

Council File Reference: 441718
Council Contact: Brett Walsh
Council Contact Phone: 07 4651 5600

21 August 2018

Mr Joshua and Mrs Carey Kelly
c/- Mr Scot Stewart
59 St Catherines Tce
WYNNUM QLD 4178

Email: ssplanning@ozemail.com.au

Development Application

Development Permit - Reconfiguring a Lot (Access Easement)

Lot 23 on R5725, 57114 Capricorn Highway, Barcaldine

We refer to the assessment of the abovementioned development application.

Pursuant to section 83 of the *Planning Act 2016*, please find enclosed the **Decision Notice**.

If you have any queries please contact Brett Walsh at the Barcaldine Administration Office.

Yours faithfully



✓ **Steven Boxall**
Chief Executive Officer

DECISION NOTICE APPROVAL

PLANNING ACT 2016, SECTION 63

I refer to your application and advise that on 15 August 2018, Barcaldine Regional Council decided to approve the application in full, subject to conditions (refer to the conditions contained in **Attachment 1**). Details of the decision are as follows:

1. APPLICATION DETAILS

Application Number: 441718
Properly Made Date: 11 May 2018
Decision Date: 15 August 2018
Planning Scheme: Barcaldine Shire Planning Scheme 2006
(Version 2)

2. APPLICANT DETAILS

Name: Mr Joshua and Mrs Carey Kelly
Postal Address: C/- Mr Scot Stewart
59 St Catherines Tce
WYNNUM QLD 4178
Email Address: ssplanning@ozemail.com.au

3. PROPERTY DETAILS

Street Address: 57114 Capricorn Highway, Barcaldine
Real Property Description: Lot 23 on R5725
Local Government Area: Barcaldine Regional Council

4. DECISION DETAILS

The following type of approval has been issued:

- Development Permit for Reconfiguring a Lot (Access Easement)

5. APPROVED PLANS AND DOCUMENTS

A copy of the following plan is enclosed:

Plan Title	Prepared by	Date
Overview Plan of Access Arrangement	Reel Planning CQ on behalf of Barcaldine Regional Council	25-07-2018
Plan of Easement A in Lot 23 on R5725	Hoffmann Surveyors Pty Ltd	22-01-2018

6. CURRENCY PERIOD

This development approval will lapse at the end of the period set out in section 85 of the *Planning Act 2016*: for any part of the development approval relating to reconfiguring a lot—if a plan for the reconfiguration that, under the Land Title Act, is required to be given to a local government for approval is not given to the local government within—

- (i) the period stated for that part of the approval; or
- (ii) (ii) if no period is stated—4 years after the approval starts to have effect;

7. PROPERLY MADE SUBMISSIONS

Not applicable - the application was Code Assessable development and therefore no part of the application required public notification.

8. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

Referral Agency	Referral Matter	Referral Role
Chief Executive - Department of State Development, Manufacturing, Infrastructure and Planning Mackay Isaac Whitsunday Region Office PO Box 257 MACKAY QLD 4740 Ph: (07) 4898 6888 Email: MIWSARA@dsmip.qld.gov.au MyDAS2 online referrals: https://prod2.dev-assess.qld.gov.au/suite/	Schedule 10, Part 8, Division 2, Subdivision 3, Table 1, Item 1 (Heritage Places)	Concurrence
	Schedule 10, Part 3, Division 4, Table 2, Item 1 (Clearing Native Vegetation)	Concurrence

9. FURTHER DEVELOPMENT PERMITS REQUIRED

Not applicable – no further development permits are required.

10. RIGHTS OF APPEAL

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016* (included in the attachment to this decision notice). For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

11. DELEGATED PERSON

Name: *Brett Walsh* Signature: *[Handwritten Signature]* Date: 21 August 2018

Enc: Attachment 1 – Conditions of the approval
Part 1 – Conditions imposed by the assessment manager
Part 2 – Conditions required by the referral agency response
Attachment 2 – Stamped Approved Plans
Attachment 3 – Extract of Appeal Provisions (Chapter 6, Part 1 and Schedule 1 of the *Planning Act 2016*)

Attachment 1 – Conditions of the approval

Part 1 – Conditions imposed by the assessment manager

1.0 ENDORSEMENT OF SURVEY PLAN

1.1 Submit to Council a Survey Plan for endorsement, in accordance with the approved plan except where modified to comply with the conditions of approval. Council will not endorse or release the Survey Plan for this development until such time as:

- 1.1.1 All conditions attached to this development approval for Reconfiguring a Lot have been fully satisfied; and
- 1.1.2 A statement demonstrating compliance with all conditions attached to this development approval has been submitted to Council; and
- 1.1.3 All outstanding rates and charges relating to the site have been paid; and
- 1.1.4 A copy of the signed easement documents is provided to Council at the time of submitting the Plan of Survey for endorsement.

1.2 Where a condition requiring infrastructure upgrades or works has not been carried out to Council's satisfaction, Council may consider accepting a bond for the incomplete works. The bond shall be 150% of the value of the works to be completed.

2.0 EASEMENT DOCUMENTATION

2.1 Submit to and have approved by Council documentation in relation to the approved access easement.

2.2 The easement documentation must include terms that permits permanent access for the carrying out of any maintenance works to the unnamed road between Lot 27 on R5725 and Lot 7 on SP252194 at all times.

2.3 The easement must be located generally in accordance with the approved plan. A copy of the signed easement documents must be provided to Council at the time of submitting the Plan of Survey for endorsement.

3.0 COMPLIANCE TIMING

3.1 Complying with all conditions of this development approval at no cost to Council and prior to Council's endorsement of any Survey Plan (i.e. Plan of Survey) unless otherwise stated in a specific condition.

4.0 APPROVED PLANS AND DOCUMENTS

4.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this development approval:

Plan Name	Prepared By	Date
Overview Plan of Access Arrangement	Reel Planning on behalf of Barcaldine Regional Council	25-07-2018

Plan of Easement A in Lot 23 on R5725	Hoffman Surveyors Pty Ltd	22-01-2018
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4.2 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.

5.0 EXTERNAL ROADWORKS

5.1 Design and construct Road A between the intersection of Braeside Road and to the frontage of Lot 23 on R5725 to a 'Formed Track' standard in accordance with the *Lower Order Road Design Guidelines*, published by the Institute of Public Works Engineering Australasia, Queensland and more specifically include the following:

- 5.1.1 A minimum traffic lane width of 4.0 metres unsealed formation with a maximum cross-fall of 4 percent.
- 5.1.2 A minimum 2.5 metre wide clear zone along both sides of the traffic lane.
- 5.1.3 All-weather access shall be provided with the works.
- 5.1.4 All associated drainage works (including table drains and culverts) shall be provided with the works.
- 5.1.5 Carriageway (i.e. traffic lane) transitions between the existing Braeside Road shall be provided with the works.
- 5.1.6 The existing gate must be signed at least 60 metres in advance with a yellow diamond GATE warning sign.

5.2 Design and construct Road B between the secondary frontage of Lot 23 on R5725 and the frontage of Lot 7 on SP252194 to a 'Formed Track' standard in accordance with the *Lower Order Road Design Guidelines*, published by the Institute of Public Works Engineering Australasia, Queensland and more specifically include the following:

- 5.2.1 A minimum traffic lane width of 4.0 meters unsealed formation with a maximum cross-fall of 4 percent.
- 5.2.2 A minimum 2.5 metre wide clear zone along both sides of the traffic lane.
- 5.2.3 All-weather access shall be provided with the works.
- 5.2.4 Floodway treatments including culverts and crossings are provided at points along the track where water courses (i.e. Lagoon Creek) cross the track and shall be provided with the works.
- 5.2.5 Flood warning signage and flood depth indicators are to be provided with the works.
- 5.2.6 All associated drainage works (including table drains and culverts) shall be provided with the works.

5.3 The design and construction of the external roadworks are to be provided at no cost to Council.

6.0 INTERNAL ROADWORKS

6.1 Construct the full length of the access easement on Lot 23 on R5725 to a 'Formed Track' standard in accordance with the *Lower Order Road Design Guidelines*, published by the Institute of Public Works Engineering Australasia, Queensland.

Further Advice

Council will waive the minimum cross-fall requirement under the Formed Track standard.

- 6.2 The design and construction of the internal roadworks are to be provided at no cost to Council.

7.0 ENGINEERING CERTIFICATION

- 7.1 A Registered Professional Engineer of Queensland (RPEQ-Civil) shall certify engineering drawings and specifications for all engineering work, which shall be submitted in conjunction with an application for a Development Permit for Operational Work.

8.0 GATE

- 8.1 The existing Gate located in the unnamed road referred to as 'Road A' on the approved plans must be retained.

Further Advice

Any alteration to the existing gate may an application under the Council's Local Laws and require Council approval.

9.0 ALTERNATIVE EMERGENCY ACCESS

- 9.1 The applicant shall ensure that temporary vehicle access is available directly to the Capricorn Highway during emergency events. The applicant must provide Council with written evidence of the temporary emergency access arrangements prior to Council approving the plan of subdivision. Should the temporary emergency access arrangements change, the applicant must advise Council in writing.

Further Advice

The applicant must provide the written consent of adjoining property owner/s confirming that temporary vehicular access is available directly to the Capricorn Highway during emergency events as a means of satisfying this condition.

A property note will be placed on Council's rate records for Lot 7 on SP252194 to create awareness that during a natural disaster event (such as a flood) the property has an alternative emergency access to the Capricorn Highway.

10.0 NEW RURAL ADDRESS AND STREET NAMING

- 10.1 Submit to and have approved by Council a request for rural address that reflects the approved access.
- 10.2 Submit to and have approved by Council a request for naming the unnamed road or concurrently with any application to Council for operational works for constructing the unnamed road. The request must include:
- 10.2.1 a minimum of 3 proposed names;
 - 10.2.2 the reasons for the selection of the proposed names;
 - 10.2.3 proposed names that;
 - a. are not offensive, profane or racist;
 - b. are not the name of another road in the local government area;
 - c. are not difficult to spell;

- d. allow for logical and unambiguous street numbering;
- e. are single names rather than double or hyphenated names; and
- f. enable Emergency Services to readily locate properties.

11.0 CONSTRUCTION ACTIVITIES

- 11.1 Construction work that makes or causes audible noise must only be carried out onsite on Mondays through to Saturdays between the hours of 6:00am and 6:00pm. Any construction works outside of these hours, including Sundays and public holidays must have prior written approval of the Chief Executive Officer, or delegate.
- 11.2 The construction of all works associated with the proposal shall be supervised by a registered professional engineer of Queensland (RPEQ-Civil) whose appointment shall require the approval of the Chief Executive Officer or delegate. On completion of the works the applicant / owner shall give the Council a Certificate from the engineering stating that the work of constructing the operational works has been completed in accordance with the plans and specification approved by Council.
- 11.3 Erosion control and silt collection measures are designed in accordance with the *International Erosion Control Association (Australasia) Best Practice Erosion and Sediment Control Guidelines (2008)*. Install, monitor and amend where necessary the erosions and sediment control measures during the construction phase of development to ensure that all reasonable and practicable measures are taken to prevent environmental harm.

12.0 STORMWATER MANAGEMENT

- 12.1 All stormwater must drain to a demonstrated lawful point of discharge and must not adversely affect surrounding land or infrastructure in comparison to the pre-development conditions, including but not limited to blocking, altering or diverting existing stormwater runoff patterns or having the potential to cause damage or nuisance to other land or infrastructure.

13.0 PUBLIC UTILITIES

- 13.1 The applicant is responsible for the cost of any alteration to public utilities as a result of complying with conditions of this Development Permit.
- 13.2 Any alteration of any public utility or other facilities necessitated by the development of the land or associated construction works external to the site shall be at no cost to Council.
- 13.3 Any damage caused to any public utility during the course of construction shall be repaired to the satisfaction of Council's Delegated Officer and at no cost to Council prior to the sealing of the Survey Plan.

ADVISORY NOTES

- 1. The Developer and his employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.

2. Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements. Any provisions contained in this approval relating to the enforcement of any of the conditions shall be in addition to all other rights, powers and privileges that the Council may possess or obtain, and nothing contained in these conditions shall be construed so as to prejudice, affect or otherwise derogate or limit these rights, powers and privileges of the Council.
4. General environmental duty under the Environmental Protection Act 994 prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash, fumes, light, odour or smoke beyond the boundaries of the development site during all stages of the development including earthworks, construction and operation.
5. This development approval does not authorise any activity that may harm Aboriginal cultural heritage. It is advised that under section 23 of the Aboriginal Cultural Heritage Act 2003, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care").
6. For the purpose of drainage in relation to the 'Formed Track' referenced in Conditions 5.2.4 and 5.3.6 of this development approval, refer to section 5.2.6 Table Drains of the *Lower Order Road Design Guidelines* to identify the requirements for table drains relative to this development approval.
7. The *Lower Order Road Design Guidelines* published by the IPWEAQ is located at <http://www.ipweaq.com/1573%20%20LORDG%20publication%20%20final.pdf>.
8. The unnamed road reserves associated with the access easement are affected by regulated vegetation. Under the *Planning Regulation 2017, Vegetation Management Act 1999* and other relevant legislation, vegetation clearing requirements may apply and should be investigated prior to the commencement of any construction works in regulated vegetation areas.
9. The unnamed road reserve extending between Lot 23 on R5725 and Lot 7 on SP252194, and part of Lot 7 on SP252194, is identified as a Queensland Heritage Place (Shearers' Strike Camp, Barcaldine, Place ID: 600019). Under the *Planning Regulation 2017, Queensland Heritage Act 1992* and other relevant legislation, heritage-related requirements may apply and should be investigated prior to the commencement of any construction works on the heritage place.

Attachment 1 – Conditions of the approval

Part 2 – Conditions required by the referral agency response

ALPHA OFFICE
Phone: 07 4985 1166
Fax: 07 4985 1162

ARAMAC OFFICE
Phone: 07 4652 9999
Fax: 07 4652 9990

BARCALDINE OFFICE
Phone: 07 4651 5600
Fax: 07 4651 1778



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

Our reference: 1805-5290 SRA
 Your reference: 441718

12 June 2018

The Chief Executive Officer
 Barcaldine Regional Council
 71 Ash Street
 BARCALDINE QLD 4725
 council@barc.qld.gov.au

Attention: Mr Brett Walsh

Dear Mr Walsh

Referral agency response—with conditions

(Given under section 56 of the *Planning Act 2016*)

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning on 16 May 2018.

Applicant details

Applicant name:	JS Kelly and CL Kelly C/- Mr Scot Stewart
Applicant contact details:	59 St Catherines Terrace WYNNUM QLD 4178 ssplanning@ozemail.com.au

Location details

Street address:	57114 Capricorn Highway, BARCALDINE QLD 4725
Real property description:	Lot 23 on R5725
Local government area:	Barcaldine Regional Council

Application details

Development permit	Reconfiguring a Lot for creation of an Access Easement
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Referral triggers

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

- 10.3.4.2.1 Clearing native vegetation

Conditions

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

Reasons for decision to impose conditions

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

Referral agency 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: Reconfiguring a Lot				
Plan of Easement A in Lot 23 on R5725	Hoffmann Surveyors Pty Ltd	22/01/2018	SP303288 Sheet 1 of 3	-

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

For further information please contact Jackie Hunter, Planning Officer, on (07) 4898 6815 or via email MIWSARA@dsmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Patrick Ruettjes
Manager (Planning), Mackay Isaac Whitsunday Regional Office

cc J S and C L Kelly, ssplanning@ozemail.com.au

enc Attachment 1—Conditions to be imposed
Attachment 2—Reasons for decision to impose conditions
Referral agency plans and specifications

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Reconfiguring a Lot		
10.3.4.2.1 – Clearing native vegetation—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Natural Resources, Mines and Energy 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:		
1.	The vegetation clearing must be carried out generally in accordance with the following plan, limiting vegetation clearing to 0.84ha: Plan of Easement A in Lot 23 on R5725 prepared by Hoffmann Surveyors Pty Ltd dated 22/01/2018, reference SP303288, Sheet 1 of 3.	Prior to submitting the Plan of Survey to the local government for approval.
2.	Any person(s) engaged or employed to carry out the clearing of vegetation under this development approval must be provided with a full copy of this development approval, and must be made aware of the full extent of clearing authorised by this development approval.	Prior to clearing.

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

- To ensure the development is carried out generally in accordance with the plans of development submitted with the application and the conditions of the referral agency response.



Refer to Sheet 3 for Reference Mark Table
Refer to Sheet 3 for Reinstatement Report

**PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE**



SARA ref: 1805-5290 SRA
Date: 12 June 2018

Hoffmann Surveyors Pty Ltd (ABN 98 124 394 378) hereby certify that the land comprised in this plan was surveyed by the corporation, by Corey William Paslow, surveying associate, for whose work the corporation accepts responsibility, under the supervision of Karen Elizabeth Norton, cadastral surveyor, and that the plan is accurate, that the said survey was performed in accordance with the Survey and Mapping Infrastructure Act 2003 and Surveyors Act 2003 and associated Regulations and Standards and that the said survey was completed on 22/01/2018.

Director
Date

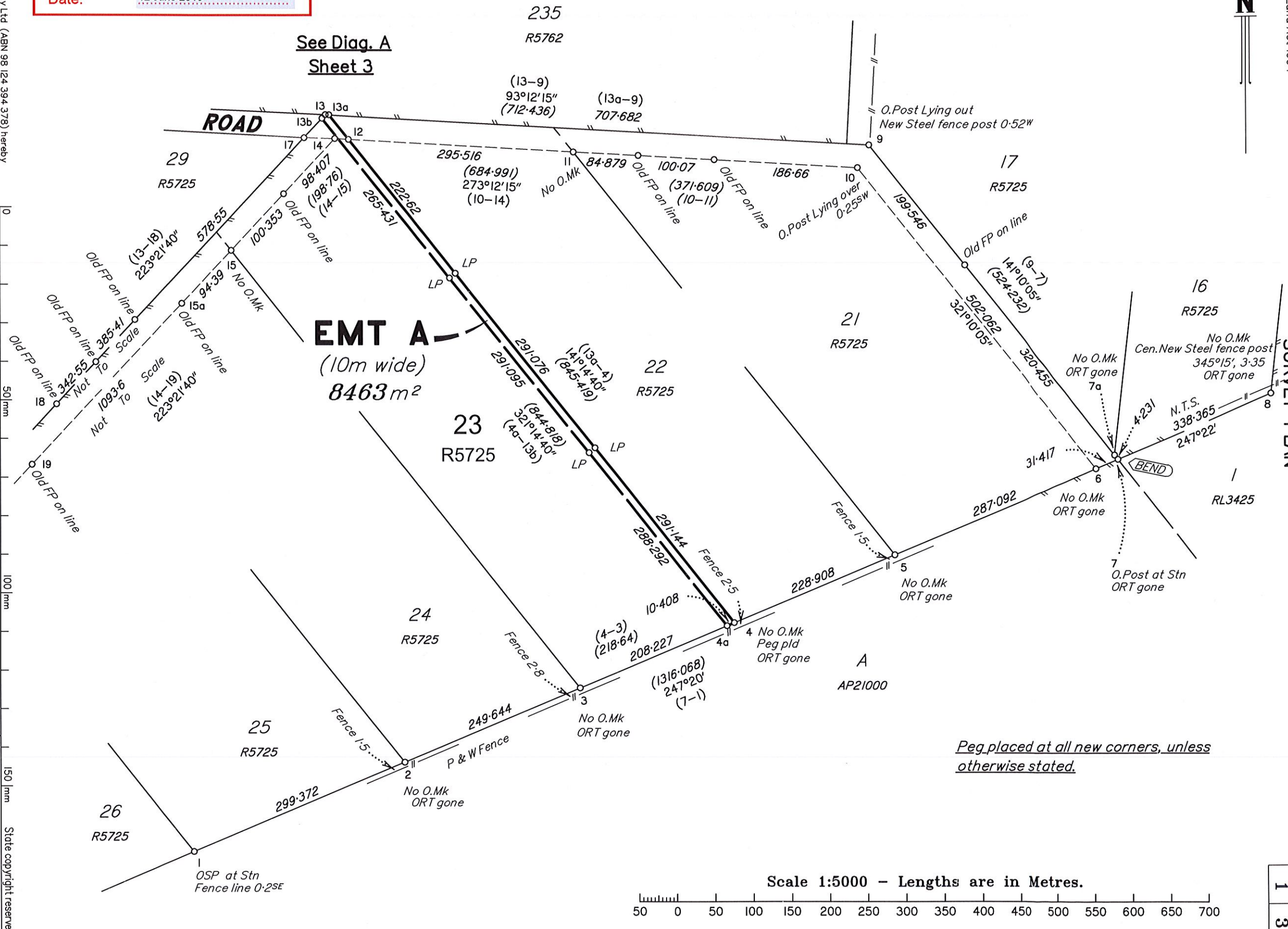
LOCAL GOVERNMENT: BARCADDINE
REGIONAL GOVERNMENT: BARCADDINE
LOCALITY: BARCADDINE
in Lot 23 on R5725
Meridian: MGA Zone 55 wide GNSS

Plan of Easement A

Scale: 1:5000 State copyright reserved.
Format: STANDARD

SP303288

Survey Records: No



Scale 1:5000 - Lengths are in Metres.

Attachment 2 – Stamped Approved Plans

ALPHA OFFICE
Phone: 07 4985 1166
Fax: 07 4985 1162

ARAMAC OFFICE
Phone: 07 4652 9999
Fax: 07 4652 9990

BARCALDINE OFFICE
Phone: 07 4651 5600
Fax: 07 4651 1778



BARCALDINE REGIONAL COUNCIL

**DIGITALLY STAMPED
APPROVED PLAN**

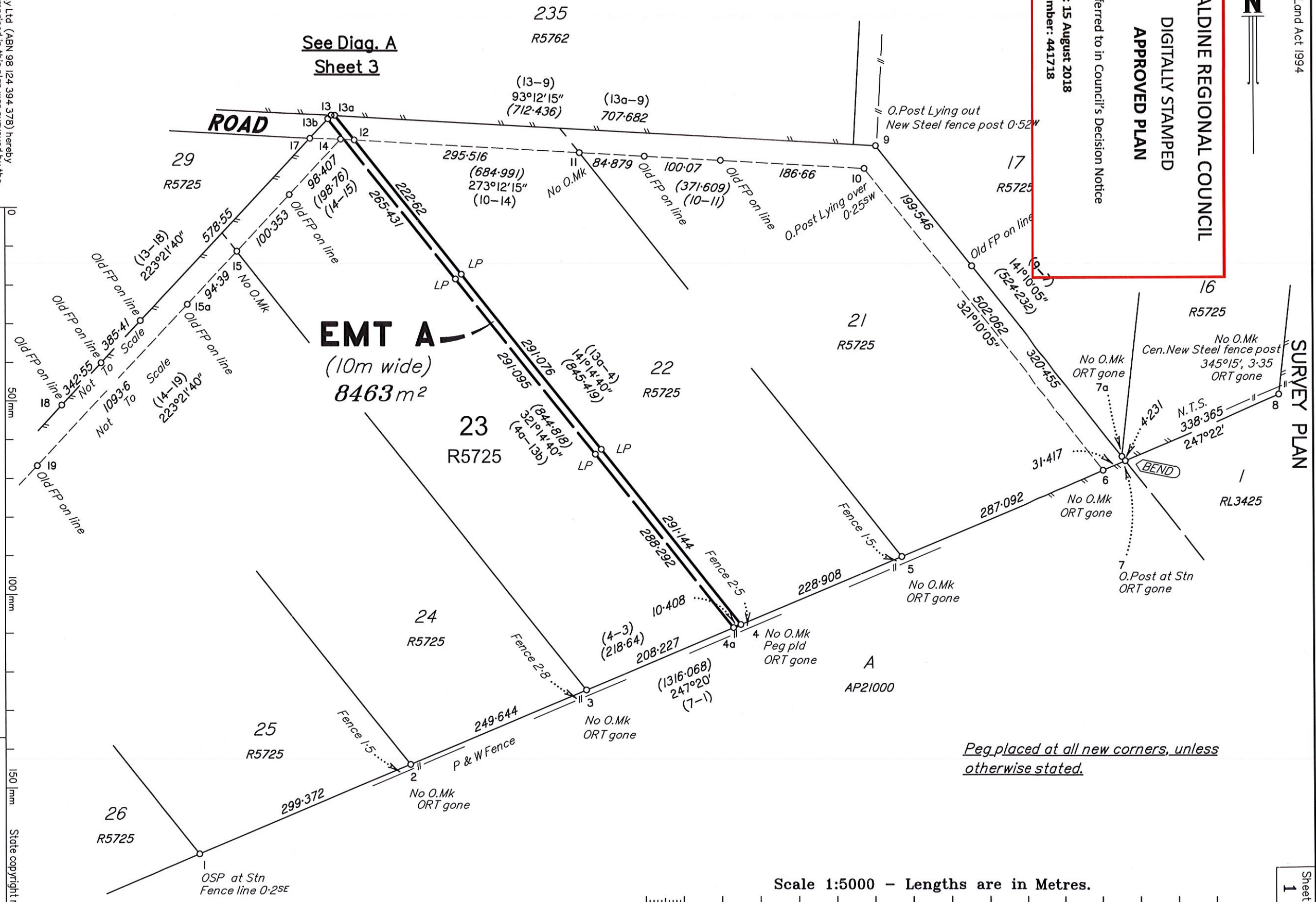
Referred to in Council's Decision Notice

Approval Date: 15 August 2018
Application Number: 441718

Refer to Sheet 3 for Reference Mark Table
Refer to Sheet 3 for Reinstatement Report

Hoffmann Surveyors Pty Ltd (ABN 98 124 394 378) hereby certify that the land comprised in this plan was surveyed by the corporation, by Corey William Passlow, surveying associate, for whose work the corporation accepts responsibility, under the supervision of Karen Elizabeth Norton, cadastral surveyor, and that the plan is accurate, that the said survey was performed in accordance with the Survey and Mapping Infrastructure Act 2003 and Surveyors Act 2003 and associated Regulations and Standards and that the said survey was completed on 22/01/2018.

Director
Date



SURVEY PLAN

Plan of Easement A

in Lot 23 on R5725

LOCAL GOVERNMENT: BARCALDINE REGIONAL
LOCALITY: BARCALDINE
Meridian: MGA Zone 55 wide GNSS

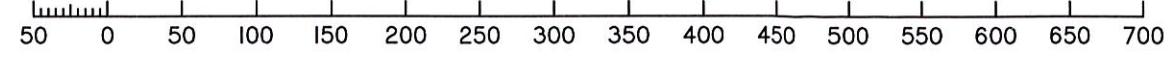
Survey Records: No

SP303288

Format: **STANDARD**
Scale: **1:5000**
State copyright reserved.

Peg placed at all new corners, unless otherwise stated.

Scale 1:5000 - Lengths are in Metres.



5. Lodged by

(Dealing No.)

(Include address, phone number, reference, and Lodger Code)

Existing		Created	
Title Reference	Description	New Lots	Road
30295189	Lot 23 on R5725		
			Secondary Interests
			Emt A

1. Certificate of Registered Owners or Lessees.

I/We
.....
.....

(Names in full)

* as Registered Owners of this land agree to this plan and dedicate the Public Use Land as shown hereon in accordance with Section 50 of the Land Title Act 1994.

* as Lessees of this land agree to this plan.

.....
Signature of *Registered Owners *Lessees

* Rule out whichever is inapplicable

2. Planning Body Approval.

*
hereby approves this plan in accordance with the :
%

Dated this day of
..... #
..... #

* Insert the name of the Planning Body.
Insert designation of signatory or delegation

% Insert applicable approving legislation.

3.Plans with Community Management Statement :

CMS Number :
Name :
4. References :
Dept File :
Local Govt :
Surveyor : **B17066**

BARCALDINE REGIONAL COUNCIL
DIGITALLY STAMPED
APPROVED PLAN

Referred to in Council's Decision Notice

Approval Date: 15 August 2018
Application Number: 441718

9. Building Format Plans only.
I certify that :
* As far as it is practical to determine, no part of the building shown on this plan encroaches onto adjoining lots or roads.
* Part of the building shown on this plan encroaches onto adjoining * lots and road

..... Cadastrol Surveyor/Director * Date
*delete words not required

10. Lodgement Fees :

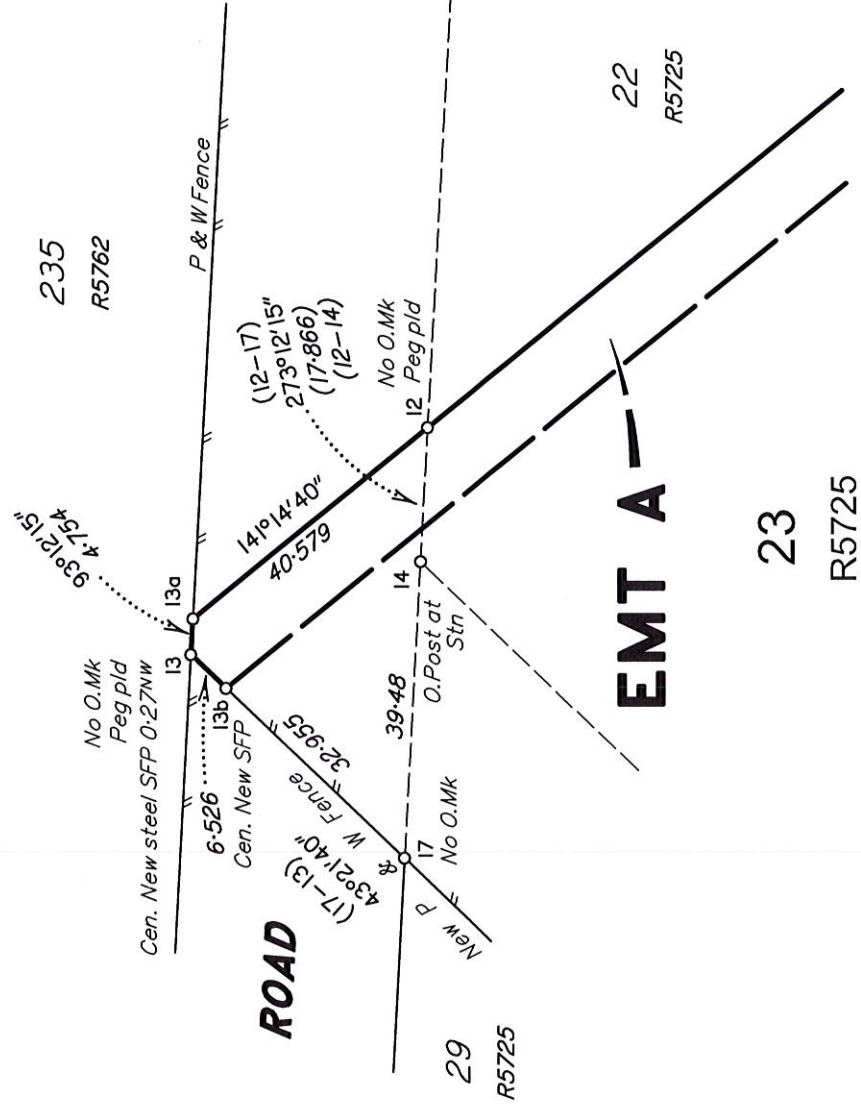
Survey Deposit	\$
Lodgement	\$
.....New Titles	\$
Photocopy	\$
Postage	\$
TOTAL	\$

7. Orig Grant Allocation :	
Lots	Orig
8. Passed & Endorsed :	
By :	
Date :	
Signed :	
Designation :	

II. Insert Plan Number
SP303288

DIAGRAM A

1:1000



BARCALDINE REGIONAL COUNCIL

**DIGITALLY STAMPED
APPROVED PLAN**

Referred to in Council's Decision Notice

**Approval Date: 15 August 2018
Application Number: 441718**

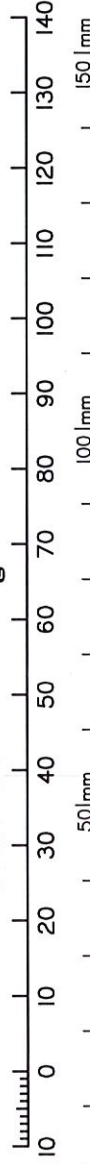
REFERENCE MARKS

STN	TO	ORIGIN	BEARING	DIST
1	O.Post Pin	250/R5725	23°49'	at Station 1-074
1	ORT gone	249/R5725	122°20'	5-08
3	ORT gone	245/R5725	150°0'	13-076
4	Pin	244/R5725	193°43'30"	2-325
4	ORT gone	244/R5725	302°20'	5-381
5	ORT gone	241/R5725	15°10'	2-263
6	ORT gone	184/R5725	76°45'	13-277
7	OFF	185/R5725	at Station	
7	Pin	185/R5725	30°42'20"	2-5
7	ORT gone	185/R5725	24°40'	18-206
7a	ORT gone	201/R5725	43°40'	11-064
8	Pin	200/R5725	330°51'50"	8-525
8	ORT gone	200/R5725	168°20'	17-703
9	GI Nail in stump		259°58'30"	4-62
13	Pin	189/R5725	162°44'	24-208
14	O.Post		at Station	

Reinstatement Report

- Plans used: R5725
- The corner Post found at stn 14
- The orig corner Post at stn 10 was found lying over, however two original fence posts were found on line between stns 10-14 which fixed the bearing of this line.
- The line of Orig Posts to the south west of stn 14 agreed with the deed angle at stn 14
- The north side of the original road (stn 13) was then fixed parallel at 30.175 (150 links).
- The southern boundary of the subject lot was defined by the Orig Survey Post located at stn 1 & Orig fence post at stn 7. The bearing between these posts agreed with the deed bearings of the northern boundary fix. The distance between the posts was found to be +1.034m from deed. This excess was distributed evenly to fix the Lot 22/23 boundary.
- Stn 9 was fixed by using the Original Fence Post found on line from Stn 7 to fix the bearing of that line and intersect with the previously fixed stn 13.
- The boundary between stn 7-9 was +0.793m and -10' from deed.
- Stn 10 was fixed being the original road width 30.175 (150 links) from stn 9.
- The distance between stn 14 & 10 was found to be +0.467m from deed. This excess was distributed evenly to fix the 22/23 boundary.
- The boundary between Stn 12 & 4 was found to be +1.174m & -5' 20" from deed.
- No evidence of the original fence was found along this line.
- No original reference trees were located from R5725.

Scale 1:1000 - Lengths are in Metres.



Attachment 3 – Extract of Appeal Provisions (Chapter 6, Part 1 and Schedule 1 of the *Planning Act 2016*)

ALPHA OFFICE
Phone: 07 4985 1166
Fax: 07 4985 1162

ARAMAC OFFICE
Phone: 07 4652 9999
Fax: 07 4652 9990

BARCALDINE OFFICE
Phone: 07 4651 5600
Fax: 07 4651 1778

-
- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.
- (3) In this section—
- conduct* means an act or omission.
- representative* means—
- (a) of a corporation—an executive officer, employee or agent of the corporation; or
 - (b) of an individual—an employee or agent of the individual.
- state of mind*, of a person, includes the person's—
- (a) knowledge, intention, opinion, belief or purpose; and
 - (b) reasons for the intention, opinion, belief or purpose.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 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.
- (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.

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- (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 is 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.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department’s website for this purpose.

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

Schedule 1 Appeals

section 229

1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to—
 - (a) the P&E court; or
 - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
 - (a) the refusal, or deemed refusal of a development application, for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (b) a provision of a development approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (c) if a development permit was applied for—the decision to give a preliminary approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (d) a development condition if—
 - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and

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- (ii) the building is, or is proposed to be, not more than 3 storeys; and
 - (iii) the proposed development is for not more than 60 sole-occupancy units; or
 - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
 - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
 - (g) a matter under this Act, to the extent the matter relates to the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
 - (h) a decision to give an enforcement notice—
 - (i) in relation to a matter under paragraphs (a) to (g); or
 - (ii) under the Plumbing and Drainage Act; or
 - (i) an infrastructure charges notice; or
 - (j) the refusal, or deemed refusal, of a conversion application; or
 - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
- (a) for a matter in subsection (2)(a) to (d)—
 - (i) a development approval for which the development application required impact assessment; and
 - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
 - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.

Schedule 1

- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
 - (a) column 1 states the appellant in the appeal; and
 - (b) column 2 states the respondent in the appeal; and
 - (c) column 3 states the co-respondent (if any) in the appeal; and
 - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.
- (8) In this section—

storey see the Building Code, part A1.1.

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal
<p>1. Development applications</p> <p>For a development application other than an excluded application, an appeal may be made against—</p> <ul style="list-style-type: none">(a) the refusal of all or part of the development application; or(b) the deemed refusal of the development application; or(c) a provision of the development approval; or(d) if a development permit was applied for—the decision to give a preliminary approval.

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	<p>1 A concurrence agency that is not a co-respondent</p> <p>2 If a chosen assessment manager is the respondent—the prescribed assessment manager</p> <p>3 Any eligible advice agency for the application</p> <p>4 Any eligible submitter for the application</p>
<p>2. Change applications</p> <p>For a change application other than an excluded application, an appeal may be made against—</p> <p>(a) the responsible entity's decision on the change application; or</p> <p>(b) a deemed refusal of the change application.</p>			

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 The applicant</p> <p>2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice</p>	<p>The responsible entity</p>	<p>If an affected entity starts the appeal—the applicant</p>	<p>1 A concurrence agency for the development application</p> <p>2 If a chosen assessment manager is the respondent—the prescribed assessment manager</p> <p>3 A private certifier for the development application</p> <p>4 Any eligible advice agency for the change application</p> <p>5 Any eligible submitter for the change application</p>
<p>3. Extension applications</p> <p>For an extension application other than an extension application called in by the Minister, an appeal may be made against—</p> <p>(a) the assessment manager’s decision on the extension application; or</p> <p>(b) a deemed refusal of the extension application.</p>			

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 The applicant</p> <p>2 For a matter other than a deemed refusal of an extension application—a concurrence agency, other than the chief executive, for the application</p>	<p>The assessment manager</p>	<p>If a concurrence agency starts the appeal—the applicant</p>	<p>If a chosen assessment manager is the respondent—the prescribed assessment manager</p>
<p>4. Infrastructure charges notices</p> <p>An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds—</p> <p>(a) the notice involved an error relating to—</p> <p style="padding-left: 20px;">(i) the application of the relevant adopted charge; or</p> <p><i>Examples of errors in applying an adopted charge—</i></p> <ul style="list-style-type: none"> • the incorrect application of gross floor area for a non-residential development • applying an incorrect ‘use category’, under a regulation, to the development <p style="padding-left: 20px;">(ii) the working out of extra demand, for section 120; or</p> <p style="padding-left: 20px;">(iii) an offset or refund; or</p> <p>(b) there was no decision about an offset or refund; or</p> <p>(c) if the infrastructure charges notice states a refund will be given—the timing for giving the refund; or</p> <p>(d) for an appeal to the P&E Court—the amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the infrastructure charges notice	The local government that gave the infrastructure charges notice	—	—
<p>5. Conversion applications An appeal may be made against—</p> <p>(a) the refusal of a conversion application; or</p> <p>(b) a deemed refusal of a conversion application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The local government to which the conversion application was made	—	—
<p>6. Enforcement notices An appeal may be made against the decision to give an enforcement notice.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the enforcement notice	The enforcement authority	—	If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government

Table 2 Appeals to the P&E Court only			
<p>1. Appeals from tribunal</p> <p>An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of—</p> <p>(a) an error or mistake in law on the part of the tribunal; or</p> <p>(b) jurisdictional error.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	—	—
<p>2. Eligible submitter appeals</p> <p>For a development application or change application other than an excluded application, an appeal may be made against the decision to approve the application, to the extent the decision relates to—</p> <p>(a) any part of the development application or change application that required impact assessment; or</p> <p>(b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency's referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>

Schedule 1

Table 2 Appeals to the P&E Court only			
<p>3. Eligible submitter and eligible advice agency appeals</p> <p>For a development application or change application other than an excluded application, an appeal may be made against a provision of the development approval, or a failure to include a provision in the development approval, to the extent the matter relates to—</p> <p>(a) any part of the development application or change application that required impact assessment; or</p> <p>(b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p> <p>3 An eligible advice agency for the development application or change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency’s referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>
<p>4. Compensation claims</p> <p>An appeal may be made against—</p> <p>(a) a decision under section 32 about a compensation claim; or</p> <p>(b) a decision under section 265 about a claim for compensation; or</p> <p>(c) a deemed refusal of a claim under paragraph (a) or (b).</p>			

Table 2 Appeals to the P&E Court only			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person dissatisfied with the decision	The local government to which the claim was made	—	—
5. Registered premises An appeal may be made against a decision of the Minister under chapter 7, part 4.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 A person given a decision notice about the decision 2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision	The Minister	—	If an owner or occupier starts the appeal—the owner of the registered premises
6. Local laws An appeal may be made against a decision of a local government, or conditions applied, under a local law about— <ul style="list-style-type: none"> (a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or (b) the erection of a building or other structure. 			

Table 2 Appeals to the P&E Court only			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who— (a) applied for the decision; and (b) is dissatisfied with the decision or conditions.	The local government	—	—

Table 3 Appeals to a tribunal only			
<p>1. Building advisory agency appeals</p> <p>An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A building advisory agency for the development application related to the approval	The assessment manager	The applicant	<p>1 A concurrence agency for the development application related to the approval</p> <p>2 A private certifier for the development application related to the approval</p>

Table 3 Appeals to a tribunal only			
<p>2. Inspection of building work An appeal may be made against a decision of a building certifier or referral agency about the inspection of building work that is the subject of a building development approval under the Building Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant for the development approval	The person who made the decision	—	—
<p>3. Certain decisions under the Building Act and the Plumbing and Drainage Act An appeal may be made against—</p> <p>(a) a decision under the Building Act, other than a decision made by the Queensland Building and Construction Commission, if an information notice about the decision was given or required to be given under that Act; or</p> <p>(b) a decision under the Plumbing and Drainage Act, part 4 or 5, if an information notice about the decision was given or required to be given under that Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who received, or was entitled to receive, an information notice about the decision	The person who made the decision	—	—
<p>4. Local government failure to decide application under the Building Act An appeal may be made against a local government's failure to decide an application under the Building Act within the period required under that Act.</p>			

Table 3 Appeals to a tribunal only			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive notice of the decision	The local government to which the application was made	—	—