

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**  
**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)**  
**BREACH OF CONDITIONS NOTICE**

**REFERENCE NUMBER: 17/00051/ENBOC2**

To: Company Secretary  
Seavision (Scotland) Limited  
Holy Loch Marina  
Rankins Brae  
Sandbank  
Dunoon  
Argyll  
PA23 8QB

**SERVED BY: ARGYLL AND BUTE COUNCIL, KILMORY, LOCHGILPHEAD**

1. **THIS IS A FORMAL NOTICE** which is served by Argyll and Bute Council ('the Council'), as Planning Authority, under Section 145 of the Town and Country Planning (Scotland) Act 1997, as amended ('the Act') because a condition regulating the use of land subject to which planning permission for the carrying out of development at the Land Affected, as hereinafter defined, has been granted, has not been complied with. It is considered that Seavision (Scotland) Limited is carrying out or has carried out the development and/or has control of the Land Affected and as such is responsible for securing compliance with the conditions specified in this notice

**2. THE LAND AFFECTED BY THE NOTICE**

That plot or area of ground shown delineated in red on the attached plan which plot or area of ground forms part and portion of **Holy Loch Marina, Rankins Brae, Sandbank, Argyll** (hereinafter referred to as 'the Land Affected')

**3. THE RELEVANT PLANNING PERMISSION**

The planning permission to which this notice relates is the permission granted by Argyll and Bute Council Reference Number **15/02969/PP** on the **18/11/2016** for **Increase in height of part of in-filled area (part retrospective)** on the Land Affected (hereinafter referred to as 'the Planning Permission')

#### 4. BREACH OF CONDITION

The following condition(s) subject to which the Planning Permission was granted have not been complied with:

9. Prior to any further infilling works taking place and within 2 months of the date of this consent, full details shall be submitted of a drainage layout plan and how it is proposed to deal with any surface water runoff from the infilled area including the area between Robertson's Yard and the A815. This shall include any amendments to the previously approved drainage system. Thereafter, any measures agreed shall be implemented prior to any further infill works taking place.

Reason: To ensure the development will not be detrimentally affected by flooding or result in flooding to adjoining properties and the surrounding area.

#### 5. WHAT YOU ARE REQUIRED TO DO

To comply/secure compliance with the conditions listed in part 4 of this notice you are required to take the following steps:

- 1.) Condition 9. You must submit full details of a drainage layout plan. The plan will detail the means by which surface water runoff from the infilled area, including the area between Robertson's Yard and the A815, will be dealt with and any proposed amendments to the previously approved drainage system. You must refrain from undertaking any further infilling works upon the Land Affected until such time as the agreed drainage measures have been implemented upon the Land Affected.

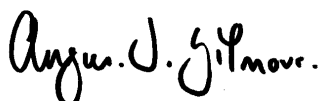
#### 6. TIME FOR COMPLIANCE

1. You are required to take the steps listed in section 5 above to secure compliance with Condition 9 within **2 months** from the date on which you receive this notice by the date this is delivered to you.

#### 7. DATE THIS NOTICE TAKES EFFECT

This notice takes effect immediately it is served on you or you receive it by postal delivery.

Dated: 16<sup>th</sup> February 2017



Head of Planning and Regulatory Services  
Kilmory  
Lochgilphead

On behalf of Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT

<b>WARNING - THERE IS NO RIGHT OF APPEAL AGAINST THIS NOTICE</b>
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Copies of sections 145 and 145A of the Town and Country Planning (Scotland) Act 1997 (as amended) are attached. You will wish to note in particular the points referred below

It is an offence to contravene the requirements stated in paragraph 5 of this notice after the end of the compliance period. The maximum penalty for such an offence is £1000.00.

If you are in any doubt about what this notice requires you to do, you should get in touch immediately by telephone, followed by written enquiry to:

Planning Services, 1A Manse Brae, Lochgilphead, Argyll PA31 8RD.

Section 145A of The Planning etc. (Scotland) Act 2006 provides the Planning Authority with power to issue a fixed penalty notice for breaching the terms of a breach of condition notice. The issue of a fixed penalty notice is at the discretion of the Planning Authority. There is no right of appeal against a fixed penalty notice. The Town & Country Planning (Amount of Fixed Penalty) (Scotland) Regulations 2008 sets out that the penalty for breach of a breach of condition notice is £300. Payment of the penalty does not discharge the requirement to comply with the terms of the breach of condition notice, while prosecution proceedings can be taken where a fixed penalty notice is unpaid.

If you need independent advice about this notice, you are advised to contact urgently a lawyer, planning consultant or other professional advisor specialising in planning matters. If you wish to contest the validity of the notice, you may only do so by an application to the Court of Session for judicial review. A lawyer will advise you on what procedure this process involves.

<b>DO NOT LEAVE YOUR RESPONSE TO THE LAST MINUTE</b>
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**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)**

**SECTIONS 145 AND 145A**

145

(1) This section applies where planning permission for carrying out any development has been granted subject to conditions.

(2) The planning authority may, if any of the conditions is not complied with, serve a notice (in this Act referred to as a “breach of condition notice”) on—

(a) any person who is carrying out or has carried out the development, or

(b) any person having control of the land,

requiring him to secure compliance with such of the conditions as are specified in the notice.

(3) References in this section to the person responsible are to the person on whom the breach of condition notice has been served.

(4) The conditions which may be specified in a notice served by virtue of subsection (2)(b) are any of the conditions regulating the use of the land.

(5) A breach of condition notice shall specify the steps which the authority consider ought to be taken, or the activities which the authority consider ought to cease, to secure compliance with the conditions specified in the notice.

(6) The authority may by notice served on the person responsible withdraw the breach of condition notice, but its withdrawal shall not affect the power to serve on him a further breach of condition notice in respect of the conditions specified in the earlier notice or any other conditions.

(7) The period allowed for compliance with the notice is—

(a) such period of not less than 28 days beginning with the date of service of the notice as may be specified in the notice, or

(b) that period as extended by a further notice served by the planning authority on the person responsible.

(8) If, at any time after the end of the period allowed for compliance with the notice—

(a) any of the conditions specified in the notice is not complied with, and

(b) the steps specified in the notice have not been taken or, as the case may be, the activities specified in the notice have not ceased,

the person responsible is in breach of the notice.

(9) If the person responsible is in breach of the notice he shall be guilty of an offence.

(10) An offence under subsection (9) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under that subsection by reference to any period of time following the preceding conviction for such an offence.

(11) It shall be a defence for a person charged with an offence under subsection (9) to prove—

(a) that he took all reasonable measures to secure compliance with the conditions specified in the notice, or

(b) where the notice was served on him by virtue of subsection (2)(b), that he no longer had control of the land.

(12) A person who is guilty of an offence under subsection (9) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(13) In this section—

(a) “conditions” includes limitations; and

(b) references to carrying out any development include causing or permitting another to do so.

#### 145A

(1) Where a planning authority have reason to believe that, by virtue of subsection (8) of section 145, a person is in breach of a breach of condition notice they may, provided that the conditions mentioned in subsection (7) are satisfied, serve on him a fixed penalty notice as respects that breach.

(2) The fixed penalty notice is to specify—

(a) the step specified, under subsection (5) of section 145, in the breach of condition notice which has not been taken, or

(b) the activity so specified which has not ceased.

(3) It is not competent to serve more than one fixed penalty notice in relation to a particular step or activity.

(4) For the purposes of this section, a “fixed penalty notice” is a notice offering the person the opportunity of discharging, by paying to the planning authority, within the period of 30 days which immediately follows the day on which that notice is served, a penalty of an amount (being a prescribed amount) specified in that notice, any liability to conviction for an offence under section 145(9) as respects the breach of the breach of condition notice.

(5) But if payment is made within the first 15 days of the period mentioned in subsection (4) the amount payable is reduced by 25%.

(6) The fixed penalty notice is to identify the period mentioned in subsection (4) and is also to state that if payment is made within the first 15 days of that period the amount payable is reduced by 25%.

(7) The conditions are that the fixed penalty notice—

(a) is served within the period of 6 months which immediately follows the period allowed by section 145(7) for compliance with the breach of condition notice, and

(b) is not served after the person has been charged with an offence under section 145(9) as respects the breach of the breach of condition notice.

(8) During the period mentioned in subsection (4) it is not competent to commence proceedings against the person for an offence under section 145(9) as respects that breach.

(9) If the amount (or as the case may be the reduced amount) is timeously paid it is not competent to commence proceedings against the person for an offence under section 145(9) as respects that breach.

(10) A penalty received by a planning authority by virtue of subsection (4) is to accrue to that authority.

(11) In prescribing an amount for the purposes of subsection (4), the Scottish Ministers may make different provision for different cases or for different classes of case.

ARGYLL AND BUTE COUNCIL  
This plan been APPROVED by the  
PLANNING AUTHORITY and MUST be read in  
conjunction with the Planning Conditions of  
Consent No:

15/02969/PP

Angus G. Gilmore

Head of Planning and Regulatory Services

Date: 18 NOV 2015



Argyll and Bute Council  
Planning and Regulatory  
Services

NORTH

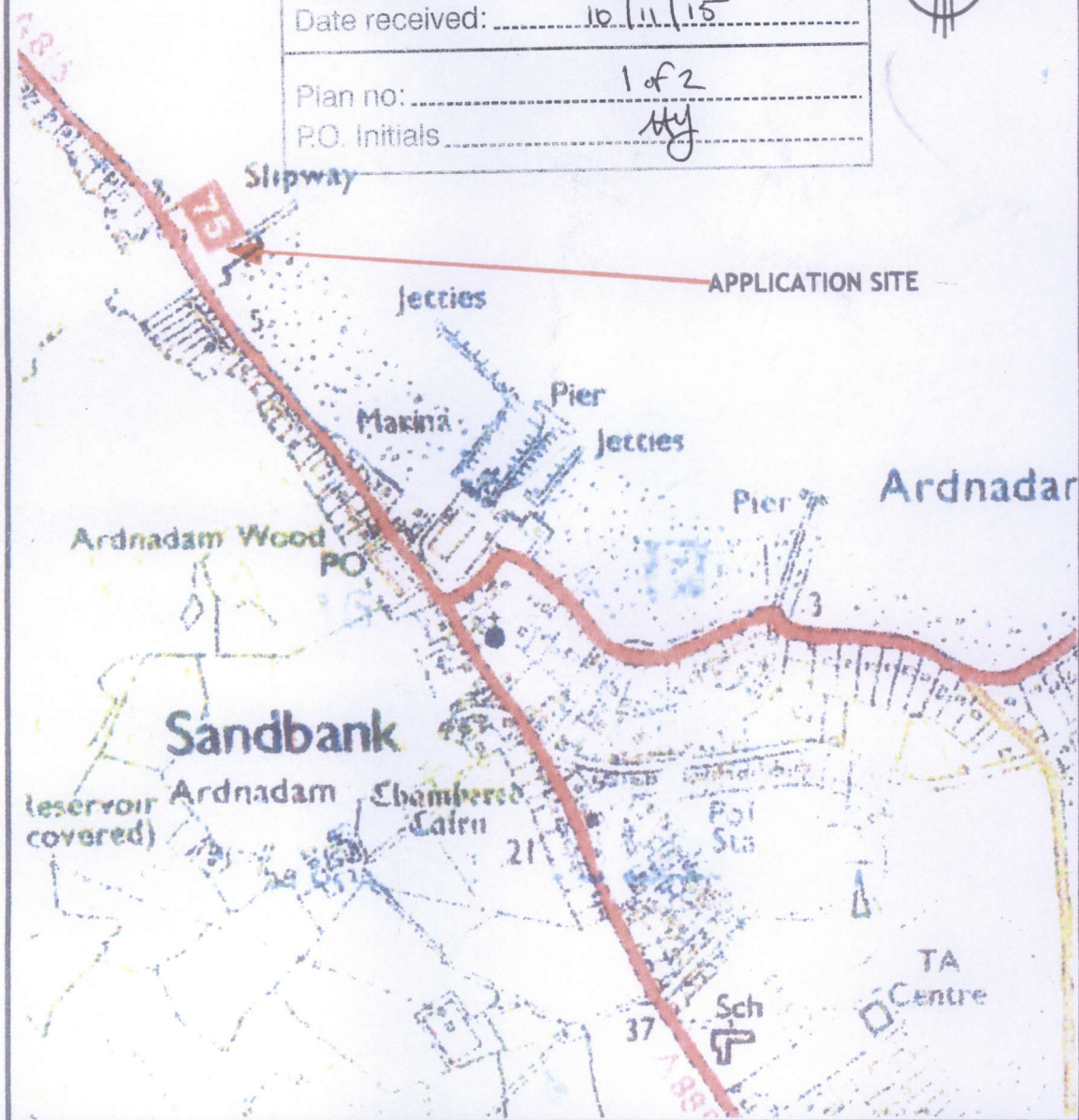


Application ref no: 15/02969/PP

Date received: 10/11/15

Plan no: 1 of 2

P.O. Initials: HJ



John McIntyre DA (Edin) R.I.B.A., R.I.A.S.  
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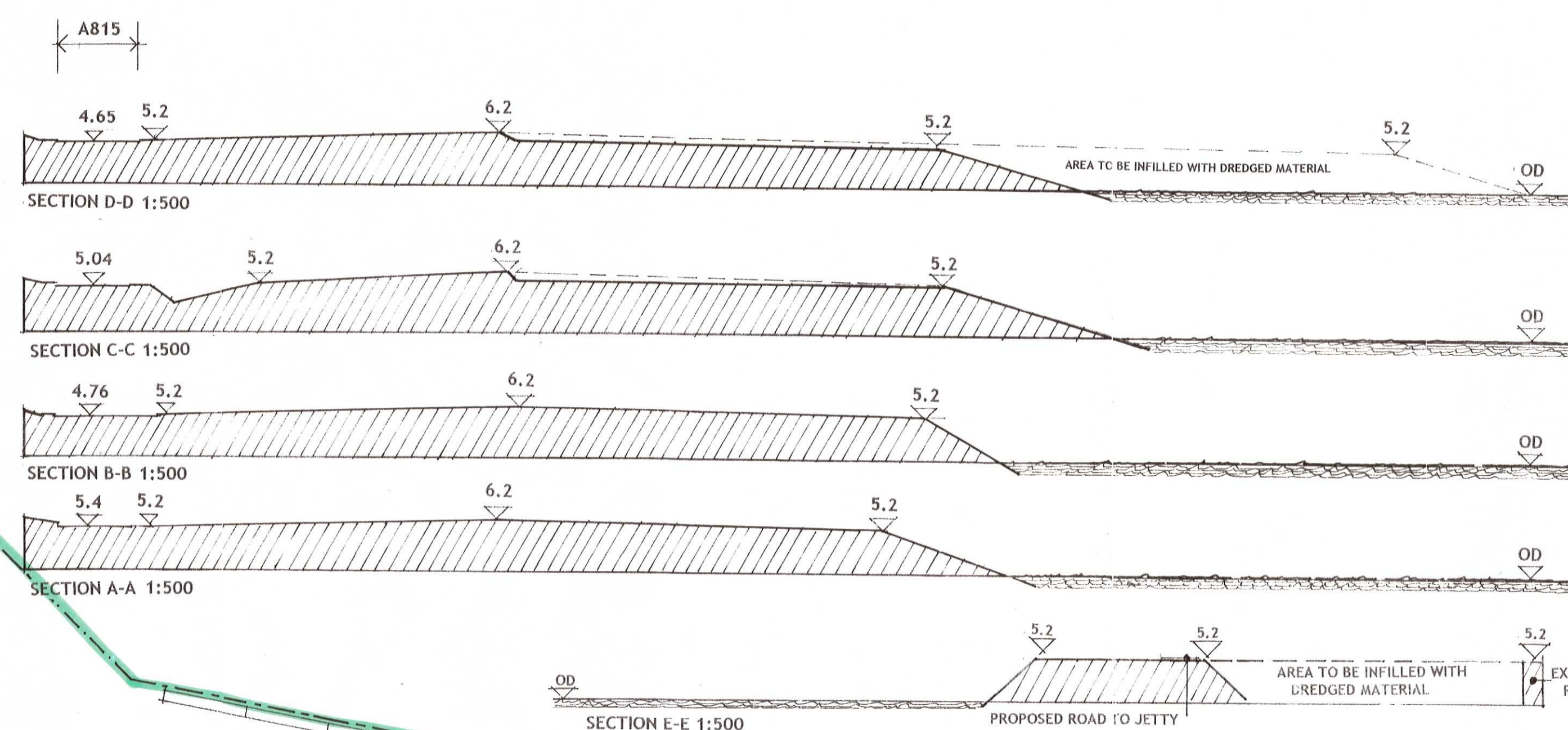
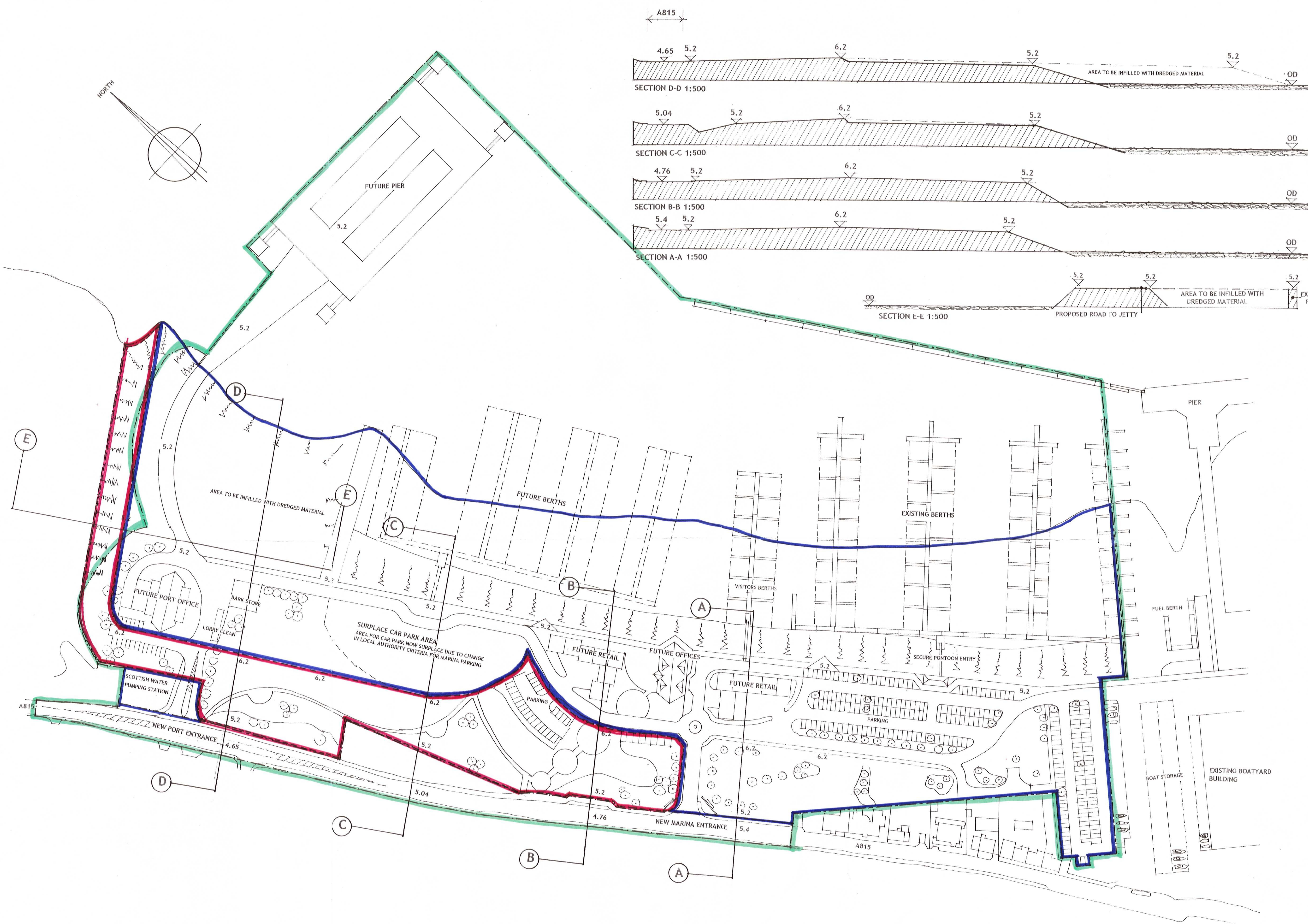
Seavision (Scotland) Ltd  
Holy Loch Marina  
Sandbank  
Dunoon

A4

Date: October 2015  
Drawn: JMM  
Scale: 1:10,000

Title  
Location Plan  
No 1260/003





Figured dimensions only are to be taken from this drawing.  
All dimensions are to be checked on site before any work is put in hand.

'A' SECTION E-E ADDED 06.11.2015  
LINE OF ORIGINAL BOUNDARY CORRECTED

ARGYLL AND BUTE COUNCIL  
This plan has been APPROVED by the  
PLANNING AUTHORITY and MUST be read in  
conjunction with the Planning Conditions of  
Consent No:  
15/02969/PP  
Argyll W. Mcintyre  
Head of Planning and Regulatory Services  
Date: 08.10.2015

APPLICANT BOUNDARY  
ORIGINAL APPLICATION BOUNDARY  
ADDITIONAL LAND WITHIN THE APPLICANT'S OWNERSHIP

REV	REVISIONS	INITIALS
DATE		CHKD.

CLIENT: SEAVISION (SCOTLAND) LTD

PROJECT: MARINA DEVELOPMENT  
HOLY LOCH MARINA, RANKIN'S BRAE,  
SANDBANK, DUNOON, ARGYLL.

DRAWING TITLE: PLAN & SECTIONS SHOWING PROPOSED LEVELS

SCALE: 1:1000 & 1:500

DRAWN: JMM CHECKED: DATE: 08.10.2015

DRAWING NO: 1260/002A

McIntyre

JOHN MCINTYRE - CHARTERED ARCHITECT  
MONEVECHADAN, HELLS GLEN  
BY LOCHGOILHEAD, ARGYLL PA24 8AN  
TEL & FAX NO 01301 703287  
e-mail: mail@johnmcintyrearchitect.co.uk

Argyll and Bute Council  
Planning and Regulatory Services

Application ref no: 15/02969/PP  
Date received: 10/11/15

Plan no: 262  
P.O. Initials: JMM