



## **HINCHINBROOK SHIRE COUNCIL**

Our Ref: GV:HJR OPW18\0001

10 April 2018

Mr Noel Fichera  
23 Stone Street  
Ingham QLD 4850

Dear Sir,

### **DECISION NOTICE** *Planning Act 2016*

In relation to your recent request for operational works, Council have assessed your application and it was APPROVED SUBJECT TO CONDITIONS. The decision was made on 09 April 2018.

#### **APPLICATION DETAILS**

Application Number: OPW18\0001  
Property ID Number: 102883

Applicant Details: Noel Fichera  
23 Stone Street  
Ingham QLD 4850

Owner Details: Noel R Fichera and Joshua R Liddle  
5 Stallan Street  
Ingham QLD 4850

Property Description: 49 Cassady Street, Ingham  
Lot 368 on CWL2628, Parish of Cordelia

Proposal: Operational Work (Excavation and Filling of Land)

Level of Assessment: Code Assessment



Assessment Benchmarks: Operational Works (Filling and Excavation) Code  
Flooding & Inundation Code

### DEEMED APPROVAL

The application has not deemed to be approved under s.64 of the *Planning Act 2016*.

### CONDITIONS OF APPROVAL

The conditions of this approval are set out in the Schedule of Conditions. The conditions are identified to indicate whether the Assessment Manager or a referral agency (if any) imposed them.

### REFERRAL AGENCIES

Not Applicable

### PROPERTY NOTES

Not Applicable

### FURTHER DEVELOPMENT PERMITS REQUIRED

Not Applicable

### RIGHTS OF APPEAL

You may appeal against any matter stated in the Decision Notice. Chapter 6, Part 1 and Part 2 of the *Planning Act 2016* detail appeal rights afforded to the applicant and submitter/s (if any) to the Planning and Environment Court or Building and Development Dispute Resolution Committee. Attached are the relevant provisions of the *Planning Act 2016* relating to the Rights of Appeal.

### APPROVAL CURRENCY PERIOD

s.85 of the *Planning Act 2016* indicates when an approval lapses and this section is attached for your information.

### APPROVED PLANS & SPECIFICATIONS

In accordance with the *Planning Act 2016*, a copy of the approved plans and specifications (if relevant) are attached.

### FURTHER INFORMATION

The development must be carried out in accordance with the approved plans and specifications and the requirements of all relevant laws, and any deviation there from must have the prior approval of the Chief Executive Officer.

This approval does not authorise any building work, any works within Council's Road Reserve (e.g. new/additional accesses, repair/modifications to existing accesses or works to footpaths), or any filling of land permits.



Should you have any questions or seek clarification with regard to any aspect of this notice, I encourage you to contact Council's Development, Planning and Environmental Services on telephone (07) 4776 4609.

Yours sincerely,

Gerhard Visser  
Planning & Development Manager

Enclosed:      Approved Plans/Documents  
                    Appeal Rights



**CONDITIONS OF APPROVAL****Conditions of Development**

The conditions of development for this development permit are as follows

**Approved Plans**

1. The developer is responsible to carry out the approved development and comply with relevant requirements in accordance with:-
  - a) The specifications, facts and circumstances as set out in the application submitted to Council, including recommendations and findings confirmed within technical reports; and
  - b) The development must unless otherwise stated, be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards;
  - c) The conditions of approval, the requirements of Council's Planning Scheme and best practice engineering.

**Currency Period**

2. The currency period applicable to this approval:
  - Operational Works – 12 Months until 05 April 2019

**Approved Plans**

3. 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	Number	Date
Proposed Op Works Noel Fichera	N/A	27.02.2018
Langtree Consulting – Calculations	Project No: 2017-142	21.02.2018
Langtree Consulting – Swale Layout	Project No: 2017-142	21.02.2018
Langtree Consulting – Section Plan	Project No: 2017-142	21.02.2018

4. Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail;
5. Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for endorsement by Council prior to the submission of a development application for building works or within 20 business days of this approval.

**Construction and Operation**

6. The construction work associated with this development shall be carried out in accordance with sound engineering practice. In particular, no nuisance is to be caused to adjoining residents by way of smoke, dust, stormwater discharge or siltation of drains, at any time, including non-working hours. Where material is to be carted to or from the site, loads are to be covered to prevent dust or spillage. Where material is spilled or carried onto existing roads, it is to be removed forthwith so as to restrict dust nuisance and ensure traffic safety;
7. All fill and retaining material is to be contained within the applicant's land;
8. Filling material which may wash or spill onto adjacent lands is to be removed;
9. Contaminated material excavated from the site must be managed and disposed of appropriately;
10. The storage of any machinery, material and vehicles must not cause a nuisance to surrounding properties, to the satisfaction of the Chief Executive Officer.



#### Site Stabilisation and Landscaping

11. Following filling, the batters of the site must be stabilised with topsoil and grass to the satisfaction of the Chief Executive Officer;

#### Damage to Infrastructure

12. In the event that any part of Council's existing sewer, water, channel and kerbing or road infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to, mobilisation of heavy earthmoving equipment, stripping and grubbing, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced by Council, at the developer's cost, prior to the Commencement of Use or approval and dating of the Building Compliance Certificate, whichever occurs first.

#### Stormwater Works and Drainage Works

13. The Applicant must submit stormwater engineering plans for Council's consideration and approval;
14. The stormwater plans must demonstrate that the stormwater works do not adversely affect surrounding properties; that existing drainage catchments are not altered and that increased or concentrated flows resulting from the proposed development can be catered adequately for by the existing drainage systems;
15. All stormwater is to be directed to Council's existing kerb inlet pit located near the north-eastern corner of the property and near the location of the proposed field inlet pit at the end of the proposed swale drain.

Council requirement would be for:

1 x DN375 stormwater pipe be installed from the field inlet pit to Council's existing kerb inlet pit (in lieu of the 2 x DN225 stormwater pipes as proposed on the sketches provided with the application).

#### Fill

16. Fill material placed on the site is to be free of contaminants, noxious, hazardous, deleterious and organic materials;
17. The fill may not exceed 650mm above natural ground level of the property;
18. The toe of the fill or the top of the excavation is not less than 1.5m from a side or rear allotment boundary;
19. Filling or excavation does not cause ponding on the site or on neighbouring properties;
20. Surface water flow is not directed towards neighbouring properties;
21. The toe of fill is to be kept clear of the boundary and drains are to be installed in the Applicant's property of sufficient size to direct run-off towards drainage systems; and
22. Where retaining walls are used drains are to be installed in the Applicant's property of sufficient size to direct run-off towards drainage systems.



## **Reason(s) for Approval**

The proposed development is considered to reflect the overall outcomes of the current planning scheme and the draft planning scheme, in particular:

- Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity;
- The proposed development will not detract from the streetscape or amenity of the surrounding locality;
- The proposed development is of a scale and nature that aligns with the land use intent for the site in the context of the zone designation;
- The proposed development will not exceed the 650mm allocated within Council's Permissible Fill Area; and
- The proposed development provides flood free residential development providing housing choice.





## APPROVED PLANS/DOCUMENTS

File Ref: OPW18\0001

Lot 368 CWL2628

49 Cassady Street, Ingham



-  Proposed Drain
-  Proposed Access
-  Proposed Fill Area (for housepad)
-  Approved subdivision (Not Finalised)
-  Site Location



### Data Sources & Acknowledgements

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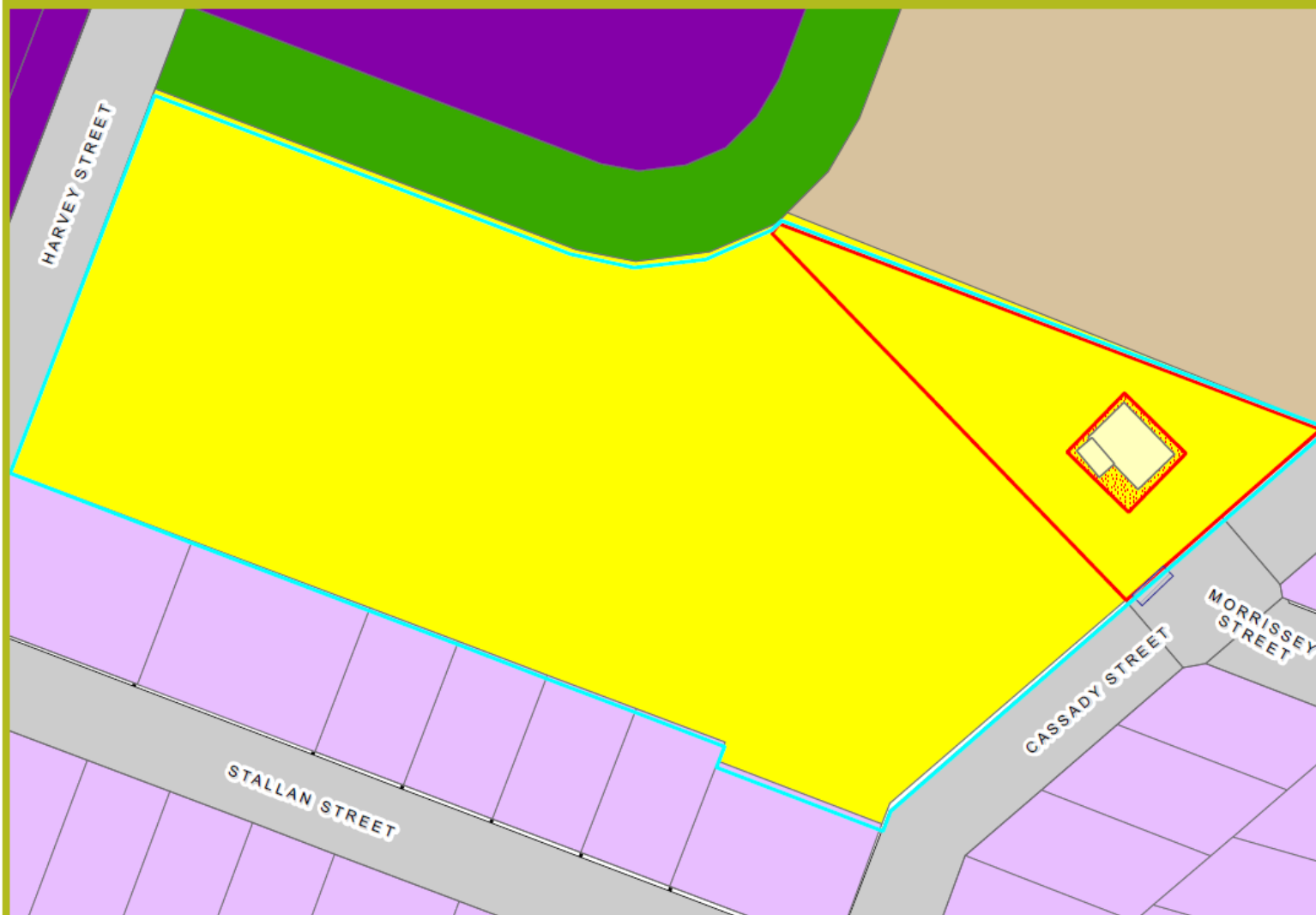
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Lot 368 CWL2628

49 Cassady Street, Ingham



## Legend

## Town Planning 2005 - Zoning

- Strategic Port Land not subject to Planning Scheme
- Commercial
- Industry
- Open Space & Recreation
- Public Purposes
- Residential
- Rural
- Rural Settlement
- Village
- Roads, Creeks Etc



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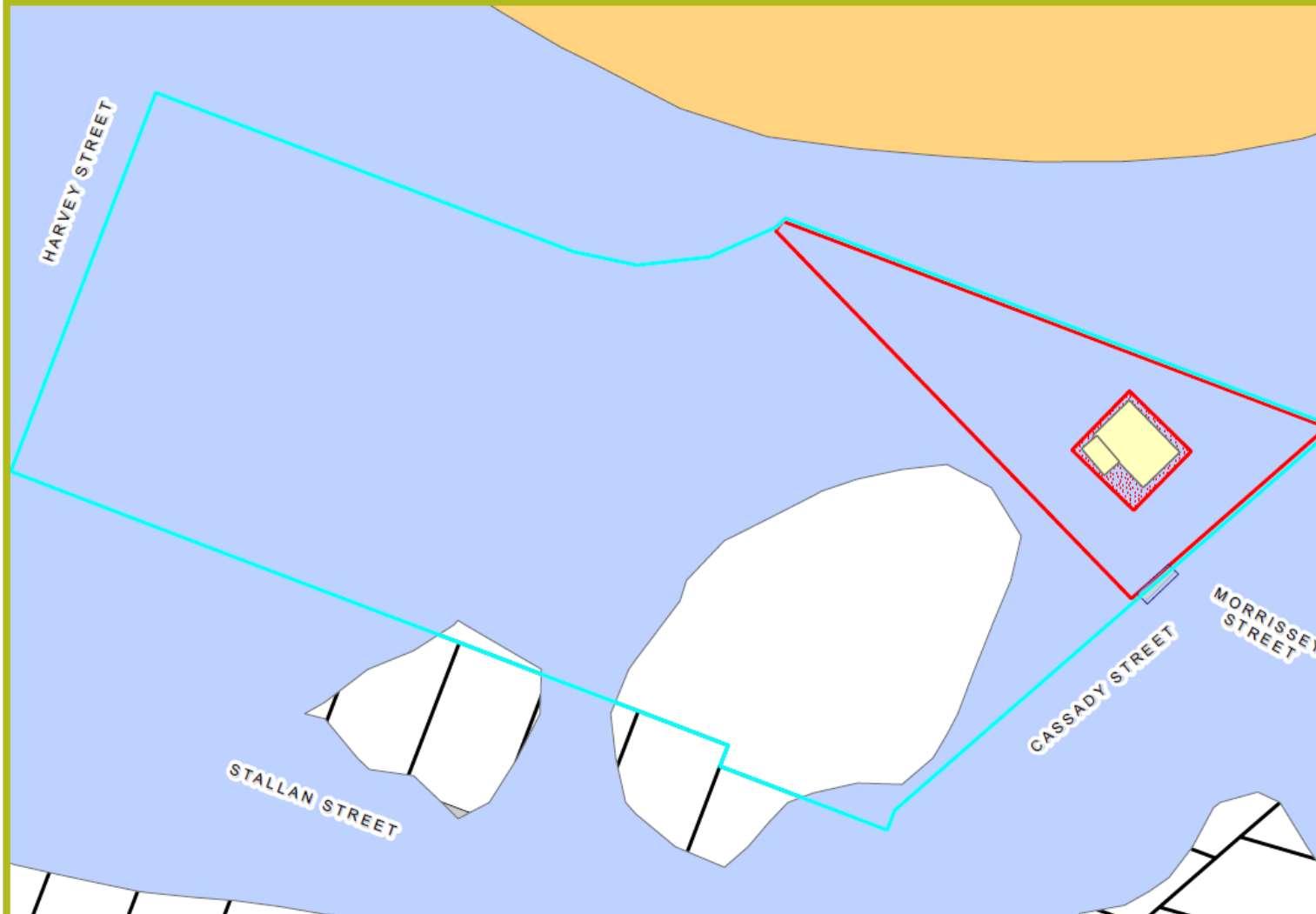
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Lot 368 CWL2628  
49 Cassady Street, Ingham



#### Legend

- HiHazF\_region
- HiHazD\_region



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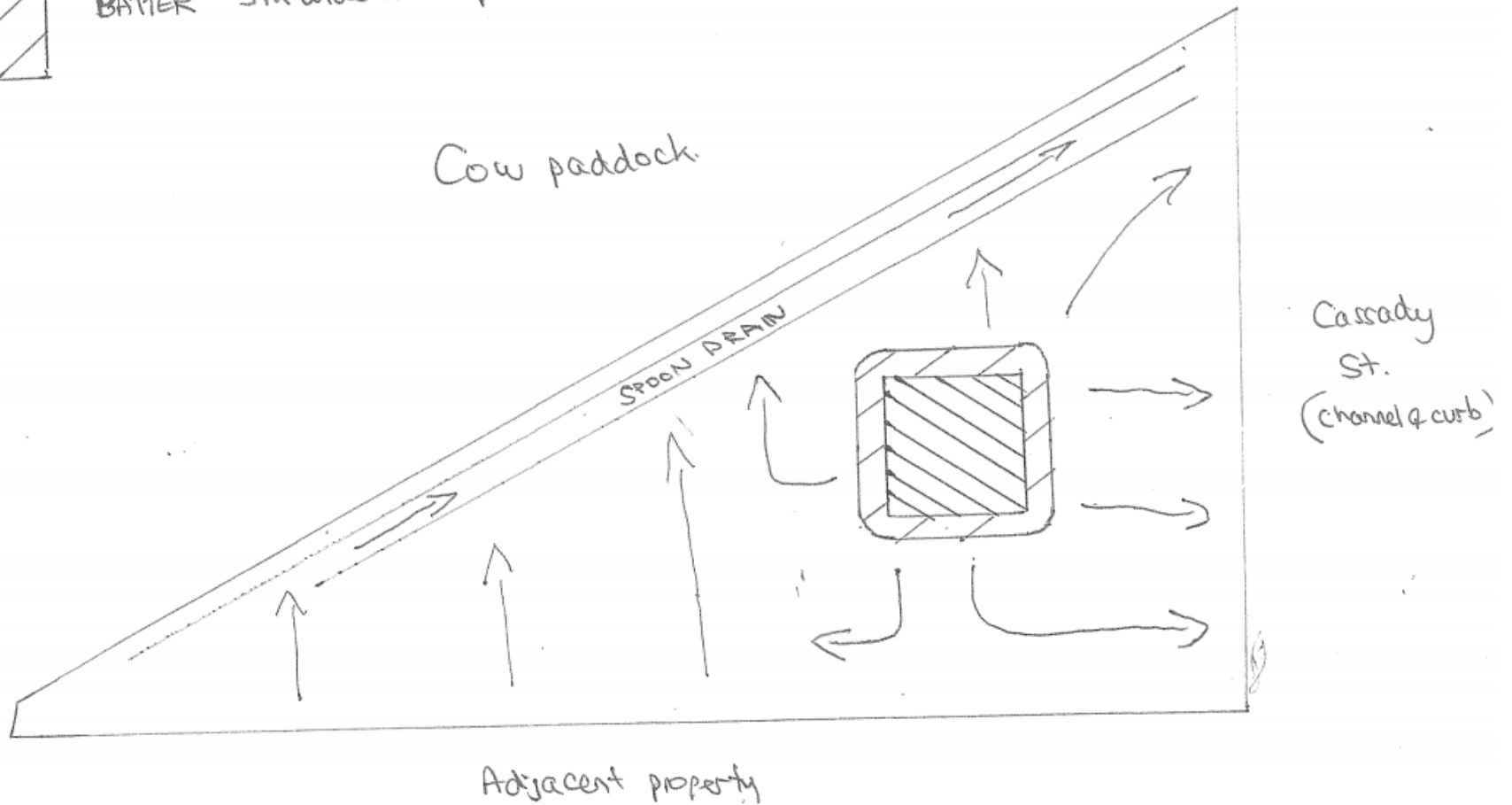
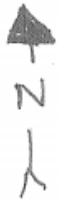
SCALE 2mm = 1m  
1cm = 5m

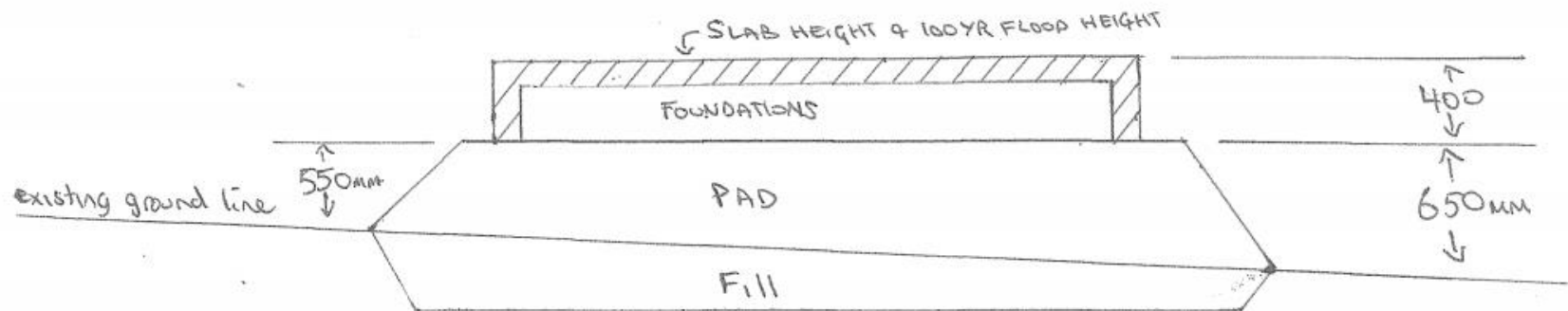
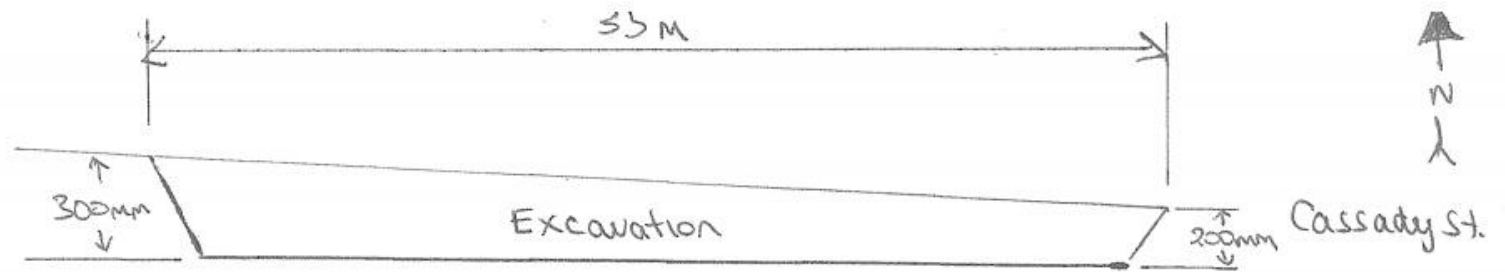


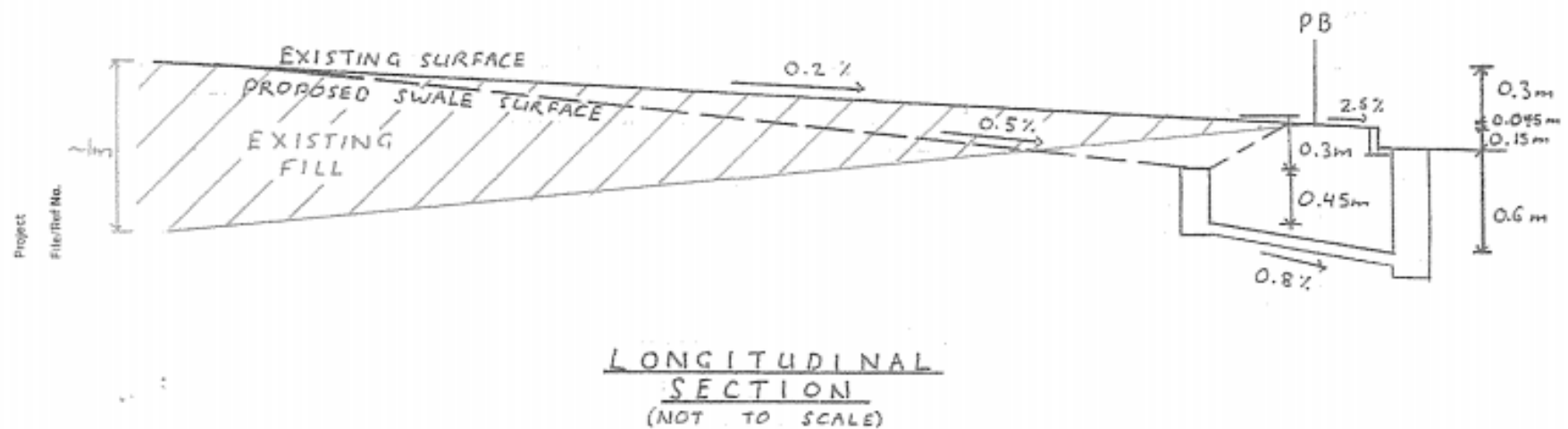
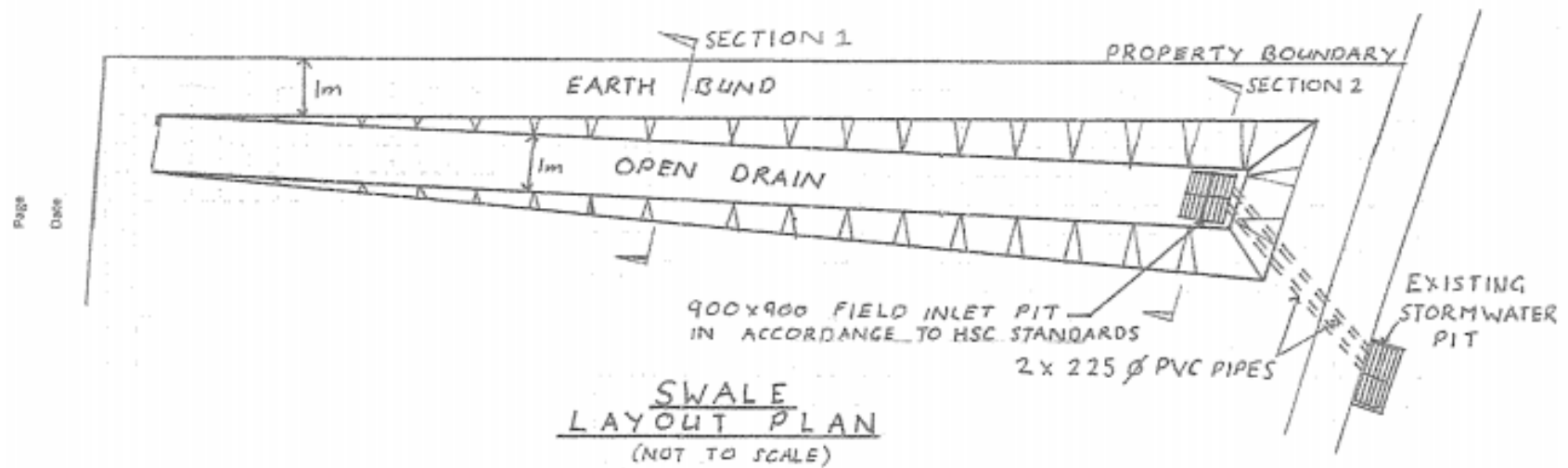
PAD 25m x 25m



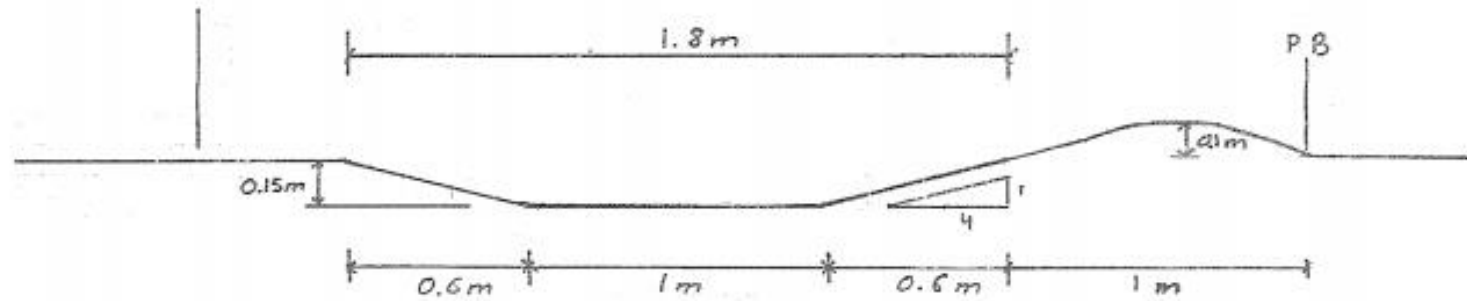
BATTER 5m wide around pad





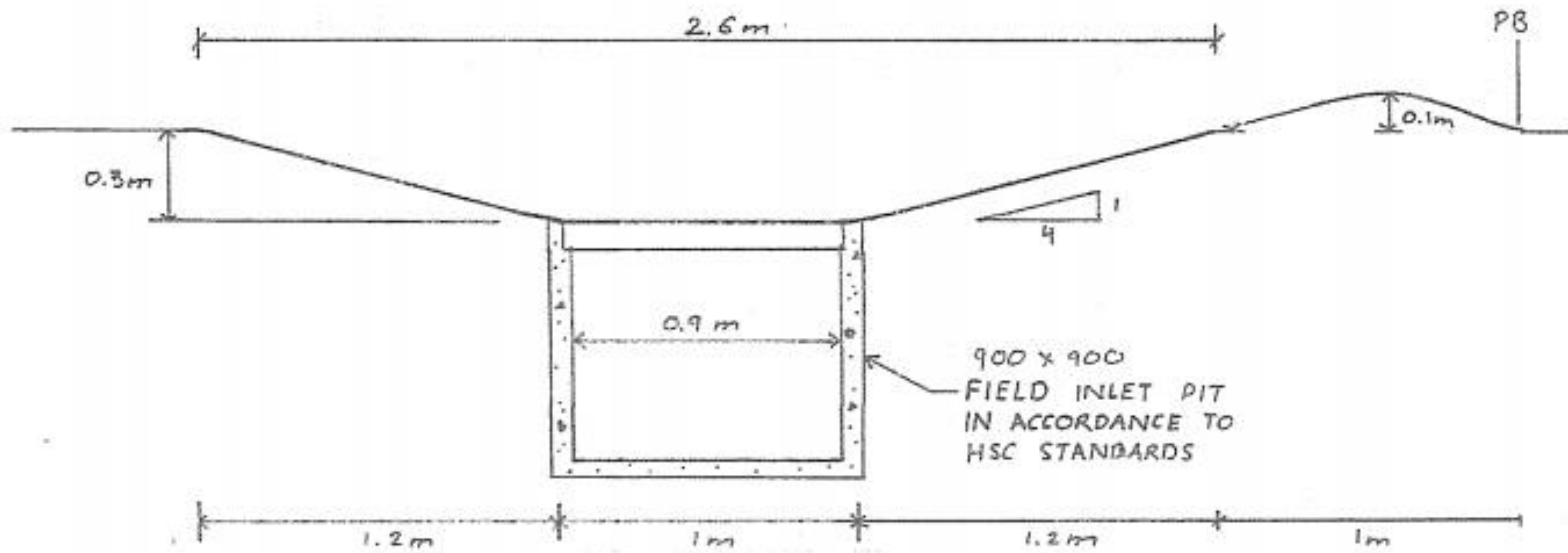


Page  
Date



SECTION 1  
(NOT TO SCALE)

Project  
File/Ref No.  
By

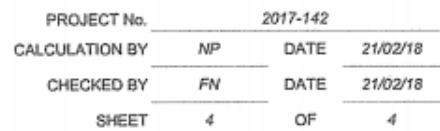


SECTION 2  
(NOT TO SCALE)



PROJECT No.	2017-142		
CALCULATION BY	NP	DATE	21/02/18
CHECKED BY	FN	DATE	21/02/18
SHEET	1	OF	4





**IFD**

[illegible]

Design ARI 5 Yrs		Drain Design Flow							
Node	Catchment Area A (ha)	Time of Concentration t <sub>c</sub> (mins)	Fraction Impervious f <sub>i</sub>	Average Rainfall Intensity <sup>1</sup> I <sub>10</sub> (mm/hr)	Coefficient of discharge C <sub>10</sub>	Frequency Factor F	Coefficient of Discharge C	Rainfall Intensity I (mm/hr)	Peak Flow Rate Q (m <sup>3</sup> /s)
1	0.1088	10.0	0.60	86.1	0.82	0.95	0.78	165.4	0.039
2	0.3846	15.0	0.60	86.1	0.82	0.95	0.78	142.4	0.119

Trapezoidal Drain												
Node	Flow Depth to Invert (m)	Base Width (m)	Better Slope (LHS) (1 on x)	Better Slope (RHS) (1 on x)	Longitudinal Slope S (m/m)	Manning's n	Flow Area A (m <sup>2</sup> )	Wetted Perimeter P (m)	Hydraulic Radius R (m/m)	Drain Velocity V (m/s)	Drain Capacity Q (m <sup>3</sup> /s)	d <sub>s</sub> x V (m <sup>2</sup> /s)
1	0.150	1	4	4	0.005	0.03	0.24	2.237	0.107	0.51	0.122	0.076
2	0.300	1	4	4	0.005	0.03	0.66	3.474	0.190	0.74	0.490	0.223

Field Inlet					
Node	Blockage Factor	Weir Coefficient	Weir Length	Depth of upstream flow	Field inlet Capacity
	BF		L (m)	h (m)	Q <sub>s</sub> (m <sup>3</sup> /s)
2	0.500	1.66	0.9	0.300	0.123

Note: Under weir conditions

Pipe Flow										
Node	Diameter	No. of cells	Mannings	Length	Slope	Area	Perimeter	Hydraulic Radius	Pipe Velocity	Pipe Capacity
	D (m)		n	L (m)	S (m/m)	A (m <sup>2</sup> )	P (m)	R (m)	V (m/s)	Q (m <sup>3</sup> /s)
2	0.225	2	0.01	10	0.008	0.080	1.41	0.056	1.601	0.127

## APPEAL RIGHTS

### PLANNING ACT 2016 & THE PLANNING REGULATION 2017

#### Chapter 6 Dispute resolution

##### Part 1 Appeal rights

##### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 of the Planning Act 2016 states –
  - (a) Matters that may be appealed to –
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) The person-
    - (i) who may appeal a matter (**the appellant**); and
    - (ii) who is a respondent in an appeal of the matter; and
    - (iii) who is a co-respondent in an appeal of the matter; and
    - (iv) who may elect to be a co-respondent in an appeal of the matter.

(Refer to Schedule 1 of the Planning Act 2016)

- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is –
  - (a) for an appeal by a building advisory agency – 10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal – at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises – 20 business days after a notice is published under section 269(3)(a) or (4); or
  - (d) for an appeal against an infrastructure charges notice – 20 business days after the infrastructure charges notice is given to the person; or
  - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given – 30 business days after the applicant gives the deemed approval notice to the assessment manager; or
  - (f) for any other appeal – 20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note –*

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-
  - (a) the adopted charge itself; or
  - (b) for a decision about an offset or refund-
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

##### 230 Notice of appeal

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





231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the Judicial Review Act 1991 in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section –
  - decision* includes–
    - (a) conduct engaged in for the purpose of making a decision; and
    - (b) other conduct that relates to the making of a decision; and
    - (c) the making of a decision or failure to make a decision; and
    - (d) a purported decision ; and
    - (e) a deemed refusal.
  - non-appealable*, for a decision or matter, means the decision or matter–
    - (a) is final and conclusive; and
    - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
    - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with the rules of the P&E Court.

