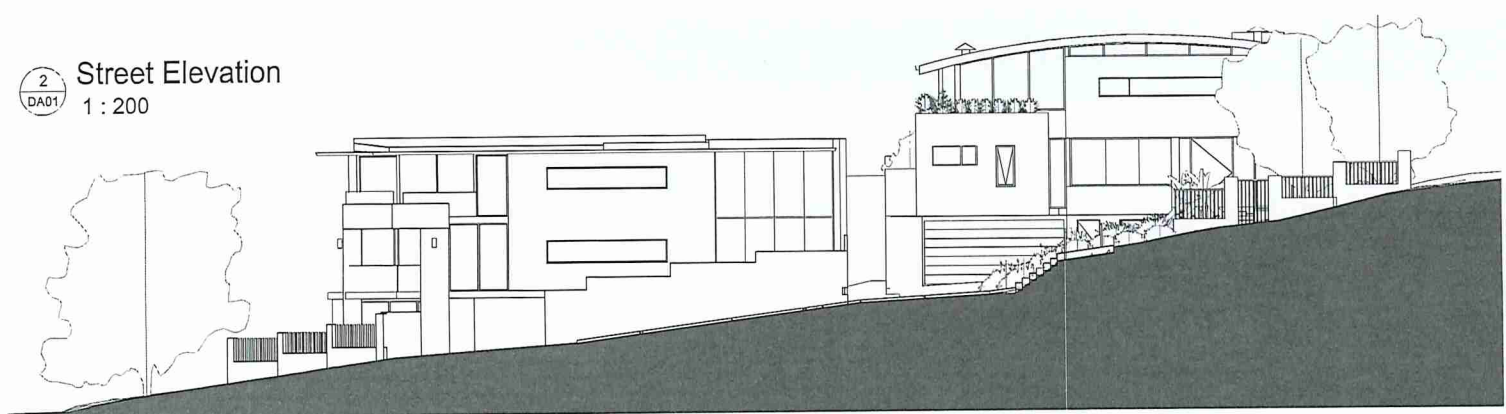


2 Street Elevation  
DA01 1:200



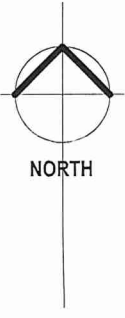
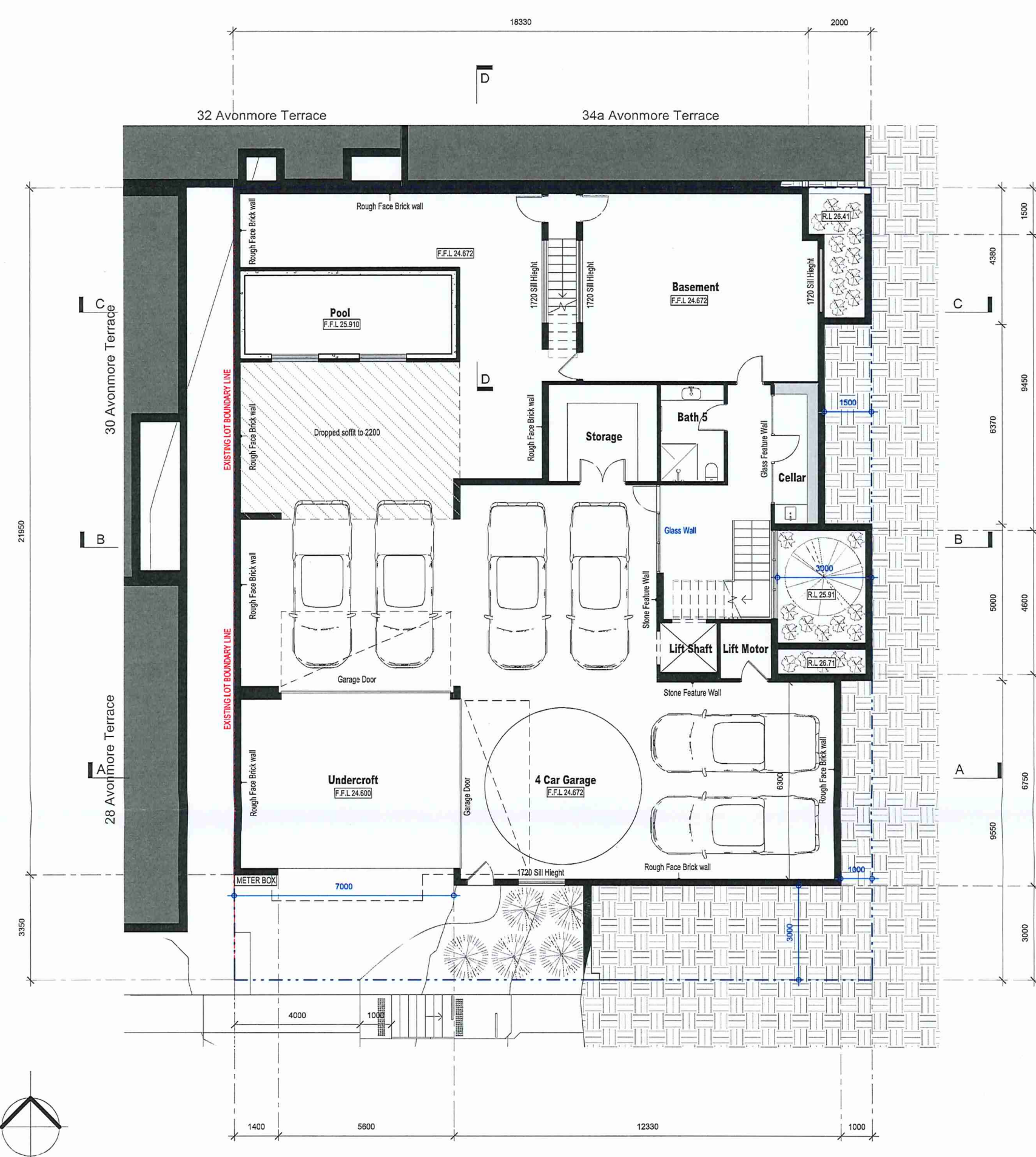
SITE AREA	- 514m <sup>2</sup>
Proposed Built Area	- 245.7m <sup>2</sup>
Proposed Covered Area	- 65.5m <sup>2</sup>
(50m <sup>2</sup> included in open space)	
514m <sup>2</sup> - 245.7m <sup>2</sup> - (65.5m <sup>2</sup> -50m <sup>2</sup> ) = 252.8m <sup>2</sup>	
OPEN SPACE	- 49.2%

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PROJECT:  
20A DEANE STREE, COTTESLOE 6011  
DRAWING TITLE:  
SITE PLAN  
CLIENT: J STEWART + N STEWART

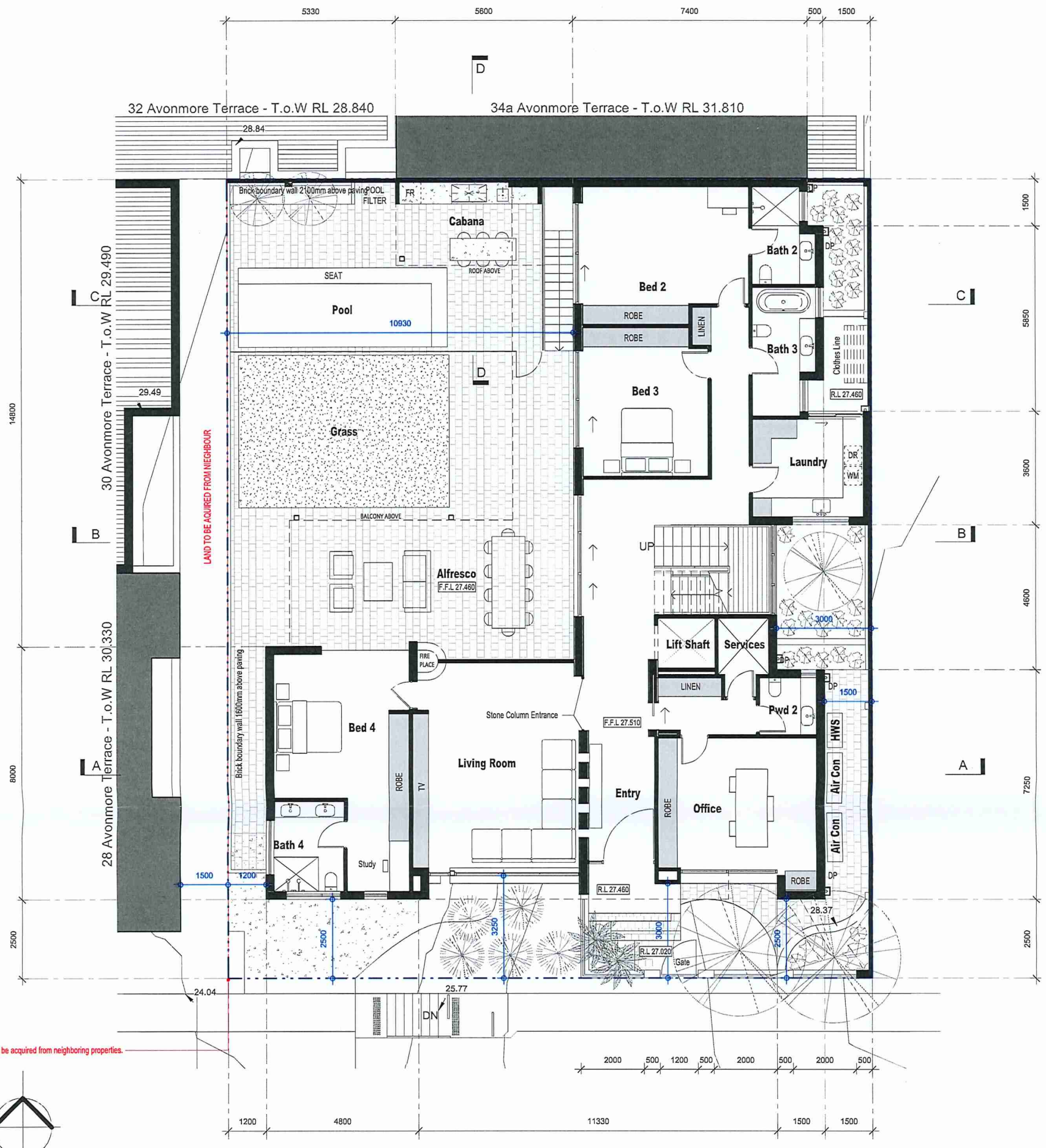
DRAWING NUMBER REVISION  
**DA01** D  
31/08/2020 As @ A2  
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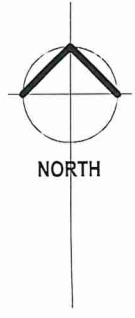


TOWN OF COTTESLOE  
 18 SEP 2020  
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PROJECT: 20A DEANE STREET, COTTESLOE 6011	DRAWING NUMBER <b>DA02</b>	REVISION <b>D</b>
DRAWING TITLE: BASEMENT FLOOR PLAN	31/08/2020	1:100 @ A2
CLIENT: J STEWART + N STEWART		



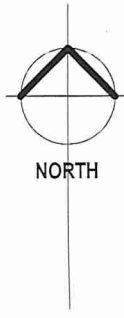
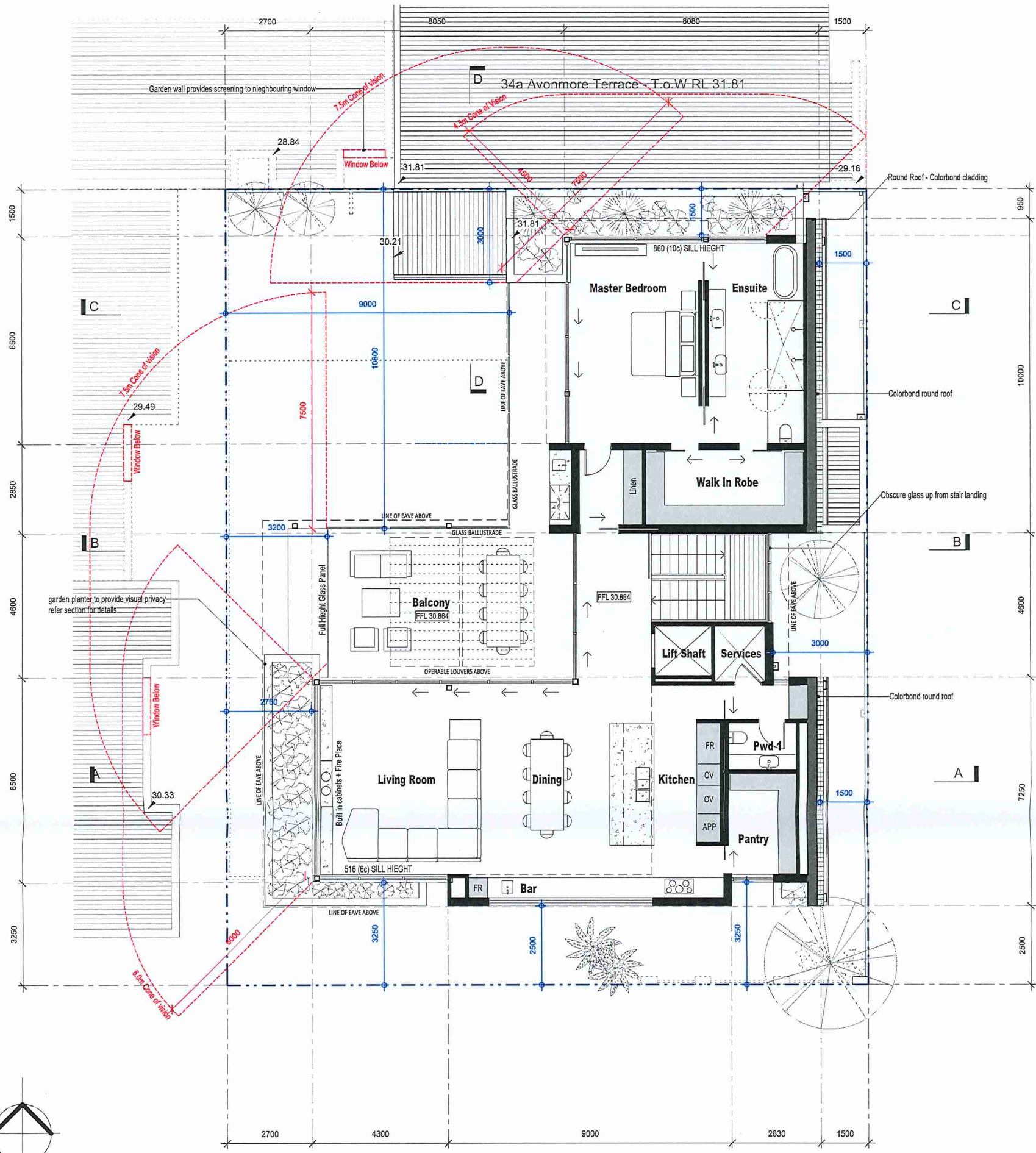
DEANE STREET



TOWN OF COTTESLOE  
 18 SEP 2020  
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PROJECT: 20A DEANE STREET, COTTESLOE 6011	DRAWING NUMBER <b>DA03</b>	REVISION <b>D</b>
DRAWING TITLE: GROUND FLOOR PLAN	31/08/2020	1:100 @ A2
CLIENT: J STEWART + N STEWART		





DEANE STREET

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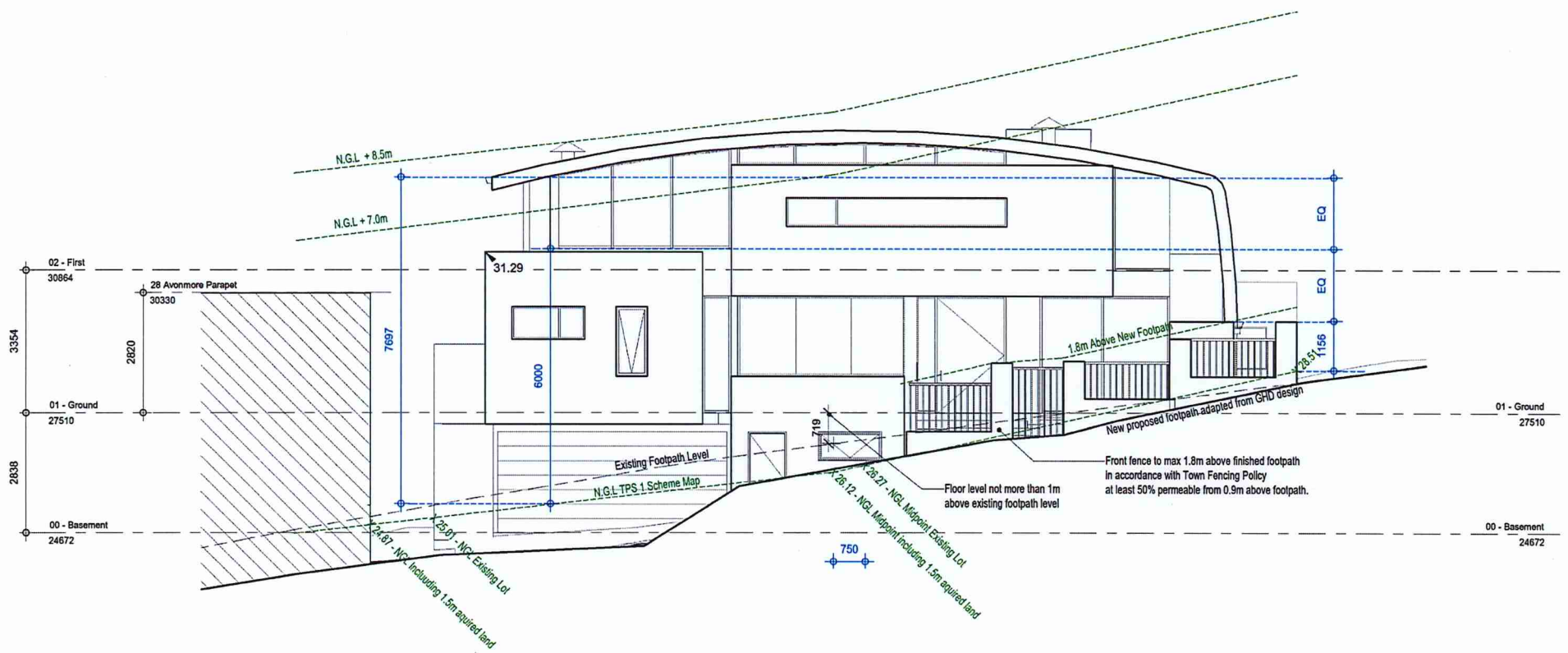
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DRAWING TITLE:  
FIRST FLOOR PLAN  
CLIENT: J STEWART + N STEWART

DRAWING NUMBER	REVISION
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31/08/2020	1:100 @ A2

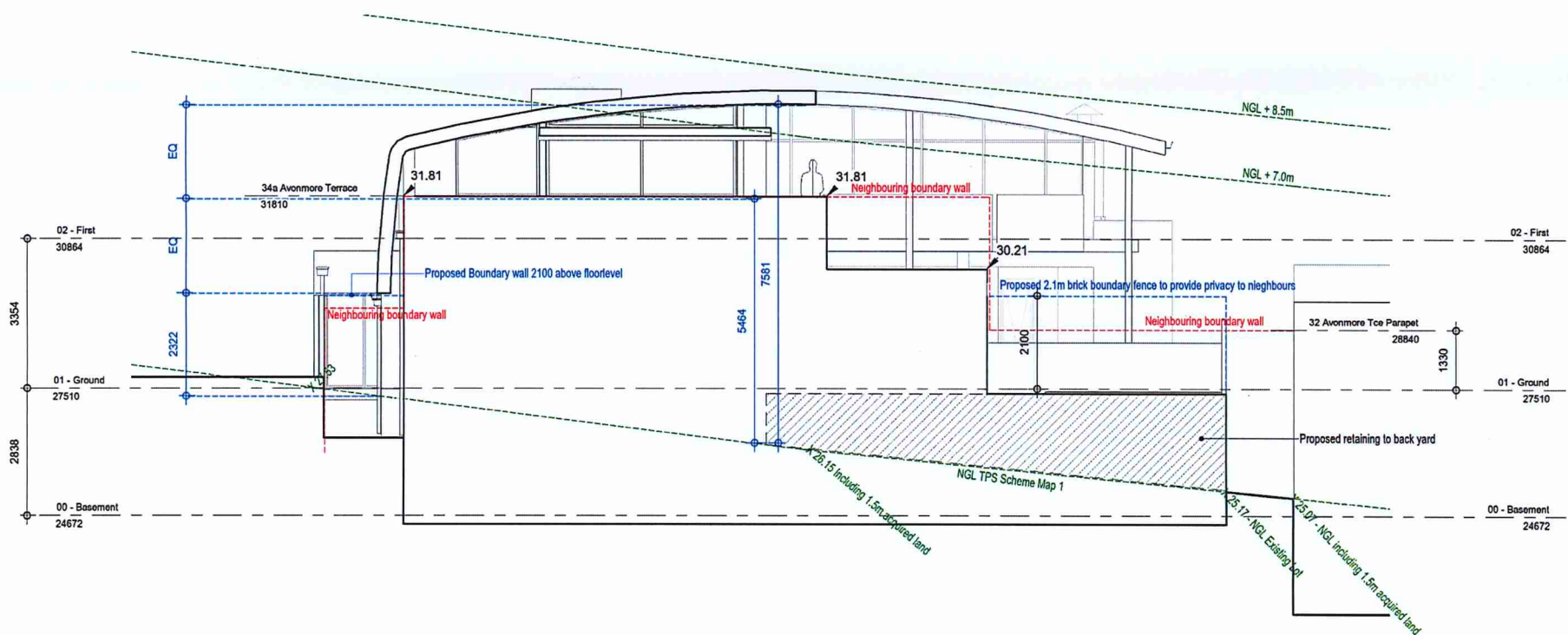








2 South Elevation  
DA06 1 : 100



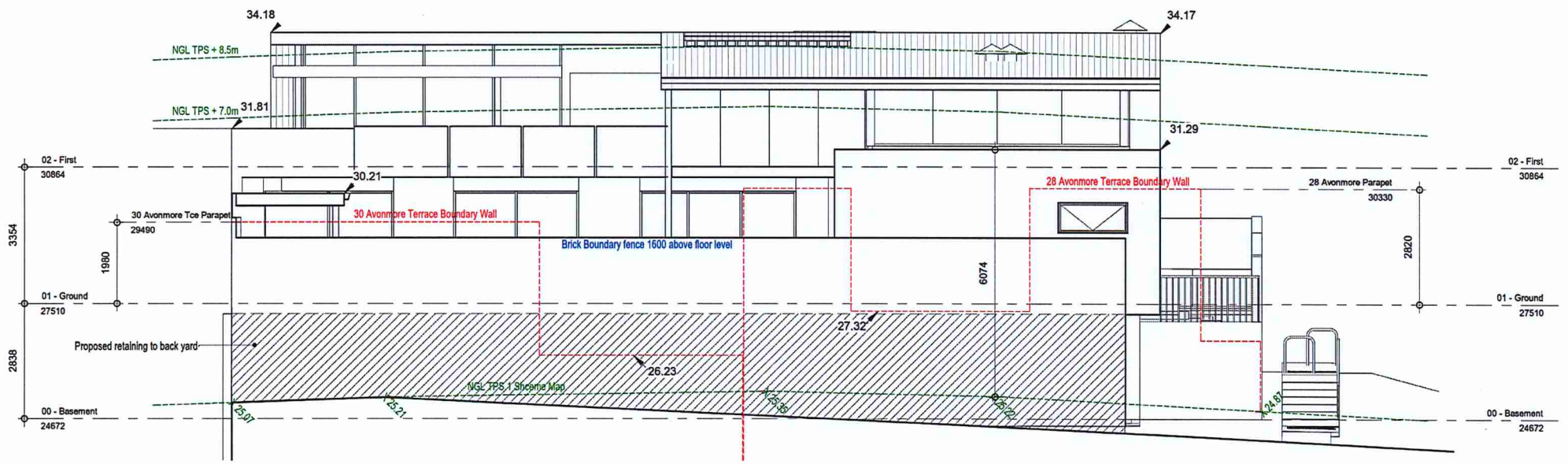
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DA06 1 : 100

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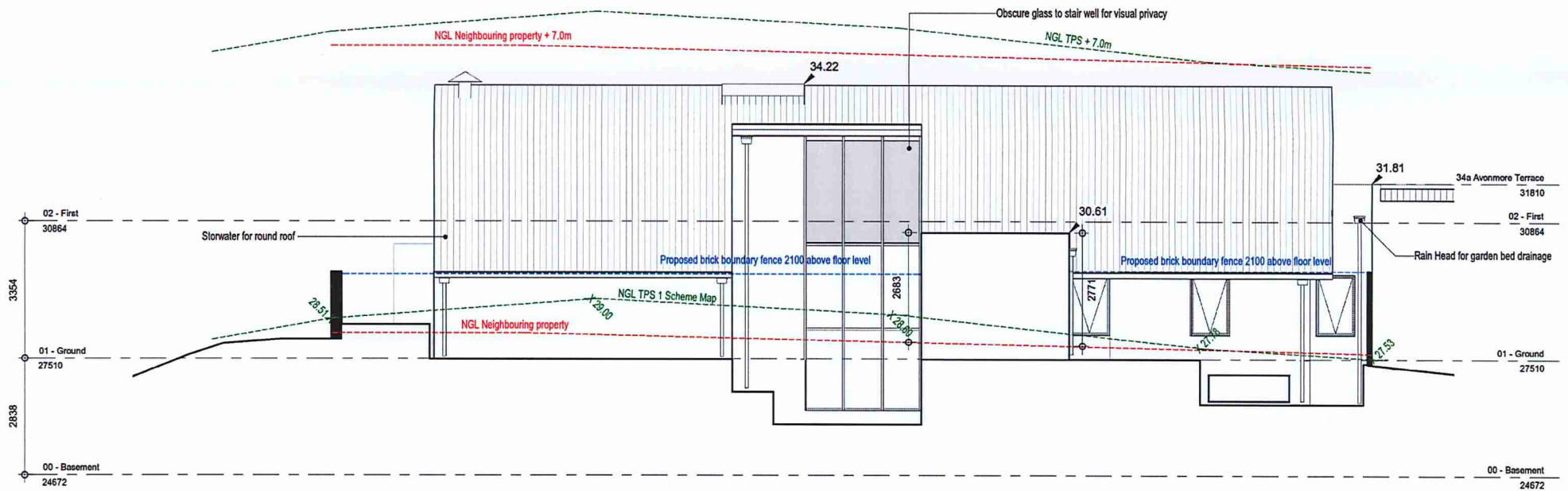
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20A DEANE STREE, COTTESLOE 6011  
DRAWING TITLE:  
NORTH + SOUTH ELEVATION  
CLIENT: J STEWART + N STEWART

DRAWING NUMBER	REVISION
DA06	D
31/08/2020	1 : 100 @ A2





1 West Elevation  
DA07 1 : 100



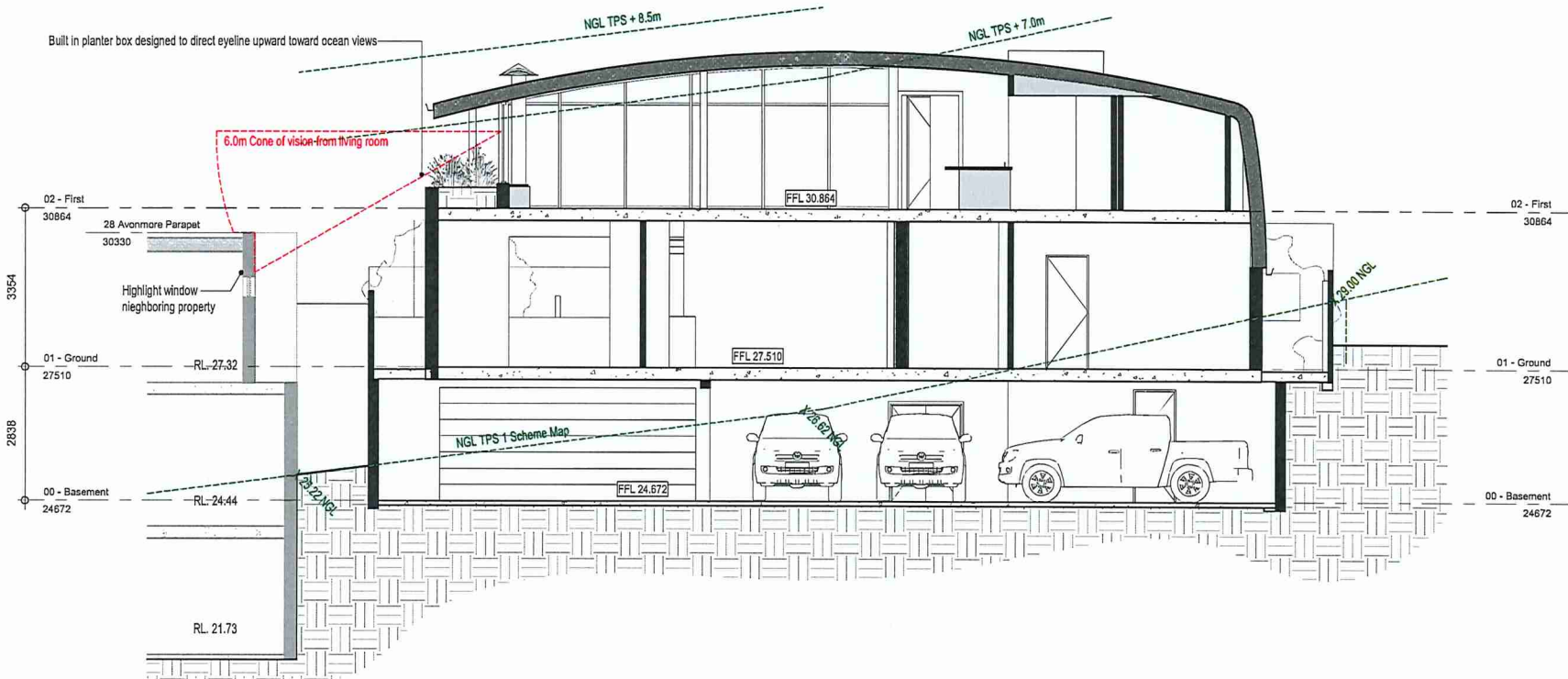
2 East Elevation  
DA07 1 : 100

TOWN OF COTTESLOE  
18 SEP 2020  
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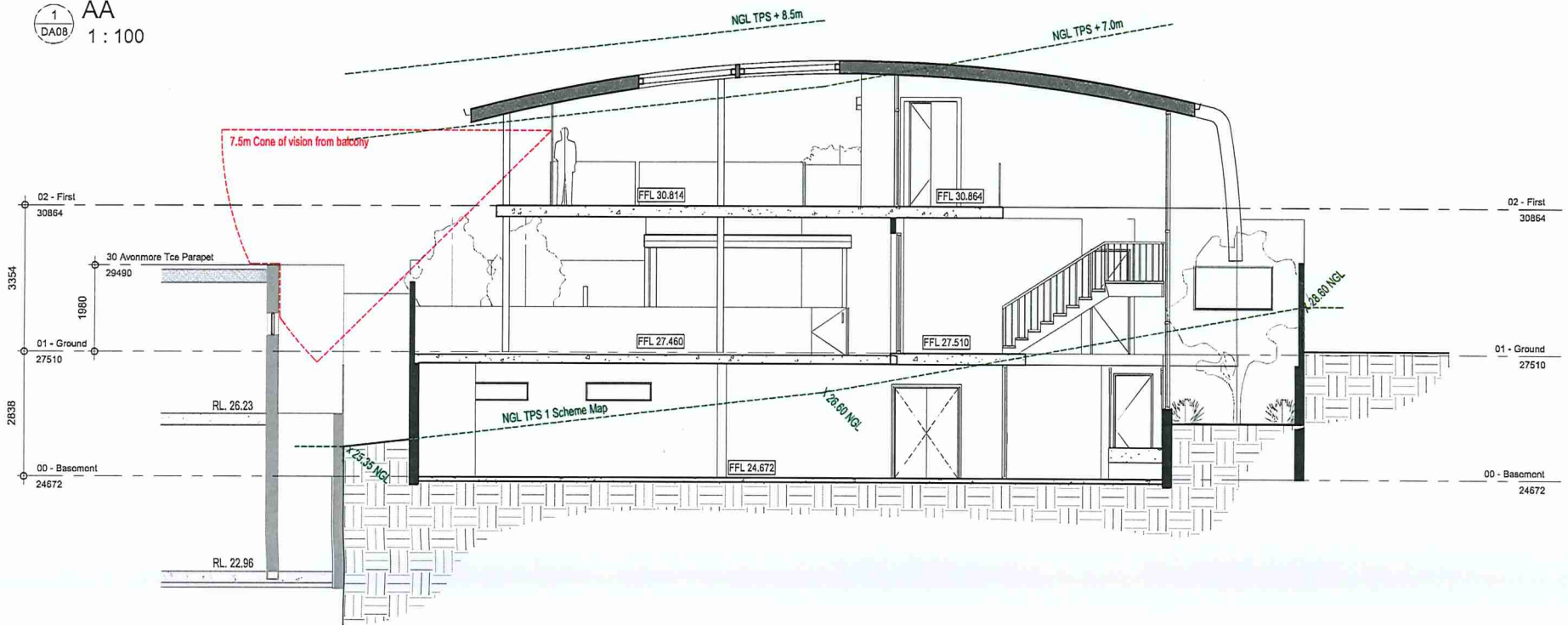
PROJECT:  
20A DEANE STREE, COTTESLOE 6011  
DRAWING TITLE:  
EAST + WEST ELEVATION  
CLIENT: J STEWART + N STEWART

DRAWING NUMBER	REVISION
DA07	D
31/08/2020	1 : 100 @ A2

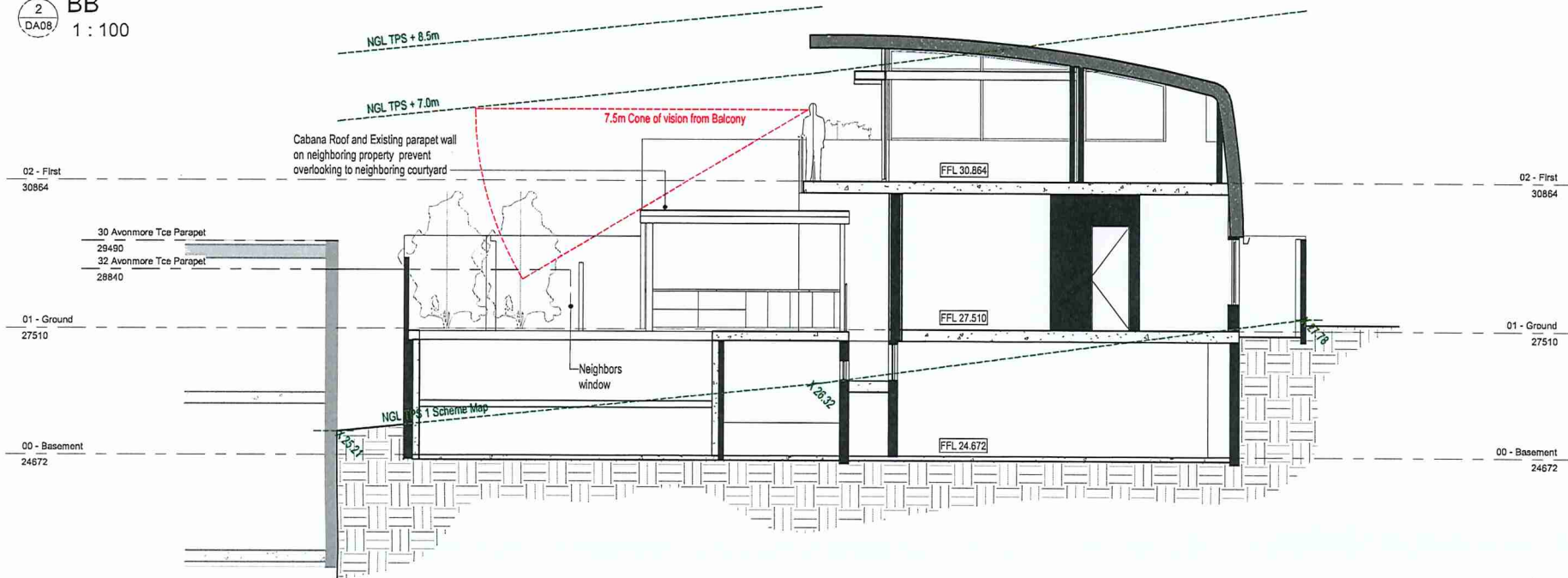




1 AA  
DA08  
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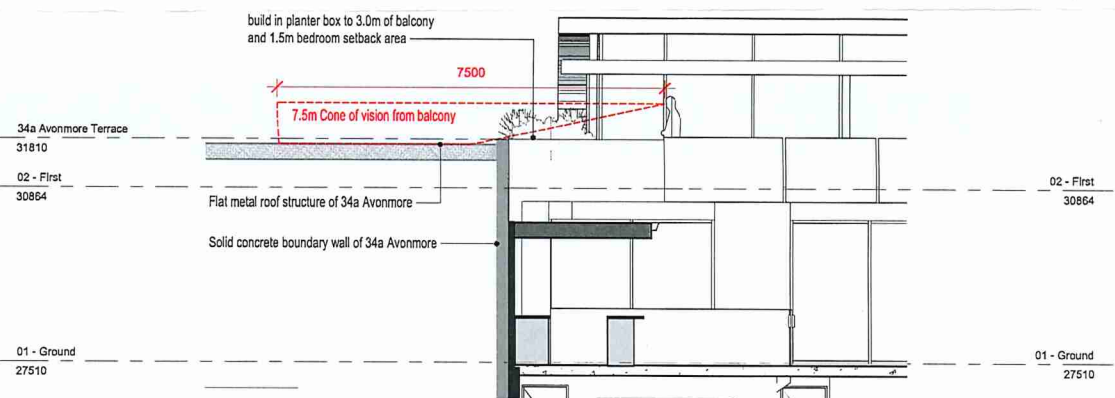


2 BB  
DA08  
1 : 100



3 CC  
DA08  
1 : 100

4 DD  
DA08  
1 : 100



TOWN OF COTTESLOE  
18 SEP 2020  
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PROJECT:  
20A DEANE STREET, COTTESLOE 6011  
DRAWING TITLE:  
SECTIONS  
CLIENT: J STEWART + N STEWART

DRAWING NUMBER	REVISION
DA08	D
31/08/2020	1 : 100 @ A2





# Proposed Dwelling and Associated Crossover

Lot 506 (No. 20A) Dean Street, Cottesloe

September 2020





### Disclaimer

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### Prepared for:

Nathan Stewart and Jarryd Stewart

### Prepared by:

Altus Planning  
68 Canning Highway  
SOUTH PERTH WA 6151  
Phone: (08) 9474 1449  
contact@altusplan.com.au  
www.altusplan.com.au

### Document Version Control

Version	Date	Description	Author	Review
1	07/7/2020	Initial	RM	JA
2	03/9/2020	Final Client Review	RM	JA





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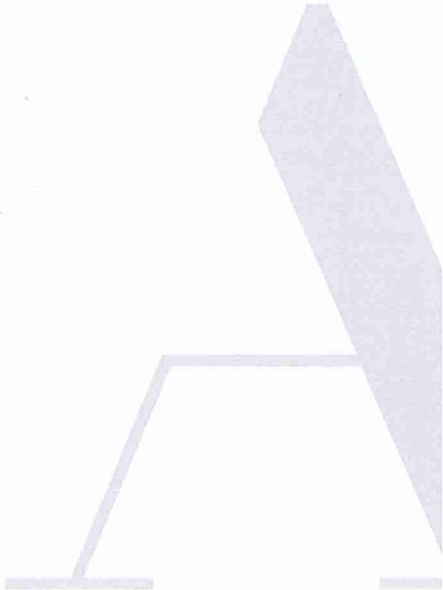
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## 1.0 Background

### 1.1 Purpose

This submission has been prepared by Altus Planning on behalf of Nathan Stewart and Jarryd Stewart ('the landowners') to provide justification for a proposed two-storey dwelling at Lot 506 (No. 20A) Deane Street, Cottesloe ('the subject land' or 'site') under the relevant provisions of *State Planning Policy 3.1 - Residential Design Codes Volume 1* ('the R-Codes') and the local planning framework.

The application has been lodged with the Town of Cottesloe ('the Town') and in accordance with the Town's requirements, the following items are included with this application:

- Town of Cottesloe Development Application Form;
- MRS Form 1;
- Town of Cottesloe Development Application Checklist;
- Certificate of Title; and
- Development plans (including relevant cross-sections); and
- Neighbour consent letters for design principles components.

### 1.2 Property Description

The subject land measures approximately 515m<sup>2</sup> and exists as a vacant, square, south-facing lot in the street block bound by Avonmore Terrace to the west, Deane Street to the south, Broome Street to the east and Fig Tree Lane to the north. The site is located within the Town of Cottesloe and is situated approximately 220m east of Marine Parade, 260m east of the beach and 490m west of the Fremantle train line.

The surrounding area consists of similar sized residential lots with predominately large single dwellings. The majority of the properties along the northern side of Deane Street obtain their vehicle access from Fig Tree Lane, due to the topography of the road reserve. The subject land currently obtains its vehicle access from Deane Street, via a crossover to the south-side of the abutting western lot, No. 28 Avonmore Terrace.

An aerial image of the site and immediate surrounds with cadastral overlay is provided in Figure 1 overleaf.



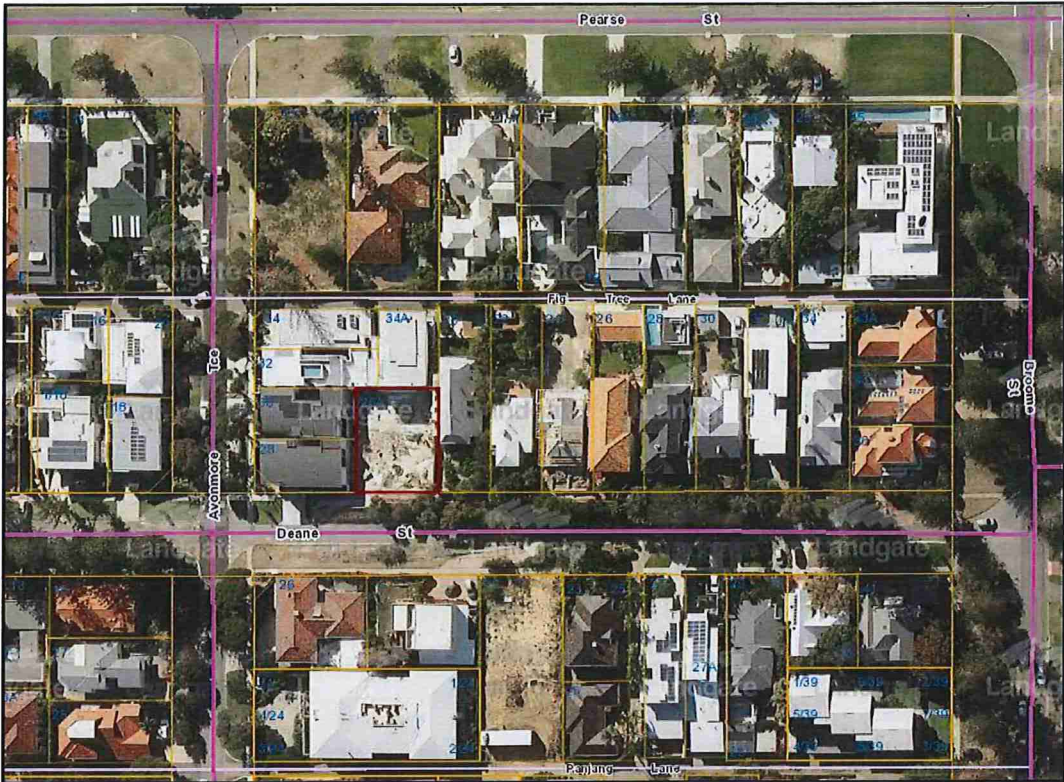


Figure 1: Aerial with cadastral overlay of subject land (highlighted in red) and surrounds (Source: Landgate Mapviewer Plus (2020)).

## 2.0 Proposal

The proposed development is for a two-storey dwelling, consisting of a basement and undercroft garage accessible from Deane Street, a ground floor with sleeping quarters and living space and an upper floor with the master bedroom, kitchen, dining and living area. Externally, the proposed dwelling has an alfresco area, swimming pool and cabana, all located within the ground floor outdoor living area.

A copy of the development plans is contained in **Attachment 2** of this Report.

The application also seeks approval for direct vehicle access from Deane Street via an at-grade crossover, orientated at 90 degrees to the existing carriageway. This is in response to the Town's 15 April 2020 letter correspondence (*Town's ref. SUB/2984*) regarding retaining wall upgrades and a footpath and stairs construction within the Deane Street road reserve. These works will result in the existing footpath level east of the site being integrated into the lower footpath level immediately west of the site. In this regard, the subject application has been designed to integrate with these external works.

## 2.1 Future Intention to Amalgamation Portion of Land

It is the future intention of the landowners of the subject land to amalgamate a 1.5m "strip" of neighbouring land, which abuts the entire western boundary of the site, into the subject allotment.

In this regard, the landowners of Nos. 28 and 30 Avonmore Terrace have provided their consent for this to occur and surveying work necessary to lodge the boundary realignment application is currently being undertaken. Once this work is done, an application will be made to the Western Australian Planning Commission to formalise this outcome.

It is expected that this will occur within the next six months. Ultimately, this 1.5m strip of land will contain landscaping as part of the outdoor living area for the subject development.

This information is for noting and background only; for the purposes of assessment of this application, all development including fill, retaining and boundary fences are contained within the current lot boundaries.

## 3.0 Planning Framework

### 3.1 Metropolitan Region Scheme

The subject land is zoned 'Urban' under the *Metropolitan Region Scheme* ('MRS').

### 3.2 Town of Cottesloe Local Planning Scheme No. 3

Pursuant to the Town of Cottesloe Local Planning Scheme No. 3 ('LPS 3'), the subject land is zoned 'Residential', with a density designation of R30.

Part 5 of LPS 3 outlines general development requirements for residential development within the Town. The provisions outlined in the table below are relevant to the proposal, with each being justified accordingly.

LPS 3 Provision		Justification
<b>Table 2 - Development Requirements</b>		An assessment of the proposed development under the <i>R-Codes</i> is provided in the following section of this Report.
<i>Zone</i>	Residential	
<i>Development Type</i>	Residential development	
<i>Maximum Plot Ratio</i>	In accordance with the <i>R-Codes</i>	
<i>Maximum Site Cover</i>	In accordance with the <i>R-Codes</i>	An assessment of the proposed building height is provided in this table below.



LPS 3 Provision		Justification
<i>Minimum Boundary Setbacks</i>	In accordance with the <i>R-Codes</i>	
<i>Maximum Height (Refer clause 5.7)</i>	Two-storey	
<p><b>5.3.7 Front Setbacks</b> Despite anything contained in the Residential Design Codes to the contrary, in the case of areas with a residential density code of R30, the local government may require an R20 front setback of 6m to be applied for the preservation of streetscapes, view corridors and amenity.</p>		<p>A minimum front setback of 2.5m is proposed from Deane Street, in accordance with Provision 5.1.2 C2.1(iv) of the <i>R-Codes</i>, as the subject land is coded higher than R15 and has been created as a result of subdivision of the original corner lot (WAPC ref. 149321).</p> <p>Also, from a subdivision layout perspective, configuration of the subject land is such that it has a wider street frontage, but not as much depth as other lots along Deane Street. It also does not have the ability to obtain vehicle access from Fig Tree Lane at the rear.</p> <p>Based on the above, it is submitted that the proposed front setback can be supported by the Town.</p>
<p><b>5.7.2 Building Height</b> All buildings shall comply with each of the following maximum heights, as applicable to the building –</p> <p>...</p> <p>b) 2 storeys</p> <p>(i) <i>Building Height – 8.5 metres maximum height.</i></p> <p>(ii) <i>Wall Height (to level of roof) – 6.0 metres maximum height.</i></p> <p>(iii) <i>Wall Height (to top of a parapet) – 7.0 metres maximum height.</i></p>		<p>At its highest point above the corresponding natural ground level (i.e. approximately 26.18AHD), the overall building height is 7.8m. This is less than the 8.5m maximum permitted by Clause 5.7.2(b)(i) of <i>LPS 3</i> (refer to elevations contained in <b>Attachment 1</b>).</p> <p>In accordance with Schedule 11, Figure 4 of <i>LPS 3</i>, the wall height for a curved roof, at its highest point above the corresponding natural ground level (south-west corner of the dwelling, approximately 25.64AHD) is 5.7m. This is less than the 6m maximum permitted under Clause 5.7.2(b)(i).</p> <p>Accordingly, the proposed two-storey dwelling complies with Clause 5.7.2(b) of <i>LPS 3</i>.</p>

### 3.3 State Planning Policy 7.3 - Residential Design Codes Volume 1 (R-Codes)

The proposed development meets all relevant deemed-to-comply provisions of the *R-Codes*, with the exception of those detailed below which are seeking consideration under the associated design principles.



**3.3.1 Lot Boundary Setbacks**

The follow lot boundary setback seeks consideration under the relevant design principles of Provision 5.1.3.

Portion of Wall		Wall Height	Wall Length	Major Opening	Proposed Setback
Upper Floor	Master bedroom and ensuite, northern lot boundary	5.5m*	9.73m	Yes	1.5m

\*N.B: Measured to median point as per Schedule 11, Figure 4 of LPS 3

Justification addressing the design principles is provided in the table below.

5.1.3 Lot Boundary Setback Design Principles	Justification
<p>P3.1 Buildings set back form lot boundaries or adjacent buildings on the same lot so as to:</p> <ul style="list-style-type: none"> <li>• Reduce impacts of building bulk on adjoining properties;</li> <li>• Provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</li> <li>• Minimise the extent of overlooking and resultant loss of privacy on adjoining properties.</li> </ul>	<ul style="list-style-type: none"> <li>• The variations sought will not result in adverse building bulk presentation to the abutting northern property (i.e. No. 34A Fig Tree Lane) as this property is orientated away from the subject land and has a large existing parapet wall along the communal lot boundary.</li> <li>• There will be no overshadowing of No. 34A as the proposed setback variation is to its southern lot boundary.</li> <li>• No. 34A's outdoor living area is situated away from the subject land. Also, there are no major openings along the southern elevation of No. 34 so there will be no loss of privacy to this lot.</li> </ul>

**3.3.2 Site Works**

In terms of excavation, the following is proposed:

- Up to approximately 1.2m between the building and Deane Street. However, as this is required to provide vehicle access, it meets deemed-to-comply Provision 5.3.7 C7.1.
- Up to approximately 1.54m within 1m of the eastern lot boundary, behind the street setback line. However, as this excavation will be below the natural ground level at the eastern lot boundary, it meets deemed-to-comply Provision 5.3.7 C7.3.

With respect to fill, a maximum of approximately 2.39m of fill is proposed within 1m of the northern and western lot boundaries, behind the street setback line. This aspect of the development seeks consideration under the relevant design principles of Provision 5.3.7, with the corresponding justification provided in the table below.



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5.3.7 Site Works Design Principles	Justification
P7.1 Development that considers and responds to the natural features of the site and requires minimal excavation/fill.	<p>The natural topography of the site falls more than 4m in an east-west direction, from 29AHD to 24.87AHD. Given the considerable slope on the site, excavation and fill is considered necessary to enable any appropriate form of development on-site. In this regard, an approximate equate amount of fill and excavation is proposed, in conformity with Clause 5.10 of LPS 3.</p> <p>Notwithstanding the above, the proposed development is considered to respond to the natural features and topography of the site, especially when viewed from Deane Street. The extent of fill and excavation proposed also enables the site to be efficiently developed to accommodate a contemporary two-storey dwelling design.</p>
P7.2 Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.	<p>The appearance of the dwelling from Deane Street respects the natural slope of the site from east to west.</p> <p>The effective use of excavation/fill has enabled the following:</p> <ul style="list-style-type: none"> <li>• A useable outdoor living area to be located in the north-west corner of the site to obtain northern solar access</li> <li>• Car parking to be located towards the eastern lot boundary of the site, screening the garage structure itself, as well as parked vehicles, from view to improve the presentation to the street.</li> </ul>

### 3.3.3 Retaining Walls

The western and northern walls of the basement/undercroft will also serve a retaining function. For the purposes of an assessment, they will also appear as retaining. Specifically, in the north-west corner of the site, these walls will be approximately 2.2m above NGL. Accordingly, these walls seek consideration under the relevant design principles of Provision 5.3.8, an assessment of which is tabled below.

5.3.8 Retaining Walls Design Principles	Justification
P8 Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and	The proposed retaining walls allow for a raised outdoor living area to be located in the north-west corner of the site.

5.3.8 Retaining Walls Design Principles	Justification
landscaped having due regard to clauses 5.3.7 and 5.4.1.	<p>This is considered an effective use of the land by allowing for a northern solar orientation, which benefits the future occupants of the proposed dwelling.</p> <p>Furthermore, it will not detrimentally impact upon abutting properties as it will not result in any overlooking of neighbouring outdoor living areas or major openings to habitable rooms to the west or north.</p> <p>It is also considered that there is adequate separation to these existing dwellings to allow for sufficient ventilation to occur.</p>

### 3.3.4 Visual Privacy

The development seeks consideration of the following visual privacy setbacks under the relevant design principles of Provision 5.4.1:

- Upper floor living room to western lot boundary - 2.7m setback.
- Upper floor balcony to western lot boundary – 3.2m setback.
- Upper floor balcony to northern lot boundary – 4.7m setback to No. 32 Avonmore Terrace and 3m to No. 34A Fig Tree Lane.
- Upper floor master bedroom to northern lot boundary - 1.5m setback.

With respect to the above, an assessment under the design principles has been provided in the table below.

5.4.1 Visual Privacy Design Principles	Justification
<p>P1.1 Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:</p> <ul style="list-style-type: none"> <li>• Building layout and location;</li> <li>• Design of major openings;</li> <li>• Landscape screening of outdoor active habitable spaces; and/or</li> <li>• Location of screening devices.</li> </ul>	<p>The building layout of the proposed dwelling is such that all major openings/active habitable spaces seeking variations to the visual privacy setback requirements are facing west or north over the roof lines of existing dwellings.</p> <p>A site inspection of the subject land has also revealed that neighbouring windows along these respective elevations are all of a high light design.</p> <p>Notwithstanding the above, the proposed dwelling has been design to provide landscape planter boxes in front of the relevant major openings. This assists further in preventing overlooking on a downwards angle into these neighbouring windows (refer to cross section plans contained in <b>Attachment 1</b>).</p> <p>Based on the above, from a horizontal and vertical three-dimensional cone of vision</p>



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5.4.1 Visual Privacy Design Principles	Justification
	perspective, there will be no overlooking of neighbouring outdoor living areas or major openings to habitable rooms.
P1.2 Maximum visual privacy to side and rear boundaries through measures such as: <ul style="list-style-type: none"> <li>• Offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;</li> <li>• Building to the boundary where appropriate;</li> <li>• Setting back the first floor from the side boundary;</li> <li>• Providing higher or opaque and fixed windows; and/or</li> <li>• Screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).</li> </ul>	As detailed above, the proposed visual privacy setbacks do not result in any overlooking of active habitable spaces or outdoor living areas of adjoining properties.

The above visual privacy setbacks are considered acceptable having regard to the context of the site and its topography as well as the orientation of the existing surrounding dwellings. These setbacks will not result in a loss of privacy for abutting properties and will not result in an undesirable precedent being set for future development within the locality.

### 3.4 Planning and Development (Local Planning Schemes) Regulations 2015

In accordance with Schedule 2, Part 9, Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* ('Regulations'), the local government is to have due regard to the relevant matters for consideration outlined under this Clause.

The following matters are considered relevant to the proposed development and are addressed in the below table.

Deemed Provision 67 Matter	Justification
(a) The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;	The relevant provisions under the Town's <i>LPS 3</i> have been addressed under Section 3.2 of this Report. The proposed development is considered to be in line with these provisions and appropriate for the site and within the locality.
(b) The requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local	The above Report has justified the proposal under the relevant provisions of <i>LPS 3</i> and the relevant design principles under the <i>R-Codes</i> and is submitted to be in accordance with the requirements of orderly and proper planning.



Deemed Provision 67 Matter	Justification
government is seriously considering adopting or approving;	
(m) The compatibility of the development with its setting including the relationship of the development to the development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;	The proposed development is a modern and contemporary dwelling that is compatible with similar modern residences at Nos. 28-34 Avonmore Terrace and No. 34A Fig Tree Lane, as well as more broadly along Deane Street and within the surrounding locality.
(n) The amenity of the locality including the following – (i) Environmental impacts of the development; (ii) The character of the locality; (iii) Social impacts of the development;	(i) There are no environmental impacts as a direct result of the proposed development. (ii) The character of the locality is formed of large single dwellings of varying eras of design. (iii) There are not considered to be any social impacts as a direct result of the proposed development.

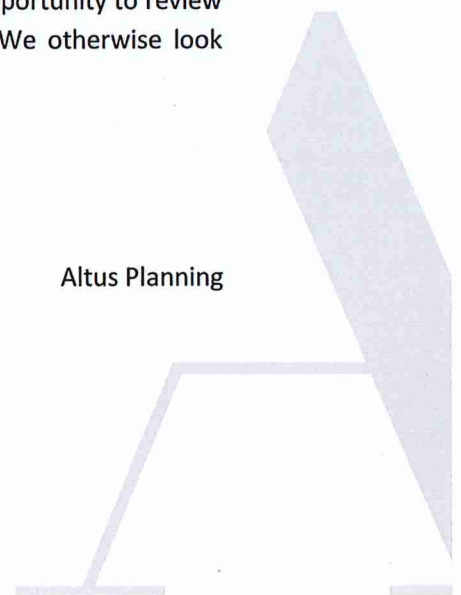
## 4.0 Conclusion

The landowners are seeking development approval for a two-storey dwelling (including a basement and undercroft garage) on the subject land.

For the reasons outlined in this Report, it is our view that the proposed development is suitable for the site and is consistent with both the local planning framework (including the relevant design principles of the *R-Codes*) and existing developments in the immediate locality. Furthermore, the relevant neighbours have provided their written consent to the proposed design principles components. Accordingly, it is submitted that the proposal warrants approval.

We trust that this information is to your satisfaction and welcome the opportunity to review any draft suite of conditions of approval prior to any determination. We otherwise look forward to your prompt and favourable determination.

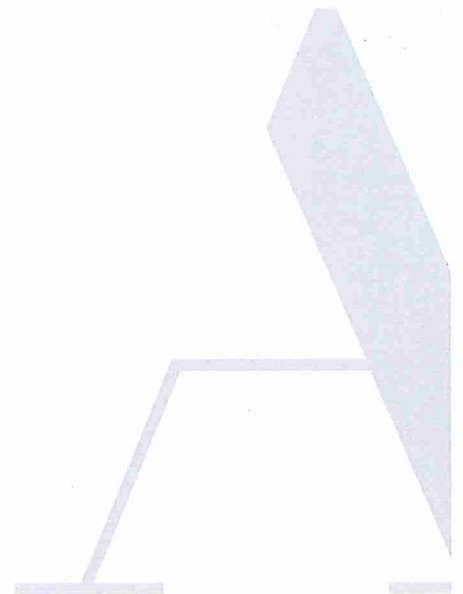
Altus Planning







Attachment 1 - Certificate of Title



WESTERN



AUSTRALIA

REGISTER NUMBER	
506/DP77405	
DUPLICATE EDITION	DATE DUPLICATE ISSUED
1	13/7/2015

**RECORD OF CERTIFICATE OF TITLE**  
 UNDER THE TRANSFER OF LAND ACT 1893

VOLUME 2876 FOLIO 795

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.



REGISTRAR OF TITLES

**LAND DESCRIPTION:**

LOT 506 ON DEPOSITED PLAN 77405

**REGISTERED PROPRIETOR:**  
(FIRST SCHEDULE)

NATHAN LUKE STEWART  
 JARRYD LEE STEWART  
 BOTH OF 22 ODERN CRESCENT SWANBOURNE WA 6010  
 AS TENANTS IN COMMON IN EQUAL SHARES



(T N136968 ) REGISTERED 1/10/2015

**LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:**  
(SECOND SCHEDULE)

- \*N136969 MORTGAGE TO NATIONAL AUSTRALIA BANK LTD REGISTERED 1/10/2015.
- \*N149056 CAVEAT BY MOREKAM PTY LTD LODGED 15/10/2015.  
\*O064703 CHANGE OF SERVICE OF NOTICE ADDRESS REGISTERED 4/1/2019.
- \*N149057 CAVEAT BY ADRIAN JONATHON MOORE LODGED 15/10/2015.  
\*O064704 CHANGE OF SERVICE OF NOTICE ADDRESS REGISTERED 4/1/2019.
- \*N419512 MEMORIAL. TAXATION ADMINISTRATION ACT 2003, SECTION 76 (LAND TAX) REGISTERED 26/8/2016.
- \*N885487 CAVEAT BY AUSCAPITAL PTY LTD LODGED 1/5/2018.

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.  
 \* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.  
 Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

**STATEMENTS:**

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: DP77405  
 PREVIOUS TITLE: 2841-493  
 PROPERTY STREET ADDRESS: 20A DEANE ST, COTTESLOE.  
 LOCAL GOVERNMENT AUTHORITY: TOWN OF COTTESLOE

END OF PAGE 1 - CONTINUED OVER



RECORD OF CERTIFICATE OF TITLE

REGISTER NUMBER: 506/DP77405

VOLUME/FOLIO: 2876-795

PAGE 2

NOTE 1:                   DUPLICATE CERTIFICATE OF TITLE NOT ISSUED AS REQUESTED BY DEALING  
                                  N136969



Town of Cottesloe  
Administration and Civic Centre  
PO Box 606  
COTTESLOE WA 6911



Attn: Statutory Planning Department

To Assessing Officer,

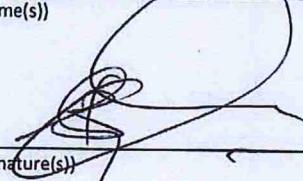
**Development Application - Proposed Single House and Associated Crossover - 20A Dean Street, Cottesloe**

Pleased be advised that I/we, GRANT DAVEY  
as the landowner(s) of 28 AVONMORE TERRACE COTTESLOE 6011  
which is the residence abutting 20A Deane Street, Cottesloe have sighted the proposed development plans for the above project and have **no objection** to the following:

- Proposed northern lot boundary setback to upper floor balcony and master bedroom.
- Proposed fill (and associated retaining walls) within 1m of northern and western lot boundaries.
- Proposed visual privacy setbacks to upper floor balconies and upper floor living room and master bedroom.

Yours sincerely,

GRANT DAVEY  
(Name(s))

  
(Signature(s))

22/07/2020.  
(Date)



Town of Cottesloe  
Administration and Civic Centre  
PO Box 606  
COTTESLOE WA 6911



Attn: Statutory Planning Department

To Assessing Officer,

**Development Application - Proposed Single House and Associated Crossover - 20A Dean Street, Cottesloe**

Pleased be advised that I/we, Gregory John Mills,

as the landowner(s) of 30 Avonmore Ave Cottesloe,  
which is the residence abutting 20A Deane Street, Cottesloe have sighted the proposed development plans for the above project and have **no objection** to the following:

- Proposed northern lot boundary setback to upper floor balcony and master bedroom.
- Proposed fill (and associated retaining walls) within 1m of northern and western lot boundaries.
- Proposed visual privacy setbacks to upper floor balconies and upper floor living room and master bedroom.

Yours sincerely,

G. J. Mills  
(Name(s))

[Signature]  
(Signature(s))

17-07-2020  
(Date)

Town of Cottesloe  
Administration and Civic Centre  
PO Box 606  
COTTESLOE WA 6911

Attn: Statutory Planning Department



To Assessing Officer,

**Development Application - Proposed Single House and Associated Crossover - 20A Dean Street, Cottesloe**

Pleased be advised that I/we, Anna and Christopher Wholley

as the landowner(s) of 32 Avonmore Tce, Cottesloe, which is the residence abutting 20A Deane Street, Cottesloe have sighted the proposed development plans for the above project and have **no objection** to the following:

- Proposed northern lot boundary setback to upper floor balcony and master bedroom.
- Proposed fill (and associated retaining walls) within 1m of northern and western lot boundaries.
- Proposed visual privacy setbacks to upper floor balconies and upper floor living room and master bedroom.

Yours sincerely,

ANNA WHOLLEY CHRIS WHOLLEY  
(Name(s))

A Wholley Chris Wholley  
(Signature(s))

25/7/2020  
(Date)



Town of Cottesloe  
Administration and Civic Centre  
PO Box 606  
COTTESLOE WA 6911

TOWN OF COTTESLOE  
18 SEP 2020  
RECEIVED

Attn: Statutory Planning Department

To Assessing Officer,

**Development Application - Proposed Single House and Associated Crossover - 20A Dean Street, Cottesloe**

Pleased be advised that I/we, R & R Dwyer

as the landowner(s) of 34a Avonmore Terrace  
which is the residence abutting 20A Deane Street, Cottesloe have sighted the proposed development plans for the above project and have **no objection** to the following:

- Proposed northern lot boundary setback to upper floor balcony and master bedroom.
- Proposed fill (and associated retaining walls) within 1m of northern and western lot boundaries.
- Proposed visual privacy setbacks to upper floor balconies and upper floor living room and master bedroom.

Yours sincerely,

Ron & Rhonda Dwyer  
(Name(s))

Ron Dwyer R J Dwyer  
(Signature(s))

5th August 2020  
(Date)



Allerding  
& Associates

6 November 2020

Town Planners, Advocates and Subdivision Designers  
ABN 24 044 036 646

Our Ref: BYN DEA GE

Chief Executive Officer  
Town of Cottesloe  
PO Box 606  
COTTESLOE WA 6911

**Attention: Jennifer Bender (Town Planner)**

Dear Jennifer,

**RE: LETTER OF OBJECTION – PROPOSED TWO STOREY DWELLING  
LOT 506 (#20A) DEANE STREET, COTTESLOE**

On behalf of the landowners of Lot 15 (No. 20) Deane Street and Lot 14 (No. 22) Deane Street, Cottesloe, we have prepared this letter of objection in relation to a proposed two storey dwelling on the neighbouring land at Lot 506 (No. 20A) Deane Street, Cottesloe (**subject site**).

It is understood that the planning application relates to a proposed two storey dwelling on the subject site and that the proposed crossover will be subject to separate approval by the Town of Cottesloe (**the Town**) which is likely to be required through a condition of approval (in the event that the dwelling was approved). However, if planning approval were to be granted for the proposed two storey dwelling in its current form without due consideration given to the proposed means of vehicle access into the site, then any subsequent approvals required for the crossover and verge works are likely to automatically follow the approved means of access as approved under the current approval, without the need for further consideration. For these reasons and as set out in detail in this submission, we submit that the design of the proposed dwelling requires that consideration ought to also be given to the vehicular access arrangements into the site, including any existing access and any proposed alternative.

### **Background**

Since October 2017, Allerding & Associates have been engaged on a number of occasions by the landowners of No. 20 Deane Street, Cottesloe (and other upper Deane Street



residents) to assist with ongoing community objection to various applications for new vehicular access to the subject site through the embankment in the Deane Street verge.

In October 2017 and July 2018 we submitted objections to a proposed crossover from Deane Street to the subject site under consideration by the Town of Cottesloe (**the Town**) at the time. A copy of those submissions are included at **Attachment 1**.

In January 2019, we were engaged by nine property owners of upper Deane Street (east of Avonmore Terrace), to provide written submissions to the State Administrative Tribunal (**SAT**) in relation to an application for review against the Town's refusal of planning applications involving new crossovers into the subject site from Deane Street and associated excavation of the adjoining embankment and public works to the footpath.

It has been previously submitted that a new crossover which involves the substantial excavation of the existing Deane Street verge embankment and the associated removal of existing vegetation should not be allowed given that:

- The works give rise to potential vehicle and pedestrian safety issues. The existing pathway along the northern side of Deane Street is utilised for access to the beach and foreshore area. With the construction of stairs to accommodate the proposed crossover, pedestrians and cyclists will be forced to utilise the existing ramp adjacent to Nos. 20 and 22 Deane Street to cross to the pedestrian network on the southern side or be forced to walk along Deane Street itself to connect back onto the footpath network further west. This gives rise to potential traffic conflict and pedestrian safety concerns;
- The works would result in further disruption to the form and topography of the embankment and the established vegetation in this location and negatively impact the streetscape and amenity;
- There has been significant and ongoing objection by the local community to the proposed crossover and public works due to the potential streetscape, amenity and safety issues;
- It is inappropriate and contrary to orderly and proper planning to rely on the public domain to give effect to development that already has an approved point of access that has the least effect on the verge. This offends the longstanding planning principle that development works to give effect to a particular development be undertaken within the confines of the site itself;
- It is apparent that the existing subdivision was undertaken (by the same applicant for the current planning application) with the full knowledge of the verge, with the access then provided accordingly with the least impact on the verge. The question of access is therefore a pre-existing consideration and the fact that the landowner continues to find the access inconvenient should not burden the community with works in public spaces when an opportunity would have been available either at the time of subdivision or as part of the preparation of planning drawings to have modified access arrangements using the site itself and not the public domain; and
- The State Administrative Tribunal (**SAT**) has now determined two similar, but separate proposals relating to proposed crossovers through the Deane Street

embankment and has found on both occasions that the proposals were detrimental to the streetscape and to the amenity of the locality.

The first of the proposals considered by SAT was the decision of Moore and Town of Cottesloe [2016] WASAT 118, which involved a new crossover into No. 21 Deane Street through a trench in the embankment to a tunnel-like access way into the basement level of the proposed dwelling. In that decision, SAT concluded that *"the impact of the proposed development would be unacceptable because the removal of part of the significant element that characterises the streetscape – the embankment – would be detrimental to the streetscape and to the amenity of the locality."* The second proposal related to the subject site itself in the decision of Stewart and Town of Cottesloe [2019] WASAT 100, which involved a proposal to construct a vehicle crossover directly through the Deane Street verge embankment to access the subject site. In that decision, SAT found that *"...there would be significant adverse amenity impacts caused by the proposed works. The Tribunal considered the Deane Street locality to be a high quality residential environment. The verge embankment is striking and Deane Street effectively cuts through the landscape. The Tribunal found that the streetscape and amenity impacts that would result from the excavation of over 90m<sup>3</sup> from the Deane Street embankment would not be acceptable from a planning perspective."*

This submission has therefore been prepared on behalf of our clients to register their continued objection to the proposed method of vehicle access to the subject site.

In addition, the submission details our client's objections to the various elements of the proposed two storey dwelling which is subject of the Development Application. The proposal involves a new four (4) bedroom and five (5) bathroom dwelling comprising a basement level, ground floor level and first floor level with a curved roof. The features of the proposed development are summarised as follows:

- Basement Level – Six (6) car garage, store room, bathroom, cellar and basement room;
- Ground Floor Level – Three (3) bedrooms, three (3) bathrooms, living room, office, powder room, laundry, alfresco area, pool and cabana; and
- First Floor Level – Master bedroom with ensuite and walk in robe, kitchen, pantry, dining room, living room and balcony.

The Town is inviting comment from the public with regard to the following provisions as contained within the Town's Local Planning Scheme No. 3 (**LPS3**) and State Planning Policy 7.3 Residential Design Codes Volume 1 (**R-Codes**):

- Street setback (pursuant to Clause 5.3.7 of LPS3);
- Lot boundary setbacks to the north and west boundaries (pursuant to Clause 5.1.3 of the R-Codes);
- Site works (pursuant to Clause 5.3.7 of the R-Codes);
- Retaining walls (pursuant to Clause 5.3.8 of the R-Codes); and
- Visual privacy to the north and west (pursuant to Clause 5.4.1 of the R-Codes).



However, an anomaly has also been identified with the Natural Ground Levels (**NGLs**) utilised by the Applicant in the preparation of the plans forming part of the proposal. This anomaly has the potential to alter the maximum building heights as stated on the plans (in favour of the applicant) and ought to be rectified in an amended set of plans and readvertised prior to Council making a determination on the proposal.

The basis of our client's objections are outlined in the following section.

## **Discussion**

### **Surveyed Natural Ground Level and Building Height**

At the Town's Ordinary Council Meeting of 15 December 2014, an application for a proposed dwelling at Lot 503 (No. 34A) Avonmore Terrace was determined. 34A Avonmore Terrace is located to the immediate north of the subject site and forms one of the six lots created through the subdivision of the original superlot into Lots 501 to 506. As part of the Officer's report on the proposal (as contained at Item 10.3.3 of the Ordinary Council Meeting Minutes of 15 December 2014), it was reported that Town had requested additional survey information from the Applicant to inform the assessment of the finished floor level above the basement and the wall heights above NGL. Two survey plans were produced to determine the NGL across the original superlot (including the subject site). The NGLs were interpolated through various data sources including Water Corporation mapping, street verge heights and historical data. Those plans included:

1. A contour interpolation plan prepared by Brown McAlister Surveyors dated 28 November 2014 commissioned by the Applicant; and
2. A contour interpolation plan prepared by Whelans dated 2 December 2014 commissioned by the Town (refer **Attachment 2**).

The two survey plans had slight variations to the original interpolated NGLs across the superlot and the Whelans plan was ultimately recommended by officers to guide the assessment of building height for the proposed dwelling at 34A Avonmore Terrace.

A copy of the Whelans contour interpolation plan has been provided at **Attachment 2** and has been annotated to provide the approximate boundaries of Lots 504, 505 and 506.

We understand that the Whelans contour interpolation plan provides for an accurate representation of the original NGLs across the superlot (inclusive of the subject site at Lot 506) and is an appropriate benchmark for assessment of building heights, particularly given the extent of excavation which has occurred at the subject site following the demolition of the existing dwelling in early 2015.

We note that the Roof Plan (ref. DA05) for the proposed dwelling at the subject site has included contours across the site. A comparison has been undertaken between the approved Whelans contour interpolation plan and the proposed Roof Plan (ref. DA05) to determine whether the contour levels are consistent across the plans. As demonstrated in **Attachment 3**, significant variations exist between the interpolated contour levels provided

on the Whelans plan compared with the Roof Plan (ref. DA05). In some areas of the site, differences of up to 1.0m to 1.5m have been identified which would result in substantial height allowances for the current proposal if the development was approved using the contours shown on the Roof Plan (ref. DA05).

It appears, based on the sketch plan at **Attachment 3**, that if the dwelling was assessed using the Whelans contour interpolation plan, it is likely that the building would exceed the building height limits under LPS3.

The relevant provisions of LPS3 in relation to building height are described below. Firstly, Clause 5.1 of LPS3 relating to compliance with development requirements states that:

*Any development of land is to comply with the provisions of the Scheme and unless otherwise provided for in the Scheme, all development shall comply with the requirements specified in Table 2 - Development Requirements.*

(Underline emphasis added)

Table 2 contains development requirements for residential development and notes a maximum height of two (2) storeys with site coverage and lot boundary setbacks in accordance with the R-Codes.

Under Clause 5.3 (Special application of the Residential Design Codes) of LPS3, Clause 5.3.3 relating to building height states:

*Despite anything contained in the Residential Design Codes to the contrary, the building height for Residential Development shall comply with the provisions of clause 5.7.*

(Underline emphasis added)

Clause 5.5 of LPS3 dealing with variations to site and development standards and requirements, states as follows at Clause 5.5.1:

*5.5.1 Except for residential development, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme with respect to that development, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit. ...*

(Underline emphasis added)

Clause 5.7 (Building height) of LPS3 outlines the terms used under Clause 5.7.1 and includes:



*“Building Height” means the maximum vertical distance between any point of natural ground level and the uppermost part of the building directly above that point (roof ridge, parapet, or wall), excluding minor projections above that point.*

*“Storey” means that part of a building between the top of any floor and the top of the floor next above, or if there is no floor above, between the top of the floor and the ceiling above it; but does not include any undercroft space designed or used for a lift shaft, stairway, meter room, bathroom, shower room, laundry, water closet, other sanitary compartment, cellar, corridor, hallway, lobby, the parking of vehicles, storeroom without windows or workshop appurtenant to a car parking area, where that floor-to-floor or floor to-ceiling-space as defined herein is not higher than 1 metre above the footpath level measured at the centre of the land along the boundary to which the space has frontage, or where that floor-to-floor or floor to-ceiling-space as defined herein is below the level of the natural ground level measured at the centre of the site as determined by the local government.*

(Underline emphasis added)

Further, Clause 5.7.2 states:

- 5.7.2 *All buildings shall comply with each of the following maximum heights, as applicable to the building —*
- ... (b) *2 storeys*
    - (i) *Building Height – 8.5 metres maximum height.*
    - (ii) *Wall Height (to level of roof) – 6.0 metres maximum height.*
    - (iii) *Wall Height (to top of a parapet) – 7.0 metres maximum height. ...*

Finally, Clause 5.7.4 states:

- 5.7.4 *In the Residential Zone the local government may permit a third storey to be located within the roof space of a dwelling, provided that the development complies with the maximum wall and roof height requirements stipulated in clause 5.7.2 and also provided that, in the opinion of the local government, the dwelling will retain the appearance of a two-storey dwelling and will not unduly adversely affect local amenity.*

As demonstrated above, no discretion exists under LPS3 to consider variations to building height. With respect to the calculation of building height in this instance, neither the Town, nor the public appear to have the correct information before them to make an assessment of the proposal under the LPS3 provisions.

We request that prior to the application being determined, amended plans be provided by the applicant and the proposal readvertised for public comment to allow for an accurate assessment of building height to occur.

Further, it is requested that the proposed finished levels of the proposed crossover and upper landing to the staircase are shown on the Basement Floor Plan (ref. DA02) and the Ground Floor Plan (ref. DA03). Currently, the plans lack this information and an assessment of the actual finished levels of the public space cannot be undertaken.

### **Street Setback**

Clause 5.3.7 of LPS3 states as follows in relation to front setbacks:

*Despite anything contained in the Residential Design Codes to the contrary, in the case of areas with a residential density code of R30, the local government may require an R20 front setback of 6m to be applied, for the preservation of streetscapes, view corridors and amenity.*

Having regard to streetscapes, view corridors and amenity, the following observations are made:

#### Streetscapes

The proposed development has been designed in accordance with C2.1(iv) of Clause 5.1.2 (Street setback) of the R-Codes which allows for the reduction to the street setback to 2.5m where a single house results from subdivision of an original corner lot and has its frontage to the original secondary street.

The subject site forms one of six lots created through the subdivision of the original two lot parcel totalling approximately 2,000m<sup>2</sup> in area. The original two lot parcel was bound to the south by Deane Street, to the west by Avonmore Terrace, to the north by Fig Tree Lane and to the east by a residential property. The six lots created through the subdivision of the original land holdings include:

- Lot 501 (No. 32 Avonmore Terrace) with an area of 289m<sup>2</sup>;
- Lot 502 (No. 34 Avonmore Terrace) with an area of 289m<sup>2</sup>;
- Lot 503 (No. 34A Avonmore Terrace) with an area of 289m<sup>2</sup>;
- Lot 504 (No. 30 Avonmore Terrace) with an area of 313m<sup>2</sup>;
- Lot 505 (No. 28 Avonmore Terrace) with an area of 303m<sup>2</sup>; and
- Lot 506 (No. 20A Deane Street) with an area of 515m<sup>2</sup> (subject site).

Lot 505 (No. 28) Avonmore Terrace neighbours the subject site to the immediate west and has a primary street frontage to Avonmore Terrace and a secondary street frontage to Deane Street. Lot 505 contains an existing dwelling which is set back from Avonmore Terrace (primary street) by approximately 5m and from Deane Street (secondary street) by approximately 1.5m.



The neighbouring dwellings to the east of the subject site are set back from Deane Street (primary street) as follows:

- Lot 15 (No. 20 Deane Street) – Approximately 11m;
- Lot 14 (No. 22 Deane Street) – Approximately 6m;
- Lot 13 (No. 24 Deane Street) – Approximately 6m; and
- Lot 12 (No. 26 Deane Street) – Approximately 4m.

It is noted that Lots 12 to 15 each have a site area of 569m<sup>2</sup>.

The characteristics of the development pattern and streetscape of the surrounding land are highly varied, however it is noted as follows:

- The Avonmore Terrace streetscape between Fig Tree Lane and Deane Street comprises contemporary development across Lots 501, 502, 504 and 505 fronting Avonmore Terrace which follow a similar pattern of construction and lot size.
- The Deane Street streetscape between Avonmore Terrace and Broome Street is varied in terms of street setbacks, with primary street setbacks ranging between approximately 11m (adjacent to the subject site) to 4m (further east of the subject site). Lot sizes along the northern side of Deane Street (inclusive of the subject site) are generally consistent.

Therefore, given that the subject site is characterised by a comparatively large lot area (compared to the other lots created under the same subdivision) which is generally consistent with the lot areas of neighbouring existing lots to the east, and given that the subject site addresses Deane Street as its primary street, the street setback ought to be contemplated with regard to the existing streetscape pattern of Deane Street. The dwelling on the neighbouring property to the east of the subject site is set back approximately 11m from Deane Street representing an 8.5m difference to the setback of the proposed dwelling. Whilst it is acknowledged that the neighbouring dwelling to the west has its secondary street setback to Deane Street of approximately 1.5m, the development of the subject site will nevertheless be perceived as part of the prevailing streetscape pattern of Deane Street to the east in which dwellings are orientated towards and have their primary street frontages to Deane Street.

The proposed 2.5m street setback is therefore considered to be insufficient and is likely to result in a substantial disruption to the prevailing streetscape and amenity of Deane Street. It is therefore appropriate to invoke the provisions of Clause 5.3.7 of LPS3 to reduce the impact on the streetscape and provide for greater space and open areas within the front setback area of the dwelling. This will also assist to achieve greater functionality internally for the movement of vehicles within the subject site and place less burden on the public realm by avoiding substantial alteration of the existing embankment and pedestrian footpath for the sole benefit of providing vehicular access into the property.

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## View Corridors

The landform rises eastwards along Deane Street from Avonmore Terrace offering ocean views to properties to the east of the subject site. The roofline of the proposed development occupies the southern and eastern portions of the subject site, with open areas of the site positioned to the north-west. The resulting effect of the roofline positioned approximately 2.5m from Deane Street is that view corridors from neighbouring properties to the east, particularly the immediate neighbours at Nos. 20 and 22 Deane Street, have potential to be unreasonably disrupted due to the reduced street setback proposed.

The subject site is surrounded to the north and west by boundary development, whereas the streetscape pattern to the east provides for open landscaped front setback areas. It is unclear why the proposal has not been designed to respect the open streetscape character to the east and south and utilise opportunities for boundary development to the north and west. Such an outcome is likely to result in an improved impact on the view corridors for neighbouring development to the east and reduce the amenity impacts for those residents.

In summary, we consider that there are potential impacts to the existing streetscape, view corridors and associated amenity arising from the proposed development and on that basis it would be orderly and proper for Clause 5.3.7 of LPS3 to be applied in this instance.

## **Lot Boundary Setbacks**

The discretion sought to the deemed to comply provisions for the northern lot boundary setback adjacent to the proposed master bedroom wall has the potential to negatively impact the adjoining property to the east at No. 20 Deane Street as a result of:

- Building bulk associated with the reduced setback and associated roofline which will reduce the building separation between the proposed dwelling and the existing dwelling at 34A Avonmore Terrace to the immediate north. Due to the limited street setback to the south and the reduced lot boundary setback to the north, the bulk of the proposed roofline as viewed from No. 20 Deane Street will be exacerbated and result in a large unbroken mass when viewed from the ground floor internal and external habitable spaces of the neighbouring dwelling; and
- The access to ventilation to the open spaces within the neighbouring property to the east has the potential to be adversely impacted as a result of the proposed development. No. 20 Deane Street contains an alfresco area to the north-east of the portion of the development in which the discretion is sought which is likely to be negatively impacted by the proposed as a result of the reduced setback.

We therefore submit that the proposal fails to satisfy the design principles of Clause 5.1.3 of the R-Codes due to the potential building bulk and ventilation impacts on the neighbouring properties.



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## Site Works

Due to the sloping nature of the subject site, the development requires excavation in excess of 0.5m to achieve vehicle access to the basement car parking area and also to accommodate the basement level in proximity to the northern and eastern property boundaries. Discretion is therefore sought to the deemed to comply provisions of Clause 5.3.7 of the R-Codes relating to site works.

It is our submission that the proposal does not satisfy the design principles of Clause 5.3.7 of the R-Codes, particularly with respect to maintaining natural ground level at the lot boundary of the site as viewed from the street. The proposal will require substantial works requiring vegetation removal and earthworks which would be detrimental to the character and amenity of the locality and streetscape.

Further and as previously submitted, the works would result in the disruption of an existing public footpath along the northern side of Deane Street and we consider that there is no justification for the use of the public realm in achieving the desired development outcomes of a private allotment to the benefit of one landowner. We consider that there is also a risk that approval of such a proposal may set an undesirable precedence in this locality. It is recognised that two similar proposals have previously been contemplated on Deane Street under [2016] WASAT 118 (relating to No. 21 Deane Street) and [2019] WASAT 100 (relating to the subject site) and both were found by SAT to be detrimental to the streetscape and to the amenity of the locality.

It is noted that the subdivision of the subject site has been created with vehicle access via an angled ramped crossover and the development that ultimately occurs on the site should be undertaken within the constraints of the property, including the existing vehicle access.

For these reasons we consider that the proposal does not satisfy the design principles of Clause 5.3.7 of the R-Codes.

## Retaining Walls

The proposal involves retaining walls greater than 0.5m in height along the western and portion of the northern boundary to accommodate the basement level of the proposal. Discretion is therefore sought to the deemed to comply provisions of Clause 5.3.8 of the R-Codes relating to retaining walls.

For the reasons expressed in response to the discretion sought for Clause 5.3.7 above, we submit that the extent of retaining proposed is directly related to the proponent's desire to accommodate basement parking and associated vehicle access directly from Deane Street via a new crossover positioned perpendicular to the property frontage. It is also considered that as the proposal fails to satisfy the deemed to comply provisions of Clause 5.3.7 (site works) and Clause 5.4.1 (visual privacy) discretion ought not to be exercised in relation to this provision.

## Planning and Development (Local Planning Schemes) Regulations 2015

Having regard to the relevant planning framework, when considering a planning application, Council must have due regard to those matters relative to the proposal as set out in Clause 67, Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations)*, including:

Provision:	Response:
(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;	<p>A key aim of the Town's Local Planning Scheme No. 3 (<b>LPS3</b>) is to sustain the amenity, character and streetscape quality of the Scheme area. The proposal, which involves potential impacts on the streetscape, view corridors and amenity as a result of the street setback and the proposed excavation works required in this instance, fails to achieve this aim.</p> <p>There is also no discretion under LPS3 to vary building heights and there is insufficient information provided in the plans to determine whether the proposal exceeds the accepted NGLs across the site. The proposal ought not to be determined until accurate plans are submitted and advertised for public comment.</p>
(b) the requirements of orderly and proper planning...;	<p>As previously noted, it is not considered orderly and proper for a development to rely on the public domain to give effect to significant and highly unusual works in the manner proposed.</p>
(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;	<p>As demonstrated previously, we consider that any new dwelling constructed on the subject site ought to be contemplated with regard to the characteristics of the existing Deane Street streetscape and development pattern. For this reason, the proposed 2.5m street setback is likely to result in a disjunctive element to the streetscape, particularly noting the extent of street setbacks to existing dwellings to the east. It is also noted that the proposed street setback, combined with the reduced northern lot boundary setback and roof form (as viewed from the east) have the potential to result in view corridor and amenity impacts to adjoining neighbours.</p>

Provision:	Response:
	<p>The neighbouring properties to the east are orientated in a north-south alignment, which has resulted in a pattern of development whereby dwellings are generally positioned centrally within the lot and constructed close to side (eastern and western) boundaries. In particular, the immediately adjoining property to the east at No. 20 Deane Street has its main internal and external living areas on the ground floor level and orientated towards the west at either end of the dwelling (refer <b>Figure 1</b>). This currently affords the dwelling with views and open space to the west and south-west from the southern living room and to the west and north from the northern living room and alfresco area. As demonstrated in <b>Figure 1</b>, the building bulk created by the orientation of the proposed dwelling only 2.5m to the Deane Street boundary, between 1.0m and 1.5m from the eastern boundary and 1.5m from the northern boundary will result in unreasonable bulk and scale when viewed from the neighbouring properties to the east, particularly from Nos. 20 and 22 Deane Street. This also demonstrates how the proposal is incompatible with the existing Deane Street streetscape and development pattern with established landscaped front setback areas which retain an openness to the street and views beyond.</p> <p>With regard to the excavation and site works required to facilitate the proposed vehicle crossover and basement level, a similar issue has previously been contemplated on Deane Street on two occasions under [2016] WASAT 118 and [2019] WASAT 100 and both were found by SAT to be detrimental to the streetscape and to the amenity of the locality.</p> <p>For these reasons, the proposals are considered to be incompatible with the setting.</p>
<p>(n) the amenity of the locality including the following —</p> <ul style="list-style-type: none"> <li>(i) environmental impacts of the development;</li> <li>(ii) the character of the locality;</li> </ul>	<p>For the reasons given under (m) above, it is our submission that the proposed development is likely to result in negative impacts on the amenity and character of the locality, including disruption to the existing Deane Street streetscape.</p>



Provision:	Response:
(iii) social impacts of the development;	
(p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;	The plans submitted by the applicant show landscaping within the street setback area and within a lightwell to the east of the dwelling. However the proposal does not include detail of any proposed landscaping of the verge areas to compensate for the removal of vegetation as a result of the excavation works. There is therefore insufficient information to determine whether the proposal achieves adequate landscape provision.
(q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;	An engineering report verifying the stability of the proposed trench and staircase works was not made available as part of the documentation available for public review. Without such information it is not possible to provide comment on whether the risks of the proposal have been adequately considered.
(r) the suitability of the land for the development taking into account the possible risk to human health or safety;	A public safety report verifying the safety of the proposed embankment and staircase was not made available as part of the documentation available for public review. Without such information it is not possible to provide comment on whether the risks of the proposal to human health and safety have been adequately considered. Furthermore, the proposal, which involves significant excavation of the existing embankment, may create vehicle sightline issues for users of the proposed crossover. The plans fail to appropriately detail whether adequate sightlines will exist between the crossover and the carriageway to limit traffic conflict and risks to pedestrian safety, without further extensive works involving cutting and removal of vegetation.
(s) the adequacy of – (i) the proposed means of access to and egress from the site; and (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;	Vehicular access to the subject site is provided by an existing 3m wide driveway which was constructed as part of the previous subdivision of the land. There is no material publicly available to demonstrate why the existing vehicular access is unsuitable either in its current or some modified form. Further, it is standard and longstanding

Provision:	Response:
	<p>practice that where basement parking is provided on a site, access ramping is provided wholly on the development site and not in the public domain.</p>
<p>(w) the history of the site where the development is to be located.</p>	<p>The subdivision of the subject site has been created with vehicle access via an angled ramped crossover. Vehicle access to the subject site therefore already exists and it has not been demonstrated why the existing access is insufficient or incapable of being used for access to this property. If the applicant seeks to have subterranean parking, it is open to them to provide that within the confines of their own lot without using the public domain. Further, SAT has already contemplated a similar proposal in 2019 for the subject site in [2019] WASAT 100 where the excavated form of vehicle access was found to be detrimental to the streetscape and to the amenity of the locality.</p>
<p>(x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;</p>	<p>The overall impact on the community arising from the proposed excavation of the verge to accommodate the vehicle access is considered to be unreasonable and will result in an adverse and undue impact to the amenity of the locality and the environmental and landscape values that have contributed to the streetscape and character of this location for many years. Given that opportunity for suitable vehicle access is already provided to the subject site, there is no clear rationale as to why the Town should accept a development that will negatively impact the broader community for the sole purpose of accommodating an alternative form of private vehicle access to an individual dwelling on privately owned land. This is particularly so when the applicant is able to undertake subterranean parking using ramping on their own land if they so choose.</p>
<p>(y) any submissions received on the application;</p>	<p>It is requested that the Council give due regard to the concerns of our client and the broader community in making its determination on the two planning proposals.</p>

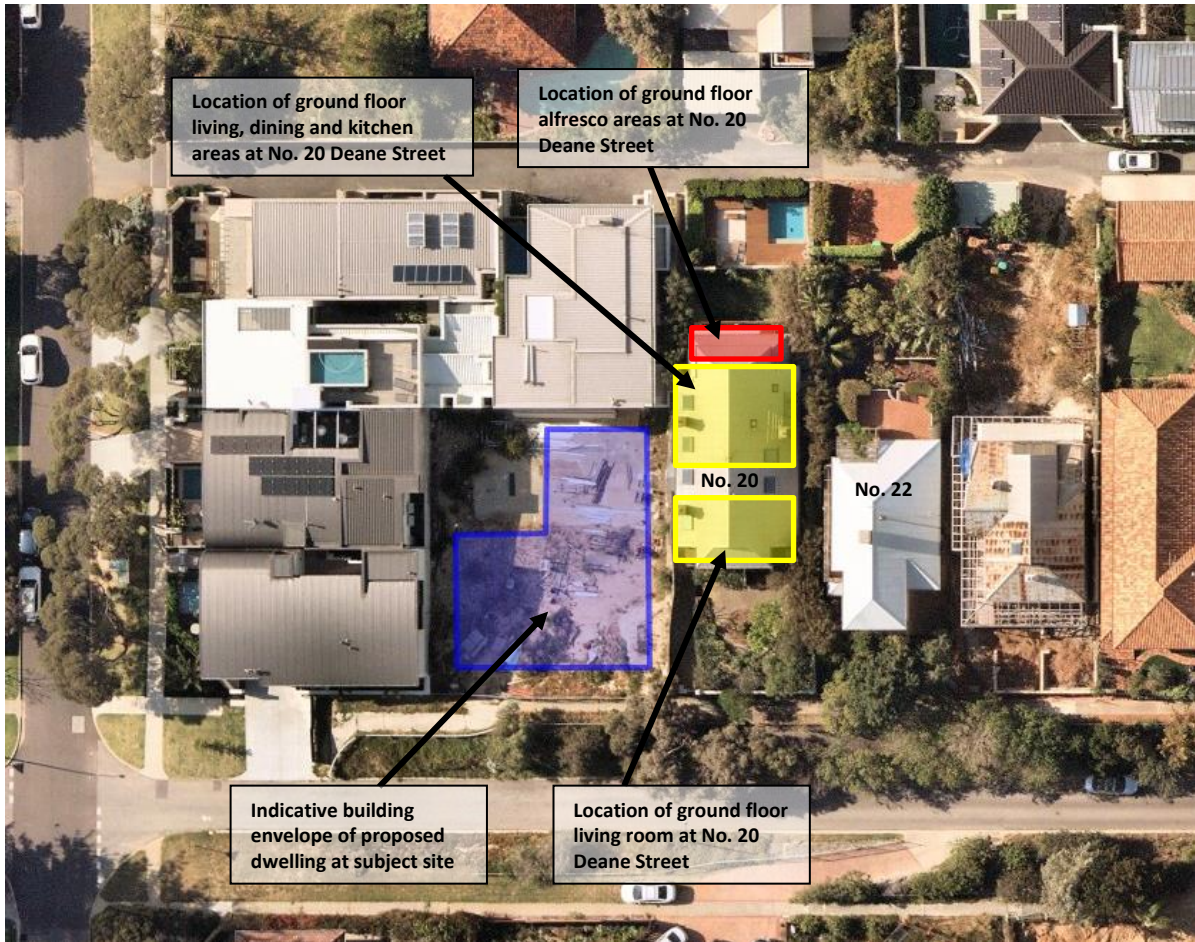


Figure 1 – Building Bulk Diagram

In conclusion, on behalf of our client we have prepared this submission in objection to the proposed development on the subject site on a number of relevant planning grounds which we say ought to be given due consideration in the determination of this proposal.

Should you have any queries or require any further information in reviewing this submission, please do not hesitate to contact our office on 9382 3000.

Yours sincerely  
**ALLERDING AND ASSOCIATES**



**ASSOCIATE**

Cc. Client



**ATTACHMENT 1**

**COPY OF PREVIOUS SUBMISSIONS**

13 July 2018

Our Ref: BYN DEA GE

Chief Executive Officer  
Town of Cottesloe  
PO Box 606  
COTTESLOE WA 6911



Town Planners, Advocates  
and Subdivision Designers

ABN 24 044 036 646

**Attn: Ed Drewett (Senior Planning Officer)**

Dear Ed,

**RE: SUBMISSION IN RESPONSE TO PROPOSED CROSSOVER TO 20A DEANE STREET,  
COTTESLOE**

We act on behalf of the landowners of Lot 15 (No. 20) Deane Street and Lot 14 (No. 22) Deane, Cottesloe, located to the east of No. 20A Deane Street, Cottesloe (**subject site**).

In October 2017 we submitted an objection to a proposed crossover from Deane Street to the subject site under consideration by the Town of Cottesloe's (the Town's) engineering department. A copy of that submission is attached. It is understood that the following Council's decision to refuse that proposal at its Special Council Meeting of 17 October 2017, the Applicant appealed the decision to the State Administrative Tribunal (SAT). It is understood that SAT has subsequently ordered the Applicant to seek planning approval from the Council for the proposed crossover due to the extent of works proposed within the road reservation.

This submission has therefore been prepared on behalf of our clients to register their continued objection to the planning applications currently before the Council, which include:

1. Vehicle crossover perpendicular to Deane Street with pedestrian footbridge over (no residential development proposed); and
2. Vehicle crossover perpendicular to Deane Street and diversion of pedestrian footpath (no residential development proposed).

It is our clients' submission that neither crossover should be allowed given the potential issues arising with respect to vehicle and pedestrian safety, as well as the likely negative impacts to the streetscape and amenity of the locality. In addition, the proposal also offends the longstanding planning principle that development works to give effect to a particular development be undertaken within the confines of the site itself. It is apparent that the existing subdivision was undertaken with the full knowledge of the verge, with

the access then provided accordingly with the least impact on the verge. The fact that the landowner now finds that the access is inconvenient should not burden the community with works in public spaces when an opportunity would have been available at the time of subdivision to have modified access arrangements using the site itself and not the public domain. In essence, the applicant is attempting to defray the responsibility of access onto public land as opposed to their public land interests in contrast to that longstanding planning principle.

### **Description of Subject Site and Surrounds**

Our clients' properties at Nos. 20 and 22 Deane Street and the subject site are located on the northern side of Deane Street. The northern section of the Deane Street road reserve, parallel to the existing carriageway, currently comprises a steep vegetated embankment which rises from the carriageway to the level of the pedestrian footpath. **Figure 1** shows the extent of the embankment in front of the subject site when viewed from Deane Street. The footpath at the top of the embankment runs parallel to the front property boundaries of the dwellings along this part of Deane Street between Avonmore Terrace and Broome Street and has historically existed to provide the adjoining properties with pedestrian access to the surrounding footpath network. This includes pedestrian access from these properties to Avonmore Terrace and locations west of the subject site, including the foreshore. Photos of the existing footpath are provided at **Figures 2 and 3**.

The subject site has been created through the subdivision of a former larger allotment on the north-eastern corner of Avonmore Terrace and Deane Street. The result of that subdivision is that vehicle access to the subject site has been provided via an angled crossover of approximately 3m in width up the embankment on Deane Street to service the site. This construction work has already resulted in the modification of the embankment and associated removal of vegetation to provide for vehicle access to service the new development on the subject site. Photos of the existing vehicle access to the subject site are provided at **Figures 4 and 5**.

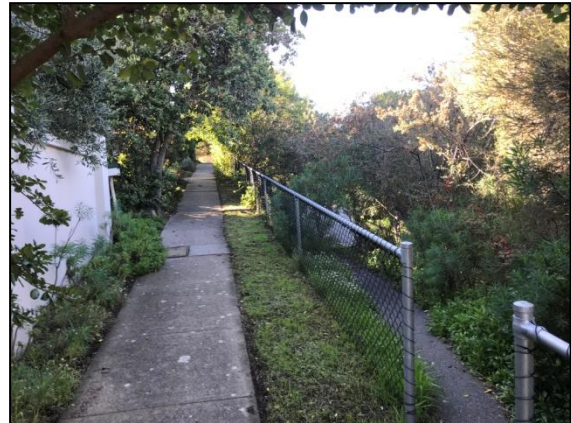
### **Proposal**

The subject site is presently vacant and it is understood from review of the plans associated with the two proposals that the applicant is seeking approval to remove the existing vehicle crossover to the vacant property and construct a crossover at street level through a trench in the embankment. It is proposed that the crossover will provide access to a subterranean double garage. While the location of the garage is shown on the plans, no other detail of the future dwelling is provided on the plans. The proposed trenching works will remove the pedestrian footpath connection in this location. In order to address the termination of the footpath on either side of the embankment and crossover, the applicant proposes two solutions, each forming separate planning applications.





**Figure 1 – Photo of Deane Street embankment (foreground) with Subject Site beyond fence (background)**



**Figure 2 – Photo of existing footpath looking east from 20 Deane Street**



**Figure 3 – Photo of existing footpath looking west from 20 Deane Street**



**Figure 4 – Photo of existing constructed driveway to subject site**



**Figure 5 – Photo of existing constructed driveway to subject site (taken from Deane Street carriageway)**



**Figure 6 – Photo looking west along Deane Street demonstrating the embankment commencing at the edge of the carriageway.**

The first option involves the construction of a 10m long concrete footbridge over the proposed crossover. The footbridge would follow the alignment of the existing footpath and would be constructed with a 1m high balustrade. The footbridge would be positioned between 2.05m and 2.78m above the proposed finished level of the crossover. The total length of the footbridge would be necessary to span the 5.5m wide garage and the 2.25m wide embankments on either side of the crossover.

The second option involves the diversion of pedestrian footpath down the embankment on the western side of the proposed crossover and the termination of the footpath adjacent to the eastern and western sides of the proposed garage and crossover. This includes the construction of fencing to permanently terminate the footpath connection on either side of the proposed trench. This option would require the continuation of the pedestrian footpath along the northern side of the Deane Street carriageway to connect to the existing footpath east of the subject site. As can be seen in **Figure 6** there are practical issues with this option given that the embankment immediately adjacent to the Deane Street carriageway steeply rises with no space for a roadside footpath connection to the existing footpath further east along Deane Street.

### **Discussion**

In considering the two proposals, it is our submission that it is inappropriate and contrary to orderly and proper planning to rely on the public domain to give effect to development that already has an approved point of access that has least affect on the verge and maintains convenient access for all parties. It is unclear as to the motivation of the applicant to seek a new point of vehicular access to a subterranean garage, however it appears that the proposal may provide for further developable area within the boundaries of the subject site if the garage were to be constructed in the proposed location. Regardless, the subdivision of the subject site has been created with vehicle access via an angled ramped crossover and the development that ultimately occurs on the site should be undertaken within the constraints of the property, including the existing vehicle access.

Having regard to the relevant planning framework, when considering a planning application, Council must have due regard to those matters relative to the proposal as set out in Clause 67, Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations)*, including:

<b>Provision:</b>	<b>Response:</b>
(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;	A key aim of the Town's Local Planning Scheme No. 3 ( <b>LPS3</b> ) is to sustain the amenity, character and streetscape quality of the Scheme area. The proposed excavation works required in this instance would result in further disruption to the form and topography of the embankment and the established vegetation in this location. For this reason it is considered that the proposal fails to achieve this aim.
(b) the requirements of orderly and proper planning...;	As previously noted, it is not considered orderly and proper for a development to rely on the public domain to give effect to significant and highly unusual works in the manner proposed.

<p>(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;</p>	<p>SAT considered a similar proposal in 2016, in its decision of Moore and Town of Cottesloe [2016] WASAT 118, which involved a new crossover into No. 21 Deane Street through a trench in the embankment to a tunnel-like access way into the basement level of the proposed dwelling. In that decision, SAT concluded that "the impact of the proposed development would be unacceptable because the removal of part of the significant element that characterises the streetscape – the embankment – would be detrimental to the streetscape and to the amenity of the locality."</p> <p>The subject site is located directly adjacent to the property considered in SAT matter [2016] WASAT 118 and it is considered that the impact of the proposals in this instance are likely to result in similar impacts on the streetscape character and amenity of the area as a result of the significant modifications required to the existing embankment and associated loss of established vegetation. For these reasons, the proposals are considered to be incompatible with the setting.</p>
<p>(n) the amenity of the locality including the following –            (i) environmental impacts of the development;            (ii) the character of the locality;            (iii) social impacts of the development;</p>	<p>For the reasons given under (m) above, it is our submission that the proposal to create a new crossover and double garage within the embankment of the Deane Street road reservation, for the sole purpose of gaining vehicle access to the subject site, is unreasonable and is likely to result in negative impacts on the amenity and character of the locality.</p>
<p>(p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;</p>	<p>The proposal will result in the removal of established vegetation which has existed in the locality for many years and forms part of the amenity of the area. The plans submitted by the applicant show landscaping of the new embankment created by the proposed trenching works. However it has not been verified whether the proposed landscaping addresses the Town's verge planting requirements or what arrangements will be made for the ongoing maintenance of the planting. In any event, the disruption to the existing banked landscaping is considered to be undue and adverse and should not be supported to accommodate subterranean</p>



	access.
(q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;	An engineering report verifying the stability of the proposed trench and bridge works was not made available as part of the documentation available for public review. Without such information it is not possible to provide comment on whether the risks of the proposal have been adequately considered.
(r) the suitability of the land for the development taking into account the possible risk to human health or safety;	A public safety report verifying the safety of the bridge and embankment was not made available as part of the documentation available for public review. Without such information it is not possible to provide comment on whether the risks of the proposal to human health and safety have been adequately considered. Furthermore, the proposal, which involves significant excavation of the existing embankment, may create vehicle sightline issues for users of the proposed crossover. The plans fail to appropriately detail whether adequate sightlines will exist between the crossover and the carriageway to limit traffic conflict and risks to pedestrian safety, without further extensive works involving cutting and removal of vegetation.
(s) the adequacy of – (i) the proposed means of access to and egress from the site; and (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;	Vehicular access to the subject site is provided by an existing 3m wide driveway which was constructed as part of the previous subdivision of the land. As noted above, there is no evidence that the proposed crossover will function safely from a traffic perspective. Sightlines from the crossover may be limited, with potential for traffic conflict and risks to pedestrians or road users. Further, it is standard and longstanding practice that where basement parking is provided on a site, access ramping is provided wholly on the development site and not in the public domain.
(w) the history of the site where the development is to be located.	The subdivision of the subject site has been created with vehicle access via an angled ramped crossover. Vehicle access to the subject site therefore already exists in an appropriate and approved form. If the applicant seeks to have subterranean parking, it is open to them to provide that within the confines of their own lot without using the public domain.

<p>(x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;</p>	<p>The overall impact on the community arising from the proposed trench is considered to be unreasonable and will result in an adverse and undue impact to the amenity of the locality and the environmental and landscape values that have contributed to the streetscape and character of this location for many years. Given that suitable vehicle access is already provided to the subject site, there is no clear rationale as to why the Town should accept a development that will negatively impact the broader community for the sole purpose of accommodating an alternative form of private vehicle access to an individual dwelling on privately owned land. This is particularly so when the applicant is able to undertake subterranean parking using ramping on their owner land if they so choose.</p>
<p>(y) any submissions received on the application;</p>	<p>It is requested that the Council give due regard to the concerns of our client and the broader community in making its determination on the two planning proposals.</p>

In summary, to avoid the disruption of this existing public thoroughfare and limit further works requiring additional vegetation removal and earthworks which would be detrimental to the character and amenity of the locality, we respectfully seek that Council refuse both planning proposals. We consider that there is no justification for the use of the public realm in achieving the desired development outcomes of a private allotment to the benefit of one landowner. We consider that there is also a risk that approval of either proposal may set an undesirable precedence in this locality. It is recognised that a similar proposal was previously contemplated on Deane Street on a property adjacent to the subject site in [2016] WASAT 118 and was found by SAT to be detrimental to the streetscape and to the amenity of the locality. Approval of either proposal may therefore result in subsequent and continued attempts for similar proposals in the locality.

We seek the Town's confirmation that the existing constructed angled crossover will be retained to service the subject site without the need for the modification of the existing pedestrian footpath in this location.

In the meantime however, should you have any queries or require any further information, please do not hesitate to contact our office on 9382 3000.

Yours sincerely

**ALLERDING AND ASSOCIATES**



**TOM HOCKLEY**  
**ASSOCIATE**

cc. Client (via email)

Encl. Previous submission to Town of Cottesloe dated 12 October 2017



12 October 2017

Our Ref: BYN DEA GE

Chief Executive Officer  
Town of Cottesloe  
PO Box 606  
COTTESLOE WA 6911



Town Planners, Advocates  
and Subdivision Designers

ABN 24 044 036 646

**Attn: Nicholas Woodhouse (Manager Engineering Services)**

Dear Nicholas,

**RE: PROPOSED CROSSOVER TO 20A DEANE STREET, COTTESLOE**

We act on behalf of the landowners of Lot 13 (No. 24) Deane Street, Cottesloe, located to the east of No. 20A Deane Street, Cottesloe (**subject site**).

Both our client's property at No. 24 Deane Street and the subject site are located on the northern side of Deane Street. The northern section of the Deane Street road reserve, parallel to the existing carriageway, currently comprises a steep vegetated embankment which rises from the carriageway to the level of the pedestrian footpath. This footpath runs parallel to the front property boundaries of the dwellings along this part of Deane Street between Avonmore Terrace and Broome Street and has historically existed to provide the adjoining properties with pedestrian access to the surrounding footpath network. This includes pedestrian access from these properties to Avonmore Terrace and locations west of the subject site, including the foreshore.

The subject site has been created through the subdivision of a former larger allotment on the north-eastern corner of Avonmore Terrace and Deane Street. The result of that subdivision is that vehicle access to the subject site has been provided via an angled crossover up the embankment on Deane Street to service the site. This construction work has already resulted in the modification of the embankment and associated removal of vegetation to provide for vehicle access to service the new development on the subject site.

The subject site is presently vacant and it is understood from the correspondence received from the Town of Cottesloe (**the Town**) dated 2 October 2017 that the owner of the subject site is seeking approval to remove the existing vehicle crossover to the vacant property and construct a ramped crossover through a trench in the embankment. The proposed trenching works will remove the pedestrian footpath connection in this location, terminating the pathway on either side of the embankment and will therefore remove east to west pedestrian movements along this portion of Deane Street. The

proposed trench would also result in further disruption to the form of the embankment and the established vegetation in this location.

The overall impact on the community arising from the proposed trench is considered to be unreasonable and will result in an adverse and undue impact to the amenity of the locality and the environmental and landscape values that have contributed to the streetscape and character of this location for many years. Given that vehicle access is already provided to the subject site, there is no clear rationale as to why the Town should accept development that will negatively impact the broader community for the sole purpose of accommodating an alternative form of vehicle access to an individual dwelling on privately owned land. The subdivision of the subject site has been created with vehicle access via an angled ramped crossover and the development that ultimately occurs on the site should be undertaken within the constraints of the property, including the existing vehicle access.

Our client therefore seeks to register their objection to the proposed trenched crossover and footpath works within the Deane Street road reserve which would ultimately result in a negative impact on the broader community.

In summary, to avoid the disruption of this existing public thoroughfare and limit further works requiring additional vegetation removal and earthworks, we respectfully seek that the Town does not allow the proposed new crossover. We seek the Town's confirmation that the existing constructed angled crossover will be retained to service the subject site without the need for the closure of the pedestrian footpath in this location.

Our client would be willing to meet on site if it would assist with the Town's consideration of the matter. In the meantime however, should you have any queries or require any further information, please do not hesitate to contact our office on 9382 3000.

Yours sincerely

**ALLERDING AND ASSOCIATES**



**TOM HOCKLEY  
ASSOCIATE**

cc. Client (via email)

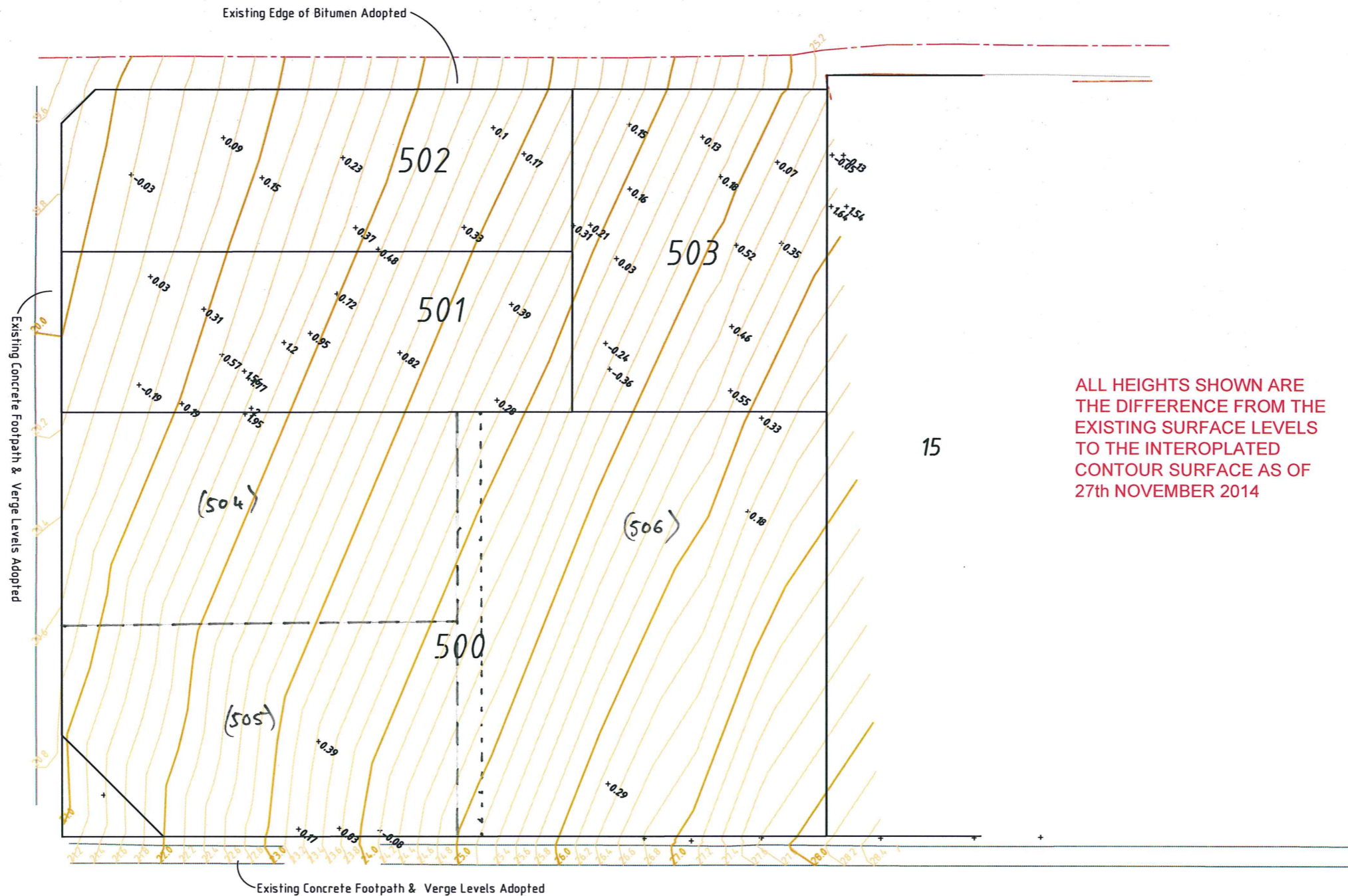
**ATTACHMENT 2**

**ANNOTATED CONTOUR  
INTERPOLATION PLAN  
(WHELANS, 2 DECEMBER 2014)**



FIG TREE LANE

AVONMORE TERRACE



ALL HEIGHTS SHOWN ARE THE DIFFERENCE FROM THE EXISTING SURFACE LEVELS TO THE INTERPOLATED CONTOUR SURFACE AS OF 27th NOVEMBER 2014

NOTES

This plan has been prepared for the client and should not be used for any other purpose unless authorised by Whelans Australia Pty Ltd.

The location of cadastral boundaries shown has been extracted from Landgate's database on 27/11/2014 and are subject to survey.

Boundary dimensions have been sourced from the Plan/Diagram for this lot and are subject to survey.

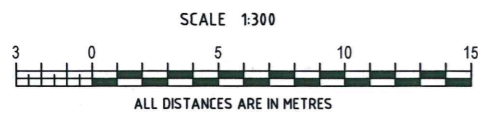
Prior to the commencement of any work, relevant authorities should be contacted for the location of underground services.

Levels are based on AHD and derived from SSM MEL 58

Due to overwriting some levels may be switched off for this plot only.

This note is an integral part of this plan.

DEANE STREET



Rev.	Description	Drawn	Date	Chkd

Survey Date: 27/11/2014    Surveyed By: DC  
 Drawn Date: 02/12/2014    Drawn By: PHT  
 Scale (A3): 1:300    Checked By: PGJ  
 Hor Datum: PCG94    Vert Datum: AHD



Data File: 141127cottesloe+intep diff.acs  
 CAD File: 141127\_Lot500-503\_Avonmore\_Terrace\_FS.dwg  
 Path: S:\Projects\20\20502\survey\141127DC-AVONMORE TCE COTTESLOE

**whelans**  
 Suite 4, First Floor, 40 Hasler Road, Osborne Park WA 6017  
 PO Box 99, MOUNT HAWTHORN WA 6915  
 T: 08 6241 3333 F: 08 6241 3300  
 E: whelans@whelans.com.au W: www.whelans.com.au

Client: TOWN OF COTTESLOE

**CONTOUR INTERPOLATION PLAN**  
 LOT 500-503 on DP 401972  
 AVONMORE TERRACE  
 COTTESLOE  
 This plan must not be reproduced without the permission of WHELANS

Job No	Item No	Plan No	Rev
20502	- 000	- 001	- 00
Sheet			1 of 2

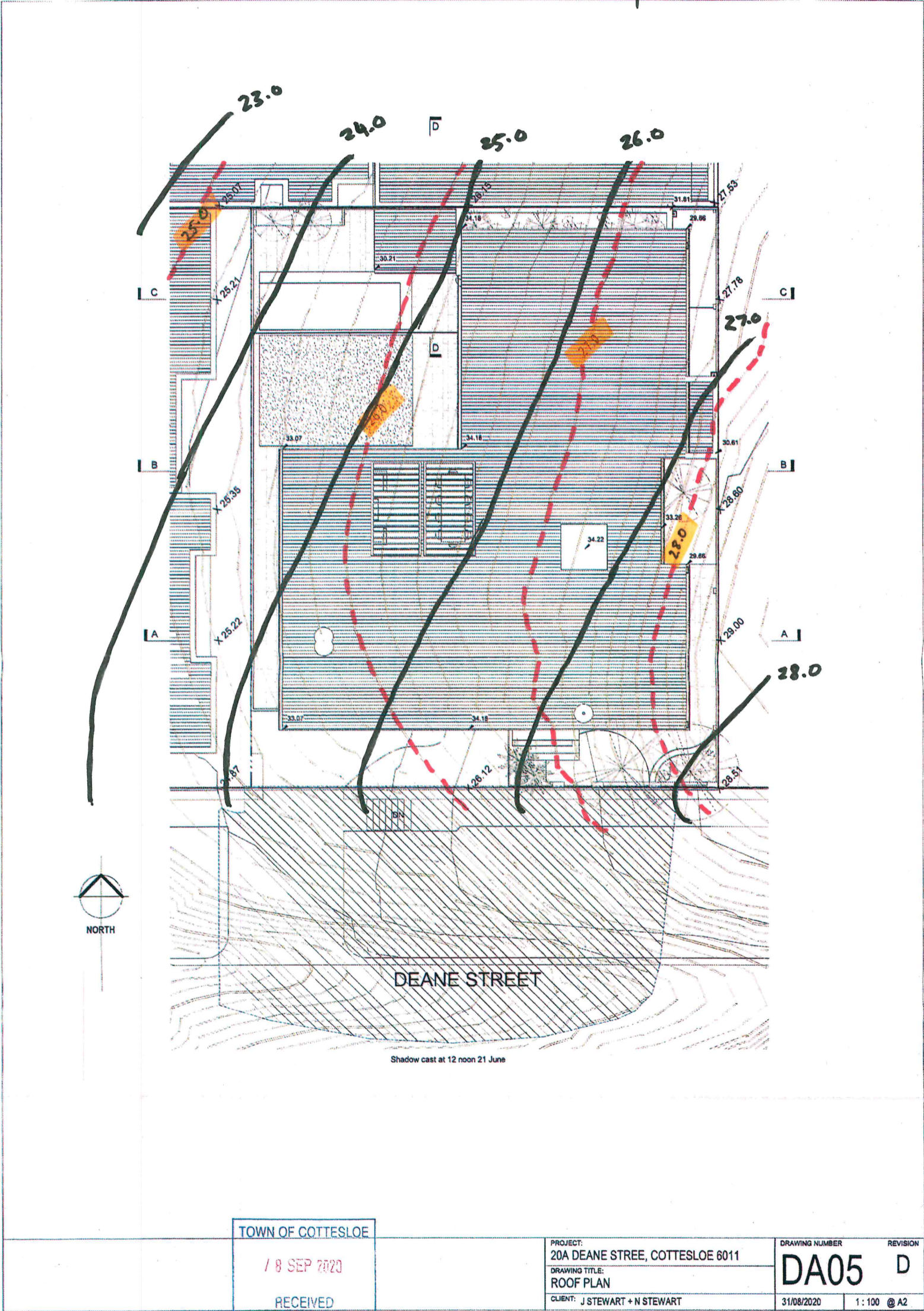


**ATTACHMENT 3**

**ANNOTATED ROOF PLAN DA05**  
**(31 AUGUST 2020)**



——— CONTOURS EXTRACTED FROM  
 WHELANS SURVEY PLAN  
 DATED 2/12/2014  
 - - - CONTOURS USED BY APPLICANT  
 UNDER CURRENT PROPOSAL.



TOWN OF COTTESLOE  
 18 SEP 2020  
 RECEIVED

PROJECT:  
 20A DEANE STREE, COTTESLOE 6011  
 DRAWING TITLE:  
 ROOF PLAN  
 CLIENT: J STEWART + N STEWART

DRAWING NUMBER  
 DA05  
 REVISION  
 D  
 31/08/2020 1:100 @ A2



To: J Bender Planning Officer  
Town of Cottesloe Council

November 10, 2020

Re: **LOT 506 D/PL 77405. 20A Deane Street**

Submission from Residents of upper Deane Street opposing proposed plans for two storey dwelling on 20A Deane Street.

The proposed plans show a residence located very close to the south boundary of the Lot, covering most of the site except for an open area in the north west corner; with a mostly uniform height; with carparking provided on a lower level with an entrance for vehicles on the lower level 2.5 metres from the boundary facing Deane Street.

#### **Access to the proposed building**

The location of the garage entrance close to the boundary with Deane Street is not achievable without the excavation of the verge and the termination of the footpath. The plans cannot be considered by Council without consideration of the access as the two are intrinsically linked.

The matter of access has now been before Council on several occasions and was the subject of a SAT decision determining that access via a tunnel or cutting through the verge to the Lot was not allowed on several grounds, including, amenity, character of the streetscape and the safety of pedestrians and road users.

We, residents of upper Deane Street, have spent a great deal of time arguing against the various proposals by the owner of this Lot for tunnels, cutting etc through the Deane Street verge, preparing submissions and attending Council meetings, and meeting with Council members on site to fully explain why we oppose the provision of any access to Lot 506 other than by modification to the current ramp up the verge; and having finally believed that the matter was resolved once and for all by the SAT decision supporting our views, to find that the same – or virtually the same – proposal is being made once again by the same developer is extremely frustrating and disappointing.

The only apparent difference between this proposal – which, although it appears to be for a dwelling only, is, in effect, an application for access via a cutting or removal of the verge - is that it appears to be located slightly west of access proposed in previous applications by the developer. The applicant may argue that because of the slight change of location, there will be less vegetation removed, which may be true, but that is insignificant compared to the overall impact of the removal of the footpath and verge at this point. The applicant may argue that the footpath will not be removed as steps will be provided to the lower level. This ignores the fact that many pedestrians who use (or who used to use the footpath

before it was temporarily put out of action by the driveway on the corner of Deane with Avonmore Terrace) walk down to the beach with surfboards, buggies, or bicycles etc and steps would make this impossible. Also elderly people – and there are many in this street - will find steps difficult.

With effective termination of the footpath, pedestrians will have to leave the footpath outside No 20 Deane Street and traverse backwards down the little path to the road. Human nature will then ensure that those people will walk down the road itself towards the hidden driveway of 20A Deane Street where - apparently - 6 cars may be coming and going at any time.

It has been suggested in previous proposals by the Town of Cottesloe that the footpath terminate with a few steps but we submit that steps are not required as the present ramp when it is reinstated (widened as necessary for vehicle access to 20A Deane Street) is suitable for pedestrians notwithstanding that it may be a little steep at the end. That people require the footpath to extend all the way down to Avonmore Terrace is evidenced by the fact that the footpath has continued to be used for the past couple of years even while there is some rubble at the bottom of the path which has to be negotiated. So the suggestion that people will leave the northern path, cross the road and go up the steep slope to the southern path will not happen. They will, in practice, use the road if they cannot use the footpath and this is clearly unsafe.

The entire matter of termination of the footpath and the provision of access to the Lot via a lowered driveway was dealt with at length in the submissions we made to Council and to SAT and we presume that the Planning Department and Council will refer to those submissions before they give any consideration to the current proposal.

In arguing against a tunnel or cutting through the verge for access, many residents are ignoring their own potential financial interests to the benefit of the street as a whole to retain its unique character.

### **Setback and bulk of building on the street side**

Deane Street is an attractive street with a unique character and a strong sense of neighbourhood. The setbacks of existing properties give the street a verdant, pleasant character unrelated to modern concrete blocks. The proposed building, with its bulk located close to the road and to the eastern property will visually impact on the street in a very negative way. We strongly argue for a significantly greater setback of 6 metres. That way, even if the building does offer its bulk to the roadway and its open areas away from the road, the negative impact on Deane Street and neighbouring properties would be significantly alleviated.

The applicant has no doubt designed the building to gain views from the top story over the buildings to the north and west. But the applicant also developed all those buildings so they could have easily allowed for views to Lot 506 by providing more space between the other Lots on this subdivision.

In designing this dwelling, the architect and/or the developers have given no consideration to the location of the Lot and its relationship to Deane Street or the residents of this street.

By facing its open areas away from the street, it removes the softening effect of an open area fronting the street which is common to most houses in this street.

**A smaller garage would resolve the issue of access**

If the proposal for this 4 bedroom house was not so demanding of garage space for 6 cars, the entrance could be set back further from the road and could easily be achieved with a sloping ramp to the garage opening. This is a common approach to access in Cottesloe – e.g. houses on the west side of Avonmore Terrace frequently have quite steep slopes to their garages.

We believe this proposal is an attempt to overturn a legitimate decision of the Council and SAT, by designing a building which if approved would then lead to a demand for access to the garage through the verge.

FROM:

Barbara Pascoe. [17 Deane Street](#)

Linda and Geoff Rich. [34 Deane Street](#)

Vivienne Jagger. [20 Deane Street](#)

Ian Pearce. [22 Deane Street](#)

Michael Finn [25 Deane Street](#)

Ian Andrews and Prue Bermingham. [33 Deane Street](#)

Tony and Gill Templeman. [26 Avonmore Terrace](#)

Allison and Horst Schmidt. [27 Deane Street](#)

Claire Chapman. [28 Deane Street](#)



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**From:** barb pascoe  
**Sent:** Tuesday, 10 November 2020 1:14 PM  
**To:** council; Ed Drewett  
**Cc:** Vivienne Jagger  
**Subject:** 20A Deane St

Hi,

I am aware that Vivienne Jagger has made a submission to TOC and has listed concerns that she and other nearby residents have about the latest plans for 20A Deane St. My name has been added to her submission as I agree with the points she has raised.

I have also seen the submission from Tom Hockley where he too has raised concerns.

Rather than repeat what both those submissions contain, I would like to add a couple of comments myself.

1 The access to 20A has been an ongoing issue for a number of years. Mr Stewart purchased a large parcel of land and subdivided it into 6 lots. He went about building 5 of the dwellings without having finalized access to 20A, but in the full knowledge that it would be challenging to gain access. This is by no means the first time the Stewart's have tried to gain access to the block in a manner which was not supported by residents or the Town of Cottesloe. The matter was even taken to SAT who said the preferred option was to modify the existing driveway up the embankment.

2.The plans submitted by Stewart show that there will now be stairs as part of the footpath. I would appreciate TOC and Councillors to consider if they think this is reasonable given that it will be done to benefit just 1 resident in the street. The footpath would become unusable for prams, frail elderly, bikes, postman on motor bikes and no doubt a number of other situations I have not listed.

3.Whilst the deane st setback does not affect me, I fully support the concerns of residents on the eastern side of 20A..

I would urge councillors to thoroughly consider the points submitted by residents now and in past surveys.

Thank you,  
Barb Pascoe



Chief Executive Officer,

Cottesloe Council, November 8<sup>th</sup>.

I would like to endorse the views expressed by residents of Deane St re the proposed development at 20 A Deane St above all Vivienne Jagger, as expressed in her very detailed submissions.. We are heartily sick of this whole matter. We are dealing with a person, who has no consideration for others, cannot accept the democratic process, and will go on trying to break the rules that others follow in order to get what he wants. He will continue until we are all worn down. We urge you not to give in, as this undermines the power of the council, and is unfair to those who do the right thing.

Yours sincerely

Prue Bermingham

*Please accept late delivery  
I have been ill.*

*16/11/20*

Our Reference: 150206 Letter to Town of Cottesloe.docx PB  
6 February 2015

**Town of Cottesloe**  
109 Broome Street  
Cottesloe WA 6011

**Attention: Mr Andrew Jackson**

Dear Andrew,

**Derivation of Interpolated Contours for the proposed development of lots 500 to 503 on Deposited Plan 401972 – Bounded by Deane Street, Avonmore Terrace & Fig Tree Lane, Cottesloe**

At the SAT Mediation hearing held on the 2 February 2015 at the Town of Cottesloe, Whelans was instructed to prepare a contour plan based on the supplied scanned copy of the TPS Scheme 1 South Map.

Upon examination of the supplied TPS Scheme 1 South Map, it was determined that the supplied plan was adopted by Council on the 25 October 1972 and is at a scale of 4 chains to 1 inch and was prepared by T. S. Martin and Associates Town Planners. Contours shown on the plan are expressed in 5 feet contour intervals, there is no indication on the plan as to the source or accuracy of these contours.

Using the supplied plan, Whelans were able to insert the scanned data file into a CAD software package, scale the plan to match the cadastral boundaries previously calculated, this allowed repositioning of the historical plan data to the same horizontal datum as that used for previously prepared plans, namely Perth Coastal Grid 1994 (PCG94). Imperial contours were then digitised and converted to metres allowing new metric contours to be generated at 0.2m intervals. Spot levels were then interpolated at all existing and proposed lot boundary corners; centre of lots and mid-way along each boundary frontage and side boundaries. (Refer to plan 20502-000-006-00 attached).

The generated contours and spot levels have not been verified with on ground survey by Whelans. Whelans advises that the accuracy of the interpretation will be degraded based on the accuracy of the source and subsequent calculations.

The Town of Cottesloe were unable to provide an exact date of when the TPS Scheme 1 South Map was prepared but is not as old as the Municipality Plan as Swanbourne Terrace has been renamed to Marine Parade and the Cottesloe Golf Course exists on the plan as previously advised and stated by the Town in our previous report.

It must be noted that the height datum origin for the TPS Scheme 1 South Map is not able to be identified, however there are bench marks (BM's) depicted on the plan in various locations. The zero or mean sea level was more than likely determined from a nearby tide gauge. Again Whelans cannot verify this from the Plan supplied.

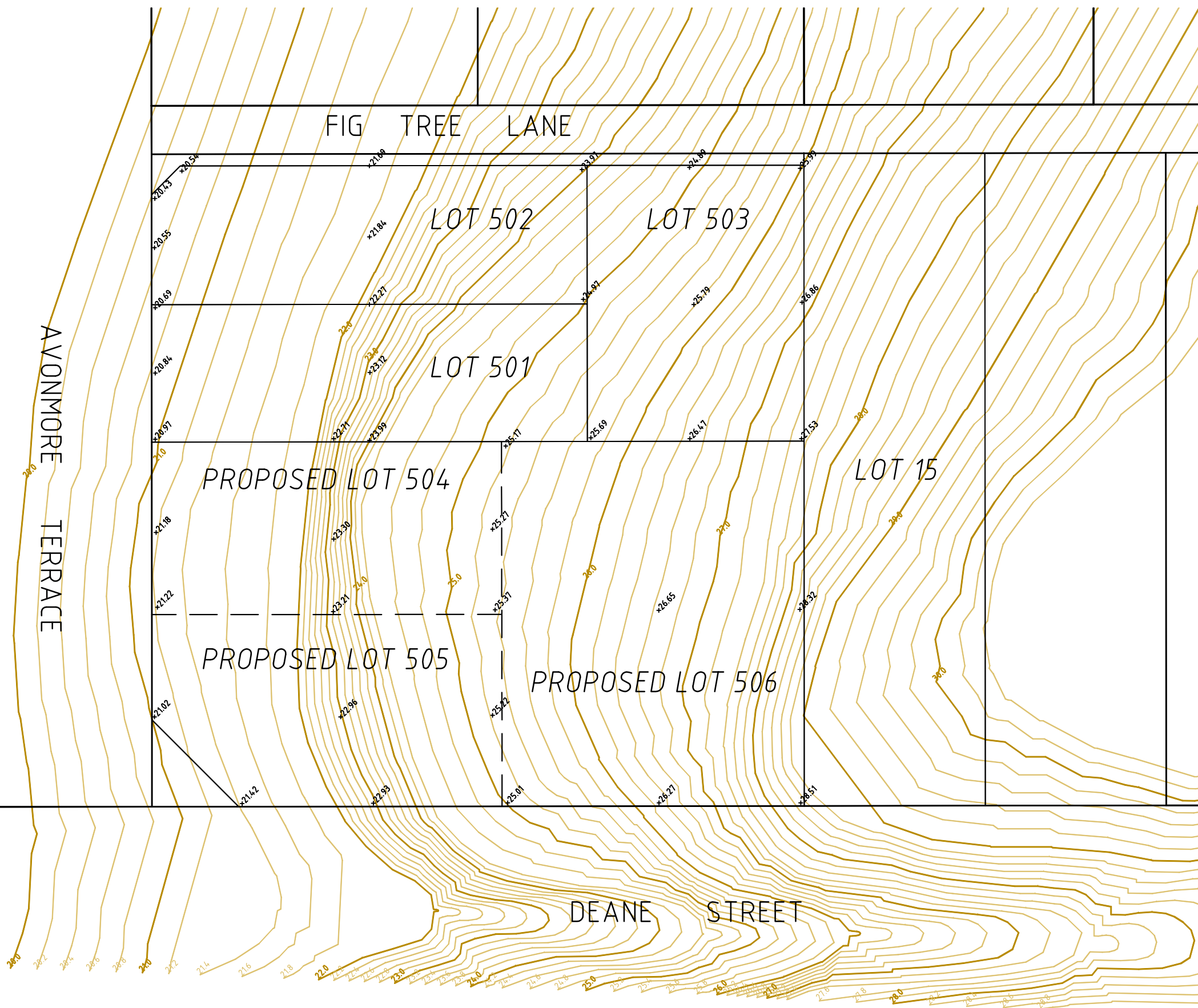
I trust that the above explanation and attached plan are sufficient for the Town of Cottesloe to use in the determination of the Natural Ground Levels to be adopted for this proposed development site.

Regards,

A handwritten signature in black ink, appearing to read "Patrick Burton".

Patrick Burton  
Project Manager  
Whelans Australia Pty Ltd





DIGITISED ORIGINAL TPS 1 SCHEME MAP COVERED FROM FEET TO METRES AND 0.2m CONTOURS GENERATED. PLEASE REFER TO LETTER DATED 6th FEBRUARY 2015 AS THIS LETTER IS AN INTEGRAL PART OF THE PLAN.

- TPS 1 SCHEME MAP CONTOURS
- MAJOR CONTOUR
  - MINOR CONTOUR (Contour Interval 0.2m)
  - PROPOSED NEW LOTS (INDICATIVE ONLY)

**NOTES**

This plan has been prepared for the client and should not be used for any other purpose unless authorised by Whelans Australia Pty Ltd.

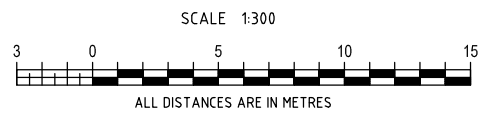
This plan is not based on survey. The contours and spot levels have been interpolated. Please refer to letter dated 6th February 2015.

The location of cadastral boundaries shown has been extracted from Landgate's database on 27/11/2014 and are subject to survey.

Boundary dimensions have been sourced from the Plan/Diagram for this lot and are subject to survey.

Due to overwriting some levels may be switched off for this plot only.

This note is an integral part of this plan.



Survey Date: N/A      Surveyed By: N/A  
 Drawn Date: 03/02/2015      Drawn By: PHT  
 Scale (A3): 1:300      Checked By: PJB  
 Hor Datum: PCG94      Vert Datum: UNVERIFIED AHD



Suite 4, First Floor, 40 Hasler Road, Osborne Park WA 6017  
 PO Box 99, MOUNT HAWTHORN WA 6915  
 T: 08 6241 3333 F: 08 6241 3300  
 E: whelans@whelans.com.au W: www.whelans.com.au

**ORIGINAL CONTOURS BASED ON TPS 1 SCHEME MAP**  
 LOT 500-503 on DP 401972  
 AVONMORE TERRACE  
 COTTESLOE

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Rev.	Description	Drawn	Date	Chkd

Data File: 150202\_ft\_to\_metres\_from\_mp.acs  
 CAD File: 150202\_Lot500-503\_Avonmore\_Terrace\_TPS.dwg  
 Path: S:\20502\survey\141127DC-AVONMORE TCE COTTESLOE\150202 Extra Work

Client: TOWN OF COTTESLOE

Job No    Item No    Plan No    Rev  
**20502 - 000 - 006 - 00**  
 Sheet **1** of **1**



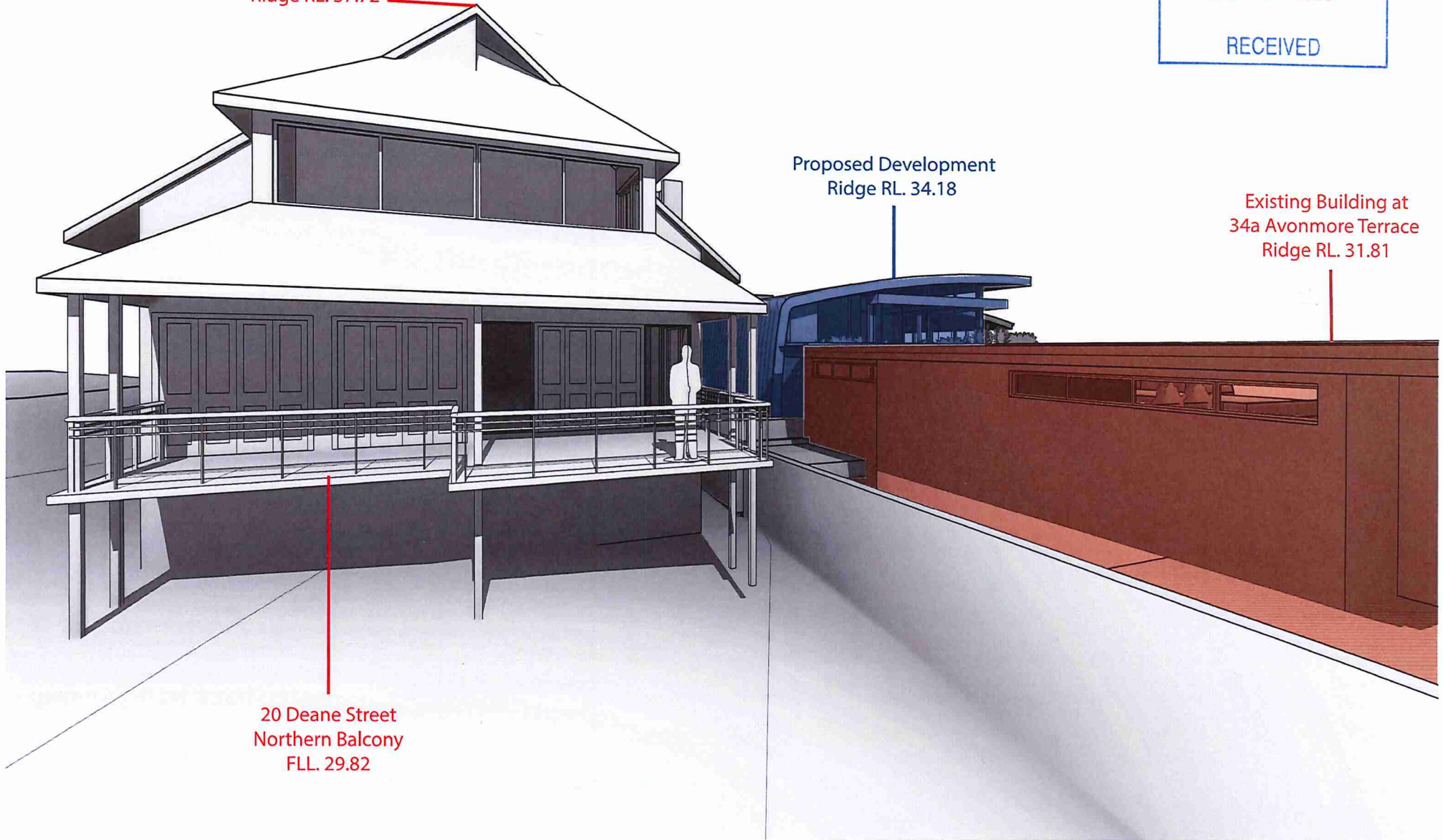
TOWN OF COTTESLOE  
30 NOV 2020  
RECEIVED

20 Deane Street  
Ridge RL. 37.72

Proposed Development  
Ridge RL. 34.18

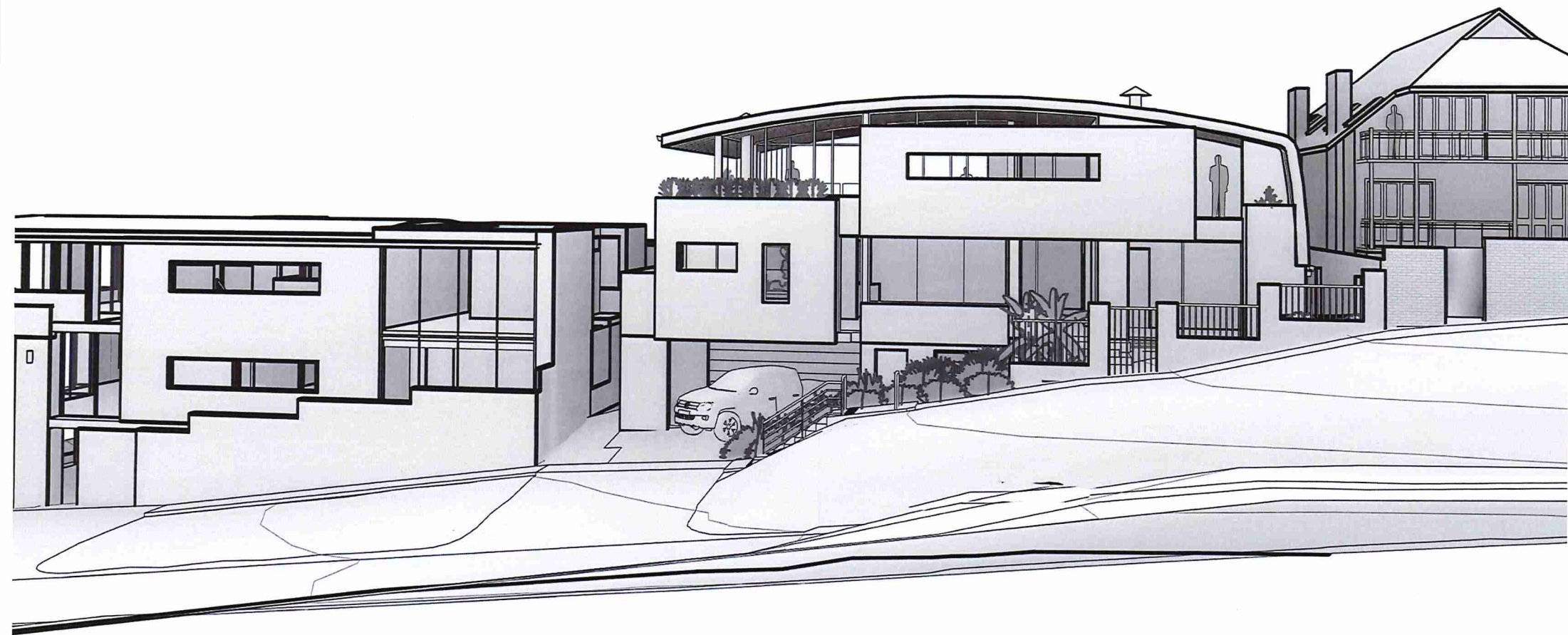
Existing Building at  
34a Avonmore Terrace  
Ridge RL. 31.81

20 Deane Street  
Northern Balcony  
FLL. 29.82



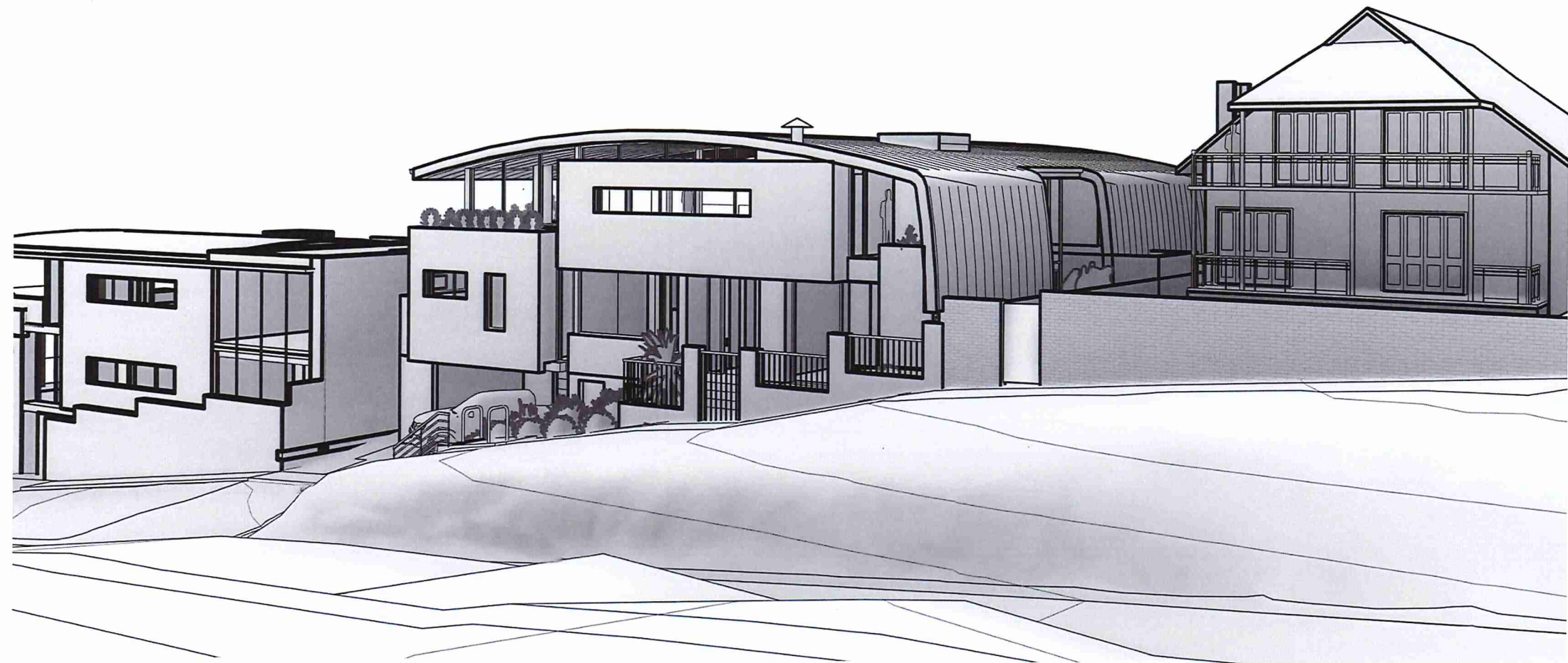


TOWN OF COTTESLOE  
30 NOV 2020  
RECEIVED



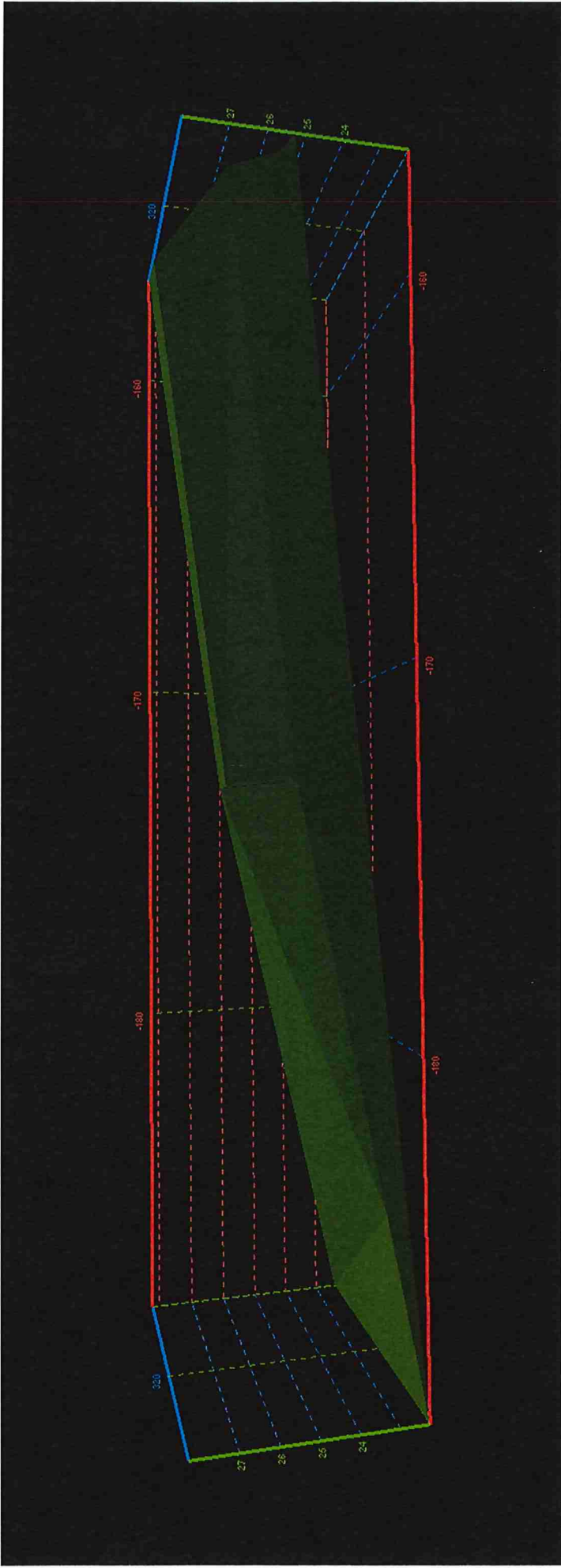


TOWN OF COTTESLOE  
30 NOV 2020  
RECEIVED



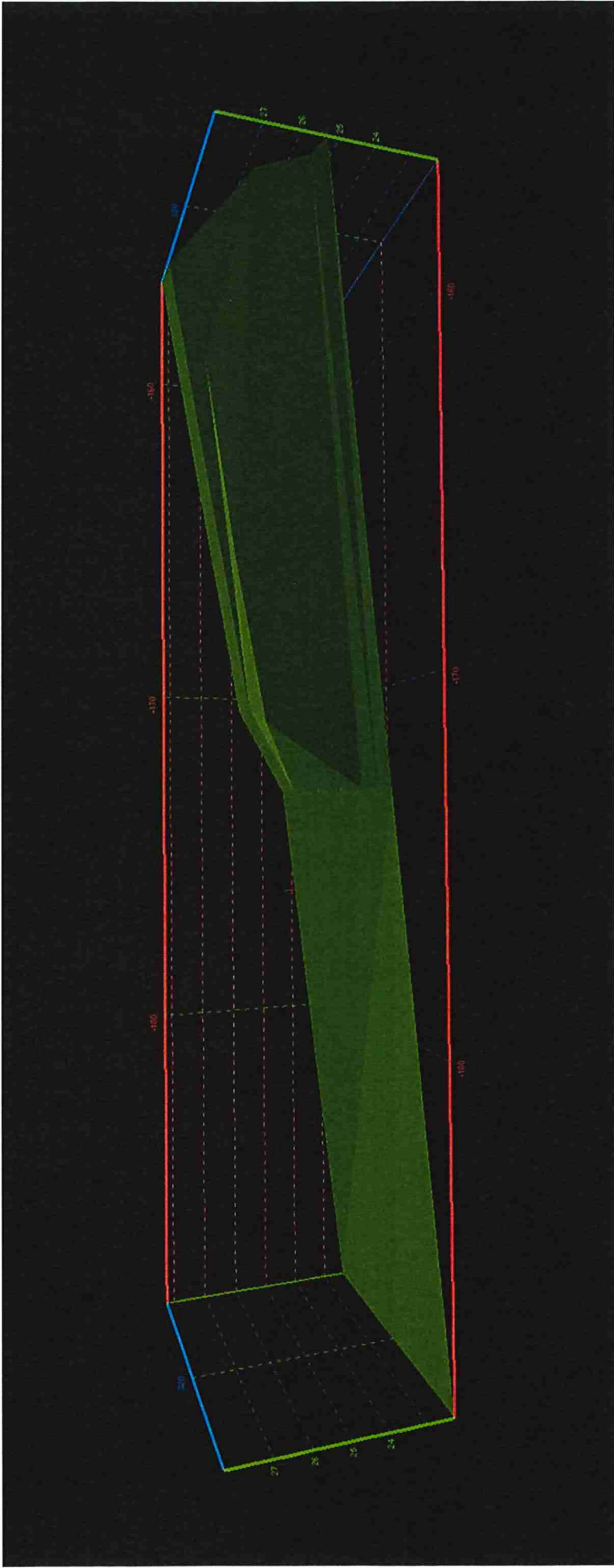


Before CUT





After CUT



## **History**

### 23 April 2014

The *Western Australian Planning Commission* (WAPC) approved a 3-lot subdivision on the north-east corner of Deane Street and Avonmore Terrace. This was one of two subdivision approvals for the site located between Deane Street and Fig Tree Lane. All but one of the six lots has been developed. The vacant lot is Lot 506 and is the subject of this report.

Condition 5 of the WAPC approval read:

*Suitable arrangements being made with the local government for the provision of vehicular crossover(s) to service the lot(s) shown on the approved plan of subdivision (Local Government).*

### 8 August 2014

A planning application for a two-storey dwelling with an undercroft garage was submitted to the Town for Lot 506. However, this was subsequently withdrawn by the applicant as it was non-compliant with the Town's building height provisions.

### 31 March 2015

Following a clearance request submitted by the applicant's surveyors in respect to the WAPC subdivision conditions, the then Manager Development Services, advised the applicant's surveyors that the Town was not prepared to clear Condition 5 as access arrangements to proposed Lots 504 and 506 were not satisfactory.

### 19 August 2015

The then Manager Engineering Services, emailed Councillors of the Town's position regarding the clearance of the WAPC Condition in respect to the access arrangements. The advice stated, inter alia:

*In summary, the developer of lot 506 Deane Street was required to arrange access to the lot as part of the subdivision approval. The Town developed a solution, and the developer agreed to bond the solution and enter into a legally binding agreement to construct the access at a later date. The developer lodged a bond, and then asked the WAPC to clear the condition, over the Town, on the basis of the lodged bond, without entering into the binding agreement.*

*In the absence of any agreement, the outstanding conditions of subdivision needs to be brought into compliance, as the lot has now been created. The Town has provided the developer an opportunity to make good on the original commitment to enter into a legally binding agreement, or alternatively, to complete the works. The developer has chosen to do neither, and, in accordance with the commitment made by the Town, the Town has engaged a contractor to complete the outstanding works.*

The Town subsequently built a crossover to Lots 505 & 506.

### 27 April 2017

The applicants applied to the Town for permission to install a crossover perpendicular from Deane Street to the boundary of Lot 506 pursuant to the *Local Government (Uniform Local Provisions) Regulations 1996*.

### 24 May 2017

The Town refused the crossover application on the basis that:

- a) *a crossover had already been constructed which provides reasonable access from Deane Street, Cottesloe to Lot 506; and*
- b) *the works proposed in the crossover application created an unacceptable risk to the Town in terms of liability and maintenance costs.*

26 June 2017

The applicant lodged an appeal to State Administrative Tribunal (SAT) against the Town's decision to refuse the crossover application under the Local Government (Uniform Local Provisions) Regulations 1996.

19 April 2018

The SAT made Orders advising that, inter alia:

*Pursuant to s31 of the State Administrative Tribunal Act 2004 (WA) the Town is invited to reconsider its decision.*

The applicant was also invited to submit a planning application to the Town for the proposed crossover from Deane Street to Lot 506.

22 May 2018

A planning application for a 5.5m wide crossover with a concrete bridge structure above was received by the Town.

23 May 2018

A planning application for a 5.5m wide crossover with the existing footpath being diverted down to street level for approximately 30m was received by the Town.

24 July 2018

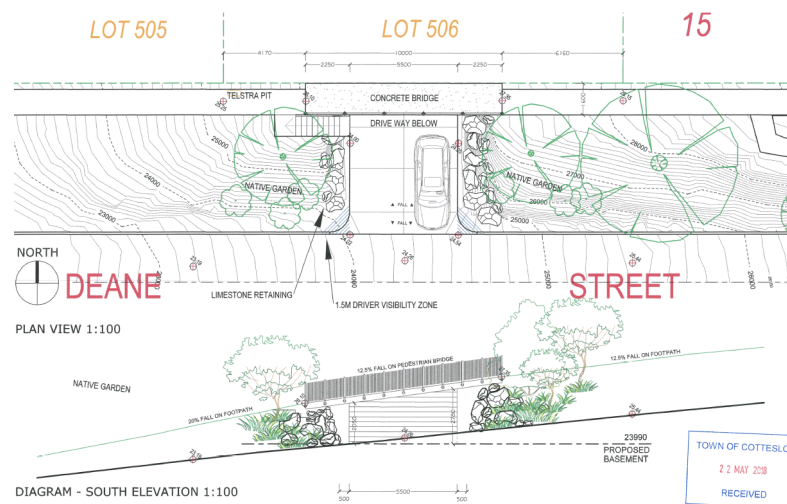
Both planning applications were considered by Council and it resolved:

*THAT Council:*

1. *REFUSE the application made under Regulation 17 of the Local Government (Uniform Local Provisions) Regulations 1996, and the planning application for a new crossover and associated infrastructure in the road reserve adjoining Lot 506 (20A) Deane Street, Cottesloe, as shown in the planning application and plans received 22 May 2018 (DA3710- Option 1) for the following reasons:*
  - (i) *The proposed crossover application does not satisfy clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015, or the aims and provisions of Local Planning Scheme No. 3 as it will reduce the amenity, character and streetscape quality of the locality and be contrary to orderly and proper planning.*
  - (ii) *The application does not adequately address the relocation of services within the Deane Street road reserve or sightlines which would affect the feasibility of the proposal and compliance with engineering and Australian Standards.*
  - (iii) *The proposal would set an undesirable precedent for excavation in the Deane Street road reserve and changes to public infrastructure and utilities to allow vehicle access to a private lot.*
  - (iv) *The proposal would require greater future maintenance and repair works resulting in higher than usual costs to the Town.*



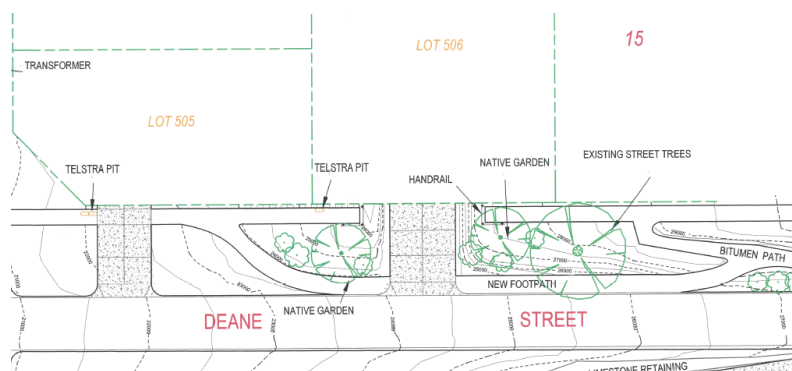
- (v) *The development of a new crossover, in addition to the existing crossover, for Lot 506 would not satisfy clause 5.3.5 C5.2 of the Residential Design Codes as the width of the driveways in aggregate would exceed 9m at the street boundary.*
- (vi) *Lot 506 already has a vehicle crossover, constructed by the Town in order to comply with a condition of the subdivision approval that created Lot 506, which provides for vehicle access from Deane Street to Lot 506. There is no approved development on Lot 506, or any application for approval for development on Lot 506, which requires access from the proposed new crossover in an alternative location to the existing crossover.”*



**Above: Option 1 refused by Council on 24 July 2018**

2. *REFUSE the application made under Regulation 17 of the Local Government (Uniform Local Provisions) Regulations 1996, and the planning applications for a new crossover and associated infrastructure in the road reserve adjoining Lot 506 (20A) Deane Street, Cottesloe, as shown in the planning application and plans received 23 May 2018 (DA3711 - Option 2), for the following reasons:*

- (i) The proposed crossover application does not satisfy clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015, or the aims and provisions of Local Planning Scheme No. 3 as it will reduce the amenity, character and streetscape quality of the locality and be contrary to orderly and proper planning.*
- (ii) The application does not adequately address the relocation of services within the Deane Street road reserve or sightlines which would affect the feasibility of the proposal and compliance with engineering and Australian Standards.*
- (iii) The proposal would set an undesirable precedent for excavation in the Deane Street road reserve and changes to public infrastructure and utilities to allow vehicle access to a private lot.*
- (iv) The proposal may require greater future maintenance and repair works resulting in higher than usual costs to the Town.*
- (v) Diversion of the existing public footpath to the level of the adjoining street would result in increased danger to pedestrians, especially as they would have to cross the proposed crossover.*
- (vi) The development of a new crossover, in addition to the existing crossover, for Lot 506 would not satisfy clause 5.3.5 C5.2 of the Residential Design Codes as the width of the driveways in aggregate would exceed 9m at the street boundary.*
- (vii) Lot 506 already has a vehicle crossover, constructed by the Town in order to comply with a condition of the subdivision approval that created Lot 506, which provides for vehicle access from Deane Street to Lot 506. There is no approved development on Lot 506, or any application for approval for development on Lot 506, which requires access from the proposed new crossover in an alternative location to the existing crossover.”*



**Above: Option 2 refused by Council on 24 July 2018**

3. *Pursuant to s.31 (1) of the State Administrative Tribunal Act 2004 (WA) Council reaffirms its decision of 24 May 2017 to the State Administrative Tribunal to REFUSE*

*the application made under Regulation 12 of the Local Government (Uniform Local Provisions) Regulations 1996.*

4. *FORWARD the officer's report, attachments, and the Council resolution of 24 July 2018 to the State Administrative Tribunal.*

CARRIED 8/0

#### 29 October 2019

The SAT dismissed the appeal against the Council's refusal (WASAT 100). In the summary of the case the SAT advised:

*Having heard both traffic engineering and planning evidence the Tribunal determined that the correct and preferable decision was to dismiss the application for review of the development application under LPS 3 and also application for a crossover made under reg 12 of the LGUP Regulations.*

*While the proposed crossover would be safe from a traffic engineering perspective, the Tribunal found that there would be significant adverse amenity impacts caused by the proposed works. The Tribunal considered the Deane Street locality to be a high quality residential environment. The verge embankment is striking and Deane Street effectively cuts through the landscape. The Tribunal found that the streetscape and amenity impacts that would result from the excavation of over 90m<sup>3</sup> from the Deane Street embankment would not be acceptable from a planning perspective. While a verge replanting program was proposed, the Tribunal considered that the existing trees in the Deane Street verge embankment contributed strongly to the streetscape and amenity of the locality and were worthy of protection.*

*The Tribunal did not agree with the applicants that the proper approach was to compare the proposed works against the existing crossover. The Tribunal considered that, while comparisons to the existing crossover could be made, the proposed works needed to be assessed on their merits. The Tribunal also found that the absence of any proposed dwelling on Lot 506 made it more difficult to fully assess the amenity impacts that would result from the proposed works.*

*Weighing the various planning considerations, the Tribunal determined that the correct and preferable decision was to refuse the development application under LPS 3 as well as the application made under reg 12 of the LGUP Regulations. The Tribunal considered while that 'permission' under reg 17 of the LGUP Regulations was required, it was not necessary to determine the review application made under reg 17 nor the question as to whether a right of review arises in relation to such applications.*

#### 3 June 2020

A preliminary new crossover plan was submitted by the applicant to the Town's Engineering Department and subsequently discussed at a Council Briefing Forum.