

ITEM NUMBER: 17.3

CONFIDENTIAL REPORT

TRAMSIDE KIOSK LEASE

Pursuant to Section 83(5) of the Local Government Act 1999 the Report attached to this agenda and the accompanying documentation is delivered to the Council Members upon the basis that the Council consider the Report and the documents in confidence under Part 3 of the Act, specifically on the basis that Council will receive, discuss or consider:

- b. Information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and would, on balance, be contrary to the public interest.**
- d. commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and would, on balance, be contrary to the public interest.**

CONFIDENTIAL

Recommendation – Exclusion of the Public – Section 90(3)(b & d) Order

1. That pursuant to Section 90(2) of the *Local Government Act 1999* Council hereby orders that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer and Staff in attendance at the meeting in order to consider Report No: 173/23 Tramside Kiosk Lease in confidence.
 2. That in accordance with Section 90(3) of the *Local Government Act 1999* Council is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 173/23 Tramside Kiosk Lease on the following grounds:
 - b. pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would prejudice the commercial position of the Council; and
 - d. pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.
 3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.
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Item No: 17.4

Subject: **TRAMSIDE KIOSK LEASE**

Date: 23 May 2023

Written By: Property Officer

General Manager: Strategy and Corporate, Ms P Jackson

SUMMARY

Following an Expression of Interest process for the provision of a café service in the historic tram at Wigley Reserve, Council granted to Unique Hospitality Group Pty Ltd (as the preferred tenderer) a lease over the tram and its immediate surrounds for a term of one year commencing on 3 November 2020 with an option to renew for a further term of one year.

Unique Hospitality Group Pty Ltd exercised its right of renewal for the one-year term commencing on 3 November 2021 and Council granted the said extension of lease by way of resolution dated 24 May 2022 (C240522/2615).

In mid-2022, Administration entered into negotiations with Unique Hospitality Group Pty Ltd regarding future leasing arrangements and Council granted to Unique Hospitality Group Pty Ltd a further lease for a term of one year commencing on 3 November 2022 with two options to renew each for a further term of one year by way of resolution dated 26 July 2022 (C260722/2688).

Following extensive community consultation on the concept design for the former Buffalo site and the approval by Council of a final concept plan which excluded Tram 361 (CC280921/2426), Council resolved to relocate Tram 361 (C280921/2426) and the said tram was removed by way of an EOI process (C140223/7346) on 26 April 2023.

As such, Unique Hospitality Group Pty Ltd no longer have the use and benefit of Tram 361. Administration has been in negotiations with Unique Hospitality Group Pty Ltd as to future leasing arrangements and, given the tram's removal and the site revitalisation being extensively delayed, it is proposed that Council grant to Unique Hospitality Group Pty Ltd a further lease commencing on 27 April 2023 for a term of five years with one option to renew for a further term of five years as discussed herein.

RECOMMENDATION

That Council:

1. surrenders the current Memorandum of Lease and enters into a new Memorandum of Lease with Unique Hospitality Group Pty Ltd in respect of that portion of land comprised in Certificate of Title Volume 5935 Folio 965 as delineated in red on the plan annexed hereto as Attachment 1 and situated at Wigley Reserve for a term of five (5) years commencing on 27 April 2023 and expiring on 26 April 2028 and otherwise on the terms and conditions outlined herein;
2. authorises the Mayor and the Chief Executive Officer to execute and seal any documents required to give effect to the Memorandum of Lease commencing on 27 April 2023 and any further extensions of the said lease thereafter; and
3. provides landowner consent for a shelter over the leased area to be installed as provided in Attachment 2 to this report. The shelter will be assessed as part of a separate development application.

RETAIN IN CONFIDENCE - Section 91(7) Order

4. That having considered Agenda Item 17.3 Report No: 173/23 Tramside Kiosk Lease in confidence under section 90(2) and (3)(b & d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report and minutes be retained for the duration of the approved lease period (provided always that the release of the report and minutes is subject to the redaction of any financial information contained therein).

STRATEGIC PLAN

The recommendation supports the Vision of Council in that it allows for the multi-use of a recreation space while activating the space as a welcoming place for all.

COUNCIL POLICY

Commercial Leasing Policy

STATUTORY PROVISIONS

Local Government Act 1999 (SA)

Retail and Commercial Leases Act 1995 (SA)

BACKGROUND

Previous Relevant Reports

- Confidential Council Report No. 293/20; Item No. 18.5, “*Unsolicited Proposal – Proposed Activation*”, 22 September 2020 (Resolution No. C220920/2067).
- Council Report No. 316/21; Item No. 15.5, “*Former Buffalo Site Revitalisation – Engagement Results and Tram Condition Assessment*”, 28 September 2021 (Resolution No. C280921/2426).
- Confidential Council Report No. 105/22; Item No. 18.1, “*Tramside Kiosk Extension of Lease*”, 24 May 2022 (Resolution No. C240522/2615).
- Confidential Council Report No. 328/22; Item No. 18.3, “*Confidential – H-Class Tram Options*”, 9 August 2022 (Resolution No. C090822/2701).
- Confidential Council Report No. 302/22; Item No. 18.1, “*Tramside Kiosk Lease*”, 26 July 2022 (Resolution No. C260722/2688).
- Confidential Council Report No. 32/23; Item No. 18.2, “*Tram 361 Expressions of Interest Results*”, 14 February 2023 (Resolution No. C140223/7346).

Pursuant to an undated Memorandum of Lease, Council (as lessor) granted to Unique Hospitality Group Pty Ltd (**UHG**) (as lessee) a lease in respect of that portion of the land comprised in Certificate of Title Volume 5935 Folio 965 delineated in yellow on the plan annexed hereto as Attachment 1 and situate at Wigley Reserve, Adelphi Terrace, Glenelg SA 5045 (**Premises**) for a term of one year commencing on 3 November 2020 and expiring on 2 November 2021 with one right of renewal for a further term of one year and otherwise on the terms and conditions contained therein (**Lease**).

Refer Attachment 1

Pursuant to a Deed of Extension and Variation of Lease dated 31 May 2022, UHG extended the term of the Lease for a further period of one year commencing on 3 November 2021 and expiring on 2 November 2022.

In mid-2022, Administration entered into negotiations with UHG regarding future leasing arrangements and Council granted to UHG a further lease for a term of one year commencing on 3 November 2022 with two options to renew each for a further term of one year by way of resolution dated 26 July 2022 (C260722/2688).

Unique Hospitality Group Pty Ltd exercised its right of renewal for the one-year term commencing on 3 November 2021 and Council granted the said extension of lease by way of resolution dated 24 May 2022 (C240522/2615).

Following negotiations with Unique Hospitality Group Pty Ltd regarding future leasing arrangements, Council granted to Unique Hospitality Group Pty Ltd a new lease for a term of one year commencing on 3 November 2022 with two options to renew each for a further term of one year by way of resolution dated 26 July 2022 (C260722/2688).

Following extensive community consultation on the concept design for the former Buffalo site and the approval by Council of a final concept plan which excluded Tram 361 (CC280921/2426), Council resolved to relocate Tram 361 (C280921/2426) and the said tram was removed by way of an EOI process (C140223/7346) on 26 April 2023.

As such, UHG no longer have the use and benefit of Tram 361. Administration has been in negotiations with UHG as to future leasing arrangements and, given the tram's removal and the former Buffalo site revitalisation being extensively delayed, it is proposed that Council grant to UHG a new lease over the area delineated in red on the plan annexed hereto as Attachment 1 for a term of five years commencing on 27 April 2023 with one option to renew for a further term of five years as discussed herein. It is to be noted that the Premises comprises the same area and footprint as that of the current Lease, including the slab on which the tram was located but without the tram itself.

Refer Attachment 1

REPORT

As the key commercial variables of the proposal are materially different from that of the current Lease, it is recommended that Council and UGH surrender the current Lease and enter into a new lease as follows:

Premises:	<ul style="list-style-type: none"> That portion of the land comprised in Certificate of Title Volume 5935 Folio 965 delineated in red on the plan annexed hereto as Attachment 1 and situate at Wigley Reserve, Adelphi Terrace, Glenelg SA 5045
Term:	<ul style="list-style-type: none"> Five (5) years commencing on 27 April 2023 (being the day after the date on which Tram 361 was removed) but subject to the rent reduction / incentive detailed below.
Commencing Rent:	<ul style="list-style-type: none"> \$30,000.00 plus GST per annum (being the rent currently payable under the existing lease) but subject to the rent reduction / incentive detailed below.
Rent Reduction / Incentive:	<ul style="list-style-type: none"> Rent to be reduced during the first year by 50%. Rent reduction to be in consideration of the lessee works and only applicable whilst the lessee in occupation and possession of the premises is Unique Hospitality Group.
Renewal Options:	<ul style="list-style-type: none"> One (1) right of renewal for a further term of five (5) years commencing on 27 April 2028
Rent Review:	<ul style="list-style-type: none"> Annual CPI increases except on renewal whereupon a market rent review will be conducted.

Redevelopment:	<ul style="list-style-type: none"> Redevelopment provision to be included in the lease allowing Council to terminate the Lease upon giving written notice to UHG
Lessee Works:	<ul style="list-style-type: none"> Works = Installation of shelter at the cost and expense of the lessee subject to all consents and approvals and the Works being carried out in a professional and workmanlike manner in accordance with all consents, approvals, legislation, regulations and Australian Standards. Ownership of Works to remain the property of the lessee at all times during the term of the lease with the lessee responsible for all repairs and maintenance. Works to be removed by the lessee and any resultant damage made good upon expiry or earlier determination of the lease.
Special Condition:	<ul style="list-style-type: none"> Existing lease to be surrendered as at and from 26 April 2023 (being the day immediately preceding the commencement date of the new lease).

The proposed lease will provide the time required for Council to reinvigorate the old Buffalo site whilst ensuring the provision of café services at Wigley Reserve in the meantime. The inclusion of a redevelopment provision in the new lease will also enable Council to obtain vacant possession as and when required.

The Lessee has also proposed a replacement open shelter for the previous tram location site, to provide a degree of amenity for patrons, ensuring that the space can be used year-round. The shelter is an open structure, not dissimilar in scale to the previous shelter that once protected the tram. Specifically, the shelter has a skillion roof ranging in height from 2.9m to a maximum height of 3.3m. The shelter measures 4.3m in width by 13.45m in length, with a total floor area of 57.8m². The siting and design of the shelter is provided at Attachment 2 to this report.

Refer Attachment 2

The shelter will require a development application, and this report also seeks Council's authorisation as landowner for the structure to be installed.

BUDGET

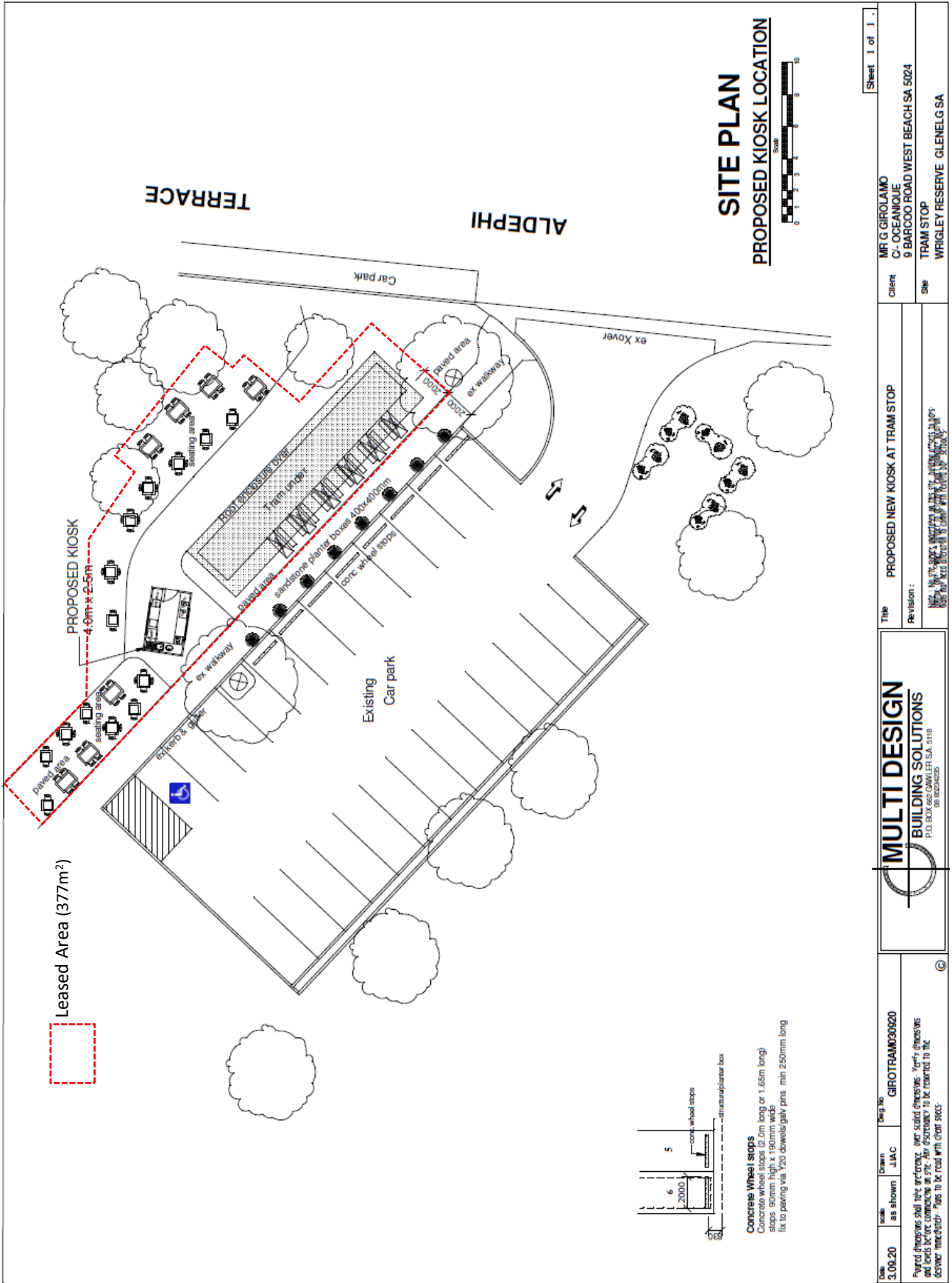
There will be a positive budget impact due to the increase in rent as discussed above.

LIFE CYCLE COSTS

Under the terms of the new lease, Council will be responsible for general maintenance within the leased area, the costs of which is included in both the long term financial and asset management plans.

Attachment 1



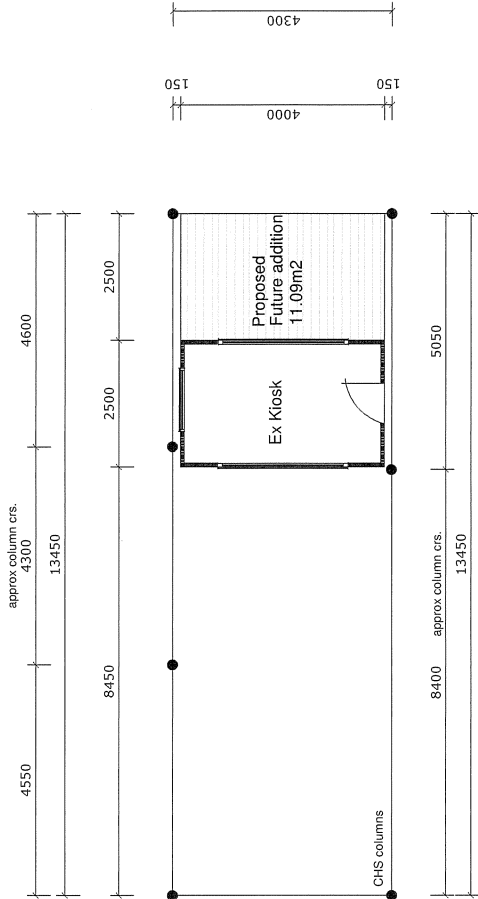


SITE PLAN
PROPOSED KIOSK LOCATION

Date: 3.09.20		Scale: as shown		Drawn: JJA-C		Design to: G10TRAM030020		Sheet 1 of 1	
Title: PROPOSED NEW KIOSK AT TRAM STOP		Client: MR G GIROLAMO C. OCEANIQUE 9 BARCOO ROAD WEST BEACH SA 5024		Revision:		Site: TRAM STOP WRIGLEY RESERVE GLENELG SA			
<p>MULTI DESIGN BUILDING SOLUTIONS P.O. BOX 662, CRAWLER SA 5118 08 85563455</p>		<p>Revised dimensions shall refer to drawings over solid dimensions. Verify dimensions and loads before construction or 20% Allowance? To be referred to the designer. Interceptor - Pins to be read with Green Sides.</p>							

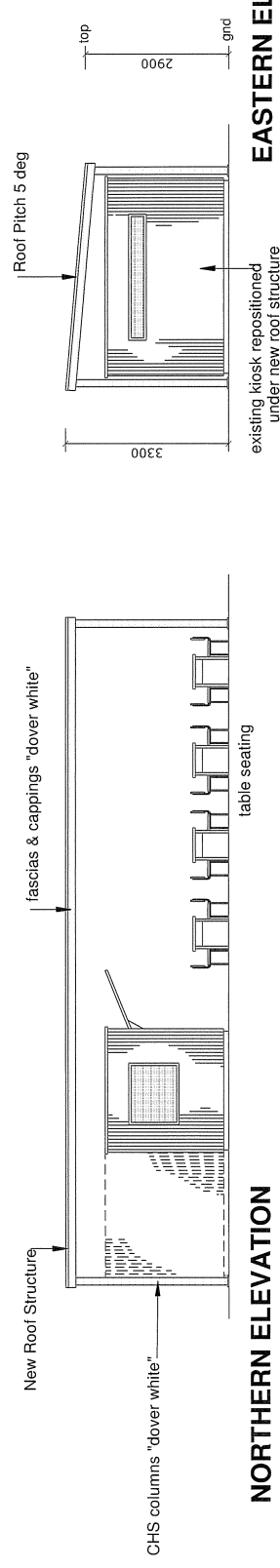
Attachment 2





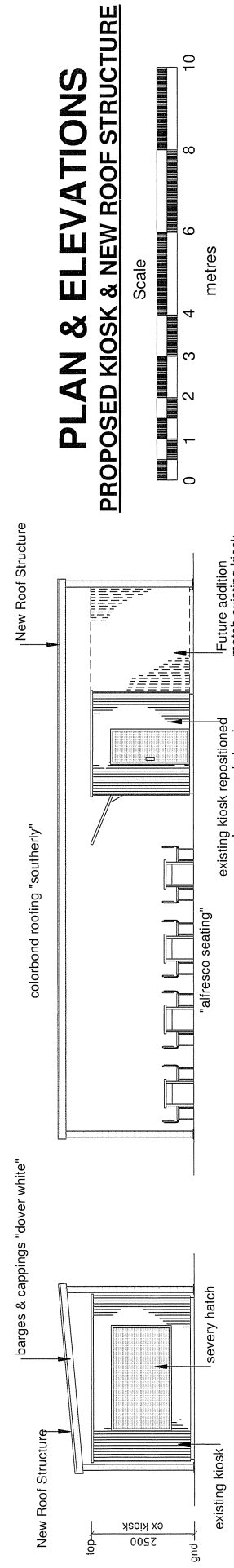
Existing Kiosk
11.09m²

New Roof Structure
57.83m²



NORTHERN ELEVATION

EASTERN ELEVATION



WESTERN ELEVATION

SOUTHERN ELEVATION

PLAN & ELEVATIONS
PROPOSED KIOSK & NEW ROOF STRUCTURE

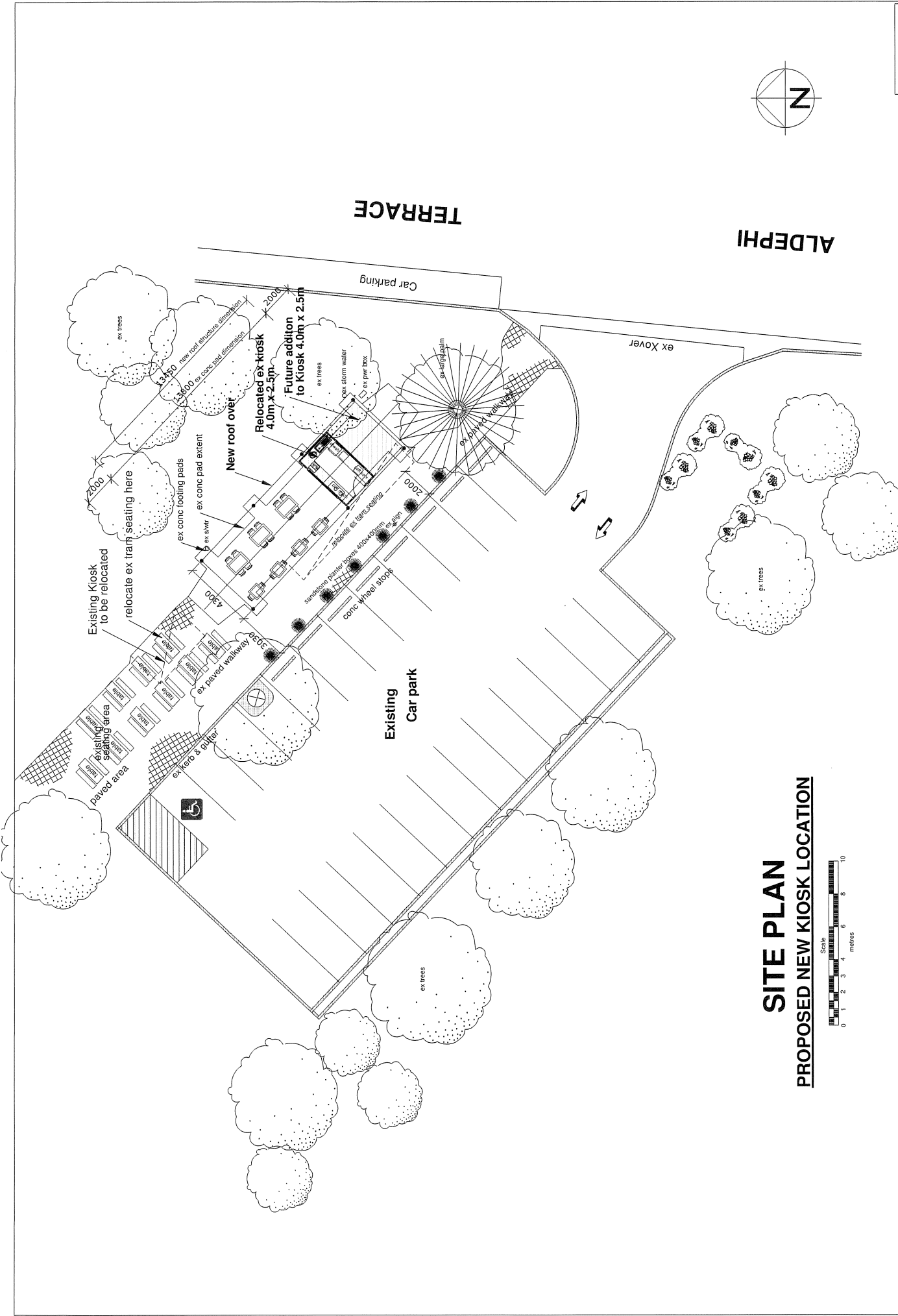
Date	5.04.23	scale	as shown	Drawn	JJAC	Dwg. No	TRAMSIDE050423
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MULTI DESIGN
BUILDING SOLUTIONS
P.O. BOX 862 GAWLER S.A. 5118
08 85294235

Title	PROPOSED RELOCATION OF KIOSK
Client	MR G GIROLAMO C/- OCEANIQUE 9 BARCOO ROAD WEST BEACH SA 5024
Site	TRAM STOP WRIGLEY RESERVE GLENELG SA

Figured dimensions shall take preference over scaled dimensions. Verify dimensions and levels before commencing on site. Any discrepancy to be reported to the designer immediately. Plans to be read with client specs.

Revision :
Note : No site survey undertaken at this site. Building effects to be approved by owner & builder to determine exact boundary location. Plans may need alteration to comply with required lobby setbacks.



SITE PLAN
PROPOSED NEW KIOSK LOCATION

Client MR G GIROLAMO
 C. OCEANIQUE
 9 BARCOO ROAD WEST BEACH SA 5024

Site TRAM STOP
 WRIGLEY RESERVE GLENELG SA

Title PROPOSED RELOCATION OF KIOSK

Revision :
 Note: This survey & site plan is for the building project only.
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MULTI DESIGN
BUILDING SOLUTIONS
 P.O. BOX 682 GAWLER S.A. 5118
 08 85284635

Date 5.04.23 **scale** as shown **Drawn** JIAC **Dwp. No** TRAMSIDE050423

Figured dimensions shall take preference over scaled dimensions. Verify dimensions and levels before commencing on site. Any discrepancy to be reported to the designer immediately. Plans to be read with client specs.