



NSLPP MEETING HELD ON 2/06/21

- Attachments:**
1. Site Plan
2. Architectural Plans

ADDRESS/WARD: 6 John Street, McMahons Point

APPLICATION No: DA 11/21

PROPOSAL: Use of relocatable shed for repair and maintenance purposes at existing boat repair facility

PLANS REF:

Plan No.	Rev No.	Description	Prepared by	Dated
A010	01	Site Plan – relocatable shed	Crawford Architects	20.11.26 [sic]

OWNER: Stannard Marine Pty Ltd

APPLICANT: Hamptons Property Services Pty Ltd

AUTHOR: Brett Brown, Consultant Town Planner

DATE OF REPORT: 24 May 2021

DATE LODGED: 7 January 2021

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This development application seeks approval for use of a relocatable shed for repair and maintenance purposes at an existing boat repair facility and is reported to the North Sydney Local Planning Panel for determination as there are more than 10 individual submissions.

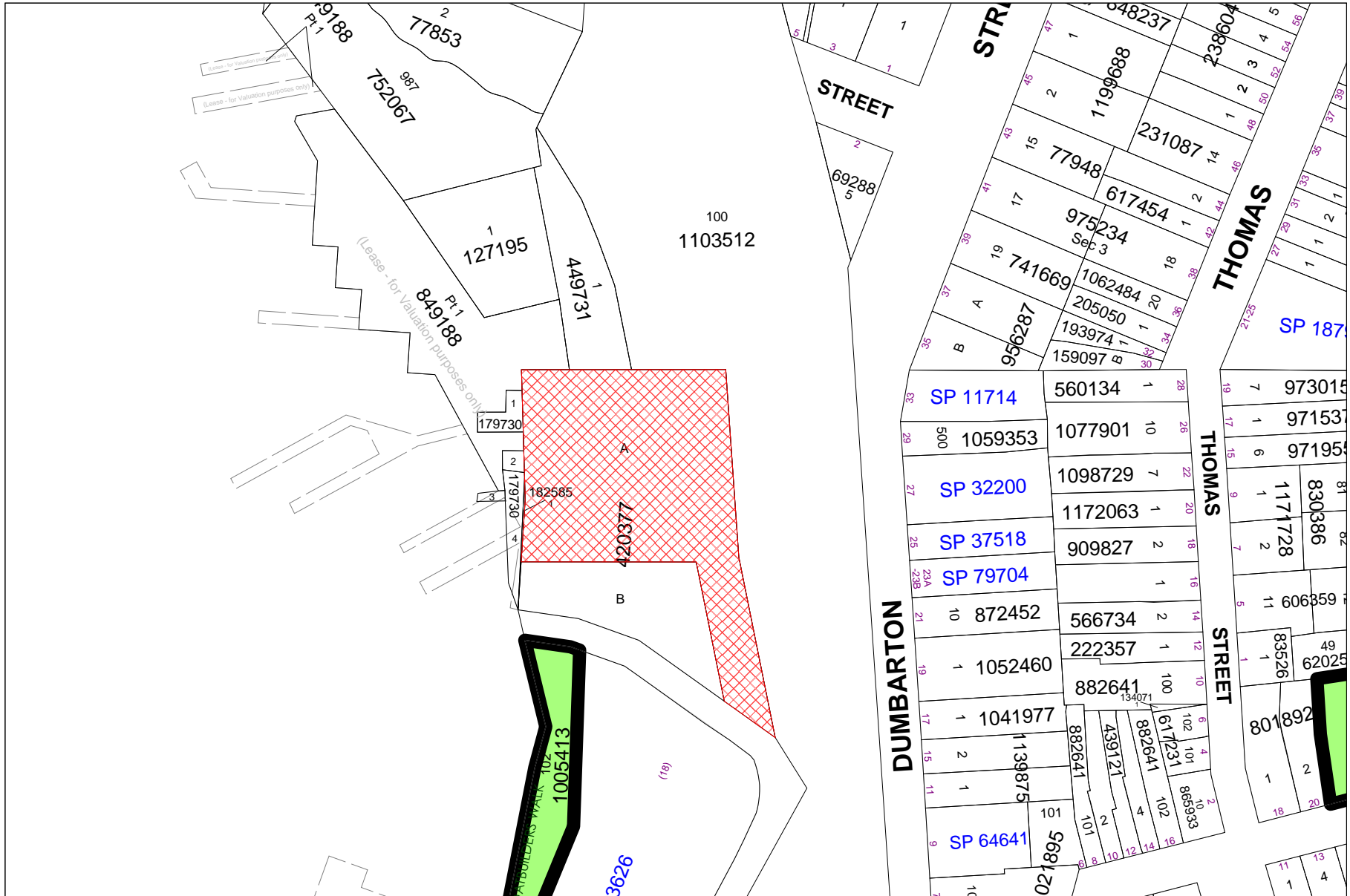
Notification of the proposal has attracted 26 submissions raising concerns about various matters as detailed in this report. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

Following this assessment, the development application is recommended for refusal due to the failure of the application to address the potential adverse impacts of the proposed use of the relocatable structure. The existing development consent and recent Deed of Agreement between Council and the applicant, do not permit the type of works proposed by the applicant (including sand blasting and spray painting) in this location on the site and so the introduction of such works to areas where there is no existing approval requires consideration of the environmental impacts.

Despite a request for the applicant to provide additional information, including an acoustic report, the applicant has indicated that the submitted information is adequate.

Consequently, the application is recommended for refusal.

LOCATION MAP



□ Property/Applicant ● Submitters - Properties Notified

DESCRIPTION OF PROPOSAL

This development application seeks approval for use of an existing unauthorised relocatable shed within the existing boat repair facility at the premises. The relocatable shed is proposed to be used for repair and maintenance purposes.

The DA follows Council commencing Class 1 proceedings in the Land and Environment Court regarding the failure of the applicant to comply with the conditions of the applicable development consent for use of the site. One of the issues in the proceedings was the unauthorised erection and use of a relocatable shed on the site. As part of an agreement to resolve the matter under Section 34 of the Land and Environment Court Act, dated 23 December 2020, one of the requirements was to submit a Development Application (DA) for the use of the relocatable shed (mobile structure) by 24 December 2020.

The subject DA was submitted on 7 January 2021. There was also a concurrent requirement that an application for a Building Information Certificate (BIC) for the relocatable structure be lodged by 24 December 2020. The BIC application has been lodged and its assessment has been deferred pending the outcome of this DA.

The application describes the proposed development as follows:

3. THE PROPOSED DEVELOPMENT

As outlined previously, this application seeks consent for the use of the relocatable structure, which is used as an ancillary component in undertaking works to vessels on the site, consistent with the approved use being a boat building and repair facility.

The structure is used to move around vessels when they are being worked on to assist in processes such as spray painting, soda or sand blasting, as permitted by the Development Consent, or for any other activities that may potentially cause an adverse impact in terms of noise or air quality. It is used to enclose spaces surrounding the vessel to mitigate potential adverse impacts.

...A plan showing the general location of the structure, along with the structure itself, is provided for information purposes accompanying this application.

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – IN4 Working Waterfront
- Item of Heritage
- In Vicinity of Item of Heritage
- Environmental Planning & Assessment Act 1979 (As amended)
- Environmental Planning & Assessment Regulations 1996
- SREP (Sydney Harbour Catchment) 2005
- SEPP 55 – Remediation of Land & Draft SEPP
- Draft SEPP Environment 2017
- Integrated Development
- Local Development

POLICY CONTROLS

DCP 2013

Sydney Harbour Foreshores & Waterways Area DCP 2005

RELEVANT HISTORY

Previous applications

Date	Action
20.12.1990	Consent granted for redevelopment of the existing boat maintenance facility
15.07.1991	Modification of the above consent was granted (changes to various conditions)
16.09.1992	Modification of the above consent was granted (deletion of condition 44 requiring a public walkway)
01.09.2020	A DA for a Floating Dry Dock at the site was refused by the NSLPP

Current Application

Date	Action
14.1.21	Council sent a letter to the applicant requesting additional information
10.3.21	The applicant responded to Council's letter indicating that the requested information would not be provided as the submitted information was adequate.

EXTERNAL REFERRALS

FORESHORES COMMITTEE

The Foreshores and Waterways Planning and Development Advisory Committee have not provided a response to date.

SUBMISSIONS

On 20 January 2021, Council notified adjoining properties and the Union and Waverton Precincts of the proposed development seeking comment between 29 January and 12 February 2021. Council received 26 submissions where the following matters were raised:

Name & Address of Submitters	Basis of Submissions
Benjamin Hiatt 18 Allara Avenue TURRAMURRA NSW 2074	<ul style="list-style-type: none">• Unlawful structure already erected• Escape of pollutants• Acoustic impacts
Merilee Symons Shop 13, 7-17 Waters Road NEUTRAL BAY NSW 2089	<ul style="list-style-type: none">• Impact of fumes• Not in accordance with Australian Standards
Name withheld	<ul style="list-style-type: none">• Safety concerns in windy conditions

Christian Adams 8 Munro Street MCMAHONS POINT NSW 2060	<ul style="list-style-type: none"> • Unlawful structure • Acoustic impacts • Escape of pollutants • Contrary to consent and deed of agreement
DW & GE Anderson 9/38 Woolcott Street WAVERTON NSW 2060	<ul style="list-style-type: none"> • Not permitted under EPA guidelines • Applicant has history of breaching EPA guidelines
Friends of Berrys Bay Inc. Info.fobb@gmail.com Email: leon@leonmary.com	<ul style="list-style-type: none"> • DA Misleading and an abuse of process • Inconsistent with current consent • DA incorrectly states application is not integrated development • Increased intensity of use • Safety concerns in windy conditions
Leon Reardon 2/13 John Street MCMAHONS POINT NSW 2060	<ul style="list-style-type: none"> • DA misleading and an abuse of process • DA incorrectly states application is not integrated development • Increased intensity of use • Noise and pollution impacts
A&L Bielinko 14 Central Street NAREMBURN NSW 2065	<ul style="list-style-type: none"> • Unlawful structure • Acoustic impacts • Escape of pollutants • Contrary to consent and deed of agreement
Name Withheld	<ul style="list-style-type: none"> • Contrary to EPA License • Contrary to development consent • Acoustic and pollutant impacts • Unlawful structure
Name Withheld	<ul style="list-style-type: none"> • Unlawful structure • Contrary to EPA License • No need for 'moveable' shed • No room for large shed
Ross Walden 1/18 Munro Street MCMAHONS POINT NSW 2060	<ul style="list-style-type: none"> • Unlawful structure • Acoustic impacts • Escape of pollutants • Contrary to consent and deed of agreement
K & G Foster 3 Commodore Crescent MCMAHONS POINT NSW 2060	<ul style="list-style-type: none"> • Integrated development • Lack of information re building materials, operating details and contamination • Impact of noise and pollutants • Safety concerns in windy conditions
Dr Ronald Blombery 86 Blues Point Road MCMAHONS POINT NSW 2060	<ul style="list-style-type: none"> • Structure not relocatable • Safety concerns in windy conditions • Escape of pollutants • Unlawful structure already erected
Satyananj Singh 3 Martha Street HUNTERS HILL NSW 2110	<ul style="list-style-type: none"> • Escape of pollutants • Works not permitted by EPA License • Structure not relocatable • Acoustic impacts • Contrary to consent and deed of agreement
Mary Curran PO Box 207 NEUTRAL BAY JUNCTION NSW 2089	<ul style="list-style-type: none"> • Unlawful structure already erected • Contrary to consent and deed of agreement • Acoustic impacts • Escape of pollutants

Yvette Keddie 1/17 Munro Street MCMAHONS POINT NSW 2060	<ul style="list-style-type: none"> • Escape of pollutants • Unauthorised structure
Sandra Berrick 2/16 Munro Street MCMAHONS POINT NSW 2060	<ul style="list-style-type: none"> • Escape of pollutants • Unauthorised structure
Malcolm Keefe 3/18 Munro Street MCMAHONS POINT NSW 2060	<ul style="list-style-type: none"> • Unauthorised structure
David Keddie 1/17 Munro Street MCMAHONS POINT NSW 2060	<ul style="list-style-type: none"> • Unauthorised structure
P & C Bettman 3/17 Munro Street MCMAHONS POINT NSW 2060	<ul style="list-style-type: none"> • Unauthorised structure • Escape of pollutants
Dr Neil Gunningham 1/11 John Street MCMAHONS POINT NSW 2060	<ul style="list-style-type: none"> • Unauthorised structure • Escape of pollutants • Acoustic impacts
D & S Nichol 5/18 Munro Street MCMAHONS POINT NSW 2060	<ul style="list-style-type: none"> • Unauthorised structure • Escape of pollutants • Acoustic impacts
Ian Dennis 1705/16-18 Munro Street MCMAHONS POINT NSW 2060	<ul style="list-style-type: none"> • Unauthorised structure • DA misleading • Escape of pollutants • Acoustic impacts • Traffic and parking issues • Designated development
Michael Stevens 5/26 Woolcott Street WAVERTON NSW 2060	<ul style="list-style-type: none"> • DA Misleading • Applicant has history of consent conditions and breaching EPA guidelines • Escape of pollutants • Acoustic impacts • Structure not relocatable

CONSIDERATION

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), are assessed under the following headings:

SREP – (Sydney Harbour Catchment) 2005

Having regard to the SREP (Sydney Harbour Catchment) 2005 and the Sydney Harbour Foreshores and Waterways Area DCP 2005, the proposed development will potentially be detrimental to the Harbour in terms of environmental impacts as the DA has not demonstrated how pollutants from the proposed works will be prevented from entering the environment.

The visual impact of the structure is not a consideration that can be made as the structure already exists and its physical impacts are assessed under the BIC process. However, the applicant indicates that structure is ‘relocatable’ and may be moved to other parts of the site. Given the size and potential visual impacts the structure, granting approval to its relocation to other parts of the site is not appropriate as these impacts cannot be properly assessed without knowing the proposed locations. As such, the development is not acceptable having regard to the provisions contained within SREP 2005 and the Sydney Harbour Foreshores and Waterways DCP 2005.

SEPP 55 – Remediation of Land & Draft

The provisions of SEPP 55 require Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site. The subject site has a long history of industrial use and the application does not seek to change this use. Therefore, the requirements of SEPP 55 and the Draft SEPP have been satisfactorily addressed.

Draft SEPP Environment 2017

This draft SEPP proposes to integrate the provisions of seven (7) SEPPs/SREPs including SREP (Sydney Harbour Catchment) 2005. The majority of the current provisions of SREP (Sydney Harbour Catchment) 2005 would be transferred to the draft SEPP with necessary updates and some amendments. The proposal would offend the relevant provisions of the draft SEPP due to the potential environmental impacts noted above.

NORTH SYDNEY LOCAL ENVIRONMENT PLAN (NSLEP 2013)

1. Permissibility

The proposed works can be defined as being ancillary to a boat repair facility which is a use which is permitted with consent in the IN4 zone.

2. Objectives of the zone

The objectives for the IN4 zone are stated below:

- *To retain and encourage waterfront industrial and maritime activities.*
- *To identify sites for maritime purposes and for activities that require direct waterfront access.*
- *To ensure that development does not have an adverse impact on the environmental and visual qualities of the foreshore.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of development on land uses in other zones.*

The proposal is not consistent with the above objective regarding adverse impacts as it has not been adequately demonstrated that the environmental impacts of the proposed use of the shed can be suitably mitigated.

3. Height of Building

As the structure already exists, retrospective consent cannot be granted to the building by the subject DA. However, the applicant indicates that the structure to be relocatable and so the impacts of this can be assessed. Whilst the structure is only around 5m high, well below the 10m height limit, it is not appropriate to grant approval to a structure of this size and permanence without proper assessment of each location it is proposed.

4. Heritage Conservation

The subject site is listed as a Heritage Item under Schedule 5 in NSLEP 2013. The submitted SEE concludes that: *the use of the structure will not compromise the heritage attributes of the site*. It is agreed that the proposed 'use' is consistent with the historical use of the site, however the physical impacts of the shed in relation to heritage are not part of this assessment and would need to be addressed in consideration of the submitted BIC. In terms of the impacts of the potential 'relocation' of the shed, the intended locations have not been specified and so the heritage impacts cannot be properly assessed.

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013

There are no specific provisions of the DCP that are relevant to the type of use proposed. There are relevant site specific provisions for the John Street Waterfront Neighbourhood that are contained in the Area Character Statement for the Waverton / Wollstonecraft Planning Area. However, these mainly deal with visual impact issues and this DA only relates to use or the potential 'relocation' of the shed as noted above.

In relation to traffic and parking, the proposal seeks to increase the intensity of the use of the outdoor space on the site where such work has not previously been approved. However, there is no change proposed to the existing limits on employee numbers, boat numbers or any other matters that would potentially increase traffic and parking beyond that already approved. As such there is no objection raised regarding this issue.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL	CONSIDERED
1. Statutory Controls	Yes
2. Policy Controls	Yes
3. Design in relation to existing building and natural environment	Yes
4. Landscaping/Open Space Provision	Yes
5. Traffic generation and Carparking provision	Yes
6. Loading and Servicing facilities	Yes
7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8. Site Management Issues	Yes
9. All relevant S79C considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

SUBMITTERS CONCERNS

The application was notified to adjoining properties and the Waverton and Union Precincts. Council received 26 submissions where the following matters were raised:

In response to the submissions, the following comments are provided, as necessary.

Unauthorised structure

The subject DA cannot authorise the existing shed structure and this is being dealt with in a separate application by the applicant for a Building Information Certificate (BIC). The applicant has indicated that the structure is 'relocatable', and that approval is sought for the ability to move the structure. However, given the size and nature of the structure and its use, and that it is bolted into the concrete platform on the site, it is considered inappropriate to approve the movement of the structure without a detailed assessment of the impacts of each specific location.

Escape of pollutants

The type of work on the site that has the potential for significant impacts from noise, fumes and pollutants has only been approved in certain parts of the site (predominantly within work sheds) and does not include the area currently occupied by the shed. Therefore, there has been no previous assessment of the impacts of such work in this location. The submitted DA does not provide any documentation assessing these impacts and the DA has not been referred to the Environmental Protection Authority as integrated development as the submitted details indicated that the DA was not integrated development. Given this lack of assessment the proposal cannot be approved.

Acoustic impacts

As noted above, as this impact has not been assessed, the DA cannot be approved.

Inconsistent with existing consent and Deed of Agreement with Council

The lodgement of the subject DA was a requirement of the Deed. The proposed use is inconsistent with the existing consent however there is no requirement for consistency for a new DA. Notwithstanding, the existing consent does not permit the proposed works in this part of the site and the impact of this change to the approved situation has not been adequately assessed.

Safety concerns

As noted above the subject DA deals with use, not the structure itself and safety concerns can be dealt with through the BIC process.

Designated development

The proposal does not seek to increase the number of boats able to be worked on and so it is not designated development.

PUBLIC INTEREST

The proposal is not considered to be in the public interest for the reasons stated throughout this report.

SUITABILITY OF THE SITE

The proposal is located in the IN4 zone where the proposed use is a permissible form of development. However, the impacts of the use in this part of the site have not been adequately considered and as such the suitability of the subject location for the proposed use cannot be confirmed.

CONCLUSION + REASONS

The proposal was considered under the relevant Environmental Planning Instruments and policies including NSLEP 2013 and NSDCP 2013 and generally found to be unsatisfactory.

The application proposes a use that is a permissible form of development in the IN4 zone, however, the impacts of the use in this part of the site have not been adequately considered.

Council received 26 submissions that raised concerns about the impacts of the proposed use including issues relating to noise, fumes and other pollutants escaping into the environment that have been discussed in this report.

Having regard to the merits of the proposal, the application is recommended for refusal for the reasons provided below.

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

The subject application was notified to adjoining properties and the Waverton and Union Precincts for 14 days and 26 submissions were received raising a number of issues that have been addressed in this report.

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel exercising the functions of Council as the consent authority resolve to **refuse** development consent to Development Application No. 11/21 for the use of a relocatable shed for purposes relating to a boat repair facility at 6 John Street McMahons Point for the following 3 reasons:-

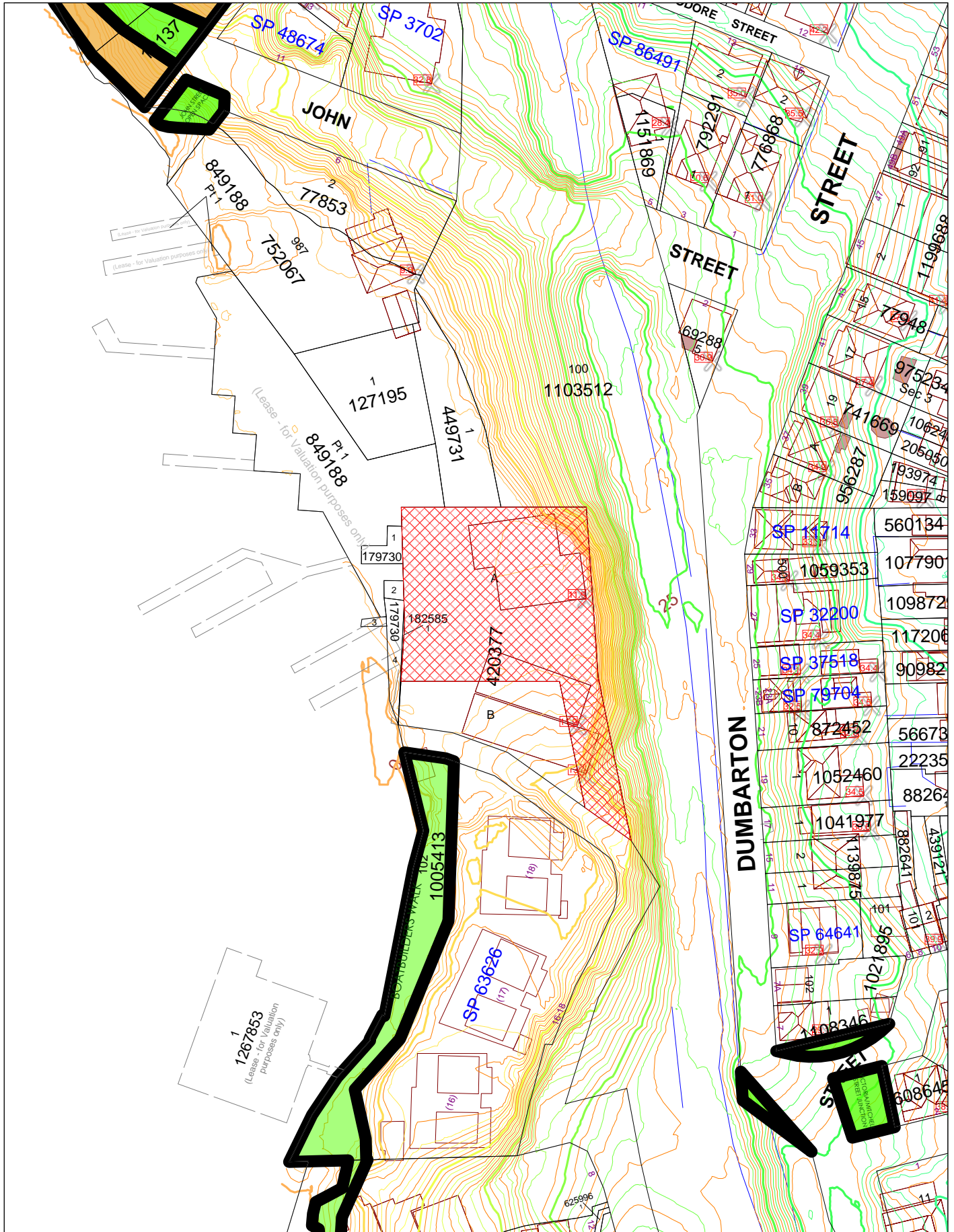
1. The submitted DA fails to provide adequate information to assess the environmental impacts of the proposed use in relation to noise, fumes and potential escape of other pollutants into the environment.
2. The submitted DA indicates that the proposal is not integrated development however the environmental impacts of the proposed use in relation to noise, fumes and potential escape of other pollutants into the environment are likely to require approval by the Environmental Protection Authority under the Protection of the Environment Operations Act 1979 and as such the application is considered to be integrated development pursuant to Section 4.46 of the Environmental Planning and Assessment Act 1997.

3. Given the size and nature of the structure and its use, and that it is bolted into the concrete platform on the site, it is considered inappropriate to approve the movement of the structure without a detailed assessment of the impacts of each specific location. The submitted DA does not provide such an assessment.

BRETT BROWN
CONSULTANT PLANNER

GEORGE YOUHANNA
EXECUTIVE PLANNER

GAVIN MCCONNELL
A/MANAGER DEVELOPMENT SERVICES



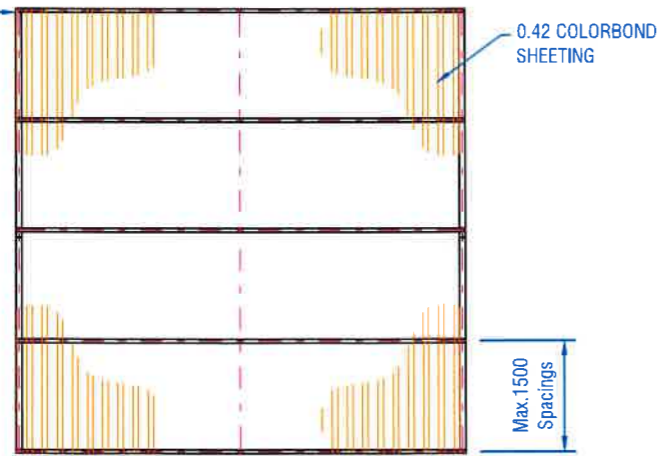
North Sydney Council

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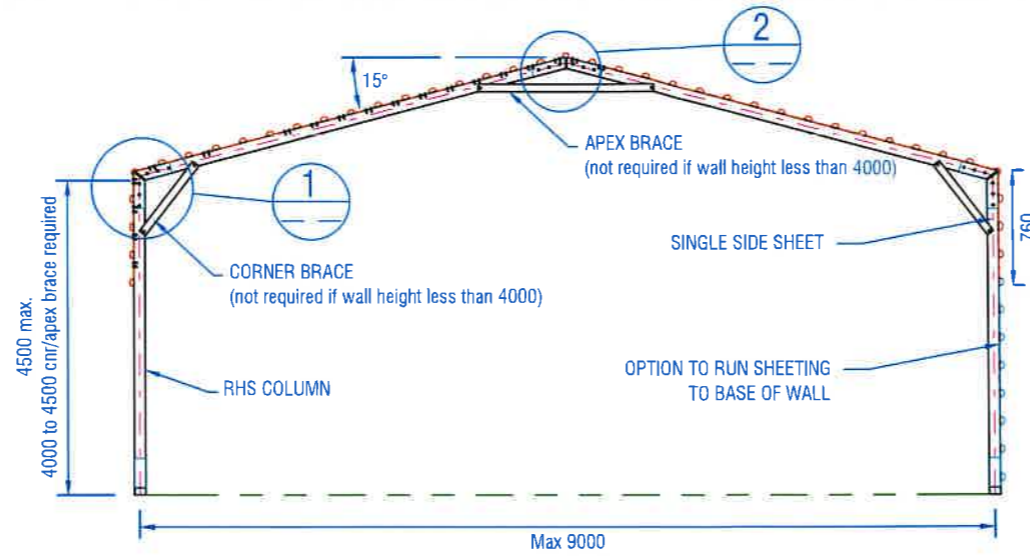
Further details can be obtained by calling (02) 9936 8100 or e-mail mapping@northsydney.nsw.gov.au.

DO NOT SCALE - IF IN DOUBT ASK

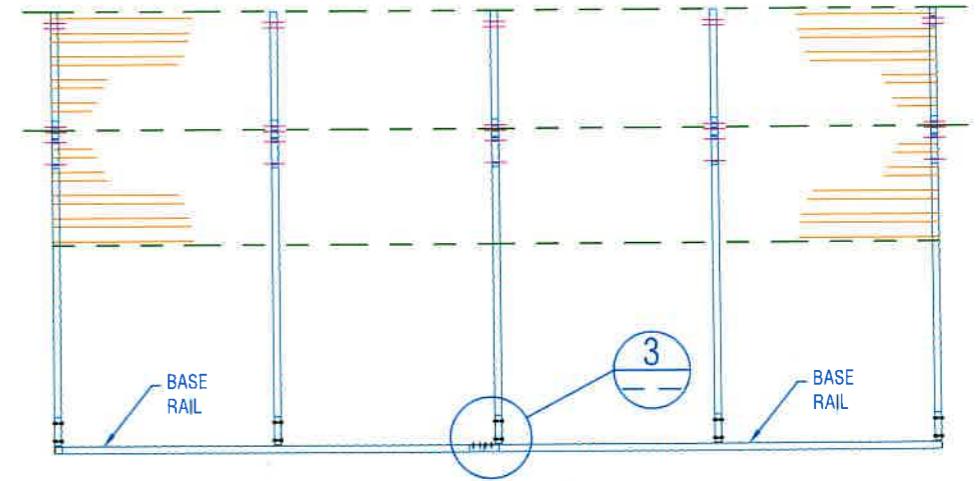
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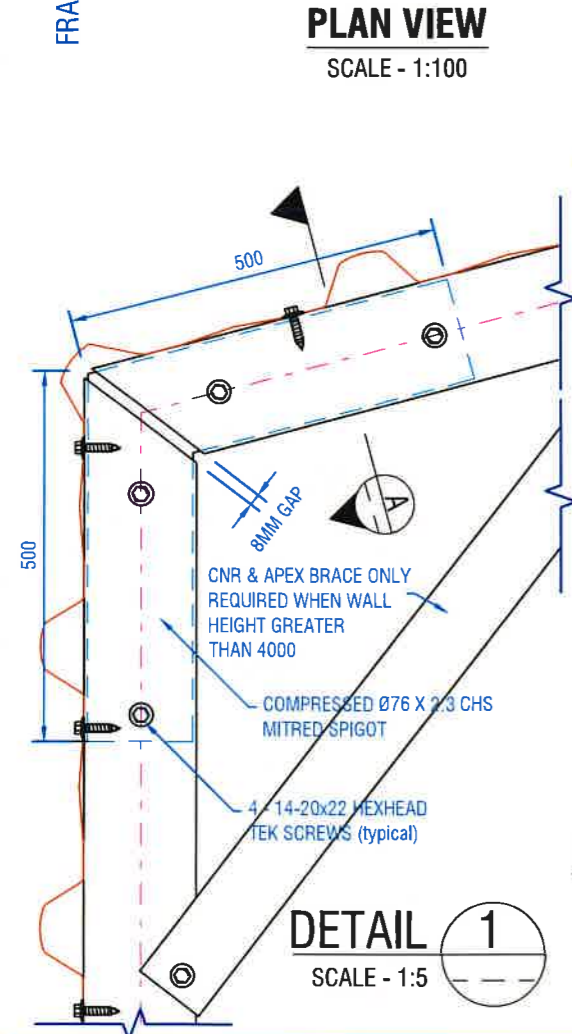
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SCALE - 1:100



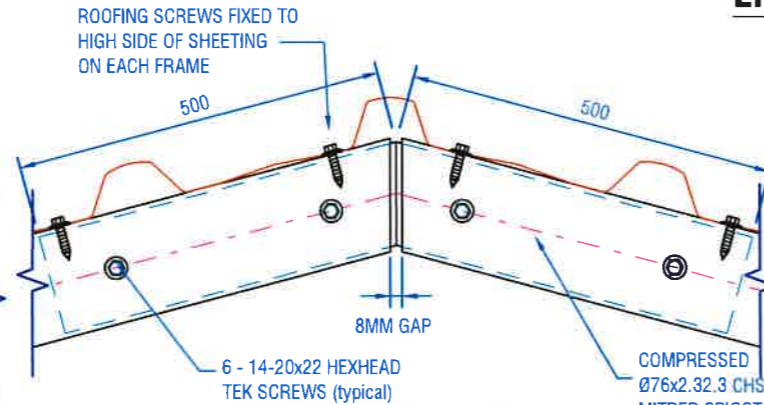
END ELEVATION
SCALE - 1:50



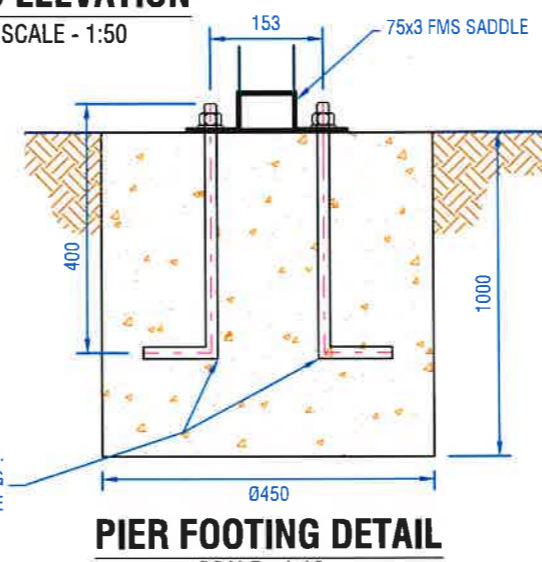
SIDE ELEVATION
SCALE - 1:50



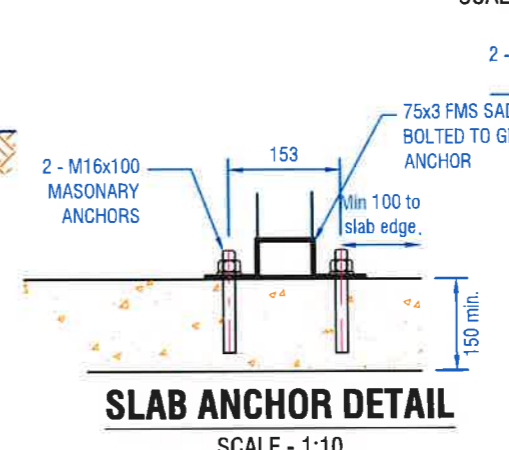
SECTION A
SCALE - 1:5



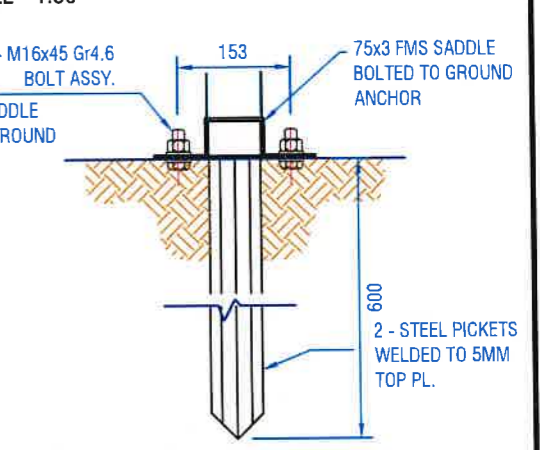
DETAIL 2
SCALE - 1:5



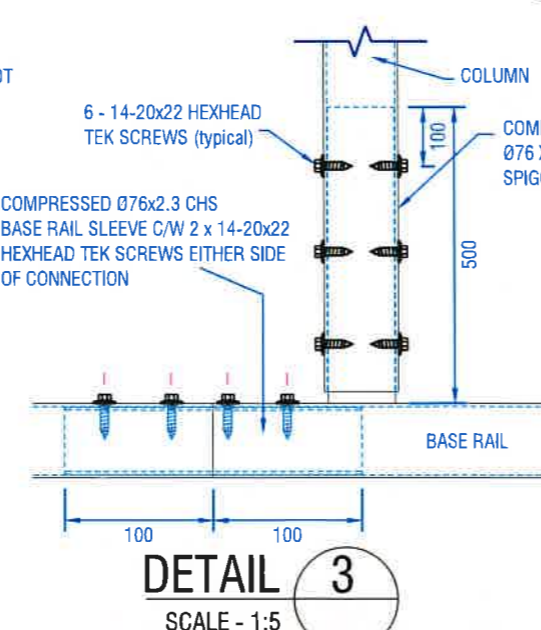
PIER FOOTING DETAIL
SCALE - 1:10



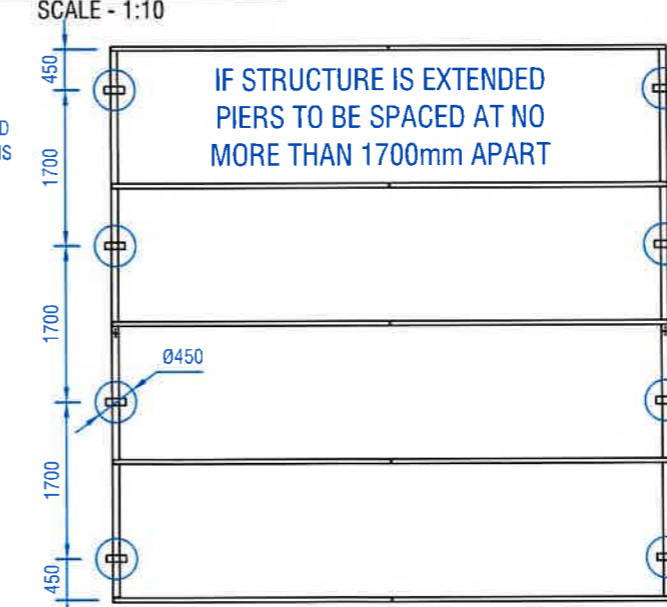
SLAB ANCHOR DETAIL
SCALE - 1:10



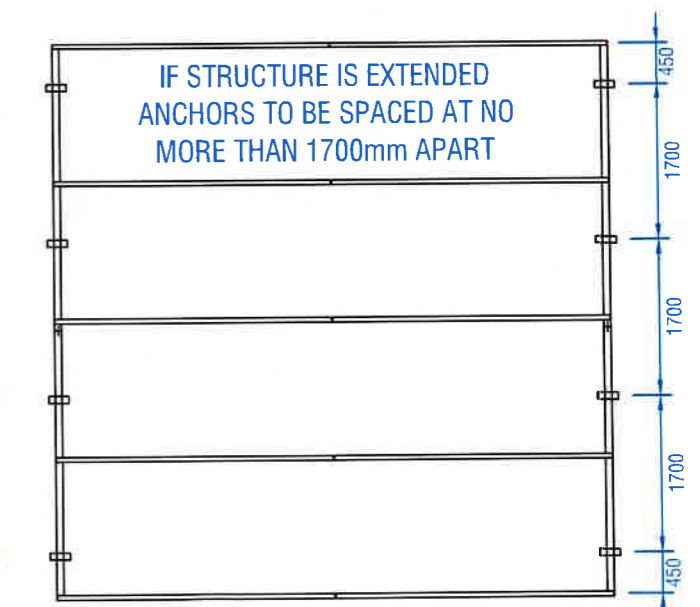
GROUND ANCHOR DETAIL
SCALE - 1:10



DETAIL 3
SCALE - 1:5



PIER LAYOUT



SLAB AND GROUND ANCHOR LAYOUT

TABLE 1 (Steel Sizes)

MEMBER	BASERAIL	COLUMNS	RAFTERS	SPIGOTS
SIZE	100x50x2 RHS	100x50x2 RHS	100x50x2 RHS	500 long Ø76x2.3 COMPRESSED CHS

- DESIGN CRITERIA & NOTES:**
- STEEL TO BE AS FOLLOWS U.N.O. GR350 AS1163 FOR RHS & CHS
 - ALL WELDING TO COMPLY TO AS1554 PART 1. WELDS TO BE 6mm CONTINUOUS FILLET U.N.O. BUTT WELDS TO BE FULL PENETRATION.
 - FOOTINGS TO BE IN ACCORD. WITH AS3600 (concrete)
 - REFER QLD FORM 15, NSW CERTIFICATE OF STRUCTURAL DESIGN AND VIC REGULATION 1507 CERTIFICATE OF COMPLIANCE DESIGN WIND CLASSIFICATION
 - CONCRETE FOOTINGS TO BE 20mm max. AGGREGATE, 80 SLUMP, 20MPa UNLESS NOTED OTHERWISE
 - GROUND ANCHORS ARE TEMPORARY FIXINGS ONLY AND DONOT COMPLY WITH N3 WIND RATING
 - Min. ALLOWABLE BEARING CAPACITY OF 100kPa IN CLASS M SOIL CONDITIONS, FIRM NATURAL MATERIAL OF UNDRAINED SHEAR STRENGTH 50kPa HAS BEEN ADOPTED FOR FOOTING DESIGN.
 - WIND LOADING HAS BEEN DETERMINED IN ACCORDANCE WITH AS4045

GRAEME MOULSTON & Associates Engineering Pty. Ltd.
 ABN 78 874 980 449
 MIE AUST CPEng 5590, RPEQ 4431
 P.O. BOX 213 MUDGEERABA QLD 4213
 Ph: (07) 5530 6214 Fx: (07) 5525 3774

ENGINEER'S CERTIFICATION
 IN MY PROFESSIONAL OPINION THE STRUCTURAL DESIGN DESCRIBED ON THIS DRAWING IS CAPABLE OF WITHSTANDING THE DESIGN WIND LOADS NOTED IN THE DESIGN CRITERIA. REFER TO THE ASSOCIATED

- QLD FORM 15
- NSW CERTIFICATE OF STRUCTURAL DESIGN
- VIC REGULATION 1507 CERTIFICATE OF COMPLIANCE DESIGN
- TAS FORM 35A

FOR DESIGN STANDARDS FORMING THE BASIS OF THIS DESIGN.

SIGNED: *[Signature]*
 GRAEME MOULSTON (MIE AUST. RPEQ 4431)

REV.	DETAILS	DATE	BY	CHKD
C	HEIGHT REVISION BRACE INCLUSION	9/02/2016	CB	IH
B	ALLOW FOR SHEETING TO BASE	14/09/2015	TT	IH
A	ENGINEER CERTIFIED	30/04/2015	TT	IH

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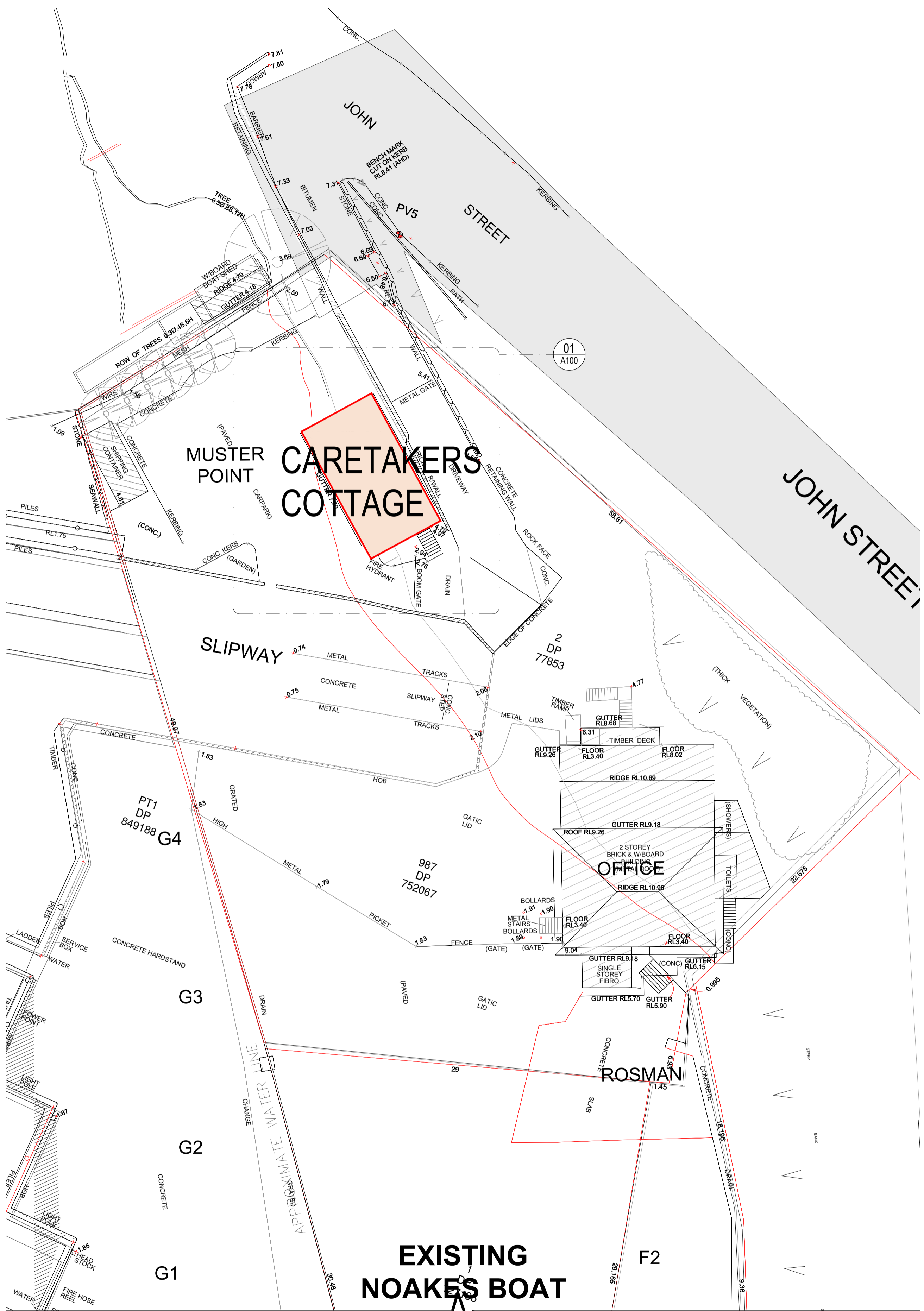
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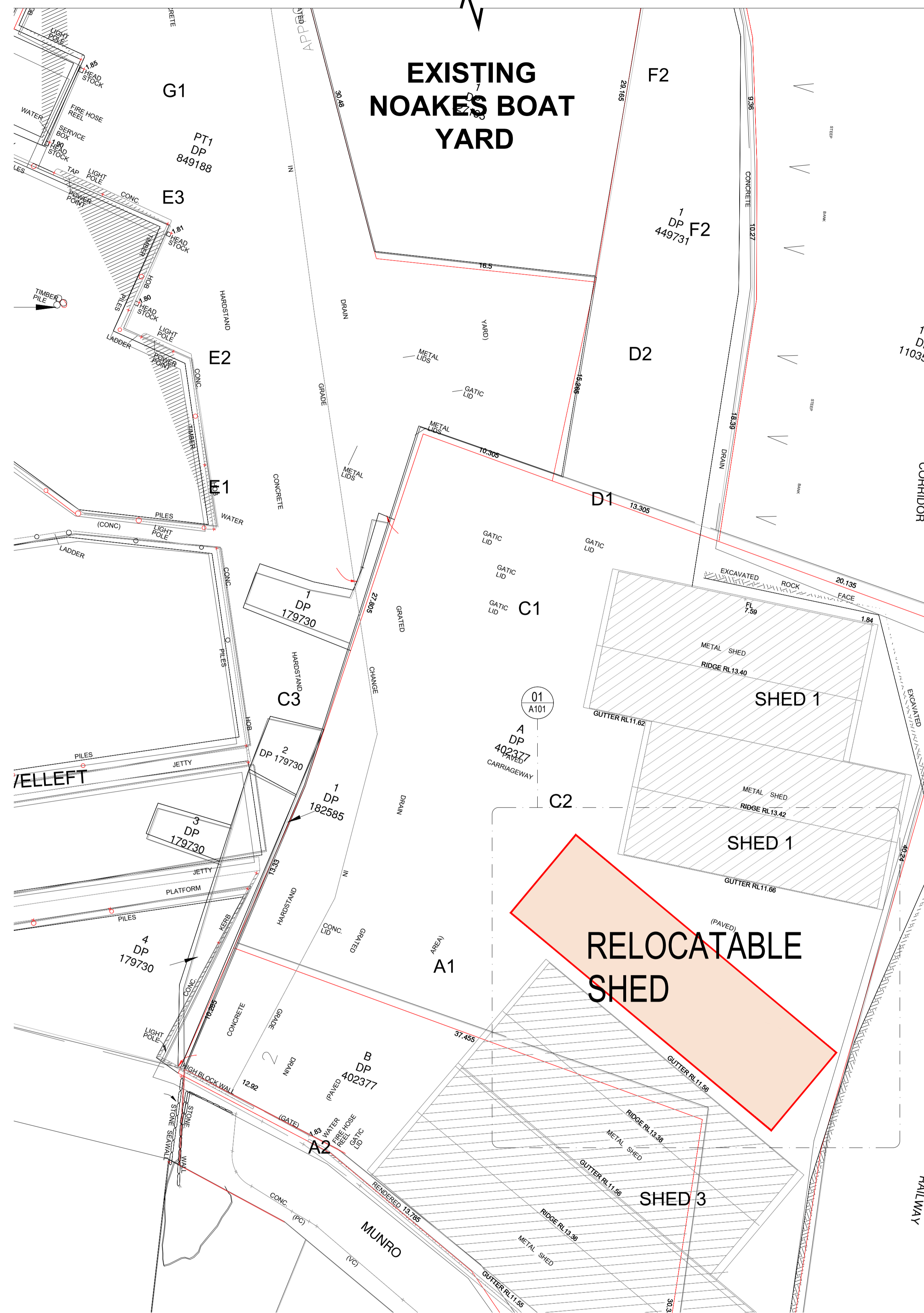
DESIGN:
 9000 MAX WIDTH SHADE SHED
 N3 WIND RATING

DWG# **ESF090-01** ISSUE **C** **A3**

DRWN TT CHKD IH DATE 09/02/16 SCALE AS NOTED

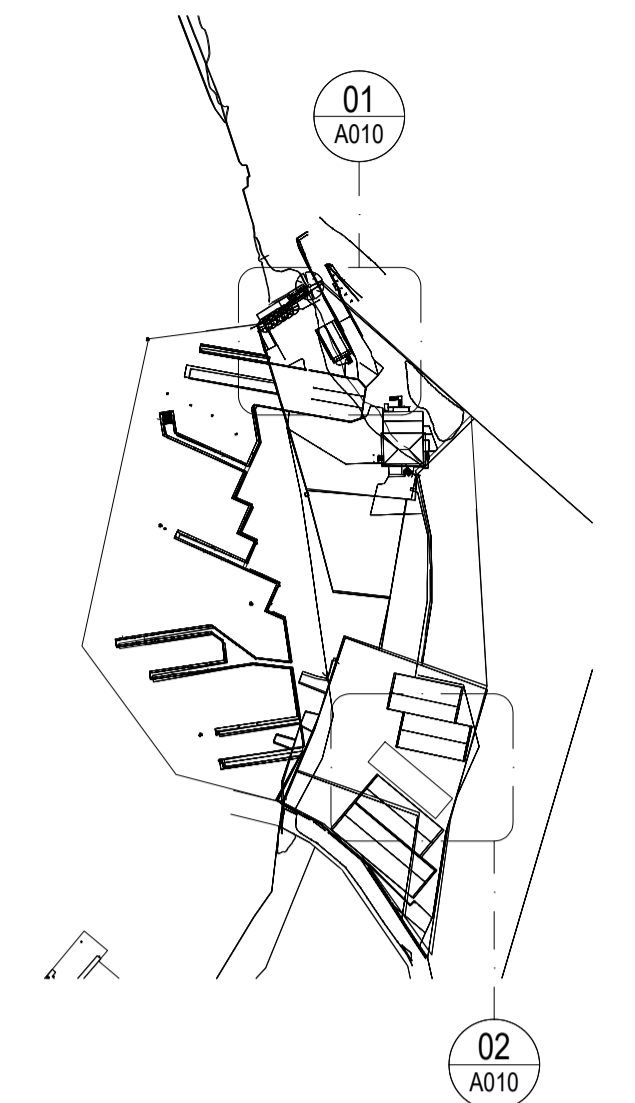


01 SITE PLAN - CARETAKERS COTTAGE



02 SITE PLAN - RELOCATABLE SHED

LEGEND



NOTES:

- 1. LOCATION OF RELOCATABLE SHED TBC

ALL DIMENSIONS & LEVELS TO BE CHECKED ON SITE BY CONTRACTOR PRIOR TO CONSTRUCTION. ALL BOUNDARIES & CONTOURS SUBJECT TO SURVEY. ALL RIGHTS RESERVED. THIS DRAWING MAY NOT BE REPRODUCED OR TRANSMITTED, IN PART OR IN WHOLE WITHOUT THE PERMISSION OF CRAWFORD ARCHITECTS PTY LTD

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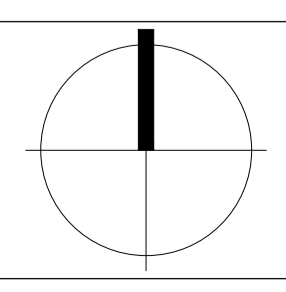
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 NORTH SYDNEY, NSW 2060 AUSTRALIA
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 TONY GRAY 5303 & PAUL GOODSELL 6726
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 E arch@crawford.com.au

ISSUE	DATE	AMENDMENTS
01	20.11.26	PRELIMINARY ISSUE
02		

CLIENT
NOAKES GROUP

PROJECT
NOAKES SHIPYARD

TITLE
SITE PLAN



SCALE 1:50 @ A1 / 1:100 @ A3

APPROVED MN
 DRAWN TG
 CHECKED
 DATE NOV
 STATUS AS BUILT

PROJECT NUMBER
20051

DRAWING NUMBER
A010

ISSUE
01

