

1 May 2025

**Enquiries:** Rebecca Taranto  
**Our Ref:** MCUC 2022\_4908/2 (Doc ID:1293123)

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

Andre Frederick Leu and Julia Fay Leu  
PO Box 800  
MOSSMAN QLD 4873

Dear Sir/Madam

**Development Application for Minor Change to Material Change of Use, Approval No.  
MCUC 2022\_4908/1 (Dwelling House)  
At Rykers Road Cape Tribulation  
On Land Described as Lot 2 on RP726706**

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

Please quote Council's application number: MCUC 2022\_4908/2 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



**Neil Beck**  
**Acting 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 78, s78A, s79, s81, s81A and s83 of the Planning Act 2016*

#### Applicant Details

Name: Andre Frederick Leu and Julia Fay Leu  
Postal Address: PO Box 800  
MOSSMAN QLD 4873  
Email: Andreleu.al@gmail.com

#### Property Details

Street Address: Rykers Road Cape Tribulation  
Real Property Description: Lot 2 on RP726706  
Local Government Area: Douglas Shire Council

#### Details of Proposed Development

Application has been made for a Minor Change Application to vary Decision Notice MCUC 2022\_4908/1 (Dwelling house)

#### Decision

Date of Decision: 1 May 2025  
Decision Details: Approved whereby;  
1. The design of the development is in accordance with the following table of Approved Drawing(s) and / or Document(s).

#### 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
Amended Driveway and House Site Compared to the Original DA	Council Doc Id: 1288460	Submitted with Application on 1 April 2025

Amended Driveway and House Site	Council Doc Id: 1288460	Submitted with Application on 1 April 2025
The Amended Floor Plan	Council Doc Id: 1288460	Submitted with Application on 1 April 2025
Unnamed Drawing	Council Doc Id: 1288460	Submitted with Application on 1 April 2025
Unnamed Drawing	Council Doc Id: 1288460	Submitted with Application on 1 April 2025
<b>FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access</b>		
Rural Allotment Access	Standard Drawing S1105 Issue F	27 August 2020
Site Plan, Cross Section	Greg Skyring Design and Drafting Pty Ltd Plan Number 306-24 Sheet 1 of 4	06/09/2022
Floor Plan	Greg Skyring Design and Drafting Pty Ltd Plan Number 306-24 Sheet 2 of 4	06/09/2022
North and East Elevations	Greg Skyring Design and Drafting Pty Ltd Plan Number 306-24 Sheet 3 of 4	06/09/2022
South and West Elevations	Greg Skyring Design and Drafting Pty Ltd Plan Number 306-24 Sheet 1 of 4	06/09/2022
<b><del>FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access</del></b>		
<del>Rural Allotment Access</del>	<del>Standard Drawing S1105 Issue E</del>	<del>27 August 2020</del>

2. The following conditions and advices are included on the approval:

## **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.

### **Building Colours**

3. The exterior finishes and colours of all buildings should be non-reflective and consist of colours that blend easily with the surrounding native vegetation and view shed. Details of the colours to be used are to be approved by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

### **Water Supply**

4. The location of water storage tank(s) must be visually unobtrusive and must facilitate access for firefighting vehicles. Such water tank(s) must be provided a minimum capacity not less than 30,000 litres and must be installed prior to occupation of the premises. 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. The water tank(s) shall be fitted with a 50 mm ball valve with a camlock fitting.

### **Vehicle Access & Driveway**

5. Undertake the following works external to the land at no cost to Council:
  - a. Construct a rural allotment access in accordance with the FNQROC Development Manual Standard Drawing S1105 Rev F prior to the commencement of the use; and
  - b. Provide a suitably surfaced gravel access driveway from the road boundary to the proposed carport. Such works must be completed to the satisfaction

of the Chief Executive Officer prior to commencement of use.

### **Vegetation Clearing**

- ~~6. Existing vegetation on the subject land must be retained in all areas except those generally in accordance with the area approved on the site plan. Any further clearing outside the self assessable provisions requires an Operational Works development approval.~~

### **Generators**

7. Noise from generators, air-conditioning units, 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**

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

### **Wastewater**

- ~~9. The method of on-site effluent disposal must be in accordance with report prepared by Earth Test submitted with the development application and 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.~~

### **Vehicle Access & Driveway**

10. Undertake the following works external to the land at no cost to Council:
- a. Construct a rural allotment access at the front road boundary in accordance with the FNQROC Development Manual Standard Drawing S1105 Rev F prior to the commencement of the use; and
  - b. Provide a suitably surfaced gravel access driveway from the southern end of the front road boundary to the proposed Dwelling. Such works must be completed to the satisfaction of the Chief Executive Officer prior to commencement of use.

### **Vegetation Clearing**

11. Existing vegetation on the subject land must be retained in all areas except those generally in accordance with the area detailed on the Amended Driveway and House Site plan (Council Doc id; 1288460). Any further clearing outside the self assessable provisions requires an Operational Works development approval.

## **Wastewater**

12. 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.

## **Side Boundary Setback**

13. The setback from the northern side boundary to the outermost projection of the Dwelling House must be no less than 5metres.

## **Advices**

1. 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.
2. This approval does not negate the requirement for compliance with all other relevant Council Local Laws and other statutory requirements.
3. For information relating to the Planning Act 2016 log on to <https://planning.dsdmip.qld.gov.au/>. To access the FNQROC Regional Development Manual, Local Laws, the Douglas Shire Planning Scheme and other applicable Policies log on to [www.douglas.qld.gov.au](http://www.douglas.qld.gov.au).
4. On completion of the access crossover, it is advised that Council be contacted to organise trimming of the trees along the verge of Rykers Road to improve site lines for drivers exiting the Premises.
5. All other requirements of Decision Notice MCUC 2022-4908/1, remain unchanged.

A copy of the original Decision Notices is attached.

## **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**

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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*.

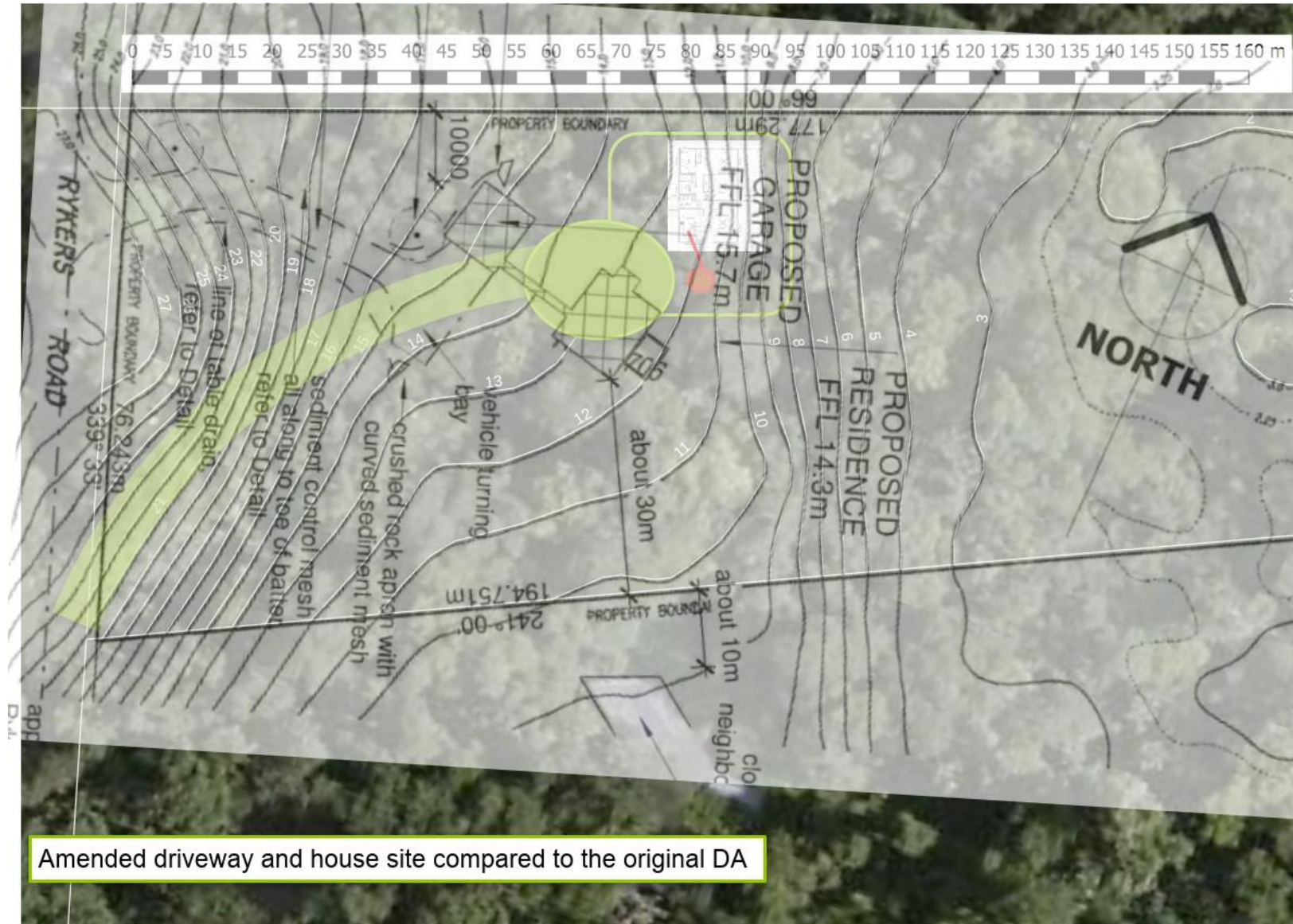
### **Rights to make Representations & Rights of Appeal**

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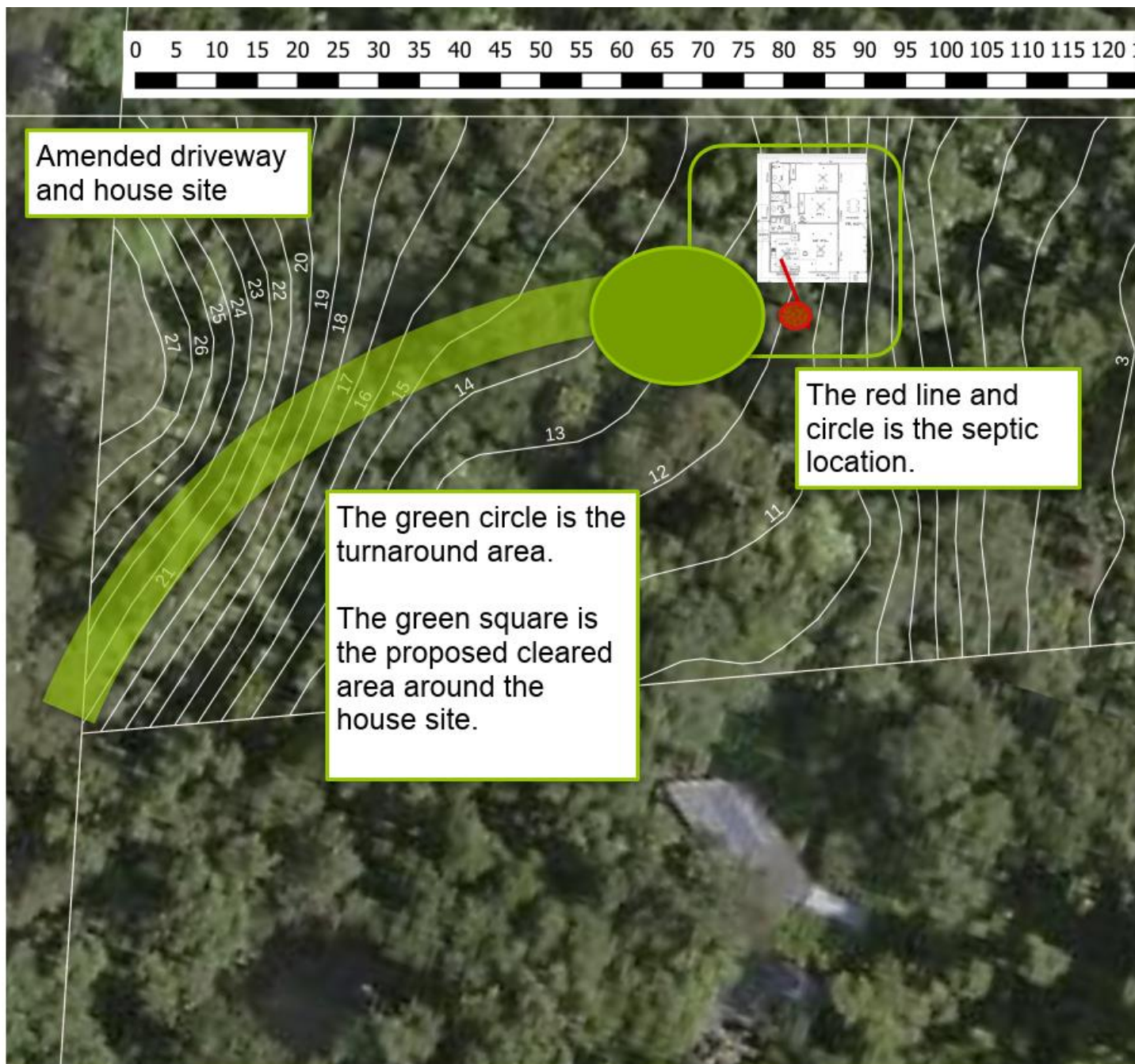
The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

A copy of the relevant appeal provisions is attached.

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



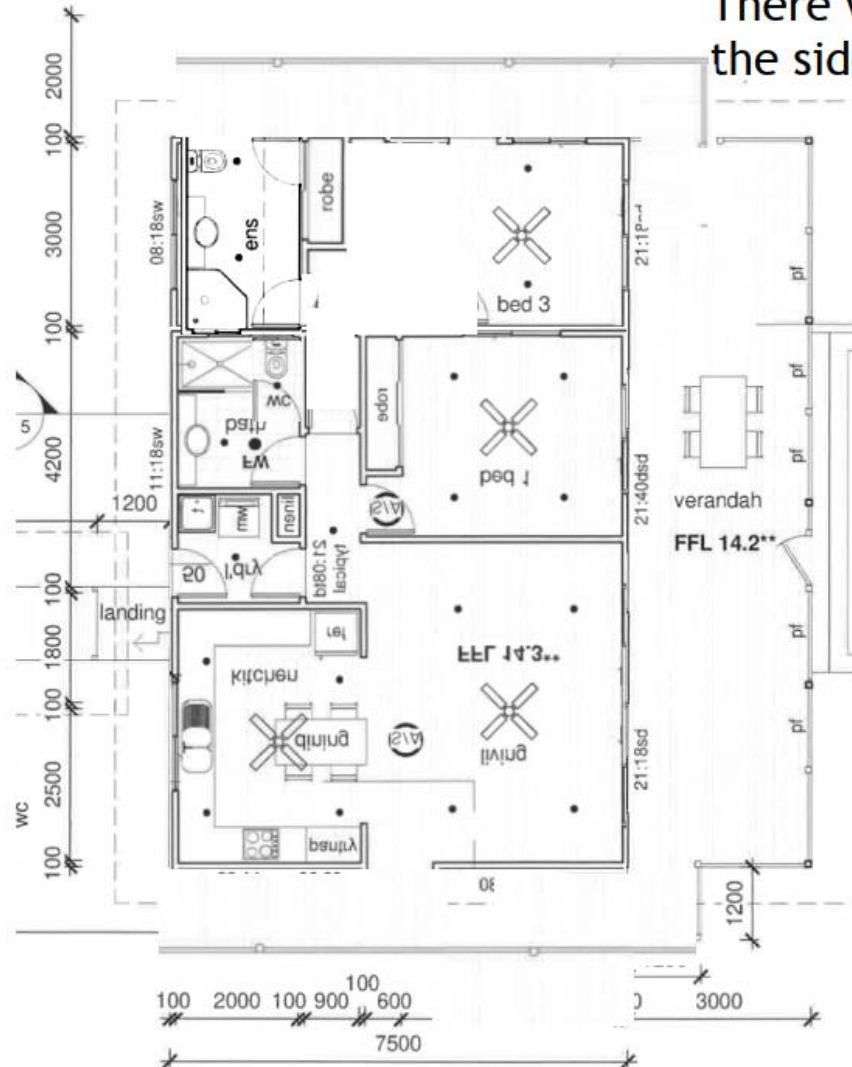




The new proposed house site is on an area that was cleared allegedly for a dope plantation. Consequently, it only has low-value regrowth, mostly wait-a-while.

The house footprint will be the same as the DA; overall, there will be less vegetation clearing as there is no garage.

It will be 5 meters from the border of the Daintree National Park and as far from the neighboring house as possible.



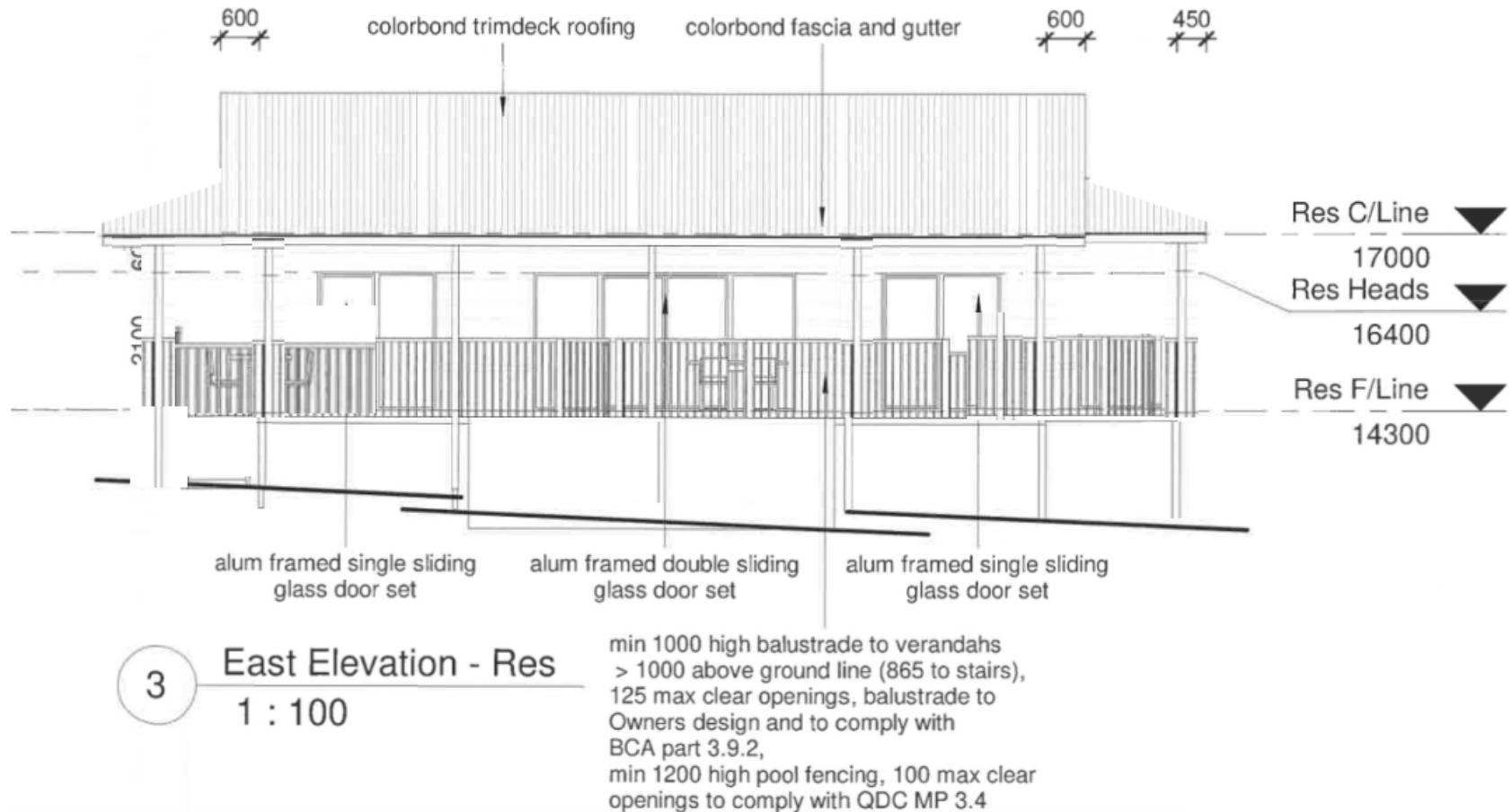
The pitched roof is better for shedding heavy rain, self-cleaning fallen leaves and for mounting solar panels to maximize capture



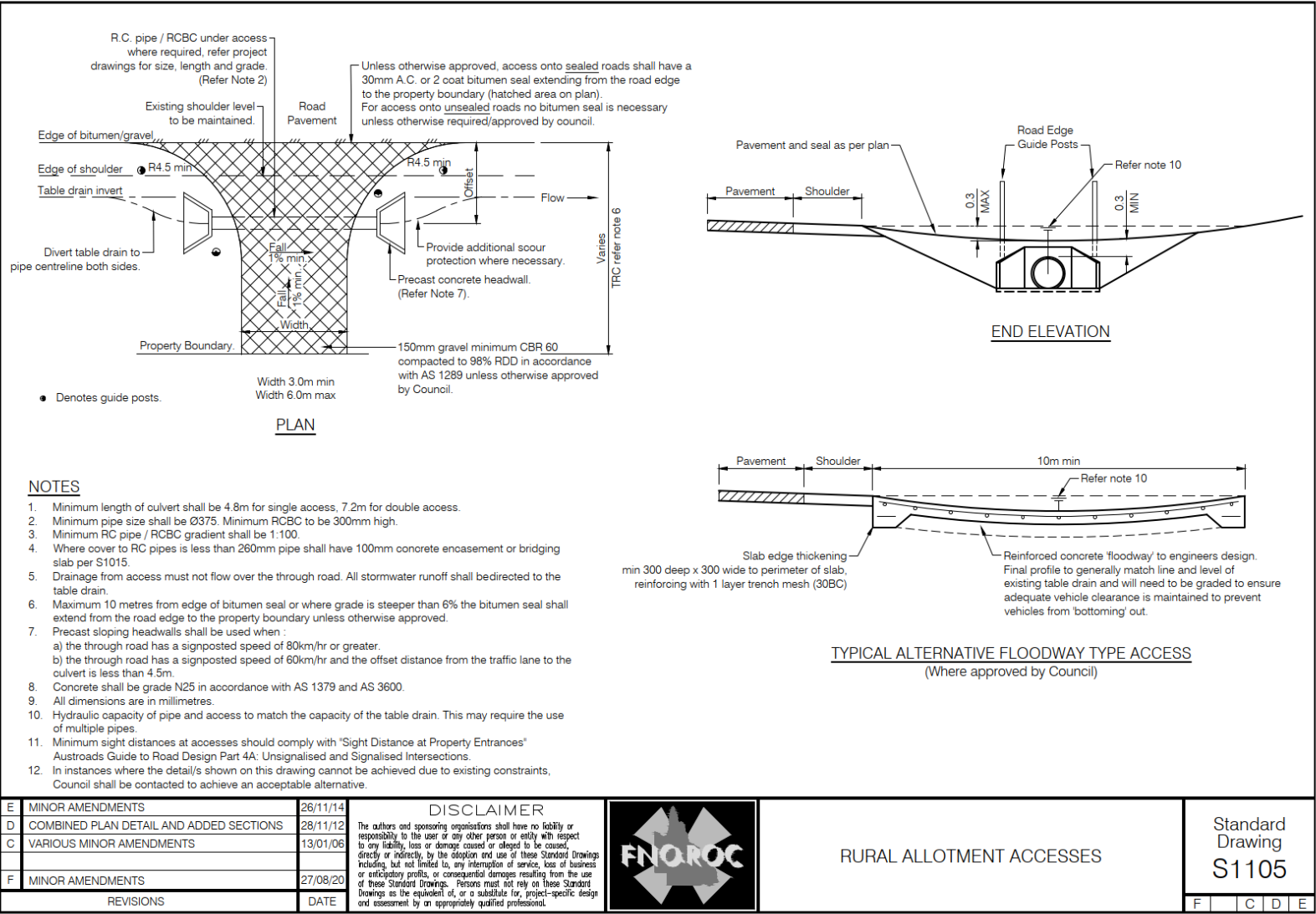
The block faces N.E.E., with the Mount Sorrow range to the west, blocking the afternoon sun. The front of the house will be situated in N.E.E. to maximize the capture of sunlight in the winter months. The roof pitch assists in maximizing sun exposure on the panels due to the lower angle of the sun in the morning in the winter months.



The revised plan replaces the ensuite on the north side with a covered veranda. The south side steps are replaced with a covered veranda



**FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access**



14 September 2022

Enquiries: Rebecca Taranto  
Our Ref: MCUC 2022\_4908/1 (Doc ID:1109655)  
Your Ref: 2022-04-04 -LYONS-LOT 2 RYKERS

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

J B Lyons & V T Lyons  
C/- Daniel Favier (Aspire Town Planning)  
PO Box 1040  
M QLD 4873

Dear Sir/Madam

**Development Application for Material Change of Use (Dwelling house)  
At Rykers Road Cape Tribulation  
On Land Described as Lot 2 on RP726706**

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

Please quote Council's application number: MCUC 2022\_4908/1 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Daniel Lamond 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



## Decision Notice

Approval (with conditions)

Given under s 63 of the Planning Act 2016

### Applicant Details

Name:	J B Lyons & V T Lyons
Postal Address:	C/- Daniel Favier (Aspire Town Planning) PO Box 1040 MOSSMAN QLD 4873
Email:	admin@aspireqld.com

### Property Details

Street Address:	Lot 2 Rykers Road Cape Tribulation
Real Property Description:	Lot 2 on RP726706
Local Government Area:	Douglas Shire Council

### Details of Proposed Development

Development Permit - Material Change of Use - Dwelling house
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### Decision

Date of Decision:	14 September 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.

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

Drawing or Document	Reference	Date
Site Plan, Cross Section	Greg Skyring Design and Drafting Pty Ltd Plan Number 306-21 Sheet 1 of 4	06/09/2022
Floor Plan	Greg Skyring Design and Drafting	06/09/2022

	Pty Ltd Plan Number 306-21 Sheet 2 of 4	
North and East Elevations	Greg Skyring Design and Drafting Pty Ltd Plan Number 306-21 Sheet 3 of 4	06/09/2022
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Rural Allotment Access	Standard Drawing S1105 Issue E	27 August 2020

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  - 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.

#### **Building Colours**

3. The exterior finishes and colours of all buildings should be non-reflective and consist of colours that blend easily with the surrounding native vegetation and view shed. Details of the colours to be used are to be approved by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

#### **Water Supply**

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  - b. Flap valve at every opening of the tank or other receptacle; or
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#### **Vehicle Access & Driveway**

5. Undertake the following works external to the land at no cost to Council:



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#### **Fuel Storage**

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

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4. On completion of the access crossover, it is advised that Council be contacted to organise trimming of the trees along the verge of Rykers Road to improve site lines for drivers exiting the Premises.

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- All Building Work

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#### **Currency Period for the Approval**

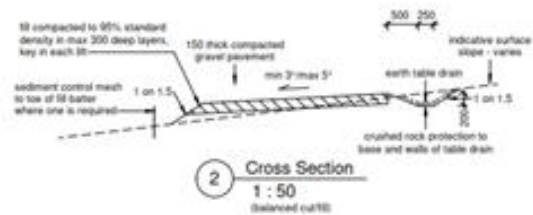
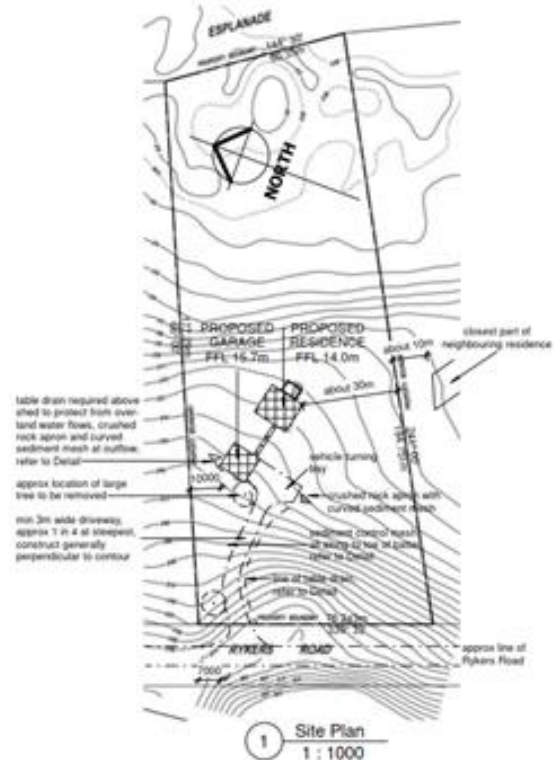
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

### **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)



## PAYMENT NOTES

**SUBSPACE**  
Strip existing top soil and vegetation to a depth of 100mm and compact to 100% SPDD. Should any soft or unsuitable material be identified seek advice from Engineer.

Gravel pavement base can be locally sourced well graded ridge gravel with min CBR 30, compacted to 100% SPDD. Depth of pavement - 150mm.

If preferred the Owner may cement stabilise the pavement with GP cement at 3% by volume.

## SEDIMENT CONTROL NOTES

Fit crushed rock protection at along and at the table drain apron, curved sediment mesh at end of drain apron

**GREG SKYRING**  
Design and DRAFTING Pty Ltd  
1/21 Under Gables Rd 1081 - 461046371  
11 Neil Close,  
Mossman Q. 4873

PROJECT  
Proposed Residence,  
Rykers Road,  
L2 RP726706,  
CAPE TRIBULATION

CLIENT  
V. Lyons

WIND CLASS  
C3

PLATE NUMBER  
306-21

SHEET  
1 of 4

SCALE  
As indicated

PLAN TITLE  
Site Plan, Cross Section,  
Notes

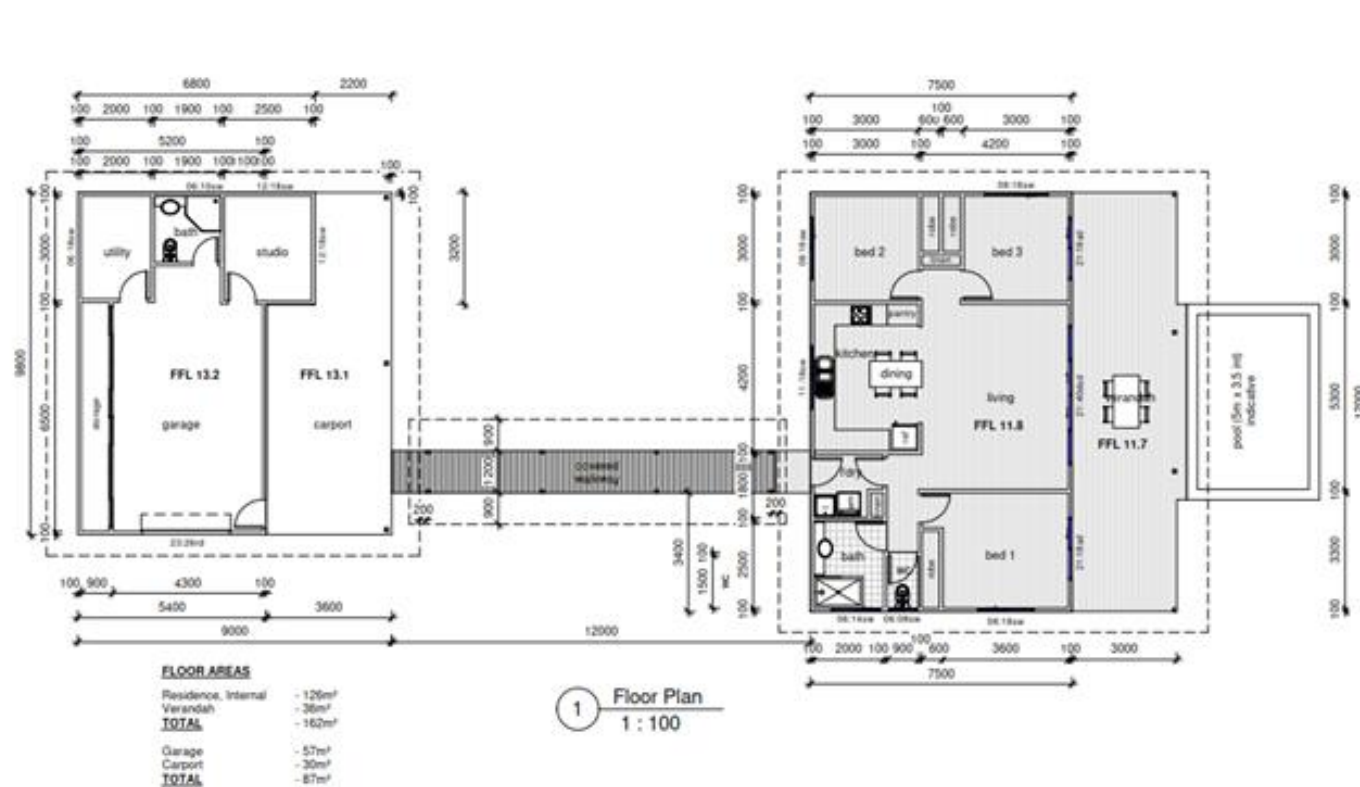
DATE OF ISSUE  
prelim  
06.09.22

REV  
C

Doc ID:1109655

MCUC 2022\_4908/1

Page 8 of 19



**GREG SKYRING**  
*Design and DRAFTING* Pty Ltd

Lic Under OESA Act 1991 - No 1040271

11 Noli Close,  
Mossman Q. 4873

Phone/Fax: (07) 40942061  
Mobile: 041 921 0852  
Email: greg@skyringdesign.com.au

PROJECT

Proposed Residence,  
Rykers Road,  
L2 RP726706,  
CAPE TRIBULATION

CLIENT

V. Lyons

WIND CLASS  
C3

PLAN NUMBER  
306-21

SHEET  
2 of 4

SCALES

1 : 100

PLAN TITLE

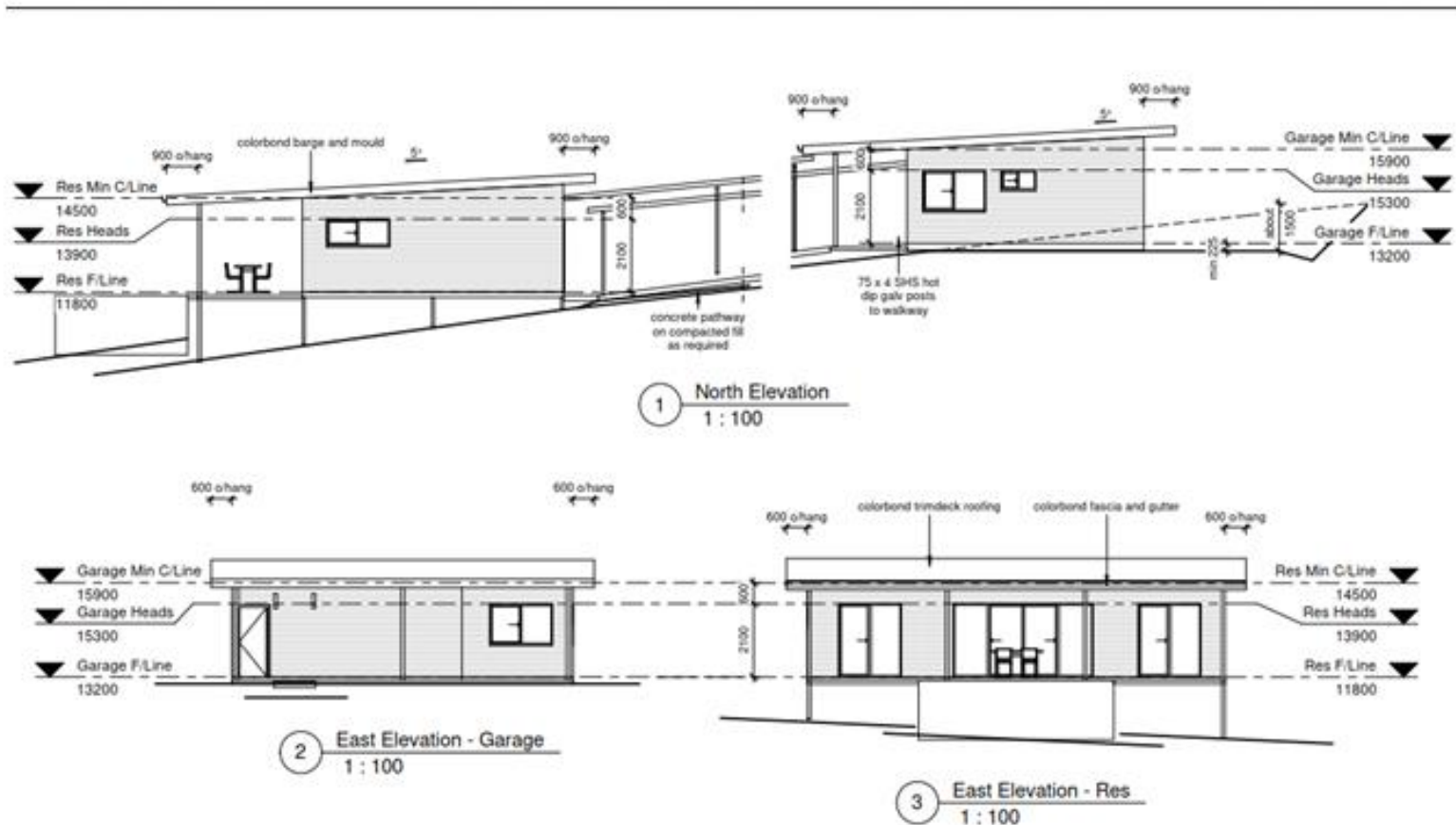
Floor Plan

DATE OF ISSUE

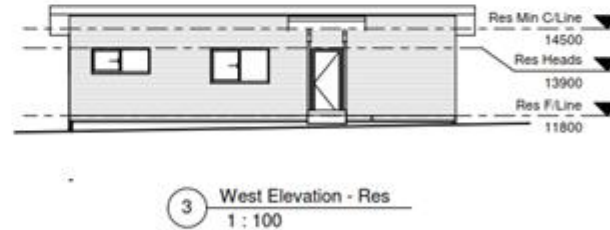
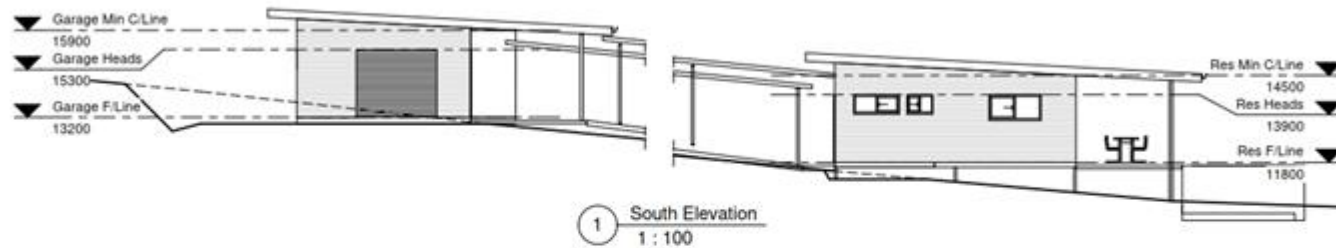
prelim  
06.09.22

REV

C



<b>GRFG SKYRING</b> <i>Design</i> and DRAFTING Pty Ltd <small>Lic Under QSA Act 1991 - No 1045371</small> <small>11 Noll Close, Mossman Q. 4873</small> <small>Phone/Fax: (07) 42992061 Mobile: 0419212652 Email: gprgdesign@optusnet.com.au</small>	<b>PROJECT</b> Proposed Residence, Rykers Road, L2 RP726706, CAPE TRIBULATION		<b>CLIENT</b> V. Lyons	<b>WIND CLASS</b> C3	<b>PLAN NUMBER</b> 306-21	<b>SHEET</b> 3 of 4
	<b>SCALE</b> 1 : 100	<b>PLAN TITLE</b> Elevations - Sheet 1	<b>DATE OF ISSUE</b> prelim 06.09.22	<b>REV</b> C		



<b>GRFG SKYRINK</b> <i>Design</i> and DRAFTING Pty. Ltd. <small>Ltd. Under OMSA Act 1991 - No 1045371</small> 11 Nali Close, Mossman Q. 4873 Phone/Fax: (07) 40982061 Mobile: 04116712652 Email: skyrindesign@skyrindesign.com.au	SUBJECT Proposed Residence, Rykers Road, L2 RP726706, CAPE TRIBULATION	CLIENT V. Lyons SCALES 1 : 100	WIND CLASS C3	PLAN NUMBER 306-21 DATE OF ISSUE prelim 06.09.22	SHEET 4 of 4 REV C
		PLAN TITLE Elevations - Sheet 2			

[illegible]

## 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 04/07/2022 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 Conservation 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]

## 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

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- (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.

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## Reasons for Decision

1. The reasons for this decision are:
  - a. Sections s78, s78A, s79, s81, s81A and s83 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 18/08/2023 under s78, s78A, s79 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 s81, s81A and s83 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.

## 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 assessment manager gives the applicant the decision notice for 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) If the applicant makes the change representations during the appeal period without giving a notice under subsection (2), the appeal period is suspended from the day the representations are made until—
- (a) the applicant withdraws the change representations by notice given to the assessment manager; or
  - (b) the assessment manager gives the applicant the decision notice for the change representations; or

- (c) 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.
- (6) Despite subsections (4) and (5), if the decision notice mentioned in subsection (4)(b)(ii) or (5)(b) is 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.

## Subdivision 2 Changes after appeal period

### 77 What this subdivision is about

This subdivision is about changing a development approval, other than the currency period, after all appeal periods in relation to the approval end.

### 78 Making change application

- (1) A person may make an application (a *change application*) to change a development approval.

*Note—*

For the making of a change application for a development approval that was a PDA development approval, see also the *Economic Development Act 2012*, sections 51AM, 51AN and 51AO.

- (2) A change application must be made to the responsible entity for the application.

### 78A Responsible entity for change applications

- (1) The *responsible entity* for a change application is—
  - (a) if the change application is for a minor change to a development condition of a development approval stated in a referral agency's response for the development application or another change application for the approval—the referral agency; or

Planning Act 2016  
Chapter 6 Dispute resolution

[s 229]

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- (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 a decision of the Minister, under  
chapter 7, part 4, to amend the registration of premises  
to include additional land in the affected area for the  
premises—20 business days after the day a notice is  
published under section 269A(2)(a); or
  - (e) for an appeal against an infrastructure charges  
notice—20 business days after the infrastructure charges  
notice is given to the person; or
  - (f) 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
  - (g) 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
- (h) 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—