

Agenda Item	6.1
Report No	PLS-053-20

## HIGHLAND COUNCIL

**Committee:** South Planning Applications Committee

**Date:** 3 November 2020

**Report Title:** 20/02401/FUL: Scottish Water  
Wastewater Treatment Works, Ardersier

**Report By:** Area Planning Manager – South

### Purpose/Executive Summary

**Description:** Retrospective application to amend planning permission 10/02007/FUL (as amended by planning permission 13/04590/S42) to allow increased heights of the Picket Fence Thickener Tank and inlet works and installation of electrical substation.

**Ward:** 17 – Culloden and Ardersier

**Development category:** Local

**Reason referred to Committee:** More than 5 representations against the proposal (incl. Community Council).

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.

### Recommendation

Members are asked to agree the recommendation to **Grant** planning permission as set out in section 11 of the report.

## **1. PROPOSED DEVELOPMENT**

1.1 The development, which is in retrospect, relates to the following:

- increased height of the Picket Fence Thickener Tank
- extend height of inlet works
- installation of a new electrical substation

These changes are required as a result of recent detailed design work which showed these new additions to be necessary for the operation of the infrastructure on site.

1.2 The Picket Fence Thickener Tank has been increased in height by less than 1m however the stair, walkway and handrail that is required to allow safe access to this adds an additional 1.2m. The inlet works have been extended by approximately 2m in height at its tallest point however, again the safety measures (handrailing) have resulted in added height.

1.3 The inlet works are located at the northern corner of the site with the Picket Fence Thickener being located 35m to the south west of the inlet works.

1.4 The new electrical substation is approximately 45m east of the Picket Fence Thickener and is 3.11m long by 2.8m wide and 2.26m high.

1.5 Pre-Application Consultation: In May 2020, discussion was held with Scottish Water regarding discrepancies between the approved plans for the scheme with the 'as built' development. This resulted in an Enforcement Notice (Section 33A Notice) being served on Scottish Water on 2 June 2020 requiring the submission of a planning application. The reason for this was given as: "The differences between the approved and erected structures within the Ardersier Waste Water Treatment Works are not of a scale that could be considered non-material and a planning application is therefore required to allow the Planning Authority to consider the appropriateness of the modified structures within the site."

1.6 As a result of the Section 33A Notice, this planning application has been submitted to regularise the two structures which have been erected without the benefit of planning permission.

1.7 Supporting Information: The application includes a supporting statement to address matters raised by the Planning Authority. This included information on the requirements for the works and on planning policy.

1.8 Variations: None

## **2. SITE DESCRIPTION**

2.1 The site is the area to the north of the existing Ardersier Waste Water Treatment Works that was granted planning permission in 2011 for increased capacity. The site is located just north of Ardersier and bounded to the east by the B9006 Ardersier - Fort George road and to the west by the public footpath that runs along the Firth connecting Ardersier to Fort George. There are no immediate neighbours to the site

with Fort George being located over 1km to the north west and Ardersier approximately 500m to the south east.

- 2.2 There is a variety of different plant and machinery on the site with construction work currently underway. Landscaping is located around the site to mitigate the visual impact on the surrounding area.
- 2.3 There are no natural or cultural heritage designations covering the site. However, the Moray Firth is a designated Special Area of Conservation and the area to the east of the B9006 is a designated SSSI.

### **3. PLANNING HISTORY**

- |     |                 |   |                             |
|-----|-----------------|---|-----------------------------|
| 3.1 | 24 January 2011 | 10/02007/FUL - Construction of a new wastewater treatment works & associated works  | Planning Permission Granted |
| 3.2 | 23 January 2014 | 13/04590/S42 - Application to vary Condition 1 of the existing permission (10/02007/FUL) to extend the period of permission by three years. | Permission Granted          |
| 3.3 | 04 January 2017 | Non-material variation of 13/04590/S42 to modify proposed landscaping, relocate plant and use alternative access.                           | Granted                     |
| 3.4 | 18 January 2017 | Satisfaction of Conditions 7, 8, 9, 10 & 15 of planning permission 10/02007/FUL.  | Conditions Satisfied        |
| 3.5 | 12 June 2018    | Non-material variation of 13/04590/S42 to change relocation of plant and realign internal road layout.                                      | Granted                     |

### **4. PUBLIC PARTICIPATION**

- 4.1 Advertised: Unknown Neighbour  
Date Advertised: 17 July 2020, 14 August 2020  
Representation deadline: 31 July 2020, 28 August 2020  
Timeous representations: 11  
Late representations: None
- 4.2 Material considerations raised are summarised as follows:  
a) Adverse visual impact from increased height.  
b) Public safety due to the increased height in an area prone to high winds.
- 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](http://www.wam.highland.gov.uk/wam).

## **5. CONSULTATIONS**

5.1 None

## **6. DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application

### **6.1 Highland Wide Local Development Plan 2012**

9 - A96 Corridor - Phasing and Infrastructure

28 - Sustainable Design

29 - Design Quality & Place-making

30 - Physical Constraints

57 - Natural, Built and Cultural Heritage

58 - Protected Species

63 - Water Environment

66 - Surface Water Drainage

### **6.2 Inner Moray Firth Local Development Plan (2015)**

No specific policies apply

### **6.3 Highland Council Supplementary Planning Policy Guidance**

Physical Constraints Supplementary Guidance (March 2013)

Statutorily Protected Species (March 2013)

## **7. OTHER MATERIAL POLICY CONSIDERATIONS**

### **7.1 Scottish Government Planning Policy and Guidance**

Scottish Planning Policy (June 2014)

## **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.

### **Determining Issues**

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.

### **Planning Considerations**

8.3 The key considerations in this case are:

- a) compliance with the development plan and other planning policy
- b) siting, layout, and design
- c) impact on natural and cultural heritage

- d) concern for public safety
- e) any other material considerations.

### **Development plan/other planning policy**

- 8.4 The new plant and machinery associated with this proposal is located within an established site that has had planning permission granted for infrastructure that would not only support additional waste water capacity within the area but also improve the existing systems to benefit the water environment. In this regard, the development directly supports Policy 9 and Policy 63 of the Highland wide Local Development Plan.
- 8.5 Policy 28 of the Highland Wide Local Development Plan is also relevant to the assessment of this proposal and requires proposals to demonstrate sensitive siting and high-quality design in keeping with local character, historic and natural environment that does not have significant detrimental impact on community and/or individual residential amenity. Where the proposals can demonstrate that to be the case, the development would accord with the development plan.

### **Siting, layout and design**

- 8.6 The site is bunded. The electrical substation is at ground level and not visible outwith the site. It is the case that the other structures subject to this application are higher than originally allowed for however these features are largely limited to fencing/screens around the tops of tanks and handrailing.
- 8.7 The Community Council suggest that the site is no longer 'low-profile' as was originally discussed with Scottish Water and it is unlikely that these tall structures can be screened.
- 8.8 While these structures may be seen from further away as a result of their increased height, they sit within the context of an existing WWTW plant that is industrial in nature. The works are required to allow the site to continue running safely, to support further housing capacity within the wider area and should ensure that the overall footprint of the WWTW does not require to be extended further in the near future.
- 8.9 Given the context, these functional and necessary items of plant and machinery are not considered to be unacceptable. There will be no significant adverse impact on the character of the area or visual amenity. While it may be possible to increase the height of the bund screening, the benefits of doing so would be outweighed by the visual impact of any increased bund itself.

### **Impact on cultural heritage**

- 8.10 Despite two of the structures being increased in height, the inlet works by up to 2m and the Thickener Tank (including walkway and handrails) by up to 2.3m, this change is not be considered to be significant enough to adversely impact on the character of the surrounding area. The proposals will always be viewed in the context of an existing established industrial setting. There will be no adverse impact on the cultural heritage of the area; particularly those features of local/regional importance in the

vicinity i.e. Ardersier Conservation Area and/or the setting of Fort George. There would be no conflict with Policy 58 in this regard.

### **Public safety and amenity**

- 8.11 It should be noted that some of the works are required in order to ensure that Scottish Water staff have a safe working site environment. Policy 30 identifies that proposals should ensure that they do not adversely affect human health and safety. A lot of the infrastructure which has been put in place, and is now subject of this retrospective application, including the increase in heights for both the inlet works and the Thickener Tank, are to help improve health and safety measures for users of the equipment. Notwithstanding this, Members should note that matters relating to site safety are regulated by the Health and Safety Executive and various Health and Safety Statutes and Regulation, not the Planning system.

### **Other material considerations**

- 8.12 The Community Council has suggested that further expansion of this site is not appropriate and that another location for these works could be better suited. Despite this, all of the works associated with this application are increasing the height of what is existing or adding to an area which has already been developed on site. The proposal seeks to regularise works that have been undertaken to new plant within the application site. Alternative locations for the treatment works, or alternative locations for the works that have been undertaken within the overall WWTW site, are not part of the proposal.
- 8.13 There are no other material considerations

### **Non-material considerations**

- 8.14 Representations highlight dissatisfaction with the nature of this application; the fact that it was submitted in retrospect. The Community Council asks a number of questions in relation to how this situation has come about. However, these are not for the Planning Authority to address but for Scottish Water as the applicant. Scottish Water is entirely within its rights to lodge a retrospective application.
- 8.15 It is unfortunate that Scottish Water did not bring the changes now presented through an earlier application or amendment. However, this retrospective application has now provided the opportunity for the community to engage and this is an appropriate way in which to regularise the development and bring it back under planning control.

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

- 8.16 a) None

## **9. CONCLUSION**

- 9.1 The expansion of capacity at this WWTW is established within the development plan and has the benefit of planning permission. This application seeks to regularise aspects of the development that has now been constructed for which planning permission has not been given. It is not for the Planning Authority to provide an explanation of how or why Scottish Water has developed in this way nor should it be

excused. However, the applicant is entitled to apply for planning permission and the Planning Authority must make a decision on that based on the development plan policies and the relevant material planning considerations.

- 9.2 It is the case that the development, as now proposed, will sit higher within the site. It will therefore be visible from greater distance. However, it is contained within the envelope of an existing WWTW of industrial character. The changes proposed, particularly the lightweight nature of the additional structures, overall are not considered to be significantly detrimental to visual amenity and/or to the character of the nearby Ardersier or Fort George. While in theory, albeit not offered within the application, it may be possible to provide further visual screening, this is not considered appropriate in this context as it would only accentuate an unnatural landform in views, particularly from the beach.
- 9.3 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

Conclusion of Section 75 Obligation N

Revocation of previous permission N

**Subject to the above**, it is recommended that planning permission be **Granted**. There are no conditions.

## 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 LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

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 (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

### **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](mailto:env.health@highland.gov.uk) for more information.

### **Protected Species – Halting of Work**

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: [www.snh.gov.uk/protecting-scotlands-nature/protected-species](http://www.snh.gov.uk/protecting-scotlands-nature/protected-species)

Designation: Area Planning Manager – South  
Author: Lauren Neil  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 - Location Plan  
Plan 2 - Site Layout Overall  
Plan 3 - Inlet Works Layout  
Plan 4 - Inlet Works Elevations (View A and B)  
Plan 5 - Inlet Works Elevations (View C and D)  
Plan 6 - Picket Fence Thickener Layout  
Plan 7 - Picket Fence Thickener Elevations (View A and B)  
Plan 8 - Picket Fence Thickener Elevations (View C and D)  
Plan 9 - Electrical Substation Layout

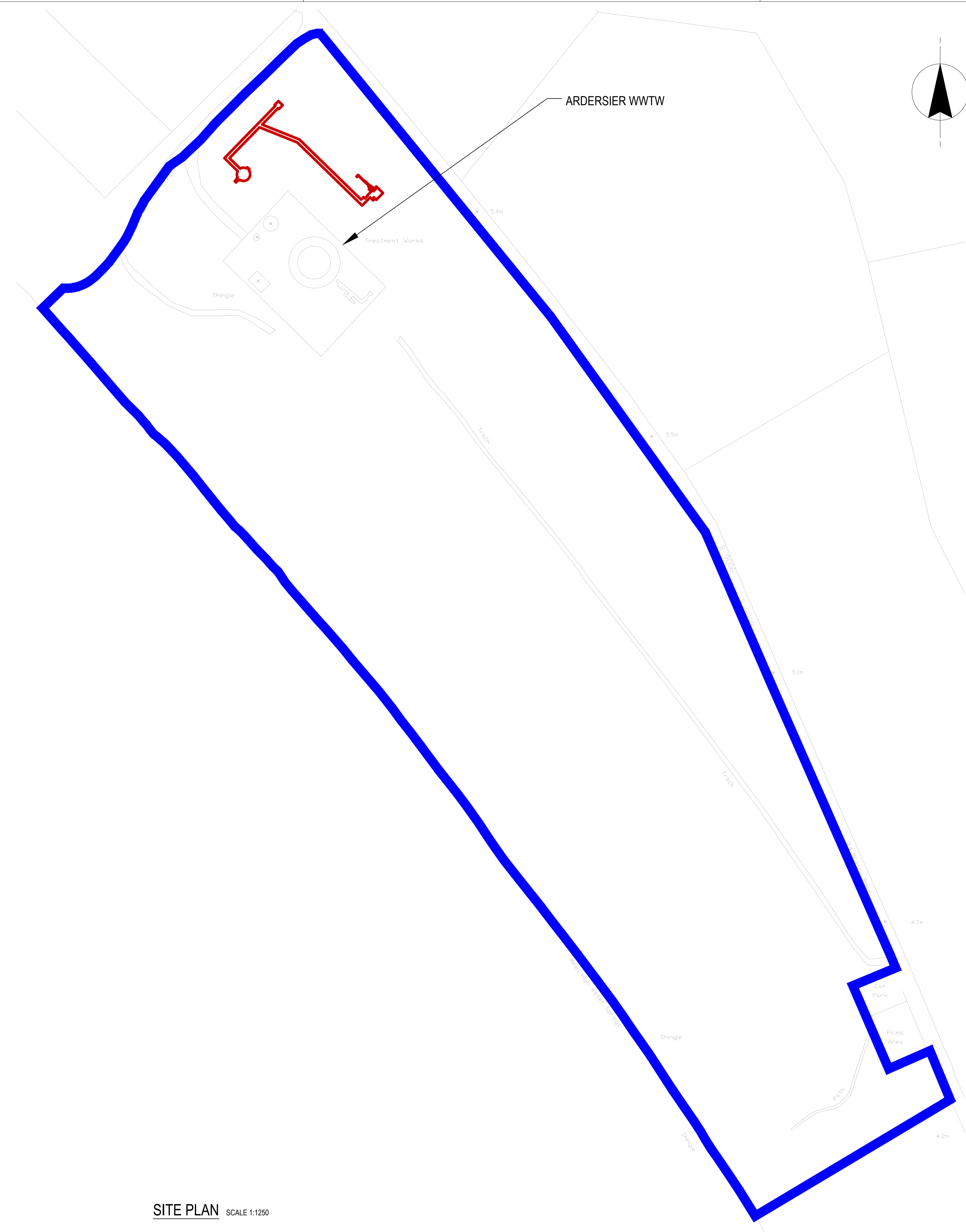
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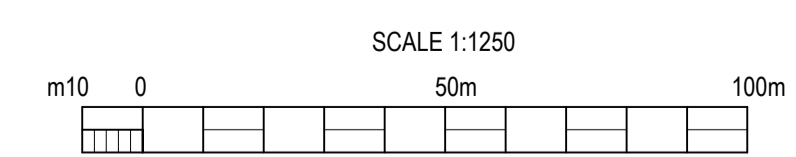
- SCOTTISH WATER OWNED LAND - WWTW
- AREA FOR PROPOSED DEVELOPMENT (APPROXIMATELY 350m<sup>2</sup>)



**LOCALITY PLAN** NOT TO SCALE



**SITE PLAN** SCALE 1:1250



QA	PLANNING ISSUE	DMA	LAC	GCA	25.06.20
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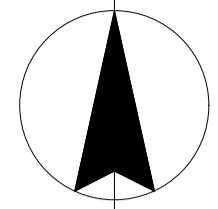
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**ARDERSIER WWTW GROWTH**

Drawing Title  
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ELLIPSE PLANT No.	STW001241
AUTOCODE No.	5000129000

Drawing No.  
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MOD PLAYING FIELDS

TO FORT GEORGE

OLD MILITARY ROAD (B9106)

+ 5.4m

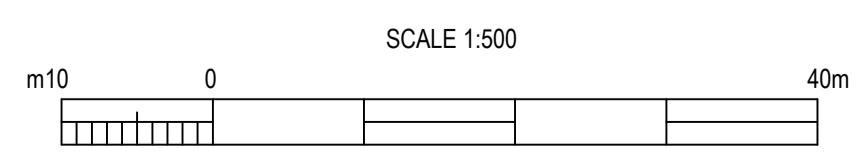
TO ARDERSIER

Existing Ardersier WwTW

Track

MORAY FIRTH

SITE LAYOUT OVERALL SCALE 1:500



Notes:  
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KEY:  
 SCOTTISH WATER OWNED LAND - WWTW  
 AREA FOR PROPOSED DEVELOPMENT (APPROXIMATELY 350m<sup>2</sup>)

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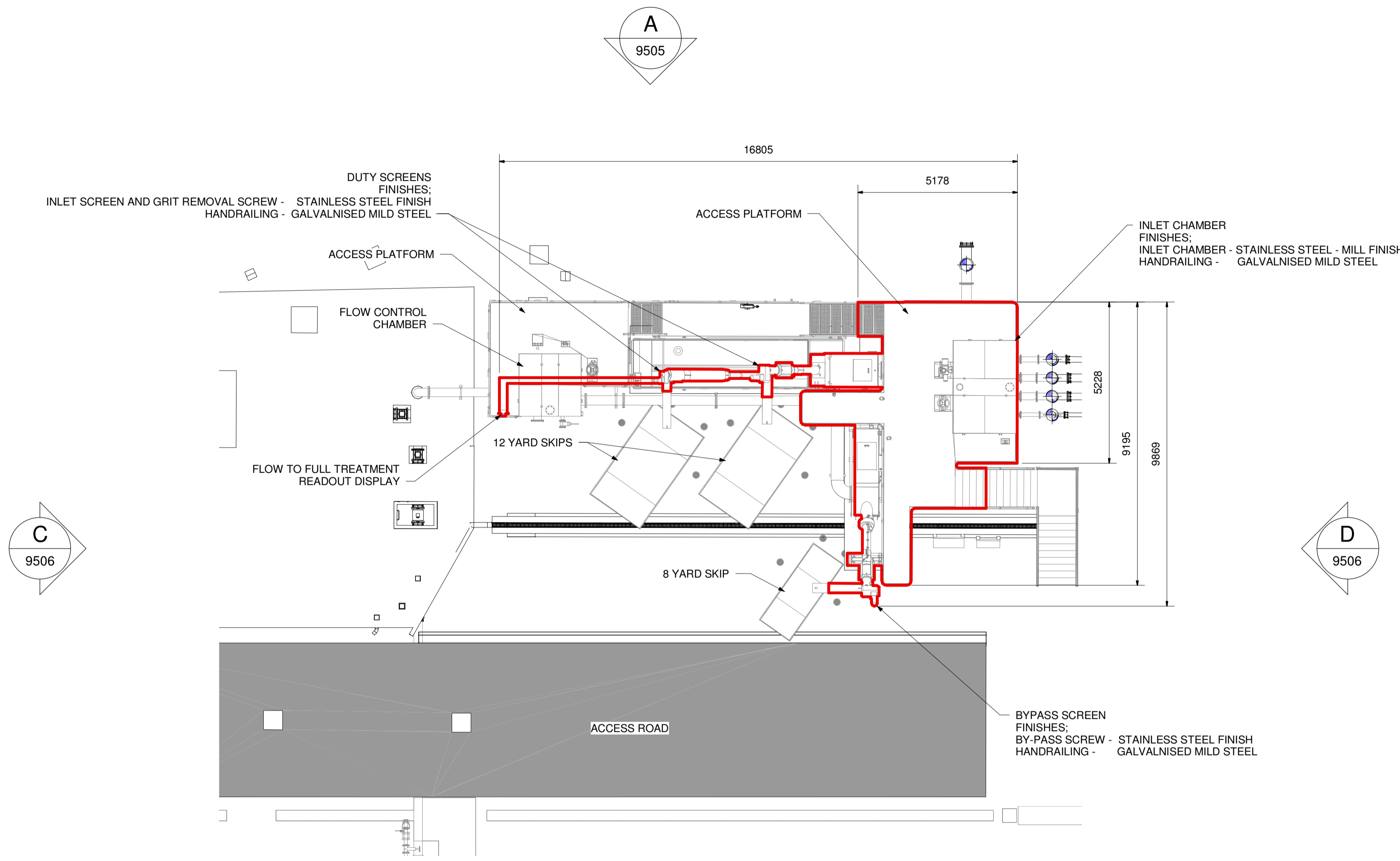
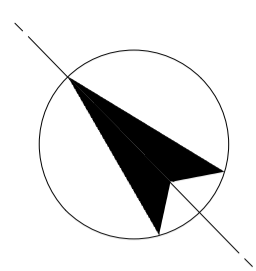
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**PLANNING INCLUSIONS SITE LAYOUT OVERALL**

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Legend  
 PLANNING INCLUSIONS



**INLET WORKS LAYOUT**  
SCALE 1:50

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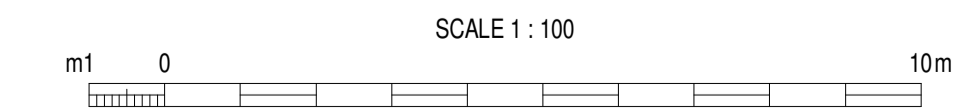
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**Project Title**  
ARDERSIER WwTW  
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PLANNING INCLUSIONS  
INLET WORKS  
LAYOUT


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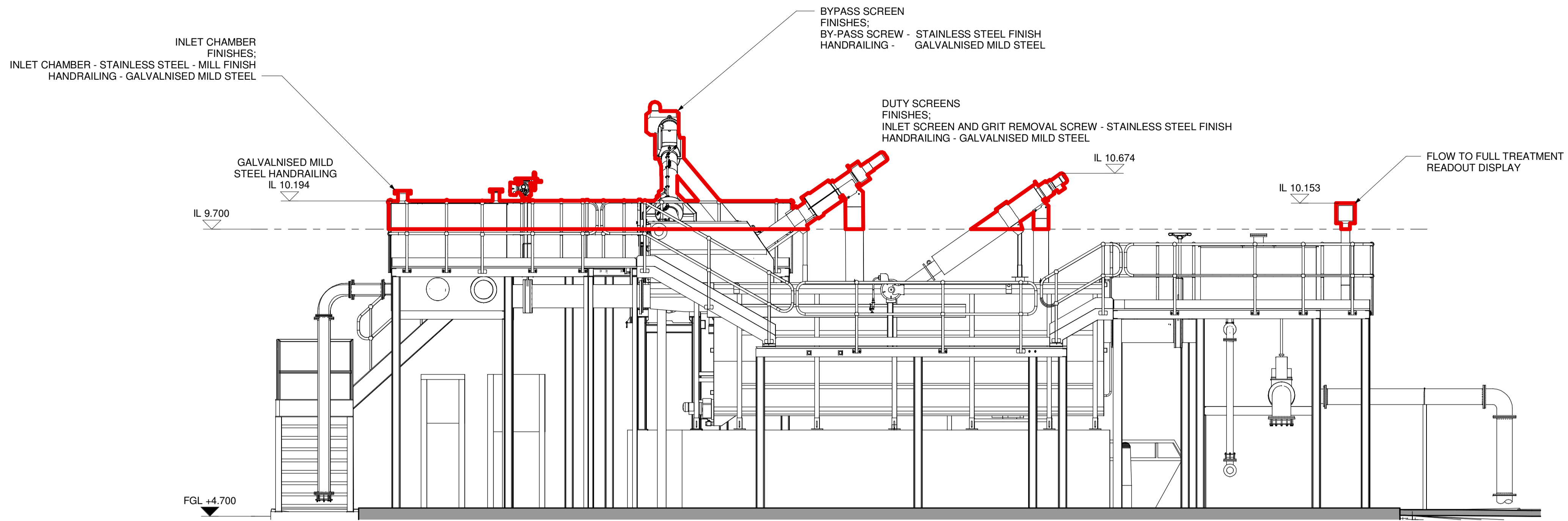
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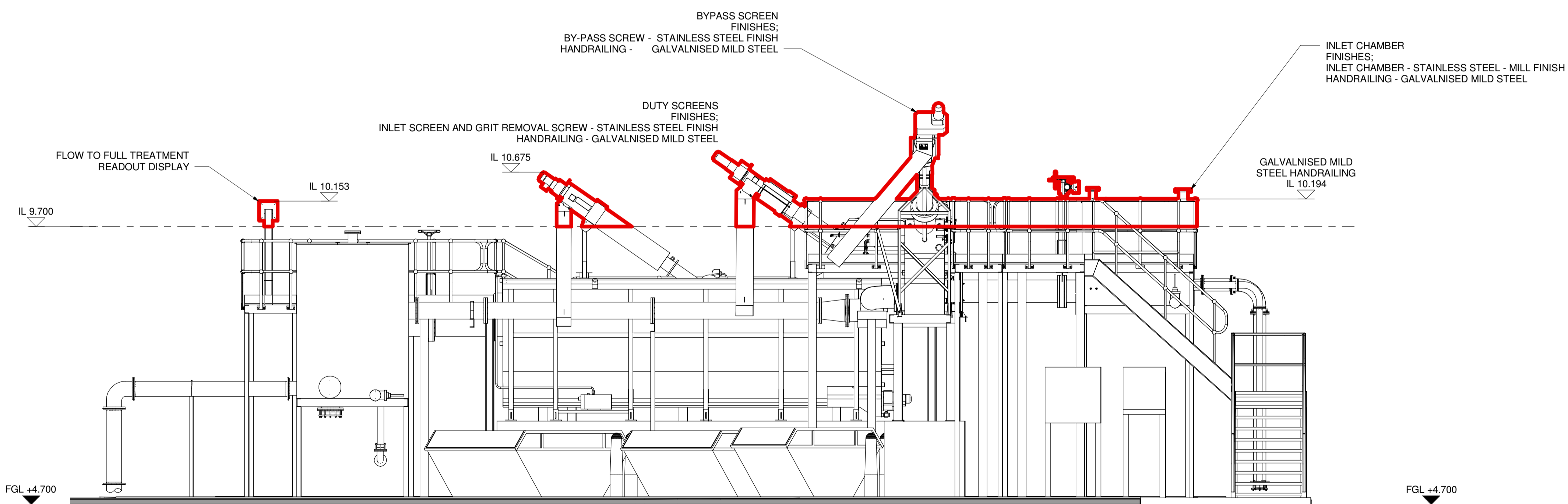


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 PLANNING INCLUSIONS



VIEW ON A  
SCALE 1:50



VIEW ON B  
SCALE 1:50

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0A	PLANNING ISSUE	DMA	LAC	GCA	25/06/20



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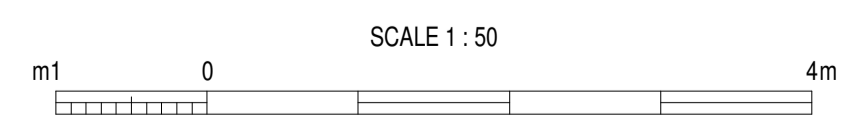
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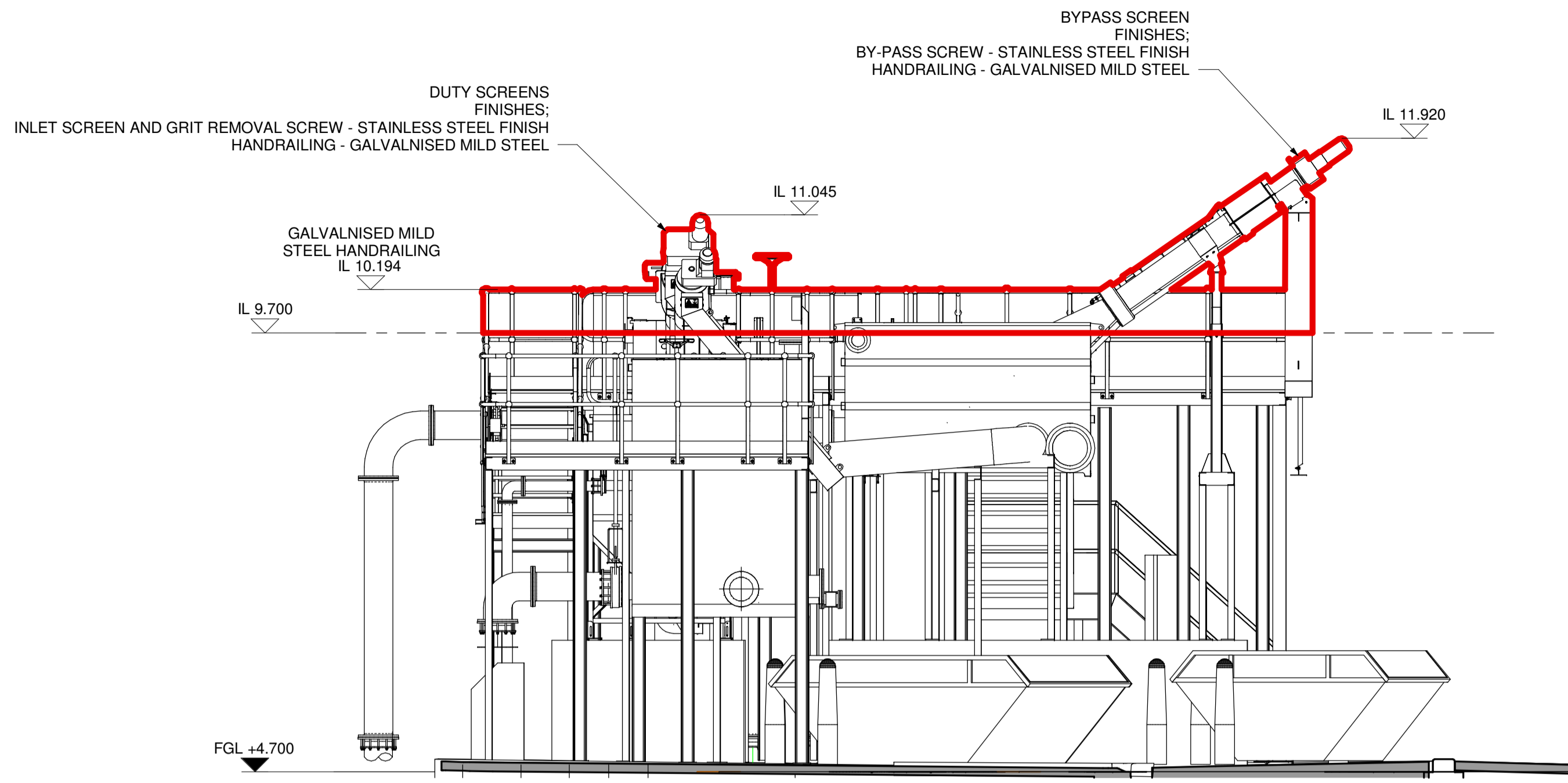
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GROWTH

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PLANNING INCLUSIONS  
INLET WORKS SECTIONS  
SHEET 1 OF 2

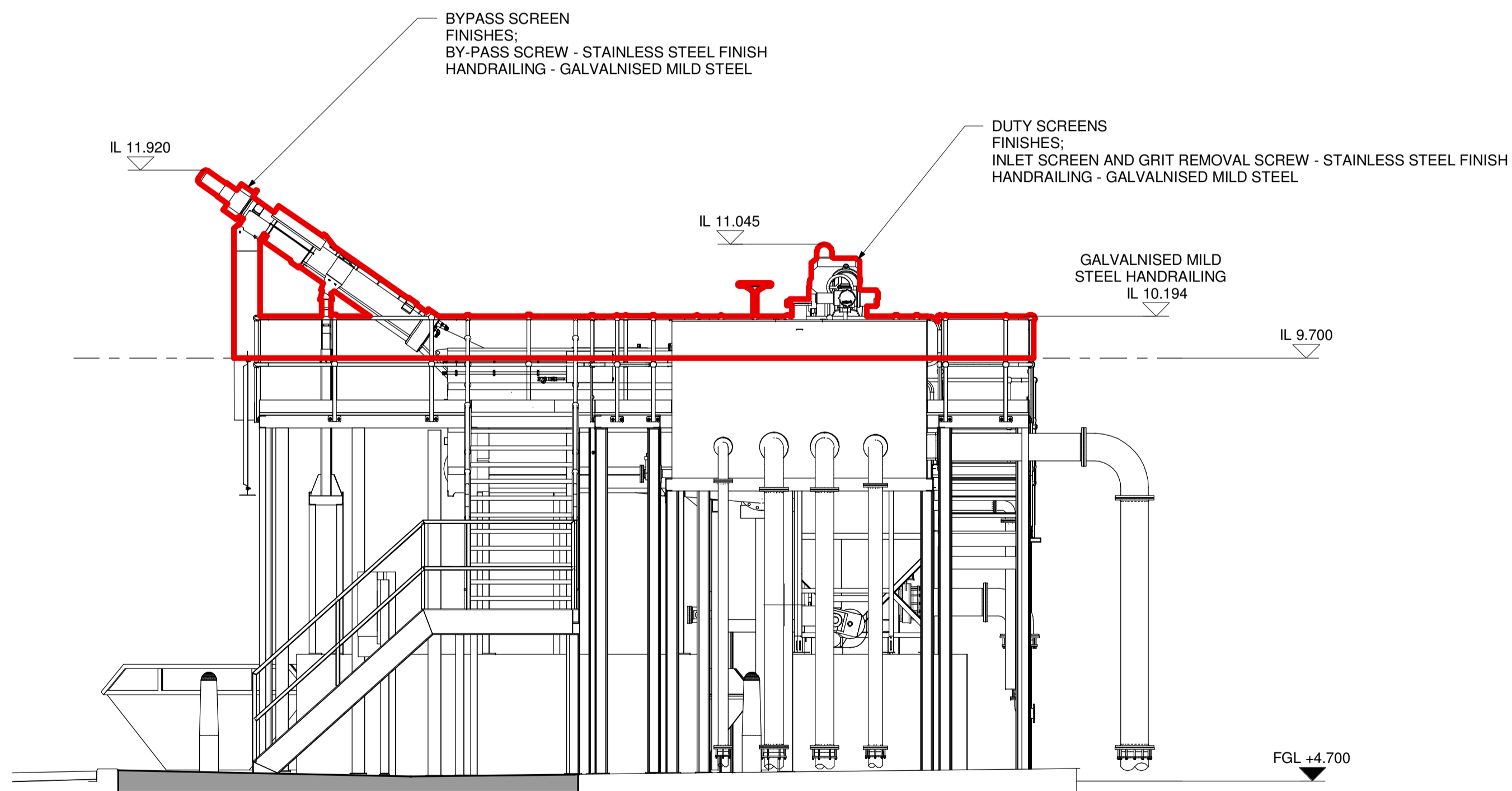
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ELLIPSE PLANT No. STW001241 AUTOCODE No. 5000129000

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**VIEW ON C**  
SCALE 1:50



**VIEW ON D**  
SCALE 1:50

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 PLANNING INCLUSIONS

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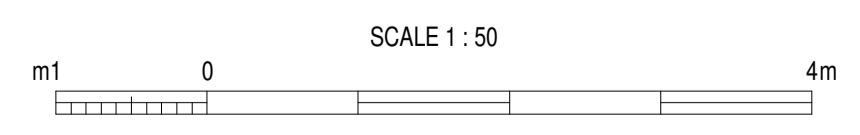
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Scale	Status		
AS SHOWN	FOR INFORMATION		

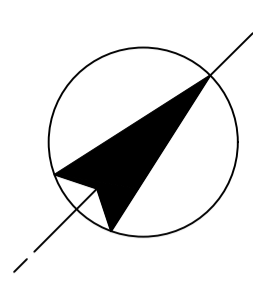
**Project Title**  
 ARDERSIER WwTW  
 GROWTH

**Drawing Title**  
 PLANNING INCLUSIONS  
 INLET WORKS SECTIONS  
 SHEET 2 OF 2

ELLIPSE EQUIPMENT No. 5000061980  
 ELLIPSE PLANT No. STW001241 AUTOCODE No. 5000129000

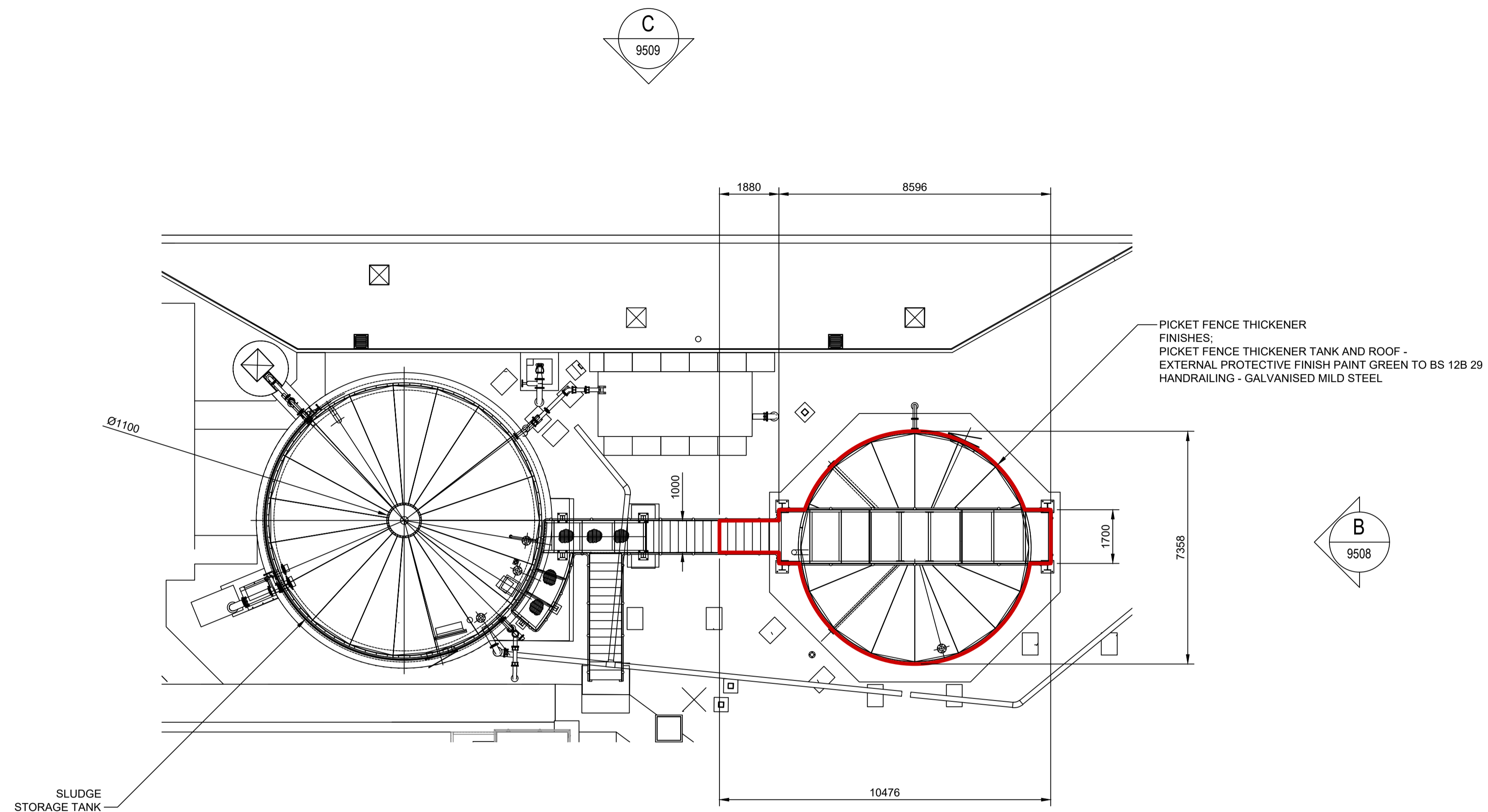
**Drawing No.**  
 5000061980-WW-DRA-04159506-0B





Notes:  
1. ALL DIMENSIONS IN MILLIMETRES AND ALL LEVELS IN METRES AOD UNLESS SHOWN OTHERWISE.

LEGEND  
 PLANNING INCLUSIONS



PICKET FENCE THICKENER LAYOUT  
SCALE 1:100

0B	HATCHING REMOVED	DMA	LAC	GCA	08.10.20
0A	PLANNING ISSUE	DMA	LAC	GCA	25.06.20
Rev	Description	Drawn	Ch'kd	App'd	Date

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6 CASTLE HOUSE  
CARNEGIE CAMPUS  
DUNFERMLINE  
FIFE KY11 8GG  
TEL: 01383 846200  
FAX: 01383 848371



THE BRIDGE  
BUCHANAN GATE BUSINESS PARK  
CLUMBERNAULD ROAD  
STEPHENS, GLASGOW  
G3 7FB

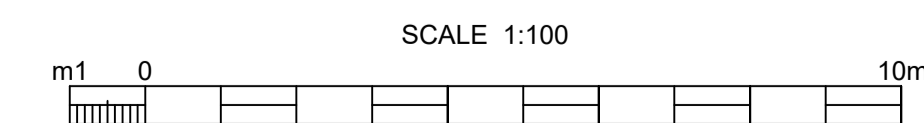
Originated By DMACULLOCH	Drawn By DMACULLOCH	Checked By LCOWAN	Approved By GCAMPBELL
Date 11/06/20	Date 25/06/20	Date 26/06/20	Date 25/06/20
Scale AS SHOWN	Status FOR INFORMATION		

Project Title  
ARDERSIER WwTW  
GROWTH

Drawing Title  
PLANNING INCLUSIONS  
PICKET FENCE THICKENER  
LAYOUT

ELLIPSE EQUIPMENT No. 5000061980  
ELLIPSE PLANT No. STW001241 AUTOCODE No. 5000129000

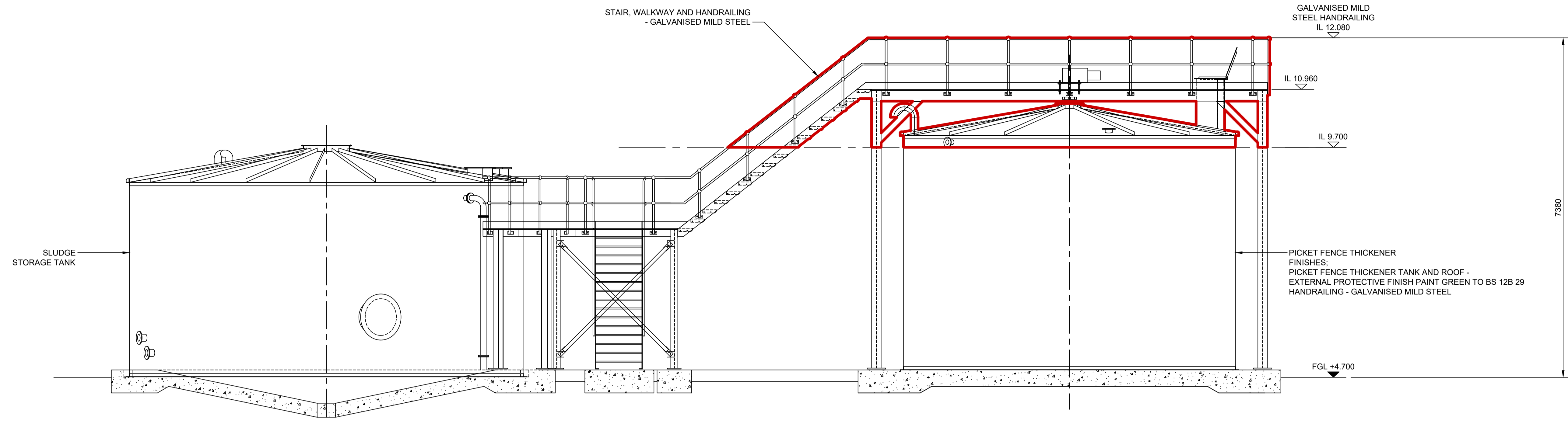
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5000061980-WW-DRA-04159507-0B



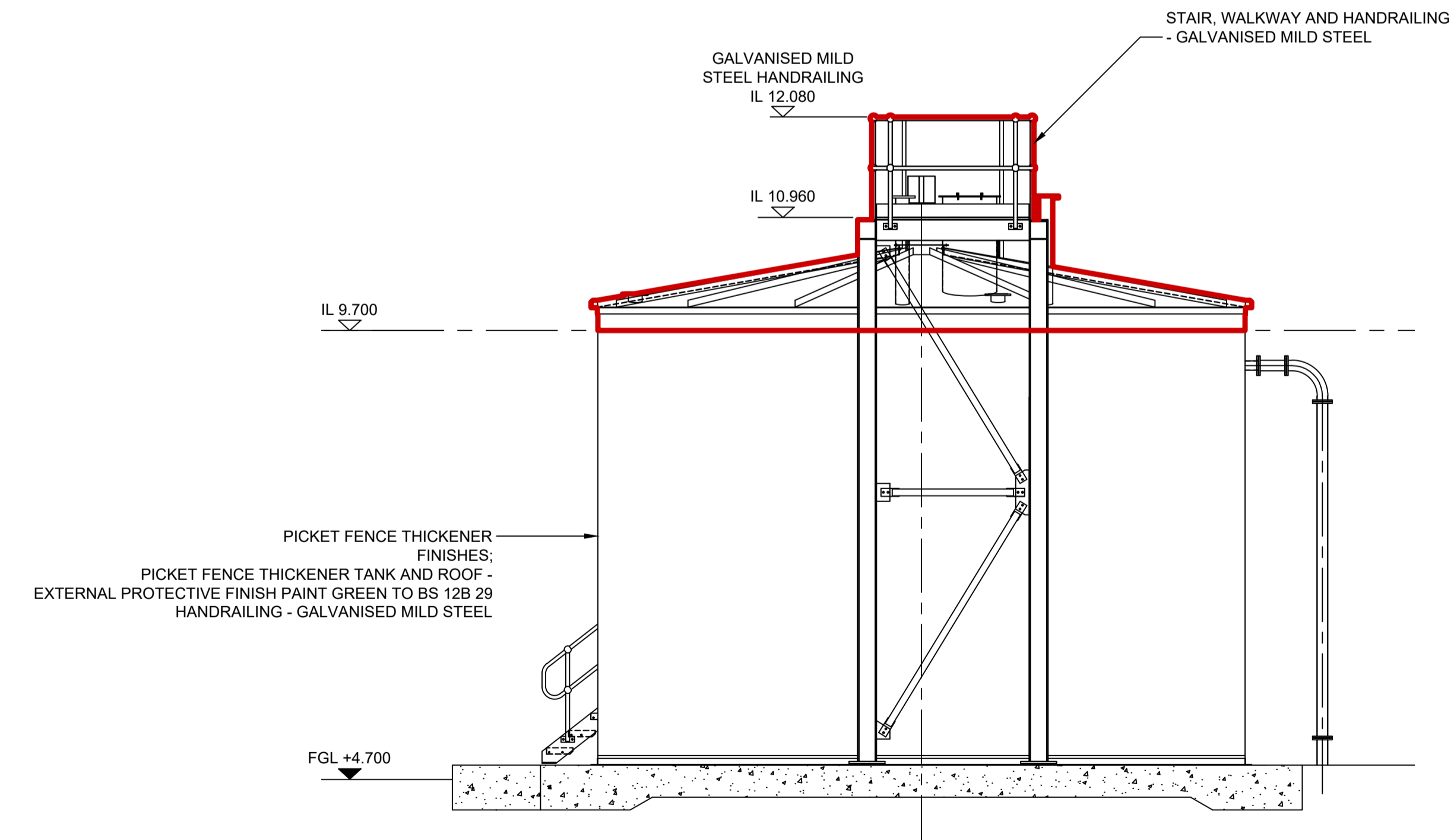


Notes:  
1. ALL DIMENSIONS IN MILLIMETRES AND ALL LEVELS IN METRES AOD UNLESS SHOWN OTHERWISE.

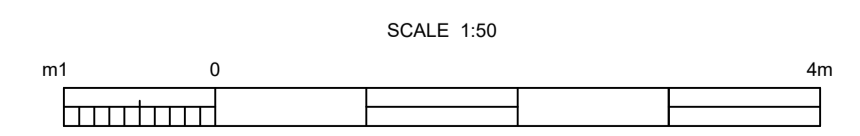
LEGEND  
 PLANNING INCLUSIONS



VIEW ON A  
SCALE 1:50



VIEW ON B  
SCALE 1:50



OB	HATCHING REMOVED	DMA	LAC	GCA	08.10.20
0A	PLANNING ISSUE	DMA	LAC	GCA	25.06.20
Rev	Description	Drawn	Chk'd	App'd	Date

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efficient service delivery  
THE BRIDGE  
BUCHANAN GATE BUSINESS PARK  
CLYDEFERNALD ROAD  
STEPHENS, GLASGOW  
G3 7FE

Originated By	Drawn By	Checked By	Approved By
DMACULLOCH	DMACULLOCH	LCOWAN	GCAMPBELL
Date	Date	Date	Date
11/06/20	25/06/20	25/06/20	25/06/20
Scale	Status		
AS SHOWN	FOR INFORMATION		

Project Title  
**ARDERSIER WwTW GROWTH**

Drawing Title  
**PLANNING INCLUSIONS  
PICKET FENCE THICKENER  
SECTIONS SHEET 1 OF 2**

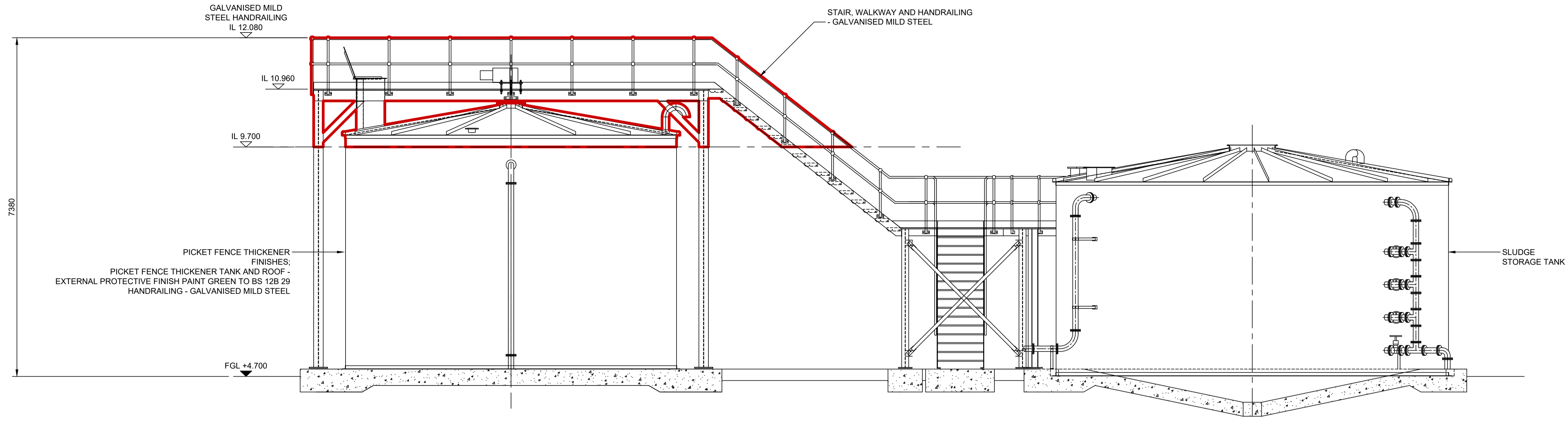
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Drawing No.  
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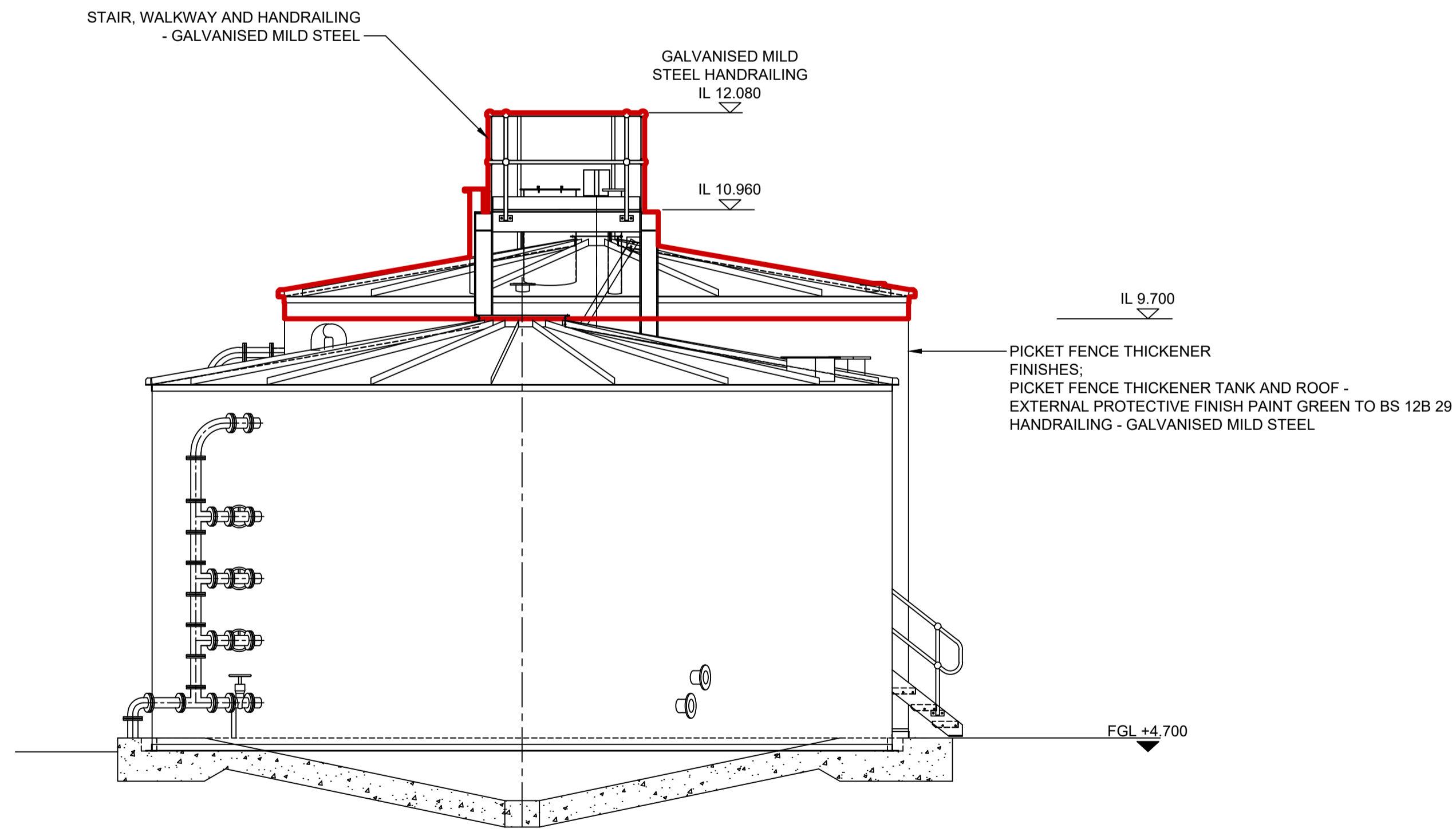


Notes:  
1. ALL DIMENSIONS IN MILLIMETRES AND ALL LEVELS IN METRES AOD UNLESS SHOWN OTHERWISE.

LEGEND  
 PLANNING INCLUSIONS



VIEW ON C  
SCALE 1:50



VIEW ON D  
SCALE 1:50

OB	HATCHING REMOVED	DMA	LAC	GCA	08.10.20
0A	PLANNING ISSUE	DMA	LAC	GCA	25.06.20
Rev	Description	Drawn	Chk'd	App'd	Date

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BUCHANAN GATE BUSINESS PARK  
CLIFFENNAULD ROAD  
STEPPS, GLASGOW  
G3 7FE  
efficient service delivery

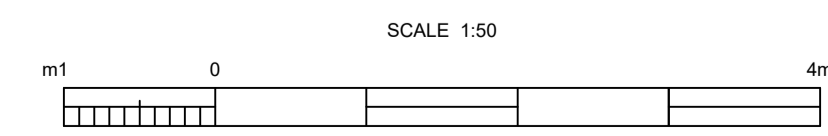
Originated By	Drawn By	Checked By	Approved By
DMACULLOCH	DMACULLOCH	LCOWAN	GCAMPBELL
Date	Date	Date	Date
16/06/20	25/06/20	25/06/20	25/06/20
Scale	Status		
AS SHOWN	FOR INFORMATION		

Project Title  
ARDERSIER WwTW  
GROWTH

Drawing Title  
PLANNING INCLUSIONS  
PICKET FENCE THICKENER  
SECTIONS SHEET 2 OF 2

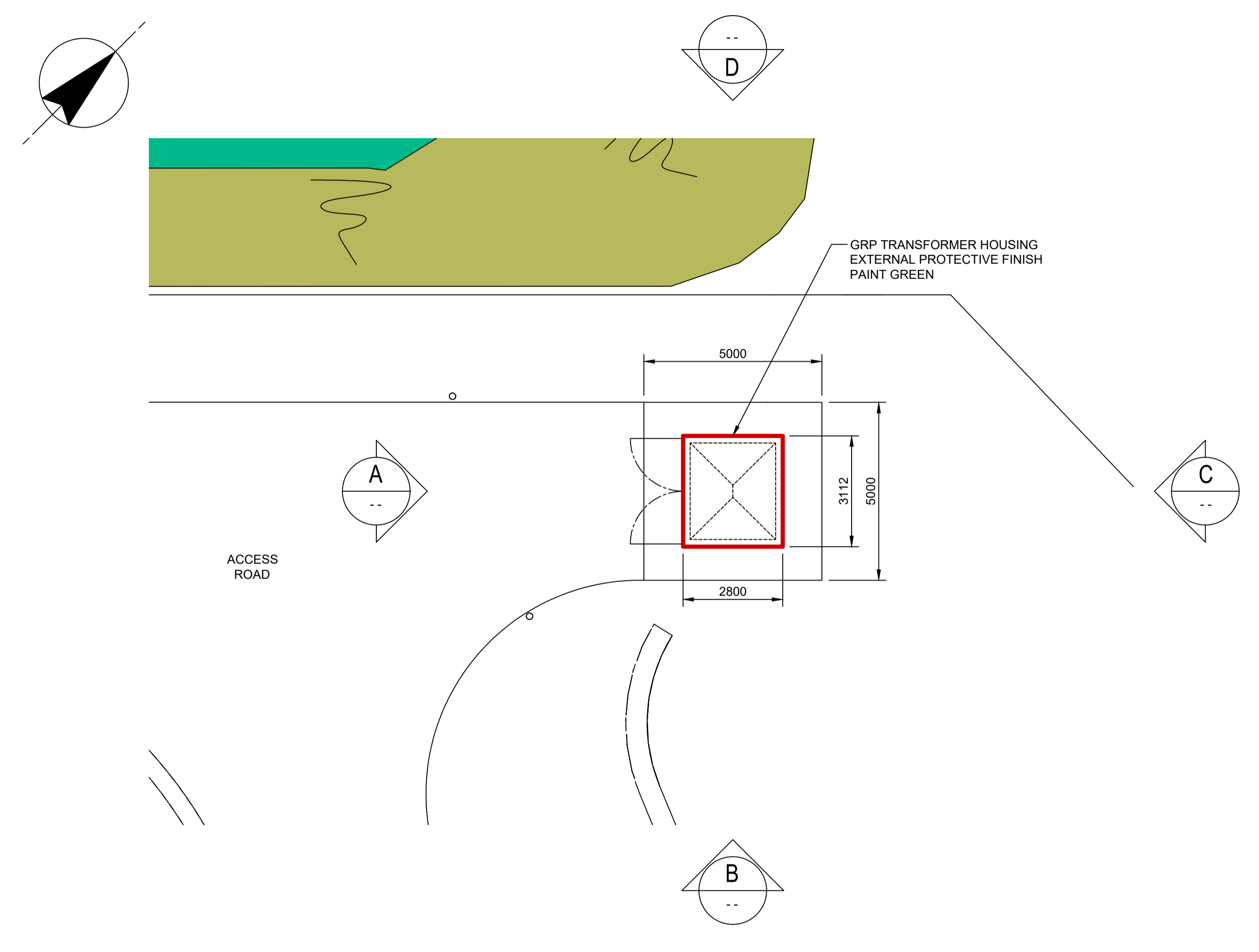
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ELLIPSE PLANT No. STW001241 AUTOCODE No. 5000129000

Drawing No.  
5000061980-WW-DRA-04159509-0B

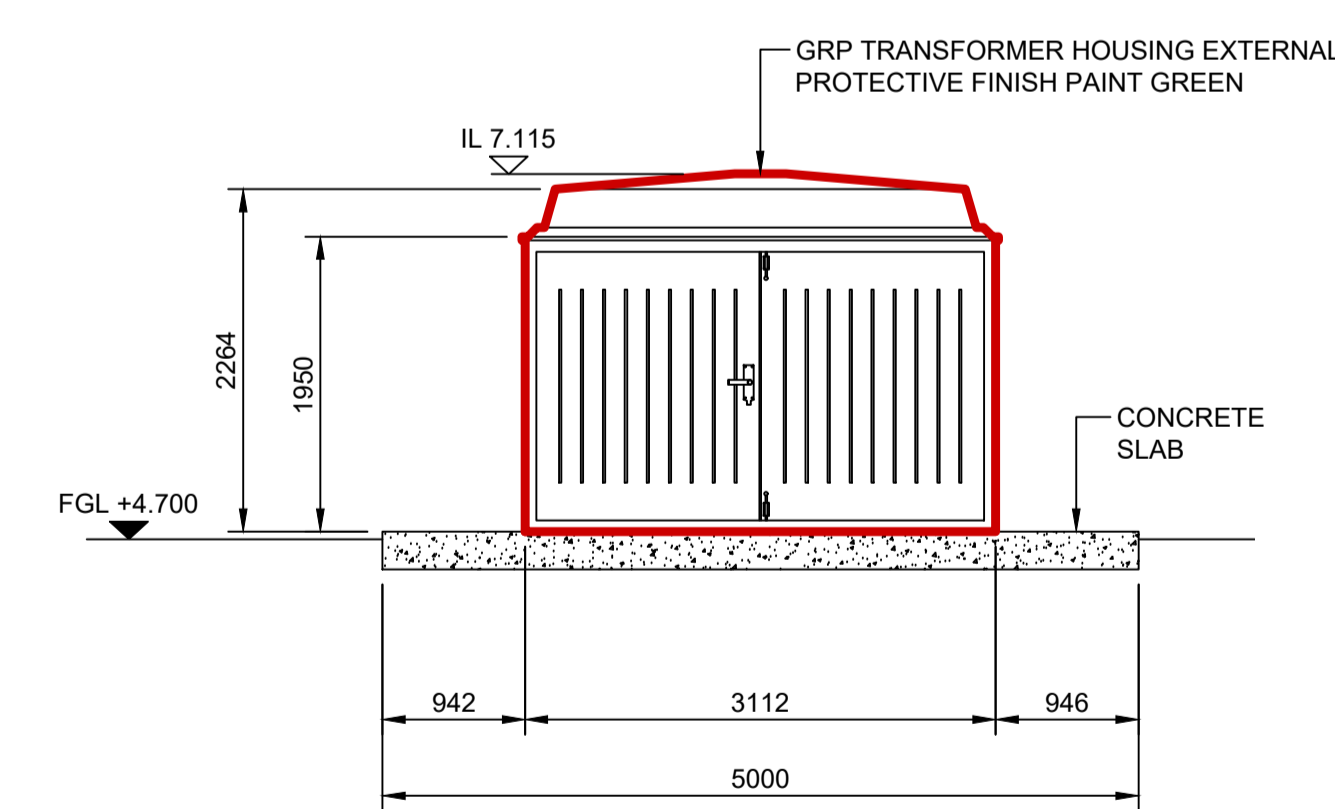


Notes:  
1. ALL DIMENSIONS IN MILLIMETRES AND ALL LEVELS IN METRES AOD UNLESS SHOWN OTHERWISE.

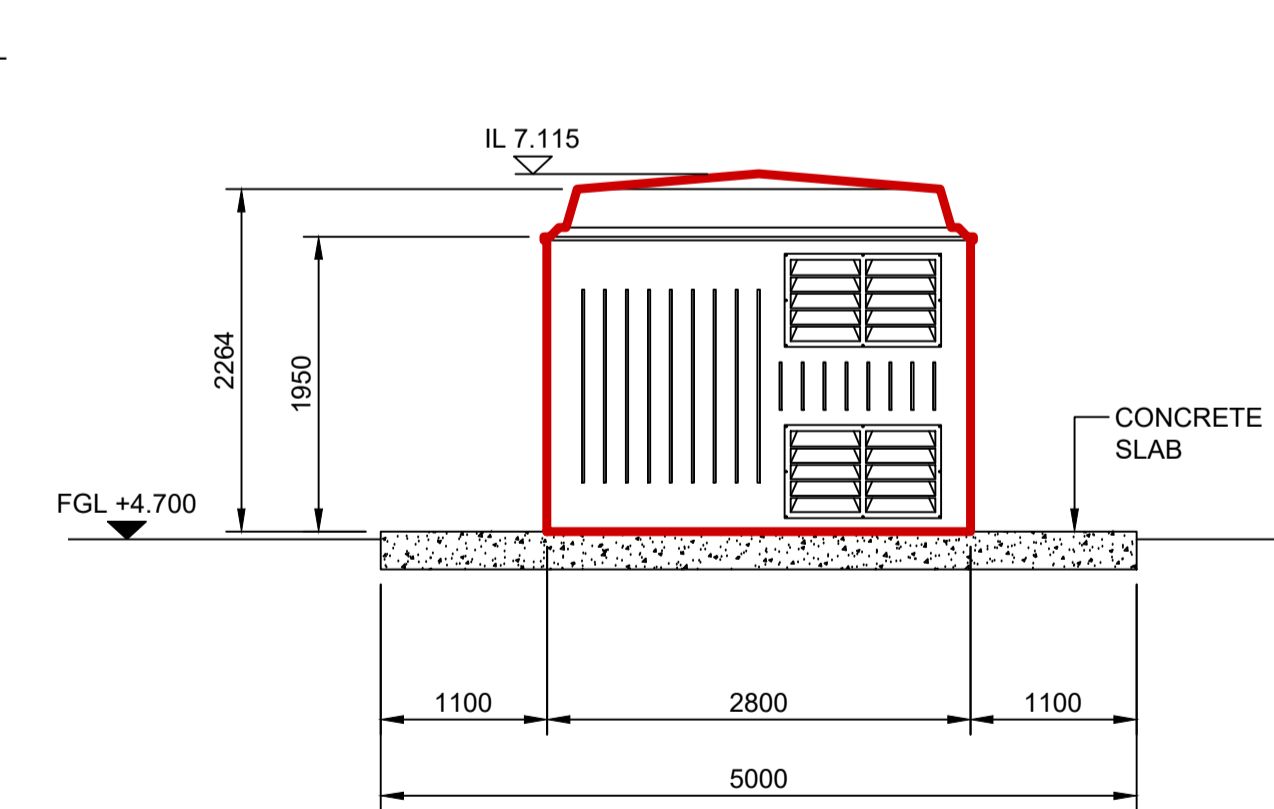
LEGEND  
 PLANNING INCLUSIONS



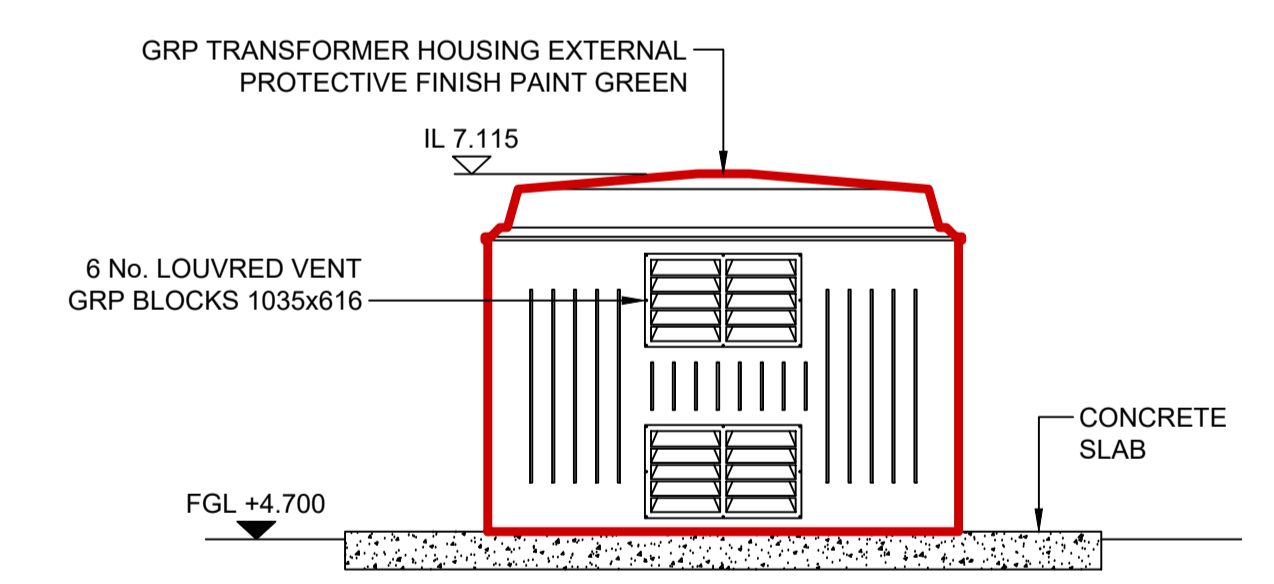
**ELECTRICAL SUBSTATION LAYOUT**  
SCALE 1:100



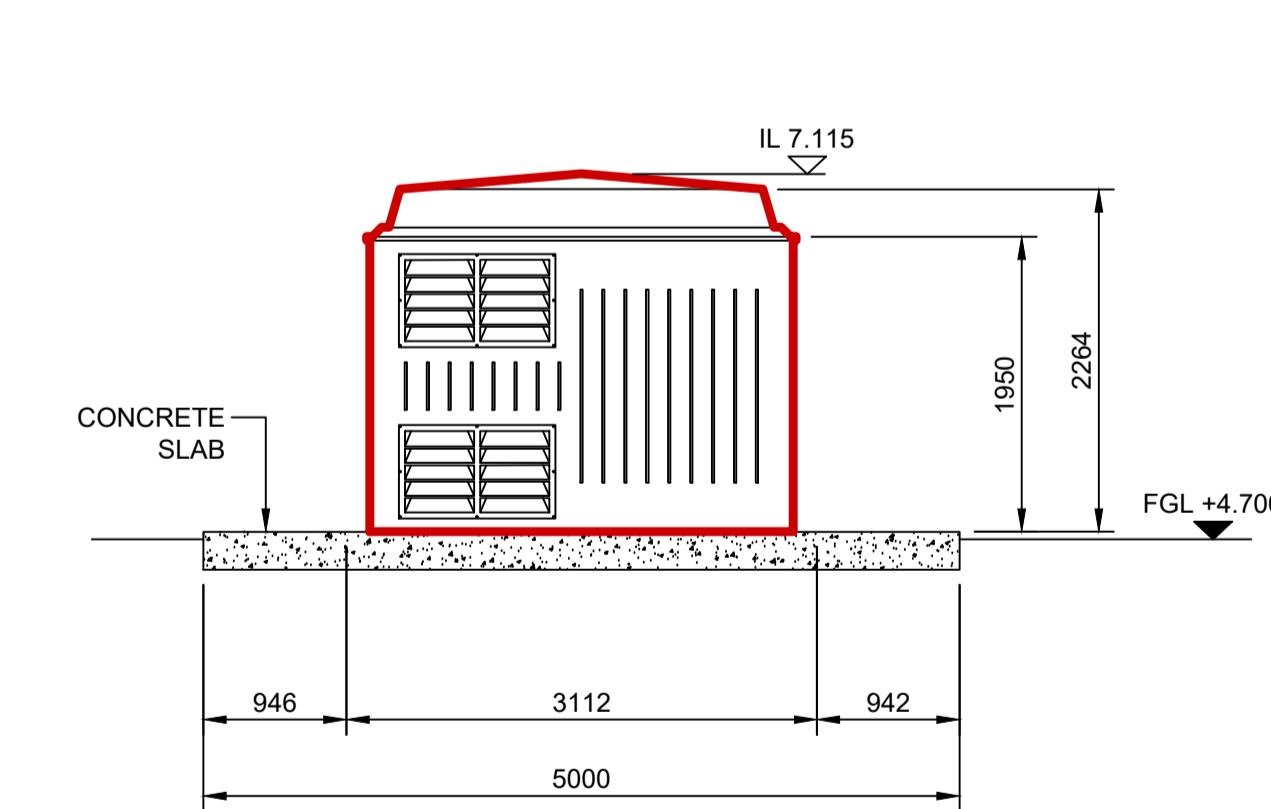
**VIEW ON A**  
SCALE 1:50



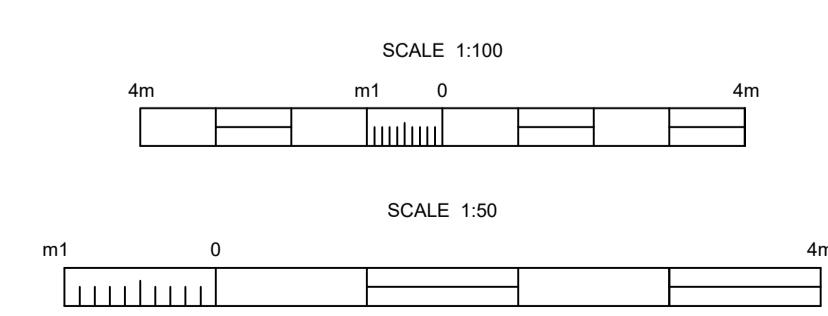
**VIEW ON B**  
SCALE 1:50



**VIEW ON C**  
SCALE 1:50



**VIEW ON D**  
SCALE 1:50



OB	HATCHING REMOVED	DMA	LAC	GCA	08.10.20
QA	PLANNING ISSUE	DMA	LAC	GCA	25.06.20
Rev	Description	Drawn	Chk'd	App'd	Date

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BUCHANAN GATE BUSINESS PARK  
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STEPFRS, GLASGOW  
G3 7FB

Originated By	Drawn By	Checked By	Approved By
DMACULLOCH	DMACULLOCH	LCOWAN	GCAMPBELL
Date	Date	Date	Date
11/06/20	25/06/20	25/06/20	25/06/20
Scale	Status		
AS SHOWN	FOR INFORMATION		

Project Title  
**ARDERSIER WwTW GROWTH**

Drawing Title  
**PLANNING INCLUSIONS ELECTRICAL SUBSTATION LAYOUT AND DETAILS**

ELLIPSE EQUIPMENT No. 5000061980  
ELLIPSE PLANT No. STW001241 AUTOCODE No. 5000129000

Drawing No.  
**5000061980-WW-DRA-04159510-0B**