



13 December 2024

Planning Officer: Carl Ewin
Direct Phone: 07 4086 4649
Our Reference: OPW/24/0008
Your Reference: 004-2403

TW Hedley Pty Ltd
C/- Neon Consulting
11 Rosemount Court
MOOROOBOOL QLD 4870

Dear Applicants,

Decision Notice

Planning Act 2016

I refer to your application and advise that on 12 December 2024, under delegated authority, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No: OPW/24/0008
Street Address: 189 Ray Road and Rayfield Avenue, Mareeba
Real Property Description: Lot 46 on SP210288
Planning Scheme: Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision: Approval
Type of Approval: Development Permit for Operational Works – (Roadworks, Earthworks, Stormwater and Water Reticulation for Stage 2 (23 Lots) of Development Permit REC/07/0083 – Rayfield Estate)
Date of Decision: 12 December 2024

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is two (2) 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**(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)****1. General**

1.1 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, and subject to any alterations:

- found necessary by the Council's Delegated Officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements;
- to ensure the works comply in all respects with the requirements and procedures of the FNQROC Development Manual, Queensland Urban Drainage Manual and good engineering practice; and
- to ensure compliance with the following conditions of approval.

1.2 All operational works must be designed and constructed in accordance with the design guidelines and procedures as set out in the FNQROC Development Manual, prior to works acceptance.

1.3 Amended Earthworks Plan

Provide updated Earthworks Plan(s) that include an additional south-to-north aligned side boundary drains and perimeter bunds along the low side of each lot boundary (Lots 60 to 68) to service the existing "fire trail" along the rear of Lots 24 to 32.

The surface drain must be designed to ensure free drainage towards proposed Road B, with a consistent south-to-north gradient (without surface irregularities and grass humps etc).

For clarity, this internal property drain, contained within the lot boundaries of this development site, must be privately owned and must not become an asset

of Council (e.g., no easements are required). Maintenance of the drain will be the responsibility of each lot owner.

The amended Earthworks Plan(s) must be provided to Council for endorsement prior to the Prestart Meeting for Commencement of Works.

The constructed drainage path must be confirmed to the satisfaction of Council prior to Works Acceptance.

1.4 The final finished surface levels and grades of Lots 60 – 68 must not prevent the flow of surface water (sheet flow) originating from existing Lots 24 – 32 on SP210288, to the satisfaction of Council and prior to works acceptance.

1.5 'For Construction' Engineering Drawings, inclusive of any amendments required by Conditions of this Permit, must be certified as approved by a suitably qualified RPEQ Engineer and a copy submitted to Council, prior to Commencement of Work.

1.6 Where any part of Council's existing infrastructure or land is damaged as a result of construction activities occurring on the land, including but not limited to; mobilisation of heavy construction equipment, stripping, grubbing and vegetation damage, notify Council immediately of the affected infrastructure or land and have it repaired, replaced or reinstated at no cost to Council, prior to Works Acceptance.

1.7 Erosion and Sediment Control Plan

Prior to Commencement of Work, prepare and provide to Council for approval an Erosion and Sediment Control Plan (ESCP) to manage the site during construction and the defect liability period until Final Works Acceptance. The submitted plan is to be substantially in accordance with the approved Erosion and Sediment Control Strategy.

Soil and water management measures must be installed/implemented prior to discharge of water from the land, such that no external stormwater flow from the land adversely affects surrounding or downstream properties (in accordance with the requirements of the Environmental Protection Act 1994 (Qld), the FNQROC Development Manual and the International Erosion Control Association 2008 Guidelines).

1.8 Runoff Generally

All reasonable and practicable measures must be taken to prevent pollution entering existing creeks, waterways or drainage lines, as a result of silt run-off, oil and grease spills from any machinery. Wastewater as a result of cleaning equipment must not be discharged directly or in-directly to any watercourses, stormwater systems or private properties (in accordance with the requirements of the Environmental Protection Act (1994), the FNQROC Development Manual and Best Practice Erosion & Sediment Control – IECA Australasia).

1.9 Earthworks Construction

All earthworks must be constructed in accordance with AS 3798: Guidelines on earthworks for commercial and residential developments. At the completion of works, RPEQ Certification of the works and test results are required to be provided to Council, prior to Works Acceptance.

1.10 Stormwater Drainage

Stormwater drainage as shown on the Approved Plan(s), must be constructed in accordance with the relevant design and specifications sections of the FNQROC Development Manual and the Queensland Urban Drainage Manual, prior to Works Acceptance.

All stormwater from the land must be directed to a lawful point of discharge as per the Approved Plan(s) such that it does not adversely affect surrounding properties or properties downstream from the development, in accordance with the Queensland Urban Drainage Manual.

- 1.11 Council's examination of the documents should not be taken to mean that the documents have been checked in detail and Council takes no responsibility for their accuracy. If during construction, inadequacies of the design are discovered, it is the responsibility of the Principal Consulting Engineer to resubmit amended plans to Council for approval and rectify works accordingly.

2. Pre-start Meeting

- 2.1 In addition to the requirements of Clause CP1.07 and CP1.08 of the FNQROC Development Manual; after documentation has been approved by Council, a pre-start meeting is to be held on site prior to the commencement of work. Part 1 of the **attached** pre-start meeting pro-forma is to be completed and returned prior to the meeting including clause 1.u 'Request for Meeting' together with the prescribed Construction Monitoring Fee as set out in Council's Schedule of Fees.

3. Inspections

- 3.1 Inspections are to be carried out as detailed in the FNQROC Manual unless advised otherwise at the pre-start meeting.

4. Construction Security Bond and Defects Liability Bond

- 4.1 In addition to Clauses CP1.06 and CP1.20 of the FNQROC Development Manual; the Construction Security Bond and Defects Liability Bond shall each be a minimum of \$1000 and Bank Guarantees shall have no termination date.
- 4.2 During the Defects Liability period, it is the responsibility of the developer to rectify any works found to be defective due to design faults and or found to exhibit faults attributed to the performance of the construction activities in terms of quality and conformance with design and specifications. The bond will

be returned on satisfactory correction of any defective work and after expiration of the maintenance period. Failure to comply with a Council issued instruction to correct defective work may result in the call up of the bond to have the work completed.

5. Hours of Work

5.1 Work involving the operation of construction plant and equipment of any description, shall only be carried out on site during the following times:

- 7.00am to 6.00pm, Monday to Friday;
- 7.00am to 1.00pm Saturdays;
- No work is permitted on Sundays or Public Holidays.

5.2 No variation to the above working hours is allowed unless otherwise agreed in writing by Council.

6. Transportation of Soil

6.1 All soil transported to or from the site must be covered to prevent dust or spillage during transport. If soil is tracked or spilt onto the road pavement from works on the subject land, it must be removed no later than at the end of each working day. Sediment must not enter Council's stormwater drainage network.

REFERRAL AGENCIES

Not Applicable.

APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
004-2403-01-DRG-0101 A	Locality Plan	NEON Consulting	28/10/2024
004-2403-01-DRG-0102 A	Project Notes	NEON Consulting	28/10/2024
004-2403-01-DRG-0103 A	Overall Site Plan	NEON Consulting	28/10/2024
004-2403-01-DRG-0104 A	General Arrangement Sheet 1 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0105 A	General Arrangement Sheet 2 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0201 A	Earthworks Plan Sheet 1 of 2	NEON Consulting	28/10/2024

004-2403-01-DRG-0202 A	Earthworks Plan Sheet 2 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0203 A	Earthworks Detail Plan	NEON Consulting	28/10/2024
004-2403-01-DRG-0301 A	Typical Sections and Details Sheet 1 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0302 A	Typical Sections and Details Sheet 2 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0303 A	Intersection Details	NEON Consulting	28/10/2024
004-2403-01-DRG-0401 A	Stormwater Drainage Plan Sheet 1 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0402 A	Stormwater Drainage Plan Sheet 2 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0403 A	Stormwater Longitudinal Sections Sheet 1 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0404 A	Stormwater Longitudinal Sections Sheet 2 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0601 A	Water Reticulation Sheet 1 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0602 A	Water Reticulation Sheet 2 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0701 A	Site Based Stormwater Managements Plan Sheet 1 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0702 A	Site Based Stormwater Managements Plan Sheet 2 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0801 A	Master Services Plan Sheet 1 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0802 A	Master Services Plan Sheet 2 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0901 A	Road B Longitudinal Section	NEON Consulting	28/10/2024
004-2403-01-DRG-0902 A	Road B Cross Sections Sheet 1 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0903 A	Road B Cross Sections Sheet 2 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0904 A	OED 1 Longitudinal Section 1 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0905 A	OED 1 Longitudinal Section 2 of 2	NEON Consulting	28/10/2024
004-2403-01-DRG-0906 A	OED 1 Cross Sections Sheet 1 of 3	NEON Consulting	28/10/2024
004-2403-01-DRG-0907 A	OED 1 Cross Sections Sheet 2 of 3	NEON Consulting	28/10/2024
004-2403-01-DRG-0908 A	OED 1 Cross Sections Sheet 3 of 3	NEON Consulting	28/10/2024
004-2403-01-DRG-0908 A	OED 1 Longitudinal and Cross Sections	NEON Consulting	28/10/2024

PROPERTY NOTES

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

Not Applicable.

SUBMISSIONS

Not Applicable.

RIGHTS OF APPEAL

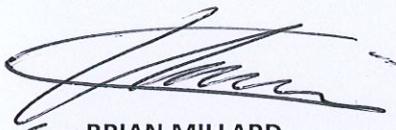
You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about the conditions contained within the development approval. If council agrees or agrees in part with the representations, a "negotiated decision notice" will be issued. Only one "negotiated decision notice" may be given. Taking this step will defer your appeal period, which will commence again from the start the day after you receive a "negotiated decision notice".

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.

Yours faithfully



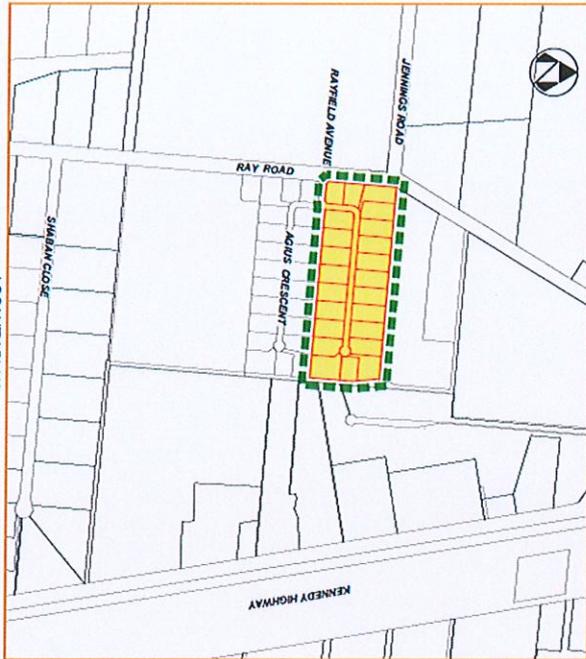
For BRIAN MILLARD

COORDINATOR PLANNING SERVICES

Enc: Approved Plans/Documents
Appeal Rights

Approved Plans/Documents

RAY ROAD SUBDIVISION
189 RAY ROAD, MAREEBA
STAGE 2 CIVIL WORKS



LOCALITY PLAN

DRAWING NO.	DRAWING TITLE
D-001	EDIMENT CONTROL DEVICES, -EDIMENT TRAP, UNTRAPED SEDIMENT TRAP, -EDIMENT CONTROL DEVICES, -FERN AND FIELD NETS, CHECK DAM, SLOTTED PALM LEAVES

INSTITUTE OF PUBLIC WORKS ENGINEERING
AUSTRALIA STANDARD DRAWINGS

DRAWING NO.	DRAWING TITLE
84-2024-0001-001	LOCALITY PLAN
84-2024-0001-002	PROJECT NOTES
84-2024-0001-003	GENERAL NOTES
84-2024-0001-004	GENERAL APPROPRIATION SHEET 1 OF 2
84-2024-0001-005	GENERAL APPROPRIATION SHEET 2 OF 2
84-2024-0001-006	EXPLANATIONS AND SHEET 1 OF 2
84-2024-0001-007	EXPLANATIONS AND SHEET 2 OF 2
84-2024-0001-008	TYPICAL SECTION AND DETAIL SHEET 1 OF 2
84-2024-0001-009	TYPICAL SECTION AND DETAIL SHEET 2 OF 2
84-2024-0001-010	HYDROLOGY DETAILS
84-2024-0001-011	STEPWATER DRAINAGE PLAN SHEET 1 OF 2
84-2024-0001-012	STEPWATER DRAINAGE SECTION SHEET 1 OF 2
84-2024-0001-013	STEPWATER DRAINAGE SECTION SHEET 2 OF 2
84-2024-0001-014	STEPWATER DRAINAGE SECTION SHEET 3 OF 2
84-2024-0001-015	STEPWATER DRAINAGE SECTION SHEET 4 OF 2
84-2024-0001-016	STEPWATER DRAINAGE SECTION SHEET 5 OF 2
84-2024-0001-017	STEPWATER DRAINAGE SECTION SHEET 6 OF 2
84-2024-0001-018	STEPWATER DRAINAGE SECTION SHEET 7 OF 2
84-2024-0001-019	STEPWATER DRAINAGE SECTION SHEET 8 OF 2
84-2024-0001-020	STEPWATER DRAINAGE SECTION SHEET 9 OF 2
84-2024-0001-021	STEPWATER DRAINAGE SECTION SHEET 10 OF 2
84-2024-0001-022	STEPWATER DRAINAGE SECTION SHEET 11 OF 2
84-2024-0001-023	STEPWATER DRAINAGE SECTION SHEET 12 OF 2
84-2024-0001-024	STEPWATER DRAINAGE SECTION SHEET 13 OF 2
84-2024-0001-025	STEPWATER DRAINAGE SECTION SHEET 14 OF 2
84-2024-0001-026	STEPWATER DRAINAGE SECTION SHEET 15 OF 2
84-2024-0001-027	STEPWATER DRAINAGE SECTION SHEET 16 OF 2
84-2024-0001-028	STEPWATER DRAINAGE SECTION SHEET 17 OF 2
84-2024-0001-029	STEPWATER DRAINAGE SECTION SHEET 18 OF 2
84-2024-0001-030	STEPWATER DRAINAGE SECTION SHEET 19 OF 2
84-2024-0001-031	STEPWATER DRAINAGE SECTION SHEET 20 OF 2
84-2024-0001-032	STEPWATER DRAINAGE SECTION SHEET 21 OF 2
84-2024-0001-033	STEPWATER DRAINAGE SECTION SHEET 22 OF 2
84-2024-0001-034	STEPWATER DRAINAGE SECTION SHEET 23 OF 2
84-2024-0001-035	STEPWATER DRAINAGE SECTION SHEET 24 OF 2
84-2024-0001-036	STEPWATER DRAINAGE SECTION SHEET 25 OF 2
84-2024-0001-037	STEPWATER DRAINAGE SECTION SHEET 26 OF 2
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84-2024-0001-039	STEPWATER DRAINAGE SECTION SHEET 28 OF 2
84-2024-0001-040	STEPWATER DRAINAGE SECTION SHEET 29 OF 2
84-2024-0001-041	STEPWATER DRAINAGE SECTION SHEET 30 OF 2
84-2024-0001-042	STEPWATER DRAINAGE SECTION SHEET 31 OF 2
84-2024-0001-043	STEPWATER DRAINAGE SECTION SHEET 32 OF 2
84-2024-0001-044	STEPWATER DRAINAGE SECTION SHEET 33 OF 2
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84-2024-0001-069	STEPWATER DRAINAGE SECTION SHEET 58 OF 2
84-2024-0001-070	STEPWATER DRAINAGE SECTION SHEET 59 OF 2
84-2024-0001-071	STEPWATER DRAINAGE SECTION SHEET 60 OF 2
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84-2024-0001-105	STEPWATER DRAINAGE SECTION SHEET 94 OF 2
84-2024-0001-106	STEPWATER DRAINAGE SECTION SHEET 95 OF 2
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84-2024-0001-111	STEPWATER DRAINAGE SECTION SHEET 100 OF 2

DRAWING INDEX

ENROCC STANDARD DRAWINGS

DRAWING NO.	DRAWING TITLE
ENROCC-11111	ROADWAY STANDARD DRAWING
ENROCC-11112	WATER
ENROCC-11113	SEWERAGE

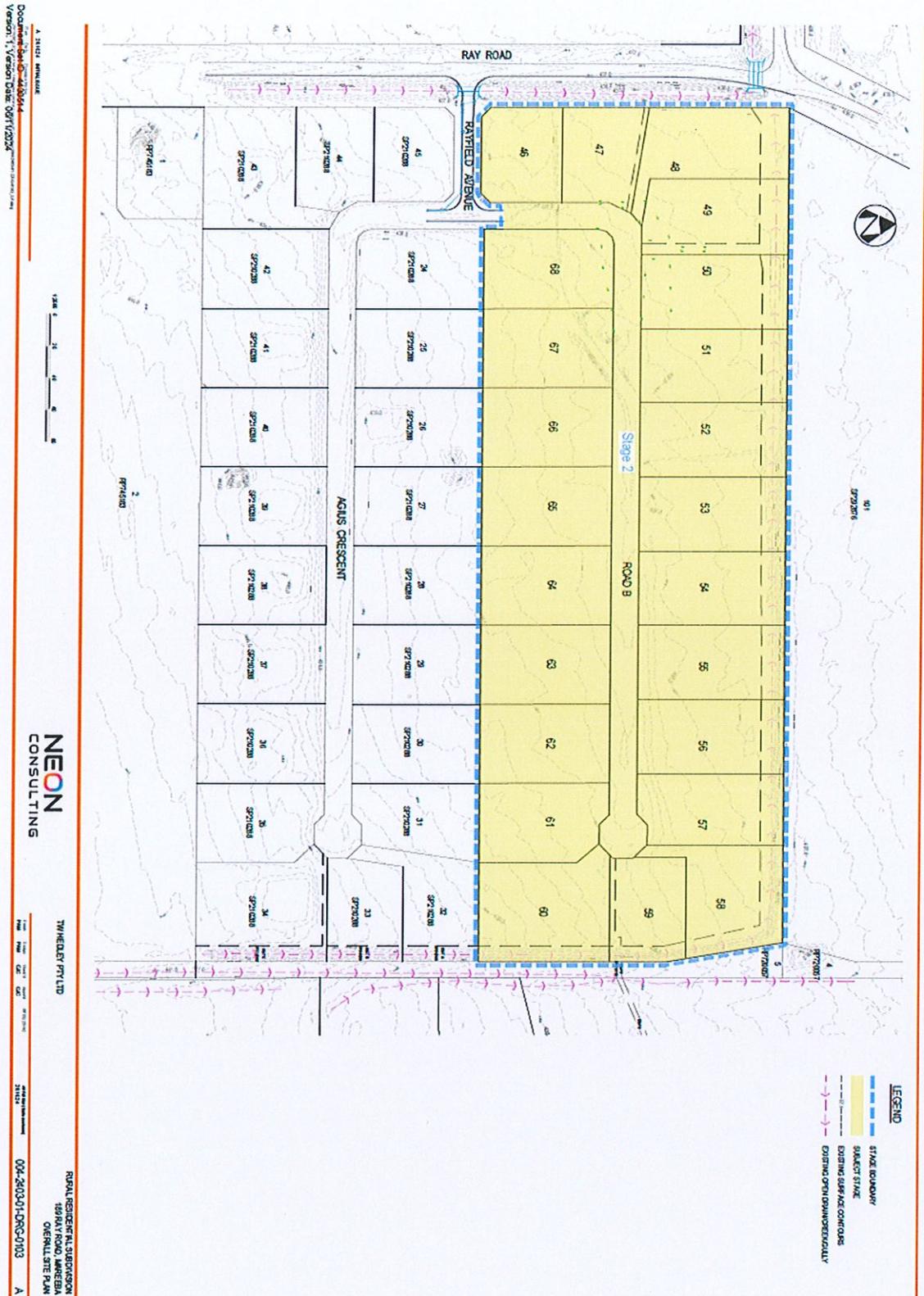
NEON CONSULTING

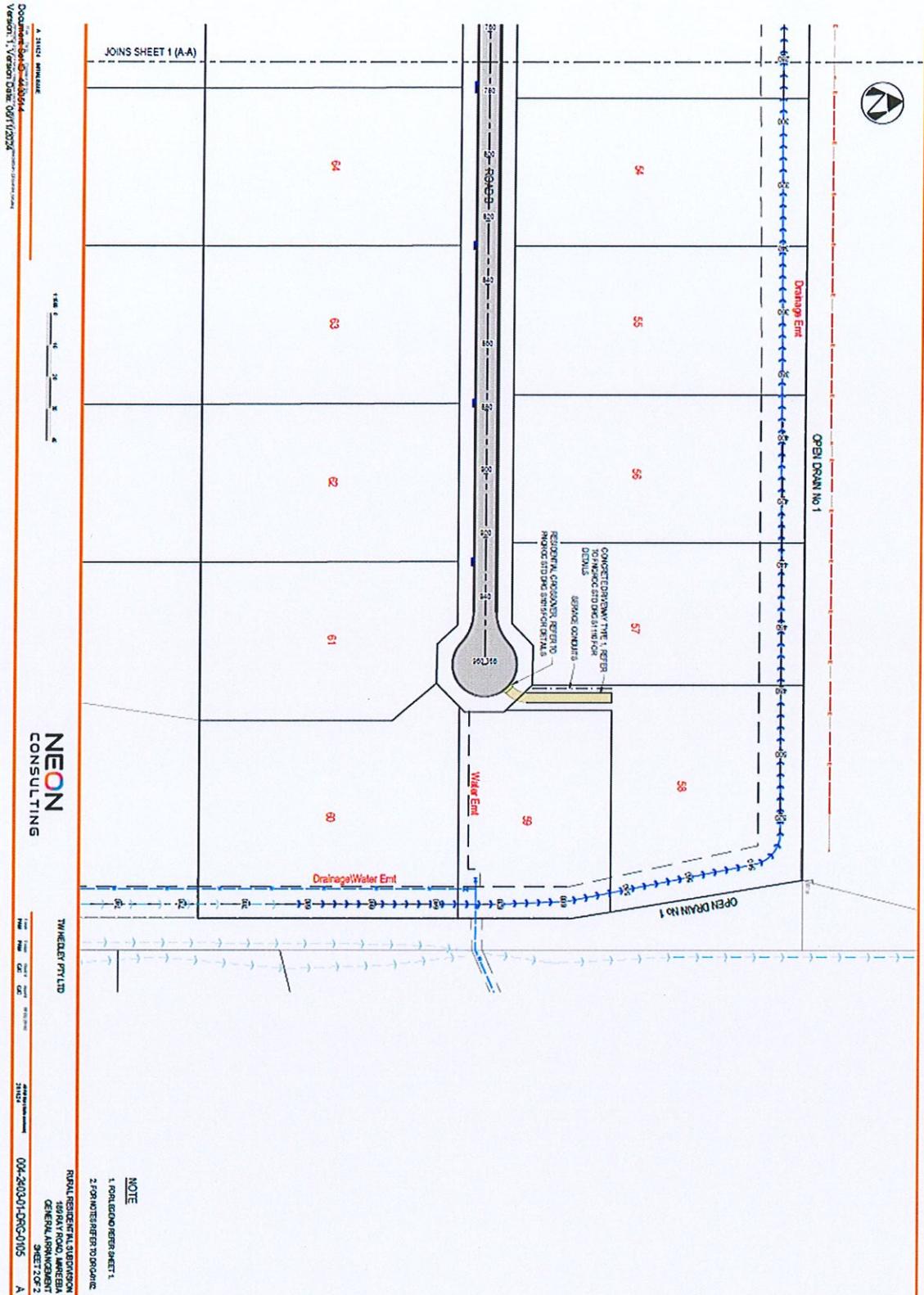
THUNDER PTY LTD

MAREEBA SHIRE SUBDIVISION
189 RAY ROAD, MAREEBA
LOCALITY PLAN

Approved by Council
Version 1, Version Date 08/11/2024

001-260301-ENROCC-001 A





CONTROL LINE ROAD 9 SETOUT

CHANGELINE	COORDINATES	Bearing	Radius of Curvature	Tangent Length	Arc Length
0/0/0	5001.000	90° 00' 00"	0.000	0.000	0.000
0/0/0	5001.000	90° 00' 00"	0.000	0.000	0.000
0/0/0	5001.000	90° 00' 00"	0.000	0.000	0.000
0/0/0	5001.000	90° 00' 00"	0.000	0.000	0.000
0/0/0	5001.000	90° 00' 00"	0.000	0.000	0.000

CONTROL LINE ROAD 2 SETOUT

CHANGELINE	COORDINATES	Bearing	Radius of Curvature	Tangent Length	Arc Length
0/0/0	5001.000	90° 00' 00"	0.000	0.000	0.000
0/0/0	5001.000	90° 00' 00"	0.000	0.000	0.000
0/0/0	5001.000	90° 00' 00"	0.000	0.000	0.000
0/0/0	5001.000	90° 00' 00"	0.000	0.000	0.000
0/0/0	5001.000	90° 00' 00"	0.000	0.000	0.000

CHANGELINE	COORDINATES	Bearing	Radius of Curvature	Tangent Length	Arc Length
0/0/0	5001.000	90° 00' 00"	0.000	0.000	0.000
0/0/0	5001.000	90° 00' 00"	0.000	0.000	0.000
0/0/0	5001.000	90° 00' 00"	0.000	0.000	0.000
0/0/0	5001.000	90° 00' 00"	0.000	0.000	0.000
0/0/0	5001.000	90° 00' 00"	0.000	0.000	0.000

TABLE OF WIDTHS

ROAD	CHANGELINE WIDTH (m)	TRUCK WIDTH (m)	RESERVE WIDTH (m)
ROAD 9	7.00	5.00	5.00
ROAD 2	7.00	5.00	5.00

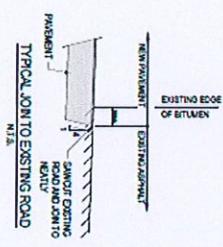
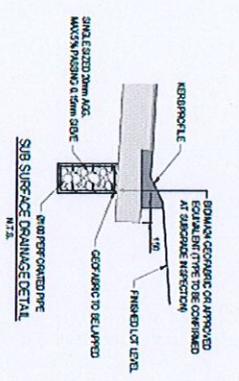
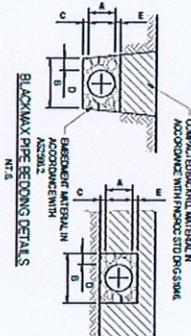
PROVISIONAL PAVEMENT DETAILS

ROAD	CHANGELINE WIDTH (m)	TRUCK WIDTH (m)	RESERVE WIDTH (m)
ROAD 9	7.00	5.00	5.00
ROAD 2	7.00	5.00	5.00

NOTES:
PROVISIONAL PAVEMENT DESIGN IS BASED ON AN ASSUMED SUBGRADE SOAKAWAY FOR THE CONTROL LINE TO COMPLY WITH THE REQUIREMENTS OF THE ROAD DESIGN SPECIFICATION FOR ROAD DESIGN.
APPLICABLE TO BE REFERENCED TO THE ROAD DESIGN SPECIFICATION FOR ROAD DESIGN.

POLYPROPYLENE PIPE BEDDING DIMENSIONS

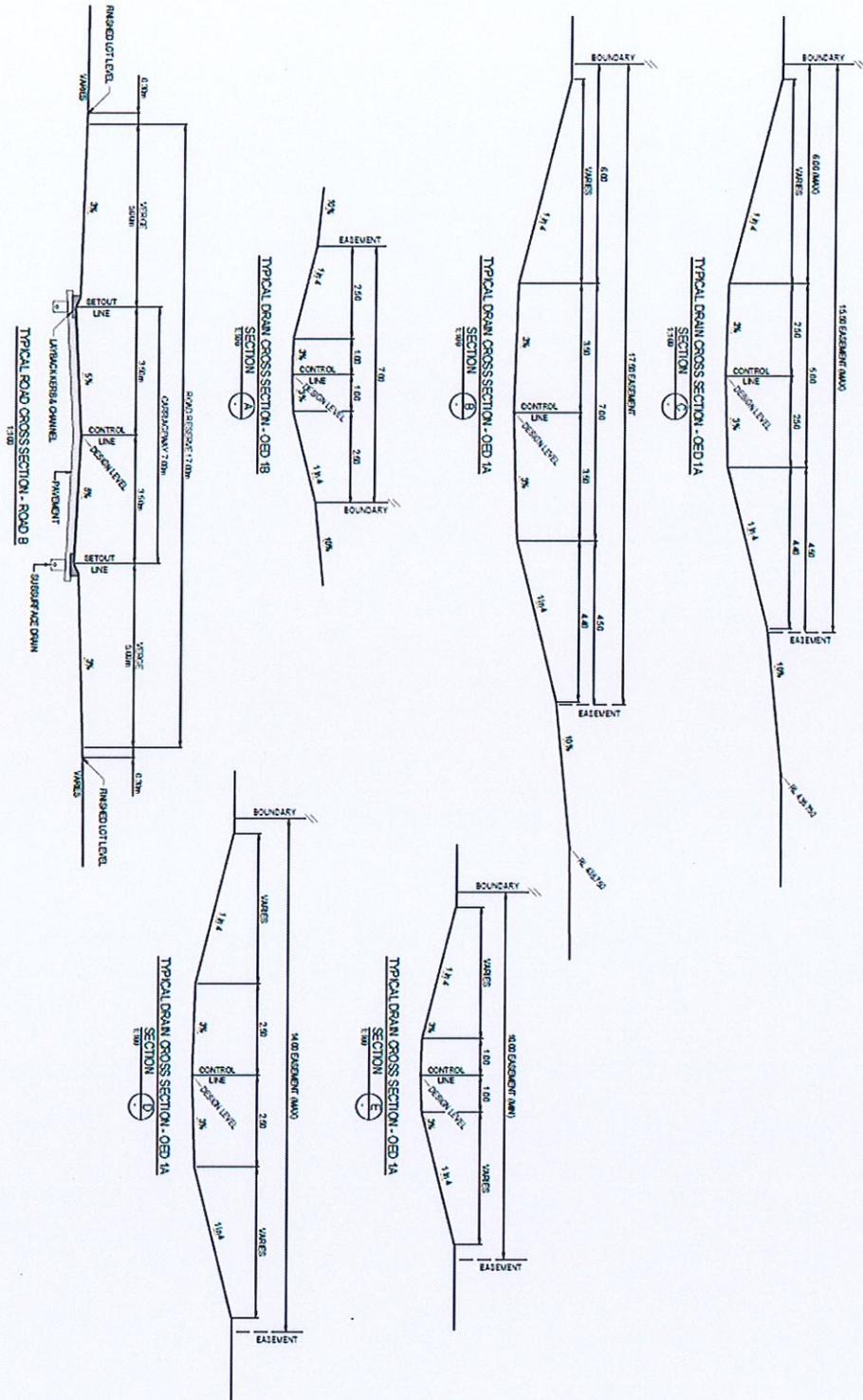
DN	DIMENSIONS (mm)				
	A	B	C	D	E
225	225	100	100	50	50
300	300	100	100	50	50
375	375	100	100	50	50
450	450	100	100	50	50
525	525	100	100	50	50
600	600	100	100	50	50
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A TYPICAL SHEET
Version: 1.0
Version Date: 08/11/2024

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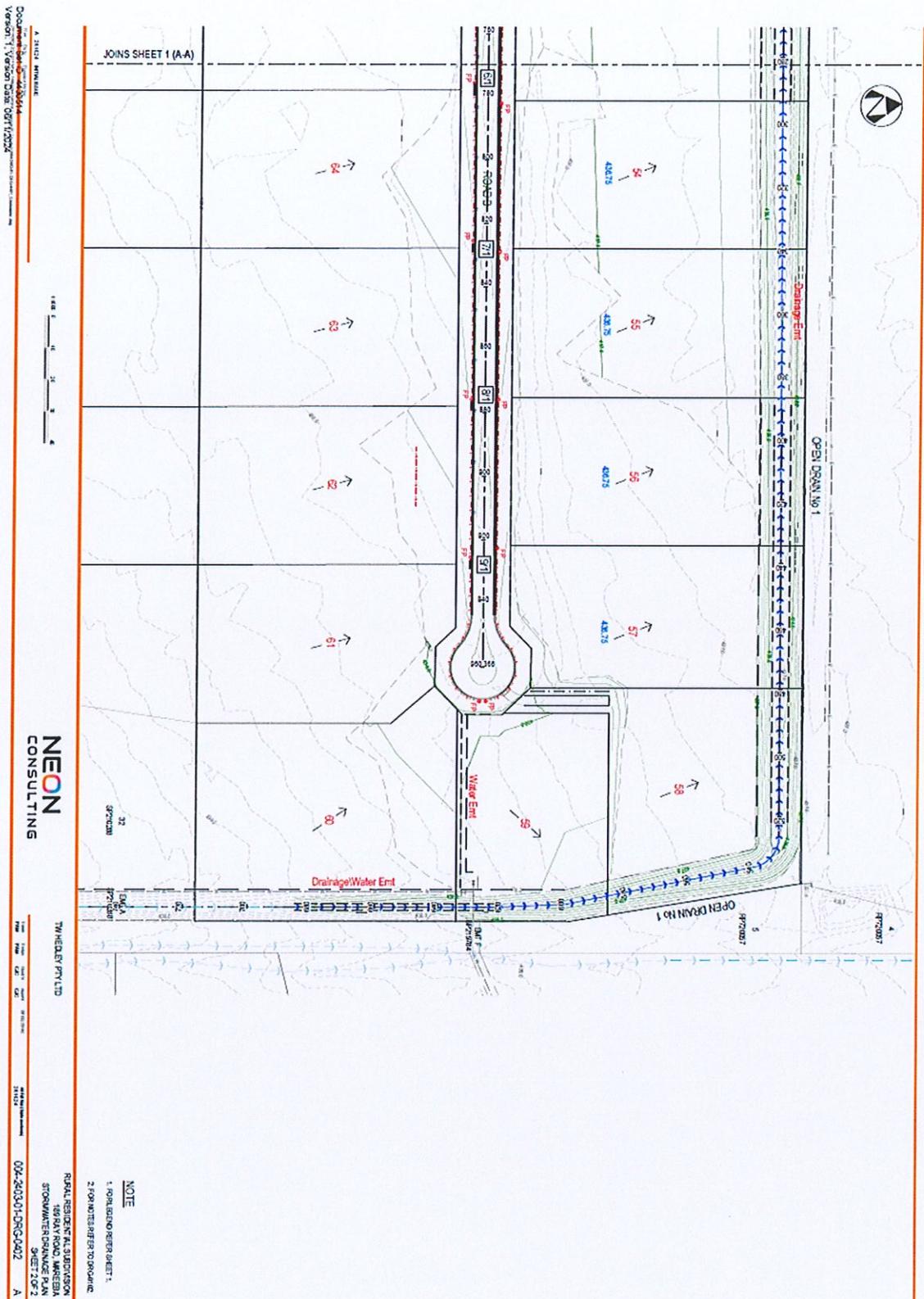
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ROAD DESIGN & SURVEYING
TYPICAL SECTION AND DETAILS
SHEET 1 OF 2
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Version: 1, Version Date: 09/11/2024

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TWIMLEY PTY LTD
RUSSELL BENTLEY, RUSSELL BENTLEY & ASSOCIATES
TYPICAL SECTION AND DETAILS
SHEET 2 OF 2
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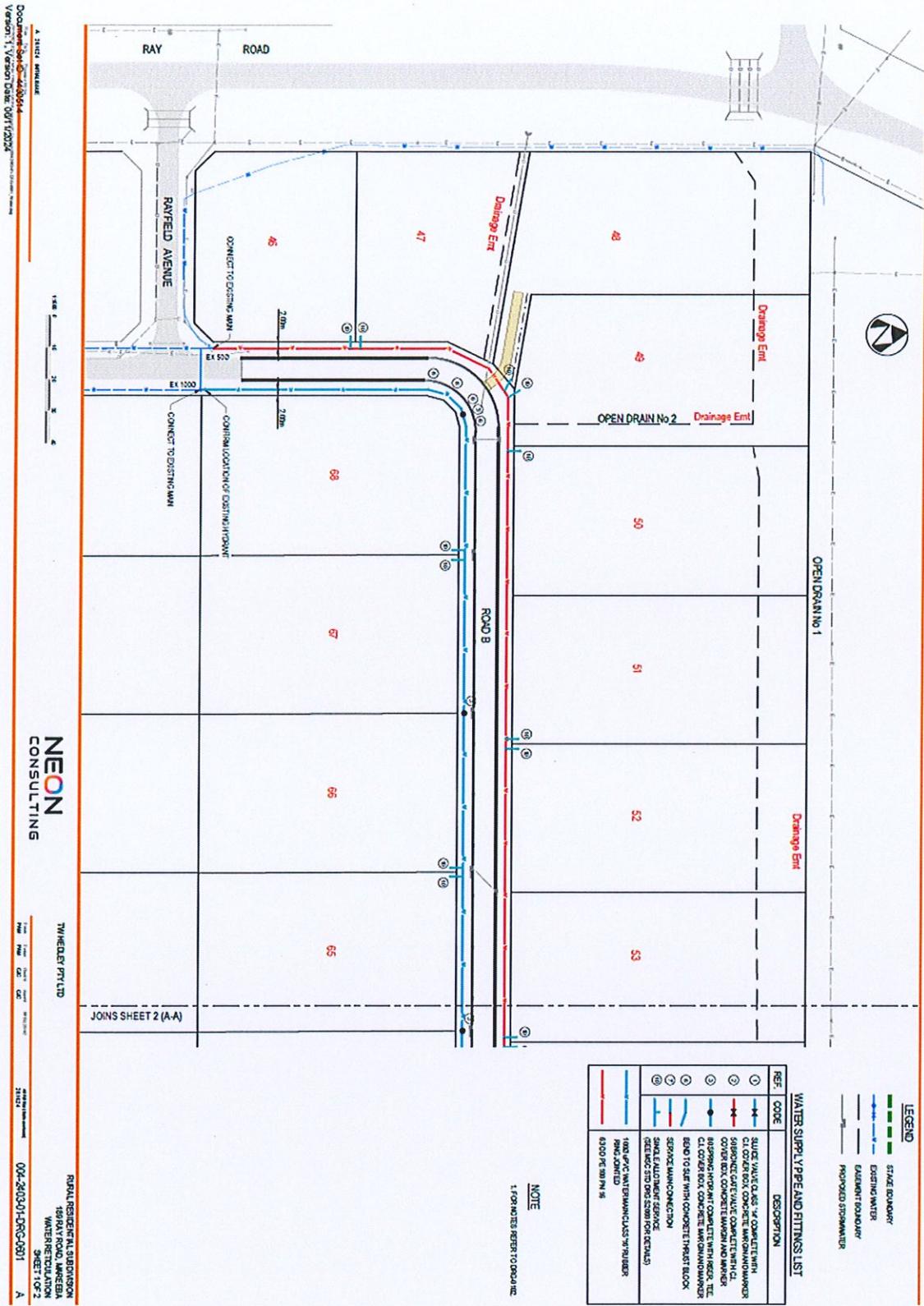
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TWINEALEY PT LTD

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NOTE
 1. FOR LAYOUT REFER SHEET 1.
 2. FOR NOTES REFER TO DRAWING.

RURAL RESIDENTIAL SUBDIVISION
 STORMWATER DRAINAGE PLAN
 SHEET 2 OF 2



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ROBIL RESERVE RL SUBDIVISION
 10/11 WATERBURY AVENUE
 SHEET 1 OF 2

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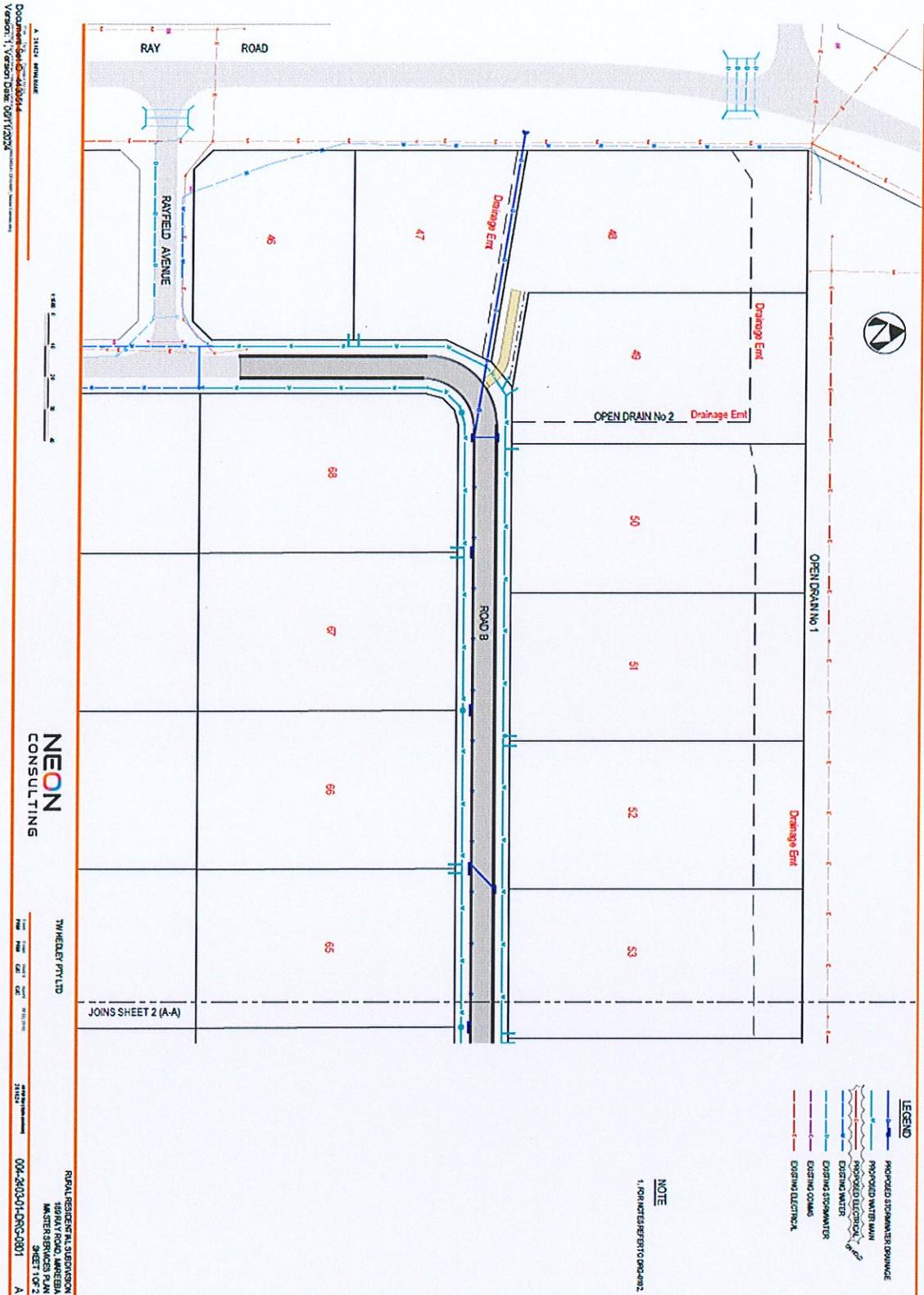
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 1. FOR NOTES REFER TO DRAWING

REF	CODE	DESCRIPTION
①	—	SUBJECT WATER CLASS 'A' CONCRETE PIPE
②	—	CL COVER BOX COMPLETE MANHOLE/UNDERPASS
③	—	500mm DIA. GATE VALVE COMPLETE WITH 150mm DIA. OVER BOX COMPLETE MANHOLE AND MANHOLE
④	—	800mm DIA. GATE VALVE COMPLETE WITH 150mm DIA. OVER BOX COMPLETE MANHOLE AND MANHOLE
⑤	—	CL COVER BOX COMPLETE MANHOLE/UNDERPASS
⑥	—	800 TO 500mm WITH CONCRETE THRESHOLD BLOCK
⑦	—	SERVICE MANHOLE CONNECTION
⑧	—	SMALL ALUMINIUM SERVICE (SEE NOTES FOR DETAILS)
⑨	—	1000mm DIA. UNDRIVING CLASS 'A' SUBSIDER
⑩	—	6000mm DIA. UNDRIVING CLASS 'A' SUBSIDER

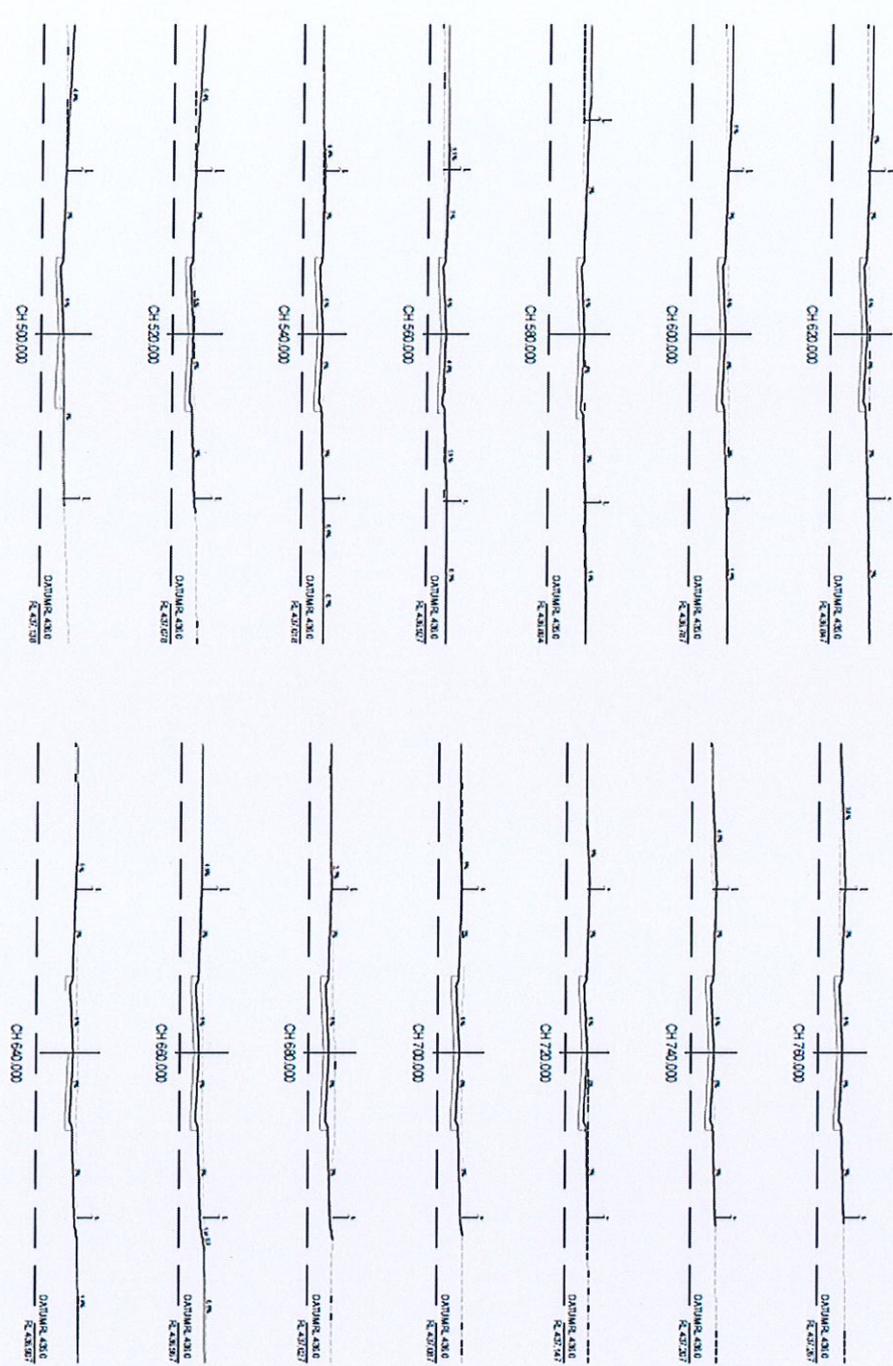
WATER SUPPLY PIPE AND FITTINGS LIST

LEGEND

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	EXISTING BOUNDARY
	PROPOSED BOUNDARY
	EXISTING STORMWATER
	PROPOSED STORMWATER

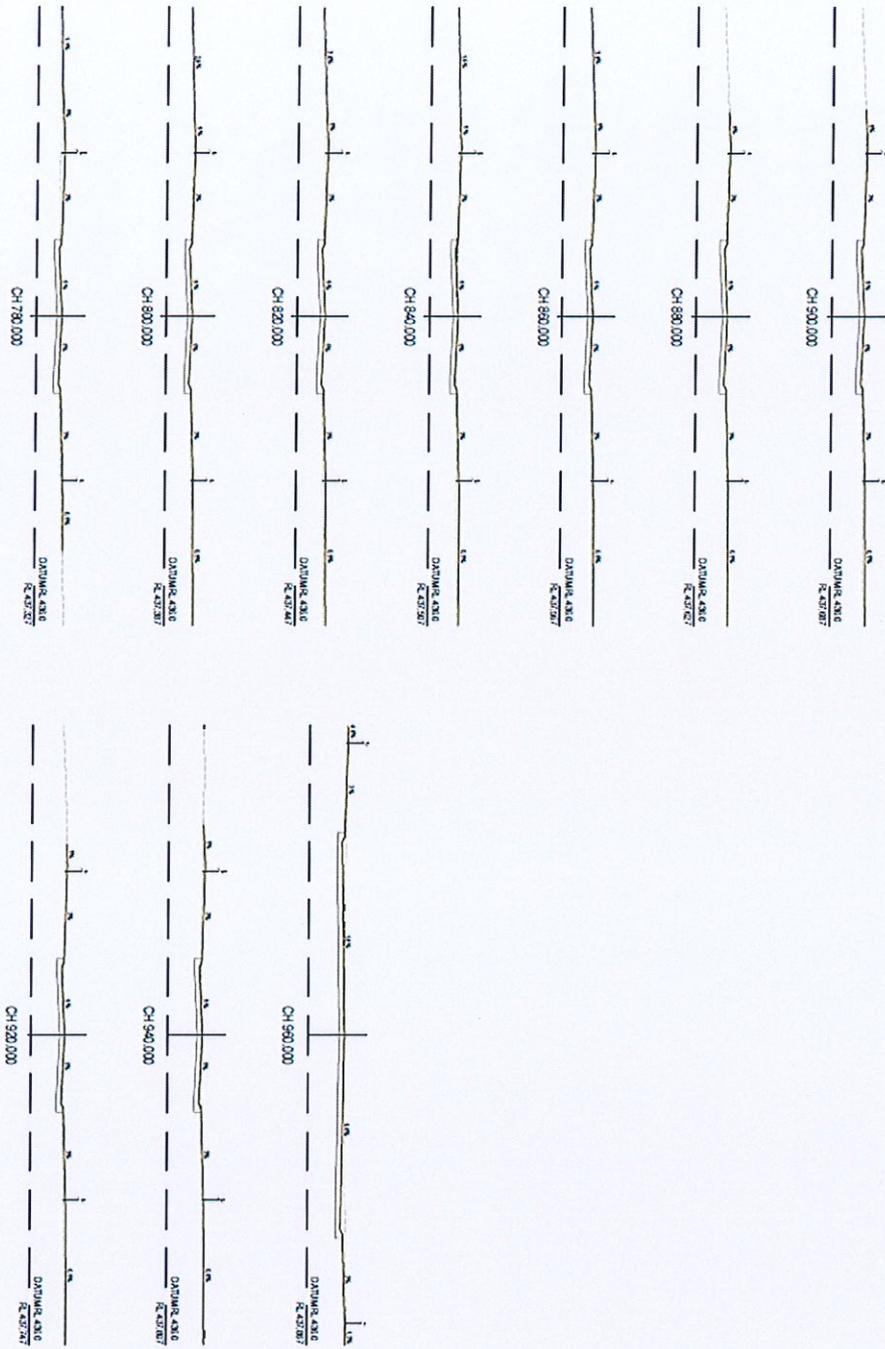


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RURAL RESIDENTIAL SUBDIVISION
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ROAD 9 CROSS SECTIONS
SHEET 1 OF 2
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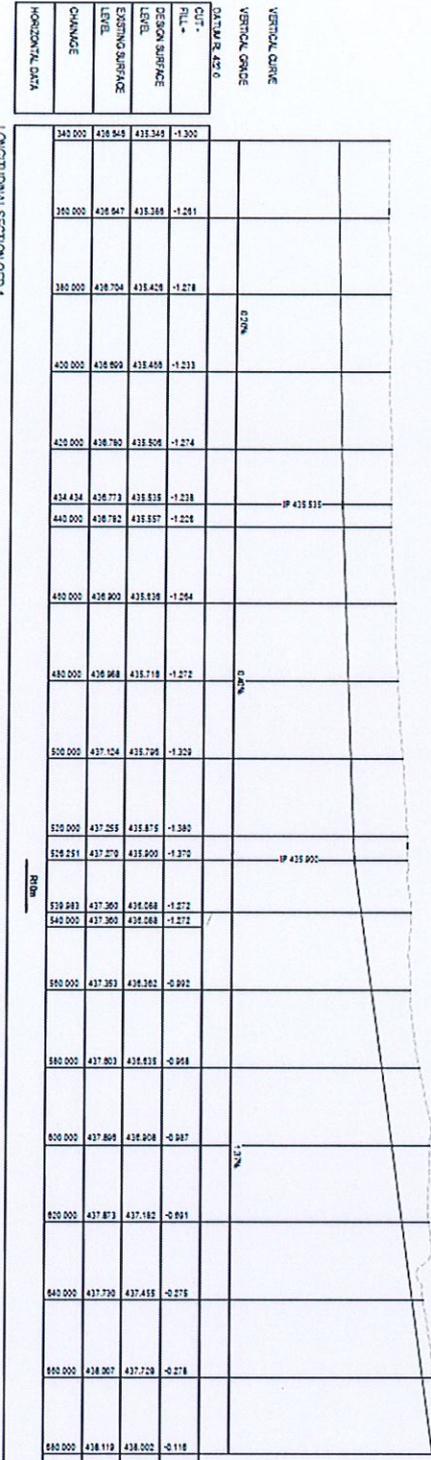
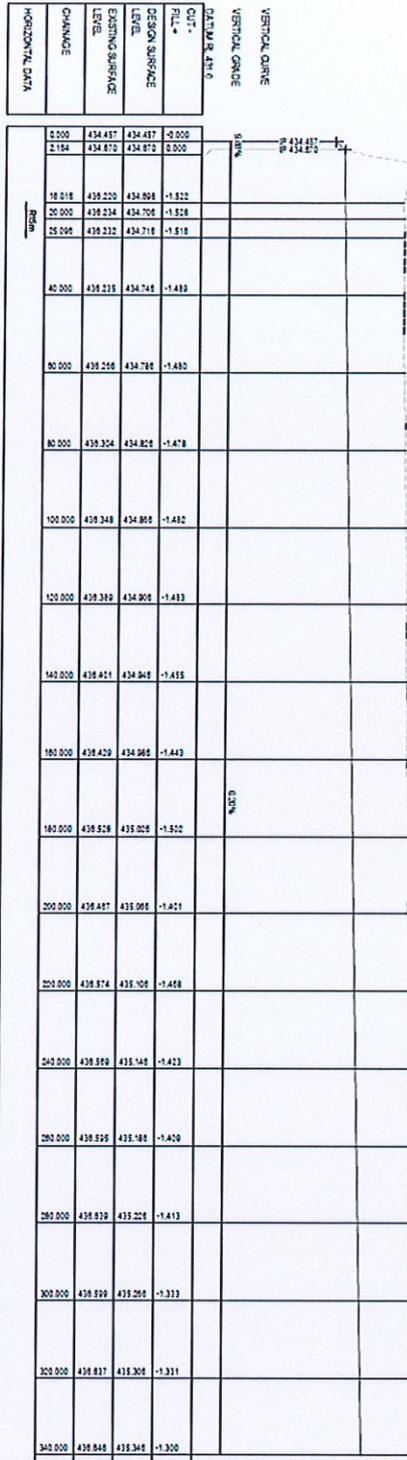
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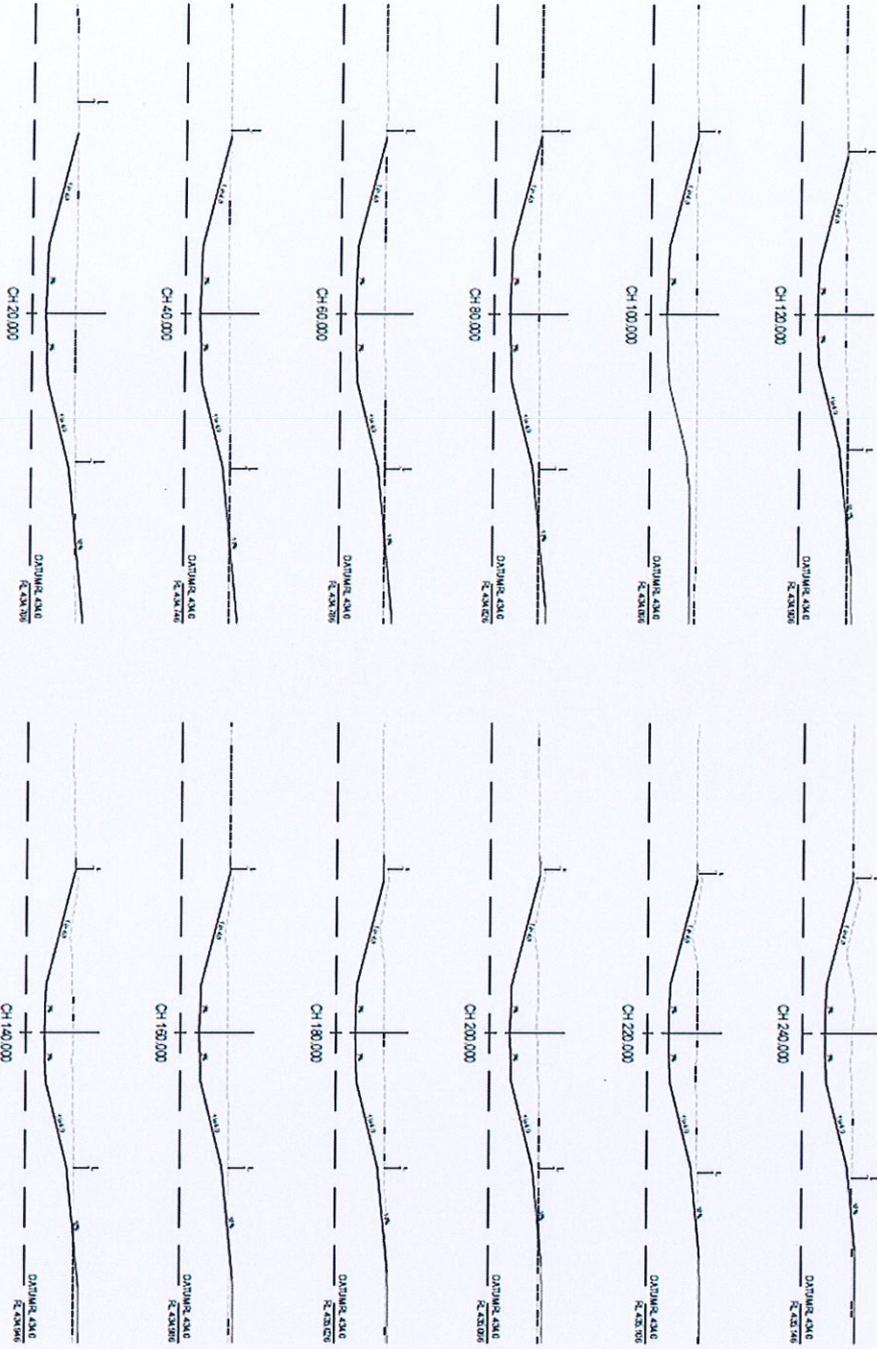
TWIDDELL PTY LTD

ROAD RESERVE R.L. DETERMINATION
ROAD 8 CROSS SECTION 4
SHEET 7 OF 2
004-240301-DSG-0903
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TWHOLEY PTY LTD
RURAL RESIDENTIAL DEVELOPMENT
060 LONGITUDINAL SECTION
SHEET 1 OF 2
09-2020-01-DSC-0904 A

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Version: 1.0
Date: 08/12/2024



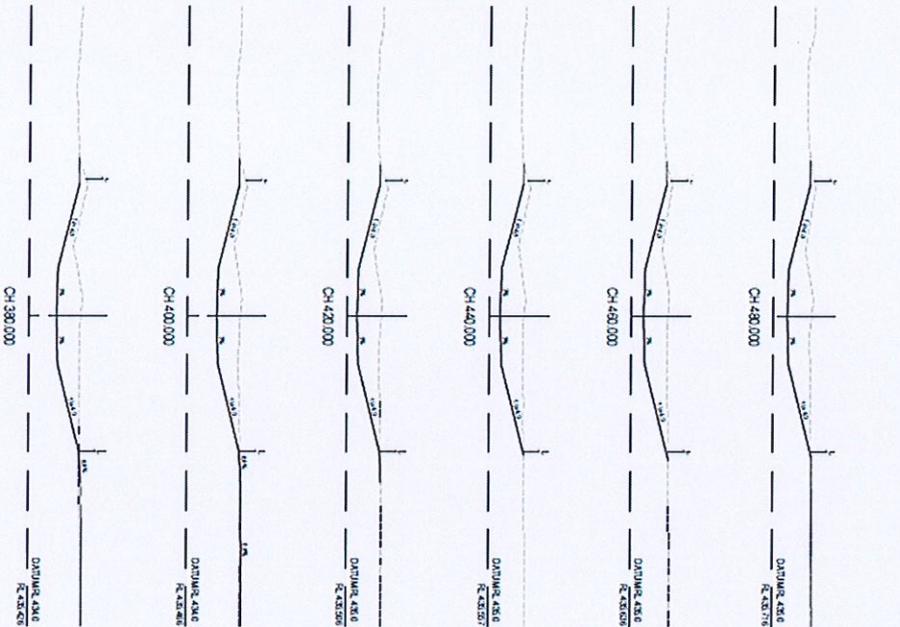
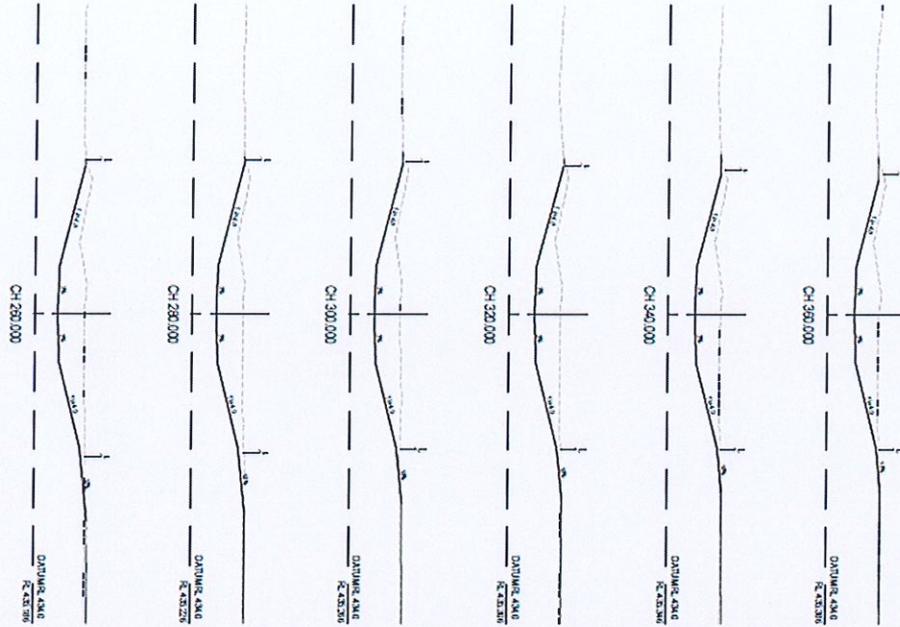
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TWINELEY PT LTD

RAIL BENTLEY & BENTON
189 RAY ROAD, BENTON
OED - CROSS SECTIONS
SHEET 1 OF 3
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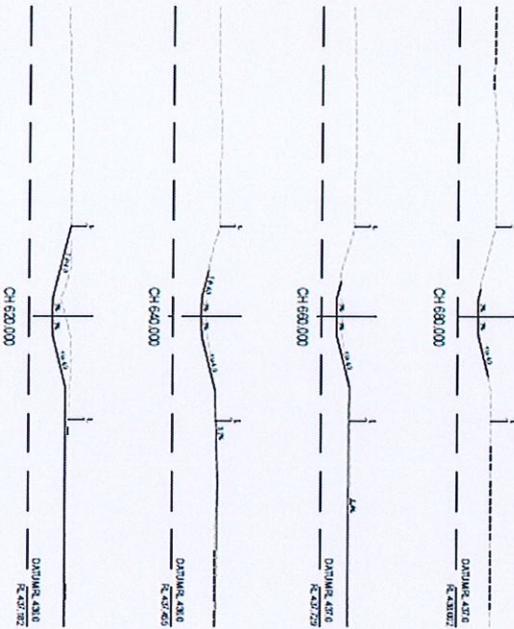
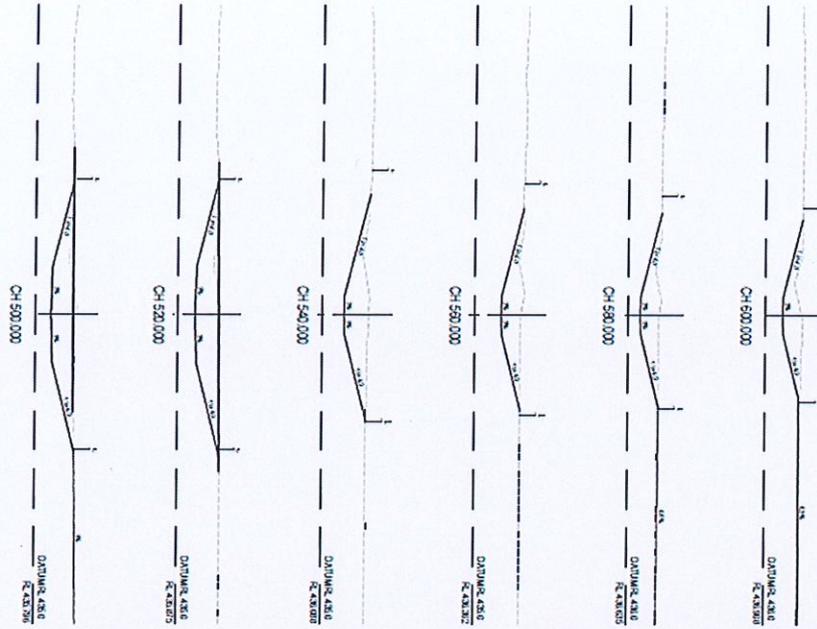
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TYWHELEBY PTY LTD

ROAD RESERVE RAL SUBDIVISION
DEPT 1 CROSS SECTION
SHEET 2 OF 3
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Version 1, Version Date 09/12/2024



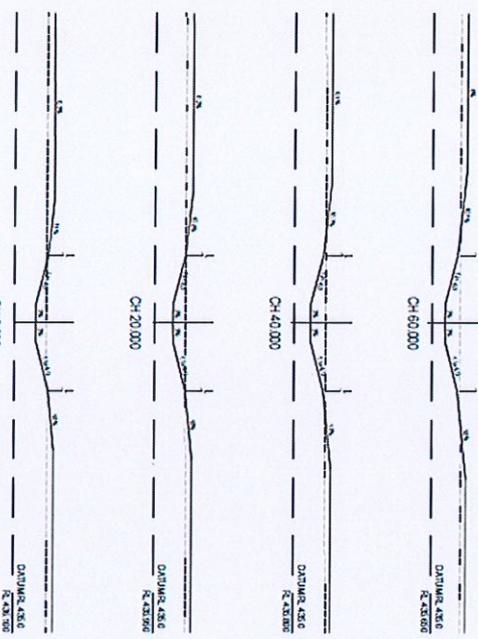
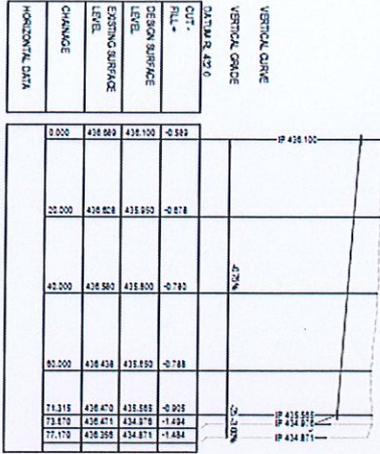
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TYNEDLER PTY LTD

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CHECKED BY: [Signature]

SARAH BISHOP & ASSOCIATES
106/107 ROAD, WAREHOUSING
DEPT 1 CROSS SECTIONS
SHEET 1 OF 3
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 Document No: 24/0008
 Version: 1, Version Date: 08/11/2024
 ROAD DESIGN CONSULTANTS
 TWINELEY PT LTD
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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.