

29 November 2022

**Enquiries:** Rebecca Taranto  
**Our Ref:** MCUC 2022\_5176/1 (Doc ID:1124866)

R D Hogg  
C/- McPeake Town Planning QLD Pty Ltd  
PO Box 5829  
CairnsQLD 4879

Email:approvals@jamesmcpeake.com.au

Dear Sir/Madam

**Development Application for Material Change of Use (Dwelling house)  
At Forest Creek Road Forest Creek  
On Land Described as Lot 75 on RP733654**

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

Please quote Council's application number: MCUC 2022\_5176/1 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Rebecca Taranto 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 - response to properly made submissions.
- Advice For Making Representations and Appeals (Decision Notice)



## Decision Notice

### Approval (with conditions)

*Given under s 63 of the Planning Act 2016*

#### Applicant Details

Name: R D Hogg  
Postal Address: C/- McPeake Town Planning QLD Pty Ltd  
PO Box 5829  
Cairns QLD 4879  
Email: approvals@jamesmcpeake.com.au

#### Property Details

Street Address: Forest Creek Road Forest Creek  
Real Property Description: Lot 75 on RP733654  
Local Government Area: Douglas Shire Council

#### Details of Proposed Development

Development Permit for MCU - Material Change of Use - Dwelling house

#### Decision

Date of Decision: 29 November 2022  
Decision Details: Approved (subject to conditions)

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

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

Drawing or Document	Reference	Date
Site Layout	QLD Kit Homes Project No. 2000170	Submitted with application on 18/11/2022
Site Plan	QLD Kit Homes Project No. 2000170	Submitted with application on 18/11/2022
Floor Plan	QLD Kit Homes	02/08/2022

	Project No. 2000170 Sheet 3	
Elevations	QLD Kit Homes Project No. 2000170 Sheet 4	02/08/2022
3D Views	QLD Kit Homes Project No. 2000170 Sheet 5	02/08/2022
Section	QLD Kit Homes Project No. 2000170 Sheet 6	02/08/2022
<b>FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access</b>		
Rural Allotment Access	Standard Drawing S1105 Issue E	27 August 2020

### **Assessment Manager Conditions & Advices**

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

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.

### **External Works**

3. Undertake the following works external to the land at no cost to Council:
  - a. Provide a concrete or bitumen finish over the top surface of the existing culvert crossover and apron from the sealed road pavement to the property boundary. The dimensions of the finish area are to be in accordance with FNQROC Development Manual Standard Drawing S1105;

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.

### **Onsite access**

4. Provide vehicle access from the road boundary to the Dwelling House. The access must include a sealed crossover over the creek that must be designed by a RPEQ (Registered Practising Engineer Queensland). The creek crossing must be constructed and certified as having been appropriately constructed by a RPEQ prior to the commencement of use.

### **Finished Floor Level**

5. The finished floor level of all habitable rooms within the dwelling house must be a minimum of 300mm above the 1% AEP flood event.

## Building Colours

6. Building colours should be non-reflective and are moderately dark to darker shades of grey, green, blue and brown or the development is not visible external to the site by vegetation screening.

## Treatment of Onsite Waste

7. 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*.

## Water Supply

8. Water storage tank(s) with a minimum capacity not less than 10,000 litres must be installed prior to occupation of the premises. Details of the water tank(s) must be shown on plans submitted with the building application. Such water tanks must be provided with:
  - a. Mosquito-proof screens of brass, copper, aluminium or stainless steel gauze not coarser than one (1) mm 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 40 cm; and
  - e. The water tank(s) shall be fitted with a 50 mm ball valve with a camlock fitting.

## Vegetation Clearing

9. Existing vegetation on the subject land is to be retained, except where removal is permitted for this development, the Planning Scheme or otherwise approved under a separate development permit.

## Generators

10. Noise from generators, air-conditioning units, swimming and spa pool filters, service equipment or other mechanical equipment, must not emanate from the subject land to a degree that would, in the opinion of the Chief Executive Officer, create an environmental nuisance having regard to the provisions of Chapter 8 Part 3B of the *Environmental Protection Act 1994*.

## Fuel Storage

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

## 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 18/11/2022 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 Environmental Management 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.

### **Further Development Permits**

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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**

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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**

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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



Qld Kit Homes  
ABN: 79 142 579 619  
QBCC: 1201601 & 1117525  
Address: 34/5 Faculty Close, Smithfield 4878

Client: Robert Hogg  
Site Address: Lot 75 Forest Creek Rd.  
Kimberley, Qld, 4873

Proposed: 1 bed/1 bath home (8.4x10.2 inc 600mm eaves)  
Project Number: 200170  
Lot 75/RP733654  
45,100m<sup>2</sup>

Document(s)



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Client: Robert Hogg  
 Site Address: Lot 75 Forest  
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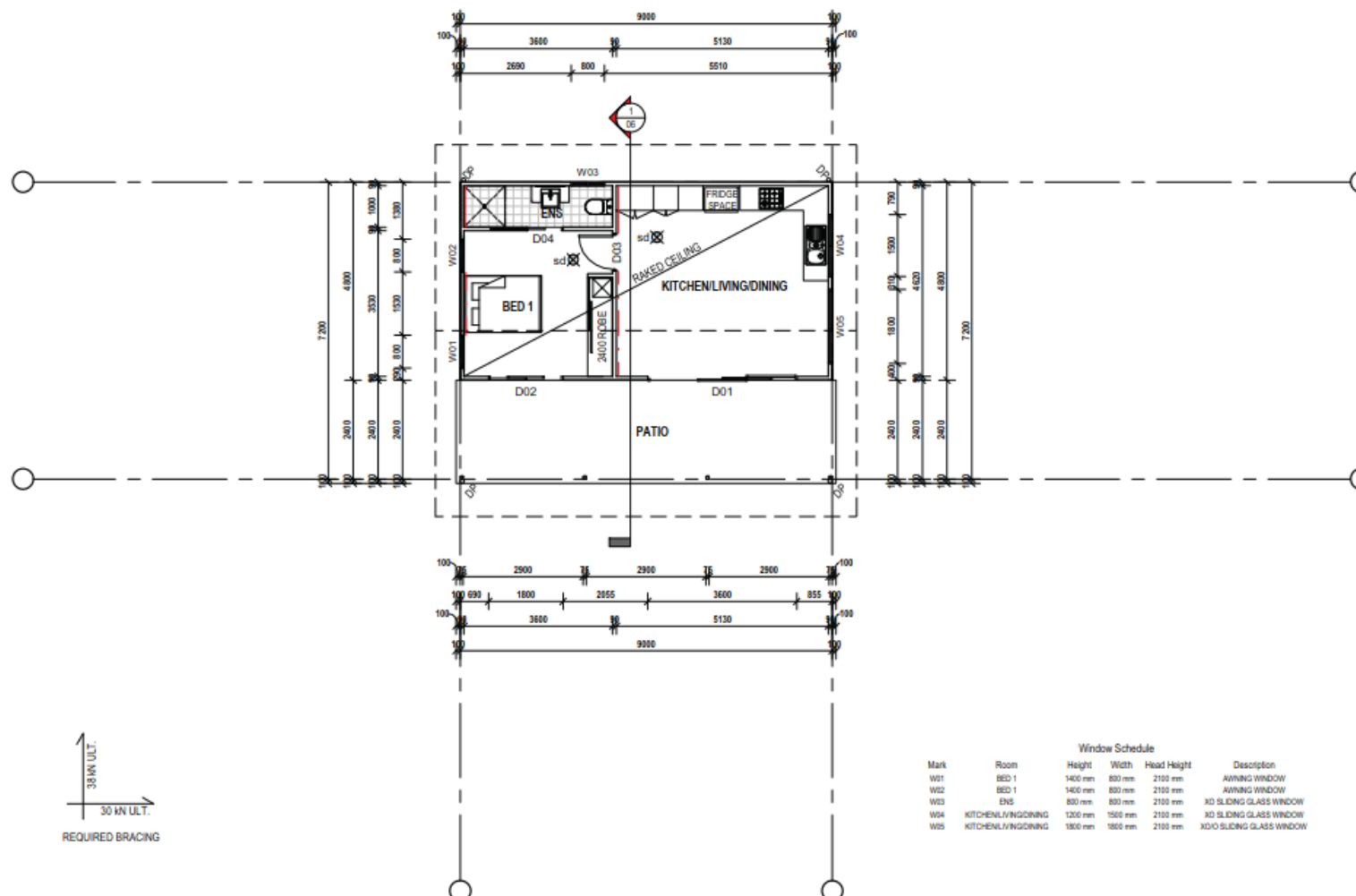
--- PLY BRACE SHEETING  
TO WALLS AS SHOWN

Mark	Room	Height	Width	Door Schedule	Type Comments	Description
D01	KITCHEN/LIVING/DINING	2100 mm	3600 mm	OPENING SIZE	OPENING SIZE	SLIDING GLASS DOOR
D02	BED 1	2100 mm	1800 mm	OPENING SIZE	OPENING SIZE	SLIDING GLASS DOOR
D03	KITCHEN/LIVING/DINING	2040 mm	800 mm	DOOR LEAF SIZE	DOOR LEAF SIZE	800 SINGLE SWING DOOR
D04	ENS	2040 mm	1760 mm	OPENING SIZE	OPENING SIZE	800 CAVITY SLIDER



### ELEVATION KEY

FLOOR AREAS LEGEND	
LIVING	43.20 m <sup>2</sup>
PATIO	21.60 m <sup>2</sup>
	64.80 m <sup>2</sup>



Mark	Room	Height	Width	Head Height	Description
W01	BED 1	1400 mm	800 mm	2100 mm	AWNING WINDOW
W02	BED 1	1400 mm	800 mm	2100 mm	AWNING WINDOW
W03	ENS	800 mm	800 mm	2100 mm	XD SLIDING GLASS WINDOW
W04	KITCHEN/LIVING/DINING	1200 mm	1500 mm	2100 mm	XD SLIDING GLASS WINDOW
W05	KITCHEN/LIVING/DINING	1800 mm	1800 mm	2100 mm	XD SLIDING GLASS WINDOW

### CERTIFIED AS STRUCTURALLY ADEQUATE

**KFB Engineers** Civil & Structural  
138-42 Peace St, Cairns 1 PO Box 927, Cairns Q 4870  
P: 07 4022482 | F: 07 4022002 | E: email@kfbeng.com.au

Date: 2/8/22 Signed: [Signature]  
Job No: K-10596 RPEQ No: 5711

DESIGN WIND SPEED - C2 SOIL CLASSIFICATION - P

A 2/08/22 CONSTRUCTION ISSUE  
No. DATE DESCRIPTION

VARIATIONS INCLUDED IN THIS DRAWING

DRAWING TITLE

### FLOOR PLAN

SHEET NO: 03 PRINT TIME: 2/08/2022 1:20:12 PM

PRELIMINARY: 8/06/22 CONSTRUCTION 2/08/22

A3 SCALE: 1:100 AT A3 ISSUE: A  
DRAWN BY: MB

### CONSTRUCTION ISSUE

SSRNO JOB No: NQ5329 DRAWING No: -

**PROJECT**  
PROPOSED RESIDENCE  
Lot 75 on RP733654  
LOT 75 FOREST CREEK ROAD  
KIMBERLY

**CLIENT**  
ROBERT HOGG

QBCC: 1117525

**QLD**  
**KIT HOMES**

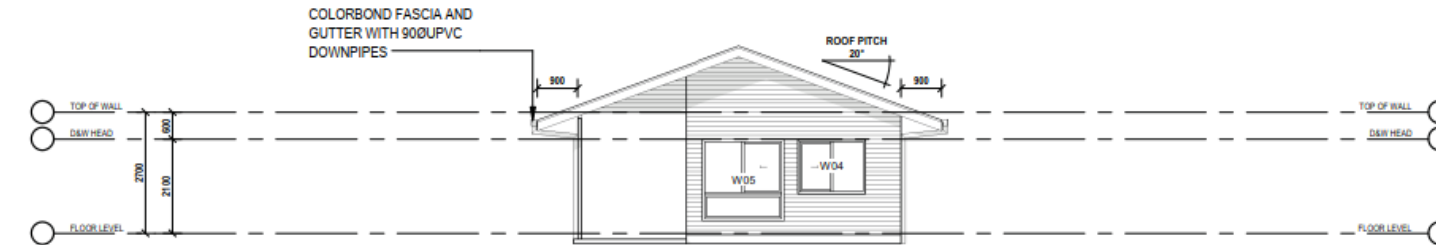
Afterloadability Without Compression  
34/5 FACILITY CLOSE, SMITHFIELD

PH: (07) 4038 3900  
FAX: (07) 4027 9613  
WEB: www.qldkithomes.com.au

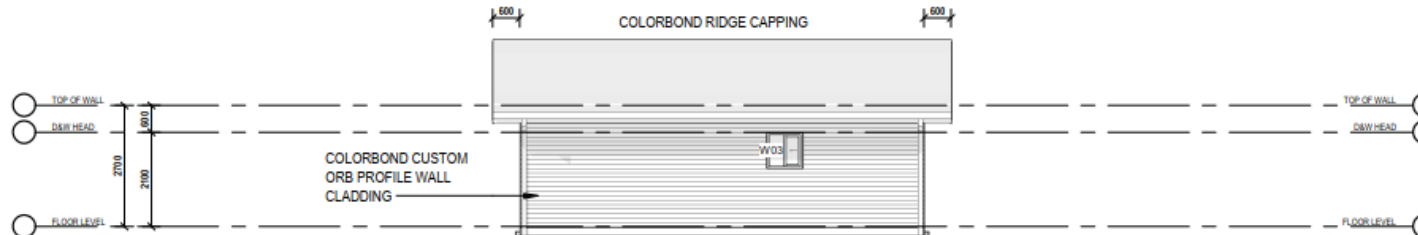
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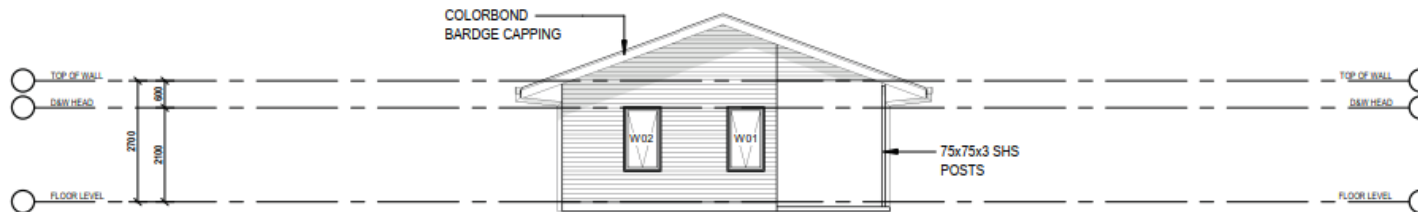




ELEVATION 1



ELEVATION 2



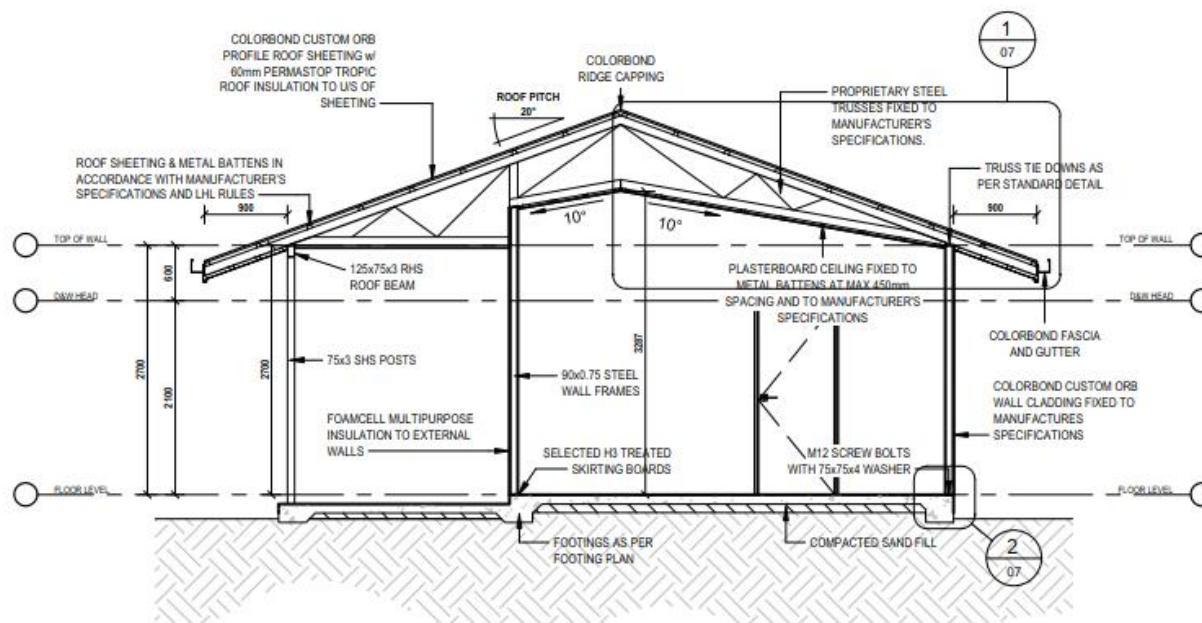
ELEVATION 3



ELEVATION 4

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<b>KFB Engineers</b> Civil & Structural 1/35-42 Peace St, Cairns   PO Box 927, Cairns Q 4870 P: 07 40332482   F: 07 40332092   E: email@kfbeng.com.au							
Date: 2/8/22	Signed:						
Job No: K-10596	RPEQ No: 5711						
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<b>CONSTRUCTION ISSUE</b>							
SSRNO JOB No: NQ5329	DRAWING No: -						
<b>PROJECT</b> PROPOSED RESIDENCE Lot 75 on RP733654 LOT 75 FOREST CREEK ROAD KIMBERLY							
<b>CLIENT</b> ROBERT HOGG							
QBCC: 1117525							
 <b>QLD KIT HOMES</b> Affordability Without Compromise 34/5 FACULTY CLOSE, SMITHFIELD PH: (07) 4038 3900 FAX: (07) 4027 9613 WEB: www.qldkithomes.com.au							
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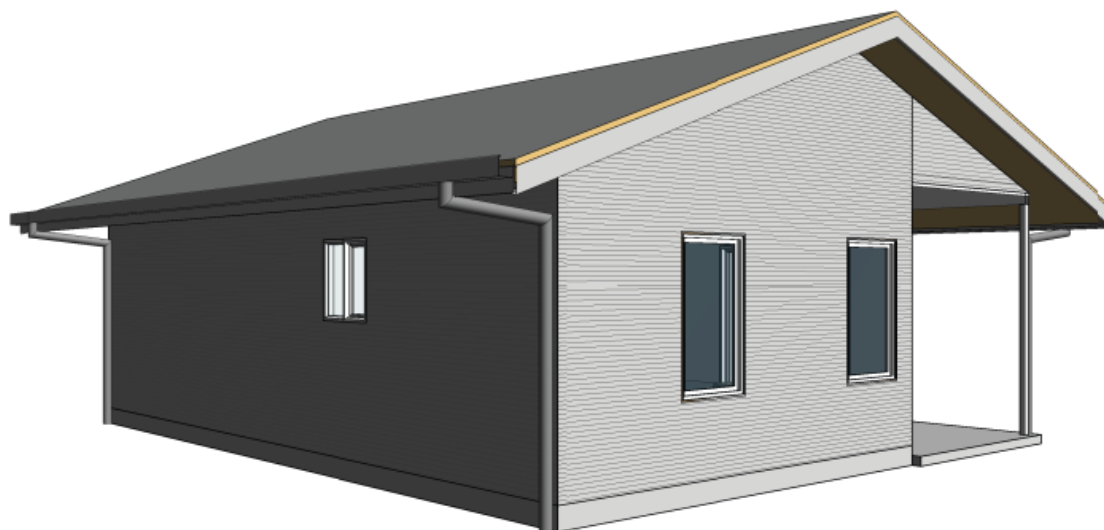
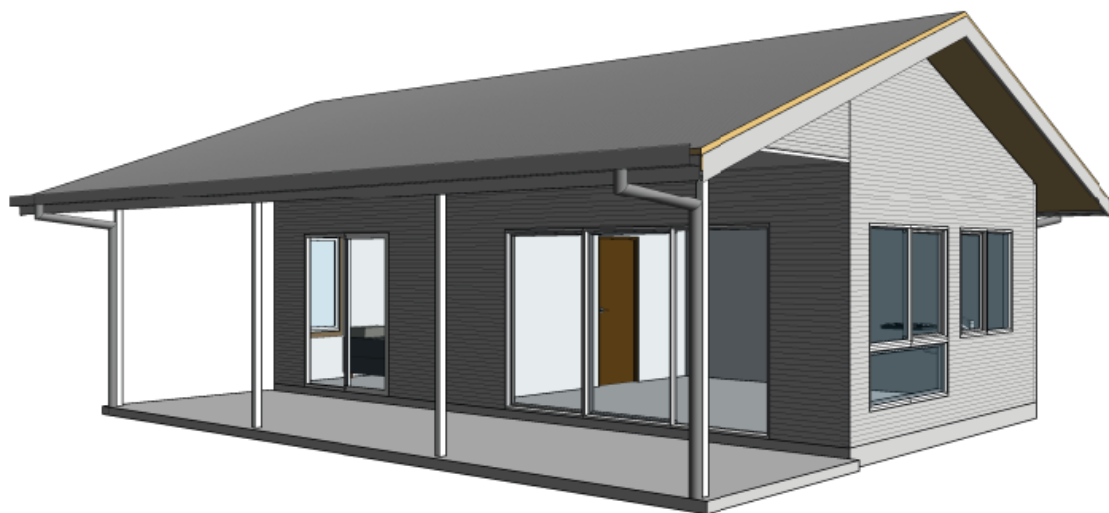
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**1 SECTION**  
03 SCALE - 1 : 50

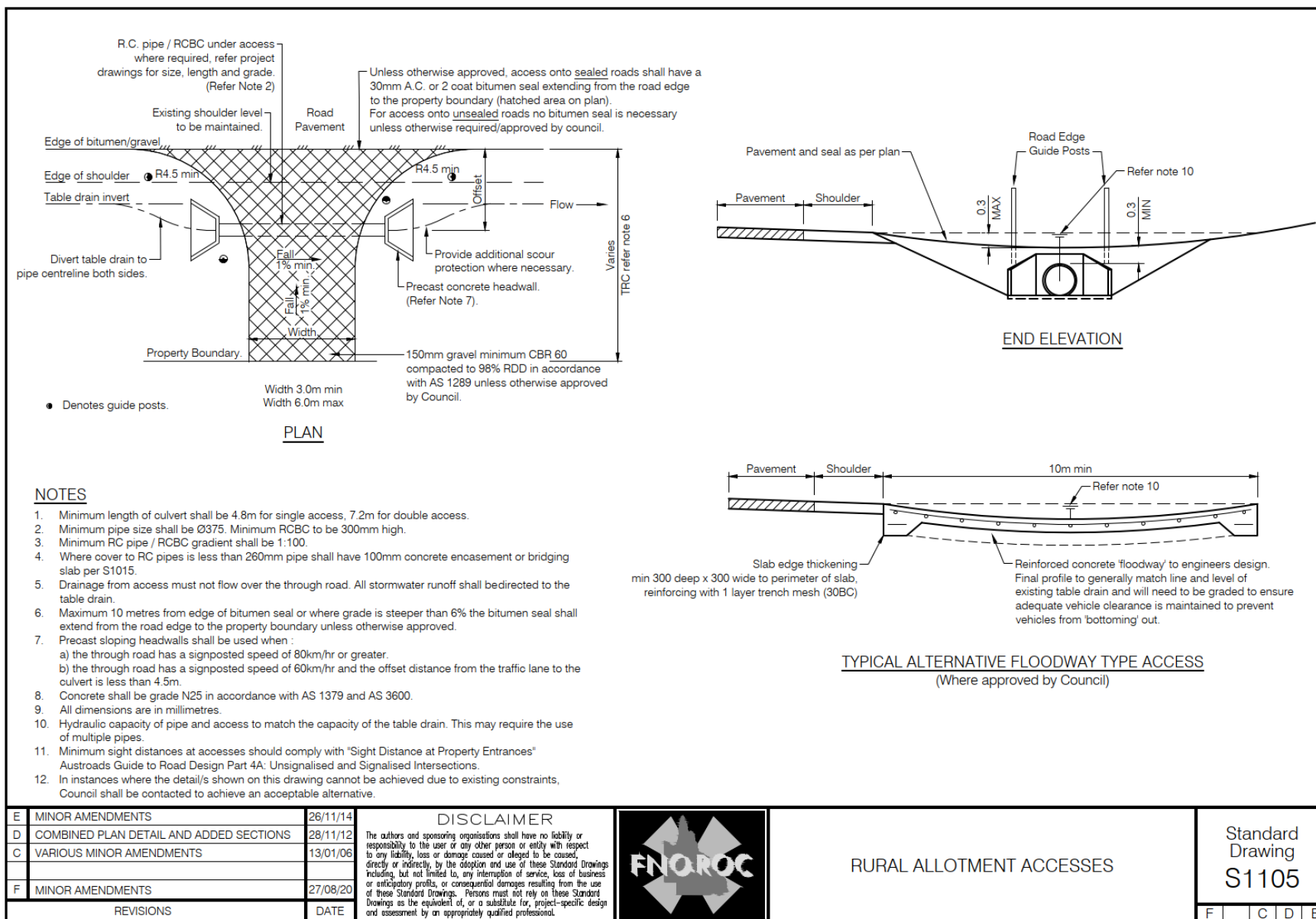
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<b>KFB Engineers</b>		Civil & Structural	
135-42 Peace St. Cairns   PO Box 527, Cairns Q 4870 P: 07 40328482   F: 07 40328092   E: email@kfbeng.com.au			
Date:	2/8/22	Signed:	
Job No:	K-10596	RPEQ No:	5711
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<b>CONSTRUCTION ISSUE</b>			
SSRNO JOB No.	NQ5329	DRAWING No.	-
<b>PROJECT</b>			
PROPOSED RESIDENCE			
Lot 75 on RP733654			
LOT 75 FOREST CREEK ROAD			
KIMBERLY			
<b>CLIENT</b>			
ROBERT HOGG			
QBCC: 1117525			
<b>QLD KIT HOMES</b>			
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34/5 FACULTY CLOSE, SMITHFIELD			
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 qldkithomes.com.au 34/5 FACULTY CLOSE, SMITHFIELD PH: (07) 4038 3900 FAX: (07) 4027 9613 WEB: www.qldkithomes.com.au							
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## 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 18/11/2022 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 Environmental Management 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.

Planning Act 2016  
Chapter 3 Development assessment

[s 74]

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## **Division 2            Changing development approvals**

### **Subdivision 1        Changes during appeal period**

#### **74        What this subdivision is about**

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

#### **75        Making change representations**

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



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

## **76 Deciding change representations**

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



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

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
  - (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the *appellant*); and
    - (ii) who is a respondent in an appeal of the matter; and
    - (iii) who is a co-respondent in an appeal of the matter; and
    - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
  - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or

- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
  - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
  - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
  - (iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
  - (iv) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note—*

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.



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

## **230 Notice of appeal**

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
  - (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
  - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and

- (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
  - (f) for an appeal to the P&E Court—the chief executive; and
  - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
  - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
  - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
  - (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
  - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

## **231 Non-appealable decisions and matters**

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.

- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—  
**decision** includes—
  - (a) conduct engaged in for the purpose of making a decision; and
  - (b) other conduct that relates to the making of a decision; and
  - (c) the making of a decision or the failure to make a decision; and
  - (d) a purported decision; and
  - (e) a deemed refusal.**non-appealable**, for a decision or matter, means the decision or matter—
  - (a) is final and conclusive; and
  - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
  - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

## 232 Rules of the P&E Court

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