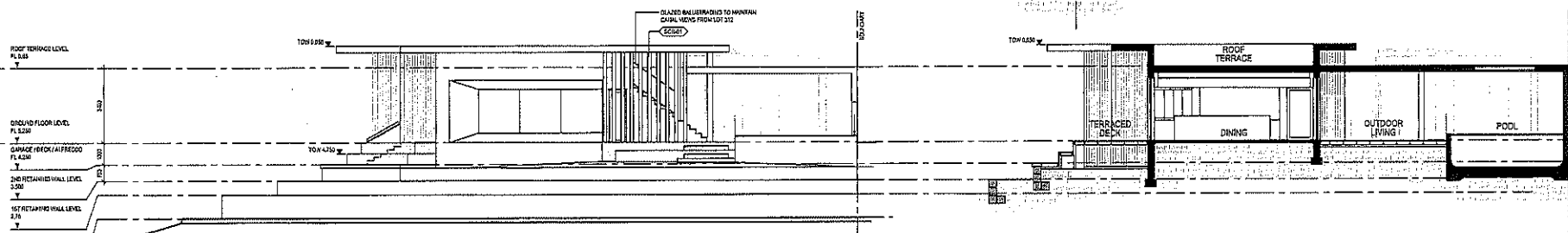
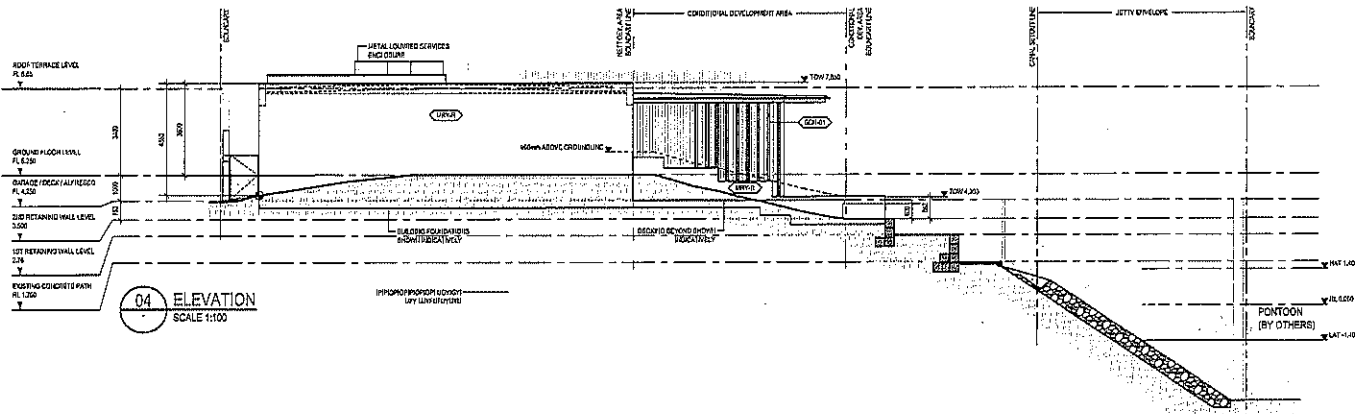
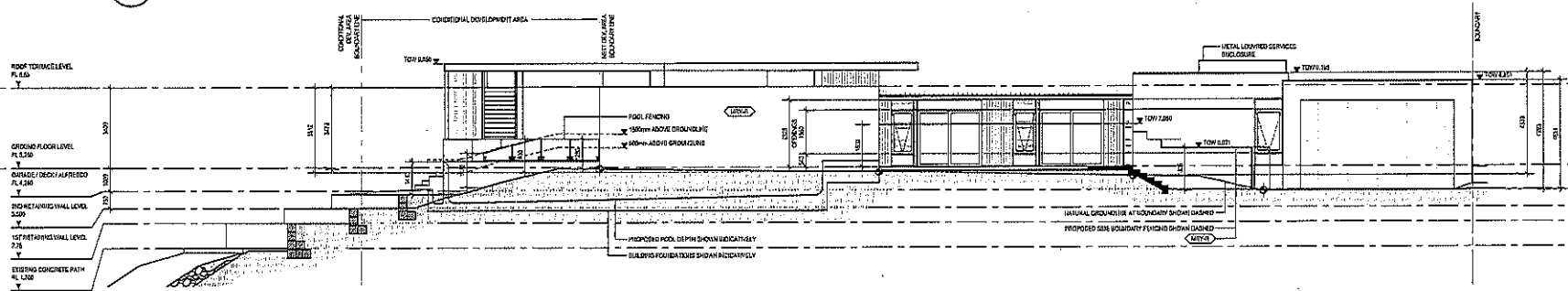
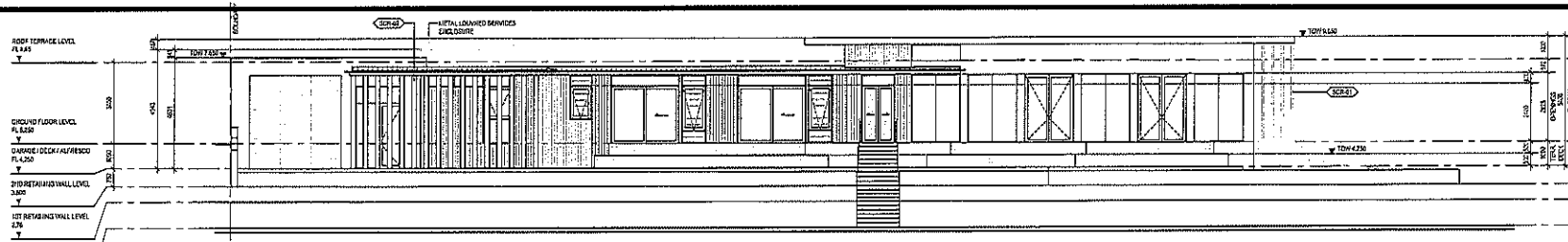


NOTE: Contractor to check and verify all dimensions.

All construction work to be in accordance with the building code of Australia, approved documents and relevant Australian Standards.

- LEGEND
- VERTICAL SCREENING FOR EXTERNAL POWER ROOM. ANGLE TO MAINTAIN CANAL VIEWS FROM LOT 312
- VERTICAL SCREENING TO OTHERS. MUST BE ANGLE TO MAINTAIN CANAL VIEWS FROM LOT 312
- REINFORCED MASONRY



D	14/08/10	DEVELOPMENT APPROVAL	MT	-
C	14/11/10	PRELIMINARY ISSUE	MT	-
U	23/01/16	PRELIMINARY ISSUE	MT	-
A	17/06/16	PRELIMINARY ISSUE	MT	-

DEVELOPMENT APPROVAL



15076 - 15078 - 15079 - 15080 - 15081 - 15082 - 15083 - 15084 - 15085 - 15086 - 15087 - 15088 - 15089 - 15090 - 15091 - 15092 - 15093 - 15094 - 15095 - 15096 - 15097 - 15098 - 15099 - 15100

PROJECT

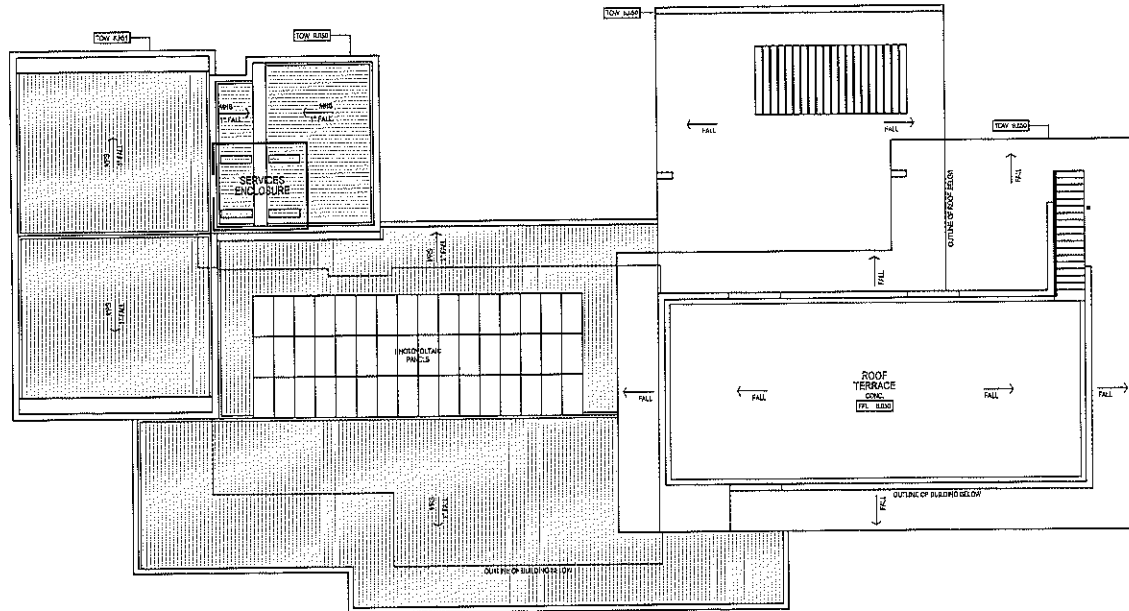
LOT 311 GNULLI COURT, EXMOUTH

TITLE
ELEVATIONS & SECTION

SCALE	DRAWN	CHECKED
1:100 @ A1	MT	-

PROJECT # DRAWING # ISSUE
15076 SK03.01 D

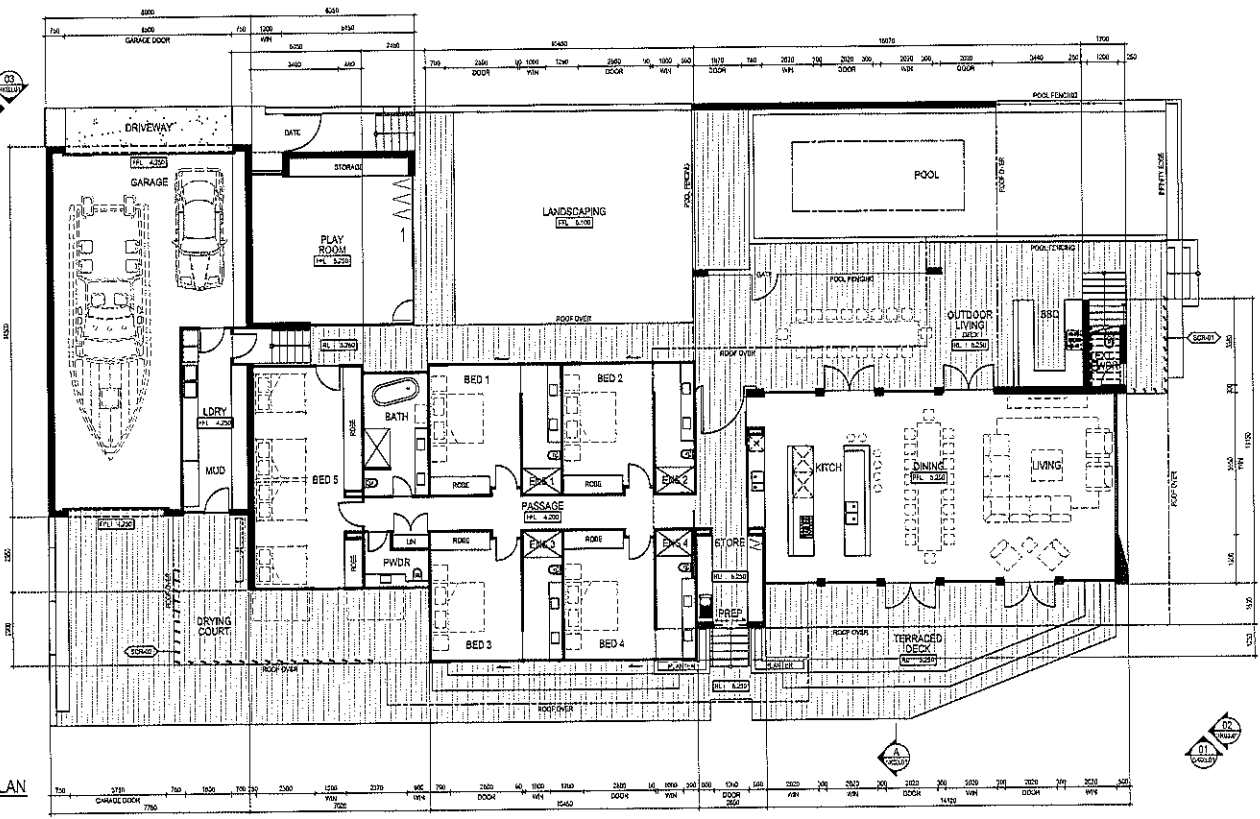
DATE: 15/06/16
DRAWN BY: MT
CHECKED BY: -



NOTE: Contractor to check and verify all dimensions, levels, and angles on site before commencing. All construction work to be in accordance with the Building Code of Australia, approved documents and relevant Australian Standards.

- 12000 VERTICAL SHEETING FOR EXTERNAL POWDER ROOM - APPLIED TO MAINTAIN CANAL VIEWS FROM LOT 310
- 12020 VERTICAL SCREENING TO OPENS COURT - APPLIED TO MAINTAIN CANAL VIEWS FROM LOT 310
- MIS PROPRIETARY PROFILED METAL ROOF SHEETING

02 ROOF PLAN
SCALE 1:100



J	14/03/16	DEVELOPMENT APPROVAL	MT
H	14/07/16	PRELIMINARY ISSUE	MT
G	23/07/16	PRELIMINARY ISSUE	MT
F	14/07/16	PRELIMINARY ISSUE	MT
ISSUE DATE DESCRIPTION			039_A.PPT

DEVELOPMENT APPROVAL

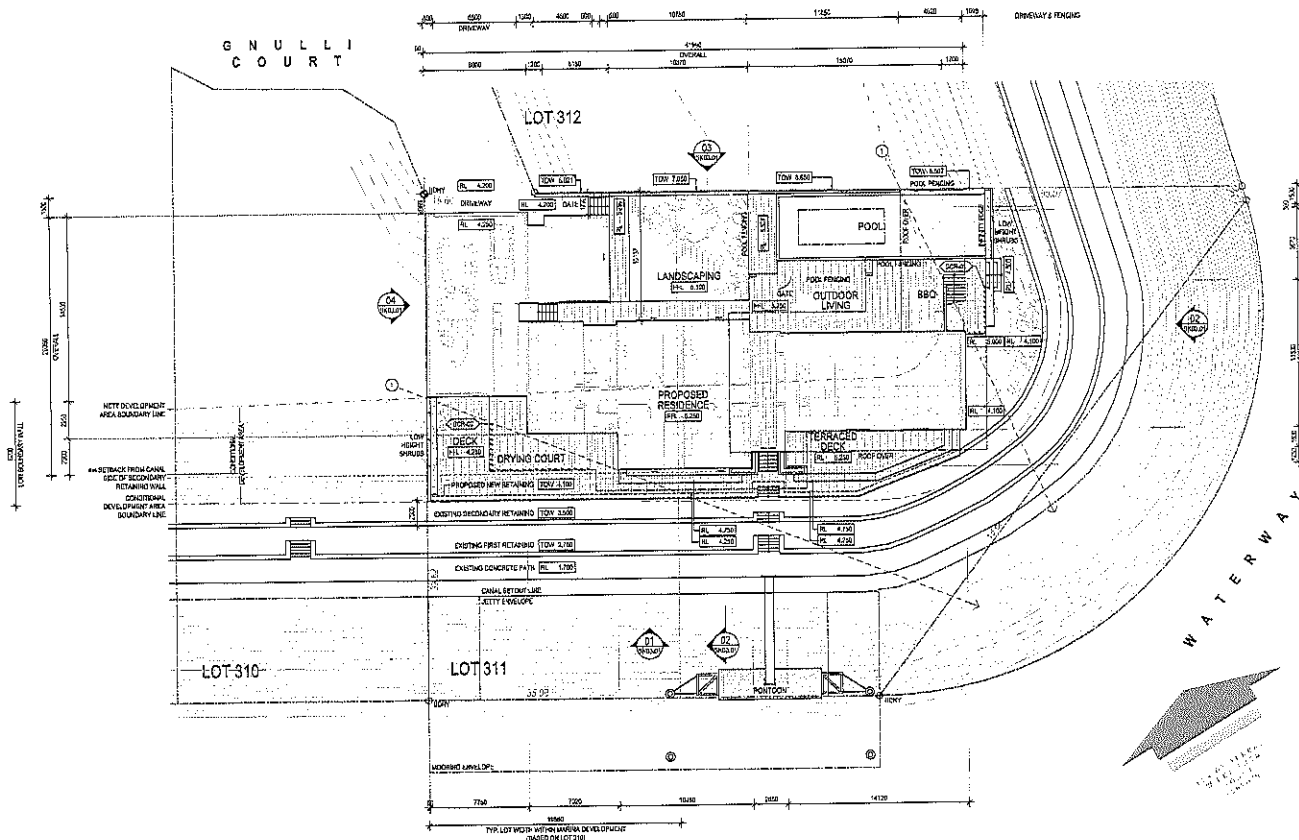


PROJECT
LOT 311 GNULLI COURT, EXMOUTH
TITLE
GROUND FLOOR & ROOF PLAN

SCALE	DRAWN	CHECKED
AS SHOWN @ A1 MT		
PROJECT #	DRAWING #	ISSUE
15076	SK02.01	J

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01 GROUND FLOOR PLAN
SCALE 1:100



LOCATION PLAN
NTS

NOTE: CONTRACTOR TO CHECK AND VERIFY ALL DIMENSIONS, LEVELS, AND ANGLES ON SITE BEFORE COMMENCING.
 ALL DIMENSIONS MUST BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, APPROVED DOCUMENTS AND RELEVANT AUSTRALIAN STANDARDS.

LEGEND

- ① BOUNDARY LINE EXTRAPOLATED FROM INTERSECTION OF NEAREST DEVELOPMENT AREA BOUNDARY LINE & CADASTRAL BOUNDARY LINE TO FURTHEST PREDICTION OF PROPOSED RESIDENCE ON LOT 312.
- ② VERTICAL SURFACE FINISH FOR EXTERNAL POWERS ROOM - APPLICABLE TO MAINS CANAL FROM LOT 310 TO LOT 312.
- ③ VERTICAL SURFACE FINISH FOR EXTERNAL POWERS ROOM - APPLICABLE TO MAINS CANAL FROM LOT 310 TO LOT 312.

01 SITE PLAN
1:200

ISSUE	DATE	DESCRIPTION	DRN. APP.
K	14/03/16	DEVELOPMENT APPROVAL	MT
J	14/07/16	PRELIMINARY ES&L	MT
H	23/02/16	PRELIMINARY ES&L	MT
G	22/02/16	PRELIMINARY ES&L	MT
F	14/07/16	PRELIMINARY ES&L	MT

DEVELOPMENT APPROVAL



PROJECT

LOT 311 GNULLI COURT, EXMOUTH

TITLE

SITE & LOCATION PLAN

SCALE DRAWN CHECKED

AS SHOWN @ A1 MT

PROJECT # DRAWING # ISSUE

15076 SK01.01 K

DISCLAIMER: THE QUALITY OF THIS DOCUMENT AND ALL INFORMATION CONTAINED HEREIN IS SUBJECT TO THE ASSUMPTIONS AND LIMITATIONS SET FORTH IN THE PROJECT MANAGEMENT PLAN.



23 SEPTEMBER 2016

Mark Johnson,
Shire of Exmouth,
PO Box 21, Exmouth,
WA 6707.

Dear Mark,

LOT 311, GNUILLI COURT, EXMOUTH : APPLICATION FOR PLANNING APPROVAL.

Please find attached to this letter, electronic drawings lodged for the purpose of application for planning approval.

A preliminary proposal was informally submitted to the Shire for planning feedback. Modifications were made to the proposed residence based on preliminary feedback received, dated 5th May 2016 (please refer to email attached under Appendix B). This written submission details the rationale of the proposal as a response to its location, orientation, unique lot shape and the planning conditions relevant to the Exmouth Marina Village Precinct 'A'.

INTRODUCTION

Lot 311 is a prime canal lot located within the Exmouth Marina Village Precinct 'A' development. It is one of three larger and prominent corner lots within the precinct, facing south east towards the canal mouth. Lot 311 has the potential to be a landmark property due to its location and orientation facing the main waterway through which canal traffic traverses.

SITE ANALYSIS

Lot 311 is an elongated corner lot with a north west, south east orientation. The lot's canal frontage runs along its south western and south eastern boundary. This canal frontage is completely exposed to the elements and is lacking in privacy. Typical canal lots such as Lot 310, in contrast, have a north east, south west orientation with shorter boundaries facing the canal which affords some level of privacy and protection from the elements.

The Shire's *Policy No. 6.16 Design Guidelines for Exmouth Marina Village Precinct "A"* outlines its development parameters through conditions associated with the Nett development Area (NDA) and critically, specific requirements associated with the Conditional Development Area (CDA). The following ratios were calculated to compare development potential between Lot 311 and typical canal lots (based on Lot 310):

- 1) Ratio of NDA to total lot area up to CDA boundary line :
 - a. Lot 311 - 51.8%
 - b. Typical canal lot – Approximately 75%
- 2) Ratio of CDA to total lot area up to CDA boundary line :
 - a. Lot 311 – 48%
 - b. Typical canal lot– Approximately 25%

Annual data from the Bureau of Meteorology (BOM) (please refer to Appendix A) illustrates that on average, Exmouth (Learmonth) receives most of its moderate to stronger winds from the south and south west. Approximately 50% of moderate to stronger winds come from the south and south west direction with an additional 15% coming from the west and north east in the evenings. The Beaufort Wind Scale defines moderate winds as "20-29kmh. Raises dust and loose paper; small branches are moved". Faster wind speeds could range from strong winds to cyclonic conditions.

Australian Standards *AS4055:2012 Wind Loads for Housing* classifies Exmouth as being under Region D Severe Tropical Cyclones. Site analysis of the current conditions based on the standards aforementioned classifies Lot 311 in the following categories :

- 1) Terrain Category 1.5; large open water surfaces in all wind regions, e.g. applies to sea, ocean water and large unenclosed bays.

- 2) Shielding Factor NS (No Shielding); No shielding where there are no permanent obstructions or where there are less than 2.5 obstructions per hectare, such as the first two rows of houses abutting open parklands, water or airfields.
- 3) Topographic Effect T2; less than or equal to 1:5 slope at the top of a medium hill.

CLIENT BRIEF & CORRESPONDING DESIGN STRATEGY

The client's brief for Lot 311 is for a single storey residence which makes efficient use of the development potential of the property. Brief specifics also include 5 bedrooms, 5 bathrooms, open plan living areas, practical outdoor living areas protected from the elements with some privacy, as well as a roof terrace. Design concepts were explored to ascertain the best approach towards achieving the client's brief. The following planning documents were referenced in devising a design strategy :

- Shire of Exmouth Town Planning Scheme No. 3
- Shire of Exmouth Policy No. 6.16 – Design Guidelines for Exmouth Marina Village Precinct "A".
- State Planning Residential Design Codes

It was clear from the outset that a practical outdoor living area with some privacy, usable all year round, would have to be protected from the elements. Locating outdoor living areas solely along the canal frontage with wind frequencies and speeds as detailed in the site analysis previously, would result in an infrequently used outdoor living area. Further to this, the use and construction of undesirable permanent and visually intrusive wind breaks and privacy screening structures, capable of withstanding cyclonic conditions would also be required to make the spaces more habitable and functional all year round. Such design strategies would result in an unattractive residence which would not be in keeping with the following Guidelines objectives :

- *"To ensure a consistently high standard of development is maintained within the Marina Village with quality elevations that highlight and provide visual interest to the detail and scale of the design, and positively contribute to the streetscape and canal environment."*
- *"To facilitate a harmonious and attractive living environment which can be appreciated by both residents of the Precinct and the wider community".*

The most efficient approach in achieving the client's brief while complying with planning requirements and achieving planning objectives is to locate outdoor living areas along the protected north eastern boundary of Lot 311; utilising the built component of the residence as a structurally sound wind break along the NDA boundary line. Secondary outdoor living areas along the south western boundary are proposed to preserve canal views from the residence and to address the canal.

A combination of contextual responses to site conditions, fulfillment of the client's brief and mindful understanding of the Guideline objectives have resulted in a proposal which encroaches into the Conditional Development Area.

ENCROACHMENT OF DEVELOPMENT INTO CONDITIONAL DEVELOPMENT AREA

Comparisons between the area ratios as listed in the site analysis section demonstrates that despite Lot 311 being larger in area compared to typical canal lots, it has a lower percentage Nett Development Area, yet a higher percentage Conditional Development Area, where specific conditions apply.

While the NDA and CDA boundaries are appropriate when applied onto typical canal lots, this parameter reduces the efficiency and development potential of atypical lots such as Lot 311. A one-size-fits-all application of this parameter onto unique lots without taking into consideration the potential of lot shapes such as Lot 311, works against the Guidelines objectives *"to promote high quality and attractive dwellings with a consistency of more uniformed setback while allowing flexibility for innovative design."*

The application of such a parameter and its corresponding conditions are somewhat onerous considering that the amenity of and views from neighbouring Lots 310 and 312 are not under threat with the proposed residence's encroachment into the CDA occurring far from shared boundaries.

Guidelines item 6.2.5 *General Setback Considerations* outlines the Shire's conditions in allowing development within the CDA :

- *“It is desirable to maintain an open ‘waterway / coastal’ environment adjacent to the canals to prevent the ‘boxing’ in of neighbours dwellings and allow for casual surveillance / interaction between the dwelling and the canal.”*
- *“Any development with the CDA should be open side and visually permeable to provide a scenic environment and high level of amenity without significantly interrupting the open vista.”*
- *“Consistent setbacks along the canal are encouraged for the main dwelling.”*

The portion of the proposed residence which encroaches onto the CDA is not an open structure as stipulated and defined by the Guidelines. Despite not complying with the specific built form and setback conditions for developments within the CDA and bearing in mind that Lot 311 is unique when compared to typical canal lots, the proposed residence addresses the considerations above through the following means:

- 1) Setback of garage to within the NDA.
 - a. Please refer to plotted sight line on drawing SK01.01, extrapolated from the intersection of the NDA boundary line with the cadastral boundary line shared by neighbouring Lot 310 and Lot 311, to the furthest projection of the proposed residence.
 - b. This plotted sight line demonstrates that the garage setback preserves the canal views from neighbouring Lot 310.
 - c. Further to this, no structures, open or otherwise have been proposed to the CDA area in between the canal and the garage on Lot 311. An indicative boundary line, shown on Lot 311, projects the extent of a typical lot width of 19.56m. This gives perspective to the reasonable level of preservation of canal views from neighbouring Lot 310.
- 2) Setback of proposed walls adjacent to pool, to within the NDA.
 - a. Please refer to plotted sight line on drawing SK01.01, extrapolated from the intersection of the NDA boundary line with the cadastral boundary line shared by neighbouring Lot 312 and lot 310, to the furthest projection of the proposed residence.
 - b. This plotted sight line demonstrates that the setback of the pool walls to within the NDA preserves canal views from neighbouring Lot 312.
 - c. The proposed external stair to the roof terrace is the furthest projection of the proposed residence which could serve as visual impediment. The stair is currently shown with visually permeable glazed balustrading to allow the neighbour’s vista to extend further.

Efficient development of a uniquely shaped property such as Lot 311 brings with it the potential to enhance the amenity of neighbouring lots, despite its non-compliance with CDA conditions meant to protect the very same amenity :

- 1) The proposed layout of the residence enhances the use of outdoor living areas to both neighbouring lots :
 - a. Current occupants of residences along the canal are clearly concerned with the lack of privacy to their canal facing outdoor living areas which are generally located side by side within the CDA. Many occupants have taken to planting tall trees and vegetation along shared boundaries well into the CDA, in an attempt to significantly screen their outdoor living areas from neighbours.
 - b. The proposed layout for Lot 311 which locates its outdoor living areas away from typical neighbouring outdoor living area locations, improves the amenity of all three lots.
- 2) The client’s request to limit the residence to a single storey reduces potential building bulk which could adversely affect neighbouring lots.

SUMMARY

We wish to work together with the Shire towards the common goal of delivering a positive and innovative outcome, fitting for a prominent landmark lot in the Marina. Preliminary planning comments by the Shire were considered and the following significant adjustments were made to address them :

- 1) TOW level for proposed new retaining reduced to approximately TOW 4.100 (to allow outdoor decking level of RL 4.250 along the south west boundary).
- 2) Finished floor levels for habitable areas confirmed at FFL 5.250.
- 3) Setback of garage and pool walls into the NDA, with zero setback walls not aggravating existing conditions for future residences on neighbouring lots as elaborated in item 8)a) under the “Addressment of Preliminary Shire Planning Comments” section.

We believe that the proposed residence as a response to the idiosyncracies of Lot 311 could serve to increase the marketability and quality of builds in other significant landmark lots like it, such as Lot 345 and 381, despite its relatively low Nett Development Area and high Conditional Development Area to total lot area. Additionally, we have also demonstrated how careful consideration of the Guidelines' objectives and end goals for the development can result in an innovative proposal which also benefits neighbours. Optimistically, this could serve to raise the overall quality of builds to the development.

We respectfully request that the Shire consider our justifications with regards to the proposed residence's encroachment into the CDA. We hope that the shire finds that our proposal meets Guidelines objectives so we may fulfill the potential of Lot 311 as a prominent landmark lot within the Marina.

ADDRESSMENT OF PRELIMINARY SHIRE PLANNING COMMENTS

The following are further responses to specific planning comments received from the Shire on 5 May 2016 (Please refer to Appendix B for the Shire's preliminary planning comments).

1) 5.3 Building Form

- a) The manner in which the development has been subdivided has resulted in Lot 311 having very little street frontage, approximately 8.6m. The proposed provision of a driveway with ease of access and entry onto the property has resulted in the garage addressing the street.
- b) In addition to this, habitable areas are required to be a minimum FFL 5.250 AHD, with the levels at street frontage being at RL 4.200.
- c) It would be difficult to achieve any reasonable entry gesture which addresses the street frontage with entry porticos and the like, within this context.
- d) The Guidelines acknowledges this in item 6.1 Building orientation, "No dwelling on a canal lot shall be constructed unless it is oriented to present frontal elevation with *windows addressing the street, together with an open aspect to the adjoining canal (with the exception of Lots 311,... where limited street frontage is provided)*".
- e) An additional window facing the street has been provided to the proposed play room to create the perception of street surveillance.

2) 5.6 Minimum Finished Floor Level

- a) All habitable rooms are FFL 5.250 AHD as per item 5.6 in the Guidelines.
- b) All other levels are as shown in the accompanying drawing submission.

3) 6.2 Setback

- a) Both the garage and pool walls have been setback to be located within the NDA to preserve canal views from both neighbouring properties Lot 310 and 312.
- b) Please refer to "Encroachment of Development Into The Conditional Development Area" for further elaboration and details of modifications made to to address this issue.
- c) In addition to this, please refer to item 8)a) which addresses the zero setback of the garage wall.

4) Setbacks for Development in CDA, Guidelines 6.2.5.1

- a) The Shire's comment makes reference to a roof terrace along the north eastern boundary of Lot 311. The roof along this boundary, does not function as a roof terrace and will not be accessible as an outdoor living area. The proposed roof terrace is located above the living area, only.
- b) The pool walls have been been setback to be located within the NDA to perserve canal views for neighbouring property Lot 312, as stated in item 3).

5) Setbacks for Development in CDA, Guidelines 6.2.5.1

- a) Justification for the roof encroaching onto the canal setback area is as per item 3 above.

6) 6.3 Fencing and Retaining Walls

- a) The new level proposed is approximately TOW 4.100 and has been set back 2m from the canal side of the retaining wall as requested.

7) Nutrient Retention Area (NRA)

- a) The proposed retaining wall has been setback 1.65m from the CDA side of the retaining wall to protect the NRA as stipulated by Guidelines item 6.2.5.1 *Specific Setback Requirements for all developments within the CDA.*

8) 5.1.3 Lot Boundary Setback

The proposed residence does not comply with specific Deemed-To-Comply requirements, it does however, achieve the Design Principles stipulated in R-Codes P5.1.3 through the following means :

- a) Proposed zero setback to the garage wall along the shared boundary between Lot 310 and 311 does not adversely affect the amenity of neighbouring Lot 310:
 - i) The garage is located up against the shared boundary with zero setback, to avoid further encroachment of the residence into the CDA and to increase the efficiency of the development by keeping the residence single storey.
 - ii) The north east, south-west orientation of lot 310 and its position in between two other lots, hinders it from receiving direct early morning sunlight which has a lower altitude. Potential setback compliant developments to lots on either side of it would be single storey at the very least and would obstruct direct early morning sunlight.
 - iii) The proposed single storey, 15m long and 3.6m high garage wall with no openings and zero setback does not aggravate existing conditions to Lot 310. In contrast, a two storey development which complies with R-Codes Part 5 C3.1 would impede direct late morning sunlight to openings along the boundary of future developments to Lot 310.
 - iv) Additionally, Guidelines item 5.10 specifies the following, *“Development of the site shall be planned to ensure that small commercial vehicles, trailers, caravans, boats or boat trailers do not detract from the streetscape and shall be stored behind the front setback line...”*
 - v) In keeping with Guidelines item 5.10, the proposed garage has the capacity to store a boat and boat trailer out of sight thereby contributing to a neat streetscape.
 - vi) The height of the garage is the minimum height practicable for boat and boat trailer storage, resulting in a garage wall which is 15m long, 3.6m high measured from FFL 5.250 (minimum floor level required for habitable spaces) and 4.38m high from natural ground level towards the street boundary.
 - vii) Observations made of completed residences within the development indicate that higher garage entry walls are acceptable to facilitate a neat streetscape as long as an appropriate setback distance is applied. The recessed nature of the access way into Lot 311 serves as a subdivision created setback to help ameliorate the impact of a higher than average garage wall at 4.38m high along the street boundary.
- b) Proposed zero setback to the pool wall along boundary shared between Lot 311 and 312:
 - i) The north west, south east orientation of neighbouring Lot 312 will put the south western façade of its development in shade.
 - ii) The proposed pool wall with zero setback to the shared boundary between Lot 311 and 312, therefore, does not prove to be of any adverse impact to the neighbouring residence as the conditions described above already exist and are not aggravated by the proposed zero setback pool wall.
 - iii) The proposed pool wall also seeks to ameliorate any noise issues to potential habitable rooms located along this boundary for the future development of Lot 312. It is most likely however that habitable rooms located along the boundary will have its openings facing either end of the lot rather than along a side boundary as this would provide better outlook. Any potential openings along this side boundary will most likely be minor openings to non-habitable utility spaces.
 - iv) Further to this, the outdoor living area to Lot 312 will most likely be within the CDA as can be observed from completed residences along the canal. The proposed layout of the outdoor living area to Lot 311 creates a staggered affect to the potential outdoor living areas of Lot 312. This would enhance the use of both outdoor living areas as the concentration of activity between both lots would be staggered, which affords some privacy to both living areas.
 - v) Please refer to Appendix C for a letter from the owner of Lot 312, supporting the proposed residence.
- c) **5.2.3 Street Surveillance**
 - i) Please refer to item 1 in this list as comments are interrelated.
- d) **Vehicular Access R-Codes 5.3.5**
 - i) Current plans submitted show driveway 0.5m away from side boundary as per C5.3 of the R-Codes.

Please do not hesitate to contact us if there are any queries and clarifications required.

Sincerely,

A handwritten signature in black ink that reads "Marlene Tseu". The signature is written in a cursive style with a horizontal line underlining the name.

Marlene Tseu, DMG Architecture

On behalf of AMB Consolidated Pty Ltd, Owner of Lot 311, Gnulli Court, Exmouth.

APPENDIX A

Wind speed and direction rose

Product ID code: IDCJCM0021

Location: LEARMONTH AIRPORT

Latitude: 22.24°S

Period: 9am Annual

Download: [PDF](#) | [Wind Frequency Data](#)

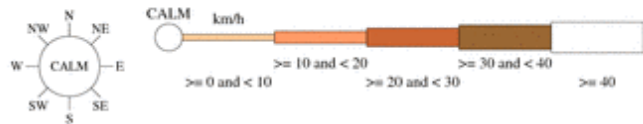
Site Number: 005007

Longitude: 114.1°E

Elevation: 5 metres (above sea level)

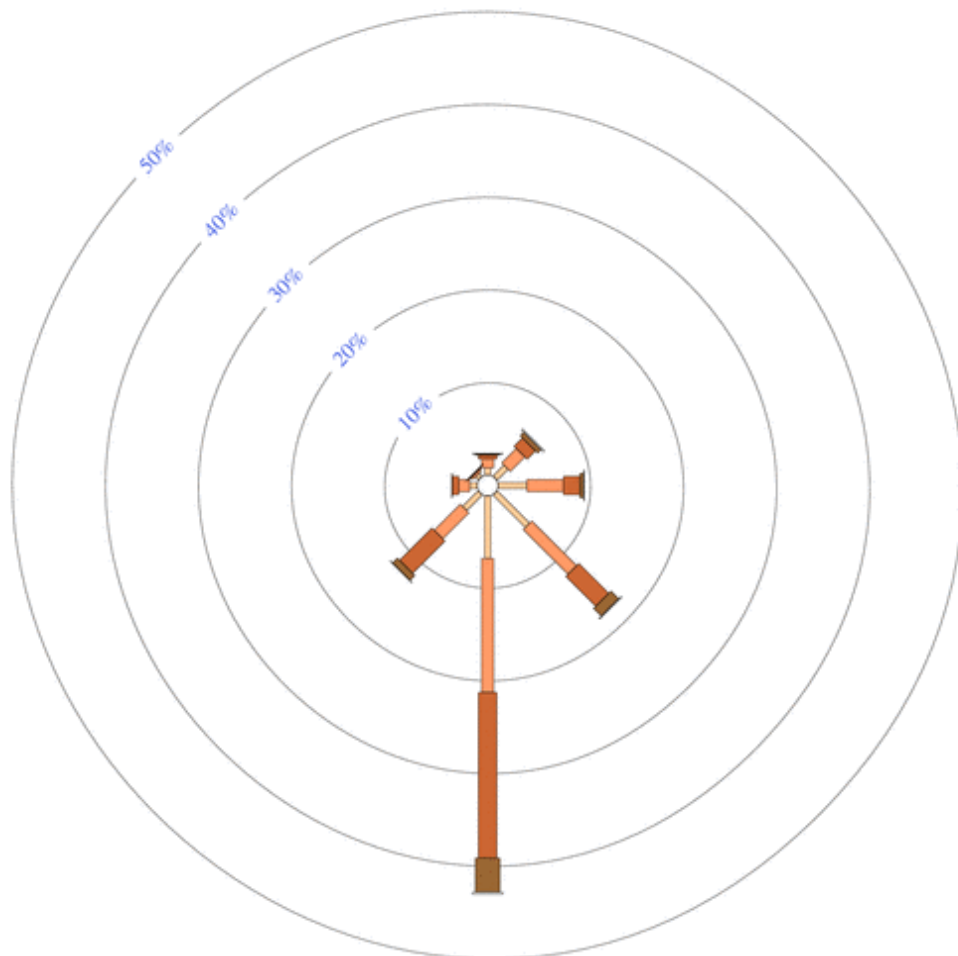
Start year: 1975

End year: 2016



9 am
15004 Total Observations

Calm 6%



Australian Government
Bureau of Meteorology

Wind speed and direction rose

Product ID code: IDCJCM0021

Location: LEARMONTH AIRPORT

Latitude: 22.24°S

Period: 3pm Annual

Download: [PDF](#) | [Wind Frequency Data](#)

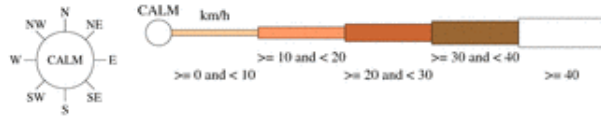
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Elevation: 5 metres (above sea level)

End year: 2016

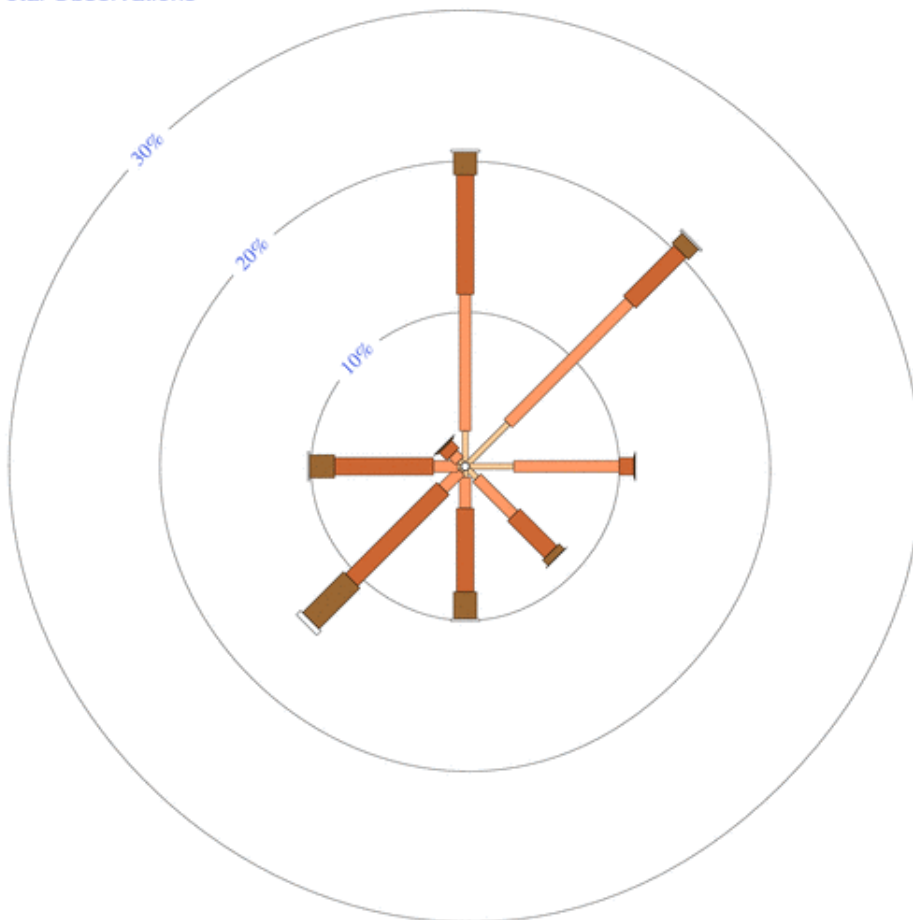
Longitude: 114.1°E

Start year: 1975



3 pm
14988 Total Observations

Calm 1%



Australian Government
Bureau of Meteorology

APPENDIX B

Marlene Tseu

From: Sandra Mhasho <planassist@exmouth.wa.gov.au>
Sent: Thursday, 5 May 2016 2:49 PM
To: Michael Jorgensen
Cc: Mark Johnston
Subject: Preliminary Planning Advice - Proposed Dwelling upon Lot 311 (N30) Gnulli Court, Exmouth
Attachments: DMG_15076_SK01 01_B_160429-GRD FLR PLAN.pdf; Canal Wall Section showing NRA July 2009.pdf; State_Planning_Policy_3.1-Residential_Design_Codes.pdf

Hi Michael,

Thank you for submitting drawings for preliminary planning advice for a proposed single storey dwelling upon Lot 311 (N30) Gnulli Court, Exmouth. The following initial variations have been identified which cannot be supported. Further modifications may be required following submission of detailed plans after providing all information required.

The design varies the provisions of Local Policy 6.16: Design Guidelines for Exmouth Marina Village Precinct A with the following:

1. 5.3 Building Form – with no front entry clearly identifiable from the street through expressed elements such as entry porticos, or design features. Currently garage door and fence address the street;
2. 5.6 Minimum finished floor level – all habitable rooms are required to have a minimum FFL of 5.25m AHD. Currently information not provided on plan, will be 1 metre step up from proposed level of terrace indicated at 4.5m AHD. Additional information required;
3. 6.2 Setback – with solid walls of dwelling in the Conditional Development Area (CDA) which does not maximise views of the canal or maintain an open environment. All development in the CDA is required to be open sided and visually permeable. The setbacks are not consistent with existing surrounding development, refer lot 313 (N34) Gnulli Court and lot 309 (N26) Gnulli Court;
4. 6.2.5.1 Setbacks for development in CDA – with nil side setback to roofed terrace in CDA in lieu of required 1.5 metres;
5. 6.2.5.1 Setbacks for development in CDA – with less than 4 metre setback to roofed terrace from canal side of existing upper retaining wall;
6. 6.3 Fencing and Retaining walls – with 1 metre high retaining wall setback 1.88 metres from the canal side of the existing upper retaining wall in lieu of maximum 0.75 metre high retaining wall setback a minimum of 2 metres from the canal side of the existing upper retaining wall. A 1 metre high retaining wall could be supported if setback a minimum of 2.7 metres from the canal side of the existing upper retaining wall;
7. 6.6 Nutrient Retention Area – with retaining wall proposed within the nutrient retention area. Recommend increasing setback of proposed retaining wall from canal side of existing upper retaining wall to 2.7 metres.

The design varies the provisions of the R-Codes with the following:

8. 5.1.3 Lot boundary setback – with boundary walls to both side boundaries in lieu of one side only and garage boundary wall being 15 metres in lieu of maximum of 9 metres.
9. 5.2.3 Street Surveillance – the street elevation of the dwelling does not address the street and is required to address the street with clearly definable entry points visible and accessed from the street, and have at least one major opening from a habitable room of the dwelling facing the street.
10. 5.3.5 Vehicular Access – with nil side setback of driveway on both sides in lieu of required 0.5m. Recommend having driveway width as per existing construction in the verge.

The Exmouth Marina Village Precinct A: Detailed Design Guidelines can be viewed on the Shires website at <http://www.exmouth.wa.gov.au/documents/?categoryid=7>

Regards
James

James Trimble

Planning Officer

Phone: 08 9949 3025
Fax: 08 9949 3050
Email: planassist@exmouth.wa.gov.au
Address: PO Box 21, 22 Maidstone Crescent, Exmouth WA 6707
Web: www.exmouth.wa.gov.au



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From: Mark Johnston
Sent: Thursday, 5 May 2016 11:55 AM
To: Sandra Mhasho <planassist@exmouth.wa.gov.au>
Subject: FW: 15076 Bennett Residence - Sketch Plan

Mark Johnston

Planning Officer

Phone: 08 9949 3012
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From: Michael Jorgensen [<mailto:michael@dmgaustralia.com.au>]
Sent: Thursday, 5 May 2016 11:52 AM
To: Mark Johnston <planning@exmouth.wa.gov.au>
Subject: FW: 15076 Bennett Residence - Sketch Plan

Mark

As per below.

MICHAEL JORGENSEN Practice Manager

B.Arch (Hons) ABWA No.1828



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From: Michael Jorgensen

Sent: Friday, 29 April 2016 12:59 PM

To: planing@exmouth.wa.gov.au

Cc: Kylie Henson <kylie@dmgaustralia.com.au>

Subject: FW: 15076 Bennett Residence - Sketch Plan

Mark

Just left a message with you and would like to talk to you about the attached proposal when you have a minute. We understand there are a number of items that may need discussion and as such send you this to start a dialogue.

We are also planning to come to Exmouth around the 12th or 13th of May and would like to set up a meeting to discuss the proposal further with you if this timing suits.

Regards

MICHAEL JORGENSEN Practice Manager

B.Arch (Hons) ABWA No.1828



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APPENDIX C

4 JULY 2016

Mark Johnson,
Shire of Exmouth,
PO Box 21, Exmouth,
WA 6707.

Dear Mark,

LETTER IN SUPPORT OF PROPOSED DEVELOPMENT TO LOT 311, GNULLI COURT, EXMOUTH.

We, owners of neighbouring Lot 312, have been informed by Grant Bennett on behalf of AMB Consolidated Pty Ltd, owner of Lot 311, that they intend to seek Development Approval for a proposed residence to Lot 311. Grant presented the proposal to us on the 21st of June 2016, which we understand is to be a single storey, single residential development. Please find attached to this letter, a copy of the site and location plan as reference for this support letter.

The following are significant issues which were discussed with regards to the impact of the proposed development onto our Lot (312):

- 1) Impact of the proposed residence being in the Conditional Development Area (CDA):
 - a) It was brought to our attention that a portion of the proposed residence encroaches onto the CDA and does not fulfil specific guideline conditions. It was clarified that the portion of the residence is not directly adjacent to our shared boundary and does not have a detrimental effect to the preservation of canal vistas from our lot.
 - b) The proposed pool wall which is located along the shared boundary has been setback behind the Nett Development Area to maintain canal vistas from our lot.
 - c) In addition to this, it was also highlighted that further steps were taken to extend canal vistas from our lot through the use of visually permeable glazed balustrading to the external stairs of the proposed residence.
 - d) In our opinion, the proposed development demonstrates the intent of the CDA setback principles and objectives despite not fulfilling specific CDA setback conditions as outlined in the Guidelines.
 - e) Additionally, the location plan presented also shows that our Lot 312, as well as following lots 313 and 314, could gradually step further out from the corner of Lot 311, to provide each lot with views towards the canal bridge and provide a balance to the waterfront edge condition.
- 2) Impact of the proposed zero setback pool wall without openings, located along the shared boundary between Lot 312 and 311:
 - a) The proposed zero setback pool wall was presented to us as a means for the owner of Lot 311 to achieve an adequate usable and protected outdoor living area. This allows the concentration of outdoor living activity on Lot 311, to occur towards the middle of the lot rather than within the CDA, as is usual. This creates a beneficial staggering of outdoor living areas to both lots which would provide some much needed privacy between our potential canal facing outdoor living area and theirs.
 - b) It was also clarified that the proposed solid pool wall also serves to ameliorate noise issues that may arise from use of the pool and outdoor living area. It also provides privacy along the shared boundary to any future development on our lot.
 - c) The proposed pool wall measuring 3.4m high from the minimum required Finished Floor Level (FFL) 5.25 AHD, is effectively single storey and does not adversely affect our lot, in terms of perceived building bulk or overshadowing.

We support the proposed single residence development to Lot 311 Gnulli Court based on the proposal which was presented to us on 21st of June 2016 as well as our consideration of the issues discussed and listed above.

Sincerely,



On behalf of, Eaton Property Holdings Pty Ltd, owner of Lot 312, Gnulli Court, Exmouth

PS ref: 5067

16 November 2016

Chief Executive Officer
Shire of Exmouth
PO Box 21
Exmouth WA 6707

Attention: Rhassel Mhasho – Executive Manager Town Planning

Dear Sir,

**LOT 311 GNULLI COURT, EXMOUTH
PROPOSED SINGLE HOUSE
RESPONSE TO PRELIMINARY ASSESSMENT**

Planning Solutions acts on behalf of AMB Consolidated, the proponent of the proposed dwelling on Lot 311 Gnulli Court, Exmouth.

We refer to the Shire's comments on the proposed development, conveyed in emails sent on 9 and 10 November 2016 from Planning Officer Mark Johnston to Project Architect Marlene Tseu. Below is our response, on behalf of the applicant, to the issues raised by the Shire's officers, for consideration and inclusion in the report to Council. We understand the agenda deadline is imminent and, as such, this submission focuses on those aspects of the proposal that the Shire's officers have indicated are not currently supported.

In the interests of brevity and clarity, each issue is addressed in turn.

1. Western boundary garage wall setback

The R-Codes 'deem to comply' a setback of 1.6m for a wall with a maximum height of 4.5m and maximum length of 15.0m. The garage wall to the western boundary has a maximum height of 4.40m and a length 14.5m. Due to the topography of the area, the wall has a height of 3.6m above natural ground level (NGL) for approximately 2/3 of its length.

The officer comments state that the wall "*significantly exceeds what is prescribed by the R-Codes*". It is important to acknowledge that the 'deemed-to-comply' provisions of the R-Codes are not a maximum standard from which a departure represents a 'variation'. Rather, they are intended as a "*straightforward pathway to approval*" (refer Explanatory Guidelines s2.1.3). Further, the Explanatory Guidelines (s3.2) go on to clearly state:

*While the deemed-to-comply provision do allow for a straightforward pathway to approval, the use of the design principles rather than the deemed-to-comply provisions **should not be viewed as non-compliance**, but rather an alternative design outcome.*
(emphasis added)

In relation to the officer comments pertaining to setting a precedent, it is important to note that the site is unique in the context of the Exmouth Marina Village. Lot 311 is comparable only to Lots 345 and 381, all being irregular shaped lots with dual canal frontage and oriented to the southeast, and these 3 lots are distinctly different to all the other lots in the precinct. Further, Lot 345 is comparable to Lot

311 in that it is accessed by a 'spur' from the cul-de-sac; however, Lot 345 adjoins a sliver of land identified on the Deposited Plan as a PAW, and any garage in a comparable location would therefore be contextually different from the subject application. Similarly, the 'spur' from Corella Court to Lot 381 meets that lot in a different alignment, and therefore any garage on that lot would be, again, contextually different from the subject application. As such, we submit there is no 'precedent' set by the subject proposal, as there are no other lots in the precinct that offer comparable site context. Further, previous decisions of the State Administrative Tribunal have made it clear that, for 'precedent' to be a valid consideration, there must be more than the mere chance or possibility that there may be later indistinguishable applications, and the proposal must be, of itself, objectionable. As stated, the site is distinguishable from all other sites in the precinct. Further, for the reasons outlined below, we submit the proposed garage wall setback variation satisfies the R-Codes design principles, and is therefore not, of itself, objectionable.

Lastly, in relation to the officer comment that "*Council has been quite hard on walls built up to the boundary*", we trust this is intended as advice only, and will not influence the Shire's assessment of the proposal. It is not the Shire officers' role to anticipate Council's views on any matter, rather it is to assess the proposal against the applicable statutory framework and provide Council with independent professional advice.

In light of the above, given that neither the 'deemed-to-comply' provisions of the R-Codes, nor 'precedent', nor Council's previous decisions on unrelated applications are relevant planning considerations, the garage wall is to be assessed against the design principles of the R-Codes, which require:

P3.1 Buildings set back from lot boundaries so as to:

- *reduce impacts of building bulk on adjoining properties;*

The spur from Gnulli Court results in the garage being approximately 9 metres behind the street boundary of the adjoining Lot 310. As such, it is highly likely that any dwelling on Lot 310 will be located forward of the proposed garage, resulting in the boundary wall being predominantly or completely screened from view from the front of Lot 310. Further, given the premium outlook over the canal to the south, it is highly likely habitable rooms and outdoor living areas to a dwelling on Lot 310 would be oriented to the south or the north, rather than towards the adjoining garage.

As such, the location of the garage has the effect that the wall would have a negligible impact on Lot 310, in terms of building bulk.

- *provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*

As the garage is to the southeast of Lot 310, it will have no effect on provision of direct sun to the subject site or adjoining properties. Further, given the direction of prevailing winds, and the dual frontage available to all lots, the garage wall will have no impact on ventilation to the subject site or Lot 310.

- *minimise the extent of overlooking and resultant loss of privacy on adjoining properties.*

The boundary wall to the garage maximises the privacy for both the subject site and Lot 310, and does not result in any overlooking.

P3.2 Buildings built up to boundaries (other than the street boundary) where this:

- *makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;*

As previously stated, the boundary wall to the garage maximises the privacy for both the subject site and Lot 310. The nil setback also makes effective use of space, given the substantial undevelopable area resulting from the dual canal frontage on Lot 311. In fact, we submit that requiring the garage to be set back from the side boundary would simply result in unusable space that provides no benefit to the streetscape nor adjoining neighbour.

- *does not compromise the design principle contained in clause 5.1.3 P3.1;*

As detailed above, the proposed garage wall satisfies the design principles outlined in 5.1.3 P3.1 of the R-Codes.

- *does not have any adverse impact on the amenity of the adjoining property;*
- *ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and*

As detailed above, the location of the garage means it will be behind the street setback of any dwelling constructed on Lot 310, and therefore the boundary wall will be predominantly or completely screened from view from the front of Lot 310. Given the premium outlook to the south from Lot 310, it is anticipated that any dwelling on that lot will orient habitable rooms and outdoor living areas to the south and north. Lastly, as the subject site is to the southeast of the adjoining property, the garage wall will have no impact on access to direct sun nor ventilation to Lot 310.

- *positively contributes to the prevailing development context and streetscape.*

The spur from Gnulli Court results in the subject site being set back from the perceived 'streetscape' created by the other properties which all have direct road frontage. Notwithstanding, given the alignment of the spur, should the Shire require the garage to be set back from the western side boundary, this would result in a much poorer streetscape outcome, as the entire street frontage of the property would be occupied by the garage and a fence or gate to the side boundary. This would also reduce the opportunities for passive surveillance over the spur, currently provided by the play room window.

In light of the above, we submit the proposed garage wall clearly satisfies the design principles of the R-Codes, and warrants support and approval accordingly.

2. Northern boundary patio wall setback

As previously stated, it is important to acknowledge that the deemed-to-comply provisions of the R-Codes are not maximum standards or "*prescribed setbacks*", and that the Explanatory Guidelines explicitly state that "*use of the design principles rather than the deemed-to-comply provisions should not be viewed as non-compliance*". As such, the Shire's assertions that the R-Codes only allow a total wall length of 9m, with an average height of 3m, to one side boundary only, are not correct. Further, for the same reasons as outlined in Section 1 above, the suggestion that the proposed patio wall would set a 'precedent' is also not consistent with established planning practice.

Accordingly, the proposed patio wall is to be assessed against the design principles of the R-Codes, which require:

P3.1 Buildings set back from lot boundaries so as to:

- *reduce impacts of building bulk on adjoining properties;*

The patio wall is a single storey wall, adjacent to Lot 312. Given the premium views available from Lot 312, habitable rooms and outdoor living areas on that lot are likely to be oriented to the southeast and northwest, over the canal and Gnulli Court. The boundary wall comprises only a small portion of the almost 42m length of the side boundary, the remainder of which is predominantly open and comprising landscaping and swimming pool areas. As such, the perceived bulk of the wall is minimal.

Importantly, the owners of Lot 312 have confirmed in writing that they support the proposed boundary wall.

- *provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties;*

As the patio wall is to the south of Lot 312, it will have no effect on provision of direct sun to the subject site or adjoining properties. Further, given the direction of prevailing winds, and the dual frontage available to all lots, the patio wall setback will have no impact on ventilation to the subject site or Lot 312.

- *minimise the extent of overlooking and resultant loss of privacy on adjoining properties.*

The boundary wall to the patio maximises the privacy for both the subject site and Lot 312, and does not result in any overlooking. As noted in the letter of non-objection provided by the owners of Lot 312, the boundary wall allows the outdoor living areas to both sites to be ‘staggered’, enhancing the privacy and amenity of both dwellings.

P3.2 Buildings built up to boundaries (other than the street boundary) where this:

- *makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;*

As previously stated, the boundary wall to the patio maximises the privacy for both the subject site and Lot 312. The nil setback also makes effective use of space, given the substantial undevelopable area resulting from the dual canal frontage on Lot 311. In fact, we submit that requiring the patio to be set back from the side boundary would simply result in unusable space that provides no benefit to the residents nor adjoining neighbour.

- *does not compromise the design principle contained in clause 5.1.3 P3.1;*

As detailed above, the proposed patio wall satisfies the design principles outlined in 5.1.3 P3.1 of the R-Codes.

- *does not have any adverse impact on the amenity of the adjoining property;*
- *ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and*

Opening up this section of the boundary would most likely result in direct visibility between the two dwellings’ outdoor living areas, and in all conversations being clearly overheard, with a perceived loss of privacy for all parties. A boundary wall is in fact the best solution to protect the amenity for residents of both properties.

Given the premium outlook to the southeast from Lot 312, it is anticipated that any dwelling on that lot will orient habitable rooms and outdoor living areas to the southeast and northwest, and the amenity of these areas would therefore not be affected by the wall. Lastly, as the subject site is to the south of the adjoining property, the patio wall will have no impact on access to direct sun nor ventilation to Lot 312.

- *positively contributes to the prevailing development context and streetscape.*

The patio wall will be visible only to the future occupiers of any dwelling on Lot 312, and will have no impact on the prevailing development context or streetscape.

In light of the above, we submit the proposed patio wall clearly satisfies the design principles of the R-Codes, and warrants support and approval accordingly.

3. Structures (including walls, enclosed rooms, screening, unenclosed structures, and decking) within the Conditional Development Area.

Assertions that “the guidelines outline that only open structures are permitted within the CDA” are simply not correct. Firstly, Section 6.2.5.1 of the guidelines states:

Notwithstanding the above [general setback considerations], **Council may allow development within the Conditional Development Area (CDA) where reasonable privacy and view lines to the canal from neighbouring properties are maintained and the development maintains protection of the 1.6 metre wide Nutrient Retention Area (NRA) at all times...**

[specific setback and design criteria specified]

Any proposed variations to the above, the application shall be referred to the immediate adjacent landowners (who share a lot boundary of the lot being developed) for 14 days comment period, and may be approved after considering submissions where Council is satisfied that the variation will not negatively impact on the amenity and character of the area.
[emphasis added]

Further, it is established planning practice that policies (such as the guidelines) are to be applied flexibly and with due consideration of the merits of the proposal. The existence of a policy is not intended to replace the discretion of the Council in the sense that it is to be inflexibly applied regardless of the merits of the particular application being considered. As such, the guidelines clearly do contemplate development within the CDA, and specifically empower Council to approve variations to the specific design and setback criteria detailed in the guidelines. Further, it would be *ultra vires* and contrary to proper decision-making practice to fetter the discretion of Council by inflexibly applying a policy instrument.

As such, in accordance with the guidelines, development within the CDA is to be considered with regard to the following:

- **Whether “reasonable privacy and view lines to the canal from neighbouring properties are maintained”.**
- **Whether the development “maintains protection of the 1.6 metre wide Nutrient Retention Area”.**
- **Whether “Council is satisfied that the variation will not negatively impact on the amenity and character of the area”.**

The plans submitted by the project architect depict sight lines from adjoining properties, extrapolated from the intersection of the Net Developable Area boundary line and the cadastral boundary line to the furthest projection of the proposed dwelling on Lot 311. The diagram clearly demonstrates that, due to the location and orientation of the subject site and adjoining Lots 310 and 312, the encroachment into the CDA has no impact whatsoever on sightlines from Lot 312, and negligible impact on sightlines from Lot 310. The residents of Lot 310 will enjoy 157-degree unobstructed views to the southwest – the minor impact on the sightline to the southeast is negligible, and has no impact on the amenity of that property. As such, the suggestion that the development in the CDA results in the “boxing out” of adjoining property owners is demonstrably not correct. Further, nothing in the guidelines precludes the planting of vegetation that obscures sightlines within the CDA, and so it cannot be assumed that all properties will have entirely unobstructed views through the full extent of the CDA on adjoining lots.

The dwelling complies with all visual privacy requirements of the R-Codes, and the minor encroachment of the building into the CDA will have no impact on the privacy of either adjoining property. Importantly, the owners of Lot 312 have confirmed in writing that they have no objection to the proposed dwelling.

All development is contained within the CDA, and as such protection of the NRA is maintained at all times, in accordance with the guidelines.

Lastly, with regard to the amenity and character of the area, we submit it is clear that the encroachment into the CDA has no impact on the amenity of the area, as experienced by the adjoining residents. This is detailed at length in preceding sections of this submission. With regard to the character of the area, the Shire officers’ comments place considerable emphasis on the desire for consistent setbacks to the canal. In this regard, it is important to appreciate that Lot 311 is distinctly different to the adjoining properties, in terms of its area,

dimensions, orientation and alignment. For this reason, the built form on the subject site is 'read' differently to the adjoining properties, when viewed from the canal. That is, we agree that any substantial setback variations on Lots 300 – 310 would potentially be disruptive to a consistent setback along that section of canal. Similarly, setback variations to Lots 312 and 313 would also be prominent when viewed from the canal. However, the design of the proposed dwelling, with built form 'stepping back' from the encroachment in the southern portion of the site, to align with the NDA where it meets the cadastral boundaries of the site, means that the building line will in fact appear consistent and harmonious when viewed from the canal – as it extends into the corner of the peninsula and then tapers back to create a consistent line along the straight edges of the canals.

In light of the above, we submit that the guidelines clearly contemplate enclosed structures within the CDA, subject to satisfying certain considerations as detailed above. Further, we submit that it is proper planning practice for policies to be applied flexibly and with due consideration of the merits of the proposal. For the reasons outlined above, the proposed development clearly satisfies the criteria for Council to exercise discretion and grant approval for the development as proposed.

4. Alternative options

Suggestions by the Shire's officers that "*the most efficient development of the property is a two storey dwelling [and] a single storey dwelling is not the most efficient development of the property as it wastes the second storey space*" are not relevant considerations in assessment of this application for planning approval. The potential existence of a hypothetical alternative design that may be preferable to the Shire is irrelevant. This principle is detailed by the Deputy Chair of the previous Town Planning Appeal Tribunal, Mr John Chaney (now Justice Chaney of the Supreme Court), in the decision of **SPB (Australia) Pty Ltd v Town of Claremont [2003] WATPAT 138**. In that decision, Mr Chaney stated:

The function for the [decision maker] is not, of course, to determine whether a proposed development is the best possible development, having regard to all issues, that might conceivably be placed on the subject site. What the [decision maker] must do is to assess whether, in the interests of all orderly and proper planning, and the amenity of the area, and having regard to all applicable planning instruments, a development should be approved. Thus, unless it can be said that a proposed development is contrary to any of those considerations, it should be approved notwithstanding that some may think that a better development of the site might be possible.

As such, we respectfully submit that the Shire's officers, and Council, must give no weight to any hypothetical alternative scenarios that might be considered preferable or more efficient.

Conclusion

In light of the above, we submit that the proposed development clearly satisfies the objectives and requirements of the applicable statutory planning framework, primarily the Residential Design Codes and Local Planning Policy No. 6.16 – Design Guidelines for Exmouth Marina Village Precinct A. In assessing the development against those instruments, it is essential to appreciate that both instruments require careful consideration of the performance and outcomes of the development, rather than an inflexible 'check-box' approach to compliance.

The subject site is itself unique, even more so in the unique context of the Exmouth Marina Village, due to its size, dimensions, orientation and alignment. For this reason, it is necessary to carefully consider the individual merits of the proposal. We submit the specific context and attributes of the subject site justify, and in fact necessitate, departure from the generic development standards detailed in the guidelines and applicable to all lots in the precinct, the vast majority of which are regular rectangular sites with single canal frontage.

For the reasons detailed above, we consider the proposed development satisfies the design principles of the R-Codes as they pertain to the boundary walls for the garage and patio, and the objectives and design criteria of the guidelines as they pertain to development within the Conditional Development Area. Accordingly, we consider the application for the single house on Lot 311 warrants the Shire's support and Council's approval.

We thank the Shire's officers for their time and consideration in assessing the application and having due regard to the matters raised in this submission. We respectfully request the opportunity to present a deputation to Council in support of the application, prior to any determination.

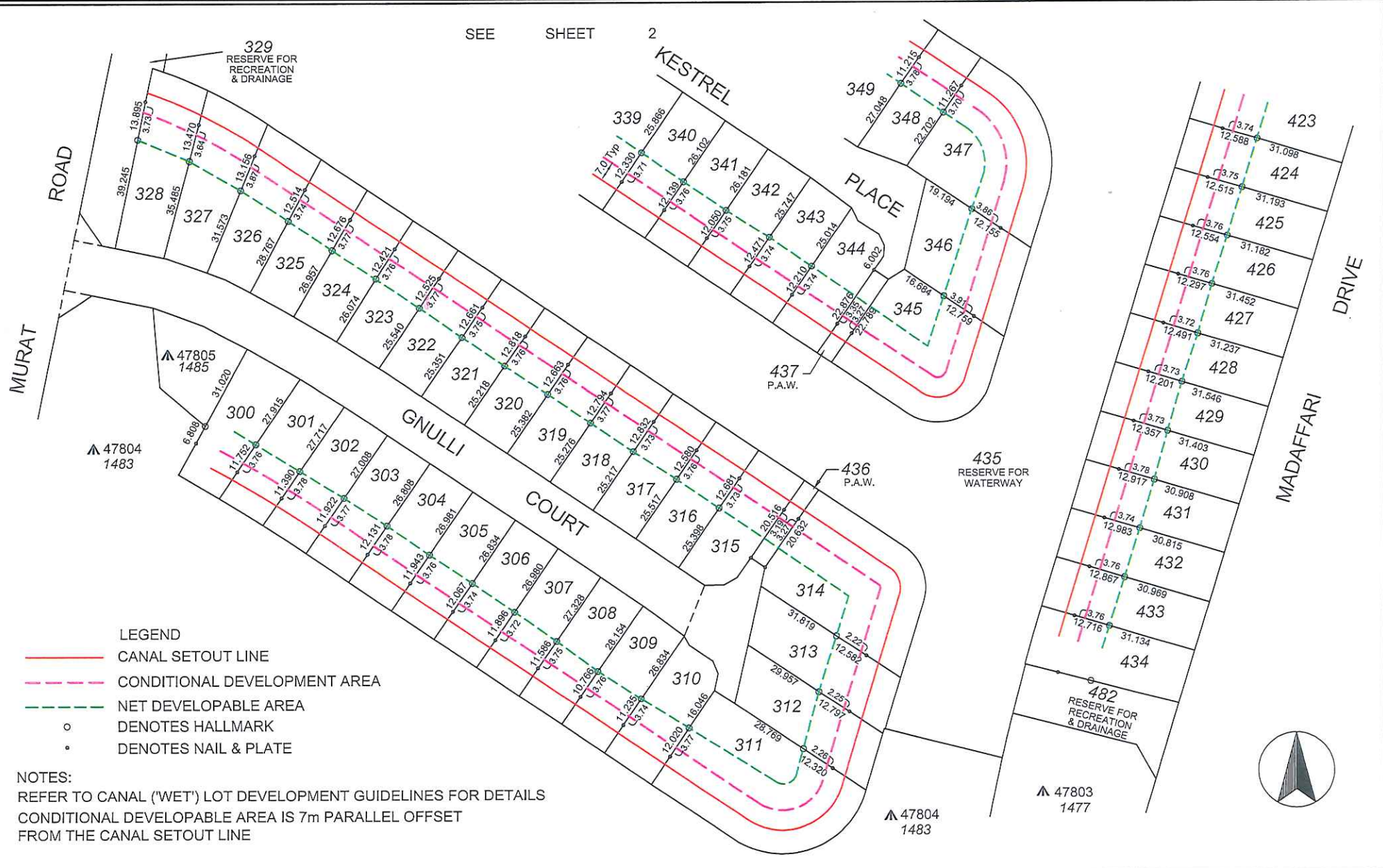
Should you have any queries or require further clarification in regard to the above matter please do not hesitate to contact the writer.

Yours sincerely,



BEN DOYLE
DIRECTOR

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1	05/06/09	NET DEVELOPABLE AREA AMENDED	SL								
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REVISIONS											



