

29 October 2020

Enquiries: Jenny Elphinstone
Our Ref: MCUC 2020_3798/1 (Doc ID 979277)
Your Ref: 20204038

Andrew and Chantal Ives
C/- Patrick Clifton, GMA
PO Box 831
PORT DOUGLAS QLD 4877

Email: Patrick.C@gmacer.com.au

Dear Sir/Madam

**Development Application for Material Change of Use for a Dwelling house
At Miallo Bamboo Creek Road Bamboo
On Land Described as Lot 3 SR223**

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

Please quote Council's application number: MCUC 2020_3798/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully



For

Paul Hoyer
Manager Environment & Planning

encl.

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



Decision Notice

Approval (with conditions)

Given under section 63 of the Planning Act 2016

Applicant Details

Name: Andrew and Chantal Ives
Postal Address: C/- Patrick Clifton, GMA
PO Box 831
PORT DOUGLAS QLD 4877
Email: Patrick.c@macert.com.au

Property Details

Street Address: Miallo Bamboo Creek Road, Bamboo
Real Property Description: Lot 3 on SR223
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for a Material Change of Use Dwelling house.

Decision

Date of Decision: 29 October 2020
Decision Details: Approved (subject to conditions)

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

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

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

Drawing or Document	Reference	Date
Site Plan	Clarkville Designs, Drawing 1-6-20, Sheet 6 of 6	17 August 2020
Floor Plan	Clarkville Designs, Drawing 1-6-20, Sheet 1 of 6	17 August 2020
View A & View B	Clarkville Designs, Drawing 1-6-20, Sheet 2 of 6	17 August 2020

Drawing or Document	Reference	Date
Foundation Plan	Clarkville Designs, Drawing 1-6-20, Sheet 3 of 6	17 August 2020
Blockwork Layout	Clarkville Designs, Drawing 1-6-20, Sheet 4 of 6	17 August 2020
Roof Framing Plan	Clarkville Designs, Drawing 1-6-20, Sheet 5 of 6	17 August 2020
FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access		
Rural Allotment Access	Standard Drawing S1105 Issue E	26 November 2014

Assessment Manager Conditions & Advices

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Council;
 - 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.

Finished Floor Level

3. The finished floor levels of all habitable rooms must be a minimum of 300mm above the 1% AEP rainfall event which is understood to be 8.3m AHD. Floor levels therefore should be at least 8.6m AHD

Damage to Council Infrastructure

4. In the event that any part of Council's existing 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.

External Works

5. Undertake the following works external to the land at no cost to Council:
 - a. Provide a crossover in accordance with FNQROC Development Manual Standard Drawing S1105E to the chosen single access; and
 - b. Discontinue use and remove all other vehicle accesses to Miallo Bamboo Creek Road and make good such areas.

Where the vehicle crossing is constructed in accordance with the FNQROC Regional Development Manual the works do not constitute Operational Works. Such work must be constructed to the satisfaction of the Chief Executive Officer prior to Commencement of Use.

Treatment of Onsite Waste

6. The method of on-site effluent disposal must be in accordance with the *Queensland Plumbing and Drainage Act 2002* and Section 33 of the Environmental Protection Policy (Water) 1997.

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.

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

Currency Period for the Approval

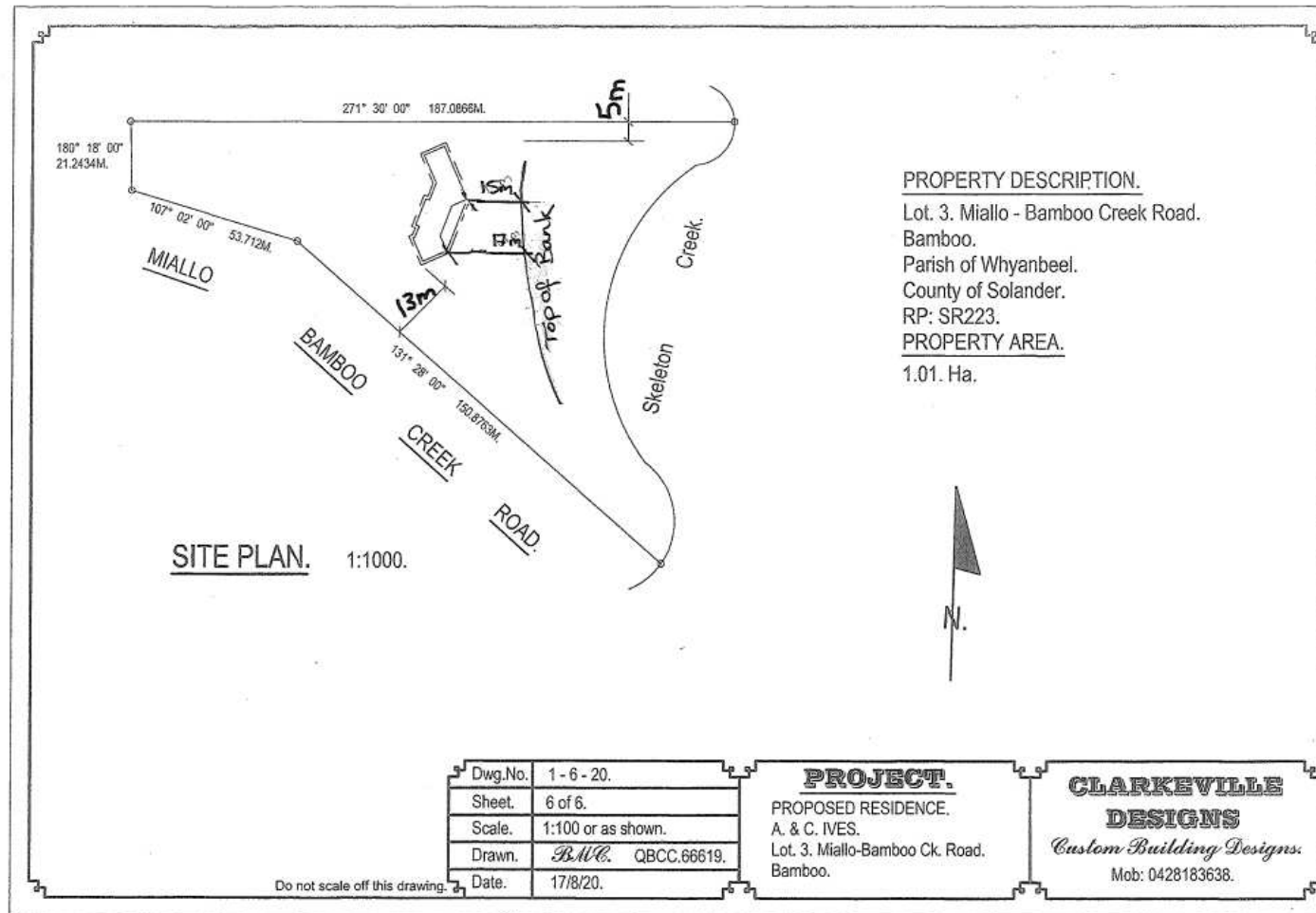
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

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)

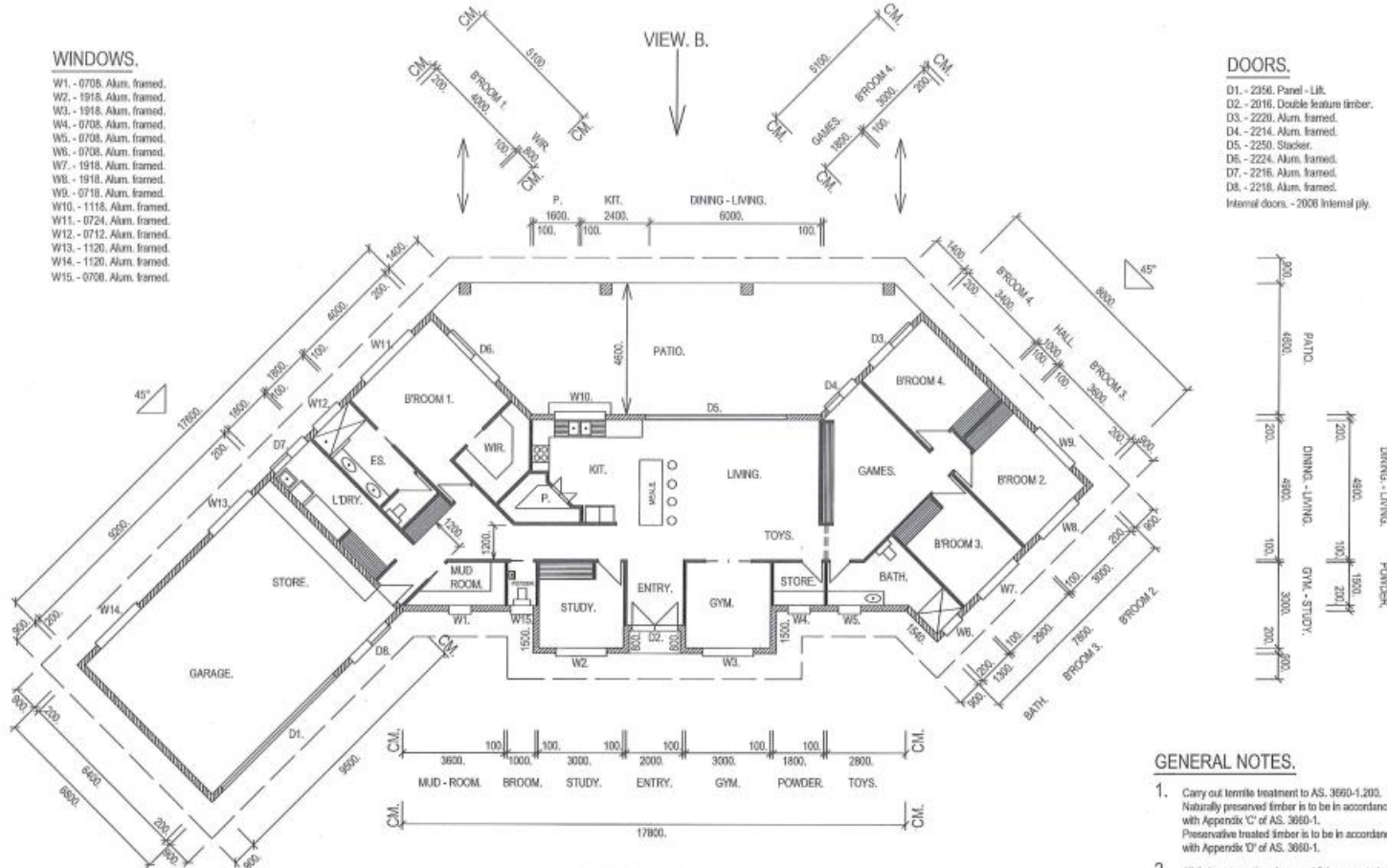


WINDOWS.

W1. - 0708. Alum. framed.
W2. - 1918. Alum. framed.
W3. - 1918. Alum. framed.
W4. - 0708. Alum. framed.
W5. - 0708. Alum. framed.
W6. - 0708. Alum. framed.
W7. - 1918. Alum. framed.
W8. - 1918. Alum. framed.
W9. - 0710. Alum. framed.
W10. - 1118. Alum. framed.
W11. - 0724. Alum. framed.
W12. - 0712. Alum. framed.
W13. - 1120. Alum. framed.
W14. - 1120. Alum. framed.
W15. - 0708. Alum. framed.

DOORS.

D1. - 2256. Panel - Lift.
D2. - 2016. Double feature timber.
D3. - 2220. Alum. framed.
D4. - 2214. Alum. framed.
D5. - 2250. Slacker.
D6. - 2224. Alum. framed.
D7. - 2216. Alum. framed.
D8. - 2218. Alum. framed.
Internal doors. - 2008 Internal ply.



FLOOR PLAN.

CM. - DENOTES EXTERNAL CORNER OF BLOCKWORK.



VIEW. A.

Do not scale off this drawing.

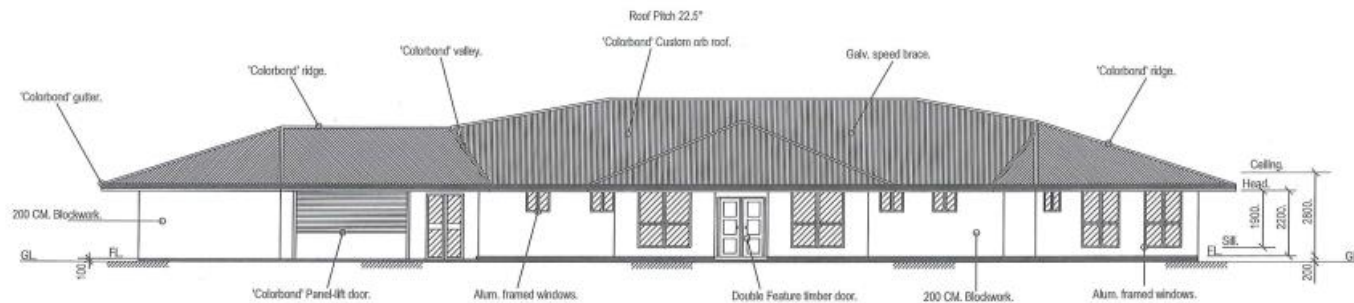
Dwg. No.	1 - 6 - 20.
Sheet.	1 of 6.
Scale.	1:100 or as shown.
Drawn.	R.H.C. QBSA. 66619.
Date.	17/8/20.

PROJECT.
PROPOSED RESIDENCE.
A. & C. IVES.
Lot 3, Miallo - Bamboo Ck. Road.
Bamboo.

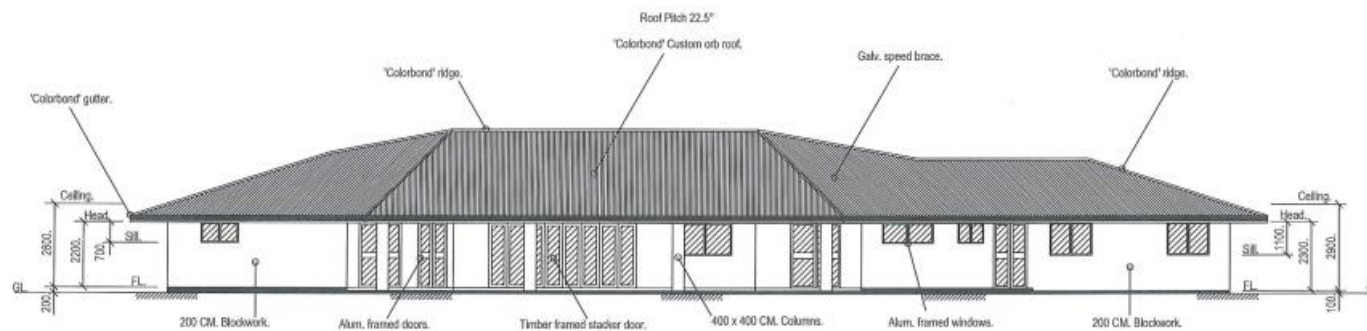
CLARKEVILLE DESIGNS
Custom Building Designs.
Phone: 40981129. Mob: 0428183638.
www.clarkevilledesigns.com

GENERAL NOTES.

1. Carry out termite treatment to AS. 3660-1.200. Naturally preserved timber is to be in accordance with Appendix 'C' of AS. 3660-1. Preservative treated timber is to be in accordance with Appendix 'D' of AS. 3660-1.
2. All timber strengths, sizes, and fixings, are to be in accordance with AS. 1684, Part 3.
3. These drawings are to be read in conjunction with the attached Engineering and Foundation notes.



VIEW. A.



VIEW. B.

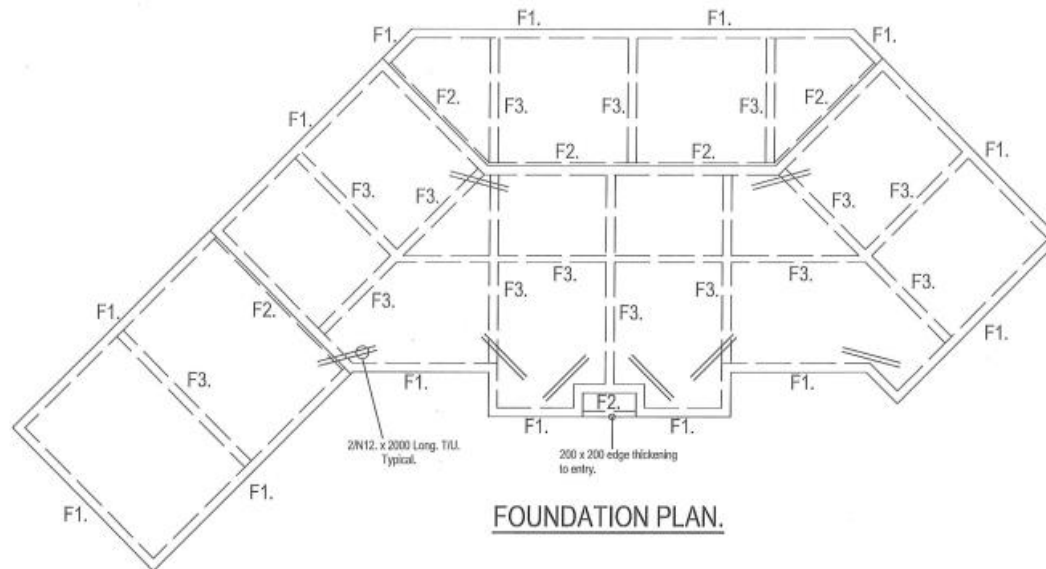


Do not scale off this drawing.

Dwg. No.	1 - 6 - 20.
Sheet	2 of 6.
Scale	1:100 or as shown.
Drawn	B.H.C. QBSA. 66619.
Date	17/8/20.

PROJECT.
PROPOSED RESIDENCE.
A. & C. IVES.
Lot. 3. Miallo - Bamboo Ck. Road.
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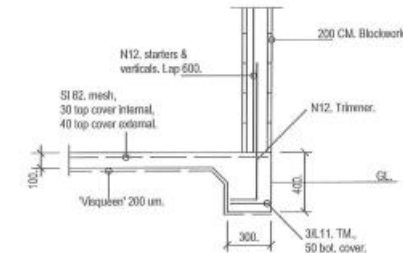
FOUNDATION PLAN.

FOOTING NOTES.

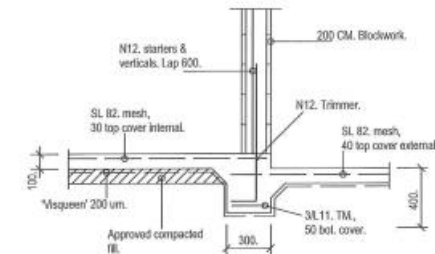
Remove all grass and topsoil containing roots from slab site.
 Compact approved imported fill, if necessary, in 150 mm. max. layers to 98% SRDD.
 Concrete N25, 90mm. slump, 20mm. max. aggregate.
 Cure slab 7 days before loading.
 Footings have been designed as per Site Investigation Report No. 21467.
 By The CH Professionals.
 Soil classification = 'M'

SLAB.

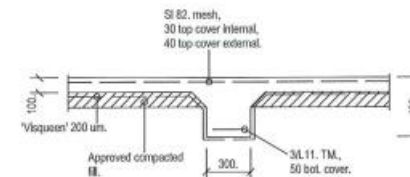
100 mm. concrete slab. Reinforce with SL 82. mesh, 30 top cover internally,
 40 top cover externally.
 N12 trimmer all around.
 'Visqueen' 200 um. under.



FOOTING F1. 1:20.



FOOTING F2. 1:20.



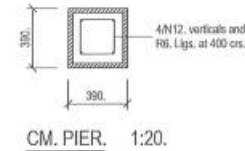
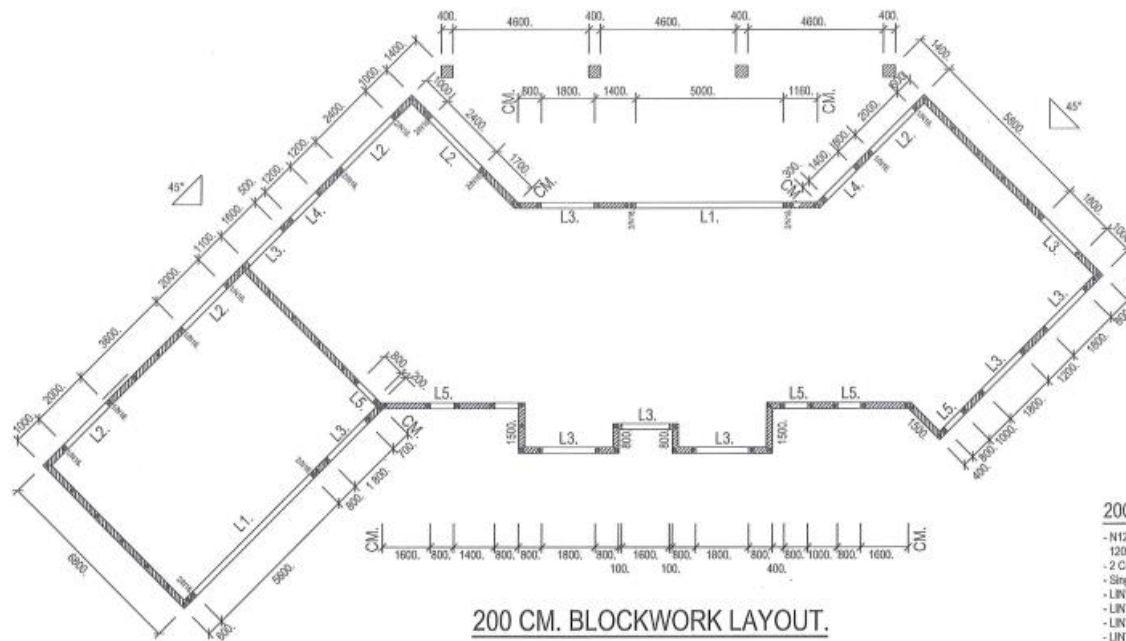
FOOTING F3. 1:20.

Do not scale off this drawing.

Dwg. No.	1 - 6 - 20.
Sheet.	3 of 6.
Scale.	1:100 or as shown.
Drawn.	B.H.R. QBSA, 66619.
Date.	17/8/20.

PROJECT.
 PROPOSED RESIDENCE,
 A. & C. IVES,
 Lot. 3. Miallo - Bamboo Ck. Road.
 Bamboo.

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200 CM. BLOCKWORK NOTES.

- N12 bars vertically at corners, wall intersections, beside openings, and at 1200mm. max. cns. between. N16, where shown.
- 2 Coarse bond beams all around top. 2N12. bars each coarse.
- Single coarse 2N12. bond beam under windows.
- LINTEL L1 - 600 deep, 2N12. top and bottom coarses and R8. stirrups at 200 cns.
- LINTEL L2 - 600 deep, 2N12. top and bottom coarses and R8. stirrups at 400 cns.
- LINTEL L3 - 600 deep, 2N12. top and bottom coarses and R8. stirrups at 600 cns.
- LINTEL L4 - 600 deep, 2N12. top and bottom coarses and R8. stirrups at 800 cns.
- LINTEL L5 - 600 deep, 2N12. top and bottom coarses.
- Core fill all reinforced cores.
- 400 x 400 CM. Columns. 4N12. verticals.

CM.- DENOTES EXTERNAL CORNER OF BLOCKWORK.

INTERNAL STUD WALLS.

1/ 75 x 38 MGP 10. top plate.
1/ 75 x 38 MGP 10. bottom plate.
75 x 38 MGP 10. studs at 450 cns.
1 row noggling.
Sheet with 'Gyproc'.
'Viltboard' to wet areas.

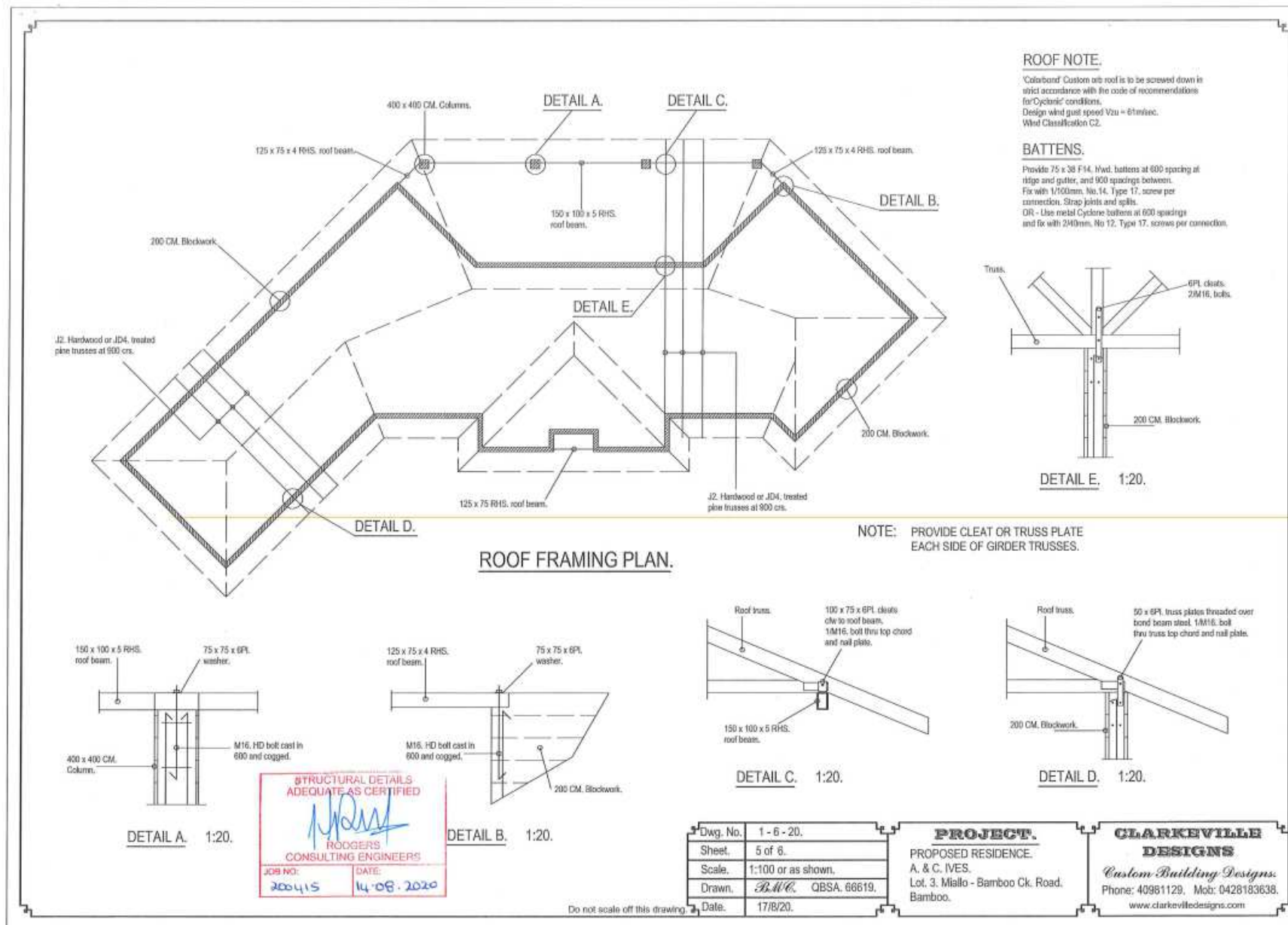


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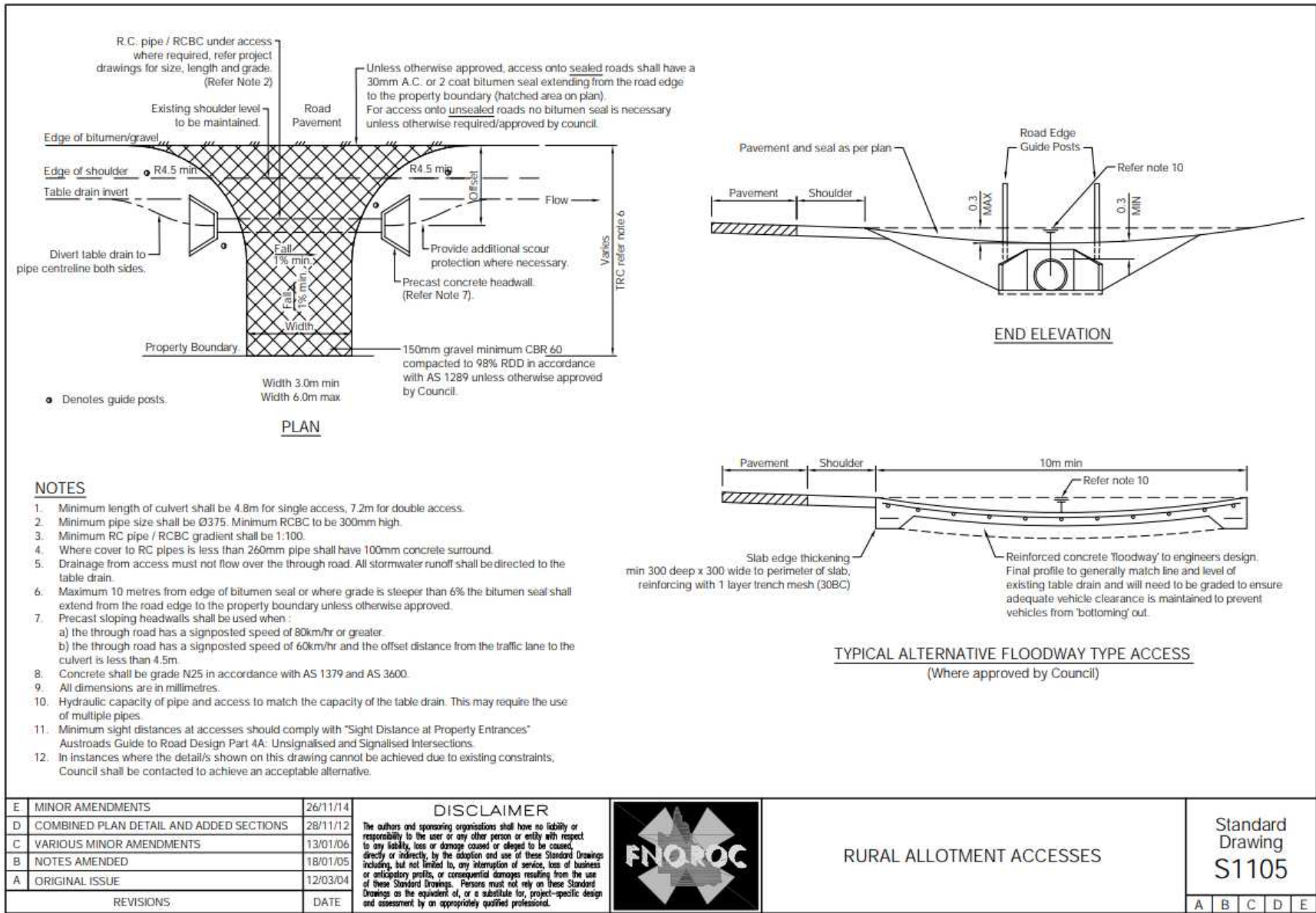
Dwg. No.	1 - 6 - 20.
Sheet	4 of 6.
Scale	1:100 or as shown.
Drawn	B.H.C. QBSA, 66619.
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PROJECT.
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FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access



Reasons for Decision

1. The reasons for this decision are:
 - a. Sections 60, 62 and 63 of the *Planning Act 2016*;
 - b. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
 - c. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
 - a. the development application was properly lodged to the Douglas Shire Council 27 October 2020 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 Rural 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

Development complies with the planning scheme as per the table below and no concerns are raised.

Benchmark Reference	Alternative Measure/Comment
Rural Zone Code	
AO2 Buildings are setback not less than:	The development satisfactorily meets the respective PO.
(c) 20 metres from the boundary with any other road;	
(d) 6 metres from side and rear property boundaries.	
PO2 Buildings and structures are setback to maintain the rural character of the area and achieve separation from buildings on adjoining properties.	

Benchmark Reference	Alternative Measure/Comment
<p>Flood Hazard Overlay Code</p> <p>AO1.1 Development is sited on parts of the land that is not within the Flood and Storm tide hazards overlay maps contained in Schedule 2; or</p> <p>For dwelling houses,</p> <p>AO1.2 Development within the Flood and Storm Tide hazards overlay maps (excluding the Flood plain assessment sub-category) is designed to provide immunity to the Defined Inundation Event as outlined within Table 8.2.4.3.b plus a freeboard of 300mm.</p> <p>AO1.3 New buildings are:</p> <ul style="list-style-type: none"> (a) not located within the overlay area; (b) located on the highest part of the site to minimise entrance of flood waters; (c) provided with clear and direct pedestrian and vehicle evacuation routes off the site. <p>PO1 Development is located and designed to: ensure the safety of all persons; minimise damage to the development and contents of buildings; provide suitable amenity; minimise disruption to residents, recovery time, and rebuilding or restoration costs after inundation events.</p> <p>Note – For assessable development within the flood plain assessment sub-category, a flood study by a suitably qualified professional is required to identify compliance with the intent of the acceptable outcome.</p>	<p>The whole of the site is within the mapped flood plain.</p> <p>The house is to be constructed on the higher part of the land. the siting of the dwelling in respect to the creek is somewhat ambiguous as the report and plans nominate a setback of at least 15, from the top of bank and under the overlay Code assessment the setback is nominated as being, <i>setback greater than 50 metres from the riparian corridor of Skeleton Creek,</i>” which would be consistent with the acceptable outcome. It is understood that previous flood levels have been noted at RL8.3m AHD. A condition of the approval requires the FFL to be 300mm freeboard above the 1% AEP level and to be at least 8.6m AHD. Such a level would site the house within the current cane production area and on the edge of the mapped riparian corridor for the Creek.</p>

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

74 What this subdivision is about

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

75 Making change representations

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

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

76 Deciding change representations

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

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

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

Extracts from the Planning Act 2016 – Appeal Rights

Planning Act 2016
Chapter 6 Dispute resolution

[s 229]

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

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

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

Page 212

Current as at 1 October 2020

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 an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or

- (iii) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—

- (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.

- (4) In this section—

decision includes—

- (a) conduct engaged in for the purpose of making a decision; and
- (b) other conduct that relates to the making of a decision; and
- (c) the making of a decision or the failure to make a decision; and
- (d) a purported decision; and
- (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise,

whether by the Supreme Court, another court, any tribunal or another entity; and

- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

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.