

26 September 2018

Enquiries: Daniel Lamond
Our Ref: MCUC 2776/2018 (873956)
Your Ref: Wonga Beach

Visionstream Pty Ltd
PO Box 5452
WEST END QLD 4101

Dear Sir/Madam

Development Application
Material Change of Use (Telecommunications Facility)
Prins Road LOWER DAINTREE:
Land Described as LOT: 1 RP: 706308

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

Please quote Council's application number: MCUC2776/2018 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

Michael Kriedemann
A/ General Manager Operations

encl.

- Decision Notice
- Approved Plans

DECISION NOTICE
APPROVAL (WITH CONDITIONS)
(GIVEN UNDER SECTION 63 OF *THE PLANNING ACT 2016*)

Please be aware that Douglas Shire Council has assessed your application and decided it as follows:

1. Applicant's details

Name: Visionstream Pty Ltd
Postal Address: PO Box 5452
WEST END QLD 4101

2. Location details

Street Address: Prins Road LOWER DAINTREE
Real Property Description: LOT: 1 RP: 706308
Local Government Area: Douglas Shire Council

3. Details of proposed development

Material Change of Use (Telecommunications Facility)

4. Decision

Date of decision: 25 September 2018

Decision details: Approved in full with conditions.

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
Site Access & Locality Plan	Q115284 – S1	11 July 2018
Site Layout Plan	Q115284 – S1-1	11 July 2018
Antenna Layout	Q115284 – S1-2	11 July 2018
West Elevation	Q115284 – S3	11 July 2018
Antenna Configuration Table	Q115284 – S3-1	11 July 2018

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. 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.

Limited Approval

4. The Development hereby approved lapses at the expiry of agreement to lease the land from the land owner or entity from which a lease may be attained. Prior to the lapse of the life of the approval the telecommunications tower and all associated infrastructure, buildings, structures and fencing must be decommissioned and removed and the site reinstated to its original condition to the satisfaction of the Chief Executive Officer. All costs associated with the decommissioning and final removal shall be borne by the Applicant or entity that operates the tower at the time of removal.

Health

5. The facility must comply with all relevant State and National Standards in relation to emission of light, vibration, odour and radiation.

The telecommunications facility must be operated in accordance with Radio Communications (Electromagnetic Radiation – Human Exposure) Standard 2003 in relation to the limits for continuous exposure of the general public to radio-frequency electromagnetic energy or other Standard of the Commonwealth of Australia more relevant at the time.

Colours

6. Colours of the facility must be non-reflective and must blend with the natural colours of the surrounding environment. The exterior finishes of factory grey is approved for use. This requirement extends to attachments added to the monopole in terms of being non-reflective.

Fencing and Signage

7. Construct fencing for the perimeter of the facility with a minimum 1.8 metre high mesh security fence being of a dark colour. The facility is to be signed with appropriate hazard and warning signs.

Landscaping

8. Prior to the commencement of use the Applicant must establish, to the reasonable satisfaction of the Chief Executive Officer, a landscaped screening buffer to the north and western side of the compound and tower site, specifically comprising native species endemic to the locality including trees that will achieve a mature height of approximately 15 metres (or greater) to obscure direct

view of the lower half of the tower, and additional low level trees and shrubs to screen the direct ground level view of the compound and equipment shelter.

A landscape plan detailing the above requirements must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

Access

9. The construction of the cross-over and apron onto Prins Road must be undertaken in accordance with the following requirements:-
 - a. The cross-over to access the Telecommunications Facility must be constructed in accordance with Standard Drawing S1105 Issue E for Rural Allotment Accesses as detailed in the FNQROC Development Manual and contained at Attachment 2.
 - b. Any batters located within the road reserve of Prins Road must not exceed 1:4 in slope for maintenance purposes.
 - c. All works must be completed to the satisfaction of the Chief Executive Officer with the site and road entrance being left in a clean and tidy manner once works are complete.

ADVICE

1. 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.

LAND USE DEFINITIONS*

In accordance with the *2018 Douglas Shire Planning Scheme* the approved land use is defined as follows.

Column 1 Use	Column 2 Definition	Column 3 Examples	Column 4 Does not include the include following examples
Telecommunications Facility	Premises used for systems that carry communications and signals by means of radio, including guided or unguided electromagnetic energy, whether such facility is manned or remotely controlled	Telecommunication tower, broadcasting station, television station.	Aviation facility, "low-impact telecommunications facility" as defined under the Telecommunications Act 1997.

*This definition is provided for convenience only. This Development Approval 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.

B. Further Permits

1. The following Development Permits are required to be obtained before the development can be carried out:
 - a. Development Permit for Building Works.

C. Currency period for the approval

Under section 85(1)(a)(i) of the *Planning Act 2016*, the relevant period for the Preliminary Approval is six (6) years starting from the day the approval takes effect.

D. Reasons for Decision

The reasons for this decision are:

1. Sections 60, 62 and 63 of the *Planning Act 2016*:
 - a. A Telecommunications Facility is code assessable development in the Rural zone and are expected forms of development to establish in rural areas.
 - b. To ensure the development satisfies the associated benchmarks of the applicable codes within the 2018 Douglas Shire Planning Scheme;
 - c. Where non-compliant with the applicable benchmark, the development does not compromise the corresponding Performance Outcome of the applicable code.
 - d. To ensure compliance with the *Planning Act 2016*.
2. **Findings on material questions of fact:**
 - a. The development application was properly lodged to the Douglas Shire Council on 26 July 2018 under section 51 of the *Planning Act 2016* and Part 1 of the Development Assessment Rules; and
 - b. The development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2018 Douglas Shire Planning Scheme in making its decision as Assessment Manager.
3. **Evidence or other material on which findings were based:**
 - a. The development triggered code assessable development under the Assessment Table associated with the Rural 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 compliance with conditions of this Development Permit the development satisfactorily meets the Planning Scheme requirements.

E. Properly made submissions

Not applicable — No part of the application required public notification.

F. Rights of appeal

The rights of applicants 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*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

A copy of the relevant appeal provisions are included in Schedule 2.

SCHEDULE 2 – PLANNING ACT EXTRACT ON APPEAL RIGHTS

CHAPTER 6, 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 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, table 1, item 1—each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); 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 by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

SCHEDULE 1 APPEALS

1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to—
 - (a) the P&E court; or
 - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
 - (a) the refusal, or deemed refusal of a development application, for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (b) a provision of a development approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (c) if a development permit was applied for—the decision to give a preliminary approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (d) a development condition if—
 - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
 - (ii) the building is, or is proposed to be, not more than 3 storeys; and
 - (iii) the proposed development is for not more than 60 sole-occupancy units; or
 - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
 - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
 - (g) a matter under this Act, to the extent the matter relates to—

- (i) the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
 - (ii) the Plumbing and Drainage Act, part 4 or 5; or
 - (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
 - (i) a decision to give an infrastructure charges notice; or
 - (j) the refusal, or deemed refusal, of a conversion application; or
 - (k) a matter that, under another Act, may be appealed to the tribunal; or
 - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
- (a) for a matter in subsection (2)(a) to (d)—
 - (i) a development approval for which the development application required impact assessment; and
 - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
 - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.
- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
- (a) column 1 states the appellant in the appeal; and
 - (b) column 2 states the respondent in the appeal; and
 - (c) column 3 states the co-respondent (if any) in the appeal; and
 - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.

Extract of Schedule 1 of the Planning Act 2016

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
1. Development applications An appeal may be made against— <ul style="list-style-type: none"> (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval. 			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	1 A concurrence agency that is not a co-respondent 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application

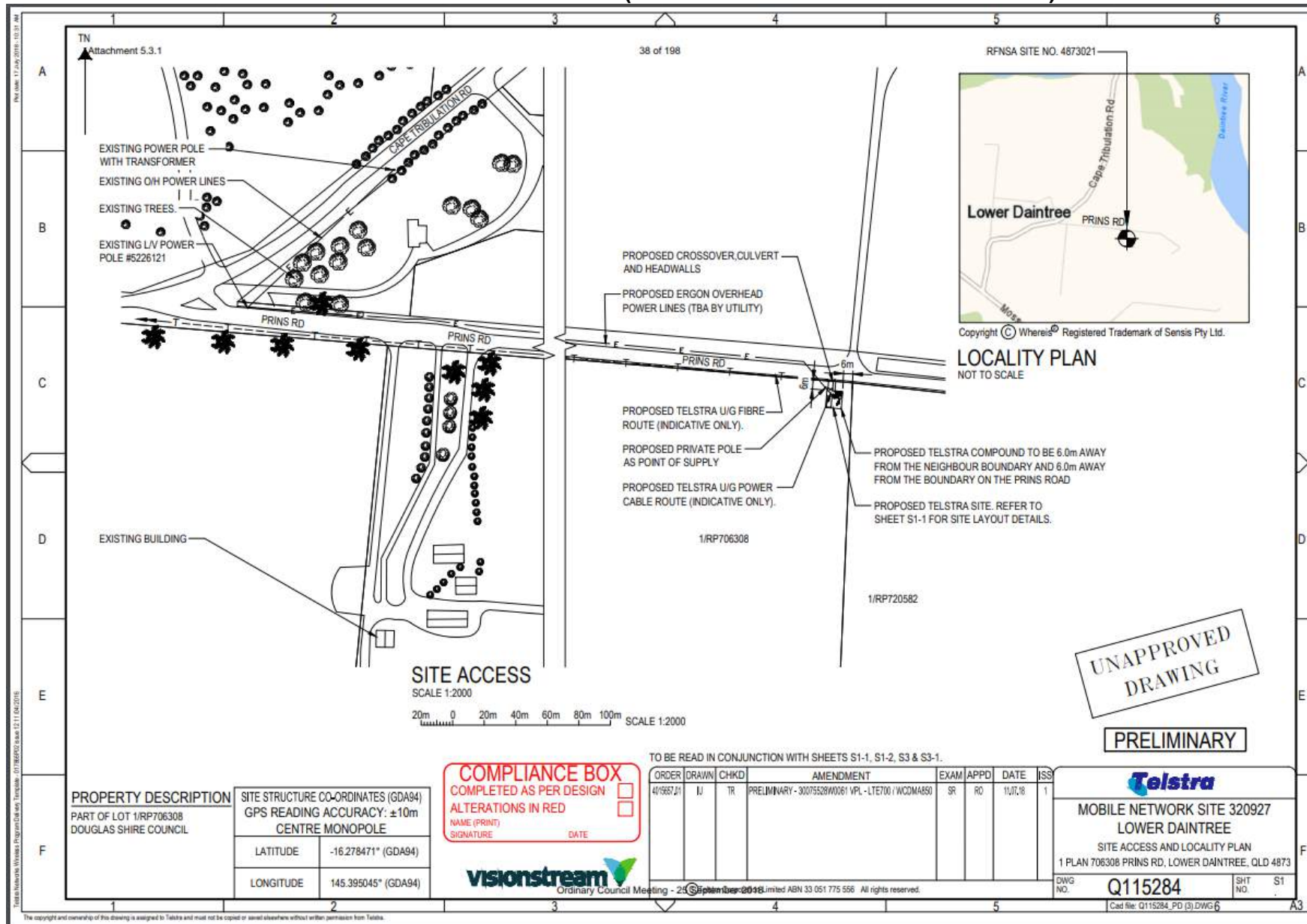
Table 2
Appeals to the P&E Court only

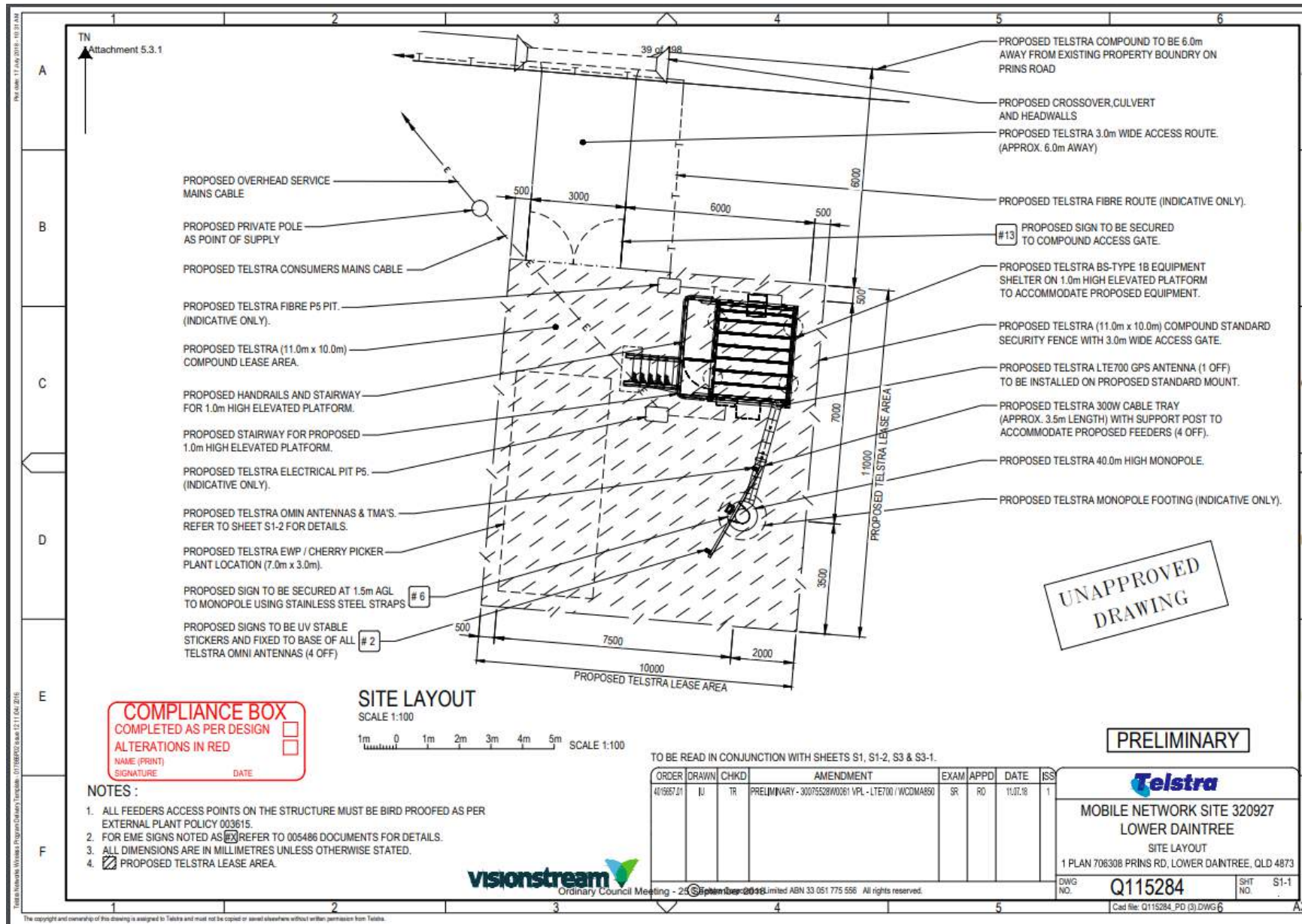
<p>2. Eligible submitter appeals</p> <p>An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to—</p> <p>(a) any part of the development application for the development approval that required impact assessment; or</p> <p>(b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency's referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>
<p>3. Eligible submitter and eligible advice agency appeals</p> <p>An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to—</p> <p>(a) any part of the development application or the change application, for the development approval, that required impact assessment; or</p> <p>(b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p> <p>3 An eligible advice agency for the development application or change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency's referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>

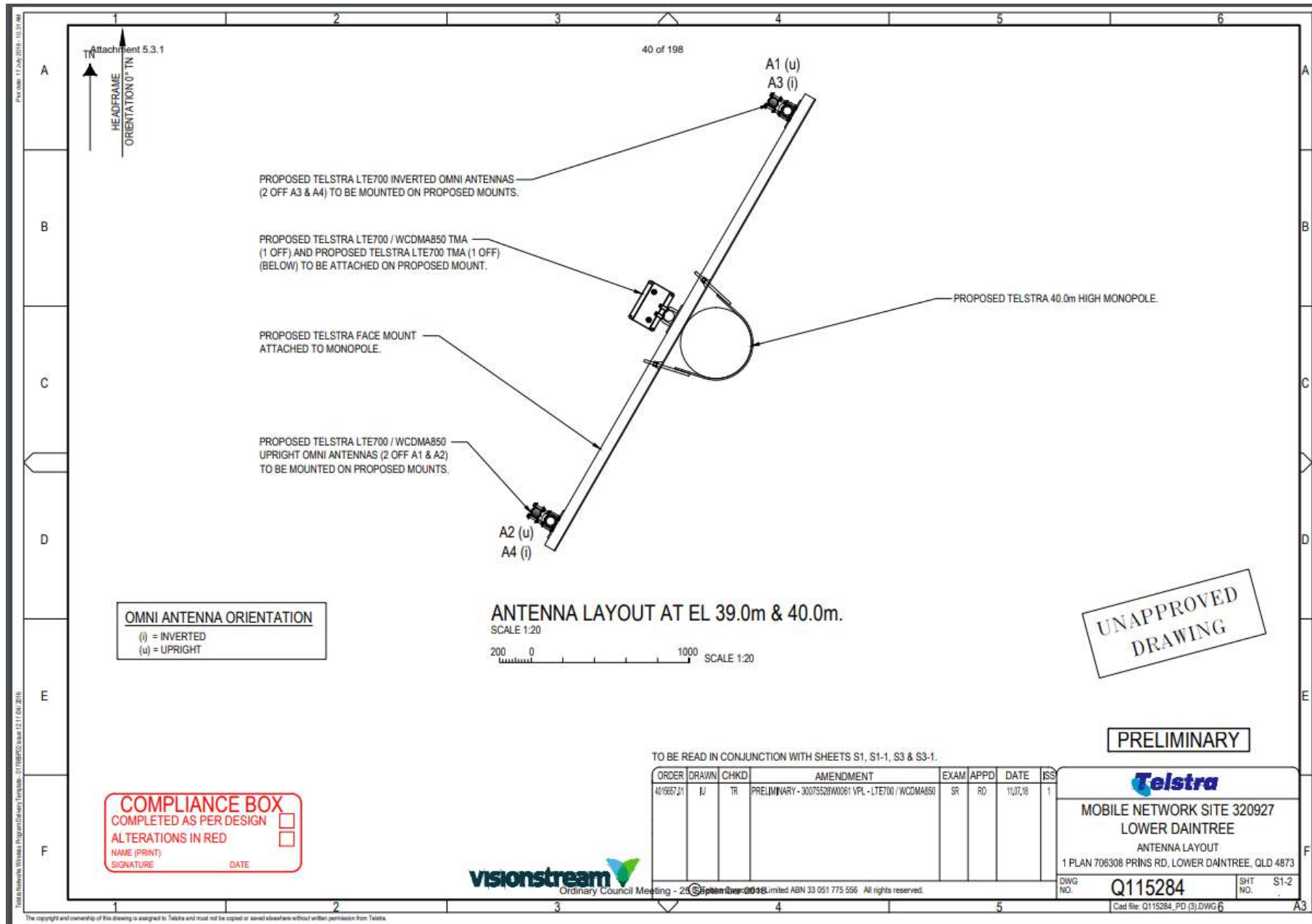
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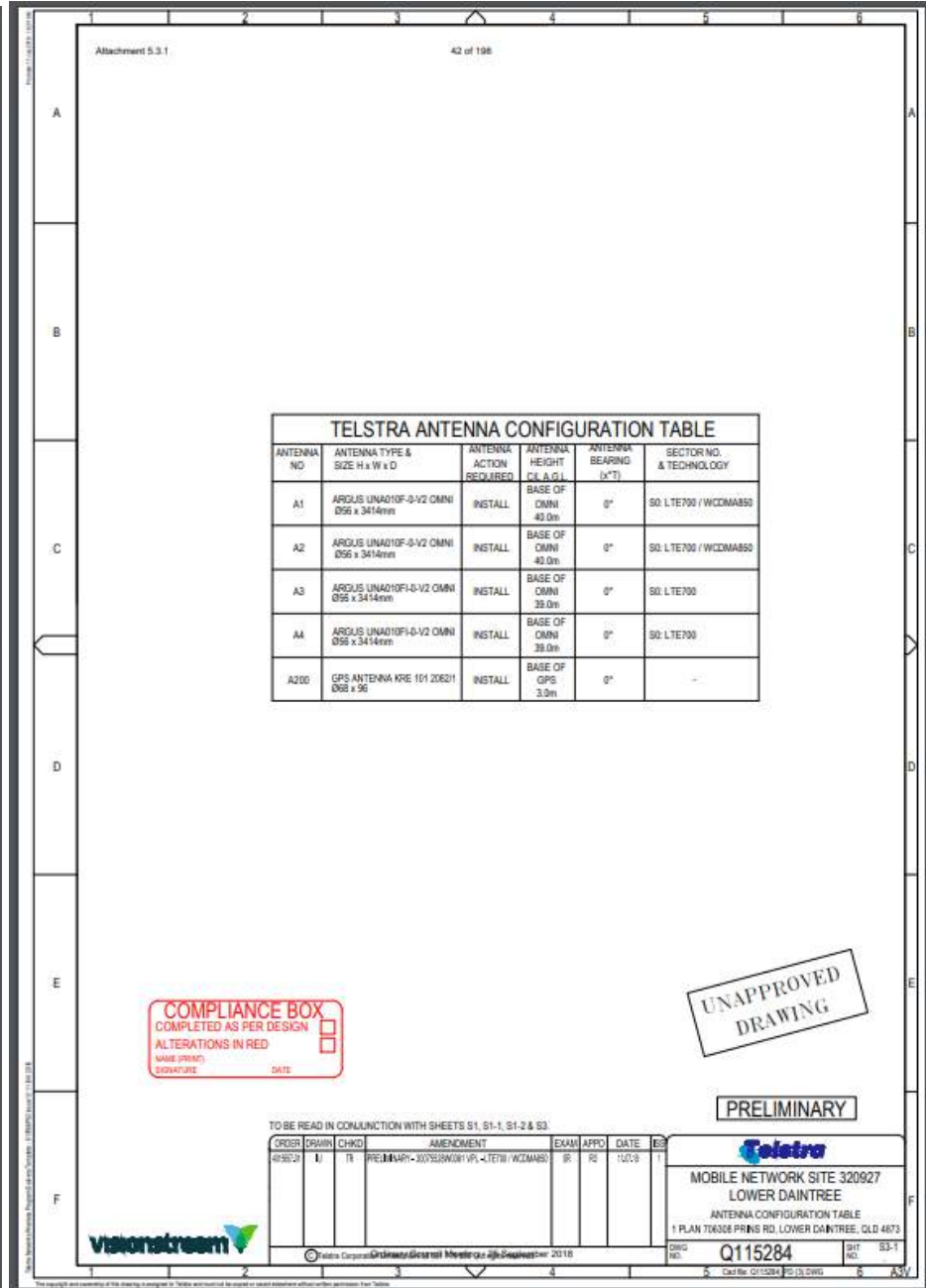
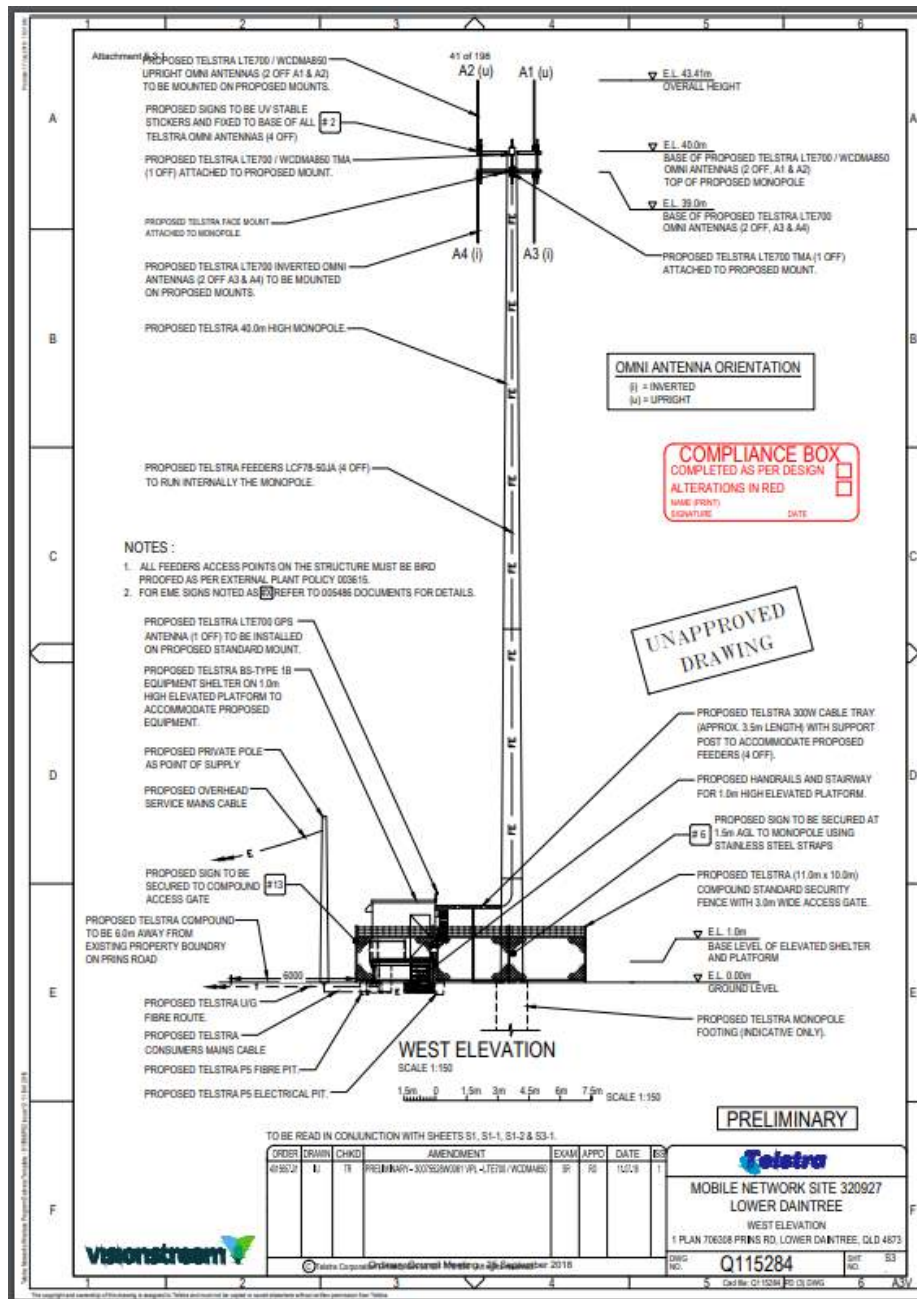
Attached is a Rights of Appeal Waiver form (Schedule 3). Please complete and return this form if you are satisfied with the approval and agree to the conditions contained therein and you wish to waive the 20 day appeal period available under the *Planning Act 2016*

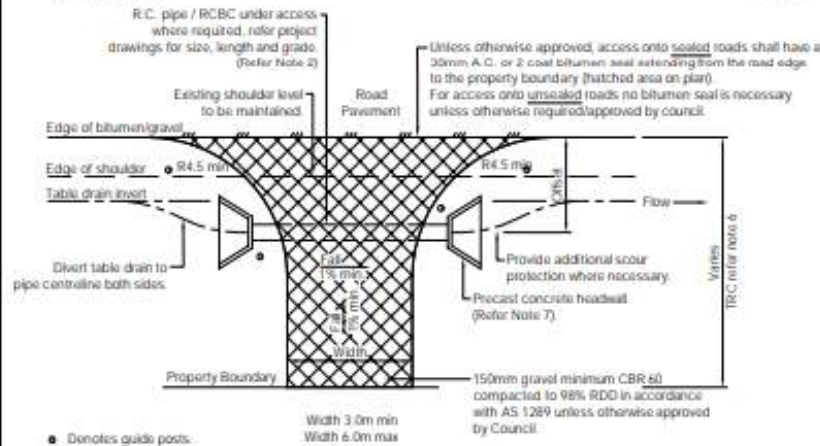
APPROVED PLANS (ATTACHING TO THE DECISION NOTICE)







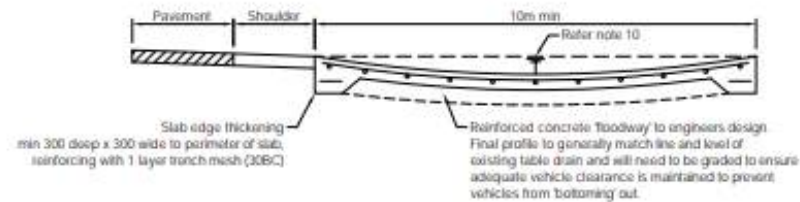
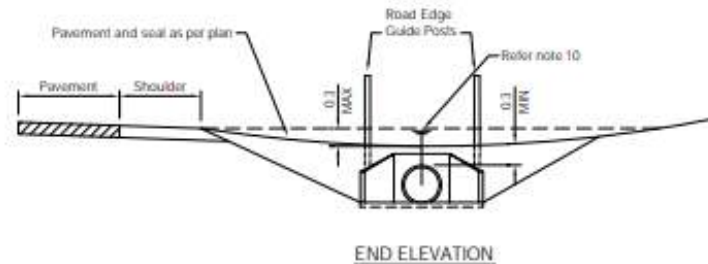




PLAN

NOTES

1. Minimum length of culvert shall be 4.8m for single access, 7.2m for double access.
2. Minimum pipe size shall be Ø375. Minimum RCBC to be 300mm high.
3. Minimum RC pipe / RCBC gradient shall be 1:100.
4. Where cover to RC pipes is less than 250mm pipe shall have 100mm concrete surround.
5. Drainage from access must not flow over the through road. All stormwater runoff shall be directed to the table drain.
6. Maximum 10 metres from edge of bitumen seal or where grade is steeper than 6% the bitumen seal shall extend from the road edge to the property boundary unless otherwise approved.
7. Precast sloping headwalls shall be used when:
 - a) the through road has a signposted speed of 80km/hr or greater.
 - b) the through road has a signposted speed of 60km/hr and the offset distance from the traffic lane to the culvert is less than 4.5m.
8. Concrete shall be grade N25 in accordance with AS 1379 and AS 3600.
9. All dimensions are in millimetres.
10. Hydraulic capacity of pipe and access to match the capacity of the table drain. This may require the use of multiple pipes.
11. Minimum sight distances at accesses should comply with "Sight Distance at Property Entrances" Austroads Guide to Road Design Part 4A: Unsignalised and Signalised Intersections.
12. In instances where the detail/s shown on this drawing cannot be achieved due to existing constraints, Council shall be contacted to achieve an acceptable alternative.



TYPICAL ALTERNATIVE FLOODWAY TYPE ACCESS

(Where approved by Council)

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 organizations 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 proprietary profits, or consequential damages resulting from the use of these Standard Drawings. Persons must not rely on these Standard Drawings as the specified or a substitute for project-specific design and assessment by an appropriately qualified professional.



RURAL ALLOTMENT ACCESSSES

Standard
Drawing
S1105

A B C D E

STATEMENT OF REASONS FOR NON-COMPLIANCE WITH ASSESSMENT BENCHMARKS

Assessment Benchmark	Reasons for approval despite non-compliance with benchmark
Rural zone code AO2 (c) Building and structures are setback 20 from the boundary with any other road.	<ul style="list-style-type: none"> • The development is not bulky in terms of building appearance or form with the compound having a footprint of 110m² and less for the building / structural components within the compound. • Prins Road is a low order rural road which services a limited number of rural properties most of which are vacant. The location of the development is well setback from Cape Tribulation Road being an Iconic Recreation Route and a Sub-arterial road as detailed in the Transport Network Overlay. • To locate the compound a minimum of 20 metres into the rural lot would impact quite heavily and unnecessarily constrain farming operation on the site. • Conditions require the external perimeter of the compound to assist with screening and softening the appearance of the compound over time.
Telecommunications Facility Code AO2.1 The maximum height of the tower is 30 metres;	<p>The monopole is at the proposed height to achieve the necessary coverage objectives as provided by in the corresponding Performance Outcome.</p> <p>The extent of coverage provided by the proposed facility is substantial and avoids the requirement to locate another telecommunications facility in another location which may not necessarily be as favourable in terms of site constraints and visual appearance as that of the proposed site.</p>