

8 August 2019

Administration Office
64 - 66 Front St Mossman
P 07 4099 9444
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Enquiries: Jenny Elphinstone T:4099 9482
Our Ref: BW 3180/2019 (Doc ID:911714)
Your Ref: BA 20152787

Dean Miller and Nicole Rumney
C/ GMA Certification group Pty Ltd
PO BOX 831
PORT DOUGLAS QLD 4877

Attention Mr Jeff Evans

pdadmin@gmacert.com.au

Dear Sir

**Development Application for Building Work
Made Assessable Against the Planning Scheme for
Alterations and Additions to the Existing Dwelling House at
19-21 Finlay Crescent Oak Beach on
Land Described as Lot 4 on SP212657**

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

Please quote Council's application number: BW 3182/2019 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9482.

Yours faithfully



Paul Hoyer

Manager Environment & Planning

cc. GMA Certification Group adminpd@gmacert.com.au

encl.

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



Decision Notice
Approval (with conditions)

Given under section 63 of the Planning Act 2016

Applicant Details

Name: Dean Miller and Nicole Rumney
Postal Address: C/ GMA Certification Group Pty Ltd
PO BOX 831
Port Douglas Qld 4877xx
Email: pdadmin@gmacerit.com.au

Property Details

Street Address: 19-21 Finlay Crescent, Oak Beach
Real Property Description: Lot 4 on SP2126573

Assessment Manager: Douglas Shire Council

Planning Instrument 2018 Douglas Shire Planning Scheme Version 1.0

Proposed Development Development Permit for Building Work Made Assessable
Against the Planning Scheme for alterations and additions for
a swimming pool and deck to the existing dwelling house.

Level of Assessment Code Assessment

Decision

Date of Decision: 8 August 2019

Decision Details: Development Permit Approved (subject to conditions)

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

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

Drawing or Document	Reference	Date
Site Plan	RECS Job 59-2019 Sheet BA 1, Revision A.	10 July 2019
Deck Plan	RECS Job 59-2019 Sheet BA 2, Revision A.	10 July 2019

Drawing or Document	Reference	Date
Section A-A	RECS Job 59-2019 Sheet BA 3, Revision A.	10 July 2019
Engineering Notes	RECS Job 59-2019 Sheet BA 4, Revision A.	10 July 2019

Assessment Manager Conditions

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

Except where modified by these conditions of approval.

Timing of Effect

2. The conditions of the Development Permit must be effected prior to the issue of a Compliance Certificate for the Plan of Survey, except where specified otherwise in these conditions of approval.

Lawful Point of Discharge

3. All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of the Chief Executive Officer.

Assessment Manager Advices

Declaration of amenity and aesthetic impact

1. Under the *2018 Douglas Shire Planning Scheme Version 1.0* and for the purpose of 1.7.4 Declaration of amenity and aesthetic impact referral agency assessment, being for the purpose of Schedule 7 Table 1 Item 17 of the *Sustainable Planning Regulation 2009*, it is declared that building work for a building or structure which is a detached class 1(a)(i) building or a class 10 building or structure within the Hillslopes overlay, as submitted to Council and subject to the conditions above, does not:
 - (a) have an extreme adverse effect on the amenity, or the likely amenity, of the locality;
or
 - (b) be in extreme conflict with the character of the locality.
2. 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*.
3. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
4. This approval does not negate the requirement for compliance with relevant Local Laws and statutory requirements.
5. For information relating to the *Planning Act 2016* log on to www.dsdmip.qld.gov.au. To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.

Further Development Permits

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

- Development Permit for Building Work

All Plumbing and Drainage Work must only be carried in compliance with the Queensland *Plumbing and Drainage Act 2002*.

Referral

No part of the application required referral

Public Notification

No part of the application required Public Notification.

Adopted Infrastructure Charges

Not required.

Currency Period for the Approval

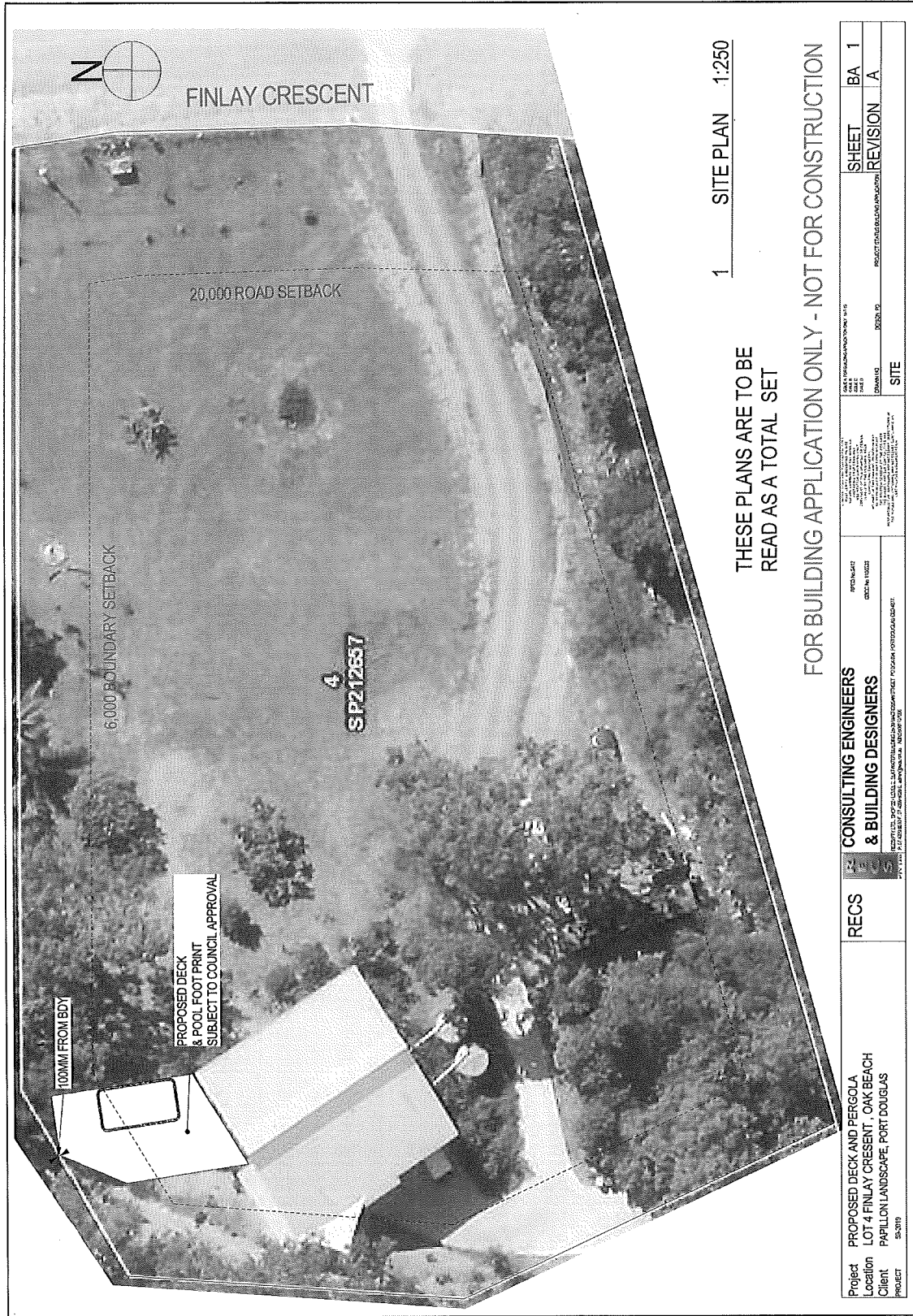
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Rights to Make Representations & Rights of Appeal

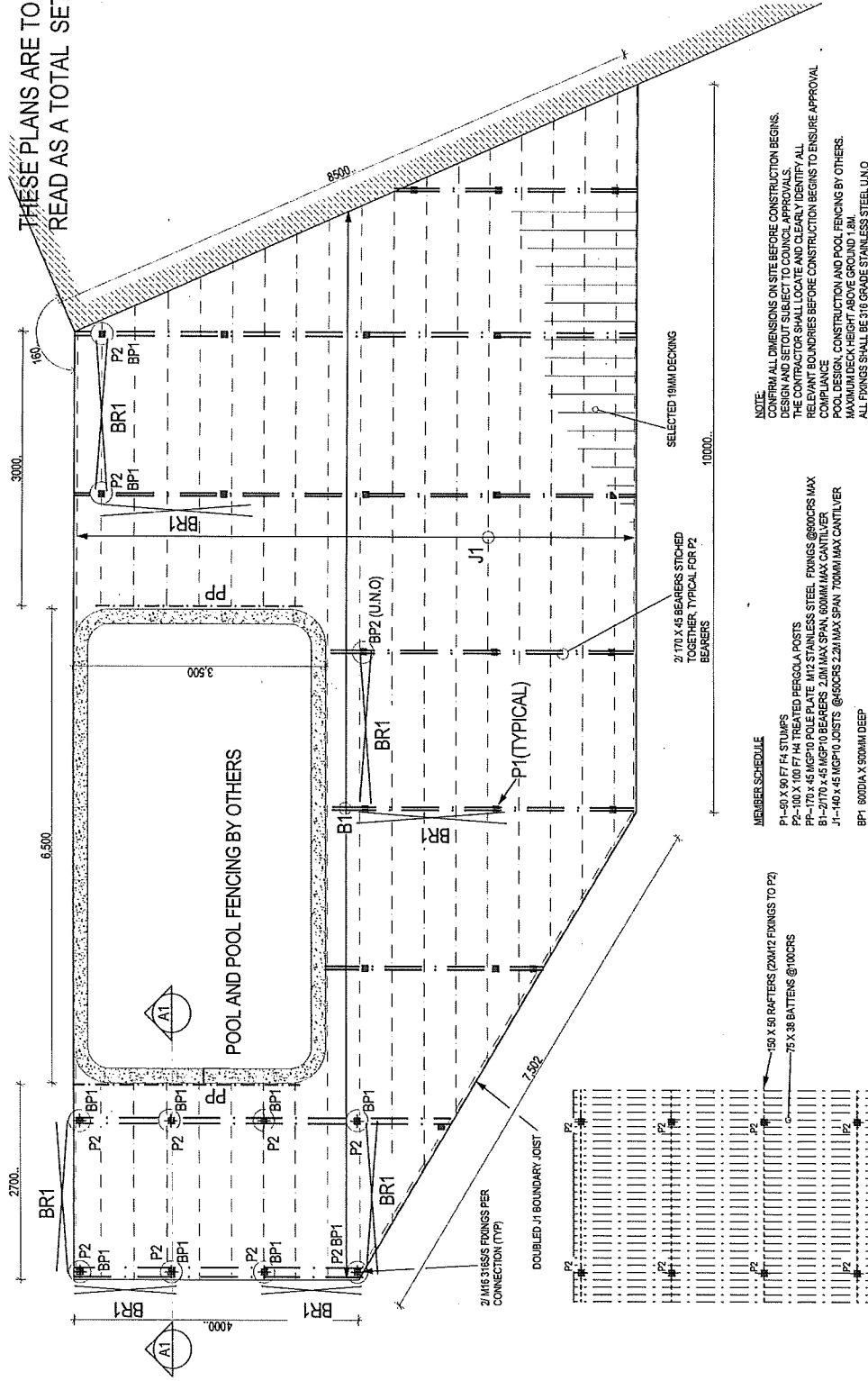
The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

A copy of the relevant rights of applicants to make representations and the appeal provisions are attached.

Attachment 1 Approved Drawing(s) and/or Document(s) – To be further amended by Condition 3 of the approval.



THESE PLANS ARE TO BE
READ AS A TOTAL SET

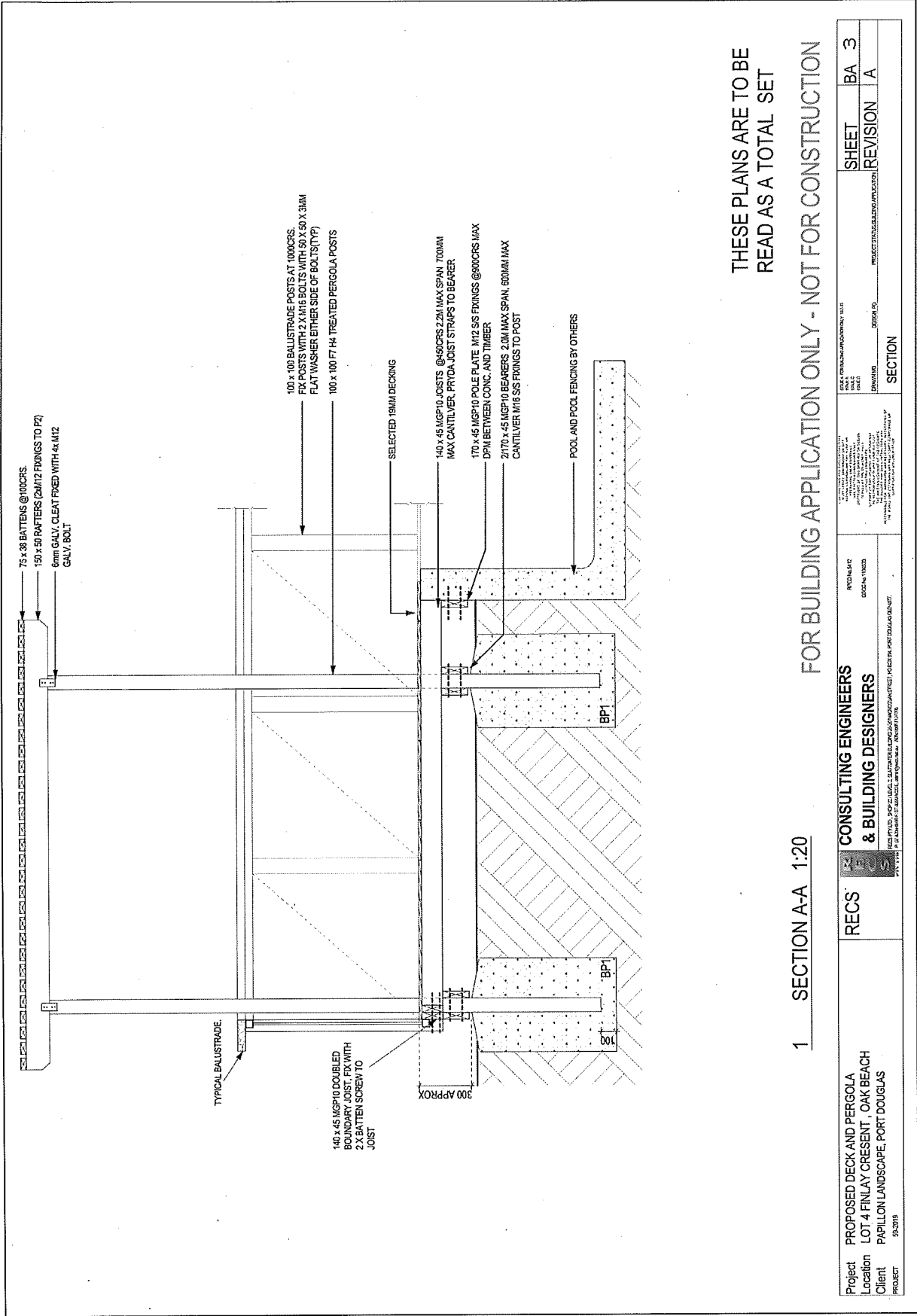


NOTE:
CONFIRM ALL DIMENSIONS ON SITE BEFORE CONSTRUCTION BEGINS.
DESIGN AND SETOUT SUBJECT TO COUNCIL APPROVALS.
THE CONTRACTOR SHALL LOCATE AND CLEARLY IDENTIFY ALL
EXISTING UTILITIES AND SERVICES BEFORE CONSTRUCTION BEGINS TO ENSURE APPROVAL
COMPLIANCE WITH ALL RELEVANT STANDARDS.
POOL DESIGN, CONSTRUCTION AND POOL FENCING BY OTHERS.
MAXIMUM DECK HEIGHT ABOVE GROUND 1.8M.
ALL FRINGS SHALL BE 316 GRADE STAINLESS STEEL UNO

MEMBER SCHEDULE
P1-80 X 90 FT 4 STUMPS
P2-170 X 45 MGP10 BEAMS @100CS MAX
BR1-170 X 45 MGP10 BEAMS @100CS MAX
BP1-170 X 45 MGP10 BEAMS @100CS MAX
BP2-170 X 45 MGP10 BEAMS @100CS MAX
J1-170 X 45 MGP10 JOISTS @100CS MAX
BR1 8000X4 X 50MM DEEP
BP2 450 DIA X 600MM DEEP
BR1 M12 CROSS BRACES WHERE 1000 ABOVE FGL (TENSIONED)

PERGOLA ROOF FRAMING PLAN 1 DECK PLAN 1:50 FOR BUILDING APPLICATION ONLY - NOT FOR CONSTRUCTION

Project Location Client PROJECT	PROPOSED DECK AND PERGOLA LOT 4 FINLAY CRESENT, OAK BEACH PAPILLON LANDSCAPE, PORT DOUGLAS 95-2910	RECS	CONSULTING ENGINEERS & BUILDING DESIGNERS	8/20/2019 OCT 11 11:01	PLAN	SHEET		BA 2	
						REVISION		A	
DESIGNED BY: [Signature] CHECKED BY: [Signature] DATE: 8/20/2019						PROJECT STATUS: []			



THESE PLANS ARE TO BE
READ AS A TOTAL SET

FOR BUILDING APPLICATION ONLY - NOT FOR CONSTRUCTION

1 SECTION A-A 1:20

Project Location Client PROJECT	PROPOSED DECK AND PERGOLA LOT 4 FINLAY CRESENT, OAK BEACH PAPILLON LANDSCAPE, PORT DOUGLAS 93-2019	RECS CONSULTING ENGINEERS & BUILDING DESIGNERS REGISTERED PROFESSIONAL ENGINEERS REGISTERED PROFESSIONAL ARCHITECTS REGISTERED PROFESSIONAL BUILDING SURVEYORS REGISTERED PROFESSIONAL LANDSCAPE ARCHITECTS REGISTERED PROFESSIONAL PLANNERS REGISTERED PROFESSIONAL PROJECT MANAGERS REGISTERED PROFESSIONAL STRUCTURAL ENGINEERS REGISTERED PROFESSIONAL TOWN PLANNERS REGISTERED PROFESSIONAL TRANSPORT ENGINEERS REGISTERED PROFESSIONAL WATER ENGINEERS REGISTERED PROFESSIONAL WIND ENGINEERS REGISTERED PROFESSIONAL WOOD ENGINEERS REGISTERED PROFESSIONAL YACHT ENGINEERS	RICHIE MUIR GEOGRAPHICAL INFORMATION SYSTEMS 93-2019	SHEET BA 3	REVISION A

TIMBER

Structural timber shall comply with AS1720 timber structures code and all relevant codes mentioned therein.
Timber shall be stress grade as noted unless specified otherwise.
Timber is rough sawn appearance grade hardwood & either preservative treated in accordance with the 'Timber Utilisation and Marketing Act 1987', or milled free of sapwood.
All timber to be rough sawn with all edges and corners arrived 5 mm minimum wide.
All timber to be appearance grade to AS2082 free from major defects, splinters, large knots and major imperfections.
Chamfer edges and corners 5mm minimum wide.
Seasoning to an equilibrium moisture content of 10-15% is preferred.
All cuts, checks, mortises or holes to be food filled with an approved water repellent timber preservative prior to assembly.
Seal end grain of timber with CN timber preservative emulsion prior to assembly.

CODE NOTES:
CONSTRUCTION SHALL COMPLY WITH THE NATIONAL CONSTRUCTION CODE OF AUSTRALIA 2019 AND ALL SUBSEQUENT AMENDMENTS.
ALL RELEVANT AUSTRALIAN STANDARDS, AND LOCAL AUTHORITY REGULATIONS AND APPROVALS.
GENERAL NOTES:
DO NOT SCALE FROM THIS DOCUMENTATION.
FIGURED DIMENSIONS TAKE PRECEDENCE.
COMPLETE THE WORKS EVEN IF NOT SPECIFICALLY INDICATED ON THE PLANS TO CONFORM WITH THE GENERAL INTENT AND SPIRIT OF THE PLANS.
ALL WORK SHALL BE CARRIED OUT IN ACCORDANCE WITH GOOD TRADE PRACTICE.
THESE PLANS SHALL BE READ IN CONJUNCTION WITH THE CONTRACT SPECIFICATION AND ALL SUB CONSULTANTS DOCUMENTATION.
ALL MATERIALS SHALL BE TERMITE RESISTANCE.
ONLY DRAWINGS STAMPED 'CERTIFIED' OR 'FOR CONSTRUCTION' SHALL BE USED FOR CONSTRUCTION OF THIS PROJECT.
WIND ZONE C2

CONCRETE AND REINFORCEMENT

1. All concrete work shall be in accordance with AS 3600 Concrete Structure Code
2. Concrete Specification shall be:
- | ELEMENT | GRADE | SUMP | MAX AGG |
|------------------------|-------|-------|---------|
| Ground Slab & Footings | N25 | 80-15 | 20 |
3. Reinforcement is shown diagrammatically, it is not necessarily shown in true projection. Where necessary as bars are not shown, provide N12-300.
4. All reinforcement shall be in accordance with AS 4871.
- Symbols:
- | F, RF, SL | Hurt drawn wire reinforcing fabric |
|--|------------------------------------|
| R | Structural grade 200R round bar |
| S | Structural grade 200S deformed bar |
| N | Grade 500N deformed bar |
| 6. Cover to reinforcement shall be: | |
| (i) Footings in ground | 75mm bottom, 65mm sides and top |
| (ii) Footings on membrane | 50mm bottom |
| (iii) Slab on Ground | 30mm nominal, 20mm minimum top |
| (iv) Slab on Ground | 50mm bottom |
| (v) Within concrete masonry block - 10mm. | |
| 8. Reinforcement shall be supplied on approved chairs at 800mm centres. | |
| 7. Splice laps unless shown otherwise: | |
| Fabric - 1 complete mesh - 50mm. Deformed bar - 30 X bar diameter minimum. | |
| 8. Construction joints shall be scribed and cleaned and coated with cement/water slurry immediately prior to placing concrete. | |
| 9. Concrete shall be compacted using mechanical vibrators. | |
| 10. Concrete shall be cured to AS 3799 for a minimum of 7 days by a method approved by the Engineer. | |
| 11. Control joints shall be constructed as specified. Saw cutting shall be carried out within 6 hours of concrete hardening. | |
| 12. Rigid floor finishes shall be bedded in adhesion or equal tile adhesive to manufacturers specification as applicable with movement joints expressed. | |

GENERAL NOTES

1. The Engineering notes under the job number above are part of the drawings, and are to be attached to each set of drawings to be worked from.
2. Engineering drawings shall be read in conjunction with all Architectural and other Consultants' drawings and specifications. Any discrepancy shall be referred to the Engineer before proceeding with the work.
3. All materials and workmanship shall be in accordance with the relevant and current SAA codes, and by-laws and ordinances of the relevant building authorities, except where varied by the project specification.
4. All relevant dimensions shown shall be verified by the builder on site. Engineers' drawings shall not be used for dimensions.
5. During construction the structure with its all structural elements shall not be overstressed, and any overloading shall be avoided. Any overloading shall be reported to the Engineer immediately and the structure shall be repaired and reinforced as required. The Engineer shall be provided by the builder to keep all excavations and the structure stable at all times.
6. Unless noted otherwise all levels are in metres and all dimensions are in millimetres.
7. The structural components, detailed on the drawings, have been designed in accordance with the relevant codes and Local Government ordinances for the footings, columns and beams.
8. UNO stands for 'unless noted otherwise'.
- SERVICE LOADS
1. Live Loads to AS 1170, Part 1
- Roof
- 0.25 kPa
2. Wind Loads to AS 1170, Part 2
- Design Gust Wind Speed, 80m's ultimate limit state.
- FOOTINGS
1. The builder shall familiarise himself with the contents of the Soils Report where available and strictly adhere to the Building Pad Preparation specifications.
2. Footings shall be located centrally under columns and walls, and also footings shall be cast on horizontally excavated benches, unless specifically detailed otherwise.
3. The design of the structure has been based on the foundation having a minimum bearing capacity of 100 kPa.
4. Footings are to be constructed and back filled as soon as possible following excavation to avoid softening or drying out due to exposure.

THESE PLANS ARE TO BE READ AS A TOTAL SET FOR BUILDING APPLICATION ONLY - NOT FOR CONSTRUCTION

Project Location Client PROJECT	PROPOSED DECK AND PERGOLA LOT 4 FINLAY CRESENT, OAK BEACH PAPILLON LANDSCAPE, PORT DOUGLAS 550391		CONSULTING ENGINEERS & BUILDING DESIGNERS	REC'D IN 4/7 DEC IN 1/2023	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 1/2	REVISION 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Reasons for Decision

The reasons for this decision are:

1. Sections 60, 62 and 63 of the *Planning Act 2016*:
 - a. to ensure the development satisfies the benchmarks of 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 development application was properly lodged to the Douglas Shire Council 25 July 2019 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 investigation of assessment against the 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 Zone Code;
 - b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
 - c. the applicant's reasons have been considered and the following findings are made:
 - i. Subject to conditions the development satisfactorily meets the Planning Scheme requirements.

Compliance Matters

Benchmark Reference	Comment
Rural Residential Zone Code	
AO2 (d) buildings are setback 6m from the side and rear boundaries.	Does not comply with AO
PO 2 Buildings and structures are setback to maintain the rural residential character if the area and achieve separation from buildings on adjoining properties.	There is sufficient separation of buildings.
Hillslopes Overlay Code	
AO 1.1 Development is located on parts of the site that are not within the Hillslopes constraint sub-category as shown on the Hillslopes overlay Maps contained in schedule 2.	Does not comply with AO
PO1 The landscape character and visual amenity quality of hillslopes area is retained to protect the scenic backdrop to the region.	The development is to a large extent hidden from external views by the vegetation on the neighbouring site. The vegetation continues behind the dwelling and rises up the slope giving a sufficient backdrop for the proposed works. The works are not considered to compromise the landscape character and visual amenity qualities.

Benchmark Reference	Comment
<p>Under the 2018 Douglas Shire Planning Scheme Version 1.0 and for the purpose of 1.7.4 Declaration of amenity and aesthetic impact referral agency assessment, being for the purpose of Schedule 7 Table 1 Item 17 of the Sustainable Planning Regulation 2009, Council is required to consider whether building work for a building or structure which is a detached class 1(a)(i) building or a class 10 building or structure within the Hillslopes overlay, may</p> <p>(a) have an extreme adverse effect on the amenity, or the likely amenity, of the locality; or</p> <p>(b) be in extreme conflict with the character of the locality.</p>	<p>The development is considered not to</p> <p>(a) have an extreme adverse effect on the amenity, or the likely amenity, of the locality; or</p> <p>(b) be in extreme conflict with the character of the locality</p>

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

74 What this subdivision is about

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

75 Making change representations

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

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

76 Deciding change representations

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

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

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

Extracts from the Planning Act 2016 – Appeal Rights

Planning Act 2016
Chapter 6 Dispute resolution

[s 229]

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.
- (3) In this section—
 - conduct* means an act or omission.
 - representative* means—
 - (a) of a corporation—an executive officer, employee or agent of the corporation; or
 - (b) of an individual—an employee or agent of the individual.
 - state of mind*, of a person, includes the person's—
 - (a) knowledge, intention, opinion, belief or purpose; and
 - (b) reasons for the intention, opinion, belief or purpose.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and

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Current as at 1 July 2019

Authorised by the Parliamentary Counsel

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 - conduct* means an act or omission.
 - representative* means—
 - (a) of a corporation—an executive officer, employee or agent of the corporation; or
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 - state of mind*, of a person, includes the person's—
 - (a) knowledge, intention, opinion, belief or purpose; and
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Chapter 6 Dispute resolution

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 - (i) either a tribunal or the P&E Court; or
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 - (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, 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 1901*, 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 1901* 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 1901* 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.

- (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, 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.
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decision includes—
 - (a) conduct engaged in for the purpose of making a decision; and
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- (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.

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- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
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