

**DELEGATED REPORT**

**SUBJECT:** D IVES - MATERIAL CHANGE OF USE - DWELLING HOUSE  
(SECONDARY DWELLING) - LOT 1 ON RP725853 - 264  
BOYLES ROAD, KURANDA - MCU/21/0003

**DATE:** 23 February 2021

**REPORT OFFICER'S  
TITLE:** Planning Officer

**DEPARTMENT:** Corporate and Community Services

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**APPLICATION DETAILS**

APPLICATION		PREMISES	
<b>APPLICANT</b>	D Ives	<b>ADDRESS</b>	264 Boyles Road, Kuranda
<b>DATE LODGED</b>	18 February 2021	<b>RPD</b>	Lot 1 on RP725853
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Material Change of Use - Dwelling House (Secondary Dwelling)		

<b>FILE NO</b>	MCU/21/0003	<b>AREA</b>	7,269m <sup>2</sup>
<b>LODGED BY</b>	Emergent Building Approvals	<b>OWNER</b>	D Ives
<b>PLANNING SCHEME</b>	Mareeba Shire Council Planning Scheme 2016		
<b>ZONE</b>	Rural zone		
<b>LEVEL OF ASSESSMENT</b>	Code Assessment		
<b>SUBMISSIONS</b>	N/A - Code Assessment Only		

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**ATTACHMENTS:** 1. Proposal Plan/s

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**EXECUTIVE SUMMARY**

*Council is in receipt of a code assessable development application described in the above application details. Being code assessable, the application was not required to undergo public notification.*

*The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and does not conflict with any relevant aspect of the Planning Scheme.*

*It is recommended that the application be approved in full, subject to conditions.*

**OFFICER'S RECOMMENDATION**

1. That in relation to the following development application:

<b>APPLICATION</b>		<b>PREMISES</b>	
<b>APPLICANT</b>	D Ives	<b>ADDRESS</b>	264 Boyles Road, Kuranda
<b>DATE LODGED</b>	18 February 2021	<b>RPD</b>	Lot 1 on RP725853
<b>TYPE OF APPROVAL</b>	Development Permit		
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and in accordance with the Planning Act 2016, the applicant be notified that the application for a development permit for the development specified in (A) is:

Approved by Council in accordance with the approved plans/documents listed in (B), subject to assessment manager conditions in (C), assessment manager's advice in (D), relevant period in (E), further permits in (F), and further approvals from Council listed in (G);

And

The assessment manager does **not** consider that the assessment manager's decision conflicts with a relevant instrument.

(A) APPROVED DEVELOPMENT: Development Permit for Material Change of Use - Dwelling House (Secondary Dwelling)

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
20127 WD01	Site Plan	Robert F Colefax	5/01/2021
20127 WD02	Shed Extension & Renovation Floor & Roof Plan	Robert F Colefax	5/01/2021
20127 WD03	Elevations	Robert F Colefax	5/01/2021

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
  - found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
  - to ensure compliance with the following conditions of approval.

## 2. Timing of Effect

- 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.
- 2.2 Prior to the commencement of use, the applicant must notify Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.

## 3. General

- 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure within the conditions of approval.
- 3.2 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
- 3.3 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to commencement of the use and at the rate applicable at the time of payment.
- 3.4 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.
- 3.5 The approved secondary dwelling must not be used to accommodate anyone other than the family of those persons residing in the primary dwelling.

## 4. Infrastructure Services and Standards

### 4.1 On-site Sewerage Disposal

Any associated on-site effluent disposal system must be constructed in compliance with the latest version On-Site Domestic Wastewater Management Standard (ASNZ1547) to the satisfaction of Council's delegated officer.

## (D) ASSESSMENT MANAGER'S ADVICE

### (a) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

(b) Compliance with Acts and Regulations

The erection and use of the building must comply with the Building Act and all other relevant Acts, Regulations and Laws, and these approval conditions.

(c) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from [www.environment.gov.au](http://www.environment.gov.au)

(d) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the “cultural heritage duty of care”). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from [www.datsip.qld.gov.au](http://www.datsip.qld.gov.au)

(F) RELEVANT PERIOD

When approval lapses if development not started (s.85)

- Material Change of Use – six (6) years (starting the day the approval takes effect);

(G) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

- Development Permit for Building Work

(H) OTHER APPROVALS REQUIRED FROM COUNCIL

- Compliance Permit for Plumbing and Drainage Work

## THE SITE

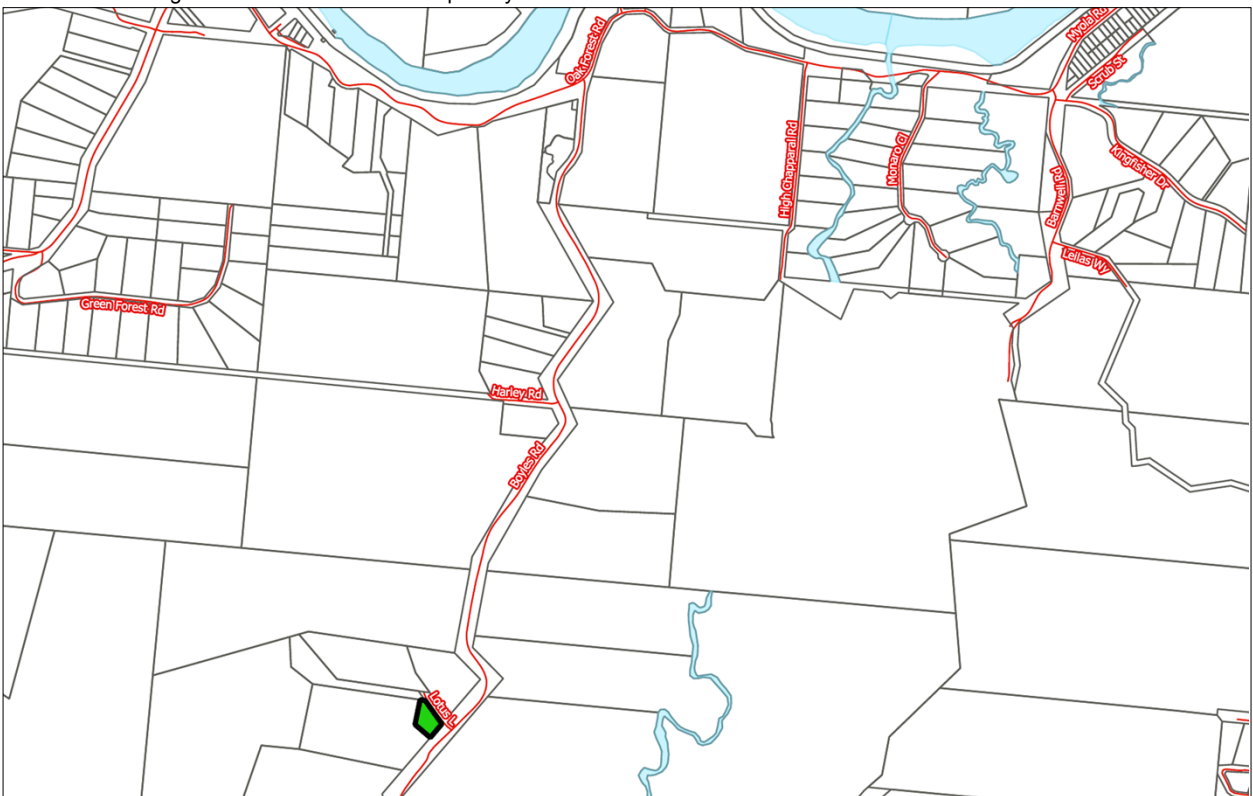
The subject site is situated on the corner of Boyles Road and Lotus Lane at 264 Boyles Road, Kuranda, and is described as Lot 1 on RP725853. The site has an area of 7,269m<sup>2</sup>, is irregularly shaped and is zoned Rural under the Mareeba Shire Council Planning Scheme 2016. The site contains approx. 64 metres of frontage to Boyles Road and a further 103 metres of frontage to Lotus Lane, both of which are bitumen sealed. Access crossovers servicing the site exist from both Boyles Road and Lotus Lane however appear to be unsealed.

The site slopes downhill to the rear of the property from the Boyles Road frontage. The site is improved by a dwelling house at the front of the property and multiple outbuildings that appear to be associated with a former nursery established at the rear of the property.



**Map Disclaimer:**

Based on or contains data provided by the State of Queensland (Department of Environment and Resource Management) (2009). In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.



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## BACKGROUND AND CONTEXT

Nil

## PREVIOUS APPLICATIONS & APPROVALS

Nil

## DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use - Dwelling House (Secondary Dwelling) in accordance with the plans shown in **Attachment 1**.

## REGIONAL PLAN DESIGNATION

The subject site is included within the Regional Landscape and Rural Production Area land use category in the Far North Queensland Regional Plan 2009-2031. The Regional Plan Map 3- 'Areas of Ecological Significance' also identifies the site as containing:

- *Strategic Rehabilitation Area*

## PLANNING SCHEME DESIGNATIONS

Strategic Framework:	<b>Land Use Categories</b>
	<ul style="list-style-type: none"> <li>• <i>Rural Area</i> <ul style="list-style-type: none"> <li>▪ Rural Other</li> </ul> </li> </ul>
Zone:	Rural
Overlays:	Hill and Slope Overlay Transport Infrastructure Overlay

## Planning Scheme Definitions

The proposed use is defined as:-

<b>Column 1 Use</b>	<b>Column 2 Definition</b>	<b>Column 3 Examples include</b>	<b>Column 4 Does not include the following examples</b>
Dwelling House	<p><i>A residential use of premises for one household that contains a single dwelling.</i></p> <p><i>The use includes domestic outbuildings and works normally associated with a dwelling and may include a <u>secondary dwelling</u>.</i></p>		<p><i>Caretaker's accommodation, dual occupancy, rooming accommodation, short-term accommodation, student accommodation, multiple dwelling</i></p>

## RELEVANT PLANNING INSTRUMENTS

Assessment of the proposed development against the relevant planning instruments is summarised as follows:-

### (a) Far North Queensland Regional Plan 2009-2031

Separate assessment against the Regional Plan is not required because the Mareeba Shire Council Planning Scheme appropriately advances the Far North Queensland Regional Plan 2009-2031, as it applies to the planning scheme area.

### (b) State Planning Policy

Separate assessment against the State Planning Policy (SPP) is not required because the Mareeba Shire Council Planning Scheme appropriately integrates all relevant aspects of the SPP.

### (c) Mareeba Shire Council Planning Scheme 2016

#### Relevant Development Codes

The following Development Codes are considered to be applicable to the assessment of the application:

6.2.9	Rural zone code
8.2.8	Hill and slope overlay code
9.3.1	Accommodation activities code

The application included a planning report and assessment against the planning scheme (codes listed below). An officer assessment has found that the application satisfies the relevant acceptable outcomes contained within the codes (or performance outcomes where no acceptable outcome has been provided). Where the proposal does not satisfy an acceptable outcome, it has been demonstrated that compliance can be achieved with the higher order performance outcome/s. It is considered the proposed development can comply with the relevant development codes provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Rural zone code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Hill and slope overlay code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Accommodation activities code	<p>The application can be conditioned to comply with the relevant acceptable outcomes contained within the code apart from the following:</p> <ul style="list-style-type: none"> <li>Acceptable Outcome AO6.1</li> </ul> <p>It is considered that the development can comply with higher order Performance Outcome PO6. Refer to code document for commentary.</p>

### (e) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

## Planning Scheme Policy 4 - FNQROC Regional Development Manual

A condition will be attached to any approval requiring all development works be designed and constructed in accordance with FNQROC Development Manual standards.

### **REFERRALS**

This application did not trigger referral.

### **Internal Consultation**

Nil

### **PLANNING DISCUSSION**

Nil

***Date Prepared:***            *23 February 2021*



## DECISION BY DELEGATE

## DECISION

Having considered the Planning Officer's report detailed above, I approve, as delegate of Council, the application subject to the conditions listed in the report.

Dated the 23RD day of FEBRUARY 2021

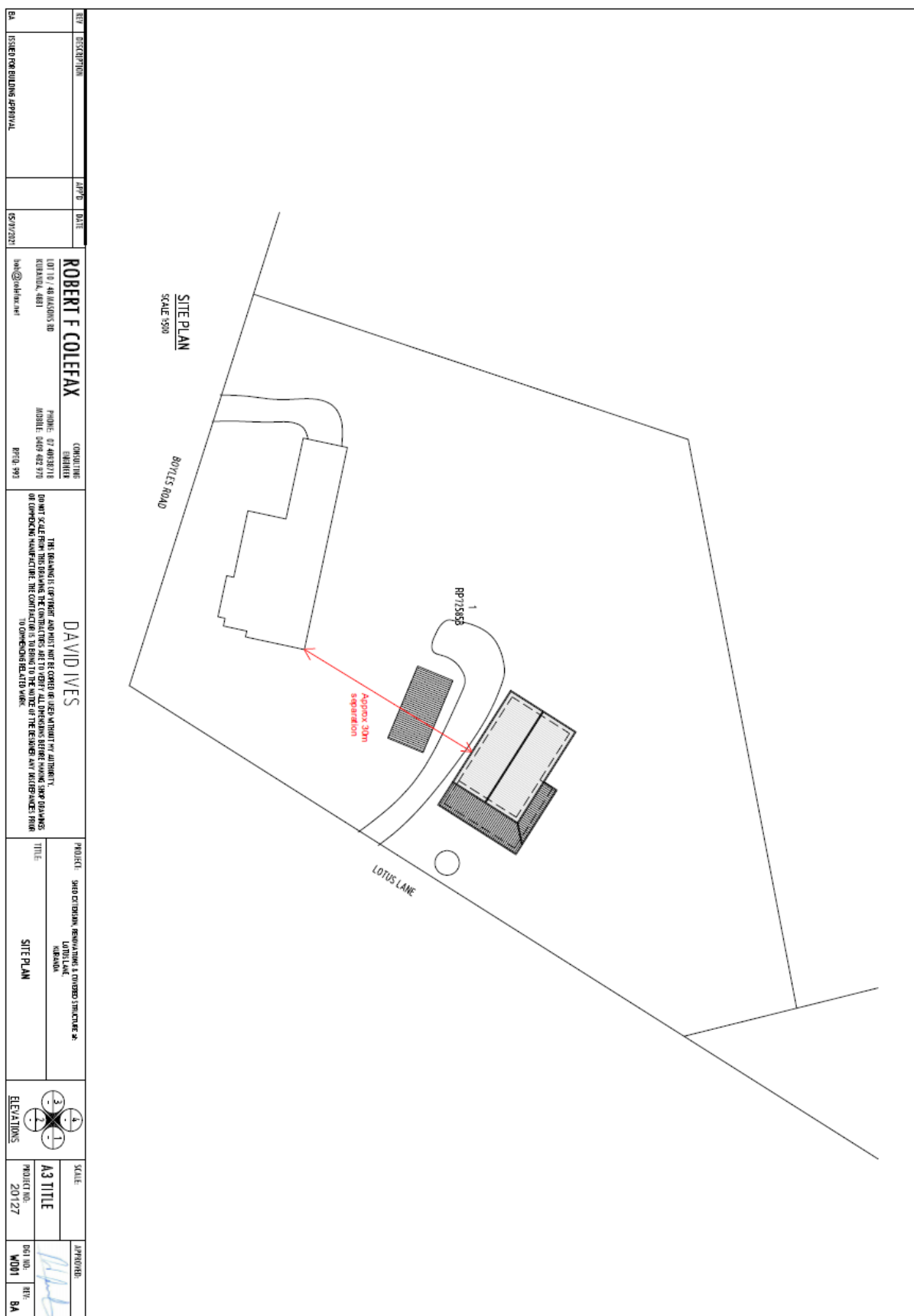


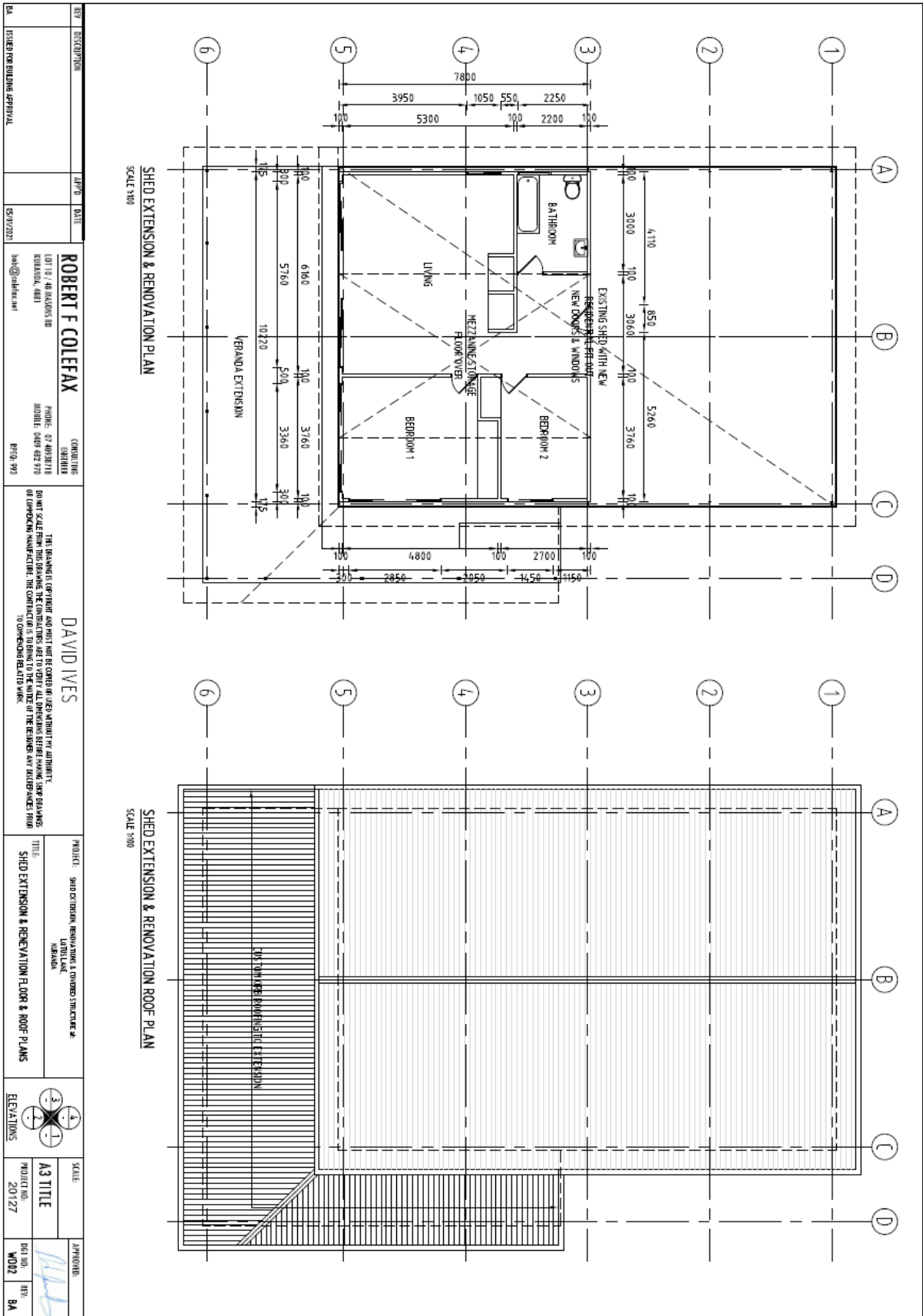
**BRIAN MILLARD**  
**SENIOR PLANNER**

MAREEBA SHIRE  
AS DELEGATE OF THE COUNCIL

## ATTACHMENT 1

## APPROVED PLANS





REV	DESCRIPTION	DATE		
1	ISSUED FOR BUILDING APPROVAL	05/17/2021		
<b>ROBERT F COLEFAX</b> OWNER 10111 / 48 ALKINS RD ROBERTA, AL 36074 PHONE: 334 408 3018 MOBILE: 334 662 5700 RFA 1993 rfa@colfaxinc.net			<b>DAVID IVES</b> PROJECT 3RD CT/DRIVE, BENTLEYVILLE, COLORED STRUCTURE #4 KIRKLAND TITLE ELEVATIONS	
THE DRAWINGS, SPECIFICATIONS, AND NOTES ARE TO BE CONSIDERED A PART OF THE CONTRACT. ANY CHANGES OR OMISSIONS MADE AFTER THE CONTRACT IS SIGNED BY THE OWNER ARE AT THE OWNER'S RISK. THE CONTRACTOR IS TO BE RESPONSIBLE FOR THE WORK. TO OBTAIN RELATED WORK.			SCALE A3 TITLE PROJECT NO. 201127 DATE NO. M083 REV. BA	

ELEVATION 1  
1:100

ELEVATION 2  
1:100

ELEVATION 3  
1:100