



31 July 2024

Planning Officer: Brian Millard  
Direct Phone: 07 4086 4649  
Our Reference: OPW/21/0006  
Your Reference: 160-001-R002

Conmat No1 Pty Ltd  
C/- ERSCON Consulting Engineers Pty Ltd  
PO Box 7890  
CAIRNS CITY QLD 4870

Dear Applicants,

## **Decision Notice**

### ***Planning Act 2016***

I refer to your application and advise that on 31 July 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/21/0006
Street Address:	2-4 Quill Street, Mareeba
Real Property Description:	Lot 22 on SP217220
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

#### **DECISION DETAILS**

Type of Decision:	Approval
Type of Approval:	Development Permit for Operational Works Operational Works (Bulk Earthworks, Drainage Works and Access & Services Infrastructure)
Date of Decision:	31 July 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 All operational works must be designed and constructed in accordance with the procedures as set out in the FNQROC Development Manual.
- 1.2 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.
- 1.3 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.

#### 1.4 Geotechnical

Prior to excavating the northern and western batters for proposed Building Pad 1, the applicant must provide a geotechnical report to determine batter profile and stability.

The site-specific Geotechnical Assessment must be prepared by a suitably qualified Geotechnical Engineer (RPEQ). The report must assess the risk of the land and proposed batter profiles for this development in accordance with the AGS Guidelines 2007.

The Report must demonstrate that the site is suitable for development and achieves a low or very low risk for landslide from hazards both internal to the site and from sloping land around the site.

Any changes required to batter profiles to achieve this outcome must be included in the report and documented on amended drawings submitted to Council for approval.

Excavation for test pits and to expose sections of the batter to confirm soil materials properties are permitted to enable assessments and preparation of the geotechnical report.

Any additional surface treatments or lining of the batters to address long-term stability must be completed in accordance with the Geotechnical Report prior to Works Acceptance and/or use of the land.

**Advice Note:** *The proposed site earthworks may create an altered risk of stability to land adjoining the development. The assessment of the site stability and confirmation that the site geotechnical risk remains in the low to very low risk category is required prior to the works proceeding on site.*

#### 1.5 Stormwater Drainage

The final location of the catch drains on the northern and western sides of Building Pad 1, will be subject to confirmation of the batter profile by the site-specific geotechnical report.

The applicant must not construct the drains prior to Council's written confirmation that the Geotechnical Report has been accepted.

Concrete lining of the catch drain must be provided in accordance with the detail on ERSCON Consulting Engineers drawing number 160-001-C108 Revision B for the full extent of the catch drains on the northern and western sides of Building Pad 1.

The Construction Issue Drawings must be amended to reflect the drain lining requirement and provided prior to the Pre-start Meeting.

### 1.6 Driveway to Building Pad 1

This Decision Notice approves construction of the driveway to Building Pad 1 in accordance with ERSCON Consulting Engineers Drawings 160-001-C105 and C106 Revision B.

**Advice Note:** *The driveway approval is for the use of the site as a single lot only, and may not be supported for more intense use of the site where greater immunity for the driveway would be required.*

*The proposed driveway to Building Pad 1 does not achieve immunity or trafficability for the 1%AEP Flood Event for the Barron River, being inundated by approximately 1.8m. The driveway is considered suitable for single lot access only (noting Building Pad 2 accessibility during Barron River flooding). Any further development on the land must consider this flood immunity limitation of the driveway.*

*In proceeding with the current design, the applicant is advised that more intense development uses in future may require removal and reconstruction of the driveway to provide appropriate immunity for access for those uses.*

*Council officers advise that granting approval to construct the proposed driveway must not be taken as support for future development or use rights over Building Pad 1.*

### 1.7 Quill Street Drainage

The proposed driveway access at Quill Street must ensure stormwater runoff in the Quill Street kerb line is not directed down the driveway to the drainage easement. The driveway crossover is to be regraded to have positive fall back to the kerb line and ensure runoff is directed to the existing kerb break west from the driveway.

The current driveway grading away from the kerb invert appears to accept runoff from the eastern kerb of Quill Street down the driveway.

If this is the design intent, the applicant must provide kerb and channel on the driveway from the Quill Street kerb line to the new rock lined drain in the existing drainage easement.

The driveway must also be included in a new easement for stormwater purposes reflecting its function to convey stormwater runoff from the road reserve to the existing drainage reserve.

### 1.8 Verge - Quill Street

The proposed driveway and driveway grades within Quill Street appear to grade from the kerb invert down into the site.

The applicant is advised that any intensification of the uses for this site may require the verge to be reconstructed to achieve a compliant verge grade for pedestrians, services, bin storage and car parking to service the additional demand from a new use.

The driveway may need to be considered to avoid the requirement for rework in the future.. Any changes proposed to the current driveway design must be provided prior to the Pre-start Meeting.

#### 1.9 Sewer

The proposed sewer lot connection must be completed under Council supervision. Unless otherwise approved by Council, the E2 type sewer connection must be a stainless-steel sewer offtake clamp.

**Advice note:** *The sewer connection point is below the 1%AEP flood level and the stainless-steel sewer offtake clamp is nominated to reduce risk of infiltration at the connection cut in point.*

*Future connection to service either building pad must be completed under a plumbing application and will be required to achieve minimum cover to the drain lining.*

If the applicant proposes to construct the sewer connection to Building Pad 1 under the current work scope (prior to drain lining), amended plans must be provided and approved prior to construction of the works.

#### 1.10 Demolition of existing fence(s)

The Applicant must provide a minimum of two (2) weeks' notice to the property owner and tenant (if applicable) prior to the removal of any fences.

Temporary exclusion fencing is to be provided to ensure no unauthorised access to the worksite.

The standard of the replacement fence must be agreed between the parties. The agreement between the parties is to be forwarded to Council prior to the works commencing.

#### 1.11 Existing drainage Easement

The drawings must be amended to show the location and extents of the existing drainage easement through the property overlaid on the General Layout Plan and site Grading Plan.

Prior to any filling works for Building Pad 1, the easement boundary and Building Pad boundaries are to be pegged on site and inspected with Council Officers.

No work is to occur within the existing easement without further approval from Council.

**Advice Note:** *Council is prepared to consider the earthworks for Building Pad 1 as currently designed provided the easement is amended to include a commensurate footprint increase on the eastern side.*

#### 1.12 Amendments to Drainage Easement

Prepare for lodgement for registration at the Department of Resources (Titles Registry) and in accordance with Council's standard terms where relevant, drainage easements in favour of upstream properties for the formalised drainage paths proposed on the northern and western boundaries adjacent Building Pad 1. The width must contain the 1% AEP storm flow from the upstream catchment or be three (3) metre wide, whichever is greater.

Any changes to the existing drainage easement to reflect the footprint for Building Pad 1 must be shown on the site general arrangement plan and submitted for approval by Council.

The supporting information must show how practical access along the easement length can be achieved.

**Advice Note:** *All private infrastructure in the drainage easement (driveways/culverts/drain lining) will be the responsibility of the landowner.*

## 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
160-001-C00 Rev A	Project Drawing List	ERSCON Consulting Engineers	15/04/2024
160-001-C101 Rev A	General Notes	ERSCON Consulting Engineers	15/04/2024
160-001-C102 Rev B	Clearing Plan	ERSCON Consulting Engineers	15/04/2024
160-001-C103 Rev B	General Layout Plan	ERSCON Consulting Engineers	15/04/2024
160-001-C104 Rev B	Grading Plan	ERSCON Consulting Engineers	15/04/2024
160-001-C105 Rev A	Driveway Plan	ERSCON Consulting Engineers	15/04/2024
160-001-C106 Rev B	Driveway Longitudinal Section and Detail	ERSCON Consulting Engineers	15/04/2024
160-001-C107 Rev B	Rock Lined Drain Longitudinal Section and Detail (Sheet 1 of 2)	ERSCON Consulting Engineers	15/04/2024
160-001-C108 Rev B	Catch Drain Longitudinal Section and Detail (Sheet 2 of 2)	ERSCON Consulting Engineers	15/04/2024
160-001-C109 Rev B	Sewer Reticulation Plan	ERSCON Consulting Engineers	15/04/2024
160-001-C110 Rev A	Erosion and Sediment Control Plan	ERSCON Consulting Engineers	15/04/2024
160-001-C111 Rev A	Erosion and Sediment Control Details	ERSCON Consulting Engineers	15/04/2024
160-001-SK011	Sewer Depth Longitudinal Section	ERSCON Consulting Engineers	28/05/2024

### FURTHER DEVELOPMENT PERMITS REQUIRED

Not Applicable.

### SUBMISSIONS

Not Applicable.

**RIGHTS OF APPEAL**

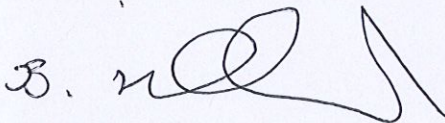
You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

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](http://www.msc.qld.gov.au), or at Council Offices.

Yours faithfully



**BRIAN MILLARD**  
**COORDINATOR PLANNING SERVICES**

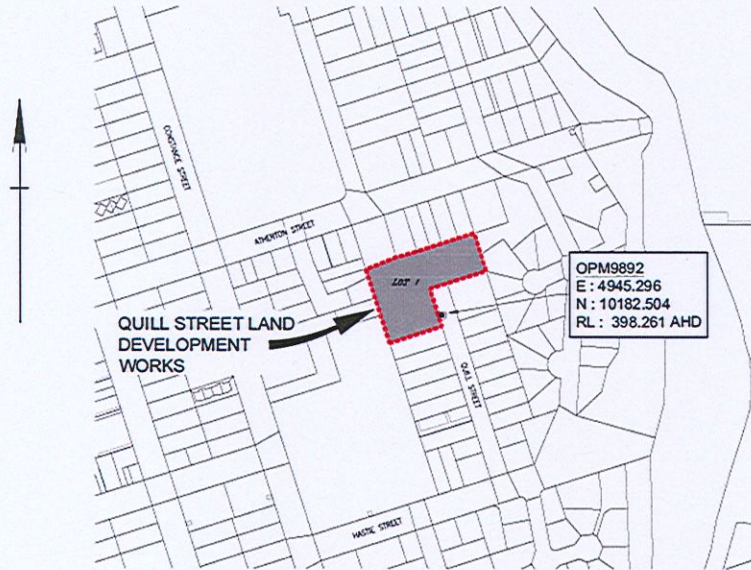
Enc: Approved Plans/Documents  
Referral Agency Response  
Appeal Rights



Approved Plans/Documents

# CONMAT PTY LTD

## QUILL STREET LAND DEVELOPMENT



PROJECT DRAWINGS LIST

- 160-001-C100 COVER SHEET, LOCALITY PLAN AND DRAWINGS LIST
- 160-001-C101 GENERAL NOTES
- 160-001-C102 CLEARING PLAN
- 160-001-C103 GENERAL LAYOUT PLAN
- 160-001-C104 GRADING PLAN
- 160-001-C105 DRIVEWAY PLAN
- 160-001-C106 DRIVEWAY LONGITUDINAL SECTION AND DETAIL
- 160-001-C107 ROCK LINED DRAIN LONGITUDINAL SECTION AND DETAIL
- 160-001-C108 REAR CATCH DRAIN LONGITUDINAL SECTION AND DETAIL
- 160-001-C109 SEWER RETICULATION PLAN
- 160-001-C110 EROSION AND SEDIMENT CONTROL PLAN
- 160-001-C111 EROSION AND SEDIMENT CONTROL DETAILS

Client:

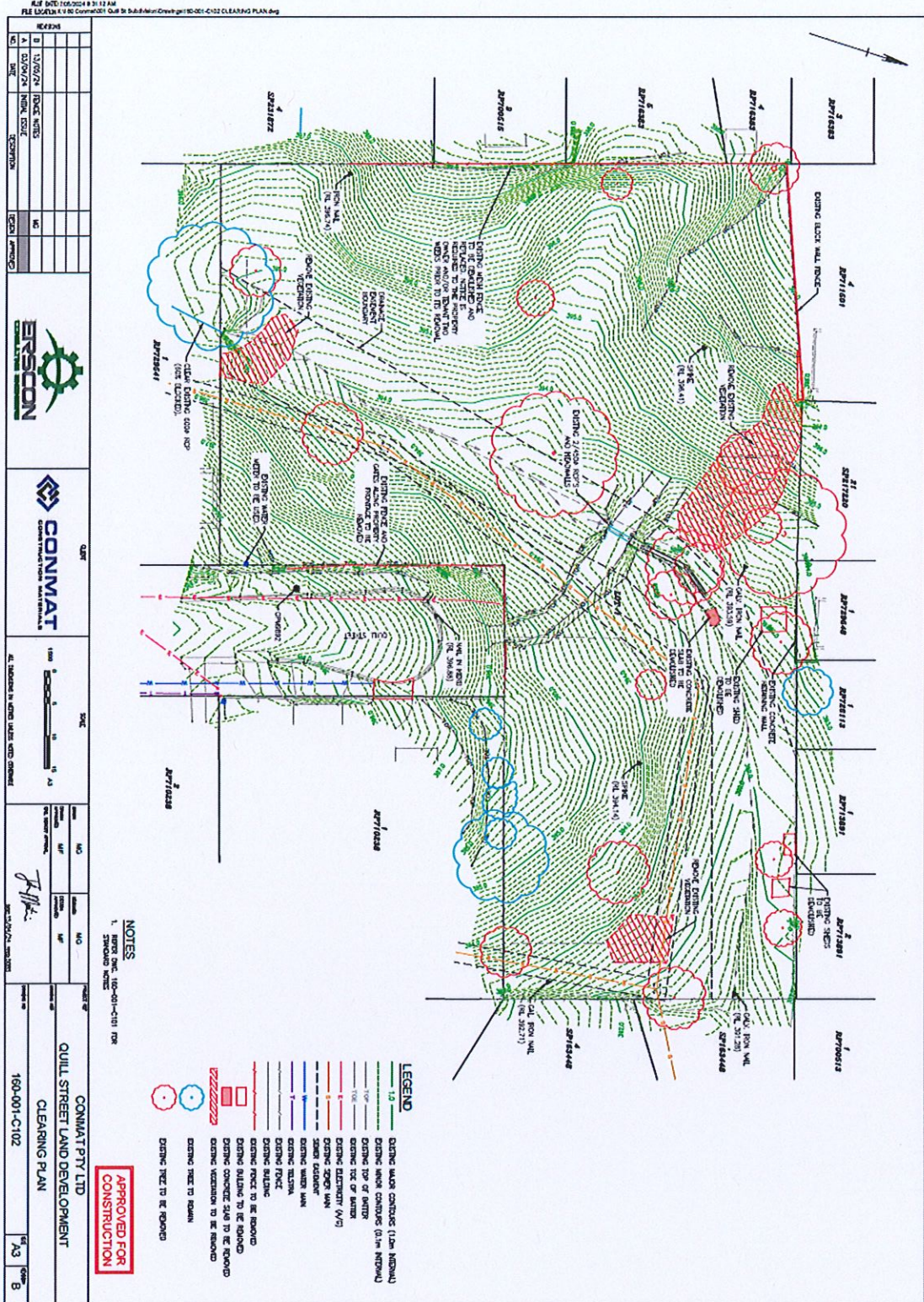
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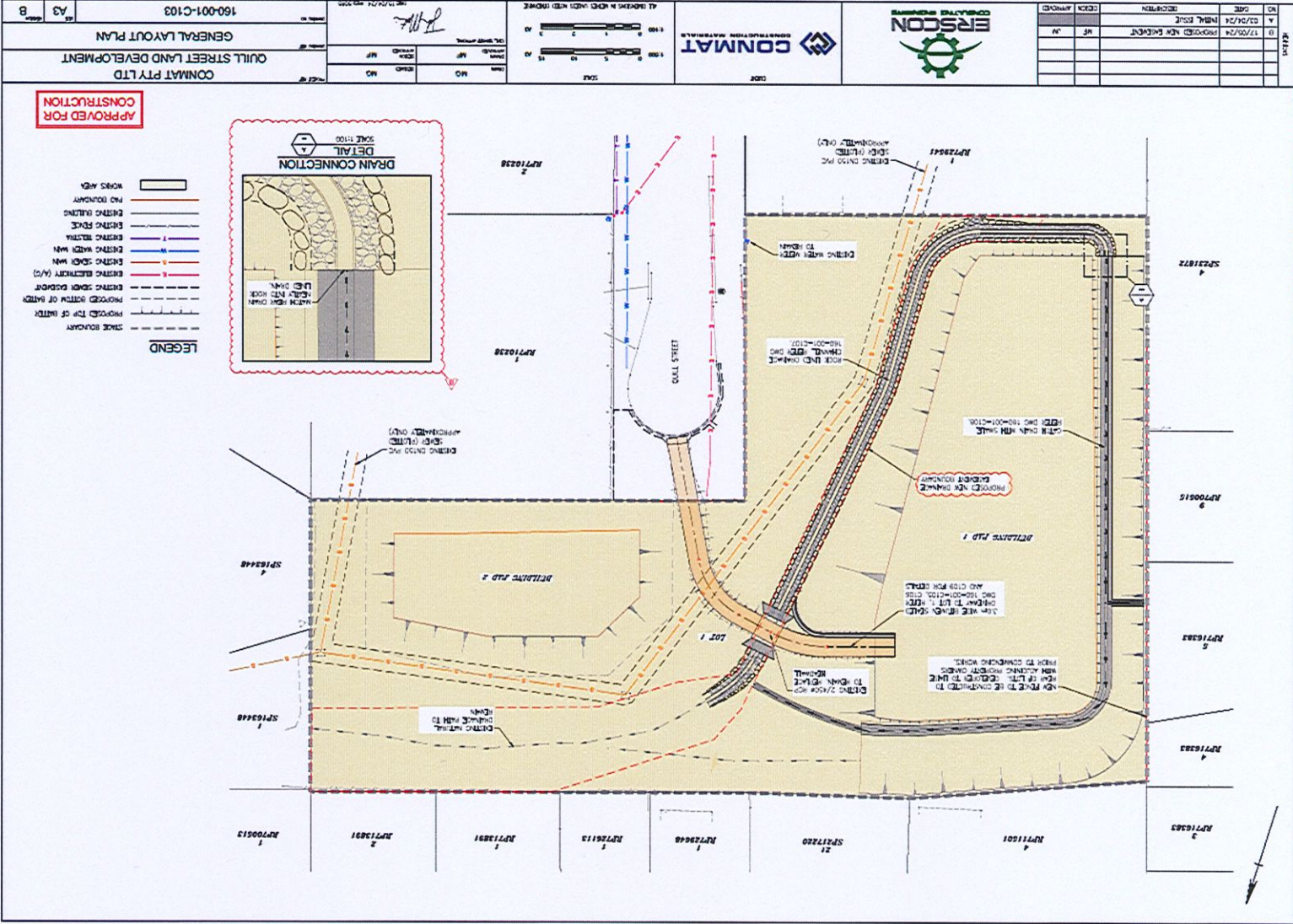


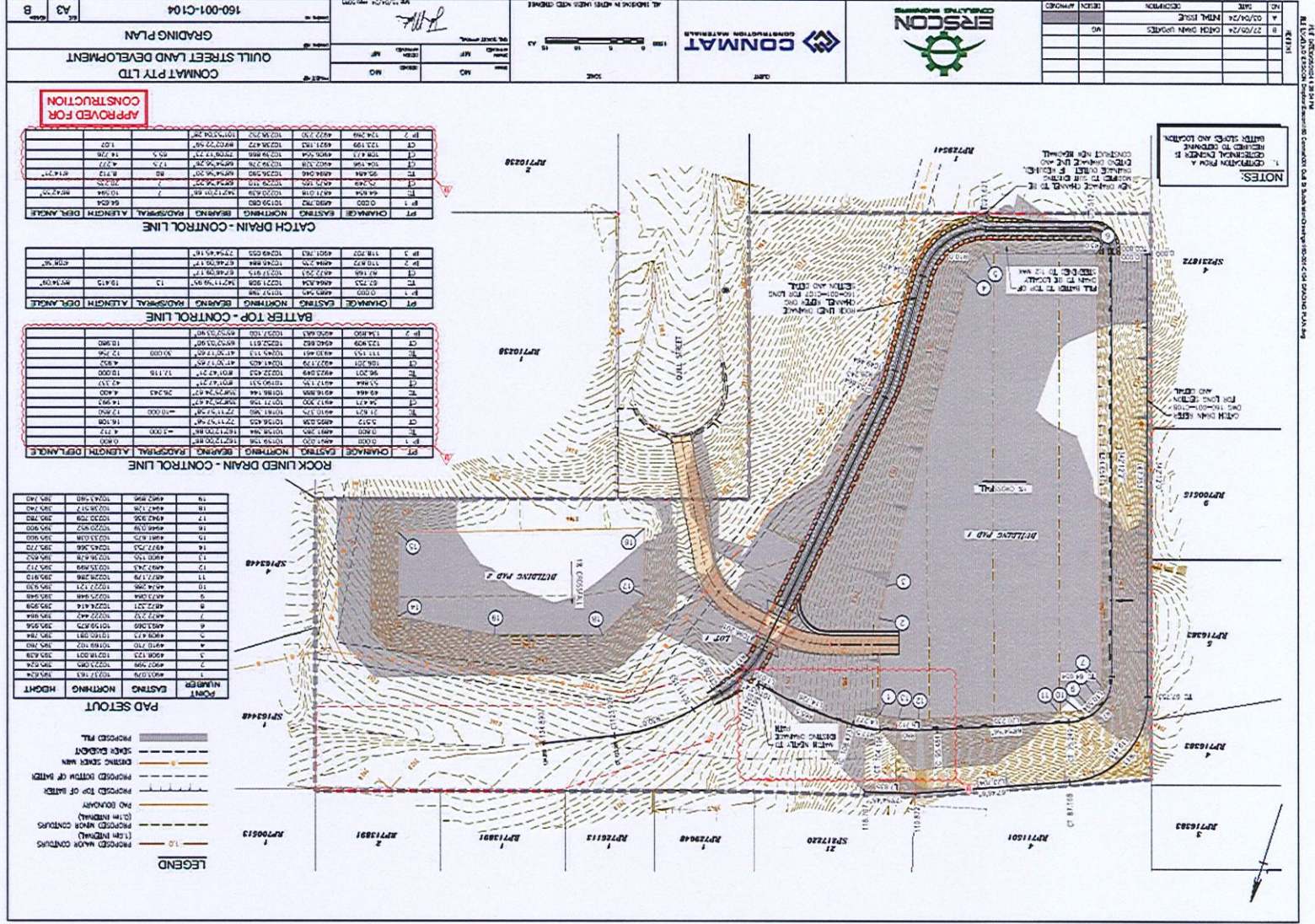
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CONSTRUCTION

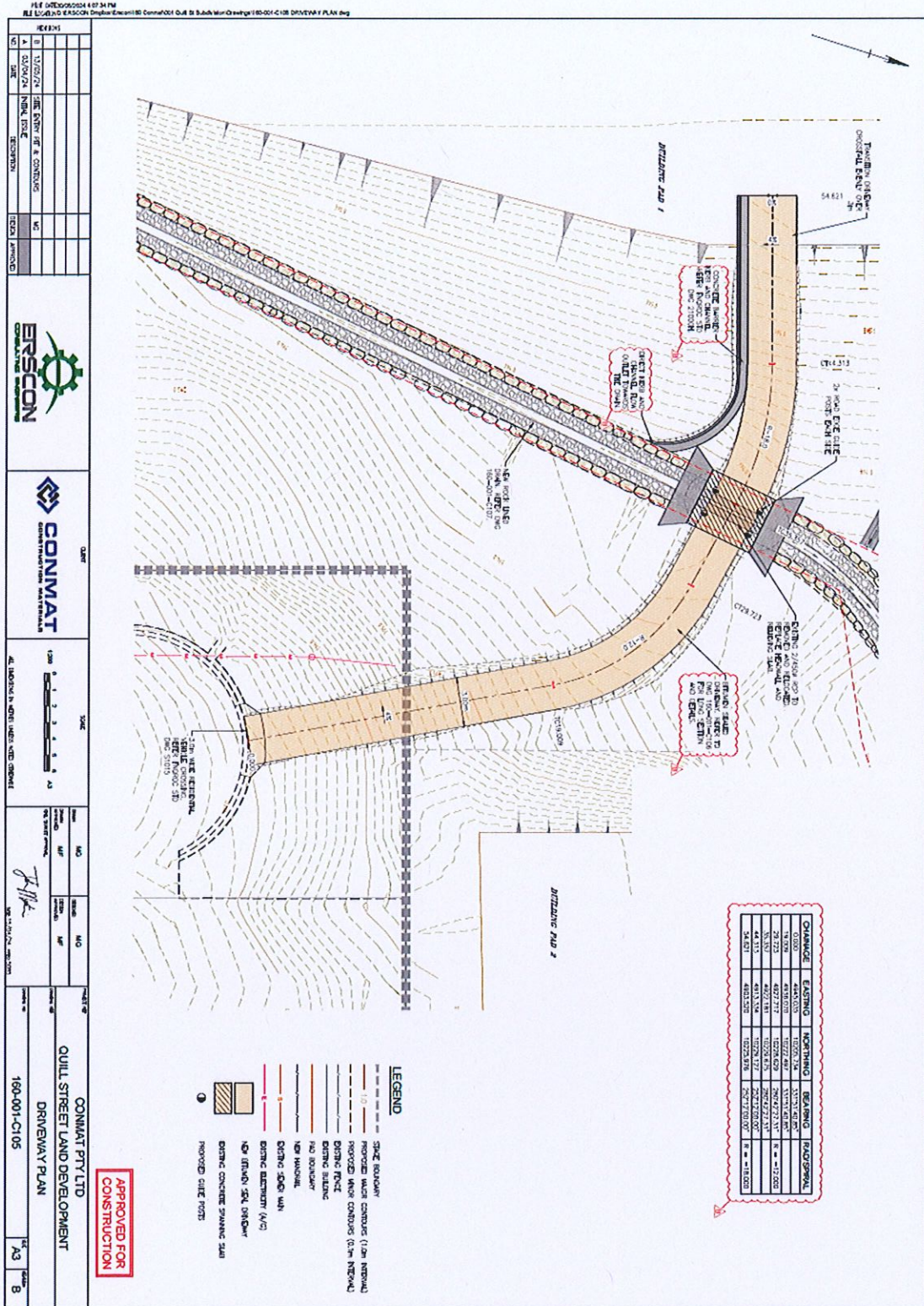
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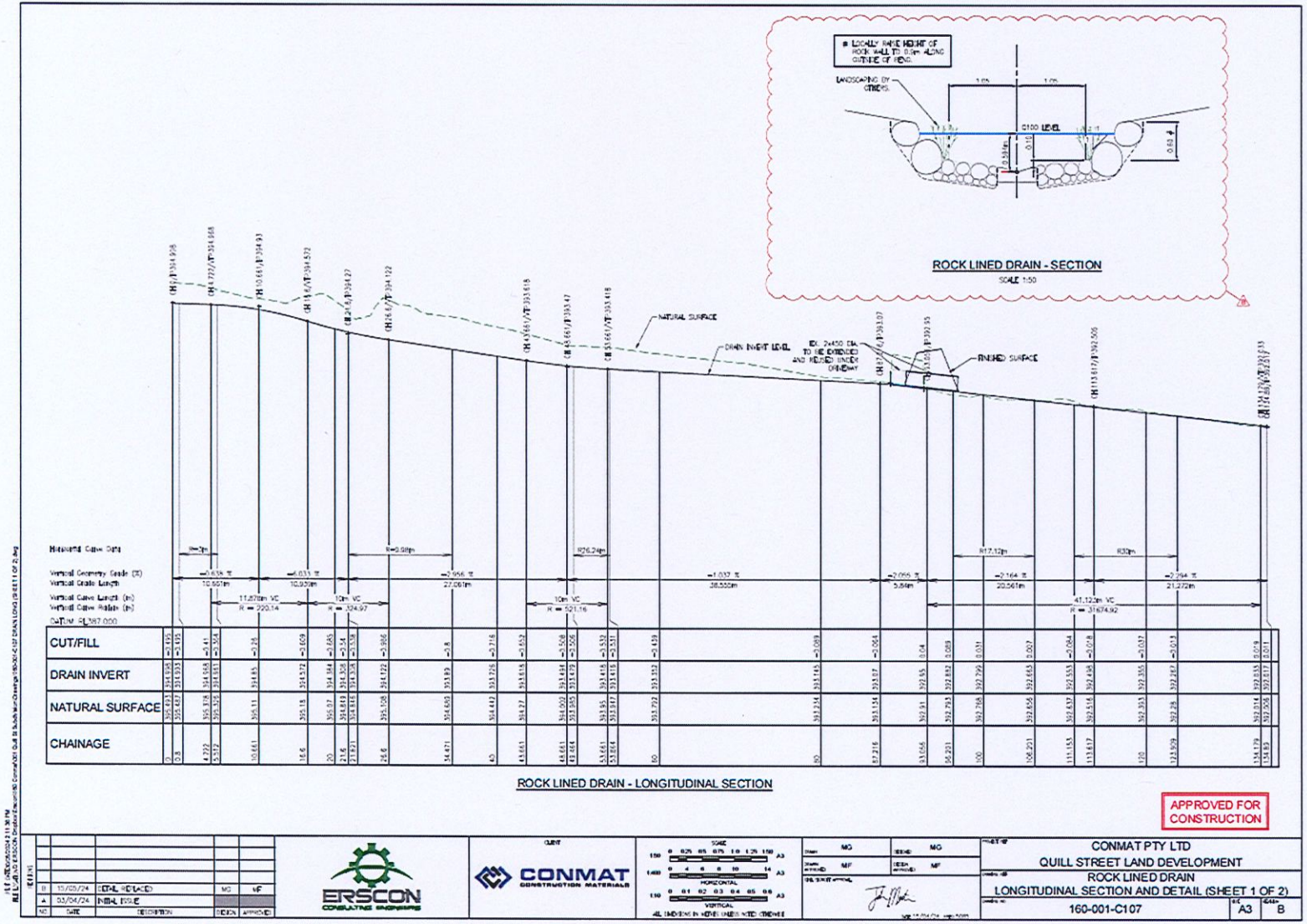






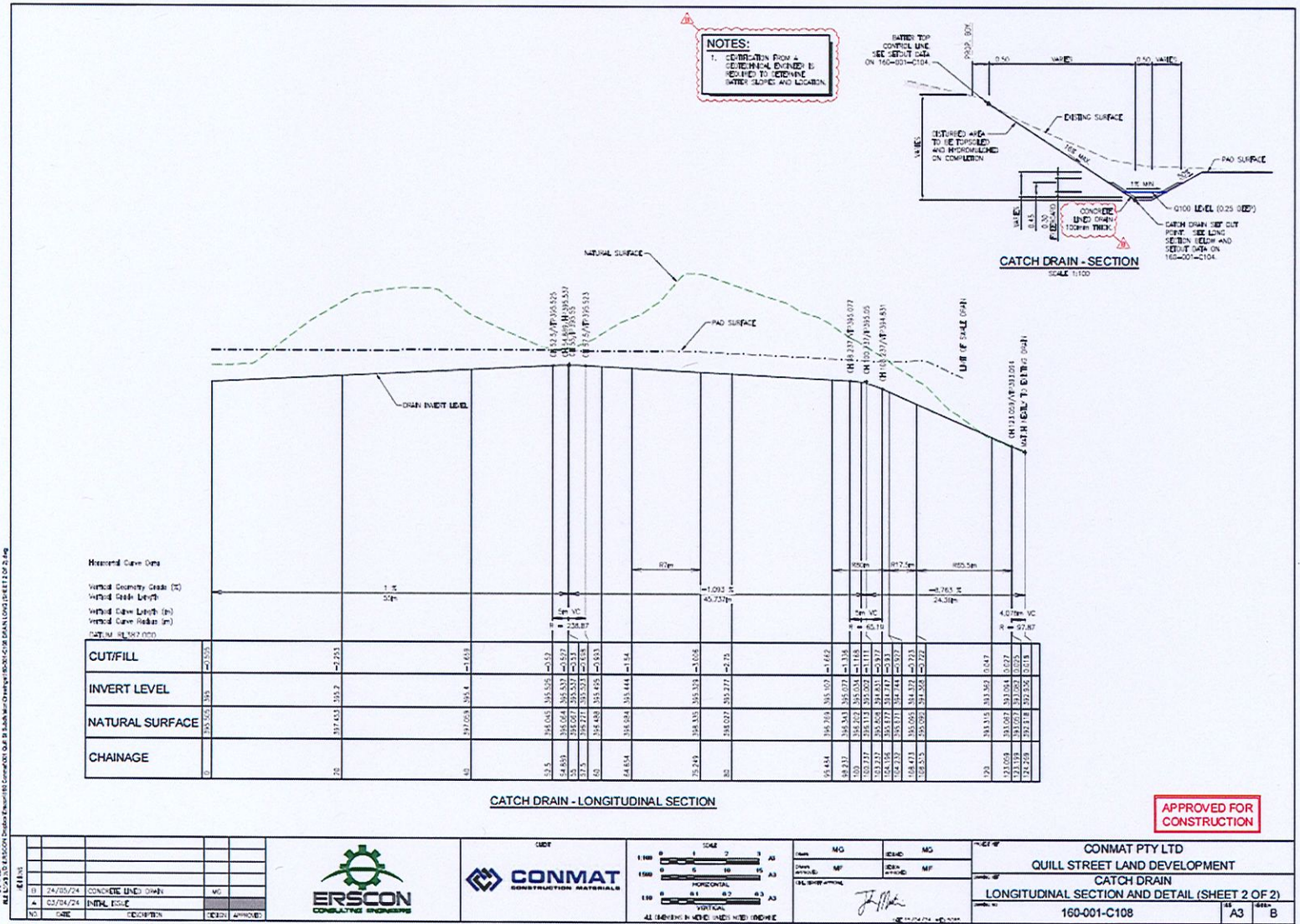




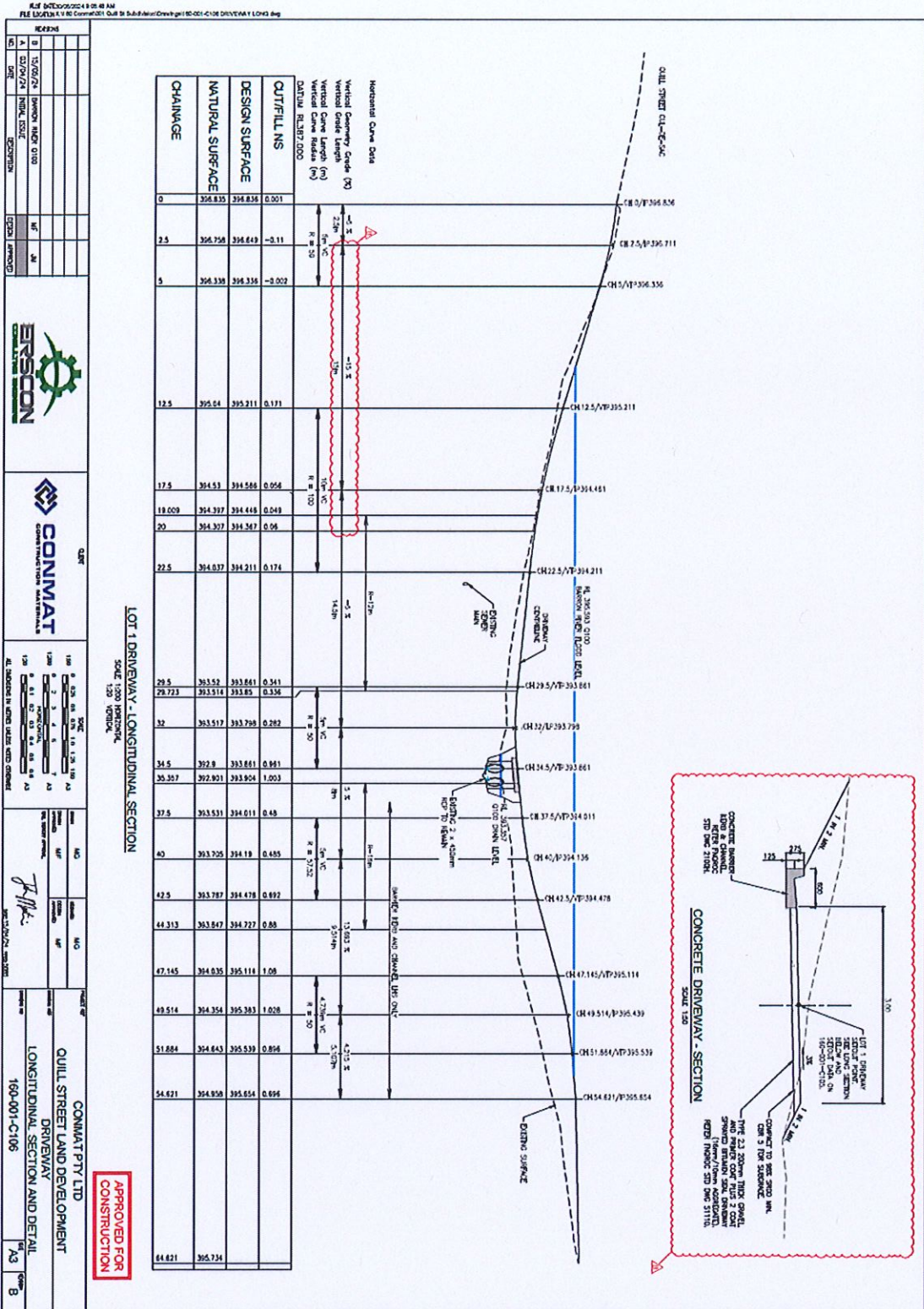


APPROVED FOR CONSTRUCTION

<p>REVISIONS</p> <table border="1"> <tr><td>NO</td><td>DATE</td><td>DESCRIPTION</td><td>BY</td><td>APP'D</td></tr> <tr><td>1</td><td>10/05/24</td><td>INITIAL DESIGN</td><td>MG</td><td>MF</td></tr> <tr><td>2</td><td>03/04/24</td><td>NBAI ISSUE</td><td></td><td></td></tr> </table>	NO	DATE	DESCRIPTION	BY	APP'D	1	10/05/24	INITIAL DESIGN	MG	MF	2	03/04/24	NBAI ISSUE					<p>SCALE</p> <p>1:50 HORIZONTAL 1:10 VERTICAL</p>	<p>DATE: 10/05/24</p> <p>DESIGNER: MF</p> <p>CHECKER: MF</p> <p>APPROVED: <i>J. [Signature]</i></p>	<p>PROJECT: CONMAT PTY LTD QUILL STREET LAND DEVELOPMENT ROCK LINED DRAIN LONGITUDINAL SECTION AND DETAIL (SHEET 1 OF 2)</p> <p>PROJECT NO: 160-001-C107</p> <p>DRAWING NO: A3</p> <p>SCALE: B</p>
NO	DATE	DESCRIPTION	BY	APP'D																
1	10/05/24	INITIAL DESIGN	MG	MF																
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**APPROVED FOR CONSTRUCTION**



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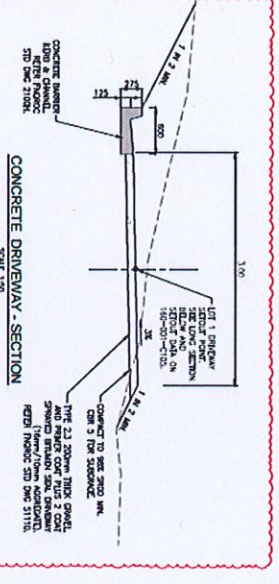
DATE: 14/09/21  
DRAWN: JAMES GIBSON  
CHECKED: JAMES GIBSON

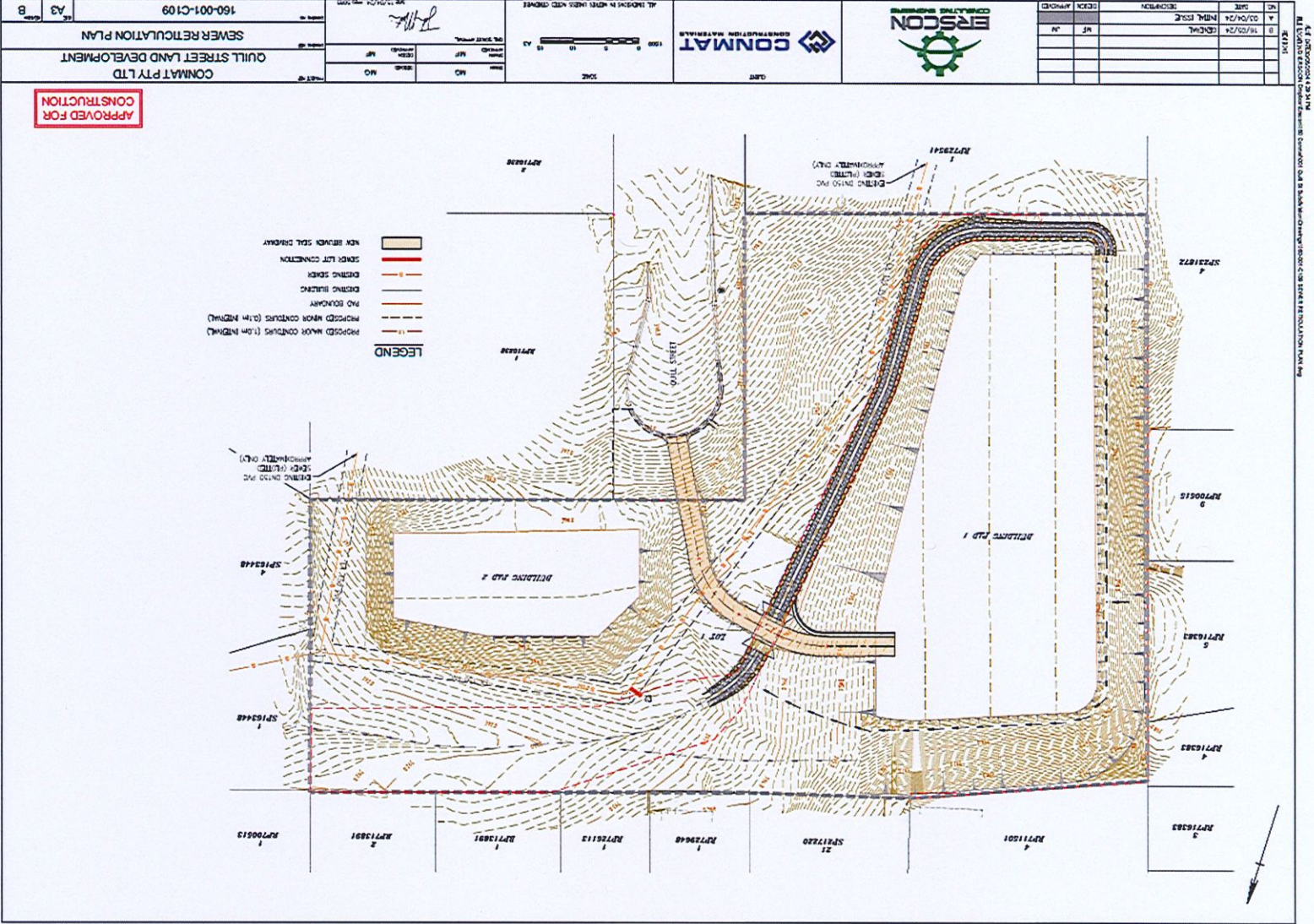
CLIENT: CONMAT PTY LTD

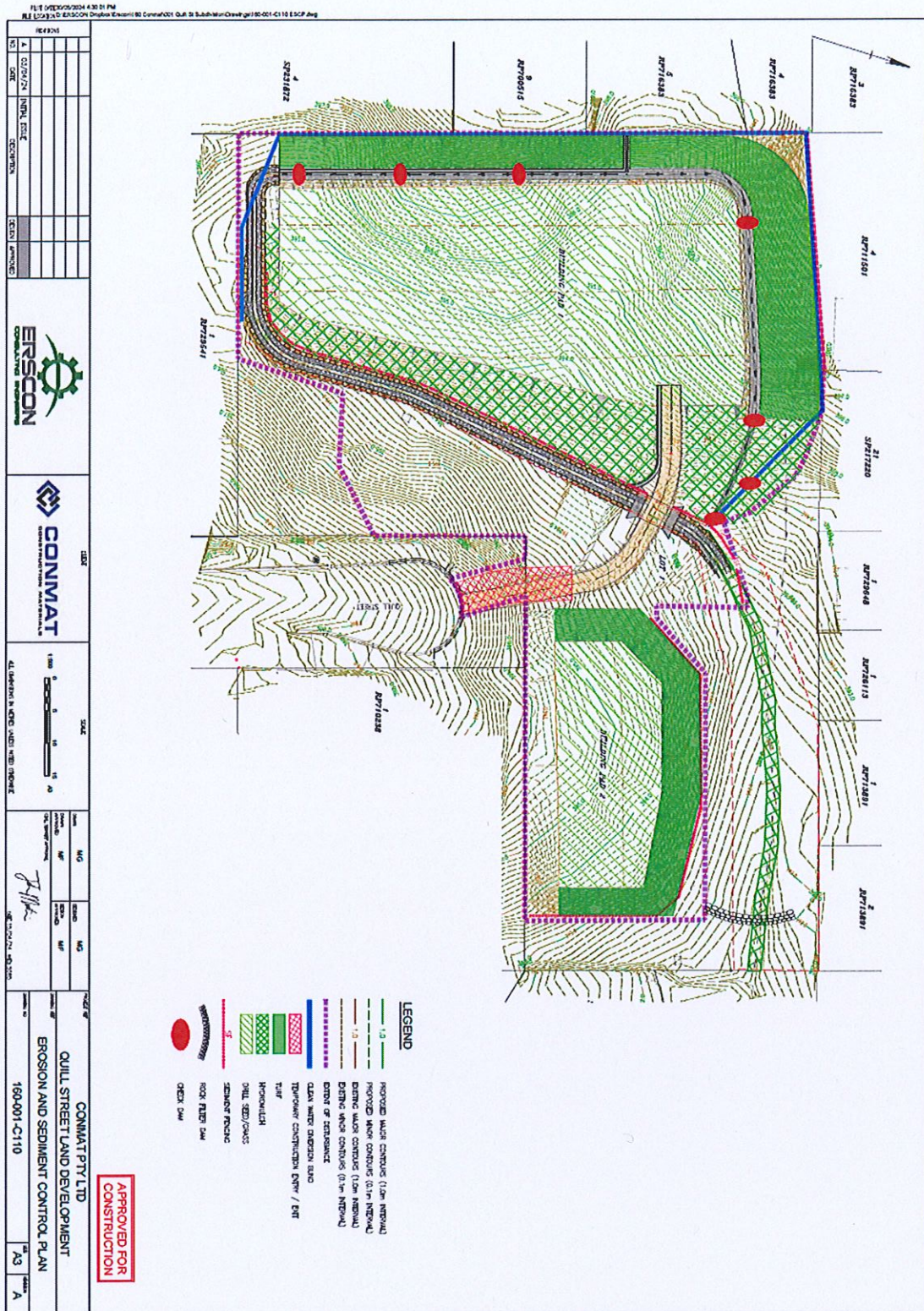
PROJECT: QUIL STREET LAND DEVELOPMENT  
DRIVEWAY  
LONGITUDINAL SECTION AND DETAIL  
160-001-C-106

DATE: 14/09/21  
DRAWN: JAMES GIBSON  
CHECKED: JAMES GIBSON

SCALE: 1:50 HORIZONTAL  
SCALE: 1:20 VERTICAL







**SEDIMENT FENCE**

**MATERIAL**

**Fabric:** Polypropylene geotextile mesh, 100gsm, or polyethylene mesh or non-woven fabric at least 150gsm in weight and a minimum unit weight of 100gsm. All fabric to contain UV-stabiliser additives and shall be suitable for a minimum of 6 months of outdoor construction use (ultra-violet stabiliser (UV-stabiliser)).

**Fabric Strength:** 400N/50mm width (minimum) or 400N/50mm width (minimum) or 400N/50mm width (minimum).

**Support Post:** 300mm x 30mm x 30mm (min) softwood, or 100mm (dia) steel, 150mm (dia) stainless steel or aluminium pipe.

**INSTALLATION**

1. REFER TO APPROVED PLAN FOR LOCATION, ELEVATION AND REQUIRED TYPE OF FABRIC. IF THERE IS A CHANGE OF PROFILES WITHIN THE BLOCK, ERECT FABRIC TOE OF VARIOUS INSTALLATION LENGTHS TO ACCOMMODATE CHANGING PROFILES.
2. TO THE MAXIMUM PERMITTED, INSTALL THE FABRIC ALONG THE FENCE LINE.
3. TYPICALLY SPACING SUPPORT POSTS AS SHOWN.
4. AVOID A LINE OF CONTACT BETWEEN ADJACENT FABRIC PANELS.
5. AT LEAST 50mm FROM THE FACE OF ANY PILING OR DRIVING THAT MAY RESULT IN SPLITTING OR CUTTING THE FABRIC.
6. INSTALL FABRIC WITHIN THE FENCE AT MAXIMUM 200mm INTERVALS IF THE FABRIC IS INSTALLED ALONG THE CONTROL OF THE FENCE OR MAXIMUM SPACING INTERVALS IF THE FABRIC IS INSTALLED AT AN ANGLE TO THE CONTROL. THE SPACING SHALL CORRESPOND TO THE CONTROL.
7. SUPPORT POSTS SHALL BE LOCATED AT LEAST 1.5m FROM THE FACE OF THE FABRIC.
8. SPACING OF SUPPORT POSTS SHALL BE A MINIMUM 1/3 AND MAXIMUM 1/2 FENCE HEIGHT AND ELEVATION AND SPACING ALONG THE FENCE.
9. ENSURE THE FABRIC IS STRETCH TIGHT UPON THE SLOPE AT LEAST 100mm, OR AS NECESSARY, TO AVOID ANY BULGES ALONG THE FENCE.
10. ENSURE THE FABRIC IS INSTALLED IN A MANNER THAT AVOIDS THE CONCENTRATION OF FLOW ALONG THE FABRIC AND THE UNDESIRABLE FORMATION OF BULGES ALONG THE FACE OF THE FENCE.
11. IF THE FABRIC IS INSTALLED AT AN ANGLE TO THE CONTROL, IT SHOULD BE STRETCH TIGHT TO PREVENT THE FABRIC FROM BEING PULLED AWAY FROM THE CONTROL.
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**ADDITIONAL REQUIREMENTS FOR THE INSTALLATION OF SHELL-BREAKER WITH**

16. LOCATE THE SHELL-BREAKER WITHIN THE FENCE AT LEAST 100mm FROM THE CONTROL.
17. FABRIC SHOULD BE STRETCH TIGHT TO PREVENT THE FABRIC FROM BEING PULLED AWAY FROM THE CONTROL.
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**REMOVAL**

29. WHEN REMOVED, ENSURE THE REMOVED GROUND AS NECESSARY TO REVERSE THE DAMAGE.
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**SEDIMENT FENCE**  
NOT TO SCALE

**ROCK FILTER DAM**  
NOT TO SCALE

**DIVERSION DRAINS**  
NOT TO SCALE

**TEMPORARY CONSTRUCTION ENTRY / EXIT**  
NOT TO SCALE

**MATERIAL**

**300mm x 30mm x 30mm (min) softwood, or 100mm (dia) steel, 150mm (dia) stainless steel or aluminium pipe.**

**INSTALLATION**

1. REFER TO APPROVED PLAN FOR LOCATION AND REQUIRED TYPE OF FABRIC. IF THERE IS A CHANGE OF PROFILES WITHIN THE BLOCK, ERECT FABRIC TOE OF VARIOUS INSTALLATION LENGTHS TO ACCOMMODATE CHANGING PROFILES.
2. TO THE MAXIMUM PERMITTED, INSTALL THE FABRIC ALONG THE FENCE LINE.
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8. SPACING OF SUPPORT POSTS SHALL BE A MINIMUM 1/3 AND MAXIMUM 1/2 FENCE HEIGHT AND ELEVATION AND SPACING ALONG THE FENCE.
9. ENSURE THE FABRIC IS STRETCH TIGHT UPON THE SLOPE AT LEAST 100mm, OR AS NECESSARY, TO AVOID ANY BULGES ALONG THE FENCE.
10. ENSURE THE FABRIC IS INSTALLED IN A MANNER THAT AVOIDS THE CONCENTRATION OF FLOW ALONG THE FABRIC AND THE UNDESIRABLE FORMATION OF BULGES ALONG THE FACE OF THE FENCE.
11. IF THE FABRIC IS INSTALLED AT AN ANGLE TO THE CONTROL, IT SHOULD BE STRETCH TIGHT TO PREVENT THE FABRIC FROM BEING PULLED AWAY FROM THE CONTROL.
12. FABRIC SHOULD BE STRETCH TIGHT TO PREVENT THE FABRIC FROM BEING PULLED AWAY FROM THE CONTROL.
13. FABRIC SHOULD BE STRETCH TIGHT TO PREVENT THE FABRIC FROM BEING PULLED AWAY FROM THE CONTROL.
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15. FABRIC SHOULD BE STRETCH TIGHT TO PREVENT THE FABRIC FROM BEING PULLED AWAY FROM THE CONTROL.

**MATERIAL**

**300mm x 30mm x 30mm (min) softwood, or 100mm (dia) steel, 150mm (dia) stainless steel or aluminium pipe.**

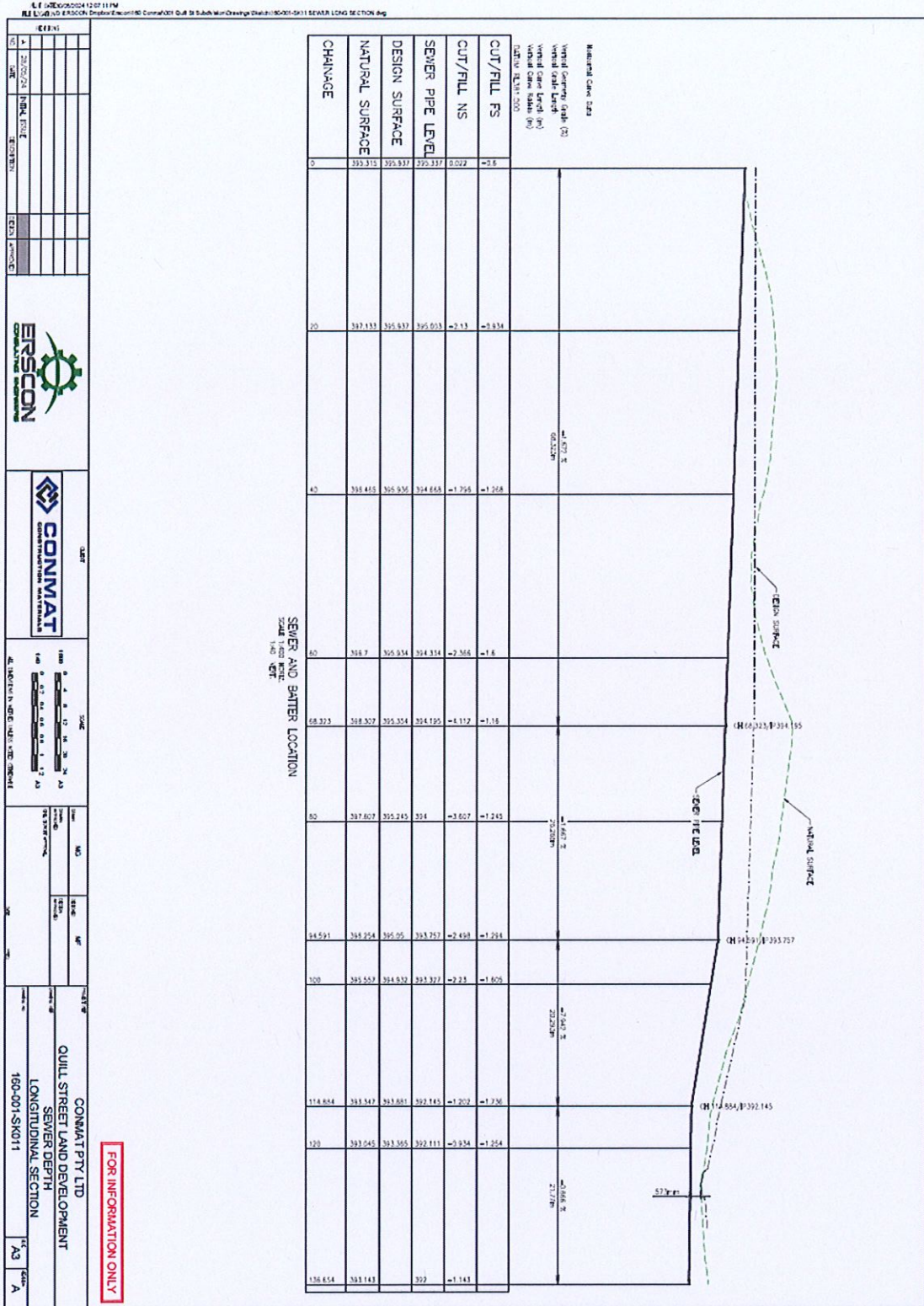
**INSTALLATION**

1. REFER TO APPROVED PLAN FOR LOCATION AND REQUIRED TYPE OF FABRIC. IF THERE IS A CHANGE OF PROFILES WITHIN THE BLOCK, ERECT FABRIC TOE OF VARIOUS INSTALLATION LENGTHS TO ACCOMMODATE CHANGING PROFILES.
2. TO THE MAXIMUM PERMITTED, INSTALL THE FABRIC ALONG THE FENCE LINE.
3. TYPICALLY SPACING SUPPORT POSTS AS SHOWN.
4. AVOID A LINE OF CONTACT BETWEEN ADJACENT FABRIC PANELS.
5. AT LEAST 50mm FROM THE FACE OF ANY PILING OR DRIVING THAT MAY RESULT IN SPLITTING OR CUTTING THE FABRIC.
6. INSTALL FABRIC WITHIN THE FENCE AT MAXIMUM 200mm INTERVALS IF THE FABRIC IS INSTALLED ALONG THE CONTROL OF THE FENCE OR MAXIMUM SPACING INTERVALS IF THE FABRIC IS INSTALLED AT AN ANGLE TO THE CONTROL. THE SPACING SHALL CORRESPOND TO THE CONTROL.
7. SUPPORT POSTS SHALL BE LOCATED AT LEAST 1.5m FROM THE FACE OF THE FABRIC.
8. SPACING OF SUPPORT POSTS SHALL BE A MINIMUM 1/3 AND MAXIMUM 1/2 FENCE HEIGHT AND ELEVATION AND SPACING ALONG THE FENCE.
9. ENSURE THE FABRIC IS STRETCH TIGHT UPON THE SLOPE AT LEAST 100mm, OR AS NECESSARY, TO AVOID ANY BULGES ALONG THE FENCE.
10. ENSURE THE FABRIC IS INSTALLED IN A MANNER THAT AVOIDS THE CONCENTRATION OF FLOW ALONG THE FABRIC AND THE UNDESIRABLE FORMATION OF BULGES ALONG THE FACE OF THE FENCE.
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1:15 (SEE NOTE 1) TO THE PLAN  
ALL DIMENSIONS UNLESS OTHERWISE SPECIFIED ARE IN MILLIMETRES UNLESS INDICATED OTHERWISE

<p>ALL DIMENSIONS UNLESS OTHERWISE SPECIFIED ARE IN MILLIMETRES UNLESS INDICATED OTHERWISE</p>											

APPROVED FOR CONSTRUCTION



## 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 an 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.