

Our Ref: LM: lmc:DA/4600 AD2024/000003037

14 June 2024

South Cape York Catchments  
c/- Eric George  
PO Box 546  
COOKTOWN QLD 4895  
E-mail: [ericge@westnet.com.au](mailto:ericge@westnet.com.au)

Attention: Eric George

Dear Mr George

**Decision Notice - Approval**

Given under section 63 of the *Planning Act 2016*

With reference to the Development Application (DA/4600), please find attached the relevant Decision Notice, which was approved by Cook Shire Council in full, subject to conditions.

Details of the decision are as follows:

**Decision Details**

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Date of Decision: Council approved the Development Application by delegation on **11 June 2024**.

Approval Details: **Approved in full** with conditions. These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or concurrence agency imposed them.

**Application Details**

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Application Number: DA/4600

Approval Sought: Development Permit for Operational Works

Description of the Development: Operational Work for Prescribed Tidal Works (Boardwalk)

Category of Development: Assessable Development

Category of Assessment: Code Assessment

Planning Scheme: Cook Shire Council Planning Scheme 2017 v2.0

## Location Details

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Street Address: MacMillan Street Road Reserve COOKTOWN 4895

Real Property Description: Adjacent Lot 3 on USL8248 and Lot 74 on BS131

Local Government Area: Cook Shire

## Assessment Manager Conditions

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

## Further Development Permits

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Please be advised that the following development permits are required to be obtained before the development can be carried out:

1. Development Permit for Building Work

## Properly Made Submissions

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Not applicable - no part of the application required public notification.

## Referral Agencies

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The referral agencies for the application are:

Referral Agency	Referral Matter
State Assessment and Referral Agency (SARA)  Far North Queensland Regional Office PO Box 2358 CAIRNS QLD 4870 Ph: 07 4037 3214  E-mail: <a href="mailto:CairnsSARA@dasilgp.qld.gov.au">CairnsSARA@dasilgp.qld.gov.au</a> MyDAS2 online referrals: <a href="https://prod2.dev-assess.qld.gov.au/suite/">https://prod2.dev-assess.qld.gov.au/suite/</a>	Schedule 10, Part 17, Division 3, Table 1 ( <i>Planning Regulation 2017</i> ) - Operational work that is tidal work

## Variation approval details

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Not Applicable

## Other requirements under section 43 of the *Planning Regulation 2017*

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Not Applicable.

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### Approved Plans and Specifications

Copies of the approved plans, specifications and/or drawings are enclosed in **Attachment 2**.

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### Currency Period for the Approval

This development approval will lapse at the end of the period set out in section 85 of the *Planning Act 2016*.

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### Lapsing of approval if development started but not completed

In accordance with section 88(1) of the *Planning Act 2016*, a development approval, other than a variation approval, for development lapses to the extent the development is not completed within any period or periods required under a development condition.

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### Rights of Appeal

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

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### Other Details

Council relies on the accuracy of information included in the application documentation when assessing and deciding applications.

If you find an inaccuracy in any of the information provided above, have a query, or need to seek clarification about any of these details, please contact Cook Shire Council's Planning and Environment Department on 07 4082 0500 or E-mail: [mail@cook.qld.gov.au](mailto:mail@cook.qld.gov.au).

Yours sincerely



Lisa Miller

Manager Planning and Environment

cc: State Assessment Referral Agency (SARA) [CairnsSARA@dsdilgp.qld.gov.au](mailto:CairnsSARA@dsdilgp.qld.gov.au)

enc: **Attachment 1 (A)** Conditions Imposed by the Assessment Manager  
**Attachment 1 (B)** Conditions Imposed by a Concurrence Agency (D24/19611)  
**Attachment 2** Approved Plans (D24/19610)  
**Attachment 3** Notice of Decision – Statement of Reasons (AD2024/0003038)  
**Attachment 4** Extract of Appeal Provisions (Chapter 6 part 1 of the *Planning Act 2016*)

## Attachment 1 (A) Conditions Imposed by the Assessment Manager (Cook Shire Council)

### A. Assessment Manager (Council) Conditions

No.	Condition	Timing																
<b>GENERAL</b>																		
1.	<b>COMPLIANCE WITH CONDITIONS</b> 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.	At all times																
2.	<b>WORKS – APPLICANT’S EXPENSE</b> 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.	At all times																
3.	<b>WORKS - DAMAGE TO INFRASTRUCTURE</b> The Developer must repair any damage to existing infrastructure that may have occurred during any works undertaken as part of the development. Any damage that is deemed to create a hazard to the community, must be repaired immediately.	At all times																
4.	<b>WORKS – DESIGN &amp; STANDARD</b> Unless otherwise stated, all works must be designed, constructed, and maintained in accordance with the relevant Council policies, guidelines, and standards.	At all times																
5.	<b>WORKS – SPECIFICATION &amp; CONSTRUCTION</b> 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).	At all times																
<b>APPROVED PLANS &amp; DOCUMENTS</b>																		
6.	<p><b>APPROVED PLANS &amp; DOCUMENTS</b> Undertake the approved development generally in accordance with the approved plans and documents, including any amendments made in red on the approved plan(s) or document(s):</p> <table border="1"> <thead> <tr> <th>Title</th> <th>Details</th> <th>Date</th> <th>Prepared By</th> </tr> </thead> <tbody> <tr> <td>Proposed Boardwalk Route (Modified E. George)</td> <td>Job No. 1531 Rev. B.</td> <td>10 September 2023 (Mod. 29 February 2024)</td> <td>MC Land Surveys (Mod E George)</td> </tr> <tr> <td>Boardwalk Setout Plan</td> <td>DWG No. S02 Rev A</td> <td>25 June 2015</td> <td>Structure by Design</td> </tr> <tr> <td>Details Sheet 1</td> <td>DWG No. S03 Rev A</td> <td>25 June 2015</td> <td>Structure by Design</td> </tr> </tbody> </table>	Title	Details	Date	Prepared By	Proposed Boardwalk Route (Modified E. George)	Job No. 1531 Rev. B.	10 September 2023 (Mod. 29 February 2024)	MC Land Surveys (Mod E George)	Boardwalk Setout Plan	DWG No. S02 Rev A	25 June 2015	Structure by Design	Details Sheet 1	DWG No. S03 Rev A	25 June 2015	Structure by Design	At all times
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Boardwalk Setout Plan	DWG No. S02 Rev A	25 June 2015	Structure by Design															
Details Sheet 1	DWG No. S03 Rev A	25 June 2015	Structure by Design															

7.	<p><b>CONDITIONS OF APPROVAL &amp; APPROVED PLANS</b></p> <p>Where there is a conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval take precedence.</p>	At all times
8.	<p>Provide “For Construction” structural drawings certified by a suitably experienced Registered Professional Engineer of Queensland (RPEQ).</p> <p>The “For Construction” drawings must:</p> <ol style="list-style-type: none"> <li>be accompanied by manufacturers product warranties on materials.</li> <li>be designed with appropriately sized footings to support all ultimate load combinations.</li> <li>be designed in accordance with the maximum grades nominated in AS/NZS 1428 and infrastructure design requirements for boardwalks nominated in AS/NZS 2156.</li> <li>be designed with suitable materials to achieve low to very low maintenance requirements.</li> </ol>	Prior to the Pre-Start Meeting
9.	<p>The boardwalk alignment must be pegged out onsite to confirm clearing of vegetation is minimised prior to the pre-start meeting.</p> <p>Council Officers are to be given the opportunity to inspect the alignment with the Contractor to confirm vegetation clearing proposed.</p> <p>Alignment changes may be required following the inspection. Any alignment changes must be documented in updated design drawings with the final constructed alignment and levels recorded in the as-constructed records.</p>	At the Pre-Start Meeting

#### MAINTENANCE PLAN

10.	<p>Prepare a Maintenance Plan and Program in consultation with Cook Shire Council, detailing ongoing maintenance and management regimes to be implemented for the permitted Operational Work.</p>	Prior to the Pre-Start Meeting
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#### CONSTRUCTION MANAGEMENT PLAN

11.	<p>Prepare and provide a Construction Management Plan (CMP) that addresses all operations associated with the permitted Operational Work.</p> <p>The CMP must be provided to Council and made available to all onsite workers at all times. The CMP must be implemented at all times for the duration of approved work.</p>	Prior to the Pre-Start Meeting
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**B. Assessment Manager (Council) Advice**

1. The currency period for this application is two (2) years, in accordance with section 85 of the *Planning Act 2016*. Should the approved development not commence within this time, the approval shall lapse.
2. A development permit is required for carrying out Building Works prior to construction of any structures associated with this development.
3. Approval from Cook Shire Council to work in the road reserve is required prior to commencement of construction or any works taking place.
4. Council's Building Certifier / or Council's Director Infrastructure, must be notified and requested to carry out Inspections during construction to ensure compliance with the "For Construction" drawings.
5. The applicant/owner is to ensure compliance with the requirements of the *Aboriginal Cultural Heritage Act* and in particular 'the duty of care' that it imposes on all landowners.

**6. Removal of Protected Vegetation**

This development approval does not approve or authorize the removal of vegetation that is otherwise protected under separate State or Federal legislation, including under the following:

- A. *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*;
- B. *Nature Conservation Act 1999 (Qld)*;
- C. *Vegetation Management Act 1999 (Qld)*.

**Attachment 1 (B) Conditions Imposed by a Concurrence Agency (D24/19611)**



SARA reference: 2403-39467 SRA  
 Applicant reference: Cooktown Railway Boardwalk  
 Council reference: DA/4600

16 April 2024

Chief Executive Officer  
 Cook Shire Council  
 PO Box 3  
 COOKTOWN QLD 4895  
 mail@cook.qld.gov.au

Attention: Planning and Environment Department

Dear Sir/Madam

## SARA referral agency response— Construction of Boardwalk along Old Railway Embankment at Cooktown

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 12 March 2024.

### Response

Outcome:	Referral agency response – with conditions
Date of response:	16 April 2024
Conditions:	The conditions in <b>Attachment 1</b> must be attached to any development approval
Advice:	Advice to the applicant is in <b>Attachment 2</b>
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b>

### Development details

Description:	Development permit	Operational work for prescribed tidal works (boardwalk)
SARA role:	Referral agency	
SARA trigger:	<b>Schedule 10, Part 17, Division 3, Table 1</b> (Planning Regulation 2017) – Operation work that is tidal works	

SARA reference: 2403-39467 SRA  
Assessment manager: Cook Shire Council  
Street address: Macmillan Street road reserve, Cooktown  
Real property description: Adjacent to Lot 74 on BS131  
Applicant name: South Cape York Catchments  
Applicant contact details: Mr Eric George  
PO Box 901  
Cooktown QLD 4895  
ericge@westnet.com.au

*Human Rights Act 2019* considerations: Section 58 of the *Human Rights Act 2019* specifies required conduct for public entities when acting or making a decision. Sections 15 – 37 of the *Human Rights Act 2019* identifies the human rights a public entity must consider in making a decision.  
This decision does not limit the above identified human rights.

## Representations

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An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules). Copies of the relevant provisions are in **Attachment 4**.

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

For further information please contact Anthony Westbury, A/Senior Planning Officer, on 40373215 or via email CairnsSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow  
Manager (Planning)

cc Mr Eric George, ericge@westnet.com.au

enc Attachment 1 - Referral agency conditions  
Attachment 2 - Advice to the applicant  
Attachment 3 - Reasons for referral agency response  
Attachment 4 - Representations about a referral agency response  
Attachment 5 - Documents referenced in conditions

## Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the plans and specifications referenced below are found at **Attachment 5**)

No.	Conditions	Condition timing
<b>Operational work</b>		
Schedule 10, Part 17, Division 3, Table 5, Item 1 – Operational work that is tidal works—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Environment, Science and Innovation to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p>The construction of the boardwalk must be undertaken generally in accordance with the following plans:</p> <ul style="list-style-type: none"> <li>• Proposed Boardwalk Route prepared by MD Land Surveys dated 10 September 2023, job no.1531, rev. B.</li> <li>• Boardwalk Setout Plan prepared by Structure by Design dated 25/06/2015, drawing no. S02, revision A.</li> <li>• Details Sheet 1 prepared by Structure by Design dated 25/06/2015, drawing no. S03, revision A.</li> </ul>	For the duration of works.
2.	For the works, only use clean materials which are free from prescribed water contaminants.	For the duration of works.
3.	Development must prevent the release of sediment to tidal waters by installing and maintaining erosion and sediment control measures in accordance with the <i>Best Practice Erosion and Sediment Control (BPESC) guidelines for Australia (International Erosion Control Association)</i> .	For the duration of works.
4.	<p>Should the boardwalk structure collapse, fail or otherwise suffer structural consequences which impact their integrity or ability to function as intended, the works must be:</p> <p>(a) reinstated in accordance with this development approval; or</p> <p>(b) removed and disposed of at an appropriately licensed facility.</p>	As soon as reasonably practicable subsequent to the damage.
5.	<p>Submit “As Constructed drawings” to palm@des.qld.gov.au or mail to:</p> <p>Department of Environment, Science and Innovation Permit and License Management GPO Box 2454 Brisbane Qld 4001</p>	Within 20 business days of the completion of the works.
6.	<p>(a) In the event that the works cause disturbance or oxidisation of acid sulfate soil, the affected soil must be treated and thereafter managed (until the affected soil has been neutralised or contained) in accordance with the current Queensland Acid Sulfate Soil Technical Manual: Soil Management Guidelines, prepared by the Department of Resources, 2023.</p> <p>(b) Certification by an appropriately qualified person, confirming that the</p>	(a) Upon disturbance or oxidisation until the affected soil has been neutralised or contained.

	<p>affected soil has been neutralised or contained, in accordance with (a) above is to be provided to palm@des.qld.gov.au or mailed to:</p> <p>Department of Environment, Science and Innovation Permit and License Management GPO Box 2454 Brisbane Qld 4001</p> <p><i>Note: Appropriately qualified person means a person or persons who has professional qualifications, training, skills and experience relevant to soil chemistry or acid sulfate soil management and can give authoritative assessment, advice and analysis in relation to acid sulfate soil management using the relevant protocols, standards, methods or literature.</i></p>	<p>(b) At the time the soils have been neutralised or contained.</p>
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## Attachment 2—Advice to the applicant

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<b>General advice</b>	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v3.0. If a word remains undefined it has its ordinary meaning.

## **Attachment 3—Reasons for referral agency response**

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(Given under section 56(7) of the *Planning Act 2016*)

### **The reasons for the SARA decision are:**

The proposed development, with conditions, complies with the relevant provisions of State code 8: Coastal development and tidal works in that:

- The proposed works will maintain coastal processes and resources, and do not increase the risk of adverse impacts on people or property from coastal erosion.
- The proposed works maintain the protective functions of landforms and vegetation within the coastal erosion prone area.
- The environmental values of adjacent tidal waters will be maintained.
- Adverse impacts to Matters of State Environmental Significance (MSES), being marine plants, wildlife habitat and regulated vegetation, are avoided.

### **Material used in the assessment of the application:**

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the State Development Assessment Provisions (version 3.0)
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- *Human Rights Act 2019*

## **Attachment 4— Representations about a referral agency response**

(page left intentionally blank – attached separately)

# Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules<sup>1</sup> regarding **representations about a referral agency response**

## Part 6: Changes to the application and referral agency responses

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### 28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
  - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
  - (c) the applicant has given written agreement to the change to the referral agency response.<sup>2</sup>
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
  - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

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<sup>1</sup> Pursuant to Section 68 of the *Planning Act 2016*

<sup>2</sup> In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

## **Part 7: Miscellaneous**

### **30 Representations about a referral agency response**

- 30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.<sup>3</sup>

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<sup>3</sup> An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

## **Attachment 5—Documents referenced in conditions**

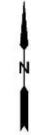
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(page left intentionally blank – attached separately)

COOKTOWN  
BOARDWALK PROJECT  
RAILWAY  
Planning reference : 2312-38445 SPL

**Proposed Boardwalk Route**

showing survey stations for levelling & position of boardwalk



E:310987.844  
N:8288058.573  
Z:1.990  
TBM star picket

E:310979.850  
N:8288455.830  
Z:3.062  
Nail in Tree Root

92  
USL8243

74  
BS131

GINail in Tree Root

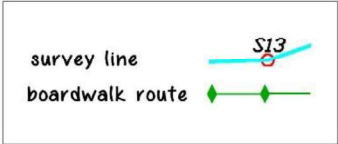
Boundary Street

8  
C17921

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

SARA ref: 2403-39467 SRA .....

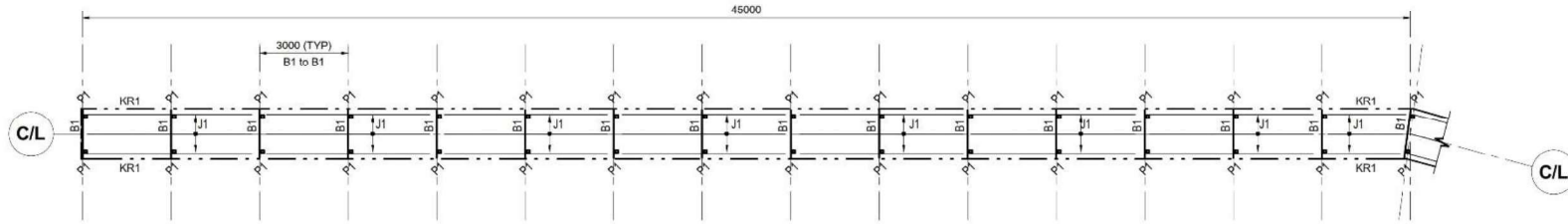
Date: 16 April 2024 .....



**MD** LAND SURVEYS

Modified ~ E.George  
29-02-2024  
level readings deleted  
& boardwalk route added

Date: 10 September 2023  
Scale: 1:500 2 A3  
Drawn: M. Dunn  
Job No: 1531  
Plan No: Staking - AHD - Rev - B

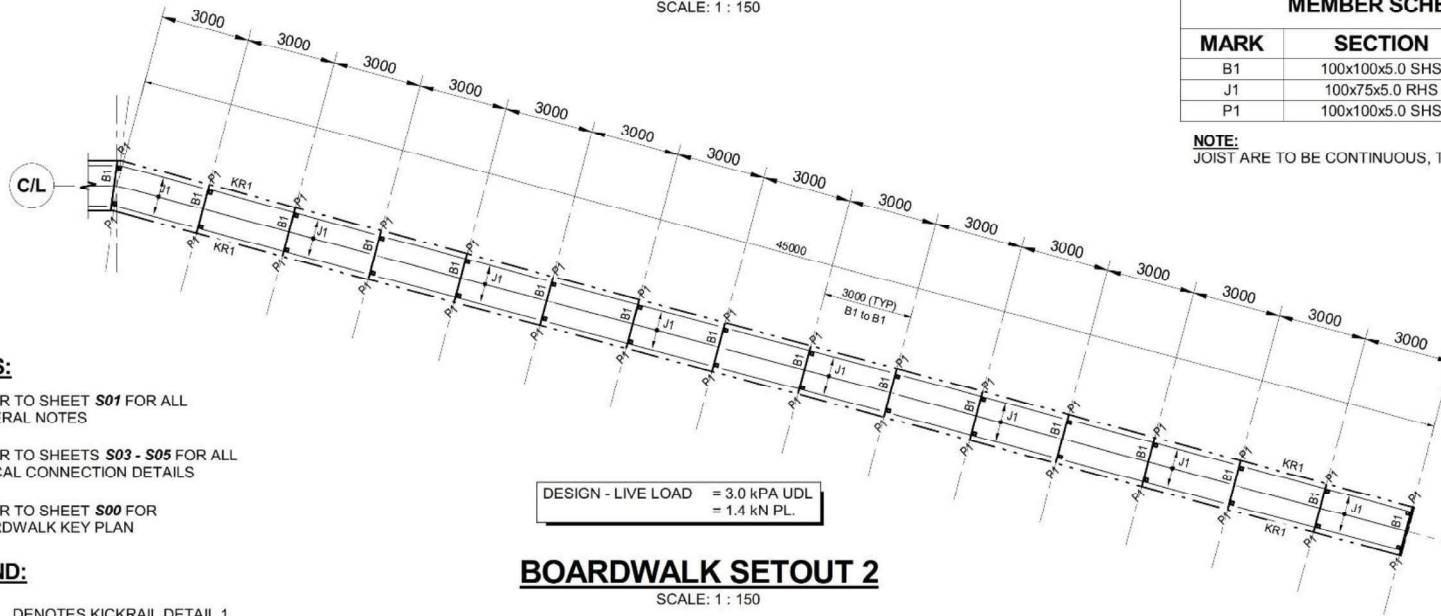


### BOARDWALK SETOUT 1

SCALE: 1 : 150

MEMBER SCHEDULE		
MARK	SECTION	NOTES
B1	100x100x5.0 SHS	BEARER
J1	100x75x5.0 RHS	JOIST
P1	100x100x5.0 SHS	POST

**NOTE:**  
JOIST ARE TO BE CONTINUOUS, TWO SPANS MINIMUM



### BOARDWALK SETOUT 2

SCALE: 1 : 150

#### NOTES:

- REFER TO SHEET **S01** FOR ALL GENERAL NOTES
- REFER TO SHEETS **S03 - S05** FOR ALL TYPICAL CONNECTION DETAILS
- REFER TO SHEET **S00** FOR BOARDWALK KEY PLAN

#### LEGEND:

**KR1** DENOTES KICKRAIL DETAIL 1  
REFER DETAIL SHEET **S05**

DESIGN - LIVE LOAD = 3.0 kPA UDL  
= 1.4 kN PL.

PLANS AND DOCUMENTS  
referred to in the REFERRAL  
AGENCY RESPONSE



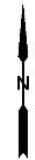
SARA ref: 2403-39467 SRA

Date: 16 April 2024

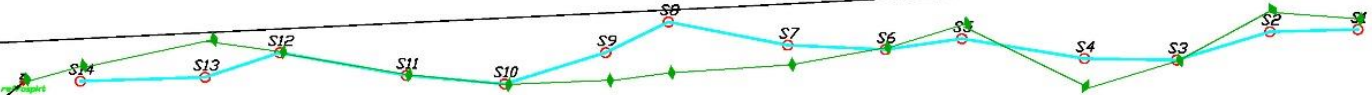
AMENDMENT	DATE	EC 17237. RPEQ 07261. 208666ES	<b>structure</b> BY <b>design</b>	<b>IMPORTANT NOTE:</b> A full site measure is to be carried out prior to any construction commencing on site. All site measurements are to be checked against drawings. Any changes are to be made by Designer to drawings prior to commencement on site. All dimensions are to be checked on site before commencement of work or manufacturing of any items. These drawings are the property of Structure By Design Pty Ltd and must not be reproduced or copied wholly or in part without the permission of Structure By Design Pty Ltd. Use figured dimensions in reference to scale.	<b>CLIENT:</b> REPLAS RECYCLED PLASTIC PRODUCTS  <b>PROJECT:</b> DARWIN, NT	<b>DRAWING TITLE:</b> BOARDWALK SETOUT PLAN		<b>DRAWING No:</b> <b>S02</b>  <b>REVISION:</b> <b>A</b>  <b>SCALE AT A3:</b> <b>1 : 150</b>
A - CONSTRUCTION ISSUE	25/06/15					<b>DRAWN:</b> AG <b>DATE:</b> JUNE 2015 <b>CHECKED:</b> TLC <b>FIRST ISSUE:</b>		
<small>ALL DIMENSIONS ARE IN MILLIMETRES. VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCEMENT OF WORKS. DO NOT SCALE OFF DRAWING. COPYRIGHT REMAINS THE PROPERTY OF THIS OFFICE.</small>								



**Attachment 2**    Approved Plans (D24/19610)



E:310987.844  
 N:8288558.573  
 Z:1.990  
 TBM star picket



92  
 USL8243

74  
 BS131

GINail in Tree Root

E:310979.850  
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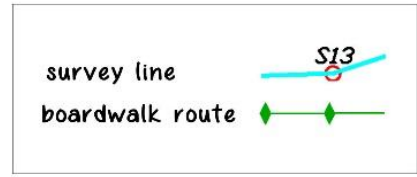
**COOK SHIRE COUNCIL**  
**DIGITALLY STAMPED**  
**APPROVED PLAN**

Development Application: Development Permit for Operational Work for Prescribed Tidal Works (Boardwalk)

Lot: Adjacent Lot 3 on USL8248 and Lot 74 on BS131

Referred to in Cook Shire Council's Decision Notice

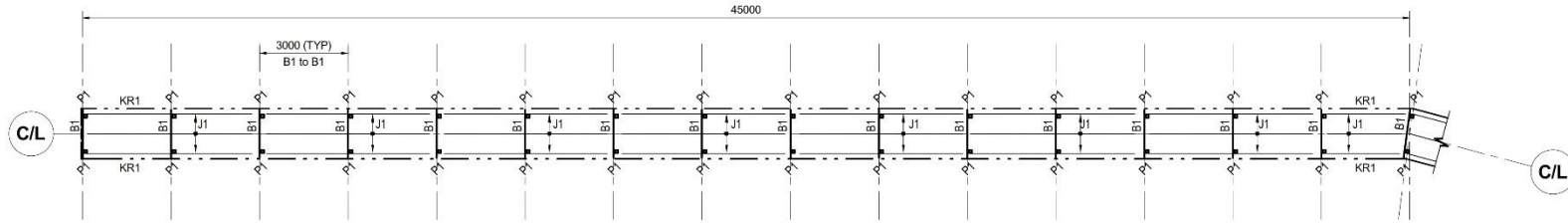
Approval Date: 11 June 2024  
 Application Number: DA/4600



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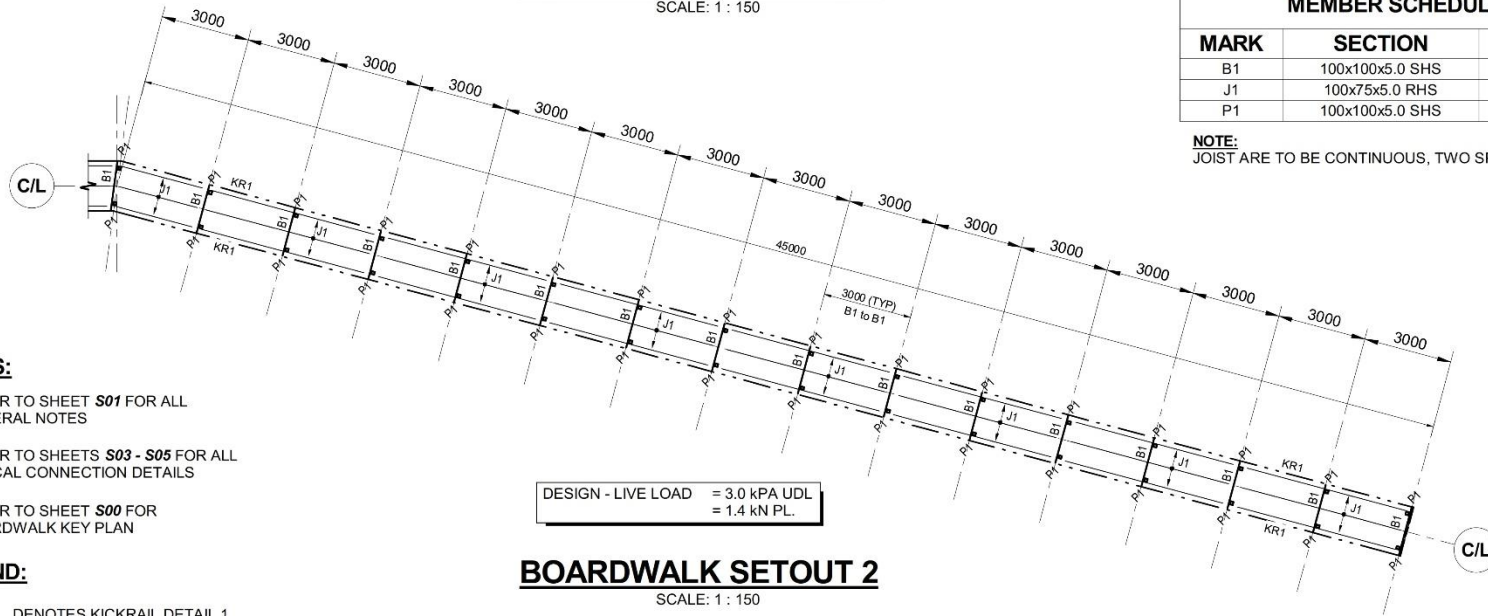


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**NOTE:**  
JOIST ARE TO BE CONTINUOUS, TWO SPANS MINIMUM



### BOARDWALK SETOUT 2

SCALE: 1 : 150

DESIGN - LIVE LOAD = 3.0 kPA UDL  
= 1.4 kN PL

**NOTES:**

- 1- REFER TO SHEET **S01** FOR ALL GENERAL NOTES
- 2- REFER TO SHEETS **S03 - S05** FOR ALL TYPICAL CONNECTION DETAILS
- 3- REFER TO SHEET **S00** FOR BOARDWALK KEY PLAN

**LEGEND:**

**KR1** DENOTES KICKRAIL DETAIL 1  
REFER DETAIL SHEET **S05**

**COOK SHIRE COUNCIL**

**DIGITALLY STAMPED  
APPROVED PLAN**

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**Lot:** Adjacent Lot 3 on USL8248 and Lot 74 on BS131

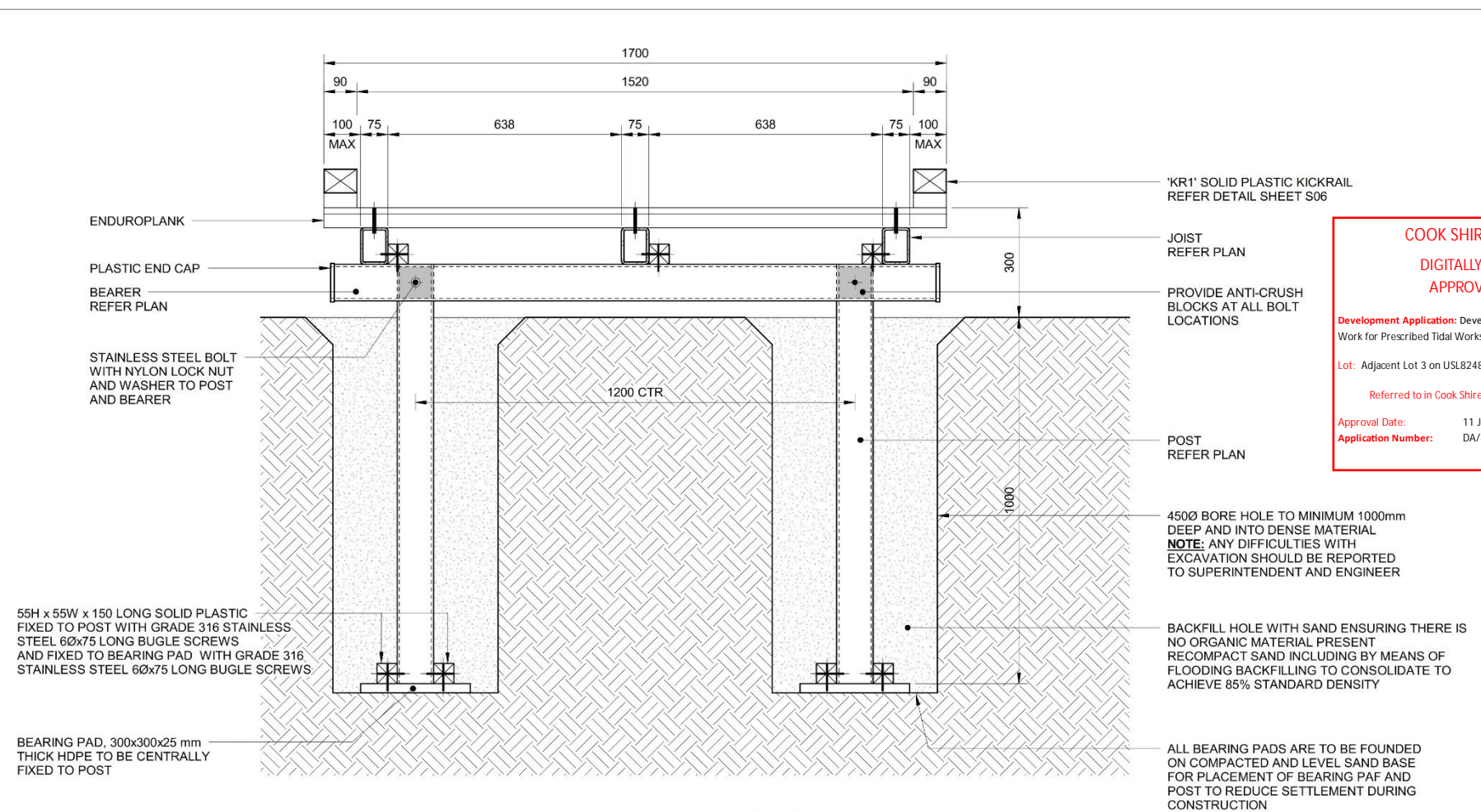
Referred to in Cook Shire Council's Decision Notice

**Approval Date:** 11 June 2024

**Application Number:** DA/4600

AMENDMENT	DATE		EC 17237, RPEQ 07261, 208666ES	<b>IMPORTANT NOTE:</b> A full site measure is to be carried out prior to any construction commencing on site. All site measurements are to be checked against drawings. Any changes are to be made by designer to drawings prior to commencement on site. All dimensions are to be checked on site before commencement of work or manufacturing of any items. These drawings are the property of Structure By Design Pty Ltd and must not be reproduced or copied wholly or in part without the permission of Structure By Design Pty Ltd. Use figured dimensions in reference to scale.	<b>CLIENT:</b> REPLAS RECYCLED PLASTIC PRODUCTS	<b>DRAWING TITLE:</b> BOARDWALK SETOUT PLAN	<b>DRAWING No:</b> <b>S02</b>	
A - CONSTRUCTION ISSUE	25/06/15			Suite 22, Level 1, 797 Plenty Rd, South Morang VIC 3752 E: trevor@structurebydesign.com.au M: 0418 345 326	<b>PROJECT:</b> DARWIN, NT	<b>DRAWN:</b> AG	<b>DATE:</b> JUNE 2015	<b>REVISION:</b> <b>A</b>
						<b>CHECKED:</b> TLC	<b>FIRST ISSUE:</b>	<b>SCALE AT A3:</b> <b>1 : 150</b>

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**COOK SHIRE COUNCIL**  
**DIGITALLY STAMPED**  
**APPROVED PLAN**

**Development Application:** Development Permit for Operational Work for Prescribed Tidal Works (Boardwalk)

**Lot:** Adjacent Lot 3 on USL8248 and Lot 74 on BS131

Referred to in Cook Shire Council's Decision Notice

**Approval Date:** 11 June 2024  
**Application Number:** DA/4600

**TYPICAL BORADWALK CROSS SECTION WITH KICKRAIL - 'KR1'**

SCALE: 1 : 10

AMENDMENT	DATE												
A - CONSTRUCTION ISSUE	25/06/15												
				EC 17237, RPEQ 07261, 208666ES    Suite 22, Level 1, 797 Plenty Rd, South Morang VIC 3752 E: trevor@structurebydesign.com.au M: 0418 345 326	<b>IMPORTANT NOTE:</b> A full site measure is to be carried out prior to any construction commencing on site. All site measurements are to be checked against drawings. Any changes are to be made by designer to drawings prior to commencement on site. All dimensions are to be checked on site before commencement of work or manufacturing of any items. These drawings are the property of Structure By Design Pty Ltd and must not be reproduced or copied wholly or in part without the permission of Structure By Design Pty Ltd. Use figured dimensions in reference to scale.		<b>CLIENT:</b> REPLAS RECYCLED PLASTIC PRODUCTS  <b>PROJECT:</b> DARWIN, NT	<b>DRAWING TITLE:</b> DETAILS SHEET 1  <table style="width: 100%; border: none;"> <tr> <td style="border: none;"><b>DRAWN:</b> AG</td> <td style="border: none;"><b>DATE:</b> JUNE 2015</td> </tr> <tr> <td style="border: none;"><b>CHECKED:</b> TLC</td> <td style="border: none;"><b>FIRST ISSUE:</b></td> </tr> </table> <p style="font-size: 8px;">ALL DIMENSIONS ARE IN MILLIMETRES. VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCEMENT OF WORKS. DO NOT SCALE OFF DRAWING. COPYRIGHT REMAINS THE PROPERTY OF THIS OFFICE.</p>	<b>DRAWN:</b> AG	<b>DATE:</b> JUNE 2015	<b>CHECKED:</b> TLC	<b>FIRST ISSUE:</b>	<b>DRAWING No:</b> <b>S03</b>  <b>REVISION:</b> <b>A</b>  <b>SCALE AT A3:</b> <b>1 : 10</b>
<b>DRAWN:</b> AG	<b>DATE:</b> JUNE 2015												
<b>CHECKED:</b> TLC	<b>FIRST ISSUE:</b>												

**Attachment 3** Notice of Decision – Statement of Reasons (AD2024/0003038)

## 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

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Application No:	DA/4600
Applicant:	South Cape York Catchments c/ Eric George
Proposal:	Development Permit for Operational Works
Description of the Development:	Operational Work for Prescribed Tidal Works (Boardwalk)
Street Address:	MacMillan Street Road Reserve, COOKTOWN 4895
Real Property Description:	Adjacent to Lot 3 on USL8248 and Lot 74 on BS131
Planning Scheme:	Cook Shire Council Planning Scheme 2017 v2.0
Land Zoning:	Community Facilities and Environmental Management and Conservation
Assessment Type:	Code Assessment

### DECISION DETAILS

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Type of Decision:	Approval with Conditions
Type of Approval:	Development Permit for Operational Works – Prescribed Tidal Work (Boardwalk)
Date of Decision:	11 June 2024

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## ASSESSMENT BENCHMARKS

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

Assessment Benchmarks	Comment
<i>Planning Regulation 2017</i> (Schedule 9)	Schedule 9 is not applicable as the application is not for building work under the Building Act.
<i>Planning Regulation 2017</i> (Schedule 10)	The application triggered a referral to SARA under Schedule 10, Part 17, Division 3, Table 1 – for Operational Work that is tidal works.
Schedule 3 of the <i>Coastal Protection and Management Regulation 2017</i>	The application triggered a referral to SARA under Schedule 10, Part 17, Division 1, Table 1 identifies Schedule 3 of the Coastal Regulation as a relevant benchmark.
Regional Plan	Section 2.2 of the Planning Scheme identifies that the Cape York Regional Plan has been adequately reflected in the Planning Scheme. A separate assessment against the Regional Plan is not required.
State Planning Policy (SPP), Part E	Section 2.1 of the Planning Scheme identifies that the superseded version of the <i>State Planning Policy</i> is integrated in the Planning Scheme.  A review of the current version of the SPP (July 2017) and assessment benchmark mapping applicable to Part E has determined that the state interests are reflected in the Planning Scheme and no additional assessment provisions in the current SPP (part E) or updated mapping are applicable requiring further assessment against the SPP.
Temporary State Planning Policy	There are no Temporary State Planning Policies.

### **Local Categorising Instrument (Cook Shire Council Planning Scheme 2017):**

- Biodiversity Overlay Code.
- Flood and other Coastal Hazards Overlay Code.
- Works, Services, and Infrastructure Code.

### **Local Categorising Instrument (Variation Approval)**

Not Applicable

**Local Categorising Instrument (Temporary Local Planning Instrument)**

Not Applicable

**PUBLIC NOTIFICATION**

Not Applicable

**REASONS FOR THE DECISION**

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

- a. An assessment was made against the applicable assessment benchmarks and the proposed development demonstrated compliance.
- b. The development has demonstrated that the tidal work will not have an adverse impact on the subject site or adjacent properties.

**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, including a copy of Council's Decision Notice and any conditions or plans relating to the development, please refer to Council's webpage.

**Attachment 4** Extract of Appeal Provisions (Chapter 6 part 1 of the *Planning Act 2016*)

## 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.

- (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.