

19 March 2024

Enquiries: Daniel Lamond
Our Ref: OP 2023_5558/1 (1217287)
Your Ref: 47246L1

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

D G Vos
34 Shearwater Street
PORT DOUGLAS QLD 4877

Dear Sir/Madam

**Development Application for Operational Works (Driveway crossovers)
At 23 Sand Street PORT DOUGLAS
On Land Described as LOT: 13 TYP: PTD PLN: 20934**

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

Please quote Council's application number: OP 2023_5558/1 in all subsequent correspondence relating to this development application.

There is no requirement for a prestart meeting for the crossover work approved within this Decision Notice.

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

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

- 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 s 63 of the Planning Act 2016

Applicant Details

Name: D G Vos
Postal Address: 34 Shearwater Street
PORT DOUGLAS QLD 4877
Email: dgv71@hotmail.com

Property Details

Street Address: 23 Sand Street PORT DOUGLAS
Real Property Description: LOT: 13 TYP: PTD PLN: 20934
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Operational Works (Driveway crossovers)

Decision

Date of Decision: 19 March 2024
Decision Details: Approved (subject to conditions)

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

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

Drawing	Reference	Date
Proposed Driveway Crossover- Layout Plan	Dwg. No. 47246- C01	12 March 2024
Proposed Driveway Crossover- Cross Section A	Dwg. No. 47246- C02	12 March 2024
Proposed Driveway Crossover- Cross Section B	Dwg. No. 47246- C03	12 March 2024

Proposed Driveway Crossover- Cross section C and D	Dwg. No. 47246- C04	12 March 2024
Proposed Driveway Crossover- Cross section E	Dwg. No. 47246- C05	12 March 2024

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 the lodgement for the signing and dating of the Plan of Survey except where specified otherwise in these conditions of approval.

Stormwater

3. Works must not result in ponding nuisances occurring in the existing drainage network on Sand Street.

Erosion & Sediment Control

4. Erosion and sediment control measures must be implemented prior to the discharge of water from the site such that no external stormwater flow from the site adversely affects surrounding or downstream properties or networks (in accordance with the requirements of the *Environmental Protection Act 1994*, and the *FNQROC Development Manual*).

Erosion and sediment control measures must be maintained at all times to the satisfaction of the Chief Executive Officer.

Stockpiling and Transportation of Fill Material

5. Soil used for filling or spoil from the excavation is not to be stockpiled in locations that can be viewed from adjoining premises or a road frontage for any longer than one (1) month from the Commencement of Works.

Transportation of fill or spoil to and from the site must not occur within:

- a. Peak traffic times; or
 - b. Before 7:00am or after 6:00pm Monday to Friday; or
 - c. Before 7:00am or after 1:00pm Saturdays; or
 - d. On Sundays or Public Holidays.
6. Dust emissions or other air pollutants must not extend beyond the boundary of the crossover construction site and cause nuisance to surrounding properties.

Storage of Machinery and Plant

7. The storage of any machinery, material and vehicles must not cause a nuisance to surrounding properties, to the satisfaction of the Chief Executive Officer.

Damage to Council Infrastructure

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

Protection of Street Trees

9. The *Melaleuca Leucadendra* closest to the crossovers in the road reserve fronting the site must be retained and must not be damaged during construction activities for the crossovers.

Advice

1. 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 sections 85(1)(b) and 71 of the Planning Act 2016.
2. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements. In particular, the use of the adjacent sidewalk area is subject to a Local Law approval for outdoor dining. The use of the sidewalk area for outdoor dining is subject to a Local Laws approval.

Further Development Permits

Not applicable

Currency Period for the Approval

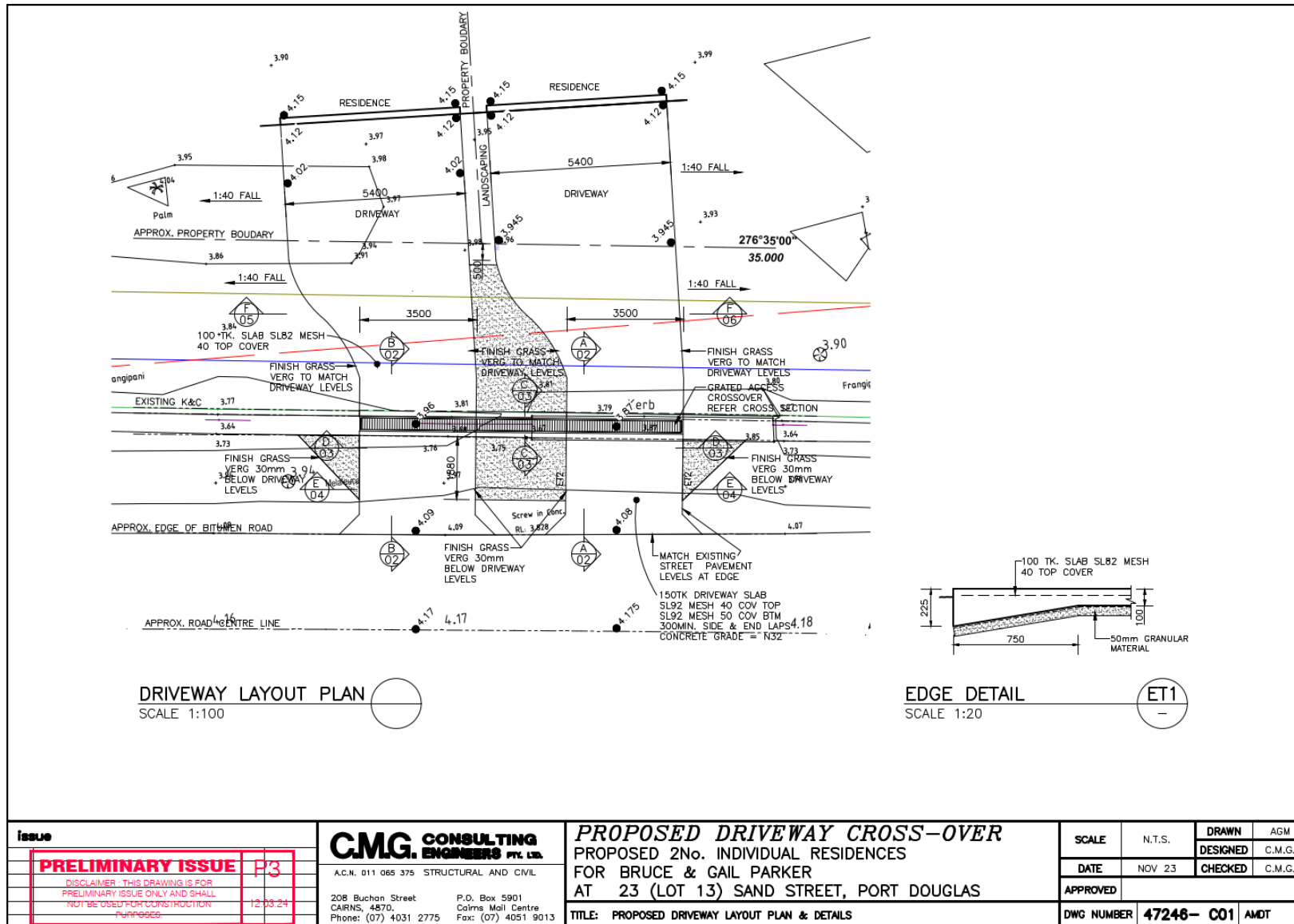
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse two (2) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

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 is attached.

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



issue	
PRELIMINARY ISSUE	P3
DISCLAIMER - THIS DRAWING IS FOR PRELIMINARY ISSUE ONLY AND SHALL NOT BE USED FOR CONSTRUCTION PURPOSES.	
	12/03/24

CMG CONSULTING ENGINEERS PT. LTD.
A.C.N. 011 065 375 STRUCTURAL AND CIVIL

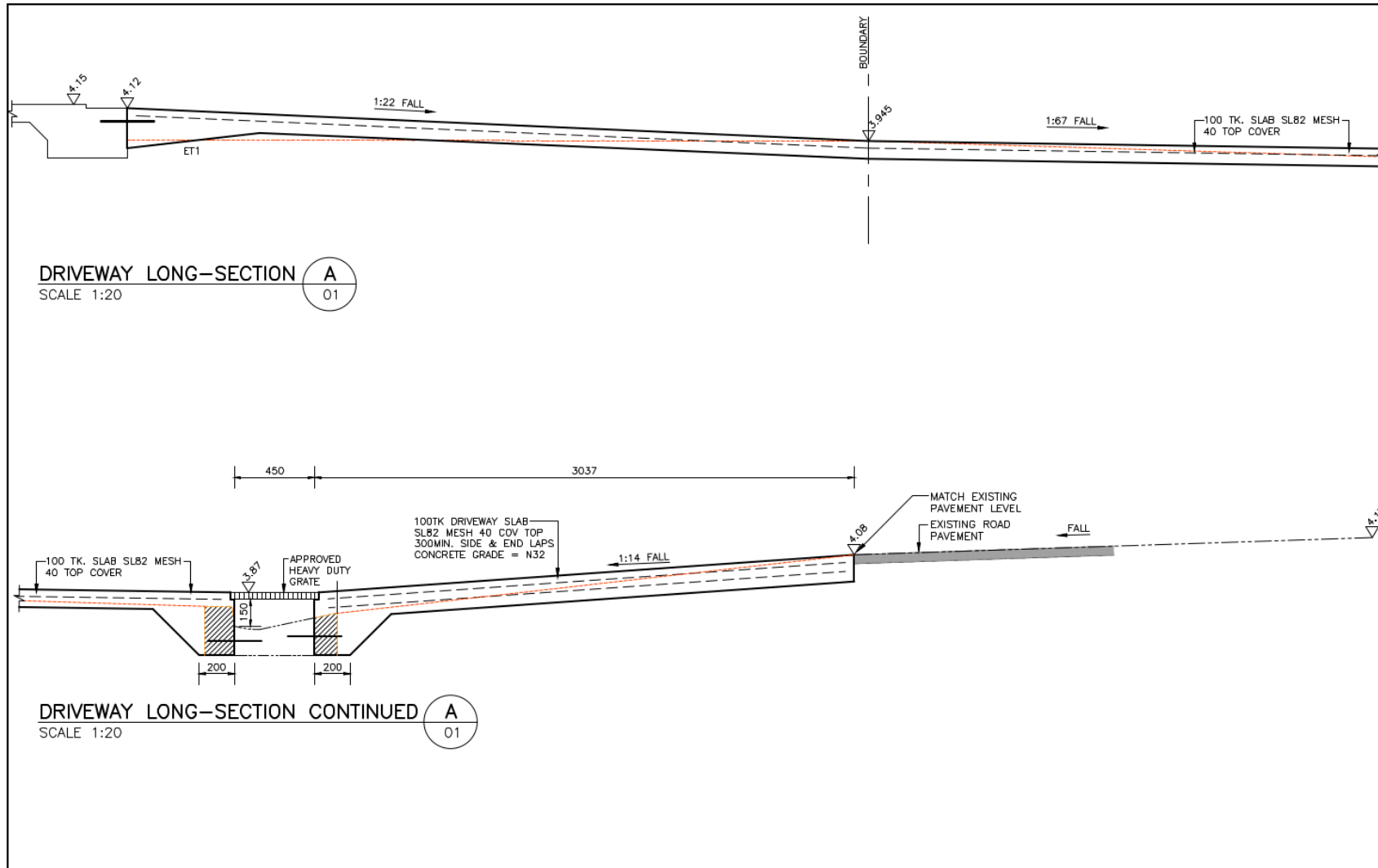
208 Buchan Street
CAIRNS, 4870
Phone: (07) 4031 2775

P.O. Box 5901
Cairns Mail Centre
Fax: (07) 4051 9013

PROPOSED DRIVEWAY CROSS-OVER
PROPOSED 2No. INDIVIDUAL RESIDENCES
FOR BRUCE & GAIL PARKER
AT 23 (LOT 13) SAND STREET, PORT DOUGLAS

TITLE: PROPOSED DRIVEWAY LAYOUT PLAN & DETAILS

SCALE	N.T.S.	DRAWN	AGM
DATE	NOV 23	DESIGNED	C.M.G.
APPROVED		CHECKED	C.M.G.
DWG NUMBER	47246- C01	AMDT	



DRIVEWAY LONG-SECTION A
SCALE 1:20

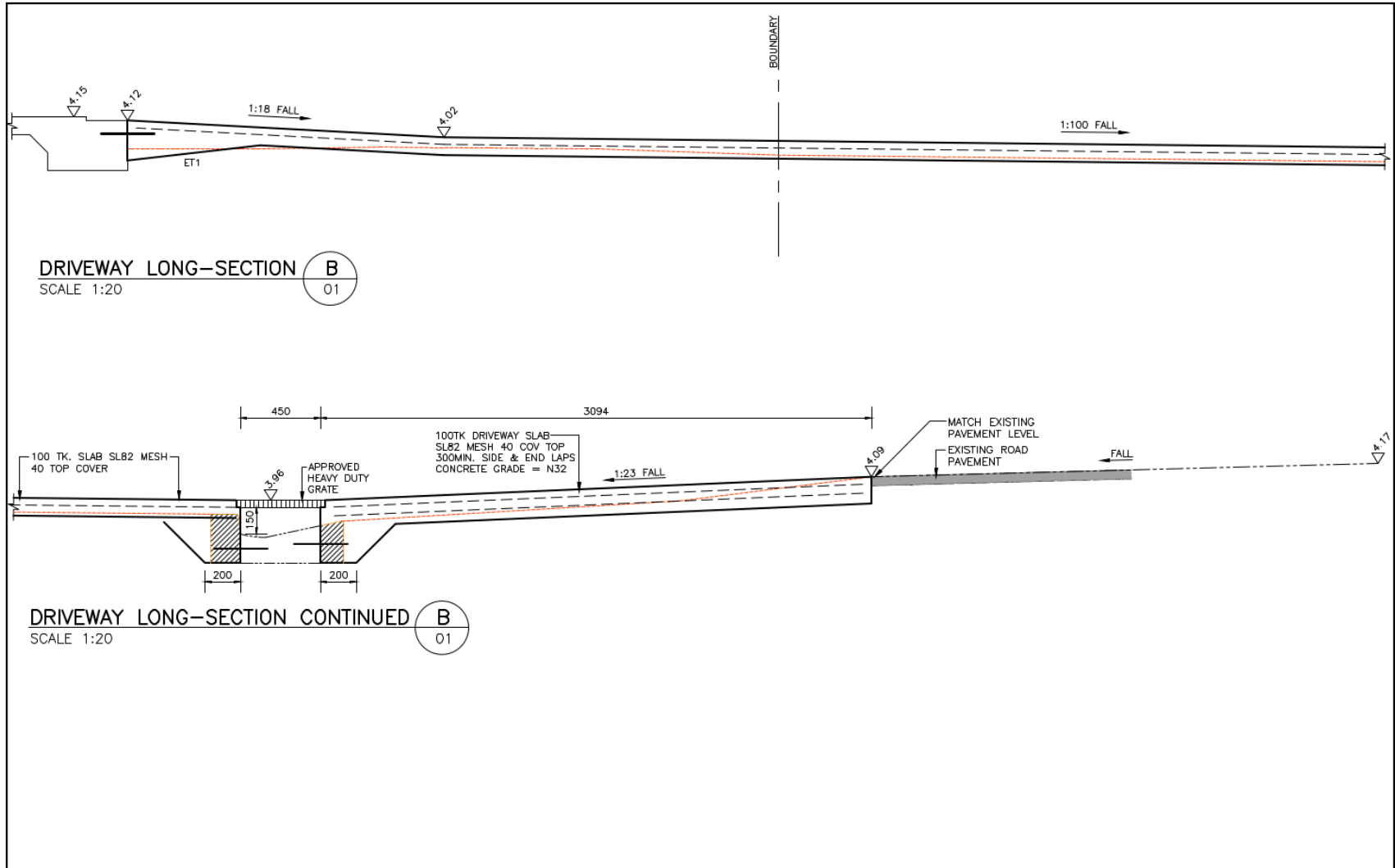
DRIVEWAY LONG-SECTION CONTINUED A
SCALE 1:20

Issue	
PRELIMINARY ISSUE	P3
DISCLAIMER: THIS DRAWING IS FOR PRELIMINARY ISSUE ONLY AND SHALL NOT BE USED FOR CONSTRUCTION 12/03/24 P4119522	

CMG. CONSULTING ENGINEERS PTY. LTD.
 A.C.N. 011 065 375 STRUCTURAL AND CIVIL
 208 Buchan Street Cairns, 4870. Phone: (07) 4031 2775
 P.O. Box 5901 Cairns Mail Centre Concrete Grade = N32 Fax: (07) 4051 9013

PROPOSED DRIVEWAY CROSS-OVER
 PROPOSED 2No. INDIVIDUAL RESIDENCES
 FOR BRUCE & GAIL PARKER
 AT 23 (LOT 13) SAND STREET, PORT DOUGLAS
 TITLE: PROPOSED DRIVEWAY LONG SECTIONS 1 OF 2

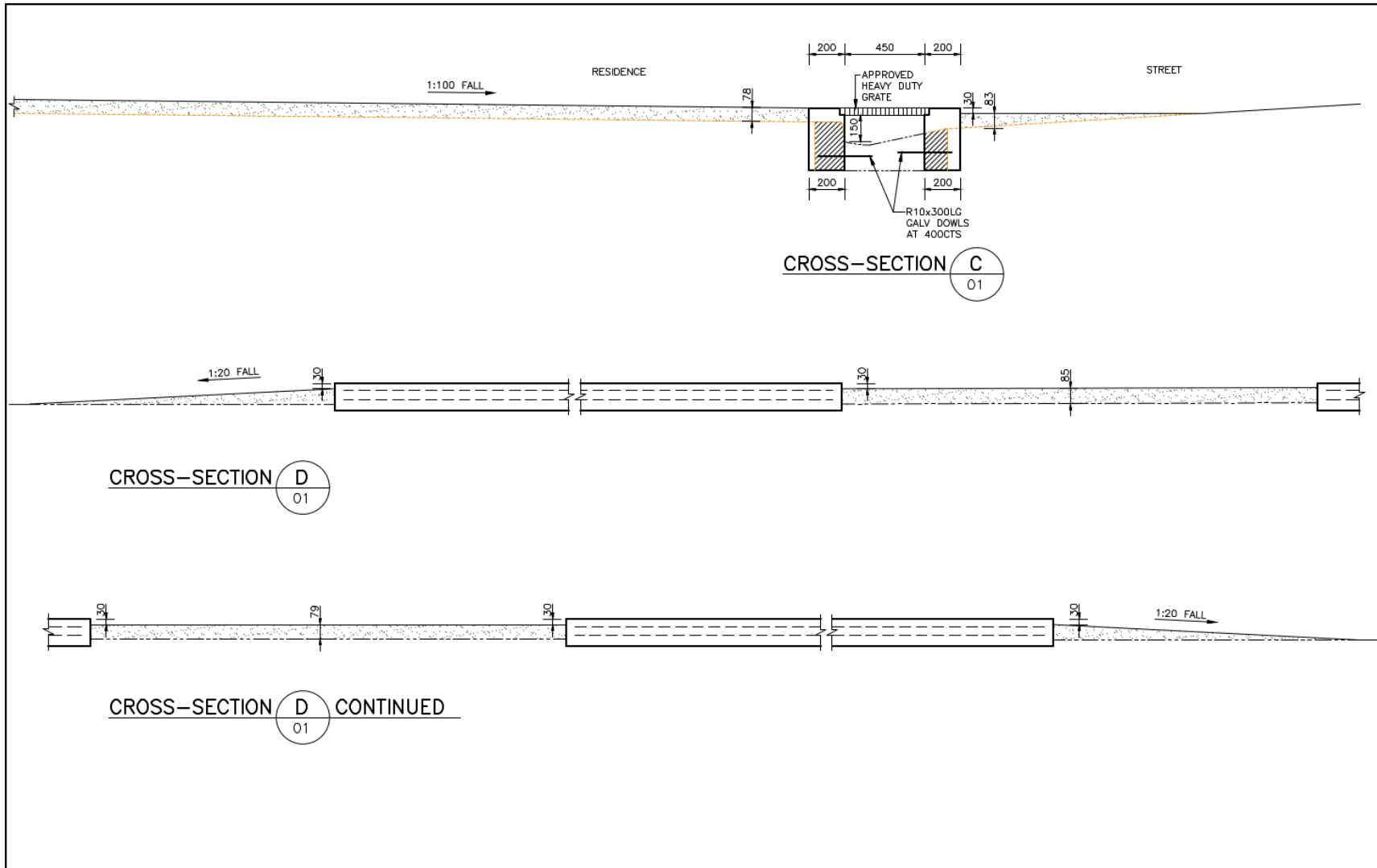
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DATE	NOV 23	DESIGNED	C.M.G.
APPROVED		CHECKED	C.M.G.
DWG NUMBER	47246-C02	AMDT	



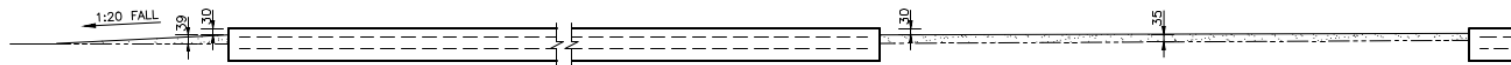
DRIVEWAY LONG-SECTION **B**
SCALE 1:20 01

DRIVEWAY LONG-SECTION **B**
SCALE 1:20 01

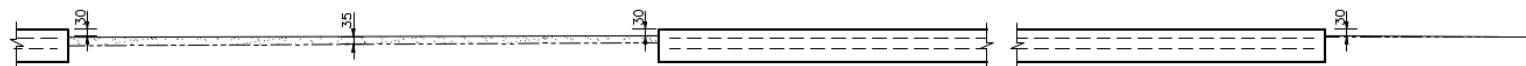
issue <div style="border: 2px solid red; padding: 5px; display: inline-block;"> PRELIMINARY ISSUE P3 <small>DISCLAIMER: THIS DRAWING IS FOR PRELIMINARY ISSUE ONLY AND SHALL NOT BE USED FOR CONSTRUCTION PURPOSES.</small> <small>12.03.24</small> </div>	CMG CONSULTING ENGINEERS PTY. LTD. <small>A.C.N. 011 065 375 STRUCTURAL AND CIVIL</small> <small>208 Buchan Street CAIRNS, 4870. Phone: (07) 4031 2775</small> <small>P.O. Box 5901 Cairns Mail Centre Cairns, 4870. Fax: (07) 4051 9013</small>	PROPOSED DRIVEWAY CROSS-OVER PROPOSED 2No. INDIVIDUAL RESIDENCES FOR BRUCE & GAIL PARKER AT 23 (LOT 13) SAND STREET, PORT DOUGLAS		SCALE	N.T.S.	DRAWN	AGM
		DATE	NOV 23	DESIGNED	C.M.G.		
		APPROVED		CHECKED	C.M.G.		
		DWG NUMBER	47246- C03	AMDT			



Issue PRELIMINARY ISSUE P3 <small>DISCLAIMER: THIS DRAWING IS FOR PRELIMINARY ISSUE ONLY AND SHALL NOT BE USED FOR CONSTRUCTION PURPOSES</small> 12.03.24	CMG CONSULTING ENGINEERS PTY. LTD. <small>A.C.N. 011 065 375 STRUCTURAL AND CIVIL</small> 208 Buchan Street CAIRNS, 4870. Phone: (07) 4031 2775 P.O. Box 5901 Cairns Mail Centre Fax: (07) 4051 9013	PROPOSED DRIVEWAY CROSS-OVER PROPOSED 2No. INDIVIDUAL RESIDENCES FOR BRUCE & GAIL PARKER AT 23 (LOT 13) SAND STREET, PORT DOUGLAS		SCALE N.T.S.	DRAWN AGM
		DATE NOV 23	DESIGNED C.M.G.		
		APPROVED	CHECKED C.M.G.		
		DWG NUMBER 47246- C04	AMDT		
TITLE: PROPOSED DRIVEWAY CROSS-SECTIONS 1 OF 2					



CROSS-SECTION E
01



CROSS-SECTION E CONTINUED
01

Issue	
PRELIMINARY ISSUE	P3
<small>DISCLAIMER - THIS DRAWING IS FOR PRELIMINARY ISSUE ONLY AND SHALL NOT BE USED FOR CONSTRUCTION PURPOSES.</small>	
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 P.O. Box 5901 Cairns Mall Centre Phone: (07) 4051 9013

PROPOSED DRIVEWAY CROSS-OVER
 PROPOSED 2No. INDIVIDUAL RESIDENCES
 FOR BRUCE & GAIL PARKER
 AT 23 (LOT 13) SAND STREET, PORT DOUGLAS
 TITLE: PROPOSED DRIVEWAY CROSS-SECTIONS 2 OF 2

SCALE	N.T.S.	DRAWN	AGM
DATE	NOV 23	DESIGNED	C.M.G.
APPROVED		CHECKED	C.M.G.
DWG NUMBER	47246- C05	AMDT	

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 8 December 2024 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 Medium Density Residential Zone;
 - 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 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) 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
- (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.