

23 March 2021

Enquiries: Jenny Elphinstone
Our Ref: MCUC 2004_2517/2 (Doc ID 1003636)
Your Ref: 8/37/97

Administration Office
64 - 66 Front St Mossman
P 07 4099 9444
F 07 4098 2902

K M Abberton
PO Box 146
PALM COVE QLD 4879

kimmy@ner.net.au

Dear Madam

**Development Application to Extend Relevant Period
At 43 Kauri Close Cow Bay
On Land Described as Lot 271 on RP738997**

Please find attached the Decision Notice for the above-mentioned development application.

Please quote Council's application number: MCUC 2004_2517/2 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9444.

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

encl.

- Decision Notice
 - Original Approval
 - Reasons for Decision
- Advice For Appeals (Decision Notice)

Cc bernegrat@gmail.com



Decision Notice

Approval

Given under sections 86 and 87 of the Planning Act 2016

Applicant Details

Name: K M Abberton
Postal Address: PO Box 146
Palm Cove Qld 4879
Email: kimmy@ner.net.au

Property Details

Street Address: 43 Kauri Close Cow Bay
Real Property Description: Lot 271 on RP738997
Local Government Area: Douglas Shire Council

Details of Proposed Development

Application to extend the relevant period of currency for the development approval for a material change of use for a House.

Decision

Date of Decision: 23 March 2021
Decision Details: Approved the currency period of the approval is extended for a further six (6) years up to and including 7 December 2027.

Approval

Copy of the original approval is enclosed.

Further Development Permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Building Work

All Plumbing and Drainage Work must only be carried in compliance with the Queensland *Plumbing and Drainage Act 2018*.

Currency Period for the Approval

This approval, granted under the provisions of the *Planning Act 2016*, shall lapse on 7 December 2027 in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Rights of Appeal

The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

A copy of the relevant appeal provisions are attached.

PLANNING & ENVIRONMENT COURT OF QUEENSLAND

REGISTRY: CAIRNS
NUMBER: 106 of 2007

Appellant: BERNHARD GRAF
AND
Respondent: CAIRNS REGIONAL COUNCIL

JUDGMENT

BEFORE: His Honour Judge Everson DCJ
DATE OF JUDGMENT: 7 December 2009
INITIATING DOCUMENT: Appeal filed 17 April 2007

IT IS DECLARED THAT:-

1 The change proposed to the development application the subject of the appeal is a minor change in terms of section 4.1.52 (2) (b) of the *Integrated Planning Act 1997*.

IT IS ADJUDGED THAT

2 The appeal is allowed.
3 The appellant's application for a Material Change of Use Dwelling House consisting of main Living Area (Kitchen, Pool, Sundecks, Media/Games Room, Relaxation room) and five (5) detached bedrooms and a 5 car garage on land located at Kauri Close, Cow Bay more particularly described as Lot 271 on RP739997 Parish of Alexandra County of Solander, is approved subject to the conditions of approval set out in Annexure "A" attached hereto.

FILED ON: 1-7 DEC 2009

Filed By: Miller Bou-Samra, Lawyers
Service Address: 1st Floor, 20 Lake Street
CAIRNS QLD 4870
Phone: 4030 1444
Fax: 4051 4277



JUDGMENT
Filed on behalf of the appellant

Miller Bou-Samra Lawyers
Level 1, 20 Lake Street
CAIRNS QLD 4870
Telephone: 07 40301444
Facsimile: 07 40514277
Reference: LBS:70280

"ANNEXURE A"

Site Address:

Lot 271 Kauri Close, Cow Bay

A - Approved drawing(s) and/or document(s)

The term 'approved drawings(s) and/or documents' or other similar expressions means:

Drawing or Document	Reference	Date
Site Plan	Project ID-148 Drawing No. 02 prepared by Indetail	April 2006 and as amended 10 May 2008
Site Plan and Elevations	Drawings: CD100 Issue C; CD 101 Issue B and CD 102 Issue B, prepared by CA Architects	As submitted to Council on 30 July 2009
Areas of Excavation and Fill	Drawings as annotated by the Applicant being: i Project ID-148 Drawing No.02 prepared by Indetail; and ii Drawings: CD 100 Issue C; CD 101 Issue B; and CD 102 Issue B, prepared by CA Architects	As submitted to Council on 30 July 2009
Living Area Floor Plans – Sheet 1	Project ID – 148 Drawing No. 02 prepared by Indetail	April 2005
Elevation A	Project ID-148 Drawing No. 05 prepared by Indetail	April 2005
Living Area Floor Plans – Sheet 2	Project ID-148 Drawing No. 04 prepared by Indetail	April 2005
Bedroom 2,4,5 Floor Plans	Project ID-148 Drawing No. 06 prepared by Indetail	April 2005
Bedroom 3 Floor Plans	Project ID-148 Drawing No. 07 prepared by Indetail	April 2005

B

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.
 - (b) The dwelling house is to be sited generally in accordance with amended drawing dated 10 May 2008 and received by Council on 13 June 2008.

N:\70280 Kauri\Court Docs\2009\Final conditions 071209.doc

- (c) The Sundeck is not permitted to be sheltered with a roof at any point excepting that which covers the external stairwell.
- (d) 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.

2. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.
3. The approved use must not be conducted so as to cause a nuisance or annoyance to persons not associated with the business and so as not to adversely affect any other property. In particular, but not limited to the emission of dust, noise, smoke, fumes, ash, odour and light.
4. Any erection and use and occupation of the premises shall at all times comply with the conditions laid down and provided for in the Douglas Shire Planning Scheme in force at the time the application was made.
5. The provisions of the *Integrated Planning Act 1997*, the *Building Act*, the *Fire Safety Act*, the *Public Health Act*, the *Food Act* and all other relevant Acts and Regulations and the Local Laws of the Council from time to time shall at all times be observed and performed in relation to the land, the building and the use and occupation thereof.
6. The provisions of the Development Permit are to be effected prior to the commencement of the specific use as granted by Council.
7. The applicant is to ensure that the boundary pegs are clearly identifiable and free from any vegetation.
8. The dwelling will not exceed 7.5m in height above the natural ground level.
9. All power generation devices are to be positioned and housed (including noise attenuation material) so as to mitigate noise nuisance to adjoining and nearby residents.
10. The minimum floor level for all habitable rooms in any building erected on the premises must be:
 - (a) a minimum of 3.2m AHD; or
 - (b) a minimum of the Q100 flood level.whichever is the greater.
11. The proposed colour schedule of a Paperbark roof and Russian Toffee walls are approved. No variation from the approved colours is permitted without the written authorisation of Council.
12. The applicant is required to demonstrate to the Council that an adequate supply of potable water in both quantity and quality is available to the site prior to the issuing of a Development Permit for Building & Plumbing work.

The separation distance for any bore used for the supply of potable water must be in accordance with the *On-site Sewerage Code: July 2002* and *AS/NZS1547:2000, On-site domestic wastewater management*.

13. Water storage tank(s), with a minimum capacity not less than 30,000 litres, shall be installed prior to occupation of the premises. Details of the water tank(s) shall be shown on plans submitted with the building application. Such water tanks shall be fitted with:
- (a) screening at the inlet to prevent the intrusion of leaves and insects;
 - (b) The water tank(s) shall be fitted with a 50mm full flow lever action ball valve with a male end camlock fitting; and
 - (c) The water tank(s) shall be accessible by fire fighting vehicles at all times.
14. Plans of the proposed waste water treatment and disposal methods designed in accordance with the *On-site Sewerage Code; July 2002* and *AS/NZS154Y:2000; On-site domestic waste water management* must be submitted to Council's Plumbing Inspector at the time of lodgement of application for building works are to be approved prior to the construction of any buildings.
- Council urges the use of composting toilets, or other technologies that reduce the amount of wastewater generated. Composting toilets must be in accordance with the *Environmental Protection (waste Management) Regulation 2000* and *AS/NZS46.2:2000*. Where waste water treatment is to be by way of a septic system, tree root barriers are to be used in conjunction with absorption trenches. All wastewater treatment and disposal methods must be inspected and approved prior to the commencement of the use or occupation of the site.
- The Site Classification and Waste Water report prepared by Earth Test dated 8 January 2008 is deemed to constitute compliance with this condition.
15. Existing vegetation on the subject land must be retained in all areas except those affected by the construction of access driveways, the installation of services and buildings as detailed on the approved plans. Any further clearing requires a Permit to Damage Protected Vegetation under *Amendment 1 of 2006 of Local Law No. 56 Vegetation Management*.
16. The setbacks to the common side boundary to the neighbouring Lot 272 on RP738997 and Lot 270 on RP738997 for a width of 10 metres (excluding that area where the buildings are situated) is landscaped to the satisfaction of the Chief Executive Officer.
17. In accordance with section 8.5.2 of the Douglas Shire Planning Scheme, no change to the natural surface level of the lot shall occur without the written consent of Council's Director Engineering Services.
18. No site works or building preparation will be undertaken until a Geotechnical report for site suitability and stability is supplied and approved by Council in conjunction with the Development Permit for Building and Plumbing work. The geotechnical report prepared by GJ Douglas Partners is deemed to constitute compliance with this condition.
19. **Driveway Grades**
- Unless Council has previously issued a Development Permit for Operational Works for the driveway construction the applicant will ensure that the vehicular access is constructed at a slope of less than twenty-five (25%)(1:4) without detriment of the suitability of the slope of the lot or surrounding land. Where the slope of the proposed driveway exceeds twenty five percent (25%)(1:4) the driveway will be constructed and sealed with concrete or bitumen to the satisfaction of the Chief Executive Officer.
- The driveway access is not to exceed 4m in width and will include sediment traps or other similar methods of sediment control to prevent runoff entering drainage lines.

20. Should excavation or filling be required on-site, then the applicant will be required to prepare and submit civil engineering plans for all excavation including a sediment control plan in accordance with the FNQROC Development Manual for the separate Council approval. The geotechnical report prepared by GJ Douglas Partners is deemed to constitute compliance with this condition.
21. All topsoil removed from the site of the building pad and surrounds prior to construction is to be replaced over the cleared area after construction has been completed.
22. **Covenant**

The applicant is required to enter into an environmental covenant with Cairns Regional Council 'the Council', over the balance of the allotment not approved to be cleared, under the Vegetation Management Permit on the subject site (Lot 271 on RP738997) The following requirements will be included in this covenant:

- (a) Native endemic species only may be planted in covenant area;
- (b) The clearing of vegetation from the defined covenant areas will not be permitted other than as approved by Council;
- (c) Any works, including drainage, undertaken outside the defined covenant area undertaken by the lot owner shall not prejudice the integrity of the existing vegetation;
- (d) No structures shall be constructed within the covenant areas other than as approved by Council.

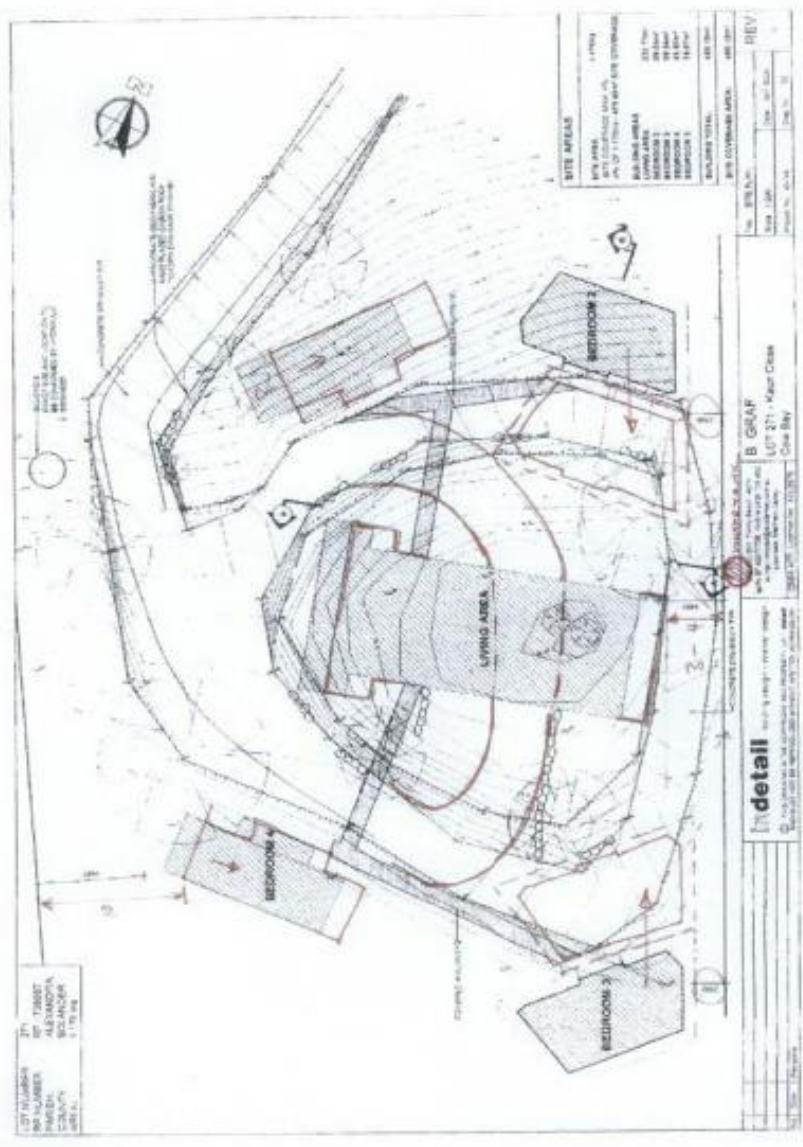
This covenant will be drafted by Council and signed by the Council and the applicant prior to any clearing on the subject site commencing. This Covenant is to be binding on successive owners of the land and a copy of this Covenant is to be included in the contract documentation for the sale of the effected allotments.

Council will compensate the landholder for the cost of survey associated with the marking out of the covenant area, preparation of a Plan of Survey and the registration of the covenant with the Department of Natural Resources, Mines and Energy.

FURTHER ADVICE

1. This approval, granted under the provisions of the *Integrated Planning Act 1997*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 3.5.21 of the *Integrated Planning Act 1997*.
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.
4. For information relating to the *Integrated Planning Act 1997* log on to www.ipa.qld.gov.au. To access Council's Development Manual, Local Laws and other applicable Policies log on to www.cairns.qld.gov.au.

10 NOV 08



NOTE:
 • SEE THE PLAN FOR DIMENSIONS
 • DIMENSIONS ARE TO THE CENTER OF GRADE

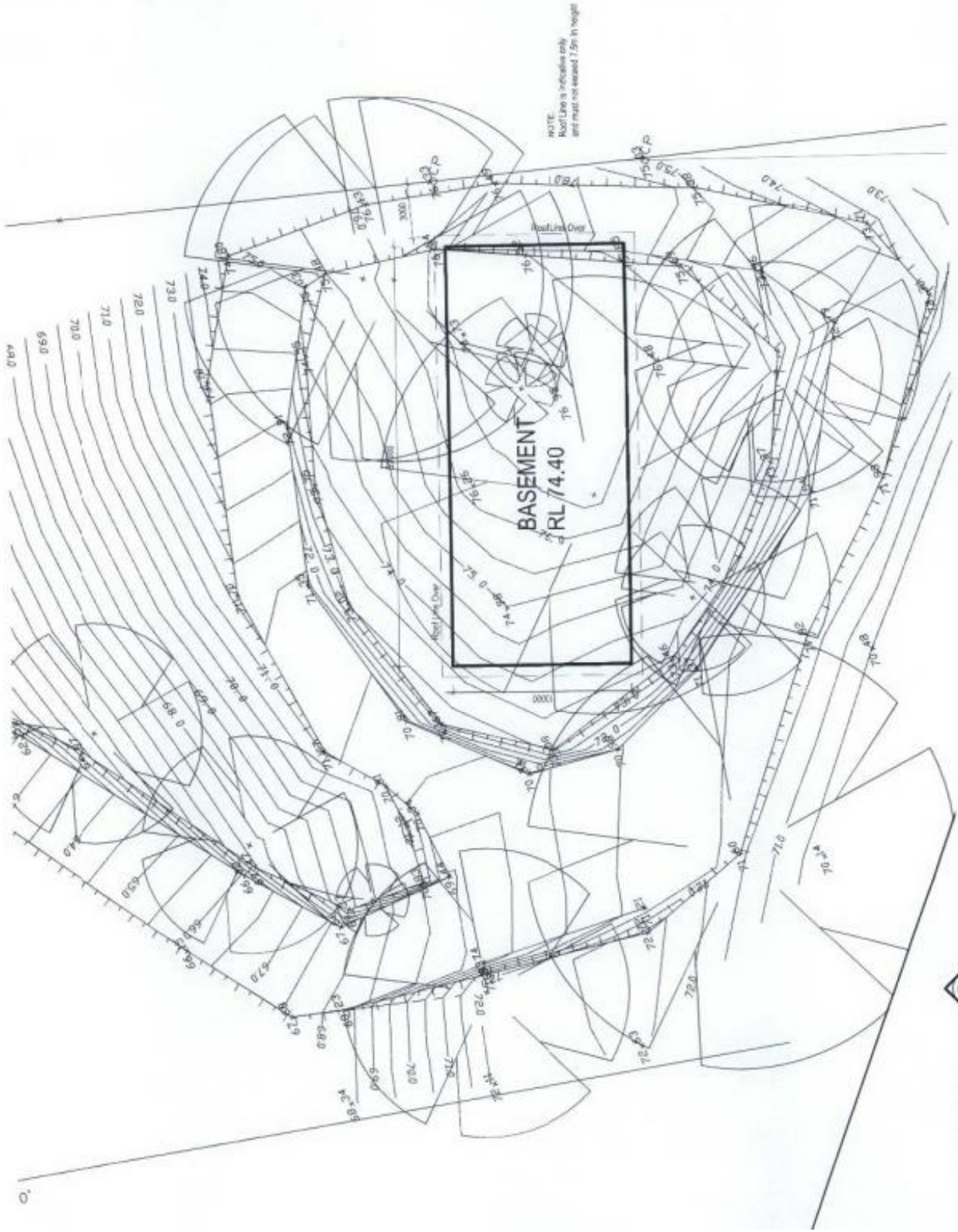
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NOTE:
 Root Line is indicated only
 and must not exceed 1.5m in height

PLANT SITE PLAN -
 Scale 1:200

PROJECT INFORMATION:
 Project Name: _____
 Client: _____
 Location: _____
 Date: _____



PLANT SITE PLAN -
 Scale 1:200

NOTE:

- (NOT SCHEDULED)
- APPROVED FOR CONSTRUCTION BY PLAN

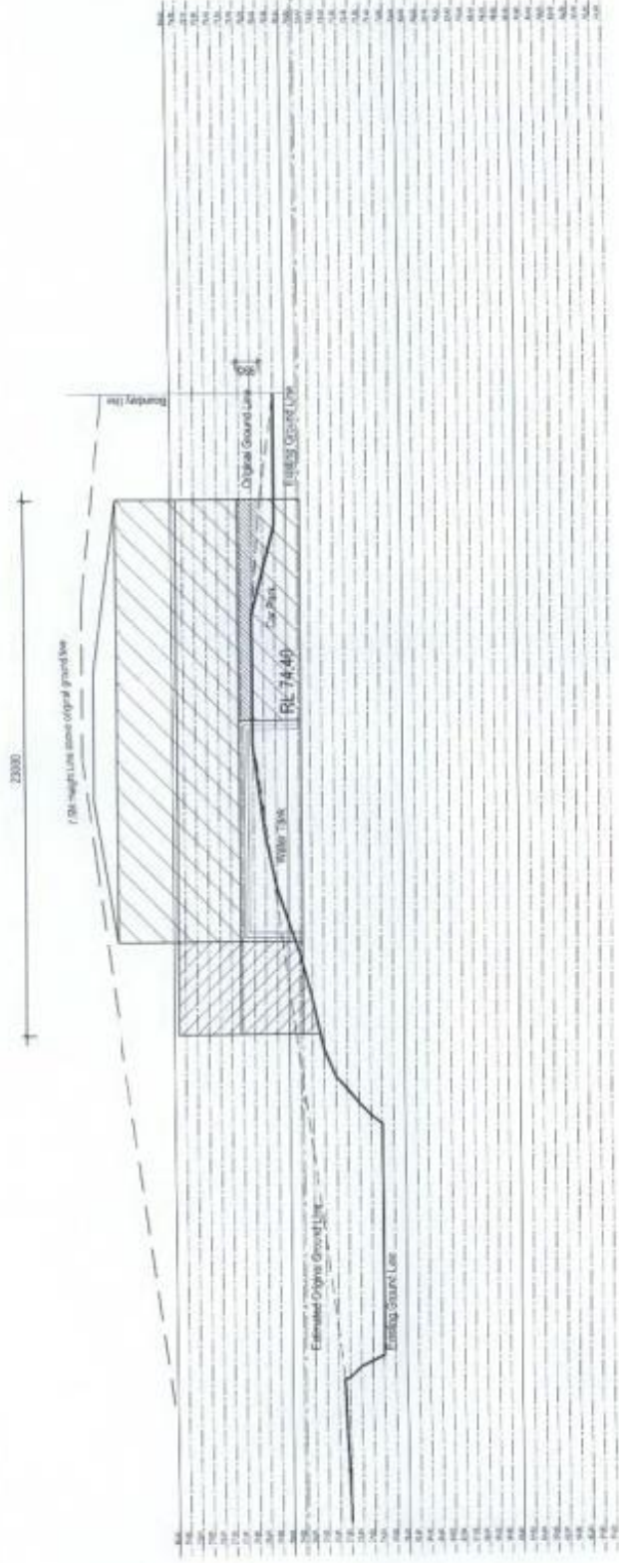
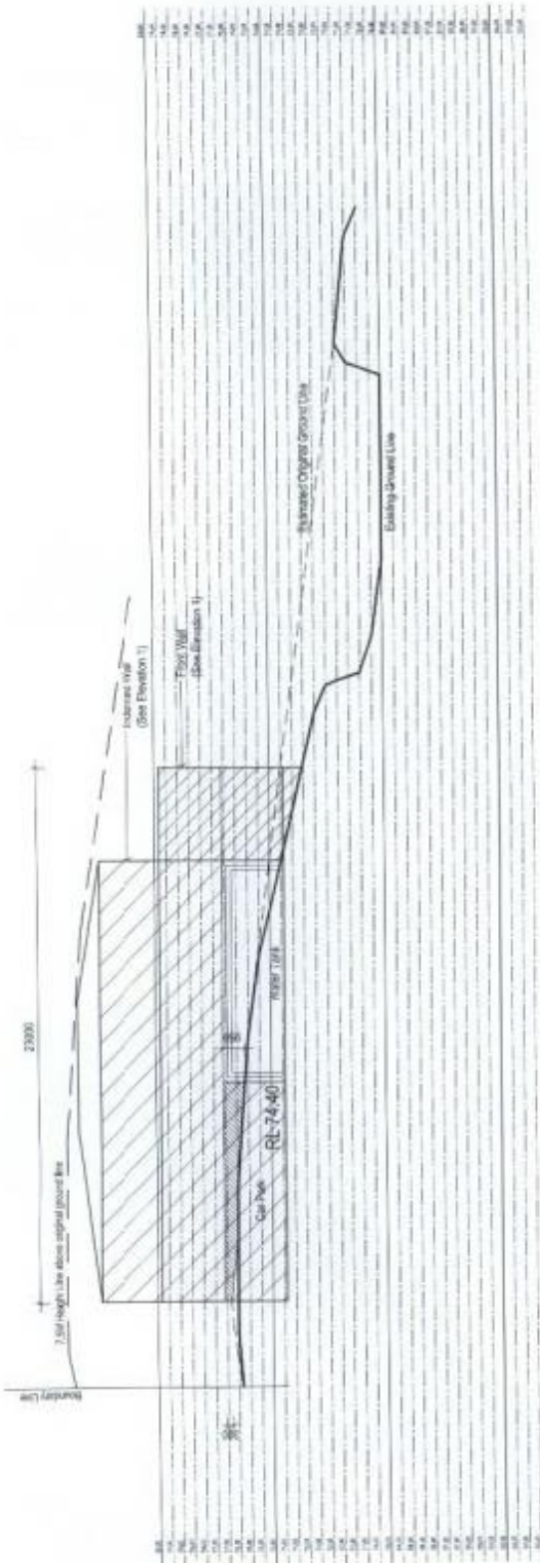
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A.C.A. ARCHITECTS P/L
 45-2401 15th Ave S
 S.W. 15th & York
 S.W. 15th & York
 S.W. 15th & York

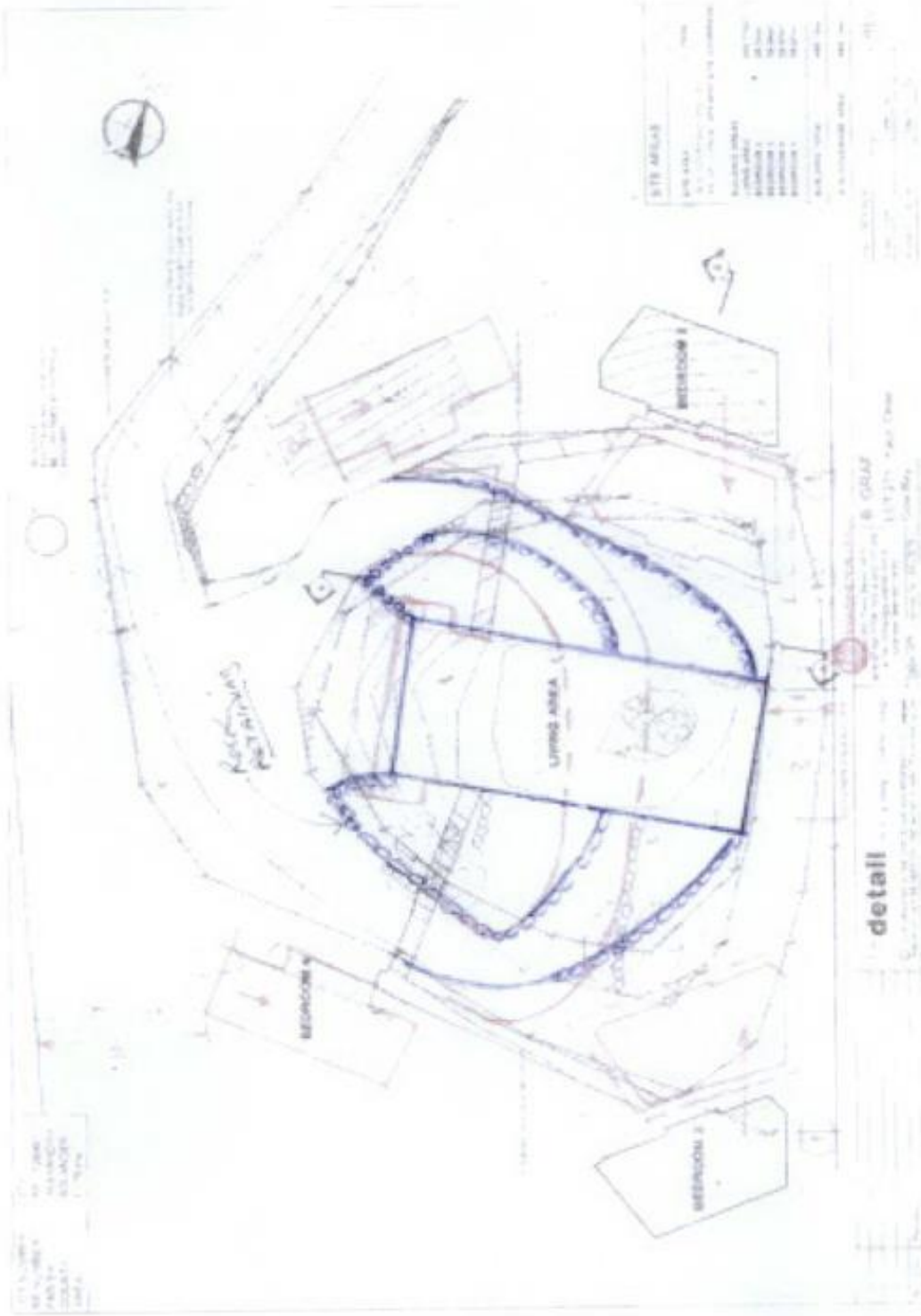
ELEVATIONS
 Drawing Title: _____
 Designer: _____
 Checker: C.A.
 Scale: 1/200 @ A3
 Date: _____
 Project No.: _____
 Drawing No.: CD 101
 Rev: _____



10 May 08

30 July 09

PROJECT ID 148
Drawing No 2



NOTE:
 • ALL DIMENSIONS UNLESS OTHERWISE SPECIFIED ARE IN FEET AND INCHES.
 • DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.

LEGEND

1	Proposed Sub	0.00' 0"
2	Proposed Wall	0.00' 0"
3	Proposed Footing	0.00' 0"
4	Proposed Slab	0.00' 0"
5	Proposed Deck	0.00' 0"

REGION

A.C.A. ARCHITECTS P.C. LLC
 1000 S. GARDEN AVENUE, SUITE 100
 GARDEN CITY, CA 94014

PROJECT:
 1000 S. GARDEN AVENUE, SUITE 100
 GARDEN CITY, CA 94014

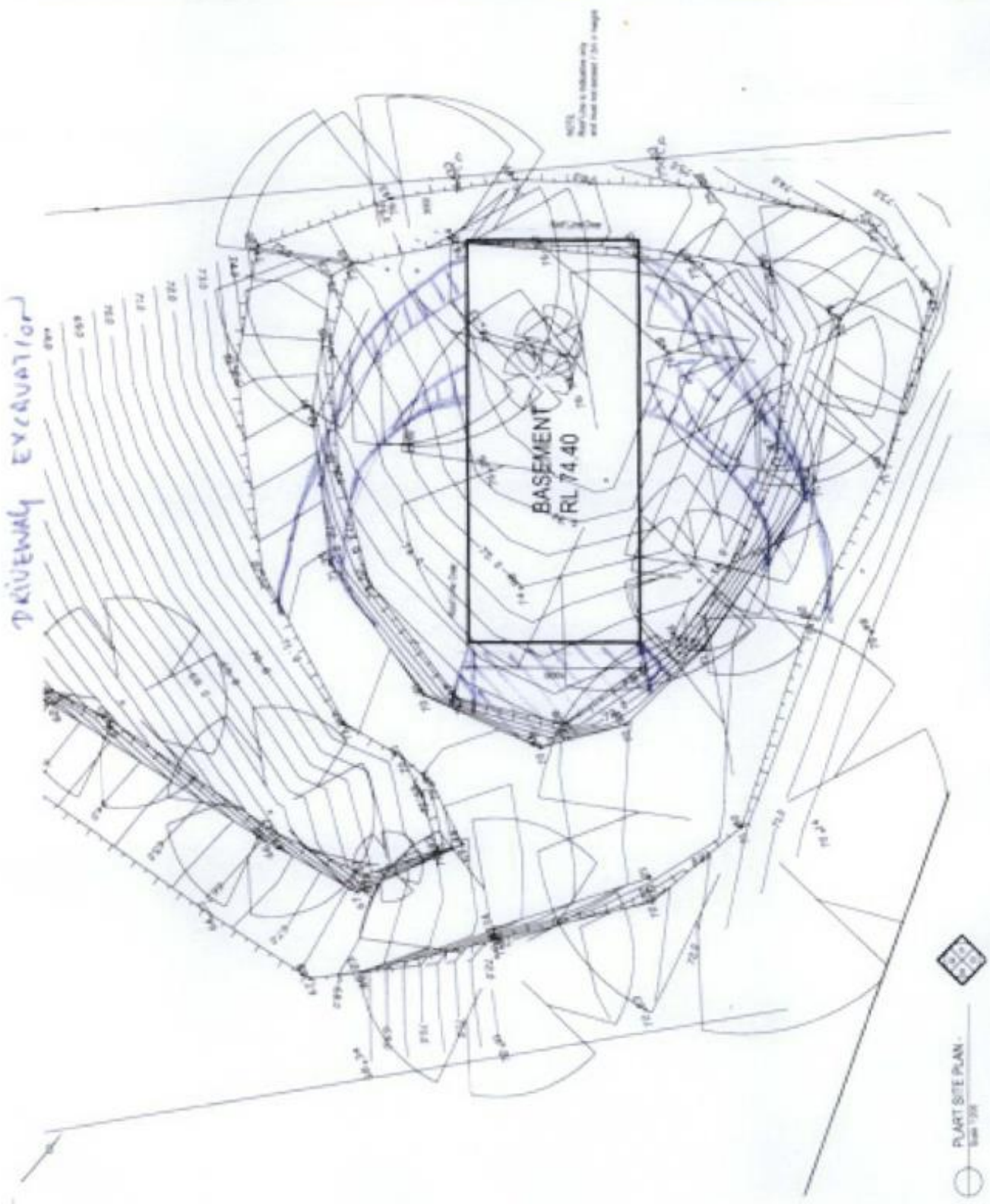
DATE:
 10/10/10

SCALE:
 1/8" = 1'-0"

PROJECT NO.:
 1000 S. GARDEN AVENUE, SUITE 100
 GARDEN CITY, CA 94014

DATE:
 10/10/10

PROJECT NO.:
 1000 S. GARDEN AVENUE, SUITE 100
 GARDEN CITY, CA 94014



AMENDED BS

NOTE

- 1. All work shall be in accordance with the latest edition of the California Building Code.
- 2. All work shall be in accordance with the latest edition of the California Electrical Code.

LEGEND

1	Proposed Work
2	Existing Work
3	Proposed Work to be Deleted
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ELEVATION - 02
Scale 1/2" = 1'-0"

ELEVATION - 03
Scale 1/2" = 1'-0"

PROJECT INFORMATION

PROJECT NO. 03-131-CD-01

DATE 12/15/11

BY J. A. MOORE, P.E.

SCALE 1/2" = 1'-0"

ELEVATIONS

FINISH	AS SHOWN
GRADE	AS SHOWN
FOUNDATION	AS SHOWN
ROOF	AS SHOWN

PROJECT NO. 03-131-CD-01

DATE 12/15/11

BY J. A. MOORE, P.E.

SCALE 1/2" = 1'-0"

ELEVATIONS

FINISH	AS SHOWN
GRADE	AS SHOWN
FOUNDATION	AS SHOWN
ROOF	AS SHOWN

PROJECT NO. 03-131-CD-01

DATE 12/15/11

BY J. A. MOORE, P.E.

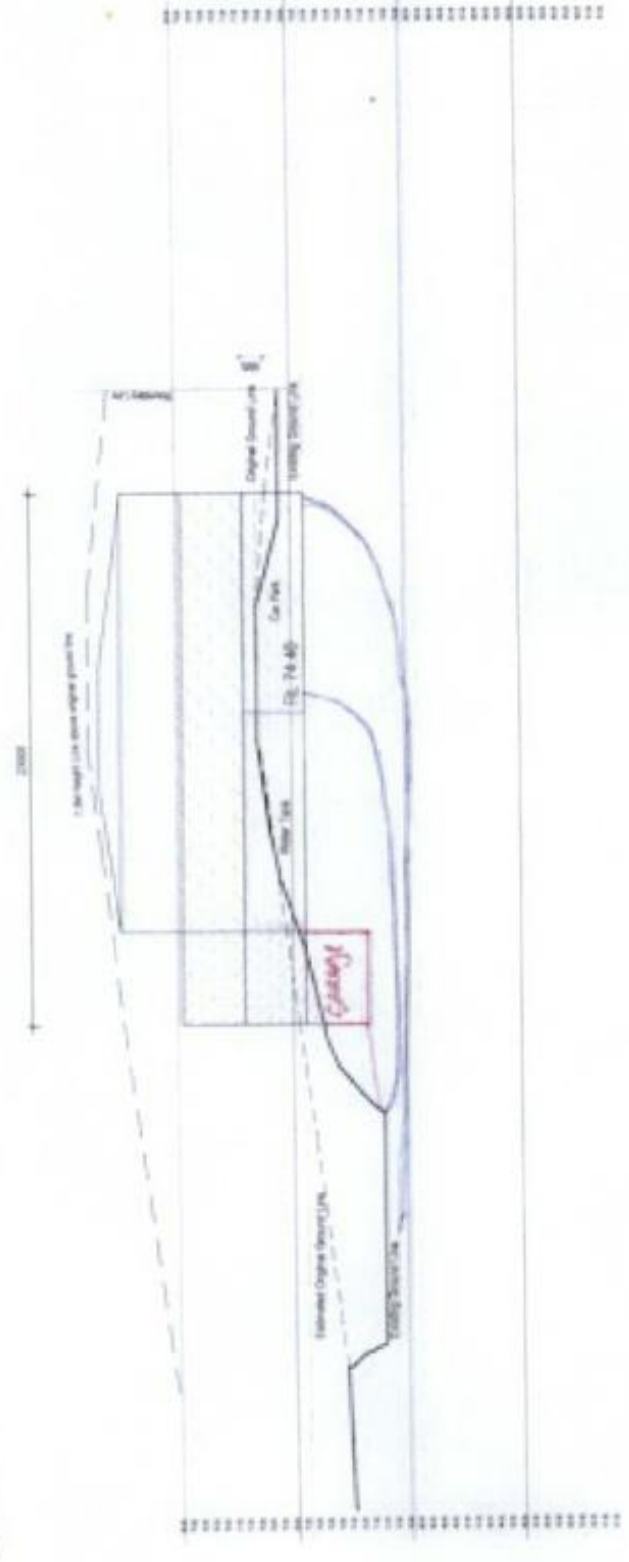
SCALE 1/2" = 1'-0"

ELEVATIONS

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GRADE	AS SHOWN
FOUNDATION	AS SHOWN
ROOF	AS SHOWN



ELEVATION - 02
Scale 1/2" = 1'-0"



ELEVATION - 03
Scale 1/2" = 1'-0"

AMENDED RS

NOTE:
 • ALL DIMENSIONS ARE IN FEET
 • SURVEYED SUBJECT STAKE

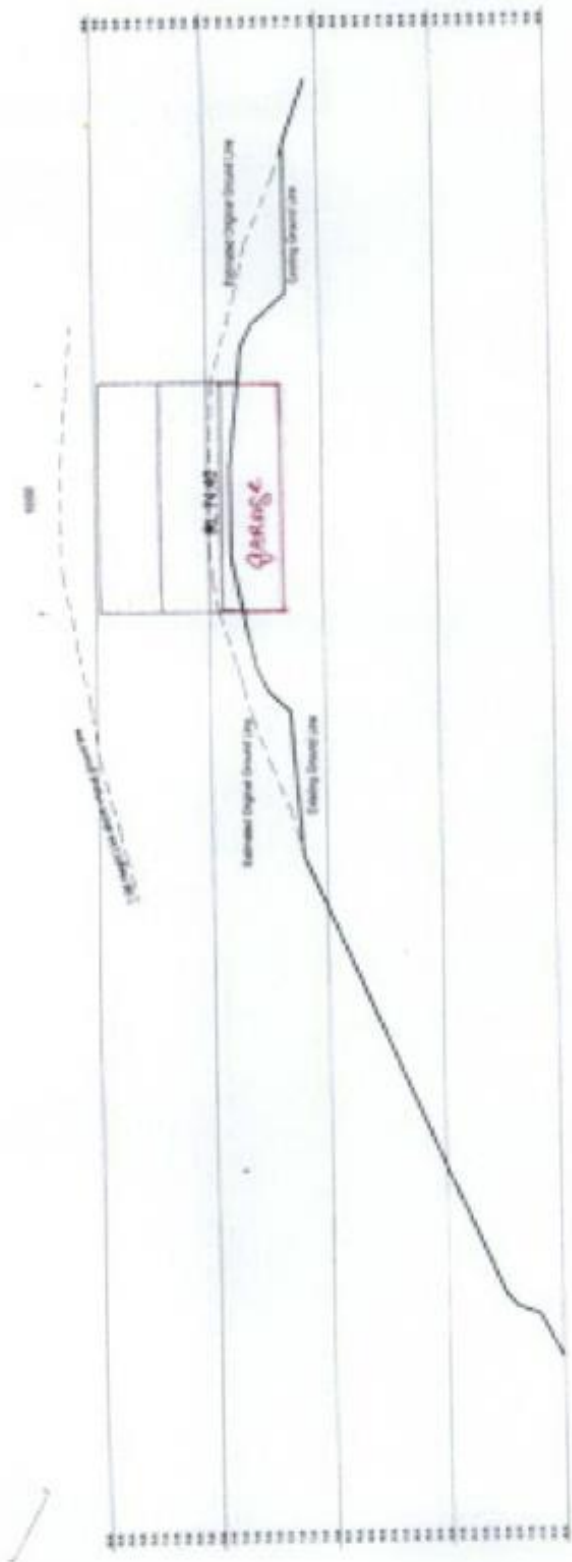
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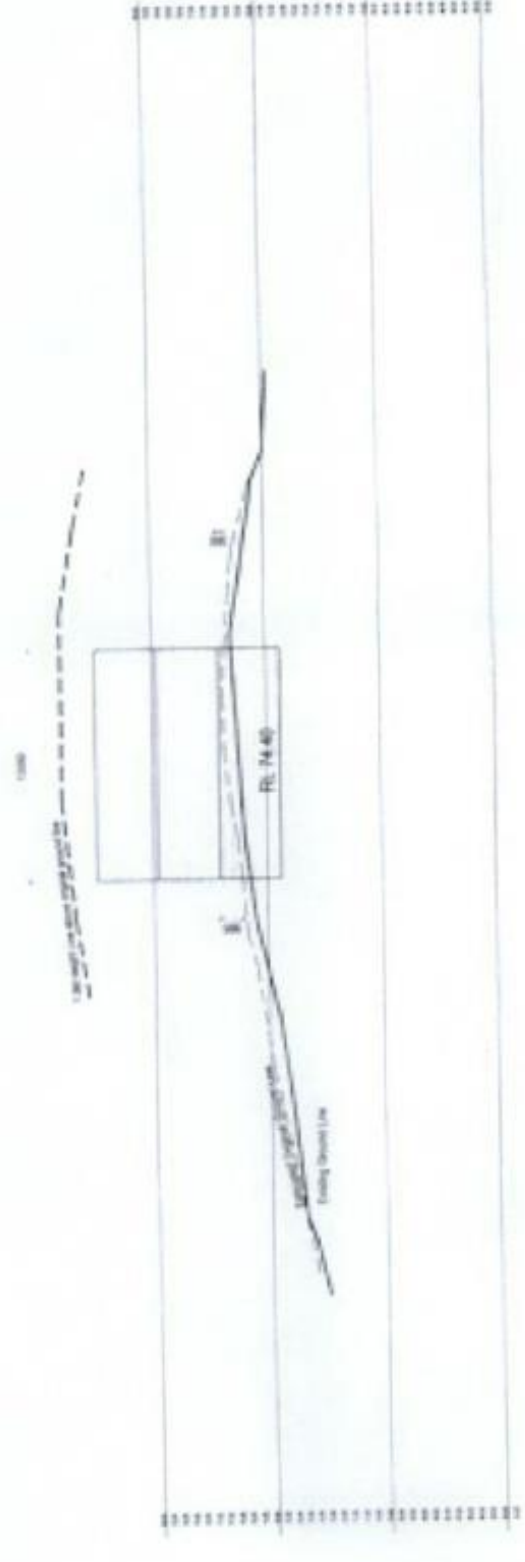
A.A. ARCHITECTURE LP
 1000 N. 10th St.
 Suite 100
 Phoenix, AZ 85004
 Phone: (602) 955-1111
 Fax: (602) 955-1112

ELEVATIONS
 Station: 0+00
 Elevation: 1000.00
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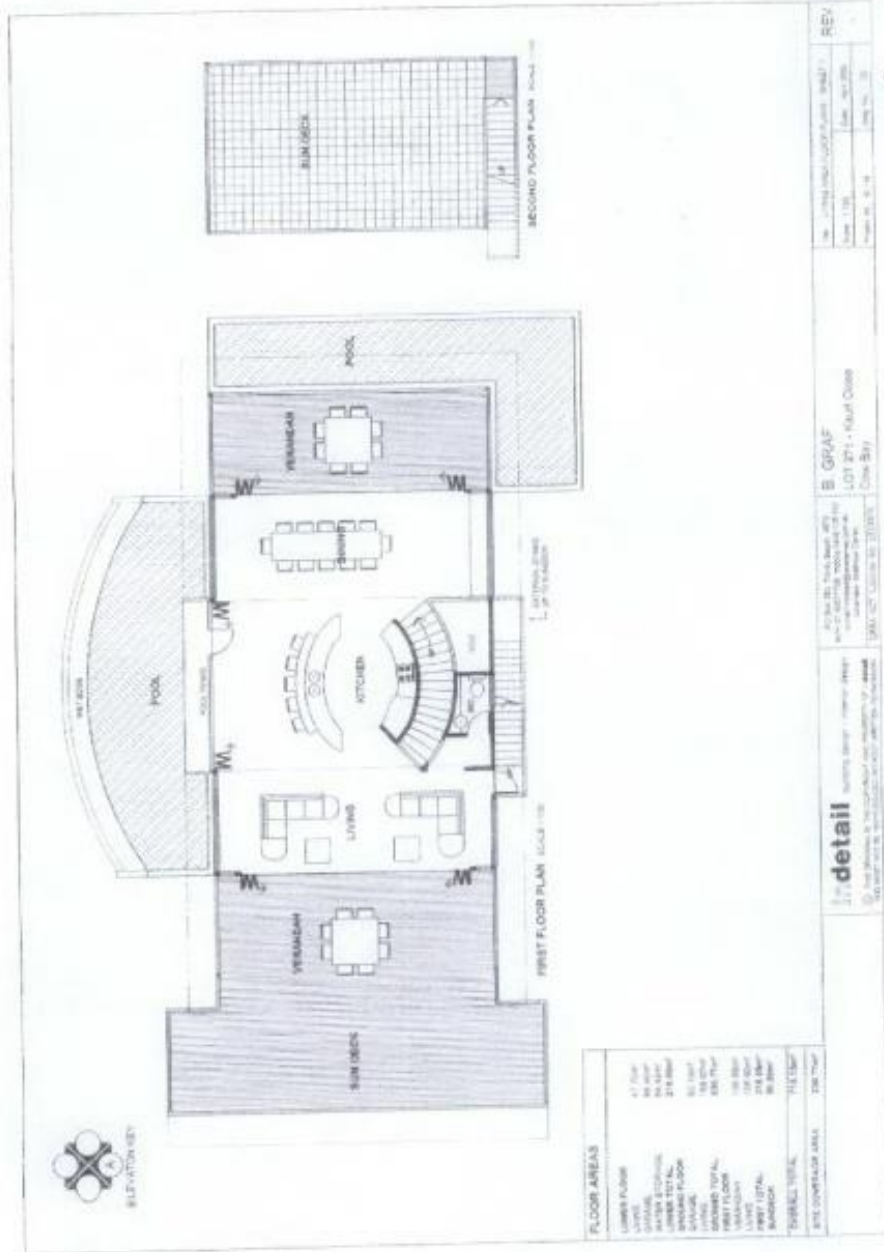
Project No.: CD 103-0103
 Drawing No.: 1



ELEVATION - 01
 Scale 1"=20'



ELEVATION - 04
 Scale 1"=20'



10 148 - 02a - Sheet 1

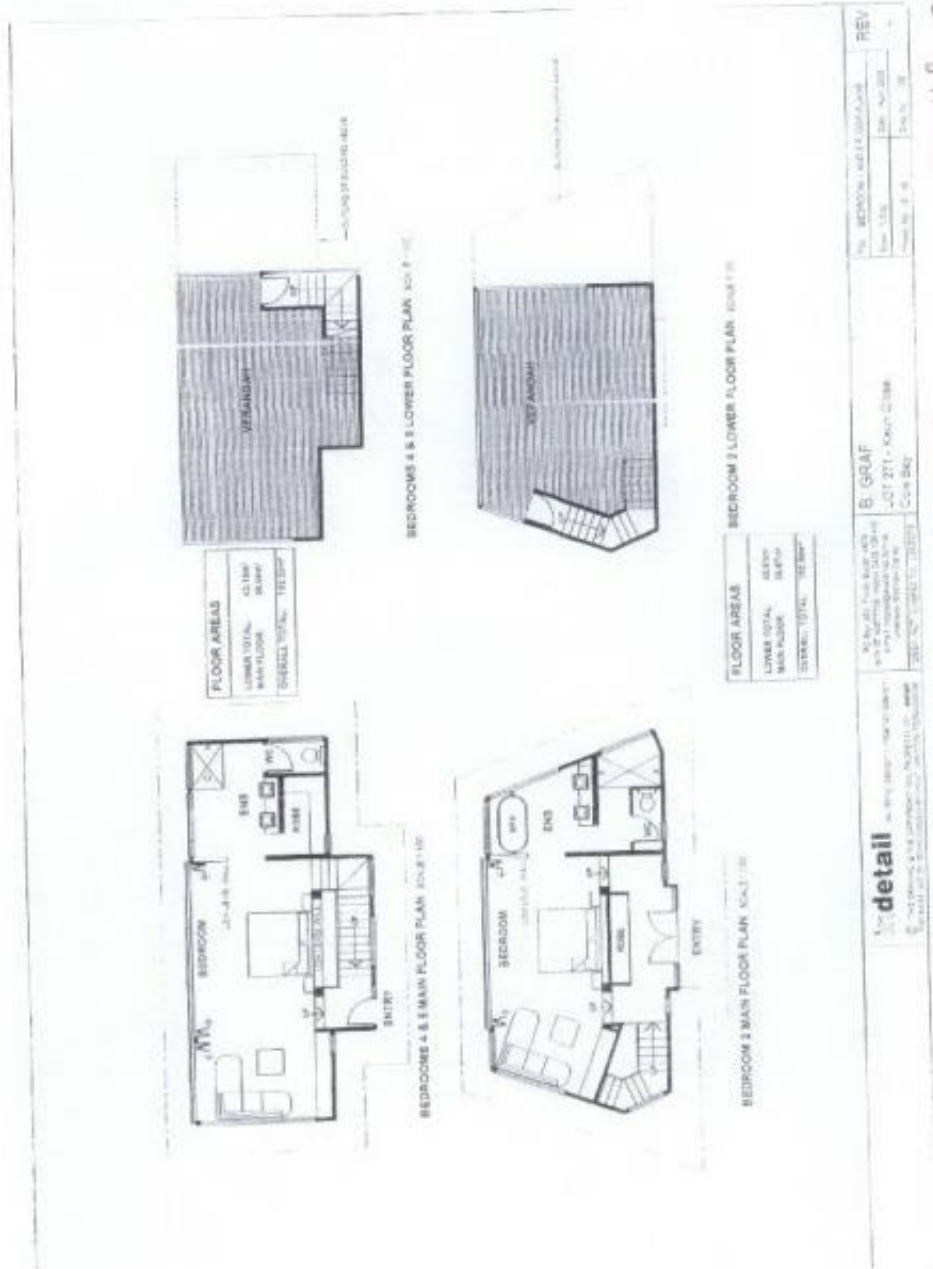


ID 148 NO 5



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10 148.04



<p>detail</p> <p>Scale 1/8" = 1'-0"</p> <p>For information only. Not for construction.</p>	<p>By: B. GRAF</p> <p>LCI 211 - K&M G306</p> <p>Col: B&C</p>	<p>No. BEDROOM: 4021/200/1/1/1/1/1/1</p> <p>Date: 1/15</p> <p>Scale: 1/8" = 1'-0"</p>	<p>REV</p>
	<p>1/15</p> <p>1/15</p>	<p>1/15</p> <p>1/15</p>	<p>1/15</p> <p>1/15</p>

JD 148 -06

Reasons for Decision

1. Sections 86 and 87 of the *Planning Act 2016*:
 - a. to ensure the development satisfies the benchmarks of the 1996 Douglas Shire Planning Scheme and the 2018 Douglas Shire Planning Scheme Version 1.0; and
 - b. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
 - a. the application was properly lodged to the Douglas Shire Council 26 February 2021 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
 - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 1996 Douglas Shire Planning Scheme, the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
 - a. the development triggered assessable development under the Assessment Table associated with the Conservation Zone Code;
 - b. Council undertook an assessment in accordance with the provisions of sections 86 and 87 of the *Planning Act 2016*; and
 - c. the applicant's request has been considered and the following findings are made:
 - i. the approval is bound by the existing conditions, the development satisfactorily meets the Planning Scheme benchmarks to support an extension to the currency period.

Non-Compliance with Assessment Benchmarks

Development satisfactorily complies with the planning scheme and no concerns are raised.

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.
- (3) In this section—
 - conduct** means an act or omission.
 - representative** means—
 - (a) of a corporation—an executive officer, employee or agent of the corporation; or
 - (b) of an individual—an employee or agent of the individual.
 - state of mind**, of a person, includes the person's—
 - (a) knowledge, intention, opinion, belief or purpose; and
 - (b) reasons for the intention, opinion, belief or purpose.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and

-
- (iii) who is a co-respondent in an appeal of the matter;
and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
- (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or

- (iii) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—

- (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
decision includes—
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise,

whether by the Supreme Court, another court, any tribunal or another entity; and

- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

Part 2 Development tribunal

Division 1 General

233 Appointment of referees

- (1) The Minister, or chief executive, (the *appointer*) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—
- (a) has the qualifications or experience prescribed by regulation; and
- (b) has demonstrated an ability—
- (i) to negotiate and mediate outcomes between parties to a proceeding; and
- (ii) to apply the principles of natural justice; and
- (iii) to analyse complex technical issues; and
- (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.