

Our Ref: 25-10/001373
CRC Ref: ROL 2015_617/2 & OP 2019_3043
Date: 29 May 2025

Chief Executive Officer
Douglas Shire Council
PO Box 723
MOSSMAN QLD 4873

Via: Email

Dear Georgia,

RE: EXTENSION APPLICATION UNDER SECTION 86 OF THE PLANNING ACT 2016 IN RELATION TO PRELIMINARY APPROVAL TO OVERRIDE THE PLANNING SCHEME AND DEVELOPMENT PERMIT FOR RECONFIGURING A LOT (1 LOT INTO 19 LOTS) AND OPERATIONAL WORKS AT CRAWFORD STREET, MOSSMAN

We confirm that Planning Plus acts on behalf of NV & JS Pty Ltd (the landowner and applicant) in relation to the above-described matter. We note that this application is being made under Section 86 of the *Planning Act 2016* for an extension to the currency period of the above-described development approvals.

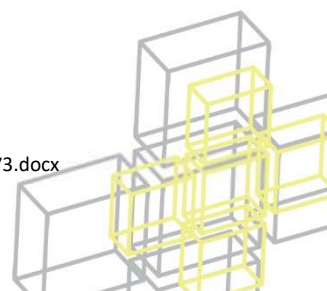
We request that Council issue an invoice for the relevant assessment fee.

1.0 BACKGROUND

The proposed development was originally approved by way of a Preliminary Approval to override the Planning Scheme and a Development Permit for Reconfiguring a Lot on 16 December 2015, with the approval formally taking effect on 14 March 2016 following the conclusion of the submitter appeal period. This original approval carried a four (4) year currency period and was later extended in 2019 to align with the Operational Works approval lapse date of 13 September 2023.

During the abovementioned currency period, Ministerial Extension Notices issued under Section 275R of the Planning Act 2016 in response to the COVID pandemic provided a further two (2) years currency to the approval, meaning the approval is currently valid until 13 September 2025. This Ministerial Extension also applied to the Operational Works approval which is also currently valid until 13 September 2025

2.0 PROPOSED EXTENSION & JUSTIFICATION



With the current approvals due to expire on 13 September 2025, the applicant hereby requests an extension of four (4) years, to 13 September 2029.

It is acknowledged that the approval has been afoot for a long period of time now with little action other than the acquisition of an Operational Works approval. The applicant's reasoning for this is that the market for new residential lots in Mossman is challenging given the high cost of delivery and low sales volume and price expectations, and particularly in light of the uncertainty which has plagued the town in relation to the closure of the Mossman Mill.

The trigger that is likely to allow the development to proceed is the finalisation of Ocean Breeze Estate at Cooya Beach. This nearby estate is almost completed now and once finished, is likely to result in some unmet demand for vacant lots in the area.

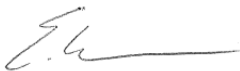
In addition to the above, we are not aware of any planning scheme changes or strategic decisions of Council which would render the proposed development inappropriate and warrant refusal of this request.

3.0 CONCLUSION

This submission supports an application by NV & JS Pty Ltd for an extension to existing Preliminary Approval and Development Permit for Reconfiguring a Lot 2015_617/2 and Development Permit for Operational Works OP 2019_3043 at Crawford Street, Mossman.

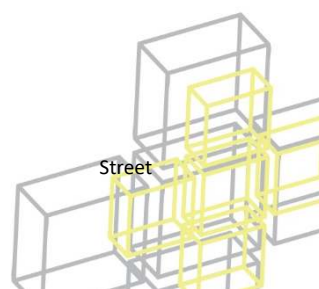
We trust this information is sufficient for your purposes, however should you require any further details or clarification please do not hesitate to contact the undersigned.

Yours Faithfully



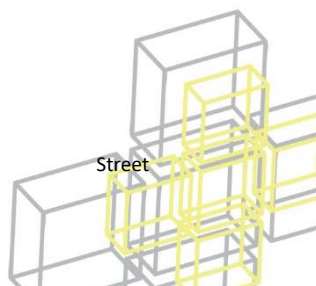
Evan Yelavich
Director/Planner
Planning Plus QLD Pty Ltd

enc: **Annexure 1: Existing Decision Notices**



Annexure 1

Existing Decision Notices



9 December 2019

Enquiries: Neil Beck
Our Ref: ROL 2015_617/2 (932186)
Your Ref:

Administration Office
64 - 66 Front St Mossman
P 07 4099 9444
F 07 4098 2902

NV & JS Pty Ltd
C/- Planning Plus Pty Ltd
PO Box 399
REDLYNCH QLD 4870

Dear Sir

**Development Application for Request for Extension (1 Lot into 19 Lots)
At 12 Crawford Street MOSSMAN
On Land Described as LOT: 12 SP: 252360**

In accordance with Section 87 of the *Planning Act* 2016, please be advised that Council has extended the currency period, up to and including 13 September 2023 which aligns with the currency period for the Operational Works approval issued in September 2019.

Please quote Council's application number: ROL 2015_617/2 in all subsequent correspondence relating to this development approval.

Should you require any clarification regarding this, please contact Neil Beck on telephone 07 4099 9451.

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

Att - Rights of Appeal

Extracts from the Planning Act 2016 - Making Representations During Applicant's Appeal Period

Planning Act 2016
Chapter 3 Development assessment
[s 74]

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

74 What this subdivision is about

- (1) This subdivision is about changing a development approval before the applicant's appeal period for the approval ends.
- (2) This subdivision also applies to an approval of a change application, other than a change application for a minor change to a development approval.
- (3) For subsection (2), sections 75 and 76 apply—
 - (a) as if a reference in section 75 to a development approval were a reference to an approval of a change application; and
 - (b) as if a reference in the sections to the assessment manager were a reference to the responsible entity; and
 - (c) as if a reference in section 76 to a development application were a reference to a change application; and
 - (d) as if the reference in section 76(3)(b) to section 63(2) and (3) were a reference to section 83(4); and
 - (e) with any other necessary changes.

75 Making change representations

- (1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
 - (a) a matter in the development approval, other than—
 - (i) a matter stated because of a referral agency's response; or

- (ii) a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
- (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- (3) Only 1 notice may be given.
- (4) If a notice is given, the appeal period is suspended—
 - (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
 - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
 - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
 - (ii) the applicant receives notice that the assessment manager does not agree with the change representations; or
 - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

76 Deciding change representations

- (1) The assessment manager must assess the change representations against and having regard to the matters that

- must be considered when assessing a development application, to the extent those matters are relevant.
- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
- (a) the applicant; and
 - (b) if the assessment manager agrees with any of the change representations—
 - (i) each principal submitter; and
 - (ii) each referral agency; and
 - (iii) if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
 - (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
 - (v) another person prescribed by regulation.
- (3) A decision notice (a ***negotiated decision notice***) that states the assessment manager agrees with a change representation must—
- (a) state the nature of the change agreed to; and
 - (b) comply with section 63(2) and (3).
- (4) A negotiated decision notice replaces the decision notice for the development application.
- (5) Only 1 negotiated decision notice may be given.
- (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.
- (3) In this section—
 - conduct* means an act or omission.
 - representative* means—
 - (a) of a corporation—an executive officer, employee or agent of the corporation; or
 - (b) of an individual—an employee or agent of the individual.
 - state of mind*, of a person, includes the person's—
 - (a) knowledge, intention, opinion, belief or purpose; and
 - (b) reasons for the intention, opinion, belief or purpose.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and

- (iii) who is a co-respondent in an appeal of the matter;
and
 - (iv) who may elect to be a co-respondent in an appeal
of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The ***appeal period*** is—
- (a) for an appeal by a building advisory agency—10
business days after a decision notice for the decision is
given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time
after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under
chapter 7, part 4, to register premises or to renew the
registration of premises—20 business days after a notice
is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—
20 business days after the infrastructure charges notice
is given to the person; or
 - (e) for an appeal about a deemed approval of a development
application for which a decision notice has not been
given—30 business days after the applicant gives the
deemed approval notice to the assessment manager; or
 - (f) for an appeal relating to the *Plumbing and Drainage Act
2018*—
 - (i) for an appeal against an enforcement notice given
because of a belief mentioned in the *Plumbing and
Drainage Act 2018*, section 143(2)(a)(i), (b) or
(c)—5 business days after the day the notice is
given; or
 - (ii) for an appeal against a decision of a local
government or an inspector to give an action notice
under the *Plumbing and Drainage Act 2018*—5
business days after the notice is given; or

- (iii) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—

-
- (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
- decision** includes—
- (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise,

whether by the Supreme Court, another court, any tribunal or another entity; and

- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

Part 2 Development tribunal

Division 1 General

233 Appointment of referees

- (1) The Minister, or chief executive, (the *appointer*) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—
 - (a) has the qualifications or experience prescribed by regulation; and
 - (b) has demonstrated an ability—
 - (i) to negotiate and mediate outcomes between parties to a proceeding; and
 - (ii) to apply the principles of natural justice; and
 - (iii) to analyse complex technical issues; and
 - (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.

Administration Office

64 - 66 Front St Mossman

P 07 4099 9444

F 07 4098 2902

9 December 2019

Enquiries: Neil Beck
Our Ref: ROL 2015_617 (932186)
Your Ref:

NV & JS Pty Ltd
C/- Planning Plus Pty Ltd
PO Box 399
REDLYNCH QLD 4870

Dear Sir

**Amended Adopted Infrastructure Charge Notice
For Development Application Request for Extension (1 Lot into 19 Lots)
At 12 Crawford Street MOSSMAN
On Land Described as LOT: 12 SP: 252360**

Please find attached an Amended Adopted Infrastructure Charges Notice issued in accordance with section 119 of the *Planning Act 2016* as a consequence of the request to extend the currency period of the approval.

The amount in the Adopted Infrastructure Charges Notice has been calculated according to Council's Adopted Infrastructure Charges Resolution.

Please also find attached extracts from the Act regarding the following:

- your right to make representations to Council about the Adopted Infrastructure Charges Notice; and
- your Appeal rights with respect to the Adopted Infrastructure Charges Notice.

Please quote Council's application number: ROL 2015_617 in all subsequent correspondence relating to this matter.

Should you require any clarification regarding this, please contact Neil Beck on telephone 07 4099 9444.

Yours faithfully




For
Paul Hoyer
Manager Environment & Planning

encl.

- Adopted Infrastructure Charges Notice
- Rights to Make Representations and Appeals Regarding Infrastructure Charges

Adopted Infrastructure Charges Notice

		2018 Douglas Shire Planning Scheme version 1.0 Applications	
ADOPTED INFRASTRUCTURE CHARGES NOTICE			

NV & JS Pty Ltd <small>DEVELOPERS NAME</small>		0 <small>ESTATE NAME</small>	0 <small>STAGE</small>
12 Crawford Street <small>STREET No. & NAME</small>	Mossman <small>SUBURB</small>	L12 on SP252360 <small>LOT & RP No.s</small>	157651 <small>PARCEL No.</small>
ROL 19 lots <small>DEVELOPMENT TYPE</small>	Doc ID: 932228 <small>DSC Reference Doc. No.</small>	ROL 2015_617 <small>COUNCIL FILE NO.</small>	13/09/2023 <small>VALIDITY PERIOD (year)</small>
1 <small>VERSION No.</small>		Payment prior to lodgment of survey plan for endorsement	

Adopted Charges as resolved by Council at the Ordinary Meeting held on 5 June 2018, Local Government Infrastructure Plan, Planning Scheme Amendment (effect on and from 2 July 2018)

Locality	Charge per Use	rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
Mossman						
Proposed Demand						
Residential Lots	Separate house	Per House lot	23,382.00	19	444,258.00	
Total Demand					444,258.00	
Existing Credit						
Residential Lot	Vacant Lot	Per House lot	23,382.00	1	23,382.00	
Total Credit					23,382.00	
					Code 895 GL 07500.0135.0825	

Required Payment or Credit	TOTAL	\$420,876.00
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Prepared by	Neil Beck	3-Dec-19	Amount Paid	
Checked by	Dan Lamond	3-Dec-19	Date Paid	
Date Payable	Prior to endorsement of survey plan			
Amendments				
			Receipt No.	
			Cashier	

Note:
 The Infrastructure Charges in this Notice are payable in accordance with Sections 119 and 120 of the *Planning Act 2016* as from Council's resolution from the Ordinary Meeting held on 5 June 2018.

Charge rates under the current Policy are not currently subject to indexing.
 Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

Charges are payable to: Douglas Shire Council. You can make payment at any of Council's Business Offices or by mail with your cheque or money order to Douglas Shire Council, PO Box 723, Mossman QLD 4873. Cheques must be made payable to Douglas Shire Council and marked 'Not Negotiable.' Acceptance of a cheque is subject to collection of the proceeds. Post dated cheques will not be accepted

Any enquiries regarding Infrastructure Charges can be directed to the Development & Environment, Douglas Shire Council on 07 4099 9444 or by email on enquiries@douglas.qld.gov.au

Subdivision 5 Changing charges during relevant appeal period

124 Application of this subdivision

This subdivision applies to the recipient of an infrastructure charges notice given by a local government.

125 Representations about infrastructure charges notice

- (1) During the appeal period for the infrastructure charges notice, the recipient may make representations to the local government about the infrastructure charges notice.
- (2) The local government must consider the representations.
- (3) If the local government—
 - (a) agrees with a representation; and
 - (b) decides to change the infrastructure charges notice;the local government must, within 10 business days after making the decision, give a new infrastructure charges notice (a *negotiated notice*) to the recipient.
- (4) The local government may give only 1 negotiated notice.
- (5) A negotiated notice—
 - (a) must be in the same form as the infrastructure charges notice; and
 - (b) must state the nature of the changes; and
 - (c) replaces the infrastructure charges notice.
- (6) If the local government does not agree with any of the representations, the local government must, within 10 business days after making the decision, give a decision notice about the decision to the recipient.
- (7) The appeal period for the infrastructure charges notice starts again when the local government gives the decision notice to the recipient.

126 Suspending relevant appeal period

- (1) If the recipient needs more time to make representations, the recipient may give a notice suspending the relevant appeal period to the local government.
- (2) The recipient may give only 1 notice.
- (3) If the representations are not made within 20 business days after the notice is given, the balance of the relevant appeal period restarts.
- (4) If representations are made within the 20 business days and the recipient gives the local government a notice withdrawing the notice of suspension, the balance of the relevant appeal period restarts the day after the local government receives the notice of withdrawal.

Division 3 Development approval conditions about trunk infrastructure

Subdivision 1 Conditions for necessary trunk infrastructure

127 Application and operation of subdivision

- (1) This subdivision applies if—
 - (a) trunk infrastructure—
 - (i) has not been provided; or
 - (ii) has been provided but is not adequate; and
 - (b) the trunk infrastructure is or will be located on—
 - (i) premises (the *subject premises*) that are the subject of a development application, whether or not the infrastructure is necessary to service the subject premises; or
 - (ii) other premises, but is necessary to service the subject premises.

Extracts from the Planning Act 2016 –Appeal Rights

Planning Act 2016
Chapter 6 Dispute resolution

[s 229]

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.
- (3) In this section—
 - conduct* means an act or omission.
 - representative* means—
 - (a) of a corporation—an executive officer, employee or agent of the corporation; or
 - (b) of an individual—an employee or agent of the individual.
 - state of mind*, of a person, includes the person's—
 - (a) knowledge, intention, opinion, belief or purpose; and
 - (b) reasons for the intention, opinion, belief or purpose.

Chapter 6 Dispute resolution

Part 1 Appeal rights

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- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and

- (iii) who is a co-respondent in an appeal of the matter;
and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
- (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or

- (iii) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—

- (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
- decision** includes—
- (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise,

whether by the Supreme Court, another court, any tribunal or another entity; and

- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

Part 2 Development tribunal

Division 1 General

233 Appointment of referees

- (1) The Minister, or chief executive, (the *appointer*) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—
 - (a) has the qualifications or experience prescribed by regulation; and
 - (b) has demonstrated an ability—
 - (i) to negotiate and mediate outcomes between parties to a proceeding; and
 - (ii) to apply the principles of natural justice; and
 - (iii) to analyse complex technical issues; and
 - (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.

13 September 2019

Enquiries: Neil Beck
Our Ref: OP 2019_3043 (915524)
Your Ref: K-2578

Administration Office
64 - 66 Front St Mossman
P 07 4099 9444
F 07 4098 2902

NV & JS Pty Ltd
C/- KFB Engineers
PO Box 927
CAIRNS QLD 4870

Email: info@nathanverri.com

Dear Sir

**Development Application for Operational Works
At 12 Crawford Street Mossman
On Land Described as LOT: 12 SP: 252360**

Please find attached the Decision Notice for the above-mentioned development application.

Please quote Council's application number: OP2019_3043 in all subsequent correspondence relating to this development application.

Also find attached a 'Pre-Start' meeting template, which identifies the information that must be provided for Council approval, prior to the commencement of works.

The template also provides the Consulting Engineer with a format for conducting the meeting. An invitation to attend the meeting must be sent to Council's representative Neil Beck on telephone number 07 4099 9451, giving at least five (5) working days notification if possible.

In addition to the Decision Notice, Council provides the following 'Advice Statement' which relates to issues that are relevant to the proposed works:

1. The design of lighting will be subject to separate agreement and must be submitted to Council, prior to the commencement of associated works; and
2. The Consulting Engineer is to present all contractors with a copy of this Decision Notice and the Council approved plans, prior to the commencement of works.

Should you require any clarification regarding this, please contact Neil Beck on telephone 07 4099 9451.

Yours faithfully



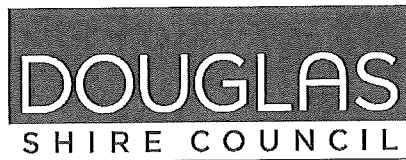
Paul Hoyer
Manager Environment & Planning

encl.

- Decision Notice including:-
 - Approved Drawing(s) and/or Document(s)
 - Standard Conditions
- Advice For Making Representations and Appeals (Decision Notice)

Att

Copy To: Manager Infrastructure – Michael Kriedemann
Manager Water & Waste – Peter Tonkes
Co-ordinator Civil Works – Pieter Kleinhans
Co-ordinator Open Spaces – Peter Logan



Decision Notice

Operational Works

Given under section 63 of the Planning Act 2016

Applicant Details

Name: NV & JS Pty Ltd
Postal Address: C/- KFB Engineers
PO Box 927
CAIRNS QLD 4870
Email: or info@nathanverri.com

Property Details

Street Address: 12 Crawford Street MOSSMAN
Real Property Description: LOT: 12 SP: 252360
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Operational Works associated with the reconfiguration of land.

Decision

Date of Decision: 13 September 2019
Decision Details: Approved subject to conditions

Approved Drawing(s) and/or Document(s)

Copies of the following plans, specifications and/or drawings are enclosed.

Drawing No.	Title	Revision
K-2578-C00	LOCALITY PLAN AND DRAWING INDEX	D
K-2578-C01	MISCELANEOUS SECTIONS & DETAILS	F

K-2578-C02	EARTHWORKS	E
K-2578-C03	ROAD WORKS & STORMWATER DRAINAGE LAYOUT	E
K-2578-C04	ROAD LONGITUDINAL SECTIONS	E
K-2578-C05	ROAD CROSS SECTIONS SHEET 1	D
K-2578-C06	ROAD CROSS SECTIONS SHEET 2	C
K-2578-C07	INTERSECTION DETAILS	D
K-2578-C08	INTERNAL STORMWATER DRAINAGE CATCHMENT PLAN	E
K-2578-C09	EXTERNAL STORMWATER DRAINAGE CATCHMENT PLAN	C
K-2578-C10	STORMWATER DRAINAGE LONGITUDINAL SECTIONS	E
K-2578-C11	STORMWATER DRAINAGE CALCULATIONS	D
K-2578-C12	SEWER RETICULATION LAYOUT	G
K-2578-C13	SEWER LONGITUDINAL SECTIONS	D
K-2578-C14	WATER SUPPLY LAYOUT	D
K-2578-C16	SEWER PUMP STATION & RISING MAIN DETAILS	B

Note – The approved plans above will require amending to satisfy conditions of this Development Permit.

EROSION AND SEDIMENT CONTROL DRAWINGS

The following drawings must form the basis of the contractor's Erosion and Sediment Control Plan in accordance with the *FNQROC Development Manual*, Clause CP1.06.

Drawing Description	No	Rev
EROSION AND SEDIMENT CONTROL PLAN	K-2578-C15	D

Assessment Manager Conditions & Advices

Earthworks

1. Prior to the pre-start meeting evidence of landowner permission to undertake works in their property must be provided to Council, including where drainage works are required downstream from Crawford Street.
2. Prior to placement of fill in the park area, the extent of works adjacent Parker Creek is to be pegged on site and a joint inspection arranged with Council officers. The offset from the bank at will be confirmed based on the site set out and Council Officers may require additional information or amendments to the fill batter location if vegetation clearing is excessive or if the downslope batter stability is not satisfactory.

Council notes that additional batter protection works and outlet protection may be required in this location noting the park directs runoff down this batter face.

3. The vegetation line along Parker Creek is to be shown on the engineering drawings to confirm practical access is maintained behind the lots for maintenance vehicles. Alternatively, the rear of lot pegs are to be in place and the corridor inspected at the prestart meeting to confirm the access. Council reserve the right to require changes to the rear lot boundaries or the fill extents to achieve the practical access.

Roadworks

4. Amended drawings are to be submitted prior to the prestart meeting showing the road regraded to achieve the minimum longitudinal gradient of 0.5%. The minimum road surface levels may be lowered with reference to the lower flood level of 8.35m AHD as agreed. Note the application of the lower flood level is for the roads only.
5. Amended drawings are to be provided showing the profile and transitions on the verge where the verge grading is varied to direct on-road runoff into drainage corridors. It is understood this will include at kerb inlet pits 2/4 at pit 8/1 unless other design changes from the road regrading change the current overland flow outlet locations.

Stormwater

6. The drawings are to be amended to include a note advising that the minimum floor level must be above RL 8.9m AHD to achieve the 300mm freeboard to the advised flood level.
7. The cross road culvert from line 4/4 to 1/4 is to be amended to provide for 2/1500mm x 600mm box culverts. The amended drawings must show the drain batter transitions at the inlet and outlet to the increased drainage crossing. Unless otherwise approved, angled inlet grates are to be provided on the upstream headwall for the cross culvert. The above infrastructure is to be provided at no cost to Council.
8. The outlet drain from the Mossman State High School into Parker Creek is to be pegged on site prior to construction and a joint inspection arranged with Council officers. The extent of bank disturbance will be confirmed based on the site set out and Council Officers may require additional information and amendments to the outlet location if vegetation clearing is excessive or if the outlet location is not appropriate.

Council notes that additional outlet protection works may be required subject to the final alignment and levels and will be assessed on site once the drain is completed.

9. The drawings are to be amended to include a note identifying that a 300mm high bund may be required along the rear of lots 10 to 19 within the development site. The final extent of the bund will be confirmed with the applicants engineer and Council on site once the drainage patterns in the adjacent school site are clearly identified on site, and freeboard to the new lots is demonstrated.

Sewer Pump Station

10. Amended drawings are to be provided showing the separate lot for the sewage pump station and access road with the lot to be transferred to Council as freehold title.
11. Prior to the prestart meeting, the applicant is to provide design drawings, pump specification and electrical drawings (including SCADA) for the proposed packaged pump station. The drawing must be approved by Council prior to construction.

Supporting information to be provided with the pump station is as set out in FNQROC AP1.27, in particular:

- a. air valve and scour valve locations
- b. Thrust block calculation where required;
- c. Rising main hydraulic grade line;
- d. System resistance and pump curves showing static and friction head and duty points;
- e. Calculations supporting the provision of wet well storage;
- f. Calculations showing that flotation forces are counteracted for all buried or partially buried structures;
- g. Structural calculations where necessary for the pump well and associated works;
- h. Calculations supporting the hydraulic design of emergency relief structures.
- i. Provide additional information on the pump station overflow (i.e. overflow chamber invert level, pipe diameter, Parker Creek flooding backflow prevention method etc.).
- j. Amend the longitudinal section of the rising main to achieve the minimum grades.

Further Development Permits

Not applicable

Concurrence Agency Response

None Applicable

Currency Period for the Approval

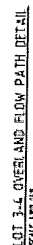
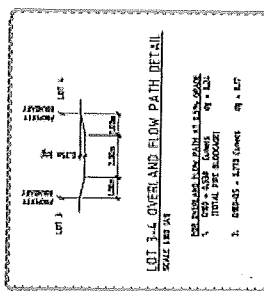
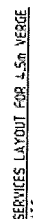
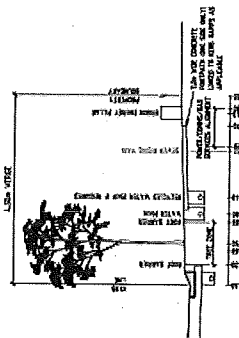
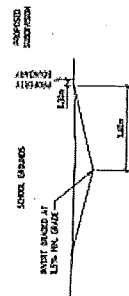
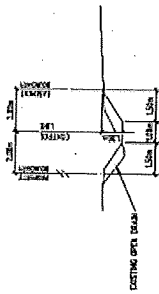
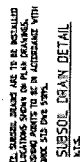
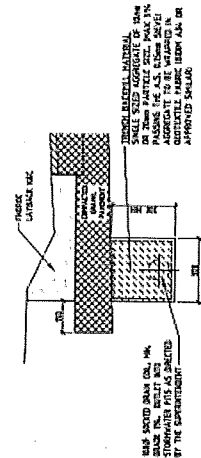
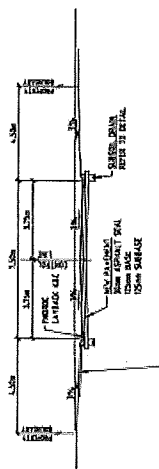
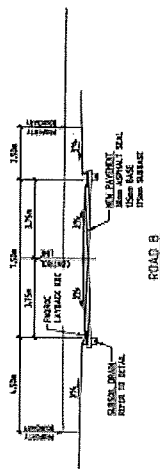
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse four years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Please note that the future request to extend the Currency Period for the ROL approval should align with the lapsing date of this Operational Works approval.

Rights to make Representations & Rights of Appeal

The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

A copy of the relevant appeal provisions are attached.



PAYMENT NOTES

- [illegible]

[illegible]

N.V. & J.S. Pty Ltd
PROPOSED SUBDIVISION
AT CRAWFORD STREET, MOSSMAN

Miscellaneous Sections and Details



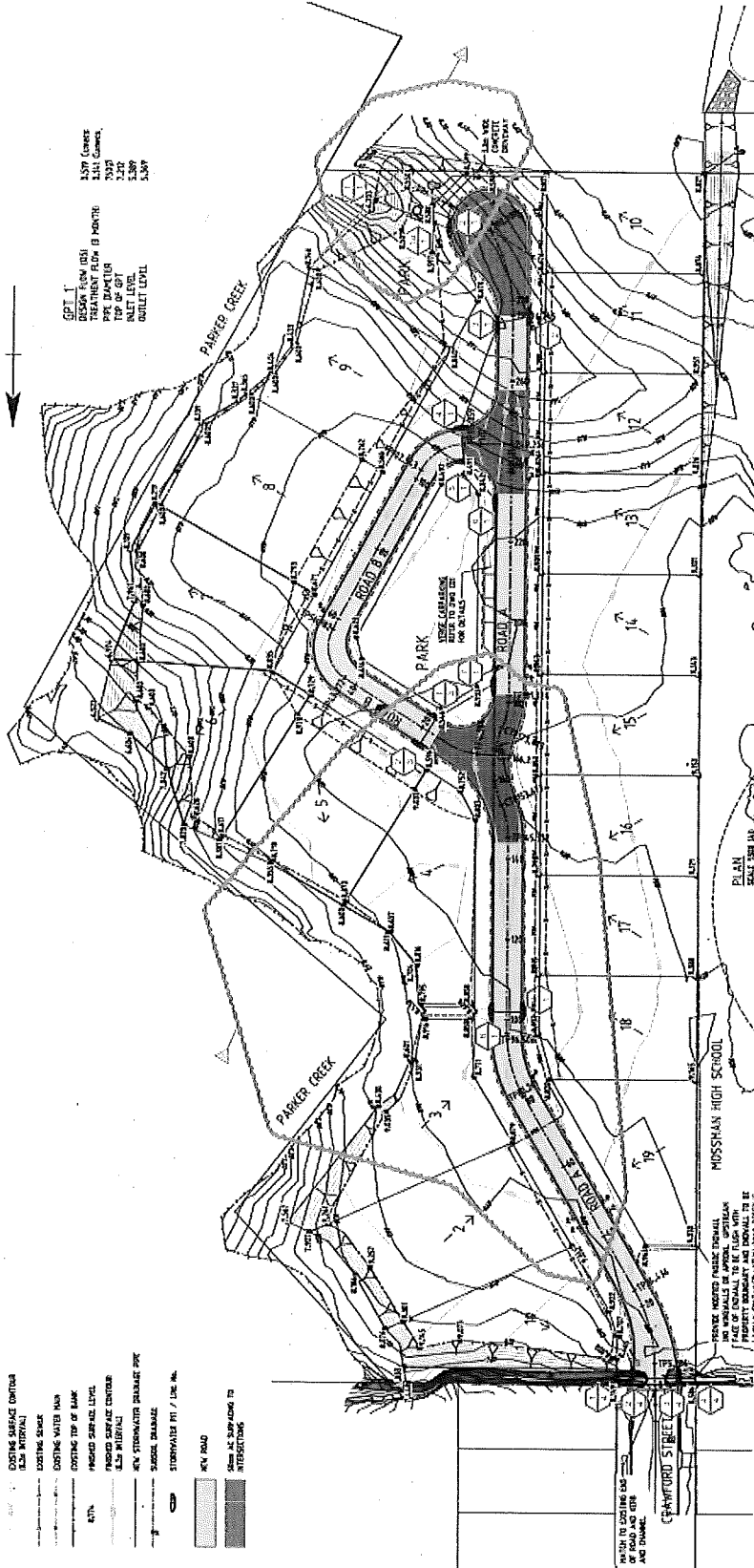
KFB ENGINEERS

Giri & Sengupta

Accession	K-2578
Source	CO: F
Source title	

LEGEND

- EXISTING SURFACE DRAINAGE
- NEW SURFACE DRAINAGE
- EXISTING WATER MAIN
- PROPOSED WATER MAIN
- PROPOSED SURFACE LEVEL
- PROPOSED SURFACE CENTERLINE
- NEW STORMWATER DRAINAGE PIPE
- STORMWATER PIT / LINE NO.
- NEW ROAD
- ROAD AT EXISTING TO INTERSECTION



NOTES

- ALL UTILITIES SHALL BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE CURRENT ISSUE OF THE MANUAL OF ENGINEERING RECORDS AND STANDARDS FOR THE STATE OF NEW SOUTH WALES.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES.
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GENERAL NOTES

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AS CONSTRUCTION INFORMATION

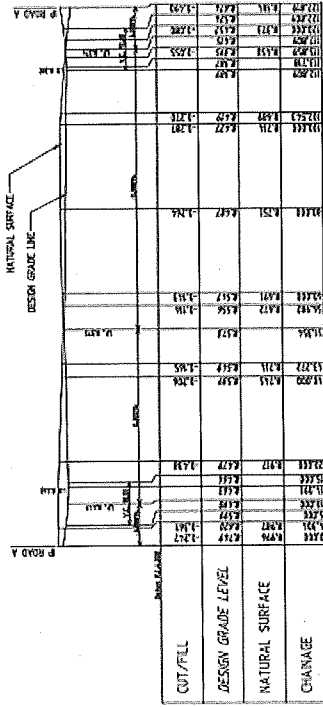
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NO.	REVISION	DATE	BY	CHECKED BY	APPROVED BY
1	ISSUED FOR TENDERS	10/10/2019	J.S. MOSSMAN		
2	ISSUED FOR CONSTRUCTION	10/10/2019	J.S. MOSSMAN		
3	ISSUED FOR CONSTRUCTION	10/10/2019	J.S. MOSSMAN		
4	ISSUED FOR CONSTRUCTION	10/10/2019	J.S. MOSSMAN		
5	ISSUED FOR CONSTRUCTION	10/10/2019	J.S. MOSSMAN		

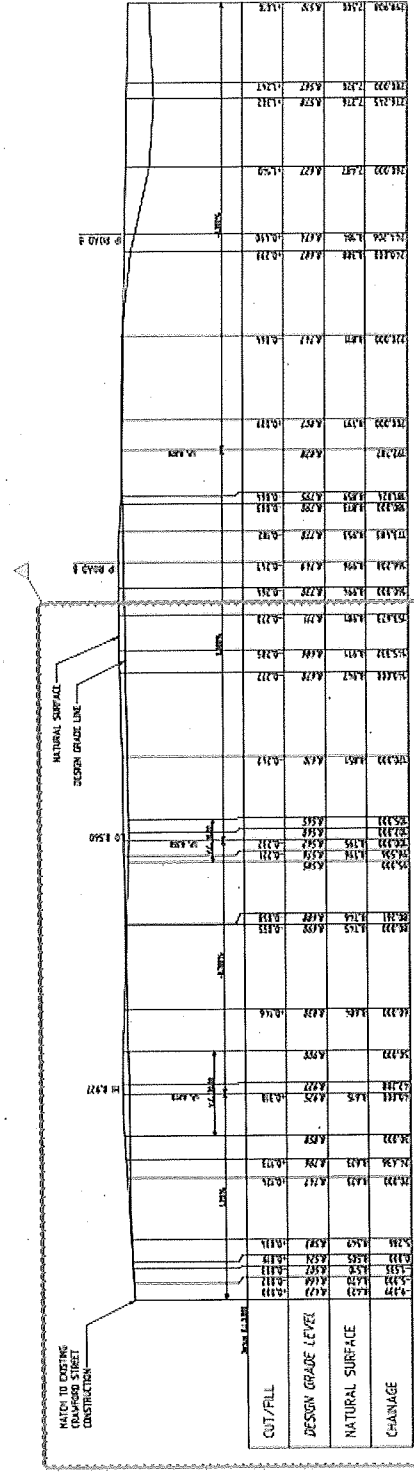
N.V. & J.S. Pty Ltd
PROPOSED SUBDIVISION
AT CRAWFORD STREET, MOSSMAN

KPS ENGINEERS
Civil & Structural
10/10/2019

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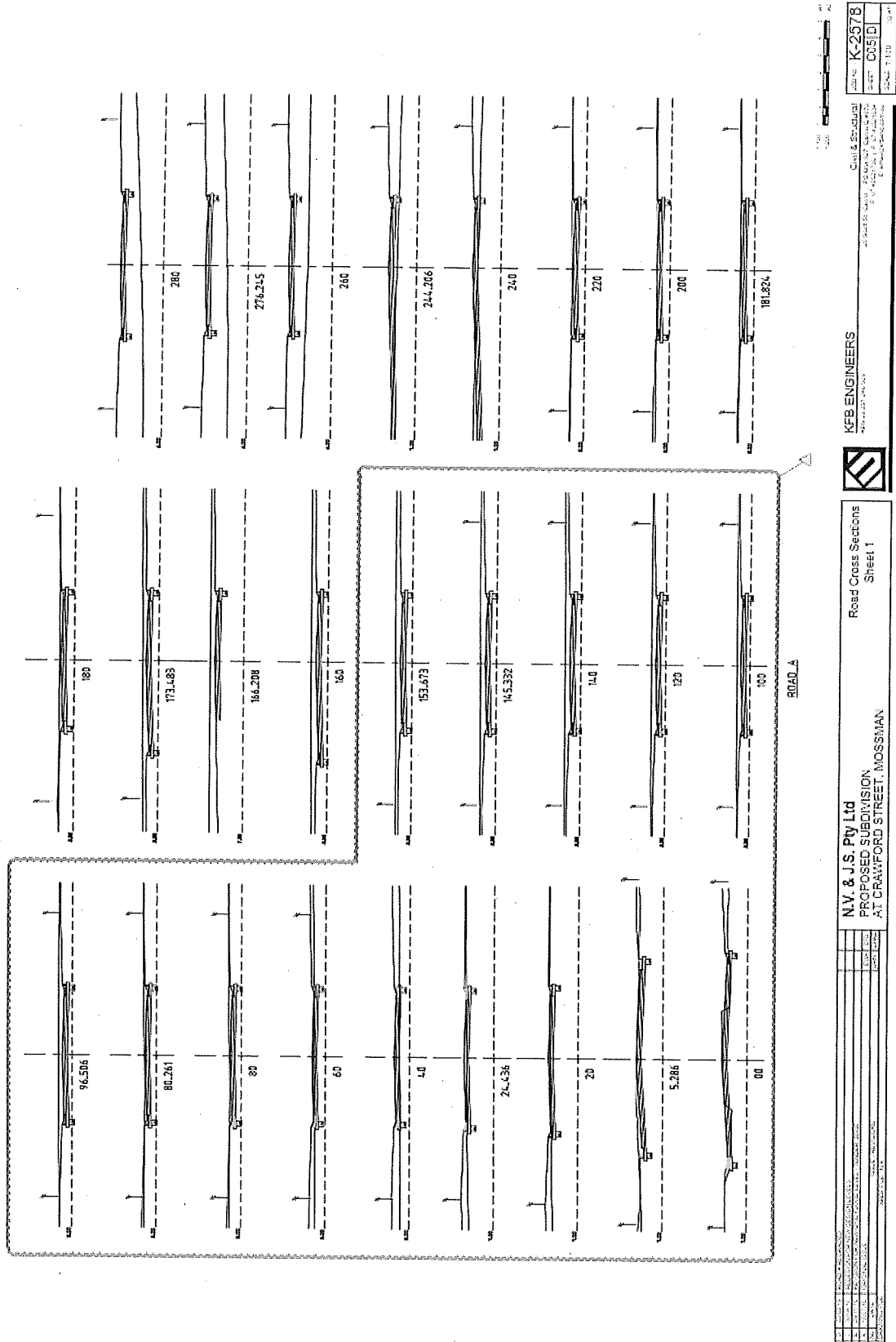


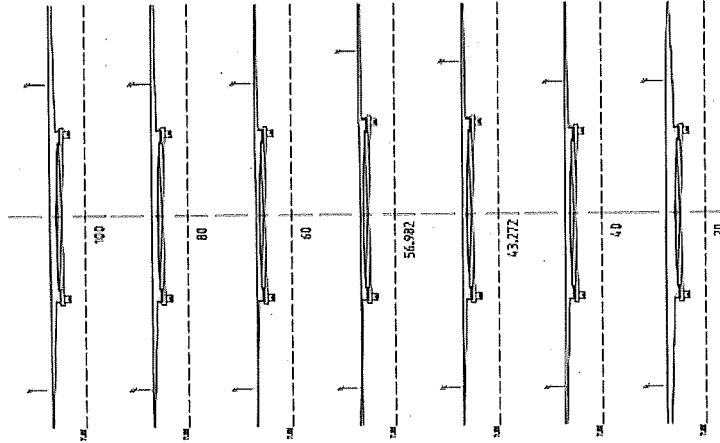
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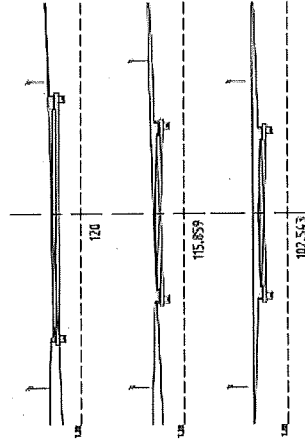
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<p>N.V. & J.S. Pty Ltd PROPOSED SUBDIVISION AT CRAWFORD STREET, MOSSMAN</p>		<p>KFB ENGINEERS Civil & Structural K-2578 DATE: 04/11/2019 DRAWN: 04/11/2019 CHECKED: 04/11/2019 APPROVED: 04/11/2019</p>	
<p>Project: Proposed Subdivision at Crawford Street, Mossman</p>		<p>Client: KFB ENGINEERS</p>	





ROAD B



Job No	K-2578
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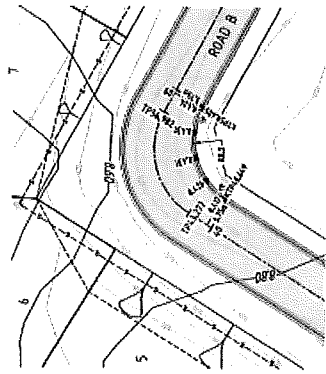
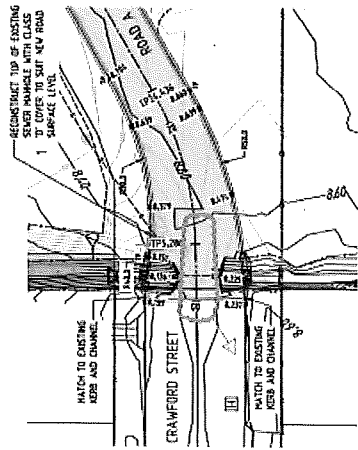
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Road Cross Sections
 Sheet 2

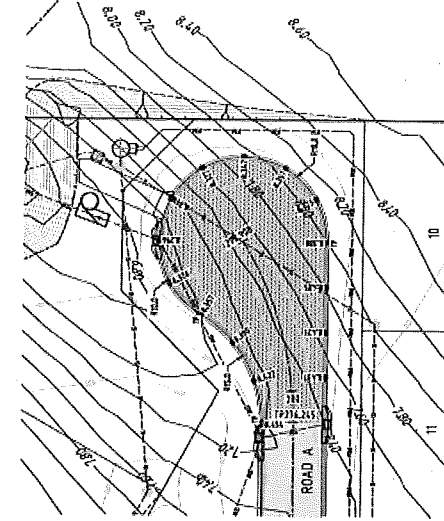
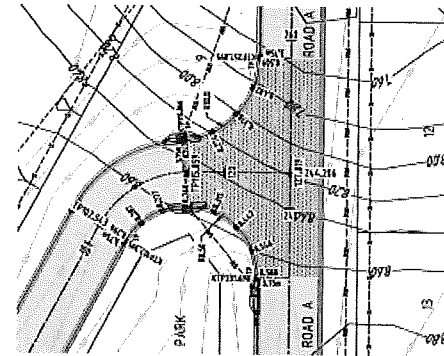
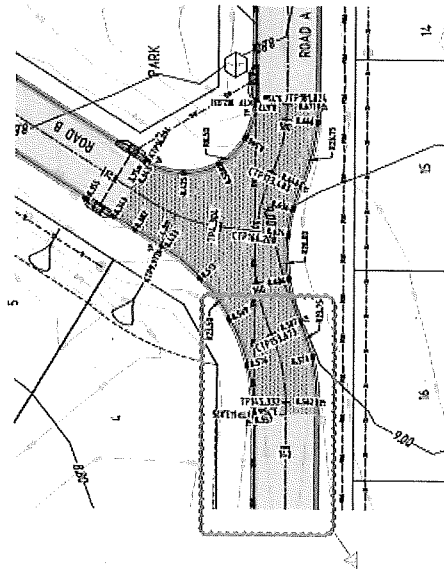
N.V. & J.S. Pty Ltd
 PROPOSED SUBDIVISION
 AT CRAWFORD STREET, MOSSMAN

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LEGEND

- 8.12M EXISTING ROAD SURFACE LEVEL
- PROPOSED ROAD SURFACE LEVEL
- PROPOSED LATERAL ROAD AND CHANNEL
- Area of Surveying to Intersection



NO.	REVISION	DATE	BY	CHECKED	APPROVED
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2	REVISED TO SHOW PROPOSED SUBDIVISION	15/03/2019	J.S.	J.S.	J.S.
3	REVISED TO SHOW PROPOSED SUBDIVISION	15/03/2019	J.S.	J.S.	J.S.
4	REVISED TO SHOW PROPOSED SUBDIVISION	15/03/2019	J.S.	J.S.	J.S.
5	REVISED TO SHOW PROPOSED SUBDIVISION	15/03/2019	J.S.	J.S.	J.S.

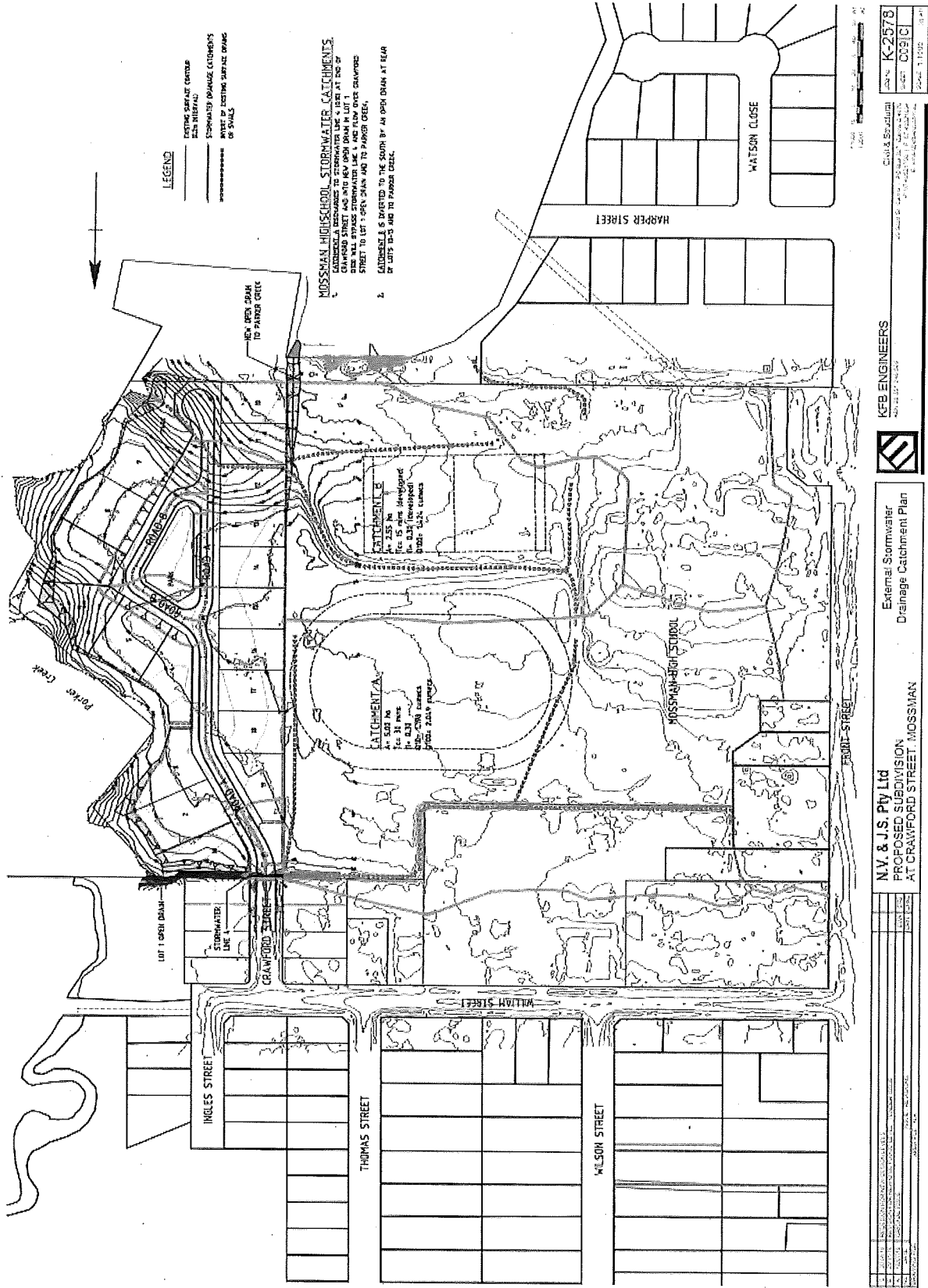
N.V. & J.S. Pty Ltd
PROPOSED SUBDIVISION
AT CRAWFORD STREET, MOSSMAN

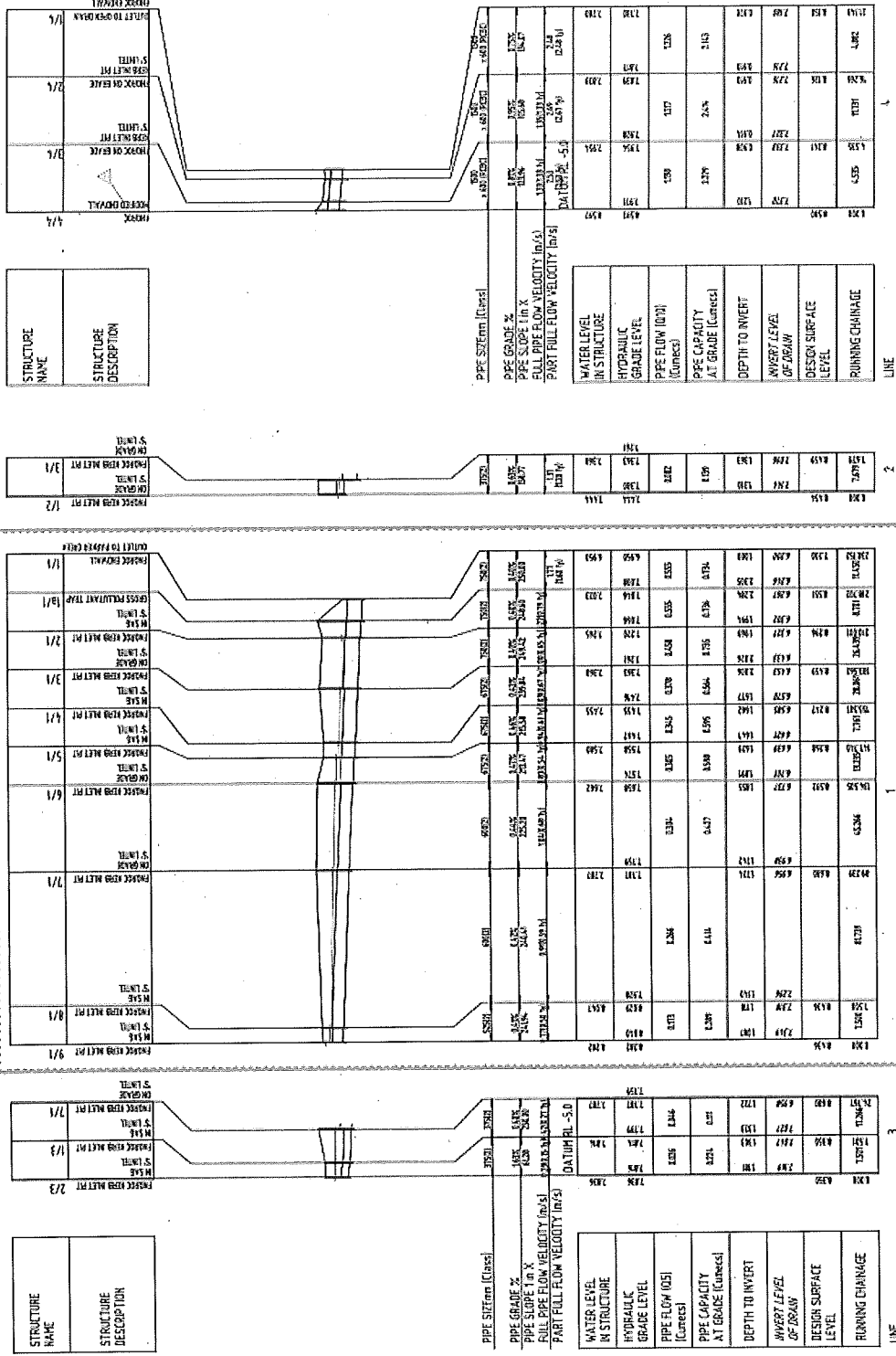
Intersection
Details

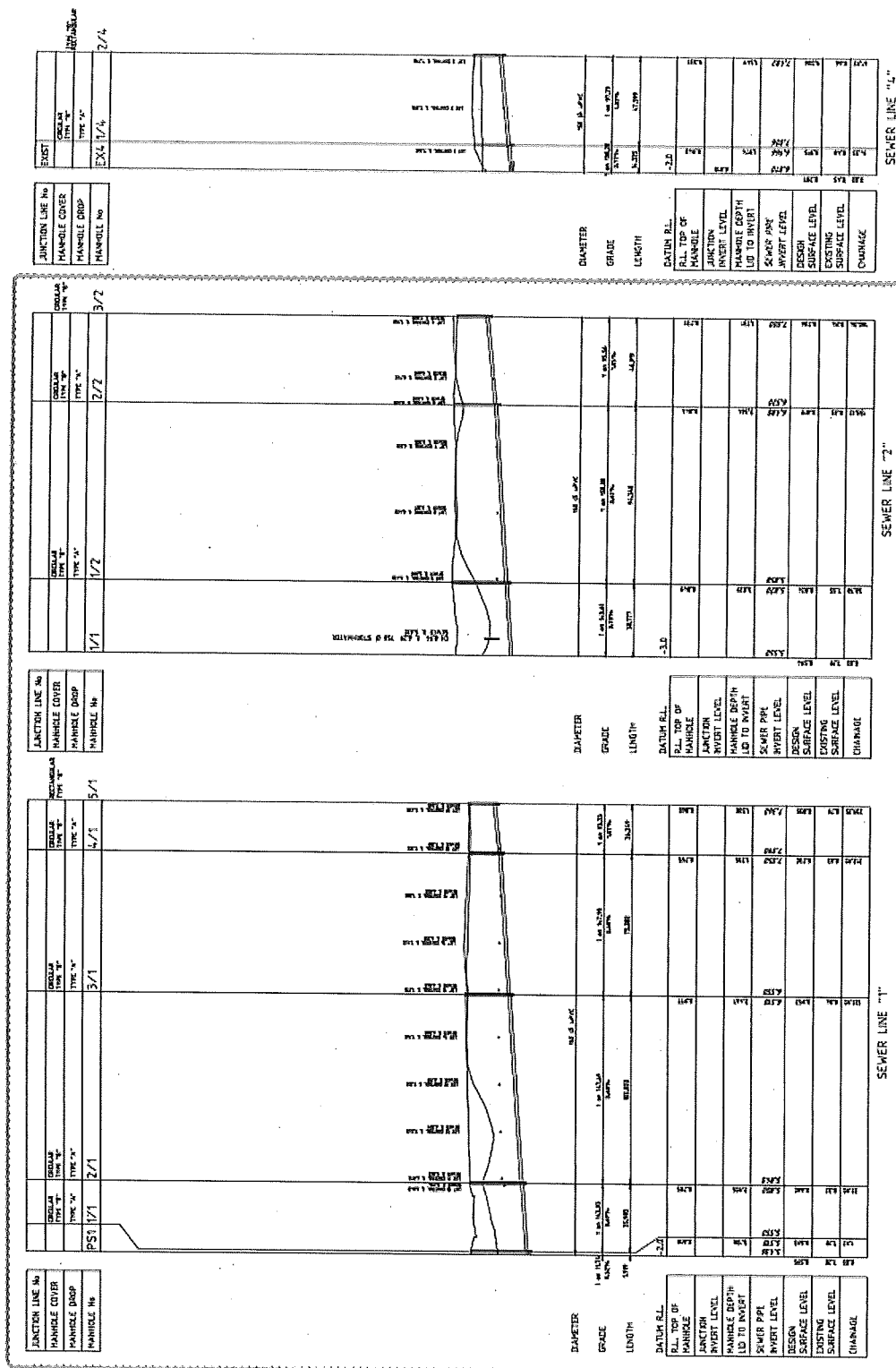
KFB ENGINEERS

Civil & Structural
KFB ENGINEERS
15/03/2019

PROJECT	K-2578
CLIENT	C0710
DATE	15/03/2019



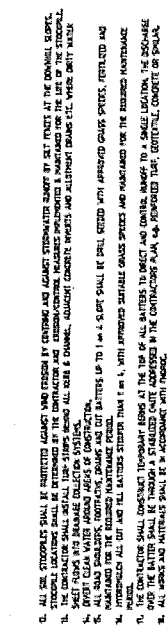




N.V. & J.S. Pty Ltd
PROPOSED SUBDIVISION
AT CRAWFORD STREET, MOSSMAN

KFB ENGINEERS
Sewer Longitudinal Sections

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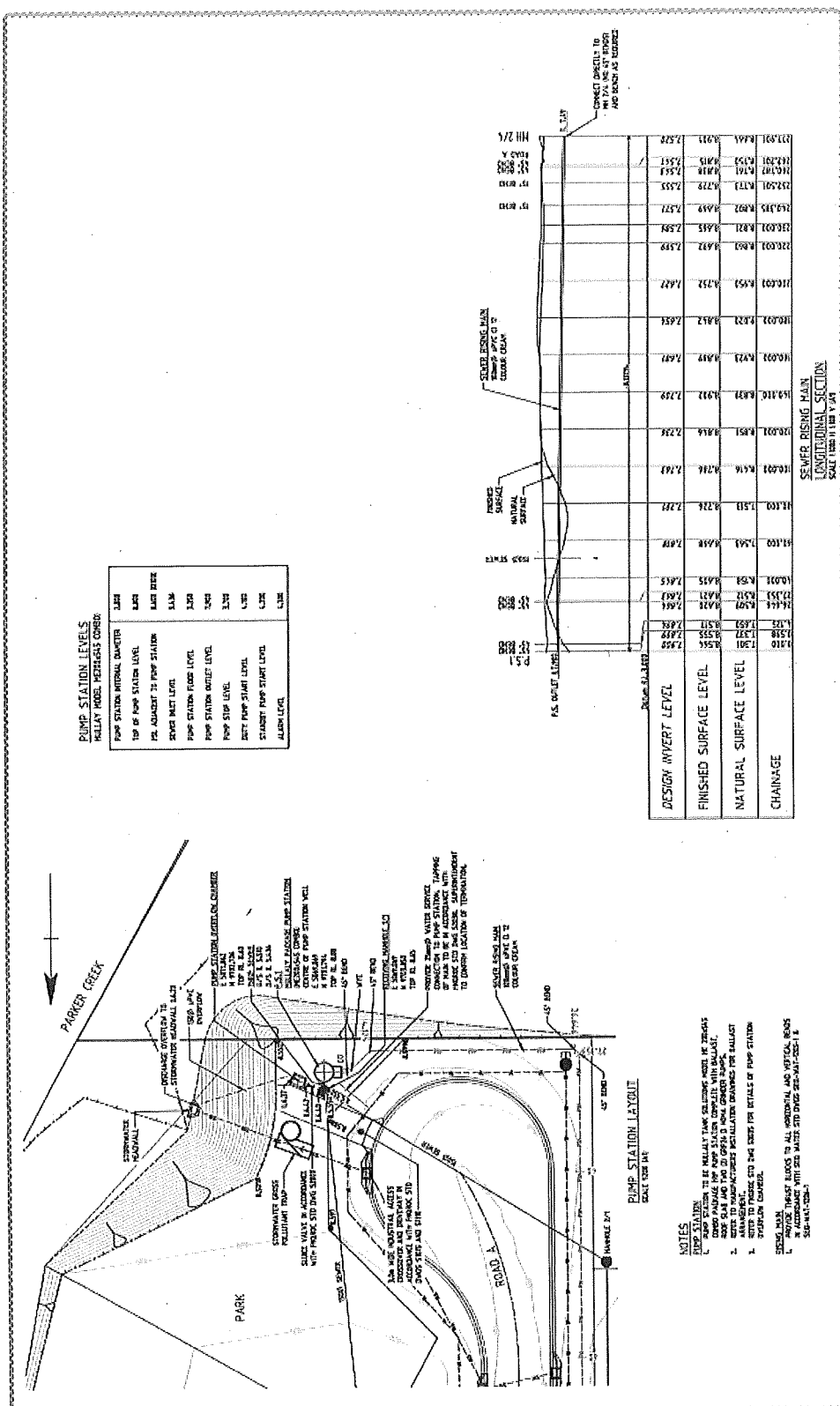
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Erosion and Sediment Control Plan

KFB ENGINEERS

Civil & Structural

NO. K-2578	DATE C1510
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STANDARD CONDITIONS

General

1. The proposed works are permitted subject to any alterations:
 - a. found necessary by Chief Executive Officer at the time of examination of Engineering drawings or during construction of the works because of particular engineering requirements and.
 - b. to ensure the works comply in all respects with the requirements of the *FNQROC Development Manual* and good engineering practice; and
 - c. to comply with project specific conditions and the following standard conditions of approval.

All works must be carried out in accordance with the approved plans, conditions and specifications, to the requirements and satisfaction of the Chief Executive Officer.

2. The conditions of any Reconfiguration of Lot or Material Change of Use permits applicable to the subject lot or lots shall be complied with in conjunction with this development permit.
3. Council's examination of the documents should not be taken to mean that the documents have been checked in detail and Council takes no responsibility for their accuracy. If during construction, inadequacies of the design are discovered, it is the responsibility of the Principal Consulting Engineer to resubmit amended plans to Council for approval and rectify works accordingly.
4. Notwithstanding any approval given to engineering documents, where a discrepancy occurs between these documents and Council's standards, then Council's standards shall apply. All works must be performed in accordance with Council standards and Local Laws and other statutory requirements.
5. If in fact there are errors, omissions or insufficient detail on the plans for the purpose of construction, these deficiencies shall be made good during construction and Council reserves the right to withhold approval of construction until such deficiencies are made good to its satisfaction.
6. Work and or Technical Documents identified within these Development Approval Conditions require Council approval prior to granting Early Plan Sealing or Plan Sealing of a Subdivision Plan or the issue of a Works Acceptance Certificate, whichever occurs first.

Timing of Effect

7. The conditions of this development permit must be effected prior to the approval and dating of the survey plan, except where specified otherwise in these conditions of approval, or at Council's discretion.

Easement Documentation

8. Easement documents are to be submitted to Council's solicitors for checking in accordance with the conditions of the Reconfiguration Development Permit. Contact Council for current nominated solicitors details.

Portable Long Service Leave Notification

9. As per the QLeave – Building and Construction Industry Authority Guidelines, if the works are over \$150 000, Council must sight a copy of the receipted Portable Long Service Notification and Payment form prior to commencement of work.

Construction Security Bond

10. Lodgement of Construction Security Bond as per the *FNQROC Development Manual*, Section CP1.07, (ie, five (5) per cent of the value of the works) is required, prior to commencement of work. The bond shall be in favour of Council and in the format of cash or an unconditional bank guarantee, which must cover all aspects of the construction and have no termination date.

Third Party Agreement

11. The developer must obtain written agreement from third parties and/or Referral Agencies for any works proposed on adjacent properties. The agreement(s) must be provided prior to the associated works commencing on site. All agreements must be available for Council scrutiny, upon request.

Commencement of Works

12. Council is to receive written Notice of Intention to Commence Works and all matters relevant to the Pre-Start meeting are to be attended to in accordance with Section CP1.07, CP1.08 and Section CP1.09, of the *FNQROC Development Manual*.

Hours of Work

13. Work involving the operation of construction plant and equipment of any description, shall only be carried out on site during the following times:
 - a. 7:00 am to 6:00 pm, Monday to Friday;
 - b. 7:00 am to 1:00 pm, Saturdays; and
 - c. no work is permitted on Sundays or Public Holidays.

Any variations to the above working hours must be authorised by the Chief Executive Officer, prior to the commencement of such works.

Public Notification of the Works

14. The developer or the nominated representative must provide:
 - a. Public notification of the development in local newspapers in accordance with Section CP1.11 of the *FNQROC Development Manual*.
 - b. Signage identifying the location of the project, general allotment layout, contact numbers (including out-of-office hours emergency numbers) must be provided at all entrance points to the development. All signage must be appropriately positioned, prior to the commencement of any works on the site.

Site Inspections

15. Council requires a number of major inspections to be completed as Witness and Hold Points for Consulting Engineers and Council officers during the construction of the works. Inspections undertaken during construction shall be in accordance with Section CP1.16 (Inspection and Testing) of the *FNQROC Development Manual*. These Witness and Hold points are to be included in the contractors Inspection and Test Plan (ITP) and be made available for inspection, prior to the commencement of any works on the site.

Soil and Water Management

16. All works must be in accordance with Section CP1.13 and D5 of the *FNQROC Development Manual*, and must comply with the following:
- a. A copy of the contractor's Erosion and Sediment Control (ESC) Plan is to be submitted to Council and endorsed by the Consulting Engineer, prior to commencement of any works. In particular, the ESC Plan must address the Institution of Engineers' Australia *Guidelines for Soil Erosion and Sediment Control and the Environment Protection (Water) Policy* and Clauses CP1.06, CP1.13 and D5.10 of Council's *FNQROC Development Manual*. The ESC Plan must be relevant to all phases of the construction and be updated where necessary as works progress.
 - b. Any dewatering activities will require approval from Council's Environmental Protection Unit, telephone number 07 4099 9475 and a valid permit obtained prior to commencement.
 - c. During the construction period, the Consulting Engineer shall randomly audit and inspect ESC measures for compliance with the Engineer endorsed contractor's ESC Plan, derived from the Engineer's ESC Strategy (As per *FNQROC Development Manual* CP1 Appendix A).
 - d. It is the contractor's responsibility to ensure that the ESC Plan is updated and amended to reflect any changes in the construction methodology. All such amendments shall be approved by the Engineer and presented to Council.
 - e. The developer shall be held responsible for any rectification works required to clean up dust, pollutants and sediments that may leave the site as a result of construction activities.
 - f. The developer or their representative shall be responsible for communicating with third parties affected by any dust, pollutants or sediment leaving the site as a result of any construction activity that is associated with the project site.

Street Lighting

17. The provision of street lighting is to be in accordance with the *FNQROC Development Manual* D8 and designed to comply with the Road Lighting Standard AS/NZS 1158, a compliance certificate that has been certified by an appropriate Registered Professional Engineer of Queensland (RPEQ) must be provided to demonstrate the lighting design complies to the requirements of the Road Lighting Standard AS/NZS 1158. New street lighting is to be erected as a Rate 2 public lighting installation, Rate 1 will only be considered where an overhead electricity reticulation exists:
- a. Lighting columns, luminaires and lamps are to be of a type specified in Ergon Energy's *Lighting Construction Manual*, unless approved otherwise by Council.
 - b. The applicable lighting category for roads associated with this project having a road hierarchy of residential access and above is identified in Table D8.1 of the *FNQROC Development Manual*.
 - c. Local Area Traffic Management (LATM) devices including roundabouts, must be provided with an illumination of not less than 3.5 Lux as specified in the Road Lighting Standard AS/NZS 1158.
 - d. Street lighting located adjacent to the development frontage must be located behind the kerb (usually a minimum of 820 mm from the invert of the kerb) and spaced to meet the required lighting category for the road.

Infrastructure Plans for Utility Services

18. Approved infrastructure plans for gas, electrical and telecommunications services must be endorsed by Council, prior to the commencement of associated works.

Landscaping General

19. Landscaping shall be provided in accordance with Part D9 and Part S8 of the *FNQROC Development Manual*, unless approved otherwise by Council.
20. The landscaping works must be constructed in accordance with the approved plans and conditions. The developer must seek approval in writing from the Council for any changes to the plan or the landscaping works on the site. This approval must be obtained prior to commencement of these works on site.
21. The landscape must be maintained in good order by the developer for at least three (3) months during the Works Acceptance period, and generally timed to coincide with the Final Works Acceptance Inspection, when all landscaping works must be in a condition suitable for Council to commence regular maintenance.

Trees

22. Any trees must be planted and staked in accordance with the *FNQROC Development Manual* drawing S4210, with root barriers installed such that they are just visible at the finished surface level. Note that where footpaths are to be provided, a root barrier must also be provided between the tree and the path. Root barriers must be installed and appropriate topsoil, level of compaction and drainage provided, as specified by the manufacturer.
23. Street tree planting locations must be in compliance with *FNQROC Development Manual* D9.07.6 'Alignment and placement of Street Trees'. Trees shall be positioned a minimum of:
 - a. 7.5 metres from streetlights;
 - b. two (2) metres from the inlet or outlet of stormwater pipes;
 - c. three (3) metres from any driveways;
 - d. ten (10) metres back from the apex of both boundaries of a corner lot;
 - e. 0.8 metres – one (1) metres from the back of kerbs.
24. All trees must be watered directly after planting and prior to laying mulch. The mulch must be left clear of the trunk and be laid in accordance with *FNQROC Development Manual* drawing S4210 and S8.14, at a radius of 0.5 metre around the base of the tree and out to the back of kerb.
25. All trees must be of good vigour and health and must not be root-bound at the time of planting. They should be approximately 1.5 metres – two (2) metres tall with well-established root and branch formation. Trees should have a clear dominant central leader.
26. A joint site inspection is to be held with Council officers and developer's representative to assess the general condition of any existing trees and shrubs within six (6) metres of any property boundary abutting the road reserve, or other Council land. If any dead, dying or dangerous trees are identified during the meeting, with the landowner's consent, they are to be removed to the satisfaction of Council officers, prior to the sealing of plans for the associated lot.

27. Any trees identified on drawings to be retained, are to be protected in accordance with approved plans. This must include, but is not limited to, the erection and continued maintenance of suitable physical barrier(s) placed around the tree to protect the tree and the root system. Additional protection of tree trunks by the fixing of timber planks using wire loops is also required unless approved otherwise by Council. Any damage caused to nominated trees as a result of construction activity, will require inspection by Council and will require a specified number of suitable replacements trees of suitable maturity to be provided to replace the loss in amenity.

Verges

28. All verges are to be covered full-width with topsoil (AS 4419/Soils for Landscaping and Garden Use) to a depth of not less than 40 mm, lightly compacted and grassed in accordance with Council's Guidelines and Specifications.
29. Any island beds or any shrub beds must have a permanent irrigation system installed, which must be connected to the Douglas Water Network. An Application for a Water Service Connection must be presented to Douglas Water & Waste to facilitate the connection, and must include the installation of a flow meter and associated valves.
30. All water reticulation, including permanent irrigation systems, are to be identified in as-constructed plans which must be submitted to Council for approval prior to the Works Acceptance (On Maintenance) meeting for landscaping.

Structures and Retaining Walls

31. Separate building certification and/or structural certification is required for any works to alter existing structures, provide new structures or construct retaining walls that are over 900 mm high. Certification by a suitably qualified engineer must be provided, prior to opening the work site to the public.

The Location of Stormwater Quality Interception Devices (SQIDs)

32. Council must approve the location of any SQIDs prior to installation. They shall be positioned to allow for economic and efficient maintenance operations, and will require a reinforced concrete hard standing area to be provided from the edge of the carriageway to the SQID location. Vehicular access from the public road reserve to the SQID must remain unrestricted.

Sewer and Water

33. All water and sewerage works must be in accordance with Sections D6 and D7 of the *FNQROC Development Manual*, and must comply with the following:
- a. Douglas Shire Council requires a minimum of five (5) working days notice of intention to commence water and sewerage related works. The notice shall be given to the Senior Plumbing Inspector at Douglas Shire Council either in writing, by telephone 07 4099 9479, fax 07 4098 2902 or email to enquiries@douglas.qld.gov.au prior to the commencement of works.
 - b. The developer shall be responsible for confirming the location of all existing sewer, water and utility service infrastructure prior to the commencement of works on site. Any permits necessary to alter/interfere with such services must be obtained prior to the commencement of work and be available for Council inspection if required.
 - c. Any works over or within the zone of influence of Council's existing water and sewerage infrastructure must be approved by Douglas Shire Council prior to the commencement of the proposed works. Unless otherwise approved in writing, existing

infrastructure impacted by the development shall be subject to the maintenance period provisions contained in this Decision Notice.

Construction works shall include any works that may impact on existing infrastructure such as, but not limited to, mobilisation of heavy earthmoving equipment, stripping and grubbing, site filling, stockpiling of materials and installation of erosion and sediment control measures.

- d. All testing and acceptance of water and sewerage works shall be in accordance with CP1 Construction Procedures of the *FNQROC Development Manual*. Works are to be certified as acceptable by Douglas Water & Waste, and any operating manuals etc be provided to Council, prior to making an application for the acceptance of the works.

Sewer

34. Douglas Water & Waste must be contacted to perform any direct connection to live sewer mains. Unless otherwise approved in writing, separate applications for approval on the prescribed forms shall be made to Douglas Water & Waste for each connection together with payment of the relevant fee. All connections are to be provided subject to the terms and conditions of Douglas Shire Council's 'Application for Plumbing Works'.
 - a. Amended drawings in accordance with these conditions must be approved prior to the pre-start meeting.
 - b. The Inspection and Test Plan (ITP) must be approved prior to the pre-start meeting. At project completion the completed and validated ITP must be submitted and approved prior to the issue of a Works Acceptance Certificate.
 - c. Where retaining walls are located within the zone of influence of a sewer the footings must be 1000 mm clear of the sewer and designed in accordance with the *Queensland Development Code*. Full design details and structural certification must be approved prior to commencement of works.
 - d. Minimum clearances between sewer mains and other services must be in accordance with the *Sewerage Code of Australia*. Clearances must be included on the long-section drawing.
 - e. Where a manhole is located in a batter, a flat area of 1.5 metres radius from the centre of the manhole must be provided. Where the manhole is located along a side or rear boundary and is on the 0.8 metre standard alignment then the flat area must be on at least three (3) sides.
 - f. Where an easement is required the property connection branch must be extended at least one (1) metre from the easement boundary.
 - g. House drains are to extend one (1) metre past the end of the driveway on hatchet blocks and 1.5 metres beyond the top of batters. An I.O. is to be provided at the downstream end of the house drain within one (1) metre of the boundary to delineate the end of the property connection branch.
 - h. As-constructed sewerage drawings must be approved prior to granting of Early Plan Sealing or Issue of a Works Acceptance Certificate whichever occurs first. The as-constructed submission is to include the 'Statement of Compliance – As-constructed Documentation' and must be the final issue.

Water

35. Douglas Shire Council must be contacted to perform any direct connection to live water mains whether being as a permanent connection, a connection for irrigation purposes or for construction water. Unless otherwise approved in writing, separate applications on the prescribed forms shall be made to Douglas Shire Council for connections, together with payment of the relevant fee. All connections are to be provided subject to the terms and conditions of Douglas Shire Council's 'Application for a Water Service Connection'.
- a. Amended drawings in accordance with these conditions must be approved prior to the pre-start meeting.
 - b. The Inspection and Test Plan (ITP) must be approved prior to the pre-start meeting. At project completion the completed and validated ITP must be submitted and approved prior to the issue of a Works Acceptance Certificate.
 - c. Minimum clearances between water mains and other services must be in accordance with the *Water Supply Code of Australia* in particular the minimum clearance between water mains and sewer mains must be 500 mm with the sewer under the water main.
 - d. As-constructed water drawings must be approved prior to Issue of a Works Acceptance Certificate. The as-constructed submission is to include the 'Statement of Compliance – As-constructed Documentation' and must be the final issue.

Roads and Footpaths

36. All works are to be designed and constructed in accordance with AS 1428.1-2001: '*Design for access and mobility*' – General requirements for access – New building work, and associated standard AS/NZS 1428.4 2002, '*Design for Access and Mobility*' – Tactile Indicators. The design is required to provide equal access for people with disability and include the provision of suitable ramps and landing areas and the installation of Tactile Ground Surface Indicators (TGSIs) where required.

Cultural Heritage

37. The *Aboriginal Cultural Heritage Act* 2003 (the Act) seeks to protect artefacts and cultural sites that are of significance to Aboriginal people. The Act requires anyone carrying out an activity to exercise a Duty of Care. Guidelines have been produced to enable assessment of sites under the Act. These are available from Department of Environment Heritage Protection and can be downloaded from their website at www.ehp.qld.gov.au. The work identified in the project documentation is likely to require assessment of the site under the Act.

Extracts from the Planning Act 2016 - Making Representations During Applicant's Appeal Period

Planning Act 2016
Chapter 3 Development assessment

[s 74]

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

74 What this subdivision is about

- (1) This subdivision is about changing a development approval before the applicant's appeal period for the approval ends.
- (2) This subdivision also applies to an approval of a change application, other than a change application for a minor change to a development approval.
- (3) For subsection (2), sections 75 and 76 apply—
 - (a) as if a reference in section 75 to a development approval were a reference to an approval of a change application; and
 - (b) as if a reference in the sections to the assessment manager were a reference to the responsible entity; and
 - (c) as if a reference in section 76 to a development application were a reference to a change application; and
 - (d) as if the reference in section 76(3)(b) to section 63(2) and (3) were a reference to section 83(4); and
 - (e) with any other necessary changes.

75 Making change representations

- (1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
 - (a) a matter in the development approval, other than—
 - (i) a matter stated because of a referral agency's response; or

- (ii) a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
- (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- (3) Only 1 notice may be given.
- (4) If a notice is given, the appeal period is suspended—
 - (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
 - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
 - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
 - (ii) the applicant receives notice that the assessment manager does not agree with the change representations; or
 - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

76 Deciding change representations

- (1) The assessment manager must assess the change representations against and having regard to the matters that

- must be considered when assessing a development application, to the extent those matters are relevant.
- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
- (a) the applicant; and
 - (b) if the assessment manager agrees with any of the change representations—
 - (i) each principal submitter; and
 - (ii) each referral agency; and
 - (iii) if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
 - (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
 - (v) another person prescribed by regulation.
- (3) A decision notice (a *negotiated decision notice*) that states the assessment manager agrees with a change representation must—
- (a) state the nature of the change agreed to; and
 - (b) comply with section 63(2) and (3).
- (4) A negotiated decision notice replaces the decision notice for the development application.
- (5) Only 1 negotiated decision notice may be given.
- (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.

Extracts from the Planning Act 2016 – Appeal Rights

Planning Act 2016
Chapter 6 Dispute resolution

[s 229]

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.

- (3) In this section—

conduct means an act or omission.

representative means—

- (a) of a corporation—an executive officer, employee or agent of the corporation; or
- (b) of an individual—an employee or agent of the individual.

state of mind, of a person, includes the person's—

- (a) knowledge, intention, opinion, belief or purpose; and
- (b) reasons for the intention, opinion, belief or purpose.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—

- (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
- (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and

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Current as at 1 July 2019

Authorised by the Parliamentary Counsel

- (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
- (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or

(iii) otherwise—20 business days after the day the notice is given; or

- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
- (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
- (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—

- (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
- decision* includes—
- (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise.

- whether by the Supreme Court, another court, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

Part 2 Development tribunal

Division 1 General

233 Appointment of referees

- (1) The Minister, or chief executive, (the *appointer*) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—
- (a) has the qualifications or experience prescribed by regulation; and
- (b) has demonstrated an ability—
- (i) to negotiate and mediate outcomes between parties to a proceeding; and
- (ii) to apply the principles of natural justice; and
- (iii) to analyse complex technical issues; and
- (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.

19 August 2019

Enquiries: Neil Beck
Our Ref: Choose an item. 2019_3043 (Doc ID)
Your Ref: K-2578

NV & JS Pty Ltd
PO Box 927
CAIRNS QLD 4870

Dear Sir/Madam

**Adopted Infrastructure Charge Notice
For Development Application Operational Works
At 12 Crawford Street MOSSMAN
On Land Described as LOT: 12 SP: 252360**

Please find attached the Adopted Infrastructure Charges Notice issued in accordance with section 119 of the *Planning Act 2016*.

The amount in the Adopted Infrastructure Charges Notice has been calculated according to Council's Adopted Infrastructure Charges Resolution.

Please also find attached extracts from the Act regarding the following:

- your right to make representations to Council about the Adopted Infrastructure Charges Notice; and
- your Appeal rights with respect to the Adopted Infrastructure Charges Notice.

Please quote Council's application number: Choose an item. 2019_3043 in all subsequent correspondence relating to this matter.

Should you require any clarification regarding this, please contact Neil Beck on telephone 07 4099 9444.

Yours faithfully

Paul Hoyer
Manager Environment & Planning

encl.

- Adopted Infrastructure Charges Notice
- Rights to Make Representations and Appeals Regarding Infrastructure Charges

Adopted Infrastructure Charges Notice

Subdivision 5 Changing charges during relevant appeal period

124 Application of this subdivision

This subdivision applies to the recipient of an infrastructure charges notice given by a local government.

125 Representations about infrastructure charges notice

- (1) During the appeal period for the infrastructure charges notice, the recipient may make representations to the local government about the infrastructure charges notice.
- (2) The local government must consider the representations.
- (3) If the local government—
 - (a) agrees with a representation; and
 - (b) decides to change the infrastructure charges notice;the local government must, within 10 business days after making the decision, give a new infrastructure charges notice (a *negotiated notice*) to the recipient.
- (4) The local government may give only 1 negotiated notice.
- (5) A negotiated notice—
 - (a) must be in the same form as the infrastructure charges notice; and
 - (b) must state the nature of the changes; and
 - (c) replaces the infrastructure charges notice.
- (6) If the local government does not agree with any of the representations, the local government must, within 10 business days after making the decision, give a decision notice about the decision to the recipient.
- (7) The appeal period for the infrastructure charges notice starts again when the local government gives the decision notice to the recipient.

126 Suspending relevant appeal period

- (1) If the recipient needs more time to make representations, the recipient may give a notice suspending the relevant appeal period to the local government.
- (2) The recipient may give only 1 notice.
- (3) If the representations are not made within 20 business days after the notice is given, the balance of the relevant appeal period restarts.
- (4) If representations are made within the 20 business days and the recipient gives the local government a notice withdrawing the notice of suspension, the balance of the relevant appeal period restarts the day after the local government receives the notice of withdrawal.

Division 3 Development approval conditions about trunk infrastructure

Subdivision 1 Conditions for necessary trunk infrastructure

127 Application and operation of subdivision

- (1) This subdivision applies if—
 - (a) trunk infrastructure—
 - (i) has not been provided; or
 - (ii) has been provided but is not adequate; and
 - (b) the trunk infrastructure is or will be located on—
 - (i) premises (the *subject premises*) that are the subject of a development application, whether or not the infrastructure is necessary to service the subject premises; or
 - (ii) other premises, but is necessary to service the subject premises.

Extracts from the Planning Act 2016 –Appeal Rights

Planning Act 2016
Chapter 6 Dispute resolution

[s 229]

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.

- (3) In this section—

conduct means an act or omission.

representative means—

- (a) of a corporation—an executive officer, employee or agent of the corporation; or
(b) of an individual—an employee or agent of the individual.

state of mind, of a person, includes the person's—

- (a) knowledge, intention, opinion, belief or purpose; and
(b) reasons for the intention, opinion, belief or purpose.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—

- (a) matters that may be appealed to—
(i) either a tribunal or the P&E Court; or
(ii) only a tribunal; or
(iii) only the P&E Court; and
(b) the person—
(i) who may appeal a matter (the *appellant*); and
(ii) who is a respondent in an appeal of the matter; and

-
- (iii) who is a co-respondent in an appeal of the matter;
and
 - (iv) who may elect to be a co-respondent in an appeal
of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
- (a) for an appeal by a building advisory agency—10
business days after a decision notice for the decision is
given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time
after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under
chapter 7, part 4, to register premises or to renew the
registration of premises—20 business days after a notice
is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—
20 business days after the infrastructure charges notice
is given to the person; or
 - (e) for an appeal about a deemed approval of a development
application for which a decision notice has not been
given—30 business days after the applicant gives the
deemed approval notice to the assessment manager; or
 - (f) for an appeal relating to the *Plumbing and Drainage Act
2018*—
 - (i) for an appeal against an enforcement notice given
because of a belief mentioned in the *Plumbing and
Drainage Act 2018*, section 143(2)(a)(i), (b) or
(c)—5 business days after the day the notice is
given; or
 - (ii) for an appeal against a decision of a local
government or an inspector to give an action notice
under the *Plumbing and Drainage Act 2018*—5
business days after the notice is given; or

- (iii) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—

- (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
- decision* includes—
- (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise.

whether by the Supreme Court, another court, any tribunal or another entity; and

- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

Part 2 Development tribunal

Division 1 General

233 Appointment of referees

- (1) The Minister, or chief executive, (the *appointer*) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—
 - (a) has the qualifications or experience prescribed by regulation; and
 - (b) has demonstrated an ability—
 - (i) to negotiate and mediate outcomes between parties to a proceeding; and
 - (ii) to apply the principles of natural justice; and
 - (iii) to analyse complex technical issues; and
 - (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.

