

3 December 2019

Enquiries: Jenny Elphinstone
Our Ref: MCUC 2019_3301/1 (Doc ID 931022)
Your Ref: 20193805

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

Ram Metal Works
C/- Patrick Clifton, GMA Certification
PO Box 2760
NERANG QLD 4211

Email: Patrick.c@gmacer.com.au

Dear Sir

**Development Application for Low Impact Industry
At 25 Owen Street Craiglie
On land described as Lot 101 on SP256262**

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

Please quote Council's application number: MCUC 2019_3301/1 in all subsequent correspondence relating to this development application.

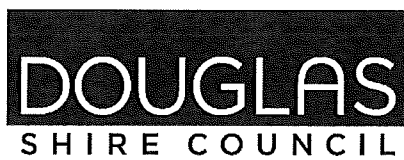
Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9482.

Yours faithfully


Paul Hoyer
Manager Environment & Planning

encl.

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Reasons for Decision - non-compliance with assessment benchmark.
- 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: Ram Metal Works (Custom Stuff Pty Ltd)
Postal Address: C/- Patrick Clifton, GMA Certification
PO Box 2760
Nerang QLD 4211
Email: Patrick.c@gmacert.com.au

Property Details

Street Address: 25 Owen Street, Craiglie
Real Property Description: Lot 101 on SP256262
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Material Change of Use for Low Impact Industry.

Decision

Date of Decision: 3 December 2019
Decision Details: Development Permit Approved (subject to conditions)

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

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

Drawing or Document	Reference	Date
Site Plan	Rogers consulting engineers Project 190300, Revision P3 dated 19 September 20019 and as amended by Condition 3.	To be determined.

Drawing or Document	Reference	Date
Building Elevations	Rogers consulting engineers Project 190300, Revision P3	19 September 2019.
FNQROC Development Manual Standard Drawing/s for Vehicle Access		
Access Crossovers	Standard Drawing S1015 Issue D	23 October 2017
Concrete Driveway for Allotment Access	Standard Drawing S1110 Issue E	23 October 2017

Note – The plans referenced above will require amending in order to comply with conditions of this Decision Notice.

Assessment Manager Conditions & Advices

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 Commencement of Use, except where specified otherwise in these conditions of approval.

Amendment to Design

3. The proposed building / development must be redesigned / amended to accommodate the following changes:
 - a. Provide the disability driver vehicle parking space to the front of the premises, with clear, safe and unencumbered access between the disability driver car parking space and the office entrance. The disability driver vehicle parking space and associated access areas must be in compliance with AS2890.6. The access to the building must meet the Premises Standard. Note the provision of the disability driver vehicle parking space and associated access area may impose and reduce the area of landscaping setback.
 - b. Include a weather protection awning of a minimum 900mm width immediately above the entry for the extent of the entry. The awning entry must not encumber access and egress to the disability driver parking space or associated access area(s).
 - c. Ensure there is adequate vehicle parking bay dimensions, access and egress for a B99 vehicle for the internal car parking space having regard to the building walls and swept path turning movements; and

- e. Include a waste/refuse storage area that area located, and designed so as not to cause an adverse impact on uses of the premises and adjacent users.

Details of the above amendments must be endorsed by the Chief Executive Officer prior to issue of a Development Permit for Building Work.

Damage to Council Infrastructure

- 4. In the event that any part of Council's existing sewer / water or road infrastructure is damaged as a result of construction activities occurring on the 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 Use.

Water Supply and Sewerage Works Internal

- 5. Undertake the following water supply and sewerage works internal to the subject land:
 - a. Provide a single internal sewer connection which must be clear of any buildings or structures;
 - b. Provide a single internal water connection;
 - c. Any water supply sub-metering must be designed and installed in accordance with the Queensland Development Code and the *Water Supply (Safety and Reliability) Act 2008*

All the above works must be designed and constructed in accordance with the FNQROC Development Manual.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to Commencement of Use.

Vehicle Parking

- 6. The amount of vehicle parking must be as specified in Council's Planning Scheme which is a minimum of six (6) spaces. The vehicle parking demand has been determined on the use of ground floor only and a single business on the property. Where a mezzanine floor is included additional vehicle parking is required to be provide on the site at the rate of 1 vehicle space per 90m² of floor area. Where each building is operated by separate businesses, vehicle parking is to be provide for each building in accordance with Australian Standards.

The onsite parking must include consideration and signage for visitor parking at the front of the premises. The car parking layout must comply with the:

- a. Australian Standard AS2890.1 Parking facilities, Part 1 – off-street car parking;
- b. Australian Standard AS2890.6 Parking facilities, Part 6 – off-street parking for people with disabilities; and

- c. be constructed in accordance with Austroads and good engineering design.

In addition, all parking, driveway and vehicular manoeuvring areas must be imperviously sealed, drained and line marked.

All internal vehicle parking area must be line-marked and reserved at all times for parking purposes.

Delivery and Collection of Materials

7. All regular loading and unloading of materials transported to and from the site will occur on the land. All vehicles associated with unloading and loading must enter and exit the site in a forward gear.

External Works

8. Undertake the following works external to the land at no cost to Council:
 - a. Provision of a concrete crossover(s) and apron(s) in accordance with FNQROC Development Manual Standard Drawings S1015, S1110 and also having regard to the Standard drawing S1050 (Grated Kerb And Inlet Pit Pipe Dia \leq 600mm). In particular the developer will need to remove the transition kerb section and cast in situ the modified crossover apron section. Work must be inspected by Council prior to the pouring concrete for the work.
 - b. Relocate the street tree to between the driveway and the northern property boundary;
 - c. Repair any damage to existing kerb and channel, footway or roadway (including removal of concrete slurry from footways, roads, kerb and channel and stormwater gullies and drain lines) that may occur during and works carried out in association with the construction of the approved development.*

All the above works must be designed and constructed in accordance with the FNQROC Development Manual.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to Commencement of Use..

Emissions

9. Dust emissions or other air pollutants, including odours, must not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

Storage of Machinery and Plant

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

Landscaping Plan

11. The site must be landscaped whereby there is:
 - a. Deep planting of setback areas;

- b. Relocation of the existing street tree to north of the new driveway;
- c. Consistency with Council's Planning Scheme Policy No.6.7 Landscaping.
- d. Inclusion of any other relevant conditions included in this Development Permit. A copy of this Development Approval must be given to the applicant's Landscape Architect/Designer.

Relocation of the tree is to be undertaken under supervision of Council staff.

All landscaping must be established in compliance with FNQROC Regional Development Manual.

All landscaping must be completed prior to the Commencement of Use. Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer.

Painting Activity

12. All painting activities conducted on site must be undertaken within the shed(s) and all reasonable and practicable measures must be taken to prevent environmental harm from such an activity in accordance with Environmental Protection Act 1994. In particular:

Spray painting undertaken at the workplace must be conducted:

- a. On a sealed surface;
- b. Within a screened enclosure;
- c. In such a manner as to ensure that the escape of odours and overspray from the screened enclosure is prevented or minimised; and
- d. In accordance with any handling recommendations from paint manufacturers.

Spray application of surface coats containing isocyanates (eg 2-pack paints) and/or lead is not permitted under this approval.

Lawful Point of Discharge

13. 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.

Refuse Storage

14. Refuse storage is required to service the site in accordance with Council requirements.

Advertising Signage

15. The development must provide clear and legible signage incorporating the street number for the benefit of the public. The signage must comply with the Advertising Devices Code contained within the Douglas Shire Planning Scheme or as otherwise approved by the Chief Executive Officer.

Crime Prevention Through Environmental Design

16. All lighting and landscaping requirements are to comply with Council's General Policy Crime Prevention Through Environmental Design (CPTED).

Advice

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.
2. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with relevant Local Laws and statutory requirements.
4. For information relating to the Disability (Access to Premises - Buildings) Standards 2010 the applicant is referred to the following website which contains both the legislation and explanatory notes: <https://www.legislation.gov.au/Details/F2010L00668>
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:

- All Building Work
- All Operational Work

All Plumbing and Drainage Work must only be carried in compliance with the Queensland *Plumbing and Drainage Act 2018*.

Currency Period for the Approval

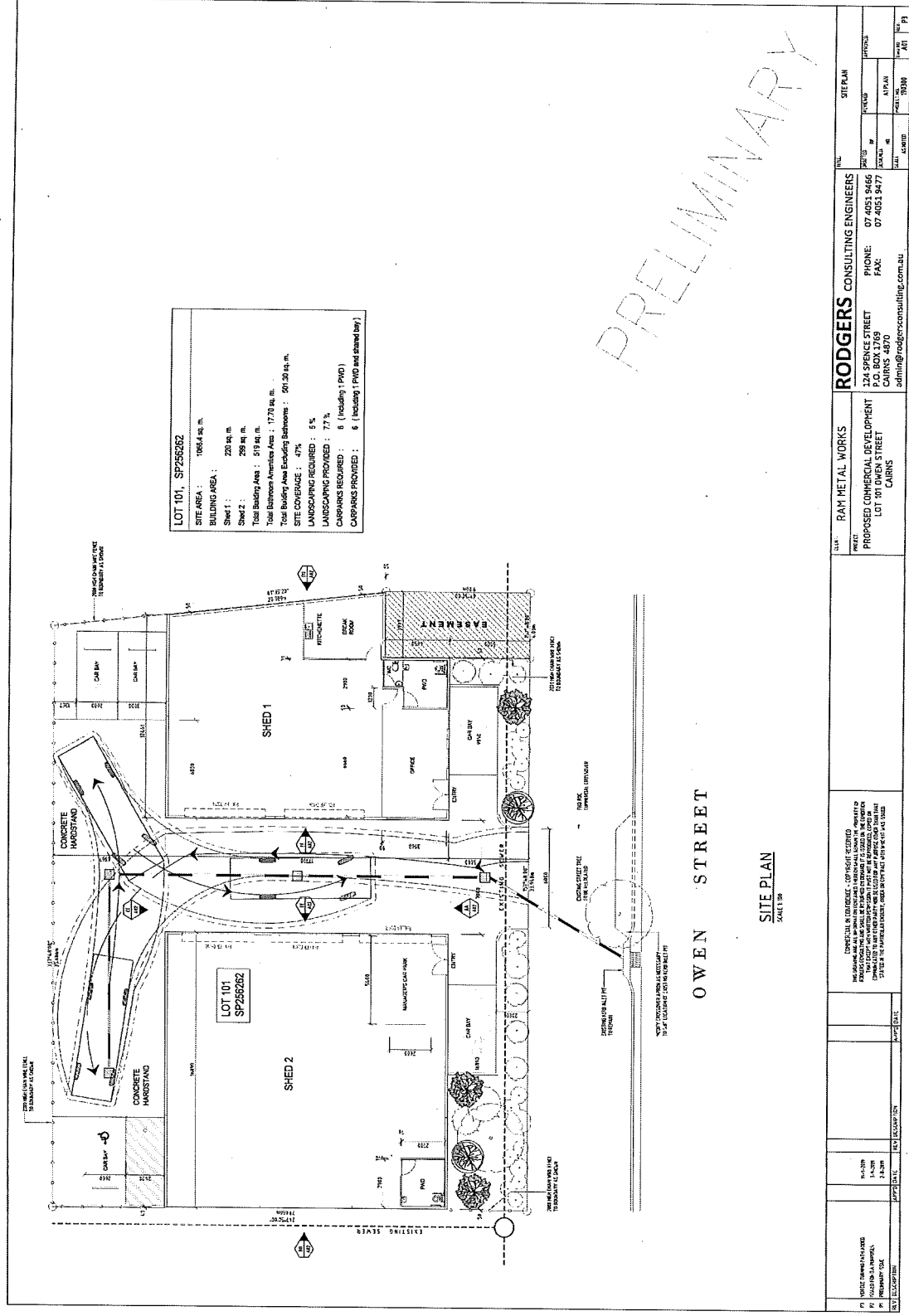
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

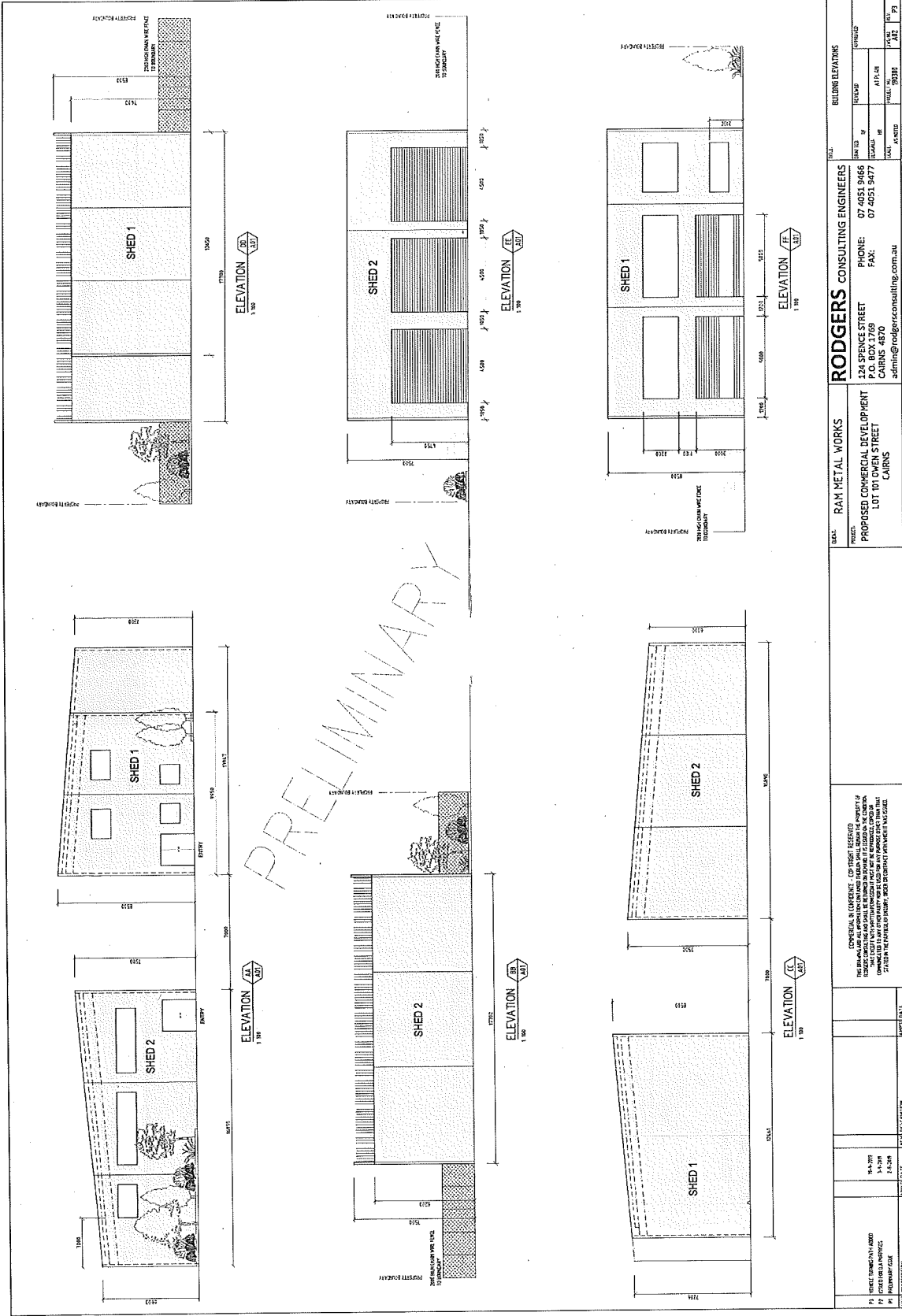
Rights to make Representations & Rights of Appeal

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 appeal provisions are attached.

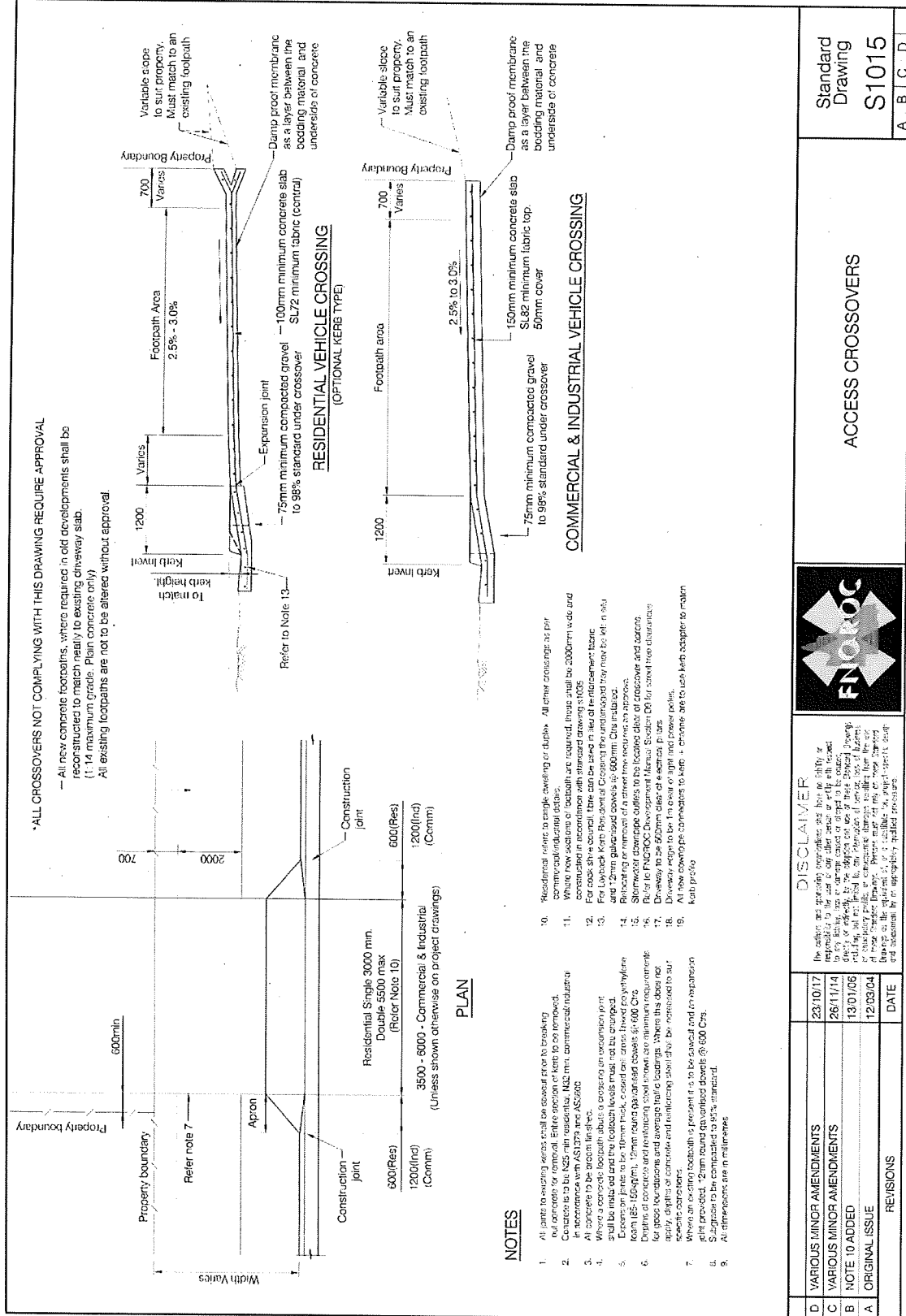
Approved Drawing(s) and/or Document(s)

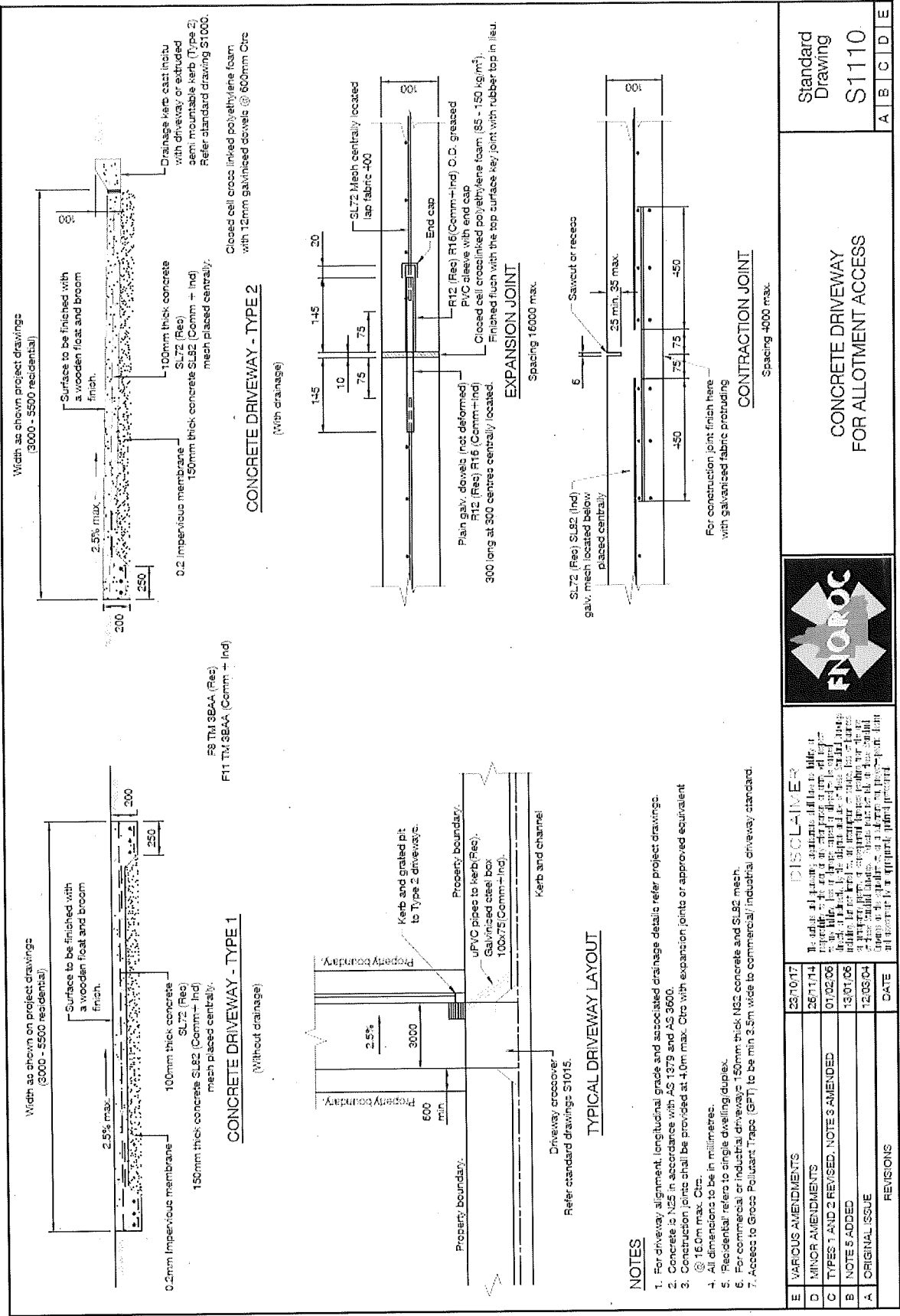




PROJECT INFORMATION		CLIENT		PROPOSED COMMERCIAL DEVELOPMENT		RODGERS CONSULTING ENGINEERS		BUILDING ELEVATIONS	
P1 PROJECT NUMBER: 10000		P2 PROJECT NAME: 10000		P3 PROJECT ADDRESS: 10000		P4 PROJECT CONTACT: 10000		P5 PROJECT DATE: 10000	
P6 PROJECT DESCRIPTION: 10000		P7 PROJECT LOCATION: 10000		P8 PROJECT SCALE: 10000		P9 PROJECT STATUS: 10000		P10 PROJECT DRAWING: 10000	
P11 PROJECT DESIGNER: 10000		P12 PROJECT ARCHITECT: 10000		P13 PROJECT ENGINEER: 10000		P14 PROJECT CONSULTANT: 10000		P15 PROJECT REVIEWER: 10000	
P16 PROJECT APPROVER: 10000		P17 PROJECT DATE: 10000		P18 PROJECT SCALE: 10000		P19 PROJECT STATUS: 10000		P20 PROJECT DRAWING: 10000	
P21 PROJECT DESIGNER: 10000		P22 PROJECT ARCHITECT: 10000		P23 PROJECT ENGINEER: 10000		P24 PROJECT CONSULTANT: 10000		P25 PROJECT REVIEWER: 10000	
P26 PROJECT APPROVER: 10000		P27 PROJECT DATE: 10000		P28 PROJECT SCALE: 10000		P29 PROJECT STATUS: 10000		P30 PROJECT DRAWING: 10000	
P31 PROJECT DESIGNER: 10000		P32 PROJECT ARCHITECT: 10000		P33 PROJECT ENGINEER: 10000		P34 PROJECT CONSULTANT: 10000		P35 PROJECT REVIEWER: 10000	
P36 PROJECT APPROVER: 10000		P37 PROJECT DATE: 10000		P38 PROJECT SCALE: 10000		P39 PROJECT STATUS: 10000		P40 PROJECT DRAWING: 10000	
P41 PROJECT DESIGNER: 10000		P42 PROJECT ARCHITECT: 10000		P43 PROJECT ENGINEER: 10000		P44 PROJECT CONSULTANT: 10000		P45 PROJECT REVIEWER: 10000	
P46 PROJECT APPROVER: 10000		P47 PROJECT DATE: 10000		P48 PROJECT SCALE: 10000		P49 PROJECT STATUS: 10000		P50 PROJECT DRAWING: 10000	
P51 PROJECT DESIGNER: 10000		P52 PROJECT ARCHITECT: 10000		P53 PROJECT ENGINEER: 10000		P54 PROJECT CONSULTANT: 10000		P55 PROJECT REVIEWER: 10000	
P56 PROJECT APPROVER: 10000		P57 PROJECT DATE: 10000		P58 PROJECT SCALE: 10000		P59 PROJECT STATUS: 10000		P60 PROJECT DRAWING: 10000	
P61 PROJECT DESIGNER: 10000		P62 PROJECT ARCHITECT: 10000		P63 PROJECT ENGINEER: 10000		P64 PROJECT CONSULTANT: 10000		P65 PROJECT REVIEWER: 10000	
P66 PROJECT APPROVER: 10000		P67 PROJECT DATE: 10000		P68 PROJECT SCALE: 10000		P69 PROJECT STATUS: 10000		P70 PROJECT DRAWING: 10000	
P71 PROJECT DESIGNER: 10000		P72 PROJECT ARCHITECT: 10000		P73 PROJECT ENGINEER: 10000		P74 PROJECT CONSULTANT: 10000		P75 PROJECT REVIEWER: 10000	
P76 PROJECT APPROVER: 10000		P77 PROJECT DATE: 10000		P78 PROJECT SCALE: 10000		P79 PROJECT STATUS: 10000		P80 PROJECT DRAWING: 10000	
P81 PROJECT DESIGNER: 10000		P82 PROJECT ARCHITECT: 10000		P83 PROJECT ENGINEER: 10000		P84 PROJECT CONSULTANT: 10000		P85 PROJECT REVIEWER: 10000	
P86 PROJECT APPROVER: 10000		P87 PROJECT DATE: 10000		P88 PROJECT SCALE: 10000		P89 PROJECT STATUS: 10000		P90 PROJECT DRAWING: 10000	
P91 PROJECT DESIGNER: 10000		P92 PROJECT ARCHITECT: 10000		P93 PROJECT ENGINEER: 10000		P94 PROJECT CONSULTANT: 10000		P95 PROJECT REVIEWER: 10000	
P96 PROJECT APPROVER: 10000		P97 PROJECT DATE: 10000		P98 PROJECT SCALE: 10000		P99 PROJECT STATUS: 10000		P100 PROJECT DRAWING: 10000	

FNQROC Development Manual Standard Drawing/s for Vehicle Access





E		VARIOUS AMENDMENTS	23/01/17	Standard Drawing	
D		MINOR AMENDMENTS	26/11/14	S1110	
C		TYPES 1 AND 2 REVISED, NOTE 3 AMENDED	01/02/06	A B C D E	
B		NOTE 3 ADDED	13/01/06		
A		ORIGINAL ISSUE	12/03/04		
REVISIONS			DATE		

CONCRETE DRIVEWAY FOR ALLOTMENT ACCESS

DISCLAIMER

The user of this drawing warrants that it is for their use only and is not to be used for any other purpose. The user of this drawing warrants that it is for their use only and is not to be used for any other purpose. The user of this drawing warrants that it is for their use only and is not to be used for any other purpose.

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

Non-Compliance with Assessment Benchmarks

Benchmark Reference	Alternative Measure/Comment
<p>Industry Zone Code</p> <p>AO2.1 Buildings are required to be setback 6m from the road frontage.</p> <p>PO2 Buildings and structures are setback to contribute to an attractive and consistent streetscape appearance and to protect amenity of other land uses.</p> <p>AO4.1 Pedestrian entrances to buildings are:</p> <p>(a) easy to identify from the street and on-site car parking areas.</p> <p>AO4.3 Customer parking is located at the front of the building between the building and the street or to the side of the building with clear visibility to the street.</p> <p>PO4 Development provides a quality workplace.</p>	<p>Conditions require the relocation of the street tree and landscaping in accordance with Planning Scheme Policies.</p> <p>A condition requires a covered awning to the front office entrance.</p> <p>Conditions require the relocation of the disability car parking space to the front of the premises with safe and direct access to the office entrance.</p>
<p>Industry Activities Code</p> <p>AO2(a) the building is setback 6m from the road frontage.</p> <p>PO2 Setbacks:</p> <p>(a) Contribute to an attractive and consistent streetscape appearance;</p> <p>(b) provide for visible employee and customer car parking.</p> <p>AO3.1 Pedestrian entrances to building are:</p> <p>(a) easily identifiable from the street and directly accessible from the car parking areas;</p> <p>(b) provided with sun and rain shelter a minimum of 900mm width immediately above the entryway.</p> <p>AO3.3 Customer car parking is located at the front or side of the premises with clear and direct pedestrian access to the main customer building entry.</p> <p>AO3.6 Development provides clear and legible street numbering for the benefit of motorists.</p> <p>PO3 The appearance of the development provides a quality, legible appearance and workplace.</p>	<p>Conditions of the approval require the relocation of the disability car parking space to the front of the building and the relocation of the street tree.</p> <p>A condition of the approval requires street numbering on the building.</p>

Benchmark Reference	Alternative Measure/Comment
<p>Industry Activities Code continued</p> <p>AO5 Design takes into account the potential need to provide</p> <p>(b) waste and recyclable material storage areas; and</p> <p>(f) car parking, manoeuvring areas including loading facilities.</p> <p>PO5 Development adequately takes into account the functional requirements of infrastructure needs and service of the use.</p> <p>AO6 All vehicles are contained within the site when loading and unloading.</p> <p>PO6 The transport of goods and materials to and from the site does not adversely affect the movement of traffic on roads adjacent to the site.</p>	<p>Conditions of the approval require these to be detailed on the plans. The requirement to relocate the disability car parking space to the front of the site addresses these requirements.</p> <p>A condition of the approval requires all regular loading and unloading to be conducted on the site and for vehicles to enter and exit the site in a forward direction. A separate condition requires the provision of six (6) vehicle parking spaces.</p>
<p>Access, Parking and Servicing Code</p> <p>AO1 A minimum number of car spaces are to be provided on the land together with a minimum size delivery vehicle.</p> <p>PO1 Sufficient on-site car parking is provide to cater for the amount and type of vehicle traffic</p> <p>AO2 Compliance with AS2890.1 and AS2890.6</p> <p>PO 2 Vehicle parking areas are designed and constructed in accordance with relevant standards.</p> <p>AO5 Access for propel with disabilities is provided in accordance with the relevant Australian Standard.</p> <p>PO 5 Access for people with disabilities is provide to the building from the parking area and from the street.</p> <p>AO9.3 The movement of service vehicles and service operations are designed so they (b) do not impede vehicle or pedestrian movement.</p> <p>PO9 Access, internal circulation and on-site parking for service vehicles are designed and constructed:</p> <p>(a) in accordance with relevant standards;</p>	<p>A condition of the approval requires the relocation of the disability driver vehicle space to the front of the promises, adjacent to the office entrance and to meet the Australian Standards in respect to all matters and to be free any encumbrance such as the weather protection to the office entry.</p> <p>The condition allows for the reduction of adjacent landscape setback to achieve this requirement. However minimum standards must be achieved.</p> <p>A condition require suitable access and egress is available to the car parking space provided within the building.</p> <p>Standards for access and car parking for disabled persons are referenced as AS 2890.6 and the Disability (Access to Premises - Buildings) Standards 2010.</p>

Benchmark Reference	Alternative Measure/Comment
<p>Access, Parking and Servicing Code continued.</p> <p>(b) so that they do not interfere with the amenity of the surrounding area;</p> <p>(c) so that they allow for the safe and convenient movement of pedestrians, cyclists and other vehicles.</p>	
Advertising Devices Code	Compliance can be achieved through a standard condition.
<p>Environmental Performance Code</p> <p>AO3.1 Development does not involve activities that will result in airborne particles or emissions being generated; or</p> <p>AO3.2 The design, layout and operation of the development activity ensures that no airborne particles or emissions cause environmental harm or nuisance.</p> <p>PO3 Potential airborne particles and emissions generated from the development are avoided through design, location and operation of the activity.</p> <p>AO5.2 Provision of suitable waste and recyclable material storage facilities.</p> <p>PO5 Waste and recyclable material storage facilities are located and maintained to not cause adverse impacts on adjacent users.</p>	<p>Standard conditions ensure compliance.</p> <p>A condition requires the nomination of the storage area on the plans. A maintenance condition ensure amenity.</p>
<p>Environmental Performance Code</p> <p>AO3.1 Development does not involve activities that will result in airborne particles or emissions being generated; or</p> <p>AO3.2 the design, layout and operation of the development activity ensures that no airborne particles or emissions cause environmental harm or nuisance.</p> <p>PO5 Waste and recyclable material storage facilities are located and maintained to not cause adverse impacts on adjacent users.</p>	<p>Conditions of the approval set requirements for the code to be achieved.</p> <p>A condition of the approval requires the provision of an appropriate located and suitable waste collection / storage facilities. A separate condition requires the nomination of this area on the plan.</p>

Benchmark Reference	Alternative Measure/Comment
<p>Infrastructure Works Code</p> <p>AO1.2 Kerb ramp crossovers are constructed in accordance with the Planning Scheme Policy SC 5 FNQROC Regional Development Manual.</p> <p>PO1 Works on a local government road do not adversely impact on footpaths or existing infrastructure within the road verge and maintain the flow, safety and efficiency of pedestrians, cyclists and vehicles.</p>	<p>The vehicle crossover is in close proximity to the on-street stormwater pit and grate and the standard separation distance cannot be achieved without relocating the stormwater pit and associated infrastructure. The design plans are annotated, "modify crossover apron as necessary to suit location of existing kerb inlet pit." The relocation of the pit is not considered unreasonable. The alternative solution of removing the transition kerb section and casting in situ the modified crossover apron section is sufficient to meet the Performance Outcome PO1. A condition requires the alternative design solution.</p>
<p>Landscaping Code</p>	<p>Conditions of the approval set requirements for the code to be achieved.</p>

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.

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

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

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

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

