

OUR REF: MCUI 2695/2008 (426039)

8 August 2014

curious architects
6/7 Mayfield Street
ABBOTSFORD VIC 3067

Attention: Mr Adam Birrell

Dear Sir

**DECISION NOTICE UNDER S 383 SUSTAINABLE PLANNING ACT 2009:
PLANNING & ENVIRONMENT COURT JUDGEMENT FOR
SILVER ASH ROAD, COW BAY**

Reference is made to a request to extend the relevant period of the abovementioned Planning and Environment Court Judgement, which was determined under Instrument of Delegation on 8 August 2014.

Council advises that the Judgement for Appeal 1056 of 2009 is now valid up to and including 2 December 2018.

A copy of the Judgement is attached for your information.

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

Yours faithfully

Donna Graham
Manager Development & Environment

Att

Duplicate

FINAL ORDER

JUDGMENT

In the Planning and Environment Court
Held at: **Brisbane**

No: 1056 of 2009

BETWEEN

ROBIN WILLIAM HOUSTON

Appellant

AND

STATE OF QUEENSLAND (as represented by the
Douglas Iconic Panel)

Respondent

AND

CAIRNS REGIONAL COUNCIL

Co-Respondent

Before his Honour Judge Richard Jones

Date of Hearing: 19 November 2010

Date of Judgment: 19 November 2010

**UPON THE COURT BEING SATISFIED THAT THE CHANGES TO THE PROPOSAL
ARE ONLY MINOR CHANGES, IT IS THIS DAY ORDERED THAT:-**

1. The appeal be allowed; and
2. The development application for a development permit for a material change of use (House) over land on the corner of Silver Ash Road and Kauri Close, Cow Bay, more particularly described as Lot 259 on RP738997, be approved subject to the conditions set out in Annexure 1 of this Judgment.

Filed on : - 2 DEC 2010
Filed by: ~~2010~~ Robin William Houston
Service Address: 165A Russell Street, Toowoomba QLD 4350
Phone: 0412 952 645
Fax: (07) 4632 6798



Richard Jones
.....
Registrar

JUDGMENT
Filed on behalf of the Appellant
Form PEC-8

Page 1

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TOOWOOMBA QLD 4350
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E robinhouston@helmut.com

ANNEXURE 1

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

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

Drawing or Document	Reference	Date
Building Envelope and Site Location Plan	RECS drawing PR102609-10 Issue A	11 October 2010
Building Envelope and Site Location Plan	Unnamed drawing as submitted BY RECS	As submitted to Council on 6 September 2010
Floor Plan	Folkhome Drafting Service, Job 2007/10/34 Drawing DA 1, 2 of X (Council document 2611599)	As submitted to Council on 3 June 2010
Elevations 1 and 3	Folkhome Drafting Service, Job 2007/10/34 Drawing DA 1, 3 of X (Council document 2611599)	As submitted to Council on 3 June 2010
Elevations 2 and 4	Folkhome Drafting Service, Job 2007/10/34 Drawing DA 1, 4 of X (Council document 2611599)	As submitted to Council on 3 June 2010
Sections	Folkhome Drafting Service, Job 2007/10/34 Drawing DA 1, 5 of X (Council document 2611599)	As submitted to Council on 3 June 2010
Car Port Details	Folkhome Drafting Service, Job 2007/10/34 Drawing DA 1, X of X (Council document 2611599)	As submitted to Council on 3 June 2010

Assessment Manager Conditions

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

Except where modified by these conditions of approval

Timing of Effect

2. The conditions of the Development Permit must be effected prior to 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 40 cm; and
- e. The water tank(s) shall be fitted with a 50 mm ball valve with a camlock fitting.

Water Saving

4. 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.

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.

Vehicle Access

6. Vehicle access to the land is limited to the proposed driveway and crossover from Kauri Close.

External Works

7. Undertake the following works external to the land at no cost to Council:
 - a. Construct a concrete access to the proposed building pad, generally in accordance with the Site-plan prepared by RECS Drawing PR102609-10 Issue A and Council's Standard Drawings No.CCC S1105 and CCC S1110.

The external works outlined above constitute Operational Works. Three (3) copies of a plan of the works at A1 size and one (1) copy at A3 size must be endorsed by the Chief Executive Officer prior to commencement of such works. Such work must be constructed in accordance with the endorsed plan to the satisfaction of the Chief Executive Officer prior to Commencement of Use.

Geotechnical Assessment

8. An appropriately qualified and experienced Geotechnical engineer shall ensure that the site access is designed in such a way as to ensure that the site risk assessment remains as "low" or below in accordance with the risk-rating defined by the AGS (2007) guidelines.

Amended plans are to be submitted to Council and certified by a Registered Professional Engineer of Queensland as including any recommended works in the original report (May 2010 - Project No 10-2010 Council document 2611599) or any works resulting from the geotechnical assessment of the access to the proposed house lot.



The amended plans are to be received and endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building works.

Lawful Point of Discharge

9. 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, all to the requirements and satisfaction of the Chief Executive Officer.

Sediment and Erosion Control

10. 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).

Vegetation Clearing

11. 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 building envelope area 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*.

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

Council's Development Assessment Branch must be notified two (2) business days prior to the proposed date of commencement of any approved vegetation clearing.

Any pruning of trees and shrubs adjacent to the access driveway or development envelope is to be in accordance with the requirements of the Australian Standard *Pruning of Amenity Trees AS 4373-2007*.

Vegetation and trees adjacent to the access drive and development envelope are to be protected in accordance with the Australian Standard AS 4970-2009 *Protection of trees on development sites*.

Removal of Protected Vegetation

12. An Ecoaccess approval must be obtained from the Department of Environment and Resource Management prior to the clearing of vegetation and/or tree removal as Rare & Threatened plant species protected under the provisions of the *Nature Conservation Act 1992* are known to occur within the area covered by this development approval.

Trees and/or vegetation that contain nesting native birds, dens or roosting sites of native animals are not to be removed while the nests, dens or roosting sites are in use as per the requirements of the *Nature Conservation (Wildlife Management) Regulation 2006* without the necessary Ecoaccess Approval.

Information on Ecoaccess approvals may be obtained at www.derm.qld.gov.au or by contacting the Ranger Flora at the Cairns office of QPWS on phone: 4046 6609.



Generators

13. 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

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

Building Colours

15. The exterior finishes and colours of Buildings 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.

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

Landscaping

16. Any landscaping to be planted must consist of endemic vegetation species only to blend with the existing vegetation in accordance with Council's Landscaping Policy. Exotic species are not utilised.

ADVICE

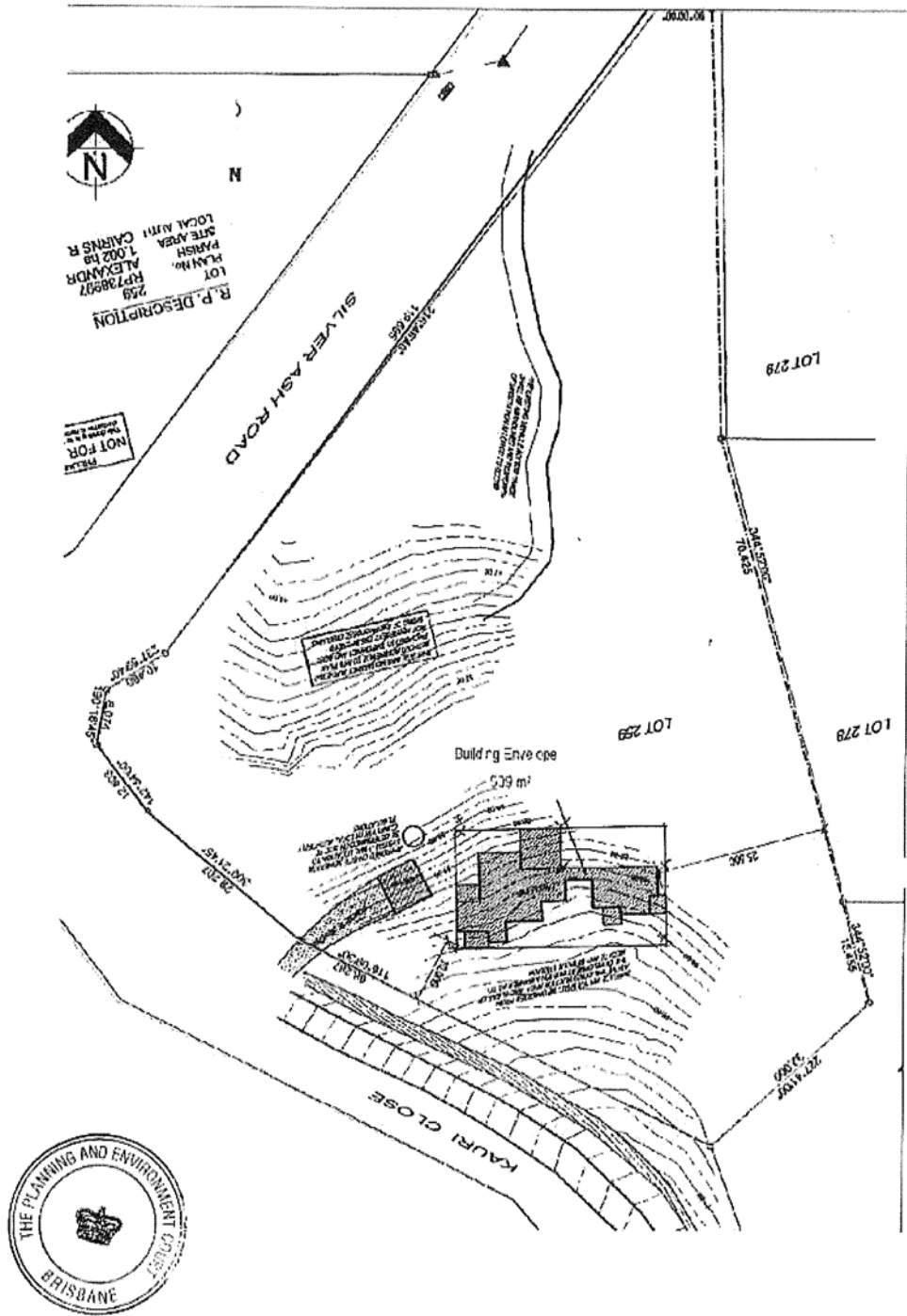
1. This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 339 and Section 341 of the *Sustainable Planning Act 2009*.
2. The applicant / owner is advised that this approval does not approve the construction of the building works. The applicant will be required to obtain a Development Permit for Building Work in order for construction to commence.
3. 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.
4. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
5. 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 Environment and Resource Management. Further information can be obtained from the Department of Environment and Resource Management on (07) 4039 8431 or at www.derm.qld.gov.au.
6. 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.cairns.qld.gov.au.
7. The regrowth vegetation code clearing notification form should be forwarded to Department of Environment and Resource Management prior to the clearing of any

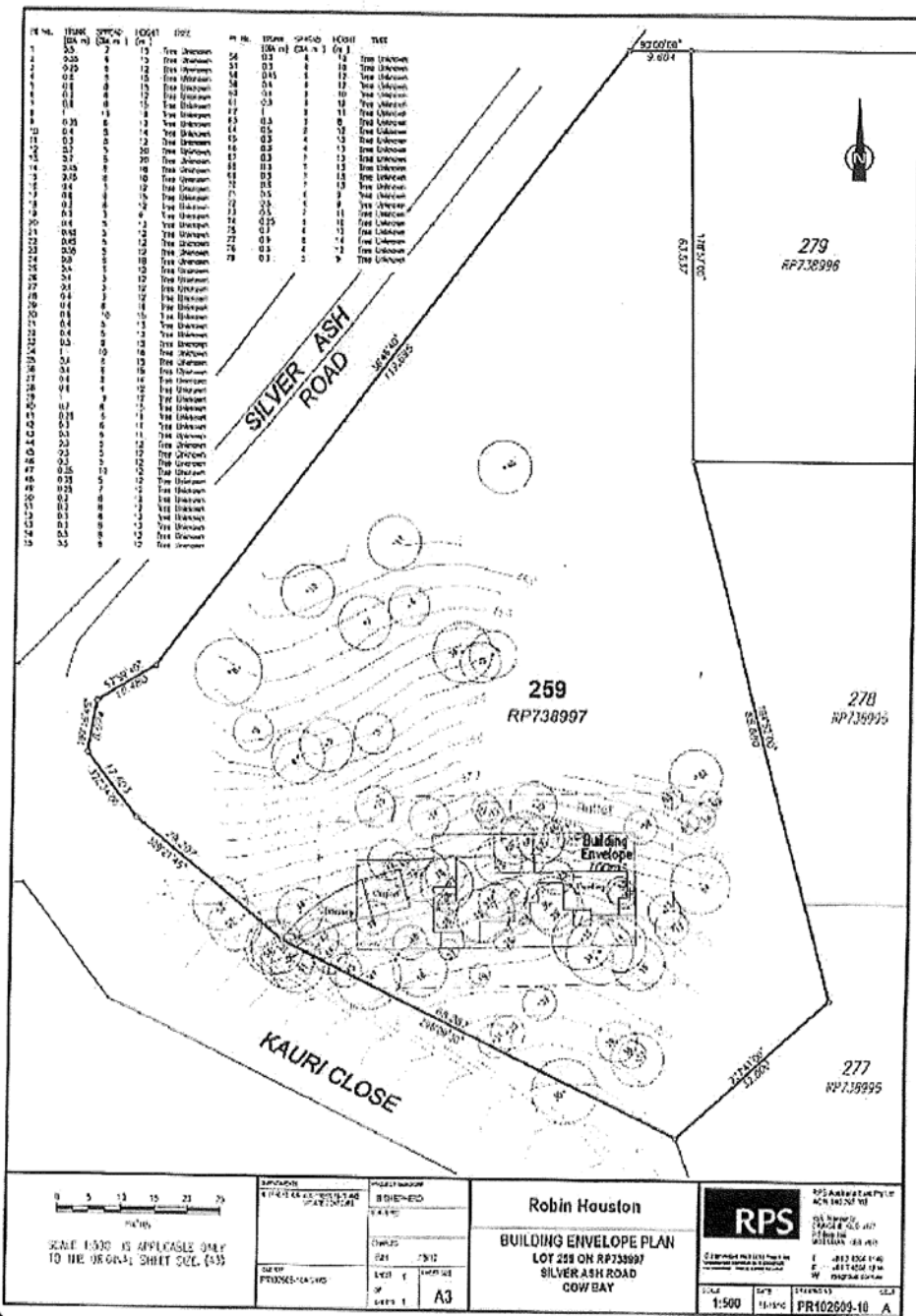


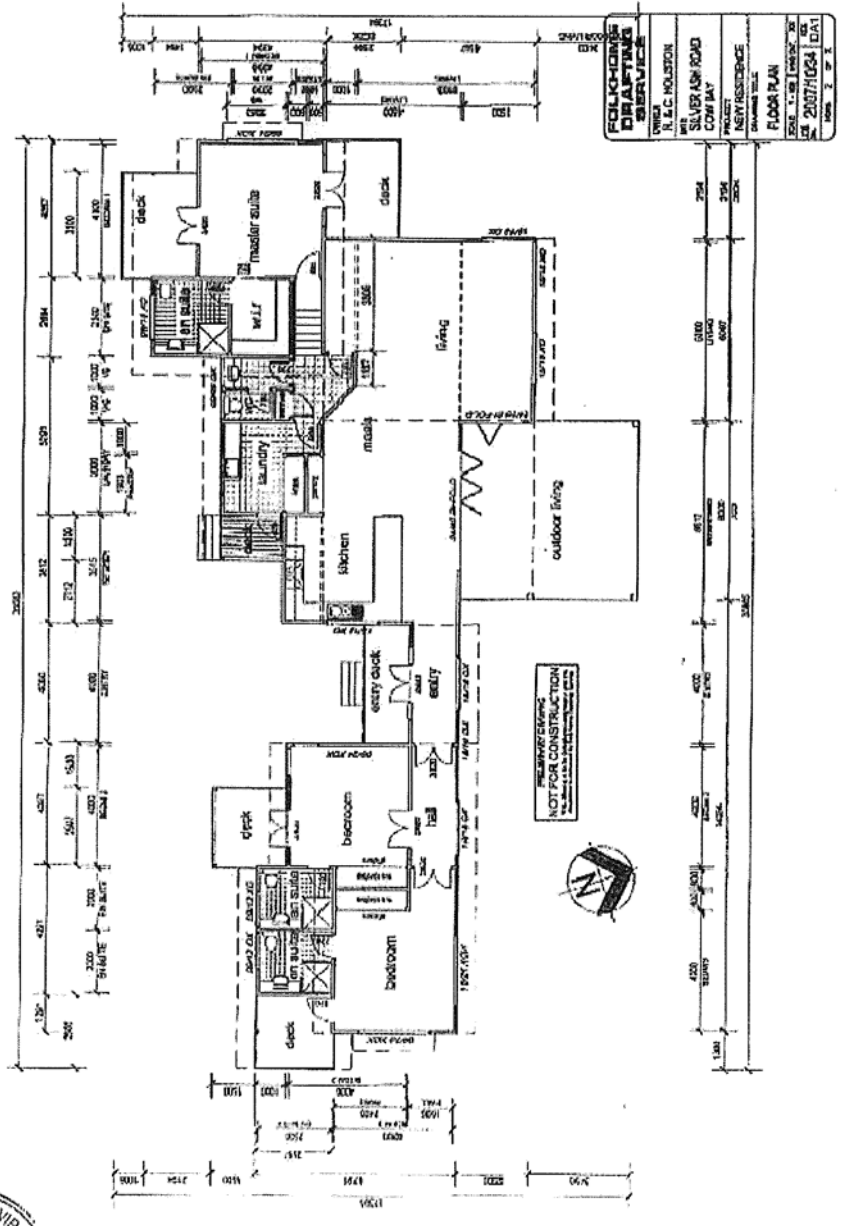
vegetation mapped as important regrowth under the *Vegetation Management Act*. Any clearing of important regrowth vegetation must be in accordance with the Regrowth Vegetation Code.

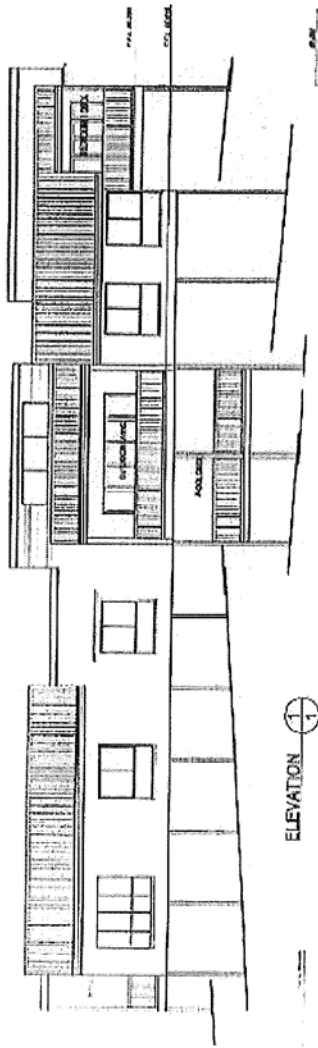
8. For clarity, any reference to Chief Executive Officer under this approval is a reference to the Chief Executive Officer of the relevant local government.



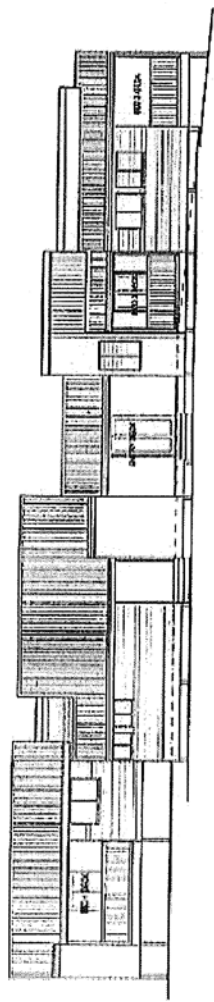








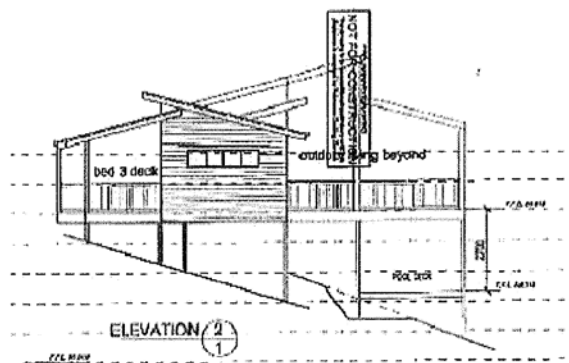
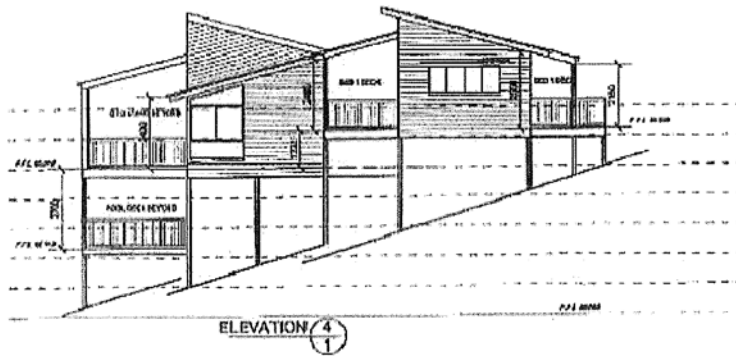
ELEVATION ①



SECTION 3/1

COLACONIS CONSULTING SERVICES
 CIVIL
 R. & C. HOUSTON
 U/E
 86 VERDE ROAD
 CANBERRA
 NSW
 2616
 TELEPHONE
 02 6282 1111
 FAX
 02 6282 1112
 WWW
 WWW.COLACONIS.COM.AU

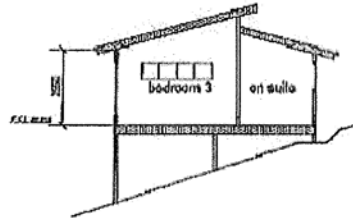
FOR INFORMATION ONLY
 NOT FOR CONSTRUCTION
 ALL RIGHTS RESERVED
 2007/1004 DAY
 2007 3 27 X



**FOLKHOPE
DRAFTING
SERVICE**
 CLIENT:
 R & C HOUSTON
 SITE:
 SILVERASH ROAD
 COW BAY
 PROJECT:
 NEW RESIDENCE
 DRAWING TITLE:
 ELEVATIONS 2 and 4
 SCALE: 1:50 (1/8" = 1'-0")
 23RD 2007/10/31
 DWG: 4 2 X

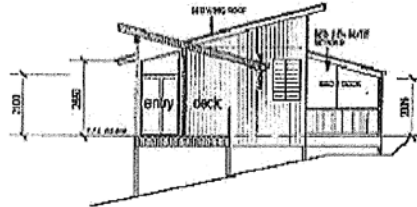
THIS DRAWING IS A PRELIMINARY DESIGN
NOT FOR CONSTRUCTION
 This drawing is for preliminary design only and is not to be used for construction purposes.



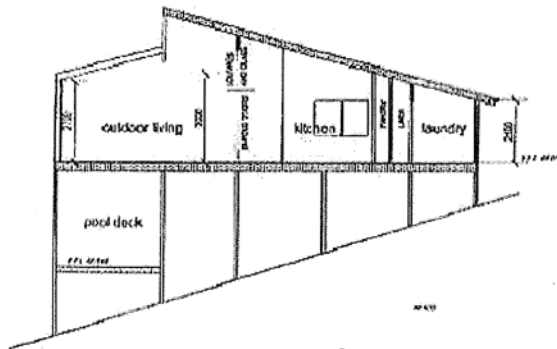


SECTION 3/1

PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



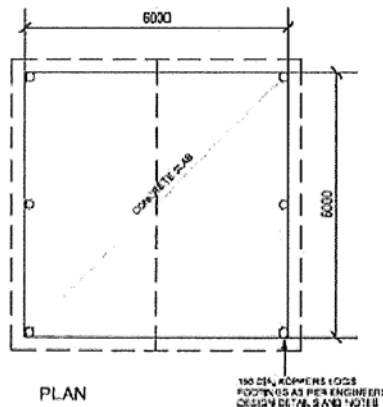
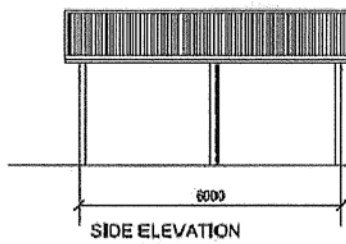
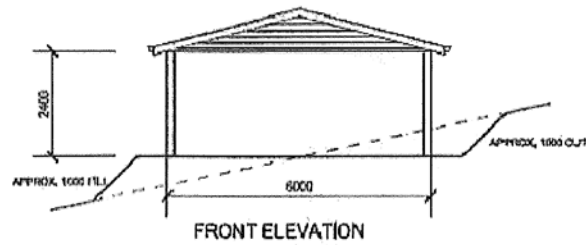
SECTION 2/1



SECTION 1/1

FOLKHOME DRAFTING SERVICE	
OWNER:	R. & C. HOUSTON
BY:	SILVER ASHROAD CONWAY
PROJECT:	NEW RESIDENCE
DRAWING TITLE:	SECTIONS
DATE:	2007/10/31
SCALE:	AS SHOWN





PRELIMINARY DRAWING
NOT FOR CONSTRUCTION
This drawing is not to be used for construction purposes without the approval of the drafter.

FOLKHOME DRAFTING SERVICE	
OWNER R. & C. HOUSTON	
SITE SILVER ASH ROAD COW BAY	
PROJECT NEW RESIDENCE	
DRAWING TITLE CAR PORT DETAILS	
SCALE 1:100	BY/NO. CAT. XX
JOB No. 2007/10/34	REV. P1
DRWG X OF X	