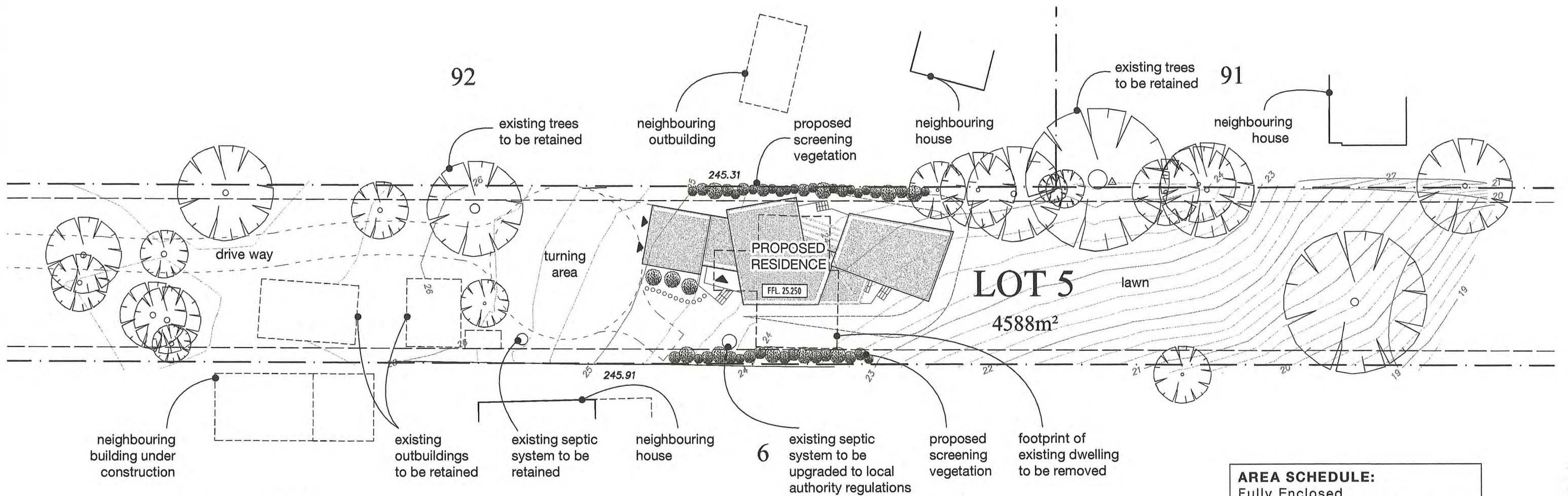


19 February 2019 - Attachment 8.1.1a

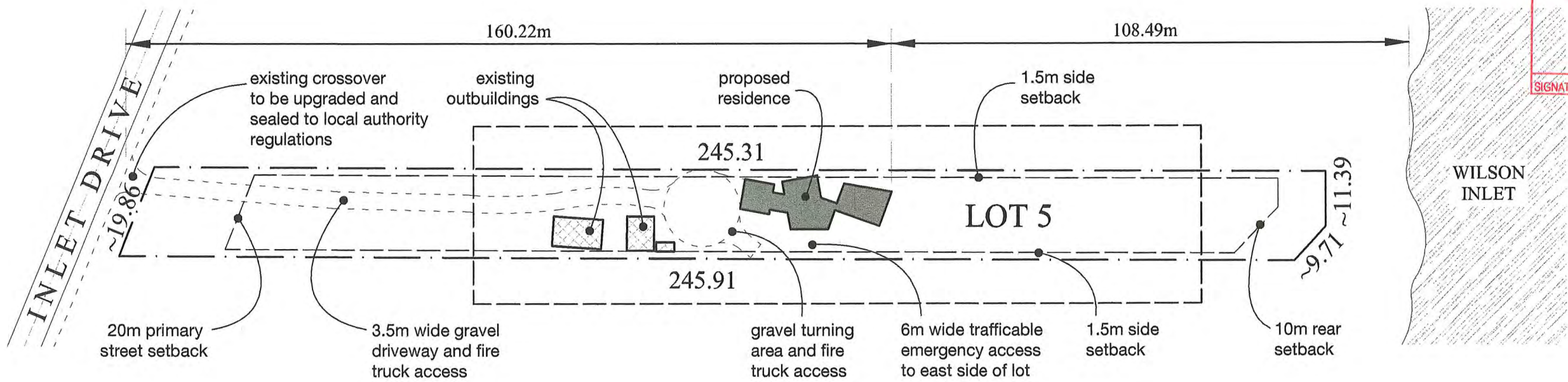


PART SITE PLAN
SCALE 1:400 @ A3

AREA SCHEDULE:

Fully Enclosed	
Covered Area (FECA):	194m ²
External Paved Areas:	53m ²

SUPERCEDED
DO NOT USE
REFER TO PLANS DATED
19/12/2018
SIGNATURE: _____ DATE: / /



SITE PLAN
SCALE 1:2000 @ A3

OFFICE COPY

RECEIVED
07 NOV 2018
Shire of Denmark

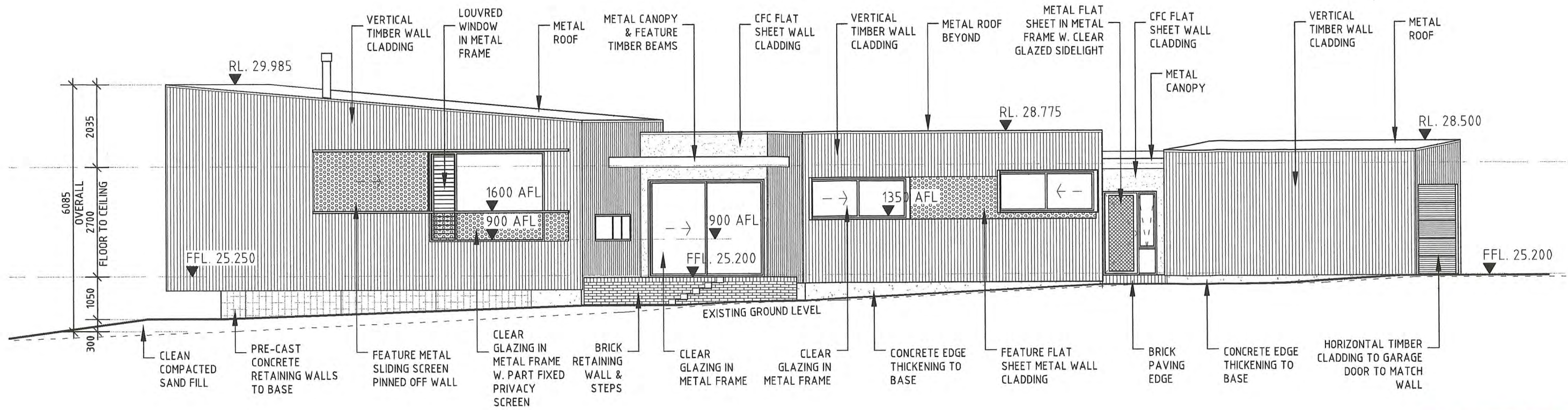


PROPOSED SITE PLAN
Scale 1:400 & 1:2000 @ A3 Job no. 1801
Somersford & Maranta Residence, Lot 5, 145 Inlet Drive Denmark WA 6333

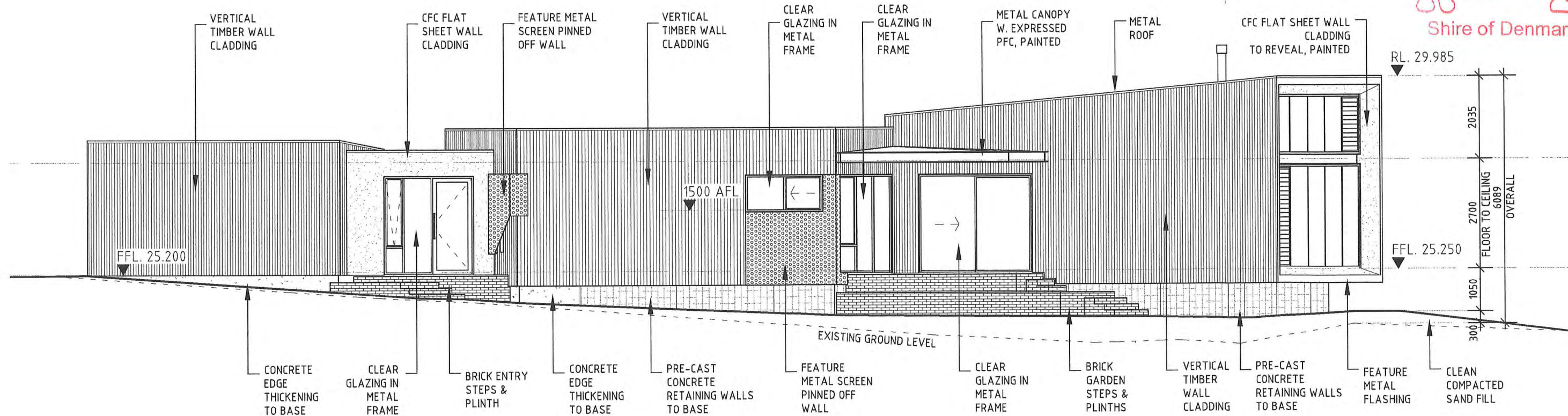
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01.11.18	B



f 08 9846 3894 e info@ptxarchitects.com.au w www.ptxarchitects.com.au



ELEVATION NORTH



ELEVATION SOUTH

RECEIVED
 07 NOV 2018
 Shire of Denmark

PROPOSED ELEVATIONS NORTH & SOUTH

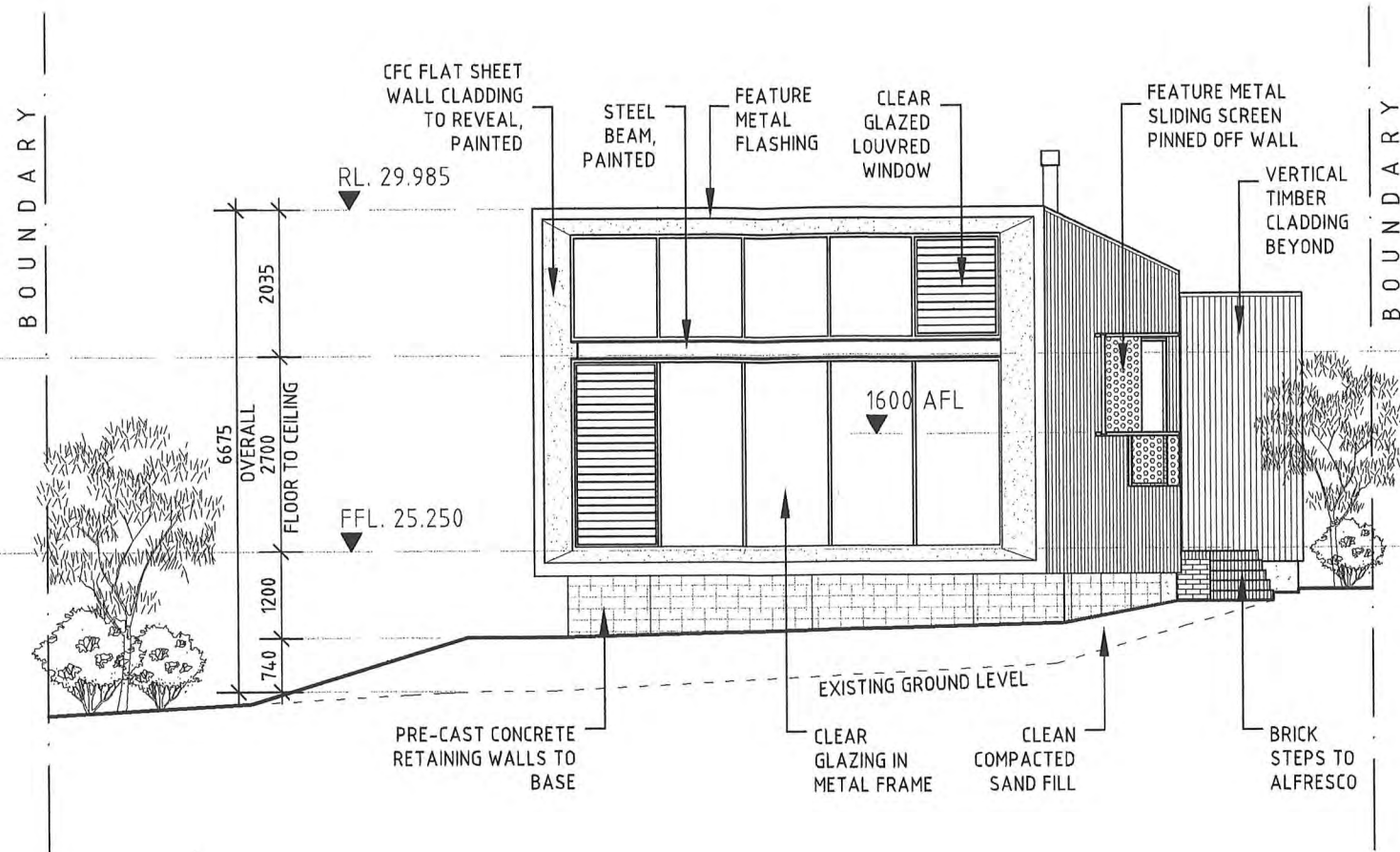
Scale 1:100 @ A3 Job no. 1801

Somerford & Maranta Residence, Lot 5, 145 Inlet Drive Denmark WA 6333

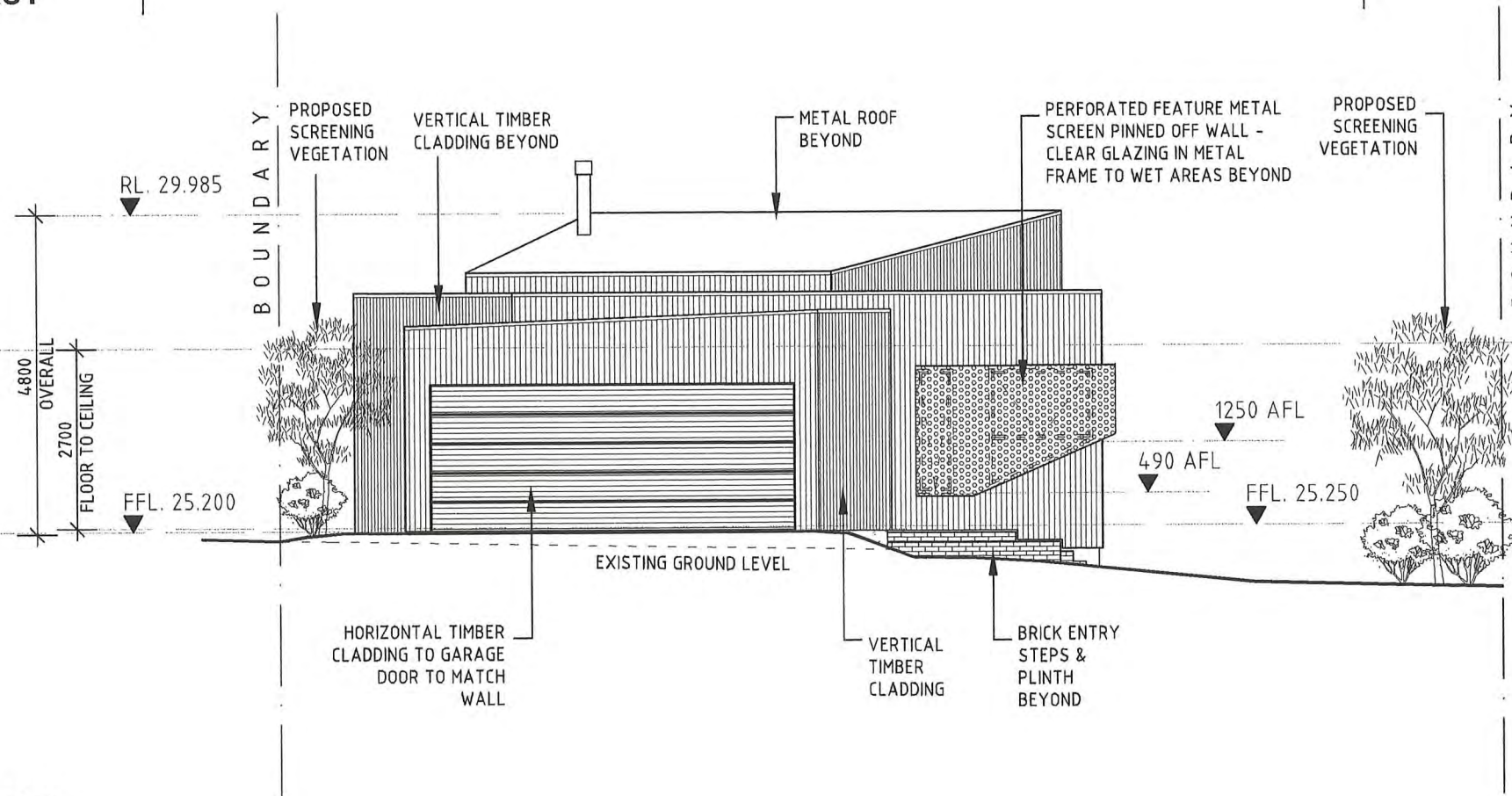
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01.11.18	B



ELEVATION EAST



ELEVATION WEST



RECEIVED
07 NOV 2018
Shire of Denmark

PROPOSED ELEVATIONS EAST & WEST

Scale 1:100 @ A3 Job no. 1801

Somerford & Maranta Residence, Lot 5, 145 Inlet Drive Denmark WA 6333

DA.04	rev
01.11.18	B



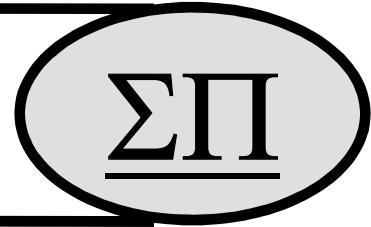
SMITHSON PLANNING

10 Ballater Heights Bibra Lake WA 6163 www.smithsonplanning.com.au

smithson@smithsonplanning.com.au

Mob : 0419 556 444

Tel : (08) 9842 9841



Your Ref : DA2018/183 (A1208)
Our Ref : W2019-0005

Mr Bill Parker
Chief Executive Officer
Shire of Denmark
Denmark WA

Attention : Ms Jasmine Tohill, Senior Town Planner < planner3@denmark.wa.gov.au >

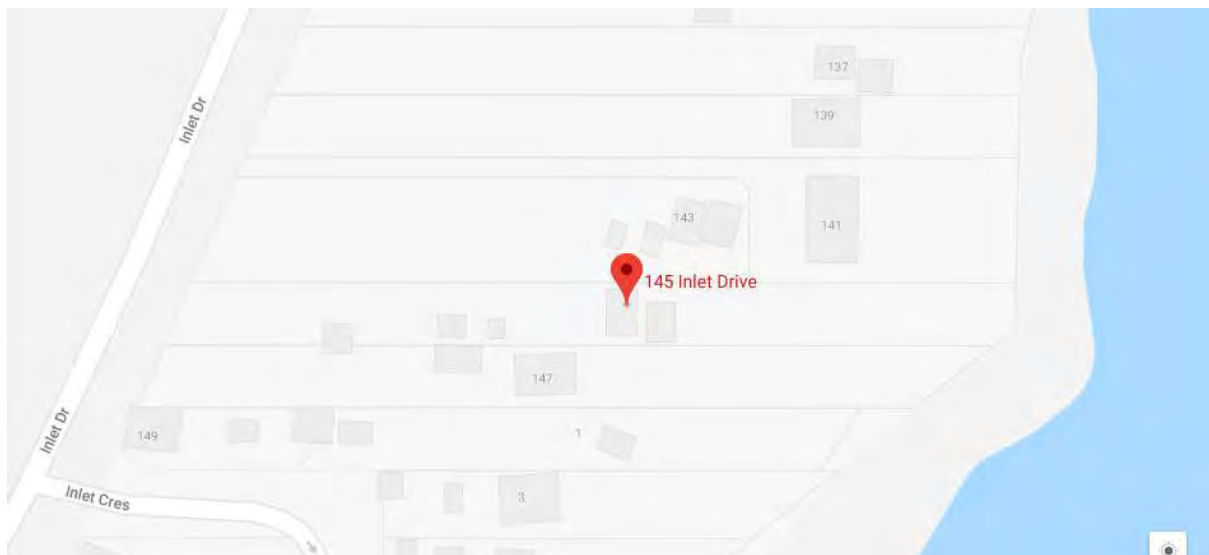
18 January 2019

Dear Mr Parker / Ms Tohill,

Single House – Lot 5 (#145) Inlet Drive, Denmark (Somerset & Maranta) **Objection from adjoining landowner (Pilkington & Bleakley)**

Smithson Planning has been appointed, under Power of Attorney by Mr Paul Bleakley (the Son), to represent the adjoining landowner of Lot 91 (#143) and Lot 92 (#141) Inlet Drive, Denmark, Mrs Molly L. Pilkington (his Mother), and make a submission (objection) on their behalf in relation to the proposed development of a Single House that exceeds the prescribed 'Deemed to Comply' criteria specified in the Residential Design Codes (R-Codes) – State Planning Policy 3.1 (as amended) pertaining to the minimum side setbacks applicable to the subject land.

The subject land described as Lot 5 (#145) Inlet Drive, Denmark (area ~ 4588m²), is owned by Mr Peter Somerset and Ms Giulia Maranta (the proponents, currently non-resident), and they are represented in this matter by Mr David Gibson of PTX Architects (the applicant) of Denmark as the author of the design plans submitted in support of the application for planning consent to the Shire of Denmark (DA2018/183) (A1208).



It is sufficient to recognise that the subject land and the adjoining lands share a prominent, well established and highly desirable location fronting Wilson Inlet, where over a period of time many people have come to enjoy the location for its scenic and aesthetic amenity, landscape quality and have subsequently invested considerable funds in relation to their choice of residential dwelling and lifestyle.

Smithson Planning – Organisational Management, Media, Town Planning & Environmental Assessment

www.smithsonplanning.com.au 10 Ballater Heights BIBRA LAKE WA 6163 Tel : (08) 9842 9841 Mob : 0419 556 444

19 February 2019 - Attachment 8.1.1b

Mrs Pilkington purchased the property in 1994 from her mother Kathleen Taylor, who with her husband purchased that property in 1950 – in effect the Taylor / Pilkington family have been long-term residents and ratepayers of the Shire of Denmark. Similarly, Mr Paul Bleakley and his wife Ms Elizabeth Bleakley (and their children) have all grown up, visited and holidayed in the locality for a long time with their parents, and harbour expectations in the near future of retirement and residential occupancy of the family property.



The subject lands are zoned '**Residential R2**' under the provisions of the Shire of Denmark Local Planning Scheme No. 3 (the Scheme : gazetted 25 Mar 1994, as amended to 19 Jun 2018), as depicted on Denmark LPS #3 Map #12 – Denmark Townsite South (extract follows).



The proposed development of a *'Single House'* on the subject land in the prescribed *'Residential R2'* zone is a permitted *'P'* land use pursuant to Clause 3.2 and Table 1 – Zoning Table of the Scheme.

Pursuant to Clause 3.1.3(a), the primary purpose and intent of the Residential Zone is for low density residential uses, with group dwellings and selected non-residential uses permitted with approval of the Council.

Pursuant to Part V of the Scheme – General Provisions, Clause 5.2 sets out the Residential Development Standards, referring to the adoption of the Residential Planning (Design) Codes, and Clause 5.3 sets out any Variations & Exclusions (we are not aware of any applicable in this instance).

Suffice to say, the development of the subject land for a Single House is expected to comply with the design criteria specified for residential development under the planning design codes, or otherwise present justification for non-compliance with the *'Deemed to Comply'* criteria, which is why the application has been referred by the Council to adjoining landowners for comment.



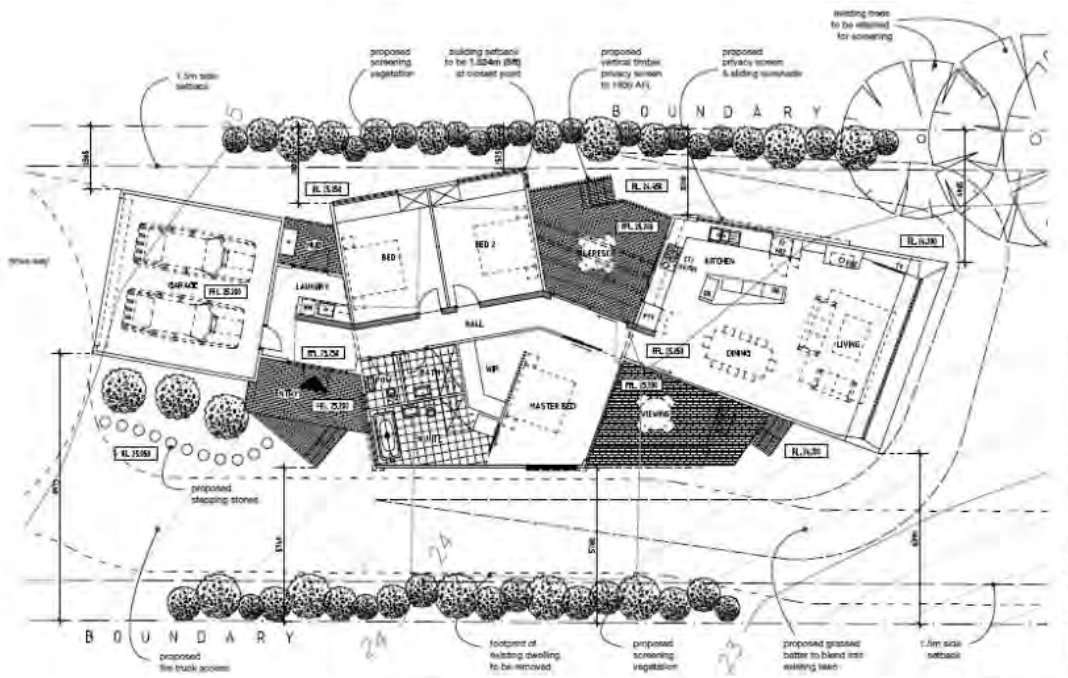
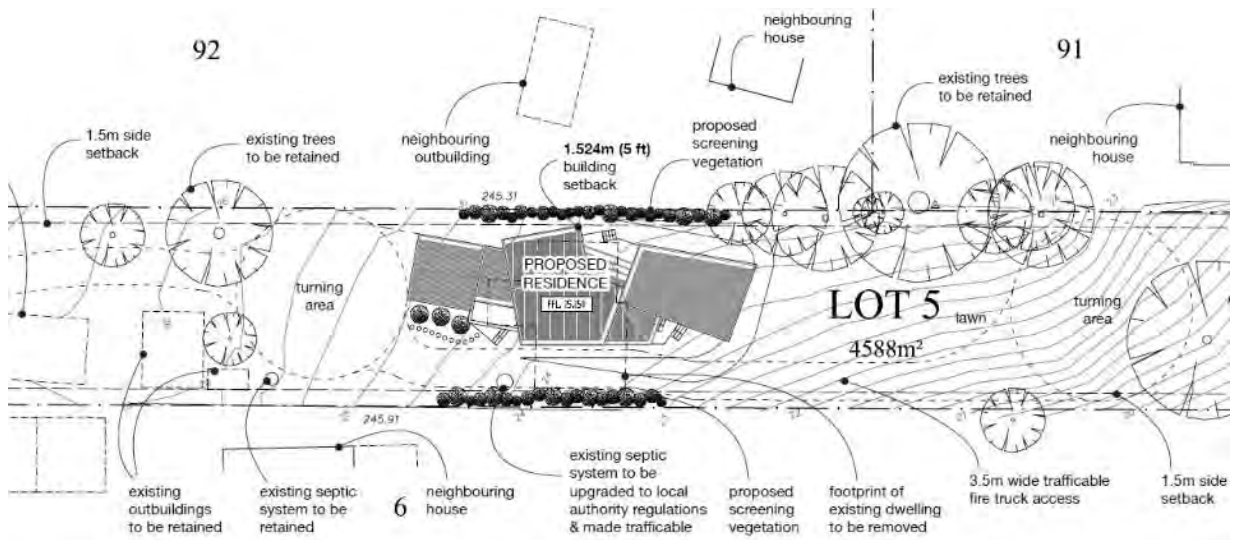
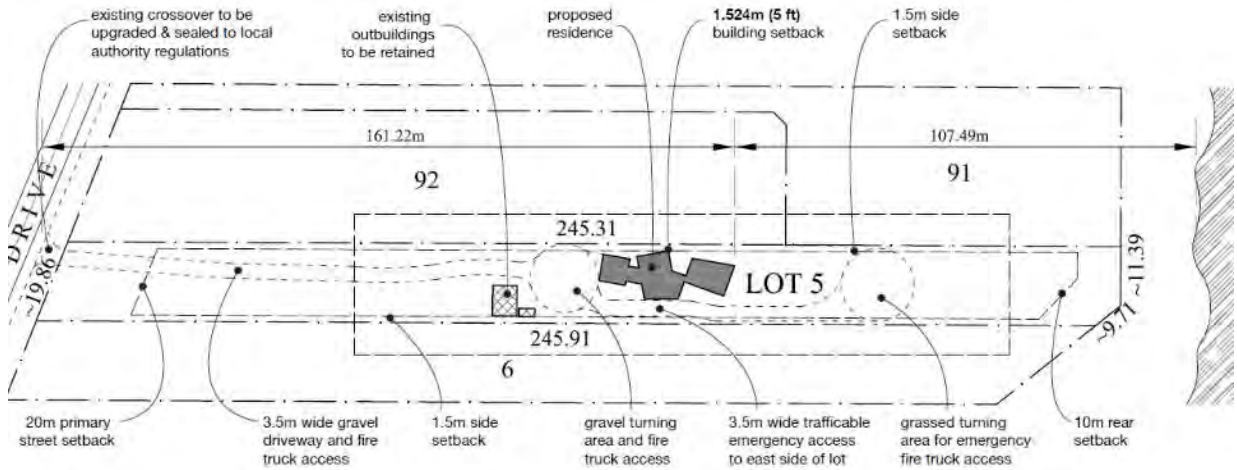
The Proposed Development

It is sufficient to recognise that the majority of lots in this location are long (~245m) and narrow (~20m), sloping away from Inlet Drive, down and facing easterly, and dropping away toward the Wilson Inlet shoreline – there is a Regional Open Space reserve separating private property and the high-water mark.

According to the development plans provided by the Council to the adjoining landowner, the applicant is seeking to relax the prescribed minimum side setback of 10.000m to 1.524m (northern) and 5.780m (southern), which is considered excessive relative to the 'deemed to comply' standards of the Planning Design Codes.

The applicant's plans also indicate compliance with the prescribed 20.0m front setback and the 10.0m rear setback, which given the disposition of the subject land is not difficult – the major issue is the location of the on-site effluent disposal system (which is to be retained apparently), and the desire for trafficable (bushfire / emergency vehicle) access along the southern boundary, to the rear (eastern - inlet side) of the proposed house.

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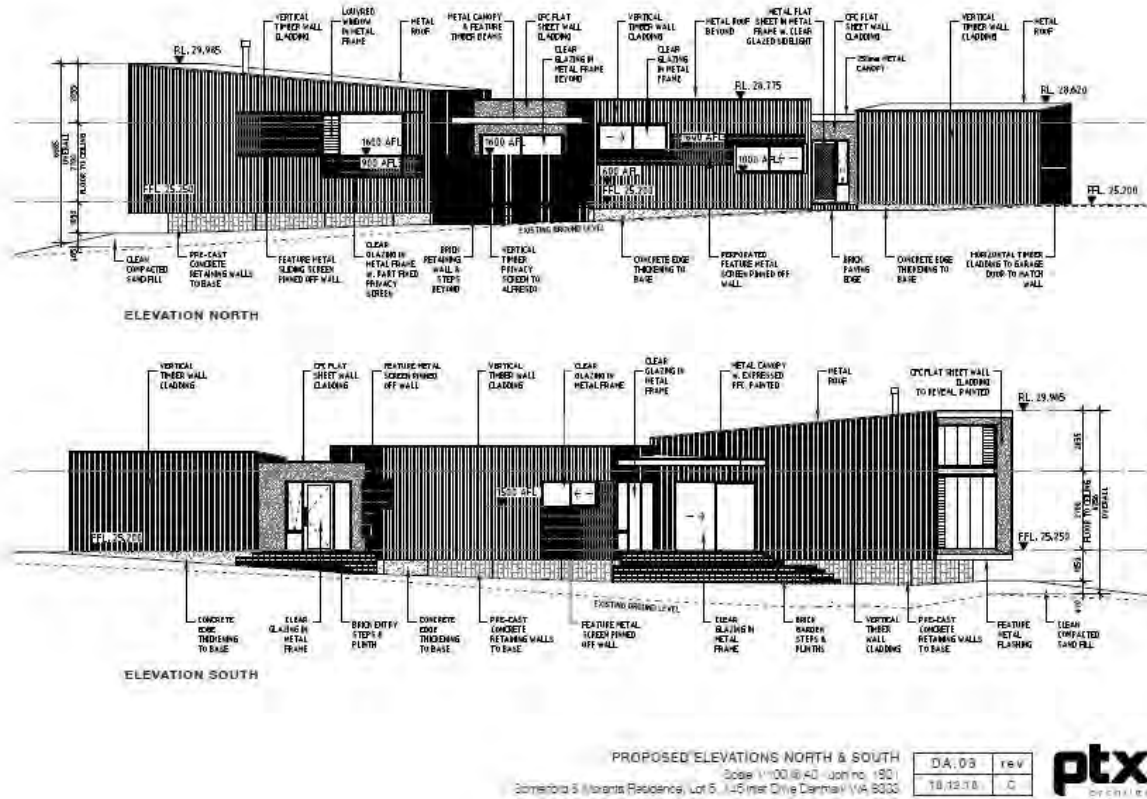


PROPOSED GROUND FLOOR PLAN
 Scale: 1:100 @ A2, job no. 1801
 Cornelia & Vincent Residence, Lot 5, 4-B Mt Drive Denmark WA 6022

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18.12.18	C

ptx architects

The proposed development is a reasonable design using quality materials commensurate with established building expectations and construction standards in the locality – it also exhibits contemporary facilities, with the possible exceptions of the retention of the on-site effluent disposal system, and the absence of solar panels.



The narrow ~20.0m width of the subject land makes it virtually impossible to achieve the prescribed ‘deemed-to-comply’ side setbacks of 10.0m on both sides, and the applicant has offered some initial concessions to the adjoining landowner to the north in terms of proposed finished floor levels, window / sill heights to occupied rooms, screening vegetation at boundary, and screen lattice to alfresco – there has been no discussion in relation to boundary retaining walls or dividing fences, which is a matter the Council can address through approval.

None-the-less, in the absence of owner-occupied residents, the proposed dwelling exhibits the capacity to act in a short-stay ‘Airbnb’ role; therefore, potentially attracting clients who may be indifferent to the residential amenity of the locality, and more specifically their neighbours.

Given the topography of the land, we are unmoved by the potential impact of house relocation (shifting it further west or south) affecting in any meaningful manner the cost of earthworks or the overall build cost – the plans indicate that the design only considers fill at the eastern end (with no cut balance and elevation of the FFLs).

It is well within the Council’s discretion to seek a greater side setback to the northern boundary (we are requesting 3.000m), thus reducing the side setback to the southern boundary (estimate 4.265m), and placing a more equitable burden / future limitation on the development aspirations of both neighbours.

There is an extensive potential building envelope unencumbered by existing vegetation, so housing relocation to the west is not seen as an issue, accepting the potential impact on the adjoining landowner at Lot 6 (#147) Inlet Drive, Denmark (the neighbour to the south of the subject land).

The plans do not indicate the use of solar panels for power generation, but given the maturity of existing large stand native vegetation in the locality, the constructed dwelling is considered unlikely to have an adverse impact on the private open space on adjoining lands, or the future ability to harness solar power.

The plans indicate a gravel entrance road and turning circle, which could produce dusty conditions in the right prevailing wind conditions (south-westerly).

The proponent is arguing retention of the southern boundary setback for bushfire / emergency vehicle access; however, given the intention to retain the existing septic tank / leach drains in that location, we question the effective trafficable access for a heavy water laden bush fire fighting vehicle.

Given the proposed new dwelling structure (increased occupancy capacity), we also question the environmental commitment via an aged on-site effluent disposal, maintenance of riparian water quality, and the desirability of a new ATU or other approved system, to minimise the impact on Wilson Inlet (which negates the justification for the excessive southern side boundary setback).

There is no waste bins storage area indicated on the plans near the dwelling – it is our understanding that the Council will continue to provide a two-bin kerbside collection (general & recycled waste) ... hence the need to store bins near the house, and put bins out on the verge on a weekly basis has the potential to generate odours.

Conclusion & Recommendation

Under the circumstances, it is considered appropriate to :

- (a) Uphold our clients' objection and approve the application for planning consent, subject to an increased boundary setback of 3.000m to the northern side boundary; and
- (b) Acknowledge that when our clients seek to redevelop their land being either Lot 91 (#143) or Lot 92 (#141) Inlet Drive, Denmark, they too may seek a reduced side setback of 3.000m (or the lesser 1.524m, if that is Council's decision) to their southern boundary for their development proposal.

We trust our report adequately explains our clients' concerns and expectations in this matter, and thank you for the extended opportunity to provide comment on the development application.

It is our understanding that this matter will now be presented to the Council of the Shire of Denmark for determination on Tuesday 19 February 2019 at 4.00pm in Chambers – we would appreciate your confirmation of that advice, and if there is an opportunity to address the Council directly on the proposal through question time or public statement.

Yours faithfully
SMITHSON PLANNING

Neil Smithson
Principal Planner
Mob : 0419 556 444

Post : 10 Ballater Heights, Bibra Lake WA 6163
Email : Neil.Smithson@smithsonplanning.com.au
Web : www.smithsonplanning.com.au

Smithson Planning - Consultants in Town Planning & Environmental Assessment
ABN : 46 782 764 220

Shire of Denmark

SITE VISIT RECORD FORM

Subject Site: No.145 (Lot 5) Inlet Drive, Denmark

Date: 20 December 2018



Northern boundary setback line facing west



View south-east at rear of property



View east showing fall of land towards south



Existing dwelling front (west) elevation



Northern elevation of wooden outbuilding to be retained. Outbuilding in the distance (west) to be removed.

Williams Consulting- Town Planning and Project Management

0418 116 216 samwilliams@westnet.com.au PO Box 69, Denmark WA 6333

4 February 2019

Chief Executive Officer
Shire of Denmark
PO Box 183
DENMARK WA 6333

Dear Sir,

Application for Single House- Lot 5 (House Number 145) Inlet Drive, Denmark

I refer to the application for a Single House on Lot 5 (House Number 145) Inlet Drive, Denmark (the site) lodged by PTX Architects on behalf of the land owner's Peter Somerford and Giulia Maranta (the owners).

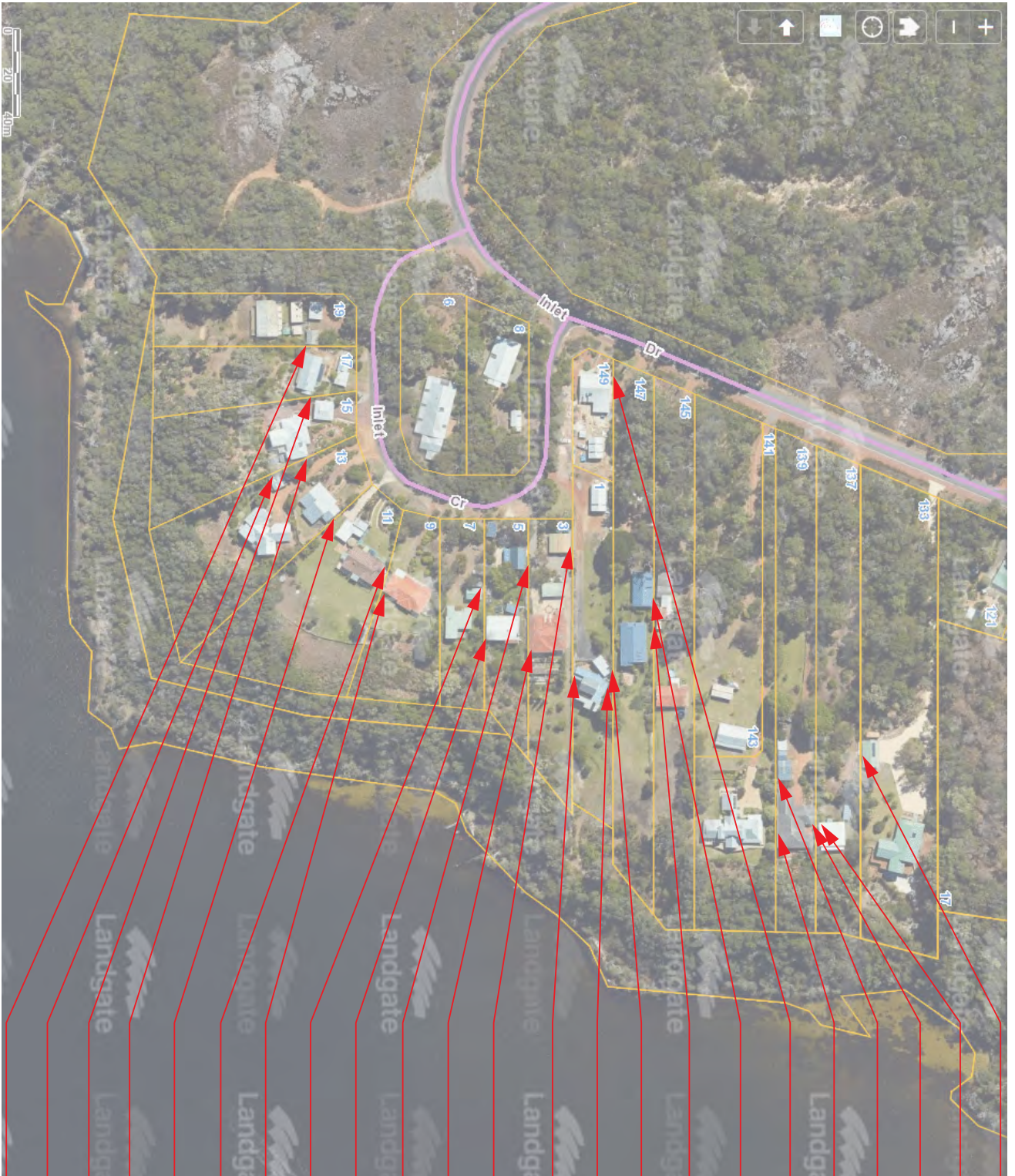
The owners have engaged my services to review the single house application lodged by PTX Architects from a Town Planning perspective with particular emphasis being the side boundary setback requirements as per the Residential Design Codes of Western Australia (R-Codes). In consideration, I reviewed the R-Codes, current planning precedence established in the locality, and the Shire of Denmark Town Planning Scheme No.3 (TPS3).

Setback Provision in the Locality

The site is located within an established residential locality, which is zoned "Residential" with a density coding of R2 under the Shire of Denmark's TPS3. The site and surrounding lots have a unique shape compared to a standard R2 coded lot, given they are long rectangular lots with a narrow frontage. It is assumed these lots were designed to maximise exposure to Wilson Inlet, which is located immediately to the east.

As the majority of the lots in the locality are 20m wide and the prescribed side boundary setback in the R-Codes is 10 metres, this makes it physically impossible to construct a dwelling on a large number of lots without an Exercise of Judgement being applied as per Clause 2.5 of the R-Codes.

As per the application, a setback of 1.5m is sought from the northern boundary and 5.7m from the southern boundary. These setbacks are in keeping with those already provided for in the locality. In demonstrating this and where the Shire have applied an Exercise of Judgement in the locality, attention is drawn to **Figure 1** attached. This clearly shows the following setbacks in the locality:



1.0m
1.0m
1.0m
0.9m
0.7m
1.0m
1.5m
1.2m
1.4m
0.5m
1.0m
1.0m
1.0m
1.2m
1.1m
1.1m
1.0m
1.1m
1.0m
1.0m
1.0m
0.8m
1.0m
1.0m
0.8m
1.2m
0.5m

Note: Setbacks not measured on site.
Setbacks as measured on Google Earth
& referenced on Landgate.



FIGURE 1 : CONTEXT PLAN - SIDE SETBACKS 1.5m & LESS
Not to Scale Job no. 1801
Sommerford & Maranta Residence, Lot 5, 145 Inlet Drive Denmark WA 6333

DA.06	rev
04.02.19	D



Lot Number	Setback Distance from Boundary
133 Inlet Drive	1.0m from the south
137 Inlet Drive	1.0m from the south
139 Inlet Drive	0.9m from the north 0.7m and 1m from the south
145 Inlet Drive	1.5m from the south
147 Inlet Drive	1.4m from the north
149 Inlet Drive	1.5m and 0.5m from the north 1.0m from the south
3 Inlet Crescent	1.0m from the north 1.2m from the south
5 Inlet Crescent	1.1m from the north 1.0m from the south
7 Inlet Crescent	1.1m from the north
9 Inlet Crescent	1.0m from the south
11 Inlet Crescent	1.0m from the north
13 Inlet Crescent	0.8m from the south 1.2m from the east
15 Inlet Crescent	1.0m from the east 0.8m from the west
17 Inlet Crescent	1.0m from the east 0.5m from the west

Residential Design Codes of Western Australia

As mentioned, in accordance with the R-Codes, development on the site requires a 10m side setback. As the site is 20m wide it is necessary for an Exercise of Judgement to be applied to facilitate development.

Clause 2.4 of the R-Codes states where a proposal does not meet the deemed to comply provisions (i.e. the setbacks in this instance), but addresses the design principles the decision maker (i.e. the Shire) is required to exercise judgement to determine the proposal.

As per Clause 2.5 of the R-Codes, Exercise of Judgement, the decision maker is to exercise judgement based on the merits of the proposal and to balance these with the applicable design principles.

With respect to the site and the setback requirements of the R-Codes, the following design principles are identified:

Buildings set back from boundaries so as to:

- *Reduce impacts of building bulk on adjoining properties;*
- *Provide adequate direct sun and ventilation to the building and open spaces of the site and adjoining properties; and*
- *Minimise the extent of overlooking and resultant loss of privacy on adjoining properties.*

The design prepared by PTX Architects is able to address these design principles as follows:

- The bulk and scale of the design is in keeping with the precinct and features undulating forms that weave in and out reducing the impact of the building bulk on adjoining properties.
- The development consists of a single storey dwelling of modest scale that is sympathetic to the surrounding natural and built environment.
- All existing trees are proposed to be retained to maintain a local sense of place.
- The siting of the proposed design is in the same location as the original building. Located towards the northern side boundary and at the top of the steep embankment to the south east respects the natural topography of the site and minimises the need for cut and fill reducing the economic, environmental and social impacts associated with site works.
- This location also provides adequate provision of direct northern sunlight to the southern neighbour with minimal potential for overshadowing. Adequate ventilation is provided to both adjoining properties as the proposed building is located approximately equidistance from both existing neighbouring houses
- Visual privacy is maintained for both neighbours through carefully designed major openings and an intricate layout. Windows are located at either 1.6m above finished floor level (eye height) or screened with fixed and operable perforated corten steel screens.
- The northern alfresco area is screened with blackened timber batten work and the southern outdoor viewing area is located away from the southern neighbours outdoor living areas.
- Visual connection to the natural landscape from within the building is maintained by large openings to the east which take in the expansive inlet view without adverse impact on the amenity of the adjoining properties.
- The northern boundary will have vegetation screening planted, which can be controlled by a suitable condition of development approval.

Clause 2.5.2 of the R-Codes states in making a determination on the suitability of a proposal the Shire shall exercise its judgement having regard to the following:

Any relevant scheme provision

Clause 5.1 of TPS3 states development (i.e. setbacks) are to be assessed against the R-Codes except where Table 2 (of TPS3) is applicable.

Given Table 2 of TPS3 is not applicable, there are no specific scheme provisions relating to development that need to be considered in the assessment of this application.

Any relevant objectives and provision of the R-Codes

There are no specific additional objectives and provisions in the R-Codes that relate to this application.

Any relevant local planning policies

There are no specific additional local planning policies that relate to this application.

Orderly and Proper Planning

In the case of *Marshall v Metropolitan Redevelopment Authority*, the Supreme Court of Western Australia provided the first judicial discussion of the term Orderly and Proper Planning, to be as follows:

'[T]o be orderly and proper, the exercise of a discretion within the planning context should be conducted in an orderly way - that is, in a way which is disciplined, methodical, logical and systematic, and which is not haphazard or capricious.'

an 'orderly' decision must be an objective one

a discretionary decision will be orderly where the planning principles identified as relevant to an application are not 'lightly departed from without the demonstration of a sound basis for doing so, which itself is grounded in planning law or principle

In applying this definition, the proposal meets the definition of Orderly and Proper Planning given the following:

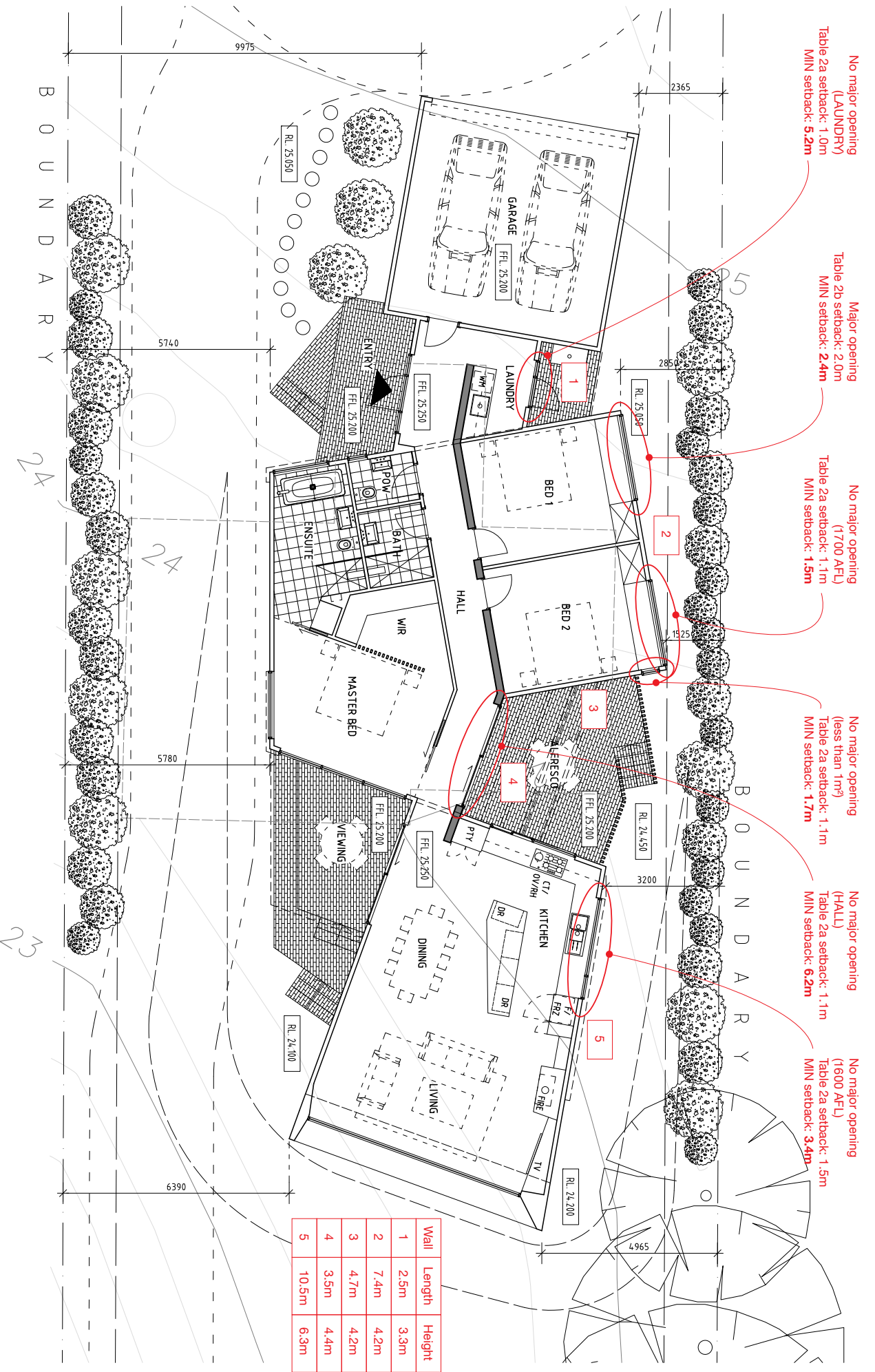
- The setback of 1.5m from the northern boundary for a small portion of the proposal (refer **Figure 2** mentioned below), can enable the Shire to exercise discretion within the planning context for the locality and the site itself that is logical and is not haphazard.
- In considering the requested setback relaxation, the Shire is able to make an objective decision.
- The requested setback relaxation has been demonstrated as being of a sound basis (i.e. existing precedence established and the well thought design principles applied by PTX Architects), which enables the Shire to issue approval.

Additional R- Code Consideration

Alternative Set Back Assessment

In assessing previous dwelling applications in the locality where the same setback constraints apply, it is understood the Shire of Denmark, in exercising judgement, have undertaken setback assessment against Table 2a and 2b of the R-Codes.

This proposal is within the setback requirements of Table 2a and 2b as shown by **Figure 2** (attached). In providing a summary of this, the following is noted:



No major opening (LAUNDRY)
Table 2a setback: 1.0m
MIN setback: 5.2m

Major opening
Table 2b setback: 2.0m
MIN setback: 2.4m

No major opening (1700 AFU)
Table 2a setback: 1.1m
MIN setback: 1.5m

No major opening (less than 1m²)
Table 2a setback: 1.1m
MIN setback: 1.7m

No major opening (HALL)
Table 2a setback: 1.1m
MIN setback: 6.2m

No major opening (1600 AFU)
Table 2a setback: 1.5m
MIN setback: 3.4m

Wall	Length	Height
1	2.5m	3.3m
2	7.4m	4.2m
3	4.7m	4.2m
4	3.5m	4.4m
5	10.5m	6.3m

FIGURE 2: NORTHERN SIDE SETBACKS

Scale 1:100 @ A3 Job no. 1801

Somerford & Maranta Residence, Lot 5, 145 Inlet Drive Denmark WA 6333



DA.05	rev
04.02.19	D



Wall Location	R- Code Setback Requirement	Setback as per Proposal
Northern Wall 1	1.0m (non major opening)	5.2m
Northern Wall 2	2.0m (major opening) 1.1m (non major opening)	2.4m 1.5m
Northern Eastern Wall 3	1.1m (non major opening)	1.7m
Northern Wall 4	1.1m (non major opening)	6.2m
Northern Wall 5	1.5m (non major opening)	3.4m

Site Planning and Design

The development will be located on the site where the existing dwelling currently sits- noting the existing dwelling will be demolished to accommodate the proposed development.

In taking advantage of the existing site works, the development location meets Clause 5.3 (d) and Clause 5.3.7 of the R-Codes, Site Planning and Design and Site Works.

Clause 5.3 (d) requires development to reduce economic, environmental and social impacts associated with site works and Clause 5.3.7 requires development to consider the natural features of the site and minimise excavation/fill. As there will be no significant site works required to facilitate development in the proposed location, the development is in accordance with these Clauses of the R-Codes.

Fire Planning

In preparing the required BAL Assessment, the Fire Consultant Peter Bidwell advised of the necessity to retain the current southern setback on the site to allow for emergency service crews to access the front of the property in the case of fire (refer attached email). The location of the proposed development is in accordance with this advice.

Conclusion

The Shire's consideration and approval of the proposed single house is respectfully requested given the following:


- The proposal is in keeping with the setback relaxations provided for in the locality.
- Based on the justification proposed, the Shire, under the R-Codes, has the discretion to issue a reduced setback approval in accordance with a Density Coding of R2.
- The setbacks provided in the application meet those prescribed in Table 2a and 2b of the R-Codes.
- The proposed dwelling has been located on the site of the existing dwelling (to be demolished). By using this site, any site works will be reduced, which is a considered Design Principle of the R-Codes.
- Providing a 5.7m setback from the southern boundary enables emergency service crews to access the eastern portion of the property, which as advised by the fire consultant is essential.

Should you have any queries in relation to the above, or require any additional information, please do not hesitate to contact the undersigned.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Sam Williams', enclosed in a thin black rectangular border.

Sam Williams
Town Planner

From: Peter Bidwell peter.bidwell@workingonfire.com 
Subject: Fire Equipment Access 41 Inlet Drive, Denmark
Date: 1 February 2019 at 6:09 am
To: Sam Williams samwilliams@westnet.com.au, david@ptxarchitects.com.au



Hello Sam,

I conducted the Bushfire Attack Level assessment for 145 Inlet Drive, Denmark in May 2018.

The site plan supplied to me has the house located closer to the northern boundary of the lot. This allows sufficient room to the south side of the house for fire appliances to access the bush area on the eastern boundary and the foreshore reserve.

As there is no fire access along the private property boundaries adjoining the reserve, it is essential that the access to the south of the house site be maintained. This will allow emergency service crews to protect the home (and adjoining homes) from any fires that may occur in the foreshore reserve.

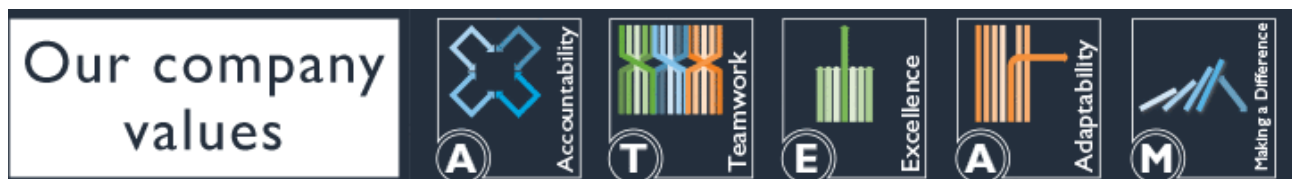
Should you require any further clarification of this, please don't hesitate to contact me.

Kind regards Peter

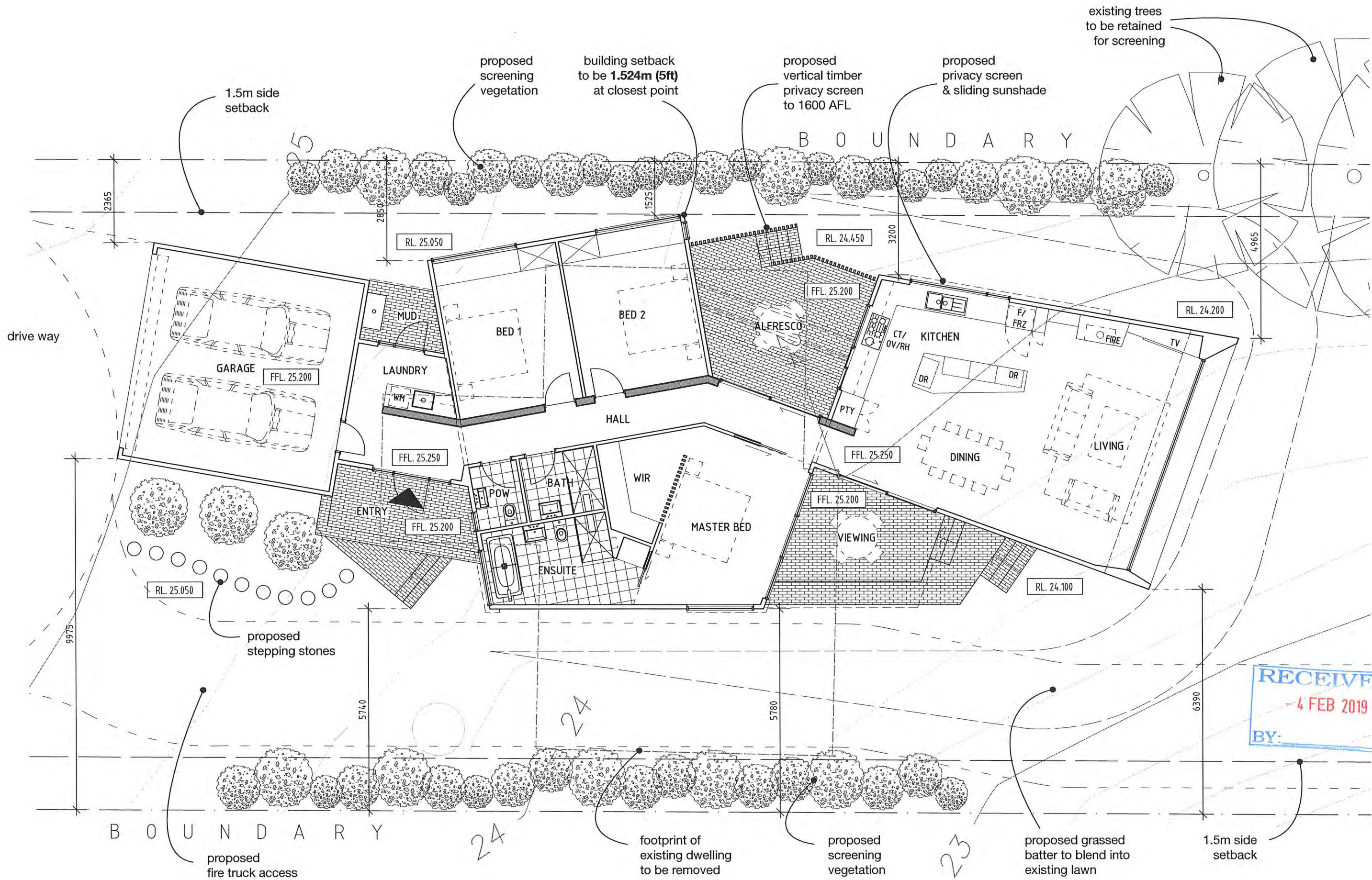


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Fire Consultant

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workingonfire.com kishugu.com



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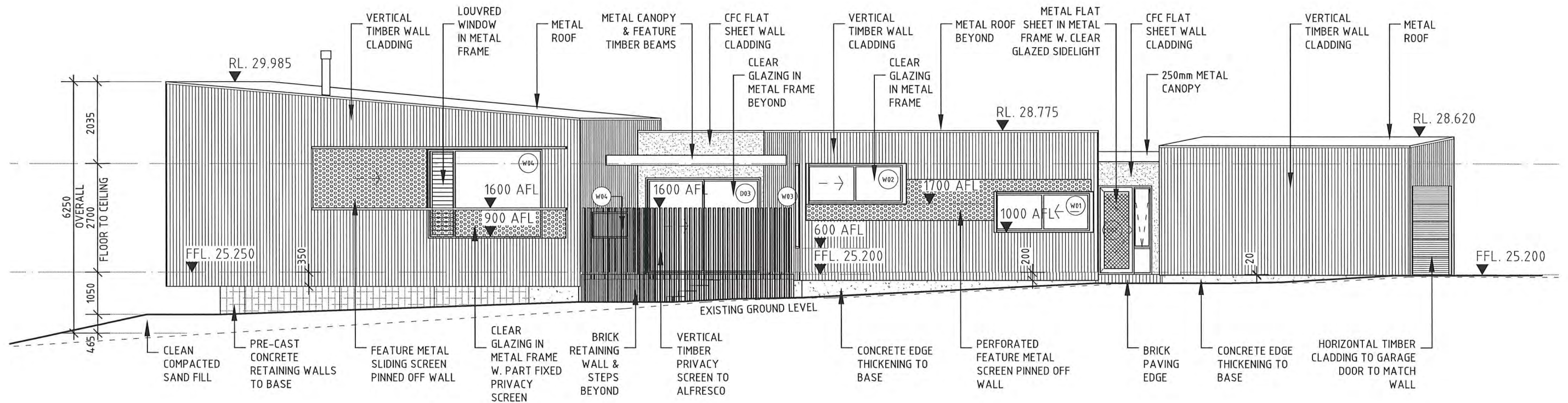


PROPOSED GROUND FLOOR PLAN
 Scale 1:100 @ A3 Job no. 1801
 Somerford & Maranta Residence, Lot 5, 145 Inlet Drive Denmark WA 6333

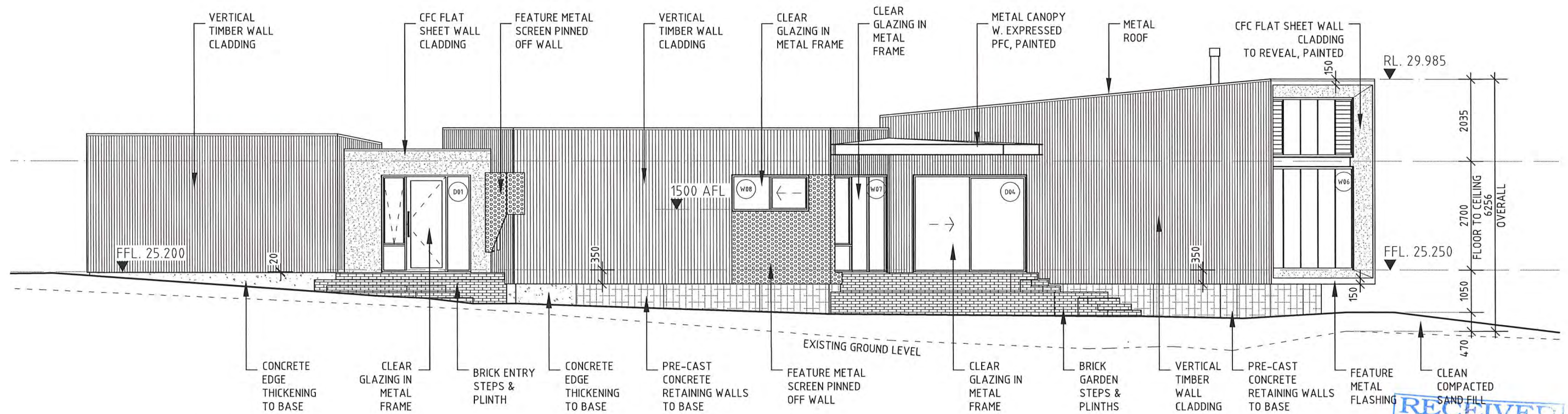
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ELEVATION NORTH



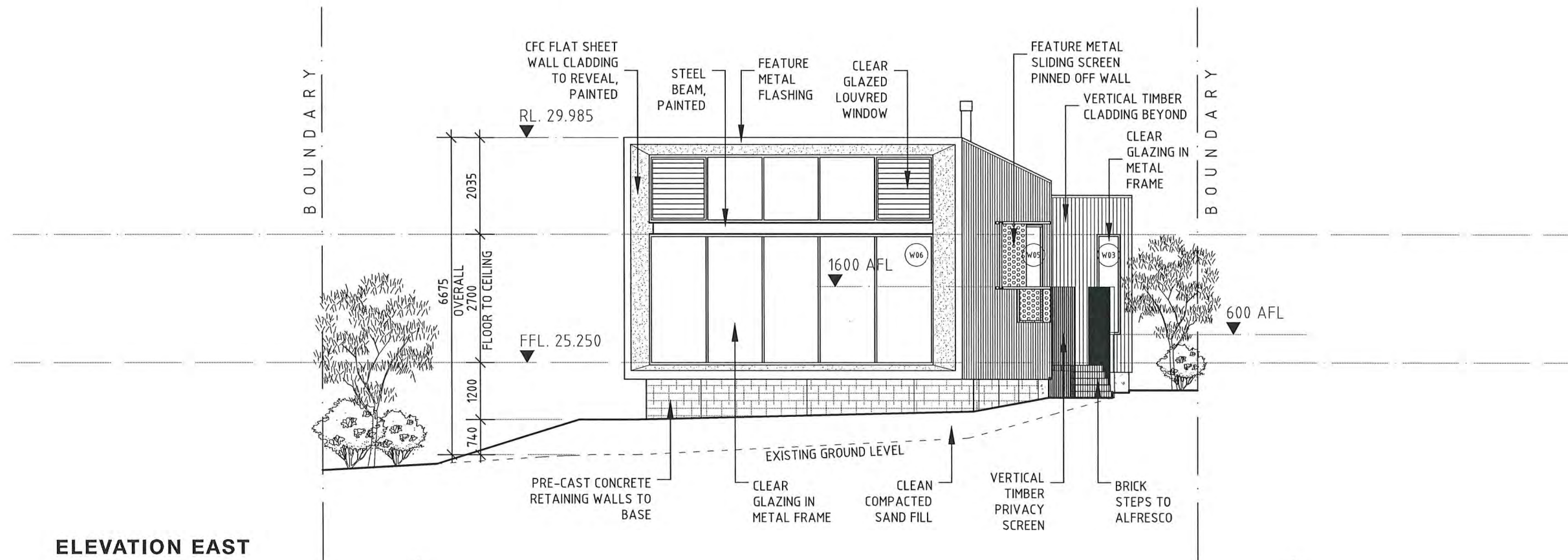
ELEVATION SOUTH

RECEIVED
- 4 FEB 2019
BY:

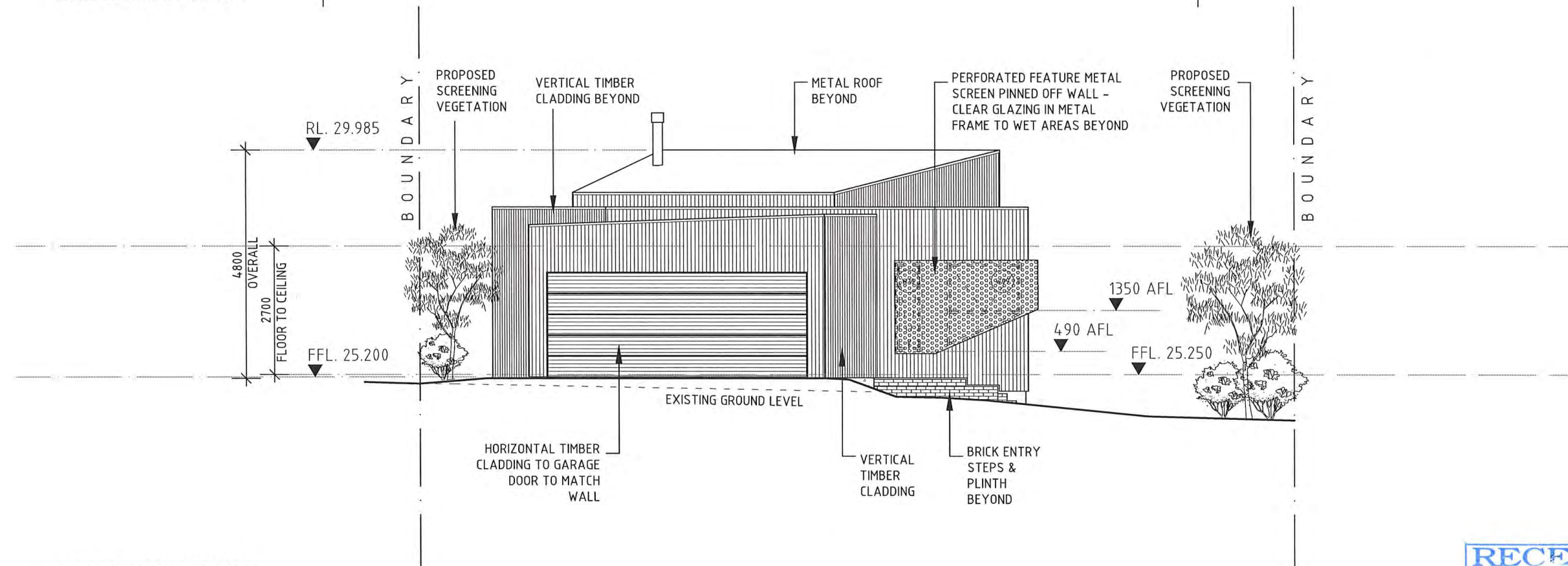
PROPOSED ELEVATIONS NORTH & SOUTH
Scale 1:100 @ A3 Job no. 1801
Somerset & Maranta Residence, Lot 5, 145 Inlet Drive Denmark WA 6333

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ELEVATION EAST



ELEVATION WEST

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PROPOSED ELEVATIONS EAST & WEST

Scale 1:100 @ A3 Job no. 1801

Somerford & Maranta Residence, Lot 5, 145 Inlet Drive Denmark WA 6333

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04.02.19	D

