

24 March 2021

Enquiries: Jenny Elphinstone
Our Ref: BW 2021_3972/1 (Doc ID 996244)
Your Ref: 20204901

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

Mr Thomas Ahsendorf
C-/ GMA Certification Group Pty Ltd
PO Box 831
PORT DOUGLAS QLD 4877

Email Patrick.c@gmacert.com.au

Attention Mr Patrick Clifton

Dear Sir

**Development Application for Building Work
Dwelling House Extension and Secondary Dwelling
At 70 Ocean View Road Killaloe
On Land Described as Lot 18 on RP: 850469**

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

Please quote Council's application number: BW 2021_3972/1 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9444.

Yours faithfully



For

Paul Hoyer
Manager Environment & Planning

encl.

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Reasons for Decision
- Advice For Making Representations and Appeals (Decision Notice)



Decision Notice

Approval (with conditions)

Given under section 63 of the Planning Act 2016

Applicant Details

Name: Thomas Ahsendorf
Postal Address: C-/ GMA Certification Group Pty Ltd
PO Box 831
PORT DOUGLAS QLD 4877
Email: Patrick.c@gmacert.com.au

Property Details

Street Address: 70 Ocean View Road Killaloe
Real Property Description: Lot 18 on RP850469
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Building Work Made Assessable Against the Planning Scheme for Dwelling House Extension and a Secondary Dwelling.

Decision

Date of Decision: 24 March 2021
Decision Details: Approved (subject to conditions)

Approved Drawing(s) and/or Document(s)

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

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

Drawing or Document	Reference	Date
Site Plans	Danny Vos Architect, Proposed Dwelling (Including Detached Bdrm & 2nd Storey Dwelling), Sketch Design, Drawing 1.0 REV B	3 February 2021

Drawing or Document	Reference	Date
Secondary dwelling ground and first floor plans	Danny Vos Architect, Proposed Dwelling (Including Detached Bdrm & 2nd Storey Dwelling), Sketch Design, Drawing 2.0 REV B	3 February 2021
Secondary dwelling roof plan and floor areas	Danny Vos Architect, Proposed Dwelling (Including Detached Bdrm & 2nd Storey Dwelling), Sketch Design, Drawing 2.1 REV B	3 February 2021
Secondary dwelling elevations	Danny Vos Architect, Proposed Dwelling (Including Detached Bdrm & 2nd Storey Dwelling), Sketch Design, Drawing 2.2 and 2.3 REV B	3 February 2021
Primary dwelling floor plan	Danny Vos Architect, Proposed Dwelling (Including Detached Bdrm & 2nd Storey Dwelling), Sketch Design, Drawing 3.0 REV B	3 February 2021
Primary dwelling elevations	Danny Vos Architect, Proposed Dwelling (Including Detached Bdrm & 2nd Storey Dwelling), Sketch Design, Drawing 3.1 REV B	3 February 2021
Detached dwelling floor plan and elevations.	Danny Vos Architect, Proposed Dwelling (Including Detached Bdrm & 2nd Storey Dwelling), Sketch Design, Drawing 4.0 REV B	3 February 2021
Carport plans	Danny Vos Architect, Proposed Dwelling (Including Detached Bdrm & 2nd Storey Dwelling), Sketch Design, Drawing 5.0 REV B	3 February 2021

Assessment Manager Conditions & Advices

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. 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.

Damage to Council Infrastructure

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

Vegetation Clearing

4. Existing vegetation on the subject land must be retained in all areas except those affected by the construction of the extensions and the proposed onsite waste disposal areas.

A vegetated buffer of 4m is to be maintained to the north-east and south east boundary in the vicinity of the on-site waste disposal area. Where the existing vegetation is needed to be removed or replaced in this buffer area it is to be established with locally endemic species that can achieve a height of 3m within 5 years of growth after establishment.

Building Colours

5. The extensions and roof for the first -floor components of the new building work must be finished with external colours which are consistent with the surrounding environment and must not be reflective.

Bushfire Hazard

6. The dwelling extensions must be designed in accordance with AS3959- 2009.
7. Water storage tank(s) with a minimum capacity not less than 10,000 litres 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 one (1) mm 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. The water tank(s) shall be fitted with a 50 mm ball valve with a camlock fitting.

Advice

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

Further Development Permits

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

- All Building Work

All Plumbing and Drainage Work must only be carried in compliance with the Queensland *Plumbing and Drainage Act 2018*.

Currency Period for the Approval

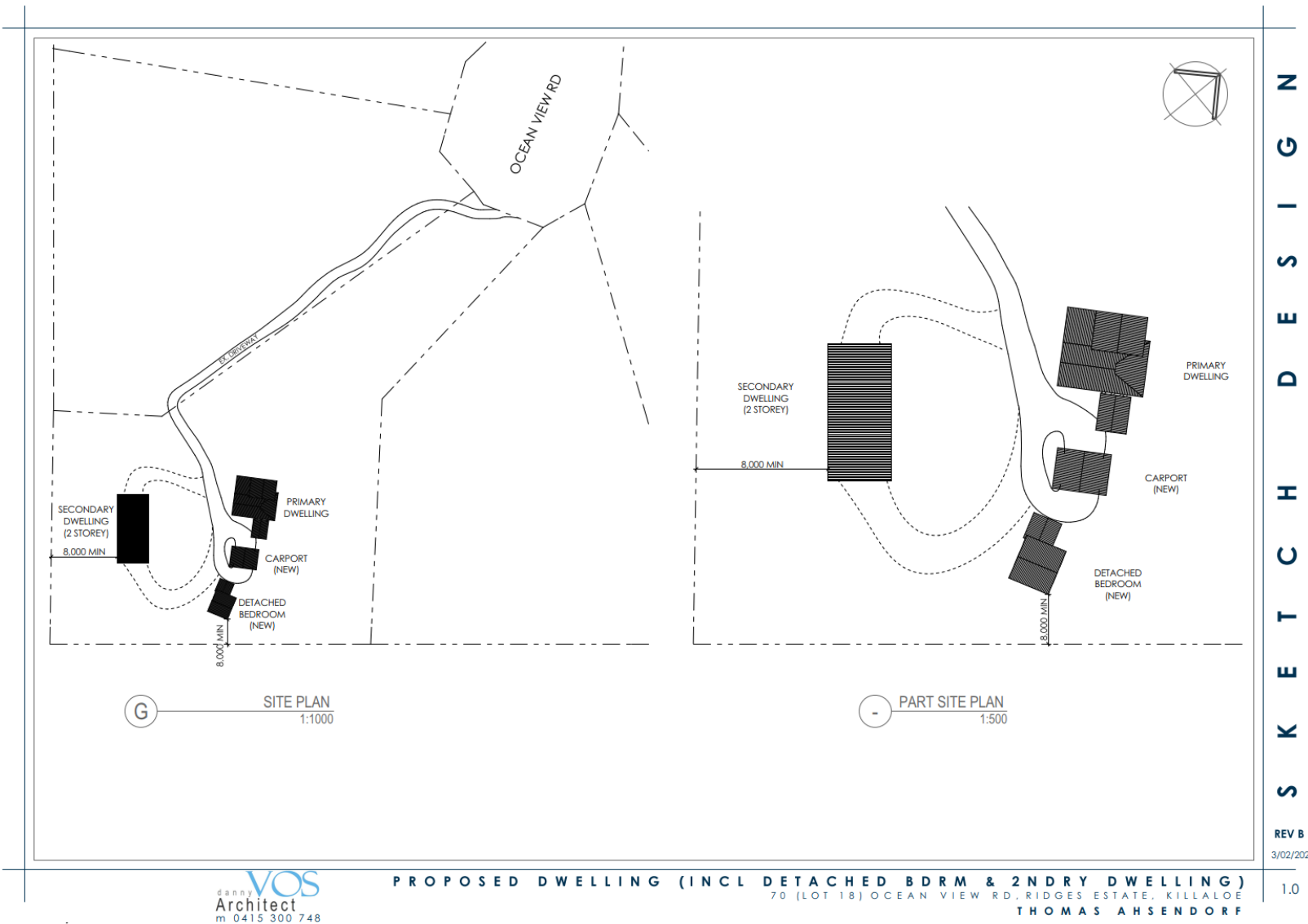
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

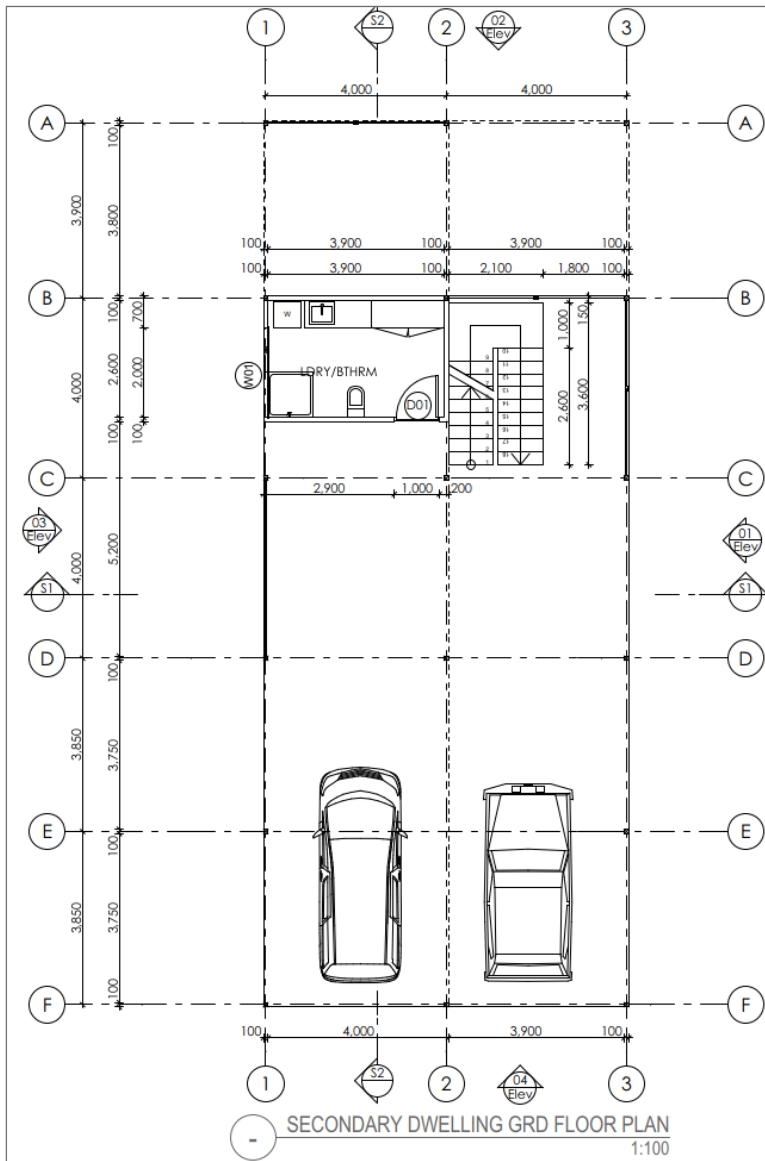
Rights to make Representations & Rights of Appeal

The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

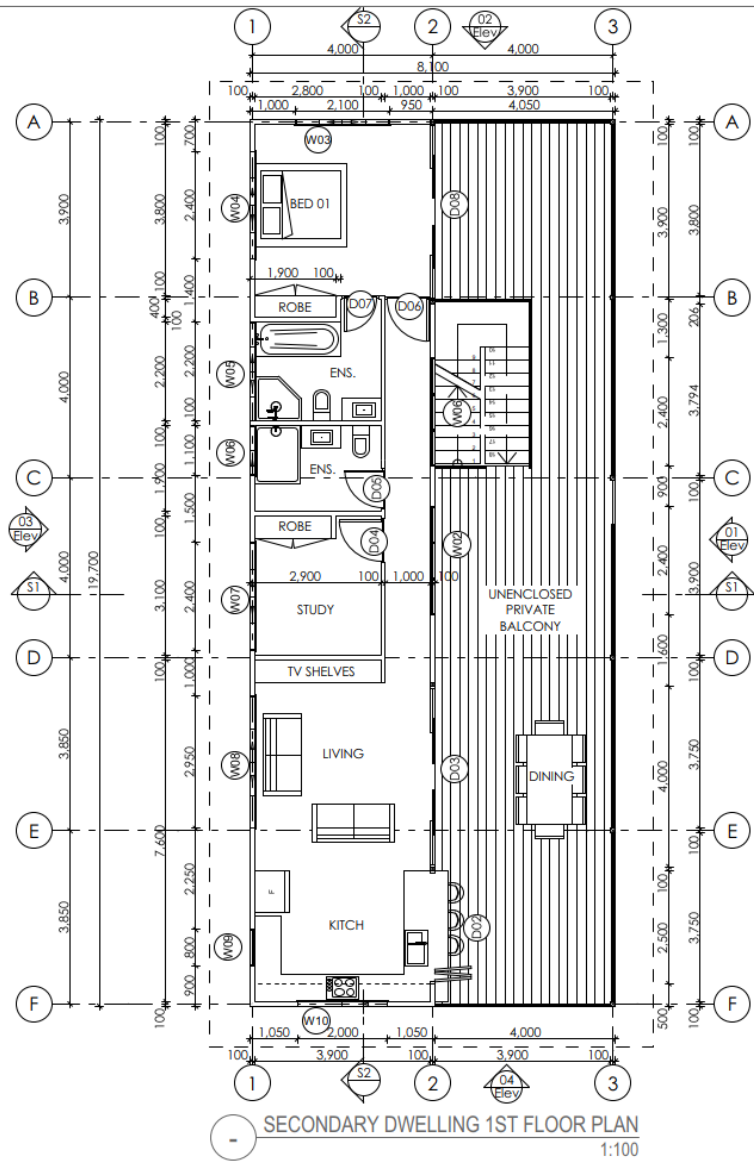
A copy of the relevant appeal provisions is attached.

Approved Drawing(s) and/or Document(s)





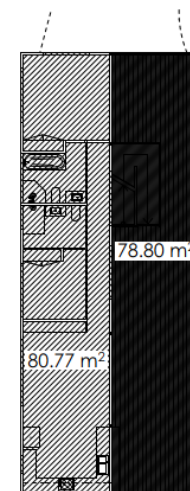
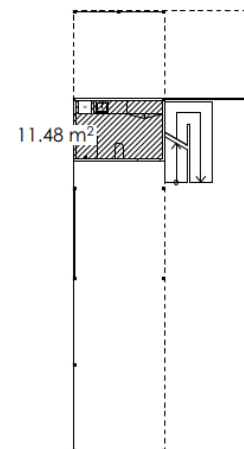
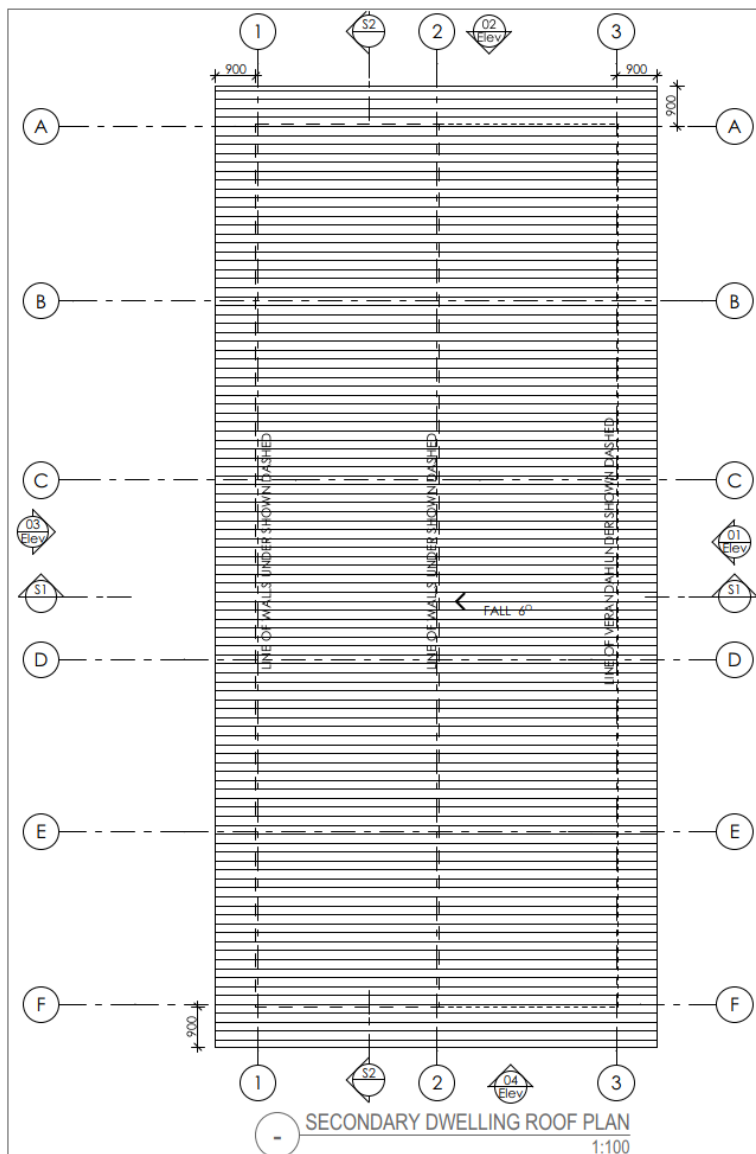
SECONDARY DWELLING GRD FLOOR PLAN
1:100



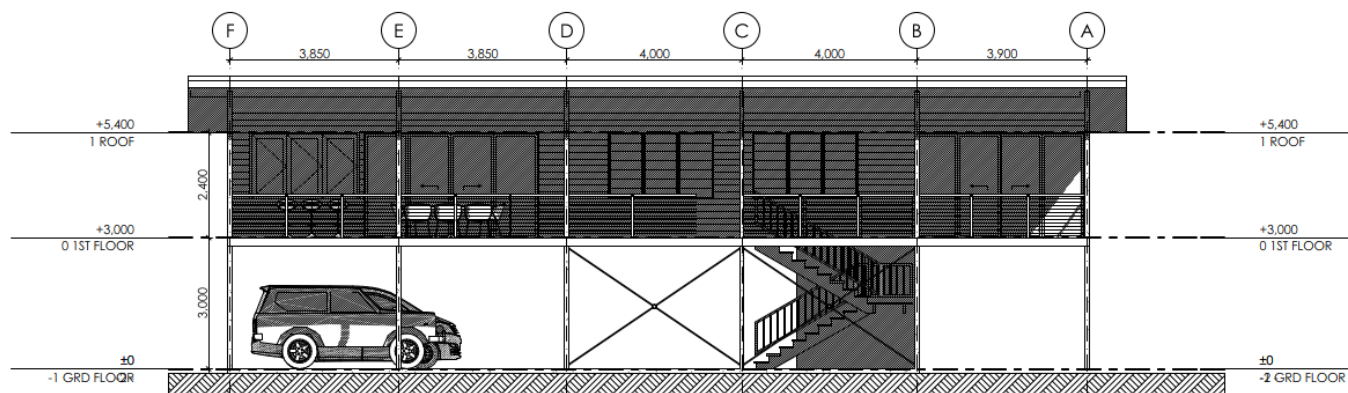
SECONDARY DWELLING 1ST FLOOR PLAN
1:100

PROPOSED DWELLING (INCL DETACHED BDRM & 2NDRY DWELLING)
70 (LOT 18) OCEAN VIEW RD, RIDGES ESTATE, KILLALOE
THOMAS AHSENDORF

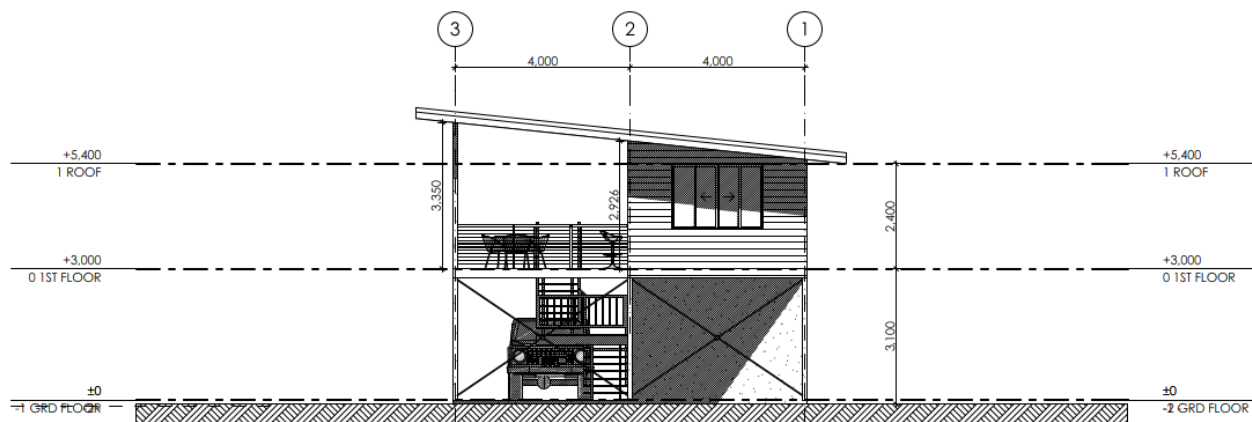
VOS
danny
Architect
m 0415 300 748



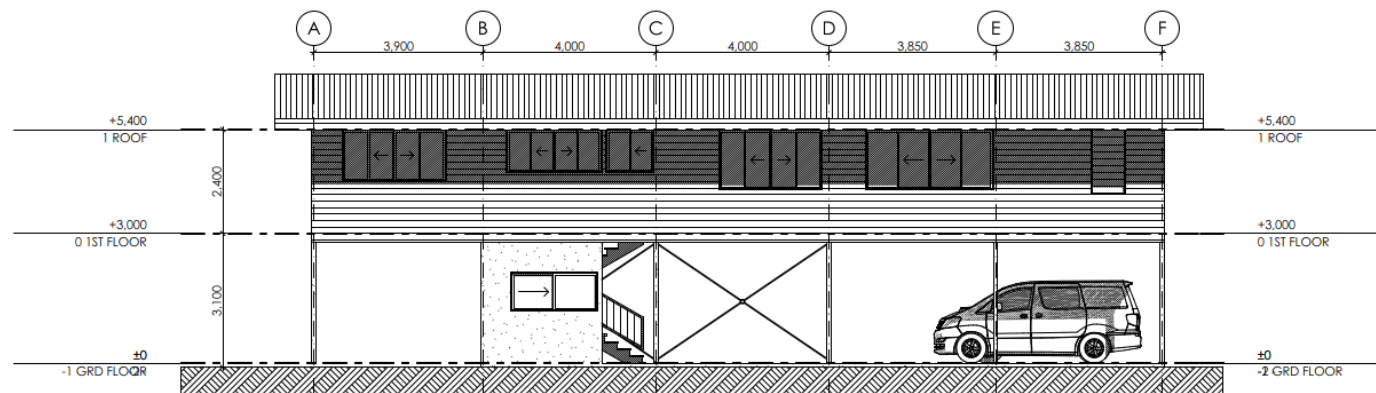
GFA	92.25 sqm
Unenclosed Private Balcony	78.80 sqm



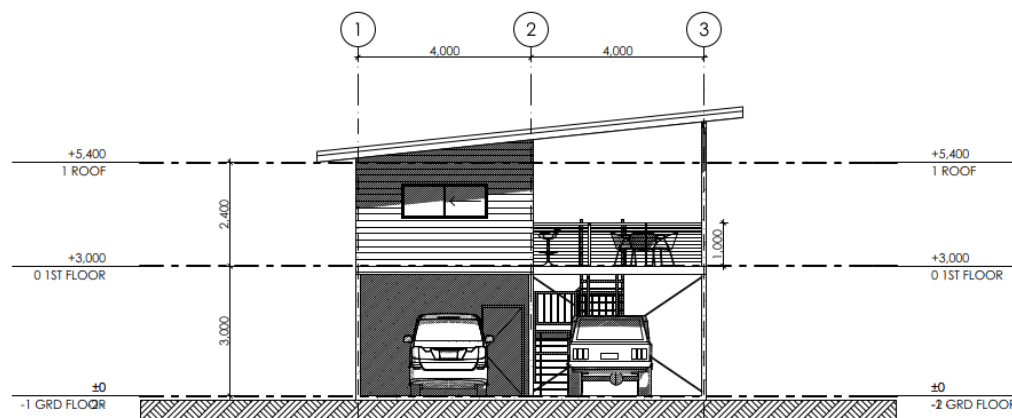
SD SECONDARY DWELLING Elev 01
1:100



SD SECONDARY DWELLING Elev 02
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SD SECONDARY DWELLING Elev 03
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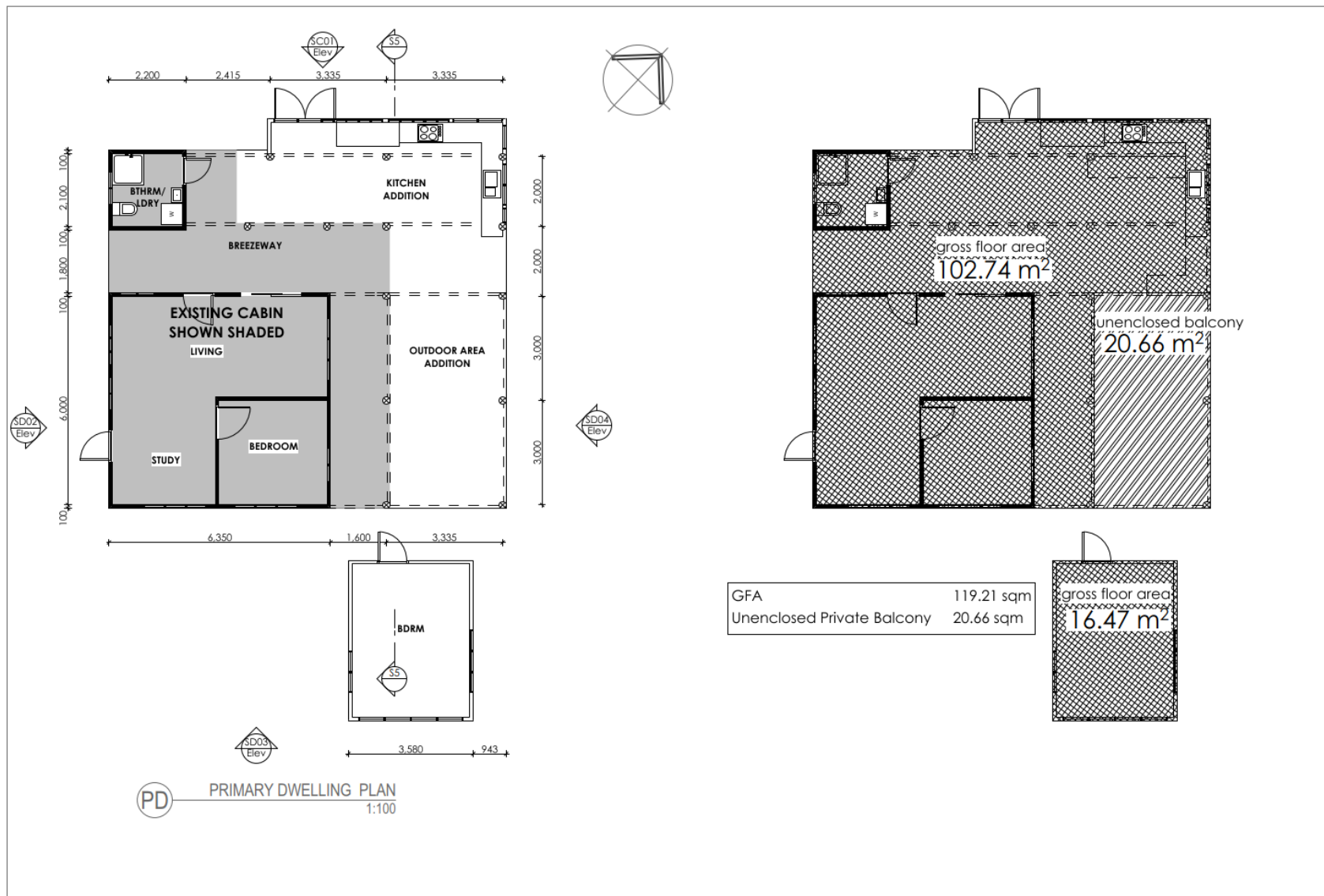
SD SECONDARY DWELLING Elev 04
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REV B
3/02/2021

VOS
danny
Architect
m 0415 300 748

PROPOSED DWELLING (INCL DETACHED BDRM & 2NDRY DWELLING)
70 (LOT 18) OCEAN VIEW RD, RIDGES ESTATE, KILLALOE
THOMAS AHSENDORF

2.3

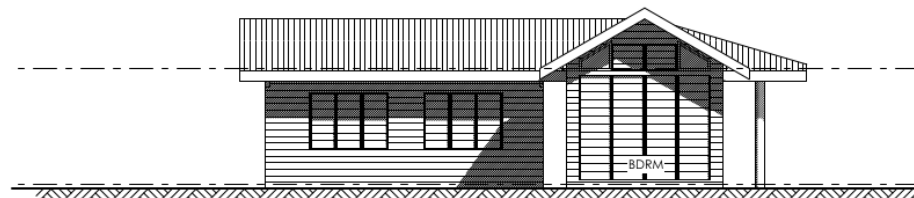




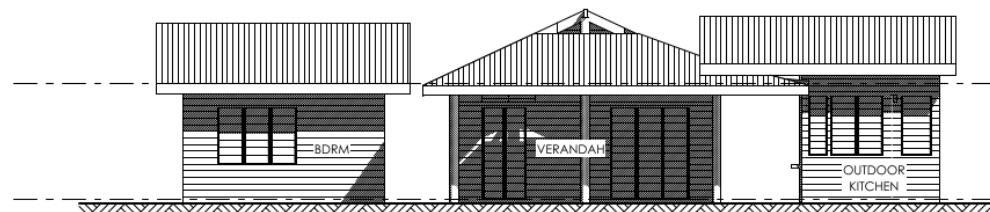
PD PRIMARY DWELLING ELEV 01
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PD PRIMARY DWELLING ELEV 02
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PD PRIMARY DWELLING ELEV 03
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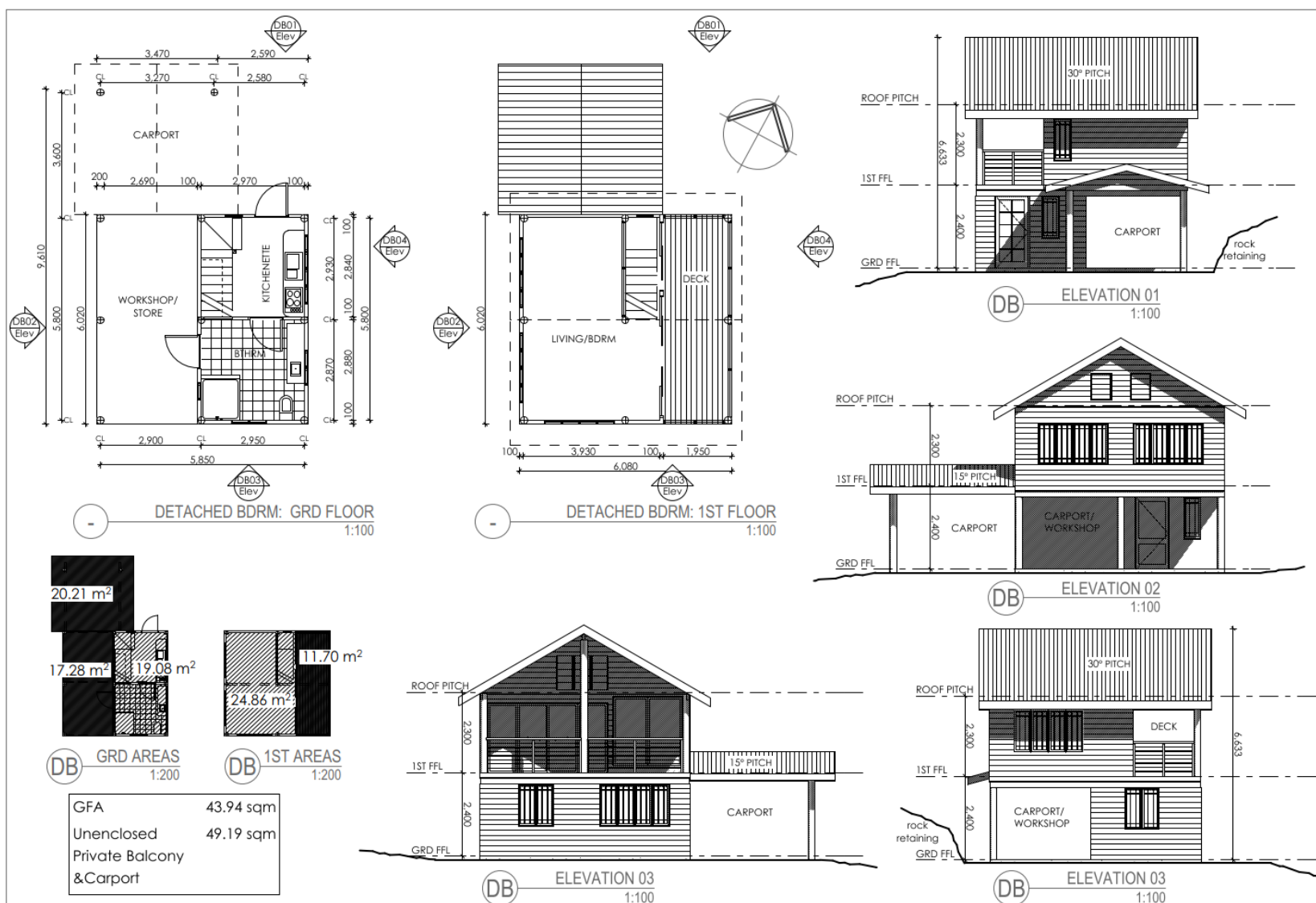
PD PRIMARY DWELLING ELEV 04
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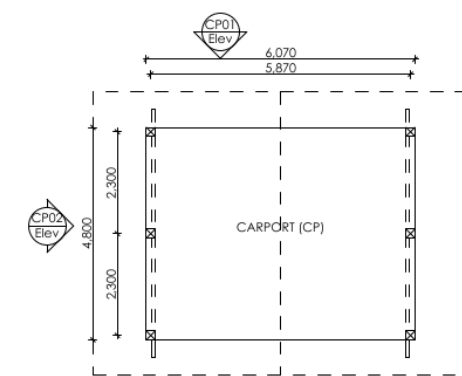
REV B
3/02/2021

VOS
danny
Architect
m 0415 300 748

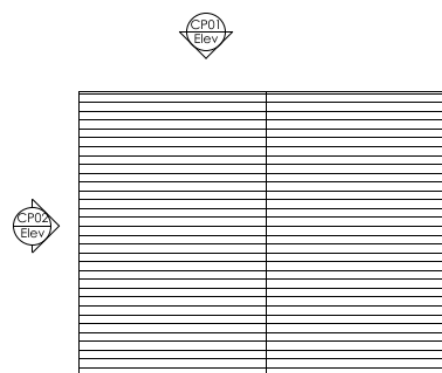
PROPOSED DWELLING (INCL DETACHED BDRM & 2NDRY DWELLING)
70 (LOT 18) OCEAN VIEW RD, RIDGES ESTATE, KILLALOE
THOMAS AHSENDORF

3.1

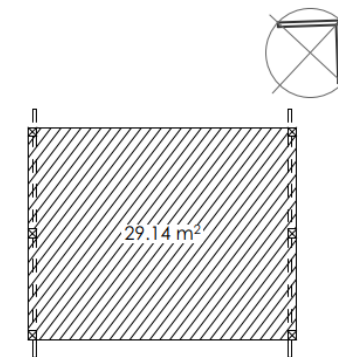




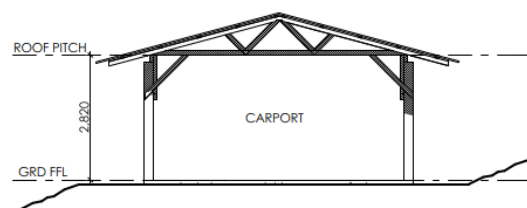
CP FLOOR PLAN
1:100



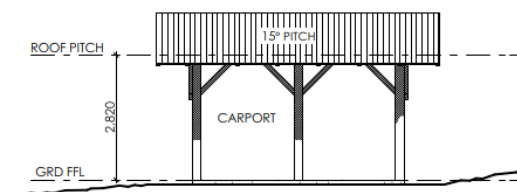
CP ROOF PLAN
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CP AREA
1:100



CP ELEVATION 01
1:100



CP ELEVATION 02
1:100

Reasons for Decision

1. The reasons for this decision are:
 - a. Sections 60, 62 and 63 of the *Planning Act 2016*;
 - b. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; 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 10 February 2021 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
 - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
 - a. the development triggered assessable development under the Assessment Table associated with the Environmental Management 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 conditions, the development satisfactorily meets the Planning Scheme benchmarks.

Non-Compliance with Assessment Benchmarks

Benchmark Reference	Alternative Measure/Comment
Environmental Management Zone AO5.1 Buildings, structures and associated access, infrastructure and private open space are sited: (a) within areas of the site which are already cleared; or (b) within areas of the site which are environmentally degraded; (c) to minimise additional vegetation clearing. PO8 Development does not adversely affect the amenity of the zone and adjoining land uses in terms of traffic, noise, dust, odour, lighting or other physical or environmental impacts.	Satisfactory through conditions of the approval. Vegetation clearing is minimised, in particular for new onsite treatment areas and a condition of the approval requires a minimum 4m landscape setback for the onsite waste water treatment area be maintained, either through existing vegetation or new plantings that achieve a height of 3m within 5 years. This condition is also considered to meet PO8.
A07 The exterior finishes and colours of buildings and structures are non-reflective and are moderately dark to darker shades of grey, green, blue and brown or the development is not visible external to the site. PO7 The exterior finishes of buildings and structures are consistent with the surrounding natural environment.	The applicant has not provided details of the finishes for the new building. The applicant claims the development is not visible from "vantage points" external to the site. This is a narrower benchmark than what is sought by the Scheme and there is no clarity as to where these benchmarks occur. The new buildings will be sited higher than the existing buildings. Other properties in this neighbourhood are visible from quite a distance away. A condition of the approval requires the first floor and roof of this part of the dwelling have a suitable finish.

Benchmark Reference	Alternative Measure/Comment
Bushfire Hazard Code	Satisfactory compliance through a condition requiring a water tank.
<p>Hillslopes Overlay Code</p> <p>While AO1 is not achieved the condition requiring suitable finish of first floor structures meets the respective PO1 and PO2</p> <p>AO1.1 Development is located on parts of the site that are not within the Hillslopes constraint sub-category as shown on the Hillslopes overlay Maps contained in schedule 2.</p> <p>PO1 The landscape character and visual amenity quality of hillslopes areas is retained to protect the scenic backdrop to the region.</p> <p>AO2.7</p> <p>Buildings and structures:</p> <p>(a) are finished predominantly in the following exterior colours or surfaces:</p> <ul style="list-style-type: none"> (i) moderately dark to darker shades of olive green, brown, green, blue, or charcoal; or (ii) moderately dark to darker wood stains that blend with the colour and hues of the surrounding vegetation and landscape; <p>(b) are not finished in the following exterior colours or surfaces:</p> <ul style="list-style-type: none"> (i) pastel or terracotta colours, reds, yellows, shades of white or beige, or other bright colours that do not blend with the surrounding vegetation and landscape; (ii) reflective surfaces. <p>AO2.8 Exterior colour schemes limit the use of white or other light colours to exterior trim and highlighting of architectural features.</p> <p>PO2</p> <p>The landscape character and visual amenity quality of hillslopes areas is retained to protect the scenic backdrop to the region.</p>	Satisfactory through condition of approval requiring suitable finishes for first floor and the associated roof.

Extracts from the Planning Act 2016 - Making Representations During Applicant's Appeal Period

Planning Act 2016
Chapter 3 Development assessment

[s 74]

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

74 What this subdivision is about

- (1) This subdivision is about changing a development approval before the applicant's appeal period for the approval ends.
- (2) This subdivision also applies to an approval of a change application, other than a change application for a minor change to a development approval.
- (3) For subsection (2), sections 75 and 76 apply—
 - (a) as if a reference in section 75 to a development approval were a reference to an approval of a change application; and
 - (b) as if a reference in the sections to the assessment manager were a reference to the responsible entity; and
 - (c) as if a reference in section 76 to a development application were a reference to a change application; and
 - (d) as if the reference in section 76(3)(b) to section 63(2) and (3) were a reference to section 83(4); and
 - (e) with any other necessary changes.

75 Making change representations

- (1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
 - (a) a matter in the development approval, other than—
 - (i) a matter stated because of a referral agency's response; or

- (ii) a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
- (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- (3) Only 1 notice may be given.
- (4) If a notice is given, the appeal period is suspended—
 - (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
 - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
 - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
 - (ii) the applicant receives notice that the assessment manager does not agree with the change representations; or
 - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

76 Deciding change representations

- (1) The assessment manager must assess the change representations against and having regard to the matters that

must be considered when assessing a development application, to the extent those matters are relevant.

- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
 - (a) the applicant; and
 - (b) if the assessment manager agrees with any of the change representations—
 - (i) each principal submitter; and
 - (ii) each referral agency; and
 - (iii) if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
 - (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
 - (v) another person prescribed by regulation.
- (3) A decision notice (a ***negotiated decision notice***) that states the assessment manager agrees with a change representation must—
 - (a) state the nature of the change agreed to; and
 - (b) comply with section 63(2) and (3).
- (4) A negotiated decision notice replaces the decision notice for the development application.
- (5) Only 1 negotiated decision notice may be given.
- (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.

Extracts from the 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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Current as at 1 October 2020

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 an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or

- (iii) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—

- (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
decision includes—
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

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

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise,

whether by the Supreme Court, another court, any tribunal or another entity; and

- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

Part 2 Development tribunal

Division 1 General

233 Appointment of referees

- (1) The Minister, or chief executive, (the *appointer*) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—
 - (a) has the qualifications or experience prescribed by regulation; and
 - (b) has demonstrated an ability—
 - (i) to negotiate and mediate outcomes between parties to a proceeding; and
 - (ii) to apply the principles of natural justice; and
 - (iii) to analyse complex technical issues; and
 - (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.