

Public Briefing Forum

Minutes for 13 March 2018

UNCONFIRMED



**city of
kalamunda**

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1. Official Opening

The Presiding Member opened the meeting at 6:32pm and welcomed Councillors, Staff and Members of the Public Gallery.

2. Attendance, Apologies and Leave of Absence

Councillors

South East Ward

John Giardina (Mayor)

Michael Fernie

Geoff Stallard

South West Ward

Lesley Boyd

Allan Morton

Brooke O'Donnell

North West Ward

David Almond

Sara Lohmeyer

Dylan O'Connor

North Ward

Cameron Blair

Margaret Thomas (Presiding Member)

Members of Staff

Chief Executive Officer

Rhonda Hardy

Executive Team

Gary Ticehurst - Director Corporate & Community Services

Dennis Blair - Director Asset Services

Virginia Miltrup - Acting Director Development Services

Management Team

Darren Jones - Manager Community Development

Andrew Fowler-Tutt - Manager Approval Services

Nicole O'Neill - Manager- Customer & Public Relations

Administration Support

Kristy Lisle - Executive Research Officer Governance & Legal

Donna McPherson - Executive Research Officer to Chief Executive Officer

Ashlin Gardner - Communications Advisor

Adam Parker - Service Desk Analyst

Members of the Public

5

Members of the Press

Nil.

Apologies

Nil.

Leave of Absence Previously Approved

Cr Tracy Destree

3. Declarations of Interest

3.1. Disclosure of Financial and Proximity Interests

- a. Members must disclose the nature of their interest in matter to be discussed at the meeting. (Section 5.56 of the *Local Government Act 1995*.)
- b. Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Section 5.70 of the *Local Government Act 1995*.)

Cr Michael Fernie declared an Indirect Financial Interest on Item 10.4.2 Lesmurdie Library - Outcome of Public Comment as his partner is an employee of the Lesmurdie Senior High School Administration Centre.

3.2. Disclosure of Interest Affecting Impartiality

- a. Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the member or employee had given or will give advice.

Cr Cameron Blair declared an Interest Affecting Impartiality on Item 10.4.3 Execution of Documents as he is a family friend of General Counsel.

4. Announcements by the Member Presiding Without Discussion

Nil.

5. Public Question Time

Public question time will be allocated a maximum of 10 minutes and will be limited to two (2) minutes per member of the public, with a limit of two (2) verbal questions per member of the public.

Statements are not to precede the asking of a question during public question time. Statements should be made during public submissions.

For the purposes of Minuting, these questions and answers will be summarised.

Mr Paul Fantuz of Merrivale Road, Pickering Brook - Item 10.1.1 Proposed Road Closure and Road Dedication - Lot 830 (No 221 Merrivale Road Pickering Brook.

Q1. Will a flora and fauna survey be required given that no road construction will be undertaken?

A1. The Director Asset Services advised that the flora and fauna survey is only required if there is a requirement in the future to construct the section of road that runs along the side of the property.

Q2. I would like to request that the applicants be provided with an itemised estimate of the costs associated with the proposed road closure and dedication.

A2. The Director Asset Services advised that estimated costs will be provided prior to the March Ordinary Council Meeting.

6. Public Statement Time

A period of maximum 10 minutes is provided to allow public statements from the gallery on matters relating to a matter contained on the agenda or the functions of Council. Public Statement Time will be limited to two (2) minutes per member of the public.

Public Statement Time is declared closed following the 10 minute allocated time period, or earlier if there are no further statements.

For the purposes of Minuting, these statements will be summarised.

Nil.

7. Public Submissions Received in Writing

Nil.

8. Petitions Received

Nil.

9. Confidential Items Announced But Not Discussed

10. Reports to Council

10.1. Corporate Services Reports

10.1.1. Proposed Road Closure and Road Dedication – Lot 830 (No. 221) Merrivale Road, Pickering Brook

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

The Director Corporate & Community Services provided a presentation on this item. Cr John Giardina sought clarification on the estimated time frame for the project. The Director Corporate & Community Services advised roughly 12-18 months due to a number of processes to go through with State Government agencies, native title issues and the matter needs to be presented to both houses of parliament.

Previous Items	OCM 258/2017
Directorate	Corporate Services
Business Unit	Economic, Land & Property Services
File Reference	MR-15/221
Applicant	Peter & Gillian Fantuz
Owner	State of Western Australia
Attachments	a) Letter from owners 11.04.2017 [10.1.1.1] b) Merrivale Road - Road Rationalisation Plan [10.1.1.2] c) Table C [10.1.1.3] d) Table D [10.1.1.4]

EXECUTIVE SUMMARY

1. The purpose of this report is to consider the provision of formal access to Lot 830 (No. 221) Merrivale Road, Pickering Brook (Lot 830).
2. It is proposed that formal access be provided to Lot 830 by realigning Merrivale Road. To realign Merrivale Road, it is necessary to excise a portion of land from Reserve 47881 and dedicate it as a road, and to permanently close the redundant (unconstructed) portion of Merrivale Road road reserve.
3. It is recommended that Council support the initiation of the advertising and consultation process for the proposed road closure and road dedication.

BACKGROUND

4. At its Ordinary Council Meeting on 19 December 2017, Council resolved as follows (OCM 258/2017):

That Council:

- a) *Requests the Chief Executive Officer to bring a report to Council in March 2018 that considers providing formal access to Lot 830 Merrivale Road.*

DETAILS

5. On 11 April 2017, Peter and Gillian Fantuz (Applicants) wrote to the City seeking formal access to their property at Lot 830, as their current method of access is by way of a gravel track running across Korung National Park. The Applicants' letter is attached to this Report as Attachment 10.1.1.1.
6. The Department of Lands (now the Department of Planning, Lands & Heritage) had previously been contacted by the Applicants and had identified the following two options:
 - Department of Lands grant a non-exclusive section 91 licence for access purposes (Option 1).
 - Excise a portion of land from Reserve 47881 and dedicate it as a road (Option 2).
7. Both options require the approval of the Conservation and Parks Commission and the City of Kalamunda.
8. The Applicants have advised that they are not satisfied with Option 1 due to the temporary nature of a licence. The Applicants have requested that the City support Option 2.
9. It is proposed that a portion of land be excised from Reserve 47881 and dedicated as a road, and that the redundant (unconstructed) portion of Merrivale Road road reserve be permanently closed.
10. Asset Services have drafted a Road Rationalisation Plan (Plan 4253-01-01/0) which delineates and marks the proposed road closure and road dedication areas. The Plan has been provided to the Applicants for comment and the Applicants have confirmed that the Plan is acceptable.
11. The Department of Planning, Lands & Heritage has also confirmed that the Plan is sufficient to inform the drafting of a Deposited Plan. Plan 4253-01-01/0 is attached to this Report as Attachment 10.1.1.2.

STATUTORY AND LEGAL CONSIDERATIONS

12. The proposed road closure and road dedication must proceed in accordance with s. 56 and s. 58 of the *Land Administration Act 1997* (WA).
13. Section 56 of the *Land Administration Act* relates to the dedication of land as road. Section 56(1)-(2) states as follows:
 - (1) *If in the district of a local government —*
 - (a) *land is reserved or acquired for use by the public, or is used by the public, as a road under the care, control and management of the local government; or*
 - (b) *in the case of land comprising a private road constructed and maintained to the satisfaction of the local government —*

- (i) *the holder of the freehold in that land applies to the local government, requesting it to do so; or*
- (ii) *those holders of the freehold in rateable land abutting the private road, the aggregate of the rateable value of whose land is greater than one half of the rateable value of all the rateable land abutting the private road, apply to the local government, requesting it to do so;*

or

- (c) *land comprises a private road of which the public has had uninterrupted use for a period of not less than 10 years,*

and that land is described in a plan of survey, sketch plan or document, the local government may request the Minister to dedicate that land as a road.

- (2) *If a local government resolves to make a request under subsection (1), it must —*
 - (a) *in accordance with the regulations prepare and deliver the request to the Minister; and*
 - (b) *provide the Minister with sufficient information in a plan of survey, sketch plan or document to describe the dimensions of the proposed road.*

14. Section 58 of the *Land Administration Act* relates to permanent road closures. Section 58(1)-(3) states as follows:

- (1) *When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.*
- (2) *When a local government resolves to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.*
- (3) *A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.*

15. The Department of Planning, Lands & Heritage's requirements for road closure and road dedication applications are set out in Table C and Table D, which are attached to this Report as Attachment 10.1.1.3 and Attachment 10.1.1.4.

POLICY CONSIDERATIONS

16. The City's Asset Management Policy (C-AS-01) states that "*As part of a continuous improvement process, the Shire of Kalamunda will continually monitor, audit and review its asset portfolio to ensure it is responsive to service delivery needs and meets the goals and targets set by Council.*"

17. A review of the portion of road reserve proposed to be closed indicates that it is surplus to the current and future requirements of the road network.
18. The portion of land proposed to be dedicated as road is required to provide access to Lot 830.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

19. The City's Asset Services directorate has reviewed the matter and supports the proposed road closure and road dedication. Asset Services notes the costs of formation of a road, if required, would need to be the responsibility of the land owner. The extent of any formation or construction work will need to be determined later.

External Referrals

Department of Biodiversity, Conservation and Attractions

20. The Department of Biodiversity, Conservation and Attractions (DBCA) referred the proposal to the Conservation and Parks Commission.
21. DBCA advised that the closure of the unconstructed road reserve and its addition to the adjacent Reserve 47881 together with the excision of the new road reserve from Reserve 47881, including all surveys, approvals and documentation must be carried out at no cost to the Commission.
22. A further condition of the Commission's support is that the City is requested to carry out a flora and fauna survey prior to the construction of the new road.
23. DBCA requested that it be advised once Council has approved the proposal. Once DBCA receives confirmation that Council has approved the proposal, the approval of the Hon. Minister for Environment will be sought by the Commission.

Department of Planning, Lands & Heritage

24. The Lands Division of the Department of Planning, Lands & Heritage (Lands) provided an overview of the requirements to progress the proposed realignment of Merrivale Road. The overview is set out below.
25. *City to provide a plan to inform Lands' survey instructions:*
 - Provide plan to identify the final extent of Merrivale Road to be surveyed.
 - Plan to be dimensioned and include firm estimates of areas of road to be closed and dedicated.
 - Lands' survey coordination team will prepare instructions to be used by the landowners and/or the City's nominated surveyor.
 - City to liaise with landowners regarding survey costs.

26. *Council resolution for section 56 road dedication and section 58 road closure, Land Administration Act 1997:*
- Council can resolve in the one resolution to undertake the s. 56 and s. 58 processes.
 - Section 56 road dedication requirements as per Table D.
 - Section 58 road closure requirements as per Table C.
27. *Deposited Plan:*
- Draft Deposited Plan depicting road closure and dedication actions as well as Reserve amendments (excision/addition).
 - Deposited Plan to also include a s. 24KA of the *Native Title Act 1993* notification, to suppress Native Title rights and interests for the road dedication (a public work under the NTA) (Lands to formally notify Native Title claimant group).
28. *Before Lands proceeds with submission to Parliament for Major A Class Reserve Amendment:*
- a) City to provide Council Resolution – s. 56/s. 58 LAA road dedication/closure requirements.
 - b) Draft Deposited Plan.
 - c) Minister for Environment's and Conservation and Parks Commission's (Branch of DBCA) consent to the proposal.
 - d) Department of Mines and Petroleum clearance (Lands to obtain).
 - e) Lands to undertake internal referral to Planning division.
29. *Major A Class Reserve Amendment to be undertaken by Lands:*
- Lands to provide briefing note to Lands Director General to advertise proposal.
 - Arrange for advertisement to be placed in newspaper.
 - Letters to local Member/s of Parliament.
 - Prepare submission to Minister including both Houses of Parliament.
 - Enter submissions to Parliament Register.
 - Check website for disallowances in both houses of Parliament (14 actual sitting days – spread over an undetermined period).
 - If no disallowances, final submission to Parliament Register/preparation of necessary documents to close/dedicate road and amend reserve and lodge at Landgate.
 - If disallowances passed by Parliament, seek to amend, renegotiate and resubmit proposal.
30. Once the above is complete, the proposal will be forwarded to Lands' Delivery Team to finalise the lodgement of documents.
31. Lands anticipates that this process will take between 12-18 months or longer. Due to the timeframe that this proposal will take to complete, the processes/procedures may be subject to change. For example, the South West Settlement Indigenous Land Use Agreement is currently being negotiated. Should this agreement be determined, then the Native Title interests over the subject land would be extinguished and the s. 24KA *Native Title Act* process will not be required and may reduce the overall timeframe.

FINANCIAL CONSIDERATIONS

32. It is proposed that the Applicants are responsible for all costs of the proposal, including, but not limited to, the cost of advertising, surveys, flora and fauna surveys, approvals, documentation preparation and lodgement, and officer time.
33. It is proposed that the Applicants are to meet all costs associated with the formation of a road reserve, if required, to meet the specification and satisfaction of the City.
34. It is reasonable that the Applicants be required to pay all costs of the proposal given that the proposal only serves to benefit their property, being Lot 830.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

35. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 3: Kalamunda Develops

Objective 3.1 - To plan for sustainable population growth.

Strategy 3.1.1 - Plan for diverse and sustainable housing, community facilities and industrial development to meet changing social and economic needs.

Priority 3: Kalamunda Develops

Objective 3.2 - To connect community to quality amenities.

Strategy 3.2.1 - Optimal management of all assets.

SUSTAINABILITY

Social Implications

36. The proposal will enable the Applicants to access their property at Lot 830 without traversing on National Park.
37. The proposal will not have social or lifestyle implications for other residents, as the road dedication only benefits the Applicants and the portion of road reserve proposed to be closed is unconstructed.

Economic Implications

38. The economic lives of residents will not be impacted by this decision.

Environmental Implications

39. A flora and fauna survey is required to determine the environmental impact of the proposal.

RISK MANAGEMENT CONSIDERATIONS

40.	Risk: The Applicants do not have the resources to fund the road closure and road dedication process.		
	Likelihood	Consequence	Rating
	Possible	Moderate	Medium
	Action/Strategy		
	The City's support for the proposed road closure and road dedication to be conditional on the Applicants paying all costs of and incidental to the proposal.		

OFFICER COMMENT

41. Section 58(3) of the *Land Administration Act* requires that a proposed road closure be advertised in a local paper for a minimum of 35 days.
42. The *Land Administration Act* does not prescribe the manner in which a proposed road dedication must be advertised. However, the Department of Planning, Land & Heritage's Table D provides that a local government must undertake a consultation process in respect of a road dedication.
43. It is recommended that Council support the initiation of the advertising and consultation process for the proposed road closure and road dedication.

Voting Requirements: Simple Majority**RECOMMENDATION**

That Council:

1. Approves the initiation of the advertising and consultation process for the proposed closure of the portion of Merrivale Road, Pickering Brook delineated and marked as "Proposed Road Reserve Closure" on Plan 4253-01-01/0 annexed to this Report as Attachment 10.1.1.2, in accordance with s. 58 of the *Land Administration Act 1997* (WA), subject to the following condition:
 - a) The Applicants must pay all costs of and incidental to the proposal, including, but not limited to, the cost of advertising, surveys, flora and fauna surveys, approvals, documentation preparation and lodgement, formation and construction of a road, if required, and officer time.
2. Approves the initiation of the advertising and consultation process for the proposed excision and dedication as road of the portion of Reserve 47881 delineated and marked as "Proposed New Road Reserve" on Plan 4253-01-01/0 annexed to this Report as Attachment 10.1.1.2, in accordance with s. 56 of the *Land Administration Act* (WA), subject to the following condition:
 - a) The Applicants must pay all costs of and incidental to the proposal, including, but not limited to, the cost of advertising, surveys, flora and fauna surveys, approvals, documentation preparation and lodgement, formation and construction of a road, if required, and officer time.

3. Notes that a further report will be presented to Council for consideration of the utility service provider responses and any submissions received.

82 Merrivale Road
Pickering Brook
WA 6076

11 April 2017

The CEO
Kalamunda Shire
2 Railway Rd
KALAMUNDA

Dear Rhonda,

I, as the present owner, need to apply to the Shire for appropriate access to Location 830 at what has traditionally been the address of this block at 221 Merrivale Rd. Pickering Brook. When this layout was originally designed the access seems to be via Merrivale Rd. exiting from Kingsmill Rd. However, this road has never been constructed.

A recent experience where a prospective buyer of this property was refused credit from the bank on the grounds that this block has no access other than across what is now National Park under Native Title, means that a more appropriate and formal access needs to be established.

From my, and the previous owners' initial inquiries to the Department of Parks and Wildlife, we were advised that an application could be made to Department of Land (DoL) for an easement from the southern end of the constructed Merrivale Rd. along a portion of the southern boundary of the block (See app 1).

After some 14 months of correspondence DoL now advise that because of Native Title issues this can't happen for at least 2 years and even then may not eventuate (see app 2).

DoL have given me two options, the former being a stop gap resolution only. The second option, and more appropriate, I feel, is for the Council to realign a portion of the unconstructed Merrivale Rd. to about the southern boundary of the block. Because of the close location of the current residence the abutment should achieve at least a similar effect as the requested easement (app 1).

The reason for this is twofold, firstly all services e.g. address, power, phone can remain unchanged and secondly there is no need for any road construction as suitable gravel tracks already exist. I stress this point as my primary concern is for formal and practical access, not necessarily improvements in costly road construction.

Attached please find the salient case file correspondence.

I request the Council assists in what is, to me, a very important formality.

Regards


Gillian S Fantuz

cc Councillor M Fernie

82 Merrivale Road

Pickering Brook

W.A. 6076

20 Jan.2016

The CEO

Department of Lands

WEST PERTH 6873

Attention; Sean Browne (Metropolitan & Peel Region)

Dear Sir,

On behalf of the seller and purchaser we seek your approval of an appropriate easement to Canning Location 830 at 221 Merrivale Road Pickering Brook W.A.

This block has never had access other than through what is now National Park land. Although this has not been a problem in the past, a recent experience (refusal of a bank loan for the purchase of this property) would indicate that a statutory formalisation of appropriate access along the southern boundary is necessary.

Thank you for your consideration and we look forward to a favourable outcome.

Regards,

Signed: On behalf of Sellers

Sarah Hardman

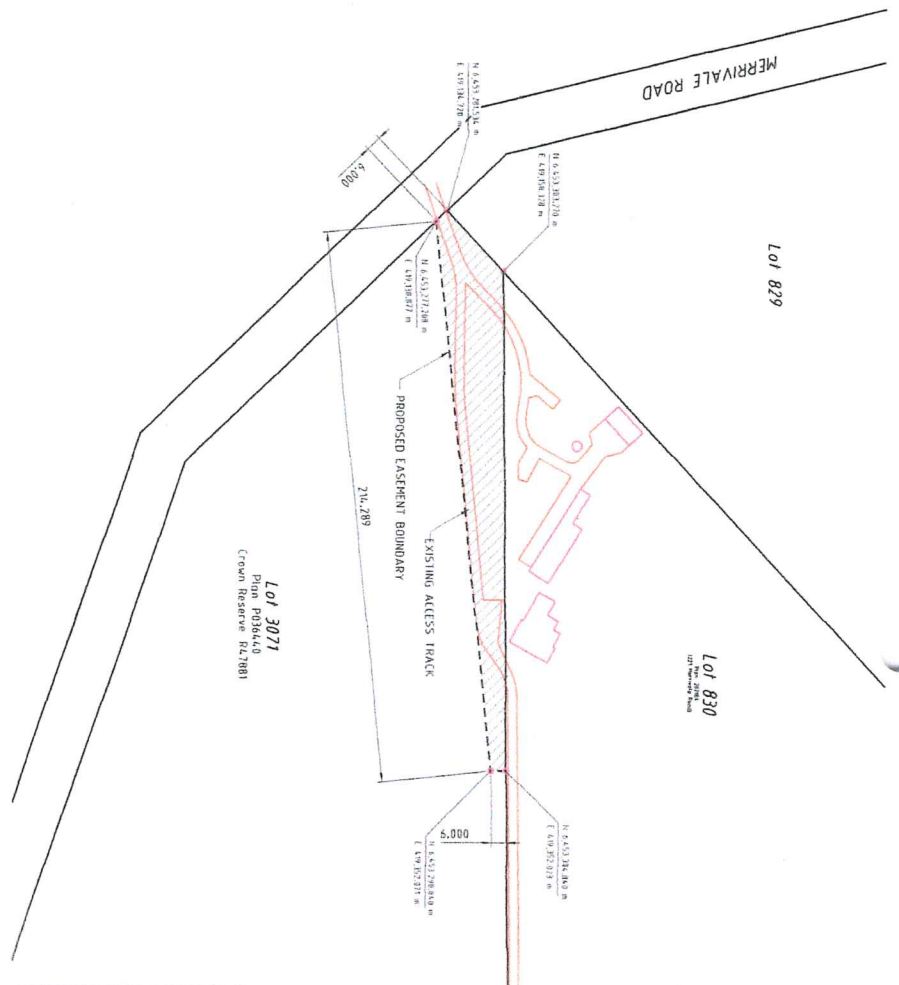
Sarah Hardman

Enduring Power of Attorney for Joseph Hardman

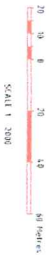
Maurice Hall

Signed: On behalf of Buyer

Gillian Fantuz



LOCATION	LOT 830 221 MERRIVALE ROAD PICKERING BROOK W.A. 6076	BUILDING	LOT 830 ACCESS EASEMENT	EASEMENT PLAN		DRAWN	PLF
						DATE	14.01.16
						DRG No.	C-001



Chuah, Teong

to Sally Fantuz

cc Eidsvold, Jaimie

Tue, Mar 28 4:39 PM

Class A Reserve 47881 Merrivale Road

3 files attached ^ Save all



Attach 2 Class A Res...
.pdf 1.24 MB



Attach 3 Easement O...
.pdf 1.46 MB



Attach 1 Smartplan...
.pdf 358 KB

[Our ref: 50831-2004 Job No N/A]

Hi Gillian

Thank you for taking the time to speak with a couple of weeks ago.

In the first instance, I ask that you refer to the attached Smartplan graphic wherein to show your property in relation to Merrivale Road. The part of Merrivale Road hatched in red is understood to be unconstructed (not bitumised) which would have otherwise provided direct access to your property (**Attachment 1**).

Merrivale Road is held under the care and control of the local government authority, being Shire of Kalamunda.

Class A Reserve 47881 is held for the purpose of 'National Park' vested pursuant to section 7(2) of the *Conservation and Land Management Act 1984*. The management body is the Conservation Commission of Western Australia, part of Department of Parks and Wildlife.

The Department of Lands (DoL) acknowledges that the Conservation Commission (Department of Park and Wildlife) has advised this Department that it supports the grant of an easement burdening a small portion of Class A Reserve 47881 (Korung National Park) for the purpose of access to your freehold property, being Lot 830 on Deposited Plan 202184, and otherwise known as 221 Merrivale Road in Pickering Brook.

Unfortunately Korung National Park is likely to be the subject of native title rights and interests of the Whadjuk People, which was accepted for registration on 26/6/2011. DoL on behalf of the State Government is unable grant an interest (ie. easement, disposal and grant lease etc.) over any part of Reserve 47881 without addressing native title rights and interests.

As I had briefly explained the State of Western Australia is currently in negotiation with six native title claimants group to surrender native title rights over the South West, which includes Reserve 47881. Once the agreement is finalised native title rights will be surrendered and this will allow DoL to arrange to formal access to your property via a section 144 Easement pursuant to the *Land Administration Act 1997* or to consider any other available options.

I had described two options available to you for further consideration. It is as follows;

Option 1

DoL is able to issue you a non-exclusive section 91 licence over that small portion of Reserve 47881 (currently being used as an informal access track to your property) for the purpose of "Access Only" to the

owner of Lot 830 on Deposited Plan for a term of 2 years. The grant of this licence will be subject to the Conservation Commission, Shire and Department of Mines and Petroleum advising no objections.

It is hoped that whilst in possession of a section 91 licence the State Government and the Native Title Claimants are able to reach an agreement for the South Western Settlement Agreement. If so, the licence will automatically terminate and DoL will then be in a better position to reconsider the grant of an easement or excise the subject portion from Class A Reserve 47881 (if feasible and subject to Conservation Commission's approval) in favour of Lot 830 DP 202184 in order to provide formal access to your property from the constructed part of Merrivale Road.

Option 2

This option involves the Conversation Commission first agreeing to excise the subject portion of land (currently providing Lot 830 with informal track access) to be excised from Reserve 47881. This is in addition to the Shire of Kalamunda also agreeing to resolve to dedicate pursuant to section 56 of the LAA the subject land as a public dedicated road. With regards to native title rights and interest, DoL can undertake a 24KA of the Native Title Act being a notification process only suppresses native title whilst the land is used for a public purpose as a road.

A case can be made to the Shire and the Conservation Commission to advise that because the unconstructed portion of Merrivale Road is not being used for its designated purpose it can be closed pursuant to section 58 of the LAA and subsequently included into Reserve 47881. This can be exchanged for the required subject portion of Reserve 47881, that currently provides you access, which can be dedicated as a road as per the paragraph above.

The proposal to grant an easement and/or excise from a Class A reserve requires ministerial and parliamentary approval. As such, I ask that you refer to the extract from DoL's Practice Manual regarding Class A Reserves and Class A Amendments (Major) wherein to provide you general information about Class A actions (**Attachment 2 and 3**).

Both of these options requires the approval/comments from the Conservation Commission and the Shire which will need to be obtained before DoL can progress any further.

If you have any questions please ask me.

Regards

Teong Chuah | A/Assistant Manager | Case Management - Metropolitan and Peel
Department of Lands | Level 11, 140 William Street | Perth WA 6000
T (08) 6552 4781 | F (08) 6552 4417
E teong.chuah@lands.wa.gov.au | W www.lands.wa.gov.au

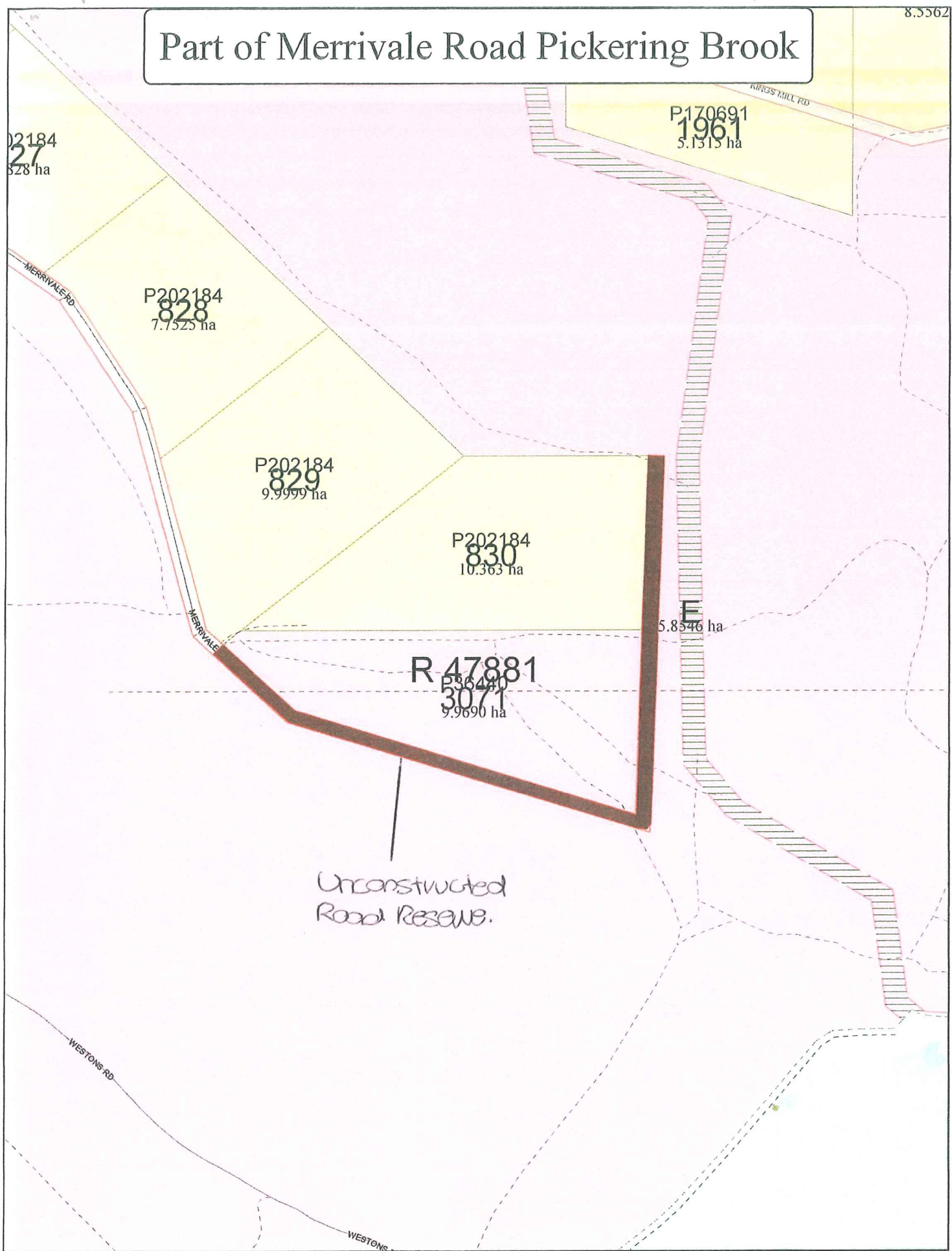


Government of Western Australia
Department of Lands



The Department of Lands has a new Post Office Box. PO Box 1221 West Perth WA 6872. Please update your records accordingly. Thank you

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Government of Western Australia
Department of Parks and Wildlife
Parks and Visitor Services
Policy and Planning Group, Land Unit

Your ref:
Our ref: 2010/004837
Enquiries: Anne Greig
Phone: (08) 9219 9790
Email: anne.greig@dpaw.wa.gov.au

Sarah Hardman
221 Merrivale Rd
Pickering Brook WA 6076

Dear Sarah

Access to 221 Merrivale Road, Pickering Brook (Lot 830 on Plan 202184) through Korung National Park (Reserve 47881)

The Department of Parks and Wildlife understands that you are in the process of selling 221 Merrivale Road and that you wish to confirm that the current access via Korung National Park to 221 Merrivale Road will be available to any future owner of this property.

Parks and Wildlife Perth Hills District has no objection to this continuing permissive access arrangement to 221 Merrivale Road subject to the following conditions:

1. that the future owner of 221 Merrivale Road confirm their intention, by writing to Parks and Wildlife's Perth Hills District Manager, to use this access route and their agreement to the conditions outlined in this letter;
2. that the only permitted access through Korung National Park will be via the existing track from Merrivale Road aligned alongside the neighbouring property at 211 Merrivale Road (Lot 829 on Plan 202184) to the southwest corner boundary of 221 Merrivale Road;
3. Parks and Wildlife accepts no liability for any accident, injury or claim for damages caused to any person, machinery, equipment or other thing using the firebreak or track to access 221 Merrivale Road;
4. Parks and Wildlife provides no guarantee of the serviceability of the track;
5. any maintenance to the track, including road works and clearing of encroaching vegetation, to retain access or to ensure serviceability is to be paid for by the landowner of 221 Merrivale Road and only those works that have been approved in consultation and by agreement with Parks and Wildlife Perth Hills District are to be completed;
6. that the future owner of 221 Merrivale Road acknowledges the risk from natural disaster or wildfire / bushfire caused by living on a property with restricted vehicular access and that measures are taken to mitigate these risks. For example, considering and possibly implementing advice provided by the Fire and Emergency Services Authority of WA and the Shire of Kalamunda; and
7. Parks and Wildlife reserves the right to review or cancel this arrangement at any time to amend or realign access but will only do so in consultation with the owner of 221 Merrivale Road. The owner may apply for an easement or excision from class A Korung National Park to formalize access to the property.

The Perth Hills District is located at 275 Allen Road, Mundaring. Phone: 9290 6100. Email: mundaring@dpaw.wa.gov.au

Yours sincerely


Anne E. Greig
Land Services Officer



14 December 2015

City of Kalamunda

Parks and Visitor Services Division:
17 Dick Perry Avenue, Technology Park, Kensington
Locked Bag 104, Bentley Delivery Centre, Western Australia 6983
www.dpaw@wa.gov.au



**Minister for Planning; Culture & the Arts
Government of Western Australia**

Our Ref: 33-31524

Ms Sarah Hardman
221 Merrivale Road
PICKERING BROOK WA 6076

Dear Ms Hardman

221 MERRIVALE ROAD, PICKERING BROOK

Thank you for your email of 16 December 2015 regarding the above property.

I have noted the contents of the letter dated 14 December 2015 from the Department of Parks and Wildlife (DPaW). Officers of the Department of Planning have confirmed that the land through which you access your property is part of the Korung National Park (Reserve 47881).

Reserve 47881 is owned by the State and managed by DPaW. The formalisation of your access arrangements through the Reserve is therefore a matter which would need to be agreed with that Department. DPaW falls under the ministerial portfolio of the Minister for Environment, Hon Albert Jacob MLA.

While I am unable to assist in resolving your concerns, I have referred your email to Minister Jacob for his consideration.

I appreciate you raising this matter with me and trust the above information is of assistance.

Yours sincerely

**JOHN DAY
MINISTER FOR PLANNING;
CULTURE AND THE ARTS**

4 JAN 2016



Hon Albert Jacob MLA
Minister for Environment; Heritage

Our Ref: 50-11811

Ms Sarah Hardman
221 Merrivale Road
PICKERING BROOK WA 6076

Dear Ms Hardman

I refer to your email dated 16 December 2015 requesting assistance in formalising access to your property in Pickering Brook. As the Minister responsible for the Environment portfolio, including matters relating to Crown land classified as class 'A' reserve such as Korung National Park, your email has been referred to me by Hon John Day MLA, Minister for Planning.

I am pleased to note from your correspondence that staff from the Department of Parks and Wildlife have been helpful in trying to assist you. I understand the Department provided you with an informal access agreement by way of letter, intended to be sufficient evidence to alleviate any concerns over access, which was unfortunately not accepted by the prospective buyer's bank.

I have asked Parks and Wildlife to seek approval from the Conservation Commission of Western Australia for the creation of an easement over the portion of Korung National Park that is used for access to your property. If endorsed by the Conservation Commission, the easement process can then be finalised by the Department of Lands. In accordance with the *Land Administration Act 1997*, this will require the matter to be laid before both Houses of Parliament by the Minister for Lands. I have copied the Minister for Lands, Hon Terry Redman MLA, into this letter to assist in this process.

I trust that in the interim this letter will be sufficient evidence of the intention to formalise legal access to your property.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Albert Jacob', written over a circular official stamp.

Albert Jacob MLA
MINISTER FOR ENVIRONMENT; HERITAGE

cc: Hon Terry Redmond MLA, Minister for Lands
Hon John Day MLA, Minister for Planning

04 FEB 2016



Government of **Western Australia**
Department of **Lands**

Our ref: 39-22563 160579
Enquiries: Jay Colton 6552 4589
jay.colton@lands.wa.gov.au

Ms Sarah Hardman
221 Merrivale Road
PICKERING BROOK WA 6076

Dear Ms Hardman

**ACCESS EASEMENT OVER KORUNG NATIONAL PARK (RESERVE 47881) –
PICKERING BROOK, SHIRE OF KALAMUNDA**

I refer to the letter dated 4 February 2016 from the Hon Albert Jacob MLA, Minister for Environment; Heritage to you which was copied to the Hon Terry Redman MLA, Minister for Lands.

The Department of Parks and Wildlife has recently contacted this Department to bring attention to this matter. The Department's internal Assessment team is currently investigating the proposed grant of an 'access' easement over that portion of Korung National Park (Class A Reserve 47881) used as the access to your freehold Lot 830 on Deposited Plan 202184. This assessment will include an investigation into the history of the land and a determination of whether native title is extinguished.

It is my understanding that the Department of Parks and Wildlife and the Conservation Commission of WA have provided their support to the proposed easement.

As the proposed grant of an easement under section 144 of the *Land Administration Act 1997* (LAA) is through Crown land which is classified as a Class A reserve, the Minister for Lands must cause the proposal to be laid before each House of Parliament. This process will be conducted by the Department of Lands and as this will likely take some time to complete you can contact Jay Colton with any queries on 6552 4589 or jay.colton@lands.wa.gov.au. Jay's details can be passed on to any prospective purchaser if they wish to discuss the matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cecelia Smith'.

Cecelia Smith
Manager
Metropolitan and Peel Region

23 February 2016

82 Merrivale Rd.
Pickering Brook
W.A. 6076

14th December 2016

The Manager
Department of Lands
West Perth

Attention; Cecelia Smith

ACCESS EASEMENT OVER KORUNG NATIONAL PARK (RESERVE 47881) – PICKERING BROOK, SHIRE OF KALAMUNDA

Dear Cecelia,

I would like to draw your attention to our application for a statutory formalisation of appropriate access easement to our property at 221 Merrivale Road Pickering Brook dated 20th January 2016.

I have enclosed a copy of the map showing the proposed access easement and copies of the correspondence that took place 12 months ago.

I have sent an email and made several phone calls to Jay Colton to enquire as to the progress of this application but have never received a reply.

I appreciate that the process does take some time but I want to ensure that all is in order and that the application is in the system.

I look forward to hearing from you.

Yours sincerely



Gillian Fantuz

cc: Anne E Greig Land Service Officer, Department of Parks and Wildlife

Chapter 4

Reserves

4.6. RESERVE CLASSIFICATIONS

The *Land Act 1933* provided for reserves of Crown land to be classified as Class A, B or C reserve.

Under the LAA, there is only one classification for reserves – Class A reserves. All other reserves are simply known as “reserves”. However existing Class “B” reserves are continued by the LAA’s transitional provisions (see paragraph 4.6.2).

4.6.1. CLASS A RESERVES**4.6.1.1. INTRODUCTION**

Class A reserves afford the greatest degree of protection for reserves of Crown land created under the LAA. The “A” classification is used solely to protect areas of high conservation or high community value.

As a matter of policy, Lands Division officers should take into consideration principles including but not limited to the following when proposing to classify Class A reserves:

- Where reserved land has special values warranting a very high level of protection,
- “A” classification should not be created without restraint, as the perceived value of such classifications may otherwise be degraded, and because of the substantial overheads involved in modifying such reserves;
- Reserves should not be given an “A” classification without reference to and agreement by the Department of Industry and Resources (DOIR) because of the constraints on accessing class “A” reserves for mining, resource development and other uses;
- Cabinet may direct “A” classification for specified reserves or a particular category of reserves;
- Regard must be had to the requirements of the *Native Title Act 1993* and associated policies, before proceeding with an “A” classification.

4.6.1.2. AMENDMENT OF CLASS A RESERVES

Under the *Land Act 1933*, class A reserves were, subject to certain actions under section 31(4) of that Act only amended by an Act of Parliament. Under the LAA, the process to amend Class A reserves has been modified.

As a general rule, with the exception of class A CALM reserves, amendments of Class A reserves under the LAA do not require an Act to be presented before both Houses of State Parliament.

Under the LAA, class A reserves can be amended in one of 2 ways:

- Where the amendments are of a minor nature, those amendments may be made by the Minister making a Ministerial order.

Reserves

Chapter 4

What constitutes a minor amendment is set out in section 42(3) of the LAA. Minor amendments include:

- adding Crown land to a class A reserve (Refer Form LAA - 1100– Order for Addition of Land to Class “A” Reserves);
- amending Class A reserves for the purpose of correcting unsurveyed boundaries provided that the area of the reserve is not reduced by more than 5%;
- excising 5% or one hectare, whichever is the lesser, of the area of a class A reserve for the purpose of public utility services;
- redescribing locations or lots or adjusting areas of locations or lots within a class A reserve provided that the external boundaries of the class A reserve do not change; and
- amalgamating 2 or more class A reserves having a similar purpose and the same management body (Refer Form LAA - 1097 – Amalgamation Order for Class “A” Reserves).

Please note, forms are to be completed by RDL staff only, however examples of completed forms are available on RDL’s website (see State Land – Forms) for information purposes only).

- Where the amendments are not of a minor nature (that is, do not come within any of the above 5 types of amendments), the Minister can only amend a Class A reserve by tabling the proposal in both Houses of Parliament in accordance with section 43 of the LAA.

What constitutes a major amendment is set out in section 42(4) of the LAA. Major amendments include:

- reducing the areas of, or excising an area from, a class A reserve for a purpose other than the correction of unsurveyed boundaries or for public utility services – Section 42(4)(a);
- excising an area from a class A reserve for the purpose of creating a road - Section 42(4)(b);
- cancelling a class A reserve - Section 42(4)(c);
- changing the purpose of a class A reserve - Section 42(4)(c); or
- changing the classification of a class A reserve - Section 42(4)(c).

Under section 43, the proposal to amend a Class A reserve can only proceed where:

- a disallowance motion to the proposal is not made within 14 sitting days of either House of Parliament; or
- a disallowance motion is made within the 14 sitting days, debated and lost in 30 sitting days.

Where the disallowance motion is not debated within 30 sitting days, the proposal to amend the Class A reserve lapses and the process must be started all over again.

The number of sitting days for the tabling of a proposal to amend a Class A reserve can be counted across different sessions of Parliament and across different Parliaments – Section 43 (2) and (3) of the LAA.

Any amendment of a Class “A” reserve can only be made after the Minister has advertised his or her intention to make those amendments in a newspaper circulating throughout the State 30 days before making that order – Section 42(5) of the LAA.

Chapter 4

Reserves

Quality Assurance Procedures within RDL state, that Members of Parliament representing the region affected by the proposal from both houses are advised of the impending advertisement and tabling of the proposal.

Quality Assurance procedures also make reference to the preparation and submission for a correction to a submission tabled before Parliament.

4.6.2. CLASS B RESERVES

4.6.2.1. INTRODUCTION

Class “B” reserves were created under the *Land Act 1933*. Those class B reserves remaining under the *Land Act 1933* continue and remain so classified as if the *Land Act 1933* had not been repealed. Class B reserves cannot be created under the LAA.

4.6.2.2. CANCELLATION OF CLASS B RESERVES

Class B reserves can only be cancelled by the Governor by proclamation in accordance with section 31(2) of the *Land Act 1933* by order made under the LAA (see clause 14(6)(a) of schedule 2 of the LAA)

The Minister for Lands may continue to deal with Class “B” reserves created under the *Land Act 1933* provided that, should the reservation be required to be cancelled, the Minister must make an order under the LAA and also present a special report to both Houses of Parliament setting out the reasons for the cancellation and the purpose to which the land is intended to be used. The report must be made to both Houses of Parliament within 14 days from the date of cancellation, if Parliament is already in session, and if not, within 14 days after the commencement of the next session of Parliament: Section 31(2) of the *Land Act 1933*.

4.6.3. CLASS C RESERVES

Class C Reserves were created under the *Land Act 1933*. Class C Reserves cannot be created under the LAA.

4.9.1. EASEMENTS OVER CLASS A RESERVES

Policy 8.1.7 in the Government Land Policy Manual (please note this manual is not available on this website – please contact RDL's Lands Division, State Land Services for further information) deals with easements over Class A reserves.

Once a reserve has been classified as a Class A reserve for a particular purpose, the Minister can only grant an easement under section 144 of the LAA or permit the creation of an easement (under section 148 of the LAA) over a Class A reserve under section 44 of the LAA. An easement over a Class A reserve can only be granted where:

- the Minister advertises his or her intention to so act in a newspaper circulating throughout the State, and
- a proposal for the easement is laid before both Houses of Parliament in accordance with the procedure set out in section 43 of the LAA.

The Minister must advertise his or her intention in a State newspaper not less than 30 days before granting an easement or permitting the freehold owner of a Class A reserve to issue an easement. The advertisement must detail the reason for granting the easement and the purpose of the easement.

Under section 43, the easement can only proceed where:

- a disallowance motion to the proposal for the easement is not made within 14 sitting days of either House of Parliament; or
- a disallowance motion to the proposal for the easement is made within the 14 sitting days, debated and lost in 30 sitting days.

Where the disallowance motion is not debated within 30 sitting days, the proposal to grant the easement lapses and the process must be started all over again.

The number of sitting days for the tabling of a proposal to grant an easement over a Class A reserve can be counted across different sessions of Parliament and across different Parliaments: see section 43(2) and (3) of the LAA.

Easements over Class A reserves should be avoided, wherever possible. Use of existing roads or other 'corridors' through such reserves is to be encouraged. Where it is necessary to grant an easement through an A Class Reserve, the easement and the services it protects should constitute minimal interference with the reserve's values and use and enjoyment by the public.

The easement purpose should complement at least or be compatible with the purpose of the reserve. For example, a gas pipeline through a show ground reserve or an easement that requires substantial land clearing through a flora conservation reserve may not be appropriate. If such easements are essential, it will be necessary to ensure adequate conditions are contained in the easement document to provide protection and/or compatibility between the two purposes or to excise the area from the reserve.

The Manager of the relevant State Land Services region should ensure that any high-risk easement (eg. gas pipeline) through a Recreation or high public use reserve makes comprehensive provisions to safeguard users against danger (eg. encasing pipe in concrete) and the agreed Crown indemnity clause is used.

Where a Class A reserve is the subject of conditional tenure under section 75 of the LAA, and the landowner proposes to grant an easement using his powers under section 148 of the LAA, Registration Services should not accept such easement without first ensuring that 30 days' notice of intent has been published in the newspaper and approval on behalf of the Minister has been granted after tabling in Parliament.

Chapter 4

Reserves

No other transaction is permitted over a Class A reserve. If a particular transaction is essential over part of a Class A reserve, the land must first be excised from the Class A reserve and brought back to unallocated Crown land. The tabling process for excision of the land in section 43 of the LAA must be followed. See Paragraph 4.6.1.2 for details of this process.

Once the land becomes unallocated Crown land, the powers of the Minister under the LAA can apply.

4.9.2. TRANSACTIONS OVER RESERVES

Transactions under the LAA over reserved land are dependent upon whether or not the reserved land is managed or unmanaged.

4.9.2.1. TRANSACTIONS OVER MANAGED RESERVES

Where a reserve is classified for a specific purpose and placed under the care, control and management of a management body, the management body may deal with the reserved land subject to -

- the express powers granted to that management body in the Management Order; and
- the consent of the Minister for Lands under section 18 of the LAA.

It should be noted that section 46 (3b) of the LAA provides that where a management order has been issued to a state government agency or a Minister, the consent of the Minister for Lands under section 18 of the LAA to a dealing in that reserve is not required unless the management order specifically requires such consent. Section 18(8) (d) of the LAA also sets out some exceptions when prior ministerial approval under section 18 is not required.

4.9.2.2. POWERS OF LOCAL GOVERNMENT UNDER THE *PARKS & RESERVES ACT 1895*

Section 3.54 of the *Local Government Act 1995* empowers Local Governments to exercise certain powers for the purpose of controlling and managing reserves placed under their care, control and management by the *Land Act 1933* and, following its repeal, by the LAA.

Under this section of the *Local Government Act 1995*, Local Governments have certain powers under section 5(1) of the *Parks and Reserves Act 1895* to control and manage reserves, including the power to grant licences for

- the de-pasturing of animals on reserves; and
- the removal of any sand, gravel or other earth or mineral, and for cutting and removing wood.

With the exception of section 5 of the *Parks and Reserves Act 1895* as it relates to the exercise of certain management powers in relation to reserves by Local Government under the *Local Government Act 1995*, most of the management issues relating to reserves of Crown land are now covered by Part 4 of the LAA.

The powers exercised by Local Government over reserves under the *Local Government Act 1995* are statutory powers given to Local Government, and are in addition to the powers under the LAA. Licences prepared and entered into by Local Government (using the powers of a Board appointed under the *Parks and Reserves Act 1895*) are licences granted by Local Government under the *Parks and Reserves Act 1895*.

However, Officers within the Directorate should note that section 5(1a) of the *Parks and Reserves Act 1895* clearly provides that, unless the purpose of the reserve is the same as that

8.4.3. EASEMENTS OVER CLASS A RESERVES

Section 44 of the LAA requires that any proposal to grant an easement over a Class A reserve should be:

- advertised in a State-wide newspaper;
- no sooner than 30 days after advertisement, tabled in both Houses of Parliament.

Easements over Class A reserves should be avoided, wherever possible. Use of existing roads or other 'corridors' through such reserves is to be encouraged. Where it is necessary to grant an easement through an A Class Reserve, the easement and the services it protects should constitute minimal interference with the reserve's values and use and enjoyment by the public.

Where after careful consideration it has been agreed that an easement should be created over a Class A Reserve, the Lands Division is to arrange preparation and publication of newspaper advertisement 30 days prior to issuing or granting approval to an easement through a Class A Reserve. Notice for tabling in Parliament may be prepared at the same time. Newspaper advertisements must detail reason, purpose, extent and grantee of the proposed easement. Advertisement must also occur 30 days before action/approval to ensure that easement occurs.

State Land Services Managers of the Lands Division should ensure that any high-risk easement (for example, gas pipeline) through a Recreation or high public use reserve makes comprehensive provisions to safeguard users against danger (for example, encasing pipe in concrete) and the agreed Crown indemnity clause is used.

An LAA Easement cannot be granted over CALM Act Reserves for purposes inconsistent with the CALM Act. *(Note however, that the LAA may be amended to enable easements to be granted over CALM Act land for any purpose).*

Where a Class A reserve is the subject of conditional tenure under section 75 of the LAA, and the landowner proposes to grant an easement using his powers under section 148 of the LAA, Registration Services should not accept such easement without first ensuring that 30 days' notice of intent has been published in the newspaper and approval on behalf of the Minister has been granted after tabling in Parliament.

RDL Officers should relate to Policy 8.1.7 in the Government Land Policy Manual which relates to easements over Class A reserves

RECEIVED FRONT COUNTER
DATE 18/4/17 TIME 10.30am
RECEIVED BY Kristy O

C.E.O
KALAMUNDA SHIRE
2 RAILWAY RD.
KALAMUNDA.
L.P 6076



No.	REVISION	BY	DATE	AUTH	No.	REVISION	BY	DATE	AUTH
0	ISSUED FOR USE	AG	24/01/18						

City of Kalamunda

No.	REVISION	BY	DATE	AUTH	No.	REVISION	BY	DATE	AUTH

AS SHOWN	DATE	AND	OR	PC094
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SURVEYED	2018	DRAWN	A. GREGORY	24/01/2018	CHECKED	L. PUDHOTA	24/01/2018
ENGINEERING SURVEYOR		INFRASTRUCTURE DESIGN OFFICER			COORDINATOR PROJECT DESIGN		

APPROVED	2018	APPROVED	2018	APPROVED	2018	APPROVED	2018
MANAGER ASSET DELIVERY		MANAGER ASSET DELIVERY		MANAGER ASSET DELIVERY		MANAGER ASSET DELIVERY	

City of Kalamunda	ASSET SERVICES
MERRIVALE ROAD	ROAD RESERVE RATIONALIZATION
PICKERING BROOK	
PLAN	1 OF 1
DRAWING No.	-SHEET /REVISION
4253-01-01/0	A1

TABLE C

Local Government Checklist to close a Road (Dedicated Public Road)

ITEM	DOCUMENTS TO BE PROVIDED	ATTACHED
1	Report/Background information to Councillors before Council Meeting to close road	
2	Signed copy of Council Resolution to close road	
3	Copy of advertisement to close road	
4	Copies of any submissions and objections to advertisement	
5	Signed copy of Council motion and comments on submissions and objections	
6	<p>Copies of correspondence to public utility service providers and other agencies confirming their agreement to the proposed closure</p> <ul style="list-style-type: none"> • Water Corporation • Western Power • Alinta Gas • Telstra • Department of Industry and Resources • Dampier to Bunbury Natural Gas Pipeline (DPNGP) Land Access Minister • RDL (Statutory Planning) 	
7	Sketch plan showing proposed allocation/sale of land in road to adjoining owners (to identify easements under either section 167 of the Planning and Development Act 2005 for drainage works, water, electricity or gas, if required or, under section 144 of the LAA)	

TABLE D

RDL Checklist to Dedicate a Road where the land is Reserved or Acquired for use by the Public as a Road under the Care, Control and Management of Local Government

ITEM	DOCUMENTS TO BE PROVIDED	ATTACHED
1	Signed and dated copy of Council resolution to request dedication of road	
2	Details of consultation process together with the number of objections and support plus comments including Local Government's comments on these submissions	
3	Indemnity in favour of the Minister for Lands against any claims for compensation and costs	
4	<p>Copies of correspondence to public utility service providers and other agencies confirming their agreement to the proposed dedication.</p> <ul style="list-style-type: none"> • Water Corporation • Western Power • Alinta Gas • Telstra • Department of Industry and Resources • Dampier to Bunbury Natural Gas Pipeline (DPNGP) Land Access Minister • RDL (Statutory Planning) 	
5	Plan of survey, sketch plan or document to describe the dimensions of the road	
6	Written confirmation that the Local Government has complied with section 56(2) of the LAA	

10.2. Development Services Reports

10.2.1. Proposed Two Storey House - Lot 45 (4) Brie Brie Crescent, Kalamunda

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

The Manager Approval Services provided a presentation on this item. There were no questions.

Previous Items	N/A
Directorate	Development Services
Business Unit	Approval Services
File Reference	BR-28/004
Applicant	IQ Construction
Owner	Jan and Paul Brenton
Attachments	<ol style="list-style-type: none">1. Site Feature Contour Plan [10.2.1.1]2. Site Plan [10.2.1.2]3. Site Plan [10.2.1.3]4. Site Plan Images [10.2.1.4]5. Site Plan Images [10.2.1.5]6. First Floor Plan [10.2.1.6]7. Second Floor Plan [10.2.1.7]8. Elevations [10.2.1.8]9. Elevations [10.2.1.9]10. Overshadowing Diagram [10.2.1.10]11. Overshadowing Diagram [10.2.1.11]12. Applicant Justification [10.2.1.12]13. Applicants Justification [10.2.1.13]14. Site Photos [10.2.1.14]15. Submitters Table [10.2.1.15]

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider a development application for a proposed two storey house at Lot 45 (4) Brie Brie Crescent, Kalamunda.
2. The Proposal is compliant with the deemed to comply requirements of the Residential Design Codes (R Codes), with the exception to the front and rear boundary setbacks and wall height.
3. The proposal was advertised to the surrounding landowners in accordance with the City's P-DEV 45 (Public Notification of Planning Proposals). During the advertising period a total of one (1) objection was received. The applicant has provided further justifications for the assessment under the design principles in line with the R Codes.
4. It is recommended that Council approve the application, subject to appropriate conditions.

BACKGROUND**5. Land Details:**

Land Area:	2006m ²
Local Planning Scheme Zone:	Residential R5
Metropolitan Regional Scheme Zone:	Urban

6. Locality Plan:

7. The size of the subject site is narrow in shape, with a two road frontage comprising a 22m frontage to West Terrace and 66m frontage to Brie Brie Crescent. The site has a significant fall of 8m from the north east rear corner of the site to the north west corner fronting West Terrace.

DETAILS

8. The applicant is seeking approval for a two storey house consisting of the following (refer Attachments 1 to 11):
- a) Ground floor – kitchen, living, guest bedroom, triple garage and alfresco area.
 - b) First floor – bedrooms, activity room and balcony.
9. When a proposal does not meet the deemed to comply requirement of the R Codes, the proposal is assessed against the relevant design principles. The applicant is seeking a design principle assessment in respect to the front boundary setback, rear boundary setback and total wall height of the house.
10. The proposed two storey dwelling is cut into the site which is excavated approximately 2m below the road level and designed to meet ground level at Brie Brie Crescent for vehicle and pedestrian access. The eastern side of the building is cut into the slope to meet existing excavated ground level however

the balcony extends out in a north-westerly direction using pole construction to accommodate the approximate 8m slope of the site.

11. The applicant in support of the proposal has provided justification for the proposed variations (refer Attachments 12 and 13) which addresses the design principles of the R Codes with some general comments which are summarised as follows:
- a) The applicant submits the design principle assessments are due to the steep slope of the land and lot size and shape constraining the location of the house on the property. The façade is designed with no large areas of blank wall or unsightly utilities and is located below the road level and will have an unobtrusive impact on the streetscape. In addition, the house is designed to accommodate the aspect to views of significance with no points of overlooking and balconies facing the street rather than adjoining properties. No privacy or access to light and ventilation will be affected by this proposal.

STATUTORY AND LEGAL CONSIDERATIONS

12. The subject property is zoned "Residential" in accordance with Local Planning Scheme No. 3 (the Scheme) with a density coding of "R5". Under Clause 4.2.1 the objectives of the residential zone are as follows:
- *To provide primarily for single residential development whilst allowing for a range of densities in order to encourage a wide choice of housing types within the City.*
 - *To give consideration to grouped dwelling developments if the site is near amenities and can be integrated into the single residential environment.*
 - *To facilitate a range of accommodation styles and densities to cater for all community groups inclusive of the elderly, young people in transition and the handicapped. Such accommodation is supported where it is appropriately situated in proximity to other services and facilities.*
 - *To encourage the retention of remnant vegetation.*

POLICY CONSIDERATIONS

13. State Planning Policy 3.1 – Residential Design Codes (R-Codes)

Should any aspect of a proposal not meet the deemed-to-comply provisions of the R-Codes an assessment of the proposal is made against the 'Design Principles' of the R-Codes. In this case clauses:

- 5.1.3 – Lot Boundary Setback and,
- 5.1.6 – Building Height

14.

Assessment Under Residential Design Codes	Deemed to Comply Provision	Proposed by the Applicant	Design Principle Assessment
Front Setback to Dwelling	12m	2.6m to 7.029m	-9.4m to 4.971m
Rear Setback to Dwelling	6m	2.3m to 4.910m	-3.7m to 1.09m
External Wall Height	6m	6m to *7.2m	-*1.2m

***note, the extent of the non-compliance only applies to the north west portion of the wall, the remainder is compliant with the deemed to comply requirements of the R Codes.**

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

15. The proposal referred to internal departments who were invited to comment on the proposal or request that the proposal be referred to them for formal assessment. As part of this process the City's Environmental Health and Assets departments requested to make comment.

Following the completion of the internal referral the Environmental Health department returned no concerns to the proposal. The Assets team raised concerns regarding the angle of the crossover as it applied to Brie Brie Crescent. It is considered that these concerns can be addressed with appropriate conditions.

External Referrals

16. The proposal was advertised in accordance with the City's Local Planning Policy P-DEV 45 (Public Notification of Planning Proposals). As part of this advertising letters were sent to adjoining property owners inviting comment. During the course of advertising a total of one (1) response was received, comprising an objection with comments.

A summary of the objection is as follows:

Setbacks:

The respondent presumes that the required setback distances have been put in place for a reason, and that altering them is not acceptable. In addition to this, altering the front boundary setback from 12m to 2.6m will bring the house far too close to the primary street.

Height:

The respondent states that they object to the height as the limit set by the Residential Design Codes is set at 6m.

Responses to the above comments are noted in Attachment 15 – Submitters Table and in the Officer Comment section of this report.

FINANCIAL CONSIDERATIONS

17. If Council refuses the application or imposes conditions that are unacceptable to the applicant, there is a right of review (appeal) to the State Administrative Tribunal (SAT). In the event that Council refuses the application, costs to engage an expert witness to assist the City's General Counsel to defend the City's position at a SAT hearing is expected to be in the vicinity of \$20,000.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

18. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 3: Kalamunda Develops

Objective 3.1 - To plan for sustainable population growth.

Strategy 3.1.1 - Plan for diverse and sustainable housing, community facilities and industrial development to meet changing social and economic needs.

SUSTAINABILITY

Social Implications

19. The proximity of the dwelling to the street setback may result in an undue impact on the amenity of the adjoining neighbours.

Economic Implications

20. Nil.

Environmental Implications

21. Nil.

RISK MANAGEMENT CONSIDERATIONS

- 22.
- | | | |
|--|--------------------|---------------|
| Risk: Undue visual impact on the primary street | | |
| Likelihood | Consequence | Rating |
| Possible | Moderate | Medium |
| Action/Strategy | | |
| Ensure that appropriate cladding and façade design is incorporated into the frontage of the building to increase the aesthetics of the frontage that faces the street. | | |

OFFICER COMMENT

23. The proposed development meets the deemed-to-comply requirements of the R-Codes with the exception of the primary street setback, rear boundary setback and external wall height.

24. The proposal is assessed against the Design Principles of the R Codes as follows:

5.1.2 Street Setback

P2.1 *Buildings set back from the street boundaries an appropriate distance to ensure they:*

- *Contribute to, and are consistent with, an established streetscape;*
- *Provide adequate privacy and open space for dwellings;*
- *Accommodate site planning requirements such as parking, landscape and utilities; and*
- *Allow safety clearances for easements for essential corridors.*

P2.2 *Buildings mass and form that:*

- *uses design features to affect the size and scale of the building;*
- *use appropriate minor projections that do not detract from the character of the streetscape;*
- *minimises the proportion of the façade at ground level taken up by building services, vehicle entries and parking supply, blank walls, servicing infrastructure access and metres and the like; and*
- *positively contributes to the prevailing development context and streetscape.*

In regard to the above design principles the following is noted:

It is acknowledged that the proposal is seeking a significant reduction to the front boundary setback, it should be also noted that a number of surrounding properties also do not achieve the required setback of 12m under the R Codes. Furthermore, the proposed setback of 2.6m does extend out to 7.09m for the upper storey portion of the dwelling.

In respect to the other elements of the design principles, the proposal is fully compliant with the open space and privacy requirements of the R Codes, accommodates parking on site, landscaping and where required utilities. No easements exist on the property.

In respect to building mass and form, the applicant has designed the first floor level to be setback from the ground floor level to improve the articulation of the dwelling and has also proposed a mix of materials to the façade of the dwelling to make it more visually appealing. It should also be noted that due to the natural ground levels, the subject site falls away from Brie Brie Crescent, such that the location of the proposed dwelling will sit approximately 3-4m below the neighbouring property located directly opposite the subject site. This in effect will reduce the appearance of the building in terms of its bulk and scale.

The prevailing development context comprises a mixture of single and some two storey designed dwellings. In this regard, the proposal is considered consistent with the surrounding streetscape.

25. **5.1.3 Lot Boundary Setback:**

P3.1 Buildings set back from boundaries so as to :

- *Reduce impacts of the 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 regard to the above design principles, the following is noted:

- a) The proposal provides adequate sun and ventilation to the building and open space and adjoining properties and is fully compliant with the overshadowing requirements of the R Codes And will not impact on the provisions of daylight to major openings of neighbouring dwellings; and
- b) The proposed development is fully compliant with respect to visual privacy to the side and rear boundaries of the site.

It is acknowledged that the proposal is seeking a reduction to the rear lot boundary setback. The applicant has sought to address this by increase the building setback for the upper floor to 4.910m thereby lessening the building impact to the rear boundary. Furthermore, the neighbouring property raised no objection to the reduced building setback.

26. **5.1.6 Building Height**

P6 Building Height that creates no adverse impact on the amenity of adjoining properties or the streetscape, including road reserves and public open space reserves, and where appropriate maintains:

- *Adequate access to direct sun into buildings and appurtenant open spaces;*
- *Adequate daylight to major openings into habitable rooms ; and*
- *Access to views of significance."*

In regard to the above design principles, the following is noted:

- a) The proposal is fully compliant with the overshadowing requirements of the R Codes And will not impact on the provisions of daylight to major openings of neighbouring dwellings; and
- b) The proposed development would not prevent access to views of significance.

In addition to the above, it should be noted that the house is proposed to be constructed on stumps, and this along with the natural fall of the land has led to the variation in height against the R-Codes. The applicant submits that the pole construction is the ideal way to address the natural ground level without impacting too heavily on the surrounding area. In this regard, the dwelling is to be located on a less undulating portion of the site, thus avoiding centrally located rocky outcrops which will afford the dwelling views to the west of the site. It is considered that were the applicant to undertake cut and fill on the site this would create more of an impact on the surrounding properties, especially during construction if any rock breaking was to occur.

If the dwelling were to satisfy the deemed to comply requirements of the R Codes, more of the building bulk would be positioned to the front portion of the site which may obscure views of significance of dwellings located to the south of the site.

The extent of the non-compliance with the deemed to comply is restricted to the north western portion of the wall height only. The overall wall height meets the deemed to comply.

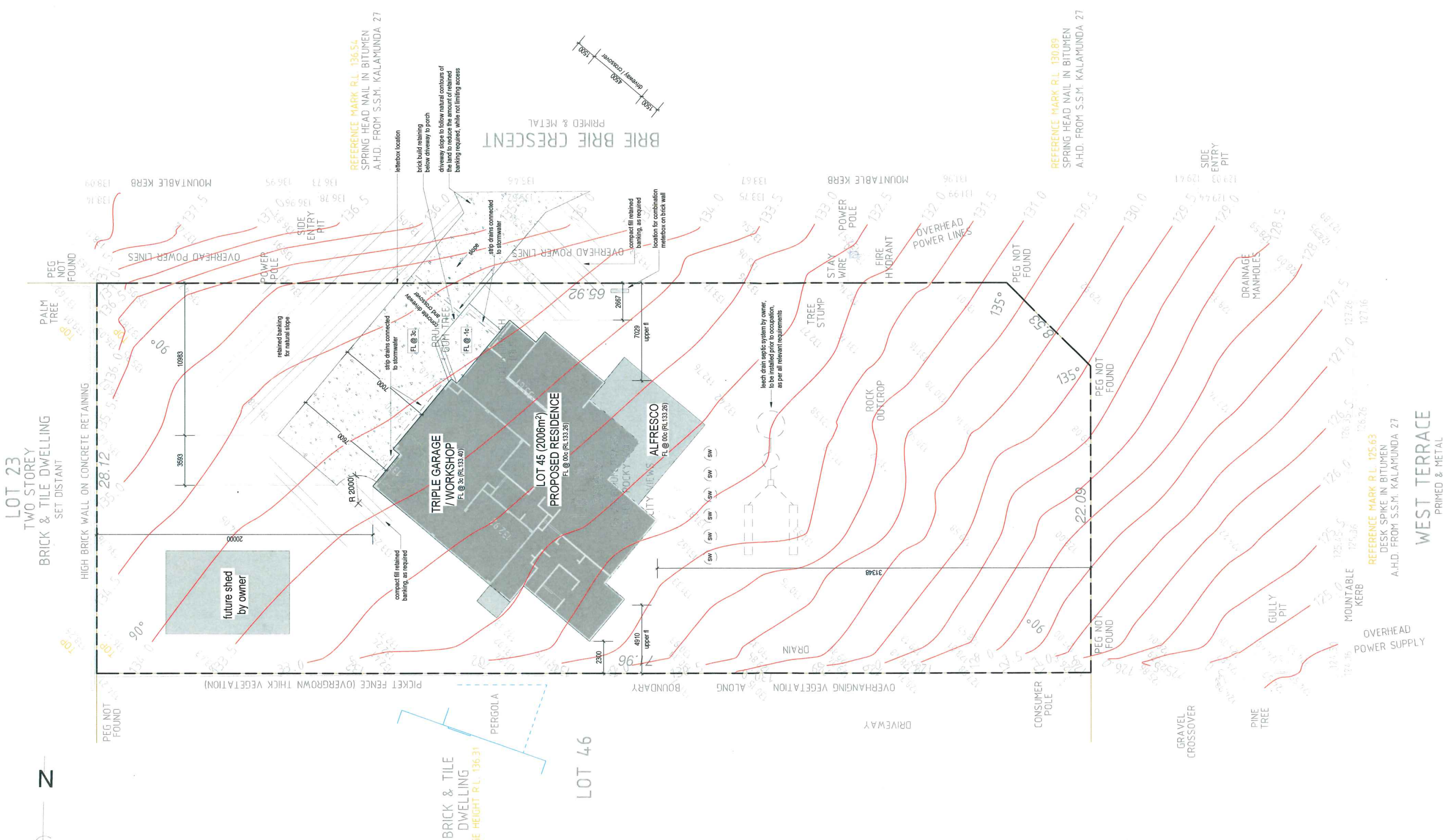
27. Noting the above, it is recommended that approval be granted subject to conditions.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Approves the application for a two storey house at Lot 45 (4) Brie Brie Crescent, Kalamunda, subject to the following conditions:
 - a) The development shall be carried out only in accordance with the terms of this application as approved herein, and any approved plan.
 - b) Stormwater shall be contained and disposed of on-site, to the satisfaction of the City of Kalamunda.
 - c) Within 30 days of the date of this approval, the applicant shall submit a schedule of materials and colours proposed for the dwelling to the satisfaction of the City of Kalamunda.
 - d) Crossover to be constructed in accordance with the City's *Specification for Crossover Construction*.
 - e) Landscaping within the verge shall be completed in accordance with the City's *Verge Development Guidelines*.



BUILDER'S NOTES

- Builder to check all dimensions prior to commencing construction. Do not scale drawings.
- All site dimensions dependent on original and true surveys.
- All dimensions are to be read in conjunction with all structural engineering drawings.
- All external steelwork including linings and post supports to be hot dipped galvanised.
- All steel strutting beam sizes are nominal only and are to be checked by builder before construction.
- Select timber framing with selected external render finish and weathered externally.
- Timber studwork construction with select cladding externally.
- All timber sizes not indicated shall comply with the light timber framing code AS 1854.
- All cladding to be Australian Standards, including all structural and ridge gable locations are nominal only and to be confirmed by builder prior to commencing.
- Termite treatment to local authority requirements and NCC Part 3.1.3, Part 2.1.1 and Part 10.7.
- Builder to liaise with plumbing contractor on site regarding all plumbing fixtures and fittings.
- All plumbing and drainage to be in accordance with drawings to comply with Australian Standards.
- All scaffolding to comply with the occupational health, safety and welfare act.
- Gas hot water system to manufacturer's requirements.
- Gas cooktop to manufacturer's requirements.
- Electric oven to manufacturer's requirements.

ENERGY & STAR RATING

- Climate zone 5, as per Building Codes of Australia
- Select ceiling insulation to house and attached garage.
- All tap fittings other than bath outlets and garden taps to be a minimum 4 star WELS rated.
- All shower heads to be minimum 3 star WELS rated.
- All hot water outlets (taps, showers, washing machine water supply) to be connected to a hot water system or to a recirculating hot water system with pipes installed and insulated in accordance with AS/NZS 3500-2003, plumbing and drainage, part 4 heated water service.
- Pipework from the hot water system or recirculating hot water system to the furthest hot water outlet must be insulated to a minimum length of 2 metres of internal volume.
- All sanitary flushing systems to be a minimum 4 star rated dual flush systems.

BAL NOTES

Site has been designated BAL 12.5, all works to meet requirements as per AS 3959 and completed bushfire management specification.

Items to be addressed as per relevant requirements in accordance with the bushfire management specification:

- Cladding to be a minimum of 13mm, all external joints are to be sealed to prevent gaps greater than 3mm.
- External vents to include mesh screen, door and window construction as per specification, weather seals to all external doors, roof vents to include ember guards, roof penetrations as per specification.

STORMWATER NOTES

Stormwater Calculation

Road cover = 369.34m²
Impervious surfaces = 155.19m²
Total = 524.53m²

525.53m² x 0.125 = 65.7m³ (required volume)

4 soakwells @ Ø1200x1200d (holding capacity of 1.31m³ each)

2 soakwells @ Ø1200x600d (holding capacity of 1m³ each)

Total on site holding capacity = 7.24m³

Stormwater to run into soakwells as per builder's standard specification. All soakwells to be interconnected.

Stormwater silt drains to be commercially sized for large capacity, connected to soakwells.

SW soakwells as noted above

SITE COVER

Proposed residence = 281.05m²
Lot 45 = 2006m²

Site cover = 14%

BANKING NOTE

All proposed banking to incorporate natural landscaping with conducive plants and soil for assistance with natural drainage.

GRADING NOTE

Impervious surfaces to grade towards stormwater silt drains or adjacent landscaping areas.

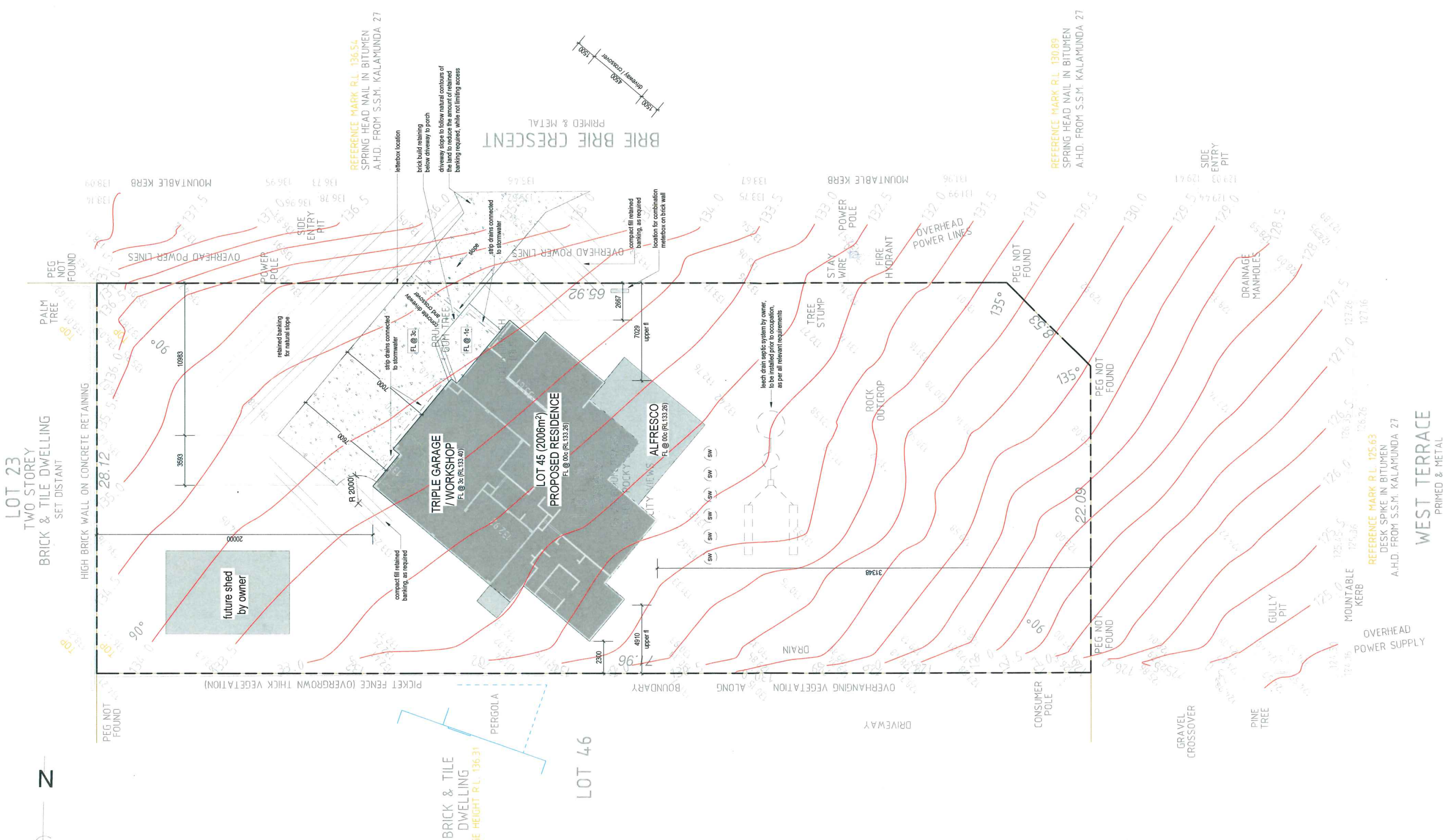
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INTELLIGENT DESIGN.
QUALITY BUILD

PROJECT	PROPOSED RESIDENCE	STAGE	WORKING	DRAWING	SITE PLAN	SCALE	1:200	@A2
ADDRESS	LOT 45 (#4) BRIE BRIE CRESCENT, KALAMUNDA			DATE	8 Nov. 17	SHEET NO.	A01 of 19	
				On	1:200	1m	D.M.	
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BUILDER'S NOTES

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- All site dimensions dependent on original and true surveys.
- All dimensions are to be read in conjunction with all structural engineering drawings.
- All external steelwork including linels and post supports to be hot dipped galvanised.
- All steel strutting beam sizes are nominal only and are to be checked by builder before construction.
- Select all cladding with selected external render finish and finish with selected external render finish.
- Timber studwork construction with select cladding externally.
- All timber sizes not indicated shall comply with the light timber framing code AS 1684.
- All cladding to be Australian Standards, including all structural engineering drawings.
- All cladding to be confirmed by builder prior to commencing.
- Termite treatment to local authority requirements and NCC Part 3.1.3, Part 2.1.1 and Part 10.7.
- Builder to liaise with plumbing contractor on site regarding all plumbing fixtures and fittings.
- All plumbing fixtures and fittings to be confirmed by builder prior to commencing.
- All scaffolding to comply with the occupational health, safety and welfare act.
- Gas hot water system to manufacturer's requirements.
- Gas cooktop to manufacturer's requirements.
- Electric oven to manufacturer's requirements.

ENERGY & STAR RATING

- Climate zone 5, as per Building Codes of Australia.
- Select ceiling insulation to house and attached garage.
- All tap fittings other than bath outlets and garden taps to be a minimum 4 star WELS rated.
- All shower heads to be minimum 3 star WELS rated.
- All hot water outlets (taps, showers, washing machine water supply) to be connected to a hot water system or to a recirculating hot water system with pipes installed and insulated in accordance with AS/NZ 3500:2003, plumbing and drainage, part 4 heated water service.
- Pipework from the hot water system or recirculating hot water system to the furthest hot water outlet must be insulated to a minimum length of 2 litres of internal volume.
- All sanitary flushing systems to be a minimum 4 star rated dual flush systems.

BAL NOTES

Site has been designated BAL 12.5, all works to meet requirements as per AS 3959 and completed bushfire management specification.

Items to be addressed as per relevant requirements in the specification:

- External cladding to be a minimum of 13mm, all external joints are to be sealed to prevent gaps greater than 3mm.
- External vents to include mesh screen, door and window construction as per specification, weather seals to all external doors, roof vents to include ember guards, roof penetrations as per specification.

STORMWATER NOTES

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Impervious surfaces = 155.19m²
Total = 524.53m²

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2 soakwells @ Ø1200x600d (holding capacity of 1m³ each)

Total on site holding capacity = 7.24m³

Stormwater to run into soakwells as per builder's standard specification. All soakwells to be interconnected.

Stormwater strip drains to be commercially sized for large capacity, connected to soakwells.

SW soakwells as noted above

SITE COVER

Proposed residence = 281.05m²
Lot 45 = 2006m²

Site cover = 14%

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All proposed banking to incorporate natural landscaping with condusive plants and soil for assistance with natural drainage.

GRADING NOTE

Impervious surfaces to grade towards stormwater strip drains or adjacent landscaping areas.

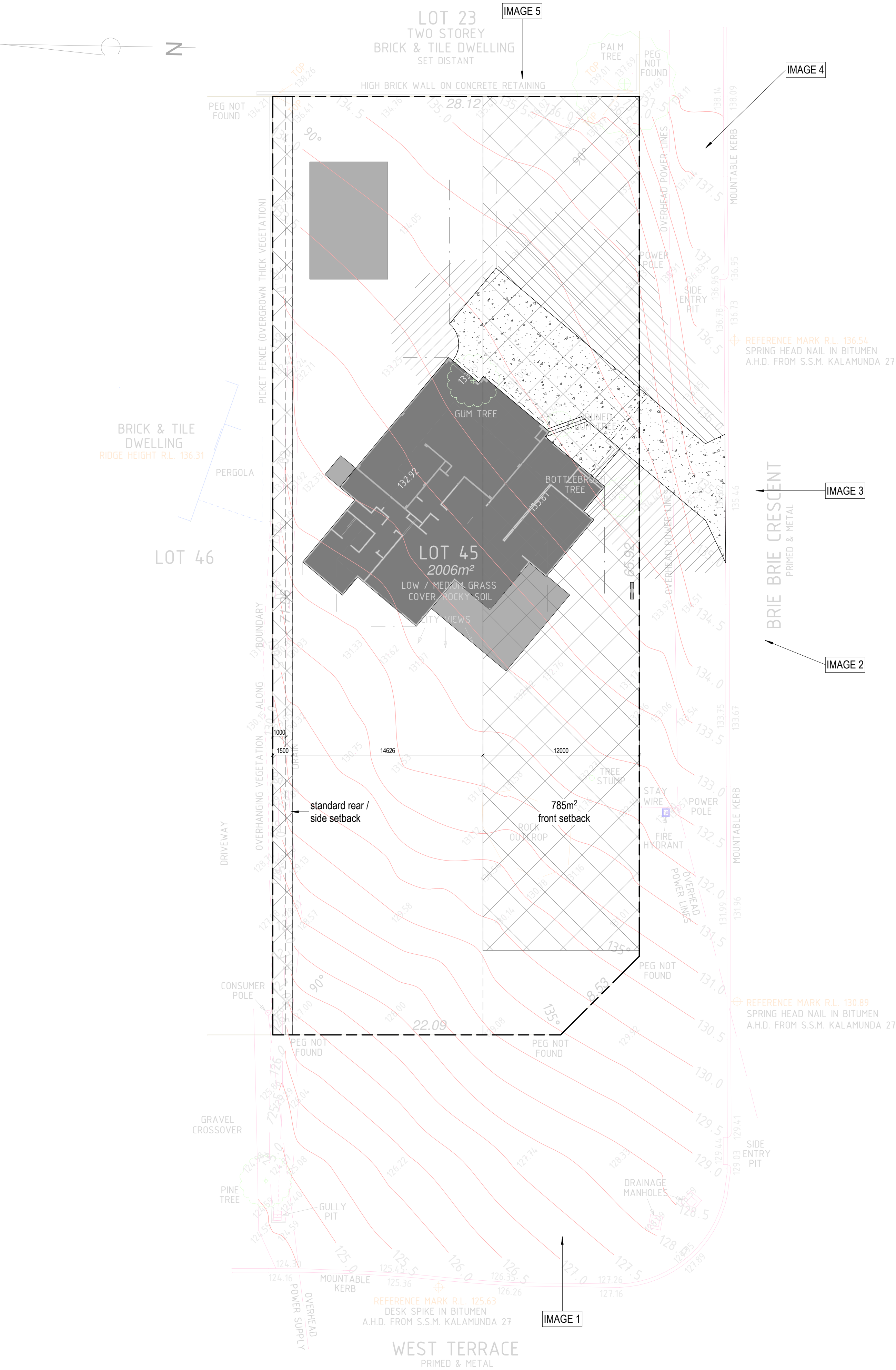
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PROJECT	PROPOSED RESIDENCE	STAGE	WORKING	DRAWING	SITE PLAN	SCALE	1:200	@A2
ADDRESS	LOT 45 (#4) BRIE BRIE CRESCENT, KALAMUNDA				DATE	8 Nov. 17	SHEET NO.	A01
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PROJECT
PROPOSED RESIDENCE

STAGE
WORKING

ADDRESS
**LOT 45 (#4) BRIE BRIE CRESCENT,
KALAMUNDA**

DRAWING
SITE

SCALE
1 : 200

DATE
21 Dec. 17

SHEET NO.
XX of 21

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Image 1 - View from West Terrace



Image 2 - Side view from Brie Brie Crescent



Image 1 - View from West Terrace



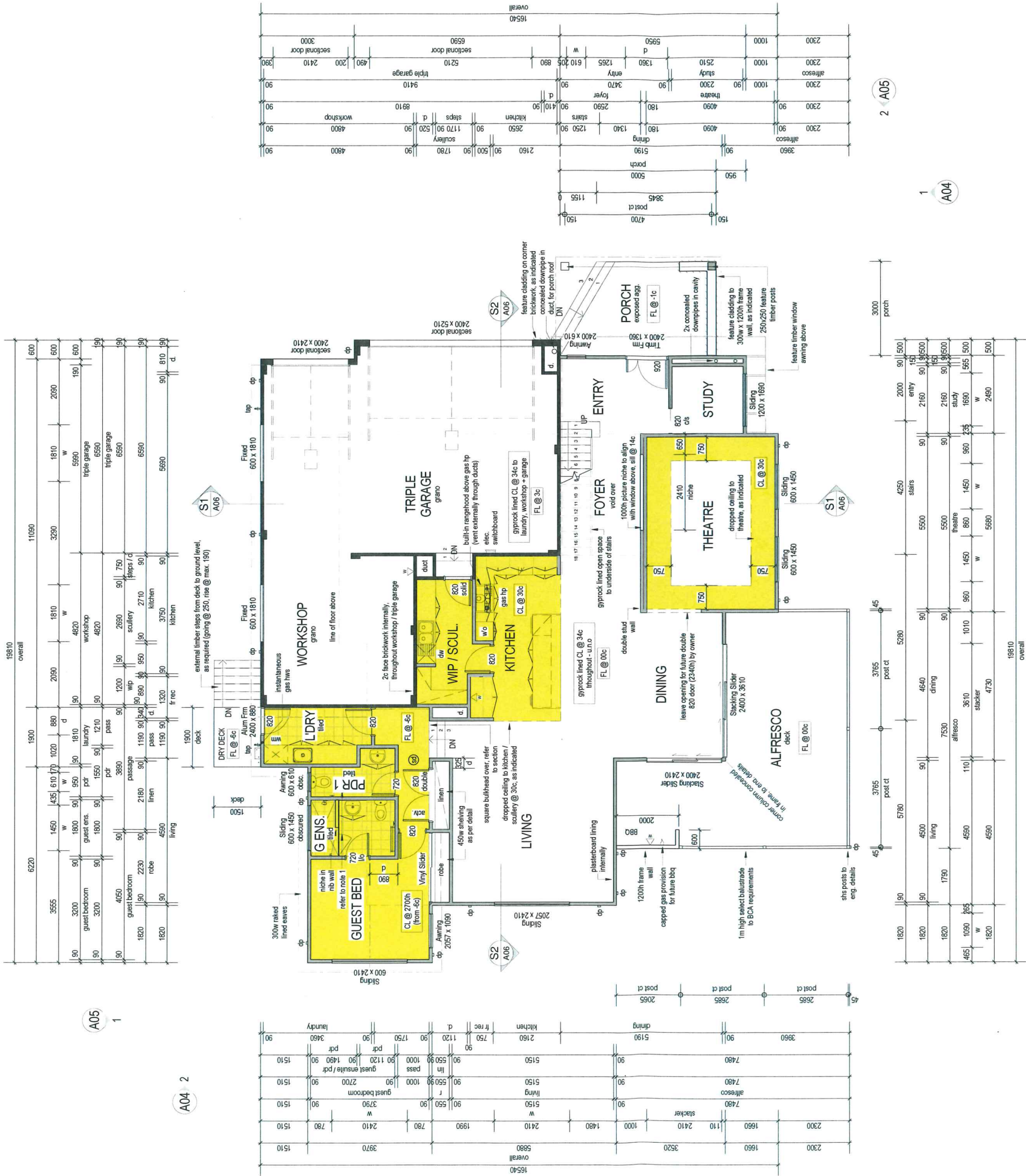
Image 2 - Side view from Brie Brie Crescent

BAL NOTES

Site has been designated BAL 12.5, all works to meet requirements as per AS 3959 and completed bushfire management specification.

Items to be addressed as per relevant requirements include, but are not limited to:- external fire cement cladding to be a minimum of 6mm thick, all external joints to be sealed with fire cement, external doors and windows to be constructed as per specification, weather seals to all external doors, roof vents to include ember guards, roof penetrations as per specification.

Name	Area
GF Living	169.3 m ²
Workshop / Garage	89.5 m ²
Alfresco	39.9 m ²
UF Living	152.9 m ²
Balcony	40.0 m ²
Porch	13.2 m ²
TOTAL	504.7 m ²



Symbol indicates capped plumbing provisions required for future use, as follows:

- Fridge recess: cold water for fridge connection
- Workshop: cold water with floor waste
- Reest: hot + cold water with floor waste
- BBQ: hot + cold water with floor waste

hatch indicates varied ceiling height

roof beams to eng. details

BUILDER'S NOTES

Timber frame construction with select external cladding to be a minimum of 6mm thick, all external joints to be sealed with fire cement, external doors and windows to be constructed as per specification, weather seals to all external doors, roof vents to include ember guards, roof penetrations as per specification.

1 - Mechanically vent to outside

2 - Smoke Detector alarm to be installed in accordance to BCA requirements

3 - All external windows and doors to be constructed to comply to BCA requirements

4 - The Down, refer to engineer's drawings for specifications

5 - Lift Off hinge door frame to sanitary compartments BCA requirements

6 - 2340h internal doors throughout

7 - All external windows and doors heads @ 28c (2400), from floor level

8 - Refer to room layouts for all niche details

INSULATION NOTE

Ceiling, wall and floor insulation as per addenda - to meet energy efficiency requirements

WALL FINISH NOTE

Hard wall plaster finish to all stud frame / brick wall intersections, as indicated on plan

STEPS NOTE

All concrete cast in-situ steps to be as per engineers details



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PROJECT PROPOSED RESIDENCE WORKING DRAWING

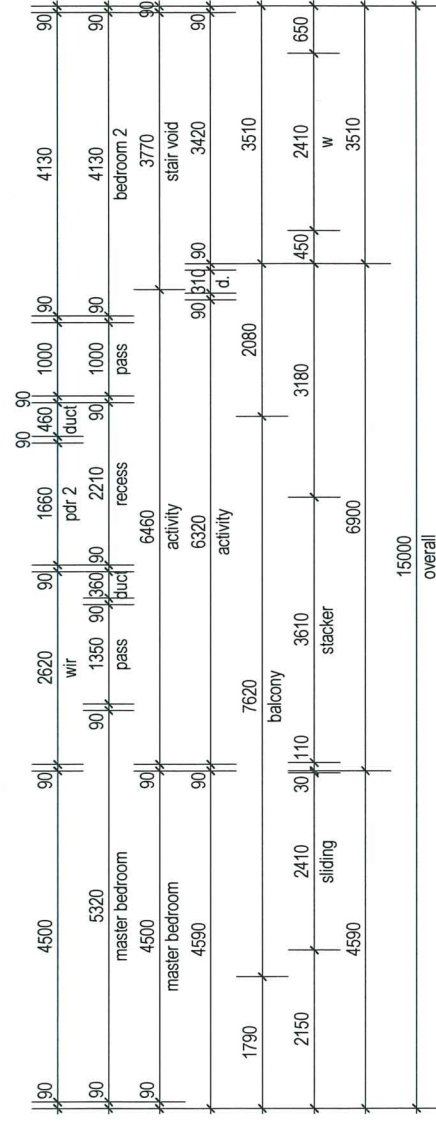
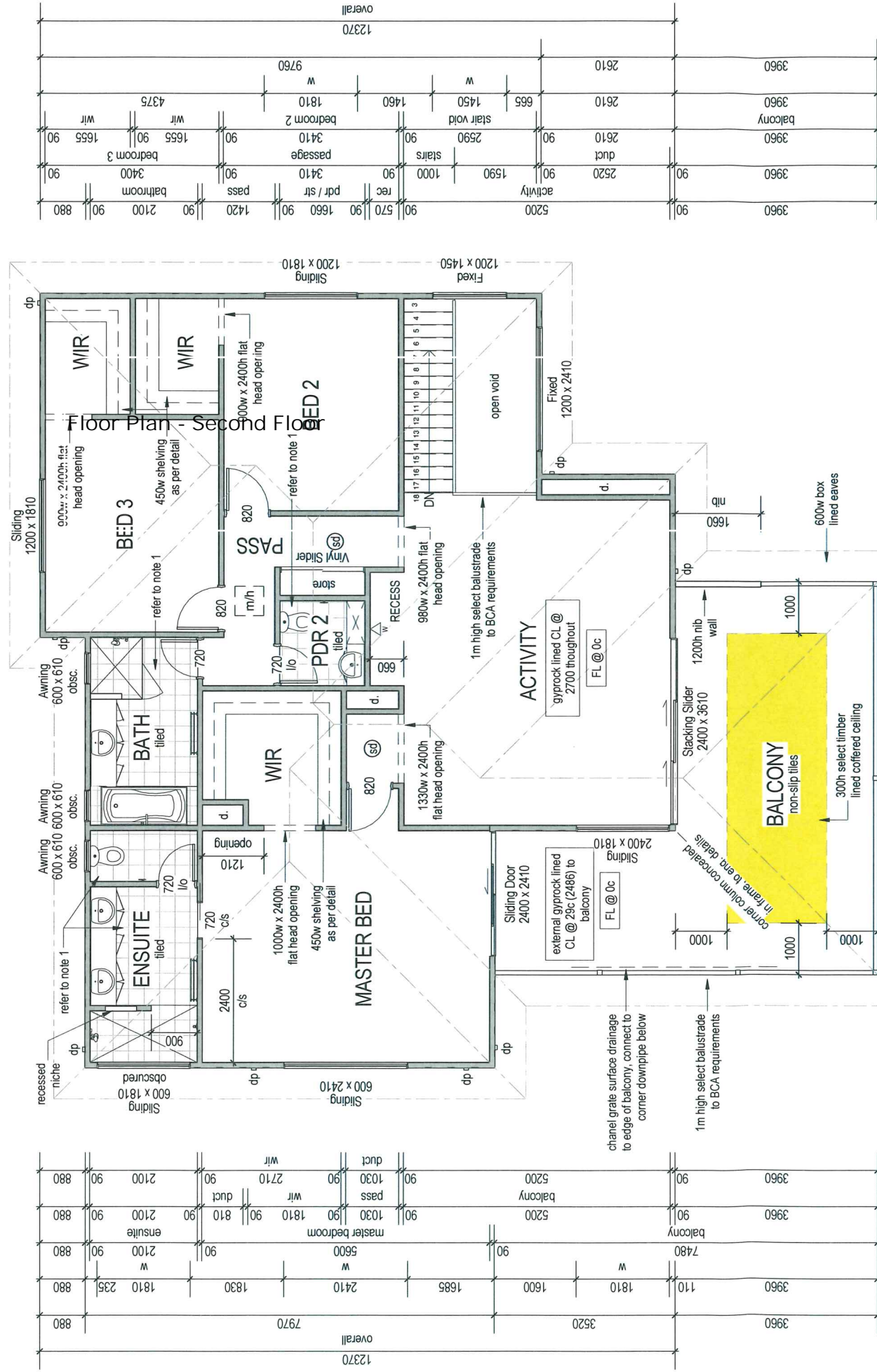
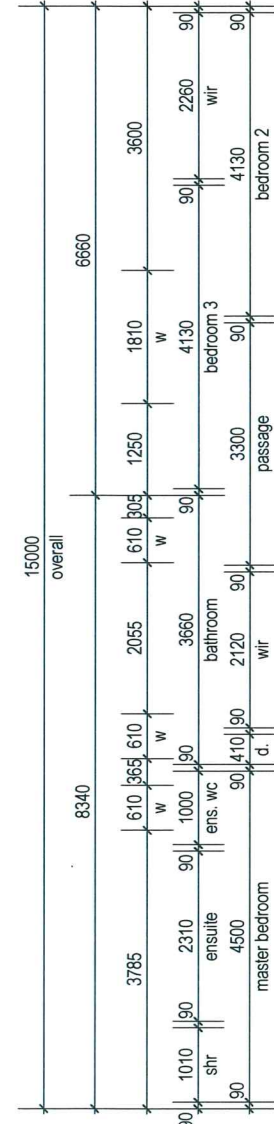
ADDRESS LOT 45 (#4) BRIE BRIE CRESCENT, KALAMUNDA

SCALE 1:100

DATE 8 Nov. 17

SHEET NO. A02 of 19

AREAS		Area
Name		
GF Living		169.3 m ²
Workshop / Garage		89.5 m ²
Affresco		39.9 m ²
UF Living		152.9 m ²
Balcony		40.0 m ²
Porch		13.2 m ²
TOTAL		504.7 m ²



BUILDER'S NOTES

Timber frame construction with select external texture coat render on blueboard, timber sub-floor frame on steel stumps. 2c texture coat rendered brickwork on concrete slab to Workshop and Triple Garage.

- 1 - Mechanically vent to outside
- sd - Smoke Detector alarm to be installed in accordance to BCA requirements
- dp - Down Pipe location, nominal only, down pipe and gutter to comply to BCA requirements
- td - Tie Down, refer to engineer's drawings for specifications
- l/o - Lift Off hinge door frame to sanitary compartments BCA requirements
- 2340p: internal doors throughout
- All external window and door heads @ 28c (2400), from floor level
- Refer to room layouts for all niche details



INSULATION NOTE

Ceiling, wall and floor insulation as per addenda -
to meet energy efficiency requirements

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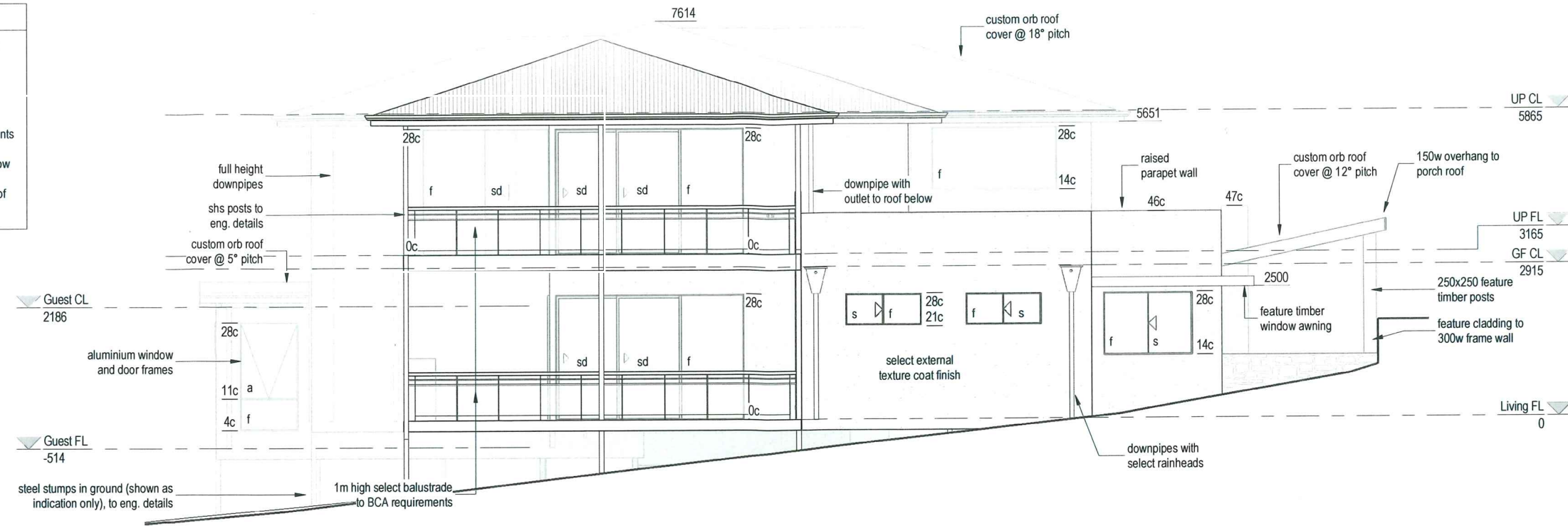
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 <p> 4 Browning Road Armadale WA 6112 Phone: (08) 9399 6715 Fax: (08) 9399 8564 www.iqconstruction.com.au INTELLIGENT DESIGN, QUALITY BUILD </p>	PROJECT PROPOSED RESIDENCE	STAGE WORKING	DRAWING UPPER FLOOR PLAN	SCALE 1 : 100
	ADDRESS LOT 45 (#4) BRIE BRIE CRESCENT, KALAMUNDA	DRAWN  5m	D.M.	DATE 8 Nov. 17
	SHEET NO. A03 of 19			ALL DRAWING, PLANS AND DESIGNS ARE SUBJECT TO COPYRIGHT AND ANY ATTEMPT OR ACTUAL INFRINGEMENT BY USING, REPRODUCING OR COPYING THE SAME WHOLLY OR IN PART WITHOUT WRITTEN PERMISSION FROM THE DESIGNER WILL RESULT IN LEGAL PROCEEDINGS

BAL NOTES

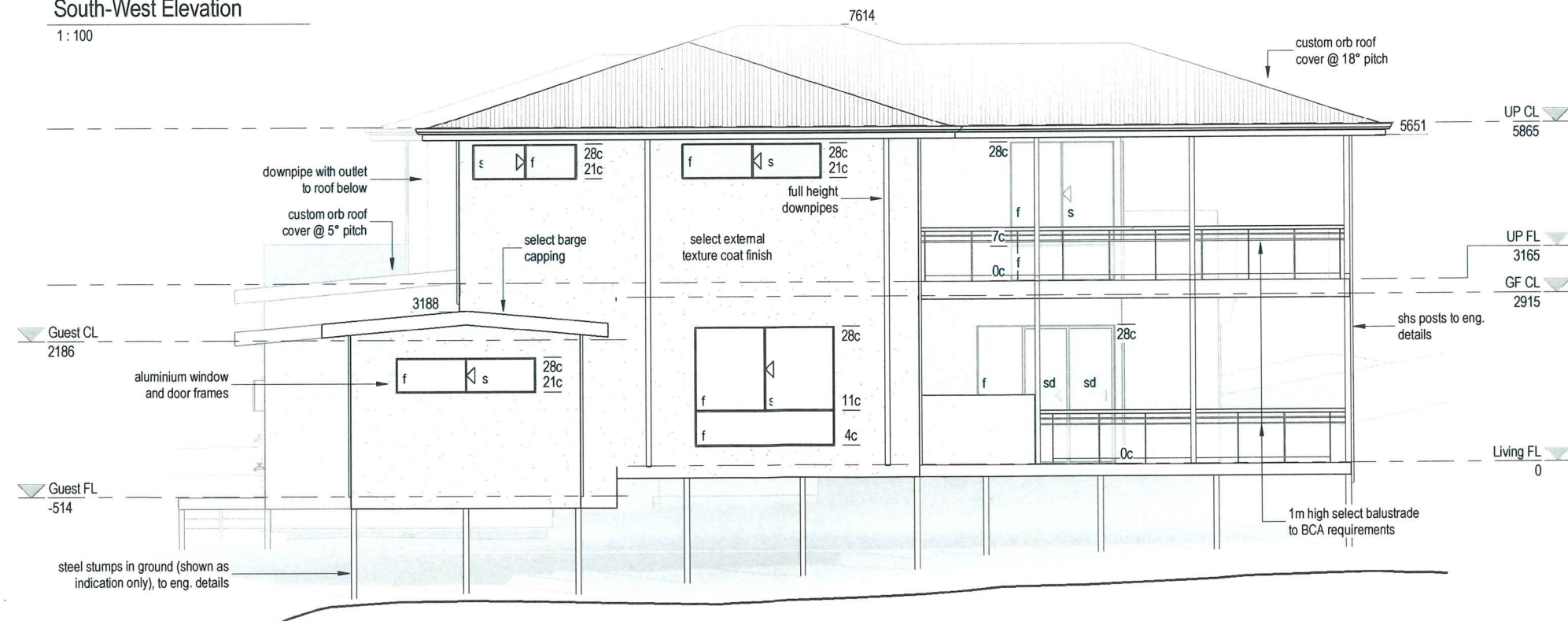
Site has been designated BAL 12.5, all works to meet requirements as per AS 3959 and completed bushfire management specification.

Items to be addressed as per relevant requirements include, but are not limited to - external fibre cement cladding to be a minimum of 6mm thick, all external joints are to be sealed to prevent gaps greater than 3mm, external vents to include ember guards and window construction as per specification, weather seals to all external doors, roof vents to include ember guards, roof penetrations as per specification.



South-West Elevation

1:100



North-West Elevation

1:100



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PROJECT

PROPOSED RESIDENCE

STAGE

WORKING

ADDRESS

LOT 45 (#4) BRIE BRIE CRESCENT,
KALAMUNDA

DRAWING

ELEVATIONS

SCALE

1:100

DATE

8 Nov. 17

SHEET NO.

A04 of 19

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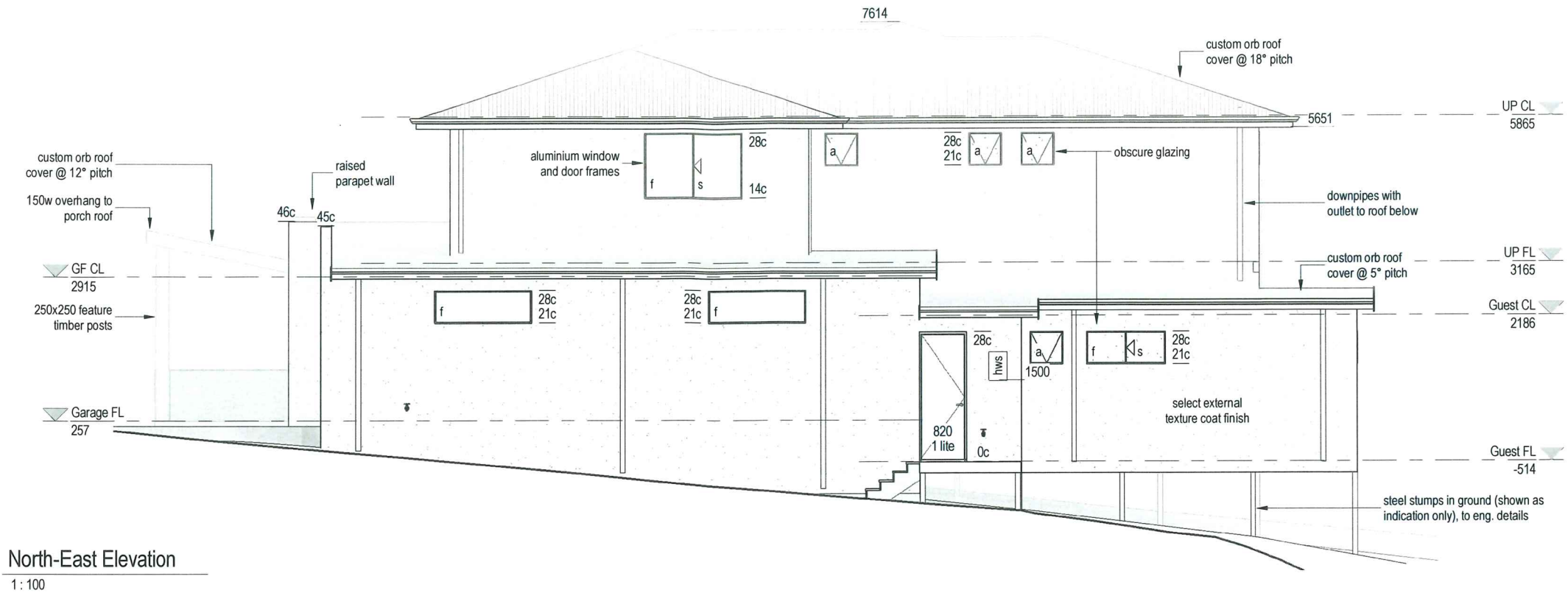
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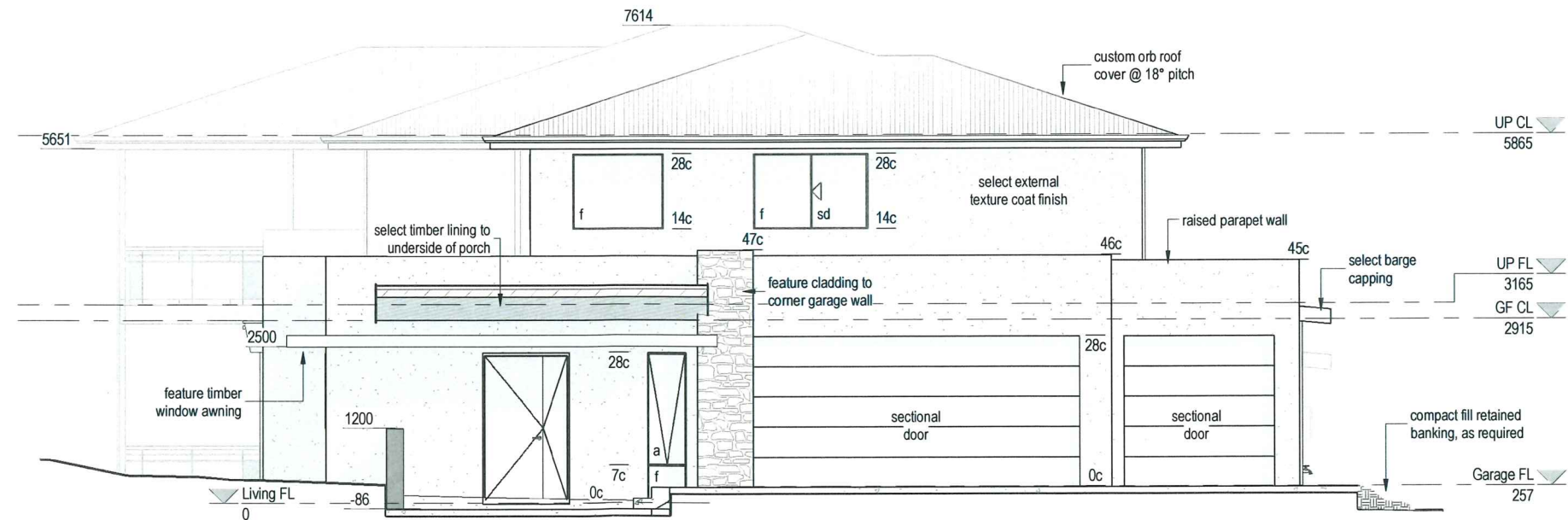
BAL NOTES

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North-East Elevation
1:100



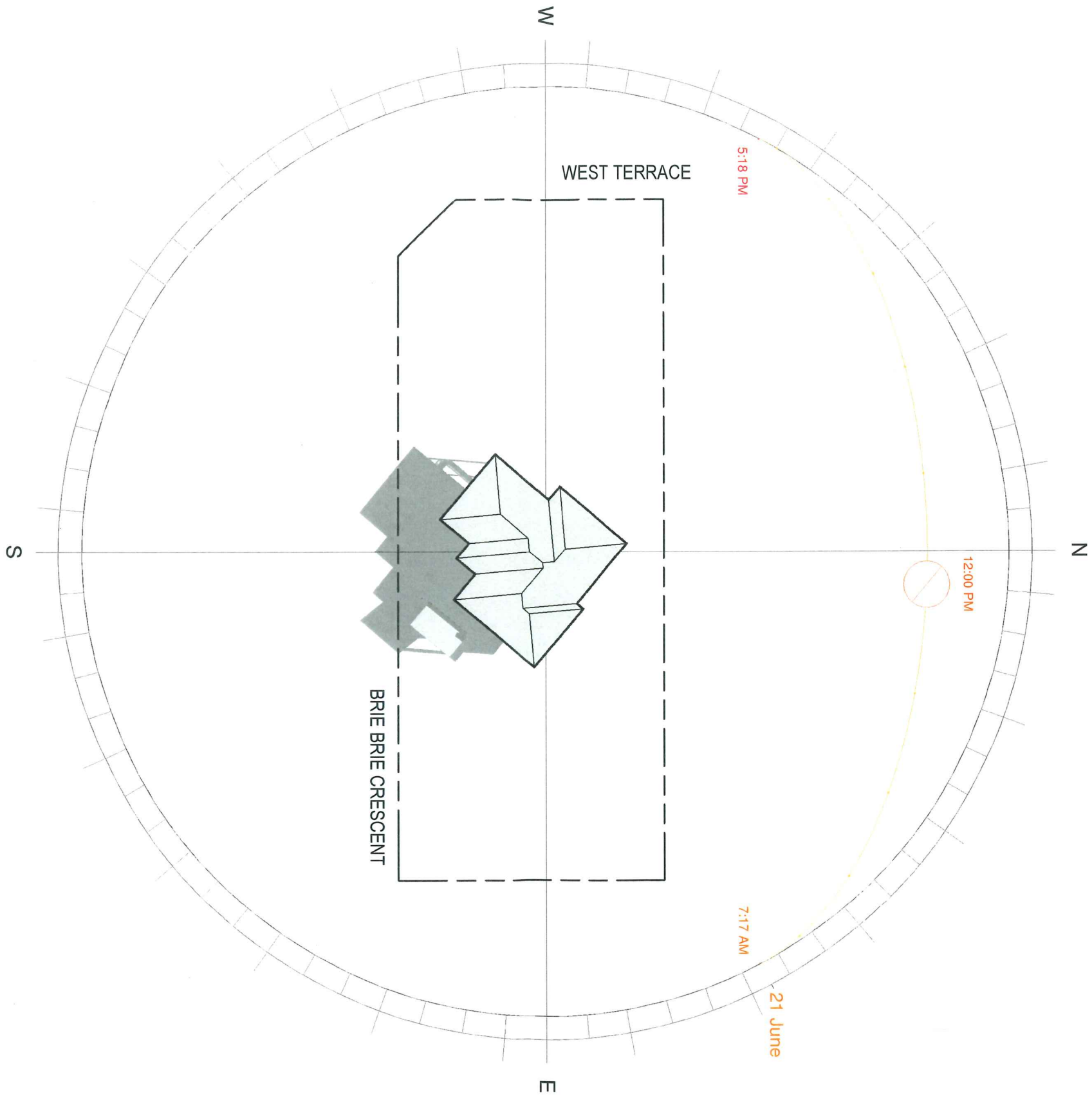
South-East Elevation
1:100



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PROJECT **PROPOSED RESIDENCE** STAGE **WORKING**
ADDRESS **LOT 45 (#4) BRIE BRIE CRESCENT,
KALAMUNDA**

DRAWING **ELEVATIONS** SCALE **1:100**
DATE **8 Nov. 17**
DRAWN **D.M.** SHEET NO. **A05** of 19
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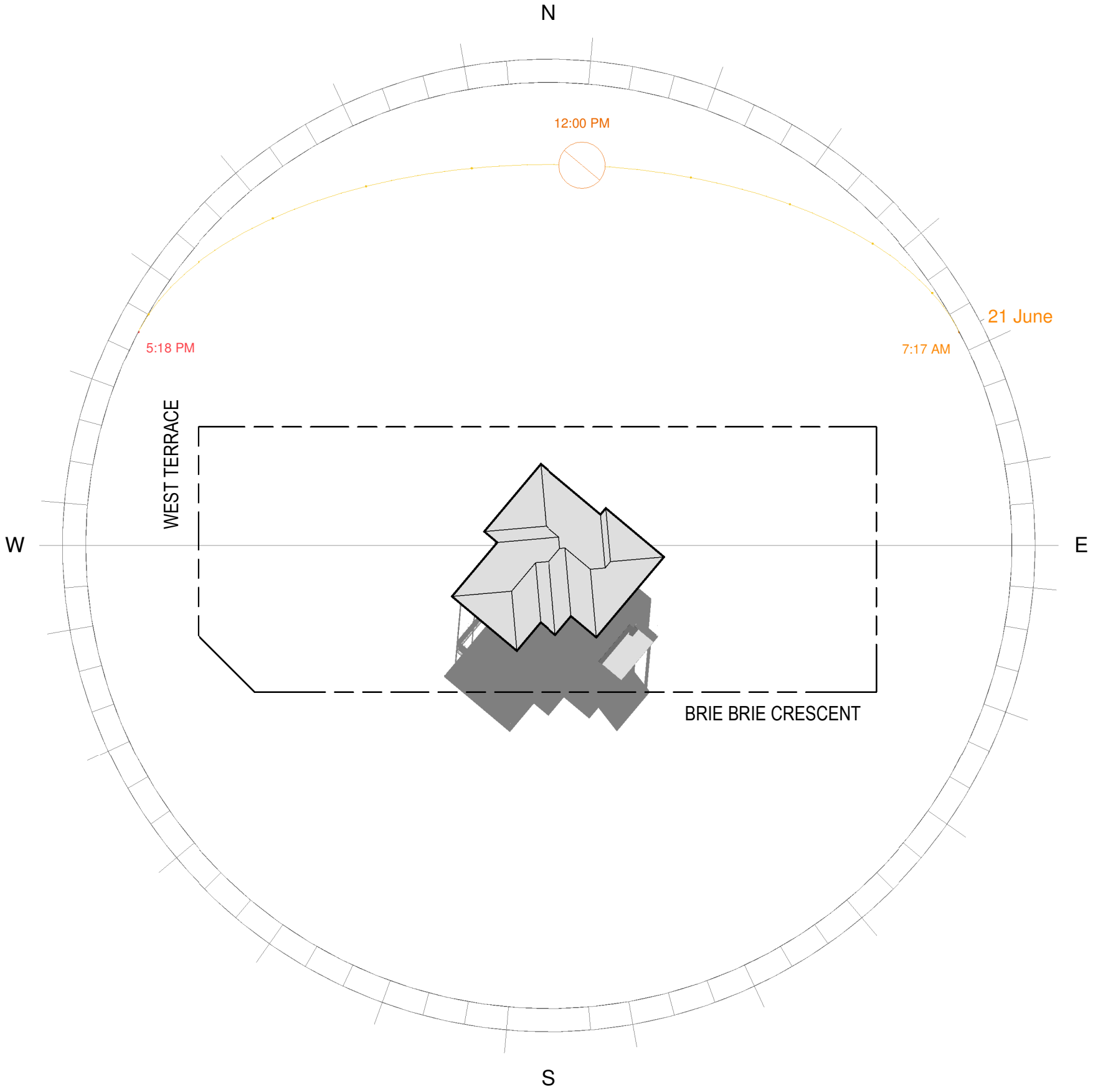


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PROJECT	STAGE
PROPOSED RESIDENCE	WORKING
ADDRESS	
LOT 45 (#4) BRIE BRIE CRESCENT, KALAMUNDA	

DRAWING	SHADOW DIAGRAM
0m 1m 2m 3m 4m 5m	DRAWN D.M.
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SCALE	SHEET NO.
1 : 500	8 Nov. 17
A- of 19	





THE SMART
WAY TO BUILD!

ABN 77 873 836 589

phone 9399 6715
fax 9399 8564
email john@iqconstruction.com.au
address 4 Browning Rd Armadale
www.iqconstruction.com.au

Development Application –

Lot 45 (#4) Brie Brie Crescent, Kalamunda

Dear City of Kalamunda,

Please find enclosed all required architectural plans and relevant governing documents for the application for development approval for proposed works at Lot 45 (#4) Brie Brie Crescent in Kalamunda.

The proposed works is in full compliance with all relevant R-Code requirements and BCA regulations, aside from the building height for which we are seeking a minor variation to as outlined within this document. The scope of the proposed works is a new double storey timber frame residence on steel stumps, with an attached brick on concrete garage and workshop. The existing lot is vacant land with an undulating steep slope and rocky outcrops. Due to the condition of the site, with the slope and the substandard soil beneath, a pole home construction is the ideal way to proceed. In lieu of extensive site works with cutting, filling and retaining the land, the proposed design is able to compliment the natural slope and provide a unique and desirable end result.

Site condition

The current condition of the site is an undesirable vacant lot with sporadic vegetation, rock build ups and a steep slope. The soil has been classified H1 due to the silt, clay and gravel content found, this makes our proposed construction method the logical and ideal step forward. Prior to commencement of construction the lot will be cleared of the vegetation and rock build ups.

Stormwater

All stormwater will be retaining on site with soakwells as calculated on the site plan.

Bushfire Attack Level (BAL)

This site has been assessed and assigned BAL 12.5 as outlined in the included BAL Certificate, as such all construction will proceed in accordance with all requirements of AS 3959.

Building Orientation

The proposed residences angled orientation is due to working with the slope of the land, while best capturing the features of the land without any negative impact on the neighbouring lots. With the proposed orientation, views to the valley below are gained from the alfresco and balcony areas, with access to the sloped site more easily gained with the proposed driveway position.



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Driveway and Crossover

The proposed residence will include an angled driveway and crossover, this is due to the nature of the site and working with the contours. If the driveway and crossover was to come perpendicular off of Brie Brie Crescent then extensive masonry retaining would be needed. The measurements of the driveway and crossover are in compliance with the City's specifications, being 4.5m wide at the lot boundary and 7.5m wide at the road.

Banking

In lieu of masonry retaining we have proposed naturally filled retained banking where required for the driveway and crossover, this option was suggested by the City's engineering department. With naturally filled retained banking we will complement the streetscape and allow provisions for additional landscaping and gardening, while not disrupting any potential verge activity.

Adjacent Lots

The proposed layout, heights and position of the residence is done so with the adjacent lots in mind. The considerable 20m setback to the rear lot 23 provides a generous separation between the two residences and allows our proposed residence to be positioned at a lower point of the slope. The position in relation to the side lot 46 is at the required setback for a wall with no major openings up to 5m (as stated on 'Table 2a: Boundary setbacks – Walls with no major openings'), with all windows facing this boundary at a sill height of 1.8m and living area openings set beyond 8m.

Our proposed residence does not impede any views from the adjacent lots. The rear lot 23 does not have a west facing balcony, and as our proposed residence steps down with the contours of the land the overall height will be kept to a minimum. Currently there is a build-up of tree's along the side boundary to lot 45, there are also no southern facing views on offer.

Due to the orientation of the land and our proposed residence, there would be no shadows cast on to the adjacent lands as depicted on the included sun diagram.

Site History

After conversing with our client and current owner of the land, they have informed us that the land has been bought and sold upwards of 10 times with land remaining vacant throughout this time. This has led to the land becoming unkempt and a blight on the streetscape of the neighbourhood. With our proposed development the area will be gaining a unique residence that doesn't stray too far from the vernacular of the surrounding buildings, and occupants who will care for and maintain the aesthetic of the land.



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Also note that this property was previously Lot 45 (#69) West Terrace, however the owners of the land have gone through the correct process to change this to its current address.

Residential Design Code variation

The proposed development is in full compliance with the Residential Design Code requirements, bar the building heights as stated on 'Table 3: Maximum building heights'. As no scheme, planning policy, structure plan or development plan applies to our proposed residence, 'Category B' is the required heights we will have to meet. As the top of the pitched roof to the lowest point of the natural ground level is less than 9m, the condition is met, however it is the height of the external walls that is exceeded and as such we would ask for a variation to this requirement. The variation we seek is to allow the external walls to come under the 'Category C' heights as stated on 'Table 3', with this variation the proposed development is fully compliant.

The wall itself is within the heights set in 'Category B' however it is the additional height to the natural ground level where the limit is exceeded. As stated throughout this document the proposed pole construction is the ideal method when dealing with a site that contains the types of challenges as lot 45 does. Given the proposed development does not adversely affect the adjacent residences and only stands to compliment the streetscape of the neighbourhood, we would hope that the variation and proposed development will be approved by the City.

Please refer to all included plans and documentation.

Kind Regards,

Dylan Murphy
IQ Construction

November 2017



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Additional Planning Justification

Lot 45 (#4) Brie Brie Crescent,
Kalamunda

IQ Construction

February 2018



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5.1.2 Street Setback

P2.1 Buildings set back from the street boundaries an appropriate distance to ensure they:

- *Contribute to, and are consistent with, an established streetscape;*

The proposed location of the dwelling is setback 2.7m from the Brie Brie Crescent boundary line, as this boundary line is approximately 6.6m from the street curb. The beginning of the dwelling is therefore approximately 9.3m back from the streetscape, fitting in well with the neighbouring properties. Were the 12m front setback to be upheld this would require the dwelling to be over 18m away from the streetscape, making for a very oddly positioned dwelling in relation to neighbouring properties.

- *Provide adequate privacy and open space for dwellings;*

Being such a large site the open space requirements are easily met, as for privacy, the alfresco balconies are positioned away from neighbouring properties and large setbacks to all boundaries to ensure adequate privacy measures are in place.

- *Accommodate site planning requirements such as parking, landscape and utilities; and*

The dwelling is setback to provide ample room for any future verge activity, with the position of the dwelling and driveway away from all utilities and services. The angled driveway, as well as being the most practical and logical solution for this complicated site, provides additional parking spaces to be used by residents of the dwelling without occupying any street verge space. With the retained banking being used in lieu of masonry, this provides a functional space for aesthetically pleasing landscaping areas to enhance the street view of the property.

- *Allow safety clearances for easements for essential corridors.*

The site does not contain any easements, with the proposed work not encroaching on any City or shared land.

P2.2 Buildings mass and form that:

- *Uses design features to affect the size and scale of the building;*

The steep slope of the land at #4 Brie Brie Crescent necessitates a creative solution when building a new residence, as such we adopted timber frame on steel poles as the primary building method. This design and build method allows for the residence to follow the contours of the land, this way the large dwelling is able to hide within the land reducing the overall scale of the dwelling as it sits on the site.

- *Uses appropriate minor projections that do not detract from the character of the streetscape;*



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The design incorporates minor projected features that do not detract from the character of the streetscape.

- *Minimises the proportion of the façade at ground level taken up by building services, vehicle entries and parking supply, blank walls, servicing infrastructure access and the like; and*

The façade of the proposed residence will be clean straight lines with no large areas of blank wall or occupation of services on wall. Vehicle entry is down the driveway from a slim crossover, hidden from the street view.

- *Positively contributes to the prevailing development context and streetscape.*

The current state of the site is a vacant lot with overgrown vegetation, rubbish, detritus and dumped items, making it an unpleasant area. Our proposed new dwelling will be a welcomed contribution to the area and dramatically enhance the overall aesthetic of the streetscape.

5.1.3 Lot Boundary Setback

P3.1 Buildings set back from lot boundaries so as to:

- *Reduce impacts of building bulk on adjoining properties;*

With the 20m setback from Lot 23, as well as the sloping of the land with the dwelling following this slope, the proposed new residence will have no visual impact to the residence on this lot. Being almost unsighted due to the existing fence brick fence. The 2.3m setback from Lot 46 is at the required setback for a wall with no major openings up to 5m (as stated on 'Table 2a: Boundary setbacks – Walls with no major openings'). As Lot 46 slopes away from the proposed residence and with no living areas affected, the proposed residence on Lot 45 will have virtually no impact to the adjoining property.

- *Provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*

As shown on D01 – Shadow Diagram, the proposed residence will have no overshadowing to any adjoining properties, not restricting any direct sun to the adjoining properties. With the generous setbacks, the proposed residence will have minimal impact to the ventilation of adjoining properties.

- *Minimise the extent of overlooking and resultant loss of privacy on adjoining properties.*

The proposed residence to Lot 45 will have absolutely no points of overlooking to adjacent properties and subsequently no loss of privacy to either adjoining lots. With the 20m setback and incline to Lot 23, the existing residence will not be seen from anywhere on the proposed residence. The setbacks and orientation of the building to the boundary shared with Lot 46 provide no points of overlooking to the existing residence, with the balconies facing the street and all living areas orientated away from Lot 46.



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P3.2 Buildings built up to boundaries (other than the street boundary) where this:

- *Make more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;*
- *Does not compromise the design principle contained in clause 5.1.3 P3.1;*
- *Does not have any adverse impact on the amenity of the adjoining property;*
- *Ensures direct sun to a major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and*
- *Positively contributes to the prevailing development context and streetscape.*

Proposed residence does not have any points built up to the boundaries.

5.1.6 Building Height

P6 Building height that creates no adverse impact on the amenity of adjoining properties or the streetscape, including road reserves and public open space reserves; and where appropriate maintains:

- *Adequate access to direct sun into buildings and appurtenant open spaces;*
 As shown on D01 – Shadow Diagram, the proposed residence will have no overshadowing to adjoining properties therefore not restricting any direct sunlight access.
- *Adequate daylight to major openings into habitable rooms; and*
 With no overshadowing from the proposed residence, all habitable rooms to adjoining properties will continue to gain daylight as they currently do.
- *Access to view of significance*
 The adjoining Lot 46 does not have access to any views of significance, due to the slope of the land and orientation of the existing residence the proposed residence on Lot 45 will be virtually insignificant from Lot 46's perspective. The rear Lot 23 does have western views down the valley. With our proposed design, orientation and heights this view will not be affected, refer to images on sheet ZZ showing the minimal impact the proposed residence will have on Lot 23's western views.





City of Kalamunda



City of Kalamunda

Comment on Proposal	Submitter	Officer Comments
<p>Setback: The respondent presumes that the required setback distances have been put in place for a reason, and that altering them is not acceptable. In addition to this, altering the front boundary setback from 12m to 2.6m will bring the house far too close to the primary street.</p>	<p>1</p>	<p>Due to the narrow lot width some discretion is required when applying the 12m primary street setback. In this case a 6m average setback would be applied, meaning a variation of 3.4m is sought. It is noted that should the 12m setback be arbitrarily applied it would render a large proportion of the lot unusable and impractical for a building site.</p>
<p>Height: The respondent states that they object to the height as the limit set by the Residential Design Codes is set at 6m.</p>	<p>1</p>	<p>The external wall height from floor level to ceiling is compliant. The proposed increased height is due more to the fall of the natural ground level as opposed to the increasing wall height. Regardless the height of a building is measured from natural ground level to ceiling level and assessed against the R-Code Design Principles.</p>

10.3. Asset Services Reports

10.3.1. Consideration of Tenders for the Maintenance of Bores, Wells, Pumps and Associated Works within the City of Kalamunda (RFT 1723)

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

The Director Asset Services provided a presentation on this item. There were no questions from Councillors.

Mr Dick Lovegrove of 41 Brentwood Road Wattle Grove asked if Hydroquip had completed a successful contract with the City before or is this their initial contract. The Director Asset Services advised the City has utilised Hydroquip previously, three reference checks were completed with other local authorities and they were all very positive responses.

Previous Items	N/A
Directorate	Asset Services
Business Unit	Asset Services
File Reference	AD-TEN-004
Applicant	N/A
Owner	N/A
Attachments	Nil

EXECUTIVE SUMMARY

1. The purpose of this report is to consider the award of a contract for the Maintenance of Bores, Wells, Pumps and Associated Works within the City of Kalamunda (RFT 1723) for a period of three years with an option, at the sole discretion of the City, to extend by a further two x 12 month period.
2. On 9 December 2017, the City of Kalamunda (the City) issued the Request for Tender (RFT 1723) seeking Tenderers for the maintenance of the City's parks and streetscape irrigation bores, wells, pumps and associated pumping infrastructure.
3. It is recommended that Council appoint Hydroquip for the Maintenance of Bores, Wells, Pumps and Associated Works within the City of Kalamunda (RFT 1723).

BACKGROUND

4. The City has in place an annual service program for its irrigation production bores, wells and pumps and associated equipment. The intention of this program is to ensure that bore and pump failures are avoided and that irrigation systems operate efficiently for the term of their useful life. It is recognised that the City would benefit from a competitively tendered contract to assist with gaining the best outcomes for maintaining these assets.

5. The value of this annual maintenance service for the 2016-2017 financial year, plus the last half of 2017 and projected values for the first six months of 2018, equated to a total two-year contract value of \$206,115. Estimates were further projected at \$309,170 for the first 3 years and \$515,300 for up to five years.
6. During the term of the contract, additional service requirements will be added to the City's maintenance program as reserves are handed from development proponents, sport and recreational reserves are refurbished, and unscheduled works occur as a result of older installation failures and changes to ground water conditions.

DETAILS

7. The annual scope of bore, well and pump works is based on an annual servicing program across 15 to 18 installation locations each year, so that all are serviced as a minimum every five years.
8. Annual servicing works are largely undertaken in June to August while irrigation systems are shut down for the winter and before the summer watering program commences in September. It is anticipated that the scheduled works associated with this contract will commence June 2018.
9. The following Panel members were duly appointed to the Tender Evaluation Panel (Panel) by the Director Asset Services:
 - a) Manager Parks and Environmental Services (Panel Chair)
 - b) Supervisor Irrigation and Park Projects
 - c) Reticulation Fitter
10. In the lead up to the commencement of the Tender Evaluation Process and based on the Qualitative Criteria for RFT 1723, consideration was given to determining what would be an acceptable qualitative score that would indicate the ability of a Tenderer to satisfactorily deliver its services. In this instance, the predetermined Qualitative Pass Mark (QPM) for RFT 1723 was set at 60%.
11. Compliance Criteria were evaluated on a "Yes/No" basis, with compliance assessment completed by the Procurement and Finance Officer. All submissions were assessed as compliant with the Tender Compliance Criteria.
12. As part of the Tender assessment process, all submissions must be considered against predefined Qualitative Criteria, which are all described in the Request for Tender document.
13. The purpose of the Qualitative Criteria is to ensure that Tenderers easily understand what is required of them in the context of the future contract that may be entered into and in providing that understanding, ensures that Tenderers have the opportunity to properly demonstrate their ability and experience, amongst other things, in answer to each of the Qualitative Criteria required.

14. The Panel undertakes qualitative evaluation of each Tender submission in accordance with the following general direction:
- a) Panel members read each response and evaluate answers to the Qualitative Criteria on an individual basis;
 - b) Panel members score each respective section and then compare their scores with each other to determine a consensus score;
 - c) Where clarifications are sought from tenderers, all responses are logged in a Clarifications Register and duly considered by the Panel; and
 - d) The evaluation process is observed by the Procurement and Finance Officer to ensure correct processes are followed.
15. Panel members completed the Qualitative Evaluation through comparison of individual scores and determination of consensus scores for each of the Qualitative Criteria on Tuesday 30 January 2018, in accordance with the City's evaluation process in a fair and equitable manner.
16. The Qualitative Criteria and weighting used in evaluating the submissions received are noted in the table below:

Qualitative Criteria	Weighting
1. Relevant Experience	30%
2. Key Personnel Skills and Experience	15%
3. Tenderer's Resources	15%
4. Demonstrated Understanding	40%

Detailed requirements for each of these requirements are outlined in the Tender Evaluation Report (Confidential Attachment 1).

17. The resultant outcomes of the qualitative assessment, in ranked order, are detailed in the table below:

Company Name	Qualitative Total Rank
Hydroquip	1
Western Irrigation	2
Total Eden	3

The actual scores achieved are detailed in the attached Tender Evaluation Report (Confidential Attachment 1), with Hydroquip's score being equivalent to a "Good Offer".

18. The following Tenderer's achieved the required QPM of 60%, advancing to the price assessment stage of the Tender evaluation process:
- a) Hydroquip
 - b) Western Irrigation
19. The Tenderer not achieving the required QPM, did not have its prices assessed.

20. Tenderers were required to provide a Price Schedule to undertake the services as specified in the request for tender completed, for all City locations and scenarios stipulated in Qualitative Criteria under (d) *Demonstrated Understanding*. The Panel assessed the price for an anticipated schedule of works for the period of the contract and no guarantee of the final quantity of works allocated under the contract was given.
21. Tenderers who achieved the QPM were ranked on the pricing for the nominated "scheduled work" locations as per the request document as summarised in the table below:

Tenderer	Rank
Hydroquip	1
Western Irrigation	2

The price assessment is detailed in the attached Tender Evaluation Report (Confidential Attachment 1).

STATUTORY AND LEGAL CONSIDERATIONS

22. Section 3.57 of *Local Government Act 1995*. Part 4 of the *Local Government (Functions and General) Regulations 1996*.

POLICY CONSIDERATIONS

23. Policy C-PP01 – Purchasing, has been followed and complied with.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

24. Nil.

External Referrals

25. Nil.

FINANCIAL CONSIDERATIONS

26. The funding for this service is through individual operational cost codes attributed to the relevant Category 1 (sports space) and Category 2 (irrigated recreational space) park and irrigated streetscape maintenance activities, as per the adopted 2017/2018 budget. Sufficient funds have been allocated in these accounts for 2017/2018.
27. Funding to accommodate the works for the balance of the contract will be allocated in future operating budgets.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

28. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 2: Kalamunda Clean and Green

Objective 2.2 - To achieve environmental sustainability through effective natural resource management effective natural resource management.

Strategy 2.2.1 - Facilitate the appropriate use of water and energy supplies for the City.

SUSTAINABILITY

Social Implications

29. Failure of a bore and pumping system will cause disruption to recreation and sport uses of a City reserve. Failure of a number of the City's system will cause significant reputational risk as providers of quality sports facilities in particular.

Economic Implications

30. Failure of a bore and pumping system can cause significant additional costs associated with reinstatement of a quality turf surface and possible loss of revenue to sporting and recreation clubs.
31. Lack of scheduled maintenance to irrigation water delivery systems may result in an accumulation of costs in a single financial period that will impact the City's capacity to delivery other services.

Environmental Implications

32. Poorly maintained irrigation water delivery systems results in inefficient power and water use, as pumps are run for longer day time periods, breakdowns occur more often and water is not applied appropriately to reduce evaporative losses.

RISK MANAGEMENT CONSIDERATIONS

- 33.
- | | | |
|--|--------------------|---------------|
| Risk: Tender not awarded. | | |
| Likelihood | Consequence | Rating |
| Possible | Moderate | Medium |
| Action/Strategy | | |
| Responsiveness compromised along with increased costs for unscheduled actions and administrative time required to rectify.
Purchasing Policy non-compliance for period of the contract. | | |

Risk: The Contractor does not satisfy the specification.		
Likelihood	Consequence	Rating
Unlikely	Moderate	Low
Action/Strategy		
Industry standard measures applied, contract management and 6 monthly review in place.		

OFFICER COMMENT

34. All Tenderers were given the opportunity to provide information in accordance with the RFT.
35. The Panel concluded that Hydroquip provided sufficient information as requested under the Qualitative Criteria in support of its ability to carry out the prescribed works, scoring in excess of the QPM of 60%.
36. It is anticipated that the Contract is to commence in March 2018, subject to consideration of Tender Award by Council.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Approves the appointment of Hydroquip for the Maintenance of Bores, Wells, Pumps and Associated Works within the City of Kalamunda for a period of three (3) years with an option, at the sole discretion of the City, to extend by a further two (2) x 12 month period in accordance with the Price Schedule in Confidential Attachment 2.

10.4. Office of the CEO Reports

10.4.1. Community Sports and Recreation Facilities Fund - Small Grants 2018/19 - Scott Reserve Master Plan

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

The Manager Community Development provided a presentation on this item. Cr Dylan O'Connor sought clarification if this application will go through on its own or will it be part of a list of three and ranked. The Manager Community Development advised it would be the sole priority application for the City.

Previous Items	
Directorate	Office of the CEO
Business Unit	Community Development
File Reference	
Applicant	N/A
Owner	N/A
Attachments	1. Community Sport and Recreation Facilities Fund - Small Grants 2018/19 - Scott Reserve Master Plan [10.4.1.1]

EXECUTIVE SUMMARY

1. The purpose of this report is to consider the City of Kalamunda re-submitting an internal funding application through the Department of Local Government, Sport and Cultural Industries (DLGSCI) Community Sport and Recreation Facilities (CSRFF) 2018/19 Small Grants winter round, for the development of a Master Plan for Scott Reserve, located on Norling Road in High Wycombe.
2. A funding application was submitted for this Master Plan through the CSRFF (2017/18) small grants summer round, however the City was advised the application was unsuccessful.
3. It is recommended Council endorse the Scott Reserve Master Plan application as its priority project for the CSRFF 2018/19 Small Grant winter round.

BACKGROUND

4. Through the CSRFF program the State Government provides financial assistance to community groups and local government authorities to develop basic infrastructure for sport and recreation. The program aims to increase participation in sport and recreation with an emphasis on increasing physical activity through the provision of well-planned facilities.
5. The City is required to assess the applications and rate each application received in priority order for funding. All applications for the 2018/19 Small Grants winter round are to be received by DLGSCI by 31 March 2018 for assessment.

6. Successful applicants will be advised in May/June 2018, with funds to be expended by 30 June 2019. The maximum CSRFF grant will be no greater than one third of the total estimated project cost.

DETAILS

7. The key factors providing the catalyst for the development of a Master Plan at Scott Reserve include:
- a) An increasing number of requests from user groups to improve, upgrade facilities and grounds.
 - b) Scott Reserve is the City's only multi-use sporting Reserve without a Master Plan.
 - c) Limitations with the design, functionality of High Wycombe Community & Recreation Centre (HWCRC) located on this Reserve and uncertainty about its best future use.
 - d) Floodlighting issues, site power capacity and multiple points of supply.
 - e) Scott Reserve Pavilion issues – ageing facility/amenities/design functionality/accessibility & inclusion, storage requirements.
 - f) Incoming women's AFL team and desire to cater for inclusive programs.
 - g) Need to plan for long term maintenance of turf cricket wicket, becoming harder for volunteers to maintain and costs are shifting to the City.
 - h) Increasing usage demands on the Reserve, which can negatively impact the standard of the playing surfaces.
 - i) The need to undertake a coordinated approach toward any future developments within Scott Reserve.
 - j) A need to investigate potential options to maximise the efficient usage of the existing grounds/facilities and High Wycombe Community & Recreation Centre.
8. The Master Plan will aim to provide strategic direction and guidance, together with a detailed concept design for the future development of Scott Reserve over the next 10 to 20 years.
9. In particular the Master Plan will:
- a) Identify the overall usage and future capacity of the entire site.
 - b) Identify any power, water supply and environmental constraints.
 - c) Provide a detailed needs and feasibility study.
 - d) Provide design/layout features of potential upgrades with cost estimates.
 - e) Identify sports lighting and car parking requirements.

STATUTORY AND LEGAL CONSIDERATIONS

10. Section 5.56 of the *Local Government Act 1995* (WA) requires that the local government plan for the future of the district.

POLICY CONSIDERATIONS

11. FAC 24 – Active Reserve Use.
FAC 21 - Use and Development of Facilities.
COMR – 21 – Capital Grants - Clubs and Community Groups;
This policy was adopted in July 2017 and is intended to deal with funding requests from clubs or groups towards capital infrastructure projects. This proposal is an internal application for a Master Plan from the City.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

12. Nil.

External Referrals

13. The City has received feedback from three of the major user groups located at Scott Reserve, specifically regarding the future development and direction of the site.
14. Should this CSRFF funding applications be successful, the City would engage all the user groups and other relevant stakeholders as part of the process.

FINANCIAL CONSIDERATIONS

15. The City of Kalamunda's contribution towards the proposed projects will be dependent on the outcome of the CSRFF applications. If the grant application is successful, the CSRFF grant is required to be acquitted by June 2019.
16. The proposed Master Plan cost contribution would be as follows:

Organisation	Contributions ex GST
CSRFF	\$ 16,666
City of Kalamunda	\$ 33,334
Total Project Cost	\$50,000

17. The Master Plan for Scott Reserve is currently listed in the City of Kalamunda Corporate Business Plan for completion in the 2018/19 financial year.
18. If the City's grant funding application is successful, the Master Plan would outline potential projects for consideration and for future advocacy funding through approaching Federal and State election campaigns.
19. Pending an unsuccessful CSRFF announcement, Council has the option of fully funding the total project cost and this could be considered as part of the 2018/19 budget deliberations.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

20. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 1: Kalamunda Cares and Interacts

Objective 1.2 - To provide a safe and healthy environment for community to enjoy.

Strategy - 1.2.3 Provide high quality and accessible recreational and social spaces and facilities.

Strategy 1.2.2 Advocate and promote healthy lifestyle choices by encouraging the community to become more physically active.

Strategy - 1.2.1 Facilitate a safe community environment.

SUSTAINABILITY

Social Implications

21. The provision of high quality community sport and recreation facilities is essential in developing a positive sense of community health and wellbeing.

Economic Implications

22. Nil.

Environmental Implications

23. Further adoption of modern technology, sustainable building materials and efficient power and water supplies, will have a long term positive impact on the environment.

RISK MANAGEMENT CONSIDERATIONS

- 24.
- | | | |
|---|--------------------|---------------|
| Risk: That there is limited direction in regard to the future development of Scott Reserve. | | |
| Likelihood | Consequence | Rating |
| Possible | Moderate | Medium |
| Action/Strategy | | |
| Ensure a Master Plan is developed to direct and guide the City to make informed decisions regarding the future development of the Reserve. | | |
| Risk: That the City does not undertake the Scott Reserve Master Plan and we are not ready to advocate for major projects through Federal and State election campaigns. | | |
| Likelihood | Consequence | Rating |
| Possible | Moderate | Medium |
| Action/Strategy | | |
| Support the development of Scott Reserve Master Plan and lodge the CSRFF application ensure a Master Plan is developed to direct and guide the City to make informed decisions regarding the future development of the reserve. | | |

OFFICER COMMENT

25. Scott Reserve is the only major sporting reserve within the City of Kalamunda without a Master Plan to guide its future development.
26. The need to undertake the development of a Master Plan for Scott Reserve has been raised in various discussions with the user groups. The discussions highlight the need to improve the existing facilities and take a coordinated, long term approach to future upgrades and developments.
27. The Community Facilities Plan (2011) identified a number of issues with High Wycombe Community Recreation Centre, such as the small scale of the building limiting its capacity to function as a recreation centre and the potential for the building to be reclassified as a neighbourhood community centre.
28. As a result, Council has recently supported changes to the operations of the High Wycombe Community Recreation Centre which include transitioning to an unstaffed facility and the conversion to a 24/7 access gym. It is acknowledged however, that further community engagement needs to occur to consider the future usage options of the facility.
29. The projected population growth of the Scott Reserve catchment, following the Forrestfield North development, will add a significant amount of pressure on the City to provide sports space for informal and structured sporting activities.
30. Through the development of a Master Plan identifying how to maximise the usage of the Reserve through efficient design and layout of the grounds, floodlighting and supporting facilities, the City will be in a position to potentially attract funding for these developments through Federal and State Government Advocacy programs.
31. The importance of Master Plans in determining the future needs and feasibility of capital infrastructure cannot be overstated. In addition to providing the City with a long term strategic approach to capital investment, Master Plans also:
 - a) Identify multi-use and co-location opportunities.
 - b) Identify participation/usage trends and access/inclusion issues.
 - c) Identify levels of community benefit (health & wellbeing).
 - d) Determine the adequacy and availability of existing and surrounding facilities.
 - e) Provide a sound basis for obtaining external funding opportunities.

Voting Requirements: Absolute Majority

RECOMMENDATION

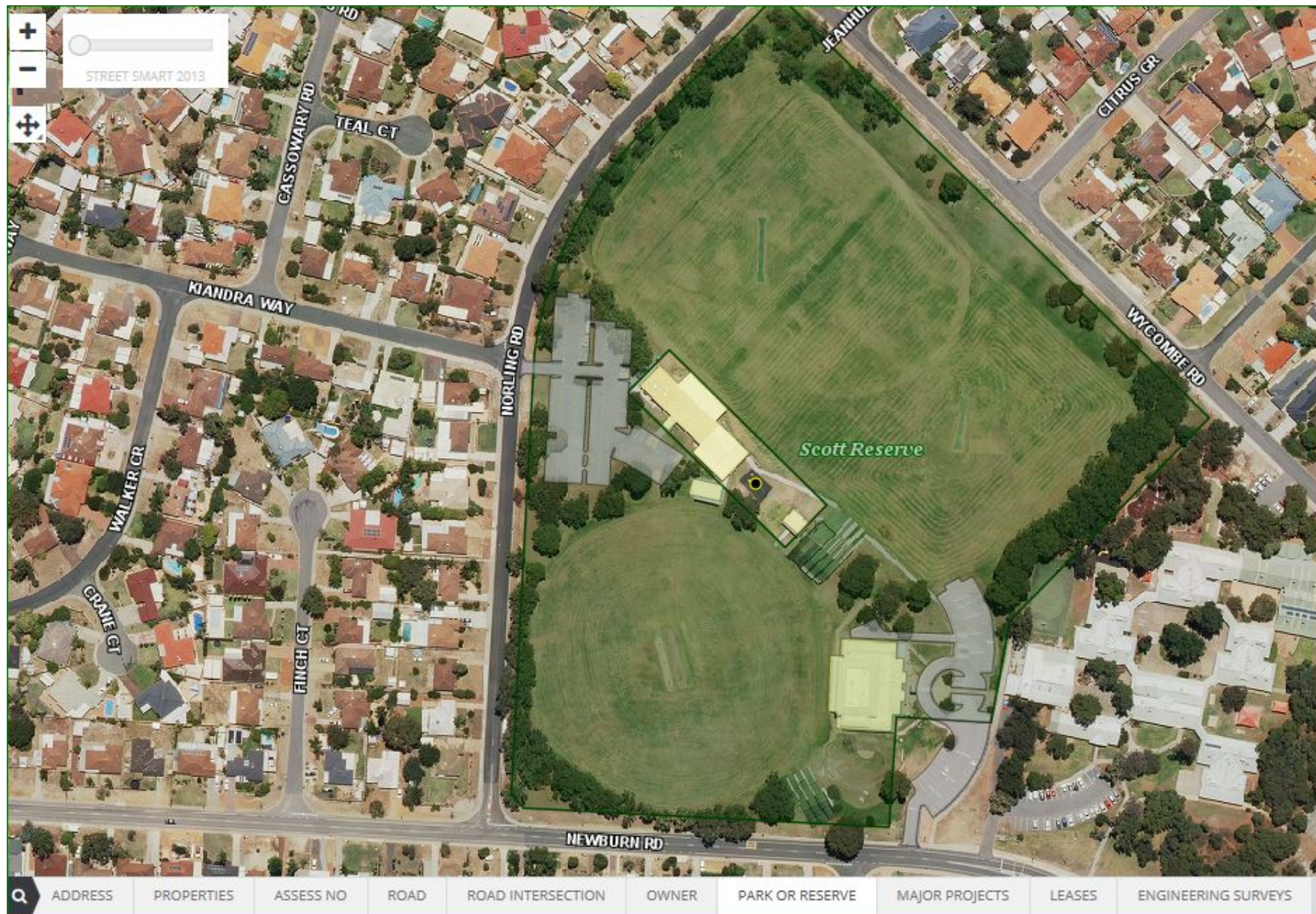
That Council:

1. Endorse the Scott Reserve Master Plan application as its priority for the Community Sport and Recreation Facilities Fund 2018/19 Small Grants winter round.
2. Note in the event of a successful Community Sport and Recreation Facilities Fund application, the following cost contributions (ex GST) will be required to be considered as part of the 2018/19 annual budget deliberation process:

Organisation	Contributions ex GST
CSRFF	\$16,666
City of Kalamunda	\$33,334
TOTAL	\$50,000

Attachment 1

Community Sport and Recreation Facilities Funding – Small Grants 2018/19 – Scott Reserve Master Plan

Aerial map of Scott Reserve

10.4.2. Lesmurdie Library - Outcome of Public Comment

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

Cr Michael Fernie declared an Indirect Financial Interest in this item as his partner is an employee of Lesmurdie Senior High School Administration Centre. Cr Fernie left the room at 6.50pm and returned at 6.53pm.

The Manager Community Development provided a presentation on this item. There were no questions.

Previous Items	OCM 47/2012 OCM 115/2012 OCM 108/2017 OCM 143/2017
Directorate	Office of the CEO
Business Unit	Community Development
File Reference	
Applicant	City of Kalamunda
Owner	City of Kalamunda
Attachments	1. Submission Table [10.4.2.1] 2. Letter for library [10.4.2.2]

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider feedback received from the public comment period and to determine the future operation of the Lesmurdie School Community Library (Lesmurdie Library).
2. A public comment period was held from 13 October 2017 to 13 December 2017 during this time the City of Kalamunda received 294 feedback submissions. Two workshops were held with 54 people in total participating.
3. Key feedback from the community consultation is to maintain the Lesmurdie Library under the current shared Licence Agreement with the Department of Education.
4. This report recommends that Council:
 - a) Receive the subsequent feedback from the public comment period.
 - b) Endorse the continued operation of the Lesmurdie Library under the current licence agreement with the Department of Education.
 - c) Note a further review of all Libraries identifying activity peaks and troughs shall be undertaken to identify required opening hours and potential efficiencies.

BACKGROUND

5. Council last considered the rationalisation of the Lesmurdie Library in 2012 and following significant community consultation a report was presented to Council in September 2012 (OCM 115/2012) with the following recommendation:

"That Council:

- 1. Notes the public comment feedback provided by residents of the Shire of Kalamunda.*
- 2. Supports Option 2 and provide notice in writing to the Minister for Education of the intention to discontinue the Licence Agreement arrangement with the Lesmurdie School Community Library and affect the required twelve month period of notice.*
- 3. Support the reallocation of any cost savings towards the services and resources within the Kalamunda Library.*
- 4. Progress the valuation of the Lesmurdie School Community Library building (excluding land) by the Valuer-General and report results of the valuation back to Council.*
- 5. Agrees the capital return from the Education Department (either or partially or in full) may need to be directed toward required improvements at the Kalamunda Library to accommodate anticipated increased visitation".*

The recommendation when considered by Council was lost.

6. A Notice of Motion on the Rationalisation of Lesmurdie Library was received at the Ordinary Council Meeting held on 26 June 2017 (OCM 108/2017) as follows:

"That Council:

- 1. Request that the Chief Executive Officer submit a report to the August 2017 Corporate & Community Services Committee meeting outlining a plan for the rationalisation of the Lesmurdie Library, including:-*
 - Community consultation strategy and timeline*
 - Improvements to other City libraries to cater for current users of the Lesmurdie Library including an analysis of comparative utilization and cost of the other Library branches*
 - Impacts on staff*
 - Financial impacts"*

Subsequently in August 2017 (OCM 143/2017) Council were presented with a report outlining a plan for the rationalisation of the Lesmurdie Library and resolved the following:

"That Council:

- 1. Endorse the plan to undertake community consultation for 60 days for the rationalisation of the Lesmurdie Library and;*
- 2. Request the Chief Executive Officer to report back on the outcomes of the consultation process"*

7. The City has now completed a 60 day public consultation process. The community feedback received, together with the City's comments are now presented to Council for consideration this is included as attachment 10.4.2.1.

DETAILS

8. Following the Ordinary Council Meeting in August 2017, the community was invited to provide feedback on the future use of the Lesmurdie Library over a 60 day public comment period commencing 13 October and concluding 13 December 2017.
9. The consultation process included the display of posters and survey forms at each of the City's four libraries and Administration Centre. Two separate community workshops were held with a total of 54 participants across both workshops. An online survey was also available on the City's engagement portal along with updates and timelines on the consultation process. From this consultation 294 submissions of feedback were received.
10. From the 294 submissions received, 291 respondents were opposed to the closure of the community component of the library.

The overarching theme from respondents was they were appreciative of the library's location, resources and the customer service received from staff at the library. The intergenerational partnership of students working in a shared space was seen as providing a unique opportunity for students to mix with all age groups.

Other comments received aligned to the benefits of retaining the library included:

- a) A great local community resource
- b) Convenient location and ease of parking
- c) A unique intergenerational opportunity for students and community
- d) Peaceful and calm spacious environment in the hills
- e) A partnership that has worked well for a long period of time.

Key comments received are referenced within the summary in attachment 10.4.2.1.

11. The Lesmurdie Library operates under a joint license agreement with the Department of Education and as part of the community engagement process it was deemed prudent to facilitate a workshop with the Lesmurdie Senior High School.

A workshop was held with the Principal and other key staff to gain their feedback.

A detailed submission supporting retaining the current agreement was received from the Lesmurdie Senior High School as attached (10.4.2.2). The submission included the following comments:

- a) Students would be greatly disadvantaged by the closure of the community aspect of the library.
- b) Shared partnership allows for greater diversity of stock and resources.
- c) Students learn to work in a shared environment.

- d) Students have a safe haven to study, parents also bring younger siblings into the library and enjoy the relaxed atmosphere of the library.

12. Feedback from the workshops identified opportunities for improvement at the Lesmurdie Library which included improved directional signage, increased promotion of the Lesmurdie Library, increased events such as author talks, information forums and increased youth and school holiday activities.

STATUTORY AND LEGAL CONSIDERATIONS

13. Section 3.18(3) (c) of the *Local Government Act 1995* provides that Council must satisfy itself that the services and facilities it provides are managed effectively and efficiently.

POLICY CONSIDERATIONS

14. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

15. Internal consultation was undertaken with the City's Customer and Public Relations and Finance departments with no comments raised.

External Referrals

16. The community were invited to express their views and a 60 day public comment period commenced. Information posters, community survey forms were provided online and in hard copy at the City's four Libraries (Kalamunda, Forrestfield, Lesmurdie and High Wycombe) and the City's Administration Centre. Two separate community workshops were held at the City's Administration Centre and the Lesmurdie Library.

FINANCIAL CONSIDERATIONS

17. The net operating subsidy in the 2017/18 Budget for the Lesmurdie Library is listed below.

Net subsidy balance includes service fees, programs and purchase of library stock, magazines etc.

Budget Area	Net Subsidy	Key Factors
Lesmurdie Community Library	\$204,333	(\$4456) – Income <i>Includes LSHS - \$2,809 contribution to Library Management System maintenance</i> \$38,233 – Indirect Costs (Service Fees) \$146,024 – Employment Costs \$10,867 – City of Kalamunda contribution to power and cleaning charges at LSHS

*Note as part of the Licence Agreement costing of the Lesmurdie Library operates within a shared agreement. The Lesmurdie Senior High School employs the equivalent of 2.7 full time Library staff to provide student services and the City employs 1.5 full time employees. Costs for utilities such as power, water and cleaning are shared between the City and the School.

The State Library of Western Australia allocated \$9,773 to the City for the purchase of library materials for the 2017/18 financial year. This amount is divided equally between, Kalamunda, Lesmurdie, Forrestfield and High Wycombe libraries.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

18. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 1: Kalamunda Cares and Interacts

Objective 1.1 - To be a community that advocates, facilitates and provides quality lifestyles choices.

Strategy 1.1.3 - Facilitate opportunity to pursue learning.

SUSTAINABILITY

Social Implications

19. Public libraries provide the community with opportunities for community connection and lifelong learning.

Economic Implications

20. Nil.

Environmental Implications

21. Nil.

RISK MANAGEMENT CONSIDERATIONS

22.	Risk: That the community will express a high degree of negative feedback should the Lesmurdie School Community Library close.		
	Likelihood	Consequence	Rating
	Likely	Moderate	High
	Action/Strategy		
	That the Lesmurdie School Community Library component continues under the current shared license agreement with the Department of Education.		

Risk: That the City continue to fund the operation of the Lesmurdie School Community Library which therefore has adverse impact on the City's financial position.

Likelihood	Consequence	Rating
Likely	Moderate	High
Action/Strategy		
Inform Council of the implications of keeping the library open.		

23. In receiving the 294 submissions during the public comment period, the community preference is to retain the community component of the Lesmurdie Library.
24. The overarching theme from respondents is they are appreciative of the unique community/school partnership and the opportunity this provides for intergenerational interaction
25. In assessing feedback received, the location, ease of access and convenience for residents to be able to walk or cycle to the Lesmurdie Library was seen as being beneficial especially for older residents who no longer drive or are unable to use public transport to travel to other City libraries.
26. Significant community dissatisfaction is likely should a decision be made to close the community component of the Lesmurdie Library, given that the community is strongly opposed to the closure.
27. To respond to feedback from consultation in regard to operational hours there is an opportunity to further review activity across the City's four libraries to assist in refinement of library operations.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Receive the public feedback provided by users of the Lesmurdie School Community Library.
2. Support the retention of the Lesmurdie School Community Library under the License Agreement with the Department of Education.

Attachment**Submission Table**

	Details	Comments
1.	spiccia@bigpond.com	I have been attending Lesmurdie Library for many years for personal enjoyment of the resources. When my children were too young to participate in storytime and throughout my children's education at Walliston PS and Lesmurdie SHS. I continue to use the facilities and look forward to taking my grandchildren to storytime in the years to come. Parking and access to the library is much easier than Kalamunda and I wouldn't travel down the hill to use library facilities. Staff and students have always been pleasant and it is a great Lesmurdie Community Asset.
2.	Paten_vale@hotmail.co	I find the staff and atmosphere at the Lesmurdie Library friendly and superior to that in the Kalamunda and Forrestfield Libraries – The mixed use seems to work well, there is adequate parking and ramp access for any disabled people.
3.		I find the Lesmurdie Library more easily accessible than Kalamunda and enjoy the ease of parking there. Please don't close this great facility. I utilise the space for quiet reading and found it very useful when suffering from post natal depression as an area that was non threatening to take some "me time" to read and browse.
4.		Good Library and easy for me to get there. Kalamunda Library too far away for me.
5.	Samueljay.hancock@bigpond.com	Staff are very client focused and professional. Very considerate and helpful. Easy to park during the school day. Practically configured shelving and special areas are well maintained. Located in a peaceful, tree area – quiet, calming and tranquil. Photocopying service with a non-coin operated photocopier. – easy to use – obviates the need to carry a pocketful of coins if a lot of copying is required. Staff always help set up for a specific copying needs. This is appreciated.
6.		There are a high proportion of seniors in the Lesmurdie area plus young children of families that attend Lesmurdie SHS who attend the library for reading mornings. It is a lot more incumbent on these to get to the other libraries with the limited public access for the bus services.
7.		Lesmurdie is the most convenient library to us. We would need to travel 10-15kms to receive the same service. We do go to Kalamunda central for many things as we live on the other side of Lesmurdie
8.		The Lesmurdie Library is at a convenient location. It is our local library that is close to people in Walliston, Carmel, Lesmurdie, Pickering Brook and in Bickley. It is an open, quiet space to read study,

		complete tasks, be tutored and a myriad of other things. My family and I have attended lots of library's holidays workshops. It is a roomy space to do them. It is a nice decorative place and I want to keep it.
9.		It would be a great shame to close the Lesmurdie Library. It offers more than just books and computers. The staff are extremely helpful and knowledgeable and have assisted my children with project research and advice. The library itself is a large open space which is accessible to all, particularly children and the elderly. It is an important social hub for the community. The library has enormous potential to be used for the other community events. It is a "hidden gem" which could be better advertised for its services.
10.		Always use this library from when I started as a student in 1990 up until current day with my two children. Seems ridiculous to stop the use of a facility that is not costing the Shire money and provided access and returns options for the three other libraries. Shift shire focus to the issues that are broken.
11.		Wonderful Library – it would be a real shame to lose it.
12.		More libraries the better as book readers are inundated by computer users & mobile users – we need quiet spots – keep all libraries open. Keep library staff – save money elsewhere please
13.		Lots of older people cannot drive their cars and non buses – too far to walk. Lots of old people can't get out to go to another library.
14.		Please keep this library open.
15.		I use the library mainly for borrowing books and music CDs. It is a very good resource for those elderly people in the area who wish to access a computer.
16.		Don't think this facility gets the credit it deserves. I thought it was only school facility for a long time. Good spaces could be used for community meetings and seminars after school hours
17.		I love it and don't want it closed
18.		My children and I love this library. We wouldn't know what to do if the library closed.
19.		The Lesmurdie Library is a very much loved and enjoyed place for my 3 children and I enjoy it. I use it for my own personal use (resources for my teaching) and it is close to my home in Pickering Brook. I much prefer Lesmurdie to Kalamunda. It has a beautiful atmosphere, friendly staff and a great story time. Many thanks.
20.		As many of our students live in the outer areas they cannot walk home or catch a bus. They are usually picked up by a family member. The library is often used by these students to do some research of school work or homework while waiting for their lift. It is essential in allowing our students to make positive use of their time while waiting.

21.		This is a great facility. Students get to see adults using the library as lifelong learners.
22.		It would be such a shame if the library was to close.
23.		We use Lesmurdie Library because the quieter setting and smaller storytime group suits my child with special needs. The large groups Kalamunda library would be overwhelming for him meaning he would disrupt the class or miss out.
24.		I think it's fab resource and library for the community and would be terrible if it shut.
25.		Lesmurdie Library is a lovely place to go to on a rainy or too hot days with very nice and helpful staff. Storytime is quiet and special. I think Lesmurdie library makes a big difference in the hills community.
26.		Facilities and layout at Lesmurdie is much better for my child's age. Also better parking facilities.
27.		I joined at the main library but mostly use Lesmurdie as its closer and the kids like playing Lego while I browse. At the other library they just get into things they shouldn't like the water filter so I can never stay long. Would really prefer this one stays open.
28.		The Lesmurdie Library is brilliant. It is well resourced (probably because of the school) but it is so useful. When Kalamunda is busy, it is great to be in the quietness of Lesmurdie. With the rapid expansion of the subdivisions out this way, why would the council move to reduce facilities in this area.
29.		Storytime here is fabulous, friendly helpful staff, ample parking, craft activities made available during school holidays aside from the school holiday programs.
30.		Excellent range of books, essential local service. Essential service to supplement my children's reading and their education (primary school kids). Schools just don't have enough reading resources.
31.		My daughter has tutoring every week at the Lesmurdie Library. We utilise this service on a weekly basis to get books for all 3 of my children (sometimes DVDs and CDs) . I also spend time once every 3 weeks between dropping my daughter at school and attending a regular apt. I love this library – the staff are so friendly and parking is much better than the alternative of Kalamunda. Please do not stop this service for the community.
32.		Lesmurdie library is the best library there is and it should always be a public library.
33.	Richard Wilson	A conveniently located service. Extremely helpful staff. Broad range of products, I can walk to the library from my home.
34.	Peta Vetta	Great local library & close to the school my kids attend so I use this library weekly to borrow books. I will be very disappointed if it closes
35.	Dcp6@bigpond.com	When I lived in Lesmurdie my children went to the high school and accessed Lesmurdie Library frequently with my children. I find that the various libraries have different books and the only reason

		don't go regularly is because I live in Kalamunda. There has been a lot of money spent on Kalamunda library recently. Why can't the people in Lesmurdie have the same opportunities in their area?
36.		It is very convenience. Always has youth / YA resources for my children. Storytime was excellent for my young children as they were growing up. Staff are always extremely helpful and informative. Displays are great. Has a great atmosphere being attached to the high school.
37.		The staff are always very helpful. The Library always looks very nice and well maintained. Do not disappoint me by reducing the book volume of hours of operation – books are great and should be encouraged not dissuaded.
38.		I can easily walk to Lesmurdie Library – good exercise. Although I'm a member of the Kalamunda Library I normally use Lesmurdie. I understand the cost sharing 50/50 with the City and School. From my observations the students use the library far more than the public. The sharing costs should be more like 80/20. This is supported by the fact that the library hours during school holidays are short. Many students use the library for research and classes so this use is not reflected in visitations of items issued. when compared to other local governments Kalamunda is big in area so the people are spread out. To be more relevant you should compare the cost per population. If you transfer the Lesmurdie Library staff to other libraries the cost saving will be minimal especially as the state pays for the books.
39.		I like using this library because it opens before 9am which I find much more convenience as I come straight after dropping some of the children off at school.
40.		The Library facilities and staff are brilliant.

Eileen Moore

From: STONE John [Lesmurdie Senior High School] <john.stone1@education.wa.edu.au>
Sent: Thursday, 16 November 2017 3:55 PM
To: Enquiries
Subject: IE-207441 - Feedback re Future use of Lesmurdie School and Community Library

Hello there

Please find below our overall school response:

We strongly believe that our students will be greatly disadvantaged by a closure of the Community aspect of the shared library:

- as the access to resources from the other City of Kalamunda Libraries and State Library will no longer be available. This will impact on the quality, volume and diversity of resources that are available to our students. Our non-fiction collection is always current, relevant and extensive (subject matter covered) as this is largely provided by the City of Kalamunda.
- Lesmurdie SHS teachers also have access to an extensive collection for their own professional learning and resources for curriculum delivery. They also access the junior collections for their own children and personal reading.
- Our students having out-of-school hours access to the shared library both after school and during vacation periods has had a tangible influence on senior school students' capacity to study.
- Our students' learn to work in a shared environment mixing with young children through to the elderly. This engenders a sense of overall community respect and moderation in behaviour which typifies the Hills Community values and feel.
- It is very pleasing that a group of Year 9 students is circulating a petition supporting the continuation of the School and Community Library. This has demonstrated the value that students put on this joint facility and participating as an active citizen in their community.
- Students have a safe haven in which to study after school. Parents also take the opportunity to bring younger siblings into the library to borrow and enjoy the relaxed and pleasant ambience of this library. The extended opening hours enables tutors to meet with our students in a safe and supervised environment.
- The combination of School and City staff has developed into a cohesive and professional group, sharing expertise and ideas. The diversity of tasks has had the added benefit in up skilling of all staff members resulting in a very efficient delivery of quality library service to both the school and local communities.



John Stone | Principal

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10.4.3. Execution of Documents

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

The Chief Executive Officer provided information on this item and clarified earlier questions from Councillors. Cr O'Connor sought clarification on what had been happening up to now with documents for the settlement of legal matters. The Chief Executive Officer advised that documents had either been signed by herself or General Counsel, however she will confirm and provide information back to Councillors.

Previous Items	OCM 17/2017
Directorate	Office of the CEO
Business Unit	Governance & Legal Services
File Reference	
Applicant	N/A
Owner	N/A

Attachments	1. Execution of Documents - Current Authorisations [10.4.3.1]
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EXECUTIVE SUMMARY

1. The purpose of this report is to amend the authorisation provided to specified staff at the Officer and Manager level to sign documents on behalf of the City of Kalamunda (City) that do not require the affixing of the Common Seal.
2. The authorisations contained in the recommendation are in accordance with the provisions of the *Local Government Act 1995* (Act) and provide the framework for continued efficient operations within the administration of the City.
3. The recommendation requests amendments to the current authorisation provided by Council, which is required to include additional positions established within the City.

BACKGROUND

4. The Act was amended in late 2009 to clarify the requirement for the execution of documents with or without the Common Seal.
5. Initial authorisations for some staff to execute documents on behalf of the City were provided in 2010 and have been amended several times as a consequence of organisational restructures, position title changes and additional staff appointments. Authorisations were most recently considered and approved by Council at the Ordinary Council Meeting of 27 February 2017 as presented in Attachment 10.4.3.1.
6. These authorisations apply where signing under the Common Seal is not required for the document to be validly executed.

DETAILS

7. The recommendation does not propose to extend the authorisations to include additional document types. Instead the City is requesting the inclusion of some new positions in the approved authorisations.

8. The following changes have been included in the recommendation:

Additions

General Counsel

Manager Asset and Waste Operations

Manager Parks and Environmental Services

Manager People Services

9. At present, the position of General Counsel does not have any authority to execute documents. It is appropriate a position of this nature have the same authority as the City's Directors. The level of authority for General Counsel would be to execute any document, including deeds, which are necessary or appropriate to be signed for the position to carry out its functions and duties under any written law.
10. The level of authority proposed for each of the three new Manager positions is to execute any document, excluding deeds, which are necessary or appropriate to be signed to carry out the Manager's functions and duties under any written law.

STATUTORY AND LEGAL CONSIDERATIONS

11. Section 9.49A of the Act – Execution of documents, provides:

(1) A document is duly executed by a local government if:-

(a) the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or

(b) it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.

(2) The common seal of a local government is not to be affixed to any document except as authorised by the local government.

(3) The common seal of the local government is to be affixed to a document in the presence of:-

(a) the mayor or president; and

(b) the chief executive officer or a senior employee authorised by the chief executive officer, each of whom is to sign the document to attest that the common seal was so affixed.

(4) A local government may, by resolution, authorise the chief executive officer, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.

(5) A document executed by a person under an authority under subsection (4) is not to be regarded as a deed unless the person executes it as a deed and is permitted to do so by the authorisation.

(6) A document purporting to be executed in accordance with this section is to be presumed to be duly executed unless the contrary is shown.

(7) When a document is produced bearing a seal purporting to be the common seal of the local government, it is to be presumed that the seal is the common seal of the local government unless the contrary is shown.

12. Section 9.49B of the Act – Contract formalities, provides:-

(1) Insofar as the formalities of making, varying or discharging a contract are concerned, a person acting under the authority of a local government may make, vary or discharge a contract in the name of or on behalf of the local government in the same manner as if that contract was made, varied or discharged by a natural person.

(2) The making, variation or discharge of a contract in accordance with subsection (1) is effectual in law and binds the local government concerned and other parties to the contract.

(3) Subsection (1) does not prevent a local government from making, varying or discharging a contract under its common seal.

POLICY CONSIDERATIONS

13. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

14. Input has been received from all Directorates as to their requirements of authorisations which should be considered by Council.

External Referrals

15. Nil.

FINANCIAL CONSIDERATIONS

16. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

17. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 4: Kalamunda Leads

Objective 4.1 - To provide leadership through transparent governance.

Strategy 4.1.1 - Provide good governance.

SUSTAINABILITY

Social Implications

18. Nil.

Economic Implications

19. Nil.

Environmental Implications

20. Nil.

RISK MANAGEMENT CONSIDERATIONS

- 21.
- | | | |
|--|--------------------|---------------|
| Risk: Delays to execution of documents if adequate number of appropriate staff are not authorised to carry out that function. | | |
| Likelihood | Consequence | Rating |
| Possible | Moderate | Medium |
| Action/Strategy | | |
| <ul style="list-style-type: none">Recommendation contained in this report to authorise four positions to execute documents reduces risk; andIn the event that recommendation is not adopted then there is increased risk of delay on document execution, which would require strict programming of existing authorised officer time to ensure that all documents are executed as soon as practicable. | | |

OFFICER COMMENT

22. The authorisations contained in the recommendation of this report are in accordance with the provisions of the Act and provide the framework for continued efficient operations within the City's Administration.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Pursuant to section 9.49A of the *Local Government Act 1995*, authorises the following Officers of the City of Kalamunda to sign documents on behalf of the City of Kalamunda, as specified:-

- i. Chief Executive Officer***
- ii. Director Asset Services***
- iii. Director Corporate and Community Services***
- iv. Director Development Services***
- v. General Counsel***

any document, including a deed, that is necessary or appropriate to be signed for these Officers to carry out their functions and duties under any written law.

- i. Manager Approval Services***
- ii. Manager Asset and Waste Operations***
- iii. Manager Asset Delivery***
- iv. Manager Asset Maintenance***
- v. Manager Asset Planning and Management***
- vi. Manager Community Development***
- vii. Manager Community Safety and Compliance Services***
- viii. Manager Economic Land and Property Services***
- ix. Manager People Services***
- x. Manager Parks and Environmental Services***
- xi. Manager Strategic Planning***

any document, excluding a deed, that is necessary or appropriate to be signed to carry out the Manager's functions and duties under any written law.

- i. Manager Financial Services***
 - a. Leases
 - b. Extensions of Leases
 - c. Assignments of Leases
 - d. Deed of Variation of Leases
 - e. Surrenders of Leases
 - f. Licences
 - g. Assignments and Assignments and Variations of Licences

Attachment 1**Shire of Kalamunda****Execution of Documents – Authorisations****[s 9.49A of the *Local Government Act 1995*]*****Extract from OCM Minutes 27 February 2017 – OCM Resolution 17/2017***

Council authorises the following Officers of the Shire of Kalamunda to sign documents on behalf of the Shire of Kalamunda, as specified:-

- i. The Chief Executive Officer***
- ii. The Director of Development Services***
- iii. The Director of Asset Services***
- iv. The Director of Corporate & Community Services***

any document, including Deeds, that is necessary or appropriate to be signed for these officers to carry out their functions and duties under any written law.

- v. Manager Community Development***
- vi. Manager Economic Land & Property Services***
- vii. Manager Approval Services***
- viii. Manager Strategic Planning***
- ix. Manager Community Safety & Compliance Services***
- x. Manager Asset Maintenance***
- xi. Manager Asset Delivery***
- xii. Manager Asset Planning & Management***

any document, excluding Deeds, that is necessary or appropriate to be signed to carry out the Manager's functions and duties under any written law.

xiii. Manager Financial Services

- a. Leases
- b. Extensions of Lease
- c. Assignments of Lease
- d. Deed of Variation of Lease
- e. Surrenders of Lease
- f. Licences
- g. Assignments and Assignments and Variations of Licence

11. Closure

There being no further business, the Presiding Member declared the Meeting closed at 6.57pm.

I confirm these Minutes to be a true and accurate record of the proceedings of this Council.

Signed: _____
Presiding Member

Dated this _____ day of _____ 2018.