

<b>ORDINARY MEETING</b> <b>31 JULY 2015</b>	<b>5.2</b>
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REQUEST TO CHANGE CONDITIONS OF A MATERIAL CHANGE OF USE DEVELOPMENT APPROVAL AND RECONFIGURING A LOT BY LEASE AGREEMENT EXCEEDING 10 YEARS – 2827R, 2829R & 2831R CAPE TRIBULATION – BLOOMFIELD ROAD, DEGARRA

**Jenny Elphinstone, Senior Planning Officer: ROL 684/2015: (448541)**

<u>PROPOSAL:</u>	REQUEST TO CHANGE CONDITIONS OF A MATERIAL CHANGE OF USE DEVELOPMENT APPROVAL AND RECONFIGURING A LOT BY LEASE AGREEMENT EXCEEDING 10 YEARS
<u>APPLICANT:</u>	DEPARTMENT OF ABORIGINAL, TORRES STRAIT ISLANDER & MULTI-CULTURAL AFFAIRS PO BOX 5461 CAIRNS QLD 4870
<u>LOCATION OF SITE:</u>	2827R, 2829R & 2831R CAPE TRIBULATION – BLOOMFIELD ROAD, DEGARRA
<u>PROPERTY:</u>	PART OF LOT 10 ON RP903517
<u>LOCALITY:</u>	SETTLEMENT AREAS NORTH OF THE DAINTREE RIVER
<u>PLANNING AREA:</u>	RURAL
<u>PLANNING SCHEME:</u>	DOUGLAS SHIRE PLANNING SCHEME 2008
<u>REFERRAL AGENCIES:</u>	NIL
<u>NUMBER OF SUBMITTERS:</u>	NIL (TO ORIGINAL APPLICATION)
<u>STATUTORY ASSESSMENT DEADLINE:</u>	EXPIRED
<u>APPLICATION DATE:</u>	13 FEBRUARY 2015
<u>APPENDIX:</u>	<ol style="list-style-type: none"> <li>1. APPROVED PLAN(S) &amp; DOCUMENT(S)</li> <li>2. FNQROC DEVELOPMENT MANUAL STANDARD DRAWING S1105 REVISION C</li> <li>3. SUPPORTING INFORMATION TO PLANNING REPORT</li> <li>4. DEVELOPMENT PERMIT FOR AN OUTSTATION (TPC1136)</li> </ol>

## LOCALITY PLAN



## RECOMMENDATION

- A. That Council approves the request to change conditions of the Development Approval (TPC1136) for a Material Change of Use for an Out Station (9 houses) over land described as Lot 10 on RP903517 located at Cape Tribulation-Bloomfield Road, Degarra, as follows:

1. Condition 4.2 is amended as follows:

- 4.2 ~~One Access point is permitted directly to and from the Cape tribulation-Bloomfield Road to service the nine(9) proposed Dwelling Houses. This driveway is to be gravel sealed to prevent dust nuisance.~~

Access to the houses is to be via four (4) access easements to the nine (9) leasehold lots generally in accordance with Plan of Leases A, B, C, D, E, F, G, H & J and Proposed Easements K, L, M, & N on proposed Survey Plan 253214, as submitted to Council 15July 2015 (Map Sheets 2-5).

2. All other conditions of the Decision Notice dated 3 November 2004 remain applicable.
- B. That Council approves the development application for Reconfiguring a Lot (Lease agreement exceeding ten years) over land described as part of Lot 10 on RP903517 located at Cape Tribulation-Bloomfield Road, Degarra, subject to the following:

**APPROVED DRAWING(S) AND/OR DOCUMENT(S)**

The term 'approved drawing(s) and/or document(s)' or other similar expression means:

Drawing or Document	Reference	Date
Plan of Lots 10-23 Leases A, B, C, D, E, F, G, H & J and Proposed Easements K, L, M, & N	Proposed Survey Plan 253214, Plan of Leases A, B, C, D, E, F, G, H & J and Proposed Easements K, L, M, & N (Map Sheets 2-5)	As submitted to Council on 15 July 2015.

**Assessment Manager Conditions**

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:-
  - a. The specifications, facts and circumstances as set out in the application submitted to Council;
  - b. The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

Except where modified by these conditions of approval.

**Timing of Effect**

2. The conditions of the Development Permit must be effected prior to the issue of a Compliance Certificate for the Plan of Survey, except where specified otherwise in these conditions of approval.

**Access Construction**

3. Provide a concrete crossover(s) and apron(s) to each access easement in accordance with FNQROC Development Manual Standard Drawing S1105 Revision E.

All works must be carried out to the satisfaction of the Chief Executive Officer prior to the issue of a Compliance Certificate for the Plan of Survey.

**Access Easement/s**

4. Create reciprocal access easements to allow vehicle access to each leasehold lot in accordance with the approved drawings. The approved easement documents must be submitted at the same time as seeking approval and dating of the Plan of Survey and must be lodged and registered with the Department of Natural Resources and Mines in conjunction with the Plan of Survey.

## ADVICE

1. This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse (2) years from the day the approval takes effect in accordance with the provisions of Section 339 and Section 341 of the *Sustainable Planning Act 2009*.
2. This approval does not negate the requirement for compliance with all relevant Local Laws and statutory requirements.
3. The FNQROC Development Manual Standard Drawing S1105 Revision E is included in Appendix 2.
4. For information relating to the *Sustainable Planning Act 2009*, log on to [www.dip.qld.gov.au](http://www.dip.qld.gov.au). To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to [www.dsc.qld.gov.au](http://www.dsc.qld.gov.au).

## EXECUTIVE SUMMARY

The former Douglas Shire Council approved a Development Permit for an outstation, consisting of separate houses for indigenous residents on Lot 10. A condition of the approval limited access to these houses to a single point from Cape Tribulation – Bloomfield Road. The houses have been constructed and utilise numerous accesses. Request has been made to amend the approval to legitimise the existing access arrangement. No concern is raised with the request.

An application has also been lodged to reconfigure land by lease agreement on land at Lot 10 Cape Tribulation – Bloomfield Road, Degarra for a period exceeding 10 years. The proposal consists of nine leasehold lots reflecting the nine (9) houses that have been approved on the land. Eight (8) of these nine (9) houses have been constructed. The lease areas include easements for access to the Cape Tribulation – Bloomfield Road. The leases are for a period of 99 years. The report recommends the application be supported subject to conditions.

## **TOWN PLANNING CONSIDERATIONS:**

### **Background**

The site is described as Lot 10 on RP903517 and is situated on the Cape Tribulation – Bloomfield Road, just to the east of the Wujal Wujal township. The 53.8 hectare allotment is split by Cape Tribulation-Bloomfield Road. The northern side of the road is developed as sports fields. The southern side of the road has been developed as an Outstation, which presently consists of eight (8) of the nine (9) houses constructed in association with the Outstation approval. All houses are constructed close to the Cape Tribulation – Bloomfield Road frontage. Appendix 3 shows each of the constructed houses.

The original Development Permit (TPC1136) for the Outstation was issued, subject to conditions, on 3 November 2004 by the former Douglas Shire Council. Condition 4.2 of the Development Permit is as follows:

- “4.2 One access point is permitted directly to and from the Cape Tribulation-Bloomfield Road to service the proposed Dwelling Houses. This driveway is to be gravel sealed to prevent dust nuisance.”*

A copy of the approval is included in Appendix 4.

The dwelling houses that have been developed on the land are widely scattered along the frontage to Cape Tribulation-Bloomfield Road and accordingly this condition has proven to be impractical and has not been complied with.

## Proposal

The Applicant has requested that the condition 4.2 of Development Permit TPC1336 be amended to allow access to each dwelling house via four (4) separate access points.

Application has also been lodged, creating separate leases for the individual houses, and associated easements reflecting the four access points. Nine (9) leasehold lots are proposed, as per the layout plan in Appendix 1. The purpose this lot reconfiguration is to create ninety nine (99) year home ownership housing leases.

## Douglas Shire Planning Scheme Assessment

A lease for a term exceeding 10 years is defined as 'lot reconfiguration' under the definition contained in the *Sustainable Planning Act 2009*. As such the proposal is assessable development under the Planning Scheme.

Douglas Shire Settlement Areas North of the Daintree River Planning Locality		Code Applicability	Compliance
Locality	Settlement Areas North of the Daintree River	✓	Complies
Planning Area	Rural	✓	Complies
Defined Use	Reconfigure a Lot – leases > 10 years		
Overlay Codes	Acid Sulfate Soils Code	✗	n/a
	Cultural Heritage and Valuable Sites Code	✗	n/a
	Natural Hazards Code	✗	n/a
General Codes	Design and Siting of Advertising Devices Code	✗	n/a
	Filling and Excavation Code	✗	n/a
	Landscaping Code	✗	n/a
	Natural Areas and Scenic Amenity Code	✓	Complies
	Reconfiguring a Lot Code	✗	See comments below
	Vehicle Parking and Access Code	✗	n/a
	Sustainable Development Code	✗	n/a

## Compliance Issues

### Reconfiguring a lot code

The acceptable solution for lot reconfiguration in the Rural Planning area in the Settlement Areas North of the Daintree River Locality does not nominate a minimum lot size, but states the minimum area is:

*“as existing with no further reconfiguration”.*

Accordingly, the proposed leasehold subdivision is not in accordance with the acceptable solution. However the following circumstances apply to this particular lot:

- a. The land has already been developed for eight of the nine houses granted an approval under the original material change of use for an Outstation in 2004. The physical impact of the proposed development has essentially already occurred and the proposed leasehold subdivision merely formalises a land tenure arrangement for the existing development on the land. The proposed reconfiguration layout is consistent with the Planning Scheme Code purpose for the Reconfiguring of a Lot being, *“to ensure that ... lots are suitable for their intended purpose...”*; and
- b. The parent parcel will remain an un-subdivided lot of 53.8 hectares.

In ordinary circumstances, the long-term leasehold subdivision of lots of the size and quantity on rural land is undesirable. However given the locational circumstances (close to Wujal Wujal) and the presence of the existing dwellings, no planning concern is raised to this particular proposal on this occasion. It is also noted that the lot is part of the urban Footprint under the Far North Queensland Regional Plan.

### **Servicing**

Conditions of approval associated with TPC1136 provide for water supply and on-site sewerage effluent systems for waste disposal for each house. Electricity and telephone supply is provided to the site along with a bitumen road along the full frontage of the site.

It is recommended that standard driveway cross over aprons be constructed to each easement to minimise gravel washout onto Cape Tribulation- Bloomfield Road. A condition has been applied accordingly.

### **The ninth dwelling house**

Eight of the original nine dwelling houses have been completed. Proposed leasehold lot F will be the only vacant leasehold lot upon issuing a compliance certificate for a plan of survey for the lot reconfiguration. The applicant (Department of Aboriginal and Torres Strait Islander and Multicultural Affairs) has confirmed that any new dwelling house proposed for leasehold lot F can comply with the acceptable solutions in the relevant codes. There is no planning concern with respect to this particular leasehold lot as it has similar physical characteristics to the other dwelling houses, and is to be close to Cape Tribulation- Bloomfield Road and will share an access easement arrangement with proposed leasehold lot E.

### **Change to condition - Access easements**

It is proposed to combine access to individual groups of houses via access easements. This would appear to be the most practical way to achieve a limitation of vehicular access to Cape Tribulation-Bloomfield Road. Four access easements are proposed to each of the nine leasehold lots. The condition of the approval can be suitably amended to reflect this access arrangement.

### **ADOPTED INFRASTRUCTURE CHARGES**

The proposed development does not trigger Adopted Infrastructure Charges.

### **COUNCIL'S ROLE**

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

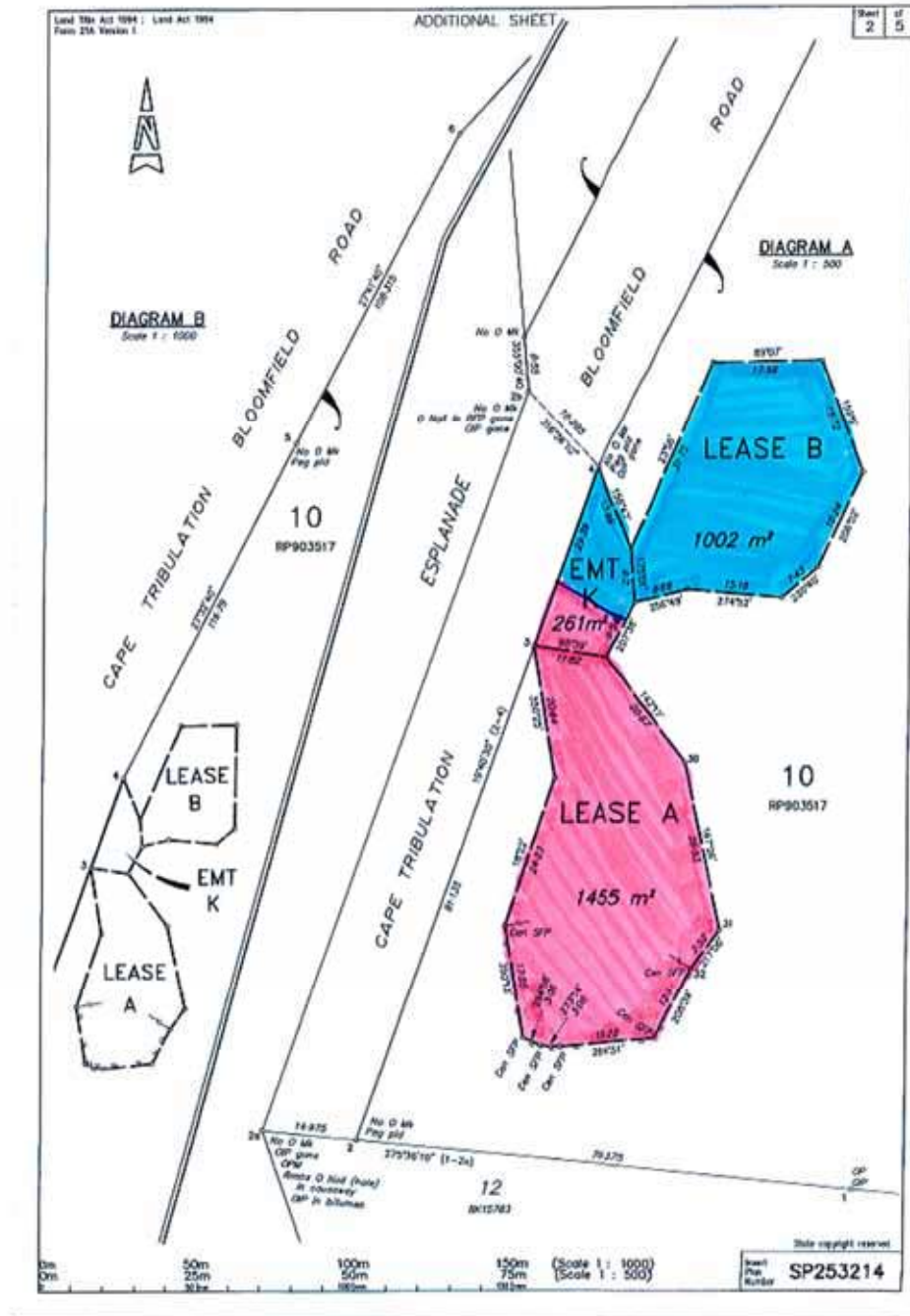
The following areas outline where Council has a clear responsibility to act:

**Regulator:** Meeting the responsibilities associated with regulating activities through legislation or local law.

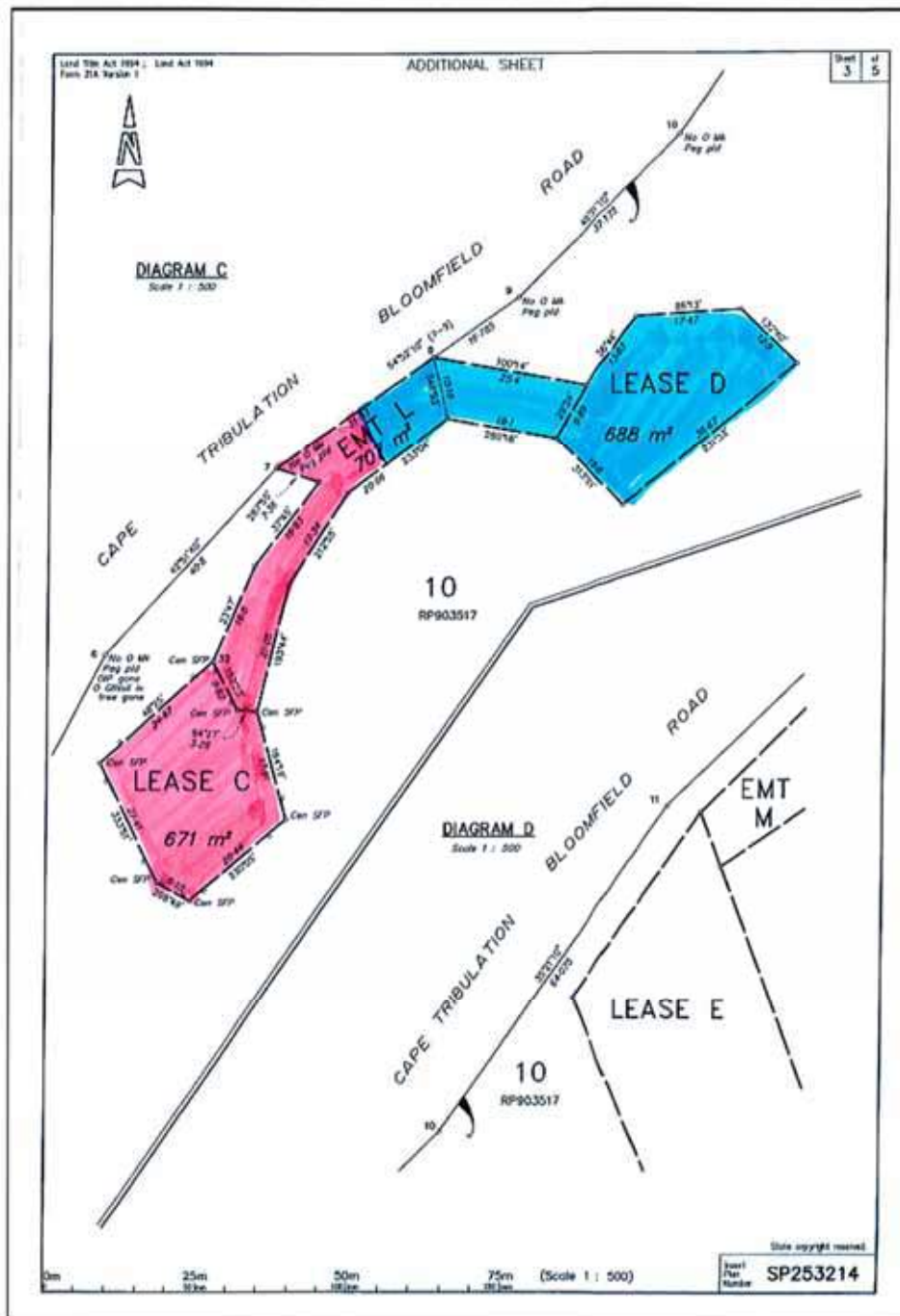
Under the *Sustainable Planning Act 2009* and the *Sustainable Planning Regulation 2009*, Council is the assessment manager for the application

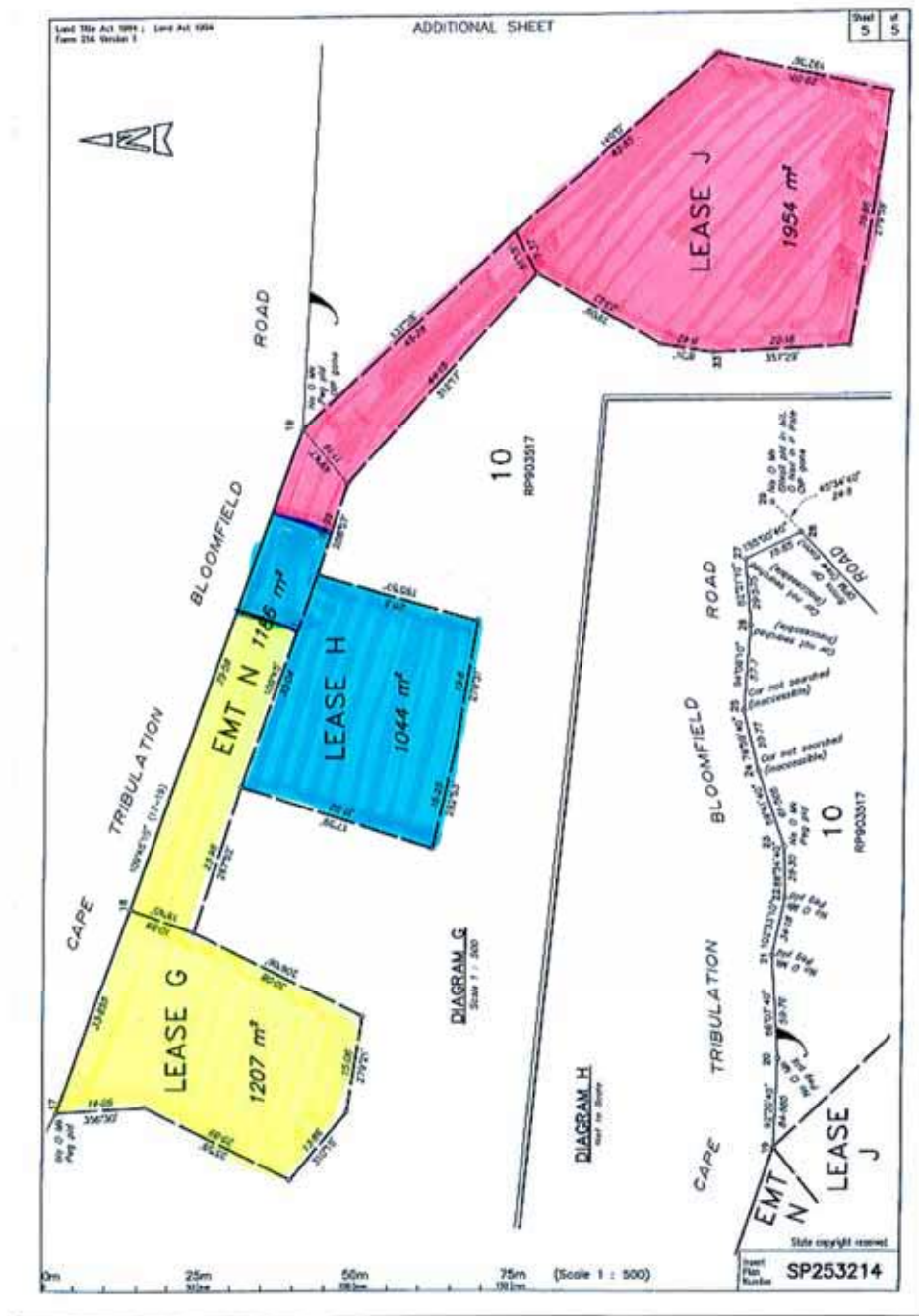


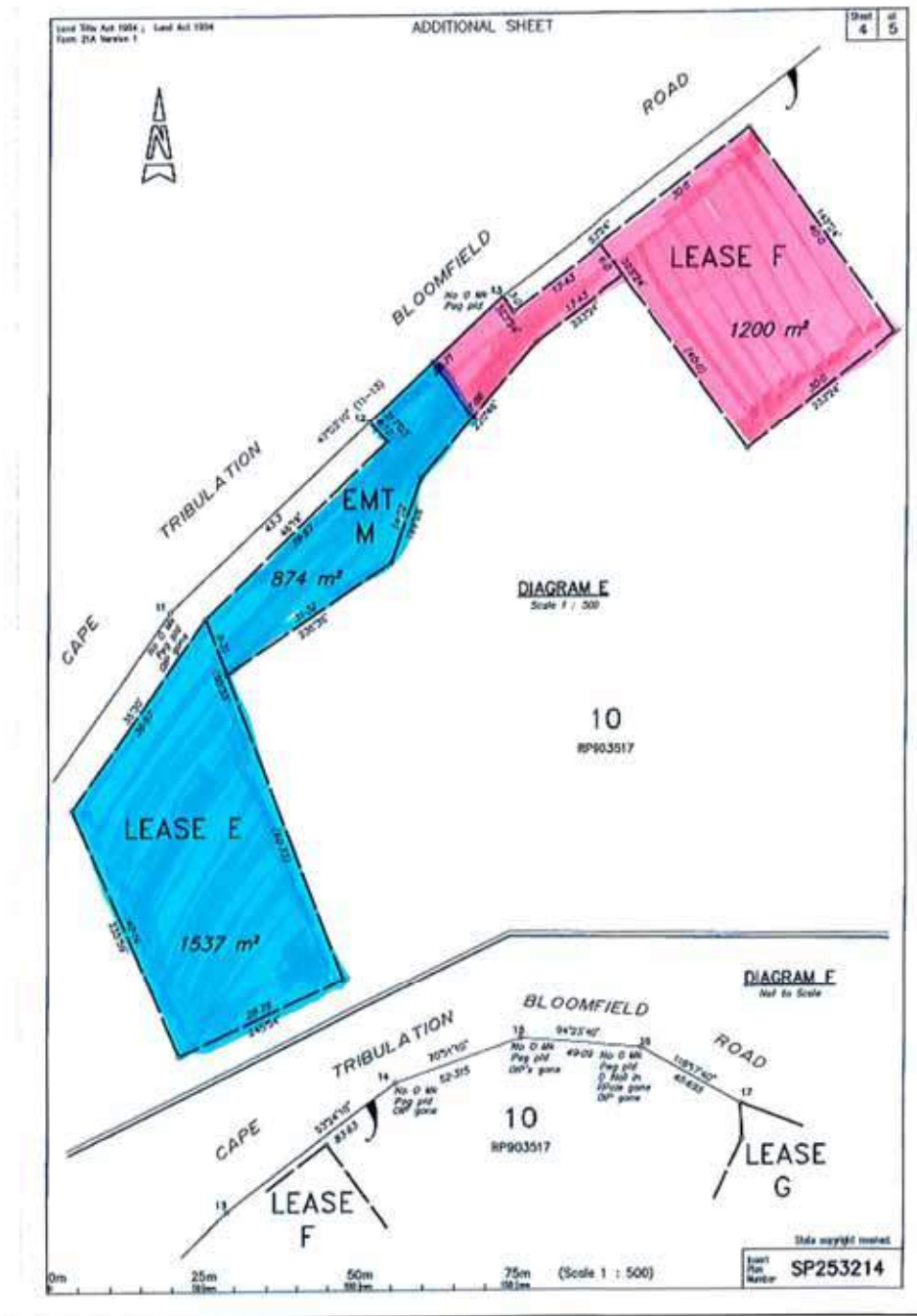
## APPENDIX 1: APPROVED PLAN(S) &amp; DOCUMENT(S)



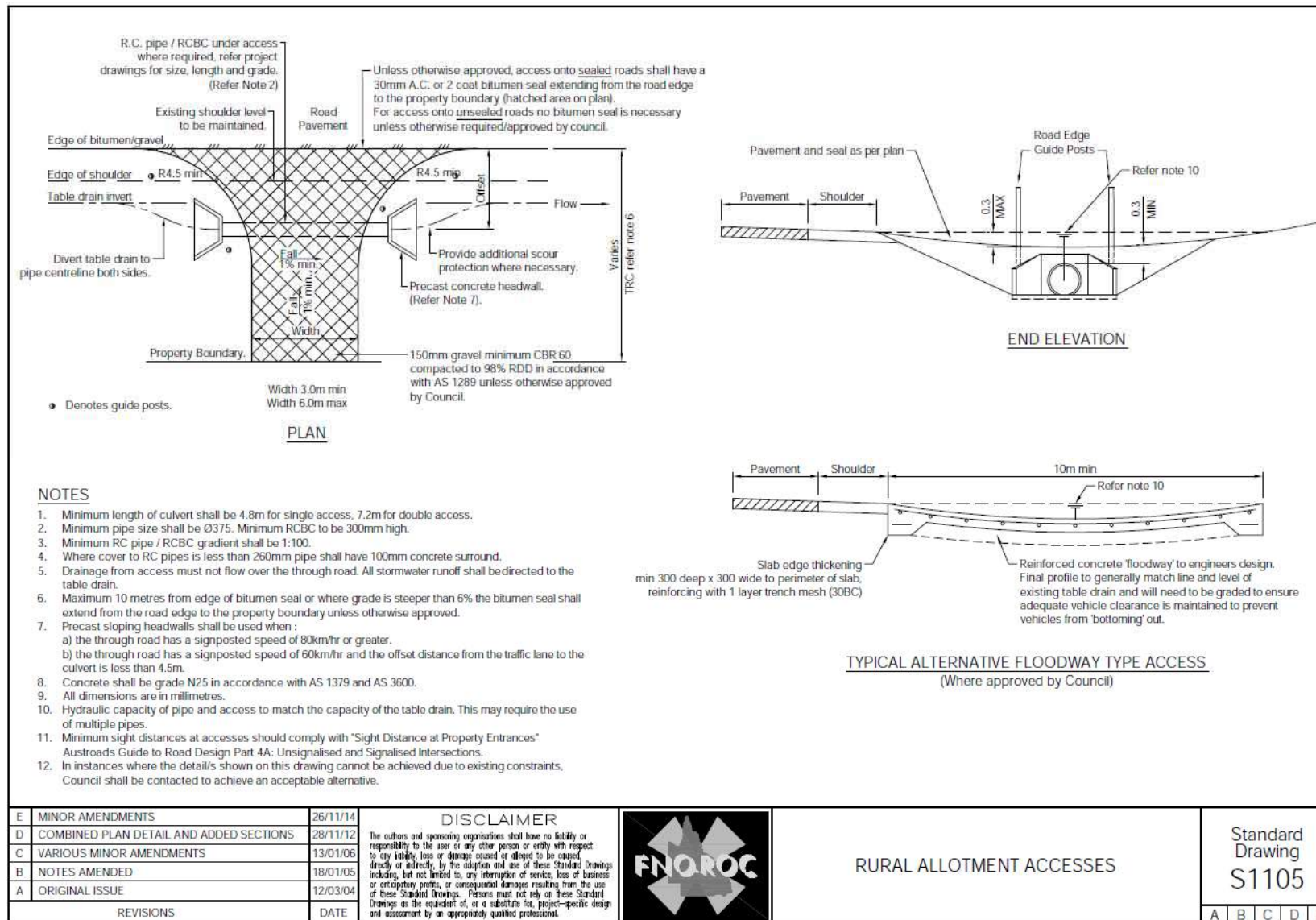








## APPENDIX 2 STANDARD DRAWING FOR RURAL AND LOW DENSITY RESIDENTIAL LOTS





**APPENDIX 3: SUPPORTING INFORMATION TO PLANNING REPORT****Aerial view of lots****Figure 1 Proposed access to lots**



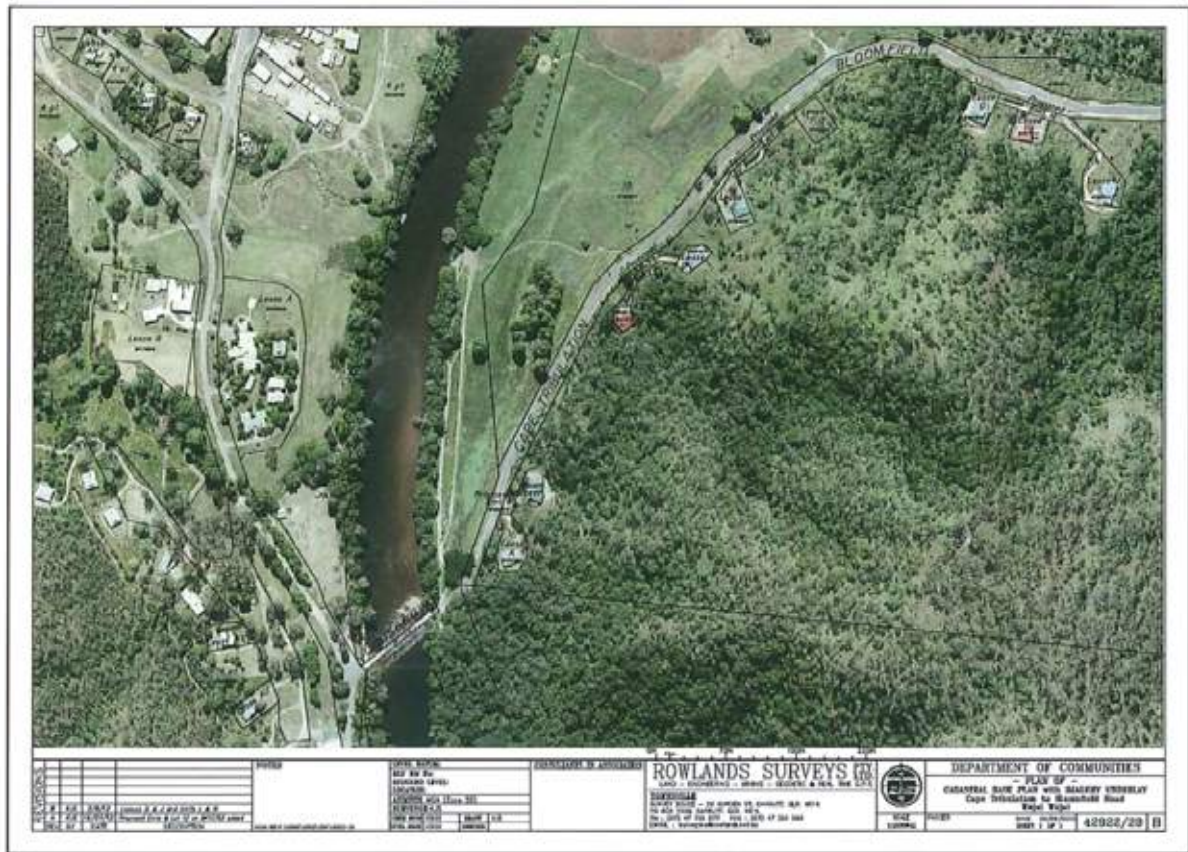


Figure 2 Aerial View of Lots with proposed Lot Reconfiguration boundaries



Figure 3 Lease A on SP253214 proposed lot Cape Tribulation Road Wujal Wujal





**Figure 4 Lease B on SP253214 proposed lot Cape Tribulation Road Wujal Wujal**

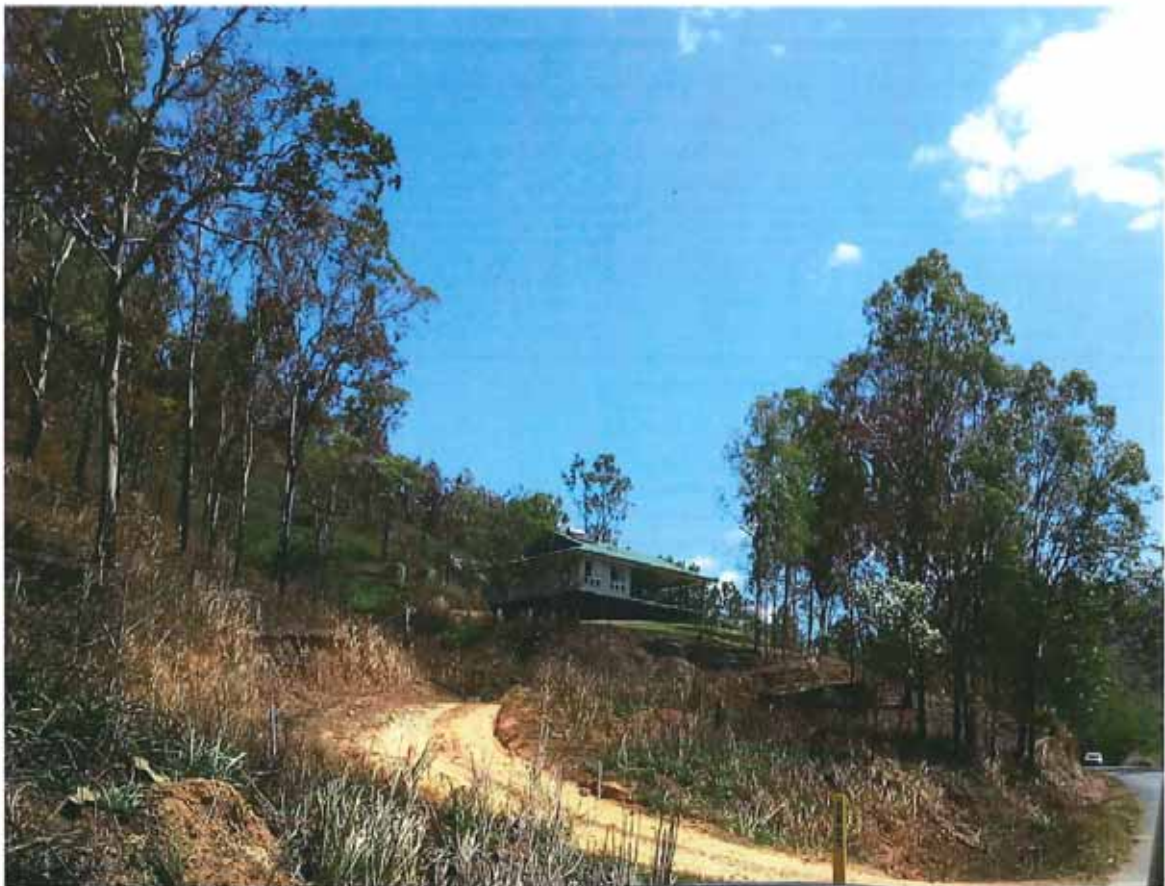


**Figure 5 Lease C on SP253214 proposed lot Cape Tribulation Road Wujal Wujal**





**Figure 6 Lease D on SP253214 proposed lot Cape Tribulation Road Wujal Wujal**



**Figure 7 Lease E on SP253214 proposed lot Cape Tribulation Road Wujal Wujal**





**Figure 8 Lease G on SP253214 proposed lot Cape Tribulation Road Wujal Wujal**



**Figure 9 Lease H on SP253214 proposed lot Cape Tribulation Road Wujal Wujal**



**Figure 10 Lease J on SP253214 proposed lot Cape Tribulation Road Wujal Wujal**



## APPENDIX 3: DEVELOPMENT PERMIT FOR AN OUTSTATION (TPC1136)



ENQUIRIES: Ms Vanessa Marina - Planning Officer  
 DEPARTMENT: Planning Services Section - ☎ (07) 4099 9450

OUR REF: VVM: tap  
 YOUR REF: TPC 1136

Wujal Wujal Aboriginal Corporation  
 C/- C & B Group  
 PO Box 1949  
 CAIRNS QLD 4870

3<sup>rd</sup> November 2004

# INTEGRATED PLANNING ACT DECISION NOTICE DEVELOPMENT APPLICATION

**Applicant's Name** : Wujal Wujal Aboriginal Corporation  
**Owner's Name** : Wujal Wujal Community Council  
**Proposal** : Council approves the application by the Wujal Wujal Aboriginal Corporation for a Material Change of Use Development Permit to construct an Out Station (9 Houses) on land described as Lot 10 on RP903517.  
**Application Number** : TPC 1136  
**Site Address** : Bloomfield River, Degarra  
**Property Description** : Lot 10 on RP903517, Parish of Tribulation, County of Solander

1. **Decision:** **Decision Date:** 12<sup>th</sup> October 2004

Approved subject to Conditions

2. **Type of Development Approval:**

Material Change of Use

Development Permit

.../2.

ADMINISTRATION CENTRE  
 (ALL DEPARTMENTS)  
 64-66 FRONT STREET MOSSMAN

PHONE (07) 4099 9444 FACSIMILE (07) 4099 2902  
 EMAIL [douglas@dsc.qld.gov.au](mailto:douglas@dsc.qld.gov.au)  
 INTERNET [www.dsc.qld.gov.au](http://www.dsc.qld.gov.au)

ALL COMMUNICATIONS TO BE  
 ADDRESSED TO:  
 THE CHIEF EXECUTIVE OFFICER  
 P.O. BOX 937  
 MOSSMAN QLD 4873

LIBRARY 13 MILL ST. MOSSMAN

PHONE (07) 4099 9496 FACSIMILE (07) 4099 3298

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**3. Referral Agency:**

Nil

**4. Conditions**

- 4.1 The approved development and the conduct of the approved use, the carrying out of any works on the premises and the construction of any buildings on the premises associated with the development must generally be in accordance with the approved plans of development attached to this Development Permit except where such plans are modified by the terms of this approval.
- 4.2 One access point is permitted directly to and from the Cape Tribulation-Bloomfield Road to service the nine (9) proposed Dwelling Houses. This driveway is to be gravel sealed to prevent dust nuisance.
- 4.3 The Cape Tribulation-Bloomfield Road is to be bitumen sealed to a minimum width of 6m along the full frontage of the site to the causeway across the Bloomfield River. This road construction is to be undertaken in accordance with the Far North Queensland Regional Organisation of Councils Engineering Development Manual. The applicant has three (3) years from the date of this Decision Notice to complete the required works in accordance with this condition.
- 4.4 Each Dwelling House is to be supplied with an on-site sewerage effluent system in accordance with the requirements of the "On-site Sewerage Code".
- 4.5 Prior to commencement of the approved use the applicant must provide Council with a report demonstrating that an adequate and suitable water supply is available by bore source or other alternative source to each proposed Dwelling House.
- 4.6 The telephone and electrical supply is to be provided to each Dwelling House prior to the use commencing.
- 4.7 This approval lapses after four (4) years unless either this use has substantially commenced or this Currency Period is extended under Section 3.5.22 of the *Integrated Planning Act 1997*.

**Advice**

- Douglas Shire Council is not responsible for future works associated with upgrading of the Bloomfield River causeway. However, Council supports any application by the Wujal Wujal Council to upgrade this Causeway to cater for significant flood events.
- It is the responsibility of the Wujal Wujal Council to maintain access for residents of the proposed development during times of flood when motor vehicle access is not possible between the subject site and the Wujal Community.

.../3.

-3-

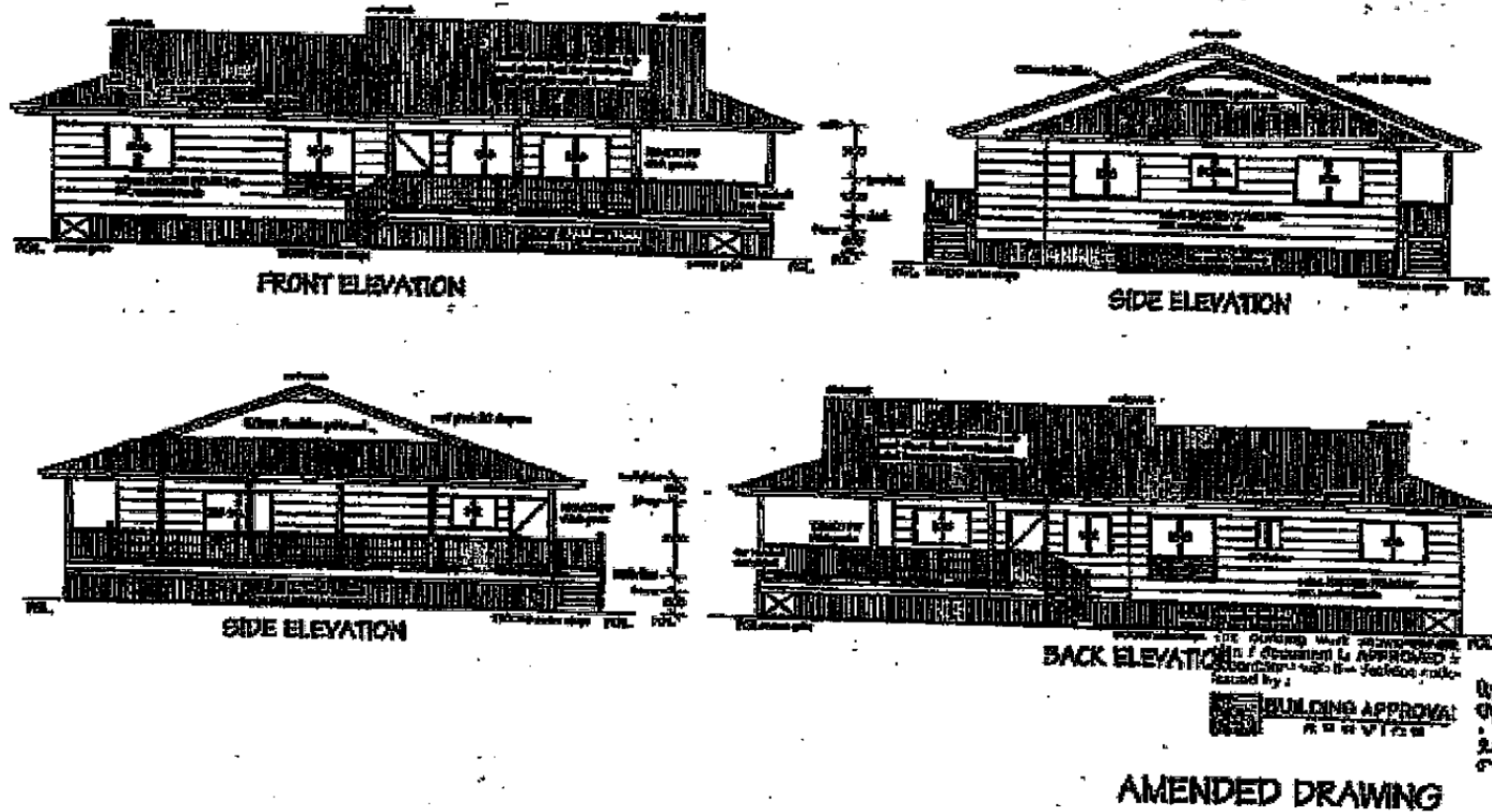
**5. Further Development Approvals Required:**

Building Work  
Plumbing & Drainage Permit

Development Permit  
Development Permit



Terry Melchert  
Chief Executive Officer



<b>PROPOSED RESIDENCE FOR WUJAL WUJAL ABORIGINAL COUNCIL AT LOT A CAPE TRIBULATION RD. WUJAL WUJAL WA COOKTOWN</b>	<p>Drawn: S. D. 10/01/01</p> <p>Project: 10/01/01</p> <p>Client: Wujal Wujal Aboriginal Council</p> <p>Address: Lot A Cape Tribulation Rd. Wujal Wujal WA</p> <p>Scale: 1:100</p> <p>Drawn: S. D. 10/01/01</p>	<p>HOUSE - 400/01</p> <p>PLAN NO. - 0001</p> <p>ELEVATIONS</p> <p>STREET NO. 1</p>	<p>APPROVED BY: S. D. 10/01/01</p> <p>DATE: 10/01/01</p> <p>BY: S. D. 10/01/01</p> <p>FOR: Wujal Wujal Aboriginal Council</p>
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**BUILDING APPROVAL**  
 建築許可

Ordinary Meeting 31 July 2015