

## SUPPLEMENTARY AGENDA 31 JANUARY 2024 ATTACHMENTS

<b>11.2 DEVELOPMENT APPLICATION - DA23/0327 - SINGLE HOUSE (SWIMMING POOL, GYM &amp; GARAGE) - SPECIAL CHARACTER AREA AT LOT 16 (NO. 6) SEAVIEW RISE, EAGLE BAY.....</b>	<b>2</b>
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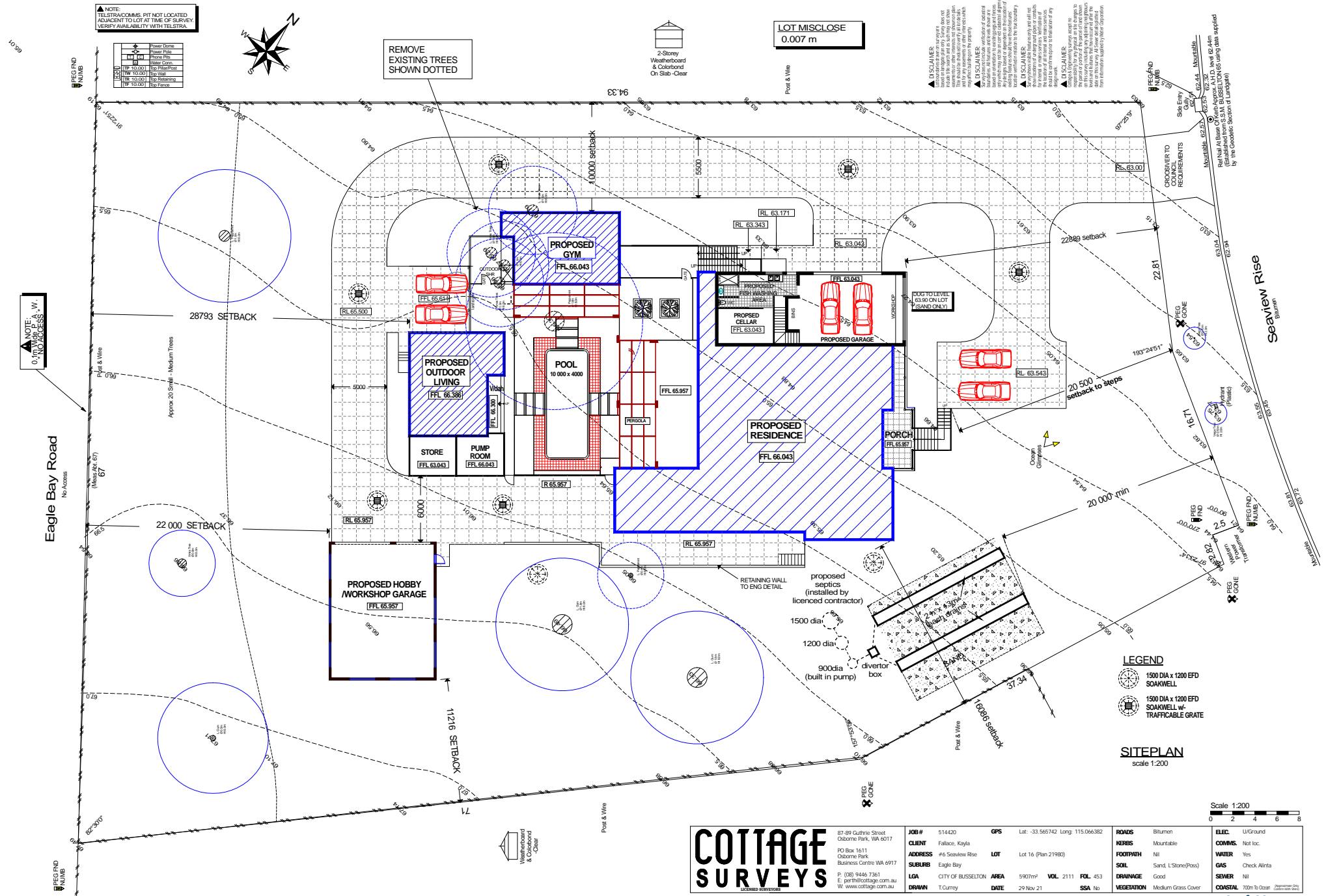
DA23/0327 - 6  
Seaview Rise

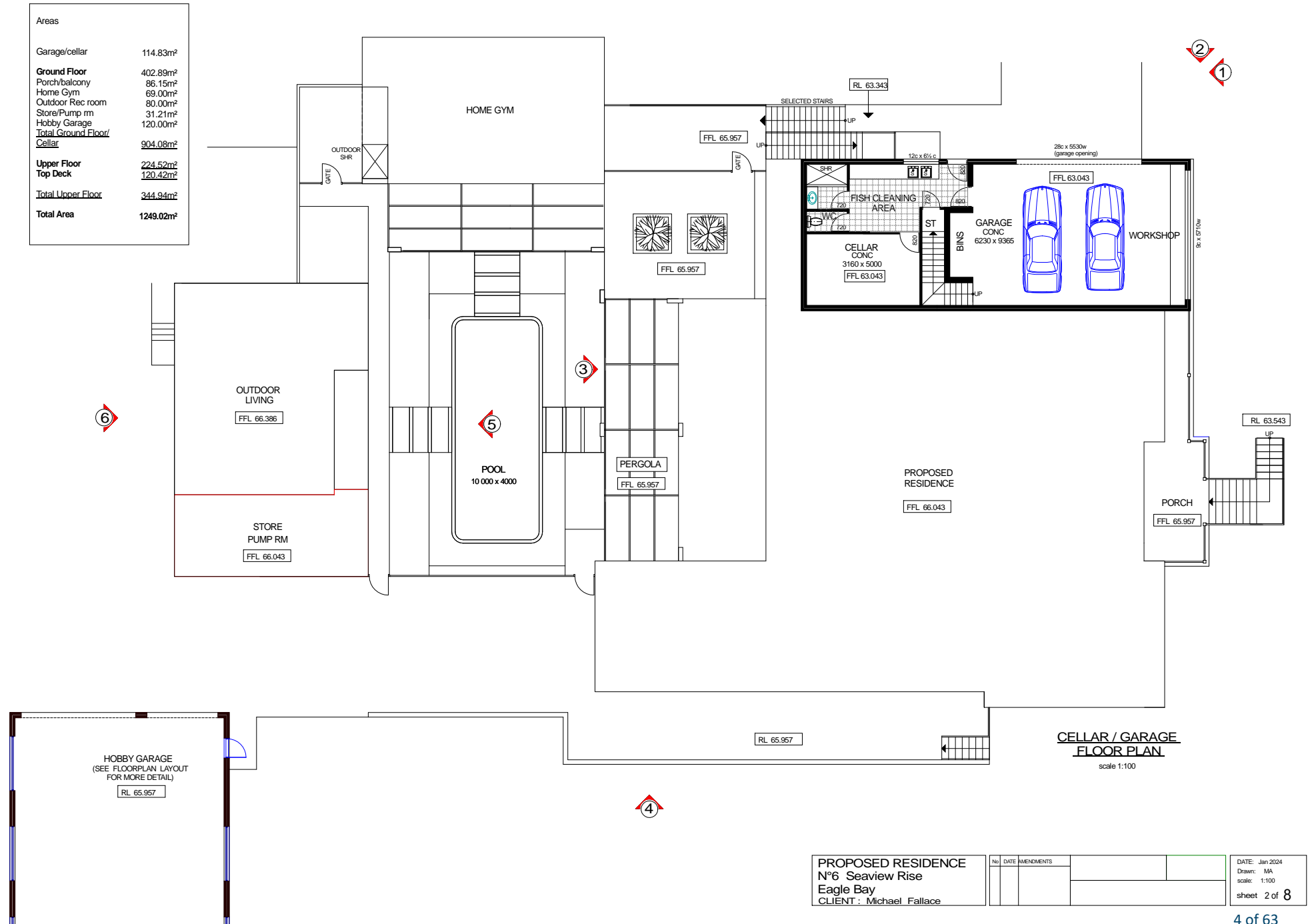
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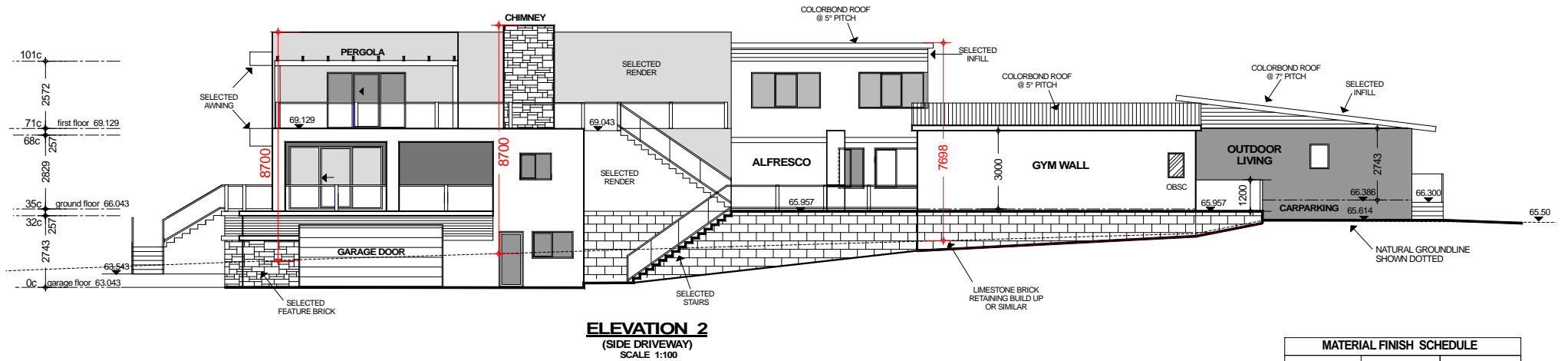
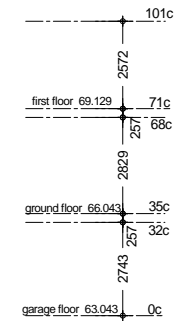
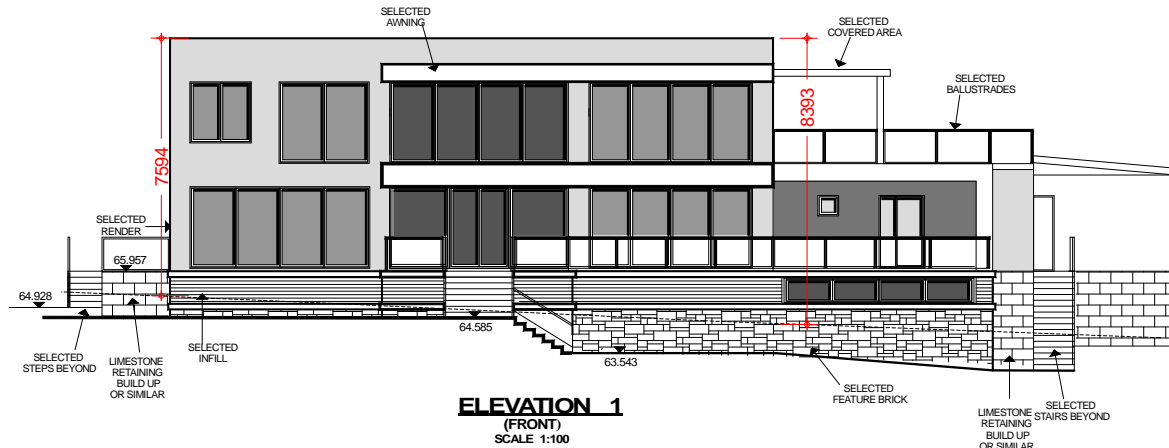




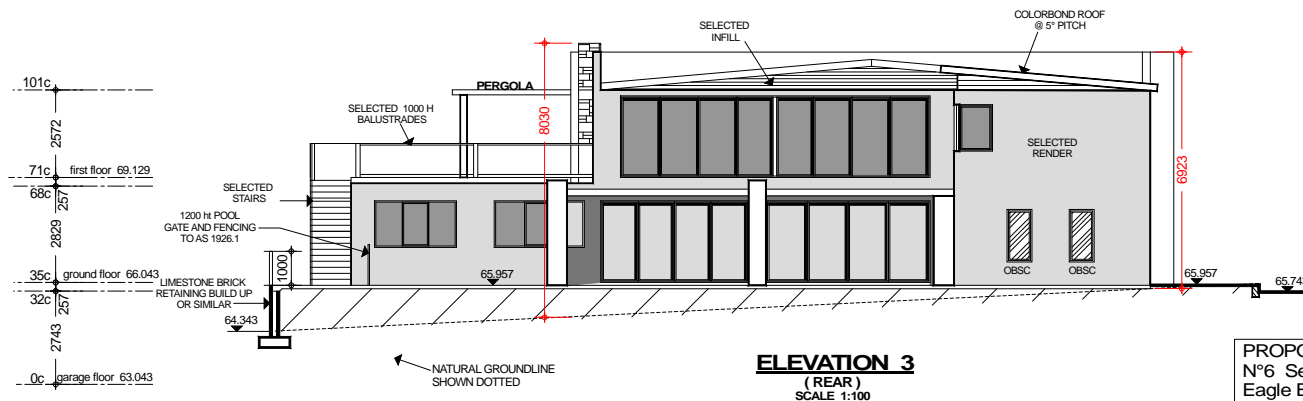








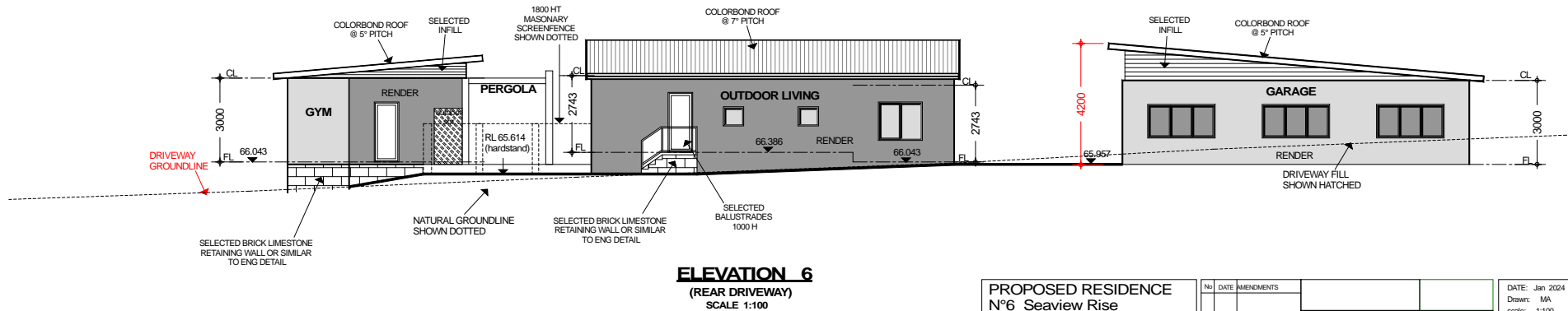
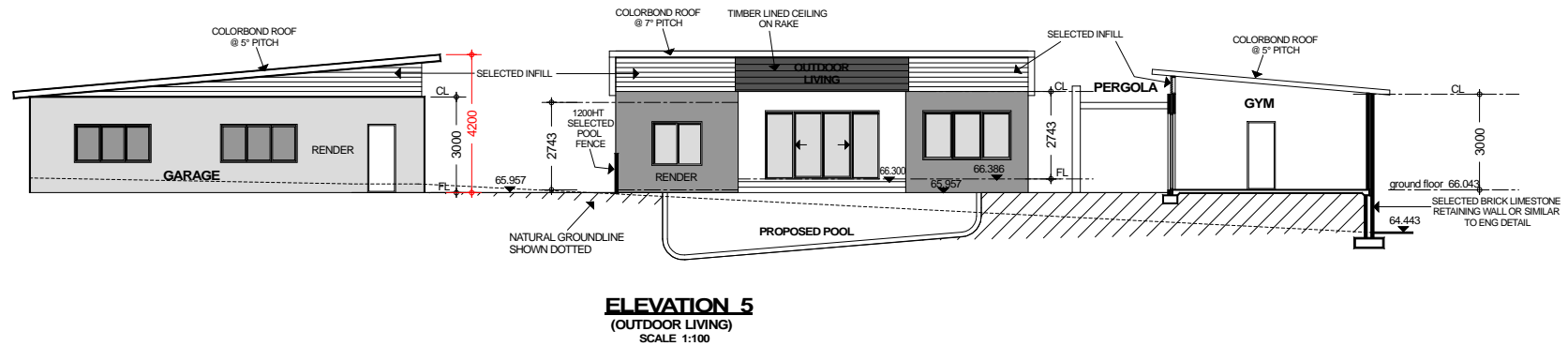
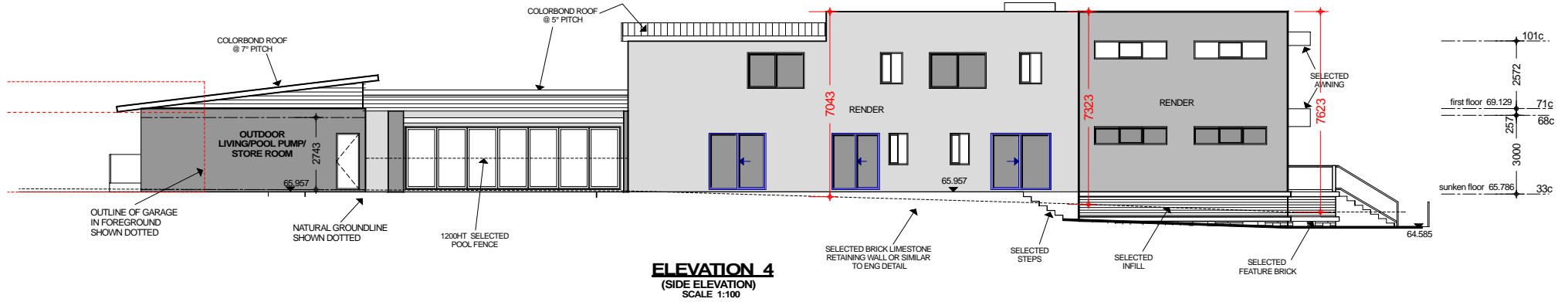
MATERIAL FINISH SCHEDULE		
	MATERIAL	COLOUR
WALLS	BRICK MASONRY RENDER	DIESKAU
FEATURE WALL	FEATURE BRICK	NEUTRAL
ROOF	COLORBOND STEEL	MONUMENT
GUTTERS & DP	COLORBOND STEEL	MONUMENT
WINDOW FRAMES	ALUMINIUM	BLACK
ROOF DECK COLUMNS	STEEL SHS	MONUMENT
GARAGE DOORS	TIMBER LOOK	
BALCONY CEILING LINING	TIMBER LOOK	
BALCONY ROOF FASCIA	COLORBOND STEEL	MONUMENT
DRIVEWAY & CROSSOVER PAVING	CONCRETE PAVE	NEUTRAL



PROPOSED RESIDENCE  
N°6 Seaview Rise  
Eagle Bay  
CLIENT: Michael Fallace

No	DATE	AMENDMENTS

DATE: Jan 2024  
Drawn: MA  
scale: 1:100  
sheet 5 of 8

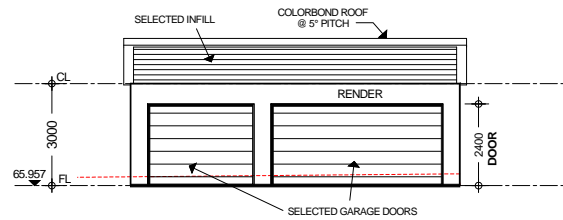


PROPOSED RESIDENCE  
N°6 Seaview Rise  
Eagle Bay  
CLIENT: Michael Fallace

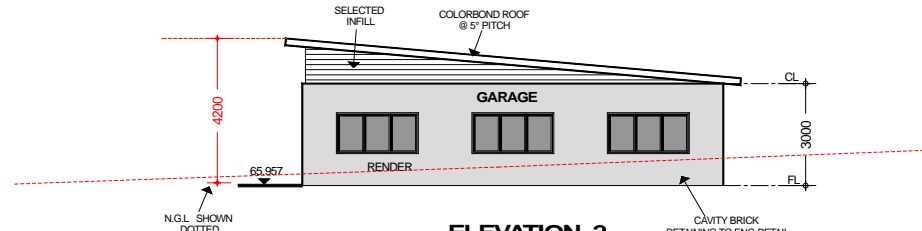
No	DATE	AMENDMENTS		

DATE: Jan 2024  
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sheet 6 of 8

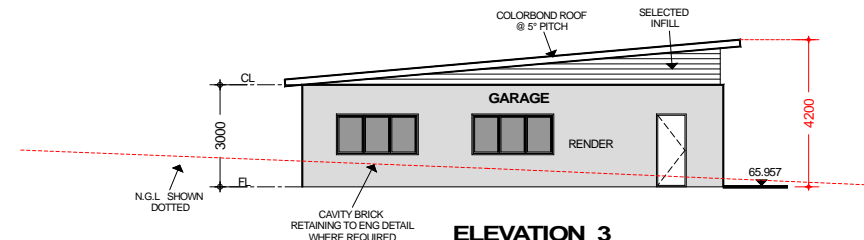




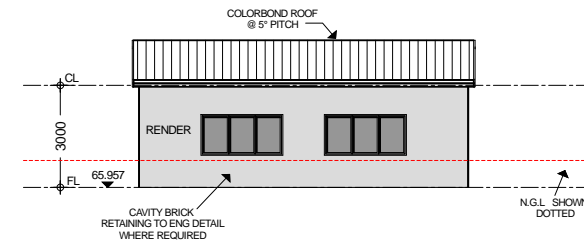
**ELEVATION 1**  
SCALE 1:100



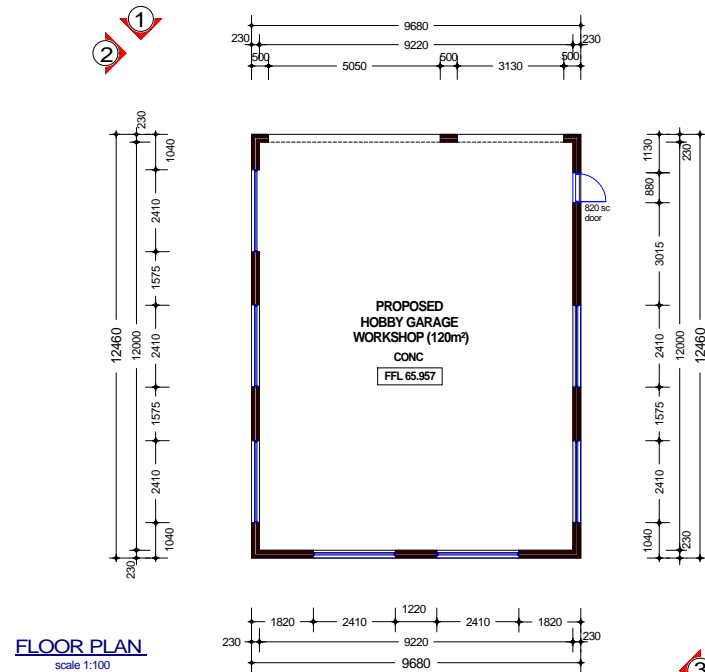
**ELEVATION 2**  
SCALE 1:100



**ELEVATION 3**  
SCALE 1:100

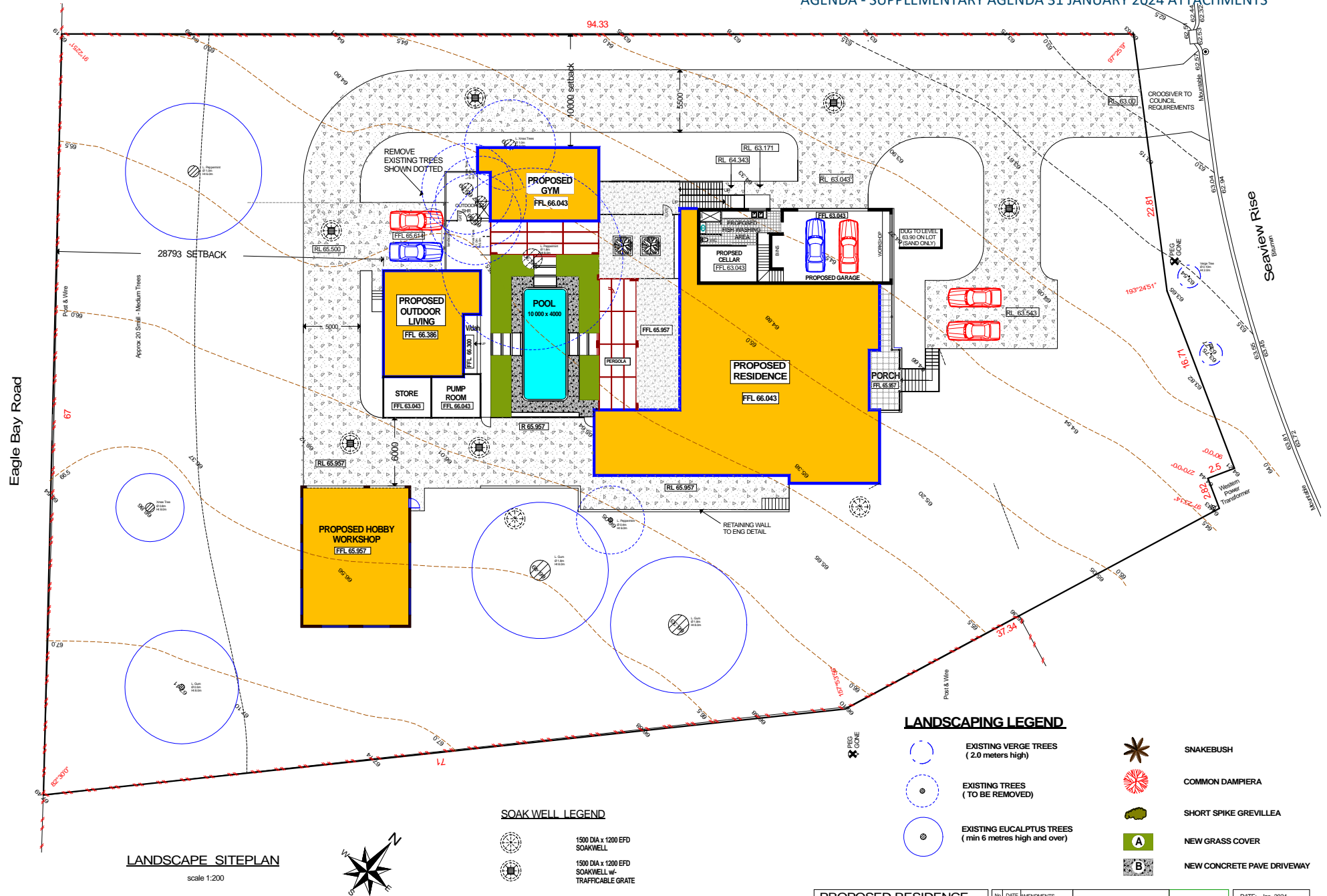


**ELEVATION 4**  
SCALE 1:100



**FLOOR PLAN**  
scale 1:100

PROPOSED RESIDENCE N°6 Seaview Rise Eagle Bay CLIENT : Michael Fallace				No DATE AMENDMENTS				DATE: Jan 2024 Drawn: MA scale: 1:100 sheet 7 of 8	







TYPICAL UNDERSTOREY PLANTING PALETTE

TYPICAL TREE PLANTING PALETTE

propagule

PROPOSED PRIVATE RESIDENCE

LANDSCAPE DEVELOPMENT APPLICATION

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ATT: 11.2.2 Attachment 2 - Development Plans





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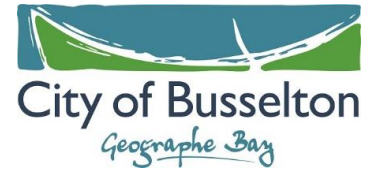
Attachment 3 - Aerial indicating building setback line from Eagle Bay Road

10/01/2024

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## SPECIAL CONTROL AREA ASSESSMENT SHEET

APPLICATION DETAILS	
APPLICATION No.	DA23/0327
PROPOSAL	Single House (Swimming Pool, Gym and Outbuilding) - Special Control Area
LOCATION	Lot 16 No 6 Seaview Rise EAGLE BAY WA 6281
APPLICANT	Joe Ferrant
OWNER	C Leo, K Fallace, L Fallace
DISCRIPTION OF PROPOSAL	The proposal comprises a mainly two storey dwelling with a three storey section (where the garage in partiality below ground level on the northern elevation), as well as a separate single storey habitable building proposed to be used as a "gym" and another separate single storey games and change room, with pump room enclosed. The development also includes a below ground swimming pool and outbuilding.
DISCRETIONS	<p>The proposal complies with the requirement of LPS 21, Schedule 4 - Special Character Area as they apply to Eagle Bay.</p> <p>The site is subject to LPS 21, Special Provision 6 (SP6) and the Eagle Bay Structure Plan (2007). The development does not meet the following provisions of SP6 and the Eagle Bay Structure Plan.</p> <p><b>Setbacks</b></p> <p>The Structure Plan specifies a setbacks to Eagle Bay Road of 40 m. The development proposes a setback to Eagle Bay Road of 22m. It is noted that under Schedule 4 of the Scheme a rear setback of 6m is applicable.</p> <p><b>Building Height</b></p> <p>The Structure Plan and LPS 21 Special Provisions 6 specifies a maximum height limit at 7.5m. The maximum height of the proposal at its highest point is 8.7m and only on the northern elevation.</p>

## AERIAL / SITE PHOTOS



**Views from Seaview Rise**

- **View of proposed site**



- **View of adjoining site - Lot 38 (4) Seaview Rise**



- **View of No. 9 Seaview Rise on the other side of the road from the site.**



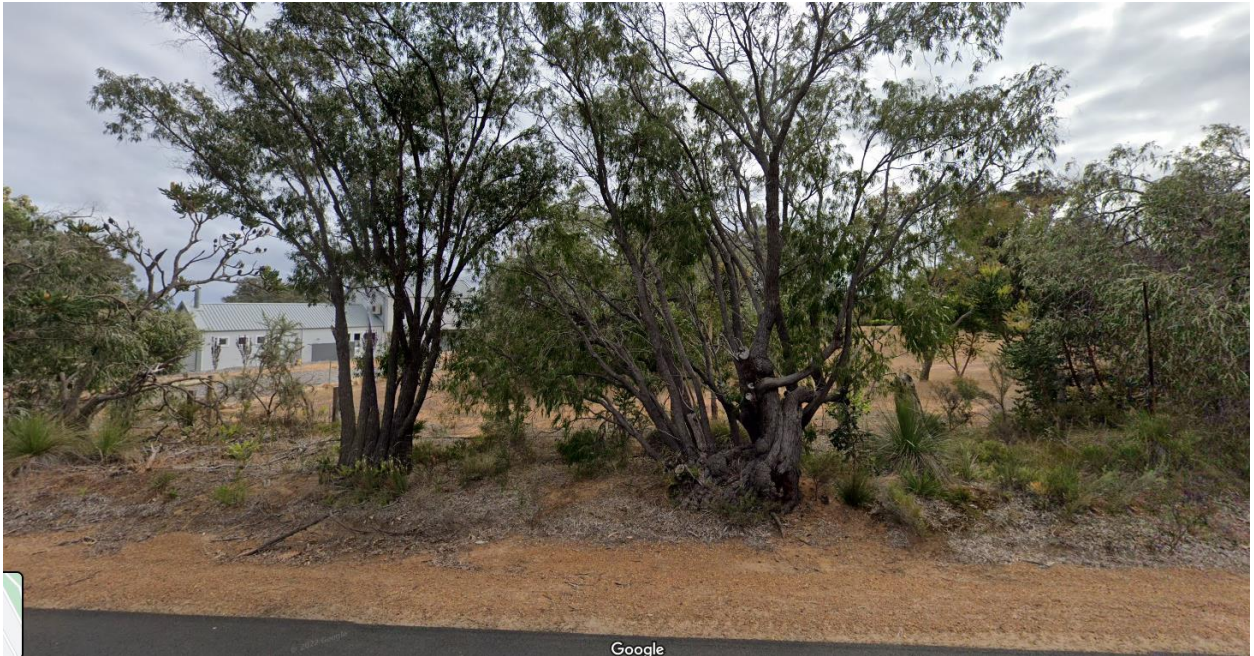


**Views from Eagle Bay Road**

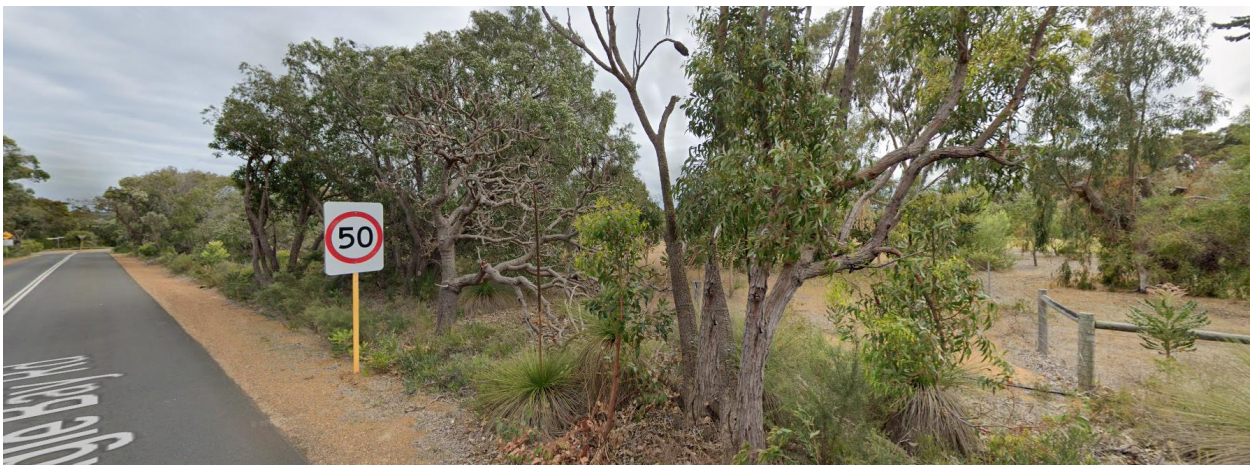
- **View of the site from Eagle Bay Road.**



- **View of site adjacent to Lot 38 (No.4) from Eagle Bay Road**



- **View of lot adjacent to Lot 18 from Eagle Bay Road**

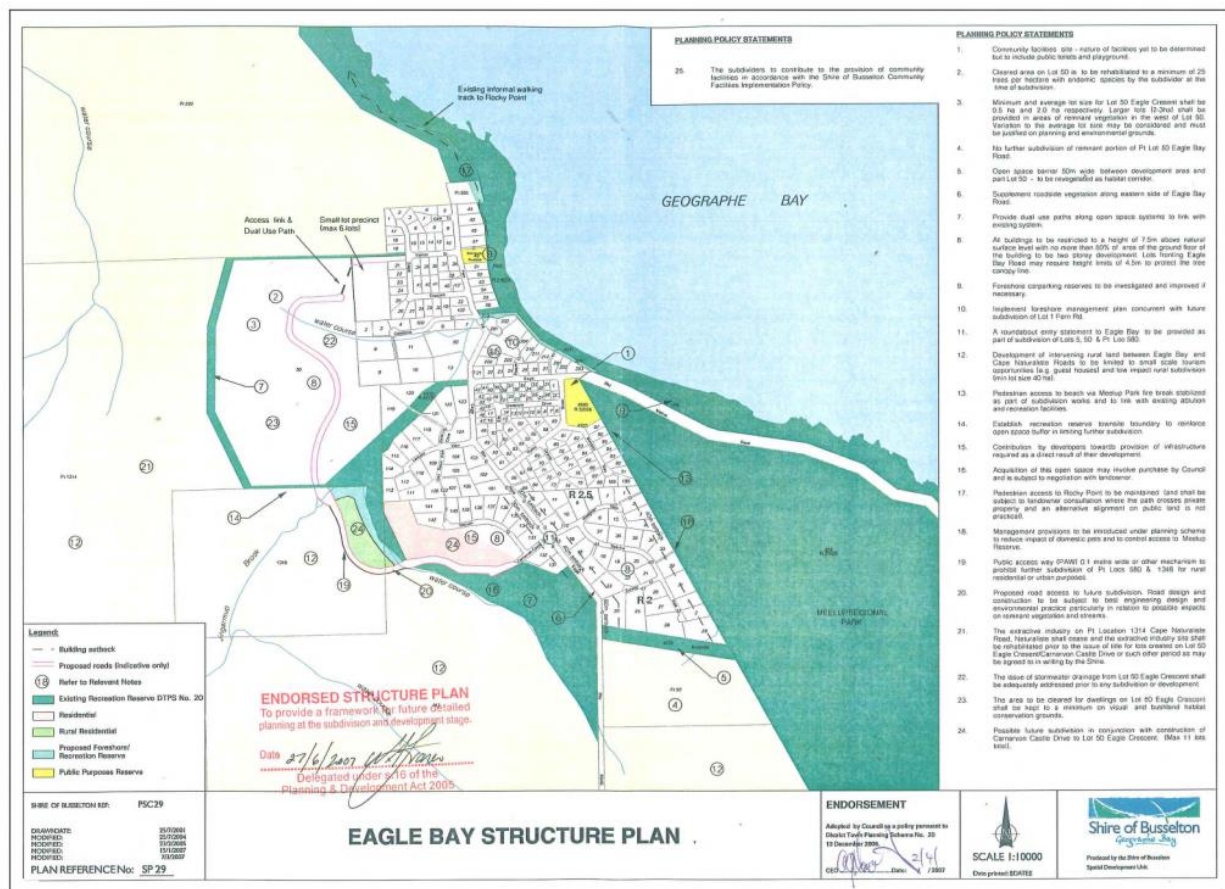




<b>PROPERTY / DEVELOPMENT HISTORY</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No - No relevant history on this site. Relevant site history relating to surrounding sites regarding setbacks is set out below
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SCHEME ASSESSMENT – ENSURE RELEVANT DISCUSSION PROVIDED WHERE ANSWERING “YES”			
<b>Zoning</b>	Residential	<b>Land use permissibility</b>	Single House - P
<b>Density</b>	R2.5	<b>Existing land use</b>	Vacant Lot
<b>Lot Area</b>	5,907m <sup>2</sup>	<b>Required FFL?</b>	None
<b>Does the site contain a building envelope?</b>		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>Is the site located within a Structure Plan/DGP/LDP area?</b>		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No - Eagle Bay Structure Plan – See assessment under the Structure Plan below:	

#### Eagle Bay Structure Plan: 2007



In relation to Building Height - Provision 8 of the Structure Plan states as follows:

- All buildings to be restricted to a height of 7.5m above natural surface level with no more than 50% of area of the ground floor of the building to be two storey development. Lots fronting Eagle Bay Road may require height limits of 4.5m to protect the tree canopy line.

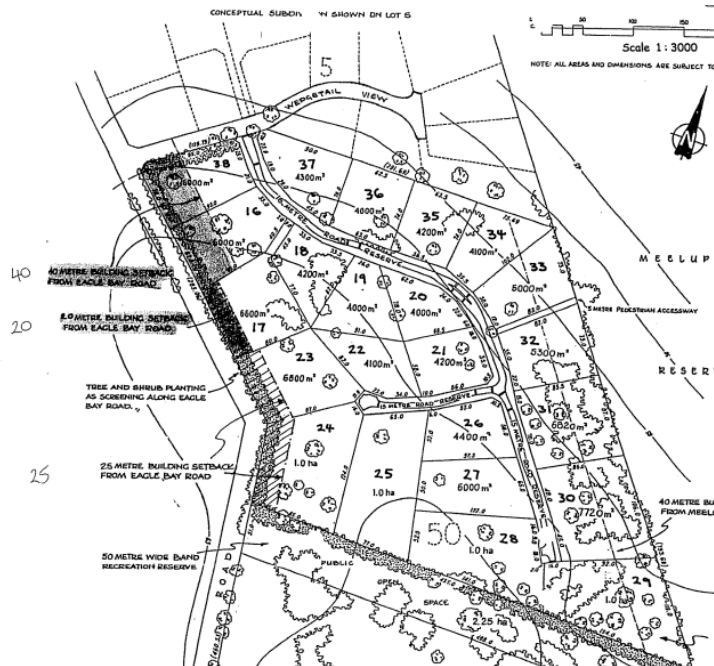
In relation to setbacks, the structure plan map depicts a 40m setback from Eagle Bay Road for the four lots marked as 38, 16, 17 and 23.





The structure plan is a “due regard” planning instrument, therefore discretion to vary setback to 22m.

#### Previously endorsed Structure Plan (DGP 20) Seaview R:2003



DGP 20 shows variable setbacks for several lots adjacent to Eagle Bay Road (ie 20m, 25m, and 40m); the more recent structure plan has a uniform 40m setback. This has resulted in anomalies in the streetscape, with existing buildings having a <40m setback. Properties with <40m setbacks have implemented a landscaping buffer. A Landscaping plan has been provided and it provides an acceptable buffer.

## Officer Assessment in relation to setbacks to Eagle Bay Road

Aerial image below shows that the proposed setback (22m) is consistent with the existing streetscape



### SETBACK HISTORY ALONG EAGLE BAY ROAD.

Lot 38 (No.4) Seaview Rise adjoining the northwest of the proposed dwelling has reduced setbacks of 22m. A dwelling was approved under **DA18/0487** (single dwelling reduced setbacks) DGP 20 showed this Lot as requiring a 40m setback.

This setback line was adjusted when the single dwelling was approved under **DA18/0487** and a 22 metre setback agreed. Justified on the basis that the proposed setback was consistent with the existing streetscape. On this same site **DA21/0741** for garage studio and carport (reduced setbacks to 21.44 and 22.9) was approved. (Both additions are setback 22 metres from Eagle Bay Road.)

**PA18/0016** provided advice on reduced setbacks for Lot 38 (No.4). The advice states the following and is still relevant for this application:

*“should the building address Eagle Bay Road then a variation to the 40m front setback will be considered within the context of the prevailing streetscape, and other planning instruments in force. All other setback requirements comply. Should the building address Seaview Rise, a variation to the 40m secondary street setback will be considered within the context of the prevailing streetscape, and other planning instruments in force. All other setback requirements comply. Should the current plan be presented for planning approval, given the proposed setback variation it will be referred to adjoining landowners for comment. While it is noted that the south western boundary of the lot is well screened from Eagle Bay Road, the applicant is advised to provide a landscaping plan to support their application for a reduced setback”*

Lot 17 (No.8) Seaview Rise to the south east has a 22m setback - Approved - 2002

Lot 23 (6) Seaview Rise, located to the south of Lot 17 have tennis court and a water tank with reduced setback of 22 - 28m. Approved as an over height dwelling, 2004 **P3438**

Landscaping plan provided – Officer satisfied that the landscaping plan addresses the reduced setback with a mix of trees and plants endemic to SW of WA and will grow to heights sufficient for effective screening.

<b>What is the prescribed building height under the Structure Plan</b>	7.5m
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**The Local Planning Scheme states:**

**4.8.1** A person must not erect any building that -

- (a) contains more than two storeys or exceeds a height of 9 metres above natural ground level, where land is within 150 metres of the mean high water mark; or
- (b) contains more than three storeys or exceeds a height of 12 metres above natural ground level, where land is more than 150 metres from the mean high water mark, except where otherwise provided for in the Scheme.  
**(Amendment No. 50 – GG. 22 Jul 2022)**

[Refer Eagle Bay Structure Plan](#)

- 8. All buildings to be restricted to a height of 7.5m above natural surface level with no more than 50% of area of the ground floor of the building to be two storey development. Lots fronting Eagle Bay Road may require height limits of 4.5m to protect the tree canopy line.

[Refer Planning and Development \(Local Planning Schemes\) Regulations 2015](#)

In accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2, clause.67 (Consideration of application by local government)* and *clause 27(1) of the Deemed Provisions*: the structure plan is a “due regard” planning instrument only, therefore there is discretion to vary any provisions contained within the structure plan.

## **Officer Assessment in relation to building height**

The development proposes a maximum height in accordance with the requirements of Schedule 4 of the Scheme, 3.3 Eagle Bay SCA. While Schedule 4 makes reference to the Eagle Bay structure, in accordance with the above a structure plan is a matter for due regard only and therefore there is discretion to vary the provisions contained within the structure plan.

The site naturally slopes 4m up from the front boundary, at Seaview Rise, up to the rear boundary at Eagle Bay Road (from the that north of the site to the south of the site). The development is cut into the site with approximately 1m of the garage/lower floor proposed to be below natural ground level. As a result, from the primary street, the dwelling will present as a two storey façade only. The only elevation that will present as a three storey is the northern elevation and the applicant has provided a landscaping plan which includes trees along the northern lot boundary which will soften the visual impact of the dwelling from this neighbouring property.

It is important to note that only a section of the northern elevation will be 8.7m high, the rest of the building height is below 8.7m with heights ranging from 4.2m, 6.5m, 7.1m, 7.3, 7.5, 7.7m, 8.2m and 8.3m. Therefore the proposal is addressing the sites natural slope, and for the most part is a 2 storey dwelling on most elevations and is only considered 3 storey where the garage is located.

It is considered that due to the design, layout, sloping site and extensive landscaping plan proposed the height of the building is acceptable. The highest point of the dwelling is set back from neighbours to the north by 15.4m which is considered an adequate distance and will not result in overlooking or over shadowing. The height points of the dwelling (elevations over 7.5m) are setback from Eagle Bay Road by approximately 54m and setback from Seaview Rise by approximately 22m-37m.

It is considered that a 7.5m high limit is not required on this site, the design, location and landscaping sustainably integrates the proposed dwelling on to this site without detrimental impact on the character of the area or residential amenity, which are considered to be the key outcome to be achieved via the clauses set out in the Eagle Bay Structure Plan.



It is demonstrated below that, in line with the Structure plan, no more than 50% of are of ground floor of the building to be two storey development.

It is considered that due regard has been given to the Eagle Bay Structure Plan and as such the propped building height and setbacks to Eagle Bay Road, on this occasion, are acceptable and will acceptably protect the prevailing amenity of the locality.

See detailed height assessment below:

The lot levels taken from the site survey and as such are used for all building height calculations as per the definition of *Natural Ground Level* from the R-Codes. (See table below for height calculations)

Relevant information:

**"Natural ground level"**

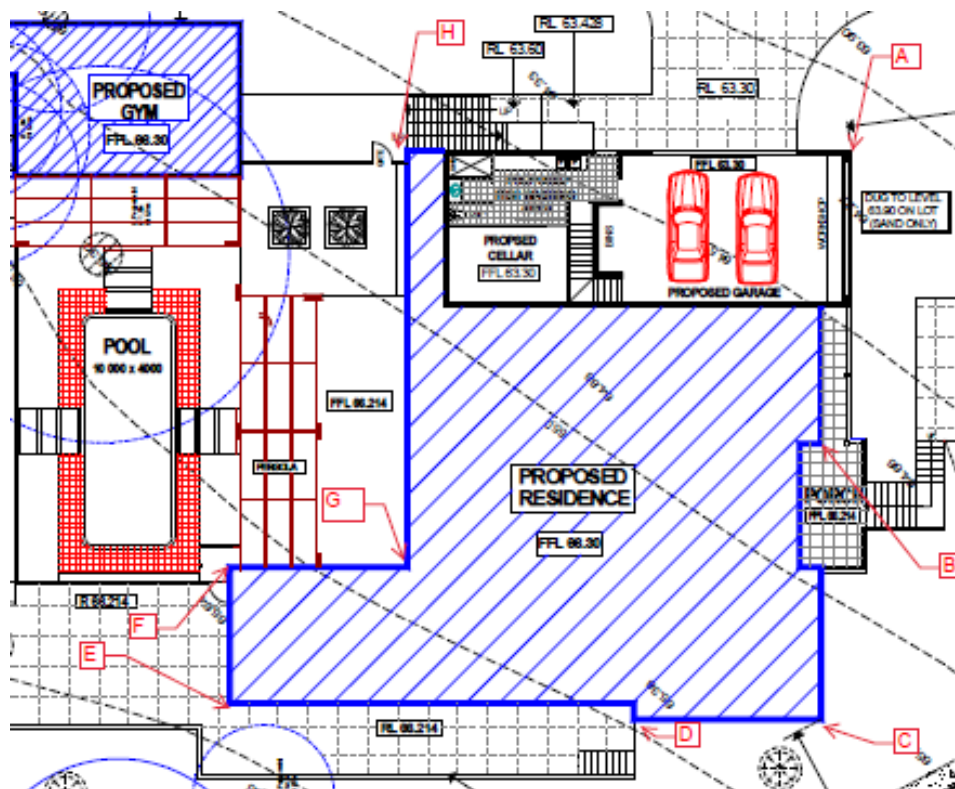
The levels on a **site** which precede the proposed **development**, excluding any site works unless approved by the **decision-maker** or established as part of subdivision of the land preceding development."

The site is over 150 metres (Approx. 730m) from the MHW. The MHW is defined by the scheme as follows:

**"Mean High Water Mark"** means the demarcation line shown on the Scheme map as provided by Landgate on the day of 22 June 2015, that identifies the interface of the ocean and land, and shall exclude any demarcation of natural inland water systems or man-made harbours/canals.

(Amendment No. 1 – GG. 4 Aug 2017)

**Survey Plan**



**Extract from Plans – Annotated Building Height**

**Table of Building Height Calculations**

POINT	NGL	FIRST FLOOR FFL	ROOF RL	MAXIMUM HEIGHT PROPOSED	COMPLIES
A	63.9m	69.129m	72.6m	8.7m	Yes
B	64.5m	69.129m	72.65m	8.15m	Yes
C	65.2m	69.129m	72.82m	7.62m	Yes



D	65.5m	69.129m	75.52m	7.32m	Yes
E	66.0m	69.129m	72.5m	6.5m	Yes
F	65.5m	69.129m	72.3m	6.5m	Yes
G	65.5m	69.129m	72.5m	7.4m	Yes
H	64.5m	69.129m	72.8m	8.3m	Yes

The entire lot is subject to the 8.7m building height limit and as demonstrated above is compliant.

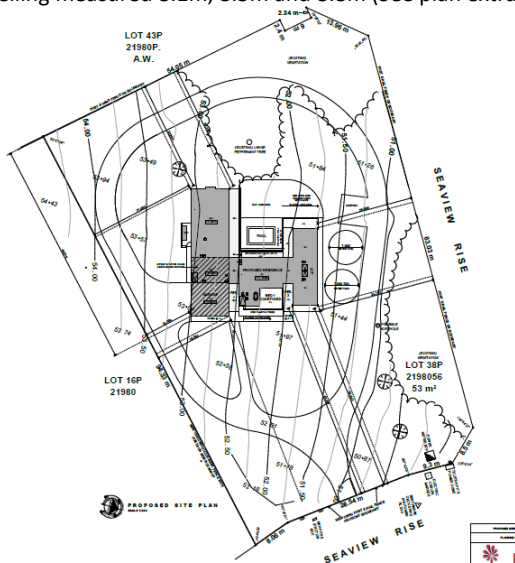
The Structure Plan states that no more than 50% of area of the ground floor of the building to be two storey. The habitable building consist of a main residences outdoor living area/games room and gym. The areas are broken down as follows:

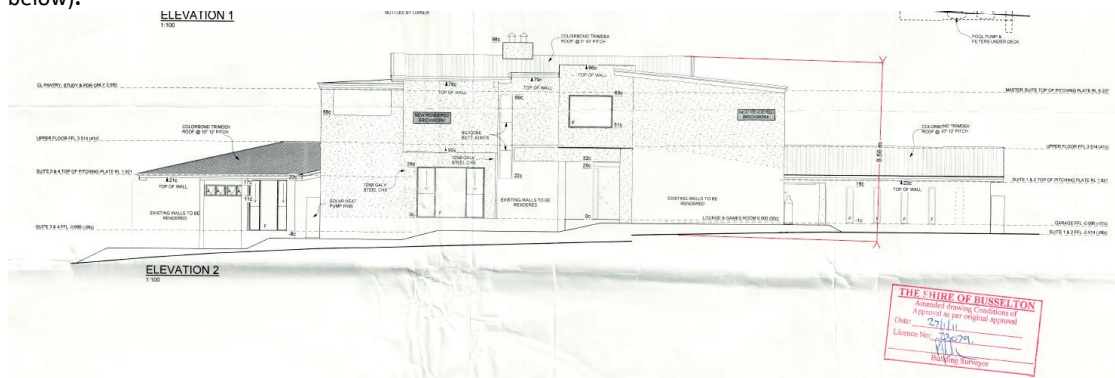
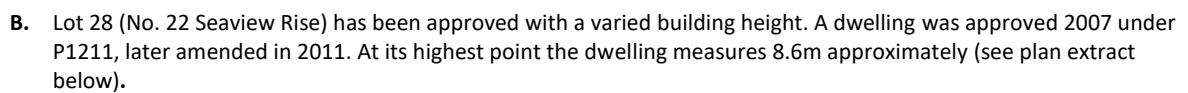
<b>Areas</b>	
Garage/cellar	114.83m <sup>2</sup>
<b>Ground Floor</b>	<b>402.89m<sup>2</sup></b>
Porch/balcony	86.15m <sup>2</sup>
Gym	69.00m <sup>2</sup>
Outdoor House	80.00m <sup>2</sup>
Store/Pump rm	31.21m <sup>2</sup>
Outdoor Garage	227.54m <sup>2</sup>
<b>Total Ground Floor/</b>	<b>1011.62m<sup>2</sup></b>
Cellar	
<b>Upper Floor</b>	<b>224.52m<sup>2</sup></b>
Top Deck	120.42m <sup>2</sup>
<b>Total Upper Floor</b>	<b>344.94m<sup>2</sup></b>
<b>Total Area</b>	<b>1356.56m<sup>2</sup></b>

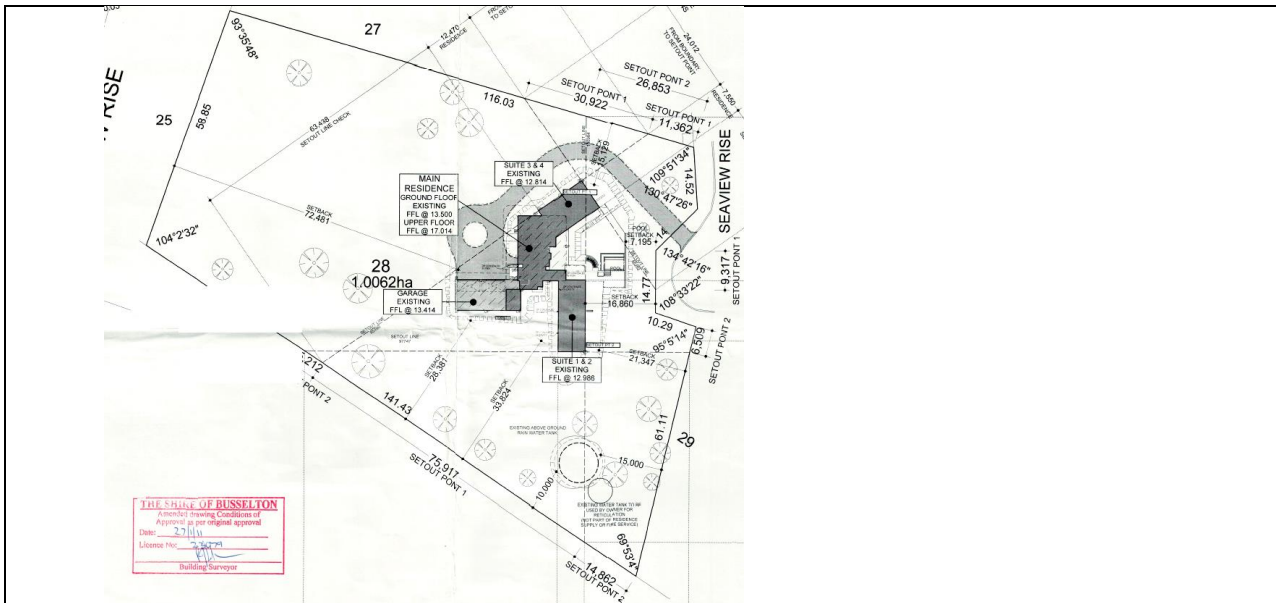
As such it is considered that the two storey/upper floor area of 224m<sup>2</sup> is not more than 50% of the ground floor of this property.

#### Examples of dwelling approved in Eagle Bay over 7.5m

- A. Lot 38 (No.4 Seaview Rise), adjoining the north/ northwest boundary of the Site has a varied building height. A dwelling was approved under DA18/0487 (single dwelling reduced setbacks & over 7.5m) at its highest points the dwelling measured 8.1m, 8.5m and 8.8m (See plan extract below).



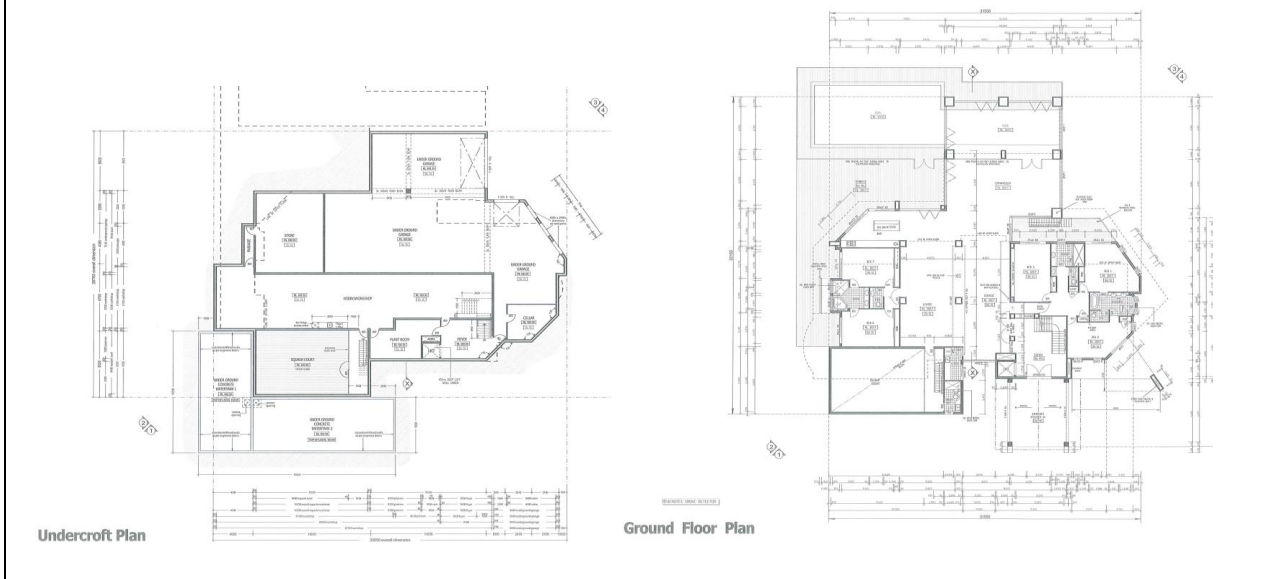




Furthermore, it is noted that three storey dwellings are not uncommon in the Eagle Bay SCA

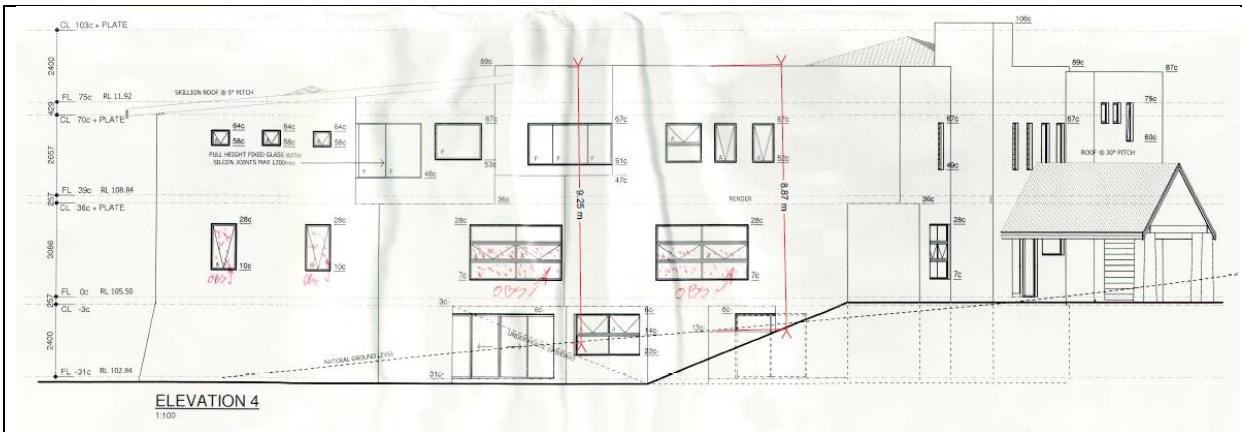
### Examples of three storey dwellings in Eagle Bay SCA

- A. Lot 15 (No. 4) Wedgetail view. The three storey dwelling was approved in 2003, due to the slope of the site basement level was largely cut in to the site (see plan extract below).









- C. Lot 69 (No.1) Otranto Close is a three storey dwelling that was approved in 2007, this dwelling has also been design to address the contours of the site. See photo below.



Is the site a designated contaminated site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the site in a Special Control Area?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Special Provision Area 6 Eagle Bay Special Character Area

	Landscape Value Area
Is the site subject to Easements	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the site within the BOB/Vasse Dunsborough Alignment	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

LOCAL PLANNING SCHEME	
Relevant Clauses	Complies (YES/NO) & Comments
<b>3.2 ZONE OBJECTIVES</b>	
<p>The objectives of each zone are as follows –</p> <p><b>Residential</b></p> <ol style="list-style-type: none"> <li>To provide for a range of housing and a choice of residential densities to meet the needs of the community.</li> <li>To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.</li> <li>To provide for a range of non-residential uses, which are compatible with and complementary to residential development.</li> </ol>	<p>Satisfied.</p> <p>Proposed residential dwelling consistent with the objectives of the residential zone.</p>
<b>4.3 Modification of R-Codes</b>	
<p>(g) On land coded R2, R2.5 or R5, all building development is to be contained within a building envelope area which does not exceed 1,000m<sup>2</sup>, or as otherwise required by a plan adopted pursuant to Part 4 of the Deemed Provisions.</p>	<p>The main intent of Clause 4.3 (g) relates to the development of land prior the subdivision of land.</p> <p>In this instance the land has been subdivided and the plan adopted pursuant of Part 4 Deemed Provisions is the Eagle Bay Structure Plan.</p> <p>As explained earlier in this report the officers must give due regard to the Structure Plan, but do have discretion to vary it. As such we have reviewed the structure plan and as set out above. The structure plan has allocated no Building Envelop (BE) for this property. The 2003 and 2007 Structure Plans has no BE allocated for this property.</p> <p>Therefore in order to assess the appropriateness of this building we have assessed the area of building development to be 1194m<sup>2</sup>. Although 194m<sup>2</sup> over the 1000m<sup>2</sup> we have considered, following the R-Code assessment, that it is appropriate to allow discretion in this instance for the following reasons:</p> <ul style="list-style-type: none"> <li>The R-Codes requires 80% open space, the proposal provides 86%. A large area of open space will remain undeveloped on this site.</li> <li>The setback to neighbouring properties area as follows:  <u>Side (North)</u>  DTC - 7.5m  Proposed – 10m  Complies   <u>Side (South)</u>  DTC – 7.5M  Proposed – 16m  Complies</li> <li>This is considered appropriate as all other aspect, including open space and setbacks, comply with the deemed-to-comply criteria of the R-codes.</li> </ul>

	Following the above it has been demonstrated that the proposal fully complies with the intent of Clause 4.3 (g), even though the Structure Plan has demonstrated that no Building Envelop was required.
<b>4.12 EFFLUENT DISPOSAL</b>	
<p>4.12.1 If no reticulated sewerage system is available, development approval shall not be granted for development in excess of a single house unless -</p> <ul style="list-style-type: none"> <li>(a) adequate and appropriate provision can be made for the on-site disposal of effluent, having particular regard to the comments or requirements specified by the Department of Health; or</li> <li>(b) the development replaces an existing lawful development and redevelopment does not represent an increase of more than 10% over and above the density of the existing development.</li> </ul> <p>4.12.2 If no reticulated sewerage system is available, liquid and/or solid wastes shall be disposed of on-site by means of an effluent disposal system approved by the local government. No house shall be occupied without the prior approval and installation of such a disposal system.</p> <p>4.12.3 In the Rural Landscape zone effluent disposal areas shall be set back a minimum of 30 metres from any watercourse or dam or as otherwise approved by the local government.</p> <p>4.12.4 In the Conservation and Bushland Protection zones effluent disposal areas shall be set back a minimum of 50 metres from any watercourse or dam or as otherwise approved by local government.</p>	<p>Satisfied.</p> <p>Reticulated sewer not available. Septic system proposed</p> <p>Refer EHO comments below.</p> <p>Noted</p> <p>Noted</p> <p>Noted</p>
<b>4.31 CLEARING OF LAND IN RURAL AREAS OR LAND CODED R2, R2.5 OR R5</b>	
<p>4.31.1 On land coded R2, R2.5 or R5 or located in the Rural Residential, Rural Landscape or Bushland Protection zones, vegetation may only be felled, removed or damaged when –</p> <ul style="list-style-type: none"> <li>(a) associated with implementing approved development;</li> <li>(b) essential for achieving adequate fire protection; or</li> <li>(c) the vegetation is dead, dying or dangerous.</li> </ul>	<p>Satisfied.</p> <ul style="list-style-type: none"> <li>(a) Approximately 5 trees will have to be removed for the development of this dwelling. Given the setback to Eagle Bay Road will be reduced, a landscaping plan has been requested along the rear boundary. The planting proposed in the landscaping will adequately compensate the removal of trees from the site.</li> <li>(b) Ongoing modification of vegetation is essential in accordance with the City's Firebreak &amp; Fuel Hazard Reduction Notice (Category 2).</li> <li>(c) N/A</li> </ul>
<b>4.8 HEIGHT OF BUILDINGS</b>	
<p><b>4.8 HEIGHT OF BUILDINGS</b></p> <p>4.8.1 A person must not erect any building that –</p> <ul style="list-style-type: none"> <li>(a) contains more than two storeys or exceeds a height of 9 metres where land is within 150 metres of the mean high water mark; or</li> <li>(b) contains more than three storeys or exceeds a height of 12 metres where land is more than 150 metres from the mean high water mark, except where otherwise provided for in the Scheme.</li> </ul>	<p>Refer previous assessment above.</p>

<p>4.8.2 Notwithstanding clause 4.8.1, the local government may grant approval for the development of a building containing more than two or three storeys, as the case may be, provided that the additional storey or storeys are of the nature of a basement or similar structure and that they do not protrude more than 1 metre above finished ground level at the perimeter of the building.</p> <p>4.8.3 In respect to clauses 4.8.1 and 4.8.2 above, the local government, upon receipt of an application for development approval, may approve building heights which exceed those maximum height limitations as specified, subject to the local government being satisfied that the building height is consistent with the relevant assessment criteria specified under clause 67 of the Deemed Provisions and the performance criteria specified under 5.1.6 (P6) and 6.1.2. (P2) of the R-Codes.</p>	
<b>5.4 LANDSCAPE VALUE AREA</b>	
<p>5.4.2 The local government shall not grant development approval for the clearing or development of any land identified within a Landscape Value area on the Scheme map, unless it has considered –</p> <p>(a) whether the development will be compatible with the maintenance and enhancement, as far as is practicable, of the existing rural and scenic character of the locality;</p> <p>(b) whether the development will materially affect any wildlife refuge, significant wetland, coastal environment or any identified site containing Aboriginal archaeological relics; and</p> <p>(c) disturbance to the natural environment, including -</p> <p>(i) visual effects of clearing for development;</p> <p>(ii) maintenance of rural character; and</p> <p>(iii) habitat disturbance.</p>	<p>Satisfied.</p> <p>(a) The proposed dwelling design, scale and appearance is considered compatible with the scenic character of the locality. The character of this part of Eagle Bay on the newer lots is mixed with modern style architecture of a range of single storey and two storey designs. It is consistent with other designs and built form in the area.</p> <p>(b) No impact to wildlife, environment etc...</p> <p>(c) This is a cleared site with the most vegetation along Eagle Bay Road and the boundary with numbers 8 &amp; 10 to the south. Some clearing will be required to accommodate the proposed dwelling which is permissible in this zone.</p> <p>A detailed landscaping plan has been provided this will provide adequate screening between the built form and Eagle Bay Road.</p> <p>A balance has been achieved between maintaining vegetation within the lot whilst considering the requirements of planning in bushfire prone areas. In a letter dated 12 October 2023, the bushfire consultant has confirmed the following:</p> <p><i>"This is to certify that the Landscape management plan dated 11/10/2023, for <b>Lot 16, #6 Seaview Rise</b>, will not impact on the current BAL rating of BAL – 19.</i></p> <p><i>The plan complies with State Planning Policy 3.7 – Planning in Bushfire Prone Areas.</i></p> <p><i>No trees are located within 6m of the residence and no limbs overhang the structure. The firebreak is maintained around the site, complying with the City rating of "Category 2".</i></p> <p><i>The plan indicates ongoing maintenance of the firebreak.</i></p> <p><i>Proposed plantings appear to be "Firewise" species."</i></p>





	<div style="display: flex; justify-content: space-between; align-items: center;"> <div> <p>Bushfire Works A.B.N. 945 23123 843 PO Box 1249, Bibra Lake DC WA 6965 E: david.deeley@bushfireworks.com.au www.bushfireworks.com.au</p> </div> <div>  </div> </div> <p style="text-align: center;"><b>BAL Rating Confirmation</b> <b>DA23 / 0327 Landscape Management Plan</b></p> <p>This is to certify that the Landscape management plan dated 11/10/2023, for <b>Lot 16, #6 Seaview Rise</b>, will not impact on the current BAL rating of BAL – 19. The plan complies with State Planning Policy 3.7 – <i>Planning in Bushfire Prone Areas</i>.</p> <p>No trees are located within 6m of the residence and no limbs overhang the structure.</p> <p>The firebreak is maintained around the site, complying with the City rating of "Category 2". The plan indicates ongoing maintenance of the firebreak.</p> <p>Proposed plantings appear to be "Firewise" species.</p> <div style="text-align: center;">  </div> <p>Dr David Deeley 12<sup>th</sup> October 2023</p>
<p>5.4.3 The local government shall not grant development approval for the carrying out of development on land within the Landscape Value area or on land on or near any ridgelines where, in the opinion of the local government, that development is likely to substantially detract from the visual amenity of the area, having regard to, among other things, the cumulative visual effect of the development related to other development that may be anticipated in the locality and in the area generally.</p>	<p>Satisfied.</p> <p>Site rises from the north to the south, as shown on the survey plan (from 6.3 AHD to 6.7 AHD).</p> <p>The proposed dwelling is not on or near any ridgeline and the requisite setback distance from Eagle Bay Road and Seaview Rise.</p> <p>It is considered the design, siting and scale of the proposed development will not detrimentally impact the visual amenity of the area.</p> <p>The landscaping plan will help also to integrate the proposal in to the area further protecting visual amenity.</p>
<p>5.4.4 Before granting development approval for the erection of a building on land within the Landscape Value area, the local government shall make an assessment as to whether it should impose conditions relating to –</p> <ul style="list-style-type: none"> <li>(a) the siting of the proposed building;</li> <li>(b) the use of prescribed materials on the external surfaces of the building; and</li> <li>(c) the number, type and location of existing trees and shrubs which are to be retained and the extent of landscaping to be carried out on the site.</li> </ul>	<p>Satisfied.</p> <ul style="list-style-type: none"> <li>a) The siting of the proposed development is considered appropriate to achieve the required setbacks as per Schedule 4. (see assessment below)</li> <li>b) Nominated materials and colours on external surfaces are acceptable. They are in keeping with that which is already existing in this area.</li> <li>c) Landscaping plan complies provides adequate screen while maintain the BAL as assessed.</li> </ul>
<p><b>SCHEDULE 4 – SPECIAL CHARACTER AREAS - EAGLE BAY</b></p>	
<p>The following provisions shall apply to subdivision and development within the Eagle Bay Special Character Area as identified on the Scheme map –</p> <ul style="list-style-type: none"> <li>(a) Other than provided for in a Structure Plan, Approved Building Envelope Plan or Structure Plan, development within the various planning sectors, as outlined in the Eagle Bay Special Character Area Local Planning Policy, shall comply with the following setback requirements:</li> </ul>	<p>Satisfied.</p> <p><b>EBSCAP Sector 3, R2.5 Density.</b></p> <p><b>Front</b></p> <p>Required = 20.0m Provided = 22.8m</p> <p><b>Rear</b></p> <p>Required = 6m Provided = 22m (However, this does not accord with the 40m setback required in the structure plan. See assessment above where a reduction to a 22m setback has been deemed acceptable in this location)</p>

Table 1 - Setbacks by Sector	Density	Minimum Setbacks for Development (in metres)		
		Front	Rear	Secondary Street
Sector 1	R5 Density	9.0*	6.0	4.5
Sector 2	R5 Density	15.0	6.0	6.0
	R2 Density	15.0	10.0	10.0
Sector 3	R2.5 Density	20.0	6.0	12.0
	R2 Density	20.0	10.0	12.0
Sector 4	Rural Residential	As per Structure Plan	As per Structure Plan	



*\*In determining the appropriate front setback, consideration shall be given to the setback of dwellings on neighbouring/nearby properties and the impact a 9.0 m front setback may have on the existing streetscape.*

(b) Incidental development shall be setback from front and neighbouring boundaries, including boundaries which interface with coastal foreshore and other public reserves, to protect the prevailing amenity of the locality in accordance with Table 1.	Complies - Septics and front steps where moved to site behind the 20m setback line
(c) Where a lot abuts a foreshore or public open space reserve, the setback applicable to development shall be no less than the required front setback distance in order to retain the natural amenity of the Reserve and avoid the encroachment of development on the reserve area.	N/A
(d) The applicable height limits will be 7.5 metres within 150 metres of the mean high water mark and 9.0 metres for all other areas unless otherwise determined by zoning provisions, a Structure Plan.	Complies Refer previous assessment above.

SPECIAL PROVISION 6 – LOT 5 & PORTION OF LOT 50 EAGLE BAY RD, EAGLE BAY				
Provision			Complies (YES/NO) & Comments	
SP6	Lot 5 & Portion of Lot 50 Eagle Bay Rd, Eagle Bay	Residential (R2 and R2.5)	<ol style="list-style-type: none"> <li>Subdivision and development of the lots shall generally be in accordance with the Structure Plans adopted by the local government and approved by the WA Planning Commission.</li> <li>No further subdivision of lots will be supported by the local government.</li> <li>The standard minimum building setbacks shall be 15 metres from the front boundary and 10 metres from all other boundaries where setbacks are not specified on the Structure Plan.</li> <li>No building shall be constructed closer to Eagle Bay Road than the setback line shown on the Structure Plan, with the exception of Lots 12, 13 and 14 which shall have a minimum setback of 30 metres from Eagle Bay Road.</li> <li>No effluent disposal area or buildings on lots abutting Meelup Reserve shall be set back less than 40 metres from the common boundary within Meelup Reserve.</li> <li>All outbuildings are to be contiguous with the main dwelling in terms of building materials, colour and form and shall be located within the building envelope indicated for each lot on the Subdivision Guide Plan and shall be limited to single storey development.</li> <li>Unless otherwise approved by the local government, each dwelling shall be connected to a water storage tank of not less than 135,000 litre capacity. The total catchment for the tank shall be not less than 150 m<sup>2</sup>. Water tanks shall be fitted with couplings compatible with Department of Fire and Emergency Services requirements so that the total tank capacity is available for fire fighting purposes at any given time.</li> <li>Rain water storage tanks are to be sited within the building envelope and form part of the dwelling and outbuilding group. Such tanks shall be painted mist green or similar and screened with vegetation to the satisfaction of the local government.</li> <li>The local government shall require each application for a building licence to be accompanied by a landscaping plan for the lot unless</li> </ol>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <ol style="list-style-type: none"> <li>N/A – Existing established lot.</li> <li>N/A – No subdivision proposed by this DA.</li> <li>Schedule 4 takes precedent for the front and rear setbacks. Side (north) setback: 10m required, 10m provided Side (south) setback: 10m required, 11m provided</li> <li><a href="#">The Eagle Bay Road Setback has been reduced to 22m – see justification in sections above.</a></li> <li>N/A – Lot not located on or within 40m of Meelup Reserve.</li> <li>Complies.</li> <li>Lot is located on reticulated water, as such it is not considered necessary to install a water tank.</li> <li>Refer 7.</li> <li>Noted.</li> <li>N/A – New build</li> <li>The Structure Plan and LPS 21 Special Provisions 6 specifies a maximum height limit at 7.5m. The maximum</li> </ol>


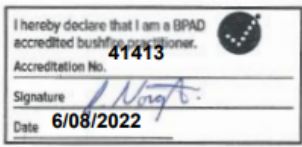

		<p>such lot is substantially vegetated, indicating the areas to be subject to tree planting and revegetation in accordance with the Structure Plan.</p> <p>10. Pre-fabricated kit homes, relocated and transportable dwellings are not permitted.</p> <p>11. Dwelling houses must be limited to a maximum height of 7.5m above the natural ground level at any point, with any second storey (first floor) to comprise a gross floor area of not more than 50% of the gross ground floor area. On Lots 12, 13 and 14 the maximum dwelling height shall be limited to the general tree canopy height on the lot and in any event must not exceed 7.5 m.</p>	<p>height of the proposal at its highest point is 8.7m and only on the northern elevation, 0.1m lower than the neighbouring property. Impacts of the variation have been assessed using the planning framework. The variation is considered acceptable provided the design, location and landscaping sustainably integrate the proposed dwelling on to this site without detrimental impact on the character of the area or residential amenity, which are considered to be the key outcome in the Eagle Bay Structure Plan. Furthermore, it is noted that three storey dwellings are not uncommon in the Eagle Bay SCA. Complies with LPS 21, Clause 4.5. <i>(Clause 4.5 of the Scheme provides discretion to vary site and development standard and requirements within the Scheme and it is considered that the provisions contained within Special Provision Special Control Areas are therefore able to varied).</i></p>
<p><b>Officer Comments:</b> It is considered that the variation of the special provision (Clause 4) is acceptable to achieve appropriate siting of the proposed development. Refer to Clause 67 matter to be considered below in this report.</p> <p>The proposed location of the development is consistent with Schedule 4 and the variation to the special provision is considered acceptable.</p>			
<p><b>LOCAL PLANNING POLICY</b></p>			
<p><b>Local Planning Policy applicable?</b></p>		<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p><b>Relevant Policies</b></p>		<p><b>Complies (YES/NO) &amp; Comments</b></p>	
<p><b>LOCAL PLANNING POLICY – 3.1 REFLECTIVE BUILDING MATERIALS</b></p>			
<p>No Zincalume permitted within Residential, Tourist, Special Purpose or Rural Residential zone (includes residential components of the Vasse Development Zone, Yalyalup Development zone and other Development Zones) without an application.</p>		<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Complies zincalume not proposed</p>	
<p>Reflective materials are not permitted within the Landscape Value Area and the Travel Route Corridors without an application.</p> <p><i>Note: Please make sure colours are nominated before approval is issued</i></p>		<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Nominated colours:</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Materials:</b></p> <p>Roof - Colorbond Steel</p> <p>Walls – Brick Masonry Render</p> <p><b>Colours:</b></p> <p>Roof – Monument</p>	



	<div data-bbox="790 212 1037 452">  <p>Dulux C29 Colorbond® Monument®</p> </div> <p>Walls - Dieskau</p> <div data-bbox="790 510 1037 810">  <p>Dulux GR12 Dieskau</p> </div> <p>Feature wall – Brick/Neutral</p> <p>Materials and colours to be used comply with the requirements of this area and in keeping with the local Character.</p>
<b>LPP 3.3 – EAGLE BAY SPECIAL CHARACTER AREA (PRECINCT 3)</b>	
<p><b>Objectives for Eagle Bay</b></p> <p>The City's overall aim is to ensure that any future development complements the positive character and attributes of the area. In particular the objectives are to:</p> <ol style="list-style-type: none"> <li>Conserve the coastal/rural setting of Eagle Bay.</li> <li>Ensure that the immediate surrounds of Eagle Bay remain set in retained natural vegetation provided by reserves, partially cleared rural land and protected fringing dune system.</li> <li>Conserve the quality of the clean beaches, unpolluted ocean water, diversity of bird life and other native fauna.</li> <li>Contain the residential development within the natural amphitheatre setting.</li> <li>Retain the non-urban beachside character and intimate scale.</li> <li>Maintain the low overall density of development and the well-vegetated environment with natural bush running all the way to the beach.</li> <li>Retain and enhance the balance between natural landscape over and the built environment throughout Eagle Bay.</li> <li>Ensure that the low impact of built form and facilities (both private and public) have minimal impact on the natural environment.</li> <li>Improve pedestrian movement throughout the settlement and maintain low traffic volumes via a non-through road traffic environment.</li> <li>Provide for development of a low rise residential character in the foreshore areas to reduce the dominance of built form in the foreshore localities.</li> </ol>	<p>Satisfied.</p> <p>The design, siting and appearance of the proposed single house complements the established character and attributes of the area.</p>

k) Ensure that the development proposals for each sector take account of the characteristics of the adjoining sector.	
<b>Precinct 3: Large Sized Lot Residential</b> The third and final stage of residential development consists of the residential area to the south-east. This precinct is characterised by the larger lot sizes (typically around 2,000 to 10,000 square metres) and copses of remnant vegetation and again predominant uses of large single residential dwellings and open space areas.	Noted.
<b>4.2 Design guidelines</b> The provisions are addressed in the following design guidelines. Each Element of the design guidelines has been predicated on the basis of the foregoing assessment which identified the key elements of the character of the Eagle Bay Special Character Area and suggestions for retaining/preserving this identifiable character. The elements include the following: A Setback Variations B Protection of Views C Coastal Setbacks/ Lots Adjoining Public Open Space D Outbuildings/Incidental Development E Single dwelling design F Building height G Vegetation Protection/Landscaping H Vehicle Access Design I Site Works Building envelope plans shall still be given due regard in the assessment of development applications pursuant to the Scheme.	Satisfied. Design elements considered in this assessment. It is considered the proposed development compliments the existing character.  There is no Building Envelop for this site.
<b>Element A – Setback Variations</b>	N/A
<b>Element B – Protection of Views</b>	Views cannot be “owned”. The provisions do not provide any control over the preservation of views. There is no guarantee the proposed development will not impact view(s) of adjoining properties to some extent.
<b>Element C – Coastal Setbacks/Lot Adjoining Reserves</b>	N/A
<b>Element D – Outbuilding/Incidental Development</b>	Outbuilding and incidental development comply with the R-Codes and Local Planning Policy 4.10, see assessment below.
<b>Element E – Single Dwelling Design</b>	The proposal is for a single dwelling
<b>Element F – Building Height</b>	Satisfied. Refer previous assessment.
<b>Element G – Vegetation Protection/Landscaping</b>	Minimal impact to existing vegetation. Landscaping Plan provided to required standard.
<b>Element H – Vehicle Access Design</b>	The driveway and crossover will be constructed of Concrete Pave See Engineering referral below.
<b>Element I – Site Works</b>	Retaining walls are proposed to address the sloping site (67 -63 AHD in a south to north direction)
<b>LPP 4.2 Bushfire</b>	
	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No A BAL has been prepared by an appropriately accredited Bushfire Planning Practitioner (refer ‘Bushfire’ section below).

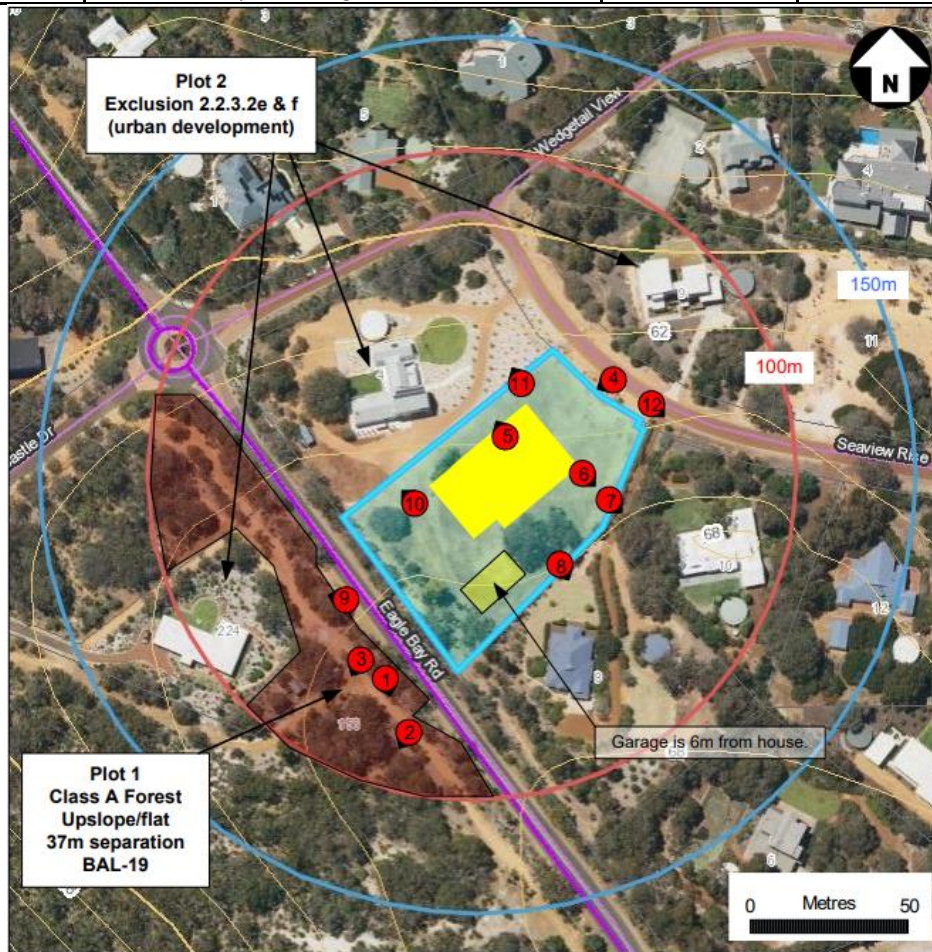


BUSHFIRE			
Is the site bushfire prone?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No The site is bushfire prone within the Residential Built Out Area 	
		<input checked="" type="checkbox"/> Residential Built Out Areas 2020	
What is the BAL rating?		BAL-19	
Has the application been referred to DFES?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Residential Built Out Area and BAL 19 can be achieved.	
Is the City satisfied that the proposal complies with:			
1.	SPP3.7 – Planning in Bushfire Prone Areas?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
2.	Position Statement – Vulnerable Land Uses in a Bushfire Prone Area?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Residential Dwelling	
3.	Guidelines for Planning in Bushfire Prone Areas has been achieved?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
LOCAL PLANNING POLICY 4.2 - BUSHFIRE			
	POLICY STATEMENT	COMPLIES? YES/NO	COMMENTS
4.1	All supporting plans and documents relevant to consideration of bushfire risk have been endorsed by an Appropriately Accredited Professional.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
Gregory Voigt      BPAD41413      1      31/08/2023      MARGARET RIVER, WA      BushFire Works 12:00:00 AM			
BPAD Accredited Practitioner Details			
Name: Greg Voigt      0409 272 666		Authorised Practitioner Stamp 	
<b>Company Details</b>  <b>BushFire Works</b> ABN 945 23123 843 PO Box 1249, Bibra Lake DC, WA 6965 <a href="mailto:enquire@bushfireworks.com.au">enquire@bushfireworks.com.au</a> <a href="http://www.bushfireworks.com.au">www.bushfireworks.com.au</a>			
<small>Reliance on the assessment and determination of the Bushfire Attack Level contained in this report should not extend beyond a period of 12 months from the date of issue of the report. If this report was issued more than 12 months ago, it is recommended that the validity of the determination be confirmed with the Accredited Practitioner and where required an updated report issued.</small>			
4.2	The APZ proposed to be provided: 1. Is no greater than 25 metres from Relevant Buildings.  <i>Note: A larger APZ may be considered, but only to the extent necessary to allow the determined BAL requirement to be reduced to BAL29, and where there are considered to be no unacceptable</i>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A	The site is Currently BAL 19, the site is maintained to APZ standard through enforcement of the firebreak notice. The ranger who last inspected it was Gordon Boettcher, the Rangers Department have confirmed this site has been compliant every year.

impacts on biodiversity, landscape values or visual amenity impacts.

*In respect of visual amenity, this shall generally require a demonstration that the larger APZ will not increase the visibility of the proposed development, when viewed from locations outside the subject lot (and, in cases where the potential impact is considered significant, a visual/landscape assessment may be required, prepared using the methodology set out in the Visual Landscape Planning Manual).*

Historical Aerials show this as a cleared site approx. 10 year ago.



re 1: Classified Vegetation

The site is Classified as a Firebreak Category 2





- ☒ Firebreak Category
- ☒ Category 0
- ☒ Category 1
- ☒ Category 2
- ☒ Category 3

Under the Firebreak Notice the following is stated:

<b>CATEGORY 2</b>				
<b>URBAN RESIDENTIAL &amp; INDUSTRIAL - COMMERCIAL</b>				
Sections A, B, D and E1 Trees, apply to this category. Refer to section E - Interpretation and Additional Requirements (E1 Trees).				
	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

#### **Firebreak**

Category 2 - Urban Residential and Industrial-Commercial: Where the area of land exceeds 2024m<sup>2</sup> (½ acre) a mineral earth FIREBREAK shall be constructed and maintained at least 3 metres wide and within 6 metres of the inside of all external boundaries of the land. Where the area of land is 2024m<sup>2</sup> (½ acre) or less, hazardous material must be removed in accordance with section B - Fuel Reduction (refer to B1).

#### **Fuel Reduction**

Category 2 - Urban Residential and Industrial-Commercial: Where the area of land is 2024m<sup>2</sup> (½ acre) or less, ALL HAZARDOUS MATERIAL must be removed from the whole of the land except living trees. In the area remaining, vegetation is to be maintained to a height of no greater than 10 centimetres; this includes piles of timber, branches and other vegetation. Trees shall be pruned in accordance with section E – Interpretation and Additional Requirements (refer to E1).

It has been confirmed by the Rangers Department (18/07/23) that this site is inspected every year to enforce the firebreak notice and that this site has complied every year. Therefore the city can accepted that site being excluded from the vegetation classification map provided by the Bushfire consultant as set out above.

Plot 2 is also accepted as excluded given that they also have to adhere to the City's Firebreak Notice and Eagle Bay is a priority area for the Rangers Department.

<p>(b) Can be accommodated entirely within the subject lot or, where the APZ cannot be accommodated entirely within the subject lot, the land involved –</p> <p>(i) is developed as a public road, path or is otherwise public land managed such that there is a reasonable expectation that fuel loads will be managed to the APZ standard on an ongoing basis; or</p> <p>(ii) is part of an APZ or Firebreak already in place and/or required on an adjoining property; or</p> <p>(iii) is otherwise Low-Threat Vegetation or Non-Vegetated Area.</p>	<p><input checked="" type="checkbox"/> <b>YES</b></p> <p><input type="checkbox"/> <b>NO</b></p> <p><input type="checkbox"/> <b>N/A</b></p>	
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	<p><i>Note: Where the APZ cannot be accommodated within the subject lot or in accordance with parts (i) – (iii) above, a Perpetual Agreement is required to be in place with the owner of the neighbouring property to allow and require the maintenance of the portion of the APZ that extends beyond the subject property.</i></p>		
	<p>(c) Can be created and maintained without need to obtain a clearing permit under the (State) <i>Environmental Protection (Clearing of Native Vegetation) Regulations 2004</i>, approval under the (State) <i>Biodiversity Conservation Act 2016</i>, and/or approval under the (Commonwealth) <i>Environmental Protection and Biodiversity Conservation Act 1999</i>.</p> <p><i>Note: Where a clearing permit is necessary, consideration of the following is required:</i></p> <ul style="list-style-type: none"> <li>• <i>Whether the necessary permit or approval (including a conditional permit or approval, where the application is consistent with those conditions) has been obtained; or</i></li> <li>• <i>Flora and fauna assessments have been prepared by appropriately qualified and experienced environmental professionals, and the City considers that the clearing is necessary and appropriate, from an environmental perspective, to accommodate the proposed development; or</i></li> <li>• <i>The applicant commits to seeking the necessary permit or approval prior to commencement of development (including a change of use), and the City considers that the environmental approval processes are unlikely to require significant changes to the proposal.</i></li> </ul>	<p><input checked="" type="checkbox"/> <b>YES</b>  <input type="checkbox"/> <b>NO</b>  <input type="checkbox"/> <b>N/A</b></p>	<p>Site has been predominantly cleared for over 10yrs</p>
<b>CHANGE OF USE OF EXISTING BUILDINGS TO A VULNERABLE LAND USE IN A BUSHFIRE PRONE AREA</b>			
<b>4.3</b>	<p>Where the Bushfire Management Plan prepared by an Appropriately Accredited Professional sets out, and the City agrees, that it is not practicable to upgrade the existing building to the determined BAL a larger APZ may be considered, having considered the application against the other requirements as listed in 4.1.2 above.</p>		<b>N/A – New dwelling BAL 19</b>
<p><b>Officers Comments.</b>  A detailed landscaping plan has been provided and the bushfire consultant has confirmed that this will not impact on the BAL</p>			

Bushfire Works  
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PO Box 1249, Bibra Lake DC WA 6965  
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**BAL Rating Confirmation**  
**DA23 / 0327 Landscape Management Plan**

This is to certify that the Landscape management plan dated 11/10/2023, for **Lot 16, #6 Seaview Rise**, will not impact on the current BAL rating of BAL – 19. The plan complies with State Planning Policy 3.7 – *Planning in Bushfire Prone Areas*.

No trees are located within 6m of the residence and no limbs overhang the structure.

The firebreak is maintained around the site, complying with the City rating of “Category 2”. The plan indicates ongoing maintenance of the firebreak.

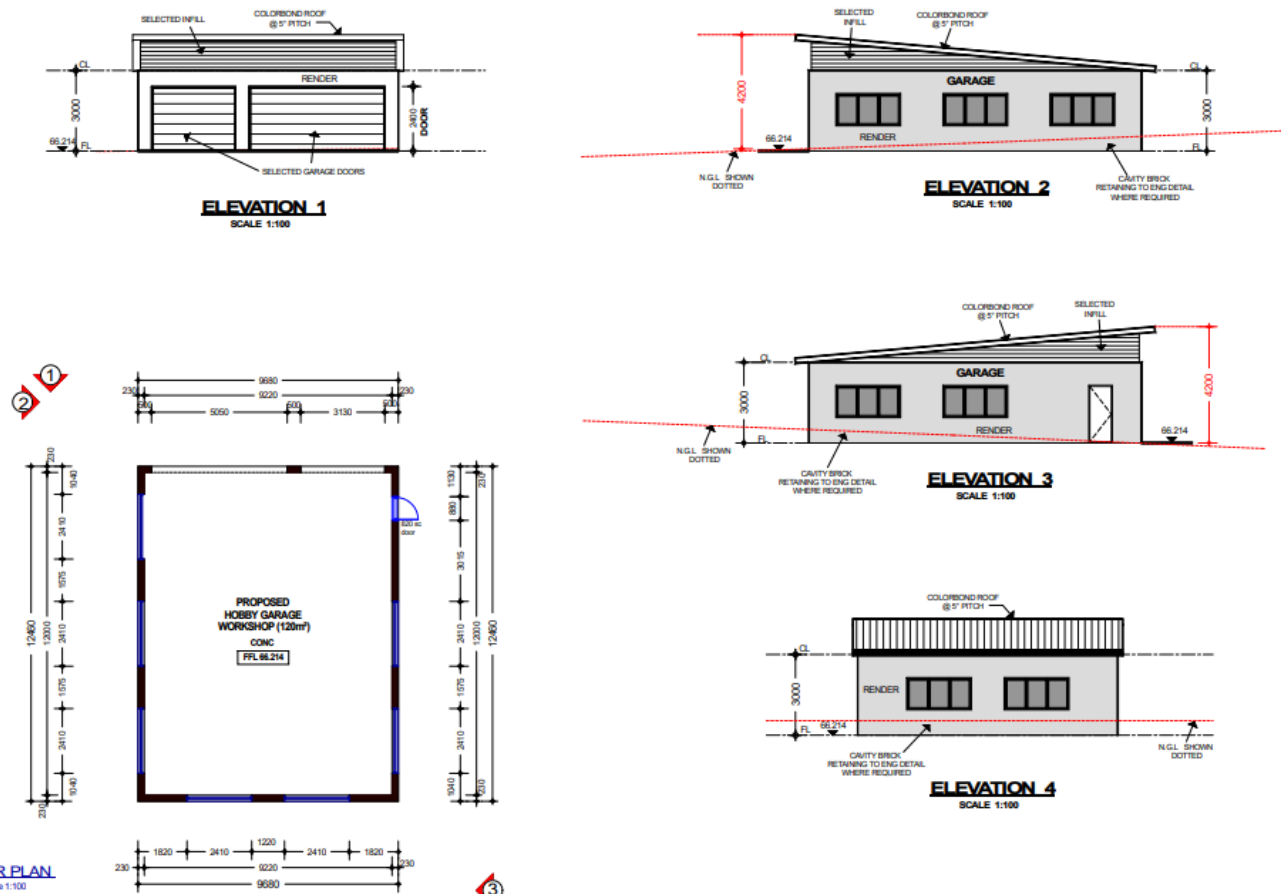
Proposed plantings appear to be “Firewise” species.

*David Deeley*

Dr David Deeley  
12<sup>th</sup> October 2023

**LPP 4.10 OUTBUILDINGS AND OTHER NON HABITABLE BUILDINGS**

**RESIDENTIAL ZONE (R2 – R5)**



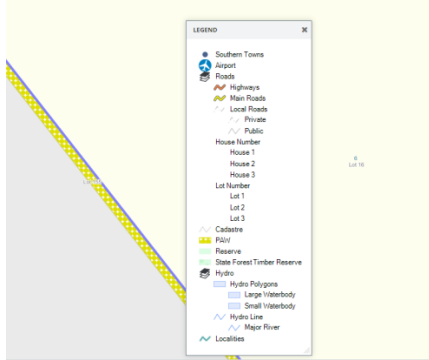
	POLICY REQUIREMENT	PROPOSED	COMPLIES?
Wall Height	3.1m	3m – Complies	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Ridge Height	4.5m	<4.5m – Complies	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Area	120m <sup>2</sup>	The previous proposal was 228m <sup>2</sup> Current Proposal is 120.6m <sup>2</sup>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No A discretion 0.6m <sup>2</sup> is considered negligible



LPP 6.01 STORMWATER MANAGEMENT	
Stormwater runoff is retained for use and/or infiltration within the lot at a rate of 1m3 of storage per 65m2 of Impervious Surfaces to accommodate 5 Year ARI. Where an approved urban water management plan is in place stormwater management is to be in accordance with that plan.	Condition on Approval.

**SPP 7.3 - RESIDENTIAL DESIGN CODES V1**

**5.1 CONTEXT**

5.1.1 SITE AREA			
Deemed to Comply Provision	DTC	Proposed	Complies (YES/NO) & Comments
<b>C1.1</b> Development which complies with the dwelling type and site area requirements set out in Table 1 and the following provisions. <b>C1.2 - C1.4...</b> Please refer to R-Code document for full clause details.	N/A	N/A	N/A – Lot is existing
5.1.2 STREET SETBACKS			
<b>C2.1</b> Buildings, <b>excluding carports, unenclosed porches, balconies, verandahs or equivalent</b> , set back from the primary street boundary <ul style="list-style-type: none"> <li>i. In accordance with Table 1.</li> <li>ii. Corresponding to the average setback of existing dwellings on each adjacent property fronting the same street.</li> <li>iii. Reduced by up to 50% provided the area of any building, including a garage, encroaching into the setback area is compensated for in open area.</li> <li>iv. In the case of areas coded R15 or higher, the street setback may be reduced to 2.5, or 1.5m to the porch, balcony, verandah or equivalent, where...               <ul style="list-style-type: none"> <li>• Refer to R-Code document for full clause details.</li> </ul> </li> <li>v. To provide for registered easements for essential services.</li> </ul>	<b>Front</b> <b>R-codes do not apply - Application to be assessed against Schedule 4.</b>	N/A	N/A
<b>C2.2 &amp; C2.3</b> - Buildings setback from the secondary street and corner truncation in accordance with Table 1.	<b>Eagle Bay Road is not deemed a secondary street as there is an access restriction in place to Eagle Bay Road in the form of a PAW. Only legal access from Sea View Crescent.</b> 		
<b>C2.4</b> Unenclosed porch, balcony, verandah or equivalent may project into the primary street setback area* to a maximum of half	<b>Front</b>	N/A	N/A

the required primary street setback without applying the compensating area. * Subject to BCA requirements	<b>R-codes do not apply - Application to be assessed against Schedule 4.</b>		
--	--	--	--

5.1.3 LOT BOUNDARY SETBACK	
Deemed to Comply Provision	Proposed
<p><b>C3.1</b> Buildings which are set back in accordance with the following provisions, subject to any additional measures in other elements of the R-Codes:</p> <ul style="list-style-type: none"> <li>i. Buildings set back from lot boundaries in accordance with Table 1, and Tables 2a and 2b (refer to Figure Series 3 and 4);</li> <li>ii. <b>For patios, verandahs or equivalent structures</b>, the lot boundary setbacks in Table 1 and Tables 2a and 2b may be <b>reduced to nil</b> to the posts where the structure*: <ul style="list-style-type: none"> <li>a. is not more than 10m in length and 2.7m in height;</li> <li>b. is located behind the primary street setback; and</li> <li>c. has <b>eaves, gutters and roofs set back at least 450mm</b> from the lot boundary;</li> </ul> <p>*Note: There are separate building code requirements which may also apply</p> </li> <li>iii-vi Refer to R-Code document for full clause details.</li> </ul>	<p><u><b>Rear</b></u> <b>R-codes do not apply - Application to be assessed against Schedule 4.</b></p> <p><u><b>Side (North)</b></u> <b>DTC - 7.5m</b> <b>Proposed – 10m</b> <b>Complies</b></p> <p><u><b>Side (South)</b></u> <b>DTC – 7.5M</b> <b>Proposed – 16m</b> <b>Complies</b></p>

5.1.3 LOT BOUNDARY SETBACK	
Deemed to Comply Provision	Proposed
<p><b>C3.2</b> Boundary walls may be built behind the street setback (specified in Table 1 and in accordance with clauses 5.1.2 and 5.2.1), within the following limits and subject to the overshadowing provisions of clause 5.4.2:</p> <ul style="list-style-type: none"> <li>i. where the wall abuts an existing or simultaneously constructed boundary wall of equal or greater dimension; or</li> <li>ii. in areas coded <b>R20 and R25</b>, walls not higher than 3.5m, up to a maximum length of the greater of 9m or one-third the length of the balance of the site boundary behind the front setback, <b>up to two site boundaries</b>; or</li> <li>iii. in areas coded R30 and higher, walls not higher than 3.5m for two-thirds the length of the balance of the site boundary behind the front setback, to <b>up to two site boundaries</b>; or</li> <li>iv. where both the subject site and the affected adjoining site are created in a plan of subdivision submitted concurrently for the proposed development, and the boundary walls are interfacing and of equal dimension.</li> </ul> <p><b>C3.3 &amp; C3.4</b> Refer to R-Code document for full clause details.</p> <p><b>Note:</b></p> <ul style="list-style-type: none"> <li>• Pillars and posts with a horizontal dimension of 450mm by 450mm, or less, do not constitute a boundary wall.</li> <li>• Retaining walls do not constitute boundary walls for the purpose of this clause.</li> </ul>	<p><b>No boundary walls proposed.</b></p>

5.1.4 C4 OPEN SPACE		
Deemed to Comply Provision	Proposed	Complies (YES/NO) & Comments

Open Space (definition provided below) provided in accordance with Table 1...The site of the grouped dwelling, for the purpose of calculating the open space requirement, shall include the area allocated for the exclusive use of that dwelling and the proportionate share of any associated common property.	Table 1 - 80%	Residence – 473sqm Gym – 66.5sqm “Outdoor living (Games room, change room, storage and pump room)” – 113sqm Hobby/Workshop Garage – 120sqm  NOTE : No outdoor living areas more than 1m above NGL and therefore no outdoor living areas have been included in built area,  Total built area = 772.5sqm Open space area = 5134.5sqm % open space = 86%	Complies
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#### Open space

Generally that area of a **lot** not occupied by any **building** and includes:

- open areas of accessible and useable flat roofs and outdoor living areas above **natural ground level**;
- areas beneath eaves;
- **verandahs, patios** or other such roofed structures not more than 0.5m above natural ground level, **unenclosed** on at least two sides, and covering no more than 10 per cent of the **site area** or 50m<sup>2</sup> whichever is the lesser;
- unroofed open structures such as **pergolas**;
- uncovered **driveways** (including access aisles in car parking areas) and uncovered car parking spaces;

but excludes:

- non-accessible roofs, verandahs, balconies and outdoor living areas over 1m above natural ground level; and/or
- covered car parking spaces and covered walkways, areas for rubbish disposal, stores, outbuildings or plant rooms.

## 5.2 STREETScape

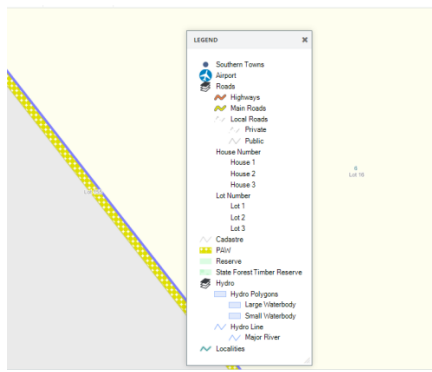
5.2.1– SETBACK OF GARAGES AND CARPORTS		
Deemed to Comply Provision	Proposed	Complies (YES/NO) & Comments
<b>C1.1</b> Garages setback 4.5m from the primary street except that the setback may be reduced... refer to R-Code document for full clause details.	<b>Garage setback</b>	<b>YES</b>
<b>C1.2</b> Carports setback from the primary street as per clause 5.1.2 C2.1i, except that the setback may be reduced by up to 50% of the minimum setback stated in Table 1 where: <ul style="list-style-type: none"> <li>i. the width of the carport does not exceed 60 per cent of the frontage;</li> <li>ii. the construction allows an unobstructed view between the dwelling and the street, right-of-way or equivalent.; and</li> <li>iii. the carport roof pitch, colours and materials are compatible with the dwelling. (Refer to Figure 8a)</li> </ul>	<b>No carport proposed.</b>	<b>N/A</b>
<b>C1.3</b> Garages and carports built up to the boundary abutting a communal street or ROW which is not the primary or secondary street for the dwelling, with manoeuvring space of at least 6m, located	<b>N/A</b>	<b>N/A</b>



between the opening to the garage or carport and permanently available.		
<b>C1.4</b> Garages and carports setback 1.5m from a secondary street.	N/A	N/A
<b>C1.5</b> Carports within the street setback area in accordance with 5.1.2 C2.1iii provided the width of carport does not exceed 50% of the frontage at the building line and unobstructed view of the dwelling and street/RoW or equivalent.	N/A	N/A
<b>5.2.2 GARAGE WIDTH</b>		
<b>C2</b> A garage door and its supporting structures (or a garage wall where a garage is aligned parallel to the street) facing the primary street is not to occupy more than 50 per cent of the frontage at the setback line as viewed from the street....	Garage is aligned parallel to the street 6.7m/52m = 12% of frontage	Yes
<b>5.2.3 STREET SURVEILLANCE</b>		
<b>C3.1</b> Street elevation of the dwelling to address the street with clearly definable entry points visible and accessed from the street.	Complies – Porch and entry visible and access from Sea View Rise.	YES
<b>C3.2</b> One major opening from a habitable room of the dwelling faces the street and pedestrian or vehicular approach to the dwelling	Major openings in front elevation.	YES
<b>C3.3</b> For battleaxe lots or sites with internal driveway access, at least one major opening from a habitable room to face the approach to the dwelling.	N/A	N/A
<b>5.2.4 STREET WALLS AND FENCES</b>		
<b>C4.1</b> Front fences within the primary street setback area that are visually permeable above 1.2m. (Refer Figure 12)	N/A	N/A
<b>C4.2</b> Solid pillars that form part of front fences not more than 1.8m above natural ground level provided. Pillars 400mm by 400mm and pillars separated by visually permeable fencing. (Refer Figure 12)	N/A	N/A
<b>5.2.5 SIGHT LINES</b>		
<b>C5</b> – Walls, fences and other structures truncated or reduced to no higher than 0.75m within 1.5m of where walls, fences, or other structures adjoin: i. a driveway that intersects a street, right-of-way or communal street; ii. a RoW or communal street that intersects a public street; and iii. two streets that intersect (refer Figure 9a).	No structures within sightline area proposed.	Yes

### 5.3 SITE PLANNING AND DESIGN

<b>5.3.1 OUTDOOR LIVING AREAS</b>			
Deemed to Comply Provision	Proposed		Complies (YES/NO) & Comments
Outdoor Living (m <sup>2</sup> ) as per Table 1	m <sup>2</sup>	No minimum	No minimum area within Table 1.
Min. Dimension (m) Note: Minimum dimension refers to min. length and width of all areas that contribute to the total req. outdoor living area space.	4.0m	N/A	
Location	Behind St. S/B	N/A	
Accessibility	Primary living space	N/A	
Roof Cover	Two-thirds no permanent roof cover	N/A	

5.3.2 LANDSCAPING																				
Deemed to Comply Provision		Proposed	Complies (YES/NO) & Comments																	
<b>C2.2</b> Landscaping of single houses, grouped dwellings and multiple dwellings to include the following:		<b>Applicant has provided a sufficient landscaping plan.</b>	<b>Yes</b>																	
i. the minimum number of trees and associated planting areas in the table below; and																				
ii. Landscaping of the street setback area, with not more than 50% of the area to consist of impervious surfaces.																				
<table><tr><td>Dwelling type</td><td>Minimum tree requirement</td><td>Minimum tree planting area</td></tr><tr><td>Single houses and grouped dwellings (tree per dwelling)</td><td>1 tree</td><td rowspan="4">2m x 2m</td></tr><tr><td rowspan="3">Multiple dwellings (trees per site)</td><td>Less than 700m<sup>2</sup></td><td>2 trees</td></tr><tr><td>700 - 1000m<sup>2</sup></td><td>3 trees</td></tr><tr><td>Greater than 1000m<sup>2</sup></td><td>4 trees</td></tr></table>		Dwelling type	Minimum tree requirement	Minimum tree planting area	Single houses and grouped dwellings (tree per dwelling)	1 tree	2m x 2m	Multiple dwellings (trees per site)	Less than 700m <sup>2</sup>	2 trees	700 - 1000m <sup>2</sup>	3 trees	Greater than 1000m <sup>2</sup>	4 trees	Note:					
Dwelling type	Minimum tree requirement	Minimum tree planting area																		
Single houses and grouped dwellings (tree per dwelling)	1 tree	2m x 2m																		
Multiple dwellings (trees per site)	Less than 700m <sup>2</sup>		2 trees																	
	700 - 1000m <sup>2</sup>		3 trees																	
	Greater than 1000m <sup>2</sup>		4 trees																	
		i. The minimum tree planting area is to be provided for each tree and shown on the site plan that is submitted with the application.	ii. The tree planting area is to be free of impervious surfaces and roof cover.																	
5.3.3 PARKING & 5.3.4 DESIGN OF PARKING SPACES																				
Deemed to Comply Provision		Provided	Complies (YES/NO) & Comments																	
<b>C3.1</b> No. required onsite car parking bays		<b>+2 car bays proposed on site.</b>	<b>Yes</b>																	
<table><tr><td rowspan="2">Type of dwelling</td><td colspan="2">Car parking spaces</td></tr><tr><td>Location A</td><td>Location B</td></tr><tr><td>1 bedroom dwelling</td><td>1</td><td>1</td></tr><tr><td>2 + bedroom dwelling</td><td>1</td><td>2</td></tr><tr><td>Aged persons' dwelling</td><td>1</td><td>1</td></tr><tr><td>Ancillary dwelling</td><td>nil</td><td>1</td></tr></table>				Type of dwelling	Car parking spaces		Location A	Location B	1 bedroom dwelling	1	1	2 + bedroom dwelling	1	2	Aged persons' dwelling	1	1	Ancillary dwelling	nil	1
Type of dwelling	Car parking spaces																			
	Location A	Location B																		
1 bedroom dwelling	1	1																		
2 + bedroom dwelling	1	2																		
Aged persons' dwelling	1	1																		
Ancillary dwelling	nil	1																		
Location A = within 250m of a high frequency bus route, or multiple bus routes that, if combined, have timed stops every 15 minutes during weekday peak periods (7 – 9am and 5 – 7pm), measured in a straight line from along any part of the bus route to any part of the lot. Location B = includes all land that is not within Location A																				
<b>C4.1</b> Car parking spaces and manoeuvring areas designed and provided in accordance with AS2890.01 (as amended).		<b>Internal dimensions of garage comply with AS2890.01</b>	<b>Yes</b>																	
• Standard double garage 5.4m x 5.4m																				
5.3.5 VEHICULAR ACCESS																				
<b>C5.1</b> Access to on-site car parking spaces to be provided:		<b>Access restriction in place to Eagle Bay Road in the form of a PAW. Only legal access from Sea View Crescent.</b>	<b>Yes</b>																	
• From a communal street or RoW if available.																				
• From a secondary street where no Communal Street or RoW exists.																				
• From the primary street frontage where no secondary street, communal street or RoW exists.																				
<b>C5.2 &amp; C5.3</b> Driveways to primary or secondary street provided as follows:		<b>Driveway is 6m in width.</b> <b>+0.5m from side lot boundary.</b>	<b>Yes</b>																	

<ul style="list-style-type: none"><li>Min: 3m</li><li>Max: 6m &amp; 9m (aggregate)</li><li>0.5m from side lot boundary</li><li>6m from street corner.</li><li>Aligned at right angles to the street alignment.</li><li>Located so as to avoid street trees, or where this is unavoidable, the street trees replaced at the applicants expense or re-planting arrangements approved.</li><li>Adequately paved and drained.</li></ul>	<p>+6m from any street corner.</p> <p>Right angle.</p> <p>No obstructions.</p> <p>Paved and drained</p>															
<p><b>C5.4</b> Driveways designed for two way access to enter street in forward Gear where:</p> <ul style="list-style-type: none"><li>Driveway serves 5 or more dwellings.</li><li>Distance from a car space to street is 15m or more.</li><li>The street to which it connects is designated as a primary distributor or integrator arterial road.</li></ul>	<p>Adequate manoeuvring and turning area of cars to exit in forward gear from garage.</p>	<p>Yes</p>														
<p><b>5.3.7 SITE WORKS</b></p>																
<p><b>C7.1 &amp; C7.2 Retaining walls, fill and excavation:</b></p> <ul style="list-style-type: none"><li>Maximum of 0.5m of fill or excavation within street setback, except to provide access for pedestrian, universal and/or vehicle access, drainage works or natural light to the dwelling.</li><li>Retaining walls, fill and excavation within the site and behind the required street setback to comply with Table 4:</li></ul> <div><p>Table 4 – Setback of site works and retaining walls</p><table><tr><th>Height of site works and/or retaining walls</th><th>Required minimum setback</th></tr><tr><td>0.5m or less</td><td>0m</td></tr><tr><td>1m</td><td>1m</td></tr><tr><td>1.5m</td><td>1.5m</td></tr><tr><td>2m</td><td>2m</td></tr><tr><td>2.5m</td><td>2.5m</td></tr><tr><td>3m</td><td>3m</td></tr></table></div> <p>Notes: i. Take the nearest higher value for all height and length calculations</p> <p><b>C7.3</b> Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having due regard to clauses 5.3.7 and 5.4.1.</p>	Height of site works and/or retaining walls	Required minimum setback	0.5m or less	0m	1m	1m	1.5m	1.5m	2m	2m	2.5m	2.5m	3m	3m	<p>No retaining walls within the front setback.</p> <p>All retaining walls are more 3m away from lot boundaries and therefore comply.</p> <p>Assessment against LPP requirements relating to retaining walls undertaken in other officer report.</p>	<p>Yes</p>
Height of site works and/or retaining walls	Required minimum setback															
0.5m or less	0m															
1m	1m															
1.5m	1.5m															
2m	2m															
2.5m	2.5m															
3m	3m															
<p><b>5.3.9 STORMWATER MANAGEMENT</b></p>																
<p>Deemed to Comply Provision</p>	<p>Proposed</p>	<p>Complies (YES/NO) &amp; Comments</p>														
<p><b>C9 - Retention of stormwater on-site</b></p> <p>Single House - 1m3 per 65m² of impervious area</p> <p>Infill - 1m3 per 40m² of impervious area</p>	<p>As per standard requirement to be enforced via a condition of development approval.</p>	<p>Yes</p>														

**5.4 BUILDING DESIGN**

<b>5.4.1 C1.1(i) - PRIVACY</b>			
<b>Deemed to Comply Provision</b>		<b>Proposed</b>	<b>Complies (YES/NO) &amp; Comments</b>
<b>Bedroom</b>	4.5m	<p><b>No major openings within 4.5m/6m or outdoor living areas within 7.5m of any lot boundary therefore cone of vision will fall within lot boundaries.</b></p>	
<b>Other Habitable Room</b>	6.0m		
<b>Outdoor living area (including balcony)</b>	7.5m		




Note: Refer to R-Code document for full clause details for variations which are acceptable.		
C1.1(ii) Provided with permanent vertical screening	N/A	N/A
C1.2 Screening devices to be at least 1.6m in height, at least 75% obscure, durable material and permanently fixed	N/A	N/A
5.4.2 SOLAR ACCESS FOR ADJOINING SITES		
C2.1 Overshadowing - R25 and lower 25%, R30 – R40 35%, R-AC or above R40 50% of adjoining site area.	Dwelling is setback 16m from the southern lot boundary. Overshadowing will fall within the lot boundaries.	Yes
C2.2 Development site shares southern boundary with a lot, refer figure 11b		
• Dividing fences of up to 2.0 metres in height do not contribute to overshadowing calculations		
5.4.4 EXTERNAL FIXTURES, UTILITIES & FACILITIES		
Deemed to Comply Provision	Proposed	Complies (YES/NO) & Comments
C4.1 Solar collectors installed on the roof or other parts of buildings.	No solar collectors are proposed.	Yes
C4.2 Television aerials of the standard type, essential plumbing vent pipes above the roof line and external roof water down pipes.	Noted.	Yes
C4.3 Other external fixtures provided they are: i. not visible from the primary street; ii. are designed to integrate with the building; or iii. are located so as not to be visually obtrusive.	No external fixtures marked on the plans	Yes
C4.4 Antennas, satellite dishes and the like not visible from any primary and secondary street.	Noted.	Yes
C4.6 Where rubbish bins are not collected from the street immediately adjoining a dwelling, there shall be provision of a communal pick-up area or areas which are: i. conveniently located for rubbish and recycling pick-up; ii. accessible to residents; iii. adequate in area to store all rubbish bins; and iv. fully screened from view from the primary or secondary street.	Noted.	Yes
C4.7 Clothes-drying areas screened from view from the primary and secondary street.	None marked on the plans.	Yes

REFERRALS	
<b>INTERNAL</b> <ul style="list-style-type: none"> <li><b>Building</b></li> <li><b>Engineering</b></li> <li><b>Health</b></li> </ul>	<p><b><u>Building Comments</u></b></p> <ul style="list-style-type: none"> <li>Whilst it's a large house with a swimming pool it really doesn't require too much from a building point of view. Just the swimming pool mustn't have direct access from the dwelling, it must be isolated by a pool barrier fence.</li> <li>All the stairs and balustrades must comply with the building code, the spiral type stair case must also be in accordance with the BCA.</li> <li>Bushfire requirements to be met and smoke detectors must be at all levels</li> </ul> <p><b><u>Health Comments</u></b></p> <p>Development to be connected to an approved effluent disposal system in accordance with the Health (Treatment of Sewage and Disposal of Liquid Waste) Regulations 1974. An Application To Construct Or Install An Apparatus For The Treatment of Sewage is required at Building Application stage. In support of the application, ensure that the soil profile of the anticipated resulting leach field is included in the Geo Tech Assessment associated with the building application. (To be attached as an advice note)</p>

	<b>Engineering Comments</b> <ul style="list-style-type: none"> <li>Pavement areas show many soakwells however can only see two for the buildings – plans to show supporting drainage calculations. <b>Condition</b></li> <li>Crossover to be constructed to in accordance with City requirements (noted on the plans)</li> </ul>
<b>EXTERNAL</b> <ul style="list-style-type: none"> <li>DPLH</li> <li>DFES</li> <li>DBCA</li> <li>DWER</li> </ul>	N/A
<b>Other</b>	N/A

ADVERTISING AND NEIGHBOUR CONSULTATION			
<b>Advertising Required?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
<b>Reasons for advertising?</b>	<p>The proposal went as a Memo to Council 03 November 2023 and was subsequently presented to the Councillors on 15 November 2023 at the Planning and Development briefing. At this briefing session, the Council requested that consultation be undertaken.</p> <p>Consultation was undertaken with letters sent to 8 surrounding land owners and occupiers of 4 properties.</p>		
<b>Start Date</b>	24 November 2023	<b>Finish Date</b>	08 December 2023
<b>Were any submissions received?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No – 2 submissions were received.		
	<b>Summary of Submission</b>	<b>Officer Response</b>	
<b>Name:</b> Residents of Eagle Bay Association <b>Address:</b> Eagle Bay	<ol style="list-style-type: none"> <li><b>Building Height and Setback</b></li> <li><b>Site Fill</b></li> <li><b>Footprint</b></li> <li><b>Building bulk</b></li> <li><b>Visual Amenity</b></li> </ol>	<ol style="list-style-type: none"> <li><b>Variation to Building Height and Setback</b> An assessment has been completed which justifies consideration of the variation, as per the summary above.</li> <li><b>It is considered the nominated FFL's are an appropriate design response to the natural contour of the lot. The proposal only required the minimal cut and fill to allow for a level build.</b></li> <li><b>Footprint</b> The site is not subject to an endorsed building envelope plan to limit development to 1000m<sup>2</sup>.</li> <li><b>Building Bulk</b> The proposal is of a scale relative to the size of site so that the impact of building bulk is limited. In addition, the large setbacks maintain adequate ventilation or sunlight to adjoining properties.</li> <li><b>Visual Amenity</b> The impacts of proposed variations upon visual amenity have been assessed as part of a comprehensive report. As discussed above, the proposal is considered acceptable. This Site rises from the north to the south, as shown on the survey plan (from 6.3 AHD to 6.7 AHD). The proposed dwelling is not on or near any ridgeline, it is located on site so that it is not on the highest site contour. It is considered the design, siting and scale of the proposed development will not</li> </ol>	

		<p>detrimentally impact the visual amenity of the area.</p> <p>The landscaping plan will also help to integrate the proposal in to the area, further protecting visual amenity.</p>
<p><b>Name:</b> Susie Bailey <b>Address:</b> Eagle Bay</p>	<p>The proposed plan for the property at 6 Seaview Rise, Eagle Bay is within precinct 3 of the Eagle Bay Special Character Area (SCA) Policy. The proposed development of this property is outside the building envelope of 7.5m height above natural ground level. The proposed development at 6 Seaview Rise proposes to build up the block height with fill material on the Seaview Rise side of the block. The proposed development is then a 3 story home 9m in height which, is currently existing natural ground level at the front of the block. According to the originally approved structure plan subdivision along Seaview Rise the maximum height is 7.5m this was to basically to limit buildings in this development to a maximum of 2 storeys and to date this plan has worked well for the area. This property will have a large footprint of greater than 1000m2 whereas the other properties in the area are around 500m2. There is no provision that I can see for a water tank which would be environmentally essential considering the number of trees being planted and fed from drip reticulation, the water pressure is extremely low already planting these will put further pressure on the system. The developers also plan to remove 2 extra-large gum trees which will impact the privacy of number 10 Seaview Rise, Eagle Bay. Eagle Bay is also defined as a Landscape Value Area (LVA) under the City of Busselton Town Planning Scheme, this is to ensure that any new developments fit in with the existing character of the area</p>	<p>Response as above, additional notes:</p> <p>Number 6 Seaview rises from the north (63.5AHD) to the south (67.10AHD).</p> <p>The FFL: Outbuilding garage - 66.214AHD Dwelling - 66.30AHD Gym – 66.30AHD Outdoor living – 66.643AHD It is considered the nominated FFL's are an appropriate design response to the natural contour of the lot. The proposal only required the minimal cut and fill to allow for a level build.</p> <p>The proposed dwellings (at it closest point to number 10) is set back 25m from number 10 (Lot 18). Number 10 is currently separated from the proposal by established vegetation on both Lots, and a driveway to number 6 (Lot 17).</p> <p>This along with the proposed landscaping plan will adequately protect the privacy of Number 10.</p>  <p>Given the design, scale, layout and landscaping plans provided it is considered that the proposed development is in keeping with the existing character of the area. No adverse impacts are anticipated.</p>
<p><b>Name:</b> M. Vincent <b>Address :</b> Eagle Bay</p>	<p>No issue with proposed development but concerns regarding landscaping and compliance with firebreaks. Concerns regarding proximity of trees to septic tanks and leach drain.</p>	<p>Firebreak and Fuel Hazard Reduction Notice (Bushfire Notice). The proposed landscaping plan comply with the requirements of the City's Bushfire Notice which requires a mineral earth firebreak 3m in width within 6m of all external lot boundaries (note: the firebreak does not need to be located on the lot boundary).</p> <p>The location of the septic tanks and leach drains will be subject to a separate application within the City's Environmental Health Services where the location if the septs and leach drains will be assessed.</p> <p>Bushfire consultant has confirmed, as set out above that the landscaping plan is bushfire compliment.</p>



<b>Name: M. Donaldson</b> <b>Address : Eagle Bay</b>	<p>The development does not comply with maximum height control of 7.5m above NGL. The development does not comply with the building envelope requirements</p>	<p>Building height has been assessed in the Council Report.</p> <p>Within the Scheme the applicable building envelope is 1,000sqm. The building envelope has been assessed 1,194sqm. This is considered appropriate as all other aspect, including open space and setbacks, comply with the deemed-to-comply criteria of the R-codes.</p>
<b>Officer Comment:</b>  <p>Following submission amended plans were received, these plans reduce the highest point of the proposal from 9m to 8.7m, this is 0.1m lower than the neighbouring property to the north west.</p>		

Clause 67 – Matters to be Considered:	
Matters to be Considered	Comment
The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;	The proposal is considered to satisfy the aims and provisions of the Scheme, specifically the objectives of the 'Residential' zone, the R-Codes and the development standards of the EBSCA established by Schedule 4.
The requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;	Approval of the proposal is considered consistent with orderly and proper planning.
Any local planning policy for the Scheme area;	<p><i>The development meets the standards contained within the relevant local planning policies, being</i></p> <ul style="list-style-type: none"> <li><i>Local Planning Policy – 3.1 Reflective Building Materials,</i></li> <li><i>Local Planning Policy 3.3 – Eagle Bay Special Character Area (LPP 3.5),</i></li> <li><i>Local Planning Policy 4.3 – Bushfire, and</i></li> <li><i>Local Planning Policy 4.10 – Outbuildings and Other Non-habitable Buildings (LPP 4.10).</i></li> </ul>
<p>The compatibility of the development with its setting, including —</p> <p>(i) The compatibility of the development with the desired future character of its setting; and</p> <p>(ii) The relationship of the development to development on adjoining land or on other land in the locality, including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;</p>	<p>The proposal is in keeping with the character of the area.</p> <p>The bulk and scale of the development is considered consistent with the 'Residential' zone, with the proposed setbacks are not considered to impact the amenity of the neighbouring properties.</p>
<p>The amenity of the locality including the following —</p> <p>(i) Environmental impacts of the development;</p> <p>(ii) The character of the locality;</p> <p>(iii) Social impacts of the development;</p>	<p><i>The development satisfies the elements of the EBSCA policy and is of a scale consistent with the 'Residential' zone.</i></p>

The likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or water resource;	The development satisfies the elements of the EBSCA policy and is of a scale consistent with the 'Residential' zone. The style and form of the development is in keeping with the character of the locality. The proposal will not result in adverse impacts on the natural environment or the water resources.
Whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;	The development will not result in negative impact to the natural environment or removal of significant vegetation.
The suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation, or any other risk;	While the site is located in a 'Bushfire Prone Area,' the bushfire assessment above demonstrate that this proposal fully complies with the bushfire requirement and that the site is a Residential Built Out Area and BAL 19 can be achieved.  The land is suitable for development
Any submissions received on the application	Refer to submission section of report above.
<b>It is considered that the matters listed within Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015 have been adequately address through the assessment of this application against the applicable Scheme and LPP requirements in the report above.</b>	

OTHER CONSIDERATIONS	
<b>Is a S.70A notification required?</b> <ul style="list-style-type: none"> <li>- Coastal inundation</li> <li>- Bushfire Prone</li> </ul>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>Bushfire Prone Area. To be conditioned</b>





**SUMMARY OF SUBMISSIONS**  
**PROPOSAL: Single House (Swimming Pool, Gym and Outbuilding) - Lot 16 (No. 6) Seaview Rise, Eagle Bay**  
**SUBMISSIONS CLOSE: 08 December 2023**

No.	NAME	SUBMISSION	OFFICER COMMENT
1	<p>Name: D. Best on behalf of The Residents of Eagle Bay Association</p> <p>Locality: Eagle Bay</p>	<p><b>Objection</b></p> <p>Listed in following dot point format are areas of concern that we would request the City planners address during the planning approval process.</p> <ol style="list-style-type: none"> <li>According to the approved Structure Plan for the original subdivision along Seaview Rise, the maximum building height is 7.5 m above natural ground level at any point on the block. This obligation was basically to limit buildings in this subdivision area to a maximum of 2 storeys. This maximum height limit has worked to date and all the existing developments in Seaview Rise fit in well with the surrounding environment and also adjoining properties. This in turn has developed a special, low impact feel for this subdivision area. (which was the original intent of the Structure Plan).</li> <li>It seems that proposed development at 6 Seaview Rise proposes to build up the block height with fill material on the Seaview Rise side of the block. The development visual aspect from Seaview Rise will then be a 3 storey building. This will be a 9 m high building (above what is currently existing natural ground level at the front of the block) compared to the defined maximum allowable height of 7.5m above existing natural ground level.</li> <li>The actual overall footprint of the development area is a concern in terms of fitting in with the existing character of the other developments along Seaview Rise. Under the R2.5 zoning for the Seaview Rise area all buildings and development should be contained within a building envelope area of not more than 1,000 m2. The actual size of the building envelop area for 6 Seaview Rise is not shown on the plans provided by the City, but it would appear to be well over 1,000 m2. i.e. the block will therefore become over-developed from a visual impact point of view and not fit in with the existing visual amenity of this subdivision area.</li> <li>From the attachment to this email called “6 Seaview Rise Development Area” it can see that the proposed area of building development on 6 Seaview Rise is significantly larger than all the other properties along Seaview Rise. For instance the actual development footprint areas for the adjoining properties at No 8 &amp; 10 Seaview Rise are around 500 m2. The existing house across the road from No 6 (i.e. 9 Seaview Rise) has a development footprint area of around 480 m2. Similarly along the full extent of Seaview Rise building development footprint areas appear to be in the 500 to 800 m2 range. (i.e. relatively low visual impact).</li> <li>It would seem reasonable that a property owner should have flexibility in developing their dream home (within the constraints of the planning obligations that apply to the specific area), however in this case the owners seem to be pushing the boundaries on both building height and building development footprint area. This will create a development of significant bulk, and hence an impact on the existing visual amenity of this subdivision area within Eagle Bay.</li> <li>Seaview Rise is located within a defined Landscape Visual Amenity Area of the City of Busselton Town Planning Scheme, hence any proposed new development needs to be assessed by the town planners in regards to the impact the proposed development will have on the overall visual amenity of the area (i.e. the Eagle Bay residential area and adjoining tourist recreational areas). It should be noted that 6 Seaview Rise, and other lots on the west side of Seaview Rise, are located on a ridge line that is the highest elevation in Eagle Bay. Hence an over height building located on this ridge line is likely to give rise to some visual amenity issues that need to be meaningfully assessed and considered.</li> </ol> <p><b><u>Attachment to REBA submission prepared by Nigel Bancroft</u></b></p> <p>Information report on the City of Busselton Local Planning Scheme 21 development controls as applicable to Lot 16 Seaview Rise, Eagle Bay in respect to Development Proposal shown on Doc set 5250205 v1 (31/10/23).</p> <p>This overview is provided for information purposes based on a standard statutory planning assessment of the relevant development controls as applicable to a proposal within the Eagle Bay Special Character Area under City of Busselton Local Planning Scheme 21 (LPS). It is not legal advice and should not be interpreted as such. It is designed to inform REBA on the structure and hierarchy of the controls applicable to the appropriate statutory development assessment and determination of the application for a single dwelling at lot 16 Seaview Rise as shown on advertised plans (Doc set 5250205).</p> <p>The presentation of this overview is based on extracts of the City of Busselton TPS 21 (LPS) and associated components of the planning framework to identify precedence of controls and limitations.</p>	<p><b>Power to vary scheme standard - LPS 21, Clause 4.5</b></p> <p>Power to vary scheme standards has been addressed in Attachment 3 (Officer Assessment Report). LPS 21, Clause 4.5 has been addressed and it has been demonstrated that the development proposal complies with this clause.</p> <p><b>Special Provision Area</b></p> <p>Compliance with Special Provision Area No. 6 is demonstrated within Attachment 4 (Officer Assessment Report)</p> <p><b>Landscape Value Area</b></p> <p>It has been considered that adequate supporting information has been provided (Development Plans and Landscape Plan).</p> <p>As demonstrated within Attachment 4 (Officer Assessment Report), the proposal has been fully assessed against LPS 21, Clause 5.4 Landscape Value Area (LVA), has been found to satisfy the requirements of the LVA.</p> <p>The proposal will also be finished with prescribed materials (dark tones) which is in keeping with Local Planning Policy – 3.1 Reflective Building Materials.</p> <p><b>Special Character Area Provisions</b></p> <p>As demonstrated within Attachment 4 (Officer Assessment Report), the proposal complies with the provision of the Special Character Area.</p> <p><b>Eagle Bay Road setback</b></p> <p>As demonstrated within Attachment 4 (Officer Assessment Report), the proposed setback will not result in any adverse visual or amenity impact.</p> <p>In accordance with the <i>Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2, clause.67 (Consideration of application by local government) and clause 27(1) of the Deemed Provisions</i>: the structure plan is a “due regard” planning instrument only, therefore there is discretion to vary any provisions contained within the structure plan.</p> <p>Clause 4.5 of the Scheme provides discretion to vary site and development standard and requirements within the Scheme and it is considered that the provisions contained within Special Provision Special Control Areas are therefore able to varied.</p> <p>Therefore, as it is considered there is discretion to vary these provisions it is considered that a merit based assessment to determine the appropriateness of these discretions must be undertaken. The matters listed in clause 67 of the Regulations should be considered in the assessment of these discretions. Clause 67 has been assessed within</p>

**SUMMARY OF SUBMISSIONS**  
**PROPOSAL: Single House (Swimming Pool, Gym and Outbuilding) - Lot 16 (No. 6) Seaview Rise, Eagle Bay**  
**SUBMISSIONS CLOSE: 08 December 2023**

	<p>The subject lot is zoned R2.5 under the LPS, is within the Eagle Bay Special Character Area (EBSCA), Special Provision Area No. 6 (SP6) and is within the Landscape Value Area (LVA). It is also subject to an endorsed structure plan (Eagle Bay Structure Plan, Plan Reference No. SP 29) endorsed by the COB 2/4/2007 and the WAPC 27/06/2007 (and subject to the deemed provisions then valid until Oct 2025).</p> <p>The subject lot is within Precinct 3 of the Eagle Bay SCA Policy and Area C of App 4 of that policy Eagle Bay Special Character Area DGP and Building Envelope Plan Overlay. The SCA Policy has as its purpose to protect and enhance the unique and special character of Eagle Bay through land use and residential design controls. However, the Policy does not appear to have been updated following the gazettal of LPS21 and while it purports that the policy provisions prevail to the extent of any inconsistency with other elements of the planning framework this is not considered to accurately reflect the current status of the policy (other than those elements reflected in Schedule 4 of the LPS or other scheme provisions). The basis for this is related to cl 5.7 of the LPS, the requirements for setting out R code variations in an LPS and that the policy is a lower order planning document. In conjunction with the provisions of SP6 this does create a fairly complicated hierarchy of planning controls. To the extent necessary to identify the extent of compliance of the proposal with the scheme these are dealt with on a "development element" basis below. Further discussion on the hierarchy of the planning controls is contained in the previous information advice provided to REBA in respect of the proposal for 301 Carnarvon Castle Drive.</p> <p>For ease of reference the main elements of the scheme structure as are applicable are outlined below:</p> <p><b>Compliance with Development Standards</b></p> <p>Clause 4 of the LPS establishes the precedence of the application of the minimum standards of the scheme to any development and the applicability of the Residential Design Codes to the subject land as it is within the residential zone (R 2.5). It should be noted that where the R-codes are not varied by a provision of the scheme, including schedule 4, then the standards of the codes (to the extent they exist) and/or design principles are applicable. Cl 4.3.1 (g) as related to R code variations (reproduced below) is also relevant to this proposal as it provides an additional control over the spread of development on the subject site that works in addition to the Schedule 4 setback requirements.</p> <p style="text-align: center;"><b>4.3 MODIFICATION OF R-CODES</b>  <i>(Amendment No. 1 – GG, 4 Aug 2017)</i>  <i>(Amendment No. 29 – GG, 7 Jun 2019)</i>  <i>(Amendment No. 28 – GG, 16 Feb 2021)</i>  <i>(Amendment No. 50 – GG, 22 Jul 2022)</i></p> <p style="text-align: center;"><b>4.3.1</b> Notwithstanding any other provision of the Scheme, the following variations and exclusions to the R-Codes apply:</p> <p style="text-align: center;">(e) All Special Character areas provided for in Schedule 4 and pursuant to clause 5.7 are excluded as necessary from the provisions of the R-Codes to the extent of any conflict between the standards set out in Schedule 4 and the R-Codes.</p> <p style="text-align: center;">(f) Notwithstanding the deemed to comply provisions of the R-Codes, outbuildings that do not exceed a wall height of 2.7 metres and ridge height of 4.5 metres are deemed to meet the relevant performance criteria.</p> <p style="text-align: center;">(g) On land coded R2, R2.5 or R5, all building development is to be contained within a building envelope area which does not exceed 1,000m<sup>2</sup>, or as otherwise required by a plan adopted pursuant to Part 4 of the Deemed Provisions.</p> <p>Clause 4.5 provides the power for the Council to issue approval for a development that does not comply with a standard of the scheme generally. Certain elements of the codes are excluded from this power (very limited given the design principles pathway available) as are development standards set out in Schedule 4 for land within a SCA. The preeminence of these Schedule 4 planning controls over the general power to vary a scheme standard was confirmed in the Pennock decision.</p> <p><b>Power to vary scheme standards</b></p> <p style="text-align: center;"><b>4.5 VARIATIONS TO SITE &amp; DEVELOPMENT STANDARDS AND REQUIREMENTS</b>  <i>(Amendment No. 1 – GG, 4 Aug 2017)</i>  <i>(Amendment No. 29 – GG, 7 Jun 2019)</i></p> <p style="text-align: center;"><b>4.5.1</b> Except for development in respect of which the R-Codes apply, if a development is the subject of an application for development approval and does not comply with a standard or requirement prescribed under the Scheme (including a policy or plan adopted pursuant to the Scheme), the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.</p>	<p>Attachment 4 (Officer Assessment Report) and are considered to be satisfied.</p> <p><b>Building Height</b></p> <p>An assessment (Attachment 4) has been completed which justified consideration of the height variation.</p> <p>It is also worth noting that the neighbouring property, Lot 38 (No.4 Seaview Rise), adjoining the north/ northwest boundary of the Site has a varied building height (Approved 2018). At its highest points the neighbouring dwelling measured 8.1m, 8.5m and 8.8m, 0.1m higher than the proposed dwelling.</p> <p>It is considered that due to the design, layout, sloping site and extensive landscaping plan proposed the height of the building is acceptable. The highest point of the dwelling is set back from neighbours to the north by 15.4m which is considered an adequate distance and will not result in overlooking or over shadowing. The height points of the dwelling (elevations over 7.5m) are setback from Eagle Bay Road by approximately 54m and setback from Seaview Rise by approximately 22m- 37m.</p> <p>It is considered that a 7.5m high limit is not required on this site, the design, location and landscaping sustainably integrates the proposed dwelling on to this site without detrimental impact on the character of the area or residential amenity, which are considered to be the key outcome to be achieved via the clauses set out in the Eagle Bay Structure Plan.</p> <p><b>Landscape Value Area</b></p> <p>As state above:</p> <p>It has been considered that adequate supporting information has been provided (Development Plans and Landscape Plan).</p> <p>As demonstrated within Attachment 4 (Officer Assessment Report), the proposal has been fully assessed against LPS 21, Clause 5.4 Landscape Value Area (LVA), has been found to satisfy the requirements of the LVA.</p> <p>The proposal will also be finished with prescribed materials (dark tones) which is in keeping with Local Planning Policy – 3.1 Reflective Building Materials.</p> <p><b>Visual Impact</b></p> <p>It is considered that the design and layout of the proposed development appropriately response to the natural contours of the lot. This Site rises from the north to the south, as shown on the survey plan (from 6.3 AHD to 6.7 AHD).</p> <p>The proposed dwelling is not on or near any ridgeline. It has been located on site so that it is not on or near the highest site contour.</p> <p>It is considered the design, siting and scale of the proposed development will not detrimentally impact the visual amenity of the area. The Landscaping Plan will also help integrate the proposal in to the area, further</p>
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**SUMMARY OF SUBMISSIONS**  
**PROPOSAL: Single House (Swimming Pool, Gym and Outbuilding) - Lot 16 (No. 6) Seaview Rise, Eagle Bay**  
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	<p>The exercise of the power in this clause does however have specific associated obligations and required assessments and formation of opinions which must be clearly undertaken in issuing a valid determination.</p> <p>4.5.3 In considering an application for development approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to -</p> <p>(a) consult the affected parties by following one or more of the provisions for advertising uses under clause 64 of the Deemed Provisions; and</p> <p>(b) have regard to any expressed views prior to making its determination to grant the variation.</p> <p>4.5.4 The power conferred by this clause may only be exercised if the local government is satisfied that -</p> <p>(a) approval of the proposed development would be appropriate having regard to the matters to be considered set out in clause 67 of the Deemed Provisions;</p> <p>(b) approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality; and</p> <p>(c) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.</p> <p><b><u>Building Height</u></b>  Clauses 4.3.2 and 4.8 provide the overall building height provisions of the scheme. For the subject land the applicable standards are set out in Schedule 4 (by reference) as these provide a more specific minimum standard and as per CL 5.7.3 (see below) take precedence.</p> <p>4.3.2 Building height provisions as specified under -</p> <p>(a) Table 3 and Deemed-to-Comply provision 5.1.6 C6 of Volume 1 of the R-Codes, and</p> <p>(b) Table 2.1, and acceptable Outcome A2.2.1 of Volume 2 of the R-Codes; do not apply, except for on land coded R-AC3. In all other areas, maximum building height requirements are required to comply with the provisions of clause 4.8 of the Scheme.</p> <p><b>(Amendment No.50 – GG. 22 Jul 2022)</b></p> <p><b>4.8 HEIGHT OF BUILDINGS</b>  <i>(Amendment No. 1 – GG. 4 Aug 2017)</i>  <i>(Amendment No. 29 – GG. 7 Jun 2019)</i>  <i>(Amendment No. 50 – GG. 22 Jul 2022)</i></p> <p>4.8.1 A person must not erect any building that -</p> <p>(a) contains more than two storeys or exceeds a height of 9 metres above natural ground level, where land is within 150 metres of the mean high water mark; or</p> <p>(b) contains more than three storeys or exceeds a height of 12 metres above natural ground level, where land is more than 150 metres from the mean high water mark, except where otherwise provided for in the Scheme.</p> <p><b>(Amendment No. 50 – GG. 22 Jul 2022)</b></p> <p><b><u>Special Provision Area</u></b>  The subject lot is also within Special Provision Area No. 6 as outlined on the scheme maps and as such the following scheme provision and schedule are applicable. These provision however are subject to the other provisions of the scheme and as such are subsidiary to any controls in Schedule 4, to the extent of any conflict, and are open to variation through approval of non-compliant applications under Cl 4.5. ie these SP6 provisions and standards do not have the pre-eminence of the Schedule 4 provisions.</p> <p>5.3.1. Notwithstanding any other provisions of the Scheme, use and development of land identified on the Scheme map within a Special Provision area and specified in Schedule 3, shall be</p>	<p>protecting visual amenity.</p> <p><b>Building Envelope</b>  The Clause requires all building development is to be contained within a building envelope area which does not exceed 1,000m<sup>2</sup>, or as otherwise required by a plan adopted pursuant to Part 4 of the Deemed Provisions (Structure Plan).</p> <p>There is no designated building envelope for this lot, the proposed building development is calculated to be 1194m<sup>2</sup>, 194m<sup>2</sup> over the 1000m<sup>2</sup>. To consider the appropriateness of exercising discretion the R-Codes guide the extent of building development within the Residential zone and the proposal complies with the Open Space requirement, including the Design Principles of Open Space and all setbacks to neighbouring properties.</p> <p>It is considered appropriate to exercise discretion to allow for the 194m<sup>2</sup> increase in building development. Following the above it has been demonstrated that the proposal fully complies with the intent of Clause 4.3.1 (g).</p>
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		<table border="1"> <thead> <tr> <th>No.</th><th>PARTICULARS OF LAND</th><th>ZONE</th><th>SPECIAL PROVISIONS</th></tr> </thead> <tbody> <tr> <td>SP6</td><td>Lot 5 &amp; Portion of Lot 30 Eagle Bay Rd, Eagle Bay</td><td>Residential (R2)</td><td> <p><b>PRECEDENT VALUE</b></p> <p>1. Subdivision and development of the lots shall generally be in accordance with the Structure Plans adopted by the local government and approved by the WA Planning Commission.</p> <p>2. No further subdivision of lots will be supported by the local government.</p> <p>3. The standard minimum building setbacks shall be 15 metres from the front boundary and 10 metres from all other boundaries where setbacks are not specified on the Structure Plan.</p> <p>4. No building shall be constructed closer to Eagle Bay Road than the setback line shown on the Structure Plan, with the exception of Lots 12, 13 and 14 which shall have a minimum setback of 30 metres from Eagle Bay Road.</p> <p>5. No effluent disposal area or buildings on lots abutting Meelup Reserve shall be set back less than 40 metres from the common boundary within Meelup Reserve.</p> <p>6. All outbuildings are to be contiguous with the main dwelling in terms of building materials, colour and form and shall be located within the building envelope indicated for each lot on the Subdivision Guide Plan and shall be limited to single storey development.</p> <p>7. Unless otherwise approved by the local government, each dwelling shall be connected to a water storage tank of not less than 135,000 litre capacity. The total catchment for the tank shall be not less than 150 m<sup>2</sup>. Water tanks shall be fitted with couplings compatible with Department of Fire and Emergency Services requirements so that the total tank capacity is available for fire fighting purposes at any given time.</p> <p>8. Rain water storage tanks are to be sited within the building envelope and form part of the dwelling and outbuilding group. Such tanks shall be painted red green or silver and screened with vegetation to the satisfaction of the local government.</p> <p>9. The local government shall require each application for a building license to be accompanied by a landscaping plan for the lot unless</p> </td></tr> </tbody> </table> <p><b>Landscape Value Area</b></p> <p>The LVA provisions (CL 5.4) act in addition to all other applicable provisions of the LPS in respect to the subject land and as they are not in conflict in any way with the Schedule 4 provisions, act in conjunction with those and the applicable Eagle Bay SCA policy provisions. The provisions provide important considerations in terms of the potential impact of a proposal on the scenic value and visual amenity of an area but do have a limited implementation scope. I have not made an assessment of consistency of the proposal with these provisions due to a lack of a visual impact assessment with the advertised plans but it is an issue that REBA may wish to pursue in any further consultation with the City on the proposal as it is my view that the detail provided to date is inadequate for the Council to determine the application under its obligations as set out in this clause.</p>	No.	PARTICULARS OF LAND	ZONE	SPECIAL PROVISIONS	SP6	Lot 5 & Portion of Lot 30 Eagle Bay Rd, Eagle Bay	Residential (R2)	<p><b>PRECEDENT VALUE</b></p> <p>1. Subdivision and development of the lots shall generally be in accordance with the Structure Plans adopted by the local government and approved by the WA Planning Commission.</p> <p>2. No further subdivision of lots will be supported by the local government.</p> <p>3. The standard minimum building setbacks shall be 15 metres from the front boundary and 10 metres from all other boundaries where setbacks are not specified on the Structure Plan.</p> <p>4. No building shall be constructed closer to Eagle Bay Road than the setback line shown on the Structure Plan, with the exception of Lots 12, 13 and 14 which shall have a minimum setback of 30 metres from Eagle Bay Road.</p> <p>5. No effluent disposal area or buildings on lots abutting Meelup Reserve shall be set back less than 40 metres from the common boundary within Meelup Reserve.</p> <p>6. All outbuildings are to be contiguous with the main dwelling in terms of building materials, colour and form and shall be located within the building envelope indicated for each lot on the Subdivision Guide Plan and shall be limited to single storey development.</p> <p>7. 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		<p><b>5.4 LANDSCAPE VALUE AREA</b>  <i>(Amendment No. 46 - GG, 30 July 2022)</i></p> <p>5.4.1 Development within the Landscape Value Area requires the prior development approval of the local government.</p> <p>5.4.2 The local government shall not grant development approval for the clearing or development of any land identified within a Landscape Value area on the Scheme map, unless it has considered -</p> <ul style="list-style-type: none"> <li>(a) whether the development will be compatible with the maintenance and enhancement, as far as is practicable, of the existing rural and scenic character of the locality;</li> <li>(b) whether the development will materially affect any wildlife refuge, significant wetland, coastal environment or any identified site containing Aboriginal archaeological relics; and</li> <li>(c) disturbance to the natural environment, including - <ul style="list-style-type: none"> <li>(i) visual effects of clearing for development;</li> <li>(ii) maintenance of rural character; and</li> <li>(iii) habitat disturbance.</li> </ul> </li> </ul> <p>5.4.3 The local government shall not grant development approval for the carrying out of development on land within the Landscape Value area or on land on or near any ridge-lines where, in the opinion of the local government, that development is likely to substantially detract from the visual amenity of the area, having regard to, among other things, the cumulative visual effect of the development related to other development that may be anticipated in the locality and in the area generally.</p> <p>5.4.4 Before granting development approval for the erection of a building on land within the Landscape Value area, the local government shall make an assessment as to whether it should impose conditions relating to -</p> <ul style="list-style-type: none"> <li>(a) the siting of the proposed building;</li> <li>(b) the use of prescribed materials on the external surfaces of the building; and</li> <li>(c) the number, type and location of existing trees and shrubs which are to be retained and the extent of landscaping to be carried out on the site.</li> </ul> <p>5.4.5 In clause 5.4.4 -</p> <p><b>"external surfaces"</b> means the external walls and cladding (if any), external doors, external door and window frames, columns, roofs, fences and any surface of a building or work visible from the exterior of a building or work; and</p> <p><b>"prescribed materials"</b> means materials with dark tones or dark colouring and of low reflective quality or materials which are painted or similarly treated with dark toned or dark coloured paint or pigment of low reflective quality.</p> <p><b>Special Character Area Provisions</b></p> <p>Clause 5.7 sets out the precedence of the Special Character Area provisions over other more general provisions of the scheme for development within the specified areas. As per the Pennock decision it has also been confirmed that the standards specified in Schedule 4 are not open to variation through approval of a non-compliant proposal, i.e. it is not open to the approving authority to exercise discretion to vary a minimum standard specified in Schedule 4.</p> <p><b>5.7 SPECIAL CHARACTER AREA</b>  <i>(Amendment No. 46 - GG, 30 July 2022)</i></p> <p>5.7.1 Development within the Special Character Area requires the prior development approval of the local government.</p> <p>5.7.2 The local government may devise development objectives, provisions and/or controls to reinforce, retain or change the characteristics, form and nature of a designated Special Character area, with such objectives, provisions and/or controls being specified in Schedule 4.</p> <p>5.7.3 Where such objectives, provisions and/or controls are specified in Schedule 4 in relation to a designated Special Character area, those objectives, provisions and/or controls act in conjunction with the other provisions of this Scheme relevant to that area with the exception that the provisions of Schedule 4 will take precedence over any other provisions of this Scheme.</p> <p><b>Development Compliance</b></p> <p>The specific provisions applicable to development within the Eagle Bay SCA in Schedule 4 are copied below. With respect to Lot 16 Seaview Rise and the current development proposal as advertised the main issue of non-compliance are discussed herein.</p> <p><b>Building Setback:</b></p> <p>Lot 16 is within the Eagle Bay SCA and the area of an endorsed Structure plan. Clause (a) of the Eagle Bay SCA Schedule 4 provisions</p>	
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	<p>provides that setbacks shall be as per the Table 1 to that clause other than where setbacks are provided in a Structure plan, which then take precedence. This wording in the Schedule 4 provision is clumsy and somewhat repetitive, however it is my view that there is no other reasonable conclusion from the structure of the introductory provision. This does not imply that the whole of the structure plan becomes applicable, only the standards specified for setbacks, which then should be read as a Schedule 4 standard. It is also not considered overly relevant as to the status of the structure plan, the reference to the standard could well be any other document containing specific setbacks for the lot, as long as that was adequately described to be clear on its identification.</p> <p>The various setback provisions applicable to the lot and the basis for this are set out below:</p> <p><b><u>Eagle Bay Road setback.</u></b></p> <p>The required setback is considered to be 40m from the Eagle Bay road reserve as set out on the Eagle Bay Structure Plan (SP.29) in the form of a drawn setback line on the plan. This is applicable by reference under Schedule 4, clause 5 (a) of the LPS. The development proposes a setback of 22m and as such is non-compliant and it is my view that there is no power to vary this requirement under Clause 4.5 due to the structure of Cl 5.7 and as per the Pennock decision.</p> <p>The reference in Table 1 of the Eagle Bay SCA, schedule 4 provisions of a 12m secondary street setback is not applicable due to the deferral to a structure plan standard as set out in Cl 5(a). The SP6 reference to setbacks to Eagle Bay Road to be as set out on an applicable structure plan, is subsidiary to but consistent with the Schedule 4 control, confirming the clear intent of a 40m setback to this road reserve.</p> <p>The proposal does not comply and in my view the non-compliance cannot be approved under LPS CL 4.5. Seaview Rise setback.</p> <p>The applicable front (Seaview Rise) setback is 20m as set out in Table 1 to Schedule 4 as SP.29 is silent on this requirement. This is consistent with the R code requirement for the R2.5 zoning.</p> <p>The reference in SP6 to a 15m front setback is subsidiary to the Schedule 4 requirement as per clause 5.7. The proposal achieves a setback of 20m.</p> <p>The proposal is compliant.</p> <p>Northern / Southern side Setback (to Lot 38/Lot 17)</p> <p>The applicable setback for the lot side boundaries is considered to be 10m as established in the SP6 provisions, which are subject to clause 4.5 and non-compliant development could be approved. With setbacks of 11m and 10m to the north and south respectively the proposal is compliant in any event. The relevant structure plan and the Eagle Bay SCA provision in schedule 4 are silent on required side setbacks hence SP6 applies. The R codes require a minimum 7.5m setback only.</p> <p>The proposal is compliant.</p> <p><b><u>Building Height:</u></b></p> <p>As lot 16 is within the Eagle Bay SCA the applicable height limits are as per clause 5 (d) of the Schedule 4 provisions. These provide height limits of 7.5m and 9.0m unless otherwise specified in zoning provisions or a Structure Plan. Provisions in SP6 and the SP.29 requirements are consistent in that they provide for development up to a maximum only of 7.5m above Natural Ground Level (NGL) at any point with any second level (first floor) of development limited to an area equivalent to 50% of the gross floor area of the ground floor. The endorsed structure plan SP.29 is the highest order height control measure which is given precedence through Schedule 4 and LPS clause 5.7.</p> <p>As both the maximum height limit and maximum area of two storey construction have their head of power in the Schedule 4 provisions and are part of the same Planning Policy Statement and both address a height control they are not considered separable, then as clarified by the Pennock decision, there is no capacity for the City to issue approval for a non-compliant development in either area. In my view the fact that the height controls are not specified in numeric terms in provision (d) of schedule 4 but established by reference to the Structure plan does not diminish the effect of Clause 5.7.3 of the LPS as limiting any discretionary determination, as interpreted in the Pennock decision.</p> <p>The proposal has the following maximum heights above NGL as set out on the elevations: (These may be further exceeded as without a</p>	
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	<p>drawing of the height plane of the development above NGL it is difficult to establish with confidence the max height at any point).</p> <p>North – approx. 9m above NGL.  East (Seaview Rise) – approx. 8.6m above NGL  South – approx. 7.9m above NGL  West – The western elevation (elevation 6) only shows the most western portion of the development, with a maximum height of approx. 4.2m. This however ignores the main dwelling beyond and as indicated in elevation 3 has a max height of approx. 8.3 above NGL.</p> <p>The proposal is non-compliant with the required maximum height of 7.5m above NGL at numerous points and when viewed from all elevations and in my view this non-compliance cannot be approved under LPS cl4.5.  Further PPS No. 8 of SP.29 provides that “Lots fronting Eagle Bay Road may require height limits of 4.5m to protect the tree canopy line.” This is clearly a height control measure and is considered to be given effect by clause (d) of the SCA controls in schedule 4. The application provides no analysis of the existing tree canopy and the impact of the proposed development and it is considered that as such the proposal does not contain sufficient information for it to be validly assessed and the need for application of the 4.5m height limit applied or otherwise.  As proposed the development appears to be compliant with the requirement for the first level of development to not be greater in area than 50% of the gross area of the ground floor. At a proposed approx. 400m2 the upper level is less than 50% of the ground floor GFA of approx. 904m2. However, given the proposal overall exceeds the permitted building envelope area as discussed below this issue would need to be reviewed in any revised proposal.</p> <p><b><u>Building Envelope.</u></b>  There is no identification of a building envelope or overall development footprint schedule on the advertised plans for lot 16. The ground floor development has a building only footprint of over 900m2 with extensive associated recreation and ancillary facilities outside this main footprint likely to result in a development area at least double this.</p> <p>Special Provision area No.6, special provision 6, provides that all outbuildings should be of a contiguous design to the main dwelling and located within the building envelope as set out on a subdivision guide plan. The existence of such a subdivision guide plan is still being determined with the COB???? At this point the proposal is considered compliant in terms of the design of outbuildings only.</p> <p>Clause 4.3(g) of the LPS as reproduced above identifies that on land zoned R 2.5 all building is to be contained within a building envelope area of maximum 1000m2 or as otherwise set out on a plan adopted under part 4 of the deemed provisions (a structure plan or like). The LPS does not contain a definition of a “building Envelope” other than with reference to rural zones. Within the Planning Regulations and P&amp; D Act the only definition of a Building Envelope is within the Model Scheme Text (37 (1) of Schedule 1) which provides as follows:</p> <p>“Building Envelope means the area of land within which all buildings and effluent disposal facilities on a lot must be contained.”</p> <p>For the purpose of assessment of the proposal and those elements of development to be considered as defining the building envelope this definition as the only one available is considered to be most applicable.  Without being able to be definitive on the overall size of the envelope under this definition as no overall development area has been defined on the advertised plans it is considered that the proposal will far exceed the maximum allowance of 1000m2 given the immediate ground floor building footprint of approx. 900 m2. As such the proposal is non-compliant with the requirements of the LPS. As these requirements are standards of the scheme and SP6 provisions they do not have the mandatory status of schedule 4 provisions and a non-compliant development could be approved after following the correct procedures and subject to Council determination that the variation would be consistent with proper planning and the protection of the amenities of the area etc under clause 4.5.</p> <p>Proposal is non-compliant with maximum building envelope requirements with plans inadequately detailed to determine the exact extent of that non-compliance.</p> <p><b><u>Landscape Value Area.</u></b>  The proposal is located within an area identified as a Landscape Value Area under the scheme and as such is subject to the application, assessment and determination requirements of Clause 5.4 of the LPS. While it is acknowledged that further information may have been provided to the CoB as part of the application documents the information on the advertised plans is considered insufficient for the requirements of the LVA and for the City to make a proper assessment of the compliance or otherwise with the required outcomes for</p>	
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development within the LVA. This information should include at least a basic seen area analysis of the development from public areas to address the requirement to protect the visual amenity of the area.

Further information on the proposal is considered to be required to enable the application to be fully considered consistent with the scheme requirements. There is not considered to be any discretion available in the determination of the application to ignore the clear requirements of LPS Cl 5.4.

**Conclusion**

This report has not assessed compliance of the development with other subsidiary components of the planning framework such as the R-codes except where detailed above. Given the setbacks of the proposed development from adjoining lots and the 'design principles' pathway under the codes such issues are considered unlikely to be significant in the determination of the application.

In summary the proposal is considered to be non-compliant in respect to the setback of buildings to Eagle Bay Road and in terms of the maximum height above NGL. Both of these development standards are established through the Eagle Bay SCA provisions in Schedule 4 and override any other provision of the scheme as per LPS Cl 5.7. As confirmed in the Pennock decision these development standards are not able to be subject to variation through approval of a non-compliant development under LPS cl4.5. Correspondingly it is my view that on a basic statutory planning interpretation of the scheme the Council would have no power to approve the application as represented in the advertised plans.

Further it is considered that the application is not valid as advertised given the inadequacy of information to address the requirements of LPS CL5.4, LVA requirements and would be unable to be determined by the Council until the full requirements of LPS CL 5.4 are addressed.

In respect to the requirements for all building in the R2.5 zone to be contained to an envelope of 1000m2, while a non-compliant development could be approved pursuant to LPS cl4.5 it is considered that the extent of non-compliance based on the advertised plans, once confirmed, would be of a scale and detrimental impact on the amenity and character of the area that it would prevent any reasonable decision maker from approving the extent of variation that would be required.

**5. EAGLE BAY SPECIAL CHARACTER AREA**  
*(Amendment No. 1 – GG, 4 Aug 2017)*

The following provisions shall apply to subdivision and development within the Eagle Bay Special Character Area as identified on the Scheme map--

(a) Other than provided for in a Structure Plan, Approved Building Envelope Plan or Structure Plan, development within the various planning sectors, as outlined in the Eagle Bay Special Character Area Local Planning Policy, shall comply with the following setback requirements:

Table 1: Setbacks by Sector	Density	Minimum Setbacks for Development (in metres)		
		Front	Rear	Secondary Street*
Sector 1	R5 Density	9.0*	5.0	4.5
Sector 2	R5 Density	15.0	5.0	6.0
	R2 Density	15.0	10.0	10.0
Sector 3	R2.5 Density	20.0	5.0	12.0
	R2 Density	20.0	10.0	12.0
Sector 4	Rural Residential	As per Structure Plan	As per Structure Plan	

\*In determining the appropriate front setback, consideration shall be given to the setback of dwellings on neighbouring/ nearby properties and the impact a 9.0m front setback may have on the existing streetscape.


(b) Incidental development shall be setback from front and neighbouring boundaries, including boundaries which interface with coastal foreshore and other public reserves, to protect the prevailing amenity of the locality in accordance with Table 1.

(c) Where a lot abuts a foreshore or public open space reserve, the setback applicable to development shall be no less than the required from setback distance in order to retain the natural amenity of the Reserve and avoid the encroachment of development on the reserve area.

(d) The applicable height limits will be 7.5 metres within 150 metres of the mean high water mark and 9.0 metres for all other areas unless otherwise determined by zoning provisions, a Structure Plan.



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		 <p style="text-align: center;">6 SEAVIEW RISE - INDICATE BUILDING ENVELOPE AREA          COMPARED TO OTHER EXISTING DEVELOPMENTS          ON SEAVIEW RISE</p> <p style="font-size: small;">[SH ID: 527954]          1, Version Date: 08/12/2023</p>	
2.	<p>Name: S. Bailey</p> <p>Locality: Eagle Bay</p>	<p><b>Objection</b></p> <p>The proposed plan for the property at 6 Seaview Rise, Eagle Bay is within precinct 3 of the Eagle Bay Special Character Area (SCA) Policy. The proposed development of this property is outside the building envelope of 7.5m height above natural ground level. The proposed development at 6 Seaview Rise proposes to build up the block height with fill material on the Seaview Rise side of the block. The proposed development is then a 3 story home 9m in height which, is currently existing natural ground level at the front of the block. According to the originally approved structure plan subdivision along Seaview Rise the maximum height is 7.5m this was to basically to limit buildings in this development to a maximum of 2 storeys and to date this plan has worked well for the area. This property will have a large footprint of greater than 1000m2 whereas the other properties in the area are around 500m2. There is no provision that I can see for a water tank which would be environmentally essential considering the number of trees being planted and fed from drip reticulation, the water pressure is extremely low already planting these will put further pressure on the system. The developers also plan to remove 2 extra- large gum trees which will impact the privacy of number 10 Seaview Rise, Eagle Bay. Eagle Bay is also defined as a Landscape Value Area (LVA) under the City of Busselton Town Planning Scheme, this is to ensure that any new developments fit in with the existing character of the area.</p>	<p><b>Response as above, additional comments:</b></p> <p><u>Fill</u>          Number 6 Seaview rises from the north (63.5AHD) to the south (67.10AHD).          Proposed FFL:          Outbuilding garage - 66.214AHD Dwelling - 66.30AHD          Gym – 66.30AHD          Outdoor living – 66.643AHD</p> <p>It is considered the nominated FFL's are an appropriate design response to the natural contour of the lot. The proposal only required the minimal cut and fill to allow for a level build.</p> <p>The proposed dwellings (at its closest point to neighbouring property) is set back 25m from number 10 (Lot 18). Number 10 is currently separated from the proposal by established vegetation on both Lots, and a driveway to number 6 (Lot 17).</p> <p>This along with the proposed landscaping plan will adequately protect the privacy of Number 10.</p> <p>Given the design, scale, layout and landscaping plans provided it is considered that the proposed development is in keeping with the existing character of the area. No adverse impacts are anticipated.</p>
3.	M. Vincent	<p><b>Objection.</b></p>	<p>The property is designated as being within Category 2 under the City's</p>

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	Locality : Eagle Bay	No issue with proposed development but concerns regarding landscaping and compliance with firebreaks. Concerns regarding proximity of trees to septic tanks and leach drain.	<p>Firebreak and Fuel Hazard Reduction Notice (Bushfire Notice). The proposed landscaping plan comply with the requirements of the City's Bushfire Notice which requires a mineral earth firebreak 3m in width within 6m of all external lot boundaries (note: the firebreak does not need to be located on the lot boundary).</p> <p>The Bushfire Consultant has confirmed that the landscaping plan is bushfire compliant.</p> <p>The location of the septic tanks and leach drains will be subject to a separate application within the City's Environmental Health Services where the location if the septic tanks and leach drains will be assessed.</p>
4.	C. Donaldson Locality : Eagle Bay	<p><b>Objection.</b></p> <p>The development does not comply with maximum height control of 7.5m above NGL. The development does not comply with the building envelope requirements</p>	<p>Building height has been assessed in the Council Report.</p> <p>Within the Scheme the applicable building envelope is 1,000sqm. The building envelope has been assessed 1,194sqm. This is considered appropriate as all other aspect, including open space and setbacks, comply with the deemed-to-comply criteria of the R-codes.</p>



