

10 November 2020

**Enquiries:** Jenny Elphinstone  
**Our Ref:** SITEX 2020\_3773/1(Doc ID 980116)  
**Your Ref:** ACA 00025856 Neater Construction 19-1614

Administration Office  
64 - 66 Front St Mossman  
P 07 4099 9444  
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Neater Constructions (Q) Pty Ltd  
C/- All Construction Approvals  
PO Box 331  
EDMONTON QLD 4869

**Email:** [patrick@acapprovals.com.au](mailto:patrick@acapprovals.com.au)

Attention Mr Patrick Bossingham

Dear Sir

**Concurrence Agency Response for Alternative Siting Request (Dwelling house)  
At 11/14-32 Barrier Street Port Douglas  
On Land Described as Lot 11 on SP155111**

The referral agency material for the development application described below was properly referred to Douglas Shire Council on 9 November 2020.

Please quote Council's application number: SITEX 2020\_3773/1 in all subsequent correspondence relating to this matter.

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.

- Approved Drawing(s) and/or Document(s) subject to amendments as is necessary to comply with the conditions of the approval
- Advice For Making Representations and Appeals



## Concurrence Agency Response

*Given under section 56 of the Planning Act 2016*

### Applicant Details

Name: Neater Constructions (Q) Pty Ltd  
Postal Address: C/- All Construction Approvals  
PO Box 331  
Edmonton Qld 4869  
Email: [patrick@acapprovals.com.au](mailto:patrick@acapprovals.com.au)

### Assessment Manager

Name: All Construction Approvals  
Postal Address: PO Box 331  
Edmonton Qld 4869  
Email: [patrick@acapprovals.com.au](mailto:patrick@acapprovals.com.au)

### Property Details

Street Address: 11/14-32 Barrier Street Port Douglas  
Real Property Description: Lot 11 on SP155111  
Site Area: 801m<sup>2</sup>  
Local Government Areas: Douglas Shire Council

### Application Details

Proposed Development: Alternative Siting Request (Dwelling house)

### Aspects of development and type of approval being sought

Development Permit for Building Work – *Queensland Development Code*, Part MP 1.2 (lots 450m<sup>2</sup> and over) – Alternative Siting Request.

Performance Criteria	Acceptable Solution	Proposal
MP1.2 P2	1500mm from the side boundary	450mm from the southern side boundary for the building eave

MP 1.4	Setback from Sewer	
P1	<p>2(b)(i) the building or structure is located so the invert level of the relevant infrastructure is at least 300mm above the point of the zone of influence that intersects with the vertical plane along the centreline; or</p> <p>(ii) the footings of the building or structure are supported on screwed or bored (but not driven) piles or piers that—</p> <p>(A) are installed at least 1.2m from the vertical plane along the centreline of the relevant infrastructure; and</p> <p>(B) extend so that the point of the zone of influence of the piles or piers that is closest to the relevant infrastructure is at least 300mm below the invert level of the relevant infrastructure; and</p> <p>(c) excavation is not carried out within 600mm of the outer wall of the relevant infrastructure; and</p> <p>(d) compaction by vibration is not carried out within 2m of the vertical plane along the centreline of the relevant infrastructure; and</p> <p>(e) either—</p> <p>(i) use of fill for the building work, does not result in over 1m of fill being placed over relevant infrastructure; or</p> <p>(ii) if over 1m of fill is associated with a retaining wall—the Relevant infrastructure is bridged over via a design certified by an RPEQ that complies with all other relevant requirements set out in subsection A1(2).</p>	<p>The proposed house is to be located between 1000mm to 1323mm from the sewer that is parallel to the eastern boundary and between 887 to 997 from the sewer that is parallel to the northern boundary.</p>

Performance Criteria	Acceptable Solution	Proposal
P2	<p>(2) The requirements are—</p> <p>(a) the building work is for a class 1 building, or a class 10 building or structure; and</p> <p>(b) a wall, footing, pile, pier or floor of the building or structure is installed at least 1.2m from the vertical plane along the centreline of the relevant infrastructure; and</p> <p>(c) for any part of the relevant infrastructure other than a maintenance cover, a clear zone having the following dimensions is maintained—</p> <p>(i) a minimum width of 1.5m along the horizontal plane that intersects the vertical plane along the centreline of the relevant infrastructure; and</p> <p>(ii) a height of 2.4m from the finished surface level; and</p> <p>(iii) a length the same as the length of the relevant infrastructure; and</p> <p>(d) for any maintenance cover—</p> <p>(i) a clear zone having the following dimensions is maintained—</p> <p>(A) a circular base with a radius of 1.5m along the horizontal plane from the centre of the cover at finished surface level; and</p> <p>(B) an infinite height from the finished surface level; and</p> <p>(ii) access to the clear zone for the cover is not impeded by the building or structure; and</p>	<p>The proposed house is to be located between 1000mm to 1323mm from the sewer that is parallel to the eastern boundary and between 887 to 997 from the sewer that is parallel to the northern boundary.</p>

Performance Criteria	Acceptable Solution	Proposal
	<p>(iii) the building or structure does not cause ponding on the upper surface of the cover (because the building or structure allows water to drain away naturally); and</p> <p>(iv) the cover is not covered by fill associated with the building work; and</p> <p>(e) for any gravity wall over 1m high—</p> <p>(i) the wall is constructed so the invert level of the relevant infrastructure is at least 300mm above the point of the zone of influence that intersects with the vertical plane along the centreline; or</p> <p>(ii) the design of the wall is certified by an RPEQ to be appropriate taking into account the safety of workers who will inspect, maintain or replace the relevant infrastructure, as required.</p>	

## Decision

Date of Decision: 10 November 2020

Decision Details: Approved subject to conditions.

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

The term 'approved drawing(s) and/or document(s) or other similar expressions means the following plans subject to amendments as is necessary to comply with the conditions of the approval. Copies of the following plans, specifications and/or drawings are enclosed.

Drawing or Document	Reference	Date
Site Plan	Neater Homes Constructions Pty Ltd Job 19-1614 Jones Sheet 1, Issue P13	6 November 2020
Floor Plan	Neater Homes Constructions Pty Ltd Job 19-1614 Jones Sheet 2, Issue P13	6 November 2020
Elevations 1, 2, 3 & 4, Window / Door Schedules	Neater Homes Constructions Pty Ltd Job 19-1614 Jones Sheet 3, Issue P11	6 November 2020
Foundation & Foot Plan, Footing Details	Neater Homes Constructions Pty Ltd Job 19-1614 Jones Sheet 4, Issue P5 dated 15 October 2020 and as amended by the conditions.	To be amended by Applicant as per the conditions.

### Concurrence Agency Conditions & Advices

In accordance with the *Planning Act 2016*, the following conditions are to attach to any development approval:

1. The development is undertaken in accordance with the facts and circumstances set out in the development application referred to Council except where modified by the conditions of this response.
2. The house footings, walls, piles and piers must achieve a minimum setback of 1000mm from the centre line of the sewer for the sewer that runs parallel to the western property boundary; and
3. The piers are extended such that the zone of influence passes 600mm from the centreline at the locations where the relaxation is required for the setback of 1000mm as outlined in condition 2a.
4. Established vegetation, including trees, sited between the dwelling and the northern property boundary for the extent of the vegetation being between the house and the northern property boundary, must be removed and replaced and maintained with grass
5. The developer and owner must maintain clear access to Council's sewer must be maintained at all times.
6. All rehabilitation (including landscaping and irrigation) affected by any Council inspection, maintenance and / or replacement of sewer is at the owner's expense.

### Advice

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 [www.dsdmip.qld.gov.au](http://www.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. Council will notate the property in reference to the Concurrence agency response a conditions and advice for the siting dispensation and the ongoing obligation of the property owner regarding any possible rehabilitation of garden areas.

### Reasons for Decision

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1. The reasons for this decision are:
  - a. to ensure the development satisfies the Performance Criteria stated in P2 of MP1.2, and P1 and P2 of MP1.4 of the Queensland Development Code.
2. Findings on material questions of fact:
  - a. The development application was properly referred to the Douglas Shire Council on 9 November 2020 under Section 54 of the *Planning Act 2016* and Part 2 of the Development Assessment Rules; and
  - b. The development application contained a report that Council reviewed together with Council's own investigation in making its referral agency assessment.
3. Evidence or other material on which findings were based:
  - a. The development triggered referral agency assessment under Schedule 9, Part 3, Division 2, Table 3 of the *Planning Regulation 2017*;
  - b. Council undertook an assessment in accordance with the provisions of sections 55 and 56 of the *Planning Act 2016*.; and
  - c. The relevant provisions of the Queensland Development Code.

### Relevant Period

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Under the *Planning Act 2016*, Council requires that the relevant period of approval for any development is to be two (2) years starting the day the approval takes effect.

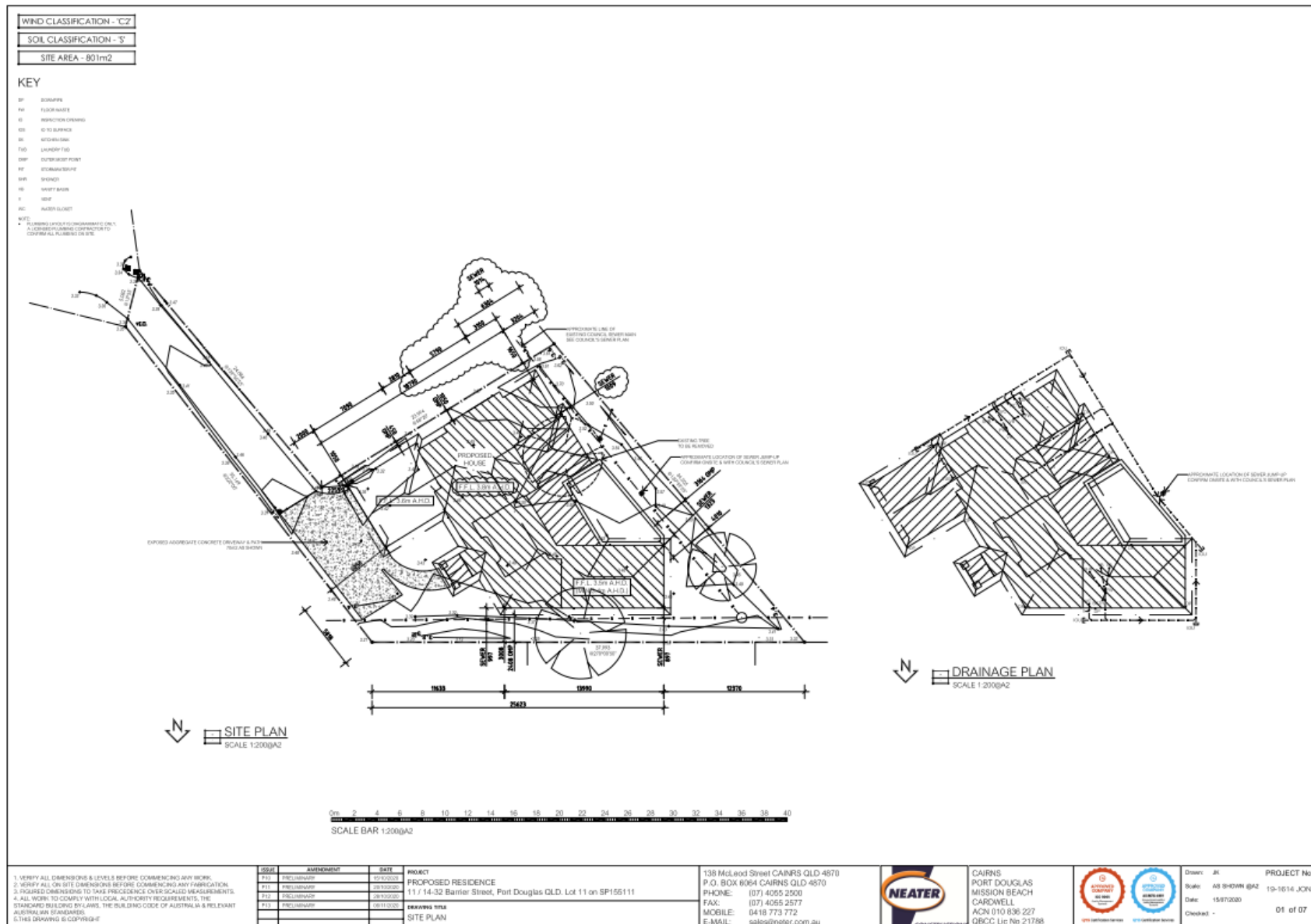
### Rights to make Representations & Rights of Appeal

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

A copy of the relevant appeal provisions are attached.

**Approved Drawing(s) and/or Document(s)** The term 'approved drawing(s) and/or document(s) or other similar expressions means the following plans subject to amendments as is necessary to comply with the conditions of the approval



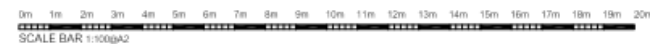






DOOR SCHEDULE		
NO.	SIZE	TYPE
	HEIGHT      WIDTH	
D-01	2300      5300	PANEL LIFT DOOR
D-02	REMOVED	
D-03	2040      2180	DOUBLE SWING ENTRY DOORS IN TIMBER FRAME IN 2100H x 1710W BLOCKWORK
D-04	2000      2000	XO SLIDING GLASS DOOR
D-05	REMOVED	
D-06	2100      1800	XO SLIDING GLASS DOOR
D-07	2100      2700	XO SLIDING GLASS DOOR
D-08	2400      5000	OX-XO SLIDING GLASS DOOR
D-09	2400      3900	OX-XO SLIDING GLASS DOOR
NOTES (UNLESS NOTED OTHERWISE):		
• POWDERCOATED ALUMINUM FRAMES;		
• CLEAR GLASS;		
• INTERNAL SWING DOOR & CAVITY SLIDING DOORS TO BE 2340 HIGH x		
WIDTH SHOWN ON PLAN;		
• GARAGE / ROLLER DOORS TO BE COMPLIANT WITH AS-6005.		

WINDOW SCHEDULE		
NO.	SIZE	TYPE
	HEIGHT      WIDTH	
W-01	1800      800	FIXED GLASS WINDOW
W-02	1800      800	FIXED GLASS WINDOW
W-03	2100      2400	GLASS LOUVER / FIXED GLASS WINDOW
W-04	2100      2400	FIXED GLASS WINDOW / GLASS LOUVER
W-05	1200      2400	OX-XO SLIDING GLASS WINDOW
W-06	700      800	GLASS LOUVER - OBSCURE
W-07	1700      1800	OX SLIDING GLASS WINDOW - OBSCURE
W-08	1900      2400	OX-XO SLIDING GLASS WINDOW
W-09	2100      2400	FIXED GLASS WINDOW
W-10	2100      2400	FIXED GLASS WINDOW
W-11	1200      1200 x 800	FIXED GLASS CORNER WINDOW BUTT JOINT GLASS (NO MULLION TO CORNER)
W-12	1200      1800	OX SLIDING GLASS WINDOW LAMINATED GLASS AS PER MANUFACTURERS SPECS
W-13	700      800	GLASS LOUVER - OBSCURE
W-14	700      800	GLASS LOUVER - OBSCURE
W-15	1200      1800	OX SLIDING GLASS WINDOW LAMINATED GLASS AS PER MANUFACTURERS SPECS
W-16	REMOVED	
W-17	1200      800	GLASS LOUVER WINDOW
W-18	1200      800	GLASS LOUVER WINDOW
NOTES (UNLESS NOTED OTHERWISE):		
• POWDERCOATED ALUMINUM FRAMES;		
• CLEAR GLASS.		



1. VERIFY ALL DIMENSIONS & LEVELS BEFORE COMMENCING ANY WORK.
2. VERIFY ALL ON SITE DIMENSIONS BEFORE COMMENCING ANY FABRICATION.
3. REQUIRED DIMENSIONS TO TAKE PRECEDENCE OVER SCALED MEASUREMENTS.
4. ALL WORK TO COMPLY WITH LOCAL AUTHORITY REQUIREMENTS, THE STANDARD BUILDING BYLAWS, THE BUILDING CODE OF AUSTRALIA & RELEVANT AUSTRALIAN STANDARDS.
5. THIS DRAWING IS COPYRIGHT

NO.	APPROVAL/REVISION	DATE	PROJECT
01	PRELIMINARY	15/10/2020	PROPOSED RESIDENCE
02	PRELIMINARY	20/10/2020	11 / 14-32 Banner Street, Port Douglas QLD. Lot 11 on SP155111
03	PRELIMINARY	28/10/2020	
04	PRELIMINARY	28/11/2020	
			DRAWING TITLE
			ELEVATIONS 1, 2, 3 & 4, WINDOW / DOOR SCHEDULES

138 McLeod Street CAIRNS QLD 4870  
P.O. BOX 6064 CAIRNS QLD 4870  
PHONE: (07) 4055 2500  
FAX: (07) 4055 2577  
MOBILE: 0418 773 772  
E-MAIL: sales@neater.com.au

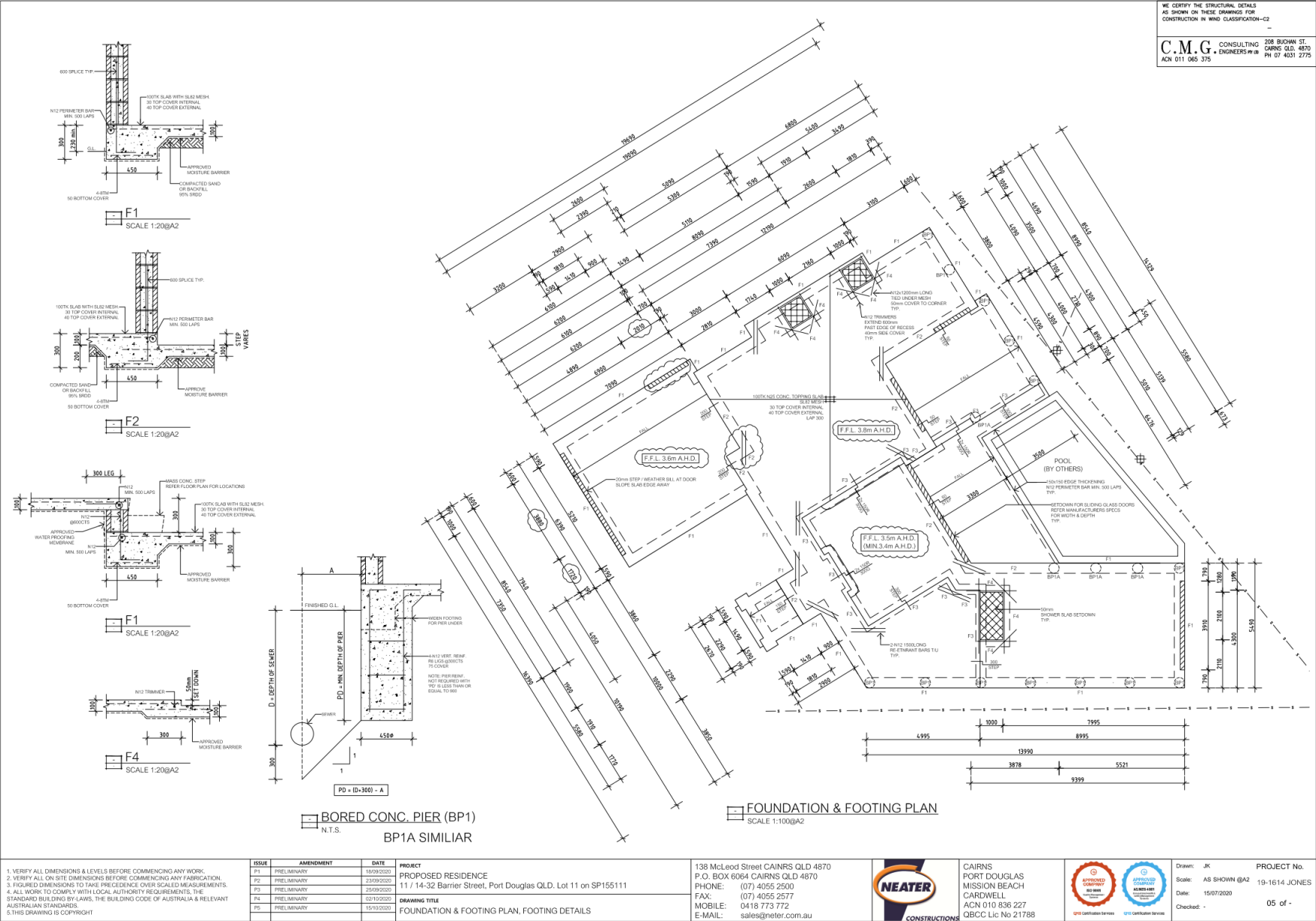


CAIRNS  
PORT DOUGLAS  
MISSION BEACH  
CARDWELL  
ACN 010 836 227  
QBCC Lic No 21788



Drawn: JH PROJECT No.  
Scale: AS SHOWN @ A2 19-1614 JONES  
Date: 15/10/2020  
Checked: - 03 of 07

To be Amended as per conditions



## Part 7: Miscellaneous

### 29 Missed referral agency

- 29.1 This section applies if, at any time before the application is decided, an applicant has not referred the application to a referral agency referred to in section 55(1) of the Act or to another referral agency for all referral requirements under section 55(2) of the Act in the time provided to refer the application (a *missed referral agency*).<sup>21</sup>
- 29.2 A *party* to the application may, by notice given to each other party to the application, advise the parties that the applicant has not referred the application in accordance with section 54(1) of the Act.
- 29.3 Despite section 31.1(a) and subject to section 31.4 where notice has been given under section 29.2, the application does not lapse as a result of a missed referral agency.<sup>22</sup>
- 29.4 The applicant must refer the application in accordance with section 5.1, as if ‘the day after part 1 has ended’ is ‘after the day the applicant gave or received notice about a missed referral agency’.
- 29.5 Part 2 and part 3 apply to the missed referral agency once action is taken under section 29.4.
- 29.6 Despite section 11.1, any referral agency referred the development application as a result of this section may make an information request.
- 29.7 If a notice about a missed referral agency is given before part 5 starts, then part 5 cannot start before part 2 has ended in relation to the missed referral agency.<sup>23</sup>
- 29.8 If part 4 applies to the application, the giving of a notice under this section has no effect on any actions already undertaken under part 4.

### 30 Representations about a referral agency response

- 30.1 An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.<sup>24</sup>

### 31 Lapsing of application

- 31.1 An application lapses if the applicant does not carry out the following actions in the prescribed period, including any further agreed period under the relevant section—
- give the referral agency material to each referral agency that is party to the application and advise the assessment manager when the referral agency material was given under section 5, section 27 or section 29, as relevant to the application;<sup>25</sup> or
  - undertake the actions to publicly notify the application requiring public notification; or
  - give a notice of compliance under section 18 to the assessment manager for the application requiring public notification.

<sup>21</sup> As provided for under section 5.

<sup>22</sup> As set out in section 31.4, this section has no effect where a missed referral notice has already been given about the missed referral agency.

<sup>23</sup> Section 23.2 describes the effect on the decision period if part 5 had already commenced before notice about the missed referral had been given.

<sup>24</sup> An applicant may elect, under section 32, to stop the assessment manager’s decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

<sup>25</sup> This provision is subject to section 29.3.



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

**decision** includes—

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

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

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

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

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

## **232 Rules of the P&E Court**

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

# **Part 2 Development tribunal**

## **Division 1 General**

### **233 Appointment of referees**

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