OUR REF: CA 880/2015 (734241)

4 November 2015

Douglas Shire Council C/- SC Town Planning 33 Moore Street TRINITY BEACH QLD 4879

Attention: Mr Simon Clarke

Dear Sir

AMENDED DECISION NOTICE UNDER S 363 SUSTAINABLE PLANNING ACT 2009: DEVELOPMENT APPLICATION FOR FERRERO ROAD, CRAIGLIE

With reference to the abovementioned request for an Amended Decision, which was determined by Council at the Ordinary Meeting held on 3 November 2015, please find attached the relevant Negotiated Decision Notice.

The Notice includes extracts from the Act with respect to lodging an Appeal.

Should you have any enquiries in relation to this Amended Decision Notice, please contact Jenny Elphinstone of Development and Environment on telephone number 07 4099 9482.

Yours faithfully

Donna Graham Manager Development & Environment

Att

APPLICANT DETAILS

Douglas Shire Council C/- SC Town Planning 33 Moore Street TRINITY BEACH QLD 4879

ADDRESS

Ferrero Road, Craiglie

REAL PROPERTY DESCRIPTION

Lot 8 on RP893100

PROPOSAL

Public Utilities & Facilities - Water Reservoir & Associated Infrastructure

DECISION

Approved subject to conditions (refer to approval package below).

DECISION DATE

This Negotiated Decision Notice dated 4 November 2015 replaces the Decision Notice dated 8 September 2015.

TYPE

Material Change of Use (Development Permit)

REFERRAL AGENCIES

None Applicable

SUBMISSIONS

There were no submissions for this application.

FURTHER DEVELOPMENT PERMITS REQUIRED

Development Permit for Operational Works Development Permit for Building Works

CODES TO COMPLY WITH FOR SELF-ASSESSABLE DEVELOPMENT

None

DOES THE ASSESSMENT MANAGER CONSIDER THE APPLICATION TO BE IN CONFLICT WITH APPLICABLE CODES, PLANNING SCHEME, STATE PLANNING POLICIES OR PRIORITY INFRASTRUCTURE PLAN (IF YES, INCLUDE STATEMENT OF REASONS)

Yes. Conflict with the Reconfiguring a Lot Code.

Neither of the proposed lots achieves the minimum site area under the Acceptable Solution for new lots created in the Rural Planning Area. Section 326 of the *Sustainable Planning Act* 2009 states, 'the assessment manager's decision must not conflict with a relevant instrument unless ...there are sufficient grounds to justify the decision, despite the conflict.' The proposed reservoir is a much needed essential facility that justifies the conflict. The proposed lot for the water tower meets the size necessary for this facility while achieving a regular boundary alignment and providing the remaining agricultural land in a separate lot. The reconfiguration utilises area under that is not under cane production, does not result in an intrusion of an incompatible use and satisfactorily maintains the purpose of the Reconfiguration of a Lot Code.

A. RECONFIGURATION OF A LOT COMPONENT

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

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

RECONFIGURATION OF A LOT COMPONENT			
Drawing or Document	Reference	Date	
Reconfiguration of Lot	RPS Drawing PR109791-4 received by Council on 17 June 2015 and as amended by Condition A.3	To be determined	
Reservoir Site with Aerial Detail	CRC and BMD Consulting drawing T00039-CG002 Revision C dated 28 March 2013 and as amended by Condition A.3	To be determined	
Land Acquisition Plan	CRC and BMD Consulting drawing T00039-CG003 Revision C dated 2 April 2013 and as amended by Condition A.3	To be determined	
Constraint Map	CRC and BMD Consulting drawing T00039-CG005 Revision C dated 2 April 2013 and as amended by Condition A.3	To be determined	
Roadworks and Drainage Plan	CRC and BMD Consulting drawing T00039-CR001 Revision C	2 April 2013	
Access Road Longitudinal Section	CRC and BMD Consulting drawing T00039-CR002 Revision C	28 March 2013	
Access Road Cross Sections (Sheet 1 of 2)	CRC and BMD Consulting drawing T00039-CR003 Revision C	2 April 2013	
Access Road Cross Sections (Sheet 2 of 2)	CRC and BMD Consulting drawing T00039-CR004 Revision C	2 April 2013	

RECONFIGURATION OF A LOT COMPONENT			
Drawing or Document	Reference	Date	
Stormwater Longitudinal Sections	CRC and BMD Consulting drawing T00039-CR005 Revision C	2 April 2013	
Sediment and Erosion Control Plan Construction Phase	CRC and BMD Consulting drawing T00039-CV001 Revision C dated 2 April 2013 and as amended as is necessary under the requirements of Conditions A.5 and A.8	To be determined	
Sediment and Erosion Control Plan Construction Phase	CRC and BMD Consulting drawing T00039-CV002 Revision C dated 2 April 2013 and as amended as is necessary under the requirements of Conditions A.5 and A.8	To be determined	
Sediment and Erosion Control Typical Details	CRC and BMD Consulting drawing T00039-CV003 Revision C dated 2 April 2013 and as amended as is necessary under the requirements of Conditions A.5 and A.8	To be determined	

ASSESSMENT MANAGER CONDITIONS

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

Except where modified by these conditions of approval

Timing of Effect

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

The conditions of the Development Permit for the reconfiguration of a lot component must be completed within 12 months of the Decision Date.

Amended Plan

- A.3. The proposed lot plan must be generally in accordance with the RPS Drawing PR109791-4 and the design plans for associated road and stormwater drainage to the road lodged with the application received by Council on 17 June 2015 and must be amended to:
 - a. remove reference to Lot 8 on SP243566 and the new road over Lot 8 on SP243566; and
 - b. having regard to the notations on the CRC and BMD Consulting Drawing T00039-CG003 Revision C dated 2 April 2013, site the southwest boundary to be offset a minimum of ten (10) metres from the maximum extent of rock outcrops in this area of the land with the boundary alignment to be confirmed on site by the landowner, the Chief Executive Officer and the Cadastral Surveyor.

Amended plans incorporating the above requirements must be submitted to the satisfaction of the Chief Executive Officer prior to the issue of a Compliance Certificate for the Plan of Survey. Prior to endorsement by the Chief Executive Officer the amended plans must be assessed by a qualified and independent person.

General External Works

- A.4. Undertake the following external works:
 - a. Construct a Rural Road without sealing in accordance with the FNQROC Development Manual including all associated stormwater drainage generally in accordance with the design plans submitted with the application, being a connection from the existing sealed Ferrero Road to each of the new lots; and
 - b. Construct a rural access for each lot in accordance with the *FNQROC Development Manual Drawing S110*.

Two (2) copies of a plan of the works must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works. Prior to endorsement by the Chief Executive Officer the plan of the works must be assessed by a qualified and independent person. All works must be carried out in accordance with the approved plan prior to the issue of a Compliance Certificate for the Plan of Survey.

Drainage Study of Site

A.5. Undertake a local drainage study on the required road works under condition A.4 above to determine drainage impacts on upstream and downstream properties and the mitigation measures required to minimise such impacts. In particular, the post-development discharge of stormwater from the required road works must have no-worsening effect on the drainage of upstream or downstream properties. The study must also identify the need and location of any drainage works to convey stormwater to the lawful point of discharge. The drainage study must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works. Prior to endorsement by the Chief Executive Officer the drainage study must be assessed by a qualified and independent person.

Cane Railway Crossing

A.6 Where the road required under Condition A.4 above crosses cane railway the design of the crossing shall be in consultation with the owner of the railway and to an agreed standard to the satisfaction of the Chief Executive Officer. Prior to endorsement by the Chief Executive Officer the agreed standard must be assessed by a qualified and independent person.

Lawful Point of Discharge

A.7. All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development to the requirements and satisfaction of the Chief Executive Officer. Prior to endorsement by the Chief Executive Officer the nominated lawful point of discharge must be assessed by a qualified and independent person.

Sediment and Erosion Control

A.8. A sediment and erosion control plan must be submitted prior the issue of a Development Permit for Operational Works having regard to any requirements identified in Condition A.5 above. Such plans must be installed / implemented prior to commencement of road works associated with the development, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the *Environmental Protection Act* 1994, and the *FNQROC Development Manual*).

ADVICE FOR RECONFIGURATION OF A LOT COMPONENT

- 1. The Reconfiguration of a Lot component of the approval, granted under the provisions of the *Sustainable Planning Act* 2009, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of sections 339 and 341 of the *Sustainable Planning Act* 2009.
- 2. This approval does not negate the requirement for compliance with all relevant Local Laws and statutory requirements.

3. For information relating to the Sustainable Planning Act 2009, log on to http://www.statedevelopment.qld.gov.au/resources-ilgp/fact-sheet-guidelines/sustainable-planning-act.html. To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.

B. MATERIAL CHANGE OF USE COMPONENT

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

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

MATERIAL CHANGE OF USE COMPONENT			
Drawing or Document	Reference	Date	
Reservoir Site with Aerial Detail	CRC and BMD Consulting drawing T00039-CG002 Revision C dated 28 March 2013 and as amended by Condition B.3	To be determined	
Land Acquisition Plan	CRC and BMD Consulting drawing T00039-CG003 Revision C dated 2 April 2013 and as amended by Condition B.3	To be determined	
Reservoir Layout	CRC and BMD Consulting drawing T00039-CG004 Revision C .	2 April 2013	
Constraint Map	CRC and BMD Consulting drawing T00039-CG005 Revision C dated 2 April 2013 and as amended by Condition B.3	To be determined	
Roadworks and Drainage Plan	CRC and BMD Consulting drawing T00039-CR001 Revision C.	2 April 2013	
Access Road Longitudinal Section	CRC and BMD Consulting drawing T00039-CR002 Revision C.	28 March 2013	
Access Road Cross Sections (Sheet 1 of 2)n	CRC and BMD Consulting drawing T00039-CR003 Revision C.	2 April 2013	
Access Road Cross Sections (Sheet 2 of 2	CRC and BMD Consulting drawing T00039-CR004 Revision C.	2 April 2013	
Stormwater Longitudinal Sections	CRC and BMD Consulting drawing T00039-CR005 Revision C.	2 April 2013	

MATERIAL CHANGE OF USE COMPONENT			
Drawing or Document	Reference	Date	
Reservoir Site Earthworks	CRC and BMD Consulting drawing T00039-CE001 Revision C.	2 April 2013	
Trunk Main Longitudinal Section (Sheet 6 of 7)	CRC and BMD Consulting drawing T00039-CW007 Revision C.	2 April 2013	
Sediment and Erosion Control Plan Construction Phase	CRC and BMD Consulting drawing T00039-CV001 Revision C dated 2 April 2013 and as amended as is necessary under the requirements of Conditions A.5 and A.8	To be determined	
Sediment and Erosion Control Plan Construction Phase	CRC and BMD Consulting drawing T00039-CV002 Revision C dated 2 April 2013 and as amended as is necessary under the requirements of Conditions A.5 and A.8	To be determined	
Sediment and Erosion Control Typical Details	CRC and BMD Consulting drawing T00039-CV003 Revision C dated 2 April 2013 and as amended as is necessary under the requirements of Conditions A.5 and A.8	To be determined	
Framing Elevations Sheet 1 of 2	Glynntucker Consulting Engineers Project 24021 drawing S-301 Revision B1	5 April 2013	
Framing Elevations Sheet 2 of 2	Glynntucker Consulting Engineers Project 24021 drawing S-302 Revision B1	5 April 2013	

ASSESSMENT MANAGER CONDITIONS

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

Except where modified by these conditions of approval.

Timing of Effect

B.2. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

Amended Plans

B.3. The proposed development must be generally in accordance with the design plans lodged with the application received by Council on 17 June 2015 and must be amended to remove reference to Lot 8 on SP243566 and the new road over Lot 8 on SP243566.

Amended plans incorporating the above requirements must be submitted to the satisfaction of the Chief Executive Officer prior to the issue of any further Development Permit required to undertake any work associated with the Material Change of Use. Prior to endorsement by the Chief Executive Officer the amended plans must be assessed by a qualified and independent person.

External Works

- B.4. Undertake the following external works:
 - a. Construct a Rural Road with sealing in accordance with the *FNQROC Development Manual* including all associated stormwater drainage generally in accordance with the design plans submitted with the application, being a connection from the existing sealed Ferrero Road to proposed lot 100.

Two (2) copies of a plan of the works must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works. Prior to endorsement by the Chief Executive Officer the plan of the works must be assessed by a qualified and independent person. All works must be carried out in accordance with the approved plan prior to Commencement of Use.

Drainage Study of Site

B.5. Undertake a local drainage study on the development site and the required road works under condition B.4 above to determine drainage impacts on upstream and downstream properties and the mitigation measures required to minimise such impacts. In particular, the post-development discharge of stormwater from the required road works must have no-worsening effect on the drainage of upstream or downstream properties. The study must also identify the need and location of any drainage works to convey stormwater to the lawful point of discharge. The drainage study must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works. Prior to endorsement by the Chief Executive Officer the drainage study must be assessed by a qualified and independent person.

Cane Railway Crossing

B.6 Where the road required under Condition B.4 above crosses cane railway the design of the crossing shall be in consultation with the owner of the railway and to an agreed standard to the satisfaction of the Chief Executive Officer. Prior to endorsement by the Chief Executive Officer the agreed standard must be assessed by a qualified and independent person.

Lawful Point of Discharge

B.7. All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development to the requirements and satisfaction of the Chief Executive Officer. Prior to endorsement by the Chief Executive Officer the nominated lawful point of discharge must be assessed by a qualified and independent person.

Sediment and Erosion Control

B.8. A sediment and erosion control plan must be submitted prior the issue of a Development Permit for Operational Works having regard to any requirements identified in Condition B.5 above. Such plans must be installed / implemented prior to commencement of road works associated with the development, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the *Environmental Protection Act* 1994, and the *FNQROC Development Manual*).

Batter Treatment

- B.9. The height of batters/retaining structures shall be generally limited to 1.8 metres with a total height of 3.6 metres in successive batters. All batters must be constructed in a manner that minimises the construction footprint and has the ability to be screened.
 - Typical details of the various methods to be used to achieve this must be submitted to the Chief Executive Officer prior to the issue of a Development Permit for Building Work. In instances where batters will exceed 1.8 metres in height, the Chief Executive Officer will require details to be submitted that include, but are not limited to, the following:
 - Details of the specific means of supporting or retaining to be used. This
 must include a geotechnical report supporting each of the proposed
 treatments at each location;
 - b. Drawings (plans, longitudinal and cross sections) showing the extent of the proposed treatments at each location;
 - c. Methods to be used to minimise the visual impact; and
 - d. Elevations showing the visual impact when viewed from vantage points.

A geotechnical assessment by a qualified and experienced geotechnical consultant must also be endorsed by the Chief Executive Officer prior to the Commencement of Use. Prior to endorsement by the Chief Executive Officer the submissions must be assessed by a qualified and independent person.

Transportation of Fill Material

- B.10 Transportation of fill or spoil to and from the site must not occur within:
 - a. before 7:00 am or after 6:00 pm Monday to Friday;
 - b. before 7:00 am or after 1:00 pm Saturdays; or
 - c. on Sundays or Public Holidays.
- B.11. Dust emissions or other air pollutants, including odours, must not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

Landscaping Plan

- B.12 The site must be landscaped in accordance with details included on a Landscaping Plan. The Landscaping Plan must show:
 - a. Deep planting of areas to the north and east of the reservoir structure to provide screening;
 - Species to have regard to Council's Planning Scheme Policy No 7
 Landscaping and be native or endemic species selected for screening, durability and low-maintenance to ensure the scenic values of the Shire are maintained

Two (2) A1 copies and one (1) A3 copy of the landscape plan must be endorsed by the Chief Executive Officer. Prior to endorsement by the Chief Executive Officer the landscape plan must be assessed by a qualified and independent person. The approval and completion of all landscaping works must be undertaken in accordance with the endorsed plan prior to the Commencement of Use. Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer.

Vegetation Clearing

B.13. Existing vegetation on the subject land must be retained in all areas except those affected by the construction of access driveways, the installation of services and the reservoir and associated structures and infrastructure as detailed on the approved plans. Any further clearing requires an Operational Works approval.

Vegetation to be retained is to be identified and adequately fenced off for protection purposes prior to construction work commencing on the site.

Building Colours

B.14. The exterior finishes and colours of reservoir must be non-reflective and must blend with the natural colours of the surrounding environment. Roofs and structures (including Water Tanks) must be of moderately dark to darker shades of green, grey, blue and brown.

Wildlife

B.15 Prior to removal of any tree, an inspection must be carried out for any signs of protected wildlife including nests and animal habitat. Should any recent wildlife activity be identified, removal of the tree must not occur until the animal has vacated the area of immediate danger. If the animal does not move from the area of danger, the Queensland Parks and Wildlife Services must be contacted for advice. Important habitat trees should be retained wherever possible.

Removal of Protected Vegetation

B.16 A clearing permit (protected plants) must be obtained from the Department of Environment and Heritage Protection prior to the clearing of vegetation and/or tree removal as plant species protected under the provisions of the Nature Conservation Act 1992 are known to occur within the area covered by this development approval. Information on clearing permits may be obtained at www.ehp.qld.gov.au.

Notification of Vegetation Clearing

B.17 Council must be notified two (2) business days prior to the proposed date of commencement of any approved vegetation clearing.

ADVICE FOR MATERIAL CHANGE OF USE COMPONENT

- 1. The Material Change of Use component of the approval, granted under the provisions of the *Sustainable Planning Act* 2009, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of sections 339 and 341 of the *Sustainable Planning Act* 2009.
- 2. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
- 3. This approval does not negate the requirement for compliance with relevant Local Laws and statutory requirements.
- 4. For information relating to the Sustainable Planning Act 2009, log on to http://www.statedevelopment.qld.gov.au/resources-ilgp/fact-sheet-guidelines/sustainable-planning-act.html. To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.

LAND USE DEFINITIONS*

In accordance with the Douglas Shire Planning Scheme 2008, the approved land use of *Public Utilities and Facilities* is defined as:

Public Utilities and Facilities

Means the use of premises for the provision of public facilities and services such as water, sewerage, electricity, gas, telecommunications, transport, drainage and refuse collection and disposal by Local Government or State Government.

The use includes emergency services such as:

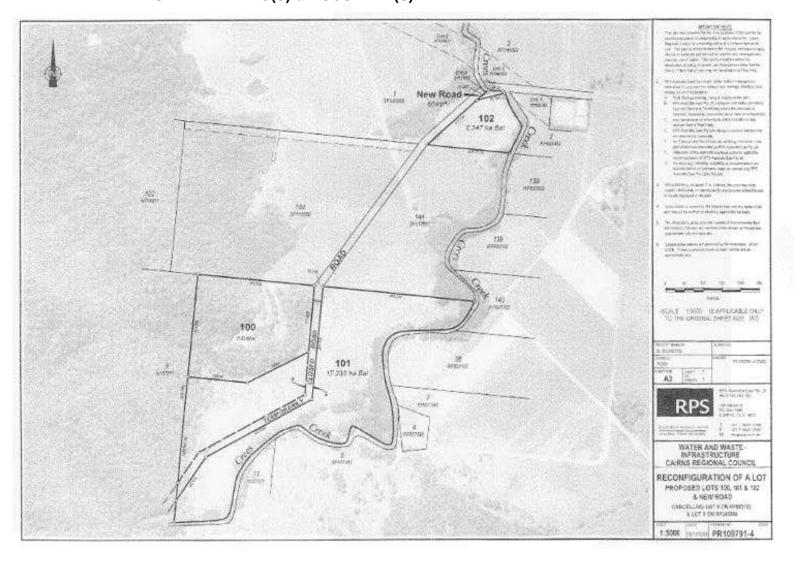
- ambulance;
- fire (urban or rural);
- police services; and
- State Emergency Services.

*This definition is provided for convenience only. This Development Permit is limited to the specifications, facts and circumstances as set out in the application submitted to Council and is subject to the abovementioned conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

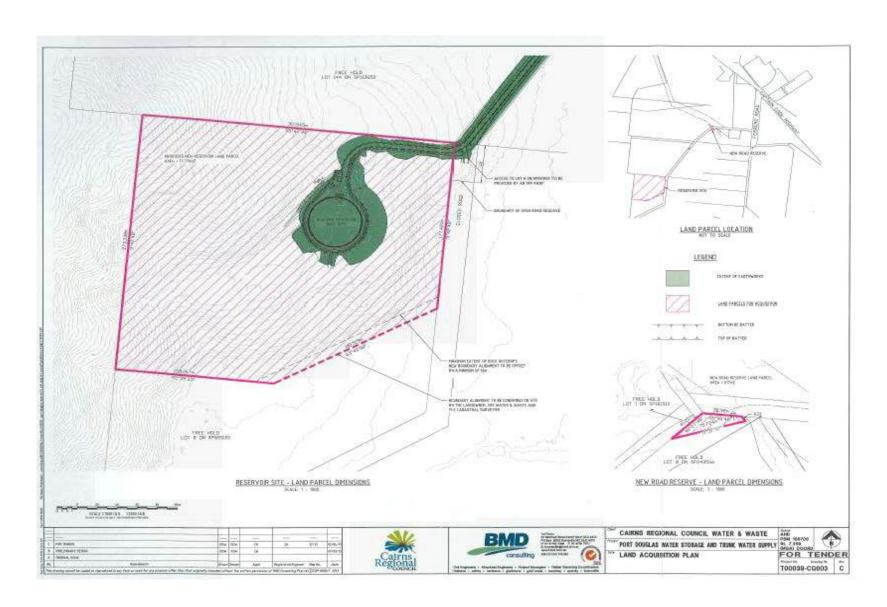
RIGHTS OF APPEAL Attached

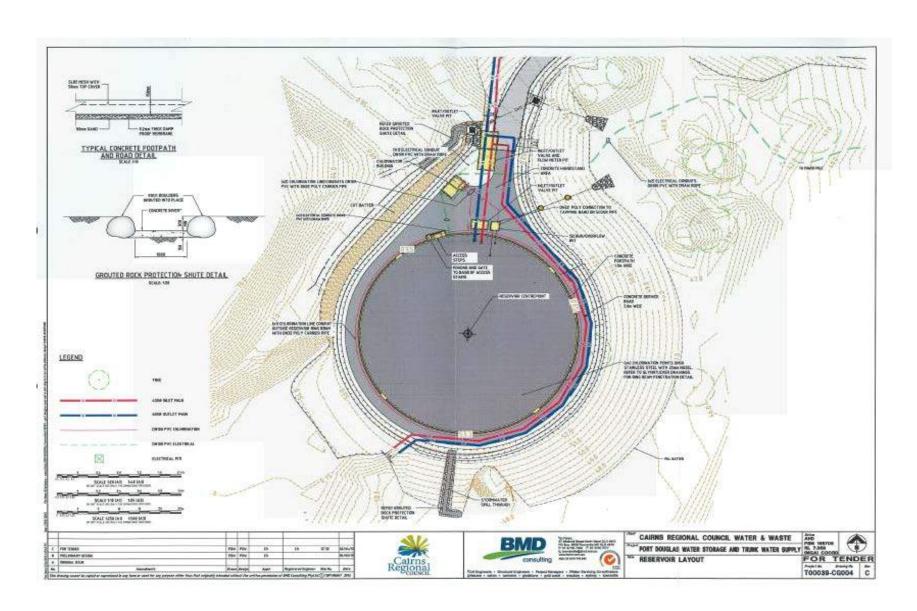
End of Decision Notice

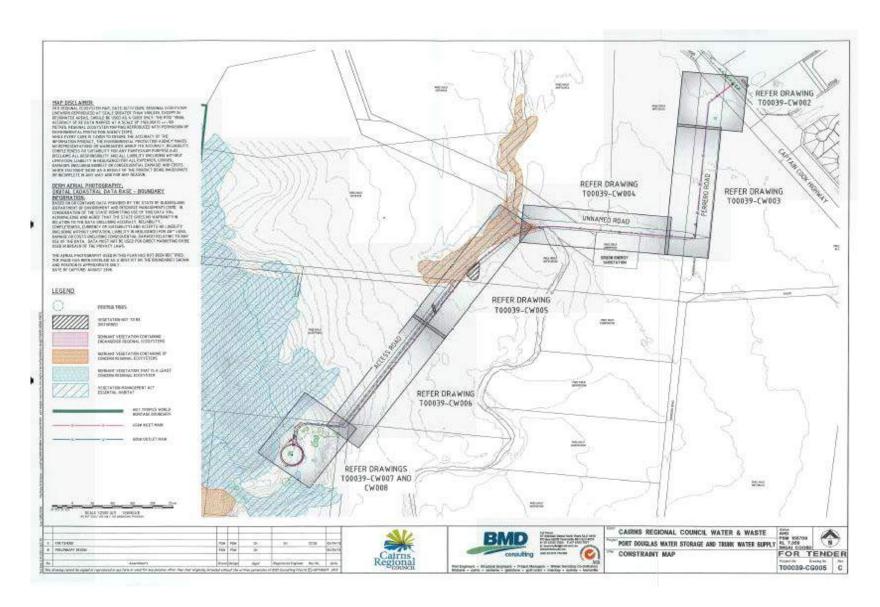
APPENDIX 1: APPROVED DRAWING(S) & DOCUMENT(S)

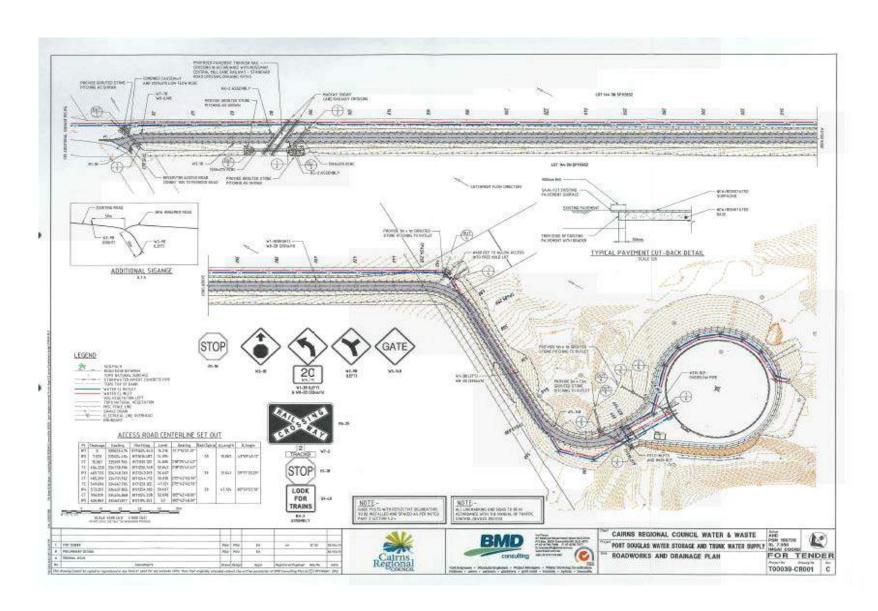


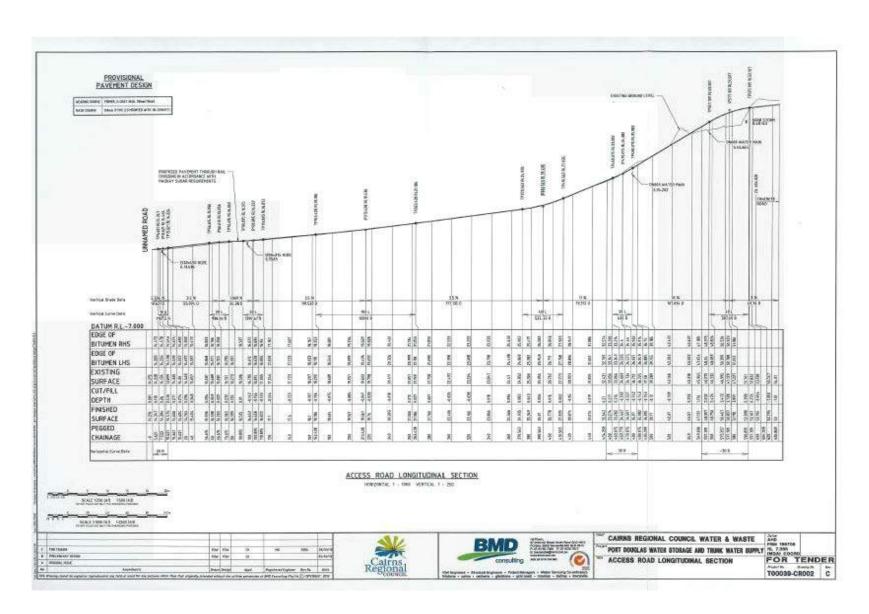


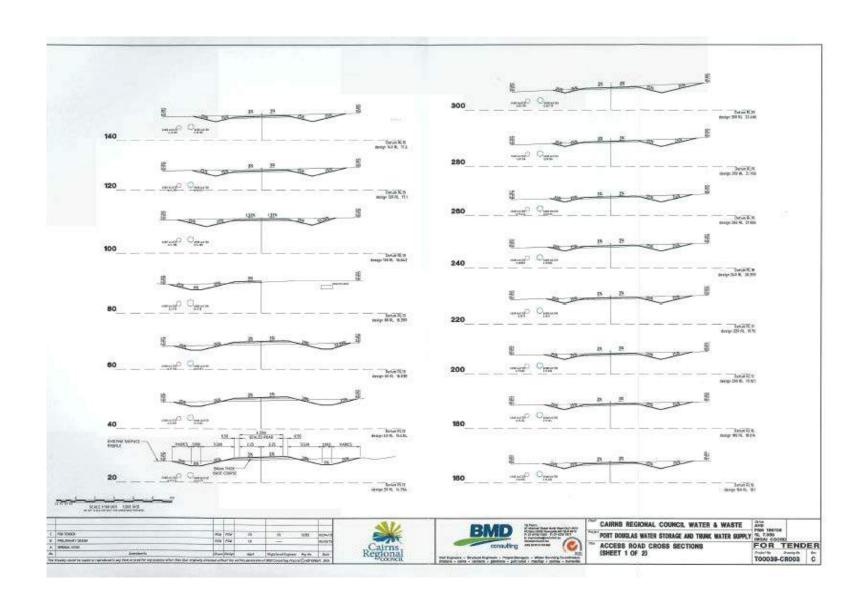


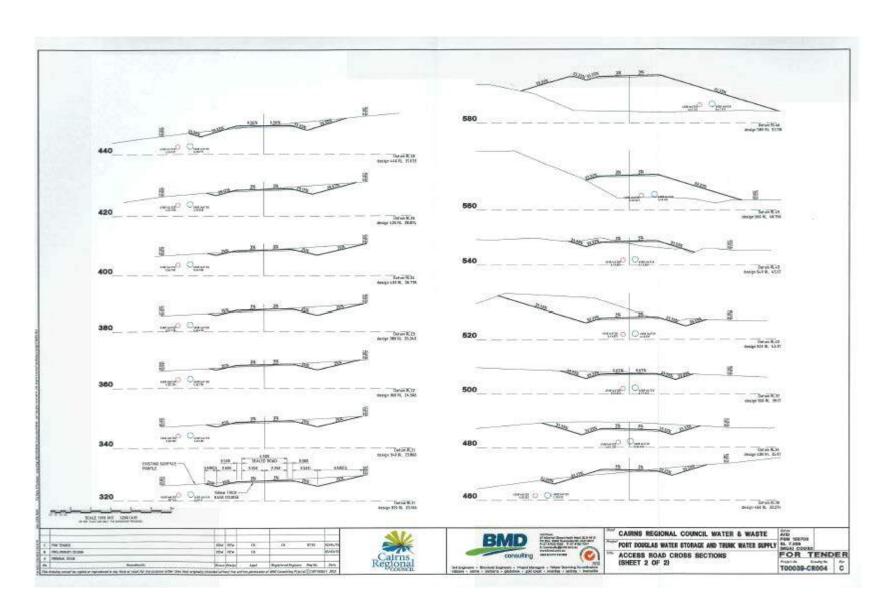


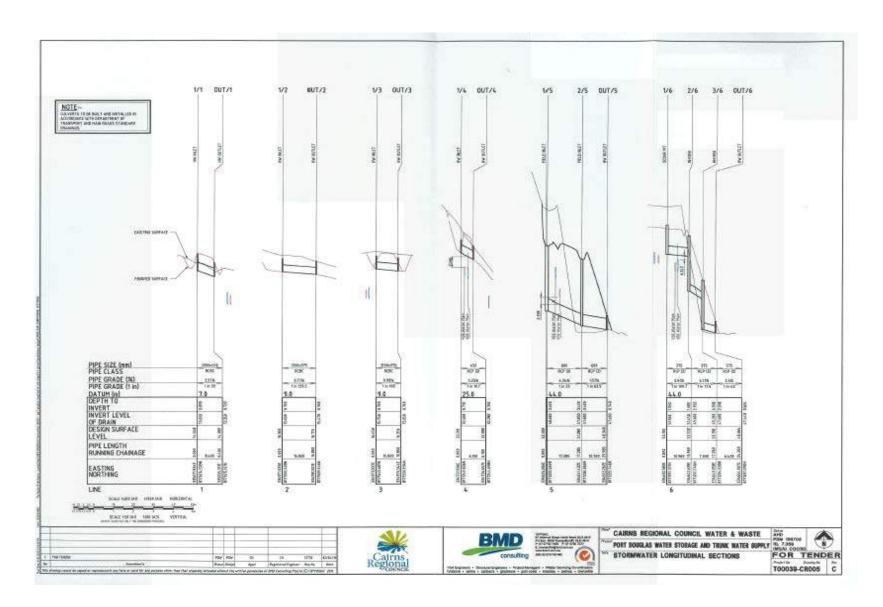


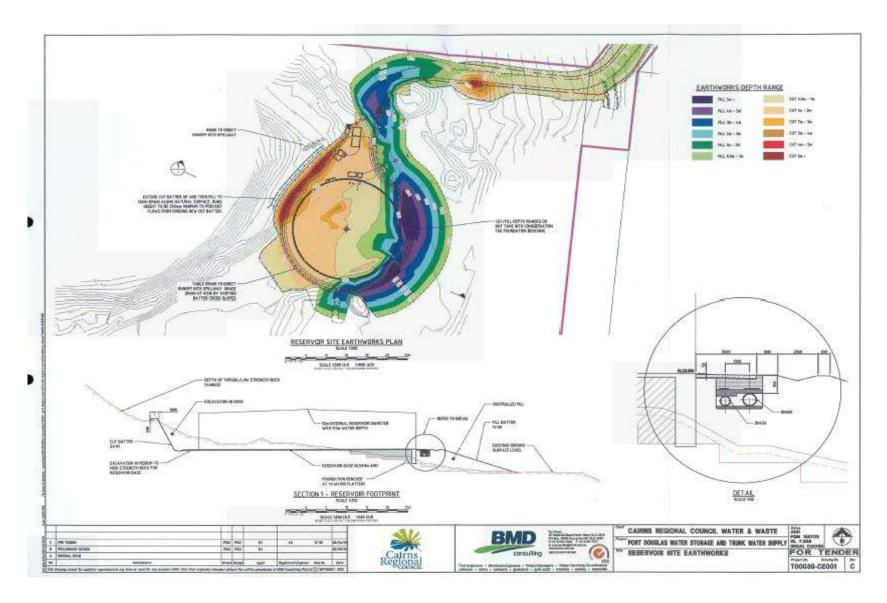


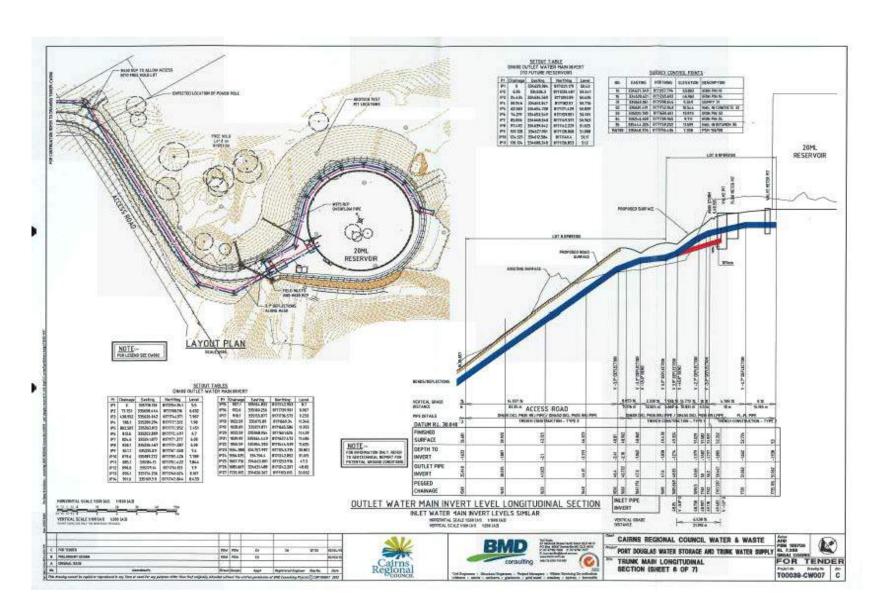


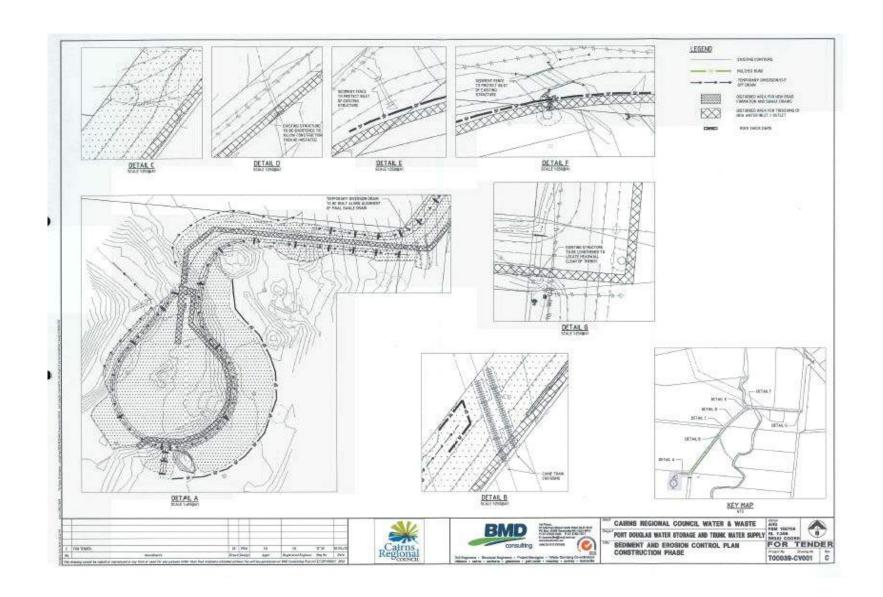


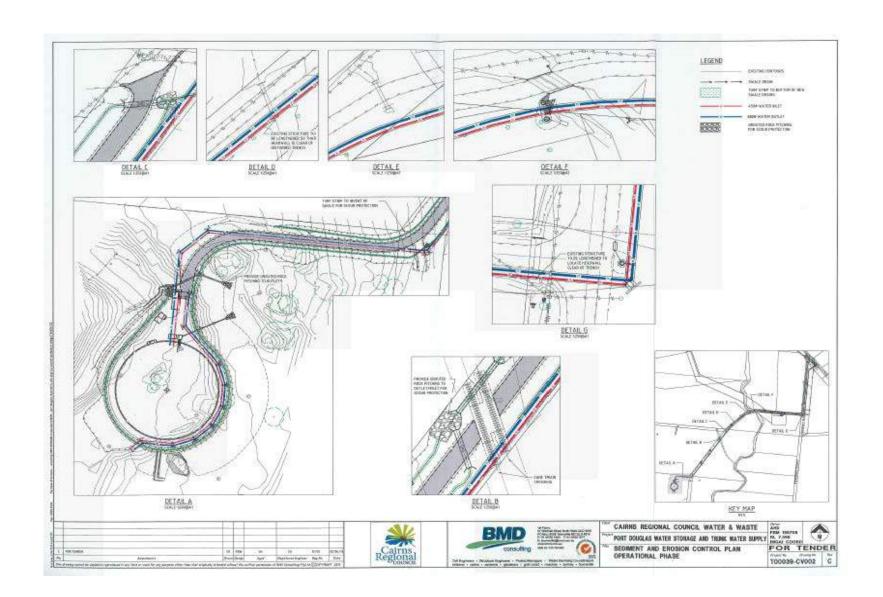


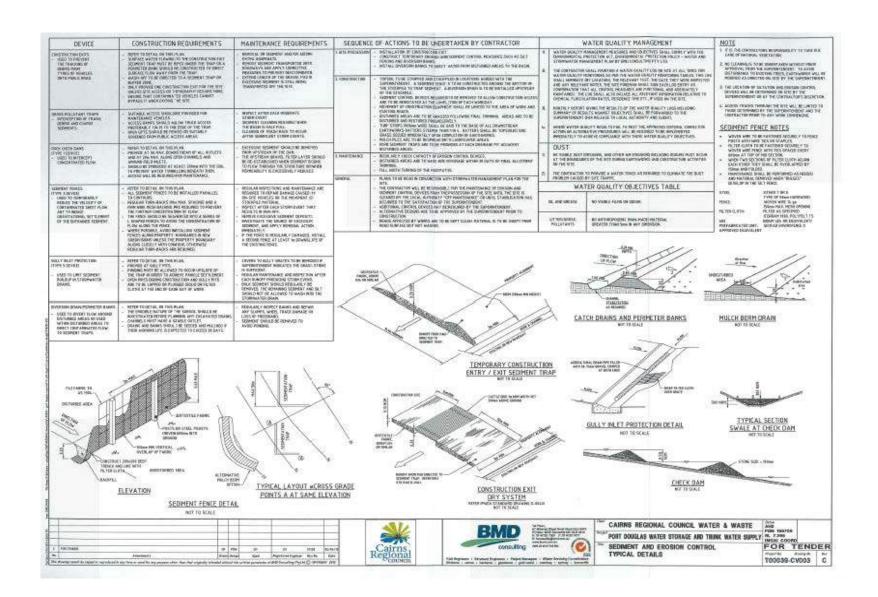


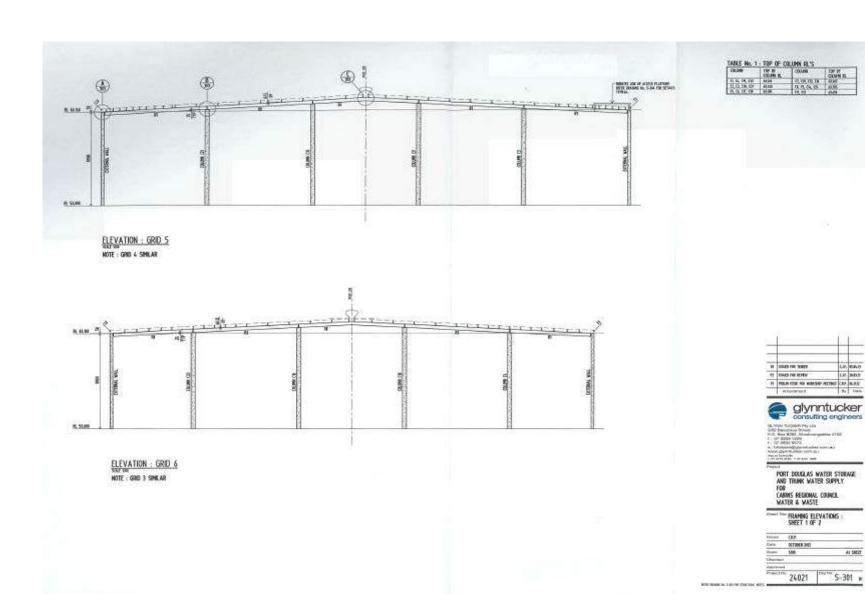








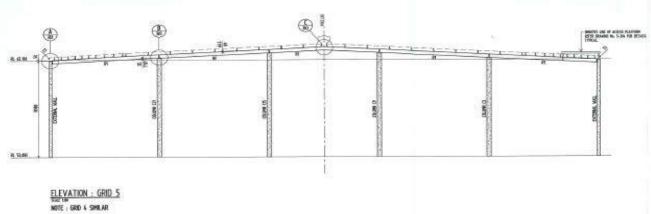


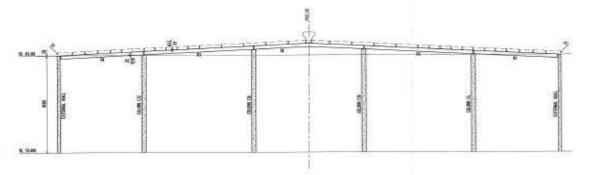


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