

7 December 2020

Barry & Victoria Smaill
C/- Sweep Consultancy Limited
PO Box 5724
Dunedin 9054

Via email: emma@sweepconsultancy.co.nz

Dear Barry and Victoria

RESOURCE CONSENT APPLICATION:

**LUC-2018-679
43 CARGILL STREET
DUNEDIN**

The above application for a multi-unit residential development at 43 Cargill Street, Dunedin, was processed on a limited notified basis in accordance with section 95 of the Resource Management Act 1991. The Consent Hearings Committee, comprised of Councillors Christine Garey (Chairperson), Sophie Barker, and Steve Walker, heard and considered the application at a hearing held on 21 September and 12 October 2020.

At the end of the public part of the hearing, the Committee, in accordance with section 48(1) of the Local Government Official Information and Meetings Act 1987, resolved to exclude the public.

A site visit was undertaken by the Hearings Committee on 21 September 2020 after the adjournment of the hearing proceedings.

The Committee has **granted** consent to the application on 11 November 2020. The full text of this decision commences below with a consent certificate attached to this letter.

Please note that the processing of this application could not be completed within the time limit prescribed under section 115 of the Resource Management Act 1991. The time limits for the processing of this consent have been extended pursuant to sections 37A(2)(a) and 37A(4)(b)(i) of the Resource Management Act 1991.

The Hearing and Appearances

The applicant was represented at the hearing by:
Barry Smaill (Applicant) and Emma Peters (Consultant Planner)

Council staff and advisors attending were:

Campbell Thomson (Advisor to Committee) [substituted by Phil Marshall at the resumed hearing on 12 October], Robert Buxton (Planning Consultant), Wendy Collard (Governance Support Officer), Luke McKinlay (Urban Designer), Logan Copland (Transport Planner), Jakub Kochan (Subdivision Engineer, Three Waters), Lee Paterson (Consultant Geotechnical Engineer, Stantec), Alison Blair (Environmental Health

Officer), and Megan Bell (Solid Waste). Nick Wells (Solid Waste), Chris Jones and Helen Little (Three Waters) attended the initial part of the hearing on 21 September 2020.

There were no submitters at the hearing. However, all written submissions received were included in the hearing agenda and were considered by the Committee.

Procedural Issues

No procedural issues were raised. It was noted that Ms Peters was appearing as an Expert Witness for the Applicant.

Principal Issues of Contention

The issues raised by the application included the following:

- The density of residential activity
- Effects of the bulk and appearance of the building on streetscape
- Effects on neighbouring properties of the building bulk and earthworks
- Effects on wastewater infrastructure
- Quality of the outdoor living space provided
- Functionality of the on-site car parking

Key issues in contention were effects on the streetscape, the effects of the density on wastewater infrastructure, and the effects of the building bulk on neighbouring properties.

Summary of Evidence

Introduction from Processing Planner

Robert Buxton, the processing consultant planner and writer of the section 42a report, presented a summary of the application. The Committee found this summary very useful for identifying key matters for clarification. Mr Buxton noted that the application had been amended in evidence and was now for a development of a total of 31 habitable rooms, within the four multi-storey residential units. Mr Buxton advised that the main issues related to the impact on streetscape, wastewater servicing, and breaches of the height in relation to boundary recession planes.

Mr Buxton noted that the redesign of the street frontage had mitigated concerns from Council's Urban Designer. In respect to the report from Council's Three Waters Department, Mr Buxton noted that the capacity of the wastewater system to accept further residential development was in question, as surcharging of the system already exists during extreme weather events from the infiltration of stormwater.

Mr Buxton spoke to the following matters by reference to his section 42A report:

- The maximum depth of earthworks which he noted was 6.1 metres.
- A new rule in the 2GP relating to scaffolding above first floor level (In accordance with this Mr Buxton recommended a condition that scaffolding not be in place for more than 9 months)
- The site coverage rule in the 2GP which is exceeded due to the basement design.
- The permitted baseline which under the 2GP was four residential units with up to 20 habitable rooms and a maximum height of 9 metres.
- The effect of the National Policy Statement on Urban Design on rules for minimum carparking in district plans, noting the applicant has nonetheless chosen to comply with the required car parking as currently applied within the 2GP.
- Advice of the Council's consultant engineer confirming the main issue with the proposed earthworks is their stability during construction.

- The proposed excavation next to the boundary with 45 Cargill Street, and the potential for surcharging of the cut from activity on 45 Cargill Street
- Restrictions on construction hours, with construction only being allowed to occur during weekdays because of the residential nature of the area.
- Compliance with the 80% impermeable surfacing rule of the 2GP by the proposed units. Mr Buxton advised that due to this stormwater disposal was not a matter of discretion able to be considered by the Committee, but Mr Buxton recommended a condition requiring the implementation of water saving devices for showers and toilets.

Mr Buxton advised the Committee that overall, less weight should be given to the 2GP. This was due to current situation with Appeals on the 2GP. Mr Buxton noted that the proposal was built right to the maximum allowed by the District Plan rules with no compensation in other areas.

Mr Buxton noted that the Record of Title for the property is “limited as to parcels” and that a cadastral survey needs to be carried out to define the boundaries.

Finally, Mr Buxton referred the Committee to concerns noted in his report from the Council’s contract coordinator for solid waste in relation to rubbish bin storage and the avoidance of bin clutter on the street.

The Committee then posed questions to Mr Buxton relating to the streetscape issue that had been addressed, shading diagrams which Mr Buxton felt needed to be upgraded, and the number of performance standard infringements.

The Applicant’s Case

Ms Emma Peters, the consultant planner appearing for the applicant, spoke to the hearing and requested that her pre-circulated written evidence be taken as read. Ms Peters addressed the amended street elevation plan and clarified how this satisfied the concerns of Council’s urban design planner. She also referred to the progress with the related 2GP Appeal and her e-mail of the 1st of September 2020.

With respect to the location of the property boundaries, Ms Peters indicated that the applicant is happy to obtain a full survey of the site from a Licensed Cadastral Surveyor. In regard to the height in relation to boundary rule, she considered the breaches of the recession planes were small, and noted that the maximum height rule is complied, being the same limit in both the operative district plan and the 2GP.

The applicant, Mr Barry Smaill, talked the Committee through the shading diagrams provided in the application and also related these shading diagrams to the photo of the eastern elevation of 45 Cargill Street, being one of the adjoining properties.

Questions from the Committee to the applicant related to the following matters:

1. With respect to the engineering of the large retaining walls, Mr Smaill indicated that he has used structural engineers on past building projects and that various methods are available for construction of these walls, and in particular, the temporary shoring of the cuts prior to wall completion.
2. Mr Smaill responded to a question from the Committee about the large bedrooms. He confirmed that these rooms will not be self-contained (i.e. studio units). He also confirmed that he will be managing the property himself in terms of dealing with tenants and any issues. He also confirmed that the proposed roof top gardens were subject to the normal noise standards within the district plan. He did not think that excessive noise from tenants using these gardens would be an issue for neighbours.

3. While accepting the Committee had concerns that the buildings were built right to, and in some cases slightly beyond district plan limits, Mr Smaill confirmed that he wanted to go high to maximise good views and sun for tenants. A basement carpark had been provided and working to the limit of the rules was in his view making good use of the site. He noted that the proposal was still under the 12-metre height limit contained within the 2GP.
4. The Committee questioned the desire for a lapsed period of 10 years if any consent was to be granted. Mr Smaill said that he wanted this time period given the size of the project and the time it took for detailed design and issues relating to organising the building contractors. Mr Smaill felt that a 10-year period was appropriate rather than the normal 5-year lapse period due to these concerns.
5. Mr Smaill confirmed that no drawings had been completed of the roof top garden, but under questioning from the Committee, he said that he was aiming to rent the development to older university students and he did not see matters of social control as being an issue.

Evidence of Staff and Technical Advisors

Following the Applicant's presentation comments the Committee received comments from staff and technical advisors on the evidence presented to the hearing. The following advice was provided at the hearing:

1. Megan Bell – Solid Waste

Ms Bell indicated to the Committee that she was happy with the provisions made by the applicant for rubbish and recycling bins.

2. Alison Blair – Environmental Health

Ms Blair under questioning from the Committee stated that roof gardens and balconies can lead to noise complaints particularly within the context of student accommodation. Ms Blair also commented on the potential length of the building process if the committee granted a 10-year lapse period. She commented that in a residential situation, neighbours can be impacted by construction noise.

3. Logan Copland – Transportation

Mr Copland stated that the proposed development was generally compliant with the 2GP parking rules. He commented on the provision made for bike parking and advised that this was useful given the inner-city context of the new units.

With respect to a question from the Committee, Mr Copland advised that the proposed mobility park was not actually required and therefore in his view, the lack of a lift from the park to the upper levels of the units was not an issue. Mr Copland noted that two car parks per unit were provided, but it was up to the developers as to how these parks were allocated.

Mr Copland further commented that Transportation does not want to see any overhangs into the road corridor and noted advice note 3 in the planner's report. In relation to Ms Bell's comments he noted Transportation would like to see the bins off the street.

4. Luke McKinlay – City Development (Urban Design)

Mr McKinlay advised that the redesign of the Cargill Street frontage to include more windows was a positive aspect of the current proposal. In regard to shading affects, particularly on 45 Cargill Street, he indicated

that he would like to see more details particularly in relation to shading in the morning created by the portions of the building which transgress the recession plane rule.

5. Lee Paterson – Stantec (Consulting Engineer for DCC)

Mr Paterson commented that the engineering issues in terms of the earthworks and their retainment can be overcome. He indicated that it is all a matter of cost and advised the risks can be contained provided professional advice is obtained by the applicant. Mr Paterson commented on examples of cut failures during retaining wall construction nearby in Cargill Street. In this respect, he recommended that should the application be granted, conditions be imposed to ensure the retainment of a geotechnical engineer by the applicant, to advise on slope stabilities and supervise construction.

Mr Paterson indicated that he was very keen to see that when consent is given effect, that the earthworks part of the proposal take place quickly. He considered that the applicant should prove that he is capable of completing this aspect of work to avoid the problems with half completed earthworks.

In questioning from the committee, Mr Paterson advised that the recently completed construction of Apartments in Filleul Street are one example where sheet piling in small sections had been an effective means of temporary slope retainment. Mr Paterson also gave a brief overview of alternative forms of retainment, one of these being anchored walls, but noted that this method was reliant on permission of the adjoining owners. Other methods he noted included the use of props, but he advised these can cause issues with the working space on the site given their awkward location.

Mr Paterson suggested a construction management plan, as a condition, might be useful in respect of limiting the duration of construction works.

6. Jakub Kochan – Three Waters (Subdivision Engineer)

Mr Kochan referred to the surcharging of the wastewater system that already occurs in adverse weather conditions and advised that there is no obvious solution to this problem. He indicated that he did not consider that it could be overcome through any conditions which could be imposed on the present development. He noted that in his view, the proposal is a 12 habitable room exceedance of what the district plan allows as a permitted activity.

In questioning from the Committee, Mr Kochan was not aware of how the current work in George Street on the drainage system will affect this property, if at all. By way of clarification, he indicated that the issue with the wastewater system was infiltration of stormwater during high rainfall events.

Processing Planner's Review of Recommendation

Mr Buxton reiterated his opinion that greater weight should be given to the Operative District Plan (2006 district plan). Mr Buxton said that the effect of shading, particularly on 45 Cargill Street, from early morning sun should be better illustrated than what has been shown on the existing plans. Although he accepted wastewater is an issue in terms of the limited capacity of the system, Mr Buxton recommended, after hearing the evidence of the applicant, that the proposal should be granted consent.

Mr Buxton was of the opinion a 10-year lapse period was too long and would prefer the standard 5-year lapse period particularly as time extension application is always available. He recommended that a clause be added to advice note number 7 regarding rubbish bins. This additional clause should relate to the email advice from Mr Nick Wells set out on page 131 of the hearing agenda.

By way of final comment, in relation to the roof gardens, Mr Buxton advised that the relevant assessment criteria in the 2GP do not control noise, this being a matter which is addressed by the noise section of the district plan.

Applicants Right of Reply

The Applicant presented the reply in writing following the adjournment of the hearing on 12 October 2002. This reply was received by the Council on 3 November 2020.

Statutory and Other Provisions

In accordance with Section 104 of the Resource Management Act 1991, the Planner's Report detailed in full the relevant statutory provisions and other provisions the Committee considered. Regard was given to the relevant provisions of the following chapters of the Dunedin City District Plan 2006: 4 Sustainability, 8 Residential Zones, 17.7 Earthworks, 20 Transportation, and 21 Environmental Issues. Regard was also given to the relevant provisions of the following sections of the Proposed Second Generation District Plan: B.6 Transportation, B.8A Earthworks, C.9 Public Health and Safety, and D.15 Residential Zones. Statutory provisions considered included the National Policy Statement for Urban Development. Regard was also given to the Regional Policy Statement for Otago.

Main Findings on Principal Issues of Contention

The Hearings Committee has considered the evidence heard, the relevant statutory and plan provisions, the principle issues in contention. The main findings on the principal issues have been incorporated within the reasons discussed below.

Decision

The final consideration of the application, which took into account all information presented at the hearing, was held during the public-excluded portion of the hearing. The Committee reached the following decision after considering the application under the statutory framework of the Resource Management Act 1991. In addition, a site visit was undertaken following the adjournment of the hearing in September. The inspection of the Committee added physical reality to the Committee's considerations.

*That pursuant to Section 34A(1) and 104C and after having regard to Section 104 of the Resource Management Act 1991, and the provisions of the Operative Dunedin City District Plan 2006 and the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council **grants** consent to a **restricted discretionary activity** for a multi-unit residential development, comprising the demolition of the existing buildings on site and establishment of four residential units (with a total of 31 Habitable Rooms) and associated earthworks, on the site at 43 Cargill Street, Dunedin, legally described as Part Section 17 Block XX Town of Dunedin (Record of Title OT282/59), subject to conditions imposed under Section 108 of the Act, as shown on the attached certificate.*

and

That, having taken into account:

- *The interests of any person who may be adversely affected by the time extension,*
- *The interests of the community in achieving an adequate assessment of effects of a proposal, policy statement or plan, and*
- *Its duty under section 21 to avoid reasonable delay,*

the Council has, pursuant to sections 37A(2)(a) and 37A(4)(b)(i) of the Resource Management Act 1991, extended the requirement outlined in section 115 regarding the time in which notification of a decision must be given after the date the hearing was held.

Reasons for this Decision

1. The Committee believe that the adverse effects of the proposal will be no more than minor, provided that the final design and construction of the proposed development is undertaken in accordance with the conditions of the resource consent. The Committee are satisfied that the conditions of consent mitigate the actual and potential adverse effects arising from scale of the development and proximity to boundaries of the neighbouring properties.
2. The Committee recognise that the development of multi-unit residential development on the subject property is provided for under the zoning provisions of both the 2006 Operative District Plan and the Proposed District Plan (2GP). It is noted that consent is required due to the scale and form of the submitted proposal, and associated earthworks. The Committee are satisfied that with changes to the design of the proposed building, and evidence concerning shading and other environmental effects, the effects of the residential development can be mitigated or managed to ensure it will be compatible with the environment that is anticipated by the District Plans. The Committee were mindful of the prevalence of existing multi-unit residential activity in Cargill Street, and the inner city location of the site.
3. In regard to the density of residential activity, the Committee were mindful that the planning rules for the site are in a process of transition from the 2006 Operative District Plan to the Proposed District Plan (2GP). It is noted that the proposal complies with the Operative District Plan rules for density and the application was lodged with the Council prior to the release of decision on the 2GP rule provisions. For this reason, the proposal is not a non-complying activity. The Committee also noted that the provisions of the 2GP are likely to be subject to some change with a Court decision pending on a related Appeal by the Applicant on the rules affecting this development. Further, the Committee recognise that regard must be given to the National Policy Statement on Urban Development 2020, which will result in the need for further changes to the 2GP providing for residential development.
4. The Committee were mindful of the direction already given by the National Policy Statement on Urban Development 2020 in relation to current car parking requirements. In this context and having regard to the advice of the Transportation Planner, the Committee were satisfied that Transportation effects will be no more than minor. The on-site car parking provided will mitigate the traffic demand that may be expected as a result of residential density. The access to and from this car parking can be achieved in a safe and efficient manner.
5. Due to the density of residential activity proposed the Committee gave particular consideration to the anticipated effects on infrastructure. However, while the Committee acknowledge the concerns of Three Waters about the potential cumulative impact on the existing wastewater and stormwater service network, the Committee did not consider that sufficient evidence had been provided to demonstrate that this effect would be more than minor, having regard to the effects of permitted development anticipated by the District Plans. The Committee did consider that the effects of the

density on wastewater could be mitigated to some extent by the recommended conditions of consent.

6. The Committee found that the site visit undertaken enabled a clearer understanding of the extent of the site works involved for the proposed building construction, as well as the relationship of the development to the existing buildings and amenity of the adjacent properties.
7. The Committee had reservations about the appropriateness of roof top garden areas in terms of safety risks, and the potential for environmental nuisance if behaviour of tenants is not well managed, but accepted that these matters must be addressed outside the resource consent process. The Committee note that where appropriate, the provisions of Section 16 and 17 of the Resource Management Act 1991 may apply, and in addition, requirements of the Building Act 2004 apply to the safety of these areas. The Committee also note that there are obligations on the owner in terms of the Residential Tenancies Act 1986.
8. The Committee considered that the proposed activity, as amended in evidence, is generally consistent with the relevant objectives and policies of both the Dunedin City District Plan 2006 and the Proposed Second Generation Dunedin City District Plan. The Committee considered that the proposed activity is consistent with the objectives and policies of the Regional Policy Statement for Otago, as there is no specific policy provision relevant to the proposal.
9. The Committee are satisfied that notwithstanding the breach of the density rules of the Proposed 2GP, the proposal would not establish an undesirable precedent for future applications. The Committee noted that due to the timing and circumstances of the application the proposal is a restricted discretionary activity. This means that the scope of relevant planning considerations under section 104 do not include questions of the integrity of District Plan rules and related issues. Caselaw has determined that granting consent to a restricted discretionary activity cannot threaten the integrity of a District Plan. In contrast, any further applications for a residential development of this density in the same zone would be assessed as a non-complying activity (until the relevant Appeals are resolved).
10. The Committee were not convinced that compelling evidence had been presented as to why the 10 year consent term sought by the Applicant was necessary, and determined that the standard 5 year period for giving effect to the consent was sufficient. The Committee note that if circumstances arise that will delay the ability of the Applicant to give effect to the consent, an application can be made under Section 125 of the Resource Management Act 1991 to extend the lapse date.

11. The Committee concluded that the granting of the consent would be consistent with the purpose of the Resource Management Act 1991 to promote the sustainable management of natural and physical resources.

Right of Appeal

Pursuant to Section 120(1A) of the Resource Management Act 1991 (as existing prior to 1 July 2020), no right of appeal to the Environment Court against the whole or any part of this decision exists for the following:

- (a) A boundary activity, unless the boundary activity is a non-complying activity;*
- (b) A subdivision, unless the subdivision is a non-complying activity;*
- (c) A residential activity, unless the residential activity is a non-complying activity.*

(Refer Section 87AAB of the Act for definition of “boundary activity”, and refer to Section 95A(6) for definition of “residential activity”.)

As the application was lodged with the Council in 2018, it is considered that subsequent amendments to the Act changing the above provision do not apply (refer Part 3 Section 20 in Schedule 12 of the Act). As the application is for a residential activity that the Committee have determined to be a restricted discretionary activity, this indicates that there is no right of Appeal to this decision. However, it is recommended that the Applicant and submitters obtain legal advice should they disagree with the outcome of this decision, and/or require any clarification about the statutory provisions relevant to this resource consent, and whether or not Appeal rights do apply. Any Appeal must be filed with the Environment Court within 15 working days of the receipt of this decision.

Commencement of Consent

As stated in Section 116 of the Resource Management Act 1991, this consent will only commence once the time for lodging appeals (if applicable) against the grant of the consent expires and no appeals have been lodged, or the Environment Court determines the appeals or all appellants withdraw their appeals, unless a determination of the Environment Court states otherwise.

Monitoring

Section 35(2)(d) of the Resource Management Act 1991 requires every council to monitor resource consents that have effect in its region or district. The scale and nature of the activity, the complexity and number of the conditions needed to address the environmental effects and whether the conditions have been complied with determines the number of monitoring inspections required. Given the nature of your intended works/activity, this consent will require two annual inspections.

The City Planning Department sets out the fixed fees charged for monitoring in its schedule of fees. The fee for your scheduled inspections will be included in the invoice for your application.

It should be noted that if additional inspections are required, beyond those scheduled at the time the consent is issued, then there is the ability to apply additional charges to cover the costs of these extra inspections. Often you can reduce the need for additional inspections by complying with the conditions of consent in a timely manner and by ensuring on-going compliance with those conditions. Please ensure that you read the conditions of your consent carefully to establish your obligations when exercising your consents.

Yours faithfully

A handwritten signature in cursive script, appearing to read 'C Garey', with a long horizontal flourish extending from the bottom of the 'y'.

Christine Garey
Chair
Hearings Committee

Consent Type: Land Use Consent

Consent Number: LUC-2018-679

Purpose: Multi unit residential development.

Location of Activity: 43 Cargill Street, Dunedin.

Legal Description: Part Section 17 Block XX Town of Dunedin (Record of Title OT282/59).

Lapse Date: 7 December 2025, unless the consent has been given effect to before this date.

Conditions

- 1. The proposed activity must be undertaken in general accordance with the approved plans attached to this certificate as Appendix One, the information provided with the resource consent application received by the Council on 6 November 2018 and revised Assessment of Environmental Effects received 5 March 2019, as amended by a range of further information collated, finalised and received on 4 June 2020, and further revised by details submitted in evidence for the hearing, except where modified by the following conditions:*
- 2. Prior to the commencement of any earthworks or construction, a registered surveyor or licensed cadastral surveyor must determine the existing ground levels on the site in order to be meet conditions 34 and 35 below.*
- 3. Prior to the commencement of any earthworks or construction, a Construction Management Plan shall be prepared by the consent holder and submitted to rcmonitoring@dcc.govt.nz for approval by the Resource Consents Manager. This Plan shall confirm the proposed scheduling of earthworks and construction activity and estimated duration and set out measures proposed to ensure compliance with Conditions 6 to 25 below.*
- 4. The consent holder must provide notice to the Resource Consent Monitoring team by email to rcmonitoring@dcc.govt.nz of the start date of the works. This notice must be provided at least five (5) working days before the works are to commence.*
- 5. No earthworks shall be undertaken until building consent has been granted.*
- 6. The consent holder must establish a construction phase vehicle access point to the site and ensure it is used by construction vehicles. The access is to be stabilised by using a geotextile fabric and either topped with crushed rock or aggregate. The access is to be designed to prevent runoff*
- 7. Monitoring of nearby structures and property for movement using survey targets or other methods (such as a photographic condition survey) during the construction process is required. This monitoring system must be as recommended and designed by a suitably qualified geotechnical engineer. Any record of movement must be notified to the Resource Consents Manager.*

8. *Prior to undertaking the work, a suitably qualified geotechnical engineer must be engaged to provide earthworks advice and assess the potential for instability on adjacent properties, included future potential surcharge, as a result of the works, and to supervise earthworks to ensure no temporary instabilities are created.*
9. *Confirmation must be made of foundation depths for existing structures in relation to the proposed earthworks.*
10. *All temporary slopes must be inspected and signed off by a suitably qualified geotechnical engineer.*
11. *Where the long-term stability of other's land or structures may rely upon the continued stability of retaining works, the suitably qualified geotechnical engineer must confirm that the retaining structure can be safely demolished following a complete design life without creating hazards for neighbouring property or structures.*
12. *Scaffolding above the first floor level must not be in place for longer than 9 months.*
13. *Construction must not occur over weekend days and public holidays and work commence must not occur before 7.30am or after 6.0pm.*
14. *Construction noise must meet the following maximum levels:*

0730-1800 70dBA Leq and 85dBA Lmax.

All other aspects of construction noise must comply with NZS 6803:1999.
15. *The consent holder shall adopt all practicable measures to mitigate erosion and to control and contain sediment-laden stormwater run-off to prevent it entering the Council stormwater network, neighbouring properties during any stages of site disturbance associated with this development.*
16. *Any change in ground levels is not to cause a ponding or drainage nuisance to neighbouring properties.*
17. *Any soils from that area which require disposal off-site must go to a facility authorised to accept material of this kind.*
18. *Any fill material to be introduced to the site shall comprise clean fill only.*
19. *The earthworks must be undertaken with the principles of industry best practice applied at all stages of site development including site stability, stormwater management, traffic management, along with dust and noise controls at the site.*
20. *To ensure effective management of erosion and sedimentation on the site during earthworks and as the site is developed, measures are to be taken and devices are to be installed, where necessary, to:*
 - a. *divert clean runoff away from disturbed ground;*
 - b. *control and contain stormwater run-off;*
 - c. *avoid sediment laden run-off from the site'; and*
 - d. *protect existing drainage infrastructure sumps and drains from sediment run-off.*
21. *No soil disturbance or soil shifting, unloading, loading will take place if wind speed is higher than 14 metres per second if the soil is dry and prone to becoming airborne, unless a dust suppressant is applied.*

22. *All loading and unloading of trucks with excavation or fill material is to be carried out within the subject site.*
23. *The consent holder must:*
- a. be responsible for all contracted operations relating to the exercise of this consent; and*
 - b. ensure that all personnel (contractors) working on the site are made aware of the conditions of this consent, have access to the contents of consent documents and to all associated erosion and sediment control plans and methodology; and*
 - c. ensure compliance with land use consent conditions.*
24. *Should the consent holder cease, abandon, or stop work on site for a period longer than 6 weeks, the consent holder must first take adequate preventative and remedial measures to control sediment discharge/run-off and dust emissions, and must thereafter maintain these measures for so long as necessary to prevent sediment discharge or dust emission from the site. All such measures must be of a type and to a standard which are to the satisfaction of the Resource Consent Manager.*
25. *Any damage to the public road as a result of the demolition, earthworks and construction works must be reinstated to the satisfaction of Council at the expense of the consent holder. This includes damage to the footpath, road formation, landscaped areas and service structures affected/damaged by contractor(s) or other persons engaged by the consent holder for the earthworks and building works, and/or vehicles and machineries used in relation to earthworks and construction works.*
26. *The vehicle access must be formed to a maximum width of 6.0, minimum 3.0m, be hard surfaced from the edge of the Cargill Street road carriageway, to the property boundary, and be adequately drained for its duration.*
27. *The vehicle access must comply with the maximum gradient requirements contained within Rule 6.6.3.7 of the Proposed 2GP.*
28. *The surface of all parking, associated access and manoeuvring areas shall be formed, hard surfaced and adequately drained for their entirety, and parking spaces permanently marked.*
29. *If Car Park 5 is provided, the car parking aisle must be extended by at least 1.0m beyond Car Park 5. If Car Park 5 is not provided the space must be made available for cycle parking and/or solid waste management.*
30. *One of the car parks must be made available to meet the mobility parking width requirement of 3.6m.*
31. *Sufficient manoeuvring space shall be provided on the site to prevent vehicles reversing directly onto or off Cargill Street. The area shall be large enough so that an 85th percentile design motor car is only required to make two reversing movements when manoeuvring.*
32. *All parking spaces must be solely for the use of those residing on the site.*
33. *The consent holder must implement water saving devices, including but not limited to, low-flow shower heads, 6/3 dual flush toilets and aerated sink mixers and there must not be any kitchen facilities such as dishwashers or sinks within the bedrooms.*
34. *No building works shall proceed beyond the foundation stage until a registered surveyor or licensed cadastral surveyor, engaged by the consent holder, has provided written certification to the manager Resource Consents that the works completed will not result in any exceedance of any breach, infringement, or non-compliance shown in the approved plans.*

35. *No building works shall proceed beyond the framing stage until a registered surveyor or licensed cadastral surveyor, engaged by the consent holder, has provided written certification to the manager Resource Consents that the works completed will not result in any exceedance of any breach, infringement, or non-compliance shown in the approved plans.*

36. *If the consent holder:*

a. *discovers koiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the consent holder must without delay:*

i) *notify the Consent Authority, Tangata whenua and Heritage New Zealand and in the case of skeletal remains, the New Zealand Police.*

ii) *stop work within the immediate vicinity of the discovery to allow a site inspection by Heritage New Zealand and the appropriate runanga and their advisors, who must determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.*

Any koiwi tangata discovered must be handled and removed by tribal elders responsible for the tikanga (custom) appropriate to its removal or preservation.

Site work may recommence following consultation with the Consent Authority, Heritage New Zealand, Tangata whenua, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained.

b. *discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder must without delay:*

i) *stop work within the immediate vicinity of the discovery or disturbance; and*

ii) *advise the Consent Authority, Heritage New Zealand, and in the case of Maori features or materials, the Tangata whenua, and if required, must make an application for an Archaeological Authority pursuant to the Heritage New Zealand Pouhere Taonga Act 2014; and*

iii) *arrange for a suitably qualified archaeologist to undertake a survey of the site.*

Site work must recommence following consultation with the Consent Authority.

Advice Notes

Transportation

1. The vehicle crossing, between the road carriageway and the property boundary, is within legal road and will therefore require a separate Vehicle Entrance Approval from DCC Transport to ensure that the vehicle crossing is constructed in accordance with the Dunedin City Council Vehicle Entrance Specification (note: this approval is not included as part of the resource consent process).
2. It is advised that, if practicable, the basement car park be widened to enable the minimum parking requirements contained within Proposed 2GP Rule 6.6.1.1.c.ii.2 to be met.
3. All structures/buildings associated with this development must be contained within the site boundaries. DCC Transportation does not authorise any legal road encroachments in this instance.

Noise, Light Spill and Amenity

4. The activity will need to meet the noise and light spill standards of the Proposed Second Generation Dunedin City District Plan.
5. Insulation should be sufficient to meet World Health Organisation guidelines for indoor noise levels. To avoid potential reverse sensitivity issues relating to traffic noise, as well as double-glazing, ventilation be installed in affected rooms.
6. Insulation between units will need to be adequate to protect tenants from noise within the building. The Applicant is advised that such noise is considered to be 'inter-tenancy'.
7. Adequate refuse storage areas should be provided and managed so as not to cause a nuisance to any person. Rubbish and recycling service areas must comply with Building Code Clause G15 Acceptable Solution G15/AS1.
8. It is recommended that the applicant consider the intended provision of the roof top garden areas in terms of obligations and liabilities for safety of tenants, and practicality of managing potential nuisance issues that may arise with the occupation of the units.
9. The applicant is advised that the owner of the building can legally be held responsible for managing noise nuisance from the proposed development as well as other nuisances, e.g. accumulations of refuse.
10. The applicant is advised that heat pumps must be installed in such a way as to not cause noise nuisance issues.
11. In addition to the conditions of a resource consent and the noise standards of the Proposed Second Generation Dunedin City District Plan, the Resource Management Act 1991 establishes through sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.

Earthworks

12. Temporary stability may be a concern on this project, and remains the responsibility of the developer. It is recommended that appropriate third party liability insurances are in place which identify nearby structures prior to undertaking any excavation that might affect others' land.

Infrastructure

13. The maximum impermeable area of the site must not exceed 80%. A Stormwater Management Plan may be required as part of the building consent process, due to the existing downstream stormwater system being under capacity for a 10 year event.
14. Detail of the water supply application process can be found at <http://www.dunedin.govt.nz/services/water-supply/new-water-connections>.
15. All aspects relating to the availability of water for fire-fighting should be in accordance with SNZ PAS 4509:2008, being the Fire Service Code of Practice for Fire Fighting Water Supplies, unless otherwise approved by the New Zealand Fire Service.

General

16. Please check with the Council's Building Control Office, Development Services, to determine the building consent requirements for this development.
17. Resource consents are not personal property. This consent attaches to the land to which it relates, and consequently the ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.
18. It is the consent holder's responsibility to comply with any conditions imposed on their resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in Section 339 of the Resource Management Act 1991.
19. This period may be extended on application to the Council pursuant to Section 125 of the Resource Management Act 1991.
20. Unless otherwise specified all conditions should be complied with within 12 months of the consent having been given effect to.
21. Buildings built before 1900 or sites which were in use before that time are considered archaeological sites under the Historic Places Act 1993. Before disturbing an archaeological site, or to check whether a site is an archaeological site, the consent holder is advised to discuss their proposal with the New Zealand Historic Places Trust.

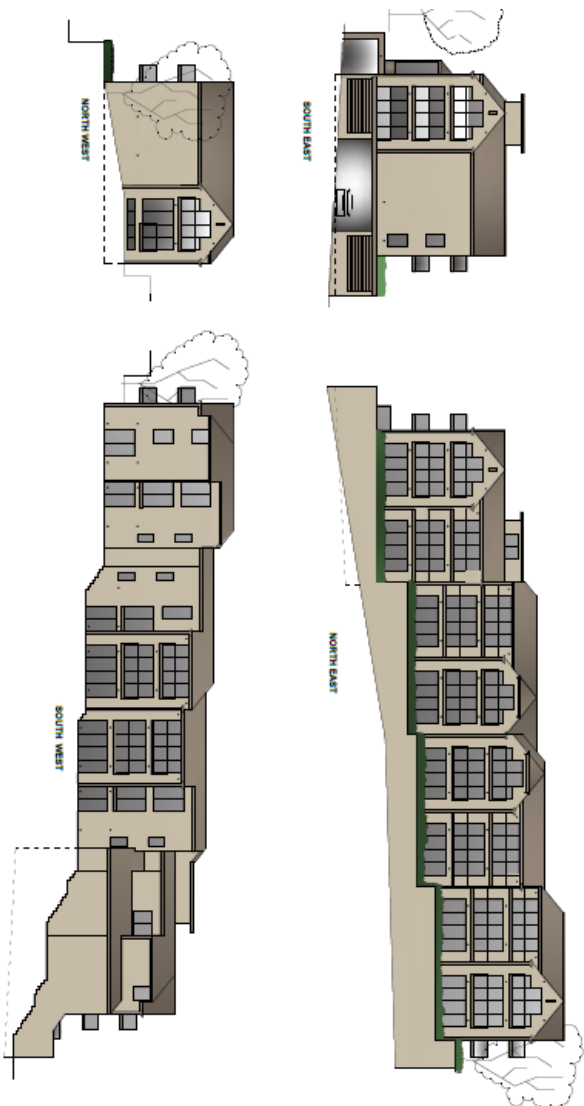
Issued at Dunedin on 7 December 2020

A handwritten signature in black ink, appearing to read 'C Garey', with a stylized flourish at the end.

Christine Garey
Chair
Hearings Committee

Appendix One: Approved Plans for LUC-2018-679 (scanned images, not to scale)

NB: The Plans LUC-1 to LUC 13 that follow the index below are accepted as a representation of the approved development, subject to the changes depicted on the revised plans for the street elevation and layout detail contained on the final two pages of this Appendix.



PROPOSED RESIDENTIAL
ACCOMMODATION UNITS

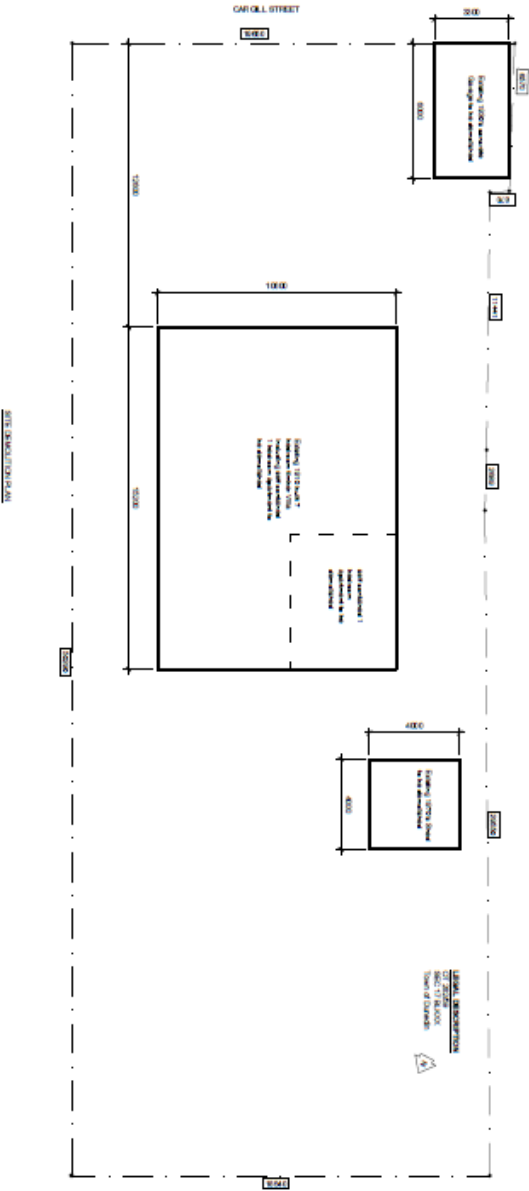
43 CARGILL STREET, DUNEDIN.

SMALL
building and design
mobile 021 678 801
email smallbuild@gmail.com

LAND USE RESOURCE CONSENT

LUC 1	Site / Demolition Plan
LUC 2	Earthworks Plan
LUC 3	Site Location Plan
LUC 4	Retaining Walls Plan
LUC 5	Floor Plan Layout Unit 1 & 2
LUC 6	Floor Plan Layout Unit 3 & 4
LUC 7	Elevation ref to Height - Res 4
LUC 8	Sections Thru Grid A - C2
LUC 9	Sections Thru Grid C3 - E3
LUC 10	Sections Thru Grid F
LUC 11	Under Ground Services Plan
LUC 12	Outside Lighting Locations
LUC 13	Shading Effects Height Breach

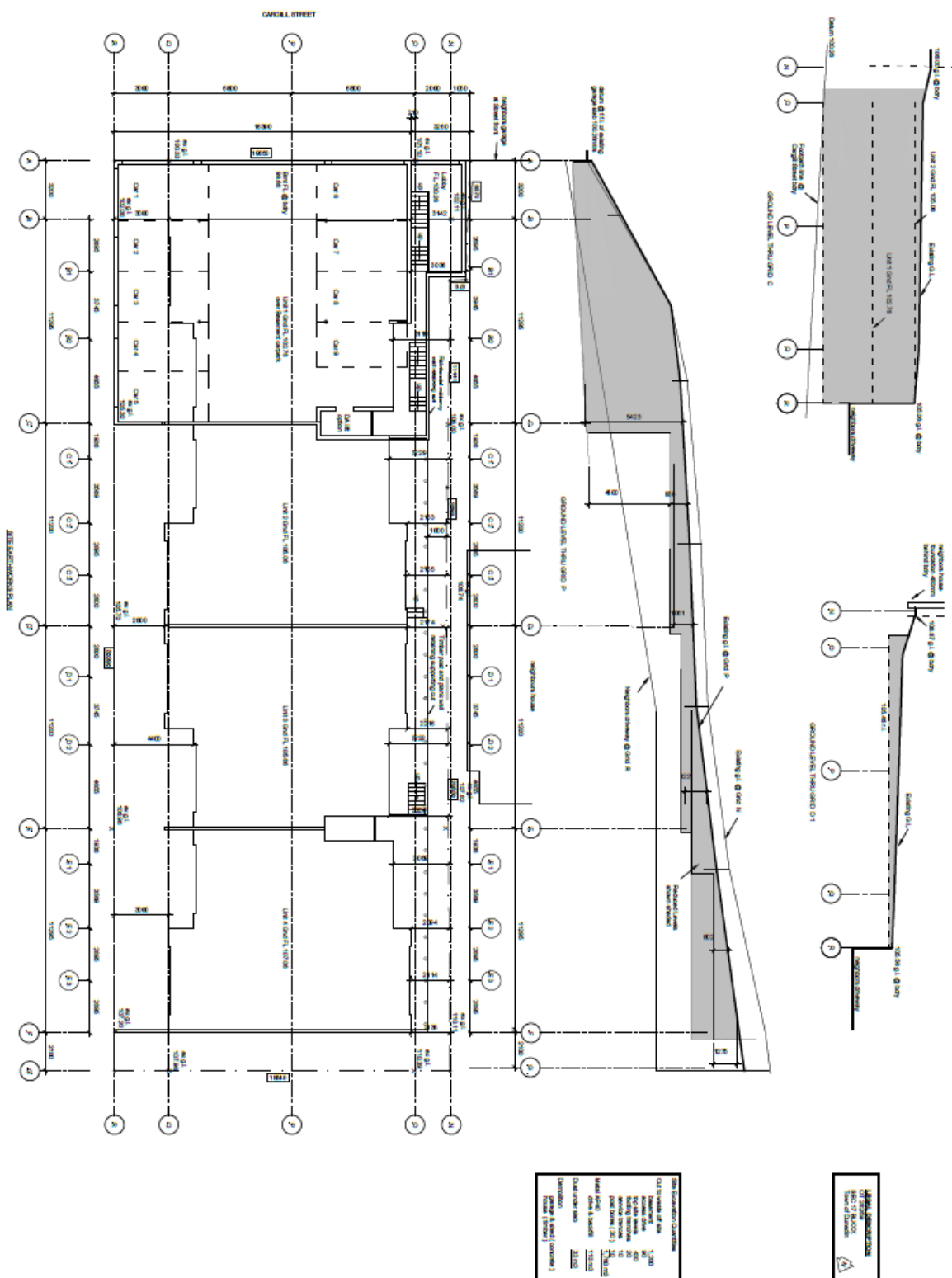
LUC 1 : Site Demolition Plan



PROPOSED RESIDENTIAL ACCOMMODATION UNITS AT 43 CARGILL STREET, DUNEDIN.

RESIDUALS EXHIBIT
SITE DEMOLITION PLAN
DRAWN BY SMALL
DATE 2018
LUC1

SMALL
building and design
mobile 0271 678 8071
email info@small.co.uk



SMALL
bedding and design
toll-free 877-878-0071
e-mail small@small.com

RESOURCES: COBERT
SITE LOCATION
SCALE: AT 1:500 AND 1:200
DRAWN: B. SWALL
RSD LRP 11/08/00
CCT 08/18 LUC-3

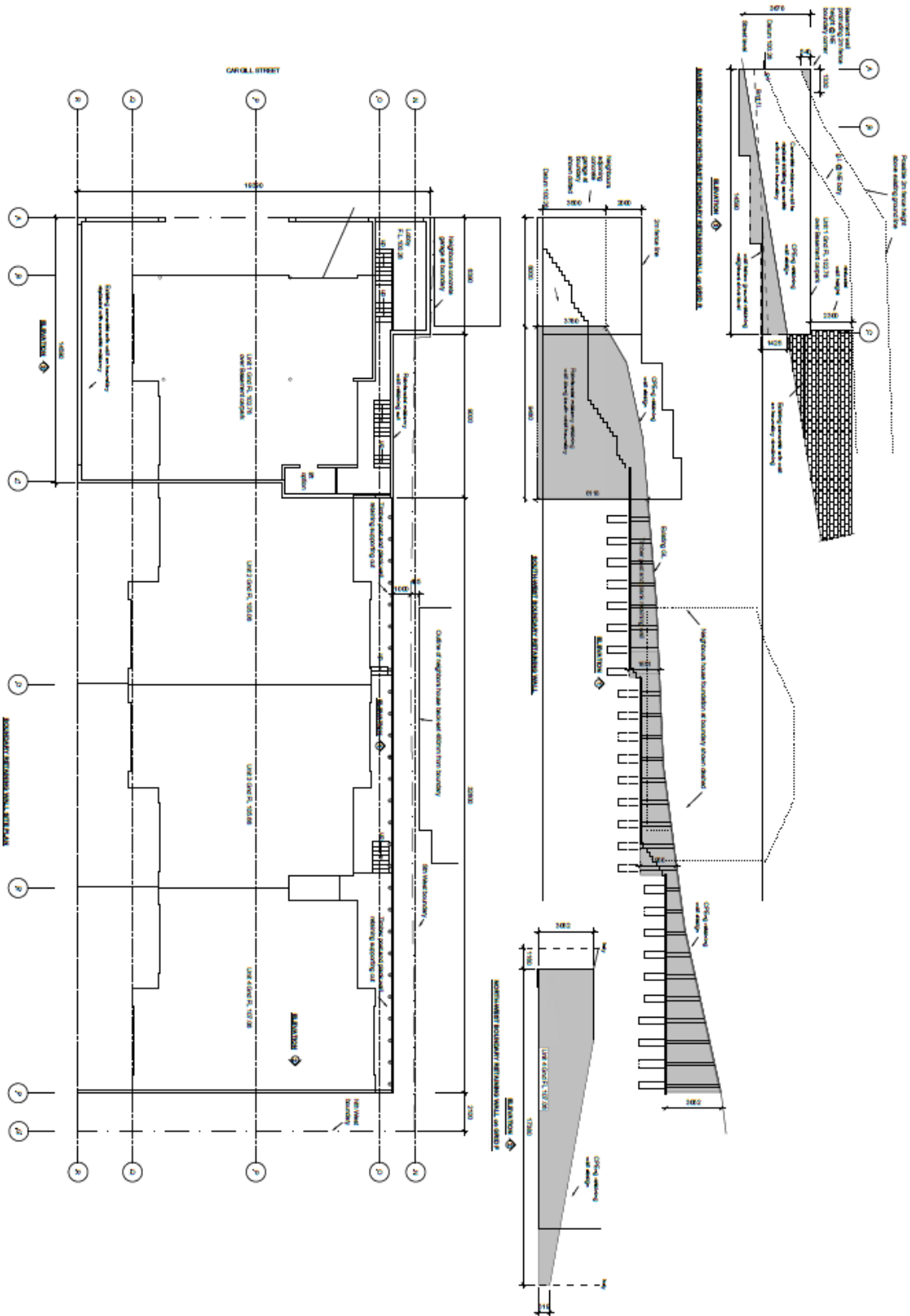


LUC 4 : Boundary Retaining Wall Site Plan

SMALL
Landscape Architecture
1001 10th Street
Dunedin, New Zealand

PROPOSED RESIDENTIAL ACCOMMODATION UNITS AT 43 CARROLL STREET, DUNEDIN.

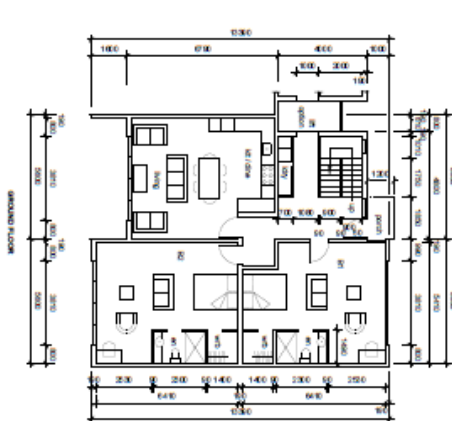
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NOT A WALL, IS A
DRAIN, IS SMALL,
NOT A WALL
LUC 4



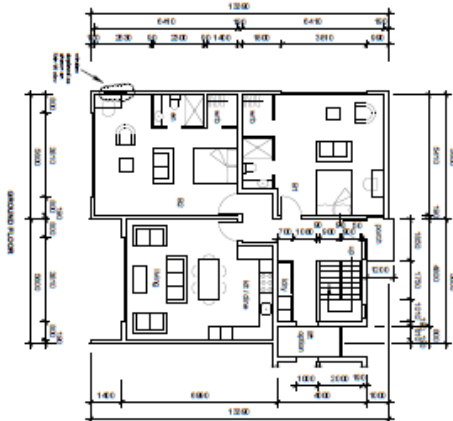
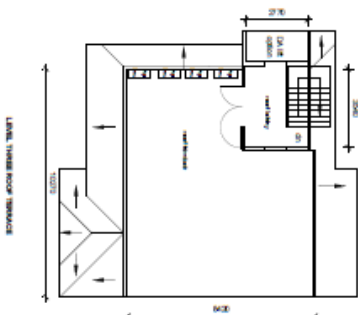
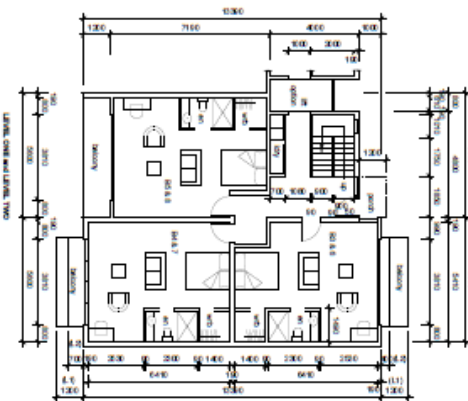
LUC 5 : Floor Layout Plan for Units 1 and 2

SMALL
Residential and Commercial
Architectural Services
1001 10th Avenue
Dunedin, New Zealand

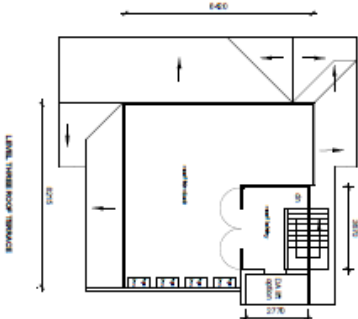
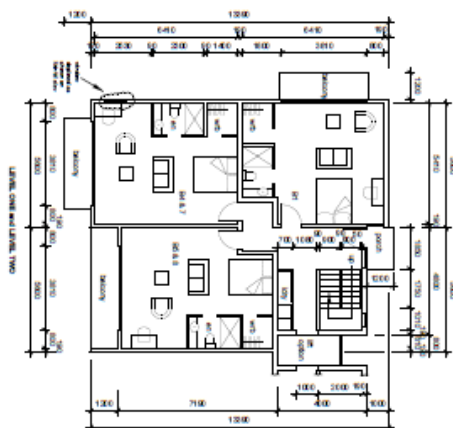
PROPOSED RESIDENTIAL ACCOMMODATION UNITS AT 43 CARGILL STREET, DUNEDIN.



UNIT TWO FLOOR PLAN LAYOUT



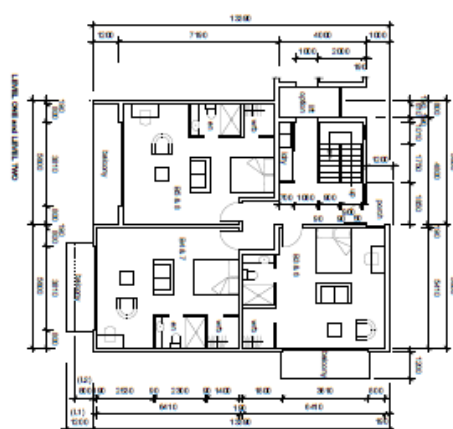
UNIT ONE FLOOR PLAN LAYOUT



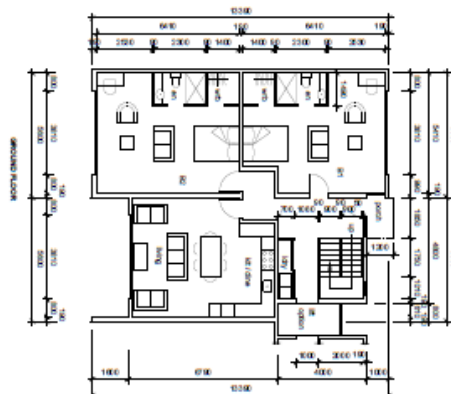
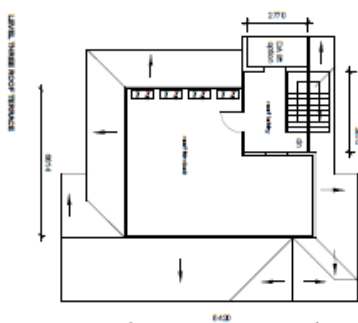
RENDERING CONSULTANT
ARCHITECTURAL LAYOUTS & 3D
DRAWING & SMALL
SCALE
1001 10th Avenue
Dunedin, New Zealand
LUC 5

SMALL
building and design
mobile 021 678 0071
e-mail small@city-uk.com

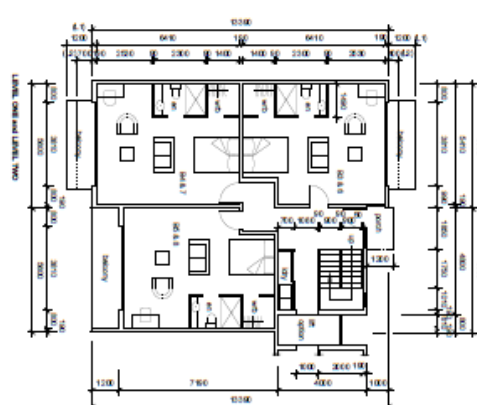
UNIT FOUR: THE POWER OF PLANT-BASED



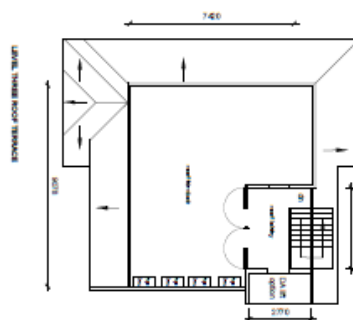
UPPER THIRDS POOL TRENCH



UNIT 10: THE FUTURE OF PLANNING



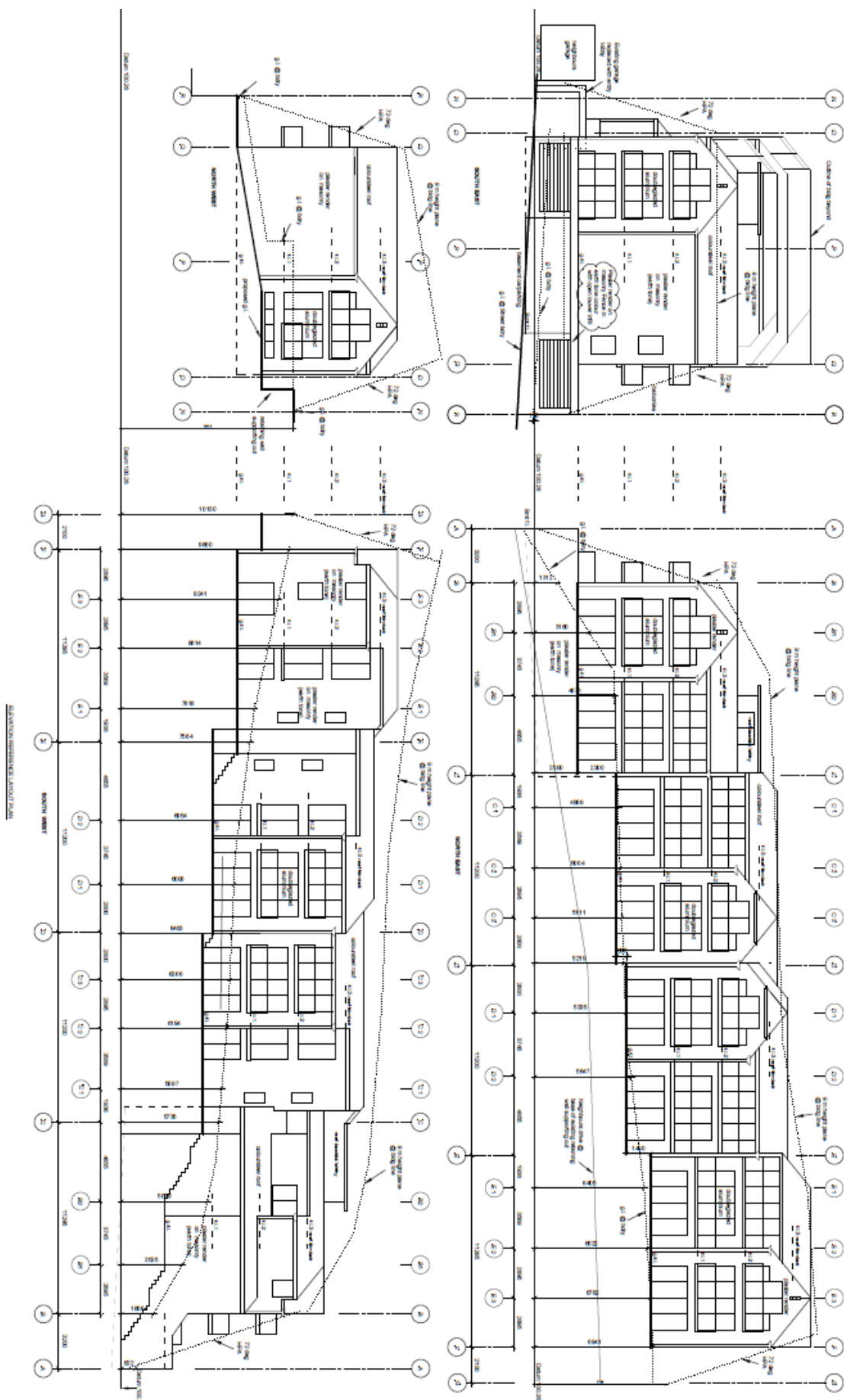
LEVEL THREE ROOF TRUSS



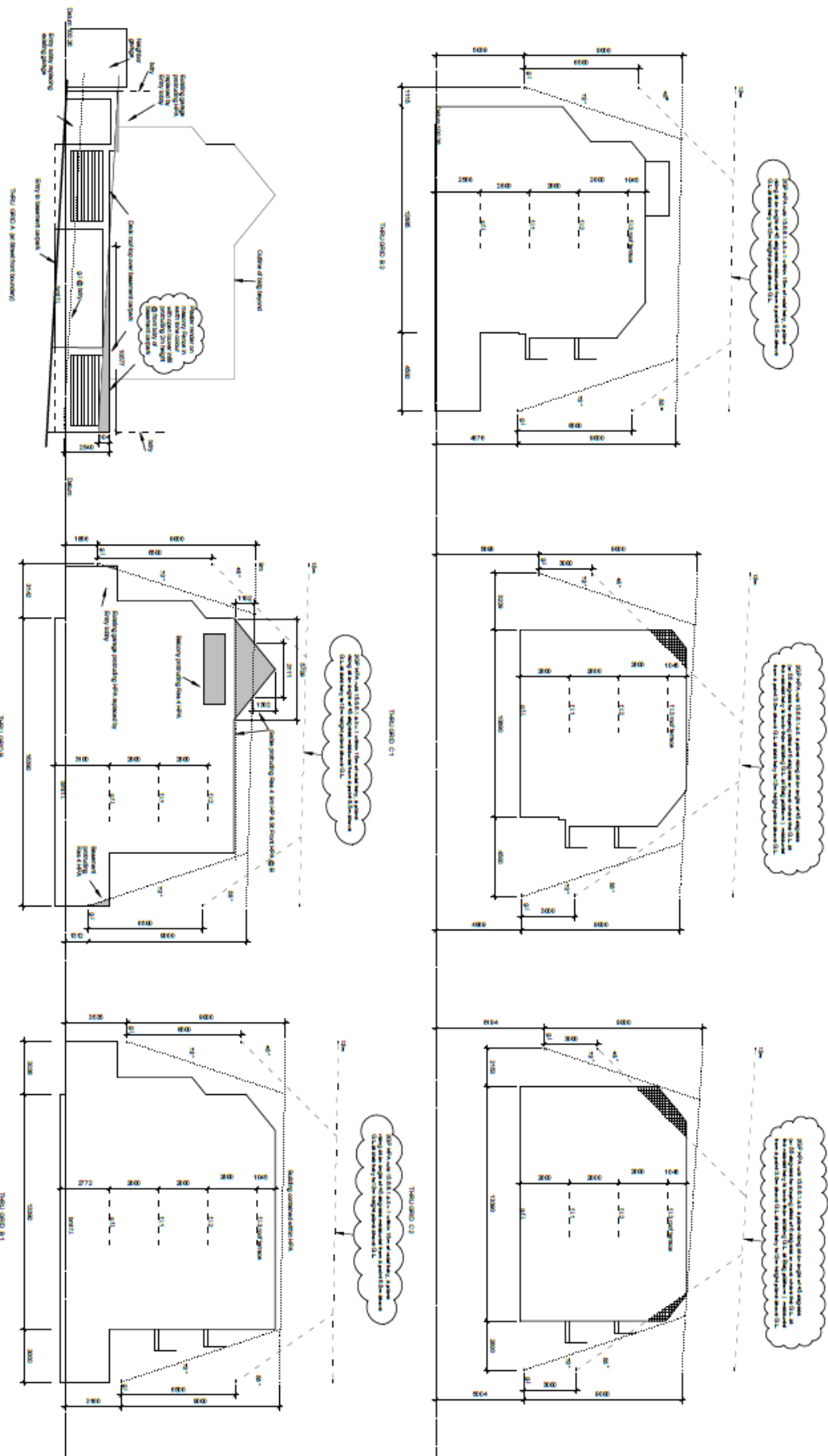
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SEALS AT 1:500 AND 1:200
DROWN IN SMALL
RECEIVEDS COMMENT
OCT 2018 LUC 6

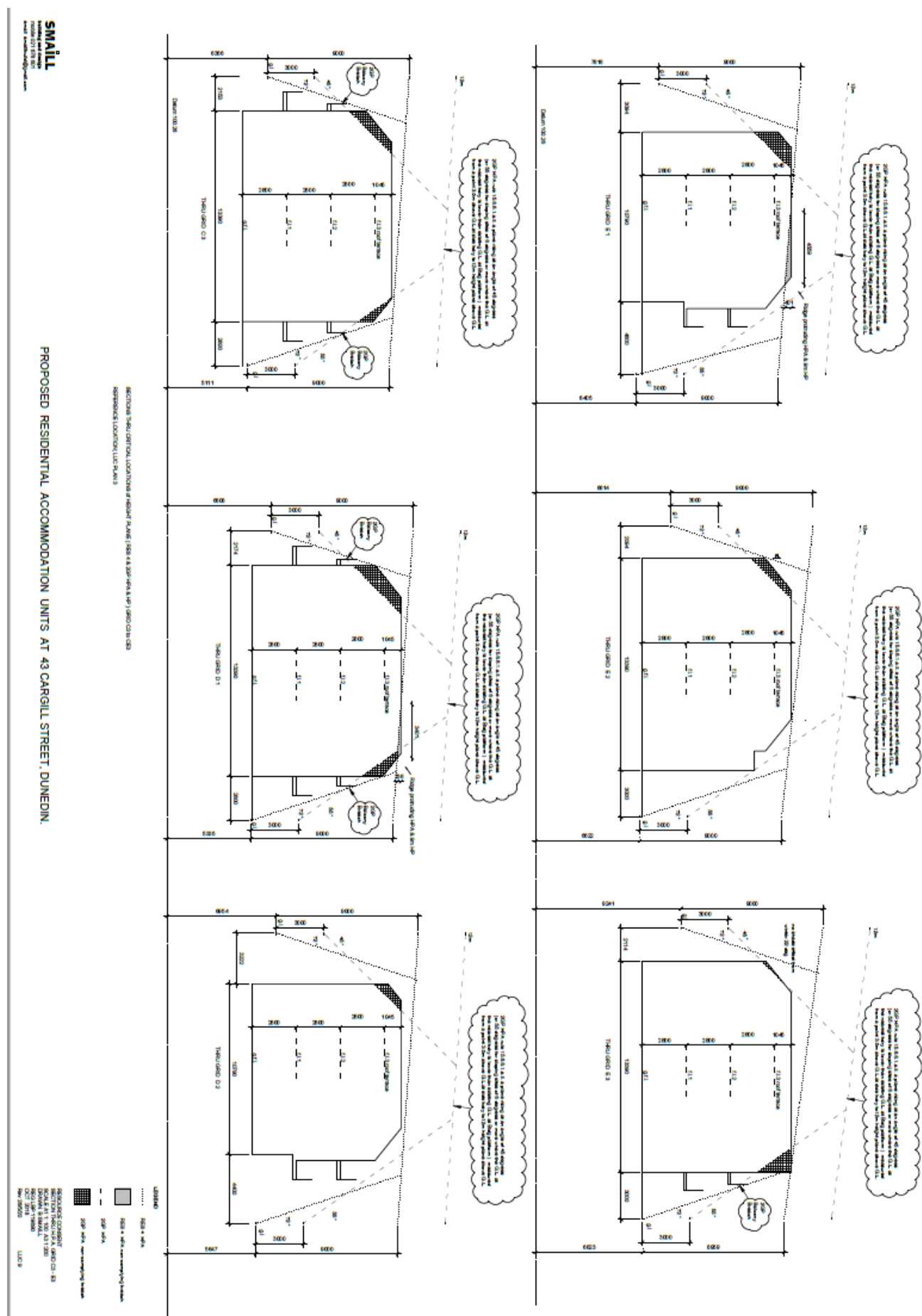
SMALL
building and design
mobile 011 678 0024
email small@bigfoot.net

RESOURCES: CONSENT
RELATIONS
SCALE AT 1:100 AND 1:200
DRAWN BY SMALL,
PDS LBP 110000
OCT 2018



RESOURCES CONSULT
SECTION THRU L.P.A. GARD A - C2
SCALE AT 1:150 AS SHOWN
DRAWN BY SMALL
PSS L&P 11/20/00
CCT 2001
PSS 2002/02 LUC B



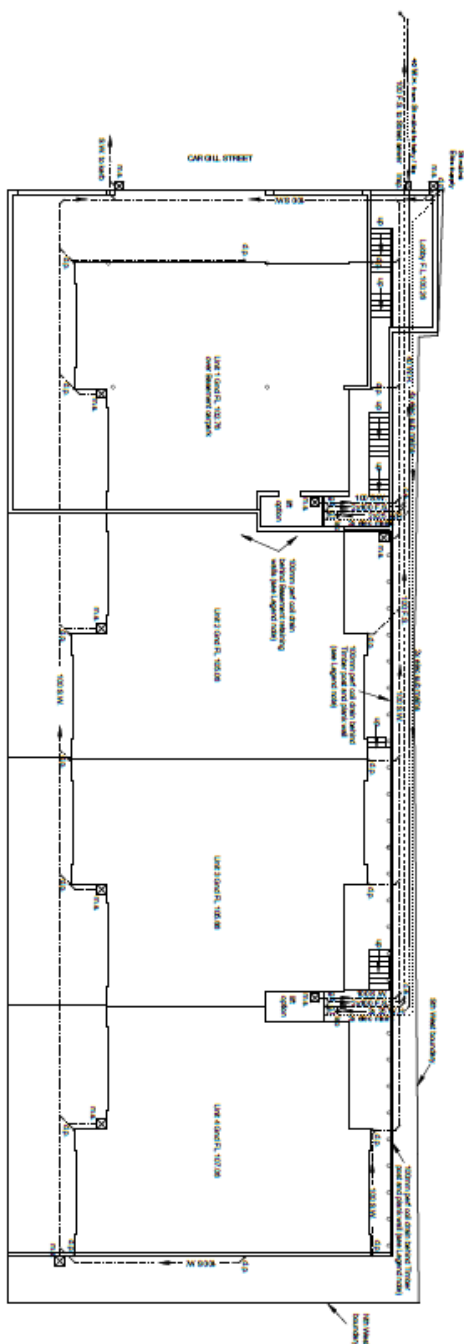


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building and design
mobile 024 9711 0171
email enquiries@small.co.uk

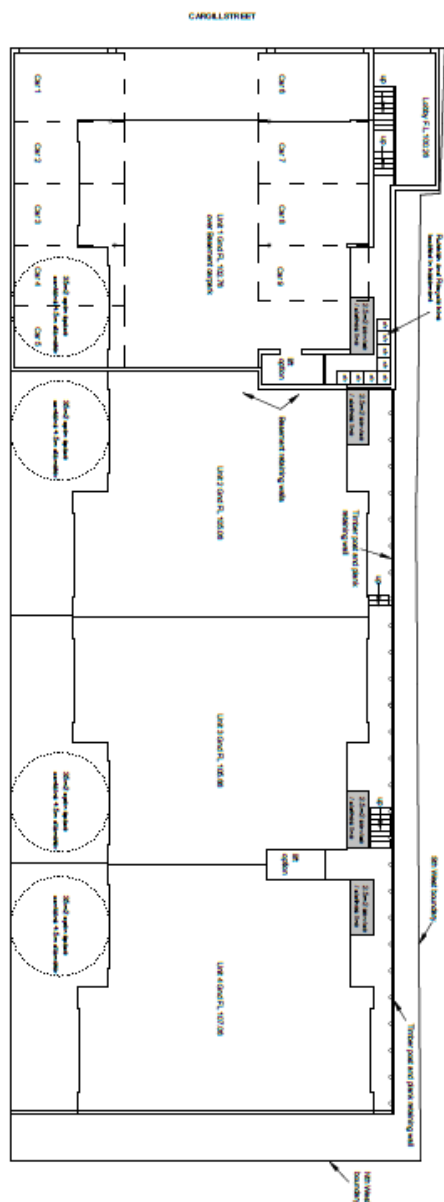
RESEARCHER'S CONTACT
SECTION THROUGH M.P.A. OFFICE
SCALE AT 1:100 AND 1:200
DRAWN BY SMALL
P&S LLP 11/06/00
CCT 2018
REV 28/03/00 LUC 110



RESEARCH AND EVALUATION OF THE PLAN

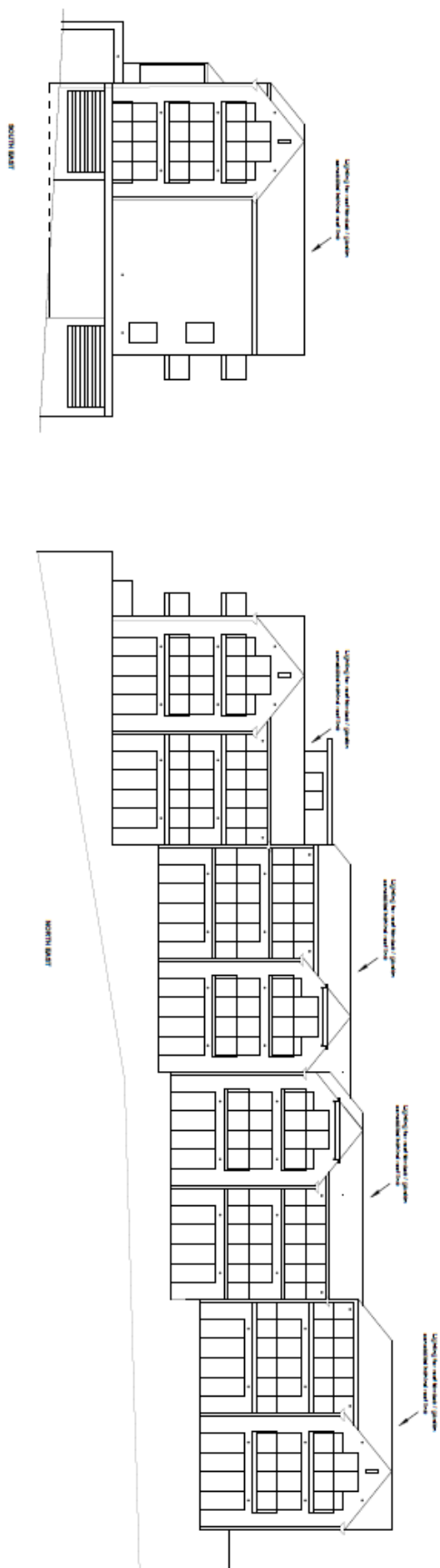
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PROLOGUES CONVENT
SITE / UNDERGROUND SERVICES
SCALE AT 1:500 AS 1:250
DRAWN BY STEVE L.
5500 LBP 11/86
OCT 2018 LUC 71



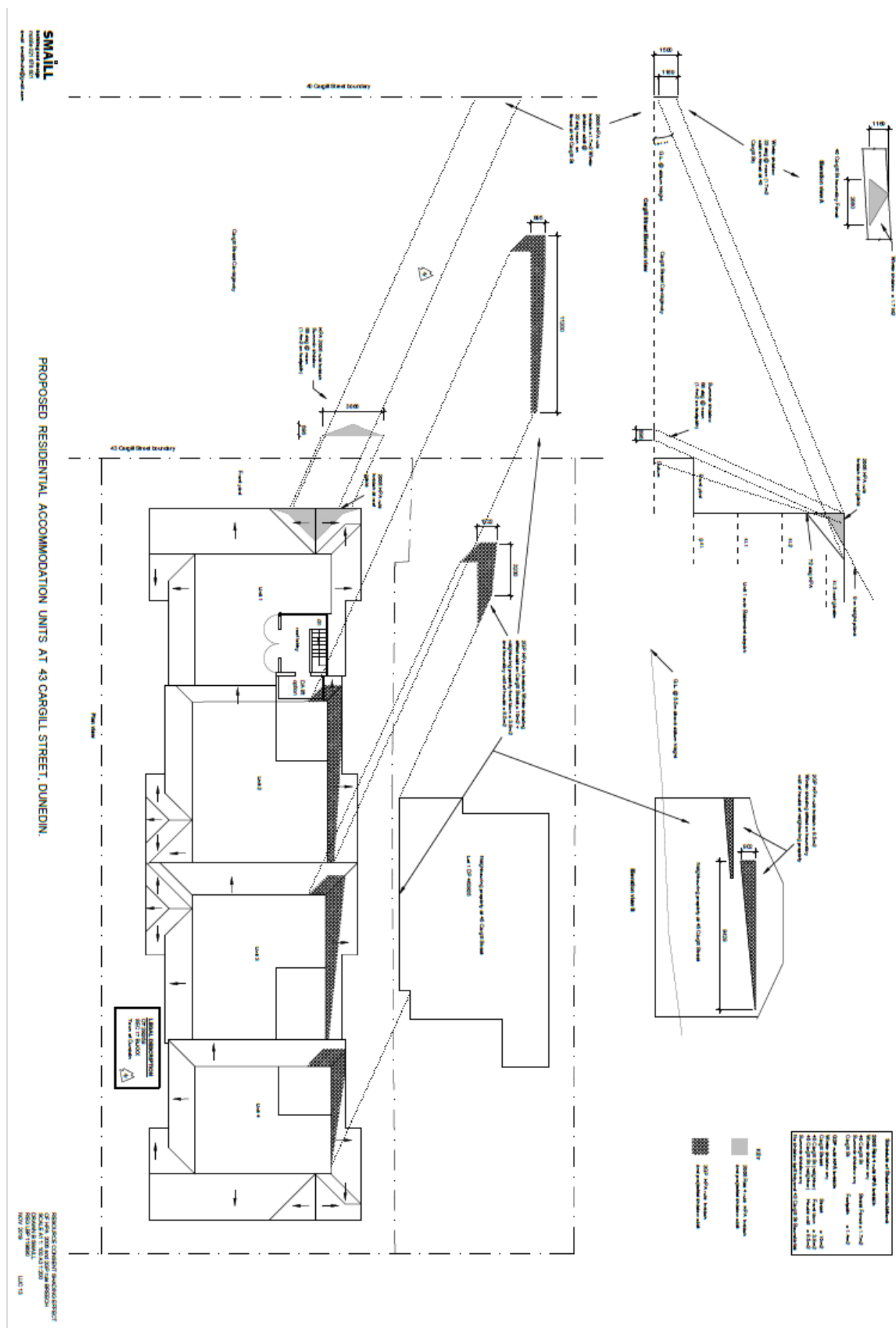
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 Includes illustrations for each worksheet and short
 answer test and
 Final bag worksheet (Question papers are listed 4)

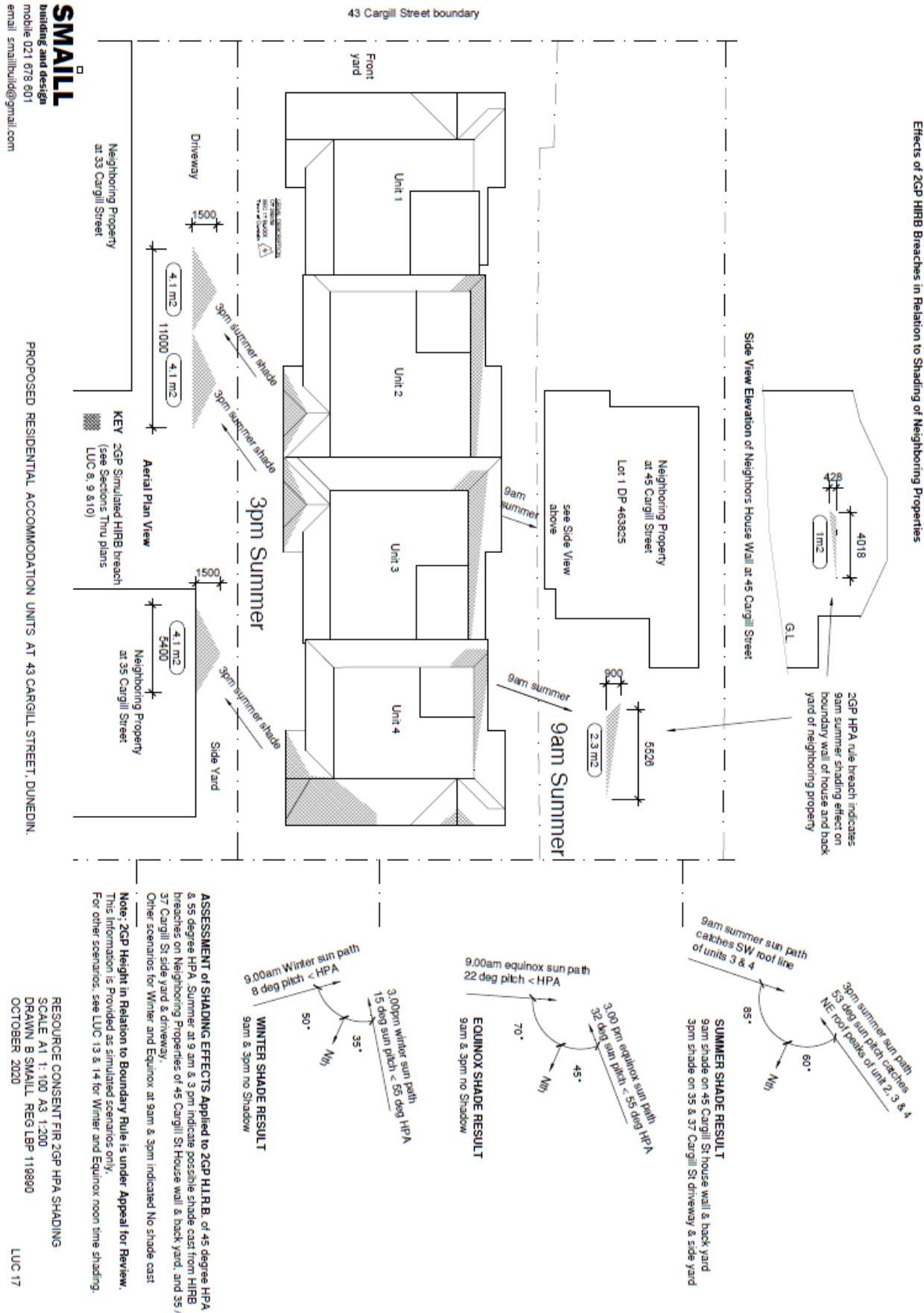
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building and design
studio 024 078 0671
email small@edgypartners.com

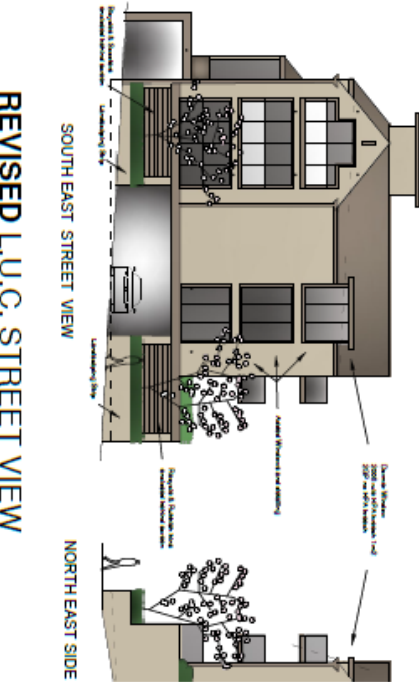
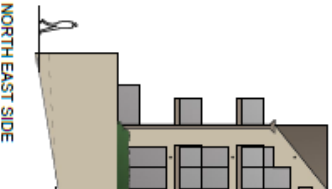
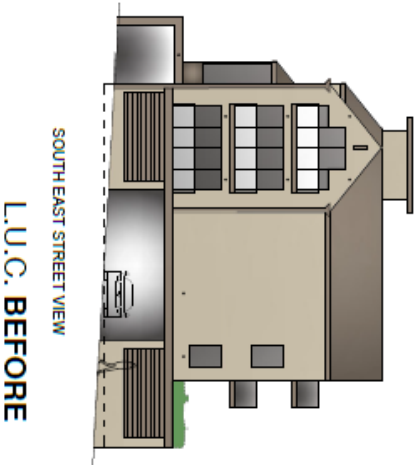


PROPOSED RESIDENTIAL ACCOMMODATION UNITS AT 43 CARGILL STREET, DUNEDIN.

RESEARCHER CONTACT:
OUTREACH LIGHTING EVALUATION
SCALE AT 1-800-A3-1200
DOROTHY B. SMALL
P820 LPO 118000
OCT 2018 LUC-12





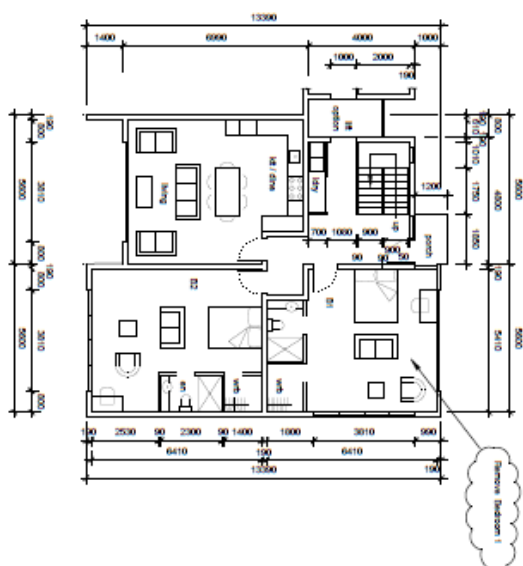


SMALL
Drawing and layout
not to scale
and not to be used
for construction

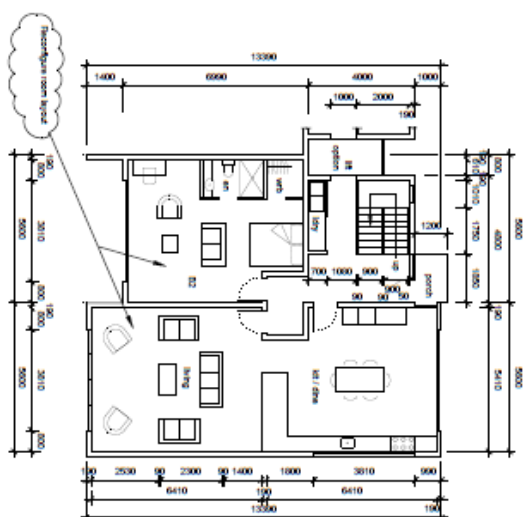
PROPOSED RESIDENTIAL ACCOMMODATION UNITS AT 43 CARGILL STREET, DUNEDIN.

SECTION 4.1 (Residential) Consent Documents for the
proposed residential accommodation units at 43
Cargill Street, Dunedin.
2024-10-10
2024-10-10
2024-10-10

SMALL
building and design
mobile 0207 8778 8071
e-mail: s-small@bt.com



L.U.C. BEFORE Removing 1 Habitable Room



L.U.C. REVISE 2 Layout removing 1 Habitable Room

Remove Bedroom 1 and reconfigured layout of rooms on Ground Floor Unit 4, in line with 2GP mediated site density resolution being 1 habitable room / 30m² of site area, Equivalent of 31 Total Habitable rooms / 934m² site.

PROPOSED RESIDENTIAL ACCOMMODATION UNITS AT 43 CARGILL STREET, DUNEDIN

800-555-1234 | Removal of biohazard waste from Unit 4 for
 Biohazard Contract 2020 | Priority of an Hazardous waste
 removal | 1000 Ave 100
 City of New York, NY 10001
 212-312-1234
 2020-0000