



## Council Meeting Agenda Forum

Tuesday, 5 December 2023

### Notice of Meeting

Mayor & Councillors

A Council Meeting Agenda Forum of the City of Nedlands is to be held on Tuesday, 5 December 2023 in the Council chambers at 71 Stirling Highway Nedlands commencing at 6pm.

This meeting will be livestreamed [Livestreaming Council & Committee Meetings » City of Nedlands](#)

**Tony Free | Acting Chief Executive Officer**

7 December 2023



## Information

Council Meeting Agenda Forum are run in accordance with the City of Nedlands Governance Framework Policy. If you have any questions in relation to the agenda, procedural matters, addressing the Council or attending these meetings please contact the Executive Officer on 9273 3500 or [council@nedlands.wa.gov.au](mailto:council@nedlands.wa.gov.au)

## Public Question Time

Public Questions are dealt with at the Ordinary Council Meeting.

## Deputations

Members of the public may make presentations or ask questions on items contained within the agenda. Presentations are limited to 5 minutes. Members of the public must complete the online registration form available on the City's website: [Public Address Registration Form | City of Nedlands](#)

## Disclaimer

Members of the public who attend Council Meetings Agenda Forum should not act immediately on anything they hear at the meetings, without first seeking clarification of Council's position. For example, by reference to the confirmed Minutes of Council meeting. Members of the public are also advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

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## 1. Declaration of Opening

The Presiding Member will declare the meeting open at 6.00 pm and will draw attention to the disclaimer on page 2 and advised the meeting is being livestreamed.

## 2. Present and Apologies and Leave of Absence (Previously Approved)

Leave of Absence (Previously Approved) Nil.

Apologies None as at distribution of this agenda.

## 3. Public Question Time

Public questions will be dealt with at the Ordinary Council Meeting.

## 4. Deputations

Deputations by members of the public who have completed Public Address Registration Forms.

## 5. Requests for Leave of Absence

Any requests from Council Members for leave of absence will be dealt with at the Ordinary Council Meeting.

## 6. Petitions

Petitions will be dealt with at the Ordinary Council Meeting.



## **7. Disclosures of Financial Interest**

The Presiding Member to remind Council Members and Staff of the requirements of Section 5.65 of the Local Government Act to disclose any interest during the meeting when the matter is discussed.

A declaration under this section requires that the nature of the interest must be disclosed. Consequently, a member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration.

However, other members may allow participation of the declarant if the member further discloses the extent of the interest. Any such declarant who wishes to participate in the meeting on the matter, shall leave the meeting, after making their declaration and request to participate, while other members consider and decide upon whether the interest is trivial or insignificant or is common to a significant number of electors or ratepayers.

## **8. Disclosures of Interests Affecting Impartiality**

The Presiding Member to remind Council Members and Staff of the requirements of Council's Code of Conduct in accordance with Section 5.103 of the Local Government Act. Council Members and staff are required, in addition to declaring any financial interests to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making procedure.

The following pro forma declaration is provided to assist in making the disclosure.

"With regard to the matter in item x ..... I disclose that I have an association with the applicant (or person seeking a decision). This association is ..... (nature of the interest).

As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly."

The member or employee is encouraged to disclose the nature of the association.

## **9. Declarations by Members That They Have Not Given Due Consideration to Papers**

This item will be dealt with at the Ordinary Council Meeting.

## **10. Confirmation of Minutes**

This item will be dealt with at the Ordinary Council Meeting.



**11. Announcements of the Presiding Member without discussion**

This item will be dealt with at the Ordinary Council Meeting.

**12. Members Announcements without discussion**

This item will be dealt with at the Ordinary Council Meeting.

**13. Matters for Which the Meeting May Be Closed**

For the convenience of the public, the following Confidential items are identified to be discussed behind closed doors, as the last items of business at this meeting.

**14. En Bloc Items**

This item will be dealt with at the Ordinary Council Meeting.

**15. Minutes of Council Committees and Administrative Liaison Working Groups**

**15.1 Minutes of the following Committee Meetings (in date order) are to be received:**

This is an information item only to receive the minutes of the various meetings held by the Council appointed Committees (N.B. This should not be confused with Council resolving to accept the recommendations of a particular Committee. Committee recommendations that require Council's approval should be presented to Council for resolution via the relevant departmental reports).

This item will be dealt with at the Ordinary Council Meeting.



**16. Divisional Reports - Planning & Development**

**16.1 PD51.12.23 – Consideration of Development Application – Additions and Alterations to Single House at 89 Watkins Road, Dalkeith**

<b>Meeting &amp; Date</b>	Council Meeting – 12 December 2023
<b>Applicant</b>	Design Management Group
<b>Information Provided</b>	All relevant information required has been provided.
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter. There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants.
<b>Report Author</b>	Nathan Blumenthal – Acting Manager Urban Planning
<b>Director</b>	Roy Winslow – Acting Director Planning and Development
<b>Attachments</b>	1. Zoning Map 2. Development Plans 3. DBCA Referral Advice 4. CONFIDENTIAL ATTACHMENT - Submissions

**Purpose**

The purpose of this report is for Council to consider a development application for additions and alterations to a single house at 89 Watkins Road, Dalkeith. The proposal is being presented to Council for consideration due to the proposal receiving an objection within the consultation period. Council is specifically requested to exercise its judgement in considering the merits of the application against the design principles for the following aspects of the proposal:

- Carport, garage and an outbuilding within the primary street setback (see report section Street Setback)
- North and West lot boundary setbacks (see report section Lot Boundary Setback)
- Visual privacy from raised pool terrace (see report section Visual Privacy)

**Recommendation**

**That Council:**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, approves the development application in accordance with the plans date stamped 17 October 2023 for additions and alterations to a single house at 89 Watkins Road, Dalkeith (DA22-81970), subject to the following conditions:**





1. This approval relates only to the development as indicated on the approved plans dated 17 October 2023. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.
2. All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.
3. Prior to the issue of a demolition permit and a building permit, a Demolition or Construction Management Plan (as appropriate) shall be submitted and approved to the satisfaction of the City. The approved Demolition and Construction Management Plans shall be observed at all times throughout the construction and demolition processes to the satisfaction of the City.
4. The street tree(s) within the verge in front of the lot are to be protected and maintained through the duration of the demolition and construction processes to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner's expense and to the satisfaction of the City of Nedlands.
5. Prior to occupation, walls on or adjacent to lot boundaries are to be finished externally to the same standard as the rest of the development in:
  - a. Face brick;
  - b. Painted render;
  - c. Painted brickwork; or
  - d. Other clean finish as specified on the approved plans.

And are to be thereafter maintained to the satisfaction of the City of Nedlands

6. The street tree(s) within the verge in front of the lot are to be protected and maintained through the duration of the demolition and construction processes to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner's expense and to the satisfaction of the City of Nedlands.
7. Prior to occupation, a deed of agreement or other suitable arrangements, are to be made for the payment of funds to the City of Nedlands for the implementation and maintenance of the landscaping within the Parks and Recreation reserve for a period of ten (10) years as shown on the approved landscape plans. The agreement shall be prepared by the City's solicitors, to the satisfaction of the City, and at the landowner/applicants cost.
8. All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands. Prior to the issue of a building permit the applicant is to submit stormwater drawings to demonstrate that stormwater infrastructure is be designed to accommodate the 1%AEP rainfall event fully on site without any overflow into the road reserve or adjacent properties.



**DBCA Conditions**

- 9. Within twelve (12) months of the completion of the approved works, an amended landscape plan is to be implemented to the satisfaction of the City of Nedlands on the advice of the Department of Biodiversity, Conservation and Attractions.
- 10. The applicant shall take appropriate preventative measures to ensure that no construction material, sediment (including as a result of stormwater run-off), or rubbish enters the Parks and Recreation reserve or river as a result of the works.
- 11. Stormwater run-off from constructed impervious surfaces generated by small rainfall events (that is, the first 15 mm of rainfall) must be retained and/or detained and treated (if required) at-source as much as practical and will not be permitted to enter the river untreated.
- 12. No wastewater/backwash from the swimming pool is to be discharged onto the land, into the river or the local government drainage system.

**Voting Requirement**

Simple Majority.

This report is of a quasi judicial nature as it is a matter that directly affects a person’s rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal.

The decision must be made in a manner that is impartial, free from bias, and in accordance with the principles of natural justice. The decision must be made in having regard to the facts of the matter under consideration, and in accordance with the relevant laws and policies as they apply to that matter.

Discretionary considerations and judgments in the decision must be confined to those permitted to be considered under the laws and polices applicable to the matter and given such weight in making the decision as the relevant laws and polices permit them to be given.

**Background**

**Land Details**

<b>Metropolitan Region Scheme Zone</b>	Urban
<b>Local Planning Scheme Zone</b>	Residential
<b>R-Code</b>	R12.5
<b>Land area</b>	6409m <sup>2</sup>
<b>Land Use</b>	Residential – Single House
<b>Use Class</b>	‘P’ – Permitted Use

The site is located at 89 Watkins Road, Dalkeith, on the corner of Victoria Avenue. The site is made up of six green title lots with a total area of 6,409m<sup>2</sup>. This development application occurs over three of the lots closest to the river, lots 274 – 276. For the purposes of assessment, these three lots are considered the subject site. The subject site is 3,397m<sup>2</sup> in area, with a frontage of 74m. The site abuts the Swan Canning Development Control Area and a Metropolitan Region Scheme (MRS) “Parks and Recreation” reserve on its western boundary. To the north, the site abuts the Local Government boundary with the Town of Claremont.



Figure 1: Aerial image of 89 Watkins Road, Dalkeith

### Application Details

The application seeks development approval for additions and alterations to a single house at 89 Watkins Road, Dalkeith. The works include a new garage, porte cochere and parcel drop off building in the front setback area, and a new pavilion, pool, pool store and landscaping to the north-west of the site.

The application was originally lodged on 19 October 2022. Following the initial consultation period, the applicant submitted multiple revisions of amended plans to address concerns raised by the City, Department of Biodiversity, Conservation and Attractions (DBCA) and public submissions. The final plans for determination were received on 17 October 2023 (**Attachment 2**).

The changes proposed by the amended plans are summarised as follows:

- Reduction in height of eastern boundary wall from 6.8m-8.3m to 5.7m-8.2m.
- Introduction of varying materials and glazing into the existing eastern boundary wall.



- Increase in pool setback from eastern boundary from nil to 1.5m.
- Increase in pavilion setback from the northern boundary from nil to 1.5m.
- Increase in screen wall setback from the northern boundary from 1.5m to 2.3m.
- Provision of landscaping plan for the abutting foreshore reserve.

Previous additions and alterations to the single house have been approved by the City for partial demolition, internal layout changes, roof replacement and eaves additions and minor alterations to ground and first floor external walls. These works are currently being undertaken.

## Discussion

### Assessment of Statutory Provisions

If a proposal does not satisfy the deemed to-comply provisions of the State Planning Policy 7.3: Residential Design Codes (R-Codes), Council is required to exercise a judgement of merit to determine the proposal against the design principles of the R-Codes. The R-Codes require the assessment to consider the relevant design principle only and to not apply the corresponding deemed-to-comply provisions. It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the R-Codes. Further, it is considered unlikely that the development will have a significant adverse impact on the local amenity and character of the locality.

### Local Planning Scheme No. 3

Schedule 2, Clause 67(2) (Consideration of application by Local Government) – identifies those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections. Overall, the development is considered to meet these objectives, particularly in regard to height, scale, bulk and appearance, and the potential impact it will have on the amenity of the adjoining landowner and public open space.

### State Planning Policy 7.3 - Residential Design Codes – Volume 1

The R-Codes apply to all single and grouped dwelling developments. An approval under the R-Codes can be obtained in one of two ways. This is by either meeting the deemed-to-comply provisions or via a design principle assessment pathway.

The proposed development is seeking a design principle assessment pathway for parts of this proposal relating to street setback, lot boundary setback and visual privacy. As required by the R-Codes, Council, in assessing the proposal against the design principles, should not apply the corresponding deemed-to-comply provisions.

### Street Setback (Clause 5.1.2)

The development proposes a garage, carport (porte cochere) and outbuilding (parcel drop off) within the 9m street setback area. The design principles for lot boundary setbacks consider the impact of building bulk on adjoining properties and streetscape, providing adequate open



space for dwellings and site planning features. The proposed street setback is considered to meet the design principles for the following reasons:

- The Watkins Road frontage contains an existing solid street fence along the entire length, which varies in height between 1.0m and 4.8m given the slope of the land. Where the garage is to be located with nil setback, this has been designed to match the height of the existing fence and thereby will not be visible from the street.
- The six lots of 89 Watkins Road occupy the entire street block between the foreshore reserve and Victoria Avenue. In this regard the proposed street setback will not impact on any directly adjoining properties.
- In relation to the carport, this is setback a minimum of 3.9m from Watkins Road which lessens the impact to the street. Whilst the carport is larger in size than a typical carport, it is considered appropriate in the context of the large landholding.
- In relation to open space, the proposal meets the deemed-to-comply open space provisions thereby maintaining adequate open space for residents, parking, landscaping and utilities.

#### **Eastern Lot Boundary Setback (Clause 5.1.3 and DBCA).**

The development proposes to alter the existing limestone boundary wall on the western (riverfront) lot boundary. The existing wall is approximately 6.8m in height for a majority of its length, and 5.2m in height to the northern portion. This is proposed to be increased in height to 8.2m around the pool lounge area and to 5.7m to the pool planter area. A portion of the wall is also proposed to be decreased in height from 6.6m to 5.7m (see Figure 2). There are no provisions for deemed-to-comply boundary walls in the R12.5 code. This boundary wall is abutting the Swan Canning Development Control Area, and assessment of this wall is against State Planning Policy 2.10: Swan-Canning River System and Swan Canning Development Control Area policies. The DBCA have assessed the application against relevant policies and have advised that it has no objections to the proposal, subject to conditions being applied by the City in the event of approval.

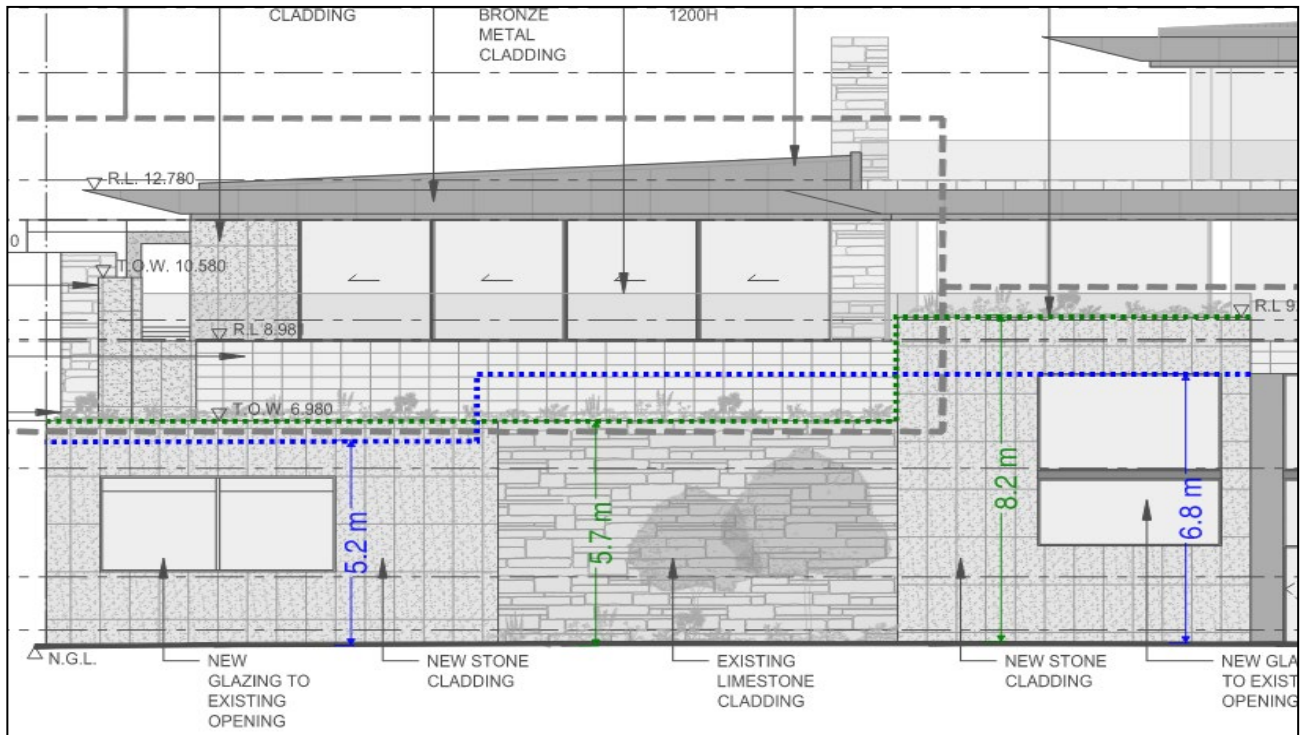


Figure 2: Diagram of existing western boundary wall height (blue) and proposed boundary wall height (green).

In addition to standard conditions, the DBCA have requested that the applicant implement landscaping within the adjoining Parks and Recreation' reserve to improve and soften the appearance of the development when viewed from the foreshore and the Swan River. It is acknowledged that the existing wall has a harsh interface with the reserve, and that this may be exacerbated by the proposed development. It is recommended that a condition be placed on any approval granted by Council for the applicant to provide funding for the planting of landscaping and its ongoing maintenance for a period of 10 years. Condition 7 has been recommended to this effect. In addition to the landscaping the existing wall is proposed to be altered to introduce a variety of materials and additional glazing to aid in breaking up the visual bulk of the wall as viewed from the river and foreshore reserve.

### Rear Lot Boundary Setback (Clause 5.1.3)

The development proposes a pavilion and screen wall within the 6m rear setback area to the northern lot boundary. The existing boundary wall on the eastern boundary is proposed to be increased in height by 0.4m. The design principles for lot boundary setbacks consider the impact of building bulk on adjoining properties, providing adequate sun and ventilation and minimising overlooking. The proposed northern lot boundary setback is considered to meet the design principles for the following reasons:

- This setback has been assessed as a rear setback as per the strict definition of the R-Codes. It is acknowledged that the orientation and design of the existing house relates to this lot boundary more as a typical side boundary. Were the screen wall to be assessed as a side boundary, this would meet the deemed-to-comply provisions, thereby indicating that it is generally acceptable in terms of bulk and scale. The screen wall is designed to minimise overlooking to the northern adjoining property.



- In relation to the pavilion, the 1.5m setback measurement has been taken to the overhanging eaves. The solid portion of wall is setback a minimum of 4.1m from the lot boundary. The large eaves proposed are open beneath thereby limiting the extent of building bulk imposed to the northern adjoining property, and ensuring adequate natural ventilation is maintained. The pavilion addition meets the deemed-to-comply visual privacy setbacks and does not result in overlooking of the adjoining property.
- The setbacks of the pavilion and screen wall are commensurate with the side setbacks of the adjoining property which is setback from the boundary between 1.5m to 2.4m. In this regard the proposed setbacks are consistent with the existing pattern of development.
- The increase in height to the existing boundary wall is to match the planter height on the eastern elevation. A portion of the wall is also proposed to be decreased in height by 0.3m. On balance the proposed alteration to the wall has minimal building bulk impact on the adjoining property. This portion of wall relates to a non-trafficable planter thereby does not result in any visual privacy concerns.
- All overshadowing from the proposed additions will fall within the subject site at midday 21 June, thereby there is no loss of natural sun to the adjoining property.

### **Visual Privacy (Clause 5.4.1)**

The development proposes a raised pool deck with a 3.2m visual privacy setback from the northern adjoining property. The design principles for visual privacy consider the impact of any direct overlooking into active habitable spaces and outdoor living area. The proposed pool deck is considered to meet the design principles for the following reasons:

- The area of overlooking falls upon a non-active undercroft area. It does not impact any major openings or active habitable spaces. The pool terrace has included a screen wall to minimise direct overlooking, and the remaining area of overlooking is oblique.
- Furthermore, the affected neighbour has noted within their submission that this area of overlooking 'is not a significant amenity concern'.

### **Minor Variations**

The key elements of the development proposal which require Council consideration have been outlined in this report. The application also involves technical variations to street walls and fences (Clause 5.2.4), sightlines (Clause 5.2.5), site works (Clause 5.3.7) and outbuildings (Clause 5.4.3). These are all technical variations with no adverse impact on the amenity of adjoining properties or surrounding areas.

### **Consultation**

The application is seeking assessment under the design principles of the R-Codes for street setback, lot boundary setback and visual privacy.

The development application was advertised in accordance with the City's Local Planning Policy - Consultation of Planning Proposals to ten properties. The application was advertised for a period of 14 days from 19 January to 3 February 2023. At the close of the advertising period, one objection was received. Administration engaged directly with the objector and conducted a site visit to their property. They were invited to provide comment on the amended



development plans dated 17 October 2023. The submission from this landowner remains unchanged.

The following is a summary of the concerns/comments raised and the Administration's response and action taken in relation to each issue:

1. Objection to rear (north) setback in relation to bulk and scale, access to natural ventilation and impact to views.  
The northern setback has been increased since the initial public consultation period to mitigate the impact of building bulk to the adjoining property. Consideration of the rear setback is outlined above.
2. Objection to northern boundary wall and concerns with boundary alignment.  
A condition of approval is recommended to ensure all works are wholly located within the lot boundaries of the subject site.
3. Objection to western setback in relation to bulk and scale and dominance over public realm.  
The visual impact of the western elevation of the property has been the focus of assessment by the DBCA and has led to a series of plan changes over the life of the application. The current plans subject to Council consideration are the culmination of this liaison with the DBCA and have been supported by the Department, subject to conditions.
4. Visual privacy concerns from the pool  
The R-Codes specifically excludes unenclosed swimming pools from the definition of 'habitable room/space', and thereby they are not subject to visual privacy controls. As outlined in the report above, the proposal does seek exercise of discretion in relation to visual privacy from the pool terrace. The submission has acknowledged this stating that it 'is not a significant amenity concern'.

## Strategic Implications

This item relates to the following elements from the City's Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Natural and Built Environment**  
We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

**Priority Area** Urban form - protecting our quality living environment

## Budget/Financial Implications

Nil.





## Legislative and Policy Implications

Council is requested to make a decision in accordance with clause 68(2) of the [Deemed Provisions](#). Council may determine to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl.68(2)(b)), or refuse the development (cl.68(2)(c)).

## Decision Implications

If Council resolves to approve the proposal, development can proceed after receiving a Building Permit and necessary clearances.

In the event of a refusal, the applicant will have a right of review to the State Administrative Tribunal. The Tribunal will have regard to the R-Codes as a State Planning Policy. Similarly, should an applicant be aggrieved by one or more conditions of approval, this can be reviewed by the Tribunal.

## Conclusion

The application for additions and alterations to a single house has been presented for Council consideration due to an objection being received. The proposal is considered to meet the key amenity related elements of R-Codes Volume 1 and, as such, is unlikely to have a significant adverse impact on the local amenity of the area. The proposal has been assessed and satisfies the design principles of the R-Codes in relation to being consistent with the immediate locality and streetscape character.

Accordingly, it is recommended that the application be approved by Council, subject to conditions of Administration's recommendation.

## Further Information

Nil



- Labels
- House Numbers
- Road Names
- Boundaries
- Nedlands LGA Boundary
- Surrounding LGAs
- LPS3 RCodes
- Property Boundaries
- LPS3 Zones
  - Residential
  - Metropolitan Region Scheme
  - Parks and recreation
  - Waterways

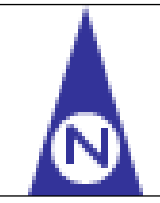


The City of Nedlands accepts no responsibility for the accuracy of this image or the results of any actions taken when using this image

Zoning Map

7/11/2023

1:1000



LOT No: 276 AREA : 1004m <sup>2</sup> C/T VOL: 1945/636	LOT No: 275 AREA : 1201m <sup>2</sup> C/T VOL: 1945/635	LOT No: 274 AREA : 1192m <sup>2</sup> C/T VOL: 1945/634	LOT No: 273 AREA : 1004m <sup>2</sup> C/T VOL: 1987/682	LOT No: 272 AREA : 1004m <sup>2</sup> C/T VOL: 1987/684	LOT No: 271 AREA : 1004m <sup>2</sup> C/T VOL: 1987/683
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City of Nedlands  
Amended Plans Received  
17 October 2023

TITLE DETAILS	
LOT NOS: 271 - 276	C/T VOL: see plan
PLAN: 2784	FOL: see plan

SURVEYOR SITE INSPECTION REPORT	
ELECTRICITY: UNDERGROUND	GAS: YES
TELECOM: YES	WATER: YES
SEWERAGE: YES (SEE THIS PLAN FOR DEPTHS TO JUNCTIONS)	
ROAD: HOTMIX	
KERB: SEMI MOUNTABLE / BARRIER	
FOOTPATH: CONCRETE	
VEGETATION: ESTABLISHED GARDENS, TREES & PALMS	
SOIL: SAND & POSSIBLE LIMESTONE AT DEPTH	
VIEWS: RIVER	
REPEG: SEE PLAN	REPEG TYPE: OLD SURVEY AREA

ONLY OBVIOUS VISIBLE SERVICES HAVE BEEN LOCATED. PRIOR TO ANY EXCAVATION, CONSTRUCTION OR DEMOLITION THE RELEVANT SERVICE AUTHORITIES MUST BE CONTACTED TO CONFIRM THE LOCATION OF ALL UNDERGROUND SERVICES.

LEGEND	
[Symbol] NBN PIT	[Symbol] TREE
[Symbol] TELECOM PIT	[Symbol] PALM TREE
[Symbol] COMMUNICATION PIT	[Symbol] GRASS TREE
[Symbol] ELECTRICITY	[Symbol] TREE STUMP
[Symbol] POWER DOME	[Symbol] BOLLARD
[Symbol] POWER POLE	[Symbol] STREET LAMP
[Symbol] FENCE END	[Symbol] GRATED DRAIN
[Symbol] COLUMN	[Symbol] SIDE ENTRY PIT
[Symbol] PILLAR	[Symbol] DRAINAGE MANHOLE
[Symbol] tw TOP OF WALL	[Symbol] tp TOP OF PILLAR
[Symbol] trw TOP OF RETAINING WALL	[Symbol] tf TOP OF RETAINING FENCE
[Symbol] tof TOP OF FOOTING	
[Symbol] GAS	[Symbol] IRRIGATION
[Symbol] HYDRANT	[Symbol] STOP VALVE
[Symbol] PRE-LAID WATER PIPE	[Symbol] WATER METER
[Symbol] SEWERAGE MANHOLE	[Symbol] SEWERAGE INSPECTION LID
[Symbol] SEWERAGE MANHOLE	[Symbol] SEWERAGE INSPECTION LID

**NOTES**

BLOCK LOCATED MORE THAN 1 KILOMETRE FROM THE OCEAN. This lot may be subject to 100 YEAR FLOOD PLAIN.

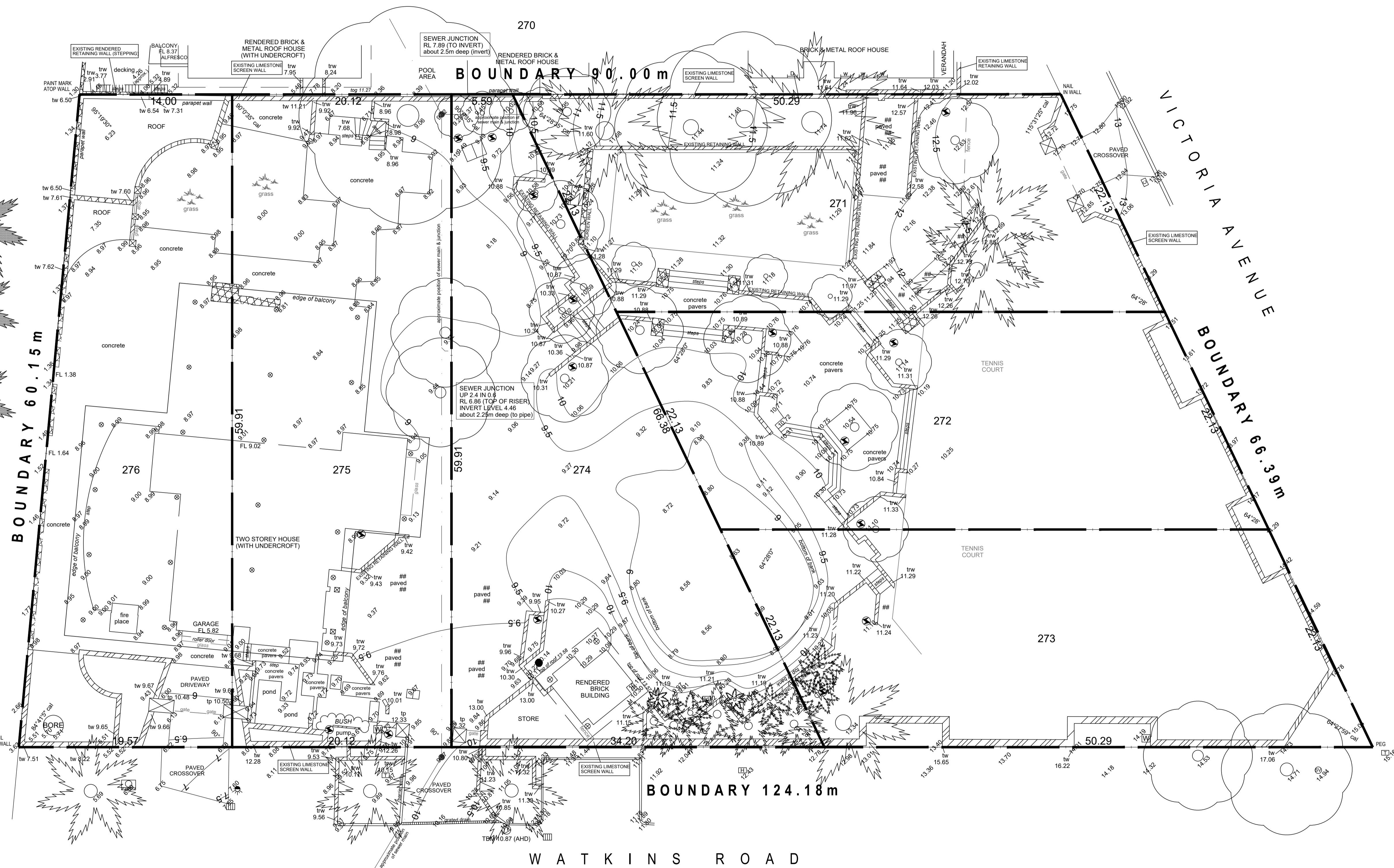
ALL SEWER DETAILS PLOTTED FROM INFORMATION SUPPLIED BY WATER CORPORATION SPATIAL INFORMATION MANAGEMENT. REFER TO THE DISCLAIMER NOTE ON WATER CORP E-PLAN.

PLUMBING CONTRACTORS TO CONFIRM SEWER DEPTHS BEFORE PIPE LAYING.

CHECK TITLE FOR EASEMENTS, CAVEATS & COVENANTS.

POSITION OF FEATURES HAVE BEEN SURVEYED IN RELATION TO CADASTRE BOUNDARIES.

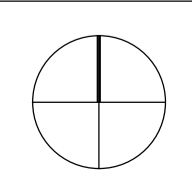
REPEG RECOMMENDED PRIOR TO CONSTRUCTION.



**FEATURE SURVEY**  
SCALE 1:200  
SURVEY BY R. G. LESTER & ASSOCIATES

SCALE  
1:200

PROJECT TITLE  
**PRIVATE RESIDENCE**  
89 WATKINS ROAD  
DALKEITH, WA 6009

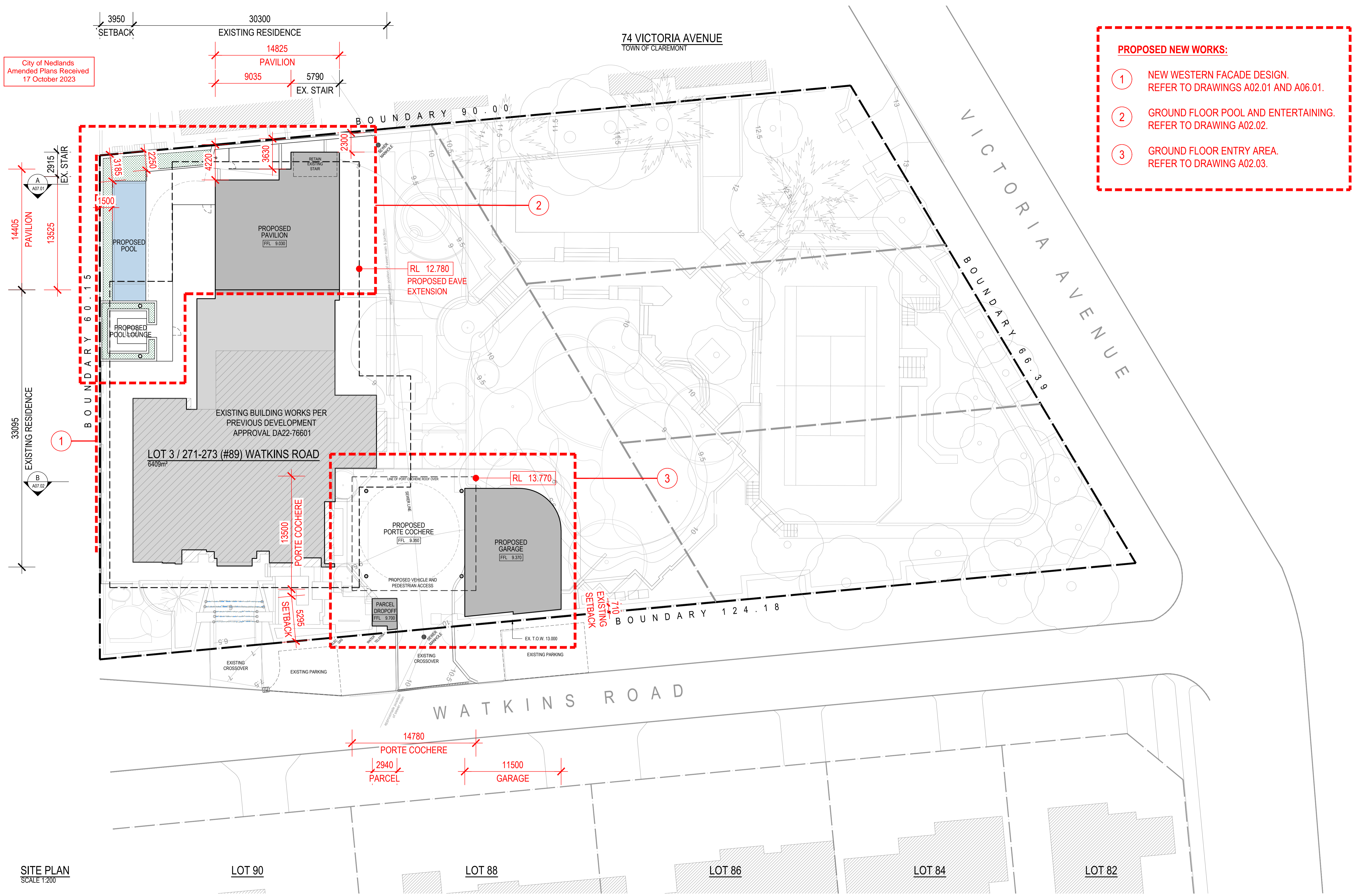


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PROJECT #  
20044  
DRAWING #  
**A01.01**

City of Nedlands  
Amended Plans Received  
17 October 2023

74 VICTORIA AVENUE  
TOWN OF CLAREMONT

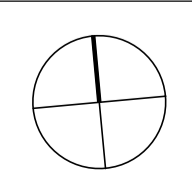


- PROPOSED NEW WORKS:**
- ① NEW WESTERN FACADE DESIGN. REFER TO DRAWINGS A02.01 AND A06.01.
  - ② GROUND FLOOR POOL AND ENTERTAINING. REFER TO DRAWING A02.02.
  - ③ GROUND FLOOR ENTRY AREA. REFER TO DRAWING A02.03.

SITE PLAN  
SCALE 1:200

SCALE  
1:200

PROJECT TITLE  
**PRIVATE RESIDENCE**  
89 WATKINS ROAD  
DALKEITH, WA 6009

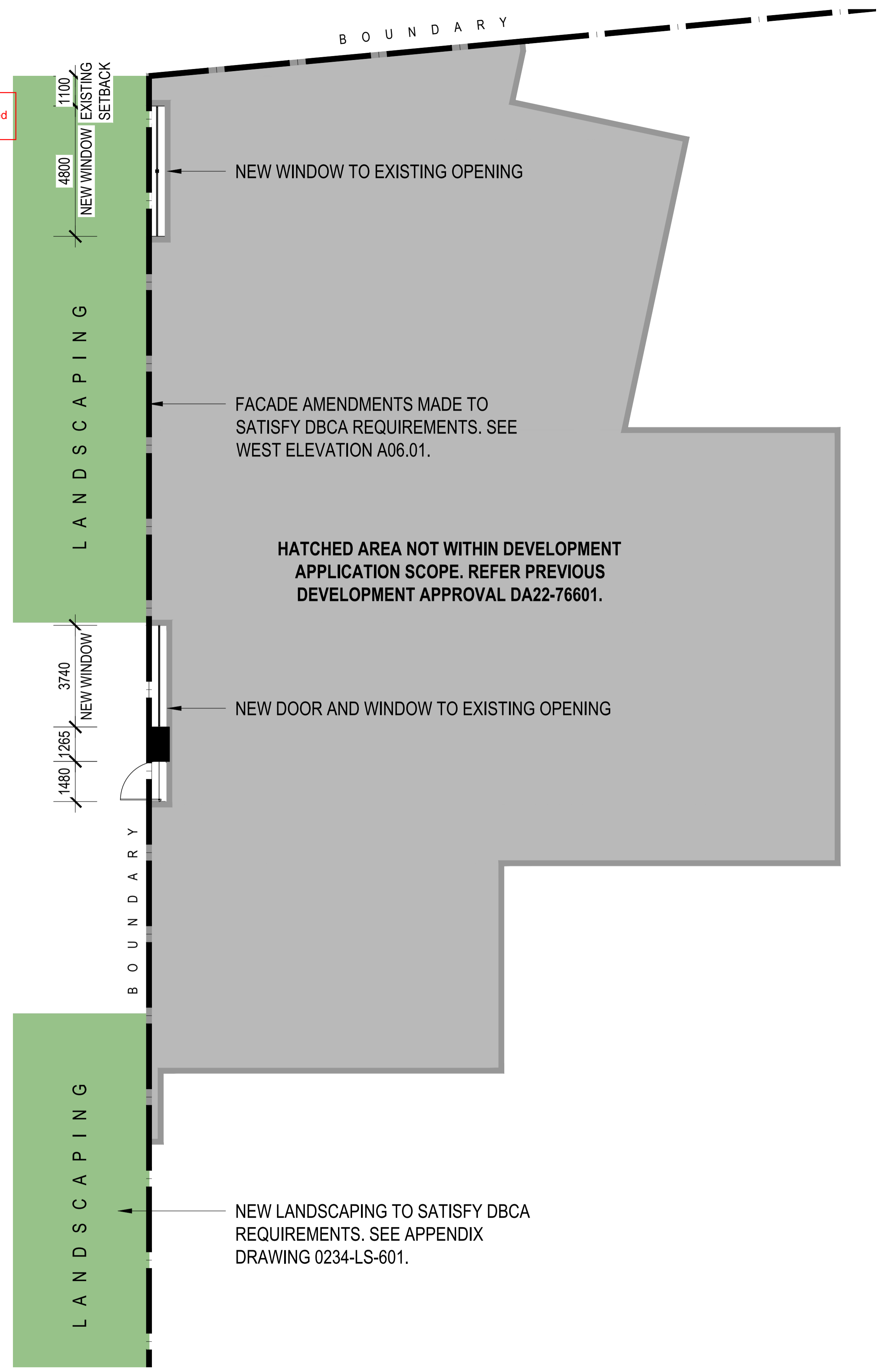


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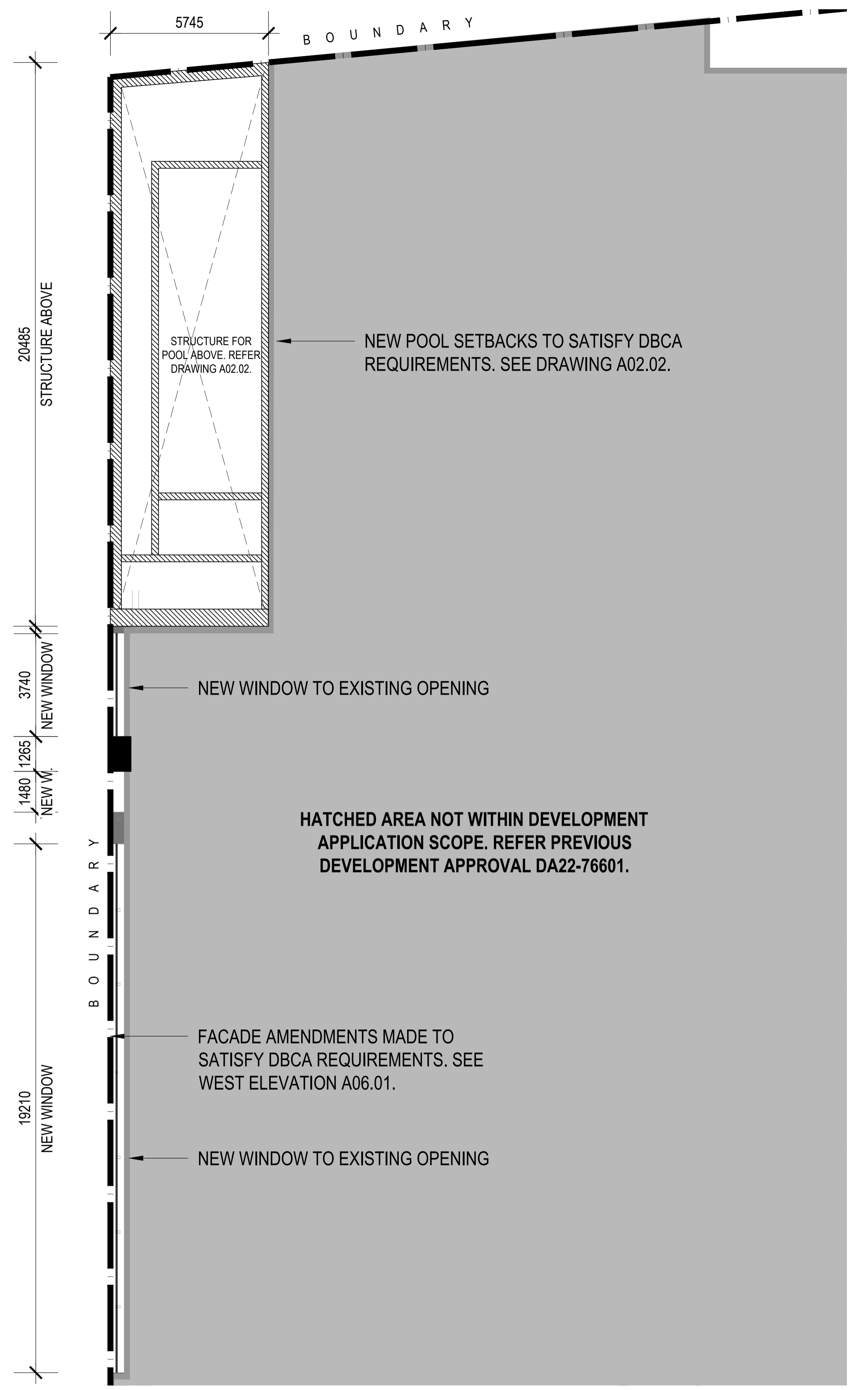
PROJECT #  
20044  
DRAWING #  
**A01.02**

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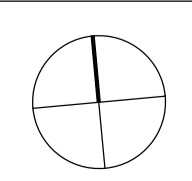
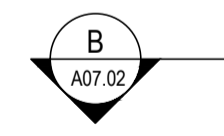
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17 October 2023



LOWER BASEMENT PLAN - ITEM 1  
SCALE 1:100



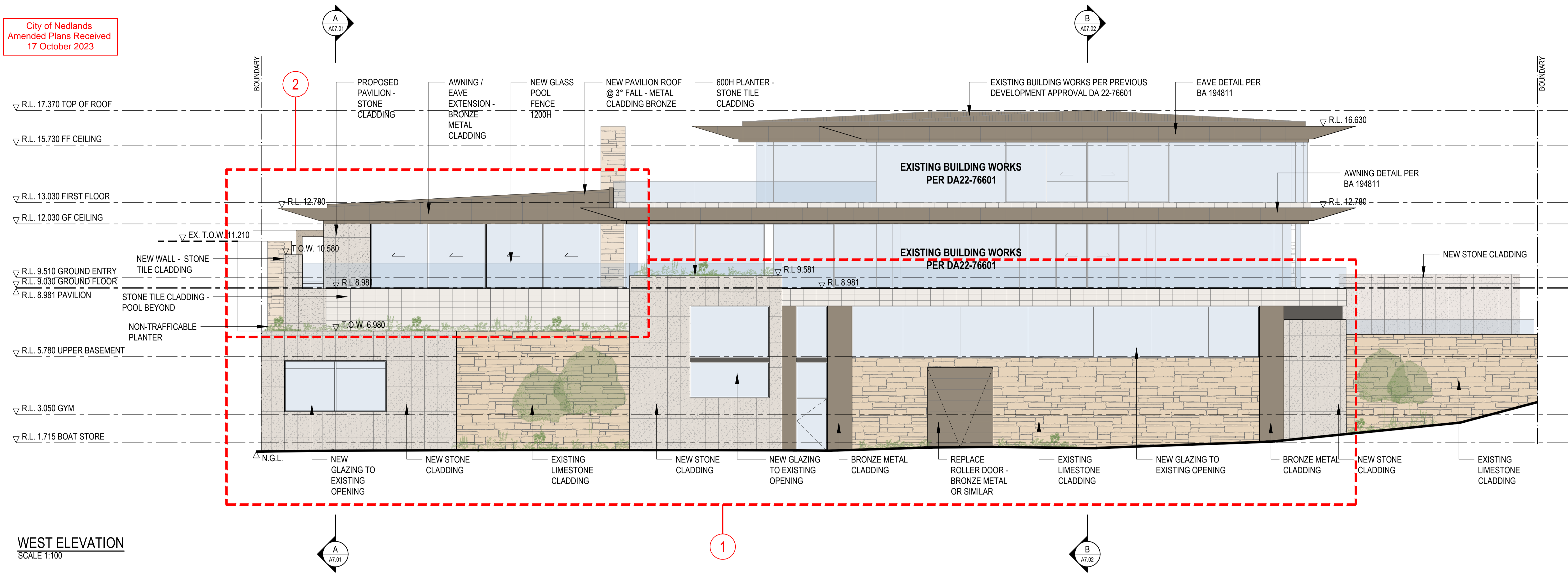
UPPER BASEMENT PLAN - ITEM 1  
SCALE 1:100



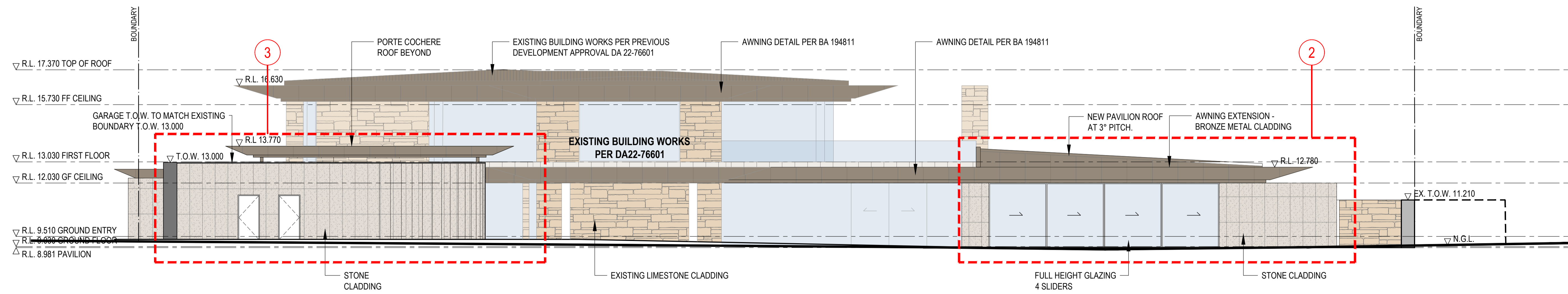




City of Nedlands  
Amended Plans Received  
17 October 2023



WEST ELEVATION  
SCALE 1:100



EAST ELEVATION  
SCALE 1:100

SCALE

1:100

PROJECT TITLE

**PRIVATE RESIDENCE**  
89 WATKINS ROAD  
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PROJECT #

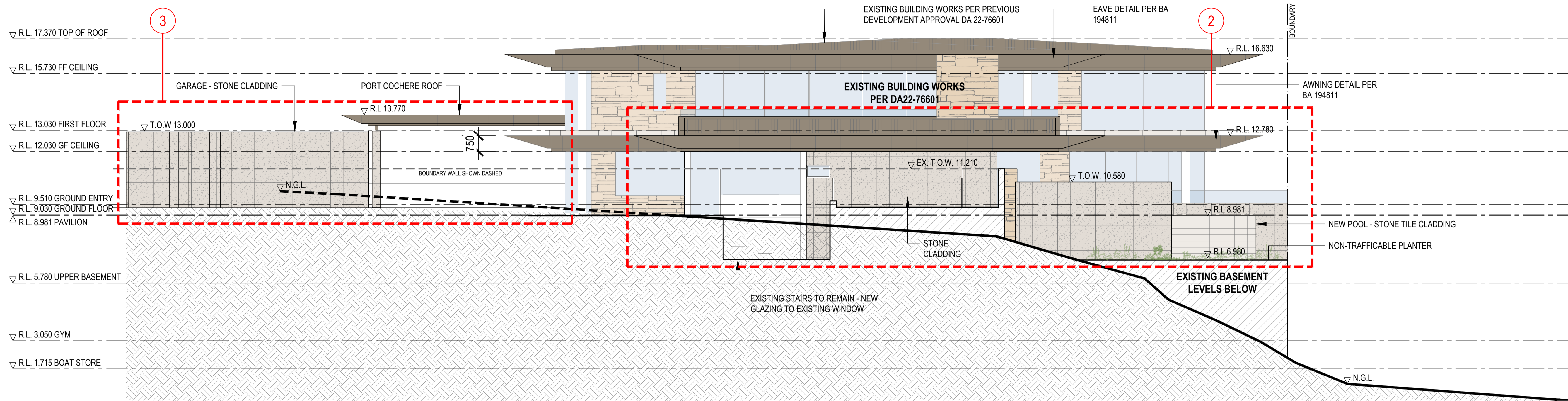
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DRAWING #

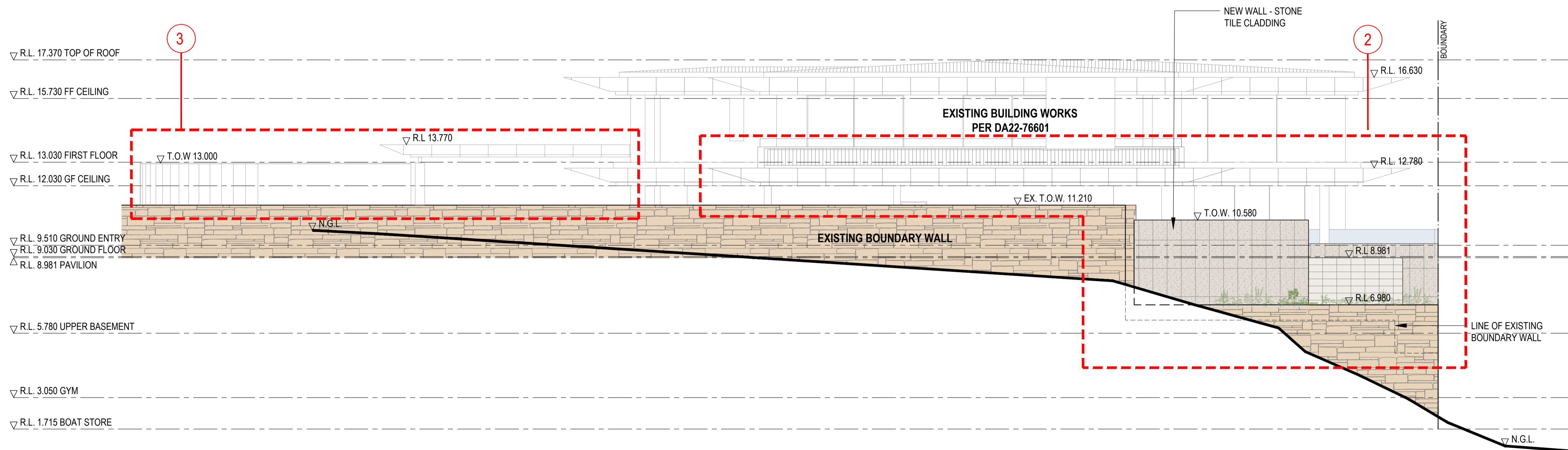
**A06.01**



City of Nedlands  
Amended Plans Received  
17 October 2023



**NORTH ELEVATION**  
SCALE 1:100



**WATKINS ROAD ELEVATION**  
SCALE 1:100

SCALE

1:100

PROJECT TITLE

**PRIVATE RESIDENCE**  
89 WATKINS ROAD  
DALKEITH, WA 6009

**DMG**  
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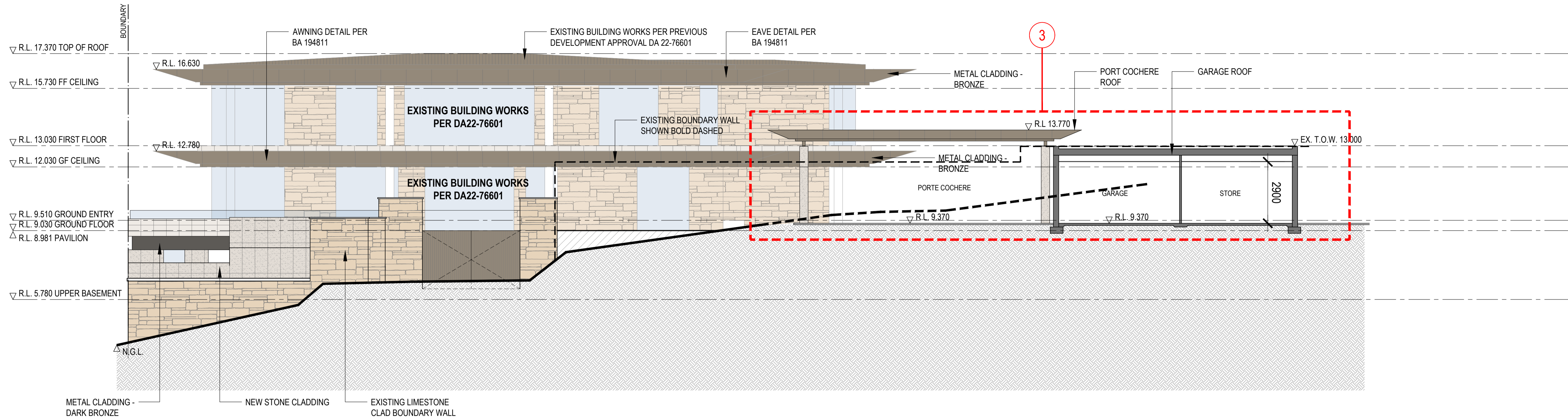
PROJECT #

20044

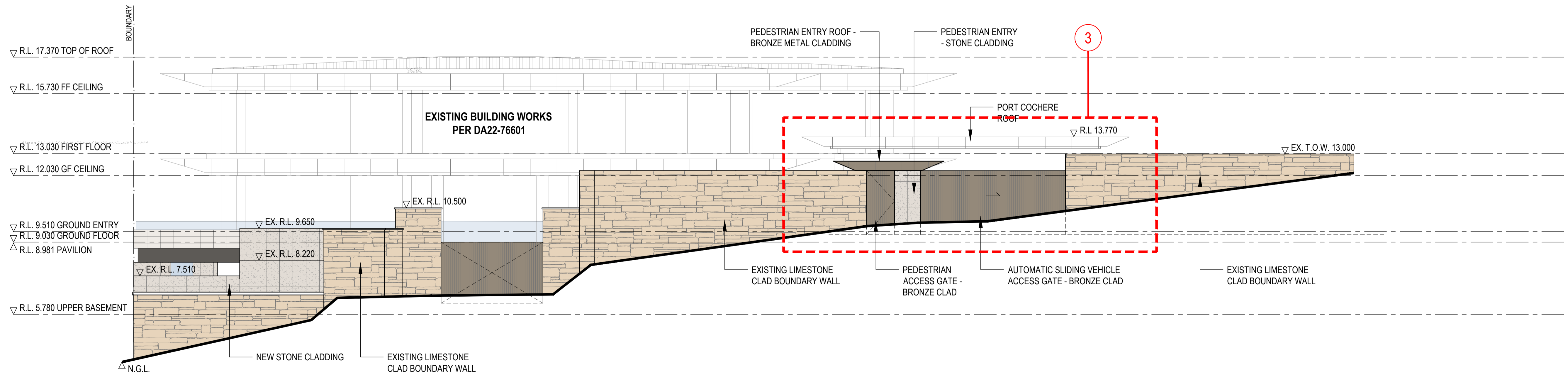
DRAWING #

**A06.02**

City of Nedlands  
Amended Plans Received  
17 October 2023



**SOUTH ELEVATION**  
SCALE 1:100



**SOUTH BOUNDARY WALL ELEVATION**  
SCALE 1:100

SCALE

1:100

PROJECT TITLE

**PRIVATE RESIDENCE**  
89 WATKINS ROAD  
DALKEITH, WA 6009

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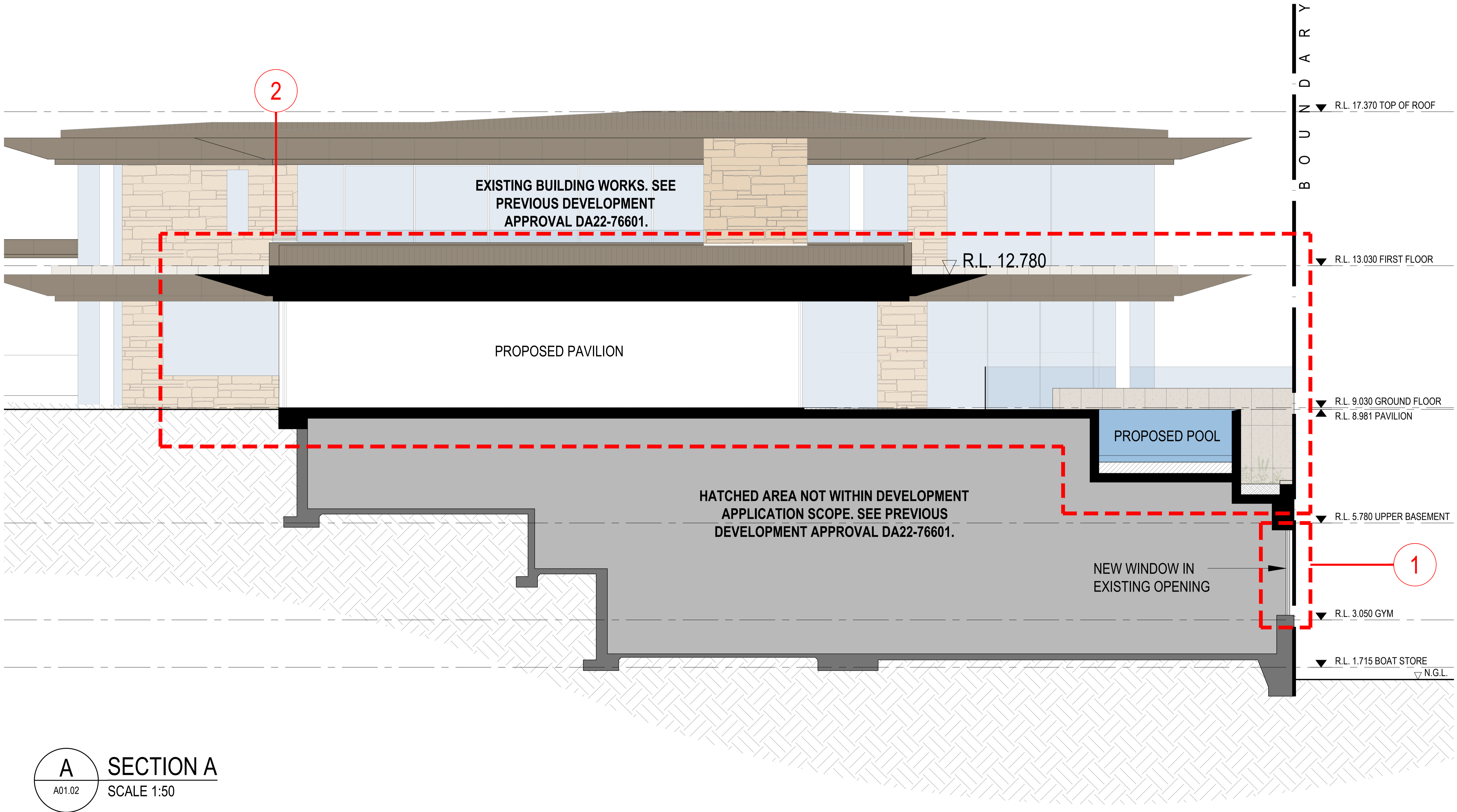
PROJECT #

20044

DRAWING #

**A06.03**

City of Nedlands  
Amended Plans Received  
17 October 2023



**A** SECTION A  
A01.02 SCALE 1:50

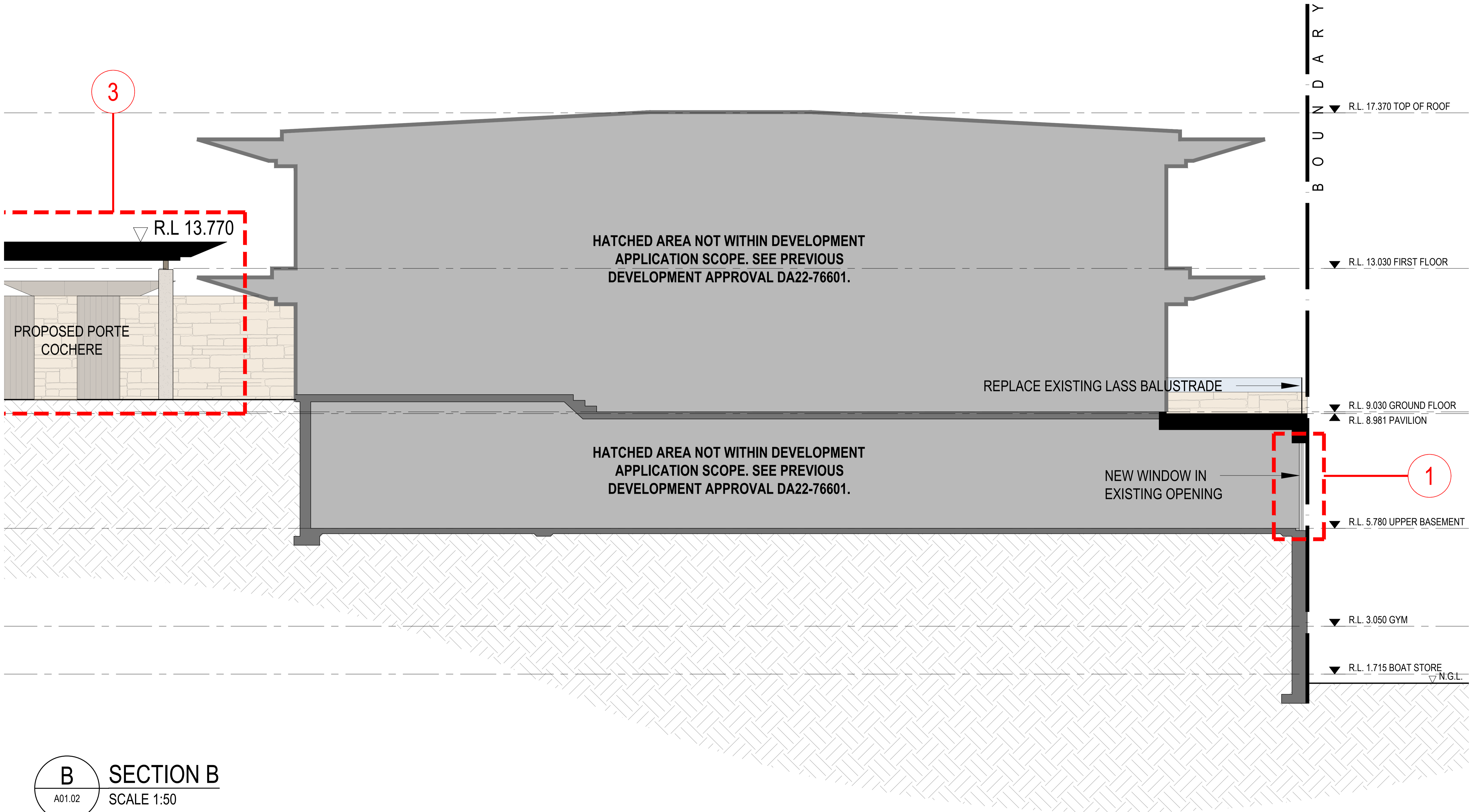
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PROJECT TITLE  
**PRIVATE RESIDENCE**  
89 WATKINS ROAD  
DALKEITH, WA 6009

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PROJECT #  
20044  
DRAWING #  
**A07.01**

City of Nedlands  
Amended Plans Received  
17 October 2023



**B** SECTION B  
A01.02 SCALE 1:50

SCALE  
1:50

PROJECT TITLE  
**PRIVATE RESIDENCE**  
89 WATKINS ROAD  
DALKEITH, WA 6009

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www.dmgaustralia.com.au

PROJECT #  
20044  
DRAWING #  
**A07.02**



Department of **Biodiversity,  
Conservation and Attractions**



Your ref: DA22-81970  
Our ref: 2022/2351  
Enquiries: Josie Watson  
Phone: 9278 0910  
Email: josie.watson@dbca.wa.gov.au

Mr Bill Parker  
Chief Executive Officer  
City of Nedlands  
PO BOX 9  
NEDLANDS WA 6909

Attention: Chantel Weerasekera

Dear Mr Parker

**CLAUSE 30A(2)b(i) – ADDITIONS TO SINGLE HOUSE – LOTS 271-276 (89) WATKINS ROAD DALKEITH**

Thank you for providing the Swan River Trust (the Trust) with the opportunity to comment on the above development application received on 26 October 2022 and amended plans received on 31 August 2023.

The proposal is being processed pursuant to Clause 30A(2)b(i) of the Metropolitan Region Scheme, as the proposed development is on a lot that abuts land within the Swan Canning Development Control Area (DCA).

The Department of Biodiversity, Conservation and Attractions (DBCA) has assessed the application on behalf of the Trust against *State Planning Policy 2.10: Swan-Canning River System* and Swan Canning Development Control Area policies, and you are advised that DBCA has no objections to the proposal as outlined in the amended plans received on 31 August 2023, subject to the following:

**CONDITIONS**

1. Within twelve (12) months of the completion of the approved works, an amended landscape plan is to be implemented to the satisfaction of the City of Nedlands on the advice of the Department of Biodiversity, Conservation and Attractions (see **Advice Note 1**).
2. The applicant shall take appropriate preventative measures to ensure that no construction material, sediment (including as a result of stormwater run-off), or rubbish enters the Parks and Recreation reserve or river as a result of the works.
3. Stormwater run-off from constructed impervious surfaces generated by small rainfall events (that is, the first 15 mm of rainfall) must be retained and/or detained and treated (if required) at-source as much as practical and will not be permitted to enter the river untreated.
4. No wastewater/backwash from the swimming pool is to be discharged onto the land, into the river or the local government drainage system (see **Advice Note 3**).

**Rivers and Estuaries Branch**  
Locked Bag 104, Bentley Delivery Centre, Western Australia 6983  
Phone: (08) 9219 9000 Email: rivers.planning@dbca.wa.gov.au  
www.dbca.wa.gov.au

**ADVICE TO APPLICANT**

1. With regards to **Condition 1**, the landscape plan required is to improve and soften the appearance of the development when viewed from the foreshore and the Swan River. The applicant is advised to submit a permit application to the Department of Biodiversity, Conservation and Attractions (DBCA) for the Landscape Plan and implement the works within twelve (12) months of the date of completion of the approved development.
2. The owner / applicant is advised that under Clause 22 of the Swan and Canning Rivers Management Regulations *A person must not, unless the person has a permit to do so, launch a vessel directly from a trailer into any waters in the Riverpark or development control area except at a permitted launching place.* The owner should also note that approval has not been granted to drive any vehicle to or from the dwelling over the Parks and Recreation reserve.
3. With regards to **Condition 4**, the applicant is advised that the Department of Biodiversity, Conservation and Attractions does not permit the discharge of swimming pool water or backwash water into wetlands, waterways or drains that lead to waters within the Swan Canning Development Control Area. The use of limestone-lined soak wells may be appropriate to carry out this function. More information on the safe storage and application of pool chemicals can be found at [Water Quality Protection Note 55 Swimming Pools](#), Department of Water and Environmental Regulation.

If you have any queries regarding this matter, please contact the officer above. Please quote the above reference number in all correspondence.

Yours sincerely



Greg Comiskey  
Manager, Statutory Assessments  
As delegate of the Swan River Trust  
Under Section 28B(2) of the SCRM Act 2006

13 October 2023



**16.2 PD52.12.23 – Consideration of Development Application – Three Grouped Dwellings at 38 Ord Street, Nedlands**

<b>Meeting &amp; Date</b>	Council Meeting – 12 December 2023
<b>Applicant</b>	Big Sky Developments
<b>Information Provided</b>	All relevant information required has been provided.
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter. There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants.
<b>Report Author</b>	Nathan Blumenthal – Acting Manager Urban Planning
<b>Director</b>	Roy Winslow – Acting Director Planning and Development
<b>Attachments</b>	1. Zoning Map 2. Development Plans 3. Architectural Renders 4. CONFIDENTIAL ATTACHMENT - Submissions

**Purpose**

The purpose of this report is for Council to consider a development application for three grouped dwellings at 38 Ord Street, Nedlands. The proposal is being presented to Council for consideration due to the proposal receiving objections within the consultation period. Council is specifically requested to exercise its judgement in considering the merits of the application against the design principles for:

- Street setback (see section of report – Street Setback)
- Outdoor living areas (see section of report – Outdoor Living Area)

**Recommendation**

That Council:

In accordance with Clause 68(2)(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, approves the development application in accordance with the plans date stamped 18 November 2023 for three grouped dwellings at 38 Ord Street, Nedlands (DA23-88429), subject to the following conditions:

1. This approval relates only to the development as indicated on the approved plans dated 18 November 2023. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.
2. All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.



3. Prior to the issue of a building permit, a Demolition Permit and Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Demolition Plan and Construction Management Plan shall be observed at all times throughout the demolition and construction process to the satisfaction of the City.
4. Prior to the issue of a building permit, all clothes-drying areas shall be screened from view from the primary street to the satisfaction of the City of Nedlands.
5. Prior to occupation, walls on or adjacent to lot boundaries are to be finished externally to the same standard as the rest of the development in:
  - a. Face brick;
  - b. Painted render;
  - c. Painted brickwork; or
  - d. Other clean finish as specified on the approved plans.

And are to be thereafter maintained to the satisfaction of the City of Nedlands.

6. Prior to occupation, Bed 3 (Lot 1 and Lot 2) openings located on the southern elevation as annotated in red on the approved plans shall be screened in accordance with the Residential Design Codes by either:
  - a. fixed and obscured glass to a height of 1.6 metres above finished floor level; or
  - b. fixed screening devices to a height of 1.6 meters above finished floor level that are at least 75% obscure and made of a durable material; or
  - c. a minimum sill height of 1.6 metres above the finished floor level; or
  - d. an alternative method of screening approved by the City of Nedlands.

The required screening shall be thereafter maintained to the satisfaction of the City of Nedlands.

7. Prior to occupation, landscaping shall be completed in accordance with the approved plans dated 18 November 2023 or any approved modifications, to the satisfaction of the City of Nedlands. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Nedlands.
8. Prior to occupation, the applicant is to plant one tree, with a minimum size of 35L, located on the Ord Street verge, at the expense of the applicant and to the specification of the City of Nedlands.
9. The street tree(s) within the verge in front of the lot are to be protected and maintained through the duration of the demolition and construction process to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner's expense and to the satisfaction of the City of Nedlands.





- 10. All stormwater discharge from the development shall be contained and disposed of on-site. Prior to a building permit being issued, stormwater disposal plans, details and calculations catering for the 1% AEP storm event of 60min duration must be submitted for approval by the City of Nedlands and thereafter implemented, constructed and maintained to the satisfaction of the City of Nedlands.

### Voting Requirement

Simple Majority.

This report is of a quasi judicial nature as it is a matter that directly affects a person’s rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal.

The decision must be made in a manner that is impartial, free from bias, and in accordance with the principles of natural justice. The decision must be made in having regard to the facts of the matter under consideration, and in accordance with the relevant laws and policies as they apply to that matter.

Discretionary considerations and judgments in the decision must be confined to those permitted to be considered under the laws and polices applicable to the matter and given such weight in making the decision as the relevant laws and polices permit them to be given.

### Background

#### Land Details

<b>Metropolitan Region Scheme Zone</b>	Urban
<b>Local Planning Scheme Zone</b>	Residential
<b>R-Code</b>	R60
<b>Land area</b>	Parent Lot: 696m <sup>2</sup> Strata Lot 1: 182m <sup>2</sup> Strata Lot 2: 160m <sup>2</sup> Strata Lot 3: 214 <sup>2</sup>
<b>Land Use</b>	Residential - Grouped Dwellings
<b>Use Class</b>	‘P’ – Permitted Use

The site is located at 38 Ord Street, Nedlands. The site features an existing single storey house, which is to be demolished. The site is orientated on an east west axis and is bound by Ord Street to the west. The parent lot is rectangular in shape with a 15.2m frontage and an area of 696m<sup>2</sup>. The site is relatively flat and features a 0.5m fall from west to east.

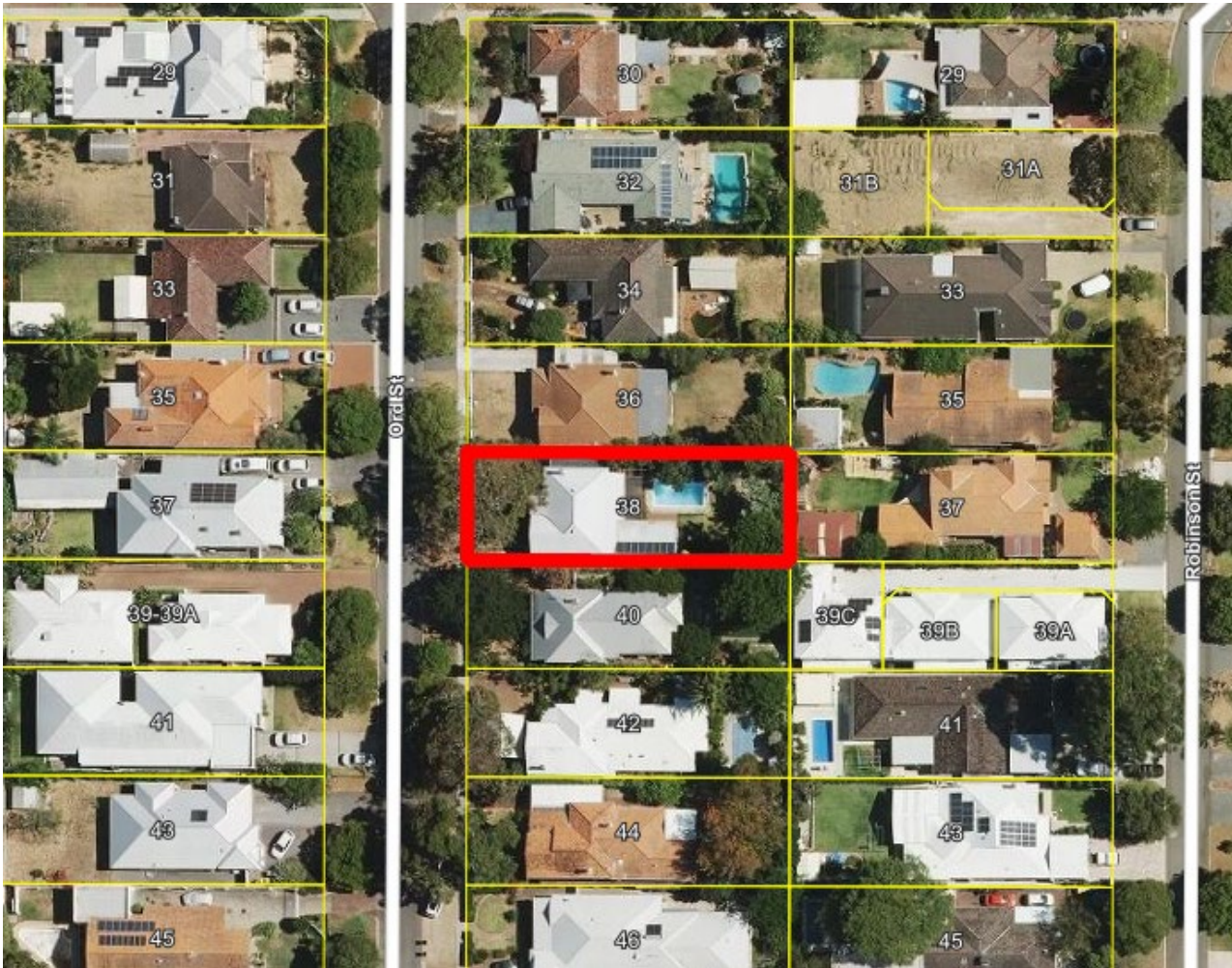


Figure 1: Aerial image of 38 Ord Street, Nedlands.

### Application Details

The application seeks development approval for the construction of three, two-storey grouped dwellings. The development proposes a single vehicle access and communal driveway from Ord Street.

Following the initial consultation period, the applicant provided amended plans on 18 November 2023 (**Attachment 2**) to address concerns raised by the City and the public submissions.

The changes proposed by the amended plans are summarised as follows:

- Reduction in southern boundary wall heights to all dwellings to achieve the deemed-to-comply provisions for lot boundary setbacks.
- Increase in upper floor southern lot boundary setbacks to all dwellings to achieve the deemed-to-comply provisions for lot boundary setbacks.
- Reduction in finished floor levels and relative levels to all dwellings by 0.3m.
- Increased Lot 1 balcony balustrade setback to the north to achieve the deemed-to-comply provisions for visual privacy.



- Reduction in ground levels and the extent of fill and retaining required.
- Reduction in overshadow cast to southern property.

## Discussion

### Local Planning Scheme No. 3

Schedule 2, Clause 67(2) (Consideration of application by Local Government) identifies those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections. Overall, the development is considered to meet these objectives, particularly in regard to height, scale, bulk and appearance, and the potential impact it will have on the local amenity.

### State Planning Policy 7.3 - Residential Design Codes – Volume 1

The R-Codes apply to all single and grouped dwelling developments. An approval under the R-Codes can be obtained in one of two ways. This is by either meeting the deemed-to-comply provisions or via a design principle assessment pathway.

The proposed development is seeking a design principle assessment pathway for parts of this proposal relating to street setback and outdoor living areas.

If a proposal does not satisfy the deemed to-comply provisions of the State Planning Policy 7.3: Residential Design Codes (R-Codes), Council is required to exercise a judgement of merit to determine the proposal against the design principles of the R-Codes. The R-Codes require the assessment to consider the relevant design principle only and to not apply the corresponding deemed-to-comply provisions. It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the R-Codes. Further, it is considered unlikely that the development will have a significant adverse impact on the local amenity and character of the locality.

### Street Setback (Clause 5.1.2)

1. Lot 1 proposes a 3.2m ground and upper floor primary street setback to Ord Street.
2. Lot 3 proposes a 1.3m upper floor setback to the common property driveway.
3. Lot 1 southern boundary wall is located within 3m behind the street setback line.

The design principles for street setbacks consider the immediate and future streetscape, privacy, site planning requirements and building mass. The development meets the design principles as:

- The portion of building within the primary street setback area occupies 11m<sup>2</sup>. If an averaging of setbacks was applied, the encroachment is offset by 20m<sup>2</sup> free from building materials behind the setback line. This compensating area of open space will reduce the appearance of building bulk to the street and adjoining properties.
- The impact of bulk from Lot 1 is ameliorated by design features. The front façade provides varied materiality including face brick, perforated awnings, glass and metal. This combined



with the inclusion of flat roofs, gabled roofs and overhanging awnings will reduce the perceived impact of bulk on the streetscape.

- The internal street setbacks to the common property have no adverse impact on any external lots or the streetscape of Ord Street. Lot 3 provides a functional 4.8m setback to the northern adjoining lot and allows sufficient room for landscaping between the dwellings and the driveway.
- The street setbacks do not compromise open space across the lots with the open space for all lots achieving the deemed-to-comply provisions of the R-Codes.
- The proposal responds to site planning requirements, including vehicle access, parking and utility services. These site planning requirements are appropriately screened from the street where possible.
- The site features an existing mature verge tree outside of Lot 1. In addition, it is recommended that a condition of approval be placed to impose a second verge tree to be planted at the cost of the applicant. This will aid in softening the appearance of the dwelling as viewed from the street.
- Further, the street setback area of the proposal is heavily landscaped with the provision of grass, hedges and trees. This is complimentary to the desired character of the area as set out in NSHAC Residential Local Planning Policy as a 'leafy green suburb'.

### **Outdoor Living Areas (Clause 5.3.1)**

1. The outdoor living area for Lot 1 is located within the primary street setback area.
2. The outdoor living areas for Lot 1 and Lot 2 do not achieve the deemed-to-comply dimensions.

The design principles for outdoor living areas requires the space to be functional and usable, allow for winter sun and natural ventilation, the provision of landscaping and to facilitate street surveillance when in the front setback area. The development meets the design principles for the following reasons:

- The outdoor living areas for all lots are directly accessible from the primary living area of the dwellings via large sliding doors which promotes usability in conjunction with the indoor space.
- There is sufficient space to provide for landscaping, entertaining and connection to the outdoors. These spaces are both functional and usable and consist of paved areas with cantilevered roofs above, along with grassed areas, shrubs and the provision of tree planting.
- The location of Lot 1's outdoor living area positively contributes to the streetscape and provides passive surveillance to the street. The proposal includes the use of vegetation as privacy screening for the tenants. This increases the interaction between the dwelling and the street and enhances the ability to provide a greater amount of landscaping within the front setback area.
- All outdoor living areas are north-facing and largely uncovered to allow for winter sunlight exposure and natural ventilation.



## Local Planning Policy – 5.12 – Nedlands Stirling Highway Activity Corridor Residential

The NSHAC Residential Local Planning Policy requires all development within the policy area to be consistent with the desired future character statement of the policy. The development satisfies this requirement for the following reasons:

- The development is located within the R60 street block and maintains a two storey height and greater than adequate open space. This provides an appropriate transition between the existing low-density development of the surrounding streets and the proposed future higher density development of the area.
- The development contributes to the dwelling stock available in the locality through the addition of three efficiently designed grouped dwellings containing three to four bedrooms and three to four bathrooms each.
- Sustainability measures such as roof-mounted solar collectors and large north-facing windows to all dwellings contribute to an environmentally sustainable design.
- The City's Sustainable Landscaping Advice recommends to plant in accordance with the soil type. The development proposes the planting of Kangaroo Paw's and Dianella Revoluta throughout the site and within the front setback area. This is consistent with the LPP to safeguard the natural biodiversity within the City.

## Consultation

The application is seeking assessment under the design principles of the R-Codes for street setbacks and outdoor living areas.

The development application was advertised in accordance with the City's Local Planning Policy - Consultation of Planning Proposals to four adjoining properties. The application was advertised for a period of 14 days from 25 September 2023 to 9 October 2023. At the close of the advertising period, four objections were received.

The following is a summary of the concerns/comments raised and the Administration's response and action taken in relation to each issue:

1. The southern double storey boundary walls are imposing and will negatively impact the amenity of adjoining neighbours.

The amended plans received 18 November 2023 (**Attachment 2**) reduced all southern boundary walls to a maximum height of 3.5m. The proposed southern boundary walls now satisfy the deemed-to-comply provision in relation to lot boundary setbacks.

2. The reduced primary street setback is not in keeping with the desired future character and is imposing to the street.

The proposed primary street setback is considered to be consistent with NSHAC Residential Local Planning Policy desired future character statement through the provision of compensating open space behind the street setback line and a landscaped front yard. The proposed primary street setback is considered to achieve the design principles for street setbacks (see discussion above).



- 3. North facing windows and balconies to the north compromise privacy.

The amended plans received 18 November 2023 (**Attachment 2**) increased the balcony balustrade setback to the northern boundary. This resulted in the balcony achieving the visual privacy setback requirement for unenclosed outdoor active habitable spaces of 6.0m. The proposed development satisfies the deemed-to-comply provisions in relation to visual privacy.

- 4. Impacts of overshadowing to habitable spaces of the southern property.

The proposed development satisfies the deemed-to-comply provisions in relation to solar access for adjoining sites.

- 5. The proposed landscaping is lacking green canopy and the species listed will not contribute to the desired precinct vision.

The proposed development achieves the deemed-to-comply requirements in relation to landscaping. Each dwelling proposes a minimum of one 2m x 2m tree planting area. In addition, Lot 1 proposes 57% of the front setback area to be provided with soft landscaping. As discussed above in response to the NSHAC Residential Local Planning Policy, the proposed development as indicated in the Landscaping Plan (**Attachment 2**) includes the provision of endemic plants, consistent with the desired future character.

### Strategic Implications

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Natural and Built Environment**  
We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

**Priority Area** Urban form - protecting our quality living environment.

### Budget/Financial Implications

Nil.



## Legislative and Policy Implications

Council is requested to make a decision in accordance with clause 68(2) of the [Deemed Provisions](#). Council may determine to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl.68(2)(b)), or refuse the development (cl.68(2)(c)).

## Decision Implications

If Council resolves to approve the proposal, development can proceed after receiving a Building Permit and necessary clearances.

In the event of a refusal, the applicant will have a right of review to the State Administrative Tribunal. The Tribunal will have regard to the R-Codes as a State Planning Policy. Similarly, should an applicant be aggrieved by one or more conditions of approval, this can be reviewed by the Tribunal.

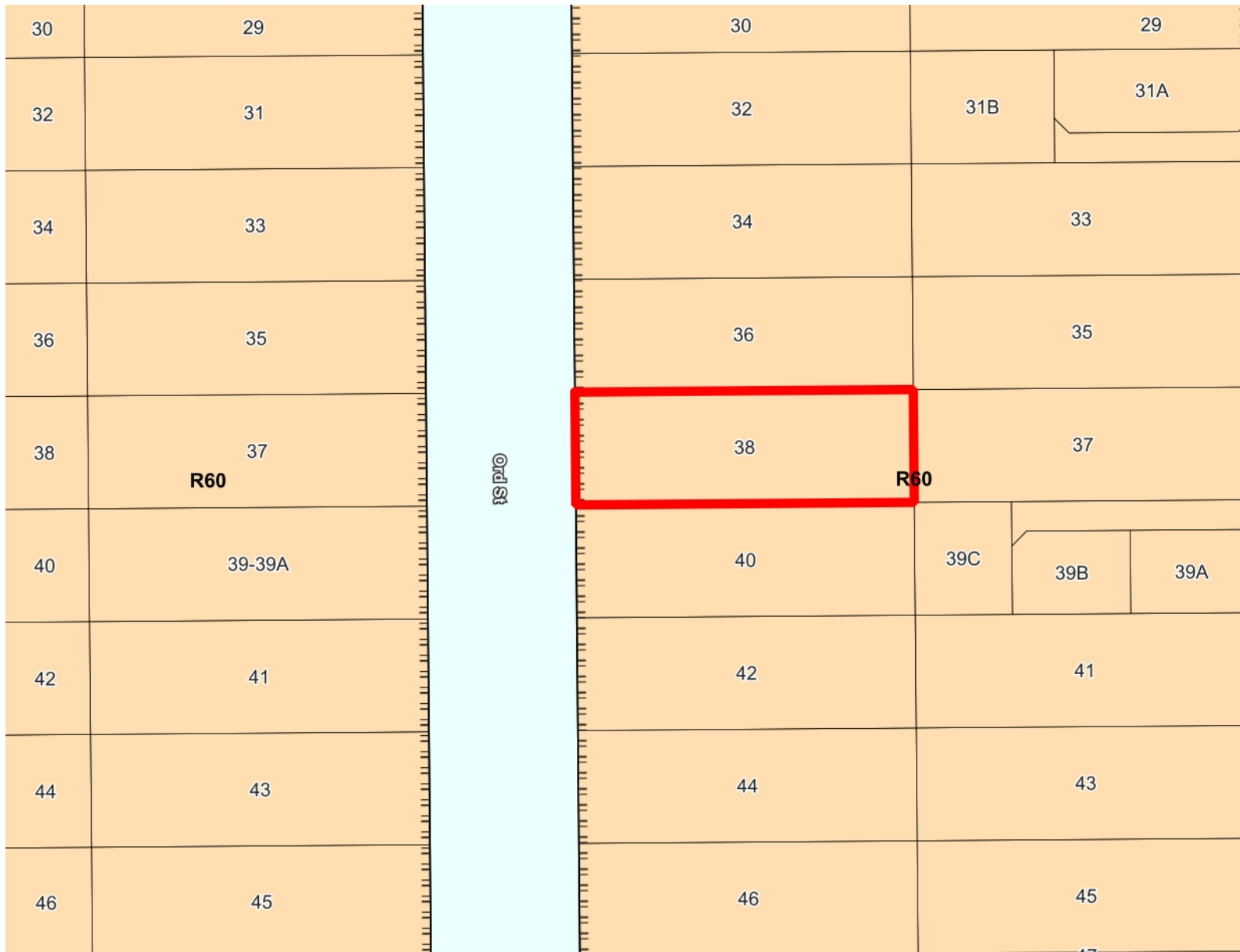
## Conclusion

The application for three grouped dwellings at 38 Ord Street, Nedlands has been presented for Council consideration due to objections being received. The proposal is considered to meet the key amenity related elements of R-Codes Volume 1 and, as such, is unlikely to have a significant adverse impact on the local amenity of the area. The proposal has been assessed and satisfies the design principles of the R-Codes and the City's LPP 5.12: NSHAC Residential Precinct in relation to being consistent with the immediate locality and streetscape character.

Accordingly, it is recommended that the application be approved by Council, subject to conditions.

## Further Information

Nil.



- Labels
- House Numbers
- Road Names
- LPS3 RCodes
- Property Boundaries
- LPS3 Zones
- Residential



The City of Nedlands accepts no responsibility for the accuracy of this image or the results of any actions taken when using this image

Zoning Map

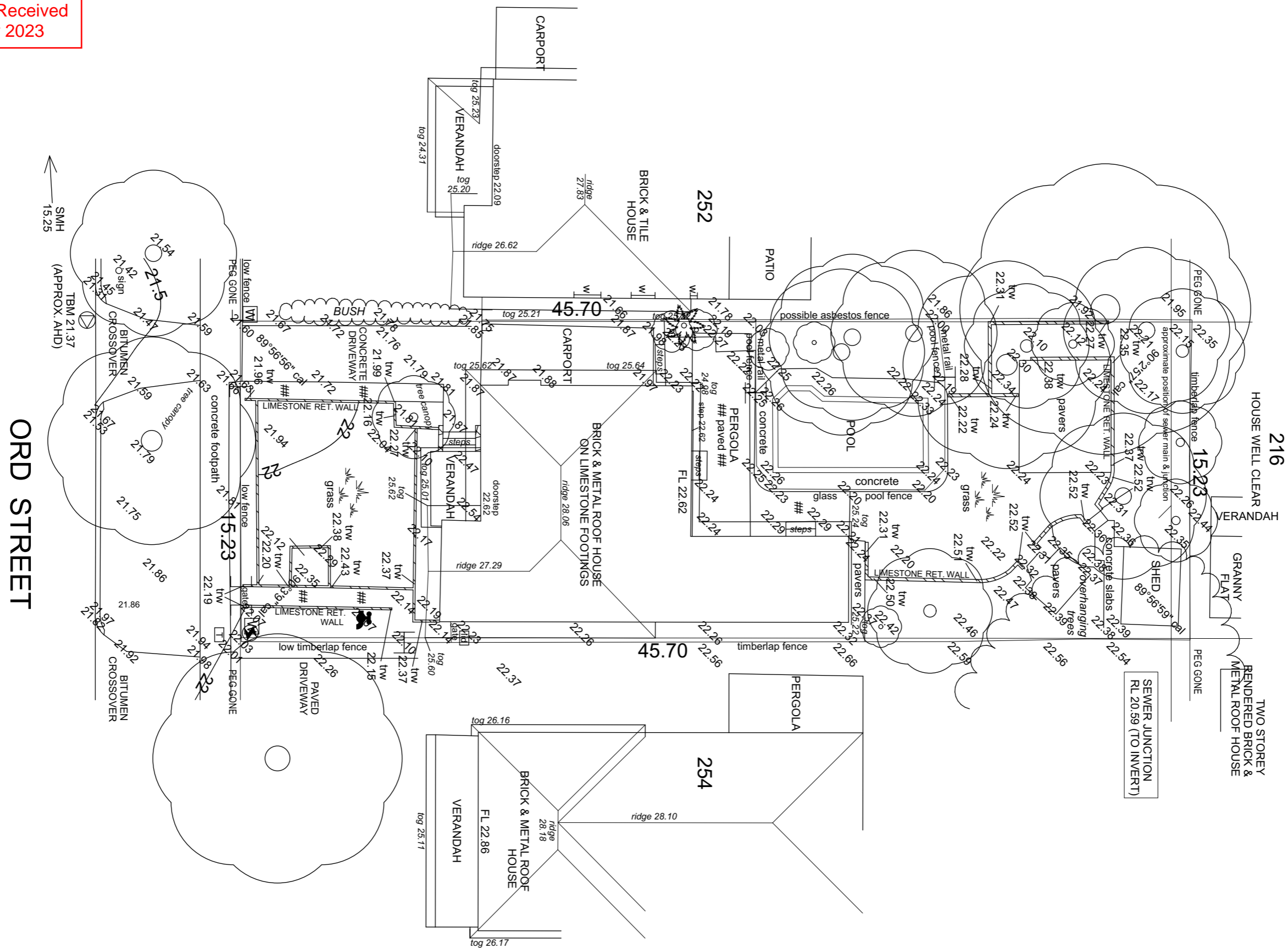
9/11/2023

1:800





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18 November 2023



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Drawn | Checked BT |  
 Plot Date: 3/11/2023  
 Project NO. #Project ID  
 Project Status #Project Status  
 Scale 1:200  
 Paper Size A3

DRAWING TITLE :

**SURVEY PLAN**

PROJECT NAME :

**38 ORD STREET**

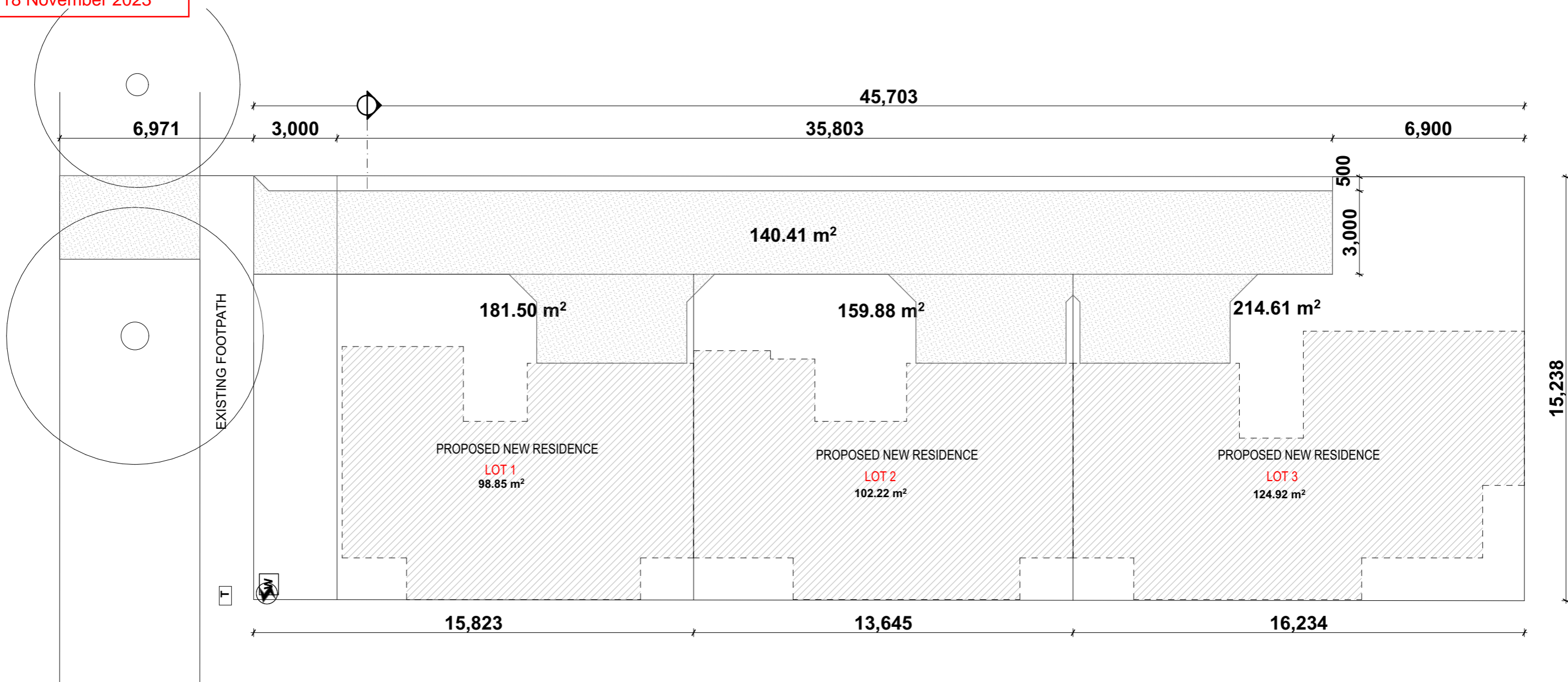
REVISION NO.

DRAWING NO.

**A001**

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ORD STREET



38 ORD STREET

COMMON DRIVEWAY	140.41 m <sup>2</sup>
LOT 1	181.50 m <sup>2</sup>
LOT 2	159.88 m <sup>2</sup>
LOT 3	214.61 m <sup>2</sup>
<b>TOTAL</b>	<b>696.40 m<sup>2</sup></b>

<b>LOT 1</b>	
TOTAL LOT AREA:	181.50 m <sup>2</sup>
BUILDING AREA:	98.85 m <sup>2</sup>
OPEN SPACE:	82.65 m <sup>2</sup> (45.5%)

<b>LOT 2</b>	
TOTAL LOT AREA:	159.88 m <sup>2</sup>
BUILDING AREA:	103.23 m <sup>2</sup>
OPEN SPACE:	56.65 m <sup>2</sup> (35.40%)

<b>LOT 3</b>	
TOTAL LOT AREA:	214.61 m <sup>2</sup>
BUILDING AREA:	124.92 m <sup>2</sup>
OPEN SPACE:	89.69 m <sup>2</sup> (41.80%)



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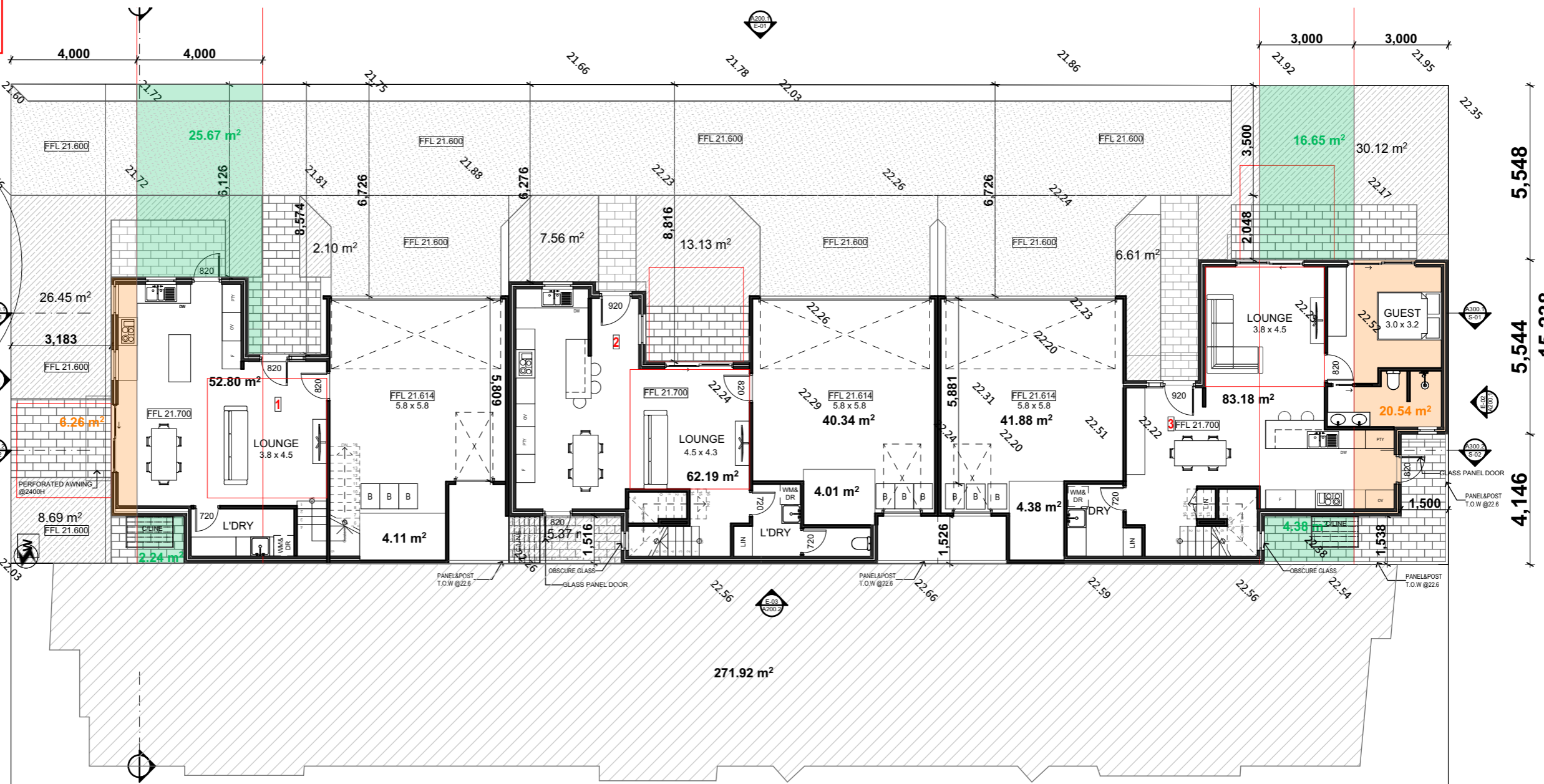
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Plot Date: 3/11/2023  
Project NO. #Project ID  
Project Status #Project Status  
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Paper Size A3

DRAWING TITLE :  
**STRATA PLAN**  
PROJECT NAME :  
**38 ORD STREET**

REVISION NO.  
  
DRAWING NO.  
**A100.1**

City of Nedlands  
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ORD STREET



**39.0% CAST SHADOW**  
OVERSHADOWING CALCULATIONS ARE  
CALCULATED @12pm ON 21<sup>ST</sup> JUNE

<b>LOT 1</b>
6.26m <sup>2</sup> OVER
25.78m <sup>2</sup> + 3.82m <sup>2</sup> = 29.6m <sup>2</sup> UNDER
<b>LOT 3</b>
4.56m <sup>2</sup> OVER
16.48m <sup>2</sup> + 4.39m <sup>2</sup> = 20.87m <sup>2</sup> UNDER



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Project NO. #Project ID  
Project Status #Project Status  
Scale 1:150  
Paper Size A3

DRAWING TITLE :

**GROUND FLOOR**

PROJECT NAME :

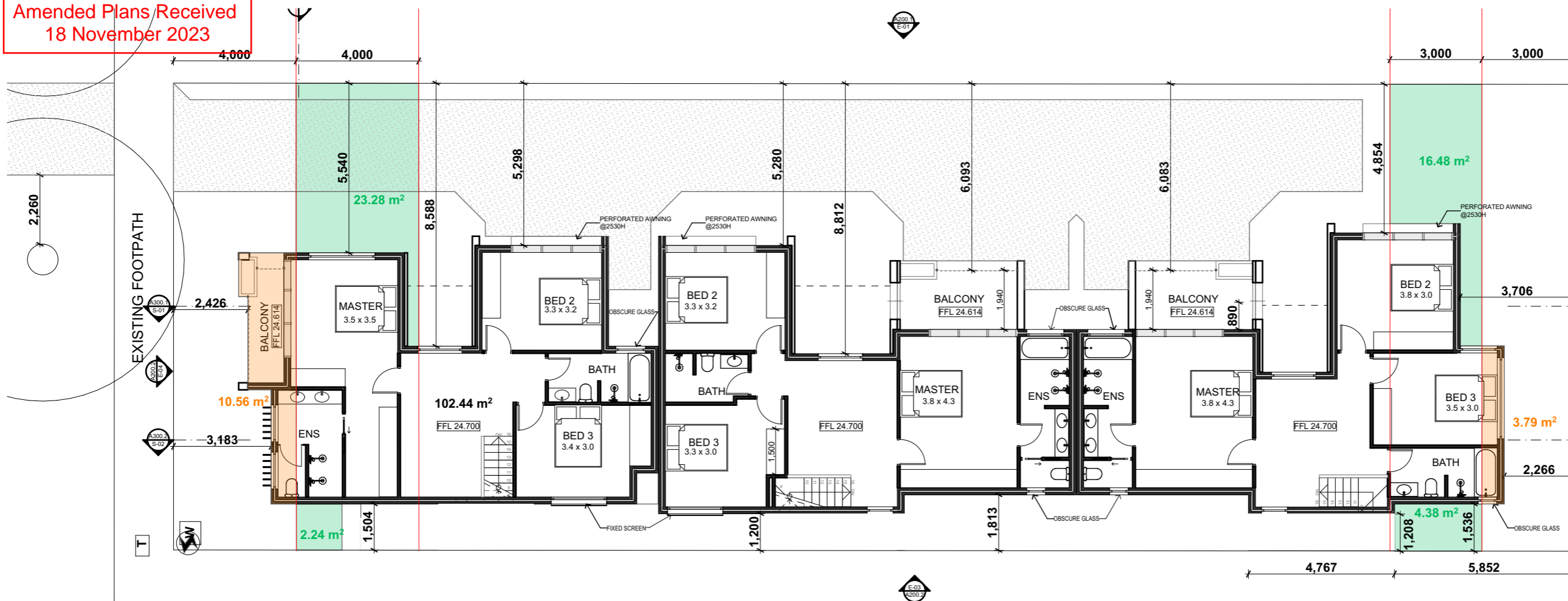
**38 ORD STREET**

REVISION NO.

DRAWING NO.

**A101.1**

City of Nedlands  
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18 November 2023



**LOT 1**  
 10.56m<sup>2</sup> OVER  
 23.37m<sup>2</sup> + 3.82m<sup>2</sup> = 27.19m<sup>2</sup> UNDER

**LOT 3**  
 4.56m<sup>2</sup> OVER  
 16.48m<sup>2</sup> + 4.38m<sup>2</sup> = 20.86m<sup>2</sup> UNDER



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 Plot Date: 3/11/2023  
 Project NO. #Project ID  
 Project Status #Project Status  
 Scale 1:150  
 Paper Size A3

DRAWING TITLE :

**FIRST FLOOR**

PROJECT NAME :

**38 ORD STREET**

REVISION NO.

DRAWING NO.

**A101.2**

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**NOTES:**  
 -'MONUMENT' COLORBOND COLOUR TO PITCHED ROOF  
 -'SURFMIST' COLORBOND COLOUR TO CONCEALED ROOF



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 Plot Date: 3/11/2023  
 Project NO. #Project ID  
 Project Status #Project Status  
 Scale 1:150  
 Paper Size A3

DRAWING TITLE :

**ROOF PLAN**

PROJECT NAME :

**38 ORD STREET**

REVISION NO.

DRAWING NO.

**A104**

City of Nedlands  
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ARCHICAD EDUCATION VERSION



E-01 NORTH ELEVATION  
1:150



E-04 1:100



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Plot Date: 3/11/2023  
Project NO. #Project ID  
Project Status #Project Status  
Scale 1:150, 1:100  
Paper Size A3

DRAWING TITLE :

ELEVATIONS 1

PROJECT NAME :

38 ORD STREET

REVISION NO.

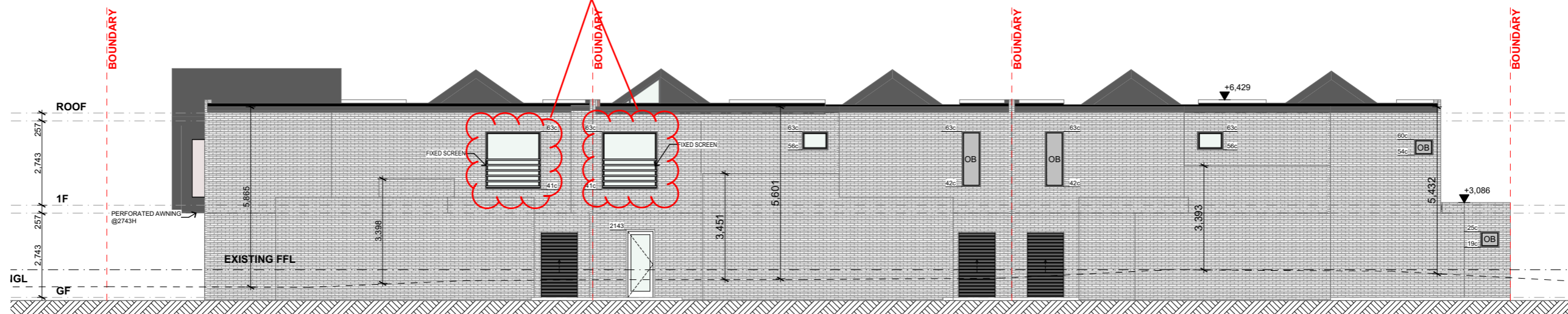
DRAWING NO.

A200.1

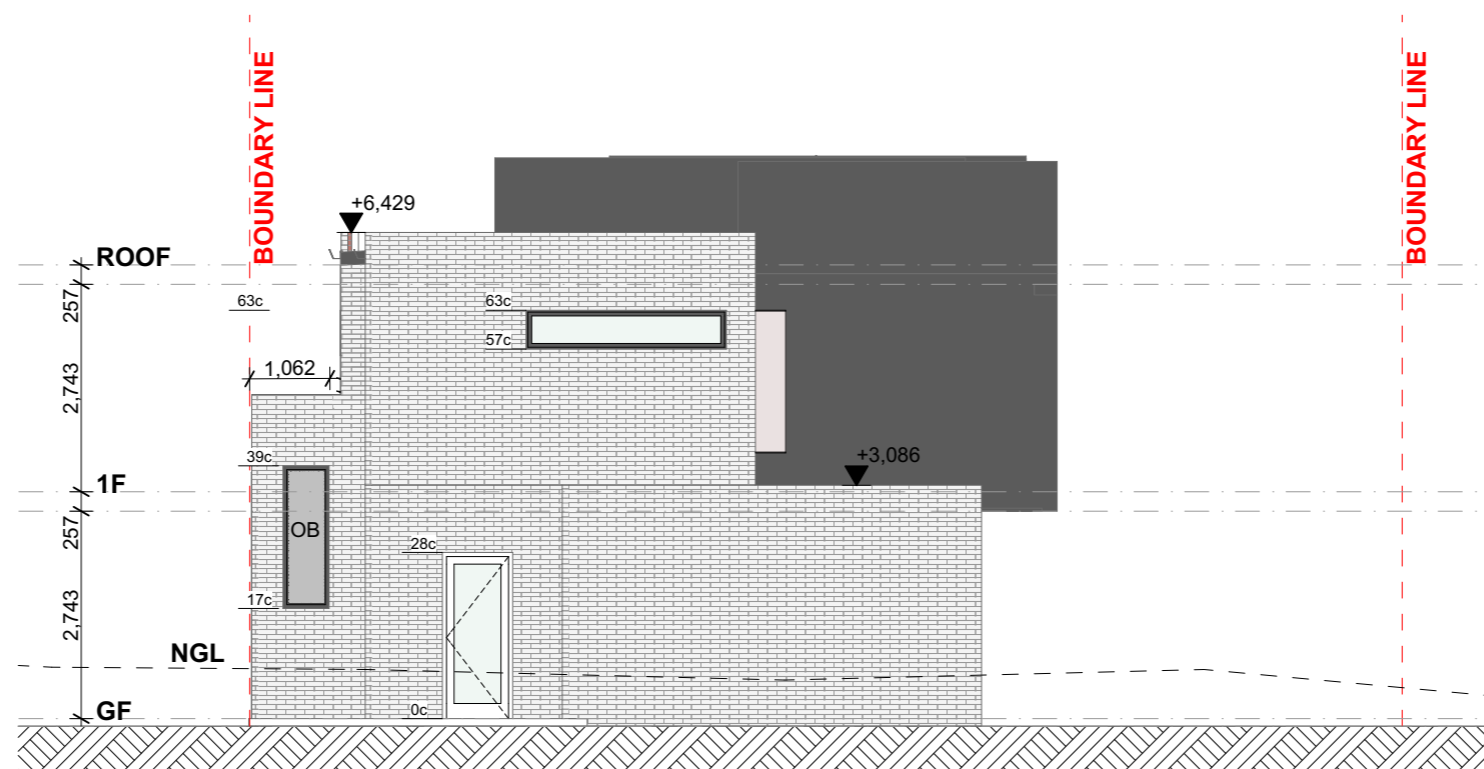
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Refer to Condition 6 of  
DA23-88429  
Determination Letter

ARCHICAD EDUCATION VERSION



E-03 1:150



E-02 EAST ELEVATION 1:100



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Project Status #Project Status  
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Paper Size A3

DRAWING TITLE :

ELEVATIONS 2

PROJECT NAME :

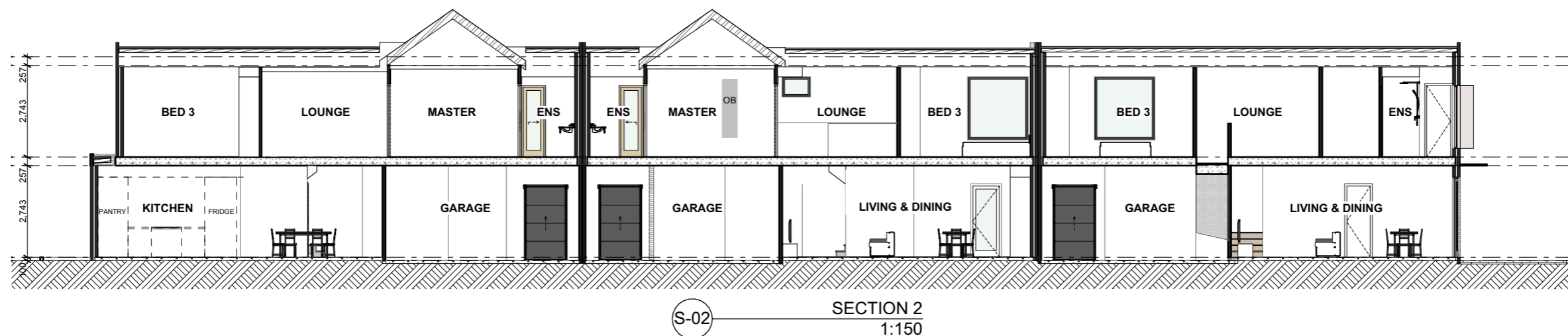
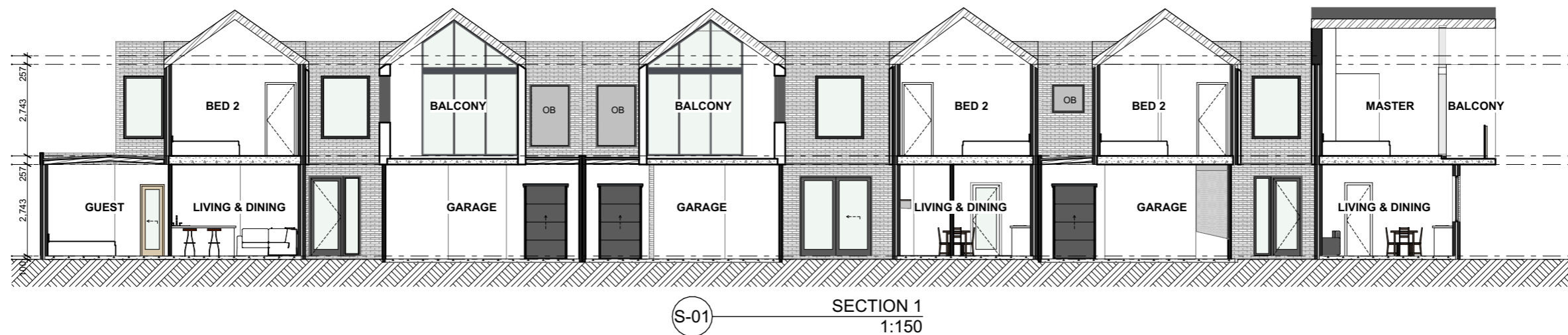
38 ORD STREET

REVISION NO.

DRAWING NO.

A200.2

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 Plot Date: 3/11/2023  
 Project NO. #Project ID  
 Project Status #Project Status  
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DRAWING TITLE :

**DEVELOPMENT SECTIONS**

PROJECT NAME :

**38 ORD STREET**

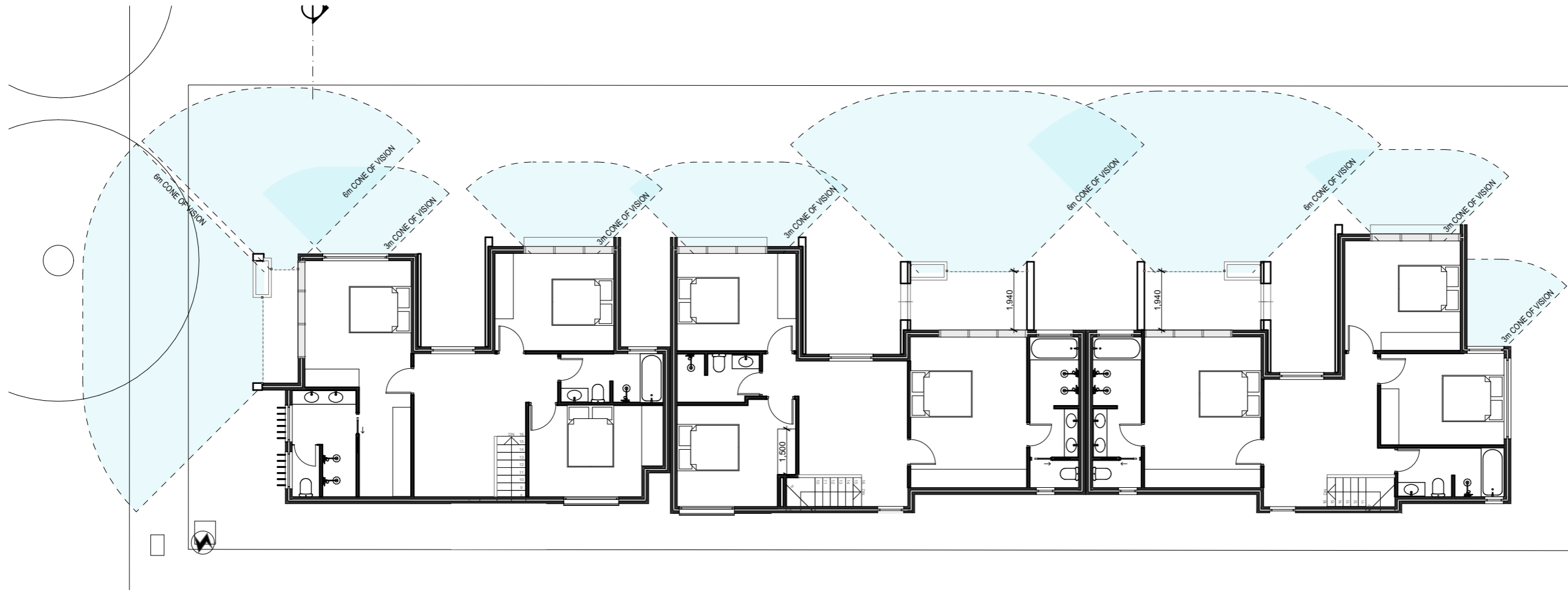
REVISION NO.

DRAWING NO.

**A300.1**



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 Plot Date: 3/11/2023  
 Project NO. #Project ID  
 Project Status #Project Status  
 Scale 1:150  
 Paper Size A3

DRAWING TITLE :

**VISUAL PRIVACY**

PROJECT NAME :

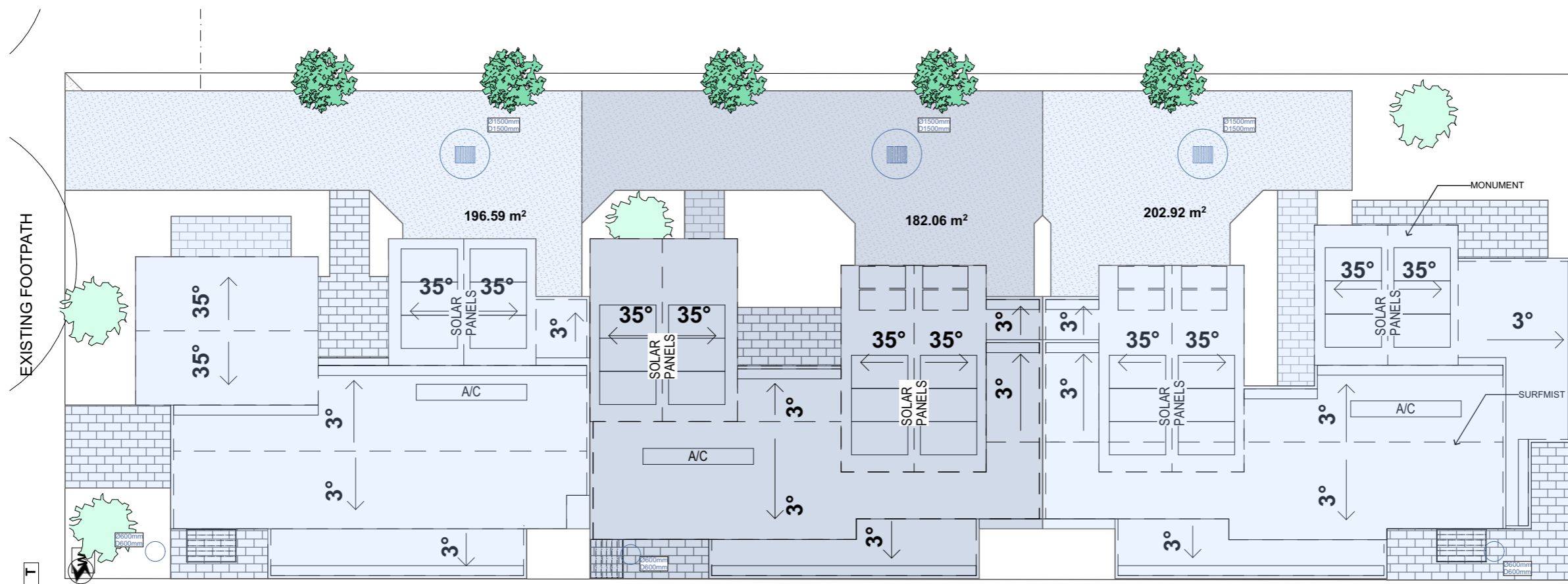
**38 ORD STREET**

REVISION NO.

DRAWING NO.

**A103**

City of Nedlands  
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Drawn | Checked BT |  
Plot Date: 3/11/2023  
Project NO. #Project ID  
Project Status #Project Status  
Scale 1:150  
Paper Size A3

DRAWING TITLE :

**STORMWATER PLAN**

PROJECT NAME :

**38 ORD STREET**

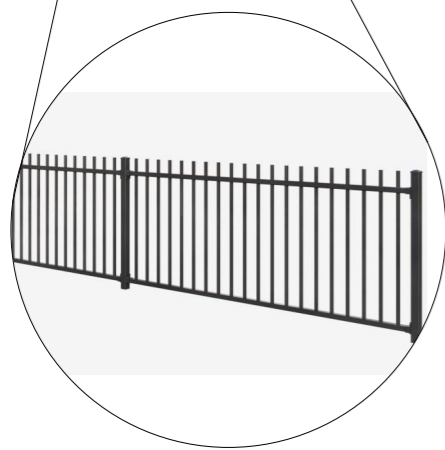
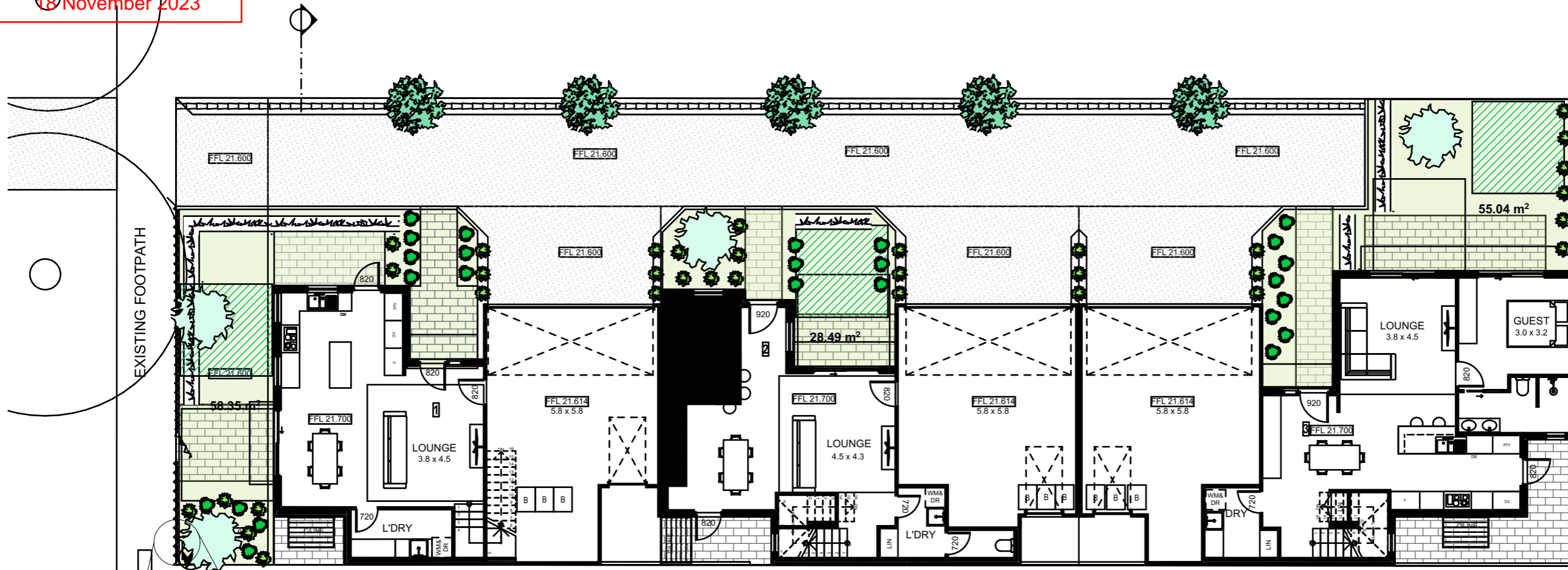
REVISION NO.

DRAWING NO.

**A400**

City of Nedlands  
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FOR INFORMATION VERSION



PERMEABLE FENCE @1200H

LEGEND	
	FRANGIPANI
	LILLY PILLY
	KANGAROO PAW
	BAMBOO
	HEDGE
	DIANELLA GODDESS
	BRICK PAVING
	3m x 3m SQUARE AREA
	PRIMARY GARDEN AREA



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Plot Date: 17/11/2023  
Project NO. #Project ID  
Project Status #Project Status  
Scale 1:150, 1:200  
Paper Size A3

DRAWING TITLE :

**LANDSCAPING PLAN**

PROJECT NAME :

**38 ORD STREET**

REVISION NO.

DRAWING NO.

**A500**

















### 16.3 PD53.12.23 – Comment on Draft State Regulation Changes for Single House Delegations

<b>Meeting &amp; Date</b>	Council Meeting – 12 December 2023
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.
<b>Report Author</b>	Nathan Blumenthal – Acting Manager Urban Planning
<b>Director</b>	Roy Winslow – Acting Director Planning and Development
<b>Attachments</b>	1. Draft Regulations

#### Purpose

This report is being put to Council to provide an overview on the proposed changes to the *Planning and Development (Local Planning Schemes) Regulations 2015*. The draft changes move all decision-making ability on single house development from Council to the CEO and, by extension, the City of Nedlands Planning Department.

#### Recommendation

**That Council notes the proposed amendments to the *Planning and Development (Local Planning Schemes) Regulations 2015* relating to the approval pathway for single house development.**

#### Voting Requirement

Simple Majority.

#### Background

The *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) includes Schedule 2, the Deemed Provisions. The Deemed Provisions are read into every Local Planning Scheme in the state. The State Government, as part of its planning reform agenda, proposes to amend the Deemed Provisions by inserting a new section that relates to delegated authority for all single house development (**Attachment 1**). The new Regulations require that a “prescribed development approval function” for a “prescribed single house development” must only be performed for and on behalf of local government by the CEO or an authorised employee.

A “prescribed single house development” includes everything related to the construction of, or alterations or additions to, a single house. A “prescribed development approval function” is defined in the draft legislation as any function of the local government relating to planning and



development, including accepting, advertising and making a decision on a planning application (including clearing conditions, extensions of time, etc.). The sole exception is if a place is a heritage-protected place, which includes both individually listed places and heritage areas.

In other words, unless a place is a heritage-protected place, all decision-making ability for anything related to a single house will sit with the CEO and City Officers. Such applications will not be able to be referred to Council for a decision.

## Discussion

The draft Regulations have been introduced with the stated aim of streamlining and expediting the planning process. The Department of Planning, Lands and Heritage (DPLH) has further stated that “The changes will also enable the Council to focus on strategic planning, ensuring that local planning frameworks are contemporary and fit for purpose”. The overall idea being that Council should focus on the strategic framework, which will guide built form development at a high level, rather than be involved in the details of each single house application.

Officers have confirmed with the Department of Planning Lands and Heritage that there will be no further consultation on the previously announced changes to the Development Assessment Panel process. Consequently, this report focuses only on the changes to the single house delegations.

## Consultation

Council may make a submission to the Department of Planning, Lands and Heritage on the changes to single house delegations until 31 January 2024.

## Strategic Implications

This item relates to the following elements from the City’s Council Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Governance and Civic Leadership**  
We value our Council’s quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community’s assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

**Priority Area** Working with neighbouring Councils to achieve the best outcomes for the western suburbs as a whole



## Budget/Financial Implications

Nil

## Legislative and Policy Implications

Should the state of WA enact the changes, they will amend the [\*Planning and Development \(Local Planning Schemes\) Regulations 2015\*](#) as shown in **Attachment 1**.

## Decision Implications

N/A

## Conclusion

This report summarises the proposed changes to the Regulations relating to single house delegations. Council may choose to make a submission by the end of the submission period on 31 January 2024.

## Further Information

Nil.

Western Australia

# Planning and Development (Local Planning Schemes) Amendment Regulations (No. 3) 2023

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84B.	Prescribed single house development	2
84C.	Performance of prescribed development approval functions in relation to prescribed single house development	3
84D.	Authorisation of employees	3



Planning and Development Act 2005

## **Planning and Development (Local Planning Schemes) Amendment Regulations (No. 3) 2023**

Made by the Governor in Executive Council.

### **1. Citation**

These regulations are the *Planning and Development (Local Planning Schemes) Amendment Regulations (No. 3) 2023*.

### **2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published on the WA legislation website;
- (b) the rest of the regulations — on [date].

### **3. Regulations amended**

These regulations amend the *Planning and Development (Local Planning Schemes) Regulations 2015*.

### **4. Schedule 2 Part 10 Division 2A inserted**

After Schedule 2 Part 10 Division 2 insert:

#### **Division 2A — Performance of development approval functions in relation to single houses**

##### **84A. Terms used**

In this Division —

**Planning and Development (Local Planning Schemes) Amendment  
Regulations (No. 3) 2023**

r. 4

---

**authorised employee** means an employee of the local government authorised by the local government CEO under clause 84D;

**prescribed development approval function** means any of the following —

- (a) a function of the local government under clause 61A(2) or (4) or Part 8 or 9;
- (b) a function of approving further details of any works or use under a condition of a kind referred to in clause 74(1) imposed on a development approval;
- (c) a function of the local government under this Scheme that is ancillary or incidental to a function referred to in paragraph (a) or (b);

**prescribed single house development** has the meaning given in clause 84B.

**84B. Prescribed single house development**

- (1) In this Division, **prescribed single house development** means development that consists of —
  - (a) the erection of, or alterations or additions to, a single house; or
  - (b) the erection or installation of, or alterations or additions to, any of the following that is ancillary or incidental to a single house —
    - (i) an ancillary dwelling;
    - (ii) an outbuilding;
    - (iii) an external fixture;
    - (iv) a boundary wall or fence;
    - (v) a patio;
    - (vi) a pergola;
    - (vii) a verandah;
    - (viii) a deck;
    - (ix) a garage;
    - (x) a carport.



**Planning and Development (Local Planning Schemes) Amendment  
Regulations (No. 3) 2023**

r. 4

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- (2) Despite subclause (1), development in a heritage-protected place is not *prescribed single house development*.

**84C. Performance of prescribed development approval functions in relation to prescribed single house development**

- (1) When a prescribed development approval function is performed in relation to prescribed single house development, the function must be performed for and on behalf of the local government by —
- (a) the local government CEO; or
  - (b) an authorised employee.
- (2) A prescribed development approval function cannot be performed by the local government in relation to prescribed single house development otherwise than in accordance with subclause (1) (for example, the function cannot be performed by the council of the local government or a committee of that council).
- (3) In performing a prescribed development approval function for and on behalf of the local government in relation to prescribed single house development, the local government CEO or an authorised employee —
- (a) is not subject to the direction of the council of the local government or a committee of that council; and
  - (b) may, if the performance of the function is dependent on the opinion, belief or state of mind of the local government, perform the function on the opinion, belief or state of mind of the CEO or authorised employee (as the case requires).

**84D. Authorisation of employees**

- (1) The local government CEO may authorise any employee of the local government to perform prescribed development approval functions for and on behalf of the local government in relation to prescribed single house development.

**Planning and Development (Local Planning Schemes) Amendment  
Regulations (No. 3) 2023**

r. 4

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- (2) An authorisation under this clause must be in writing and may be general or limited to prescribed development approval functions of a specified class.

Clerk of the Executive Council



## 16.4 PD54.12.23 - Consideration of Development Application – Residential Single House at 26 Jutland Parade, Dalkeith

<b>Meeting &amp; Date</b>	Council Meeting - 12 December 2023
<b>Applicant</b>	Milankov Designs and Project Management Pty Ltd
<b>Information Provided</b>	All relevant information required has been provided.
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter. There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants.
<b>Report Author</b>	Nathan Blumenthal – Acting Manager Urban Planning
<b>Director</b>	Roy Winslow – Acting Director Planning and Development
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Zoning Map</li> <li>2. Development Plans</li> <li>3. Architectural Perspectives (3D images)</li> <li>4. Applicant Justification Letter</li> <li>5. Department of Biodiversity, Conservation and Attractions Referral Response</li> <li>6. CONFIDENTIAL ATTACHMENT - Submissions</li> </ol>

### Purpose

The purpose of this report is for Council to consider a development application for a single house at 26 Jutland Parade, Dalkeith. The proposal is being presented to Council for consideration due to the proposal receiving objections within the consultation period. Council is specifically requested to exercise its judgement in considering the merits of the application against the design principles for the following aspects of the proposal:

- Eastern, Western and Southern lot boundary setbacks (see report section Lot Boundary Setbacks)
- Building height (see report section Building Height)
- Amount of landscaping within the street setback area (see report section Landscaping)
- Amount of fill (see report section Site Works).

### Recommendation

**That Council:**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, approves the development application in accordance with the plans date stamped 22 November 2023 for a Single House at 26 Jutland Parade, Dalkeith (DA23-88242), subject to the following conditions:**



1. This approval relates only to the development as indicated on the approved plans dated 22 November 2023. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.
2. All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.
3. Prior to the issue of a Demolition Permit, a Demolition Management Plan shall be submitted and approved to the satisfaction of the City. The approved Demolition Plan shall be observed at all times through the demolition process to the satisfaction of the City.
4. Prior to the issue of a Building Permit, a Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Construction Management Plans shall be observed at all times throughout the construction and demolition processes to the satisfaction of the City.
5. Prior to the commencement of works, a Dilapidation Report shall be submitted to the City of Nedlands and the owners of the adjoining properties listed below detailing the current condition and status of all buildings (both internal and external together with surrounding paved areas and the existing boundary wall), including ancillary structures located upon these properties:
  - a) Lot 28 (No.30A) Jutland Parade, Dalkeith
  - b) Lot 32 (No.24) Jutland Parade, Dalkeith

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate in writing to the satisfaction of the City of Nedlands that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

6. Prior to the issue of a Building Permit, stormwater disposal plans, details and calculations catering for the 1% AEP storm event of 60min duration must be submitted for approval by the City of Nedlands and thereafter implemented, constructed and maintained to the satisfaction of the City of Nedlands.
7. The street tree(s) within the verge in front of the lot are to be protected and maintained through the duration of the demolition and construction processes to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner's expense and to the satisfaction of the City of Nedlands.
8. Prior to occupation, new walls on or adjacent to lot boundaries are to be finished externally to the same standard as the rest of the development in:
  - a. Face brick;



- b. Painted render;
- c. Painted brickwork; or
- d. Other clean finish as specified on the approved plans.

And are to be thereafter maintained to the satisfaction of the City of Nedlands

9. Prior to occupation, all screening as shown on the approved plans shall be screened in accordance with the Residential Design Codes by either;
- a. fixed and obscured glass to a height of 1.6 metres above finished floor level; or
  - b. fixed screening devices to a height of 1.6 meters above finished floor level that are at least 75% obscure and made of a durable material; or
  - c. a minimum sill height of 1.6 metres above the finished floor level; or an alternative method of screening approved by the City of Nedlands.

The required screening shall be thereafter maintained to the satisfaction of the City of Nedlands.

10. All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands.

#### DBCA Conditions

- 11. All works are to be undertaken in accordance with a Construction Environmental Management Plan to the satisfaction of the City of Nedlands, with input and advice from the Department of Biodiversity, Conservation and Attractions.
- 12. Prior to the commencement of works or any development being undertaken on site, the applicant shall prepare a Stormwater Management Plan to the satisfaction of the Department of Biodiversity, Conservation and Attractions.
- 13. No dewatering effluent is to enter the Swan River, either directly or indirectly (via the stormwater system), unless approved by the Department of Biodiversity, Conservation and Attractions.
- 14. No pool water/ backwash from the swimming pool is to be discharged onto the land, into the Swan River or the local government drainage system.
- 15. The applicant shall implement appropriate on-site measures to ensure that:
  - a. No construction material, sediment or rubbish enters the River, Parks and Recreation reserve or stormwater system, as a result of the works to the satisfaction of the Western Australian Planning Commission based on advice from the Department of Biodiversity, Conservation and Attractions; and



- b. During the works no vehicular access associated with the construction is permitted within the Parks and Recreation reserve without the prior approval of the manager of the reserve.

16. Prior to the commencement of works, the applicant shall submit and obtain approval for a schedule of colours, building materials and finishes for the development to the Department of Biodiversity, Conservation and Attractions.

## Voting Requirement

Simple Majority.

This report is of a quasi judicial nature as it is a matter that directly affects a person’s rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal.

The decision must be made in a manner that is impartial, free from bias, and in accordance with the principles of natural justice. The decision must be made in having regard to the facts of the matter under consideration, and in accordance with the relevant laws and policies as they apply to that matter.

Discretionary considerations and judgments in the decision must be confined to those permitted to be considered under the laws and polices applicable to the matter and given such weight in making the decision as the relevant laws and polices permit them to be given.

## Background

### Land Details

<b>Metropolitan Region Scheme Zone</b>	Urban
<b>Local Planning Scheme Zone</b>	Residential
<b>R-Code</b>	R12.5
<b>Land area</b>	2,373m <sup>2</sup>
<b>Land Use</b>	Residential – Single House
<b>Use Class</b>	‘P’ – Permitted Use

The site is located at 26 Jutland Parade Dalkeith. The lot is 2,373m<sup>2</sup> in area with a 20m street frontage to Jutland parade and 40m frontage to the Swan River. The site slopes 8.4m from the north to the south. To the south the lot abuts the abuts the Swan Canning Development Control Area and a Metropolitan Region Scheme (MRS) “Parks and Recreation” reserve.

As viewed from the river, the site features a large arched retaining wall, which was constructed in 1972. An existing three storey single house (inclusive of semi basement) sits on top of and is proposed to be demolished as part of this application. The western portion of the lot is further burdened by a Restrictive Covenant which limits the height of any building, structure, tree, or other vegetation to no greater in height that 23.92 Australian Height Datum (AHD).

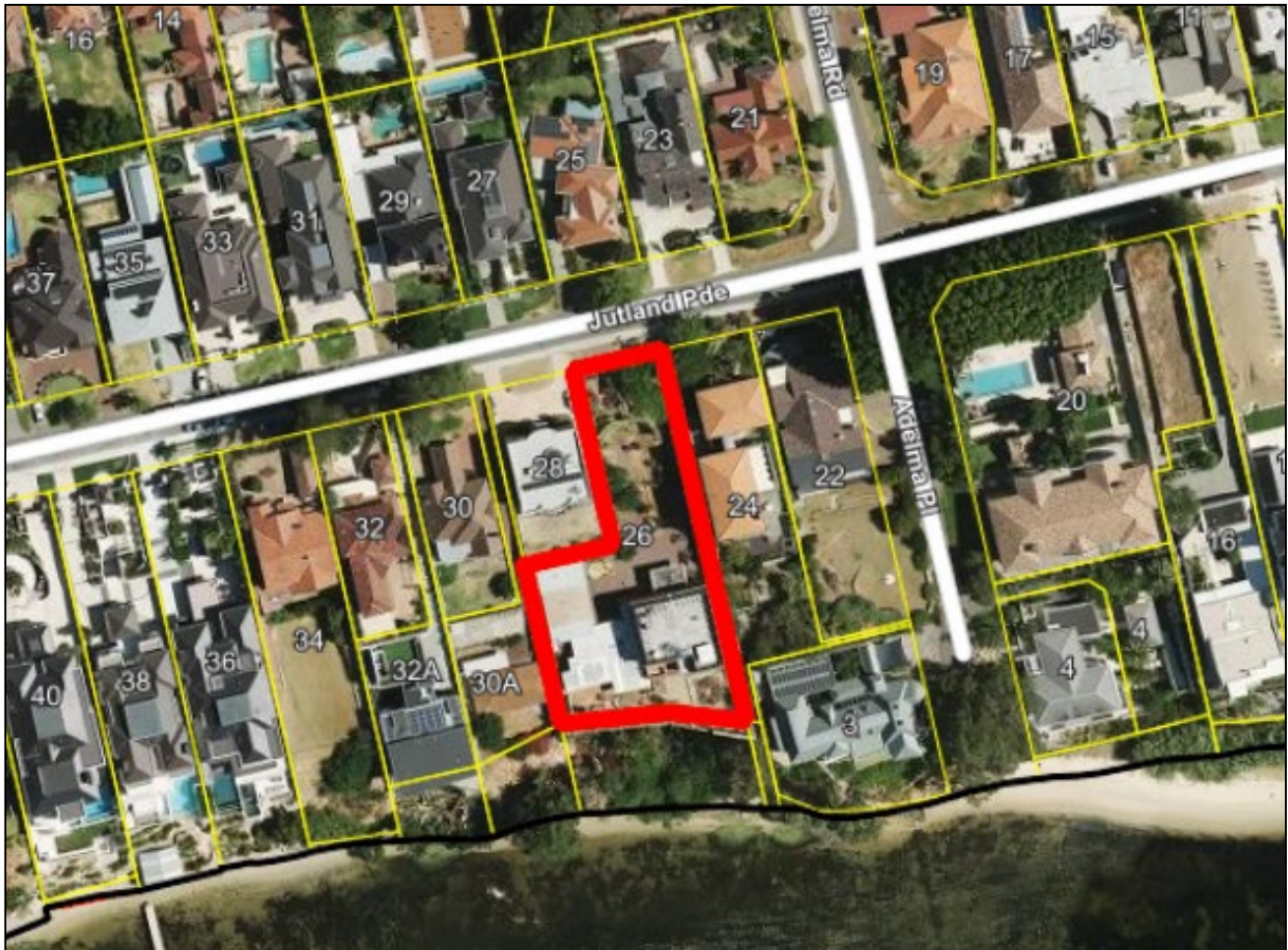


Figure 1: Aerial image of 26 Jutland Parade, Dalkeith

### Application Details

The application seeks development approval for a three-storey single house at 26 Jutland Parade, Dalkeith. The existing arched retaining walls are to remain at the DBCA boundary to the south, with modifications to the height of the arches, finish and include additional landscaping within the arches.

The application was originally lodged on 2 August 2023. Following the initial consultation period, the applicant submitted amended plans, on 30 October 2023 with the latest plans being on 22 November 2023 (**Attachment 2**). The amendments were made to address concerns raised by the City, Department of Biodiversity, Conservation and Attractions (DBCA) and public submissions.

The changes proposed by the amended plans are summarised as follows:

- Roof deck and garden removed.
- Reduction in height of the western portion of dwelling and various roof structures removed to comply with the Restrictive Covenant.
- Height of the architectural features reduced in height to a maximum 1.5m above the existing residential AHD roof height (at 30.47AHD).



- Gate house reduced in size to meet the deemed-to-comply.
- Amount of landscaping within the front setback area has been increased.
- Obscure glazing included on the western elevation of the Activity and Family rooms.
- Basketball court removed.
- Additional fill for the garden bed and paving area along the eastern boundary has been reduced back to original levels.
- Further clarification and annotations on plans for clarity including natural ground level

## Discussion

### Assessment of Statutory Provisions

If a proposal does not satisfy the deemed to-comply provisions of the State Planning Policy 7.3: Residential Design Codes (R-Codes), Council is required to exercise a judgement of merit to determine the proposal against the design principles of the R-Codes. The R-Codes require the assessment to consider the relevant design principle only and to not apply the corresponding deemed-to-comply provisions. It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the R-Codes. Further, it is considered unlikely that the development will have a significant adverse impact on the local amenity and character of the locality.

### Local Planning Scheme No. 3

Schedule 2, Clause 67(2) (Consideration of application by Local Government) – identifies those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections. Overall, the development is considered to meet these objectives, particularly in regard to height, scale, bulk and appearance, and the potential impact it will have on the local amenity.

### State Planning Policy 7.3 - Residential Design Codes – Volume 1

The R-Codes apply to all single and grouped dwelling developments. An approval under the R-Codes can be obtained in one of two ways. This is by either meeting the deemed-to-comply provisions or via a design principle assessment pathway.

The proposed development is seeking a design principle assessment pathway for parts of this proposal relating to lot boundary setbacks, building height, landscaping and site works. As required by the R-Codes, Council, in assessing the proposal against the design principles, should not apply the corresponding deemed-to-comply provisions.

### Eastern and Western Lot Boundary Setback (Clause 5.1.3)

The development requires a design principles assessment for the eastern and western lot setbacks to side boundaries. The design principles for lot boundary setbacks consider the impact of building bulk on adjoining properties, providing adequate sun and ventilation and minimising overlooking. The proposal meets the design principles for the following reasons:





- All walls feature multiple articulations, with variations in setbacks and materials, and feature openings and balcony elements to break up the perception of building bulk. Further, the setbacks of the proposed house are commensurate with the setbacks of the existing single house on site, thereby resulting in negligible additional bulk to adjoining properties when compared to the pre-development condition.
- In relation to the west, the proposed setbacks are an improvement to the existing development which features a 13m boundary wall, and an average setback of approximately 2.5m to the remainder of the wall. The proposed western setback has no boundary wall and varying setbacks between 2.0m and 6.5m.
- In relation to the east, the existing house features a setback of 2.4m at ground floor and 3m at upper floor with no articulation. The proposed eastern setback has multiple articulations, with setbacks varying from 1.7m to 7.0m at ground floor and 1.7m and 5.5m at upper floor. The two portions of wall at 1.7m setback are deemed-to-comply.
- The setbacks do not unduly impact any adjoining property in relation to visual privacy. All openings, balconies and outdoor living areas meet the deemed-to-comply criteria for visual privacy.
- The setbacks do not result in undue impacts to solar access, and the proposal meets the deemed-to-comply overshadowing provisions.

It is important to note that deemed-to-comply lot boundary setbacks are determined on the maximum wall height of the wall. Given the slope of the land, the proposed walls vary in their height as measured from natural ground level, with a variation of 2.3m over the length of the wall (ground floor eastern wall).

### **Rear (Southern) Lot Boundary Setback (Clause 5.1.3 and DBCA)**

The rear setback is abutting the Swan Canning Development Control Area, and assessment of this setback is against State Planning Policy 2.10: Swan-Canning River System and the Swan Canning Development Control Area policy. The DBCA has assessed the application against relevant policies and has advised that it has no objections to the proposal subject to standard conditions. Development within the rear proposes excavation to reduce any bulk from the lower levels, with the upper floors largely commensurate with the setback of the existing dwelling and the immediately adjacent dwellings and is not considered by DBCA or officers to have undue adverse impact on the riverscape. Further, the brick parapet structure on the south-eastern corner is to be removed. This currently exacerbates the height of the existing retaining wall.

### **Building Height (Clause 5.1.6)**

The application proposes a maximum building height of 9.9m to the roof and between 11.4m – 12.6m for three architectural features. As tested in *Prosser and Town of Cottesloe [2021] WASAT 115*, the height has been assessed at the lowest relative point of the approved site levels from 1972. This is from the ground level of the river front terrace.

The design principles for building height consider the impact on the amenity of adjoining properties and public spaces in relation to:

- access to direct sunlight into buildings and open spaces;
- access to direct sunlight into habitable rooms; and



- access to views of significance.

The proposal meets the design principles for the following reasons:

- In relation to adjoining public spaces, the proposed height is not considered to have a detrimental impact on the streetscape or riverscape. As viewed from the street, the building has a height of 5.3m above the street level on Jutland Parade and presents as a two-storey building. This is consistent with the existing streetscape south of Jutland Parade.
- The existing character of this site, as viewed from the Swan River, has been established by the existing large arched retaining wall. It is acknowledged that this wall sits some 20m above the river line and is higher than any typical wall along the foreshore and against adjoining properties. As viewed from the river, the visual amenity of the riverscape on future development is considered with advice provided by the DBCA. The DBCA has assessed the application on behalf of the Swan River Trust against State Planning Policy 2.10: Swan-Canning River System and the Swan Canning Development Control Area policy. It has advised that it has no objections to the proposal, subject to conditions. A copy of this advice has been included as **Attachment 4**.

Given the steep slope of the lots abutting the Swan River, it is common for developments to exceed the deemed-to-comply height provisions. This is considered on a case-by-case basis on the merits of the application. However, by way of comparison, 52 Jutland Parade was approved with a height of 11.8m, 50 Jutland Parade has a 10.2m maximum wall height and a 10.7m maximum overall height. The house currently under construction at 68 Jutland Parade has a 10.7m maximum wall height and a 11.3 maximum overall height. The existing houses at 36, 38 and 40 Jutland Parade have an approximate 12.5m maximum wall height and 13.6m maximum overall height.

Although the eastern portion of the building extends further south, the predominate building height is the same as the existing single house on site which also has a maximum height of 9.9m measured from the lowest point. It further represents one third of the eastern building whereas the remaining two thirds meet the deemed-to-comply. Notwithstanding, it is acknowledged that the extended built form is on top of the 'lowest point' of the site (an existing site level of 17.9m AHD). The bulk is however compensated by excavating most of the terrace area to 16.9m AHD, setting back the development and removing existing structures on the wall.

- In relation to amenity, the proposed height does not unduly restrict access to sunlight or ventilation for adjoining properties. Overshadowing from the proposal at mid-winter meets the deemed-to-comply criteria as shown in the **Attachment 2**. Whilst a portion of the building at 3 Adelma Place will be overshadowed in the afternoon, the solar panels would already have a shadow cast from the existing northern vegetation. In this regard the additional height proposed by this development does not unduly impact the adjoining property beyond what would be reasonably expected from a deemed-to-comply building height.
- In considering views of significance, the proposal has been reduced in height to comply with the Restrictive Covenant in place on the property, thereby maintaining views for properties to the north of the site. Further, the height is the same as the existing single



house on site which also has a maximum height of 9.9m. There are portions of the architectural features which sit above this but represent a minor portion of the overall building layout. The design principle is not focused on maintaining views exactly as they exist prior to the development. Rather, there is a need to maintain access to views, which is achieved as outlined above.

### **Landscaping (Clause 5.3.2)**

The application proposes 42% (75m<sup>2</sup>) soft landscaping in the front setback. The design principles for landscaping consider the appearance of the development for residential amenity, contribution to the streetscape, and enhancement of tree canopy. The proposal meets the design principles for the following reasons:

- The site is constrained in providing landscaping within the street setback area given the relatively narrow street frontage and use of the existing driveway. The application proposes to narrow the existing crossover, thereby increasing the amount of verge landscaping compared the pre-development condition and enhancing the streetscape.
- Within the front setback area there are two large trees to be retained, one medium tree is to be relocated and one new medium tree planted. This exceeds the minimum site tree planting stipulated by clause 5.3.2. This adequately offsets the shortfall in landscaping within the defined street setback area, improves the tree canopy and positively contributes to the streetscape.

### **Site Works (Clause 5.3.7)**

The application proposes site fill of up to 0.58m to a minor portion on the south-west boundary, this is annotated on the plans as the 'sunken gardens'. Although the amended plans dated 22 November have reduced this level to 20.50AHD which mostly meets the existing levels, there are sections which just exceed 0.5m above the natural relative level. The design principles for site works consider the proposal's response to the natural features of the site and ensuring that the site can be used effectively without detrimentally impacting adjoining properties. The proposal meets the design principles for the following reasons:

- The site features an existing slope of 8.4m from the Jutland Parade frontage down to the Swan River boundary. Given this topography, it is expected that site works beyond the deemed-to-comply would be required to ensure that the site can be effectively used by residents. In considering the site's slope, the amount of fill proposed is kept to a functional minimal and specifically to the non-habitable sunken garden area.
- Majority of the site works are excavation and are kept below the height of the existing boundary fence and will not visually present as building bulk.

### **Minor Variations**

The key elements of the development proposal which require Council consideration have been outlined in this report. The application also involves technical variations to street surveillance (Clause 5.2.3), and street walls and fences (Clause 5.2.4). These are all technical variations with no adverse impact on the amenity of adjoining properties or surrounding area.



## Consultation

The application is seeking assessment under the design principles of the R-Codes for lot boundary setbacks, building height and site works.

The development application was advertised in accordance with the City's Local Planning Policy - Consultation of Planning Proposals to 14 adjoining landowners and occupiers from 1 September 2023 to 15 September 2023. At the close of the advertising period, eight objections were received, and one statement of support.

Following the initial consultation period, the applicant submitted amended plans to address concerns raised by the City, DBCA and public submissions. Amended plans were sent to the original submitters.

The following is a summary of the concerns and comments raised and the Administration's response and action taken in relation to each issue. A more detailed response can be found:

1. Building height dispensation on top of the existing high retaining wall, impact on existing and future amenity and riverscape.

The established character south of Jutland Parade is of large single houses often with substantial street setbacks so to be positioned towards the river foreshore. As viewed from Jutland Parade, the development will maintain a similar built form scale to the existing dwelling.

The existing character of this site, as viewed from the river, has already been established by the existing large arched retaining wall. It is acknowledged that this wall sits some 20m above the river line and is higher than any typical wall along the foreshore. The visual amenity of the riverscape is determinate on advice provided by the DBCA. The DBCA have advised that it has no objections to the proposal, subject to conditions.

Although the eastern portion of the building extends further south, the predominate building height is the same as the existing single house on site which also has a maximum height of 9.9m measured from the lowest point. It is acknowledged that the extended built form is on top of the 'lowest point' of the site (around an existing site level of 17.9m AHD). The bulk is however compensated by excavating majority of the terrace area to 16.9m AHD and setting back the development from boundaries.

2. Visual Privacy from outdoor living area, roof top garden and from additional fill to the garden bed.

The rooftop garden has been removed from the plans dated 30 October 2023.

Administration supports the proposed setbacks as outlined in the report above. There are no visual privacy implications because of the setbacks as all major openings, balconies and outdoor living areas meet the deemed-to-comply criteria for visual privacy. This is by way of setbacks and screening. A screening condition is recommended to ensure all areas meet deemed-to-comply.



Amended plans dated 22 November have removed the previous additional 0.34m fill for the garden bed and paving area along the eastern boundary. It is now referred to on the plans as 'the sunken garden'. The level remains as 20.5m AHD.

3. Building height exceeds Restrictive Covenant.

The amended plans dated 30 October 2023 have reduced the height of the western portion of dwelling and removed the roof top garden and various plants and structures to comply with the Restrictive Covenant height limit. No portion of the proposed building (within the Restrictive Covenant Area) exceeds a height of 23.92m AHD.

4. Impact views of the Swan River

5.

In considering views of significance, the proposal has been reduced in height to comply with the Restrictive Covenant thereby maintaining views for properties to the north of the site. Although the eastern portion of the building extends further south, the predominate building height is the same as the existing single house on site which also has a maximum height of 9.9m. As such, it is Administrations view it will not impact views beyond the pre-development condition. This is detailed in clause 5.1.6 Building height discussion earlier in this report.

6. Concerns with noise from basketball court.

The basketball court has been removed from the plans dated 30 October 2023. Notwithstanding, noise from a basketball court is not a planning consideration.

7. Concerns with boundary walls.

The application proposes one boundary wall to the northern boundary with 28 Jutland Parade. This wall is abutting an existing retaining of equal dimension and is deemed-to-comply.

8. Wind Impact

The applicant proposes extended awnings to protect against wind, rain and sun. Notwithstanding, the consideration of wind impact to adjoining properties is not covered by planning framework.

9. Overshadowing and impacts to solar panels

The shadow cast meets the deemed-to-comply. Further studies were requested and provided by the applicant as concerns were raised on the pragmatic impacts to solar panels outside the deemed-to-comply time. This is illustrated in the latest plans.

## Strategic Implications

This item relates to the following elements from the City's Strategic Community Plan.



- Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.
- Values** **Great Natural and Built Environment**  
We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.
- Priority Area** Urban form - protecting our quality living environment

## Budget/Financial Implications

Nil

## Legislative and Policy Implications

Council is requested to make a decision in accordance with clause 68(2) of the [Deemed Provisions](#). Council may determine to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl.68(2)(b)), or refuse the development (cl.68(2)(c)).

## Decision Implications

If Council resolves to approve the proposal, development can proceed after receiving a Building Permit and necessary clearances.

In the event of a refusal, the applicant will have a right of review to the State Administrative Tribunal. The Tribunal will have regard to the R-Codes as a State Planning Policy. Similarly, should an applicant be aggrieved by one or more conditions of approval, this can be reviewed by the Tribunal.

## Conclusion

The application for a single house has been presented for Council consideration due to objections being received. The proposal is considered to meet the key amenity related elements of R-Codes Volume 1 and, as such, is unlikely to have a significant adverse impact on the local amenity of the area. The proposal has been assessed and satisfies the design principles of the R-Codes in relation to being consistent with the immediate locality and streetscape character.

Accordingly, it is recommended that the application be approved by Council, subject to conditions of Administration's recommendation.



## Further Information

Nil.



- Labels
  - House Numbers
  - Road Names
- Boundaries
  - Nedlands LGA Boundary
  - LPS3 RCodes
  - Property Boundaries
- LPS3 Zones
  - Residential
  - Metropolitan Region Scheme
  - Parks and recreation
  - Waterways

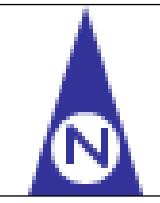


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Zoning Map

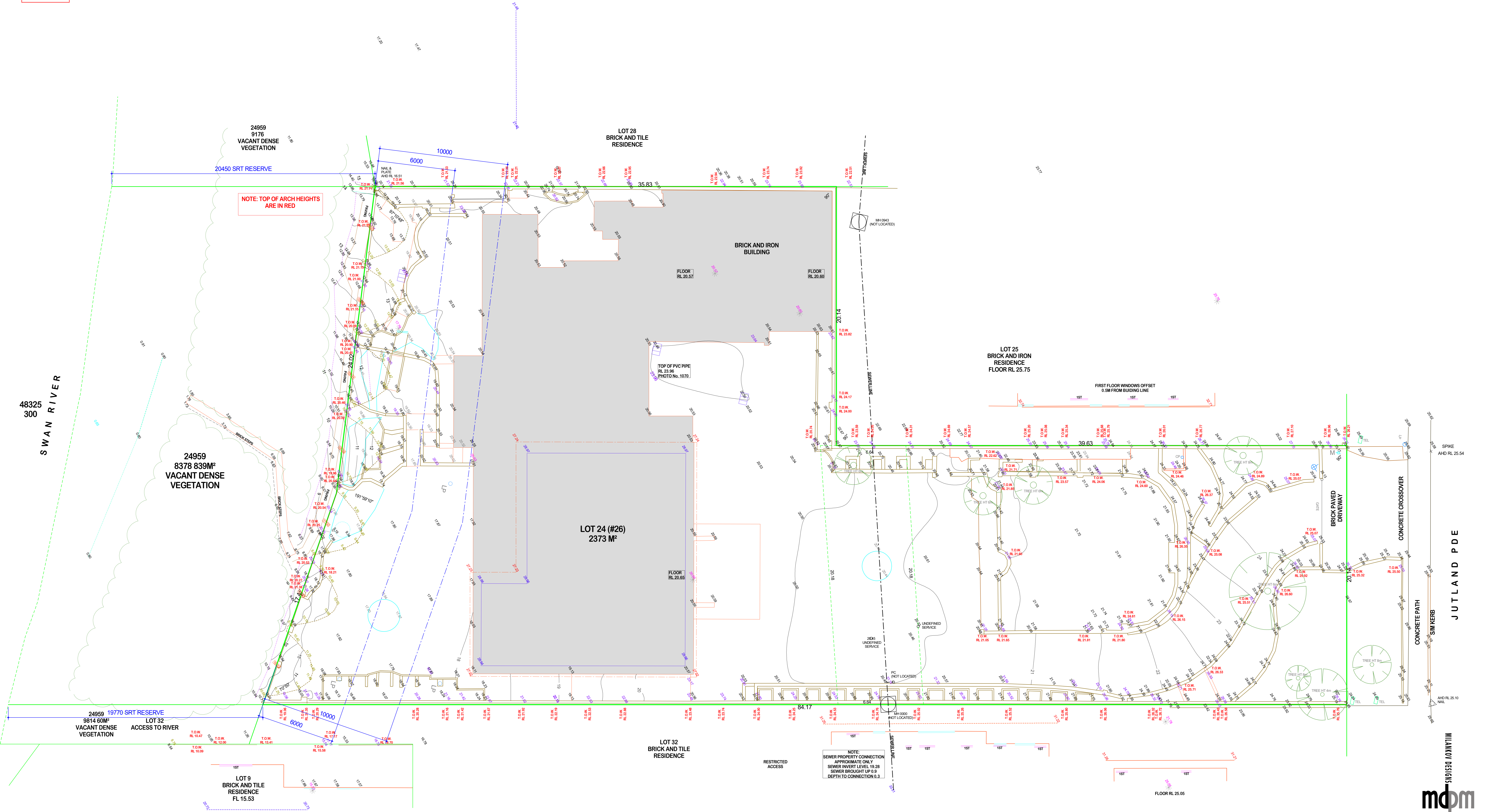
7/11/2023

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City of Nedlands  
Amended Plans  
Received  
22 November  
2023



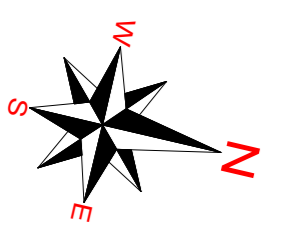
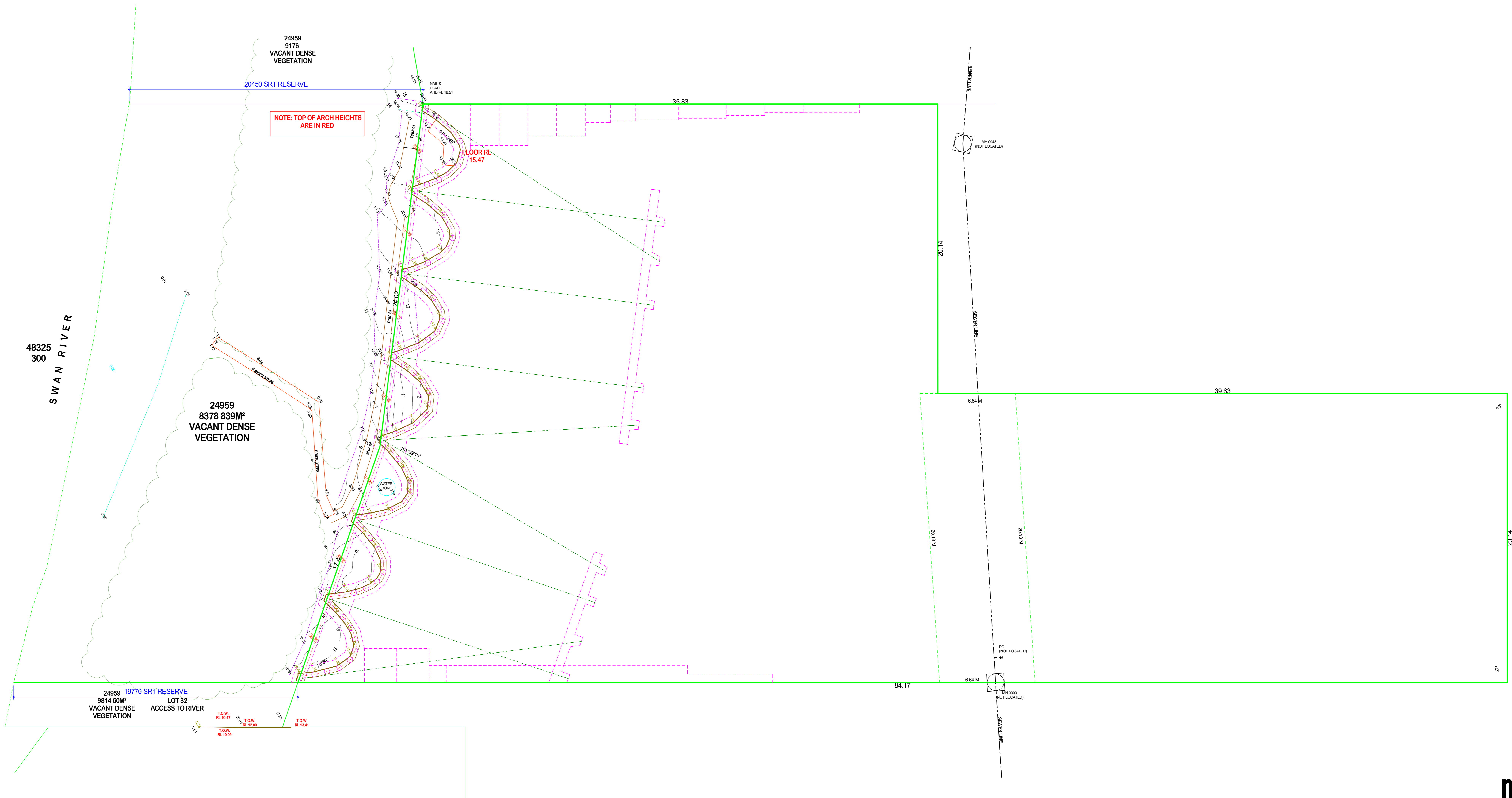
SITE PLAN OF EXISTING RESIDENCE  
SCALE 1:100 @ A3 SIZE  
SCALE 1:200 @ A2 SIZE  
SCALE 1:140 @ A1 SIZE



# 26 JUTLAND PDE RESIDENCE

LOT 24 (#26), JUTLAND PDE DALKEITH

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Amended Plans  
Received  
22 November  
2023



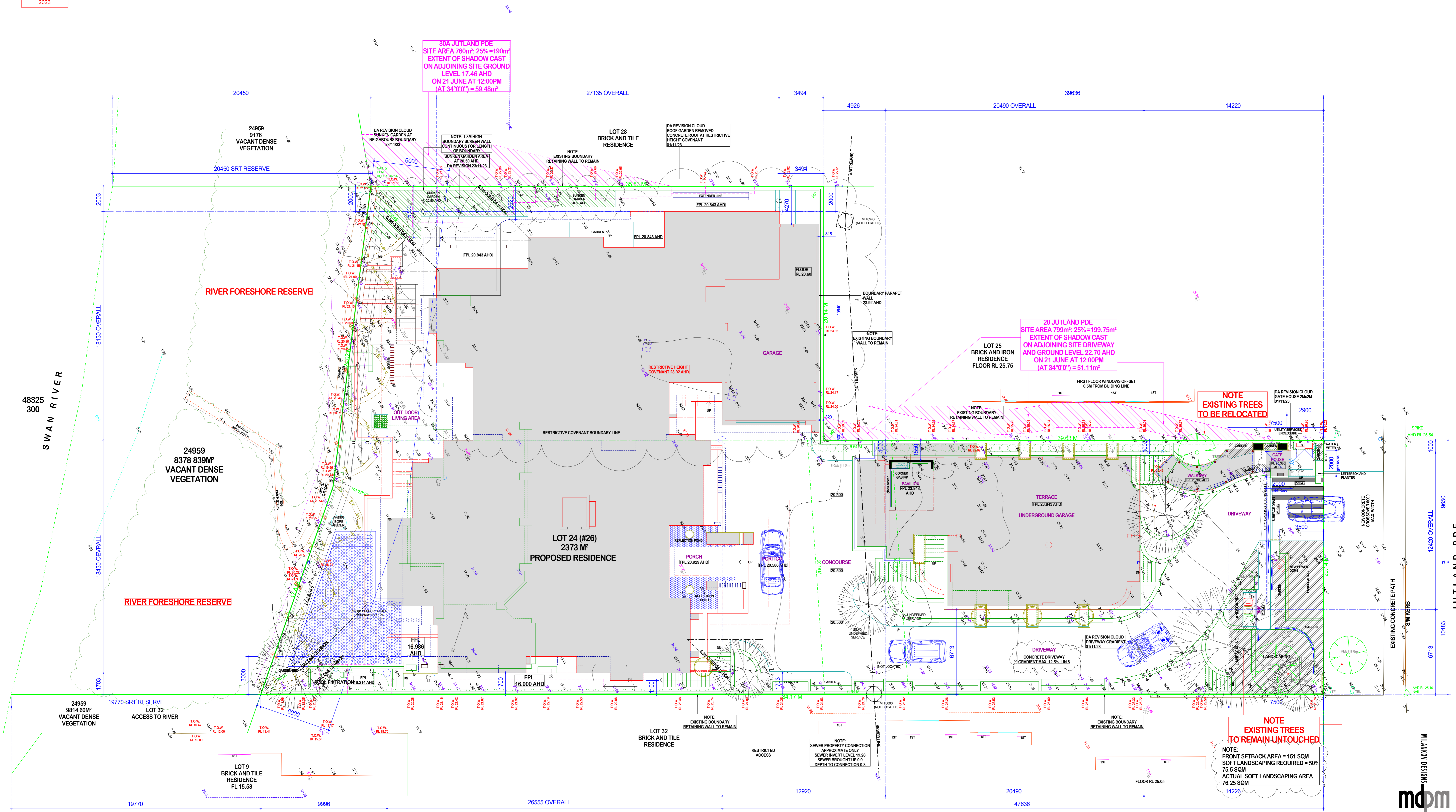
PLAN OF EXISTING RIVER RETAINING WALL  
 SCALE 1:100 @ A0 SIZE  
 SCALE 1:200 @ A2 SIZE  
 SCALE 1:140 @ A1 SIZE

MILANKOV DESIGNS  
 PROJECT MANAGEMENT



26 JUTLAND PDE RESIDENCE  
 LOT 24 (#26) JUTLAND PDE DALKEITH

City of Nedlands  
Amended Plans  
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22 November  
2023



SWAN RIVER

JUTLAND PDE

MILANOV DESIGNS  
PROJECT MANAGEMENT



**SITE PLAN OF PROPOSED**  
SCALE: 1:100 @ A0 SIZE  
SCALE: 1:200 @ A2 SIZE  
SCALE: 1:140 @ A1 SIZE

**SITE COVER R12.5**  
LAND AREA: 2,371 M<sup>2</sup>  
50% OPEN SPACE: 1,305.15 M<sup>2</sup>  
40% SITE COVER: 1,067.85 M<sup>2</sup>  
ACTUAL SITE COVER: 646.77 M<sup>2</sup>

NOTE: stormwater drainage: main house, paving and driveway areas  
Total Roof and paved area: 1,808.20 m<sup>2</sup>  
Capacity rate 1m<sup>3</sup>/80m<sup>3</sup>  
22.60 m<sup>3</sup> Storage required  
1.8m dia. (area) x 2.40m (depth) soakwell = 4.32 m<sup>3</sup>  
6 No. soak wells required

DA REVISION CLOUD  
STORM WATER CALCULATION  
01/11/23



# 26 JUTLAND PDE RESIDENCE

LOT 24 (#26), JUTLAND PDE DALKEITH

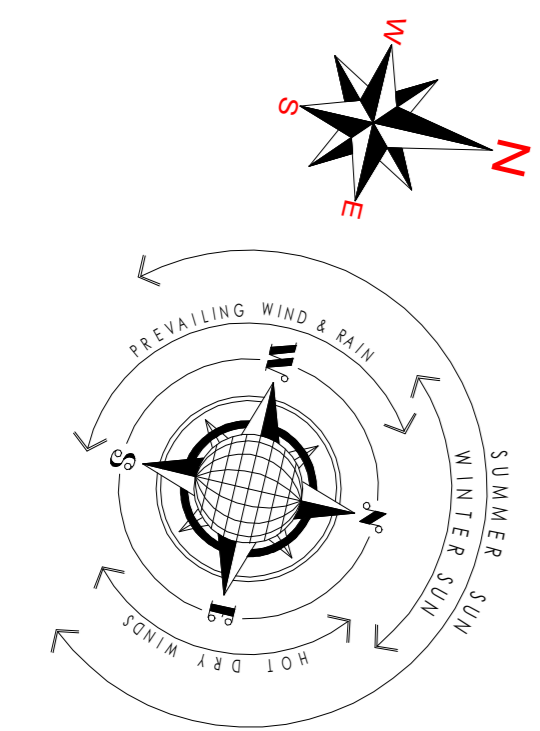
City of Nedlands  
Amended Plans  
Received  
22 November  
2023

30A JUTLAND PDE  
SITE AREA 760m<sup>2</sup>; 25%=190m<sup>2</sup>  
EXTENT OF SHADOW CAST  
ON ADJOINING SITE GROUND  
LEVEL 17.46 AHD  
ON 21 JUNE AT 12:00PM  
(AT 34°0'0") = 59.48m<sup>2</sup>

28 JUTLAND PDE  
SITE AREA 799m<sup>2</sup>; 25%=199.75m<sup>2</sup>  
EXTENT OF SHADOW CAST  
ON ADJOINING SITE DRIVEWAY  
AND GROUND LEVEL 22.70 AHD  
ON 21 JUNE AT 12:00PM  
(AT 34°0'0") = 51.11m<sup>2</sup>

SITE PLAN  
OVERSHADOWING DIAGRAM  
21ST JUNE 12:00PM (AT 34°0'0")

DA REVISION CLOUD  
OVERSHADOWING DIAGRAM  
23/11/23



MLANKOV DESIGNS  
PROJECT MANAGEMENT

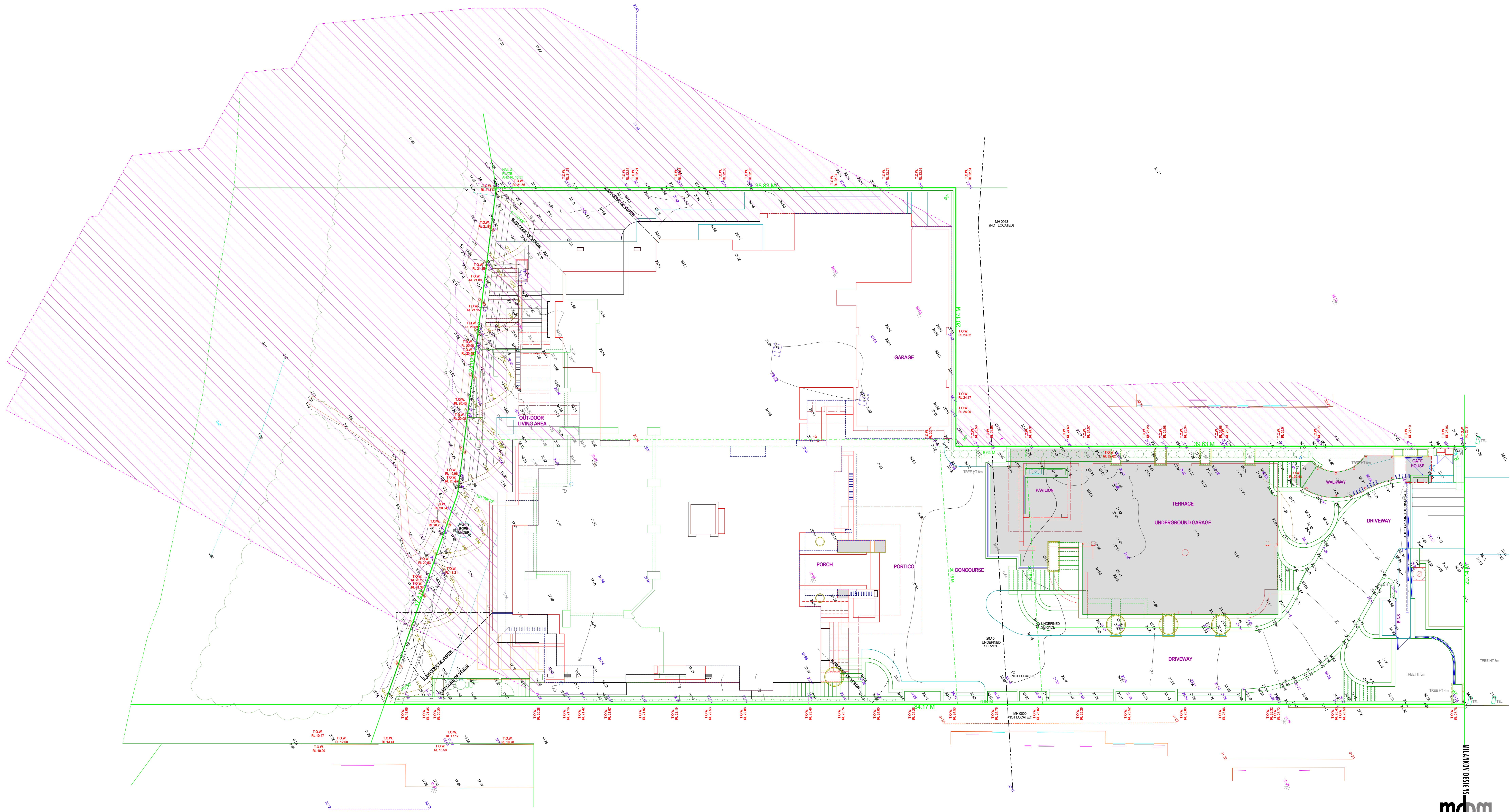


### 26 JUTLAND PDE RESIDENCE

3a Sketch 2 (Council DA AMENDED 01/11/23, 23/11/23)

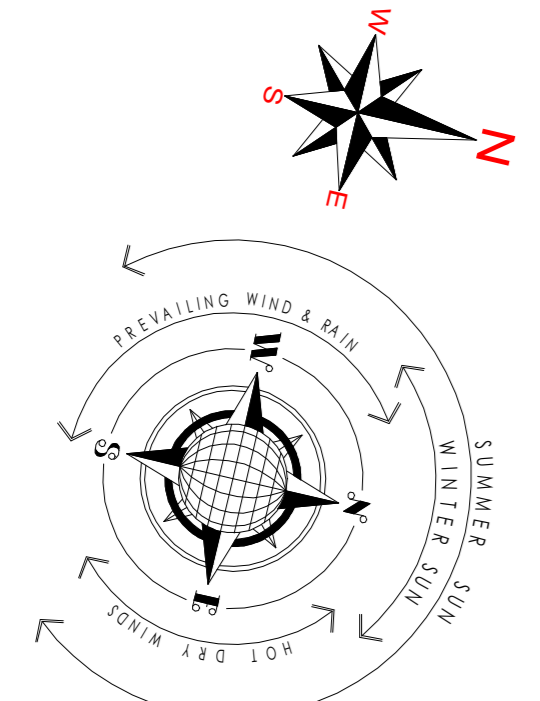
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City of Nedlands  
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Received  
22 November  
2023



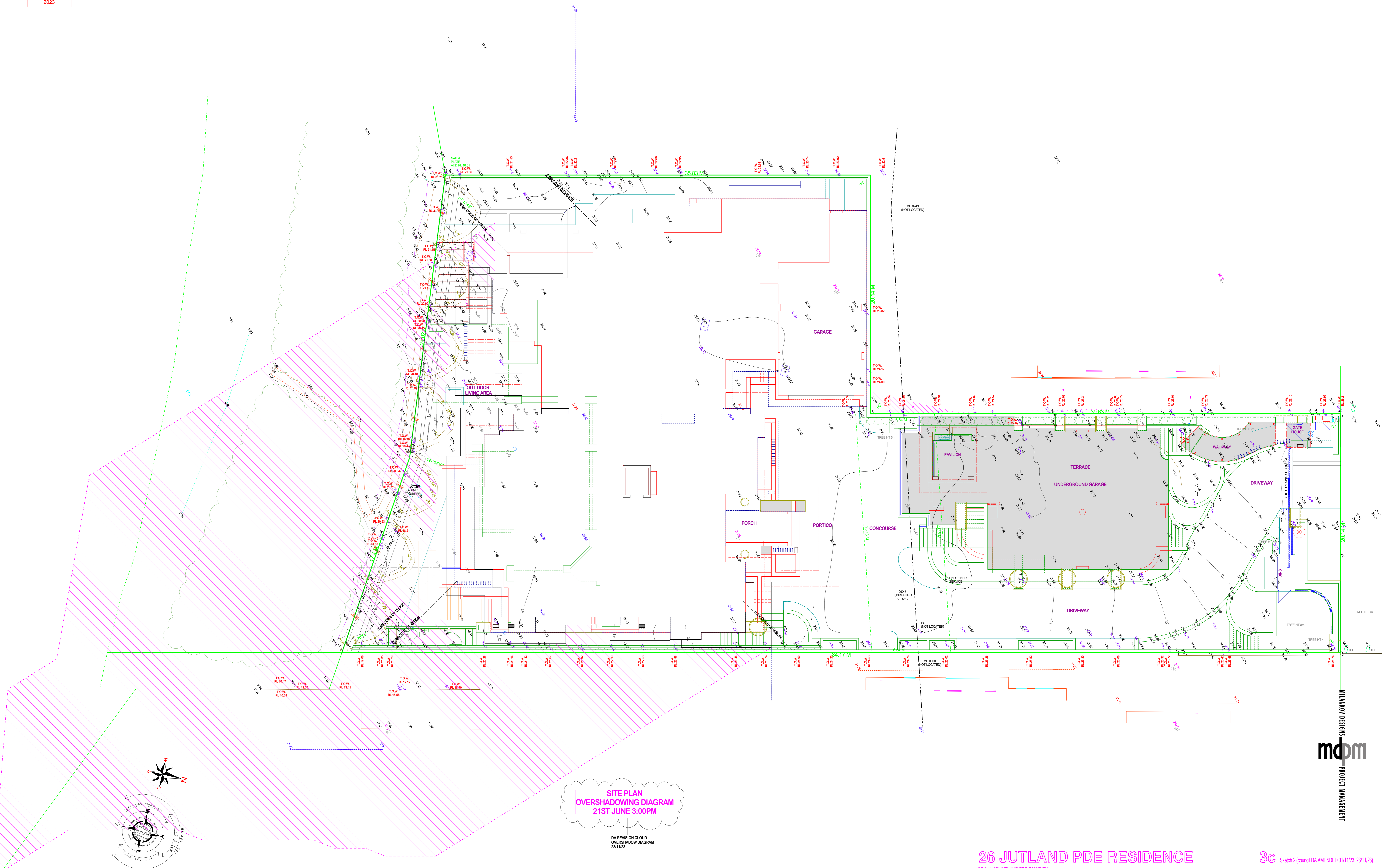
SITE PLAN  
OVERSHADOWING DIAGRAM  
21ST JUNE 10:00AM

DA REVISION CLOUD  
OVERSHADOWING DIAGRAM  
23/11/23



MILANKOV DESIGN  
PROJECT MANAGEMENT

City of Nedlands  
Amended Plans  
Received  
22 November  
2023

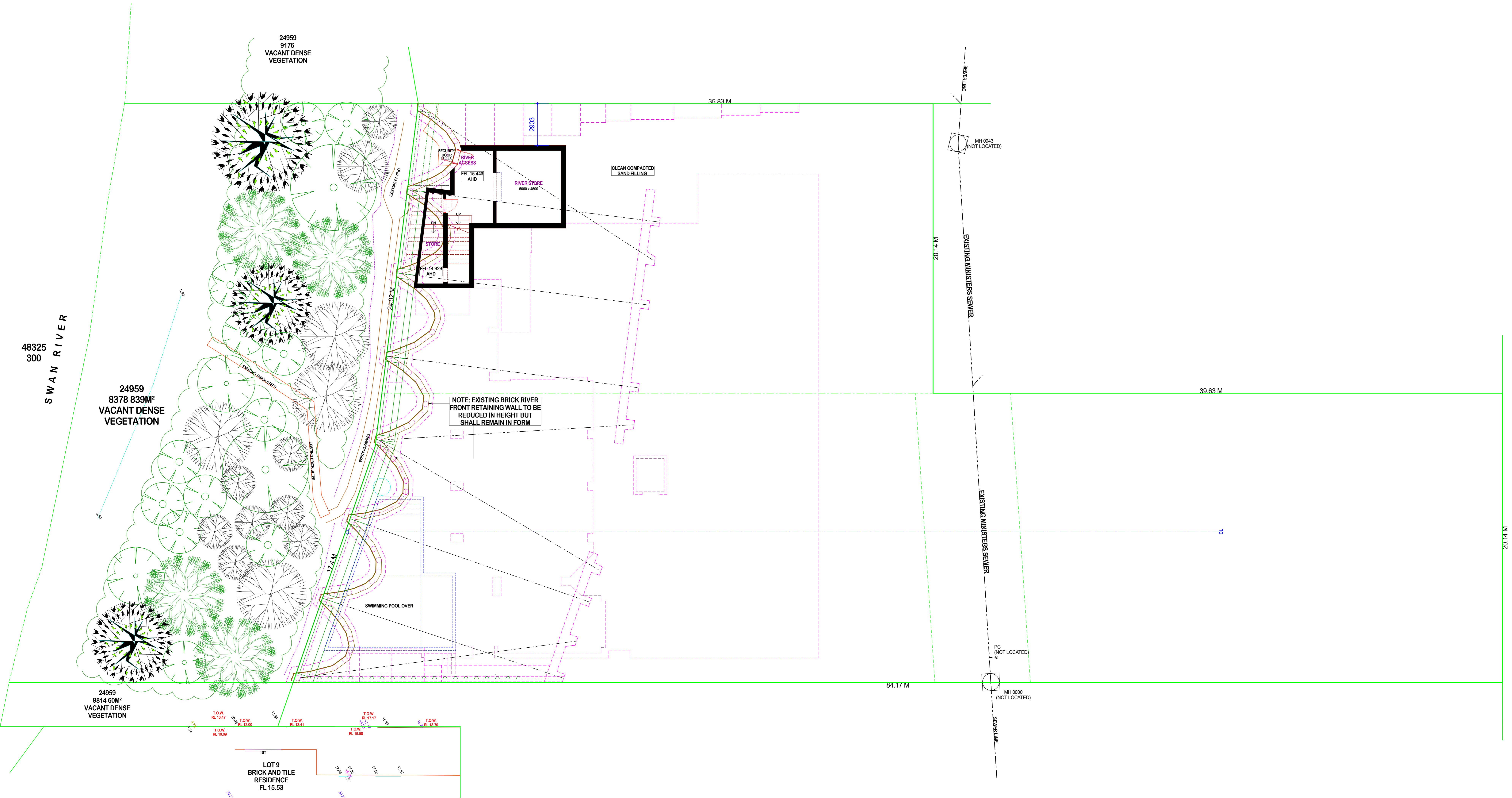


SITE PLAN  
OVERSHADOWING DIAGRAM  
21ST JUNE 3:00PM

DA REVISION CLOUD  
OVERSHADOWING DIAGRAM  
23/11/23

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PROJECT MANAGEMENT  
mmpm

City of Nedlands  
Amended Plans  
Received  
22 November  
2023



48325  
300  
SWAN RIVER

24959  
8378 839M<sup>2</sup>  
VACANT DENSE  
VEGETATION

24959  
9176  
VACANT DENSE  
VEGETATION

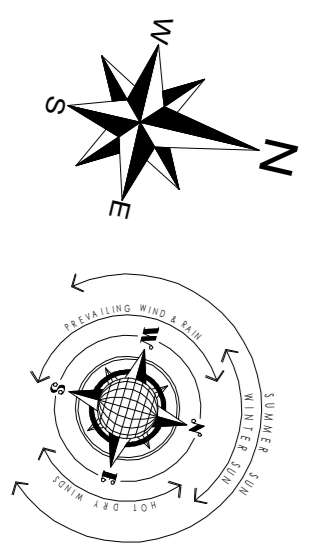
24959  
9814 60M<sup>2</sup>  
VACANT DENSE  
VEGETATION

T.O.W. RL 10.47  
T.O.W. RL 12.00  
T.O.W. RL 10.09  
T.O.W. RL 11.41  
T.O.W. RL 11.17  
T.O.W. RL 15.58  
T.O.W. RL 18.70  
T.O.W. RL 15.53

LOT 9  
BRICK AND TILE  
RESIDENCE  
FL 15.53

BASEMENT AREAS	
RIVER ACCESS / RIVER STORE	67.17 m <sup>2</sup>
<b>TOTAL</b>	<b>67.17 m<sup>2</sup></b>

RIVER FORESHORE RESERVE ACCESS AND STORE  
 SCALE 1: 100 @ A0 SIZE  
 SCALE 1: 200 @ A2 SIZE  
 SCALE 1: 140 @ A1 SIZE



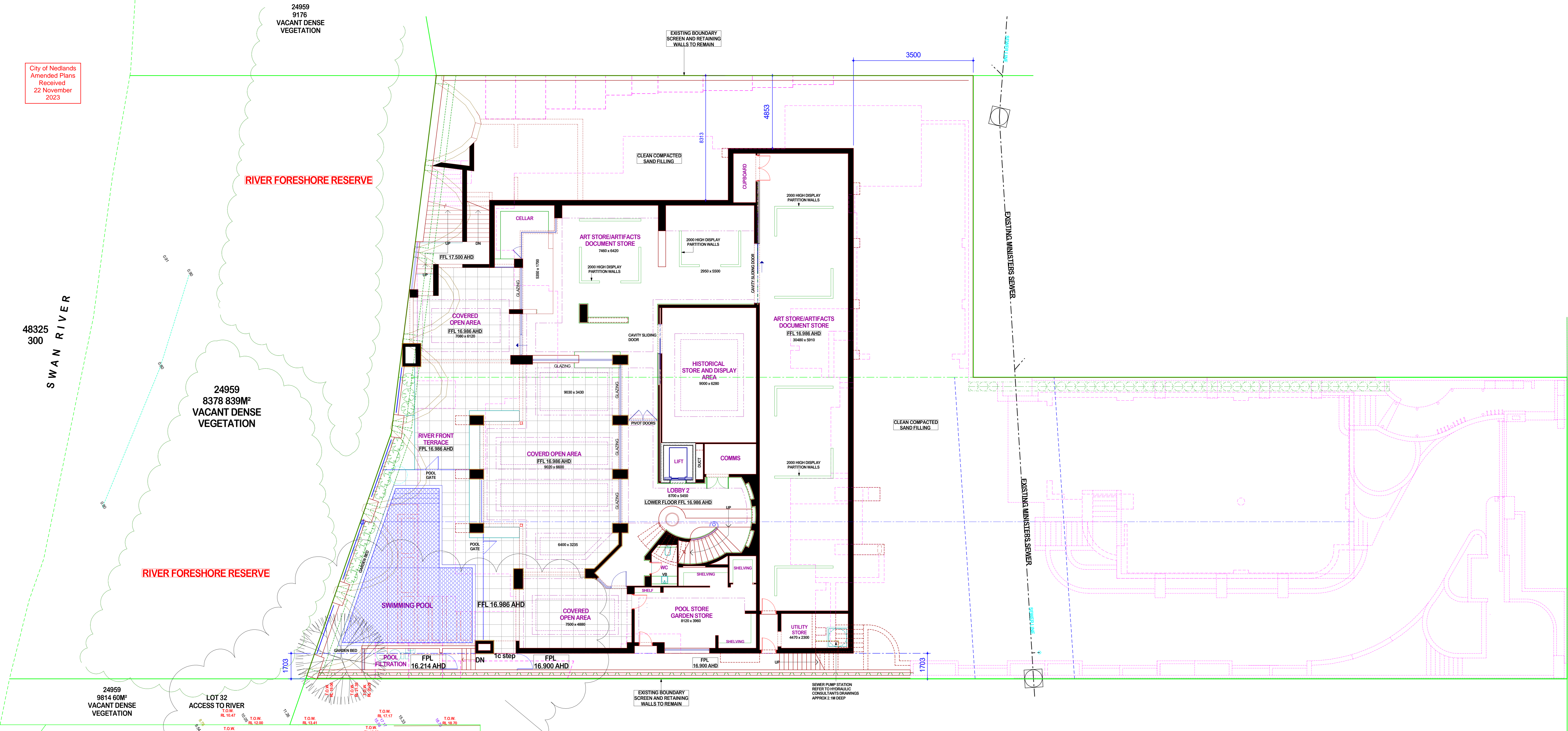
MILANKOV DESIGNS  
PROJECT MANAGEMENT  
mdm



## 26 JUTLAND PDE RESIDENCE

LOT 24 (#26) JUTLAND PDE DALKEITH

City of Nedlands  
Amended Plans  
Received  
22 November  
2023



48325  
300  
**SWAN RIVER**

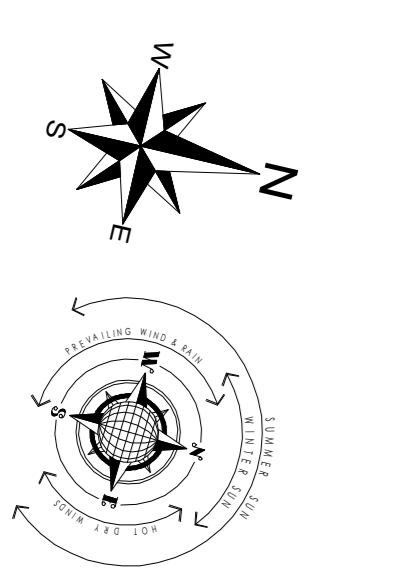
24959  
8378 839M<sup>2</sup>  
VACANT DENSE  
VEGETATION

RIVER FORESHORE RESERVE

24959  
9814 60M<sup>2</sup>  
VACANT DENSE  
VEGETATION

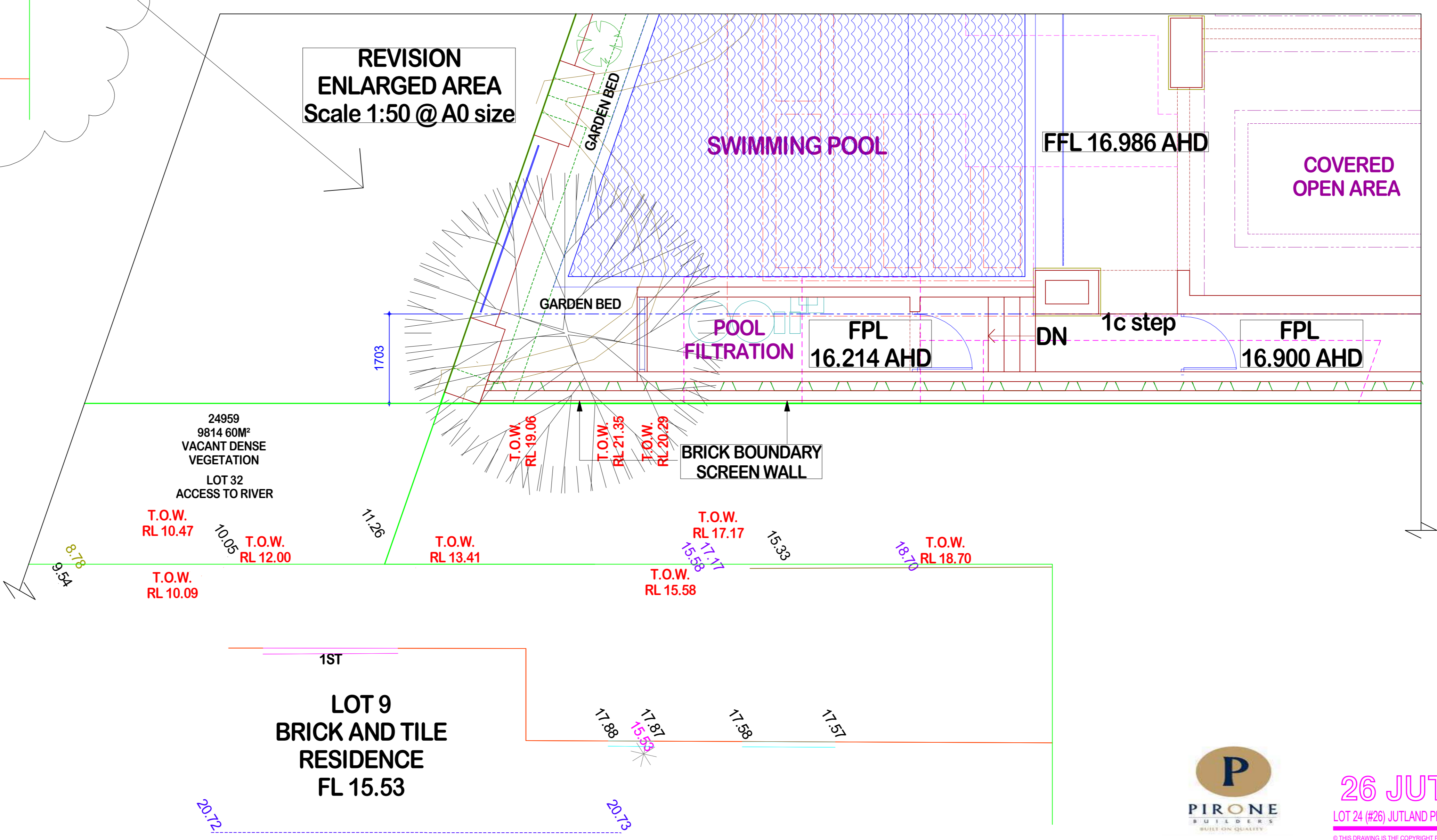
LOT 32  
ACCESS TO RIVER

LOT 9  
BRICK AND TILE  
RESIDENCE  
FL 15.53



LOWER FL AREAS	
LOWER FLOOR	594.03 m <sup>2</sup>
OUTDOOR OPEN AREAS	194.57 m <sup>2</sup>
RIVER FRONT TERRACE	94.20 m <sup>2</sup>
<b>TOTAL</b>	<b>882.80 m<sup>2</sup></b>

LOWER FLOOR PLAN  
SCALE 1:100 @ A0 SIZE  
SCALE 1:200 @ A2 SIZE  
SCALE 1:140 @ A1 SIZE



REVISION  
ENLARGED AREA  
Scale 1:50 @ A0 size

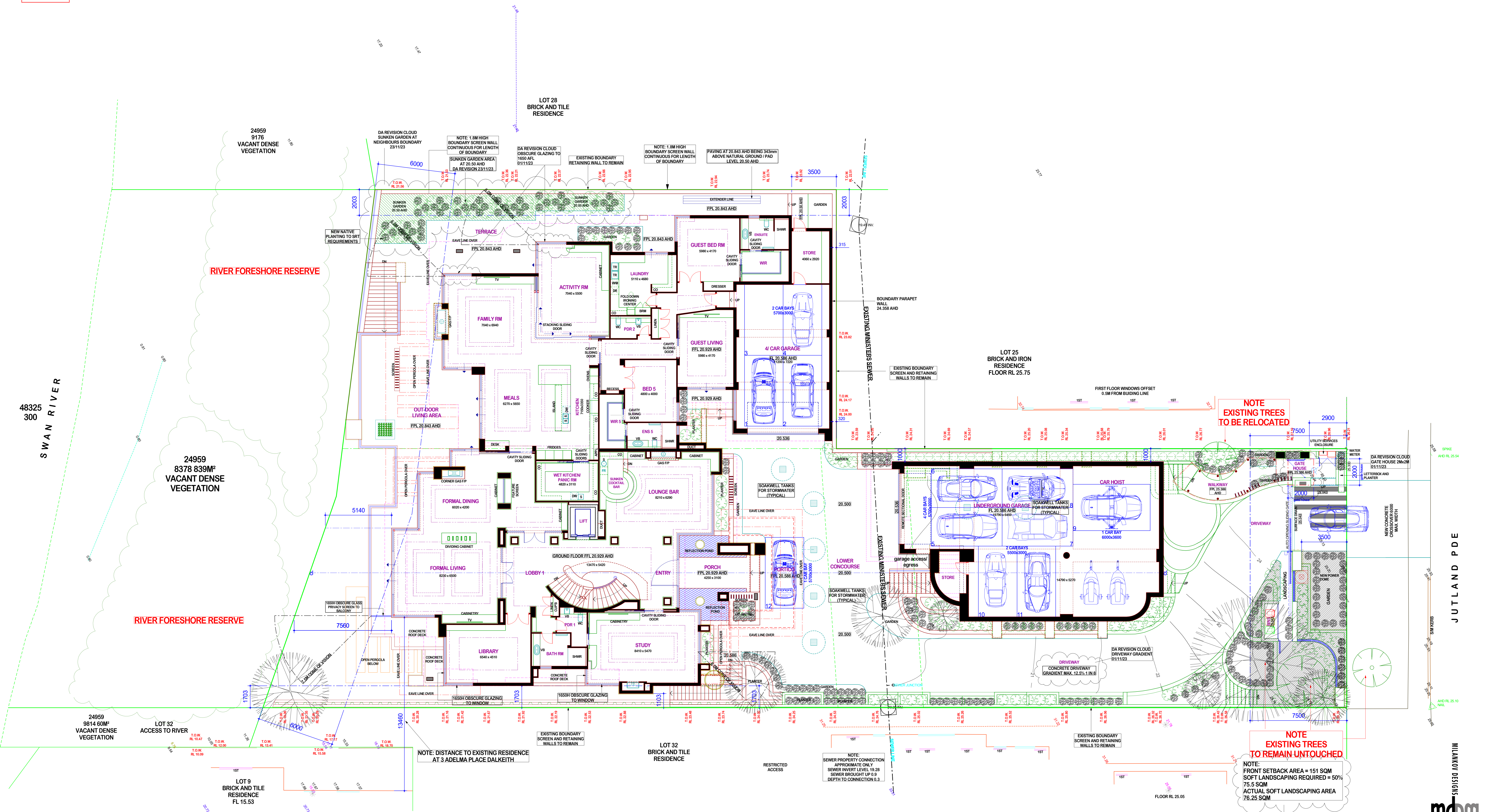
LOT 9  
BRICK AND TILE  
RESIDENCE  
FL 15.53



**26 JUTLAND PDE RESIDENCE**



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G.F. AREAS	
GROUND FLOOR LIVING AREAS	742.82 m <sup>2</sup>
GARAGE AND UNDERGROUND	338.52 m <sup>2</sup>
GARAGE PORCH PORTICO	94.19 m <sup>2</sup>
OUTDOOR LIVING AREA	197.40 m <sup>2</sup>
TOTAL	1372.78 m <sup>2</sup>

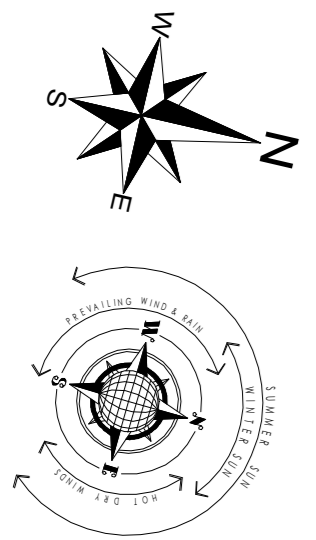
**GROUND FLOOR PLAN**  
SCALE 1:1100 @ A0 SIZE  
SCALE 1:200 @ A2 SIZE  
SCALE 1:140 @ A1 SIZE

NOTE: stormwater drainage: main house, paving and driveway areas  
Total Roof and paved area: 1,808.20 m<sup>2</sup>  
Capacity rate 1m<sup>3</sup>/80m<sup>3</sup>  
22.60 m<sup>3</sup> Storage required  
1.8m dia.(area) x 2.40m (depth) soakwell = 4.32 m<sup>3</sup>  
6 No. soak wells required

DA REVISION CLOUD  
STORM WATER CALCULATION  
01/11/23

NOTE: EXISTING TREES TO REMAIN UNTOUCHED  
NOTE: FRONT SETBACK AREA = 151 SQM  
SOFT LANDSCAPING REQUIRED = 50%  
75.5 SQM  
ACTUAL SOFT LANDSCAPING AREA  
76.25 SQM

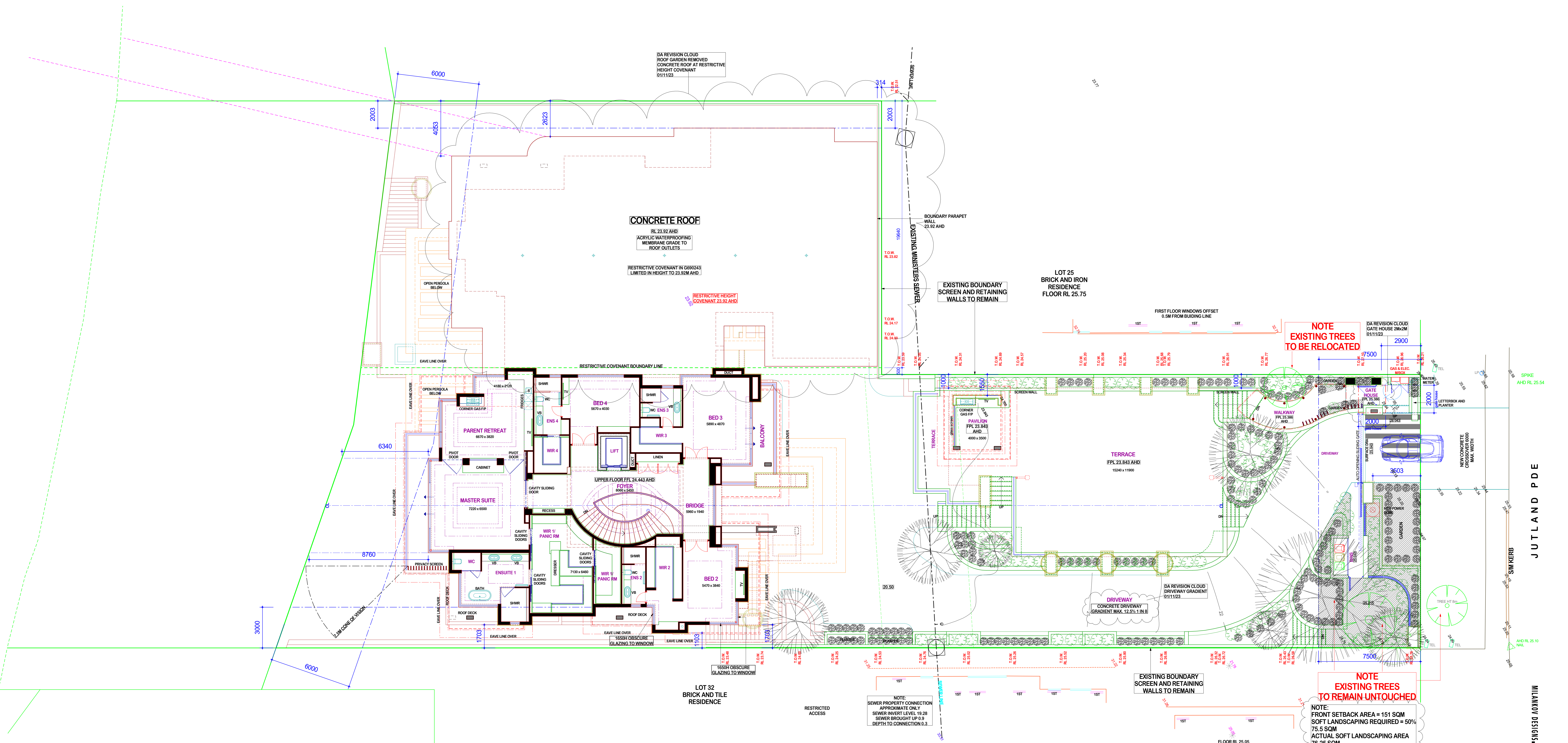
DA REVISION CLOUD  
FRONT SETBACK  
LANDSCAPING CALCULATIONS  
01/11/23



**26 JUTLAND PDE RESIDENCE**

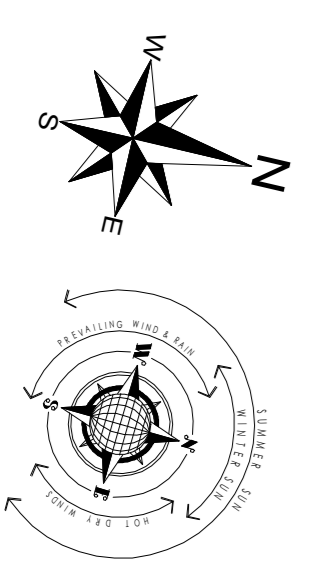
LOT 24 (26) JUTLAND PDE DALKETH

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U.F. AREAS	
UPPER FLOOR LIVING AREAS	392.85 m <sup>2</sup>
BALCONY	36.27 m <sup>2</sup>
<b>TOTAL</b>	<b>429.12 m<sup>2</sup></b>

**UPPER FLOOR PLAN**  
SCALE 1:100 @ A0 SIZE  
SCALE 1:200 @ A2 SIZE  
SCALE 1:140 @ A1 SIZE



NOTE:  
SEWER PROPERTY CONNECTION  
APPROXIMATE ONLY  
SEWER INVERT LEVEL: 19.28  
SEWER BROUGHT UP 0.9  
DEPTH TO CONNECTION 0.3

**NOTE**  
**EXISTING TREES TO REMAIN UNTOUCHED**  
NOTE:  
FRONT SETBACK AREA = 151 SQM  
SOFT LANDSCAPING REQUIRED = 50%  
75.5 SQM  
ACTUAL SOFT LANDSCAPING AREA  
76.25 SQM

DA REVISION CLOUD  
FRONT SET BACK  
LANDSCAPING CALCULATIONS  
01/11/23



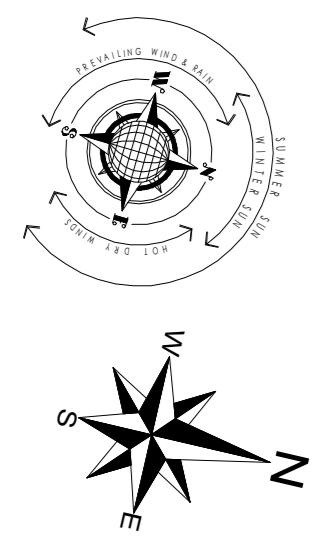
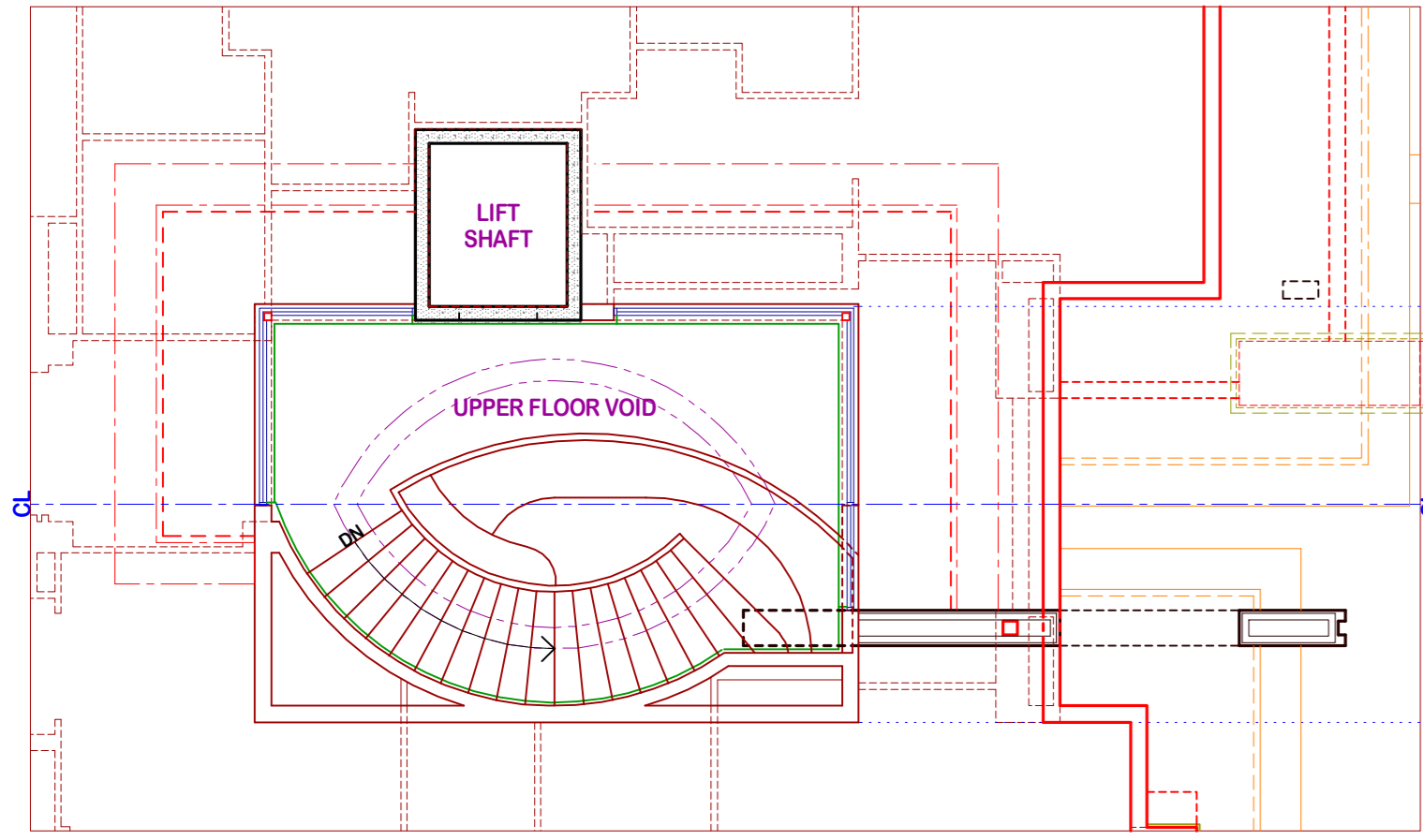
**26 JUTLAND PDE RESIDENCE**

LOT 24 (#26) JUTLAND PDE DALKETH

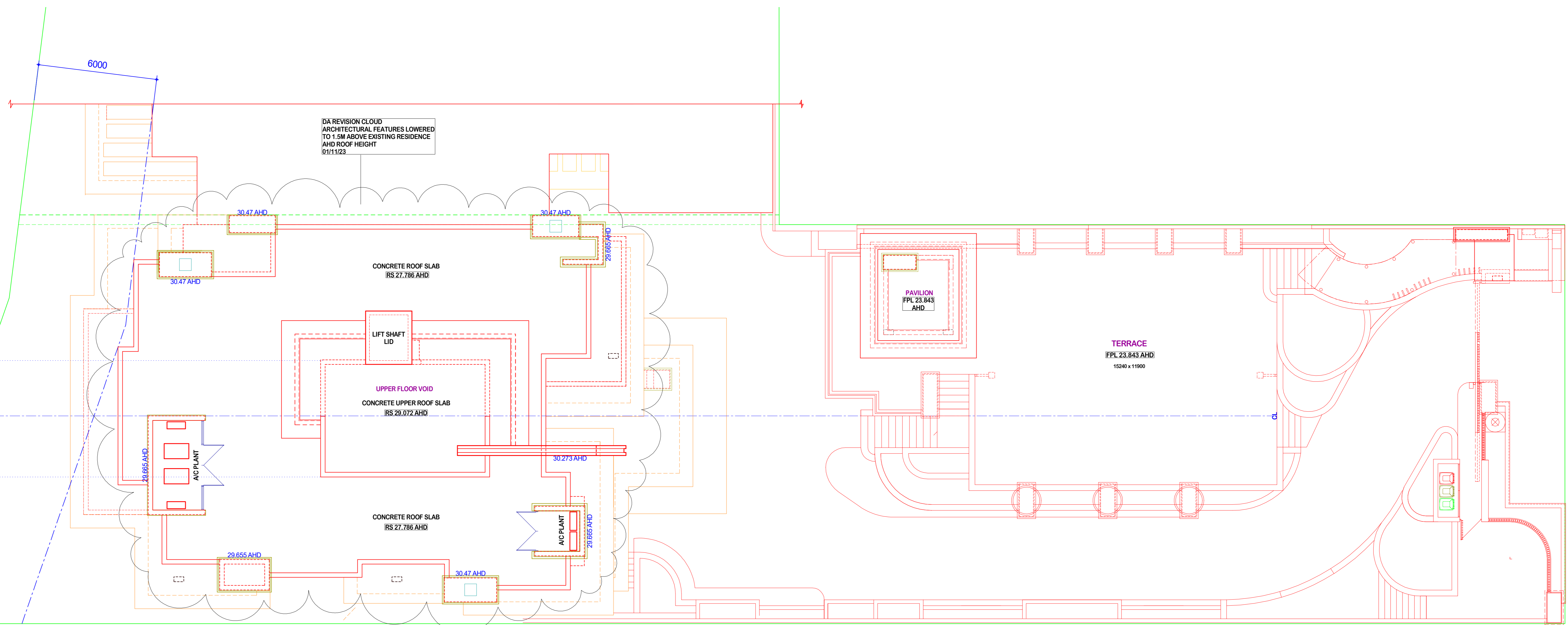
MILANOVIĆ DESIGNS PROJECT MANAGEMENT



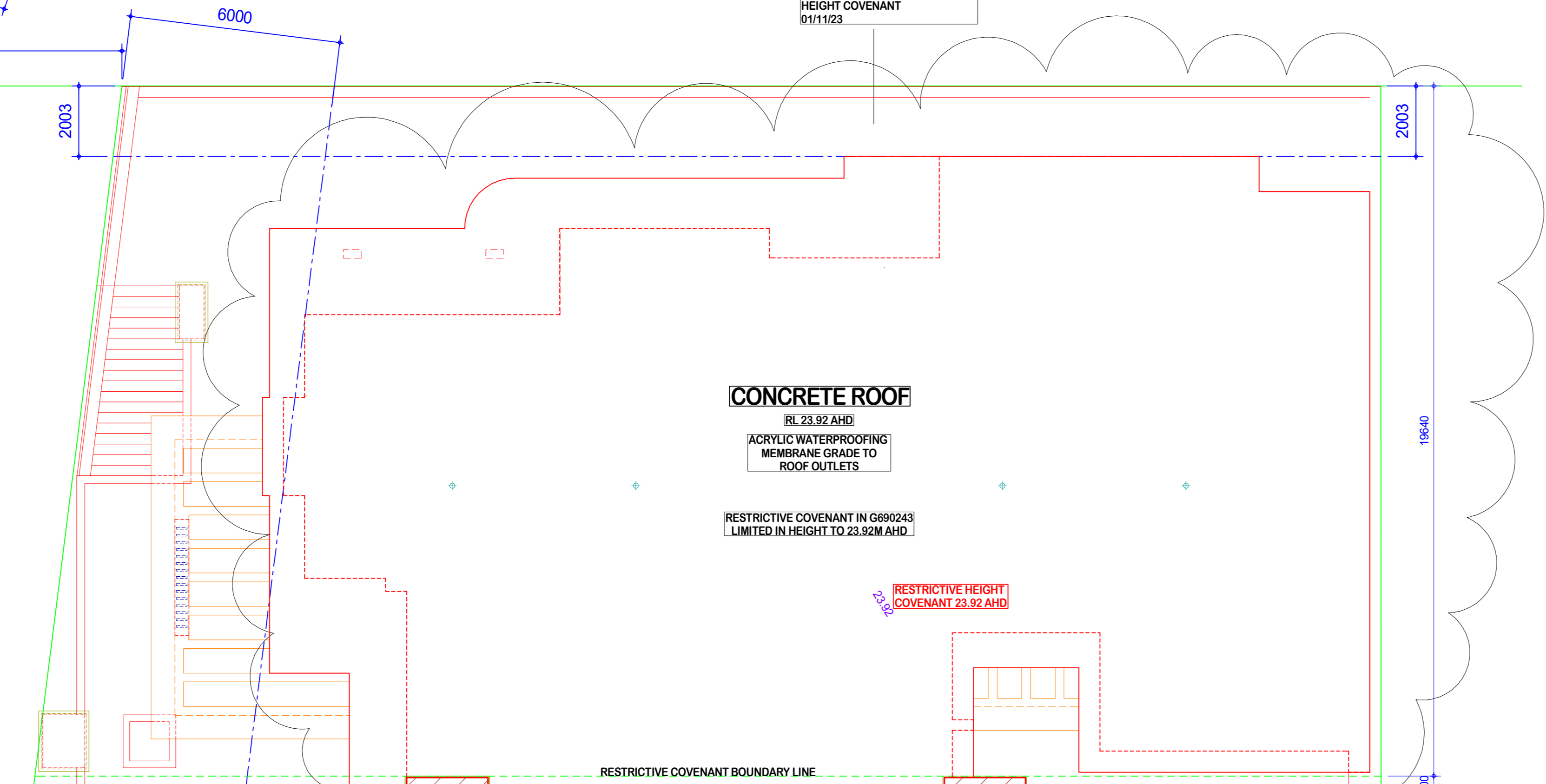
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22 November  
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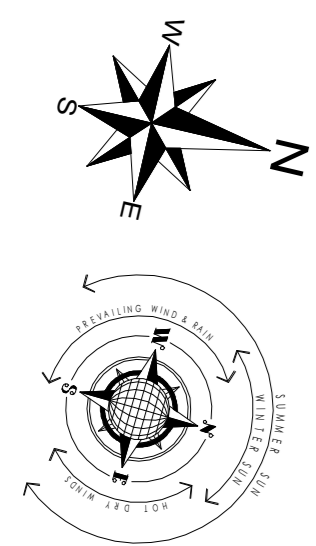
**ROOF PLAN UPPER FLOOR**  
SCALE 1:100 @ A0 SIZE  
SCALE 1:200 @ A2 SIZE  
SCALE 1:140 @ A1 SIZE



20450 SRT RESERVE



RIVER FORESHORE RESERVE



**ROOF PLAN GROUND FLOOR**  
SCALE 1:100 @ A0 SIZE  
SCALE 1:200 @ A2 SIZE  
SCALE 1:140 @ A1 SIZE

19770 SRT RESERVE

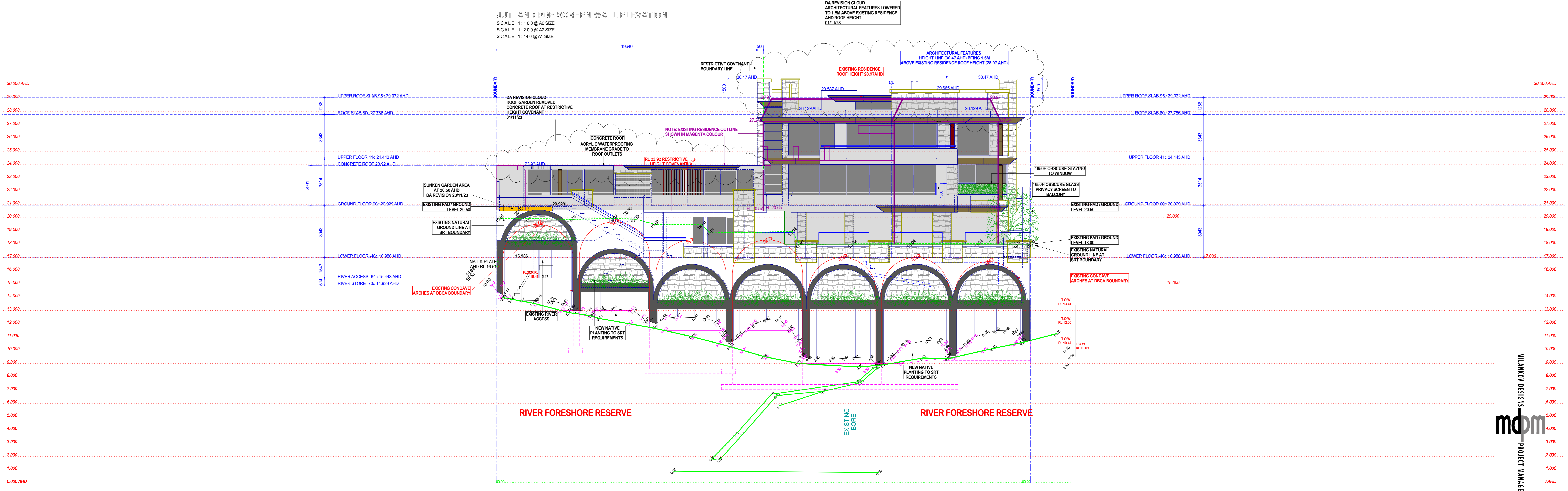
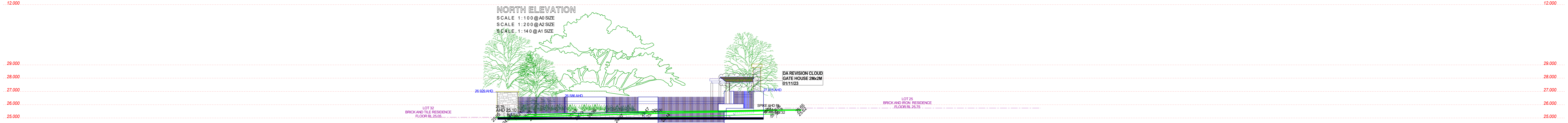
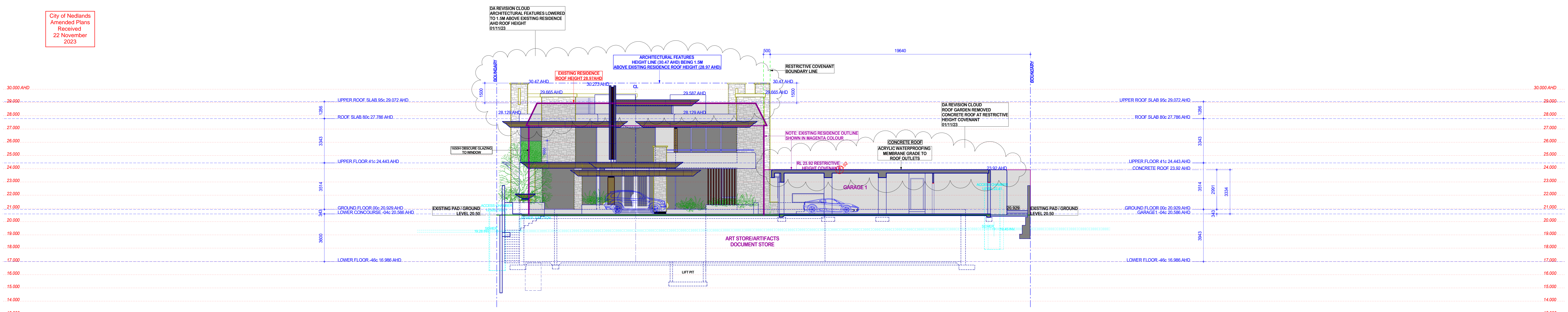


# 26 JUTLAND PDE RESIDENCE

LOT 24 (#26) JUTLAND PDE DALKEITH

P 08 | 8344 1884 | info@pirones.com.au | design@pirones.com.au | Suite 6 | 18 Healey Road | Herdman Business Park | Osborne Park WA 6107

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**SOUTH ELEVATION (RIVER)**  
SCALE 1:100 @ A0 SIZE  
SCALE 1:200 @ A2 SIZE  
SCALE 1:140 @ A1 SIZE

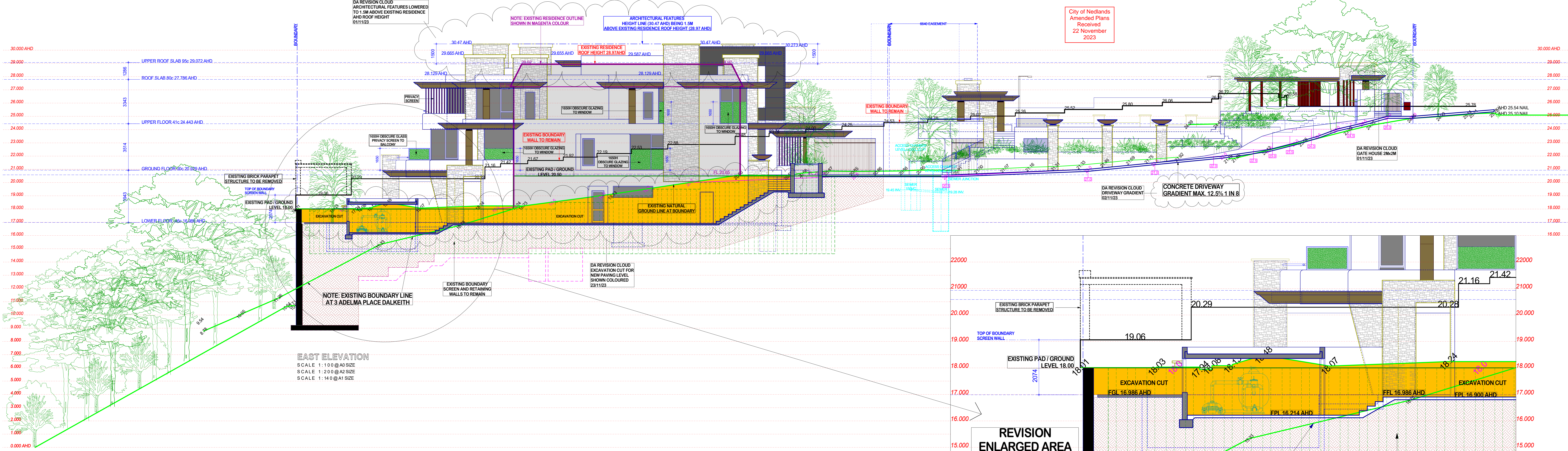


# 26 JUTLAND PDE RESIDENCE

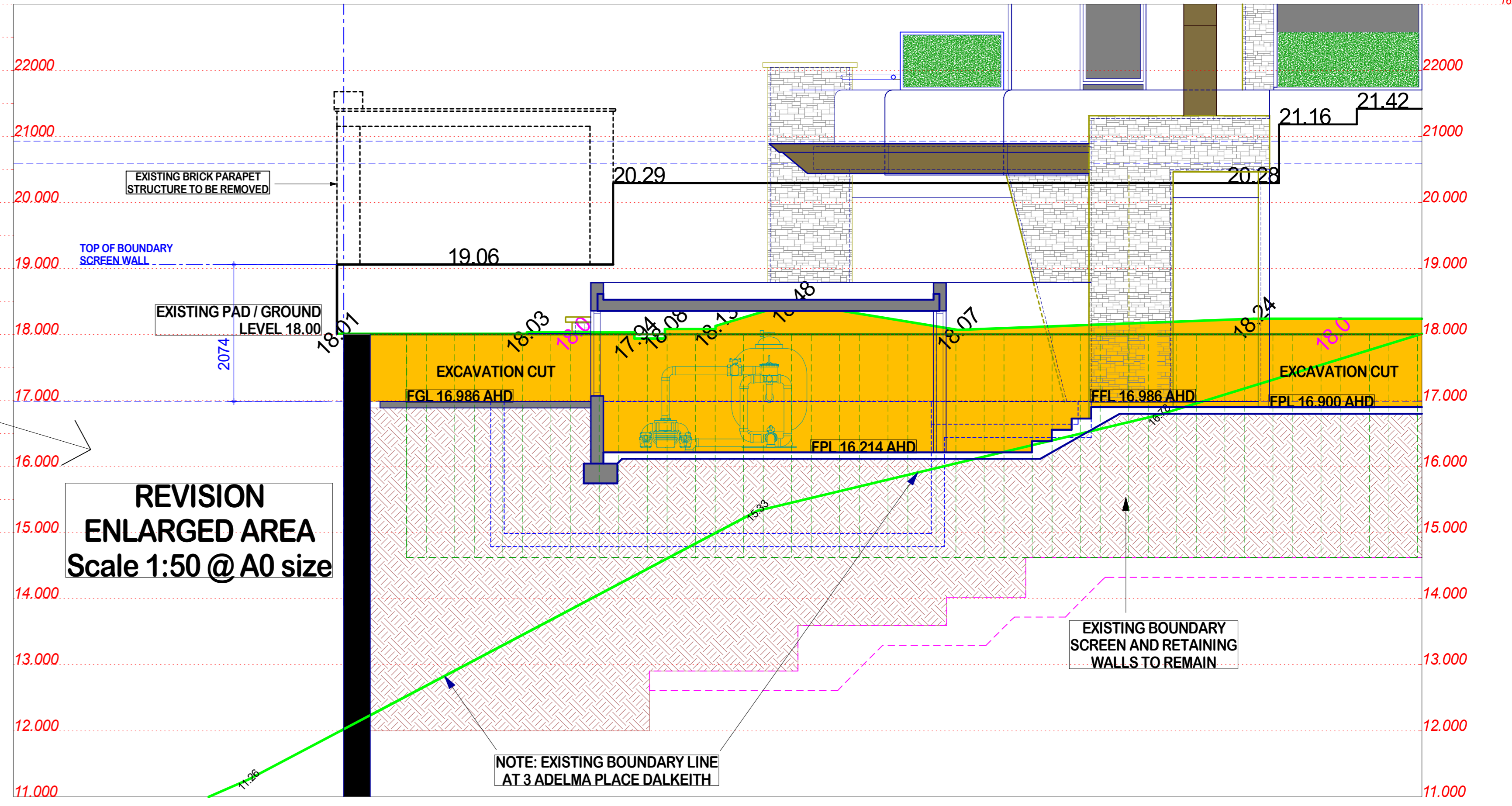
LOT 24 (206) JUTLAND PDE DALKETH

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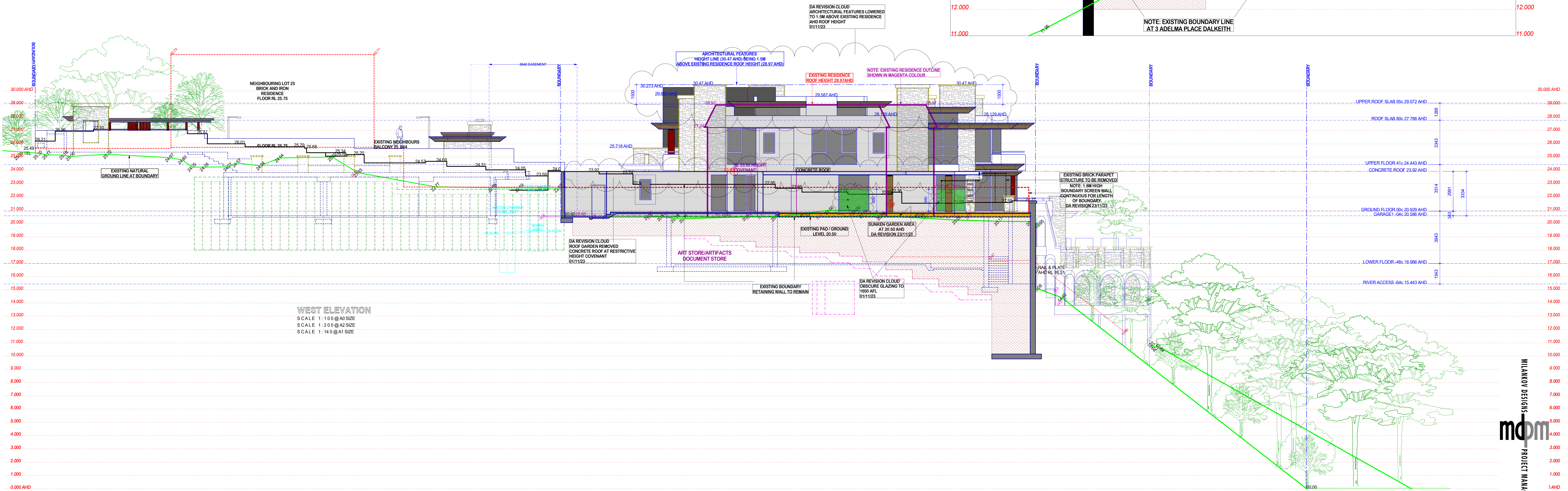
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**EAST ELEVATION**  
SCALE 1:100 @ A0 SIZE  
SCALE 1:200 @ A2 SIZE  
SCALE 1:140 @ A1 SIZE



**REVISION ENLARGED AREA**  
Scale 1:50 @ A0 size



**WEST ELEVATION**  
SCALE 1:100 @ A0 SIZE  
SCALE 1:200 @ A2 SIZE  
SCALE 1:140 @ A1 SIZE



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City of Nedlands  
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02 August 2023



**Image is artists' impression only - some materials may be subject to change. Note imagery is representative of the original design submitted 2 August 2023.**

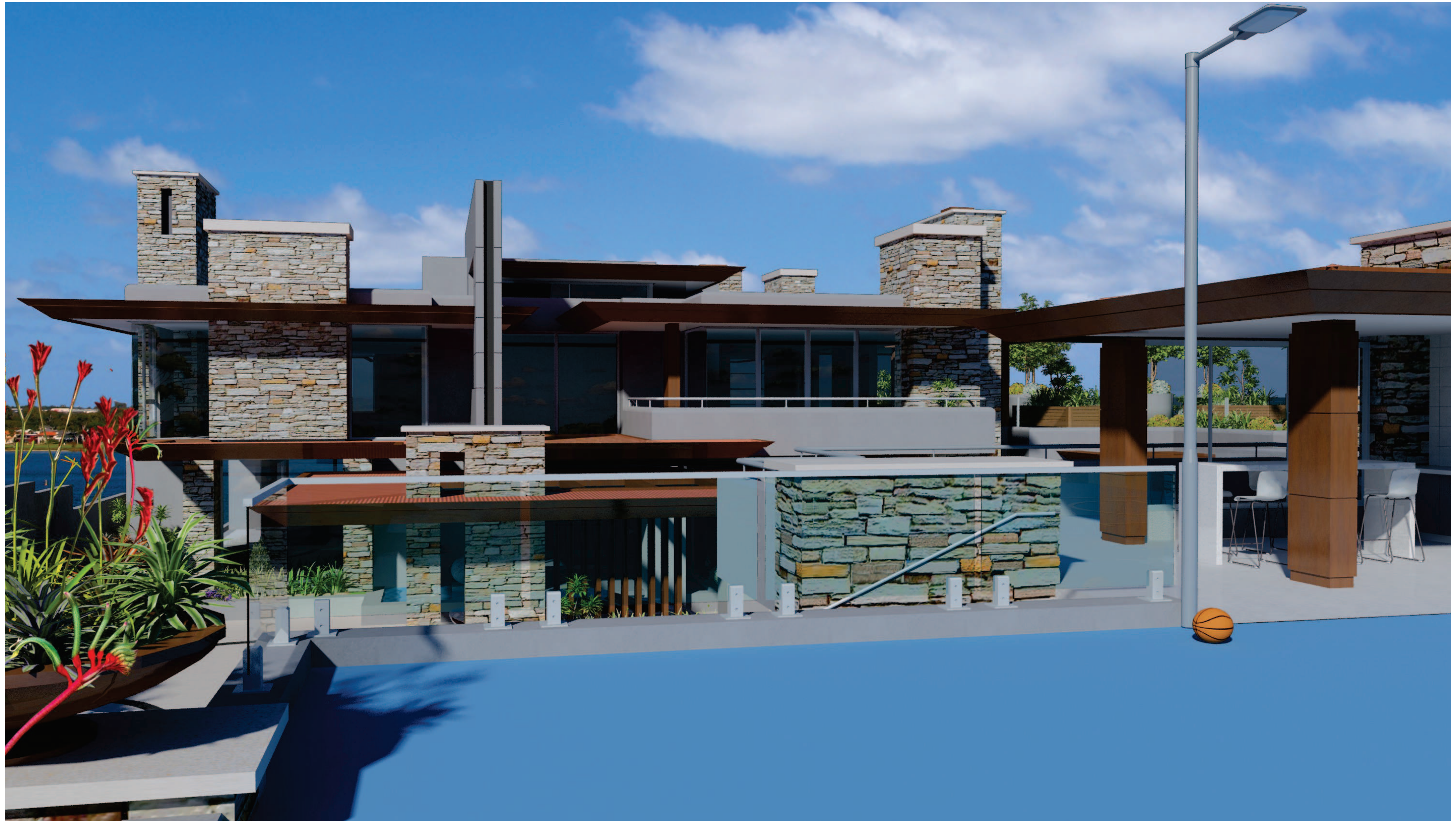
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02 August 2023



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**Image is artists' impression only - some materials may be subject to change. Note imagery is representative of the original design submitted 2 August 2023.**



Job Ref: 9824  
24 November 2023

Chief Executive Officer  
City of Nedlands  
PO Box 9  
NEDLANDS WA 6909  
Email: amicevski@nedlands.wa.gov.au

**Attention: Aviva Micevski - Coordinator Statutory Planning**

Dear Madam

**Revised Plans and Response to Submissions Received  
Proposed Single Dwelling - Lot 24 (No. 26) Jutland Parade, Dalkeith**

We refer to the above mentioned matter, our correspondence dated 30 October, 2023 and to the site meeting convened on the 22 November, 2023.

As you would be aware, our correspondence of 30 October, 2023 included amended plans and a number of tables comprising justification for variations and comments in relation to submissions. Through email correspondence dated 21 November, 2023 and at the above mentioned site meeting, it was requested that further modifications are undertaken to the plans and additional justification provided in relation to some items, particularly in response to comments from the owner of No.3 Adelpa Place, Dalkeith.

Whilst it is recognised that No.3 Adelpa Place is not an 'Adjoining Property' as defined by the R-Codes, the proposed new dwelling is nonetheless respectful of this property with the proposal resulting in a reduction to bulk and scale through a significant lowering of existing building levels in proximity to that site. There has also been additional consideration as to the potential impact on No.30a Jutland Parade which has resulted in an adjustment to levels with a lowering of the proposed landscaping adjacent to that site.

Please find attached the following documents in further support of the proposal:

- ▲ Revised plans depicting a lowering of the landscaping levels adjoining No.30a Jutland Parade from the previously proposed 20.929mAHD to 20.50mAHD;

Level 3  
369 Newcastle Street  
Northbridge 6003  
Western Australia

p: 08 9221 1991  
f: 08 9221 1919  
info@rowegroup.com.au  
rowegroup.com.au





- ▲ Shading on the plans providing a representation of the areas where there is proposed to be excavation resulting in a lowering of the existing structures;
- ▲ More detail on the plans depicting the proposed level changes and screening in the south eastern corner of the subject site;
- ▲ An aerial plan depicting the extent of the proposed built structure relative to the existing residence at No.3 Adelma Place; and
- ▲ Additional shadow plans depicting the morning, midday and afternoon shadow cast by the proposal.

Specific matters that were raised during the site meeting are addressed below.

### **OVERSHADOWING**

It is understood that the owner of No.3 Adelma Place has raised concern with respect to overshadowing and, in particular, has raised concern with respect to the potential impact of shadows on their solar panels. Whilst these concerns will be addressed below, it is relevant to note that the proposal is compliant with the 'Deemed-to-comply' solar access requirements of the Residential Design Codes (RCodes). It is also relevant to note that under the provisions of the RCodes, No.3 Adelma Place does not satisfy the definition of an 'Adjoining Property' given it is separated from the subject site by No.24 Jutland Parade and as such Clause 5.4.2 C2.1 of the RCodes does not apply in consideration of No.3 Adelma Place.

Notwithstanding the above observation, further shadow plans have been prepared depicting the shadow cast at 10am, midday and 3pm on the 21 June representing a worst case scenario. The RCodes require that at midday on the 21 June there is to be no more than 25% of an adjoining property affected by the shadow cast by the proposal. The attached plans demonstrate that there is **no** shadow cast at all on No.3 Adelma Place at this time. As is evident from the modelling, there is also no shadow cast during the morning or midday period. It is only towards the middle of the afternoon when the sun is reaching its lowest point in the north west and shadows are long on the shortest day of the year that a shadow beings to fall upon a portion of No.3 Adelma Place.

Factors that need to be acknowledged with respect to the potential impact on No.3 Adelma Place in the afternoon of 21 June include that the existing building on the subject site sits higher than No.3 Adelma Place and as such there is a pre-existing impact which pre-dates the installation of solar panels on No.3 Adelma Place. The position of the sun during this afternoon period is such that the shadow is cast by the existing built structure irrespective of any proposed projections on the southern elevation.

There is also a significant stand of trees within No.24 Jutland Parade which directly adjoin the northern boundary of No.3 Adelma Place. These trees cast a shadow on the solar panels irrespective of the built form on the subject site. The solar panels were installed in circa early 2013 well after the residence on the subject site was constructed and at a time when the trees on No.24 Jutland Parade were already well established.

We reiterate that technically the property at No.3 Adelma Place is not an 'adjoining property' for the purposes of the RCodes however even if it was to be treated as an adjoining property, the proposed residence is fully



compliant with the Deemed-to-Comply requirements stated under Clause 5.4.2 C2.1 and exceeds the standards given there is **no** shadow cast on No.3 Adelma Place at midday on the 21 June.

### **PRIVACY**

It is understood that the owner of No.3 Adelma Place has raised concern with respect to the potential impact of the proposed dwelling upon privacy. The western portion of No.3 Adelma Place predominantly comprises service areas however it is understood that a habitable room is located in the south western corner of that dwelling.

As you would be aware, the subject site currently is considerably higher than the residence at No.3 Adelma Place with an existing outdoor area at a level of 18.00m AHD in the south eastern area of the subject site. The existing outdoor area is proposed to be lowered to 16.98m AHD with a privacy screen/fence to be placed on the property boundary. These modifications are depicted on the attached detail plan. The proposed changes to the existing outdoor area will result in an enhancement to the privacy and screening for No.3 Adelma Place in this portion of the site when compared to the existing situation.

### **BUILDING BULK AND SCALE**

In consideration of bulk and scale it is relevant to recognise that the proposed dwelling is the same height and covers generally the same footprint as the existing dwelling hence resulting in minimal impact upon any adjoining properties. The southern elevation of the proposed dwelling will project beyond the existing building however this projection predominantly comprises wide overhangs and eave areas that are intended to act as a shield to protect against the impact of prevailing winds and rain, and to provide solar screening. Indeed the design brief requires consideration of sustainability measures. In this regard specific sustainability consultation has been undertaken by Josh Byrne and Associates being the leading landscape and built environmental sustainability consultants who have been appointed to undertake the landscaping and sustainability consultation for the proposal.

The projections across the southern elevation are articulated across the elevation so as to step away from the side boundaries. The projections and the overall proposed building is positioned north of (behind) the rear building line and at a distance of approximately 8m from the existing dwelling at No.3 Adelma Place at the closest point between the buildings.

These projections need to be considered in the context of the outdoor spaces on the southern elevation which are to be significantly lowered. As noted in the correspondence dated 2 October, 2023 from the Department of Biodiversity, Conservation and Attractions (DBCA) on behalf of the Swan River Trust, the proposal has been conditionally supported by these agencies. Throughout the consultation process with the Trust there was careful consideration in relation to the visual impact of the proposal from the Swan River having regard to bulk and scale. The lowering of the existing outdoor area contributes significantly to reducing bulk and scale whilst the proposed projections have a marginal impact which is more than offset by the lowered outdoor area, hence the overall impact of the proposed new dwelling represents a significant improvement for the locality.



The overall reduction in the scale of the built form is further enhanced through the considerable environmental rehabilitation works that are proposed in the portion of the site that directly abuts the Swan River foreshore.

#### **STREETSACPE**

The subject site is visible from both Jutland Parade and Adelma Street. The proposed new dwelling will be located in the same position on the site as the existing dwelling and is proposed at essentially the same height. As such, when viewed from Jutland Parade there will be very little change to the streetscape other than the addition of the gatehouse.

It is relevant to note that the existing dwellings at No.24 and No.28 Jutland Parade are built in relatively close proximity to the street whilst the proposed dwelling is set well into the site. Given the sloping nature of the site, this means that the dwelling presents as being significantly lower than the two dwellings either side of it. The addition of the gatehouse will add some improved contextual integration to the built form and height along the southern side of the Jutland Parade streetscape resulting in a significant improvement to the existing situation.

When viewed from Adelma Place a small amount of the roofline from the existing residence is evident at the end of the cul-de-sac and part way down the road when viewed across the rear yards of No.22 and No.24 Jutland Parade. Given the proposed dwelling essentially matches the height of the existing dwelling with only minor projections to the south, the difference in the streetscape when viewed from Adelma Place will be marginal. It is noted that the southern elevation of the proposed residence is articulated with the projections predominantly comprising large eaves overhangs hence further mitigating any visual impact.

We trust the revised plans and additional information is of assistance to the City and enables the preparation of a favourable recommendation to Council. Should you require any further information or clarification in relation to this matter, please contact George Hajigabriel on 9221 1991.

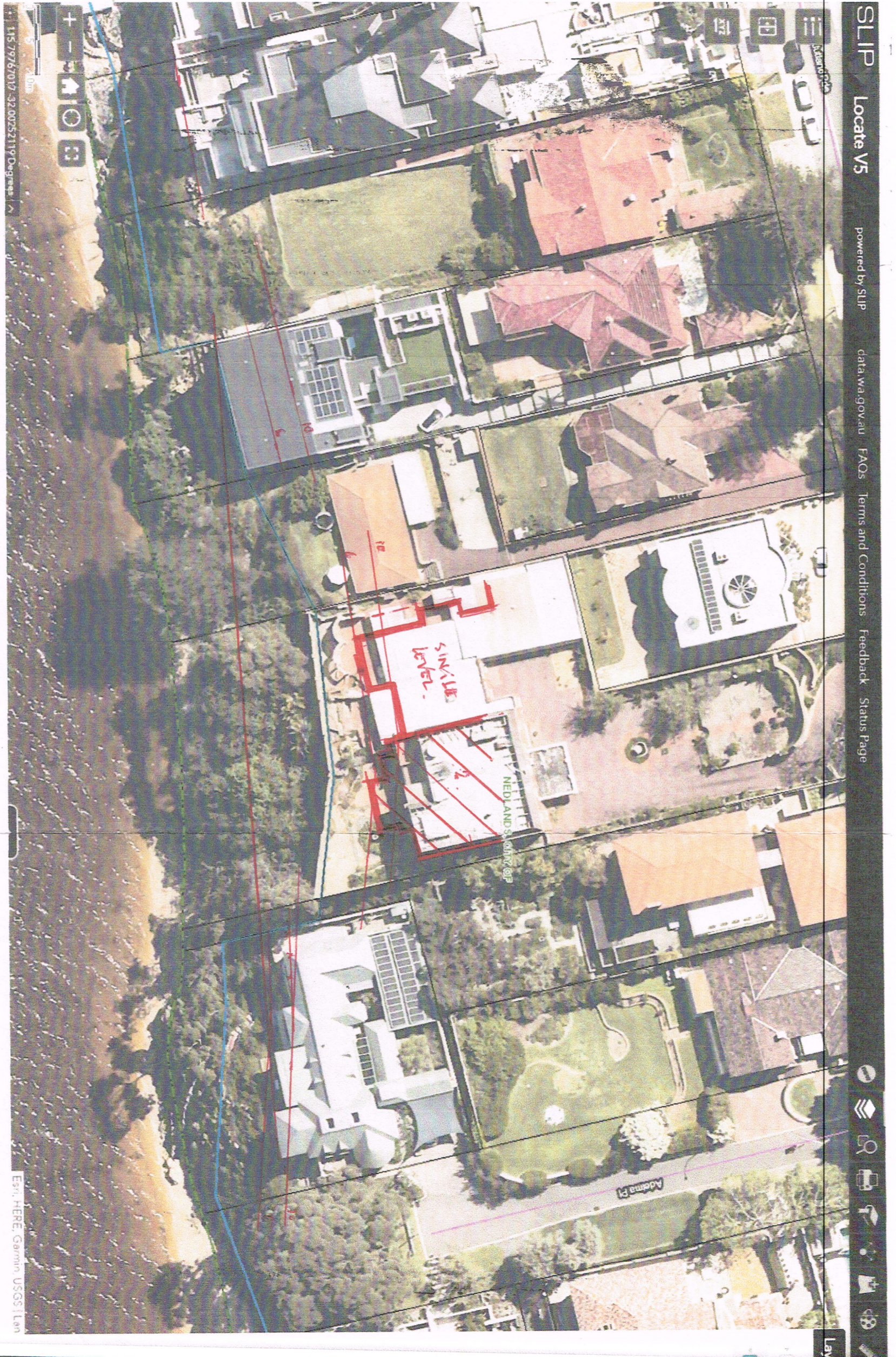
Yours faithfully,

**George Hajigabriel**

Rowe Group

Encl.

cc: Milankov Designs





Department of **Biodiversity,  
Conservation and Attractions**



Your ref: DA23-88242  
Our ref: 23-4686  
Enquiries: Michelle Donnelly  
Phone: 9 219 9115  
Email: michelle.donnelly@dbca.wa.gov.au

Ms Chantel Weersekera  
Senior Urban Planner (Statutory)  
City of Nedlands  
71 Stirling Hwy WA 6009

Attention: Ms Chantel Weersekera

Dear Chantel

### **CLAUSE 30A(2)b(i) – Single Four Storey Dwelling, 26 Jutland Parade (Lot 24), Dalkeith**

Thank you for providing the Swan River Trust (the Trust) with the opportunity to comment on the above development application received on 14 August 2023.

The proposal is being processed pursuant to Clause 30A(2)b(i) of the Metropolitan Region Scheme, as the proposal is on a lot that abuts land within the Swan Canning Development Control Area (DCA).

The Department of Biodiversity, Conservation and Attractions (DBCA) notes that the application relates to development on Lot 24 on Plan 35070 and does not relate to development within the foreshore reserve (Lot 8378 on Plan 35070, Reserve No. 24959).

The DBCA has assessed the application on behalf of the Trust against *State Planning Policy 2.10: Swan-Canning River System* and Swan Canning Development Control Area policies, and you are advised that DBCA has no objections to the proposal, subject to the following conditions/for the following reasons:

#### **Conditions**

1. All works are to be undertaken in accordance with a Construction Environmental Management Plan approved by the Department of Biodiversity, Conservation and Attractions. (see **Advice Notes 3 and 4**)
2. Prior to the commencement of works or any development being undertaken on site, the applicant shall prepare a Stormwater Management Plan to the satisfaction of the Department of Biodiversity, Conservation and Attractions. (**Advice Note 5**)
3. No dewatering effluent is to enter the River, either directly or indirectly (via the stormwater system), unless approved by the Department of Biodiversity, Conservation and Attractions. (see **Advice Note 6**)
4. No poolwater/ backwash from the swimming pool is to be discharged onto the land, into the River or the local government drainage system. (see **Advice Note 7**)
5. The applicant shall implement appropriate on-site measures to ensure that:
  - a. No construction material, sediment or rubbish enters the River, Parks and Recreation reserve or stormwater system, as a result of the works to the satisfaction of the Western

**Rivers and Estuaries Branch**  
Locked Bag 104, Bentley Delivery Centre, Western Australia 6983  
Phone: (08) 9219 9000 Email: rivers.planning@dbca.wa.gov.au  
www.dbca.wa.gov.au

Australian Planning Commission based on advice from the Department of Biodiversity, Conservation and Attractions; and

- b. During the works no vehicular access associated with the construction is permitted within the Parks and Recreation reserve without the prior approval of the manager of the reserve. (see **Advice Note 8**)
6. Prior to the commencement of works, the applicant shall submit and obtain approval for a schedule of colours, building materials and finishes for the development to the Department of Biodiversity, Conservation and Attractions. (see **Advice Note 9**)

### ADVICE TO APPLICANT

1. Notifications and documents can be emailed to [rivers.planning@dbca.wa.gov.au](mailto:rivers.planning@dbca.wa.gov.au)
2. This approval does not relate to any works within the adjoining foreshore reserve being Lot 8378 on Plan 35070, Reserve No. 24959 which is owned by the Department of Planning Lands and Heritage. As such, a separate permit for any proposed works will need to be obtained pursuant to the requirements of the Swan and Canning Rivers Management Regulations 2007, for example during construction, stair access and foreshore rehabilitation.
3. Regarding **Condition 1**, to allow sufficient time for the DBCA to consider and approve the Construction Environmental Management Plan, the document should be submitted at least 42 days before the expected works commencement date.
4. The Construction Environmental Management Plan under **Condition 1** is to describe how the authorised works will be managed and implemented to minimise potential environmental impacts and should address the matters set out below:
  - a. A detailed work method statement that describes how the contractor will undertake the works (with photographic evidence to be provided to the Department during the works) including but not limited to dewatering management, including tailwater disposal, and acid sulphate soils risk management
  - b. Timeframes and responsibilities for tasks identified
  - c. Contact details of essential site personnel, construction period and operating hours
  - d. Management of any potential acid sulphate soils (PASS) that may be exposed during the works
  - e. Waste management
  - f. Protection of the river from inputs of debris, run-off, soil, fill or other deleterious material
  - g. Containment of stockpiles of materials – photographic evidence required
  - h. A detailed site map showing the location of:
    - i. Areas of excavation and stockpiling of soil
    - ii. On-site storage and equipment
  - i. Incident response procedures such as measures to document and respond to incidents of damage, sediment plumes, pollution or spills within the Swan Canning Development Control Area noting also that incidents are to be reported immediately to the Department of Biodiversity, Conservation and Attractions' Duty Officer (Riverpark) on 9278 0981 (24 hrs) or Pollution Response Officer (Marine) on 9480 9924 (24 hrs)
5. Regarding **Condition 2**, the Stormwater Management Plan shall describe how the stormwater system has been designed to prevent mobilisation of sediment, nutrients and contaminants from the site to the river. Stormwater from the authorised works should be managed in accordance with Corporate Policy Statement 49: *Planning for Stormwater Management Affecting the Swan Canning Development Control Area*, the Department of Water and Environmental Regulation's *Stormwater Management Manual for Western Australia* and *Decision Process for Stormwater Management in WA*, and water sensitive urban design principles. The plan shall address, unless otherwise agreed in writing, that:
  - a. stormwater run-off from constructed impervious surfaces generated by small rainfall

- events (i.e. the first 15 mm of rainfall) has been retained and/or detained at-source as much as practical (noting that untreated stormwater will not be permitted to enter the river);
6. Regarding **Condition 3**, in the event it is proposed to dewater effluent either directly or indirectly (e.g., via the stormwater system) to the river, a dewatering management plan, demonstrating that the dewatering effluent discharge standards contained within the *DBCA Policy:50 Planning for dewatering affecting the Swan Canning Development Control Area* will be met, is to be approved by the Department of Biodiversity, Conservation and Attractions.
  7. Regarding **Condition 4**, the applicant is advised that the Department of Biodiversity, Conservation and Attractions does not permit the discharge of swimming pool water or backwash water into wetlands, waterways or drains that lead to waters within the Swan Canning Development Control Area. The use of limestone-lined soak wells may be appropriate to carry out this function. More information on the safe storage and application of pool chemicals can be found at [Water Quality Protection Note 55 Swimming Pools](#), Department of Water and Environmental Regulation.
  8. Regarding **Condition 5**, The Department of Biodiversity, Conservation and Attractions advises the applicant that in respect to the adjoining Swan Canning Development Control Area:
    - a. No earthworks are to encroach into the Swan Canning Development Control Area
    - b. No waste materials (including sediment, building materials or any other deleterious matter) is to encroach the Swan Canning Development Control Area
    - c. The applicant shall make good any damage to the foreshore, riverbank or waterway (including infrastructure and vegetation) within the Swan Canning Development Control Area
    - d. Any incidents of pollution or spills within the Swan Canning Development Control Area are to be reported immediately to the Department of Biodiversity, Conservation and Attractions on 9278 0981 (Riverpark Duty Officer) or 9480 9925 (Marine Pollution Response).
  9. Regarding **Condition 6**, external colours, building materials and finishes for the retaining wall are to be consistent with the predominantly limestone geology of the locality and tone in to further reduce the visual impact of the structure. Appropriate vegetative screening is also proposed to be incorporated into the design.

If you have any queries regarding this matter, please contact the officer above. Please quote the above reference number in all correspondence.

Yours sincerely



Greg Comiskey  
Manager, Statutory Assessments  
As delegate of the Swan River Trust  
Under Section 28B(2) of the SCRM Act 2006

2 October 2023



**17. Divisional Reports - Corporate Services**

**17.1 CPS49.12.23 – RFQ – 2023.24.01 Provision of Pavement Marking**

<b>Meeting &amp; Date</b>	Council Meeting – 12 December 2023
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Report Author</b>	Natalia Rychkova – Acting Coordinator Contracts and Procurement
<b>Director</b>	Michael Cole – Director Corporate Services
<b>Attachments</b>	1. Confidential – Evaluation and Recommendation Report – Award RFQ 2023-24.01 Provision of Pavement Marking 2. Confidential – Tagsat Schedule of Rates

**Purpose**

The purpose of the report is for Council to accept the evaluation and recommendation for the award of RFQ 2023-24.01 Provision of Pavement Marking to Retro Roads trading as Tagsat Pty Ltd, for an initial term of 3 years with a further 2 extensions of one year each.

**Recommendation**

**That Council:**

- 1. approves the award of the contract for the "Provision of Pavement Marking" in accordance with the City's request for quotation number RFQ 2023-24.01 and comprising of that request, the City's conditions of Contract and Retro Roads trading as Tagsat Pty Ltd submission;**
- 2. instructs the CEO to arrange for a Letter of Acceptance and a Contract document to be sent to Retro Roads trading as Tagsat Pty Ltd; and**
- 3. instructs the CEO to arrange for all other quote respondents to be advised of the outcome.**

**Voting Requirement**

Absolute Majority.

**Background**





The City has invited suitable Contractor/s to provide the following goods and services in accordance with requirements set out within this document:

- Supply and application of Pavement Marking and glass beads,
- Supply and application of Thermoplastic and cold applied plastic material and glass beads,
- Supply and application of polymer tape for new installations of longitudinal lines,
- Supply and application of Line marking and spotting as per As-construct delineation works drawings.
- Supply and application of Marking median islands and roundabouts with reflective tape The works shall include all necessary insurances, qualified personnel, mobilization, traffic management and JSEA reporting as required by the Principal.

Due to the specialised skills set and equipment requirements needed to undertake this function, the City is required to engage the services of an experienced contractor to undertake such works.

The City undertook a request for quotation process for the Provision of Pavement Marking via RFQ 2023-24.01 during the period from 5th October 2023 to 23rd October 2023. The City received one (1) submission.

## Discussion

After the closure of the Request for Quotation period, the evaluation panel members completed the analysis and evaluation of the submission from Retro Roads trading as Tagsat Pty Ltd. The submission was rated against the following criteria:

- Relevant Experience (30%)
- Key Personnel Skills and Experience (10%)
- Respondents Resources (20%)
- Demonstrated understanding (40%)

Upon completion of the evaluation the Panel nominated Retro Roads trading as Tagsat Pty Ltd as the preferred Contractor. As the City's Contractor Retro Roads demonstrated that they have the resources and relevant experience to perform the requirements of the contract to a high standard. They currently perform very similar services for other local authorities in the Perth Metropolitan region and can guarantee availability within an acceptable timeframe.

## Consultation

Not required.

## Strategic Implications

This item relates to the following elements from the City's Strategic Community Plan.



**Vision** Our city will be an environmentally sensitive, beautiful and inclusive place.

**Values** **Healthy and Safe**

Our City has clean, safe neighborhoods where public health is protected and promoted.

**High standard of services**

We have local services delivered to a high standard that take the needs of our diverse community into account.

**Great Governance and Civic Leadership**

We value our Council’s quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community’s assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

**Easy to Get Around**

We strive for our City to be easy to get around by preferred mode of travel, whether by car, public transport, cycle or foot.

**Priority Area**

- Renewal of community infrastructure such as roads, footpaths, community and sports facilities

**Budget/Financial Implications**

The works undertaken by this contract will be covered by the road maintenance operational budget. The historic and projected costs for line marking in the City are:

Financial Year	Annual Cost \$
2018-19	\$68,656
2019-20	\$59,656
2020-21	\$68,291
2021-22	\$87,246
\$2022-23	\$59,045
Average Annual	\$68,619
Projected initial 3 year total	\$205,858
Projected contract with 2 year extension total	\$343,097

**Legislative and Policy Implications**



[Procurement of Good and Services Council Policy](#)  
[Local Government \(Functions and General\) Regulations 1996](#)

## **Decision Implications**

If Council endorses the recommendation, City staffs can make progress to proceed with the procurement process and carry out the pavement marking works as planned.

If Council doesn't endorse the recommendation, then the planned works for the project will be postponed.

## **Conclusion**

By endorsing the officer recommendation, a contractor will be appointed to provide the required services to enable the City to deliver the ongoing improvements associated with supply and application of Pavement Marking and glass beads. If Council doesn't endorse the recommendation, then the planned works for the project will be postponed affecting the safety and efficiency in various environments as clear and well-maintained line marking contribute to a safer and more organized environment.

## **Further Information**

Nil.

**17.2 CPS50.12.23 – RFT 2023.24.04 Tree Planting and Young Tree Maintenance**

<b>Meeting &amp; Date</b>	Council Meeting – 12 December 2023
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil
<b>Report Author</b>	Natalia Rychkova – Acting Coordinator Contracts and Procurement
<b>Acting CEO</b>	Tony Free
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Confidential – Evaluation and Recommendation Report – Award RFT 2023-24.04 Tree Planting and Young Tree Maintenance</li> <li>2. Confidential – Baroness Holdings Pty Ltd Schedule of Rates</li> </ol>

**Purpose**

The purpose of the report is for Council to accept the evaluation and recommendation for the award of RFT 2023-24.04 Tree Planting and Young Tree Maintenance to Baroness Holdings Pty Ltd, for an initial term of 2 years with a further 2 extensions of one year each.

**Recommendation**

That Council:

1. approves the award of the contract for the Tree Planting and Young Tree Maintenance in accordance with the City's request for tender number RFT 2023-24.04 and comprising of that request, the City's conditions of Contract and Baroness Holdings Pty Ltd submission;
2. instructs the CEO to arrange for a Letter of Acceptance and a Contract document to be sent to Baroness Holdings Pty Ltd; and
3. instructs the CEO to arrange for all other quote respondents to be advised of the outcome.

**Voting Requirement**

Absolute Majority.



## Background

The City has invited suitable Contractor/s to provide for the planting of approximately five hundred trees annually, and the watering and maintenance services of approximately one thousand trees within residential streetscapes, arterial road reserves and or parks in the City for a period of two (2) years, plus the options to extend for a further two (2) x 12-month terms, at the City's discretion.

Due to the specialised skills set and equipment requirements needed to undertake this function, the City is required to engage the services of an experienced contractor to undertake such works.

The City undertook a request for tender process for the provision of Tree Planting and Young Tree Maintenance services via RFT 23-24.04 during the period from September 29, 2023, to November 1, 2023. The City received a total of three (3) submissions.

## Discussion

After the closure of the tender period, the evaluation panel members completed the analysis and evaluation of the submission from Baroness Holdings Pty Ltd, Environmental Industries Pty Ltd and Natural Area Management and Services. The submission was rated against the following criteria:

- Relevant Experience (30%)
- Key Personnel Skills and Experience (20%)
- Respondents Resources (20%)
- Demonstrated understanding (30%)

Upon completion of the evaluation the Panel nominated Baroness Holdings Pty Ltd as the preferred Contractor. The respondent provided information on similar works that they have recently undertaken, successfully demonstrating an ability to complete the requirements of this tender.

Key personnel listed were experienced, suitably skilled and have experience delivering similar works.

Following the due diligence processes that the City has undertaken, the City is confident that Baroness Holdings Pty Ltd can complete the scope of work to the required standards, and that their offer represents good value for money to the City within the market.

## Consultation

Not required.



### Strategic Implications

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally sensitive, beautiful and inclusive place.

**Values**

**Healthy and Safe**

Our City has clean, safe neighborhoods where public health is protected and promoted.

**High standard of services**

We have local services delivered to a high standard that take the needs of our diverse community into account.

**Great Natural and Built Environment**

We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

**Great Governance and Civic Leadership**

We value our Council’s quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community’s assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

**Reflects Identities**

We value our precinct character and charm. Our neighborhoods are family-friendly with a strong sense of place.

### Priority Area

- Urban form - protecting our quality living environment.

### Budget/Financial Implications

The works undertaken by this contract will be covered by the operational budget. Estimated costs for 2 years of the contract are:

	<b>Pricing estimations based on potentially most frequent services -- quantities</b>			
		Total	Year 1	Year 2
1	Planting/Staking/Mulching 12ltr – 35ltr trees (Per Tree)	400 Trees	\$27,200.00	\$28,560.00
2	Planting/Staking/Mulching	100 Trees	\$9,200.00	\$9,660.00



	36ltr – 75ltr trees (Per Tree)			
7	Traffic Management Per Tree (Basic Only)	50 Trees	\$3,250.00	\$3,412.50
8	Tree Watering (40ltr Water) Weeding, Mulch Bowl Maintenance, Stake & Tie Maintenance.	(500 x 22 services) 11,000	\$60,500.00	\$63,470.00
11	Established Tree Watering (100ltr Water)	(50 x 22) 1,000	\$7,800.00	\$8,190.00
9	Tree Watering (40ltr Water) With Added Wetting Agent (Provided by The Contractor)	(500 x 3) 1,500	\$9,270.00	\$9,720.00
17	Blanket Watering Allowing Approximate Rate of 10mm Coverage per 100m2	6	\$9.00	\$9.42
5	Dead Tree and Stake Removal 12ltr - 90ltr	20	\$1,120.00	\$1,176.00
	<b>TOTAL</b>		<b>\$118,349.00</b>	<b>\$124,197.92</b>

### Legislative and Policy Implications

[Procurement of Goods and Services Council Policy](#)

[Local Government \(Functions and General\) Regulations 1996](#)

### Decision Implications

If Council endorses the recommendation, City staffs can make progress to proceed with the procurement process and carry out the Tree Planting and Young Tree Maintenance works as planned.

If Council doesn't endorse the recommendation, then the planned works for the project will be postponed.

### Conclusion

By endorsing the officer recommendation, a contractor will be appointed to provide the required services to enable the City to deliver the ongoing improvements associated with the Tree Planting and Young Tree Maintenance works. If Council doesn't endorse the recommendation, then the planned works for the project will be postponed affecting the efficiency in various environments.



## Further Information

Nil.





**17.3 CPS51.12.23 - Monthly Financial Report - November 2023**

This item will be dealt with at the Council Meeting.

**17.4 CPS52.12.23 - Monthly Investment Report – November 2023**

This item will be dealt with at the Council Meeting.

**17.5 CPS53.12.23 - List of Accounts Paid - November 2023**

This item will be dealt with at the Council Meeting.



## 18 Divisional Reports – Reports from the Audit & Risk Committee

### 18.1 ARC21.11.23 – Adoption Strategic Risk Register

<b>Meeting &amp; Date</b>	Council Meeting – 12 December 2023 Audit and Risk – 20 November 2023
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Report Author</b>	Libby Kania - Coordinator Governance and Risk
<b>CEO</b>	Tony Free – Acting Chief Executive Officer
<b>Attachments</b>	1. Risk Management Framework 2. Confidential Attachment Strategic Risk Register

### Committee Recommendation / Recommendation

That the Audit and Risk Committee recommends that Council:

1. adopts the Strategic Risk Register as contained in Confidential Attachment 1 to this report; and
2. adopts the updated Risk Management Framework as contained in Attachment 2 to this report.

### Purpose

The purpose of this report is for the Council to consider and adopt the proposed Strategic Risk Register, and to adopt the updated Risk Management Framework as recommended by the Audit & Risk Committee.

### Voting Requirement

Simple Majority.

### Background

In July 2022, the City’s internal auditors, Moore, identified in its report on the City’s compliance with regulation 17 of the *Local Government (Audit) Regulations 1996*, that the City’s risk management systems required development and improvement. Indeed, paragraph 2.4 of the Key Observations of the 5 July 2022 Internal Audit Risk Management Report states –



2.4 Risk Register - The Risk Register is out of date and does not adequately identify strategic risks but rather is a task list of matters which need to be actioned within the City. It does not include Risk Identification, Business Unit Risk Registers, Regular Risk Review, Evidence of controls effectiveness rating, Risk Assessment using an effective weighting of elements, Management of Shared Risks, Risk Categories, complete risks and controls rating of implemented controls. There is no comparison to Risk Appetite and Risk Tolerance. These observations limit the effectiveness of risk management.

The report found that –

2.6 Risk Management Framework – The Risk Management Framework is out of date and has not been approved and has been in progress for many years. It has not been aligned to the relevant legislation and standards and does not fully outline the documentation which underpins the Risk Management Framework.

At the Audit and Risk Committee meeting held on 21 August 2023, the Committee considered and recommended approval of the Risk Management Policy to Council. This formally recognised the role of Council and the Audit and Risk Committee in the risk management process. The policy recognised the importance of risk management to the function of the City's operations and committed the City to the principles outlined in the AS/NZS ISO 31000 2018 standard.

Following on from the Policy is the consideration of the Risk Management Framework, that includes the adopted policy, and the Strategic Risk Register. These have been updated and form part of the review of the risk management system.

## Discussion

The City is currently looking at the appropriateness and effectiveness of its systems and procedures in relation to risk management to fulfil its obligations under Regulation 17 of the *Local Government (Audit) Regulations 1996*. Risk management is important to achieving the City's objectives through continuous review of its processes and systems. To that end, the City is required to ensure that it establishes a risk management framework and has a formal process for managing risks.

### 1. Risk Management Framework

All Local Governments are required to develop and adopt a Risk Management Framework. This forms part of the statutory planning requirements under the IPR legislation. With the Strategic Community Plan, the Corporate Business Plan, Long-term financial plan, Workforce Plan, and the Asset Management Plan, the Risk Management Framework creates value for the City and the community, contributing to the demonstrated achievement of the City's strategic objectives. The risk management framework establishes the boundaries within which risks are managed and provides the scope of the risk management assessment. The risk management context for the organisation needs to be aligned with the structure, capacity, strategic direction and business planning objectives of the City.



A review was undertaken of the Risk Management Framework and associated procedures to ensure compliance with AS/NZS ISO 31000 2018 and amendments made to the organisational structure at the City. The updated framework, that includes the policy, has been provided for the Committee's consideration.

## 2. Strategic (Organisational) Risk Register

The Strategic Risk Register has been included to this report as a confidential attachment under s. 5.23(2)(f)(ii) of the *Local Government Act 1995* on the basis that the register contains information that if made public would endanger the security of the City's property.

The Strategic Risk Register was reviewed to ensure that strategic risks are –

- Identified
- Assessed
- The effectiveness of existing controls are evaluated
- Residual risk is assessed
- Risk treatment options are considered

The register has been completed from data sourced through –

- Consultation with executive, representatives of the internal audit team,
- audit reports, consideration of previous risk registers at the City of Nedlands,
- validating against known categories/types of strategic risks,
- researching risks identified by other local government authorities

Council is in the process of finalising the Council Plan. The identified strategic risk areas are linked to the Council Plan priorities of –

- People
- Planet
- Place
- Prosperity/financial sustainability
- Performance/service delivery

In September 2023, the Executive Management Team was tasked with completing the risk assessment of the risks identified in the Strategic Risk Register. In completing the task, it was identified that the area of asset maintenance was of specific concern. This will be the subject of an upcoming Council forum, but at present there are a number of Council assets that require significant attention and officers have completed substantial work in this area to provide detailed analysis of the City's current position.

The Strategic Risk Register has been provided to the Committee for its consideration and now to Council for adoption.



## Consultation

The proposed Strategic Risk Register and Risk Management Framework were presented to EMT for their consideration and feedback in September 2023. The feedback received was noted and amendments were made. This item as then considered by the Audit & Risk Committee on 20 November 2023.

## Strategic Implications

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Governance and Civic Leadership**  
We value our Council's quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community's assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

## Budget/Financial Implications

Nil.

## Legislative and Policy Implications

*Local Government Act 1995* section 2.7 – Role of Council.

*Local Government (Audit) Regulations 1996*

Regulation 17 CEO to review certain systems and procedures

- (1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —
  - (a) risk management; and
  - (b) internal control; and
  - (c) legislative compliance.
- (2) The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review not less than once in every 3 financial years.
- (3) The CEO is to report to the audit committee the results of that review.



## **Decision Implications**

Failure to adopt a comprehensive Risk Management system places the City at risk of non-compliance with its legislative responsibilities, and with its ability to adequately prepare for and address risks within the organisation and for the local government district. Adoption of the proposed framework will assist efforts to improve the governance arrangement at the City and meet statutory obligations.

## **Conclusion**

The Strategic Risk Register and the Risk Management Framework have been updated to meet the requirements of the legislation and the findings of the internal audit. They have been provided to the Audit and Risk Committee for consideration and now presented to Council for adoption.

## **Further Information**

Nil.



## Risk Management Framework



Version 1

Last Update – 02/11/2023

Next Update – 02/11/2024

## Table of Contents

- 1. Introduction**
- 2. Governance**
  - 2.1 Framework Review
  - 2.2 Operating Model
- 3. Governance Structure**
  - 3.1 Roles and Responsibilities
  - 3.2 Document Structure (Framework)
- 4. Risk and Control Management Procedures**
  - 4.1 Risk and Control Assessment
- 5. Risk Management Culture**

### **Appendices**

Appendix A – Risk Assessment and Acceptance Criteria

Appendix B – Risk Profile Template

Appendix C – Risk Theme Definitions



# 1. Introduction

The City of Nedlands' (the City) Risk Management Policy with the components of this document encompasses the City's Risk Management Framework. It sets out the City's approach to the identification, assessment, management, reporting and monitoring of risks. All components of this document are based on AS/NZS ISO 31000:2018 Risk management - Guidelines.

All areas of the City must adopt these procedures to ensure:

- Strong corporate governance.
- Compliance with legislation, regulations, and internal policies.
- Integrated Planning and Reporting requirements are met.
- Uncertainty and its effects on objectives are understood.

This Framework aims to balance a documented, structured, and systematic process with the current size and complexity of the City.

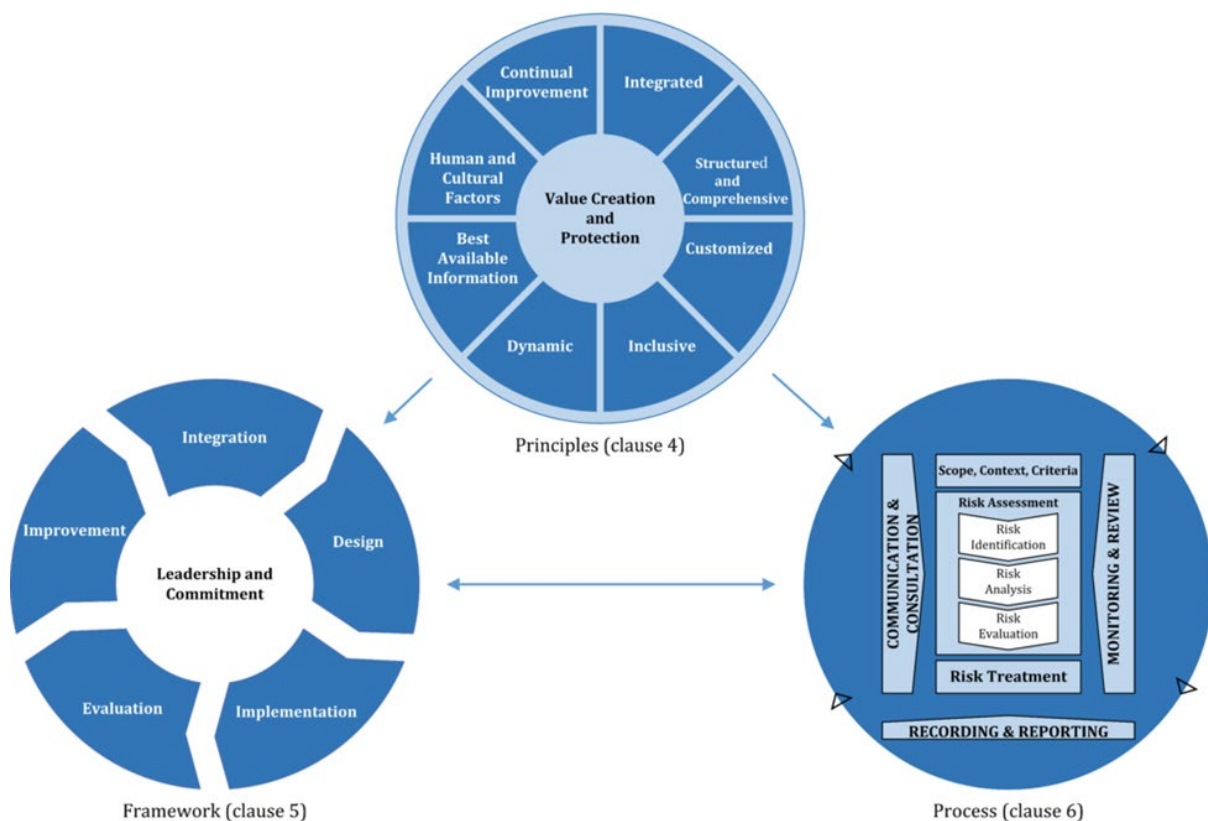


Figure 1 - Relationship between the risk management principles, framework, and process - (Source: ISO 31000:2018)

## 2. Governance

Appropriate governance of risk management within the City provides:

- Transparency of decision making.
- Clear identification of the roles and responsibilities of the risk management functions.
- An effective Governance Structure to support the risk framework.

### 2.1 Framework Review

The Risk Management Framework is to be reviewed for appropriateness and effectiveness at least every three years in line with Regulation 17.

### 2.2 Operating Model

The City has adopted a “Three Lines of Defence” model for the management of risk. This model ensures roles; responsibilities and accountabilities for decision making are structured to demonstrate effective governance and assurance.

By operating within the approved risk appetite and framework, the Council, Administration and the Community will have assurance that risks are effectively supporting the delivery of the City’s Strategic, Corporate & Operational Plans.

#### First Line of Defence

All operational areas of the City are considered ‘1<sup>st</sup> Line’. They ensure that risks within their scope of operations are identified, assessed, managed, monitored, and reported. Ultimately, they bear ownership and responsibility for losses or opportunities from the realisation of risk. Associated responsibilities include:

- Establishing and implementing processes and controls for the management of risk (in line with these procedures).
- Undertaking adequate analysis (data capture) to support the risk decision-making process.
- Prepare risk acceptance proposals where necessary, based on the level of residual risk.
- Retain primary accountability for the ongoing management of their risk and control environment.

#### Second Line of Defence

The Coordinator Governance and Risk acts as the primary ‘2<sup>nd</sup> Line’. This position owns and manages the framework for risk management. They draft and implement the governance procedures and provide the tools and training to support the 1st line process.

## ARC21.11.23 - Attachment 1

Maintaining oversight on applying the framework provides a transparent view and level of assurance to the 1<sup>st</sup> & 3<sup>rd</sup> lines on the risk and control environment. Support can be provided by additional oversight functions completed by other 1<sup>st</sup> Line Teams (where applicable). Additional responsibilities include:

- Providing independent oversight of risk matters as required.
- Monitoring and reporting on emerging risks.
- Co-ordinating the City's risk reporting for the CEO & Executive Management Team and the Audit Committee.

The Executive Management Team (EMT) provides oversight of the Framework, and sets the tone and promotes a positive risk management culture within the City. The CEO and EMT maintain oversight of the highest level risks and take responsibility for the implementation of mitigation strategies.

### **Third Line of Defence**

Internal & External Audit are the third line of defence, independently assuring the Council, Audit Committee and City Management on the effectiveness of business operations and oversight frameworks (1<sup>st</sup> & 2<sup>nd</sup> Line).

**Internal Audit** – Appointed by the City to report on the adequacy and effectiveness of internal control processes and procedures. Which would be determined by the CEO with input from the Audit Committee.

**External Audit** – Appointed by the Auditor General to report independently to the Council and CEO on the annual financial statements.

### 3. Governance Structure

The following diagram depicts the proposed operating structure for risk management within the City.

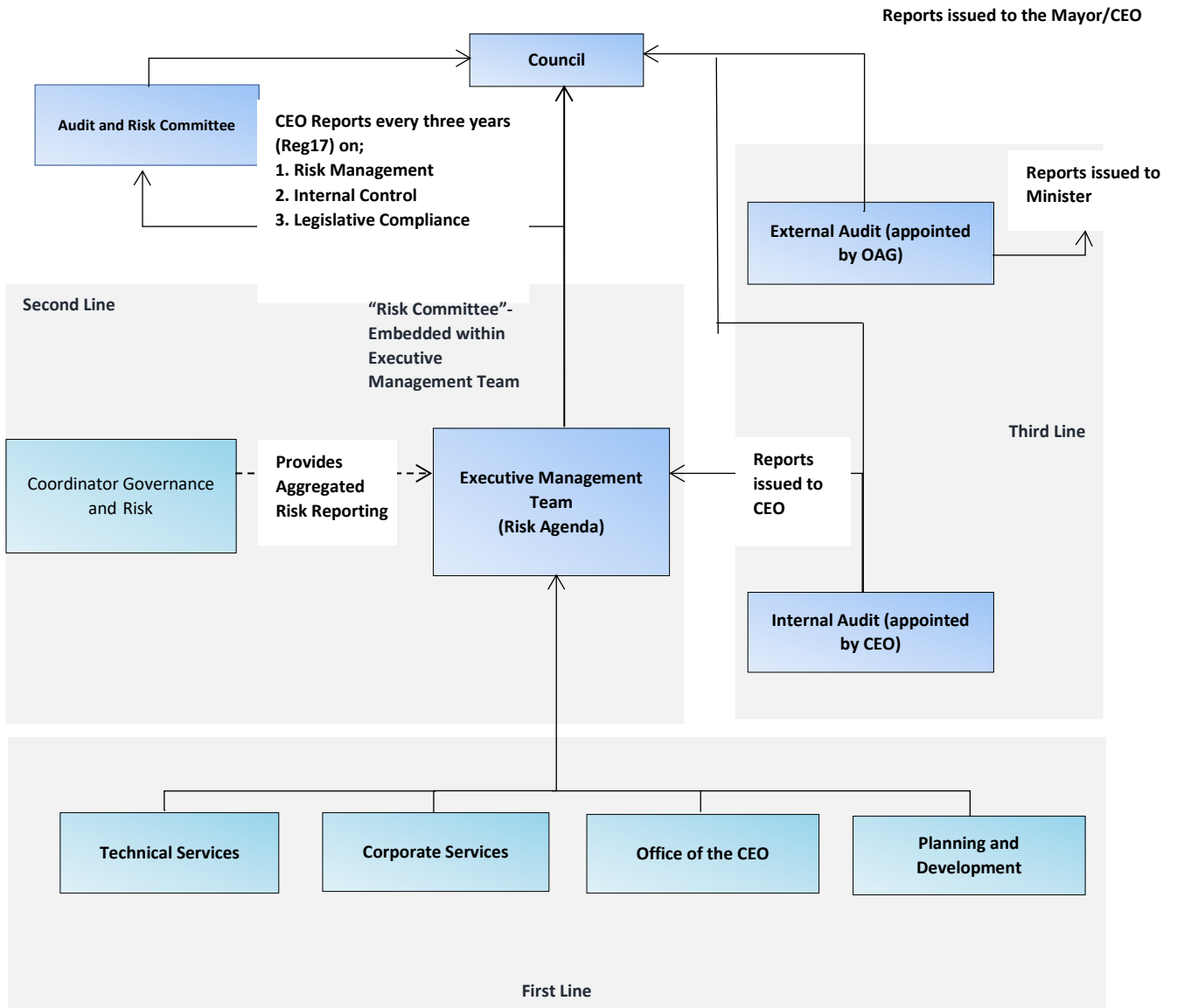


Figure 2 - Operating Model

### 3.1 Roles & Responsibilities

#### Council

- Review and approve the City's Risk Management Policy.
- Establish and maintain an Audit Committee in terms of the *Local Government Act 1995*.

#### Audit and Risk Committee

- Regular review of the appropriateness and effectiveness of the Risk Management Policy.
- Support Council to provide effective corporate governance.
- Oversight of all matters that relate to the conduct of internal and external audits.
- Must be independent, objective, and autonomous in deliberations.
- Recommendations to Council on Internal Audit appointments.

#### CEO / Executive Management Team

- Undertake internal audits as required under *Local Government (Audit) Regulations 1996*.
- Liaise with Council in relation to risk acceptance requirements.
- Approve and review the appropriateness and effectiveness of the Risk Management Framework.
- Drive consistent embedding of a risk management culture.
- Analyse and discuss emerging risks, issues, and trends.
- Document decisions and actions arising from risk matters.
- Own and manage the Risks at City Level.

#### Coordinator Governance and Risk

- Oversee and facilitate the Risk Management Framework.
- Supports reporting requirements for Risk matters.

#### Service Areas

- Drive risk management culture within work areas.
- Own, manage and report on specific risk issues as required.
- Assist in the Risk & Control Management process as required.
- Highlight any emerging risks or issues.

## ARC21.11.23 - Attachment 1

- Incorporate Risk Management into Meetings, by incorporating the following agenda items.
  - New or emerging risks.
  - Review existing risks.
  - Control adequacy.
  - Outstanding issues and actions.

### 3.2 Document Structure (Framework)

The following diagram depicts the relationship between the Risk Management Policy, Procedures and supporting documentation and reports.

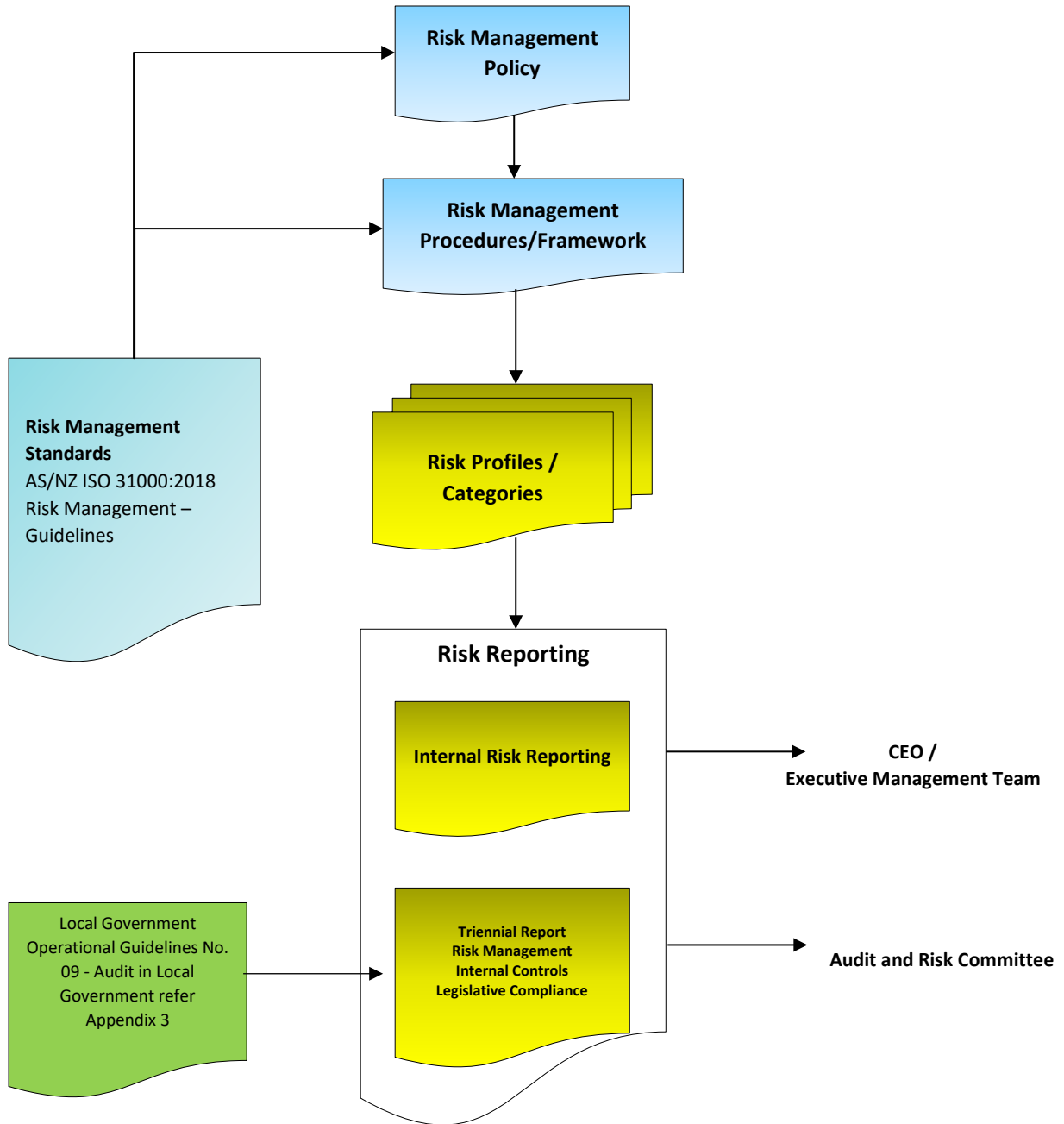


Figure 3 - Document Structure

## 4. Risk and Control Management Procedures

All Work Areas of the City must assess and manage their Operational Risks on an ongoing basis.

Each Manager is accountable for ensuring that Risks in their area are:

- Reflective of the material risk landscape of the City.
- Reviewed on at least a 12-month rotation, or sooner if there has been a material restructure or change in the risk and control environment.
- Maintained in the standard format.

This process is supported using key data inputs, workshops, and ongoing business engagement.

The risk management process is standardised across all areas of the City. The following diagram outlines that process with the following commentary broadly describing each step.

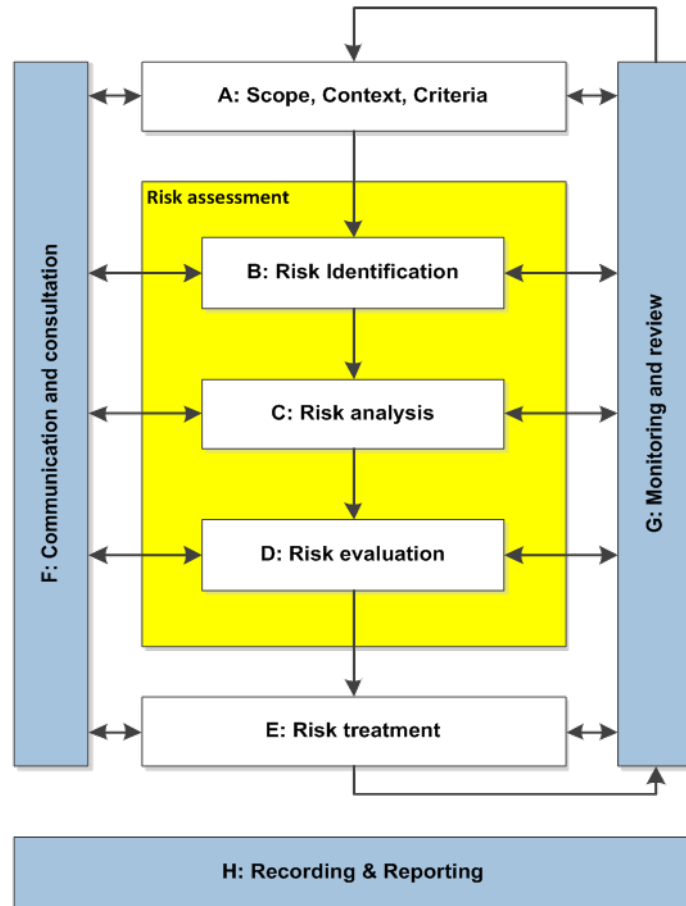


Figure 4 - Risk Management Process ISO 31000:2018



## 4.1 Risk & Control Assessment

To ensure alignment with AS/NZ ISO 31000:2018 Risk Management, the following approach is to be adopted from a Risk & Control Assessment perspective:

### 4.1.1 A: Scope, Context, Criteria

The first step in the risk management process is to understand the context within which the risks are to be assessed and what is being assessed, this forms two elements:

#### *Organisational Context*

The City's Risk Management Procedures provide the basic information and guidance regarding the organisational context to conduct a risk assessment; this includes Risk Assessment and Acceptance Criteria (Appendix A) and any other tolerance tables as developed.

Any changes or additions to the Risk Themes must be approved by the CEO.

All risk assessments are to utilise these documents to allow consistent and comparable risk information to be developed and considered within planning and decision-making processes.

#### *Specific Risk Assessment Context*

To direct the identification of risks, the specific risk assessment context is to be determined prior to and used within the risk assessment process.

For risk assessment purposes the City has been divided into three levels of risk assessment context:

#### **Strategic Context**

These risks are associated with the City's external environment, high-level direction and long-term objectives. Inputs to establishing the strategic risk assessment context may include:

- Organisational Vision
- Stakeholder Analysis
- Environment Scan<sup>1</sup> / SWOT Analysis (strengths, weaknesses, opportunities, threats)
- Strategies / Objectives / Goals (Integrated Planning & Reporting)

<sup>1</sup> ongoing tracking of trends and occurrences in an organization's internal and external environment that bear on its success, currently and in the future.

The City captures its strategic risks through the development and implementation of the City's Strategic Community Plan.

### Operational Context

This context includes the City's day to day activities, functions, infrastructure, and services. Before identifying operational risks, the operational area should identify its key activities i.e. what is it aiming to achieve? These may already be documented in business plans, budgets etc.

### Project Context

Project Risk has two main components:

- **Direct** refers to the risks that may arise as a result of project activity (i.e. impacting on current or future process, resources or IT systems) which may prevent the City from meeting its objectives.
- **Indirect** refers to the risks which threaten the delivery of project outcomes.

In addition to understanding what is to be assessed, it is also important to understand who are the key stakeholders or areas of expertise that may need to be included within the risk assessment.

### 4.1.2 B: Risk Identification

Once the context has been determined, the next step is to identify risks. This is finding, recognising, and describing risks. Risks are described as the point along an event sequence where control has been lost. An event sequence is shown below:

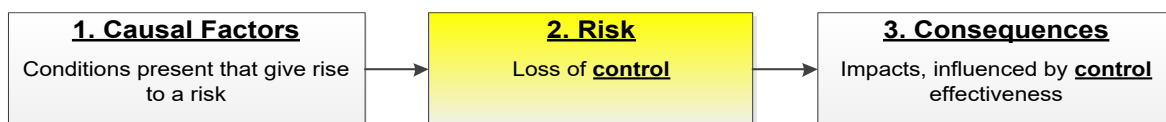


Figure 5 - Event (risk) sequence

Using the specific risk assessment context as the foundation, and in conjunction with relevant stakeholders, answer the following questions, capture and review the information within each Risk Profile. The risk profile will be used to build the operational risk register and provide a high level overview of the City's overall risks and controls.

- What can go wrong? / What are areas of uncertainty? (Risk Description)

**Risk Description** – describe what the risk is and specifically where control may be lost. They can also be described as an event. They are not to be confused with outcomes following an event, or the consequences of an event.

- How could this risk eventuate? (Potential Causes)

**Potential Causes** – are the conditions that may present or the failures that may lead to the event or point when control is lost (risk).

- What are the current measurable activities that mitigate this risk from eventuating? (Controls)

**Controls** – are measures that modify risk. At this point in the process only existing controls should be considered. They must meet these three tests to be controls:

1. Is it an object, technological system and / or human action?
2. Does it, by itself, arrest or mitigate an unwanted sequence?
3. Is the required performance specifiable, measurable, and auditable?

- What are the potential consequential outcomes of the risk eventuating? (Consequences)

**Consequences** – need to be impacts to the City. These can be staff, visitor, or contractor injuries; financial; interruption to services; non-compliance; damage to reputation or assets or the environment. There is no need to determine the level of impact at this stage.

Each risk profile and ultimately the risks contained in the risk register requires a risk owner who is responsible for managing the risk and is accountable for determining if the risk level can be accepted, reviewing the risk, monitoring the controls and risk treatments.

### 4.1.3 C: Risk Analysis

To analyse identified risks, the City's Risk Assessment and Acceptance Criteria (Appendix A) is applied.

- Based on the documented controls, analyse the risk in terms of Existing Control Ratings
- Determine relevant consequence categories and rate how bad it could be if the risk eventuated with existing controls in place (Consequence)
- Determine how likely it is that the risk will eventuate to the determined level of consequence with existing controls in place (Likelihood)
- By combining the measures of consequence and likelihood, determine the risk rating (Level of Risk)

### 4.1.4 D: Risk Evaluation

Risk evaluation takes the residual risk rating and applies it to the City's Risk Acceptance Criteria (Appendix A) to determine whether the risk is within acceptable levels to the City.

The outcome of this evaluation will determine whether the risk is low; moderate; high or extreme.

It will also determine using the Risk Acceptance Criteria, what (if any) high level actions or treatments need to be implemented.

The risk acceptance decision needs to be documented and acceptable risks are then subject to the monitor and review process. Note: Individual Risks or Issues may need to be escalated due to urgency, level of risk or systemic nature.

### 4.1.5 E: Risk Treatment

Once a risk has been analysed and evaluated, an informed decision on one of the following actions needs to be considered by the risk owner –

**Accept the risk** – the opportunity of the activity outweighs the risk, the existing controls meet the criteria stated in the Risk Assessment Criteria and the risk is within the defined tolerance and appetite of the City.

**Avoid the risk** – stop the activity.

**Treat the risk** – reduce the consequence, likelihood or both and improve the controls rating by strengthening existing controls, so that the risk may be accepted.

The treatment selection and implementation will be based on financial, technical and operational capabilities.

Once a treatment has been implemented, the Coordinator Governance and Risk is to review the risk information and acceptance decision with the treatment now noted as a control and those risks that are acceptable then become subject to the monitor and review process.

All risk based decisions are made in accordance with the criteria outlined in the risk assessment criteria tables.

### 4.1.6 F: Communication & Consultation

Effective communication and consultation are essential to ensure those responsible for managing risk, and those with a vested interest, understand the basis on which decisions are made and why particular treatment / action options are selected or the reasons to accept risks have changed.

As risk is defined as the effect of uncertainty on objectives, consulting with stakeholders helps to reduce components of uncertainty. Communicating these risks and the information surrounding the event sequence ensures decisions are based on the best knowledge.

### 4.1.7 G: Monitoring & Review

It is essential to monitor and review the management of risks, as changing circumstances may cause risks increasing or decreasing in significance.

By regularly reviewing the effectiveness and efficiency of controls and the appropriateness of treatment / action options selected, we can determine if the organisation's resources are being put to the best use possible.

Throughout the risk management process, stakeholders will be identified, and where relevant, be involved in or informed of outputs from the risk management process. Management must review any risks within their area and follow up on controls and treatments / action mitigating those risks. Monitoring and the reviewing of risks, controls and treatments also apply to any actions / treatments that originate from an internal audit. The audit report will provide recommendations for risks tested during an internal review. Council, through the Audit and Risk Committee will be provided with (biannual) update reports.

Further, the City is to review all Risks at least on an annual basis or if triggered by one of the following;

- Changes to context,
- A treatment is implemented,
- An incident occurs or due to audit/regulator findings.

The CEO & Executive Management will monitor significant risks and treatment implementation as part of their normal agenda item on a regular basis with specific attention given to risks that meet any of the following criteria:

- Risks with a Level of Risk of High or Extreme
- Risks with Inadequate Existing Control Rating
- Risks with Consequence Rating of Extreme
- Risks with Likelihood Rating of Almost Certain

EMT will also monitor the effectiveness of the Risk Management Framework ensuring it is practical and appropriate to the City.

Risk management awareness and training will be provided to staff as part of their WHS Program.

Risk management will be included within the employee induction process to ensure new employees are introduced to the City's risk management culture.

### 4.1.7 H: Recording & Reporting

The following diagram provides a high-level view of the ongoing reporting process for Risk Management.

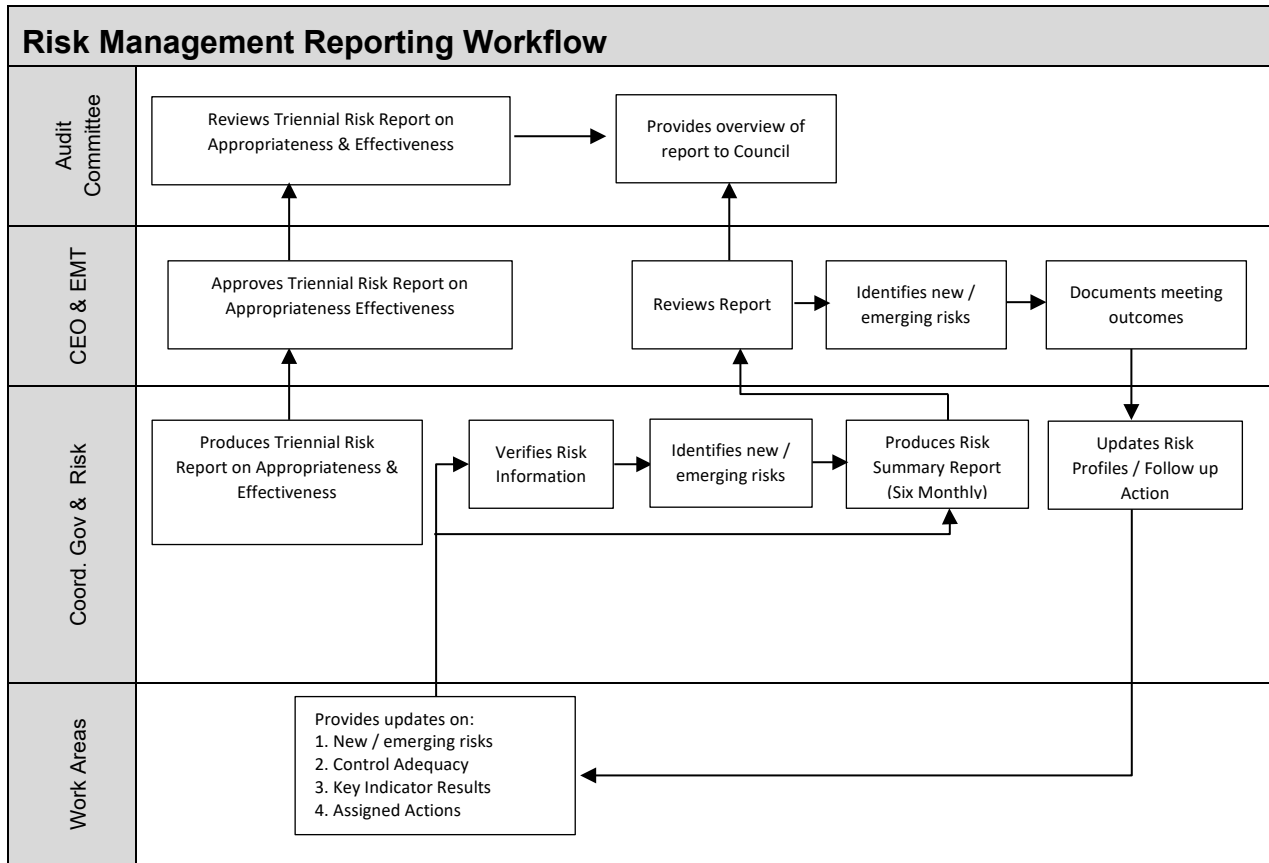


Figure 6 - Risk Management Reporting Workflow

Each Work Area ensures:

- They continually provide updates in relation to new or emerging medium to high risks, control effectiveness and key indicator performance to the Coordinator Governance and Risk
- Work through assigned actions and provide updates to the Coordinator Governance and Risk
- Risks / Issues reported to the CEO & Executive Management Team reflect the current risk and control environment.
- The Coordinator Governance and Risk is responsible for:
  - ensuring City Risks are formally reviewed and updated, at least on an annual rotation or earlier when there has been changes to context, a treatment is implemented, or an incident occurs or due to audit/regulator findings.
  - Six Monthly Risk Reporting for the CEO & Executive Management Team – Contains an overview of the Risk Summary for the City.

- Annual Compliance Audit Return completion and lodgement.

## 5. Risk Management Culture

Building a risk aware culture is important to good risk management. The Framework will be communicated through the organisation and embedded into practices.

It is important that officers support and promote a strong risk management culture. Officers are able to do so by –

- Playing an active part in identifying, reporting and continuously improving the way in which they undertake activities.
- Management empowering officers to manage risks effectively.

Council and management promoting risk management by allocating sufficient resources for risk management activities.

## Appendix A – Risk Assessment and Acceptance Criteria

Measures of Consequence									
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment	Project TIME	Project COST
<b>Insignificant (1)</b>	Near miss. Minor first aid injuries	Less than \$20,000	No material service interruption	No noticeable regulatory or statutory impact Threat of litigation No effect on contract performance	Unsubstantiated, low impact, no media involvement	Inconsequential or no damage.	Contained, reversible impact managed by on site response	Exceeds deadline by 10% of project timeline	Exceeds project budget by 10%
<b>Minor (2)</b>	Medical type injuries / Lost time injury <30 days	\$20,001 - \$100,000	Short term temporary interruption – backlog cleared < 1 day	Some temporary non compliances Single minor litigation	Substantiated, low impact, low news profile	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response	Exceeds deadline by 15% of project timeline	Exceeds project budget by 15%
<b>Moderate (3)</b>	Lost time injury >30 days	\$100,001 - \$500,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Short term non-compliance but with no significant regulatory requirements imposed Single moderate litigation or numerous minor litigations	Substantiated, public embarrassment, moderate impact, moderate news profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies	Exceeds deadline by 20% of project timeline	Exceeds project budget by 20%
<b>Major (4)</b>	Long-term disability/multiple injuries	\$500,001 - \$1,000,000	Prolonged interruption of services – additional resources; performance affected < 1 month	Non-compliance results in termination of services or imposed penalties Single major litigation	Substantiated, public embarrassment, high impact, high news profile, third party actions	Significant damage requiring internal & external resources to rectify	Uncontained, reversible impact managed by a coordinated response from external agencies	Exceeds deadline by 25% of project timeline	Exceeds project budget by 25%
<b>Catastrophic (5)</b>	Fatality, permanent disability	More than \$1,000,000	Indeterminate prolonged interruption of services – non-performance > 1 month	Non-compliance results in litigation, criminal charges or significant damages or penalties	Substantiated, public embarrassment, very high multiple impacts, high widespread multiple news profile, third party actions	Extensive damage requiring prolonged period of restitution Complete loss of plant, equipment & building	Uncontained, irreversible impact	Exceeds deadline by 30% of project timeline	Exceeds project budget by 30%

Table 1 - City of Nedlands Measure of Consequence



## ARC21.11.23 - Attachment 1

Level	Rating	Frequency
5	Almost Certain	More than once per year
4	Likely	At least once per year
3	Possible	At least once in 3 years
2	Unlikely	At least once in 10 years
1	Rare	Less than once in 15 years

*Table 2 - Measures of Likelihood*

Likelihood		Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5		
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)		
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)		
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)		
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)		
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)		

*Table 3 - Risk Rating*

## ARC21.11.23 - Attachment 1

Risk	Description	Criteria	Responsibility
LOW (1-4)	Acceptable	Risk acceptable with adequate controls, managed by routine procedures and subject to annual monitoring	Coordinators / Operational Managers
MODERATE (5-9)	Monitor	Risk acceptable with adequate controls, managed by specific procedures and subject to semi-annual monitoring	Managers
HIGH (10-16)	Urgent Attention Required	Risk acceptable with effective controls, managed by senior management and subject to monthly monitoring	CEO / Executive
EXTREME (20-25)	Unacceptable	Risk only acceptable with effective controls, all treatment plans in place, managed by CEO and subject to continuous monitoring	CEO & Council

*Table 4 - Risk Acceptance Criteria*

City of Nedlands Existing Controls Rating		
Rating	Foreseeable	Description
<b>Effective</b>	There is little scope for improvement.	Processes (Controls) operating as intended and / or aligned to Policies & Procedures; are subject to ongoing maintenance and monitoring and are being continuously reviewed and tested.
<b>Adequate</b>	There is some scope for improvement.	Whilst some inadequacies have been identified; Processes (Controls) are in place, are being addressed / complied with and are subject to periodic review and testing.
<b>Inadequate</b>	A need for corrective and / or improvement actions exist.	Processes (Controls) not operating as intended, do not exist, or are not being addressed / complied with, or have not been reviewed or tested for some time.

*Table 5 – Existing Controls Rating*



ARC21.11.23 - Attachment 1

• <i>List current issues / actions / treatments</i>	•	•
•	•	•
•	•	•
•	•	•

## Appendix C – Risk Theme Definitions

### 1. Asset Sustainability

Failure or reduction in service of infrastructure assets, plant, equipment or machinery. These include fleet, buildings, roads, playgrounds, boat ramps and all other assets and their associated lifecycle from procurement to maintenance and ultimate disposal. Areas included in the scope are;

- Inadequate design (not fit for purpose)
- Ineffective usage (down time)
- Outputs not meeting expectations
- Inadequate maintenance activities.
- Inadequate financial management and planning.

It does not include issues with the inappropriate use of the Plant, Equipment or Machinery. Refer Misconduct.

### 2. Business and Community Disruption

Failure to adequately prepare and respond to events that cause disruption to the local community and / or normal City business activities. The event may result in damage to buildings, property, plant & equipment (all assets). This could be a natural disaster, weather event, or an act carried out by an external party (incl vandalism). This includes;

- Lack of (or inadequate) emergency response / business continuity plans.
- Lack of training to specific individuals or availability of appropriate emergency response.
- Failure in command and control functions as a result of incorrect initial assessment or untimely awareness of incident.
- Inadequacies in environmental awareness and monitoring of fuel loads, curing rates etc

This does not include disruptions due to IT Systems or infrastructure related failures - refer "Failure of IT & communication systems and infrastructure".

### 3. Compliance Obligations

Failures to correctly identify, interpret, assess, respond and communicate laws and regulations as a result of an inadequate compliance framework. This could result in fines, penalties, litigation or increase scrutiny from regulators or agencies. This includes, new or proposed regulatory and legislative changes, in addition to the failure to maintain updated legal documentation (internal & public domain) to reflect changes.

This does not include Occupational Safety & Health Act (refer "Inadequate safety and security practices") or any Employment Practices based legislation (refer "Ineffective Employment practices")

It does include the Local Government Act, Health Act, Building Act, Privacy Act and all other legislative based obligations for Local Government.

### 4. Document Management

Failure to adequately capture, store, archive, retrieve, provision and / or disposal of documentation. This includes:

## ARC21.11.23 - Attachment 1

- Contact lists.
- Procedural documents.
- 'Application' proposals/documents.
- Contracts.
- Forms, requests or other documents.

### 5. Employment practices

Failure to effectively manage and lead human resources (full/part time, casuals, temporary and volunteers). This includes not having an effective Human Resources Framework in addition to not having appropriately qualified or experienced people in the right roles or not having sufficient staff numbers to achieve objectives. Other areas in this risk theme to consider are;

- Breaching employee regulations (excluding OH&S)
- Discrimination, Harassment & Bullying in the workplace
- Poor employee wellbeing (causing stress)
- Key person dependencies without effective succession planning in place
- Induction issues
- Terminations (including any tribunal issues)
- Industrial activity

Care should be taken when considering insufficient staff numbers as the underlying issue could be process inefficiencies.

### 6. Engagement practices

Failure to maintain effective working relationships with the Community (including Local Media), Stakeholders, Key Private Sector Companies, Government Agencies and / or Elected Members. This invariably includes activities where communication, feedback and / or consultation is required and where it is in the best interests to do so. For example;

- Following up on any access & inclusion issues.
- Infrastructure Projects.
- Regional or District Committee attendance.
- Local Planning initiatives.
- Strategic Planning initiatives

This does not include instances whereby Community expectations have not been met for standard service provisions such as Community Events, Library Services and / or Bus/Transport services.

### 7. Environment management

Inadequate prevention, identification, enforcement and management of environmental issues.

The scope includes;

- Lack of adequate planning and management of coastal erosion issues.
- Failure to identify and effectively manage contaminated sites (including groundwater usage).
- Waste facilities (landfill / transfer stations).
- Weed control.
- Ineffective management of water sources (reclaimed, potable)
- Illegal dumping / Illegal clearing / Illegal land use.

## **8. Errors, Omissions, Delays**

Errors, omissions or delays in operational activities as a result of unintentional errors or failure to follow due process. This includes instances of;

- Human errors, incorrect or incomplete processing
- Inaccurate recording, maintenance, testing and / or reconciliation of data.
- Errors or inadequacies in model methodology, design, calculation or implementation of models.

This may result in incomplete or inaccurate information. Consequences include;

- Inaccurate data being used for management decision making and reporting.
- Delays in service to customers
- Inaccurate data provided to customers

This excludes process failures caused by inadequate / incomplete procedural documentation - refer "Inadequate Document Management Processes".

## **9. External theft & fraud (incl Cyber Crime)**

Loss of funds, assets, data or unauthorised access, (whether attempts or successful) by external parties, through any means (including electronic), for the purposes of;

- Fraud – benefit or gain by deceit
- Malicious Damage – hacking, deleting, breaking or reducing the integrity or performance of systems
- Theft – stealing of data, assets or information (no deceit)

Examples include:

- Scam Invoices
- Cash or other valuables from 'Outstations'.

## **10. Management of Facilities / Venues / Events**

Failure to effectively manage the day to day operations of facilities and / or venues.

This includes;

- Inadequate procedures in place to manage the quality or availability.
- Ineffective signage
- Booking issues
- Financial interactions with hirers / users
- Oversight / provision of peripheral services (e.g. cleaning / maintenance)

## **11. IT, Communication Systems and Infrastructure**

Instability, degradation of performance, or other failure of IT Systems, Infrastructure, Communication or Utility causing the inability to continue business activities and provide services to the community. This may or may not result in IT Disaster Recovery Plans being invoked. Examples include failures or disruptions caused by:

- Hardware &/or Software
- IT Network
- Failures of IT Vendors

## ARC21.11.23 - Attachment 1

This also includes where poor governance results in the breakdown of IT maintenance such as;

- Configuration management
- Performance Monitoring
- IT Incident, Problem Management & Disaster Recovery Processes

This does not include new system implementations - refer "Inadequate Project / Change Management".

### **12. Misconduct**

Intentional activities in excess of authority granted to an employee, which circumvent endorsed policies, procedures or delegated authority. This would include instances of:

- Relevant authorisations not obtained.
- Distributing confidential information.
- Accessing systems and / or applications without correct authority to do so.
- Misrepresenting data in reports.
- Theft by an employee
- Collusion between Internal & External parties

This does not include instances where it was not an intentional breach - refer Errors, Omissions or Delays, or Inaccurate Advice / Information.

### **13. Project / Change Management**

Inadequate analysis, design, delivery and / or status reporting of change initiatives, resulting in additional expenses, time requirements or scope changes. This includes:

- Inadequate Change Management Framework to manage and monitor change activities.
- Inadequate understanding of the impact of project change on the business.
- Failures in the transition of projects into standard operations.
- Failure to implement new systems
- Failures of IT Project Vendors/Contractors

### **14. Safety and Security practices**

Non-compliance with the WHS Act, associated regulations and standards. It is also the inability to ensure the physical security requirements of staff, contractors and visitors. Other considerations are:

- Inadequate Policy, Frameworks, Systems and Structure to prevent the injury of visitors, staff, contractors and/or tenants.
- Inadequate Organisational Emergency Management requirements (evacuation diagrams, drills, wardens etc).
- Inadequate security protection measures in place for buildings, depots and other places of work (vehicle, community etc).
- Public Liability Claims, due to negligence or personal injury.
- Employee Liability Claims due to negligence or personal injury.
- Inadequate or unsafe modifications to plant & equipment.

### **15. Purchasing and Supply**

Inadequate management of external Suppliers, Contractors, IT Vendors or Consultants engaged for core operations. This includes issues that arise from the



## ARC21.11.23 - Attachment 1

ongoing supply of services or failures in contract management & monitoring processes. This also includes:

- Concentration issues
- Vendor sustainability



## 19 Reports by the Chief Executive Officer

### 19.1 CEO36.12.23 – Meeting Schedule for 2024

<b>Council</b>	Ordinary Council Meeting – 12 December 2023
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Report Author</b>	Nicole Ceric – Executive Officer
<b>CEO</b>	Tony Free – Acting Chief Executive Officer
<b>Attachments</b>	Nil.

#### Purpose

The purpose of this report is for Council to adopt the meeting dates for 2024 for public advertising purposes.

#### Recommendation to Council

That Council:

- adopt the Agenda Forum Dates Schedule for 2024 as per below:

Tuesday	13 February 2024
Tuesday	12 March 2024
Tuesday	9 April 2024
Tuesday	14 May 2024
Tuesday	11 June 2024
Tuesday	9 July 2024
Tuesday	13 August 2024
Tuesday	10 September 2024
Tuesday	8 October 2024
Tuesday	12 November 2024
Tuesday	3 December 2024

- adopt the Council Meeting Dates Schedule for 2024 as per below:

Tuesday	27 February 2024
Tuesday	26 March 2024
Tuesday	23 April 2024
Tuesday	28 May 2024
Tuesday	25 June 2024
Tuesday	23 July 2024



Tuesday	27 August 2024
Tuesday	24 September 2024
Tuesday	22 October 2024
Tuesday	26 November 2024
Tuesday	10 December 2024

**3. adopt the Audit & Risk Committee Meeting Dates Schedule for 2024 as per below:**

Monday	19 February 2024
Monday	20 May 2024
Monday	19 August 2024
Monday	18 November 2024

**4. adopt the Public Art Committee Meeting Dates Schedule for 2024 as per below:**

Monday	11 March 2024
Monday	10 June 2024
Monday	9 September 2024

## Voting Requirement

Simple Majority.

## Background

Every year Council adopts the meeting dates schedule for the year ahead for advertising.

## Discussion

Council Meeting Agenda Forums are generally held on the 2<sup>nd</sup> Tuesday of each month and Council Meetings are generally held on the 4<sup>th</sup> Tuesday of each month.

## Council Meeting Agenda Forums

The purpose of the Agenda Forum is for Council Members to ask questions and seek information in respect to items that are to be considered at the forthcoming Ordinary Council Meeting.

No debate is allowed, nor decisions made at Agenda Forums. Agenda Forums are open to the public.



Any items that are not listed on the Council Meeting Agenda Forum, must be treated as urgent business as provided for in section 3.10 of the Standing Orders Local Law 2016. This will alleviate the significant variance that currently exists between what is considered at the Council Meeting.

### Council Meetings

Ordinary Council Meetings will commence at 7.00pm. Council will not meet in October every second year to coincide with the Ordinary Election cycle to allow a thorough induction process for new Councillors.

### Consultation

N/A

### Strategic Implications

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Governance and Civic Leadership**  
We value our Council’s quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community’s assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

### Budget/Financial Implications

The proposed meeting schedule for 2024 will be advertised in accordance with the requirements for local public notice.

### Legislative and Policy Implications

Under section 12 of the [Local Government \(Administration\) Regulations 1996](#) the CEO must publish before the beginning of the year in which the meetings are to be held meeting details for ordinary council meetings and committee meetings that are required under the Local Government Act to be open to the members of the public.

### Decision Implications

Nil.



## Conclusion

It is recommended that the proposed Schedule of Meetings for 2024 be adopted to provide transparency to the community and allow participation and ensure the City is compliant with the Local Government Act 1995.

## Further Information

Nil.



## 19.2 CEO37.12.23 – Register of Outstanding Council Resolutions

<b>Meeting &amp; Date</b>	Council Meeting – 12 December 2023
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	No officer involved in the preparation of this report has a declarable interest.
<b>Report Author</b>	Libby Kania – Coordinator Governance and Risk
<b>Director/CEO</b>	Tony Free – Acting Chief Executive Officer
<b>Attachments</b>	1. Register of Outstanding Council Resolutions (This will be provided to Councillors with the Council agenda).

### Purpose

For Council to consider the Register of Outstanding Council Resolutions (OCR) and the actions taken by Administration in progressing these items.

### Recommendation

That Council receives the Register of Outstanding Council Resolutions dated December 2023.

### Voting Requirement

Simple Majority.

### Background

Council has requested that all Outstanding Council Resolutions be tabled on a monthly basis at the Ordinary Council Meeting. The first Outstanding Council Resolutions report was tabled at the March Ordinary Council Meeting.

### Discussion

Attached to the Council report is the register of Outstanding Council Resolutions for Council’s noting and consideration. The report has been updated by officers when required. Information will be periodically provided to Councillors on previous resolutions of Council that:

- (i) have been completed since the last update and
- (ii) have not yet been fully implemented.



Reasons for any delays or unforeseen challenges are included. Councillors are able to seek an update on any particular project or resolution outside of the reporting period, by contacting the CEO directly for information.

## Consultation

Nil.

## Strategic Implications

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Governance and Civic Leadership**  
We value our Council's quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community's assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

## Budget/Financial Implications

Nil.

## Legislative and Policy Implications

*Local Government Act 1995.*

## Decision Implications

Councillors have oversight of the implementation of previous Council decisions, through access to the Register and the Councillor portal. Information on decisions may be provided through the CEO Weekly update, and direct request to the CEO. The City may include the register on the website to provide transparency to the community, although the community is able to access the document through the Council agenda.

## Conclusion

That the Council receives the Register of Outstanding Council Resolutions for noting.

## Further Information

Nil.



### 19.3 CEO38.12.23 – Adoption of Council Member Professional Development Training Policy

<b>Meeting &amp; Date</b>	Ordinary Council Meeting – 12 December 2023
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Report Author</b>	Libby Kania - Coordinator Governance and Risk
<b>CEO</b>	Tony Free - Acting Chief Executive Officer
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Draft Council Member Professional Development Policy</li> <li>2. Council Member and Employee Training and Conference Attendance Policy</li> <li>3. Elected Member Expenses and Equipment Policy</li> <li>4. Interstate and International Travel Policy</li> </ol>

#### Purpose

The purpose of this report is for Council to adopt the draft Council Member Professional Development Policy, amend the Elected Member Expenses and Equipment Policy, repeal the existing Council Member and Employee Training Conference Attendance policy, and the Interstate and international Travel Policy.

#### Recommendation

That Council resolves to:

1. adopt the Council Member Professional Development Policy as contained in Attachment 1;
2. repeal the existing Council Member and Employee Training and Conference Attendance Policy as contained in Attachment 2;
3. make the amendments to the Elected Member Expenses and Equipment policy as contained in Attachment 3; and
4. repeal the Interstate and International Travel Policy as contained in Attachment 4.

#### Voting Requirement

Absolute Majority.





## Background

The City is currently reviewing its policy manual to ensure that all Council policies are relevant, useful and up to date. Council policies are required to assist with the efficient running of the local government and to address and provide guidance on matters within the district. Amendment was made in 2019 to the *Local Government Act 1995* that requires all local governments to prepare and adopt a policy in relation to the continuing professional development of elected members and adopt it as a requirement under the *Local Government Act 1995*.

The current Council Member and Employee Training and Conference Attendance Policy that was adopted by Council in 2016 and updated in 2021, does not take into consideration the mandatory training requirements that now appear in the Act. Further, it was considered that amendment to the current policy would be extensive to ensure compliance with the Act. As a result, it was determined that a new policy be drafted providing a transparent and accountable framework to Council Member professional development.

At a June 2023 Council forum, Council was presented with a draft Council Member Professional Development Policy. Since that forum, two Elected Members provided feedback. The proposed policy has been amended to reflect the changes requested.

## Discussion

The *Local Government Act 1995* requires a local government to prepare and adopt a policy related to the continuing professional development of elected members. The policy requires adoption by an absolute majority. Once adopted, the policy is required to appear on the City's website.

The proposed policy creates a comprehensive framework for Council Member attendance at training and professional development. It covers the requirements of mandatory training as well as continuing professional development.

The proposed policy provides a framework around Council Members' participation in continuing professional development, including attendance at metropolitan and regional intrastate courses, interstate and overseas courses. It ensures that any future attendance and involvement by Council Members at such courses is to be in accordance with the framework established under the policy.

As with all expenditure of public monies, any decision is to be based on objective criteria and be in the interest of the district. A decision will also need to be based on the availability of funds and be reasonably and equitably apportioned.

The proposed policy also includes direction on the City's liability to pay for the expenses incurred by an accompanying person. The proposed policy clearly establishes that any costs associated with an accompanying person will need to be covered by the attending Council Member as a private expense by that person. The exception is where a Council Member has a disability, and



the accompanying person provides ongoing care and assistance to the Council Member, these expenses will be partially paid for by the City. This ensures that the City meets its obligations for inclusiveness under the *Disability Discrimination Act 1992*.

If Council adopts the draft policy, it will require amendment to the Elected Member Expenses and Equipment Policy, by deleting part of clause 5 of the policy. This will provide harmonization between the policies. Council will also need to consider the repeal of the existing Council Member and Employee Training and Conference Attendance Policy, and Interstate and International Travel Policy.

The draft Council Member Professional Development Policy makes provision for Council to allocate funds in the annual budget for Council Member training. No specified amount was included in the draft policy. Council is to determine the appropriate allocation when considering the budget.

## Consultation

The proposed policy was provided to the Executive Management Team for consideration and feedback. Council Members were provided with a copy of the draft policy at the Council forum held in June. Two Elected Members provided feedback. The feedback received was noted and amendments were made.

## Strategic Implications

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Governance and Civic Leadership**  
We value our Council’s quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community’s assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

## Budget/Financial Implications

A budget allocation is approved by Council providing for the professional development of Council Members.

## Legislative and Policy Implications

*Local Government Act 1995*

S. 5.128 Policy for continuing professional development



- (1) A local government must prepare and adopt\* a policy in relation to the continuing professional development of council members.  
\* Absolute majority required.
- (2) A local government may amend\* the policy.  
\* Absolute majority required.
- (3) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.
- (4) The CEO must publish an up-to-date version of the policy on the local government's official website.
- (5) A local government –
  - (a) must review the policy after each ordinary election; and
  - (b) may review the policy at any other time.

*Local Government (Administration) Regulations 1996 regulation 35 and 36.*

## Decision Implications

The City is required under the *Local Government Act 1995* to prepare and adopt a policy in relation to the continuing professional development of elected members. The current policy requires amendment and failure to do so would mean that the policy is non-compliant with the act. Furthermore, it is a requirement that the policy be reviewed after an ordinary election.

## Conclusion

The draft Council Member Professional Development policy will ensure that the City has an up to date policy and will repeal superfluous Council policies that are able to be consolidated into one stand-alone policy.

## Further Information

Nil.



## Council Member Professional Development

<b>Status</b>	Council
<b>Responsible Division</b>	Office of the Chief Executive Officer
<b>Objective</b>	To provide guidance to Council Members with respect to meeting their legislative requirements to undertake compulsory training and the entitlements associated with ongoing professional development opportunities. This policy also outlines the Chief Executive Officer's requirement to report on the training and development undertaken by each Council Member as required by the <i>Local Government Act 1995</i>

**Deleted:** the attendance of the Mayor and Council Members at ...

### Context

Under s. 5.128 of the *Local Government Act 1995* (the Act), a local government is required to prepare and adopt a policy in relation to the continuing professional development of Council Members.

The Act requires that Council Members undertake compulsory training within 12 months of being elected and requires that the City report on training and development undertaken by its Council Members each year.

**Deleted:** Local Government Act 1995

**Deleted:** adopt a policy, and

In the interest of ensuring Council Members understand their statutory obligations, make well informed decisions and effectively represent their constituents, the City provides support for Council Members to attend compulsory training and conferences, seminars, and other professional development opportunities to develop and enhance their knowledge and assist with facilitating their role.

**Deleted:** as Council Members

**Deleted:** in order

**Deleted:** pertaining to

Training and conference attendance is important to Council Members in performing the functions of their roles. This policy sets out Council's express authority and terms of approval for attendance at training and conferences, in addition to mandatory training.

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### Statement

#### Definitions –

**Council Member** A person who is currently serving a term of office as an elected member of the Council in accordance with the *Local Government Act 1995* and includes the Mayor.

**Mandatory training** refers to the statutory training as set out in regulation 35 of the *Local Government (Administration) Regulations 1996*.



Professional development refers to the attendance or participation in training, conferences, workshops, courses, seminars or similar professional development, as a participant.

Regulations refers to the *Local Government (Administration) Regulations 1996*.

**1. Training and Professional Development**

1.1 Mandatory Training

Section 5.126 of the Act and Reg 35 of the *Local Government (Administration) Regulations 1996*, requires a Council Member to complete the course titled 'Council Member Essentials' within 12 months from the day on which the Council Member is elected.

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The Council Member Essentials Course consists of five core modules:

- Understanding Local Government,
- Serving on Council,
- Meeting Procedures,
- Conflicts of Interest; and
- Understanding financial reports and budgets.

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The CEO will determine which of the approved providers will be engaged to deliver the mandatory training to Council Members having regard to costs and the City's procurement policy, as well as any other relevant factors. Where available, preference should be given to WALGA.

**Deleted:** Council and

**Deleted:** 3

The City will meet the costs of all mandatory training courses for Council Members, including reasonable travel and parking expenses (if required), as determined by the Chief Executive Officer (or nominee).

**Deleted:** Council's preferred provider of such training is WALGA, but the CEO may make alternative arrangements with the other approved providers, having regard to costs and the City's procurement policy, as well as any other relevant factors

**Deleted:** Costs to undertake mandatory training are determined by the approved Training Providers.

1.2 Professional Development

The City of Nedlands will allocate funds in its annual budget for the costs associated with professional development for Council Members.

To assist Council Members to perform their duties efficiently and effectively, the following training and development opportunities will be available to Council Members:

- Attendance at the Annual Western Australian Local Government Association conference and/or Annual General Meeting,



- Attendance of the Mayor or Deputy Mayor or delegate at the Annual Local Government Professionals Australia National Congress,
- Attendance of the Mayor or Deputy Mayor or delegate to the Annual Australian Local Government Association Conference,
- Council Member training arranged by the CEO for Council Members to be inducted into the role of Council Member and further training to keep up to date with their obligations and duty of care responsibilities as contained in the *Local Government Act 1995* and other relevant legislation and guidelines relevant to their role.

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The CEO is authorised to approve requests from Council Members for professional development opportunities, and make the associated arrangements (including registration, air fares, accommodation, sustenance, and reimbursement of approved expenses) subject to:

Deleted: , including, but not limited to:

- Deleted: Professional Speaking
- Planning Practices – The Essentials
- Planning Practices – Advanced
- Integrated Strategic Planning – The Essentials
- Integrated Strategic Planning – Policy
- Infrastructure Asset Management
- Effective Community Leadership
- CEO Performance Appraisals
- Better Planning Decisions
- Decision Making at a Governing Board Level
- Dealing with Conflict
- Land Use Planning

- the total cost of the proposed training being no more than \$1000
- the proposed training NOT requiring interstate or international travel to attend,
- the training, development or conference is organised by an identified, industry recognised training provider,
- the number of Council Members attending a particular conference, seminar or training does not impact the quorum required for Council or Committee meetings; and
- sufficient funds being available in the relevant Budget item.

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Where the total cost is between \$1,001 and \$2,000 then the CEO in consultation with the Mayor may approve attendance if there are sufficient unallocated funds within the relevant budget item. This is subject to the proposed training not requiring interstate or international travel to attend.

Where training or conferences total cost is more than \$2,000, the request must be referred to Council for determination.

A Council Member refused permission by the CEO or Mayor to attend a training course or conference may refer the matter to Council for determination.

When considering any application by a Council Member to attend a training course or conference, the CEO, the Mayor or Council shall consider the training needs of the Council Member and any issues of equity between Council Members regarding access to training.

1.2.1 Accompanying Persons



No allowances or entitlements will be provided by the City in respect of accompanying person costs. Any additional costs resulting from a Council Member being accompanied by their partner, or another person (other than an approved carer) will not be paid by the City.

Where a Council Member is attending professional development and has a disability as defined in the Disability Services Act 1993, the City will meet (50% of) the cost of a carer to accompany that Council Member where that carer is a person who provides ongoing care or assistance.

The type of costs provided by the City for an accompanying carer will include part payment of travel, meals, registration, accommodation and, if required, participation in any programs that the Council Member they are accompanying is attending.

1.2.2 Reports

A Council Member who attends a conference, study tour, seminar, forum or workshop, is encouraged to provide a report to Council after their return from travel.

The Report need not form part of the Council meeting agenda, and a summary of attendance and learnings may be presented during Members Announcements without Discussion during the Council Meeting. Councillors may choose to also provide a summary of learnings, that will be circulated through the CEO update or similar publication, to all Council Members.

The CEO will publish a report on the City website, within one month of the end of the financial year, providing the details of the training completed by each Council Member during the financial year.

2. International, interstate and intrastate travel

All proposals for City funded interstate or international travel for Council Members requires the approval of Council, when recommended by the CEO. In the case of CEO interstate or international travel, the proposal shall be presented to Council without recommendation.

Air travel will be arranged by the City (unless otherwise agreed under this Policy) and shall be based on an economy class fare with standard baggage allowance. Wherever possible, these will be booked in advance to take advantage of advance purchase discounts.

Accommodation arrangements shall be based on an appropriate room in an appropriate standard hotel recommended by the conference organisers, or one

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**Deleted:** A written report on the travel and event/s attended shall be made available to Council by the person who travelled no later than the second Council meeting after return from the travel.

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**Deleted:** at the City website regarding Professional Development by Council Members

**Deleted:** A Council Member may request an opportunity to present on the learnings from an event to an appropriate Council forum, or Council may request same.

**Deleted:** Councillors are to organise their own course registration and logistics to attend professional development...



located within proximity to the conference facility. Any upgrades or extensions shall be at the expense of the Council Member.

All proposals for approval of travel covered by this provision should be in writing and show the reason for the request.

### 3. Reimbursement requests

Travel, accommodation, and registration arrangements shall be made by the City; however, where a Council Member has approval from the CEO to make their own arrangements in respect to accommodation and travelling, reimbursement will be made in accordance with this policy on presentation of appropriate receipts. Council Members must obtain the necessary approvals required by this policy prior to making any financial or other commitments.

~~A Council Member may be reimbursed for intrastate or interstate travel and accommodation costs incurred in any of the circumstances referred to in regulation 32(1) of the *Local Government Administration Regulations 1996*.~~

Reimbursement requests must be provided to the CEO and are to include all receipts and a completed reimbursement form. Only expenses incurred in a Council Member's capacity to fulfil their role as a Council Member will be reimbursed.

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**Deleted:** is at the same rate applicable to the reimbursement of travel and accommodation costs in the same or similar circumstances under the Public Service Award 1992 issued by the Western Australian Industrial Relations Commission as at the date of the determination current at the time of the event

### 4. Cancellations

Where cancellations occur the Council Member, in conjunction with the CEO, should endeavour to find a replacement Council Member. When no replacement is secured the non-refundable portion will accrue to the Council member's or value of conference attendance.

### 5. Training completion date

All training is to be completed at least three months prior to a Council Members term of office completion date.

No Council Member is permitted to apply to undertake professional development paid for by the City of Nedlands, in the last three months of their term, unless otherwise determined by a resolution of Council.

### 6. Definitions

~~Act—Local Government Act 1995~~

~~CEO—the Chief Executive Officer of the City~~

~~Council—Council of the City (the elected body)~~

~~Council Member—A person elected under the *Local Government Act 1995* as a member of the council of the local government~~





Regulations—Local Government (Administration) Regulations 1996

**Related documentation**

Council Member Fees, Expenses Allowances and Other Provisions Policy

**Related local law and legislation, compliance requirements.**

*Local Government Act 1995*, section 5.98(2)(b), 5.126

*Local Government (Administration) Regulations 1996*, reg.(32)

Under Section 5.127 of the Act, the CEO must publish a report on the local government’s website within one (1) month of the end of the financial year detailing the training completed by Council Members.

Under Section 5.128 of the Act, a local government must prepare and adopt a Policy (by Absolute Majority) in relation to the continuing professional development of Council Members.

**Related delegation**

Nil

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▼  
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- Deleted: Review History¶
- Deleted: 23 February 2021 (CEO Report 13.1)
- Deleted: 20 December 2016 (Report CPS33.16)

<b>Document Control box</b>			
<b>Document Responsibilities:</b>			
<b>Owner:</b>	<u>Chief Executive Officer</u>	<b>Owner Business Unit:</b>	<u>Office of the Chief Executive Officer</u>
<b>Inception Date:</b>	<u>12 December 2023</u>	<b>Decision Maker:</b>	<u>Council</u>
<b>Review Date:</b>	<u>Biennial</u>	<b>Repeal and Replace:</b>	
<b>Compliance Requirements:</b>			
<b>Legislation:</b>	<u>Local Government Act 1995 Part 5, Division 10.</u> <u>Local Government (Administration) Regulations 1996 reg. 35 and 36.</u>		

## Proposal - Repeal

### Council Member and Employee training and conference attendance

<b>Status</b>	Council
<b>Responsible Division</b>	Office of the Chief Executive Officer
<b>Objective</b>	To determine requirements for training and conference support for Elected Members and City Employees.

#### Context

Training and conference attendance are important to Elected Members and Employees in performing the functions of their roles. This policy sets out Council's express authority and terms of approval for attendance at training and conferences, in addition to mandatory training. **(Repeal – refer draft policy)**

Interstate and international travel may be required by Elected Members and Employees for attending training, conferences and professional events. This policy sets out the requirements associated with such travel. **(Repeal – refer draft policy clause 2)**

#### Statement

##### 1. Professional Development and attendance at events.

Council members are required to completed mandatory training (s.5.126). **(Refer draft policy clause 1)**

In addition to mandatory training, if funds have been specifically provided in the budget for an Elected Member to attend a particular training course or conference, then the Chief Executive Officer (CEO) may approve attendance and make any necessary arrangements.

If an Elected Member requests approval to attend a training course or conference for which **no** interstate or international travel is required, and which no specific budget allocation has been made but there are sufficient unallocated funds available within the budget, the following can be applied:

- Where the total cost is no more than \$1,000, CEO can approve; **(Refer draft policy clause 1.2)**

- Where the total cost is between \$1,001 and \$2,000 then the CEO in consultation with the Mayor may approve attendance if there are sufficient unallocated funds within the budget; (Refer draft policy clause 1.2) and
- Where training or conferences cost more than \$2,000, they must be referred to Council for approval. (Refer draft policy clause 1.2)

Any Elected Member refused permission by the CEO or Mayor to attend training course or conference may refer the matter to Council. (Refer draft policy clause 1.2)

When considering any application by an Elected Member to attend a training course or conference, the CEO, the Mayor or Council should take into account the training needs of the Elected Member and any issues of equity between Elected Members concerning access to training. (Refer draft policy clause 1.2)

## 2. International and interstate travel

All City funded international travel for Employees and Councillors requires the timely approval of Council when recommended by the CEO. In the case of CEO international travel, the proposal should be presented to Council without recommendation. (Refer draft policy clause 2)

All proposals for approval of travel covered by this provision should be in writing and show the reason for the request. (Refer draft policy clause 2)

A written report on the travel and event/s attended should be presented to Council by the person who travelled no later than the second meeting after return from the travel. (Refer draft policy clause 2.2)

Interstate travel for Employees for work related purposes is subject to approval by the CEO and a report of the approval and reason for it is to be presented to Council at the meeting following that approval.

Interstate travel by Councillors for Councillor related purposes, including educational, is subject to approval by Council. (Refer draft policy clause 2)

## 3. Reimbursement approvals

The extent to which a Council Member and Employee can be reimbursed for intrastate or interstate travel and accommodation costs incurred in any of the circumstances referred to in regulation 32(1) of the LG Administration Regulations is at the same rate applicable to the reimbursement of travel and accommodation costs in the same or similar circumstances under the Public Service Award 1992 issued by the Western Australian Industrial Relations Commission as at the date of this determination. (Refer draft policy clause 3)



Reimbursement requests must be provided to the CEO and are to include all receipts and a completed reimbursement form. (Refer draft policy clause 3)

#### 4. Cancellations

Where cancellations occur the Council member/Employee member should endeavour to find a replacement Council member or appropriate Employee. When no replacement is found the non-refundable portion will accrue to the Council member's or Employee's value of conference attendance. (Refer draft policy clause 4)

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#### Related documentation

Elected Member Fees, Expenses Allowances and Other Provisions Policy

#### Related local law and legislation

Local Government Act 1995, section 5.98(2)(b), 5.126  
Local Government (Administration) Regulations 1996, reg.(32)

#### Related delegation

Nil

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#### Review History

23 February 2021 (CEO Report 13.1)  
20 December 2016 (Report CPS33.16)

## Proposal – Amendment

### Elected Member Expenses and Equipment

<b>KFA</b>	Governance and Civic Leadership
<b>Status</b>	Council
<b>Responsible Division</b>	Office of the Chief Executive Officer
<b>Objective</b>	To determine allowances and equipment provided to Elected Members.

---

#### Context

Upon election Elected Members are entitled to receive the necessary information and equipment to undertake their role.

All elected members will be paid annual allowances for attending meetings and as a contribution to communication costs incurred in their role as Elected Members.

#### Statement

1. *Induction.* Newly Elected Members will be required to undertake a comprehensive induction process conducted by Administration. This may involve evening and weekend sessions.

Following the election relevant materials and reports will be provided electronically, where possible to Elected Members. Hard copies can be provided upon request by the Elected Member. Existing Elected Members will also have electronic access to induction materials.

2. *Seats in Council Chambers.* Elected Members will occupy the seats in the Council Chambers allocated to them based on the ward represented and alphabetical placement. In exceptional circumstances, by resolution of Council, an Elected Member may be allowed to occupy another seat.
3. *Allowances.* The Mayor and Deputy Mayor will be paid an allowance and all Elected Members shall receive an annual fee (paid monthly in advance) for attending meetings. ~~Effective from 1 July 2013,~~ The Salaries and Allowances Tribunal is required to determine the amount of fees and allowances to be paid to elected members. Maximum allowances will be paid, to be confirmed in the annual budget each year.

Elected members shall also be provided with an allowance to cover the costs of having the correct capital (computer) equipment to be effective based on minimum operating requirements as provided by Administration. This can include purchase of a computer, appropriate software or printer/fax.

Up to: ~~—————~~ \$1 500.00 (per term, as required)

Elected Members shall receive an annual ICT allowance to cover the costs of telephone, internet and other communication technology expenses. This will be paid as part of the annual fee for attending meetings.

Elected members will be able to salary sacrifice the purchase of a new computer.

Both the setup and annual communication allowance will be as determined each year by Council as part of its budget deliberations. If the communication expenses of any Elected Member exceeds the allowance, they may make application for reimbursement.

The Council will reimburse the cost of childcare, travel and any other relevant expenses incurred by an Elected Member in the performance of their duties.

4. Gift at conclusion of term of office. Council may recognise the service given by Elected Members when they retire or are unsuccessful in seeking re-election, by presenting them with a gift up to the value of \$50 per year of office.
5. Elected Member training and conference attendance. The City of Nedlands recognises the importance of Elected Members participating in relevant training and development opportunities. [Please refer to the Council Member Professional Development Policy for information relating to allowances in this area. \(amendment\)](#)

~~If funds have been specifically provided in the budget for an Elected Member to attend a particular training course or conference, then the Chief Executive Officer may approve attendance and make any necessary arrangements. (repeal – refer draft policy)~~

~~If an Elected Member requests approval to attend a training course or conference for which interstate or international travel is required, the Interstate and International Travel Policy is to be complied with. (repeal – refer draft policy)~~

~~If an Elected Member requests approval to attend a training course or conference for which **no** interstate or international travel is required, and which no specific budget allocation has been made but there are sufficient unallocated funds available within the budget, the following can be applied: (repeal – refer draft policy)~~



- ~~Where the total cost is no more than \$1000, Chief Executive Officer can approve.~~
- ~~Where the total cost is between \$1001 and \$2000 then the Chief Executive Officer in consultation with the Mayor may approve attendance if there are sufficient unallocated funds within the budget.~~
- ~~Where training or conferences cost more than \$2000, they must be referred to Council for its deliberation.~~

~~Any Elected Member refused permission by the Chief Executive Officer or Mayor to attend training course or conference may refer the matter to Council. (repeal – refer draft policy)~~

~~When considering any application by an Elected Member to attend a training course or conference, the Chief Executive Officer, the Mayor or Council should take into account the training needs of the Elected Member and any issues of equity between Elected Members concerning access to training. (repeal – refer draft policy)~~

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### Related documentation

Interstate and International Travel Policy

### Related Local Law / Legislation

*Local Government (Administration) Regulations 1996*

### Related delegation

Nil

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### Review History

20 December 2016 (Report CPS33.16)  
24 September 2013 (Report CPS26.13)  
25 May 2010 (Report CM10.10)  
27 August 2013 (Report CPS26.13)

## Proposed repeal.

### Interstate and International Travel

<b>KFA</b>	<b>Governance and Civic Leadership</b>
<b>Status</b>	Council
<b>Responsible Division</b>	Office of the Chief Executive Officer
<b>Objective</b>	To determine requirements for interstate and international travel for Elected Members and City Employees.

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#### Context

Interstate and international travel may be required by Elected Members and City Employees for attending training, conferences and professional events.

This policy sets out the requirements associated with such travel.

#### Statement

1. All Council funded international travel for staff and Councillors requires the timely approval of Council when recommended by the CEO; **(repeal – draft policy clause 2)**
2. In the case of CEO international travel, the proposal should be presented to Council without recommendation; **(repeal – draft policy clause 2)**
3. All proposals for approval of travel covered by this provision should be in writing and show the reason for the request; **(repeal – draft policy clause 2)**
4. A written report on the travel and event/s attended should be presented to Council by the person who travelled no later than the second meeting after return from the travel. **(repeal – draft policy clause 1.2.2)**
5. Interstate travel for staff for work related purposes is subject to approval by the CEO and report of the approval and reason for it to the Council at the meeting following that approval; **(repeal – operational and would appear in the monthly financial statement, a report can be provided in the CEO update)** and
6. Interstate travel by Councillors for councillor related purposes including educational is subject to approval by Council **(repeal – draft policy clause 2)**.

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#### Related documentation





## Elected Member Expenses and Equipment Policy

### **Related local law and legislation**

Nil

### **Related delegation**

Nil

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### **Review History**

20 December 2016 (Report CPS33.16)

**19.4 CEO39.12.23 – Adoption of City of Nedlands Dogs Local Law 2023**

<b>Meeting &amp; Date</b>	Ordinary Council Meeting – 12 December 2023
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Report Author</b>	Libby Kania - Coordinator Governance and Risk
<b>CEO</b>	Tony Free – Acting Chief Executive Officer
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Proposed City of Nedlands Dogs Local Law 2023</li> <li>2. List of places where dogs are prohibited absolutely and dog exercise areas</li> <li>3. City of Nedlands Dogs Local Law 2012</li> <li>4. Confidential – List of submissions</li> </ol>

**Purpose**

The purpose of this report is for Council to consider the public submissions on the proposed City of Nedlands Dogs Local Law 2023 and to make the local law.

**Recommendation****That Council:**

1. notes the submissions received at the close of the public submission period for the proposed City of Nedlands Dogs Local Law 2023 as contained in Confidential Attachment 4;
2. by an absolute majority makes the City of Nedlands Dogs Local Law 2023 as contained in Attachment 1 to this report and authorises the common seal to be affixed;
3. requests the CEO to progress the remaining actions to finalise the local law adoption process as detailed in section 3.12 and section 3.15 of the *Local Government Act 1995*;
4. advises all submitters of Council's decision; and
5. adopts the list of places where dogs are prohibited absolutely and places which are dog exercise areas under section 31(3a) of the *Dog Act 1976* as listed in Attachment 2; and
6. requests the CEO to provide local public notice of the list of places where dogs are prohibited absolutely and places which are dog exercise areas.



## Voting Requirement

Absolute Majority.

## Background

At its meeting held on 28 March 2023, Council resolved to advertise the proposed *City of Nedlands Dogs Local Law* for public comment. The draft local law is to replace the current local law made in 2012.

In accordance with section 3.12(3) of the *Local Government Act 1995* (the Act) the City publicly advertised the proposed local law for a period of six weeks and forwarded a copy to the Minister for Local Government.

During the public submission period, the Department of Local Government, Sporting and Cultural Industries (DLGSC) provided feedback to the City under cover of a letter dated 18 July 2023, suggesting minor amendments to the local law. Members of the public also provided feedback on the proposed local law.

## Discussion

The proposed local law takes into account changes to the *Dog Act 1976* and its associated Regulations since the 2013 local law was made.

The draft local law was advertised for comments from the public which closed on 30 June 2023. A number were received, most of which related to enforcement issues and control of dogs rather than the local law itself.

Comment	Response
Dogs Local Law 2023 Please see comments as marked up on the attachment.	Noted. The suggestions are considered minor and relate to document layout and formatting.
Dogs in Public Places Council Policy Please see comments as marked up on the attachment.	
Could you please advise how the Dogs in Public Places Council Policy relates to the Dogs Local Law 2023, as it removes Schedule 4 and 5 (in the Dogs Local Law 2012)? How will the policy be made available to the ratepayers as it is separate from the Dogs Local Law 2023?	As reported to Council at its meeting held on 28 March 2023, areas where dogs may be exercised off leash and areas where dogs are prohibited from being are now established by Council resolution by absolute majority and the giving of



Comment	Response
<p>Will it be available on the Local Laws section of the City of Nedlands website?  <a href="https://www.nedlands.wa.gov.au/council/governance/local-laws.aspx">https://www.nedlands.wa.gov.au/council/governance/local-laws.aspx</a></p> <p>The Dogs Local Law 2012 defined the Swanbourne Beach Reserve as  a) SWANBOURNE BEACH RESERVE No. 23729, being the sand and dune area adjacent to the Swanbourne Beach development, between the area north of the access pathway at the intersection of Odern Crescent and Marine Parade, and south of the northernmost access pathway of the development.</p> <p>The Dogs Local Law 2023 defines the Swanbourne Beach Reserve as  (d) Swanbourne Beach Reserve No. 23729, being the sand and area adjacent to the Swanbourne Beach development as indicated by signs.</p> <p>Given the past difficulties in maintaining the dog prohibition signs at Swanbourne Beach, does the Dogs Local Law 2012 approach better define the prohibited area?</p> <p>Can the map detailing the dog prohibition at Swanbourne Beach also be included?</p> <p>Should the Swanbourne Beach Playground be listed in addition to the Karella Street Playground, Leura Street Playground and Campsie Street Playground?</p>	<p>local public notice under s31(3A) of the <i>Dog Act 1976</i> and are no longer included in local laws.</p> <p>The list of exercise and prohibited areas can be listed in a text box in the new local law as well as on the City’s website via a hyperlink. This can also include maps, signs on site and any other initiatives to improve compliance.</p> <p>Agreed. The description of the Swanbourne Beach Reserve as listed in the 2013 local law has been added to the list of areas prohibited and off leash under s31(3A) of the Dog Act and recommended for adoption by Council.</p> <p>Yes - see comments above regarding listing and publicizing exercise and prohibited areas.</p> <p>See comments below; the list of proposed off leash exercise areas excludes:</p> <ol style="list-style-type: none"> <li>(1) <i>land which has been set apart as a children’s playground;</i></li> <li>(2) <i>an area being used for sporting or other activities, as permitted by the City during the times of such use;</i></li> <li>(3) <i>A conservation area as indicated by a sign on site; or</i></li> <li>(4) <i>a car park.</i></li> </ol>



Comment	Response
<p>Please clarify with a map the following locations:</p> <ul style="list-style-type: none"> <li>• SWANBOURNE BEACH, Lot 500, Marine Parade</li> <li>• SWANBOURNE OVAL, Lot: 282</li> <li>• SWANBOURNE BEACH RESERVE NORTH, Lot : 279 Reserve: 27250 (from Dogs Local Law 2012)</li> </ul>	<p>Agreed - see comments above regarding listing and publicizing exercise and prohibited areas. A map will be produced, and onsite signs reviewed and upgraded where of assistance.</p>
<p>Please ensure that the following areas are not dog exercise areas, dogs must be held by a leash:</p> <ul style="list-style-type: none"> <li>• Shenton Bushland, Allen Park Bushland, Hollywood Reserve, Birdwood Parade Bushland, Bishop Road embankment bushland, Point Resolution Bushland, White Beach vegetation bushland area, Iris Avenue 'Sandy Beach', embankment to Sunset Hospital bushland area adjacent Sunset Foreshore, Swanbourne beach, vegetated dunes and bushland, and Mt Claremont Oval Bushland.</li> </ul> <p>There should be:</p> <ol style="list-style-type: none"> <li>1) Greater distinction between bushland and parkland dog exercise areas; and</li> <li>2) More public education that dogs (must) remain on lead when entering all Nedlands bushland reserves.</li> </ol> <p>Defining dogs off lead areas in parkland and bushland areas in Allen Park - Please see attached map of Allen Park.</p>	<p>Agreed - see comments above regarding listing and publicizing exercise and prohibited areas.</p> <p>A map will be produced, and onsite signs reviewed and upgraded where of assistance.</p> <p>Note that the proposed list of areas that are off leash exercise areas includes the following information:</p> <p><i>For the purposes of sections 31 and 32 of the Act, except for:</i></p> <ol style="list-style-type: none"> <li>(1) land which has been set apart as a children's playground;</li> <li>(2) an area being used for sporting or other activities, as permitted by the City during the times of such use;</li> <li>(3) A conservation area as indicated by a sign on site; or</li> <li>(4) a car park,</li> </ol> <p><i>The following are dog exercise areas...</i></p>
<p>Is leaving dog poo in the street really so bad? The science says it's even worse than you think. Beyond the obvious unsightliness and the likelihood of making unwanted contact with dog poo, there are other important reasons to pick up after dogs.</p>	<p>Clause 4.1(2) of the proposed new local law provides for a modified penalty of \$200 for a dog excreting in prohibited place which is not removed by the person in control of the dog.</p>



The Department of Local Government, Sporting and Cultural Industries also responded on behalf of the Minister with a number of minor suggestions, and which are shown ‘marked’ on the attached updated version of the proposed local law.

Subject to a number of minor changes shown ‘marked’ on the attached draft of the local law, it can now be made.

A list of proposed places where dogs are prohibited absolutely and places which are dog exercise areas under s. 31(3a) of the *Dog Act 1976* is also attached.

### Governor’s Orders

The City is awaiting confirmation from the Department as to the outcome of the City’s application to extend its district boundary for the purpose of this local law.

When the Governor’s Order is drafted, the Order will include a description of the extra portion of the Swan River and state that this area is now part of the City’s “district” for the purposes of the dog local law. At present, it is proposed that the local law be made with the deletion of clause 1.4(2).

### Consultation

In accordance with s. 3.12 of the *Local Government Act 1995* and as resolved by council, local public notice was given that the City proposes to make the local law, its purpose and effect, and a copy sent to the Minister for Local Government. As required by s. 3.12, a period of at least six weeks was provided.

Approval from the Governor to extend its application outside the district (100m outside the district into the Swan River in the vicinity of the Sunset Foreshore Reserve) was sought.

### Strategic Implications

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Governance and Civic Leadership**  
We value our Council’s quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community’s assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

### Budget/Financial Implications

There are financial and resource implications associated with the advertisement, processing of the proposed local law, and its eventual Gazettal on final adoption.



## **Legislative and Policy Implications**

*Dog Act 1976 – Section 51*  
*Local Government Act 1995 – section 3.12*

## **Decision Implications**

If adopted, the proposed local law will update the City's local law relating to dogs by reflecting changes to the *Dog Act 1976* and its associated Regulations since the previous local law was made in 2013.

## **Conclusion**

The proposed local law has been advertised, and subject to a number of minor amendments can now be made. It will come into effect 14 days after publication in the Government Gazette.

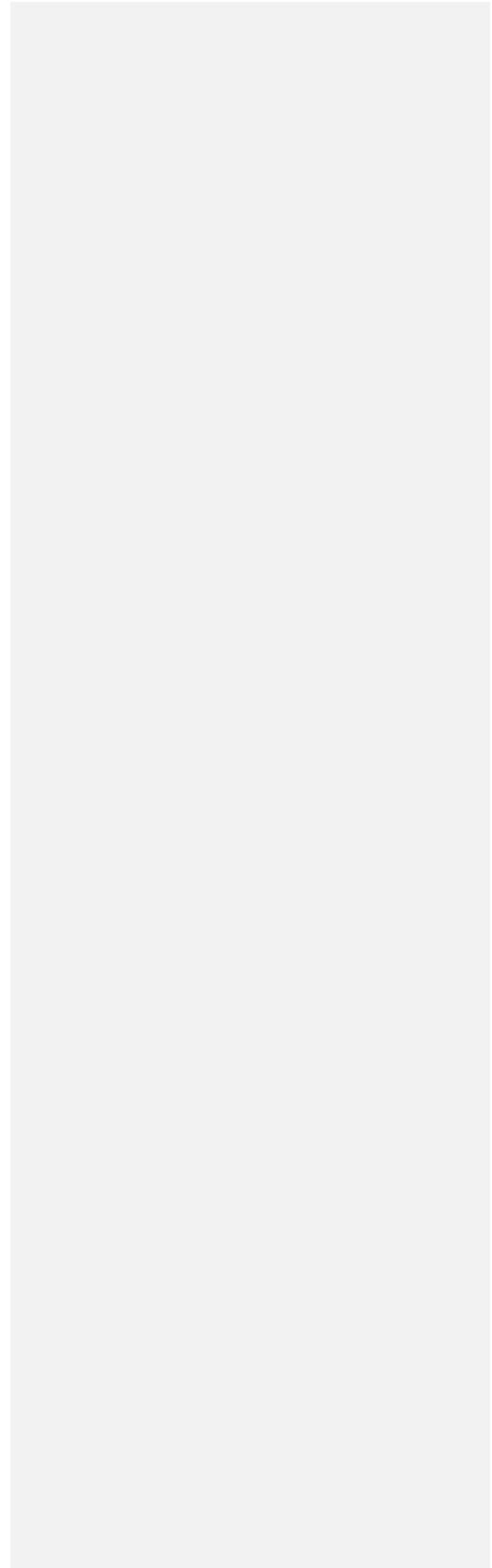
## **Further Information**

Nil.

*Local Government Act 1995*

*Dog Act 1976*

**CITY OF NEDLANDS  
DOGS LOCAL LAW 2023**





**Local Government Act 1995  
Dog Act 1976**

**CITY OF NEDLANDS  
DOGS LOCAL LAW 2023**

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**Local Government Act 1995  
Dog Act 1976**

**CITY OF NEDLANDS**

**DOGS LOCAL LAW 2023**

Under the powers conferred by the *Local Government Act 1995*, the *Dog Act 1976* and under all other powers enabling it, the Council of the City of Nedlands resolved on dd mm 2023 to make the following local law.

**PART 1 - PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *City of Nedlands Dogs Local Law 2023*.

**1.2 Repeal**

The *City of Nedlands Dogs Local Law 2012* published in the *Government Gazette* on 11 October 2012 and amended in the *Government Gazette* on 5 July 2013 is repealed.

**1.3 Definitions**

In this local law unless the context otherwise requires -

**Act** means the *Dog Act 1976*;

**authorised person** means a person authorised by the local government to perform all or any of the functions conferred on an authorised person under this local law;

**CEO** means the Chief Executive Officer of the local government;

**district** means the district of the local government;

**local government** means the City of Nedlands;

**local planning scheme** means a local planning scheme made by the local government under the *Planning and Development Act 2005*;

**Regulations** means the *Dog Regulations 2013*;

**Schedule** means a schedule in this local law; and

**thoroughfare** has the meaning given to it in section 1.4 of the *Local Government Act 1995*.

**1.4 Application**

This local law applies;

This local law applies:

(1) To throughout the district; and

(2) To the area of water bounded by the district boundary between the westernmost alignment of the Adalma Place road reserve and the easternmost alignment of the Iris Avenue road reserve and extending out into the Swan River for a distance of 100 meters.

Deleted: throughout the district.

**Note:**

In accordance with s3.6 of the *Local Government Act 1995*, approval from the Governor to apply the local law into the sea adjoining the district for a distance of 100 metres into the Swan River from the district boundary between the westernmost alignment of the Adalma Place road reserve and the easternmost alignment of the Iris Avenue road reserve, Dalkeith was received and published in the Government Gazette on dd mm yyyy (page 1234):



**PART 2 - REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS**

**2.1 Dogs to be confined**

- (1) An occupier of premises on which a dog is kept must -
  - (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
  - (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
  - (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures that the dog remains confined) and is fitted with a proper latch or other means of fastening it;
  - (d) maintain the fence and all gates and doors in the fence in good order and condition; and

- 
- (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
  - (2) Where an occupier fails to comply with subclause (1), he or she commits an offence.
  - (3) Notwithstanding subclauses (1) and (2), the confinement of dangerous dogs is dealt with in the Act and Regulations.

## **2.2 Limitation on the number of dogs**

- (1) This clause does not apply to premises which have been -
  - (a) licensed under Part 3 as an approved kennel establishment;
  - (b) granted an exemption under section 26(3) of the Act; or
  - (c) established as a veterinary hospital or a veterinary clinic.
- (2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act is two (2) dogs over the age of 3 months and the young of those dogs under that age unless—
  - (a) the premises are on land situated within a part of the district where kennels are permissible under a Local Planning Scheme of the City; and
  - (b) the premises are licensed as an approved kennel establishment.

---

### PART 3 - APPROVED KENNEL ESTABLISHMENTS

#### 3.1 Interpretation

In this Part and in Schedule 2 -

**licence** means a licence to keep an approved kennel establishment on premises;

**licensee** means the holder of a licence;

**premises**, in addition to the meaning given to it in section 3 of the Act, means the premises described in the application for a licence; and

**transferee** means a person who applies for the transfer of a licence to her or him under clause 3.14.

#### 3.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form of that in Schedule 1, and must be lodged with the local government together with –

- (a) evidence of planning approval obtained from the local government;
- (b) plans and specifications of the kennel establishment, including a site plan;
- (c) copies of the notices to be given under clause 3.3;
- (d) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (e) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government; and
- (f) the fee for the application for a licence referred to in clause 3.10.

#### 3.3 Notice of proposed use

(1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged –

- (a) once in a newspaper circulating in the district; and
- (b) to the owners and occupiers of any premises adjoining the premises.

(2) The notices in subclause (1) must specify that -

- (a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
- (b) the application and plans and specifications may be inspected at the offices of the local government.

(3) Where –

- (a) the notices given under subclause (1) do not clearly identify the premises; or
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the local government may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.

---

**3.4 Exemption from notice requirements**

(1) Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a -

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements,

under a local planning scheme, then the requirements of clauses 3.2(c), 3.3 and 3.5(c) do not apply in respect of the application for a licence.

(2) The local government may require advertising of an application as part of the planning process.

**3.5 When application can be determined**

An application for a licence is not to be determined by the local government until -

- (a) planning approval has been given by the local government;
- (b) the applicant has complied with clause 3.2;
- (c) the applicant submits proof that the notices referred to in clause 3.3(1) have been given in accordance with that clause; and
- (d) the local government has considered any written submissions received within the time specified in clause 3.3(2)(a) on the proposed use of the premises.

**3.6 Determination of application**

In determining an application for a licence, the local government is to have regard to -

- (a) the matters referred to in clause 3.7;
- (b) any written submissions received within the time specified in clause 3.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the approved kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

**3.7 Where application cannot be approved**

The local government cannot approve an application for a licence where -

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a local planning scheme unless prior valid planning approval has been issued by the local government and the application for a licence is consistent with that approval; or
- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

**3.8 Conditions of approval**

- (1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.



- (2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.

### 3.9 Compliance with conditions of approval

Penalties applicable where a licensee does not comply with the conditions of a licence are contained in the Act and Regulations.

### 3.10 Fees

- (1) On lodging an application for a licence, the applicant is to pay a fee to the local government.
- (2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.
- (4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.15 to 6.19 of the *Local Government Act 1995*.

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### 3.11 Form of licence

The licence is to be in the form determined by the local government and is to be issued to the licensee.

### 3.12 Period of licence

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the fee referred to in clause 3.10(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

### 3.13 Variation or cancellation of licence

- (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence –
- (a) on the request of the licensee;
  - (b) following a breach of the Act, the Regulations or this local law; or
  - (c) if the licensee is not a fit and proper person.
- (3) The date a licence is cancelled is to be, in the case of –
- (a) paragraph (a) of subclause (2), the date requested by the licensee; or
  - (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.

### 3.14 Transfer

- (1) An application for the transfer of a valid licence from the licensee to another person must be-
- (a) made in the form determined by the local government;
  - (b) made by the transferee;

- (c) made with the written consent of the licensee; and
- (d) lodged with the local government together with –
  - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
  - (ii) the fee for the application for the transfer of a licence referred to in clause 4.10(3).

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clause 4.10(3).

- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 3.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.

### 3.15 Notification

The local government is to give written notice to -

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 3.13(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 3.13(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 3.13(2), which notice is to be given in accordance with section 27(6) of the Act.

### 3.16 Inspection of kennel

With the consent of the occupier, an authorised person may inspect an approved kennel establishment at any time.

## PART 4 - MISCELLANEOUS

### 4.1 Offence to excrete

- (1) A dog must not excrete on –
  - (a) any thoroughfare, any dog exercise area or other public place; or
  - (b) any land which is not a public place without the consent of the occupier.
- (2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.
- (3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

---

## PART 5 - ENFORCEMENT

### 5.1 Interpretation

In this Part -

**infringement notice** means the notice referred to in clause 5.3; and

**notice of withdrawal** means the notice referred to in clause 5.7(1).

### 5.2 Offences and general penalty

(1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

(2) A person who commits an offence under this local law is liable, on conviction, to a penalty not less than \$500 and not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

### 5.3 Modified penalties

The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.

### 5.4 Issue of infringement notice

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 8 of the First Schedule of the Regulations.

### 5.5 Failure to pay modified penalty

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

### 5.6 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

### 5.7 Withdrawal of infringement notice

(1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 9 of the First Schedule of the Regulations.

(2) A person authorised to issue an infringement notice under clause 5.4 cannot sign or send a notice of withdrawal.

**SCHEDULE 1 - APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT**  
(clause 3.2)

**DOGS LOCAL LAW 2023**

I/we (full name) .....  
of (postal address) .....  
(telephone number) .....  
(facsimile number) .....  
(E-mail address) .....

Apply for a licence for an approved kennel establishment at (address of premises) .....

For (number and breed of dogs) .....

\* (insert name of person) ..... will be residing at the premises on and from (insert date) .....

\* (insert name of person) ..... will be residing (sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare) at ..... (insert address of residence) on and from ..... (insert date).

Attached are -

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) written evidence that a person will reside -
  - (i) at the premises; or
  - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as ....., in the keeping of dogs at the proposed kennel establishment.

Signature of applicant .....

Date .....

\* delete where inapplicable.

Note: a licence if issued will have effect for a period of 12 months – section 27.5 of the Dog Act.

OFFICE USE ONLY  
Application fee paid on [insert date].

**SCHEDULE 2 - CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT**  
(clause 3.8(1))

An application for a licence for an approved kennel establishment may be approved subject to the following conditions -

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than -
  - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
  - (ii) 10m from any dwelling; and
  - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be –
  - (i) at least 100mm above the surface of the surrounding ground;
  - (ii) smooth so as to facilitate cleaning;
  - (iii) rigid;
  - (iv) durable;
  - (v) slip resistant;
  - (vi) resistant to corrosion;
  - (vii) non-toxic;
  - (viii) impervious;
  - (ix) free from cracks, crevices and other defects; and
  - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
- (h) the kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;

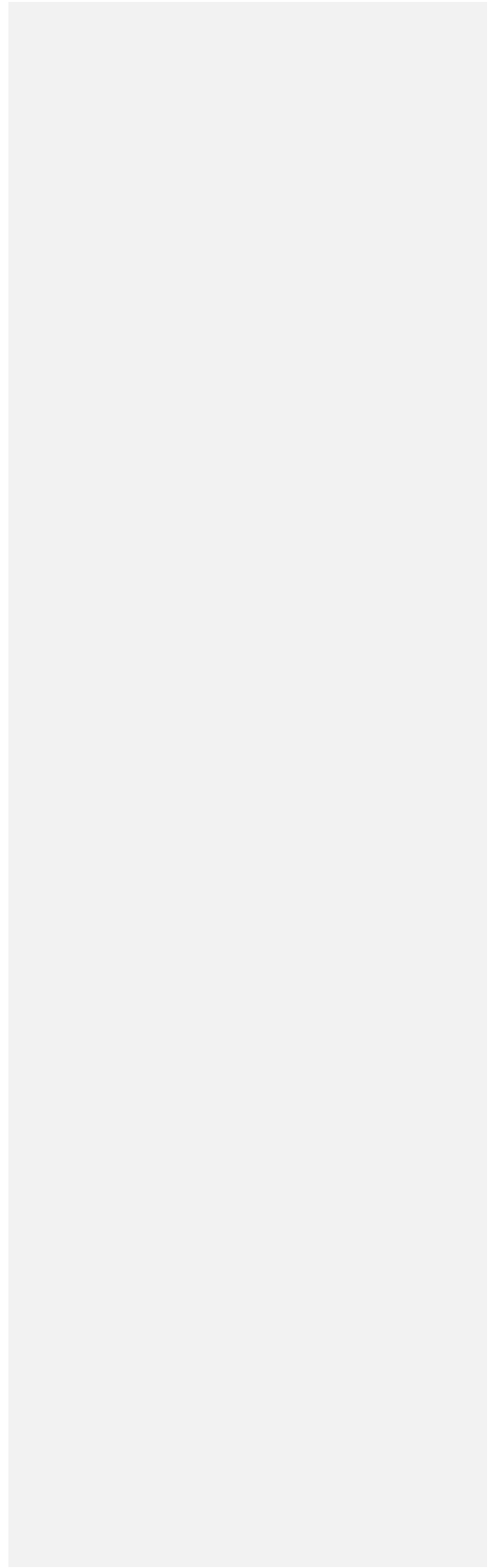
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- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of -
- (i) 2m; or
  - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zinalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside -
- (i) at the premises; or
  - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

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**SCHEDULE 3 - OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY  
APPLIES  
(clause 5.3)**

Offence	Nature of offence	Modified penalty \$
2.1	Failing to provide means for effectively confining a dog	200
4.1(2)	Dog excreting in prohibited place	200

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**City of Nedlands**

**Places where dogs are prohibited absolutely and places which are dog exercise areas under S31(3a) of the Dog Act 1976**

**Places where dogs are prohibited absolutely**

- (1) Dogs are prohibited absolutely from entering or being in any of the following places—
- (a) where so indicated by a sign, a public building;
  - (b) a theatre or picture gardens;
  - (c) all premises or vehicles classified as food premises or food vehicles under the *Health (Food Hygiene) Regulations 1993* except for a portion of a food premise that may be used for alfresco dining providing:
    - a. There is no evidence of a present risk of unsafe or unsuitable food being sold;
    - b. The owner or occupier of the premises permits the dog to be present; and
    - c. The dog must be on a leash at all times no longer than 2.0m and held by a person capable of controlling it.
  - (d) Swanbourne Beach Reserve No. 23729, being the sand and area adjacent to the Swanbourne Beach development, between the area north of the access pathway at the intersection of Odern Crescent and Marine Parade, and south of the northernmost access pathway of the development [as indicated by signs on site](#);
  - (e) Infant Health Centre Playground, Lot 254 Strickland Street, Mt Claremont;
  - (f) Hollywood Reserve Tennis Courts area and surrounds, Reserve A20838, Hollywood ;
  - (g) Karella Street Playground, Lot 164 Smyth Road, Nedlands;
  - (h) Leura Street Playground, Lot 300 Leura Street, Nedlands;
  - (i) Campsie Street Playground, Lot 46 Campsie Street, Nedlands;
  - (j) [Swanbourne Beach Playground](#)
  - (k) Jo Wheatley All Abilities Play Space, Lot 501 The Esplanade, Nedlands; and
  - (l) [a public swimming pool](#).
- (2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.

Commented [U1]: Just the playground?

Commented [U2]: Are there any in Neds? If not, then delete

**Places which are dog exercise areas**

For the purposes of sections 31 and 32 of the Act, except for:

- (1) land which has been set apart as a children's playground;
- (2) an area being used for sporting or other activities, as permitted by the City during the times of such use;
- (3) A conservation area as indicated by a sign on site; or
- (4) a car park,

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The following are dog exercise areas—

1. Allen Park Ovals, Clement St, Swanbourne;
2. Asquith Park, Lot: 251 Rochdale Rd, Mt Claremont;
3. Baines Park, Lot 300 Driftwood Pl, Swanbourne;
4. Beaton Park, The Esplanade, Nedlands;

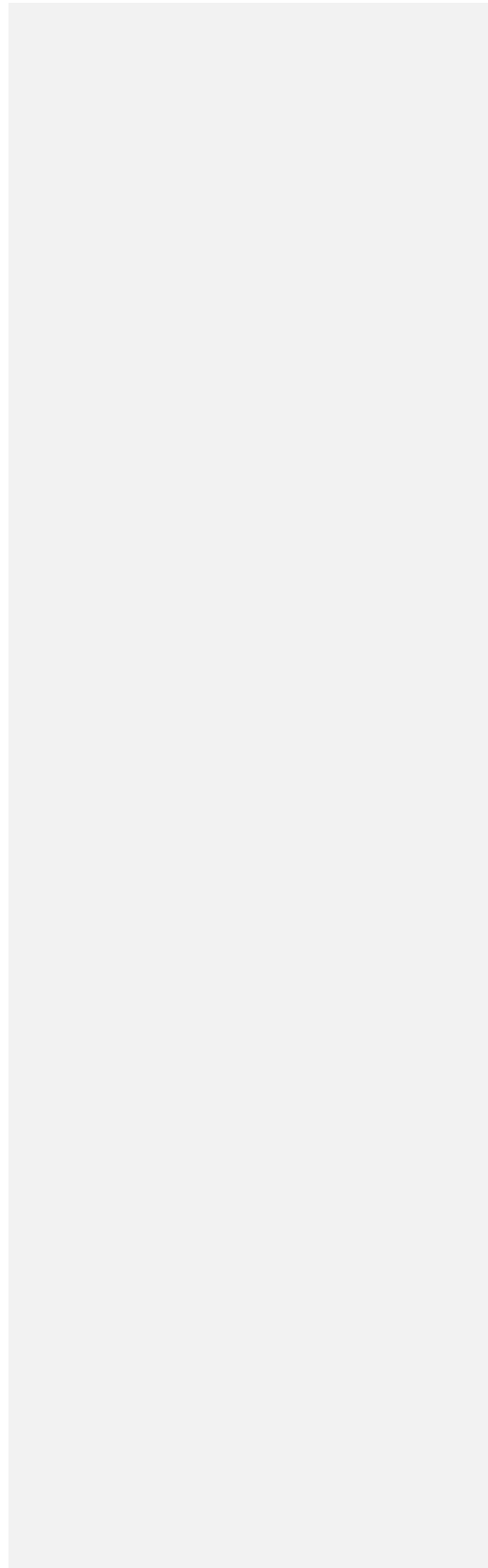


5. Beatrice Road Reserve, Location 58367 Beatrice Rd, Dalkeith;
6. Birdwood Parade Reserve, Reserve 17391 Birdwood Parade, Dalkeith;
7. Bishop Road Reserve, Lot 1627 Bishop Rd, Dalkeith;
8. Blain Park, Lot 825 Genesta Cr, Dalkeith;
9. Brockman Reserve, 150 Wavell Rd, Dalkeith;
10. Carrington Park, Lot 325 Broome St, Nedlands;
11. Cavendish Gardens, Lot: 342 Gainsford Lane, Mt Claremont;
12. Charles Court Reserve, The Esplanade Dalkeith;
13. College Green, Lot: 435 Mimosa Ave, Mt Claremont;
14. College Park, Princess Rd, Dalkeith;
15. Dalkeith Mews, Adelma Rd Dalkeith;
16. Daran Park, Reserve 45730 Montgomery Ave, Mt Claremont;
17. David Cruickshank Reserve, 84 Beatrice Rd, Dalkeith;
18. Directors Gardens, Grainger Drive, Mt Claremont;
19. Dot Bennett Park, Lot 1 Smyth Rd, Nedlands;
20. Genesta Park, Lot 824 Genesta Cr, Dalkeith;
21. Goldsmith Reserve, Lot: 3857 Garland Rd, Dalkeith;
22. Grainger Reserve, Grainger Drive, Mt Claremont;
23. Granby Park, Granby Cr, Dalkeith;
24. Hamilton Park, Hamilton Gardens, Mt Claremont;
25. Harris Park, Lot 304 Tide Court, Swanbourne;
26. Highview Park, Verdun St, Nedlands;
27. Jones Park, Reserve No 47257 Jameson St, Swanbourne;
28. Lawler Park, Draper St, Floreat;
29. Leslie Graham Reserve, Corner Bromilow Green & Camelia Ave, Mt Claremont;
30. Limekiln Field, Reserve 30403 North St, Swanbourne;
31. Melvista Park, Reserve 1669 Melvista Ave, Dalkeith;
32. Mooro Park, Corner Heritage Lane & Mooro Drive, Mt Claremont;
33. Mossvale Gardens, Moss Vale, Floreat;
34. Mt Claremont Oval, Corner Alfred Rd & Montgomery Ave, Mt Claremont;
35. Mt Claremont Reserve, Haldane St, Mt Claremont;
36. Nardina Crescent Reserve, Corner Nardina Cr & Beatrice Rd, Dalkeith;
37. New Court Gardens, Reserve 43380 New Court Gardens, Mt Claremont;
38. Paiera Park, Reserve 47367 Van Kleef Circuit, Mt Claremont;
39. Paul Hasluck Reserve, The Esplanade, Nedlands;
40. Peace Memorial Rose Gardens, Lots 1-16, 76-78 Stirling Highway, Nedlands;
41. Pine Tree Park, Reserve 41549 Pine Tree Lane, Mt Claremont;
42. Poplar Gardens, Reserve 42253 Godetia Gardens, Mt Claremont;
43. Point Resolution Reserve, Reserve 1624 Corner Jutland Parade & Victoria Avenue, Dalkeith;
44. Rogerson Gardens, Reserve 39653 Underwood Avenue, Floreat;
45. Shirley Fyfe Park, Lot 823 Cygnet Cr, Dalkeith;
46. St Peters Square Gardens, Reserve 46178 Caladenia Parade, Mt Claremont;
47. Stubbs Terrace Reserves (3), Stubbs Tce, Mt Claremont;
48. Sunset Foreshore Reserve, Reserve 29174, Dalkeith;

49. Swanbourne Beach, Lot 500 Marine Parade, Swanbourne;
50. Swanbourne Oval, Lot 282, Swanbourne;
51. Terrace Gardens, 49 Caladenia Pde, Mt Claremont
52. Vankleef Walkway, Vankleef Circuit, Mt Claremont;
53. White Beach, Bishop Road, Dalkeith; and
54. Zamia Park, Corner Zamia St and Nandina Ave, Mt Claremont.

This comes into effect 28 days from the day of publication of this notice.

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DOG ACT 1976  
LOCAL GOVERNMENT ACT 1995

**CITY OF NEDLANDS**  
**DOGS LOCAL LAW 2012**

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**DOG ACT 1976**  
**CITY OF NEDLANDS**  
**DOGS LOCAL LAW**  
**ARRANGEMENT**

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- 1.2 Repeal
- 1.3 Definitions
- 1.4 Application

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- 2.2 Attendance of pound keeper at pound
- 2.3 Release of impounded dog
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**PART 3 – REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS**

- 3.1 Dogs to be confined
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**PART 4 – APPROVED KENNEL ESTABLISHMENTS**

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- 4.2 Application for license for approved kennel establishment
- 4.3 Notice of proposed use
- 4.4 Exemption from notice requirements
- 4.5 When application can be determined
- 4.6 Determination of application
- 4.7 Where application cannot be approved
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- 4.9 Compliance with conditions of approval
- 4.10 Fees
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- 5.1 Places where dogs are prohibited absolutely
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### **PART 7 – ENFORCEMENT**

- 7.1 Interpretation
- 7.2 Modified penalties
- 7.3 Issue of infringement notice
- 7.4 Failure to pay modified penalty
- 7.5 Payment of modified penalty
- 7.6 Withdrawal of infringement notice
- 7.7 Service
- 7.8 Delegation

### **SCHEDULES**

- Schedule 1 – Application for a license for an approved kennel establishment
- Schedule 2 – Conditions of a license for an approved kennel establishment
- Schedule 3 – Offences in respect of which modified penalty applies
- Schedule 4 – Places where dogs are prohibited absolutely
- Schedule 5 – Places which are dog exercise areas

**DOG ACT 1976**

**CITY OF NEDLANDS**

**DOGS LOCAL LAW**

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995*, and under all other powers enabling it, the Council of the City of Nedlands resolved on 28 August 2012 to make the following local law.

**Part 1 - Preliminary**

**1.1 Citation**

This local law may be cited as the *City of Nedlands Dogs Local Law*.

**1.2 Repeal**

The *City of Nedlands Local Law Relating to Dogs* published in the *Government Gazette* on 10 November 2000 is repealed.

**1.3 Definitions**

In this local law unless the context otherwise requires -

***act*** means the *Dog Act 1976*;

***authorised person*** means a person appointed by the local government to perform all or any of the functions conferred on an authorized person under this local law;

***CEO*** means the Chief Executive Officer of the local government;

***children's playground*** means an area set aside for use by children and noted by the presence of dedicated children's playground equipment and the presence of either white sand or other form of soft fall surface;

***district*** means the district of the local government;

***food premises*** means any premises or vehicle in which a food business, as defined in section 10 of the *Food Act 2008*, is being carried on;

***food transport vehicle*** has the meaning given to it in the *Food Act 2008*;

***local government*** means the City of Nedlands;

***pound keeper*** means a person authorized by the local government to perform all or any of the functions conferred on a "pound keeper" under this local law;

***regulations*** means the *Dog Regulations 1976*;

***schedule*** means a schedule in this local law;

***thoroughfare*** has the meaning given to it in section 1.4 of the *Local Government Act 1995*; and

***town planning scheme*** means a town planning scheme made by the local government under the *Planning and Development Act 2005* which applies throughout the whole or a part of the district.

**1.4 Application**

This local law applies throughout the district.

## Part 2 – Impounding Dogs

### 2.1 Charges and costs

The following are to be imposed and determined by the local government under sections 6.16 - 6.19 of the *Local Government Act 1995* -

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

### 2.2 Attendance of pound keeper at pound

The pound keeper is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are determined by the CEO.

### 2.3 Release of impounded dog

- (1) A claim for the release of a dog seized and impounded is to be made to the pound keeper or in the absence of the pound keeper, to the CEO.
- (2) The pound keeper is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper, satisfactory evidence -
  - (a) of her or his ownership of the dog or of her or his authority to take delivery of it; or
  - (b) that he or she is the person identified as the owner on a microchip implanted in the dog.

### 2.4 No breaking into or destruction of pound

A person who -

- (a) unless he or she is the pound keeper or a person authorized to do so, releases or attempts to release a dog from a pound; or
- (b) destroys, breaks into, damages or in any way interferes with or renders not dog-proof -
  - (i) any pound; or
  - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog,

commits an offence.

**Penalty:** Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

## Part 3 – Requirements and Limitations of the Keeping of Dogs

### 3.1 Dogs to be confined

- (1) An occupier of premises on which a dog is kept must -
- (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
  - (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
  - (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises and is fitted with a proper latch or other means of fastening it;
  - (d) maintain the fence and all gates and doors in the fence in good order and condition; and
  - (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
- (2) Where an occupier fails to comply with subclause (1), he or she commits an offence.

**Penalty:** Where the dog kept is a dangerous dog, \$2,000; otherwise \$1,000.

### 3.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been -
- (a) licensed under Part 4 as an approved kennel establishment; or
  - (b) granted an exemption under section 26(3) of the Act.
- (2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act, 2 dogs over the age of 3 months and the young of those dogs under that age.

## Part 4 – Approved Kennel Establishments

### 4.1 Interpretation

In this Part and in Schedule 2, unless the context otherwise requires -

**license** means a licence to keep an approved kennel establishment on premises;

**licensee** means the holder of a licence;

**premises** in addition to the meaning given to it in section 3 of the Act, means the premises described in the application for a licence; and

**transferee** means a person who applies for the transfer of a licence to her or him under clause 4.14.



#### **4.2 Application for licence for approved kennel establishment**

An application for a licence must be made in the form of that in Schedule 1, and must be lodged with the local government together with -

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;
- (c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government; and
- (e) the fee for the application for a licence referred to in clause 4.10(1).

#### **4.3 Notice of proposed use**

- (1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged –
  - (a) once in a newspaper circulating in the district; and
  - (b) to the owners and occupiers of any premises adjoining the premises.
- (2) The notices in subclause (1) must specify that -
  - (a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
  - (b) the application and plans and specifications may be inspected at the offices of the local government.

Where –

- (a) the notices given under subclause (1) do not clearly identify the premises; or
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the local government may refuse to determine the application for a license until the notices or notice, as the case may be, is given in accordance with its directions.

#### **4.4 Exemption from notice requirements**

Where an application for a license is made in respect of premises on which an approved kennel establishment is either a -

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements,

under a town planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a license.

#### **4.5 When application can be determined**

An application for a licence is not to be determined by the local government until -

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

#### **4.6 Determination of application**

In determining an application for a licence, the local government is to have regard to –

- (a) the matters referred to in clause 4.7;
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a license is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a license will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

#### **4.7 Where application cannot be approved**

The local government cannot approve an application for a licence where -

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a town planning scheme; or
- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

#### **4.8 Conditions of approval**

- (1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.
- (2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.

#### **4.9 Compliance with conditions of approval**

A licensee who does not comply with the conditions of a licence commits an offence.

**Penalty:** \$1,000 and a daily penalty of \$100.

**4.10 Fees**

- (1) On lodging an application for a licence, the applicant is to pay a fee to the local government.
- (2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.
- (4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 - 6.19 of the *Local Government Act 1995*.

**4.11 Form of licence**

The licence is to be in the form determined by the local government and is to be issued to the licensee.

**4.12 Period of licence**

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the fee referred to in clause 4.10(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

**4.13 Variation or cancellation of licence**

- (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence –
  - (a) on the request of the licensee;
  - (b) following a breach of the Act, the Regulations or this local law; or
  - (c) if the licensee is not a fit and proper person.
- (3) The date a licence is cancelled is to be, in the case of –
  - (a) paragraph (a) of subclause (2), the date requested by the licensee; or
  - (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.
- (4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

**4.14 Transfer of license**

- (1) An application for the transfer of a valid license from the licensee to another person must be –
  - (a) made in the form determined by the local government;
  - (b) made by the transferee;
  - (c) made with the written consent of the licensee; and
  - (d) lodged with the local government together with –

- (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
  - (ii) the fee for the application for the transfer of a licence referred to in clause 4.10(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.

#### **4.15 Notification**

The local government is to give written notice to -

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.13(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.13(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.13(2), which notice is to be given in accordance with section 27(6) of the Act.

#### **4.16 Inspection of kennel**

With the consent of the occupier, an authorized person may inspect an approved kennel establishment at any time.

## **Part 5 – Dogs in Public Places**

### **5.1 Places where dogs are prohibited absolutely**

- (1) Subject to section 8 of the Act and section 66J of the *Equal Opportunity Act 1984*, dogs are prohibited from entering or being in any of the following places –
  - (a) a public building, unless permitted by a sign;
  - (b) a theatre or picture gardens;
  - (c) all food premises and food transport vehicles;
  - (d) a public swimming pool; and
  - (f) Beaches, reserves and freehold land as specified in Schedule 4.

- (2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.

**Penalty:** Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

## **5.2 Places which are dog exercise areas**

- (1) Subject to clause 5.1 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, those areas listed in Schedule 5 are dog exercise areas.
- (2) Subclause (1) does not apply to –
- (a) land which has been set apart as a children's playground;
  - (b) an area being used for sporting or other activities, as permitted by the local government, during the times of such use; or
  - (c) a car park.

## **Part 6 – Miscellaneous**

### **6.1 Offence to excrete**

- (1) A dog must not excrete on –
- (a) any thoroughfare or other public place; or
  - (b) any land which is not a public place without the consent of the occupier.
- (2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

**Penalty:** \$1000.

- (3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

## **Part 7 - Enforcement**

### **7.1 Interpretation**

In this Part, unless the context otherwise requires -

*infringement notice* means the notice referred to in clause 7.3; and  
*notice of withdrawal* means the notice referred to in clause 7.6(1).

### **7.2 Modified penalties**

- (1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.
- (2) The amount appearing in the third column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if -
- (a) the dog is not a dangerous dog; or
  - (b) the dog is a dangerous dog, but an amount does not appear in the fourth column directly opposite that offence.

- (3) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

### **7.3 Issue of infringement notice**

Where an authorized person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 7 of the First Schedule of the Regulations.

### **7.4 Failure to pay modified penalty**

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

### **7.5 Payment of modified penalty**

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

### **7.6 Withdrawal of infringement notice**

- (1) Whether or not the modified penalty has been paid, an authorized person may withdraw an infringement notice by sending a notice in the form of Form 8 of the First Schedule of the Regulations.
- (2) A person authorized to issue an infringement notice under clause 7.3 cannot sign or send a notice of withdrawal.

### **7.7 Service**

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.

### **7.8 Delegation**

The local government may delegate any of the powers, functions and duties in this local law to the CEO.

**Schedule 1 – Application for a licence for an approved kennel establishment**  
(clause 4.2)

I/we (full name) .....  
of (postal address) .....  
(telephone number) .....  
(facsimile number) .....  
(E-mail address) .....

Apply for a licence for an approved kennel establishment at (address of premises) .....  
.....

For (number and breed of dogs) .....

\* (insert name of person) ..... will be residing at the premises on and from (insert date) .....

\* (insert name of person) ..... will be residing (sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare) at ...  
..... (insert address of residence)  
on and from ..... (insert date).

Attached are -

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) written evidence that a person will reside -
  - (i) at the premises; or
  - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

Signature of applicant .....

Date .....

\* delete where inapplicable.

Note: a licence if issued will have effect for a period of 12 months – section 27.5 of the *Dog Act 1976*.

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OFFICE USE ONLY

Application fee paid on *[insert date]*.

**Schedule 2 – Conditions of a license for an approved kennel establishment**  
(clause 4.8(1))

An application for a licence for an approved kennel establishment may be approved subject to the following conditions -

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than -
  - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
  - (ii) 10m from any dwelling; and
  - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be –
  - (i) at least 100mm above the surface of the surrounding ground;
  - (ii) smooth so as to facilitate cleaning;
  - (iii) rigid;
  - (iv) durable;
  - (v) slip resistant;
  - (vi) resistant to corrosion;
  - (vii) non-toxic;
  - (viii) impervious;
  - (ix) free from cracks, crevices and other defects; and
  - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;



- (h) the kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of -
  - (i) 2m; or
  - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheathed internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorized person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap;
- (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside -
  - (i) at the premises; or
  - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare;
- (s) the licensee must provide a hand basin for employees in all food preparation areas and areas where dogs are washed or where possible contact with animal faeces occur, to enable staff to wash their hands;
- (t) the licensee is to ensure that the hand basin is provided with soap and paper towel;

- (u) the licensee is to provide and maintain at all times an adequate supply of hot and cold water to every hand basin;
- (v) the licensee must take or cause to be taken any effective action necessary to prevent the entry of and to eradicate vermin on the premises;
- (w) the food preparation areas and food storage area and areas where pet litter is emptied to be kept in a clean and sanitary condition and in a state of good repair at all times; and
- (x) the licensee is to ensure that all appliances in the premises are maintained in a clean and sanitary condition and in a state of good repair at all times.

**Schedule 3 – Offences in respect of which modified penalty applies**  
(clause 7.2)

<b>Offence</b>	<b>Nature of offence</b>	<b>Modified penalty \$</b>	<b>Dangerous Dog Modified Penalty \$</b>
2.4(a)	Attempting to or causing the unauthorized release of a dog from a pound	200	400
2.4(b)	Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs	200	400
3.1	Failing to provide means for effectively confining a dog	100	200
4.9	Failing to comply with the conditions of a licence	100	
5.1(2)	Dog in place from which prohibited absolutely	200	400
6.1(2)	Dog excreting in prohibited place	200	

**Schedule 4 – Places where dogs are prohibited absolutely**  
(clause 5.1(f))

Dogs are prohibited absolutely from entering or being in any of the following places –

- a) SWANBOURNE BEACH RESERVE No. 23729, being the sand and dune area adjacent to the Swanbourne Beach development, between the area north of the access pathway at the intersection of Odern Crescent and Marine Parade, and south of the northernmost access pathway of the development.
- b) INFANT HEALTH CENTRE PLAYGROUND, Strickland Street, being Lot number 254;
- c) HOLLYWOOD RESERVE TENNIS COURTS area and surrounds, being Reserve number A20838;
- d) KARELLA STREET PLAYGROUND Lot 164 Smyth Road;
- e) LEURA STREET PLAYGROUND Lot 300 Leura Street;
- f) CAMPSIE STREET PLAYGROUND Lot 46 Campsie Street.

**Schedule 5 – Places which are dog exercise areas**

(clause 5.2(1))

Subject to clause 5.1 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, the following are dog exercise areas –

- a) ALLEN PARK, Clement St Swanbourne
- b) ASQUITH PARK, Lot: 251 Rochdale Rd Mt Claremont
- c) BAINES PARK, Lot: 300 Driftwood Pl Swanbourne
- d) BEATON PARK, Esplanade Nedlands
- e) BEATRICE ROAD RESERVE, Loc: 58367 Beatrice Rd Dalkeith
- f) BIRDWOOD PARADE RESERVE, Reserve: 17391 Birdwood Parade Dalkeith
- g) BISHOP ROAD RESERVE, Lot: 1627 Bishop Rd Dalkeith
- h) BLAIN PARK, Lot: 825 Genesta Cr Dalkeith
- i) BROCKMAN RESERVE, 150 Wavell Rd Dalkeith
- j) CARRINGTON PARK, Lot 325: Broome St Nedlands
- k) CAVENDISH GARDENS, Lot: 342 Gainsford Lane Mt Claremont
- l) CHARLES COURT RESERVE, Esplanade Dalkeith
- m) COLLEGE GREEN, Lot: 435 Mimosa Ave Mt Claremont
- n) COLLEGE PARK, Princess Rd Dalkeith
- o) DALKEITH MEWS, Adelma Rd Dalkeith
- p) DARAN PARK, Reserve: 45730 Montgomery Ave Mt Claremont
- q) DAVID CRUICKSHANK RESERVE, 84 Beatrice Rd Dalkeith
- r) DIRECTORS GARDENS, Grainger Drive Mt Claremont
- s) DOT BENNETT PARK, Lot: 1 Smyth Rd Nedlands
- t) FORESHORE 3, Esplanade Dalkeith
- u) GENESTA PARK, Lot: 824 Genesta Cr Dalkeith
- v) GOLDSMITH RESERVE, Lot: 3857 Garland Rd Dalkeith
- w) GRAINGER RESERVE, Grainger Drive Mt Claremont
- x) GRANBY PARK, Granby Cr Dalkeith
- y) HAMILTON PARK, Hamilton Gardens, Mt Claremont
- z) HARRIS PARK, Lot 304 Tide Court Swanbourne
- aa) HIGHVIEW PARK, Verdun St Nedlands
- bb) JONES PARK, Reserve No 47257 Jameson St Swanbourne
- cc) LAWLER PARK, Draper St Floreat
- dd) LESLIE GRAHAM RESERVE, Corner Bromilow Green & Camelia Ave Mt Claremont
- ee) LIMEKILN FIELD, Reserve: 30403 North St Swanbourne
- ff) MELVISTA PARK, Reserve: 1669 Melvista Ave Dalkeith
- gg) MOORO PARK, Corner Heritage Lane & Mooro Drive Mt Claremont
- hh) MOSSVALE GARDENS, Moss Vale Floreat
- ii) MT CLAREMONT OVAL, Corner Alfred Rd & Montgomery Ave Mt Claremont
- jj) MT CLAREMONT RESERVE, Haldane St Mt Claremont
- kk) NARDINA CRESCENT RESERVE, Corner Nardina Cr & Beatrice Rd Dalkeith

- ll) NEW COURT GARDENS, Reserve: 43380 New Court Gardens Mt Claremont
- mm) PAIERA PARK, Reserve: 47367 Van Kleef Circuit, Mt Claremont
- nn) PAUL HASLUCK RESERVE, Esplanade Nedlands
- oo) PEACE MEMORIAL ROSE GARDENS, Lots: 1-16, 76-78 Stirling Highway Nedlands
- pp) PINE TREE PARK, Reserve 41549 Pine Tree Lane Mt Claremont
- qq) POPLAR GARDENS, Reserve: 42253 Godetia Gardens Mt Claremont
- rr) POINT RESOLUTION RESERVE, Reserve: 1624 Corner Jutland Parade & Victoria Avenue Dalkeith
- ss) ROGERSON GARDENS, Reserve: 39653 Underwood Avenue Floreat
- tt) SHIRLEY FYFE PARK, Lot: 823 Cygnet Cr Dalkeith
- uu) ST PETERS SQUARE GARDENS, Reserve: 46178 Caladenia Parade Mt Claremont
- vv) STUBBS TERRACE RESERVES (3), Stubbs Tce Mt Claremont
- ww) SWANBOURNE BEACH RESERVE NORTH, Lot : 279 Reserve: 27250
- xx) SWANBOURNE OVAL, Lot: 282
- yy) TERRACE GARDENS, 49 Caladenia Pde Mt Claremont
- zz) VANKLEEF WALKWAY, Vankleef Circuit Mt Claremont
- aaa) ZAMIA PARK, Corner Zamia St and Nandina Ave Mt Claremont

Dated this ..... day of ..... 2012

The Common Seal of the }  
*City of Nedlands* }  
 was affixed by authority of a }  
 resolution of the Council in the }  
 presence of: }

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**MAYOR**  
**OFFICER**  
 MAX HIPKINS

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**CHIEF EXECUTIVE**  
 MICHAEL COLE



**19.5 CEO40.12.23 – Establishment & Appointment of Members – Public Art Committee**

<b>Meeting &amp; Date</b>	Council Meeting – 12 December 2023
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Report Author</b>	Nicole Ceric - Executive Officer
<b>CEO</b>	Tony Free – Acting Chief Executive Officer
<b>Attachments</b>	Nil.

**Purpose**

The purpose of this report is to establish the Public Art Committee, appoint Council Members and Deputy Council Members, adopt the terms of reference and call for Expressions of Interest from Community Members to be advertised and then presented to the Arts Committee and Council for consideration.

**Recommendation**

**That Council:**

1. **appoints the Mayor and Councillors (insert names) (four - one from each Ward) to the Public Art Committee for the period ending immediately prior to the next Local Government elections in 2025;**
2. **appoints the Deputy Mayor and Councillors (insert names) (four - one from each Ward) as Deputy Members to the Public Art Committee for the period ending immediately prior to the next Local Government elections in 2025;**
3. **requests the Acting CEO to call for expressions of interest from the Community for the Community Members of the Committee; and**
4. **adopts the Terms of Reference of the Public Art Committee as per below:**

**Public Art Committee**

**Purpose**

**The Public Art Committee will be established under the Local Government Act 1995 to implement public art projects within the City of Nedlands.**



### **Aim**

To ensure that the City of Nedlands includes artworks of a high standard in the public domain.

### **Scope**

The Committee will undertake the following within the City of Nedlands:

1. Initiate, consider and decide on proposals for public artworks.
2. Oversee the implementation of public artworks.
3. Consider external proposals for public artworks to be donated to the City of Nedlands.
4. Promote awareness of the City's existing public artworks.
5. Review the City's art collection and make recommendations to Council on its conservation.
6. Review Council's Public Art Policy as required and make recommendations to Council on any proposed changes.
7. Develop a draft Percent for Art Policy and make recommendation to Council on its adoption.

### **Procedure**

After adoption of the City's budget by Council each year and before commencing its work for the ensuing year the Committee shall:

- Consider the budget and any other available funds for art works to be acquired in the ensuing year.
- Formulate a plan of priorities and objectives for the year including the proposed siting of any public art works.
- Present that plan for review and amendment or approval by the Council.

### **Delegated Authority**

The Committee has delegated authority to implement public artworks of not more than \$10,000 each to the value of up to, in all, the budget allocation approved by Council within the current financial year's budget. Artworks over \$10,000 shall be recommended to Council for approval.





### Membership

1. The membership of the committee shall comprise the Mayor and one Councillor from each ward with the Councillors being determined by nomination and if necessary, a ballot conducted at a Council Meeting.
2. The membership of the Committee shall comprise of one Councillor from each ward as deputy members with voting rights with the Councillors being determined by nomination and if necessary, a ballot conducted at a Council Meeting.
3. Deputy members are only required to attend and vote if the primary member is absent, an apology or on leave or has resigned.
4. If a vacancy on the committee occurs for whatever reason, then Council shall appoint a replacement in accordance with the same arrangements as for the original appointment.
5. The term of the presiding member and committee members will expire immediately prior to the next ordinary Council election.
6. The presiding member shall be determined by election amongst the members of the committee.
7. The election of the presiding member will take place at the first meeting following the reconstitution of the committee after each ordinary Council election.
8. Should the elected presiding member not be present during a meeting of the committee then a temporary presiding member shall be elected in accordance with 6 above.
9. Two community representatives with voting rights who have professional expertise in public art, who are residents of the City.
10. One youth representative with voting rights and an interest in public art, aged 12 – 25 years, who is a resident of the City.
11. Non-residents of the City of Nedlands may be appointed as non-voting members.

### Meetings

1. The Council Committee operates under the Council's Standing Orders Local Law.
2. The quorum for a meeting will be 50% of the offices of the Arts Committee as per section 5.19 of the Local Government Act 1995.



3. Meetings are open to community and Councillors.
4. Non-voting members may participate in all aspects of the meeting other than voting.
5. Non-voting attendees (as distinct from non-voting members) will have observer status.
6. Meetings will be held quarterly or as required.

### **Staff**

The following staff will attend meetings to provide support and advice:

- Manager Community Development, as required.
- Coordinator Tresillian Arts Centre, as required.
- Any other officer, as required.

### **Terms of Reference**

The Terms of Reference will be reviewed biennially.

## **Voting Requirement**

Absolute Majority.

## **Background**

Previously, Council resolved to appoint the Mayor and Councillors Smyth, Youngman, Hodsdon and Brackenridge as members and the Deputy Mayor and Councillors Amiry, Bennett, Combes and Coghlan as the deputy members to the Public Art Committee to implement public art projects within the City of Nedlands.

## **Discussion**

The Public Arts Committee was established in 2014 and meets at least 3 to 4 times per year, with the aim of the Committee being to ensure that the City of Nedlands includes artworks of a high standard in the public domain. The scope of the Committee is outlined within the Terms of Reference.

## **Consultation**

N/A.



## Strategic Implications

This item relates to the following elements from the City's Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **High standard of services**  
We have local services delivered to a high standard that take the needs of our diverse community into account.

**Great Governance and Civic Leadership**

We value our Council's quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community's assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

**Great Communities**

We enjoy places, events and facilities that bring people together. We are inclusive and connected, caring and support volunteers. We are strong for culture, arts, sport and recreation. We have protected amenity, respect our history and have strong community leadership.

## Budget/Financial Implications

Nil.

## Legislative and Policy Implications

There are no legislative or policy implications that relate to this item.

## Decision Implications

If the Council establishes this Committee and endorses the Terms of Reference, then Council will continue to implement public art projects within the City of Nedlands.

## Conclusion

It is recommended that Council establish the Public Art Committee, appoint members and deputy members and adopt the Terms of Reference.

## Further Information

Nil.



**19.6 CEO41.12.23 – Re-establishment & Appointment of Members – Workforce Plan Implementation Committee**

<b>Meeting &amp; Date</b>	Council Meeting – 12 December 2023
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Report Author</b>	Nicole Ceric - Executive Officer
<b>CEO</b>	Tony Free – Acting Chief Executive Officer
<b>Attachments</b>	Nil.

**Purpose**

The purpose of this report is re-establish the Workforce Plan Implementation Committee and appoint Council Members and Deputy Council Members and adopt the terms of reference.

An option is available to Council to present future workforce planning matters via the Concept Forum process to enable all of Council to provide oversight over the implementation of the City of Nedlands Workforce Plan.

**Recommendation**

That Council:

1. **appoints the Mayor and Councillors (insert names) (four - one from each Ward) to the Workforce Plan Implementation Committee for the period ending immediately prior to the next Local Government elections in 2025;**
2. **appoints the Deputy Mayor and Councillors (insert names) (four - one from each Ward) as Deputy Members to the CEO Recruitment & Selection Committee for the period ending immediately prior to the next Local Government elections in 2025; and**
3. **adopts the Terms of Reference of the Workforce Plan Implementation Committee as per below:**

**Workforce Plan Implementation Committee**

**Purpose**

**This Committee is established by Council in accordance with section 5.8 of the *Local Government Act 1995* to oversee the implementation of the City of Nedlands Workforce Plan.**



### Scope

1. To consider and approve the Workforce Plan Implementation Strategy and Tasks;
2. To work with the Administration to determine the additional information required for effective implementation, and the extra resources required, if any.
3. To approve the brief for an external consultant, if required, to facilitate the Implementation Strategy.
4. To recommend to Council, based on the City's consultation process with the different stakeholders and benchmarking, what discretionary services should be provided by the City, and at what service levels, together with the cost-benefit analysis of such services.
5. To submit to Council recommendations for changes to the adopted Workforce Plan, if any, by 30 April 2023.
6. To collaborate with the CEO Performance Review Committee to ensure effective development of KRAs, goals, measures, and targets.

### Membership

1. The membership of the committee shall comprise the Mayor, four Councillors (one Councillor from each ward). as voting members and the Chief Executive Officer as a non-voting member.
2. Councillors will be determined by nomination and if necessary, a ballot conducted at a Council Meeting.
3. Council may if it considers it appropriate, appoint deputies to the members of the committee.
4. Deputy members are only required to attend and vote if the primary member is absent, an apology or on leave or has resigned.
5. If a vacancy on the committee occurs for whatever reason, then Council shall appoint a replacement in accordance with the same arrangements as for the original appointment.

### Staff

Other staff may attend committee meetings when requested by the Committee through the Chief Executive Officer.

### Meetings

1. The Workforce Plan Implementation Committee operates under the City of Nedlands Standing Orders Local Law.



2. **The Committee shall have flexibility in relation to when it needs to meet, but as a minimum shall meet bimonthly (every 2 months). It is the responsibility of the presiding member to call the meetings of the committee.**

## Voting Requirement

Absolute Majority.

## Background

At its meeting held on 26 July 2022 Organisational Review Phase 1 Outcome Report and adopted the new City of Nedlands Workforce Plan. Council also established a Workforce Plan Implementation Committee to oversee the implementation of the Workforce Plan. for its first year and the activities related to Organisational Review – Stage 2 such as review of all City of Nedlands Service Areas. The Workforce Plan Implementation Committee Terms of Reference were adopted by the Workforce Plan Implementation Committee on 22 August 2022 and subsequently by Council on 27 September 2022.

At its meeting held on 22 November 2022, Council adopted the Chief Executive Officer (CEO) 2022/23 Key Result Areas and Indicators (CEO KRA/KPIs), including the following related to Workforce Planning:

- KRA 5 Statutory Requirement: KPI 5.5 Workforce Plan: Organisational Review Stage 2 (inc. review of NCC) to update the Workforce Plan – June 2022.

### **Organisational Review Stage 2 and Proposed Workforce Plan – 2023 Update**

Between September 2022 and March 2023, Workforce Plan Implementation Committee Workshops were held with Committee members and the Administration to review all 42 Service Areas. This included:

- Benchmarking against other similarly sized local governments.
- Reviewing of current and projected resourcing (workforce numbers and budget) as per the Workforce Plan and current levels of service.
- Recommending changes to resourcing and levels of service based on status (discretionary or non-discretionary) and alternate models of delivery (outsourcing, diversification or rationalisation).

During this process, Committee members recommended changes to LoS and full-time equivalent (FTE) resourcing in the specific Service Areas.

Following this process, cross-checking the Committee's recommendations against MARYKT® Community Scorecard 2023 results and incorporating other workforce planning matters that had arisen within this timeframe, the Workforce Plan Implementation Committee was



presented with the Organisation Review – Stage 2 Outcomes and Workforce Plan – 2023 Update Council Report, at its meeting held 30 August 2023.

The Workforce Plan Implementation Committee requested that more information be provided to Committee members prior to closing out this process, directing the Chief Executive Officer to produce an Organisational Chart; and a breakdown of discretionary and non-discretionary FTE's in each Service Area from 2023/2024. This request was subsequently approved by Council at its meeting held on 26 September 2023. The information requested was provided to all Councillors for consideration via email on 14 September 2023.

Furthermore, due to the 2023 Local Government Elections, all committees of Council, including the Workforce Plan Implementation Committee, were dissolved.

Previously, Council resolved to appoint the Mayor and Councillors, Amiry, Mangano, Hodsdon and Senathirajah as members and the Deputy Mayor and Councillors Smyth, Bennett, Combes and Brackenridge as the deputy members to the Workforce Plan Implementation Committee to oversee the implementation of the City of Nedlands Workforce Plan.

## Discussion

The Workforce Plan is a critical component of the City's Integrated Planning and Reporting Framework. It resources the service delivery and service levels, required for the City of Nedlands to implement the Council Plan and 42 Service Plans.

Given its importance, Council may wish to consider an approach of the full Council should having oversight over the implementation of the City of Nedlands Workforce Plan.

If Council wished to pursue this approach, then rather than re-establishing the Workforce Plan Implementation Committee, Council may request that future workforce planning matters be presented to the Concept Forum process, and subsequent to the Council Meeting process.

This aligns well with the Governance Framework Policy also given the reduction in numbers on the Council, from 13 to 9 Council Members, following the 2023 Ward Review and Local Government Elections.

If Council wishes to pursue this option, the resolution should read as follows:

That Council approves future workforce planning matters be presented to the Concept Forum process to enable the Council to provide oversight over the implementation of the City of Nedlands Workforce Plan.

## Consultation

N/A.



## Strategic Implications

This item relates to the following elements from the City's Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Governance and Civic Leadership**  
We value our Council's quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community's assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

**High standard of services**  
We have local services delivered to a high standard that take the needs of our diverse community into account.

## Budget/Financial Implications

Nil.

## Legislative and Policy Implications

Governance Framework Policy.

## Decision Implications

If Council does endorse the recommendation, the Administration will continue to implement the Workforce Plan, and as per the Action 11.1.6 of the Council Plan and review the Workforce Plan annually (late 2024) to ensure the City is succulently resourced to deliver services and projects to meeting community needs.

## Conclusion

It is recommended that Council re-establish the Workforce Plan Implementation Committee and appoint members and deputy members.

## Further Information

Nil.





**20. Council Members Notice of Motions of Which Previous Notice Has Been Given**

This item will be dealt with at the Ordinary Council Meeting.

**21. Urgent Business Approved By the Presiding Member or By Decision**

This item will be dealt with at the Ordinary Council Meeting.

**22. Confidential Items**

Confidential items to be discussed at this point.

**22.1 CSD08.12.23 – Confidential – Community Citizen of the Year Awards**

A confidential report has been circulated to Council Members separately.



### **23. Declaration of Closure**

There being no further business, the Presiding Member will declare the meeting closed.