

Administration Office

64 - 66 Front St Mossman

P 07 4099 9444

F 07 4098 2902

25 February 2021

Enquiries: Jenny Elphinstone
Our Ref: MCUC 2021_3998/1 (Doc ID 999155)
Your Ref: 20210207

Brian Longwill & Cheryl Tanner
C/- Patrick Clifton, GMA Certification
PO Box 831
PORT DOUGLAS QLD 4877

Email: Patrick.C@gmacert.com.au

Dear Sir/Madam

**Application for a Minor Change (Carport)
Town Planning Consent TPC 772
At 6 Nautilus Street Port Douglas
On Land Described as Lots 0 and 2 on BUP102592**

Council refers to the application for a minor change that was properly made on 25 February 2021. Please find attached the Decision Notice for the above-mentioned development application.

Please quote Council's application number: MCUC 2021_3998/1 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 sections 81, 81A and 83 of the Planning Act 2016

Applicant Details

Name: Brian Longwill & Cheryl Tanner
Postal Address: C/- Patrick Clifton, GMA Certification
PO Box 831
Port Douglas Qld 4877
Email: Patrick.C@macert.com.au

Property Details

Street Address: 6 Nautilus Street Port Douglas
Real Property Description: Lots 0 and 2 on BUP102592
Local Government Area: Douglas Shire Council

Details of Proposed Development

Minor change of Town Planning Consent TPC 772 (Two Multiple Dwelling Units) for the development of a carport.

Decision

Date of Decision: 25 February 2021

Decision Details: The application for a minor change to Town Planning Consent TPC 772 (Two Multiple Dwelling Units) for the development of a carport over land described as Lot 0 and Lot 2 on BUP102592, located at 6 Nautilus Street, Port Douglas, is approved whereby:

1. Condition 2 is amended as follows:
2. The Building Application when submitted must be in accordance with the Building Act and must also substantially comply with the sketch plan submitted with the consent application and as amended by the submission of the amended plan submitted to Council on Council on 19 February 2021 (Council document 997938).

2. The following additional condition is included:

13. The existing (most southern) vehicle crossover is removed and replaced with kerb and channel in keeping with the existing kerb and channel at the Applicant's expense. The removal of this existing vehicle crossover and replacement of kerb and channel must be completed within 6 months of the effect of the minor change to the development approval.

3. All other requirements of the Decision Notice dated 27 June 1994 remain unchanged.

A copy of the original approval is enclosed.

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 Plan	JD Adams Constructions as submitted to Council on 19 February 2021 (Council document 997938).	Undated
Footing and Slab	Ezibuilt Steel Homes and Sheds, Job EBSSLCL-539919, Drawing S03 and S04.	25 November 2020
Elevation Framing	Ezibuilt Steel Homes and Sheds, Job EBSSLCL-539919, Drawing S05.	25 November 2020
Side Elevation Framing	Ezibuilt Steel Homes and Sheds, Job EBSSLCL-539919, Drawing S06.	25 November 2020
Roof Framing	Ezibuilt Steel Homes and Sheds, Job EBSSLCL-539919, Drawing S07.	25 November 2020
Roof Sheeting	Ezibuilt Steel Homes and Sheds, Job EBSSLCL-539919, Drawing S08.	25 November 2020
Typical main Frame Detail	Ezibuilt Steel Homes and Sheds, Job EBSSLCL-539919, Drawing S09.	25 November 2020

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

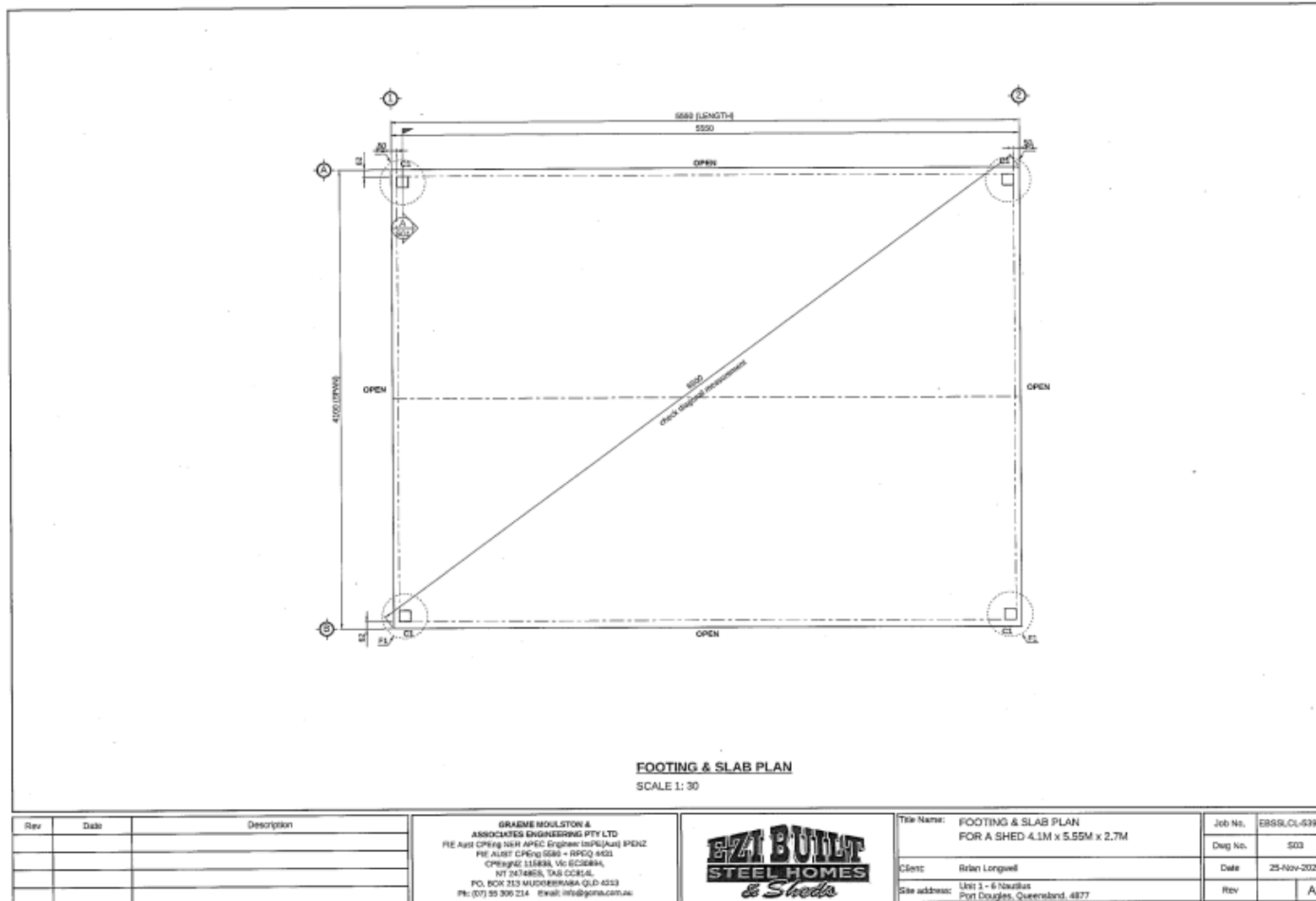
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Rights 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*.

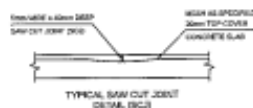
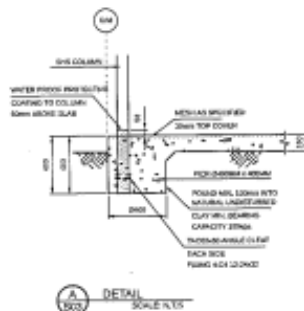
A copy of the relevant appeal provisions are attached.

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



- SLAB & FOOTING TO CAST INTEGRALLY
- THE CAST IN BRACKETS ARE ONLY TO BE USED FOR THE COLUMNS
- THE TOP OF THE FOOTING CAST IN BRACKET NEEDS TO BE 356 mm ON SLAB
- PERIMETER FOOTING (S&M 300 x 300 DEEP FOR A 5 & M SOIL CLASSIFICATIONS ONLY
- CONCRETE STRENGTH TO BE 25MPA AT 8 DAYS
- FOOTING SHOWN FOR SAND AND CLAY - (CLASSES A, S & M AS PER AS2370)
- SUB-STRUCTURE REQUIRES SAE BEARING PRESSURE AT FOUNDATION LEVEL OF 100KPA
- ANY OTHER SOIL CLASS VOIDS DESIGN - REFER BACK TO ENGINEER
- SHOW POSITIVE MOMENT DURING FOOTING EXCAVATION YOU SHALL CONTACT THE DESIGN ENGINEER FOR CLARIFICATION THAT THE DESIGN IS SUITABLE FOR THE SITE CONDITIONS

FOOTING SCHEDULE		
QTY	MARK	DIMENSIONS
4	F1	8400 x 400 DEEP
SLAB DETAIL		
REINFORCEMENT		F72
SLAB THICKNESS		MIN 100mm, 25MPa
BRACKET SET OUT		
QTY	MARK	SECTION
04	C1	100 x 100 x 3 SMS

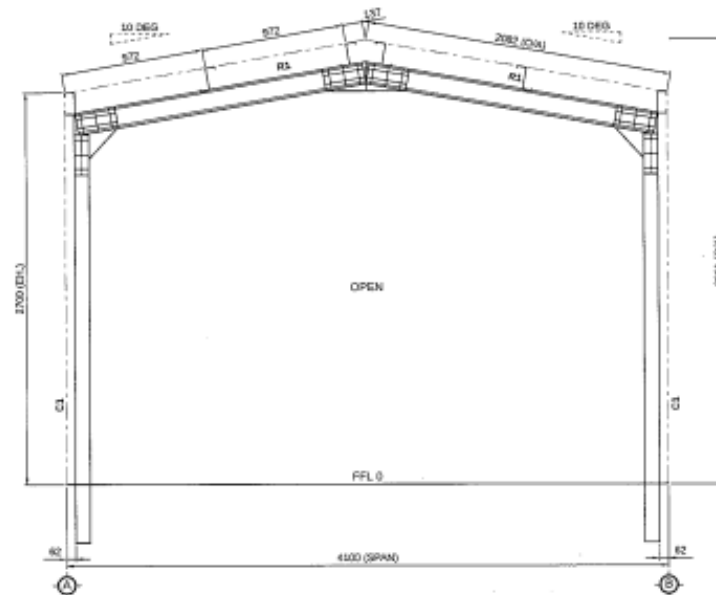


Rev	Date	Description

**GRAEME HOULSTON &
ASSOCIATES ENGINEERING PTY LTD**
P/E Aust CPENG NER APEC Engineer (Inst/Aust) IPENZ
P/E AUST CPENG 5580 + RPQ4 4021
CPEngv2 115836, Vic GC30896,
NT 247865, TAS CC814L
PO, BOX 213 MILDGERRA QLD 4213
Ph: (07) 95 306 214 Email: info@gcna.com.au



Title Name: FOOTING & SLAB PLAN FOR A SHED 4.1M x 5.55M x 2.7M	Job No.	EDSS/CL-539916
	Dwg No.	S04
Client: Brian Longwell	Date	25-Nov-2020
Site address: Unit 5 - 6 Nazareth Eyn Dwyfryn, Gwynedd, LL27 7	Rev	A3



ELEVATION FRAMING GL. 1, 2
SCALE 1: 30

NOTE
- WALL SHEETING USING 0.42 BMT MONOCLAD
- END GIRTS SPACING 1241 CTS MAX 15% LAPPED AS SUPPORT

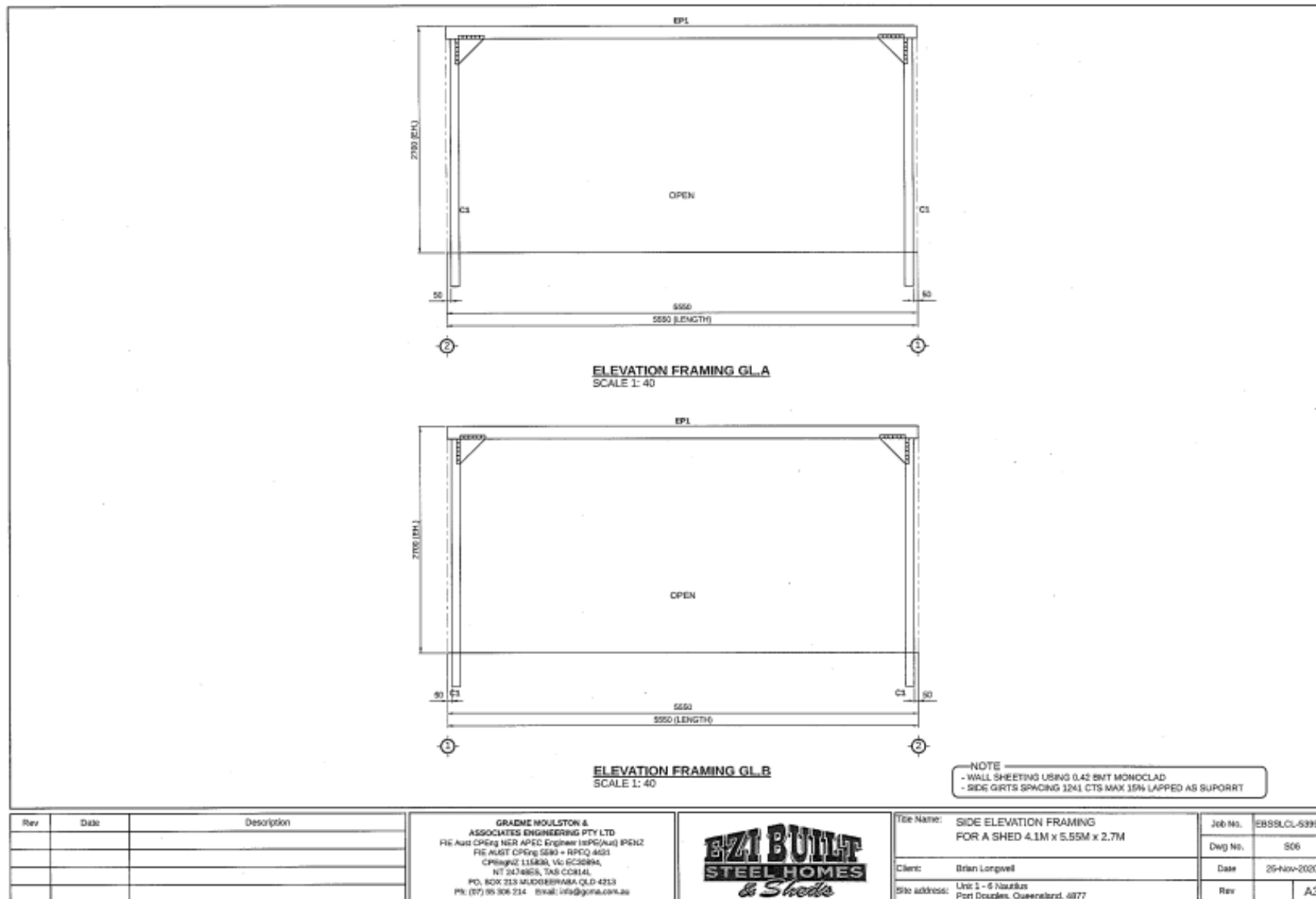
Rev	Date	Description

GRAEME MOULSTON &
ASSOCIATES ENGINEERING PTY LTD
RE: ASST CPENG NER APQC Engineer (NSP) (Aust) (PENZ)
RE: ASST CPENG 5558 + RPOQ 4421
CPENG 115634, VIC CC30884
NT 247485, TAS CC8546
PO. BOX 253 MUDGERSABA QLD 4253
PH: (07) 54 336 214 Email: info@gma.com.au



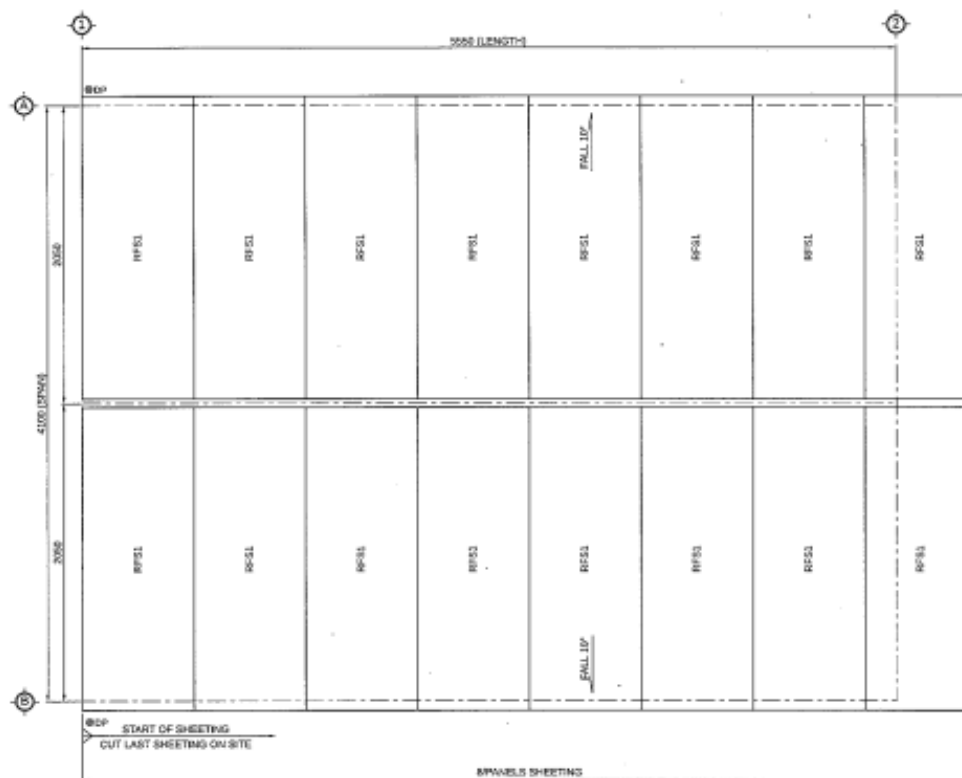
Title Name: ELEVATION FRAMING
FOR A SHED 4.1M x 5.55M x 2.7M
Client: Brian Longwell
Site address: Unit 1 - 6 Naudius
Port Douglas, Queensland, 4877

Job No.	ESSCL-339919
Desig No.	505
Date	25-Nov-2020
Rev	A3



ROOF SHEETING PLAN

SCALE 1: 30



MEMBER SIZE SCHEDULE		
DESCRIPTION	MARK	SECTION
ROOF PURLIN	RP	Z15019
EAVE PURLIN	EP	C15015
MAIN COLUMN	C1	100 x 100 x 3 SHS
MAIN RAFTER	R1	C15015
WIND BRACING	RB	32 x 1.2 Strap

NOTE
 - ROOF SHEETING USING 0.42 BMT MONOCLAD
 - PURLINS SPACING 1193 CTS MAX 15% LAPPED AS SUPPORT

Rev	Date	Description

GRAEME MOULSTON &
 ASSOCIATES ENGINEERING PTY LTD
 RE Aust CPENG NER APQC Engineer (to PC/Aust) IPEN2
 RE AUST CPENG 5585 - RP02 403
 CRANFORD 115684, VIC 300894,
 RT 5474865, TAB C0814L
 PO, BOX 213 MUDGERRA QLD 4253
 PH: (07) 55 306 214 Email: info@gma.com.au

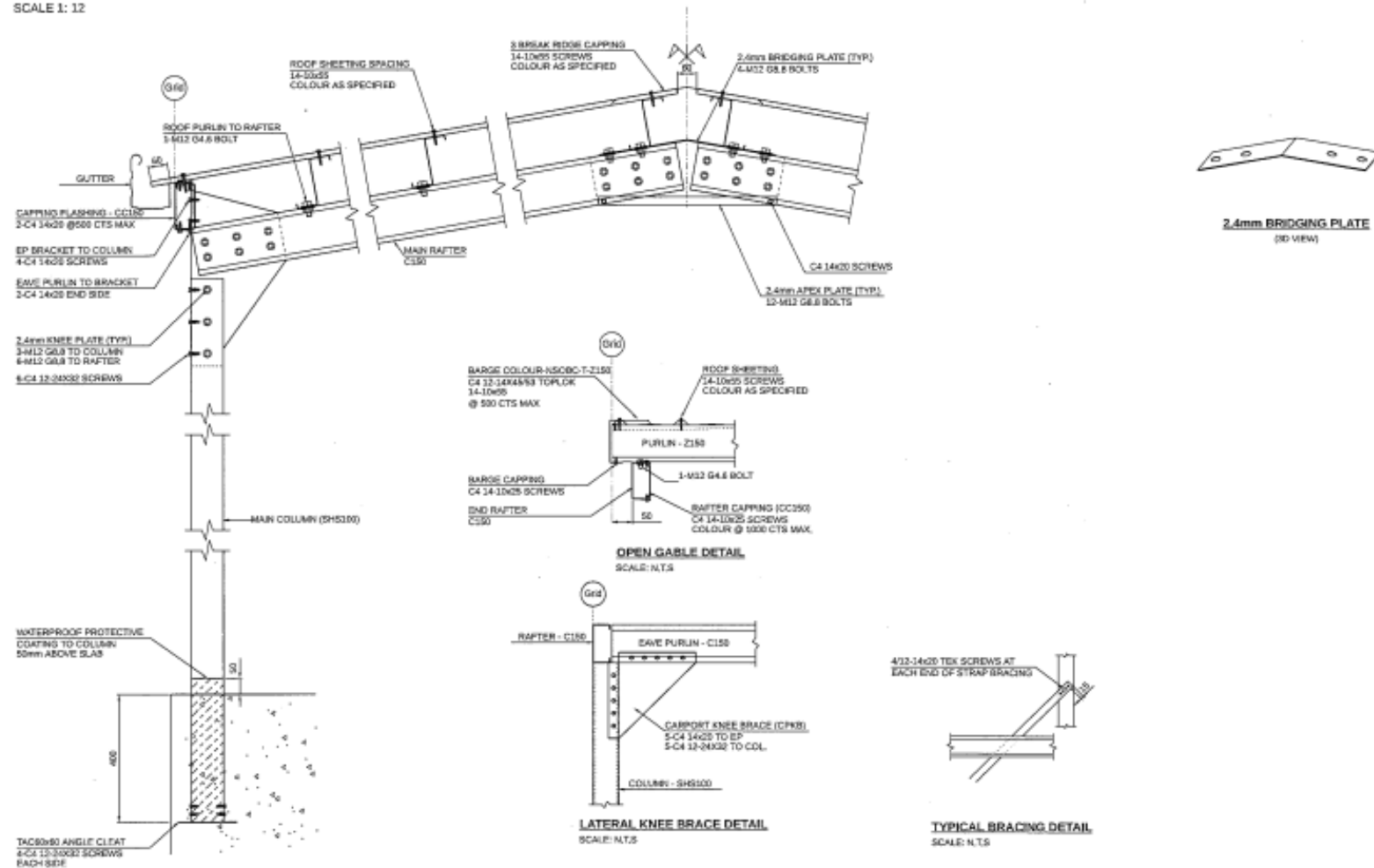


Title Name: ROOF SHEETING PLAN
 FOR A SHED 4.1M x 5.55M x 2.7M
 Client: Brian Longwell
 Site address: Unit 1 - 6 Nautilus
 Port Douglas, Queensland, 4877

Job No.	ES55LCL-539919
Dwg No.	508
Date	25-NOV-2020
Rev	A3

TYPICAL MAIN FRAME DETAILS

SCALE 1: 12



Rev	Date	Description

GRAEME MOULSTON &
 ASSOCIATES ENGINEERING PTY LTD
 RE: Aust Ching NBR APCC Engineer (AC/SA/Eng) PEN2
 RE: ALST Ching 5080 - RPSQ 4301
 CPMagaz 11888, V6 SC2888A,
 NT 247485, TAN CCR14L,
 PO, BOX 313 MUDGERRARA QLD 4353
 PH: (07) 95 306 214 Email: info@grame.com.au

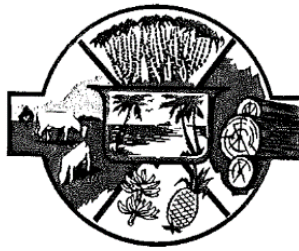


Title Name: TYPICAL MAIN FRAME DETAIL
 FOR A SHED 4.1M x 5.55M x 2.7M
 Client: Brian Longwell
 Site address: Unit 1 - 6 Naurulus
 Port Douglas, Queensland, 4877

Job No.	ES252.C1-538919
Dwg No.	509
Date	25-Nov-2020
Rev	A3

DOUGLAS SHIRE COUNCIL

ALL COMMUNICATIONS TO BE ADDRESSED TO:
THE CHIEF EXECUTIVE OFFICER
PO BOX 357
MOSSMAN QLD 4873



	TELEPHONE	FACSIMILE
ADMINISTRATION	070 982599	981902
WORKS DEPOT	070 982644	982006
ENGINEERING & HEALTH	070 982822	981062
LIBRARY	070 982594	981902
COMMUNITY SERVICES	070 982466	981902

ENQUIRIES: Mr Brad Sully
DEPARTMENT: Town Planning

OUR REF:
YOUR REF:

Mr J R and Mrs F J Fifield
6 Nautilus Street
PORT DOUGLAS QLD 4871

TOWN PLANNING CONSENT PERMIT

Application Number: TPC 772
Permit Number: 772
Date of Issue: 27th June, 1994

Real Property Description: Lot 6 RP 26590,
Parish of Salisbury, County of Solander.

Postal Address of Land: 6 Nautilus Street,
PORT DOUGLAS.

Nature of Existing Use: Dwelling.

Council Meeting: 17th May, 1994.

Nature of Approved Use: Conversion of a dwelling house into two (2)
multiple dwelling units..

...2/.

Conditions of Approval:-

1. Should work on the development as approved not be commenced within a period of two (2) years from the date of the town planning approval, Council may implement action to revoke the approval as given.
2. The Building Application when submitted must be in accordance with the Building Act and must also substantially comply with the sketch plan submitted with the consent application.
3. The approval does not constitute a Building Permit and a Building Permit must be obtained before any building operations proceed.
4. All development must comply with the provisions of:-
 - (a) Council's Town Planning Scheme;
 - (b) The Local Government Act, The Local Government (Planning and Environment) Act, The Building Act, The Fire Safety Act, The Traffic Act, and all other relevant acts and regulations and the By-Laws of the Council shall at all times be observed and performed in relation to the land, the building, and the use and occupation thereof.
5. The applicant is to contribute, in accordance with Council's policy provided for in Section 6.2 and 6.3 of the Local Government (Planning and Environment) Act, towards the provision of water headworks. The contribution is to be paid in accordance with the provisions of Council's policy and at the rate applicable at the time of payment. On the basis of the Facts and Circumstances set out in the application and the current provisions of the policy the estimated contribution is \$2,001-50.
6. The applicant is responsible for the external works to connect the site with Council's water supply at a point specified by the Shire Engineer.
7. The applicant is to contribute, in accordance with Council's policy provided for in Section 6.2 and 6.3 of the Local Government (Planning and Environment) Act, towards the provision of sewerage headworks. The contribution is to be paid in accordance with the provisions of Council's policy and at the rate applicable at the time of payment. On the basis of the Facts and Circumstances set out in the application and the current provisions of the policy the estimated contribution is \$5,000-00.
8. The applicant is responsible for the external works to connect the site with Council's sewerage reticulation system at a point of discharge specified by the Shire Engineer.

...3/.

9. All car parking areas and driveways including the driveway from the property alignment to the existing pavement in Nautilus Street shall be bitumen or otherwise imperviously sealed to the satisfaction of the Building Surveyor.

10. The required landscaped area as outlined in Chapter 53 of the Council's By-Laws shall be planted and maintained to the satisfaction of the Building Surveyor.

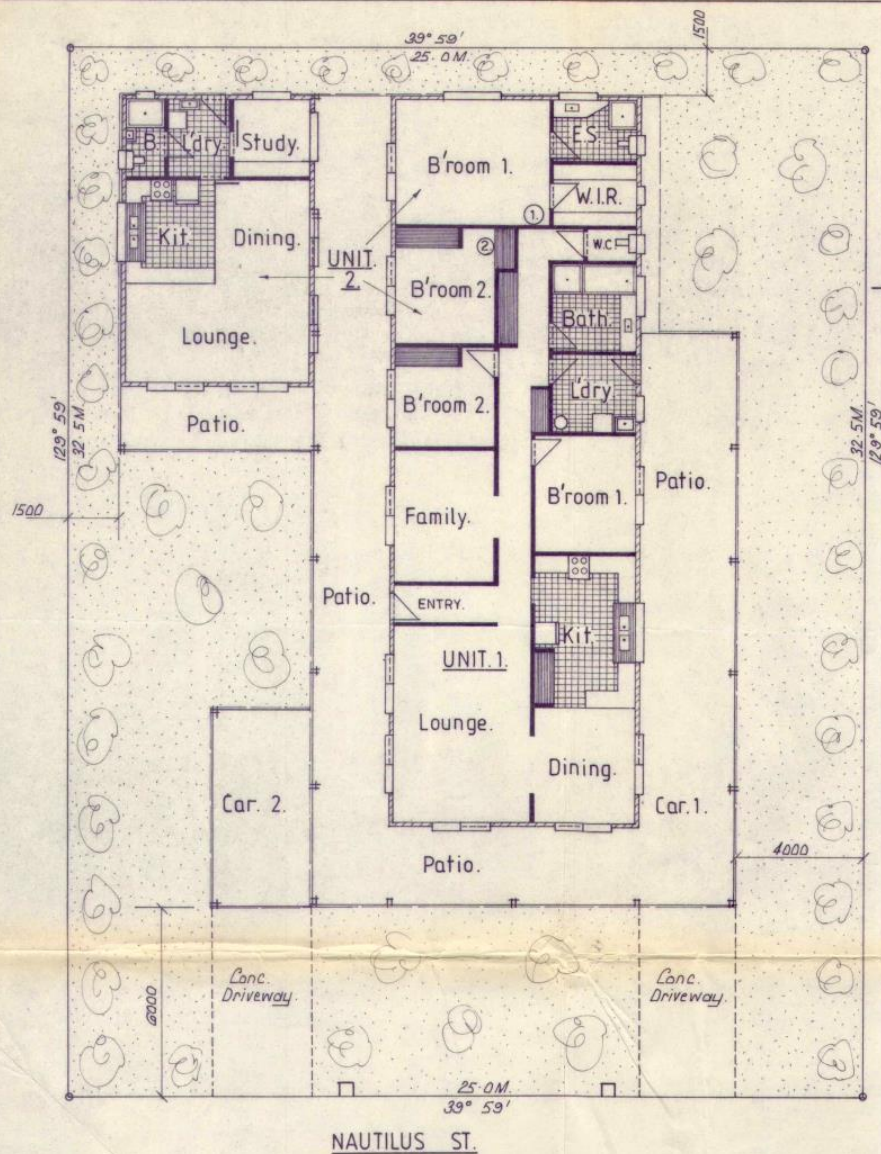
11. The applicant shall provide for a suitable stormwater drainage system discharging to a lawful point of discharge to the satisfaction of the Shire Engineer.

12. The conditions of the Town Planning consent are to be effected prior to the commencement of the specific use of the said consent.



27/6

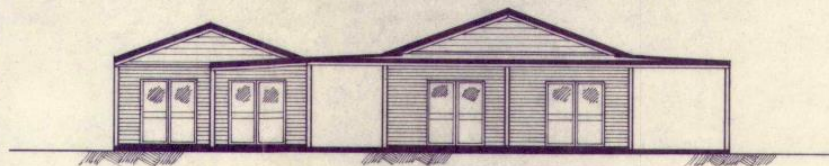
R J Ives
CHIEF EXECUTIVE OFFICER



FLOOR & SITE PLAN.



SIDE VIEW.



FRONT VIEW.

TOWN PLANING NOTES:

1. Provide 90 mm. P.V.C. from downpipes to existing K.L.C.
2. Provide clothes line or hoist to rear of each unit.
3. Provide garbage receptacle for each unit.
4. Provide conc. driveways from carports to front boundary.
5. Provide bitumen driveways from front boundary to existing K.L.C.

ALTERATION NOTES:

1. Door in existing B'room 1 (1) to be sealed off.
2. Door in existing B'room 2 (2) to become robe door. Robe to be built in as shown.
3. Existing B'room 1 & 2. are to become B'room 1 & 2. of Unit 2.
4. Existing B'room 4. becomes B'room 1. of Unit 1.
5. Existing B'room 3. becomes B'room 2. of Unit 2.

PROPERTY DESCRIPTION:

Lot 6. Nautilus St.
Four Mile Beach.
Port Douglas.
R.P. 26590.

PROPERTY AREA:

812 M²

TOTAL FLOOR AREA:

394.14 M²

COVERAGE:

48.54 %.

Dwg. No. 3-94-1.

PROPOSED ALTERATION TO DUPLEX. FOR J. & F. FIFIELD.
AT LOT. 6. NAUTILUS ST. FOUR MILE BEACH.

Scale: 1:100

Date: 7-3-94.

BRUCE M. CLARKE.
Aginccourt St. Port Douglas, Q. 4871.
P.O. Box 184, Port Douglas, Q. 4871.
Phone: (070) 995-331. or 018-183-638.



Reasons for Decision

The reasons for this decision are:

1. Sections 78, 78A, 79, 81, 81A and 83 of the *Planning Act 2016*:
 - a. to ensure the development satisfies the benchmarks of the 1981 Planning Scheme for the Whole of the Douglas Shire and the 2018 Douglas Shire Planning Scheme Version 1.0; and
 - b. to ensure compliance with the Planning Act 2016.
2. Findings on material questions of fact:
 - a. the application for a minor change was properly lodged to the Douglas Shire Council 25 February 2020 under section 78, 78A, 79 of the *Planning Act 2016* and Part 1 of the Development Assessment Rules;
 - b. The application is for a minor change, being a minor change consistent with Schedule 2 of the *Planning Act 2016*;
 - c. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy, the 1981 Planning Scheme for the Whole of the Douglas Shire 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 was impact assessable development under the 1981 Planning Scheme for the Whole of the Douglas Shire;
 - b. the development, where considered under the 2018 Douglas Shire planning Scheme Version 1.0 would trigger code assessable development, as a dual occupancy development, under the Assessment Table associated with the Low-medium Density Residential Zone Code;
 - c. Council undertook an assessment in accordance with the provisions of sections 81, 81A and 83 of the *Planning Act 2016*; and
 - d. 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	
1981 Planning Scheme for the Whole of the Douglas Shire	
<p>Bylaw 3(1)(e) No Car space is to be located between the building and the frontage.</p> <p>Siting of buildings and structures – generally at least 6m from the road frontage.</p> <p>Consideration:</p> <p>The character of the proposed development in relation to the character of the development on the adjoining land and in the locality.</p> <p>Whether adequate provision has been made for the movement for vehicles and pedestrians and whether traffic hazards are created or intensified.</p>	<p>Nautilus Street has two carriageways separated by an area of established park land. The parkland provides improvement to the visual amenity of the streetscape and provides relief to the mass and bulk of buildings and structures within the streetscape.</p> <p>The structure will not affect the daylight access and privacy for adjoining properties. The new siting will retain the ability for deep planting for the remainder of the frontage area to the common land area for unit 2.</p> <p>The proposed development will provide a consolidated yard area for unit 2 which will provide an improved use of the onsite open space, reflecting the preferred allocation of current open space use.</p>
2018 Douglas Shire Planning Scheme	
<p>Land use Code - Dual Occupancy</p> <p>AO2(a) setback of buildings and structures 6m from the primary road frontage.</p> <p>PO2 Buildings and structures are setback from property boundaries such that:</p> <p>(a) the setback from the street frontages reflects the positive attributes of the streetscape;</p> <p>(b) the setback from side and rear boundaries retains daylight access and privacy for adjoining properties;</p> <p>(c) the setback from all boundaries is sufficient to allow areas of deep planting;</p> <p>(d) the setback from street frontages provides for the desired streetscape pattern.</p>	
<p>Access, Parking and Servicing Code</p> <p>The third vehicle crossover is not in accordance with the Planning Scheme and the FNQROC Development Manual. The Compliance can be suitably addressed through a condition of the approval.</p>	<p>Addressed by a condition of the approval requiring the removal of the third</p>

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

Page 212

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.

25 February 2021

Enquiries: Jenny Elphinstone
Our Ref: [Choose an item](#). 2021_3998 (Doc ID)
Your Ref: 20210207

C L Tanner & B N Longwill
C/- Patrick Clifton, GMA Certification
PO Box 831
PORT DOUGLAS QLD 4877

Dear Sir/Madam

**Adopted Infrastructure Charge Notice
For Development Application Request for Minor Change (Carport)
At 6 Nautilus Street PORT DOUGLAS
On Land Described as LOT: 0 TYP: BUP PLN: 102592**

Please find attached the Adopted Infrastructure Charges Notice issued in accordance with section 119 of the *Planning Act 2016*.

The amount in the Adopted Infrastructure Charges Notice has been calculated according to Council's Adopted Infrastructure Charges Resolution.

Please also find attached extracts from the Act regarding the following:

- your right to make representations to Council about the Adopted Infrastructure Charges Notice; and
- your Appeal rights with respect to the Adopted Infrastructure Charges Notice.

Please quote Council's application number: [Choose an item](#). 2021_3998 in all subsequent correspondence relating to this matter.

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

Yours faithfully

Paul Hoyer
Manager Environment & Planning

encl.

- Adopted Infrastructure Charges Notice
- Rights to Make Representations and Appeals Regarding Infrastructure Charges

Adopted Infrastructure Charges Notice

Subdivision 5 Changing charges during relevant appeal period

124 Application of this subdivision

This subdivision applies to the recipient of an infrastructure charges notice given by a local government.

125 Representations about infrastructure charges notice

- (1) During the appeal period for the infrastructure charges notice, the recipient may make representations to the local government about the infrastructure charges notice.
- (2) The local government must consider the representations.
- (3) If the local government—
 - (a) agrees with a representation; and
 - (b) decides to change the infrastructure charges notice;the local government must, within 10 business days after making the decision, give a new infrastructure charges notice (a *negotiated notice*) to the recipient.
- (4) The local government may give only 1 negotiated notice.
- (5) A negotiated notice—
 - (a) must be in the same form as the infrastructure charges notice; and
 - (b) must state the nature of the changes; and
 - (c) replaces the infrastructure charges notice.
- (6) If the local government does not agree with any of the representations, the local government must, within 10 business days after making the decision, give a decision notice about the decision to the recipient.
- (7) The appeal period for the infrastructure charges notice starts again when the local government gives the decision notice to the recipient.

126 Suspending relevant appeal period

- (1) If the recipient needs more time to make representations, the recipient may give a notice suspending the relevant appeal period to the local government.
- (2) The recipient may give only 1 notice.
- (3) If the representations are not made within 20 business days after the notice is given, the balance of the relevant appeal period restarts.
- (4) If representations are made within the 20 business days and the recipient gives the local government a notice withdrawing the notice of suspension, the balance of the relevant appeal period restarts the day after the local government receives the notice of withdrawal.

Division 3 Development approval conditions about trunk infrastructure

Subdivision 1 Conditions for necessary trunk infrastructure

127 Application and operation of subdivision

- (1) This subdivision applies if—
 - (a) trunk infrastructure—
 - (i) has not been provided; or
 - (ii) has been provided but is not adequate; and
 - (b) the trunk infrastructure is or will be located on—
 - (i) premises (the *subject premises*) that are the subject of a development application, whether or not the infrastructure is necessary to service the subject premises; or
 - (ii) other premises, but is necessary to service the subject premises.

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

Page 212

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.