

3 EARTHWORKS AT 230 TELEGRAPH ROAD, BEACONSFIELD UPPER

FILE REFERENCE INT175124

RESPONSIBLE GENERAL MANAGER Andrew Paxton

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RECOMMENDATION

That a Refusal to Grant Planning Permit T160621 be issued for Works associated with a half basketball court comprising site cut and fill (retrospective application) at 230 Telegraph Road, Beaconsfield Upper for the reasons outlined in this report.

Attachments

- | | | |
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| 1 | Locality plan | 1 Page |
| 2 | Proposed plans | 4 Pages |
| 3 | Copies of objections, circulated to councillors only | 2 Pages |

EXECUTIVE SUMMARY:

APPLICATION NO.:	T160621
APPLICANT:	Peter Martine
LAND:	230 Telegraph Road, Beaconsfield Upper VIC 3808
PROPOSAL:	Works associated with the existing dwelling (half basketball court) comprising site cut and fill (retrospective application)
PLANNING CONTROLS:	Rural Conservation Zone Schedule 2 Environmental Significance Overlay 1 Bushfire Management Overlay
NOTIFICATION & OBJECTIONS:	Notice of the application by way of letters was given to adjoining to adjoining and nearby land owners and occupiers. To date, one (1) objection has been received.
KEY PLANNING CONSIDERATIONS:	Environmental and landscape characteristics of the area Impact on streetscape character Impact on native vegetation
RECOMMENDATION:	Refusal

BACKGROUND:

Earthworks and the installation of a number of shipping containers were brought to the attention of Council's Planning Compliance Department in August 2015. As a consequence, an inspection was carried out and it was revealed that the buildings and works contravened the Cardinia Planning Scheme. An application was made to the Victorian Civil and Administrative Tribunal (VCAT) for an Enforcement Order to have the land reinstated. This planning application was lodged September 2016 and as a consequence, the VCAT proceedings have been adjourned until this application has been determined.

SUBJECT SITE:

The site is located on the south-east corner of Telegraph Road and Hughendon Road, Upper Beaconsfield approximately 285m from A'beckett Road. The site (2.3 hectares) is irregular in shape, has a frontage to Telegraph Road of 83m, an angled frontage to Hughendon Road totalling 209m and also fronts Reed Avenue for a distance of 157m. Remnant vegetation lines the road reservation on both Telegraph Road and Hughendon Road.

Vehicle access is provided via a crossover on Telegraph Road and driveway located within the front setback.

The site currently developed with a single dwelling setback 3.9m from Telegraph Road and 12.3m from Hughendon Road. There is currently one (1) shipping container on the site located within the front setback. As detailed above, this issue is currently being resolved with Council's Planning Compliance Department.

A 20m high Eucalyptus tree is located on the southern end of the works adjacent to Hughendon Road. Dense remnant vegetation is concentrated to the rear of the site.

There is a land fall of approximately 50m from the front to the rear of the site. There are no easements affecting the land.

The main characteristics of the surrounding area are:

- No. 232 Telegraph Road (1.51 hectares) adjoins the eastern boundary and is developed with a single dwelling setback 3.9m from the common boundary, Vegetation cover is dense.
- No. 18 Hughendon Road, located directly west of the site is developed with a single dwelling setback 21m from the eastern boundary. Vegetation cover is dense with the exception of a cleared area located centrally.
- No. 240 Telegraph Road comprises twelve (12) lots on the north and south-east side of Telegraph Road. Land on the north side is generally undeveloped with the exception of a dwelling on the lot directly opposite the subject site.
- Land on the south-east side is also developed with a single dwelling. Vegetation cover is dense.

Land in the vicinity is generally characterised by large semi-rural style allotments each developed with a single dwelling and outbuildings. The built form is subordinate to vegetation which is dense. Land fall is typically undulating.

PROPOSAL:

Retrospective approval is sought for earthworks setback approximately 10.1m from the existing dwelling on the site. The works are located on the north-west corner of the site and abut Telegraph Road and Hughendon Road. The total area of the works is approximately 220sqm. A maximum site cut of 1.2m is located on the southern end of the works and is proposed to be stabilised with a 1.2m high concrete sleeper retaining wall. Works on the eastern end are proposed to be stabilised by a battered slope.

Whilst the works were originally carried out to accommodate shipping containers on the site, this formed part of Planning enforcement proceedings, the owner eventually removed the shipping containers from the site. The owner does not want to reinstate the land and this application proposes to utilise this area for a half basketball court to be asphalted and fenced using 1.8m high cyclone mesh fencing. Vegetation is proposed along the eastern and southern ends.

The construction of any building (including the installation of a shipping container) or the removal of vegetation does not form part of this proposal. Vegetation removal had previously occurred within this area in 2015 and the matter was investigated by Council's Planning Compliance Department.

PLANNING SCHEME PROVISIONS:

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 12 – Environmental and Landscape Values
- Clause 15.01 – 5 – Cultural identity and neighbourhood character
- Clause 16.02 – 1 – Rural residential development

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01 – Cardinia Shire Key Issues and Strategic Vision
- Clause 21.03 – 3 – Rural Townships

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Not applicable.

It is noted that a proposal does not include the removal of Victorian native vegetation and as such, an assessment against Clause 52.17 (Native Vegetation) is not required.

Zone

The land is subject to the **Rural Conservation Zone Schedule 2**

Overlays

The land is subject to the following overlays:

- Clause 42.01 - Environmental Significance Overlay 1
- Clause 44.06 - Bushfire Management Overlay

It is noted that a planning permit is not required under the Bushfire Management Overlay as there is no building proposed under this application and the works are in excess of 10m from the existing dwelling.

PLANNING PERMIT TRIGGERS

The proposal for works associated with the existing dwelling (half basketball court) requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 35.06 - 5, a planning permit is required for works associated with a Section 2 use (dwelling) and for earthworks altering the flow of water across a property boundary.
- Pursuant to Clause 42.01 – 1 a planning permit is required for works exceeding 1.0m in depth.

PUBLIC NOTIFICATION

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987, by:

- Sending notices to the owners and occupiers of adjoining and nearby land.

To date, one (1) objection has been received:

The key issues that were raised in the objection are:

- Drainage and environmental implications on the nearby creek as a result of vegetation removal and works;
- Visual impact;

- Inappropriate use and potential traffic hazard and inappropriate location of crossover.

REFERRALS

- The application was not required to be referred externally.

DISCUSSION

Overall, it is considered that the proposal is inconsistent with the relevant State and Local Planning Policy Framework, the Rural Conservation Zone and Environmental Significance Overlay 1.

Clause 12.01-1 recognises the significance of native vegetation and impact on Victoria's biodiversity. The removal of native vegetation must be avoided where practical. (Whilst there is no trigger under Clause 52.17, the works have impacted the Tree Protection Zone of native vegetation, if the land is not reinstated then the trees may be destroyed).

Clause 16.02-1 seeks to ensure that rural residential living avoids environmental impacts.

Clause 21.01 places heavy emphasis on the protection and conservation of environmentally significant areas including the northern hills and the maintenance and enhancement of existing landscapes. Clause 21.03 – 3 recognises Upper Beaconsfield as a large rural township where the rural character must be maintained. The siting of buildings and works must compliment the area.

The objective of the Rural Conservation Zone is:

- To conserve the values specified in a schedule to this zone.
- To protect and enhance the natural environment and natural processes for their historic, archaeological and scientific interest, landscape, faunal habitat and cultural values.
- To protect and enhance natural resources and the biodiversity of the area.
- To encourage development and use of land which is consistent with sustainable land management and land capability practices, and which takes into account the conservation values and environmental sensitivity of the locality.
- To conserve and enhance the cultural significance and character of open rural and scenic non urban landscapes.

The objective of the Environmental Significance Overlay is:

- To protect and enhance the significant environmental and landscape values in the northern hills area including the retention and enhancement of indigenous vegetation.
- To ensure that the siting and design of buildings and works does not adversely impact on environmental values including the diverse and interesting landscape, areas of remnant vegetation, hollow bearing trees, habitat of botanical and zoological significance and water quality and quantity.
- To ensure that the siting and design of buildings and works addresses environmental hazards including slope, erosion and fire risk, the protection of view lines and maintenance of vegetation as the predominant feature of the landscape.

Both the Rural Conservation Zone and Environmental Significance Overlay 1 recognise the significant landscape and environmental values of the hills area north of Princes Highway and this policy seeks to retain these values and limit the impact of development within these areas.

The visual impact of the works is unacceptable in this environmental setting given the site's corner location and proximity to both Telegraph Road and Hughendon Road. As front and side fencing is generally absent or post and wire (i.e. transparent) the works are exposed and can easily be viewed from the road. The site excavation is prominent when viewed from Telegraph Road and the works, (particularly once asphalted) is inconsistent with the existing streetscape character. Significant excavations, particularly within the front setback, are not predominant along Telegraph Road. Excavations are generally limited for the construction of a dwelling or outbuilding and generally do not excessively go beyond the building footprint. Buildings and

vehicle accessways typically respond to the topography of the land and are subordinate to the landscape. Further, the presence of remnant vegetation is typical within front setbacks. The installation of 1.8m high cyclone fencing to enclose the works on the title boundaries will further compromise the open landscape character of the area and is inconsistent with the rhythm of development on Telegraph Road and in the broader vicinity. Whilst transparent, the height and style of this fencing is not sympathetic to the surrounds.

Overall, it is considered that the streetscape character is significantly compromised as a consequence of the existing works and proposed basketball court.

The application was referred to Council's Biodiversity Officer who has recommended that the land be reinstated. It was concluded that the excavations have impacted the tree protection zones of four (4) Eucalyptus trees. It is recommended that the health of these trees be monitored over a two (2) year period. Further, it is likely the proposed asphaltting for the court will adversely impact existing established native vegetation within the road reservation. As Council will not be supporting this application. Rectification works (including revegetation) will be required by way of an Enforcement Order which must be issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT).

The application was referred to Council's Development Engineer who does not object to the proposal subject to conditions relating to storm water runoff, stabilisation and EPA guidelines forming part of any approval to be issued. Whilst it's acknowledged that the works can be stabilised, drained appropriately and utilised for another purpose, the visual and environmental impacts are unacceptable in this context.

As the original works involved the construction of a crossover on Telegraph Road, the application was also referred to Council's Traffic Engineer for comment. There is no objection for the use as a basketball court from a traffic perspective however, it appears that consent from Council was not obtained for the construction of the second crossover which is inappropriately located given its proximity to the intersection. As this application is recommended for refusal, the land owner will be required to reinstate the second crossover.

RESPONSE TO OBJECTION

A response to the objection received is provided below:

Drainage and environmental implications on nearby Creek as a result of previous vegetation removal and works;

As detailed above, the application was referred to Council's Development Engineer who does not object to the proposal subject to the inclusion of conditions. Whilst the works do alter the flow of water across the property boundary which may impact nearby water courses, conditions relating to storm water discharge can be imposed to alleviate drainage and environmental issues. In the event that Council was in support of this application, drainage works would need to be carried out to ensure storm water overflow would not cause adverse impacts on adjoining or nearby land.

Visual impact;

As discussed above, the visual impact within the streetscape is not acceptable having regard to the objectives of the Rural Conservation Zone and Environmental Significance Overlay 1. On this basis, it is recommended that the application be refused and the land be reinstated.

Inappropriate use and potential traffic hazard and inappropriate location of crossover

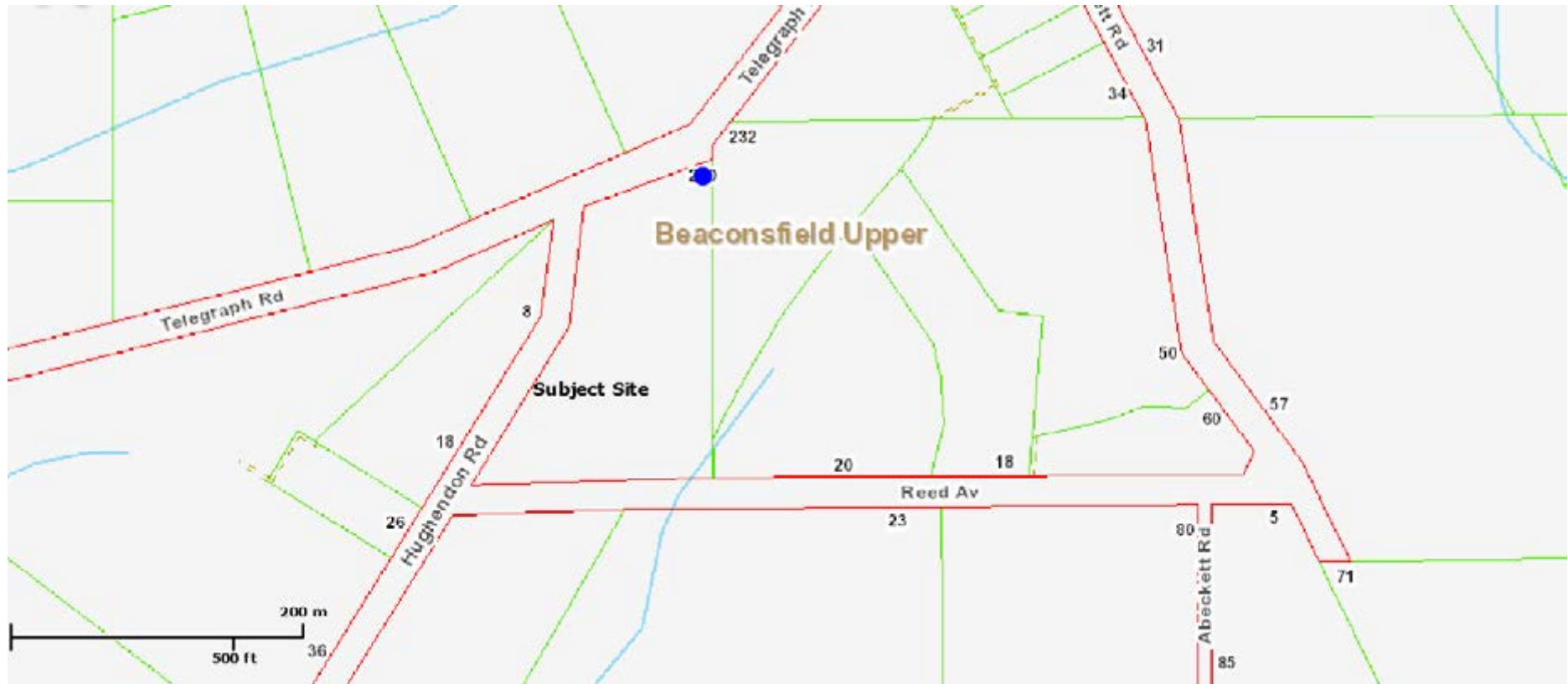
As detailed above the application was referred to Council's Traffic Engineer who has advised that it was unlikely that approval for the additional crossover was obtained. Whilst the crossover details are not shown on the plans, based on aerial photography, its location and width are not appropriate given its proximity to the intersection at Telegraph and Hughendon Roads. There is no objection from Traffic for the use as a basketball court and fencing along the title boundaries is shown. In the event that Council were to support the application, vehicle access to this area must be provided internally from the existing accessway.

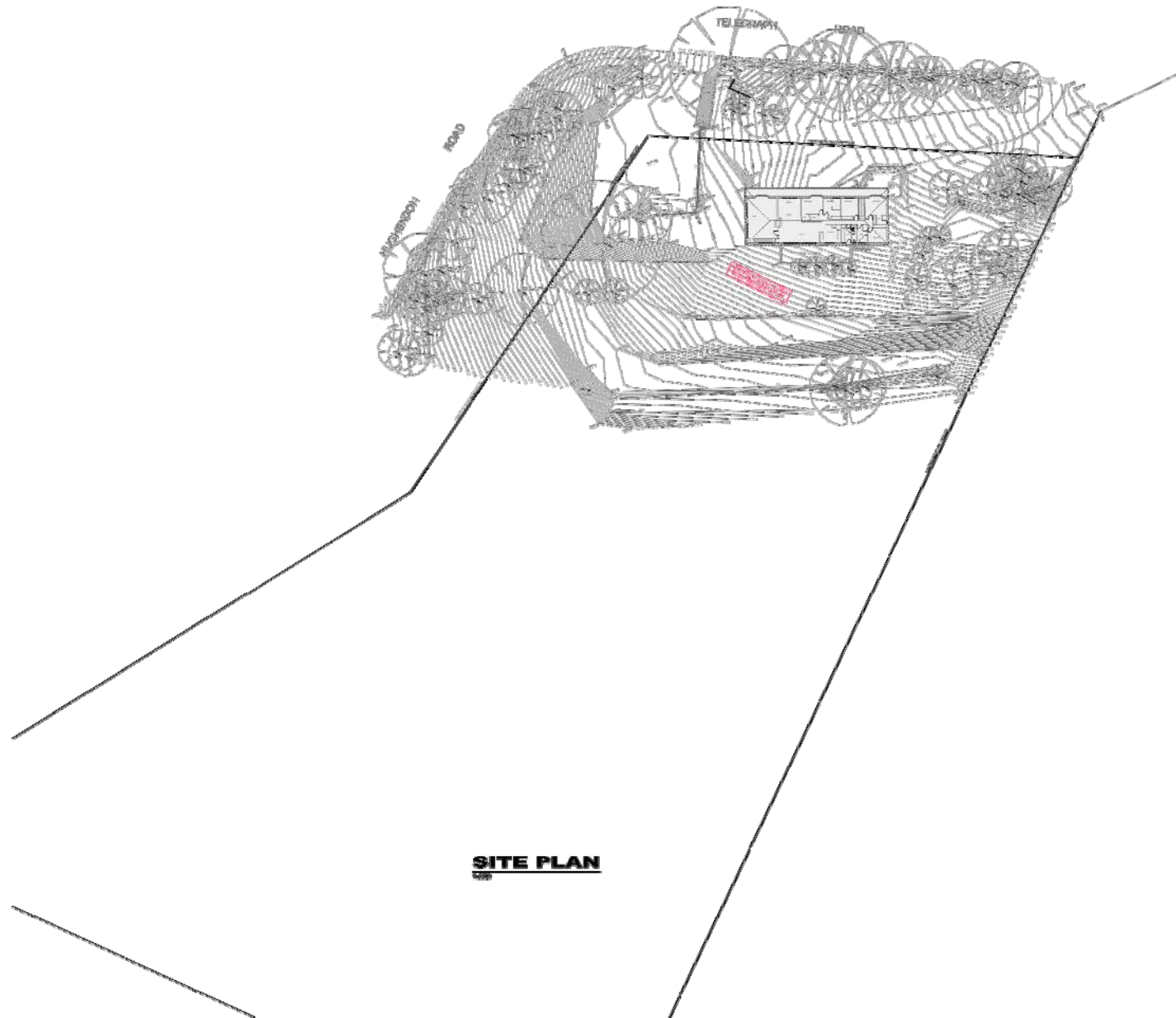
CONCLUSION

Having regard to the above assessment, it is considered that the proposal is inconsistent with the objectives of the State and Local Planning Policy Framework and more specifically the objectives of the Rural Conservation Zone and Environmental Significance Overlay 1 and therefore it is considered that the proposal should not be supported.

It is recommended that a Refusal to Grant Planning Permit T160621 be issued for Works associated with a half basketball court comprising site cut and fill (retrospective application) at 230 Telegraph Road, Beaconsfield Upper VIC 3808 on the following grounds:

1. The proposal is inconsistent with State and Local Planning Policy Framework
2. The proposal is inconsistent with the objectives of Clause 35.06 Rural Conservation Zone 2
3. The proposal is inconsistent with the objectives of Clause 42.01 Environmental Significance Overlay 1





SITE PLAN
1/2016



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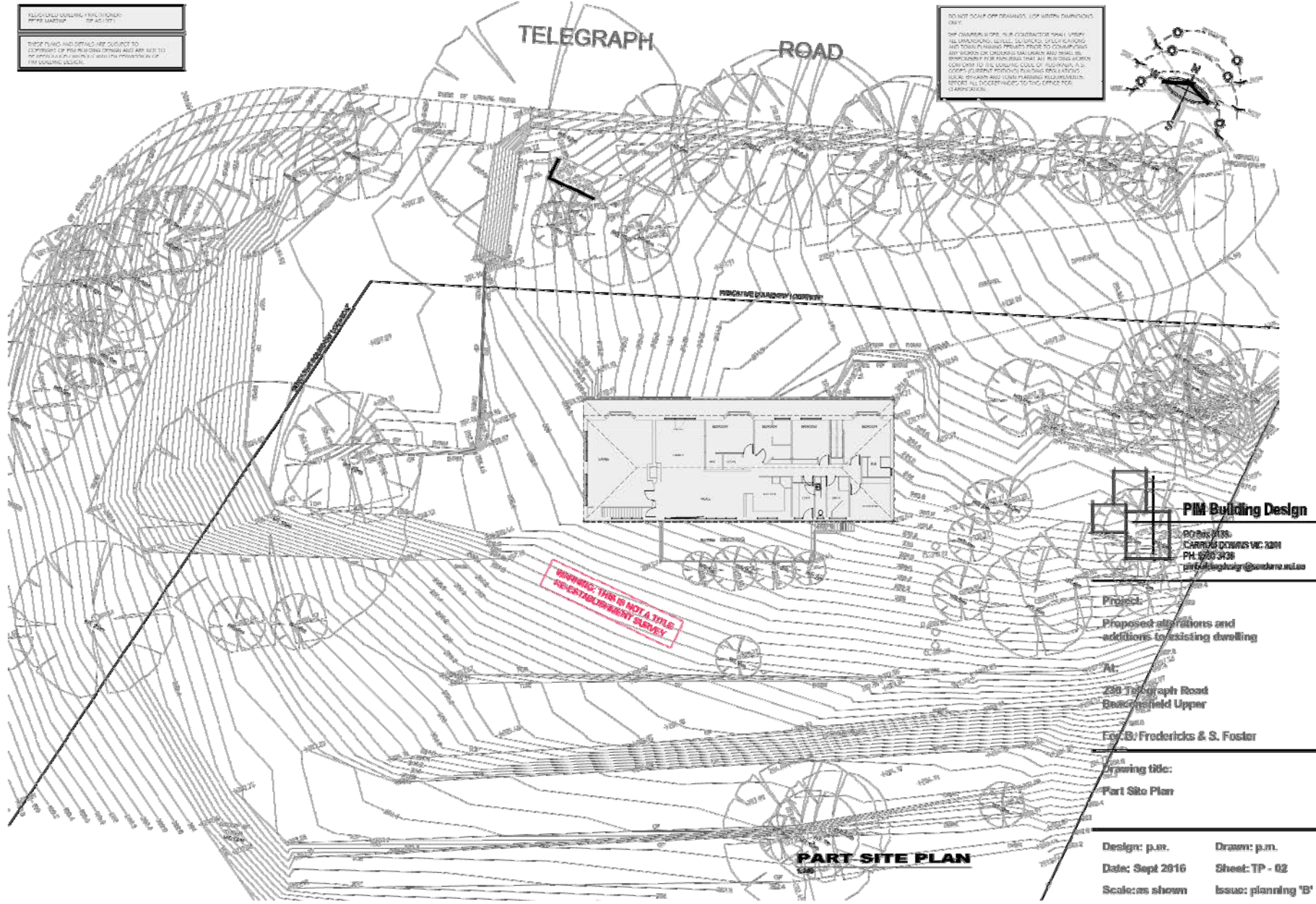
Project:
Proposed alterations and additions to existing dwelling

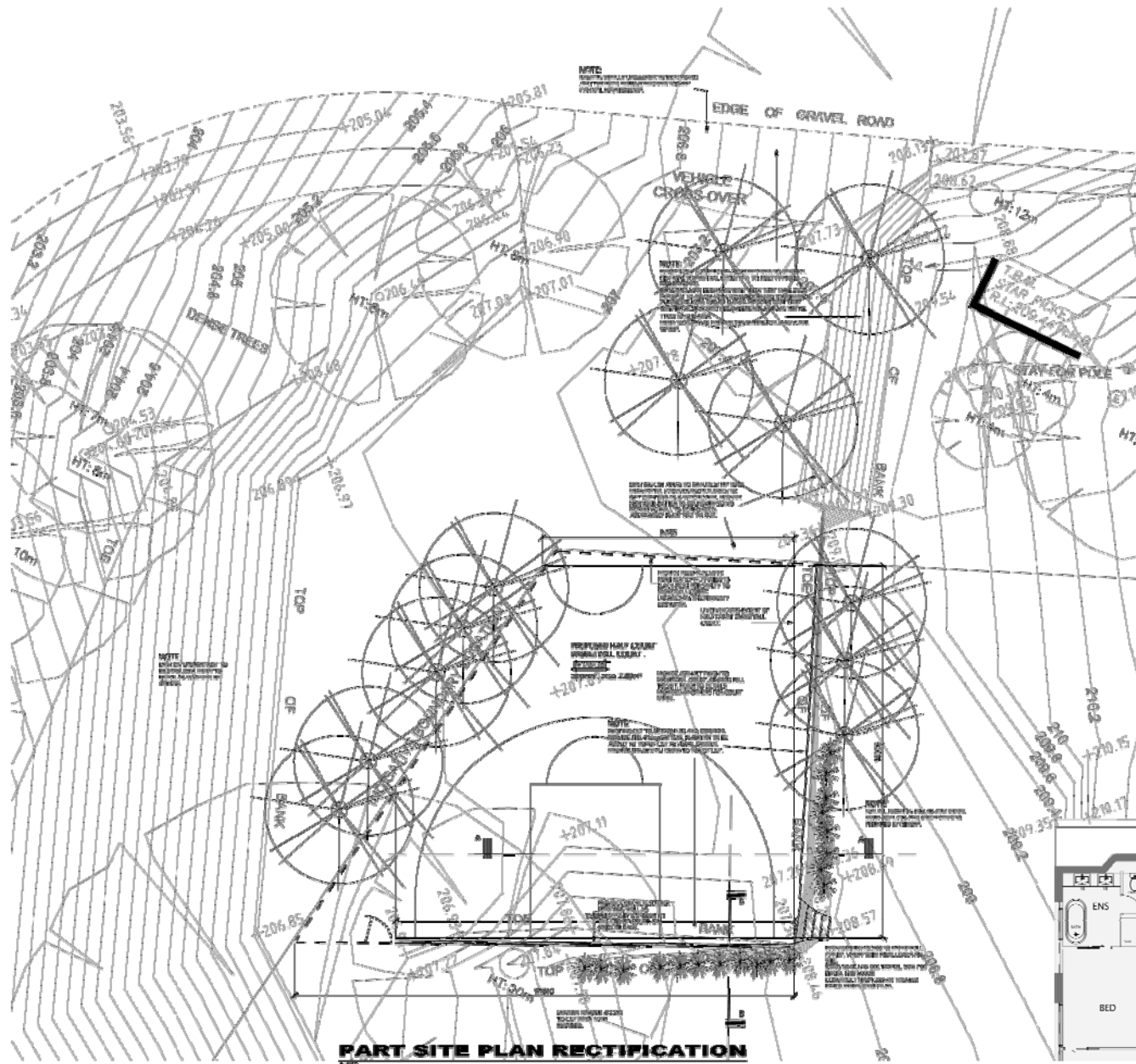
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For: B. Fredericks & S. Foster

Drawing title:
Site Plan

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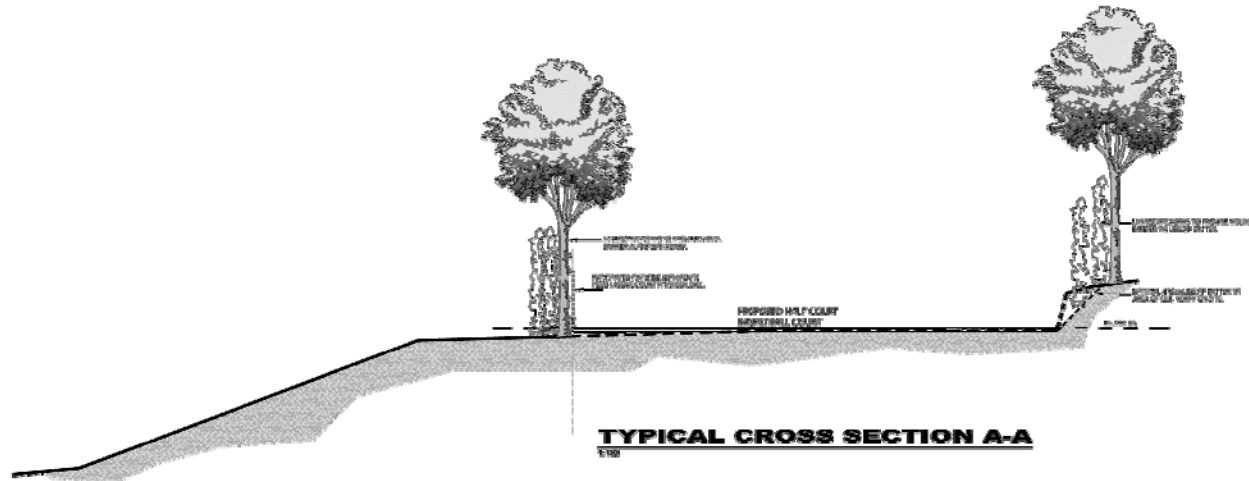
Project:
 Proposed alterations and
 additions to existing dwelling

At:
 230 Telegraph Road
 Beaconsfield Upper

For: B. Fredericks & S. Foster

Drawing title:
 Proposed Rectification works
 and Basketball Half Court

Design: p.m. **Drawn:** p.m.
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Project:
 Proposed alterations and additions to existing dwelling

At:
 239 Telegraph Road
 Beaconsfield Upper

For: B. Fredericks & S. Foster

Drawing title:
 Proposed Rectification works and Basketball Half Court

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