

OUR REF: MCUC 4418/2011 (prev 8/37/4) (424292)

10 July 2014

Nitrohill Pty Ltd
Trustee for 'The Johnson Family Trust'
PO Box 926
MOSSMAN QLD 4873

Attention: Mr Ivan G Johnson

Dear Sir

**CHANGED DECISION NOTICE UNDER S 369 & S 383 SUSTAINABLE
PLANNING ACT 2009: DEVELOPMENT APPLICATION FOR
CAPE KIMBERLEY ROAD, KIMBERLEY**

Reference is made to your request for a permissible change and to extend the relevant period of the abovementioned Development Application, which was determined under Instrument of Delegation on 9 July 2014. Please find attached the Changed Decision Notice.

The relevant period of the Development Permit has been extended for two (2) years, up to, and including, 13 May 2016.

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

Should you have any enquiries in relation to this Changed Decision Notice, please contact Susanna Andrews of the Development and Environment Branch on telephone number 07 4099 9456.

Yours faithfully

Donna Graham
Manager Development & Environment

Att

APPLICANT DETAILS

Nitrohill Pty Ltd Trustee for 'The Johnson Family Trust'
PO Box 926
MOSSMAN QLD 4873

ADDRESS

111R Cape Kimberley Road, Kimberley

REAL PROPERTY DESCRIPTION

Lot 89 on BS7

PROPOSAL

House

DECISION

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

DECISION DATE

This Changed Decision Notice dated 10 July 2014 replaces the Decision Notice dated 2 December 2011.

TYPE

Material Change of Use (Development Permit)

REFERRAL AGENCIES

Department of Natural Resources and Mines (formerly Department of Environment & Resource Management)
State Assessment and Referral Agency
Department of State Development, Infrastructure and Planning
PO Box 2358
CAIRNS QLD 4870

SUBMISSIONS

There were no submissions for this application.

FURTHER DEVELOPMENT PERMITS REQUIRED

Development Permit for Building Works
Development Permit for Plumbing 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)

Not in conflict

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

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

Drawing or Document	Reference	Date
Proposed site plan	Johnson 01-1	14/11/05
Proposed residence plan view	Johnson 01-2	14/11/05
Proposed residence elevations	Johnson 01-3	14/11/05
Proposed shed/garage	Johnson 01-1	14/11/05

ASSESSMENT MANAGER CONDITIONS

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Council; and
 - b. To ensure that the development complies in all respects with 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.

Water Supply

3. Water storage tank(s) with a minimum capacity not less than 30 000 litres, and must be installed prior to occupation of the premises. Details of the water tank(s) must be shown on plans submitted with the building application. Such water tanks must be provided with:
 - a. mosquito-proof screens of brass, copper, aluminium or stainless steel gauze not coarser than one (1) mm aperture mesh of substantial construction and installed in such manner as not to cause or accelerate corrosion; or
 - b. flap valve at every opening of the tank or other receptacle; or
 - c. other approved means for preventing the ingress or egress of mosquitoes; and
 - d. where a tank or other receptacle is provided with a manhole, the manhole must have a diameter of no more than 40cm; and
 - e. the water tank(s) shall be fitted with a 50mm ball valve with a camlock fitting.

Vegetation Clearing

4. Existing vegetation on the subject land must be retained in all areas except those affected by the construction of access driveways and the installation of services as detailed on the approved plans. Any further clearing requires a ~~Permit to Damage Protected Vegetation under Amendment 1 of 2006 Of Local Law No. 56 Vegetation Management~~ Permit for Operational Works.

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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.

Generators

6. All power generation devices are to be positioned and housed (including noise attenuation material) so as to mitigate noise nuisance to adjoining and nearby residents.

Fuel Storage

7. All fuels must be stored in an undercover and secure location at all times.

Building Colours

8. The exterior finishes and colours of Buildings are non-reflective and blend with the natural colours of the surrounding environment. Roofs must be of moderately dark to darker shades of green, grey, blue and brown.
The following proposed building colours are approved for use:

Exterior Walls – Colorbond Paperbark®

Windows and Doors – Colour-coated aluminium, timber-framed French doors

Roof – Colorbond® green

Shed – Colorbond® green

The applicant/owner must also ensure that the above Building Exterior requirements are made known in writing to all prospective purchasers.

Sediment and Erosion Control

9. The soil and water management measures must be installed/implemented prior to discharge of water from the site, 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*).

Water Saving

10. All toilet devices in the development must be fitted with dual flush cisterns and showers and hand basins in the development must be fitted with flow control valves or similar water control devices to generally restrict flow to nine (9) litres of water per minute.

Landscaping

11. All landscaping to be installed must consist of native and endemic species only and planted in an irregular and random fashion to blend with existing vegetation. Exotic species are not permitted.

A Landscape Plan nominating the species and location of trees and shrubs to be planted must be approved by the Chief Executive Officer prior to the issue of a Development Permit for Building Work. The landscape plan does not need to be professionally drawn but does need to be of a standard which clearly illustrates those areas to be planted.

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CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS

Concurrency Agency	Concurrency Agency Reference	Date	Council Electronic Reference
DNRW	TNS/026542	3/3/2008	1677070

Refer to Appendix 2: Concurrence Agency Requirements. (Please note that these conditions / requirements may be superseded by subsequent negotiations with the relevant referral agencies).

FURTHER ADVICE

1. This 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 cyclone watch 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 all other relevant Local Laws and other statutory requirements.
4. The taking of water or interfering with water from streams or groundwater sources will require a permit administered under the *Water Act 2000* and issued by the regional office of the Department of the Natural Resources and Water. Further information can be obtained from the Department of Natural Resources and Mines on 07 4039 8431 or at www.nrm.qld.gov.au.
5. For information relating to the *Sustainable Planning Act 2009* log on to www.dip.qld.gov.au. To access the *FNQROC Development Manual*, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.

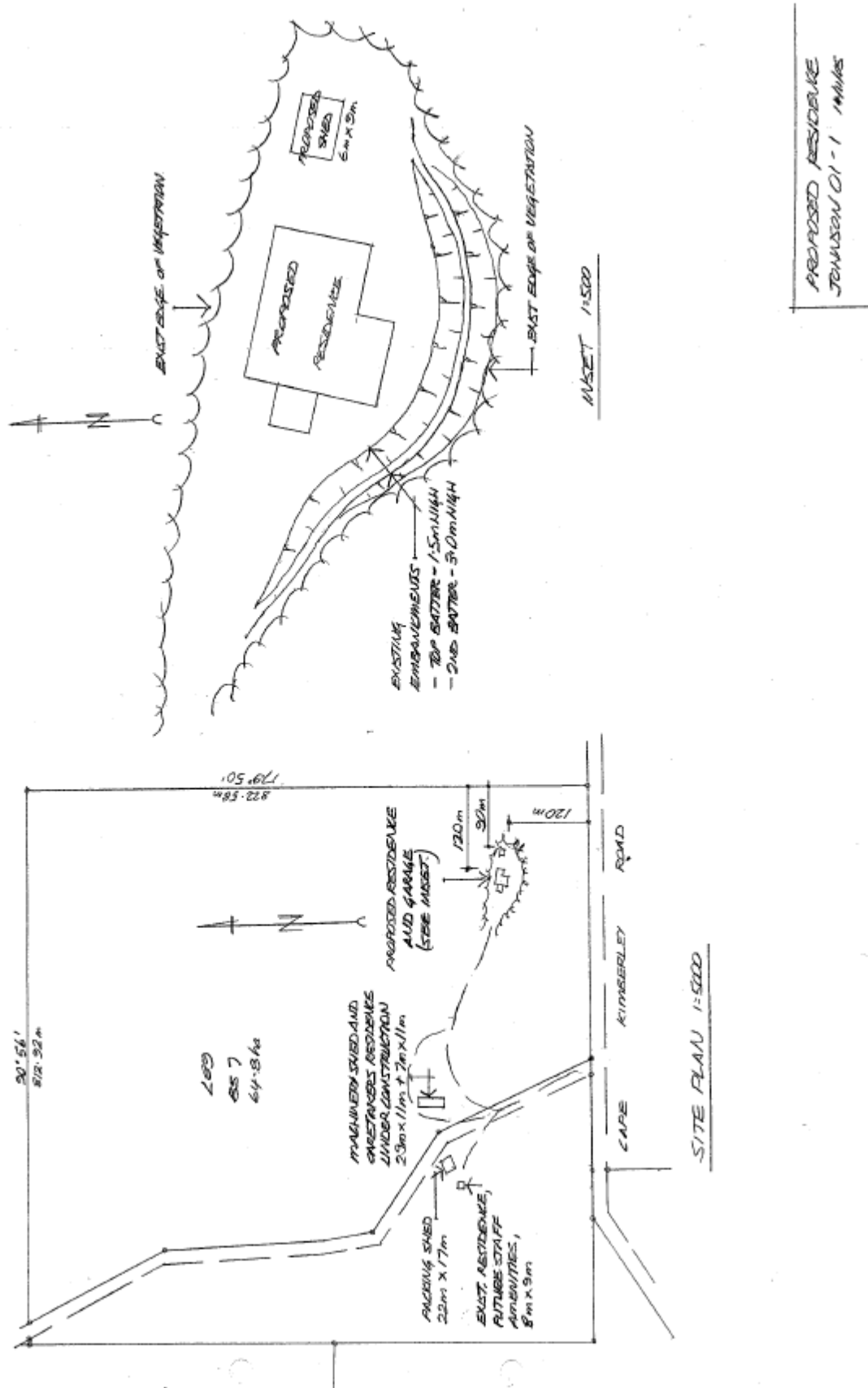
RIGHTS OF APPEAL

Attached

End of Decision Notice

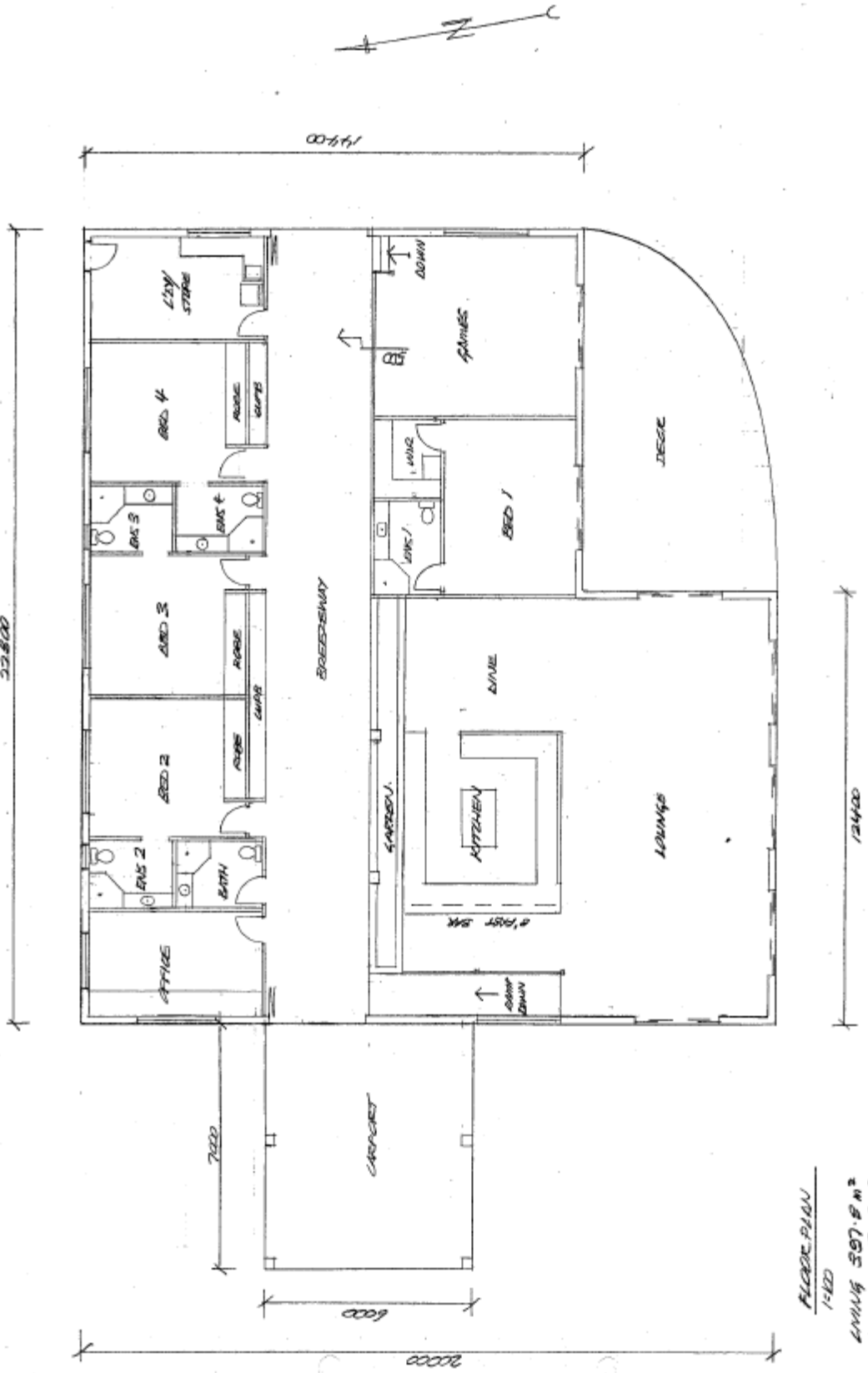
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APPENDIX 1: APPROVED PLAN(S) & DOCUMENT(S)



PROPOSED RESIDENCE
 JENNIFER O'NEILL

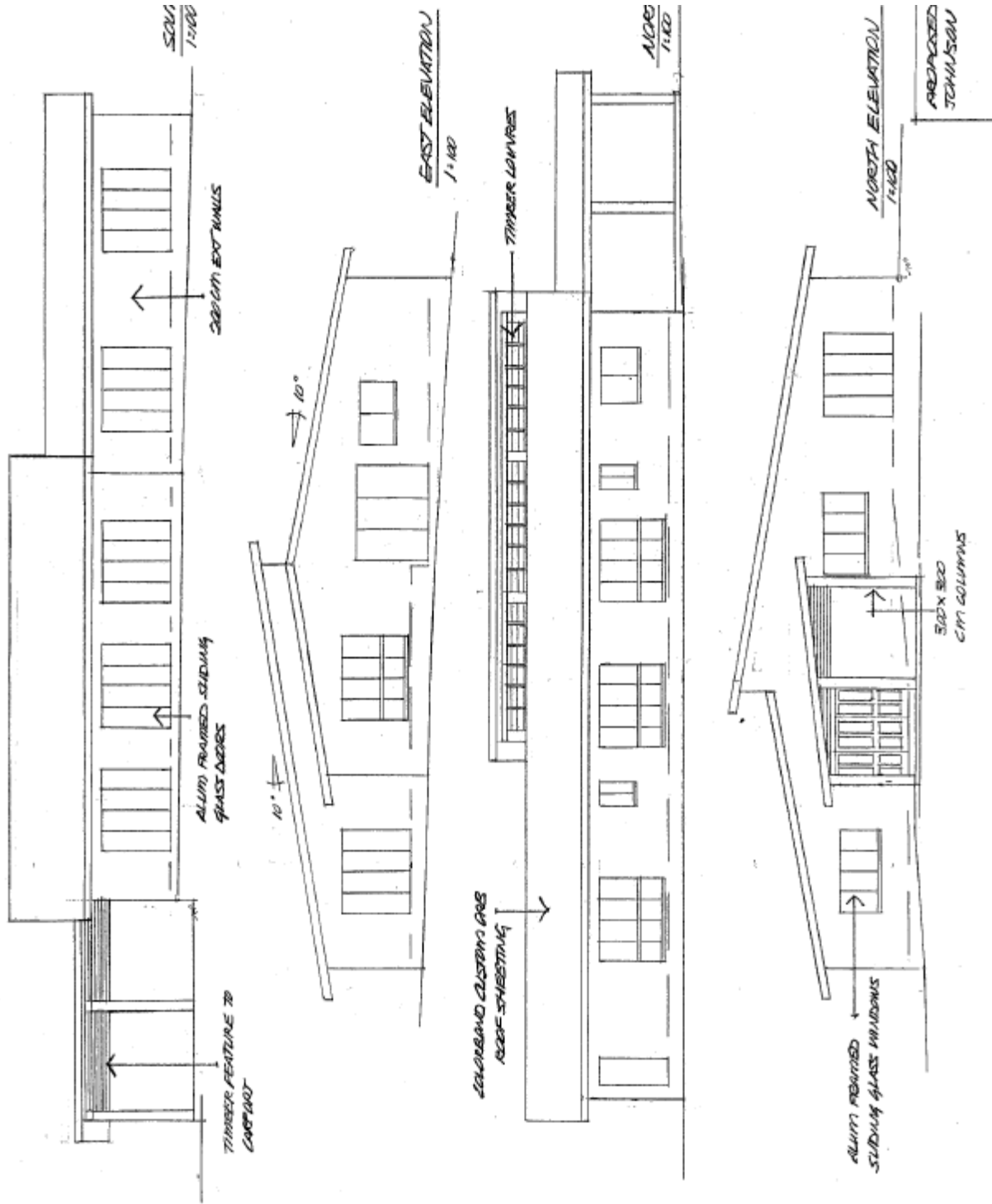
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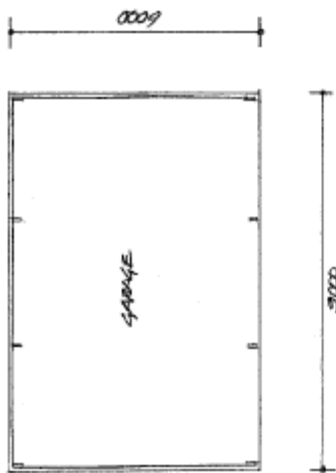
PROPOSED RESIDENCE
 JENNIFER 01-2 14/1/15

FLOOR PLAN
 1:400
 LIVING 597.8 m²
 DECK 47.8 m²
 GARAGE 42.0 m²
 487.6 m²

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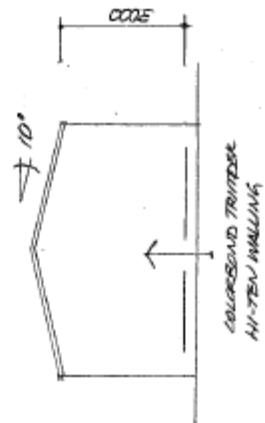


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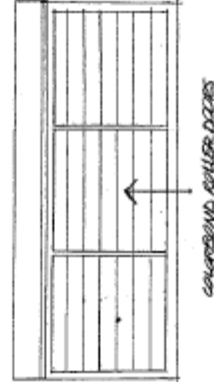


FLOOR PLAN 1:100

SM 2



END ELEVATION 1:100



SIDE ELEVATION 1:100

PROPOSED GARAGE
JENNIFER 02-1 14/11/15

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APPENDIX 2: CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS



Author : Scott Devaney
File / Ref number : 2007/005644/409511
Reclind No: TNS/026542
Trackjob No: IC0307TTSV0014
Unit : Vegetation Management Unit
Phone : Enter phone or extension

Department of
Natural Resources and Water

3 March 2008

Douglas Shire Council
PO Box 357
Mossman QLD 4873



Dear Chief Executive Officer

Application for a Material change of Use on Lot 89 BS7 - Douglas Shire Council – Referral Agency Response

The Department of Natural Resources and Water (acting as a Concurrence Agency), has completed the assessment of the above application against the purposes of the Vegetation Management Act 1999 in accordance with the Concurrence Agency Policy for MCU (Concurrence-Single Issue).

The Referral Agency Response, prepared pursuant to section 3.3.16(1) of the *Integrated Planning Act 1997*, is enclosed. I look forward to receiving a copy of the decision notice for the application in due course.

Should you have any questions about the above, please contact Mr Scott Devaney, Vegetation Management Officer on telephone number (07) 4048 4702, quoting the above reference number.

Yours sincerely

Daniel Gillinder
Senior Vegetation Management Officer (VM1)
North Region

3/3/2008

NRW Mareeba
28 Peters Street
Mareeba
PO Box 2116
Mareeba Qld 4880
Telephone 40484602
Facsimile 40484759
Website www.nrm.qld.gov.au
ABN 83 705 537 586

**Referral Agency Response – Material Change of Use
/ Reconfiguring a Lot**

s 3.3.16 Integrated Planning Act 1997

1. Application information

- 1.1. **Applicant's name:** Nitrohill Pty. Ltd C/- Greg Skyring Design and Drafting Pty.
Ltd.
- 1.2. **Property description:** 89 BS7 - Douglas Shire Council
- 1.3. **Assessment Manager/Reference:** Ms Louise Stayte (MCU 3B 035/05)
- 1.4. **Date application was referred to Department:** 27 April 2007
- 1.5. **Departmental Reference:** eLVAS Case No: 2007/005644, File Ref. No:
TNS/026542, Trackjob No: IC0507TSV0014
- 1.6. **Type of development sought by the application:**
 - Material Change of Use

2. Concurrence Agency response:

The Chief Executive of the Department of Natural Resources and Water directs that the following conditions must be imposed on any approval given by the Assessment Manager:

- No clearing of native vegetation is to occur as a result of the Material Change of Use of Lot 2 on RP907307. Any future clearing of native vegetation will require a development approval, unless the clearing of native vegetation is exempt under Schedule 8 of the *Integrated Planning Act 1997*.

3. Reasons:

A Statement of Reasons is attached at Schedule 1.

4. Additional comments or information:

Aboriginal Cultural Heritage

Under section 23 of the *Aboriginal Cultural Heritage Act 2003* a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are \$750,000 for a corporation and \$75,000 for an individual.

Applicants will comply with the duty of care in relation to Aboriginal cultural heritage if they are acting in compliance with cultural heritage duty of care guidelines gazetted under the *Aboriginal Cultural Heritage Act 2003*, available on the Department's website, or in accordance with an agreement with the Aboriginal party for the area or a cultural heritage management plan approved under part 7 of the *Aboriginal Cultural Heritage Act 2003*.

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5. Authorised Officer Signature:



3/3/2008

Daniel Gillinder
Senior Vegetation Management Officer (VM1)
North Region

3 March 2008

Att. Schedule 1 – Statement of Reasons

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eLVAS Case No:	2007/005644
File Ref. No:	TNS/026542
Trackjob No:	IC0507TSV0014

Schedule 1

**Statement of Reasons
Referral Agency Response
Application for Material Change of Use
Nitrohill Pty. Ltd C/- Greg Skyring Design and Drafting Pty. Ltd.**

The following Statement of Reasons is provided pursuant to s. 3.3.18(8) of the *Integrated Planning Act 1997*

Introduction

1. The Department of Natural Resources and Water (NRW) received an application from Nitrohill Pty. Ltd. C/- Greg Skyring Design and Drafting Pty. Ltd. on 29 May 2007.
2. The application is for Material Change of Use (Concurrence-Single Issue) on Lot 89 BS7 - Douglas Shire Council.
3. An Information Request was sent by registered post to the applicant on 1 June 2007. This request disclosed information that the applicant must address the Concurrence Agency Policy for Material Change of Use (20 November 2006).
4. The applicant responded to the Information Request on the 4 January 2008.
5. An Assessment Report was sent to the Delegate of the Chief Executive, Daniel Gillinder, on 3 March 2008.
6. The Delegate determined the Referral Agency Response on 3 March 2008.

Evidence

1. Application dated 29 May 2007.
 - a) Completed IDAS Form 1 Part "J".
 - b) Property Vegetation Management Plan.
2. *Integrated Planning Act 1997 & Integrated Planning Regulation 1998 (Schedule 2)*
3. *Vegetation Management Act 1999*
4. *Department of Natural Resources and Water Concurrence Agency Policy for Material Change of Use (20 November 2006)*
5. *State Planning Policy (SPP) 1/03 - Mitigating the Adverse Impacts of Flood, Bushfire, and Landslide.*
6. Information Request to applicant dated 1 June 2007.
7. Response to Information Request from applicant dated 4 January 2008.
8. Assessment Report dated 3 March 2008.
9. Douglas Shire Council Planning Areas as found at www.dsc.qld.gov.au
10. Vegetation Information Network database
11. A copy of the applicant's map Johnson 01-1 as per the application received 14/05/07.
12. The Regional Ecosystem Description Database found at www.epa.qld.gov.au.
13. A copy of an email sent 11/02/08 from Bryan Cifuentes (Area Director- Fire and Rescue Service) to Scott Devaney.
14. The applicant's response to the Information Request as received 07/02/08.

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15. The applicant's map received 07/02/08.
16. A package of 28 photographs received from the applicant 07/02/08, of which 4 were used in the assessment report and appendices.
17. A copy of Appendix A from the Draft Onsite Sewerage Assessment- Lot 89 Cape Kimberly Road, Daintree, Report No. 9836, as received on 07/02/08.

Findings of fact

1. I find that the Vegetation Information Network database confirmed the location, extent and type of remnant vegetation on Lot 89 BS7.
2. I find that the Douglas Shire Planning Scheme confirmed that Lot 89 BS7 is zoned as Rural, and is therefore non-urban.
3. I find that the Johnson map 01-1 confirmed that vegetation was not required to be cleared to accommodate the proposed house in the area of non-remnant vegetation in the south east corner of Lot 89 BS7.
4. The Regional Ecosystem Description Database confirmed that the vegetation surrounding the non-remnant area where the proposed house is sited is simple to complex mesophyll to notophyll vine forest.
5. The email from Bryan Cifuentes confirmed that there is a very low fire risk at the site.
6. The applicant's letter received 07/02/08 confirmed that the clearing of remnant vegetation is not required for the construction of the house and reasonably associated infrastructure.
7. The applicant's map indicated the position and direction of 4 photographs used in the assessment report.
8. The photographs received from the applicant 07/02/08 confirmed the existence of a cleared track to the proposed house site and the extent of the existing cleared area of the proposed house site.
9. Report 9836 confirmed that the treatment of sewerage could be accommodated on the site without a requirement for vegetation clearing.

Reasons

It is considered by the assessing officer that this application meets the requirements of Criteria Table A of the Concurrence Agency Policy for Material Change of Use (20 November 2006).

Conditions:

- No clearing of native vegetation is to occur as a result of the Material Change of Use of Lot 2 on RP907307. Any future clearing of native vegetation will require a development approval, unless the clearing of native vegetation is exempt under Schedule 8 of the *Integrated Planning Act 1997*.



Daniel Gillinder
Senior Vegetation Management Officer (VM1)
North Region

3 March 2008

