radiation (EMR) regulations</li><li>• Report on estimated EME levels (ARPANSA format)</li><li>• References to information on radio emissions</li><li>• Carrier's phone contact for development/construction issues and for references to EME information</li></ul> <p>An invitation and timeframe for making submissions on the proposed work (15 working days)</p>

**Provisional Consultation Timeline**

Code Ref	Date	Task
D2.2e†	4/2/2015	Commence stakeholder analysis*
	17/4/2015	Issue consultation draft plan
	8/5/2015	Include feedback from Council into a final Consultation Plan
	11/5/2015	Commence consultation period with all affected and interested parties
	2/6/2015	Community consultation period closes
	3/6/2015	Commence community feedback analysis and respond to any received notifications
	11/6/2015	Submission of final consultation report to Council
	30/6/2015	Commence construction on-site

***The above time line is provisional. Please refer to the Community Consultation Website for further updates and Announcements.***



**Appendix B** ARPANSA EME Report

## Environmental EME Report

### Bellerive Oval 15 Derwent Street - Structure 2. Roof top macro site, BELLERIVE TAS 7018

This report provides a summary of Calculated RF EME Levels around the wireless base station

Date 17/4/2015

RFNSA Site No. 7018011

#### Introduction

The purpose of this report is to provide calculations of EME levels from the existing facilities at the site and any proposed additional facilities.

This report provides a summary of levels of radiofrequency (RF) electromagnetic energy (EME) around the wireless base station at Bellerive Oval 15 Derwent Street - Structure 2. Roof top macro site BELLERIVE-TAS 7018. These levels have been calculated by Corearth using methodology developed by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA).

The maximum EME level calculated for the proposed systems at this site is 2.99% of the public exposure limit.

#### The ARPANSA Standard

ARPANSA, an Australian Government agency in the Health and Ageing portfolio, has established a Radiation Protection Standard specifying limits for general public exposure to RF transmissions at frequencies used by wireless base stations. The Australian Communications and Media Authority (ACMA) mandates the exposure limits of the ARPANSA Standard.

#### How the EME is calculated in this report

The procedure used for these calculations is documented in the ARPANSA Technical Report "Radio Frequency EME Exposure Levels - Prediction Methodologies" which is available at <http://www.arpansa.gov.au>.

RF EME values are calculated at 1.5m above ground at various distances from the base station, assuming level ground.

The estimate is based on worst-case scenario, including:

- wireless base station transmitters for mobile and broadband data operating at maximum power
- simultaneous telephone calls and data transmission
- an unobstructed line of sight view to the antennas.

In practice, exposures are usually lower because:

- the presence of buildings, trees and other features of the environment reduces signal strength
- the base station automatically adjusts transmit power to the minimum required.

Maximum EME levels are estimated in 360° circular bands out to 500m from the base station.

These levels are cumulative and take into account emissions from all mobile phone antennas at this site.

The EME levels are presented in three different units:

- volts per metre (V/m) – the electric field component of the RF wave
- milliwatts per square metre (mW/m<sup>2</sup>) – the power density (or rate of flow of RF energy per unit area)
- percentage (%) of the ARPANSA Standard public exposure limit (the public exposure limit = 100%).

#### Results

The maximum EME level calculated for the proposed systems at this site is 8.077 V/m; equivalent to 173.033 mW/m<sup>2</sup> or 2.99% of the public exposure limit.

## Radio Systems at the Site

There are currently no existing radio systems for this site.

It is proposed that this base station will have equipment for transmitting the following services:

Carrier	Radio Systems
Vodafone	WCDMA900 (proposed), WCDMA850 (proposed), WCDMA2100 (proposed), LTE1800 (proposed)
Optus	WCDMA900 (proposed), WCDMA2100 (proposed), GSM900 (proposed), LTE700 (proposed), LTE2600 (proposed)

## Calculated EME Levels

This table provides calculations of RF EME at different distances from the base station for emissions from existing equipment alone and for emissions from existing equipment and proposed equipment combined.

Distance from the antennas at Bellerive Oval 15 Derwent Street - Structure 2. Roof top macro site in 360° circular bands	Maximum Cumulative EME Level – All carriers at this site					
	Existing Equipment			Proposed Equipment		
	Electric Field V/m	Power Density mW/m <sup>2</sup>	% ARPANSA exposure limits	Electric Field V/m	Power Density mW/m <sup>2</sup>	% ARPANSA exposure limits
0m to 50m				5.79	88.91	1.37%
50m to 100m				6.87	125.04	2.4%
100m to 200m				8.077	173.033	2.99%
200m to 300m				5.87	91.37	1.49%
300m to 400m				3.88	40.0053	0.65%
400m to 500m				2.93	22.84	0.37%
				8.077	173.033	2.99
<b>Maximum EME level</b>				125.5 m from the antennas at Bellerive Oval 15 Derwent Street - Structure 2. Roof top macro site		

## Calculated EME levels at other areas of interest

This table contains calculations of the maximum EME levels at selected areas of interest that have been identified through the consultation requirements of the Communications Alliance Ltd Deployment Code C564:2011 or via any other means. The calculations are performed over the indicated height range and include all existing and any proposed radio systems for this site.

Additional Locations	Height / Scan relative to location ground level	Maximum Cumulative EME Level All Carriers at this site Existing and Proposed Equipment		
		Electric Field V/m	Power Density mW/m <sup>2</sup>	% of ARPANSA exposure limits
Residential	0m to 6m	4.77	60.26	1.029%
Bellerive Primary School	0m to 6m	2.11	11.77	0.19%

## RF EME Exposure Standard

The calculated EME levels in this report have been expressed as percentages of the ARPANSA RF Standard and this table shows the actual RF EME limits used for the frequency bands available. At frequencies below 2000 MHz the limits vary across the band and the limit has been determined at the Assessment Frequency indicated. The four exposure limit figures quoted are equivalent values expressed in different units – volts per metre (V/m), watts per square metre (W/m<sup>2</sup>), microwatts per square centimetre (μW/cm<sup>2</sup>) and milliwatts per square metre (mW/m<sup>2</sup>). Note: 1 W/m<sup>2</sup> = 100 μW/cm<sup>2</sup> = 1000 mW/m<sup>2</sup>.

Radio Systems	Frequency Band	Assessment Frequency	ARPANSA Exposure Limit (100% of Standard)
LTE 700	758 – 803 MHz	750 MHz	37.6 V/m = 3.75 W/m <sup>2</sup> = 375 μW/cm <sup>2</sup> = 3750 mW/m <sup>2</sup>
WCDMA850	870 – 890 MHz	900 MHz	41.1 V/m = 4.50 W/m <sup>2</sup> = 450 μW/cm <sup>2</sup> = 4500 mW/m <sup>2</sup>
GSM900, LTE900, WCDMA900	935 – 960 MHz	900 MHz	41.1 V/m = 4.50 W/m <sup>2</sup> = 450 μW/cm <sup>2</sup> = 4500 mW/m <sup>2</sup>
GSM1800, LTE1800	1805 – 1880 MHz	1800 MHz	58.1 V/m = 9.00 W/m <sup>2</sup> = 900 μW/cm <sup>2</sup> = 9000 mW/m <sup>2</sup>
LTE2100, WCDMA2100	2110 – 2170 MHz	2100 MHz	61.4 V/m = 10.00 W/m <sup>2</sup> = 1000 μW/cm <sup>2</sup> = 10000 mW/m <sup>2</sup>
LTE2300	2302 – 2400 MHz	2300 MHz	61.4 V/m = 10.00 W/m <sup>2</sup> = 1000 μW/cm <sup>2</sup> = 10000 mW/m <sup>2</sup>
LTE2600	2620 – 2690 MHz	2600 MHz	61.4 V/m = 10.00 W/m <sup>2</sup> = 1000 μW/cm <sup>2</sup> = 10000 mW/m <sup>2</sup>
LTE3500	3425 – 3575 MHz	3500 MHz	61.4 V/m = 10.00 W/m <sup>2</sup> = 1000 μW/cm <sup>2</sup> = 10000 mW/m <sup>2</sup>

## Further Information

The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) is a Federal Government agency incorporated under the Health and Ageing portfolio. ARPANSA is charged with responsibility for protecting the health and safety of people, and the environment, from the harmful effects of radiation (ionising and non-ionising).

Information about RF EME can be accessed at the ARPANSA website, <http://www.arpansa.gov.au>, including:

- Further explanation of this report in the document "Understanding the ARPANSA Environmental EME Report"
- The procedure used for the calculations in this report is documented in the ARPANSA Technical Report; "Radio Frequency EME Exposure Levels - Prediction Methodologies"
- the current RF EME exposure standard  
Australian Radiation Protection and Nuclear Safety Agency (ARPANSA), 2002, 'Radiation Protection Standard: Maximum Exposure Levels to Radiofrequency Fields — 3 kHz to 300 GHz', Radiation Protection Series Publication No. 3, ARPANSA, Yallambie Australia.  
[Printed version: ISBN 0-642-79400-6 ISSN 1445-9760] [Web version: ISBN 0-642-79402-2 ISSN 1445-9760]

The Australian Communications and Media Authority (ACMA) is responsible for the regulation of broadcasting, radiocommunications, telecommunications and online content. Information on EME is available at <http://emr.acma.gov.au>

The Communications Alliance Ltd Industry Code C564:2011 'Mobile Phone Base Station Deployment' is available from the Communications Alliance Ltd website, <http://commsalliance.com.au>.

Contact details for the Carriers (mobile phone companies) present at this site and the most recent version of this document are available online at the Radio Frequency National Site Archive, <http://www.rfnsa.com.au>.



## Appendix C Preliminary Drawings



A3



COPYRIGHT © GOOGLE MAPS

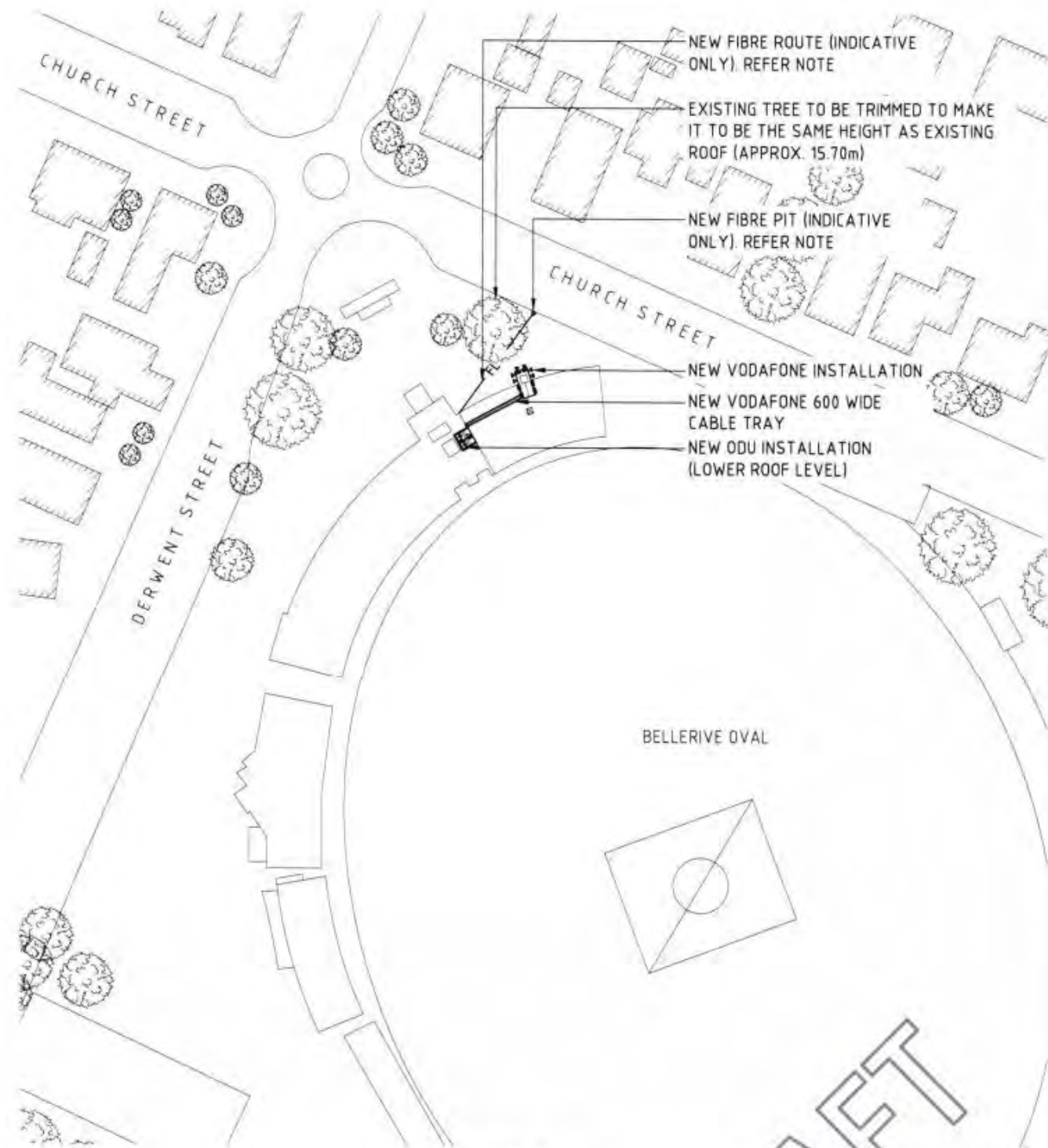
**SITE LOCALITY PLAN**

NOT TO SCALE

AS BUILT	<input type="checkbox"/>
AS PER RED LINES	<input type="checkbox"/>
NAME: _____	
DATE: _____	SIGN: _____

**NOTES:**

- 1 NEW FIBRE PIT & CONDUIT TO BE INSTALLED BY VODAFONE NOMINATED CONTRACTOR OR OPTUS.

**SITE PLAN**

SCALE 1:1000

REV	DATE	REVISION DESCRIPTION	DRAWN
01	31.03.15	FOR CONSTRUCTION ISSUE	BT
A	14.10.14	PRELIMINARY ISSUE	GP

INITIALS	DATE
DRAWING CHECK: MW	31.03.15
DESIGN CHECK: JT	31.03.15
APPROVED: PC	31.03.15



Level 1, Solitaire  
12 Help Street, Chatswood  
NSW 2067 Australia  
+61 2 8241 9800  
www.dalyinternational.com



**VODAFONE SITE 780000** eJV PROJECT  
**BELLERIVE OVAL**  
BLUNDSTONE ARENA  
15 DERWENT STREET, BELLERIVE, TAS 7018

Joint Venture No: JH3057

**SITE AND LOCALITY PLANS**

DRAWING STATUS	DRAWING No.	REV
FOR CONSTRUCTION	780000-G1	01

A3

EXISTING TREE TO BE TRIMMED TO MAKE IT TO BE THE SAME HEIGHT AS EXISTING ROOF (APPROX. 15.70m)

NEW VODAFONE PANEL ANTENNAS (3 OFF) - TYP. SYMBOLS 11-V, 21-V AND 31-V

NEW OPTUS PANEL ANTENNAS (3 OFF) - TYP. SYMBOLS 12-0, 22-0 AND 32-0

EXISTING EDGE OF ROOF

NEW VODAFONE 600 WIDE CABLE TRAY (SHOWN INDICATIVELY ONLY)

NEW VODAFONE 5-BAY ODU INSTALL ON NEW PLATFORM. REFER DRG 780000-G6 FOR DETAILS

EXISTING SKYLIGHT

## SITE SETOUT PLAN

SCALE 1:100



DATUM POINT	GDA94 CO-ORDINATES (APPROX.)		
	LATITUDE	-42.876459	ZONE
	LONGITUDE	147.373353	
MGA CO-ORDINATES	E	530 492	55
	N	5 252 836	
			GROUND LEVEL
			A.H.D RL 12.00m
			EL 0.00m

AS BUILT ☐

AS PER RED LINES ☐

NAME: \_\_\_\_\_

DATE: \_\_\_\_\_ SIGN: \_\_\_\_\_

NEW DIPLEXERS AND DUAL COMBINERS. REFER NOTE 6 & 7 FOR DETAILS

EXISTING EDGE OF ROOF

EXISTING EQUIPMENT

NEW VODAFONE RRU'S. REFER NOTE 5 FOR DETAILS.

NEW OPTUS RRU'S. REFER NOTE 5 FOR DETAILS.

EXISTING ROOF ACCESS HATCH

### NOTES:

1. ITEMS IN BOLD TEXT INDICATE EXTENT OF NEW WORKS.
2. ALL AZIMUTHS ARE IN DEGREES RELATIVE TO MGA NORTH.
3. ALL DIMENSIONS IN mm UNLESS STATED OTHERWISE.
4. FOR ANTENNA CONFIGURATION TABLES REFER DRAWING 780000-G4.
5. NEW VODAFONE RRU'S (6 OFF PER SECTOR, 18 OFF IN TOTAL) AND NEW OPTUS RRU'S (7 OFF PER SECTOR, 21 OFF IN TOTAL) TO BE INSTALLED ON NEW MOUNTING POLE ON THE WALL.
6. NEW VODAFONE DIPLEXER (1 OFF PER SECTOR, 3 OFF IN TOTAL) TO BE INSTALLED BEHIND VODAFONE PANEL ANTENNA.
7. NEW OPTUS DIPLEXER (1 OFF PER SECTOR, 3 OFF IN TOTAL) AND DUAL COMBINERS (2 OFF PER SECTOR, 6 OFF IN TOTAL) TO BE INSTALLED BEHIND OPTUS PANEL ANTENNA.
8. VODAFONE WILL COLOUR MATCH THE NEW STRUCTURE TO EXISTING BUILDING.
9. NEW WALKWAY AND HANDRAILS HAVE BEEN OMITTED ON DRAWINGS. ROUTE TO BE CONFIRMED.
10. FINAL LAYOUT MAY VARY - SUBJECT TO STRUCTURAL ASSESSMENT.

REV	DATE	REVISION DESCRIPTION	DRAWN
01	31.03.15	FOR CONSTRUCTION ISSUE	BT
A	14.10.14	PRELIMINARY ISSUE	GP

INITIALS	DATE
DRAWING CHECK MW	31.03.15
DESIGN CHECK JT	31.03.15
APPROVED PC	31.03.15

**DALY**  
INTERNATIONAL

Level 1, Solitaire  
12 Help Street, Chatswood  
NSW 2067 Australia  
+61 2 8241 9800  
www.dalyinternational.com



**vodafone**

VODAFONE SITE 780000 eJV PROJECT  
BELLERIVE OVAL  
BLUNDSTONE ARENA  
15 DERWENT STREET, BELLERIVE, TAS 7018

Joint Venture No: JH3057

SITE SETOUT PLAN

DRAWING STATUS	DRAWING No.	REV.
FOR CONSTRUCTION	780000-G2	01

### ANTENNA CONFIGURATION TABLE


AS BUILT ☐

AS PER RED LINES ☐

NAME: \_\_\_\_\_

DATE: \_\_\_\_\_ SIGN: \_\_\_\_\_

LEGEND:

 EXISTING

SA-0 NEW, REPLACE, ETC

SA-Q FUTURE

Joint Venture No: JH3057

## ANTENNA CONFIGURATION TABLE

DRAWING STATUS:	DRAWING No.
FOR CONSTRUCTION	780000-G4

REV.	01
------	----

01		31.03.15	FOR CONSTRUCTION ISSUE	BT	INITIALS		DATE	 <p>Level 1, Solitaire 12 Help Street, Chatswood NSW 2067 Australia +61 2 8241 9800 www.dalyinternational.com</p>	 <p><b>vodafone</b> VODAFONE SITE 780000 eJV PROJECT BELLERIVE OVAL BLUNDSTONE ARENA 15 DEBWNIL STREET BELLERIVE TAS 7018</p>	 <p><b>ANTENNA CONFIGURATION TABLE</b></p>	DRAWING No. <b>780000-G4</b>	REV. <b>01</b>
A	14.10.14	PRELIMINARY ISSUE	GP	DRAWING CHECK	MW	31.03.15						
				DESIGN CHECK	BT	31.03.15						
				APPROVED	PC	31.03.15						
REV	DATE	REVISION DESCRIPTION		DRAWN								

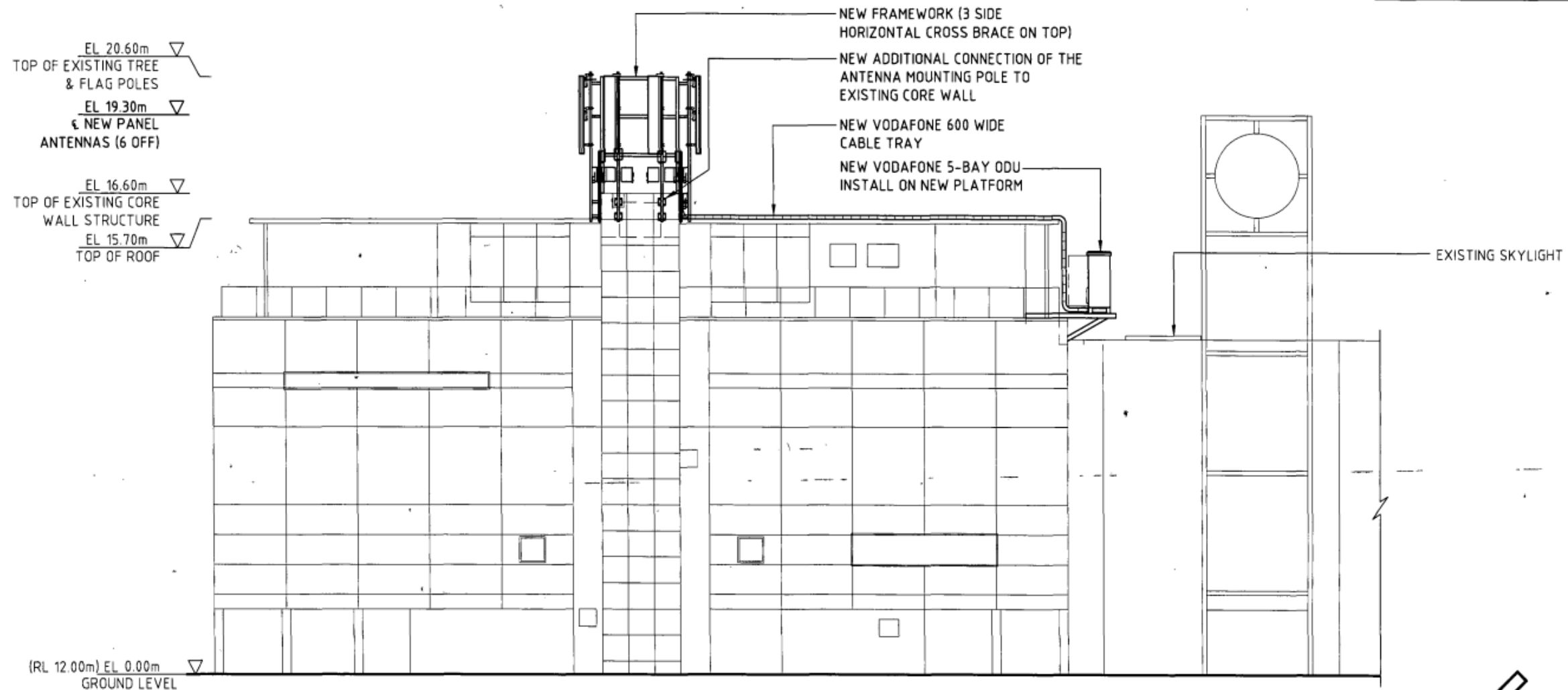
A3

## NOTES:

1. ITEMS IN BOLD TEXT INDICATE EXTENT OF NEW WORKS.
2. FOR ANTENNA AND ANCILLARIES INFORMATION CONFIGURATION TABLES REFER DRAWING 780000-G2 AND 780000-G4.

NOTE:  
THIS DRAWING IS DIAGRAMMATIC ONLY  
AND SHOULD NOT BE SCALED.

AS BUILT ☐  
AS PER RED LINES ☐  
NAME: \_\_\_\_\_  
DATE: \_\_\_\_\_ SIGN: \_\_\_\_\_



## NORTHERN ELEVATION

SCALE 1:150

Joint Venture No: JH3057		SITE ELEVATION	
vodafone		eJV PROJECT	
VODAFONE SITE 780000		BLUNDSTONE ARENA	
15 DERWENT STREET, BELLERIVE, TAS 7018		DRAWING No. 780000-G3	
FOR CONSTRUCTION		REV. 01	

REV	DATE	REVISION DESCRIPTION	DRAWN	BT	GP	APPROVED	PC	DATE
01	31.03.15	FOR CONSTRUCTION ISSUE						31.03.15
A	14.10.14	PRELIMINARY ISSUE						31.03.15

**DALY**  
INTERNATIONAL

Level 1, Solitaire  
12 Help Street, Chatswood  
NSW 2067 Australia  
+61 2 8241 9800  
www.dalyinternational.com



**vodafone**

**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).

Ald James has given notice of the following Questions:

1. Are there any provision(s) of the Local Government Act and/or Regulations that addresses the situation where an elected councillor has a family member being an employee of that Council?
2. Are there any provision(s) of LGA/Regulations that addresses the situation where an elected Councillor and also the council's representative on the committee of a council owned facility has a family member being a council employee with that council owned facility?

**12.2 ANSWERS TO QUESTIONS ON NOTICE****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 2005 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 2005.

13.1 APPLICATIONS FOR LEAVE OF ABSENCE

13.2 TENDER T1028-15 – DDA FACILITIES UPGRADE – HOWRAH RECREATION CENTRE, HOWRAH

13.3 PROPERTY MATTER - ROKEBY

The grounds for listing these reports in Closed Meeting are that the detail covered in the reports relates to:

- contracts for the supply and purchase of goods and services;
- proposals for the acquisition of land or an interest in the land or for the disposal of land;
- applications by Aldermen for 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”.