

14 May 2020

Rio Tinto Yarwun Pty Ltd  
c/- Alison Cox  
PO Box 1479  
GLADSTONE QLD 4680

Email: [Alison.cox@riotinto.com](mailto:Alison.cox@riotinto.com)

Dear Ms Cox

**DECISION NOTICE – APPROVAL WITH CONDITIONS – DA2020/03/01**

(GIVEN UNDER S63 PLANNING ACT 2016)

**1. Application Details**

This development application was properly made to the Gladstone Ports Corporation Limited on **3 March 2020**.

Application Number:	<b>DA2020/03/01</b>
Applicant Name:	<b>Rio Tinto Yarwun Pty Ltd (RTY)</b>
Applicant Contact Details:	<b>Alison Cox Rio Tinto Yarwun Pty Ltd PO Box 1479 GLADSTONE QLD 4680 Email: <a href="mailto:Alison.cox@riotinto.com">Alison.cox@riotinto.com</a></b>
Approvals Sought:	<b>Operational works that is tidal works for two safe rooms on wharf 1 and 2</b>
Details of Proposed Development:	<b>Installation of two safe rooms, bollards and power and communications cabling on wharves and jetty</b>
Location Street Address:	<b>Graham Fenton Drive YARWUN QLD 4680</b>
Location Real Property Description:	<b>Lease C on Lot SP177778 in Lot 503 on SP144788</b>
Land Owner:	<b>Department of Natural Resources, Mines and Energy</b>
Present Zoning & Precinct	<b>Strategic Port Land – Wharves (offshore) Precinct</b>

## 2. Details Of Proposed Development

Installation of two safe rooms on wharves, one at wharf caustic unloading area and one at mid wharf. Development includes:

- a) Two safe rooms 11.6m long x 2.265m wide x 2.4m high;
- b) Bollards; and
- c) Power and communications cabling on the wharves and jetty only.

Note: This approval excludes the use of the safe rooms as crib rooms and any associated works on Lot 502 on SP252988.

## 3. Details Of Decision

This development application was **decided** on **14 May 2020**.

This development application is **approved in full with conditions**. These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

## 4. Details Of Approval

This development approval is a **Development Permit** given for:

- a) Operational works that is tidal works in accordance with *Planning Regulation 2017*, Schedule 10, Part 17, Division 3, Tables 1 & 2, Item 1.

## 5. Conditions

This development approval is subject to the conditions in Attachment 1 - Part 1 and Part 2.

## 6. Further Development Permits

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

1. Port Application for installation of power and communications cabling from the jetty to the caustic bund area; and
2. Building works.

## 7. Properly made submissions

Not applicable – No part of the application required public notification.

## 8. Referral Agencies for the Application

The referral agencies for this application are:

For an application involving	Name of referral agency	Advice agency or concurrence agency	Address
Operational Works that is Tidal Works	Department of State Development, Manufacturing, Infrastructure and Planning	Concurrence	Wide Bay Burnett State Assessment Referral Agency (SARA) PO Box 979 BUNDABERG Q 4670 <a href="mailto:WBBSARA@dsdmip.qld.gov.au">WBBSARA@dsdmip.qld.gov.au</a>

## 9. Approved Plans and Specifications –

Copies of the following plans, specifications and drawings are enclosed in **Attachment 2**:

Drawing/report title	Prepared by	Date	Reference no.	Rev
<b>Aspect of development: insert e.g. Operational Works that is Tidal Works</b>				
Saferoom 3 Location Plan	Hatch	26/03/2020	Draw. No. P01-110M(2D)10228	C01
Saferoom 4 Location Plan	Hatch	26/03/2020	Draw. No. P01-110M(2D)10229	C01
Assembly, chamber fitout – sheet 1 of 6	MineARC Systems	16/03/2020	S34MA-P435-001	A
Assembly, chamber fitout – sheet 2 of 6	MineARC Systems	16/03/2020	S34MA-P435-001	A
Assembly, chamber fitout – sheet 3 of 6	MineARC Systems	16/03/2020	S34MA-P435-001	A
Assembly, chamber fitout – sheet 4 of 6	MineARC Systems	16/03/2020	S34MA-P435-001	A
Assembly, chamber fitout – sheet 5 of 6	MineARC Systems	16/03/2020	S34MA-P435-001	A
Assembly, chamber fitout – sheet 6 of 6	MineARC Systems	16/03/2020	S34MA-P435-001	A

## 10. Currency Period for the Approval

This development approval will lapse at the end of the periods set out below:

- For Operational Works approvals, the approval lapses 2 years after this approval decision date – reference section 85 of the *Planning Act 2016*.

## 11. 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*). **Attachment 3** is an extract from the *Planning Act 2016* that sets down the applicant's appeal rights and the appeal rights of a submitter.

For further information please contact Judy Horsfall, Planning Officer, on 07 4976 1314 or Erin Clark, Principal Planner, on 07 4976 1287 or via email [planning@gpcl.com.au](mailto:planning@gpcl.com.au).

Yours sincerely



**Erin Clark**  
Principal Planner  
14 May 2020

- Enc. Attachment 1: Conditions of Approval  
 Part 1 – Conditions imposed by the assessment manager  
 Part 2 – Conditions required by the referral agency response  
     a) Department of State Development, Manufacturing, Infrastructure and Planning, 7<sup>th</sup> May 2020
- Attachment 2: Approved plans and specifications  
 Attachment 3: Extract of appeal provisions

# ATTACHMENT 1: CONDITIONS OF APPROVAL

## PART 1A: ASSESSMENT MANAGER CONDITIONS

In general the development proposal is in compliance with the requirements of Gladstone Ports Corporation Limited (GPC). This development approval is subject to each the following conditions which are stated by GPC, the Assessment Manager.

### Part 1A(i): Approval sought under Planning Act 2016 – Operational Works that is tidal works

#### GENERAL

1. Development must be carried out generally in accordance with the approved plans as lodged with the application except where modified by conditions of this permit.
2. Unless otherwise stated, all conditions must be complied with and completed prior to the commencement of the development.
3. Where additional “approval” is required under these conditions by the Assessment Manager (GPC) for drawings or documentation, the applicant must submit for review, amend to the satisfaction of, and obtain written approval from GPC. Only in this manner can compliance with this condition be achieved.

Furthermore, GPC will require no less than 10 business days, unless otherwise conditioned by GPC, to initially assess the drawings or documentation provided prior to the initiation of the development. Should further information be required for assessment, GPC will require a further 5 business days to complete the information request response.

4. All other relevant approvals/certification must be obtained before commencement of the development or operation of the development, including any Building works or Plumbing and drainage works.
5. The applicant must at its cost and expense, keep and maintain the development footprint, including existing services, in a state that is satisfactory to the Assessment Manager (GPC).

#### ENGINEERING & PLANNING

6. Upon completion of the development, the applicant must supply the Assessment Manager (GPC) with RPEQ certified “As Constructed” plans in both hard copy (2 of) and electronic (CAD format) which illustrates all infrastructure on Port land which is associated with the activity.
7. The applicant must notify the Assessment Manager (GPC) of damage caused to any port or port user infrastructure or services including, but not limited to, roads etc. as a result of the approved used or during construction. The applicant must undertake the repairs at their expense and to the satisfaction of GPC, however, depending upon the nature and location of the damage, GPC retains the right to undertake the repairs at the expense of the applicant.
8. Any site lighting used should not negatively impact on the visibility of Navigational Aids utilised for the primary shipping channels nor illuminate a landward glare beyond the site boundary. Lighting is to be reviewed by applicant during construction and operations with respect to navigation. Where an issue is identified or a validated external complaint received, the applicant must immediately rectify to the satisfaction of GPC.

## Tidal Structures

9. Any material which is deposited or any debris which falls or is deposited on tidal lands or into tidal waters during the construction of the approved development shall be removed by the applicant at their cost and expense. Upon completion of construction works, the applicant must provide the Assessment Manager (GPC) with written confirmation that the seabed is clear of foreign materials upon completion of construction.

## Construction Management

10. In the event a construction compound is required on port land outside the project lease area for offices, laydown areas, employee car parking or crib rooms etc., the proponent or their contractor must obtain a Consent to Enter from GPC's Property Specialist via 07 4976 1334 or [property@gpcl.com.au](mailto:property@gpcl.com.au) prior to works commencing.

## ENVIRONMENT

### Construction Environmental Management Plan

11. Prior to works commencing on site, a Construction Environmental Management Plan (CEMP) specific to this application and its associated works, is to be submitted to the Assessment Manager (GPC) for approval.

The construction must be undertaken in accordance with the approved CEMP, that ensures:

- (a) environmental risks, including but not limited to, noise, odour, lighting, dust, etc. are identified, managed and continually assessed in relation to the construction activity;
- (b) staff are trained and aware of their obligations under the CEMP, including a copy of the management plan and development approval available on site at all times;
- (c) reviews of environmental performance are undertaken at least annually; and
- (d) any amendments to the CEMP are to be submitted to GPC for review and approval.

*Note: GPC has a guideline for the development of environmental management plans that may be utilised in meeting the requirements of this condition.*

12. Once approved by the Assessment Manager (GPC), the construction works must be undertaken in accordance with the CEMP approved under Condition 11.

### Environmental Incident Notification

13. At all times, the Gladstone Ports Corporation Environment Hotline (07) 4976 1617) is to be notified of the occurrence of any;
  - (a) release / spill of contaminants (e.g. fuels / chemicals / sewerage) greater than 250L to land;
  - (b) release / spill of contaminants (e.g. fuels / chemicals / sewerage) of any amount to water;
  - (c) environmental complaints received by the holder of this approval; and
  - (d) non-compliance with conditions of this approval or any environmental approval obtained in relation to the development.

## PART 1B: ASSESSMENT MANAGER ADVICE NOTES

1. Part of the works applied for (bollards, cabling) have been considered as 'excluded works' by the Applicant. In order for this to apply, the applicant is required to comply with the requirements for excluded tidal works in the *Excluded Works (Coastal) Guideline*.
2. Associated works on the adjacent Lot 502 on SP252988, including power and communications cabling from the jetty to the caustic bladder storage site require GPC Port Application approval.
3. Associated works on Lot 503 on SP144788, Lot 502 on SP252988 and Lot 1 on SP144433 for the ammonia detection system and air raid siren works require GPC Port Application approval as per written pre-lodgement advice dated 20/09/2019. A copy can be obtained from [planning@gpcl.com.au](mailto:planning@gpcl.com.au).
4. Safe room installation on Lot 502 on SP252988 requires GPC Port Application approval as per written pre-lodgement advice dated 20/09/2019. A copy can be obtained from [planning@gpcl.com.au](mailto:planning@gpcl.com.au).
5. Upon completion of construction, the development is to be operated in accordance with Rio Tinto Yarwun's environmental management system.

## **PART 2: REFERRAL AGENCY CONDITIONS**

**Referral Agency Name: Department of State Development, Manufacturing, Infrastructure and Planning**





Department of  
**State Development,  
 Manufacturing,  
 Infrastructure and Planning**

SARA reference: 2004-16225 SRA  
 Your reference: DA2020/03/01

7 May 2020

Port of Gladstone Ports Corporation Limited  
 PO Box 259  
 Gladstone Qld 4680  
 planning@gpcl.com.au

Attention: Erin Clark

Dear Sir/Madam

## SARA response—Graham Fenton Drive, Gladstone

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

The development application described below was confirmed as properly referred by the Department of State Development, Manufacturing, Infrastructure and Planning on 6 April 2020.

### Response

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Outcome:	Referral agency response – with conditions.
Date of response:	7 May 2020
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

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Description:	Development permit	Operational work for tidal works— installation of two safe-room structures on Rio Tinto Yarwun wharf jetty
SARA role:	Referral Agency.	
SARA triggers:	Schedule 10, Part 17, div 3, table 1 (Planning Regulation 2017)— Development application for operational work that is tidal works or work in a coastal management district.	



Schedule 10, Part 17, div 3, table 2 (Planning Regulation 2017)—  
Development application for operational work that is in tidal waters.

SARA reference: 2004-16225 SRA  
Assessment Manager: Port of Gladstone Ports Corporation Limited  
Street address: Graham Fenton Drive, Gladstone  
Real property description: 503SP144788  
Applicant name: Rio Tinto Yarwun Pty Ltd  
Applicant contact details: PO Box 1479  
Gladstone QLD 4680  
alison.cox@riotinto.com

## 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 Carl Porter, Principal Planning Officer, on 07 4924 2918 or via email [RockhamptonSARA@dsgmip.qld.gov.au](mailto:RockhamptonSARA@dsgmip.qld.gov.au) who will be pleased to assist.

Yours sincerely



Anthony Walsh  
Manager Planning

cc Ms Alison Cox, [alison.cox@riotinto.com](mailto:alison.cox@riotinto.com)  
enc Attachment 1 - Referral agency conditions  
Attachment 2 - Advice to the applicant  
Attachment 3 - Reasons for referral agency response  
Attachment 4 - Representations provisions  
Attachment 5 - Approved plans and specifications

## 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>		
<p><b>Schedule 10, Part 17, div 3, table 1 (Planning Regulation 2017)—Development application for operational work that is tidal works or work in a coastal management district—</b>The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Environment and Science 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):</p>		
1.	<p>The development must be carried out generally in accordance with the following plans:</p> <p style="padding-left: 40px;">Wharf facilities ammonia gas detection &amp; saferooms Saferoom 3 location plan, prepared by HATCH, dated 26/03/2020, reference P01-110M(2D)10228, revision C01;</p> <p style="padding-left: 40px;">Wharf facilities ammonia gas detection &amp; saferooms Saferoom 4 location plan, prepared by HATCH, dated 26/03/2020, reference P01-110M(2D)10229, revision C01;</p> <p style="padding-left: 40px;">Assembly, chamber outfit GA, prepared by MineARC Systems, dated 16/03/2020, reference S34MA-P435-001, revision A;</p> <p style="padding-left: 40px;">Assembly, chamber outfit iso views, prepared by MineARC Systems, dated 16/03/2020, reference S34MA-P435-001 revision A;</p> <p style="padding-left: 40px;">Assembly, chamber outfit sections 1, prepared by MineARC Systems, dated 16/03/2020, reference S34MA-P435-001, revision A;</p> <p style="padding-left: 40px;">Assembly, chamber outfit sections 2, prepared by MineARC Systems, dated 16/03/2020, reference S34MA-P435-001, revision A;</p> <p style="padding-left: 40px;">Assembly, chamber outfit lifting, prepared by MineARC Systems, dated 16/03/2020, reference S34MA-P435-001, revision A;</p> <p style="padding-left: 40px;">Assembly, chamber outfit skid details, prepared by MineARC Systems, dated 16/03/2020, reference S34MA-P435-001, revision A.</p>	For the duration of the works.
2.	For the proposed works, only use clean materials and ensure that the works do not cause contamination. To achieve this only use materials which are free from contaminants as defined under section 11 of the <i>Environmental Protection Act 1994</i> .	For the duration of the works.
3.	Erosion and sediment control measures which are in accordance with Best Practice Erosion and Sediment Control (BPESC) guidelines for Australia (International Erosion Control Association), are to be installed and maintained to prevent the release of sediment	For the duration of the works.

	to tidal waters.	
<p><b>Schedule 10, Part 17, div 3, table 2 (Planning Regulation 2017)—Development application for operational work that is in tidal waters</b>—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Transport and Main Roads 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):</p>		
4.	<p>(a) The construction, operation or maintenance of the approved development must not damage or interfere (physically or by electrical or electro-magnetic emissions) with any aid to navigation.</p> <p>(b) In the event that damage or interference is caused to any aid to navigation, the Harbour Master must be immediately contacted on Ph (07) 49715200 or by email to <a href="mailto:Gladstone.rhm@msg.qld.gov.au">Gladstone.rhm@msg.qld.gov.au</a>, and at the applicant's cost the damage or interference must be promptly repaired replaced or interference removed.</p>	<p>(a) At all times</p> <p>(b) As indicated</p>

## 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) [v2.6]. 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 department's decision are the proposed development:**

- is for construction of saferooms for workers using the Yarwun wharf jetty
- is an addition an existing structure and does not increase the footprint of that structure
- the development complies with State Codes 7 & 8 with the application of conditions to ensure no impacts to coastal processes and navigation safety.

**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 [2.6]), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system

## **Attachment 4—Change representation provisions**

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## 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.

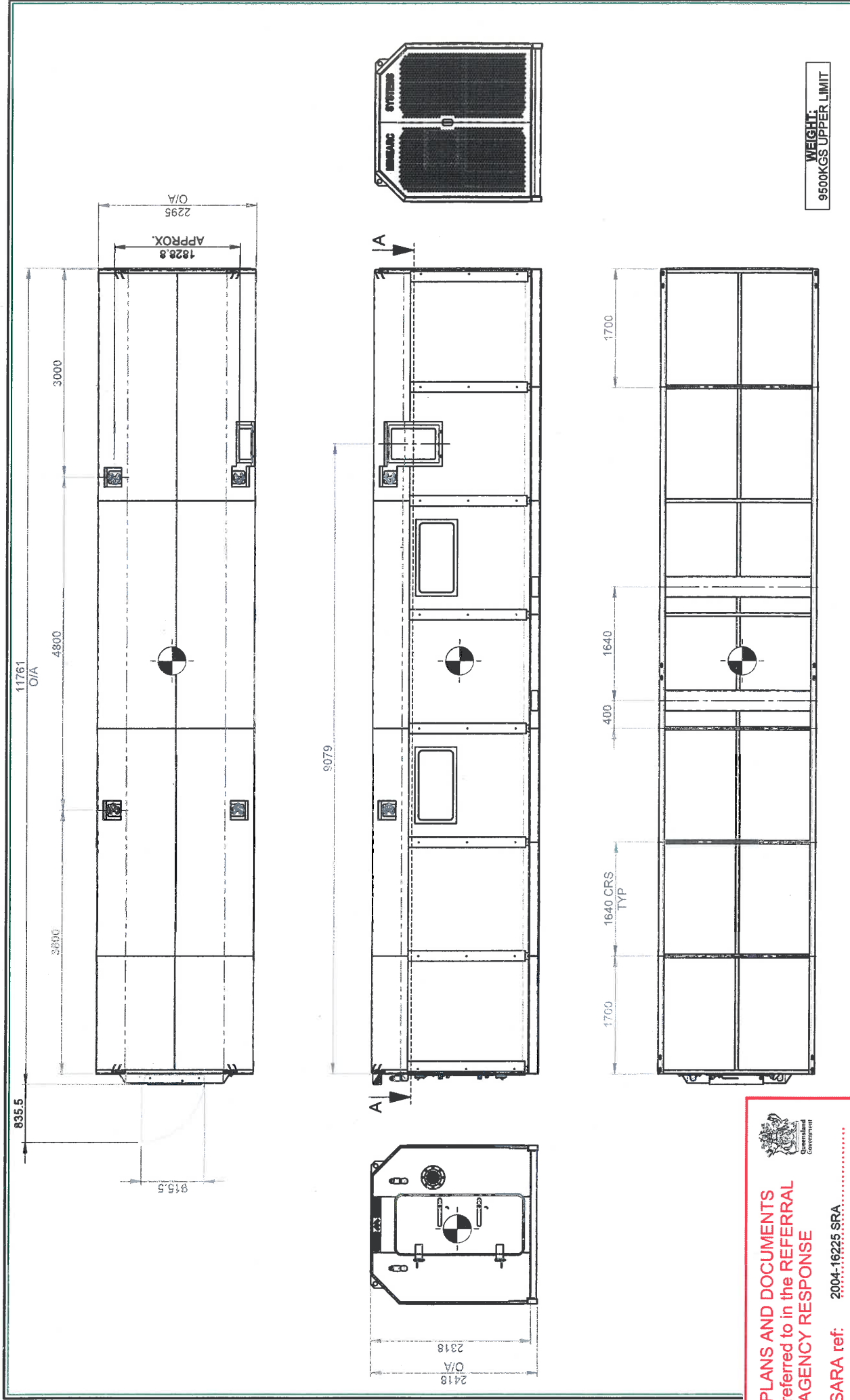
## **Attachment 5—Approved plans and specifications**

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**PLANS AND DOCUMENTS**  
 referred to in the REFERRAL  
 AGENCY RESPONSE  
**SARA ref:** 2004-16225 SRA  
**Date:** 7 May 2020  
**FINAL**

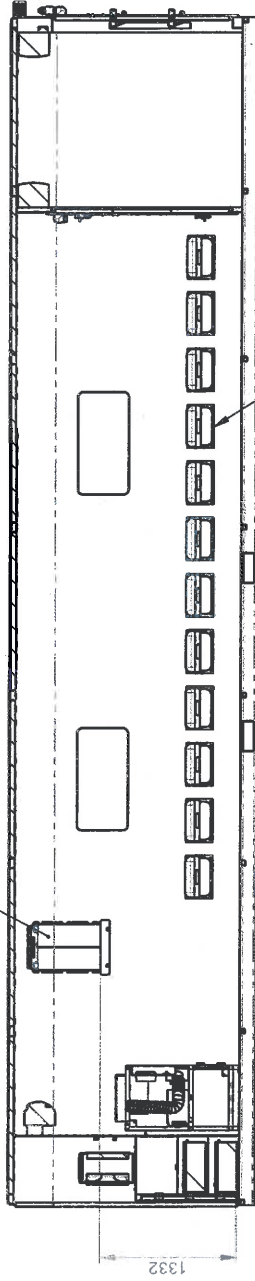
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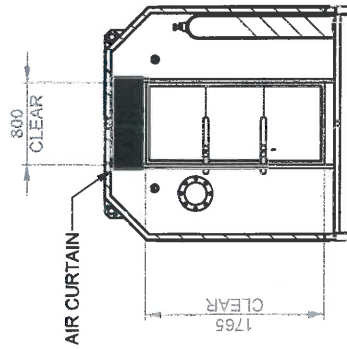


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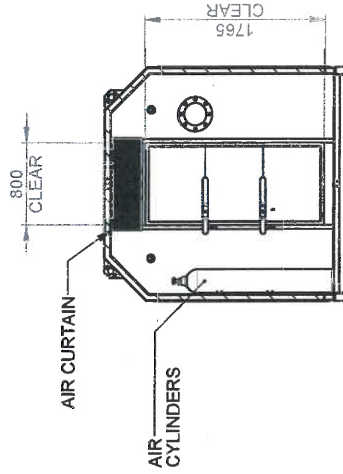


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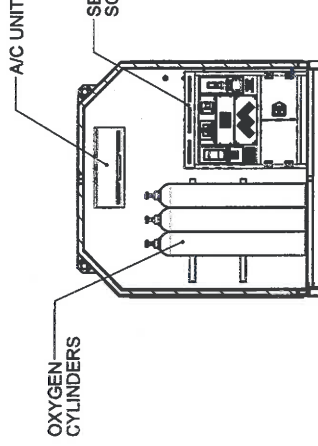
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SECTION C-C  
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SECTION E-E  
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SECTION G-G  
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**PLANS AND DOCUMENTS**  
referred to in the REFERRAL  
AGENCY RESPONSE

SARA ref: 2004-16225 SRA

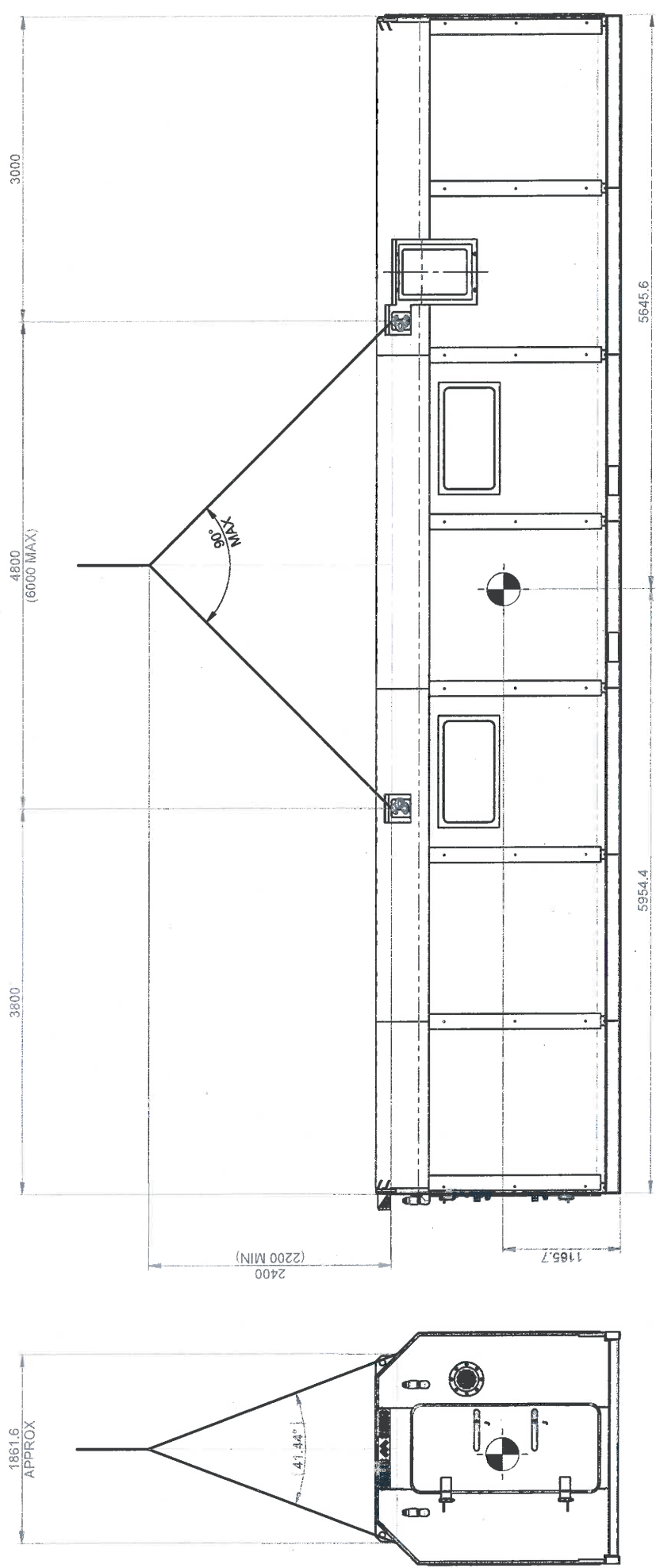
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SIGNATURE	DATE
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CHECKED:	16/12/2020
APPROVED:	

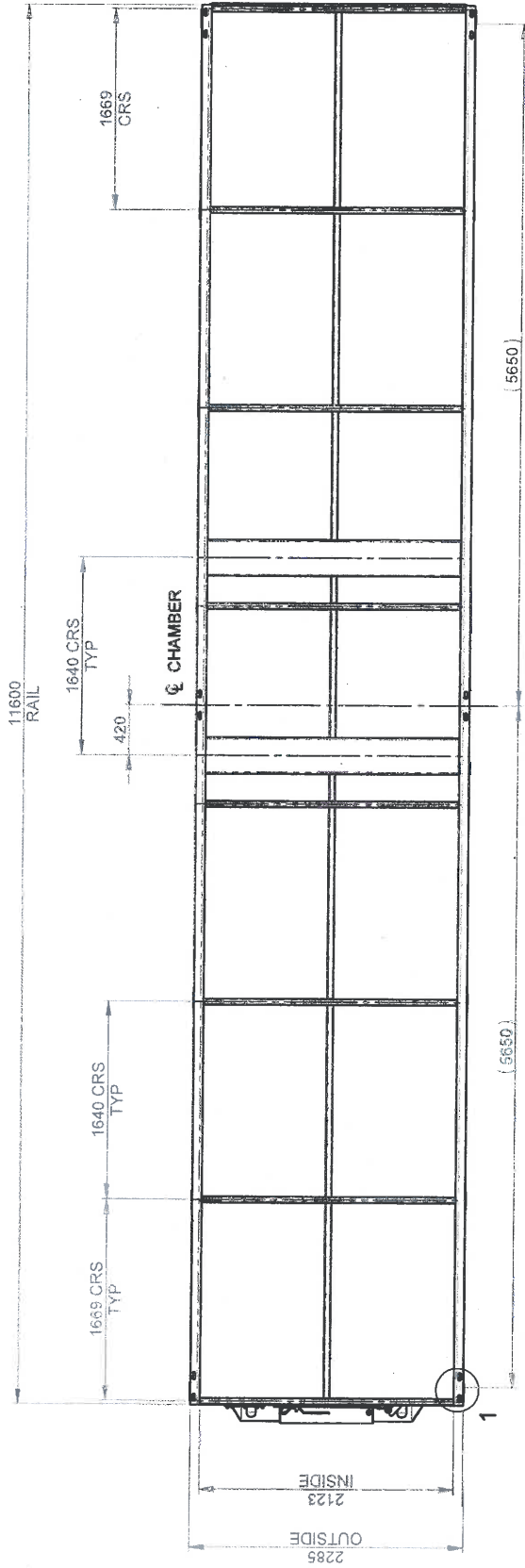


  
**PLANS AND DOCUMENTS**  
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**SARA ref:** 2004-16225 SRA .....  
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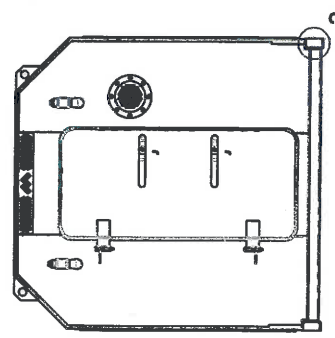
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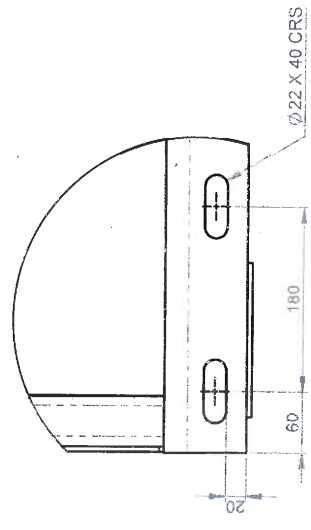
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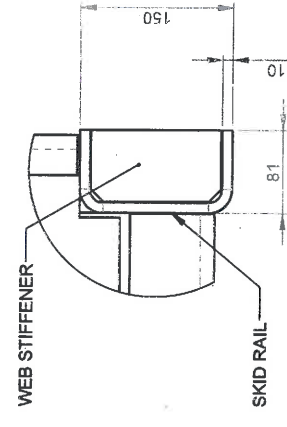
**BOTTOM VIEW**  
SCALE 1:40



**FRONT VIEW**  
SCALE 1:40



**DETAIL 1**  
(TYP ALL 6 POSITIONS)  
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**DETAIL 2**  
SCALE 1:5

**WEIGHT:**  
9500KGS UPPER LIMIT

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

SARA ref: 2004-16225 SRA

Date: 7 May, 2020

**FINAL**

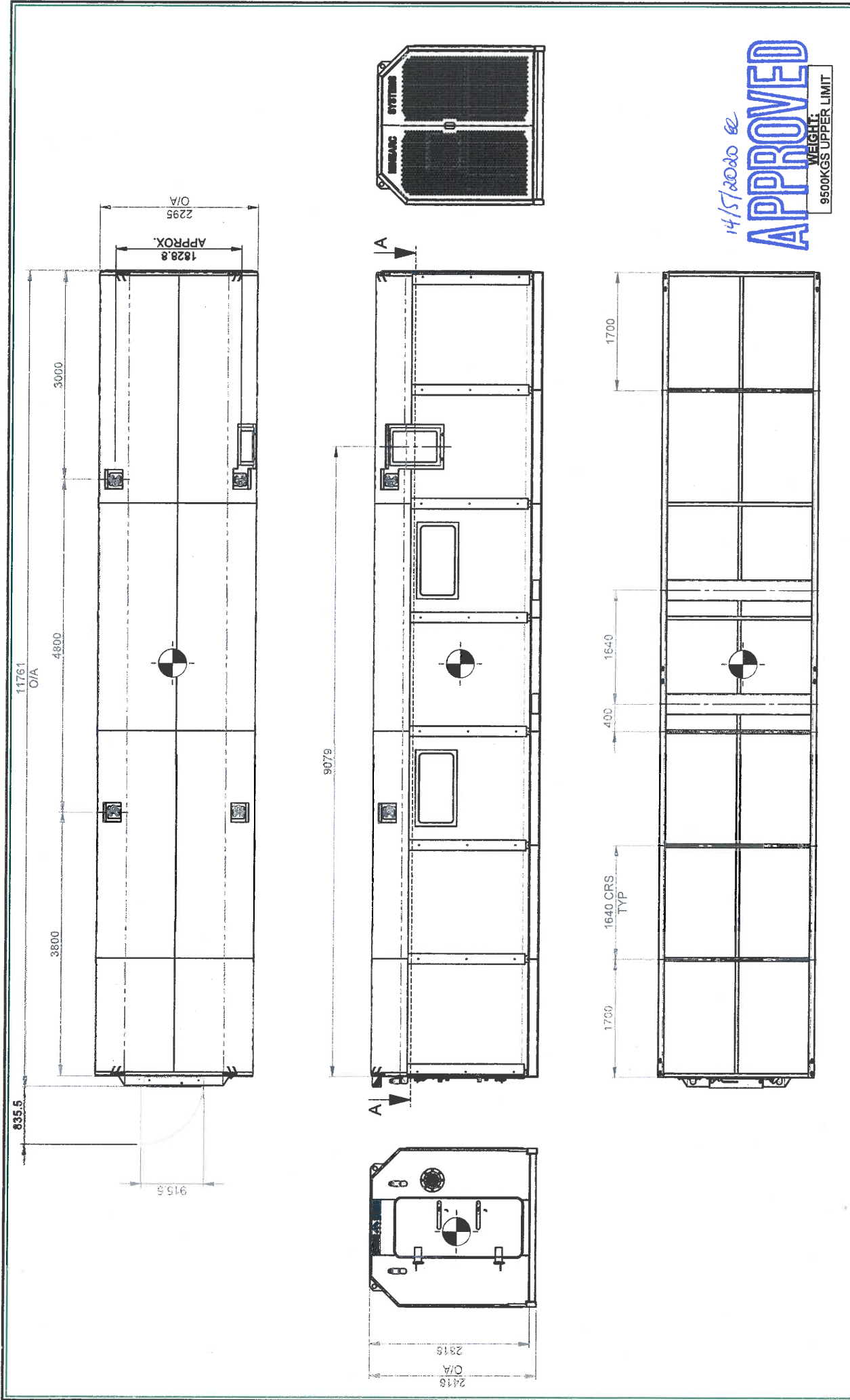
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DRAWN: C-W CHECKED: - APPROVED: -	SIGNATURE: C-W DATE: 16/03/2020	PROJECT: PS-SDC-20-SV-6-AU DRAWING NUMBER: S34MA-P435-001 SCALE: 1:40 SHEET: 6 OF 6	PROJECT: ASSEMBLY, CHAMBER FITOUT TITLE: PS-SDC-20-SV-6-AU DRAWING NUMBER: S34MA-P435-001 SCALE: 1:40 SHEET: 6 OF 6
No. A DATE: 16/03/2020 FINAL REVISION	DRN: C-W CHK: - APP: -	3rd ANGLE PROJECTION	

# ATTACHMENT 2: APPROVED PLANS AND SPECIFICATIONS









WEIGHT	3500.00KG	SHEET NAME	GA	SHEET	A3
TITLE	ASSEMBLY, CHAMBER FITOUT				
SCALE	1:50	DRAWING NUMBER	S34MA-P435-001	SHEET	1 OF 6
REV	A				

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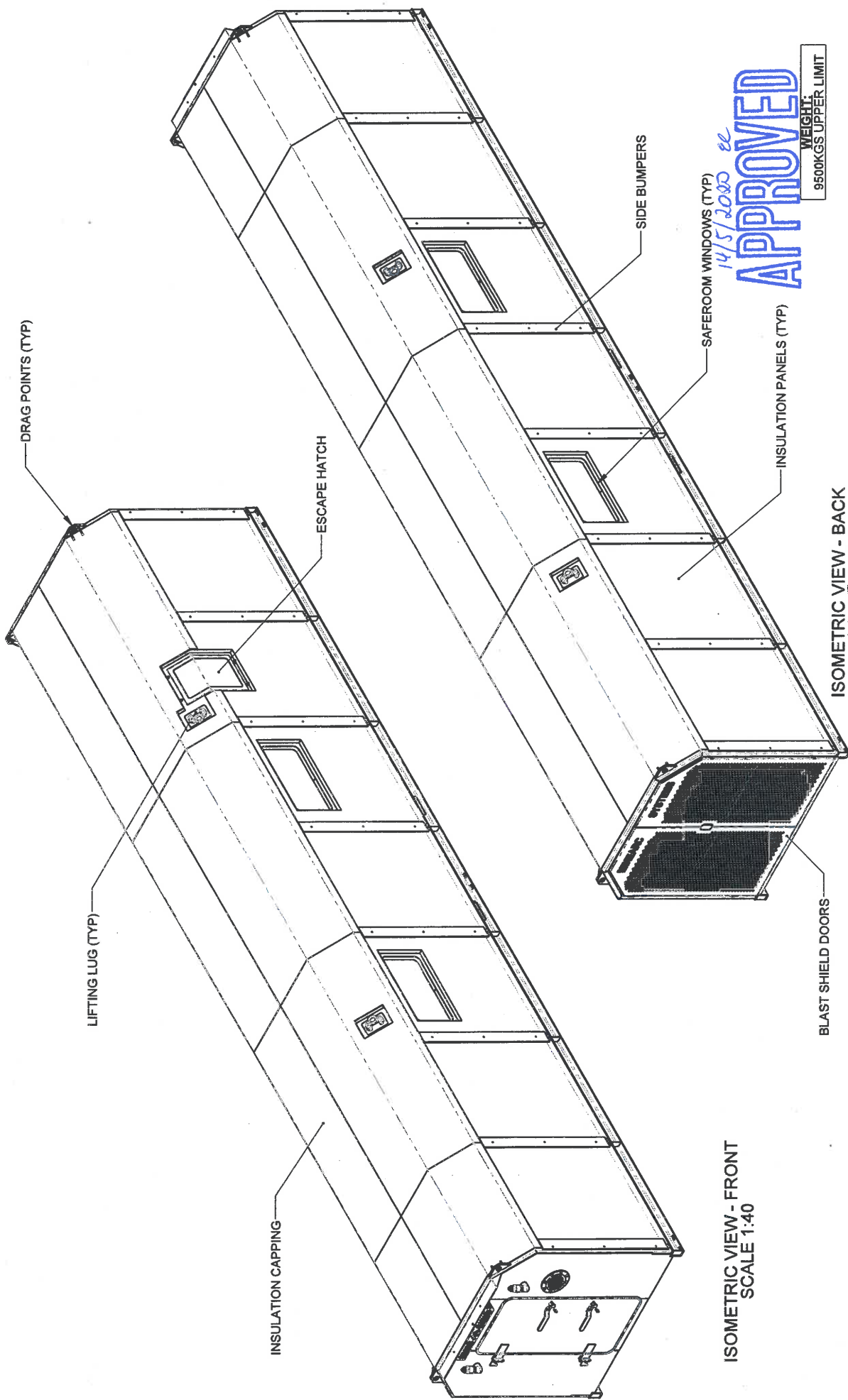
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ISOMETRIC VIEW - FRONT  
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ISOMETRIC VIEW - BACK  
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SHEET NAME: ASSEMBLY, CHAMBER FITOUT  
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SHEET: 2 OF 6  
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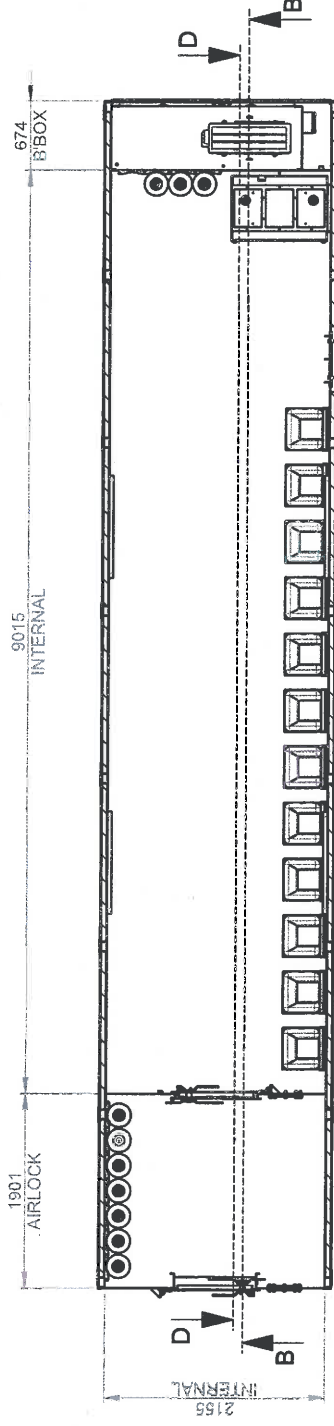
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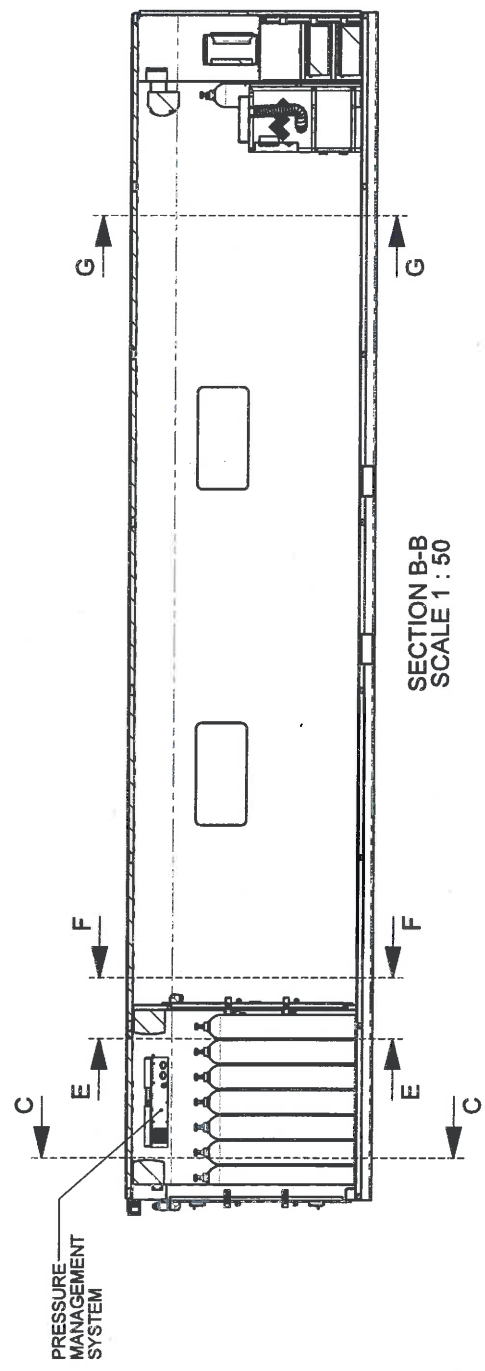
Client: MineARC Systems  
274 Wakeford Road, Wakeford, W.A. 6108  
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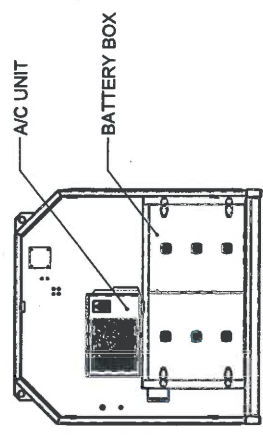
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SECTION A-A



SECTION B-B  
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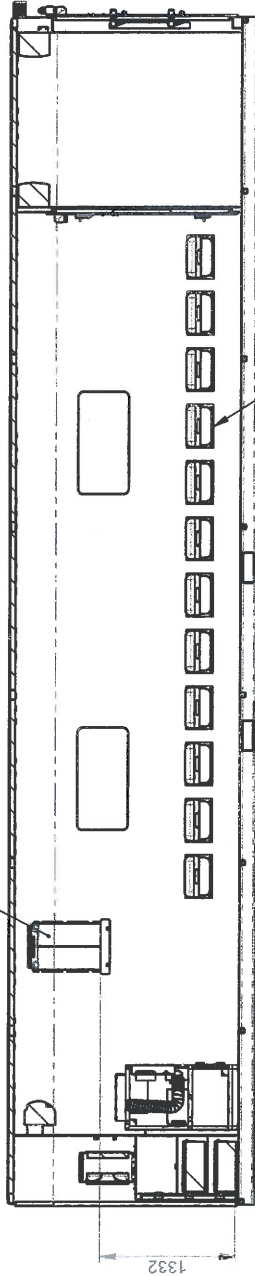
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No.	DATE	REVISION	DRN	CHK	APP										
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<p>PROJECT: PS-SDC-20-SIV-8-AU</p>	<p>DRAWING NUMBER: S34MA-P435-001</p>	<p>DATE: 14/5/2020</p>	<p>3 OF 6</p>												
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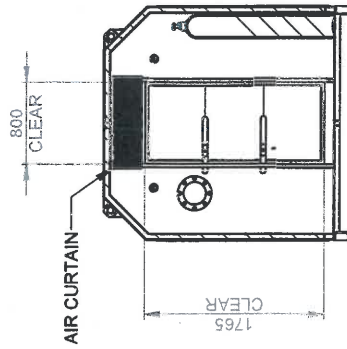
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ESCAPE HATCH

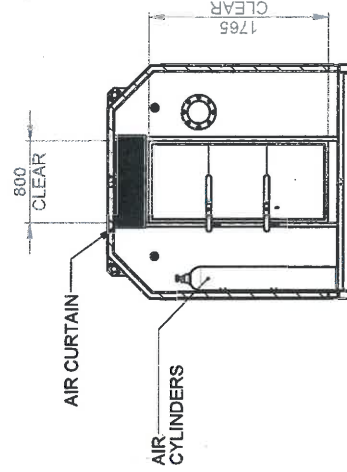


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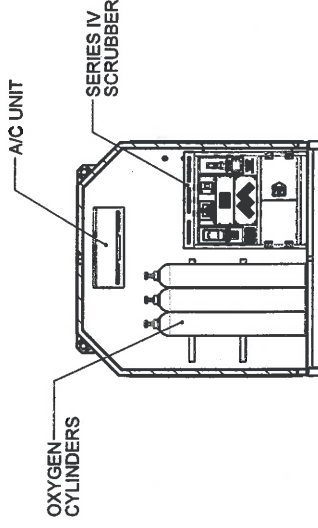
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SECTION C-C  
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SECTION E-E  
SCALE 1 : 50



SECTION G-G  
SCALE 1 : 50

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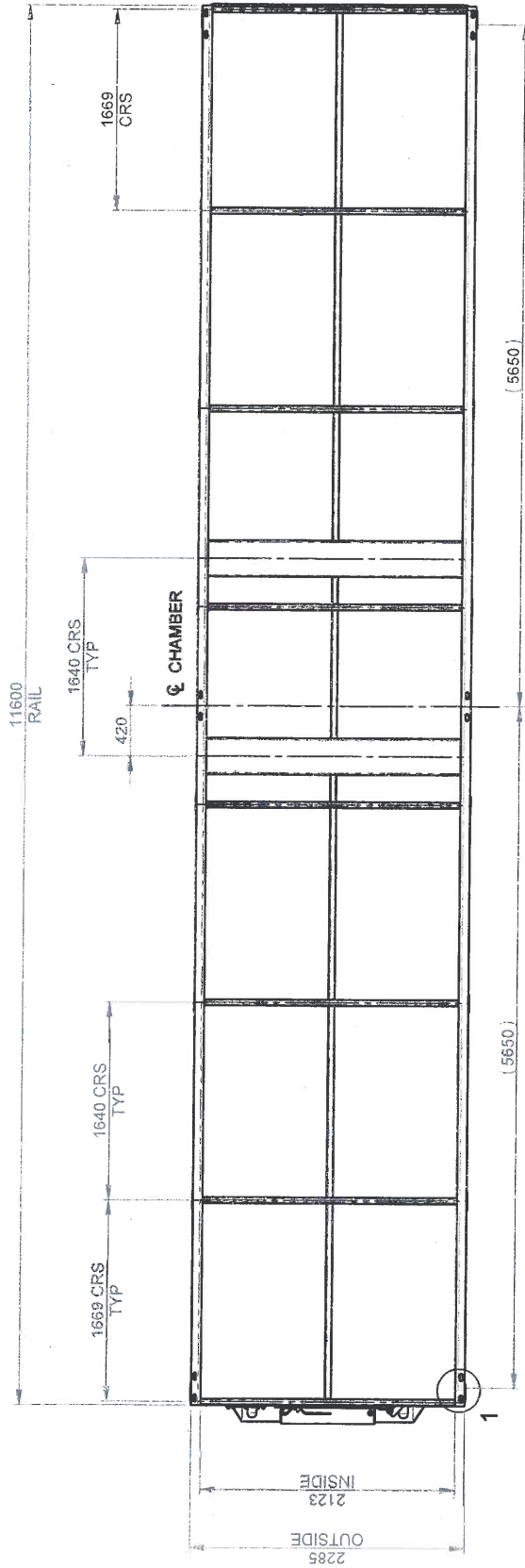
MineARC Systems  
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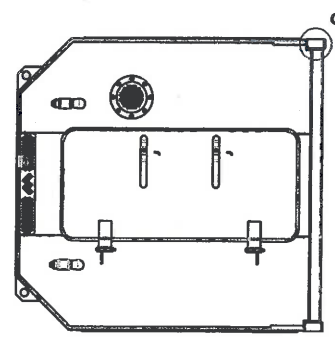
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TITLE	ASSEMBLY, CHAMBER FITOUT				
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			S34MA-P435-001	REV	A

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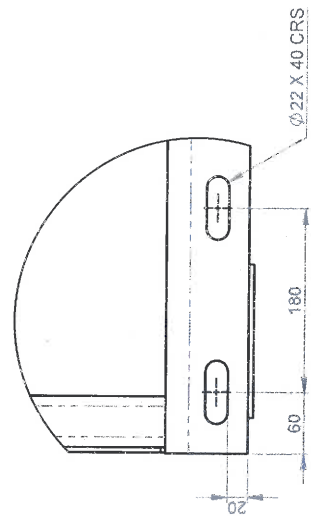




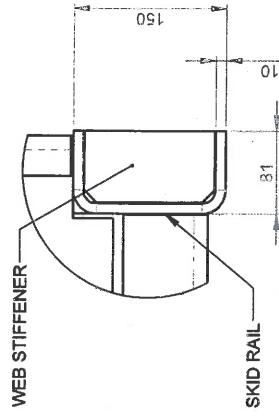
**BOTTOM VIEW**  
SCALE 1:40



**FRONT VIEW**  
SCALE 1:40



**DETAIL 1**  
(TYP ALL 6 POSITIONS)  
SCALE 1:5



**DETAIL 2**  
SCALE 1:5

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DRAWING NUMBER: S34MA-P435-001

PS-SDC-20-SV-8-AU

ASSEMBLY, CHAMBER FITOUT

6 OF 6

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# ATTACHMENT 3: EXTRACT OF APPEAL PROVISIONS

## Schedule 1 Appeals

section 229

### 1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to—
  - (a) the P&E court; or
  - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
  - (a) the refusal, or deemed refusal of a development application, for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (b) a provision of a development approval for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (c) if a development permit was applied for—the decision to give a preliminary approval for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (d) a development condition if—
    - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and



- 
- (ii) the building is, or is proposed to be, not more than 3 storeys; and
  - (iii) the proposed development is for not more than 60 sole-occupancy units; or
  - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
  - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
  - (g) a matter under this Act, to the extent the matter relates to the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
  - (h) a decision to give an enforcement notice—
    - (i) in relation to a matter under paragraphs (a) to (g); or
    - (ii) under the *Plumbing and Drainage Act 2018*; or
  - (i) an infrastructure charges notice; or
  - (j) the refusal, or deemed refusal, of a conversion application; or
  - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
- (a) for a matter in subsection (2)(a) to (d)—
    - (i) a development approval for which the development application required impact assessment; and
    - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
  - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.

- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
  - (a) column 1 states the appellant in the appeal; and
  - (b) column 2 states the respondent in the appeal; and
  - (c) column 3 states the co-respondent (if any) in the appeal; and
  - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.
- (8) In this section—  
*storey* see the Building Code, part A1.1.

<b>Table 1</b> <b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>
<p>1. Development applications</p> <p>For a development application other than an excluded application, an appeal may be made against—</p> <ul style="list-style-type: none"><li>(a) the refusal of all or part of the development application; or</li><li>(b) the deemed refusal of the development application; or</li><li>(c) a provision of the development approval; or</li><li>(d) if a development permit was applied for—the decision to give a preliminary approval.</li></ul>

<b>Table 1 Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	1 A concurrence agency that is not a co-respondent 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
<p><b>2. Change applications</b></p> <p>For a change application other than an excluded application, an appeal may be made against—</p> <p>(a) the responsible entity's decision on the change application; or</p> <p>(b) a deemed refusal of the change application.</p>			

<b>Table 1 Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 The applicant</p> <p>2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice</p>	<p>The responsible entity</p>	<p>If an affected entity starts the appeal—the applicant</p>	<p>1 A concurrence agency for the development application</p> <p>2 If a chosen assessment manager is the respondent—the prescribed assessment manager</p> <p>3 A private certifier for the development application</p> <p>4 Any eligible advice agency for the change application</p> <p>5 Any eligible submitter for the change application</p>
<p>3. Extension applications</p> <p>For an extension application other than an extension application called in by the Minister, an appeal may be made against—</p> <p>(a) the assessment manager’s decision on the extension application; or</p> <p>(b) a deemed refusal of the extension application.</p>			

<b>Table 1 Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 The applicant</p> <p>2 For a matter other than a deemed refusal of an extension application—a concurrence agency, other than the chief executive, for the application</p>	<p>The assessment manager</p>	<p>If a concurrence agency starts the appeal—the applicant</p>	<p>If a chosen assessment manager is the respondent—the prescribed assessment manager</p>
<p><b>4. Infrastructure charges notices</b></p> <p>An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds—</p> <p>(a) the notice involved an error relating to—</p> <p style="padding-left: 20px;">(i) the application of the relevant adopted charge; or</p> <p><i>Examples of errors in applying an adopted charge—</i></p> <ul style="list-style-type: none"> <li>• the incorrect application of gross floor area for a non-residential development</li> <li>• applying an incorrect ‘use category’, under a regulation, to the development</li> </ul> <p style="padding-left: 20px;">(ii) the working out of extra demand, for section 120; or</p> <p style="padding-left: 20px;">(iii) an offset or refund; or</p> <p>(b) there was no decision about an offset or refund; or</p> <p>(c) if the infrastructure charges notice states a refund will be given—the timing for giving the refund; or</p> <p>(d) for an appeal to the P&amp;E Court—the amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			

<b>Table 1</b>			
<b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the infrastructure charges notice	The local government that gave the infrastructure charges notice	—	—
<p>5. Conversion applications</p> <p>An appeal may be made against—</p> <p>(a) the refusal of a conversion application; or</p> <p>(b) a deemed refusal of a conversion application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The local government to which the conversion application was made	—	—
<p>6. Enforcement notices</p> <p>An appeal may be made against the decision to give an enforcement notice.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the enforcement notice	The enforcement authority	—	If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government

**Table 2  
Appeals to the P&E Court only**

Table 2 Appeals to the P&E Court only			
<p><b>1. Appeals from tribunal</b></p> <p>An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of—</p> <p>(a) an error or mistake in law on the part of the tribunal; or</p> <p>(b) jurisdictional error.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	—	—
<p><b>2. Eligible submitter appeals</b></p> <p>For a development application or change application other than an excluded application, an appeal may be made against the decision to approve the application, to the extent the decision relates to—</p> <p>(a) any part of the development application or change application that required impact assessment; or</p> <p>(b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency's referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>

**Table 2  
Appeals to the P&E Court only**

**3. Eligible submitter and eligible advice agency appeals**

For a development application or change application other than an excluded application, an appeal may be made against a provision of the development approval, or a failure to include a provision in the development approval, to the extent the matter relates to—

- (a) any part of the development application or change application that required impact assessment; or
- (b) a variation request.

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p> <p>3 An eligible advice agency for the development application or change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency’s referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>

**4. Compensation claims**

An appeal may be made against—

- (a) a decision under section 32 about a compensation claim; or
- (b) a decision under section 265 about a claim for compensation; or
- (c) a deemed refusal of a claim under paragraph (a) or (b).



<b>Table 2 Appeals to the P&amp;E Court only</b>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person dissatisfied with the decision	The local government to which the claim was made	—	—
<p><b>5. Registered premises</b> An appeal may be made against a decision of the Minister under chapter 7, part 4.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 A person given a decision notice about the decision</p> <p>2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision</p>	The Minister	—	If an owner or occupier starts the appeal—the owner of the registered premises
<p><b>6. Local laws</b> An appeal may be made against a decision of a local government, or conditions applied, under a local law about—</p> <p>(a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or</p> <p>(b) the erection of a building or other structure.</p>			

<b>Table 2 Appeals to the P&amp;E Court only</b>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who— (a) applied for the decision; and (b) is dissatisfied with the decision or conditions.	The local government	—	—

<b>Table 3 Appeals to a tribunal only</b>			
<p><b>1. Building advisory agency appeals</b></p> <p>An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A building advisory agency for the development application related to the approval	The assessment manager	The applicant	<p>1 A concurrence agency for the development application related to the approval</p> <p>2 A private certifier for the development application related to the approval</p>

<b>Table 3 Appeals to a tribunal only</b>			
<p><b>2. Inspection of building work</b> An appeal may be made against a decision of a building certifier or referral agency about the inspection of building work that is the subject of a building development approval under the Building Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant for the development approval	The person who made the decision	—	—
<p><b>3. Certain decisions under the Building Act and the <i>Plumbing and Drainage Act 2018</i></b> An appeal may be made against—</p> <p>(a) a decision under the Building Act, other than a decision made by the Queensland Building and Construction Commission, if an information notice about the decision was given or required to be given under that Act; or</p> <p>(b) a decision under the <i>Plumbing and Drainage Act 2018</i>, other than a decision made by the Queensland Building and Construction Commission, if an information notice about the decision was given or required to be given under that Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who received, or was entitled to receive, an information notice about the decision	The entity that made the decision	—	—
<p><b>4. Local government failure to decide application under the Building Act</b> An appeal may be made against a local government's failure to decide an application under the Building Act within the period required under that Act.</p>			

<b>Table 3 Appeals to a tribunal only</b>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive notice of the decision	The local government to which the application was made	—	—
<p><b>5. Failure to make a decision about an application or other matter under the <i>Plumbing and Drainage Act 2018</i></b></p> <p>An appeal may be made against a failure to make a decision under the <i>Plumbing and Drainage Act 2018</i>, other than a failure by the Queensland Building and Construction Commission to make a decision, within the period required under that Act, if an information notice about the decision was required to be given under that Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive an information notice about the decision	The entity that failed to make the decision	—	—

