

22 April 2025

**Enquiries:** Rebecca Taranto  
**Our Ref:** MCUC 2025\_5740/1 (Doc ID1292163)  
**Your Ref:** WP24 023 ZHE DA 01

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

K Zheng  
C/- wildPLAN Pty Ltd  
PO Box 8028  
Cairns QLD 4870

Dear Sir/Madam

**Development Application for Combined Application  
for Material Change of Use-Dwelling House (including extensions to existing dwelling,  
secondary dwelling, additional standalone bedrooms, recreation room, tennis court,  
volleyball court and a shed) and  
Building Work Assessable Against the Planning Scheme.  
At 52 Kingfisher Lane, Whyanbeel,  
On Land Described as Lot 3 on RP742708**

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

Please quote Council's application number: MCUC 2025\_5740/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully



**Neil Beck**  
**Acting Manager Environment & Planning**

encl.

- Decision Notice
  - Approved Drawing(s) and/or Document(s)
  - Reasons for Decision - response to properly made submissions.
- Advice For Making Representations and Appeals (Decision Notice)



## Decision Notice

### Approval (with conditions)

*Given under s 63 of the Planning Act 2016*

#### Applicant Details

Name: K Zheng  
Postal Address: C/- wildPLAN Pty Ltd  
PO Box 8028  
CAIRNS QLD 4870  
Email: info@wildplan.com.au

#### Property Details

Street Address: 52 Kingfisher Lane Whyanbeel  
Real Property Description: Lot 3 on RP742708  
Local Government Area: Douglas Shire Council

#### Details of Proposed Development

Development Permit for Combined Application for Material Change of Use -Dwelling House (including extensions to existing dwelling, secondary dwelling, additional standalone bedrooms, recreation room, tennis court, volleyball court and a shed), and Building Work Assessable Against the Planning Scheme

#### Decision

Date of Decision: 22 April 2025  
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
New Residence	Mark Davies Design and Drafting Job No. 0003 KING	6 March 2025
Site Plan	Mark Davies Design and Drafting	6 March 2025

	Sheet No. DA-01/	
Site Plan Image	Mark Davies Design and Drafting Sheet No. DA-02/	6 March 2025
Site Plan Contours	Mark Davies Design and Drafting Sheet No. DA-03/	6 March 2025
Site Plan Bushfire	Mark Davies Design and Drafting Sheet No. DA-04/	6 March 2025
Site Plan Flood	Mark Davies Design and Drafting Sheet No. DA-05/	6 March 2025
Site Plan Hillslopes	Mark Davies Design and Drafting Sheet No. DA-06/	6 March 2025
Site Plan Landslide Hazard	Mark Davies Design and Drafting Sheet No. DA-07/	6 March 2025
Site Plan Regulated Vegetation Local	Mark Davies Design and Drafting Sheet No. DA-08/	6 March 2025
Site Plan Regulated Vegetation State	Mark Davies Design and Drafting Sheet No. DA-09/	6 March 2025
Stage 2	Mark Davies Design and Drafting Sheet No. DA-010/	6 March 2025
Stage 1, Stage 3	Mark Davies Design and Drafting Sheet No. DA-011/	6 March 2025
Stage 4	Mark Davies Design and Drafting Sheet No. DA-012/	6 March 2025

### **Assessment Manager Conditions & Advices**

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
  - a. The specifications, facts and circumstances as set out in the application submitted to Council; and
  - b. The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

### **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.

## **Operational Work**

3. An Operational Work Approval is required for the earthworks. The application for Operational Work must include, but not be limited to, the following:
  - a) A geotechnical assessment prepared by a qualified RPEQ (Registered Professional Engineer of Queensland) to confirm design and structural adequacy for the standalone rooms and all retaining and supporting structures over 1m in height;
  - b) Volume of all cut and fill;
  - c) Trees earmarked for removal;
  - d) All earthworks must be carried out in accordance with section CP1.13 and D5 of the FNQROC Development Manual; and
  - e) A copy of the contractors Erosion and Sediment Control Plan (ESCP) is to be submitted to Council prior to the issue of a Development Permit for Operational Work. Measures nominated in the ESCP must be implemented prior to commencement of any earthworks. The ESC Plan must address the Institution of Engineers' Australia Guidelines for Soil Erosion and Sediment Control and the Environment Protection (Water) Policy and Clauses CP1.06, CP1.13 and D5.10 of Council's FNQROC Development Manual.

Such works must be completed to the requirements and satisfaction of the Chief Executive Officer prior to commencement of use.

## **External Colour of the Shed.**

4. The exterior finishes and colours of the shed must be non-reflective and must be dark to darker shades of grey, green, blue and brown.

## **Bushfire Hazard**

5. All buildings and structures the subject of this approval must be developed in accordance with AS3959- 2009.

## **On-Site Effluent Disposal**

6. 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.

## **Use of the Shed.**

5. The use of the shed must be for purposes that are ancillary to the rural use of the property. No other uses of the shed are permitted without first obtaining approval under the Planning Scheme.

## **ADVICE**

1. 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 s85 of the *Planning Act 2016*.
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 all other relevant Local Laws and other statutory requirements.

#### **Rural Activity-Function Facility (Small Scale)**

4. For the Premises to be used for Rural Activities- Function Facility (Small Scale), the development must comply with the requirements of the *2018 Douglas Shire Planning Scheme-Rural Activities code (Function Facility- Small Scale)*. Should the proposed use not meet with the requirements of the code, a separate development application will be required to be submitted to Council.

#### **Home Based Business – Bed and Breakfast**

5. For the Premises to be used for a Home Based Business (Bed and Breakfast), the use must comply with the requirements of the *2018 Douglas Shire Planning Scheme-Home Based Business code (Bed and Breakfast)*. Should the proposed use not meet with the requirements of the code, a separate development application will be required to be submitted to Council.
6. 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) .

#### **Further Development Permits**

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

- All Building Work
- All Operational 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**

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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**

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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.

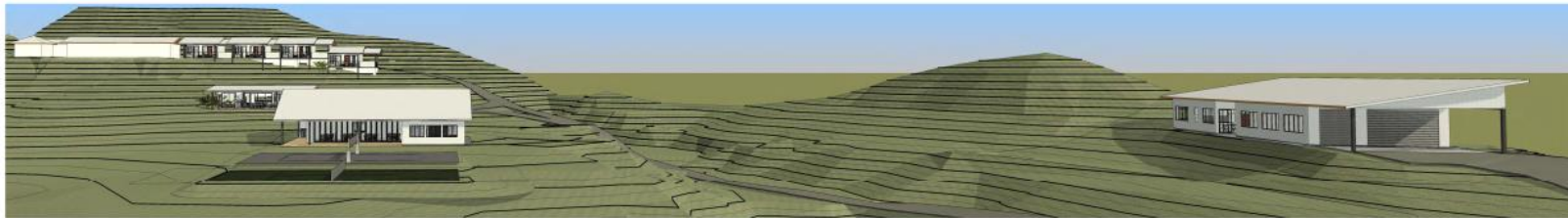
## Approved Drawing(s) and/or Document(s)



### NEW RESIDENCE

for:  
KAIGUI ZHENG

at:  
LOT 3, No 52 KINGFISHER LANE WHYAMBEEL 4873



Job No.- 0003 KING

PRINT DATE: 6/03/2025 11:35:09 AM

mrmkadavies@gmail.com 0455 356 750







① SITE PLAN IMAGE  
1:750



**MARK DAVIES DESIGN & DRAFTING**

mmarkadavies@gmail.com  
0455 356 570

WHERE APPROPRIATE, DIMENSIONS SHALL BE GIVEN ON THE PLAN AND SPECIFICATION SHEET. THE SPECIFICATION SHEET SHALL ALWAYS BE PRESENTED.

AS PER TITLE - Project Name

ALL PLANS ARE SUBJECT TO CORRECTION AND ARE NOT TO BE REPRODUCED, COPIED OR USED WITHOUT THE WRITTEN PERMISSION OF MARK DAVIES DESIGN & DRAFTING. TO THE BEST OF OUR KNOWLEDGE, THE INFORMATION IS TRUE AND CORRECT. ANY DISCREPANCY BETWEEN THIS PLAN AND THE SPECIFICATION SHEET SHALL ALWAYS BE PRESENTED.

PRINT DATE:  
6/3/2025 11:35:13 AM

REVISED:	DESCRIPTION:
DATE:	

CLIENT:-  
KAIGUI ZHENG

ADDRESS:-  
LOT 3, No 52 KINGFISHER LANE  
WYVARRULE, ACT

DATE:- Issue Date

DRAWN: JOB No.

CHECKED: 0003 KING SHEET No.

CHECKED: DA-02

WE HEREBY CERTIFY THE STRUCTURE SHALL BE BUILT ON THESE DIMENSIONS FOR CONSTRUCTION IN THE CLASSIFICATION C2.

**C.M.G CONSULTING**  
ENGINEERS

DESIGNED BY:  
DAVID G. GRIFFIN  
P. ENG. (2015-2021)  
P. ENG. (2021-2025)

LOT DESCRIPTION:	LOT 3 SP 747/08
LAND AREA:	0.3363 Ha
ADDRESS:	52 KINGFISHER LANE WYVARRULE, ACT
WIND CLASSIFICATION:	C2
WIND DIRECTION:	N
ZONE:	RURAL









**MARK DAVIES DESIGN & DRAFTING**  
mmarkadavies@gmail.com  
0455 356 570

WHERE APPROPRIATE, THE PLANNING AND DESIGN OF THE PROJECT SHALL BE IN ACCORDANCE WITH THE SPECIFICATION OF THE PROJECT AND THE PROJECT'S REQUIREMENTS.

PROJECT STATUS: Project Status

ALL PLANS AND DRAWINGS TO BE PREPARED AND NOTED, CORRECTED OR USED WITHOUT THE EXPRESSED PERMISSION OF MARK DAVIES DESIGN & DRAFTING. ANY CHANGES TO THE PROJECT SHALL BE IN ACCORDANCE WITH THE PROJECT'S REQUIREMENTS AND THE PROJECT'S REQUIREMENTS.

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DATE	DESCRIPTION

CLIENT:-  
KAIGUI ZHENG

ADDRESS:-  
LOT 3, No 52 KINGFISHER LANE  
WYVALE, VIC 3013

DATE:- Issue Date

DRAWN: JOB No.

CHECKED: 0003 KING SHEET No.

CHECKED: DA-04/

BY ORDER OF THE STRUCTURAL ENGINEER AS SHOWN ON THESE DRAWINGS FOR CONSTRUCTION AND CLASSIFICATION IS:

**C.M.G CONSULTING ENGINEERS** 10/10/2025

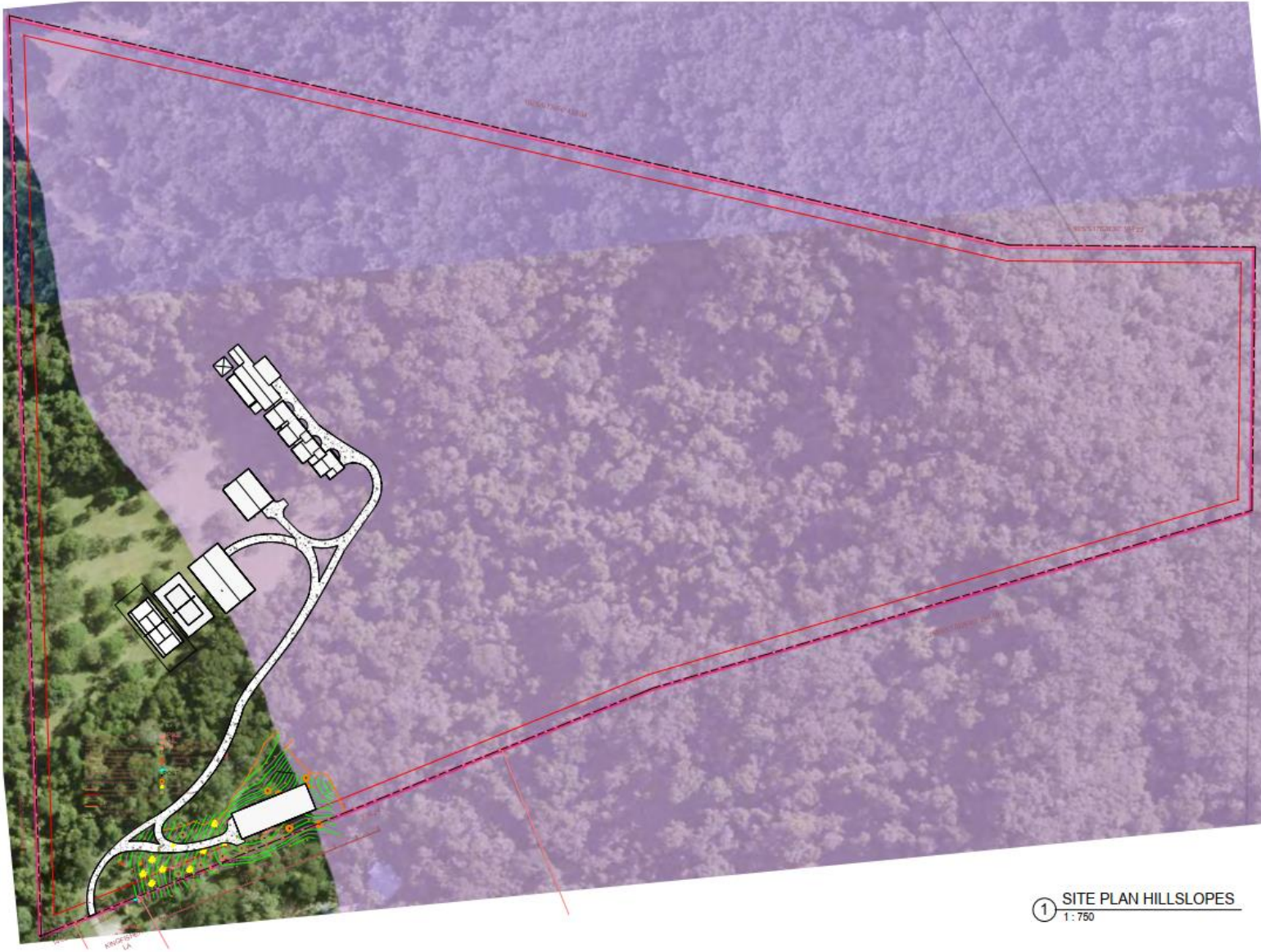
DESIGNED BY: 0003 KING SHEET No. DA-04/

LOT DESCRIPTION	LOT 3 OF 100
AREA	1.0000 Ha
ADDRESS	52 KINGFISHER LANE WYVALE VIC 3013
STATE CLASSIFICATION	ES
LOCAL GOVERNMENT	WYVALE
LOCAL GOVERNMENT	RURAL









① SITE PLAN HILLSLOPES  
1:750

 <b>MARK DAVIES DESIGN &amp; DRAFTING</b> mmarkdavies@gmail.com 0455 356 570	
WHERE ANY SUCCESSORS OCCUR BETWEEN THE PLAN AND SPECIFICATION SCHEDULES THE SPECIFICATION SCHEDULES SHALL PREVAIL OVER PRECEDENCE	
AS2228 STYLE - Project Status	
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APPROVED: DATE:	DESCRIPTION:
CLIENT:- KAIGUI ZHENG	
ADDRESS:- LOT 3, No 52 KINGFISHER LANE WYVALE, VIC 3039	
DATE:-	Issue Date
DRAWN:	JOB No.
CHECKED:	0003 KING
CHECKED:	SHEET No.
DA-06/	DA-06/
DO NOT REPRODUCE THE STRUCTURE DETAILS AS SHOWN ON THESE DRAWINGS FOR CONSTRUCTION IN ANY MANNER.	
<b>C.M.G CONSULTING</b> ENGINEERS	
10/100 WYVALE RD, WYVALE, VIC 3039 TEL: 03 9551 3565 FAX: 03 9551 3570 WWW.CMGCONSULTING.COM.AU	
LOT DESCRIPTION:	LOT 3 OF 100
LOT SIZE:	52,381 Sq
ADDRESS:	52 KINGFISHER LANE WYVALE, VIC 3039
SITE CLASSIFICATION:	C2
SITE CLASSIFICATION:	P
SITE:	5000





**MARK DAVIES DESIGN & DRAFTING**

mmarkadavies@gmail.com  
0455 356 570

WHERE APPROPRIATE, A DRAINAGE PLAN  
SHOULD BE SUBMITTED TO THE LOCAL  
COUNCIL FOR APPROVAL. THE  
SPECIFICATION SHOULD BE  
APPROVED BY THE LOCAL COUNCIL.

AS PER THE PROJECT DATA

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DATE:	

CLIENT:-  
KANGUI ZHENG

ADDRESS:-  
LOT 3, No 52 KINGFISHER LANE  
WYVALE, VIC 3039

DATE:- Issue Date

DRAWN: JOB No.

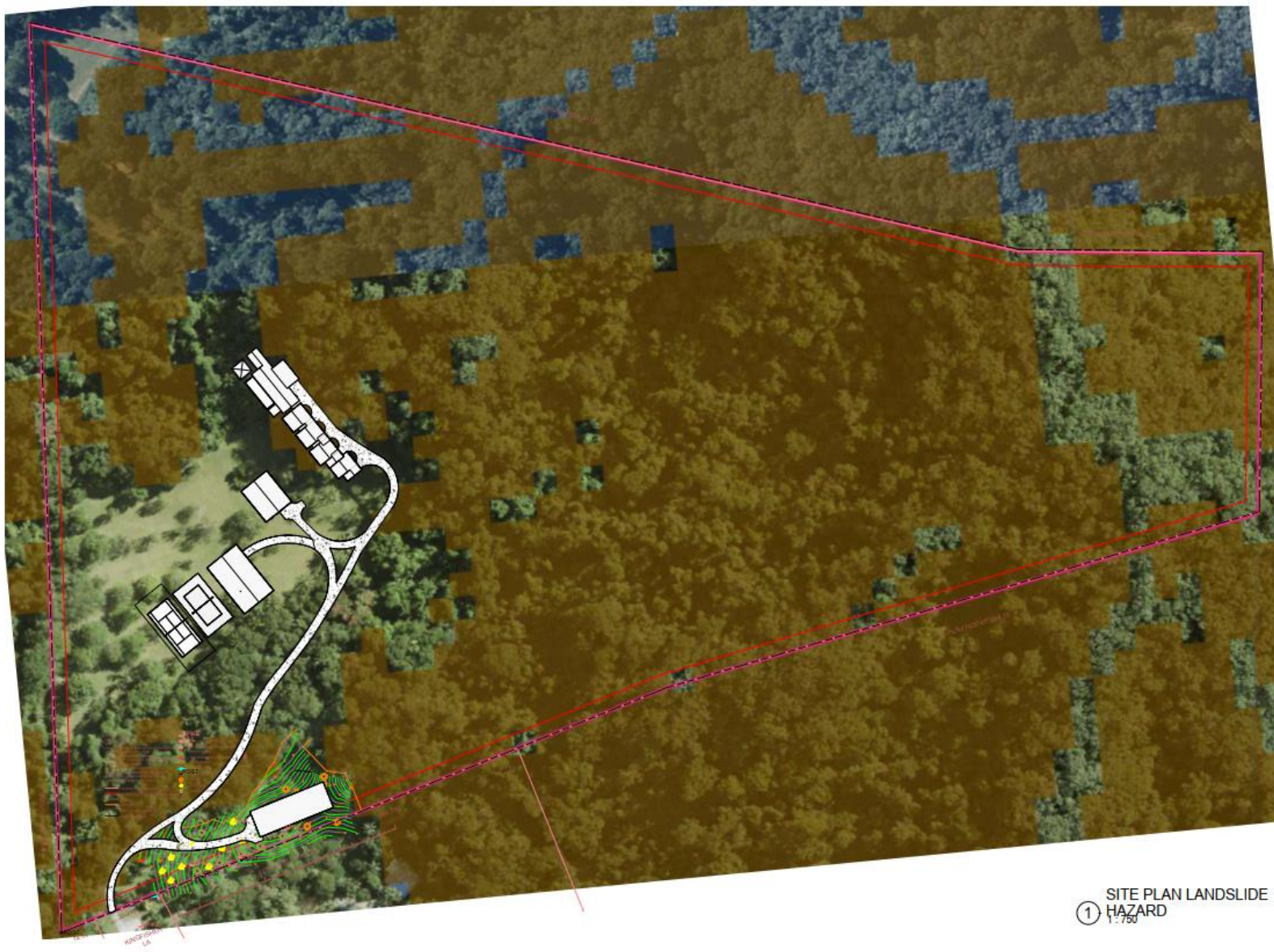
CHECKED: 0003 KING  
SHEET No.

CHECKED: DA-01/

WE HEREBY CERTIFY THE STRUCTURAL DETAILS  
AS SHOWN ON THESE DRAWINGS FOR  
CONSTRUCTION IN ACCORDANCE WITH THE  
C.M.G. CONSULTING ENGINEERS

DESIGNED BY: DAVID M. G. (0003)  
DRAWN BY: DAVID M. G. (0003)  
CHECKED BY: DAVID M. G. (0003)  
DATE: 06/03/2025

REVISED:	DESCRIPTION:
DATE:	



① SITE PLAN LANDSLIDE  
HAZARD  
1:750

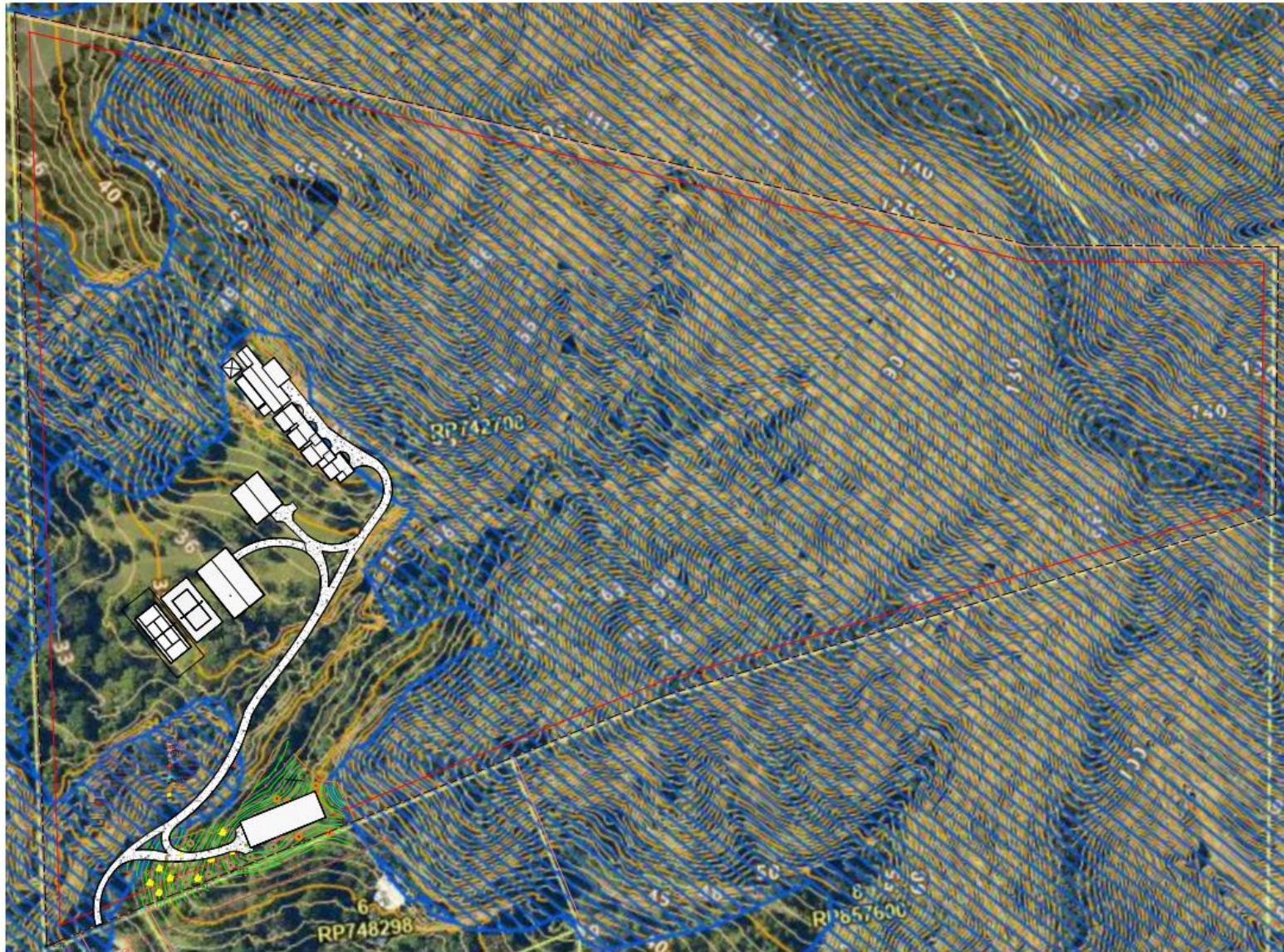




① SITE PLAN REGULATED  
VEGETATION LOCAL  
1:750

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REVISED:	DESCRIPTION:
DATE:	
CLIENT:- KAIGUI ZHENG	
ADDRESS:- LOT 3, No 52 KINGFISHER LANE WYVALE, VIC 3023	
DATE:	Issue Date
DRAWN:	JOB No.
CHECKED:	0003 KING
CHECKED:	SHEET No.
	DA-06
WE HEREBY CERTIFY THE STRUCTURAL DETAILS AS SHOWN ON THESE DRAWINGS FOR CONSTRUCTION IN ACCORDANCE WITH CS	
<b>C.M.G CONSULTING</b> ENGINEERS	
DESIGNED BY: DAVID M. GRIFFIN DRAWN BY: DAVID M. GRIFFIN CHECKED BY: DAVID M. GRIFFIN DATE: 06/03/2025	
LOT DESCRIPTION	LOT 3 OF 100
LAND USE	RESIDENTIAL
ADDRESS	52 KINGFISHER LANE WYVALE, VIC 3023
STATE CLASSIFICATION	ES
LOCAL CLASSIFICATION	7
ZONE	RURAL





mmarkadavies@gmail.com  
0455 356 570

WHERE ANY DISCREPANCIES  
OCCUR BETWEEN THE PLANS AND  
SPECIFICATION SCHEDULES THE  
SPECIFICATION SCHEDULES SHALL  
PREVAILE OVER THE PLANS

AS222 STYLE - Project Status

THE PLANS ARE HEREBY TO  
BE CONSIDERED AS NOT BEING  
OFFICIAL, COPIES OF THE  
PLANS SHALL BE PROVIDED TO  
THE CLIENT AND THE CLIENT  
SHALL BE RESPONSIBLE FOR  
ANY DISCREPANCIES

PRINT DATE:  
6/03/2025 11:35:35 AM

REVISED:	DESCRIPTION:
DATE:	

CLIENT:-  
KAUGLI ZHENG

ADDRESS:-  
LOT 3, No 52 KINGFISHER LANE  
WYVALE, ACT

DATE:- Issue Date

DRAWN: JOB No.

CHECKED: 0003 KING

Checker: SHEET No.

DA-001

NO HEREBY CONFIRMS THE STRUCTURAL DETAILS  
AS SHOWN ON THESE DRAWINGS FOR  
CONSTRUCTION IN THE CLASSIFICATION C2

C.M.G CONSULTING  
ENGINEERS

DESIGNED BY: DAVID M. GRIFFIN  
P.L. 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

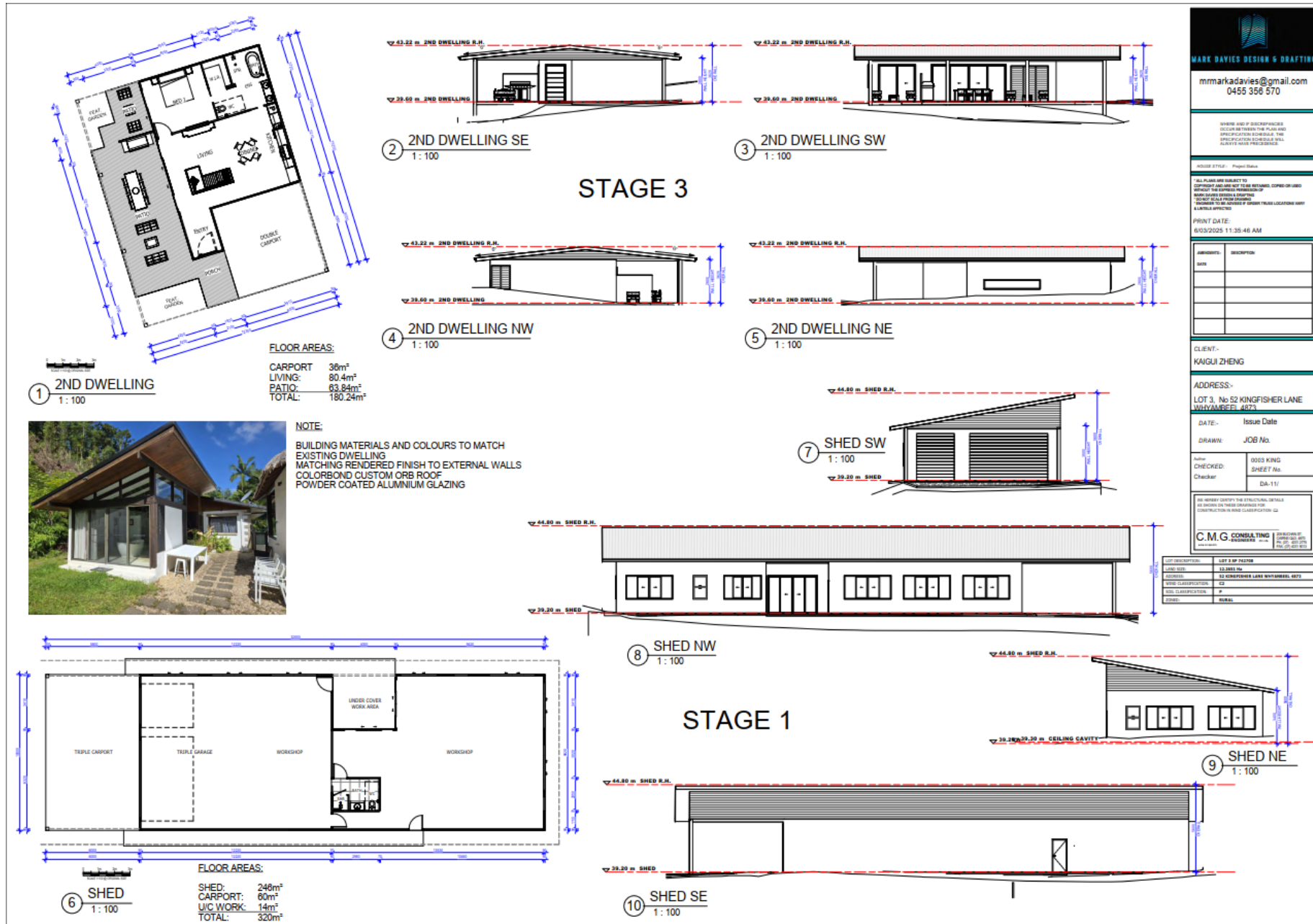
LOT DESCRIPTION	LOT 3 & 4 P. 100
LAND USE	32.0000 00
ADDRESS	12 KINGSFISHER LANE WYVALE, ACT
AREA CLASSIFICATION	C2
AREA CLASSIFICATION	P
AREA CLASSIFICATION	KANAL

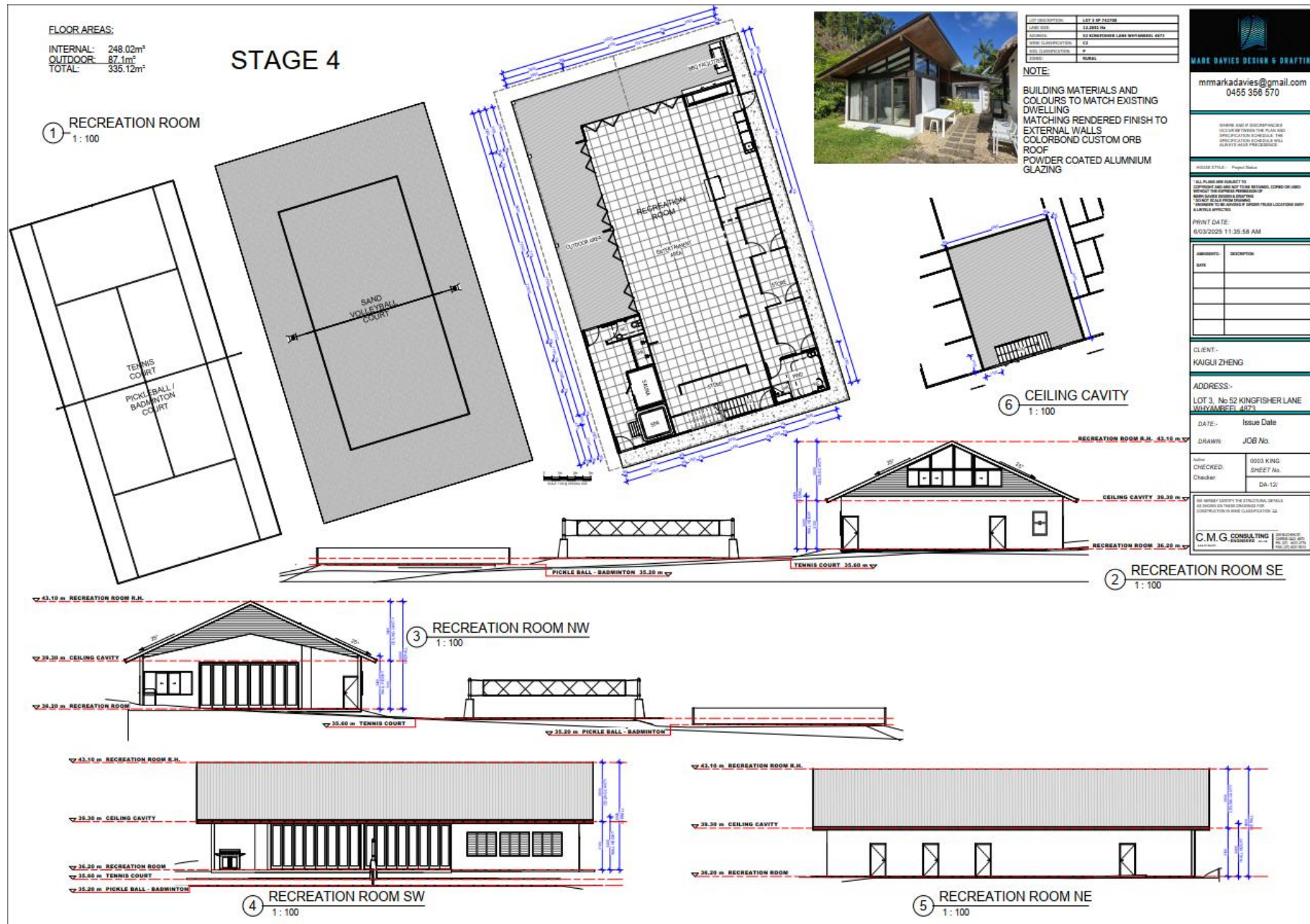
SITE PLAN REGULATED  
VEGETATION STATE  
1:750











## 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 19/03/2025 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 Rural Zone Code;
  - b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
  - c. the applicant's reasons have been considered and the following findings are made:
    - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

## 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 assessment manager gives the applicant the decision notice for 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) If the applicant makes the change representations during the appeal period without giving a notice under subsection (2), the appeal period is suspended from the day the representations are made until—
- (a) the applicant withdraws the change representations by notice given to the assessment manager; or
  - (b) the assessment manager gives the applicant the decision notice for the change representations; or

- (c) 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.
- (6) Despite subsections (4) and (5), if the decision notice mentioned in subsection (4)(b)(ii) or (5)(b) is 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.

*Note—*

For the making of a change application for a development approval that was a PDA development approval, see also the *Economic Development Act 2012*, sections 51AM, 51AN and 51AO.

- (2) A change application must be made to the responsible entity for the application.

### 78A Responsible entity for change applications

- (1) The *responsible entity* for a change application is—
  - (a) if the change application is for a minor change to a development condition of a development approval stated in a referral agency's response for the development application or another change application for the approval—the referral agency; or

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- (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 a decision of the Minister, under chapter 7, part 4, to amend the registration of premises to include additional land in the affected area for the premises—20 business days after the day a notice is published under section 269A(2)(a); or
  - (e) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
  - (f) 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
  - (g) 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) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
  - (iv) otherwise—20 business days after the day the notice is given; or
- (h) 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—