RTA Weipa Pty Ltd T/A

Weipa Town Authority

ABN 54 137 266 285

PO Box 420 Weipa Qld 4874



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DECISION NOTICE APPROVAL

PLANNING ACT 2016, SECTION 63

I refer to your application and advise that on 24 January 2018, Weipa Town Authority decided to approve the application in full, subject to conditions. Details of the decision are as follows:

1. APPLICATION DETAILS

Application Number: P17-010

Properly Made Date: 12 September 2017

Decision Date: 24 January 2018

Planning Scheme: Advisory Development Plan for Weipa Local Government

Area 1996

2. APPLICANT DETAILS

Name: Gerhardus Petrus Van Wyk and Megan Jayne Hall

Postal Address: C/- Freshwater Planning Pty Ltd

17 Barron View Drive FRESHWATER QLD 4870

Email Address: FreshwaterPlanning@outlook.com

3. PROPERTY DETAILS

Street Address: 22 Alstonia Drive, NANUM

Real Property Description: Lot 668 on MP37779

Local Government Area: Weipa Town Authority

4. DECISION DETAILS

The following type of approval has been issued:

Development Permit for Material Change of Use for Duplex Dwelling

5. CURRENCY PERIOD

The use of the subject land must be commenced within a period of six (6) years from the date, 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.

6. ASSESSMENT MANAGER CONDITIONS

General

- 1.1 The use of the subject land must be commenced within a period of six (6) years from the date 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.
- 1.2 The conditions of the development permit must be effected prior to the commencement of the use, at no cost to Weipa Town Authority, except where specified otherwise in these conditions of approval.
- 1.3 All conditions in this approval, unless otherwise expressively stated, relate to the 'Proposed Multigen Dwelling', herein referred to as 'approved dwelling unit', illustrated on the approved 'Site Plan' (refer to Condition 2).

2. Approved Plans and Documents

2.1 The applicant must submit for approval an amended Ground floor plan demonstrating the provision of two on-site vehicle car parking spaces development must be completed and maintained generally in accordance with the approved plans and documents and any amendments arising through conditions to this development approval:

Drawing title	Date	Reference	Revision	Drawn by
Site Plan	04/04/2017	A.1.1	D	ND/ND
Elevations	04/04/2017	A.4.1	D	ND/ND

- 2.2 Submit for Weipa Town Authority approval an amended Site Plan that is compliant with condition 3.1, clearly showing how two (2) on-site car parking spaces will be provided on-site to cater for the 'Proposed Multigen Dwelling'.
- 2.3 Where there is any conflict between the conditions of development approval and the details shown on the approved plans and documents, the conditions of approval must prevail.

3. Car Parking and Access

- 3.1 Two (2) on-site car parking spaces, constructed of concrete or paving block, must be provided exclusively for the use of the 'Proposed Multigen Dwelling' (refer to approved Site Plan) and to the satisfaction of Weipa Town Authority.
- 3.2 The on-site car parking spaces must be a minimum of 5.5 metres long x 2.7 metres wide.
- 3.3 All vehicles, including but not limited to cars, boats and trailers, must be parked entirely within the bounds of the site and must not encroach on the road reserve.
- 3.4 A crossover and driveway, constructed of concrete or paving block and that is a minimum width of 3.5 metres, must be provided as per the approved amended Site Plan (refer to Condition 2.2) and to the satisfaction of Weipa Town Authority.

4. Landscaping

- 4.1 A landscaped strip with a minimum width of one (1) metre must be provided/ retained and maintained along that part of the eastern property boundary (internal to the site) to which the approved dwelling has frontage, excluding driveways.
- 4.2 The landscaped area must predominantly contain plant species that are native to the region and assist in screening the approved dwelling unit from adjoining properties and public areas.
- 4.3 The landscaped area must be subject to:
 - 4.3.1 A watering and maintenance plan during the establishment phase; and
 - 4.3.2 An ongoing maintenance and replanting programme.
- 4.4 Any mature vegetation removed to accommodate the provision of on-site car parking and vehicle manoeuvring areas (see Condition 3.1) must be offset, retained and maintained, elsewhere on the site, to the satisfaction of Weipa Town Authority.

5. Stormwater Drainage

5.1 Stormwater drainage from paved and roofed areas must be discharged to the internal access roads or as otherwise required or agreed to in writing by Weipa Town Authority.

6. Bin Storage

6.1 The approved dwelling unit must be provided with an area for the storage of a 240 litre refuse bin which is screened from the view of other units and from the public realm.

7. Clothes Drying Facility

7.1 Each dwelling unit must be provided with an outdoor clothes drying facility generally as shown on the Floor Plan.

8. Noise

- 8.1 Noise from any air conditioning unit must not exceed the following levels when measured at any neighbours' premises:
 - a. am to 10 pm (every day) Noise must be no louder than five (5) decibels (A) above background noise:
 - **b.** 10 pm to 7 am (every day) Noise must be no louder than three (3) decibels (A) above background noise.
- 8.2 The approved development must not interfere with the natural flow of stormwater in the locality in such a manner as to cause ponding or concentration of stormwater on adjoining land or roads.
- 9. Soil Erosion, Minimisation, Sediment Control and Dust Control
 - 9.1 During the construction phase of this development the developer is responsible for the installation and maintenance of erosion and sediment management facilities.
 - 9.2 The developer is responsible for the suppression of dust arising from the construction work and/or the cartage of material that may cause a nuisance to adjoining properties.

10. Environmental Consideration

10.1 Construction must comply with the **Environmental Protection Act 1994** to prevent or minimise either environmental harm or nuisance.

11. Definitions

- 11.1 In these conditions:
 - a. A reference to an Act includes all statutory instruments and subordinate legislation made under that Act; and

Terms used have the meaning contained in the Weipa Advisory Development Plan, the **Planning Act 2016** or the relevant legislation referred to in these conditions, as the case may be.

8. APPROVED PLANS

Drawing title	Date	Reference	Revision	Drawn by
Site Plan	04/04/2017	A.1.1	D	ND/ND
Elevations	04/04/2017	A.4.1	D	ND/ND

9. STATEMENT OF REASONS

The development application for a **Development Permit for Material Change of Use** approved as per this Decision Notice (approval) P17-010.

9.1 Reasons of the Decision

The development application is approved and the reasons for the decision are based on the findings on material question of fact:

- (i) Where the development does not comply with the Acceptable Solutions of *Planning Policy Number 1 Duplex Dwelling & Multiple Dwelling Design and Siting* ('Planning Policy'), and can comply with the corresponding Performance Solutions
- (ii) The development is 'Possible Development' in the Residential Preferred Dominant Land Use Area, compared to 'Conflicting Development' in all other Preferred Dominant Land Use Areas, and Weipa Town Authority are of the view that the development will only have negligible impacts on the amenity of surrounding areas.
- (iii) The development does have a reduced number of on-site car parking spaces (by one), does not allow vehicles to ingress and egress from the site in a forward gear and has an on-site car parking space with a reduced setback, as prescribed by the Acceptable Solutions of the Planning Policy; however, this is considered acceptable and compliance with the corresponding Performance Outcomes is met as:
 - a. The new dwelling unit is relatively small scale and conditions of approval have been included to ensure that all vehicles associated with the use are parked entirety within the bounds of the site; and
 - b. The reduced parking space setback and inability to enter and exit the site in a forward gear are deemed negligible given this is largely the case in the surrounding area.
- (iv) The development does have a reduced front boundary setback to that prescribed by the Acceptable Solutions of the Planning Policy; however, the setback is consistent with that exhibited by nearby dwellings and conditions of approval have been included to ensure landscaping is provided to screen the new dwelling unit from the streetscape and adjoining properties.

(v) On balance, the application should be approved because the circumstances favour Weipa Town Authority exercising its discretion to approve the application.

9.2 Assessment Benchmarks

The following are the benchmarks applying for this development:

Benchmark applying for the development	Benchmark reference
Density Control Vehicle Access, Driveways and Car Parking On Site Open Space Building Setbacks Building Heights Screening Landscaping/Fencing	Weipa Town Authority Policy – Planning Policy Number 1 – Duplex Dwelling & Multiple Dwelling Design and Siting
2.1 Principal Aim of the Advisory Development Plan 2.2 Supplementary Aims of the Advisory Development Plan 4.1 Residential (Preferred Dominant Land Uses)	Advisory Development Plan for Weipa Local Government Area 1996

9.3 Compliance with Benchmarks

The development meets the Performance Criteria of *Planning Policy Number 1*, despite not complying with Acceptable Solutions 2.2 (c), (i) (k):

Benchmark reference	Reasons for the approval despite non-compliance with benchmarks
Planning Policy Number 1 – Acceptable Solutions 2.2 (c), (i) and (k)	As per the reasons set out in the findings on material questions of fact in section 9.1 of this notice.

9.4 Relevant Matters

The relevant matters are as follows:

- (a) The development is of a scale and density that is appropriate in an urban residential setting, and provides a diversity of housing accommodation options in Weipa.
- (b) The development will not adversely impact upon the amenity of the area, given the small-scale of the use, and the fact the conditions of approval have been included to ensure no vehicles associated with the use extrude from bounds of the site.
- (c) The development is provided with appropriate infrastructure in terms of vehicle access and connection to reticulated services.

9.5 Matters Raised in Submissions

The grounds of the submissions are summarised as follows:

- (a) The dwelling was constructed prior to obtaining planning approval (i.e. Development Permit for Material Change of Use) and therefore there was no opportunity for nearby residents to object.
- (b) The access to the dwelling would be better located at the existing crossover at the site's primary frontage, given there is limited vehicle manoeuvring areas within the cul-de-sac. The increased vehicular movements would compromise vehicle and pedestrian safety within the cul-de-sac.

- (c) The dwelling does not reflect the character of the existing built form in the surrounding area.
- (d) The development may result in the devaluation of property prices within the cul-de-sac for the abovementioned reasons.

How Weipa Town Authority dealt with the matters raised:

- (a) In certain circumstances, it is possible to construct an ancillary accommodation unit on a property, where an existing lawful *Dwelling-house* exists, without obtaining planning approval (i.e. Development Permit for Material Change of Use), as outlined below:
 - (i) Under the Advisory Development Plan 1996 ('ADP'), Dwelling-house '...means any premises used or intended for use as a self-contained accommodation for the exclusive use of one household...'
 - (ii) Therefore, it is possible to construct an ancillary accommodation unit without obtaining further planning approval and still be captured by the existing *Dwelling-house* approval, on the proviso the ancillary accommodation is not self-contained and is used by the same household as the primary dwelling.
 - (iii) It is noted that the ancillary accommodation unit does not contain a laundry and therefore may have been viewed as not being 'self-contained'. It is also possible that the ancillary accommodation unit was not initially intended to accommodate a separate household.

On this basis, it was possible for the ancillary accommodation unit (i.e. the new dwelling) to be constructed without planning approval. Planning approval was only required if the ancillary accommodation unit was used, or intended for use, as a self-contained accommodation unit for exclusive use of one household.

- (b) The proposed access was deemed to be suitable on the basis the development was still able to demonstrate compliance with Performance Criteria 2.1 of the Planning Policy, relating to vehicle access, driveways and car parking. Specifically, given the relatively small-scale of the use and subsequent limited vehicle movements, and conditions of approval requiring all vehicles, including boats and trailers, to be parked entirely within the bounds of the site, it was deemed that the access and parking arrangement would minimise interruptions to the free flow of traffic in the street.
- (c) With reference to response '(a)', it was possible for the ancillary accommodation unit to be constructed without planning approval, which removed the ability to assess whether the development reflected the character of the existing built form in the surrounding area. Notwithstanding this, Weipa Town Authority are satisfied that the development is generally consistent with the character of development in the surrounding area, and that conditions requiring landscaping, will assists to screen views to the development from neighbouring properties and the public realm.
- (d) Weipa Town Authority have assessed the application on its merits and against the assessment benchmarks and are satisfied that the proposal will not adversely affect the amenity of the surrounding area. Notwithstanding this, in accordance with section 45 (5) (b) of the *Planning Act 2016*, as assessment manager, Weipa Town Authority cannot have regard to a person's personal circumstances, financial or otherwise, when assessing the application.

9.6 Matters Prescribed by Regulation

The following matters were given regard to in undertaking the assessment of this development application:

(a) The Cape York Regional Plan;

- (b) The surrounding development, in terms of commensurate and consistent development; and
- (c) Common material.

10. REFERRAL AGENCIES

There were no referral agencies as part of this application.

11. FURTHER DEVELOPMENT PERMITS REQUIRED

No further development permits are required to carry out the approved development.

8. 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 or need to seek clarification about any of these details, please contact Weipa Town Authority on \$\alpha\$ 4030 9400.

9. DELEGATED PERSON

Name: Emily Peel

Signature:

Date: 16 January 2018

Enc:

Approved Plans Appeal Provisions

Appeal Rights

The following is an extract from the Planning Act 2016 (Chapter 6 – Part 1)

Chapter 6 Dispute resolution

Part 1 Appeal rights

228 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.

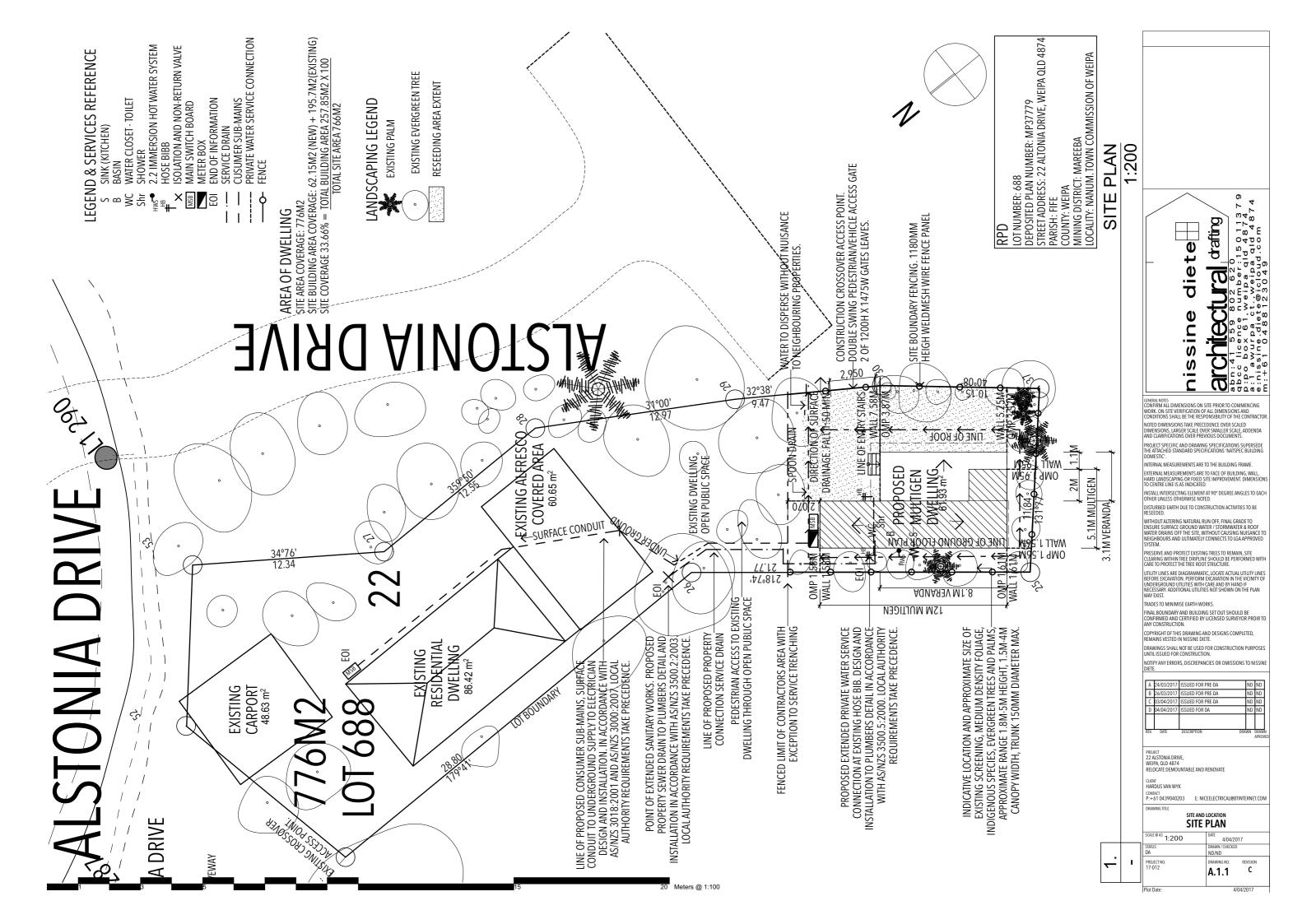
Note-

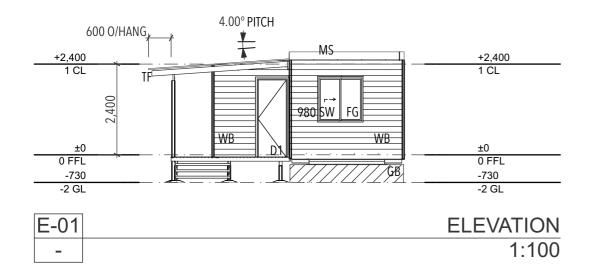
See the P&E Court Act for the court's power to extend the appeal period.

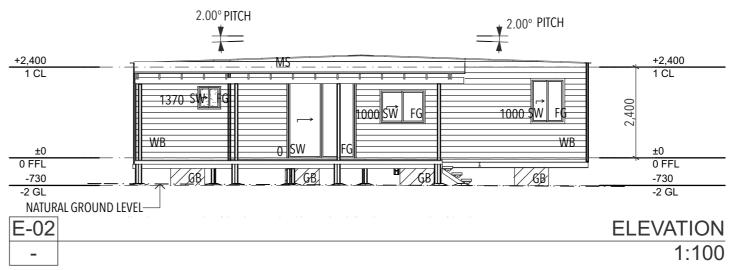
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against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

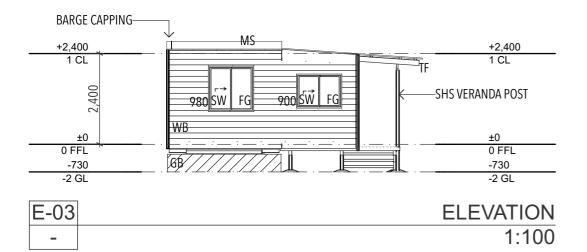
229 Notice of appeal

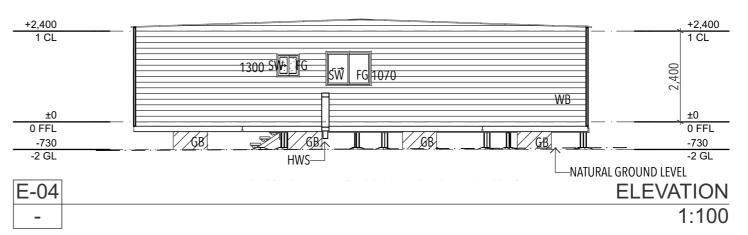
- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, 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
 - (ca) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - (d) 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 (ca); and
 - (e) for an appeal to the P&E Court—the chief executive; and
 - (f) 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





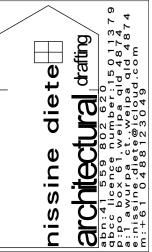






LEGEND

- TF TIMBER FASCIA PROFILE, COLOUR COLORBOND RED OAK.
- WB FRONTIER HARDIEPLANK WEATHERBOARD EXTERIOR CLADDING ON STEEL FRAMING, COLOUR SOLARGARD PLUS EXTERIOR LOW SHEEN SQUEEZED LIME.
- MS METAL SHEET ROOFING TRIMDEK WITH EMLINE CAPPING, COLOUR COLORBOND MERINO.
- FG FIXED SINGLE GLAZED CLEAR ORDINARY ANNEALED GLASS POWDER COATED ALUMINIUM FRAMED WINDOW WITH FIXED MIDGIE MESH, 7MM DIAMOND GRILLE FLY SCREEN.
- SW SLIDING OBSCURED SINGLE GLAZED CLEAR ORDINARY ANNEALED GLASS POWDER COATED ALUMINIUM FRAMED WINDOW WITH FIXED MIDGIE MESH, 7MM DIAMOND GRILLE FLY SCREEN.
 SLIDING WINDOW CLEAR ORDINARY ANNEALED GLASS WITH POWDER COATED ALUMINIUM FRAME.OBSCURED GLAZING TO BATHROOM WINDOW.
- SD SLIDING DOOR. GRADE A SAFETY GLAZING POWDER COATED ALUMINIUM FRAMED DOOR WITH SLIDING MIDGIE MESH, 7MM DIAMOND GRILLE FLY MESH.
- D1 SWING HOLLOW CORE DOOR.
- B EXPOSED EDGE OF OUT OF GROUND EXISTING CONCRETE GRADE BEAM.



GENERAL NOTES
CONFIRM ALL DIMENSIONS ON SITE PRIOR TO COMMENCING
WORK, ON SITE VERIFICATION OF ALL DIMENSIONS, AND
CONDITIONS SHALL BET HE RESPONSIBILITY OF THE CONTRACTO
NOTED DIMENSIONS TAKE PRECEDENCE OVER SCALED
DIMENSIONS, LARGER SCALE OVER SMALLER SCALE, ADDENDA
AND CLARIFICATIONS OVER TREVIOUS DECOMENSITY.

PROJECT SPECIFIC AND DRAWING SPECIFICATIONS SUPERSEDE THE ATTACHED STANDARD SPECIFICATIONS 'NATSPEC BUILDING DOMESTIC'. INTERNAL MEASUREMENTS ARE TO THE BUILDING FRAME.

XTERNAL MEASUREMENTS ARE TO FACE OF BUILDING, WALL, IARD LANDSCAPING OR FIXED SITE IMPROVEMENT. DIMENSIOI O CENTRE LINE IS AS INDICATED.

INSTALL INTERSECTING ELEMENT AT 90° DEGREE ANGLES TO EACH OTHER UNLESS OTHERWISE NOTED.

DISTURBED EARTH DUE TO CONSTRUCTION ACTIVITIES TO BE RESEEDED.

WATER DRAINS OFF THE SITE, WITHOUT CAUSING NUISANCE TO NEIGHBOURS AND ULTIMATELY CONNECTS TO LGA APPROVED SYSTEM.

PRESERVE AND PROTECT EXISTING TREES TO REMAIN. SITE

PRESERVE AND PROTECT EXISTING TREES TO REMAIN, SITE CLEARING WITHIN TREE DRIPLINE SHOULD BE PERFORMED WITH CARE TO PROTECT THE TREE ROOT STRUCTURE.

CARE TO PROTECT THE TREE ROOT STRUCTURE.

BEFORE EXCAVATION. PERFORM EXCAVATION IN THE VICINITY OF UNDERGROUND UTILITIES WITH CARE AND BY HAND IF RECESSARY. ADDITIONAL UTILITIES NOT SHOWN ON THE PLAN MAY EXIST.

TRADES TO MINIMISE EARTH WORKS.

FINAL BOUNDARY AND BUILDING SET OUT SHOULD BE CONFIRMED AND CERTIFIED BY LICENSED SURVEYOR PROIRTO ANY CONSTRUCTION.

COPYRIGHT OF THIS DRAWING AND DESIGNS COMPLETED, REMAINS VESTED IN NISSINE DIETE.

DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES
UNTIL ISSUED FOR CONSTRUCTION.

NOTIFY ANY ERRORS, DISCREPANCIES OR OMISSIONS TO NISSII

REV.	DATE	DESCRIPTION	DRAWN	DRAW
D	04/04/2017	ISSUED FOR DA	ND	ND
С	03/04/2017	ISSUED FOR PRE-DA	ND	ND
В	26/03/2017	ISSUED FOR PRE-DA	ND	ND
Α	24/03/2017	ISSUED FOR PRE-DA	ND	ND

PROJECT 22 ALSTONIA DRIVE, WEIPA, QLD 4874

WEIPA, QLD 4874

RELOCATE DEMOUNTABLE AND RENOV

CLIENT HARDUS VAN WYK

CONTACT
P:+61 0439040203 E: NICEELECTRICAL@BTINTERNET.COM

DA ELEVATIONS **ELEVATIONS**

SCALE @ A3	1:100	DATE 4/04/2	017
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17-012		A.4.1	C

20 Meters @ 1:100