

7.8. MINOR CHANGE TO OPERATIONAL WORKS AND MATERIAL CHANGE OF USE (14 MURPHY STREET DRIVEWAY ALIGNMENT)

REPORT AUTHOR	Acting Team Leader Planning
MANAGER	Manager Environment and Planning
DEPARTMENT	Environment and Planning
APPLICATION NO	OP 2024_5601/1 & MCUC4732_2022
PROPOSAL	Minor Change to Operational Works Development Permit and Material Change of Use Development Permit
APPLICANT	Mr George Argyrou C/- Planning Plus PO Box 399 REDLYNCH QLD 4870
LOCATION	Road Reserve adjacent 12 Murphy Street PORT DOUGLAS and 14 Murphy Street PORT DOUGLAS
PROPERTY	LOT: 113 TYP: PTD PLN: PARCEL 2375 2094, LOT: 114 TYP: PTD PLN: 2094
PLANNING SCHEME	2018 Douglas Shire Council Planning Scheme Version 1.0
ZONING	Environmental Management Zone
LEVEL OF ASSESSMENT	Code
PROPERLY MADE DATE	1 August 2025
STATUTORY ASSESSMENT DEADLINE	30 October 2025
REFERRAL AGENCIES	N/A

LOCALITY



Figure 1 – Locality Plan

RECOMMENDATION

That Council refuses the change applications to Development Approval OP2024_5601 for Operational Works and MCUC2022_4732 for Material Change of Use over land described as the adjacent road reserve to 14 Murphy Street and 14 Murphy Street, Port Douglas being formally described as Lot 114 on PTD2094, on the following grounds:

1. The proposed secondary driveway is in conflict with the Port Douglas and Craiglie Local Plan Code from the 2018 Douglas Shire Planning Scheme version 1.0 as it does not protect flagstaff hill from inappropriate development and does not minimise the visibility of the development;
2. The development is inconsistent with the Environmental Management Zone Code from the 2018 Douglas Shire Planning Scheme version 1.0 as it is not designed to respond to the characteristics of the site and its surrounds.
3. The development is not capable of being conditioned to achieve compliance with the relevant benchmarks of the 2018 Douglas Shire Planning Scheme version 1.0.

EXECUTIVE SUMMARY

Council is in receipt of two applications which both seek to formalise a secondary temporary access to a new dwelling at 14 Murphy Street. An application for a minor change to an Operational Works development approval for driveway access to 12 and 14 Murphy Street has been received as well as an application for a minor change to the Material Change of Use development permit for the house. This is because the applications must be consistent.

The approved alignment for shared access allows for the establishment of a deep landscaping buffer between the two new houses and the road which is necessary to screen the bulk and scale of the houses when viewing from Murphy Street.

The applicant was given a permit for temporary construction access which made deliveries safer than only utilising the approved driveway access. This permit allowed delivery trucks to get off Murphy Street and unload on the benched pad near the house pads. The proposal is not compliant with the amenity requirements given by the Environmental Management Zone Code and the Port Douglas and Craiglie Local Plan Code.

TOWN PLANNING CONSIDERATIONS

Background

The applicant is the owner of 14 Murphy Street and was given approval to have shared driveway access on road reserve with the owner of 12 Murphy Street. This is because the property boundaries are 25 metres from the bitumen on Murphy Street. Essentially the two owners have been allowed to build a private driveway on road reserve to get to their properties. This existing alignment represents the lawful access for both 12 and 14 Murphy Street and is intended to allow access to 10 Murphy Street when a house is developed. This access was approved as a shared access and is designed below a road standard but remains fit for purpose.

The temporary permit was given with fundamental conditions being that the surface was to be removed and a landscaping and remediation plan was to be implemented. Council has also taken a \$20,000 bond from the applicant to cover remediation costs in the event that the applicant fails to remove the temporary access.

Proposal

The applicant proposes to retain a secondary driveway access for use as their primary driveway which is sited on the Murphy Street Road Reserve. The proposed access is around 35 metres in length on road reserve and is three metres wide. The initial design resulted in a grade of 28.7% where it intersects the other approved shared driveway servicing 10, 12 and 14 Murphy Street. However, the applicant has amended the design and lowered the intersecting section to 24.6%, which is compliant with the Australian Standard. A gate keypad is proposed at this same location on road reserve.

State Planning Requirements

The application did not trigger any referrals and does not involve any State interests.

DOUGLAS SHIRE PLANNING SCHEME ASSESSMENT

The following benchmarks are applicable to the proposed development:

Douglas Shire Planning Locality	Comment
Planning Zone	
Environmental Management Zone	The proposal is unable to comply with two critical benchmarks of the zone code. See discussion below.
Local Plan Code	
Port Douglas and Craiglie Local Plan Code	The proposal is within the Flagstaff Hil sub-precinct 1f of the local plan code. The proposal is unable to comply with the two primary performance outcomes which regulate development on the hill. See discussion below.
Overlay Codes	
Hillslopes overlay	The land the subject of the application is within the Hillslopes overlay area. The proposal is unable to comply with a key benchmark of the code. See discussion below.
Development Codes	
Access, parking and servicing code	See comments below.

Compliance Issues

Environmental Management Zone Code

The zone code anticipates that development minimises disturbance. Acceptable Outcomes AO5.1 requires that access infrastructure is sited to minimise additional vegetation clearing. A permit to clear regrowth with trees around 150mm diameter at breast height (DBH) was issued for the re-establishment of the temporary construction access that Ergon had historically constructed. On that basis that this area was to be revegetated to Councils satisfaction. This process allowed for a better outcome as the alignment only had five trees which were growing. The revegetation would result in a denser planting regime and a higher standard of environmental value would be achieved. The corresponding Performance Outcome that must be met at PO5 requires that development is located and designed to respond to the characteristics of the site and its surrounds.

The site and the neighbouring sites have an existing lawfully approved driveway which is fit for purpose. There is no justification for an additional driveway in place of the area designated for revegetation on the road reserve. AO6.2 of the code also represents a non-compliance as the acceptable outcome seeks that vehicle manoeuvring and parking areas are constructed and maintained to follow the natural contours of the site. The approved driveway does this. The proposed secondary driveway doesn't follow the natural contours. This diminishes the ability for tiered planting to screen the driveway as opposed to an alignment that follows the contours minimising cut and fill.

Where proposals cannot comply with the Performance Outcomes of the code, they must then be assessed against the Overall Outcomes of the code. In this case, and for the same reasons as the proposal does not comply with the lower order benchmarks, the proposal fails to comply with the Overall Outcomes. Adverse impacts on adjoining land are not minimised if the secondary driveway remains, the proposal does not respond to the natural features and environmental values of the site. The proposed driveway alignment would eliminate screening that the house approval at 12 Murphy Street relied upon, however, it would provide some benefit to the percentage of land under landscaping on 14 Murphy Street itself, as the proposed alignment results in additional space of around 150 square metres of landscaping

opportunity on the site. However, this does not overcome the issue that the proposed driveway bisects the frontage screen that would have re-established.

Port Douglas/ Craiglie Local Plan Code

The local plan code includes specific Performance Outcomes which regulate development on Flagstaff Hill as it recognises its importance to the amenity of Port Douglas. PO63 requires that the hill is protected from inappropriate development and that the hill remains an important natural landmark feature of Port Douglas and as a vegetated backdrop to the town centre. The site already has a fit for purpose driveway design that is being constructed. There is no need for an additional driveway which diminishes the vegetated backdrop of the hill and lessens the screening qualities that a vegetation buffer provides.

PO64 of the code requires that all development on Flagstaff Hill is designed to minimise the visibility of the development and to ensure development is subservient to the natural landscape and topography of the site. The additional driveway opens up visibility of the particularly large set of houses that have been constructed on 12 and 14 Murphy Street and was relied upon to justify the concessions given in the original development applications of both houses as the buffer that the vegetation in the road reserve provided was to be more than 15 metres wide. As noted above, the proposed secondary driveway does allow for more land on 14 Murphy Street itself to be under landscaping rather than hardstand, but the impact of a penetration through the frontage buffer is not outweighed.

Two distinct non-compliances which the proposal cannot overcome are evident within the Overall Outcomes of the local plan code. Overall Outcome 3(f) requires that Flagstaff Hill and other areas of scenic and environmental significance will be protected from development. Vegetation cover will dominate over built form. The secondary driveway being in place of a revegetated buffer on the hill represents a non-compliance.

Overall Outcome 3(h) requires that development will be indistinguishable from view from Four Mile Beach. In addition, and development on Flagstaff Hill will be indistinguishable when viewed from vantage points in Port Douglas. While the development is likely indistinguishable from Four Mile Beach, it will be distinguishable from Murphy Street as the vegetated buffer will not be replaced. In summary the proposal is non-compliant with the bulk of the relevant parts of the local plan code.

Hillslopes Overlay Code

The hillslopes overlay code seeks to regulate disturbance on the vegetated hillslopes of the shire. Acceptable Outcome AO2.4 of the Code requires that the clearing of vegetation is limited to clearing and disturbance that is necessary for the construction of driveways and is necessary to contain the proposed development. An existing cleared driveway alignment already exists and is nominated as the sites lawful access. It is not necessary to retain more clearing to have a second driveway. The corresponding Performance Outcome PO2 requires that the visual amenity quality of hillslopes areas is retained to protect the scenic backdrop to the region. The proposal is non-compliant with this performance outcome as the driveway represents a circa 100 square metre concrete void on the vegetated hillslope. The proposal is largely non-compliant with the overall outcomes from the purpose of the code as the landscape character, ecological values and visual quality of the hillslope is not protected from development. Further, the secondary driveway is not necessary and does not have regard to the topographic constraints and environmental characteristics of the land.

Access, Parking and Servicing Code

The development code for access is the benchmark for functionality and safety assessment for the minor changes to both applications. Acceptable Outcome AO3.1 requires that access is limited to one access crossover per lot, which in this case is somewhat compliant as the

property boundary is only crossed at one location, however, the proposal is to have two private driveways on road reserve instead of the approved shared access. The proposal represents an additional conflict point on Murphy Street which is known to be a constrained road. The additional conflict point is not ideal, but is not considered to be a reason for refusal.

Performance Outcome PO3 requires that access points are to be constructed safely and efficiently. AO3.1 nominates Australian Standard 2890.1 as the relevant design standard to comply with.

AS2890- Off Street Parking Code. The driveway design has been amended and the gradient is now somewhat acceptable and can be considered to comply with the FNQROC Development Manual which calls up AS/NZS 2890.1 1 – Off Street parking Code.

For the lower section of the driveway, the land tenure is road reserve and the Far North Queensland Regional Organisation of Councils (FNQROC) Development Manual would apply. The proposed longitudinal grade exceeds FNQROC maximum road grade of 20%.

The longitudinal grade complies with AS2890.1 maximum grade specification of 25% for private driveways as the maximum grade on the road reserve is 24.6%. Some discretion could be applied here for determining a safety factor as the location for the peak grade is also the location of the proposed keypad to open the front gate of 14 Murphy Street, which means that vehicles will stop at the intersection location of the two driveways before opening the gate and proceeding, allowing time to check for vehicles approaching.

A traffic conflict may still occur here, however the road grade represents a better outcome than the previous 28.6% design.

Public Notification / Submissions

The minor changes relate to code assessable applications. No public notification is required.

ADOPTED INFRASTRUCTURE CHARGES

The development did not trigger Infrastructure Charges.

COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following area outlines where Council has a clear responsibility to act:

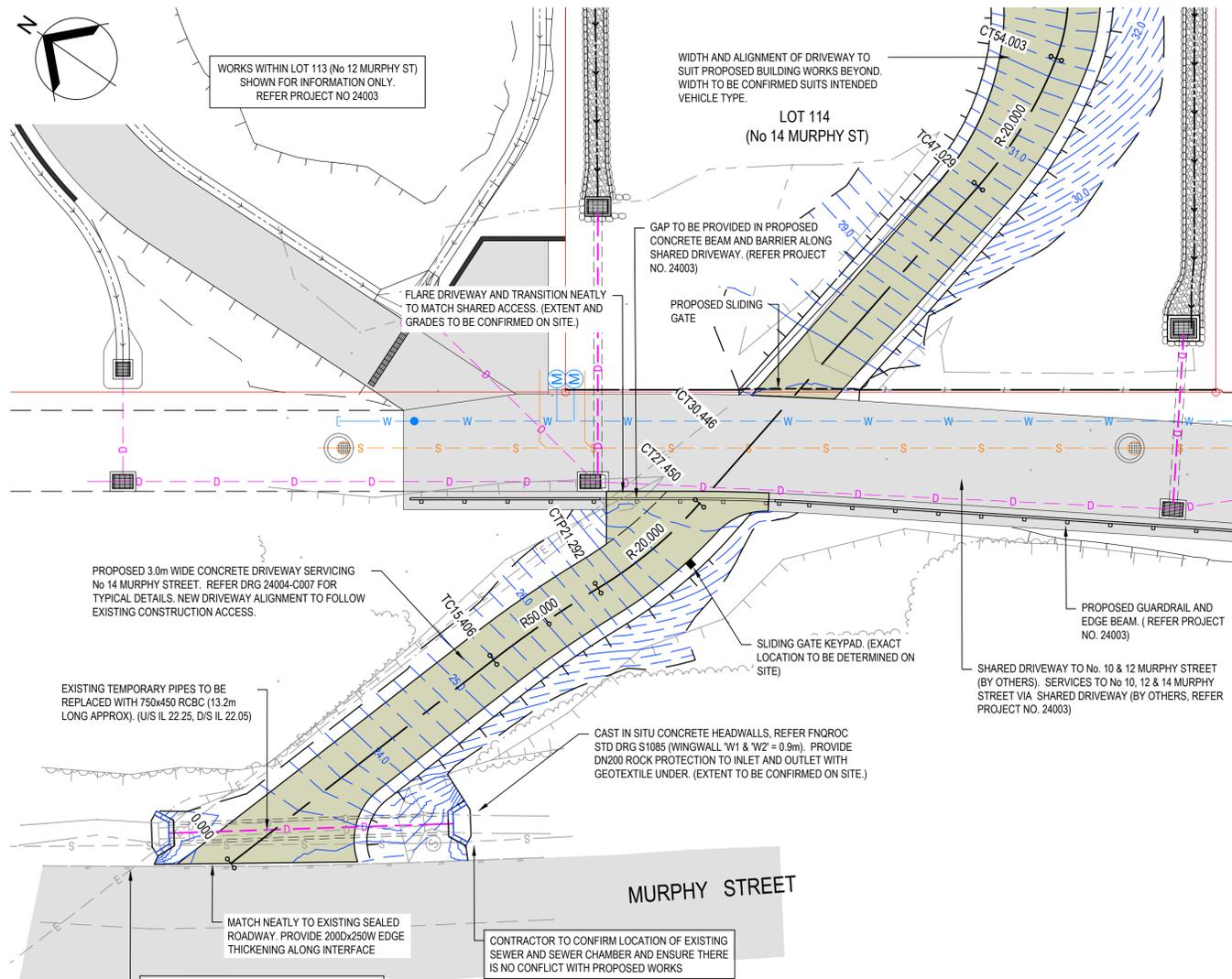
Regulator: Council has a number of statutory obligations detailed in numerous regulations and legislative Acts. Council also makes local laws to ensure that the Shire is well governed. In fulfilling its role as regulator, Council will utilise an outcomes based approach that balances the needs of the community with social and natural justice.

Under the *Planning Act 2016* and the *Planning Regulation 2017*, Council is the assessment manager for the application.

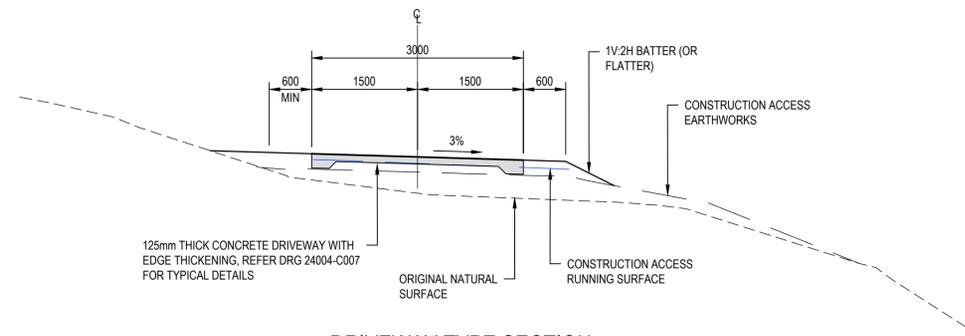
ATTACHMENTS

1. Attachment 1- Amended driveway proposal plan [7.8.1 - 1 page]
2. Attachment 2- Amended driveway layout on site [7.8.2 - 2 pages]

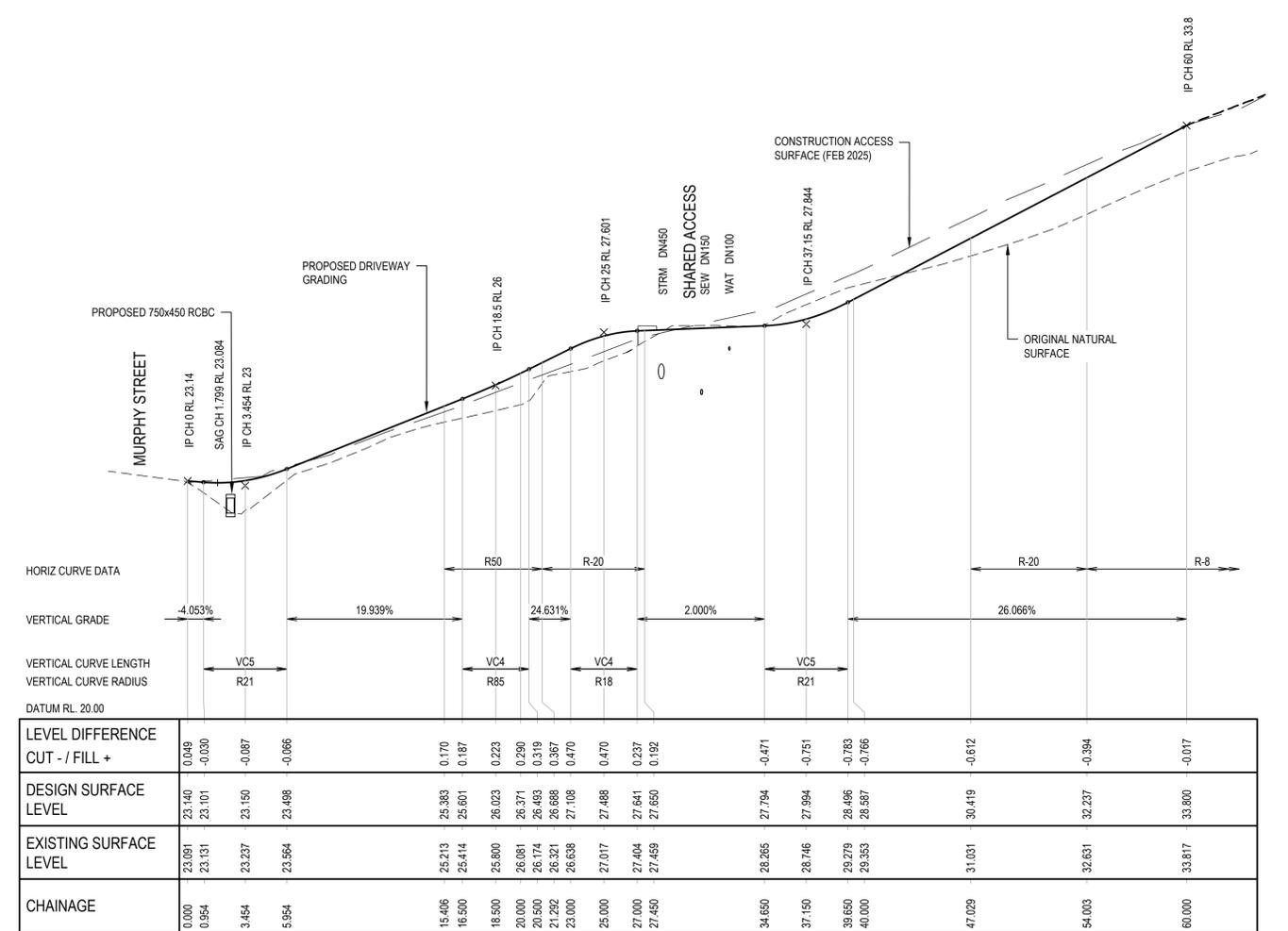
DATE PLOTTED: 10 October 2025 2:55 PM



PLAN
SCALE 1:150



DRIVEWAY TYPE SECTION
SCALE 1:50



LONGITUDINAL SECTION - PROPOSED DRIVEWAY (LOT 114)

HORIZ 1:200 VERT 1:100

LEGEND

- SHARED DRIVEWAY (BY OTHERS)
- PROPOSED CONCRETE DRIVEWAY
- NEW TOP OF BATTER
- NEW SURFACE CONTOURS (1.0m INTERVAL)
- NEW DRAINAGE LINE
- DRAINAGE LINE (BY OTHERS)
- WATER MAIN (BY OTHERS)
- SEWER MAIN (BY OTHERS)
- EXISTING TOP OF BANK
- EXISTING ROAD SHOULDER
- EXISTING DRAINAGE LINE
- EXISTING ELECTRICITY (UG)
- EXISTING SEWER MAIN

NOTES

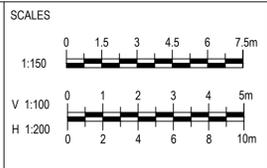
- THIS PLAN HAS BEEN PREPARED FOR DISCUSSION PURPOSES ONLY.
- THE CONTRACTOR IS TO CONFIRM THE LOCATION OF ALL EXISTING SERVICES PRIOR TO COMMENCING WORKS.
- ALL WORKS TO BE CARRIED OUT IN ACCORDANCE WITH THE REQUIREMENTS OF FNRROC.



REV	DESCRIPTION	DRN	APP	DATE
B	DRIVEWAY GRADING & ALIGNMENT AMEND	GB	GA	10/10/25
A	PRELIMINARY ISSUE	GB	GA	26/02/25

CERTIFICATION RPEQ

APPLIN CONSULTING
M 0414 768 109 | E greg@applinconsulting.com.au



CLIENT
GEORGE ARGYROU

DESIGNED
G. BROWNING

DRAWN
G. BROWNING

CHECKED
G. APPLIN

PROJECT
KYRENIA RESIDENCE
14 MURPHY STREET (LOT 114 PTD2094)

TITLE
PROPOSED DRIVEWAY

STATUS
PRELIMINARY

SCALE (AT FULL SIZE)
1:100

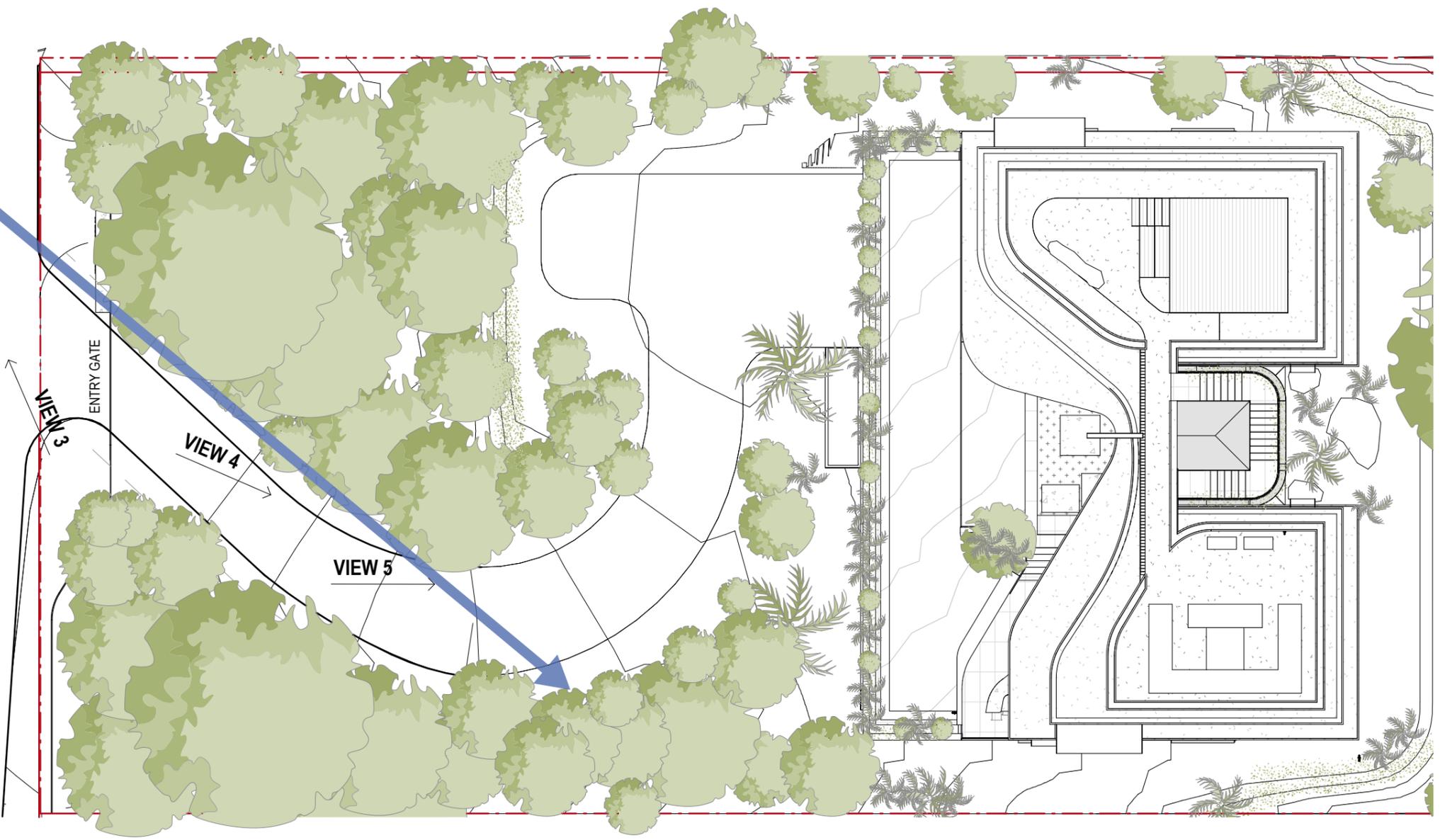
DRAWING NUMBER
24004-SK002

REVISION
B



BLUE ARROW INDICATES SIGHTLINE FROM MURPHY STREET, WITH NOMINAL 1M SETBACK FROM ACCES DRIVE FOR JUNGLE WALL.

HOUSE IS FULLY OBSCURED FROM STREET.



DRAWING NAME
SITE ACCESS DIAGRAM

PROJECT # DRAWING #
1789 SK250301

REV SCALE
A 1 : 200

PROJECT NAME
KYRENIA RESIDENCE

PROJECT ADDRESS
14 MURPHY ST, PORT DOUGLAS, QLD 4877

GENERAL NOTES

01. DO NOT SCALE FROM DRAWINGS. USE FIGURED DIMENSIONS ONLY.

02. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCEMENT OF WORK OR PREPARATION OF SHOP DRAWINGS.

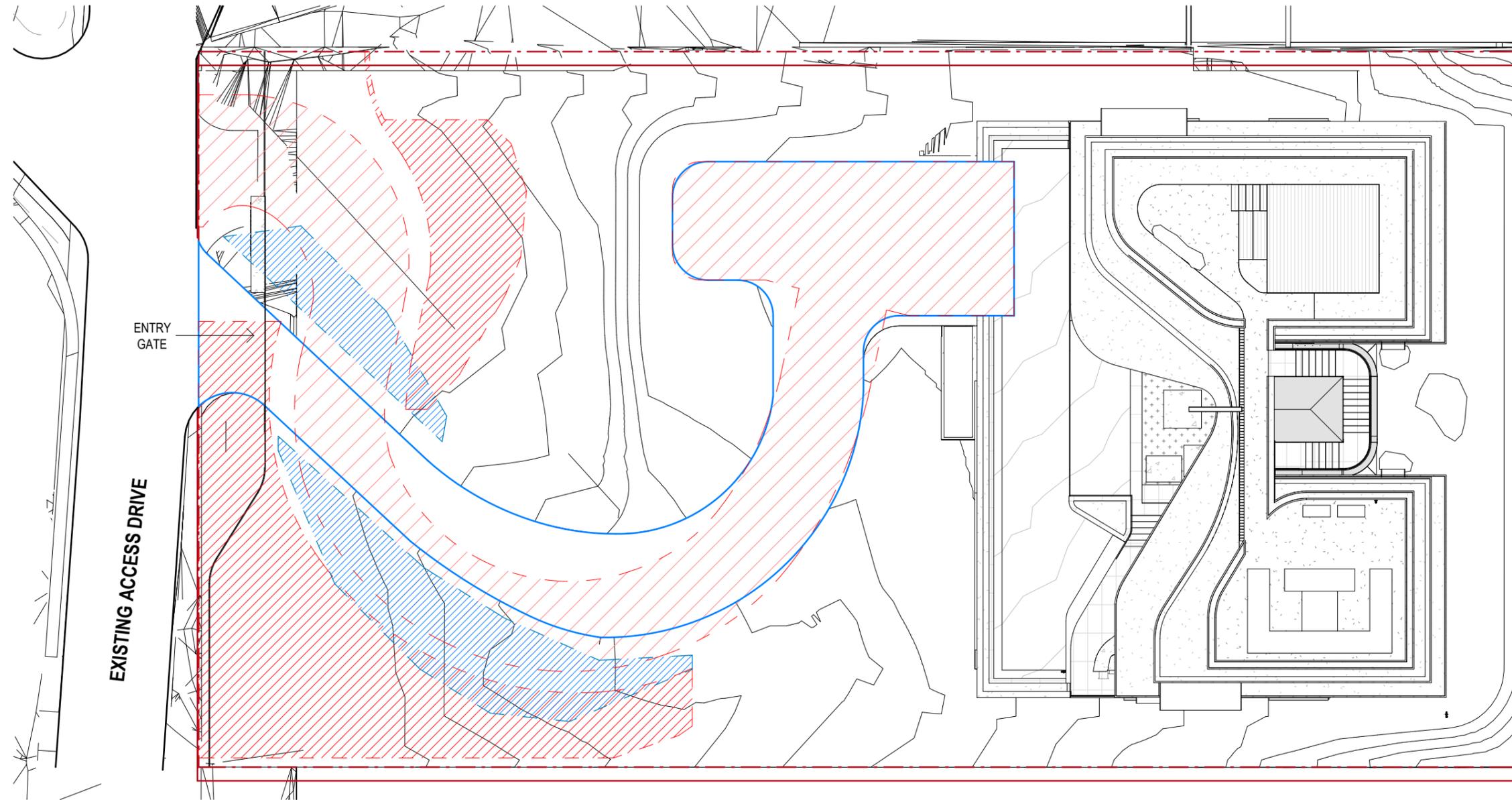
03. ALL OMISSIONS, AMBIGUITIES AND DISCREPANCIES TO BE REPORTED TO THE ARCHITECT IMMEDIATELY.

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Ordinary Council Meeting - 28 October 2025

BayleyWard
Architecture & Interiors
21-23 Chessell Street
Southbank VIC 3006
T: 03 9695 0222
E: info@bayleyward.com

BAYLEY WARD



 APPROVED DRIVEWAY - 282 m²

 PROPOSED DRIVEWAY - 227 m² (55m² REDUCTION)

 APPROVED RETAINING & EMBANKMENT - 183 m²

 PROPOSED RETAINING & EMBANKMENT - 79 m² (104m² REDUCTION)

159m² TOTAL REDUCTION IN HARDSCAPE & EMBANKMENT PRIMARILY WITHIN STREET FRONTAGE.

AREAS ARE INDICATIVE AND SUBJECT TO FINALISATION OF CIVIL DESIGN

DRAWING NAME
DRIVEWAY COMPARISON

PROJECT # | DRAWING #
1789 | SK250302

REV | SCALE
A | 1 : 200

PROJECT NAME
KYRENIA RESIDENCE

PROJECT ADDRESS
14 MURPHY ST, PORT DOUGLAS, QLD 4877

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