



*Swan and Canning Rivers Management Act 2006*

**PART 5**

**DETERMINATION OF DEVELOPMENT APPLICATION**

FILE NUMBER	:	2019/3011
APPLICANT	:	Dark Horse Hospitality Pty Ltd
LANDOWNER	:	Department of Transport
LAND DESCRIPTION	:	East Street Jetty, Lot 501 on Plan 409261 (No. 124 Beach Street) and the Swan River, Lot 300 on Plan 47450, Fremantle, Crown Reserve 32949
DEVELOPMENT	:	Construction of café with bar and licensed alfresco area and relocation of a portion of the East Street Jetty passenger shelter
VALID FORM 1 RECEIVED	:	30 November 2019
DETERMINATION	:	<b>APPROVAL WITH CONDITIONS</b>

The application to commence development in accordance with the information received on 30 November 2019 is APPROVED subject to the following conditions:

1. Approval to implement this decision is valid for two (2) years from the date of the approval. If substantial on-site works have not commenced within this period, a new approval will be required before commencing or completing the development.

**Prior to the commencement of works**

2. The applicant shall notify the Department of Biodiversity, Conservation and Attractions in writing not less than seven (7) days prior to the commencement of works (**Advice Note 1**).
3. At least 30 days prior to the submission of an application for a building licence, the applicant shall prepare a Construction and Environmental Management Plan to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle (**Advice Note 4**).
4. At least 30 days prior to the submission of an application for a building licence, the applicant shall prepare a Stormwater Management Plan to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle (**Advice Note 5**).
5. At least 30 days prior to the submission of an application for a building licence, the applicant shall prepare a Waste Management Plan to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle (**Advice Note 6**).
6. At least 30 days prior to the submission of an application for a building licence, the applicant shall provide plans/drawings demonstrating that the provision of a reticulated sewerage service, and any other services required, will be made available to Lot 501 on Plan 409261 Beach Street, Fremantle to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle.

7. At least 30 days prior to the submission of an application for a building licence, the applicant shall demonstrate to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle, that the provision of bicycle racks and end of trip facilities will be incorporated into the development (**Advice Note 7**).
8. At least 30 days prior to the submission of an application for a building licence, the applicant shall submit final design plans/drawings, including details of the external colours, finishes, materials, lighting and signage, for the development to the satisfaction of the Department of Biodiversity, Conservation and Attractions on advice from the City of Fremantle.

#### **During works**

9. The approved Construction and Environmental Management Plan shall be implemented.
10. The works shall not prevent public access to the East Street Jetty, including the jetty abutment and walkways, unless temporary closure is necessary for safety purposes.
11. In the event that temporary closure of the East Street Jetty is required, the applicant shall provide written approval from the Department of Transport to the Department of Biodiversity, Conservation and Attractions, and signage notifying users of the jetty (both pedestrian and vessel) of the upcoming closure shall be installed at least two weeks prior to the closure of the jetty.

#### **On completion of works**

12. Within three (3) days of the completion of the works, the applicant shall notify the Department of Biodiversity, Conservation and Attractions in writing that works have ceased.
13. Within three (3) days of the completion of the works, the applicant shall remove all waste materials, equipment, machinery and any temporary structures and ensure the site is cleaned-up to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle.
14. At least 30 days prior to the occupation of the premises, the applicant shall provide operational procedures for the development to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle (**Advice Note 8**).
15. Prior to the occupation of the premises, the applicant shall ensure that the development is connected to all services as approved under **Condition 6**.

#### **Ongoing**

16. The approved Stormwater Management Plan shall be implemented, and any associated infrastructure maintained, to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle.
17. The approved Waste Management Plan shall be implemented, and any associated infrastructure maintained, to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle.
18. The applicant shall maintain the bicycle racks and end of trip facilities for the life of the development, to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle.
19. Any changes to the operational procedures approved under **Condition 14** shall be submitted in writing to the Department of Biodiversity, Conservation and Attractions for approval, on advice from the Licensed Authority and the City of Fremantle.
20. Any changes to the sub-lease with the Department of Transport shall be referred to the Department of Biodiversity, Conservation and Attractions to ensure they do not contravene any provision of the *Swan and Canning Rivers Management Act 2006* or policies of the Department of Biodiversity, Conservation and Attractions.

## ADVICE TO APPLICANT

1. Notification of the commencement of work and any plans or documents required in accordance with conditions of this approval can be emailed directly to [rivers.planning@dbca.wa.gov.au](mailto:rivers.planning@dbca.wa.gov.au).
2. The applicant is advised that a building permit is required for the development. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.
3. The applicant is advised that an obstruction permit may be required from the City of Fremantle (the City) for any obstruction of the Beach Street road reserve that may occur as a result of the works. An application for an obstruction permit can be found on the City's website.
4. Regarding **Condition 3**, the Construction and Environmental Management Plan shall describe how the works will be managed to minimise potential environmental impacts and shall include, unless otherwise agreed in writing:
  - a detailed work method statement that describes how the contractor proposes to undertake the works;
  - written permission from the City of Fremantle for use of the car park (if required);
  - timeframes and responsibilities for tasks identified;
  - contact details of essential site personnel, construction period and operating hours;
  - management of any potential acid sulphate soils (PASS) that may be exposed during the works;
  - proposed contingency actions should environmental controls be inadequate;
  - identification and protection of infrastructure and established vegetation;
  - detail of machinery and associated refuelling;
  - waste management;
  - protection of the river and stormwater system from inputs of debris, run-off, soil, fill, or other deleterious material;
  - public access, safety and amenity (particularly in regard to the East Street Jetty);
  - traffic, access and parking management for contractors and the public;
  - complaints and environmental incident management plan;
  - containment of stockpiles of materials;
  - location of emergency spill kits that are to be onsite at all times;
  - a detailed site map showing the location of any:
    - i. signage, including the contact details of essential site personnel;
    - ii. perimeter fencing and hoarding;
    - iii. the laydown area and vehicle entry/exit points;
    - iv. protected vegetation;
    - v. areas of excavation and stockpiling of soil;
    - vi. on-site storage and bunding of materials and equipment;

- vii. traffic access and parking; and
  - viii. any proposed redirection of pedestrian, or vessel, traffic.
- in the case of a sediment plume or hazardous pollution events, the Department of Biodiversity, Conservation and Attractions can be contacted on 9278 0900 or after hours on 0419 192 845; and
  - any other matters considered relevant to the proposal not identified above.
5. Regarding **Condition 4**, the Stormwater Management Plan shall describe how the stormwater system has been designed to prevent mobilisation of sediment, nutrients and contaminants from the site to the river. Stormwater should be managed in accordance with the Department of Biodiversity, Conservation and Attractions' Policy 49: *Planning for Stormwater Management Affecting the Swan Canning Development Control Area*, the Department of Water and Environmental Regulation's *Stormwater Management Manual for Western Australia* and *Decision Process for Stormwater Management in WA*, and water sensitive urban design principles. The plan shall address, unless otherwise agreed in writing, that:
- stormwater run-off from constructed impervious surfaces generated by small rainfall events (i.e. the first 15 mm of rainfall) has been retained and/or detained at-source as much as practical (noting that untreated stormwater will not be permitted to enter the river).

6. In regard to **Condition 5**, the applicant is advised that the Waste Management Plan shall provide details addressing, at a minimum:
- sustainability initiatives to reduce waste generation (e.g. no provision of single-use plastic);
  - estimated waste generation;
  - proposed storage of receptacles;
  - collection methodology for waste;
  - details of the grease arrestor; and
  - any additional management requirements.

The Waste Management Plan should give consideration to the City of Fremantle's (the City's) requirement to manage residential waste. As a result, the plan will need to align with the waste services available to residents. Additional information in relation to the City's waste management requirements can be found on its website: <https://www.fremantle.wa.gov.au/waste-and-recycling>.

7. In regard to **Condition 7**, the applicant is advised that the provision of bicycle racks and end of trip facilities are to be in accordance with the City of Fremantle (the City) Local Planning Scheme 4. This scheme requires any new commercial use class development to include shower, change facilities and lockers for employees. The City has recommended the following to be included in the development:
- three Class 1 bicycle racks (high-security, fully enclosed individual bike lockers);
  - three Class 3 bicycle racks (low-security, rails or racks to which a bicycle frame and wheel can be locked);
  - one male and one female shower (or two unisex); and
  - three lockers.
8. In regard to **Condition 14**, the applicant is advised that the operational procedures should address, at a minimum:

- number of patrons (including for any licensed or unlicensed events);
- trading hours;
- noise (including from guests leaving the premises);
- management of deliveries; and
- process for management of complaints, including contact details of the person/s responsible for responding.

The applicant is advised that the number of patrons and trading hours for licensed areas and events will be stipulated by the Licensing Authority. A copy of the Small Bar Licence should be included in the operational procedures and any changes to this should be provided to the Department of Biodiversity, Conservation and Attractions.

9. The Department of Biodiversity, Conservation and Attractions recommends the applicant contacts the Department of Transport Navigational Safety Project Officer on 13 11 56 or by email at [navigational.safety@transport.wa.gov.au](mailto:navigational.safety@transport.wa.gov.au) to discuss the requirement for a Notice to Mariners in relation to the construction, demolition or service connection works.
10. The applicant is advised that any future works associated with the development may require approval from the Department of Biodiversity, Conservation and Attractions including in accordance with section 14A (works by a leaseholder) of the Swan and Canning Rivers Management Regulations 2007.



Hon Stephen Dawson MLC  
**MINISTER FOR ENVIRONMENT**

Date: 18/5/20

## DEPARTMENT OF BIODIVERSITY, CONSERVATION AND ATTRACTIONS REPORT

PROPOSAL	: Construction of café with bar and licensed alfresco area and relocation of a portion of the East Street Jetty passenger shelter
LOCATION	: East Street Jetty, Lot 501 on Plan 409261 (No. 124 Beach Street) and the Swan River, Lot 300 on Plan 47450, Fremantle, Crown Reserve 32949
COST	: \$600,000
APPLICANT	: Dark Horse Hospitality Pty Ltd
LANDOWNER	: Department of Transport
LOCAL GOVERNMENT	: City of Fremantle
MRS CLASSIFICATION	: Public purposes – special uses
LG CLASSIFICATION	: No zoning
DECISION TYPE	: Part 5, <i>Swan and Canning Rivers Management Act 2006</i>
ATTACHMENTS	: 1. Location map 2. Department of Transport advice 3. City of Fremantle advice 4. Town of East Fremantle advice 5. Proposed plans
RECOMMENDATION	: <b>APPROVAL WITH CONDITIONS</b>

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## REPORT

### 1.0 INTRODUCTION

- 1.1 The Department of Biodiversity, Conservation and Attractions (DBCA) has received an application from Dark Horse Hospitality Pty Ltd (the applicant) to construct a café with bar and an alfresco area, and relocate the existing passenger shelter at East Street Jetty, Fremantle.
- 1.2 The café/bar will be located at Lot 501 on Plan 409261 (No. 124 Beach Street) and the licensed alfresco area will be on the jetty over the Swan River at Lot 300 on Plan 47450, Fremantle, Crown Reserve 32949 (**Attachment 1**). The subject land is reserved for public purposes – special uses under the Metropolitan Region Scheme, which allows for commercial development. Lot 501 and the East Street Jetty is owned by the Department of Transport and the development footprint has been sub-leased to the applicant for approximately 20 years.
- 1.3 The proposed development is to occur on lots wholly within the Swan Canning Development Control Area (DCA). As the proposal by the leaseholder is of a value greater than \$50,000, it cannot be processed under the Swan and Canning Rivers

Management Regulations 2007. The proposal therefore requires approval under Part 5 of the *Swan and Canning Rivers Management Act 2006* (SCRM Act).

- 1.4 The Director General of DBCA has prepared this report in accordance with section 75 of the SCRM Act.

## 2.0 CONSULTATION

### Department of Transport

- 2.1 The Department of Transport (DoT) advised that it has no objections to the proposal as it has already addressed its issues through the agreed terms and conditions of the sub-lease, which has been executed and is currently in place (see **Attachment 2**). Terms and conditions of interest to this approval are summarised below:

- The premises must be kept clean (including the removal of graffiti) and free from rubbish.
- All necessary precautions must be taken to ensure that no pollution or contamination of the land or waters adjacent to the premises occurs by use of the premises.
- Any contamination or pollution to the Swan River caused by the premises or by use of the premises shall be cleaned up and/or removed at the cost of the lessee.
- Appropriate insurance must be obtained and maintained (e.g. public liability insurance, building insurance, etc.).
- No signage is to be displayed from or within the alfresco area.
- Acknowledgement and agreement that East Street Jetty is a public jetty from which private vessels, charter services and ferry services operate from.
- All members of the public are to have shared and unrestricted use of East Street Jetty, the jetty abutment and the walkways that provide access to the premises.
- Acknowledgement and agreement that the public carpark adjacent to the premises is not for exclusive use by the business or customers or employees of the business.

- 2.2 These terms and conditions will not be repeated on this approval as they have been agreed to by the lessor (DoT) and the applicant and are already in force. However, it is recommended that any changes to the sub-lease that may affect public use of the East Street Jetty or impact on the health or amenity of the Swan River be referred to DBCA to ensure they do not contravene the SCRM Act or DBCA policies.

### City of Fremantle

- 2.3 The City of Fremantle (the City) provided its advice to DBCA, supporting the proposal subject to conditions and advice (**Attachment 3**). This advice has been incorporated into the conditions and advice notes of the approval.

### Town of East Fremantle

- 2.4 The Town of East Fremantle's (the Town) administrative boundary begins at the corner of Riverside Road and East Street (approximately 100m from the site). Although the development site is outside of the Town's jurisdiction, its comment was sought due to its close proximity.

- 2.5 The Town advised (**Attachment 4**) that it has no objections to the proposal, provided parking within the Town is not impacted and the use of the jetty as a functioning boating facility is not impeded.

### 3.0 PUBLIC CONSULTATION – SUBMISSIONS ON DRAFT REPORT

- 3.1 In accordance with the requirements of Part 5 of the SCRM Act, a copy of the draft report and proposed recommendation was provided to the applicant and relevant stakeholders being DoT, the City and the Town. A copy was also published on the DBCA website for a period of two (2) weeks between 15 April 2020 and 29 April 2020 with an invitation for public submissions.
- 3.2 No submissions were received.

### 4.0 RELEVANT POLICIES AND PLANS

- ◆ State Planning Policy 2.10 – *Swan-Canning River System*
- ◆ Corporate Policy Statement No. 42 – *Planning for Land Use, Development and Permitting Affecting the Swan Canning Development Control Area (Policy 42)*
- ◆ Corporate Policy Statement No. 45 – *Planning for Miscellaneous Structures and Facilities in the Swan Canning Development Control Area (Policy 45)*
- ◆ Corporate Policy Statement No. 46 – *Planning for Commercial Operations in the Swan Canning Development Control Area (Policy 46)*
- ◆ Corporate Policy Statement No. 49 – *Planning for Stormwater Management Affecting the Swan Canning Development Control Area (Policy 49)*
- ◆ Corporate Policy Statement No. 51 – *Planning for Wastewater Management Affecting the Swan Canning Development Control Area (Policy 51)*

### 5.0 ENVIRONMENTAL AND PLANNING CONSIDERATIONS

- ◆ Environmental protection
- ◆ Amenity
- ◆ Stormwater management
- ◆ Waste management
- ◆ Public access and safety

### 6.0 BACKGROUND

- 6.1 The development will consist of the construction of a café/bar designed to match the surrounding aesthetic of Fremantle with a 'maritime shed' look. It will be open on the northern side with large glass doors and windows to take advantage of the river setting, and includes a licensed alfresco area within the same footprint of the existing passenger shelter on the jetty (see 3D views of plans at **Attachment 5**).
- 6.2 The site of the proposal is currently used solely as a pick-up/drop-off point for passengers of private vessels, charter services, and ferry services. Lot 501, where the main building is proposed to be located, consists of an unused ticket sales office, which is to be demolished to facilitate the development. The existing passenger shelter on the East Street Jetty is to be rebuilt as the licensed alfresco area and a replacement shelter will be constructed at the eastern end of the jetty.
- 6.3 In order to facilitate the development, the applicant will need to arrange for the connection of any services necessary for the business to operate. Based on the mapping data available, water and sewer connections will be required to service the



development. Electricity may already be available as the jetty contains lighting poles for safety and navigation purposes.

- 6.4 Plans for the proposal are provided in **Attachment 5**. The proposed building footprint is approximately 360m<sup>2</sup> and the alfresco area approximately 55m<sup>2</sup>. The total cost of these works is expected to be approximately \$600,000.

## 7.0 DISCUSSION

### Environmental Protection

- 7.1 In accordance with the terms and conditions of the sub-lease, any pollution or contamination to the Swan River that may result from the premises is required to be rectified at the applicant's expense.
- 7.2 No in-water works will be required. However, due to the proximity to the river, it is necessary to ensure that the construction and any associated demolition and service connection works that may impact the river are managed appropriately. It is recommended that a Construction and Environmental Management Plan (CEMP) is prepared to the satisfaction of DBCA, on advice from the City.
- 7.3 The Swan Canning river system is under significant pressure from high nutrient concentrations, which lead to algal growth, low oxygen levels, fish kills and loss of biodiversity. On-site sewage disposal systems are a key source of nutrients to the river system. Policy 51 states that reticulated sewerage is the most reliable, efficient and environmentally acceptable method of managing wastewater. Connection to the reticulated sewer system is integral to the development and is recommended as a condition of approval.
- 7.4 Policy 45 states that light spill to areas within the DCA should be minimised so that fauna, community enjoyment and visual amenity are not unacceptably affected. Given that East Street Jetty already contains lighting for safety and navigation reasons, it is not expected that the development will significantly increase the light pollution from this location. However, the amount of light produced should be addressed through final design plans/drawings as a condition of approval.

### Amenity

- 7.5 Given the location within Fremantle and proximity to the port, the 'maritime shed' design of the building is considered appropriate and complementary and is unlikely to negatively impact the visual amenity of the area. It is recommended that final design plans/drawings, including confirmation of the external colours, finishes, materials and signage are provided prior to the submission of an application for a building licence to ensure any changes do not impact visual amenity.
- 7.6 Once operational, the applicant intends to operate under a Small Bar Licence, which allows for a maximum of 120 people (excluding staff) and the following trading hours:
- 6am to 12 midnight on a day other than Sunday;
  - 10am to 12 midnight on a Sunday (however, the applicant intends to apply for an Extended Trading Permit to operate from 8am to serve breakfast);
  - on New Year's Day from immediately after 12 midnight on New Year's Eve to 2am;
  - on Good Friday or Christmas Day from 12 noon to 10pm, but only for liquor sold ancillary to a meal supplied by the licensee; and
  - on ANZAC Day from 12 noon to 12 midnight.

- 7.7 It is recommended that, prior to the occupation of the building, the applicant provides operational procedures that detail how the business will operate. These procedures should address the approved (as per the Small Bar Licence) hours of operation, number of patrons, management of noise, management of deliveries etc. Any changes to these procedures should be provided in writing and will require approval from DBCA on the advice of the City and the Licensing Authority.
- 7.8 The development is likely to assist in the activation of this area of the foreshore, which currently contains a large carpark and an expanse of Parks and Recreation reserve located across the road, with a similar existing business in operation within this reserve.

### **Stormwater management**

- 7.9 The entire site is made up of impervious surface. This will not change as a result of the development except that run-off will be from the roof of the café/bar rather than from the carpark, which is what is currently occurring.
- 7.10 Policy 49 states that stormwater run-off from constructed impervious surfaces generated by 1 year, 1 hour average recurrence interval (ARI) events should be retained and/or detained at the run-off source as much as practical. It is recommended that a stormwater management plan is submitted to outline how stormwater on site will be managed following the development.

### **Waste management**

- 7.11 The terms and conditions of the sub-lease indicate that the premises must be kept clean and free from rubbish. However, the City has specific requirements in regard to waste management (see recommended Condition 8 of **Attachment 3**). It is recommended that a waste management plan is produced to the satisfaction of DBCA on advice from the City. Final details on bin store and grease arrestor will also be required.

### **Public access and safety**

- 7.12 Public access to the East Street Jetty and the car park shall remain publicly available at all times in accordance with the sub-lease agreement.
- 7.13 As part of the works, the passenger shelter on the jetty will be relocated. Although it is noted that the new shelter is smaller than the existing structure, it is not anticipated that this will have a detrimental effect on the public use of the jetty.
- 7.14 The City has also advised that end of trip facilities are to be included in the development in accordance with its Local Planning Scheme 4. It is recommended that this is reinforced with conditions.
- 7.15 Once developed, there will be approximately 92 car bays available in the car park immediately adjacent to the building, and an extra 12 bays across the road on the other side of Beach Street. This is considered sufficient to service the development as well as public use of the jetty.
- 7.16 DoT did not raise any concerns regarding safety or navigational interference issues related to the proximity of the development to a drop-off/pick-up point for private vessels, charter services and ferry services. However, this may be an issue during the construction, demolition, or service connection works associated with the development.
- 7.17 In regard to public access and safety during the construction, demolition, or service connection works, the CEMP must address how access to the jetty (the jetty abutment and walkways) for pedestrians and patrons of private vessels, charter services, and ferry services will be maintained. If access cannot be maintained for

safety reasons, the applicant will be required to obtain permission from DoT to close the jetty, provide a notice to mariners, and install signage notifying any users of the jetty at least three weeks prior to the jetty closure. This will be reinforced through conditions and advice.

## **8.0 SWAN RIVER TRUST ADVICE**

- 8.1 In accordance with section 75 (3A) of the SCRM Act, the Swan River Trust (the Trust) considered DBCA's draft report at its meeting on 10 March 2020, where the Trust resolved to recommend the application be approved, subject to conditions.

## **9.0 CONCLUSION**

- 9.1 Overall, the proposal to construct a café with bar and licensed alfresco area, plus relocation of the passenger shelter, is likely to aid in the activation of the river and foreshore in this area.
- 9.2 Any environmental impacts that may occur from the construction, demolition, or service connection works are expected to be minimal and can be further managed through conditions. However, ongoing management of stormwater, provision of end of trip facilities, as well as waste management to the satisfaction of the City, is likely to require amended plans (namely, floor plans) to demonstrate that these requirements are achievable. It is recommended that final design plans/drawings are included as a condition of approval.
- 9.3 For these reasons, the proposal is recommended for approval, subject to conditions and advice.

## **10.0 RECOMMENDATION – APPROVAL WITH CONDITIONS**

The Director General of DBCA advises the Minister for Environment that Dark Horse Hospitality's proposal to construct a café with bar and an alfresco area, plus the relocation of the existing passenger shelter at the East Street Jetty, as described in the application received on 30 November 2019, be approved subject to the following conditions:

1. Approval to implement this decision is valid for two (2) years from the date of the approval. If substantial on-site works have not commenced within this period, a new approval will be required before commencing or completing the development.

### **Prior to the commencement of works**

2. The applicant shall notify the Department of Biodiversity, Conservation and Attractions in writing not less than seven (7) days prior to the commencement of works (**Advice Note 1**).
3. At least 30 days prior to the submission of an application for a building licence, the applicant shall prepare a Construction and Environmental Management Plan to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle (**Advice Note 4**).
4. At least 30 days prior to the submission of an application for a building licence, the applicant shall prepare a Stormwater Management Plan to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle (**Advice Note 5**).
5. At least 30 days prior to the submission of an application for a building licence, the applicant shall prepare a Waste Management Plan to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle (**Advice Note 6**).

6. At least 30 days prior to the submission of an application for a building licence, the applicant shall provide plans/drawings demonstrating that the provision of a reticulated sewerage service, and any other services required, will be made available to Lot 501 on Plan 409261 Beach Street, Fremantle to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle.
7. At least 30 days prior to the submission of an application for a building licence, the applicant shall demonstrate to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle, that the provision of bicycle racks and end of trip facilities will be incorporated into the development (**Advice Note 7**).
8. At least 30 days prior to the submission of an application for a building licence, the applicant shall submit final design plans/drawings, including details of the external colours, finishes, materials, lighting and signage, for the development to the satisfaction of the Department of Biodiversity, Conservation and Attractions on advice from the City of Fremantle.

#### **During works**

9. The approved Construction and Environmental Management Plan shall be implemented.
10. The works shall not prevent public access to the East Street Jetty, including the jetty abutment and walkways, unless temporary closure is necessary for safety purposes.
11. In the event that temporary closure of the East Street Jetty is required, the applicant shall provide written approval from the Department of Transport to the Department of Biodiversity, Conservation and Attractions, and signage notifying users of the jetty (both pedestrian and vessel) of the upcoming closure shall be installed at least two weeks prior to the closure of the jetty.

#### **On completion of works**

12. Within three (3) days of the completion of the works, the applicant shall notify the Department of Biodiversity, Conservation and Attractions in writing that works have ceased.
13. Within three (3) days of the completion of the works, the applicant shall remove all waste materials, equipment, machinery and any temporary structures and ensure the site is cleaned-up to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle.
14. At least 30 days prior to the occupation of the premises, the applicant shall provide operational procedures for the development to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle (**Advice Note 8**).
15. Prior to the occupation of the premises, the applicant shall ensure that the development is connected to all services as approved under **Condition 6**.

#### **Ongoing**

16. The approved Stormwater Management Plan shall be implemented, and any associated infrastructure maintained, to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle.
17. The approved Waste Management Plan shall be implemented, and any associated infrastructure maintained, to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle.
18. The applicant shall maintain the bicycle racks and end of trip facilities for the life of the development, to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle.

19. Any changes to the operational procedures approved under **Condition 14** shall be submitted in writing to the Department of Biodiversity, Conservation and Attractions for approval, on advice from the Licensed Authority and the City of Fremantle.
20. Any changes to the sub-lease with the Department of Transport shall be referred to the Department of Biodiversity, Conservation and Attractions to ensure they do not contravene any provision of the *Swan and Canning Rivers Management Act 2006* or policies of the Department of Biodiversity, Conservation and Attractions.

#### **ADVICE TO APPLICANT**

1. Notification of the commencement of work and any plans or documents required in accordance with conditions of this approval can be emailed directly to [rivers.planning@dbca.wa.gov.au](mailto:rivers.planning@dbca.wa.gov.au).
2. The applicant is advised that a building permit is required for the development. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.
3. The applicant is advised that an obstruction permit may be required from the City of Fremantle (the City) for any obstruction of the Beach Street road reserve that may occur as a result of the works. An application for an obstruction permit can be found on the City's website.
4. Regarding **Condition 3**, the Construction and Environmental Management Plan shall describe how the works will be managed to minimise potential environmental impacts and shall include, unless otherwise agreed in writing:
  - a. a detailed work method statement that describes how the contractor proposes to undertake the works;
  - b. written permission from the City of Fremantle for use of the car park (if required);
  - c. timeframes and responsibilities for tasks identified;
  - d. contact details of essential site personnel, construction period and operating hours;
  - e. management of any potential acid sulphate soils (PASS) that may be exposed during the works;
  - f. proposed contingency actions should environmental controls be inadequate;
  - g. identification and protection of infrastructure and established vegetation;
  - h. detail of machinery and associated refuelling;
  - i. waste management;
  - j. protection of the river and stormwater system from inputs of debris, run-off, soil, fill, or other deleterious material;
  - k. public access, safety and amenity (particularly in regard to the East Street Jetty);
  - l. traffic, access and parking management for contractors and the public;
  - m. complaints and environmental incident management plan;
  - n. containment of stockpiles of materials;
  - o. location of emergency spill kits that are to be onsite at all times;
  - p. a detailed site map showing the location of any:
    - i. signage, including the contact details of essential site personnel;

- ii. perimeter fencing and hoarding;
  - iii. the laydown area and vehicle entry/exit points;
  - iv. protected vegetation;
  - v. areas of excavation and stockpiling of soil;
  - vi. on-site storage and bunding of materials and equipment;
  - vii. traffic access and parking; and
  - viii. any proposed redirection of pedestrian, or vessel, traffic.
- q. in the case of a sediment plume or hazardous pollution events, the Department of Biodiversity, Conservation and Attractions can be contacted on 9278 0900 or after hours on 0419 192 845; and
- r. any other matters considered relevant to the proposal not identified above.
5. Regarding **Condition 4**, the Stormwater Management Plan shall describe how the stormwater system has been designed to prevent mobilisation of sediment, nutrients and contaminants from the site to the river. Stormwater should be managed in accordance with the Department of Biodiversity, Conservation and Attractions' Policy 49: *Planning for Stormwater Management Affecting the Swan Canning Development Control Area*, the Department of Water and Environmental Regulation's *Stormwater Management Manual for Western Australia* and *Decision Process for Stormwater Management in WA*, and water sensitive urban design principles. The plan shall address, unless otherwise agreed in writing, that:
- a. stormwater run-off from constructed impervious surfaces generated by small rainfall events (i.e. the first 15 mm of rainfall) has been retained and/or detained at-source as much as practical (noting that untreated stormwater will not be permitted to enter the river).
6. In regard to **Condition 5**, the applicant is advised that the Waste Management Plan shall provide details addressing, at a minimum:
- a. sustainability initiatives to reduce waste generation (e.g. no provision of single-use plastic);
  - b. estimated waste generation;
  - c. proposed storage of receptacles;
  - d. collection methodology for waste;
  - e. details of the grease arrestor; and
  - f. any additional management requirements.

The Waste Management Plan should give consideration to the City of Fremantle's (the City's) requirement to manage residential waste. As a result, the plan will need to align with the waste services available to residents. Additional information in relation to the City's waste management requirements can be found on its website: <https://www.fremantle.wa.gov.au/waste-and-recycling>.

7. In regard to **Condition 7**, the applicant is advised that the provision of bicycle racks and end of trip facilities are to be in accordance with the City of Fremantle (the City) Local Planning Scheme 4. This scheme requires any new commercial use class development to include shower, change facilities and lockers for employees. The City has recommended the following to be included in the development:
- a. three Class 1 bicycle racks (high-security, fully enclosed individual bike lockers);

- b. three Class 3 bicycle racks (low-security, rails or racks to which a bicycle frame and wheel can be locked);
  - c. one male and one female shower (or two unisex); and
  - d. three lockers.
8. In regard to **Condition 14**, the applicant is advised that the operational procedures should address, at a minimum:
- a. number of patrons (including for any licensed or unlicensed events);
  - b. trading hours;
  - c. noise (including from guests leaving the premises);
  - d. management of deliveries; and
  - e. process for management of complaints, including contact details of the person/s responsible for responding.

The applicant is advised that the number of patrons and trading hours for licensed areas and events will be stipulated by the Licensing Authority. A copy of the Small Bar Licence should be included in the operational procedures and any changes to this should be provided to the Department of Biodiversity, Conservation and Attractions.

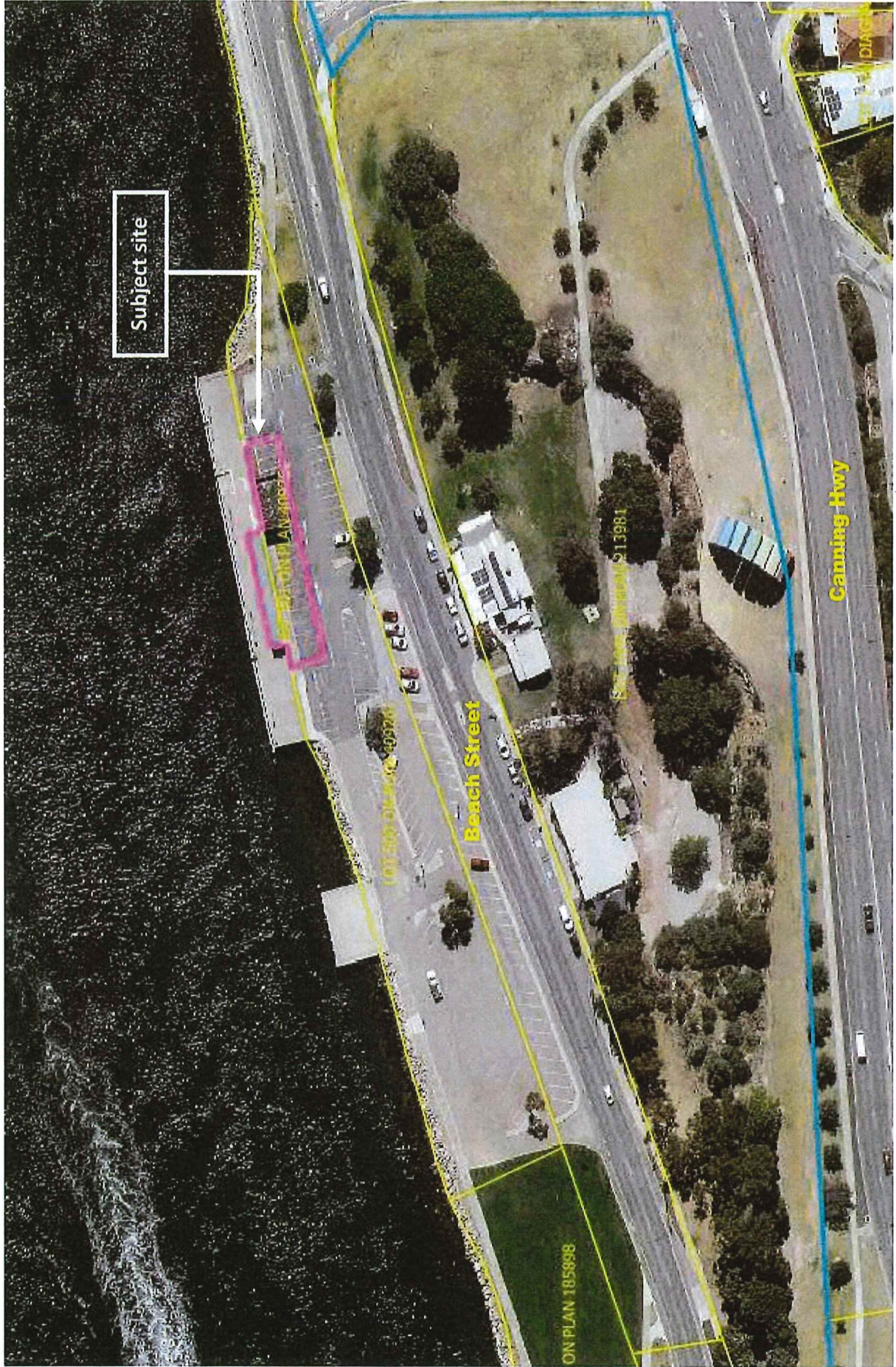
9. The Department of Biodiversity, Conservation and Attractions recommends the applicant contacts the Department of Transport Navigational Safety Project Officer on 13 11 56 or by email at [navigational.safety@transport.wa.gov.au](mailto:navigational.safety@transport.wa.gov.au) to discuss the requirement for a Notice to Mariners in relation to the construction, demolition or service connection works.
10. The applicant is advised that any future works associated with the development may require approval from the Department of Biodiversity, Conservation and Attractions including in accordance with section 14A (works by a leaseholder) of the Swan and Canning Rivers Management Regulations 2007.

**FINAL REPORT ENDORSED**

Signed: W Webb Date: 13/5/20

Mark Webb  
Director General

ATTACHMENT 1 - LOCATION MAP





**Liz Harrison**

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**From:** Appleby, Iain <Iain.Appleby@transport.wa.gov.au>  
**Sent:** Thursday, 19 December 2019 10:38 AM  
**To:** Rivers Planning  
**Subject:** 2019/3011

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Categories:** Filing

[External Email] This email was sent from outside the department – be cautious, particularly with links and attachments.  
DoT Coastal has no objections to the development having already agreed all terms and conditions and approvals required as per the executed lease which is already in place.

regards

#

**Iain Appleby**

**Senior Planning Project Officer | Maritime | Department of Transport**

1 Essex Street, Fremantle WA 6160

Tel: (08) 94357532 | Fax: 94357812 | Mob: 0457532306

Email: [Iain.Appleby@transport.wa.gov.au](mailto:Iain.Appleby@transport.wa.gov.au) | Web: [www.transport.wa.gov.au](http://www.transport.wa.gov.au)



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## Rivers Planning

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**From:** Planning E-mail address <planning@fremantle.wa.gov.au>  
**Sent:** Wednesday, 8 January 2020 4:53 PM  
**To:** Rivers Planning  
**Cc:** Miles Hull  
**Subject:** RE- Advice of Referral - DA0442/19 - 126 Beach Street, Fremantle - Proposed change of use to Small Bar and a building addition

**Categories:** Follow Up

[External Email] This email was sent from outside the department – be cautious, particularly with links and attachments.  
To Whom it may concern,

Please see below the City of Fremantle response to the referral for the above mentioned Form 1 application and development site.

### ***Council, under delegation 3.22:***

***REFER to the Department of Parks and Wildlife with a recommendation for APPROVAL under the Metropolitan Region Scheme the proposed change of use to Small Bar and a building addition at No.126 (Lot 501) Beach Street, Fremantle, subject to the following conditions:***

- 1. This approval relates only to the development as indicated on the approved plans dated 18 November 2019. It does not relate to any other development on this lot and must substantially commence within 4 years from the date of the decision letter.***
- 2. The development and land use hereby approved shall adhere to the approved Management Plan dated 18 November 2019 to the satisfaction of the City of Fremantle.***
- 3. Prior to issue of a Building Permit, storm water disposal plans, details and calculations must be submitted for approval by the City of Fremantle and thereafter implemented, constructed and maintained to the satisfaction of the City of Fremantle.***
- 4. Prior to the issue of a Building Permit, three Class 1 and three Class 3 bicycle racks shall be provided, to the satisfaction of the City of Fremantle. Prior to occupation of the development the approved bicycle racks must be installed and thereafter be maintained for the life of the development, to the satisfaction of the City of Fremantle.***
- 5. Prior to the issue of a Building Permit for the development hereby approved, two end of trip facility (One male and one female shower (or 2 unisex) shall be provided, to the satisfaction of the City of Fremantle. Prior to occupation of the development the approved end of trip facility must be installed and thereafter be maintained for the life of the development, to the satisfaction of the City of Fremantle.***
- 6. Prior to the issue of a Building Permit for the development hereby approved, three lockers shall be provided, to the satisfaction of the City of Fremantle. The facilities***

ATTACHMENT 3 - CITY OF FREMANTLE ADVICE

*must thereafter be retained for the life of the development to the satisfaction of the City of Fremantle.*

7. *The signage hereby permitted shall not contain any flashing or moving light or radio; animation or movement in its design or structure; reflective, retro-reflective or fluorescent materials in its design structure.*
8. *Prior to issue of a building permit of the development hereby approved, the owner is to submit a waste management plan for approval by the City, detailing at a minimum the following:*
  - *Estimated waste generation*
  - *Proposed storage of receptacles*
  - *Collection methodology for waste*
  - *Additional management requirements to be implemented and maintained for the life of the development.*

*The waste management plan should give consideration to the fact the City is required to manage residential waste. As a result, the waste management plan will need to align with the waste services available to residents. The Waste Management Plan must be implemented at all times to the satisfaction of the City of Fremantle.*

9. *Prior to the issue of a Building Permit or Demolition Permit a Construction/Demolition Management Plan shall be submitted and approved, to the satisfaction of the City of Fremantle addressing, but not limited to, the following matters:*
  - a) *Use of City car parking bays for construction related activities;*
  - b) *Protection of infrastructure and street trees within the road reserve;*
  - c) *Security fencing around construction sites;*
  - d) *Gantries;*
  - e) *Access to site by construction vehicles;*
  - f) *Contact details;*
  - g) *Site offices;*
  - h) *Noise - Construction work and deliveries;*
  - i) *Sand drift and dust management;*
  - j) *Waste management;*
  - k) *Dewatering management plan;*
  - l) *Traffic management; and*
  - m) *Works affecting pedestrian areas.*

*The approved Demolition and Construction Management Plan shall be adhered to throughout the demolition of the existing building on site and construction of the new development.*

10. *Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.*

**Advice Note(s):**

ATTACHMENT 3 - CITY OF FREMANTLE ADVICE

- i. ***A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.***
- ii. ***The owner is advised that an obstruction permit may be required from the City for any future obstruction of the Beach Street road reserve. An application for obstruction permit can be found via [www.fremantle.wa.gov.au](http://www.fremantle.wa.gov.au).***
- iii. ***With regards to condition 3, Bicycle parking facilities are to be provided in accordance with the following standards:***  
  
***Class 1 – High security level – Fully enclosed individual locker;***  
***Class 3 – Low security level – Rails or racks to which both the bicycle frame and wheels can be locked.***  
***For more information refer to ‘Austroads Cycling Aspects to Austroads Guides’***
- iv. ***The applicant is advised in relation to condition 8, the applicant is advised that additional information in relation to the City’s waste management requirements can be found here:***  
***<https://www.fremantle.wa.gov.au/residents/waste-and-recycling>***

Regards,

---

Coordinator Statutory Planning  
Development Approvals  
T 08 9432 9999  
E [planning@fremantle.wa.gov.au](mailto:planning@fremantle.wa.gov.au)  
70 Parry Street Fremantle 6160  
[www.fremantle.wa.gov.au](http://www.fremantle.wa.gov.au)



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## ATTACHMENT 4 - TOWN OF EAST FREMANTLE ADVICE

**Liz Harrison**

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**From:** James Bannerman <jbannerman@eastfremantle.wa.gov.au>  
**Sent:** Wednesday, 22 January 2020 3:16 PM  
**To:** Liz Harrison  
**Subject:** Referral response – part 5 – Lot 501 and Lot 300, East Street Jetty, 126 Beach Street Fremantle – Proposed Cafe and Small Bar

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

[External Email] This email was sent from outside the department – be cautious, particularly with links and attachments.

**Attention: Liz Harrison**

**Re: Referral response – part 5 – Lot 501 and Lot 300, East Street Jetty, 126 Beach Street Fremantle – Proposed Cafe and Small Bar**

Thank you for the opportunity to comment on the abovementioned proposal.

It is noted that the proposed café and bar proposal is located within the City of Fremantle, and not the Town of East Fremantle.

The Town is unlikely to raise objections to the proposal provided that:

- Parking and traffic impacts within the Town of East Fremantle as a result of the new use and activity have been fully considered and are appropriately managed; and
- Use of the jetty as a functioning boating facility is not impeded.

It is also noted that this use is similar to a number of existing land use activities along the foreshore within the Town of East Fremantle, which potentially could have an impact on these local businesses.

Should you have any queries regarding this matter do not hesitate to contact James Bannerman at the Town of East Fremantle.

Yours sincerely,

James Bannerman

**James Bannerman**  
Planning Support Officer

## ATTACHMENT 4 - TOWN OF EAST FREMANTLE ADVICE

P 08 9339 9339

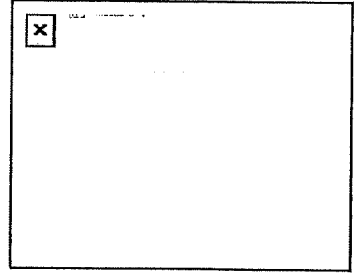
Town Hall, 135 Canning Highway, East Fremantle  
PO Box 1097 Fremantle 6959

[www.eastfremantle.wa.gov.au](http://www.eastfremantle.wa.gov.au)

E [jbannerman@eastfremantle.wa.gov.au](mailto:jbannerman@eastfremantle.wa.gov.au)

[/townofeastfremantle](#)

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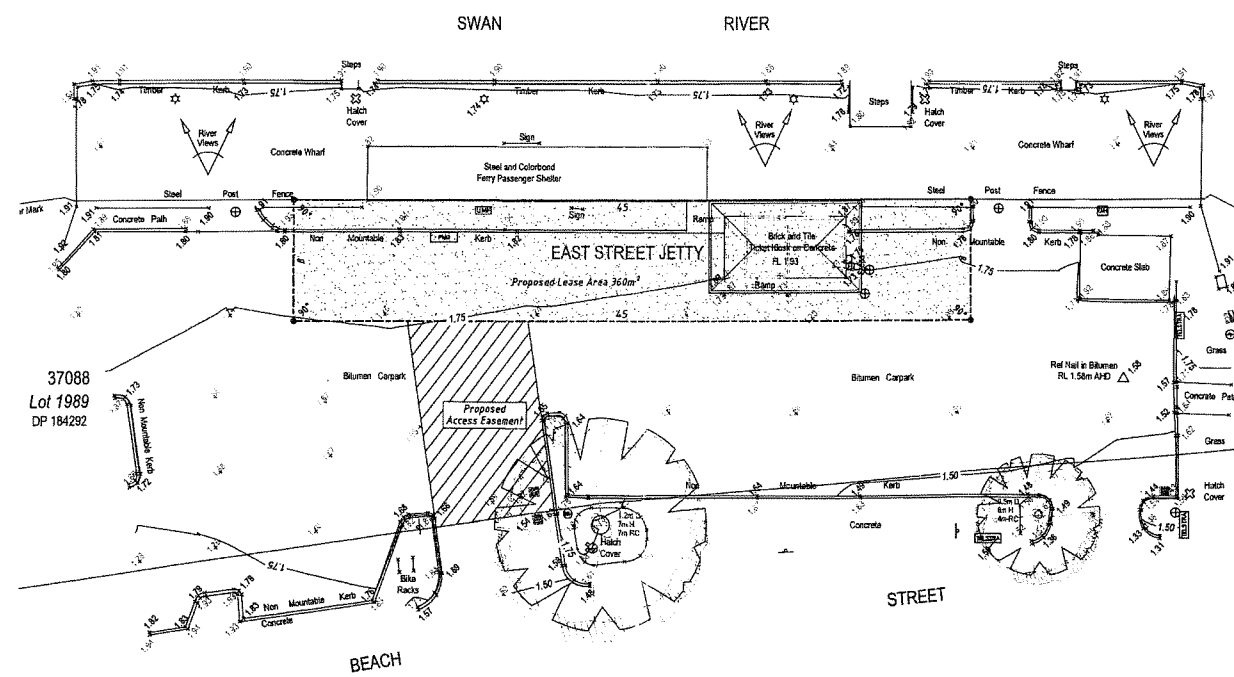
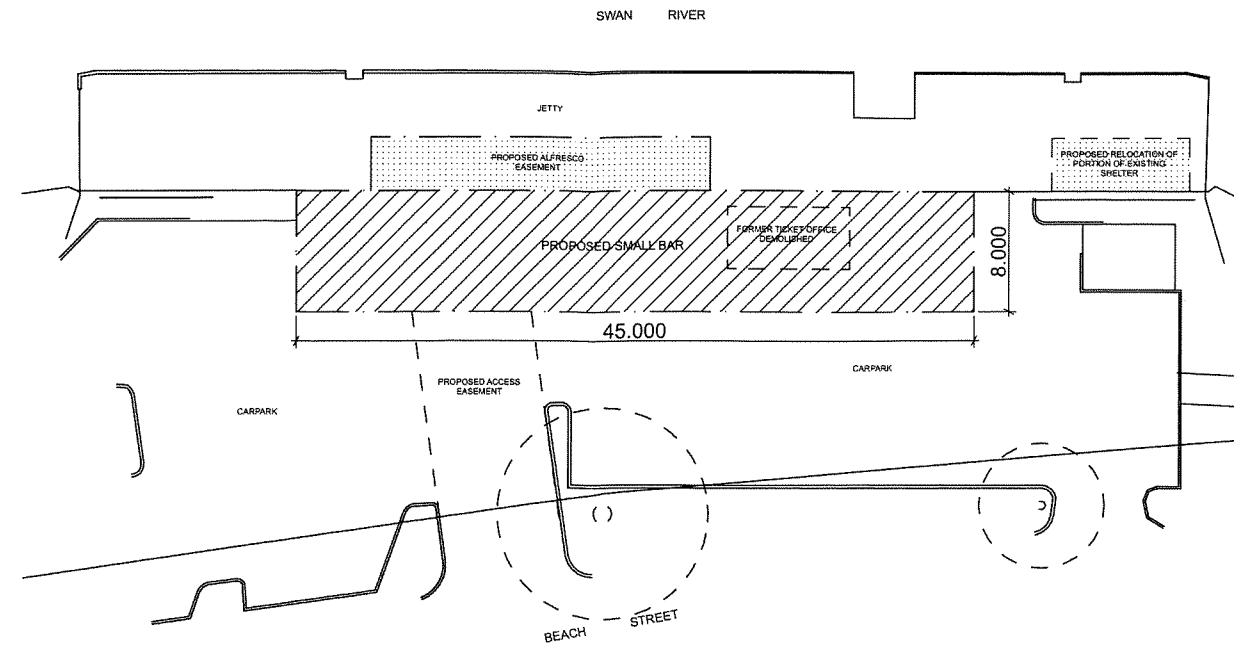


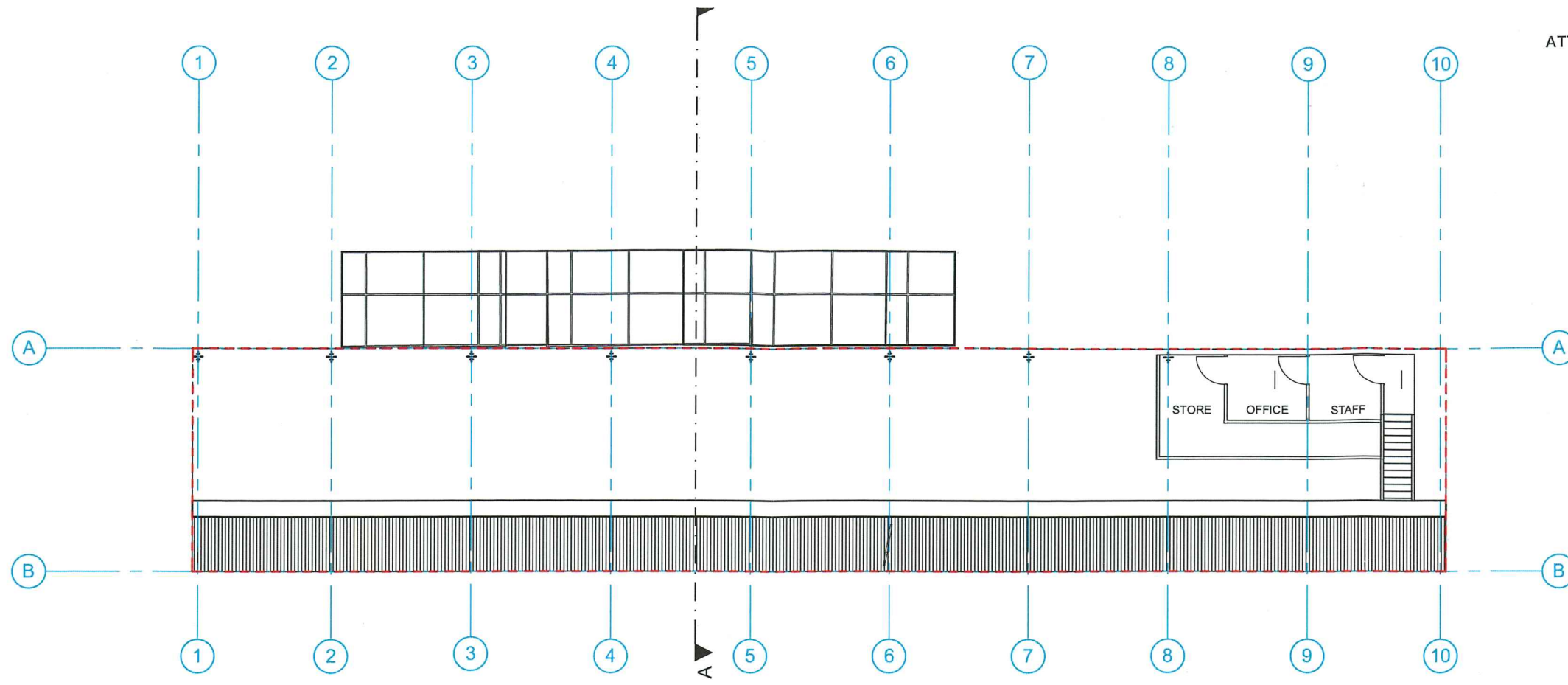
Online Community  
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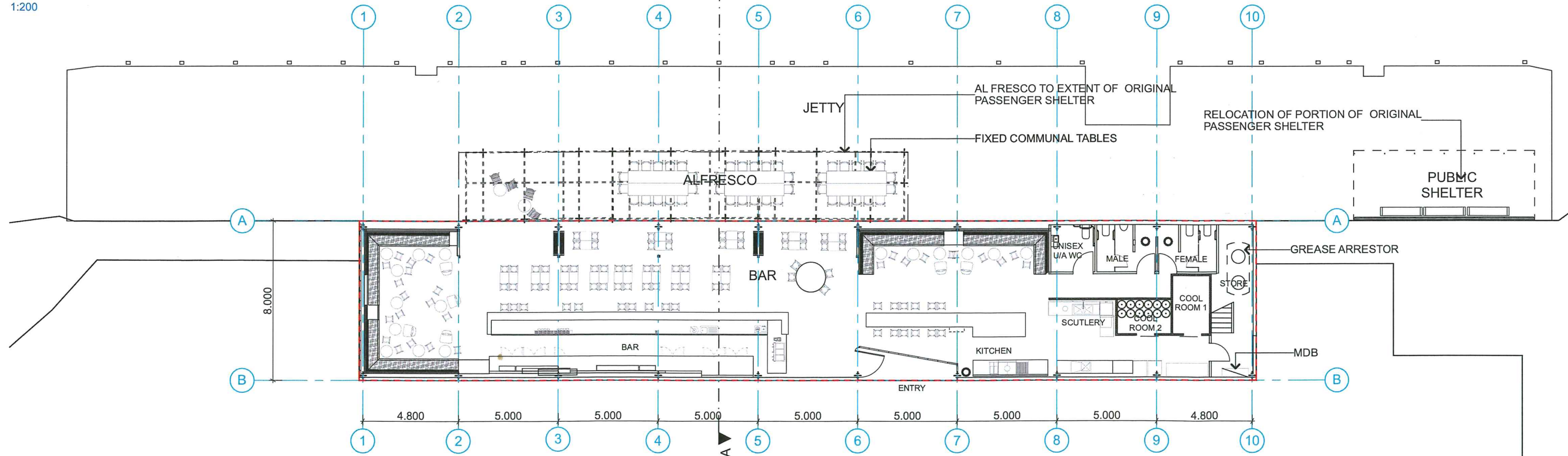
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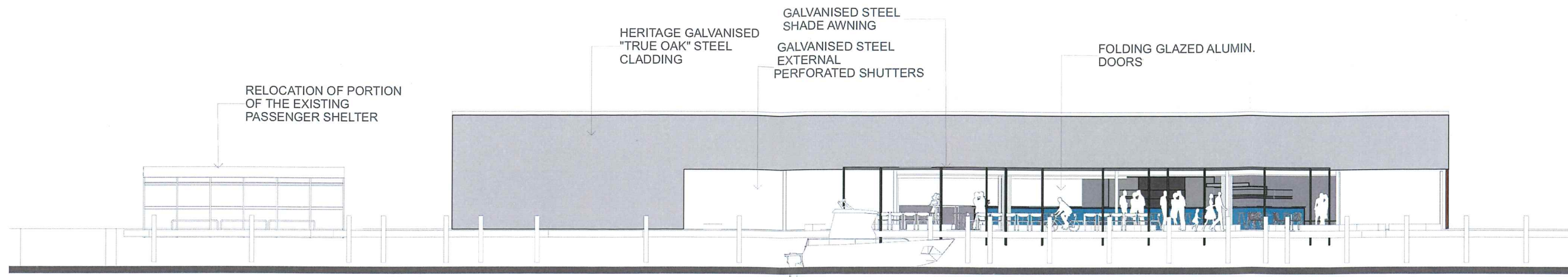


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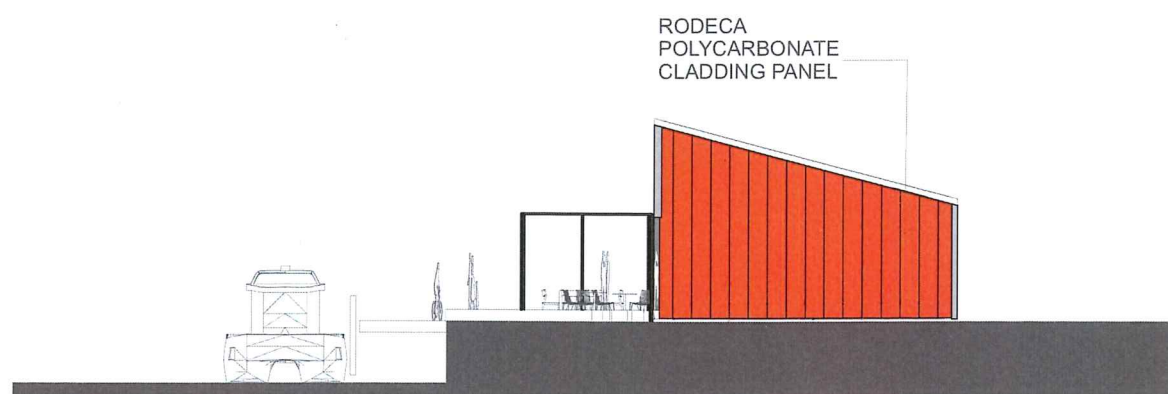


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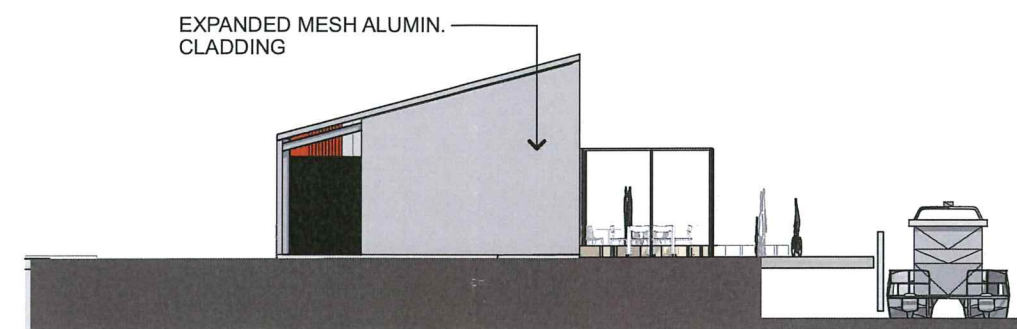




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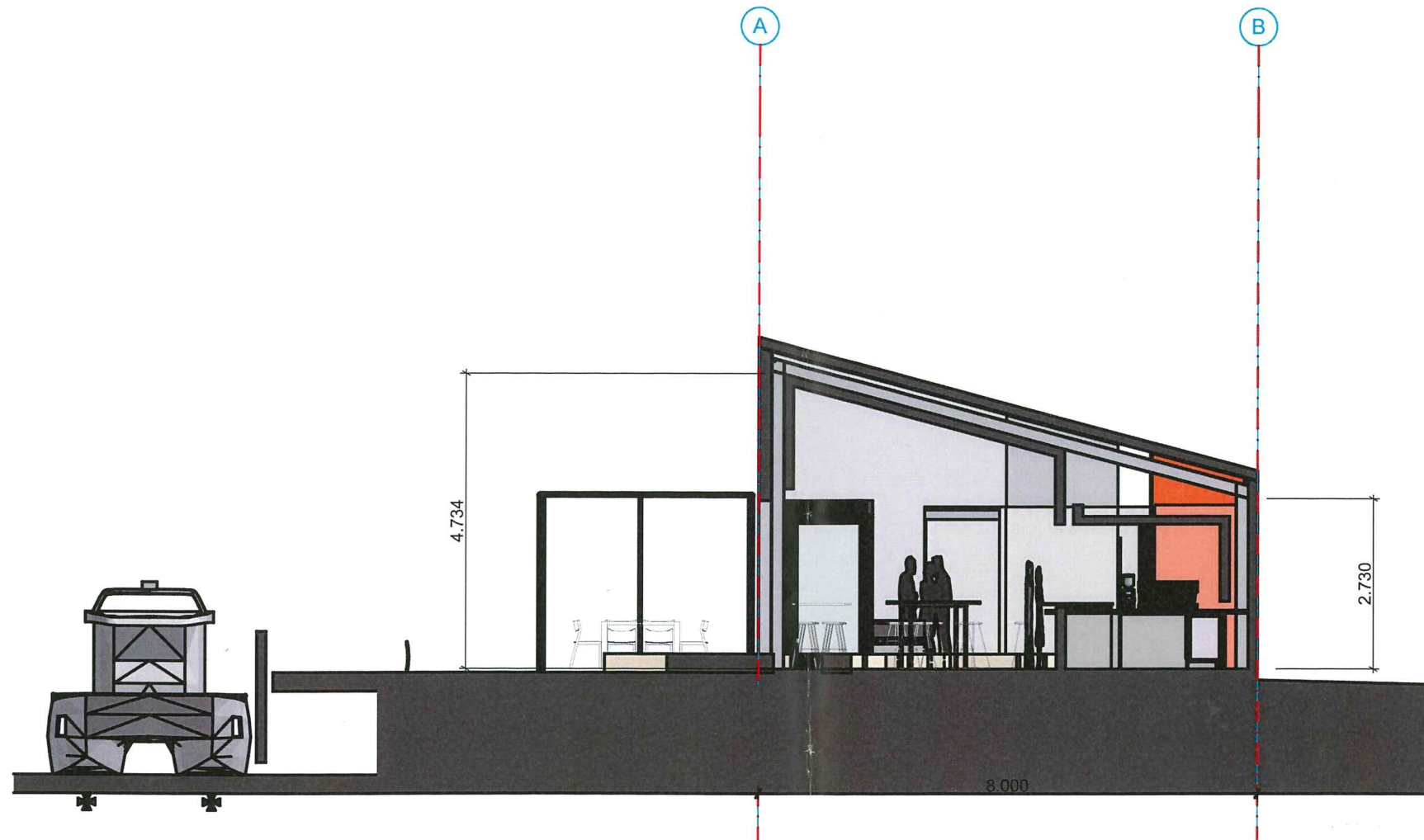
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EAST ELEVATION  
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SOUTH ELEVATION  
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SECTION  
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