

29 November 2017

Enquiries: Daniel Lamond  
Our Ref: MCUC2355/2017 (835368)  
Your Ref: J00518

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

M T Martin & P S Martin  
C/- Kristy Gilvear, Gilvear Planning  
PO Box 228  
**BABINDA QLD 4861**

Dear Sir/Madam

**Development Application**  
**Material Change of Use (Home Based Business-B&B) & Building work other than**  
**minor building work not associated with a material change of use**  
**94R Nicole Drive CAPE TRIBULATION:**  
**LOT 18 on RP 738897**

Thank you for lodging the above Development Application with Council on 3 November 2017.

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

Please quote Council's application number: MCUC2355/2017 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

**PAUL HOYE**  
**Manager Sustainable Communities**

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: M T Martin & P S Martin  
Postal Address: C/- Kristy Gilvear, Gilvear Planning Pty Ltd  
PO Box 228  
BABINDA QLD 4861

***2. Location details***

---

Street Address: 94R Nicole Drive CAPE TRIBULATION  
Real Property Description: LOT: 18 RP: 738897  
Local Government Area: Douglas Shire Council

***3. Details of proposed development***

---

Material Change of Use and Building work other than minor building work not associated with a material change of use

***4. Decision***

---

Date of decision: 29 November 2017

Decision details: Approved in full with conditions. These conditions are set out in Schedule 1.

***5. Approved plans and specifications***

---

Copies of the following plans, specifications and/or drawings are enclosed.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
<b>Aspect of development: Material Change of Use &amp; Assessable Building Work</b>				
Site Plan	Greg Skyring Design and Drafting Pty Ltd	22 November 2017	Sheet 1 of 2 Plan Number 409-17	Rev C
Floor Plan, Elevations	Greg Skyring Design and Drafting Pty Ltd	22 November 2017	Sheet 2 of 2 Plan Number 409-17	Rev C

### **6. Further development permits**

---

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- Building Work
- Plumbing and Drainage Work

### **7. Properly made submissions**

---

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

### **8. Currency period for the approval**

---

This development approval will lapse at the end of the period set out in section 85 of *Planning Act 2016*. This is a six (6) year period from the day the approval takes effect.

### **9. 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 1 – CONDITIONS AND ADVICE**

### **PART 1A—CONDITIONS IMPOSED BY THE ASSESSMENT MANAGER**

- 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.**

#### **On-Site Effluent Disposal**

- 3. 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.**

#### **Vegetation Clearing**

- 4. Existing vegetation on the subject land must be retained in all areas except those affected by the siting of the buildings and their access. Any further clearing requires an Operational Works Approval.**

#### **Building Colours**

- 5. 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 must be of moderately dark to darker shades of green, grey, blue and brown.**

#### **Limitation of Use**

- 6. When the home based business is not in operation the detached bedrooms must only be utilised as part of the house land use, housing one household.**

#### **Vehicle Parking**

- 7. The amount of vehicle parking must be as specified in Council's Planning Scheme which is a minimum of two (2) on-site vehicle parking spaces to be provided for the existing residential use and a minimum of three (3) on-site vehicle parking spaces to be provided for the Home Based Business (Bed & Breakfast Accommodation). Parking spaces must be designated and marked on site.**

### **Bed and Breakfast**

8. The use of the accommodation must remain ancillary to the primary residential use of the premises.

### **Lawful Point of Discharge**

9. The flow of all external 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.

### **Sediment and Erosion Control**

10. 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*).

### **PART 1B—ADVICE NOTES**

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect.
2. The applicant/owner is advised that this approval does not approve the construction of the building work. A Development Permit for Building Work must be obtained 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. For information relating to the *Planning Act 2016* log on to [www.dilgp.qld.gov.au](http://www.dilgp.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) .

## 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**

<b>Table 1</b>			
<b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
1. Development applications An appeal may be made against— <ul style="list-style-type: none"> <li>(a) the refusal of all or part of the development application; or</li> <li>(b) the deemed refusal of the development application; or</li> <li>(c) a provision of the development approval; or</li> <li>(d) if a development permit was applied for—the decision to give a preliminary approval.</li> </ul>			
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**

2. Eligible submitter appeals  
 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—  
 (a) any part of the development application for the development approval that required impact assessment; or  
 (b) a variation request.

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development application  2 For a change application—an eligible submitter for the change application	1 For a development application—the assessment manager  2 For a change application—the responsible entity	1 The applicant  2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application

3. Eligible submitter and eligible advice agency appeals  
 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—  
 (a) any part of the development application or the change application, for the development approval, that required impact assessment; or  
 (b) a variation request.

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development application  2 For a change application—an eligible submitter for the change application  3 An eligible advice agency for the development application or change application	1 For a development application—the assessment manager  2 For a change application—the responsible entity	1 The applicant  2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application

**Note:**

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*

**SCHEDULE 3 – RIGHT OF APPEAL WAIVER**

Mail To: Douglas Shire Council  
Email Address: enquiries@douglas.qld.gov.au  
Attention: Development Assessment

**RE:**

**Council reference:** 40.2017.2355.1

**Property Address:** 94R Nicole Drive CAPE TRIBULATION; land described as LOT: 18 RP: 738897

This advice is to confirm that I/We have received the above approval and agree to the conditions contained therein. I/We hereby waive My/Our appeal rights available under the *Planning Act 2016*.

Applicants Name: \_\_\_\_\_

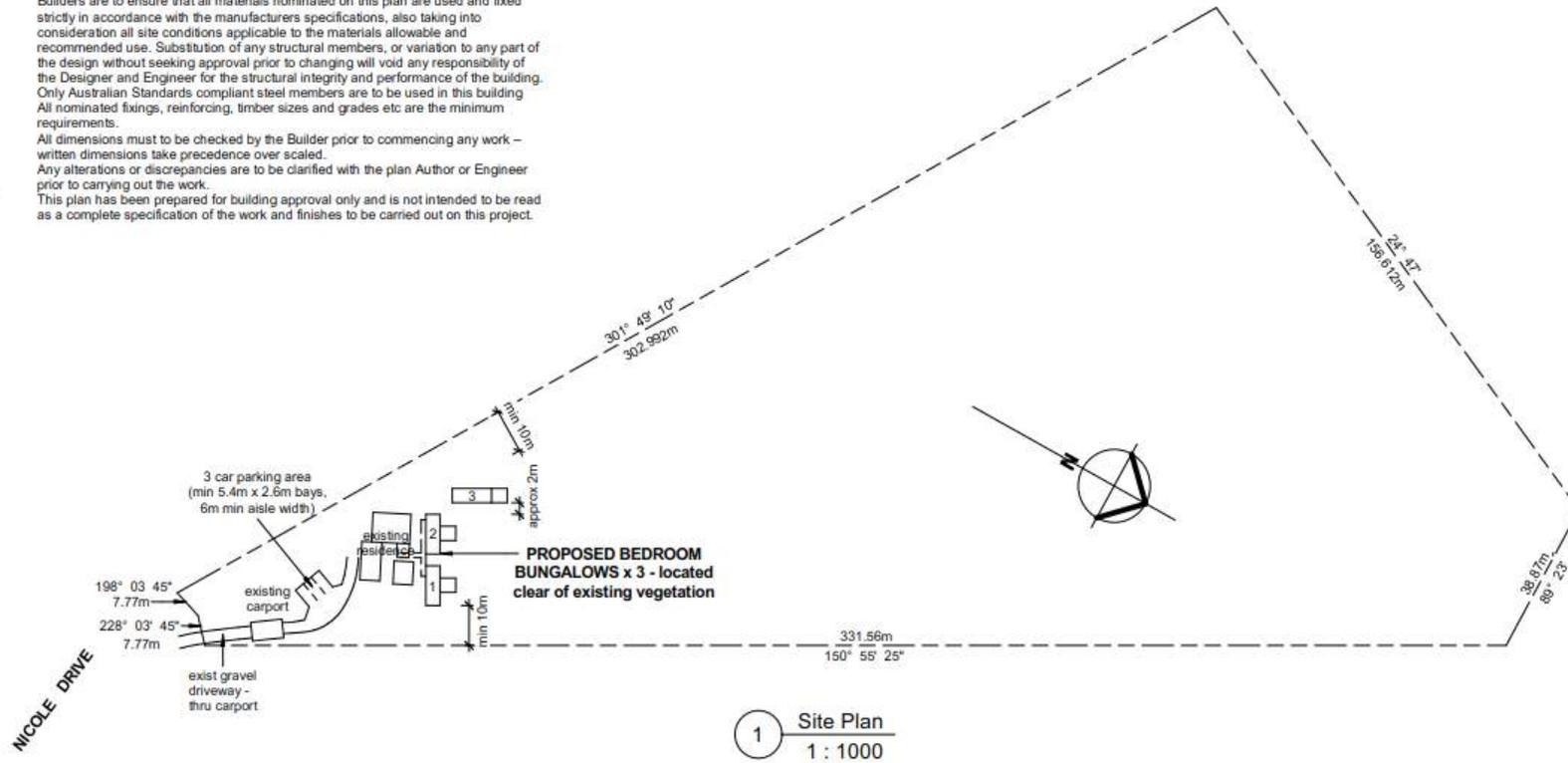
Signature: \_\_\_\_\_

Date : \_\_\_\_\_

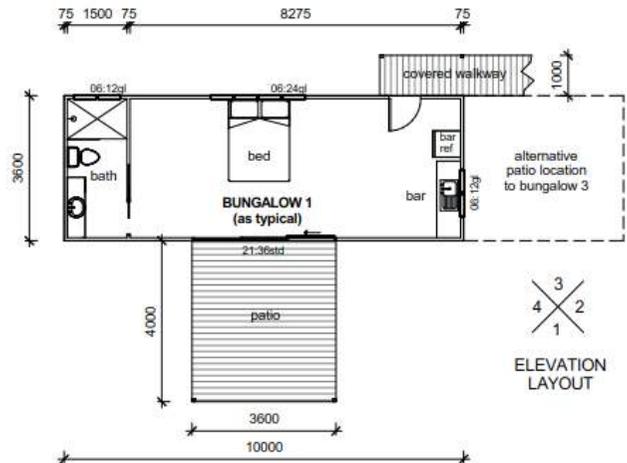
## APPROVED PLANS (ATTACHING TO THE DECISION NOTICE)

**GENERAL**

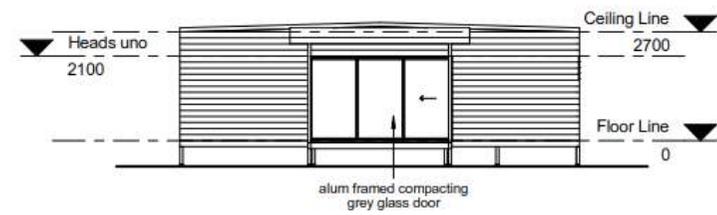
All construction is to comply with **C2** building standards, Building Code of Australia, all relevant legislation, and Council By-Laws.  
 Builders are to ensure that all materials nominated on this plan are used and fixed strictly in accordance with the manufacturers specifications, also taking into consideration all site conditions applicable to the materials allowable and recommended use. Substitution of any structural members, or variation to any part of the design without seeking approval prior to changing will void any responsibility of the Designer and Engineer for the structural integrity and performance of the building.  
 Only Australian Standards compliant steel members are to be used in this building. All nominated fixings, reinforcing, timber sizes and grades etc are the minimum requirements.  
 All dimensions must be checked by the Builder prior to commencing any work – written dimensions take precedence over scaled.  
 Any alterations or discrepancies are to be clarified with the plan Author or Engineer prior to carrying out the work.  
 This plan has been prepared for building approval only and is not intended to be read as a complete specification of the work and finishes to be carried out on this project.



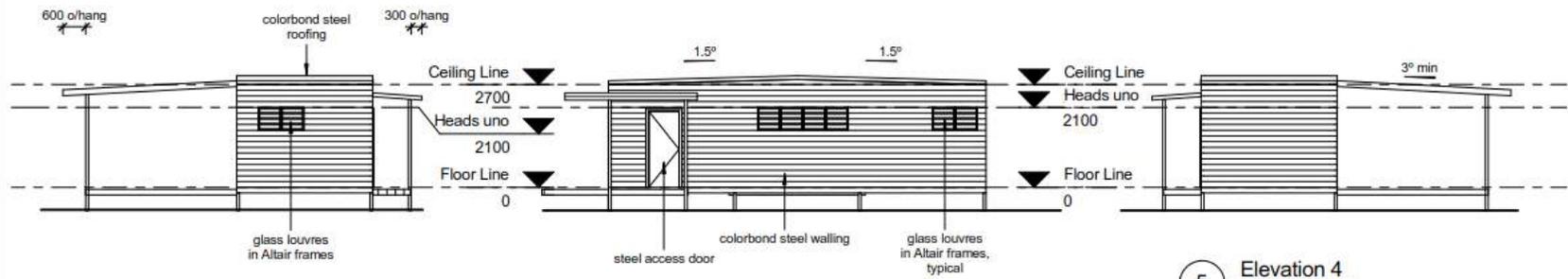
<p><b>GREG SKYRING</b>  <i>Design</i> and DRAFTING Pty. Ltd.  <small>Lit. Under QBSA Act 1991 - No 1040371</small>                  11 Noll Close,                  Mossman Q. 4873                  Phone/Fax: (07) 40982061                  Mobile: 0419212652                  Email: greg@skyringdesign.com.au</p>	<p><small>PROJECT</small>                  Proposed Bedroom Bungaloes,                  94 Nicole Drive,                  L18 RP738897,                  CAPE TRIBULATION</p>	<small>CLIENT</small>	M. & P.Martin	<small>WIND CLASS</small>	C2	<small>PLAN NUMBER</small>	409-17	<small>SHEET</small>	1 of 2
		<small>SCALES</small>	1 : 1000	<small>PLAN TITLE</small>	Site Plan	<small>DATE OF ISSUE</small>	22.11.17	<small>REV</small>	C



1 Floor Plan  
1 : 100



2 Elevation 1  
1 : 100



3 Elevation 2  
1 : 100

4 Elevation 3  
1 : 100

5 Elevation 4  
1 : 100

**GREG SKYRING**  
*Design* and DRAFTING Pty. Ltd.  
Lic. Under QBSA Act 1991 - No 1040371  
11 Noli Close,  
Mossman Q. 4873  
Phone/Fax: (07) 40982061  
Mobile: 0419212652  
Email: greg@skyringdesign.com.au

PROJECT  
Proposed Bedroom Bungaloes,  
94 Nicole Drive,  
L18 RP738897,  
CAPE TRIBULATION

CLIENT  
M. & P. Martin

SCALES  
1 : 100

PLAN TITLE  
Floor Plan, Elevations

WIND CLASS  
C2

PLAN NUMBER  
409-17

DATE OF ISSUE  
22.11.17

SHEET  
2 of 2

REV  
C