

27 September 2022

Enquiries: Jenny Elphinstone
Our Ref: CA 2017_2275/2 (Doc ID 1108051)
Your Ref: P81728

Jasbe Port Douglas Pty Ltd
C/- Planz Town Planning
PO Box 181
EDGE HILL QLD 4870

Email: nikki.huddy@planztp.com

Attention Ms Nikki Huddy

Dear Madam

**Application for Minor Change for the Development Permit for a Material Change of Use
For Restaurant, Shops, Multi-Unit Housing and Holiday Accommodation
At 49 Macrossan Street Port Douglas
On Land Described as Lot 410 on PTD2091**

Please find attached the Decision Notice for the above-mentioned development application.

Please quote Council's application number: CA 2017_2275/2 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9444.

Yours faithfully



Paul Hoyer
Manager Environment & Planning

cc. State Assessment and Referral Agency (SARA) E: CairnsSARA@dilgp.qld.gov.au

encl.

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Concurrence Agency Conditions
 - Reasons for Decision
- Advice For Appeals (Decision Notice)
- Adopted Infrastructure Charges Notice
- Advice For Making Representations and Appeals (Infrastructure Charges)



Decision Notice

Approval (Subject to Conditions)

Given under s78,s 78A, s79, s81, s81A and s83 of the Planning Act 2016

Applicant Details

Name: Jasbe Port Douglas Pty Ltd
Postal Address: C/- Planz Town Planning
PO Box 181, Edge Hill Qld 4870
Email: nikki.huddy@planztp.com

Property Details

Street Address: 49 Macrossan Street Port Douglas
Real Property Description: Lot 410 on PTD2091
Local Government Area: Douglas Shire Council

Details of Proposed Development

Request for Minor Change to the Development Permit issued for a Material Change of Use for mixed development of Shopping Facilities, Restaurant and Multi-unit Housing and Holiday Accommodation (seven (7) units).

Decision

Date of 27 September 2022

Decision:

Decision Approved whereby:

Details: 1. The table of Approved Drawing(s) and / or Document(s) is amended as follows:

APPROVED DRAWING(S) AND / OR DOCUMENT(S)

The term 'approved drawing(s) and/or document(s) or other similar expressions means:

Drawing or Document	Reference	Date
Floor Plans	Prepared by TPG Architects, 49 Macrossan Street, Reference WLP-01-DA-100H dated December 2017 (Council electronic Document ID: 838319) Reference JSB-DA.01 Revision D dated August 2022 (Council document ID: 1107365) and amended as per Condition 3.	To be determined

Drawing or Document	Reference	Date
Sections and Elevations	Prepared by TPG Architects, 49 Macrossan Street, Reference WLP-01 DA-101D (Council electronic Document ID: 838319) <u>Reference JSB-DA.02 Revision D and DA.03 Revision C (Council document ID 1107365).</u>	December 2017 <u>July 2022</u>
Vehicle Swept Path Drawings	Prepared by CMG Consulting Engineers, Sheets 1 of 2 and 2 of 2 (Council electronic Document ID: 838319)	4 December 2017
Landscape Design Concept	Prepared by Andrew Proust Landscape Architect, Project 1238, Demolition Plan - Tree removal and Palm Retention Survey LA-E.01 and Landscape Concept Plan LA-P.01	5 December 2017

2. All other requirements of the Decision Notice dated 24 April 2018 remain unchanged.

Approved Drawing(s) and/or Document(s)

The term 'approved drawing(s) and/or document(s) or other similar expressions means:

Note – The plans referenced below will require amending in order to comply with conditions of this Decision Notice.

Drawing or Document	Reference	Date
Floor Plans	Prepared by TPG Architects, 49 Macrossan Street, Reference WLP-01 DA-100H dated December 2017 (Council electronic Document ID: 838319) <u>Reference JSB-DA.01 Revision D dated August 2022 (Council document ID: 1107365)</u> and amended as per Condition 3.	To be determined
Sections and Elevations	Prepared by TPG Architects, 49 Macrossan Street, Reference WLP-01 DA-101D (Council electronic Document ID: 838319) <u>Reference JSB-DA.02 Revision D and DA.03 Revision C (Council document ID 1107365).</u>	December 2017 <u>July 2022</u>

Drawing or Document	Reference	Date
Vehicle Swept Path Drawings	Prepared by CMG Consulting Engineers, Sheets 1 of 2 and 2 of 2 (Council electronic Document ID: 838319)	4 December 2017
Landscape Design Concept	Prepared by Andrew Proust Landscape Architect, Project 1238, Demolition Plan - Tree removal and Palm Retention Survey LA-E.01 and Landscape Concept Plan LA-P.01	5 December 2017

Copies of the referenced plans, specifications and/or drawings are enclosed.

Copy of Original Development Permit

A copy of the original Development Permit is enclosed.

Further Development Permits

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

- All Building Work

All Plumbing and Drainage Work must only be carried in compliance with the Queensland *Plumbing and Drainage Act 2018*.

Concurrence Agency Response

The Queensland Department of State Development, Manufacturing, Infrastructure and Planning, a referral agency, has issued a Decision (reference TMR 17-022871 (500-1184), Council electronic reference document ID: 839643, requiring conditions to be applied to the approval.

Note – Concurrence Agency Response is attached. This Concurrence Agency Response maybe amended by agreement with the respective agency.

Currency Period for the Approval

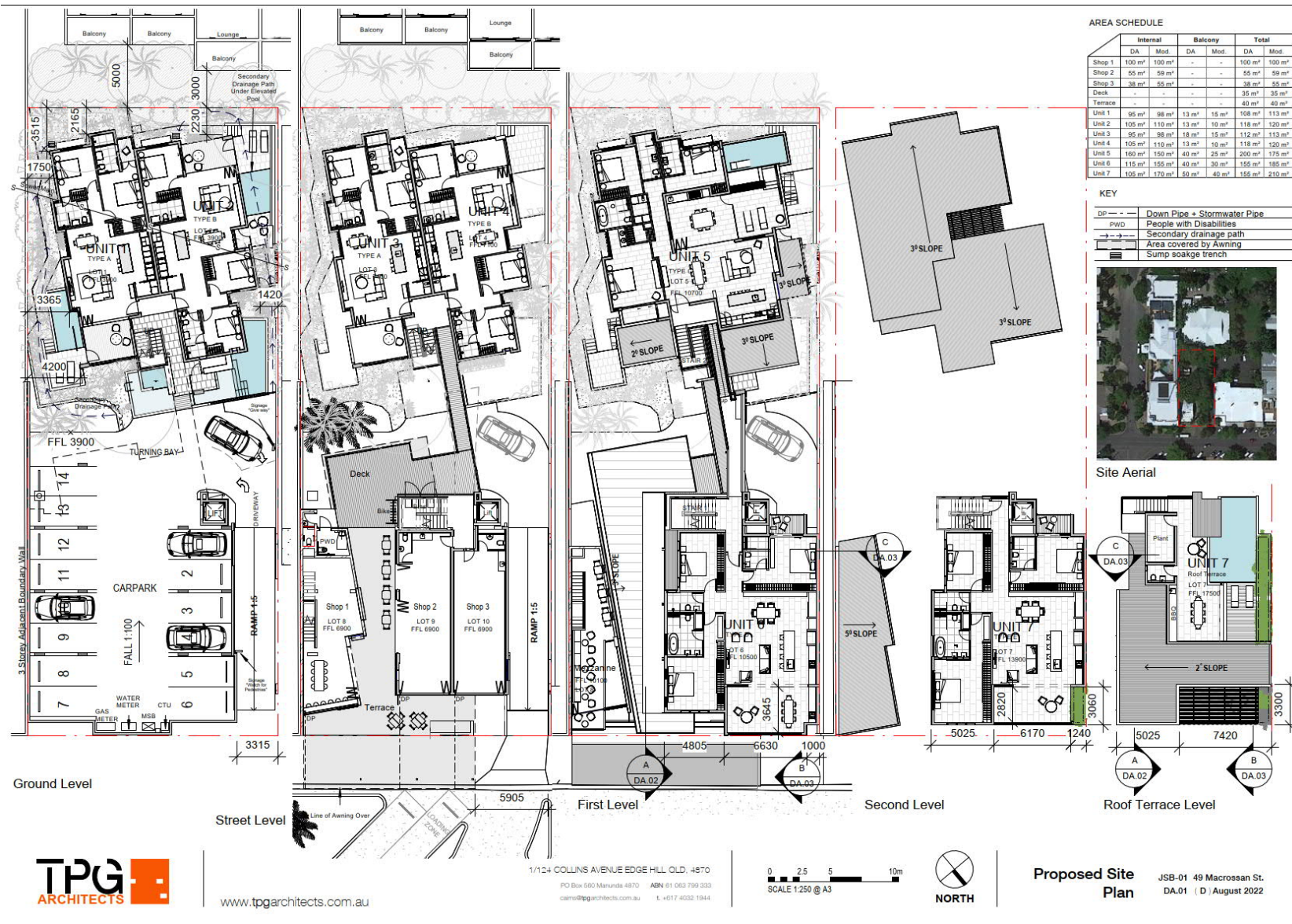
No change has been made to the currency period for the original approval.

Rights of Appeal

The rights of applicants to make representations and rights 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*.

A copy of the relevant appeal provisions is attached.

Approved Drawing(s) and/or Document(s) To be amended as per the Conditions of the Approval.





Section C
1:200



Section B
1:200

TPG
ARCHITECTS

www.tpgarchitects.com.au

1/124 COLLINS AVENUE, EDGE HILL, QLD, 4870

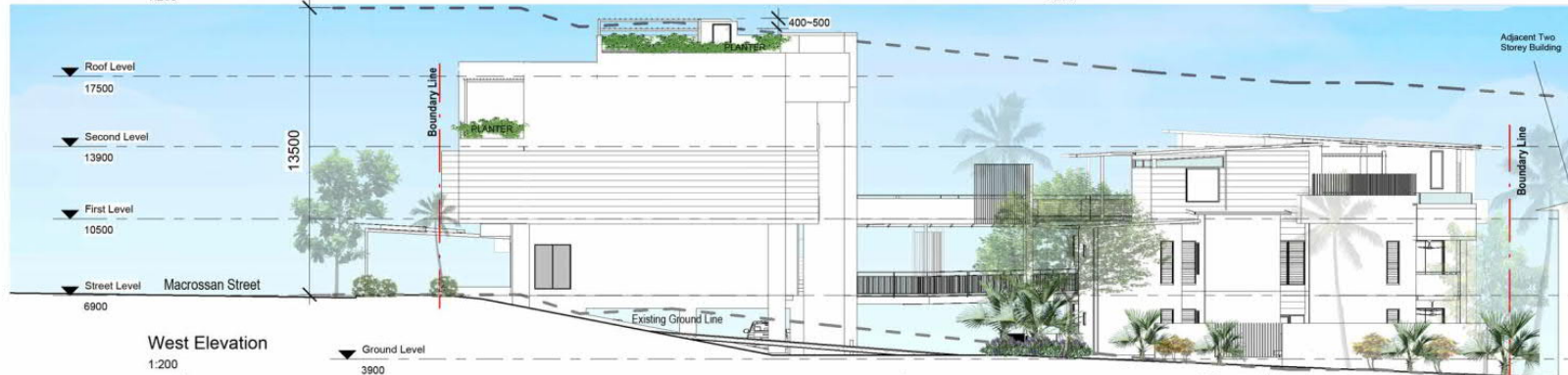
PO Box 560 Manunda 4870 AEN 01 053 799 333
caims@tpgarchitects.com.au T +617 4032 1944

0 2 4 6 8m
SCALE 1:200 @ A3



Sections

JSB-01 49 Macrossan St.
DA.03 (C) August 2022



www.tpgarchitects.com.au

1/124 COLLINS AVENUE EDGE HILL QLD, 4870
PO Box 560 Manunda 4870 AEN 61 053 739 333
caims@tpgarchitects.com.au T. +617 4032 1944

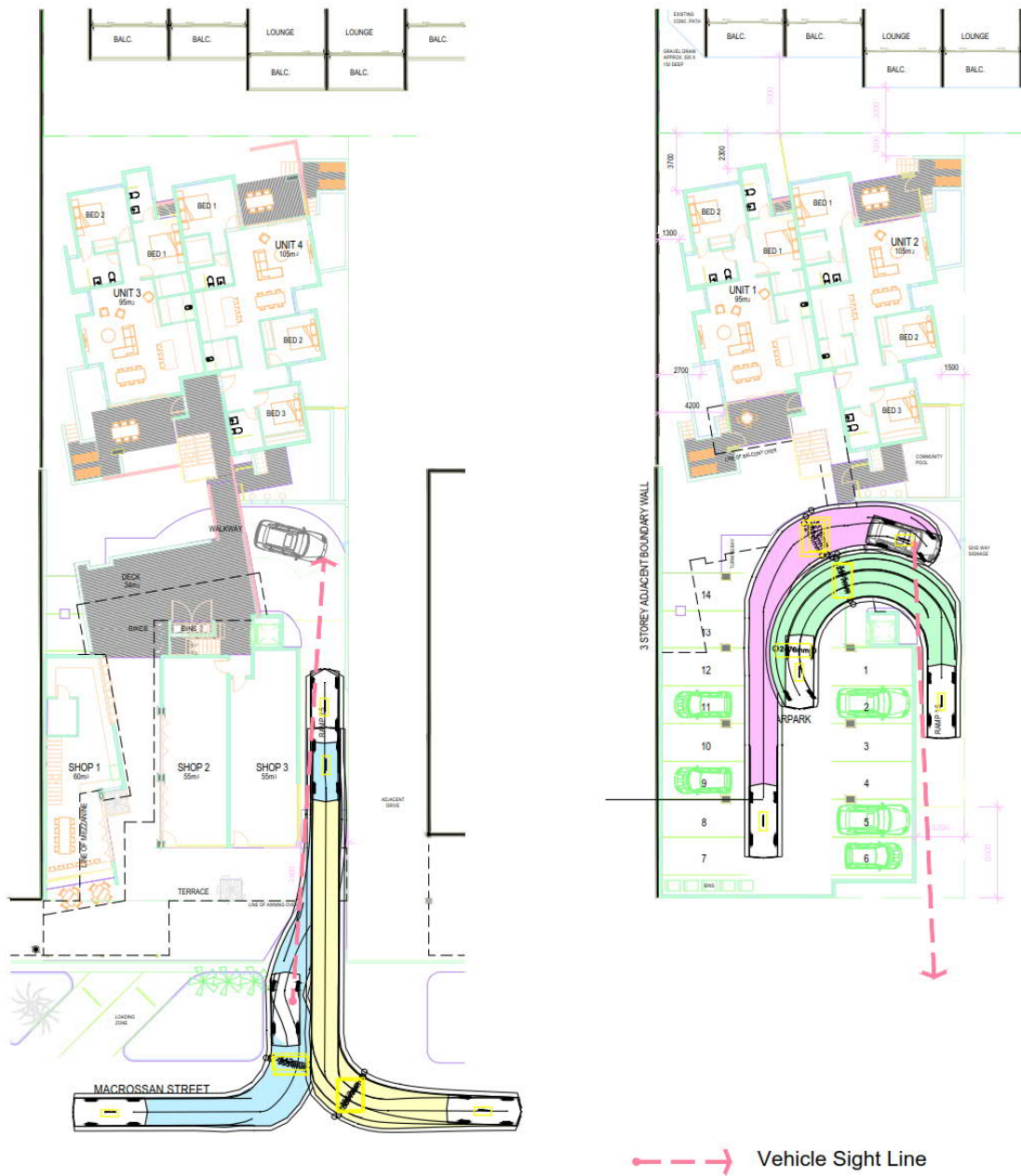
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Section and
Elevations

JSB-01 49 Macrossan St.
DA.02 (D) August 2022

49 Macrossan Street



C.M.G. CONSULTING
ENGINEERS PTY. LTD.
 A.C.N. 011 086 375 STRUCTURAL AND CIVIL

208 Buchan Street
 CAIRNS, 4870.
 Phone: (07) 4031 2775

P.O. Box 5901
 Cairns Mail Centre
 Fax: (07) 4051 9013

Vehicle Swept Paths

Sheet 1 of 2

4 DEC 2017

49 Macrossan Street



C.M.G. CONSULTING ENGINEERS PTY. LTD.

A.C.N. 011 065 375 STRUCTURAL AND CIVIL

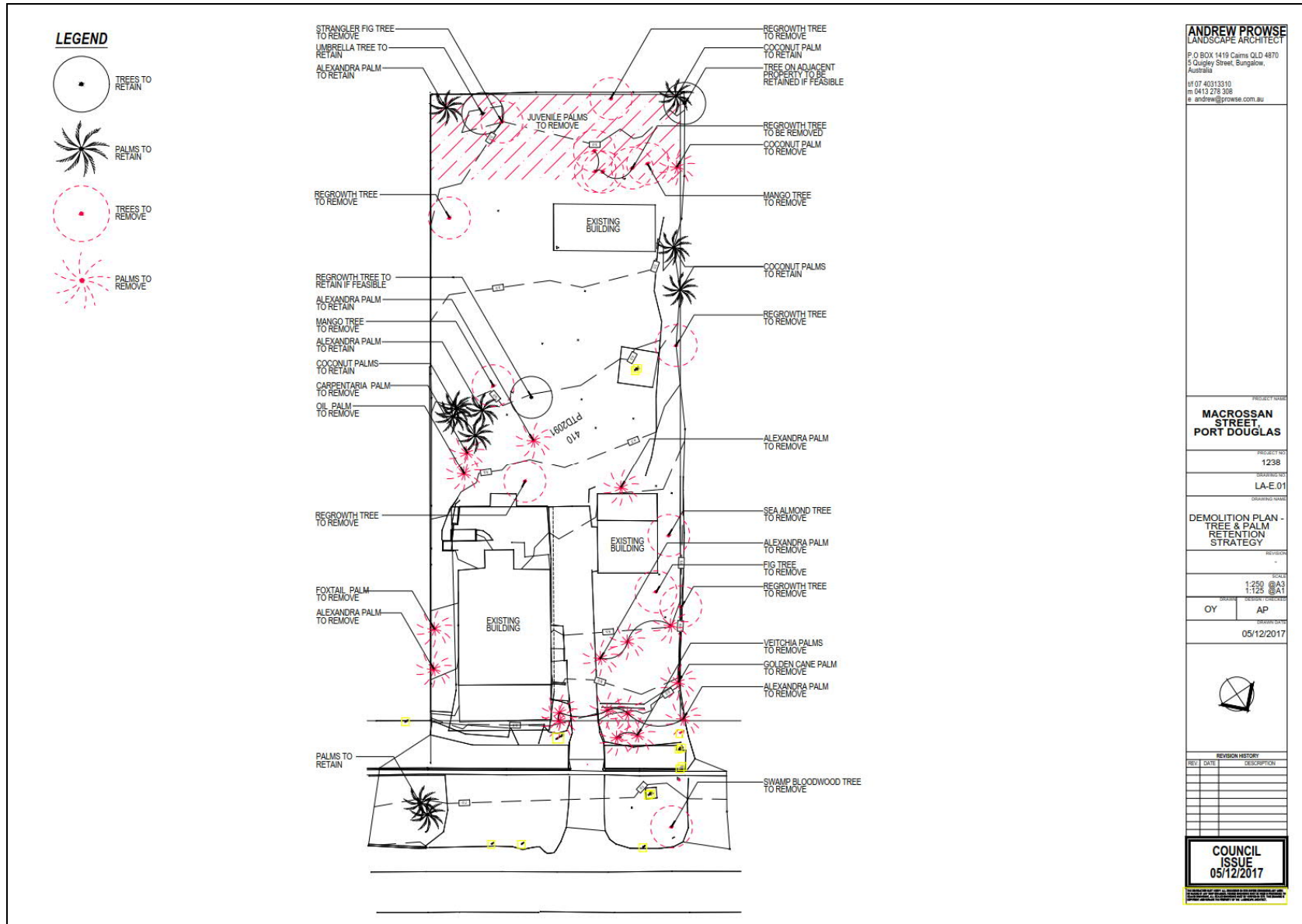
208 Buchanan Street
CAIRNS, 4870.
Phone: (07) 4031 2775

P.O. Box 5901
Cairns Mail Centre
Fax: (07) 4051 9013

Vehicle Swept Paths

Sheet 2 of 2

4 DEC 2017



PLANTING LIST

<u>Code</u>	<u>Botanical Name</u>	<u>Common Name</u>	<u>Size</u>	<u>Spacing</u>
Trees				
ATR fit	<i>Atractocarpus fitzalanii</i>	Brown Gardenia	300mm	as shown
DIL ala	<i>Dillenia alata</i>	Red Beach	400mm	as shown
MEL rub	<i>Melicope rubra</i>	Little Evodia	300mm	as shown
XAN v TRA	<i>Xanthostemon chrysanthus</i> 'Trailblazer'	Golden Penda Trailblazer	300mm	as shown
Palms				
CYR ren	<i>Cyrtostachys renda</i>	Lipstick Palm	300mm	as shown
LIC ram	<i>Licuala ramsayi</i>	Daintree Fan Palm	300mm	as shown
PTY ele	<i>Ptychosperma elegans</i>	Solitaire Palm	300mm	as shown
PTY mac	<i>Ptychosperma macarthuri</i>	Macarthur Palm	300mm	as shown
Shrubs and Ground Covers				
ADI his	<i>Adiantum hispidulum</i>	Rough Maidenhair Ferns	140mm	9m ²
ALO mac	<i>Alocasia macrorrhiza</i>	Elephants Ears	200mm	1m ²
ALP cae	<i>Alpinia caerulea</i> (red back leaf)	Native Ginger	200mm	3m ²
ANG eve	<i>Angiopteris evecta</i>	King Fern	300mm	1m ²
ASP nid	<i>Asplenium nidus</i>	Bird's Nest Fern	200mm	1m ²
BLE v SIL	<i>Blechnum</i> v 'Silver'	Silver Blechnum Fern	140mm	3m ²
COR can	<i>Cordyline canniifolia</i>	Native Cordyline	200mm	2m ²
COR v RED	<i>Cordyline fruticosa</i> 'Red Sister'	Red Sister Cordyline	200mm	1m ²
DRA mar	<i>Dracaena marginata</i>	Dracaena	300mm	1m ²
GAR v RAD	<i>Gardenia jasminoides</i> 'Radicans'	Gardenia Radicans	140mm	3m ²
GAR v GLE	<i>Gardenia psidiodis</i> 'Glennie River'	Prostrate Gardenia	140mm	1m ²
GAR sca	<i>Gardenia scabrella</i>	Native Gardenia	140mm	2m ²
LEP v PIN	<i>Leptospermum polygalifolium</i> 'Pink Cascade'	Pink Cascade Tea Tree	140mm	3m ²
LOM hys	<i>Lomandra hystrix</i>	Matt Rush	140mm	6m ²
MEL mal	<i>Melastoma malabathricum</i>	Native Lassandra	140mm	1m ²
MOL cap	<i>Molinia capitata</i>	Weevil Palm	140mm	2m ²
ORT v MAU	<i>Orthosiphon aristatus</i> 'Mauve'	Cat's Whiskers (mauve flowers)	140mm	2m ²
ORT v WHI	<i>Orthosiphon aristatus</i> 'White'	Cats Whiskers (White Flowers)	140mm	3m ²
SYZ pan	<i>Syzygium paniculatum</i> 'Select'	Lilly Pilly	140mm	2m ²
VIO hed	<i>Viola hederacea</i>	Native Violet	140mm	12m ²

MACROSSAN ST, PORT DOUGLAS

PLANTING SCHEME - PLANTING LIST

ISSUE DATE : 05/DEC/2017

ANDREW PROWSE
LANDSCAPE ARCHITECT
P.O. BOX 1010 Cairns QLD 4870
1 Osprey Street, Cairns, Australia
t. 07 4011 2112
m. 0417 216 108
e. andrew@prowse.com.au

#123B

TREES



Dillenia alata
Red Beach



Melicope rubra
Little Evodia



Dillenia alata
Red Beach's flowers



Melicope rubra
Little Evodia's flowers

PALMS



Ptychosperma elegans
Solitaire Palm



Ptychosperma macarthurii
Macarthur Palm



Ptychosperma elegans
Solitaire Palm's crown



Ptychosperma macarthurii
Macarthur Palm's foliage

MACROSSAN ST, PORT DOUGLAS

PLANTING SCHEME - SELECTED IMAGES OF TREES & PALMS

ISSUE DATE : 05/DEC/2017

ANDREW PROWSE
LANDSCAPE ARCHITECT

PO BOX 1919 Cairns QLD 4870
11 Gungah Street, Suncorp, Australia
t: 07 4051 2010
m: 0417 276 108
e: andrew@prowse.com.au

#1238

SHRUBS & GROUND COVERS



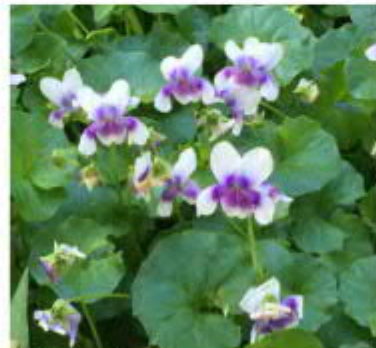
Orthosiphon aristatus 'Mauve'
Mauve Cats Whiskers



Melastoma malabathricum
Native Lassandra



Orthosiphon aristatus 'White'
White Cats Whiskers



Viola hederacea
Native Violet



Melastoma malabathricum
Native Lassandra's flowers

MACROSSAN ST, PORT DOUGLAS
PLANTING SCHEME - SELECTED IMAGES OF SHRUBS & GROUND COVERS (2)
ISSUE DATE : 05/DEC/2017

ANDREW PROWSE
LANDSCAPE ARCHITECT
PO BOX 1414 Cape QLD 4870
1 Douglas Street, Bundamba, Australia
t: 07 4900 3383
f: 0413 276 368
e: andrew@prowse.com.au

#1238

A close-up photograph of a plant with large, elongated, reddish-brown seed pods or fruits. The pods are arranged in clusters and have a smooth, slightly glossy texture. The background is blurred, showing green foliage and other parts of the plant.

A close-up photograph of a large, vibrant green fern frond, possibly a fiddlehead, growing in a lush, wooded area. The frond is highly detailed, showing the intricate structure of the pinnae. The background is slightly blurred, showing other foliage and tree trunks, emphasizing the fern as the main subject.

A photograph of a plant with long, lanceolate, bright green leaves and a central inflorescence bearing small, light-colored flowers.

A large, vibrant green fern with long, wavy fronds, growing in a garden bed next to a white flower.

W1238

CONCEPT IMAGERY OF LANDSCAPE DESIGN



MACROSSAN ST, PORT DOUGLAS

CONCEPT IMAGES

ISSUE DATE : 05/DEC/2017

ANDREW PROWSE
LANDSCAPE ARCHITECT
P.O. BOX 1018 Capra QLD 4670
1 Gungah Street, Burghley, Australia
t 07 4951 3333
m 0457 256 808
e andrew@prowse.com.au

#1738

Concurrence Agency Conditions

RA6-N



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

Our reference: 1710-2156 SRA
Your reference: CA2275/2017

12 January 2018

Chief Executive Officer
Douglas Shire Council
PO Box 723
Mossman Qld 4873
enquiries@douglas.qld.gov.au

Attention: Jenny Elphinstone

Dear Sir/Madam

Referral agency response—with conditions

(Given under section 56 of the *Planning Act 2016*)

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning on 23 October 2017.

Applicant details

Applicant name:	W & L Petrie c/- Planz Town Planning Pty Ltd
Applicant contact details:	PO Box 181 Edge Hill QLD 4870 info@planztp.com

Location details

Street address:	49 Macrossan Street (Port Douglas Road), Port Douglas
Real property description:	Lot 410 on PTD2091
Local government area:	Douglas Shire Council

Application details

Development permit	Material change of use for shopping facilities, restaurant, multi-unit housing and holiday accommodation.
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Referral triggers

The development application was referred to the department under the following provisions of the Planning Regulation 2017:

Page 1 of 9

Far North Queensland regional office
Ground Floor, Cnr Grafton and Hartley
Street, Cairns
PO Box 2358, Cairns QLD 4870

1710-2156 SRA

- 10.9.4.2.4.1 State transport corridors and future State transport corridors

Conditions

Under section 56(1)(b)(i) of the *Planning Act 2016* (the Act), the conditions set out in Attachment 1 must be attached to any development approval.

Reasons for decision to impose conditions

The department must provide reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

Advice to the assessment manager

Under section 56(3) of the Act, the department offers advice about the application to the assessment manager—see Attachment 3.

Approved plans and specifications

The department requires that the plans and specifications set out below and enclosed must be attached to any development approval.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Aspect of development: Material change of use				
Floor Plans	TPG Architects	December 2017	DA-100H	
Vehicle Swept Paths	C.M.G Consulting Engineers Pty Ltd	4 December 2017	Sheet 1 of 2	
TMR Layout Plan (6504-5.46km)	Queensland Government, Transport and main Roads	08/01/2018	TMR17-22871(500-1184)	A

A copy of this response has been sent to the applicant for their information.

For further information please contact Belinda Jones, Senior Planning Officer, on 40373239 or via email CairnsSARA@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc W & L Petrie c/- Planz Town Planning Pty Ltd, info@planztp.com

enc Attachment 1—Conditions to be imposed
Attachment 2—Reasons for decision to impose conditions
Attachment 3—Advice to the assessment manager
Approved plans and specifications

1710-2156 SRA

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Material Change of Use		
10.9.4.2.4.1 State transport infrastructure—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the 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):		
1.	The car parking and access arrangements must be carried out generally in accordance with the following plans: <ul style="list-style-type: none"> Floor Plans prepared by TPG Architects, dated December 2017, Reference DA-100H. Vehicle Swept Paths, prepared by C.M.G Consulting Engineers Pty Ltd, dated 4 December 2017, sheet 1 of 2. 	Prior to the commencement of use and to be maintained at all times
2.	(a) The road access location is to be located generally in accordance with TMR Layout Plan (6504-5.49km), prepared by Queensland Government Transport and Main Roads, Reference TMR17-22871(500-1184), dated 08/01/2018, issue A, (b) Road access works comprising a Commercial/Industrial Vehicle Crossing must be designed and constructed in accordance with FNQROC Standard Drawing S1015.	(a) At all times (b) Prior to commencement of use
3.	(a) The existing vehicle property access located between Macrossan Street and Lot 410 on PTD2091 must be permanently closed and removed. (b) The kerb and channel, table drain and concrete footpath must be reinstated in accordance with FNQROC standards.	Prior to commencement of use
4.	The location of the property gate must be positioned wholly within the boundaries of Lot 410 on PTD2091 such that: <ol style="list-style-type: none"> No other gate infrastructure is to encroach into the state-controlled road corridor, The gate must open away from, or parallel to, Macrossan Street, It is controlled remotely, and There is no requirement for traffic to queue on Macrossan Street. 	At all times
5.	(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road. (b) Any works on the land must not: <ol style="list-style-type: none"> create any new discharge points for stormwater runoff onto the state-controlled road; interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road; surcharge any existing culvert or drain on the state-controlled road; reduce the quality of stormwater discharge onto state-controlled road. 	(a) and (b) At all times
6.	Any excavation, filling/backfilling/compaction, retaining structures and other works involving ground disturbance must not encroach or de-stabilise the state-controlled road or the land supporting this infrastructure, or cause similar adverse impacts.	At all times

1710-2156 SRA

Attachment 2—Reasons for decision to impose conditions

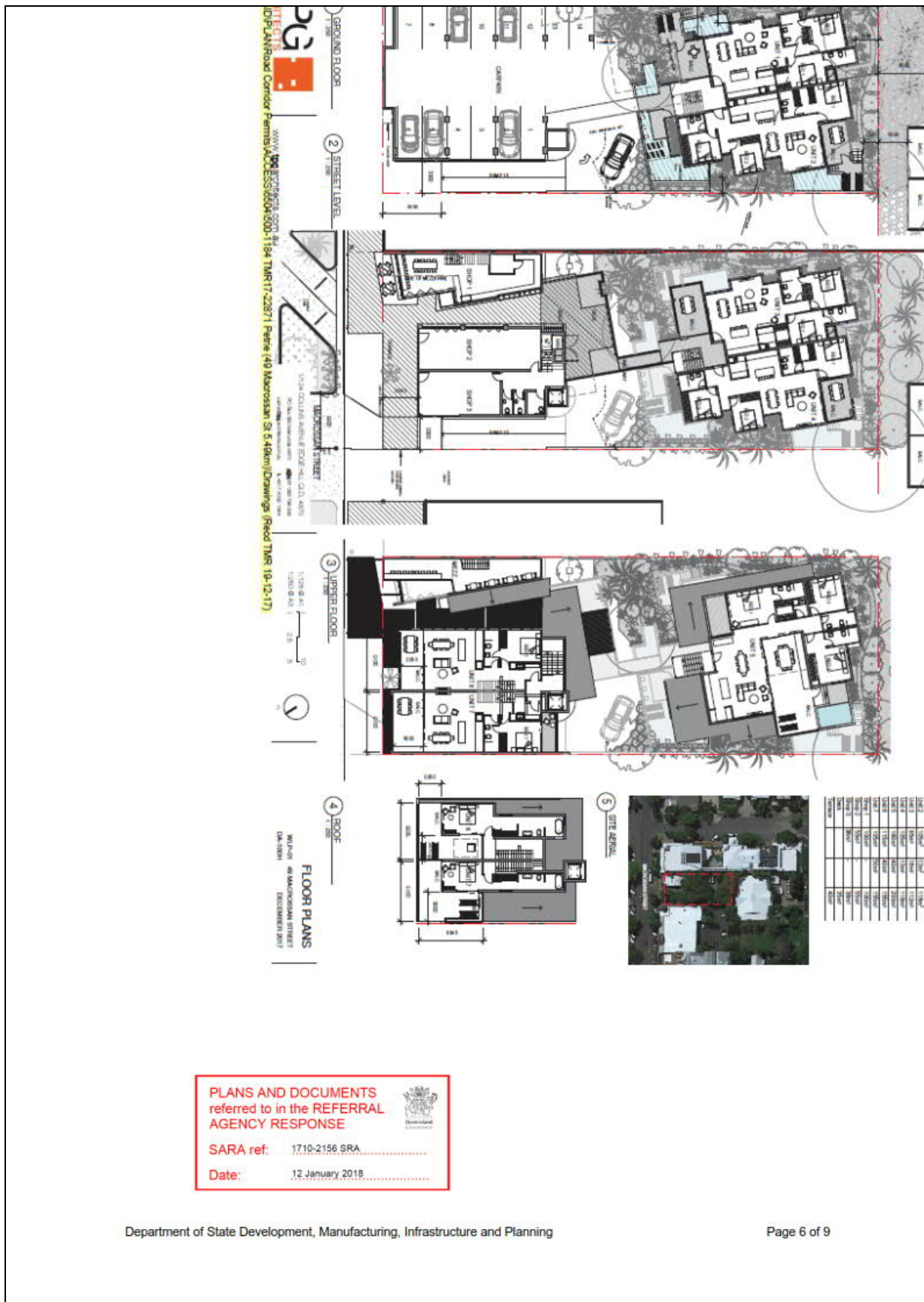
The reasons for this decision are:

- To ensure that the development is carried out generally in accordance with the plans of development submitted with the application.
- To ensure the road access location to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road.
- To ensure the design of any road access maintains the safety and efficiency of the state-controlled road.
- To maintain the safety and efficiency of the state-controlled road by reducing the number of road accesses.
- To ensure that the impacts of stormwater events associated with development are minimised and managed to avoid creating any adverse impacts on the state-controlled road.
- To ensure the development and its construction does not cause adverse structural impacts on state-transport infrastructure.

1710-2156 SRA

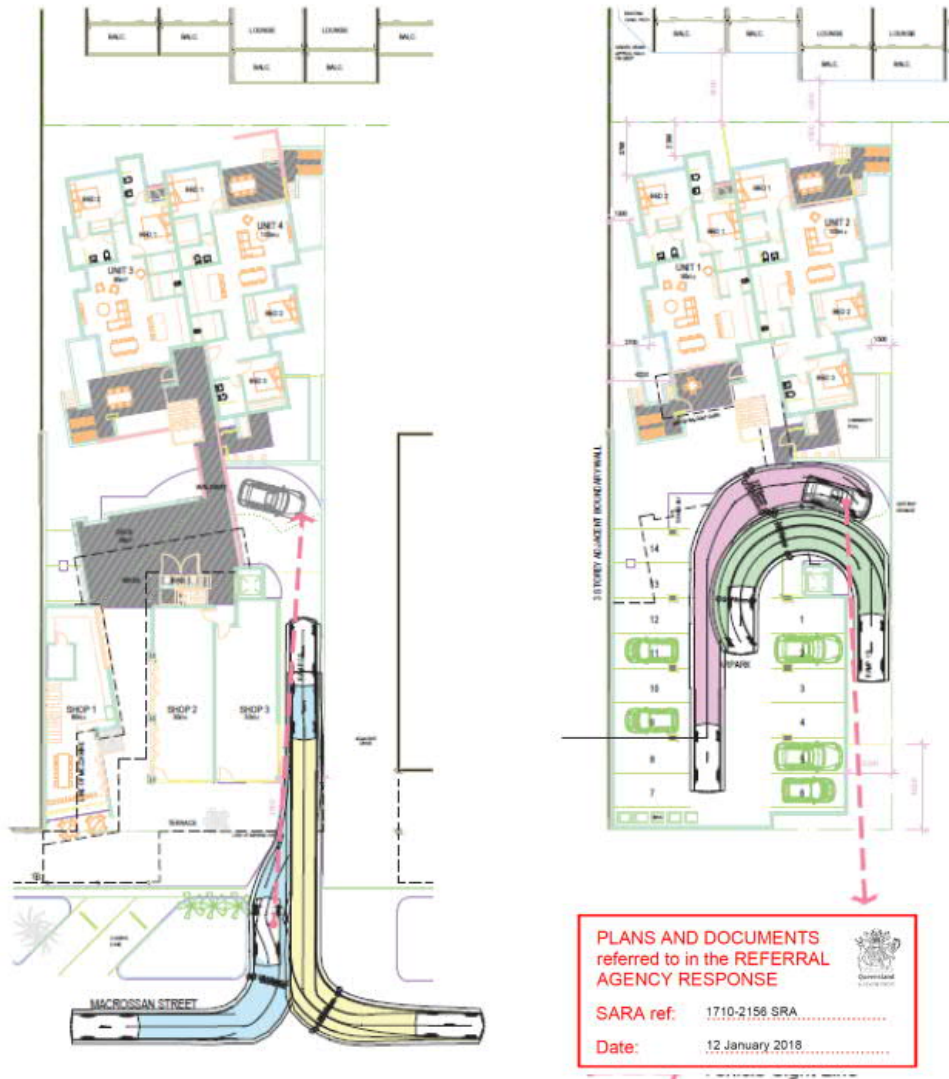
Attachment 3—Advice to the assessment manager

General advice	
Advertising advice	
1.	<p>A local government should obtain advice from the Department of Transport and Main Roads (DTMR) if it intends to approve the erection, alteration or operation of an advertising sign or another advertising device that would be visible from a state-controlled road, and beyond the boundaries of the state-controlled road, and reasonably likely to create a traffic hazard for the state-controlled road.</p> <p>Note: DTMR has powers under section 139 of the Transport Operations (Road Use Management - Accreditation and Other Provisions) Regulation 2015 to require removal or modification of an advertising sign and/or a device which is deemed that it creates a danger to traffic.</p>
Transport noise corridor	
2.	<p>Mandatory Part (MP) 4.4 of the Queensland Development Code (QDC) commenced on 1 September 2010 and applies to building work for the construction or renovation of a residential building in a designated transport noise corridor. MP4.4 seeks to ensure that the habitable rooms of Class 1, 2, 3 and 4 buildings located in a transport noise corridor are designed and constructed to reduce transport noise. Transport noise corridor means land designated under Chapter 8B of the Building Act 1975 as a transport noise corridor. Information about transport noise corridors is available at state and local government offices. A free online search tool can be used to find out whether a property is located in a designated transport noise corridor. This tool is available at the Department of Local Government and Planning website: http://www.dilgp.qld.gov.au/planning/state-planning-instruments/spp-interactive-mapping-system.html and allows searches on a registered lot number and/or property address to determine whether and how the QDC applies to the land. Transport Noise Corridors (NAPMAP) are located under Administrative Layers within the State Planning Policy (SPP) mapping system.</p>
Further development permits required	
Road works approval	
3.	<p>In accordance with section 33 of the Transport Infrastructure Act 1994 (TIA), an applicant must obtain written approval from Department of Transport and Main Roads (DTMR) to carry out road works, including road access works on a state-controlled road. Please contact DTMR on 4045 7144 to make an application under section 33 of the TIA to carry out road works. This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). The road works approval process takes time – please contact Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>
Road corridor permit	
4.	<p>An application for a Road Corridor Permit is required for any ancillary works and encroachments on the state-controlled road under section 50(2) and Schedule 6 of the Transport Infrastructure Act 1994 and Part 5 and Schedule 1 of the Transport Infrastructure (State-Controlled Roads) Regulation 2006. Please contact the Department of Transport and Main Roads on 4045 7144 at the Cairns district office to make an application for a Road Corridor Permit.</p> <p>Ancillary works and encroachments include but are not limited to advertising signs or other advertising devices, paths or bikeways, buildings/shelters, vegetation clearing, landscaping and planting.</p>



1710-2156 SRA

49 Macrossan Street



C.M.G. CONSULTING
ENGINEERS PTY. LTD.

ACIA 911 880 376 STRUCTURAL AND CIVIL
258 Bickton Street P.O. Box 5801
CARVAL, 4870, 248th Mail Centre
Phone: (077) 4031 2775 Fax: (077) 4021 9012

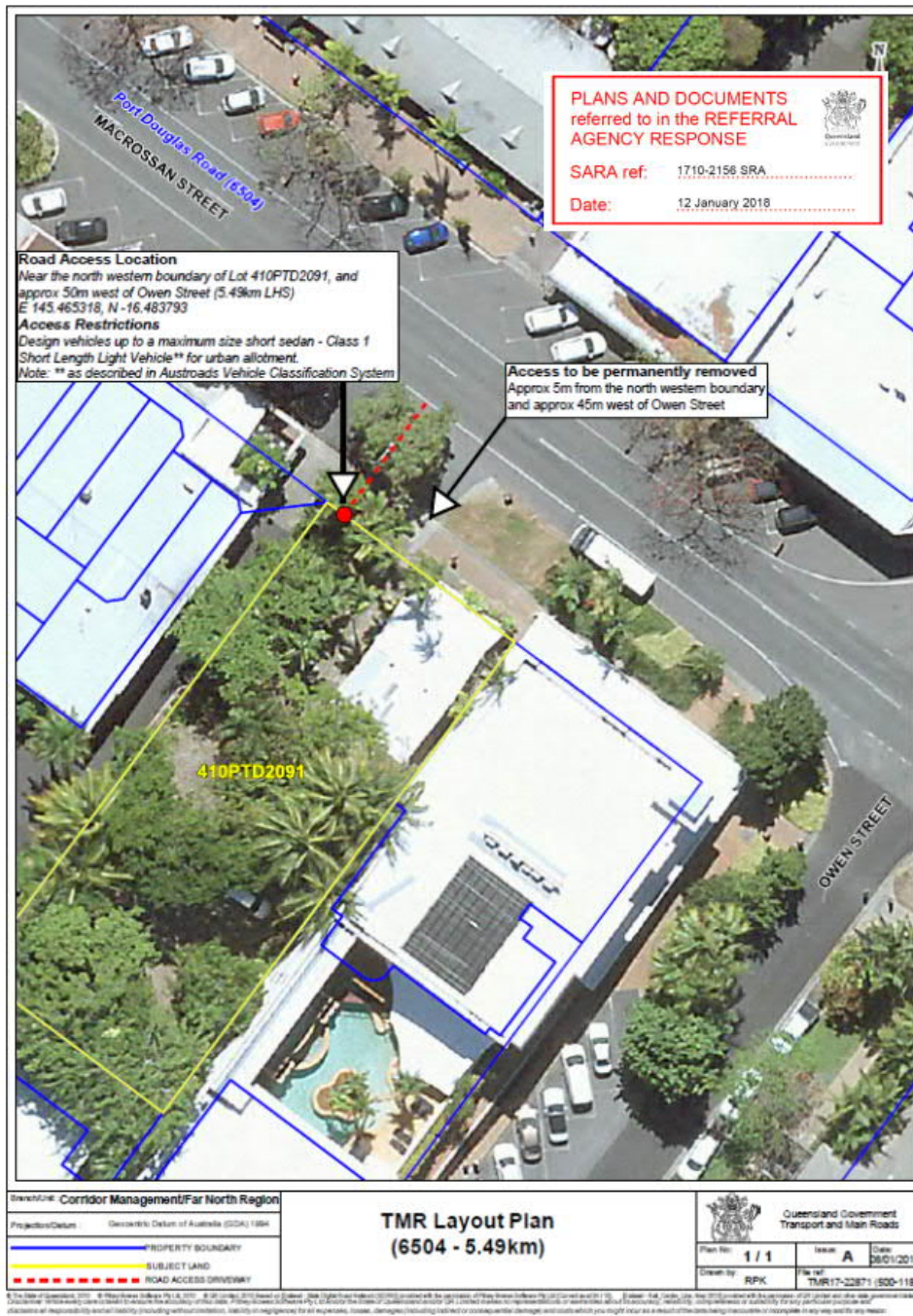
G:\CAID\PLAN\Road Corridor Permits\ACCESS\6504\500-1184 TMR17-22871 Petrie (49 Macrossan St 5.49km)\Drawings (Recd TMR 19-12-17)

Vehicle Swept Paths

Sheet 1 of 2

4 DEC 2017

1710-2156 SRA



PLAN

Property boundary

Refer note 1

1200

3000 Residential (600mm wide)

3500 Commercial & Industrial (600mm wide)

1200

Expansion joint

Contraction joint

NOTES

- All joints to existing kerbs shall be sawcut prior to breasting out concrete for removal. Future section of kerb to be removed.
- Concrete is to be M25 min residential, M30 min Commercial/Industrial in accordance with AS 1379 and AS 3601.
- Reinforcement is to be 10mm diameter.
- Where a concrete footpath abuts a crossing an expansion joint shall be installed.
- Expansion joints to be 10mm thick, closed cell cross linked polyethylene foam (SLO-joint), 12mm round galvanized dowels @ 600 C/S.
- Details of concrete and reinforcing steel shown are minimum requirements. Designers of concrete and reinforcing steel shall refer to relevant standards apply, details of concrete and reinforcing steel shall be increased to suit specific conditions.
- Where an existing footpath is present it is to be sawcut and an expansion joint provided. 12mm round galvanized dowels @ 600 C/S.
- Subgrade to be compacted to 95% standard.
- Reinforcement is to be 10mm diameter.
- Reinforcement is to be 10mm diameter.
- Where new sections of footpath are required, these shall be 2000mm wide and constructed in accordance with standard drawing S1035.
- For Cook Shire Council, this can be used in lieu of reinforcement fabric.

DISCLAIMER

The author of this drawing warrants that the use of this drawing is limited to the project for which it was prepared. The author does not warrant that the use of this drawing for any other project will result in a successful outcome. The user of this drawing is responsible for ensuring that the use of this drawing is in accordance with the relevant standards and specifications. The author does not accept any liability for any loss or damage, whether direct or indirect, arising from the use of this drawing.

RESIDENTIAL VEHICLE CROSSING

Property Boundary

Variable verge width (max 2000mm wide)

1200

To match kerb height

Expansion joint

100mm minimum compacted gravel

100mm minimum compacted sand

100mm minimum concrete slab

SL172 minimum fibre top

Max. Grade 2.5%

Variable slope to suit property. Must match to an existing footpath.

COMMERCIAL & INDUSTRIAL VEHICLE CROSSING

Property Boundary

Variable verge width (max 2000mm wide)

1200

Kerb Invert

100mm minimum compacted gravel

100mm minimum compacted sand

100mm minimum concrete slab

SL182 minimum fibre top

50mm cover

Max. Grade 2.5%

Variable slope to suit property. Must match to an existing footpath.

Department of Transport and Main Roads note:
Site specific requirements must not reflect this example in its entirety. Drawing details must reflect site specific conditions for Road Works / Road Access Works.

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL
1	Concrete Footpath	1200	m	150	180000
2	Reinforcement	1200	m	100	120000
3	Gravel	1200	m	50	60000
4	Sand	1200	m	50	60000
5	Concrete Slab	1200	m	100	120000
6	Fibre	1200	m	100	120000
7	Cover	1200	m	100	120000
8	Gravel	1200	m	50	60000
9	Sand	1200	m	50	60000
10	Concrete Slab	1200	m	100	120000
11	Fibre	1200	m	100	120000
12	Cover	1200	m	100	120000

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

SARA ref: 1710-2156 SRA

Date: 12 January 2018



Branch/Unit:	Corridor Management/Far North Region
Projection/Datum:	Geocentric Datum of Australia (GDA) 1994
	PROPERTY BOUNDARY
	SUBJECT LAND
	ROAD ACCESS DRIVEWAY

TMR Layout Plan (6504 - 5.49km)



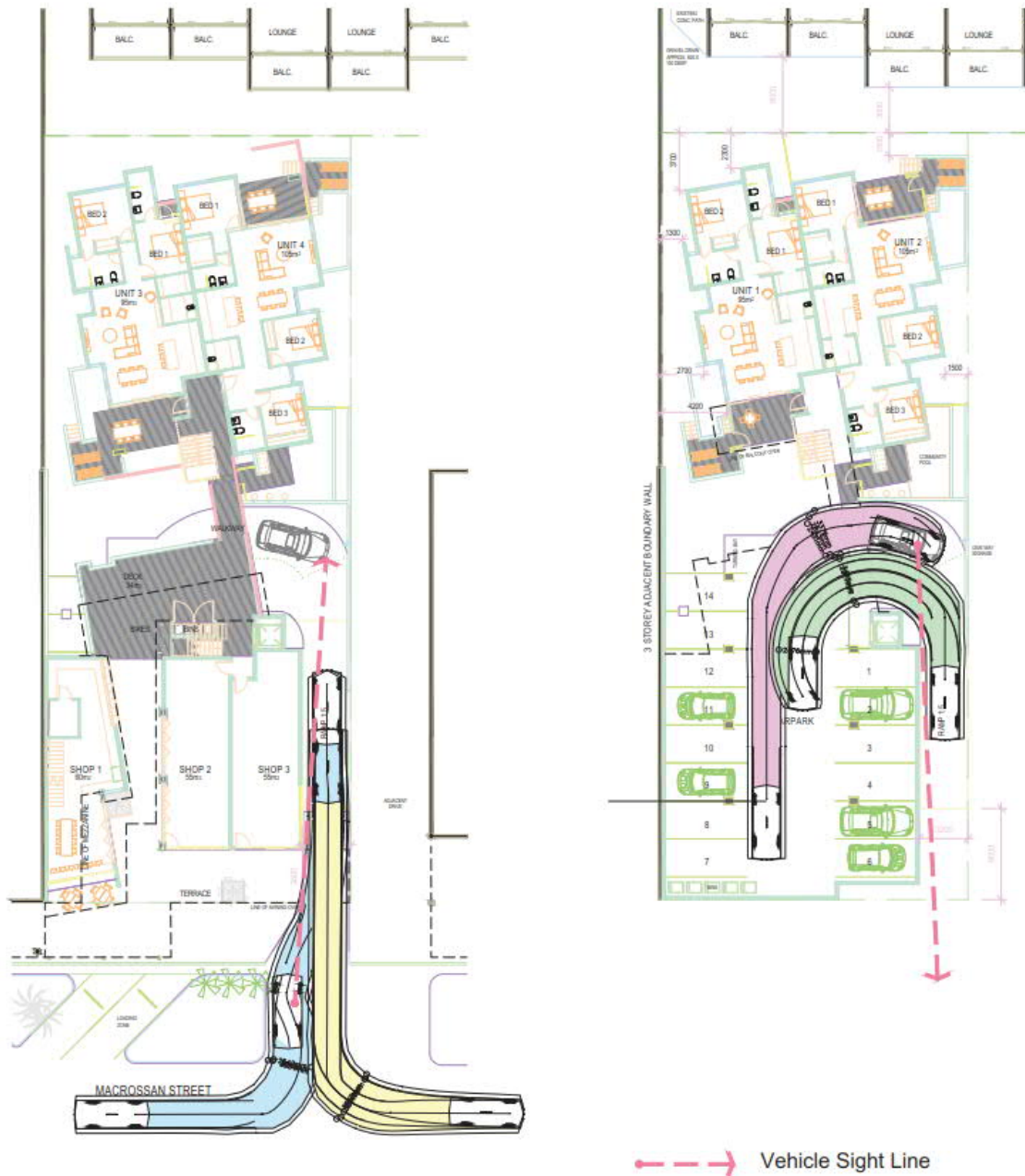
Queensland Government
Transport and Main Roads

Plan No:	1 / 1	Issue:	A	Date:	08/01/2018
Drawn by:	RPK	File ref:	TMR17-22871 (500-1184)		

© The State of Queensland 2018. © Pitney Bowes Software Pty Ltd 2019. © GP Limited 2019. Based on © Crown. Data: Digital Road Network (DRN) provided with the permission of Pitney Bowes Software Pty Ltd (Customer with 10). © Crown. All Rights Reserved. May 2018) provided with the permission of GP Limited and other state government datasets. Disclaimer: While every care is taken to ensure the accuracy of this data, Pitney Bowes Software Pty Ltd and/or the State of Queensland and/or GP Limited makes no representation or warranty about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damages) and costs which you might incur as a result of the data being inaccurate or incomplete in any way and for any reason.



49 Macrossan Street



C.M.G. CONSULTING
ENGINEERS PTY. LTD.
A.C.N. 011 085 375 STRUCTURAL AND CIVIL

208 Buchanan Street P.O. Box 5901
CAIRNS, 4870, Cairns Mail Centre
Phone: (07) 4031 2775 Fax: (07) 4051 9013

G:\CAID\PLAN\Road Corridor Permits\ACCESS\6504\500-1184 TMR17-22871 Petrie (49 Macrossan St 5.49km)\Drawings (Recd TMR 19-12-17)

Vehicle Swept Paths

Sheet 1 of 2

4 DEC 2017

Guide to Traffic Management Part 3: Traffic Studies and Analysis

Table A 8: Austroads vehicle classification systems (updated in 1994)

Level 1	Level 2		Level 3	Austroads classification	
Length (indicative)	Axles and axle groups		Vehicle type		
Type	Axles	Groups	Description	Class	Parameters
Short Up to 5.5 m	Light vehicles				
	2	1 or 2	Short Sedan, wagon, 4WD, utility, light van, bicycle, motorcycle, etc.	1	$d_1 \leq 3.2$ m and axles = 2
Medium 5.5 m to 14.5 m	3, 4 or 5	3	Short-towing trailer, caravan, boat, etc.	2	groups = 3, $2.1 \text{ m} \leq d_1 \leq 3.2 \text{ m}$ $d_2 \geq 2.1 \text{ m}$, and axles = 3, 4 or 5
	Heavy vehicles				
	2	2	Two axle truck or bus	3	$d_1 > 3.2$ m and axles = 2
	3	2	Three axle truck or bus	4	Axles = 3 and groups = 2
	> 3	2	Four axle truck	5	Axles > 3 and groups = 2
Long 11.5 m to 19.0 m	3	3	Three axle articulated or rigid vehicle and trailer	6	$d_1 > 3.2$ m Axles = 3 and groups = 3
	4	> 2	Four axle articulated or rigid vehicle and trailer	7	$d_2 < 2.1$ m, or $d_1 < 2.1$ or $d_1 > 3.2$ m Axles = 4 and groups > 2
	5	> 2	Five axle articulated or rigid vehicle and trailer	8	$d_2 < 2.1$ m, or $d_1 < 2.1$ or $d_1 > 3.2$ m Axles = 5 and groups > 2
	6 > 6	> 2 3	Six axle (or more) articulated or rigid vehicle and trailer	9	Axles = 6 and groups > 2; or axles > 6 and groups = 3
Medium combination 17.5 m to 36.5 m	> 6	4	B Double or heavy truck and trailer	10	Axles > 6 and groups = 4
	> 6	5 or 6	Double road train or heavy truck and two trailers	11	Axles > 6 and groups = 5 or 6
Long combination over 33 m	> 6	> 6	Triple road train or heavy truck and three trailers	12	Axles > 6 and groups > 6

Definitions:

Group: (axle group) – where adjacent axles are less than 2.1 m apart

Groups: number of axle groups

Axles: number of axles (maximum axle spacing of 10 m)

d1: distance between first and second axle

d2: distance between second and third axle.

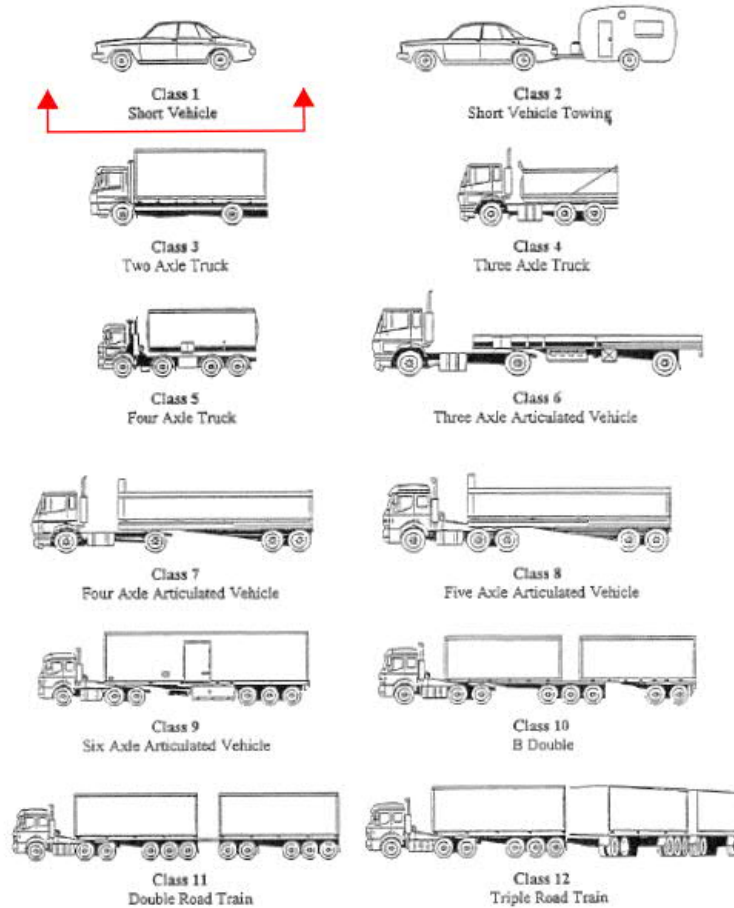
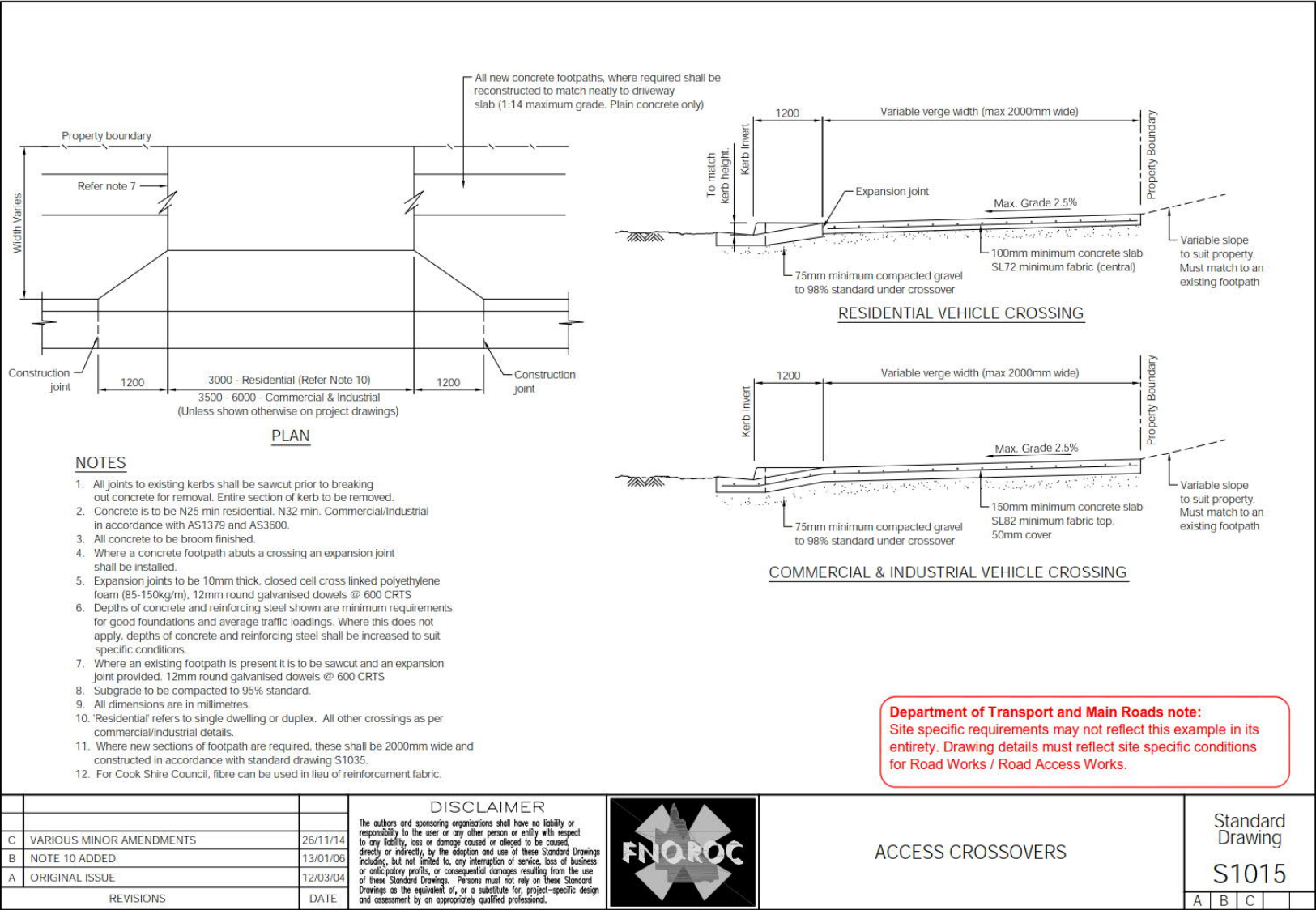


Figure A 13: Representative vehicles in Austroads 12-bin classification system

A.5.3 Methods of Collecting Vehicle Classification Data

Manual vehicle classification methods, based on either vehicle body type (e.g. surveys by the Australian Bureau of Statistics) or axle configurations (e.g. Austroads), have been used for many years. Manual methods are now largely confined to intersection turning movement counts. As these surveys require considerable human resources, they are costly and generally limited to short period counts – generally up to 12 hours duration.



GE78-N



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

Department of State Development, Manufacturing, Infrastructure and Planning
Statement of reasons for application 1710-2156 SRA

(Given under section 56 of the *Planning Act 2016*)

Departmental role: Referral agency

Applicant details

Applicant name: W & L Petrie c/- Planz Town Planning Pty Ltd
Applicant contact details: PO Box 181
Edge Hill QLD 4870
info@planztp.com

Location details

Street address: 49 Macrossan Street, Port Douglas
Real property description: Lot 410 on PTD2091
Local government area: Douglas Shire Council

Development details

Development permit: Material change of use for shopping facilities, restaurant, multi-unit housing and holiday accommodation.

Assessment matters

Aspect of development requiring code assessment	Applicable codes
1. Material change of use	State Development Assessment Provisions version 2.1, effective 11 August, 2017 - State code 1: Development in a state-controlled road environment

Reasons for the department's decision

The reasons for the decision are:

- The proposed development adjoins Macrossan Street (Port Douglas Road) which is a state-controlled road.
- A new access is proposed between Lot 410 on PTD2091 (the subject site) and Macrossan Street.
- With conditions, the proposed development complies with the relevant provisions in the State-Development Assessment Provisions, State code 1: Development in a state-controlled road environment.
- The proposed access arrangements have been assessed against the *Transport Infrastructure Act 1994* and a decision notice has been issued approving the proposed access location.
- The proposed access arrangements are unlikely to impact on the efficiency and safety of Macrossan Street.

1710-2156 SRA

Decision

- The development application is for a material change of use for a mixed development of shopping facilities, restaurant and multi-unit housing and holiday accommodation (7 units) on Lot 410 on PTD2091 (the subject site), located at 49 Macrossan Street (Port Douglas Road), Port Douglas.
- The department issued a referral agency response with conditions, dated 12 January 2018 to attach to any development permit issued.

Relevant material

- Development application material including planning report prepared by Planz Town Planning dated 20 September 2017 and the engineering report prepared by C.M.G Consulting Engineers, reference 38807R1, dated 15 December 2017.
- State Development Assessment Provisions, version 2.1 published by the Department of Infrastructure, Local Government and Planning
- Planning Act 2016
- Planning Regulation 2017
- Development Assessment Rules version 1.1.

Reasons for Decision

The reasons for the decision are as follows:

1. Sections 78, 78A, 79, 81, 81A and 83 of the *Planning Act 2016*:
 - a. to ensure the development satisfies the benchmarks of the 2006 Douglas Shire Planning Scheme (as amended) and having regard to the 2018 Douglas Shire Planning Scheme Version 1.0; and
 - b. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
 - a. the development application was properly lodged to the Douglas Shire Council 23 August 2023 under s78, s78A, s79 of the *Planning Act 2016* and Part 1 of the Development Assessment Rules;
 - b. The application is for a minor change, being a minor change consistent with Schedule 2 of the *Planning Act 2016*;
 - c. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy, 2006 Douglas Shire Planning Scheme (as amended), the 2018 Douglas Shire Planning Scheme Version 1.0 and the grounds of the properly made submission in making its assessment manager decision.
3. Evidence or other material on which findings were based:
 - a. the development triggered assessable development under the Assessment Table associated with the centre Planning Area of the Port Douglas and Environs Locality;
 - b. Council undertook an assessment in accordance with the provisions of s81, s81A and s83 of the *Planning Act 2016*; and
 - c. the applicant's reasons have been considered and the following findings are made:
 - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

ADOPTED INFRASTRUCTURE CHARGES NOTICE

Jasbe Port Douglas Pty Ltd		N/A		0	
DEVELOPERS NAME		ESTATE NAME		STAGE	
49 Macrossan Street		Port Douglas		L410 PTD2091	
STREET No. & NAME		SUBURB		LOT & RP No.s	
MCU Multi Unit Housing, Holiday Accommodation, Shop, Restuarant				CA 2017_2275/2	
DEVELOPMENT TYPE				PARCEL No.	
1104677		1		28/06/2025 See Doc 1104675	
DSC Reference Doc . No.		VERSION No.		COUNCIL FILE NO. VALIDITY PERIOD (year)	
Payment before commencement of use for MCU; and Prior to signing and sealing of survey form for ROL					

Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021)

		Charge per Use	\$ Rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
Proposed Demand							
Residential	Multiple_dwelling	\$_per_2_bedroom_dwelling	20,169.83	2	\$40,339.66		
Residential	Multiple_dwelling	\$_per_3_or_more_bedroom_dwelling	24,553.82	5	\$122,769.10		
Commercial_retail	Shop and Food and Drink Out	\$_per_m²_GFA	168.35	263	\$44,276.05		
Total Demand					\$207,384.81		
Credit							
Existing land use							
3 or more bedroom dwelling	1 lot	\$_per_3_or_more_bedroom_dwelling	24,553.81	1	\$24,553.81		
Total Credit					\$24,553.81		
							Code 895 GL GL7500.135.825

Required Payment or Credit

TOTAL

\$182,831.00

Prepared by	J Elphinstone	23-Aug-22	Amount Paid	
Checked by	D Lamond	23-Aug-22	Date Paid	
Date Payable	MCU - prior to the commencement of use		Receipt No.	
Amendments		Date	Cashier	

Note:

The Infrastructure Charges in this Notice are payable in accordance with Sections 119 and 120 of the *Planning Act 2016* as from Council's resolution from the Ordinary Meeting held on 23 February 2021.

Charge rates under the Policy are subject to indexing.

Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

Charges are payable to: Douglas Shire Council. You can make payment at any of Council's Business Offices or by mail with your cheque or money order to Douglas Shire Council, PO Box 723, Mossman QLD 4873. Cheques must be made payable to Douglas Shire Council and marked 'Not Negotiable.' Acceptance of a cheque is subject to collection of the proceeds. Post dated cheques will not be accepted

Any enquiries regarding Infrastructure Charges can be directed to the Development & Environment, Douglas Shire Council on 07 4099 9444 or by email on enquiries@douglas.qld.gov.au

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or

- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
 - (iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
 - (iv) otherwise—20 business days after the day the notice is given; or
- (g) 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, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and

- (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
 - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
 - (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), 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 the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.**non-appealable**, for a decision or matter, means the decision or matter—
 - (a) is final and conclusive; and
 - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

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

Adopted Infrastructure Charges Notice



2018 Douglas Shire Planning Scheme version 1.0 Applications

ADOPTED INFRASTRUCTURE CHARGES NOTICE

Jasbe Port Douglas Pty Ltd DEVELOPERS NAME		N/A ESTATE NAME	0 STAGE
49 Macrossan Street STREET No. & NAME	Port Douglas SUBURB	L410 PTD2091 LOT & RP No.s	2181 PARCEL No.
MCU Multi Unit Housing, Holiday Accommodation, Shop, Restuarant DEVELOPMENT TYPE		CA2017_2275/2 COUNCIL FILE NO.	28/06/2025 VALIDITY PERIOD (year) See Doc 1104675
1104677 DSC Reference Doc . No.	1 VERSION No.	Payment before commencement of use for MCU; and Prior to signing and sealing of survey form for ROL	

Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021)

		Charge per Use	\$ Rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
Proposed Demand							
Residential	Multiple_dwelling	\$_per_2_bedroom_dwelling	20,169.83	2	\$40,339.66		
Residential	Multiple_dwelling	\$_per_3_or_more_bedroom_dwelling	24,553.82	5	\$122,769.10		
Commercial_retail	Shop and Food and Drink Out	\$_per_m²_GFA	168.35	263	\$44,276.05		
Total Demand					\$207,384.81		
Credit							
<u>Existing land use</u>							
3 or more bedroom dwelling	1 lot	\$_per_3_or_more_bedroom_dwelling	24,553.81	1	\$24,553.81		
Total Credit					\$24,553.81		
Required Payment or Credit							
			TOTAL		\$182,831.00		

Prepared by	J Elphinstone	23-Aug-22	Amount Paid	
Checked by	D Lamond	23-Aug-22	Date Paid	
Date Payable	MCU - prior to the commencement of use		Receipt No.	
Amendments		Date	Cashier	

Note:

The Infrastructure Charges in this Notice are payable in accordance with Sections 119 and 120 of the *Planning Act 2016* as from Council's resolution from the Ordinary Meeting held on 23 February 2021.

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Any enquiries regarding Infrastructure Charges can be directed to the Development & Environment, Douglas Shire Council on 07 4099 9444 or by email on enquiries@douglas.qld.gov.au

Administration Office

64 - 66 Front St Mossman

P 07 4099 9444

F 07 4098 2902

27 September 2022

Enquiries: Jenny Elphinstone
Our Ref: CA 2017_2275/2 (Doc ID)
Your Ref: P81728

Jasbe Port Douglas Pty Ltd
C/- Planz Town Planning
PO Box 181
EDGE HILL QLD 4870

Email: nikki.huddy@planztp.com

Attention Ms Nikki Huddy

Dear Madam

**Adopted Infrastructure Charge Notice
For the Application for Minor Change for the Material Change of Use
For Restaurant, Shops, Multi-Unit Housing and Holiday Accommodation
At 49 Macrossan Street Port Douglas on Land Described as Lot 410 on PTD2091**

Please find attached the Adopted Infrastructure Charges Notice issued in accordance with section 119 of the *Planning Act 2016*.

The amount in the Adopted Infrastructure Charges Notice has been calculated according to Council's Adopted Infrastructure Charges Resolution.

Please also find attached extracts from the Act regarding the following:

- your right to make representations to Council about the Adopted Infrastructure Charges Notice; and
- your Appeal rights with respect to the Adopted Infrastructure Charges Notice.

Please quote Council's application number: CA 2017_2275 in all subsequent correspondence relating to this matter.

Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9444.

Yours faithfully



Paul Hoyer
Manager Environment & Planning

encl.

- Adopted Infrastructure Charges Notice
- Rights to Make Representations and Appeals Regarding Infrastructure Charges

Adopted Infrastructure Charges Notice



2018 Douglas Shire Planning Scheme version 1.0 Applications

ADOPTED INFRASTRUCTURE CHARGES NOTICE

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Code 895
GL GL7500.135.825

Required Payment or Credit

TOTAL

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Subdivision 5 Changing charges during relevant appeal period

124 Application of this subdivision

This subdivision applies to the recipient of an infrastructure charges notice given by a local government.

125 Representations about Infrastructure charges notice

- (1) During the appeal period for the infrastructure charges notice, the recipient may make representations to the local government about the infrastructure charges notice.
- (2) The local government must consider the representations.
- (3) If the local government—
 - (a) agrees with a representation; and
 - (b) decides to change the infrastructure charges notice;the local government must, within 10 business days after making the decision, give a new infrastructure charges notice (a *negotiated notice*) to the recipient.
- (4) The local government may give only 1 negotiated notice.
- (5) A negotiated notice—
 - (a) must be in the same form as the infrastructure charges notice; and
 - (b) must state the nature of the changes; and
 - (c) replaces the infrastructure charges notice.
- (6) If the local government does not agree with any of the representations, the local government must, within 10 business days after making the decision, give a decision notice about the decision to the recipient.
- (7) The appeal period for the infrastructure charges notice starts again when the local government gives the decision notice to the recipient.

126 Suspending relevant appeal period

- (1) If the recipient needs more time to make representations, the recipient may give a notice suspending the relevant appeal period to the local government.
- (2) The recipient may give only 1 notice.
- (3) If the representations are not made within 20 business days after the notice is given, the balance of the relevant appeal period restarts.
- (4) If representations are made within the 20 business days and the recipient gives the local government a notice withdrawing the notice of suspension, the balance of the relevant appeal period restarts the day after the local government receives the notice of withdrawal.

Division 3 Development approval conditions about trunk infrastructure

Subdivision 1 Conditions for necessary trunk infrastructure

127 Application and operation of subdivision

- (1) This subdivision applies if—
 - (a) trunk infrastructure—
 - (i) has not been provided; or
 - (ii) has been provided but is not adequate; and
 - (b) the trunk infrastructure is or will be located on—
 - (i) premises (the *subject premises*) that are the subject of a development application, whether or not the infrastructure is necessary to service the subject premises; or
 - (ii) other premises, but is necessary to service the subject premises.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
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- (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 an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
 - (iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
 - (iv) otherwise—20 business days after the day the notice is given; or
- (g) 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, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and

- (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
 - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
 - (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), 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 the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.**non-appealable**, for a decision or matter, means the decision or matter—
 - (a) is final and conclusive; and
 - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

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