

23 April 2014

C Edwards

Sent by email to: fyi-request-1582-1fdb858c@requests.fyi.org.nz

Dear C Edwards,

Official Information Act 1982 Request - Presentations

Thank you for your requests for information received on 31 March 2014. You requested that the Earthquake Commission (EQC) make available to you the following information:

'In relation to Canterbury Earthquakes, please supply a copy of the presentation by Barry Searle (session 7) titled 'The ECA Act' to EQC Assessors & Estimators Training 1-8 October 2012.'

'Relating to Canterbury Earthquakes please supply a copy of presentation by Graeme Robinson 'EQ v Non EQ damage' to EQC Assessors & Estimator Induction Training 1-8 October 2012 (Session 8).'

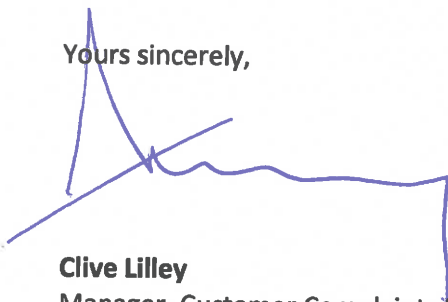
Your requests have been considered under the Official Information Act 1982.

Please find enclosed the presentation used for Sessions 7 and 8 of the EQC Assessor and Estimator Induction Training seminar. Please note that both sessions used the same presentation. Session 7 was presented by Barry Searle and Session 8 was presented by both Barry Searle and Graeme Robinson.

EQC has decided it is necessary to withhold photographs of customer properties to protect the privacy of the customers in question under section 9(2)(a) of the Official Information Act and section 29(1)(a) of the Privacy Act.

You have the option of approaching the Office of the Ombudsman should you wish. The Ombudsman can be contacted at PO Box 10 152, Wellington 6143, or on Freephone 0800 802 602, or at <http://www.ombudsman.parliament.nz>.

Yours sincerely,



Clive Lilley
Manager, Customer Complaints Resolution and Mediation

Released under the Official Information Act
Covered/Not Covered



EQ Cover

What is EQ Cover?

EQ Cover is EQC's natural disaster insurance scheme.

It insures homes, land and personal belongings against the following

- Earthquakes,
- Landslips,
- Tsunami,
- Volcanic eruption,
- Hydrothermal activity,
- Storm or flood damage- TO LAND ONLY
- Fire following any of the above

Amount of Cover House & Contents

EQC insures homes for their replacement value, up to \$20,000 + GST. Also covered are services the property owner owns (e.g. gas and water pipes).

EQC insures personal belongings (based on the private insurer's policy conditions) up to \$20,000 + GST.

Property owners can get top-up cover from private insurers. Top-up cover insures the house or personal belongings above EQC's limits.

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Residential Land

Residential land means, in relation to any residential building, the following property situated within the land holding on which the residential building is lawfully situated:

- a) The land on which the building is situated; and
- b) All land within 8 metres in a horizontal line of the building; and
- c) That part of the land holding which-
 - i) Is within 60 metres, in a horizontal line, of the building; and
 - ii) Constitutes the main access way or part of the main access way to the building from the boundary of the land holding or is land supporting such access way or part; and
- d) All bridges and culverts situated within any area specified in paragraphs a) to c) of this definition; and
- e) All retaining walls and their support systems within 60 metres, in a horizontal line, of the building which are necessary for the support or protection of the building or of any property referred to in any of paragraphs a) to c) of this definition

Revised Under the Official Information Act 1982

How is a Dwelling Defined?

Any building that contains a toilet, bathroom, kitchen (including an oven) and sleeping facilities, and is capable of and intended to be used as a home, is defined as a dwelling.

- These include
- Houses
 - Flats
 - Apartments
 - Holiday Homes
 - Rest homes.

Included are all outbuildings (such as garages and garden sheds) which are covered under the dwelling policy.

Serviced apartments, motel units and hotel rooms are not covered. However, staff and the manager's accommodation are covered - that's where they live, so they are dwellings.

Cost/ Premium

EQ Cover costs five cents for every \$100 insured (0.05%). The maximum is \$50.00 + GST for cover of \$100,000 on the dwelling and \$10 + GST for cover of \$9,000 on personal belongings.

Cover for land is included at no cost.

Excesses	Excess- % of claim	Min Payable	Max. payable
Dwelling	1%	\$200	\$1,125
Personal property	-	\$200	\$200
Land	10%	\$200	\$5,000

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Properties containing more than one residential unit

Buildings- \$500 multiplied by the number of dwelling in the building, or 1% of the amount payable, whichever is the greater.

For damage to the external structure or cladding of a building, and common areas of a building the above applies.

For internal damage to residential units, the excess applies to each unit damaged.

Land- \$500 multiplied by the number of dwellings in the residential building which is situated on the land, or 10% of the amount payable, whichever is the greater, to a maximum, of \$5,000

Released Under the Official Information Act 1982

What does the EQC Act 1993 cover in respect to buildings?

Part 2

Insurance of residential property against natural disaster

Insurance

18 Residential buildings

(1) Subject to any regulations made under this Act and to Schedule 3 where a person enters into a contract of fire insurance with an insurance company in respect of any residential building situated in New Zealand, the residential building shall, while that contract is in force, be deemed to be insured under this Act against natural disaster damage for its replacement value to the amount (exclusive of goods and services tax) which is the least of-

Released under the Official Information Act 1982

What is a Residential Building?

Residential building means-

- (a) any building, or part of a building, or other structure (whether or not fixed to land or to another building, part, or structure) in New Zealand which comprises or includes 1 or more dwellings, if the area of the dwelling or dwellings constitutes 50% or more of the total area of the building, part, or structure;
- (b) any building or part of a building (whether or not fixed to land, or to another building, part, or structure) in New Zealand which provides long-term accommodation for the elderly, if the area of the building which provides long-term accommodation for the elderly constitutes 50% or more of the total area of the building, part, or structure;
- (c) every building or structure appurtenant to a dwelling referred to in paragraph (a), or a building or part of a building referred to in paragraph (b), and that is used for the purposes of the household of the occupier of the dwelling or for the purposes of the residents of the building or part;
- (d) All water supply, drainage, sewerage, gas, electrical and telephone services, and structures appurtenant there to –
 - (i) serving a dwelling referred to in paragraph (a), or a building or part of a building referred to in paragraph (b), or surrounding land; and
 - (ii) situated within 60 metres, in a horizontal line, of the dwelling or building or part; and
 - (iii) owned by the owner of the dwelling or building or part, or by the owner of the land on which the dwelling or building or part is situated

Release under the Official Information Act 1982

What is a Dwelling?

Dwelling means, subject to any regulations made under this Act, any self-contained premises which are the home or holiday home, or are capable of being and are intended by the owner of the premises to be the home or holiday home, or 1 or more persons

Important Words – “Capable and Intended”

Excludes

- Derelict or Uninhabitable
- Houses without services like toilets and cooking facilities

Includes

- A caravan on piles with a detached toilet and detached kitchen. In its entirety this becomes a dwelling

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What is an Appurtenant Structure?

Dictionary Definition

Appurtenance

n. 1. Something added to another, more important thing; an appendage

For EQC Act purposes it must be a building or structure

- Building or structure suggest complex constructions similar in nature or scale to buildings

e.g.

- Garage/Carport
- Tool-shed
- Summer House
- Pergola (not archway)
- Chook Shed

But not

- Letterbox
- Dog Kennel (unless anchored on concrete base)
- Fishpond
- Bird Feeder
- Pool pump shed (pools and support equipment excluded)

2. It must be of direct benefit to the household (Serve the occupants in some way)

- So in summary – Reasonably complex in construction, serves the household, permanent type structures are included
- Because the Act does not identify these, a judgement call is sometimes needed
- Decking are the most common example of 'structures' that require interpretation

Official Information 7982

Artificial Surfaces

Artificial surfaces are excluded from cover. This exclusion extends to paving or concrete areas that are not an integral part of an insured residential building.

Residential Land that is damaged because of a natural disaster is insured under the Act. It does not matter whether that land is covered by paving or other artificial surface.

Retaining Walls

Retaining walls and their support systems are insured on the basis of indemnity value.

In order for a retaining wall to be covered, it must be within 60 metres of a residential building, and necessary for the support or protection of insured land. Therefore, a damaged retaining wall 10 metres away from a dwelling that supports land within 8 metres of the dwelling is covered.

A retaining wall must be damaged in order to be covered as part of a claim, irrespective of whether the property is a constructive total loss.

The Commission may decline or limit a claim where the natural disaster damage has been caused as a result of the retaining wall not meeting original standards of construction. In order to justify such a position, the specific standards need to be conveyed to the claimant. If the damage would have occurred irrespective of the wall construction, then the Commission must accept the claim.

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Property not Insured by the EQC Act

1. Any property that is not tangible property
2. Any motor vehicle (being a vehicle drawn or propelled by mechanical power) or any parts of, or accessories to, a motor vehicle
3. Any trailer (being a vehicle without motive power that is capable of being drawn or propelled by a motor vehicle and this is not being used as a dwelling) or any parts of, or accessories to, a trailer
4. Any vessel (being anything made to float, whether it is fixed or free and whether or not it has any means of propulsion or any parts or accessories to, a vessel)
5. Any aircraft or anything in or on an aircraft
6. Any bush, forest, tree, plant or lawn
7. Any growing crops (including fruit trees and vines) or cut crops in the open fields
8. Any explosives
9. Any animals, including livestock and pets
10. Any road, street, drive, path, or culvert other than a gangway, ladder, access platform, or any other form of access, constructed in a residential building or being an integral part of a residential dwelling

11. Any drain, channel, tunnel, or cutting unless used to connect part of one or more residential buildings
12. Any dam, breakwater, mole, groyne, fence, pole or wall that does not constitute an integral part of a residential building
13. Any reservoir swimming pool, bath, spa pool, tank or water tower other than:
a) a reservoir, swimming pool, bath, spa pool, tank or water tower that constituted an integral part of, and that is within, a residential building; or
b) a reservoir or tank used in a residential building as a storage vessel for any liquid product; or
c) a water tank forming part of the water supply to a residential building; or
d) a septic tank
14. Any tennis court, whether inside or outside and whether lawn or not
15. **Any jetty, wharf or landing**
16. **Any paving or any artificial surface**
17. Any jewellery, precious stones, money, works or art, securities documents or stamps
18. **The costs of staying somewhere else temporarily after an earthquake or natural disaster**

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Swimming Pools

Swimming pools are excluded from cover unless they are an integral part of a residential building. Practically this will put most pools are being excluded

A pool would need to be constructed as a part of an integral part of the residential building to be covered. Guide examples of these could include

- Swimming pool constructed as part of the same concrete foundation of the building
- An indoor swimming pool constructed by removing existing building floor and foundation of an existing building and constructing the pool into this area in a seamless fashion
- A swimming pool that could not be removed without significant building damage

Any structures or appurtenances that are only used in connection with the swimming pool, and can not be assigned another purpose, are excluded

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Swimming Pool Appurtenances (some practical examples)

- A storage tank used exclusively to handle swimming pool equipments (pumps, etc.) would be excluded
- Pipes connecting the swimming pool are not covered as these are used exclusively in connection with the swimming pool
- A changing room structure may be covered as it may be used for the purposes of the household
- A deck surrounding a swimming pool may be covered as it may be used for the purposes of the household (As the primary function to provide pool access)
- A gazebo or structure enclosing the swimming pool would be covered as it may be used for the purposes of the household

Open up the Official Information Act 1982

9(2)(a)

on Act 1982

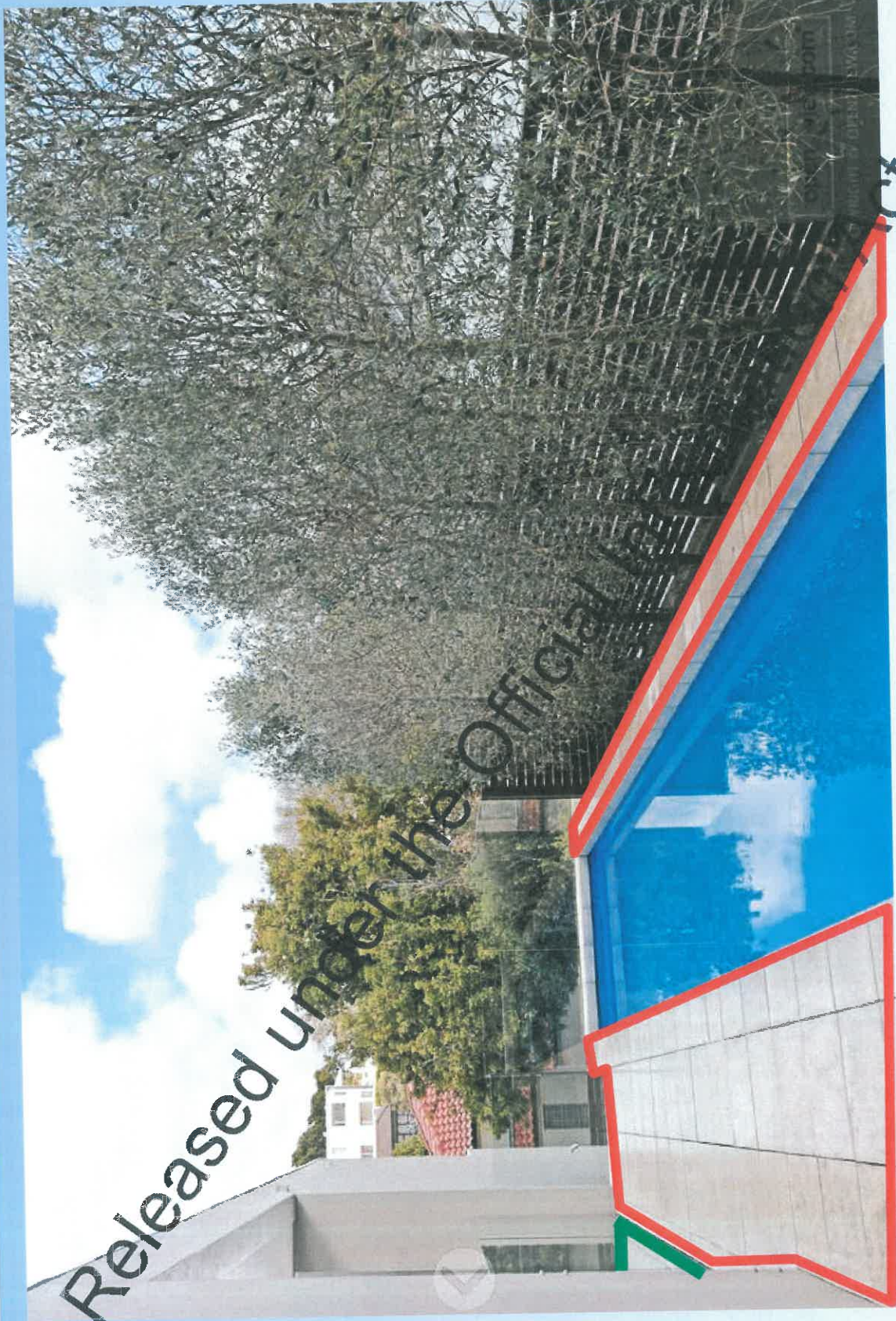
9(2)(a)

- Timber porch included – integral
- Timber deck – probably included
- No issue with the porch under the veranda
- The decking is likely to be integral and appurtenant. Unfortunately the photographs do not show sufficient detail
- The only basis EQC would exclude it is if it is merely an artificial surface over a courtyard. How high is it?

on Act 7982



Released under the Official Information Act 1982



- The pool is excluded
- The paving is excluded
- Pool would need to be integral and inside the dwelling to be included

9(2)(a)

Act 1982

9(2)(a)

- The pool is excluded
- The fence delineates the decked area as a pool surround that pertains to and serves the pool not the dwelling.
- If the pool wasn't there then the deck wouldn't be either.
- The paved area (courtyard) is excluded under Schedule 3 - Section 19

1982

9(2)(a)

on Act 1982

9(2)(a)

- Carport floor is included (Part of the Appurtenant structure)
- Driveway excluded – artificial surface. Section 16 Act 7982
- Access platform and integral porch are all integral to the dwelling
- If steps were paved (not timber) would still be included as access platform

9(2)(a)

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on Act 1982

9(2)(a)

Revised

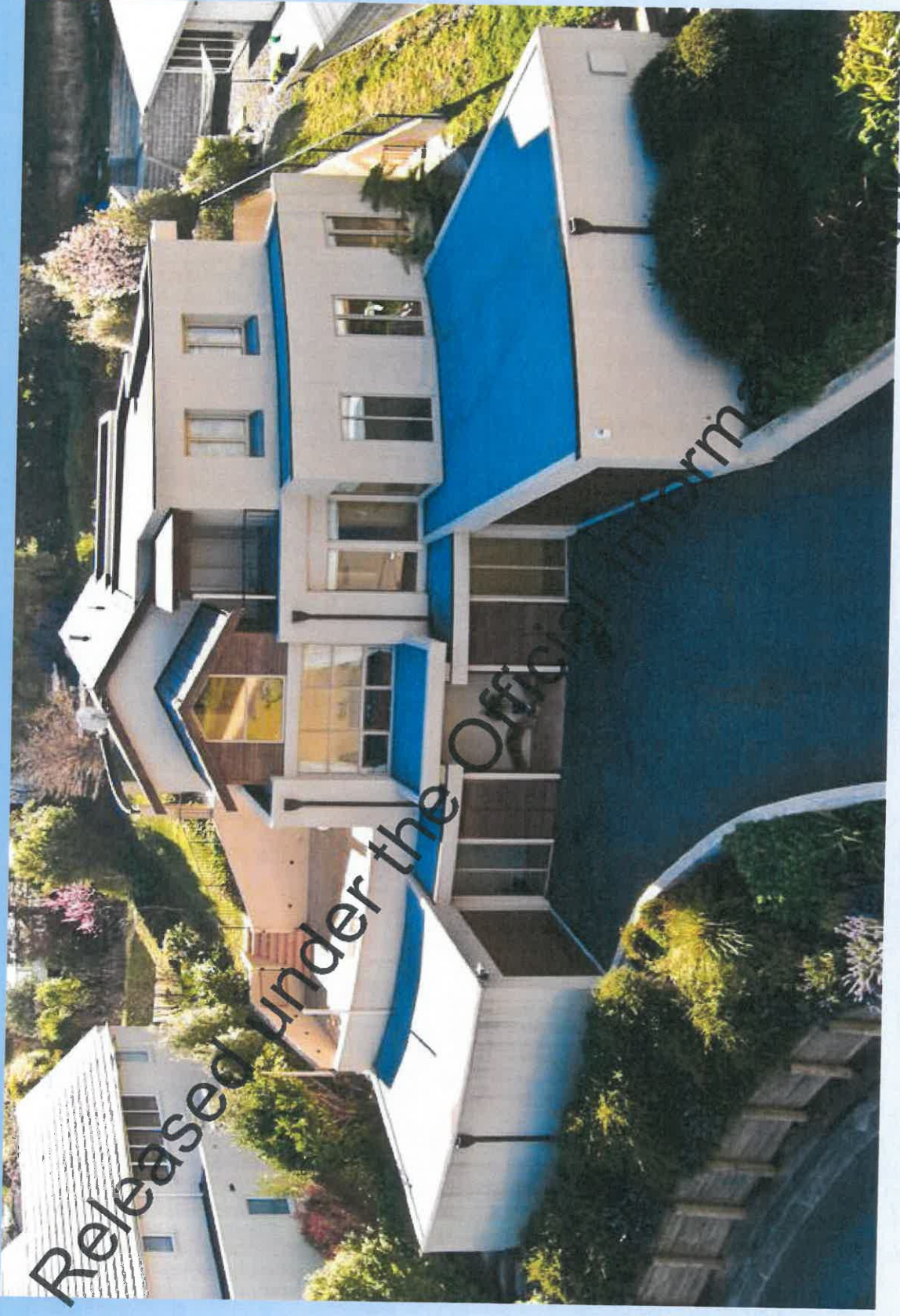
We think that rather than calling this an access platform we should just say that is an "other form of access... [redacted] an integral part of [the]... building" – if we need to refer to Schedule 2 at all.

Before we look at schedule 2 we need to ask – is the property otherwise insured under the Act, i.e. Schedule 2 does not add anything to the cover – it only takes it away (although the savings are an indication of the kinds of things that were intended to be included within the residential building definition).

We think the stairs are covered on the basis that they are part of the building (if they were not then there would be no cover at all and no need to look at schedule 2 – unless we say they are an appurtenant structure (which they may be if they were not in fact a part of the building)). We don't think the stairs are a "road, street, drive, path bridge or culvert". The only one that could conceivably apply is "path"...but we don't think it is a path. If it's a path then we would look at access platform although we would incline to thinking it is an "other form of access" rather than an access platform.

We have done some searching for a definition of an "access platform" and can't find anything relevant. Our instinct is that it is something flat (i.e. a platform) rather than a stairway.

AD 17982

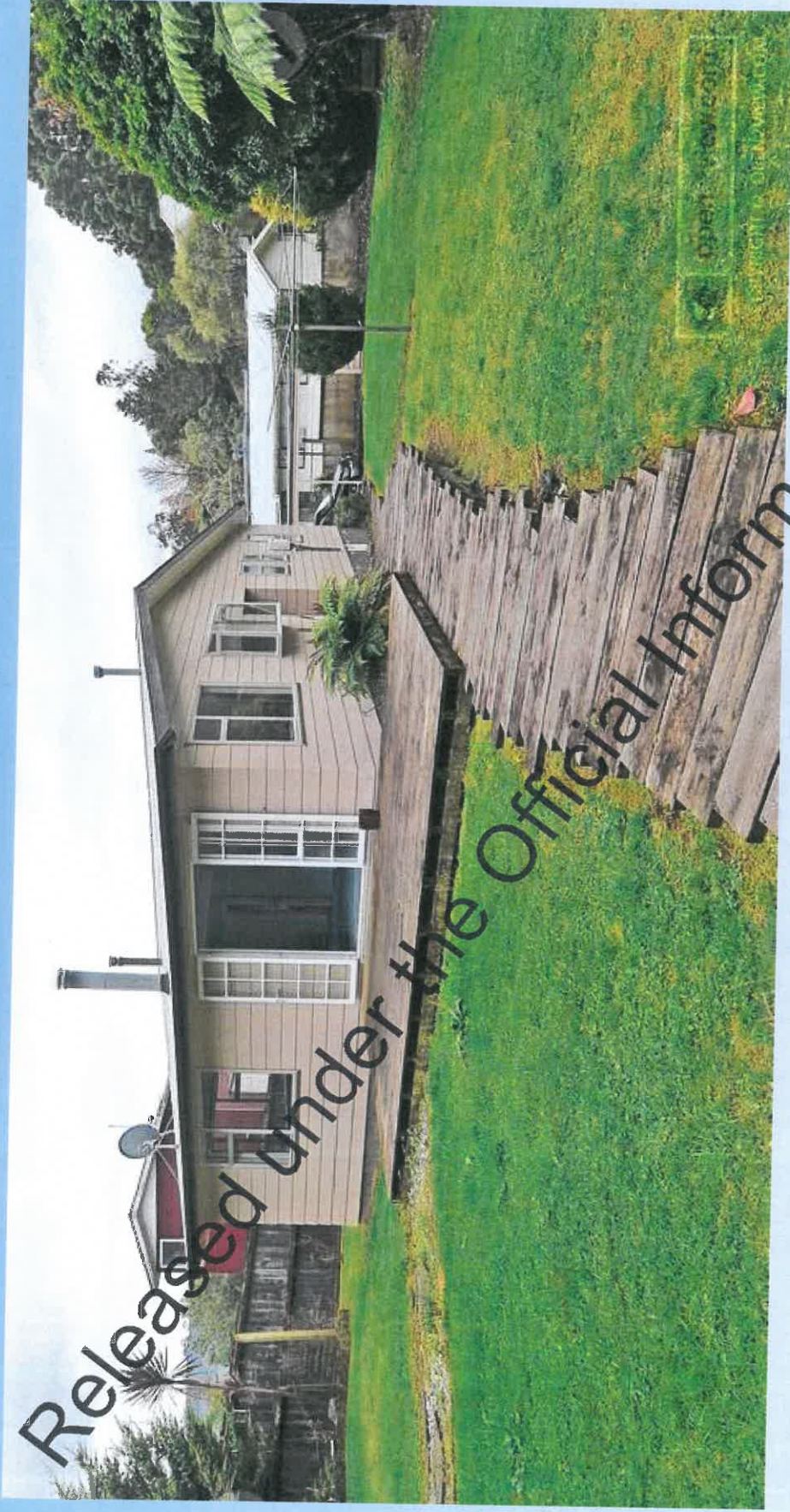


Released Under the Official Information Act 1982



Released Under the Official Information Act 1982

- Artificial surface excluded
- Retaining wall within 8 metres



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Path excluded

Timber deck (not paving)

Would it be an appurtenant structure is its own right? Probably, but further investigation is needed to see how complex it is.

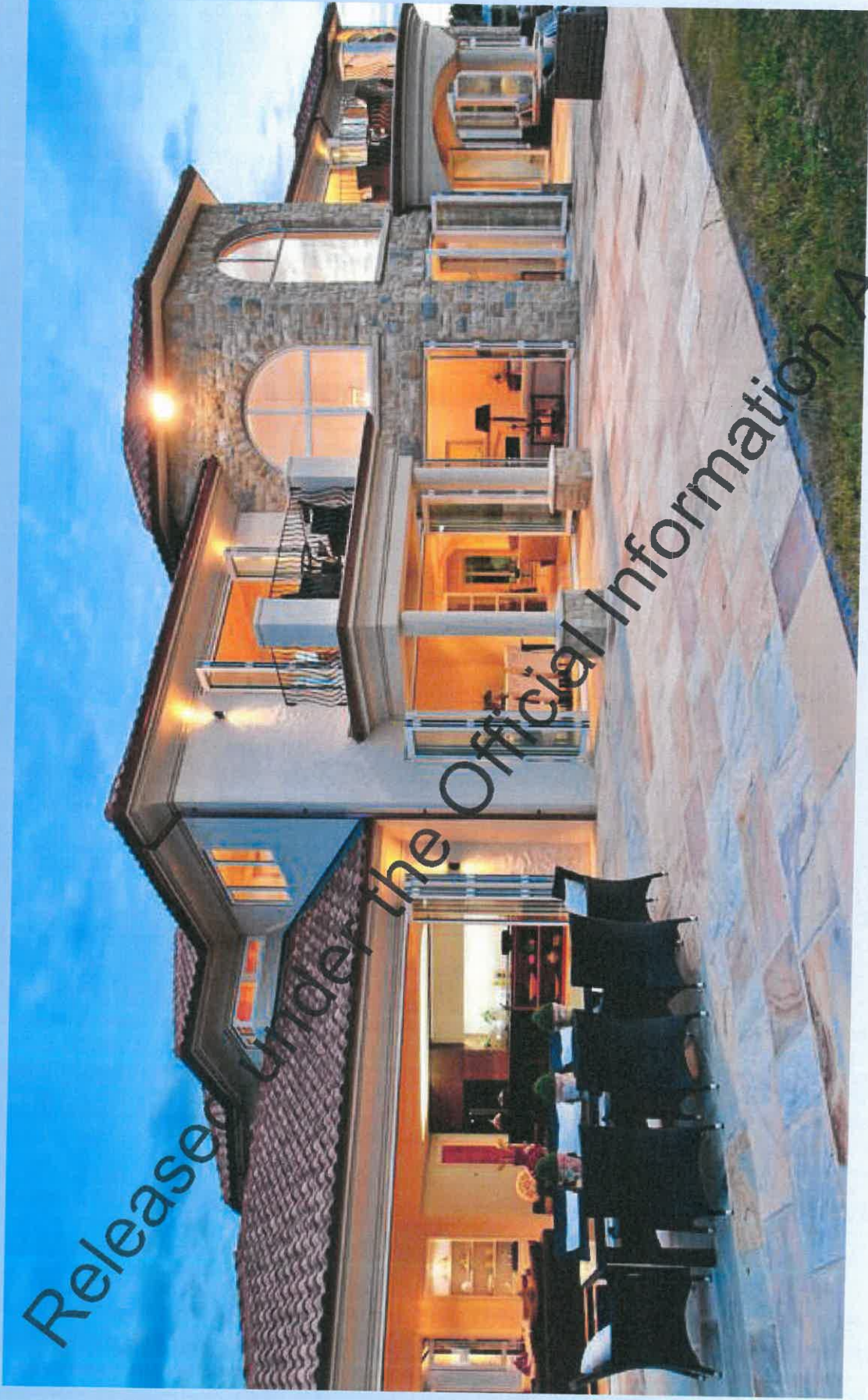
Is it an access platform? Probably

Is it integral to dwelling? No

If it were paved it would be excluded, as it is timber it could be included.

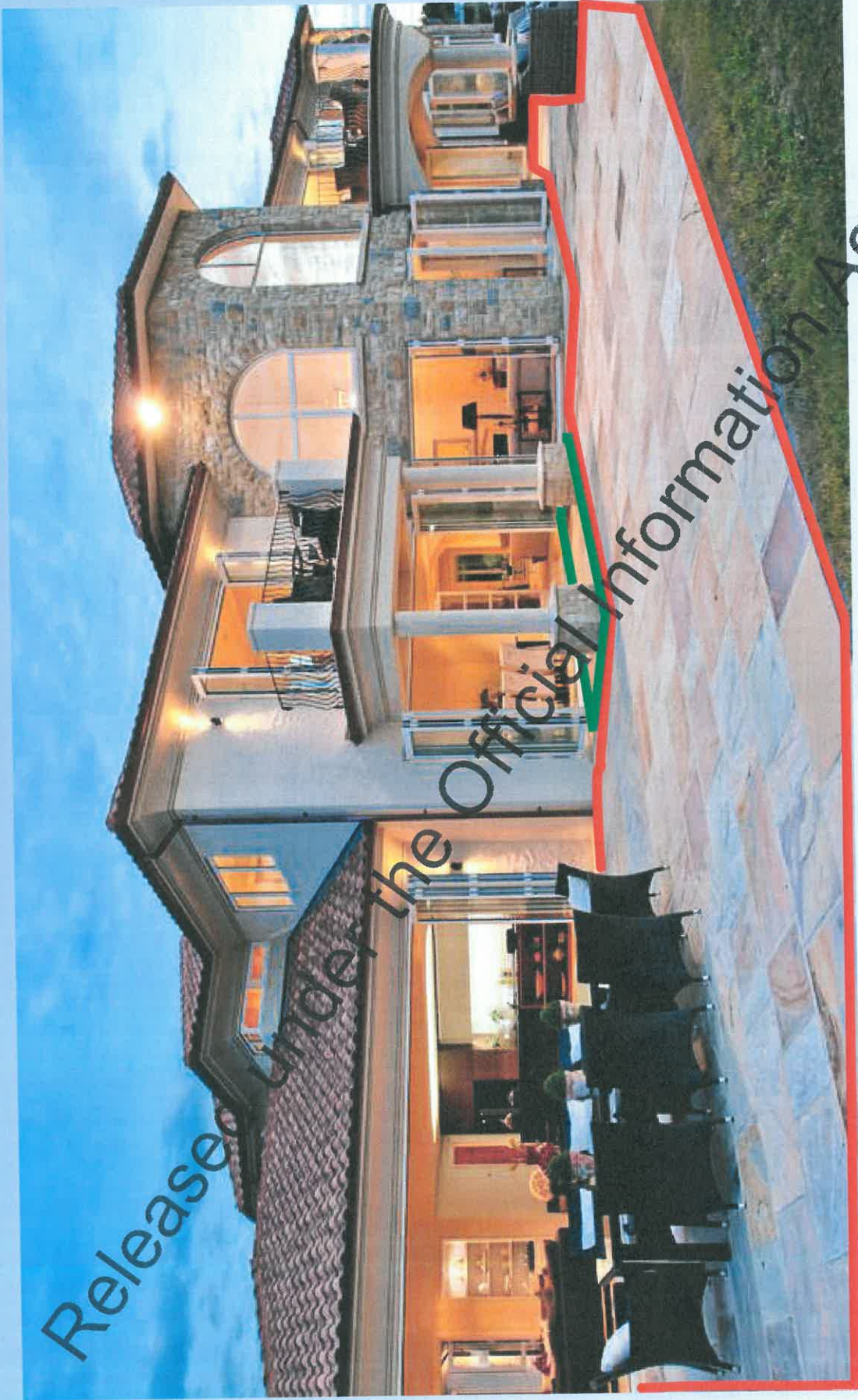
The photos and slides seem to draw a distinction between "paving or other artificial surface" and timber surfaces. We can see that there is an argument as to whether timber is an "artificial" surface – but we think this is just intended to mean anything other than natural ground i.e. timber can be an artificial surface (we think this is picked up in photo r – not clear from the picture whether this is timber or tiles).

We believe there may be a relevant distinction between paving etc that performs no other function; and paving that has an access function i.e. if steps are covered when they lead directly to the front door, why draw a distinction when the steps are part of a deck arrangement leading to the door? But as noted above the item under consideration must be covered i.e. part of the house or an appurtenant structure, before we look at whether it is excluded. On that basis the question on (g), is whether the low deck is part of the house or not?



Released under the Official Information Act 1982

Released under the Official Information Act 1982



9(2)(a)

7982

9(2)(a)

7982

- Access platforms
- Pathing, paths

9(2)(a)

Act 1982

9(2)(a)

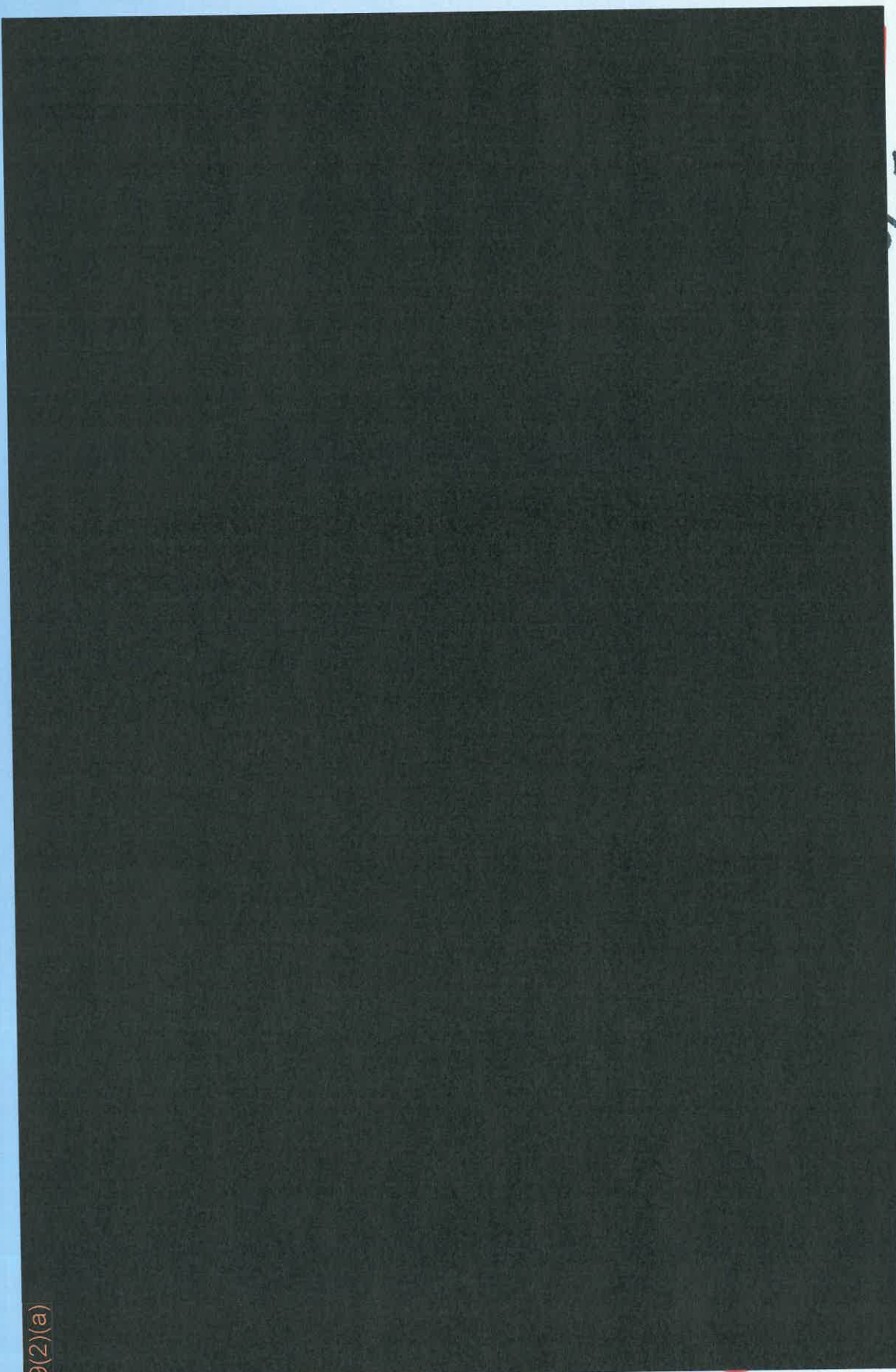
Act 1982

- Artificial surface

9(2)(a)

7982

9(2)(a)



17982

- Paving excluded
- Not an access platform – ground level
- The approach here is to ask – is the paved area part of the house? If it is, then there is cover *unless* excluded. It would be excluded by sch 2 cl 16 as an artificial surface but that wide exclusion is modified by cl 10 i.e. it is covered if it is (relevantly) a path that is a form of access that is an integral part of the building.

9(2)(a)

Oct 1982

9(2)(a)

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- Access Platform
- Decking in integral to dwelling (pergola laced back to house)



1982

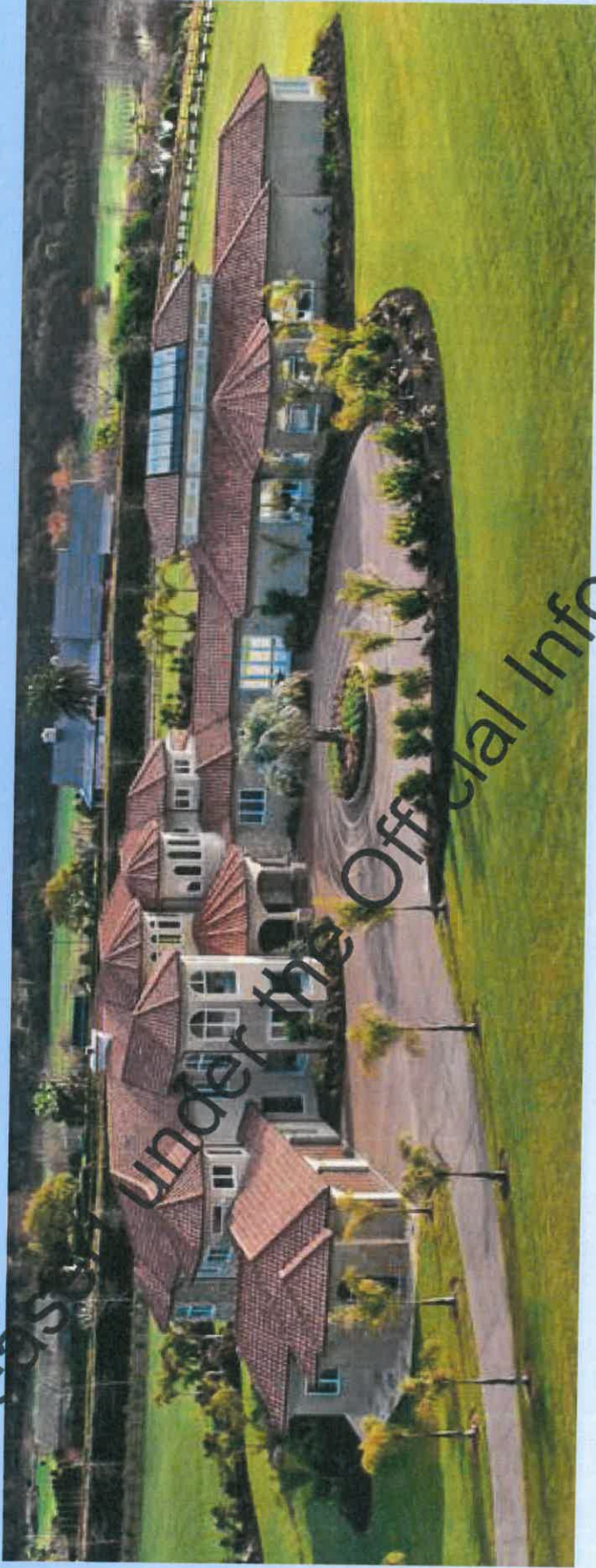
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- Paving
- Not integral to dwelling

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- Artificial surface
- Artificial path, driveway



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- Integral to dwelling included inside

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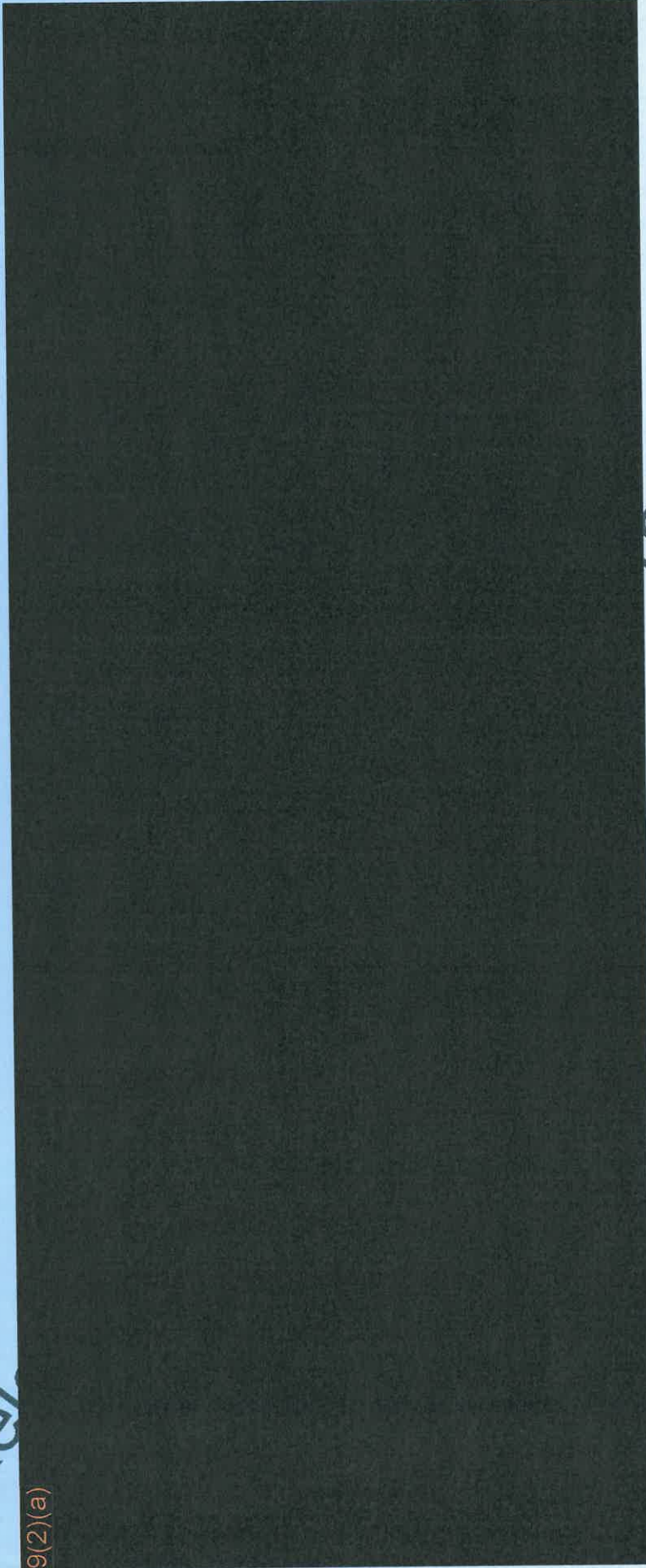
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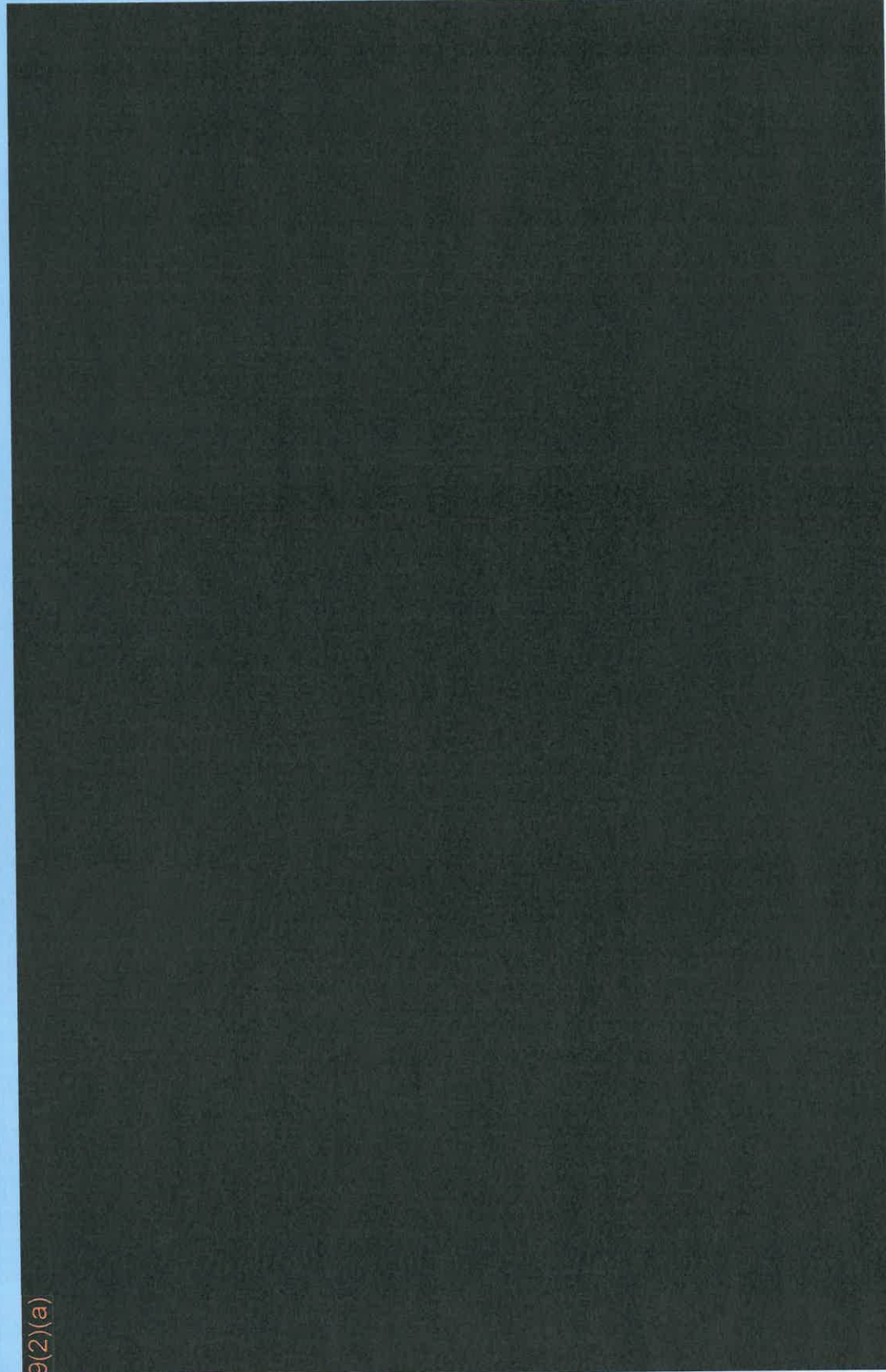


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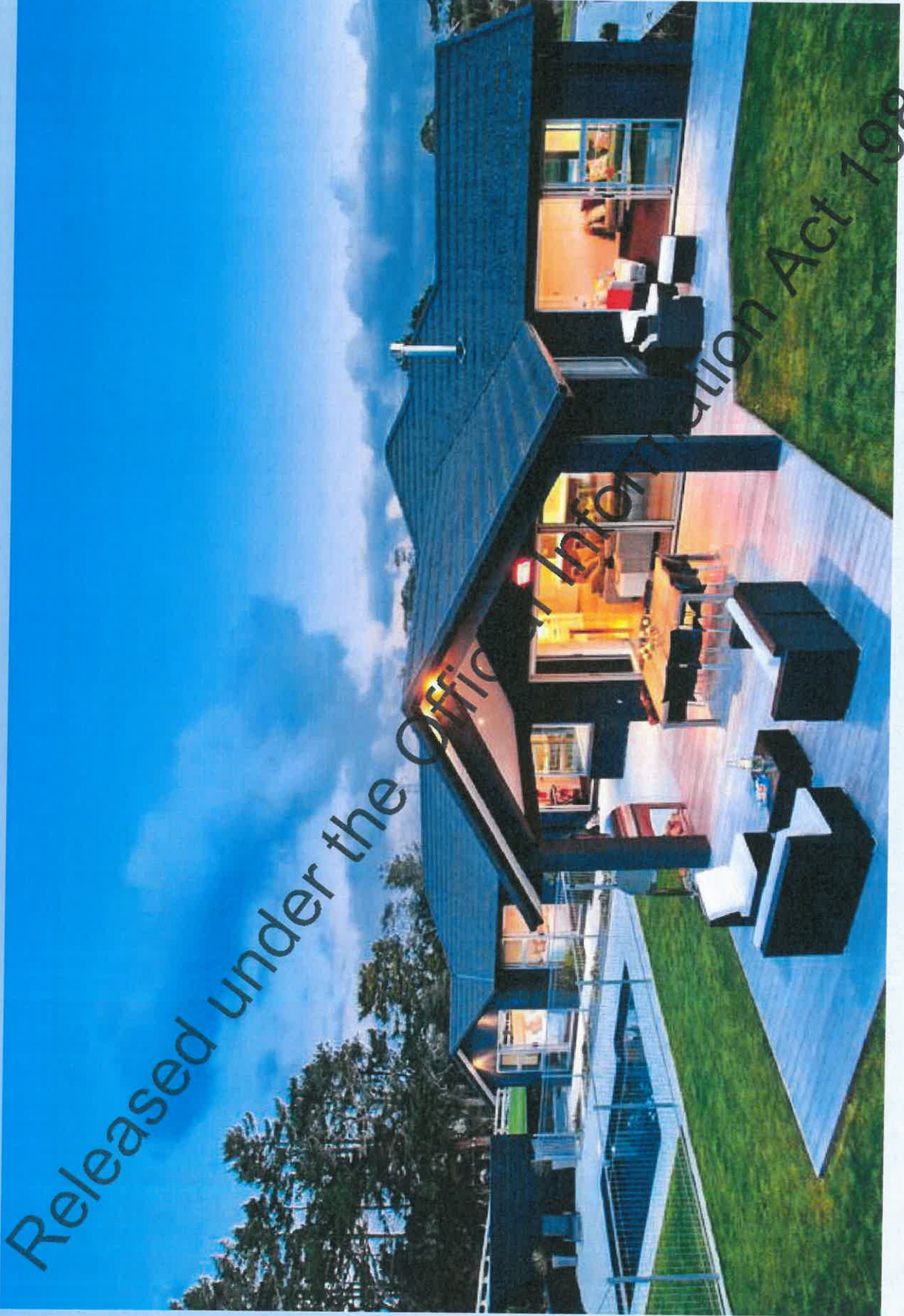
9(2)(a)



HOY 1982

- Included as part of house
- Is timber deck an appurtenant structure? Possibly – need a better view – could be a raised access platform
- The area under the porch is integral to the dwelling (roof over etc)
- The area alongside and in front needs further investigation
- Is this a raised access platform?
- Is this sufficiently complex to be appurtenant to dwelling?
- Whilst further investigation is needed, it appears this is a raised access platform appurtenant to dwelling and would likely be included.

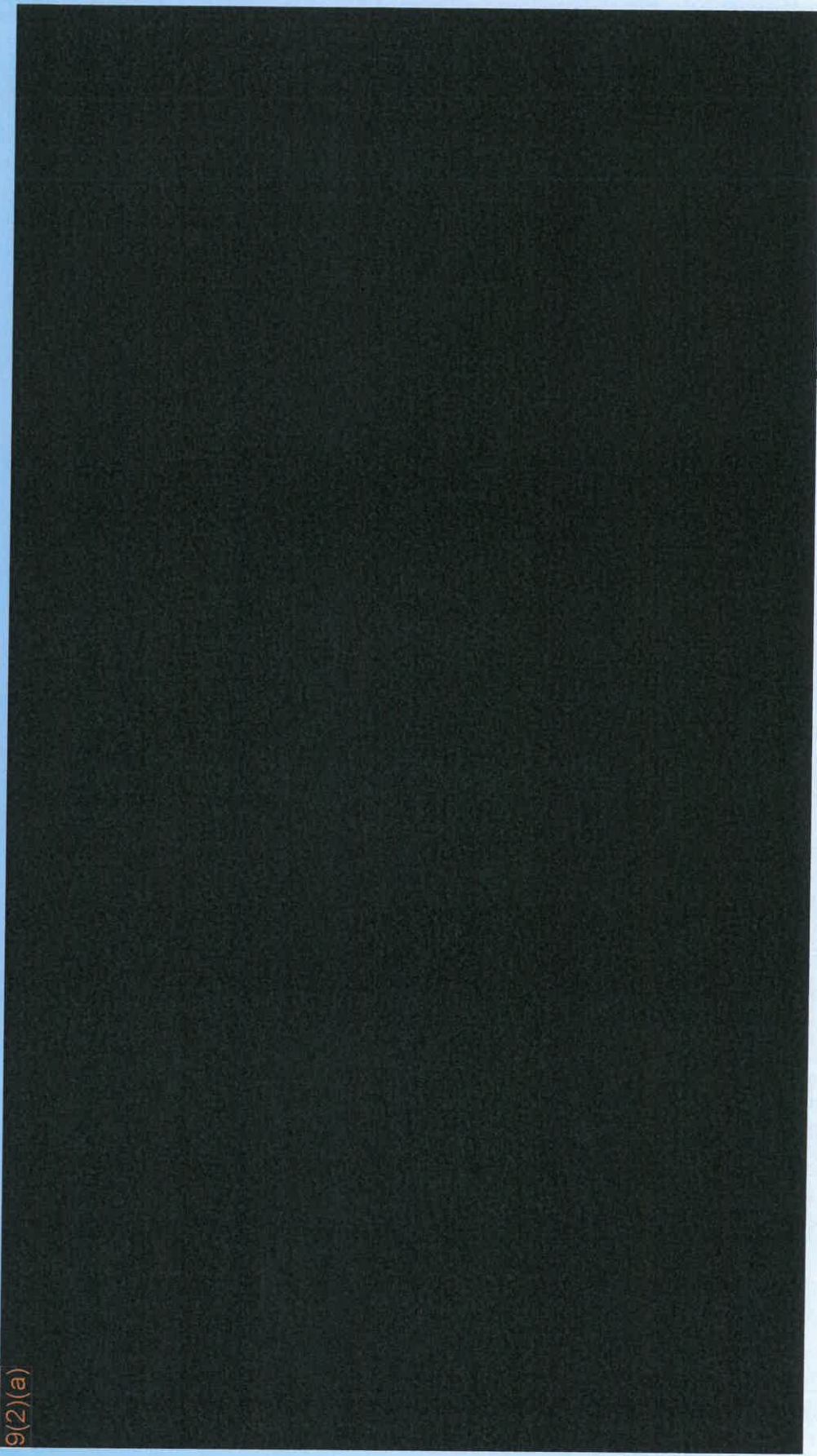
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- Artificial surface excluded (ground level surface – albeit timber)
- Roof under portico – part of dwelling – floor under included
- Not an access platform (ground level)
- Deck not integral - excluded

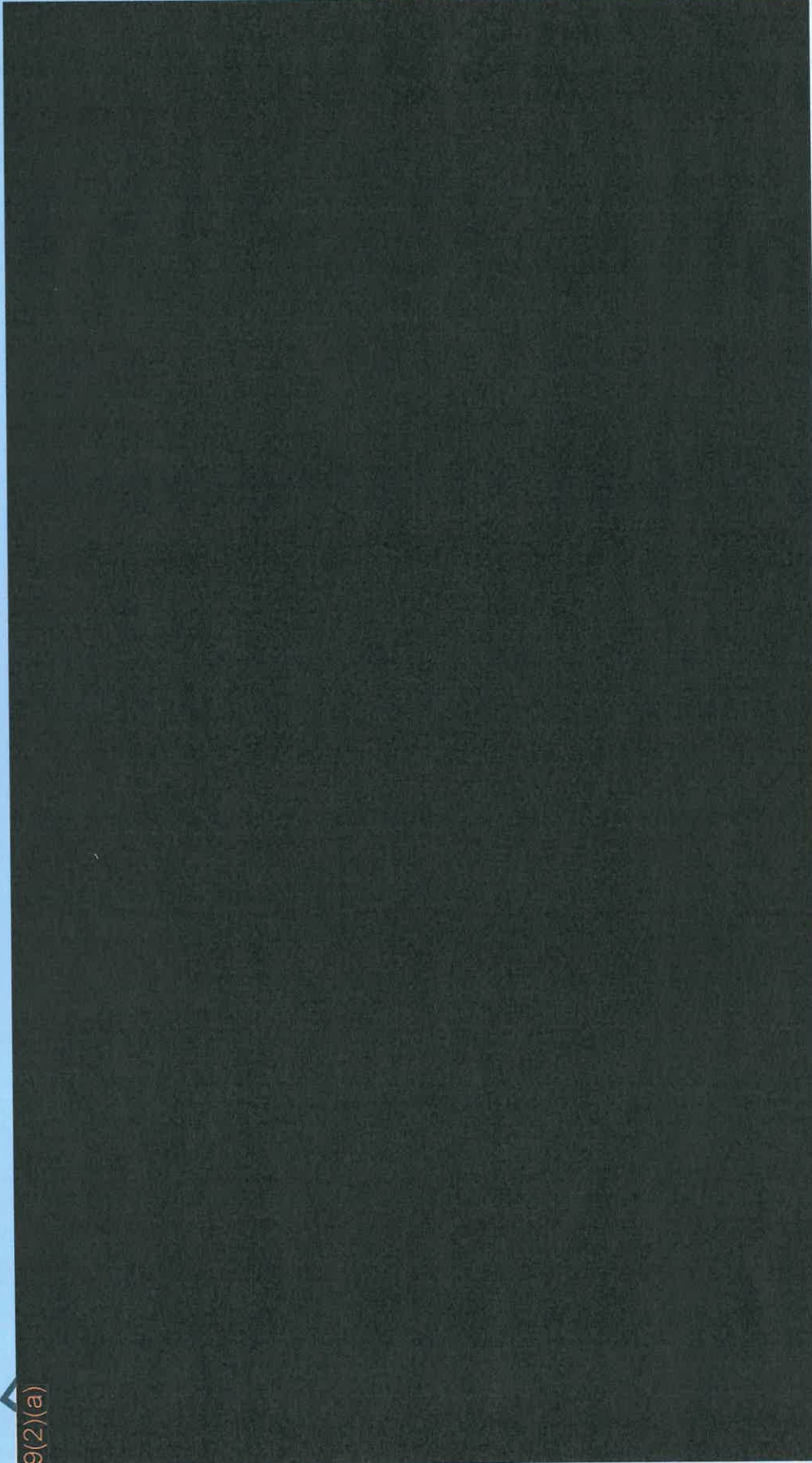


9(2)(a)



Act 1982

9(2)(a)



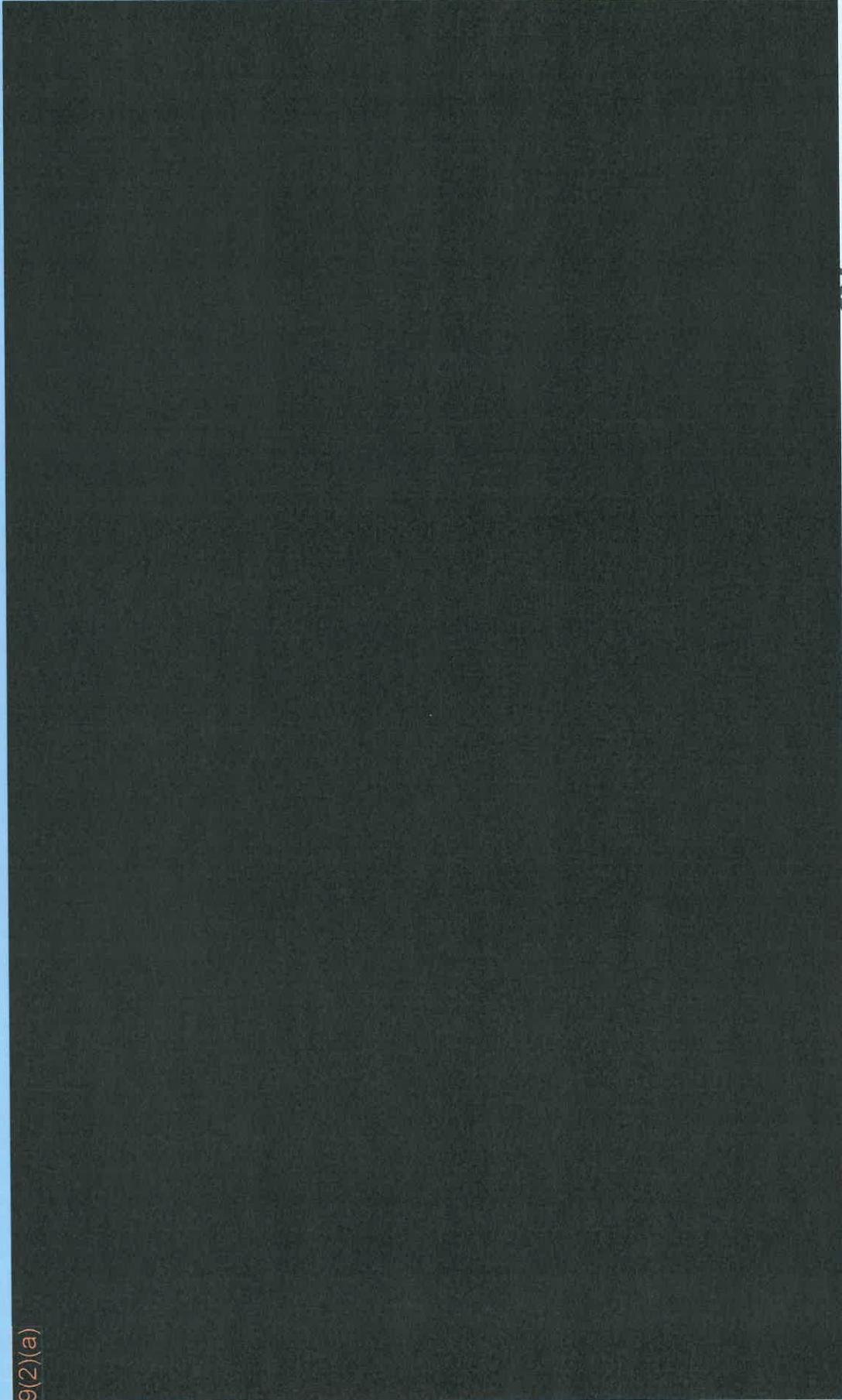
- Timber deck – not paving
- Integral to dwelling
- Access platform

Act 1982

9(2)(a)

Act 1982

9(2)(a)



- Access platform
- Integral
- Path excluded

Act 1982

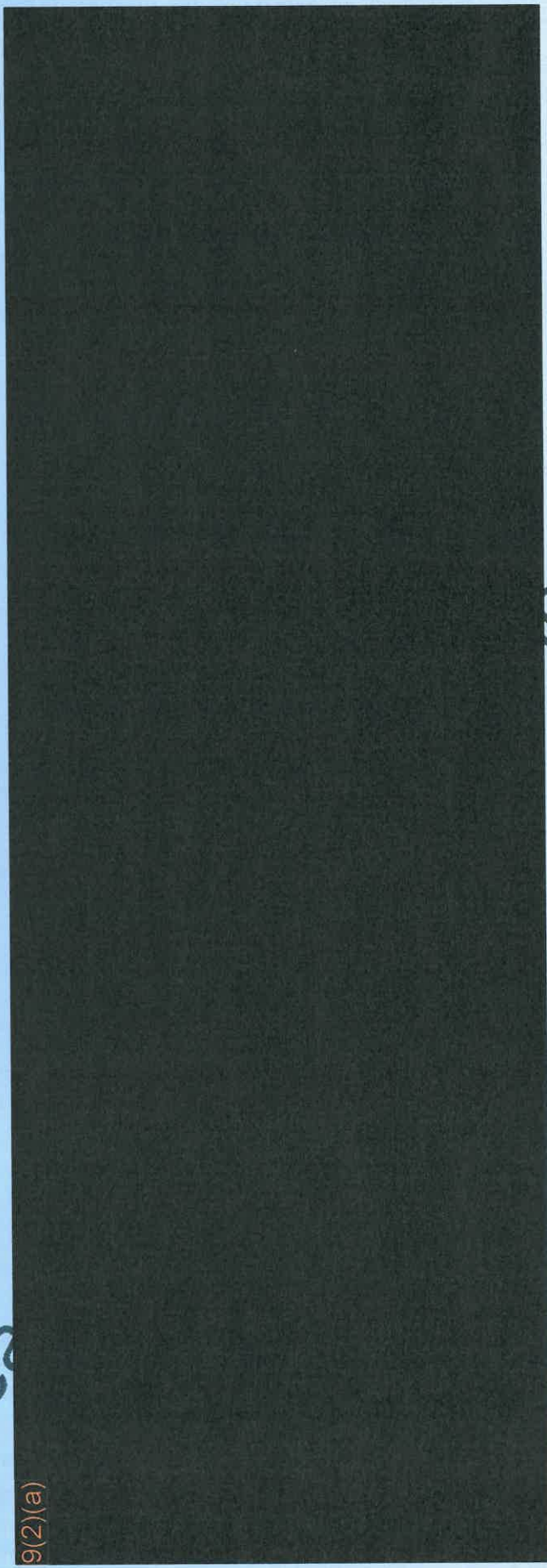
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9(2)(a)

Information Act 1982

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9(2)(a)



Information Act 1982

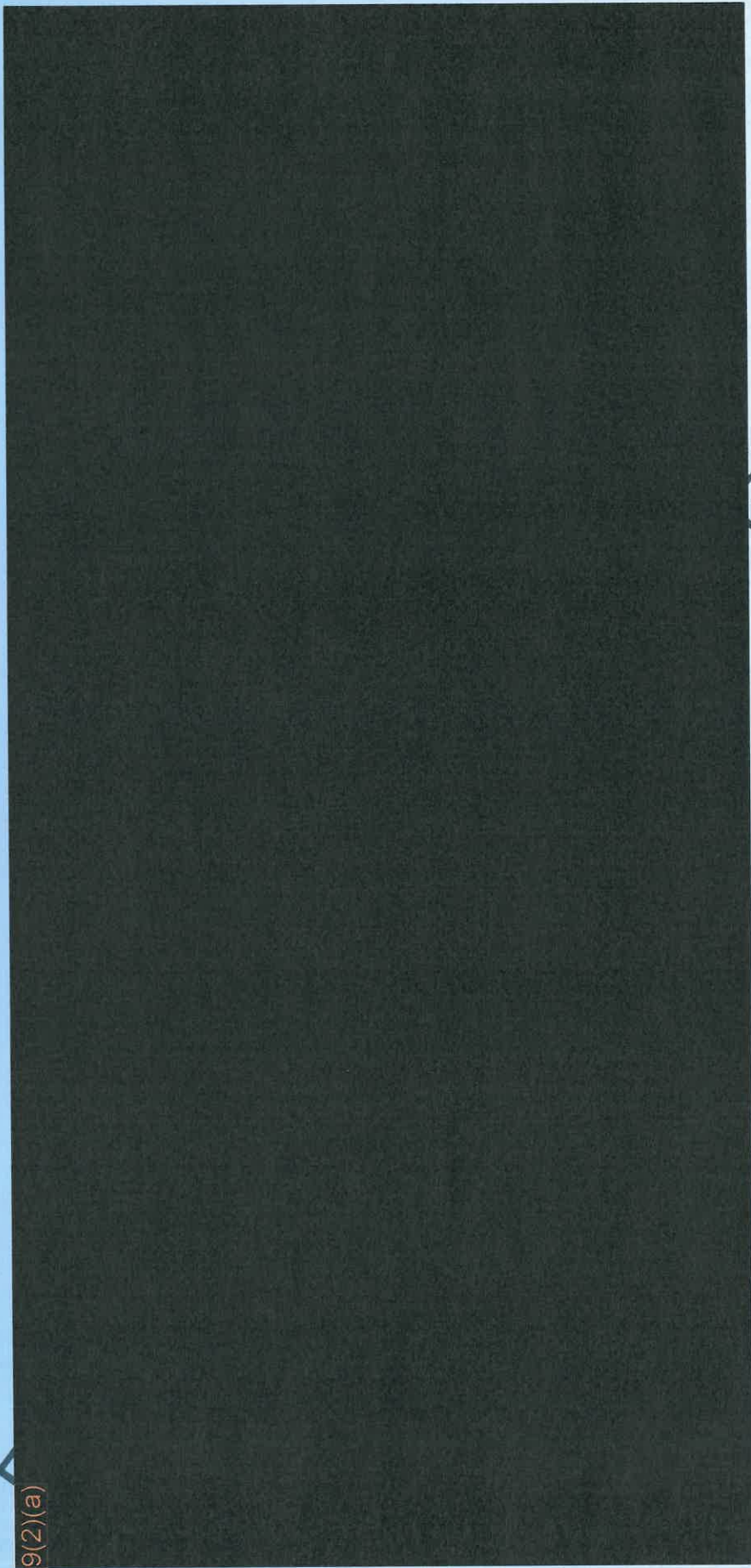
- Raised access platform
- Integral to dwelling

9(2)(a)

ation Act 1982



9(2)(a)



- Access platform

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Any questions???



