

<b>9.1</b>	<b>NOS. 148-158 (LOT: 600; D/P: 47025) SCARBOROUGH BEACH ROAD, MOUNT HAWTHORN - PROPOSED ALFRESCO STRUCTURE TO RESTAURANT/CAFE (AMENDMENT TO APPROVED)</b>
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**Ward:** North

**Attachments:**

1. Consultation and Location Plan
2. Development Plans
3. Applicant Justification
4. 2018 Determination and Approved Plans
5. 2019 Approved Building Permit Plans
6. Summary of Submissions - Administration Response
7. Summary of Submissions - Applicant Response
8. Administration Response to Design Review Panel Comments
9. Determination Advice Notes

**RECOMMENDATION:**

That Council, in accordance with the provision of the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme, **APPROVES** the application for Alterations and Additions to Restaurant/Café (Amendment to Approved) at Nos. 148 – 158 (Lot: 600; D/P: 47025) Scarborough Beach Road, Mount Hawthorn, in accordance with the plans shown in Attachment 2, subject to the following conditions, with the associated determination advice notes in Attachment 9:

1. This approval is for the alfresco structure and alfresco blinds as shown on the approved plans dated 22 September 2023;
2. This approval for the alfresco structure and alfresco blinds is valid for a period of five years, from 7 November 2023 until 6 November 2028. The alfresco structure and alfresco blinds are to be removed and the site made good on 7 November 2028 to the satisfaction of the City, unless a further development approval has been obtained;
3. Only the alfresco structure and alfresco blinds as shown on the approved plans, shall be located within the road reserve area. All amendments to the alfresco structure or alfresco blinds require further development approval from the City;
4. The alfresco structure shall be open for public use outside the approved operating hours of the adjacent Restaurant/Café premises, to the satisfaction of the City;
5. The alfresco blinds shall be maintained to a high quality and shall always remain visually permeable in appearance, so as to allow views inside the alfresco area and enable internal light sources to be seen from the street, to the satisfaction of the City;
6. The alfresco blinds shall only be used during inclement weather and shall sit in an open position outside of operating hours, to the satisfaction of the City;
7. Stormwater from all roofed and paved areas within the licenced area shall be collected and contained within the licenced area. Stormwater must not affect or be allowed to flow onto or into any other property or part of the road reserve;
8. Landscaping shall be maintained to a high standard within approved planter boxes at all times, to the satisfaction of City;
9. At all times the pedestrian thoroughfare between the alfresco structure and Nos. 148-158 Scarborough Beach Road shall be kept clear of obstructions and shall allow for unimpeded pedestrian movement, to the satisfaction of the City.

**EXECUTIVE SUMMARY:**

The purpose of this report is to consider an application for Additions to Restaurant/Café (Amendment to Approved) at Nos. 148–158 Scarborough Beach Road, Mount Hawthorn (the subject site).

The proposal relates to an existing alfresco structure and alfresco blinds located within the road reserve adjacent to the Spritz Spizzicheria restaurant (Spritz).

The alfresco structure and alfresco blinds were first approved on 6 November 2018 under delegated authority. The approval was time limited to a period of five years and has since lapsed on 6 November 2023.

At the Ordinary Council Meeting held on 12 December 2023, Council resolved to grant a licence to Spritz to use of a portion of the Scarborough Beach Road reserve for outdoor dining.

The proposed development application seeks to extend the development approval for the structure by amending the time limited condition of approval. This would approve the existing alfresco structure and alfresco blinds to remain in their current form and location until 6 November 2028. This timeframe would align with Council's approval at Ordinary Council Meeting held on 12 December 2023 to grant a licence to Spritz for use of a portion of the Scarborough Beach Road reserve for a five-year term.

The application has been assessed against Clause 67 – matters to be considered by local government under the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2. Matters relevant to this application include objectives of the City's Local Planning Scheme, the compatibility of the proposal within the context of the locality, community submissions and the Vibrant Public Spaces Policy.

The proposed development is supported as it enhances the City's public realm and provides amenity and activation to the road reserve. Being constructed and operational for over five years, the structure also contributes to the local identity of the area. The alfresco structure and alfresco blinds are appropriate having regard to the previous approvals, proven management of the alfresco blinds as well as the subject site's western orientation.

**PROPOSAL:**

The alfresco structure was originally approved on 6 November 2018 with a five-year approval timeframe, which expired on 6 November 2023. A copy of the previous development approval is included as **Attachment 4**.

The proposed development application seeks to amend the term of approval for the structure, as referenced in Condition 2 of the previous approval, detailed below:

2. *This approval for the alfresco structures and café blinds is valid is for a period of five (5) years from the date shown above. Following expiry of this period, the permanent alfresco structure shall be removed at the owner's cost and the road reserve made good, unless a further development approval is granted by the City.*

The application seeks to retain the existing alfresco structure and alfresco blinds in their current form and location until 6 November 2028.

The built form of the existing alfresco structure is summarised as follows:

- The alfresco structure measures 13 metres by 3.9 metres, covering a total area of 47.7 square metres.
- The alfresco structure includes a dining area, fixed seating, lighting, heat lamps, external planter boxes, and signage.
- The alfresco structure also includes dual motorised alfresco blinds to the east, south and west elevations. The dual system features two types of blinds which are clear plastic blinds and visually permeable woven mesh blinds. The clear blinds have been approved by the City. The woven mesh blind have not been approved by the City and are unauthorised development.

Although not requested by the Applicant, Administration has proposed amendments to other conditions of approval. This is because several previous conditions of development approval have now been transferred to the approved License that has been granted, and these can now be removed from the development approval. The proposed amendments result in conditions of approval that only relate to the structure at the subject site. This is considered further below.

The proposed Development Plans are included as **Attachment 2**, and the Applicant's justification and planning report are included as **Attachment 3**.

#### DELEGATION:

This matter is being referred to Council for determination in accordance with the City's Register of Delegations, Authorisations and Appointments.

This is because the delegation does not extend for applications for development approvals that propose permanent structures on City owned or managed land, except where:

- a) The structure is an awning, or
- b) The structure is for a ground anchor; or
- c) The structure is for an encroachment which:
  - i) is an architectural feature and does not encroach by greater than 250 millimetres; or
  - j) is a window or shutter that encroaches on a road or public space by no more than 50 millimetres when open and is at least 2.75 metres above the ground level.

The above condition of delegation was introduced in June 2021. The previous planning approval did not require Council determination as Administration had delegated authority to determine development applications on City owned and managed land.

#### BACKGROUND:

<b>Landowner:</b>	State of Western Australia (Road Reserve) The City has care, control, and management of this road reserve by virtue of Section 55 of the <i>Land Administration Act 1997</i> .
<b>Applicant:</b>	PLAN.
<b>Client:</b>	Spritz Spizzicheria
<b>Date of Application:</b>	21 September 2023
<b>Zoning:</b>	MRS: Urban LPS2: Zone: No Zone - Road Reserve R Code: N/A Built Form Area: N/A
<b>Built Form Area:</b>	N/A
<b>Existing Land Use:</b>	Road Reserve
<b>Proposed Use Class:</b>	Alfresco
<b>Lot Area:</b>	N/A
<b>Right of Way (ROW):</b>	N/A
<b>Heritage List:</b>	N/A

#### Site Context

The alfresco structure and alfresco blinds are located in the portion of road reserve adjacent to the Spritz tenancy at No. 148 Scarborough Beach Road (subject site).

The alfresco structure and alfresco blinds are not located within zoned or reserved land under the City's Local Planning Scheme No. 2 (LPS2). The alfresco structure and alfresco blinds are located on City managed unzoned land, which is dedicated for use as a road in accordance with Section 55 of the *Land Administration Act 1997*. This means that the City's Policy No. 7.1.1 – Built Form (Built Form Policy) and the Residential Design Codes do not apply to the structure.

All premises adjacent to the alfresco structure are zoned District Centre under LPS2 and are within the Town Centre Built Form Area under the City's Built Form Policy.

The subject site and surrounding context are within the Mount Hawthorn Town Centre, which consists of a range of commercial, retail, entertainment and residential land uses that operate during the day and at night. The built form is characterised by low rise commercial development built up to street boundary with active ground floor frontages and awnings extending over pedestrian footpaths. Historical buildings are between one and two storeys height, with more recent developments increasing building height to between three and four storeys.

There are a number of existing alfresco areas located within the Mount Hawthorn Town Centre that include parklet structures, seating, umbrellas, alfresco blinds and landscaping.

The following structures are located within the road reserve of Scarborough Beach Road within the Mount Hawthorn Town Centre context:

- No. 141 Scarborough Beach Road – Permanent Outdoor seating adjacent to Paddington Ale House. The alfresco area features affixed eating area furniture including tables, seating umbrellas and low fencing.
- No. 148 Scarborough Beach Road – Permanent outdoor seating adjacent to Bar & Eats and Lucy Luu. This outdoor eating area features six large benches, umbrellas and planter boxes.
- No. 178 Scarborough Beach Road – Parklet adjacent to Leaf & Bean. This parklet includes wood balustrades, bench seating, two fixed tables and planter boxes. The structure is 7 metres in length and 2.5 metres in width, is unroofed, and occupies one car parking bay.
- No. 163 Scarborough Beach Road – Parklet adjacent to Maison Saint Honore Café. This parklet includes wood balustrades, bench seating, two fixed tables, planter boxes and a permeable roof. The structure is 7 metres in length and 2.5 metres in width and occupies one car parking bay.

#### Approval History

##### *Planning Approval*

On 6 November 2018, Administration granted development approval for an application to construct the alfresco structure and alfresco blinds, subject to conditions. The decision was made by Administration under Delegated Authority.

The development approval was issued for a term of 5 years from 6 November 2018 and included approval for both the alfresco structure and a grant of a licence to the operator of Spritz to use the portion of the Scarborough Beach Road reserve. The previous development approval including the approved Development Plans and Determination Notice are provided in **Attachment 4**.

At the time of the planning approval, the City did not have any policies to guide development located in road reservations.

##### *Building Permit*

On 30 January 2019, the City received an application for building permit to construct the alfresco structure and alfresco blinds. The building permit plans included changes to the design of the structure to what was approved under the development application. The changes are summarised as follows:

- Changes to location of structural columns;
- Inclusion of orange Alucobond feature beams to the east, south and western elevations;
- Inclusion of illuminated signage to the southern elevation;
- Fixed bench seating to exterior of east elevation;
- Changes to internal seating layout, including bench seats;
- Changes to the location of planter boxes; and
- Further detailed annotations of the proposed motorised alfresco blinds. Detailed drawings and annotations indicated that there would be only one set of transparent blinds.

The City issued a building permit for the alfresco structure on 25 February 2019 which accepted the above proposed changes. The approved building plans are provided in **Attachment 5**. The City has based its assessment of this application for development approval on the approved building permit plans which have been provided by the applicant and are included as the development plans in **Attachment 2**.

The structure was constructed in late 2019 in accordance with the Building Permit approved plans with exception of a modification made to the alfresco blinds as detailed in the below section.

### *Alfresco blinds*

At the time of the previous development approval, alfresco blinds proposed to be located within licensed outdoor eating areas were exempt from obtaining development approval. This was in accordance with the City's [Policy No. 7.5.1 – Amended Minor Nature Development Policy](#). This policy has since been revoked and replaced with the City's Planning Exemptions Policy, which does not provide any planning exemptions for alfresco blinds.

The alfresco blinds were supported through the previous development approval as they were visually transparent and would be rolled up at the close of business each day.

The previous development approval issued conditions of approval for the installation of clear plastic alfresco blinds to the eastern, southern and western elevations of the alfresco structure. The following conditions of approval were applied to the previous planning approval regarding the alfresco blinds:

4. *The alfresco blinds shall remain visually permeable in appearance at all times to the satisfaction of the City.*
5. *The alfresco blinds shall be rolled up at the close of business each day.*

The building permit plans approved the installation of Ziptrak alfresco blinds to these elevations. This was shown as "typical café blinds" on the plans, noting there was only one set of blinds shown.

The applicant subsequently constructed the alfresco blinds using a dual blind system which included both clear plastic blinds as well as the woven mesh blinds in a black colour. The dual system was not shown on the planning approval or building permit and are therefore unauthorised.

With regard to the planning approval plans and abovementioned conditions of planning approval, the black woven mesh blinds are the unauthorised portion of the proposal.

The below figures show the as-constructed alfresco structure, including the appearance of both the clear and woven mesh alfresco blinds. Additional images of the structures are included in **Attachment 3**.



**Figure 1 – Alfresco Structure from the south & with a section of clear blinds in use**



**Figure 2 – Alfresco Structure as viewed from the west with a section of the woven mesh blinds in use**



**Figure 3 – Internal view facing west, showing clear plastic blinds and woven mesh blinds in use**

#### *Licence*

At the Ordinary Council Meeting held on [12 December 2023](#), Council approved the grant of a licence to Spritz. The term of approval approved was for five years, which expires 6 November 2028.

The purpose of the licence is to permit Spritz to use 48 square metres of the Scarborough Beach Road Reserve verge area for the use of outdoor dining, which is City managed land. The term of approval is for five years.

The license sets out conditions of the use of the land including fees, insurance, indemnity, maintenance and access. The licence only relates to the permitted use of the land. It does not set out what structures can be located within the area.

Development of structures within the licence area are instead managed through the development approval process. The purpose of development approval is to consider and assess the appropriateness of any proposed structures located within the licence area, having regard to the built form, amenity impact and community input.

The 2018 development approval for the alfresco structure included conditions which licenced the use of the City's managed land to Spritz. The conditions were transferred to the terms of approval for the License.

Administration has proposed to delete previous conditions Nos. 8, 9, 10, 11, 12, 13 and 14 of the previous planning approval. These conditions relate to the licence agreement which has already been addressed in a separate process. Deletion of these conditions would ensure that this current development approval relates only to the alfresco structure and alfresco blinds.

## DETAILS:

### Summary Assessment

In considering an application for development approval located within the Scarborough Beach Road reservation, due regard must be given to relevant matters as stipulated under Clause 67 – Matters to be Considered by Local Government of the Deemed Provisions.

The table below summarises the planning assessment of the proposal against Clause 67(2) and the provisions of LPS2.

There are no State planning policies in operation which relate to the structures located on road reserves.

The City's [Vibrant Public Places Policy](#) adopted by Council in 21 June 2022 applies to the proposed development as the policy manages development on City owned and managed land, including in road reserves.

The policy is not a local planning policy because it was adopted under the *Local Government Act 1995*. Administration has given it due regard to the VPSP in accordance with Clause 67 (zb) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Deemed Provisions), which requires consideration be given to planning matters which the local government considers appropriate. This is because VPSP relates to structures located on City owned or managed land,

Consideration against the above planning framework has been undertaken below:

Clause 67 – Matters to be Considered	
Matter	Administration Comment
(a) The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area.	<p>The application would be consistent with the aims of LPS2 which include:</p> <ul style="list-style-type: none"> <li>To promote the development of a sense of local community; and</li> <li>To achieve high quality urban design outcomes for public areas.</li> </ul> <p>This is because the alfresco structure contributes to the streetscape, sense of place and built form within the Mount Hawthorn Town Centre area as considered further in the Comments section below.</p>
(b) The requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving.	<p>The suitability of the development has been assessed having regard to the relevant scheme requirements, the relevant planning framework, and the impact of the development on the area, consistent with the principles of orderly and proper planning.</p> <p>There are no draft planning instruments relevant to this application.</p>

<b>Clause 67 – Matters to be Considered</b>	
<b>Matter</b>	<b>Administration Comment</b>
(g) Any local planning policy for the Scheme area.	An assessment against the City's relevant local planning policies is discussed further in Administration's comments below.
(k) the built heritage conservation of any place that is of cultural significance.	The alfresco structure does not obscure or restrict views to the prominent architectural features of the adjacent heritage listed place to the south-east at No. 141 Scarborough Beach Road.
(m) The compatibility of the development with its setting including – (i) The compatibility of the development with the desired future character of its setting. (ii) The relationship of the development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.	The alfresco structure was constructed in late 2019 and has since formed part of the built form that establishes the area's local character.  The alfresco structure does not have an adverse visual impact on the adjoining lots because of its scale, design, and visual permeability.  This is considered further in the Comments section below.
(n) The amenity of the locality including the following – (i) environmental impacts of the development; (ii) the character of the locality; (iii) social impacts of the development.	As the alfresco structure has already been constructed, approval of this development application would not pose any new environmental impact to the locality.  Since construction in late 2019, the alfresco structure has contributed to the character of the locality and streetscape.  The alfresco structure has a positive social impact on the locality because it activates the road reserve, attracts people to the locality and assists in providing street surveillance to Scarborough Beach Road.  This is considered further in the Comments section below.
(p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved.	The alfresco structure includes provision for planter boxes as shown in <b>Attachment 2</b> . Landscaping within these planter boxes is mature and healthy. The application does not propose removal of street trees or any other vegetation.
(s) the adequacy of – (i) the proposed means of access to and egress from the site; and (ii) arrangements for the loading, unloading, manoeuvring, and parking of vehicles.	The application does not propose any change to the existing site access arrangements.  The application would not result in any additional traffic being generated at the subject site, as it relates to the structure only and not the use of the area for seating associated with Spritz.  This is considered further in the Comments section below.
(u) the availability and adequacy for the development of the following – (i) public transport services; (ii) public utility services; (iii) storage, management and collection of waste; (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities); (v) access by older people and people with disability.	The application would not impact availability and adequacy of public transport, utility and waste services.  As the structure has been in place since late 2019, the application would not introduce any new mobility or access impedances to the road reserve.  The structure is located so as to meet the minimum width of pavement required to be clear of development for a public path at 1.5 metres.  This is considered further in the Comments section below.



Clause 67 – Matters to be Considered	
Matter	Administration Comment
(w) The history of a site where the development is to be located.	Consistency in decision-making is an important planning principle in considering requests for extensions to time limited approvals. This includes whether or not the proposed development is substantially the same as that previously considered, and whether there has been any significant change in the planning framework for the area.  This is considered further in the Comments section below.
(y) Any submissions received on the application.	143 submissions were received on the application, following the conclusion of the community consultation period. This included 137 submissions in support, 5 in objection and 1 neither supporting nor objecting but raising concerns.  A summary of the submissions received including Administration's response to each comment is included as <b>Attachment 7</b> .  All comments provided in the submissions have been considered as part of Administration's assessment of this application, as discussed in the Comments section.
(zb) any other planning consideration the local government considered appropriate.	The proposal has been assessed against the Vibrant Public Spaces policy because it is located on City owned or managed land. This is considered further in the Comments section below.
(zc) any advice of the Design Advisory Committee.	The proposal was not referred to the Design Review Panel as part of the initial 2018 development application, but was undertaken as part of this proposal, discussed below.

#### Local Planning Policy: Signs and Advertising

The signage on the structure was approved as part of the 2019 Building Permit. Administration has conducted a reassessment of the signage against the [Local Planning Policy: Signs and Advertising](#). The signage meets all relevant deemed-to-comply standards and objectives of the policy.

#### Vibrant Public Spaces Policy

At the Ordinary Council Meeting on [21 June 2022](#), Council approved the adoption of [the Vibrant Public Spaces Policy](#) (VPSP). The purpose of the VPSP is to provide guidance on the permissibility, requirements and management responsibility for structures located on City owned and managed land.

Due regard for the VPSP is required accordance with Clause 67(zb) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Deemed Provisions). Clause 67(zb) requires consideration be given to planning matters which the local government considers appropriate.

In considering the proposal against the VPSP, the alfresco structure meets the definition of *eatlet*, which means:

*an outdoor eating area during business operating hours and small public park out of business operating hours. Eatlets are reserved for customers of particular businesses during business operating hours and are available for anyone to use out of business operating hours. An eatlet repurposes part of the street into a dual purpose outdoor eating area and small public park through the provision of seating, shade and greenery.*

To obtain approval under the VPSP, an Eatlet must meet the specified design requirements. Based on the date of adoption of the policy, the existing alfresco structure was not designed in accordance with the design requirements provided within the VPSP. The structure does not meet the following Eatlet design requirements:

- Alfresco blinds are not permitted. The structure includes clear and woven mesh blinds.
- A minimum of 15% of the total parklet area shall consist of planting area. The structure currently provides 7.5% of the total area for planting.
- Business logos, advertising and branding signs are prohibited. The structure includes existing south-facing signage with the name of the business.
- Eatlets shall be offset from other structures a minimum of 750mm at each end to allow for a 1500mm pedestrian thoroughfare to access the road.

As the structure does not meet the Design Requirements for an Eatlet or any other type of vibrant space under the VPSP, it is required to be assessed as an "Other Proposal", which requires Development Approval.

The acceptability of 'Other Proposals' is determined through an assessment against the [policy objectives](#) and [design objectives](#). Proposals which demonstrate that they achieve policy objectives and design objectives shall be progressed through the development approval process.

An assessment of the proposal against the VPSP has been undertaken in the Officer Comments section of the report.

#### CONSULTATION/ADVERTISING:

Community consultation was undertaken in accordance with the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#) and the City's [Community and Stakeholder Engagement Policy](#) for a period of 28 days, from 12 February 2024 to 11 March 2024.

The method of consultation included a notice on the City's website, a notice in *The Perth Voice* newspaper, a sign erected on site and 506 letters mailed to owners and occupiers of properties within a 200-metre radius of the subject site as shown in **Attachment 1**, in accordance with the City's Community and Stakeholder Engagement Policy.

At the conclusion of consultation period the City received 143 submissions, which included:

- 137 submissions in support;
- 5 submissions in objection; and
- 1 submission that was neither in support nor objection but raised concerns.

The key comments received in support are summarised as follows:

- The structure positively contributes to the local character and streetscape of the Mount Hawthorn town centre.
- The structure has formed a strong communal hub for local families and patrons of the business;
- The structure adds vibrancy, activation, amenity, and liveliness to the locality; and
- The restaurant attracts people to the area.

The key concerns raised are summarised as follows:

- Usage of the alfresco structure by patrons and staff impacts mobility of pedestrians due to the narrowness of the footpath between the alfresco structure and shop front.
- The alfresco structure is out of character with the outdoor parklets approved elsewhere within the City of Vincent.
- The structure is in line with the kerb and could obstruct the view between pedestrians and oncoming traffic.

A summary of submissions received during the consultation period along with responses from Administration is provided in **Attachment 6**. The Applicant has also provided a response to submissions which is included as **Attachment 7**.

**Design Review Panel (DRP):**

Referred to DRP: Yes

The original planning application approved in 2018 was not referred to the DRP for comment. As detailed earlier, the built form outcome is not proposed to change since the previous approvals, except for the woven mesh blinds.

To ensure due process is followed, and because the structure located in a prominent location within the public realm, the proposal was referred to the City's DRP Chairperson for comment. The referral related to the development plans as shown in **Attachment 2**.

The DRP Member provided the following comments in respect to the positive aspects of the proposal:

- The alfresco structure includes planters with soft planting which contributes to the streetscape.
- The alfresco structure provides functional space to the adjoining business.

The DRP Member provided the following comments in respect to the aspects of the proposal that are not supported:

- The visual bulk of the structure is dominant within the streetscape and lacks a sense of openness.
- The design language, form, materiality and colours don't appear to draw from, reference, interpret or sit within the local area's unique character and context comfortably.
- The structure impacts negatively on the adjoining building's streetscape interface as well as interactivity by enclosing a public footpath blocking the visibility and legibility of adjoining shopfront.
- The signage is out of context and is prominent.
- The alfresco blinds generate an inactive streetscape when closed and reduces passive surveillance.
- The structure restricts pedestrian movement on a public footpath to a very narrow and enclosed zone.

A summary of the outstanding DRP Chairperson comments and Administration's response to these are included in **Attachment 8** and is discussed in the Comments section of this report.

**LEGAL/POLICY:**

- *Planning and Development Act 2005;*
- *Land Administration Act 1997;*
- *Planning and Development (Local Planning Schemes) Regulations 2015;*
- City of Vincent Local Planning Scheme No. 2;
- Community and Stakeholder Engagement Policy; and
- Vibrant Public Spaces Policy.

**RISK MANAGEMENT IMPLICATIONS:**

There are minimal risks to Council and the City's business function when Council exercises its discretionary power to determine a planning application.

A precedence for the built form of alfresco structures on City owned and managed land would not be set by determining the application in accordance with the officer recommendation which is to approve. This is because of the unique circumstance of the proposal, whereby it has received historical development approval and existed prior to the endorsement of the VPSP.

All new development proposals for structures on City owned or managed land would be assessed against are to be designed in accordance with the development objectives of the VPSP and would be considered based on the individual circumstances of the application. The specific circumstances of this application would not apply.

**STRATEGIC IMPLICATIONS:**

This is in keeping with the City's Strategic Community Plan 2022-2032:

Thriving Places

*Out town centres and gathering spaces are safe, easy to use and attractive places where pedestrians have priority.*

Sensitive Design

*Our built form is attractive and diverse, in line with our growing and changing community.*

Innovative and Accountable

*Our decision-making process is consistent and transparent, and decisions are aligned to our strategic direction.*

**SUSTAINABILITY IMPLICATIONS:**

There are no sustainability implications for this proposal. This is because the structure is already constructed and operational.

**PUBLIC HEALTH IMPLICATIONS:**

This report does not have any implications on the priority health outcomes of the City's *Public Health Plan 2020-2025*.

**FINANCIAL/BUDGET IMPLICATIONS:**

There are no finance or budget implications from this report.

**COMMENTS:**Summary Assessment

In assessing this application against the planning framework, it is recommended for approval. The following key comments are of relevance:

- The alfresco structure has been in place and operated as an alfresco dining area for Spritz for five years.
- The alfresco structure would continue to contribute to the diversity and activation of the existing Scarborough Beach Road streetscape by adding visual interest through its unique contemporary design.
- The alfresco structure is highly utilised by the community and as a result contributes to the local identity and sense of place within the Mount Hawthorn town centre.
- The alfresco structure provides public surveillance through its visually permeable and unenclosed design.
- Since the commenced operation of the alfresco, the applicant has demonstrated that the alfresco blinds can be managed appropriately to ensure visual permeability and engagement with the streetscape.

Administration Comments

In determining the application, the City is required to consider the extent that the proposal satisfies the relevant matters to be considered under Clause 67(2) of the LPS Regulations and the objectives of the VPSP.

*Planning and Development (Local Planning Schemes) Regulations 2015*

Assessment of the proposed permanent alfresco structure located in the road reserve against relevant matters of Clause 67(2) of the Deemed Provisions is provided below:

- **Surveillance and Activation:** The unenclosed design of the structure maintains surveillance between the alfresco dining area and the street. Solid planter structures are provided to a maximum height of 0.7 metre height with all other sections of the elevations being visually permeable in design, due to clear glass balustrades. This unenclosed design does not obstruct pedestrian views between the alfresco and the street or adjacent shopfronts, while also reducing impacts of building bulk. Overall, the alfresco increases activation to Scarborough Beach Road and the design of the structure does not negatively restrict this.
- **Contribution to High-Amenity:** The alfresco structure contributes to the amenity of the Mount Hawthorn Town Centre because it provides an outdoor area for community members to gather, dine and socialise. The design of the structure, which includes a motorised louvred roof, allows the alfresco space to be used at all times of the year, providing vibrancy and activation to the road reserve. The structure's contribution to the vibrancy of the locality was noted as a common theme in community submissions received by the City.
- **Streetscape Contribution:** For almost five years, the structure has been contributing to Mount Hawthorn Town Centre's sense of place through its facilitation of alfresco dining for local residents. The increased area for outdoor dining throughout the year brings increased people to the street and increases activation. The structure would be publicly accessible when the restaurant is not in operation, which forms a recommended condition of approval.
- **Landscape Contribution:** The proposal has successfully integrated landscaping to the design, through the retention of adjacent verge trees and the provision of landscaping on each elevation of the structure. Planter boxes provided to the external elevations soften the built form when viewed from the street and surrounding context. Since its construction, landscaping has matured and has been maintained to a high standard, enhancing the green outcome to Scarborough Beach Road. A new condition of development approval is recommended requiring ongoing care of the landscaping to ensure this outcome is maintained.
- **Pedestrian Movement and Access:** The City received submissions during the community consultation period that raised concerns regarding pedestrian mobility of the thoroughfare between the alfresco structure and shopfront. The submissions cited that due to the space being occupied by patrons and staff of Spritz, footpath mobility was hindered. The structure has been constructed in accordance with the previous approval, which required a 1.5 metre wide pedestrian access way was to be provided at all times. The VPSP prescribes a minimum public thoroughfare of 2 metres for Eatlets, which can be reduced to 1.5 metres where the space meets relevant Design Objectives. The City's Engineering Services team support the 1.5 metre width in the context of the Alfresco Structure existing for five years in situ and confirmed it was a suitable width to remain suitably accessible. Administration has recommended conditions of approval requiring this area to be free of obstructions and to allow unimpeded pedestrian movement, at all times.
- **DRP Comments:** The DRP comments received in respect to the proposal on the 10 principles of good design. This has been considered and balanced with other relevant considerations. This includes that the structure has been previously approved and has existed for approximately five years, becoming part of the fabric of the town centre. In this instance, greater weight has been attributed to the unique site history, the increased amenity the structure has provided to town centre; and consistency with the VPSP objectives.

*Consistency in Decision Making*

Clause 67(w) of the LPS Regulations requires Council to have due regard to the history of the subject site.

Consistency in decision-making is an important planning principle in considering requests for extensions to time limited approvals. This includes whether the proposed development is substantially the same as that previously considered, and whether there has been any significant change in the planning framework for the area. In relation to this:

- The built form of the alfresco structure remains unchanged since the previous approvals, except for the unauthorised woven mesh alfresco blinds. The overall built form outcome is substantially the same, except for the woven mesh alfresco blinds, which is discussed in the VPSP below.

- A change to the framework has occurred since the last approval in June 2022. This includes the introduction of the VPSP, which is a due regard matter in accordance with Clause 67 of the Deemed Provisions. The VPSP provides design requirements for structures in road reserves, which this proposal is required to be assessed against. As detailed in the below assessment, the proposal is supported having regard to the relevant policy objectives and design objectives.

### Vibrant Public Spaces Policy

Assessment of the proposed alfresco structure located in the road reserve against the [policy objectives](#) and 'Other Proposal' [design objectives](#) is provided below:

- **Enhancement to Local Area:** As detailed above, the existing alfresco structure has existed as for five years, contributing to the current character of the Mount Hawthorn Town Centre and sense of place. This is evidenced in the submissions received through community consultation.
- **Landscaped Outcome:** The provision of planter boxes to external elevations have effectively contributed to greening of the Mount Hawthorn Town Centre. The landscaping has matured over time as is in a good condition. The overall landscape outcome positively contributes to the streetscape and assists in softening the built form outcome.
- **Form & Scale:** The overall size of the alfresco structure, including height and solid portions of walls, are consistent with the Design Requirements prescribed for Eatlets under the VPSP. The structure has a 3.2 metre height and has solid walls are provided to a maximum height of 0.7 metres, which are the external planter boxes. All other sections of the elevations are visually permeable in design through the provision of clear balustrading and permeable alfresco blinds. These design features reduce impacts of building bulk to the streetscape.
- **Height in Context:** The height of the structure is appropriate within the streetscape given it sits below the awning and in considering the context of the adjacent building at No. 148–158 Scarborough Beach Road, which is two storeys high. The height of the structure is also sympathetic to the future development context of the area where the City's Built Form Policy allows for a building height of up to 5 storeys along Scarborough Beach Road in the Town Centre built form area.
- **Community Needs:** The structure is accessible to all members of the community, and open to the public when Spritz is closed. This requirement is recommended as a condition of development approval.
- **Safety & Legibility:** The visual permeability of the structure ensures that lines of sight between the footpath and road are maintained. As detailed above, the structure provides a 1.5 metre pedestrian thoroughfare which ensure that people can use and move around the structure safely. The structure's visible location within the road reserve provides for a clearly identifiable structure to assist in wayfinding.
- **Amenity:** The structure provides an outdoor dining area for community members to use throughout the year, which contributes to the amenity, vibrancy and activation of the Mount Hawthorn Town Centre. The structure has provided an attractive and inviting place for residents and visitors of the area over the past five years and delivers a public space which facilitates social interaction.
- **Signage:** The signage to the southern elevation of the structure meets all deemed-to-comply standards of the [Local Planning Policy: Signs and Advertising](#) and would satisfy the objectives of the signage policy.

### *Alfresco Blinds*

The proposal seeks to retain the existing dual system alfresco blinds, including the clear alfresco blinds and the woven fabric alfresco blinds. The Applicant has provided supporting information regarding the usage of the blinds, including images from different angles and times of day, included as **Attachment 3**. Key points of the response are provided as follows:

- The clear plastic blinds provide weather protection whereas the woven mesh blinds provide sun protection.
- The woven mesh blinds remain retracted for most of the day and throughout the year.
- Spritz does not operate all the woven mesh blinds to each façade simultaneously. It is typical for only one woven mesh blind to be down at a given time, at the request of a customer.
- The woven mesh blinds are predominately operated during the heat of the summer. The woven mesh blinds are not required to be used during the cooler winter months.

The VPSP Design Requirements relevant to Eatlet proposals, advise that Eatlets should feel open and welcoming, and should not have the visual or apparent effect of enclosing a public space. The Design Requirements also advise that Alfresco blinds are not permitted.

The design objectives of 'Eatlets' and 'Other Proposals' do not provide guidance specific regarding alfresco blinds and when they are considered acceptable. The Alfresco blinds would not prohibit the alfresco structure meeting the overall [policy objectives](#) and 'Other Proposal' [design objectives](#) for the following reasons:

- **Existing Use:** Both the clear plastic and woven mesh alfresco blinds are on a motorised system, allowing them to be opened and closed as needed, depending on weather conditions. A desktop analysis of the use of the blinds over the last five years has demonstrated that their usage is dependent on weather. Since its construction, the City has not received any complaints regarding the alfresco blinds being down for excessive periods of time, nor were any comments received during the community consultation period regarding the blinds.
- **Orientation:** The site is oriented towards the west. This means that the sun extends into the alfresco area in the afternoons and evenings, during the Restaurant/Cafes peak operation. The woven mesh blinds provide the operator an ability to keep the alfresco in use during this period of the day, and particularly throughout the summer where it would otherwise allow for limited use.
- **Visually Permeable Design:** When closed, the blinds remain visually permeable, maintaining interaction with adjoining businesses and the streetscape as well as provided passive surveillance. The supporting information provided by the applicant shows that both alfresco blinds allow sufficient light transmission between the street and the alfresco dining area. This information demonstrates that patrons within the structure can see out to the streetscape, and external pedestrians can see into the structure. On this basis, Administration are satisfied that the woven mesh blinds are visually permeable in design when down.
- **High Quality Materials:** As shown in the applicants supporting photos, the blinds are of a high quality and durable materiality, and they have been maintained well since their construction. Recommended conditions of development approval require the blinds to be maintained to be visually permeable.

Administration acknowledges the VPSP position is to restrict alfresco blinds on alfresco structures. The structure and alfresco blinds have however been previously approved and have existed for five years. Since the commenced operation of the alfresco, the applicant has demonstrated that the alfresco blinds can be managed appropriately to ensure visual permeability and engagement with the streetscape.

Administration has recommended updated conditions of approval relating to the alfresco blinds. These conditions clarify that the blinds must be designed to be always visually permeable, to be maintained to a high-quality, that they shall only be used during inclement weather, and shall remain in an open position outside of operating hours.

#### Administration Recommendation

The Design Review comments received for this application are acknowledged but on balance, the alfresco structure and alfresco blinds are appropriate in this instance. This is based on having regard to the site history, including previous approvals and the existence of the structure for the last five years; the increased amenity the structure has provided to the town centre; consistency with the VPSP objectives; and the proven management of alfresco blinds. These considerations have been afforded greater weight in Administration's consideration of the proposal.

The subject alfresco structure and alfresco blinds are unique on the basis that they were approved and constructed prior to the adoption of the VPSP, and prior to going through Design Review.

Due to the site history and the unique considerations of this proposal, approval of this application would not set precedence for future developments. Proposals for similar structures would each be considered on their own merits against the VPSP and relevant planning framework.

**CITY OF VINCENT  
LOCAL PLANNING SCHEME NO. 2  
SCHEME MAP 1 - LEEDERVILLE**

**LEGEND**

**METROPOLITAN REGION SCHEME RESERVES**

*Note: The Western Australian Planning Commission acts on the Department of Planning should be consulted for full information on the actual land requirements for all Metropolitan Region Scheme Reserves.*

- PARKS AND RECREATION**
- R Restricted Public Access
- PRIMARY REGIONAL ROADS RESERVATION**
- OTHER REGIONAL ROADS RESERVATION**
- RAILWAYS**
- PUBLIC PURPOSES**  
Particular use denoted as follows:
- H Hospital
- HS High School
- TS Technical School
- CP Car Park
- U University
- CG Commonwealth Government
- SU Special Use
- WSD Water Authority of Western Australia
- P Prison

**CITY OF VINCENT LOCAL SCHEME RESERVES**

- PUBLIC OPEN SPACE**
- R Restricted
- PUBLIC PURPOSES**  
Particular use denoted as follows:
- PS Primary School
- CP Car Park
- CU Civic Uses
- HS High School
- I Institute for the Deaf
- W Water Supply Sewerage and Drainage
- TS Technical School

**CITY OF VINCENT SCHEME ZONES**

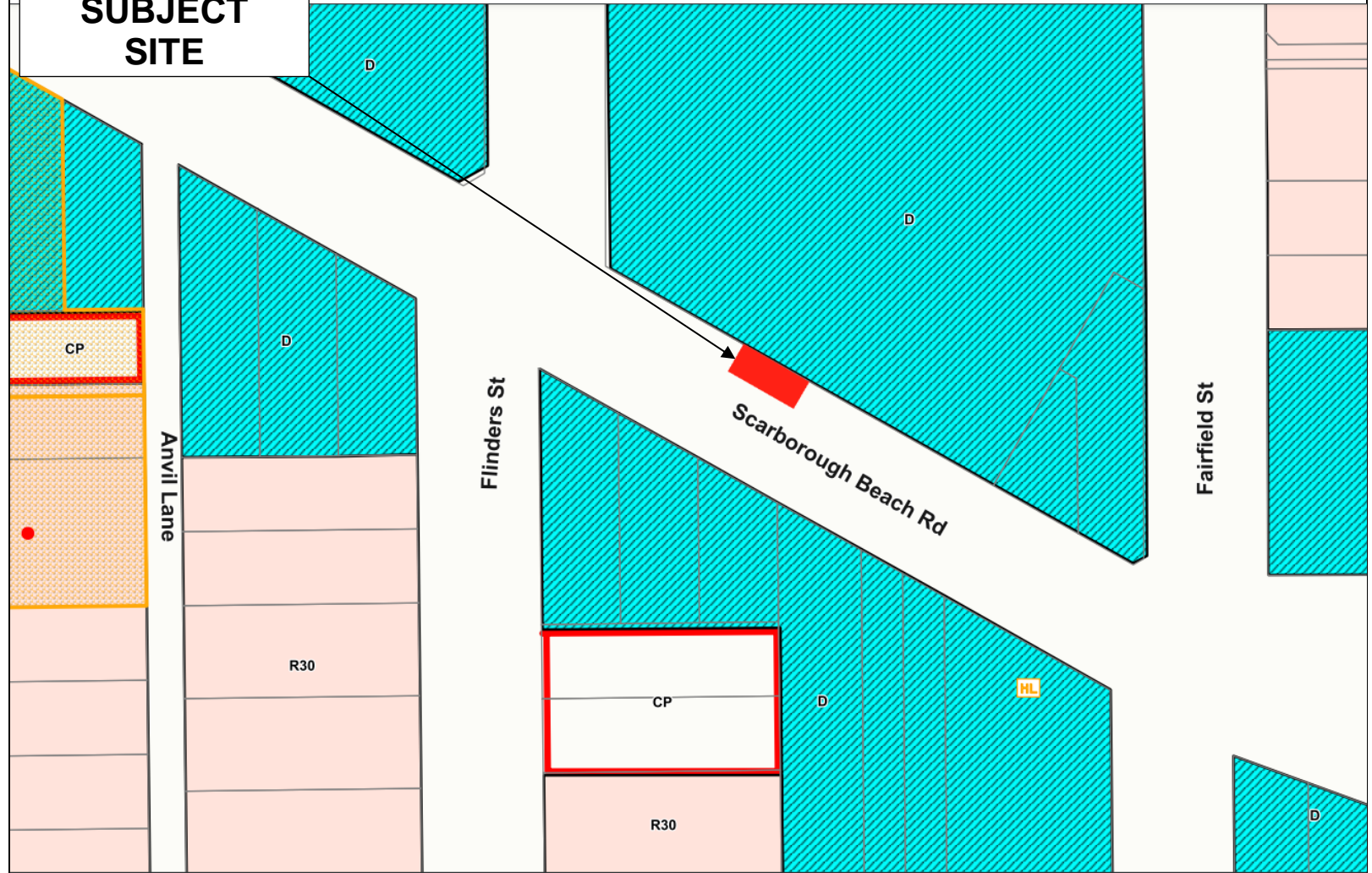
- RESIDENTIAL**
- MIXED USE**
- COMMERCIAL**
- LOCAL CENTRE**
- DISTRICT CENTRE**
- REGIONAL CENTRE**
- SPECIAL USE**  
Particular use denoted as follows:
- CP Car Park
- CU Community Use
- FC Function Centre
- HC Hall and Non Residential Club
- H Hotel
- PW Place of Worship
- S Service Station

**ADDITIONAL USE**

**ADDITIONAL INFORMATION & RESIDENTIAL PLANNING CODES**

- CODE AREA BOUNDARY**
- SCHEME AREA BOUNDARY**
- DENSITY CODE**

**SUBJECT SITE**



**CITY OF VINCENT**

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**Location Map**

Nos. 148 – 158 Scarborough Beach Road,  
Mount Hawthorn





**CITY OF VINCENT  
LOCAL PLANNING SCHEME NO. 2  
SCHEME MAP 1 - LEEDERVILLE**

**LEGEND**

**METROPOLITAN REGION SCHEME RESERVES**

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- CP Car Park
- U University
- CG Commonwealth Government
- SU Special Use
- WSD Water Authority of Western Australia
- P Prison

**CITY OF VINCENT LOCAL SCHEME RESERVES**

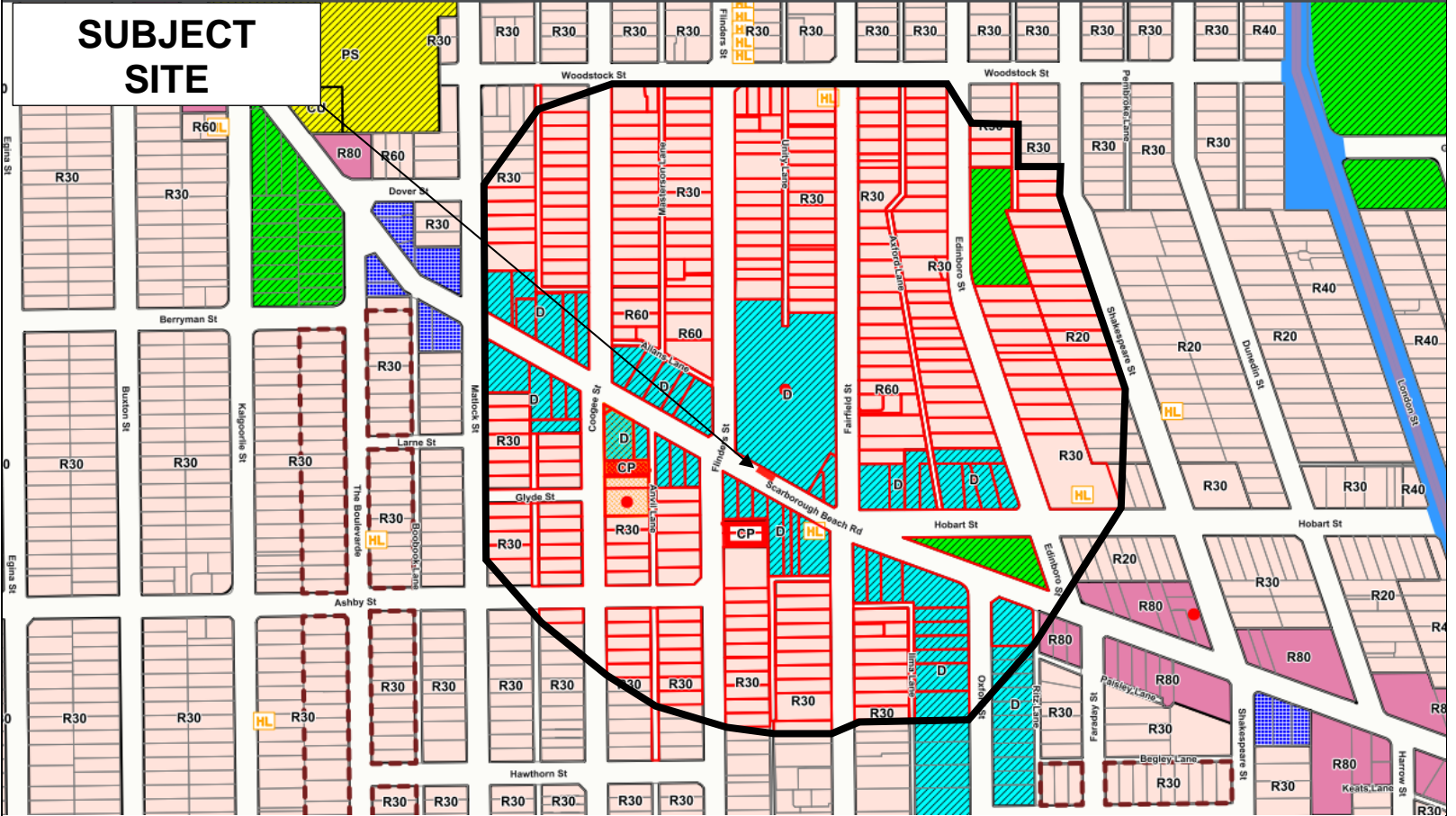
- PUBLIC OPEN SPACE
- R Restricted
- PUBLIC PURPOSES  
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- PS Primary School
- CP Car Park
- CU Civic Uses
- HS High School
- I Institute for the Deaf
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**CITY OF VINCENT SCHEME ZONES**

- RESIDENTIAL
- MIXED USE
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- LOCAL CENTRE
- DISTRICT CENTRE
- REGIONAL CENTRE
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- H Hotel
- PW Place of Worship
- S Service Station

**ADDITIONAL INFORMATION & RESIDENTIAL PLANNING CODES**

- CODE AREA BOUNDARY
- SCHEME AREA BOUNDARY
- DENSITY CODE

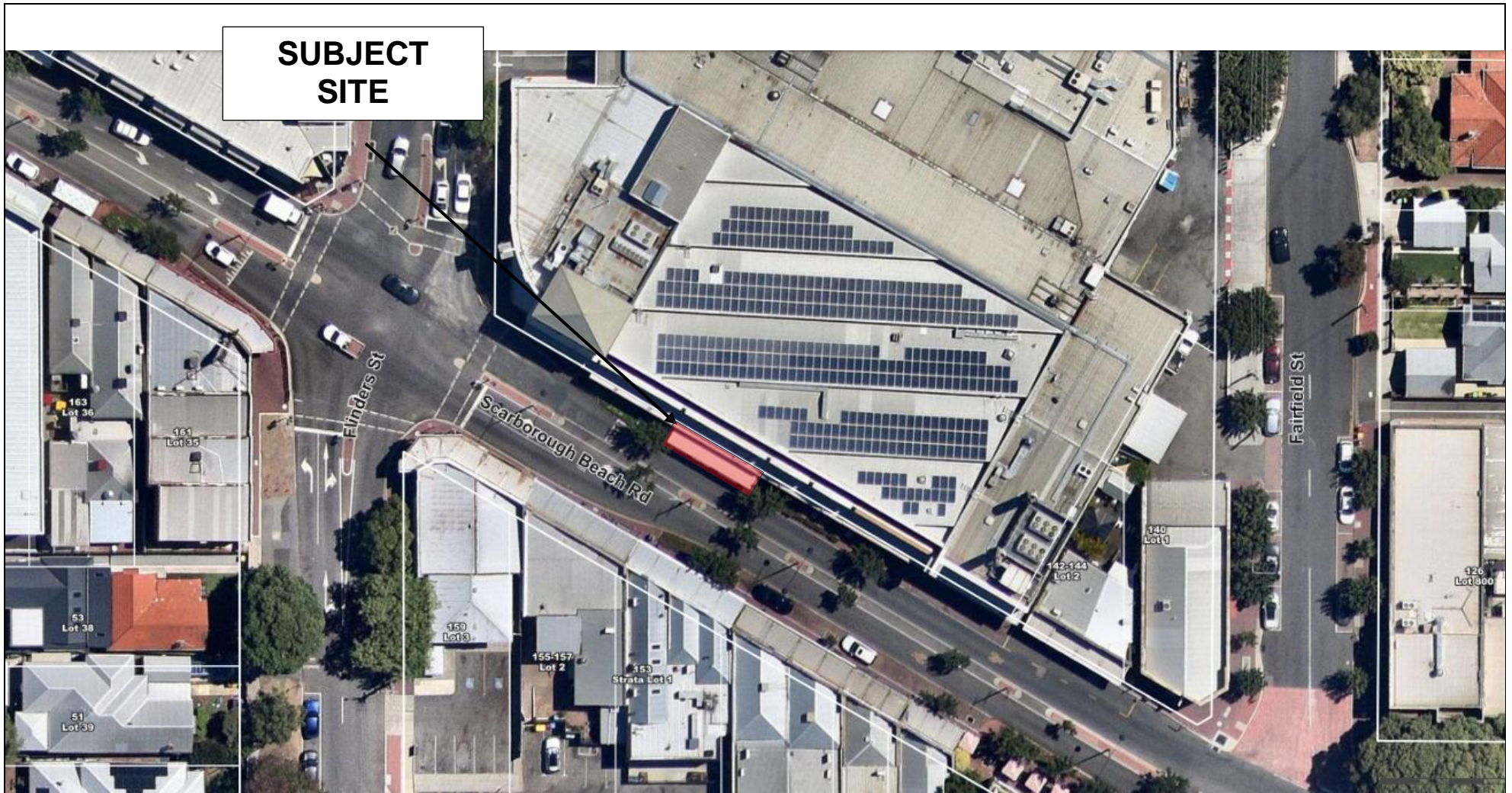


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**Location and Consultation Map**  
Nos. 148 – 158 Scarborough Beach Road,  
Mount Hawthorn

Extent of Consultation



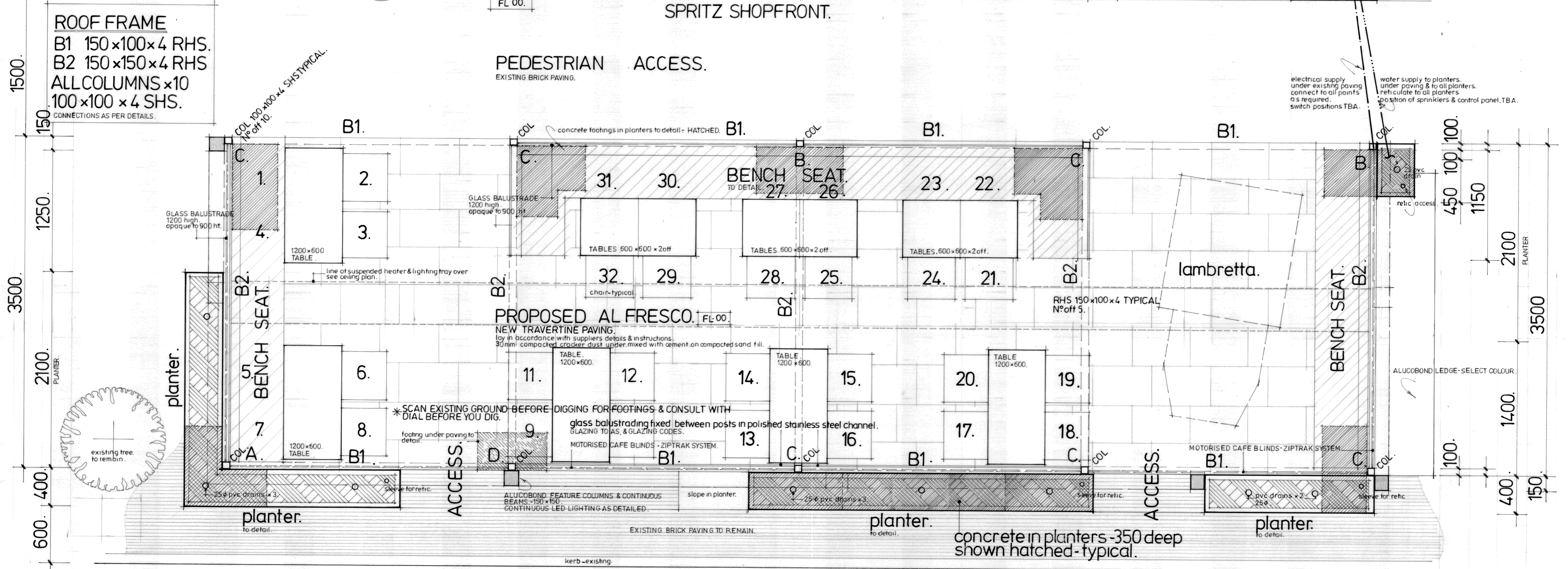
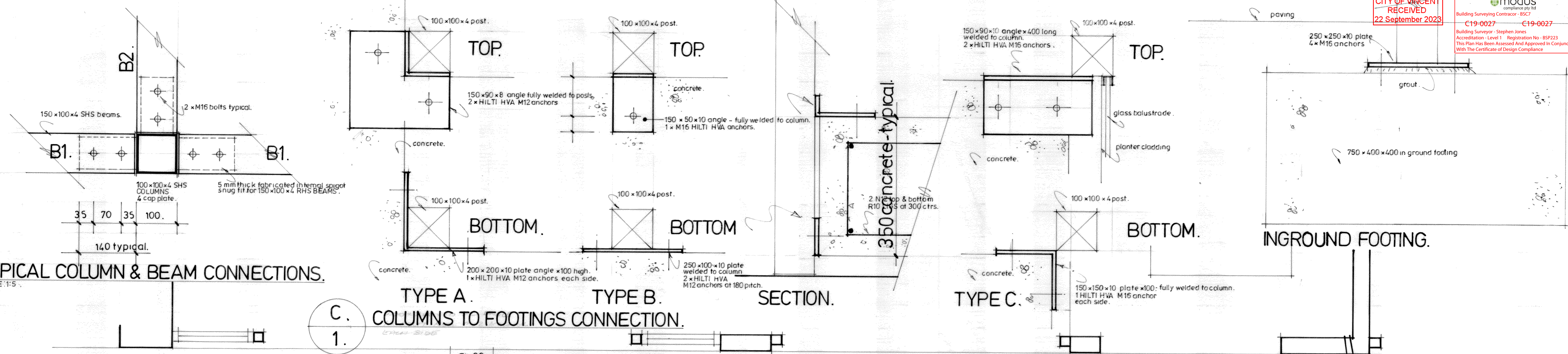


CITY OF VINCENT

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No. 148 – 158 Scarborough Beach Road, Mount Hawthorn





550	2320.	550	4950	550	2320.	550	1760	150	400	600.
BENCH.		BENCH.	BENCH SEAT.	BENCH.		BENCH.	PLANTER.	ACCESS.	PLANTER.	
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SCARBROUGH BEACH ROAD.

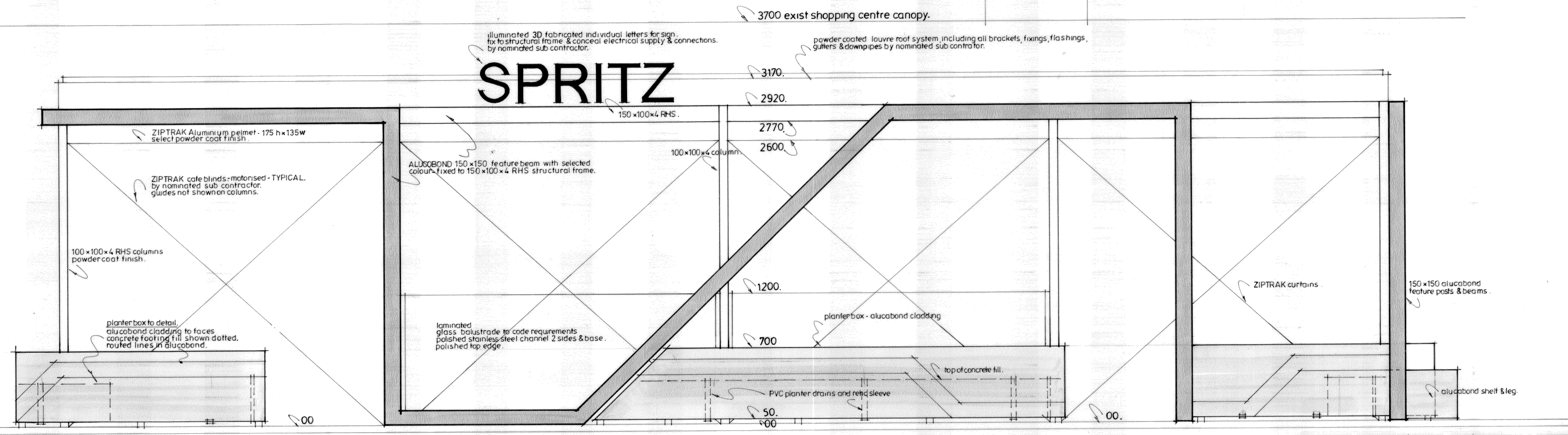
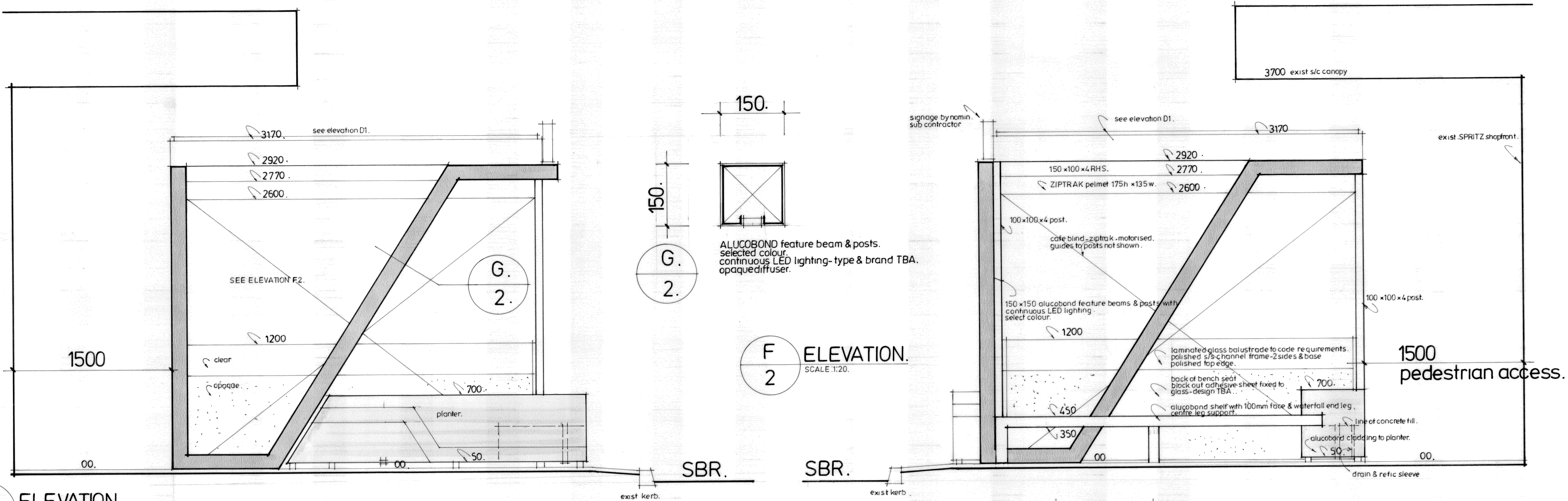
ALL STRUCTURAL STEELWORK TO BE FULLY HOT DIPPED GALVANISED - SELECT POWDER COAT FINISH.  
THIS ENTIRE STRUCTURE HAS BEEN DESIGNED TO MAKE IT EASILY REMOVABLE. - the use of silicone is prohibited unless absolutely necessary and approved.

MCARTNEY & ASSOCIATES PTY LTD.  
Reg. Builders: 100779  
m: 0419 864 117  
e: mcartney@inet.net.au  
16 Angelico St, Woodlands 6018  
mcartneyandassociates.net

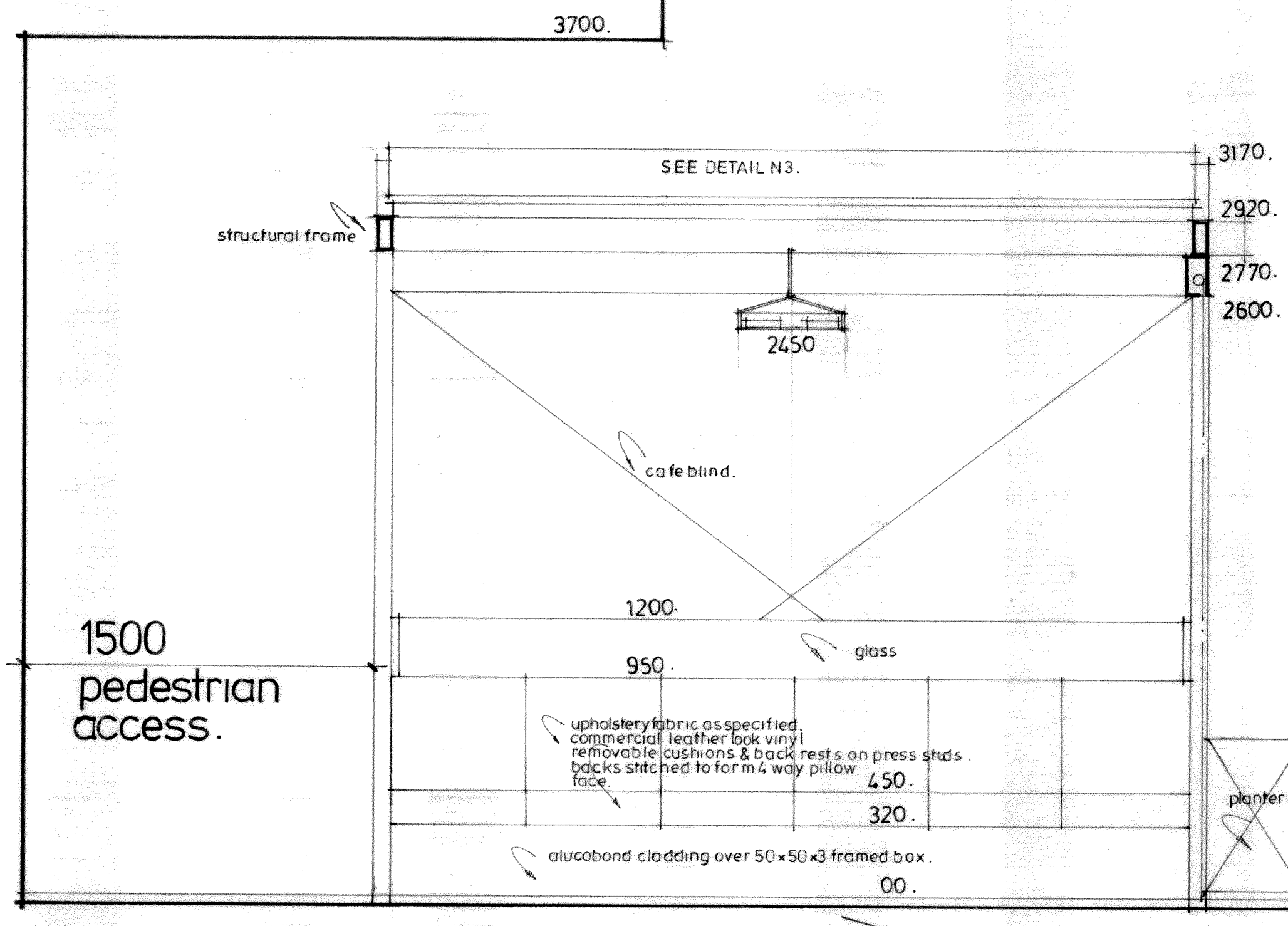
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Check all dimensions on site prior to commencement

PROJECT: SPRITZ  
148 SCARBROUGH BEACH ROAD, MT HAWTHORN.

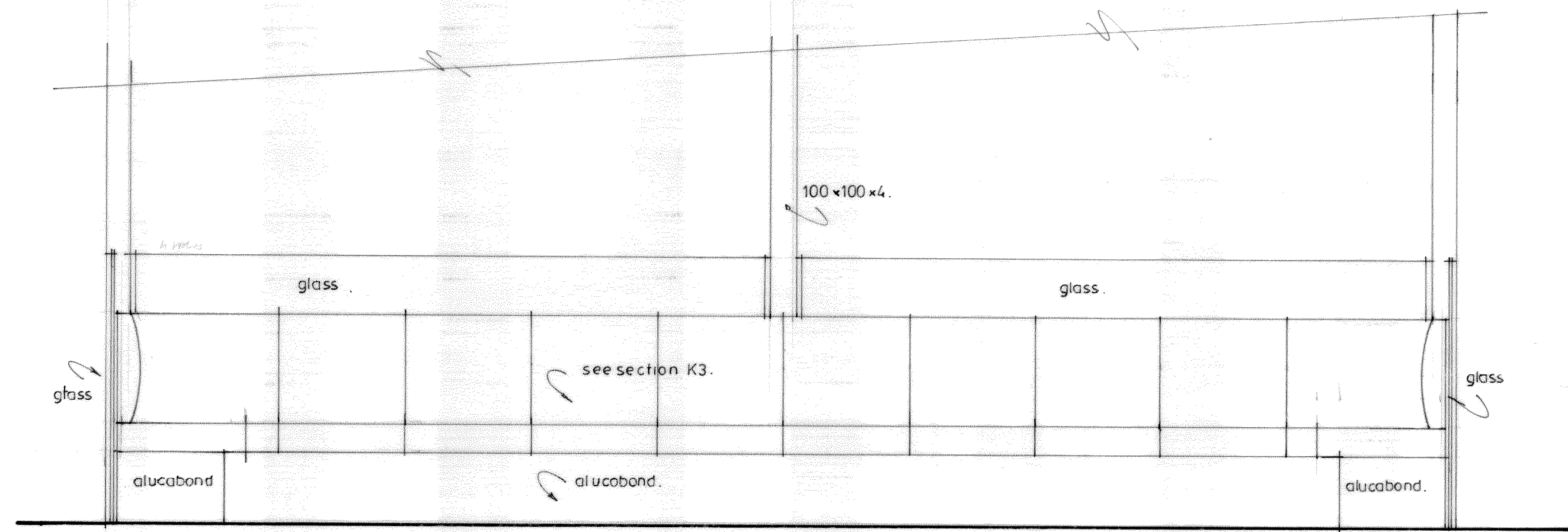
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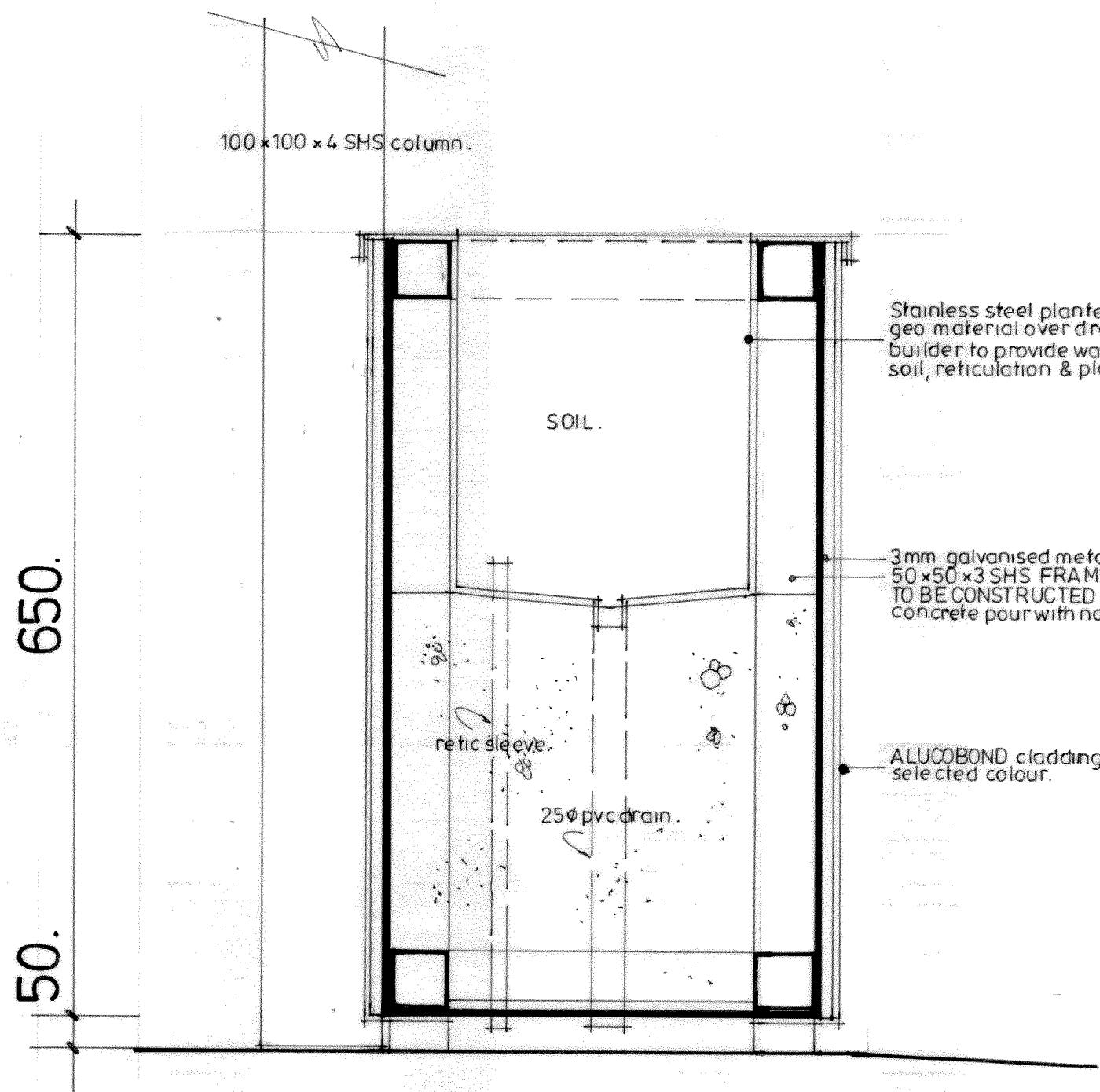
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PROJECT <b>SPRITZ.</b>			
148 SCARBOROUGH BEACH ROAD, MT HAWTHORN.			
 MCARTNEY & ASSOCIATES PTY LTD Reg. Builders: 100779 m: 0419 864 117 e: mcartney@inet.net.au 16 Angelico St, Woodlands 6018 mcartneyandassociates.net			
Date:	DEC 10.	Job No.	
Scale:	1:20.	Drawing No.	2.
Check all dimensions on site prior to commencement			



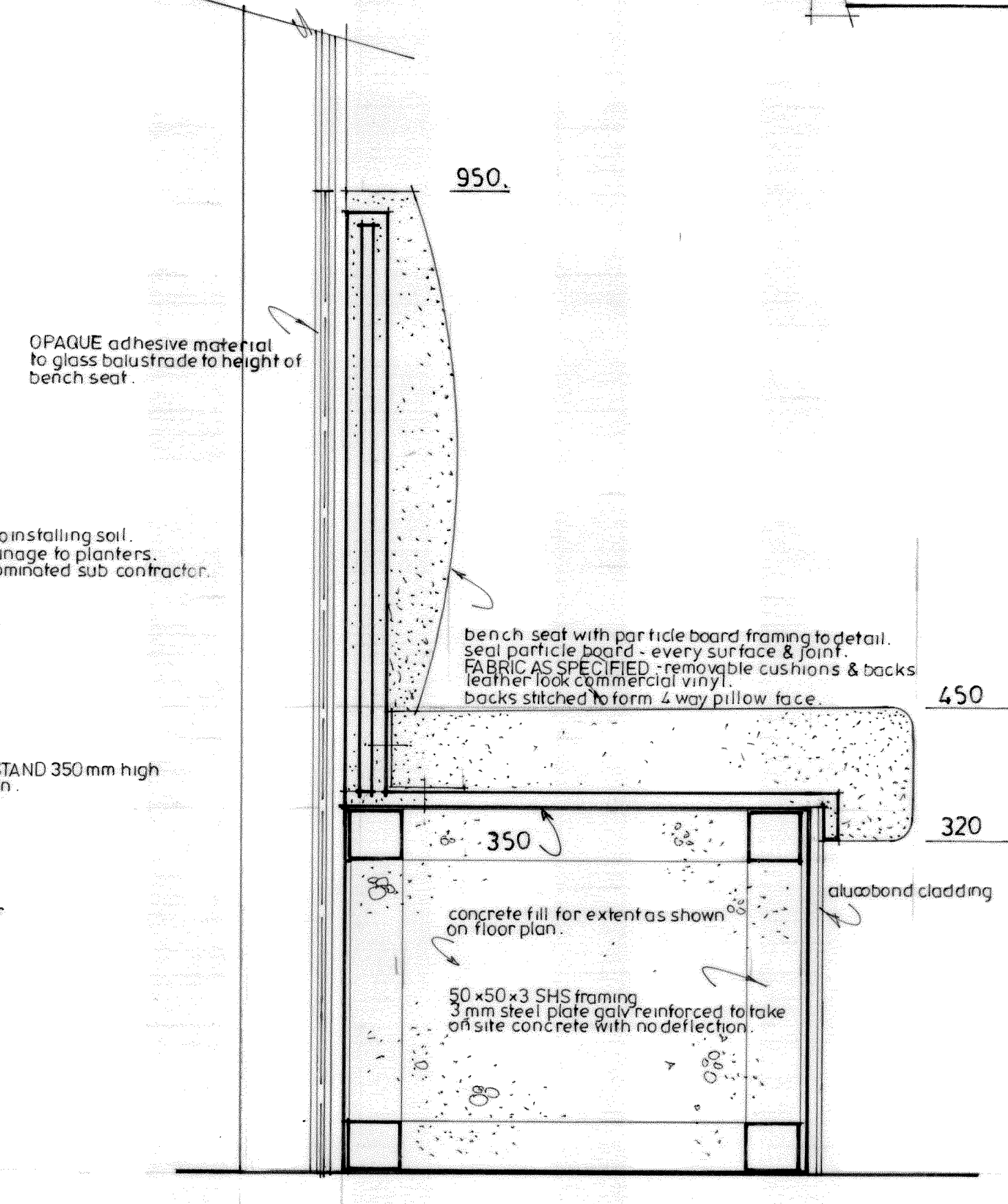
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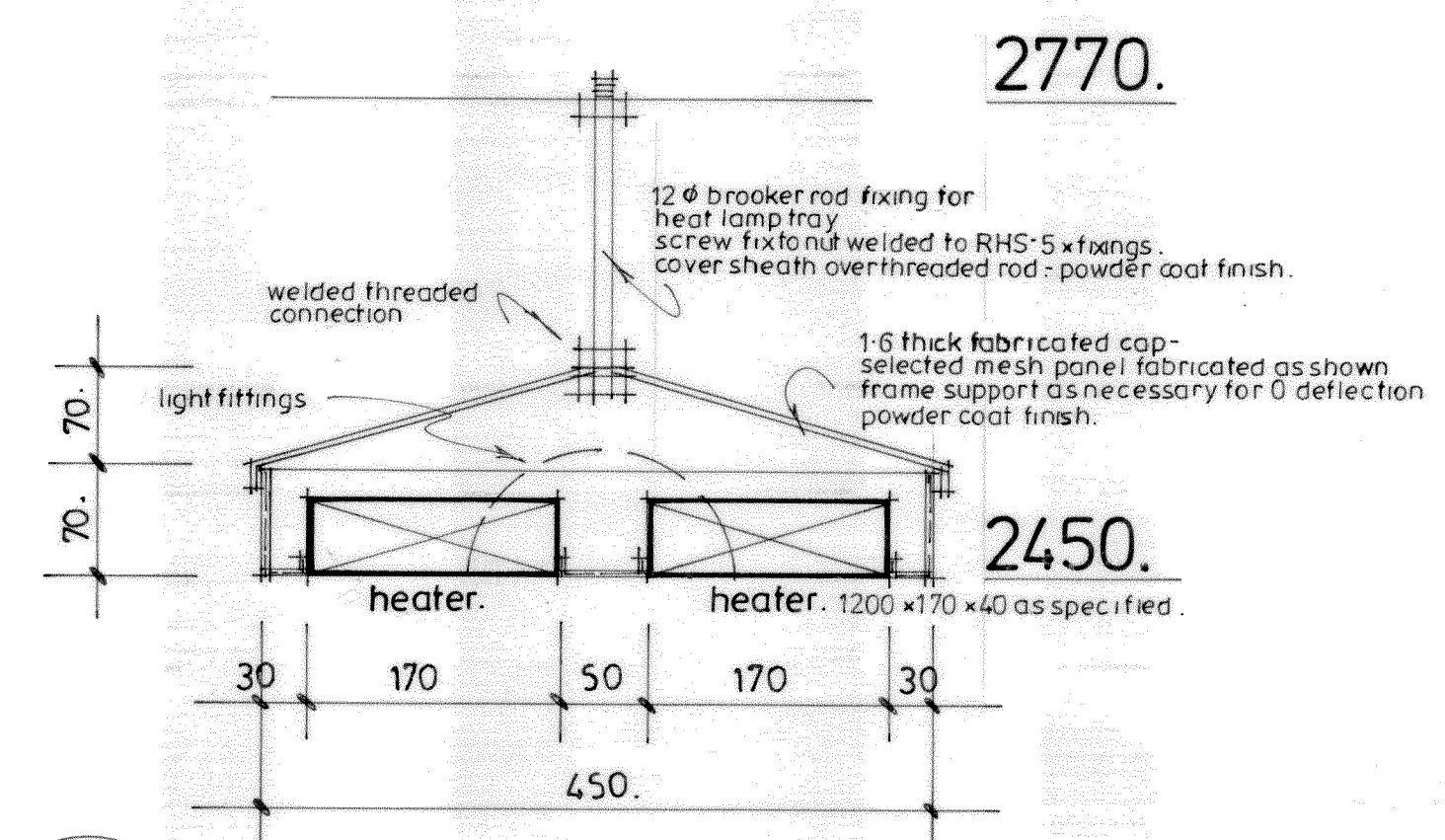
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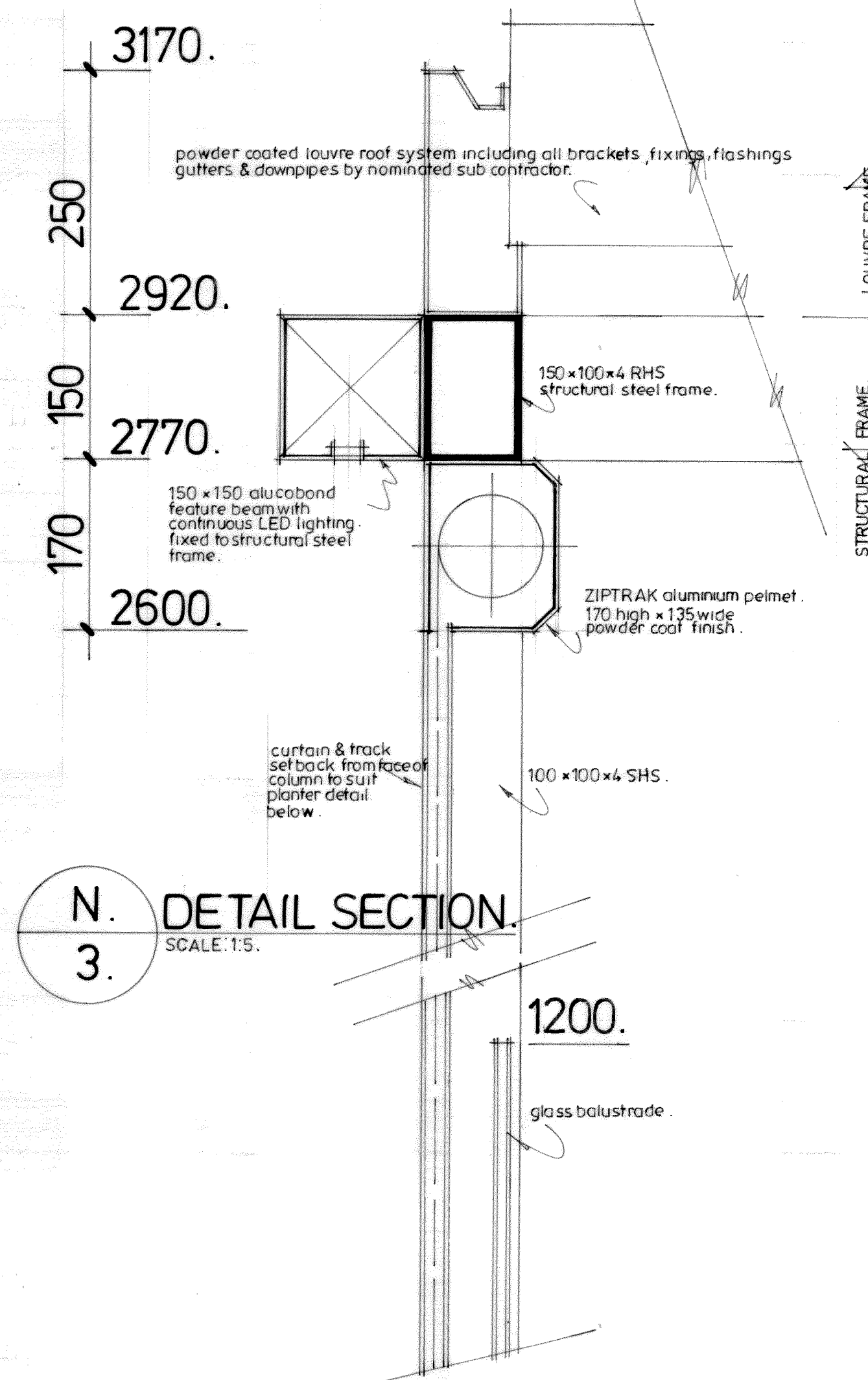
**H. SECTION - PLANTER.**  
3. SCALE: 1:5.



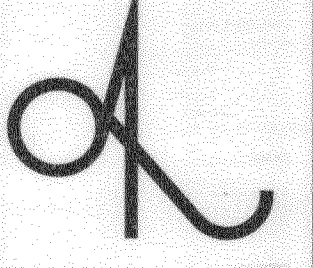
**J. SECTION - BENCH SEAT.**  
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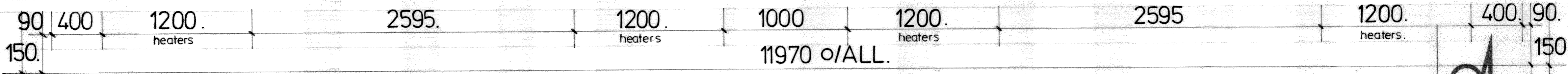
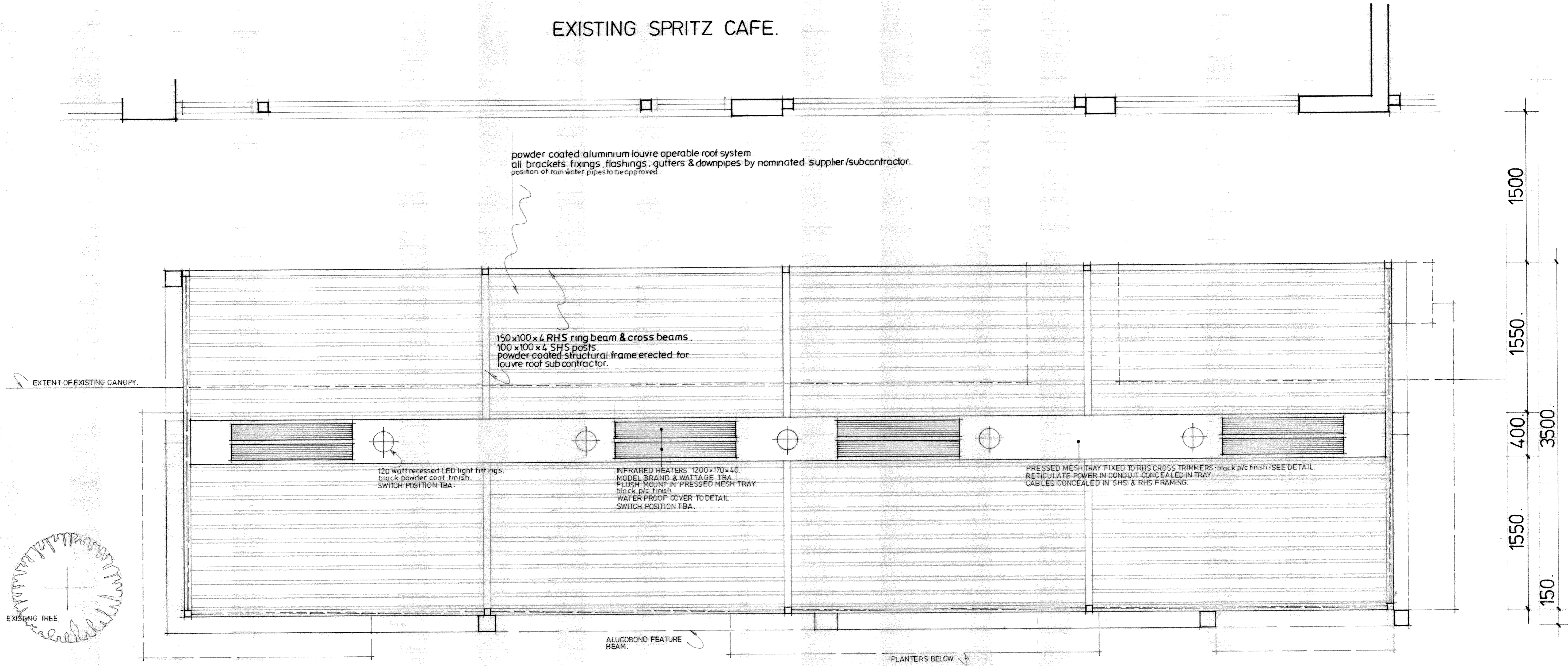
**L. SECTION - LIGHTING & HEATING TRAY.**  
3. SCALE: 1:5.



**N. DETAIL SECTION.**  
3. SCALE: 1:5.

Amendments	Date	Item	No.
PROJECT <b>SPRITZ.</b>			
148 SCARBOROUGH BEACH ROAD MT HAWTHORN			
			
MCARTNEY & ASSOCIATES PTY LTD Reg. Builders: 100779 m: 0419 864 117 e: mcartney@inet.net.au			
Date: <b>DEC 18</b>	Job No.	Drawing No. <b>3.</b>	
Scale: <b>1:5 1:20.</b>	Check all dimensions on site prior to commencement		

EXISTING SPRITZ CAFE.



P. 4. CEILING & LIGHTING PLAN.  
SCALE: 1:20.

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ASSOCIATES PTY LTD  
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m: 0419 864 117  
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16 Angelico St, Woodlands 6018  
mcartneyandassociates.net

SPRITZ.  
148 SCARBOROUGH BEACH  
ROAD, MT HAWTHORN.

Date: DEC 2018	Job No.	Drawing No.
Scale: 1:20		4
Check all dimensions on site prior to commencement		

21 September 2023

File ref: 0024-02 da

Chief Executive Officer  
City of Vincent  
email: [mail@vincent.wa.gov.au](mailto:mail@vincent.wa.gov.au)

**Attention: Planning Department**

Dear Sir

**RE: DEVELOPMENT APPLICATION – SPRITZ SPIZZICHERIA  
PROPOSAL TO EXTEND DURATION OF DEVELOPMENT APPROVAL (REF: 5.2018.159.1)  
EXISTING CANOPY STRUCTURE AND MOTORISED CAFÉ BLIND SYSTEM**

This is to advise that *PLAN. (Town Planning & Urban Design)* acts on behalf of Messrs Mario Talardo and Franco Tambasco, the owners and operators of the *Spritz Spizzicheria (Spritz)* restaurant which is located at Lot 600 (No. 148 to 158) Scarborough Beach Road, Mount Hawthorn.

This Development Application is lodged pursuant to clause 77, Part 9, Schedule 2 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015 (P&D Regulations)*.

The Application is submitted to seek the approval of the City to amend Condition 2 of the existing Development Approval by extending the duration of the decision for the canopy structure and café blind addition to the alfresco dining area of Spritz which was granted under delegated authority on 6 November 2018. (City's Ref: **5.2018.159.1**)

The extension of the approval is sought to facilitate a further five (5) year approval period for the canopy structure and café blinds. The structure with its motorised blind system is essential to the operation of the alfresco area. It protects customers from all types of weather conditions making it possible for this popular outdoor dining area to remain open throughout the year. It is the year round activation of the alfresco area which has created the vibrancy and activity now seen in this section of Scarborough Beach Road, at the heart of the district centre of Mount Hawthorn. For these reasons, we seek the City's support to approve an extension of the duration of the development approval to allow for the canopy structure and motorised blind system to remain in place.

All conditional requirements of the existing approval are to remain unchanged and upheld.

Accordingly, please find attached the completed Development Application Form and MRS Form 1, which are signed by the Directors of *Hyde Park Management Ltd*, the company which owns the subject tenancy. In addition to that, we also attach a copy of the current Certificate of Title (**Annexure 1**), and a copy of the current Development Approval and stamp approved plans and certified building permit drawings (**Annexure 2**).

The following report provides a summary of the details of the canopy structure system together with the planning justification in support of canopy structure and alfresco blind system remaining in place and unmodified for a further five year period.

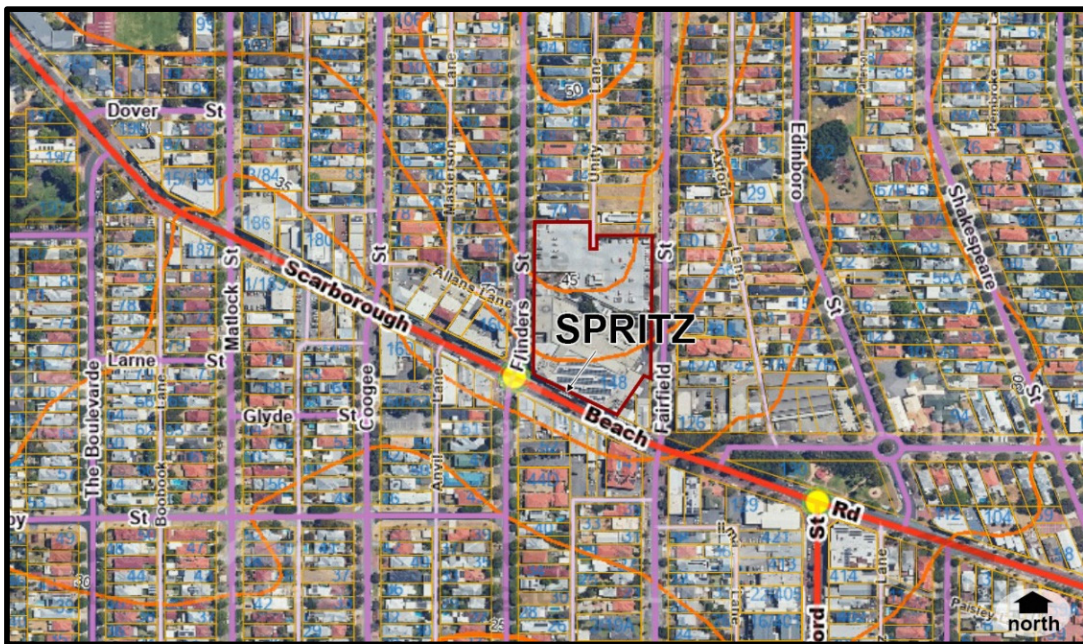
## 1.0 THE SITE AND SURROUNDING ENVIRONS

Spritz is a thriving Italian restaurant situated in the heart of the Mount Hawthorn District Centre at 148-158 Scarborough Beach Road, Mount Hawthorn.

The site details and project information are summarised below at **Table 1**.

<b>TABLE 1: SUMMARY TABLE</b>	
<b>Landowner:</b>	Hyde Park Management Ltd
<b>Property Description:</b>	Lot 600 (No. 148-158) Scarborough Beach Road, Mount Hawthorn
<b>Existing Development Approval:</b>	Addition to Café – canopy structure and café blinds. Serial No: 5.2018.159.1 Approval date: 6 November 2018
<b>Certificate of Title:</b>	Volume 2598, Folio 388
<b>Local Government Authority:</b>	City of Vincent
<b>Local Planning Scheme:</b>	Local Planning Scheme No. 2
<b>Zoning:</b>	District Centre
<b>Built Form Area:</b>	Town Centre
<b>Proposal:</b>	This Application is submitted under clause 77 of Schedule 2, Part 9, of the Deemed Provisions of the <i>Planning and Development Regulations 2015</i> . The proposal seeks to amend Condition No. 2 the development approval by extending the duration of the development approval. This will allow for the canopy structure and café blinds to remain in place for a further five (5) year period, from the date of the extended approval.

Spritz is located on the northern eastern side of Scarborough Beach Road and has a southwestern frontage to it. It is a tenancy which forms part of the strip of commercial tenancies of The Mezz shopping centre which shops have frontages to and are accessible directly from the footpath on Scarborough Beach Road. (Refer below to **Figure 1**: Location of Spritz within the District Centre of Mount Hawthorn.



**Figure 1:** Location of Spritz within the District Centre of Mount Hawthorn (source: landgate)



The introduction of the structural canopy shelter to the alfresco area has significantly and positively contributed to the success of Spritz and added to the vibrancy of this commercial strip. The canopy is a striking design and offers a comfortable place for customers to sit and enjoy a meal whilst actively engaging with the street. It is also regularly utilised outside of the operating hours of Spritz by the local community as a casual seating area.

The photographs below illustrate the high quality of the design of the structure which fits within and adds to the character and identity of this commercial strip.



**Photograph 1:** Standing on the southwestern side of Scarborough Beach Road looking in a north westerly direction towards Spritz. Note: The unique design of the canopy structure creates a visual marker in the streetscape which positively adds to the unique identity and character of Mount Hawthorn.



**Photograph 2:** Standing on the southwestern side of Scarborough Beach Road looking in a north westerly direction towards Spritz. The design is inviting and sits comfortably in the streetscape. The extent of visibility through the canopy structure is like the adjacent tenancy, with the visibility being impacted only by the trees in the median, the planter boxes and the shadow cast by the awnings.



**Photograph 3:** Standing on the southwestern side of Scarborough Beach Road looking towards the canopy structure. Note: the design retains visibility and accessibility through the space, inviting pedestrian movement through and within it.



**Photograph 4:** Standing on the northeastern side of Scarborough Beach Road in the pedestrian footpath clear zone between the alfresco dining area and the internal dining area of the restaurant. Note: The tables and chairs are removed from the space and the motorised blinds are retracted, as Spritz was not open for trade when the photograph was taken and the weather conditions at this time of the day did not require the blind system to be activated to shelter the space. This space is available to the community to use when the restaurant is not open.



**Photograph 5:**

Looking in a north westerly direction along the footpath between the alfresco dining area and the internal dining space of Spritz. Note the high level of visibility maintained through the structure and the unimpeded pedestrian movement along the footpath.

## **2.0 THE EXISTING STRUCTURE AND MOTORISED BLIND SYSTEM**

The engineered steel frame of the canopy structure is designed with a motorised louvre roof and café blind system, lighting and heat lamps. The roof is fixed with flashing, gutters and downpipes that connect to the stormwater drainage system. This structure is specifically designed to provide customers of Spritz the opportunity to enjoy alfresco dining on the main street during all weather conditions. A copy of the **Development Approval** and the **certified building permit plans** which detail the engineered design are attached at **Annexure 2**.

The location and orientation of the restaurant tenancy has limited (if any) protection from the weather. The frontage of the tenancy is severely impacted by wind, rain and sun due to its position on the northeastern side of Scarborough Beach Road and its orientation to the southwest. This canopy structure and its motorised louvre roof and blind system allows the owners to discreetly open and lower blinds and activate the louvers on the roof to respond to changing weather conditions throughout the day. This ensures the alfresco dining area remains an inviting and engaging space for customers to enjoy across all seasons. It is the year round activation of this alfresco area which is the key driver behind the success of Spritz in this location, with alfresco dining being the preferred choice of seating area for its customers.

The ability to use of the alfresco dining area throughout the year has meant that Spritz has been able to retain its staff on a permanent basis to cater for the 100 seat capacity. Spritz employs 8-10 staff at the restaurants at any one time, many of which live locally. The retention of the structure is necessary to ensure the continued viability of this restaurant is maintained and its staff gainfully employed. It is an unavoidable reality that the removal of the canopy structure and its motorised louvre and blind system will mean that the alfresco area will not be able to be used for much of the year. The outcome being that customer numbers will rapidly decline as many will choose more reliable restaurant environments to visit, which offer alfresco areas in locations which are less exposed to the changes in weather.

It is also relevant to acknowledge the significant contribution made by Spritz in reactivating this section of the main street of Mount Hawthorn. This has been made possible by the installation of this canopy structure system to the alfresco area which draws people to the venue all year round. The activation of the strip by this restaurant has generated a substantial amount of foot traffic and passing trade for the many local businesses operating along Scarborough Beach Road. This is because customers of Spritz will often take the opportunity to visit the independent retailers and boutiques operating along the main

street after dining at the restaurant. The striking unique design of the canopy structure is now embedded in the built fabric of this area and recognised as a landmark in Mount Hawthorn. It is an aesthetic form and appropriate in scale, which is sought to be retained for the ongoing activation of the alfresco area by Spritz, to the benefit of the local community more generally.

### 3.0 THE PLANNING FRAMEWORK

The planning framework has not changed since the Development Approval was granted for the canopy structure and café blind system.

The subject tenancy remains zoned 'District Centre' in the City's *Local Planning Scheme No. 2 (LPS 2)* and 'Urban' in the *Metropolitan Region Scheme (MRS)*.

The tenancy is approved for use as a 'Restaurant/Café', with the alfresco dining area and canopy structure forming part of that approved land use. The land use of 'Restaurant/Café' remains a permitted ('P') use in the District Centre zone.

The site continues to be identified as part of the 'Town Centre' Built Form Area of City's *Local Planning Policy 7.1.1*.

The alfresco area and the canopy structure system remain compliant with the requirements of LPS 2 and other associated policies.

The canopy structure as constructed was approved by the City's Planning Department on 6 November 2018 under delegated authority. A Building Permit was issued by the City on 23 April 2019. The structure is constructed and continues to be used in accordance with the requirements of the City's approvals. A copy of both the Development Approval and Building Permit are attached at **Annexure 2**.

Condition No. 2 of the Development Approval states:

2. *This approval for the canopy structures and café blinds is valid is (sic) for a period of five (5) years from the date shown above. Following expiry of this period, the permanent canopy structure shall be removed at the owner's cost and the road reserve made good, unless a further development approval is granted by the City.'*

The reference in the wording of the condition that the period of five (5) years is to be taken from the 'date shown above' is presumed to mean the date that the approval was issued by the City, which is not stated above the condition. The only date references above the condition are the date of the submitted plans, and the date that the application was received. The reference is therefore taken to mean the date stated 'below', being the date of the decision stated on page 4 of the approval as 6 November 2018.

All conditions of the approval are to remain unchanged and will continue to be upheld.

This Application seeks only to extend the duration of the approval, which will amend Condition No. 2 to reference the date of the extended approval as being the start of the further five (5) year approval period for the canopy structure and café blind system.

For information purposes, we also attach a copy of the current **public liability insurance** held by Spritz at **Annexure 3**, as required by Condition No. 10 of the approval.

On the basis that the planning framework has not changed since the last approval was granted and the planning reasons given in support of this application that we respectfully seek the City's approval to extend the duration of the approval and in doing so amend Condition No. 2 to permit another five (5) year approval period for the canopy structure and blind system, under clause 77 of Schedule 2 of the Deemed Provisions of the P&D Regulations.

#### 4.0 CONCLUSION

The integrated canopy and motorised blind system is a high quality, attractive and robust structure which remains appropriate for use by the Spritz restaurant in this location. It provides a site specific solution to facilitate the use of the alfresco dining in this area of the commercial strip of Mount Hawthorn which would otherwise be severely compromised and limited due to its exposure to the changes in the weather. The retention of the canopy structure with the motorised blind system will allow for the alfresco space to remain functional and comfortable for customers to enjoy throughout the year. It is an essential contributor to the ongoing success of the restaurant and the pedestrian activation of this road.

The structure is consistent with the City's requirements. It maintains visibility, allows for unimpeded pedestrian movement along the footpath and through the structure for pedestrian crossing of Scarborough Beach Road. It is an inviting space for customers to dine and is available for use by the community outside of operating hours. The structure positively contributes to the vibrancy and unique identify of the district centre of Mount Hawthorn, as envisaged by the City. It is for all these reasons, we respectfully seek the City's support to grant an extension to the duration of the approval to allow the canopy structure and blind system to remain for a further five (5) year time limited period, pursuant to clause 77 of Schedule 2 of the Deemed Provisions of the P&D Regulations.

We trust that the information provided in this Application is sufficient for staff's assessment. However, should staff have any queries, the writer is available on 0414 384 972 or [clare@planwa.au](mailto:clare@planwa.au).

Yours sincerely



**Clare McLean**  
Director

cc: *Messrs M Talardo and F Tambasco of Spritz Spizzicheria*  
*Ms B Moharich, Director – Moharich & More.*

11 April 2024

File ref: 24-2024

Chief Executive Officer  
City of Vincent  
**Attn: Ellis George – Urban Planner**  
**Email: ellis.george@vincent.wa.gov.au**

**RE: PLANNING APPLICATION – EXTENSION OF PLANNING APPROVAL  
ADDITIONAL JUSTIFICATION IN SUPPORT OF APPLICATION  
SPRITZ EXISTING ALFRESCO STRUCTURE AND BLIND SYSTEM  
APPLN NO: 5.2023.294.1**

Dear Ellis

This additional information is submitted as justification that the mesh blind component of the motorised dual blind system for the Spritz alfresco structure meets with the requirements of Condition No. 4 of the existing Development Approval, which states that:

- 4. The alfresco blinds shall remain visually permeable in appearance at all times to the satisfaction of the City.*

This information is submitted in response to the City's Administration's query as to whether the mesh shade blind is visually permeable.

It is understood that the term 'visually permeable' in the context of the mesh blind component of this dual blind system is taken to mean that the blind is not to have a visual or apparent effect of enclosing the alfresco space, which reference of the City is taken from its Vibrant Public Spaces Policy.

This submission is provided to the City to advise in writing that the separate mesh blind components maintain a satisfactory level of visually permeability when drawn. Notwithstanding this, these blinds are mostly retracted and not used.

As the City is aware, the motorised dual blind system includes clear plastic café blinds to provide weather protection and woven mesh blinds for sun protection. The woven mesh blinds provide sun protection for customers at certain times of the day (when requested) which is operated only during the heat of summer. The use of the mesh blind system can in this way be likened to the use of commercial café umbrellas along alfresco strips, which are often orientated and manoeuvred across a trading day to respond to the angle of the sun.

The mesh blinds remain retracted for most of the day and throughout most of the year.

Spritz does not operate all of the mesh blinds simultaneously. It might be that a single blind is drawn at the request of a customer for around 1-2 hours over the trading day in summer.

The mesh blind is not required to be used at all during the cooler winter months.

In providing this advice, we seek to highlight to the City that it is not in the commercial interests of Spritz to draw any of the mesh blinds unless requested by a customer. Visual permeability and creating an active connection between the alfresco space and the surrounding street is critical to maintaining the commercial success of Spritz.

The mesh blind element is however a functional necessity of this space. It provides an option for customers enjoying the space to be able to request that a mesh blind be drawn (partially or fully) to reduce the impact of sun exposure on their bodies. There is an underlying health risk in preventing the continued and infrequent use of the mesh blind component of this structure, which is a position which we oppose vehemently. In this regard, we seek the City's support for the mesh blinds to continue to function as approved given the mesh is: a visually permeable fabric; it is infrequently used across a single trading day and only for part of the year; and the ability for it to continue to be operated assists in preventing sun burn, skin damage and skin cancer.

In support of our position, the owners of Spritz have taken a photographic record as an example of its daily operation of the restaurant and the use of this mesh blind system.

The photographic record is provided below. These photographs were taken on 3 April 2024, being the day immediately following the City's advice to us that the mesh blind component of the structure was being reviewed by the City's Administration.

The photographs demonstrate without doubt that the mesh blind is visually permeable and that the use of these blinds does not in any way have a visual or apparent effect of enclosing the alfresco space. We therefore seek the City's support to approve the alfresco structure, without any restriction being placed on the use of the mesh blind function.

Yours sincerely

  
**Clare McLean**  
Director

**PHOTOGRAPHIC RECORD – SPRITZ OPERATIONS ON 3 APRIL 2024**

The recorded temperature on 3 April 2024 was 30°C, with clear skies.



**PHOTOGRAPH 1: 11:18am.** The sun is not yet impacting the alfresco space. The structure remains open and visually permeable.



**PHOTOGRAPH 2: 12:49pm.** The angle of the sun is not yet impacting the space. The mesh blinds remain retracted. The structure is open in nature, with maximum engagement and activation with the street. It is entirely visually permeable, in accordance with the conditional requirements of the approval.





**PHOTOGRAPH 3:** 1:28pm. A single mesh blind is now drawn at the western end of structure at the request of customer, for protection from the sun. The high degree of visibility through the structure is maintained.



**PHOTOGRAPHS 4 & 5:** 1:29pm. The use of the mesh blinds is not preferred and is infrequently used for limited periods during the trading day to ensure maximum visibility and connection with the street when viewed by customers seated inside the restaurant space.



**PHOTOGRAPH 6:** 1:56pm. A single blind remains drawn at the request of a customer. Visual permeability is sufficiently maintained and in reality, less obscured than a large café umbrella being angled to assist in providing such sun protection.



**PHOTOGRAPH 7:** 1:58pm. The space remains visually permeable when viewed from the pedestrian thoroughfare between the alfresco area and the restaurant.



**PHOTOGRAPH 8:** 2:09pm. The single drawn blind does not impact on the high level of visual permeability maintained through the structure.



**PHOTOGRAPH 9:** 2:10pm. This photograph demonstrates the angle of the sun and the negligible impact on visual permeability resulting from a single mesh blind being drawn for the benefit of the customer.



**PHOTOGRAPH 10:** 2:17pm. Standing inside the restaurant space and looking at the side of a truck driving along Scarborough Beach Road. Full visibility is maintained with the street.



**PHOTOGRAPH 11:** 2:35pm. Only a single mesh blind was drawn over the lunch service.



**PHOTOGRAPH 12:** 2:50pm. The blind is now retracted half way. Visual permeability is maintained through the blind and the section not covered by the mesh blind.



**PHOTOGRAPH 13:** 2:50pm. The view from inside the alfresco area with the partially drawn blind.



**PHOTOGRAPH 14:** 3:08pm. A view through the alfresco area, standing outside at the south eastern end of the structure.



**PHOTOGRAPH 15:** 3:08pm. Visual permeability is maintained.



**PHOTOGRAPH 16:** 4:07pm. This photograph shows the angle of the sun at this time of the day and the high level of visual permeability maintained through the structure.



**PHOTOGRAPH 17:** 4:07pm. Standing on the pedestrian thoroughfare between the internal restaurant and alfresco area. Visual permeability is maintained.



**PHOTOGRAPH 18:** 5:19pm. The blind is drawn at the end of the structure to protect customers from the angle of the sun as it sets.



**PHOTOGRAPH 19:** 5:20pm. Standing on Scarborough Beach Road looking north east towards the structure. The mesh blinds are not required. Visual permeability is maintained.





**PHOTOGRAPH 20:** 5:21pm. The mesh blinds are not in use as it is not necessary.



**PHOTOGRAPH 21:** 5:21pm. Standing at south eastern end on the verge looking towards the structure. The visual permeability is maintained.



**PHOTOGRAPH 22:** 5:39pm. Standing centrally within the structure. Visibility is maintained. The sun is setting. The customers at the north western end of the alfresco dining area are protected.



**PHOTOGRAPH 23:** Looking across the structure. Note pedestrian thoroughfare actively used.



**PHOTOGRAPH 24:** 5:45pm. The sun is now setting.



**PHOTOGRAPH 25:**

**5:51pm.** The mesh blind at the north western end of the structure is no longer required. It is now retracted.

It is also relevant to note that the mesh blind would be used even less than it is currently, should the branches of the trees in the verge not have been pruned so rigorously. The canopy of the trees have the ability to provide a significant amount of additional shade and protection from the sun over the alfresco area during the summer months, should the extent of pruning be reduced.



**PHOTOGRAPH 26:** 5:59pm. The blind is retracted as the sun is no longer filtering into the alfresco area at a level which concerns the customers. The space is activated, visually permeable and continues to add vibrancy to this public space.



**PHOTOGRAPH 27:** 6:00pm. Looking in a westerly direction towards the setting sun. No blinds are drawn. The space remains open and vibrant as the dinner trading hour commences.

*Planning and Development Act 2005*

City of Vincent

**Notice of determination on application for development approval**

Location: No. 148-158 Scarborough Beach Road MOUNT HAWTHORN

Lot, Plan/Diagram: LOT: 600 D/P: 47025

Vol. No: 2598

Folio No: 388

Application date: 04/05/2018

Received on: 04/05/2018

Serial No: 5.2018.159.1

Description of proposed development: Addition to Cafe

Plans dated: 29 June 2018

This application for development approval is approved subject to the following conditions:

1. This approval is for proposed canopy structure and café blinds as shown on the approved plans dated 29 June 2018.
2. This approval for the canopy structures and café blinds is valid is for a period of five (5) years from the date shown above. Following expiry of this period, the permanent canopy structure shall be removed at the owner's cost and the road reserve made good, unless a further development approval is granted by the City.
3. This approval is issued to the owner and operator of Spritz Spizzicheria.
4. The alfresco blinds shall remain visually permeable in appearance at all times to the satisfaction of the City.
5. The alfresco blinds shall be rolled up at the close of business each day.
6. The owner has a non-exclusive right to use the portion of the road reserve area as an alfresco area in connection with the operation of Spritz Spizzicheria, with a 1.5m pedestrian access way being provided at all times to enable the public to pass through the area;
7. Only the canopy structure and café blinds which forms part of this approval may be located within the road reserve area. Any alterations or additions to these structures will require the approval of the City (and Minister in some circumstances);
8. The owner shall maintain at its cost the structure forming part of the proposed development on the land and constructed over the road reserve adjacent to the proposed development to the satisfaction of the City and in accordance with the provisions of Regulation 17 of the Local Government (Uniform Provision) Regulations 1996 (as amended from time to time).
9. The owner indemnifies and agrees to keep indemnified the State, the Crown, all Ministers of the Crown, and all officers, servants, agents, contractors, invitees, and licensees of any of them against all actions, claims, costs, proceedings, suits and demands

whatsoever arising or connected with the canopy forming part of the proposed development over the road reserve or use of the road reserve in connection with the canopy structure which may at any time be incurred or suffered by the licensee or brought, maintained or made against the Minister for Transport; Planning; Lands or the State, the Crown, all Ministers of the Crown, and all officers, servants, agents, contractors, invitees, and licensees.


10. The owner shall take out and maintain at its cost a policy of public liability insurance not less than \$20,000,000 to insure the City and the owner against all claims for loss or damage or injury occurring to any road reserve or property of the City or any person or property of any person as a result of the construction of the awning forming part of the proposed development over the road reserve adjacent to the proposed development or in respect of the use of the road reserve in connection with the awning forming part of the proposed development. A copy of the certificate of insurance is to be provided to the City annually and on demand.
11. The applicant is to ascertain the location and depth of any services that may interfere with this development. Any adjustment to these services required as part of this approval, must be arranged by the applicant prior to works commencing on the site. Any adjustment must be approved by the relevant service authorities and will be at the applicant's expense.
12. The applicant agrees to repair, maintain and remove the canopy structure at its cost, including to enable access by the City or utility providers.
13. The road reserve area comprising the permanent canopy structure shall be kept in a neat and tidy condition at all times to the satisfaction of the City.
14. If the road reserve is required for use as part of the road at any time the City may terminate the approval and require that the applicant remove the permanent canopy structure, and no compensation will be payable to the applicant.
15. All stormwater produced on the subject land shall be retained on site, by suitable means to the full satisfaction of the City;

#### ADVICE NOTES:

1. This is a development approval issued under the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme only. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant/owner to obtain any other necessary approvals and to commence and carry out development in accordance with all other laws.
2. With regard to Condition 15, no further consideration shall be given to the disposal of storm water 'off site' without the submission of a geotechnical report from a qualified consultant. Should approval to dispose of storm water 'off site' be subsequently provided, detailed design drainage plans and associated calculations for the proposed storm water disposal shall be lodged together with the building permit application working drawings;
3. This approval is subject to the applicant holding an alfresco permit for the alfresco area at all times (in the event that the applicant is not issued with an alfresco permit this approval will immediately terminate);
4. At expiry of the approval the applicant must remove all structures from the road reserve and restore the road reserve to the reasonable satisfaction of the City, at the applicants cost.

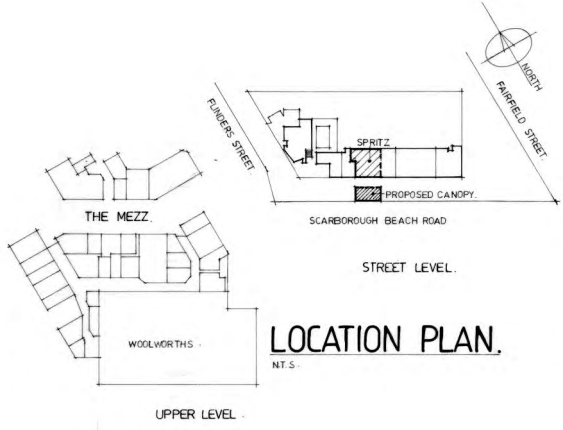
Date of determination: - 6 November 2018

- Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.
- Note 2: Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.
- Note 3: If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

Signed: 

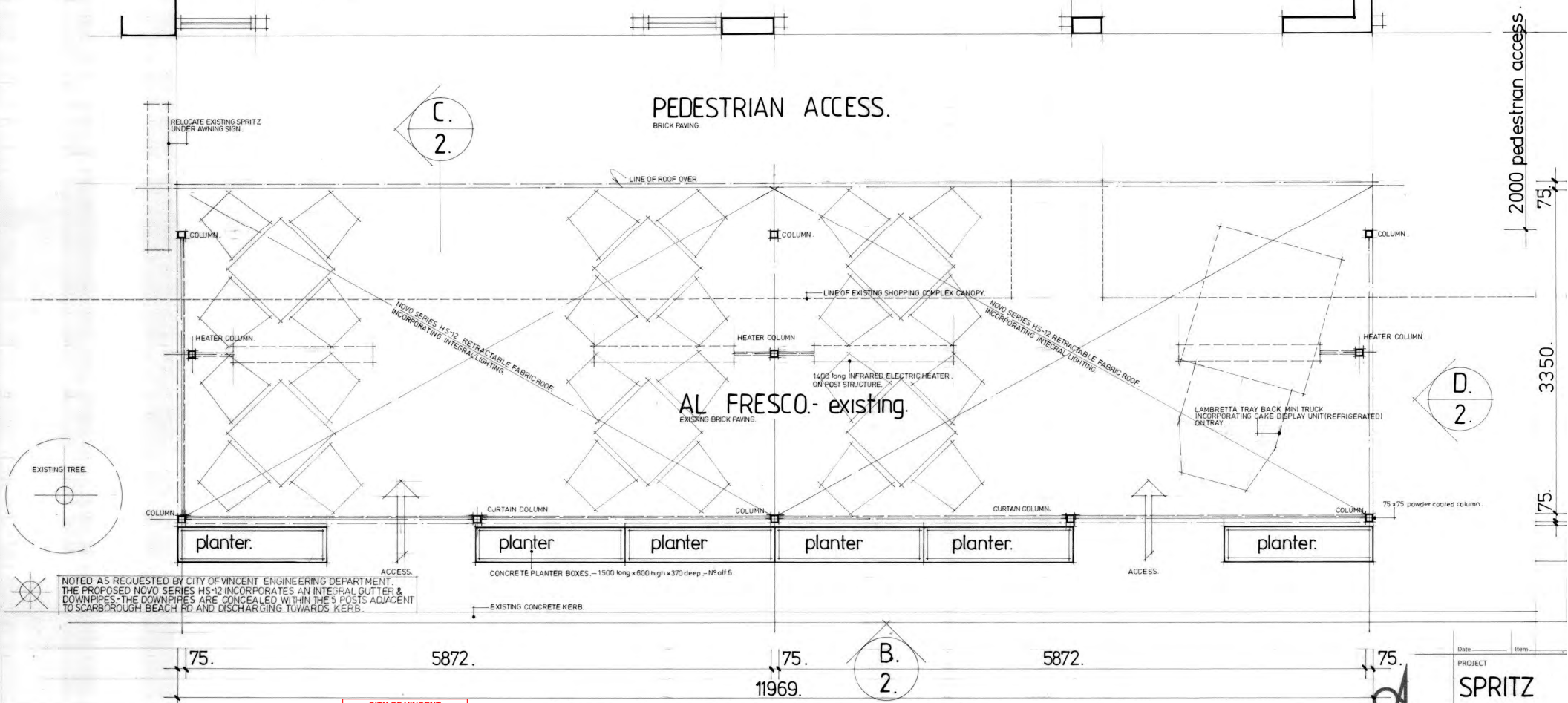
Dated: 6 November 2018

**JOSLIN COLLI**  
**COORDINATOR PLANNING SERVICES**  
for and on behalf of the City of Vincent



LOCATION PLAN. SPRITZ  
NT.S.

AFFOGATO.



A. FLOOR PLAN LAYOUT  
1. SCALE: 1:20

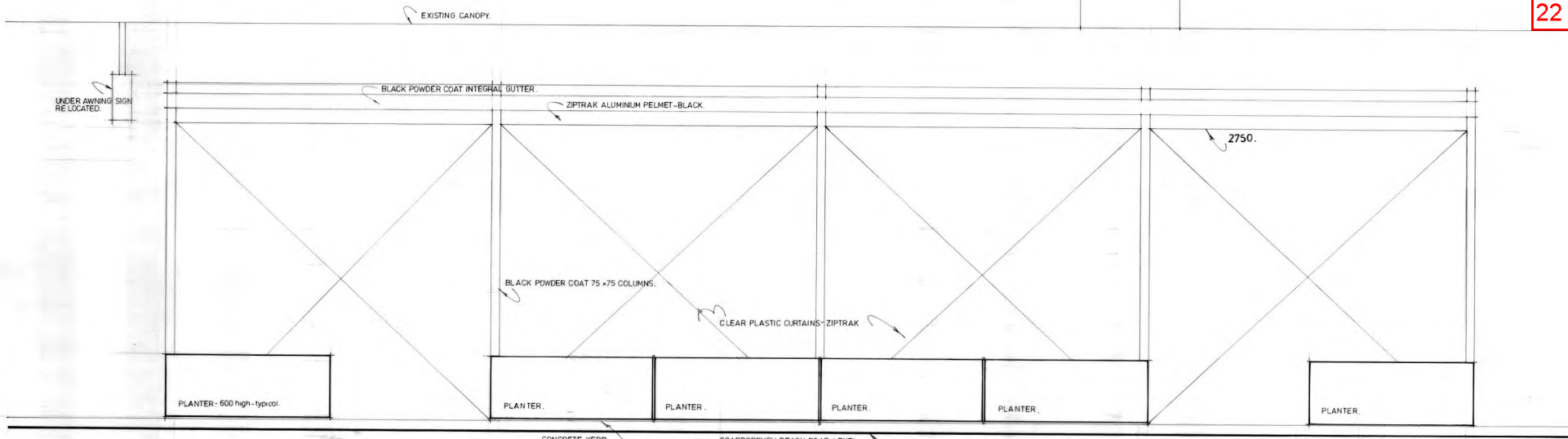
CITY OF VINCENT  
DA No. 5.2018.159.1  
6 November 2018  
APPROVED  
Refer to Decision Notice  
Coordinator Planning Services

SCARBOROUGH BEACH ROAD.

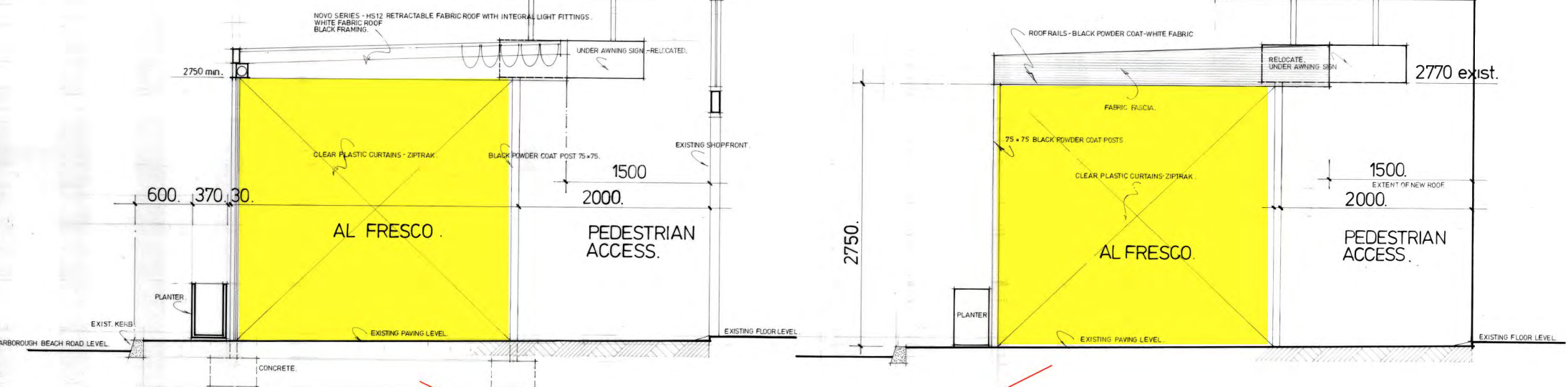
CITY OF VINCENT  
RECEIVED  
29/06/2018

 Reg. Builders 300775 m: 0418 864 317 e: mcartney@lines.net.au 16 Angellio St, Woodlands 6018 mcartneyandassociates.net	Date	Item
	PROJECT	SPRITZ
	148 SCARBOROUGH BEACH RD.	
	Date	Job No.
29 APRIL 2018		
Scale: 1:20		
Check all dimensions on site prior to commence		





**B. SCARBOROUGH BEACH RD. ELEVATION.**  
SCALE: 1:20



**C. SECTION.**  
SCALE: 1:20

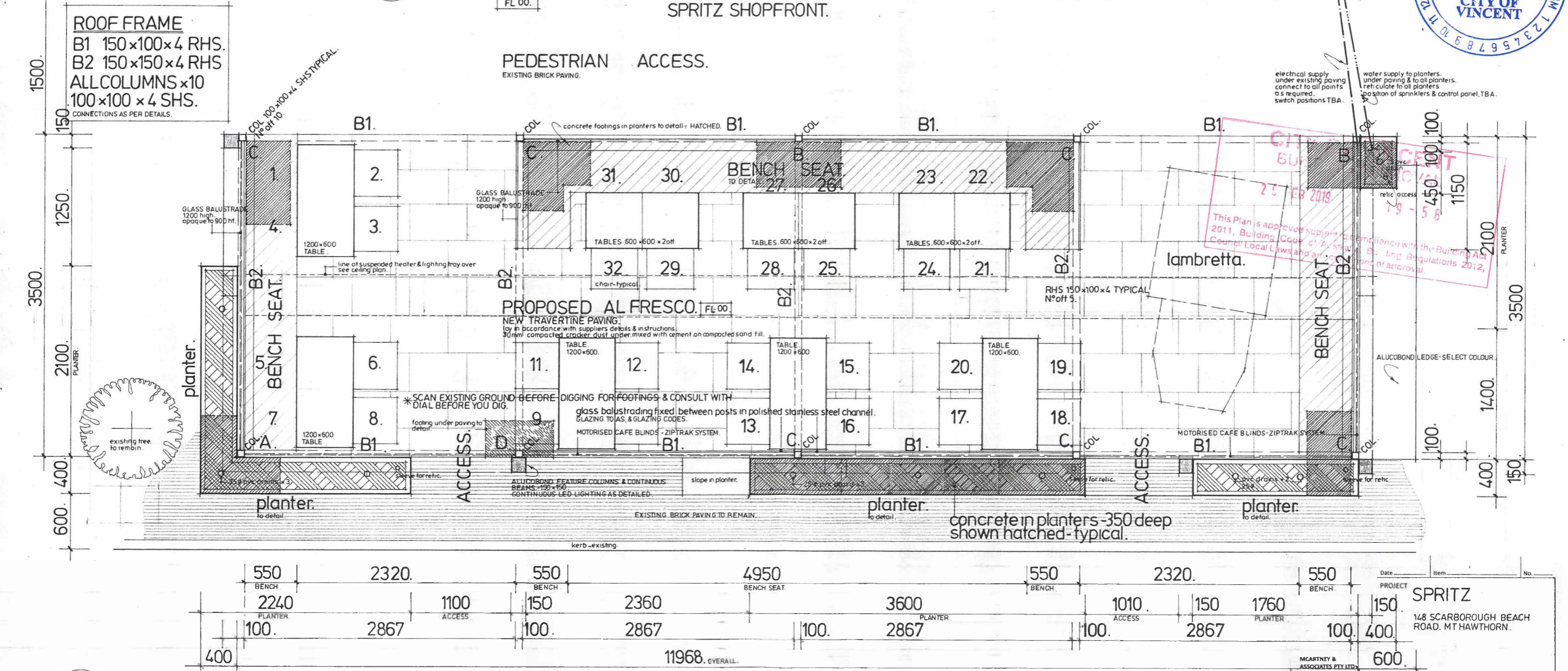
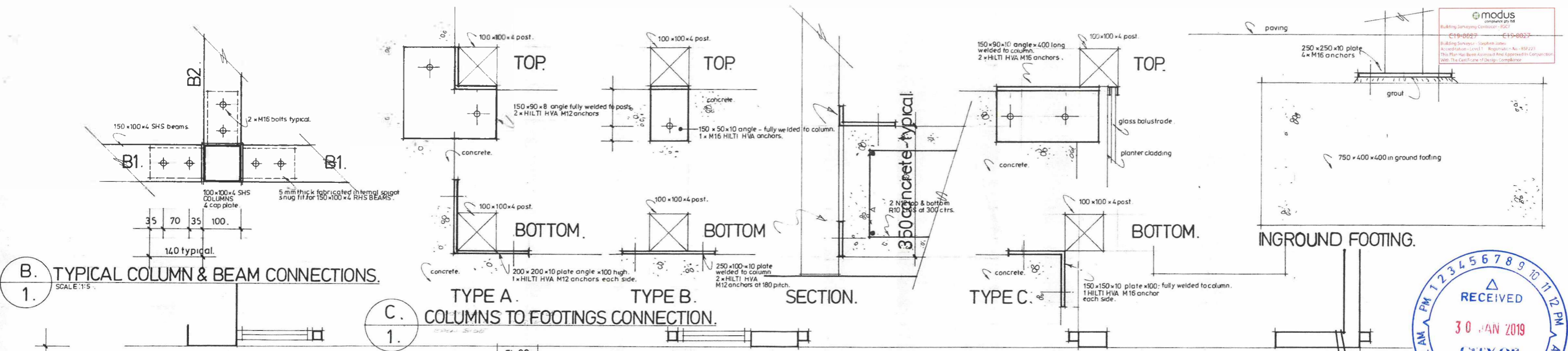
**D. END ELEVATION.**  
SCALE: 1:20

CITY OF VINCENT  
DA No. 5.2018.159.1  
8 November 2018  
APPROVED  
Refer to Decision Notice  
Coordinator Planning Services

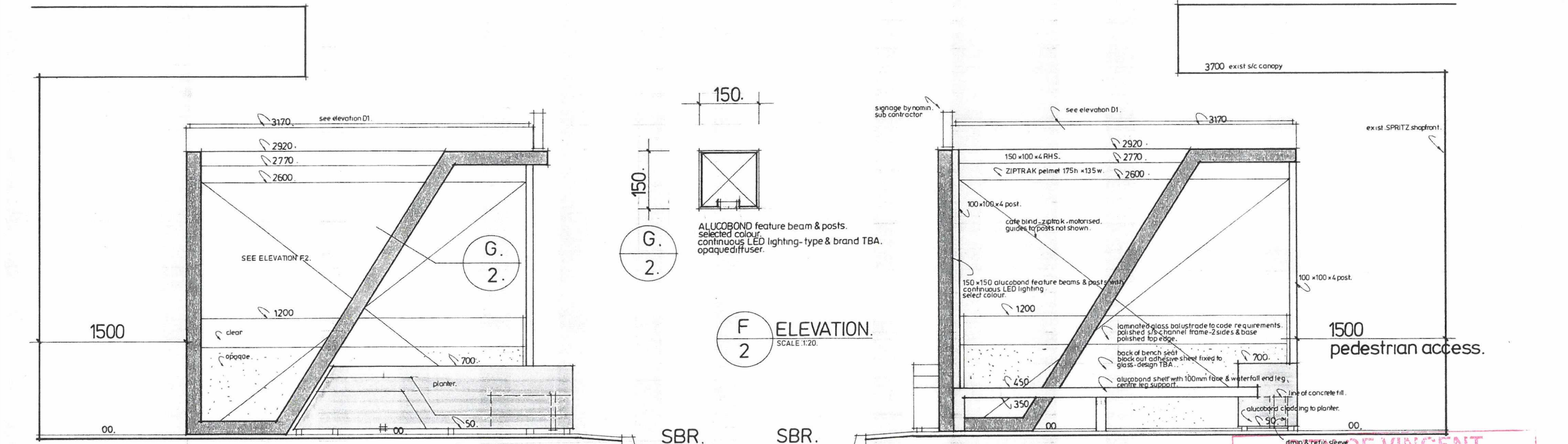
Refer Conditions 2 and 3

CITY OF VINCENT  
RECEIVED  
29/08/2018

Amendments	Date	Item	No.
PROJECT			
<b>SPRITZ.</b>			
1/8 SCARBOROUGH BEACH ROAD, MT HAWTHORNE.			
 MCARTNEY & ASSOCIATES PTY LTD Reg. Builders: 100779 Ph: 0859 864 117 E: mcartney@street.net.au 15 Angelo St, Woodlands 5018 mcartneyandassociates.net			
Date: APRIL 2018	Job No.	Drawing No.	
Scale: 1:20		SK 1B	
Check all dimensions on site prior to commencement			

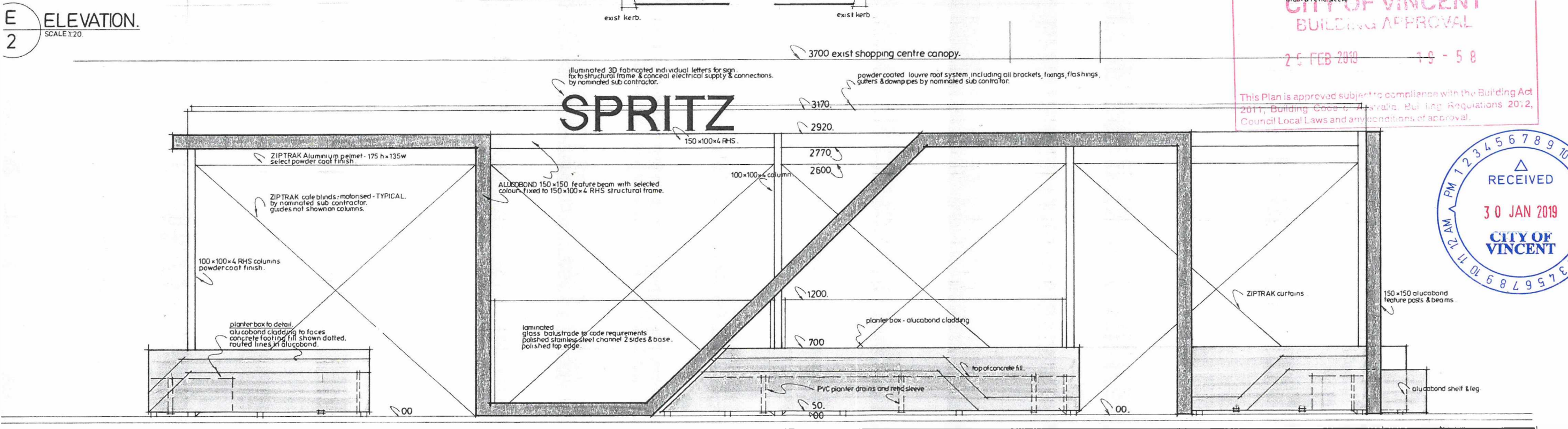


**CITY OF VINCENT**  
25 FEB 2019  
This Plan is approved subject to compliance with the Building Act 2011, Building Code of Australia, Building Regulations 2012, Council Local Laws and any other relevant legislation.  
retic access 19-58




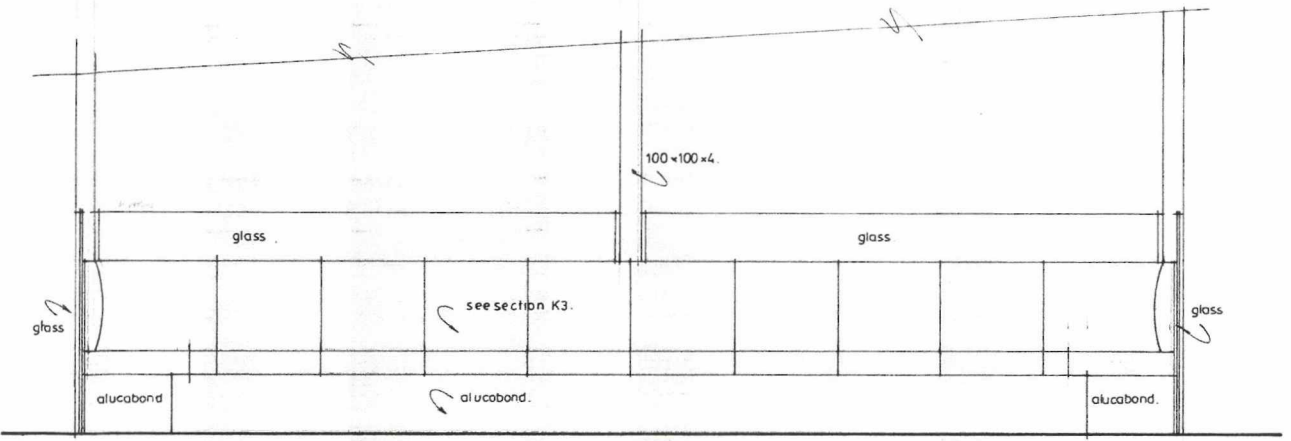
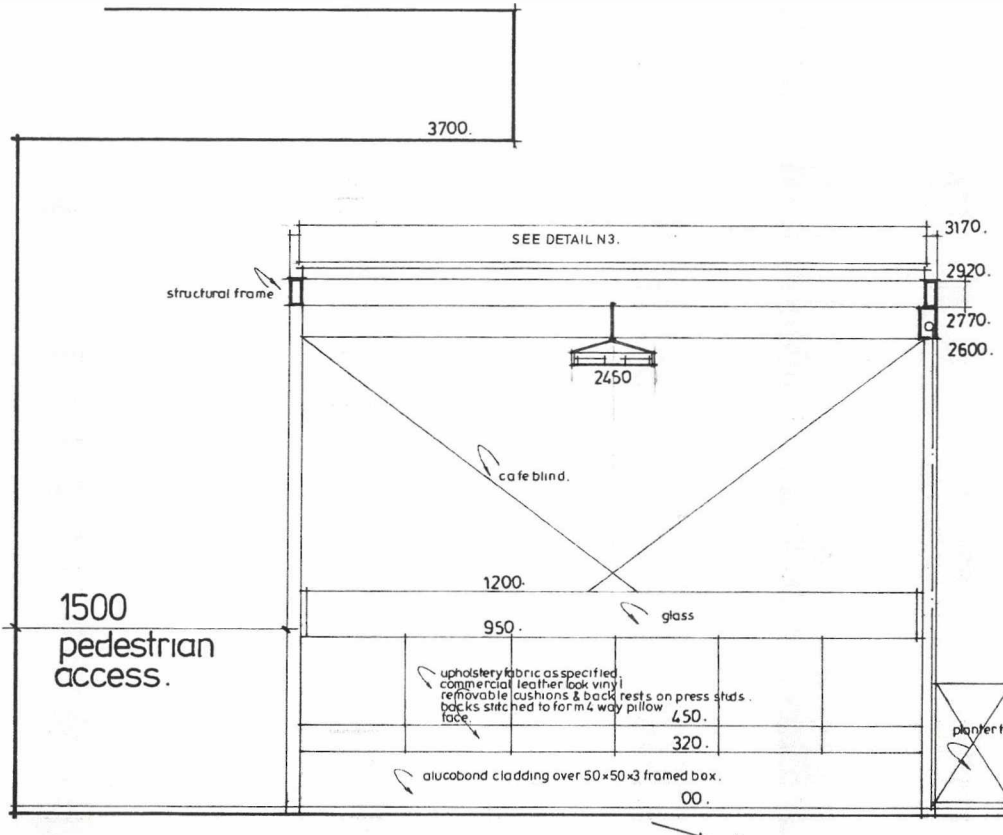
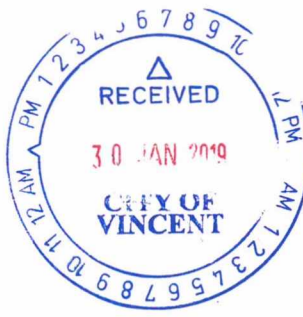
**CITY OF VINCENT**  
 BUILDING APPROVAL  
 26 FEB 2019 19:58  
 This Plan is approved subject to compliance with the Building Act 2011, Building Code of Australia, Building Regulations 2012, Council Local Laws and any conditions of approval.

RECEIVED  
 30 JAN 2019  
 CITY OF VINCENT



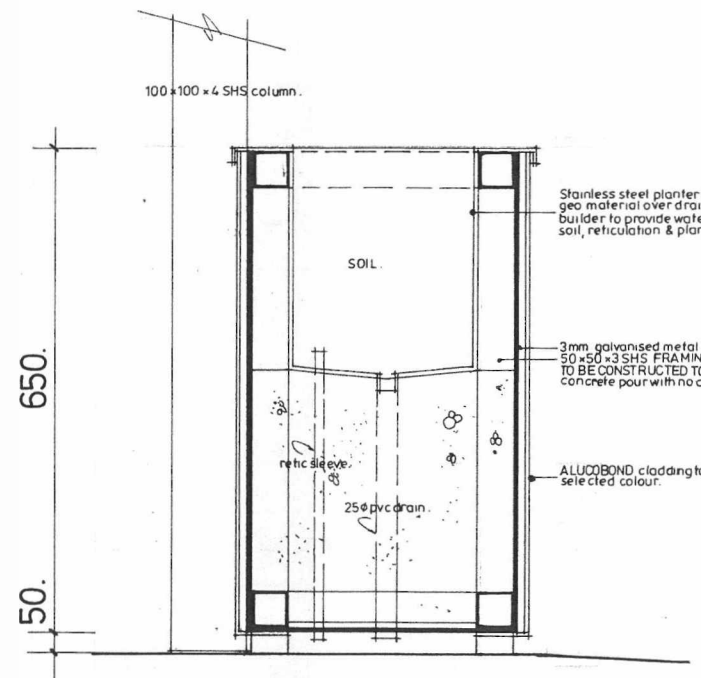
D. 2. ELEVATION  
 SCALE 1:20

Amendments	Date	Item	No.
PROJECT <b>SPRITZ.</b>			
168 SCARBOROUGH BEACH ROAD, MT HAWTHORN.			
 <b>MCARTNEY &amp; ASSOCIATES PTY LTD</b> Reg. Builders: 100779			
m: 0419 864 117 e: mcartney@inet.net.au 16 Angelica St, Woodlands 6018 mcartneyandassociates.net		Date: <b>DEC 10.</b>	Job No.
Scale: 1:20.		Drawing No. <b>2.</b>	
Check all dimensions on site prior to commencement.			

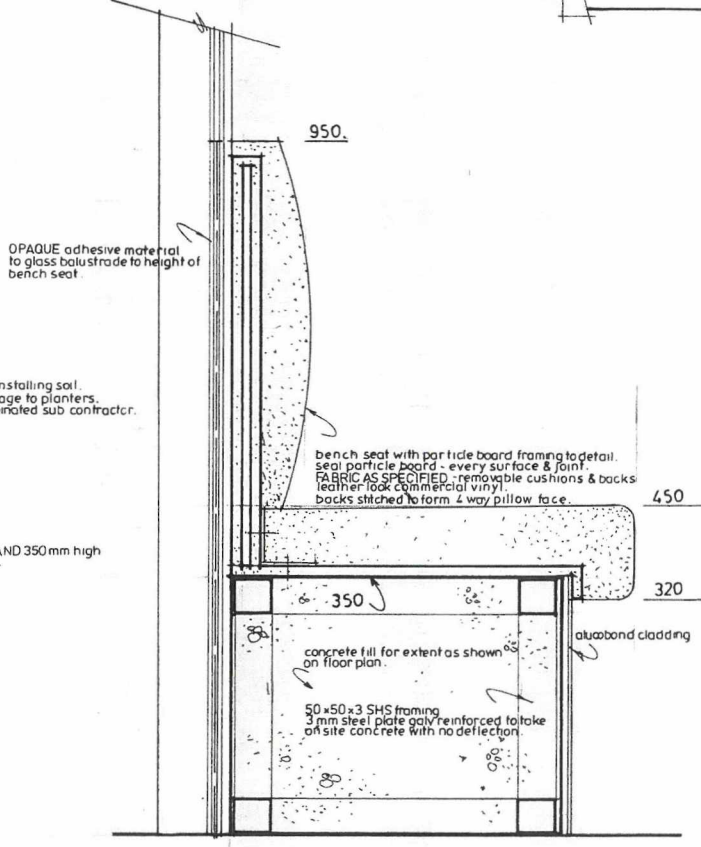


**M. SECTION.**  
 3. SCALE: 1:20.

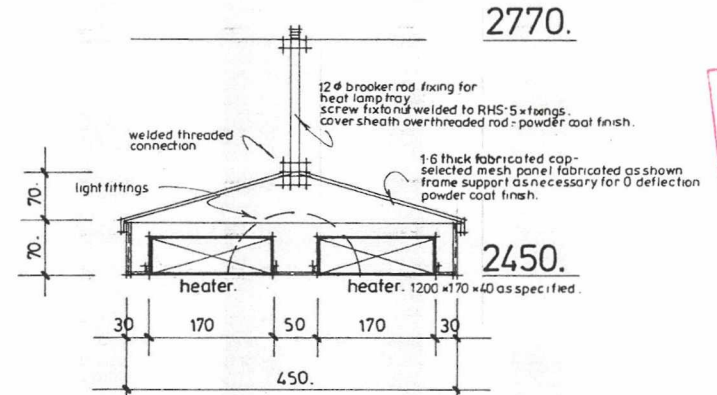
**K. SECTION.**  
 3. SCALE: 1:20.



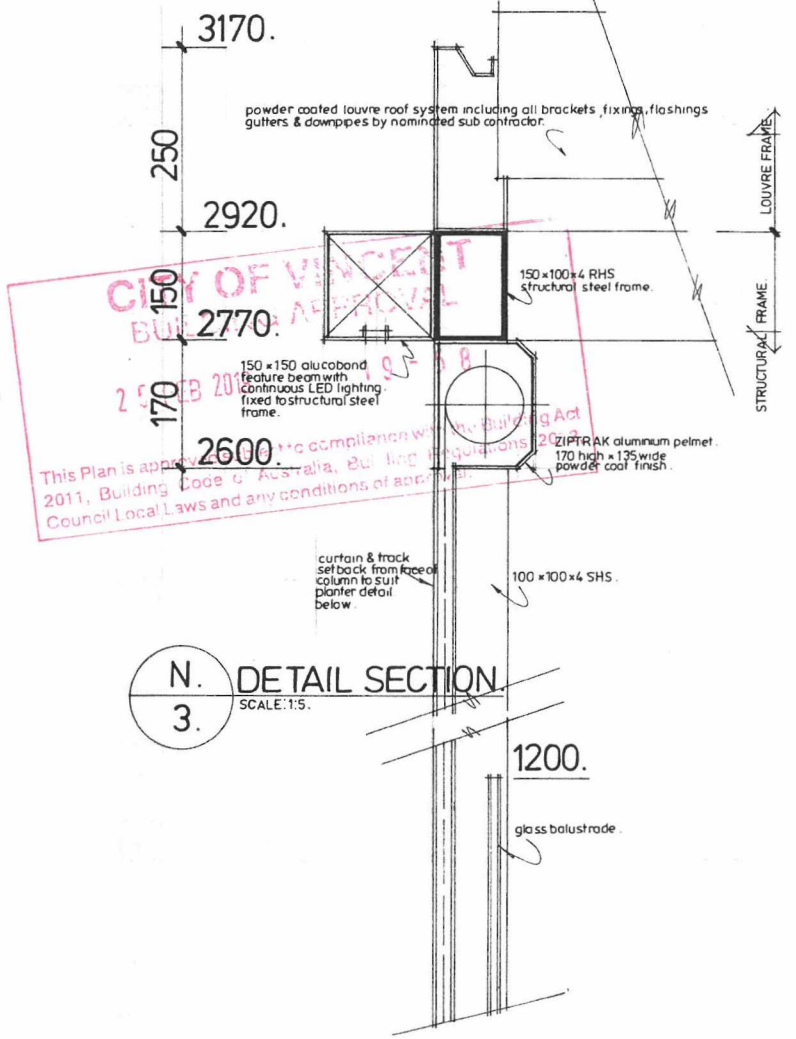
**H. SECTION - PLANTER.**  
 3. SCALE: 1:5.



**J. SECTION - BENCH SEAT.**  
 3. SCALE: 1:5.



**L. SECTION - LIGHTING & HEATING TRAY.**  
 3. SCALE: 1:5.



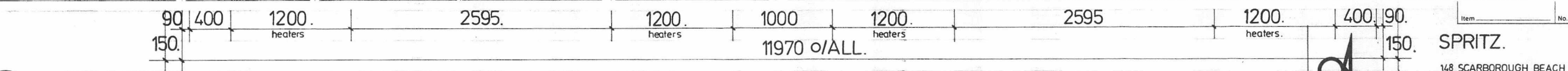
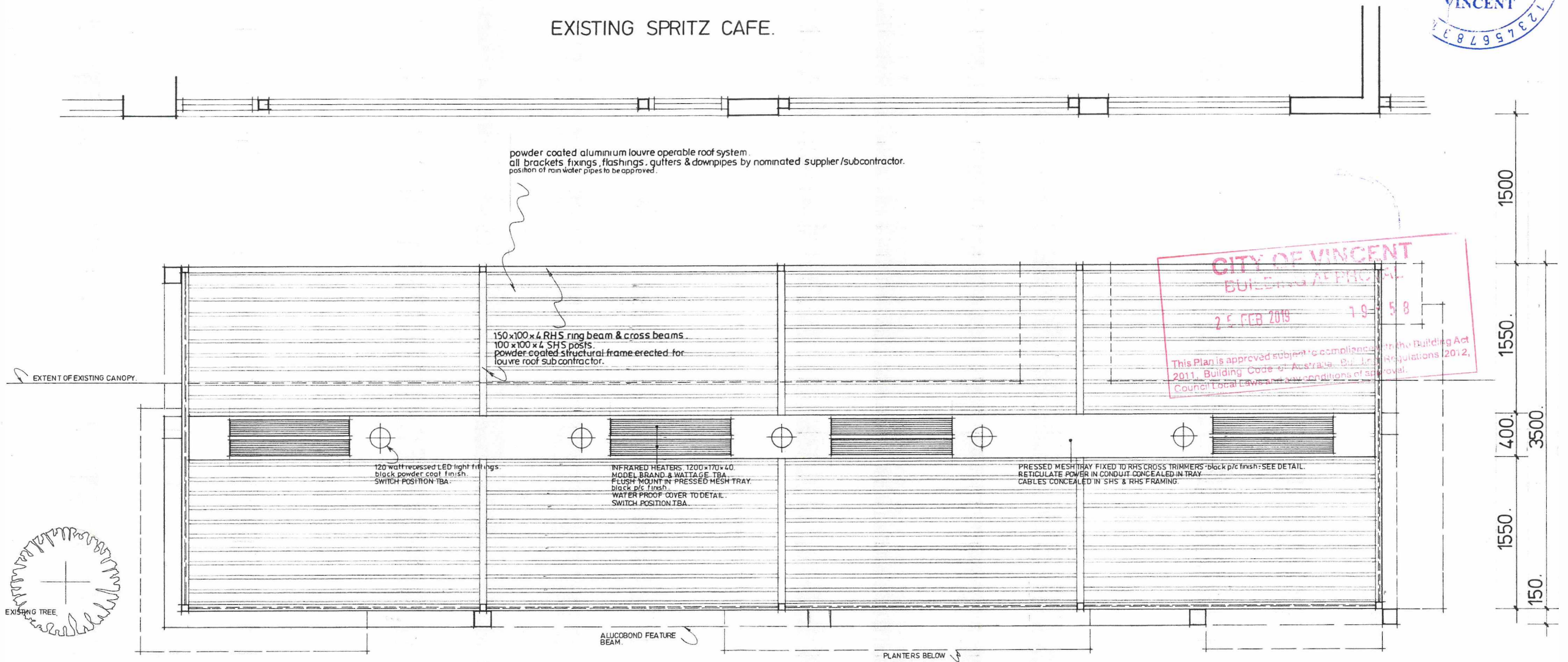
**N. DETAIL SECTION.**  
 3. SCALE: 1:5.

**CITY OF VINCENT BUILDING SERVICES**  
 25 FEB 2019 10:58 AM  
 This Plan is approved in compliance with the Building Act 2011, Building Code of Australia, Building Regulations 2012 and any conditions of approval, Council Local Laws and any conditions of approval.

Amendments	Date	Item	No.
PROJECT <b>SPRITZ.</b>			
148 SCARBOROUGH BEACH ROAD MTHAWTHORN			
MCARTNEY & ASSOCIATES PTY LTD Reg. Builders 100779 m: 0419 864 117 e: mcartney@inet.net.au 16 Angelico St, Woodlands 6018 mcartneyandassociates.net			
Date:	DEC 18	Job No.	
Scale:	1:5 1:20.	Drawing No.	3.
Check all dimensions on site prior to commencement			



EXISTING SPRITZ CAFE.

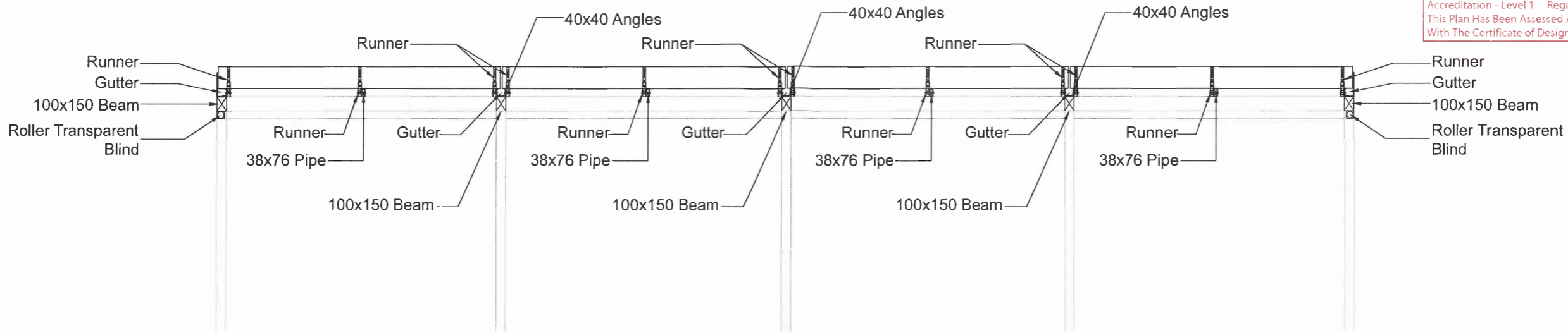


P. 4. CEILING & LIGHTING PLAN.  
 SCALE: 1:20.

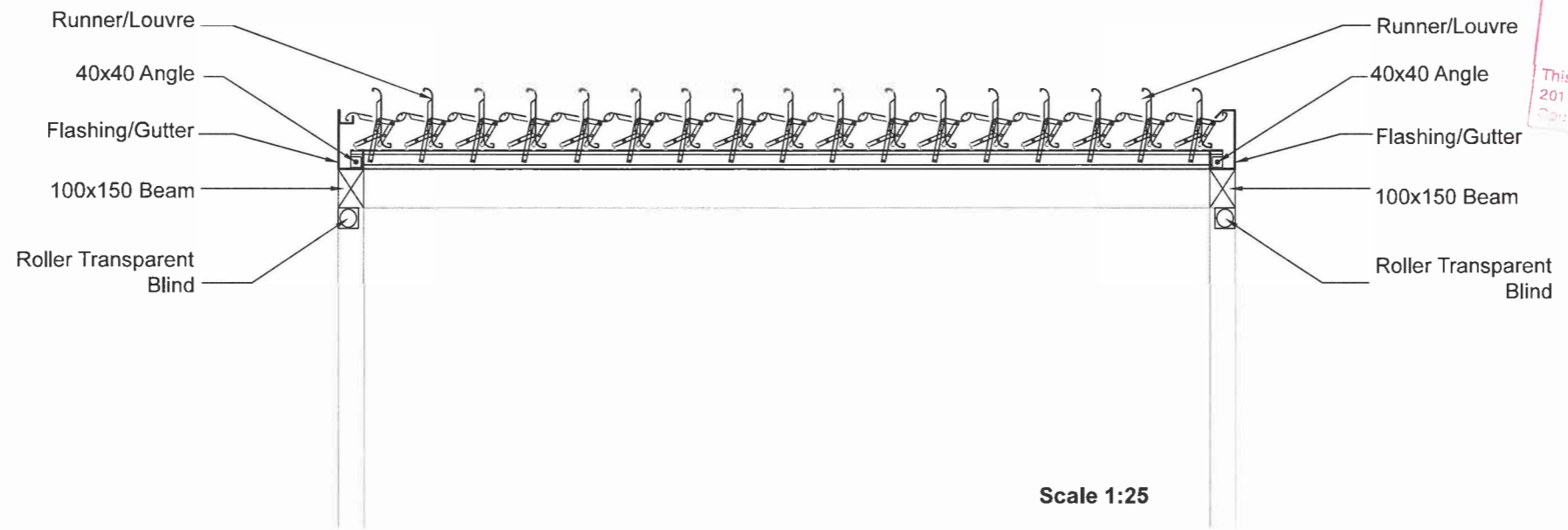
**MCARTNEY & ASSOCIATES PTY LTD**  
 Reg. Builders: 100779  
 m: 0419 864 117  
 e: mcartney@inet.net.au  
 16 Angelico St, Woodlands 6018  
 mcartneyandassociates.net

Item _____ No. _____	
<b>SPRITZ.</b>	
1/8 SCARBOROUGH BEACH ROAD, MT HAWTHORN.	
Date: DEC 2018	Job No. _____
Scale: 1:20	Drawing No. <b>4</b>
Check all dimensions on site prior to commencement	

**modus**  
compliance pty ltd  
Building Surveying Contractor - BSC7  
C19-0027 C19-0027  
Building Surveyor - Stephen Jones  
Accreditation - Level 1 Registration No - BSP223  
This Plan Has Been Assessed And Approved In Conjunction  
With The Certificate of Design Compliance



Scale 1:50



Scale 1:25

**CITY OF VINCENT**  
BUILDING APPROVAL  
25 FEB 2019 79 - 5.8  
This Plan is approved subject to compliance with the Building Act 2011, Building Code of Australia, the LGA Regulations 2012, Council Local Laws and any conditional approval.

RECEIVED  
30 JAN 2019  
CITY OF VINCENT

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**MANUAL LOUVRES PERGOLA**

Owner: Mario Tolardo

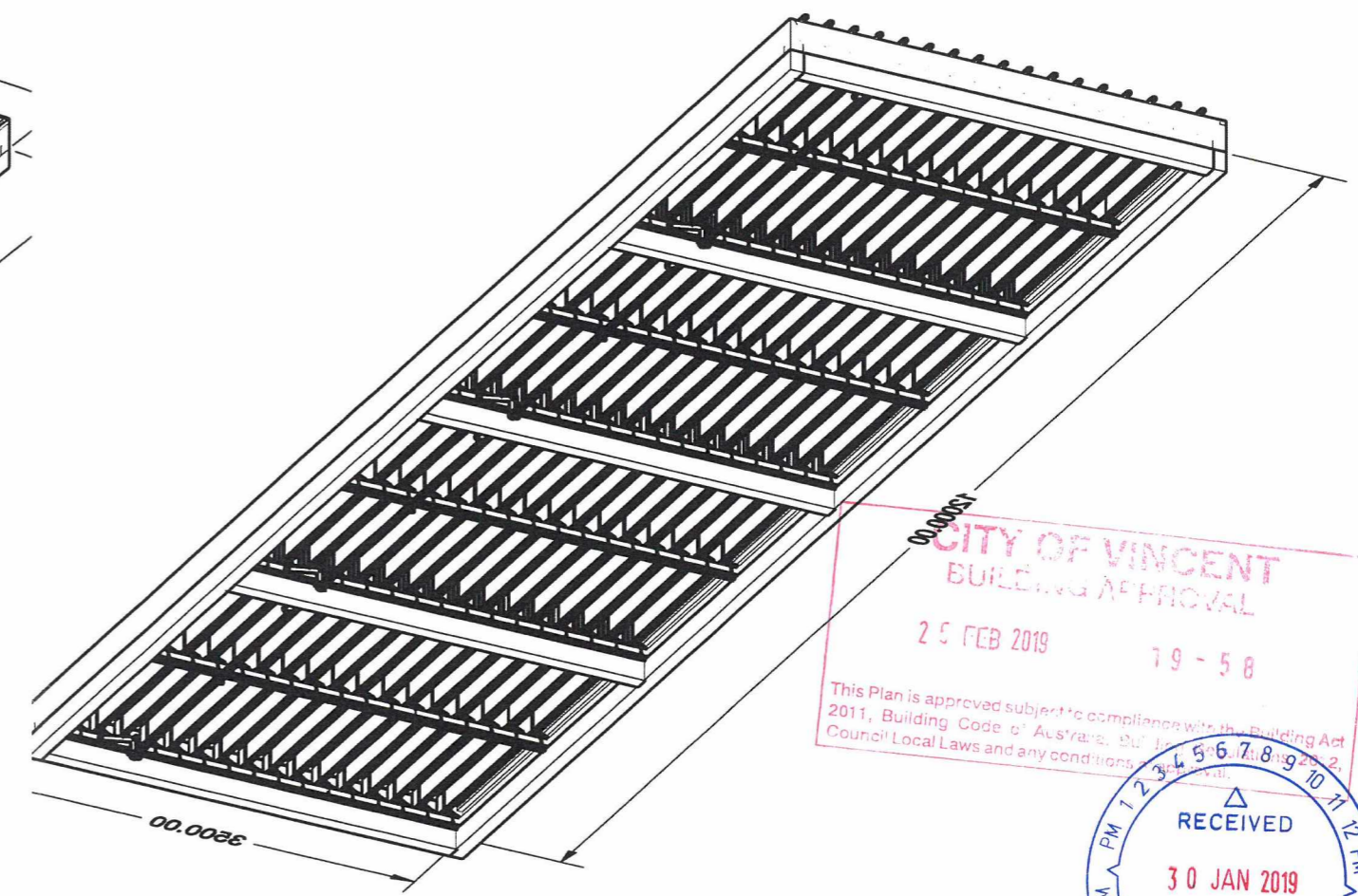
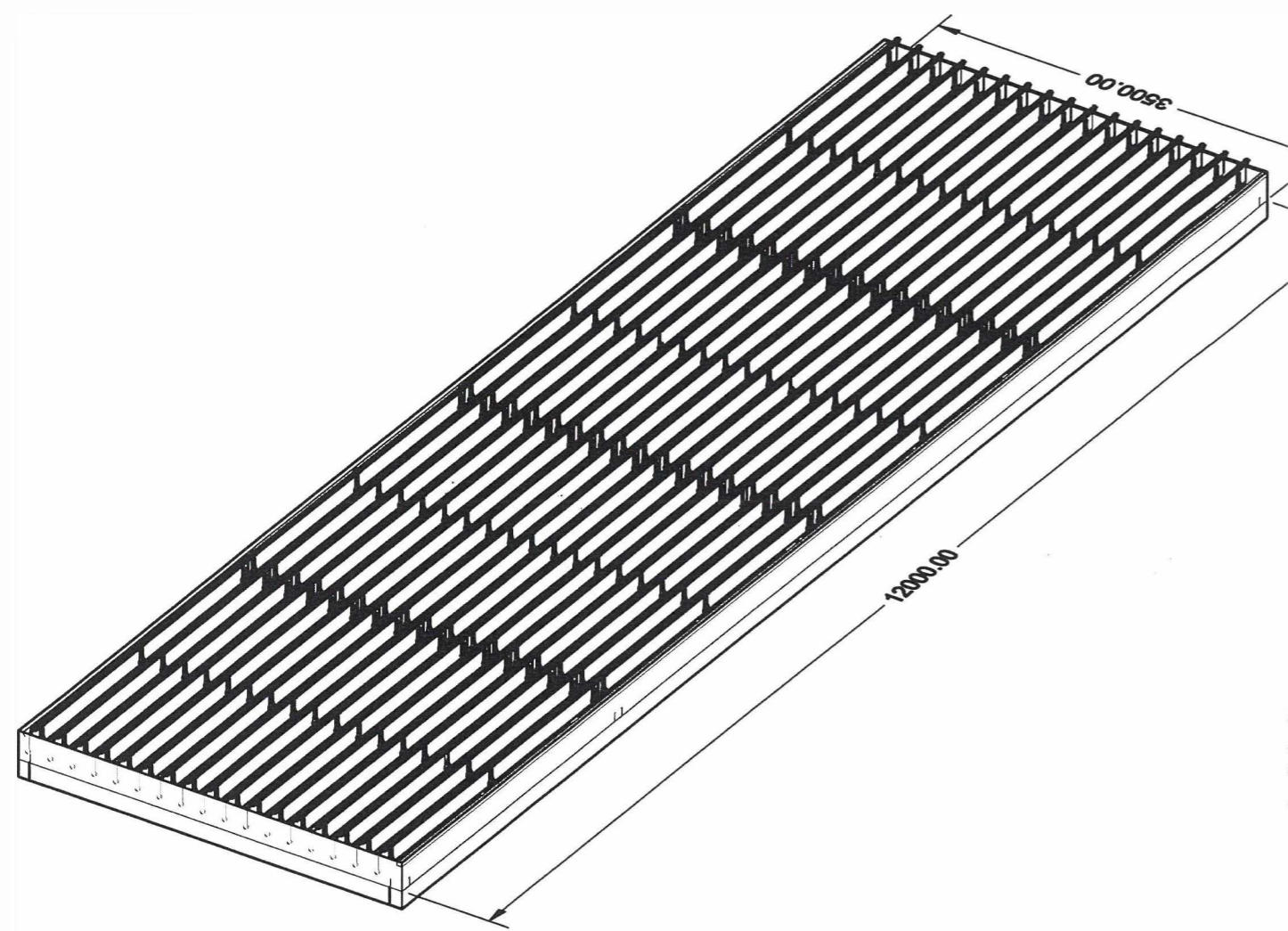
**Floor Plan  
Section Details**

Address:  
148 Scarborough Beach Rd, Mount Hawthorn

Scale: 1:50  
Date: 18-12-2018  
N° Sheet: 1 of 3  
Design & Drafting:  
Rimkhy Espinoza  
File Name:  
SUNPROLOUVRES Scarborough Beach Rd Mount Hawthorn WA2018

**A01**

A3 Format

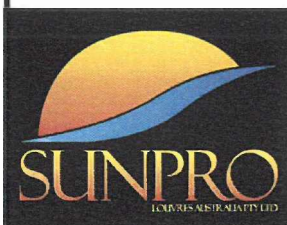


**CITY OF VINCENT**  
BUILDING APPROVAL  
25 FEB 2019 19-58  
This Plan is approved subject to compliance with the Building Act 2011, Building Code of Australia, 2011, and any conditions of Council Local Laws and any conditions of approval.

**RECEIVED**  
30 JAN 2019  
**CITY OF VINCENT**

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Scale 1:50



**Sample Drawing  
Not For Actual Use**

**MANUAL LOUVRED PERGOLA**

Owner: Mario Tolardo

**3D Views  
Proposal 1**

Address:  
148 Scarborough Beach Rd. Mount Hawthorn



Scale: -  
Date: 18-12-2018  
N° Sheet: 2 of 3  
Drawn: Rinkhy Espinoza  
File Name: 148 Scarborough Beach Rd Mount Hawthorn A02

Sheet N°:  
**A02**

## **Summary of Submissions:**

The tables below summarise the comments received during the advertising period of the proposal, together with Administration's response to each comment.

<b>Comments Received in Support:</b>	<b>Administration Comment:</b>
<ul style="list-style-type: none"><li>• The structure significantly contributes to the local character and streetscape of the Mount Hawthorn town centre.</li><li>• The Structure has formed a strong communal hub for local families and patrons of the business.</li><li>• The structure adds vibrancy, activation, amenity, and liveliness to the locality.</li><li>• The business/premises attracts people to the area.</li></ul>	Noted.
<b>Comments Received in Objection:</b>	<b>Administration Comment:</b>
<ul style="list-style-type: none"><li>• Concerns that usage of the alfresco structure by patrons and staff impacts mobility of pedestrians due to the narrowness of the footpath between the alfresco structure and shop front.</li><li>• The structure is out of character with the outdoor parklets approved elsewhere within the City of Vincent.</li></ul>	<p>The alfresco structure had been constructed in accordance with Condition No. 6 of the 2018 approval, which stipulates that a 1.5 metre wide pedestrian access way was to be provided at all times to allow the public thoroughfare. To ensure pedestrian mobility is not adversely impacted, Administration has recommended a condition of approval requiring a management plan be submitted that demonstrates that the movement of pedestrians will not be unreasonably impacted by patrons and staff of Spritz.</p> <p>The Vibrant Public Spaces Policy which guides the development of outdoor parklets within the City of Vincent was endorsed in June 2022, four years after the Alfresco Structure at Spritz received initial planning approval. Whilst the alfresco structure does not strictly adhere to the detailed design requirements for eatlets as outlined in the policy, the structure meets relevant objectives of the policy as detailed in Administration's report to Council.</p>
<b>Comments Received Expressing Concern:</b>	<b>Applicant Comment:</b>
The structure is in line with the curb and obstructs the view between pedestrians and oncoming traffic.	Excluding planter boxes to the southern elevation, the structure is set back one metre from the road. The structure is also unenclosed on all sides and has a solid wall height of 0.7 metres above the natural ground level meaning the structure is visually permeable as viewed from all elevations.

Note: Submissions are considered and assessed by issue rather than by individual submitter.



## Summary of Submissions:

The Applicant notes that 137 submissions in support of the proposal were received.

All 137 supportive submissions related to the following themes:

- The structure significantly contributes to the local character and streetscape of the Mount Hawthorn town centre.
- The structure has formed a strong communal hub for local families and patrons of the business;
- The structure adds vibrancy, activation, amenity, and liveliness to the locality; and
- The business/premises attracts people to the area.

The City received 5 submissions which objected to the proposal, and one submission which expressed concerns.

The tables below summarise the objecting comments received during the advertising period of the proposal, together with the Applicant's response to each comment.

Comments Received in Objection:	Applicant Comment:
<p><u>Accessibility</u></p> <ul style="list-style-type: none"><li>• Concerns that usage of the alfresco structure by patrons and staff impacts mobility of pedestrians due to the narrowness of the footpath between the alfresco structure and shop front.</li></ul>	<p><b>APPLICANT RESPONSE TO POINT 1:</b></p> <p>The width of the footpath between the alfresco structure and the shop front is 1500mm, which is compliant with the City's requirements and accords with the approved working drawings issued under Building Permit No. 6.2019.212.1.</p> <p>The suggestion that the footpath between the shop front and the alfresco structure is narrow and impacts on pedestrians being able to utilise the footpath is unfounded.</p> <p>Pedestrians are not obstructed from utilising the footpath between the alfresco dining area and the shop front.</p> <p>Patrons of Spritz do not meet gather or dine within the 1500mm wide thoroughfare.</p> <p>Staff of Spritz move to and from the alfresco area in a coordinated and managed way.</p> <p>The alfresco dining area functions in the same way as all other alfresco dining areas along Scarborough Beach Road and across Western Australia.</p> <p>This pedestrian thoroughfare conforms with the requirements of the approval and remains unobstructed and accessible to all. The Applicant therefore requests that the objection be dismissed.</p>

## Summary of Submissions:

Comments Received in Objection:	Applicant Comment:
<ul style="list-style-type: none"><li data-bbox="112 239 851 303">• The structure is out of character with the outdoor parklets approved elsewhere within the City of Vincent.</li></ul>	<p data-bbox="878 236 1355 263"><b>APPLICANT RESPONSE TO POINT 2:</b></p> <p data-bbox="878 300 1982 359">This comment is not relevant to the Application. The Applicant requests that the objection be dismissed.</p> <p data-bbox="878 395 2083 486">The alfresco structure is <b>not</b> an outdoor parklet. The characteristics of the Spritz structure cannot therefore be compared to ‘outdoor parklets approved elsewhere’ within the City for the purpose of this assessment.</p> <p data-bbox="878 518 2094 574">To elaborate, the Applicant advises that a ‘parklet’ is defined in the City’s Vibrant Public Spaces Policy as follows:</p> <p data-bbox="878 606 2083 699"><i><b>Parklet</b> means a small public park set into the existing streetscape. Parklets are for anyone to use at all times, and are not reserved for customers of particular businesses. Parklets repurposes part of the street into a public space for people through the provision of seating, shade and greenery.</i></p> <p data-bbox="878 730 2049 790">The alfresco structure is not a small public park. It is not used by anyone at all times. It is used for customers of Spritz during business hours and publicly accessible outside of trading times.</p> <p data-bbox="878 821 2083 880">This Application seeks a renewal of the approval granted by the City for the existing alfresco structure which includes a motorised café blind system to allow for a climate controlled response.</p> <p data-bbox="878 912 2049 1034">The alfresco dining area of Spritz requires this different structure to remain in place for weather protection. It is a structure required to respond to the unique characteristics of the site and is to be considered on its merit, and not in comparison to entirely different public space types which are not relevant to the Application.</p> <p data-bbox="878 1066 2094 1252">In the circumstances of this structure, it is essential to the continued successful operation of Spritz in this location that it remain. The south western orientation of the tenancy and siting of the restaurant on the northern side of Scarborough Beach Road means that the alfresco area is highly exposed to all weather conditions. This outdoor dining area would become untenable without this structure being provided and able to be operated in a way which offers protection for patrons in response to the changing weather patterns of the day and throughout the different seasons of the year.</p> <p data-bbox="878 1284 2094 1436">The high quality design and robust nature of the structure is a vibrant feature and significant contributor to the Mount Hawthorn streetscape for the benefit of the public. The overwhelming number (137) of supporting submissions received by the City during the public advertising process confirms the positive impact that this structure has had on the local community and that its character is accepted as forming an important and identifiable feature of this café strip.</p>

**Summary of Submissions:**

<b>Comments Received Expressing Concern:</b>	<b>Applicant Comment:</b>
<p><u>Safety</u></p> <ul style="list-style-type: none"><li>The structure is in line with the curb and obstructs the view between pedestrians and oncoming traffic.</li></ul>	<p>The structure is not in line with the kerb. Nor does it obstruct pedestrian sight lines when crossing Scarborough Beach Road.</p> <p>The structure is setback 600mm from the edge of the kerb to the edge of the planters and a further 400mm to the edge of the structure (a total of 1.0m), which is compliant with the City's requirements and Building Permit No. 6.2019.212.1.</p> <p>The Applicant requests that the objection be dismissed.</p>

Note: Submissions are considered and assessed by issue rather than by individual submitter.

The table below provides a summary of the outstanding DRP Chairperson comments and Administration's response to these.

<b>Principle 1 – Context &amp; Character</b> <b>Principle 3 – Built Form &amp; Scale</b> <b>Principle 10 – Aesthetics</b>	
DRP Chairperson Comments	Administration Response
<ol style="list-style-type: none"> <li>1. The design language, form, materiality and colours don't appear to draw from, reference, interpret or sit within the local area's unique character and context comfortably.</li> <li>2. The structure impacts negatively on the adjoining building's streetscape interface as well as interactivity by enclosing a public footpath blocking the visibility and legibility of adjoining shopfront.</li> <li>3. The signage appears out of context and very prominent on the streetscape due to its proximity to the streetscape.</li> </ol>	<ol style="list-style-type: none"> <li>1. The structure was constructed in late 2019 and over the past 5 years has formed part of the local areas' unique character.</li> <li>2. The adjoining tenancies maintain suitable streetscape interaction. This is provided due to the unenclosed and permeable edges of the alfresco, which maintains sightlines between the street and Restaurant/Café tenancy, and vice versa.</li> <li>3. The size and scale of the signage is appropriate relevant to the size façade. It is the only signage for the tenancy that is visible from the street and does not result in a proliferation of signage. The size is consistent with the signs of signs located on awning signs within the surrounding context.</li> </ol>
<b>Principle 3 – Built Form &amp; Scale</b>	
DRP Chairperson Comments	Administration Response
<ol style="list-style-type: none"> <li>1. The visual bulk of the structure is dominant within the streetscape and lacks a sense of openness.</li> </ol>	<ol style="list-style-type: none"> <li>1. The visual bulk of the structure is reduced by the visual permeability of each elevation, with solid portions of structure sitting at a maximum of 700mm above NGL, and alfresco blinds only being used during increment weather.</li> </ol>
<b>Principle 7 – Legibility</b>	
DRP Chairperson Comments	Administration Response
<ol style="list-style-type: none"> <li>1. The structure dominates and restricts visibility of the adjoining building's shopfront in effect becoming a proxy shopfront when viewed from the streetscape.</li> <li>2. The pull-down blinds generate an inactive streetscape when closed.</li> </ol>	<ol style="list-style-type: none"> <li>1. The alfresco structure is visually permeable to the west, southwest and eastern elevations, which allow for visibility between the street and building shopfront. This is demonstrated in images provided by the applicant in <b>Attachment 3</b>.</li> <li>2. The alfresco blinds are visually permeable and are infrequently used. When the alfresco blinds are being used, the structure is occupied, and as a result the streetscape is activated.</li> </ol>
<b>Principle 8 – Safety</b>	
DRP Chairperson Comments	Administration Response
<ol style="list-style-type: none"> <li>1. When the pull-down blinds are closed, the structure generates limited passive surveillance of the streetscape.</li> <li>2. The structure creates a concealed space between itself and the adjoining shopfront when the structure is not in use.</li> <li>3. The openings from the structure on the streetscape side are close to the kerb</li> </ol>	<ol style="list-style-type: none"> <li>1. The alfresco blinds are closed only during business hours to provide shade to patrons, as necessary. Streetscape surveillance would be provided by virtue of the structure being utilised by patrons at this time.</li> <li>2. The structure has been in place for 5 years, with the City having no recorded incidents relating to the structure creating a threat to</li> </ol>

<p>and street meaning there is limited visibility of passing cars when pedestrians step out onto the street.</p>	<p>public safety. The solid portion of wall to each elevation is 0.7 metres high. When the business is closed and the structure is not occupied, all four sides of the structure are open which allows for a high level of visual permeability through the space which limits the potential for concealment and entrapment.</p> <p>3. The alfresco structure is visually permeable to the west, southwest and eastern elevations. Planter boxes and landscaping either side of the structure prevent pedestrians from crossing the street.</p>
<p><b>Principle 9 – Community</b></p>	
<p><b>DRP Chairperson Comments</b></p>	<p><b>Administration Response</b></p>
<p>1. The sense of enclosure generated by the structure gives the impression the structure is claiming a public footpath as commercial space for the adjoining tenancy.</p> <p>2. The structure restricts pedestrian movement on a public footpath to a very narrow and enclosed zone.</p>	<p>1. The structure is unenclosed to all elevations, and remains accessible to the public when the adjoining restaurant is closed.</p> <p>2. The alfresco structure has been constructed in accordance with the approved building plans and conditions of the 2018 approval. This aspect has been further considered in Administration's comments below.</p>

**Determination Advice Notes:**

1. This is a development approval issued under the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme only. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant/owner to obtain any other necessary approvals and to commence and carry out development in accordance with all other laws.
2. No further consideration shall be given to the disposal of storm water 'off site' without the submission of a geotechnical report from a qualified consultant. Should approval to dispose of storm water 'off site' be subsequently provided, detailed design drainage plans and associated calculations for the proposed storm water disposal shall be lodged together with the building permit application working drawings.
3. This approval is subject to the applicant holding an alfresco permit for the alfresco area at all times (in the event that the applicant is not issued with an alfresco permit this approval will immediately terminate).
4. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.