

19 November 2019

Enquiries: Daniel Lamond
Our Ref: CA 2019_3225 (928529)
Your Ref:

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

Owltail Pty Ltd (Tte)
3939R Cape Tribulation Rd
CAPE TRIBULATION QLD 4873

Email: merran@capetribfarm.com.au

Dear Sir/Madam

**Combined Development Application for Building Work Assessable
Against the Planning Scheme (Dwelling House) and
Material Change of Use (Tourist Attraction- Small Scale) -
At 3939 Cape Tribulation Road, Cape Tribulation
On Land Described as LOT: 1 on RP: 741071**

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

Please quote Council's application number: CA 2019_3225/1 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Daniel Lamond on telephone 07 4099 9456.

Yours faithfully



Paul Hoyer
Manager Environment & Planning

encl.

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Reasons for Decision
- Advice For Making Representations and Appeals (Decision Notice)

Decision Notice

Approval (with conditions)

Given under section 63 of the Planning Act 2016

Applicant Details

Name: Owltail Pty Ltd (Tte)
Postal Address: 3939R Cape Tribulation Rd
CAPE TRIBULATION QLD 4873
Email: merran@capetribfarm.com.au

Property Details

Street Address: 3939 Cape Tribulation Road CAPE TRIBULATION
Real Property Description: LOT: 1 RP: 741071
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Combined Application- Building Work Assessable against the Planning Scheme (Dwelling House) and Material Change of Use (Tourist Attraction- Small Scale).

Decision

Date of Decision: 19 November 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 or Document	Reference	Date
Site Plan	Plan No. 309-19, Sheet 1 of 2 prepared by Greg Skyring Design and Drafting Pty Ltd	11 September 2019
Site Plan- Part	Plan No. 309-19, Sheet 1 of 2 prepared by Greg Skyring Design and Drafting Pty Ltd	11 September 2019

Floor Plan (Secondary dwelling)	'One Bedroom Residence, Plan 2291, prepared by PD Designs	November 2017
Floor Plan of existing farm house with proposed reconfiguration	No reference, plan prepared by applicant	No date
Dwelling House Side Elevation Plan	No reference, copyright homefab	Submitted with application 9 August 2019
Dwelling House Front Elevation Plan	No reference, copyright homefab	Submitted with application 9 August 2019
Dwelling House Side Elevation Plan	No reference, copyright homefab	Submitted with application 9 August 2019
Rural Allotment Access	Standard Drawing S1105 Issue E	26 November 2014

Assessment Manager Conditions & Advices

Building Work Assessable Against the Planning Scheme (Dwelling House and Secondary Dwelling)

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

Except where modified by these conditions of approval

Timing of Effect

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

Building Colours

3. The exterior finishes and colours of Buildings must be non-reflective and must blend with the natural colours of the surrounding environment.

Finished Floor Levels

4. Finished habitable floor Levels for the secondary dwelling and the dwelling house must be a minimum of 300mm above existing ground.

On-site Effluent Disposal

5. The method of on-site effluent disposal must be in accordance with the Queensland Plumbing & Wastewater Code. Details of the wastewater treatment system to be installed must be approved by the Chief Executive Officer prior to the issue of a Development Permit for Building Work. The Wastewater Management System Report SI 312-12 V2 prepared by Consoil Pty Ltd, dated November 2019 is endorsed by Council.

Material Change of Use for Tourist Attraction (Small Scale)- Fruit Tasting and Farm Tours

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

Except where modified by these conditions of approval

Timing of Effect

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

Vehicle Parking

3. The amount of vehicle parking must be a minimum of eight (8) car spaces on-site. The car parking layout must comply with the Australian Standard AS2890.1-2004 Parking Facilities – off-street car parking and be constructed in accordance with Austroads and good engineering design. In addition, all parking, driveway and vehicular maneuvering areas must be appropriately surfaced (gravelled) and drained. All surface treatment should be suitably draining gravel, used to minimize nuisances associated with dust or mud.

Approved Use

4. The approved use can only operate in conjunction with the primary production land use on site being cropping.

Hours of Operation

5. The tourist attraction hours of operation are restricted to 9am to 6pm seven days per week.

Original Farm House Reclassification

6. The original farm house on site must undergo a building reclassification to a commercial building in accordance with the Building Act 1975.

Maximum Patronage

7. Maximum patronage for the tourist attraction must not exceed 30 people at any one time.

Further Development Permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Building Work

All Plumbing and Drainage Work must only be carried in compliance with the Queensland *Plumbing and Drainage Act 2018*.

Currency Period for the Approval

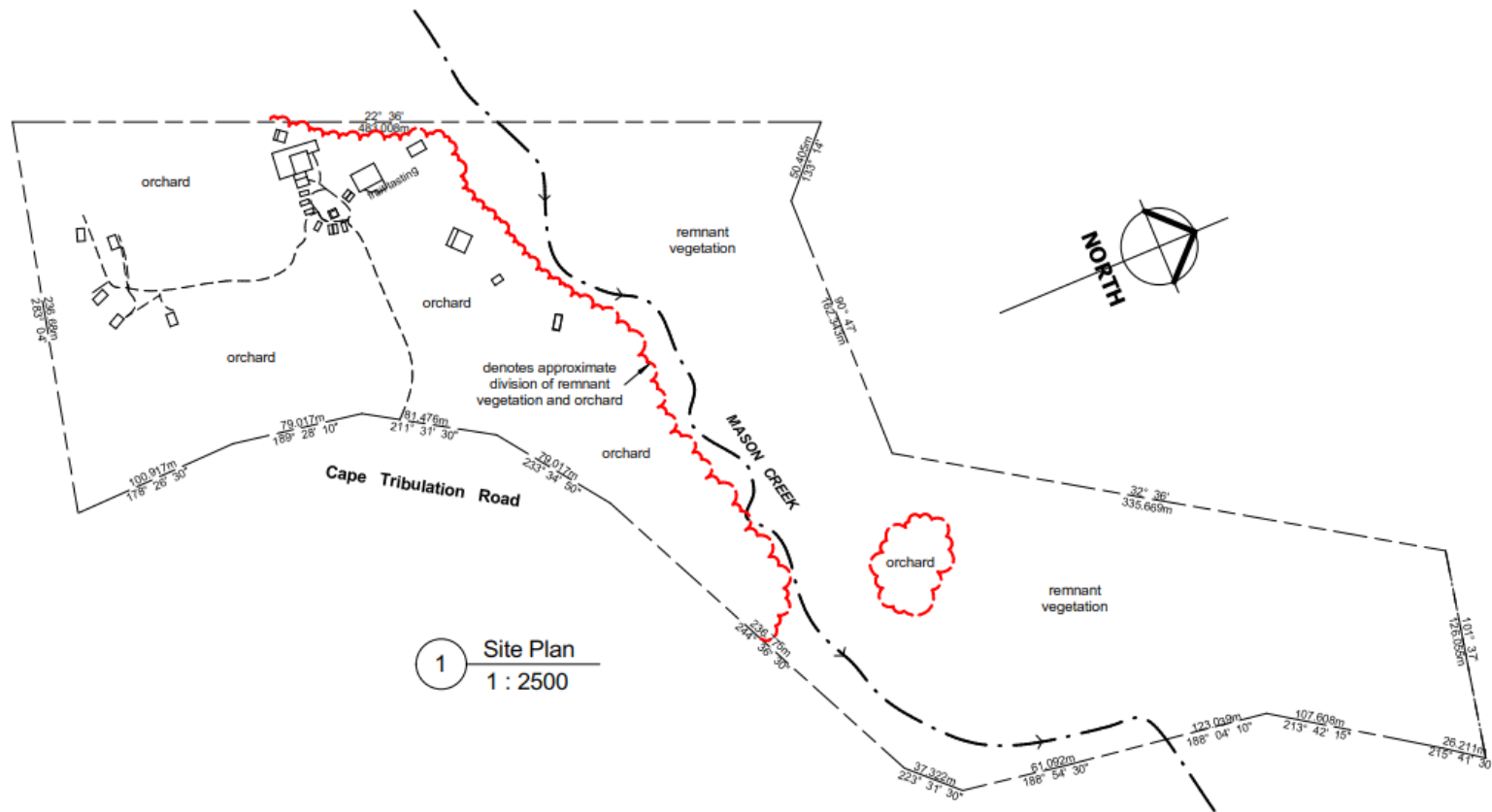
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

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*.

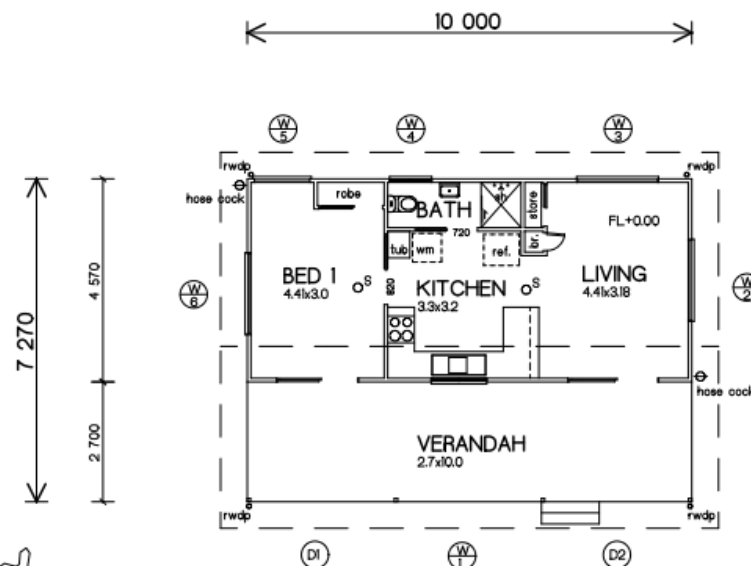
A copy of the relevant appeal provisions are attached.

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



<div><div><div><div><div><div>GREG SKYRING</div><div><i>Design</i></div></div></div><div><div><div>and DRAFTING Pty. Ltd.</div><div>Lic Under QBSA Act 1991 - No 1040371</div></div></div><div><div><div>11 Noli Close,</div><div>Mossman Q. 4873</div></div><div><div>Phone/Fax: (07) 40982061</div><div>Mobile: 0419212652</div><div>Email: greg@skyringdesign.com.au</div></div></div></div></div><div><div>PROJECT</div><div>Proposed Site Plan, L1 RP741071, 3939R Cape Tribulation Road, CAPE TRIBULATION</div></div></div>	<div><div>CLIENT</div><div>Owltail Pty Ltd</div></div>		<div><div>WIND CLASS</div><div>N/A</div></div>	<div><div>PLAN NUMBER</div><div>309-19</div></div>	<div><div>SHEET</div><div>1 of 2</div></div>
	<div><div>SCALES</div><div>1 : 2500</div></div>	<div><div>PLAN TITLE</div><div>Site Plan</div></div>		<div><div>DATE OF ISSUE</div><div>11.09.19</div></div>	<div><div>REV</div><div>A</div></div>

FLOOR AREA :	
INTERIOR LIVING	- 43.39 m ²
PATIO	- 27 m ²
GARAGE	- N/A
TOTAL	- 70.39 m ²



O S 240 V SMOKE DETECTOR FIXED TO CEILING IN ACCORDANCE WITH BCA PART 3.7.2.3 SMOKE ALARM TO COMPLY WITH AS 3788

PROVIDE TEMPERATURE CONTROL DEVICE TO HOT WATER UNIT IN ACCORDANCE WITH A.S. 3500.4.2 1997

CEILING FANS ARE TO BE INSTALLED TO ALL BEDRM & LOUNGE/DINING AREAS, ASSISTING IN COMPLIANCE WITH Min. 6 STAR ENERGY RATING.

ENSURE ALL WET AREA FLOORS ARE SEALED & FALL TO FLOOR WASTES IN ACCORDANCE WITH B.C.A. 3.8.1

HOT WATER SYSTEM TO OWNERS SPECIFICATION INSTALLED TO MANUFACTURER'S SPEC.

WINDOW SCHEDULE

W1	900x1200 SLIDING GLASS WINDOW
W2	1200x1800 SLIDING GLASS WINDOW
W3	1200x1800 SLIDING GLASS WINDOW
W4	900x900 SLIDING GLASS WINDOW
W5	900x1200 SLIDING GLASS WINDOW
W6	600x1800 SLIDING GLASS WINDOW

D1	2100x1800 SLIDING GLASS DOOR
D2	2100x2000 SLIDING GLASS DOOR

FLOOR PLAN

Homefab
Strong-smart-fast. Built to last.
6 Slace Street - PO Box 695 Marooch, Queensland 4860 Australia.
ABN: 21 603 460 395, Phone: 07 4092 2359
Fax: 07 4092 2355.
Website: www.homefab.com.au
Email: sales@homefab.com.au

pd designs
building designers

P: 07 4056 1663
F: 07 4056 3595
M: 0427 561 663
E: info@pd designs.com.au
06A gordon street, gordonvale, QLD 4865
Lic under QBCC Act 1991 - No. 193543
abr: 73 437 147 573
abr: 143 362 699



Use figured dimensions in preference to scale. Check all dimensions on site before fabrication or building work.

© These drawings and designs are Copyright

1:100
ON A3 SHEET

'RETREAT'
ONE BEDROOM RESIDENCE
for :
HOMEFAB

NOVEMBER 2017

2291

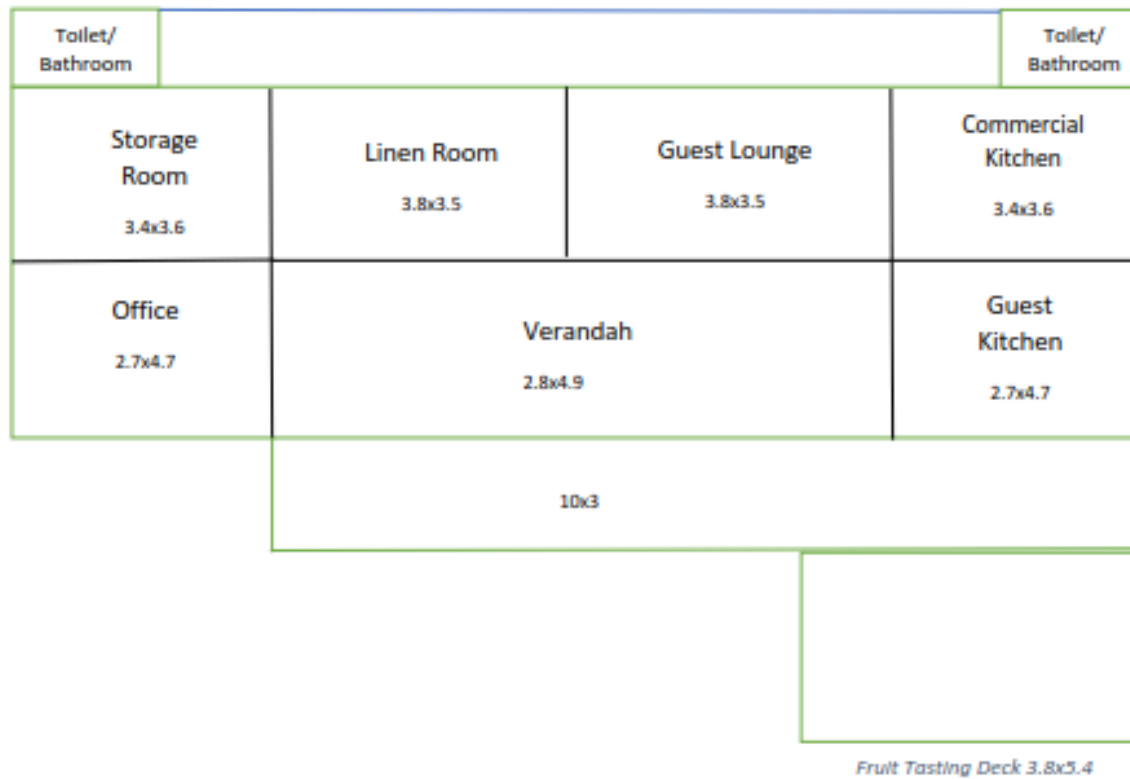
W1

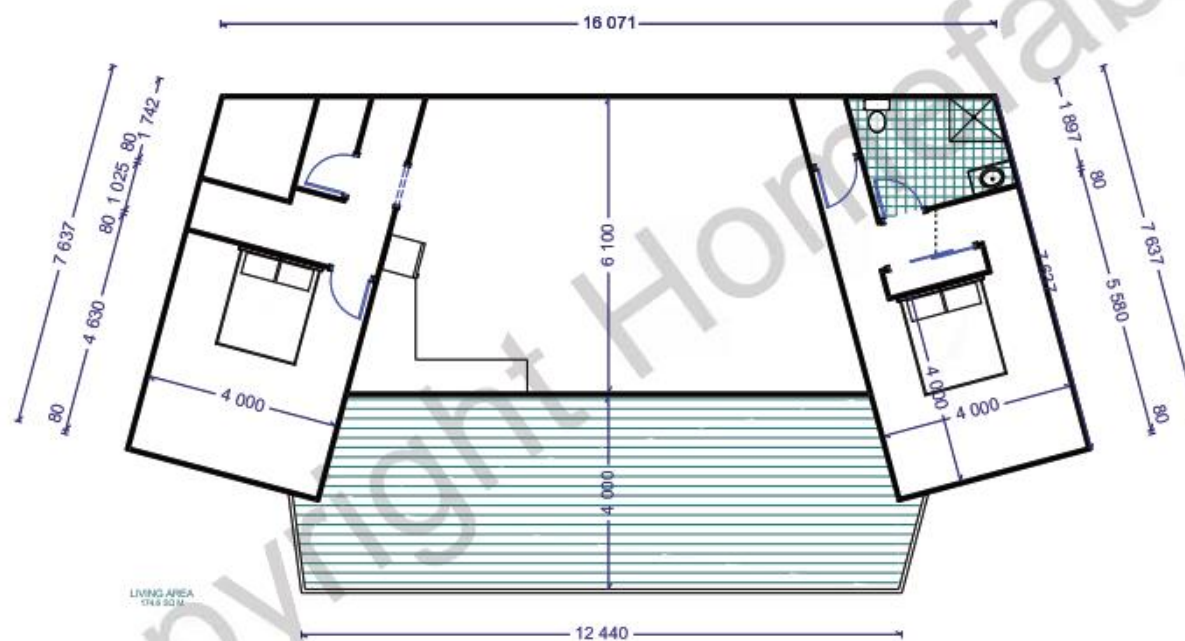
OF ?

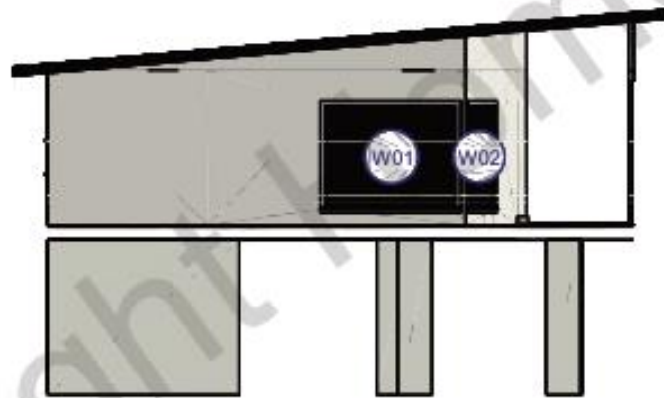
WIND
CLASSIFICATION

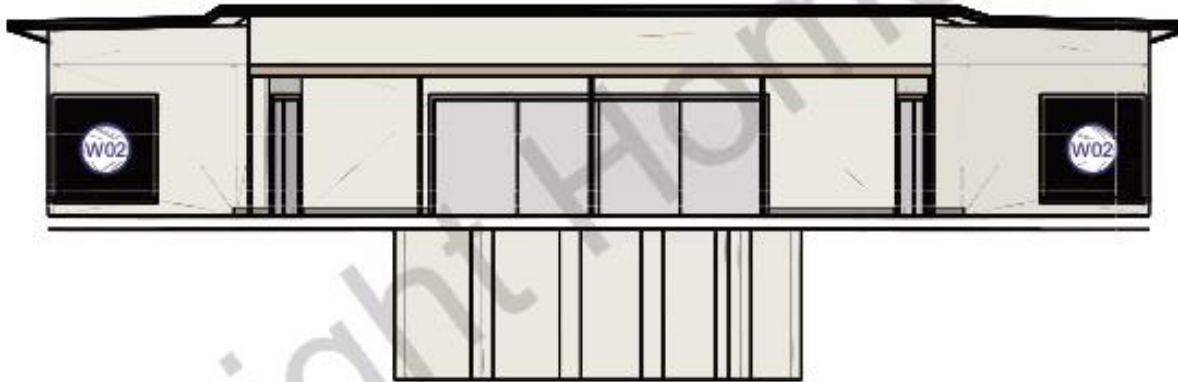
C2

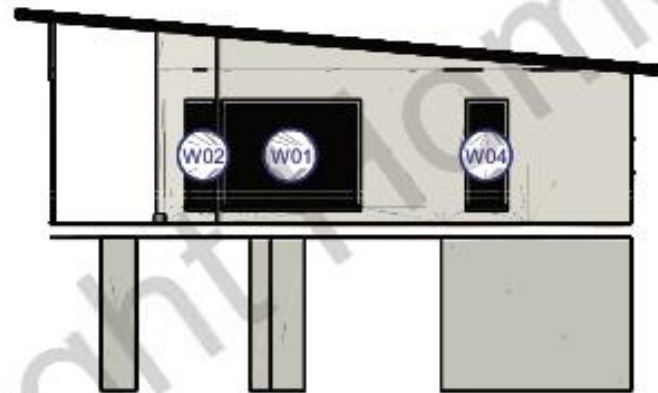
House dimensions – External 14.7 x 9.6 including back and front verandah





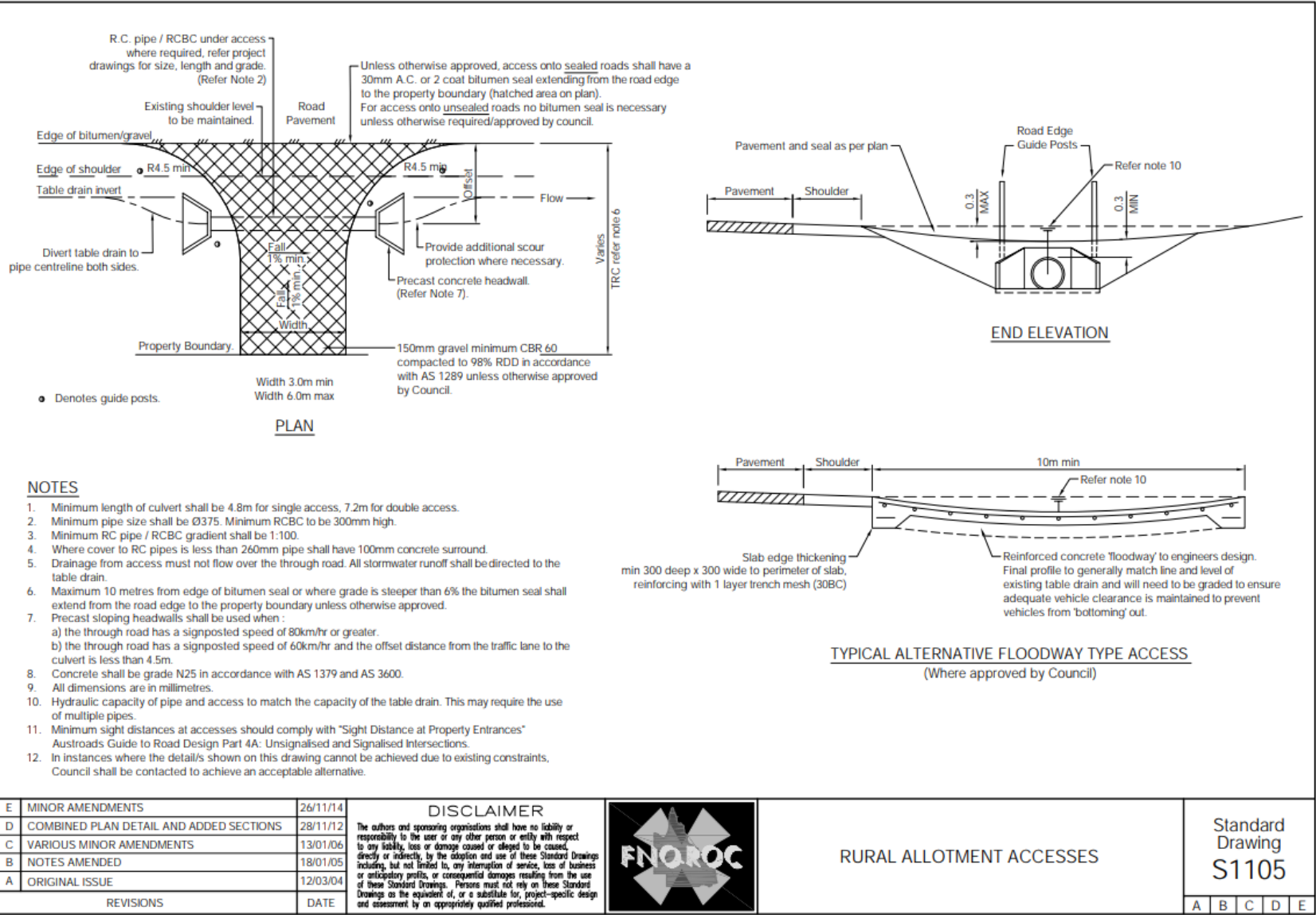








FNQROC Development Manual Standard Drawing for Vehicle Access



E	MINOR AMENDMENTS	26/11/14
D	COMBINED PLAN DETAIL AND ADDED SECTIONS	28/11/12
C	VARIOUS MINOR AMENDMENTS	13/01/06
B	NOTES AMENDED	18/01/05
A	ORIGINAL ISSUE	12/03/04
REVISIONS		DATE

DISCLAIMER

The authors and sponsoring organisations shall have no liability or responsibility to the user or any other person or entity with respect to any liability, loss or damage caused or alleged to be caused, directly or indirectly, by the adoption and use of these Standard Drawings including, but not limited to, any interruption of service, loss of business or anticipatory profits, or consequential damages resulting from the use of these Standard Drawings. Persons must not rely on these Standard Drawings as the equivalent of, or a substitute for, project-specific design and assessment by an appropriately qualified professional.



RURAL ALLOTMENT ACCESSES

Standard Drawing S1105				
A	B	C	D	E

Reasons for Decision

The reasons for this decision are:

Sections 60, 62 and 63 of the *Planning Act 2016*:

- a) to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
- b) to ensure compliance with the *Planning Act 2016*.

Findings on material questions of fact:

- a) the development application was properly lodged to the Douglas Shire Council 10 July 2019 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
- b) the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.

Evidence or other material on which findings were based:

- a) the development triggered assessable development under the Assessment Table associated with the Conservation Zone Code;
- b) Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
- c) the applicant's reasons have been considered and the following findings are made:
 - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

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.