

CAP Meeting Agenda

Presiding Member: Mr Brenton Burman

I write to advise of the Council Assessment Panel Meeting to be held on Tuesday 25 February 2025 at 6:00pm in the Unley Council Chambers, 181 Unley Road Unley.



Tim Bourner
Assessment Manager

Dated: 18/02/2025

Members: Mr Brenton Burman, Ms Colleen Dunn, Mr Terry Sutcliffe, Mr Will Gormly, Professor Mads Gaardboe (Deputy)

KAURNA ACKNOWLEDGEMENT

Ngadlurlu tampinhi, ngadlu Kurna yartangka inparrinhi. Ngadlurlu parnuku tuwila yartangka tampinhi.

*Ngadlurlu Kurna Miyurna yaitya yarta-mathanya Wama Tarntanyaku tampinhi. Parnuku yaitya, parnuku tapa purruna yalarra puru purruna.**

We would like to acknowledge this land that we meet on today is the Traditional Lands for the Kurna people and that we respect their spiritual relationship with their Country.

We also acknowledge the Kurna people as the Traditional Custodians of the Adelaide region and that their cultural and heritage beliefs are still as important to the living Kurna people today.

*Kurna Translation provided by Kurna Warra Karrpanthi

AGENDA

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ITEM 4.1**DEVELOPMENT APPLICATION – 24034648 – 11 COWPER ROAD, BLACK FOREST**

DEVELOPMENT NO.:	24034648
APPLICANT:	Jake Vaccarella
ADDRESS:	11 COWPER RD BLACK FOREST SA 5035
NATURE OF DEVELOPMENT:	Retrospective privacy screen to a height of 2.95 metres
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Suburban Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Building Near Airfields • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Traffic Generating Development • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Maximum Building Height (Metres) (Maximum building height is 9m) • Minimum Frontage (Minimum frontage for a detached dwelling is 9m; semi-detached dwelling is 7.5m; row dwelling is 7m; group dwelling is 22m; residential flat building is 22m) • Minimum Site Area (Minimum site area for a detached dwelling is 350 sqm; semi-detached dwelling is 350 sqm; row dwelling is 350 sqm; group dwelling is 350 sqm; residential flat building is 350 sqm) • Maximum Building Height (Levels) (Maximum building height is 2 levels)
LODGEMENT DATE:	27 Nov 2024
RELEVANT AUTHORITY:	Assessment Panel
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2024.21 21/11/2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Matthew Falconer Planning officer
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Nil
RECOMMENDATION	Support with Conditions
ATTACHMENTS	Attachment 1 – Plan Set Attachment 2 – Representations Attachment 3 – Response to representations - Rd 1 PN

BACKGROUND:

The development subject to this application is retrospective. A privacy screen has been erected on the applicant's property and is sited directly adjacent the existing 1.8 metre Colourbond fence that extends along the western property boundary.

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Following the erection of the screen, Council staff were made aware that the development had been undertaken and sought the owner of the subject land to seek retrospective approval, as the structure constituted development.

DETAILED DESCRIPTION OF PROPOSAL:

This application seeks retrospective approval for the construction of a privacy screen to a height of 2.95 metres and 7.6 metres in length.

As shown on the plans, the structure is located wholly within the subject site and does not encroach on the neighbour's land nor abut the boundary line. In addition, the structure is free standing and does not rely on the fence for structural support. Based on the above, I form the view that the proposed structure is a privacy screen and not a fence.

For reference, a fence is defined in the Oxford Dictionary as an 'Enclosure or barrier (e.g. *rail, *palisade, etc.) along the boundary of a park, field, etc., or any place to protect it from intruders or to define limits.'

The privacy screen is located adjacent the western property boundary of the subject land. The screen features 5 evenly spaced posts that support a Colorbond screen in Monument measuring 1.3 metres in height. The steel support posts have no structure attached below a height of 1.65 metres.

SUBJECT LAND & LOCALITY:

Location reference: 11 COWPER RD BLACK FOREST SA 5035

Title ref.: CT 5488/588 **Plan Parcel:** D2015 AL187 **Council:** CITY OF UNLEY

Site Description

The subject land is located within the **Suburban Neighbourhood Zone**.

The subject land is sited on the southern side of Cowper Road and is rectangular in shape with a frontage of approximately 15.3 metres and a depth of 53.5 metres with an approximate site area of 819 square metres. The subject land is relatively flat and is not affected by any known easements or encumbrances.

The site currently contains a single storey detached dwelling and outbuilding to the rear of the site. Vehicular access is obtained from a crossover adjacent the western property boundary.

The land is relatively flat and there are no regulated or significant trees on the subject land.

Figure 1: View of the subject land from Cowper Road



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Locality

When determining the locality of the subject land, the general pattern of development and the extent to which the proposed development is likely to impact surrounding occupiers and landowners was considered. The locality is located entirely within the **Suburban Neighbourhood Zone**.

Due to the nature of the proposed development and limited impacts to the wider locality, the locality is limited to only a number of properties which are highlighted on the plan below. The locality is entirely residential with detached dwellings the predominant form of development. It is noted a pair of semi-detached dwelling are located at 8 Dryden Road.

The locality is well vegetated with numerous large trees, both on private land and in the public realm, predominantly on street verges.

Locality Plan

The representor(s) live within the locality of the subject land.



Subject Land



Locality



Representor

SERIOUSLY AT VARIANCE ASSESSMENT

The PDI Act 2016, Section 107 (2)(c) states that *the development must not be granted planning consent if it is, in the opinion of the relevant authority, seriously at variance with the Planning and Design Code (disregarding minor variations).*

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The **Suburban Neighbourhood Zone Desired Outcome** states:

***DO 1** – Low density housing is consistent with the existing local context and development pattern. Services and community facilities contribute to making the neighbourhood a convenient place to live without compromising residential amenity and character.*

The proposed form of development does not change the nature of the existing use of the land as a residential detached dwelling. The structure is ancillary to the existing dwelling and should ensure that it does not compromise the residential amenity and character.

As detailed in the following planning assessment, the proposal is considered to satisfy the intent of the **Desired Outcomes** and **Performance Outcomes** with only minor variations noted against the respective **Designated Performance Features**. Therefore, this proposal is not considered to be seriously at variance with the Planning and Design Code.

PUBLIC NOTIFICATION

- **REASON**

Established Neighbourhood Zone – Table 5 – Procedural Matter (PM) – Notification – A privacy screen is not listed as an excluded form of development in Column A therefore and requires to be publicly notified.

As part of the public notification process 38 owners and/or occupiers of adjacent land were directly notified and a sign detailing the proposal was placed on the subject land for the duration of the notification period. A copy of the representations can be found in **Attachment 2**.

During the notification period, Council received two representations. One representation has indicated they do not support the development and has requested to be heard by the Council Assessment Panel whilst the second representation is in favour of the development.

Representations:

Representor Name / Address	Support / Support with Concerns / Oppose	Request to be heard	Represented by
[REDACTED]	Oppose the development	Yes	Self
[REDACTED]	Support the development	No	

Summary:

The representor not in support raised the following concerns:

- Visual amenity and appearance;
- Access to sunlight;
- Encroachment;
- Inconsistent plans compared to the actual structure.

The representor noted during the assessment they believed that the privacy screen is higher than that depicted on the plans at 3.1m and that the footings encroach into the adjacent land.

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The height of the structure as measured on the owner's land has been confirmed at a height of 2.95 metres as per the plans.

A formal response to the representation has been provided by the applicant and can be found in **Attachment 3**.

AGENCY REFERRALS

Not required

INTERNAL REFERRALS

Not required

RULES OF INTERPRETATION:

The application has been assessed against the relevant provisions of the Planning & Design Code (the Code). The Code outlines zones, subzones, overlay and general provisions policy which provide Performance Outcomes (POs) and Desired Outcome (DOs).

In order to interpret Performance Outcomes, the policy includes a standard outcome that generally meets the corresponding performance outcome (Designated Performance Feature or DPF). A DPF provides a guide as to what will satisfy the corresponding performance outcome. Given the assessment is made on the merits of the standard outcome, the DPF does not need to be satisfied to meet the Performance Outcome and does not derogate from the discretion to determine that the outcome is met in another way, or from discretion to determine that a Performance Outcome is not met despite a DPF being achieved.

Part 1 of the Code outlines that if there is an inconsistency between provisions in the relevant policies for a particular development, the following rules will apply to the extent of any inconsistency between policies:

- the provisions of an overlay will prevail over all other policies applying in the particular case;
- a subzone policy will prevail over a zone policy or a general development policy; and
- a zone policy will prevail over a general development policy.

PLANNING ASSESSMENT

A privacy screen does not have a designated set of relatable policies to be assessed against and therefore must be assessed against the full version of the Code. Forms of development, such as dwellings and outbuildings, have generated policies to be assessed against a development and feature an Accepted, Deemed to Satisfy or a Performance Assessed pathway. Given the lack of policy directly relating to privacy screens, the proposed development is assessed having regard to the policy relating to dwellings, dwelling additions, fencing and ancillary structures.

The application has been assessed against the relevant policies of the Code, which are found at the following link:

[Planning and Design Code Extract](#)

The main considerations in the assessment of the proposed privacy screen relates to visual impacts, loss of access to sunlight and overshadowing.

The representor has indicated in their representation that the privacy screen has a visual impact and results in a loss of access to sunlight.

In the assessment of the proposed structure, it is appropriate and reasonable to consider and compare a proposed development with permissible, as of right development or items not requiring development approval: *Marjanovic v City of Charles Sturt* [2001] SAERDC 10; *Lanzilli Holdings v City of Campbelltown* (1982) 32 SASR 85; *Mclver v City of Onkaparinga* [2011] SAERDC 8.

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In *Dunning v District Council of the Copper Coast* [2010] SAERDC 47, a case involving an appeal against a refusal of an application for a balcony roof, the court considered the effect of “as of right” development, being development that is designated as “complying” (pursuant to DR sch 4) or development that does not require Development Plan consent (pursuant to DR sch 1A). In that case, the provisions relating to, ‘as of right development’ were held to influence the operation of the zone provisions of the relevant Development Plan and, in particular, the policy intent for residential development. It was held that developments that are permissible by virtue of schedules 1A and 4 were relevant considerations in the assessment of the application.

The Planning, Development and Infrastructure Act 2016 and Regulations 2017 provides a Deemed to Satisfy assessment pathway whereby an application must be approved when a set of design standards are met. The Suburban Neighbourhood Zone provides an opportunity for an applicant to apply for detached dwellings, dwelling additions and ancillary structures, such as a carport, verandah or outbuilding, through the Deemed to Satisfy pathway. Should the proposal satisfy the Deemed to Satisfy design standards the building/structure must be approved by the relevant Authority.

Within the Suburban Neighbourhood Zone a dwelling, dwelling addition, carport, verandah or outbuilding could be approved through the Deem to Satisfy pathway resulting in a boundary wall/structure with a post or wall height measuring 3 metres, measured from the top of the footings, and have a wall length of 11.5 metres (DTS 7.1 and extract of DTS 11.1 is provided below).

Relevant **Deem to Satisfy / Designated Performance Features (DTS / DPF)** of **Suburban Neighbourhood Zone** state:

DTS/DPF 7.1 – *Except where the building is a dwelling and is located on a central site within a row dwelling or terrace arrangement, side boundary walls occur only on one side boundary and satisfy (a) or (b) below:*

- a) *side boundary walls adjoin or abut a boundary wall of a building on adjoining land for the same or lesser length and height*
- b) *side boundary walls do not:*
 1. *exceed 3m in wall height*
 2. *exceed 11.5m in length*
 3. *when combined with other walls on the boundary of the subject development site, exceed a maximum 45% of the length of the boundary*
 4. *encroach within 3 metres of any other existing or proposed boundary walls on the subject land.*

DTS/DPF 11.1(e) - *if situated on a boundary (not being a boundary with a primary street or secondary street), do not exceed a length of 11.5m unless*

- a) *a longer wall or structure exists on the adjacent site and is situated on the same allotment boundary and*
- b) *the proposed wall or structure will be built along the same length of boundary as the existing adjacent wall or structure to the same or lesser extent*

DTS/DPF 11.1(h) - *have a wall height or post height not exceeding 3m above natural ground level (and not including a gable end)*

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Visual Impact

In the case of this proposal, it is important to consider where the proposed screen is located and what can be approved 'as of right'. Whilst the proposed structure is not necessarily aesthetically pleasing when viewed from the representor's side of the fence, the screen is located to the side of the adjoining dwelling. The screen is located directly adjacent the dwellings eastern most wall along a narrow section that provides pedestrian access between the front and rear of the property. A bathroom is the only opening along this portion of the eastern façade.

In undertaking the assessment, the provisions relating to boundary wall development in association with dwellings, dwelling additions and ancillary structures are considered the most relevant. It is anticipated that all of these forms of development could have a wall located on the boundary with the possibility of being 11.5 metres in length have a building height of 3 metres when measured from the top of the footings, resulting in the same or similar visual impact.

In addition to the above, a structure that satisfies the Deemed to Satisfy Provisions of 'the Code' would not need to consider the location of doors and windows on a neighbouring property. Whilst the location of the structure is adjacent the neighbours bathroom, it does not prevent ventilation.

I form the view that **PO 7.1** and **11.1** of the **Suburban Neighbourhood Zone** is more appropriate in the assessment of the proposed development.

PO 7.1 – Suburban Neighbourhood Zone

Walls on boundaries are limited in height and length to manage visual and overshadowing impacts on adjoining properties.

As detailed earlier, the proposed screen has a length of 7.6 metres and a height of 2.95 metres. In acknowledging the fact that the Planning and Design Code does anticipate structures to be constructed on a property boundary, the length and height as proposed is reasonable and it limits the visual impact especially considering its location adjacent a side wall of the neighbouring dwelling and satisfies **PO 7.1** of the **Suburban Neighbourhood Zone**. A further assessment relating to overshadowing is undertaken under the heading 'overshadowing'.

PO 11.1 – Suburban Neighbourhood Zone

Residential ancillary buildings are sited and designed to not detract from the streetscape or appearance of primary residential buildings on the site or neighbouring properties.

The structure is setback some 18.69 metres back from the front property boundary, whilst also being sited toward the rear of the two adjacent residential dwellings. As such there is limited opportunity to view the structure from outside of the subject land and 13 Cowper Road. Additionally, due to the distance from the street, will not result in a negative streetscape impact or an impact to the appearance of buildings. Based on the above, **PO 11.1** is satisfied.

Access to sunlight

Suburban Neighbourhood Zone PO 3.1 states:

PO 3.1 – Building footprints consistent with the character and pattern of a low-density suburban neighbourhood and provide sufficient space around buildings to limit visual impact, provide an attractive outlook and access to light and ventilation.

As acknowledged above, the neighbouring property has a bathroom located on the eastern side of the dwelling, directly adjacent to the location of the privacy screen. The only relevant provision that speaks to light and ventilation is **PO 3.1** of the **Suburban Neighbourhood Zone**. **PO 3.1** is a provision that relates to site coverage as indicated by the fact it references building footprints. Notwithstanding, the structure does not result in a loss of ventilation, however is likely to result in a loss of direct sunlight during the morning due to the orientation of the window. As the bathroom is not a habitable room, a habitable room being

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defined as, ‘means any room used for domestic purposes other than a bathroom ...’, less importance is placed on the maintenance of direct sunlight.

Overshadowing

The relevant provisions to be considered in undertaking an assessment of overshadowing are **Interface between Land Uses PO 3.1 , 3.2, and 3.3** which are highlighted below:

PO 3.1 - Overshadowing of habitable room windows of adjacent residential land uses in:

- a) a neighbourhood-type zone is minimised to maintain access to direct winter sunlight*
- b) other zones is managed to enable access to direct winter sunlight.*

PO 3.2 - Overshadowing of the primary area of private open space or communal open space of adjacent residential land uses in:

- a) a neighbourhood type zone is minimised to maintain access to direct winter sunlight*
- b) other zones is managed to enable access to direct winter sunlight.*

PO 3.3 - Development does not unduly reduce the generating capacity of adjacent rooftop solar energy facilities taking into account:

- a) the form of development contemplated in the zone*
- b) the orientation of the solar energy facilities*
- c) the extent to which the solar energy facilities are already overshadowed.*

Due to the siting of the proposed screen and the orientation of the subject land, the proposed development does not result in any overshadowing to habitable room windows, areas of private open space and does not impact rooftop solar panels and therefore satisfies **PO 3.1, 3.2 and 3.3, Interface between land uses.**

CONCLUSION

Whilst the proposed development is simple in its nature, the assessment is somewhat more difficult due to the lack of relatable provisions to a privacy screen.

The matters raised by the representors have been considered in the course of this assessment. Having considered all the relevant assessment provisions, the proposal is considered to satisfy the intent of the Desired Outcomes and Performance Outcomes of the Planning and Design Code for the following reasons:

- On balance the proposed development has the same/similar impacts to other forms of development that are considered acceptable within the zone.
- The proposed development will not have an unreasonable impact on the streetscape.
- The proposed development will not result in any unreasonable overshadowing.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 24034648, by Jake Vaccarella is GRANTED Planning Consent subject to the following conditions:

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CONDITIONS

Planning Consent

Condition 1

The approved development shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).

Condition 2

The materials used on the external surfaces of the building and the pre-coloured steel finishes or paintwork must be maintained in good condition at all times to the satisfaction of Council.

ADVISORY NOTES

Planning Consent

Advisory Note 1

No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

Advisory Note 2

Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

Advisory Note 3

This consent or approval will lapse at the expiration of 2 years from its operative date, subject to the below or subject to an extension having been granted by the relevant authority.

Advisory Note 4

Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).

Advisory Note 5

The development (including during construction) must not at any time emit noise that exceeds the relevant levels derived from the *Environmental (Noise) Policy 2007*.

Advisory Note 6

The applicant is reminded of the requirements of the Fences Act 1975. Should the proposed works require the removal, alteration or repair of an existing boundary fence or the erection of a new boundary fence, a 'Notice of Intention' must be served to adjoining owners. Please contact the Legal Services Commission for further advice on 1300 366 424 or refer to their web site at www.lsc.sa.gov.au.

Advisory Note 7

It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.

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Advisory Note 8

That any damage to the road reserve, including road, footpaths, public infrastructure, kerb and guttering, street trees and the like shall be repaired by Council at full cost to the applicant.

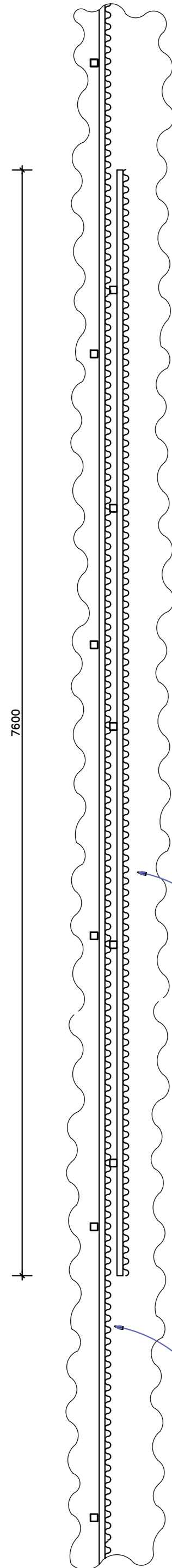
OFFICER MAKING RECOMMENDATION

Name: Matt Falconer

Title: Consultant Town Planner

Date: 25 February 2025

ATTACHMENT 1

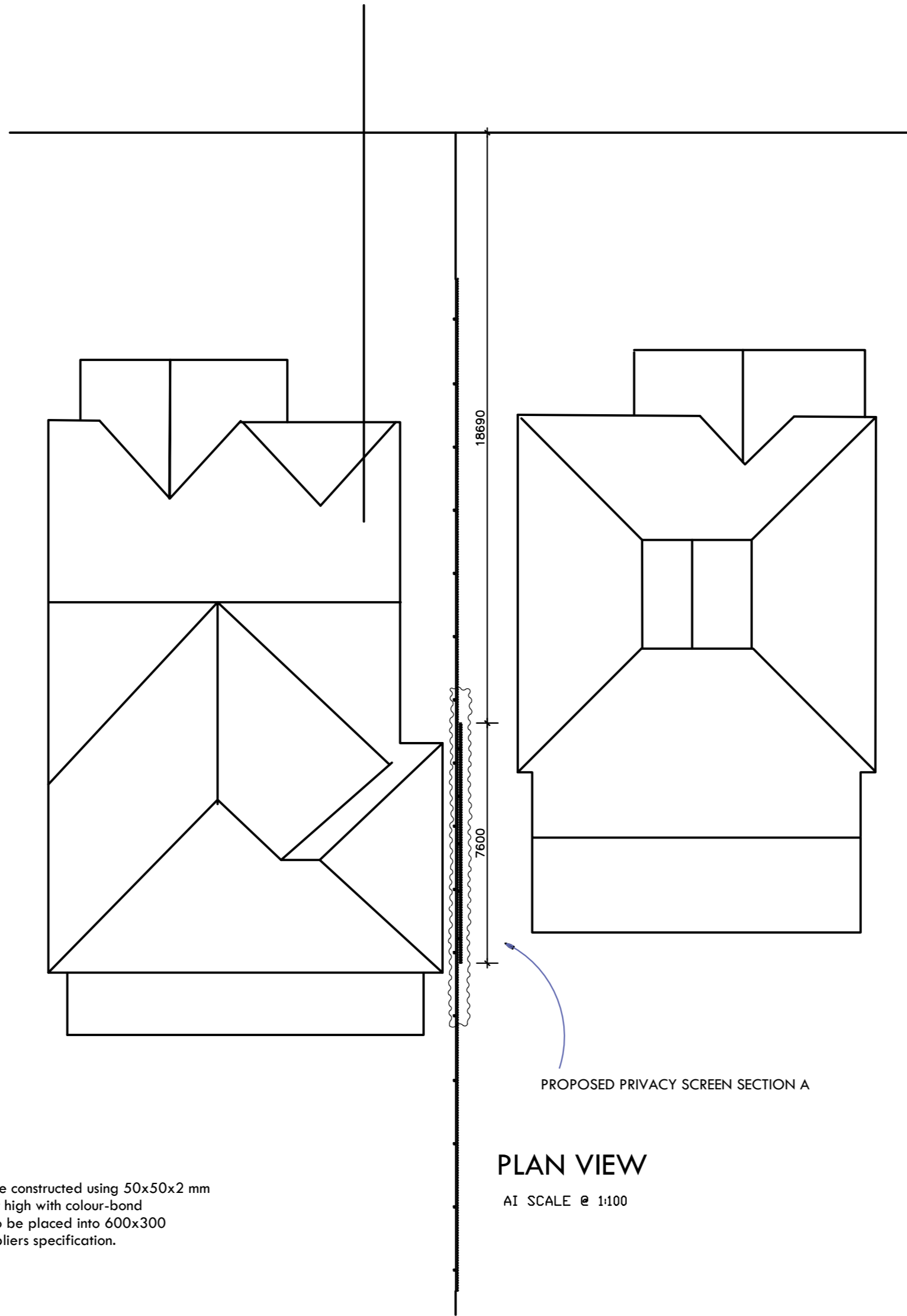


PROPOSED PRIVACY SCREEN

EXISTING 1800MM CORRUGATED FENCE MONUMENT

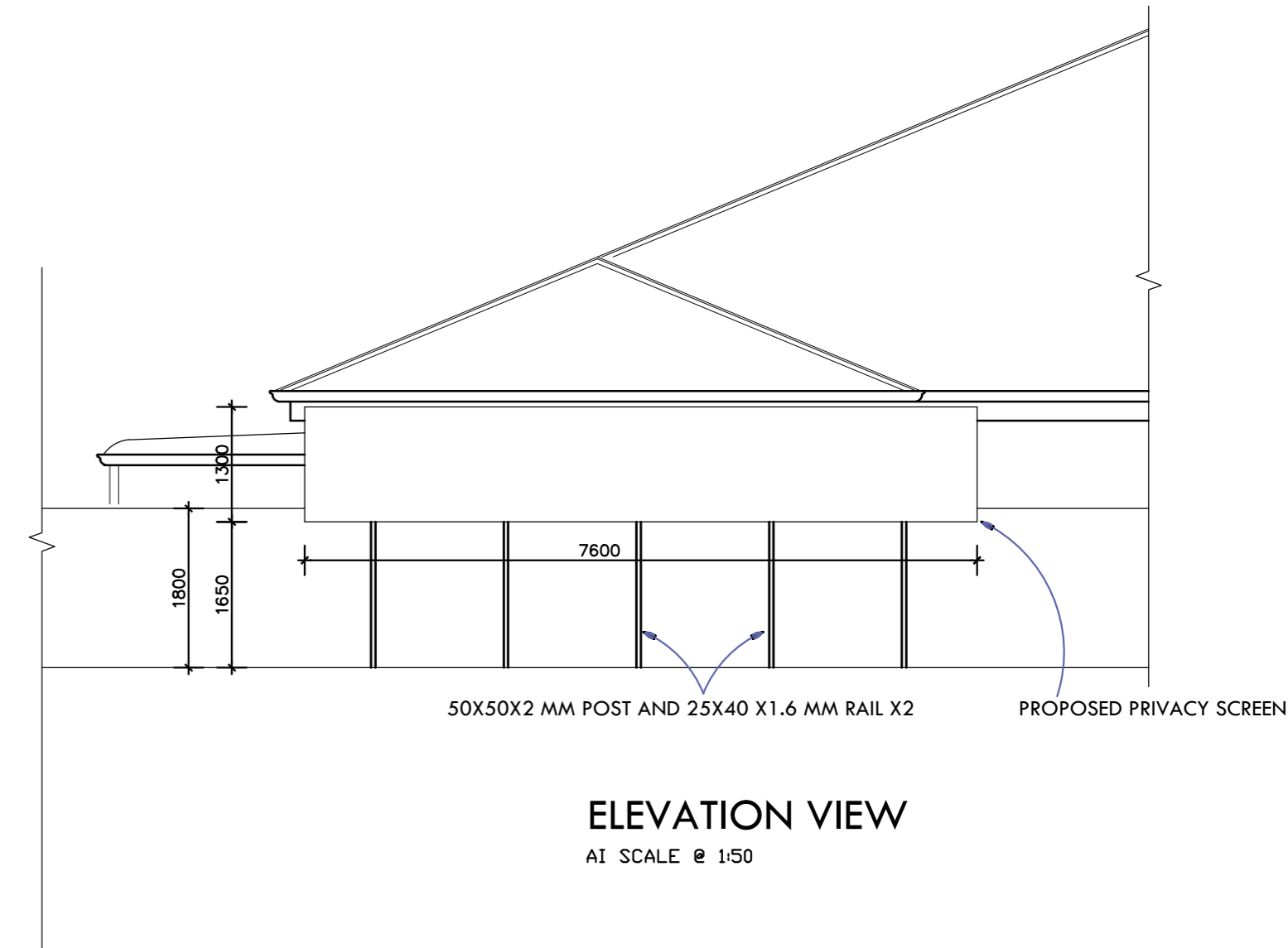
SECTION A
AI SCALE @ 1:20

New privacy screen to be constructed using 50x50x2 mm post at 1.5m centers 3m high with colour-bond (Monument colour) post to be placed into 600x300 concrete piersas per suppliers specification.



PROPOSED PRIVACY SCREEN SECTION A

PLAN VIEW
AI SCALE @ 1:100



50X50X2 MM POST AND 25X40 X1.6 MM RAIL X2 PROPOSED PRIVACY SCREEN

ELEVATION VIEW
AI SCALE @ 1:50

AI SCALE @ 1:100	NOTES
<p>ALL DIMENSIONS ARE IN MILLIMETERS UNLESS OTHERWISE NOTED FIGURED DIMENSIONS TAKE PRECEDENCE OVER SCALED DIMENSIONS AND LEVELS ARE TO BE CONFIRMED ON SITE PRIOR TO COMMENCEMENT OF WORKS. DISCLAIMER: THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING SITE DIMENSIONS BEFORE COMMENCING WORK OR MAKING SHOP DRAWINGS. THE DRAWINGS ARE TO BE READ IN CONJUNCTION WITH ALL RELEVANT DOCUMENTATION DISCREPANCIES TO BE DIRECTED TO THE DESIGNER /BUILDER IMMEDIATELY.</p>	

DRAWING TITLE : PLANNING SUBMISSION
<p>CLIENT : JAKE & SERA VACCARELLA PROJECT : New PRIVACY SCREEN FENCE SITE : 11 COWPER ROAD BLACKFOREST SOUTH AUSTRALIA</p>

BOUNDARY FENCE REPLACEMENT
<p>THIS DRAWING AND DOCUMENTATION ARE SUBJECT TO COPYRIGHT LAW AND SHALL REMAINS THE PROPERTY OF AJSPROBULD AND MAY NOT BE REPRODUCED IN PART OR WHOLE WITHOUT PERMISSION # LEGAL ACTION WILL BE TAKEN AGAINST ANY INFRINGEMENT IN PART OR WHOLE UNLESS WRITTEN AUTHORITY IS GIVEN BY AJSPROBULD</p>

<p>PROBULD COMMERCIAL ajsprobuild@gmail.com 0417 890 687</p>

AMENDMENTS			
REV	DATE	DESCRIPTION	DRAWN
0	05/10/24	PLANNING APPROVAL	J.S.

COMMENCEMENT DATE 5 OCT 2024	
DWG NUMBER :	022002-A SHEET- DWG 01
CLIENT CODE :	JA-00202 DRAWN- J.S.
DATE :	05/10/24 CHECKED-
STATUS :	PLANNING

ATTACHMENT 2

Details of Representations

Application Summary

Application ID	24034648
Proposal	Retrospective privacy screen to a height of 2.95 metres
Location	11 COWPER RD BLACK FOREST SA 5035

Representations

Representor 1 - [REDACTED]

Name	[REDACTED]
Address	[REDACTED]
Submission Date	09/01/2025 01:05 AM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development

Reasons

I live behind the young fella n his luvly new family and was sent a letter about him doing some building work. Thought he was doing some more work on his place... Thought you bewdy and was gunna congratulate him. So knocked on his door, had a yarn, and wouldn't ya know he's just put some more fencing up. Dunno why he's been dragged through the coals 4 this, but I guess ol Scotty Morrison did love the coal and our little old "sport luvving" Labor state are still feeling the pains of a Liberal federal government. Darryl Kerrigan said it perfectly: "It's not a house, it's a home. A man's home is his castle."

[REDACTED]

Get on with building and luv seein ya lawn when I'm cleaning out me gutters from all the bloomin trees droppin their leaves n that. Toodles. Cheers, thx.

Attached Documents

Representations

Representor 2 - [REDACTED]

Name	[REDACTED]
Address	[REDACTED]
Submission Date	09/01/2025 01:06 AM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development

Reasons

I live behind the young fella n his luvly new family and was sent a letter about him doing some building work. Thought he was doing some more work on his place... Thought you bewdy and was gunna congratulate him. So knocked on his door, had a yarn, and wouldn't ya know he's just put some more fencing up. Dunno why he's been dragged through the coals 4 this, but I guess ol Scotty Morrison did love the coal and our little old "sport luvving" Labor state are still feeling the pains of a Liberal federal government. Darryl Kerrigan said it perfectly: "It's not a house, it's a home. A man's home is his castle."

[REDACTED]

Get on with building and luv seein ya lawn when I'm cleaning out me gutters from all the bloomin trees droppin their leaves n that. Toodles. Cheers, thx.

Attached Documents

Representations

Representor 3 - [REDACTED]

Name	[REDACTED]
Address	[REDACTED]
Submission Date	09/01/2025 01:08 AM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development

Reasons

I live behind the young fella n his luvly new family and was sent a letter about him doing some building work. Thought he was doing some more work on his place... Thought you bewdy and was gunna congratulate him. So knocked on his door, had a yarn, and wouldn't ya know he's just put some more fencing up. Dunno why he's been dragged through the coals 4 this, but I guess ol Scotty Morrison did love the coal and our little old "sport luvving" Labor state are still feeling the pains of a Liberal federal government. Darryl Kerrigan said it perfectly: "It's not a house, it's a home. A man's home is his castle." [REDACTED]

[REDACTED] Get on with building and luv seein ya lawn when I'm cleaning out me gutters from all the bloomin trees droppin their leaves n that. Toodles. Cheers, thx.

Attached Documents

Representations

Representor 4 - [REDACTED]

Name	[REDACTED]
Address	[REDACTED]
Submission Date	14/01/2025 10:42 AM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	Yes
My position is	I oppose the development

Reasons

As the adjoining owners we reject the applicants proposed development in its current form. This is a "major" variation under the Building and Design Code. It is now impacting visual amenity and our access to natural light from the structure to a habitable room. The distance of only 0.7m between the 3.1m fence and the bathroom window. The aesthetics of the fence being 3.1m in height which is a major variation under the Building and Design Code. (The council will need to minimise the visual impact especially when viewed from the neighbouring sites.) Although The Performance assessed developments are assessed on their merit against the policies within the Planning and design code, It opens up a precedent to allow major variations in similar applications and those allowances can be taken into consideration using this application if approved. The applicant has previously demolished an existing carport on the same boundary leaving a wall/fence of 2.5m in height and now leaving the boundary fence with three inconsistent colours and heights. This is a retrospective application with the structure erected without approval. The structure is non-compliant as the applicant has failed to adhere to the number of legislative requirements under the relative acts when building on a boundary. No approval was sought from the common boundary owner. The foundations for the four posts is on and encroach into the neighbouring property. The proposed structure is attached and embedded into the existing fence. (damaging the existing fence in doing so) The structure is not made of a permeable material, for example lattice or shade cloth. The height and length of the screen exceeds the dimensions of the structure where it's attached. %There is no evidence that the boundary is clearly defined

Attached Documents

20241226_172125-1449754.jpg
20241218_175752-1449755.jpg
20240915_121237-1449756.jpg
20240728_132002-1449757.jpg









ATTACHMENT 3



URPS

Adelaide
27 Halifax Street
Adelaide SA 5000
08 8333 7999

urps.com.au

ADL | MEL | PER

3 February 2025

Matt Falconer
Consultant Town Planner
Development & Regulatory Services
City of Unley

Uploaded to PlanSA Portal

Dear Matt

Response to Representations – 23034648

Introduction

URPS continues to act for Jake and Sera Vaccarella who are the proponents of the application referred to above. This letter is a written response to the representations received during public notice of this application.

Summary of Representations

Two representations were received during the public notification period. The key concerns raised in the written submissions relate to:

- Access to Sunlight.
- Retrospective Nature of Application.
- Building Methodology.
- Location of Boundary.

Response to Concerns

This section of this letter provides a detailed response to the issues raised in the representations.

Comparison to Deemed-to-Satisfy Development

Section 106 of the Planning, Development and Infrastructure Act 2016 states that if a proposed development is classified as Deemed-to-Satisfy, the development must be granted Planning Consent.

DTS/DPF 7.1 of the Zone anticipates boundary development as follows:

DTS/DPF 7.1 *Except where the building is a dwelling and is located on a central site within a row dwelling or terrace arrangement, side boundary walls occur only on one side boundary and satisfy (a) or (b) below:*

- (a)** *side boundary walls adjoin or abut a boundary wall of a building on adjoining land for the same or lesser length and height*
- (b)** *side boundary walls do not:*
 - i.** *exceed 3m in wall height*
 - ii.** *exceed 11.5m in length... (my underlining)*

The proponent could build a carport (enclosed), garage or dwelling addition on the boundary for a length of 11.5m and height of 3m in accordance with this provision.

The proposed 2.95m high and 7.6m long privacy screen on the boundary is smaller than a Deemed-to-Satisfy wall on the boundary.

Overshadowing

Concern has been raised about the impact of the privacy screen on sunlight access into a bathroom window on the eastern elevation of the neighbours' dwelling.

The Code includes provisions that ensure development preserves access to light for north-facing habitable room windows and primary areas of private outdoor spaces.

The privacy screen satisfies these provisions in the following ways:

- North-facing windows are not impacted by the development. The window in question is east facing to a bathroom, i.e. a non-habitable room.
- The main outdoor areas of the representor's property are situated at the rear of their site beyond the privacy screen. These private open spaces will continue to enjoy uninterrupted access to sunlight

Retrospective Nature of Application

Concerns have been raised about the application being retrospective and the structure being erected without approval.

This assertion has no bearing on the merits of the application. Retrospective applications are a practical way to remedy a breach of the Planning, Development and

Infrastructure Act 2016 (PDI Act) and must be assessed on their merits like any other Performance Assessed development.

Building Methodology

The representor at [REDACTED] has claimed that the structure is attached to and embedded within the existing fence. This is untrue. The privacy screen is a completely independent structure that is fixed to steel posts located within the boundaries of the proponents site.

The planning drawings have been updated in response to the assertions made by the representor at [REDACTED] and a query from Council staff. The revised plans now show an elevation view which confirms the screen is a completely independent structure. (Appendix A).

Location of Boundary

Concerns have been raised about the location of the boundary.

The privacy screen is proposed entirely within the fence line of 11 Cowper Road. This fence has been in place for decades.

Conclusion

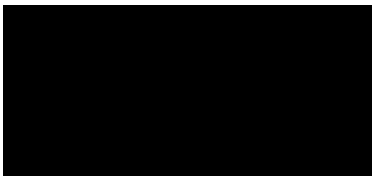
Thank you for the opportunity to address the neighbours' concerns.

For the reasons outlined herein and as previously addressed as part of the initial submission, the proposed development satisfies the relevant provisions of the Code to warrant Planning Consent.

I confirm my attendance in support of the proposal at the Council Assessment Panel meeting to be held on 18 February 2025.

Please contact me on [REDACTED] if you have any questions.

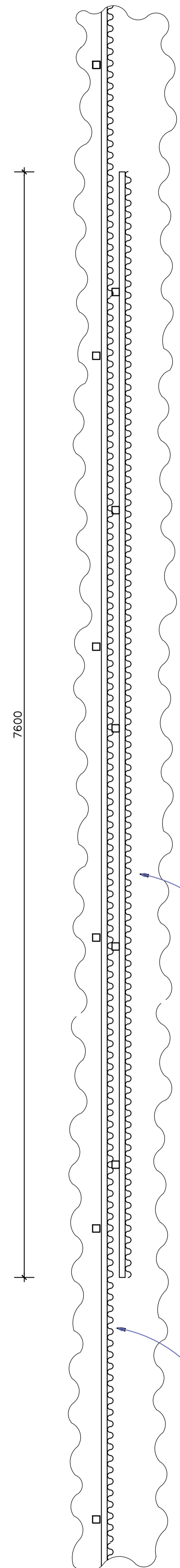
Yours sincerely



Marcus Rolfe
Director

Appendix A

Revised Planning Drawings prepared by AJS Probuild

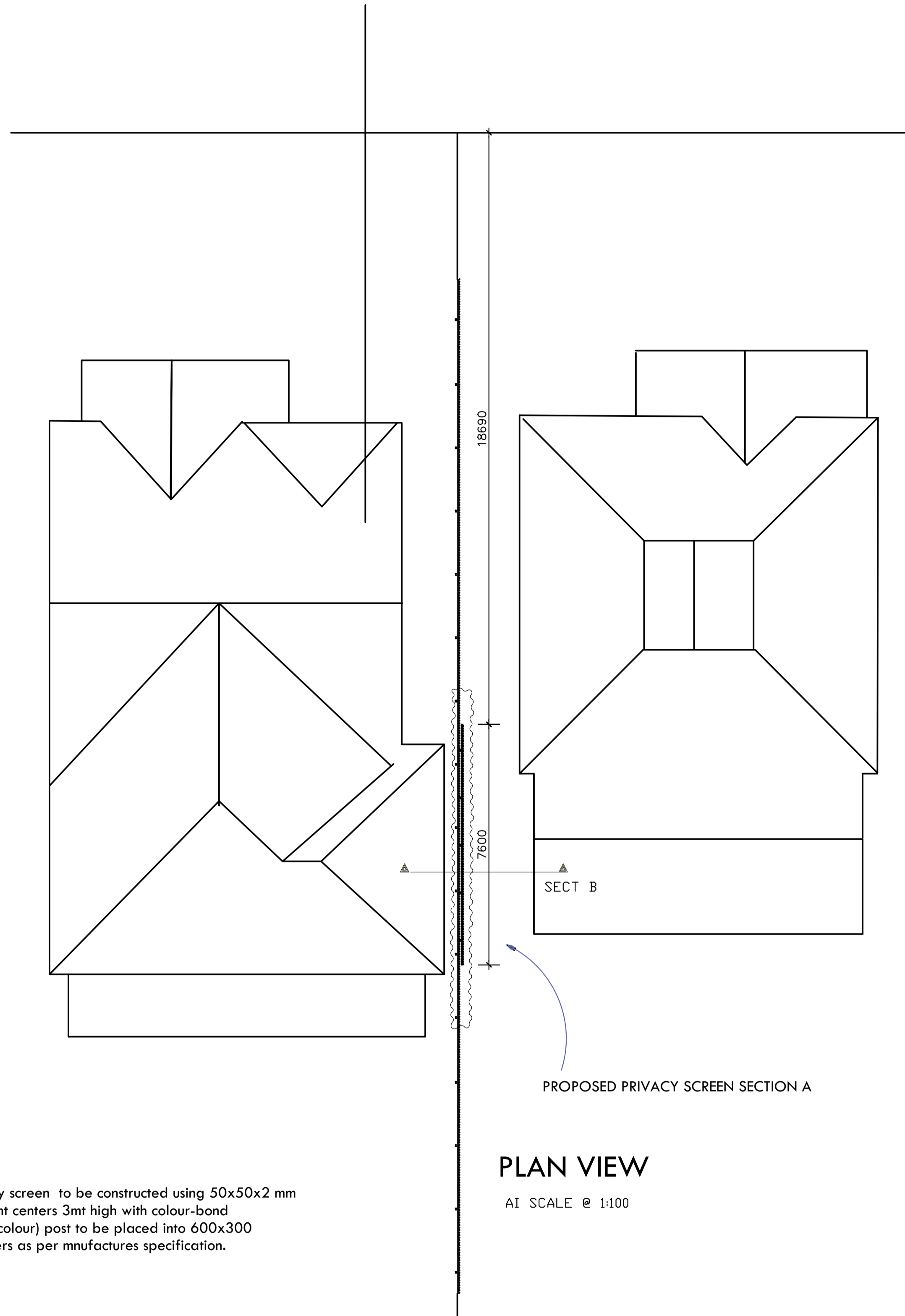


SECTION A
AI SCALE @ 1:20

EXISTING 1800MM CORRUGATED FENCE MONUMENT

PROPOSED PRIVACY SCREEN

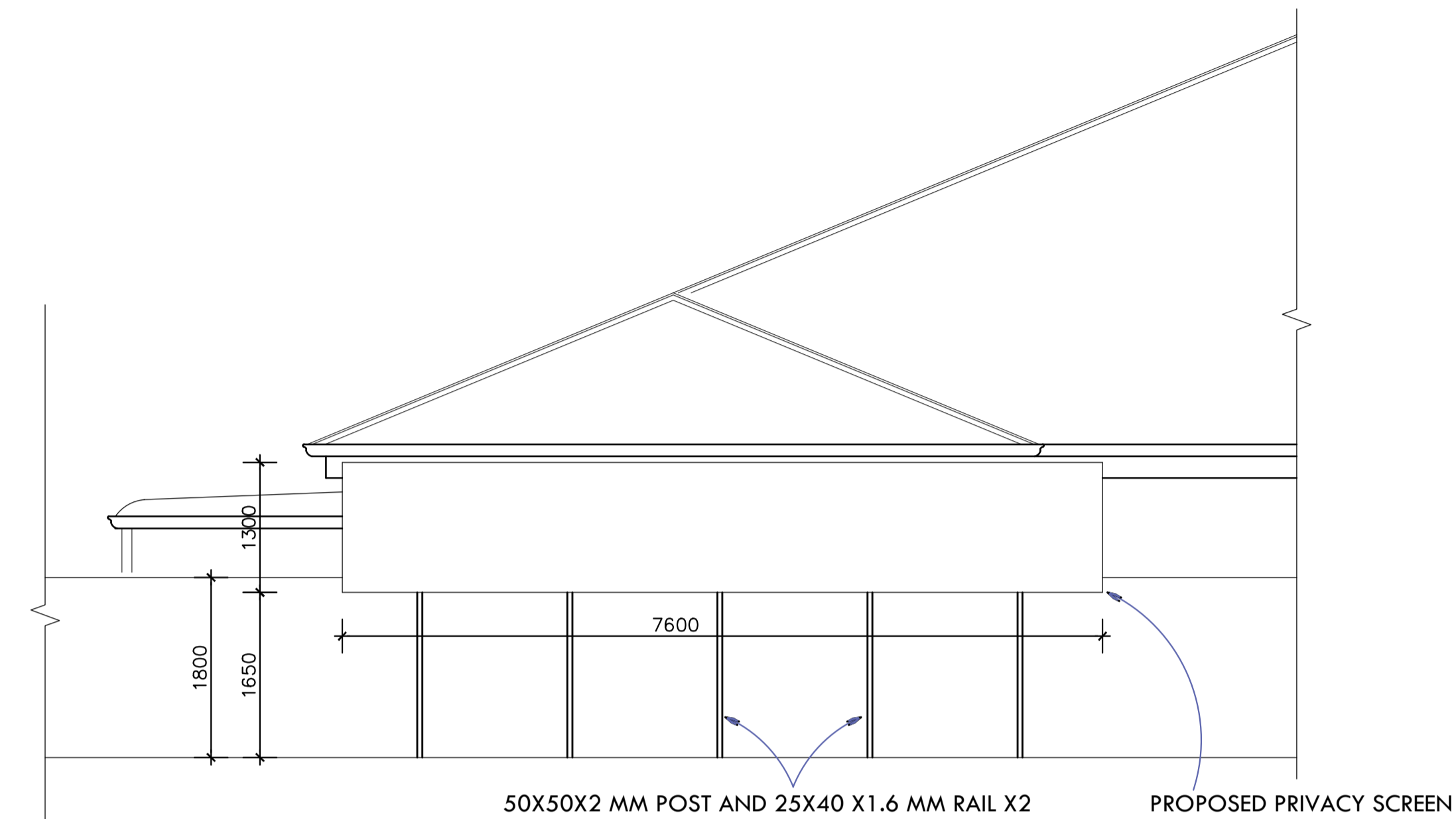
New privacy screen to be constructed using 50x50x2 mm post at 1.5mt centers 3mt high with colour-bond (Monument colour) post to be placed into 600x300 concrete piers as per mnuufactures specification.



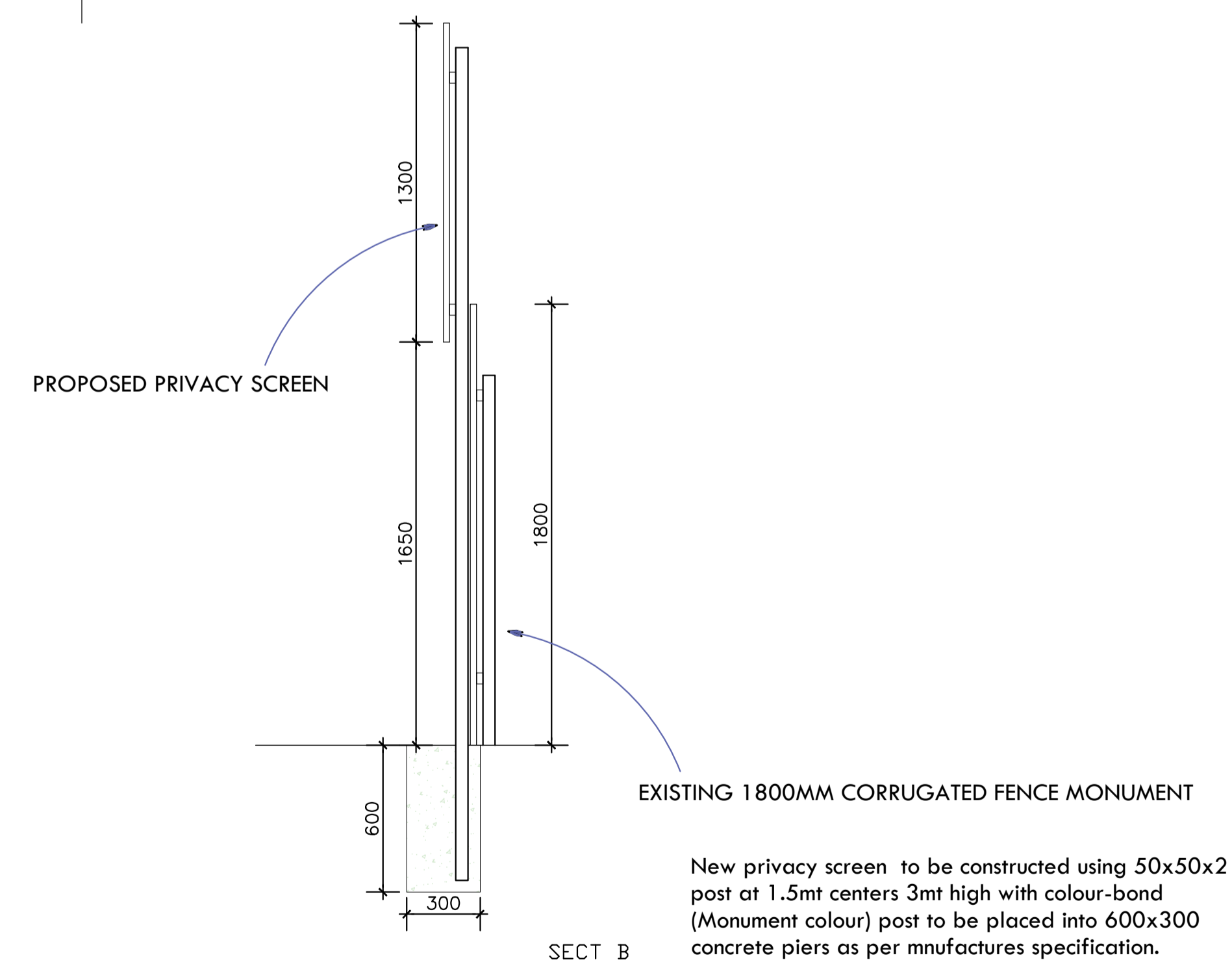
PLAN VIEW
AI SCALE @ 1:100

PROPOSED PRIVACY SCREEN SECTION A

SECT B



ELEVATION VIEW
AI SCALE @ 1:50



ELEVATION VIEW
AI SCALE @ 1:20

EXISTING 1800MM CORRUGATED FENCE MONUMENT

New privacy screen to be constructed using 50x50x2 mm post at 1.5mt centers 3mt high with colour-bond (Monument colour) post to be placed into 600x300 concrete piers as per mnuufactures specification.

AI SCALE @ 1:100	NOTES	0 1 2m
<p>ALL DIMENSIONS ARE IN MILLIMETERS UNLESS OTHERWISE NOTED FIGURED DIMENSIONS TAKE PRECEDENCE OVER SCALED DIMENSIONS AND LEVELS ARE TO BE CONFIRMED ON SITE PRIOR TO COMMENCEMENT OF WORKS. DISCLAIMER: THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING SITE DIMENSIONS BEFORE COMMENCING WORK OR MAKING SHOP DRAWINGS. THE DRAWINGS ARE TO BE READ IN CONJUNCTION WITH ALL RELEVANT DOCUMENTATION DISCREPANCIES TO BE DIRECTED TO THE DESIGNER /BUILDER IMMEDIATELY.</p>		

DRAWING TITLE : PLANNING SUBMISSION	
CLIENT : JAKE & SERA VACCARELLA	PROJECT : New PRIVACY SCREEN FENCE
SITE : 11 COWPER ROAD BLACKFOREST SOUTH AUSTRALIA	

BOUNDARY FENCE REPLACEMENT	
ARCHITECTURAL DESIGNER	RESIDENTIAL
PROBUID	COMMERCIAL
ajsprobuid@gmail.com	0417 890 687

AMENDMENTS			
REV	DATE	DESCRIPTION	DRAWN
0	05/10/24	PLANNING APPROVAL	J.S.

COMMENCEMENT DATE 5 OCT 2024		
DWG NUMBER :	022002-A	SHEET - DWG 01
CLIENT CODE :	JA-00202	DRAWN - J.S.
DATE :	05/10/24	CHECKED-
STATUS :	PLANNING	

ITEM 6.1

APPLICATIONS BEFORE THE ERD COURT - SUMMARY OF ERD COURT APPEALS

TO: City of Unley Council Assessment Panel

FROM: Tim Bourner, Assessment Manager

SUBJECT: Summary of ERD Court Appeals

MEETING DATE: February 25th 2025

APPEALS - 1

Development Application / Subject Site	Nature of Development	Decision authority and date	Current status
DA24009737 – 5 Regent Street, Millswood	Carport	Refused under delegation , May 3 rd 2024	The appeal has been withdrawn