

9 July 2020

Enquiries: Jenny Elphinstone
Our Ref: MCUC 2020_3618/1 (Doc ID: 960803)
Your Ref: 20201637

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

Alexander and Kristen Knight
C/- Patrick Clifton, GMA Certification
Patrick.c@gmacer.com.au

Dear Sir

**Development Application for Material Change of Use (Dwelling house)
At 356A Mowbray River Road Mowbray
On Land Described as Lot 96 on SP318402**

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

Please quote Council's application number: MCUC 2020_3618/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

encl.

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



Decision Notice

Approval (with conditions)

Given under section 63 of the Planning Act 2016

Applicant Details

Name: Alexander and Kristen Knight
Postal Address: C/- Patrick Clifton, GMA Certification
patrickc@gmcert.com.au C/- Council

Property Details

Street Address: 356A Mowbray River Road Mowbray
Real Property Description: Lot 96 on SP318402
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Material Change of Use for a Dwelling house and outbuilding (shed).

Decision

Date of Decision: 9 July 2020
Decision Details: Approved (subject to conditions)

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

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

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

Drawing or Document	Reference	Date
Site Plan, Floor Plan	As prepared by Applicant and submitted to Council (Council Document ID: 959683).	26 June 2020

Drawing or Document	Reference	Date
House Elevations	Homefab drawings, submitted to Council (Council Document ID: 959683).	26 June 2020
Footing Plan, Framing Plan, Elevations, Sections,	S.M.G. Consulting Engineers, Proposed Greg Jack Shed, Drawing A708-52, Amendment a, Sheets 1-3.	26 May 2020

Assessment Manager Conditions & Advices

Conditions

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

Except where modified by these conditions of approval

Timing of Effect

2. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

On-Site Effluent Disposal

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

Lawful point of discharge.

4. All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of the Chief Executive Officer.

Building Colours and Finishes

5. The external surfaces of the building are not to use white and/or shining metallic finishes. Colours of the building and structures are to maintain the rural residential character of the area. Details of the building colours and finishes are to be provided to Council to the satisfaction of the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

Dwelling- house Height

6. The house is to have a maximum building height of 8.5 metres, inclusive of the roof height.

Advice

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

2. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with relevant Local Laws and statutory requirements.

Further Development Permits

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

- All Building Work

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

Currency Period for the Approval

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

Rights to make Representations & Rights of Appeal

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

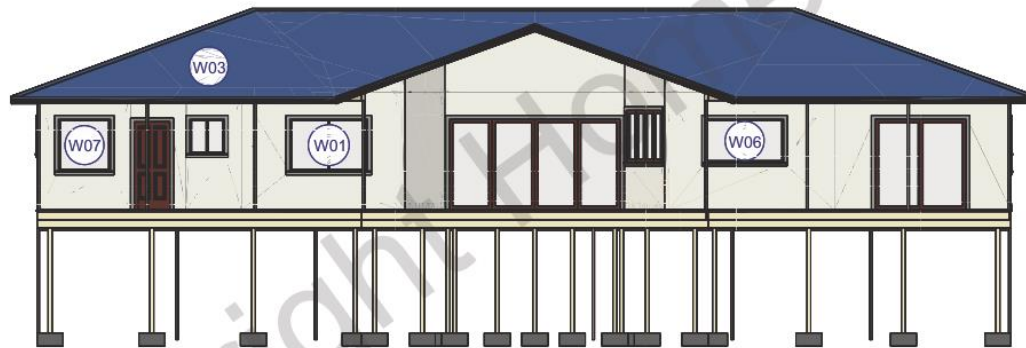
A copy of the relevant appeal provisions are attached.

Alex & Kristen Knight

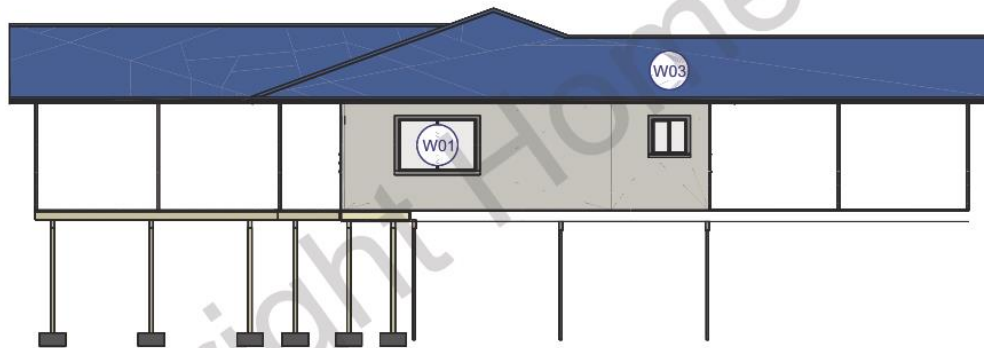
Lot 96 Mowbray River Road, Mowbray, QLD 4877

Ph: 0408413941 E: knight_ak@bigpond.com

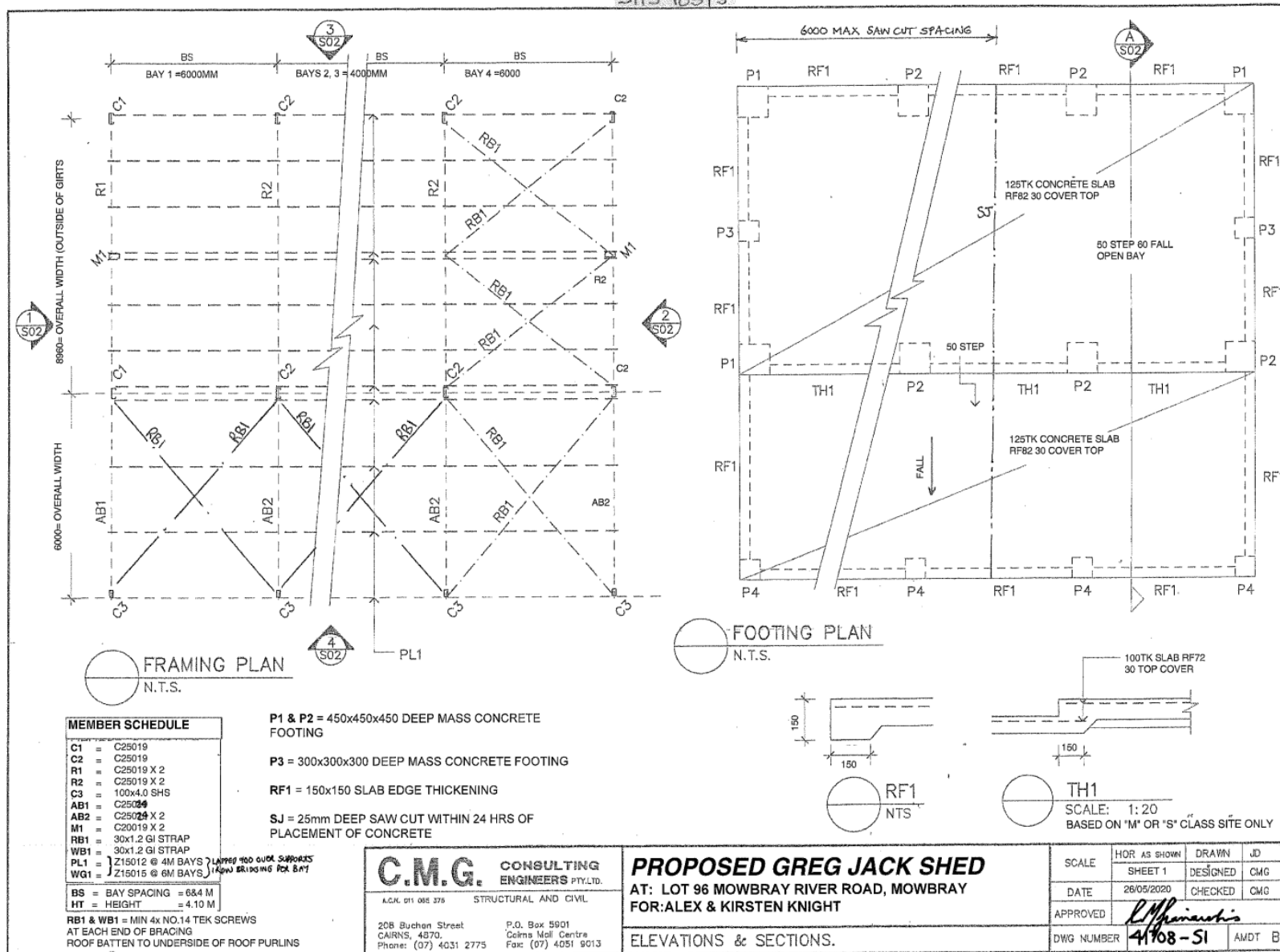


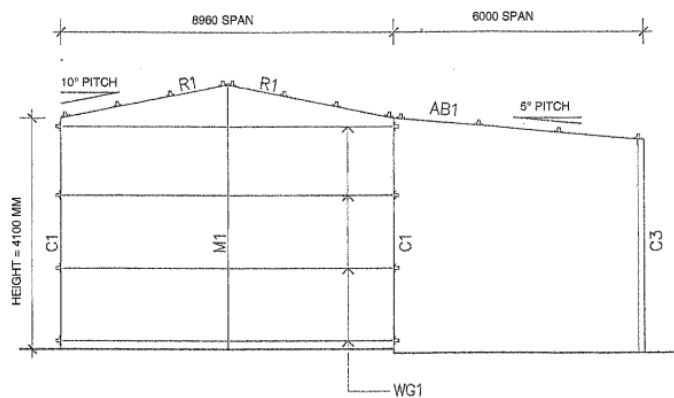




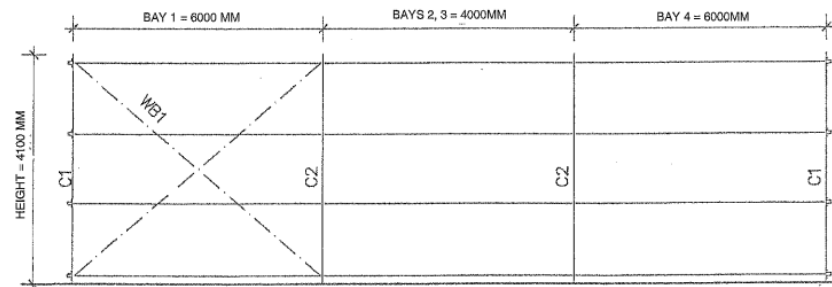


SHS POSTS



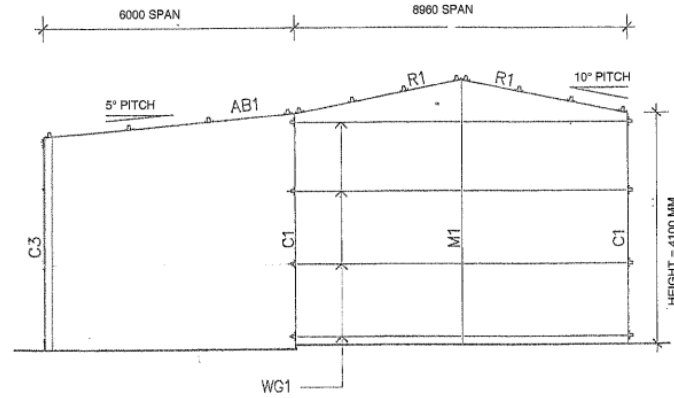


1 ELEVATION
N.T.S.



3 ELEVATION
N.T.S.

4 ELEVATION (SIMILAR)
N.T.S.



2 ELEVATION
N.T.S.

MEMBER SCHEDULE	
C1	= C25019
C2	= C25019
R1	= C25019 X 2
R2	= C25019 X 2
C3	= 100x4.0 SHS
AB1	= C25019
AB2	= C25019 X 2
M1	= C20019 X 2
RB1	= 30x1.2 GI STRAP
WB1	= 30x1.2 GI STRAP
PL1	= Z15012 @ 4M BAYS
WG1	= Z15015 @ 6M BAYS
BS	= BAY SPACING = 6.4M
HT	= HEIGHT = 4.10 M

RB1 & WB1 = MIN 4x NO.14 TEK SCREWS
AT EACH END OF BRACING

P1 & P2 = 900x900x900 DEEP
MASS CONCRETE FOOTING
P4 = 600 X 600 X 600 DEEP MASS
CONCRETE FOOTING
P3 = 450x450x450 DEEP
MASS CONCRETE FOOTING

RF1 = 150x150 SLAB EDGE
THICKENING

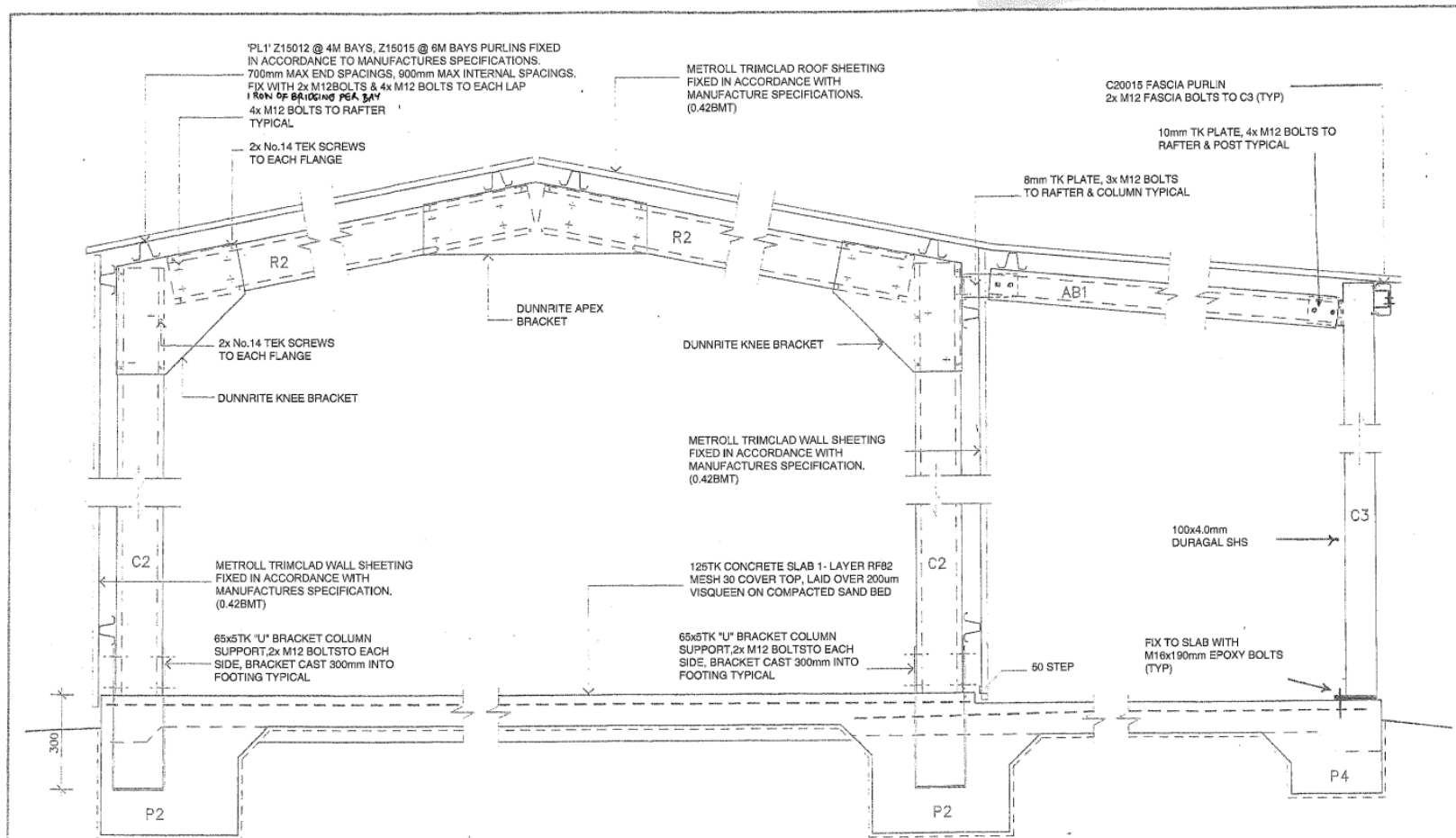
SJ = 25mm DEEP SAW CUT WITHIN 24
HRS OF PLACEMENT OF CONCRETE
BASED ON "M" OR "S" CLASS SITE ONLY

C.M.G. CONSULTING ENGINEERS PTY.LTD.
A.C.N. 011 065 376 STRUCTURAL AND CIVIL
208 Buchan Street
CAIRNS, 4870
Phone: (07) 4031 2775
P.O. Box 5901
Cairns Mail Centre
Fax: (07) 4051 9013

PROPOSED GREG JACK SHED
AT: LOT 96 MOWBRAY RIVER ROAD, MOWBRAY
FOR: ALEX & KIRSTEN KNIGHT

ELEVATIONS

SCALE	HOR AS SHOWN	DRAWN	JD
	SHEET 2	DESIGNED	CMG
DATE	26/05/2020	CHECKED	CMG
APPROVED			



A SECTION
 NOT TO SCALE

C.M.G. CONSULTING ENGINEERS PTY.LTD.
 A/CN 011 052 375 STRUCTURAL AND CIVIL
 20B Burchon Street, CAIRNS, 4870 P.O. Box 5901, Cairns Mail Centre
 Phone: (07) 4031 2775 Fax: (07) 4051 9013

PROPOSED GREG JACK SHED
 AT: LOT 96 MOWBRAY RIVER ROAD, MOWBRAY
 FOR: ALEX & KIRSTEN KNIGHT

ELEVATIONS & SECTIONS.

BASED ON "M" OR "S" CLASS SITE ONLY

SCALE	HOR AS SHOWN	DRAWN	JD
	SHEET 3	DESIGNED	CMG
DATE	26/05/2020	CHECKED	CMG
APPROVED	<i>K. McInerney</i>		
DWG NUMBER	41108-53	AMDT	A

Reasons for Decision

The reasons for this decision are:

1. Sections 60, 62 and 63 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 1 July 2020 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
 - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
 - a. the development triggered assessable development under the Assessment Table associated with the Rural Residential Zone Code;
 - b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
 - c. the applicant's reasons have been considered and the following findings are made:
 - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

Non-Compliance with Assessment Benchmarks

Benchmark Reference	Alternative Measure/Comment
Rural Residential Zone code AO4 White and shining metallic finishes are avoided on external surfaces of buildings.	PO4 Buildings/structures are designed to maintain the rural residential character of the area. <i>Comment: These matters are addressed through conditions of the approval.</i>
Bushfire Hazard Code AO12 Private driveways: (a) do not exceed a length of 60m from the street to the building;	PO12 All premises are provided with vehicular access that enables safe evacuation for occupants and easy access by fire fighting appliances. <i>Comment: The lot was created under the ROL having regard to the Bushfire overlay. The site is connected to Council's water supply and clear areas are available for exit strategies and alternative access by fire fighting trucks.</i>
Hillslopes Overlay Code AO1.1 Development is located on parts of the site that are not within the Hillslopes constraint subcategory as shown on the Hillslopes overlay Maps contained in schedule 2.	PO1 The landscape character and visual amenity quality of hillslopes areas is retained to protect the scenic backdrop to the region. <i>Comment: While the buildings are located in the mapped overlay area, conditions of approval have regard to colours and finishes so that the buildings do not detrimentally detract from the landscape character and visual amenity of the hillslope.</i>

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.

- (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.