

2 November 2018

Enquiries: Jenny Elphinstone Tel: 07 4099 9482  
Our Ref: MCUC 2891/2018 (Doc ID 878800)  
Your Ref: Plans 209-18, L189 Bloodwood Rd, Cow Bay

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

Peter Love and Sarah Mason  
C/ Greg Skyring Design and Drafting Pty Ltd  
11 Noli Close  
**MOSSMAN QLD 4873**

Dear Sir/Madam

**APPLICATION FOR A MINOR AMENDMENT (CHANGE TO ASSESSMENT MANAGER'S  
CONDITIONS) AND TO EXTEND THE CURRENCY PERIOD  
FOR THE MATERIAL CHANGE OF USE FOR A HOUSE  
AT L189 BLOODWOOD ROAD, COW BAY  
ON LAND DESCRIBED AS LOT 189 ON RP7738148**

Council refers to the above applications lodged with Council on the 16 October 2018.

Please find attached the Decision Notice.

Please quote Council's application number: MCUC 2891/2018 in all subsequent correspondence relating to this development application. Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9482.

Yours faithfully

  
**PAUL HOYE**  
Manager Sustainable Communities

encl.

- Decision Notice
- Schedule 1 – Conditions and Approved drawing(s) and/or document(s)
- Schedule 2 – Applicant's rights of appeal.

**DOUGLAS SHIRE COUNCIL**  
**DECISION NOTICE — APPROVAL (WITH CONDITIONS)**  
**(GIVEN UNDER SECTIONS 81 & 87 OF THE PLANNING ACT 2016)**

Council refers to the development application detailed below which was properly made on the 16 October 2018. Please be aware that Douglas Shire Council has assessed your application and decided it as follows:

**1. Applicant's details**

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Name: Peter Love and Sarah Mason

Postal Address: C/ Greg Skyring  
11 Noli Close  
Mossman Qld 4873

**2. Location details**

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Street Address: Lot 189 Bloodwood Road, Cow Bay

Real Property Description: Lot 189 on RP738148

Assessment Manager: Douglas Shire Council

**3. Details of proposed development**

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Application for a minor change to the approval issued on the 12 February 2010 for a material change of use for a House and application to extend the currency period for six (6) years.

**4. Decision**

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Date of decision: 2 November 2018

Decision details: Amended Approval as per conditions, approved drawing(s) and document(s) detailed in Schedule 1.

The currency period for the Amended Approval is extended for six (6) years up to and including the 12 February 2025.

**5. Further Permits**

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The following Development Permits are required to be obtained before the development can be carried out:

- a. Development Permit for Building Work.

**6. Currency period for the approval**

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Under section 87 of the *Planning Act 2016*, the relevant period for the Preliminary Approval is up to and including the 12 February 2018.

## **7. Properly made submissions**

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

## **8. Referrals**

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None applicable — No part of the application required referral.

## **9. Reasons for decisions**

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- A. Sections 81 and 87 of the *Planning Act 2016*:
1. The original approval and the amended conditions and advices as per Schedule 1;
  2. to ensure the development satisfies the benchmarks of the 2006 Douglas Planning Scheme (as amended);
  3. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Council Planning Scheme; and
  4. to ensure compliance with the *Planning Act 2016*.
- B. Findings on material questions of fact:
1. the application for a minor change was properly lodged to the Douglas Shire Council on the 16 October 2018 under sections 78-80 of the *Planning Act 2016*;
  2. the application for an extension to the currency period was properly lodged to the Douglas Shire Council on the 16 October 2018 under section 86 of the *Planning Act 2016*.
- C. Evidence or other material on which findings were based:
1. Council undertook an investigation of assessment of the development, including the proposed minor change, against the State Development Requirements, the 2006 Douglas Shire Planning Scheme (as amended) and the 2018 Douglas Shire Council Planning Scheme in making its assessment manager decision;
  2. Council undertook an assessment in accordance with the provisions of sections 81 and 87 of the *Planning Act 2016*; and
  3. The following findings are made:
    - a. Subject to amended assessment manager's conditions the development satisfactorily meets the State Planning Policy considerations and the 2018 Douglas Shire Council Planning Scheme requirements sufficient for the assessment of the applications against sections 81 and 87 of the *Planning Act 2016*.

## **10. Rights of appeal**

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The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions for the applications 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 1 APPROVED DRAWING(S) AND/OR DOCUMENT(S), CONDITIONS AND ADVICES

### 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 Plan	0906 1.1	2/12/09
Ground Floor Plan	2	25/05/04
Upper Floor and Reef Plan	3	25/05/04
Elevations	4	25/05/04
Elevations	5	25/05/04
Sections A, B	6	25/05/04
Sections C, D	7	25/05/04
Site Plan	<u>Greg Skyring Design and Drafting Pty Ltd Drawing 209-18 Sheet 1 of 4.</u>	<u>8 October 2018</u>
Floor Plan	<u>Greg Skyring Design and Drafting Pty Ltd Drawing 209-18 Sheet 2 of 4.</u>	<u>8 October 2018</u>
Elevations – Sheet 1	<u>Greg Skyring Design and Drafting Pty Ltd Drawing 209-18 Sheet 3 of 4.</u>	<u>8 October 2018</u>
Elevations – Sheet 2	<u>Greg Skyring Design and Drafting Pty Ltd Drawing 209-18 Sheet 4 of 4.</u>	<u>8 October 2018</u>

### 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. 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; and

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.

#### Amendment to Design

3. The proposed development must be amended to accommodate the following changes:
  - a) ~~A clearing envelope of a maximum of 700 m<sup>2</sup> which includes the on-site effluent disposal system. The clearing envelope must also include a minimum distance of 3 metres from the building footprint;~~
  - b) A driveway with a maximum width of 4 metres;
  - e) ~~A turning and parking area reduced to 6 metre wide adjacent to the proposed carports.~~

Details of the above amendments must be endorsed by the Chief Executive Officer prior to issue of a Development Permit for Building Work.

### **Water Supply**

4. 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 1mm 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.
5. A maximum of one bore can be used on the site
6. No bore should be located within 100 meters from a septic disposal trench or from another bore.

### **No Further Clearing**

7. ~~Existing vegetation on the subject land must be retained. Any clearing requires a Permit to Damage Protected Vegetation under Amendment 1 of 2006 Of Local Law No. 56 Vegetation Management. No further clearing is approved unless otherwise permitted under the Planning Scheme.~~
8. All structures and works including the on-site Effluent Disposal System must be contained within the cleared area.

### **Sediment and Erosion Control**

9. 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).

### **On-site Effluent Disposal**

10. 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 on-site effluent disposal must be included within the clearing envelope.

### **Generators**

11. 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**

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

### **Building Colours**

13. 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 – Oyster-Linen ( Dulux) Mid Green; and

Roof – Jasper (Colourbond) Mid-Green; or

Moderately dark to darker shades of grey, green, blue and brown.

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

#### **Water Saving**

14. 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 9 litres of water per minute.

#### **Landscaping**

15. 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 endorsed by the Chief Executive Officer. The approval and completion of all landscaping works must be undertaken in accordance with the endorsed plan prior to the issue of a Certificate of Classification or Commencement of Use whichever occurs first. 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.~~

#### **House**

16. The lot must not contain more than one House and such House is to be occupied by one household.

#### **Lawful Point of Discharge**

17. 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.

#### **Bushfire Considerations**

18. Suitability of design and materials in regards to bushfire risk are to be addressed through the further Development Permit for Building Work.

#### **Vehicle Crossover and Driveway**

19. The vehicle crossover must be constructed in accordance with the FNQROC Development Manual standard drawings for residential properties in a rural area.

#### **FURTHER ADVICE**

1. This approval, granted under the provisions of the ~~Integrated Planning Act 1997~~ *Planning Act 2016*, ~~shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 3.5.21 of the Integrated Planning Act 1997~~ and the currency of the approval is approved up to and including the 12 February 2025.
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 relevant Local Laws and statutory requirements including the need to address invasion of any weed species.

4. An Ecoaccess Approval under the Nature Conservation Act 1992 is required prior to any clearing of vegetation as plant species protected under this act are present in the areas proposed for clearing.
5. ~~For information relating to the Integrated Planning Act 1997 log on to [www.ipa.qld.gov.au](http://www.ipa.qld.gov.au). To access Council's Development Manual, Local Laws and other applicable Policies log on to [www.cairns.qld.gov.au](http://www.cairns.qld.gov.au).~~

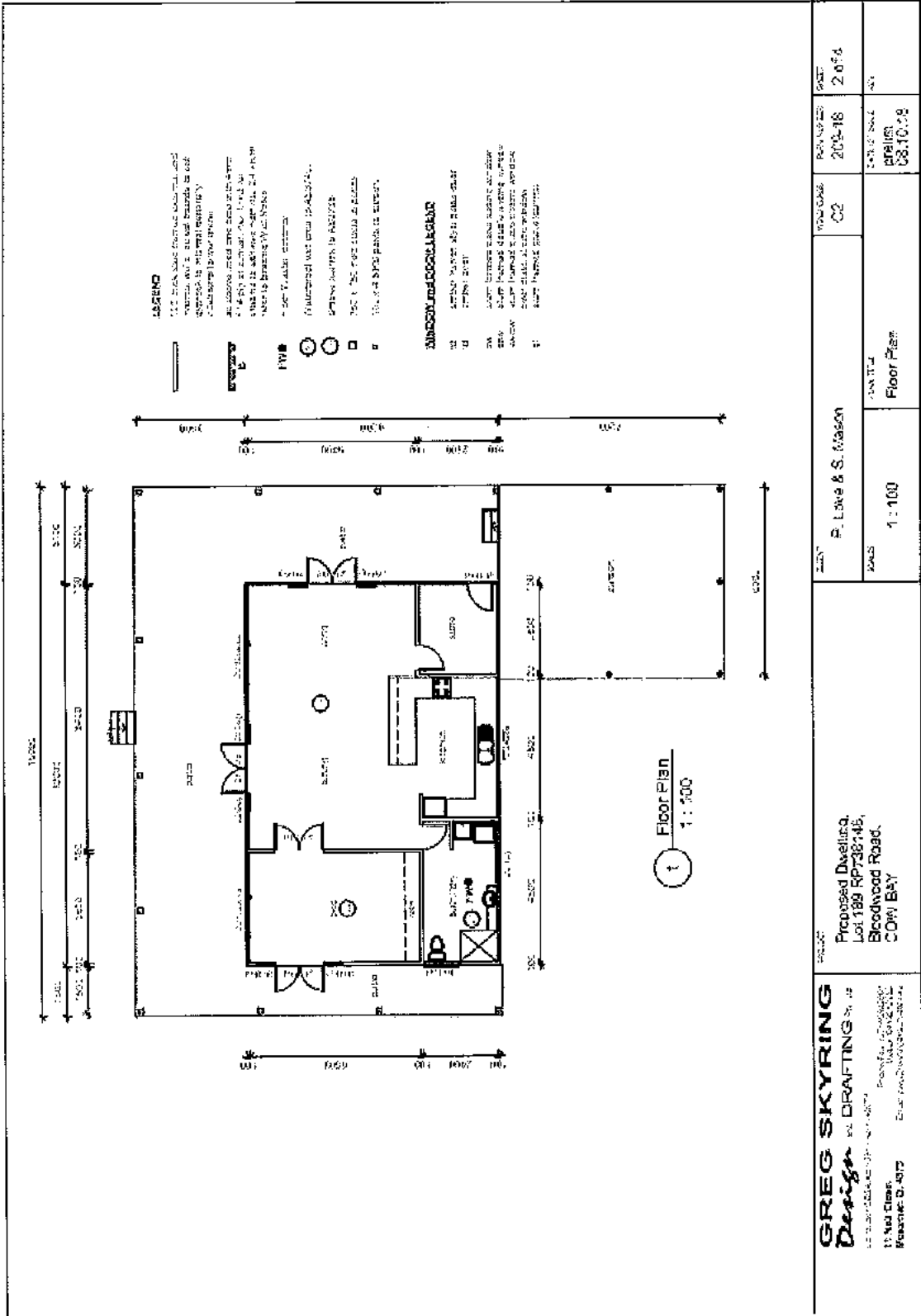
For information relating to the *Planning Act 2016* log on to [www.dsdmip.qld.gov.au](http://www.dsdmip.qld.gov.au) . To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to [www.douglas.qld.gov.au](http://www.douglas.qld.gov.au) .

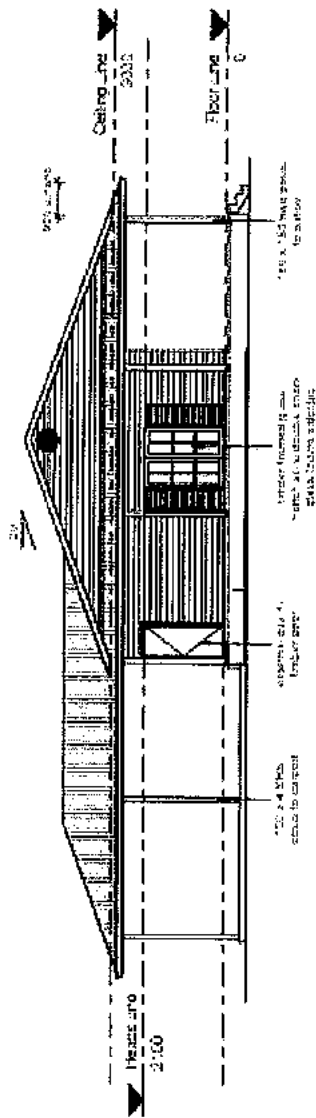
Site Plan  
1 : 500

ORIG APPROVED TOTAL BUILDING AREA = 2157  
PROPOSED TOTAL BUILDING AREA = 2234

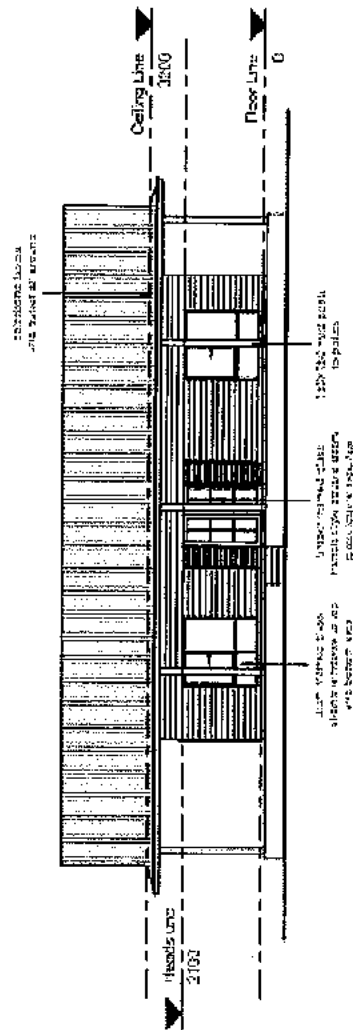
<b>GREG SKYRING</b> <i>Design</i> ARCHITECTS & DRAFTING — 11 New Glen — Auckland C. 10175 Tel: 09-486 9990 Fax: 09-486 9991 Email: greg@gregskyking.co.nz	PROJECT NO: 100000000 DATE: 10/06/2009 DRAWN BY: GSK	PROJECT Proposed Dwelling, Lot 189 RP738146, Broadwood Road, COW BAY	CLIENT P. Love & S. Mason	NO. OF SHEETS C2	DATE OF SHEET 2009-18	SCALE 1:500	DATE OF REV. 08/10/18	DATE 10/6/09
				DRAWN BY Site Plan	DATE OF REV. 08/10/18	DATE 08/10/18		





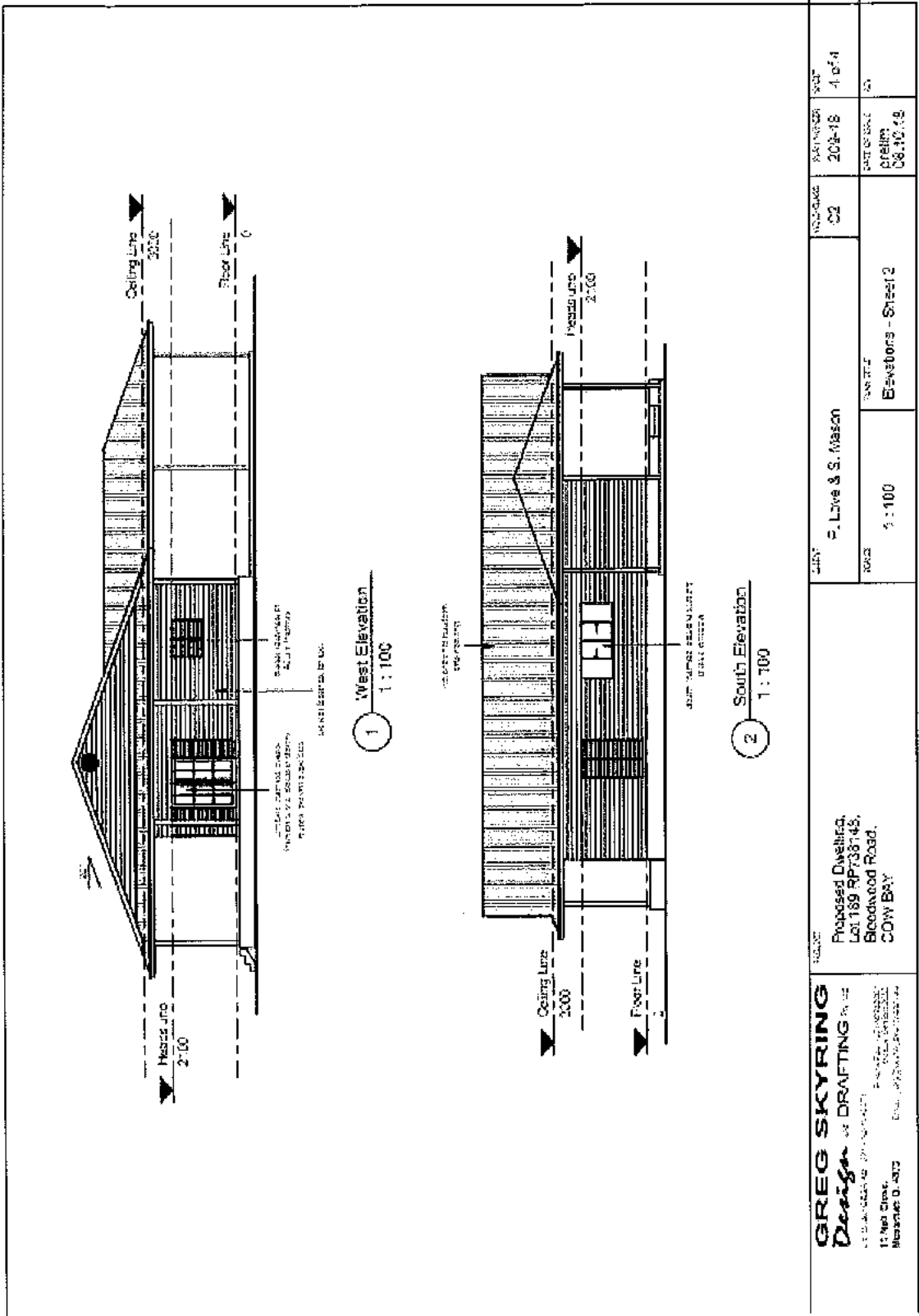


East Elevation (Front)



North Elevation

<b>GREG SKYRINK</b> <i>Design</i> DRAFTING 15 West Clearview Westmont, B.C. V3Y 2K3	PROJECT Proposed Dwelling Lot 189 RP738148, Brookwood Road, Cow Bay	DRAWING P. Lowe & S. Mason	PROJECT 2094-18 30'4"
		SCALE 1 : 100	DATE OF SCALE PREPARED 08.10.18



**GREG SKYRING**  
*Design & Drafting*  
114th Street,  
Newmarket D-4073  
Email: greg@gregskyring.co.nz  
Phone: 09 438 4073

**PROJECT**  
Proposed Dwelling,  
Lot 189 RP738748,  
Bloodwood Road,  
COW BAY

**CLIENT**  
P. Love & S. Mason

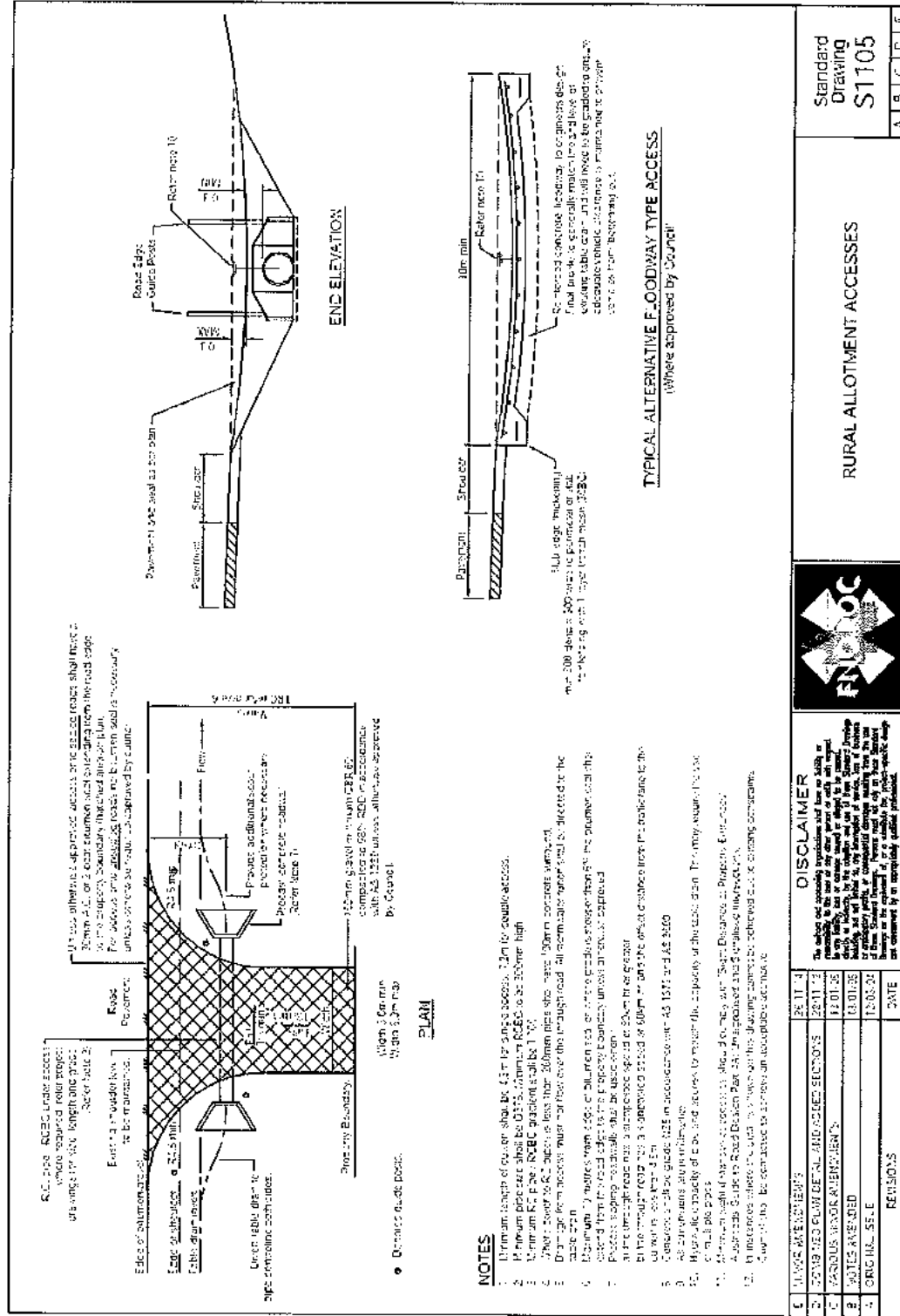
**SCALE**  
1 : 100

**NO. SHEETS**  
02

**DATE OF SHEET**  
08.10.18

**DATE OF SHEET**  
08.10.18

**CURRENT FNQROC DEVELOPMENT MANUAL (VERSION 7) DRAWINGS FOR A RURAL ACCESS**



## SCHEDULE 2 APPLICANT'S APPEAL RIGHTS

### Extract from *Planning Act 2016* – Appeal Rights

Planning Act 2016  
Chapter 6 Dispute resolution

[s 229]

- (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

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Authorised by the Parliamentary Counsel

- (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.
- (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 Other appeals

- (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.

