

15 March 2018

Enquiries: Jenny Elphinstone
Our Ref: OP 2543/2018 (Doc ID 846781)
Your Ref:

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

Chris Vandyke Designs Pty Ltd
PO Box 236
CLIFTON BEACH QLD 4879

Attention Mr Sean Reason

sean@chrisvandyke.com.au

Dear Madam

**DEVELOPMENT APPLICATION FOR OPERATIONAL WORKS
AT 40 GARRICK STREET PORT DOUGLAS
ON LAND DESCRIBED AS LOT 5 ON PTD20934**

Thank you for lodging the above Development Application with Council on 7 March 2018.

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

Please quote Council's application number: OP 2543/2018 (44.2018.2543.1) 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
- Approved Plans

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

Thank you for your development application detailed below which was properly made on 7 March 2018. Please be aware that Douglas Shire Council has assessed your application and decided it as follows:

1. *Applicant's details*

Name: Chris Vandyke Designs Pty Ltd
Postal Address: PO Box 236
CLIFTON BEACH QLD 4879

2. *Location details*

Street Address: 40 Garrick Street Port Douglas
Real Property Description: Lot 5 on PTD20934
Local Government Area: Douglas Shire Council

3. *Details of proposed development*

Development Permit for Operational Works for a non-standard crossover.

4. *Decision*

Date of decision: 15 March 2018

Decision details: Approved in full with conditions. These conditions are set out in Schedule 1 and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

5. *Approved drawing(s) and / or document(s)*

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

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Driveway Set Out (Sheets 1 and 2)	Chris Vandyke Designs	21 February 2018	None.	As amended by Condition 2.
Existing Cross Fall	Chris Vandyke Designs	21 February 2018	None.	As amended by Condition 2.

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

6. Conditions

This approval is subject to the conditions in Schedule 1.

7. Further development permits

None applicable.

8. Properly made submissions

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

9. Referral agency

Not applicable – no part of the application required referral.

10. Currency period for the approval

Under section 85 of the *Planning Act 2016*, the relevant period for the Preliminary Approval is to be two (2) years starting from the day the approval takes effect.

11. Reasons for decision

The reasons for this decision are:

1. Section 60 of the *Planning Act 2016*:
 - a. to apply the conditions and advices as per Recommendation A above;
 - b. to ensure the development satisfies the benchmarks of the 2006 Douglas Shire Planning Scheme (as amended); and
 - c. 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 7 March 2018 under section 51 of the *Planning Act 2016* and Part 1 of the Development Assessment Rules; and

- b. The development application contained a plan of the proposed design work from the applicant, together with advice that the new access was to provide for an all abilities access to the land, which Council reviewed together with Council's own investigation in making its assessment manager decision.
- 3. Evidence or other material on which findings were based:
 - a. the development triggered code assessable development, as the development was non-complaint with the FNQROC Development Manual, standard crossover design;
 - b. Council undertook an assessment in accordance with the provisions of section 60 of the *Planning Act 2016*; and
 - c. the applicant's reasons have been considered and the following findings are made:
 - i. The proposed development, as required to be amended, is found satisfactory subject to conditions;
 - ii. The conditions have regard to Council's future maintenance responsibilities; and
 - iii. The conditions have regard to AS 1428 for all abilities access. .

12. Applicant's rights to make representations and rights of appeal

The rights of applicants to make representations and the 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*. 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*).

Schedule 2 is an extract from the *Planning Act 2016* that sets down the applicant's rights to make representations and the applicant's appeal rights.

SCHEDULE 1 – CONDITIONS AND ADVICE

PART 1A—CONDITIONS IMPOSED BY THE ASSESSMENT MANAGER

Continued Pedestrian access

1. The applicant must take appropriate measure to ensure pedestrian access and safety while works are undertaken on the road.

Amended Design

2. The design is subject to the following amendments:
 - a. the construction does not include works over the kerb and channel;
 - b. The approved works provide an ability to punch out the back of the existing kerb and channel to provide a graded access from the property boundary to the kerb and channel with a maximum grade of 1 in 14;
 - c. The area between the kerb and channel and the existing road pavement must be constructed in asphalt, the works in the kerb and channel area is to be in plain concrete and the area from the new kerb and channel to the property boundary is to be in the nominated Oyster aggregate finish.

The amended design is as sketched on the included plan.

STANDARD CONDITIONS

General

1. 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 following 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.

2. 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.
3. Notwithstanding any approval given to engineering documents, where a discrepancy occurs between these documents and Council's standards, then Council's standards shall apply. All works must be performed in accordance with Council standards and Local Laws and other statutory requirements.

4. 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.

Hours of Work

5. Work involving the operation of construction plant and equipment of any description, shall only be carried out on site during the following times:
 - a. 7:00 am to 6:00 pm, Monday to Friday;
 - b. 7:00 am to 1:00 pm, Saturdays; and
 - c. no work is permitted on Sundays or Public Holidays.

Any variations to the above working hours must be authorised by the Chief Executive Officer, prior to the commencement of such works.

Verges

6. All verges where they have been affected by works are to be covered full-width with topsoil (AS 4419/Soils for Landscaping and Garden Use) to a depth of not less than 40 mm, lightly compacted and grassed in accordance with Council's Guidelines and Specifications.

Council Infrastructure and Other Utilities

7. All works must not interfere or impact on Council water supply or other agency infrastructure and must comply with the following:
 - a. The developer shall be responsible for confirming the location of all existing services (including sewer, water and utility service infrastructure) prior to the commencement of works on site. Any permits necessary to alter/interfere with such services must be obtained prior to the commencement of work and be available for Council inspection if required.
 - b. Any works over or within the zone of influence of Council's existing water infrastructure must be approved by Douglas Shire Council prior to the commencement of the proposed works. Unless otherwise approved in writing, existing infrastructure impacted by the development shall be subject to the maintenance period provisions contained in this Decision Notice.

Construction works shall include any works that may impact on existing infrastructure such as, but not limited to, mobilisation of heavy earthmoving equipment, stripping and grubbing, site filling, stockpiling of materials and installation of erosion and sediment control measures.

PART 1B—ADVICE NOTES

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.
2. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
3. For information relating to the *Planning Act 2016* log on to www.dsdip.qld.gov.au. To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.

SCHEDULE 2 – *PLANNING ACT 2016* EXTRACT APPLICANTS RIGHTS ON MAKING REPRESENTATIONS AND APPEAL RIGHTS

Planning Act 2016
Chapter 3 Development assessment

[s 75]

- (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
 - (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—

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Current as at 1 January 2018

Authorised by the Parliamentary Counsel

- (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.

Subdivision 2 Changes after appeal period

77 What this subdivision is about

This subdivision is about changing a development approval, other than the currency period, after all appeal periods in relation to the approval end.

78 Making change application

- (1) A person may make an application (a *change application*) to change a development approval.
- (2) A change application must be made to the responsible entity.
- (3) The *responsible entity* is—
 - (a) for a change application for a minor change to a development condition that a referral agency imposes—the referral agency; or
 - (b) the P&E Court, if—
 - (i) the change application is for a minor change; and
 - (ii) the development approval was given because of an order of the court; and

- (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

- (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.

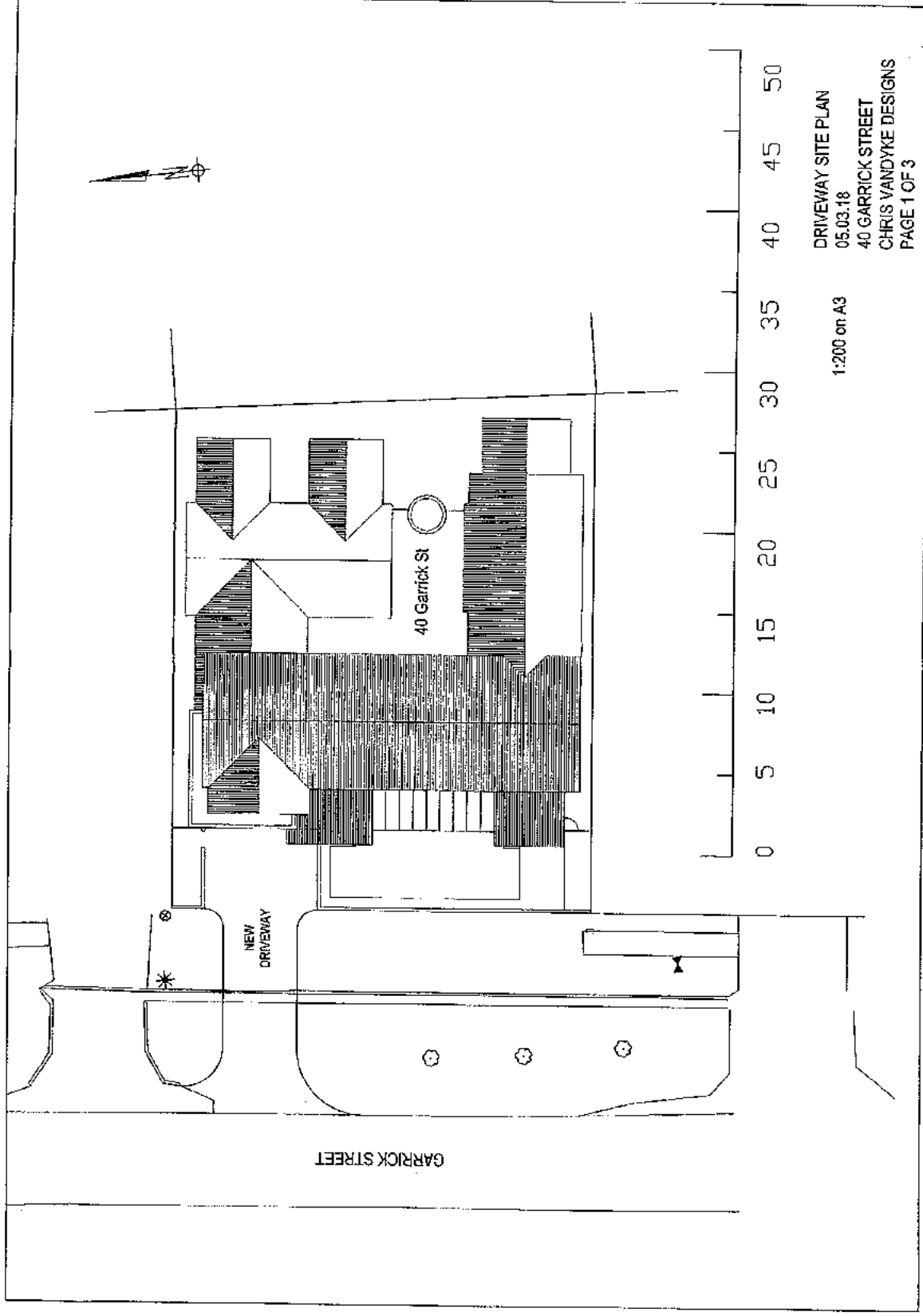
non-appealable, for a decision or matter, means the decision or matter—

- (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.

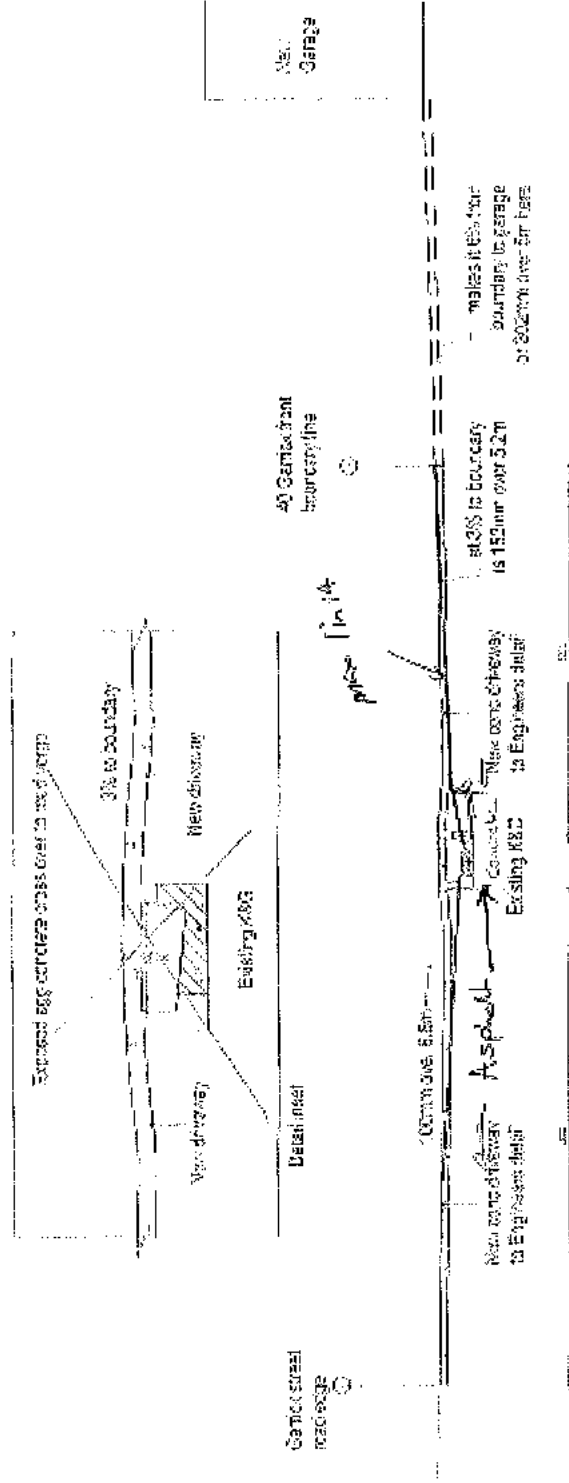
232 Rules of the P&E Court

- (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.

APPROVED PLANS (ATTACHING TO THE DECISION NOTICE) AND AS AMENDED BY CONDITION 2.



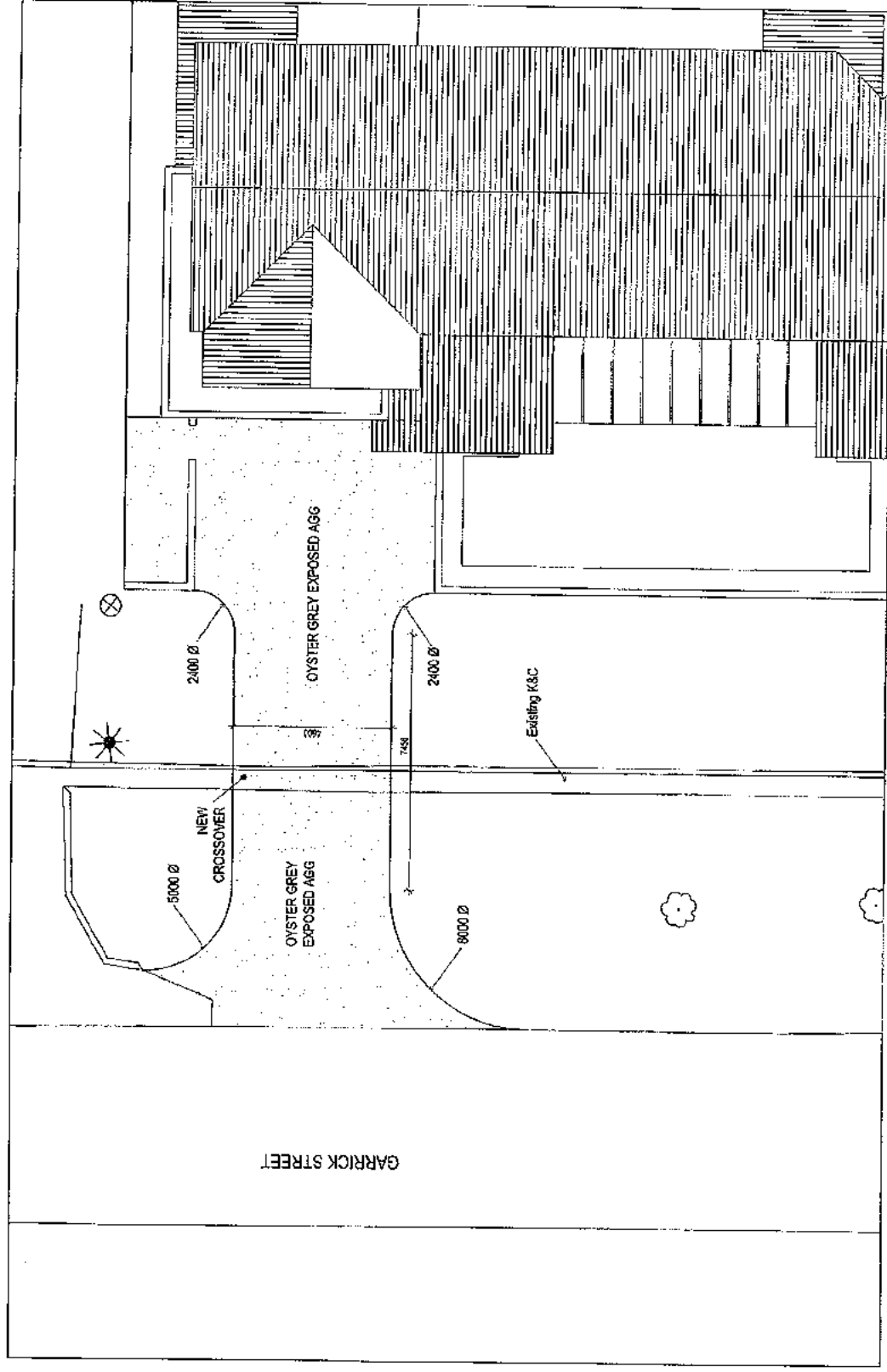
As amended by Condition 2.



SECTION CROSS OVER & DETAIL
FIELD NO.
40 SHARPOCK STREET
CHRIS VANDOME DESIGNS
PAGE 3 OF 3

#5 10-28
 in 20 (51)
 in 1st (11.25%)
 for 900
 Ramp

See Condition 2 amendment



DRIVEWAY SET OUT
03.05.18
1:100 on A3
40 GARRICK STREET
CHRIS VANDYKE DESIGNS
PAGE 2 OF 3