



19 November 2020

SND Developers Pty Ltd  
C/- Freshwater Planning Pty Ltd  
17 Barron View Drive  
FRESHWATER QLD 4870

Senior Planner: Brian Millard  
Direct Telephone: 4086 4657  
Our Reference: MCU/18/0019  
Your Reference: F18/20

Dear Applicant/s

## **Minor Change to an Existing Approval** ***Planning Act 2016***

I refer to your request to make a minor change to an existing approval issued on 21 November 2018. On 18 November 2020, Council decided your requested changes.

Details of the decision are as follows:

### **APPLICATION DETAILS**

|                            |  |
|----------------------------|--|
| Application No:            | MCU/18/0019                                |
| Street Address:            | 28 Keeble Street, Mareeba                  |
| Real Property Description: | Lot 71 on SP136296                         |
| Planning Scheme:           | Mareeba Shire Council Planning Scheme 2016 |

### **DECISION DETAILS**

The following type of approval had been issued:

Development Permit for Material Change of Use - Short-term Accommodation

In relation to the request to make a change to the existing approval, Council decided to:

- A. Approve a change to the Approved Plans.
- B. Approve a change to condition 4.4.

### **CURRENCY PERIOD OF APPROVAL**

This development approval has commenced.

**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*.

**CONSOLIDATED ASSESSMENT MANAGER CONDITIONS****(A) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)****(a) Development assessable against the Planning Scheme**

1. Development must be carried out generally in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
  - found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
  - to ensure compliance with the following conditions of approval.
2. Timing of Effect
  - 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.
  - 2.2 Prior to the commencement of use, the applicant must notify Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.
  - 2.3 Prior to the commencement of use, the applicant must provide a letter from the Department of State Development, Manufacturing, Infrastructure and Planning confirming that the department is satisfied their conditions are complied with and/or that the department has no objections to the commencement of the use.
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 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 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 The use, including the unloading or loading of goods, is not to include the use of any sound projecting objects or systems that may cause a nuisance to adjoining properties.

### 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, 1.8m high solid fence or building.

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

The total number of people accommodated by the approved development at any one time must not exceed 148 persons, exclusive of the on-site manager.

- 3.7 No amplified entertainment above 75dB(C) shall be carried out on the subject land.

### 3.8 Privacy

Any windows on the western side of the managers unit must be screened using fixed external blinds/screens so that no windows have direct views into Lots 72 to 74 on SP136296.

### 3.9 Amenity

All building materials and colours to be used must be non-reflective and be generally in accordance with the approved plans to the satisfaction of Council's delegated officer.

### 3.10 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.

## 4. Infrastructure Services and Standards

### 4.1 Access

A **Commercial** access crossover must be constructed (from the edge of the road pavement to the property boundary of the subject lot) 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. The Stormwater Management Plan and Report must detail the stormwater drainage for the whole of the development.

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 - Keeble Street

The developer is required to construct the following works, designed in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer:

- (a) The developer is to construct kerb and channel on the development side of Keeble Street for the full frontage of the subject land;
- (b) The applicant is to widen the existing asphalt seal on Keeble Street to the kerb and channel required by Condition 4.3(a);
- (c) A concrete footpath minimum of 2.0m width must be constructed along the development side of Keeble Street for the full frontage of the subject land;
- (d) Signage and line marking as per the Department of Transport and Main Roads Manual of Uniform Traffic control Devices (MUTCD);
- (e) Footpath earthworks, topsoiling and turfing reinstatement of all disturbed footpath areas;
- (f) Adjustments and relocations necessary to public utility services resulting from these works;

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

#### 4.4 Car Parking/Internal Driveways

The developer must ensure that the development is provided with a minimum of 25 on-site car parking spaces, two (2) 22 seater bus parking bays and eight (8) bicycle parking spaces which are available solely for the parking of vehicles associated with the use of the premises.

**Car parking spaces 17, 24 and 25 may be left as greenspace/landscaping until such time as there is a demonstrated need for further on site car parking spaces, to the satisfaction of Council's delegated officer. If a need for further on site car parking is demonstrated, the developer must construct car parking spaces 17, 24 and 25 within three (3) months of receiving a written direction from Council to construct these car parking spaces.**

All car parking spaces and internal driveways/vehicle manoeuvring areas must be concrete, asphalt or bitumen 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:

- Australian Standard AS2890:1 Off Street Parking – Car Parking Facilities;
- Australian Standard AS1428:2001 – Design for Access and Mobility;
- Australian Standard AS2890.3 – Bicycle Parking Facilities.

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

#### 4.5 Landscaping

4.5.1 The development must be landscaped in accordance with an approved landscape plan.

4.5.2 Prior to the issue of the development permit for operational works, a detailed landscape plan, must be prepared for the site and submitted to Council's delegated officer for consideration and approval.

4.5.3 The landscape plan must demonstrate compliance with the Landscaping Code. Plant species are to be generally selected from the Plant Schedule in Planning Scheme Policy 6 - Landscaping and preferred plant species.

4.5.4 The landscaping plan must incorporate the following:

- landscaping strips within the subject land, along the Keeble Street frontage and all side and rear boundaries.
- Trees that will grow to provide shade must be planted throughout the car park area and around its perimeter at the rate of one (1) tree per ten (10) car parking spaces or part thereof; or shade structures are provided over 40% of the car parking spaces.

4.5.5 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.

4.5.6 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 Fencing

Prior to the commencement of the use, the applicant/developer must erect a 1.8 metre high, neutral colour, timber paling fence along the full southern and western boundaries of the subject land.

The fencing must comply with Queensland Rail drawing number QR-C-S3231 - 'Standard Timber Fence 1800mm High Timber Paling Fence'.

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.

#### 4.7 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.

#### 4.8 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) Prior to the issue of a development permit for operational works, the developer must submit engineering plans and specifications for the connection of the development to Council's reticulated water supply system demonstrating compliance with Condition 4.8(a).

The engineering plans and specifications for the connection, including any requirement for onsite firefighting storage, must be accompanied by an engineering report demonstrating that Council's existing infrastructure will be able to provide the minimum acceptable standard of service for water reticulation.

- (c) 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.

#### 4.9 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.

#### REFERRAL AGENCY CONDITIONS

The referral agencies applicable to this application are:

| 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>(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>Schedule 10, Part 3, Division 4, Subdivision 1, Table 1</p> | <p>State Assessment &amp; Referral Agency (SARA)<br/>Department of State Development, Manufacturing, Infrastructure and Planning<br/>PO Box 2358<br/>Cairns Qld 4870</p> <p><a href="mailto:CairnsSARA@dsdmip.qld.gov.au">CairnsSARA@dsdmip.qld.gov.au</a></p> |
| 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>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4</p> | <p>State Assessment &amp; Referral Agency (SARA)<br/>Department of State Development, Manufacturing, Infrastructure and Planning<br/>PO Box 2358<br/>Cairns Qld 4870</p> <p><a href="mailto:CairnsSARA@dsdmip.qld.gov.au">CairnsSARA@dsdmip.qld.gov.au</a></p> |



|                                      |  |  |
|--------------------------------------|--|--|
| (ii) within 100m of the intersection |  |  |
|--------------------------------------|--|--|

A copy of any referral agency conditions are attached.

### APPROVED PLANS/DOCUMENTS

The approved plans and / or documents for this development approval are listed in the following table:

| Plan/Document Number | Plan/Document Title | Prepared by  | Dated      |
|----------------------|---------------------|--------------|------------|
| 1323-A-00            | Cover Sheet         | Humac Design | -          |
| 1323-A-01B           | Site Plan           | Humac Design | 11.09.2018 |
| 1323-A-02B           | Floor Plan          | Humac Design | 11.09.2018 |
| 1323-A-03B           | First Floor Plan    | Humac Design | 11.09.2018 |
| 1323-A-04B           | Elevations          | Humac Design | 11.09.2018 |

At Council's Ordinary Meeting held on 18 November 2020, the Approved Plans were amended to the extent below:

| Plan/Document Number  | Plan/Document Title                | Prepared by                 | Dated                 |
|-----------------------|------------------------------------|-----------------------------|-----------------------|
| <del>1323-A-00</del>  | <del>Cover Sheet</del>             | <del>Humac Design</del>     | <del>-</del>          |
| <del>1323-A-01B</del> | <del>Site Plan</del>               | <del>Humac Design</del>     | <del>11.09.2018</del> |
| <del>1323-A-02B</del> | <del>Floor Plan</del>              | <del>Humac Design</del>     | <del>11.09.2018</del> |
| <del>1323-A-03B</del> | <del>First Floor Plan</del>        | <del>Humac Design</del>     | <del>11.09.2018</del> |
| <del>1323-A-04B</del> | <del>Elevations</del>              | <del>Humac Design</del>     | <del>11.09.2018</del> |
| <u>20093 Rev 6</u>    | <u>Cover Sheet &amp; Site Plan</u> | <u>Baudesign architects</u> | <u>05-11-2020</u>     |
| <u>20093 Rev 6</u>    | <u>Ground Floor Plan</u>           | <u>Baudesign architects</u> | <u>05-11-2020</u>     |
| <u>20093 Rev 6</u>    | <u>First Floor &amp; Roof Plan</u> | <u>Baudesign architects</u> | <u>05-11-2020</u>     |
| <u>20093 Rev 6</u>    | <u>Elevations</u>                  | <u>Baudesign architects</u> | <u>05-11-2020</u>     |

### 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) An Adopted Infrastructure Charges Notice has been issued with respect to the approved development. The Adopted Infrastructure Charges Notice details the type of infrastructure charge/s, the amount of the charge/s and when the charge/s are payable.

- (b) The Adopted Infrastructure Charges Notice does not include all charges or payments that are payable with respect to the approved development. 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.

- (c) 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.

- (d) Property Connection to existing sewer main

Prior to the property connection to the existing sewer main commencing, a request for a Property Connection Quotation must be lodged with Council. The cost of the required property connection will be determined based upon the assessment of the Property Connection Quotation Request.

- (e) 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.

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

- (g) 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.

- (h) 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.

- (i) Environmental Protection and Biodiversity Conservation Act 1999

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

(j) Cultural Heritage

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

(B) REFERRAL AGENCY CONDITIONS

Department of State Development, Manufacturing, Infrastructure and Planning conditions dated 15 October 2018

**FURTHER DEVELOPMENT PERMITS REQUIRED**

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

**SUBMISSIONS**

There were three (3) properly made submissions about the application. In accordance with the *Planning Act 2016*, the name, residential or business address, and electronic address of the principal submitter for each properly made submission is provided below;

| Name of principal submitter | Address                               |
|-----------------------------|---------------------------------------|
| 1. Foodpac Pty Ltd          | PO Box 60, Finch Hatton QLD 4756      |
| 2. C & S Shephard           | 3 Strattmann Street, Mareeba QLD 4880 |
| 3. T Wheatley (support)     | PO Box 1570, Mareeba QLD 4880         |

**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.

**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.

If you have any further queries in relation to the above, please contact Council's Senior Planner, Brian Millard on the above number.

Yours faithfully



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

***DECISION NOTICE HISTORY***

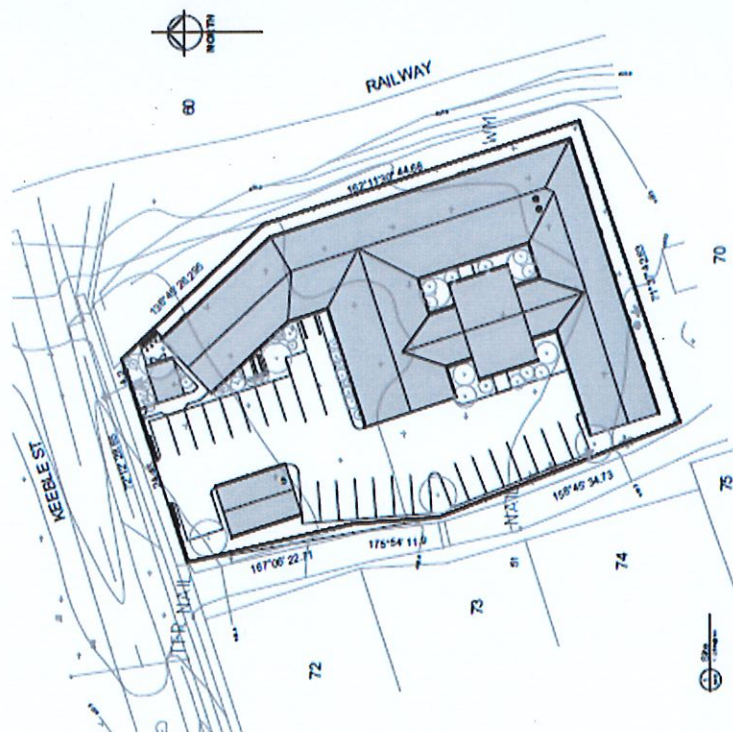
MCU/18/0019 - Original Decision Notice 21 November 2018

Encl:   Approved Plans/Documents  
          Referral Agency Response  
          Appeal Rights

Copy:   Department of State Development, Manufacturing, Infrastructure and Planning  
          [CairnsSARA@dsdmip.qld.gov.au](mailto:CairnsSARA@dsdmip.qld.gov.au)

## Amended Approved Plans/Documents

Keeble Street Backpacker Accommodation  
Mareeba



Owner: Shire of Mareeba  
Project: Keeble Street Backpacker  
Date: 1/10/2020  
Page: 6

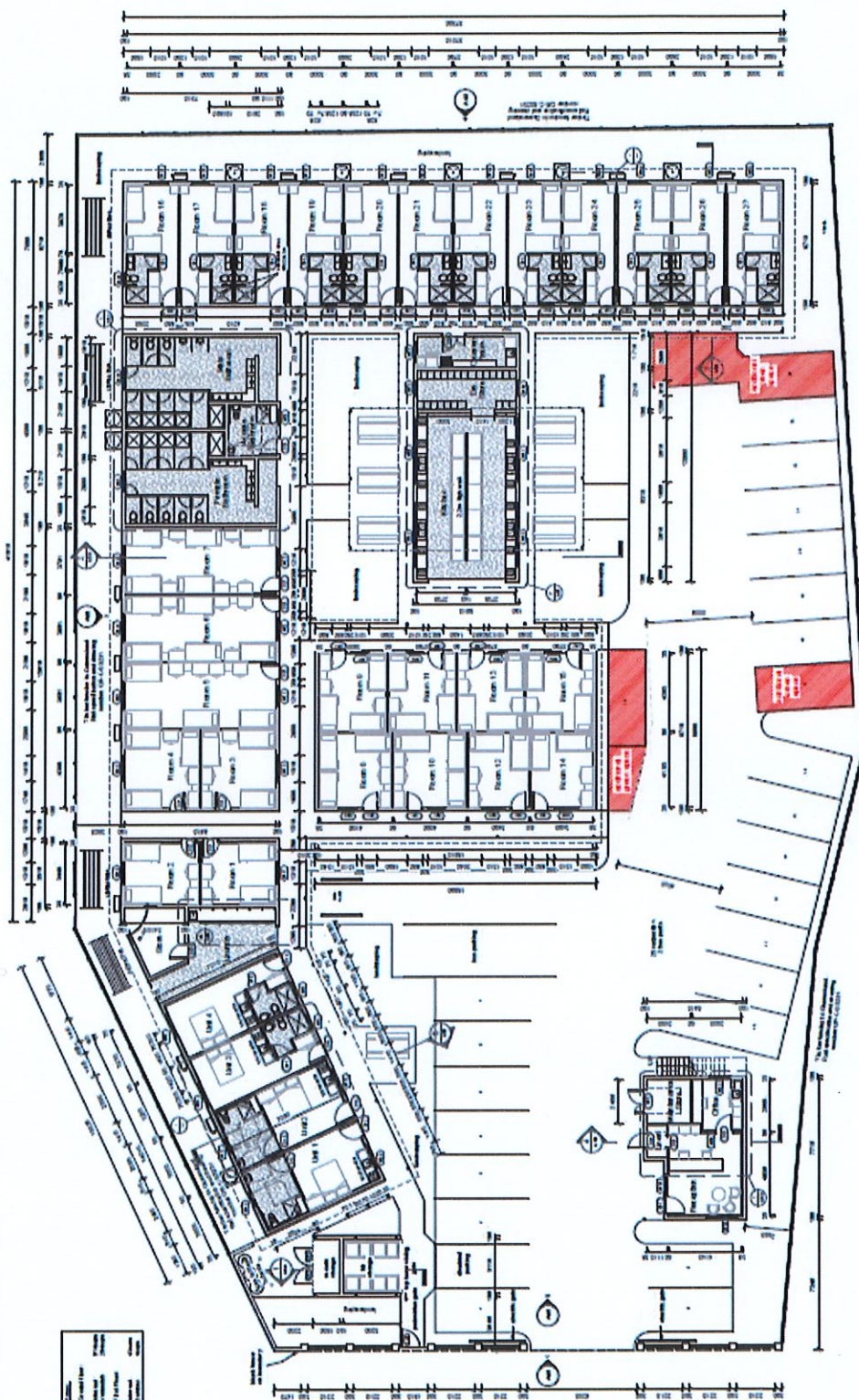
Keeble Street Backpacker

bay design  
architects  
1/10/2020



18/11/2020  
B. n. d.





Grandview Plan  
AND SCALE PROJECT RDP  
1.10.2005 6

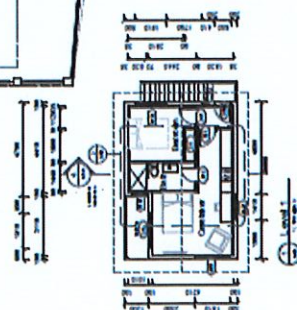
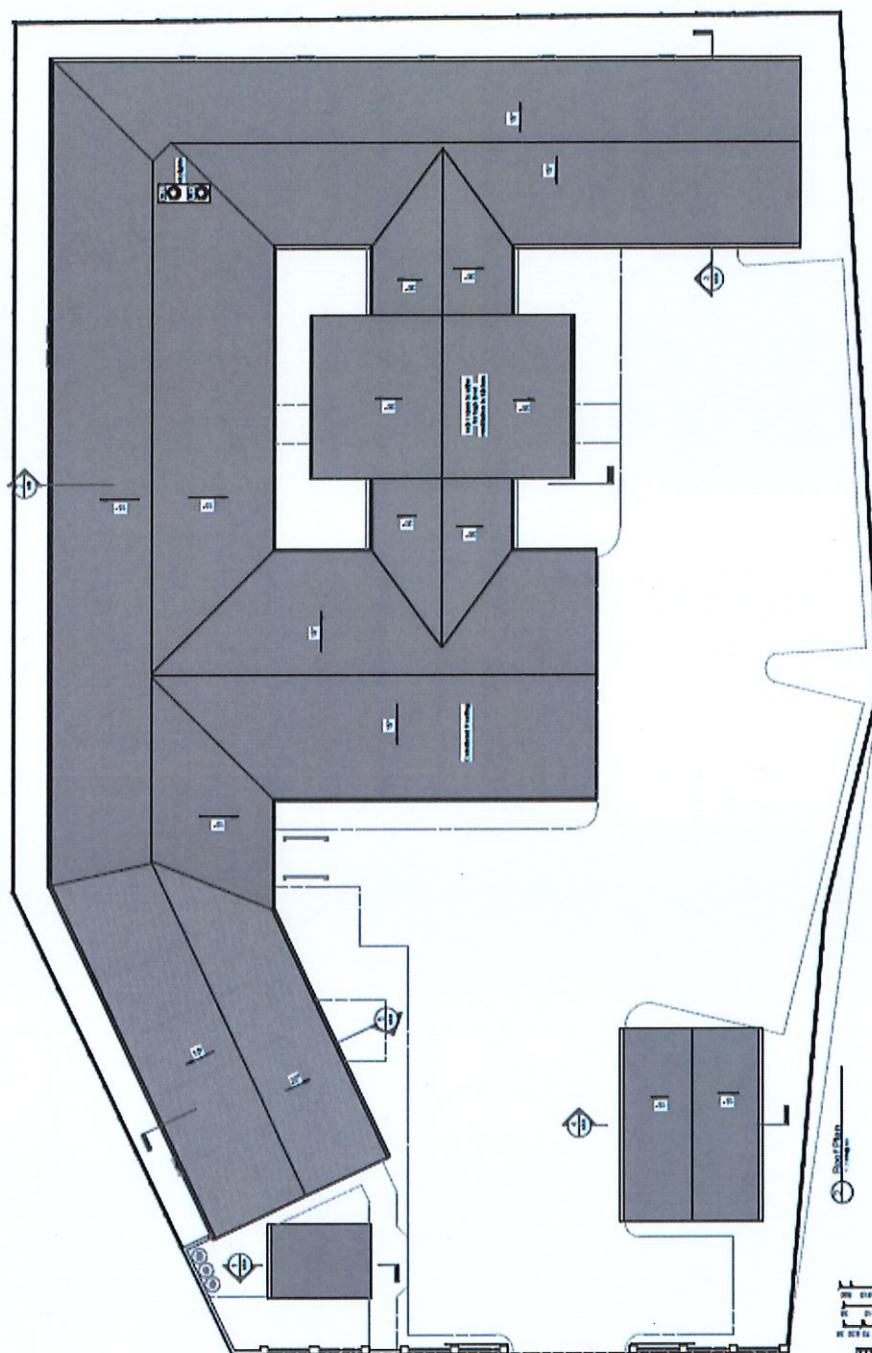
Keele Street Development

bay design  
ARCHITECTS  
1.10.2005 6



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| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 |
|---|---|---|---|---|---|---|---|---|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|

18/11/2020  
B. n. d.



First Floor & Roof Plan  
A20 SCALE: 1:100 PROJECT: RIV  
1.11.18 20.03.18

Kewle Street Development  
10.04.18

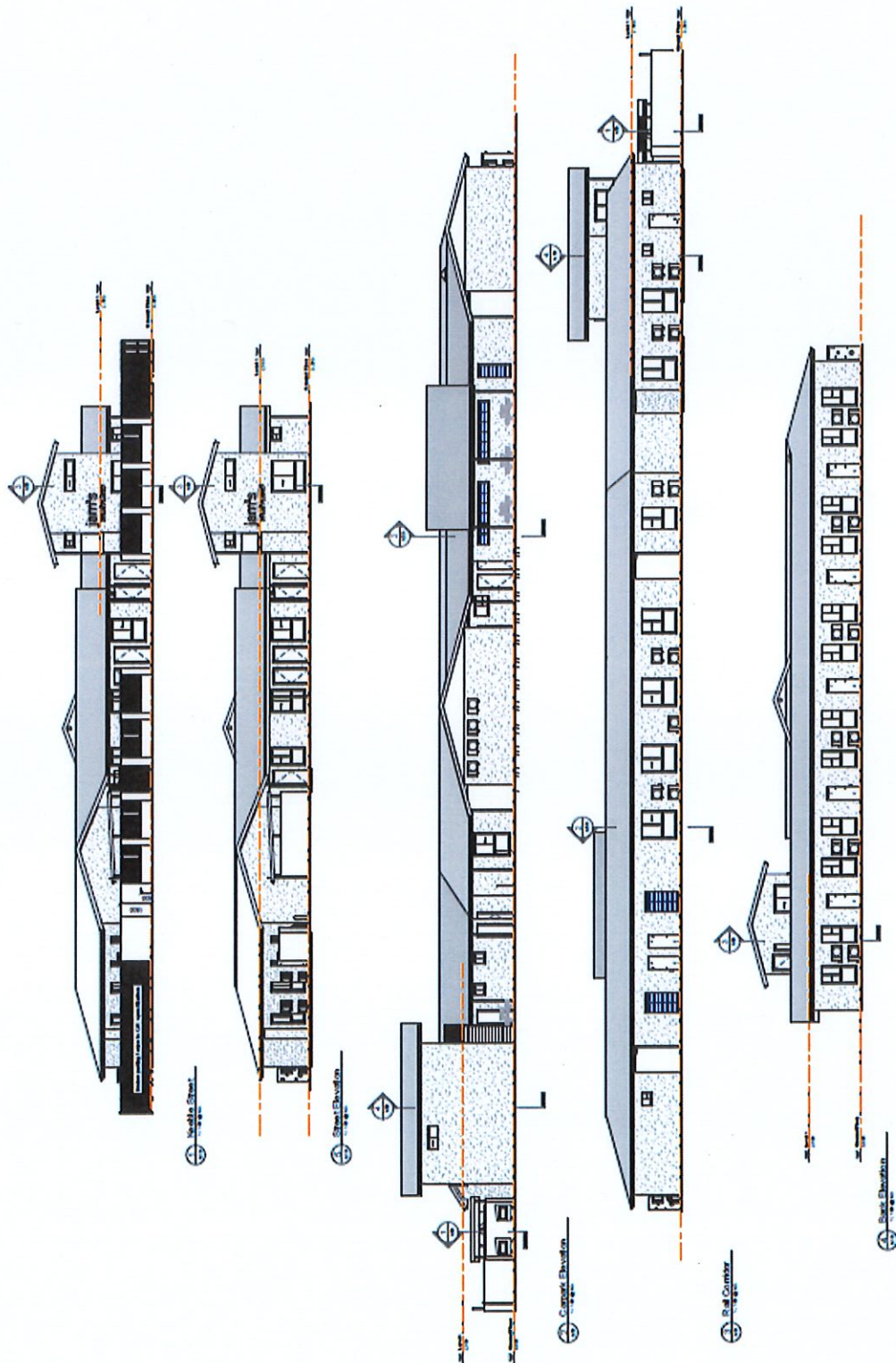
**bal design**  
architectural design  
10.04.18 20.03.18




|      |          |
|------|----------|
| DATE | 10.04.18 |
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| BY   | 10.04.18 |
| DATE | 20.03.18 |
| BY   | 20.03.18 |

18/11/2020  
B. M. [Signature]





|   |  |  |                  |                |                           |            |
|---|--|--|------------------|----------------|---------------------------|------------|
| <br><b>mareeba</b><br>shire council | <b>bay design</b><br>bay design<br>architects & interior designers<br>11/11/2020 | Mareeba Street Development<br>11/11/2020 | Elevation<br>A40 | SCALE<br>1:100 | PROJECT RIN<br>11/11/2020 | 11/11/2020 |
|   |  |  | 11/11/2020       | 11/11/2020     | 11/11/2020                | 11/11/2020 |

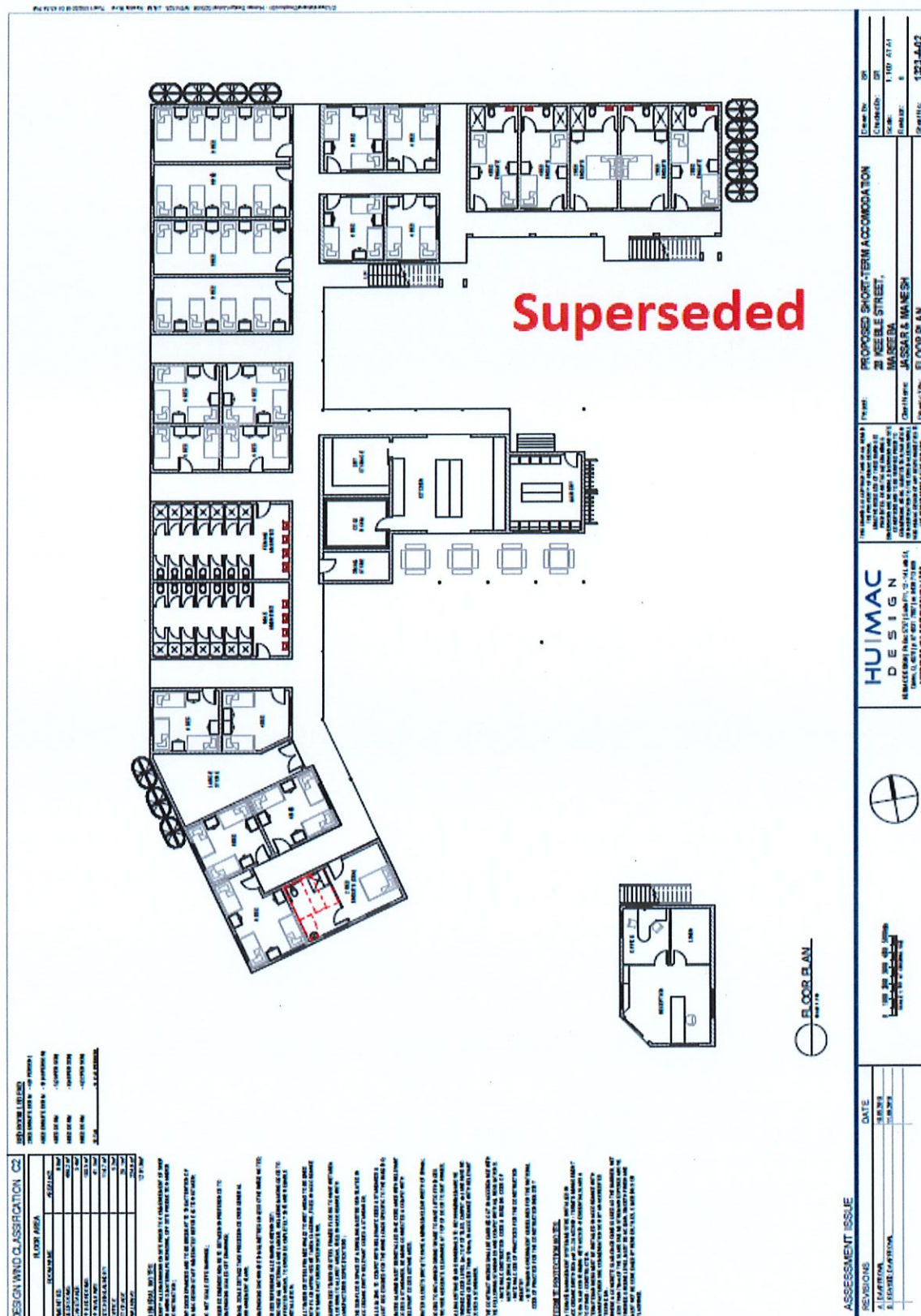
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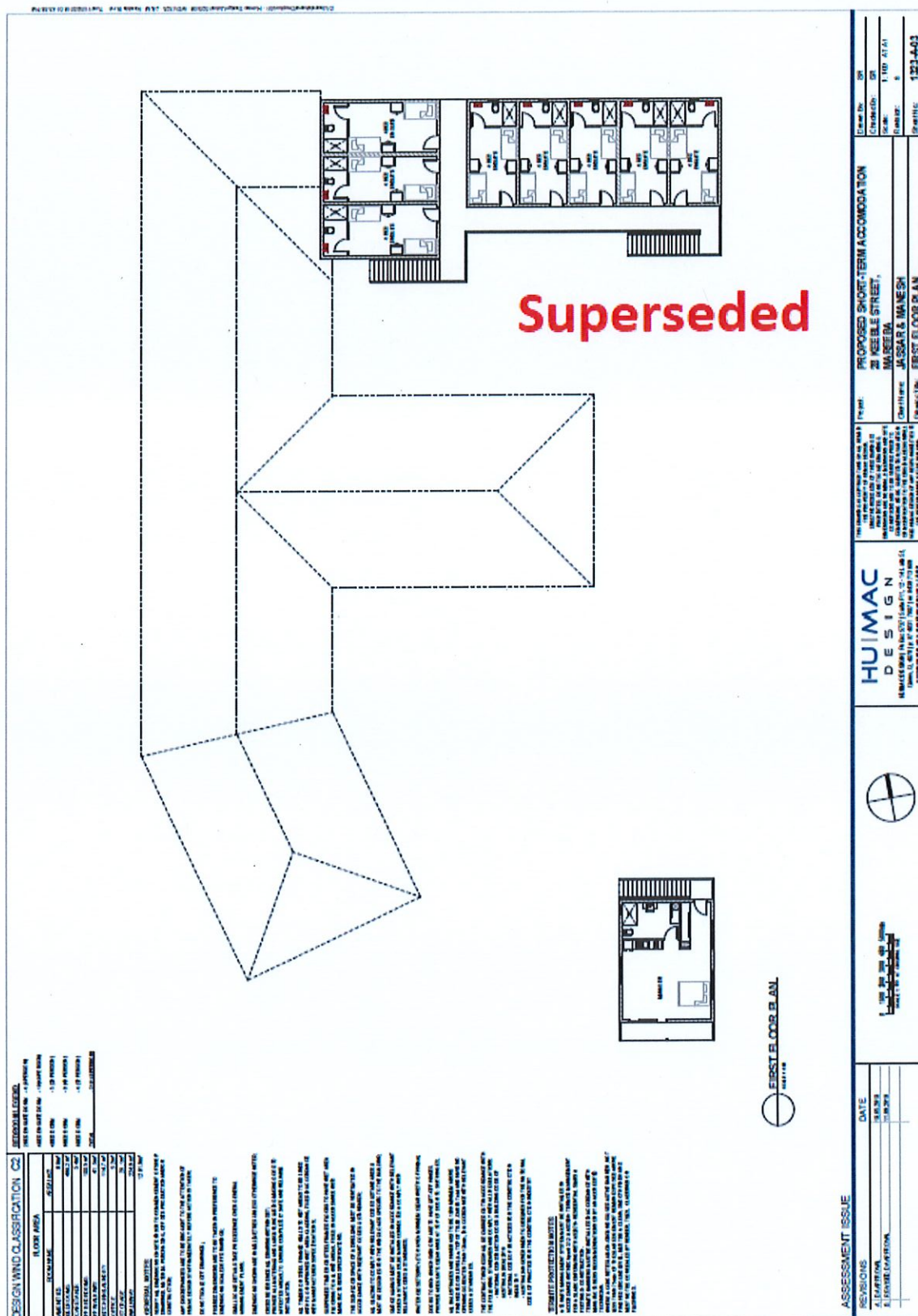
















## Referral Agency Response

RA5-N



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

Our reference: 1808-6658 SRA  
Your reference: MCU/18/0019

15 October 2018

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

Attention: Carl Ewin

Dear Sir/Madam,

**Referral agency response—with conditions**  
(Given under section 58 of the *Planning Act 2016*)

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning on 8 August 2018.

### Applicant details

|                            |   |
|----------------------------|---|
| Applicant name:            | SND Developers Pty Ltd<br>C/- Freshwater Planning Pty Ltd                     |
| Applicant contact details: | 17 Barron View Drive<br>Freshwater QLD 4870<br>freshwaterplanning@outlook.com |

### Location details

|                            |                           |
|----------------------------|---------------------------|
| Street address:            | 28 Keeble Street, Mareeba |
| Real property description: | Lot 71 on SP136296        |
| Local government area:     | Mareeba Shire Council     |

### Application details

|                    |   |
|--------------------|---|
| Development permit | Material Change of Use for Short-term Accommodation |
|--------------------|---|

### 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

Fitzroy/Central regional office  
Level 2, 209 Bolsover Street,  
Rockhampton  
PO Box 113, Rockhampton QLD 4700

1808-6659 SRA

**Conditions**

Under section 58(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 applicant**

The department offers advice about the application to the applicant—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 |              |            |               |               |
| Site Plan (as amended in red)                 | HUMAC Design | 11/09/2018 | 1323-A-01     | B             |

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

For further information please contact Haidar Etemadi, Planning Officer, on (07) 4924 2915 or via email [RockhamptonSARA@dsdmip.qld.gov.au](mailto:RockhamptonSARA@dsdmip.qld.gov.au) who will be pleased to assist.

Yours sincerely



Anthony Walsh  
Manager Planning

cc Freshwater Planning Pty Ltd, [freshwaterplanning@outlook.com](mailto:freshwaterplanning@outlook.com)

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



1808-6659 SRA

Attachment 1—Conditions to be imposed

| No.  | Conditions   | Condition timing   |
|--|--|--|
| <b>Material change of use</b>  |  |  |
| State transport infrastructure and railway corridor—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department 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): |  |  |
| 1.   | The setback from the railway corridor must be provided generally in accordance with the following plan: <ul style="list-style-type: none"> <li>Site Plan prepared by HUMAC Design dated 11 September 2018, reference 1323-A-01 and revision B, as amended in red to show the setback extent from the railway corridor boundary.</li> </ul>   | Prior to the commencement of use and to be maintained at all times.                            |
| 2.   | Any excavation, filling/backfilling/compaction, retaining structures, batters, stormwater management measures and other works involving ground disturbance must not encroach upon or de-stabilise the railway corridor, including all transport infrastructure or the land supporting this infrastructure, or cause similar adverse impacts.   | At all times.  |
| 3.   | <p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the railway corridor.</p> <p>(b) Any works on the land must not:</p> <ul style="list-style-type: none"> <li>(i) create any new discharge points for stormwater runoff onto the railway corridor;</li> <li>(ii) interfere with and/or cause damage to the existing stormwater drainage on the railway corridor;</li> <li>(iii) surcharge any existing culvert or drain on the railway corridor;</li> <li>(iv) reduce the quality of stormwater discharge onto the railway corridor.</li> </ul> <p>(c) RPEQ certification with supporting documentation must be provided to the Program Delivery and Operations Unit, Department of Transport and Main Roads, Far North Queensland Region (Far.North.Queensland.IDAS@tmr.qld.gov.au) confirming that the development has been constructed in accordance with parts (a) and (b) of this condition.</p> | <p>(a) At all times.</p> <p>(b) At all times.</p> <p>(c) Prior to the commencement of use.</p> |
| 4.   | Fencing must be provided along the eastern, western and southern site boundaries with the railway corridor in accordance with: <ul style="list-style-type: none"> <li>Queensland Rail drawing number QR-C-S3231 – 'Standard Timber Fence 1800mm High Timber Paling Fence', or</li> <li>Queensland Rail drawing number QR-C-S3230 – 'Standard – Fencing 1.8m High Chain Link Security Fence without Rails'.</li> </ul>  | Prior to the commencement of use and to be maintained at all times.                            |



1805-6559 SRA

**Attachment 2—Reasons for decision to impose conditions**

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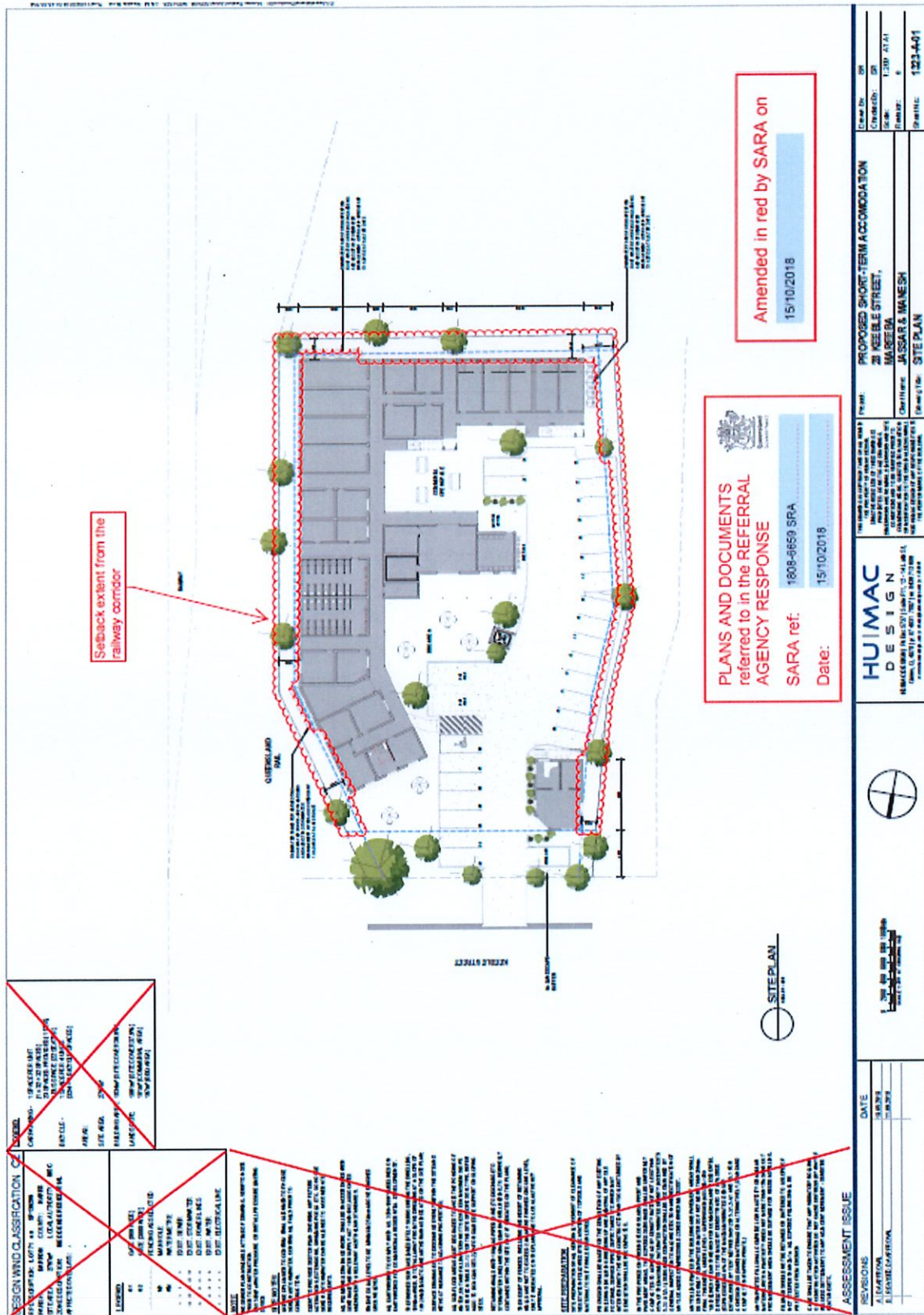
The reasons for this decision are to ensure:

- the development is setback from the railway corridor generally in accordance with the plans of development submitted with the application
- the development and its construction does not cause adverse structural impacts on state-transport infrastructure
- that the impacts of stormwater events associated with development are minimised and managed to avoid creating any adverse impacts on the state-transport corridor
- that there is no unauthorised access onto the transport corridor and to protect impacts on the transport corridor.

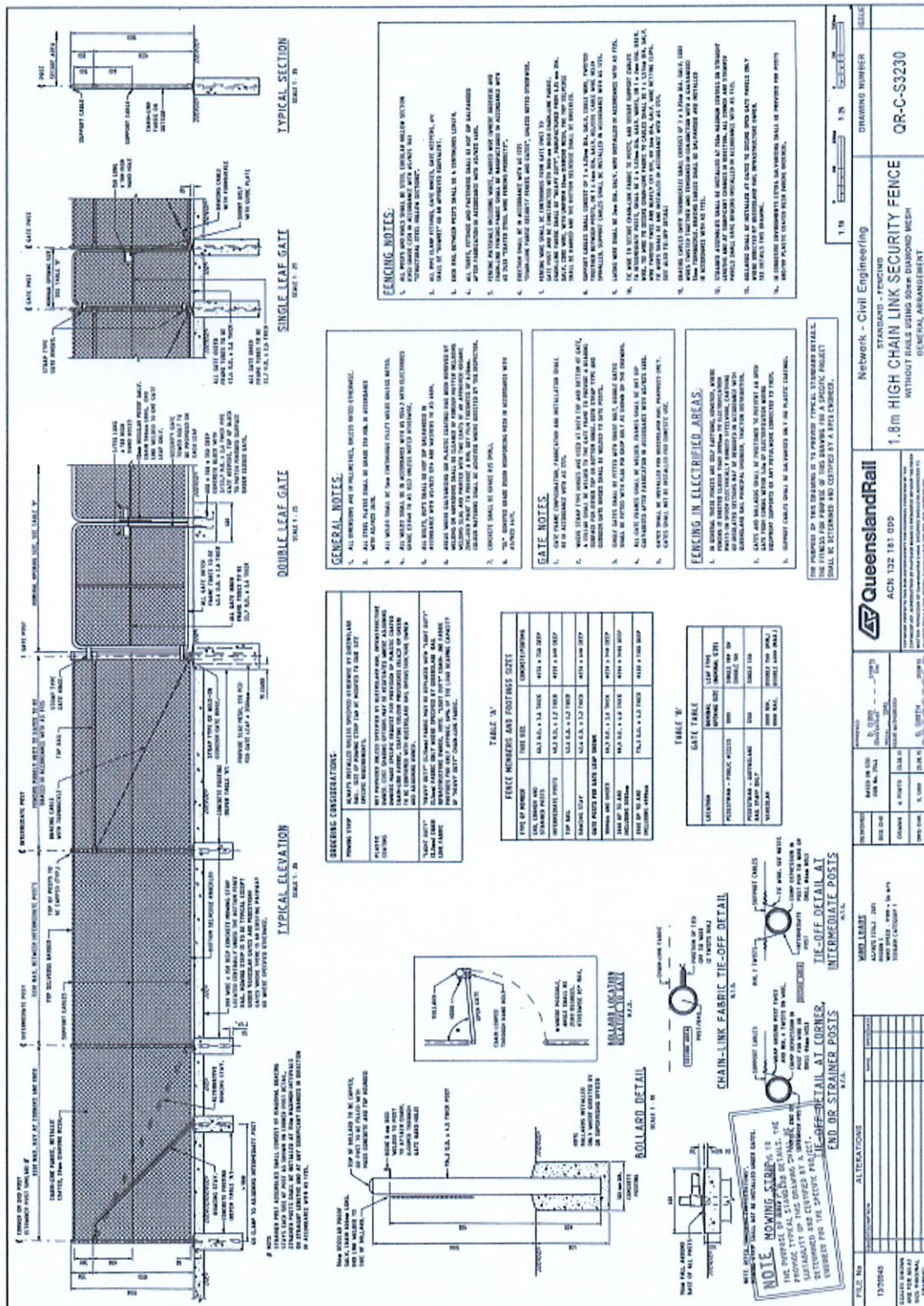
1808-6659 SRA

Attachment 3—Advice to the applicant

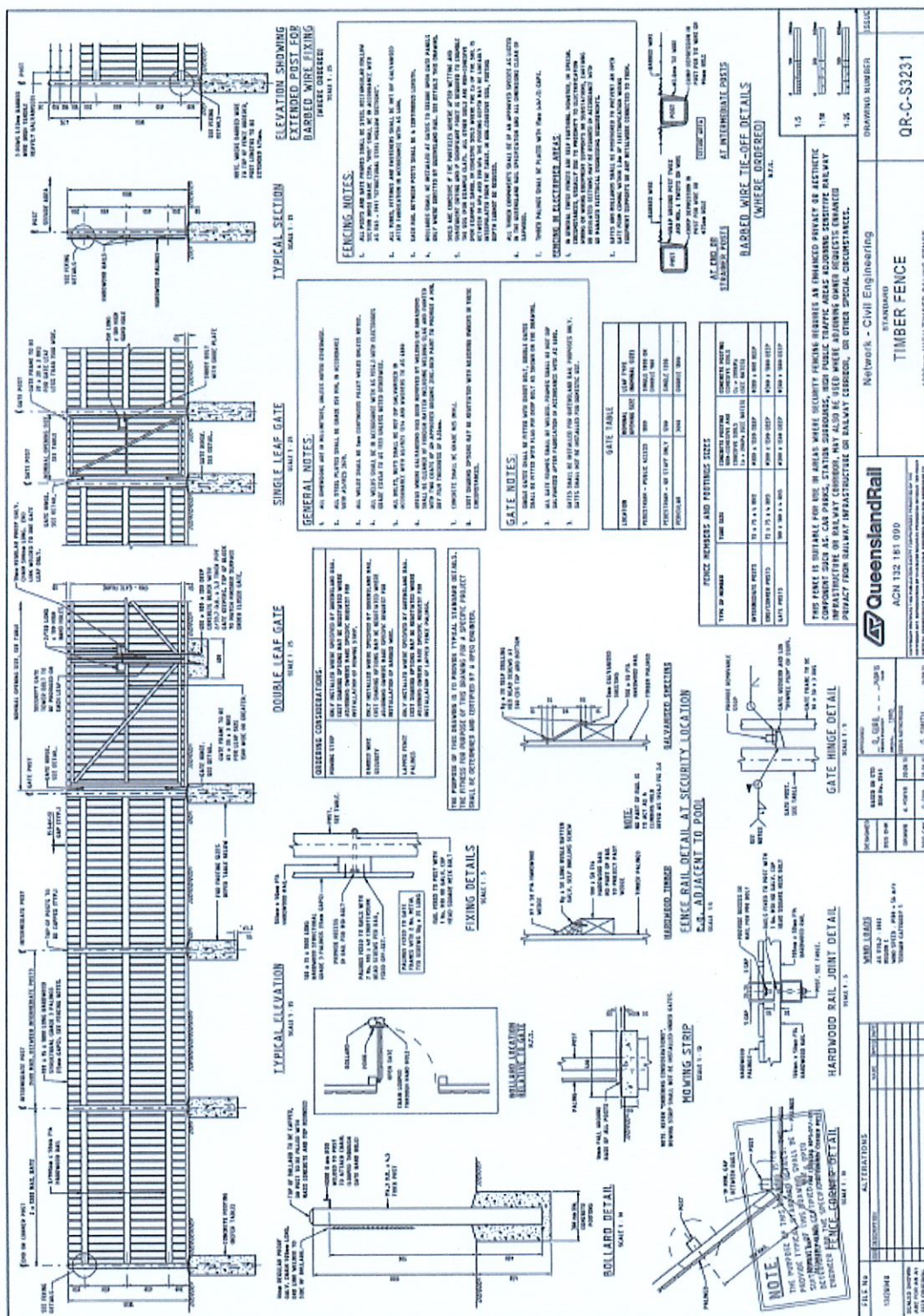
| <b>Transport Infrastructure Act 1994 – Works on a railway</b> |  |
|---|--|
| 1.  | <p>Under section 255 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the railway manager to carry out works in or on a railway corridor or otherwise interfere with the railway or its operations. Please contact the Queensland Rail Property Team at <a href="mailto:developmentenquiries@qr.com.au">developmentenquiries@qr.com.au</a> or on telephone number (07) 3072 1068 in relation to this matter.</p> <p>In particular, the applicant should contact Queensland Rail regarding the removal and installation of fencing along the site boundary with the railway corridor and any service/utility connections required in the railway corridor.</p> <p>Please be advised that this concurrence agency response does not constitute an approval under section 255 of the <i>Transport Infrastructure Act 1994</i> and that such approvals need to be separately obtained from the relevant railway manager.</p> |











## 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.