



# Application for Planning Approval

## *Land Use Planning and Approvals Act 1993*

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APPLICATION NO.

**DA2024/077**

LOCATION OF AFFECTED AREA

**3 MARLBOROUGH STREET, PONTVILLE**

DESCRIPTION OF DEVELOPMENT PROPOSAL

**PERGOLA**

A COPY OF THE DEVELOPMENT APPLICATION MAY BE VIEWED AT [www.brighton.tas.gov.au](http://www.brighton.tas.gov.au) AND AT THE COUNCIL OFFICES, 1 TIVOLI ROAD, OLD BEACH, BETWEEN 8:15 A.M. AND 4:45 P.M, MONDAY TO FRIDAY OR VIA THE QR CODE BELOW. ANY PERSON MAY MAKE WRITTEN REPRESENTATIONS IN ACCORDANCE WITH S.57(5) OF THE LAND USE PLANNING AND APPROVALS ACT 1993 CONCERNING THIS APPLICATION UNTIL 4:45 P.M. ON **08/05/2024**. ADDRESSED TO THE GENERAL MANAGER AT 1 TIVOLI ROAD, OLD BEACH, 7017 OR BY EMAIL AT [development@brighton.tas.gov.au](mailto:development@brighton.tas.gov.au). REPRESENTATIONS SHOULD INCLUDE A DAYTIME TELEPHONE NUMBER TO ALLOW COUNCIL OFFICERS TO DISCUSS, IF NECESSARY, ANY MATTERS RAISED.

**JAMES DRYBURGH**  
**General Manager**



**Brighton**  
*going places*

# PROPOSED BACKYARD PERGOLA DEVELOPMENT

*Prop ID:5020203 | Title Reference: 33449/1*

**3, MARLBOROUGH STREET, PONTVILLE, TAS 7030**

**URB  ART**



Digitally signed by Trent J. Henderson  
DN: C=AU,  
E=redseatplanning@gmail.com, O="Red  
Seat Urban & Regional Planning",  
OU=OCCUPATIONAL LICENSING NO.  
17221947, CN=Trent J. Henderson  
Location: "The Old Parsonage", 160 New  
Town Road, New Town Tasmania  
Reason: No Planning Approval Required  
- NPAR8198  
Contact info: +61 411 631 258  
Date: 2024.03.28 14:33:31+1100

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**CLIENT**  
**GRANT DANIELS**  
 3, Marlborough Street, Pomville, TAS 7030  
 Ph: 0400 104 649  
 Email: grantdanielsdesign@gmail.com

**DESIGNERS**  
**URBART**  
 2/13 Windsor Street, Kingston Beach,  
 TAS 7050  
 Ph: 0411 631 258  
 Email: urbart.design@gmail.com

**PLANNERS**  
**RED SEAL URBAN & REGIONAL PLANNING**  
 126, Westtown Road, Hobart,  
 TAS 7000  
 Ph: 0411 631 258  
 Email: redsealplanning@gmail.com

**KEY PLAN**



REVISIONS	REV. DATE	REVISION	STATUS
28.02.2024	Permit Plans	CHECKED	

**PROJECT**  
**PROPOSED BACKYARD PERGOLA DEVELOPMENT**  
 Prop ID: 5020203  
 Title Ref: 33449/1  
 3, Marlborough Street, Pomville, TAS 7030

**DRAWING TITLE**

# SITE PLAN

Drawn	• ARR	Date	• 28.02.2024
Checked	• ARR	Approved	• ARR
Scale	• 1:100	Revision No	• 01
Drawing No.			

# 01

**STATUS**  
 Drawings for Approval



**SATTELITE IMAGE**

## NOTES:

This plan is prepared from a combination of field survey and existing records for the purpose of designing new constructions on the land and should not be used for any other purpose.

The contour survey is made through the open GIS data from LIST maps and ELVIS - Elevation and Depth foundation spatial data.



Digitally signed by Trent J. Henderson  
 Email: trent.henderson@redsealplanning.com.au, O="Red Seal Urban & Regional Planning"  
 OU="OCCUPATIONAL LICENSING NO."  
 CN="Trent Henderson"  
 Location: "The Old Parsonage", 160 New Town Road, New Town Tasmania  
 Reason: No Planning Approval Required  
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 3, Marlborough Street, Ponville, TAS 7030  
 Ph: 0400 104 649  
 Email: grantdanielsdesign@gmail.com

**DESIGNERS**  
**URBART**  
 2/13 Windsor Street, Kingston Beach, TAS 7050  
 Ph: 0411 631 258  
 Email: urbartdesigns@gmail.com

**PLANNERS**  
**RED SEAL URBAN & REGIONAL PLANNING**  
 140, Acorn Road, Hobart, TAS 7000  
 Ph: 0411 631 258  
 Email: redsealplanning@gmail.com



**KEY PLAN**



REVISIONS	REVISION	STATUS
28.02.2024	Permit Plans	CHECKED

**PROJECT**  
**PROPOSED BACKYARD PERGOLA DEVELOPMENT**  
 Prop ID: 5020203  
 Title Reference: 33449/1  
 3, Marlborough Street, Ponville, TAS 7030

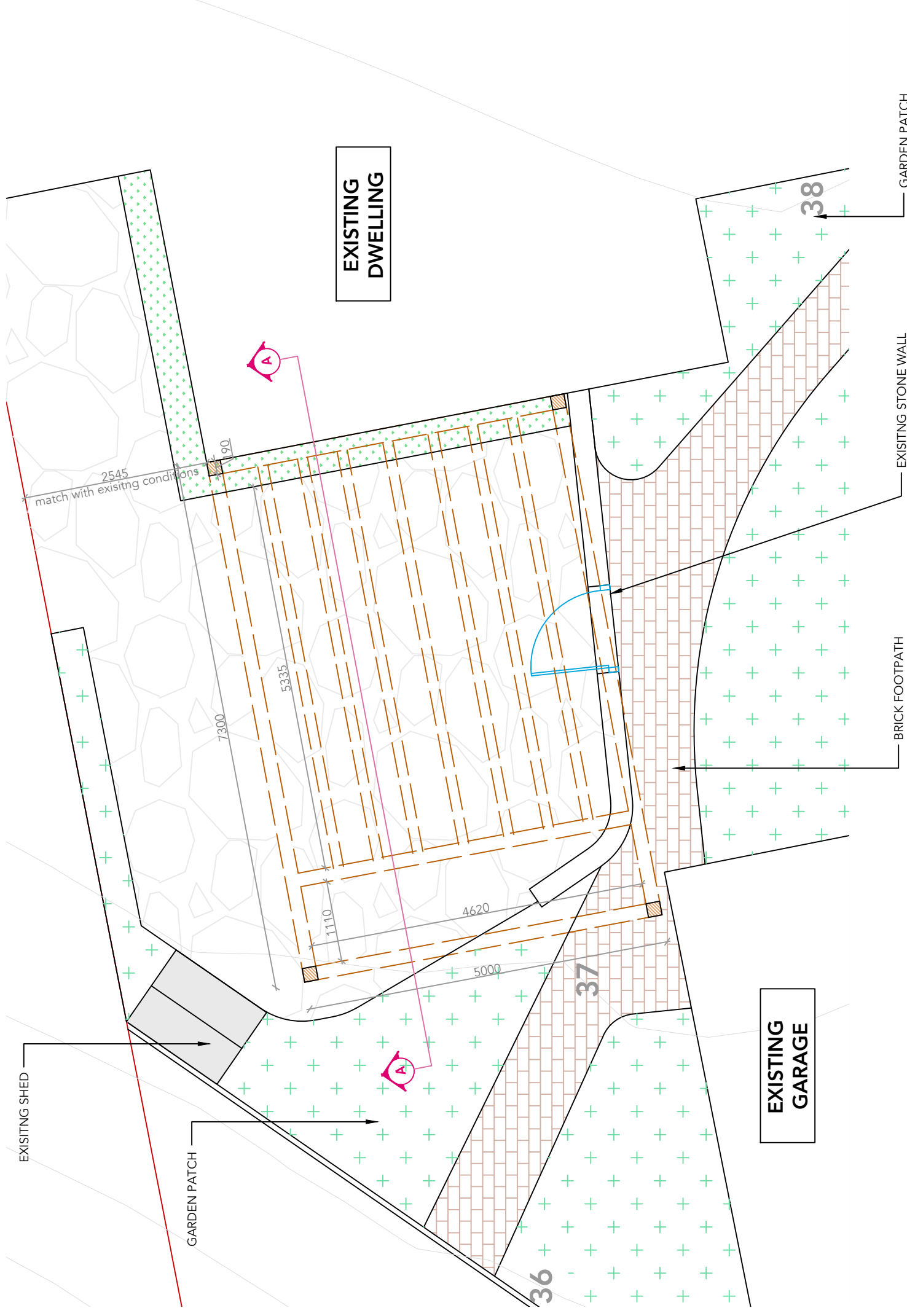
**DRAWING TITLE**

# FLOOR PLAN

Drawn	• ARR	Date	• 28.02.2024
Checked	• ARR	Approved	• ARR
Scale	• 1:40	Revision No	• 01
Drawing No.			

# 02

**STATUS**  
 Drawings for Approval



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 DN: C=AU,  
 E=redsealplanning@gmail.com, O=Red Seal Urban & Regional Planning,  
 OU=OCCUPATIONAL LICENSING NO. 17221947, CN=Trent J. Henderson  
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 Contact info: +61 411 631 258  
 Date: 2024.03.28 14:33:31+1100

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**CLIENT**  
**GRANT DANIELS**  
 3, Marlborough Street, Ponville, TAS 7030  
 Ph:0400 104 649  
 Email: grantdouglandaniels@gmail.com

**DESIGNERS**  
**URBART**  
 2/13, Windsor Street, Kingston Beach, TAS 7030  
 Ph:0406 591 514  
 Email: urbartdesign@gmail.com

**PLANNERS**  
**RED SEAL URBAN & REGIONAL PLANNING**  
 160, Newton Road, Hobart, TAS, 7000  
 Ph:0411 631 258  
 Email: redsealplanning@gmail.com

**KEY PLAN**



REVISIONS	REVISION	STATUS
REV. DATE	28.02.2024	Permit Plans
CHECKED		CHECKED

**PROJECT**  
**PROPOSED BACKYARD PERGOLA DEVELOPMENT**  
 Prop ID: 5020203  
 Title Reference: 33449/1  
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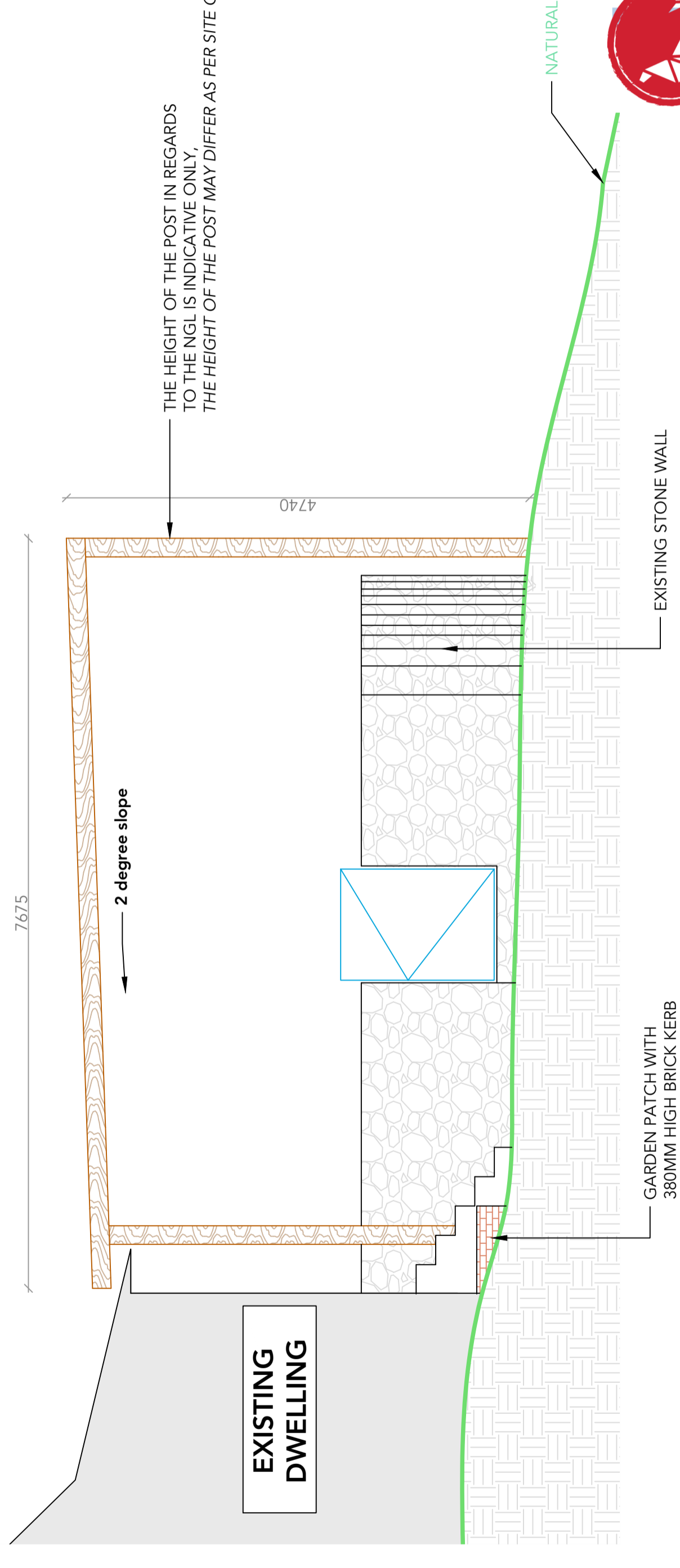
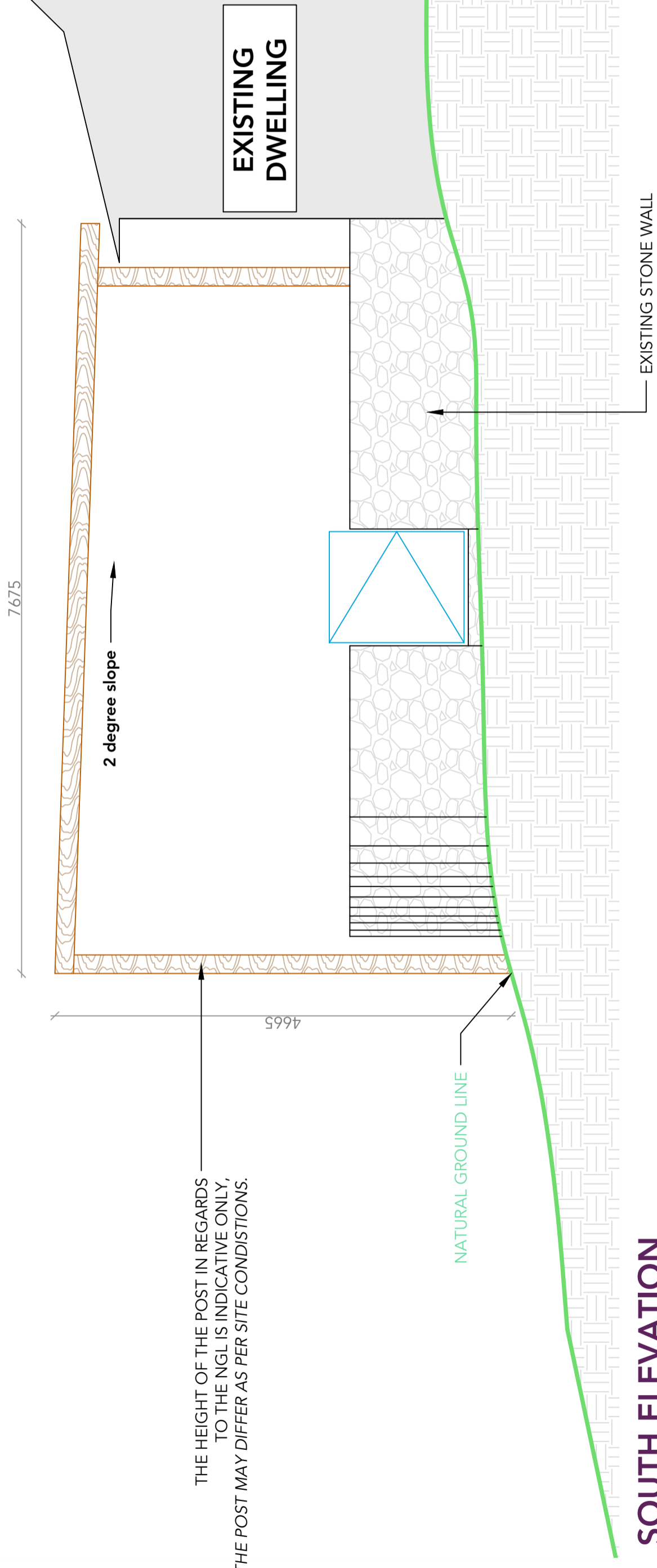
**DRAWING TITLE**

# ELEVATION 01

Drawn	• ARR	Date	• 28.02.2024
Checked	• ARR	Approved	• ARR
Scale	• 1:40	Revision No.	• 01
Drawing No.			

# 03

**STATUS**  
 Drawings for Approval



Digitally signed by Trent J. Henderson  
 DN: cn=AU, email=Trent.J.Henderson@redsealplanning.com, o=Red Seal Urban & Regional Planning, ou=Red Seal Urban & Regional Planning, postalCode=7000, serial=17221917, cn=Trent J. Henderson  
 Reason: No Planning Approval Required  
 NPARS108 #61 411 631 258  
 Date: 2024.03.26 14:33:31+1100



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**CLIENT**  
**GRANT DANIELS**  
 3, Marlborough Street, Ponville, TAS 7030  
 Ph:0400 104 649  
 Email: grantdaniels@gmail.com

**DESIGNERS**  
**URBART**  
 2/13, Windsor Street, Kingston Beach,  
 TAS 7050  
 Ph:0406 591 514  
 Email: urbartdesign@gmail.com

**PLANNERS**  
**RED SEAL URBAN & REGIONAL  
 PLANNING**  
 160, Newson Road, Hobart,  
 TAS, 7000  
 Ph:0411 631 258  
 Email: redsealplanning@gmail.com



**KEY PLAN**



REV. DATE	REVISION	STATUS
28.02.2024	Permit Plans	CHECKED

**PROJECT**  
**PROPOSED BACKYARD PERGOLA  
 DEVELOPMENT**  
 Prop ID: 5020203  
 Title Reference: 33449/1  
 3, Marlborough Street, Ponville, TAS 7030

**DRAWING TITLE**

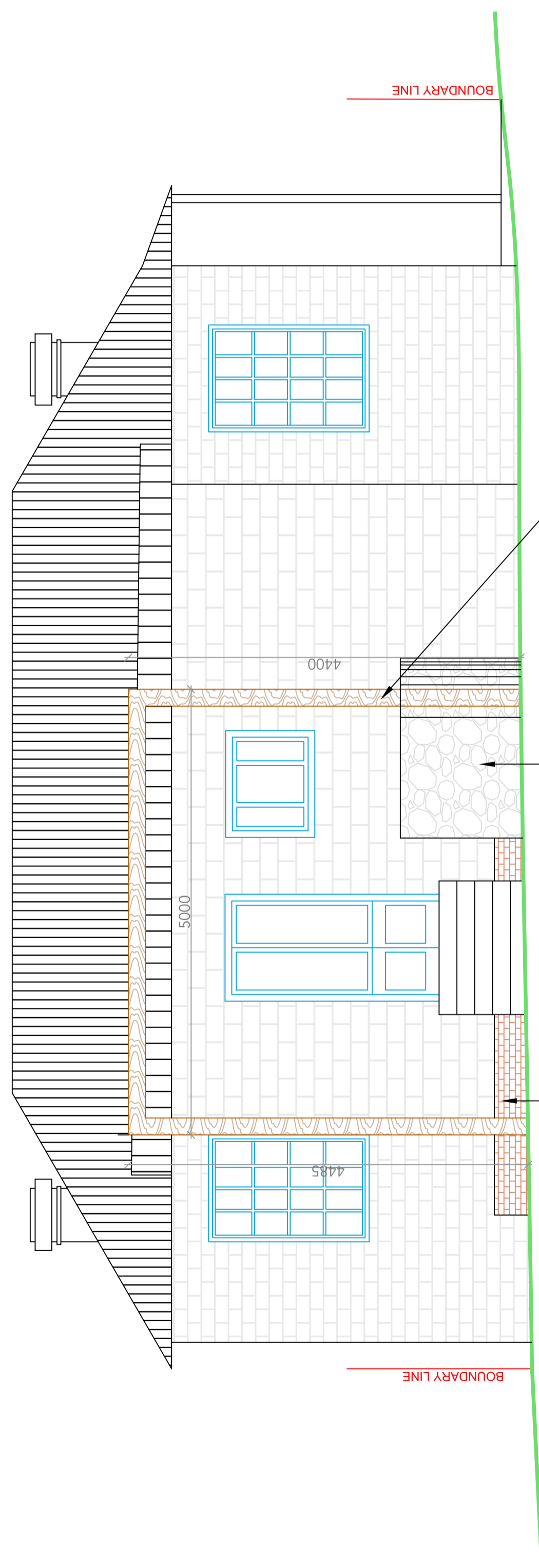
# ELEVATION 02 & SECTION

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Checked	• ARR	Approved	• ARR
Scale	• 1:40	Revision No.	• 01

Drawing No.

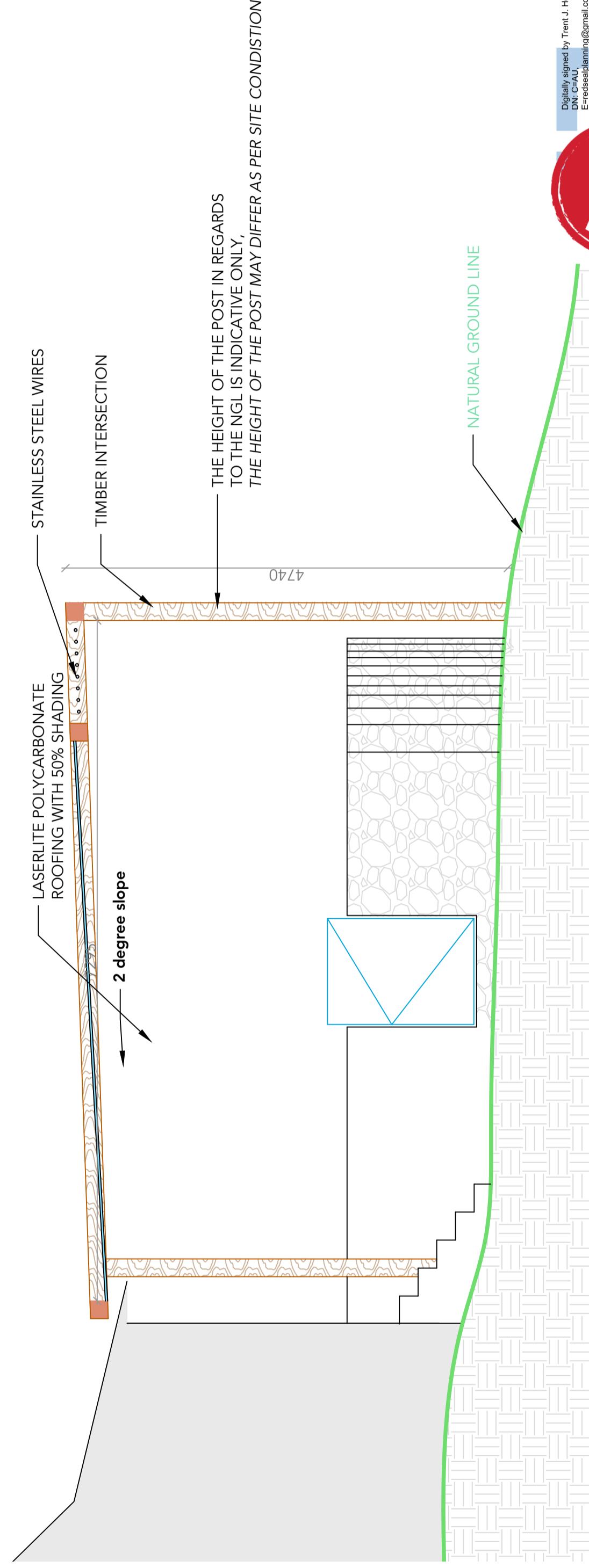
# 04

**STATUS**  
 Drawings for Approval



THE HEIGHT OF THE POST IN REGARDS  
 TO THE NGL IS INDICATIVE ONLY.  
 THE HEIGHT OF THE POST MAY DIFFER AS PER SITE CONDINTION.

## WEST ELEVATION



THE HEIGHT OF THE POST IN REGARDS  
 TO THE NGL IS INDICATIVE ONLY.  
 THE HEIGHT OF THE POST MAY DIFFER AS PER SITE CONDINTION.

## SECTION A-A



Digitally signed by Trent J. Henderson  
 DN: c=AU  
 E=trentjplanning@gmail.com, o=Red  
 Seal Urban & Regional Planning,  
 ou=OCCUPATIONAL LICENSING NO.  
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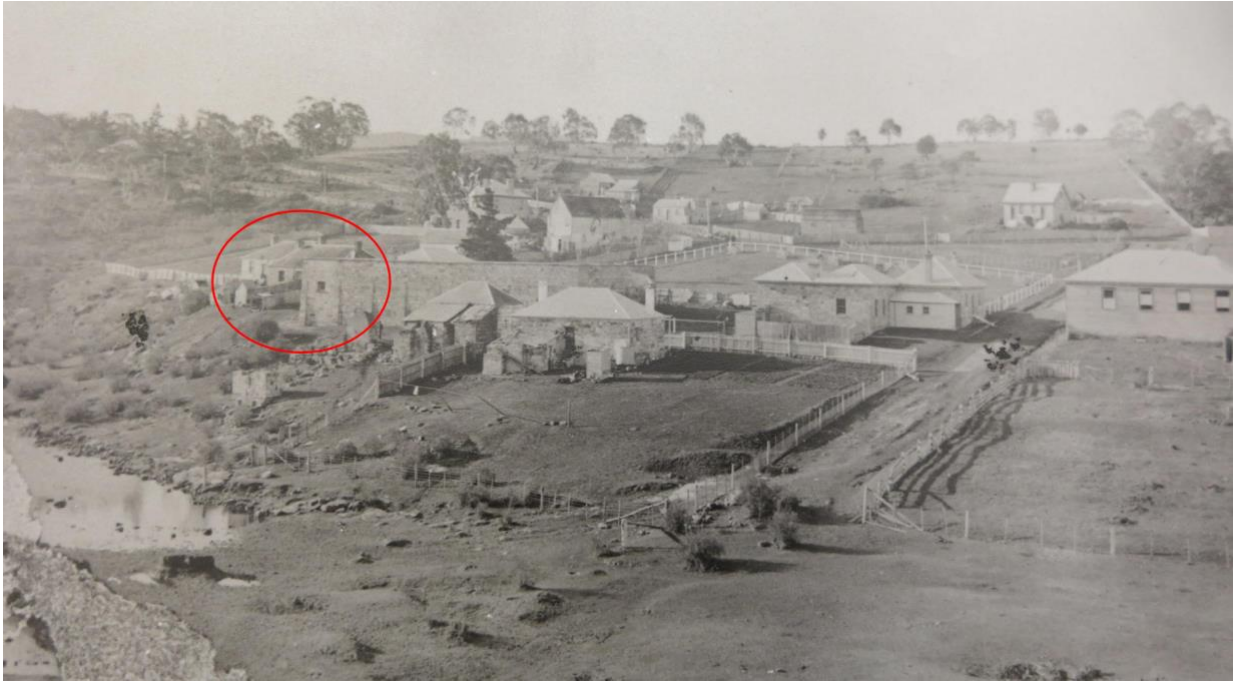


# RED SEAL

Urban & Regional Planning

## PLANNING REPORT

<b>Client:</b>	Grant D. Daniels
<b>Project:</b>	Pergola at rear (western side) of dwelling
<b>Location:</b>	3 Marlborough Street, Pontville
<b>Property ID:</b>	5020203
<b>Certificate of Title:</b>	Volume. 33449 Folio. 1
<b>THR ID No.</b>	648 (Turnkey's Cottage – Tas Heritage Register)
<b>Planning Authority:</b>	Brighton Council
<b>Planning Scheme:</b>	Tasman Planning Scheme - Brighton
<b>Zone:</b>	Village
<b>Overlay Code:</b>	Natural Assets Code: Waterway & Coastal Protection Area, Local Heritage Place: Turnkeys Cottage BRI-C6.1.47, Local Historic Landscape Precinct: Pontville BRI-C6.3.1, Bushfire-Prone Areas Code 13,
<b>Development Code:</b>	Parking & Sustainable Transport Code C2
<b>Local Provisions:</b>	Not Applicable
<b>Specific Area Plan:</b>	Not Applicable
<b>Use Class:</b>	Residential
<b>Development:</b>	Pergola constructed over existing stone patio at rear of the dwelling of the modern extension.
<b>Current Floor Area:</b>	123m <sup>2</sup>
<b>New Floor Area:</b>	0m <sup>2</sup>
<b>Lot Size:</b>	494.088m <sup>2</sup>
<b>Current Site Use/Development:</b>	A single residential dwelling is constructed in the front half of the site. The pergola will be located behind the dwelling.
<b>Proposed Works:</b>	The proposal is to locate a Class 10a structure (pergola) on the western side of the dwelling over the existing patio area.
<b>Purpose:</b>	The purpose of the structure is to provide shelter and improve the usability of the outdoor space.
<b>Exemptions:</b>	The project is not exempt pursuant to Clause 4.3.7 as there are two outbuildings (sheds) established on the site.



**Figure 1 – The building is reputed to be the Turnkey's Cottage (red circle) located on the northern side of the Pontville Gaol with its high walls seen in the centre of the image. This image indicates that the current rear wall is not part of the original building. (Source: *Peter MacFie's Collection*)**



**Figure 2 – The current rear of the cottage. Although this is not part of the original wall to the cottage, the pergola will be self-supporting and not actually fixed to the dwelling.**





**Figure 3 – The site to be covered by the pergola is contained by an established garden stone wall, and paved ground.**

**No Permit Required:** Pursuant to Clause:

6.6.1 - A permit is not required to commence or carry out a use or development if:

- (a) the use is within a Use Class specified in the applicable Use Table as being a use for which no permit is required;
- (b) the use or development complies with each applicable standard and does not rely on any Performance Criteria to comply with each applicable standard;
- (c) the use or development is not Discretionary under any other provision of this planning scheme;
- (d) the use or development is not Prohibited under any other provision of this planning scheme; and
- (e) a permit for such use and development is not required by a code.

6.6.2 - A permit is not required to commence or carry out a use or development if it is No Permit Required under any other provision of this planning scheme.

**Scheme Use Classification:**

Pursuant to Clause 4.1 of the Scheme, a dwelling is defined as:

*means a building, or part of a building, used as a self-contained residence and which includes food preparation facilities, a bath or shower, laundry facilities, a toilet and sink, and any outbuilding and works normally forming part of a dwelling.*

Whilst an outbuilding means:

*a non-habitable detached building of Class 10a of the Building Code of Australia and includes a garage, carport or shed.*

Under Clause 8.2 all use or development must be categorised within the definitions under *Table 8.2 Use Classes*, which result in:

Outbuilding / shed (Class 10a) -

Residential

## **VILLAGE ZONE PART 12**

### **Use Table 12.2**

Residential – *No Permit Required*,

Therefore, pursuant to Clause 6.6.1 (a) the use is within a use class specified in the applicable Use Table as being a use for which no permit is required.

### **Development Standards for Buildings and Works Clause 12.4**

#### *Residential Density Clause 12.4.1*

Provisions not applicable.

#### *Building height Clause 12.4.2:*

Define Building Height: means the vertical distance from existing ground level at any point to the uppermost part of a building directly above that point, excluding protrusions such as aerials, antennae, solar panels, chimneys, and vents.

**A1** – Building height must be not more than 8.5m. The structure has a height of 3.8m which is under the height of the existing dwelling consistent with the dwelling's eave height line.

The pergola complies with the Acceptable Solution Clause 12.4.2 A1 of the Scheme.

#### *Setback Clause 12.4.3:*

Setback defined as the distance from any lot boundary to a building on the lot.

**A1** - Buildings must have a setback from a frontage of:

(a) not less than 4.5m;

(b) not less than existing buildings on the site; or

(c) not more or less than the maximum and minimum setbacks of the buildings on adjoining properties.

The structure is located behind the 5.2m by 7.9m shed that is located on the road frontage; therefore, the pergola is consistent with the Acceptable Solution of Clause 12.4.3 A1 of the Scheme.

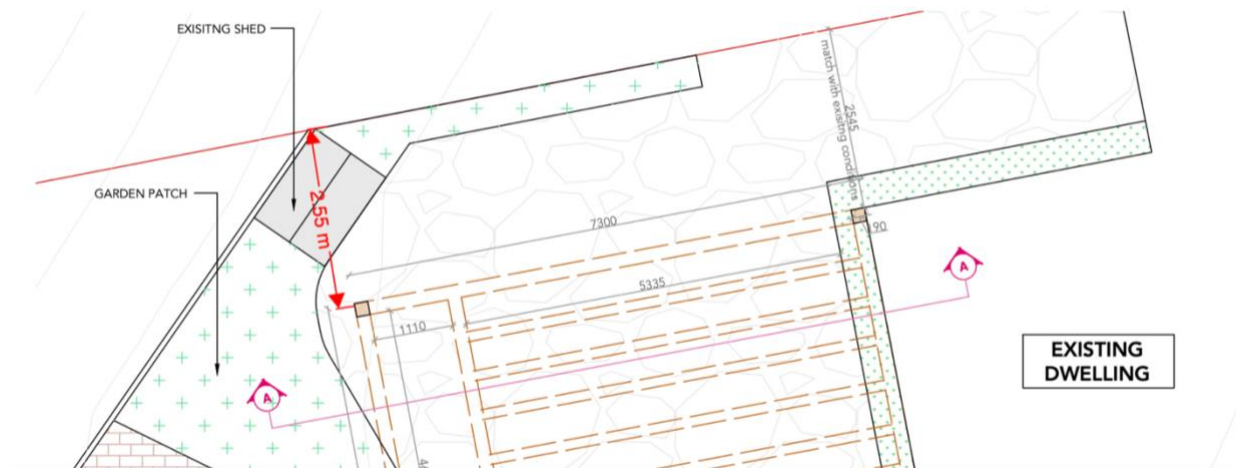
**A2** - Buildings must have a setback from side and rear boundaries of not less than:

(a) 3m; or

(b) half the wall height of the building,  
whichever is the greater.

The existing dwelling has a setback of 0.0m to the northern boundary, with the rear extension stepping back to 2.5m from the boundary and the pergola will maintain the setback. There is no variation to the existing setback of buildings from the rear boundary.

The dwelling at the point of a previous rear extension has an existing setback of 2.5m, which results in the western end of the pergola setback 2.5m from the boundary behind an existing shed that has a 0.0m setback (Diagram 1).



**Diagram 1 – Plans demonstrating there is no variation to the existing setback of the building.**

Whilst there is no change to the current setback distance from the northern side boundary to the building, Council requires that the application is determined under the provisions of the Performance Criteria for Clause 12.4.3 P2, which has the following test:

***P2 - Buildings must be sited so that there is no unreasonable loss of amenity to adjoining properties.***

As previously stated, the project is for a pergola over an existing patio area at the rear of the Turnkey Cottage. There is no variation or change to the use of the space, simply it is to remain an outdoor private open space only covered by a structure that will encourage plants (such as grape vine or similar) to grow over it providing shade and shelter. The area near the door is to be covered to protect it from the prevailing weather.

It is observed that the listed matters under the P2 are not standards that must be complied with but are matters to have regard to, with some matters potentially not applicable to the project at hand. In this regard, there is no impact on the neighbouring property, as the dwelling at 1 Marlborough Street is to the northeast and uphill of the dwelling and development at 3 Marlborough Street.

Having regard to the matters listed under Clause 12.4.3 P2,

- the size, shape, and orientation plus the topography of the site restricts the location and design of the pergola to the proposal; therefore, is consistent with sub-clause (a) & (b).
- the pergola's setbacks are consistent with the established dwelling and are no closer to the boundary than buildings already present on site; therefore, consistent with sub-clause (c).
- The height of the pergola is consistent with the eave height and does not exceed the existing building height: as no walls are associated with a pergola there is minimal increase of bulk and form of existing and proposed structures; therefore, consistent with sub-clause (d).
- The intended purpose is to improve the usability of existing private open space on the site; therefore, consistent with sub-clause (e).

- The structure and location will have no impact on sunlight to private open space and windows of habitable rooms on the adjoining property th located to the north of the site; therefore, consistent with sub-clause (f), and
- Consistent with sub-clause (g), the pergola is located behind a shed; therefore, there is no change in the distance from any lot boundary to a building on the lot, resulting in minimal adverse impact on the character of development existing on established properties in the area.

Having regard to the listed matters under P2, there is no unreasonable loss of amenity to adjoining properties.

### **A3 – NA**

#### *Site coverage - Clause 12.4.4*

The Scheme defines site coverage as the proportion of a site, excluding any access strip, covered by roofed buildings.

A1 - Site coverage must be not more than 50%.

It is observed that not all the pergola structure is covered by laser lite roofing. Based on the dimensions of the Certificate of Title for 3 Marlborough Street, Pontville the title area is made up of a length of 34.6m by a width of 14.28m providing a site area of 494.088m<sup>2</sup>, with a site covered by:

- |            |                     |
|------------|---------------------|
| - Dwelling | 180m <sup>2</sup>   |
| - Shed     | 41m <sup>2</sup>    |
| - Pergola  | 26.5m <sup>2</sup>  |
| - Total    | 247.5m <sup>2</sup> |

Providing a site coverage of 50% and compliant with the Acceptable Solution. Regardless, it is observed that the patio area to be covered is already an impervious surface.

#### *Other Standards*

The following matters are not applicable for the determination of the pergola located behind a single dwelling at 3 Marlborough Street, Pontville:

- *Fencing 12.4.5*
- Outdoor storage areas Clause 12.4.6

## **CODE PROVISIONS**

### Signs Code C.1

Pursuant to Clause C1.2 this Code is not applicable to this proposal.

### Parking & Sustainable Transport Code C.2

Pursuant to Clause C2.2 this Code is not applicable to this proposal as there is no change of use or intensity of the site.

### Road & Railway Assets Code C.3

Pursuant to Clause C3.2 this Code is not applicable to this proposal.

#### Electricity Transmission Infrastructure Code C.4

Pursuant to Clause C4.2 this Code is not applicable to this proposal.

#### Telecommunications Code C.5

Pursuant to Clause C5.2 this Code is not applicable to this proposal.

#### Local Historic Heritage Code C.6

Pursuant to Clause C6.23 this Code does not apply to a registered place entered on the Tasmanian Heritage Register. Pursuant to Section 42(3)(a) of the *Historic Cultural Heritage Act 1995* the Tasmanian Heritage Council has issued a Certificate of Exemption.

#### Natural Assets Code C.7

The site is mapped Waterway & Coastal Protection Area; however, site is approximately 10m above the waterline of Jordan River. Additionally, the area to be covered by the pergola is paved and surrounded by the stone garden wall (Figure 3). The site is not part of the Waterway & Coastal Protection Area.

#### Scenic Protection Code C.8

Pursuant to Clause C8.2, this Code is not considered to be applicable to this proposal.

#### Attenuation Code C.9

Pursuant to Clause C9.2, this Code is not considered to be applicable to this proposal.

#### Coastal Inundation Hazard Code C.10

Pursuant to Clause C10.2, this Code is not considered to be applicable to this proposal.

#### Coastal Inundation Hazard Code C.11

Pursuant to Clause C11.2, this Code is not considered to be applicable to this proposal.

#### Flood-Prone Areas Hazard Code C.12

Pursuant to Clause C12.2, this Code is not considered to be applicable to this proposal.

#### Bushfire-Prone Areas Code C.13

Pursuant to Clause C13.2, this Code is not considered to be applicable to this proposal.

#### Potentially Contaminated Land Code C.14

Pursuant to Clause C14.2, this Code is not considered to be applicable to this proposal.

#### Landslip Hazard Code C.15

Pursuant to Clause C15.2, this Code is not considered to be applicable to this proposal.

#### Safeguarding Airports Code C.16

Pursuant to Clause C16.2, this Code is not considered to be applicable to this proposal.

## **LOCAL PROVISIONS SCHEDULE REQUIREMENTS**

Due to Clause C6.23 the following Local Provisions are not applicable to this application:

- Local Heritage Place: Turnkeys Cottage BRI-C6.1.47,
- Local Historic Landscape Precinct: Pontville BRI-C6.3.1,

## **CONCLUSION**

The proposed pergola at 3 Marlborough Street, Pontville, is consistent with Clause 8.6.1; however, although it is behind the existing building's setback and is consistent with the existing development on the site, Council considers that the project relies on the performance criteria of Clause 12.4.3 P2 of the Tasmanian Planning Scheme – Brighton. Sufficient documentation has been presented for the project to be approved by the Planning Authority.

---

### **TRENT J. HENDERSON**

BA(Hons), GCertUrbDes, MEnvPlg, MCulHerMus, RPIA

#### **Principal Planner**

**RED SEAL Urban & Regional PLANNING**

Building Services Occupational License No. 172221947  
Assoc. Member Australian ICOMOS

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### **Limitation**

*Red Seal Urban & Regional Planning* provides town planning advice based on the information provided by the Client, which is assumed correct in relation to the provisions of the Tasmanian Resource Management Planning System.

Certification is limited in scope to the documentation prepared by *Red Seal Urban & Regional Planning* and drawings/plans prepared by prepared by *URBART*, and in relation to Planning Approval matters under the provisions of the *Land Use Planning and Approvals Act 1993*.

Matters regarding the construction or compliance with the Building Code of Australia addressed by a Building Permit issued under the *Building Act 2016* or equivalent legislation at the time of construction are to be advised by a suitable qualified Building Surveyor.

PLANNING REF: n/a  
EXEMPTION NO: 5893  
REGISTERED PLACE NO 648  
FILE NO: 15-20-26THC  
APPLICANT: Red Seal Urban & Regional Planning - Trent Henderson  
DATE: 27-Mar-2024

## CERTIFICATE OF EXEMPTION

*(Historic Cultural Heritage Act 1995)*

The Place: Turnkey's Cottage

3 MARLBOROUGH ST PONTVILLE 7030 TAS

Thank you for your application for a Certificate of Exemption for works to the above place. Your application has been approved by the Heritage Council under section 42(3) (a) of the *Historic Cultural Heritage Act 1995* for the following works:

Works: Works include constructing a pergola measuring 7.3mx5m in area, detached to the western side of the dwelling.

Documents:

1. Application form
2. Plan drawings
3. Supporting report

Comments: The proposed works are consistent with that which section 9 of the Tasmanian Heritage Council's Works Guidelines describes as being eligible for a certificate of exemption.

A copy of this certificate will be forwarded to the local planning authority for their information. Please note, this certificate of exemption is an approval under the *Historic Cultural Heritage Act 1995* only. This certificate is not an approval under any other Act. Further approvals such as planning, building or plumbing may be required. For information regarding these or any other approval, contact your local Council.

Information on the types of work that may be eligible for a certificate of exemption is available in the Tasmanian Heritage Council's *Works Guidelines for Historic Heritage Places* (Nov. 2015). The Works Guidelines can be downloaded from [www.heritage.tas.gov.au](http://www.heritage.tas.gov.au).

Please contact the undersigned on 1300 850 332 if you require clarification of any details in this certificate.

*Signed:*

A handwritten signature in black ink that reads "Xin Guo". The signature is written in a cursive, slightly slanted style.

Xin Guo

**Planner/Adviser - Heritage Tasmania**

*Under delegation of the Tasmanian Heritage Council*