

19 December 2019

Enquiries: Jenny Elphinstone
Our Ref: MCUC 2012_4566/2 (Doc ID 933962)
Your Ref: MCUC 4566/2012

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

L A Shears & C Skingle
16 Ryan Cl
BRINSMEAD QLD 4870

Email: lou.shears@gmail.com
Clive.Skingle@newcrest.com.au

Dear Sir/Madam

Development Application for Request to extend relevant period - House (Conservation)
At 45 Silver Ash Road Cow Bay
On land described as Lot 266 on RP738997

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

Please quote Council's application number: MCUC 2012_4566/2 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


Paul Hoyer
Manager Environment & Planning

encl.

- Decision Notice
 - Plans found to be generally in accordance with approval.
 - Reasons for Decision
- Advice For Appeals (Decision Notice)



Decision Notice

Minor Change and Extend Currency Period

Given under section 81, 81A, 86, 87 and 83 of the Planning Act 2016

Applicant Details

Name: L A Shears & C Skingle
Postal Address: 16 Ryan Cl
BRINSMEAD QLD 4870
Email: or lou.shears@gmail.com

Property Details

Street Address: 45 Silver Ash Road Cow Bay
Real Property Description: Lot 266 on RP738997
Local Government Area: Douglas Shire Council

Details of Proposed Development

Application to change an approval and extend the currency period for the Development Permit for MCU - Material Change of Use for a Dwelling House.

Decision

Date of Decision: 19 December 2019
Decision Details: Approved whereby:
a. Condition 4.24 (Conservation Covenant) is deleted;
b. An extension to the currency period for a further six (6) years up to and including 10 February 2026 is granted; and
c. The current design plans, as enclosed, are considered to be generally in accordance with the approval

Assessment Manager Conditions & Advices

Refer to attached original approval, noting condition 4.24 (Conservation Covenant) has been deleted.

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

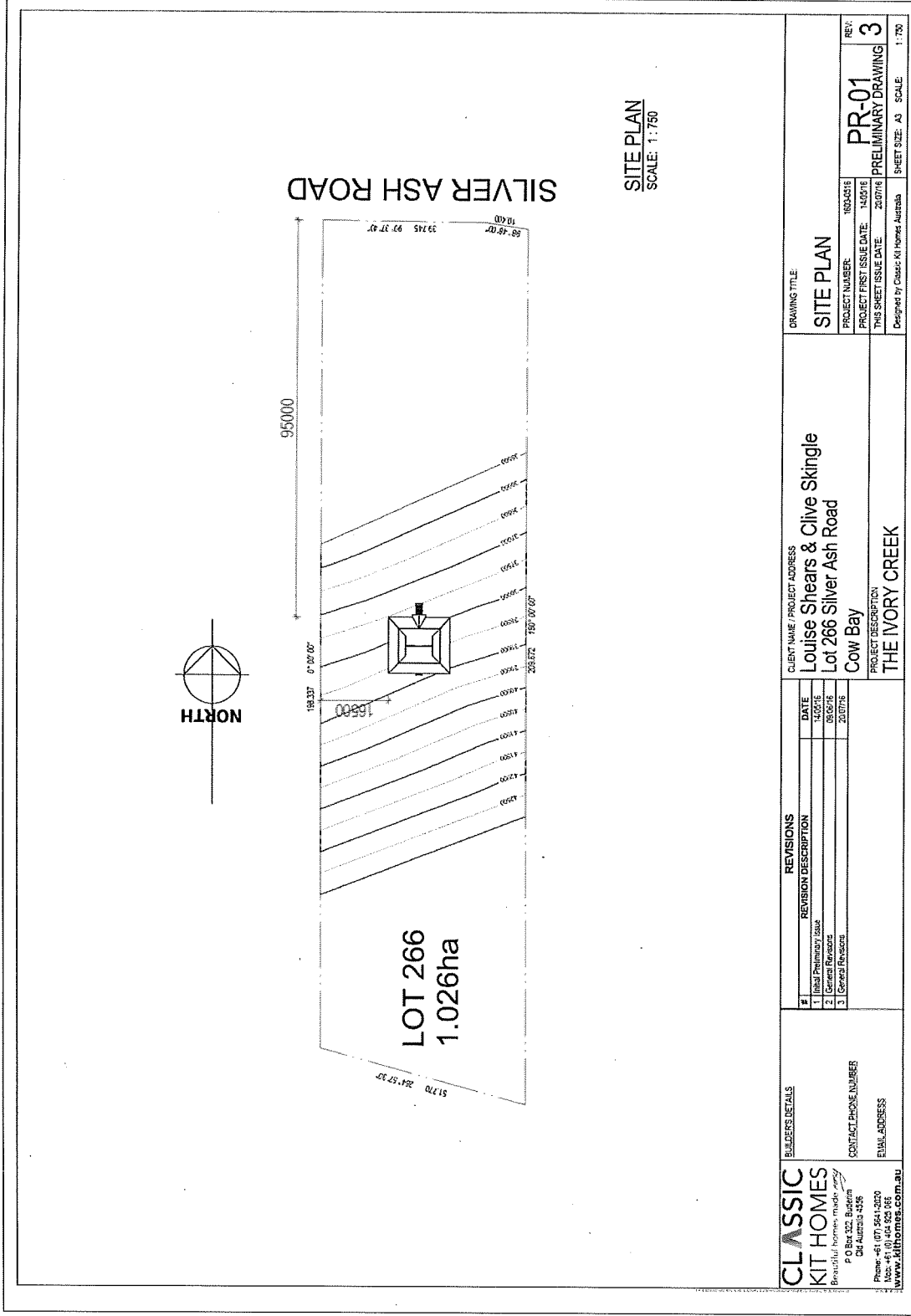
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse after the 10 February 2020 unless the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

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*.

A copy of the relevant appeal provisions are attached.

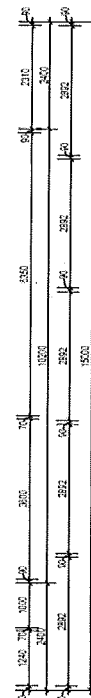
Plans found to be generally in accordance with Approval



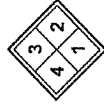
SITE PLAN
SCALE: 1:750

CLASSIC KIT HOMES Beautiful homes made easy P.O. Box 322, Buderim QLD 4573 Phone: +61 (0) 7551 3030 Mob: +61 (0) 454 503 066 www.kithomes.com.au	BUILDER'S DETAILS	REVISIONS	CLIENT NAME / PROJECT ADDRESS	DRAWING TITLE												
	CONTACT PHONE NUMBERS EVAL ADDRESS	<table><thead><tr><th>#</th><th>REVISION DESCRIPTION</th><th>DATE</th></tr></thead><tbody><tr><td>1</td><td>Initial Preliminary Issue</td><td>14/05/16</td></tr><tr><td>2</td><td>General Revisions</td><td>05/05/16</td></tr><tr><td>3</td><td>General Revisions</td><td>20/07/16</td></tr></tbody></table>	#	REVISION DESCRIPTION	DATE	1	Initial Preliminary Issue	14/05/16	2	General Revisions	05/05/16	3	General Revisions	20/07/16	Louise Shears & Clive Skingle Lot 266 Silver Ash Road COW BAY	SITE PLAN
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			PROJECT NUMBER: 1825-0516 PROJECT FIRST ISSUE DATE: 14/05/16 THIS SHEET ISSUE DATE: 20/07/16 Designed by Classic Kit Homes Australia	REV: PR-01 PRELIMINARY DRAWING 3 SHEET SIZE: A3 SCALE: 1:750												

	CLASSIC KIT HOMES Beautiful homes made easy P O Box 322, Buddem Qld Australia 4656 Phone: +61 (0)7 5541-2020 Mob: +61 (0) 434 925 066 www.kithomes.com.au	BUILDER'S DETAILS CONTACT PHONE NUMBER EMAIL ADDRESS	REVISIONS <table><thead><tr><th>#</th><th>REVISION DESCRIPTION</th><th>DATE</th></tr></thead><tbody><tr><td>1</td><td>Initial Preliminary Issue</td><td>14/05/16</td></tr><tr><td>2</td><td>General Revisions</td><td>08/05/16</td></tr><tr><td>3</td><td>General Revisions</td><td>20/07/16</td></tr></tbody></table>	#	REVISION DESCRIPTION	DATE	1	Initial Preliminary Issue	14/05/16	2	General Revisions	08/05/16	3	General Revisions	20/07/16	CLIENT NAME / PROJECT ADDRESS Louise Shears & Clive Skingle Lot 266 Silver Ash Road Cow Bay THE IVORY CREEK	DRAWING TITLE: POST LAYOUT	<table><tr><td>PROJECT NUMBER</td><td>1603-2516</td><td>REV:</td><td>3</td></tr><tr><td>PROJECT FIRST ISSUE DATE</td><td>14/05/16</td><td>PR-02</td><td></td></tr><tr><td>THIS SHEET ISSUE DATE</td><td>20/07/16</td><td>PRELIMINARY DRAWING</td><td></td></tr><tr><td>Designed by Classic Kit Homes Australia</td><td></td><td>SHEET SIZE: A3</td><td>SCALE: 1:100</td></tr></table>	PROJECT NUMBER	1603-2516	REV:	3	PROJECT FIRST ISSUE DATE	14/05/16	PR-02		THIS SHEET ISSUE DATE	20/07/16	PRELIMINARY DRAWING		Designed by Classic Kit Homes Australia		SHEET SIZE: A3	SCALE: 1:100
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AREA - FLOOR SCHEDULE		
Name	Area (m2)	Squares
LIVING	110.87	11.93
VERANDAH	55.98	6.02
VERANDAH	36.00	3.87
TOTAL AREA	202.84	21.83



ELEVATIONS

CLASSIC
KIT HOMES
Beautiful homes made easy
P O Box 322, Budderim
Ctd Australia 4556
Phone: +61 (07) 5541 2020
Mob: +61 (0) 404 925 066
www.kithomes.com.au

BUILDER'S DETAILS	CONTACT PHONE NUMBER	EMAIL ADDRESS
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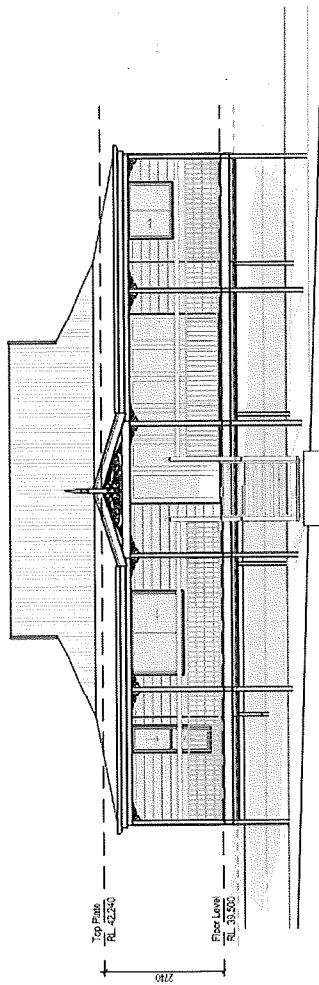
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2	General Revisions
3	General Revisions

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09/06/16
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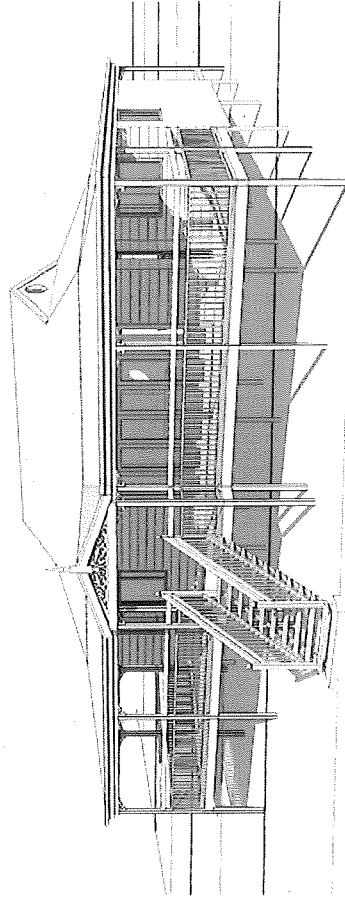
CLIENT NAME / PROJECT ADDRESS	Louise Shears & Lot 266 Silver Ash Cow Bay
PROJECT DESCRIPTION	THE IVORY CREEK

Clive Skingle
Road

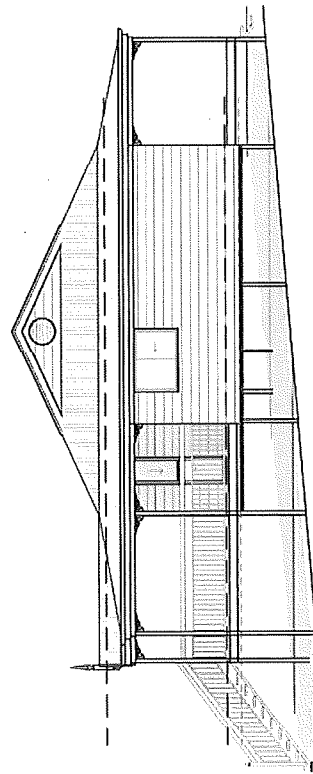
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PROJECT FIRST ISSUE DATE	14/09/16			
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ELEVATION 1

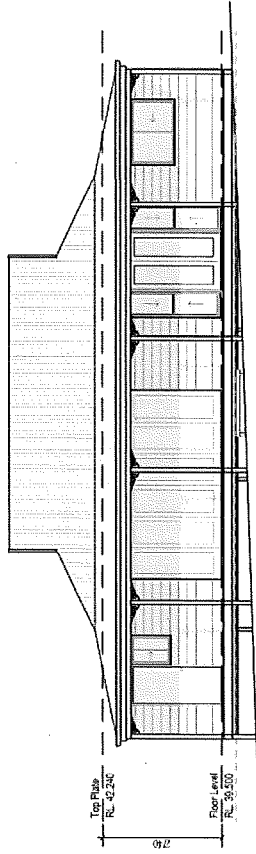


PERSPECTIVE VIEW OF ELEVATION 1-2

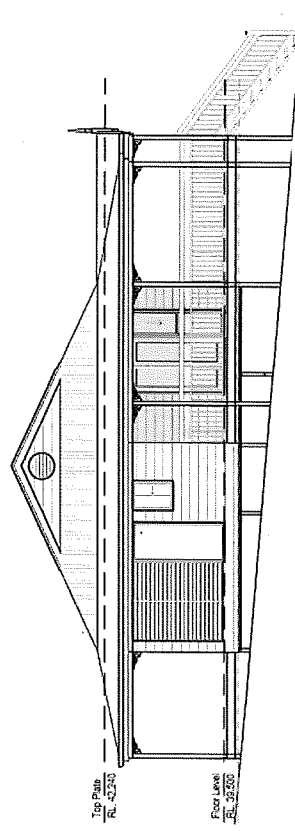


ELEVATION 2

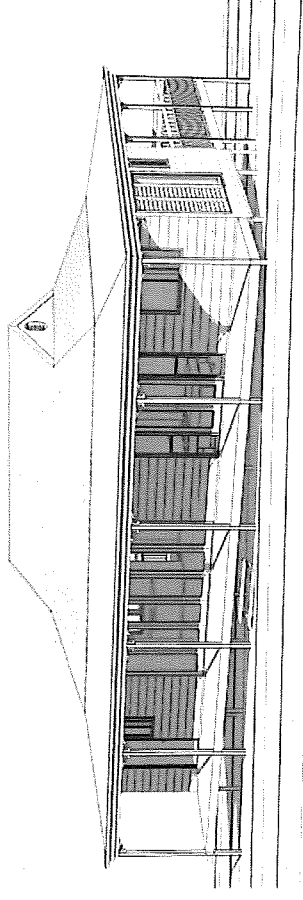
CLASSIC KIT HOMES Beautiful homes made easy P O Box 322, Buderim Qld Australia 4556 Phone: +61 (0)7 5541-2020 Mob: +61 (0) 424 925 066 www.kithomes.com.au		BUILDERS DETAILS CONTACT PHONE NUMBER EMAIL ADDRESS		REVISIONS <table border="1"> <thead> <tr> <th>#</th> <th>REVISION DESCRIPTION</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Initial Preliminary Issue</td> <td>14/05/16</td> </tr> <tr> <td>2</td> <td>General Referrals</td> <td>08/05/16</td> </tr> <tr> <td>3</td> <td>General Referrals</td> <td>23/07/16</td> </tr> </tbody> </table>		#	REVISION DESCRIPTION	DATE	1	Initial Preliminary Issue	14/05/16	2	General Referrals	08/05/16	3	General Referrals	23/07/16	CLIENT NAME / PROJECT ADDRESS Louise Shears & Clive Skingle Lot 266 Silver Ash Road Cow Bay PROJECT DESCRIPTION THE IVORY CREEK		DRAWING TITLE ELEVATIONS 1 - 2 <table border="1"> <tr> <td>PROJECT NUMBER</td> <td>1633-5516</td> <td>REV:</td> <td>PR-05</td> </tr> <tr> <td>PROJECT FIRST ISSUE DATE</td> <td>14/05/16</td> <td>THIS SHEET ISSUE DATE</td> <td>23/07/16</td> </tr> <tr> <td colspan="3">Designed by Classic Kit Homes Australia</td> <td>SHEET SIZE: A3 SCALE: 1:100</td> </tr> </table>		PROJECT NUMBER	1633-5516	REV:	PR-05	PROJECT FIRST ISSUE DATE	14/05/16	THIS SHEET ISSUE DATE	23/07/16	Designed by Classic Kit Homes Australia			SHEET SIZE: A3 SCALE: 1:100
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ELEVATION 3

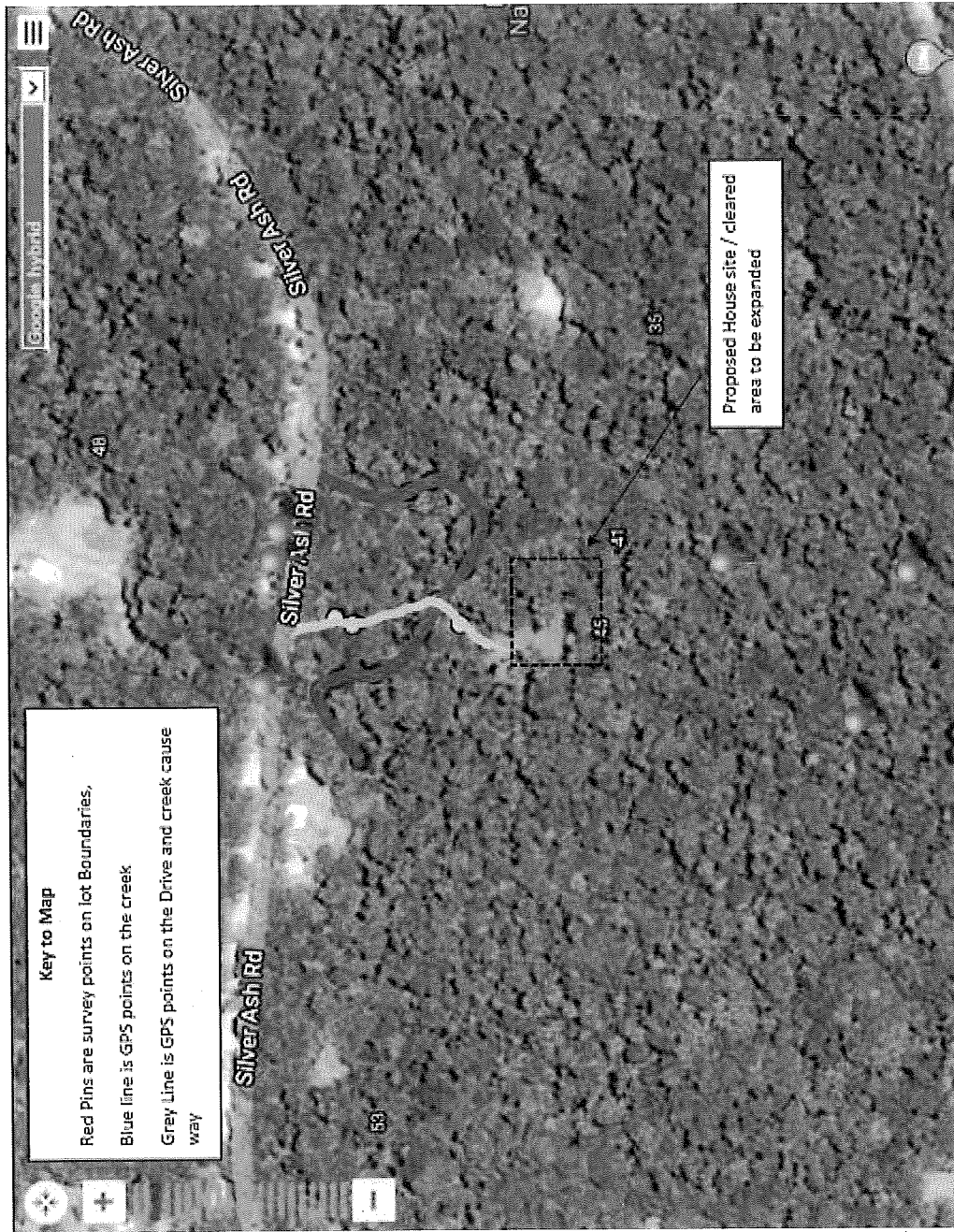


ELEVATION 4



PERSPECTIVE VIEW OF ELEVATION 3-4

CLASSIC KIT HOMES Beautiful homes made simply P O Box 322, Budern Cid Australia 4556 Phone: +61 (0)7 5511 3020 Mob: +61 (0)42 925 055 www.kithomes.com.au		BUILDER'S DETAILS CONTACT PHONE NUMBER EMAIL ADDRESS		REVISIONS <table border="1"> <thead> <tr> <th>#</th> <th>REVISION DESCRIPTION</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Initial Preliminary Issue</td> <td>14/03/16</td> </tr> <tr> <td>2</td> <td>General Revisions</td> <td>09/05/16</td> </tr> <tr> <td>3</td> <td>General Revisions</td> <td>20/07/16</td> </tr> </tbody> </table>		#	REVISION DESCRIPTION	DATE	1	Initial Preliminary Issue	14/03/16	2	General Revisions	09/05/16	3	General Revisions	20/07/16	CLIENT NAME / PROJECT ADDRESS Louise Shears & Clive Skingle Lot 266 Silver Ash Road Cow Bay PROJECT DESCRIPTION THE IVORY CREEK		DRAWING TITLE ELEVATIONS 3 - 4		PROJECT NUMBER 1603-0016		PROJECT FIRST ISSUE DATE 14/03/16		THIS SHEET ISSUE DATE 20/07/16		REV: PR-06 PRELIMINARY DRAWING 3	
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ENQUIRIES: Ms Tracey Pascoe - Assistant Planning Officer
DEPARTMENT: Planning Services Section - ☎ (07) 4099 9450

OUR REF: TAP:
YOUR REF: MCU 3B 020/04

Mr Wayne Pellagreen
Unit 1
14 Melville Street
DARWIN NT 0820

6th August 2004

INTEGRATED PLANNING ACT DECISION NOTICE

DEVELOPMENT APPLICATION

Applicant's Name : Mr Wayne Pellagreen
Owner's Name : Mr RW Pellagreen
Proposal : Council approves the Application for Material Change of Use of Premises for a Dwelling House on Residential Rural zoned land at Lot 266 on RP738997, Parish of Alexandra.
Application Number : MCU 3B 020/04
Site Address : Silver Ash Road, Cow Bay
Property Description : Lot 266 on RP738997, Parish of Alexandra, County of Solander

1. **Decision:** **Decision Date:** 6th August 2004
Approved subject to Conditions
2. **Type of Development Approval:**
Material Change of Use Development Permit

.../2.

ADMINISTRATION CENTRE
(ALL DEPARTMENTS)
64-66 FRONT STREET, MOSSMAN
LIBRARY 14 MILL ST., MOSSMAN

PHONE (07) 4099 9444 FACSIMILE (07) 4098 2902
EMAIL douglas@dsc.qld.gov.au
INTERNET www.dsc.qld.gov.au
PHONE (07) 4099 9496 FACSIMILE (07) 4098 3298

ALL COMMUNICATIONS TO BE
ADDRESSED TO:
THE CHIEF EXECUTIVE OFFICER
P.O. BOX 357
MOSSMAN, QLD 4873

3. Referral Agency:

Nil

4. Conditions

- 4.1 The approved development and the conduct of the approved use, the carrying out of any works on the premises and the construction of any buildings on the premises associated with the development must generally be in accordance with:
- (a) The plans and specifications submitted with the application to Council attached to this approval
- 4.2 This development approval lapses four (4) years after the day that the development approval takes effect, unless extended under Section 3.5.22 of the *Integrated Planning Act 1997*.
- 4.3 The approved use must not be conducted so as to cause a nuisance or annoyance to persons not associated with the business and so as not to adversely affect any other property.
- 4.4 Any erection and use and occupation of the premises shall at all times comply with the conditions laid down and provided for in the Douglas Shire Planning Scheme from time to time.
- 4.5 Approval of satisfactory building plans and specifications in accordance with the Building Act, Council's Local Laws and the Douglas Shire Planning Scheme where applicable and generally in accordance with the approved plans submitted with the MCU Application 020/04.
- 4.6 The provisions of the *Integrated Planning Act 1997*, the Building Act, the Fire Safety Act, the Health Act, the *Food Act 1981* and all other relevant Acts and Regulations and the Local Laws of the Council from time to time shall at all times be observed and performed in relation to the land, the building and the use and occupation thereof.
- 4.7 The issue of this Development Permit approval in no way implies building approval, either in principle or in detail, of any plans of the proposed development which may have been submitted with the application. Approval of any building works associated with the use shall be the subject of a separate Building Application in accordance with the Council's Local Laws.
- 4.8 The minimum floor level for all habitable rooms in any building erected on the premises must be:
- (a) a minimum of 3.4m AHD; or
- (b) a minimum of the Q100 flood level.

.../3.

Which ever is the greater.

- 4.9 All native vegetation on the site is identified as protected vegetation under Council's Local Law N° 56 vegetation Management. No vegetation is permitted to be removed from the site without the approval of Council under this Local Law.
- 4.10 The applicant will revegetate the 250m² of the front section of the property with species indigenous to the area so as to comply with Condition 2 of the Permit to Damage Protected Vegetation Application No. 009/01.
- 4.11 The provisions of the Development Permit are to be effected prior to the commencement of the specific use as granted by Council.
- 4.12 The proposed colour schedule of a Pale Eucalypt colourbond roof with Sandbark colourbond walls is approved. No variation from the approved colours is permitted without the written authorisation of Council.
- 4.13 Water storage tank(s), with a minimum capacity not less than 30,000 litres, shall be installed prior to occupation of the premises. Details of the water tank(s) shall be shown on plans submitted with the building application. Such water tanks shall be fitted with:
 - (a) screening at the inlet to prevent the intrusion of leaves and insects;
 - (b) The water tank(s) shall be fitted with a 50mm ball valve with a camlock fitting; and
 - (c) The water tank(s) shall be accessible by fire fighting vehicles at all times.
- 4.14 Plans of the proposed waste water treatment, designed in accordance with the Standard Sewerage Law, are required to be submitted to Council's plumbing Inspector at the time of lodgement of application for building works and are to be approved and constructed prior to the commencement of the use. Council urges the use of composting toilets, or other technologies that reduce the amount of wastewater generated. Where wastewater treatment is to be by way of a septic system, tree root barriers are to be used in conjunction with absorption trenches.
- 4.15 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.
- 4.16 In accordance with section 8.5.2 of the Douglas Shire Planning Scheme, no change to the natural surface level of the lot shall occur without the written consent of Council's Director Engineering Services.

.../4.

- 4.17 Should excavation or filling be required on-site, then the applicant will be required to prepare and submit civil engineering plans for all excavation including a geotechnical report and sediment control plan in accordance with the FNQROC Development Manual for the separate Council approval.
- 4.18 To ensure that the creek is not detrimentally affected the applicant is required to submit an application for Operational Works Permit that details sediment and erosion control measures
- 4.19 Driveway access will not exceed 4m in width and will be constructed of gravel or other material to the satisfaction of Council's Director Engineering Services.
- 4.20 The dwelling will not exceed 7.5m in height
- 4.21 The applicant will ensure that the proposed development is constructed within the confines of their property. A surveyors certificate showing the boundaries of the premises must be submitted to Council prior to the issue of a development permit for building work.
- 4.22 The applicant is required to demonstrate to the Council that an adequate supply of potable water in both quantity and quality in accordance with the On-site Sewerage Code July 2002 and AS/NZS1547:2000 - On-site domestic wastewater management, is available to the site prior to the issue of a development permit in respect of this development.
- 4.23 The applicant shall ensure that all necessary approvals are obtained from the Department of Natural Resources in respect to the bridge that crosses the creek on Lot 266 Silver Ash Road, Cow Bay.
- 4.24 Covenant

The applicant is required to enter into an environmental covenant with Douglas Shire Council "the Council", over the balance of the allotment not approved to be cleared, under the Vegetation Management Permit on the subject site (Lot 266 on RP738997) The following requirements will be included in this covenant:

- No landscaping in the defined covenant areas is to be undertaken without the express permission of "the Council";
- The clearing of vegetation from the defined covenant areas will not be permitted other than as approved by Council;
- Any works, including drainage, undertaken outside the defined covenant area undertaken by the lot owner shall not prejudice the integrity of the existing vegetation;
- No structures shall be constructed within the covenant areas other than as approved by Council.

.../5.

This covenant will be drafted by Council and signed by the Council and the applicant prior to any clearing on the subject site commencing. This Covenant is to be binding on successive owners of the land and a copy of this Covenant is to be included in the contract documentation for the sale of the effected allotments.

Council will compensate the landholder for the cost of survey associated with the marking out of the covenant area, preparation of a Plan of Survey and the registration of the covenant with the Department of Natural Resources, Mines and Energy

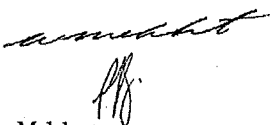
Advice

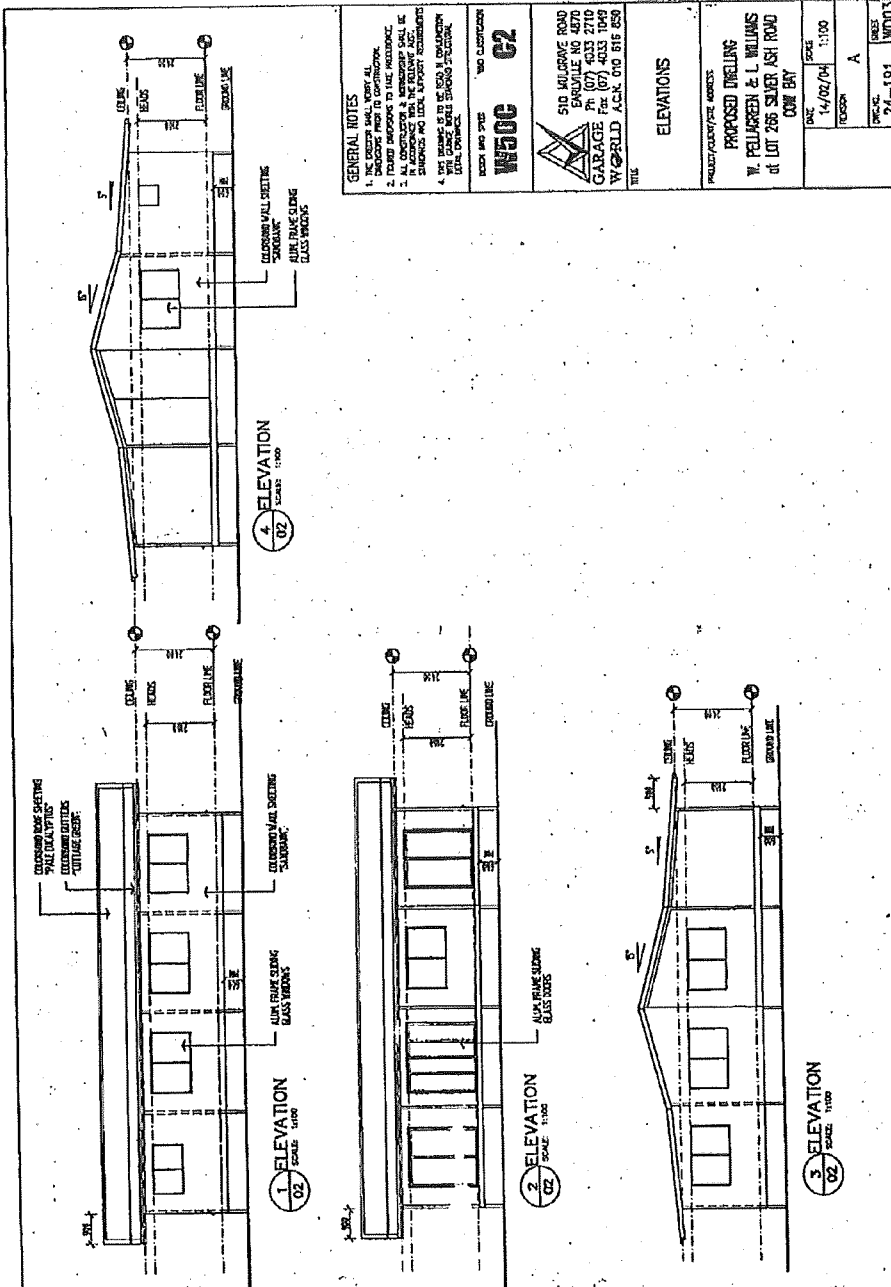
You are advised that the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* applies to proposed activities likely to have a significant impact on the matters of 'national environmental significance', including world heritage properties. Such activities may require approval under this Act prior to any works being undertaken. Further information on the Act can be obtained from Environment Australia's Community Information unit (1800 803 772) or from the following website www.environment.gov.au/epbc. EPBC Act *Administrative Guidelines on Significance (July 2000)* are available to assist people in deciding whether activities are likely to need consideration under the Act.

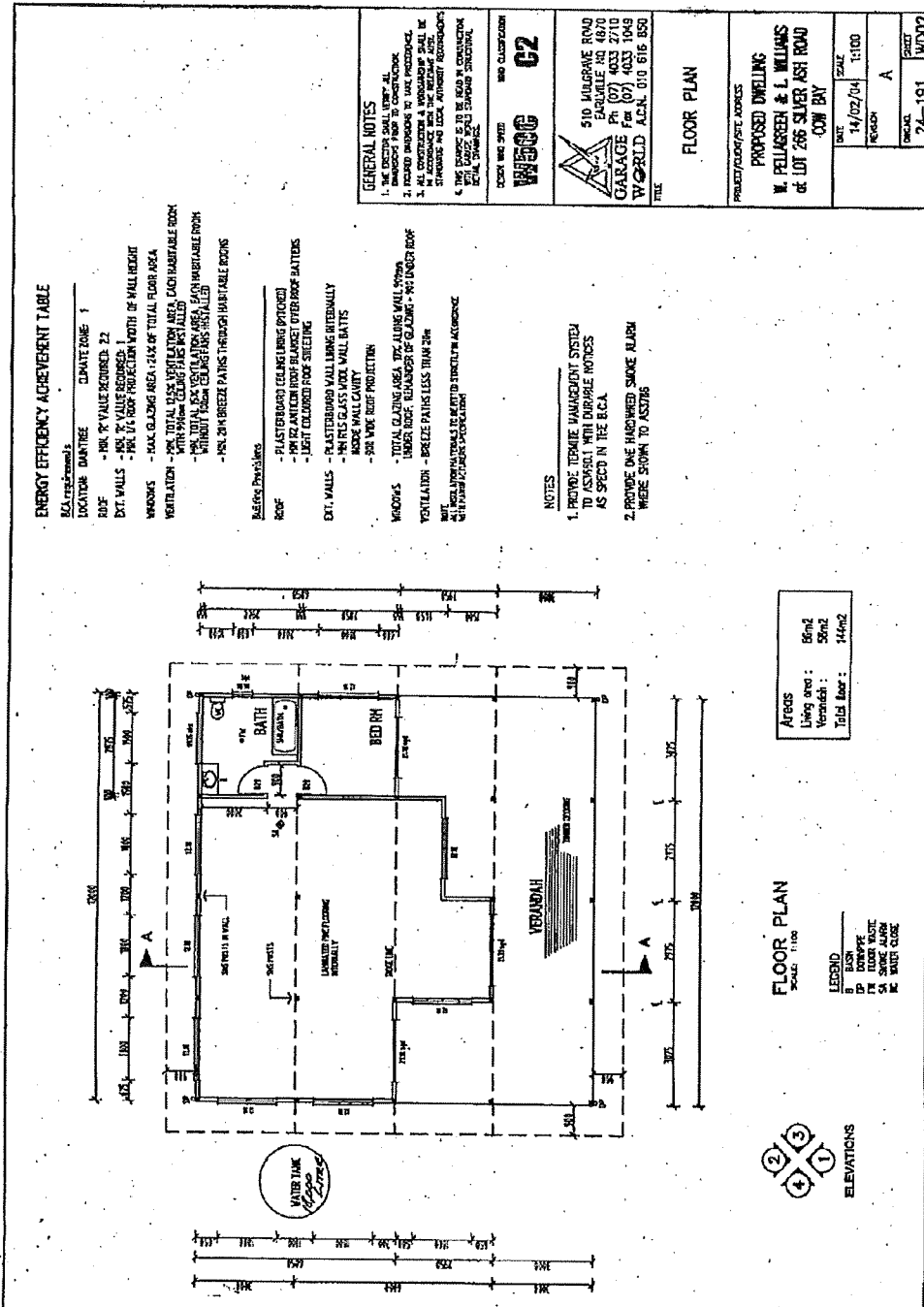
You are advised that the taking of water, or interfering with water from streams or groundwater sources will require a permit administered under the *Water Act 2000* and issued by the regional office of the Department of the Natural Resources and Mines. The related infrastructure will/may require an approval for operational works pursuant to the *Integrated Planning Act 1997*. Further information can be obtained from the Department of Natural Resources and Mines at Cairns, Telephone 4039 8275.


5. Further Development Approvals Required:

Building Work
Plumbing & Drainage Permit

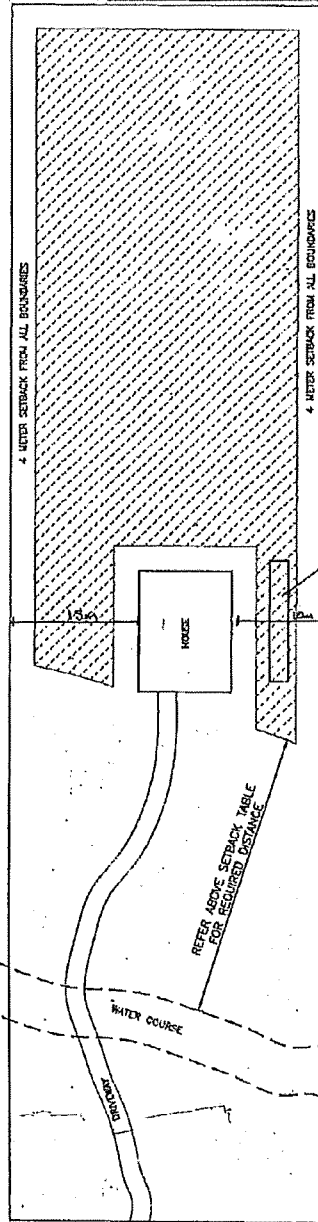

Terry Melchert
Chief Executive Officer






 HATCHING INDICATES
 AREAS AVAILABLE FOR
 DISCHARGE OF TREATED
 EFFLUENT.

NOTES:
 REQUIRED SETBACKS:
 4 METERS FROM BOUNDARIES
 4 METERS FROM BUILDINGS
 50 METERS FROM CREEK FOR PRIMARY TREATED EFFLUENT
 50 METERS FROM CREEK FOR SECONDARY TREATED EFFLUENT
 10 METERS FROM CREEK FOR ADVANCED SECONDARY TREATED EFFLUENT
 ALL WORK MUST BE CONSTRUCTED IN ACCORDANCE WITH AS 1547:2000



ABSORPTION AREA
 SEPTIC TANK TO HAVE AN ADEQUATE
 CAPACITY TO TREAT WASTEWATER TO
 PROLONG USE OF TRENCH.



EVAPOTRANSPIRATION - ABSORPTION AREA DETAIL n.t.s

Reasons for Decision

The reasons for this decision are:

1. Sections 80 and 87 of the *Planning Act 2016*:
 - a. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
 - b. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
 - a. the development application was properly lodged to the Douglas Shire Council 16 December 2019 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
 - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
 - a. the development triggered assessable development under the Assessment Table associated with the Conservation Zone Code;
 - b. Council undertook an assessment in accordance with the provisions of sections 86 and 87 of the *Planning Act 2016*; and
 - c. the applicant's request has been considered and the following findings are made:
 - i. Subject to the continued conditions, the development satisfactorily meets the Planning Scheme benchmarks.

Non-Compliance with Assessment Benchmarks

Not applicable.

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

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

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

- (iii) who is a co-respondent in an appeal of the matter;
and
 - (iv) who may elect to be a co-respondent in an appeal
of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
- (a) for an appeal by a building advisory agency—10
business days after a decision notice for the decision is
given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time
after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under
chapter 7, part 4, to register premises or to renew the
registration of premises—20 business days after a notice
is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—
20 business days after the infrastructure charges notice
is given to the person; or
 - (e) for an appeal about a deemed approval of a development
application for which a decision notice has not been
given—30 business days after the applicant gives the
deemed approval notice to the assessment manager; or
 - (f) for an appeal relating to the *Plumbing and Drainage Act
2018*—
 - (i) for an appeal against an enforcement notice given
because of a belief mentioned in the *Plumbing and
Drainage Act 2018*, section 143(2)(a)(i), (b) or
(c)—5 business days after the day the notice is
given; or
 - (ii) for an appeal against a decision of a local
government or an inspector to give an action notice
under the *Plumbing and Drainage Act 2018*—5
business days after the notice is given; or

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

Note—

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

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

230 Notice of appeal

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

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

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

231 Non-appealable decisions and matters

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
decision includes—
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

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

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

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

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

232 Rules of the P&E Court

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

Part 2 Development tribunal

Division 1 General

233 Appointment of referees

- (1) The Minister, or chief executive, (the *appointer*) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—
 - (a) has the qualifications or experience prescribed by regulation; and
 - (b) has demonstrated an ability—
 - (i) to negotiate and mediate outcomes between parties to a proceeding; and
 - (ii) to apply the principles of natural justice; and
 - (iii) to analyse complex technical issues; and
 - (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.