

13 September 2021

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

Enquiries: Neil Beck
Our Ref: OP 2021_4191/1 (1028072)
Your Ref: 20210602

K J Agrums
C/- GMA Certification
PO Box 831
PORT DOUGLAS QLD 4877

Dear Sir

**Development Application for Operational Works (Driveway)
At 30 Murphy Street Port Douglas**

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

Please quote Council's application number: OP4191/2021 in all subsequent correspondence relating to this development application.

Also find attached a 'Pre-Start' meeting template, which identifies the information that must be provided for Council approval, prior to the commencement of works.

The template also provides the Consulting Engineer with a format for conducting the meeting. An invitation to attend the meeting must be sent to Council's representative Neil Beck on telephone number 07 4099 9451, giving at least five (5) working days notification if possible.

In addition to the Decision Notice, Council provides the following 'Advice Statement' which relates to issues that are relevant to the proposed works:

1. The Consulting Engineer is to present all contractors with a copy of this Decision Notice and the Council approved plans, prior to the commencement of works.

Should you require any clarification regarding this, please contact Neil Beck on telephone 07 4099 9451.

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

encl.

- Decision Notice
 - Approved Drawings
- Advice For Making Representations and Appeals



Decision Notice

Approval (with conditions)

Given under section 63 of the Planning Act 2016

Applicant Details

Name: K J Agrums
Postal Address: C/- GMA Certification, Patrick Clifton
PO Box 831
PORT DOUGLAS QLD 4877
Email: adminpd@gmacer.com.au

Property Details

Street Address: 30 Murphy Street PORT DOUGLAS
Real Property Description: LOT: 1 RP: 729453
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Operational Works (Driveway)

Decision

Date of Decision: 25 August 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.

<u>Drawing No.</u>	<u>Description</u>
AR00053-C01	LOCALITY PLAN, DRAWING SCHEDULE AND GENERAL ARRANGEMENT PLAN
AR00053-C02	DRIVEWAY LAYOUT PLAN, CONTROL LINE SETOUT AND LONGITUDINAL SECTION
AR00053-C03	DRIVEWAY TYPE SECTIONS AND DETAILS
AR00053-C04	GABION WALL ELEVATIONS AND DETAILS
AR00053-C05	DRIVEWAY ANNOTATED CROSS SECTIONS – SHEET 1 OF 2
AR00053-C06	DRIVEWAY ANNOTATED CROSS SECTIONS – SHEET 1 OF 2

1. General

- a. Drawings must be submitted “for construction” and must be certified as approved by a registered professional engineer of Queensland (RPEQ).

2. Driveway

- a. The driveway must be constructed generally in accordance with the ARO Industries design drawings. As specified in the design drawings, the driveway surface must have roughening “Deep mesh stencil print or approved equivalent”. The minimum depth of the imprint must be nominated on amended drawings provided prior to the prestart meeting.
- b. The applicant must provide a Road Safety Assessment from a qualified Road Safety Auditor or suitable alternative assessment by an RPEQ confirming that traffic safety barriers are not required adjacent the driveway. Council notes that there is no kerb or other treatment to restrain an errant vehicle from crossing onto the outer batter slope.

Advice - Advice statement: Any future assessment for a house on this site will require the applicant to provide swept path diagrams to show how a vehicle enters and exits the site in forward gear. The cross slope within the swept path will need to be reviewed and certified by a suitably qualified and experienced RPEQ. If the applicant intends to rely on the widened driveway area at approximate Ch40m, it may be advisable to confirm this element now.

3. Works on Road

- a. The applicant must obtain consent from service providers (Ergon/Telstra/NBN Co) to build the wall over their services and must comply with all conditions required by the respective authorities. The Applicant / owner of the land will be liable for replacement of the wall should the service authority need to remove in the future. This requirement will be placed as a rates notation on the land.

It is a condition of this development that the portion of the retaining wall on the road reserve is private infrastructure for the benefit of number 30 Murphy Street and must be kept and maintained in a good condition at all times at no cost to Council.

- b. The portion of the retaining wall in the road reserve is to be constructed from Masonry block as per the Council constructed walls. The finish, texture, colour, etc must be consistent with the Council installed walls on Murphy Street. Amended drawings showing the masonry wall and its specification must be provided a minimum of two (2) weeks prior to the prestart meeting and must be approved by Council prior to works commencing on site. Note, the further review of the drawings may include additional requirements being imposed once the new details have been reviewed.

4. Stormwater

- a. Driveway stormwater drainage must be addressed as follows:
 - (i) Stormwater runoff from upslope catchments must be diverted away from the driveway and into the existing drainage path with suitable discharge measures at the drain interface. Temporary and permanent diversion measures are to be shown on amended drawings to demonstrate that the drainage is contained within the site and does not encroach on adjoining property.
 - (ii) The driveway must have a stormwater inlet pit (or pits) as required to capture runoff on the driveway (and its contributing catchment) up to an including the peak 5-year ARI flows. The stormwater pit must be connected via underground pipe(s) to the existing Council stormwater pit. This component will remain private infrastructure and will be the responsibility of the applicant to maintain.

Further supporting calculations must be provided to confirm the catchment contributing to the driveway and the catchment area and flows controlled by diversions. The supporting calculations must confirm the capacity of the diversions for the upslope catchment.

The amended drawings required under this condition must be provided a minimum of two (2) weeks prior to the prestart meeting and must be approved by Council prior to works commencing on site. Note, the further review of the drawings may include additional requirements being imposed once the new details have been reviewed.

- b. Confirm that the pre-development flow width of 7.823m and the post development flow width reduction to 1.575m is reflective of the drain for the length adjacent the proposed works. If required, provide additional sections representative of variations to this drain profile. Council Officers are concerned with potential velocity increase.
- c. Given the significant change to water surface area and wetted perimeter, (per the above query), clarify that the applicant is satisfied the change in mannings roughness (0.035 pre-development to 0.05 post-development) is reflective of the drain for its full length adjacent the proposed works. The driveway sections appear to suggest a wider drain will exist for most of its length.
- d. The proposed velocity >2m/s exceeds conventional best practice for earth and grassed channels. The lack of protection to the eastern bank of the channel and possible grass lining where the channel is wider requires additional clarification from the applicants stormwater engineers. Given Council's experience with soils being washed down slopes onto Murphy Street, the proposed velocities are not supported without complete drain lining and suitable roughening to reduce velocities.
- e. Provide an assessment of the pit inlet capture for the increased velocity and depth. Subject to the outcome of the assessment, provide additional details on any amendments to the pit inlet on Murphy Street to ensure the post-development capture is no worse than the pre-development conditions.

5. Earthworks

- a. Clarify that the unsupported earthworks batters are permitted to be up to 4m as appears to occur at Ch 22m, (verge level 29.495m from driveway cross section

compared with bench level of 33.3m approximately at this location). A statement from the geotechnical engineer will satisfy this condition or provide updated slope analysis to verify this batter height.

- b. Prior to the prestart meeting, provide confirmation of the requirements of the engineering control “*lined drains at the crest and toe of batters*” per Table 2 in Section 4.1 of the Geotechnical report. With reference to the drawings, this control does not appear to be specified at the crest of the batters upslope from the driveway.

Council also notes the concern raised by the applicant in its 1 September 2021 response regarding uncontrolled flows downslope from the driveway with the “*increased potential for scouring*”. Further advice is required for the upslope batters.

If required, provide updated drawings showing the location of the lined drains and the discharge point. Note, Council requires that any discharge point has drainage controls (or is captured in a stormwater pit) such that it does not impact existing properties.

- c. The applicant must engage the services of a suitably qualified geotechnical engineer during the construction phase to confirm that conditions encountered are consistent with design assumptions, per the recommendations of the ARO Industries Geotechnical Report.

Advice statement: Any future assessment for a house on this site will require further geotechnical advice and treatment of the existing unstable boundary batters.

Reference is made to ARO Industries report Section 6.3 which advises as follows:-

‘A site-specific geotechnical report will be required as part of the building design due to the detailing the proposed retaining solution for the retaining the unstable boundary batters, with the critical location being the north western corner. All footing excavations should be inspected by a geotechnical engineer to confirm the ground conditions are consistent with those on which these design guidelines are based.

This approval is for a driveway only, (s per the application) and does not imply any future approval for a house. Any future application will be assessed on its merits at the time of lodgement and will need to address the geotechnical issue raised by the geotechnical report.’

6. Erosion and Sediment Control

- a. A copy of the Contractor’s Erosion and Sediment Control (ESC) Plan is to be submitted to Council and endorsed by the Consulting Engineer, prior to commencement of any works. In particular, 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 CP1.05, CP1.13 and D5.10 of Council’s FNQROC Development Manual.

Further Development Permits

Not applicable

Concurrence Agency Response

Not Applicable

Currency Period for the Approval

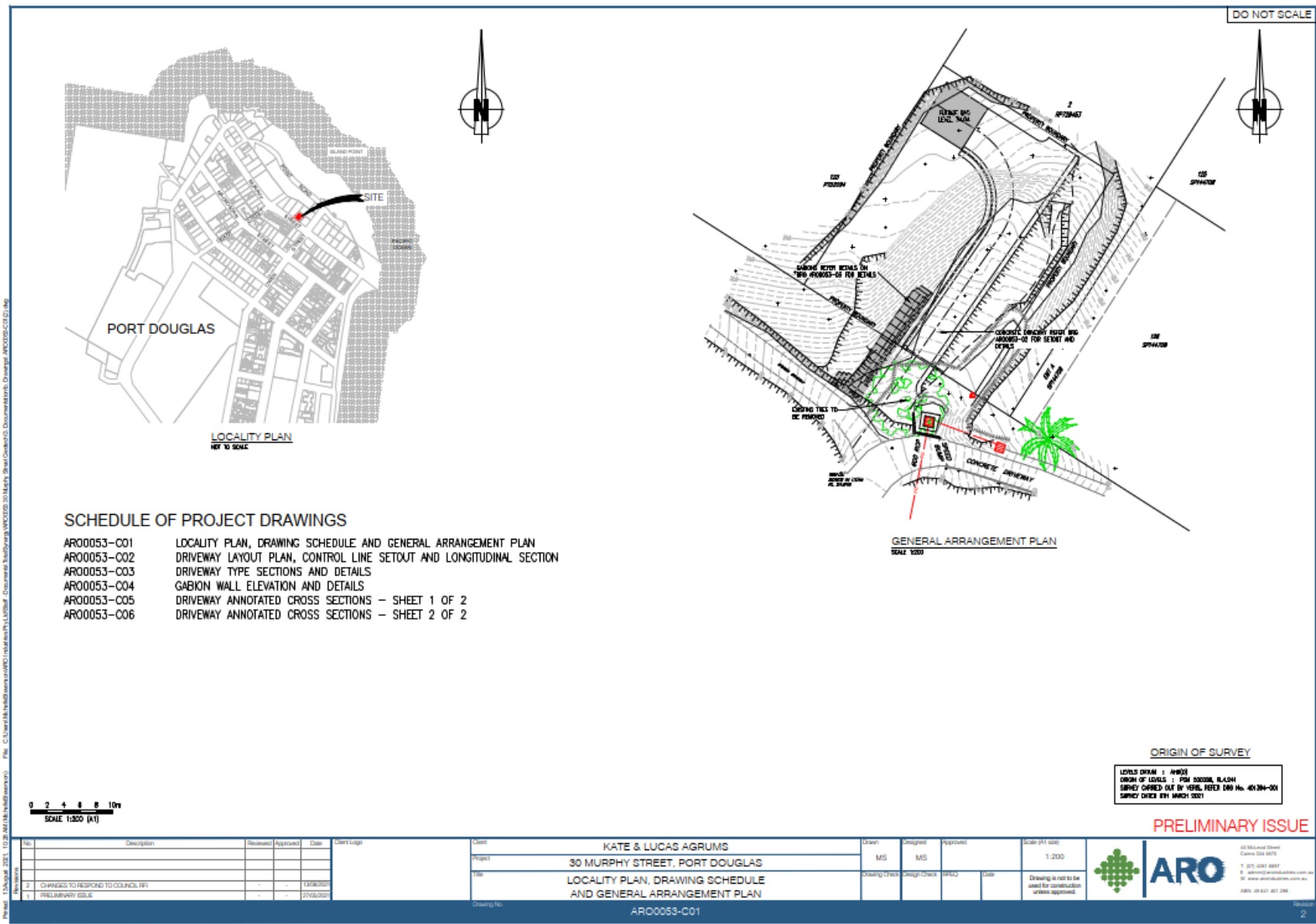
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse two (2) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

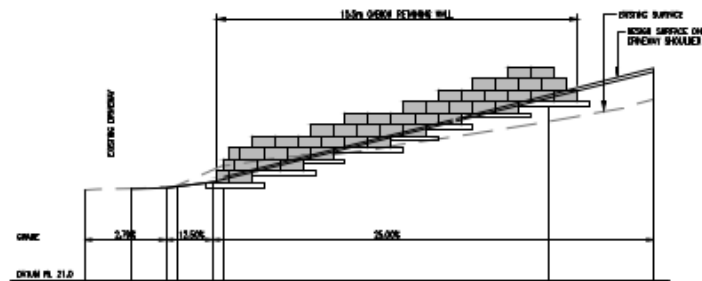
Rights to make Representations & Rights of Appeal

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*.

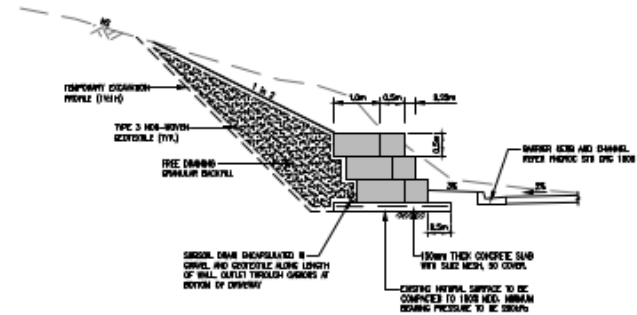
A copy of the relevant appeal provisions are attached.

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





GABION RETAINING WALL ELEVATION
SCALE 1:100



GABION TYPICAL SECTION
SCALE 1:60

GABION NOTES

NOTES

WIRE GABIONS

GENERAL: COMPLY WITH AS 3682. GALVANISE ALL WIRE TO AS 4534. COAT ALL COMPONENTS WITH POLYURETHANE TO A MINIMUM THICKNESS OF 0.05mm.

OVERLAP WIRE MESH WITH A WIRE DIAMETER NOT LESS THAN 2.0mm. PROVIDE APPROPRIATE MESH SIZE TO RETAIN THE ROCK FILLING. PROVIDE SLOTTED WIRE WITH A DIAMETER NOT LESS THAN 3.0mm AND BRIDGING WIRE WITH A DIAMETER NOT LESS THAN 2.0mm.

ROCK FILL

GENERAL: CLEAN, HARD, DRAINAGE CAPABLE ROCK, ROCK SPALLS OR FRAGILE ROCK, WITH MINIMUM SIZE LOWER THAN THE MAXIMUM OPENING SIZE OF THE MESH ON PLACING FORMING THE BACKFILL. ROCKS MUST BE QUADRANT WIRE PROTECTED. THE SMALLEST DIMENSION MUST NOT BE LESS THAN THE QUADRANT DIMENSION.

QUADRANT WIRE / WIRE STRENGTH SPECIFICATION TESTED IN ACCORDANCE WITH QUADRANT DIMENSION OF TENSILE AND TENSILE TEST METHOD Q2000 OR AS 1141.25 MUST NOT EXCEED 25% TEST METHOD Q2000 OR AS 1141.25 MUST NOT BE LESS THAN 140 N.

OVERLAP PROVIDE ROCK OF NOMINAL SIZE BETWEEN 150mm and 200mm. ROCK MUST BE UNIFORM/ GRADUAL, WITH GRADIENT NOT GREATER THAN ONE IN FIVE EXCEEDING THE 150mm NOMINAL SIZE.

CONSTRUCTION

OVERLAP

GENERAL: CONTRACTOR OVERSEE PROTECTION WORK IN THE LOCATIONS AND IN ACCORDANCE WITH THE DETAILS SHOWN ON THE DRAWINGS.

OVERLAP: PROVIDE PROTECTION FROM WINDS ON WHICH CHAINS ARE TO BE POSITIONED TO THE SPECIFIED SLOPE WITH A TOLERANCE OF A 30mm. FORWARD SURFACES MUST BE FREE OF ROCKS, STUMPS, BRUSH, ROOTS AND THE LIKE PROTRUSIONS.

OVERLAP: PLACE TYPE 3 GEOTEXTILE BEHIND ALL GABIONS.

OVERLAP: ASSEMBLE TO COMPLY WITH THE DRAWING AND RECOMMENDATIONS OF THE MANUFACTURER. POSITIONING POSITION ASSEMBLED GABION EMPTY IN THE WORKS. SECURELY POSITION THE FIRST ROW OF GABIONS AND FILL BEFORE GABIONS IN OTHER ROWS ARE POSITIONED.

OVERLAP: FILL AND PACK THE EXPOSED FACES OF THE GABION. THE REMAINDER MAY BE FILLED USING MACHINE METHODS. PLACE THE ROCK TO PROVIDE A DENSE, EVENLY DISTRIBUTED FILLING WITH A MINIMUM OF WIRE. MAINTAIN THE TOLERANCES AND SHARP SLOPES. BE TOLERANT OF THE CLUMP AND HOLE PANELS OF THE GABIONS DURING THE PLACING OPERATION TO MAINTAIN DEFORMATIONS WHERE NECESSARY.

OVERLAP: DURING THE PLACING, DO NOT DAMAGE THE GABION MESH OR REINFORCEMENT.

CONSTRUCTION TOLERANCES

GENERAL: CONTRACTOR OVERSEE AND INSPECTS IN THE LOCATIONS AND IN ACCORDANCE WITH THE DETAILS SHOWN ON THE DRAWINGS.

PRELIMINARY ISSUE

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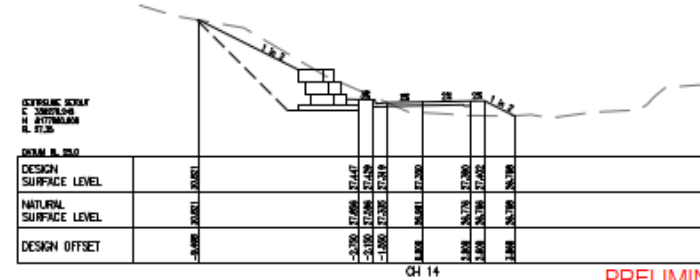
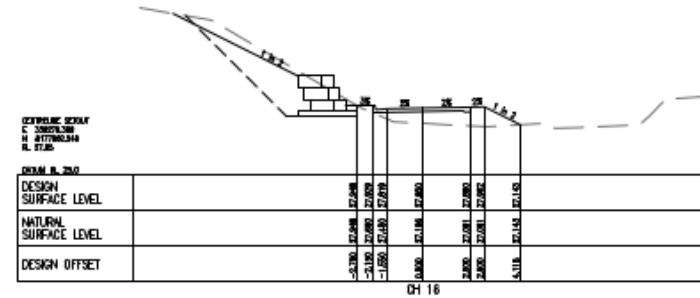
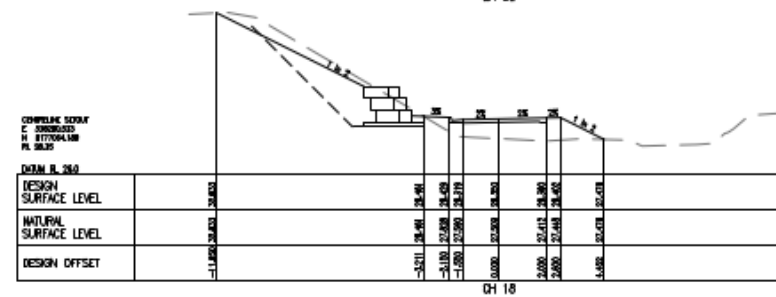
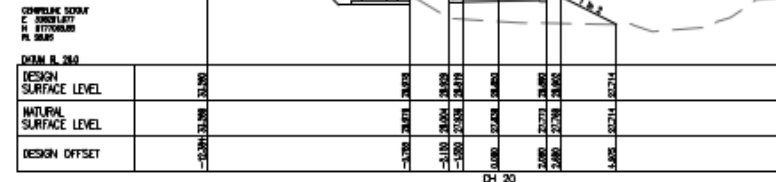
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No.	Description	Reviewed	Approved	Date	Client Logo	Client	Drawn	Checked	Approved	Scale (if not shown)
1	PRELIMINARY ISSUE	-	-	27/06/2021		KATE & LUCAS AGRUMS 30 MURPHY STREET, PORT DOUGLAS	MS	MS		AS SHOWN
						GABION LAYOUT AND DETAILS	Designing (MS)	Design Check (MS)	Check (MS)	
						ARO0053-C04				




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Revision
1



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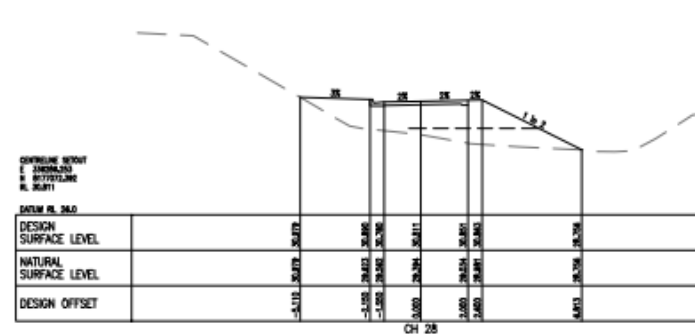
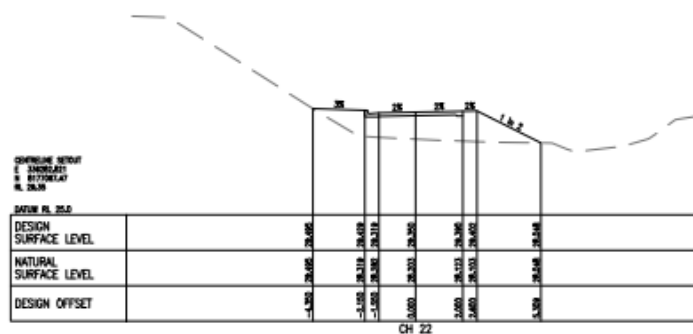
No.	Description	Reviewed	Approved	Date	User's Login
1	MINOR AMENDMENTS	-	-	12/06/2021	
2	REGULATORY LOGIC	-	-	22/06/2021	

Client	KATE & LUCAS AGRUMS			Drawn	Designed	Approved	Scale (if any)	 ARO <small>1. 001 4281 0000 2. aaron@aroadsolutions.com.au 3. www.aroadsolutions.com.au ARD 09 637 817 296</small>
Project	30 MURPHY STREET, PORT DOUGLAS			MS	MS		1:100	
Title	DRIVEWAY ANNOTATED CROSS SECTIONS - SHEET 1 OF 2			Issuing Check	Design Check	RFQC	Date	



Drawing is not to be used for construction unless approved.

External References:

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PRELIMINARY ISSUE

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ARO0053-C06

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.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or

- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for 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.