


# Planning and Development Reports

**Committee Consideration – 10 June 2014**  
**Council Resolution – 24 June 2014**

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<b>PD19.14</b>	<b>No. 16 (Lot 49) Loch Street, Nedlands - Proposed Two-Storey Single House</b>
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<b>Committee</b>	10 June 2014
<b>Council</b>	24 June 2014
<b>Applicant</b>	Beaumonde Homes
<b>Landowner</b>	G Sharma
<b>Officer</b>	Matt Stuart – Senior Statutory Planning Officer
<b>Director</b>	Peter Mickleson – Director Planning & Development Services
<b>Director Signature</b>	
<b>File Reference</b>	LO2/16 : DA13/407
<b>Previous Item</b>	Nil

## 1.0 Executive Summary

This application is for a two-storey dwelling in Nedlands, with several variations to the planning requirements.

Many of the variations are considered appropriate when the ground and floor levels of the subject site and neighbouring properties are compared, however two issues remain that are considered inappropriate, relating to vehicle manoeuvring and a wall setback. As a result the application is recommended for refusal.

It has been referred to Council for determination as officers do not have delegation to determine an application under instrument of delegation 6A, where specific objections have been received.

### 1.1 Recommendation to Committee

**Council refuses an application for a two-storey single house at No. 16 (Lot 49) Loch Street, Nedlands, in accordance with the application and amended plans received on 24 April 2014, for the following reasons:**

1. **The proposed driveway grade does not meet AS2890.1, as it is considered to be too steep for vehicles to safely manoeuvre.**
2. **The proposed wall setbacks on the upper floor to the north side, for the sitting room and balcony does not meet element 5.1.3 C3.1 and P3.1 of the R-Codes, as it is considered that the impact upon the neighbouring outdoor living area is significant.**

## 1.2 Strategic Plan

KFA: Natural and Built Environment

## 2.0 Background

<b>Property address</b>		No. 16 (Lot 49) Loch Street, Nedlands
<b>Lot area</b>		696m <sup>2</sup>
<b>Zoning / Reserve</b>	<b>MRS</b>	Urban
	<b>TPS2</b>	Residential at R15 density

The subject site has a frontage to Loch Street to the west, and located adjacent to single houses to the north, east and south, as seen in the location plans below.



Figure 1 – Location Plan



Figure 2 – Detailed Location Plan

The site previously featured a single house, however it is currently a vacant lot. The photographs depict the site, and the relationship with the surrounding built environment (**Attachment 2**).

## 2.2 Legislation / Policy

- City of Nedlands Town Planning Scheme No. 2 (TPS2 or Scheme)
- Residential Design Codes of WA 2013 (R-Codes)
- Council Policy – Fill & Fencing (Fencing Policy)
- Council Policy – Neighbour Consultation

## 3.0 Consultation Process

### 3.1 What consultation process was undertaken?

Required by legislation (Scheme / R-Codes): Yes  No

Required by City of Nedlands policy (Neighbour Consultation): Yes  No

### 3.2 How and when was the community consulted?

Two-storey notification sign:	16 – 30 October 2013
Community consultation periods:	28 January – 11 February 2014 28 April – 12 May 2014
3 objections, including one partial support, with the results being found in <b>Attachment 4</b> .	

## 4.0 Budget / Financial Implications

The application is for works to be constructed on a private lot, and therefore has no budget or financial implications for the City.

## 5.0 Risk Management

Not applicable.

## 6.0 Discussion

### 6.1 Planning Assessment

The proposal involves the construction of a two-storey single house on the subject site, as depicted in the submitted plans (**Attachment 1**). In addition, the Applicant's letter describes the proposal in more detail (**Attachment 3**).

Variations to the planning requirements are:

- a) Driveway grade and vehicle manoeuvring;
- b) Excavation in the front setback area;



- c) Retaining wall setbacks to sides;
- d) Land fill up against sides;
- e) Wall setbacks to sides; and
- f) Visual privacy to a side.

### **6.1.1 Driveway grade and vehicle manoeuvring**

As the site fronts onto a busy 'District Distributor - B' road (Loch Street), for safety reasons the R-Codes require vehicles to exit the property in a forward gear.

In order to provide for this, the plans were amended and in doing so, the gradient of the driveway is beyond the Australian Standards, being roughly a 1:3 grade in lieu of 1:6.

In addition, the upper transition point (where the driveway initially drops) will be unpassable to vehicular traffic. Further information is required, but a preliminary assessment reveals that vehicles will scrape at the footpath.

Objections from the community have been received about the safety of motorists, which are supported.

As a result, the application is recommended for refusal.

### **6.1.2 Excavation in the front setback area**

Because of the need to design a vehicular reversing bay in the front setback area, significant excavation and retaining walls are proposed, which is beyond the standard of 500mm. In addition, the front retaining wall is close to a public footpath, without any physical barrier to prevent falls.

Objections from the community have been received regarding pedestrian safety, which are upheld.

Accordingly, a minimum 1.0m balustrade (i.e. fence) would be required, noting that all properties on Loch Street have a right to build a solid 1.8m fence due to the classification of the road. By requiring this structure, it is considered that the visual aesthetics and safety issues can be resolved.

In relation to the excavation, design principle P7.1 & 7.2 requires the following:

*“Development that considers and responds to the natural features of the site and requires minimal excavation/fill.*

*Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.”*

In this instance, it is considered that the proposal does not comply with the design principles; however a suitable condition could be imposed to resolve this, at which point this part of the proposal would be supported by the City.

### **6.1.3 Southern side boundary – retaining wall setback, land fill, over-height fence, and wall setbacks**

On the southern side, there are variations proposed for:

- Retaining walls – set back from the boundary by nil in lieu of 1.5m;
- Landfill – up to 1.65m in lieu of 0.5m;
- Over-height dividing fence – 3.3m (total) in lieu of 2.3m (total); and
- Lower floor wall setbacks – 1.0m in lieu of 1.7m-3.2m.

(i) Retaining walls

In relation to the setback of aboveground retaining walls, design principle P8 requires the following:

*‘Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having due regard to clauses 5.3.7 [site works] and 5.4.1 [visual privacy].’*

(ii) Landfill and over-height fence

In relation to landfill, design principle P7.1 & 7.2 requires the following:

*“Development that considers and responds to the natural features of the site and requires minimal excavation/fill.*

*Where excavation/fill is necessary, all finished levels respecting the natural ground level at the boundary of the site and the adjoining properties and as viewed from the street.”*

In relation to the over-height fence, ‘dividing fences’ clause 3 of the Fencing Policy requires the following:

*“Any dividing fencing which does not meet the above requirements will only be considered if:*

- a) the applicant can provide to Council the written agreement for the additional height of the fence from the owners of the adjoining lot; and*
- b) the development will not have a likely impact upon neighbouring amenity.”*

In response to the above, the neighbouring property (No. 18 Loch Street) also has a significant slope from front to rear, however the floor level throughout the house and rear deck, are level with the front of the property (due to the dwelling being built-up on stumps).

Relative to the proposed dwelling, the neighbouring floor level is only 100mm lower (RL 9.21m), and therefore the impacts felt are characteristic of level properties. Accordingly, it is considered that the impacts of these variations are nullified.

Objections from the community have been received, however given relativity of the floor levels, they are not considered justified.

In this instance (an unusual situation), it is considered that the proposal complies with the landfill and fencing requirements, and therefore is supported by the City.

(iii) Wall setbacks

In relation to wall setback variations, it should also be noted that the R-Code calculations are technical and sometimes create unproductive outcomes.

The two buildings have virtually the same floor levels, with the impact from the proposed dwelling actually having a lesser effect. It is therefore reasonable to assess the wall setbacks based upon the relativity of the floor levels (rather than the ground levels which are lower).

In addition to this, the lower floor wall setbacks could be made to comply with the deemed-to-comply standards, by the following modest design changes:

- Dining room wall setback increased from 3.65m to 4.2m;
- Kitchen room wall setback increased from 1.0m to 1.1m; and
- Kitchen and Theatre room windows being obscured.

In relation to the wall setbacks, design principle P3.1 requires the following:

*“Buildings set back from lot boundaries so as to:*

- *reduce impacts of building bulk on adjoining properties;*
- *provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*
- *minimise the extent of overlooking and resultant loss of privacy on adjoining properties.”*

In response, the neighbouring property has three Major Openings and an Outdoor Living Area that need to be carefully considered. Noting that there are no visual privacy variations due to a 1.8m fence being proposed (above the subject site's proposed ground levels), obscuring the windows will not decrease the impact of bulk upon the neighbour (see Figure 3 below from Attachment 1).

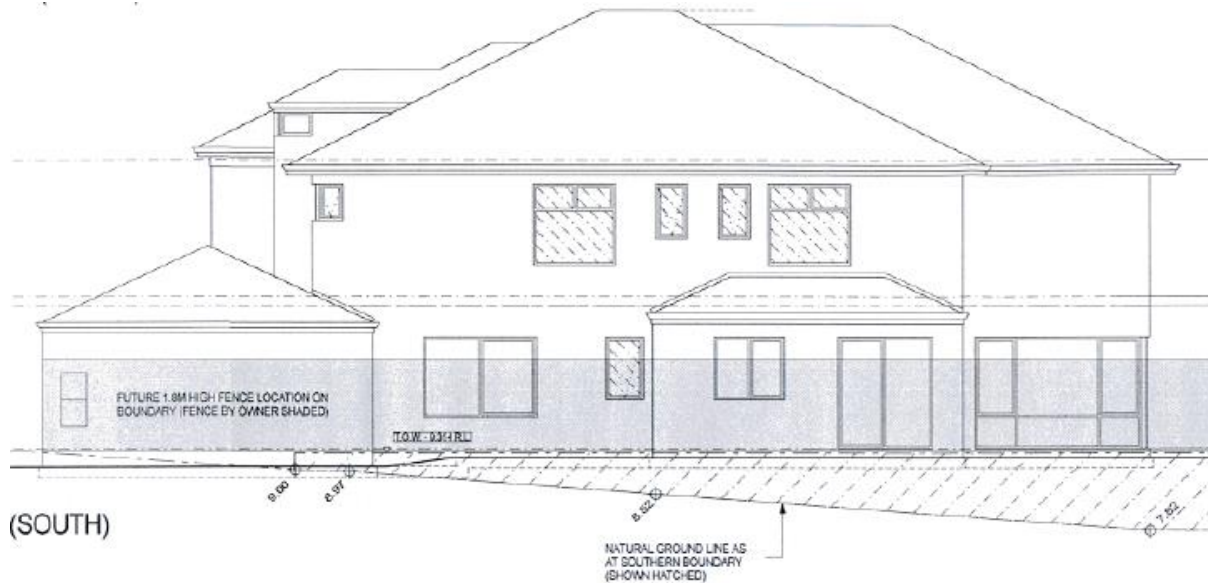


Figure 3 – Ground Floor Windows Screened

The overall overshadowing upon the neighbouring property complies (less than 25 per cent); and these walls cannot cast any shadow due to overshadow of the upper floor (with a compliant wall setback). Therefore, the overshadowing felt and access to sunlight will not be assisted by increasing the setbacks of these walls.

Given the space between the two dwellings being several metres, ventilation is adequate.

Objections from the neighbour have been received, however given the above they are not supported.

In this instance (an unusual situation), it is considered that the proposal complies with the retaining, land fill, dividing fence and wall setback requirements, and therefore is supported by the City.

#### 6.1.4 Northern side boundary – retaining wall setback, land fill, over-height fence and wall setbacks

On the northern side, there are variations proposed for:

- Retaining wall setback – nil in lieu of 1.5m;
- Landfill – up to 0.75m in lieu of 0.5m;
- Over-height dividing fence – 2.55m in lieu of 2.3m;
- Lower floor wall setbacks – 1.2m in lieu of 1.5m-1.8m; and
- Upper floor wall setbacks – 1.7m in lieu of 2.2m.

- (i) Setback of retaining walls and over-height fence

In relation to the retaining walls and fence, the neighbour (No. 14 Loch Street) has not consented; however the over-height component of the fence (1.8m fence on greater than 0.5m landfill), is screened by the neighbour's carport. The remainder of the above ground retaining wall is less than 0.5m and adjacent to a non-sensitive driveway area.

For the belowground retaining wall (excavation), the wall will not be visible from the neighbouring property.

(ii) Landfill

In relation to landfill, design principle P6 requires the following:

*“Development that considers and responds to the natural features of the site and requires minimal excavation/fill.*

*Where excavation/fill is necessary, all finished levels respecting the natural ground level at the boundary of the site and the adjoining properties and as viewed from the street.”*

In response, the neighbouring property also has a significant slope from front to rear, however the floor level throughout the house and rear deck is level with the front of the property (due to the dwelling being built on stumps).

Furthermore, the neighbouring property is on the higher side, so that it is 1.4m higher than the proposed floor level on the site. Although the neighbour's ground level is lower (as the dwelling is built on stumps), this is also only a non-sensitive driveway area.

(iii) Wall setbacks

In response, it should also be noted that the R-Codes calculations are technical and sometimes create unproductive outcomes.

The proposed dwelling on the site is significantly lower than the neighbouring dwelling, with the impact having a lesser effect. It is therefore reasonable to assess the wall setbacks based upon the relativity of the floor levels (rather than the ground levels).

In addition to this, the wall setbacks could be made to comply with the deemed-to-comply standards, by the following modest design changes:

- The upper floor Balcony and Sitting room wall setback increased from 1.7m to 2.1m; and
- The lower floor Family room windows being obscured.

In relation to wall setbacks, design principle P3.1 requires the following:



*“Buildings set back from lot boundaries so as to:*

- *reduce impacts of building bulk on adjoining properties;*
- *provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*
- *minimise the extent of overlooking and resultant loss of privacy on adjoining properties.”*

The neighbouring property has three major openings and an outdoor living area (deck) that needs to be carefully considered. There are no visual privacy variations due a 1.8m fence being proposed (above the subject site’s proposed ground levels), and no major openings proposed on the upper floor (see Figure 4 below from Attachment 1).

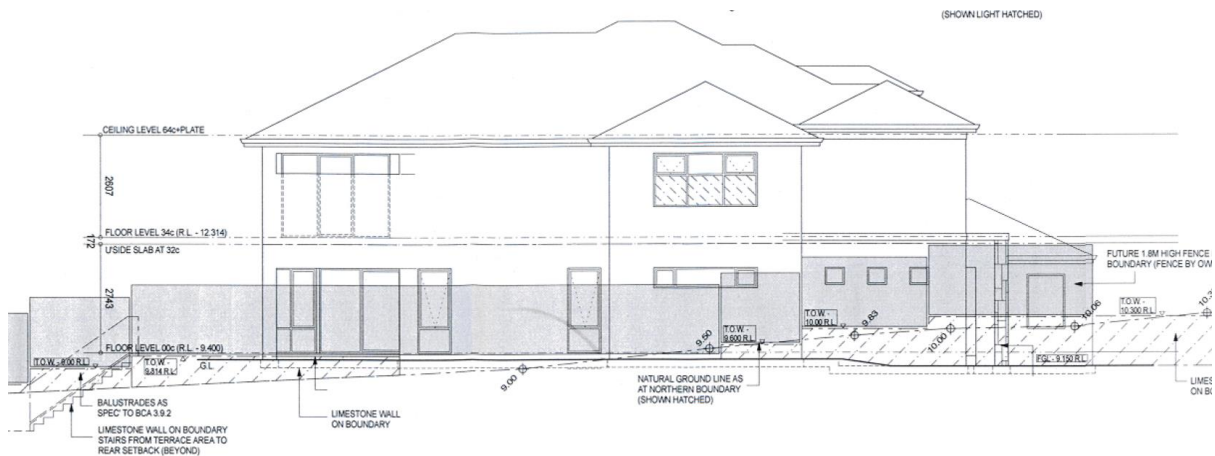


Figure 4 – Ground Floor Windows Screened & Upper Floor without Major Openings

Therefore, obscuring the ground floor windows will not decrease the impact of bulk upon the neighbour; however setting back the upper floor will as it abuts an outdoor living area.

Overshadowing to the north is not possible, and similarly access to sun is irrelevant.

Given the space between the two dwellings being several metres, ventilation is adequate.

On the upper floor, the setback variation abuts sensitive major openings and an outdoor living area.

Objections from the community have been received, and given the above, they are supported for the upper floor.

In this instance (an unusual situation), it is considered that the proposal will comply with the retaining, land fill, dividing fence and lower wall setback

requirements, but not in relation to the upper floor setbacks and as such is recommended for refusal.

### **6.1.5 Visual privacy (northeast)**

The visual privacy setback variation is on the upper floor from the balcony, looking northeast, which is less than 7.5m from the boundary. Design principle P1 requires the following:

*“Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:*

- building layout and location;*
- design of major openings;*
- landscape screening of outdoor active habitable spaces; and/or*
- location of screening devices.*

*Maximum visual privacy to side and rear boundaries through measures such as:*

- offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;*
- building to the boundary where appropriate;*
- setting back the first floor from the side boundary;*
- providing higher or opaque and fixed windows; and/or*
- screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).”*

In response, the area of overlooking is into the neighbour’s non-sensitive carport area, and extensive backyard, with heavy vegetation acting as screening.

The abutting neighbours initially objected to this issue, however they have since retracted it. Another neighbour has submitted objections, however the visual privacy setbacks to that property meet the deem-to-comply standards, and therefore the objection is not upheld.

In this instance, it is considered that the proposal complies with the design principles, and therefore is supported by the City.

### **6.1.6 Preservation of amenity**

TPS2 clause 5.5.1 (Preservation of Amenity) states:

*“Without limiting the generality of Clause 6.5 the Council may refuse to approve any development if in its opinion the development would adversely affect the amenity of the surrounding area having regard to the likely effect on the locality in terms of the external appearance of the development, traffic congestion and hazard, noise or any other factor inconsistent with the use for which the lot is zoned.”*

Further to the issues discussed above that are not supported by the City, it is considered that they are similarly noncompliant with the amenity requirements of the Scheme.

Objections from the community have been received, and are supported.

Accordingly, the proposal will adversely affect the amenity of the surrounding area, and is not supported by the City.

### **6.1.7 Consideration of applications**

TPS2 clause 6.4.1 (Consideration of Applications) states:

*'In considering any application for planning approval the Council may have regard to the appropriateness of the proposed use and its effect on the Scheme area, and in particular the provisions of this Scheme or any By-laws in force in the district and the relationship of these to the proposed development or use.'*

Objections from the community have been received, however given the below, they are not supported.

In response, the proposed land use of a Single House in a residential zone is a 'P' permitted use, will have a typical effect on the area. Accordingly, the appropriateness of the proposed use is supported by the City, subject to recommended conditions.

### **6.1.8 Orderly & proper planning**

TPS2 clause 6.5.1 (Determination by Council) states:

*'The Council may determine an application by granting approval, refusing approval or granting approval subject to such conditions as it thinks fit, having regard to the orderly and proper planning of the area.'*

In response, the proposed development does not comply with provisions within the Scheme and R-Codes (see above). Accordingly, it is considered that the proposal does not represent orderly and proper planning, and is not supported by the City.

## **6.3 Conclusion**

This application is for a new two-storey dwelling on Loch Street; and has a number of variations to the planning requirements.

The subject site and the surrounding properties have significant sloping ground, with older dwellings built-up on stumps, and new dwellings with extensive retaining walls and land fill in the vicinity. As such, building designs require careful consideration; and being an atypical situation, several of the variations are considered appropriate.

However the vehicle scraping due to the grade of the driveway, and imposing upper-floor walls, are not considered appropriate.

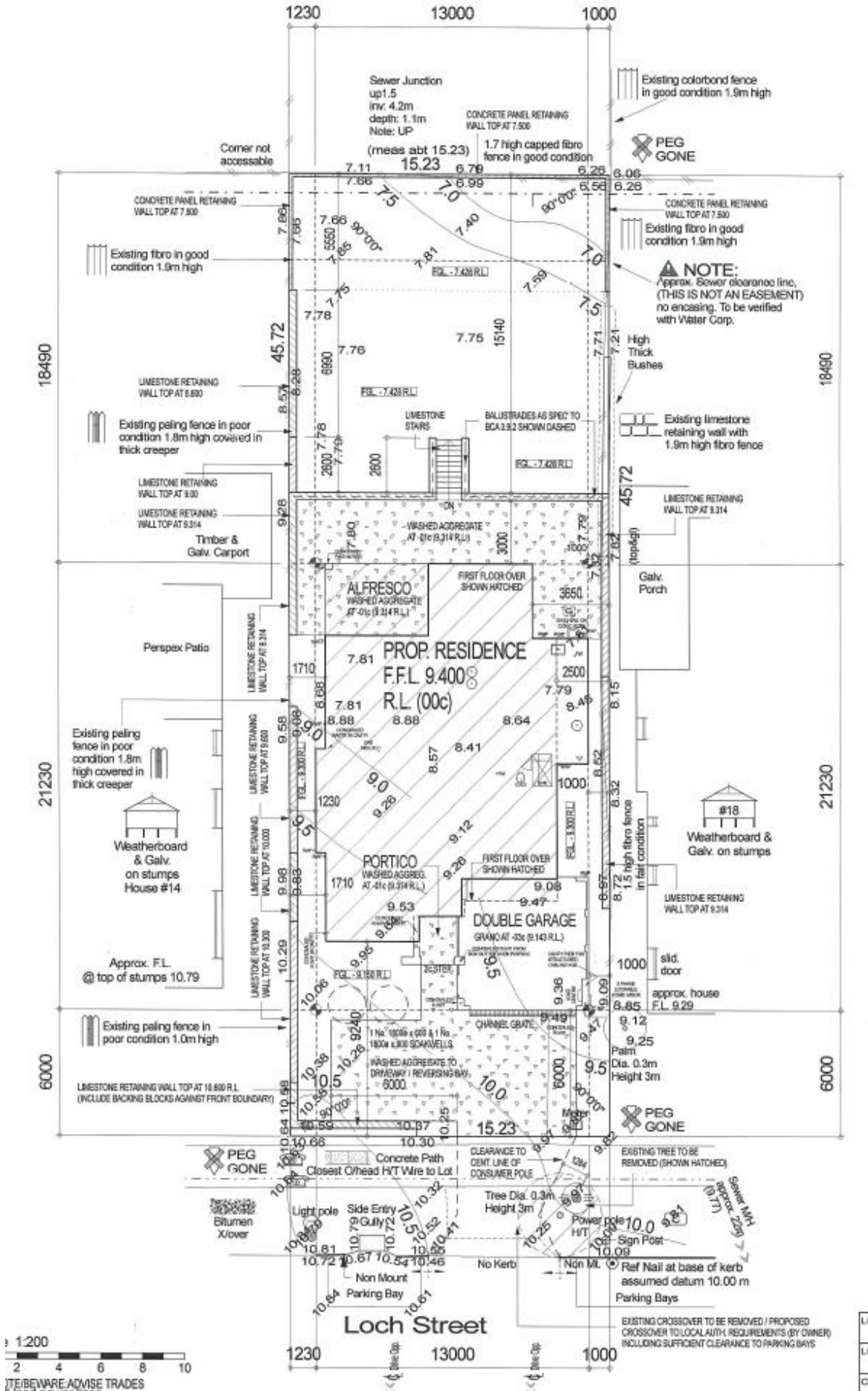
It is possible that design measures can resolve these issues, however they require careful consideration in order for them to work, and therefore conditions of planning approval are not seen to be appropriate.

Accordingly, the application is recommended to the Council for refusal.

## **7.0 Attachments**

1. Plans (survey, site, floor & elevations)
2. Photographs of the site & surrounds
3. Applicant's submission
4. Results of neighbour consultation

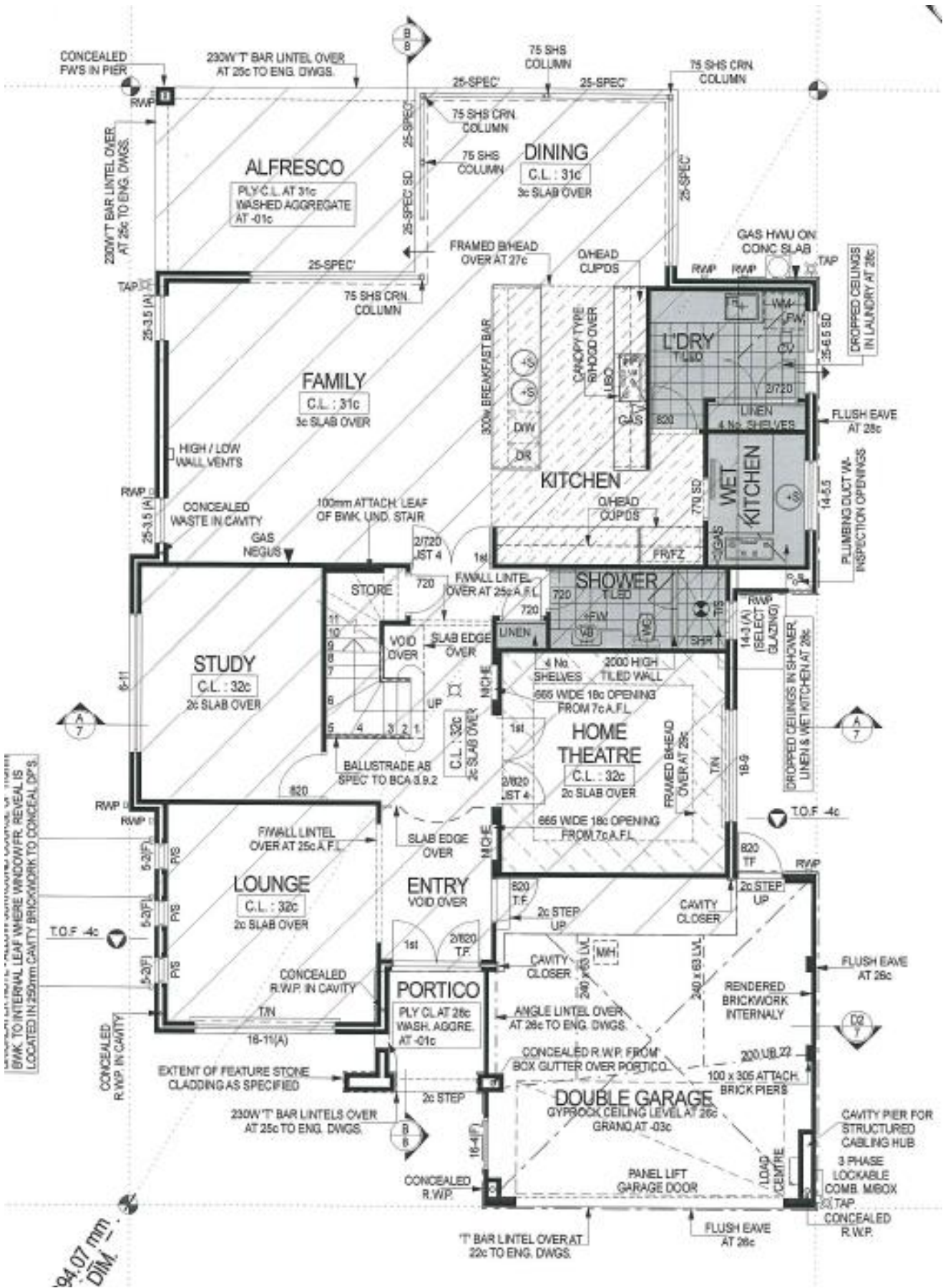
No. 16 Loch St, Nedlands



PD19.14 - Attachment 1 - Plans (survey, site, floor & elevations)

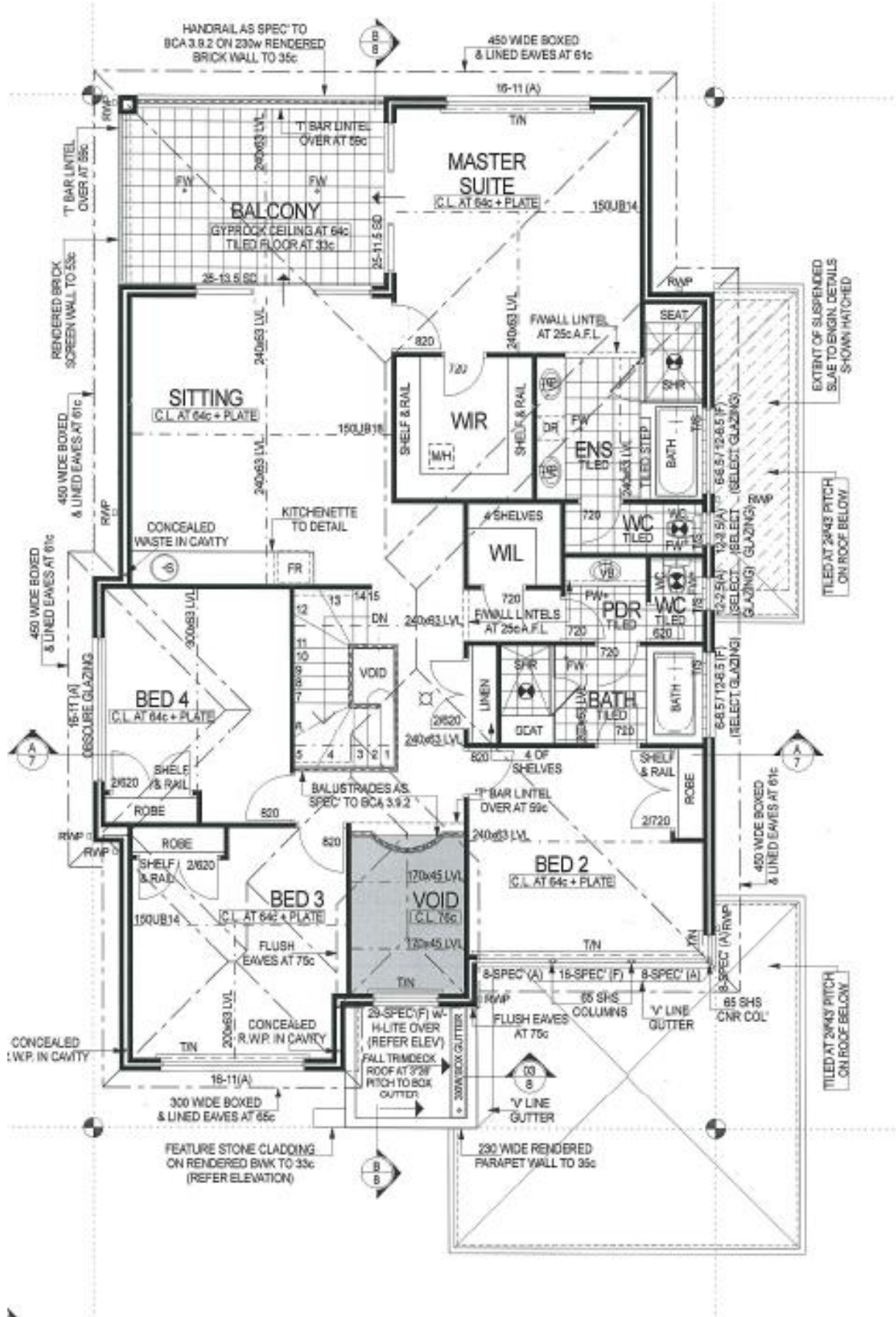


No. 16 Loch St, Nedlands



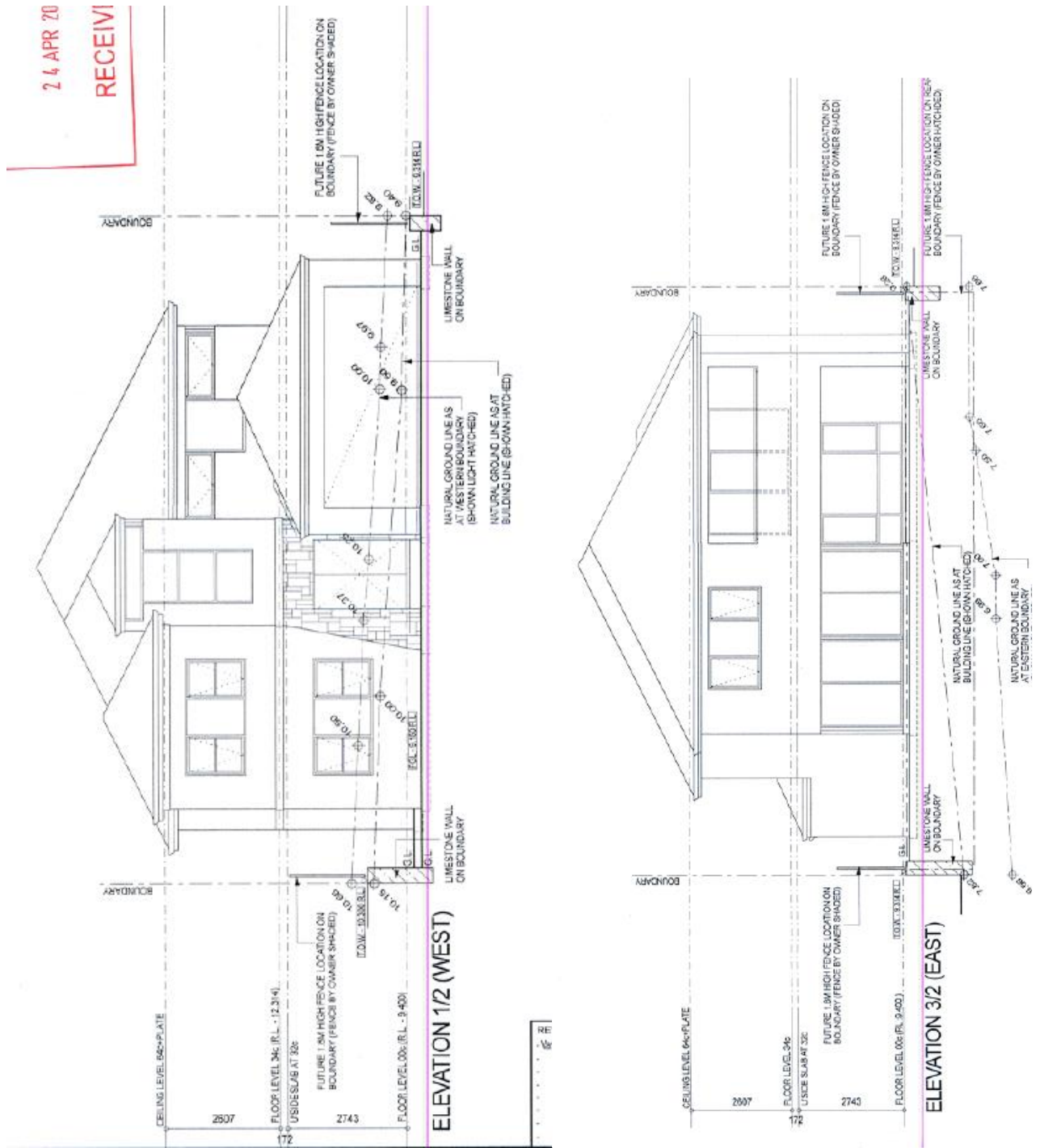
Lower Floor

No. 16 Loch St, Nedlands



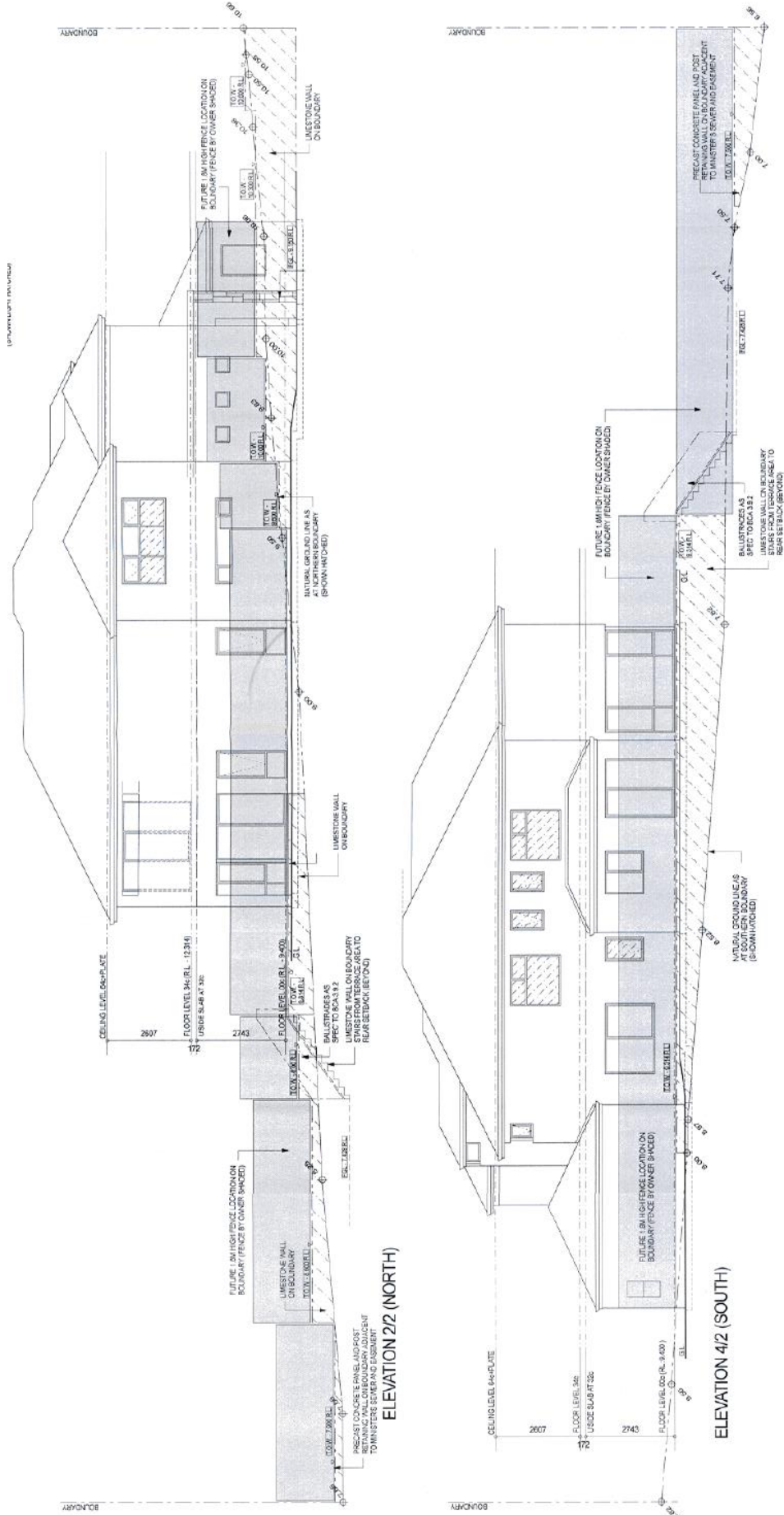
Upper Floor

No. 16 Loch St, Nedlands





No. 16 Loch St, Nedlands



No. 16 Loch St, Nedlands



Site (Pre-demolition)



View to the Left Side (North)



No. 16 Loch St, Nedlands



View to the Right Side (South)



View Opposite (West)

No. 16 Loch St, Nedlands

sandra bransby

PLANNING and CONSTRUCTION CONSULTANT

5 April 2014

City of Nedlands  
PO BOX 9  
NEDLANDS WA 6909

**ATTENTION: Matt Stuart**

Dear Matt

**RE: LOT 49 (16) LOCH STREET, NEDLANDS  
PROPOSED TWO STOREY SINGLE DWELLING  
DA13/407**

Further to your letter dated 27 March 2014 in response to the above-mentioned application and in request of further information, the following response is provided:

- 1. Town Planning Scheme No.2 – Clause 5.5.4**
  - Fill exceeding 0.5m in height on southern boundary

Existing variations in natural levels from Loch Street to the middle of the property alone exceed 2.5m, which also correspond with varying levels along the street with the adjoining northern dwelling encompassing a FFL at 10.79 and southern dwelling at 9.29, with the proposed FFL of the subject dwelling reflecting the lower level at 9.4.

The existing variations in topography from east to west and north to south have influenced the proposed levels of the dwelling and guided the anticipated fill. The design endeavours to reduce the impact of the building on the adjoining neighbours as it assimilates with the adjoining southern dwelling by way of FFL and projected levels along the length of the dwelling, which are raised above the NGL's. All adjoining major openings and their primary outdoor living area are elevated well above the existing fence level as a result of the elevated level of the home which subsequently result in extensive overlooking onto the subject site.

The projected FFL of the proposed dwelling recognise such and deliver a level of fill which will have no adverse effect on the perceived bulk from the adjoining dwelling, furthermore it significantly improves the level of privacy that currently adversely effects the subject site.

PO BOX 420, MOUNT LAWLEY WA 6929 mob: 040 700 1400  
email: sandrak@bigpond.net.au

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Therefore, the likely impact from the fill is negligible in context with the existing elevated environment immediately adjacent to the proposed retaining wall, whose outlook will not be adversely affected by the retaining wall from any major opening or the outdoor living area. (refer to attached photographs)

In addition, the proposed FFL of the dwelling is between 0.6m and 1.3m lower than the existing levels of the street, ensuring that the perceived bulk of the dwelling along the streetscape assimilates with the natural levels of the site, ameliorating its overall bulk, whilst also absorbing the apparent disparities in natural ground levels between properties and with the property.

The position and width of the retaining wall also preserves the usability of the subject and adjoining properties, with no adverse encroachment.

In light of the above, the proposed retaining wall is deemed to observe the provisions of Clause 5.5.4, given the fill takes into account:

- (a) its likely impact on the amenity or appearance of the land immediately surrounding the proposed retaining wall;*
- (b) the materials, shape, height or proximity of the retaining wall to, and their likely effect on the outlook from, surrounding land;*
- (c) the effect on the usability of the land on which the retaining wall is proposed.*

## 2. R Code Requirements

- a. Details of the existing features on the survey/site plan have been removed
- b.
  - i. Proposed RL's are identified on the attached site plan
  - ii. As identified within the enclosed photographs, the shed identified on the site plan has been removed.
- c. Elevations show all boundaries, proposed RL's, retaining walls and dividing fences
- d. Retaining wall setbacks

The retaining walls position on the boundary is desirable to maximise the space available for the dwellings, whilst minimising the impact on the adjoining properties. This is elaborated in details above.

It has been demonstrated that excavation and fill is necessary given the significant variances in natural ground levels between properties and over the subject property, however the fill is designed to benefit from the prevailing environment, particularly the significantly raised floor levels and outdoor living area to the adjoining southern property.

The development therefore is demonstrated to respond to the natural features of the site that effectively are used for the benefit of the residents whilst respecting the levels as viewed from both adjoining properties.



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### e. Wall Setbacks

Your identification of setback reductions as a result of Fid 4d calculation is questions, given figure 4d relates to upper floor setbacks. Justification was previously provided and is again reiterated as follows:

Your consideration is sought for the proposed incursions into the side setbacks as detailed above. The development and overall design delivers extensive surveillance to both the and street and side elevations through effective design and articulate façades incorporating vertical and horizontal stepping to create flexibility in design that enhances the appearance of the building to deliver a more varied and interesting built form.

The southern setback from the ground floor is a result of the opening to the kitchen, albeit a secondary wet kitchen with a wall length of 5.95m. The resultant affect on building bulk is negligible, given the majority of the ground floor and entire first floor provides a greater setback. Additionally, retaining along the southern boundary that provides top of wall heights comparable with the ground floor to the adjoining dwelling, ameliorates the overall perceived building bulk.

The northern first floor setback also achieves effective articulation that is minimised by the increased floor level to the northern dwelling at 10.79 and the avoidance of overlooking from the dwelling as a result of the awning design.

Overall, the setback variations are achievable through effective design principles to minimise the bulk of the building and enhance its appearance to the adjoining properties.

### f. You identified visual privacy variations are also questionable given the obvious separation between properties by a boundary fence. This is identified on the attached elevations.

Overall justifications is provided as follows:

Obtaining and benefiting from the pleasing outlook to the rear of the block that is heightened by the fall in levels and undulating outlook is an important part of the amenity enjoyed by the residents and all adjoining properties along the street.

Application of good design has enabled the proposed residents to obtain the view to the full potential, without any detriment to the privacy of the adjoining properties.

With this in mind, the outlook from the rear balcony is entirely restricted to the rear of the property through significant dense vegetation, with tree canopies obstructing the view into the adjoining northern property, notwithstanding that the line of sight is indirect.

Furthermore, the outlook from the Bed 4 window is limited due to the obscure glazing and limited opening afforded by the awning design, restricting the line of sight out of the window.

## No. 16 Loch St, Nedlands

Similarly, the outlook from Bed 3 is onto the front setback area of the adjoining property and encroaches onto their driveway, which extends along the southern side of their property.

The significant gradient and fall to the rear of the subject and adjoining properties results in possible overlooking onto the rear of the extensive gardens to the adjoining properties, which is also reciprocated by the fall over their properties and the design of the homes and extensive retaining and brick build ups to the rear. Furthermore, dense landscaping minimises the extent of overlooking to maintain a reasonable level of privacy between properties.

Consequently, the strategic design of the dwelling and resultant overlooking variations ensure that the privacy of the adjoining properties is not adversely affected, with a reasonable level of privacy to a level that currently occurs.

- g. Amended overshadowing attached.
- h. Reversing bay identified on attached site plan.
- i. Crossover position will be amended to reflect required setbacks to existing pole.
- j. The proposed crossover is located in the same position as the existing – given the site plan identifies a brick paved crossover, the existing will be removed.

### 3. Council Policy Requirements

Further information will be provided to confirm capacity for retaining wall with regards to the Water Corp easement and the verge existing car bays

In light of the above, the proposed development is demonstrated to have no adverse affect on the amenity of the adjoining properties while maintaining natural levels as viewed from the adjoining properties and street, with acceptable variations that result for the significant gradients.

Should you require any further information, please do not hesitate to contact the undersigned.

Kind regards



Sandra Bransby  
Town Planner  
**Beaumonde Homes**  
0407 001 400



No. 16 Loch St, Nedlands

Summary of comments received	Officer's technical comment
<b><i>Driveway grade and vehicle manoeuvring</i></b>	
<b>Issue: vehicle movements</b>	<b>Upheld</b>
As the turning circle is not workable, the driveway will create a traffic hazard upon a busy road. This will endanger neighbouring landowners as much as the occupier of this proposal.	See the Planning Assessment section.
<b>Issue: excavation in the front</b>	<b>Upheld</b>
The driveway requires significant excavation, with suitable retaining and balustrades for pedestrians being absent from the plans. Will compromise the foundation and structure of neighbouring property.	See the Planning Assessment section.
<b><i>Excavation in the front setback area Retaining wall setbacks to sides Land fill up against sides Wall setbacks to sides</i></b>	
<b>Issue: impact of side retaining wall, land fill &amp; fences</b>	<b>Noted / Not Upheld</b>
The plans don't give proper measurements of the retaining walls and land fill.	The amended plans are scalable, and have been assessed.
The retaining wall should be set back 1.5m. The 1.6m of land fill will result in the property towering over all the neighbours. Does not respect the natural topography of neighbouring properties. The height of the fence and retaining wall will be a significant 3.8m. Does not moderate the visual impact of bulk. Will compromise the neighbouring living space. Will impact upon visual aesthetics, including the open space character. The Finished Floor Level and surrounds need to be dropped. Will create visual privacy overshadowing issues. The plans are not responsive to the environment.	See the Planning Assessment section.
<b>Issue: wall setbacks</b>	<b>Noted, Not Upheld, &amp; Condition</b>
The kitchen has a Major Opening and needs to be set back 1.5m. All walls should be compliant and not less than 1.5m. Too close to our living space and will have a great impact as house is enormous. Will cause significant aesthetical disruption to the locality. Will create privacy issues.	See the Planning Assessment section.

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Not in keeping with the general character of the area. The building will create an unacceptable shadow upon the neighbouring property to the south, including north-facing windows and deck. Access to sun and light is a basic amenity for the use and enjoyment of neighbouring properties.	
Will create overshadowing and sunlight issues to the north.	Not possible to create overshadowing and sunlight issues to the north.
The alfresco being closer to the boundary will create noise issues.	Not a planning issue, and controlled if a problem eventuates, under Environmental Health legislation.
Will adversely impact upon property prices.	Not a town planning consideration.
<b>Issue: over-height fence</b>	<b>Not Upheld</b>
The neighbours do not consent to the structure.	See the Planning Assessment section.
<b>Issue: building bulk</b>	<b>Upheld</b>
Will impact upon neighbouring amenities.	See the Planning Assessment section.
<b>Issue: calculation of building heights</b>	<b>Not Upheld</b>
The wall heights and overall building height do not comply, if measured immediately below the walls and building.	The building complies with the Scheme height control, as the method has been confirmed by the SAT on an unrelated matter.
<b>Visual privacy to a side</b>	
<b>Issue: visual privacy to the northwest</b>	<b>Not Upheld / Upheld</b>
The setback reduction is more than half, and grossly excessive. Will have a significant negative impact on privacy and the general character of the area. Does not minimise the extent of overlooking. <u>Agree</u> that will not have an adverse impact upon the neighbouring property due to the carport. The nature of the use, hours of operation and illumination will have a detrimental effect upon the locality.	See the Planning Assessment section.
Does not meet the overshadowing requirement.	The proposal does meet the overshadowing requirement.

No. 16 Loch St, Nedlands

<b>Other issues</b>	
<b>Issue: private trees being felled</b>	<b>Not Upheld</b>
The trees provided a screen. Provided a balance between infrastructure and nature for the benefit of all (amenity).	The felling of the private trees could not legally be prevented, unless they are on a heritage list, which they were not.
<b>Issue: general character</b>	<b>Not Upheld</b>
Contrary to the general character of the area.	See the Planning Assessment section.
<b>Issue: adverse possession</b>	<b>Not Upheld</b>
A claim has been made as the fence has been in this location for 30 years.	The fence bows into the Site along the southern boundary, and a realignment of the boundary would prevent the proposal from being built. However, the City has no record of the realignment of the boundary having legal effect, and as such, this comment is not a valid consideration for this proposal.
<b>Issue: other neighbours complaining</b>	<b>Noted</b>
It is known that other neighbours are concerned and will putting in submissions.	No comment required.
<b>Summary of comments received</b>	<b>Officer's technical comment</b>
Note: A full copy of all relevant consultation feedback received by the City has been given to the Councillors prior to the Council meeting.	

<b>PD20.14. No. 17 (Lot 253) Loneragan Street Nedlands - Proposed Two Storey Single House</b>
---

<b>Committee</b>	10 June 2014
<b>Council</b>	24 June 2014
<b>Applicant</b>	APG Homes Pty Ltd
<b>Owner</b>	Julio Salazar and Cynthia Morillo
<b>Officer</b>	Thomas Geddes – Planning Officer
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Director Signature</b>	
<b>File Reference</b>	NIL

## 1.0 Executive Summary

The application proposes a two storey single dwelling located on Loneragan Street within the Hollywood Nedlands Design Guideline Area.

The application is referred to Council as officers do not have delegation to determine an application under instrument of delegation 6A, where objections have been received. The proposal does not comply with the site level and fill requirements of the Hollywood Nedlands Design Guidelines and an objection was received relating to this variation following neighbour consultation.

The Design Guidelines do not permit changing lot levels by more than 50mm as of right and the ground floor slab level is not to be more than 200mm from the level provided by the developer. This application proposes to increase the lot level by 500mm for a portion the eastern site boundary and a portion the finished floor level of the dwelling is also 500mm from the provided lot level. The majority of the proposed dwelling is between 200mm and 300mm from the finished lot level, and the dwelling as viewed from the street is consistent with the provided level at the front boundary.

The appearance of the proposed dwelling is consistent with the proposed finished levels for the approved dwellings along Loneragan Street as viewed from the street. The level of fill proposed complies with the deemed-to-comply requirements of the Residential Design Codes. As the levels of the lots along Loneragan Street were not graded it is difficult to not alter the level as provided by the developer by more than 50mm.

As a result the application is recommended for approval.

## **1.1 Recommendation to Committee**

**Council approves an application for a two storey single house at No. 17 (Lot 253) Loneragan Street, Nedlands in accordance with the application and the plans received 10 February 2014, subject to the following conditions:**

- 1. The development shall at all times comply with the approved plans.**
- 2. All parapet walls shall be finished to a professional standard, to the satisfaction of the City.**
- 3. All footings and structures to retaining walls, fences and parapet walls shall be constructed wholly inside the site boundaries of the Certificate of Title.**
- 4. All street trees in the nature-strip / verge are to be retained and shall not be removed without written approval from the Manager Parks Services.**
- 5. All crossovers to the street shall be constructed to the Council's Crossover Specifications and the applicant / landowner to obtain levels for crossovers from the Council's Infrastructure Services under supervision onsite, prior to commencement of works.**
- 6. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite by draining to soak-wells of adequate capacity to contain runoff from a 20 year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m<sup>3</sup> for every 80m<sup>2</sup> of calculated surface area of the development.**
- 7. A further planning application and approval from the City is required for any fill or retaining walls on the lot, other than that shown on the approved plans.**
- 8. Dividing fences behind the front setback line, height no greater than 1.8m above approved levels and complying with the provisions of the *City of Nedlands Fencing Local Law 2007* are deemed to comply with the Scheme and do not require further planning approval. A further planning application and approval is required for other fencing, including heights greater than 1.8m above approved ground levels and/or forward of the front setback line.**
- 9. The use of bare or painted metal building materials is permitted on the basis that, if during or following the erection of the development the Council forms the opinion that glare which is produced from the building / roof has or will have a significant detrimental effect upon the amenity of neighbouring properties, the Council may require the owner to treat the building / roof to reduce the reflectivity to a level acceptable to Council.**

10. All obscure glass panels / Lumisty to Major Openings and/or Active Habitable Spaces shown on the approved drawings, shall prevent overlooking in accordance with the visual privacy requirements of the *Residential Design Codes of WA*. The structure(s) shall be installed and remain in place permanently, unless otherwise approved by the City.
11. Front fencing and letterbox shall be in accordance with the Hollywood and Swanbourne Design Guidelines. The fence in front of the dwelling and dividing lots (excluding and retaining on which the fence is constructed) shall be 900mm maximum height.
12. The fence behind the front setback and dividing lots shall be at a nominal height of 1800mm maximum (excluding any retaining wall on which the fence is constructed) shall be constructed in materials, colours and style to match and complement the dwelling.
13. Fibrous cement (i.e. Super Six), corrugated metal sheeting (i.e. Colorbond), and timber pinelap fences are not permitted.
14. Curved, tinted and reflective glass shall not be visible from the street.
15. All pipes, wired services, clothes drying areas, hot water storage tanks and such items shall not be seen from anywhere in the public realm. Air-conditioners, TV antennae, satellite dishes and radio masts shall not be visible from the primary street, and not easily seen from the secondary street or neighbouring properties (e.g. preferably located at ground level or if roof mounted, at the rear of the roof and below the ridge level).

**Advice Notes specific to this approval:**

1. All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, hobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.
2. All downpipes from guttering shall be connected so as to discharge into drains which shall empty into a soak-well and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block.
3. The applicant is advised to consult the City's *Visual and Acoustic Privacy Advisory Information* in relation to selecting and locating any air-conditioner or swimming pool or spa mechanical equipment such that noise, vibration and visual impact on neighbours is mitigated. The City does not recommend installing any equipment near a property boundary where it is likely noise in these locations will intrude on neighbouring properties.
4. Prior to selecting a location to install an air-conditioner, applicant is advised to consult the online fairair noise calculator at [www.fairair.com.au](http://www.fairair.com.au) and use this as a

**guide on air-conditioner placement so as to prevent noise affecting neighbouring properties.**

- 5. Prior to installing an air-conditioner or swimming pool or spa mechanical equipment, the applicant is advised to consult residents of neighbouring properties and if necessary take measures to suppress noise.**
- 6. This decision constitutes planning approval only and is valid for a period of 2 years from the date of approval. If the subject development is not substantially commenced within the 2 year period, the approval shall lapse and be of no further effect.**

## **1.2 Strategic Community Plan**

KFA: Natural and Built Environment

This report addresses the Key Focus Area of Natural and Built Environment through adherence to the design principles of the Residential Design Codes of Western Australia and the provisions of the Hollywood Nedlands Design Guidelines, contributing to well-planned and managed development in the City of Nedlands.

## **2.0 Background**

<b>Property address</b>	No. 17 (Lot 253) Loneragan Street, Nedlands
<b>Lot area</b>	342m <sup>2</sup>
<b>Zoning:</b>	Metropolitan Region Scheme: Residential
	Town Planning Scheme No. 2: R30 (Scheme Amendment Area)

### **2.1 Key Relevant Previous Council Decisions**

N/A

### **2.2 Legislation / Policy**

- Planning & Development Act 2005;
- City of Nedlands Town Planning Scheme No. 2 (TPS2);
- Hollywood Nedlands Design Guidelines 2006 (Precinct 3);
- Residential Design Codes of WA 2013 (RCodes); and
- Council Policy 6.4 – Neighbour Consultation (Neighbour Consultation policy)

## **3.0 Consultation Process**

### **3.1 What consultation process was undertaken?**



Required by legislation: Yes  No   
 Required by City of Nedlands policy: Yes  No

Due to the proposed variation from ground level requirements of the Hollywood Nedlands Design Guidelines, advertising was undertaken by the City from 25 March 2014 to 8 April 2014.

The City received one (1) objection which raised the following issues:

- 1) The raised level will erode privacy;
- 2) The raised level will erode access to natural light.

#### **4.0 Budget / Financial Implications**

N/A

#### **5.0 Risk management**

N/A

#### **6.0 Discussion**

##### **6.1 Introduction**

The proposal involves a new two storey single house to be constructed within the Hollywood Nedlands Design Guideline Area. The proposal meets the relevant provisions of the Design Guidelines and the R-Codes other than the ground level requirements of the Design Guidelines.

The proposed dwelling is located 4 metres from the Loneragan Street boundary and 1m from the rear property boundary, with vehicular access from Mattner Lane. The dwelling is built up to the western site boundary and set back a minimum of 1.572m from the eastern boundary. Lot 253 slopes away to the north east from the Loneragan Street frontage by 1.17m.

##### **6.2 Applicant Justification Summary**

The applicant provided the following justification relating to the proposed site levels variation:

- *“The Developer has not constructed any retaining around the subdivide [sic] lot and have left the lot sloping from West to East and South to North by more than 50mm. As such the proposed dwelling and land has been retained and the proposed dwelling has been proposed in between the 2 neighbouring property levels.*
- *The existing site levels change continually onsite, making it increasing difficult to comply with the Design Guideline Requirements.*

- *The subject site is characterised by constraints such as a frontage of less than 11m, a lot size only 324m<sup>2</sup> and a fall in levels from West to East and from South to North. The proposed home is not considered large, and in order to design a workable and adequate home without introducing split levels to the ground floor, the minor variation is required.*
- *Developers Approval has been sought by Mirvac and was approved and returned to apg on 13 February 2014.*
- *The proposed dwelling is compliant with the R-Codes for cut and fill and retaining wall heights.*
- *If developers installed the proposed limestone retaining required, it would be considered as Natural Ground Level, allowing out proposed dwelling to be compliant.”*

### **6.3 Administration Comment**

The Design Guidelines require that the lot level not be changed by more than 50mm from the “*as constructed graded and stabilised level retained as a part of the completed subdivisional works*”. The proposal involves a maximum 500mm change in the lot levels. In addition, the finished slab levels for a dwelling is not to be more than 200mm from the finished level lot level “*as provided by the developer*”.

The proposed changes to the lot level provided by the developer are consistent with the other approved dwellings along Loneragan Street with respect to the sites as viewed from the street and are consistent with the R-Codes requirements for site fill and retaining walls. The majority of the proposed dwelling is between 200mm and 300mm from the lot level, with the exception of a small portion of the dining room raised 500mm from the natural ground level to the rear of the site. The proposed alfresco area and garage are proposed to be developed at a lower level than the dwelling, consistent with the slope across the site.

With regard to the comments received pursuant to the consultation undertaken the following can be advised:

- 1) The raised level will erode privacy

#### **Administration Comment:**

The proposal complies with the visual privacy requirements of the R-Codes which apply to this site as the assessable major openings (windows) have either been sufficiently set back or screened.

- 2) The raised level will erode access to natural light

#### **Administration Comment:**

Due to the orientation of this lot, midwinter shadow will extend to the south of the site across Loneragan Street. The proposal also complies with the building height

requirements of the Hollywood Nedlands Design Guidelines. A maximum two storey building height of 10m is permitted, and a height of approximately 7m is proposed.

## **6.4 Conclusion**

It is considered that the proposal is consistent with the proposed finished levels for the approved dwellings along Loneragan Street and complies with the deemed-to-comply requirements of the Residential Design Codes. As the levels of the lots along Loneragan Street were not graded and individually retained it is difficult to not alter the level as provided by the developer by more than 50mm.

The majority of the dwelling is only raised between 200 and 300mm from the sloping lot level, and the proposed finished level of the dwelling is consistent with the levels at the front of the property, meaning that the dwelling will not appear to be inconsistent with the streetscape.

As a result, the application is recommended for approval.

## **7.0 Attachments**

1. Site Plan
2. Proposal Plans



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

No. 17 Loneragan Street

Wednesday, May 14, 2014

1:300





**SOIL DESCRIPTION**

Sand  
Light Grass Cover

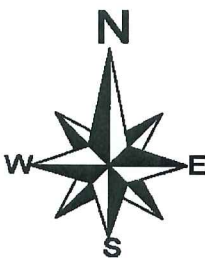
**NOTE:** ALL FEATURES SHOWN ON SURVEY ARE POSITIONED FROM EXISTING PEGS/FENCES & WALLS WHICH MAY NOT BE ON THE CORRECT ALIGNMENT.

**DUG TO LEVEL**  
9.82 ON LOT  
(SAND ONLY)

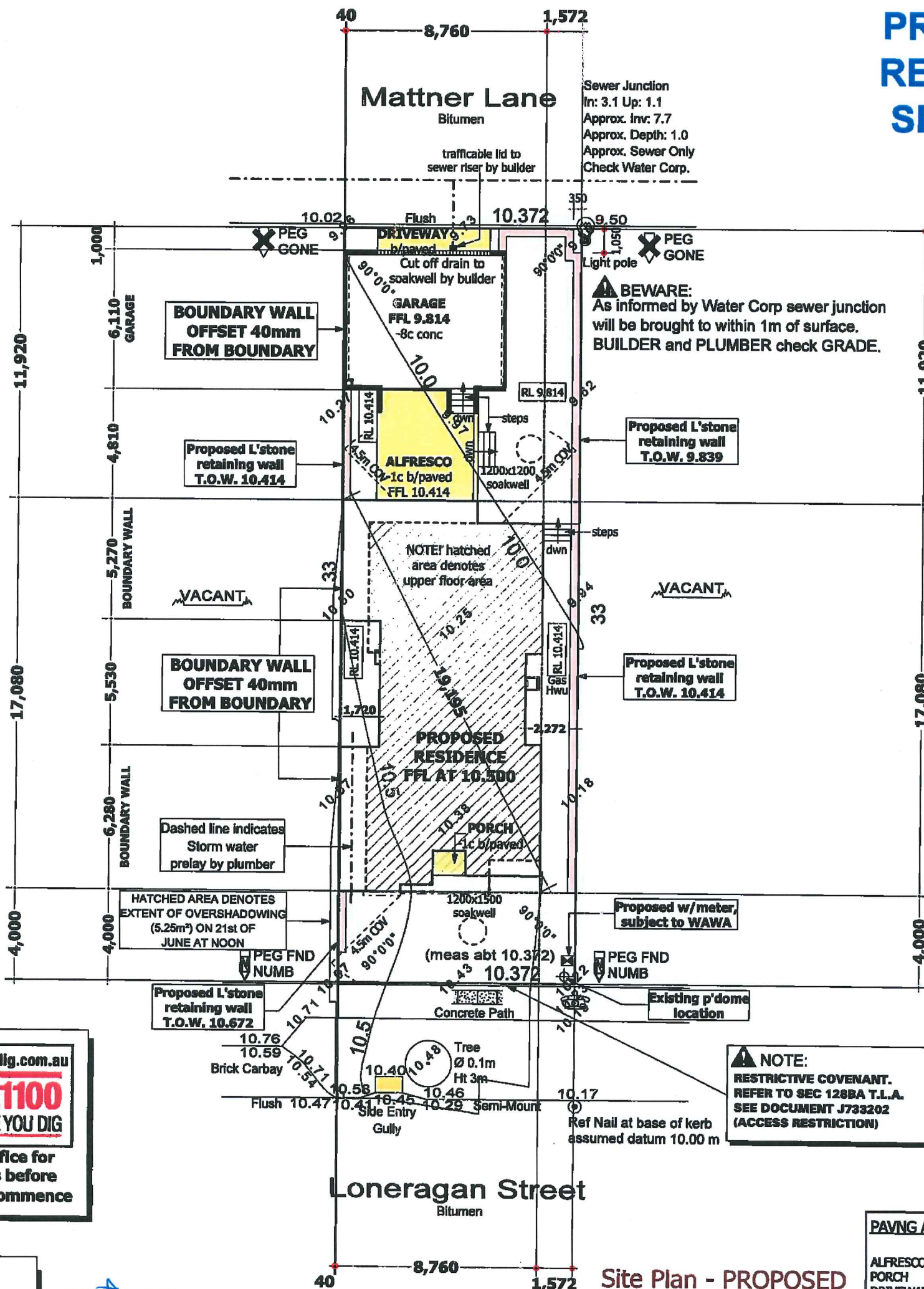
**NOTE:**  
LOT MISCLOSE  
(0.000 m)

**LEGEND:**

	SEC Dome
	Power Pole
	Phone
	Conc. Path
	Conc. slabs



**PROPOSED RESIDENCE SITE PLAN**



www.dialbeforeyoudig.com.au

**DIAL 1100**  
BEFORE YOU DIG

Refer to APG office for all service plans before any earthworks commence

**NOTE:**  
RESTRICTIVE COVENANT. REFER TO SEC 128BA T.L.A. SEE DOCUMENT J733202 (ACCESS RESTRICTION)

**PAVING AREAS**

	AREA	PER
ALFRESCO	19.69m²	18.46m
PORCH	1.56m²	5.04m
DRIVEWAY	4.93m²	11.86m
<b>TOTAL AREA</b>	<b>25.18m²</b>	

**NOTE:**  
NOTIFICATION. REFER TO SEC 70A OF THE TLA SEE DOCUMENT J733200 (NOISE LEVEL)

**NOTE:**  
RESTRICTIVE COVENANT. REFER TO SEC 136D T.L.A. SEE DOCUMENT J733202

*4-02-14*  
*Medina*

**APPROVED**



OWNER \_\_\_\_\_  
OWNER \_\_\_\_\_  
BUILDER \_\_\_\_\_  
DATE \_\_\_\_\_

**AMENDMENTS:**

18/11/13	Bojan	Engineers
11/12/13	Bojan	PCV 1/10/13
23/01/14	Bojan	PCV 13/01/14

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SHEET 14 OF 14

DRN: Bojan  
DATE: 15/10/13  
DSN: 33824\_PL\_Bojan  
SCALE: 1:200  
FILE: 33824.pln

CONTRACT NO:  
**33824**

**BUILDING SITE INSPECTION REPORT SERVICE AND CONTOUR SKETCH**

MSD REF 371-19/46  
SSA AREA

Client **Medina, Morillo**  
Date **22 Jul 13** House No. **17**  
Lot No. **253** Area **324m²** Street **Loneragan Street**  
Suburb **Nedlands** Shire **CITY OF NEDLANDS**  
D.Plan **50043** C/T Vol. \_\_\_\_\_ Fol \_\_\_\_\_

Road Descr.	Bitumen	Services: Gas (medium pressure) opposite side road	Telstra Yes
Kerbing	Flush / Semi-Mount	Water Yes	Sewer Yes
Condition	GCOD	Electricity	U/Ground
Footpath	Concrete	Coastal Zone (Setback from StreetSmart Directory Only)	NO
Condition	GOOD	Fencing and other improvements	AS SHOWN
Soil	Sand	Special Features	AS SHOWN
Drainage	Good		
Vegetation	Light Grass Cover		

**COTTAGE & ENGINEERING SURVEYS**  
Licensed Surveyors

J/N: 315389	DATE: 22 Jul 13	SCALE: 1:200	DRAWN: J. Lewis
----------------	--------------------	-----------------	--------------------

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# CONSTRUCTION NOTES

23°45' REAR GROUND FLOOR ROOF PITCH  
 10°12' STUDY ROOF PITCH  
 12°25' GUEST ROOF PITCH  
 5°43' UPPER FLOOR ROOF PITCH  
 COLORBOND ROOF

30c/31c GROUND FLOOR TO CEILING  
 28c + PLATE UPPER FLOOR TO CEILING

ROOF FRAME TO COMPLY WITH A.S. 1684

RENDERED BRICKWORK EXTERNALLY

N1 WIND REGION

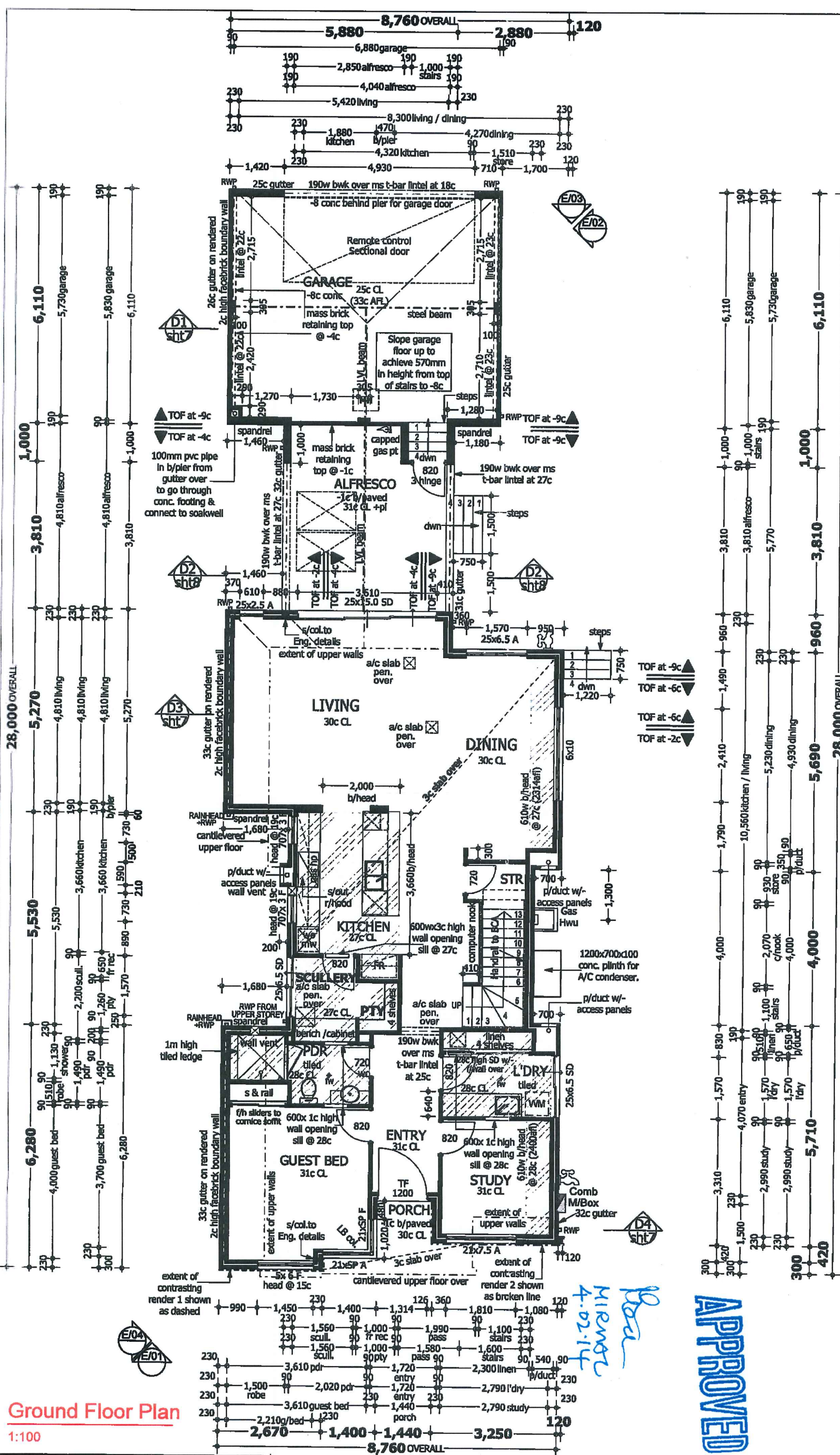
## GENERAL NOTES

(refer to cover page)

- DO NOT scale from drawings.
- Dimensions to take strict preference only.

RECEIVED  
 18 FEB 2014  
 CITY OF NEDLANDS

Area Calc		
UPPER FLOOR	114.46	( 49.880m)
GROUND FL...	128.74	( 59.000m)
ALFRESCO	19.88	
GARAGE	44.52	
PORCH	2.16	
Total	309.76 m <sup>2</sup>	



Ground Floor Plan  
 1:100

**APPROVED**

SIGNATURES:  
 OWNER: \_\_\_\_\_  
 OWNER: \_\_\_\_\_  
 BUILDER: \_\_\_\_\_  
 DATE: \_\_\_\_\_

Saba		
<b>AMENDMENTS:</b>		
18/11/13	Bojan	Engineers
11/12/13	Bojan	PCV 1/10/13
23/01/14	Bojan	PCV 13/01/14

SHEET: 2 OF 14
DRN: Bojan
DATE: 15/10/13
DSN: 33824_Pt_Bojan
SCALE: 1:100, 1:1
CONTRACT NO: 33824



PROPOSED RESIDENCE TO BE ERRECTED ON:  
**Lot 253 (#17) Lonergan Street  
 Nedlands**  
 FOR:  
**Mr. J Medina Salazar &  
 Miss Sankarsingh Morillo**

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# CONSTRUCTION NOTES

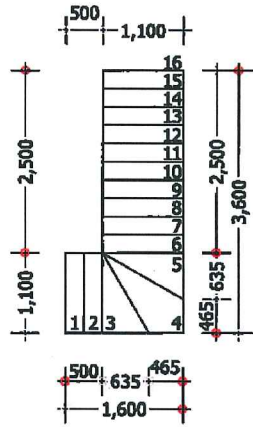
23°45' REAR GROUND FLOOR ROOF PITCH  
 10°12' STUDY ROOF PITCH  
 12°25' GUEST ROOF PITCH  
 5°43' UPPER FLOOR ROOF PITCH  
 COLORBOND ROOF

30c/31c GROUND FLOOR TO CEILING  
 28c + PLATE UPPER FLOOR TO CEILING

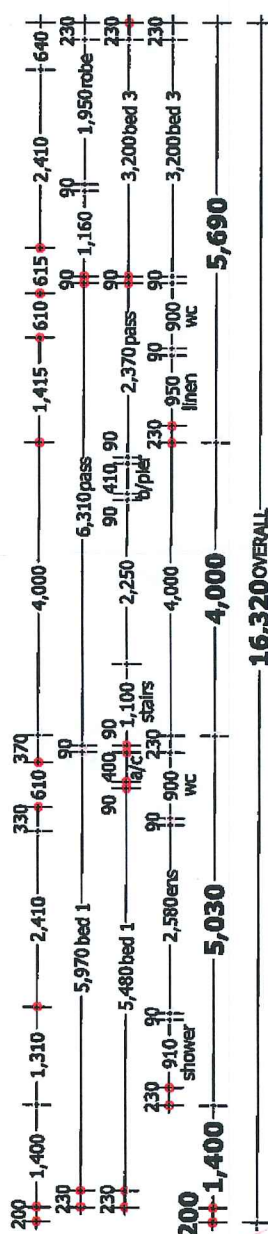
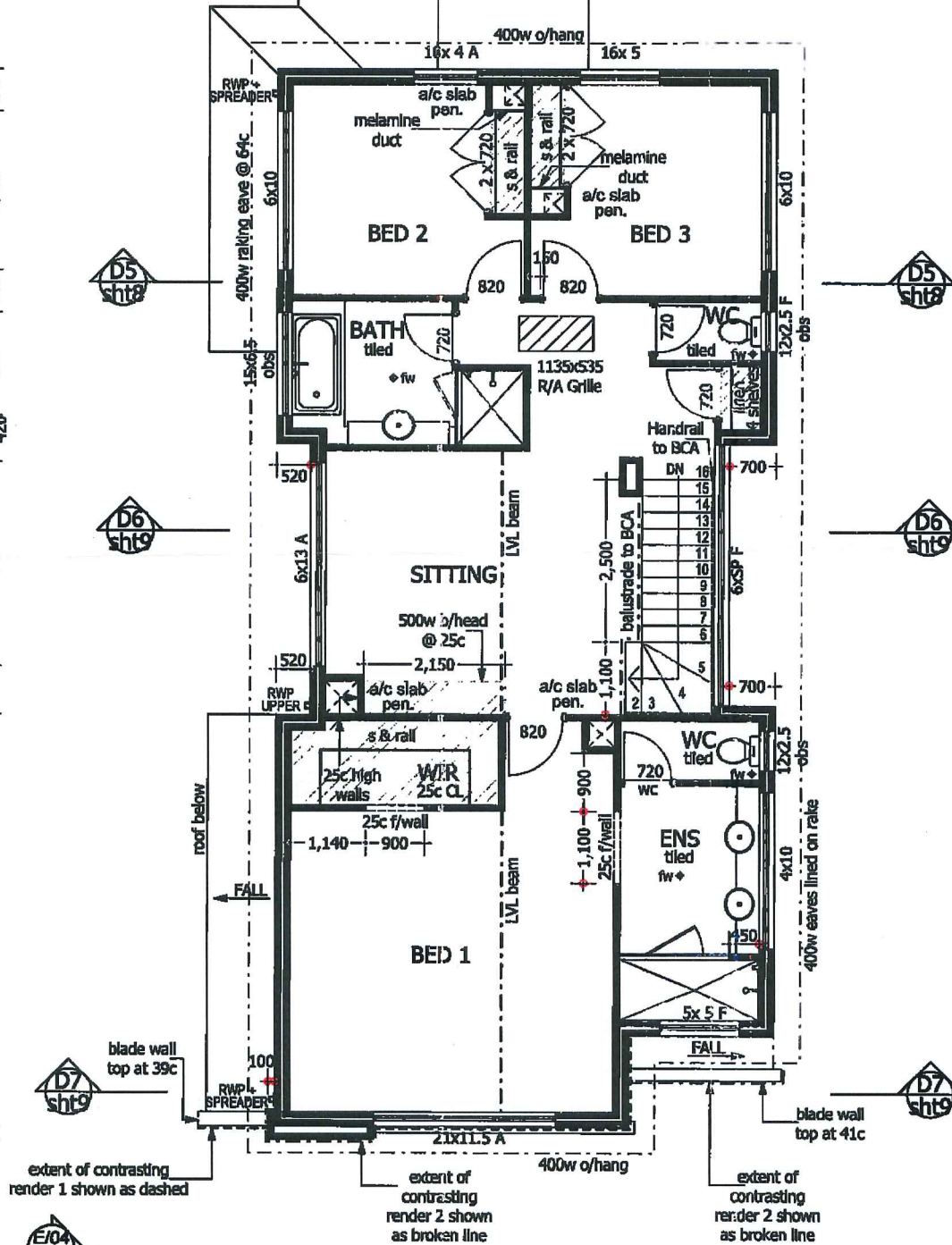
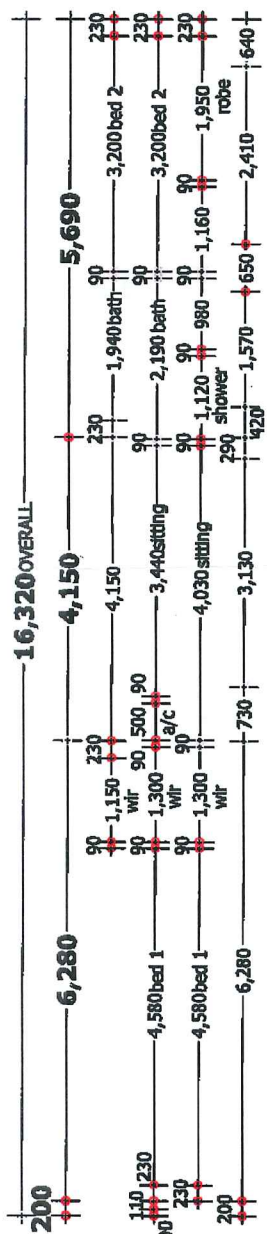
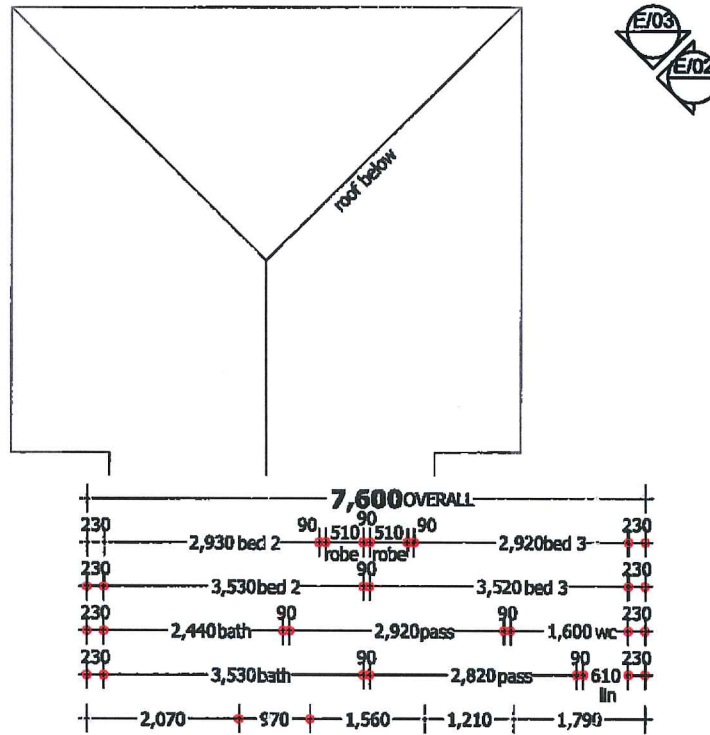
ROOF FRAME TO COMPLY  
 WITH A.S. 1684

RENDERED BRICKWORK EXTERNALLY

N1 WIND REGION



**Stair Info**  
 Number of risers = 16  
 Riser ht = 177  
 Tread wid = 250.0



## GENERAL NOTES

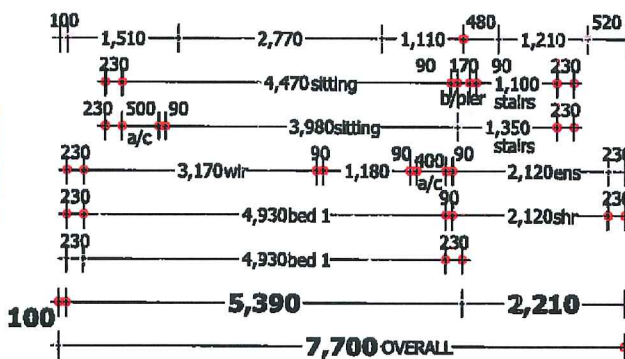
- DO NOT scale from drawings.
- Dimensions to take strict preference only.

*Handwritten notes:*  
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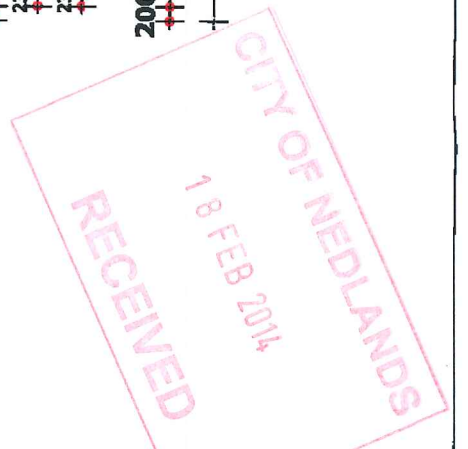
**APPROVED**

## Upper Floor Plan

1:100



Area Calc		
UPPER FLOOR	114.46	( 49.880m)
GROUND FL...	128.74	( 59.000m)
ALFRESCO	19.88	
GARAGE	44.52	
PORCH	2.16	
<b>Total</b>	<b>309.76 m<sup>2</sup></b>	



PROPOSED RESIDENCE TO BE ERCTED ON:  
**Lot 253 (#17) Lonergan Street  
 Nedlands**  
 FOR:  
**Mr. J Medina Salazar &  
 Miss Sankarsingh Morillo**

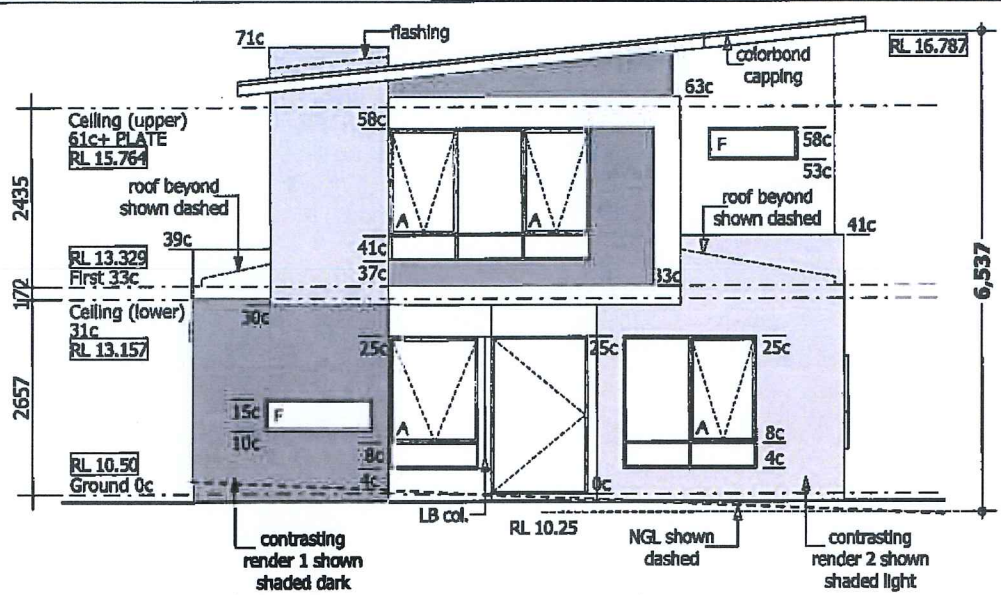
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 OWNER: \_\_\_\_\_  
 OWNER: \_\_\_\_\_  
 BUILDER: \_\_\_\_\_  
 DATE: \_\_\_\_\_

Saba		
<b>AMENDMENTS:</b>		
18/11/13	Bojan	Engineers
11/12/13	Bojan	PCV 1/10/13
23/01/14	Bojan	PCV 13/01/14

SHEET:3 OF 14	
DRN:	Bojan
DATE:	15/10/13
DSN:	33824_PL_Bojan
SCALE:	1:100, 1:1
<b>CONTRACT NO: 33824</b>	

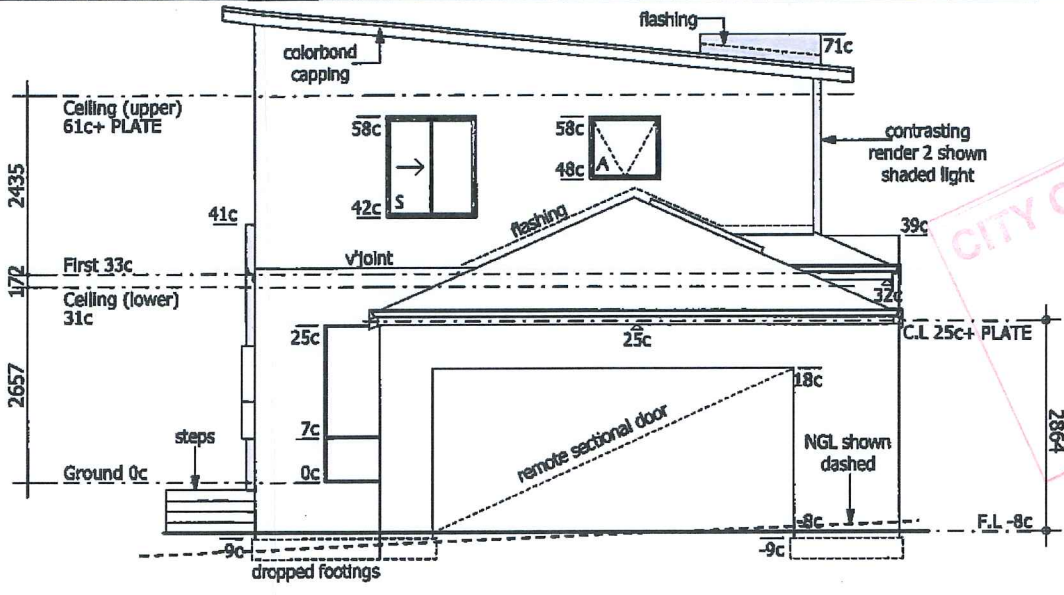
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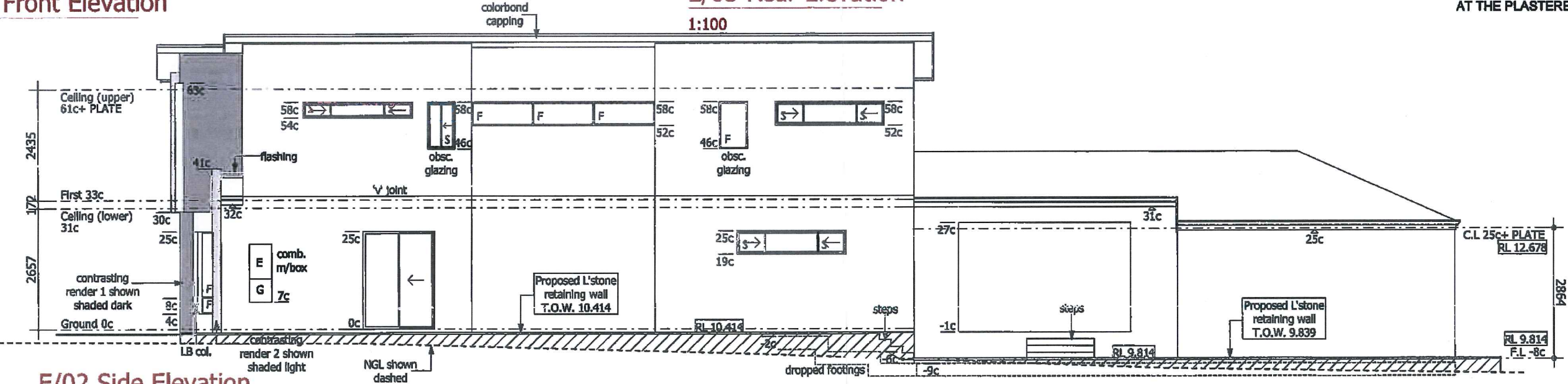
**E/01 Front Elevation**

1:100



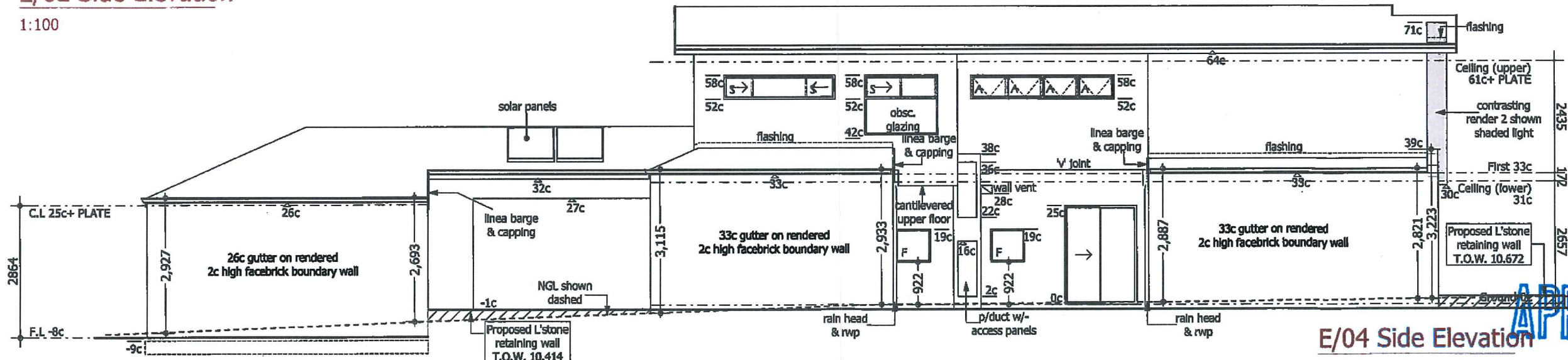
**E/03 Rear Elevation**

1:100



**E/02 Side Elevation**

1:100



**E/04 Side Elevation**

1:100

**CONSTRUCTION NOTES**

23°45' REAR GROUND FLOOR ROOF PITCH  
 10°12' STUDY ROOF PITCH  
 12°25' GUEST ROOF PITCH  
 5°43' UPPER FLOOR ROOF PITCH  
 COLORBOND ROOF

30c/31c GROUND FLOOR TO CEILING  
 28c + PLATE UPPER FLOOR TO CEILING

ROOF FRAME TO COMPLY WITH A.S. 1684

RENDERED BRICKWORK EXTERNALLY

N1 WIND REGION

**CLIENT NOTE**  
 LOCATION OF 'V' JOINTS ARE APPROXIMATE ONLY AND ARE TO BE POSITIONED AT THE PLASTERERS DISCRETION.

CITY OF NEDLANDS  
 18 FEB 2014  
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APPROVED



PROPOSED RESIDENCE TO BE ERRECTED ON:  
**Lot 253 (#17) Lonergan Street Nedlands**  
 FOR:  
**Mr. J Medina Salazar & Miss Sankarsingh Morillo**

SIGNATURES:  
 OWNER: \_\_\_\_\_  
 OWNER: \_\_\_\_\_  
 BUILDER: \_\_\_\_\_  
 DATE: \_\_\_\_\_

Saba		
AMENDMENTS:		
18/11/13	Bojan	Engineers
11/12/13	Bojan	PCV 1/10/13
23/01/14	Bojan	PCV 13/01/14

SHEET: 4	OF 14
DRN: Bojan	
DATE: 15/10/13	
DSN: 33824_PL_Bojan	
SCALE: 1:100	
CONTRACT NO:	
33824	

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- Internal Bar Storage Area (underneath bench)

- 1.8m high brick rendered fence (to match dwelling)
- 1.2m high brick rendered fence with vertical railings on top (1.8m high)

**Preliminary Plan Only**  
 - The current design is subject to a 6 star energy rating assessment  
 - Design layout for air-conditioning is preliminary only. Subject to change upon review of qualified airconditioning consultant

25°38' REAR GROUND FLOOR ROOF PITCH  
 5°43' UPPER FLOOR ROOF PITCH  
 COLORBOND ROOF

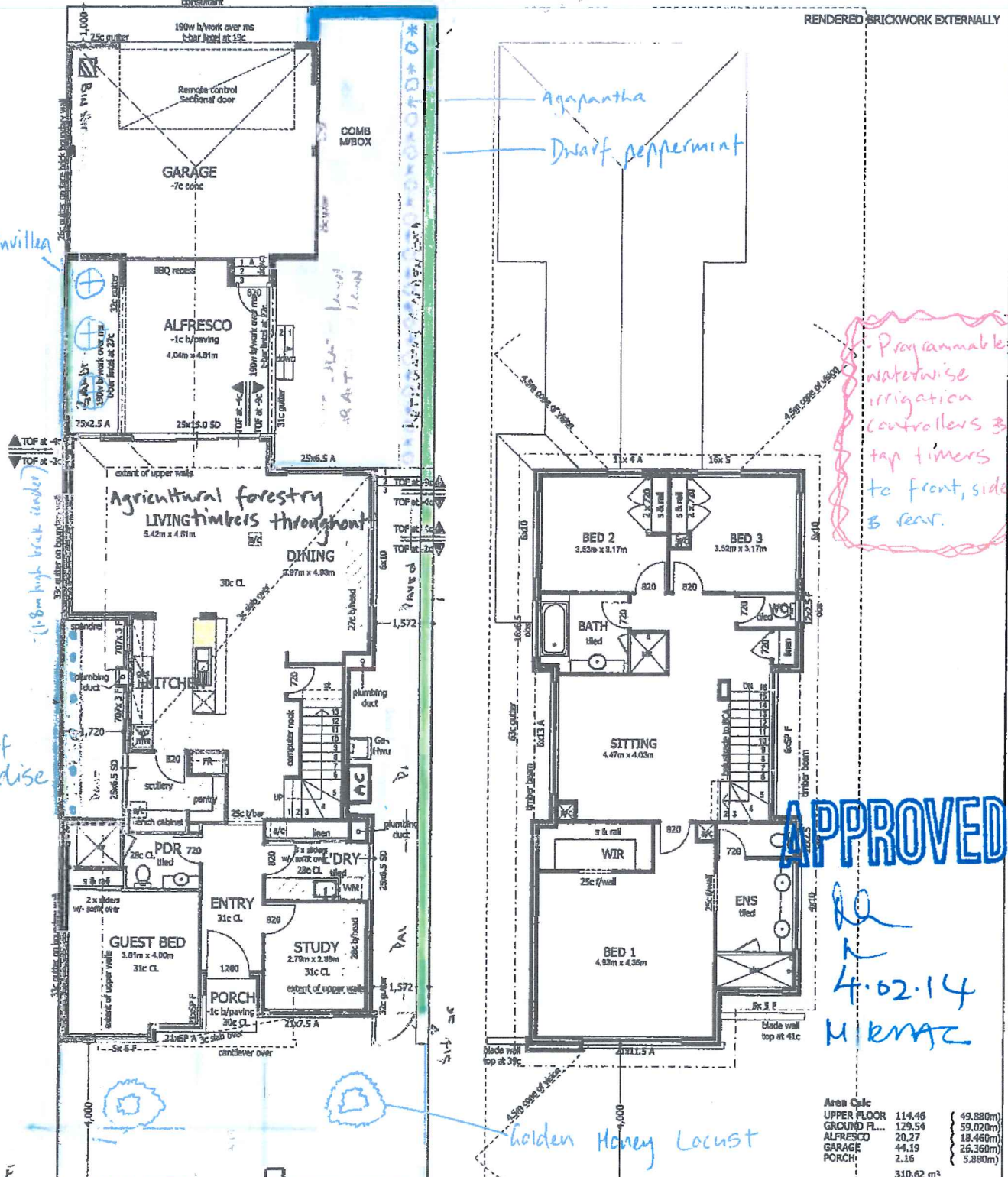
30c/31c GROUND FLOOR TO CEILING  
 28c + PLATE UPPER FLOOR TO CEILING

ROOF FRAME TO COMPLY WITH A.S. 1684

RENDERED BRICKWORK EXTERNALLY

CITY OF NEDLANDS  
 18 FEB 2014  
 RECEIVED

Longinville  
 Bid of Paradise



Agapantha  
 Dwarf Peppermint

Programmable waterwise irrigation controllers 3 tap timers to front, side & rear.

APPROVED

4.02.14  
 M. K. M. A. Z.

Golden Honey Locust

Area	Calc	Total
UPPER FLOOR	114.46	(49.880m)
GROUND FL...	129.54	(59.020m)
ALFRESCO	20.27	(18.460m)
GARAGE	44.19	(26.360m)
PORCH	2.16	(5.880m)
<b>TOTAL</b>	<b>310.62</b>	<b>m<sup>2</sup></b>

PAZO Form.



life | style | choice







# CONSTRUCTION NOTES

23°45' REAR GROUND FLOOR ROOF PITCH  
 10°12' STUDY ROOF PITCH  
 12°25' GUEST ROOF PITCH  
 5°43' UPPER FLOOR ROOF PITCH  
 COLORBOND ROOF

30c/31c GROUND FLOOR TO CEILING  
 28c + PLATE UPPER FLOOR TO CEILING

ROOF FRAME TO COMPLY WITH A.S. 1684

RENDERED BRICKWORK EXTERNALLY

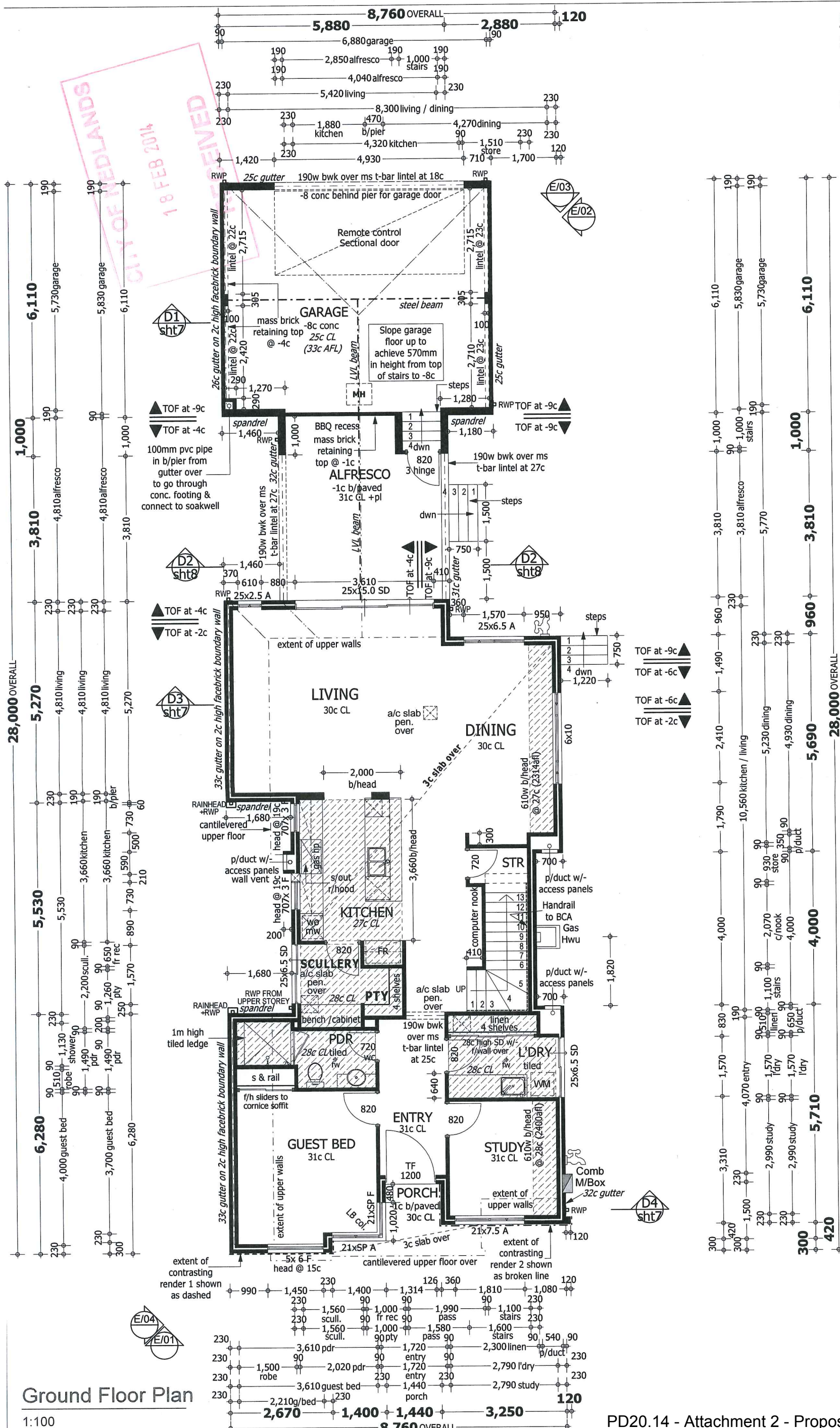
N1 WIND REGION

## GENERAL NOTES

(refer to cover page)

- DO NOT scale from drawings.
- Dimensions to take strict preference only.

Area Calc	
UPPER FLOOR	114.46 ( 49.880m)
GROUND FL...	128.74 ( 59.000m)
ALFRESCO	19.88
GARAGE	44.52
PORCH	2.16
<b>Total</b>	<b>309.76 m<sup>2</sup></b>



Ground Floor Plan  
 1:100

PD20.14 - Attachment 2 - Proposal Plans



PROPOSED RESIDENCE TO BE ERRECTED ON:  
**Lot 253 (#17) Lonergan Street Nedlands**  
 FOR:  
**Mr. J Medina Salazar & Miss C. Morillo**

SIGNATURES:  
 OWNER: \_\_\_\_\_  
 OWNER: \_\_\_\_\_  
 BUILDER: \_\_\_\_\_  
 DATE: \_\_\_\_\_

Saba		
AMENDMENTS:		
X	X	X

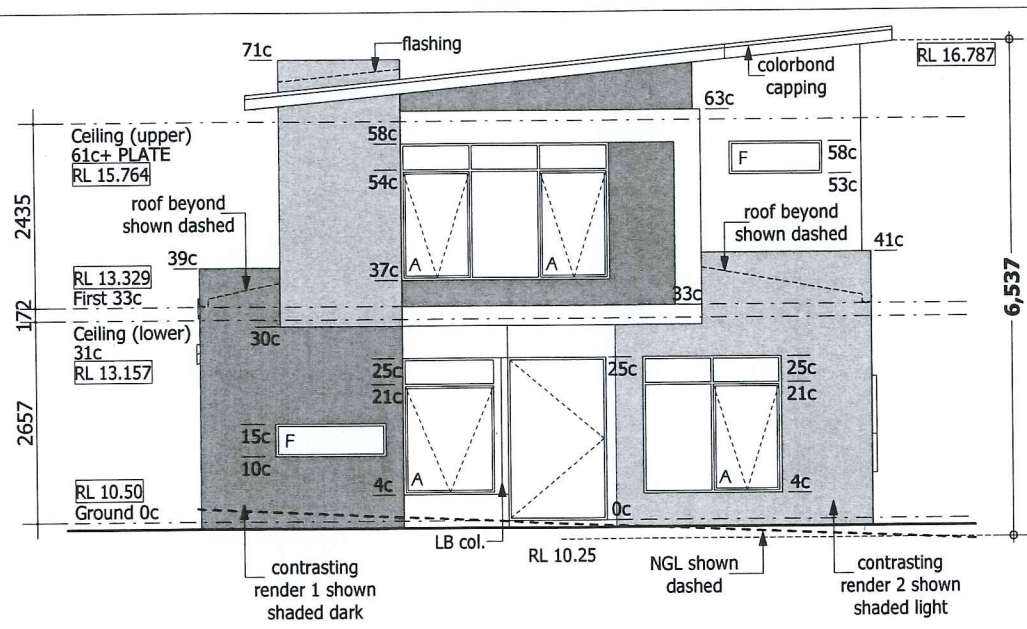
SHEET: 2 OF 14  
 DRN: Bojan  
 DATE: 15/10/13  
 DSN: 33824\_PL\_Bojan  
 SCALE: 1:100, 1:1  
 CONTRACT NO:  
**33824**

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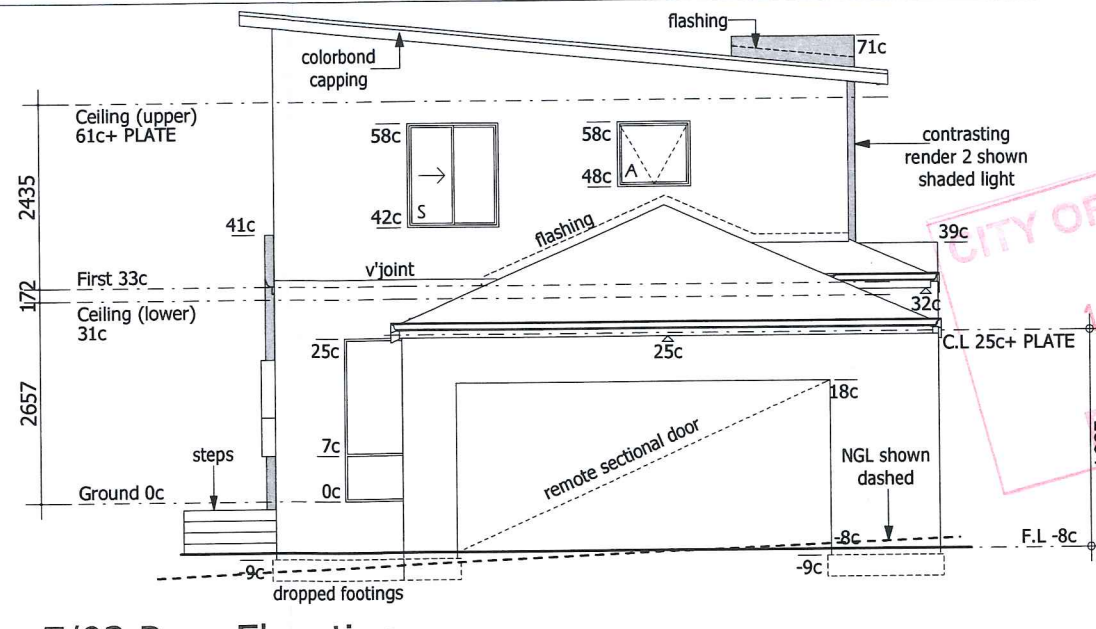






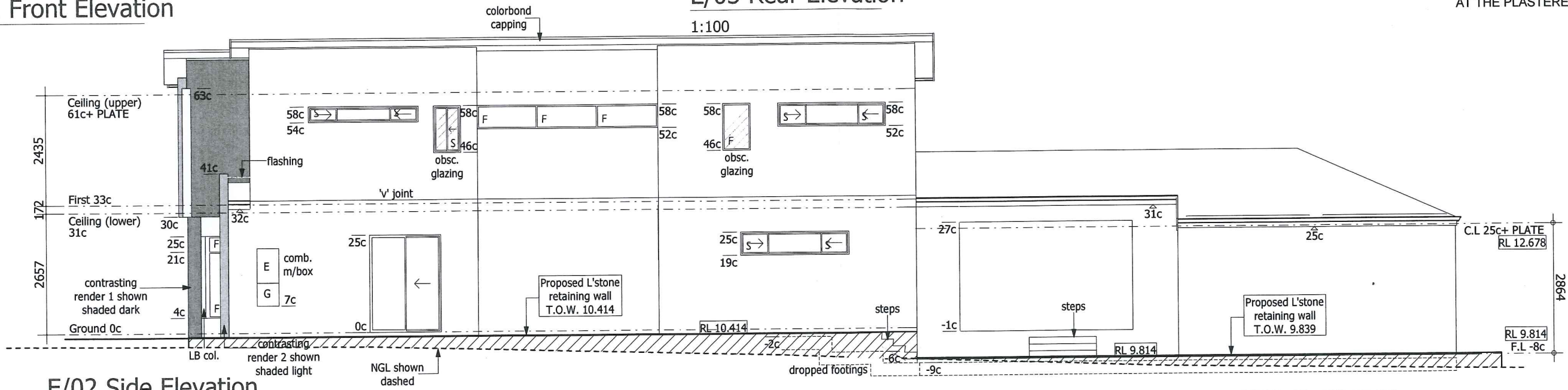
E/01 Front Elevation

1:100



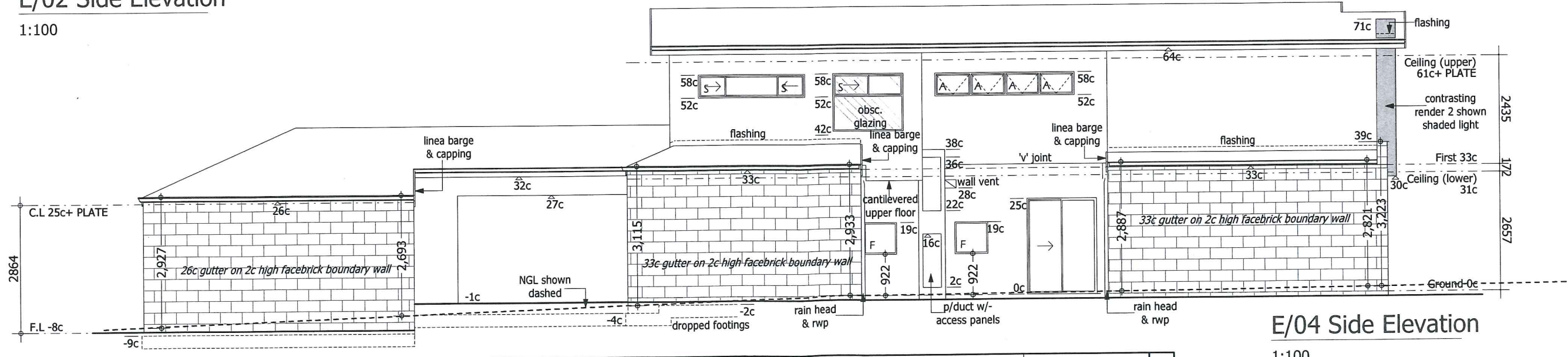
E/03 Rear Elevation

1:100



E/02 Side Elevation

1:100



E/04 Side Elevation

1:100

**CONSTRUCTION NOTES**

23°45' REAR GROUND FLOOR ROOF PITCH  
 10°12' STUDY ROOF PITCH  
 12°25' GUEST ROOF PITCH  
 5°43' UPPER FLOOR ROOF PITCH  
 COLORBOND ROOF

30c/31c GROUND FLOOR TO CEILING  
 28c + PLATE UPPER FLOOR TO CEILING

ROOF FRAME TO COMPLY WITH A.S. 1684

RENDERED BRICKWORK EXTERNALLY

N1 WIND REGION

**CLIENT NOTE**  
 LOCATION OF 'V' JOINTS ARE APPROXIMATE ONLY AND ARE TO BE POSITIONED AT THE PLASTERERS DISCRETION.



PROPOSED RESIDENCE TO BE ERRECTED ON:  
**Lot 253 (#17) Lonergan Street Nedlands**  
 FOR:  
**Mr. J Medina Salazar & Miss C. Morillo**


SIGNATURES:  
 OWNER: \_\_\_\_\_  
 OWNER: \_\_\_\_\_  
 BUILDER: \_\_\_\_\_  
 DATE: \_\_\_\_\_

Saba		
AMENDMENTS:		
X	X	X

SHEET:4 OF 14  
 DRN: Bojan  
 DATE: 15/10/13  
 DSN: 33824\_PL\_Bojan  
 SCALE: 1:100  
 CONTRACT NO:  
**33824**

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<b>PD21.14</b>	<b>No. 47 (Lot 468) Meriwa Street, Nedlands - Retrospective Air-Conditioner &amp; Proposed Screen and Front Fence to a Single House</b>
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<b>Committee</b>	10 June 2014
<b>Council</b>	24 June 2014
<b>Applicant</b>	S Tan
<b>Landowner</b>	S & R Tan
<b>Officer</b>	Matt Stuart – Senior Statutory Planning Officer
<b>Director</b>	Peter Mickleson – Director Planning & Development Services
<b>Director Signature</b>	
<b>File Reference</b>	ME4/47 : DA13/508
<b>Previous Item</b>	Nil

## 1.0 Executive Summary

This application is for the retrospective installation of an air-conditioner with a proposed screen enclosure, and a proposed front fence (north side) to a dwelling in Nedlands, with variations to the planning requirements.

It has been referred to Council for determination as officers do not have delegation to determine an application where specific objections have been received.

The development satisfies all relevant deemed-to-comply requirements and design principles of the R-Codes. As a result the application is recommended for approval.

## 1.1 Recommendation to Committee

**Council approves an application for retrospective air-conditioner and proposed screen enclosure and front fence to a single house at No. 47 (Lot 468) Meriwa Street, Nedlands, in accordance with the application and amended plans received on 14 May 2014, with the following conditions:**

1. The development shall at all times comply with the approved plans.

**Advice Notes specific to this proposal:**

1. The development is required to comply at all times with the *Environmental Protection (Noise) Regulations 1997*.



2. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two year period, the approval shall lapse and be of no further effect.

## 1.2 Strategic Plan

KFA: Natural and Built Environment

## 2.0 Background

<b>Property address</b>		No. 47 (Lot 468) Meriwa Street, Nedlands
<b>Lot area</b>		508m <sup>2</sup>
<b>Zoning / Reserve</b>	<b>MRS</b>	Urban
	<b>TPS2</b>	Residential at R25 density

The subject site has frontages to Meriwa Street to the east, Park Road to the south, and Laxum Lane to the west. In addition, it is located adjacent to a dwelling to the north, as seen in the location plans below.



Figure 1 - Location Plan



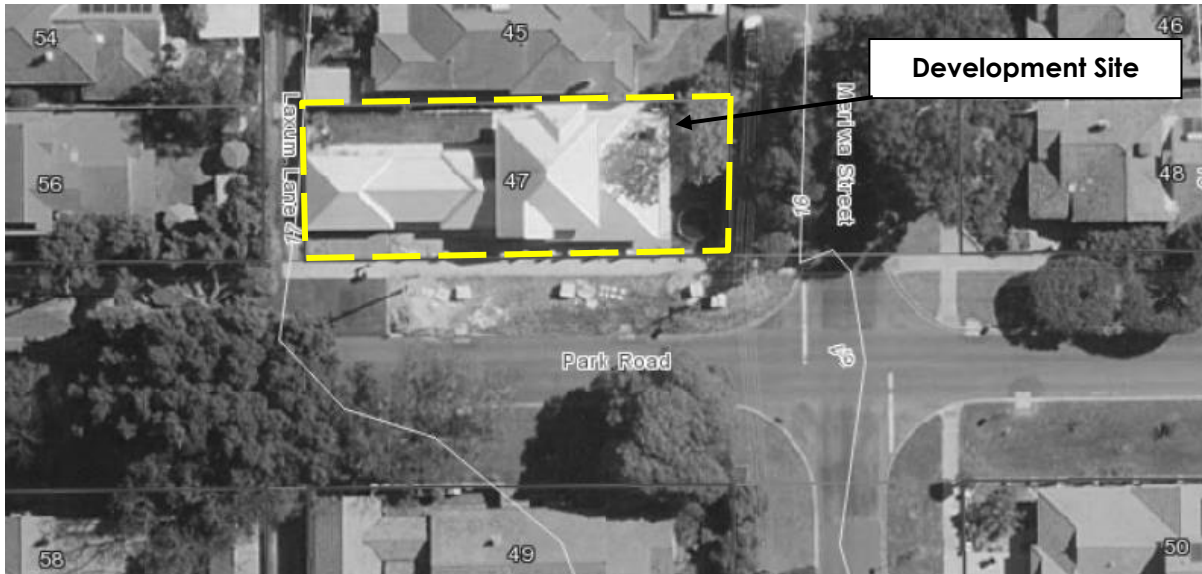


Figure 2 – Detailed Location Plan

In mid-2013, the City approved a front fence at the site, on the eastern and southern boundaries, but not the northern boundary.

In late-2013, the City received a complaint regarding an air-conditioner at the site, which resulted in this application being lodged, which involves an air-conditioner screen and a front fence on the northern boundary.

The existing development on the site is a single house with a front fence (but not on the north side). Photographs depict the development onsite, and the relationship with the surrounding built environment (**Attachment 2**).

## 2.2 Legislation / Policy

- City of Nedlands Town Planning Scheme No. 2 (TPS2 or Scheme)
- Residential Design Codes of WA 2013 (R-Codes)
- Council Policy – Neighbour Consultation

## 3.0 Consultation Process

### 3.1 What consultation process was undertaken?

Required by legislation (Scheme / R-Codes): Yes  No

Required by City of Nedlands policy (Neighbour Consultation): Yes  No

### 3.2 How and when was the community consulted?

Community consultation period:	26 November – 10 December 2013
Five letters sent, one objection received, with the results found in the Submissions section.	

## 4.0 Budget / Financial Implications

The application is for works constructed, and to be constructed, on a private lot, and therefore has no budget or financial implications for the City.

## 5.0 Risk Management

Not applicable.

## 6.0 Discussion

### 6.1 Planning Assessment

This application involves the retrospective installation of an air-conditioner and construction of a screen enclosure and front fence (on the north side only) to a dwelling on the subject site, as depicted in the submitted plans (**Attachment 1**).

The front fence and screen enclosure complies with the deemed-to-comply provisions of the R-Codes, however the air-conditioner does not comply with the deemed-to-comply provisions and as a result is required to be considered under the design principles.

#### 6.1.1 Air-conditioner visible from the street

Air-conditioners are defined as ‘external fixtures’ under the R-Codes. Clause 5.4.4 C4.3 states that external fixtures are deemed-to-comply if they are:

- i. not visible from the primary street;*
- ii. are designed to integrate with the building; or*
- iii. are located so as not to be visually obtrusive”*

In this case, the air-conditioner is visible from the primary street and therefore the air-conditioner is required to be considered against the following design principles:

Design principle P4.1 requires the following:

*‘...external fixtures integrated into the design of the building to not be visually obtrusive when viewed from the street and to protect the visual amenity of surrounding properties.’*

In assessing the design principles, the following considerations have been made:

- The air-conditioner will be screened by a shroud and a front fence, and therefore is not visually obtrusive when viewed from the street;
- The timber shroud is integrated into the design of the dwelling by using the same materials as the deck;
- The visual amenity of the surrounding properties will not be affected due to screening from the shroud and partially solid fence.

For these reasons, it is considered that the proposal complies with the design principles, and therefore is supported by the City.

### 6.1.3 Preservation of amenity

TPS2 clause 5.5.1 (Preservation of Amenity) states (emphasis added):

*‘Without limiting the generality of Clause 6.5 the Council may refuse to approve any development if in its opinion the development would adversely affect the amenity of the surrounding area having regard to the likely effect on the locality in terms of the **external appearance of the development, traffic congestion and hazard, noise** or any other factor inconsistent with the use for which the lot is zoned.’*

With regard to noise and associated external appearance, objections were received from a neighbour. In response, the City’s Environmental Health team visited the site and noise measurements were taken. The analysis of these results determined that the noise generated from the air-conditioner at the subject site does not currently substantially comply with the assigned levels stipulated in the Environmental Protection (Noise) Regulations 1997.

The applicant was provided with the results of these measurements, and given advice on potential solutions. It is understood that the applicant has investigated the majority of recommendations, which includes:

- An equipment check;
- Gaining advice from an acoustic engineer;
- Installing a dividing fence; and
- Installing of a shroud.

After installing the shroud and dividing fence proposed in this application (which require development approval before they can be installed), the City’s Environmental Health Officers will re-measure the noise, and if required will provide further advice to bring the unit into compliance with the Environmental Noise regulations. Often, several strategies and re-measurements are necessary in order to achieve compliance.

The planning approval is a separate consideration and if granted approval, the applicant can only continue to operate the air-conditioner if it is brought into compliance with the Environmental Noise Regulations. If for some reason the noise regulations are not met in the future, the air-conditioner will be required to cease being used.

With regard to the other points in Clause 5.5.1, it is considered that the external appearance of the proposal is contemporary in nature; and traffic congestion is irrelevant.

Accordingly, the proposal is supported by the City, subject to the recommended conditions.

### 6.1.4 Consideration of applications

TPS2 clause 6.4.1 (Consideration of Applications) states:

*‘In considering any application for planning approval the Council may have regard to the appropriateness of the proposed use and its effect on the Scheme area, and in particular the provisions of this Scheme or any By-laws in force in the district and the relationship of these to the proposed development or use.’*

In response, the land use (a Single House) has already been approved, and is not proposed to be changed. Accordingly, the application of the proposed use is supported by the City.

### 6.1.5 Orderly & proper planning

TPS2 clause 6.5.1 (Determination by Council) states:

*‘The Council may determine an application by granting approval, refusing approval or granting approval subject to such conditions as it thinks fit, having regard to the orderly and proper planning of the area.’*

In response, the proposal complies with Scheme provisions, with a discretionary variation which have been justified (see above). Accordingly, the proposal represents orderly and proper planning, and is supported by the City, subject to the recommended conditions.

## 6.2 Submissions

Summary of comments received	Officer’s technical comment
<p><b>Issue: fence height</b> The fence should not be higher than 1.2m.</p>	<p><b>Noted</b> Meets deemed-to-comply provisions of R-Codes</p>
<p><b>Issue: noise of the air-conditioner</b> It fails the recommendations of State agencies:</p> <ul style="list-style-type: none"> <li>• The machine be closer to the developer’s dwelling than the neighbours;</li> <li>• Noise levels below 35dB from 10pm-8am and</li> <li>• Air-conditioners get noisier with age.</li> </ul>	<p><b>Noted</b> See Planning Assessment section.</p>
<p><b>Issue: general comments on the air-conditioner</b> The air-conditioner does not comply with the deemed-to-comply standard.  New houses should have the air-conditioners behind the front setback line.</p>	<p><b>Noted</b> See Planning Assessment section</p>

<p>Cannot find any properties in the City with an air-conditioners in the front setback. One dwelling was found, but the air-conditioner unit was only 1/8<sup>th</sup> the size.</p>	
<p>Note: A full copy of all relevant consultation feedback received by the City has been given to the Councillors prior to the Council meeting.</p>	

### **6.3 Conclusion**

This application involves a variation to the R-Codes in relation to the visibility of the air-conditioner from the primary street setback.

Given that the screen enclosure and side fence will reduce the visual intrusion and effectively screen the air-conditioner from the primary street and from the neighbouring owners, it is considered that the proposal will meet the design principles of the R-Codes.

The noise issue is controlled by separate health legislation, which is independent of the planning legislation. The noise of the air-conditioner will need to ensure compliance with the Environmental Noise regulations or cease operating.

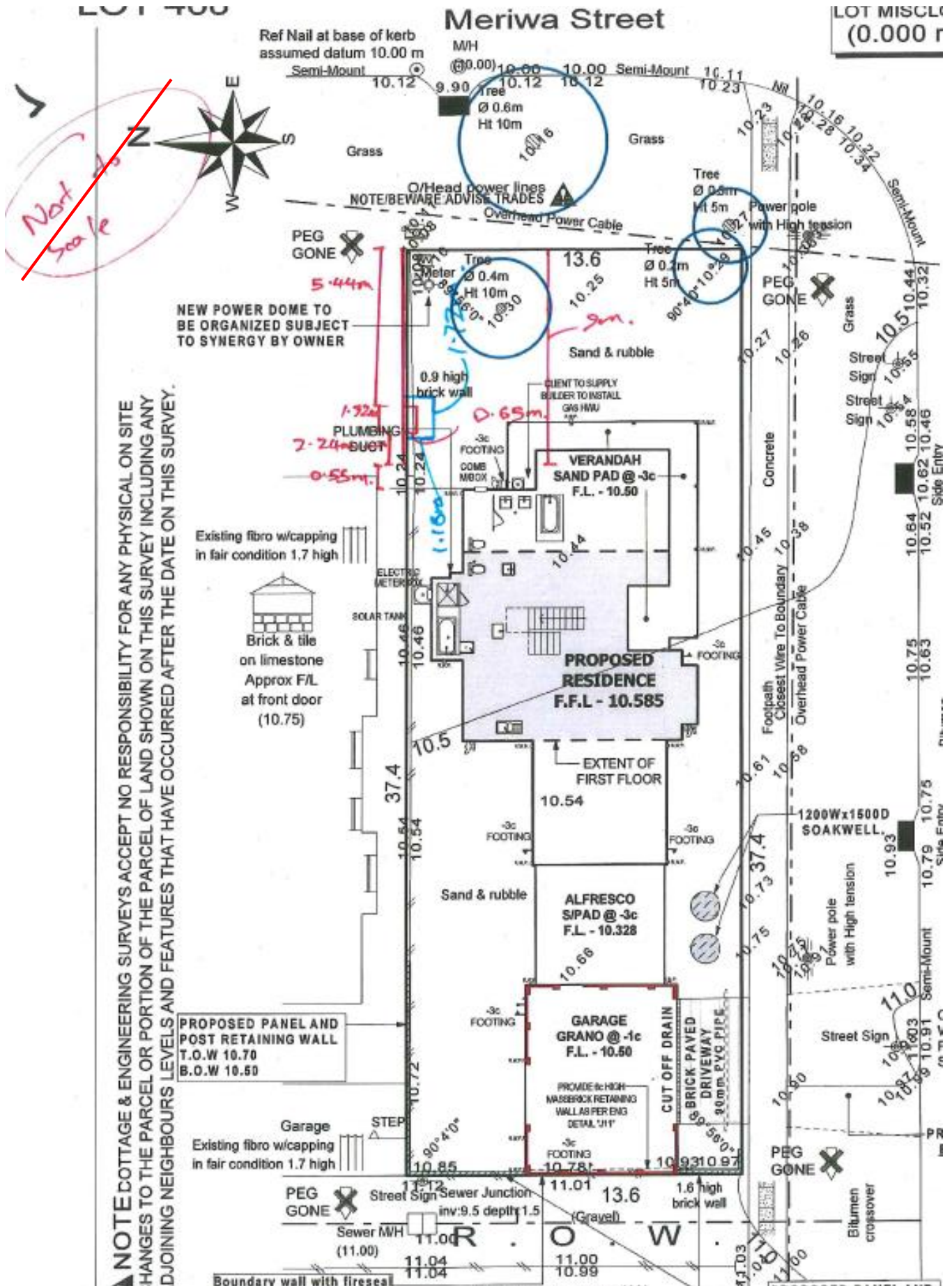
Accordingly, the application is recommended to the Council for approval with conditions.

### **7.0 Attachments**

1. Plans (site, floors, elevations & perspective)
2. Photographs of the site & surrounds



No. 47 Meriwa St, Nedlands



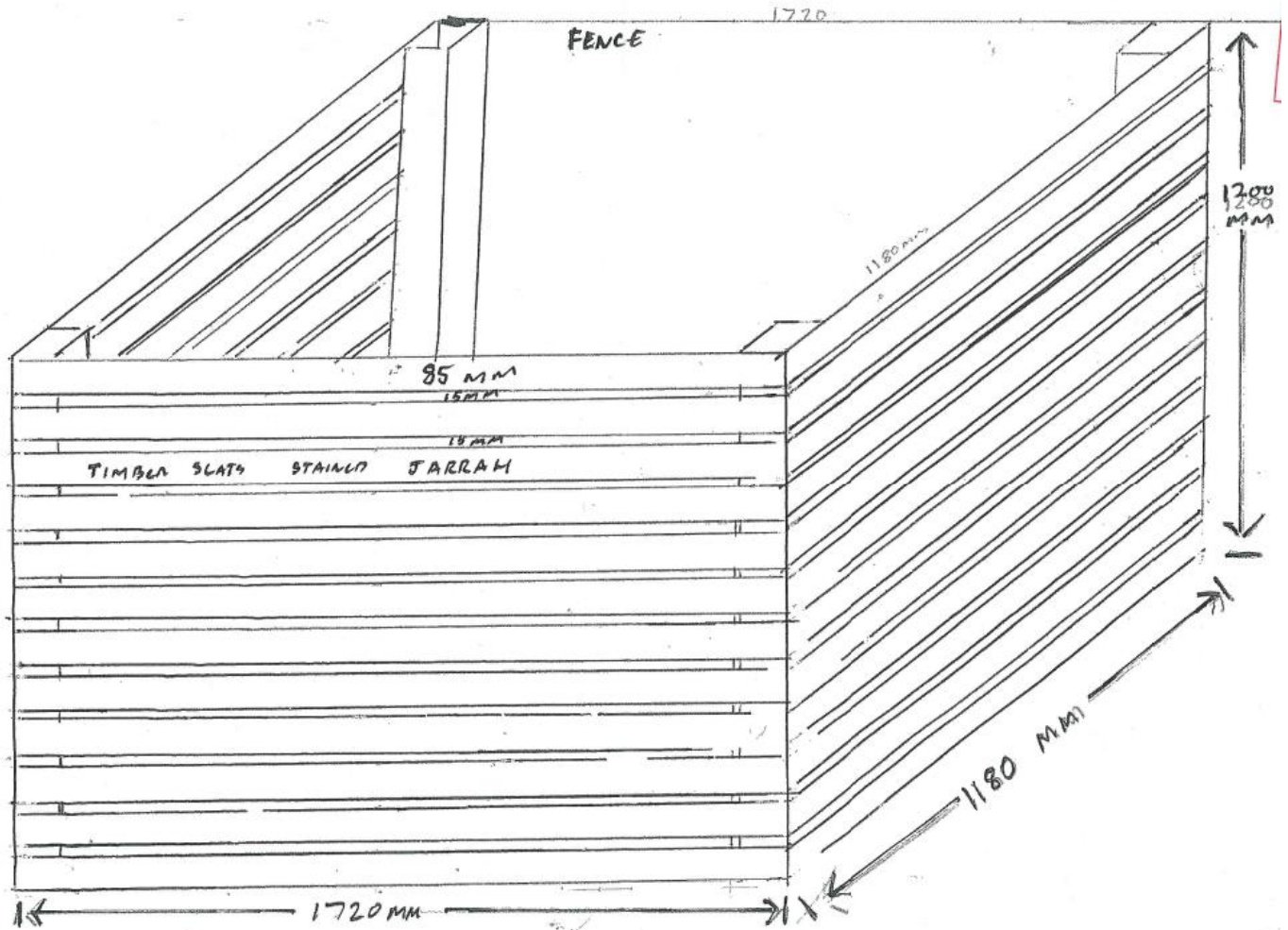
PD21.14 - Attachment 1 - Plans (site, floors, elevations & perspective)







No. 47 Meriwa St, Nedlands





No. 47 Meriwa St, Nedlands



Site – Front (East)



Site – Second Frontage (South)



No. 47 Meriwa St, Nedlands



Site – Decking & Air-Con



View to Side (North) – Mixed Solid & Permeable Fencing



No. 47 Meriwa St, Nedlands



Opposite Neighbour (East) – Solid Fencing



Examples in the Street – Solid Fencing

<b>PD22.14</b>	<b>Tresillian Artist Studio Leases – Extension to term</b>
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<b>Committee</b>	June 10 2014
<b>Council</b>	June 24 2014
<b>Applicant</b>	City of Nedlands
<b>Owner</b>	City of Nedlands
<b>Officer</b>	Rebecca Boley – Property Management Officer
<b>Director</b>	Peter Mickleson – Planning & Development
<b>Director Signature</b>	
<b>File Reference</b>	Tresillian Leases – Sharepoint – Contracts & Property – Leased Building Cases – Tresillian
<b>Previous Item</b>	Nil

## 1.0 Executive Summary

This report is presented to Council in the matter of a future term beyond the imminent expiration of three artist studio leases at the Tresillian Community Centre, Tyrell Street, Nedlands. The proposed term of extension is until 30 June 2015. Process to formalise these leases will be in accordance with relevant local government legislation.

### 1.1 Recommendation to Committee

#### Council

1. Agrees that the 2014/15 rental amount for the Garage and Courtyard studios at the Tresillian Community Centre be the rental amounts in 2013/14 financial year adjusted by CPI to reflect market fluctuations;
2. Delegates to the CEO the authority to consider and respond to any submissions which arise from the public advertisement of the proposed extension to lease term for the Garage and Courtyard Studios;
3. Agrees to extend the term of lease with the current lessees of the Garage and Courtyard Studios, Tresillian Community Centre, until 30 June 2015, subject to satisfaction of the CEO of the public advertisement process noted above; and
4. Agrees to lease the Green Studio – Tresillian Community Centre to Holistic Education Services Pty Ltd, a charitable entity, until 30 June 2015 on the City's standard terms of lease of a Tresillian artist studio at

**the rental amount equivalent to the current lease rental in 2013/14 financial year adjusted by CPI.**

## **1.2 Strategic Community Plan**

KFA: Governance and Civic Leadership

This item now presented for Council consideration relates to the aforementioned Key Focus Area in the City's Strategic Community Plan in so far as the matter requires high quality decision making by Council as to appropriate terms of a user agreement with a third party in exclusive use of City freehold property. The report further considers aspects of the agreement to ensure appropriate and strategic management of City property including associated financial considerations.

KFA: Community Development

The item also requires consideration from a community development perspective in that the leased premises are a City owned and operated community centre with a cultural and arts focus and the appropriate use of these premises must be determined in accordance with the desired outcomes for our community.

## **2.0 Background**

The Tresillian Community Centre is a community arts and cultural centre owned and operated by the City of Nedlands. The Centre is located at 21 Tyrell St, Nedlands. The Centre provides recreational courses and activities. Course topics include art, craft, health and fitness, language, needlework, school holiday programs and more.

The Tresillian Community Centre includes eight artist studios leased to individuals and not for profit organisations for the purpose of an arts practice. The leases are recorded by a Deed of Lease drafted in accordance with the City's standard Deed of Lease for Tresillian Artist Studios. In 2013 seven of the artist studios underwent an Expression of Interest process in order to lease the studios. Four of the leases carried a term of 2 years and the other three a term of 1 year. The leases were agreed under a delegated authority previously assigned to the CEO on condition of compliance with S 3.58(3) and (4) of the Local Government Act 1995. In 2013 upon a major review of the City's delegated authority manual, this particular delegated authority was not continued.

The three studio leases with a 1 year term are now about to expire with the Green and Garage Studios expiring on 30 June 2014 and the Courtyard studio expiring on 30 September 2014. Market rentals for the 2013 Expression of Interest process were determined upon consultation with Burgess Rawson Licensed Valuers.

Details of the relevant studios and the lessee's arts practice is as follows:

- Courtyard Studio with floor area of 12.9m<sup>2</sup> was leased in 2013/14 financial year for \$169 per month and lessee is engaged in a contemporary realist arts practice (including landscape paintings). Rental for 2014/15 year will be \$175 per month.

- Green Studio with floor area of 26.31m<sup>2</sup> was leased in 2013/14 financial year for \$345 per month and lessees are holistic therapists using artistic mediums including clay, watercolour and pastels. Rental for 2014/15 year will be \$356 per month.
- Garage Studio with a floor area of 25.66m<sup>2</sup> was leased in 2013/14 financial year for \$336 per month and lessee's arts practice involves ceramic sculpture. Rental for 2014/15 year will be \$347 per month.

## 2.0 Legislation / Policy

S 3.58(3) and S3.58(4) of the Local Government Act 1995 is the authority for the necessary process a local government must adhere to in agreeing a lease of local government premises. The relevant section of the provision is as follows:

- 1) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
  - a) it gives local public notice of the proposed disposition —
    - (i) describing the property concerned; and
    - (ii) giving details of the proposed disposition; and
    - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;

and
  - b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- 4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
  - a) the names of all other parties concerned; and
  - b) the consideration to be received by the local government for the disposition;

and

  - c) the market value of the disposition —
    - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
    - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.



Regulation 30 of the Local Government (Functions and General) Regulations 1996 contains a group of exemptions to the application of S 3.58 of the Act as noted above. This regulation includes the exemption where;

- b) the land is disposed of to a body, whether incorporated or not —
  - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
  - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;

### 3.0 Consultation Process

#### 3.1 What consultation process was undertaken?

The City has consulted with the lessees of each artist studio and all wish to continue in lease of the studio on the noted terms.

Required by legislation:                      Yes                       No   
 Required by City of Nedlands policy:      Yes                       No

#### Public Advertising – S3.58(3)(a)

Administration intend to advertise the leases for both the Garage and Courtyard studios as required by S 3.58(3)(a) of the Act upon Council's consideration of this item and the noted rental amount. The lease of the Green Studio to a not-for-profit entity is exempt from the requirements of s 3.58 of the Act pursuant to Reg. 30 of the Local Government (Functions And General) Regulations 1996.

### 4.0 Budget / Financial Implications

Within current approved budget:              Yes                       No   
 Requires further budget consideration:      Yes                       No

The financial implications of this proposal are within budget. The costs to the City in this matter are incurred in the public advertising component. This is within budgeted expenses. Financial revenues comes from CPI adjusted rental amounts which accord the terms of the City's standard lease for the Tresillian Artist Studios and reflect market fluctuations.

### 5.0 Risk management

Any risks associated with this proposal are incorporated in to the terms of lease of an artist studio at the Tresillian.

### 6.0 Discussion

#### Courtyard and Garage studios

These two studios are leased to private individuals and therefore any such lease is subject to the requirements of S3.58 of the Act. For these reasons Administration proposes a rental amount equivalent to a 2013 market rental determined on consultation with a valuer from Burgess Rawson and adjusted by CPI in 2014. An extended term until 30 June 2015 will enable continuity of current lessees and their valued contribution to the Centre. Both lessees have been ongoing contributors to the Centre through participation in the Centre's exhibition program. Both leases will be advertised to the public with invitation for public submission to ensure process is compliant with legislative requirements. It is anticipated that as with the CEO's previous delegated authority, any such submissions will be considered by the CEO and handled accordingly.

### **Green Studio**

The current lessees of the green studio two individuals being Patricia Sherwood and Brenda Gordon as joint tenants. Patricia Sherwood is one of the Directors of a not-for-profit entity with charitable purposes – Holistic Education Services Pty Ltd and the lessees wish for the future term of lease of the premises to be with this entity for the same purpose of continuing an arts practice composed of artistic therapy using various artistic medium. Such a lease is exempt from the requirements of Section 3.58 of the Act due to the lessee entity's charitable and 'not-for profit' nature. The proposed terms of lease are as per the City's standard lease for a Tresillian Artist Studio. The rental for the future term will be the current rental in 2013/14 adjusted by CPI to account for market forces since last review.

## **6.1 Conclusion**

The proposal regarding the three leases accords the process required by legislation and at the same time furthers the City's strategic plan for "Great Communities" by fostering the Tresillian Community Centre's promotion of arts and culture in the community.