

THE HIGHLAND COUNCIL

SOUTH PLANNING APPLICATIONS COMMITTEE
13 December 2016

Agenda Item	6.8
Report No	PLS 074/16

15/04735/FUL: Kevin Thain
Land 10 m West of Caledon, West Terrace, Kingussie

Report by Area Planning Manager- South / Major Developments

SUMMARY

Description : Erection of house

Recommendation - Grant

Ward : 21 - Badenoch and Strathspey

Development category : Local

Pre-determination hearing : Not required

Reason referred to Committee : Community Council objection and 5 or more timeous objections

1. PROPOSED DEVELOPMENT

- 1.1 The proposed development is a single storey house of “contemporary” design comprising two linked offset rectangular plan masses clad in horizontal cedar boarding with shallow monopitch turf roofs, set above ground level on timber stilts with access walkway and outdoor deck areas also on stilts, on a sloping site at the end of West Terrace in Kingussie.
- 1.2 Pre application consultation is not mandatory but was undertaken. The proposed architectural solution was not the subject of adverse advice. Importance was placed on the need to address surface water and waste water drainage issues.
- 1.3 There is no existing access to the site. Access is proposed to be via a new unsealed driveway curving up into the site from a tarmacked turning area at the end of the public road (West Terrace) which is a single track road with limited passing places. The public water supply would be utilised. Waste water would be discharged to the public sewer which runs down through a private garden on the south side of the road from an inspection chamber in the road. Surface water discharges (and would continue to discharge) to a roadside drain on the north side of the road (lined with half piping by Community Services some time ago) which discharges into a culvert under the road then passes in a pipe through another private garden before discharging into the Pitmain Burn.

- 1.4 The application is supported by a design statement.
- 1.5 **Variations:** During the processing of the application, further details of surface water drainage arrangements for the new access track have been lodged in response to questions raised in the Flood Risk Management Team's consultation response.

2. SITE DESCRIPTION

- 2.1 The site consists of an undulating rising area of grazing land fringed by several loose groupings of mature and semi mature deciduous trees, set above and to the north of the end of the surfaced area of West Terrace. The land between the field boundary and the road (which is included in the red line site boundary) rises steeply from just behind the edge of the surfaced area of road carriageway. Two small spring-fed watercourses traverse the site on either side running from their sources uphill (one just within the site boundary and the other further up the slope). At the field boundary fence these are collected in two lengths of plastic pipe, understood to have been installed by neighbours (see contributions from John and Anne Allen) which discharge into the open roadside drainage ditch. The site has the character of a natural gap site between existing houses built between 20 and 30 years ago; while the south side of West Terrace is almost continuously built up, development on the northern side is discontinuous at this end of the Terrace.

3. PLANNING HISTORY

- 3.1 Part of site of 06/00039/OUTBS: Construction of access road and development of 18 house plots, withdrawn prior to determination after being called in by CNPA
12/01847/PIP: Erection of 1 house, PIP refused 28/9/12
13/00485/PIP: Erection of house (amended proposal ref 12/1847/PIP), PIP granted 12/8/13

4. PUBLIC PARTICIPATION

- 4.1 Advertised : Unknown neighbour. Advert expiry date 28/1/16
Representation deadline : 29/1/16
Timeous representations : 6 representations from 6 households
Late representations : 1 non timeous representation
- 4.2 Material considerations raised are summarised as follows:
- Inadequate sewer capacity
 - Aggravation of surface water problems (flooding of properties, ice on road in winter)
 - West Terrace inadequate to support the new access and further traffic/hazard to walkers
 - Rear fencing required to clarify and safeguard access rights
 - Innovative design welcomed
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development

Service offices.

5. CONSULTATIONS

- 5.1 **Flood Risk Management Team:** No objection
- 5.2 **Kingussie and Vicinity Community Council :** Objection
- 5.3 **Cairngorms National Park :** No objection
- 5.4 **Scottish Water :** No objection

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Cairngorms National Park Local Development Plan 2015

- 1 New Housing Development
- 3 Sustainable Design
- 5 Landscape
- 10 Resources
- 36 Community Information - Kingussie

6.2 Local Development Plan Policy Guidance

New Housing Development
Sustainable Design
Landscape
Resources

7. OTHER MATERIAL CONSIDERATIONS

7.1 Draft Development Plan

Not applicable

7.2 Highland Council Supplementary Planning Policy Guidance

Highland Council Supplementary Planning Policy Guidance - Flood Risk and Drainage Impact Assessment

7.3 Scottish Government Planning Policy and Guidance

SPP Scottish Planning Policy

8. PLANNING APPRAISAL

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

8.3 **Development Plan Policy Assessment**

In considering the application, although the starting point has to be the Development Plan now in force and the application is for full planning permission in its own right, the existence of the permission in principle is an important material consideration in a number of respects. The Transport Planning team was consulted on the previous PIP applications and offered no objections; this has a bearing on consideration of contributors' comments on the capacity and safety of West Terrace, which are similar to comments made on previous occasions. An affordable housing contribution was secured in connection with the PIP and as a site is only liable once in its planning history for such a contribution there is no liability for a further contribution in terms of Policy 1.

Policy 1 supports the principle of infill development in settlements. The community information section for Kingussie places the site within the settlement boundary. Therefore on the basis of both the Development Plan now in force and the existence of a valid PIP the principle of development can be supported subject to cross compliance with other policies.

A design statement has been submitted as required by Policy 3. The principle of contemporary design may be questioned in relation to the test of being "sympathetic to the traditional pattern and character of the surrounding area", notwithstanding the mixed character of the houses on this side of the road. Nevertheless the test "encourag(es) innovation in design and use of materials" and some weight has to be given to the fact that the most distinctive element of the design - the elevated placement of the development on stilts - is a specific response to the need to meet the test of "protect(ing) the amenity enjoyed by neighbours" in relation to the Policy 10 issue of flooding.

Flood risk received some attention at the PIP stage with a level 2 Flood Risk Assessment (FRA) having to be prepared and submitted to satisfy the Flood Risk Management Team (FRMT), a somewhat unusual level of detail for a PIP application. FRMT was satisfied at the time that subject to adequate inclusion of sustainable water management features of the kind recommended in the FRA the site was capable of development without increasing the risk of flooding of the road or of nearby properties.

8.4 **Material Considerations**

It is clear from representations received in respect of this application that flood risk, water runoff, drainage arrangements, increased traffic and the new access are key concerns. Material considerations are summarised as follows:

Design and Materials

Existing development along West Terrace on the outskirts of Kingussie is mixed in form, height and finish with a range of 1 and a ½ and 2 storey properties. Development in the surrounding area is commonly characterised by properties set back from West Terrace.

The dwelling is split between two mono-pitch rectangular forms. The property is positioned on a stilted platform due to the sloping nature of the site. It is considered that the design and external finish is a modern interpretation of a traditional form. The property is finished with horizontal cedar cladding, turf roof and timber walkway and deck. The front of the curtilage will be enclosed by fencing. The design and form of the property is sympathetic to the existing landscape and will not require an overly engineered podium. A new access is to be taken from West Terrace. The access, parking and turning provision will be controlled by condition. A detailed landscaping scheme will be required and can be controlled by condition. Full details of the proposed fencing is to be submitted and is controlled by condition.

The property is considered to generally accord with the Policy 3 which states that innovative approaches to design, use of sustainable materials and effective use of resources will be welcomed. The siting is designed to take advantage of energy conservation potential and views south. The main living spaces face south with a natural axis east to west. Large, floor to ceiling windows on the southern elevation will increase solar gain and contribute to energy efficiency.

Whilst utilising an unusual plan and form, on balance, the proposal is considered acceptable in terms of scale, design and materials.

Flood Risk

The principle of development is supported by Policy 1 of the Local Development Plan. Possible conflict with Policy 10 was noted in the previous case report. The failure to address this conflict to the satisfaction of the Flood Team led to the previous application in 2012 being refused. A more detailed FRA was submitted with this application and is considered appropriate.

The porous access track will drain via a series of attenuation basins located on the lower east side of the track which will drain via a piped overflow into the western watercourse. The applicant will also ensure that the existing outfall from the western watercourse will be realigned to direct flows into the roadside channel drain as opposed to inundating the road which happens currently.

There is potentially an alternative method for managing runoff from the access track as it may be possible to discharge into a natural soakaway at the base of the track. The Flood Risk Management Team would be supportive of this subject to percolation tests being undertaken.

While contributors have again objected that the development would increase the risk of flooding of the road and neighbouring properties, the Council's Flood Team is now satisfied that development of the site in accordance with the provisions of the FRA will address these objections and can be controlled by condition.

In terms of surface water drainage, concern has been expressed that the proposed development could aggravate surface water run-off. A condition is recommended that full details of SUDS compliant surface water drainage system be supplied which takes account of not only the roof and hard surface run-off within the site, but also surface water originating from outwith the site. However, there is no reason to assume that a drainage solution cannot be found for the property, as it has been for its neighbours, and a condition is recommended to address surface water drainage.

Drainage

A number of representations advised that the foul water sewer was at capacity and a further connection would have a detrimental impact on neighbouring properties. Scottish Water support the foul only connection to the public sewer.

A representation was received from the neighbour at Tullochard, south of the site raising concerns that raw sewage from properties north of West Terrace had flowed onto their land previously and wanted assurances that this would not continue with a further connection to the public sewer.

SW has agreed to replace and upgrade the existing sewer running from West Terrace below the curtilage of Tullochard, south west beyond the Pitman River and on to the main sewer on Newtonmore Road. SW advises the sewer has a number of structural defects and tree root damage. SW has statutory powers to upgrade the sewer and given the proposal is required to connect to this portion, will default to this position. SW is currently seeking to agree the notice for the re-laying of the sewer as the existing route ran below the neighbour's garage. This issue is to be controlled by condition.

Representations also requested SW create sewage provision along West Terrace as residents consider the current sewage provision is lacking.

Access

Objectors continue to question the capacity of the road to accept additional traffic. The proposed access, whilst minimising the gradient and run-off rates, reduces the passing opportunity afforded by the service lay-by, benefits fewer properties and will not be part of the adopted road network. Nevertheless, the fundamental issue of principle remains that Transport Planning have not objected previously and that it does not seem possible to demonstrate conclusively that the road is incapable of accepting the traffic generated by one more house.

The formation of the access will be controlled by condition and is considered to alleviate the current pressure on the road as it will act as a passing place for vehicles. The development will not exacerbate an already existing problem.

Concerns were raised with regards to the steep slope and construction traffic. Earthworks will be controlled by condition and an Informative will be attached regarding construction hours.

A number of representations raised the issue of business traffic. Objectors have suggested that there would be additional traffic from business use of the site. A business use judged to materially affecting the use or character of the house as a dwellinghouse would require planning permission in its own right and any roads implications assessed at the time.

One objection questions retention of land outwith plot to side and rear but another contributor notes its retention as a recreation and wildlife access corridor. This is in any case not relevant to the application.

One objection questions right of access over the private track; this is a private matter

Adherence in the detailed design and development of the site to the FRA/Flood Team recommendations, and other conditions as specified below, would address

objections.

8.5 **Other Considerations – not material**

Not applicable

8.6 **Matters to be secured by Section 75 Agreement**

The affordable housing contribution housing contribution has been paid previously.

9. **CONCLUSION**

- 9.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. **RECOMMENDATION**

Action required before decision issued	N
Notification to Scottish Ministers	N
Notification to Historic Scotland	N
Conclusion of Section 75 Agreement	N
Revocation of previous permission	N

Subject to the above, it is recommended the application be **GRANTED** subject to the following conditions and reasons / notes to applicant.

1. No development shall commence until arrangements for sewerage infrastructure to serve the site (including a programme for implementation) have been submitted, to, and approved in writing by, the Planning Authority in consultation with Scottish Water. No part of the development shall be occupied until the appropriate replacement and upgrading works have been agreed and completed to the satisfaction of the Planning Authority in consultation with Scottish Water. Sewer connections are to be completed in accordance with the approved arrangements.

Reason : In order to protect people, residential amenity and the environment from any impact of waste water.

2. The development shall be connected to the public sewer for the disposal of foul drainage in such a manner and by such route as will ensure to the satisfaction of the Planning Authority, in consultation with Scottish Water, that no nuisance shall be caused to occupiers of properties traversed by any existing or proposed sewerage infrastructure.

Reason : In order to protect people, residential amenity and the environment from any impact of waste water.

3. No other development shall commence until the site access has been upgraded in accordance with The Highland Council's Access to Single Houses and Small Housing Developments guidelines, with the junction formed to comply drawing ref SDB1.

Reason : In order to ensure the safety and free flow of traffic.

4. No development shall commence until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Second Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the first occupation of any of the development.

Reason : To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; in order to protect the water environment.

5. Any details pursuant to condition 4 above shall show a design and layout informed by the flood risk assessment approved as part of this planning permission. Any measures included within the design and layout for the purposes of mitigating and/or protecting properties and/or land from flood risk shall be completed prior to the first occupation of the development.

Reason: To ensure that all flood mitigation infrastructure, required in order to reduce the risk of flooding occurring both within and outwith the application site, is provided timeously.

6. No development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:
 - i. All earthworks and existing and finished ground levels in relation to an identified fixed datum point;
 - ii. A plan showing existing landscaping features and vegetation to be retained;
 - iii. The location and design, including materials, of any existing or proposed walls, fences and gates;
 - iv. All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities; and
 - v. A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works.

Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the

commencement of development, unless otherwise stated in the approved scheme.

Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

Reason: In order to ensure that the approved landscaping works are properly undertaken on site.

REASON FOR DECISION

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

TIME LIMITS

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or

result in formal enforcement action

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (p.198), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Septic Tanks & Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

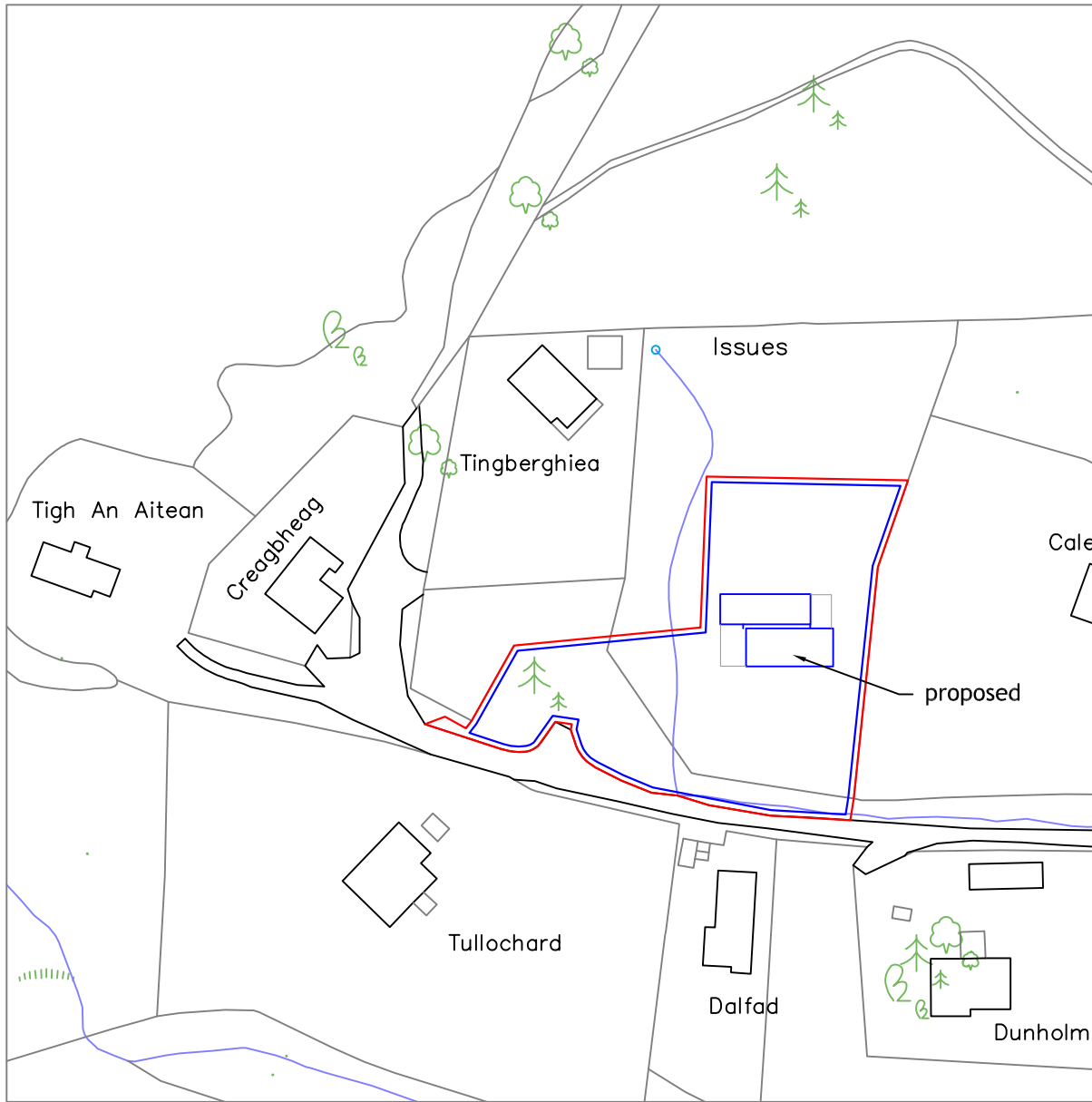
Construction Hours and Noise-Generating Activities

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Signature: Nicola Drummond
Designation: Area Planning Manager – South/Major Developments
Author: Roddy Dowell
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Location Plan SA 101
Plan 2 – Elevation Plan EL 101
Plan 3 – Elevation Plan EL 102
Plan 4 – Elevation Plan EL 103
Plan 5 – Elevation Plan SE 101
Plan 6 – Site Layout Plan SA 102
Plan 7 – Drainage Plan D101



O.S. Grid Ref.
 NH 74593 00596
 Northing : 800596
 Easting : 274593

Notes

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No.	Revision	Description	Date

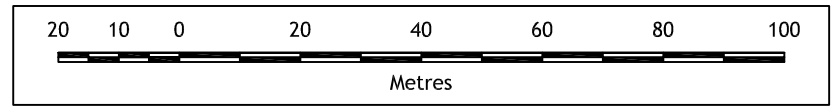
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Project number	063
Issue Date	22/06/15
Drawn by	John Craig
Checked by	John Craig

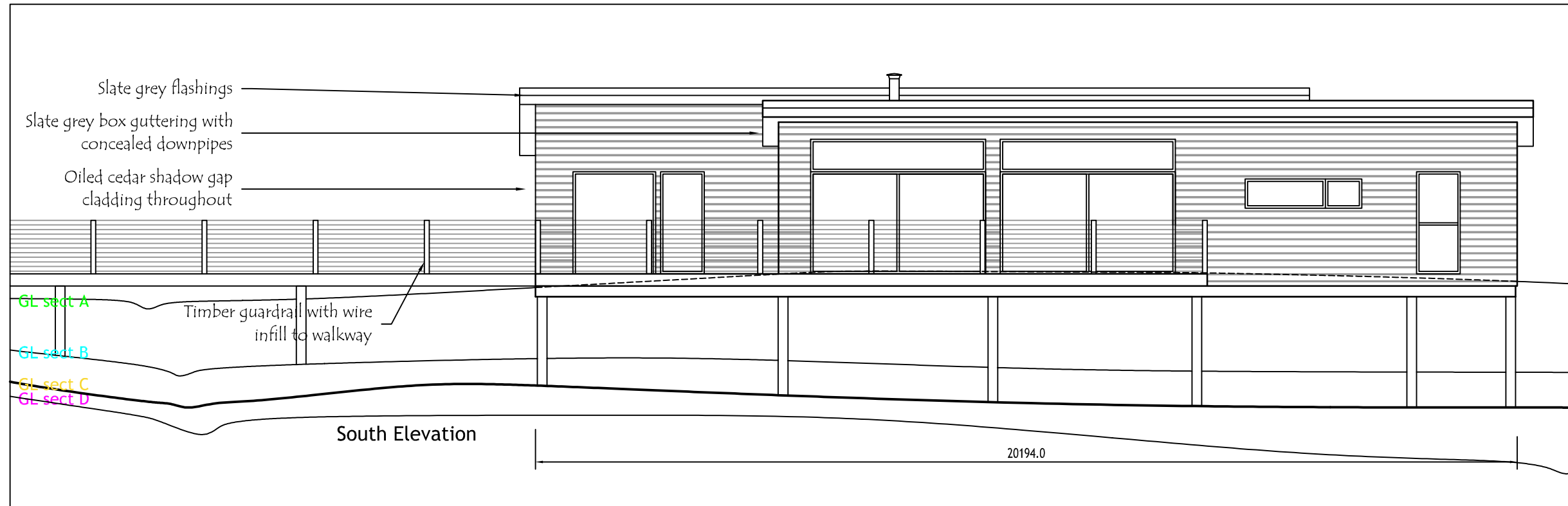
Plot A West Terrace
 Kingussie
 PH21 1HB

Site Location

Date	22-06-15	Scale	1:1250	Rev No	00	Dwg No	SA 101
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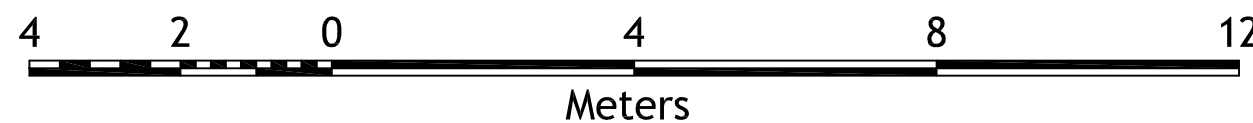
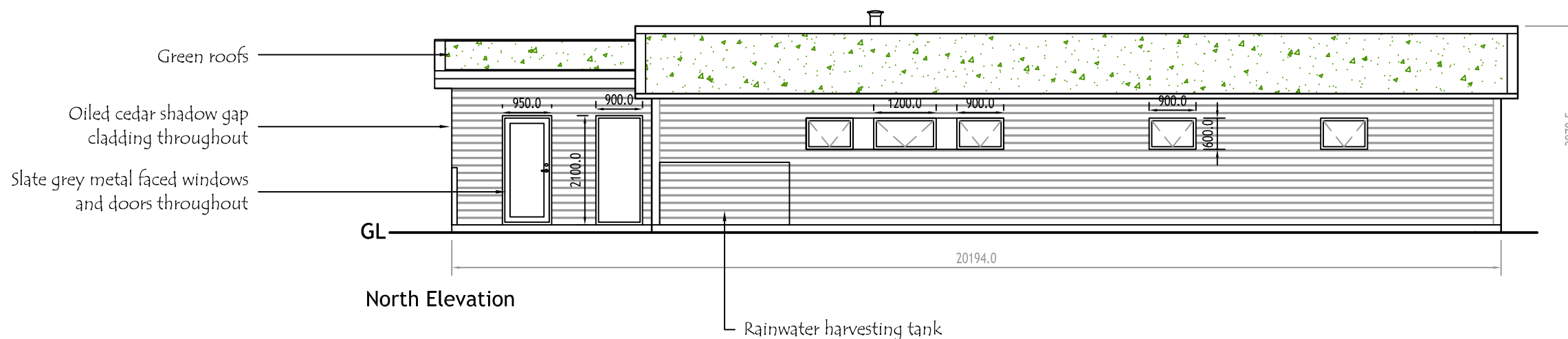


Notes

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No.	Revision Description	Date

Hill Site West Terrace
 Kingussie
 Planning Drawings

North and South Elevations

Project Number	063	EL 101
Issue Date	16/06/15	
Drawn by	John Craig	
Checked by	John Craig	
Scale @ A3		1:100



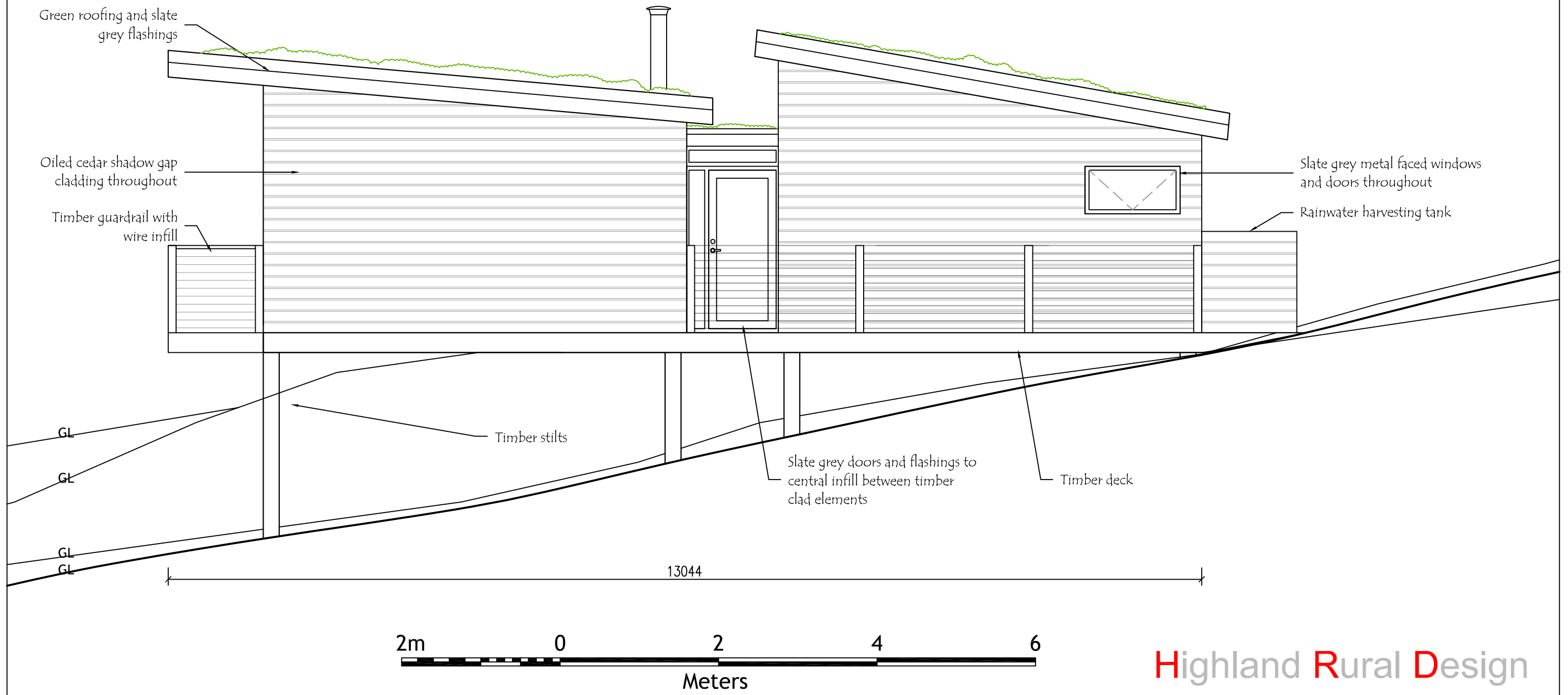
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No.	Revision Description	Date

**Plot A West Terrace
 Kingussie
 Working Drawings**

Proposed West Elevation

Project number	063	EL 102
Issue Date	16/06/15	
Drawn by	John Craig	
Checked by	John Craig	
Scale @ A3		1:50



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No.	Revision Description	Date

**Plot A West Terrace
 Kingussie
 Working Drawings**

Proposed East Elevation

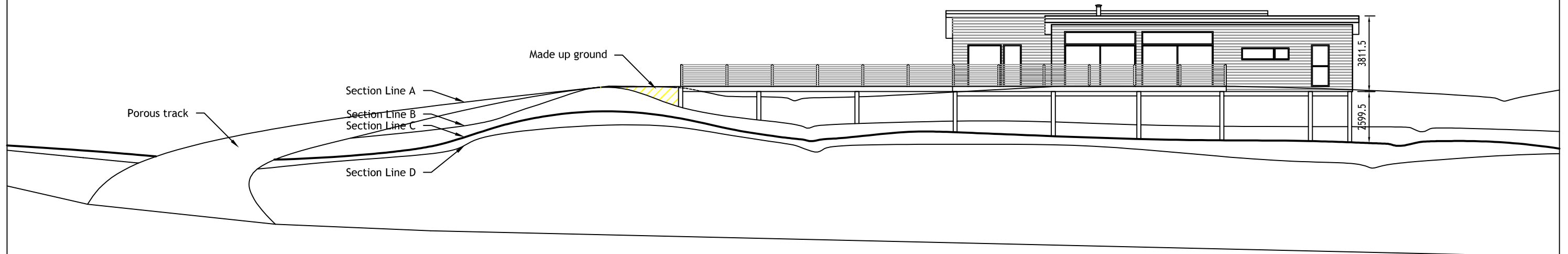
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Issue Date	16/06/15
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Checked by	John Craig

EL 103

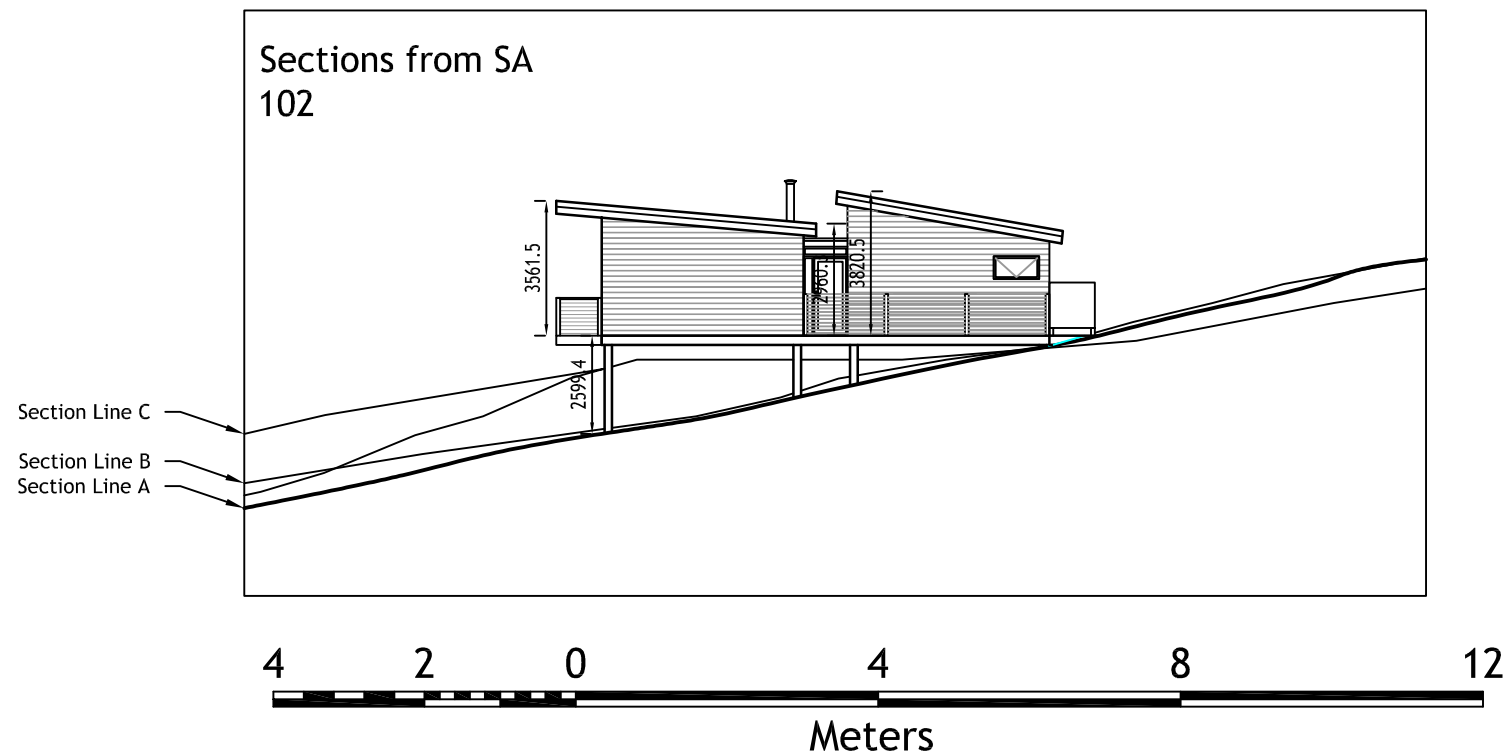
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South Elevation



East Elevation



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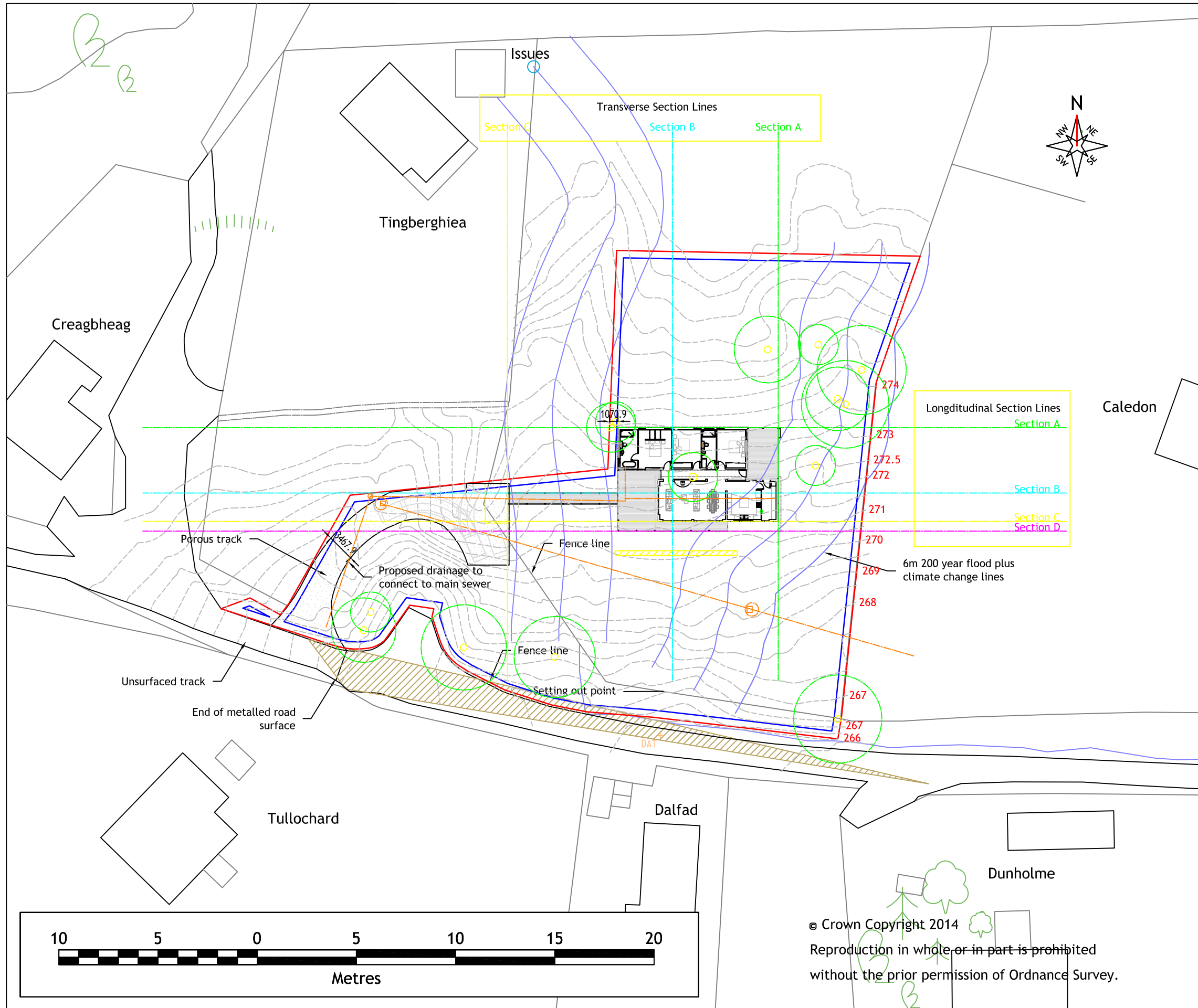
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No.	Revision Description	Date

Hill Site West Terrace
 Kingussie
 Planning Drawings







Site Elevations

Project Number	063	SE 101
Issue Date	20/10/15	
Drawn by	John Craig	
Checked by	John Craig	
Scale @ A3		1:100



Notes

Key

-  2m Contours from datum
-  Porous Track
-  Property Boundary
-  45m Emergency vehicle radius
-  Visibility splay
-  Contour drain

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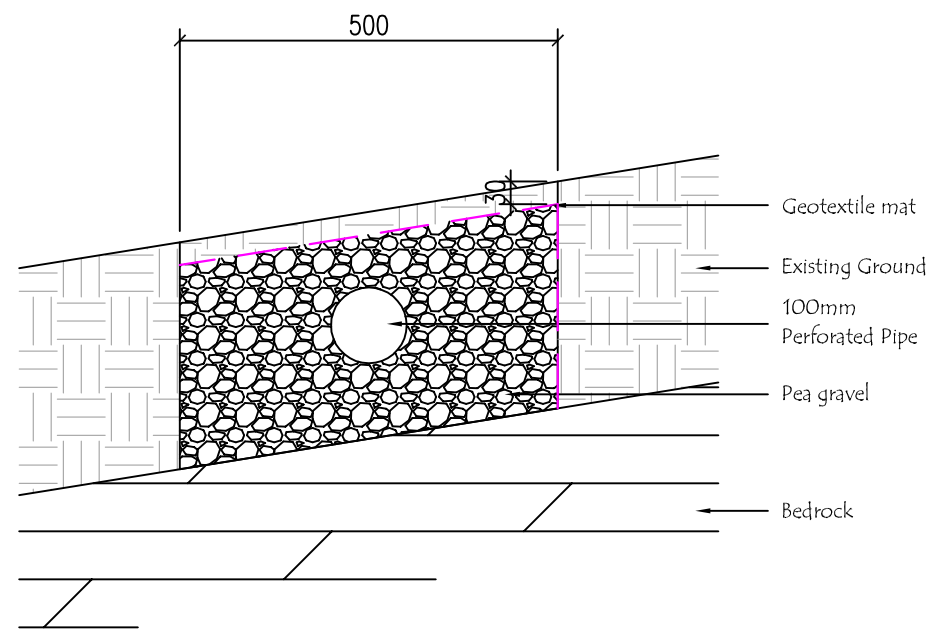
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Issue Date	23/06/15
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Plot A West Terrace
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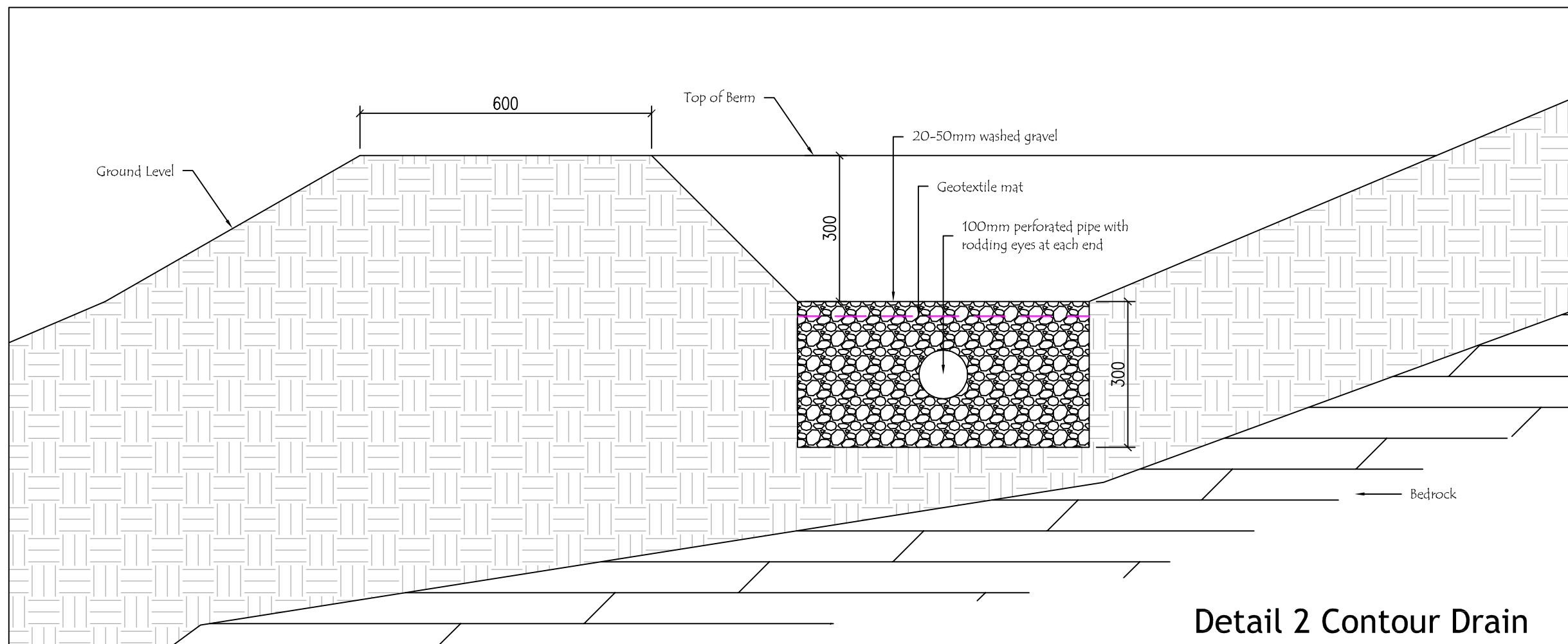
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 1:500

Date	Scale	Rev No	Dwg No
23-06-15	1:500	00	SA 102

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Detail 1 French Drain



Detail 2 Contour Drain

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No.	Revision Description	Date

Scale	1:10 @ A3
Project number	063
Issue Date	05/11/15
Drawn by	John Craig
Checked by	John Craig

Project Name and Address
Plot A West Terrace
Kingussie
PH21 1HB

Dwg Title
**Drainage
Details**

Date	Scale	Rev No	Dwg No
05-11-15	1:10	00	D 101