

11 September 2017

Enquiries: Jenny Elphinstone
Phone: (07) 4099 9482
Reference: MCUC 2220/2013 D#826772 *SL*

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

Ms Taryn Agius and Mr Perry Jones
C/- Urban Sync Pty Ltd
PO Box 2970
CAIRNS QLD 4870

Attention Ms Louise Cameron

e: louise@urbansync.com.au

Dear Madam

**NOTICE OF DECISION – MATERIAL CHANGE OF USE
FOR LOT 13 ZENA CLOSE, CAPE TRIBULATION, LOT 13 ON RP738897
(GIVEN UNDER SECTIONS 83 & 87 PLANNING ACT 2016)**

Douglas Shire Council advises that the development applications described below have been approved at Council's delegate on 11 September 2017.

1. Applicant details

Applicant name: Taryn Agius and Perry Jones

2. Site details

Lot on plan: Lot 13 on RP738897
Local government area: Douglas Shire Council

3. Application descriptions

- Applications:
- A. Minor change to the development approval to the Development Permit for a Material Change of Use for a House and Operational Work for Clearing Vegetation issued 16 January 2013 for Lot 13 Zena Close, Cape Tribulation, being Lot 13 on RP738897 whereby:
 - i. Conditions 2-15 of the of the Permit to Damage Protected Vegetation issued on 11 January 2011 by Cairns Regional Council form part of the Decision Notice; along with the inclusion of an additional condition to manage the appropriate disposal of any damaged vegetation; and

- ii. The House design is amended to incorporate a lower level. The amended house design drawing specifies the House to be accessed via an extended driveway with vehicle turn around and then via a pedestrian pathway of some 60m length rising 21m. Vehicle storage is to be provided at the lower part of the site, close to Zena Close.

B. Extend the approval period for a further four (4) years for the Development Permit for a Material Change of Use for a House and Operational Work for Vegetation Clearing for Lot 13 Zena Close, Cape Tribulation, being Lot 13 on RP738897 issued on 16 January 2013 with a currency to 20 August 2017.

4. Description of assessment benchmarks – for application description Part A only

Benchmarks applying for the Minor Change	Benchmark Reference	Compliance
State Development Assessment Requirements	State Planning Policy	Complies through conditions of approval and proposed additional conditions
Douglas Shire Council Planning Scheme 2006 (as amended)	Settlement Areas North of the Daintree River Locality Code	Complies through conditions of approval and proposed additional conditions.
	Conservation Planning Area Code	Complies through conditions of approval and proposed additional conditions.
	Overlay Code <ul style="list-style-type: none"> Natural Hazards Code 	Complies
	Use Code <ul style="list-style-type: none"> House Code 	Complies through conditions of approval and proposed additional conditions.
	Other Development Codes <ul style="list-style-type: none"> Filling and Excavation Code Landscaping Code Natural Areas and Scenic Amenity Code Vehicle Parking and Access Code Vegetation Management Code 	Complies through conditions of approval and proposed additional conditions
	Planning Scheme Policy/ies <ul style="list-style-type: none"> Building Design and Architectural Elements Policy Erosion and Sediment Control 	Complies through conditions of approval and proposed additional conditions.

Benchmarks applying for the Minor Change	Benchmark Reference	Compliance
	Policy <ul style="list-style-type: none"> • FNQROC Development Manual Policy • Landscaping Policy • Natural Areas and Scenic Amenity Policy 	

Note - no change to referral agency conditions, minor change only.

5. Extent change application required impact assessment – for application description Part A only

None.

6. Submissions

There were no submissions received against the original application. The development is code assessable against the current and proposed planning schemes.

7. Reasons for decision – for application description Part A only

- a. The minor change required an approval under the *Planning Act 2016*.
- b. The application for a minor change was properly made.
- c. The application contained a report which Council reviewed together with Council's own investigation in making the assessment.
- d. The proposed minor change complies with the relevant Planning Scheme Codes.
- e. The proposed additional conditions ensure the development complies with the Amended Planning Scheme.

8. Reasons for approval of change application despite the development not complying with any or all of the benchmarks - – for application description Part A only

Not applicable.

9. Matters prescribed by a regulation - – for application description Part A only

Not applicable.

A Decision Notice for the applications is attached.

Other

Please note any further extension to the period of approval would need to have greater regard to the proposed planning scheme and to give consideration to repositioning the development of the house at a lower position on the hillside in an area of lesser slope grade.

Please quote Council's application number MCU 2220/2017 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



TRACEY COUCH
A/Manager Sustainable Communities

cc. Department of Infrastructure, Local Government and Planning, PO Box 2358, Cairns Q 4870

encl:

Decision Notice

Schedule 1 - Assessment Manager Conditions

Schedule 2 – A - Approved amended plans.

Schedule 3 – A copy of the current approval.

Schedule 4 – Appeal Rights extract from the *Planning Act 2016*.

DOUGLAS SHIRE COUNCIL
DECISION NOTICE — APPROVAL TO CHANGE THE DEVELOPMENT PERMIT AND TO
EXTEND THE APPROVAL PERIOD
(GIVEN UNDER SECTIONS 81, 83 & 87 PLANNING ACT 2016)

1. Applicant's details

Name:	Taryn Agius and Perry Jones
Postal Address:	C/- Urban Sync Pty Ltd PO Box 2970 CAIRNS QLD 4870 Attention Ms Louise Cameron
Email:	Louise@urbansync.com.au
Phone No:	07 4051 6946

2. Location details

Street Address:	Lot 13 Zena Close, Cape Tribulation
Real Property Description:	Lot 13 on RP738897
Local Government Area:	Douglas Shire Council

3. Details of proposed development

For the development approval dated 16 January 2013 for the Material Change of Use (Code) for a House and Operational Work (Code) for Vegetation Clearing:

- A. an application for a minor change to the development approval lodged on 29 August 2017; and
- B. an application to extend the period of approval lodged on 17 August 2017.

4. Decisions

Date of decisions: 11 September 2017.

Decision details: A. i. The request for a minor change to the Development Permit for a Material change of use for a House and Operational Work for Clearing Vegetation over land at Lot 13 on RP738897, being Lot 13 Zena Close, Cape Tribulation be approved subject to amended conditions as included in Schedule 1.

AND

- ii. The following design plans are included in the Decision Notice, as per Schedule 2.

Drawing or Document	Reference	Date
Front/south elevation	-	19 February 2008
Rear/north elevation	-	19 February 2008
Floor plan	-	19 February 2008
Site Plan	T859 Sheet 1	17/03/09
Site Details	T859 Sheet 2	17/03/09
Site Plans	Chris Vandyke Designs Job T859	2 August 2013

	<u>Sheet 01 Revision 1</u>	
<u>Part Site Plan – Proposed Shed Location</u>	<u>Chris Vandyke Designs Job T859 Sheet 02</u>	<u>Undated as submitted to Council on 28 August 2017 (Council electronic document D#826190)</u>
<u>Floor Plans</u>	<u>Chris Vandyke Designs Job T859 Sheet 03 Revision 1</u>	<u>2 August 2013</u>
<u>Elevations</u>	<u>Chris Vandyke Designs Job T859 Sheet 04 Revision 1</u>	<u>2 August 2013</u>
<u>Sections</u>	<u>Chris Vandyke Designs Job T859 Sheet 05 Revision 1</u>	<u>2 August 2013</u>

AND

- iii. All other requirements of the Decision Notice dated 16 January 2013 remain unchanged, a copy of which is included in Schedule 3;

AND

- B. The request for an extension approval to the Development Permit for a Material Change of use for a House and Operational work for Clearing Vegetation over land described as Lot 13 on RP738897 at Lot 13 Zena Close, Cape Tribulation be approved for a further four (4) years up to and including 20 August 2021.

5. Original Development Permit

A copy of the original Development Permit is included in Schedule 3.

6. Further Development Permits and other Approvals

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

- All Building Work

Separate permits are required for the following:

- All Plumbing and Drainage Work

7. Properly made submissions

None to the original application. Development is now code assessable development – submissions not applicable.

8. Currency period for the approval

The period of approval for this development permit is extended up to and including 20 August 2021 unless the use is commenced before this date. Where lawfully commenced on or before the 20 August 2021 the approval has effect.

9. Concurrence and Referral Agencies

Development application - Part A only – no requirement to refer application for a minor change to the referral agency.

Development application - Part B only – no requirement to refer application to extend approval period. A copy of decision notice to be issued to the referral agency.

For an application involving	Name of referral agency	Advice or concurrence agency	Agency Address
For previous referral requirements, refer to the original approval in Schedule 3.	Chief Executive Officer	Concurrence	Department of Infrastructure, Local Government and Planning PO Box 2358 Cairns QLD 4870

10. Rights of appeal

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

A copy of the relevant appeal provisions is included in Schedule 4.

END OF DECISION NOTICE

Schedule 1 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.

Vegetation Clearing

- ~~3. A Permit to Damage Protected Vegetation under Amendment 1 of 2006 Of Local Law No. 56 Vegetation Management must be obtained prior to any clearing of vegetation associated with this approval.~~

~~Existing vegetation on the subject land must be retained in all areas except those affected by the construction of the house, the access driveway and the installation of services as detailed on the approved plans. Vegetation to be retained is to be identified and adequately fenced off for protection purposes prior to construction work commencing on the site.~~

Removal of Protected Vegetation

4. An Ecoaccess approval must be obtained from the Environmental Protection Agency prior to the clearing of vegetation and/or tree removal as plant species protected under the provisions of the Nature Conservation Act 1992 are known to occur within the area covered by this development approval. Information on Ecoaccess approvals may be obtained at www.epa.qld.gov.au or by contacting the Ranger Flora at the Cairns Office of QPWS on Phone: 4046 6609.

Buffer Around Vegetation

5. A minimum 2 metre wide buffer shall be provided around the vegetation to be retained. This buffer must consist of suitable fencing to ensure that machinery, equipment or construction materials are not stored or used within this area. This buffer is to be established prior to the commencement of any works on the site and must be maintained at all times for the duration of the construction to the satisfaction of the Chief Executive Officer.

Notification of Vegetation Clearing

6. Council's Development Assessment Branch must be notified two days prior to the proposed date of commencement of any approved vegetation clearing.

Wildlife

7. Prior to removal of any tree, an inspection must be carried out for any signs of protected wildlife including nests and animal habitat. Should any recent wildlife activity be identified, removal of the tree must not occur until the animal has vacated the area of immediate danger. If the animal does not move from the area of danger, the Queensland Parks and Wildlife Services must be contacted for advice. Important habitat trees should be retained wherever possible.

Existing Creek and Drainage Systems

8. All existing creek systems and drainage areas must be left in their current state, including no channel alterations and no removal of vegetation unless consented to in writing by the Chief Executive Officer.

The applicant/owner must obtain any necessary approvals from the Department of Natural Resources and Water for carrying out works in a watercourse.

Water Supply

9. Water storage tank(s) with a minimum capacity not less than 30,000 litres, must be installed prior to occupation of the premises. Details of the water tank(s) must be shown on plans submitted prior to the issue of a Development Permit for Operational Works. Such water tanks must be provided with:
 - a. Mosquito-proof screens of brass, copper, aluminium or stainless steel gauze not coarser than 1mm aperture mesh of substantial construction and installed in such manner as not to cause or accelerate corrosion; or
 - b. Flap valve at every opening of the tank or other receptacle; or
 - c. Other approved means for preventing the ingress or egress of mosquitoes; and
 - d. Where a tank or other receptacle is provided with a manhole, the manhole must have a diameter of no more than 40cm; and
 - e. The water tank(s) shall be fitted with a 50mm ball valve with a camlock fitting.

On-site Effluent Disposal

10. The method of on-site effluent disposal must be in accordance with the Queensland Plumbing & Wastewater Code. Details of the wastewater treatment system to be installed must be approved by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

Lawful Point of Discharge

11. 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.

Sediment and Erosion Control

12. Soil and water management measures must be installed/implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the Environmental Protection Act 1994, and the FNQROC Development Manual).

In particular, the applicant/owner must ensure that works undertaken on the access driveway are designed and installed to ensure that the post-development discharge from the site has a no worsening impact on downstream properties or waterways located on the site.

Stockpiling and Transportation of Fill Material

13. 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.
14. Dust emissions or other air pollutants do not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

Storage of Machinery & Plant

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

Geotechnical Assessment

16. All works must be undertaken in accordance with the recommendations contained in the Geotechnical Investigation Report prepared by Golder Associates, dated January 2009, reference 087672048001 Rev0 (Council Reference 2005103).
17. All landscaping to be installed must consist of native and endemic species only and planted in an irregular and random fashion to blend with existing vegetation. Exotic species are not permitted.
18. The disturbed areas of land for the creation of driveways and cut and fill batter areas must be revegetated with native species found in the locality.
19. The owner must undertake to eradicate the Singapore Daisy located in the rainforest section of the access driveway.
20. A Landscape Plan nominating the species and location of trees and shrubs to be planted must be endorsed by the Chief Executive Officer. The approval and completion of all landscaping works must be undertaken in accordance with the endorsed plan prior to the issue of a Certificate of Classification or Commencement of Use whichever occurs first. The landscape plan does not need to be professionally drawn but does need to be of a standard which clearly illustrates those areas to be planted.

Building Colours

21. The exterior finishes and colours of Buildings are non-reflective and blend with the natural colours of the surrounding environment.

The following proposed building colours are approved for use:

Exterior Walls – Wilderness (Colorbond)

Roof – Wilderness (Colorbond)

The applicant/owner must also ensure that the above Building Exterior requirements are made known in writing to all prospective purchasers.

Generators

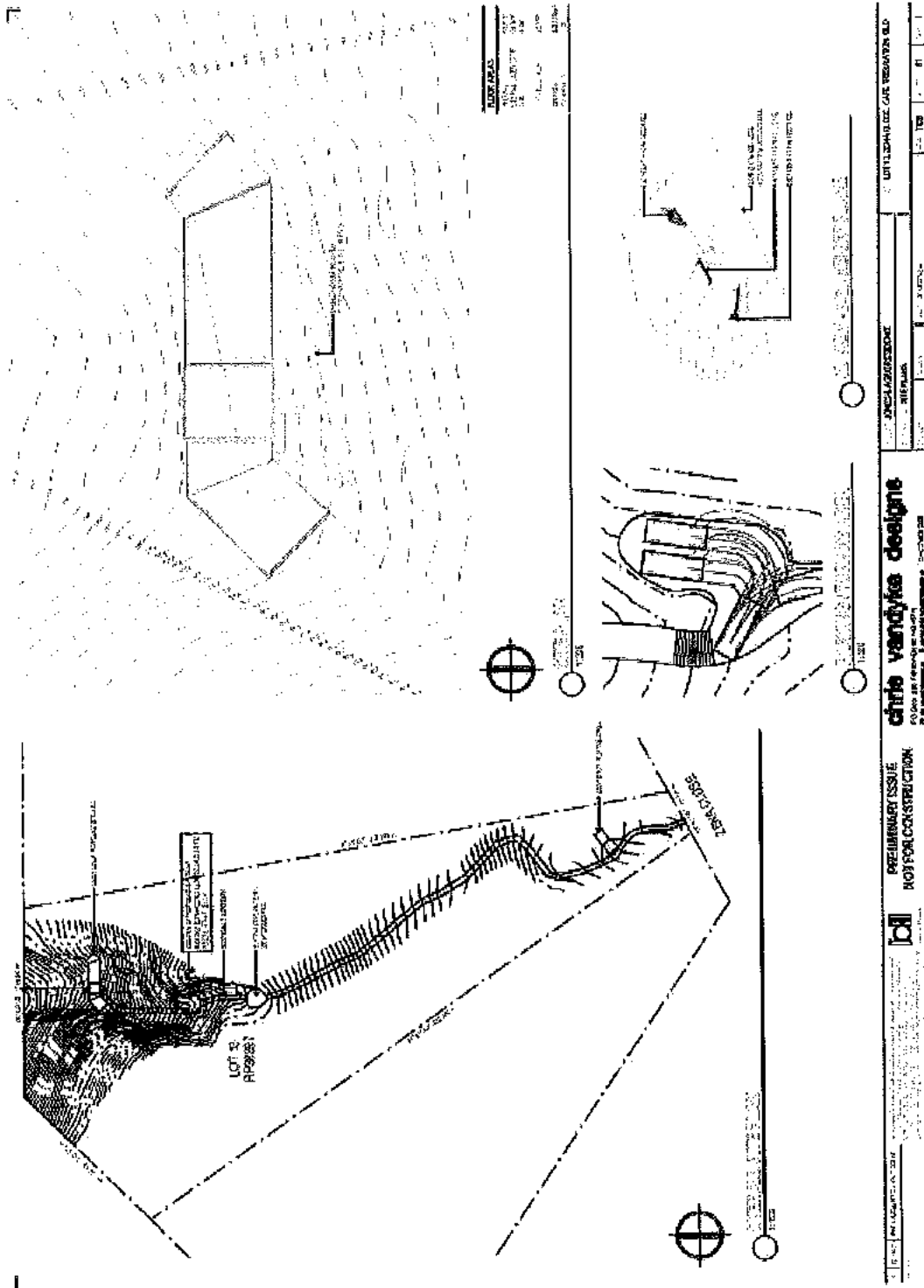
22. All power generation devices are to be positioned and housed (including noise attenuation material) so as to mitigate noise nuisance to adjoining and nearby residents.

Fuel Storage

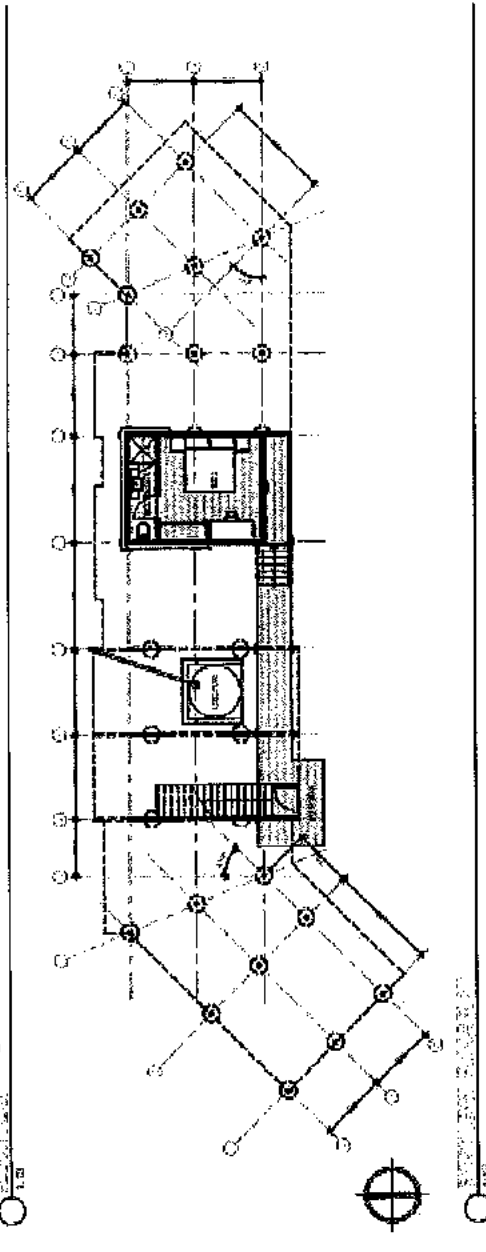
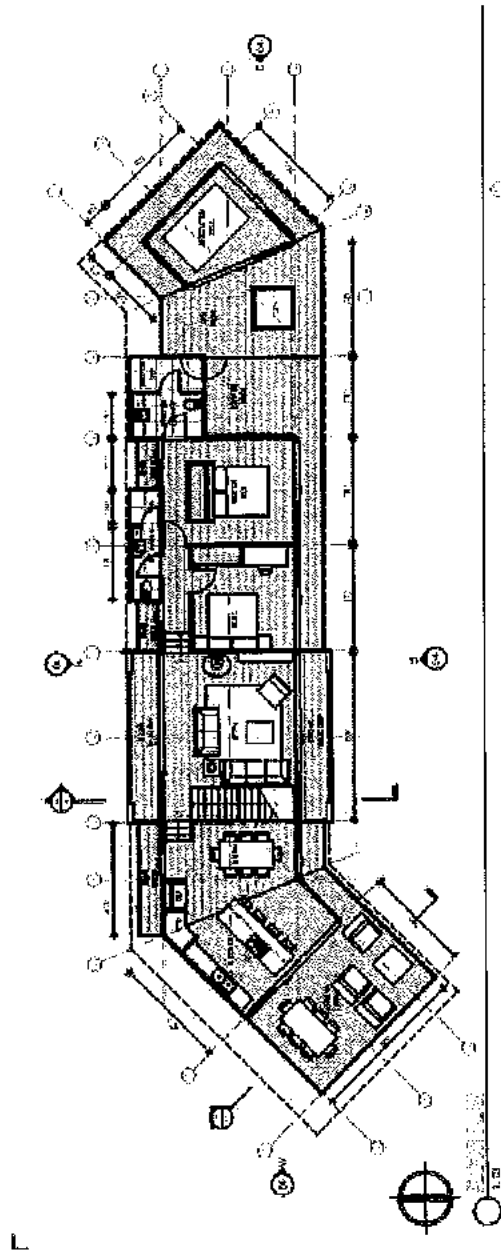
23. All fuels must be stored in an undercover and secure location at all times.
24. No other trees or vegetation are to be removed or damaged and the removal of the subject vegetation is to be undertaken in a manner that incurs no damage to nearby vegetation.
25. The total area cleared for the house and shed sites is not to exceed 700m².
26. The clearing for the access driveway is not to exceed 4 metres in width.
27. The access driveway and all other earth works shall be constructed and maintained in accordance with the requirements of the FNQROC Development Manual.
28. No clearing for a house site, other buildings or works auxiliary to a house are to take place prior to Building Approval being issued by Council or a Certified Building Surveyor.
29. All clearing and/or tree removal activities are to be in accordance with the site specific Erosion & Sediment Control Plan and the conditions of the MCU approval.
30. All clearing and/or tree removal activities are to be in accordance with the requirements of the site specific Geotechnical Report and the conditions of the approval.
31. All pruning of trees and shrubs along the access driveway, walkway and margins of the house site is to be in accordance with the requirements of the Australian Standard Pruning of Amenity Trees AS 4373-2007.
32. A Clearing Permit must be obtained from the Department of Environment & Heritage prior to the clearing of vegetation as small specimens of the following plant species listed as Near Threatened and protected under the provisions of the Nature Conservation Act 1992 are known to occur within the area covered by this approval. *Austromuellera trinervia*, *Beilschmedia castrisinensis*, *Cleistanthus myrianthus*, *Endiandra microneura*, *Haplostichanthus ramiflorus*, & *Rourea brachyandra*.
33. Trees and/or vegetation that contain nesting native birds, dens or roosting sites of native animals are not to be removed while the nests, dens or roosting sites are in use as per the requirements of the Nature Conservation (Wildlife Management) Regulation 2006 without the necessary Ecoaccess Approval.
34. The Class 3 Weed Singapore Daisy *Sphagnetocola trilobata* is to be eradicated from the remnant vegetation on the property.

35. The area to be cleared is adjacent to a Protected Area under the Nature Conservation Act 1992. This approval does not authorize entry or damage to this Protected Area. (Protected areas are National Parks, Conservation Parks, Marine Parks, World Heritage Areas and Nature Refuges.)
36. This approval authorizes the removal of vegetation from an area of high biological diversity. The work authorized by this approval must be carried out in an environmentally sensitive manner in accordance with the conditions of this approval. If in doubt the precautionary principle should be applied. Stop work and contact Council for advice.
37. This permit is not transferable to other areas.
38. No clearing can commence prior to the issue of a Development Permit for Building Work.
39. All damaged vegetation must be:
- a. removed and disposed of at an approved site; or
 - b. mulched or chipped and used on site.

Schedule 2 – Approved Amended Plans

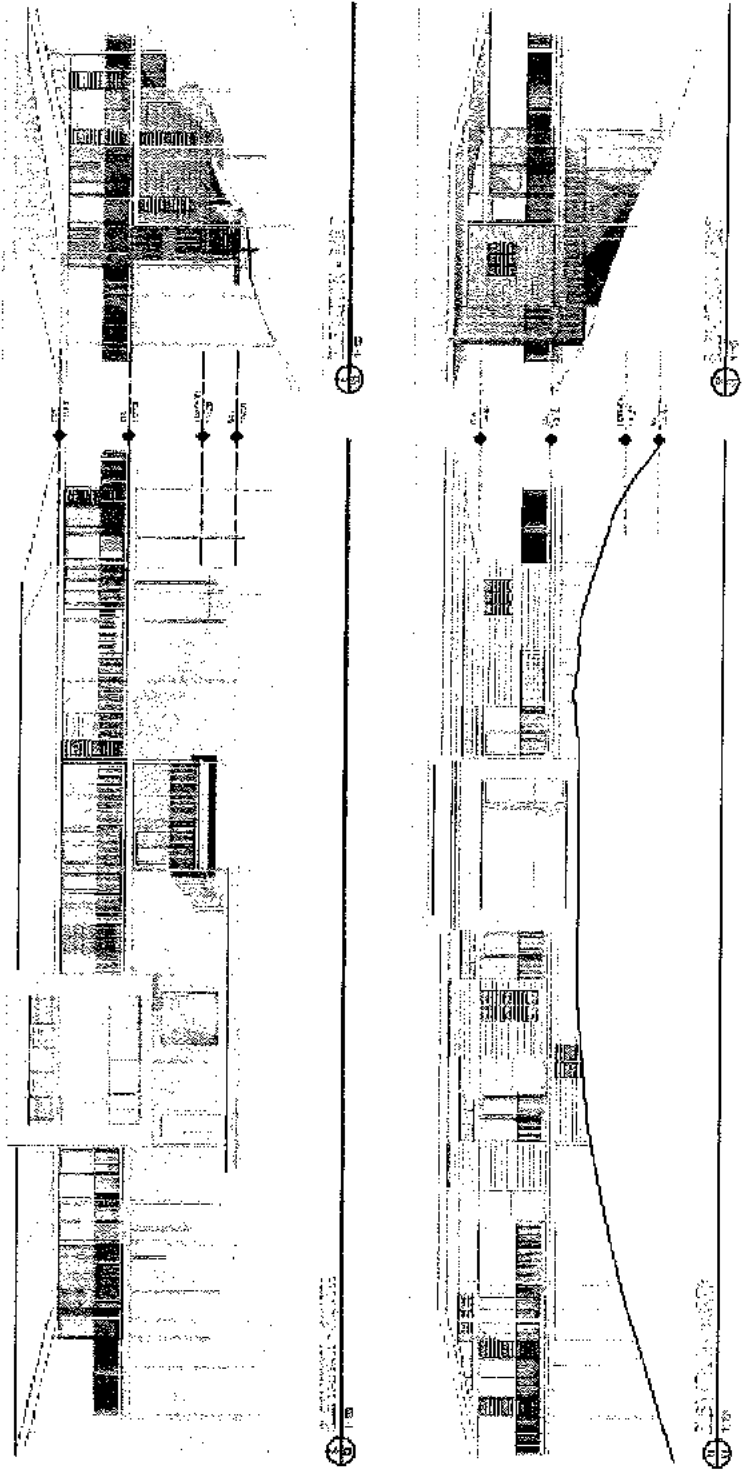


DATE	BY	CHKD	APPD
10/10/2017	10/10/2017	10/10/2017	10/10/2017
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10/10/2017	10/10/2017	10/10/2017	10/10/2017



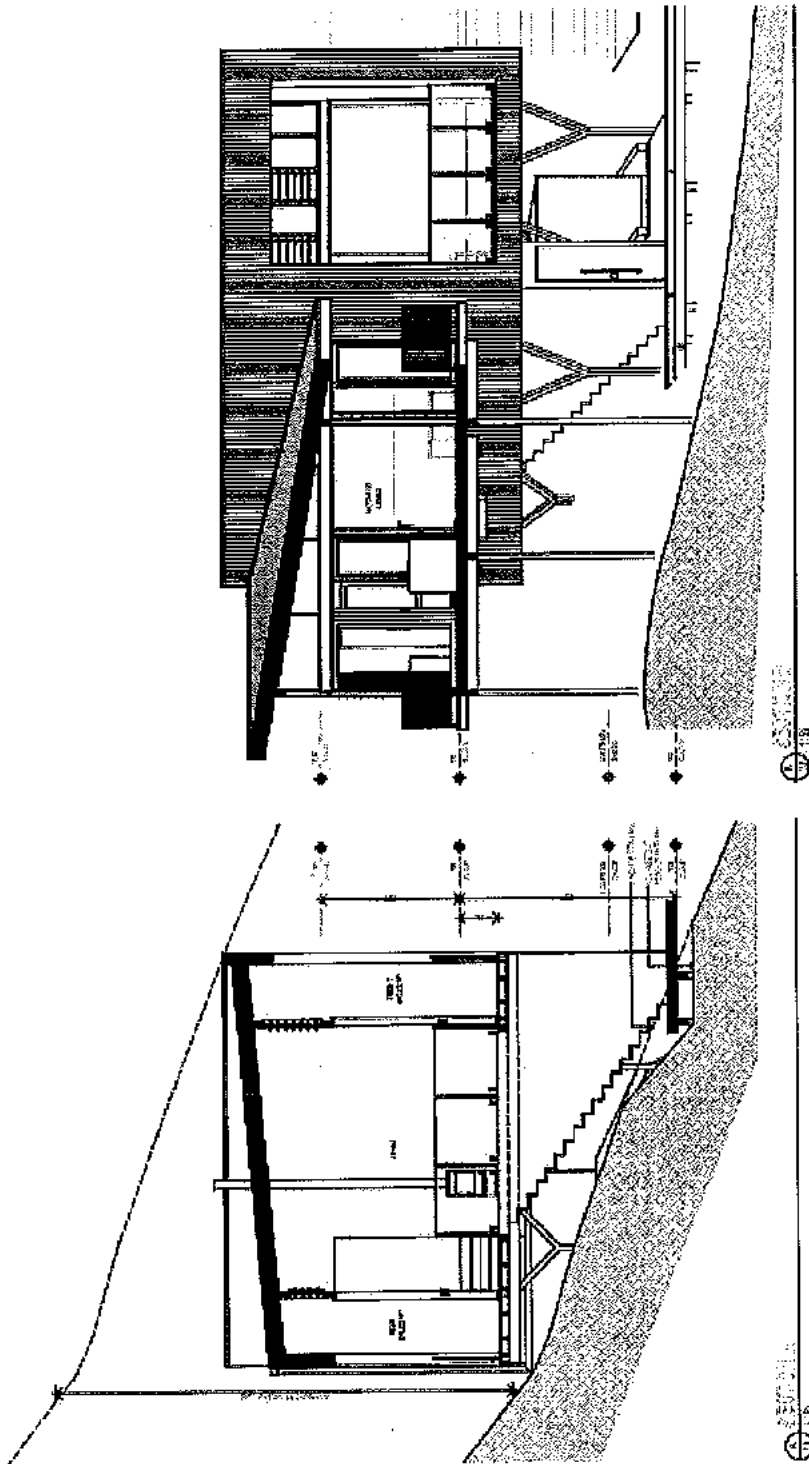
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PRELIMINARY ISSUE NOT FOR CONSTRUCTION		chris vandyke designs		DATE: 10/10/2017		BY: [signature]		PROJECT: [blank]		SHEET: 17 OF 18	
[blank]		[blank]		[blank]		[blank]		[blank]		[blank]	

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[Logo]	PRELIMINARY ISSUE NOT FOR CONSTRUCTION	chris vandyke designs 1111 1st Avenue, Suite 100 San Francisco, CA 94103-1000 Tel: 415.774.1234 Email: info@chrisvandyke.com	JAMES JOHNSON ARCHITECT 1111 1st Avenue, Suite 100 San Francisco, CA 94103-1000 Tel: 415.774.1234 Email: info@chrisvandyke.com	LUTHERAL CHURCH, BERKELEY, CA 1111 1st Avenue, Suite 100 San Francisco, CA 94103-1000 Tel: 415.774.1234 Email: info@chrisvandyke.com
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SCHEDULE 3 – EXISTING APPROVAL

ENQUIRIES: Michelle Henderson
PHONE: (07) 4099 9457
FAX: (07) 4044 3636
YOUR REF:
OUR REF: 0-37/107 (3945295)

16 January 2013

Perry Jones & Taryn Agius
c/- Chris Vandyke Designs
PO Box 236
CLIFTON BEACH QLD 4879

Dear Sir/Madam

**RE: REQUEST FOR EXTENSION OF PERIOD OF APPROVAL
AND CHANGE TO CONDITION FOR ZENA CLOSE, CAPE TRIBULATION**

In accordance with Section 809 of the *Sustainable Planning Act 2009*, please note that the Period of Approval has been extended for four (4) years, up to and including 20 August 2017, subject to the conditions contained within the Decision Notice dated 18 August 2009 (copy attached).

And that condition 24 has been deleted.

Refuse Storage

~~24. Refuse storage is required to service the site in accordance with Council requirements. Brochures on these requirements – 'Requirements for Refuse Storage' are available from GRC Water & Waste.~~

Should you require any further information or assistance, please contact Michelle Henderson of Council's Development Assessment Team on telephone number (07) 4099 9457.

Yours faithfully

Neil Beck
Acting Manager Development Assessment

43.2008.2226
1/21

ENQUIRIES: Lauren Payler
PHONE: (07) 4044 3551
FAX: (07) 4044 3936
YOUR REF: Zena Close, Cape Tribulation
OUR REF: B/57/107 (2184003)

18 August 2009

Chris Vandyke Designs Pty Ltd
PO Box 236
CLIFTON BEACH QLD 4879

Dear Sir/Madam

DECISION NOTICE UNDER S3.5.15 INTEGRATED PLANNING ACT 1997:
DEVELOPMENT APPLICATION FOR ZENA CLOSE, CAPE TRIBULATION

With reference to the abovementioned Development Application, please find attached the relevant Decision Notice which was determined under Instrument of Delegation on 18 August 2009.

The notice includes extracts from the Act with respect to making representations about conditions, Negotiated Decisions, suspension of the appeal period, and lodging an Appeal.

Should you have any enquires in relation to this Decision Notice, please contact Lauren Payler of Council's Development Assessment Team on telephone number (07) 4044 3551.

Yours faithfully

Simon Clarke
Manager Development Assessment

Att

40.2090.2226
2/21

APPLICANT DETAILS

Chris Vandyke Designs Pty Ltd
PO Box 236
CLIFTON BEACH QLD 4879

ADDRESS

Zena Close, Cape Tribulation

REAL PROPERTY DESCRIPTION

Lot 13 on RP738897

PROPOSAL

House (Conservation) Clearing of Native Vegetation

DECISION

Approved subject to conditions (refer to approval package below).

DECISION DATE

This Decision Notice dated 18 August 2009 replaces the Decision Notice for Preliminary Approval dated 13 May 2009

TYPE

Material Change of Use (Development Permit)
Operational Works (Clearing of Native Vegetation)

REFERRAL AGENCIES

(Vegetation Clearing, Remnant Vegetation & Acid Sulfate Soils)
Environment & Resource Management
(formerly Department of Natural Resources and Water)
PO Box 937
CAIRNS QLD 4870

(Heritage, Coastal & ERAs)
Environment & Resource Management
(formerly Environmental Protection Agency)
Ecoaccess Customer Service Unit
PO Box 2066
CAIRNS QLD 4870

SUBMISSIONS

There was one submission for this application.

Environmental Protection Agency	PO Box 2066	CAIRNS QLD 4870
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FURTHER DEVELOPMENT PERMITS REQUIRED

Permit to Damage Protected Vegetation- Local Law No. 56

Development Permit for Plumbing Works

Development Permit for Building Works

CODES TO COMPLY WITH FOR SELF-ASSESSABLE DEVELOPMENT

None

DOES THE ASSESSMENT MANAGER CONSIDER THE APPLICATION TO BE IN CONFLICT WITH APPLICABLE CODES, PLANNING SCHEME, STATE PLANNING POLICIES OR PRIORITY INFRASTRUCTURE PLAN (IF YES, INCLUDE STATEMENT OF REASONS)

Not in conflict

APPROVED DRAWING(S) AND/OR DOCUMENT(S)

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

Drawing or Document	Reference	Date
Front/south elevation	-	19 February 2008
Rear/ north elevation	-	19 February 2008
Floor plan	-	19 February 2008
Site Plan	T859 Sheet 1	17/03/09
Site Details	T859 Sheet 2	17/03/09

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.

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4/21

Vegetation Clearing

3. A Permit to Damage Protected Vegetation under *Amendment 1 of 2006 Of Local Law No. 56 Vegetation Management* must be obtained prior to any clearing of vegetation associated with this approval.

Existing vegetation on the subject land must be retained in all areas except those affected by the construction of the house, the access driveway and the installation of services as detailed on the approved plans. Vegetation to be retained is to be identified and adequately fenced off for protection purposes prior to construction work commencing on the site.

Removal of Protected Vegetation

4. An Ecoaccess approval must be obtained from the Environmental Protection Agency prior to the clearing of vegetation and/or tree removal as plant species protected under the provisions of the *Nature Conservation Act 1992* are known to occur within the area covered by this development approval. Information on Ecoaccess approvals may be obtained at www.epa.qld.gov.au or by contacting the Ranger Flora at the Cairns Office of QPWS on Phone: 4046 6609.

Buffer Around Vegetation

5. A minimum 2 metre wide buffer shall be provided around the vegetation to be retained. This buffer must consist of suitable fencing to ensure that machinery, equipment or construction materials are not stored or used within this area. This buffer is to be established prior to the commencement of any works on the site and must be maintained at all times for the duration of the construction to the satisfaction of the Chief Executive Officer.

Notification of Vegetation Clearing

6. Council's Development Assessment Branch must be notified two days prior to the proposed date of commencement of any approved vegetation clearing.

Wildlife

7. Prior to removal of any tree, an inspection must be carried out for any signs of protected wildlife including nests and animal habitat. Should any recent wildlife activity be identified, removal of the tree must not occur until the animal has vacated the area of immediate danger. If the animal does not move from the area of danger, the Queensland Parks and Wildlife Services must be contacted for advice. Important habitat trees should be retained wherever possible.

Existing Creek and Drainage Systems

8. All existing creek systems and drainage areas must be left in their current state, including no channel alterations and no removal of vegetation unless consented to in writing by the Chief Executive Officer.

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5/21

The applicant/owner must obtain any necessary approvals from the Department of Natural Resources and Water for carrying out works in a watercourse.

Water Supply

9. Water storage tank(s) with a minimum capacity not less than 30,000 litres, must be installed prior to occupation of the premises. Details of the water tank(s) must be shown on plans submitted prior to the issue of a Development Permit for Operational Works. Such water tanks must be provided with:
 - a. Mosquito-proof screens of brass, copper, aluminium or stainless steel gauze not coarser than 1mm aperture mesh of substantial construction and installed in such manner as not to cause or accelerate corrosion; or
 - b. Flap valve at every opening of the tank or other receptacle; or
 - c. Other approved means for preventing the ingress or egress of mosquitoes; and
 - d. Where a tank or other receptacle is provided with a manhole, the manhole must have a diameter of no more than 40cm; and
 - e. The water tank(s) shall be fitted with a 50mm ball valve with a camlock fitting.

On-site Effluent Disposal

10. The method of on-site effluent disposal must be in accordance with the Queensland Plumbing & Wastewater Code. Details of the wastewater treatment system to be installed must be approved by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

Lawful Point of Discharge

11. 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.

Sediment and Erosion Control

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

40.2000.2220
6/21

In particular, the applicant/owner must ensure that works undertaken on the access driveway are designed and installed to ensure that the post-development discharge from the site has a no worsening impact on downstream properties or waterways located on the site.

Stockpiling and Transportation of Fill Material

13. 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.
14. Dust emissions or other air pollutants do not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

Storage of Machinery & Plant

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

Geotechnical Assessment

16. All works must be undertaken in accordance with the recommendations contained in the Geotechnical Investigation Report prepared by Golder Associates, dated January 2009, reference 087672048001 Rev0 (Council Reference 2005103).
17. All landscaping to be installed must consist of native and endemic species only and planted in an irregular and random fashion to blend with existing vegetation. Exotic species are not permitted.
18. The disturbed areas of land for the creation of driveways and cut and fill batter areas must be revegetated with native species found in the locality.
19. The owner must undertake to eradicate the Singapore Daisy located in the rainforest section of the access driveway.
20. A Landscape Plan nominating the species and location of trees and shrubs to be planted must be endorsed by the Chief Executive Officer. The approval and completion of all landscaping works must be undertaken in accordance with the endorsed plan prior to the issue of a Certificate of Classification or Commencement of Use whichever occurs first. The landscape plan does not need to be professionally drawn but does need to be of a standard which clearly illustrates those areas to be planted.

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Building Colours

21. The exterior finishes and colours of Buildings are non-reflective and blend with the natural colours of the surrounding environment.

The following proposed building colours are approved for use:

Exterior Walls – Wilderness (Colorbond)

Roof – Wilderness (Colorbond)

The applicant/owner must also ensure that the above Building Exterior requirements are made known in writing to all prospective purchasers.

Generators

22. All power generation devices are to be positioned and housed (including noise attenuation material) so as to mitigate noise nuisance to adjoining and nearby residents.

Fuel Storage

23. All fuels must be stored in an undercover and secure location at all times.

Refuse Storage

24. Refuse storage is required to service the site in accordance with Council requirements. Brochures on these requirements – 'Requirements for Refuse Storage' are available from CRC Water & Waste.

CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS

Concurrency Agency	Concurrency Agency Reference	Date	Council Electronic Reference
Department of Natural Resources & Water	1G0408CNS0015	12 May 2008	1707537

Refer to Appendix 2: Concurrence Agency Requirements. (Please note that these conditions / requirements may be superseded by subsequent negotiations with the relevant referral agencies).

FURTHER ADVICE

1. This approval, granted under the provisions of the *Integrated Planning Act 1997*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 3.5.21 of the *Integrated Planning Act 1997*.

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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 cyclone watch 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 all other relevant Local Laws and other statutory requirements.
4. For information relating to the *Integrated Planning Act 1997* log on to www.ipa.qld.gov.au. To access Council's Development Manual, Local Laws and other applicable Policies log on to www.cairns.qld.gov.au.

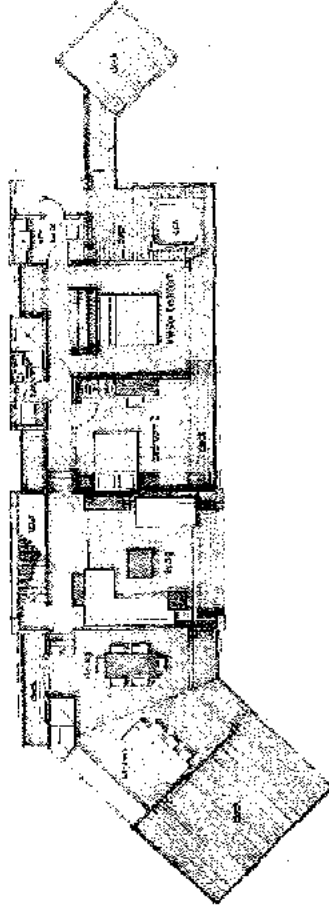
RIGHTS OF APPEAL

Attached

End of Decision Notice

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APPENDIX 1 APPROVED PLAN(S) & DOCUMENT(S)



proposal

perry jones & taryn agius

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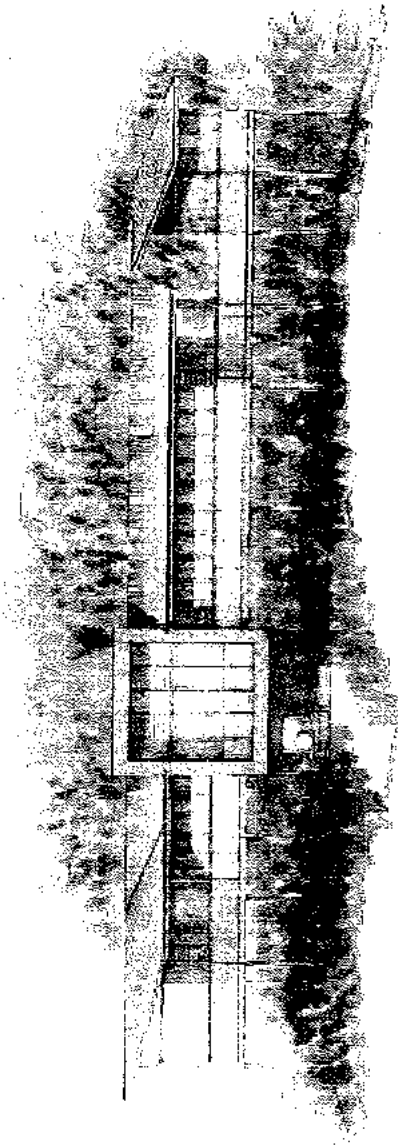
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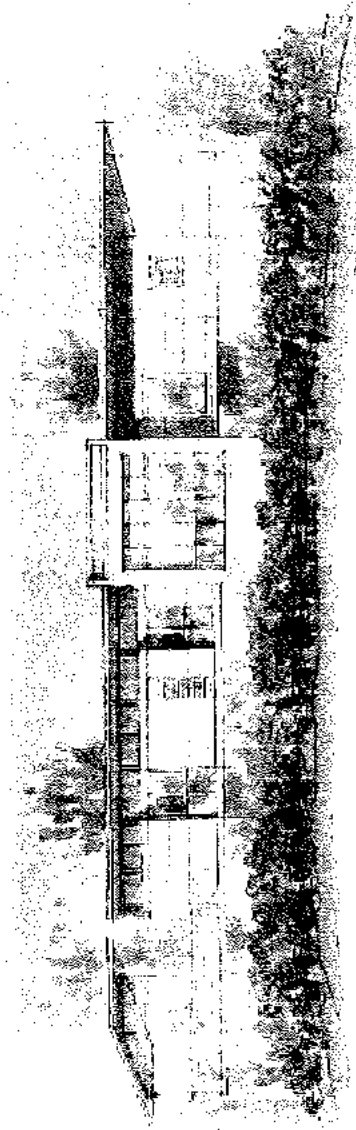
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perry jones & taryn agius

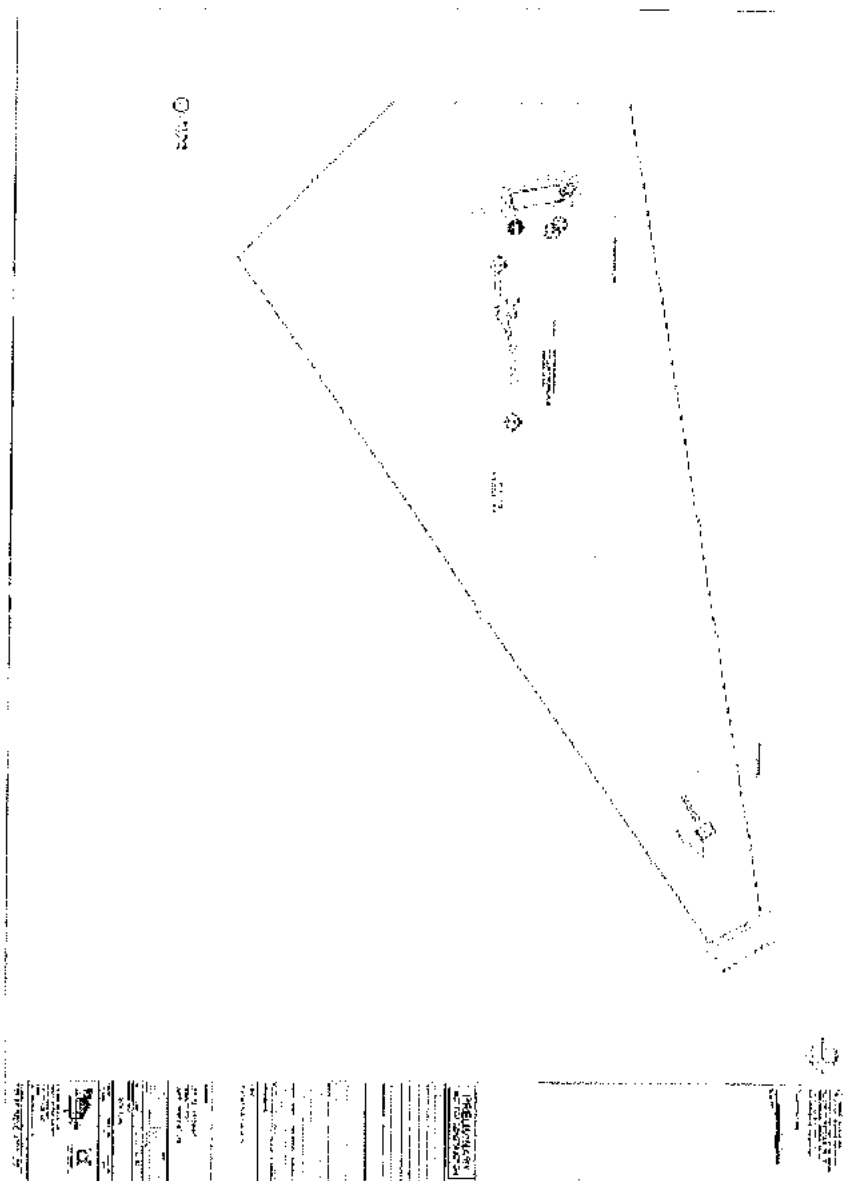
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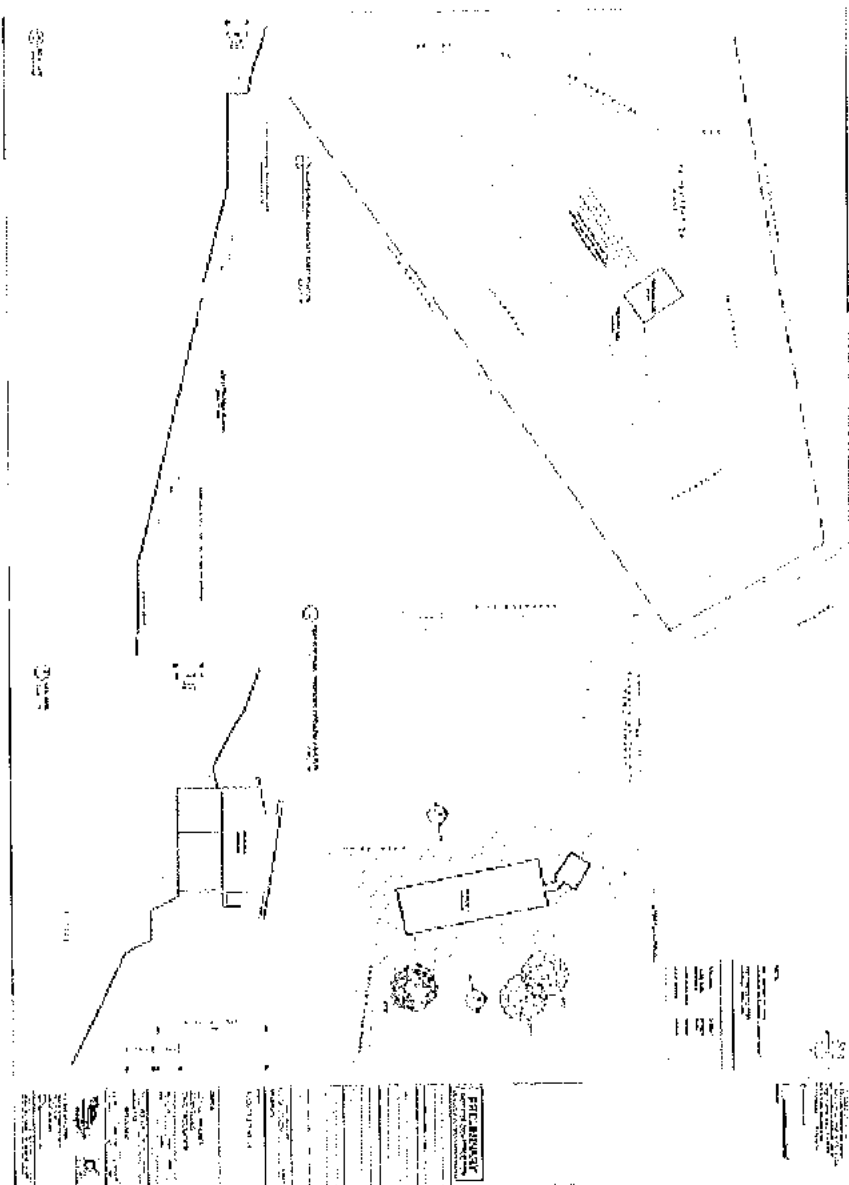
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APPENDIX 2 CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS



Yours faithfully
Chris Vandyke
Director
Department of Natural Resources and Water

Department of
Natural Resources and Water

12 May 2008

The Chief Executive Officer
Cairns Regional Council
PO Box 339
CAIRNS QLD 4870



Attention: L.J. Pugh

Dear Sir/Madam

APPLICATION FOR MATERIAL CHANGE OF USE (BUILDING A HOUSE AND DRIVEWAY) AND OPERATIONAL WORKS PERMIT FOR CLEARING VEGETATION ON LOT 13 ON RP738897, ZENA CLOSE, CAPE TRIBULATION - REFERRAL AGENCY RESPONSE

The Department of Natural Resources and Water (concurrency agency for the application) advises as follows:

The referral agency response for the application, prepared pursuant to section 3.3.16 of the *Integrated Planning Act 1997*, is enclosed. I look forward to receiving a copy of the decision notice for the application in due course.

Should you have any questions about this advice, please contact David McGill on 07 4039 8284.

Yours sincerely

David McGill
Senior Natural Resource Officer
Landscapes and Community Services
North Region

CC
Chris Vandyke Design Pty Ltd
PO Box 236
CLIFTON BEACH QLD 4870
Attention: Yvette Mearns

ENCL: Referral Agency Response, Schedule 1; Statement of Reasons


Department of Natural
Resources and Water
Level 12, 25 Sturt Street
PO Box 537
Cairns Queensland 4870
Australia
Telephone + 61 7 4039 8276
Facsimile + 61 7 4037 3355
Website www.dnr.qld.gov.au

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Cultural Heritage Coordination Unit, NRW. Application forms to undertake a tree search of the Aboriginal Cultural Heritage Database and the Aboriginal Cultural Heritage Register may be obtained by contacting the Cultural Heritage Coordination Unit on (07) 323 83838 or on the NRW's website - www.nrw.qld.gov.au/cultural_heritage.

Any queries about the assessment should be made to the coordinating officer for the application. Contact details for the coordinating officer are:

Coordinating Officer: David McGill
Address: PO Box 937, Cairns QLD 4870
Phone: 07 4039 8281


David McGill
Senior Natural Resource Officer
Landscapes and Community Services
North Region

12 May 2008

Department of Natural Resources and Water – Referral agency response

Given under Section 3.3.16 of the *Integrated Planning Act 1997*

1. Application information

- 1.1. Applicant's name: Chris Vundye Designs
- 1.2. Property description: 13 RP738897 - Cairns Regional Council
- 1.3. Assessment Manager/Reference: Simon Clarke, Ref: S/371197
- 1.4. Date application was referred to Department: 17 April 2008
- 1.5. NRW References: cf VAS Case No: 2008/003407, File Ref. No. C/NS022389, Trackjob No: IC0108CNS00015
- 1.6. Types of development sought by the application:
 - Material Change of Use

2. Concurrence Agency response – Remnant Vegetation:

The Chief Executive of the Department of Natural Resources and Water directs that:

The Department of Natural Resources and Water has no vegetation-related requirements under the provisions of the *Vegetation Management Act 1999* clearing for the purposes for which all of the clearing as a result of the R/L can be done under an exemption for the purpose of the development as prescribed in Schedule 3, Table 4, Item 1A, (c) of the *Integrated Planning Act 1997*.

3. Reasons:

A Statement of Reasons is attached at Schedule 1.

4. Third Party Advice - Aboriginal Cultural Heritage

Under Section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure that the activity does not harm Aboriginal cultural heritage (the 'cultural heritage duty of care'). Maximum penalties for breaching the cultural heritage duty of care are \$750 000 for a corporation and \$75 000 for an individual.

Applicants will comply with the cultural heritage duty of care in relation to Aboriginal cultural heritage if they are acting in compliance with the cultural heritage duty of care guidelines gazetted under the *Aboriginal Cultural Heritage Act 2003*, available on the NRW's website, or in accordance with an agreement with the Aboriginal party for the area or a cultural heritage management plan approved under Part 7 of the *Aboriginal Cultural Heritage Act 2003*.

Applicants should also undertake a search of the Aboriginal Cultural Heritage Database and the Aboriginal Cultural Heritage Register, administered by the

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Statement of Reasons
 Referral Agency Response
 Application for Material Change of Use / Reconfiguring a Lot
 Chris Vandyke Designs

Introduction

1. The Department of Natural Resources and Water (NRW) received an application from Chris Vandyke Designs on 23 April 2008.
2. The application was for 23 April 2008 MCD (Concurrence-Multiple Issue) on 13 RP738897 - Cairns Regional Council.
3. The Delegate determined the Referral Agency Response on 9 May 2008.

Evidence

1. Application dated 17 April 2008,
 - a) Completed IDAS Form 1 Part "I"
 - b) Properly Vegetation Management Plan.
2. *Integrated Planning Act 1997 & Integrated Planning Regulation 1998 (Schedule 2)*
3. *Vegetation Management Act 1999*
4. *Department of Natural Resources and Water Conservation Agency Policy for Material Change of Use/Reconfiguring a Land dated (latest date of approval policy)*
5. *State Planning Policy (SPP) 1993 Mitigating the Adverse Impacts of Flood, Bushfire, and Landslide.*
6. *Natural Resources (NP&A) Delegation (No.1) 2008*

Findings of fact

1. The application is for a material change of use to allow the construction of a single dwelling on a vacant lot.

2. The subject lot is freehold

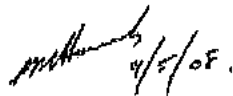
1. On receiving the development permit for building works, to clear vegetation for this purpose will become an activity that does not require permit as per the provisions of *BPA Schedule B, Table 1, Item 1A (c)*, allows clearing of vegetation:

...to the extent necessary for building on or on, other than indigenous land, a single residence, and any reasonably associated building or structure, if the building of the residence

is a building work for which a development permit for a building development application has been issued.

Reasons

The application meets Performance Requirement *Criteria Table C* of the *Concurrent Agency Policy for Material Change of Use* dated 23 August 2007 because clearing for the purposes for which all of the clearing as a result of the RAL could be done under an exemption for the purpose of the development as presented in Schedule B, Table 1, Item 1A, c) the *Integrated Planning Act 1997*.



4/5/08

Paul Horrocks
Manager, Vegetation Management and Use

9 May 2008

APPENDIX 3 SUPPORTING INFORMATION TO PLANNING REPORT



Notice

Advice Agency Response – Wetlands

This notice is issued by the Environmental Protection Agency pursuant to sections 3.3.16 and 3.3.19 of the Integrated Planning Act 1997.

Cairns Regional Council
PO Box 359
CAIRNS QLD 4870



Chris Vandylke Designs Pty Ltd
PO Box 236
CLIFTON BEACH QLD 4870

Your reference : B371107
Our reference : CNS70087346
Attention: Mrs Lauren Pyle

Dear Mrs Pyle

Re: Advice concerning application for development of Zena Close, Cape Tribulation (Lot 13 on Plan RP738897). Please treat this response as a properly made submission.

EPA referral number: IFAR01011508
Response type: Advice Agency Response
Date application received by EPA: 18 April 2008

ADVICE AGENCY JURISDICTION:	Item 41 of Table 2 of Schedule 2 of the Integrated Planning Regulation 1998.
ASSESSMENT MANAGER REFERENCE NUMBER:	B371107
APPLICANT:	Chris Vandylke Designs Pty Ltd
ACTIVITY DESCRIPTION:	Development application for Material Change of Use (Code Assessment) – House (Conservation)
	Zena Close, Cape Tribulation
DESCRIPTION OF SUBJECT LAND:	Lot 13 Plan: RP738897

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Advice Agency Response

Response to Development Application

The EPA, acting as an advice agency under the *Integrated Planning Act 1997*, provides the following advice to the applicant as detailed above.

The lot is within 100m of a wetlands

EPA advice

The property is situated at Zona Close, Cape Tribulation and the application is a Material Change of Use for Urban purposes. It has a rear boundary in common with Daintree National Park which is also Wet Tropics World Heritage Area. Most of the lot is covered by remnant vegetation that is 'not of concern' however all of the vegetation is essential cassowary habitat pursuant to the *Vegetation Management Act 1999*.

This documentation does not provide a sewerage assessment, geotechnical report or give a definitive site for the proposed house. It is first unclear how much vegetation will be cleared or disturbed for the required site testing and ultimately to make way for the dwelling pad and driveway.

If Cairns Regional Council approves the development it should be contingent on receiving adequate information on waste-water disposal and a plan of the site showing the location of the proposed house and supporting infrastructure as well as vegetation to be cleared.

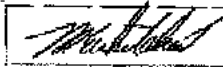
Disturbed and non-remnant vegetation near Zona Close itself is the preferred site for the house rather than closer to Daintree National Park at the rear of the lot. An absolute minimum setback of 40m from the National Park boundary should be specified for the location of any dwelling and supporting infrastructure to reduce the risk of damage from treefalls. The proponent should also demonstrate that sediment and erosion control will be in place and stormwater can be properly managed.

As the vegetation is essential cassowary habitat a conservation agreement protecting vegetation that is binding on title should be a condition of approval.

Additional Information for applicants

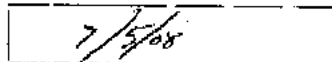
It is a requirement of the *Environmental Protection Act 1994* that if the owner or occupier of this site becomes aware that a Notifiable Activity (as defined under Schedule 2 of the *Environmental Protection Act 1994*) is being carried out on this land or that the land has been affected by a hazardous contaminant, they must, within thirty (30) days after becoming aware the activity is being carried out, give notice to the Environmental Protection Agency. A list of Notifiable Activities is provided within Schedule 2 of the *Environmental Protection Act 1994*.

Yours sincerely



Signature

Murray Whelanhead
Regional Manager
Northern Region Planning
Environmental Protection Agency



Date

Enquiries:
Michael Trenerry
Environmental Protection Agency
PO Box 2086
CAIRNS QLD 4870
Telephone: 4044 8894
Facsimile: 4040 6606

SCHEDULE 4 – PLANNING ACT EXTRACT ON 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

Current as at 3 July 2017

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Authorised by the Parliamentary Counsel

- (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for 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, table 1, item 1—each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); 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 by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- (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 Other appeals

- (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.

