



TORRES SHIRE COUNCIL

To lead, provide and facilitate a sustainable, safe
and culturally vibrant community

P.O Box 171
THURSDAY ISLAND 4875

Telephone (07) 4069 1336
Facsimile (07) 4069 1845

Email: admin@torres.gld.gov.au
ABN 34 108 162 398

DATE: 8 December 2023

Our Ref: IDAS23/10
Enquire to: Phil Turner
Telephone: (07) 4069 1200

Adam and Jenifer Fahey
c/- Zone Planning Queensland
PO Box 5332
GLADSTONE QLD 4680

Email: sarah@zoneplanning.com.au

Dear Madam

Decision Notice – Approval

Given under section 63 of the Planning Act 2016

With reference to the abovementioned Development Application, please find attached the relevant Decision Notice, which was approved by Torres Shire Council in full, subject to conditions.

Details of the decision are as follows:

DATE OF DECISION

Council approved the Development Application at the Council meeting on **5 December 2023**.

APPLICATION DETAILS

| | |
|--------------------------------|--|
| Application No: | IDAS23/10 |
| Approval Sought: | Development Permit for Building Work Assessable Against the Planning Scheme and Material Change of Use |
| Description of the Development | Demolition of Existing Structure and Dwelling House |
| Planning Scheme: | <i>Torres Shire Council Planning Scheme 2022</i> |

LOCATION DETAILS

| | |
|----------------------------|---------------------------------|
| Street Address: | 20 John Street, Thursday Island |
| Real Property Description: | Lot 12 on SP295109 |

DECISION DETAILS

The following type of approval has been issued:

- Development Permit for Building Work Assessable Against the Planning Scheme (Demolition of Existing Structure) and Material Change of Use (Dwelling House)

CURRENCY PERIOD

The demolition of the existing structure on the subject land must be commenced within a period of *two (2) years* from the date of this decision notice. Unless otherwise stated, the approval takes effect in accordance with section 71 of the *Planning Act 2016*. Should the subject use not be commenced prior to the expiry of such period, this approval will lapse.

The material change of use for the dwelling house on the subject land must be commenced within a period of *six (6) years* from the date of this decision notice. Unless otherwise stated, the approval takes effect in accordance with section 71 of the *Planning Act 2016*. Should the subject use not be commenced prior to the expiry of such period, this approval will lapse.

ASSESSMENT MANAGER CONDITIONS

This approval is subject to the conditions in *Attachment 1*.

PROPERLY MADE SUBMISSIONS

There were no properly made submissions for this application.

REFERRAL AGENCIES

There were no referral agencies as part of this application.

FURTHER DEVELOPMENT PERMITS REQUIRED

- Development Permit for Plumbing and Drainage Work
- Development Permit for Building Work.

OTHER REQUIRMENTS UNDER SECTION 43 OF THE PLANNING REGULATION 2017

Not Applicable

APPROVED PLANS AND SPECIFICATIONS

The approved plans are attached to this Decision Notice (*Attachment 2*)

RIGHTS OF APPEAL

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* are attached to this Decision Notice (*Attachment 4*).

OTHER DETAILS

You are further advised that the truth and accuracy of the information provided in the application form and accompanying information is relied on when assessing and deciding this application. If you find an inaccuracy in any of the information provided above or have a query about any of these details, please contact Phil Turner (*Director, Governance and Planning Services*) on (07) 4069 1200.

DELEGATED PERSON

Name: Dalassa Yorkston

Signature: 

Date: 8 December 2023

Enc. **Attachment 1** – Conditions imposed by the Assessment Manager
Attachment 2 – Approved Plans
Attachment 3 – Notice about a Decision Notice
Attachment 4 – Extract of Appeal Provisions (Chapter 6, Part 1 and Schedule 1 of the *Planning Act 2016*).

CONDITIONS IMPOSED BY THE ASSESSMENT MANAGER

1.0 PARAMETERS OF APPROVAL

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

Timing: At all times.

- 1.2 Where these conditions refer to "TSC" in relation to requiring Torres Shire Council to approve or be satisfied as to any matter, or conferring on the TSC a function, power or discretion, that role of the TSC may be fulfilled in whole or in part by a delegate appointed for that purpose by TSC.

Timing: At all times.

- 1.3 The cost of all works associated with the development and construction of the development including services, facilities and/or public utility alterations required are met at no cost to the Council or relevant utility provider, unless otherwise stated in a development condition.

Timing: At all times.

- 1.4 The developer is required to have repaired any damage to existing infrastructure that may have occurred during any works carried out associated with the development. To the extent the damage is deemed to create a hazard to the community, it must be repaired immediately.

Timing: At all times.

- 1.5 Unless otherwise stated, all works must be designed, constructed, and maintained in accordance with the relevant Council policies, guidelines, and standards, and the FNQROC Development Manual.

Timing: At all times.

- 1.6 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant Australian Standards and must be approved, supervised, and certified by a Registered Professional Engineer of Queensland (RPEQ).

Timing: At all times.

- 1.7 Maintain the approved development in accordance with the approved drawing(s) and/or document(s), and any relevant Council or other approval required by conditions.

Timing: At all times

- 1.8 All development conditions contained in this development approval about *infrastructure* under Chapter 4 of the *Planning Act 2016* (the Act), should be read as being non-trunk infrastructure conditioned under section 145 of the Act, unless otherwise stated.

Timing: At all times

2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 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 permit.

| Plan/Document Name | Drawing Number | Date |
|--------------------|----------------|----------------|
| Site Plan | 2647 – S1 | September 2023 |
| Ground Floor Plan | 2647 – S2 | September 2023 |

| | | |
|--|------------|----------------|
| First Floor Plan | 26 47 – S3 | September 2023 |
| Site Elevations | 2647 – S4 | September 2023 |
| Heritage Impact Statement (v2) – prepared by Converge Heritage and Community | - | July 2023 |
| Structural Assessment – prepared by PG Fraser Builders | - | 4 August 2023 |

Timing: *At all times.*

- 2.2 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.

Timing: *At all times*

3.0 RECOGNITION OF HERITAGE VALUES

- 3.1 A memorial plaque must be installed and maintained to a high standard on the proposed fence visible from the verge as detailed on the approved plan of development and the Heritage Impact Statement, version 2, prepared by Converge Heritage & Community and dated July 2023.

Timing: *Prior to commencement of use and at all times.*

- 3.2 Prior to the installation of the memorial plaque, the proposed wording and design must be submitted to Council for approval by the delegated officer. The plaque must include adequate information to maintain the significant association of the former dwelling with AT Sullivan and his importance to the Thursday Island community and pearl shell industry.

Timing: *Prior to the installation of the plaque.*

- 3.3 An archival recording of the existing dwelling must be completed in accordance with the Heritage Impact Statement, version 2, prepared by Converge Heritage & Community and dated July 2023. The archival recording must be submitted to Council.

Timing: *Prior any further works commencing.*

4.0 VEHICLE ACCESS

- 4.1 Access to the proposed development must be provided in accordance with the approved plans of development.

Timing: *At all times.*

5.0 STORMWATER

- 5.1 Stormwater must be directed to a lawful point of discharge being John Street or Hastings Street.

Timing: *At all times.*

- 5.2 Site works must not adversely affect flooding or drainage characterises of properties that are upstream, downstream, or adjacent to the development site.

Timing: *At all times.*

- 5.3 All stormwater infrastructure must be designed, constructed, and maintained in accordance with the *FNQROC Development Manual* and the *Queensland Urban Drainage Manual*.

Timing: *At all times.*

6.0 FILLING AND EXCAVATION

- 6.1 Any excavating and filling activities are to be carried out in accordance with the *FNQROC Development Manual*, ensuring works do not result in the ponding or permanent retention of surface water either on the site or on adjoining land.

Timing: At all times.

7.0 SERVICES

- 7.1 The development must be connected to the reticulated water network with sufficient capacity for domestic and firefighting purposes.

Timing: Prior to the commencement of the use and at all times thereafter.

- 7.2 The development must be connected to the reticulated sewerage network. Plans must be submitted as part of a plumbing application for approval by Council's Plumbing Inspector prior to works commencing.

Timing: Prior to the commencement of the use and at all times thereafter.

- 7.3 All redundant sewerage and water infrastructure is to be removed, including but not limited to pipes and connection points.

Timing: Prior to the commencement of the use.

- 7.4 The development must be connected to the reticulated electricity supply network in accordance with the standards and requirements of the relevant service provider.

Timing: Prior to the commencement of the use.

- 7.5 Telecommunications must be provided to the premises to the standards and requirements of the relevant service provider.

Timing: Prior to the commencement of the use.

8.0 FENCING

- 8.1 Fencing must be provided in accordance with the approved plans of development.

Timing: Prior to the commencement of the use and at all times thereafter.

B. ASSESSMENT MANAGER (COUNCIL) ADVISORY NOTES

1. The Building Work (Demolition) granted under the provisions of the Planning Act 2016, shall lapse two (2) years from the day the approval takes effect in accordance with the relevant provisions of s85 of the *Planning Act 2016*.
2. The Material Change of Use (Dwelling House) granted under the provisions of the Planning Act 2016, shall lapse six (6) years from the day the approval takes effect in accordance with the relevant provisions of s85 of the *Planning Act 2016*.
3. Prior to commencing any construction activities, the applicant/developer will be required to obtain further development permits for building work, and plumbing and drainage work, as required under relevant legislation for this work. This includes obtaining a development permit for building works for the demolition of the dwellings on the site.
4. The proposed road setbacks have been assessed against the performance outcomes of the Queensland Development Code. This decision notice confirms the suitability of the proposed setbacks and is to be considered an early referral response for any future building application for building work under the *Building Act 1975*.
5. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.

6. No building materials or the like are to be stored on the footpath unless an appropriate approval from Council is obtained, including the payment of associated fees.
7. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council Officers, prior to Commencement of Works.
8. The Environmental Protections Act 1994 states a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm. Environmental harm includes environmental nuisance. In this regard, persons and entities, involved in civil, earthworks and construction phases of this development, are to adhere to their 'general environmental duty' to minimise the risk of causing environmental harm.
9. Environmental harm is defined by the Act as any adverse effect, or potential adverse effect whether temporary or permanent and of whatever magnitude, duration or frequency on an environmental value and includes environmental nuisance. Therefore, no person should cause any interference with the environment or amenity of the area by reason of the emission of noise, vibration, smell, fumes, smoke vapour, steam, soot, ash, dust, wastewater, waste products, grit, sediment, oil or otherwise, or cause hazards likely in the opinion of the Council.
10. This development approval does not authorise any activity that may harm Aboriginal and Torres Strait Islander cultural heritage. It is also advised that any land use activities must comply with the Aboriginal Cultural Heritage Act 2003 or the Torres Strait Islander Heritage Act 2003.
11. Cultural heritage remains may remain in situ and sub-surface. The Queensland Heritage Act 1992 identifies that the archaeological cultural heritage artefact must not be interfered with. Any ground disturbance activities associated with the development should be monitored by a suitably qualified person.

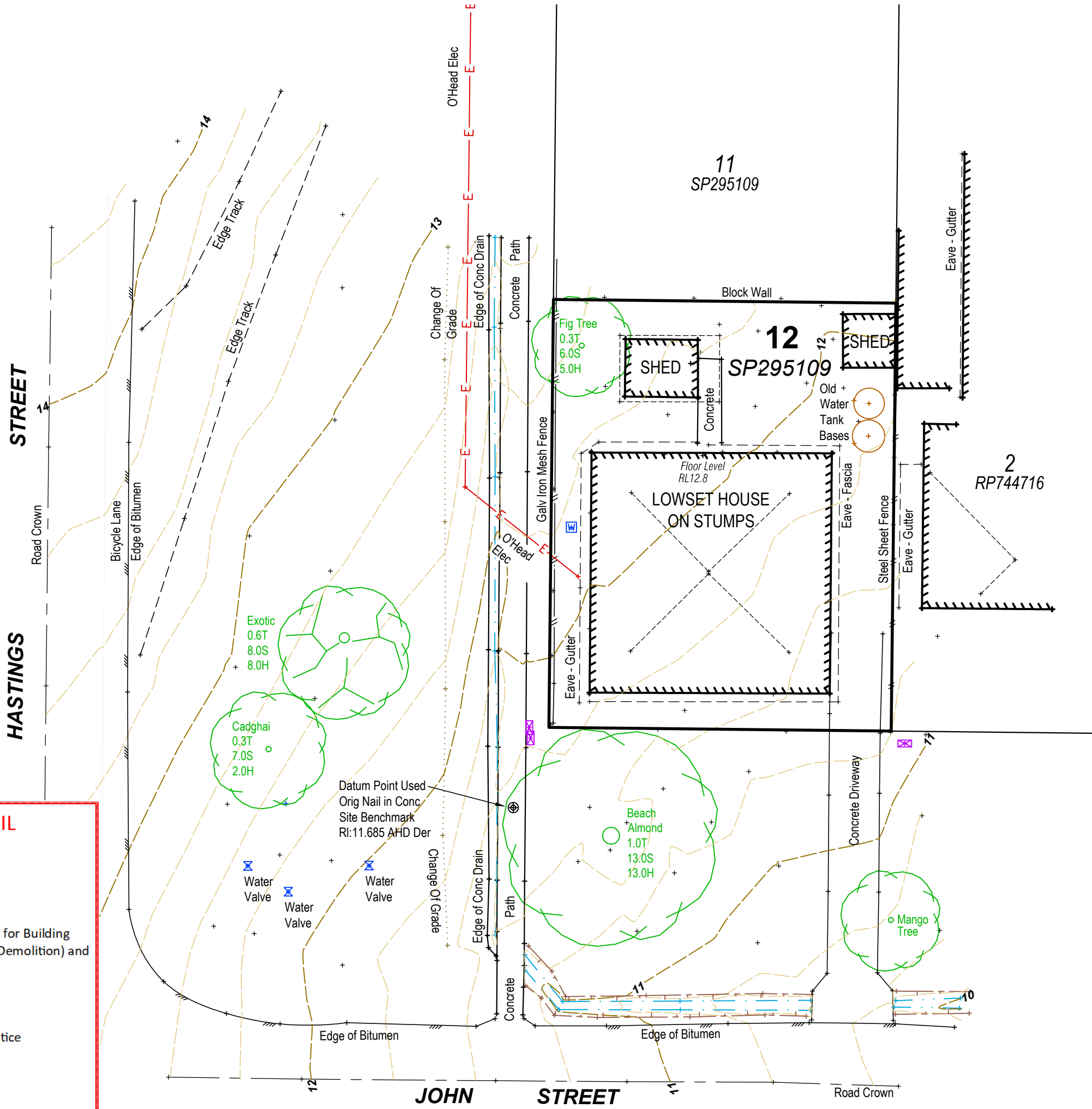
APPROVED PLANS

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Legend

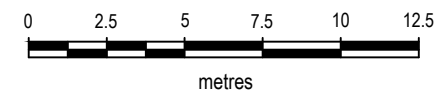
| | |
|--------------------------------|---------|
| Spot Height | + 26.36 |
| Survey PSM | ⊙ |
| Water Valve | ⊗ |
| Water Meter | ⊕ |
| Telstra Box Pit | ⊞ |
| Major Contour | — 26 — |
| Minor Contour | — 26 — |
| Road Crown | — 26 — |
| Edge of Track | — 26 — |
| Change of Grade | — 26 — |
| Electrical Line - Above Ground | — E — |
| Open Drain - Lined | — 26 — |
| Open Drain - Unlined | — 26 — |
| Eave/Gutter Line | — 26 — |
| Top of Bank | — 26 — |



IMPORTANT NOTE

- This plan was prepared for the sole purposes of the client for the specific purpose of producing a detail plan. This plan is strictly limited to the Purpose and does not apply directly or indirectly and will not be used for any other application, purpose, use or matter. The plan is presented without the assumption of a duty of care to any other person (other than the Client) ("Third Party") and may not be relied on by Third Party.

- RPS AAP Consulting Pty Ltd will not be liable (in negligence or otherwise) for any direct or indirect loss, damage, liability or claim arising out of or incidental to:
 - Third Party publishing, using or relying on the plan;
 - RPS AAP Consulting Pty Ltd relying on information provided to it by the Client or a Third Party where the information is incorrect, incomplete, inaccurate, out-of-date or unreasonable;
 - any inaccuracies or other faults with information or data sourced from a Third Party;
 - RPS AAP Consulting Pty Ltd relying on surface indicators that are incorrect or inaccurate;
 - the Client or any Third Party not verifying information in this plan where recommended by RPS AAP Consulting Pty Ltd;
 - lodgement of this plan with any local authority against the recommendation of RPS AAP Consulting Pty Ltd;
 - the accuracy, reliability, suitability or completeness of any approximations or estimates made or referred to by RPS AAP Consulting Pty Ltd in this plan.
- Without limiting paragraph 1 or 2 above, this plan may not be copied, distributed, or reproduced by any process unless this note is clearly displayed on the plan.
- Scale shown is correct for the original plan and any copies of this plan should be verified by checking against the bar scale.
- The title boundaries as shown hereon were not marked at the time of survey and have been determined by plan dimensions only and not by field survey. If not able to be so located, services have been plotted from the records of relevant authorities where available and have been noted accordingly on this plan. Where such records either do not exist or are inadequate a notation has been made hereon.
- Prior to any demolition, excavation or construction on the site, the relevant authority should be contacted for possible location of further underground services and detailed locations of all services.



SCALE 1:250 IS APPLICABLE ONLY TO THE ORIGINAL SHEET SIZE. (A3)

TORRES SHIRE COUNCIL

DIGITALLY STAMPED APPROVED PLAN

Development Application: Development Permit for Building Work Assessable Against the Planning Scheme (Demolition) and Material Change of Use (Dwelling House).

RP Details: Lot 12 on SP295109

Referred to in Council's Decision Notice

Approval Date: 5 December 2023
Application Number: IDAS 23/10

| | | | |
|----------------------------------|--------------------------|---|--|
| RPS CLIENT MANAGER R. BRADTKE | | SURVEYED BN 7/05/2023 | |
| COMPILED MDW | | CAD REF 5278 FDS FIELD RPS AU213009951 001 JOHN ST TI 230509.DWG | |
| SHEET SIZE A3 | SHEET OF SHEETS 1 / 1 | | |

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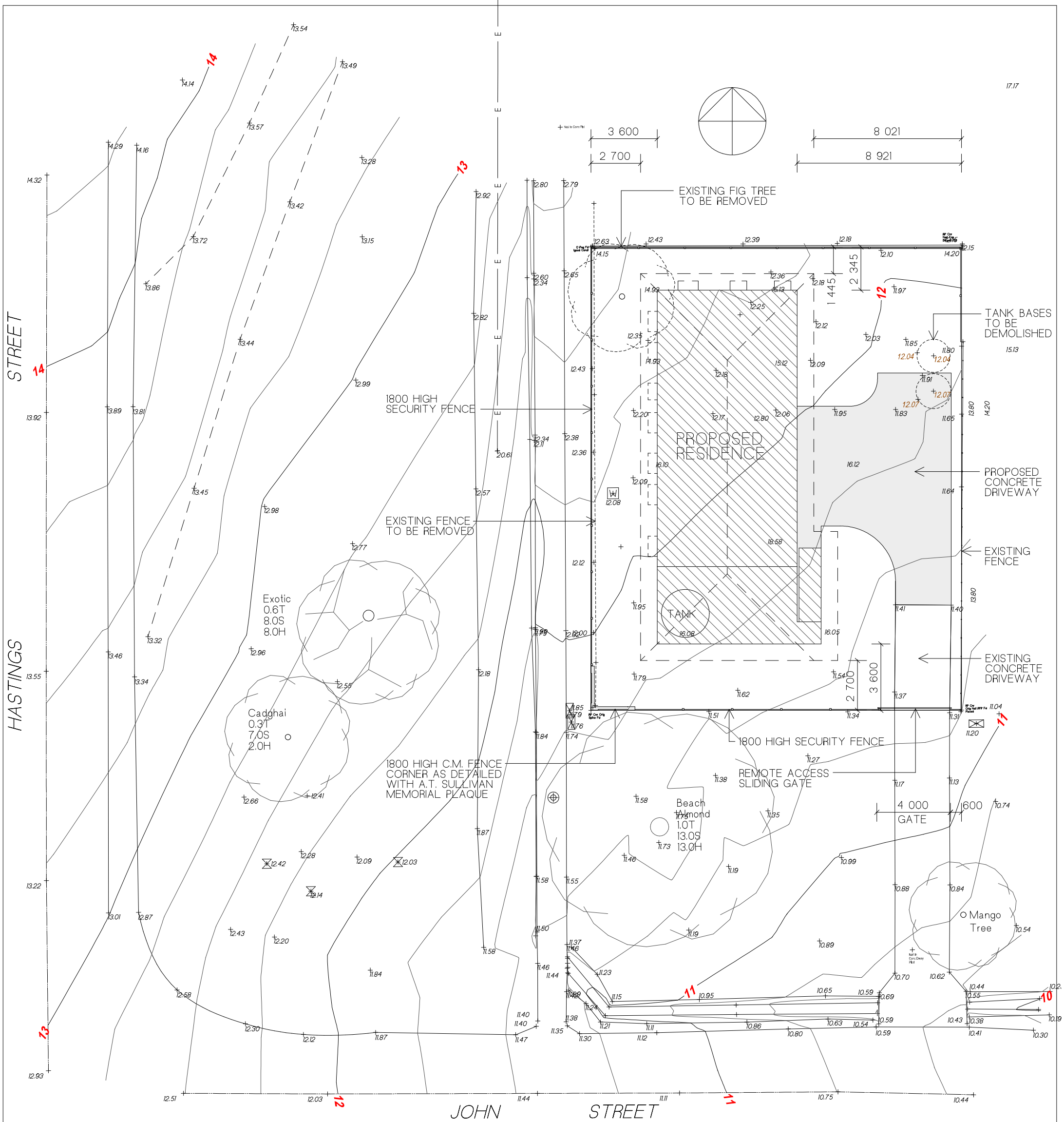


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AJ HOMES

Contour & Detail Survey
 over Lot 12 on SP295109
 20 John Street, Thursday Island

| | | | |
|-----------------------|--------------------|----------------------------------|-------------------|
| SCALE 1:250 | DATE 12/07/2023 | DRAWING NO. AU009951-1 | ISSUE A |
|-----------------------|--------------------|----------------------------------|-------------------|



PROPERTY DESCRIPTION

LOT 11 ON S.P. 295109
 C2 - WIND CLASSIFICATION
 SOIL CLASSIFICATION - 'M'

TORRES SHIRE COUNCIL
DIGITALLY STAMPED
APPROVED PLAN

Development Application: Development Permit for Building Work Assessable Against the Planning Scheme (Demolition) and Material Change of Use (Dwelling House).

RP Details: Lot 12 on SP295109

Referred to in Council's Decision Notice

Approval Date: 5 December 2023
Application Number: IDAS 23/10

SITE PLAN

1: 200

NOTE :

UNLESS BEING COLLECTED INTO APPROVED STORMWATER TANK/S, ROOF STORMWATER & TANK OVERFLOW TO BE DIRECTED Via. 100 Dia. u.P.V.C. UNDERGROUND PIPE/S TO LAWFUL DISCHARGE POINTS eg. KERB & CHANNEL.

Use figured dimensions in preference to scale. Check all dimensions on site before fabrication or building work.

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1: 200
 ON A3 SHEET

PROPOSED RESIDENCE FOR :
A. & J. FAHEY
LOT 11, JOHN STREET,
THURSDAY ISLAND

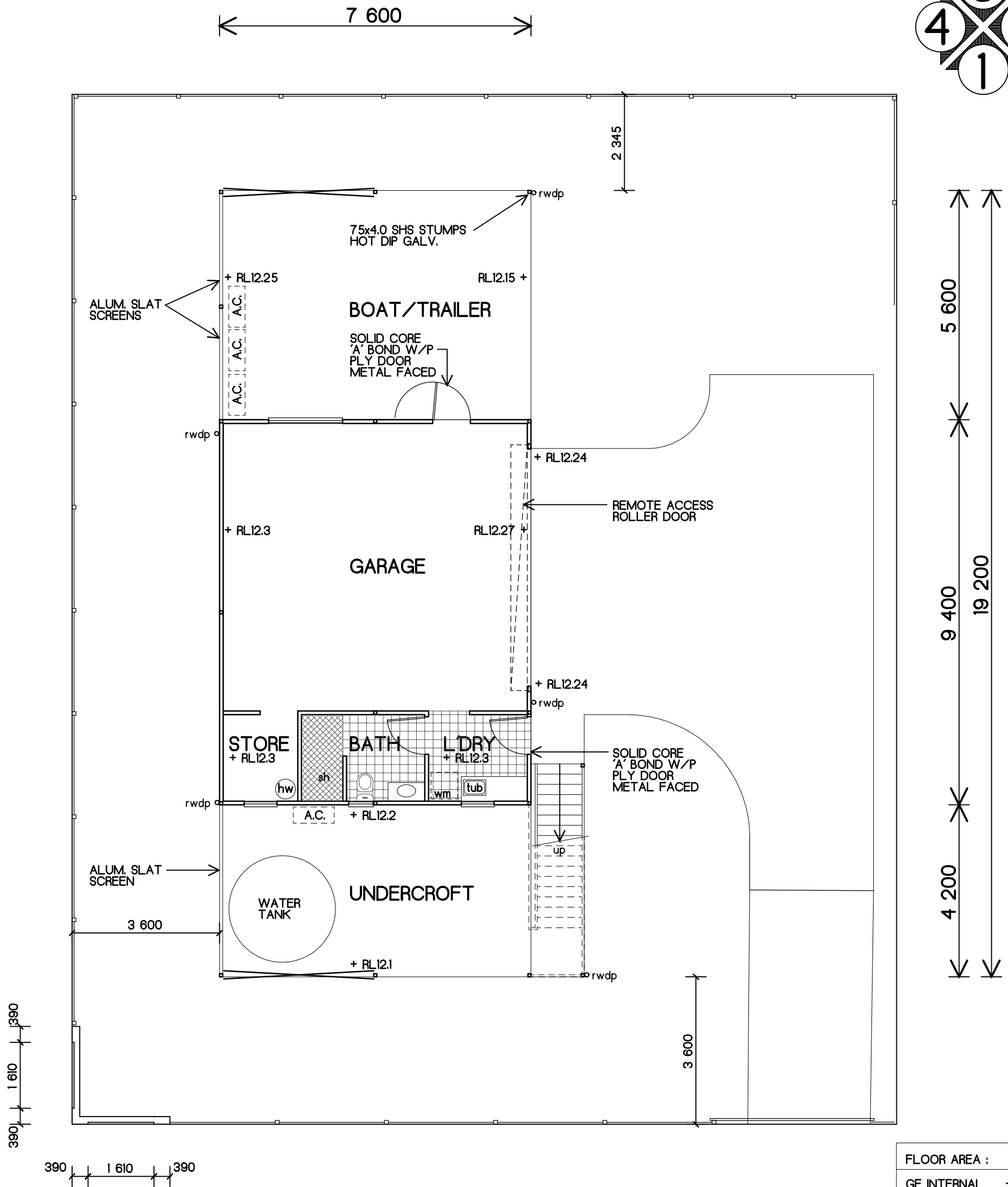
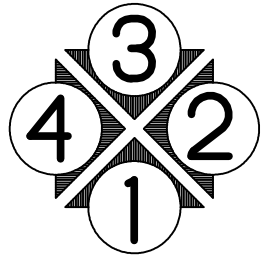
SEPTEMBER 2023

2647

S1
 OF 4

WIND CLASSIFICATION

C2



| FLOOR AREA : | |
|--------------|----------------------------|
| GF INTERNAL | - 71 m ² |
| GF OPEN | - 75 m ² |
| FF LIVING | - 114 m ² |
| FF VERANDAH | - 32 m ² |
| TOTAL | - 292 m² |

GROUND FLOOR PLAN

TORRES SHIRE COUNCIL
DIGITALLY STAMPED
APPROVED PLAN

Development Application: Development Permit for Building Work Assessable Against the Planning Scheme (Demolition) and Material Change of Use (Dwelling House).

RP Details: Lot 12 on SP295109

Referred to in Council's Decision Notice

Approval Date: 5 December 2023
Application Number: IDAS 23/10

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PROPOSED RESIDENCE FOR :
A. & J. FAHEY
LOT 11, JOHN STREET,
THURSDAY ISLAND

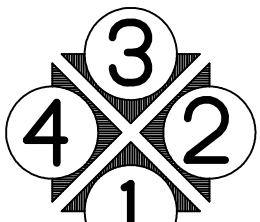
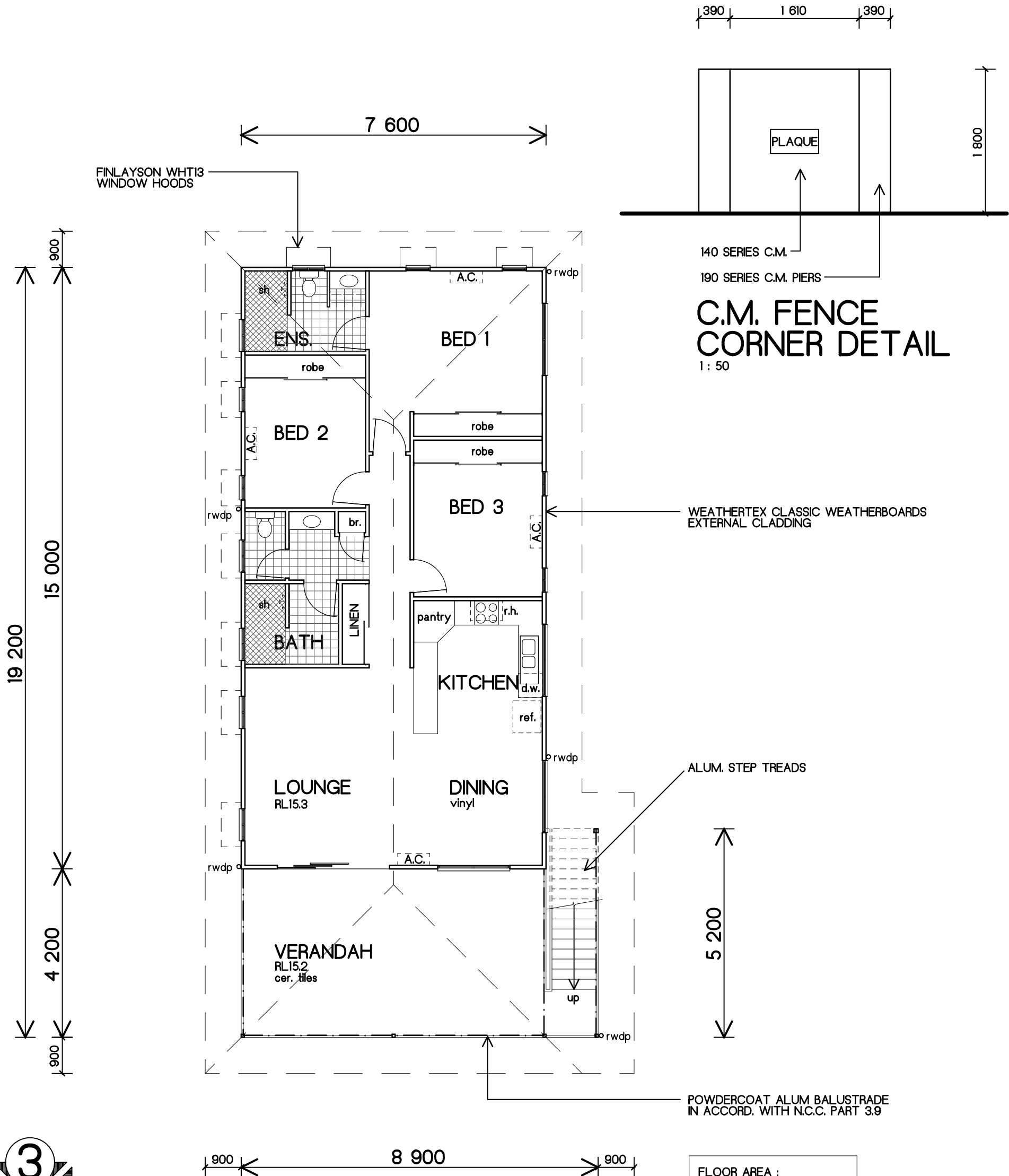
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SEPTEMBER 2023

2647

S2
OF 4

WIND CLASSIFICATION **C2**



TORRES SHIRE COUNCIL
 DIGITALLY STAMPED
 APPROVED PLAN

1ST FLOOR PLAN

| FLOOR AREA : | |
|--------------|----------------------------|
| GF INTERNAL | - 71 m ² |
| GF OPEN | - 75 m ² |
| FF LIVING | - 114 m ² |
| FF VERANDAH | - 32 m ² |
| TOTAL | - 292 m² |

Development Application: Development Permit for Building Work Assessable Against the Planning Scheme (Demolition) and Material Change of Use (Dwelling House).

RP Details: Lot 12 on SP295109

Referred to in Council's Decision Notice

Approval Date: 5 December 2023
Application Number: IDAS 23/10

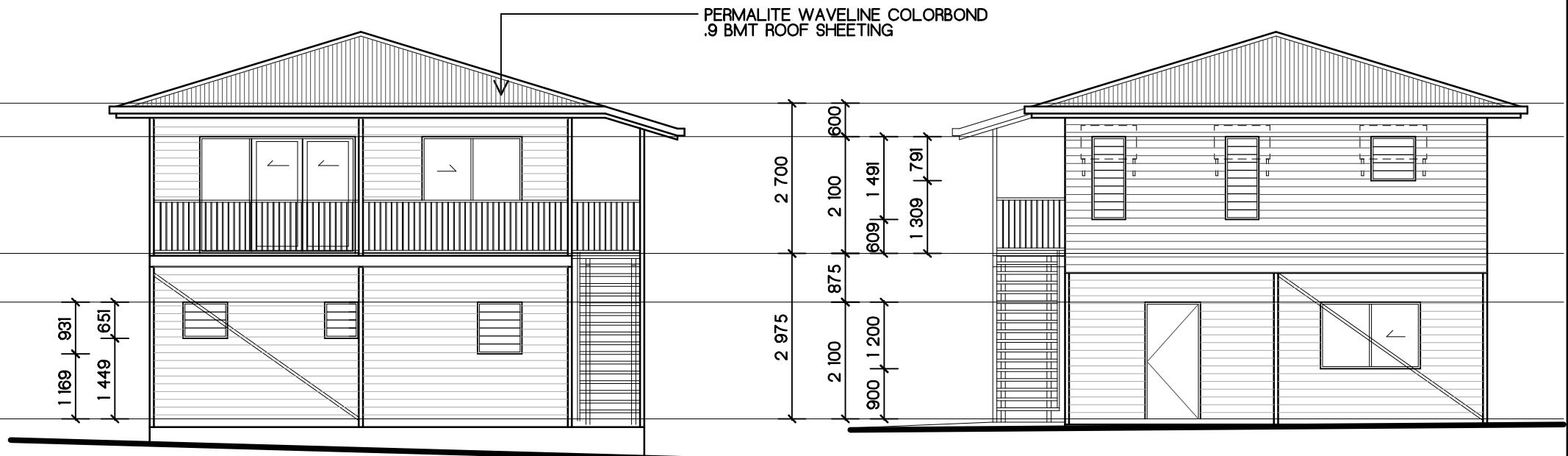
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1: 100, 1: 50,
ON A3 SHEET

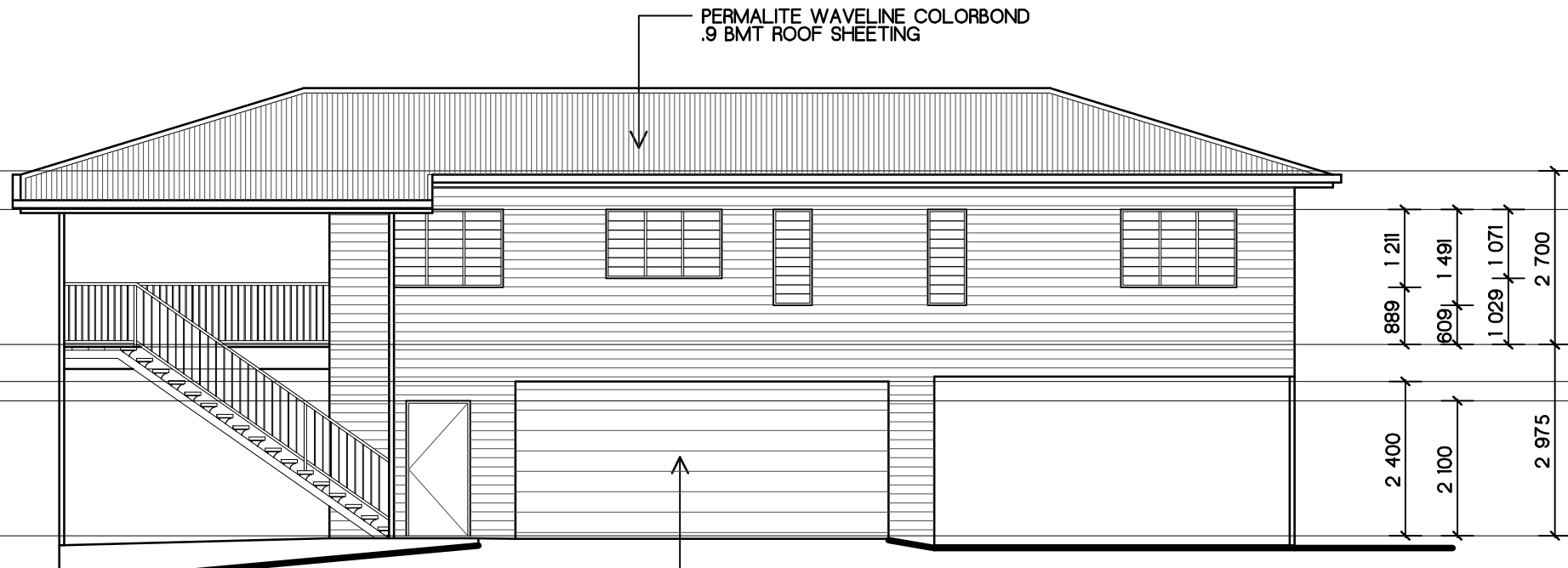
PROPOSED RESIDENCE FOR :
A. & J. FAHEY
LOT 11, JOHN STREET,
THURSDAY ISLAND

SEPTEMBER 2023
2647
 WIND CLASSIFICATION
S3
 OF 4
C2

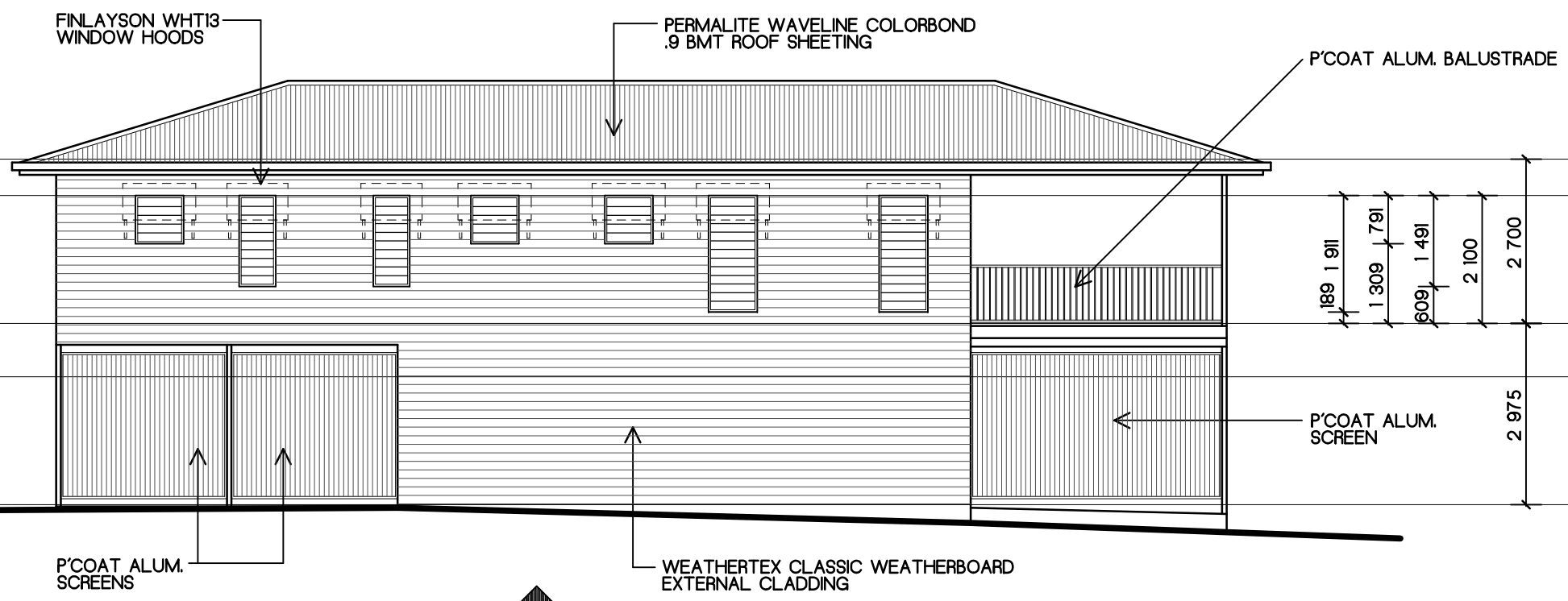


ELEVATION 1

ELEVATION 3



ELEVATION 2



ELEVATION 4

TORRES SHIRE COUNCIL
DIGITALLY STAMPED
APPROVED PLAN

Development Application: Development Permit for Building Work Assessable Against the Planning Scheme (Demolition) and Material Change of Use (Dwelling House).

RP Details: Lot 12 on SP295109
Referred to in Council's Decision Notice

Approval Date: 5 December 2023
Application Number: IDAS 23/10

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PROPOSED RESIDENCE FOR :
A. & J. FAHEY
LOT 11, JOHN STREET,
THURSDAY ISLAND

SEPTEMBER 2023

2647

S4
OF 4

WIND CLASSIFICATION

C2

NOTICE ABOUT DECISION – STATEMENT OF REASONS

This Notice is prepared in accordance with s63(5) and s83(9) of the Planning Act 2016 to provide information about a decision that has been made in relation to a development application. The purpose of the Notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- the relevant parts of the Planning Scheme and Assessment Benchmarks against which the application was assessed; and*
- any other information, documents or other material Council was either required to, or able to, consider in its assessment.*

All terms used in this Notice have the meanings given them in the Planning Act 2016 or otherwise their ordinary meaning.

APPLICATION DETAILS

| | |
|---------------------------------|--|
| Application No: | IDAS23/10 |
| Applicant: | Adam and Jenifer Fahey c/- Zone Planning Queensland |
| Proposal: | Development Permit for Building Works Assessable Against the Planning Scheme and Material Change of Use |
| Description of the Development: | Demolition and Dwelling House |
| Street Address: | 20 John Street, Thursday Island |
| Real Property Description: | Lot 12 on SP295109 |
| Planning Scheme: | <i>Torres Shire Council Planning Scheme 2022</i> |
| Land Zoning: | Low-Medium Density Residential |
| Assessment Type: | Impact |

DECISION DETAILS

| | |
|-------------------|---|
| Type of Decision: | Approval with Conditions |
| Type of Approval: | Development Permit for Building Works Assessable Against the Planning Scheme (Demolition) and Material Change of Use (Dwelling House) |
| Date of Decision: | 5 December 2023 |

ASSESSMENT BENCHMARKS

The following Assessment Benchmarks applied to the development from the following Categorising Instruments:

Categorising Instrument (*Planning Regulation 2017*)

This application did not trigger any matters prescribed by the regulation.

Categorising Instrument (State Planning Policy - July 2017)

- Not Applicable

Local Categorising Instrument (Torres Shire Council Planning Scheme 2022):

Standard Outcomes

- All

Standard Outcomes

- Airport Environs Overlay

Merit Outcomes

- MO1 General
- MO4 Amenity and Privacy
- MO5 Built Form and Development Design
- MO8 Heritage
- MO9 Infrastructure and Services
- MO10 Land Constraints
- MO11 Land Use
- MO12 Landscaping
- MO14 Parking, Access, and Transport

Local Categorising Instrument (Variation Approval)

- Not applicable.

Local Categorising Instrument (Temporary Local Planning Instrument)

- Not applicable.

PUBLIC NOTIFICATION

A review of Council's records has determined that zero (0) properly made submissions were received.

REASONS FOR THE DECISION

The application is **approved** on the following grounds:

- The proposal is compliant with the assessment benchmarks and consistent with the Torres Shire Council Planning Scheme 2022.
- The dwelling proposed for demolition is a local non-indigenous heritage place and a structural assessment has been completed that identifies that the dwelling has been subject to extensive irreversible structural damage.
- A heritage impact assessment has been completed for the site that identifies that there are no feasible or prudent alternatives to removing the building. Impacts on the heritage significance can be managed by the inclusion of conditions relating to undertaking an archival recording, and a plaque recognising the significance of the place.
- The proposed development for Building Work Assessable Against a Planning Scheme (Demolition) and Material Change of Use (Dwelling House), is an appropriate use to be located in the Low-Medium Density Residential zone and will positively contribute to the housing stock on Thursday Island whilst maintaining a strong connection to the heritage values of the site.
- The proposed development is unlikely to have an adverse impact on the amenity of the surrounding area.

REASONS FOR APPROVAL DESPITE NON-COMPLIANCE WITH ASSESSMENT BENCHMARKS

Not applicable.

ADDITIONAL RELEVANT MATTERS FOR IMPACT ASSESSMENT

Not applicable.

OTHER MATTERS PRESCRIBED BY THE PLANNING REGULATION 2017

Not applicable.

OTHER DETAILS

If you wish to obtain more information about Council's decision, please refer to Council's webpage at <https://www.torres.qld.gov.au/development-applications-1>

APPEAL RIGHTS

(Planning Act 2016 & Planning Regulation 2017)

Attached under separate cover (this page has been intentionally left blank)

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 an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
 - (iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
 - (iv) otherwise—20 business days after the day the notice is given; or
- (g) 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, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and

- (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; 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 to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (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 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), 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.

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- (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

-
- (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 2018*; 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.

- (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) |
| 1 The applicant 2 For a matter other than a deemed refusal of an extension application—a concurrence agency, other than the chief executive, for the application | The assessment manager | If a concurrence agency starts the appeal—the applicant | If a chosen assessment manager is the respondent—the prescribed assessment manager |
| <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 1 Appeals to the P&E Court and, for certain matters, to a tribunal | | | |
|---|---|---------------------------------------|--|
| 7. Enforcement notices under the <i>Plumbing and Drainage Act 2018</i> An appeal may be made against the decision to give an enforcement notice. | | | |
| 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 local government that gave the enforcement notice | — | — |

| Table 2 Appeals to the P&E Court only | | | |
|---|---|---------------------------------------|--|
| 1. Appeals from tribunal An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of— (a) an error or mistake in law on the part of the tribunal; or (b) jurisdictional error. | | | |
| 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 | — | — |
| 2. Eligible submitter appeals 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— (a) any part of the development application or change application that required impact assessment; or (b) a variation request. | | | |

| 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) |
| <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> |
| <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> | | | |

| 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) |
| <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> | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
| <p>A person dissatisfied with the decision</p> | <p>The local government to which the claim was made</p> | <p>—</p> | <p>—</p> |

| Table 2 Appeals to the P&E Court only | | | |
|---|------------------------|---------------------------------------|---|
| <p>5. Registered premises</p> <p>An appeal may be made against a decision of the Minister under chapter 7, part 4.</p> | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
| <p>1 A person given a decision notice about the decision</p> <p>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</p> | <p>The Minister</p> | <p>—</p> | <p>If an owner or occupier starts the appeal—the owner of the registered premises</p> |
| <p>6. Local laws</p> <p>An appeal may be made against a decision of a local government, or conditions applied, under a local law about—</p> <p>(a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or</p> <p>(b) the erection of a building or other structure.</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 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</p> <p>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 <i>Plumbing and Drainage Act 2018</i></p> <p>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 <i>Plumbing and Drainage Act 2018</i>, 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.</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 entity that made the decision | — | — |
| <p>4. Failure to decide an application or other matter under the Building Act</p> <p>An appeal may be made against a failure to make a decision under the Building Act within the period required under that Act, other than a failure by the Queensland Building and Construction Commission to make a decision, if an information notice about the decision was required to be given 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 entity that failed to make the decision | — | — |
| <p>5. Failure to decide an application or other matter under the <i>Plumbing and Drainage Act 2018</i></p> <p>An appeal may be made against a failure to make a decision under the <i>Plumbing and Drainage Act 2018</i> within the period required under that Act, other than a failure by the Queensland Building and Construction Commission to make a decision, if an information notice about the decision was 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 was entitled to receive an information notice about the decision | The entity that failed to make the decision | — | — |



TORRES SHIRE COUNCIL

To lead, provide and facilitate a sustainable, safe
and culturally vibrant community

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DATE: 8 December 2023

Our Ref: IDAS23/10
Enquire to: Phil Turner
Telephone: (07) 4069 1200

Adam and Jenifer Fahey
c/- Zone Planning Queensland
PO Box 5332
GLADSTONE QLD 4680

Email: sarah@zoneplanning.com.au

Dear Sir/Madam

**Reduced front boundary setback - Development Permit for Building Work
Assessable Against the Planning Scheme (Demolition) and Material Change of Use
(Dwelling House) – Lot 12 SP295109, formally described as 20 John Street,
Thursday Island**

I refer to the reduced front boundary setback associated with the above development application.

Torres Shire Council at the Ordinary Council meeting held on 5 December 2023, resolved to approve the development application subject to conditions (IDAS23/10). A Decision Notice will be issued under separate cover.

In considering the development application, Council further resolved in accordance with Schedule 9, Part 3, Division 2, Table 3, Item 4 of the Planning Regulation 2017 that the reduced proposed front boundary setback complies with the performance criteria of the Queensland Development Code.

For further information, or to query or seek clarification about any of these details, please contact Phil Turner (Director, Governance and Planning Services) on (07) 4069 1200.

Yours sincerely,

Dalassa Yorkston
Chief Executive Officer