

Cloncurry Shire Council

38-46 Daintree Street
PO Box 3
Cloncurry QLD 4824
ABN: 76 581 540 914



Telephone: (07) 4742 4100
Facsimile: (07) 4742 1712
Email: council@cloncurry.qld.gov.au
Website: www.cloncurry.qld.gov.au

Our ref: OP:LT - TP06/21

23 April 2021

Gillian Stevens
Cloncurry Shire Council
PO Box 3
CLONCURRY QLD 4824
Email: Council@cloncurry.qld.gov.au

Dear Gillian

**DECISION NOTICE – DEVELOPMENT APPLICATION FOR MATERIAL CHANGE OF USE –
OUTDOOR RECREATION – 29 SCARR STREET, CLONCURRY (LOTS 105-112 ON RP703304**
(Given under section 63 of the *Planning Act 2016*)

The development application described below was properly made to the Cloncurry Shire Council on 18 March 2021.

Applicant details

Applicant name:	Bianca Botha
Applicant contact details:	C/- Cloncurry Shire Council PO Box 3 CLONCURRY QLD 4824

Application details

Application number:	TP06/21
Approval sought:	Development Permit
Nature of development proposed:	Material Change of Use
Description of the development proposed:	Outdoor Recreation
Category of assessment:	Code Assessment

Location details

Street address:	29 Scarr Street, Cloncurry
Real property description:	Lot 105-112 on RP703304
Local government area:	Cloncurry Shire Council

Decision

Date of decision:	20 April 2021
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12.2 Planning & Development – Development Application for Development Permit for a Material Change of Use – Outdoor Recreation – 29 Scarr Street, Cloncurry (Lots 105-112 on RP703304)

Moved: Cr Daniels

Seconded: Mayor Campbell

That Development Application TP06/21 for a Development Permit for a Material Change of Use Development Application Permit – Outdoor Recreation at 29 Scarr Street, Cloncurry also known as Lot 105-112 on RP703304, be approved, subject to relevant and reasonable conditions, as set out in Attachment 2.

CARRIED: 10.210420

Details of the approval

Development permit:

Material Change of Use – Outdoor recreation

Conditions

This approval is subject to the conditions in Attachment 1.

Properly made submissions

There were no properly made submissions for this application.

Rights of appeal

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

A copy of the relevant appeal provision is attached.

Currency period for the approval

This development approval will lapse unless substantially started at the end of the period set out in section 85 of *Planning Act 2016* which is 6 years after this approval starts to take effect.

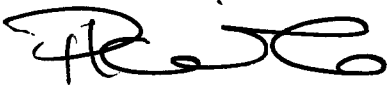
Approved plans and specifications

Table 1 Supporting documentation/reports

Report/Plan/Drawing Number	Plan/Document Name	Date
Pavilion/Stage	CLON-STAGE-ARCH-10 – FLOOR PLAN	
Accessible Amenities Building	1963-H02	
Akora Shelter		

Should you have any questions or concerns in respect of this matter please contact Council's Acting Senior Town Planner, Larinda Turrell, at this office.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Philip Keirle', with a stylized flourish at the end.

Philip Keirle
Chief Executive Officer

Enc: Attachment 1—Conditions of the approval
Attachment 2—Extract on appeal rights
Attachment 3 – Statement of Reasons
Attachment 4 - Approved Plans

ATTACHMENT 1 – CONDITIONS OF APPROVAL

NATURE OF DECISION				
A Cloncurry Shire Council issues a development permit for Development application - Reference TP06/21 Material Change of Use Development Application Permit – Outdoor Recreation under the <i>Planning Act 2016</i> .				
GENERAL				
1. Site Layout				
The development must generally comply with the approved proposal plans and design drawings as referenced in the table below, which forms part of this application, except as otherwise specified by any condition of this approval.				
Title	Plan Number	Rev no	Date	Prepared by
Pavilion/Stage	CLON-STAGE-ARCH-10 – FLOOR PLAN		16.12.2019	
Accessible Amenities Building	1963-H02		03.09.2018	
Akora Shelter				
Cloncurry Florence Park Skate Scoot Ride Layout				
2. Compliance with conditions				
(a) All conditions must be complied with prior to the commencement of the use, unless specified in an individual condition.				
(b) The conditions of this development approval are to be read in conjunction with the approved plans /drawings/ documents at all times. Where a conflict occurs between the conditions of this approval and the approved plans / documents, the conditions of this development approval shall prevail.				
3. Fencing				
Security fencing, suitable to prevent unauthorised persons entering the site, is to be installed and maintained around the perimeter of the proposed work area.				
4. Landscaping				
Existing landscaping is to be maintained at all times				
5. Advertising Device				
Advertising devices do not form part of this application. For the erection of any advertising devices, an application is to be submitted to Council for approval (Not – Advertising devices must comply with Section 9.4.1 of the Cloncurry Shire Planning Scheme 2016).				
6. Waste Management				
A screened waste storage area in the vicinity of a hose cock for cleaning proposes for general waste and regulated waste are to be provided within the site at accessible locations to allow for collection and removal to approved facilities.				
7. Stormwater Drainage				
(a) Stormwater drainage is to be managed, and controlled on site				
8. Noise Management				
Appropriate noise mitigation measures shall be put in place to contain and manage noise levels so as not to give rise to unacceptable effects on nearby sensitive receiving land uses.				
9. Dust Management				
During construction and operation of the approved use, the operator is to put in place appropriate mitigation measures for the suppression of dust, so as not to cause a nuisance.				
10. Lighting				
Any lighting is to be designed, installed and maintained in accordance with the requirement of AS4282-1997 “Control of the Obtrusive Effects of Outdoor Lighting”.				
11. Building works				
This Development Approval does not include an assessment of building work against the requirements of the <i>Building Act 1975</i> and does not permit building work to occur unless, prior to the commencement of				

any building work, a Development Permit to carry out assessable building work under the *Building Act 1975* has been issued.

12. Works during construction

- (a) Unless otherwise approved in writing by the assessment manager, hours of construction must not exceed 8.00 am to 6.00pm (Monday to Saturday).
- (b) Unless otherwise approved in writing by an authorised council officer, work must not be conducted from or on the premises outside the above hours or on Sundays or public holidays.

ADVICE – Please note that these are not conditions

A. The Applicant is responsible for securing all necessary approvals, permits and tenure, providing statutory notifications and complying with all relevant laws. Nothing in this development approval alleviates the need for the Applicant to comply with all relevant Local, State and Commonwealth laws and to ensure appropriate tenure arrangements have been made where the use of/reliance upon land other than that owned by the Applicant is involved. Without limiting this obligation, the Applicant is responsible for:

- (a) Obtaining all other/further necessary approvals, licences, permits, resource entitlements etc by whatever name called (this may include further development approvals under the “*Planning Act 2016*” and the planning scheme) required by law before the development the subject of this approval can be lawfully commenced and to carry out the activity for its duration;
- (b) Providing any notifications required by law (by way of example only, to notify the administering authority pursuant to the “*Environmental Protection Act 1994*” of environmental harm being caused/threatened by the activity, and upon becoming aware the premises is being used for a ‘notifiable activity’); and
- (c) Ensuring the correct siting of structures on the land. An identification survey demonstrating correct siting and setbacks of structures may be requested of the Applicant to ensure compliance with this decision notice and applicable codes.

B. Indigenous Cultural Heritage Legislation and Duty of Care Requirement

The “*Aboriginal Cultural Heritage Act 2003*” (ACHA) establishes a duty of care to take **all** reasonable and practicable measures to ensure any activity does not harm Aboriginal cultural heritage. This duty of care:

- (a) Is not negated by the issuing of this development approval;
- (b) Applies on all land and water, including freehold land;
- (c) Lies with the person or entity conducting an activity; and
- (d) If breached, is subject to criminal offence penalties.

Those proposing an activity involving surface disturbance beyond that which has already occurred at the proposed site must observe this duty of care. Details of how to fulfil this duty of care are outlined in the duty of care guidelines gazetted with the ACHA. The Applicant should contact NRW’s Cultural Heritage Coordination Unit on (07) 3238 3838 for further information on the responsibilities of developers under the ACHA.

C. Limitation of Approval

The Council and its officers make no representations and provide no warranties as to the accuracy of the information contained in the development application including its supporting material provided to it by the Applicant.

The Council and its officers rely upon the applicant concerning the accuracy and completeness of the application and its supporting material and accepts the development application and supporting material as constituting a representation by the applicant as to its accuracy and completeness.

ATTACHMENT 2 – STATEMENT OF REASONS

STATEMENT OF REASONS – TP06/21

NOTICE ABOUT DECISION - STATEMENT OF REASONS

The following information is provided in accordance with section 63(5) of the *Planning Act 2016*

Details of the Development

The proposed development application seeking a development permit for a Material Change of Use-Outdoor recreation (upgrade to Florence Clark Park and Cloncurry swimming pool) at 29 Scarr Street, Cloncurry, (Lots 105-112 on RP703304).

On 20 April 2021, the above development application was approved in full, with conditions.

Reasons for the decision

A detailed assessment of the application by Council assessing officers has been undertaken and it is concluded that:

- The application was properly made and followed the Development Assessment Rules in effect.
- The application was assessed against the applicable Assessment Benchmarks.
- The assessment manager, after carrying out the assessment, found that the development complied with the relevant Assessment Benchmarks applicable to the development.
- Council to support the proposed development in granting its approval, subject to reasonable and relevant conditions being imposed.

ATTACHMENT 3 – APPEAL PROVISIONS

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
 - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
 - (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.

LEGEND:

COLOUR A - DULUX SURFMIST
 COLOUR B - DULUX WALLABY
 COLOUR D - DULUX GREY DAZE

1 - BONDOR 'SOLARSAN' INSULATED ROOF PANEL SUPPLIED BY LYSAGHT OF SIMILAR APPROVED, 75MM THICK. INTERNAL FINISH: PUAIN. ALL FINISHED WITH COLORBOND FLASHING. REFER TO MANUFACTURER'S SPECIFICATIONS FOR DETAILS AND FITTING RECOMMENDATIONS. IT'S RECOMMENDED TO USE SEPARATION FOAM BETWEEN PURLIN/RAFTER AND ROOF. CONTACT JASON DRUMMOND FOR LYSAGHT IN BOHLE FOR MORE DETAILS (PH: 0747749500).

APPROPRIATE DULUX PAINT.
 ROOF PAINTED: COLOUR A
 FLASHING PAINTED: COLOUR B

2 - STRUCTURAL STEEL COLUMNS.
 GALVANIZE PLATED

3 - STRUCTURAL STEEL ROOF FRAME (RAFTERS, PURLINS & BRACINGS)
 GALVANIZE PLATED

4 - R10 SLIP RESISTANT BROOM FINISH CONCRETE SLAB
 5 - LYSAGHT COLORBOND QUAD 175 GUTTER FIXED TO MANUFACTURER'S DETAILS OR SIMILAR APPROVED APPROPRIATE DULUX PAINT COLOUR B

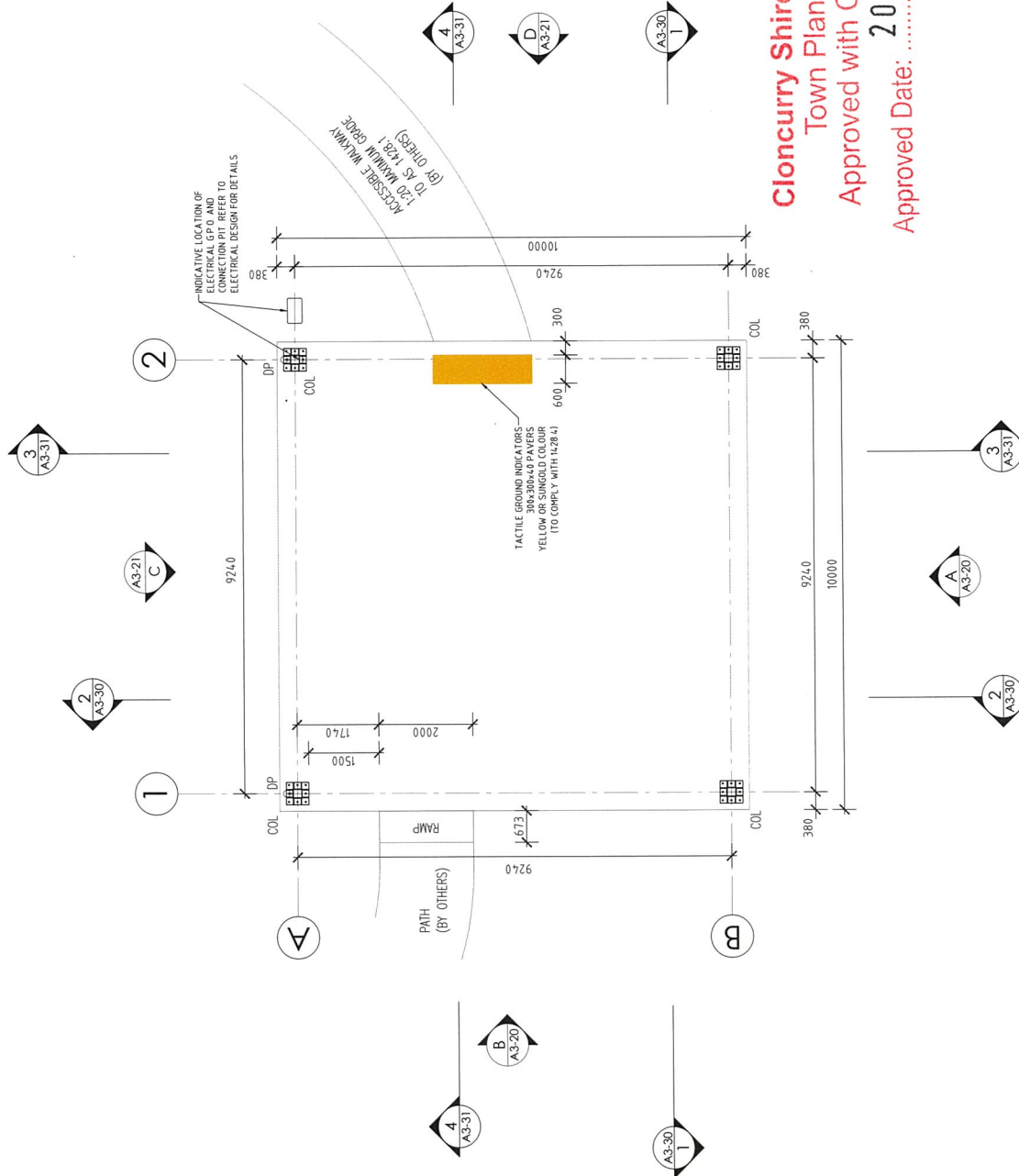
6 - COLORBOND DOWNPIPE 125x100 (OR 150 DIA. IF NOT AVAILABLE). FIXED TO MANUFACTURER'S DETAILS OR SIMILAR APPROVED APPROPRIATE DULUX PAINT COLOUR B

7 - SMOOTH FINISH TO CONCRETE RAMP

8 - COLUMN BASE PROTECTION COVER. REFER STRUCTURAL DRAWINGS FOR DETAILS. GALVANIZE PLATED

9 - INDICATIVE LOCATION OF ELECTRICAL ELEMENTS. REFER TO ELECTRICAL DESIGN FOR DETAILS.

10 - EXISTING GROUND LEVEL 191.400 BASED ON TOPOGRAPHICAL SURVEY PROVIDED. LOCALISED LEVEL CORRECTION AND LANDSCAPING MAY BE REQUIRED (BY OTHERS).



Cloncurry Shire Council
 Town Planning
 Approved with Conditions
 Approved Date: 20 APR 2021

1 PLAN SCALE 1:100 @ A3

ABBREVIATIONS:
 COL - COLUMN
 DP - DOWN PIPE

Client CLONCURRY SHIRE COUNCIL	Project PAVILION / STAGE FLORENCE CLARKE PARK CLONCURRY	Scale	0 2 4 6 8 10M	North Arrow	Rev	Issue	PK U. Kliber	Date	16.12.2019
		C1 FOR CONSTRUCTION		PK U. Kliber	16.12.2019	Job Number	CLON - STAGE	Revision	C1
		C1 FOR CONSTRUCTION		PK U. Kliber	16.12.2019	Job Number	CLON - STAGE	Revision	C1
Drawing Number		CLON-STAGE-ARCH-10		Date	16.12.2019		Scale	1:100 @ A3	
FLOOR PLAN		Job Number		CLON - STAGE		Revision		C1	
P. Kliber		Date		16.12.2019		Scale		1:100 @ A3	

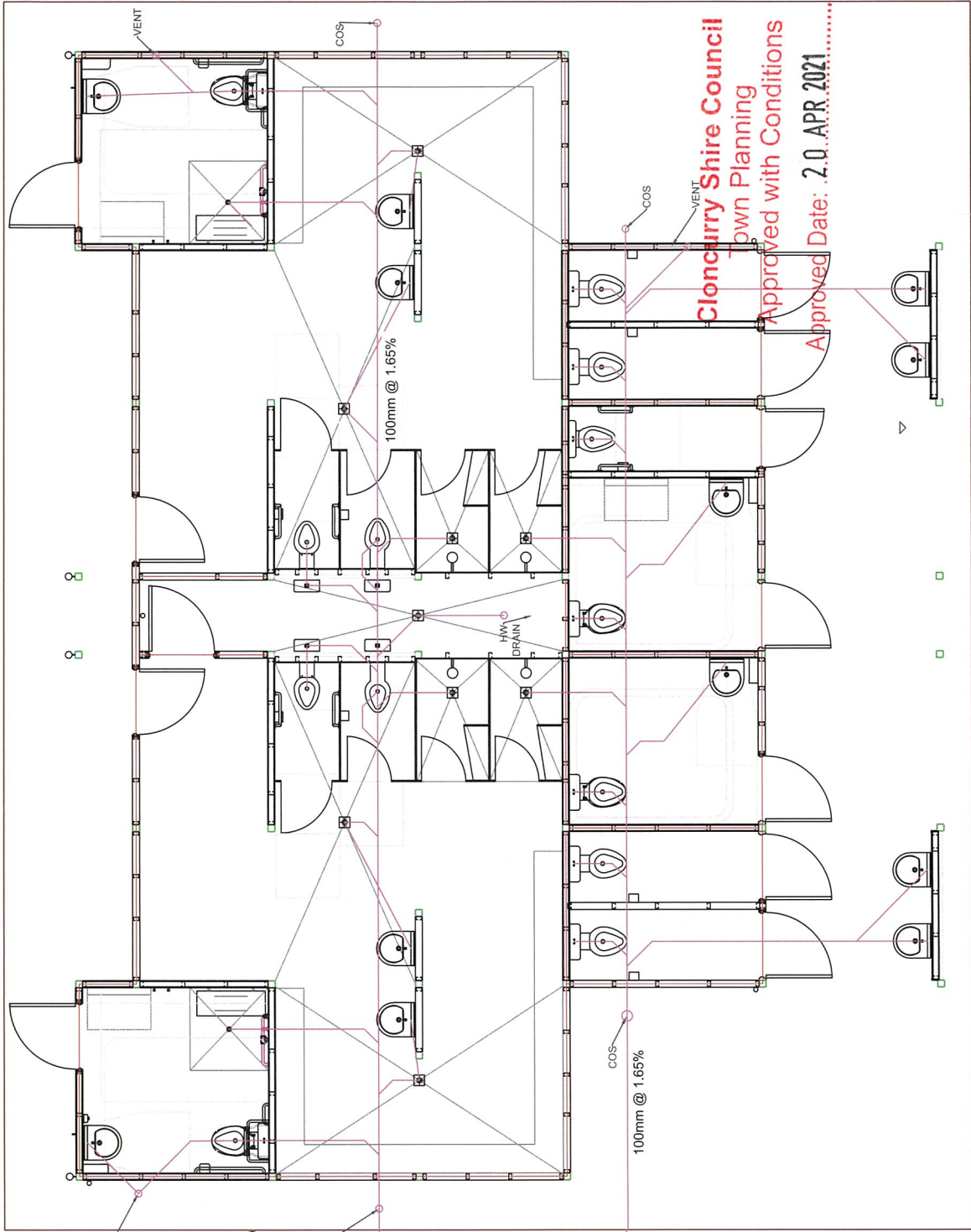


H₂O
HYDRAULIC ENGINEER

15/38-42 Pease Street, CARINS
Po Box 135, Bungalow, Q 4870
P: 07 40321468
F: 07 42124126
M: 0417726656
E: admin@h2oconsultants.com.au

WE CERTIFY THE HYDRAULIC DRAWINGS HAVE BEEN DESIGNED
IN ACCORDANCE WITH THE FOLLOWING STANDARDS:
AS 3500 - PLUMBING STANDARDS.

H2O Consultants
ABN: 92,081,309,140 DBEC: 745652
3RD SEPTEMBER 2019
PIC LIC: 18143



Cloncurry Shire Council
Town Planning
Approved with Conditions
Approved Date: 20 APR 2021

- LEGEND**
AMENITIES FLOOR PLAN
SEWER AND DRAINAGE PIPE DESIGN
COS = CLEAR OUT TO SURFACE
ORG = OUTSIDE RELIEF GULLEY
- DRAWING NOTES:**
- VENTS TO BE 65MM
 - 78 FIXTURE UNITS AS PER TABLE 6.2A
 - THE HOUSE DRAIN WILL BE ALL 100MM PVC WITH FALL OF 1 IN 60
 - ALL BRANCH LINES ARE TO BE NO LESS THAN 100MM DIAMETER, THIS INCLUDES THE
 - BRANCH LINES OF THE FLOOR WASTE GULLIES TO THE BASIN.
 - ALL JUNCTIONS ARE TO BE SWEEPING
 - NO 88° JUNCTIONS ARE TO BE USED UNDER CONCRETE
 - ALL UNDERGROUND TRAPS ARE TO BE SUPPORTED BY CONCRETE
 - THE WEIR OF UNDERGROUND TRAPS ARE TO BE AT LEAST 50MM HIGHER THAN THE
 - INVERT OF THE MAIN DRAIN THEY ARE CONNECTING TOO.
 - ALL FLOOR WASTES THAT ARE NOT CHARGED BY A RUNNING FIXTURE ARE TO
 - HAVE A HOSE TAP IN THE SAME VICINITY OF CUBICLE TO CHARGE THE TRAP.
 - THE DRAIN IS TO BE TESTED WITH WATER
 - BEDDING SAND IS TO BE USED FOR UNDER THE PIPE AND AT LEAST 100MM OVER IT.
 - ALL CHANGES TO PLANS MUST GET APPROVAL BEFORE COMMENCING.
 - ALL INSPECTION OPENINGS ARE TO BE RAISED TO SURFACE AND LOCATED WHERE
 - SHOWN ON PLAN.
 - VENTS ARE TO HAVE MOSQUITO PROOF COWLS.
 - THE FINISHED HEIGHT OF THE OUTSIDE RELIEF GULLY IS TO BE AT LEAST 150MM
 - LOWER THEN THE INSIDE FINISHED FLOOR LEVEL.
 - ALL PIPE WORK IS TO BE VISUALISED AND APPROVED BY COUNCIL BEFORE
 - BACKFILLING.
 - ALL SEWER PIPE WORK IS TO FALL AT A GRADE OF 1.65%.

PROJECT: FLORENCE CLARK PARK ACCESSIBLE AMENITIES BUILDING

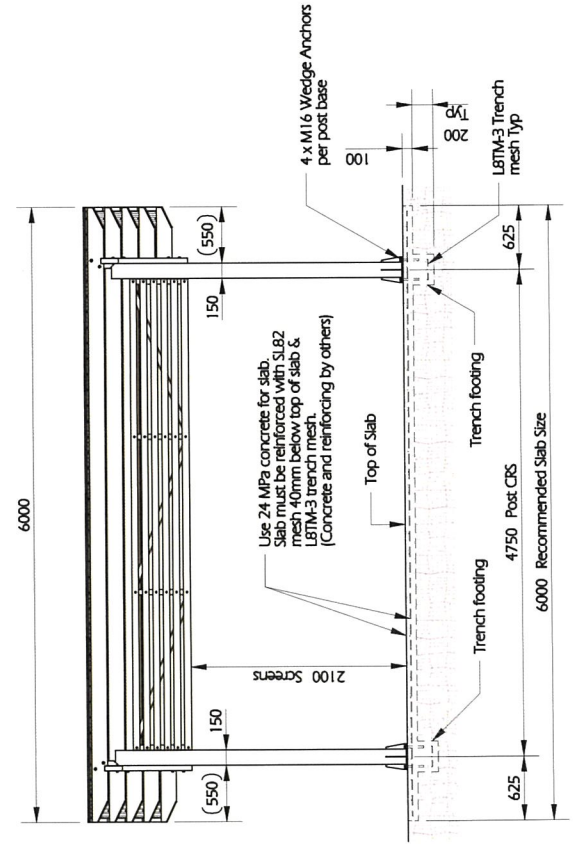
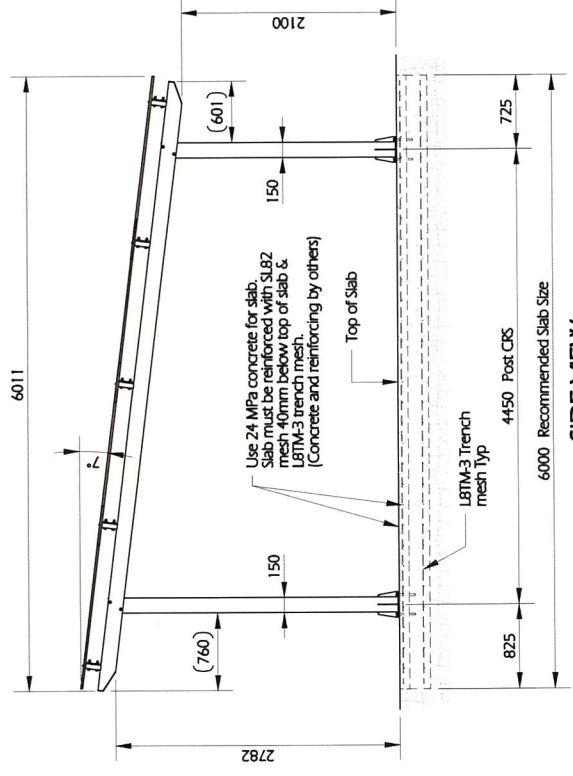
DRAWING DESCRIPTION:
ACCESSIBLE AMENITIES BUILDING DRAINAGE PIPING LAYOUT

DRG No: 1963 - H02

REV: 190824

THE SITE HAS BEEN ASSESSED TO
HAVE A SOIL CLASS: S
REFER TO GEOTECH REPORT
GROUND ENGINEERING SERVICES:
REPORT REF: PGC181430

NO	BY	DATE	REVISION
03.09.18			ISSUED FOR PLUMBING APPROVAL
03.09.18			ISSUED FOR CONSTRUCTION





Moodie
Outdoor Products

5

4

3

2

24952

24965

24765

20000

A

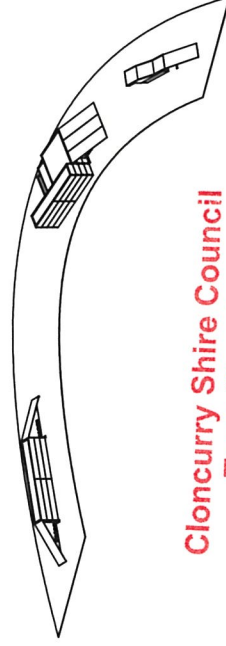
B

C

A

B

C



Cloncurry Shire Council
Town Planning
Approved with Conditions
Approved Date: 20 APR 2021

DWG NO. Cloncurry Florence Park Skate Scoot Ride Layout

TITLE

Moodie Outdoor Products P/L PO Box 326 Gladesville 2111 National **1300 666 343** Head Office **0298161133**
e sales@moodie.com.au www.moodie.com.au

A4

SCALE:1:200

2

SHEET 1 OF 1