

Form G

Commonwealth of Australia
Competition and Consumer Act 2010 — subsection 93 (1)
NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Competition and Consumer Act 2010*, of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

- (a) Name of person giving notice:
(Refer to direction 2)

Fitzwater 1 Pty Ltd

.....
.....
.....
.....

- (b) Short description of business carried on by that person:
(Refer to direction 3)

Fitzwater 1 Pty Ltd wishes to sell its investment property as house and land packages to the public.

.....
.....
.....
.....

- (c) Address in Australia for service of documents on that person:

Fitzwater 1 Pty Ltd
17 Lyall Street
South Perth WA 6151

.....
.....
.....
.....

N97397

2. Notified arrangement

- (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

This notice relates to the sale of 4 lots in Spearwood in association with house and land packages being offered by Fitzwater 1 Pty Ltd

.....
.....
.....
.....

- (b) Description of the conduct or proposed conduct:

Fitzwater 1 Pty Ltd is offering for sale to the public 4 lots as house and land packages. The purchaser will acquire land by way of contract of sale from Fitzwater 1 Pty Ltd on the condition that the purchaser enters into a contract for the supply of building services directly from a builder, to be nominated by Fitzwater 1 Pty Ltd.

.....
.....
.....
.....
.....

(Refer to direction 4)

3. Persons, or classes of persons, affected or likely to be affected by the notified conduct

- (a) Class or classes of persons to which the conduct relates:
(Refer to direction 5)

The conduct refers to potential and actual house and land purchasers purchasing land from Fitzwater 1 Pty Ltd in Spearwood and building services from the Builder.

.....
.....
.....
.....
.....

- (b) Number of those persons:
 - (i) At present time:
 -0.....
 -
 - (ii) Estimated within the next year:
 - (Refer to direction 6)*
 - ..4.....
 -
- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:

4. Public benefit claims

- (a) Arguments in support of notification:
 - (Refer to direction 7)*
 - See attached Submissions
 -
 -
 -
 -

- (b) Facts and evidence relied upon in support of these claims:
 - See attached Submissions
 -
 -
 -
 -

5. Market definition

Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):
(Refer to direction 8)

See attached Submissions

.....

.....

.....

.....

6. Public detriments

- (a) Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:
(Refer to direction 9)

See attached Submissions

.....
.....
.....
.....

- (b) Facts and evidence relevant to these detriments:

See attached Submissions

.....
.....
.....
.....

7. Further information

- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Ben Gorjy
17 Lyall Street
South Perth WA 6151

.....
.....
.....
.....

Dated..... 24/4/2014

Signed by/on behalf of the applicant

F. G. J.
.....
(Signature)

FARVAR GORJY
.....
(Full Name)

DIRECTIONS

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the business of the person giving the notice in the course of the which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 of the *Competition and Consumer Act 2010* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.

SUBMISSIONS IN SUPPORT OF NOTIFICATION UNDER SECTION 93(1) OF THE TRADE PRACTICES ACT 1974

1. Background

1.1 Fitzwater 1 Pty Ltd wishes to sell its investment property as house and land packages to the public.

1.2 The land will be subdivided into 4 green title lots.

1.3 Under the house and land package, potential purchasers will be required to enter into the following contracts:

(1) Contract for the sale of land from Fitzwater 1 Pty Ltd; and

(2) Building contract with the Builder for the supply of building services.

1.3.1 The sale of the land by Fitzwater 1 Pty Ltd to the potential purchaser will be conditional upon the purchaser entering into a contract with the Builder for the supply of building services.

2. Public Benefit

2.1 The conduct described in this Form is exclusive within sections 47(6) and 47(7) of the Trade Practices Act 1974 (Cth). Southwell709 Pty Ltd submits there is no likely detriment to the public resulting from that conduct.

2.2 In the alternative, Fitzwater 1 Pty Ltd submits the benefit to the public resulting from the conduct outweighs any detriment to the public.

2.3 The proposed conduct does not substantially lessen competition in the relevant market as the area represents a small proportion of residential real estate available for development and sale in the Spearwood area of Western Australia.

2.4 The tight design of the lots necessitates that all lots are required to be built by one builder concurrently. Please find attached plans and illustrations for the proposed development in Ardross.

2.6 Using one Builder to construct all homes on the lots described will mean purchasers have more certainty about:

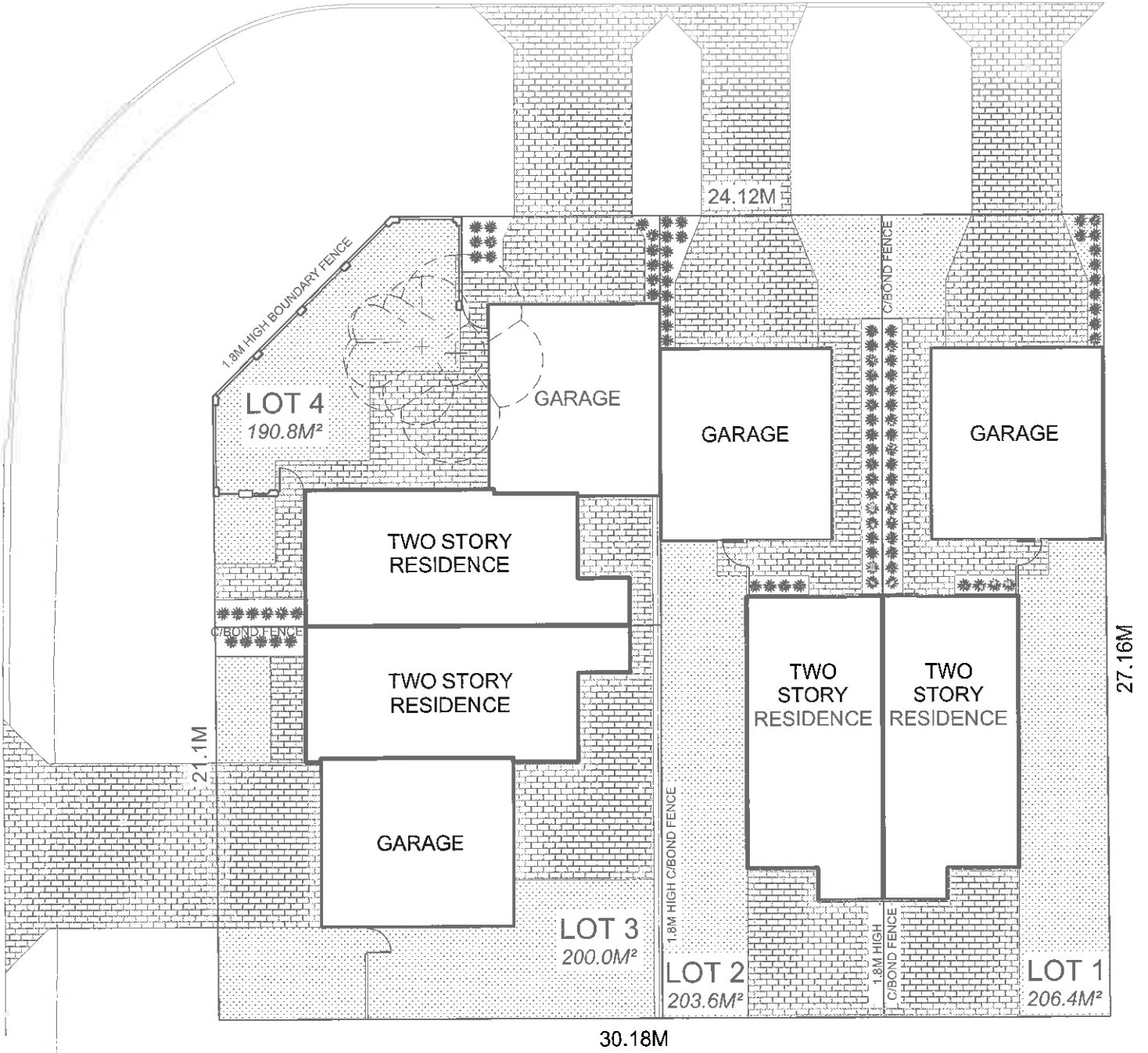
(a) the quality of construction;

- (b) the symmetry of the development;
 - (c) development in accordance with the design guidelines and plans; and
 - (d) timing of completion of the development.
- 2.7 As there is a single transfer of the land prior to the commencement of the building services by the Builder, purchasers will only be required to pay stamp duty on the land value, representing a significant saving for the purchasers and making the overall house and land package being offered by Fitzwater 1 Pty Ltd more affordable.
- 2.8 As Fitzwater 1 Pty Ltd does not have to carry the cost of constructing the buildings, Fitzwater 1 Pty Ltd can sell its house and land packages at a price lower than if Fitzwater 1 Pty Ltd had to fund the construction of all of the buildings itself. As a consequence, the house and land packages will be available to purchasers at more affordable prices.
- 2.8 Fitzwater 1 Pty Ltd will obtain tender quotations from pre-qualified builders suitable for the development and the most efficient builder with the best quality will be selected for the development.
- 3.0 The total house and land package prices that are paid by purchasers are based on sworn valuations of the completed houses. The total price paid for the house and land package by purchasers is therefore not impacted by the particular builder selected nor influenced by the cost of construction as set by the builder.





FITZWATER WAY



PLAN

SCALE 1:200 @ A4

SITE PLAN

08/04/14 PRELIM

PROPOSED DEVELOPMENT
LOT 313 FITZWATER WAY
SPEARWOOD, WA

SHEET No
1



FITZWATER WAY



PLAN

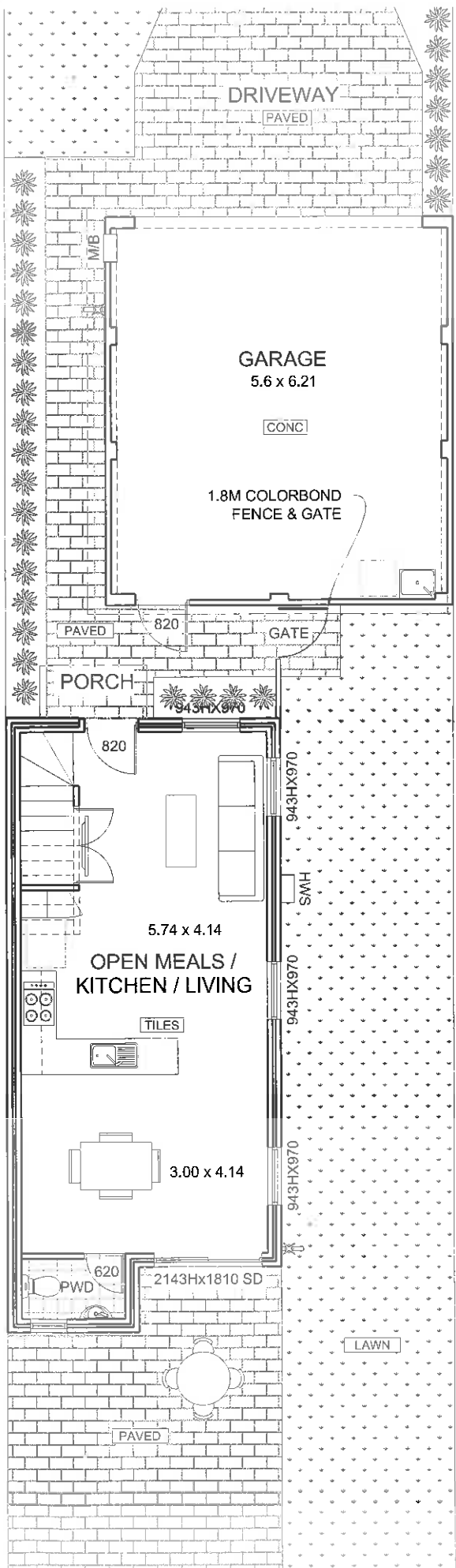
SCALE 1:200 @ A4

SUBDIVISION SET-OUT PLAN

03/04/14 FOR MARKETING

PROPOSED DEVELOPMENT
LOT 313 FITZWATER WAY
SPEARWOOD, WA

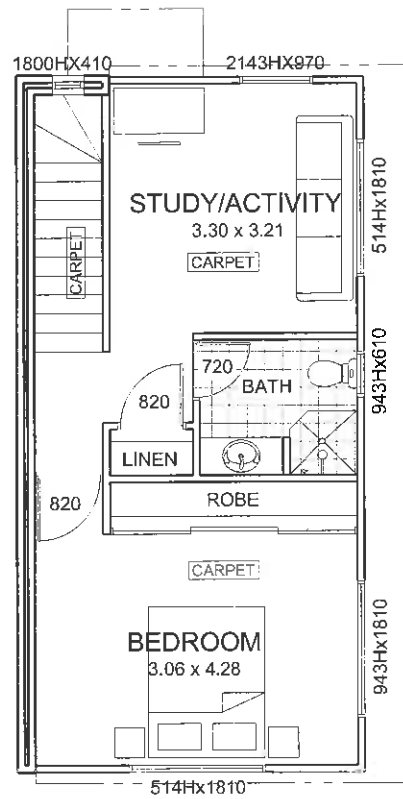
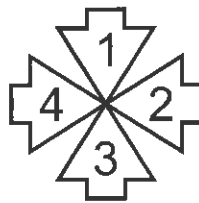
SHEET No
2



GROUND FLOOR PLAN

SCALE 1:100 @ A4

AREAS	
GROUND FLOOR (NOT INC EXT WALLS)	38.1 M ²
UPPER FLOOR (NOT INC EXT WALLS & STAIR WELL)	35.5 M ²
TOTAL AREA	73.6 M²
GARAGE	37.6 M ²



UPPER FLOOR PLAN

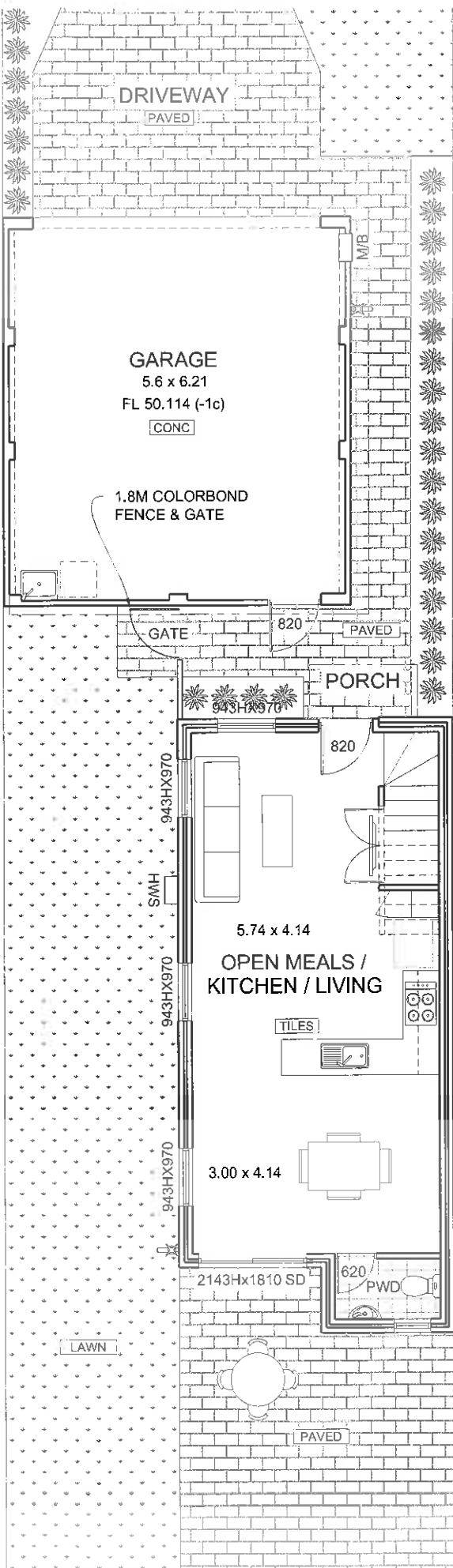
SCALE 1:100 @ A4

LOT 1 FLOOR PLANS

08/04/14 FOR MARKETING

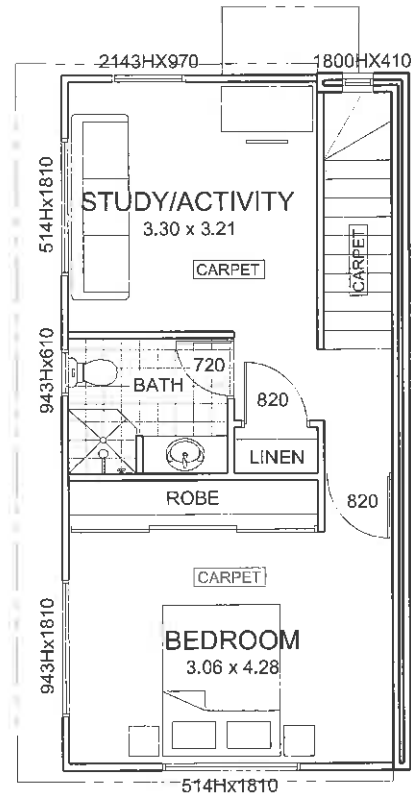
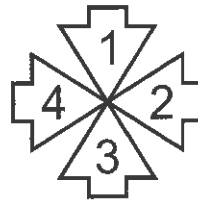
PROPOSED DEVELOPMENT
LOT 313 FITZWATER WAY
SPEARWOOD, WA

SHEET No
3



GROUND FLOOR PLAN
SCALE 1:100 @ A4

AREAS	
GROUND FLOOR (NOT INC EXT WALLS)	38.1 M ²
UPPER FLOOR (NOT INC EXT WALLS & STAIR WELL)	35.5 M ²
TOTAL AREA	73.6 M²
GARAGE	37.6 M²



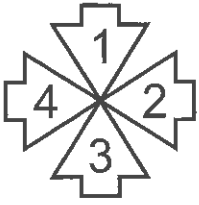
UPPER FLOOR PLAN
SCALE 1:100 @ A4

LOT 2 FLOOR PLANS

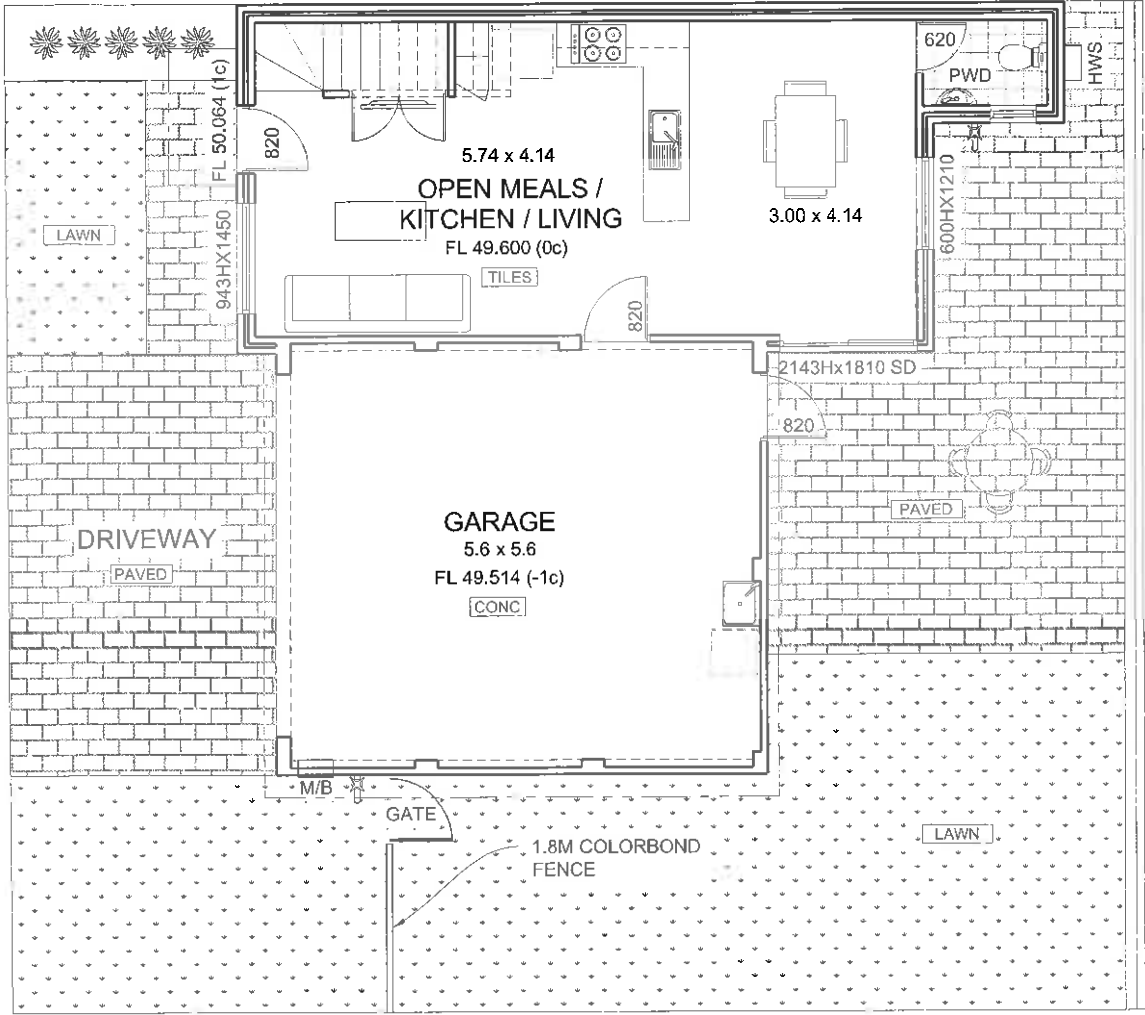
08/04/14 FOR MARKETING

PROPOSED DEVELOPMENT
LOT 313 FITZWATER WAY
SPEARWOOD, WA

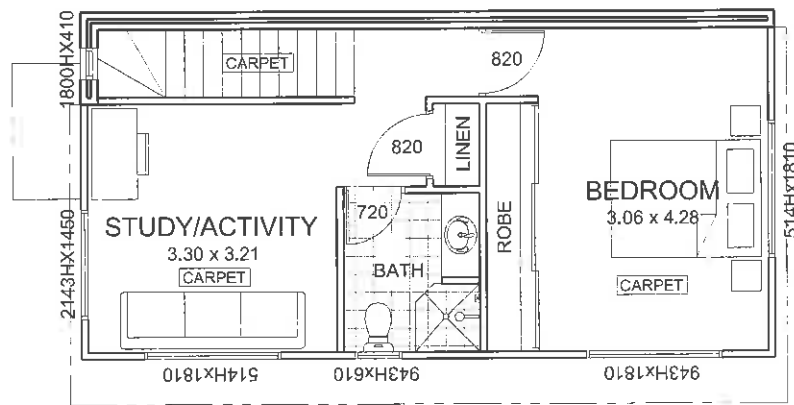
SHEET No
4



AREAS	
GROUND FLOOR (NOT INC EXT WALLS)	38.1 M ²
UPPER FLOOR (NOT INC EXT WALLS & STAIR WELL)	35.5 M ²
TOTAL AREA	73.6 M ²
GARAGE	35.8 M ²



GROUND FLOOR PLAN
SCALE 1:100 @ A4



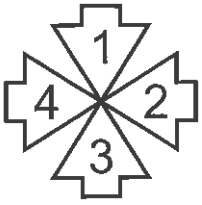
UPPER FLOOR PLAN
SCALE 1:100 @ A4

LOT 3 FLOOR PLANS

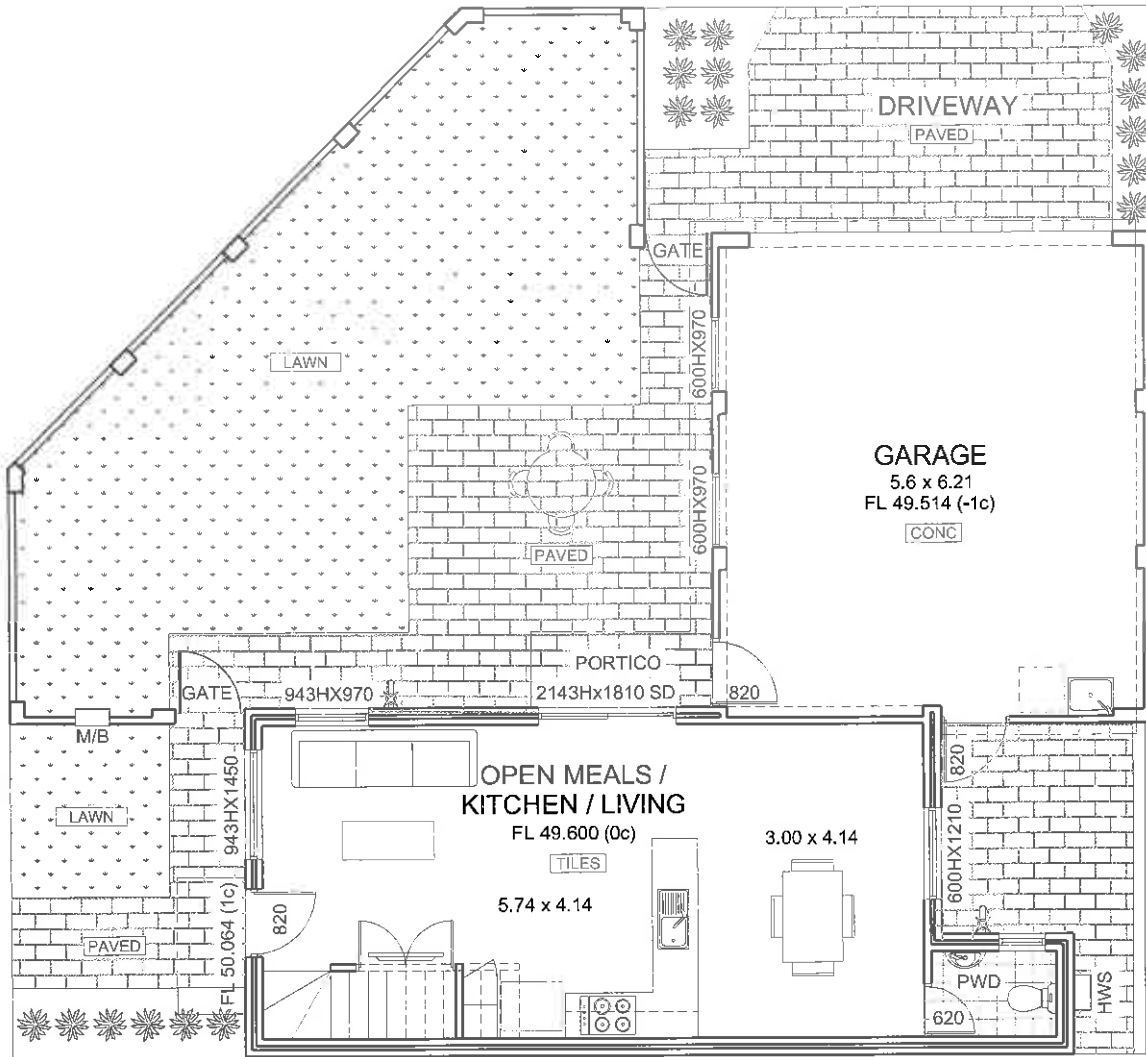
08/04/14 FOR MARKETING

PROPOSED DEVELOPMENT
LOT 313 FITZWATER WAY
SPEARWOOD, WA

SHEET No
5

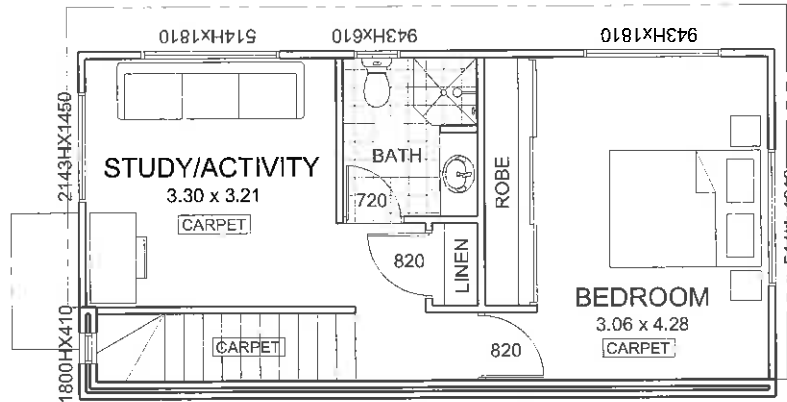


AREAS	
GROUND FLOOR (NOT INC EXT WALLS)	38.1 M ²
UPPER FLOOR (NOT INC EXT WALLS & STAIR WELL)	35.5 M ²
TOTAL AREA	73.6 M²
GARAGE	37.6 M ²



GROUND FLOOR PLAN

SCALE 1:100 @ A4



UPPER FLOOR PLAN

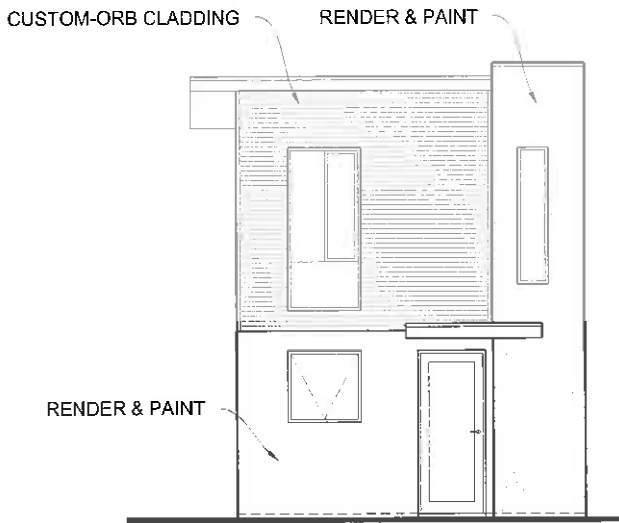
SCALE 1:100 @ A4

LOT 4 FLOOR PLANS

08/04/14 FOR MARKETING

PROPOSED DEVELOPMENT
LOT 313 FITZWATER WAY
SPEARWOOD, WA

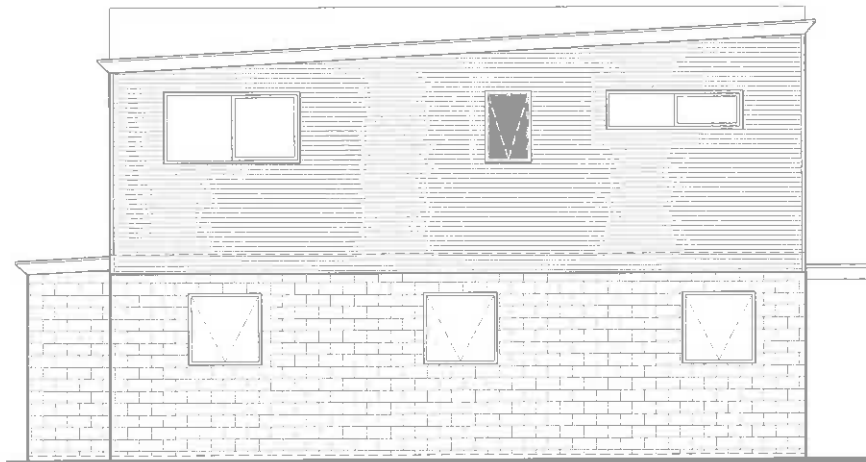
SHEET No
6



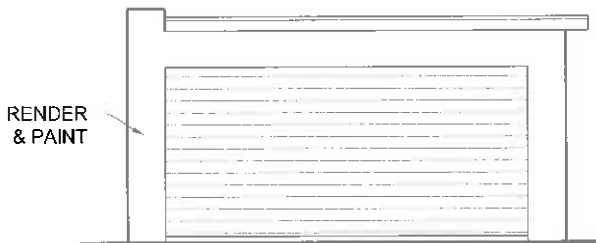
**LOT 1 - ELEVATION 1
(GARAGE NOT SHOWN)**
SCALE 1:100 @ A4



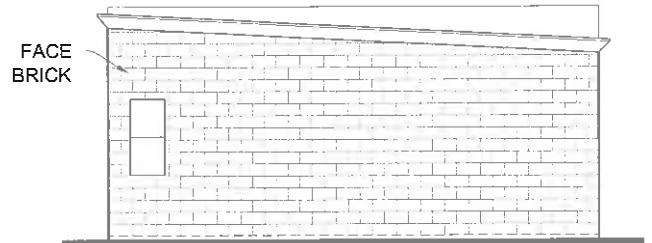
LOT 1 - ELEVATION 3
SCALE 1:100 @ A4



LOT 1 - ELEVATION 4
SCALE 1:100 @ A4

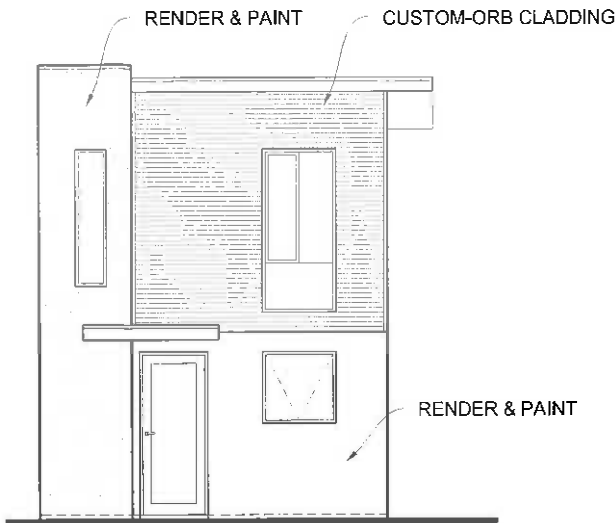


**LOT 1 - ELEVATION 1
(GARAGE)**
SCALE 1:100 @ A4

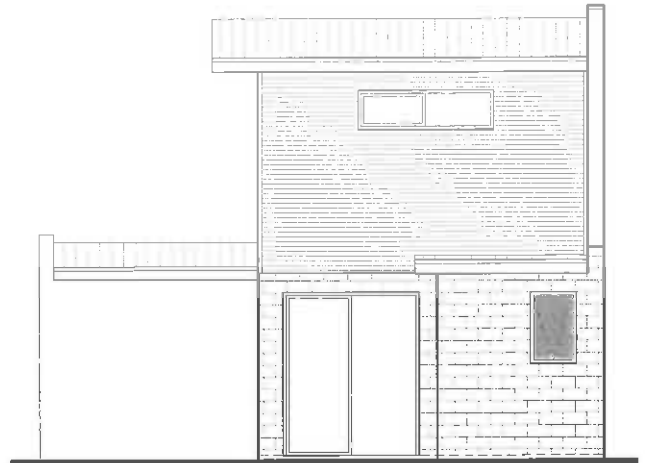


**LOT 1 - ELEVATION 4
(GARAGE)**
SCALE 1:100 @ A4

LOT 1 ELEVATIONS



**LOT 2 - ELEVATION 1
(GARAGE NOT SHOWN)**
SCALE 1:100 @ A4



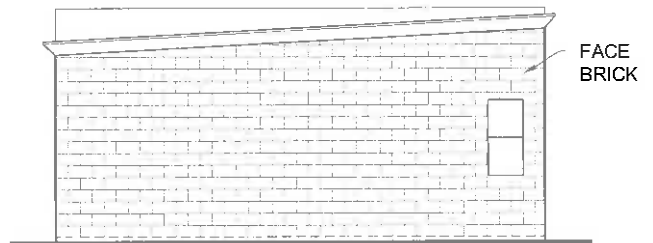
LOT 2 - ELEVATION 3
SCALE 1:100 @ A4



LOT 2 - ELEVATION 4
SCALE 1:100 @ A4

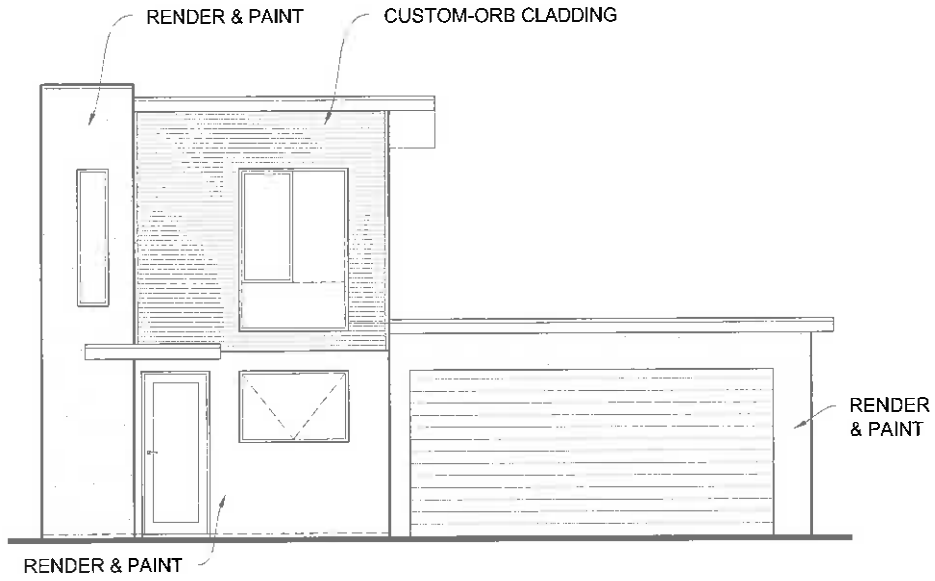


**LOT 2 - ELEVATION 1
(GARAGE)**
SCALE 1:100 @ A4



**LOT 2 - ELEVATION 2
(GARAGE)**
SCALE 1:100 @ A4

LOT 2 ELEVATIONS



LOT 3 - ELEVATION 4

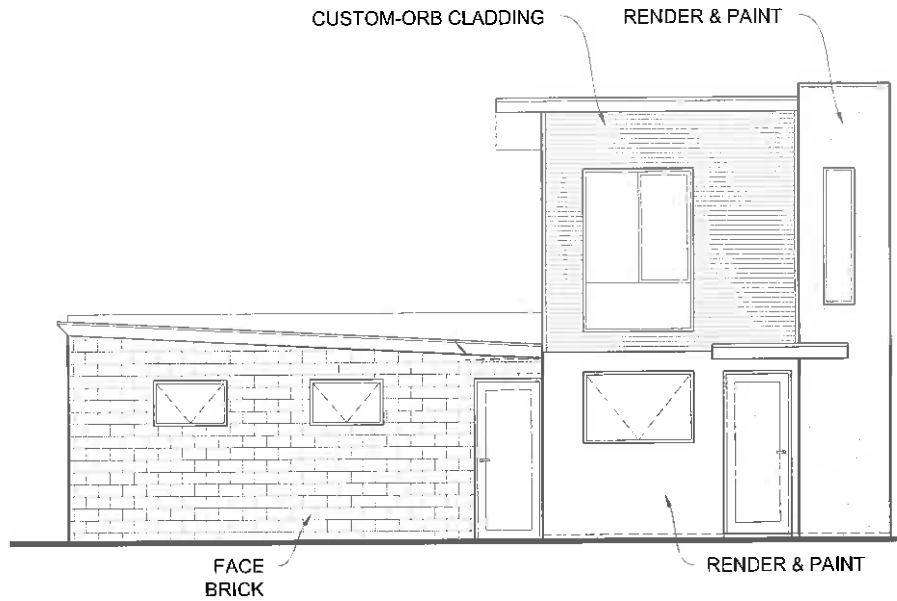
SCALE 1:100 @ A3



LOT 3 - ELEVATION 3

SCALE 1:100 @ A3

LOT 3 ELEVATIONS



LOT 4 - ELEVATION 4

SCALE 1:100 @ A3



LOT 4 - ELEVATION 1

SCALE 1:100 @ A3

LOT 4 ELEVATIONS