

5.5. REQUEST FOR PERMISSIBLE CHANGE FOR BUSINESS FACILITIES AT 19 WARNER STREET PORT DOUGLAS

| | |
|-------------------------|---|
| REPORT AUTHOR(S) | Simon Clarke Planning Coordinator |
| GENERAL MANAGER | Nicholas Wellwood General Manager Operations |
| DEPARTMENT | Development Assessment and Coordination |
| PROPOSAL | Request for Permissible Change for Business Facilities |
| APPLICANT | Quicksilver Connections Limited c/- Urban Sync Pty Ltd PO Box 2970 CAIRNS QLD 4870 |
| LOCATION OF SITE | 19 Warner Street PORT DOUGLAS |
| PROPERTY | Lot 31 on PTD20910 |

LOCALITY PLAN



Figure 5 - Locality Plan

| | |
|--------------------------------------|------------------------------------|
| LOCALITY | Port Douglas and Environs |
| PLANNING AREA | Commercial |
| PLANNING SCHEME | Douglas Shire Planning Scheme 2006 |
| REFERRAL AGENCIES | None |
| NUMBER OF SUBMITTERS | Not applicable |
| STATUTORY ASSESSMENT DEADLINE | 1 August 2017 |
| APPLICATION DATE | 30 June 2017 |

RECOMMENDATION

That Council approves the request for a permissible change for Business Facilities over land described as Lot 31 on PTD20910, located at 19 Warner Street Port Douglas, subject to the following:

APPROVED DRAWING(S) AND / OR DOCUMENT(S)

The term ‘approved drawing(s) and / or document(s)’ or other similar expressions means:

| Drawing or Document | Reference | Date |
|---------------------|-------------------------------|----------------------------|
| Site Plan | <u>966_CD A-002</u> | <u>1 June 2017</u> |
| Ground Floor Plan | 966_SD A-101 Rev 6 | 10 October 2016 |
| | <u>966_CD A-101 Rev 1</u> | <u>1 June 2017</u> |
| Level 1 Plan | 966_SD A-102 Rev 6 | 10 October 2016 |
| | <u>966_CD A-102 Rev 1</u> | <u>1 June 2017</u> |
| Roof Plan | 966_SD A-103 Rev 6 | 10 October 2016 |
| | <u>966_CD A-103 Rev 1</u> | <u>1 June 2017</u> |
| Elevations | 966_SD A-401 Rev 6 | 10 October 2016 |
| | <u>966_CD A-401</u> | <u>1 June 2017</u> |
| Elevations | <u>966_CD A-402</u> | <u>1 June 2017</u> |
| Sections | 966_SD A-501 Rev 6 | 10 October 2016 |
| | <u>966_CD A-501</u> | <u>1 June 2017</u> |
| 3D Perspective | 966_SD A-901 Rev 6 | 11 October 2016 |
| | <u>966_CD A-901</u> | <u>1 June 2017</u> |

ASSESSMENT MANAGER CONDITIONS

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Council; and
 - b. The following conditions of approval and the requirements of Council’s Planning Scheme and the *FNQROC Development Manual*.

Except where modified by these conditions of approval

Timing of Effect

- 2. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.**

Water Supply and Sewerage Works Internal

- 3. Undertake the following water supply and sewerage works internal to the subject land:-**
 - a. The development must be serviced by a single internal water and sewerage connection made clear of any buildings or structures;**

All the above works must be designed and constructed in accordance with the FNQROC Development Manual.

The plan of works must be approved by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to Commencement of Use.

Refuse Storage

- 4. The refuse bin enclosure must be roofed and bunded and fitted with a bucket trap.**

Advertising Signage

- 5. All signage associated with the use must be approved by the Chief Executive Officer. The signage must comply with the Design and Siting of Advertising Devices Code contained within the Douglas Shire Planning Scheme and plans detailing the signage must be endorsed by the Chief Executive Officer prior to Commencement of Use, whichever occurs first.**

External Works

- 6. Undertake the following works external to the land at no cost to Council:**
 - a. Upgrade the Grant and Warner Street frontages generally in accordance with Ground Floor Plan 966_SD A-101 Rev 6, dated 10 October 2016 including relocation of light/power pole/s, electrical infrastructure, at the front of the subject land, where required, to accommodate the development and the raised sections of walkways/planter beds;**
 - b. Provide underground stormwater infrastructure that integrates with existing infrastructure;**

- c. **Provide kerb and channel along the Warner Street frontage;**
- d. **Provide road widening along the Warner Street frontage;**

The abovementioned works must be designed to take into account the existing tree at the corner of Grant and Warner Streets which is required to be retained in accordance with Condition 14a.

All works in the road reserve need to be properly separated from pedestrians and vehicles, with any diversions adequately signed and guarded. Particular attention must be given to providing safe passage for people with disabilities (i.e. the provision of temporary kerb ramps if pedestrian diversions are necessary).

The external works outlined above constitute Operational Works. Three (3) copies of a plan of the works at A1 size and one (1) copy at A3 size must be endorsed by the Chief Executive Officer prior to commencement of such works. Such work must be constructed in accordance with the endorsed plan to the satisfaction of the Chief Executive Officer prior to Commencement of Use.

Lawful Point of Discharge

- 7. **All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of the Chief Executive Officer.**

Minimum Fill and Floor Levels

- 8. **All floor levels in all buildings must be 3.1 metres AHD. The applicant is to acknowledge in writing that this level may not achieve full Q100 flood immunity and devise an action plan, prior to the issue of a Development Permit for Building Work, to manage and prevent flood water from entering the building in an extreme weather event.**

Vehicle Parking

- 9. **A minimum of thirteen (13) car parking spaces are to be provided on-site including one space for wheel-chair accessible parking. In addition, four (4) on-street car parking spaces are to be provided in Warner Street. Car parking design must comply with the relevant Australian Standards, with all parking, driveway and vehicular manoeuvring areas being imperviously sealed, drained and line marked.**

Awnings

- 10. The proposed awnings are to be designed to provide shade to the footpath below (i.e. minimise glass or translucent materials). Details are to be agreed in writing prior to the issue of a Development Permit for Building Work.**

Protection of Landscaped Areas from Parking

- 11. Landscaped areas adjoining the parking area must be protected by a 150 mm high vertical concrete kerb or similar obstruction. The kerb must be set back from the garden edge sufficiently to prevent vehicular encroachment and damage to plants by vehicles.**

Bicycle Racks

- 12. Provide two on-site bicycle racks at the rear of the premises. The bicycle parking area must be constructed prior to Commencement of Use.**

Lighting

- 13. All lighting installed upon the premises including car parking areas must be certified by Ergon Energy (or such other suitably qualified person). The vertical illumination at a distance of 1.5 metres outside the boundary of the subject land must not exceed eight (8) lux measured at any level upwards from ground level.**

Landscaping Plan

- 14. The site must be landscaped in accordance with details included on a Landscaping Plan. The Landscaping Plan must show:**
 - a. The existing tree on the corner of Grant and Warner Street being retained and details of how this tree will be protected during works;**
 - b. Street planting including street trees and planter boxes to both road frontages (i.e. lush tropical plantings of vegetation appropriate to the character of Port Douglas), using appropriate species with regard to any site constraints including underground services. All plants must be selected in accordance with Planning Scheme Policy No.7, with particular emphasis on appropriate species for Port Douglas;**
 - c. Details of any fencing proposed at the rear of the premises;**
 - d. Inclusion of any other relevant conditions included in this Development Permit. A copy of this Development Approval must be given to the applicant's Landscape Architect/Designer.**

Two (2) A1 copies and one (1) A3 copy of the landscape plan must be endorsed by the Chief Executive Officer.

The approval and completion of all landscaping works must be undertaken in accordance with the endorsed plan prior to the issue of a Certificate of Classification or Commencement of Use whichever occurs first. Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer.

Construction Access

15. Vehicular access to the site for construction and demolition purposes must be provided from Grant Street only, unless authorised by the Chief Executive Officer.

Air-Conditioning Screens

16. Air-conditioning units located above ground level and visible from external properties and the street must be screened with appropriate materials to improve the appearance of the building. Such screening must be completed prior to the Commencement of Use.

Stockpiling and Transportation of Fill Material

17. Soil used for filling or spoil from the excavation is not to be stockpiled in locations that can be viewed from adjoining premises or a road frontage for any longer than one (1) month from the commencement of works.

Transportation of fill or spoil to and from the site must not occur within:

- a. peak traffic times;
 - b. before 7:00 am or after 6:00 pm Monday to Friday;
 - c. before 7:00 am or after 1:00 pm Saturdays; or on Sundays or Public Holidays.
18. Dust emissions or other air pollutants, including odours, must not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

Storage of Machinery and Plant

19. The storage of any machinery, material and vehicles must not cause a nuisance to surrounding properties, to the satisfaction of the Chief Executive Officer.

Sediment and Erosion Control

20. Soil and water management measures must be installed / implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the Environmental Protection Act 1994, and the FNQROC Development Manual).

Health Requirements

- 21. Noise from air-conditioning units, service equipment, swimming pool pumps or other mechanical equipment must not emanate from the subject land to a degree that would, in the opinion of the Chief Executive Officer, create an environmental nuisance having regard to the provisions of Chapter 8 Part 3B of the *Environmental Protection Act 1994*.**

Damage to Infrastructure

- 22. In the event that any part of Council's existing sewer/water infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to, mobilisation of heavy earthmoving equipment, stripping and grubbing, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced by Council, at the developer's cost.**

ADVICE

- 1. This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of the *Sustainable Planning Act 2009*.**
- 2. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.**
- 3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.**

Infrastructure Charges Notice

- 4. A charge levied for the supply of trunk infrastructure is payable to Council towards the provision of trunk infrastructure in accordance with the Adopted Infrastructure Charges Notice, a copy of which is attached for reference purposes only. The original Adopted Infrastructure Charges Notice will be provided under cover of a separate letter.**
- 5. The amount in the Adopted Infrastructure Charges Notice has been calculated according to Council's Adopted Infrastructure Charges Resolution.**

Please note that this Decision Notice and the Adopted Infrastructure Charges Notice are stand-alone documents. The Sustainable Planning Act 2009 confers rights to make representations and appeals in relation to a Decision Notice and an Adopted Infrastructure Charges Notice separately.

The amount in the Adopted Infrastructure Charges Notice is subject to index adjustments and may be different at the time of payment. Please contact Development Assessment and Coordination at Council for review of the charge amount prior to payment.

The time when payment is due is contained in the Adopted Infrastructure Charges Notice.

6. For information relating to the *Sustainable Planning Act 2009* log on to www.dilgp.qld.gov.au. To access the *FNQROC Development Manual*, Local Laws and other applicable Policies, log on to www.douglas.qld.gov.au.

EXECUTIVE SUMMARY

The original application was Code Assessable and sought a Development Permit for a Material Change of Use – Business Facilities. The application was approved by Council on 2 December 2016. The proposed development over the site will establish a new dive centre and retail outlet (Quicksilver Dive) as well as house the administrative operations for the Port Douglas based Quicksilver staff.

The proposed changes to the design are considered to be minor and it is therefore recommended that Council approve the requested permissible change.

TOWN PLANNING CONSIDERATIONS

Proposed Changes

The proposed operations to be undertaken within the proposed development remain unchanged. However the following changes to the design of the building are proposed:

- Internal configuration changes to both the ground floor and first floor;
- A reduction in the size of the internal pool;
- A reduction in building length of just under one (1) metre and an approximate reduction in building width of approximately 2 metres;
- A reduction of 0.85 metres to the overall building height;
- Reduced length of raised planter boxes along the Grant Street frontage;
- Removal of the raised planter along the Warner Street frontage in order to remove footings from the drain and in order to accommodate a wider, raised pedestrian walkway (needed to ensure compliance with disabled access); and
- Minor changes to the façade of the building along both street frontages.

The changes are included in Attachment 1.

Request for permissible change

Section 367 of the *Sustainable Planning Act (SPA)* 2009 outlines what constitutes a permissible change for a development approval.

A permissible change for a development approval is a change that would not:

- (a) *result in a substantially different development; or*
- (b) *if the application for the approval were remade including the change-*
 - (i) *require referral to additional concurrence agencies; or*
 - (ii) *for an approval of assessable development that previously did not require impact assessment – require impact assessment; or*
- (c) *for an approval for assessable development that previously required impact assessment – be likely, in the responsible entity’s opinion, to cause a person to make a properly made submission objecting to the proposed change, if circumstances allowed; or*
- (d) *cause a development to which the approval relates to include any prohibited development.*

Having regard to the above considerations:

- (a) Statutory Guideline 06/09 ‘*Substantially different development when changing applications and approvals*’ provides guidelines to determine whether proposed changes result in a substantially different development. These include the following tests:

Does the proposed change:

- involve a new use with different or additional impacts?
- result in the application applying to a new parcel of land?
- dramatically change the built form in terms of scale, bulk and appearance?
- change the ability of the proposal to operate as intended. For example, reducing the size of a retail complex may reduce the capacity of the complex to service the intended catchment?
- remove a component that is integral to the operation of the development?
- significantly impact on traffic flow and the transport network, such as increasing traffic to the site?
- introduce new impacts or increases the severity of known impacts?
- removes an incentive or offset component that would have balanced a negative impact of development?
- impact on infrastructure provision, location or demand?

The proposed change does not result in any of the above tests being compromised and therefore, the proposed change does not result in a substantially different development.

- (b)(i) No additional concurrency agencies are triggered as a consequence of the proposed changes.
- (b)(ii) The proposed changes do not trigger impact assessment.
- (c) The proposal was code assessable and did not involve submissions.
- (d) The proposed development is not prohibited development under the *Sustainable Planning Act 2009*.

Having regard to the above, the proposed changes to the approved development do not constitute a substantially different development and can be considered a 'permissible change' in accordance with the *Sustainable Planning Act 2009*.

Furthermore, from a planning perspective, no objections are raised to the changes as proposed in the amended plans.

COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

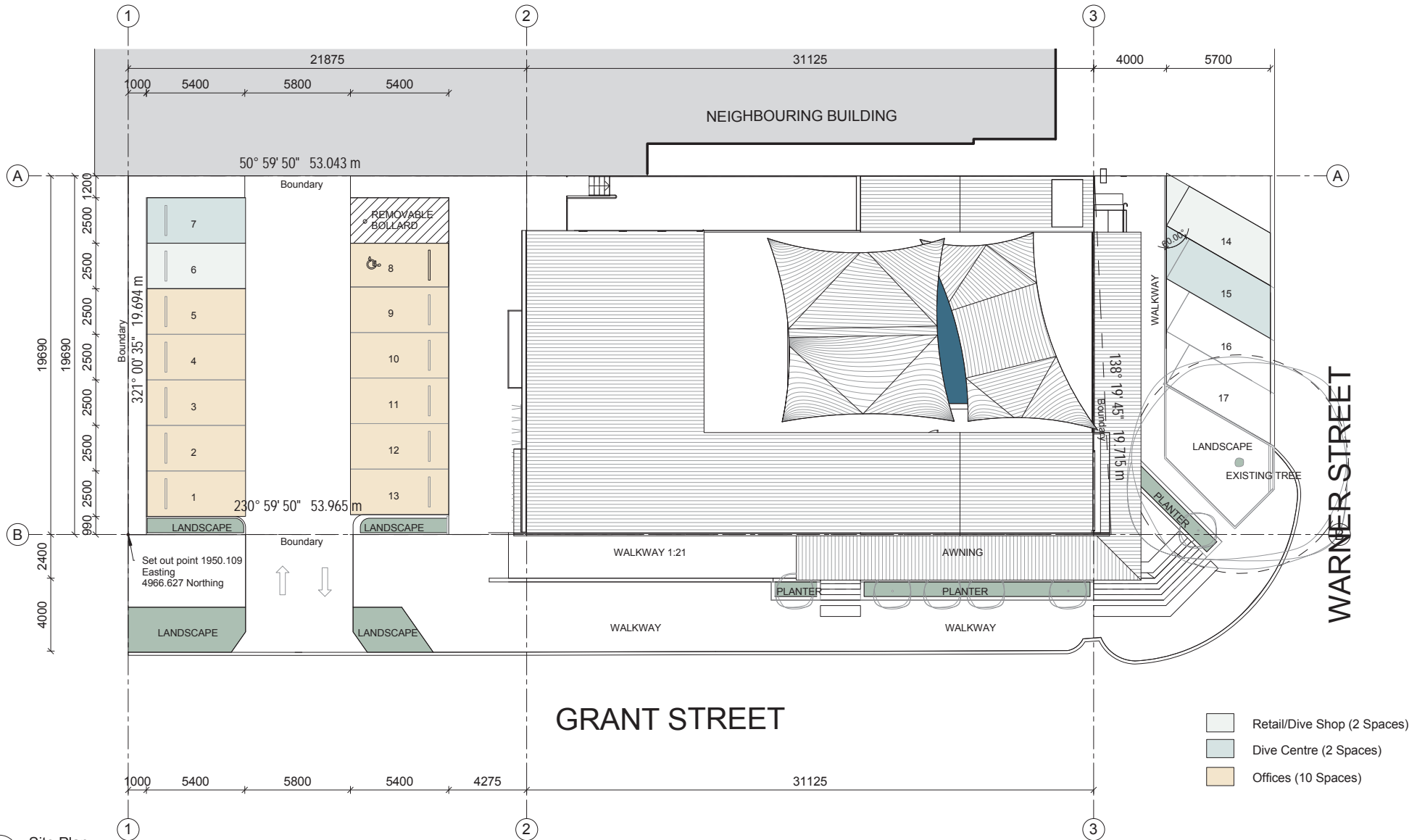
The following area outlines where Council has a clear responsibility to act:

Regulator: Meeting the responsibilities associated with regulating activities through legislation or local law.

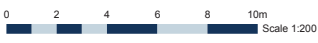
Under the *Sustainable Planning Act 2009* and the *Sustainable Planning Regulation 2009*, Council is the assessment manager for the application.

ATTACHMENTS

1. Attachment 1 - Changed Plan(s) & Document(s) **[5.5.1]**



1 Site Plan
1:200



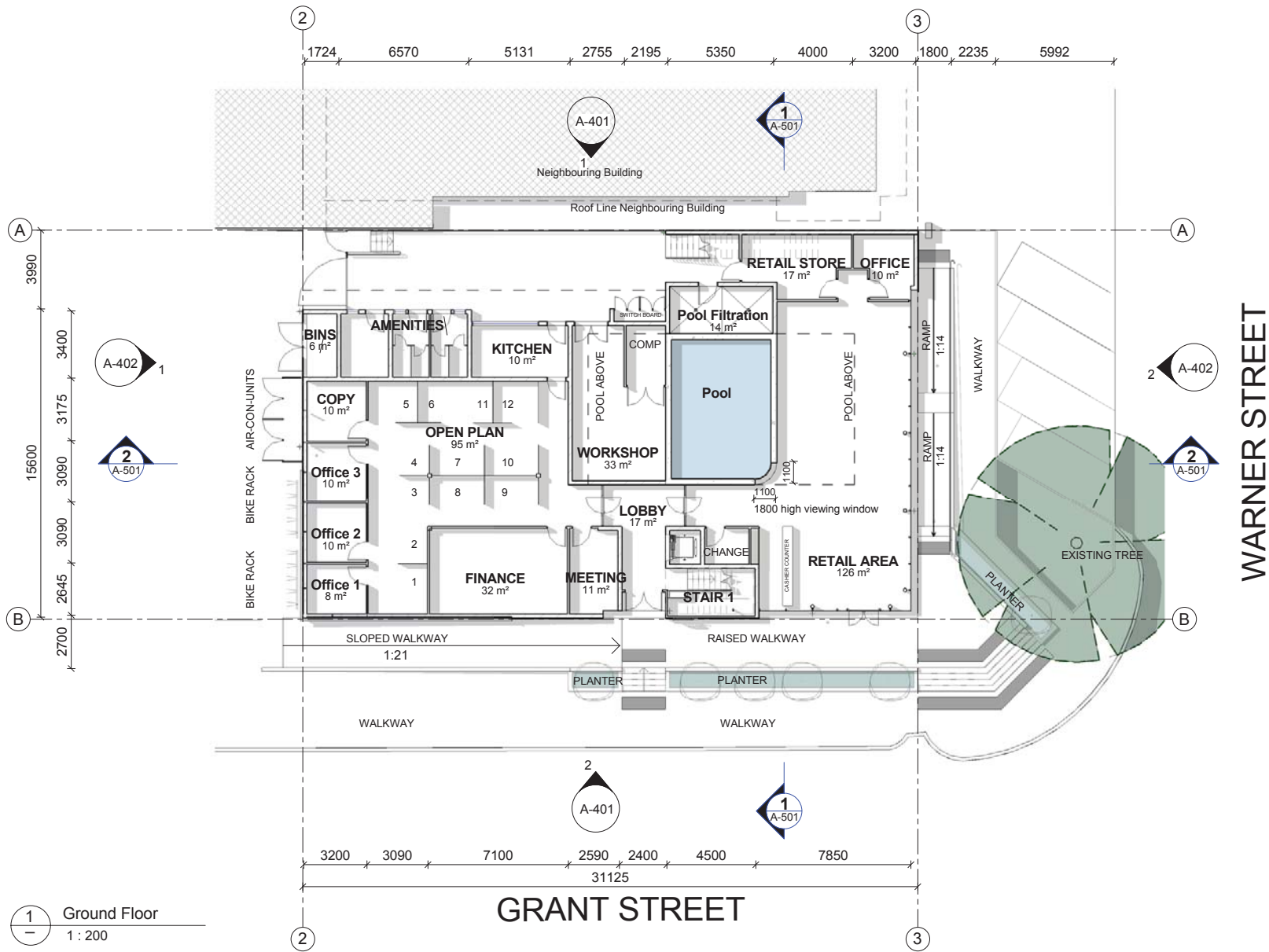
DEVELOPMENT APPLICATION ■

Siteplan

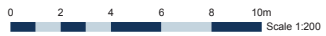
966_CD A-002
1/07/2017 3:14:21 PM

Quicksilver Group





1 Ground Floor
1 : 200



Ground Floor Plan

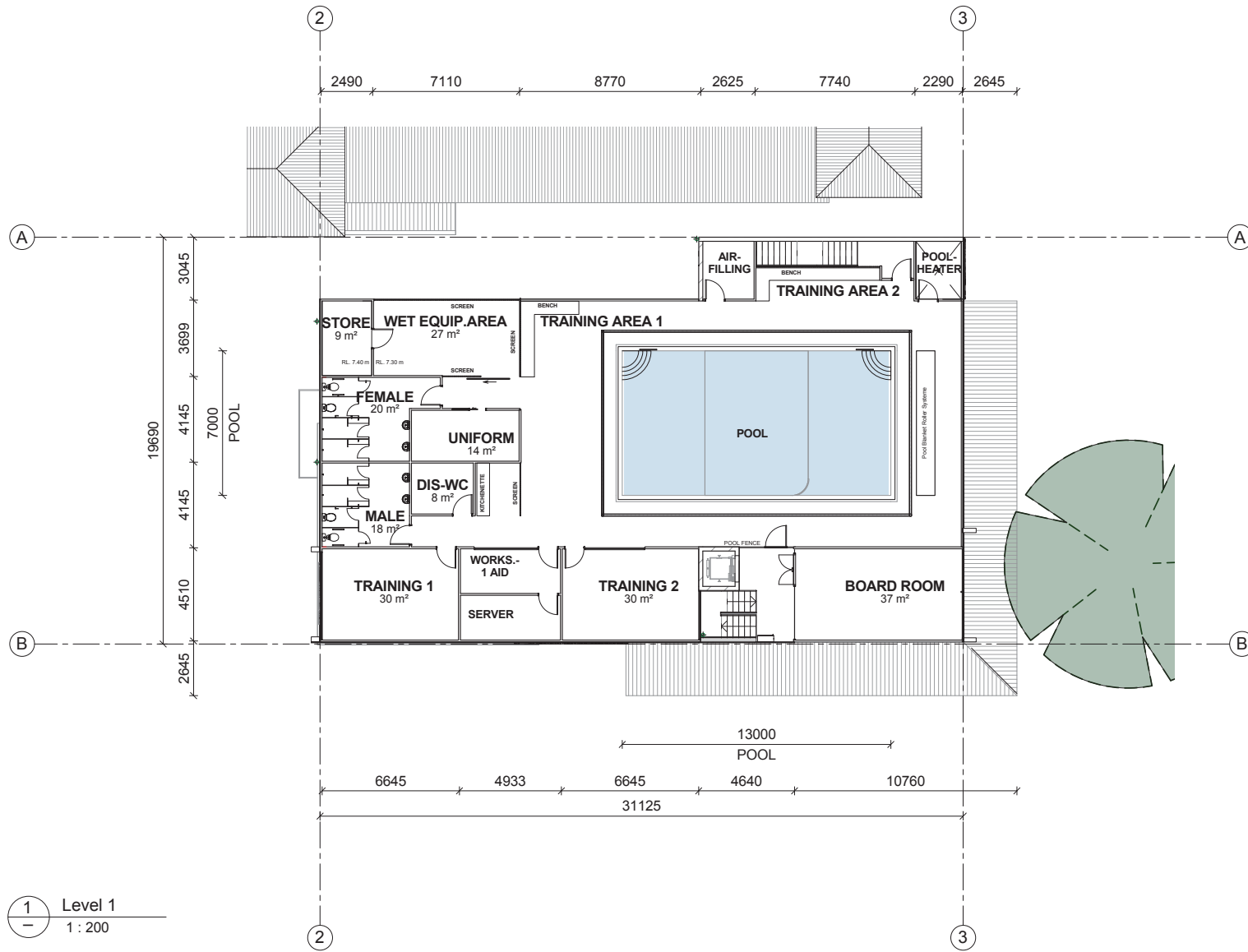
DEVELOPMENT APPLICATION ■

966_CD A-101
1/07/2017 3:14:36 PM
Rev 1

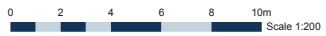
Quicksilver Group



C.A. ARCHITECTS



1 Level 1
1 : 200



Level 1 Plan

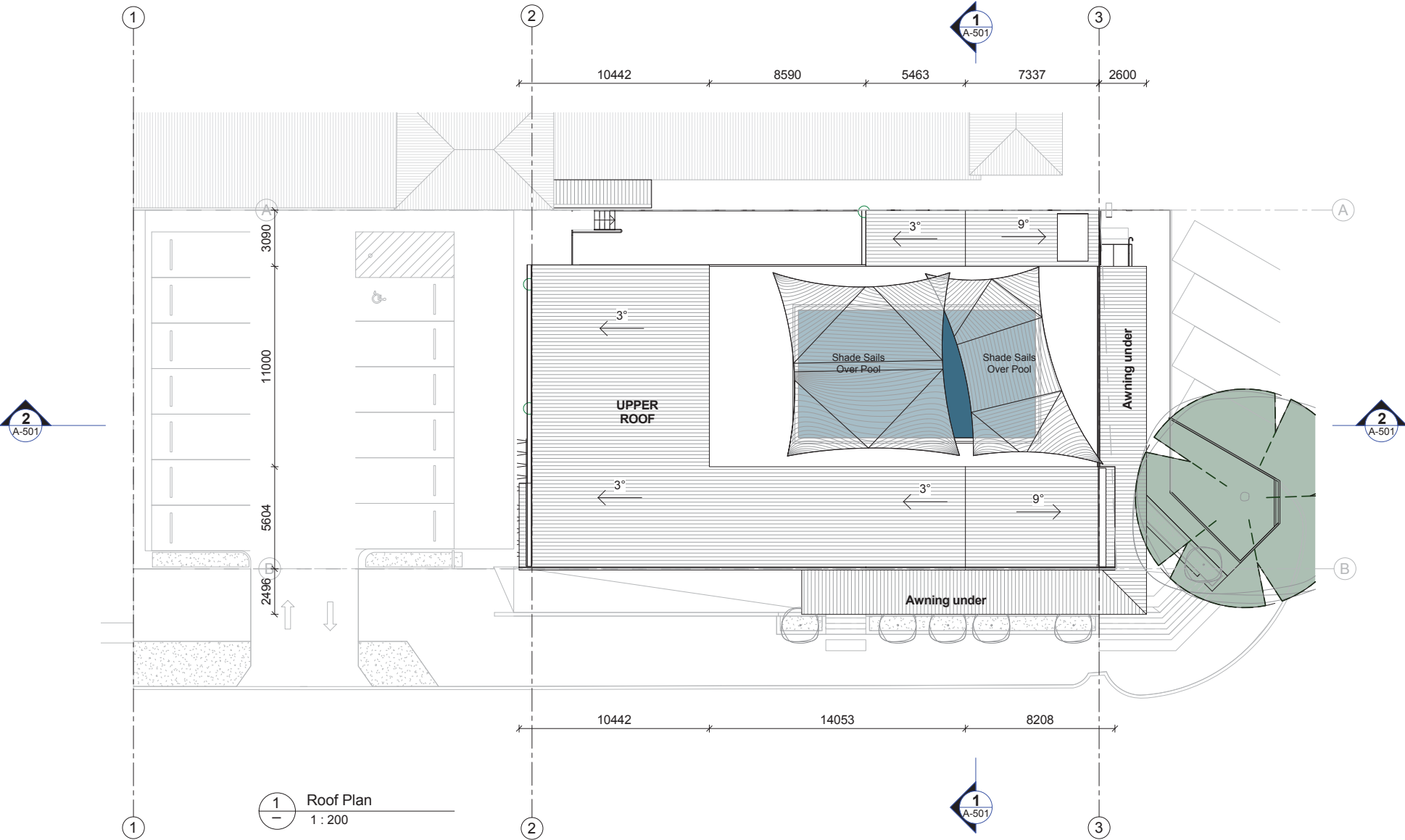
DEVELOPMENT APPLICATION ■

966_CD A-102
1/07/2017 3:14:45 PM
Rev 1

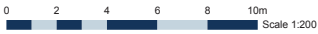
Quicksilver Group



CA ARCHITECTS



1 Roof Plan
1 : 200



DEVELOPMENT APPLICATION ■

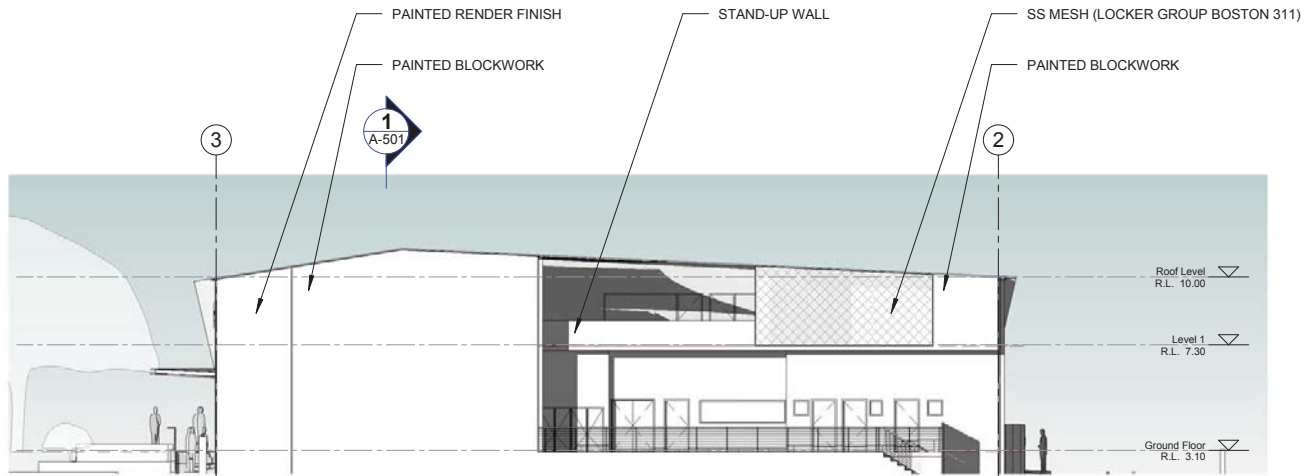
Roof Plan

966_CD A-103
1/07/2017 3:14:54 PM

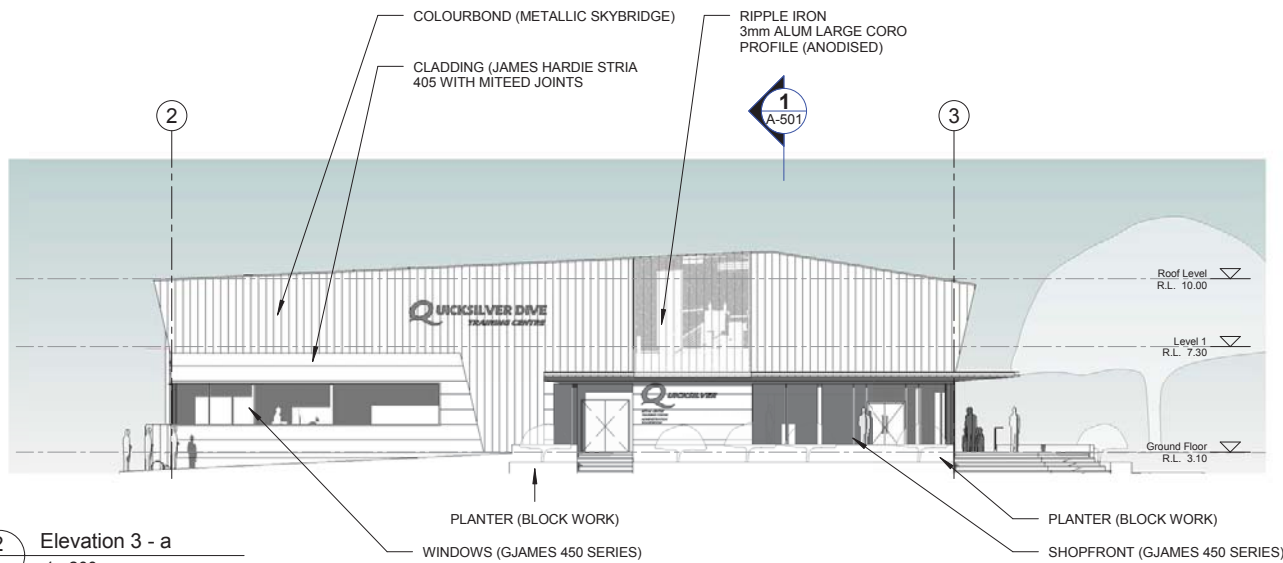
Quicksilver Group



C A ARCHITECTS



1 Elevation 1 - a
1 : 200



2 Elevation 3 - a
1 : 200

0 2 4 6 8 10m Scale 1:200

DEVELOPMENT APPLICATION ■

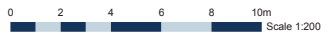
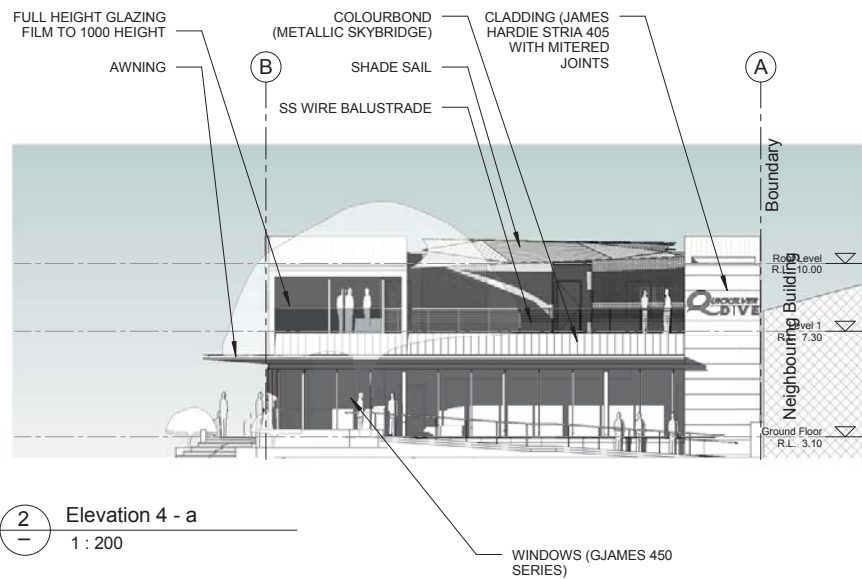
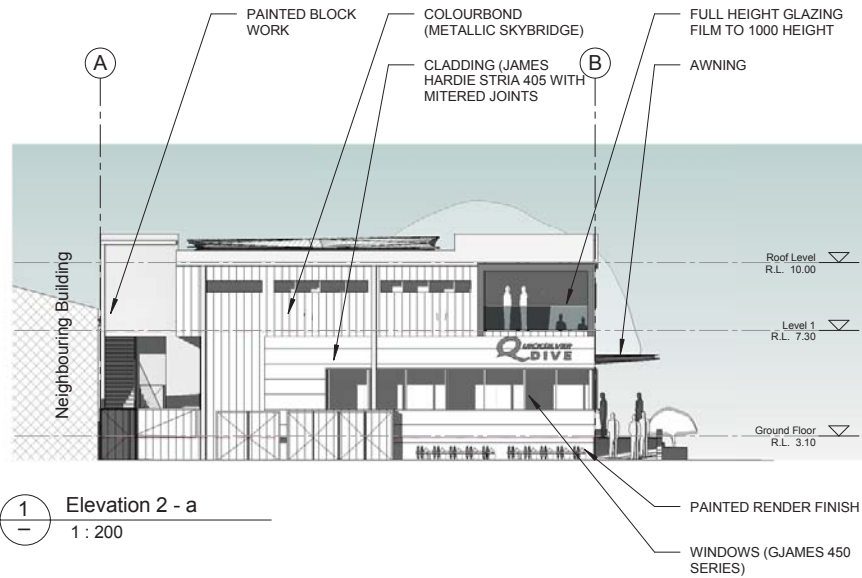
Elevations

966_CD A-401
1/07/2017 3:16:27 PM

Quicksilver Group



CA ARCHITECTS



Elevations

DEVELOPMENT APPLICATION ■

966_CD A-402
1/07/2017 3:16:53 PM

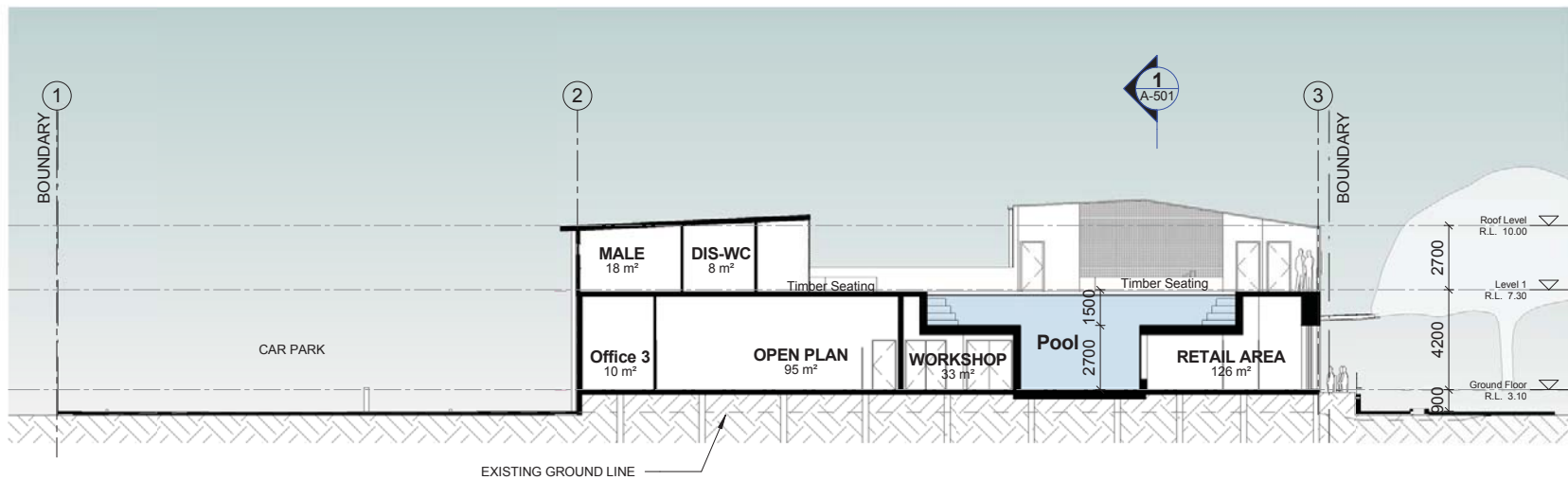
Quicksilver Group



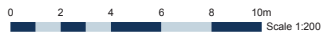
C A ARCHITECTS



1 Building - Section 1
1 : 200



2 Building - Section 2
1 : 200



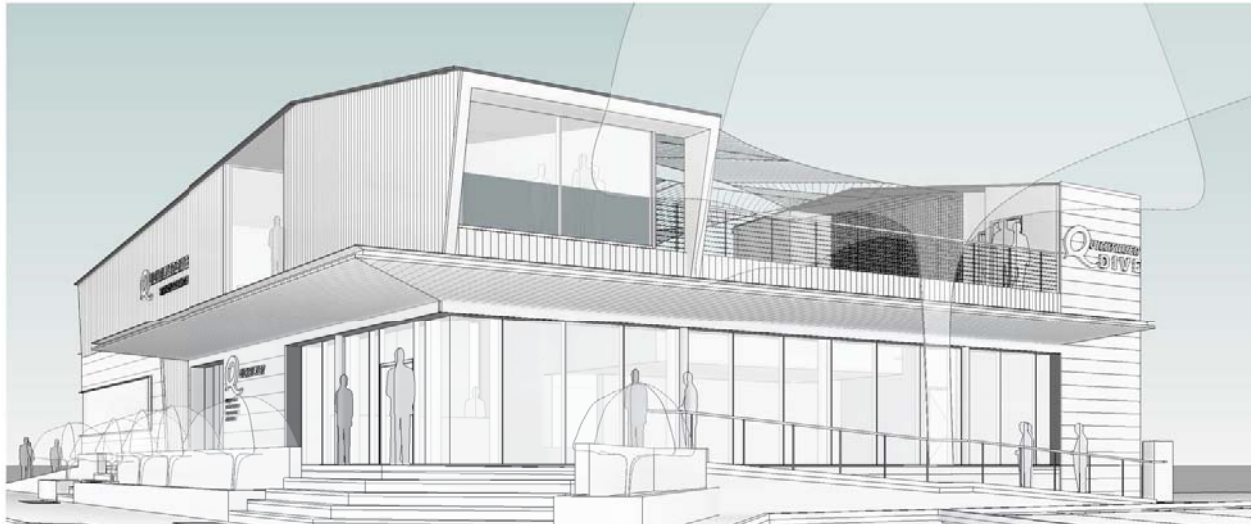
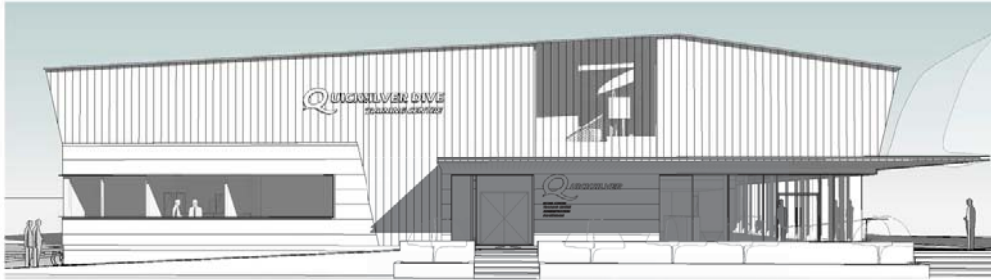
Sections

DEVELOPMENT APPLICATION ■

966_CD A-501
1/07/2017 3:17:11 PM

Quicksilver Group





0 2 4 6 8 10m Scale 1:200

3D Perspective

DEVELOPMENT APPLICATION ■

966_CD A-901
1/07/2017 3:18:02 PM

Quicksilver Group



CA ARCHITECTS