# Hearing Stream 4 Wellington City Council

In the matter of Proposed District Plan review incorporating the

Intensification Streamlined Planning Process (ISPP), and the first schedule of the Resource

Management Act.

Hearing 4 – Mixed Use Zone

## **Expert Evidence of Ian Leary on behalf of Prime Property Group (PPG)**

Date: 12/06/2023

Next Event Date: 22<sup>nd</sup> June 2023 Hearing Chair: Robert Schofield

**Hearing Pannel:** Heike Lutz, Liz Burge, Lindsay Daysh

#### Introduction

- 1 My full name is Ian Thomas Leary. I am a Director of the firm of Spencer Holmes Limited.
- 2 My evidence is given on behalf of Prime Property Group (PPG) who are owners of the 55-85 Curtis Street.
- I have been involved in the Curtis Street commercial area since around 2007 and have been involved in a number of plan change and resource consent applications. I have a good understanding of the site and its planning history.

### Qualifications and experience

- I have a degree in Land Surveying from the University of New South Wales (obtained in 1989) and a Post Graduate Diploma in Resource and Environmental Planning from the University of Waikato (obtained in 2001). I am a full member of the New Zealand Institute of Planners. I hold a current certificate from the Ministry of the Environment as a hearing Commissioner and have sat in that role for Wellington City Council on a number of occasions.
- I have around 30 years of experience in land development, planning, resource management and surveying. I have been a director of Spencer Holmes Limited, a multi-discipline company since 2009. I had been employed by the firm as planning manager for 10 years prior to becoming a director.
- During that time I have undertaken a broad range of planning work within the Wellington, Kapiti Coast, Hutt Valley and Wairarapa regions.

  I have prepared resource consent applications for activities such as landfills, quarries, recreation activities, subdivision developments, multi-storied office buildings, residential apartment buildings, childcare facilities, residential housing and signs.

7 I have made numerous submissions and presented evidence and made recommendation decisions on plan changes in my career, including presenting evidence at the Environment Court.

### CODE OF CONDUCT

I have read the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023. Whilst this is a Council hearing, I have complied with the Code of Conduct in preparing my evidence and will continue to comply with it while giving oral evidence before the commissioners. My qualifications as an expert are set out above. Except where I state I rely on the evidence of another person, I confirm that the issues addressed in this statement of evidence are within my area of expertise, and I have not omitted to consider material facts known to me that might alter or detract from my expressed opinions.

### **ORIGINAL SUBMISSION**

- 9 The original submission is focussed on two main outcomes.
  - That the overall provisions (objectives, policies, standards and rules) are altered to allow for the permitted height levels to be increased to 12 metres above ground level.
  - That the provisions (objectives, policies, standards and rules) are amended to allow residential use on the ground floor outside of 12 metres from the centreline of the transmission lines. It seeks to facilitate full residential development of the site outside of the (including ground floors

### **SECTION 42A REPORT**

The officer in the Section 42A report has made two responses to the submission by Prime Property Group. This was in relation to the increase in height, paragraph 21 of the S42A report states:

In response to Prime Property Group [256.5], I note that the Environment Court imposed an 8 metre height limit to the zone, and that this has been carried down into the PDP. I recommend that this is retained to align with the requirements of the Court's decision.

In relation to the submission on ground floor residential, the officer has responded as follows at paragraph 23:

In response to Prime Property Group [256.6, 256.7], COMZ-O1 sets out that the primary purpose of the zone is to provide additional business land that supports the hierarchy of centres. Residential activities are enabled above ground level to encourage a mixture of activities, but it is intended that these will complement the commercial activities and not be the dominant activity on the site. I recommend that this approach is retained, also noting that the flood hazard layer covers a large portion of the site – this will impose restrictions on the ability to locate residential activities at ground level. Therefore, my recommendation is that the requested amendments from Prime Property Group [256.6, 256.7] are rejected.

### SITE DESCRIPTION

- Prior to responding to the officer's S42 conclusions, some information needs to be provided in respect to the site.
- 13 The s42A officer provides a brief description of the site which states:

This land has a total area of approximately 11,000m<sup>2</sup>. The site is subject to the Flood Hazard Overlay (overland flowpath and inundation) and the WIAL1 designation. As indicated by the black line in the image above, the national grid transmission lines run north-south through the site.

- Firstly, the site has been significantly altered under the authority of an Environment Court decision. Approximately 25,000m³ of material was placed in the site. The site was previously part of the Curtis Street landfill. It had already been partially filled as a result of that landfill activity. The site was raised up to 7-8 metres, particularly to the northern end of the site. The fill gradually achieved a rise from the Old Karori end towards Whitehead Road, at an approximate grade of 3%.
- I attach as-built for the site which is S21-0680-CS36/A. I note that this as-built shows that the northern third of the site is filled to

approximately the 109 metres above sea level (msl) mark. The site then falls to the south as described above.

16 The WCC GIS information is shown in Figure 1 below:



Figure 1: WCC GIS information

- The GIS in this area shows that the site is 103 msl. The difference in height in this region, from the GIS shown in Figure 1 to the attached asbuilt plan, is approximately 5 metres.
- In respect to the flood Hazard Overlay, I have included Figure 2 which is the same GIS area (wider view) with the flood layer turned on.



Figure 2: WCC Flood Layer

- Through my work at Spencer Holmes, we have many examples of the inaccuracy of the flood layer. It does not take into account the built features of the city, including kerbs. In many circumstances where flooding is less than 0.15 metres (the height of kerb) then flows are markedly different from the model.
- Figure 2 above shows flooding coming down from 25 Cresswick Tce, down through 72 Spenmoor St. This flooding was assessed by a modeller (River Edge Consulting Ltd) and found to be significantly different that shown in Figure 2. The results are shown in Figure 3 below.
- I do however point out that the model information in Figure 3, is considering a defined area and does not include all the wider area flooding included in Figure 2. It cannot be used to draw conclusions on flooding outside of the specific study area where accurate topographic information was provided to the modeller.
- It is included to demonstrate that the flood models are inaccurate in many instances.



Figure 3: Updated flood modelling based on accurate topographic information including built features.

- With respect to the subject site itself, the GIS information is in my view, grossly inaccurate given that it has used old GIS and not been updated to reflect the fill within the site.
- The ponding area will be pushed to the south end of the site and the old Karori Road area (where there is a stream and a stormwater intake).

  Most of the subject site will not be affected by ponding. Further modelling would also be required to determine where the overland flow actually enters the site, but there are indications that it is not at the points shown on the WCC model.
- In respect to the WIAL designation discussed by the officer, this would be at a level that is irrelevant to the discussion on height within the site.

## **RESPONSE TO THE SECTION 42A REPORT**

### **Building Height**

In respect to the submission to allow height to be 12 metres, the officer's position is that the heights of the Environment Court decision must be held.

- This position cannot be deemed a robust one. It seems to say if a decision was made in the past on a plan change, that must be upheld.

  That would be the same as saying decisions from the Environment Court on previous District Plan changes must be kept. It ignores changes to the Statutory background that are now present.
- Prior to being rezoned, the land was Residential and Open Space. It was previously owned by Council and sold as surplus land. Originally a supermarket was designed for the land and my understanding that the site was ultimately found to be unsuitable for the use and it was abandoned.
- I was involved in the original Curtis St Plan change for the site. There was a long and complicated planning situation that arose largely because of a proposal to construct a Mitre 10 on the site which was opposed by local residents.
- 30 PPG sought to have a Suburban Centre Zone created over it. which would allow greater flexibility, including commercial, retail or residential use.
- An original rezoning was judicially reviewed and the process had to be restarted. WCC was commencing a review of the old Suburban Centre Area and it got caught up in this process and a specific zone was proposed and introduced under a specific business area.
- 32 At the same time, PPG sought to fill the site with material.
- We had the highly unusual case of the earthworks and plan change hearing being heard simultaneously in the Court.
- The 8 metre height was a provision that was agreed by Council and PPG to reflect the residential heights in the surrounding area. I was deeply involved in this discussion and the mediated position on the Plan Change. PPG agreed this, to settle what was a longstanding planning process. A process that was long and tedious and which in my opinion,

was largely based on their fear of local residents that the Mitre 10 project would be resurrected.

- There is little to no chance of Mitre 10 or other hardware store going to the site as they have now developed other options outside of Karori/Wilton.
- We now have the situation that the residential area is increased to 11 metres and the officer is recommending that the site be held to 8 metres.
- This is clearly not a fair outcome, nor is it consistent with the National Policy Statement for Urban Development (NPSUD).
- The purpose of the NPSUD is allow the intensification of land use including commercial areas and residential sites as well. I discuss the future use, further in the evidence below.
- It should also be recalled that the site sits well below the majority of the adjacent residential houses. It is also well separated by roads.
- Given that 11 metres is the permitted height for the residential areas, a 12 metre height for the site would be more than reasonable outcome to allow the site to realise some development.
- Given that the site is potentially affected by flooding (overland flow) allow additional height can also allow for raised floor levels to protect the area within the site from inundation while allowing for flooding areas to remain undeveloped.

### Residential Use

In respect to the officer's position on the requirement for commercial use on the ground floor, PPG continues to oppose this on the basis that it has explored numerous options for commercial use and has not been able to achieve a practical and economically viable development option.

- PPG has been exploring a number of different commercial options. The only one that has been able to proceed was a small coffee cart operating from the north of the site (which is the most visible).
- The issue for retail, is that it sits too low in the valley and therefore there is a perception that the site does not offer good visibility.
- An additional Supermarket option was explored relatively recently, however the inherent site issues that were present in the past, while somewhat alleviated by the filling, still exist to some degree and this option was again abandoned.
- Options for vehicle/general storage have been explored, but have not been able to be realised for a number of reasons to date. At least one option was intended to be in conjunction with Residential.
- I have been working with PPG on a number of these commercial options and therefore have a good understanding of the issues. Unfortunately, a lot of the information is commercially sensitive and I am unable to disclose in the evidence.
- 48 Residential activity options are limited to the exterior (east and west) of the site and away from the transition lines.
- To date, I have expressed the view that the site is inherently unsuited to residential use, largely due to the power lines and topography. The filling has helped. I do agree that there is some potential for residential development, particularly on the frontage to Curtis Street.
- To demonstrate the way in which the site could be developed, PPG have been exploring a development option. Even this option would exceed the 8 metre height and demonstrates how that provision is extremely restrictive that is on this site. The attached modified plans do require additional earthworks which will further facilitate residential development.

The option is a reasonable well developed. Please note, that this is a long way from the point where it can be considered for a resource consent and a lot of other assessment and information is required to be inputted into the process. That includes the flood information discussed above.

The proposal has additional large scale earthworks which have not been evaluated. It is put forward from an illustrative example at this point, rather than an example of what is actually proposed. The isometric view is shown below in Figure 4.



Figure 4: Looking south from the Curtis St/Whitehead Road intersection

- The development is residential in nature and subject to being able to fill further on the site, would be a viable development. This type of development remains consistent with the NPSUD.
- The proposal is put forward on the basis, that PPG has been unable to find commercial tenants and uses which are viable. A residential use is far more likely to be acceptable to local residents who have opposed commercial on every occasion to date.

### THE RELIEF SOUGHT

- The specific relief sought is as follows:
- 55 COMZ-P3 it 6. Residential activities at ground floor level is deleted.

- 56 COMZ-R2 The words *The activity is located above ground floor level* are deleted from the residential permitted standard. The discretionary rule is deleted in its entirety as it is unnecessary where residential is permitted on the ground floor.
- 57 COMZ-R10 Delete the works *The extent to which the activity enables* or limits adaptability for future non-residential activity at ground floor level.
- 58 COMZ-S1 Amend the words as follows 1. *A maximum height limit of*8m 12 above ground level must be complied with.
- 59 COMZ-S3 Regarding mimum ground floor height should be amended as follows; *The minimum ground floor height to the underside of structure slab or equivalent* for non residential buildings shall be 4m.

### THE CONCLUSION

Overall, the outcomes sought by PPG in their submission, will achieve a balance between enabling this marginal area of land to be developed with flexibility, to respond to market demands (in terms of value and design requirements, whilst protecting and enhancing the amenity and vitality of the local area.

Date: 12/06/2023

Ian Leary



Sheet Number	Sheet Name	Current Revision Date	Current Revision	
A1000	Coversheet	22.12.2021	1	
A1000's_Adminis	stration			
A1100	Project Notes	22.12.2021	1	
A2000's_Master	Plan			
A2000	Master Plan	22.12.2021	1	
A2010	Existing Site Plan Analysis	10.03.2022	1	
A2100's_Cut/Fill	Earthworks			
A2145	Cut/Fill Axonometric	22.12.2021	1	
A2150	Pads/ Retaining Plan	22.12.2021	1	
A3000's_ Unit Flo	oor Plans	·		
A3000	Typical Floor Plan T1	22.12.2021	1	
A3010	Typical Floor Plan T2	22.12.2021	1	
A3020	Typical Floor Plan T3	22.12.2021	1	
A3030	Typical Floor Plan T4	22.12.2021	1	
A3500's_Section	S	•		
A3515	Cross Section			
A3520	Cross Section			
A3545	Cross Section			
A8100's_Perspe	ctives			
A8100	Perspectives	22.12.2021	1	





3D View- Communal Area

CALE -

2155 Curtis Street Development

55-85 Curtis Street, Karori, Wellington 6012

# PRIMEPROPERTY GROUP

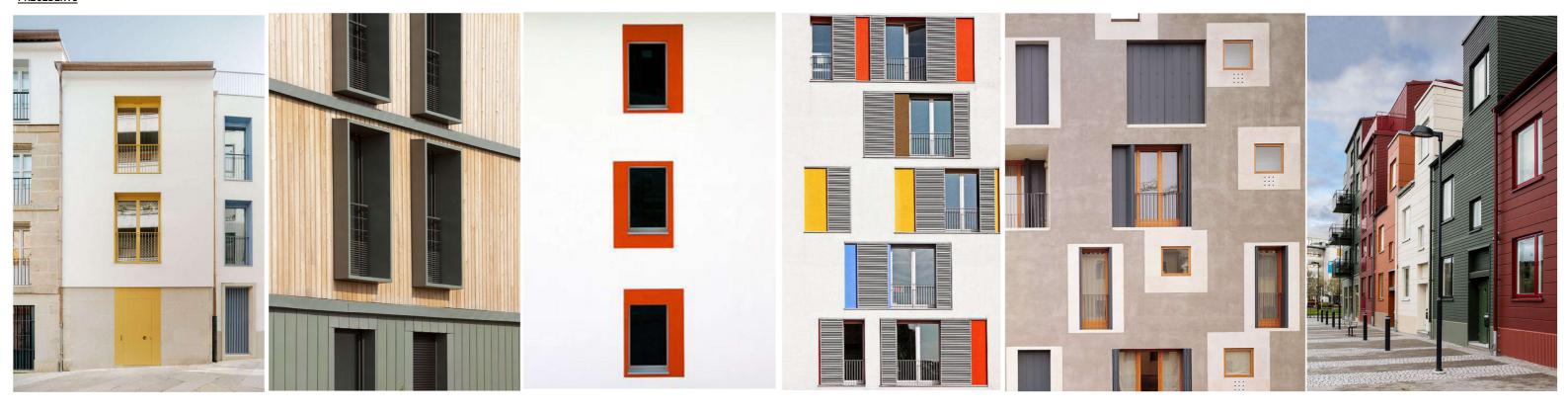
primeproperty group ltd | ph 04 - 499 1773 | PO BOX 11 785 Wellington

Resource Consent

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## **PRECEDENTS**







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MEG1.	2155	-	Curtis Street Development

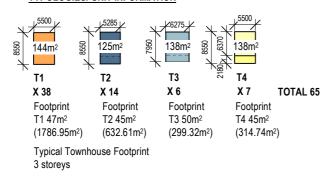
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Project Notes
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### CUT/FILL LEGEND

10,914m<sup>2</sup> Existing Total Site Plan Area: Overall Proposed Building Footprint Area: 3,034m<sup>2</sup> Proposed T1 Type Unit 1,787m<sup>2</sup> Proposed T2 Type Unit 633m<sup>2</sup> Proposed T3 Type Unit 299m<sup>2</sup> Proposed T4 Type Unit 315m<sup>2</sup> Proposed Green Area 2841m2 Proposed Road Pad, paths (+parking) 4,666m2 Protected Vegetation Area in Boundary 1,311m<sup>2</sup> Proposed Fill Area out of Bdr'y 2841m2

Note: Total Type Unit area measures proposed building footprint on site

### SITE INFORMATION:

55 - 85 CURTIS STREET, KARORI

Legal description: TBC
Territorial Authority: Wellington City Council

Wind Zone: Extra High
Exposure Zone: C
District Plan Zone: Outer Residential
Services on/ through site: Refer to separate Documentation

## GENERAL KEY/LEGEND:



Indicates perspective view number and location

# Retaining wall

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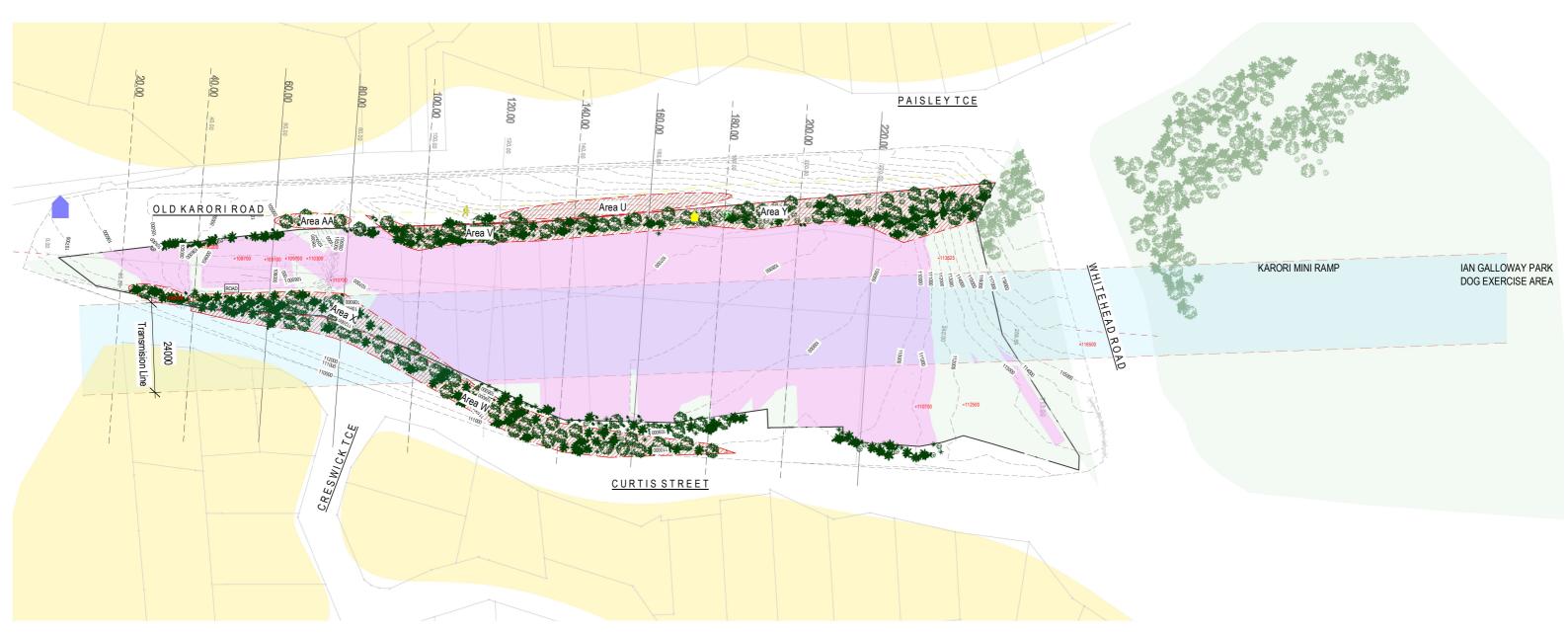
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PROJECT: 2155 Curtis Street Development

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 $01 \frac{\text{Existing Site Plan Analysis}}{\text{SCALE= } 1:1000}$ 

### SITE LEGEND

Existing Glow wormsExisting Childcare CenterLarge specimen trees

Transmission line

Heritage Trail

Specified Trail/Path

Boundary Line

Sealed driveway

Light vegetation

Existing Supply line

Existing Stormwater pipe

Existing Public Sanitary Sewer

MH

Manhole

Existing Building Footprint

Loaded pre-soil

Protected Vegetation Area

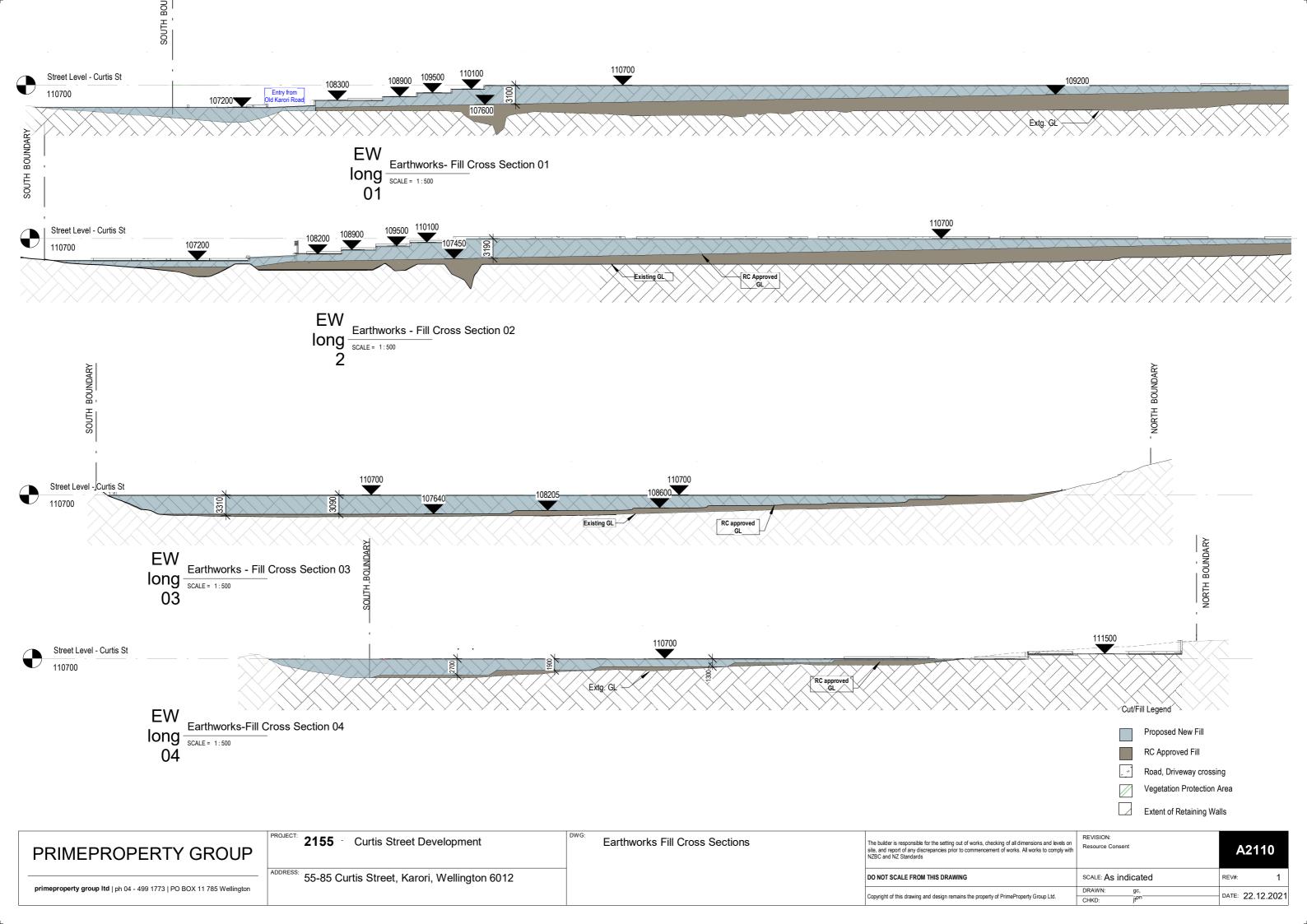
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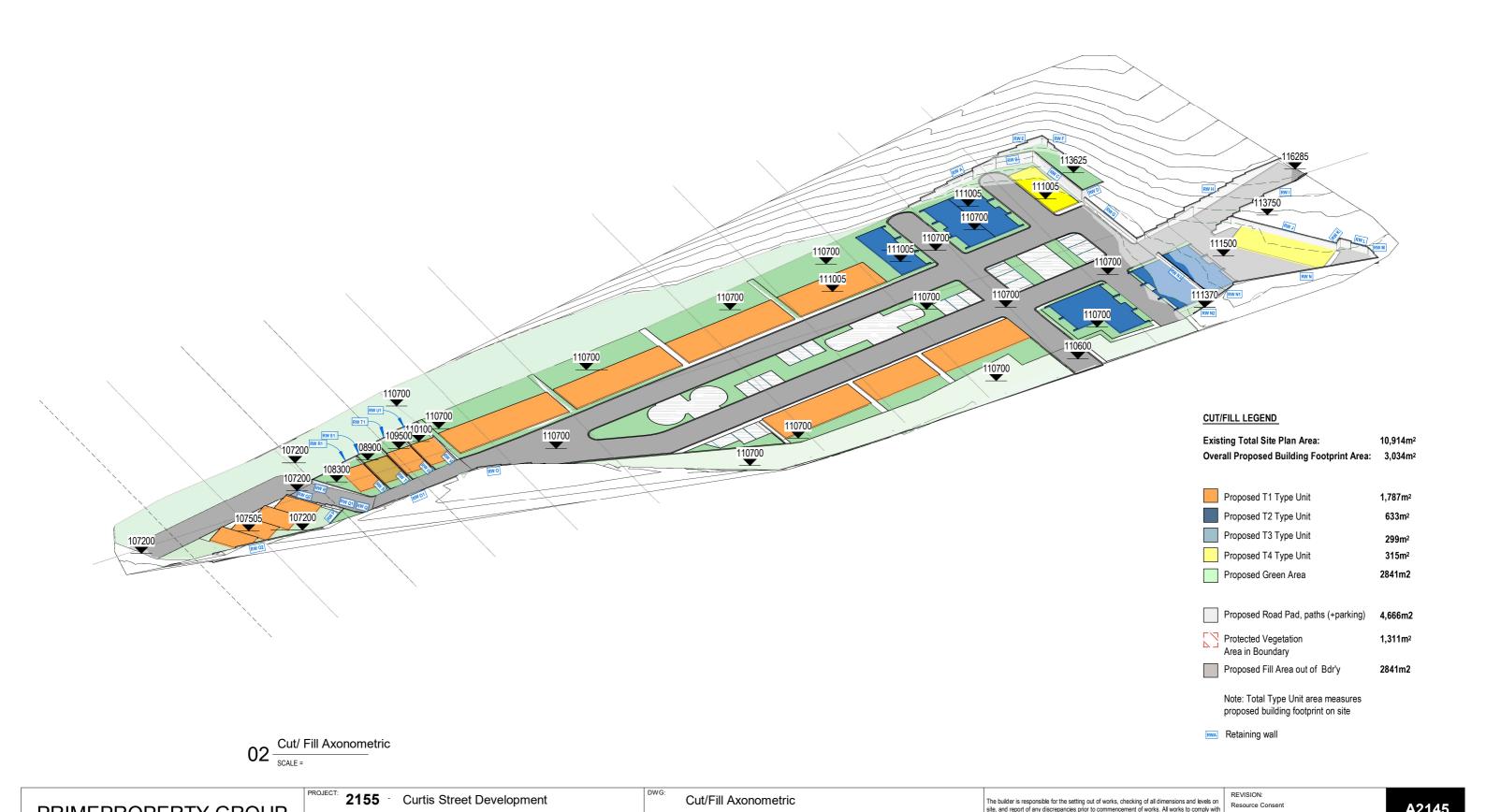
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Existing Site Plan Analysis



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T1 Cladding Configuration subject to vary\*

# RESOURCE CONSENT

PRIMEPROPERTY GROUP	PROJECT: 2155 - Curtis Street Development	Typical Floor Plan T1	The builder is responsible for the setting out of works, checking of all dimensions and levels o site, and report of any discrepancies prior to commencement of works. All works to comply wit NZBC and NZ Standards		A3000
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# RESOURCE CONSENT

Total floor alea. 125fff					
PRIMEPROPERTY GROUP	PROJECT: 2155 - Curtis Street Development	Typical Floor Plan T2	The builder is responsible for the setting out of works, checking of all dimensions and levels on site, and report of any discrepancies prior to commencement of works. All works to comply with NZBC and NZ Standards		A3010
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T3 Units 29, 32, 35, 54, 57, 60 (6 units)
Dimensions: 7.95m x 6.275m
Footprint: 50m<sup>2</sup>
Total floor area:138m<sup>2</sup>

# RESOURCE CONSENT

PRIMEPROPERTY GROUP	PROJECT: 2155 - Curtis Street Development	Typical Floor Plan T3	The builder is responsible for the setting out of works, checking of all dimensions and levels on site, and report of any discrepancies prior to commencement of works. All works to comply with NZBC and NZ Standards		A3020
	ADDRESS: 55-85 Curtis Street, Karori, Wellington 6012		DO NOT SCALE FROM THIS DRAWING	SCALE: As indicated	REV#: <b>1</b>
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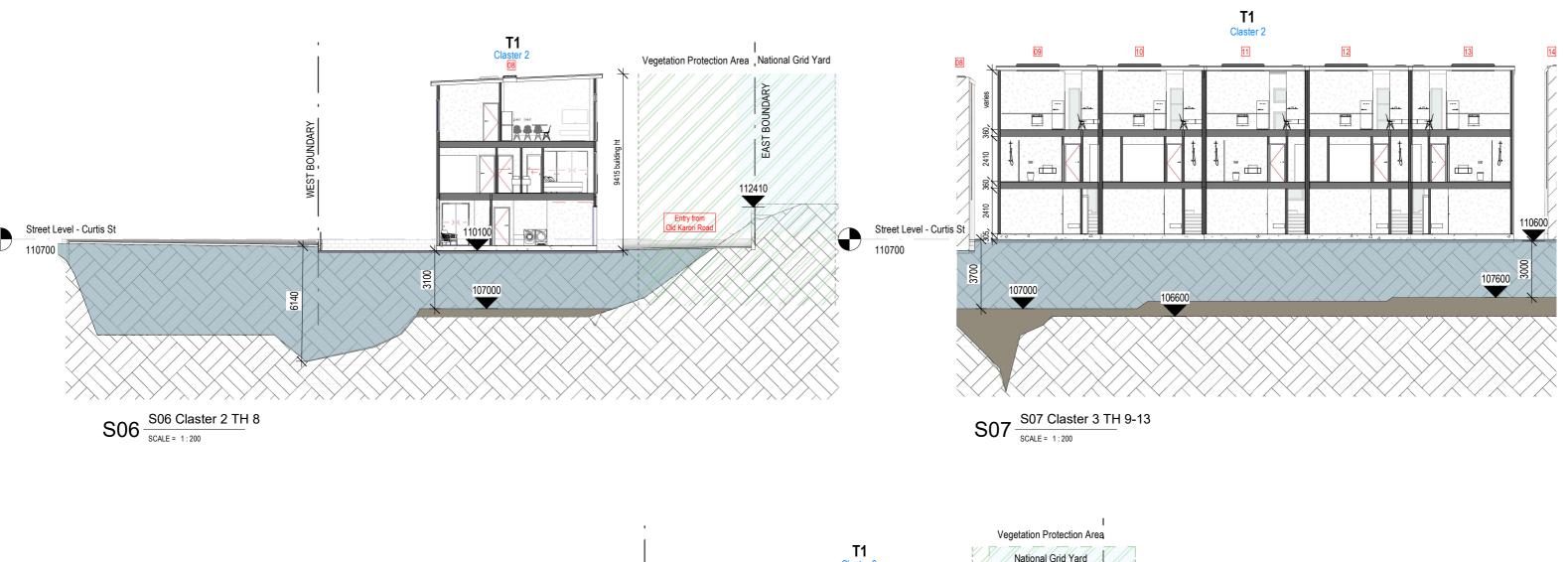
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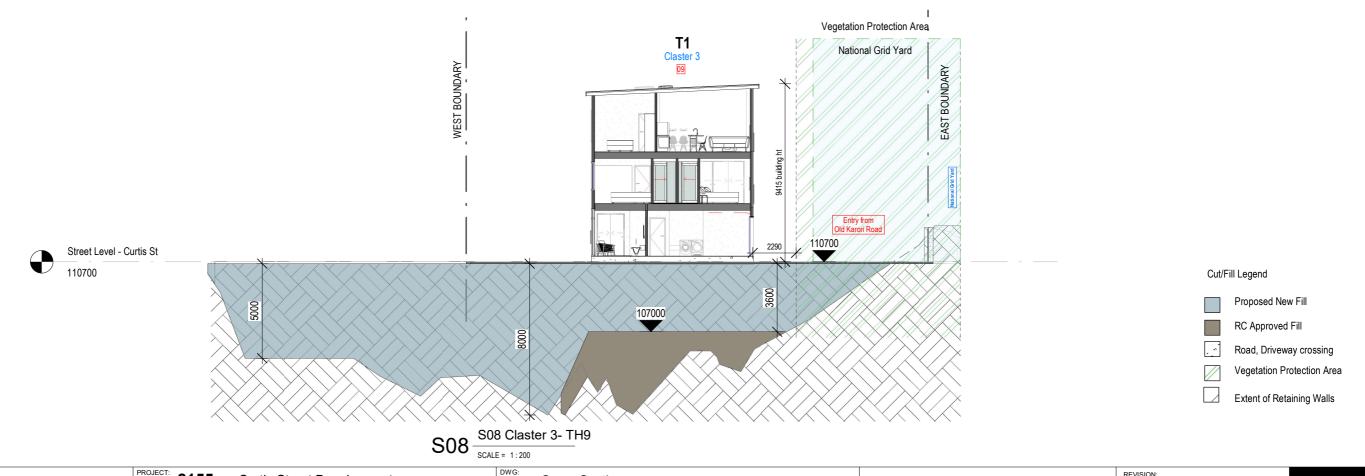


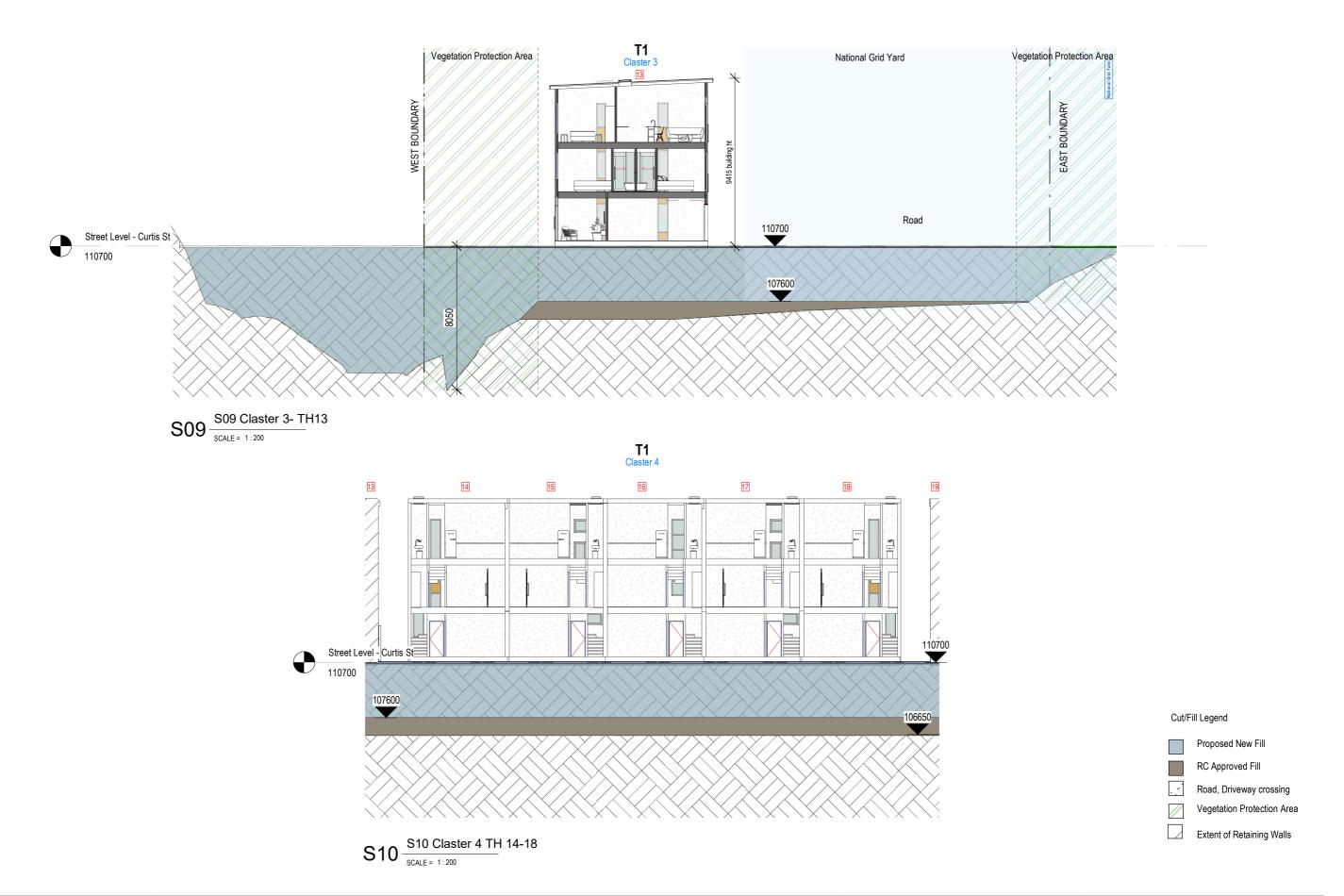
T4 Units 37-39, 62-65
Dimensions: 8.175m x 5.50m
Footprint: 45m<sup>2</sup>
Total floor area:138m<sup>2</sup>

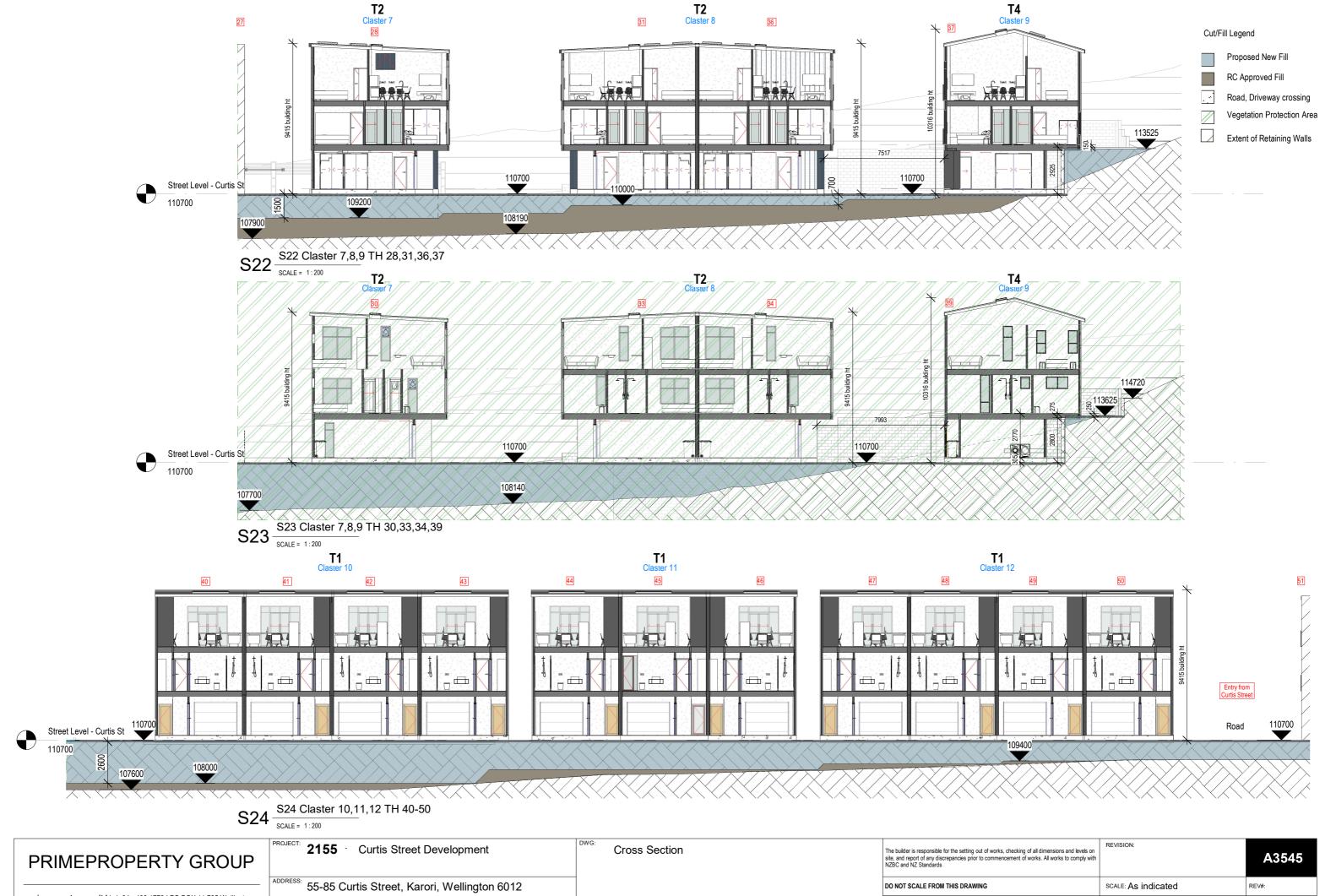
# RESOURCE CONSENT

	rotal floor area. room						
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01 Perspective - Overview of Subdivision

PRIMEPROPERTY (	GROUP

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PROJECT: 2155 Curtis Street Development

ADDRESS: 55-85 Curtis Street, Karori, Wellington 6012

Perspectives

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