

19 July 2018

Roadhouse Property Unit Trust
C/- Freshwater Planning Pty Ltd
17 Barron View Drive
FRESHWATER QLD 4870

Senior Planner: Brian Millard
Direct Telephone: 4086 4657
Our Reference: BM:nj
Your Reference: F17/34

Dear Sir/Madam

Negotiated Decision Notice

Planning Act 2016

I refer to your application and the representations you made in respect to the decision notice. On 18 July 2018, Council decided your representations. Details of the decision are as follows:

APPLICATION DETAILS

Application No:	MCU/17/0017
Street Address:	1, 3-5 & 7 Williams Close, Mareeba
Real Property Description:	Lots 10, 11 & 12 on SP168631
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016
Type of Approval:	Development Permit for Material Change of Use - Tourist Park, Short-term Accommodation & Food and Drink Outlet

DECISION DETAILS

I wish to advise that, at Council's Ordinary Meeting held on *18 July 2018*, a decision was made to issue a negotiated decision notice. This negotiated decision notice replaces the decision notice previously issued and dated *18 April 2018*.

In relation to representations, Council decided to approve the following changes:

- (A) Approved plan/s of Council's Decision Notice issued on 18 April 2018 be amended as follows:

<i>Plan/Document Number</i>	<i>Plan/Document Title</i>	<i>Prepared by</i>	<i>Dated</i>
<i>1370-SK01-B</i>	<i>Existing Site Plan</i>	<i>Jim Papas</i>	<i>13.12.17</i>
<i>1370-SK02-B</i>	<i>General Arrangement of Proposed Development</i>	<i>Jim Papas</i>	<i>13.12.17</i>

1370-SK03 B	General Arrangement – Sewerage Reticulation	Jim Papas	13.12.17
1370-SK04 B	General Arrangement – Landscape and Potable Water Reticulation	Jim Papas	13.12.17
1370-SK05 B	General Arrangement – Roadworks	Jim Papas	13.12.17
1370-SK06 B	Details, Pavement Notes etc.	Jim Papas	13.12.17
1370-SK07 A	General Arrangement – Temporary RV Arrangement	Jim Papas	11.01.18
1370-SK01 D	Existing Site Plan	Jim Papas	30.05.18
1370-SK02 C	General Arrangement of Proposed Development	Jim Papas	30.05.18
1370-SK03 C	General Arrangement – Sewerage Reticulation	Jim Papas	30.05.18
1370-SK04 C	General Arrangement – Landscape and Potable Water Reticulation	Jim Papas	30.05.18
1370-SK05 C	General Arrangement – Roadworks	Jim Papas	30.05.18
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1370-SK07 C	General Arrangement – Temporary RV Arrangement	Jim Papas	30.05.18
<i>BD17-11-839/SK1</i>	<i>Proposed Roadhouse</i>	<i>Buck Design Pty Ltd</i>	<i>Nov 17</i>
<i>BD17-11-839/SK2</i>	<i>Proposed Hostel Building</i>	<i>Buck Design Pty Ltd</i>	<i>Nov 17</i>
Acacia 2 (Motel Units 4 rooms)	<i>Floor Plan</i>	<i>Asset Cabins & Homes</i>	<i>25 Aug 2017</i>
Acacia 2 (Motel Units 4 rooms)	<i>Concept 3D</i>	<i>Asset Cabins & Homes</i>	<i>25 Aug 2017</i>
Banksia (Manager's Unit)	-	<i>Asset Cabins & Homes</i>	<i>21 Mar 2014</i>
Bluegum Opt 1 (1 Bedroom Duplex)	-	<i>Asset Cabins & Homes</i>	<i>2 Apr 2014</i>
Bluegum Opt 2 (1 Bedroom Duplex Disabled Unit)	-	<i>Asset Cabins & Homes</i>	<i>2 Apr 2014</i>
<i>Correa 5RM</i>	<i>Floor Plan</i>	<i>Asset Cabins & Homes</i>	<i>21 Aug 2017</i>
Mallee (2 Bedroom Family Suite)	<i>Floor Plan</i>	<i>Asset Cabins & Homes</i>	<i>27 Sept 2017</i>
Single Module Layout (Budget Accommodation with ensuite)	<i>Floor Plan</i>	-	-

- (B) Condition 3.4.3 as per Council's Decision Notice issued on 18 April 2018 be amended as follows:

3.4.3 Acoustic Screen Fencing - Stage 1

Prior to the commencement of the use of Stage 1, the applicant/developer must erect a solid 2.4 metre high, neutral colour, screen boundary fence for:

- (i) the entire northern boundaries of Lots 10 and 11 on SP168631; and*
- (ii) that part of the northern boundary of Lot 12 on SP168631, commencing at the western boundary of Lot 12 on SP168631 and extending to a minimum of twenty metres to the east of the eastern most budget accommodation building.*

The fence must be designed and constructed generally in accordance with the Department of Transport and Main Roads' Specification MRTS15 Noise Fences (July 2017). The applicant/developer must provide RPEQ certification that the fence has been designed and constructed in accordance with the beforementioned code of practice.

All fencing must be erected prior to the commencement of the use and must be maintained in good order and safe repair for the life of the development, to the satisfaction of Council's delegated officer.

- (C) Condition 3.6 as per Council's Decision Notice issued on 18 April 2018 be amended as follows:

3.6 Maximum Accommodation Density

Each bedroom within the development must accommodate no more than two (2) adult persons at any one time.

The total number of people accommodated by the approved development at any one time must not exceed 130 persons (inclusive of children).

- (D) Condition 4.5 as per Council's Decision Notice issued on 18 April 2018 be amended as follows:

4.5 Landscaping

4.5.1 The development must be generally landscaped in accordance with the Mareeba Roadhouse and Accommodation Park Landscape Documentation dated 10 May 2018 by Suzan Quigg Landscape Design.

4.5.2 For stage 1, the landscape works will be completed as per the approved landscape documentation on the perimeter of the development and around and through the stage 1 buildings. The balance area will be sown with lawn grasses. The remaining stages will be landscaped in accordance with the landscape documentation when each respective stage is developed.

- 4.5.3 *For stage 1, in addition to the approved landscape documentation, a two (2) metre high trellis, offset from the northern boundary fence, must be erected adjacent to the internal carpark (parking bays 22 to 23). Suitable vine creeper must be planted and allowed to establish over the trellis.*
- 4.5.4 *A minimum of 25% of new plants is provided as larger, advanced stock with a minimum plant height of 0.7 metres and mulched to a minimum depth of 0.1 metres with organic mulch.*
- 4.5.5 *The landscaping of the site must be carried out in accordance with the endorsed landscape plan/s, and prior to the commencement of the use, and mulched, irrigated and maintained to the satisfaction of Council's delegated officer.*

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is six (6) years starting the day that this development approval takes effect. (Refer to Section 85 "Lapsing of approval at end of currency period" of the *Planning Act 2016*.)

INFRASTRUCTURE

Where conditions relate to the provision of infrastructure, these are non-trunk infrastructure conditions unless specifically nominated as a "**necessary infrastructure condition**" for the provision of trunk infrastructure as defined under Chapter 4 of the *Planning Act 2016*.

ASSESSMENT MANAGER CONDITIONS

(A) 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 for each stage of the development must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the use for each stage, except where specified otherwise in these conditions of approval.
 - 2.2 Prior to the commencement of use for each stage, the applicant must demonstrate to Council that all the conditions of the development permit for the relevant stage

have been complied with, except where specified otherwise in these conditions of approval.

3. General

3.1 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.

3.2 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to the commencement of the use of the respective stage, and at the rate applicable at the time of payment.

3.3 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.

3.4 Noise Nuisance

3.4.1 Refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations and a maximum noise level of 8dB(A) above background levels as measured from commercial locations.

3.4.2 The applicant is required to install and maintain suitable screening to all air conditioning, lift motor rooms, plant and service facilities located at the top of or on the external face of the building. The screening structures must be constructed from materials that are consistent with materials used elsewhere on the facade of the building. There are to be no individual external unscreened air conditioning units attached to the exterior building facade.

3.4.3 Acoustic Screen Fencing - Stage 1

Prior to the commencement of the use of Stage 1, the applicant/developer must erect a solid 2.4 metre high, neutral colour, screen boundary fence for:

- (i) the entire northern boundaries of Lots 10 and 11 on SP168631; and
- (ii) that part of the northern boundary of Lot 12 on SP168631, commencing at the western boundary of Lot 12 on SP168631 and extending to a minimum of twenty metres to the east of the eastern most budget accommodation building.

The fence must be designed and constructed generally in accordance with the Department of Transport and Main Roads' Specification MRTS15 Noise Fences (July 2017). The applicant/developer must provide RPEQ certification that the fence has been designed and constructed in accordance with the beforementioned code of practice.

All fencing must be erected prior to the commencement of the use and must be maintained in good order and safe repair for the life of the development, to the satisfaction of Council's delegated officer.

3.4.4 Full time onsite manager

A full time, onsite manager must be present onsite at all times during the operation of the approved use. The contact details for the onsite manager are to be made public accessible to all adjoining property owners.

3.5 Waste Management

On site refuse storage area must be provided and be screened from view from adjoining properties and road reserve by a 1 metre wide landscaped screening buffer or 1.8m high solid fence.

Certification by a Registered Professional Engineer of Queensland (RPEQ) must be provided to Council which demonstrates that internal access is of adequate design and construction to allow waste collection/delivery vehicle to enter and exit the site in a forward gear, prior to the issue of a development permit for operational works.

3.6 Maximum Accommodation Density

Each bedroom within the development must accommodate no more than two (2) adult persons at any one time.

The total number of people accommodated by the approved development at any one time must not exceed 130 persons (inclusive of children).

4. Infrastructure Services and Standards

4.1 Access

Commercial access crossovers must be constructed (from the edge of the road pavement to the property boundary of the subject land) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.2 Stormwater Drainage/Water Quality

4.2.1 Prior to the approval of operational works, the applicant must submit a Stormwater Management Plan and Report prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual to the satisfaction of Council's delegated officer. Where staged works are proposed, the Stormwater Management Plan and Report must detail the stormwater drainage for the whole of the development and for each stage of the development.

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- 4.2.2 The Stormwater Management Plan must ensure a non-worsening effect on surrounding land as a consequence of the development, and must take all reasonable and practicable measures to ensure discharge occurs in compliance with the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual.
 - 4.2.3 The applicant/developer must construct the stormwater drainage infrastructure for the development in accordance with the approved Stormwater Management Plan and Report.
 - 4.2.4 All stormwater drainage must be collected from site and discharged to an approved legal point of discharge.

4.3 Frontage Works - Williams Close - Stage 1

Prior to the commencement of Stage 1 of the use, the applicant/developer is required to widen Williams Close, generally in accordance with Drawing No. 1370-SK02 Amdt B, designed in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

The widening works must be bitumen or asphalt standard, and must include sufficient overlapping of the existing bitumen seal to ensure an appropriate bond of surfaces is achieved, to the satisfaction of Council's delegated officer.

Prior to works commencing, plans for the works described above must be approved as part of a subsequent application for operational works.

4.4 Car Parking/Internal Driveways

The developer must ensure that the development is provided with 55 on-site car parking spaces and one (1) 20 seater bus parking bay which are available solely for the parking of vehicles associated with the use of the premises.

The onsite car parking spaces must be provided for the approved stages as follows:

- Stage 1 - 22 spaces.
- Stage 2 - 10 spaces.
- Stage 3 - 10 spaces.
- Stage 4 - 2 spaces.
- Stage 5 - 1 space.
- Stage 6 - 6 spaces.
- Stage 7 - 4 spaces & 1 20-seater bus parking space.

All car parking spaces and internal driveways/vehicle manoeuvring areas (as shown on the approved plans) must be sealed, line marked where necessary, and appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.

All car parking spaces and internal driveways must be constructed in compliance with the following standards and to the satisfaction of Council's delegated officer:

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- Australian Standard AS2890:1 Off Street Parking – Car Parking Facilities;
 - Australian Standard AS1428:2001 – Design for Access and Mobility.

A sign must be erected in proximity to the access driveway indicating the availability of on-site car parking.

Access to the site is restricted to 2 axle vehicles with the exception of delivery/service vehicles.

4.5 Landscaping

- 4.5.1 The development must be generally landscaped in accordance with the Mareeba Roadhouse and Accommodation Park Landscape Documentation dated 10 May 2018 by Suzan Quigg Landscape Design.
- 4.5.2 For stage 1, the landscape works will be completed as per the approved landscape documentation on the perimeter of the development and around and through the stage 1 buildings. The balance area will be sown with lawn grasses. The remaining stages will be landscaped in accordance with the landscape documentation when each respective stage is developed.
- 4.5.3 For stage 1, in addition to the approved landscape documentation, a two (2) metre high trellis, offset from the northern boundary fence, must be erected adjacent to the internal carpark (parking bays 22 to 23). Suitable vine creeper must be planted and allowed to establish over the trellis.
- 4.5.4 A minimum of 25% of new plants is provided as larger, advanced stock with a minimum plant height of 0.7 metres and mulched to a minimum depth of 0.1 metres with organic mulch.
- 4.5.5 The landscaping of the site must be carried out in accordance with the endorsed landscape plan/s, and prior to the commencement of the use, and mulched, irrigated and maintained to the satisfaction of Council's delegated officer.

4.6 Lighting

The developer shall locate, design and install lighting to operate from dusk to dawn within all areas where the public will be given access, which prevents the potential for light spillage to cause nuisance to neighbours and must be provided in accordance with Australian Standard 1158.1 – Lighting for Roads and Public Spaces.

Illumination resulting from direct, reflected or other incidental light emanating from the subject land does not exceed 8 lux when measured at any point 1.5m outside the property boundary of the subject site. The lighting fixtures installed on site must meet appropriate lux levels as documented within Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

Note: The design is to integrate the principles of Crime Prevention through Environmental Design (CPTED) theory. Lighting design is to illuminate potential

areas of concealment and is to project illumination so that a human face is easily discernible from 15 metres and there is to be sufficient night lighting, which renders people, colours, vegetation and objects correctly. i.e. 'white' light. Particular attention should be given to pathways, driveways and common external spaces.

4.7 Water Supply

- (a) Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity, the developer is required to extend or upgrade the reticulated water supply infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).
- (b) A water service connection must be provided to the subject lot in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Prior to works commencing, plans for the works described above must be approved as part of an Operational Works application.

4.8 Sewerage Connection

The developer must connect the proposed development to Council's reticulated sewerage system in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Where sewerage connections are not available to the site, or where existing connections are not satisfactory for the proposed development, the developer is required to extend or upgrade the reticulated sewerage infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

Prior to works commencing, plans for the works described above must be approved as part of an Operational Works application.

5. Additional Payment Condition/s

- 5.1 The additional payment condition has been imposed as the development will create additional demand on trunk infrastructure which will create additional trunk infrastructure costs for council.
- 5.2 The developer must pay a one-off payment of **\$69,600.00** as a contribution toward trunk infrastructure with the amount of the contribution increased on 1 July each year in accordance with the increase for the PPI index for the period starting on the day the development approval takes effect, adjusted by reference to the 3-yearly PPI index average to the date of payment.

Category	Use Charge	Unit of Measure	Charge Rate	No of Units	Amount
Proposal					
Stage 1	Accommodation (short term)	1-2 bed cabin	\$3,000.00	3	\$9,000.00
		3 or more bed cabin	\$4,200.00	2	\$8,400.00
		Total Stage 1			
Stage 2	Accommodation (short term)	1-2 bed cabin	\$3,000.00	0	\$0
		3 or more bed cabin	\$4,200.00	2	\$8,400.00
		Total Stage 2			
Stage 3	Accommodation (short term)	1-2 bed cabin	\$3,000.00	0	\$0
		3 or more bed cabin	\$4,200.00	2	\$8,400.00
		Total Stage 3			
Stage 4	Accommodation (short term)	1-2 bed cabin	\$3,000.00	2	\$6,000.00
		3 or more bed cabin	\$4,200.00	0	\$0
		Total Stage 4			
Stage 5	Accommodation (short term)	1-2 bed cabin	\$3,000.00	2	\$6,000.00
		3 or more bed cabin	\$4,200.00	0	\$0
		Total Stage 5			
Stage 6	Accommodation (short term)	1-2 bed cabin	\$3,000.00	8	\$24,000.00
		3 or more bed cabin	\$4,200.00	0	\$0
		Total Stage 6			
Stage 7	Accommodation (short term)	1-2 bed cabin	\$3,000.00	0	\$0
		3 or more bed cabin	\$4,200.00	2	\$8,400.00
		Total Stage 7			
Credit					
Water (Lot 10 and 11 only)	-	Per Service	\$4,500.00	2	\$9,000.00
TOTAL					\$69,600.00

5.3 The trunk infrastructure for which the payment is required is:

- The trunk water supply and sewerage network servicing the land.
- 5.4 The developer may elect to provide or upgrade part of the trunk infrastructure instead of making the payment.
- 5.5 If the developer elects to provide or upgrade part of the trunk infrastructure the developer must:
- Discuss with Council's delegated officer the works to be undertaken;
 - Obtain the necessary approvals for the works;
 - Indemnify the Council in relation to any actions, suits or demands relating to or arising from the works;
 - Take out joint insurance in the name of the Council and the developer in the sum of \$20,000,000 in relation to the undertaking of the works;
 - Comply with the reasonable direction of Council officers in relation to the completion of the works;
 - Complete the works to the standards required by the Council; and
 - Complete the works prior to the commencement of the use.

REFERRAL AGENCIES

The referral agencies applicable to this application are:

Material change of use of premises near a State transport corridor or that is a future State transport corridor		
<p>Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorizing instrument, if all or part of the premises—</p> <p>(a) are within 25m of a State transport corridor; or</p> <p>(b) are a future State transport corridor; or</p> <p>(c) are—</p> <p>(i) adjacent to a road that intersects with a State-controlled road; and</p> <p>(ii) within 100m of the intersection</p>	<p>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4</p>	<p>State Assessment & Referral Agency (SARA) Department of Infrastructure, Local Government & Planning PO Box 2358 Cairns Qld 4870</p> <p>CairnsSARA@dilgp.qld.gov.au</p>
Aspect of development stated in schedule 20		
<p>Development application for an aspect of development stated in schedule 20 that is assessable development under a local categorising instrument or section 21, if—</p>	<p>Schedule 10, Part 3, Division 4, Subdivision 1, Table 1</p>	<p>State Assessment & Referral Agency (SARA) Department of Infrastructure, Local Government & Planning PO Box 2358 Cairns Qld 4870</p>

NEGOTIATED DECISION NOTICE

<p>(a) the development is for a purpose stated in schedule 20, column 1 for the aspect; and</p> <p>(b) the development meets or exceeds the threshold—</p> <p>(i) for development in local government area 1—stated in schedule 20, column 2 for the purpose; or</p> <p>(ii) for development in local government area 2—stated in schedule 20, column 3 for the purpose; and</p> <p>(c) for development in local government area 1—the development is not for an accommodation activity or an office at premises wholly or partly in the excluded area</p> <p>However, if the development is for a combination of purposes stated in the same item of schedule 20, the threshold is for the combination of purposes and not for each individual purpose.</p>		<p>CairnsSARA@dilgp.qld.gov.au</p>
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A copy of any referral agency conditions is attached.

APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
<i>1370-SK01-B</i>	<i>Existing Site Plan</i>	<i>Jim Papas</i>	<i>13.12.17</i>
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<i>1370-SK04-B</i>	<i>General Arrangement — Landscape and Potable Water Reticulation</i>	<i>Jim Papas</i>	<i>13.12.17</i>
<i>1370-SK05-B</i>	<i>General Arrangement — Roadworks</i>	<i>Jim Papas</i>	<i>13.12.17</i>
<i>1370-SK06-B</i>	<i>Details, Pavement Notes etc.</i>	<i>Jim Papas</i>	<i>13.12.17</i>

<i>1370-SK07 A</i>	<i>General Arrangement – Temporary RV Arrangement</i>	<i>Jim Papas</i>	<i>11.01.18</i>
<i>1370-SK01 D</i>	<i>Existing Site Plan</i>	<i>Jim Papas</i>	<i>30.05.18</i>
<i>1370-SK02 C</i>	<i>General Arrangement of Proposed Development</i>	<i>Jim Papas</i>	<i>30.05.18</i>
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<i>BD17-11-839/SK1</i>	<i>Proposed Roadhouse</i>	<i>Buck Design Pty Ltd</i>	<i>Nov 17</i>
<i>BD17-11-839/SK2</i>	<i>Proposed Hostel Building</i>	<i>Buck Design Pty Ltd</i>	<i>Nov 17</i>
<i>Acacia 2 (Motel Units 4 rooms)</i>	<i>Floor Plan</i>	<i>Asset Cabins & Homes</i>	<i>25 Aug 2017</i>
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<i>Single Module Layout (Budget Accommodation with ensuite)</i>	<i>Floor Plan</i>	<i>-</i>	<i>-</i>

REFERENCED DOCUMENTS

Not Applicable.

ADVISORY NOTES

The following notes are included for guidance and information purposes only and do not form part of the assessment manager conditions:

(A) ASSESSMENT MANAGER'S ADVICE

- (a) A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.

(b) Water Meters/Water Service Connection

Prior to the water service connection works commencing and the installation of the meters by Council, an application for a Plumbing Compliance Permit is required to be submitted with detailed hydraulic drawings. The cost of the required water connection and meter (capping of any existing meter may be required) will be determined based upon the approved hydraulic drawings at the time of lodgement of a Water Quotation Request.

(c) Food Premises

Premises proposed for the storage and preparation, handling, packing or service of food must comply with the requirements of the Food Act 2006.

- (d) A Trade Waste Permit will be required prior to the commencement of use.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) Motor Home Park/Caravan Park/Camping Ground

The applicant is advised that an application to Council for approval to operate under Council *Local Law No 1 (Administration) 2011* is required prior to the commencement of the motor home park/caravan park/camping ground.

(B) REFERRAL AGENCY CONDITIONS

Department of State Development, Manufacturing, Infrastructure and Planning conditions dated 22 February 2018.

PROPERTY NOTES

Not Applicable.

VARIATION APPROVAL

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

- Development Permit for Operational Works
- Development Permit for Building Work
- Compliance Permit for Plumbing and Drainage Work

SUBMISSIONS

There were fourteen (14) properly made submissions about the application. In accordance with the *Planning Act 2016*, the name and residential or business address of the principal submitter for each properly made submission is provided below:

	Name of principal submitter	Address
1.	M Fuller - support	PO Box 166, Mareeba 4880
2.	Petition - Rosemary Tempany (21 signatories) - oppose	21 Pike Road, Mareeba 4880
3.	C & J Ward - oppose	10 Debel Close, Mareeba 4880
4.	G Cummings - support	8 Reynolds Street, Mareeba 4880
5.	D & T Brcko - oppose	4 Debel Close, Mareeba 4880

6.	M Blackman - oppose	3 Debel Close, Mareeba 4880
7.	R & T Wheatley - oppose	6 Debel Close, Mareeba 4880
8.	B Jones - support	5 Barrett Street, Mareeba 4880
9.	T, D & Y Blake - oppose	8 Debel Close, Mareeba 4880
10.	R & F Petersen - oppose	PO Box 557, Mareeba 4880
11.	CW & L Blyth - oppose	7 Debel Close, Mareeba 4880
12.	R Fanna - oppose	30 McGrath Road, Mareeba
13.	D Dent - support	n/a
14.	J Corcoran - support	26 Gowan Street, Mareeba

RIGHTS OF APPEAL

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

17. OTHER DETAILS

If you wish to obtain more information about Council's decision, electronic copies are available on line at www.msc.qld.gov.au, or at Council Offices.

DECISION NOTICE HISTORY

MCU/17/0017 *Original Decision Notice 18 April 2018*
MCU/17/0017 *Negotiated Decision Notice 19 July 2018*

Yours faithfully

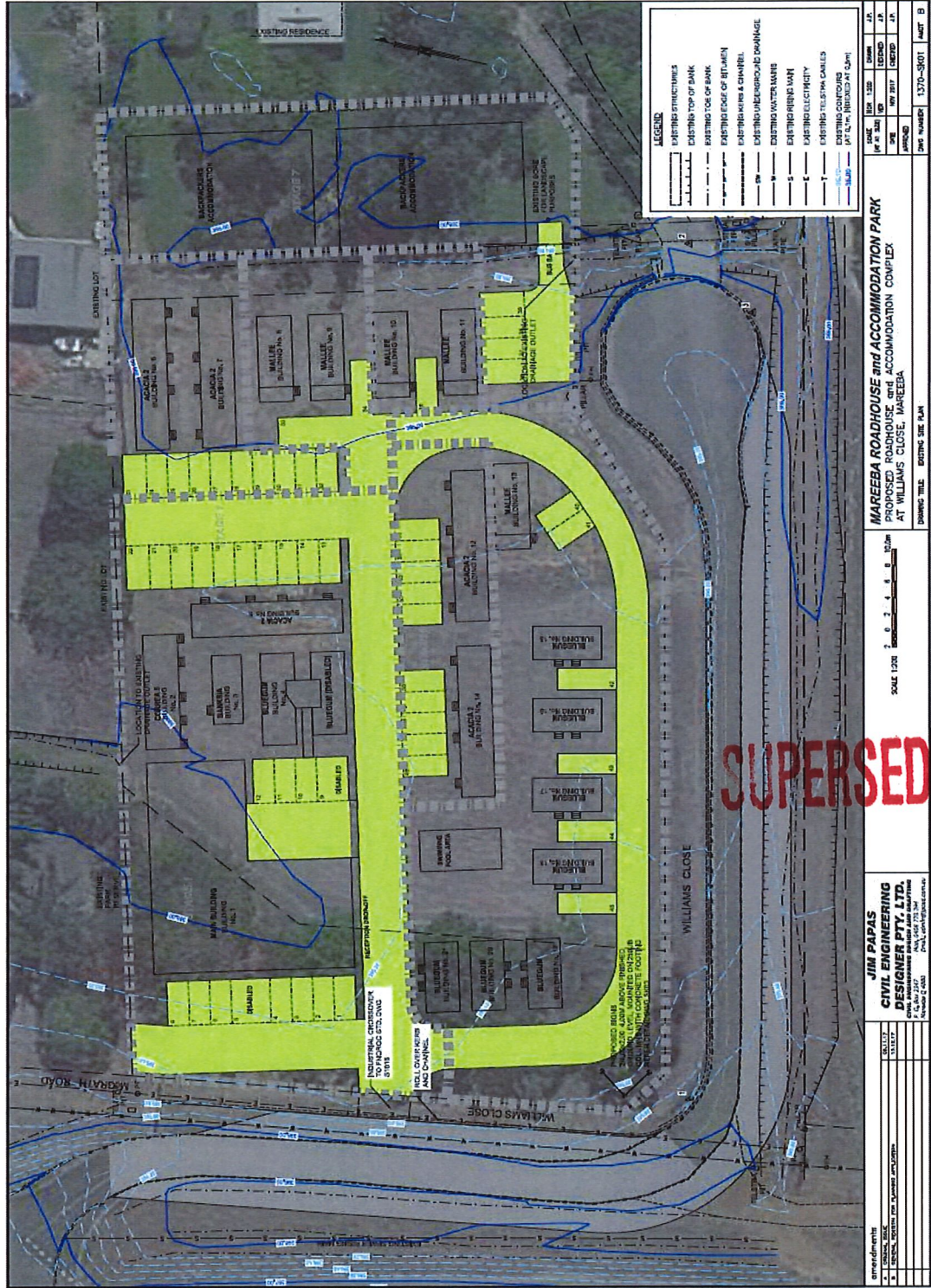


BRIAN MILLARD
SENIOR PLANNER

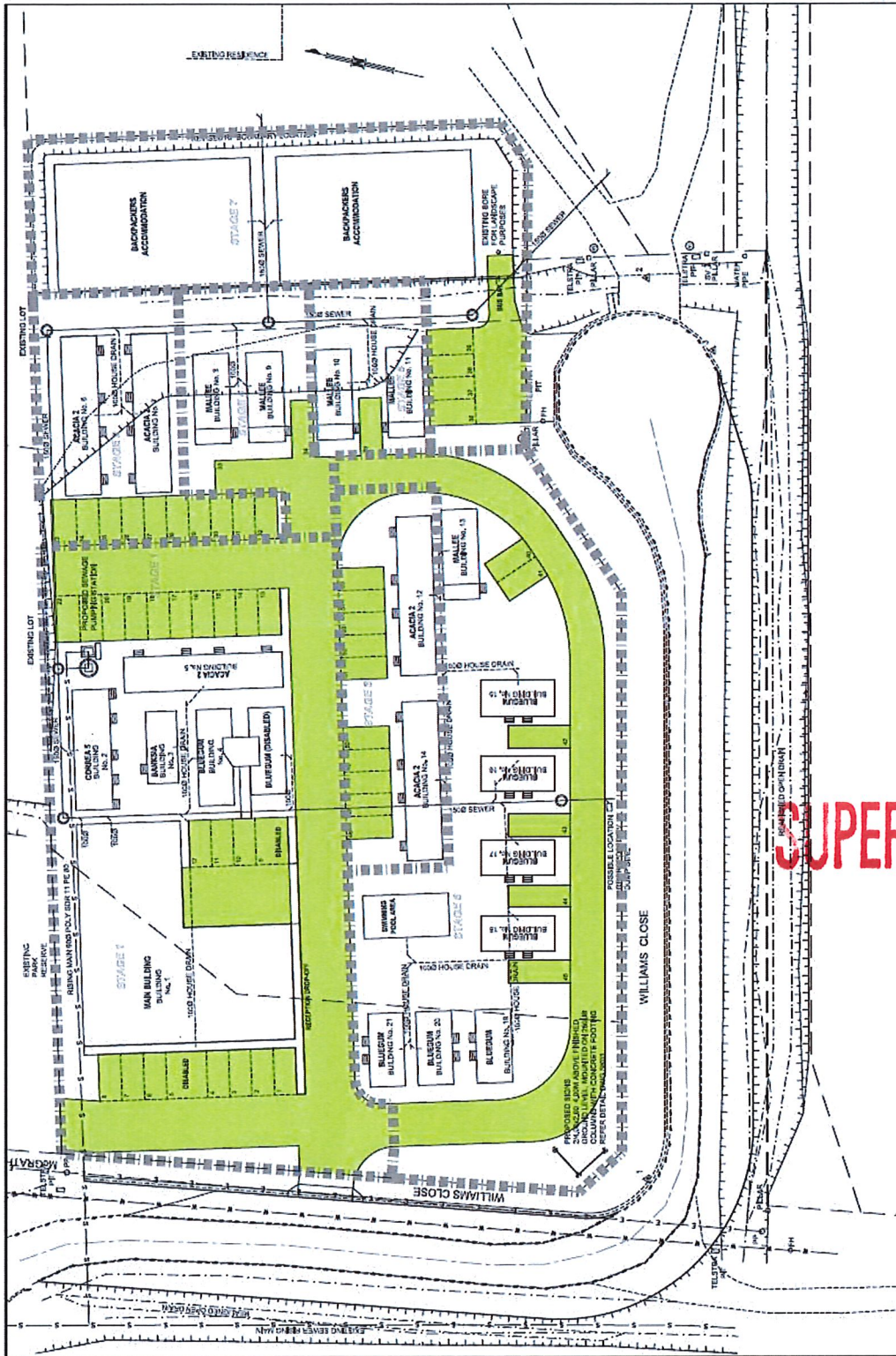
Enc: Approved Plans/Documents
Referral Agency Response
Appeal Rights

Copy: Department of State Development, Manufacturing, Infrastructure and Planning
CairnsSARA@dsmip.qld.gov.au

Approved Plans/Documents



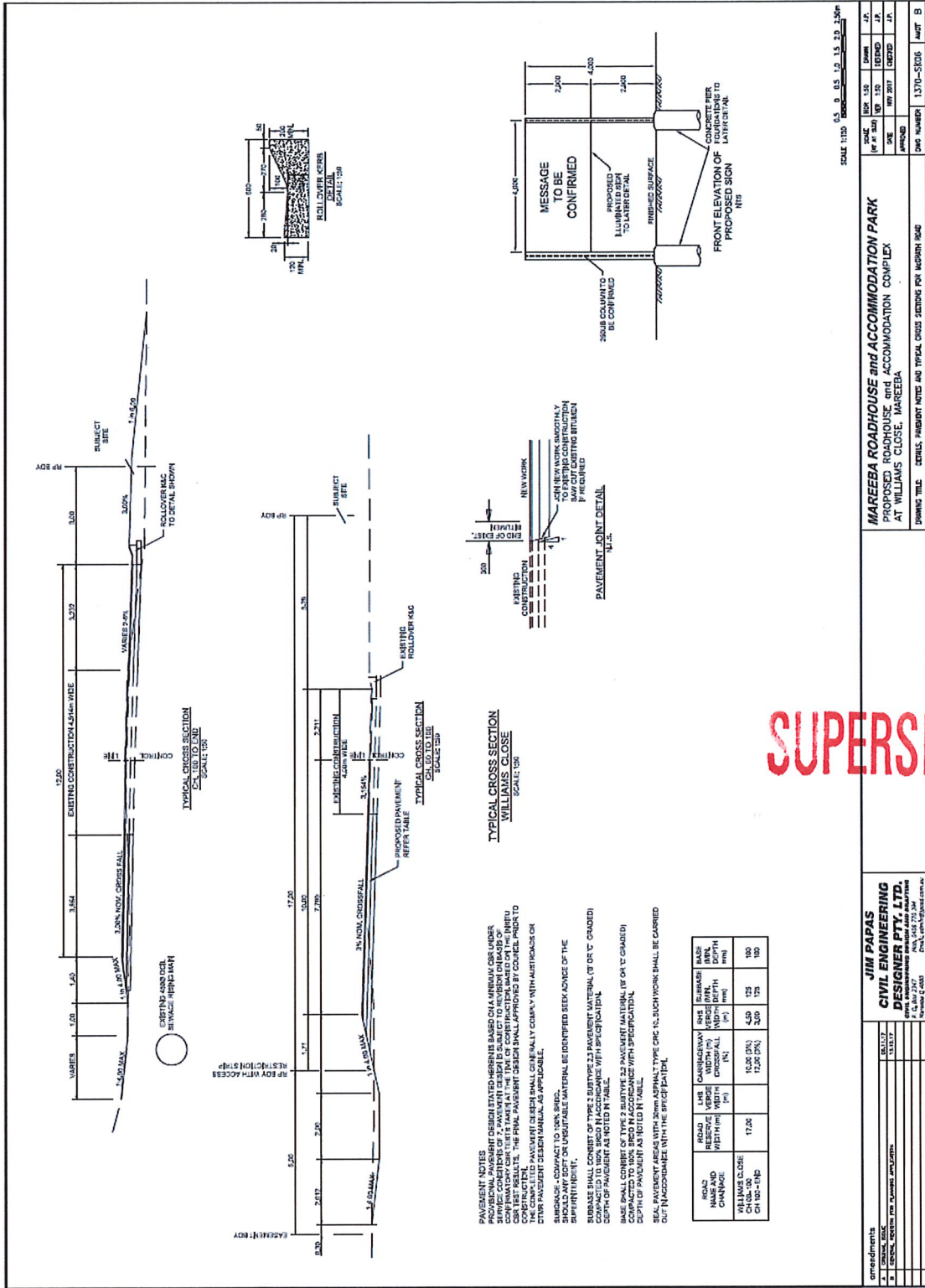
Document Set ID: 3340414
Version 1, Version Date: 22/01/2018



SUPERSEDED

<p>JIM PAPAS CIVIL ENGINEERING DESIGNER PTY. LTD. CIVIL ENGINEERS AND ARCHITECTS 10/11-13/15 Mareeba QLD 4880 Ph: 07 4051 2400 Fax: 07 4051 2401</p>		<p>MAREEBA ROADHOUSE and ACCOMMODATION PARK PROPOSED ROADHOUSE and ACCOMMODATION COMPLEX AT WILLIAMS CLOSE, MAREEBA DRAWING TITLE: GENERAL ARRANGMENT - STAGE 1 DETAIL</p>	
<p>DATE: 22/01/2018 BY: JPP APP'D: JPP</p>	<p>SCALE: 1:200</p>	<p>DATE: 22/01/2018 BY: JPP APP'D: JPP</p>	<p>DATE: 22/01/2018 BY: JPP APP'D: JPP</p>
<p>PROJECT NO: 3340414</p>	<p>SCALE: 1:200</p>	<p>DATE: 22/01/2018 BY: JPP APP'D: JPP</p>	<p>DATE: 22/01/2018 BY: JPP APP'D: JPP</p>

Document Set ID: 334014
Version 1, Version Date: 22/01/2018



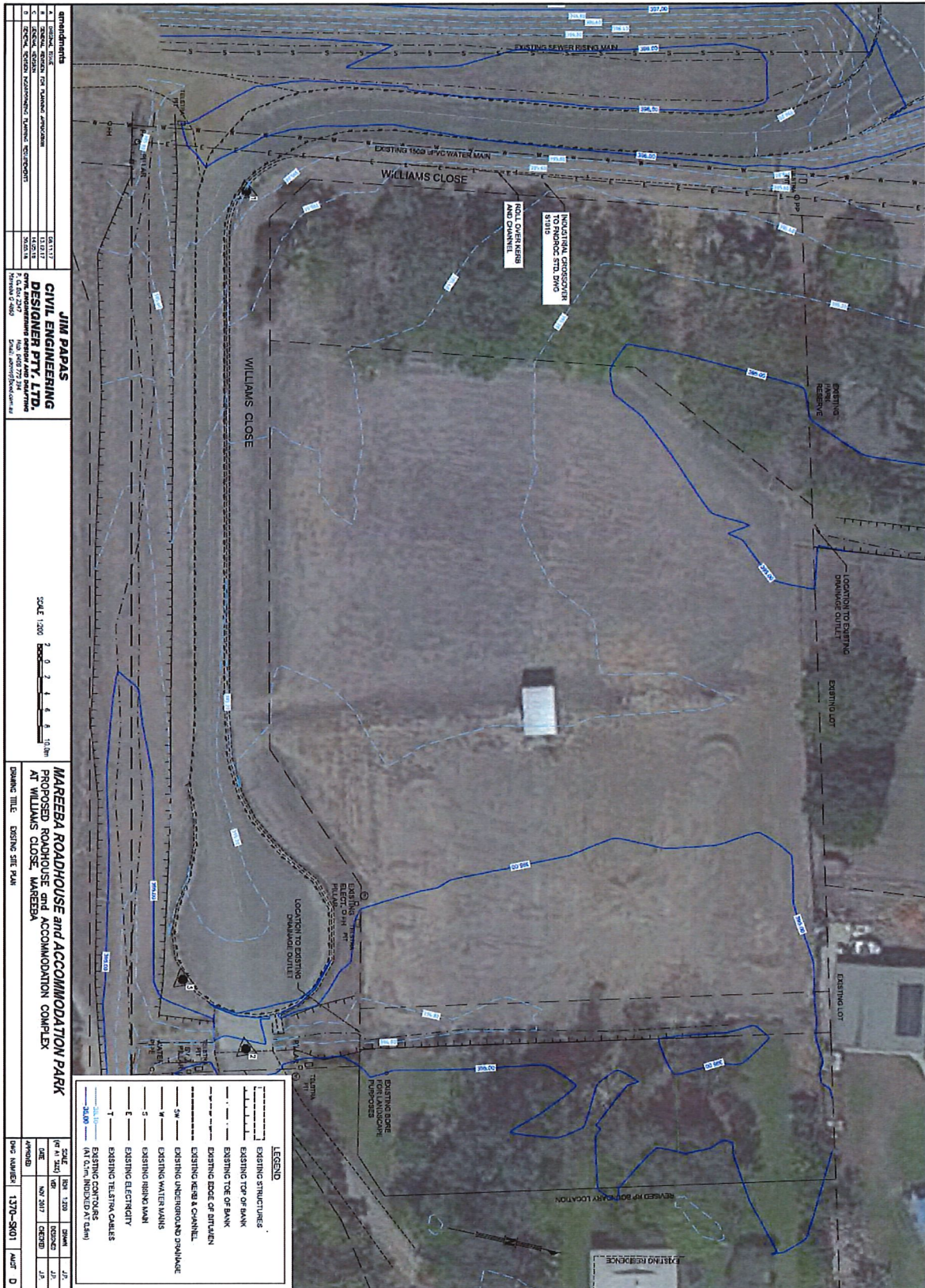
SUPERSEDED

JIM PAPAS CIVIL ENGINEERING DESIGNER PTY. LTD.
15/11/17
13/12/17
15/11/17
13/12/17
15/11/17
13/12/17

MAREEBA ROADHOUSE and ACCOMMODATION PARK
PROPOSED ROADHOUSE and ACCOMMODATION COMPLEX
AT WILLIAMS CLOSE, MAREEBA

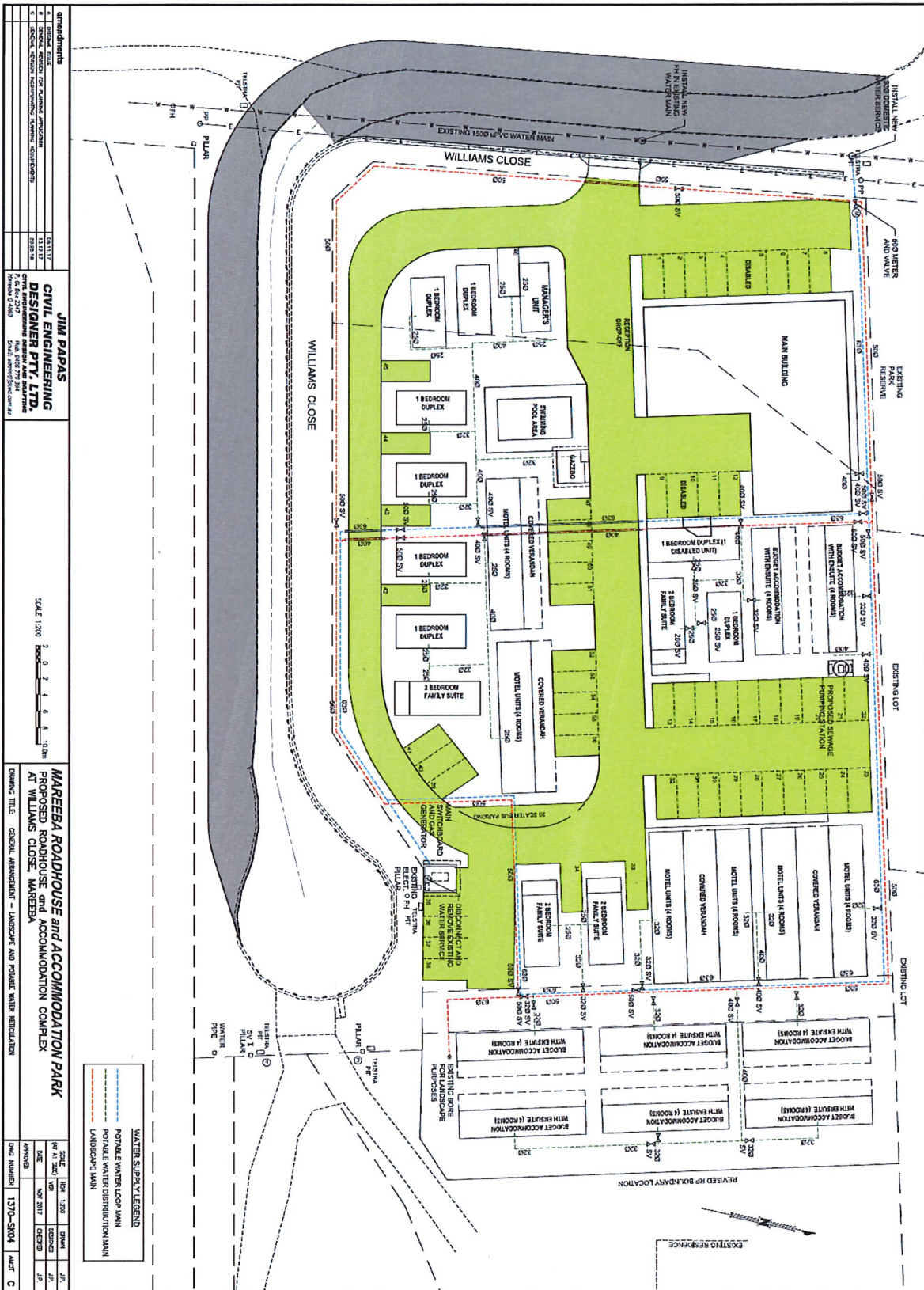
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SCALE: 1:100
DATE: 15/11/17
DRAWN: J.P.
CHECKED: J.P.
DATE: 13/12/17
DATE: 15/11/17
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DATE: 15/11/17
DATE: 13/12/17



Document Set ID: 3412988
Version: 1, Version Date: 31/05/2018

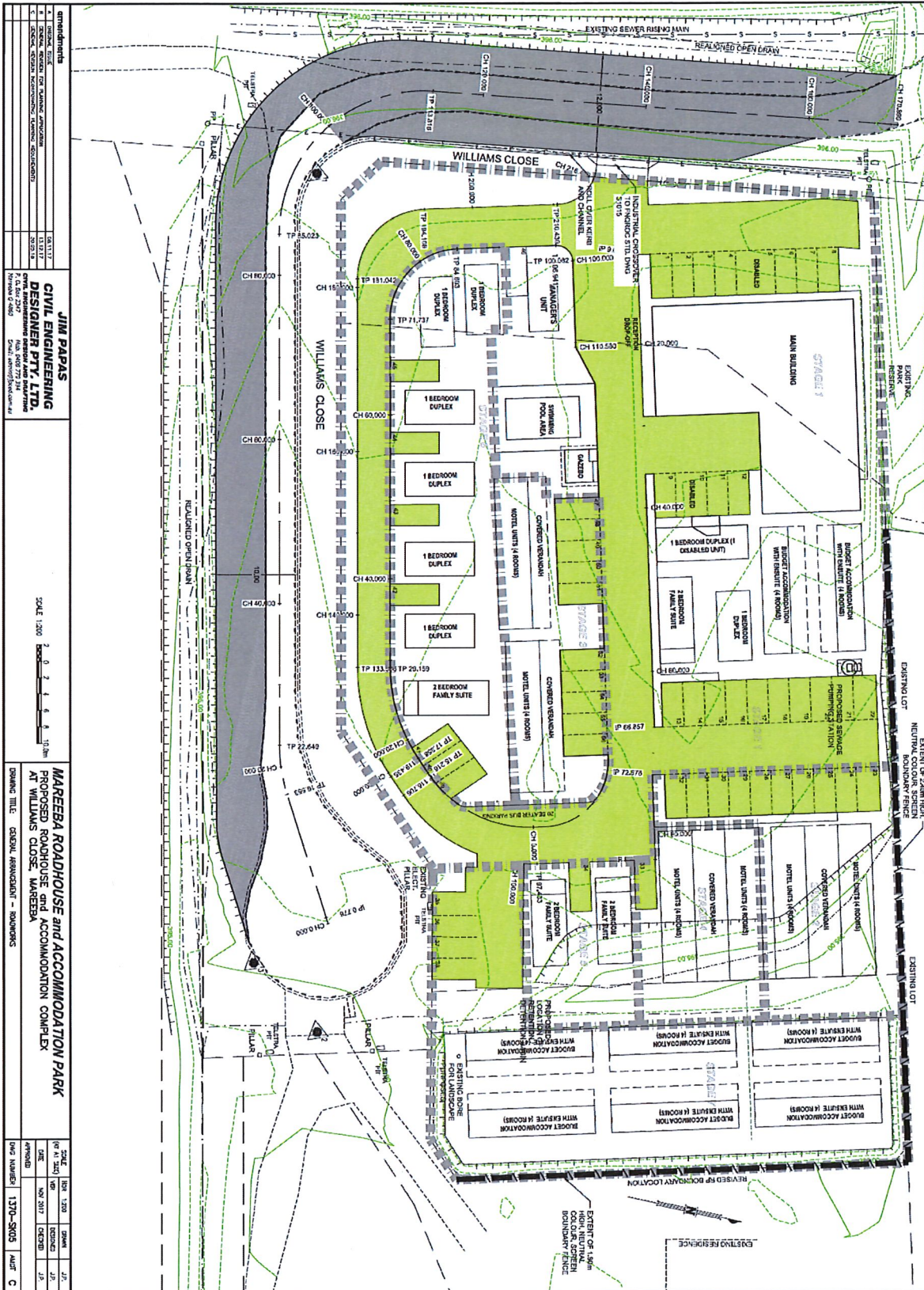
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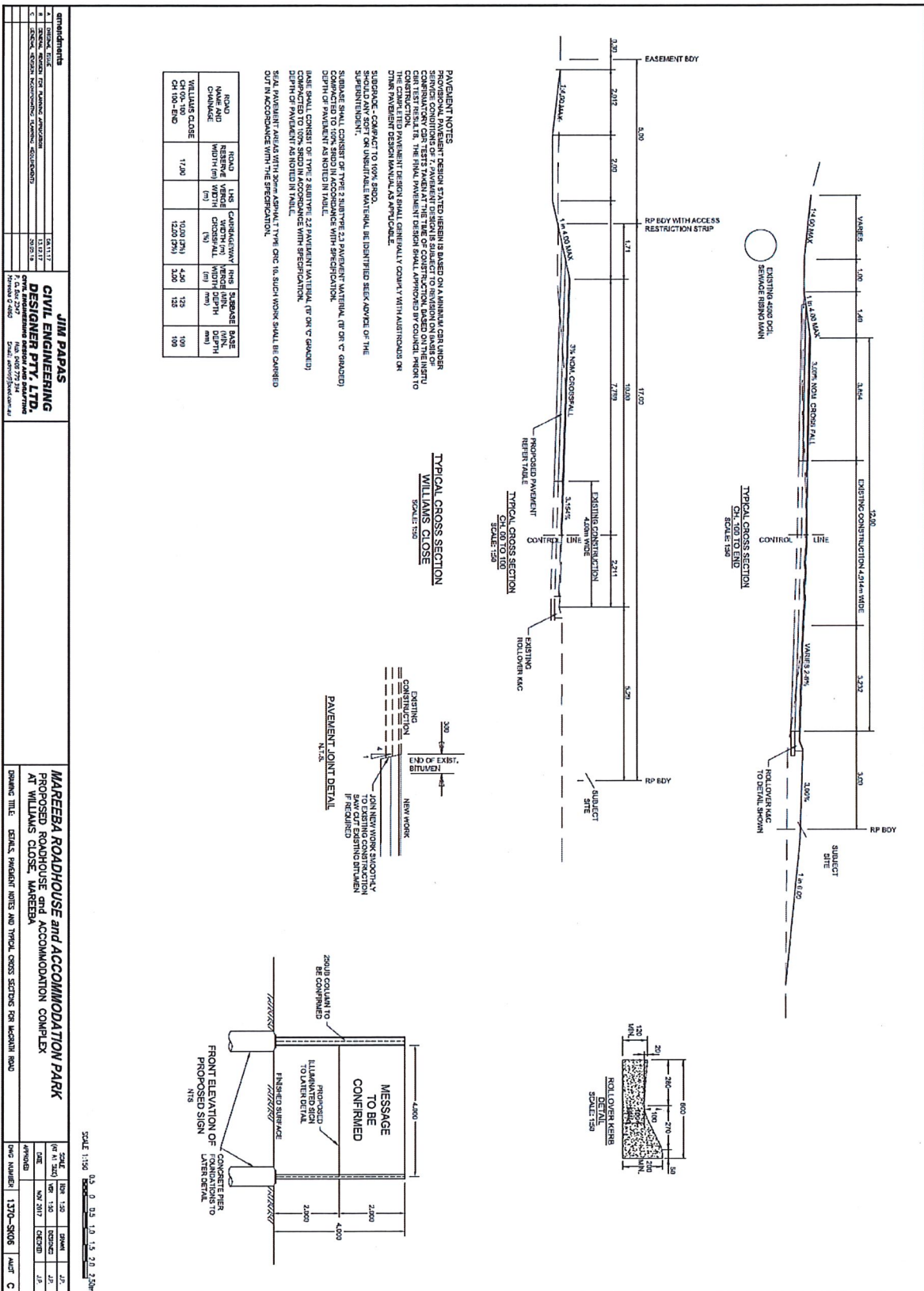
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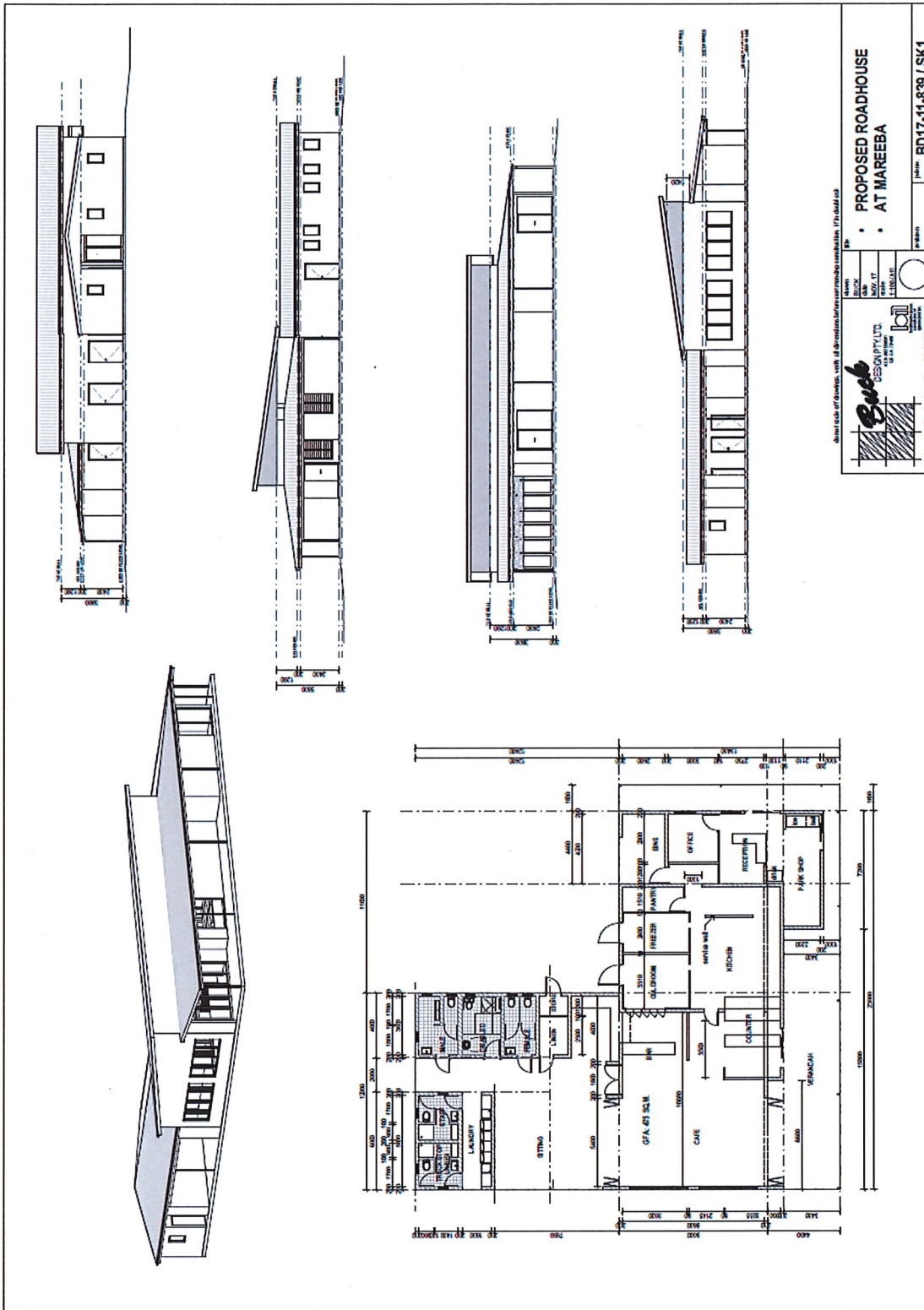
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Document Set ID: 3412988
Version: 1, Version Date: 31/05/2018

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ELEVATION 1
SCALE 1:50

ELEVATION 2
SCALE 1:50

ELEVATION 3
SCALE 1:50

ELEVATION 4
SCALE 1:50

GROUND FLOOR LEVEL COPY 1
W1 TO R4E

PROPOSED HOSTEL BUILDING
AT: MAREEBA

Buck RESPONS PTY LTD
18 LINDA STREET, MAREEBA QLD 4272

BD17-11-839 / SK2

SUPERSEDED

Acacia 2
for
Mr Greg Williams
25/08/2017



Cnr Langton Road and Ettie Jane Street
Gympie QLD 4570
t: (07) 5483 7144 | f: (07) 5483 7188
FREECALL: 1800 225 224
www.assetcabins.com.au | e: sales@assetcabins.com.au

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Version Notes:

Client:
Mr Greg Williams
A 4278

Project:
Acacia 2

Mareeba QLD 4890

drawing status: PRELIMINARY

design by: Asset Cabins and Homes

scale: not to scale

date: Friday, 25 August 2017

Concept 3D

design: sheet no:

Acacia 2 2



Document Set ID: 3340414
Version: 1, Version Date: 22/01/2018

18/7/2018
B. well



Cnr Langton Road and Ettie Jane Street
Gympie QLD 4570
T: (07) 5483 7144 F: (07) 5483 7188
FREECALL: 1800 225 224
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Version Notes

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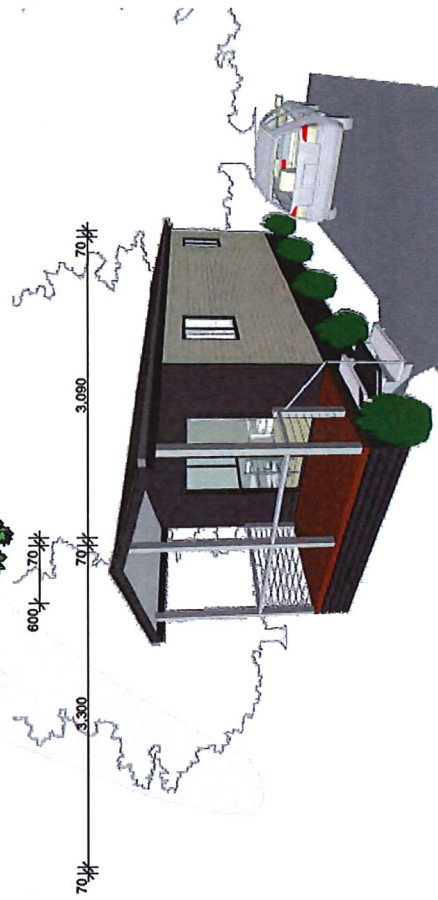
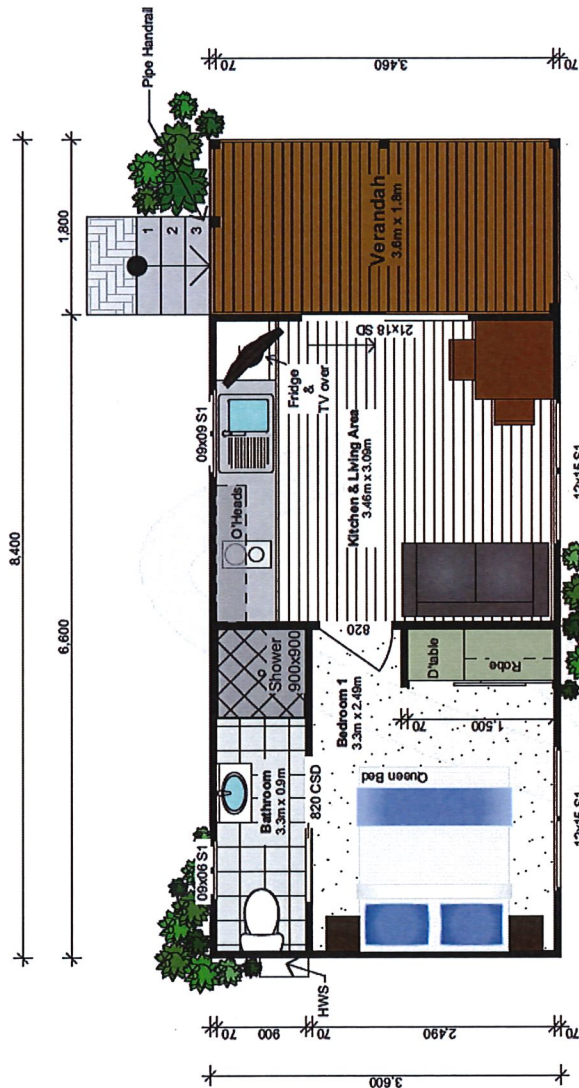
design by: Asset Cabins and Homes

scale: 1:40 on A3

date: Friday, 21 March 2014

design:

Banksia



Document Set ID: 3340414
Version: 1, Version Date: 22/01/2018

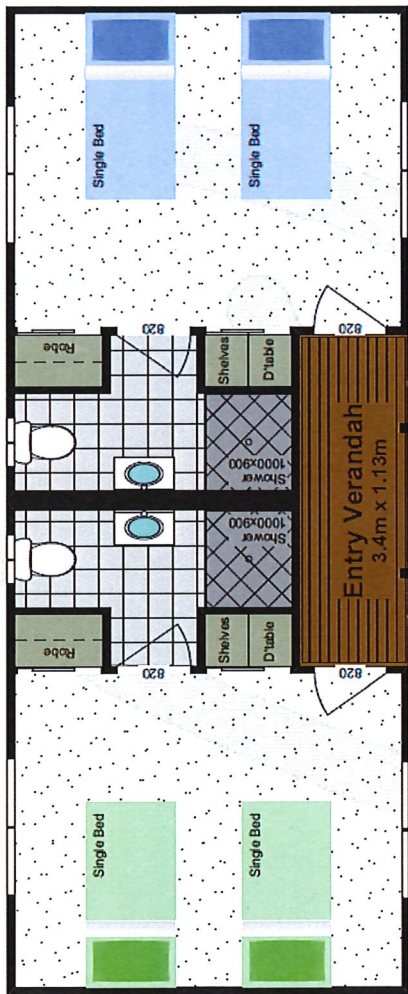
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design by: Asset Cabins and Homes
scale: 1:40 on A3
date: Wednesday, 2 April 2014

design:
Bluegum Option 2



Document Set ID: 3340414
Version: 1, Version Date: 22/01/2018

18/7/2018
B. Will



Cnr Langton Road and Ettie Jane Street
Gympie QLD 4570
t: (07) 5483 7144 | f: (07) 5483 7188
FREECALL: 1800 225 224
www.assetcabins.com.au | e: sales@assetcabins.com.au

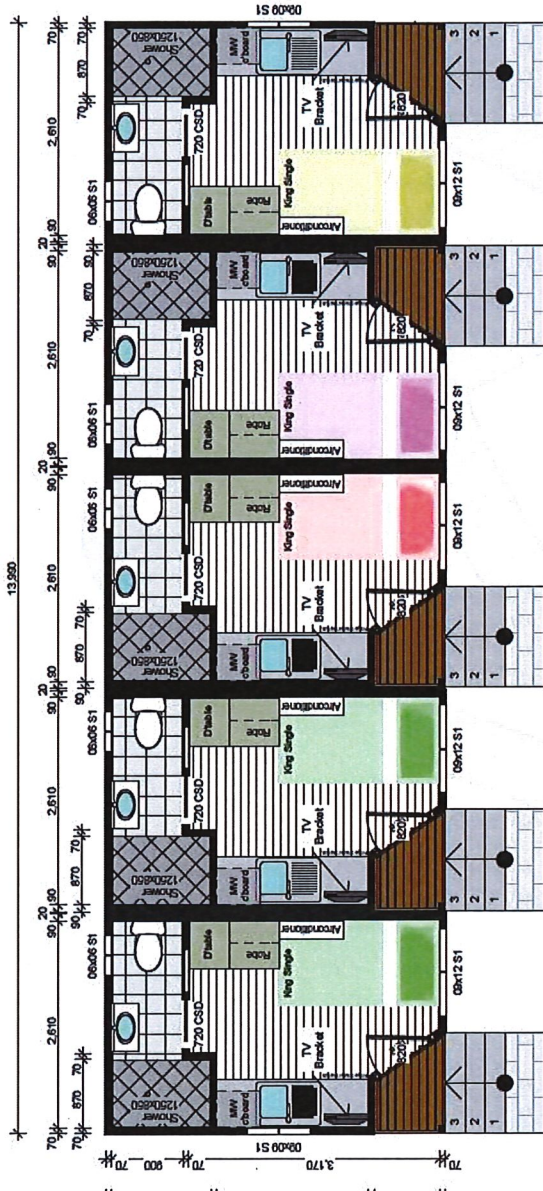
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Version Notes:

client:	Mr Greg Williams
Project:	Correa 5RM
	Mareeba QLD 4880
drawing status:	PRELIMINARY
design by:	Asset Cabins and Homes
scale:	1:25, 1:1 on A1
date:	Monday, 21 August 2017

Floor Plan

design:	Correa 5RM
sheet no.:	1



Document Set ID: 33/0414
Version: 1, Version Date: 22/01/2018



Cnr Langton Road and Ettie Jane Street
Gympie QLD 4570
t: (07) 5483 7144 | f: (07) 5483 7188
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Version Notes

cabin number: #Project ID

client: Mr Greg Williams
A 4278

Project: Mallee

Mareeba QLD 4850

site classification: #Project Custom

drawing status: PRELIMINARY

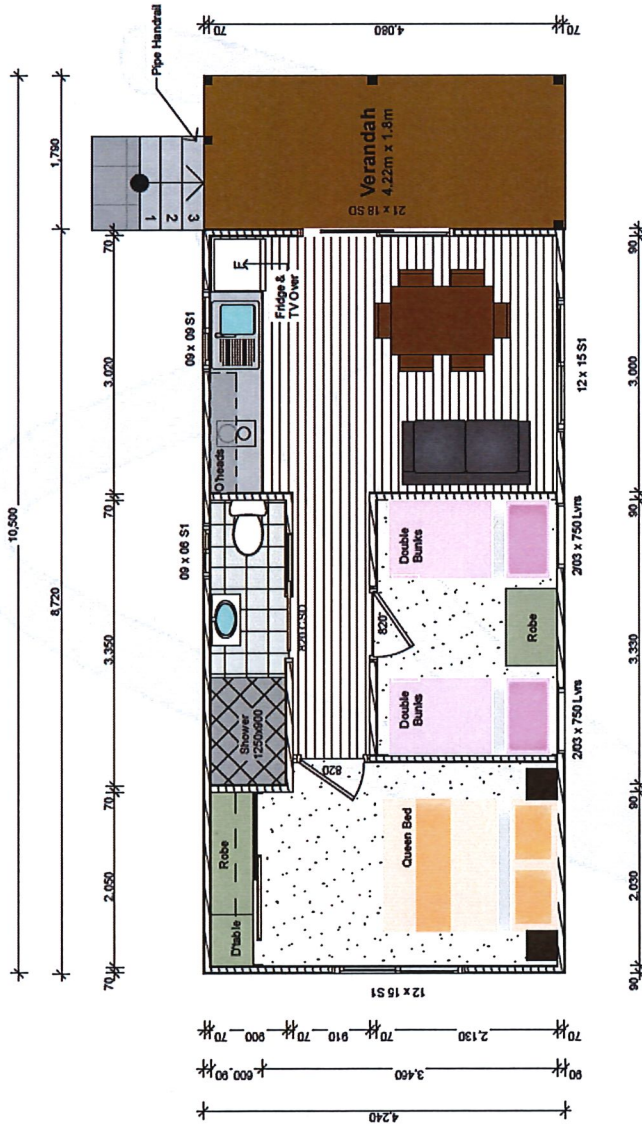
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date: Wednesday, 27 September 2017

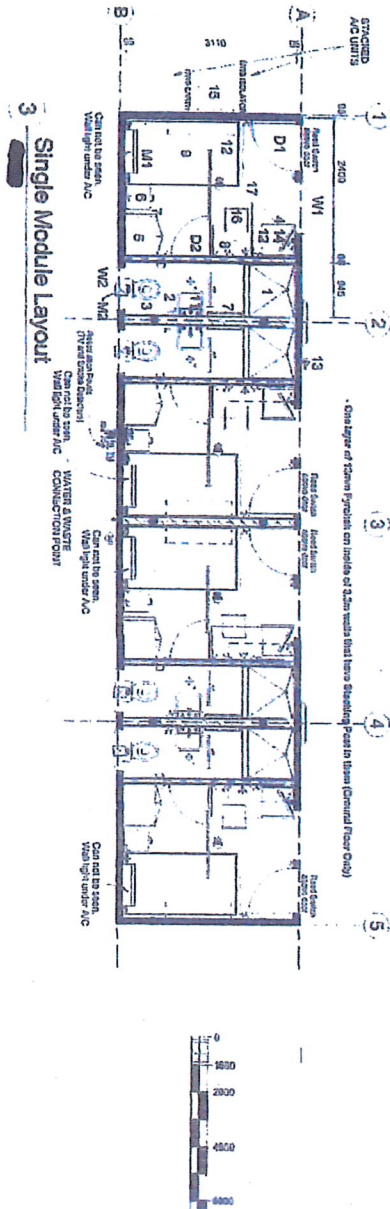
Floor Plan

design: Mallee
sheet no: 2



Document Set ID: 3340414
Version: 1, Version Date: 22/01/2018

18/7/2018
B. [Signature]



18/7/2018
B. [Signature]

Referral Agency Response

RA6-N



Department of
**State Development,
 Manufacturing,
 Infrastructure and Planning**

Our reference: 1801-3539 SRA
 Your reference: MCU/17/0017

22 February 2018

Chief Executive Officer
 Mareeba Shire Council
 PO Box 154
 Mareeba QLD 4880
 planning@msc.qld.gov.au

Attention: Carl Ewin

Dear Sir/Madam

Referral agency response—with conditions
 (Given under section 56 of the *Planning Act 2016*)

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning on 23 January 2018.

Applicant details

Applicant name:	Roadhouse Property Unit Trust C/- Freshwater Planning Pty Ltd
Applicant contact details:	17 Barron View Drive Freshwater QLD 4870 freshwaterplanning@outlook.com

Location details

Street address:	1, 3-5 and 7 Williams Close, Mareeba
Real property description:	Lot 10 on SP168631, Lot 11 on SP168631 and Lot 12 on SP168631
Local government area:	Mareeba Shire Council

Application details

Development permit	Material change of use for Tourist Park, Short Term Accommodation and Food and Drink Outlet
--------------------	---

1801-3539 SRA

Referral triggers

The development application was referred to the department under the following provisions of the Planning Regulation 2017:

- 10.9.4.1.1.1 Infrastructure - state transport infrastructure
- 10.9.4.2.4.1 State transport corridors and future State transport corridors

Conditions

Under section 56(1)(b)(i) of the *Planning Act 2016* (the Act), the conditions set out in Attachment 1 must be attached to any development approval.

Reasons for decision to impose conditions

The department must provide reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

Advice to the assessment manager

Under section 56(3) of the Act, the department offers advice about the application to the assessment manager—see Attachment 3.

Approved plans and specifications

The department requires that the plans and specifications set out below and enclosed must be attached to any development approval.

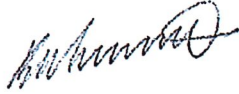
Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Aspect of development: Material change of use				
Existing Site Plan (as amended in red)	Jim Papas Civil Engineering Designer	13/12/2017	1370-SK01	Amdt B
TMR Layout Plan 1 (34A - 1.38km)	Queensland Government Transport and Main Roads	7/02/2018	TMR18-23621 (500-1225)	Issue A
General Arrangement of Proposed Development	Jim Papas Civil Engineering Designer Pty Ltd	13/12/2017	1370-SK02	Amdt B
Access Crossovers	FNQROC	23/10/17	S1015	Revision D
General Arrangement – Roadworks (as amended in red)	Jim Papas Civil Engineering Designer Pty Ltd	13/12/2017	1370-SK05	Amdt B
Details Pavement Notes and Typical Cross Sections for McGrath Road	Jim Papas Civil Engineering Designer Pty Ltd	13/12/2017	1370-SK06	Amdt B

A copy of this response has been sent to the applicant for their information.

1801-3539 SRA

For further information please contact Jenny Sapuppo, Senior Planning Officer, on 5644 3212 or via email CairnsSARA@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Roadhouse Property Unit Trust C/- Freshwater Planning Pty Ltd, freshwaterplanning@outlook.com

enc Attachment 1—Conditions to be imposed
Attachment 2—Reasons for decision to impose conditions
Attachment 3—Advice to the assessment manager
Approved plans and specifications

1801-3539 SRA

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Material change of use		
State transport infrastructure (thresholds) and state-controlled road —The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
In accordance with approved plans		
1.	<p>(a) The following signage must be provided generally in accordance with the Existing Site Plan, prepared by Jim Papas Civil Engineering Designer, dated 13/12/2017, drawing number 1370-SK01, Amdt B, as amended in red:</p> <ul style="list-style-type: none"> • a 'Railway crossing flashing signals ahead on side road assembly (RX-7)' in accordance with Section 2.3.5 of AS1742.7:2016 <i>Manual of uniform of traffic control devices Part 7: Railway crossings</i> on Williams Close facing northbound vehicles exiting the development; and • a sign at the Williams Close/McGrath Road/Mulligan Highway intersection facing vehicles at the giveway lines in accordance with Queensland Government drawing number R2-6 <i>Regulatory Sign "No Left (Right) Turn"</i>, modified to regulate no right turns on railway crossing flashing signals. <p>(b) RPEQ certification with supporting documentation must be provided to the Department of Transport and Main Roads, Program Delivery and Operations Unit, Far North Queensland Region at Far.North.Queensland.IDAS@tmr.qld.gov.au confirming that the development has been constructed in accordance with part (a) of this condition.</p>	<p>(a) Prior to the commencement of use and to be maintained at all times.</p> <p>(b) Prior to the commencement of use</p>
Vehicular access to state-controlled road		
2.	<p>(a) The road access location is to be located generally in accordance with:</p> <ul style="list-style-type: none"> • TMR Layout Plan 1 (34A - 1.38km), prepared by Queensland Government Transport and Main Roads, dated 7/02/2018, file ref TMR18-23621 (500-1225), Issue A; and • General Arrangement of Proposed Development, prepared by Jim Papas Civil Engineering Designer Pty Ltd, dated 13/12/17, drawing number 1370-SK02, Amdt B. <p>(b) Road access works comprising a driveway crossover to commercial / industrial standard must be provided at the permitted access location generally in accordance with FNQROC Standard Drawing S1015 - 'Access Crossovers'.</p>	<p>(a) At all times</p> <p>(b) Prior to the commencement of use</p>
3.	Direct access is not permitted between Williams Close and Lot 10 on SP168631 at any other location other than the permitted road access location described in Condition 1.	At all times
4.	Direct access is not permitted between Williams Close and Mulligan	At all times

1801-3539 SRA

	Highway. All access between Williams Close and Mulligan Highway is to be via McGrath Road intersection.	
5.	<p>Road works comprising upgrade to Williams Close must be carried out generally in accordance with:</p> <ul style="list-style-type: none"> • General Arrangement – Roadworks, prepared by Jim Papas Civil Engineering Designer Pty Ltd, dated 13/12/17, drawing number 1370-SK05, Amdt B; and • Details Pavement Notes and Typical Cross Sections for McGrath Road, prepared by Jim Papas Civil Engineering Designer Pty Ltd, dated 13/12/17, drawing number 1370-SK06, Amdt B. 	Prior to the commencement of use
6.	<p>Road works comprising an effective barrier to exclude direct access between Williams Close and the Mulligan Highway must be provided at the location specified on the following plan:</p> <ul style="list-style-type: none"> • General Arrangement – Roadworks, prepared by Jim Papas Civil Engineering Designer Pty Ltd, dated 13/12/17, drawing number 1370-SK05, Amdt B (as amended in red). 	Prior to the commencement of use
Road works on a state-controlled road		
7.	<p>(a) Road works comprising of flag lighting must be provided at the Mulligan Highway / McGrath Road / Williams Close intersection.</p> <p>(b) The road works must be designed and constructed in accordance with the Department of Main Roads Road Planning and Design Manual (2nd edition), Volume 6: Lighting, dated July 2016.</p> <p>Note: Detailed engineering designs of the proposed road works must be submitted to DTMR for approval and certified by a Registered Professional Engineer of Queensland (RPEQ).</p>	(a) & (b) Prior to the commencement of use.

1801-3539 SRA

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

- To maintain the safety of the railway level crossing.
- To ensure the road access location to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road.
- To ensure the design of any road access maintains the safety and efficiency of the state-controlled road.
- To ensure access to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road. Direct access to the state-controlled road is prohibited where not required.
- To ensure the development does not result in a worsening of the safety of a state-controlled road.
- To ensure the road works on, or associated with, the state-controlled road network are undertaken in accordance with applicable standards.

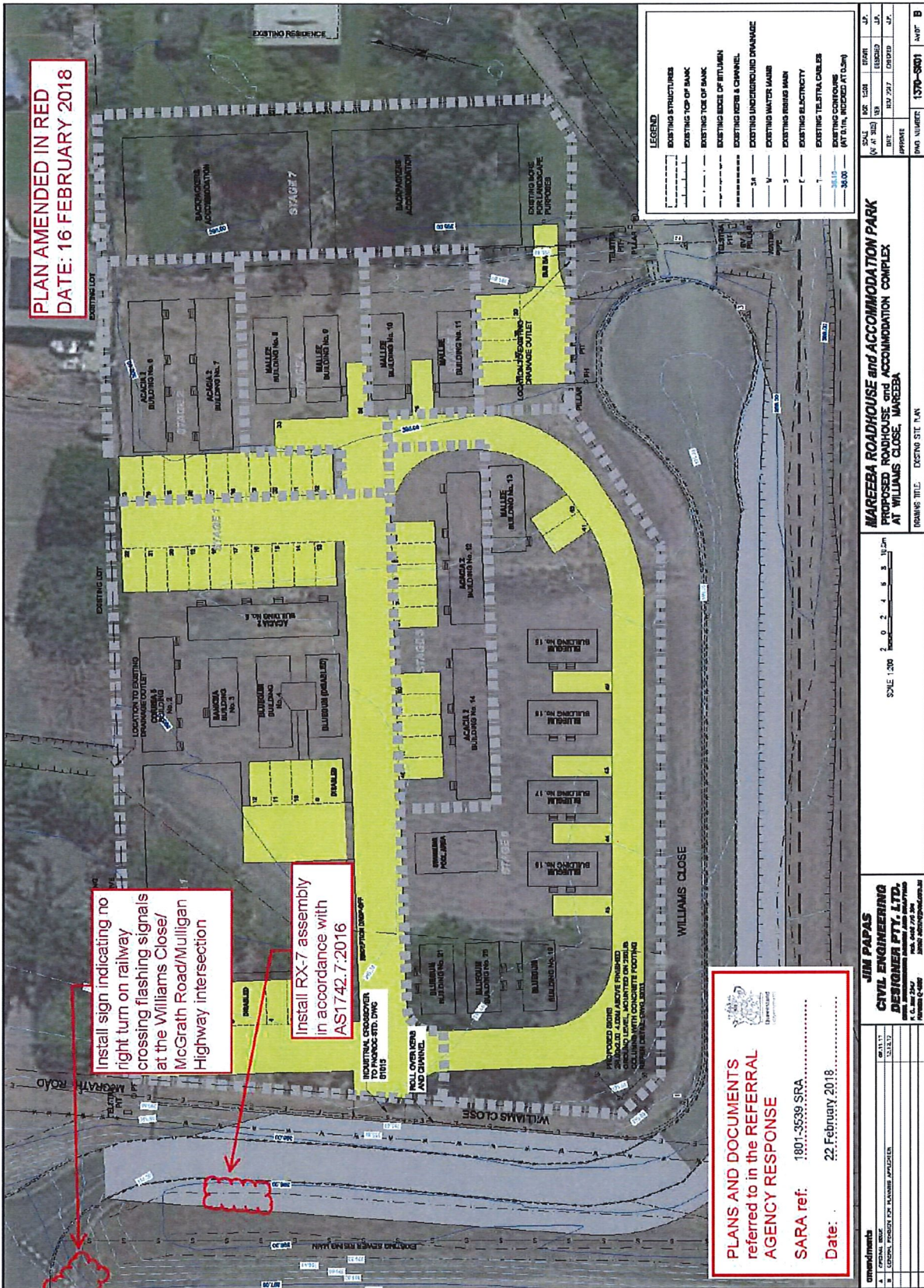
1801-3539 SRA

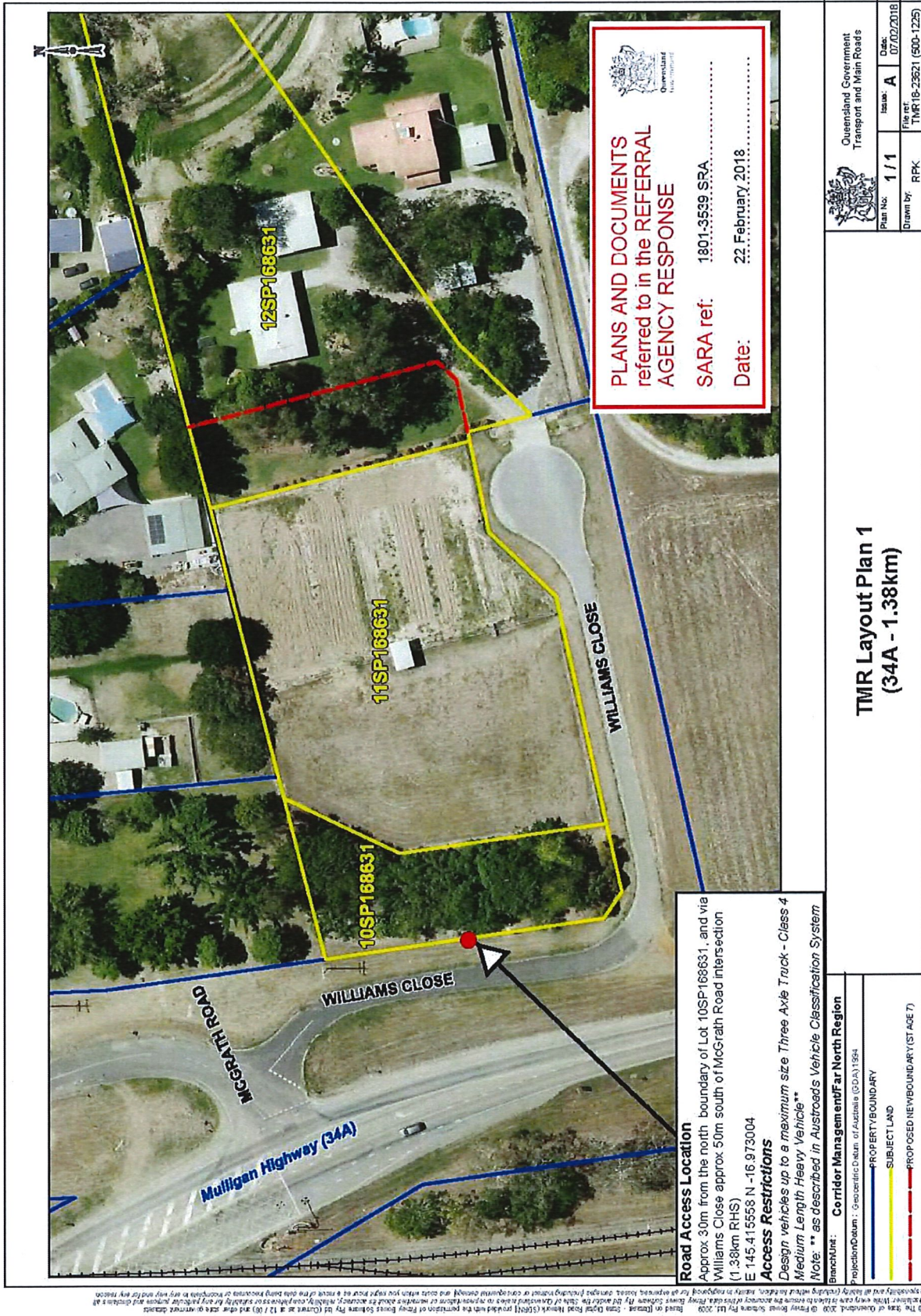
Attachment 3—Advice to the assessment manager

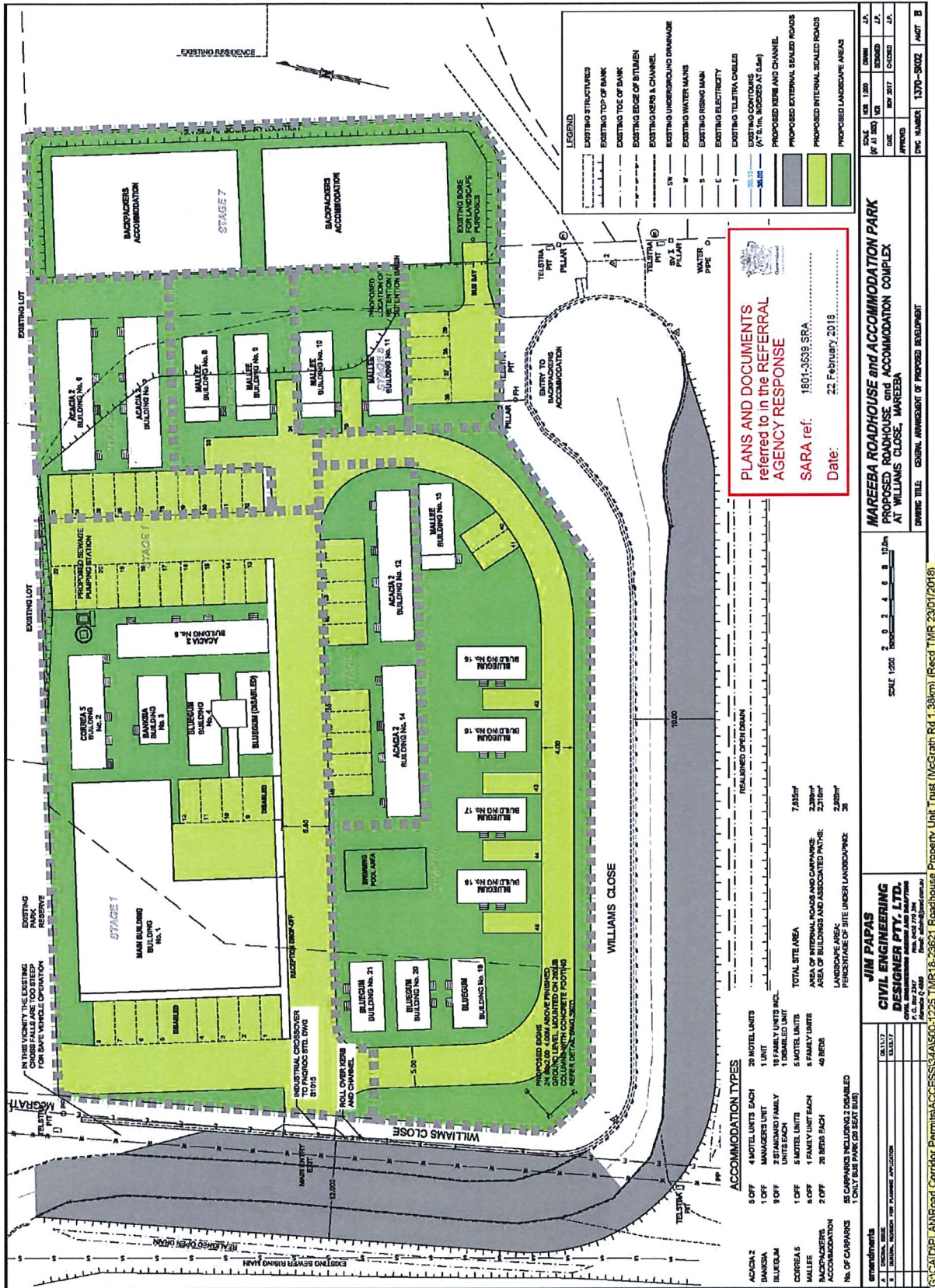
General advice	
Advertising devices	
1.	<p>A local government should obtain advice from the Department of Transport and Main Roads (DTMR) if it intends to approve the erection, alteration or operation of an advertising sign or another advertising device that would be visible from a state-controlled road, and beyond the boundaries of the state-controlled road, and reasonably likely to create a traffic hazard for the state-controlled road.</p> <p>Note: DTMR has powers under section 139 of the <i>Transport Operations (Road Use Management - Accreditation and Other Provisions) Regulation 2015</i> to require removal or modification of an advertising sign and/or a device which is deemed to create a danger to traffic.</p>
Transport noise corridors	
2.	<p>Mandatory Part (MP) 4.4 of the Queensland Development Code (QDC) commenced on 1 September 2010 and applies to building work for the construction or renovation of a residential building in a designated <i>transport noise corridor</i>. MP4.4 seeks to ensure that the habitable rooms of Class 1, 2, 3 and 4 buildings located in a <i>transport noise corridor</i> are designed and constructed to reduce transport noise.</p> <p><i>Transport noise corridor</i> means land designated under Chapter 8B of the <i>Building Act 1975</i> as a <i>transport noise corridor</i>. Information about <i>transport noise corridors</i> is available at state and local government offices.</p> <p>A free online search tool can be used to find out whether a property is located in a designated <i>transport noise corridor</i>. This tool is available online at http://www.dilgp.qld.gov.au/planning/state-planning-instruments/spp-interactive-mapping-system.html. The online search tool allows searches on a registered lot number and/or property address to determine whether and how the QDC applies to the land. Transport Noise Corridors (NAPMAP) are located under Administrative Layers within the State Planning Policy (SPP) mapping system.</p>
Railway corridors – Memorandum of Understanding for Railway Level Crossings	
3.	<p>As per the <i>Memorandum of Understanding between the Local Government Association of Queensland and Queensland Rail and the Department of Transport and Main Roads with respect to the Management and Funding Responsibility for Level Crossing Safety</i>, the local government is responsible for any safety upgrades to a level crossing if the change in risk to the level crossing is due to changes in nearby land uses which have been authorised by local government.</p> <p>Mareeba Shire Council should continue to monitor the level of safety risk and number of reported level crossing issues at the Mulligan Highway level crossing of the Cairns Railway as further development in the area is approved. Consideration should also be given to implementing improved control and safety measures, as required. In particular, the proposed development will be likely to contribute to cumulative impacts on the safety of the railway level crossing.</p>
Further permits and approvals	
Railway corridors – Road manager approval	
4.	<p>The installation of signage on Williams Close and McGrath Road requires approval/s to be obtained from the relevant road manager, being Mareeba Shire Council. Required signage should be installed in consultation with the railway manager (Queensland Rail).</p> <p>Please contact the Queensland Rail property team at developmentenquiries@qr.com.au or via</p>

1801-3539 SRA

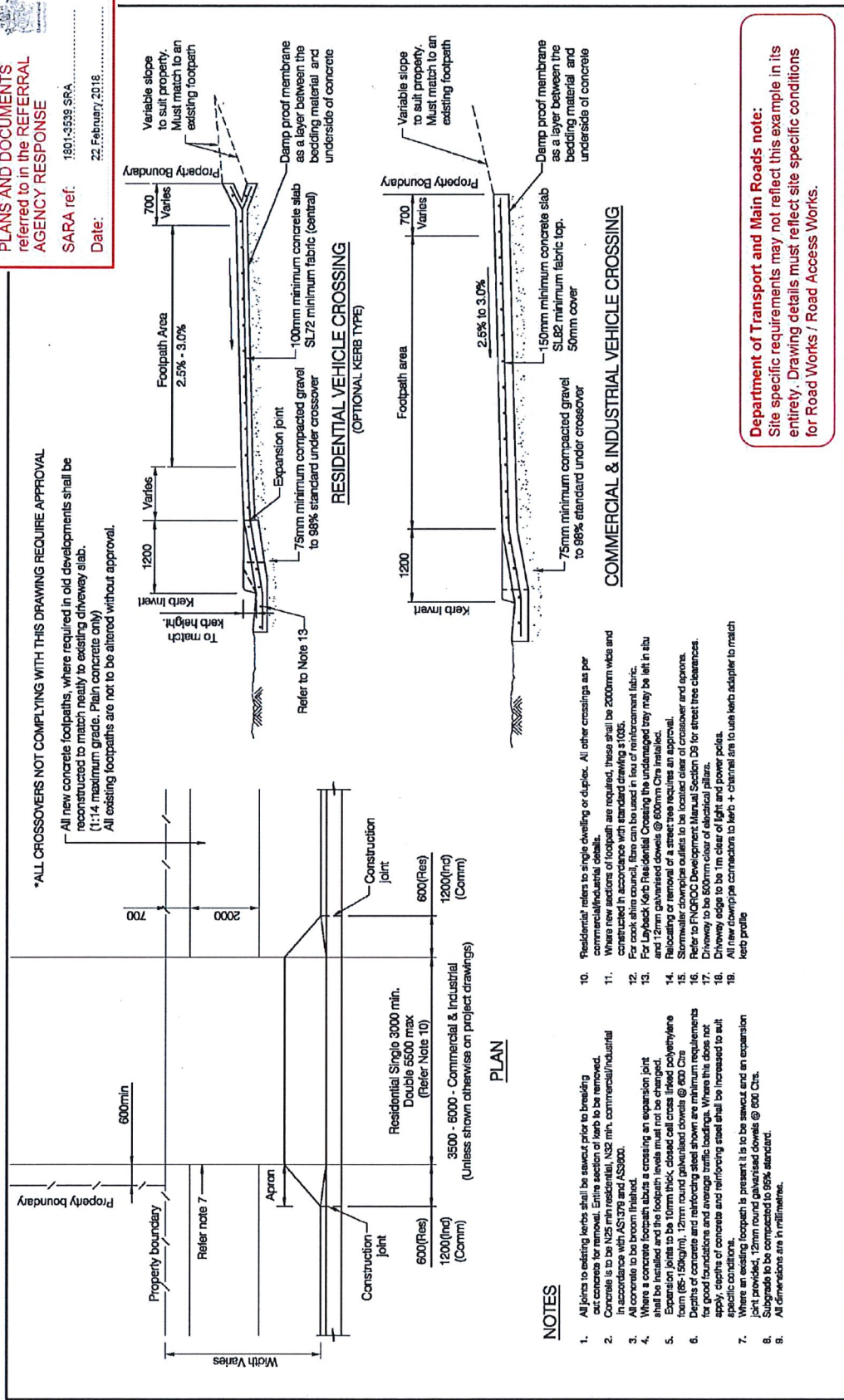
	telephone on 3072 1068 for more information.
Road works approval	
5.	<p>In accordance with section 33 of the <i>Transport Infrastructure Act 1994</i> (TIA), an applicant must obtain written approval from DTMR to carry out road works, including road access works on a state-controlled road. Please contact DTMR on 4045 7144 to make an application under section 33 of the TIA to carry out road works. This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p>The road works approval process takes time – please contact DTMR as soon as possible to ensure that gaining approval does not delay construction.</p>







PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE
SARA ref: 1801-3539 SRA
Date: 22 February 2018



***ALL CROSSOVERS NOT COMPLYING WITH THIS DRAWING REQUIRE APPROVAL**
All new concrete footpaths, where required in old developments shall be reconstructed to match neatly to existing driveway slab.
(1:14 maximum grade. Plain concrete only)
All existing footpaths are not to be altered without approval.

RESIDENTIAL VEHICLE CROSSING (OPTIONAL KERB TYPE)
Variable slope to suit property. Must match to an existing footpath.
700 Varies
Footpath Area 2.5% - 3.0%
Expansion joint
75mm minimum compacted gravel to 98% standard under crossover
100mm minimum concrete slab SL72 minimum fabric (central)
Damp proof membrane as a layer between the bedding material and underside of concrete
Kerb Invert To match
1200 Varies
Kerb height
Refer to Note 13

COMMERCIAL & INDUSTRIAL VEHICLE CROSSING
Variable slope to suit property. Must match to an existing footpath.
700 Varies
Footpath area 2.5% to 3.0%
Expansion joint
75mm minimum compacted gravel to 98% standard under crossover
150mm minimum concrete slab SL82 minimum fabric top 50mm cover
Damp proof membrane as a layer between the bedding material and underside of concrete
Kerb Invert
1200 Varies
Kerb height
Refer to Note 13

Department of Transport and Main Roads note:
Site specific requirements may not reflect this example in its entirety. Drawing details must reflect site specific conditions for Road Works / Road Access Works.



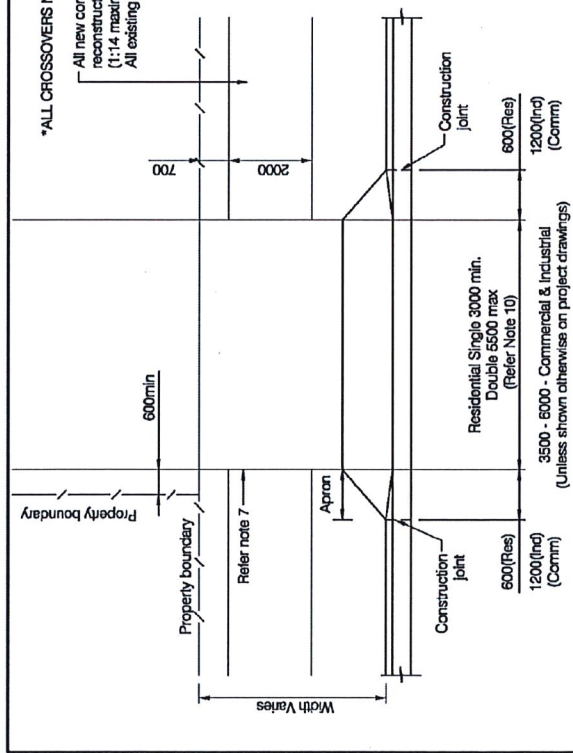
DISCLAIMER
The authors and specialist practitioners will bear no liability or responsibility to the user of any other person or entity with regard to any liability, loss or damage caused or alleged to be caused, directly or indirectly, by the adoption and use of these Standard Drawings, but not limited to, any misapplication of drawings or drawings of these Standard Drawings. Persons must not rely on these Standard Drawings as the equivalent of, or a substitute for, project-specific design and assessment by an appropriately qualified professional.

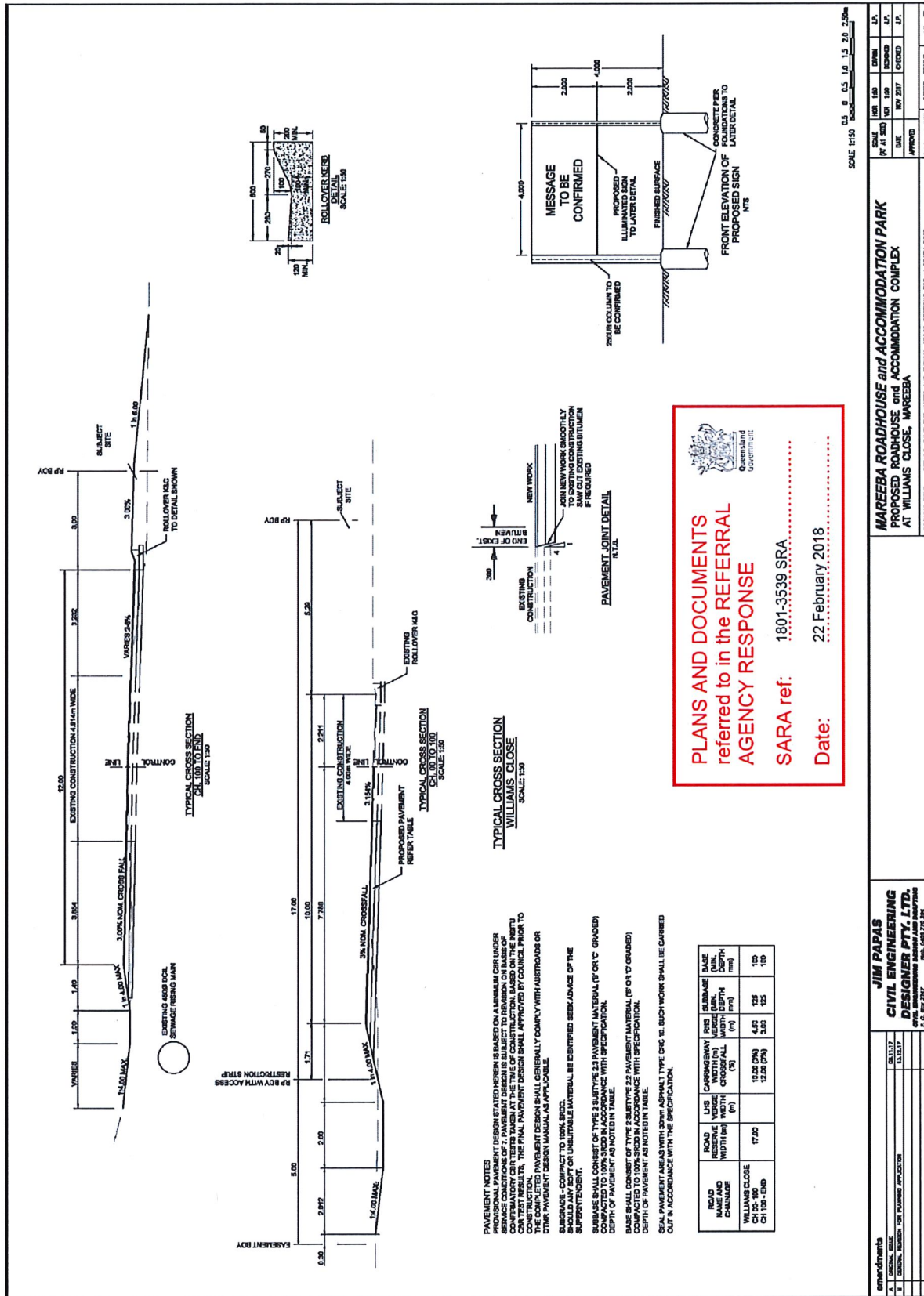
REVISIONS	DATE
D VARIOUS MINOR AMENDMENTS	23/10/17
C VARIOUS MINOR AMENDMENTS	26/11/14
B NOTE 10 ADDED	13/01/08
A ORIGINAL ISSUE	12/03/04

NOTES

- All joints to existing kerbs shall be sawcut prior to bedding out concrete for removal. Entire section of kerb to be removed. Concrete is to be N25 min residential, N32 min, commercial/industrial in accordance with AS1379 and ASS900.
- All concrete to be broom finished.
- Where a concrete footpath abuts a crossing an expansion joint shall be installed and the footpath levels must not be changed.
- Expansion joints to be 10mm thick, closed cell cross linked polyethylene foam (65-150kg/m³), 12mm round galvanised dowels @ 600 Ctr between concrete and reinforcing steel shown are minimum requirements for expansion joints. From this date all expansion joints shall be installed with a minimum of 10mm concrete and 12mm round galvanised dowels @ 600mm Ctr installed.
- Stormwater downpipe outlets to be located clear of crossover and aprons. Downpipe to be to the clear of light and power poles.
- Channel to be to the clear of light and power poles.
- All new downpipe connections to kerb + channel are to use kerb adapter to match kerb profile.
- Residential refers to single dwelling or duplex. All other crossings as per commercial/industrial details.
- Where new sections of footpath are required, these shall be 2000mm wide and constructed in accordance with standard drawing S1035.
- For cook shims council, fibre can be used in lieu of reinforcement fabric.
- For Layback Kerb Residential Crossing the undamaged tray may be left in situ and 12mm galvanised dowels @ 600mm Ctr installed.
- Relocating or removal of a street tree requires an approval.
- Stormwater downpipe outlets to be located clear of crossover and aprons.
- Downpipe to be to the clear of light and power poles.
- Channel to be to the clear of light and power poles.
- All new downpipe connections to kerb + channel are to use kerb adapter to match kerb profile.

PLAN





Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 of the *Planning Act 2016* 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.

(Refer to Schedule 1 of the Planning Act 2016)

- (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 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, table 1, item 1 – each principal submitter for the development application; and
 - (d) for and appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); 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 has 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 by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

231 Other appeals

- (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 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, a tribunal or another entity; and

(c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a 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 the rules of the P&E Court.