

Administration Office

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20 September 2022

**Enquiries:** Neil Beck  
**Our Ref:** OP 2022\_5012/1 (1110067)  
**Your Ref:** 2170

Rainforest Rescue  
GPO Box 899  
MAROOCHYDORE QUEENSLAND 4558

Dear Sir/Madam

**Development Application for Operational Work (Civil works associated with Plant Nursery) - 1506 Cape Tribulation Road Cow Bay**

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

Please quote Council's application number: OP 2022\_5012/1 in all subsequent correspondence relating to this development application.

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
  - 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 s 63 of the Planning Act 2016*

#### Applicant Details

Name: Rainforest Rescue  
Postal Address: GPO Box 899  
MAROOCHYDORE QUEENSLAND 4558  
Email: accounts@rainforestrescue.org.au

#### Property Details

Street Address: 1506 Cape Tribulation Road COW BAY  
Real Property Description: LOT: 551 RP: 748411  
Local Government Area: Douglas Shire Council

#### Details of Proposed Development

Development Permit for Operational Works (Civil works associated with Plant Nursery)

#### Decision

Date of Decision: 20 September 2022  
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	Reference	Date
Locality Plan & Schedule of Drawings	Barlow Shelley Drawing no. RO1	12 August 2022
Existing Site Conditions	Barlow Shelley Drawing no. RO2	12 August 2022

Overall Layout Plan	Barlow Shelley Drawing no. RO3	12 August 2022
Earthworks Layout Plan	Barlow Shelley Drawing no. RO4	12 August 2022
Earthworks Sections	Barlow Shelley Drawing no. RO5	12 August 2022
Roadworks & Stormwater Drainage Detail Plan	Barlow Shelley Drawing no. RO6	12 August 2022
Bio Retention Basin Layout Plan Details & Sections	Barlow Shelley Drawing no. RO7	12 August 2022
Stormwater Drainage Catchments	Barlow Shelley Drawing no. RO8	12 August 2022
Stormwater Drainage Details	Barlow Shelley Drawing no. RO9	12 August 2022
Vehicle Turning Templates & Pavement Design	Barlow Shelley Drawing no. RO10	12 August 2022

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## Assessment Manager Conditions & Advices

### 1. Earthworks

The applicant is to ensure that any earthworks undertaken as part of the works maintains a free draining surface with no ponding of standing water resulting. Any amendments proposed to the existing finished surface profiles are to be identified and reported to Council prior to being undertaken on site. Resultant amendments shall be recorded on as constructed drawings to be submitted at the completion of the project.

Earthworks required to achieve free draining lots are to be undertaken prior to approval and dating of the Survey Plan.

### 2. Stormwater

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, in accordance with the Queensland Urban Drainage Manual, Fourth Edition (2016).

### 3. Erosion and Sediment Control

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 CP1.05, CP1.13 and D5.10 of Council's FNQROC Development Manual.

### 4. Hours of Work

Construction work is permitted between the hours of 6:30am and 6:30pm Monday to Saturday. Construction work is not to occur on Sundays or Public Holidays.

## **5. Damage to Council Infrastructure**

In the event that any part of Council's existing road or footpath infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to, mobilisation of heavy earthmoving equipment, stripping and grubbing, the applicant / owner must notify Council immediately of the affected infrastructure and have it repaired or replaced, prior to the commencement of use.

## **6. General**

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 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.

## **7. Examination of Documents**

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.

Notwithstanding any approval given to engineering documents, where a discrepancy occurs between these documents and Council's standards, then Council's standards shall apply unless the design is RPEQ certified. All works must be performed in accordance with Council standards and Local Laws and other statutory requirements.

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.

## **8. Public Notification of the Works**

The applicant must provide Signage identifying the location of the project, general proposal plan, 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.

## **9. Commencement of Works**

Council is to receive written Notice of Intention to Commence Works.

## **10. Excess Material**

Excess material is to be exposed of on-site via topdressing existing surfaces and levelling or at an approved facility to be nominated. A separate development permit for Operational Works may be required for the disposal facility if conditions in this Development Permit do not satisfy the Chief Executive officer for mitigation of impacts.

## **11. Statement of Compliance**

Provide FNQROC Development Manual Appendix J Statement of Compliance to Council post construction.

## **REASONS FOR DECISION**

1. To ensure the proposed development meets the requirements of the relevant benchmarks from the 2018 Douglas Shire Planning Scheme and in particular, the requirements of the FNQROC Development Manual and relevant Australian Standards.

### **Further Development Permits**

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Not applicable

### **Concurrence Agency Response**

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Not Applicable

### **Currency Period for the Approval**

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This approval, granted under the provisions of the *Planning Act 2016*, shall lapse two (2) 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**

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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)

PROPOSED PLANT NURSERY  
AT 1506 CAPE TRIBULATION ROAD, COW BAY  
FOR RAINFOREST RESCUE  
JOB No. 2170



SCHEDULE OF DRAWINGS

DWG	DESCRIPTION
2170-R01	Locality Plan & Schedule Of Drawings
2170-R02	Existing Site Conditions
2170-R03	Overall Layout Plan
2170-R04	Earthworks Layout Plan
2170-R05	Earthworks Sections
2170-R06	Roadworks And Stormwater Drainage Detail Plan
2170-R07	Bio Retention Basin Layout Plan Details And Sections
2170-R08	Stormwater Drainage Catchments
2170-R09	Stormwater Drainage Details
2170-R10	Vehicle Turning Templates and Pavement Design

PROPERTY DESCRIPTION

LOT 551 on RP745411  
CNR CAPE TRIBULATION & BUCHANAN CREEK  
ROADS, COW BAY  
Site Area (Part Lot) = 2.075 Ha = 1.6% TOTAL SITE

LOCALITY PLAN  
NOT TO SCALE

ISSUED FOR  
CONSTRUCTION

CAUTION - EXISTING SERVICES  
THE CONTRACTOR IS TO DETERMINE THE EXACT LOCATION OF  
ALL EXISTING SERVICES IN THE VICINITY OF THE PROPOSED  
WORKS PRIOR TO THE START OF ANY CONSTRUCTION. THE  
COST OF ANY RECTIFICATION WORKS DUE TO DAMAGE OF  
EXISTING SERVICES SHALL BE BORNE BY THE CONTRACTOR.

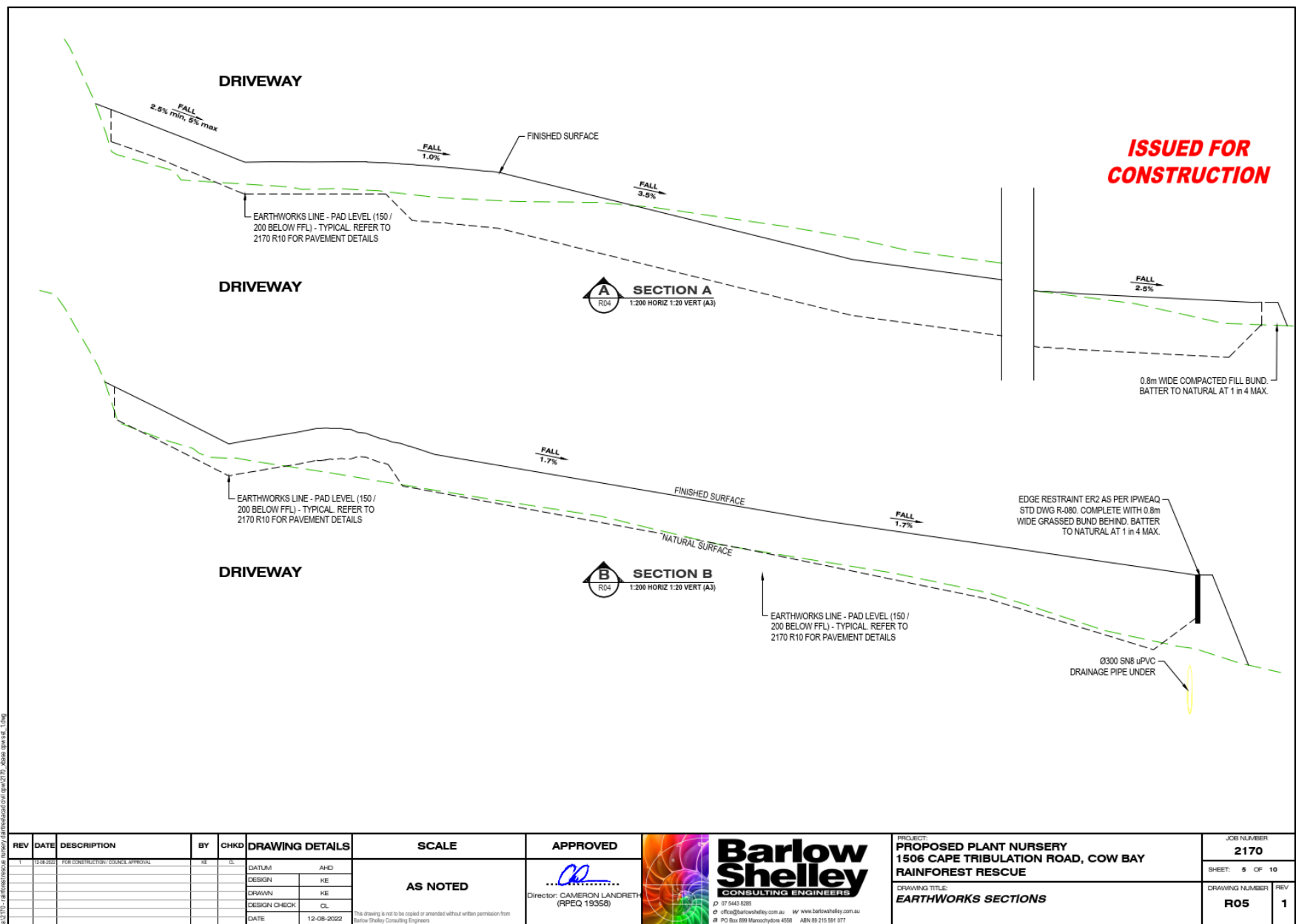
REV	DATE	DESCRIPTION	BY	CHKD	DRAWING DETAILS	SCALE	APPROVED	PROJECT	JOB NUMBER
1	12-08-2022	FOR CONSTRUCTION COUNCIL APPROVAL	KE	CL	DATUM AHD DESIGN KE DRAWN KE DESIGN CHECK CL DATE 12-08-2022	NOT TO SCALE	Director: CAMERON LANDRETH (RPEQ 19358)	PROPOSED PLANT NURSERY 1506 CAPE TRIBULATION ROAD, COW BAY RAINFOREST RESCUE	2170
								DRAWING TITLE: LOCALITY PLAN & SCHEDULE OF DRAWINGS	DRAWING NUMBER R01
									REV 1

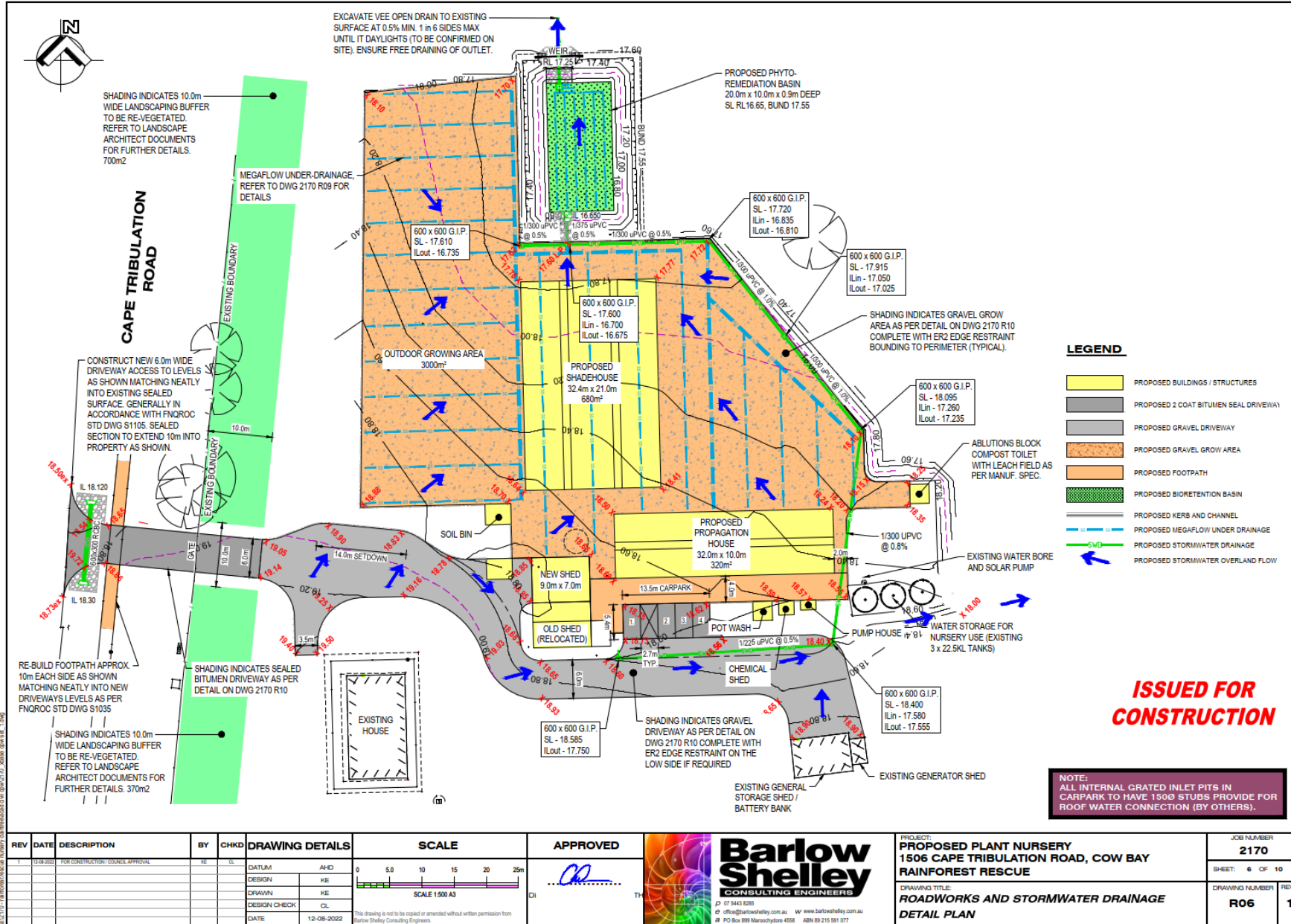


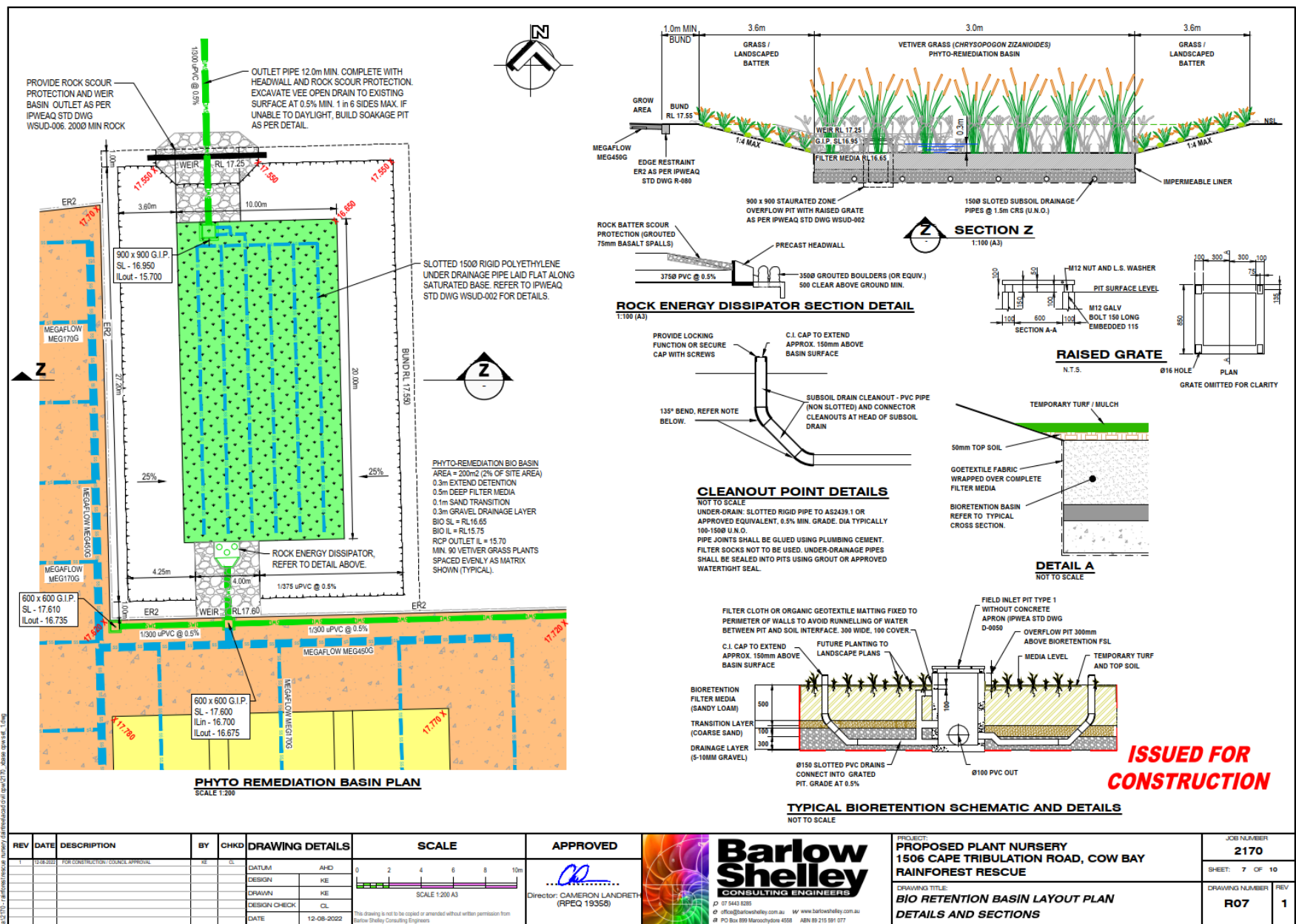




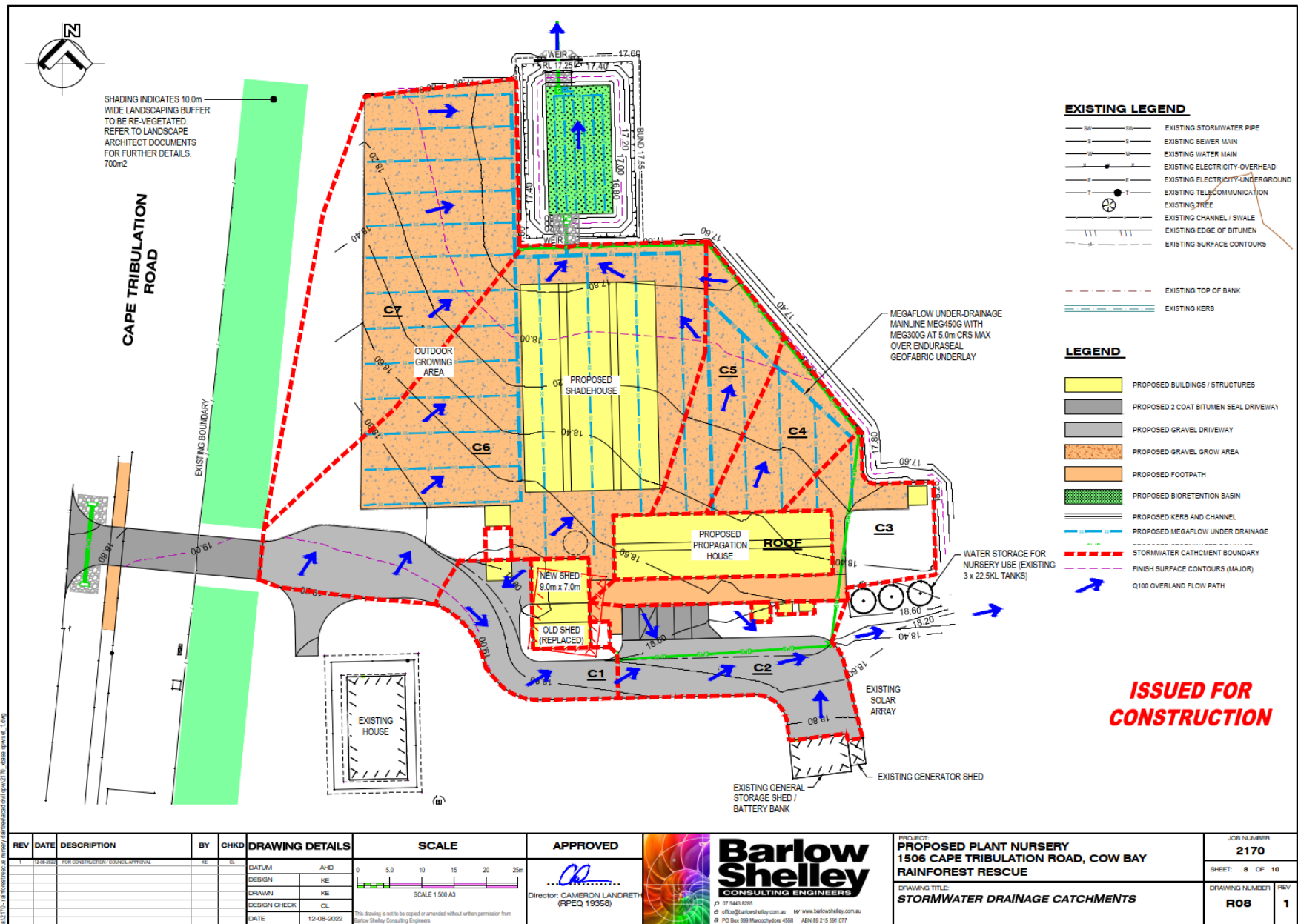


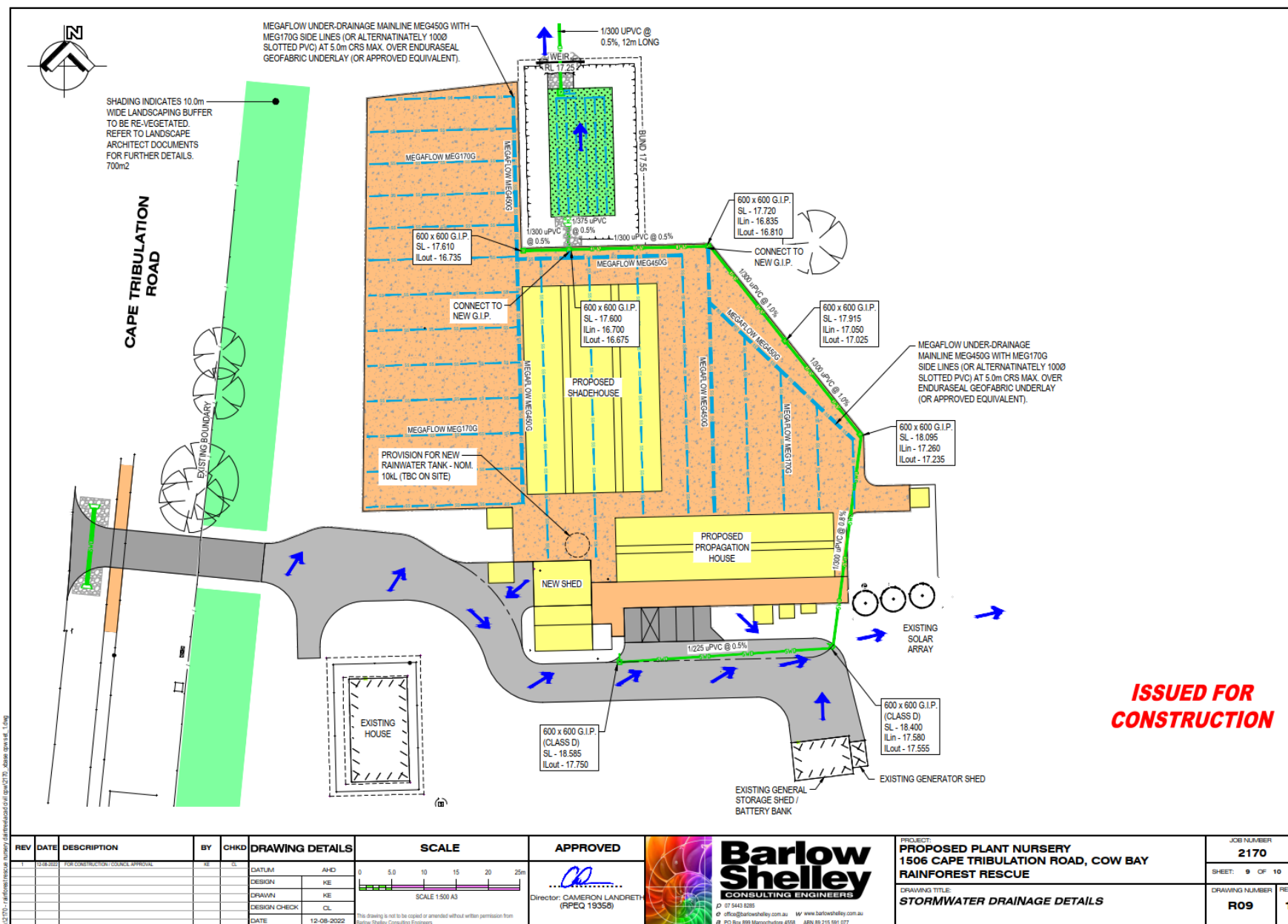


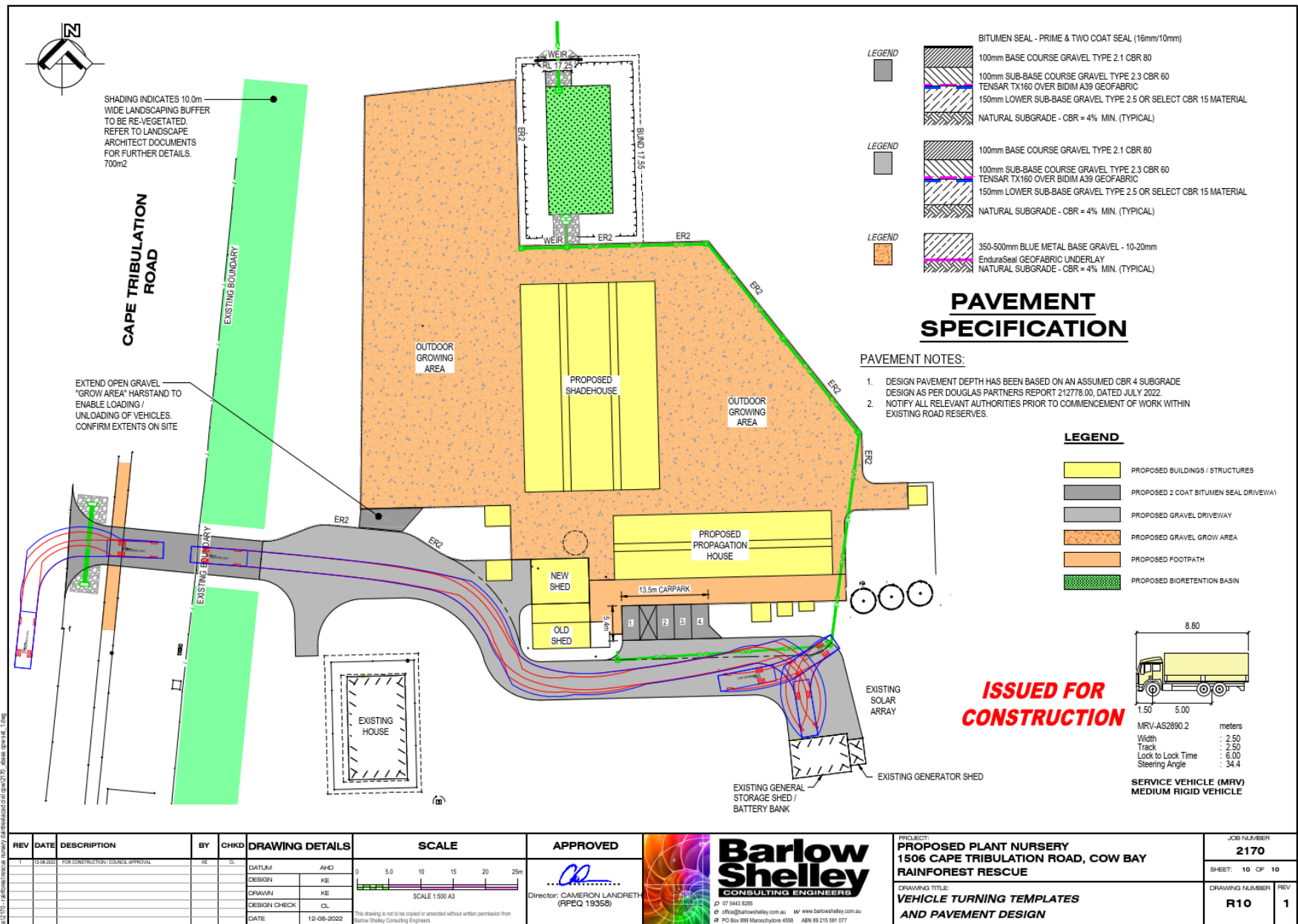












Planning Act 2016  
Chapter 3 Development assessment

[s 74]

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## **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



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- (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.

## 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) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
  - (iv) 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, section 316(2), 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.