



Circular Details	Circular No 16-32 / 9 September 2016 / A511602
Previous Circular	16-30 <i>Local Government Amendment (Governance and Planning) Act 2016</i>
Who should read this	Councillors / General Managers
Contact	Council Governance 02 4428 4100 olg@olg.nsw.gov.au
Action required	Oaths and affirmations of office to be taken at the first meeting

Oath or affirmation of office by councillors

What's new or changing

- As a result of the recent amendments to the *Local Government Act 1993*, councillors (including mayors) are now required to take an oath or affirmation of office. The prescribed words of the oath and affirmation are contained in the attachment to this Circular.
- Oaths or affirmations of office must be taken by each councillor at or before the first meeting of the council after being elected.

What this will mean for your council

- Each council will need to make arrangements for the oath or affirmation to be taken by each councillor at the first meeting of a newly-elected council or at a newly-elected councillor's first meeting following a by-election.
- Councillors should be made aware of this requirement prior to the first meeting of a newly-elected council or the newly-elected councillor's first meeting following a by-election.
- An oath or affirmation should be taken by each councillor as the first item of business for the meeting.
- The general manager must ensure that a record is kept of the taking of the oath or affirmation. This can be done by way of a signed statement containing the oath or affirmation or by recording the taking of the oath or affirmation by each councillor in the minutes of the council meeting.
- If the councillor is unable to attend the first council meeting, he or she may take the oath or affirmation of office at another location in front of the general manager.
- The oath or affirmation of office may also be taken before an Australian legal practitioner or a Justice of the Peace.
- The taking of the oath or affirmation outside a council meeting must be publically recorded by the council.
- Where an oath or affirmation is taken outside a council meeting, a council staff member should also be present to ensure that an accurate record can be kept by the council.

Key points

- A councillor who fails, without a reasonable excuse, to take the oath or affirmation of office, will not be entitled to attend council meetings until they do so and will be taken to be absent without leave.
- If a councillor is absent without leave for three consecutive ordinary council meetings their office is automatically declared vacant and a by-election must be held.

Where to go for further information

- For further information contact the Office of Local Government's Council Governance Team on 02 4428 4100.



Tim Hurst
Acting Chief Executive

3
Attachment

Oath

I [name of councillor] swear that I will undertake the duties of the office of councillor in the best interests of the people of [name of council area] and the [name of council] and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

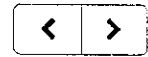
Affirmation

I [name of councillor] solemnly and sincerely declare and affirm that I will undertake the duties of the office of councillor in the best interests of the people of [name of council area] and the [name of council] and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

Local Government (General) Regulation 2005

Current version for 1 July 2016 to date (accessed 13 September 2016 at 13:29)

Schedule 7



Schedule 7 Election of mayor by councillors

(Clause 394)

Part 1 Preliminary

1 Returning officer

The general manager (or a person appointed by the general manager) is the returning officer.

2 Nomination

- (1) A councillor may be nominated without notice for election as mayor or deputy mayor.
- (2) The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.
- (3) The nomination is to be delivered or sent to the returning officer.
- (4) The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.

3 Election

- (1) If only one councillor is nominated, that councillor is elected.
- (2) If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.
- (3) The election is to be held at the council meeting at which the council resolves on the method of voting.
- (4) In this clause:

ballot has its normal meaning of secret ballot.

open voting means voting by a show of hands or similar means.

Part 2 Ordinary ballot or open voting

4 Application of Part

This Part applies if the election proceeds by ordinary ballot or by open voting.

5 Marking of ballot-papers

- (1) If the election proceeds by ordinary ballot, the returning officer is to decide the manner in which votes are to be marked on the ballot-papers.



- (2) The formality of a ballot-paper under this Part must be determined in accordance with clause 345 (1) (b) and (c) and (6) of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

6 Count—2 candidates

- (1) If there are only 2 candidates, the candidate with the higher number of votes is elected.
- (2) If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.

7 Count—3 or more candidates

- (1) If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.
- (2) If 3 or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.
- (3) If, after that, 3 or more candidates still remain, the procedure set out in subclause (2) is to be repeated until only 2 candidates remain.
- (4) A further vote is to be taken of the 2 remaining candidates.
- (5) Clause 6 of this Schedule then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
- (6) If at any stage during a count under subclause (1) or (2), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

Part 3 Preferential ballot

8 Application of Part

This Part applies if the election proceeds by preferential ballot.

9 Ballot-papers and voting

- (1) The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the numbers “1”, “2” and so on against the various names so as to indicate the order of their preference for all the candidates.
- (2) The formality of a ballot-paper under this Part is to be determined in accordance with clause 345 (1) (b) and (c) and (5) of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

10 Count

- (1) If a candidate has an absolute majority of first preference votes, that candidate is elected.
- (2) If not, the candidate with the lowest number of first preference votes is excluded and the votes on the unexhausted ballot-papers counted to him or her are transferred to the candidates with second preferences on those ballot-papers. ^
- (3) A candidate who then has an absolute majority of votes is elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has

the lowest number of votes and counting each of his or her unexhausted ballot-papers to the candidates remaining in the election next in order of the voter's preference is repeated until one candidate has received an absolute majority of votes. The latter is elected.

- (4) In this clause, *absolute majority*, in relation to votes, means a number that is more than one-half of the number of unexhausted formal ballot-papers.

11 Tied candidates

- (1) If, on any count of votes, there are 2 candidates in, or remaining in, the election and the numbers of votes cast for the 2 candidates are equal—the candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected.
- (2) If, on any count of votes, there are 3 or more candidates in, or remaining in, the election and the numbers of votes cast for 2 or more candidates are equal and those candidates are the ones with the lowest number of votes on the count of the votes—the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

Part 4 General

12 Choosing by lot

To choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the returning officer and the candidate whose name is on the drawn slip is chosen.

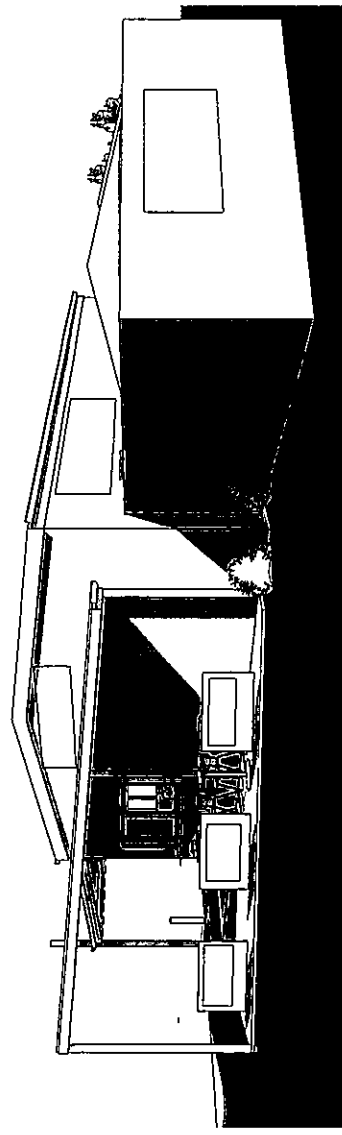
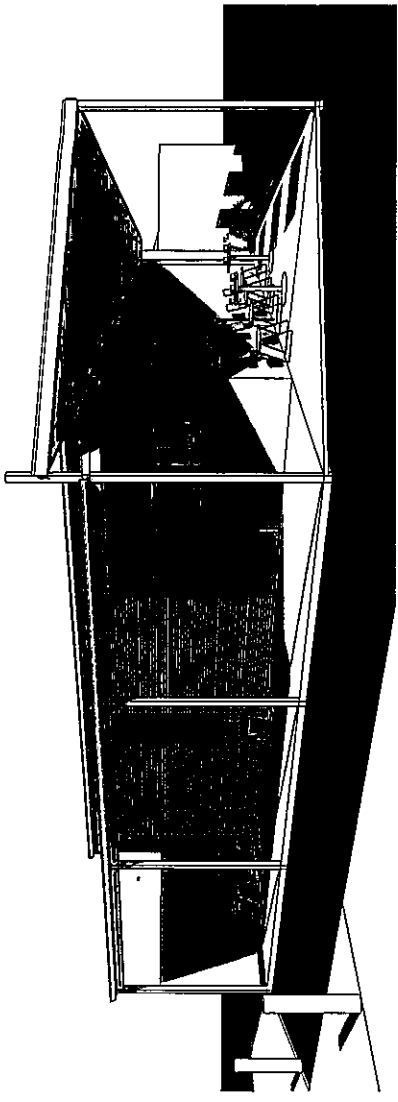
13 Result

The result of the election (including the name of the candidate elected as mayor or deputy mayor) is:

- (a) to be declared to the councillors at the council meeting at which the election is held by the returning officer, and
- (b) to be delivered or sent to the Director-General and to the Secretary of the Local Government and Shires Association of New South Wales.



212569



PROPOSED CAFE
LOT 7 HERRIOT STREET
MORVEN NSW 2660
RUDEBECK SUPER PTY LTD

Phil Wilkins
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 674 Pemberton St.
 Albury NSW 2640
 phil@wilkinsdesign.com.au
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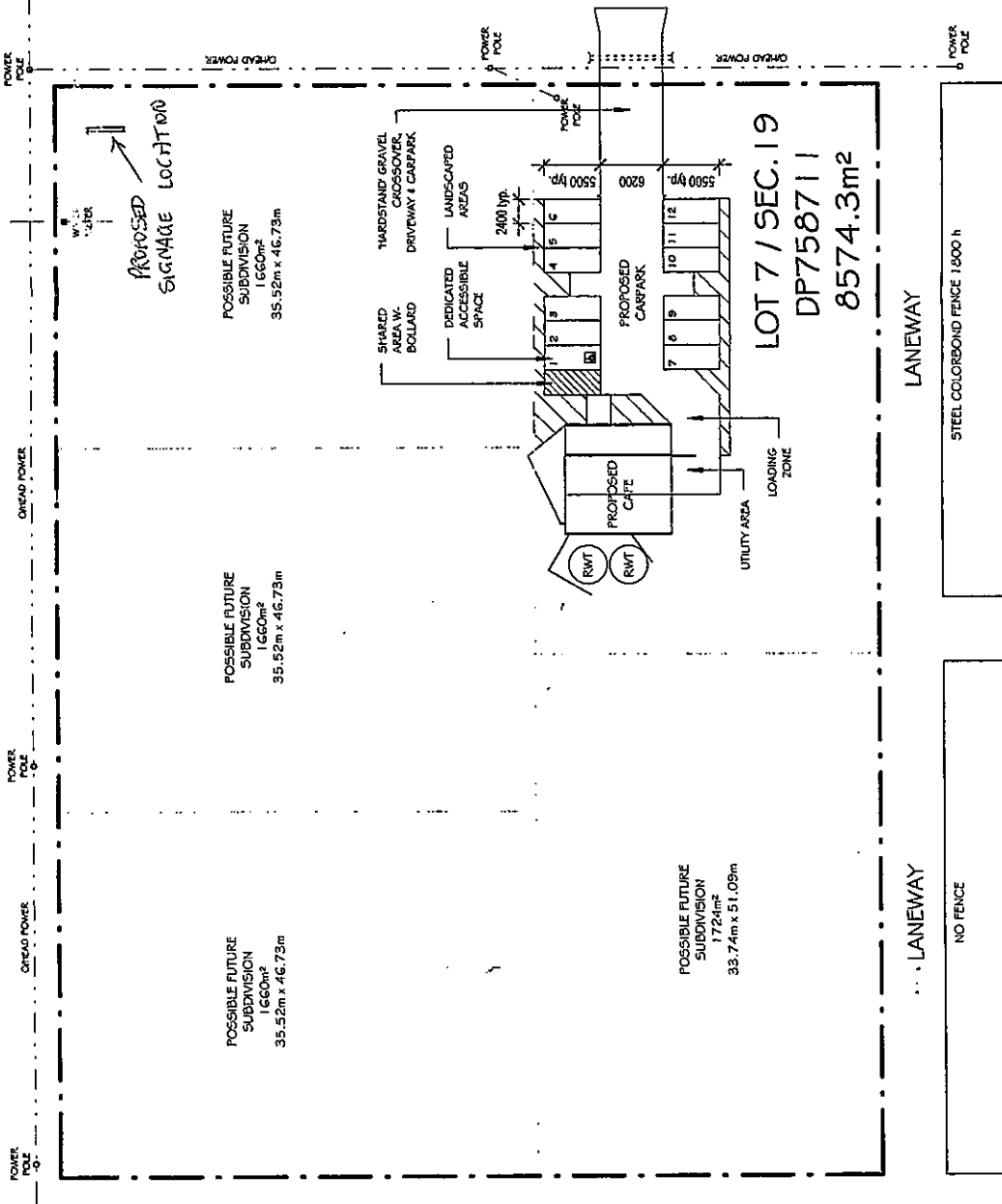


Issue Date

PURTELL STREET

HENRY STREET

HERRIOT STREET



LOT 7 / SEC. 19
DP758711
8574.3m²

SITE - PROPOSED

1 : 500

PROJECT NAME:	PROPOSED CAFE
PROJECT ADDRESS:	LOT 7 HERRIOT STREET MORVEN NSW 2860
CLIENT NAME:	RUDEBECK SUPER PTY LTD
PROJECT No:	3510 CX
SHEET No:	A104
REVISION ISSUE	DA ISSUE
REVISION	
DATE:	14/07/2016

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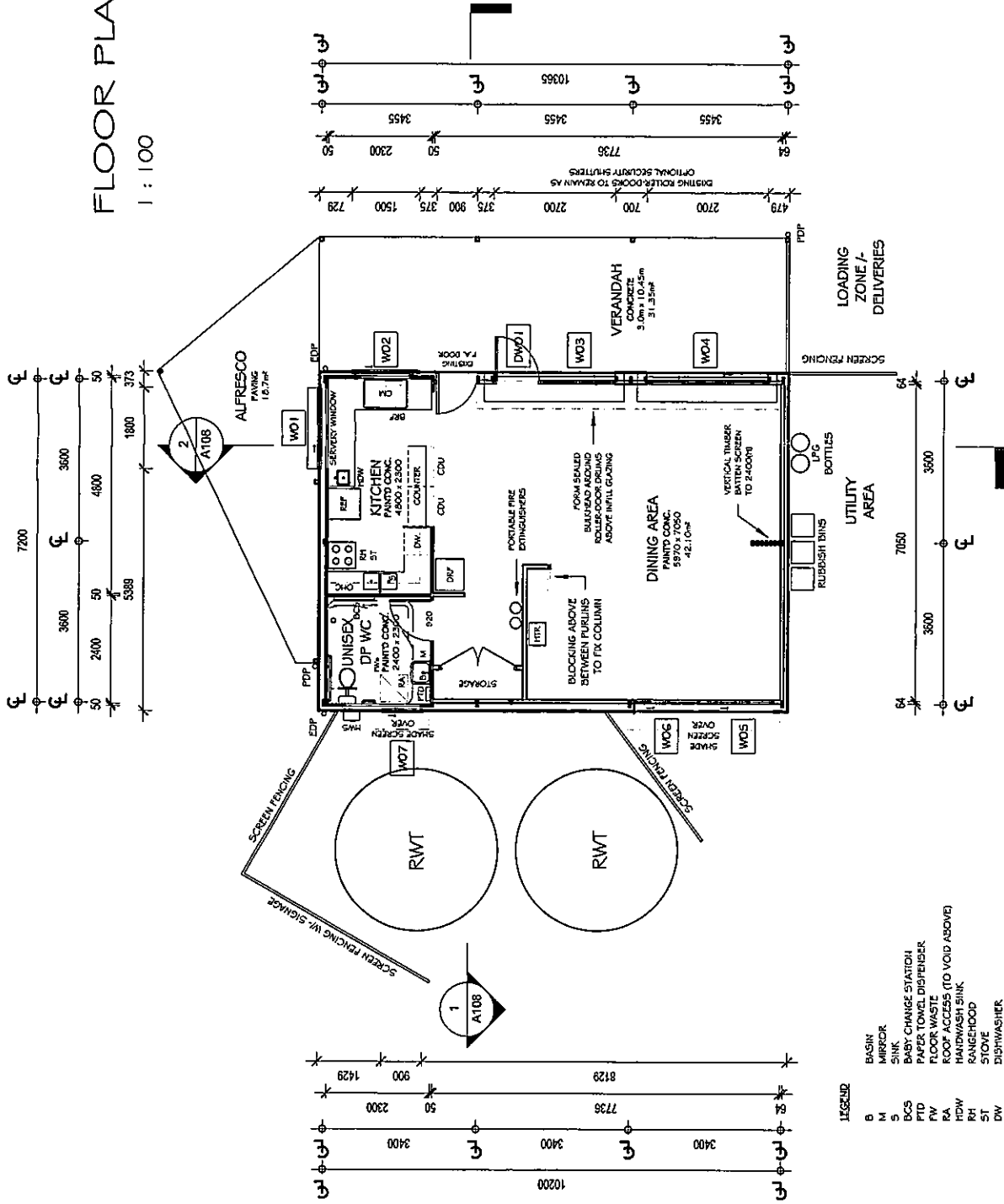
Phone 02 60411582
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SCALE @ A3

FLOOR PLAN - PROPOSED

1 : 100



- LEGEND**
- B BASIN
 - M MIRROR
 - S SINK
 - BCS BABY CHANGE STATION
 - PTD PAPER TOWEL DISPENSER
 - PW FLOOR WASTE
 - RA ROOF ACCESS (TD VOID ABOVE)
 - RAW HANDWASH SINK
 - RY RAINWASH
 - ST STOVE
 - SW SWIRLER
 - REF REFRIGERATOR
 - DRF DRINKS REFRIGERATOR
 - BRF BAR REFRIGERATOR
 - CDU CHILLED DISPLAY UNIT
 - CM COFFEE MACHINE
 - SH SHELF
 - OHC OVER HEAD CUPBOARDS
 - RWT RAINWATER TANKS
 - HWS INST. GAS HOT WATER SERVICE
 - HTR HEATER
 - PDP PROPOSED DOWNPIPE

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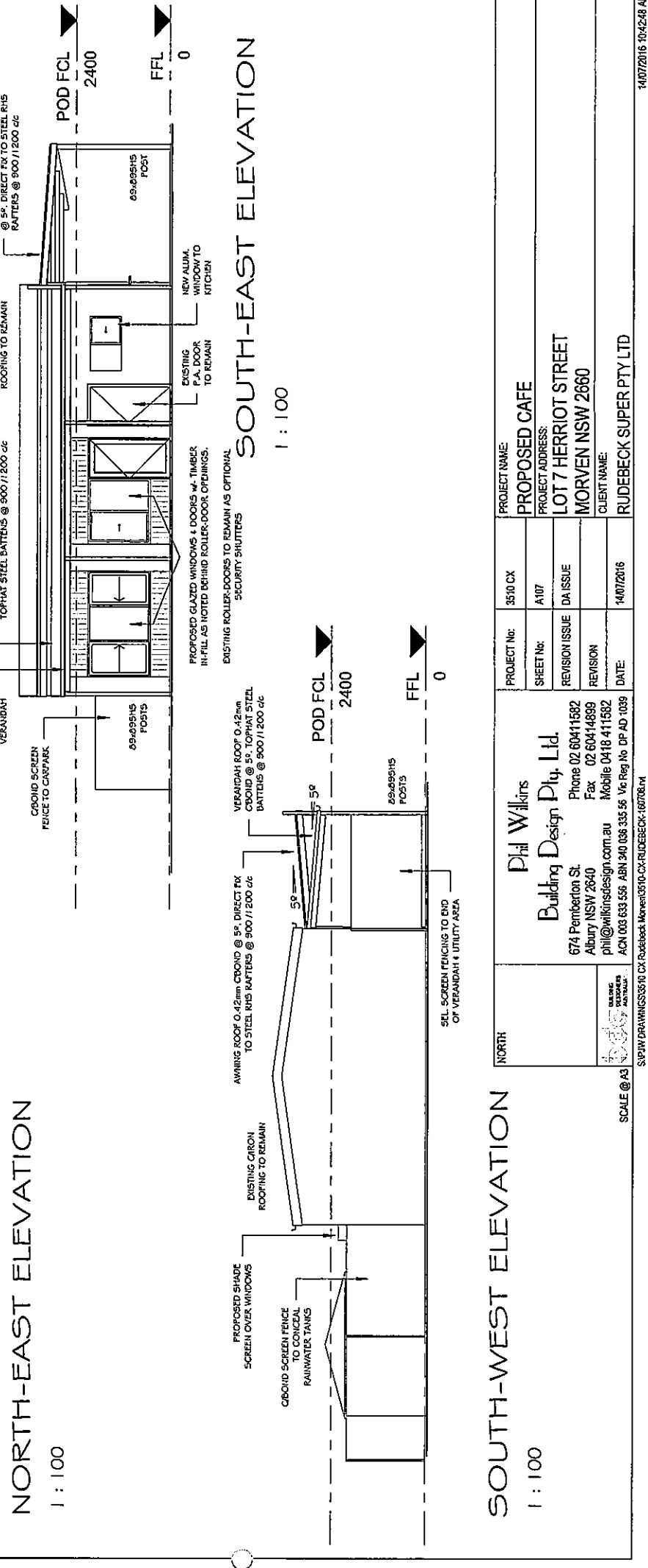
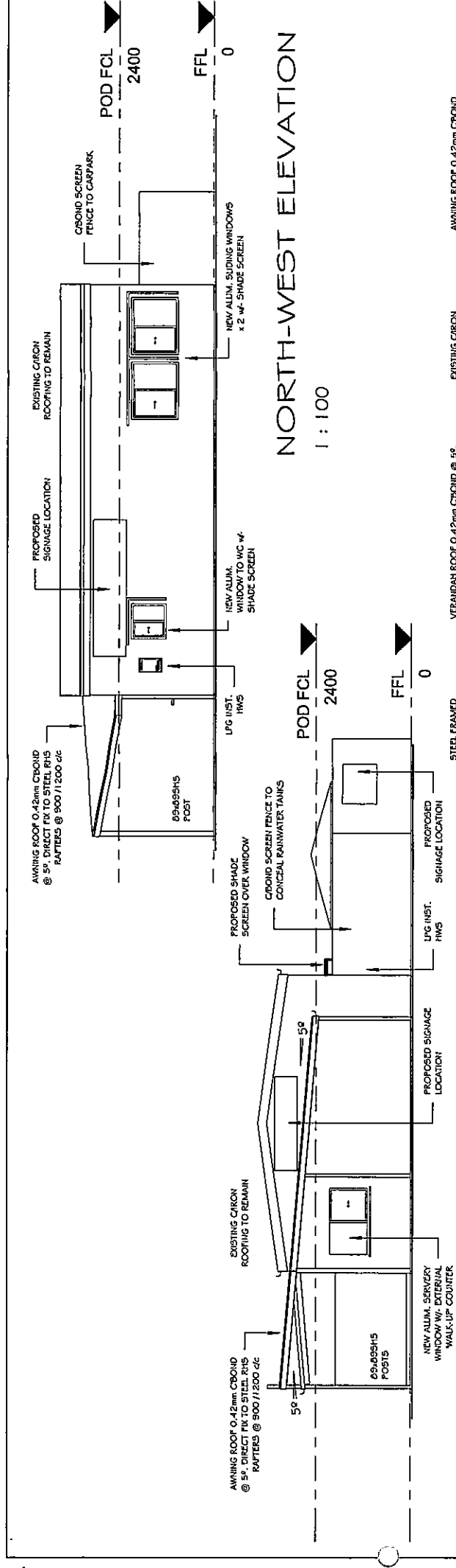
PROJECT NAME: PROPOSED CAFE
PROJECT ADDRESS: LOT 7 HERRIOT STREET MORVEN NSW 2660
CLIENT NAME: RUDEBECK SUPER PTY LTD

PROJECT No: 3510 CX
SHEET No: A106
REVISION ISSUE: DA ISSUE
REVISION:
DATE: 14/07/2016

NORTH

SCALE @ A3

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<p>Phil Wilkins Building Design Pty. Ltd. 674 Pemberton St. Albury NSW 2640 phil@wilkinsdesign.com.au ACN 003 633 556 ABN 13 036 335 56</p>	PROJECT No:	3510 CX	PROJECT NAME:	PROPOSED CAFE
	SHEET No:	A107	PROJECT ADDRESS:	LOT 7 HERRIOT STREET MORVEN NSW 2660
	REVISION ISSUE	DA ISSUE	CLIENT NAME:	RUDEBECK SUPER PTY LTD
	REVISION		DATE:	14/07/2016
<p>SCALE @ A3</p> <p>DATE: 14/07/2016</p> <p>PROJECT: 3510 CX</p> <p>PROJECT NAME: PROPOSED CAFE</p>				

214922

#2088/2016

#2089/2016

A Gugel & S Klemke
9 Purtell Street
MORVEN NSW 2660
PH: 0427 298841

General Manager
Greater Hume Shire Council
PO Box 99
HOLBROOK NSW 2644

Attention: Bradley Peach

DEVELOPMENT APPLICATION: 10.2016.91 HERRIOT STREET, MORVEN

I refer to your correspondence dated 29 July 2016 in which you provided notification of the above development.

In response, please find our comments below:

- Herriot Street is a Crown Road and permission for access is not required by adjoining landowners. Council placed a "Private Road" sign at the entry of Herriot Street which has caused some confusion. For the benefit of the Cafe I would suggest that the sign be corrected and replaced, as per our previous correspondence to Council.
- It is noted that access to the Cafe will be via Herriot Street, which directly adjoins our property. The road is unsealed and creates a high volume of dust with the minimal traffic currently accessing the road. We spend a significant amount of time outside, with our entertaining area, spa and garden. Given that the proposed access is directly opposite our outdoor area we have concerns about the increased traffic and additional production of dust by employees, customers and delivery vans. Additionally, depending on the wind direction on the day, the dust may also cause frustration to the Cafe owner, particularly for customers seated outside of the building. Ideally a suitable seal/finish should be placed on the road to reduce the impact of the dust!
- We have discussed the development with Mandi Rudebeck who indicated that the hours of operation would be:
 - Monday – Tuesday Closed
 - Wednesday – Friday 6.00am – 2.00pm
 - Saturday – Sunday 9.00am – 3.00pm

Our concerns are in regard to the opening of a business at 6.00am in a residential area. Personally, our bedroom is located directly opposite the proposed Cafe and we feel that the increased traffic flow will be disruptive and not suited to the locality as Morven is a quite village. We feel that the opening hours for Wednesday to Friday should be reviewed to a more suitable time. It should be noted that we are possibly the only adjoining landowners that would be directly affected by this. However, we would not be opposed to a later opening time.

- Mandi also advised that the development is for a temporary period of around 18 months until such time as she is able to relocate to Brownrigg Street.

We support the development and wish to have the above issues taken into consideration when granting approval.

Kind regards

Andrew Gugel and Suzanne Klemke