

6 June 2022

Enquiries: Daniel Lamond
Our Ref: CA 2021_4560/1 (1090565)
Your Ref: 001160

Administration Office
64 - 66 Front St Mossman
P 07 4099 9444
F 07 4098 2902

NV & JS Pty Ltd
C/- Planning Plus Pty Ltd
PO Box 8046
CAIRNS QLD 4870

Dear Sir/Madam

**Development Application for Combined Application (Multiple Dwellings & 1 Lot into 4 Lots)
At 87-89 Davidson Street PORT DOUGLAS
On Land Described as LOT: 1 RP: 741340**

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

Please quote Council's application number: CA 2021_4560/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

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

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



Decision Notice

Approval (with conditions)

Given under section 63 of the Planning Act 2016

Applicant Details

Name: NV & JS Pty Ltd
Postal Address: C/- Planning Plus Pty Ltd
PO Box 8046
CAIRNS QLD 4870
Email: evan@planningplusqld.com.au

Property Details

Street Address: 87-89 Davidson Street PORT DOUGLAS
Real Property Description: LOT: 1 RP: 741340
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Combined Application (Material Change of Use for Multiple Dwellings & Reconfiguring a Lot -1 Lot into 4 Lots)

Decision

Date of Decision: 31 May 2022
Decision Details: Approved (subject to conditions)

Material Change of Use

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

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

Drawing or Document	Reference	Date
Site Plan, General Notes	87-89DSPD Sheet 01	6 April 2022
Floor Plan Ground	87-89DSPD Sheet 02	6 April 2022
Floor Plan Upper	87-89DSPD Sheet 03	6 April 2022

Ground Floor 1-50	87-89DSPD Sheet 04	6 April 2022
Upper Floor 1-50	87-89DSPD Sheet 05	6 April 2022
East and West Elevations	87-89DSPD Sheet 06	6 April 2022
North and South Elevations	87-89DSPD Sheet 07	6 April 2022
3D Views 1	87-89DSPD Sheet 07	6 April 2022
3D Views 2	87-89DSPD Sheet 07	6 April 2022
FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access		
Access Crossovers	Standard Drawing S1015 Issue D	23 October 2017

ASSESSMENT MANAGER CONDITIONS

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Council; and
 - b. The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

Except where modified by these conditions of approval

Timing of Effect

2. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

Air-conditioning Screens

3. Air-conditioning units located above ground level and visible from external properties and the street must be screened with appropriate materials to improve the appearance of the building. Such screening must be completed prior to the Commencement of Use.

Damage to Council Infrastructure

4. In the event that any part of Council's existing sewer/water or road infrastructure is damaged as a result of construction activities occurring on the site, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced at no cost to Council.

Sewerage Works Internal

5. Connect each dwelling via separate jump-up to a private combined house drain Connecting to Councils sewerage network.

Vehicle Parking

6. The car parking layout must comply with the Australian Standard AS2890.1 2004 Parking Facilities – off-street car parking and be constructed in accordance with Austroads and good engineering design. In addition, all parking, driveway and vehicular manoeuvring areas must be imperviously sealed and drained with a minimum of two on-site car parking spaces provided for each dwelling unit.

Lighting

7. The vertical illumination at a distance of 1.5 metres outside the boundary of the subject land must not exceed eight (8) lux measured at any level upwards from ground level.

External Works

8. Undertake the following works external to the land at no cost to Council:
 - a. Provide four vehicle crossovers and aprons to Davidson Street;
 - b. Undertake planting of a 600mm wide garden bed with appropriate species along the exterior edge of the perimeter fence on the Davidson Street road reserve;
 - c. Repair any damage to existing roadway (including removal of concrete slurry from footways, roads, kerb and channel and stormwater gullies and drain lines) that may occur during and works carried out in association with the construction of the approved development.

Stockpiling and Transportation of Fill Material

9. Soil excavated from the site is not to be stockpiled in locations that can be viewed from adjoining premises or a road frontage for any longer than one (1) month from the commencement of works.

Transportation of fill or spoil to and from the site must not occur within:

- a. peak traffic times;
- b. before 7:00 am or after 6:00 pm Monday to Friday;
- c. before 7:00 am or after 1:00 pm Saturdays; or
- d. on Sundays or Public Holidays.

Emissions

10. Dust emissions or other air pollutants, including odours, must not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

Storage of Machinery and Plant

11. The storage of any machinery, material and vehicles must not cause a nuisance to surrounding properties, to the satisfaction of the Chief Executive Officer.

Landscaping Plan

12. The site must be landscaped in accordance with details included on a landscaping plan and must;
 - a. Be made up of species nominated in Planning Scheme Policy SC 6.7 *Landscaping*;

- b. Be prepared by an experienced landscape designer;
- c. Include street trees in accordance with the specifications of the FNQROC development manual.
- d. Detail deep planting of setback areas and planter beds within the development.

Prior to the issue of a Development Permit for Building Work, the landscaping plan must be endorsed by the Chief Executive Officer.

Lawful Point of Discharge

- 13. All stormwater from the property must be directed to a lawful point of discharge, being Davidson Street, such that it does not adversely affect surrounding properties or properties downstream from the development.

Ponding and/or Concentration of Stormwater

- 14. The development is not to create ponding nuisances and/or concentration of stormwater flows to adjoining properties.

Minimum Fill and Floor Level

- 15. All floor levels in all buildings must be located 300mm above the Q100 flood immunity level, plus any hydraulic grade effect (whichever is the greater), in accordance with FNQROC Development Manual and Planning Scheme requirements.

Sediment and Erosion Control

- 16. Soil and water management measures must be installed/implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the Environmental Protection Act 1994, and the FNQROC Development Manual).

Refuse Storage Area

- 17. Area for two (2) 240Litre wheelie bins must be provided for each dwelling unit.

Construction Signage

- 18. Prior to the commencement of any construction works associated with the development, a sign detailing the project team must be placed on the road frontage of the site and must be located in a prominent position. The sign must detail the relevant project coordinator for the works being undertaken on the site, and must list the following parties (where relevant) including telephone contacts:
 - a. Developer;
 - b. Project Coordinator;
 - c. Architect/Building Designer;
 - d. Builder;
 - e. Civil Engineer;
 - f. Civil Contractor;

- g. Landscape Architect.

Private Combined House Drain

19. Sand must be the only material used for backfill of the private combined house drain between the two retaining walls at the rear of the site. Earth with clay is not permitted.

Acid Sulfate Soils Investigation

20. Provide an Acid Sulfate Soil investigation with recommendations for the management of Acid Sulfate Soils in accordance with the State Planning Policy 2/02 "Planning and Managing Development Involving Acid Sulfate Soils". The investigation must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

RECONFIGURATION OF A LOT

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
Site Plan, General Notes	87-89DSPD Sheet 01	6 April 2022

ASSESSMENT MANAGER CONDITIONS

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Council; and
 - b. The following conditions of approval and the requirements of Council's Planning Scheme and the *FNQROC Development Manual*.

Except where modified by these conditions of approval

Timing of Effect

2. The conditions of the Development Permit must be effected prior to Council endorsing the Plan of Survey, except where specified otherwise in these conditions of approval.

Timing of Lot Reconfiguration

3. Prior to Council endorsing the Plan of Survey;
 - a. The under slab must be completed for all four dwellings with the relevant building inspection undertaken. The slab must be deemed satisfactory with the relevant documentation submitted to Council.
 - b. Construction of each of the four dwelling units must be commenced to the extent of three courses of blocks.

Water Supply

4. Provide separate water meters and connection for each dwelling unit.

Sewer Connection

5. The development must have one connection to Councils reticulated sewer system in accordance with following requirements;
- The combined house drain does not become a donated asset.
 - No sewer main extension is to occur.
 - The premises group is to be connected to Councils reticulated Sewer Network with one single connection

Title Arrangement

6. The title arrangement must in accordance with the Body Corporate and Community Management Act 1997 or the Building Units and Group Titles Act 1980 and must include common property for the premises group to have a private combined house drain.

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

Concurrence Agency	Concurrence Agency Reference	Date	Doc ID
State Assessment and Referral Agency	2201-26870 SRA	16 February 2022	1069611

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

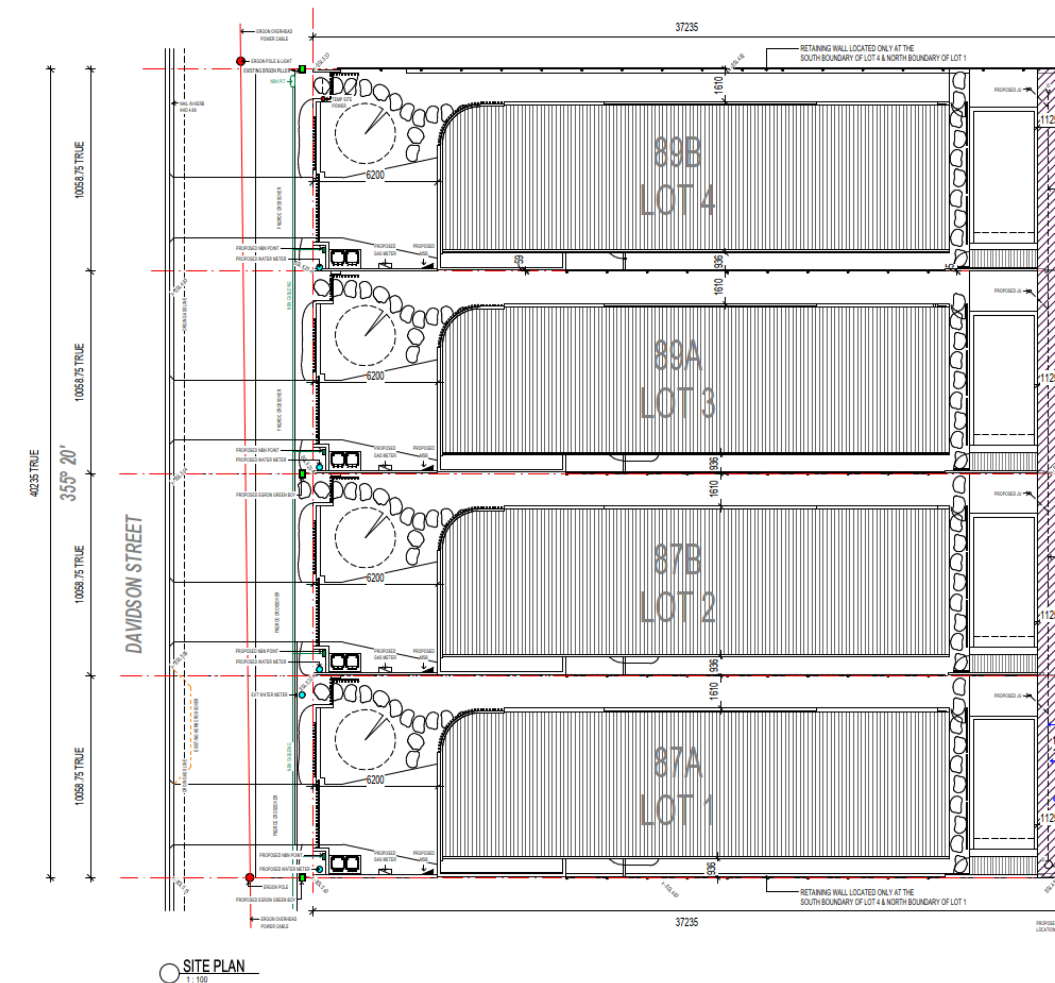
Currency Period for the Approval

This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Rights to make Representations & Rights of Appeal

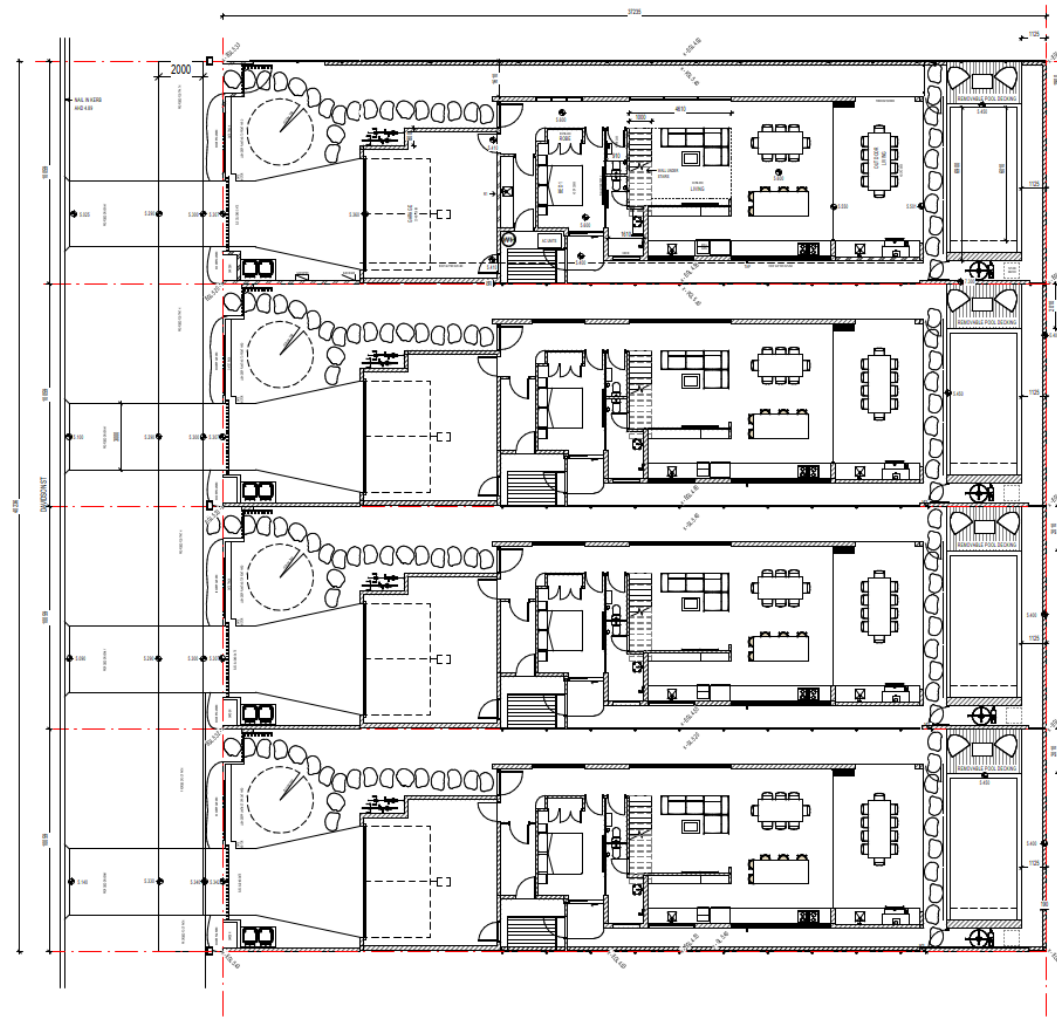
The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

A copy of the relevant appeal provisions are attached.



LAND & FLOOR AREAS PER VILLA	
COMMON FLOOR (inclusive use area)	11.52sf
LOT AREA	300.22sf
COMBINED TOTAL	314.54sf
GARAGE ENCLOSED	37.28sf
LOWER LEVEL ENCLOSED	98sf
LOWER PORTION EXTERNAL	37.28sf
UPPER LEVEL ENCLOSED	107.58sf
UPPER EXTERNAL	30.5sf
GROSS FLOOR AREA	305.78sf
COVERAGE AREA	103.1sf
SITE AREA	314.54sf
COVERAGE %	32.79%

ULTIMATE & SERVICEABILITY LIMIT STATE DESIGN WIND PRESSURES						
WIND CLASS	DESIGN SURF WIND PRESS (Pa)		DESIGN PRESSURE (Pa)			
	V ₁₀	V ₁₅	DOWNWIND 10% PROBABILITY		UP TO 1% PROBABILITY	
			W ₁₀	W ₁₅	W ₁₀	W ₁₅
C2	61	70	-2.08	-2.08	-4.02	-4.23



FLOOR PLAN - GROUND LEVEL
1:100





[illegible]

WINDOW SCHEDULE - BLACK ALUMINUM FRAME CLEAR GLASS UNO C2 RATING COPY 1					
MARK	NUMBER	LEVEL	HIGHT	WIDTH	LOCATION & OTHER COMMENTS
1	LOUVER 3 BAY WINDOW	GROUND	2410	2110	GROUND ENTRY PASSAGEWAY
2	FIXED LITE 1.8 BAY WINDOW	GROUND	2410	1536	GROUND ENTRY PASSAGEWAY
3	FIXED LITE 1.8 BAY WINDOW	GROUND	2410	1536	GROUND ENTRY PASSAGEWAY
4	FIXED LITE 1.8 BAY WINDOW	GROUND	2410	1536	GROUND ENTRY PASSAGEWAY
5	FIXED LITE 1.8 BAY WINDOW	GROUND	2410	1536	GROUND ENTRY PASSAGEWAY
6	FIXED LITE 1.8 BAY WINDOW	GROUND	430	486	KITCHEN - 2 PIECE GLASS WITH SILICONE BUTT JOINT
7	FIXED LITE 1.8 BAY WINDOW	GROUND	430	206	HOLLERY - 1 PIECE GLASS
8	LOUVER 2 BAY WINDOW	GROUND	1620	1216	END BNG - FROSTED GLASS BLADES & SCREEN REQUIRED
9	FIXED LITE 1.8 BAY WINDOW	UPPER	1810	1476	UPPER VOID SOUTHIDE
10	LOUVER 2 BAY WINDOW	UPPER	1810	1476	UPPER VOID SOUTHIDE - CLEAR GLASS & SCREEN REQUIRED
11	FIXED LITE 1.8 BAY WINDOW	UPPER	1810	1476	UPPER VOID SOUTHIDE
12	LOUVER 1 BAY WINDOW	UPPER	1810	430	END BNG - FROSTED GLASS BLADES & SCREEN REQUIRED
13	LOUVER 1 BAY WINDOW	UPPER	1810	430	END BNG - FROSTED GLASS BLADES & SCREEN REQUIRED
14	LOUVER 3 BAY WINDOW	UPPER	600	810	BEDROOM - ALUMINUM BLADES & SCREEN REQUIRED
15	LOUVER 3 BAY WINDOW	UPPER	600	2816	BEDROOM - ALUMINUM BLADES & SCREEN REQUIRED
16	LOUVER 1 BAY WINDOW	UPPER	600	1810	BEDROOM - CLEAR GLASS BLADES & SCREEN REQUIRED
17	LOUVER 1 BAY WINDOW	UPPER	1810	430	SHARED BATHROOM - CLEAR GLASS BLADES & SCREEN REQUIRED
18	FIXED LITE 1.8 BAY WINDOW	UPPER	1810	1536	VOID - NORTHERN FACE
19	FIXED LITE 1.8 BAY WINDOW	UPPER	1810	1536	VOID - NORTHERN FACE
20	FIXED LITE 1.8 BAY WINDOW	UPPER	1810	1536	VOID - NORTHERN FACE
21	LOUVER 4 BAY WINDOW	UPPER	600	3676	MASTER BEDRM - CLEAR GLASS BLADES & SCREEN REQUIRED
22	LOUVER 4 BAY WINDOW	UPPER	600	3676	MASTER BEDRM - CLEAR GLASS BLADES & SCREEN REQUIRED
23	LOUVER 1 BAY WINDOW	UPPER	600	2910	MASTER BEDRM - CLEAR GLASS BLADES & SCREEN REQUIRED
24	LOUVER 1 BAY WINDOW	UPPER	1810	430	MASTER BEDROOM - ALUMINUM BLADES & SCREEN REQUIRED
25	LOUVER 1 BAY WINDOW	UPPER	1810	430	MASTER BEDROOM - ALUMINUM BLADES & SCREEN REQUIRED
26	FIXED LITE 1.8 BAY WINDOW	UPPER	1810	1536	UPPER VOID SOUTHIDE
27	FIXED LITE 1.8 BAY WINDOW	UPPER	1810	1536	UPPER VOID SOUTHIDE
28	FIXED LITE 1.8 BAY WINDOW	UPPER	1810	1536	UPPER VOID SOUTHIDE

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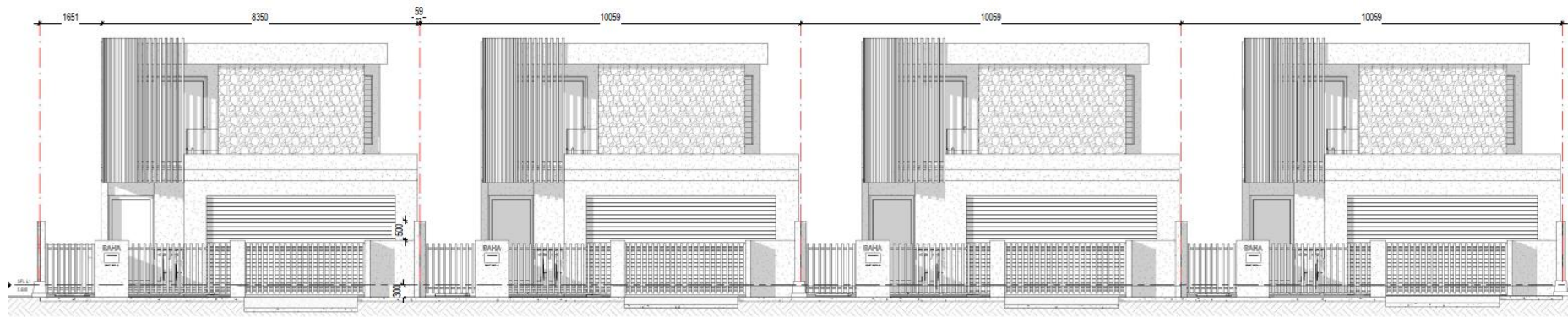
nathanverri ISSUED FOR CONSTRUCTION
MASTERS OF DESIGN & BUILDING

© nathanverri DESIGNING IDEAS
nathanverri.com
PO Box 1204
Melbourne VIC 3001
Australia

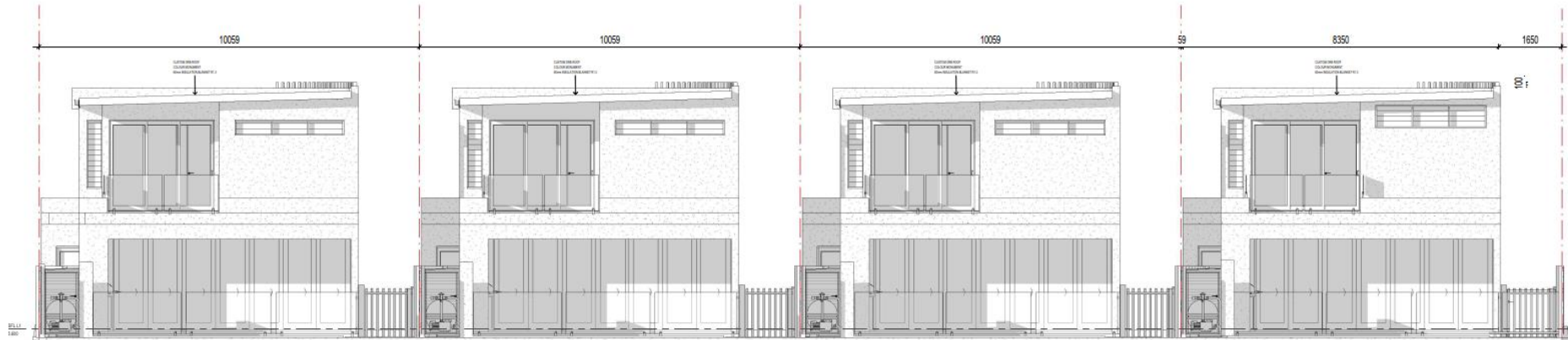
info@nathanverri.com
Phone: +61 3 9473 4473
Fax: +61 3 9473 4473

DESIGN
ISO 9001:2008
ISO 14001:2004

PROJECT	BAHA VILLAS			PROJECT ADDRESS	87-89 DAVIDSON STREET PORT DOUGLAS		
SHEET	UPPER FLOOR 1-50						
DESIGNER	IV	DRAWN	CK	SCALE	AS SHOWN @ 1/4"=1'	PROJECT NUMBER	87-85CSPD
						SHEET	5



EAST
1:50



WEST
1:50



ISSUED FOR DESIGN APPROVAL

PROJECT BAHÁ VILLAS PROJECT ADDRESS 87-89 DAVIDSON STREET PORT DOUGLAS

SHEET EAST & WEST ELEVATIONS

DESIGNED BY DRAWN BY SCALE AS SHOWN/20M PROJECT NUMBER 87-BICSP0 SHEET 6 OF 6



ISSUED FOR CONSTRUCTION

10 Nathan Verri Architects LLC 100100
10 Nathan Verri Architects LLC
100100

10 Nathan Verri Architects LLC 100100
10 Nathan Verri Architects LLC
100100

10 Nathan Verri Architects LLC 100100
10 Nathan Verri Architects LLC
100100

PROJECT: BANA VILLAS

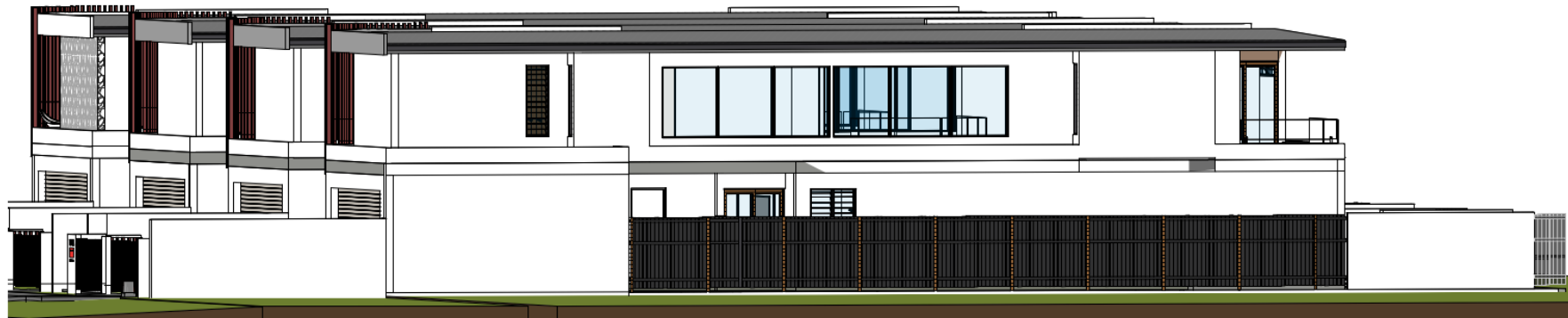
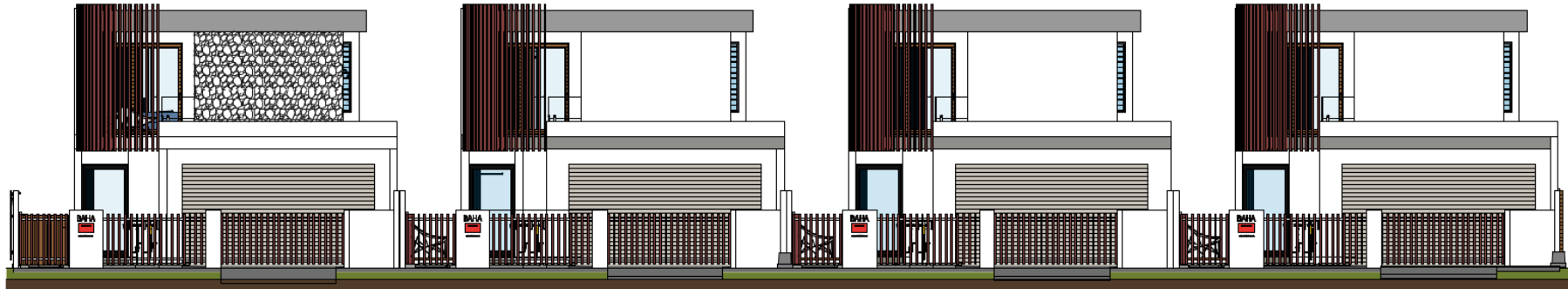
PROJECT ADDRESS: 87-89 DAVIDSON STREET PORT DOUGLAS

SHEET: NORTH & SOUTH ELEVATIONS

DESIGNED BY: DRAWN BY: SCALE: AS SHOWN (1/8"=1'-0")

PROJECT NUMBER: ST-BICP0

SHEET: 7 REV





Concurrence Agency Conditions

Our ref TMR22-035262 (500-1666)
Your ref
Enquiries Ronald Kaden



Department of
Transport and Main Roads

16 February 2022

Decision Notice – Permitted Road Access Location (s62(1) *Transport Infrastructure Act 1994*)

This is not an authorisation to commence work on a state-controlled road¹

Development application reference number CA2021_4560/1, lodged with Douglas Shire Council involves constructing or changing a vehicular access between Lot 1RP741340, the land the subject of the application, and Port Douglas Road (Davidson Street) (a state-controlled road).

In accordance with section 62A(2) of the *Transport Infrastructure Act 1994* (TIA), this development application is also taken to be an application for a decision under section 62(1) of TIA.

Applicant Details

Name and address NV & JS Pty Ltd
C/- Planning Plus
PO Box 399
Redlynch QLD 4870

Application Details

Address of Property 87-89 Davidson Street, Port Douglas QLD 4877
Real Property Description 1RP741340
Aspect/s of Development Development Permit for Reconfiguration of a Lot for 1 Lot into 4 Lots
- Development Permit for Material Change of Use for Multiple Dwellings

Decision (given under section 67 of TIA)

It has been decided to approve the application, subject to the following conditions:

No.	Conditions of Approval	Condition Timing
1	Proposed 87A The permitted road access location is approximately 37 metres from the southern boundary of Lot 1RP741340, in accordance with: 1. TMR Layout Plan (6504 - 4.29km) Issue A 16/02/2022	At all times.
2	Proposed 87B The permitted road access location is approximately 27 metres from the southern boundary of Lot 1RP741340, in accordance with:	At all times.

¹ Please refer to the further approvals required under the heading 'Further approvals'

Program Delivery and Operations
Far North Region
Cairns Corporate Tower, 15 Lake Street Cairns QLD 4870
PO Box 6185 Cairns QLD 4870

Telephone +61 (07) 4045 7151
Website www.tmr.qld.gov.au
Email cairns.office@tmr.qld.gov.au
ABN: 39 407 690 291

No.	Conditions of Approval	Condition Timing
	1. TMR Layout Plan (6504 - 4.29km) Issue A 16/02/2022	
3	Proposed 89A The permitted road access location is approximately 17 metres from the southern boundary of Lot 1RP741340, in accordance with: 1. TMR Layout Plan (6504 - 4.29km) Issue A 16/02/2022	At all times.
4	Proposed 89B The permitted road access location is approximately 7 metres from the southern boundary of Lot 1RP741340, in accordance with: 1. TMR Layout Plan (6504 - 4.29km) Issue A 16/02/2022	At all times.
5	Direct access is prohibited between Davidson Street service road and the subject land at any other location other than the permitted road access location described in Conditions 1, 2, 3 and 4.	At all times.
6	Access to Port Douglas Road is to be via the Davidson Street service road and Port & Crimmins Streets.	At all times.
7	The use of the permitted road access locations described in Conditions 1 to 4 is to be restricted to: a) Design vehicles up to a maximum size short sedan - Class 1 Short Length Light Vehicle ** Note: ** as described in Austroads Vehicle Classification System	At all times.
8	The existing road access works situated approximately 7 metres from the northern boundary of Lot 1RP741340 must be removed and all kerb and channel/ table drain/ footpath reinstated between the pavement edge and the property boundary in accordance with FNQROC standard drawings.	Prior to commencement of use.

Reasons for the decision

The reasons for this decision are as follows:

- Port Douglas Road (Davidson Street) a State-controlled road, incorporates the adjacent service road which is also known as Davidson Street.
- Currently the subject site (Lot 1 on RP741340) has road frontage and vehicle access to Davidson Street service road.
- Port Douglas Road is accessible from the service road at Crimmins Street, situated approximately 300 metres south of the subject land.
- The service road only allows left-out movements onto Port Street, situated approximately 120 metres north of the subject land. Access to and from Port Douglas Road is unable to be achieved at this location.
- The proposed development is intending to relocate and construct four new residential accesses via Davidson Street service road.
- As the proposed development is seeking new access and increasing generation, a section 62 approval is required to be issued by TMR.

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

Information about the Decision required to be given under section 67(2) of TIA

1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
2. In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

Further information about the decision

1. In accordance with section 67(7) of TIA, this decision notice:
 - a) starts to have effect when the development approval has effect; and
 - b) stops having effect if the development approval lapses or is cancelled; and
 - c) replaces any earlier decision made under section 62(1) in relation to the land.
2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.
3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

Further approvals

The Department of Transport and Main Roads also provides the following information in relation to this approval:

1. Road Access Works Approval Required – Written approval is required from the department to carry out road works that are road access works (including driveways) on a state-controlled road in accordance with section 33 of the TIA. This approval must be obtained prior to commencing any works on the state-controlled road. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the department to make an application.

If further information about this approval or any other related query is required, Mr Ronald Kaden, Technical Officer (Development Control) should be contacted by email at ron.p.kaden@tmr.qld.gov.au or on (07) 4045 7151.

Yours sincerely



Peter McNamara
Principal Engineer (Civil)

Attachments: Attachment A – Decision evidence and findings
Attachment B - Section 70 of TIA
Attachment C - Appeal Provisions
Attachment D - Permitted Road Access Location Plan

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Attachment A
Decision Evidence and Findings

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version / Issue
TMR Layout Plan (6504 - 4.29km)	Queensland Government Transport and Main Roads	16 February 2022	TMR22-35262 (500-1666)	A
Luna Villas Site Plan	Nathan Verri	22 December 2021	87-89DSPD 01	-
Access Crossovers	FNQROC	27 August 2020	S1015	E
Kerb and Channel	FNQROC	27 August 2020	S1000	G
Pathways / Bikeways	FNQROC	23 October 2017	S1035	D

Attachment B
Section 70 of TIA

Transport Infrastructure Act 1994
Chapter 6 Road transport infrastructure
Part 5 Management of State-controlled roads

70 Offences about road access locations and road access works, relating to decisions under s 62(1)

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
- (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
 - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
 - (c) obtain any other access between the land and the road contrary to the decision; or
 - (d) use a road access location or road access works contrary to the decision; or
 - (e) contravene a condition stated in the decision; or
 - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
 - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

Attachment C
Appeal Provisions

Transport Infrastructure Act 1994
Chapter 16 General provisions

485 Internal review of decisions

- (1) A person whose interests are affected by a decision described in schedule 3 (the *original decision*) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
 - (a) applies to the review; and
 - (b) provides—
 - (i) for the procedure for applying for the review and the way it is to be carried out; and
 - (ii) that the person may apply to QCAT to have the original decision stayed.

485B Appeals against decisions

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
 - (a) applies to the appeal; and
 - (b) provides—
 - (i) for the procedure for the appeal and the way it is to be disposed of; and
 - (ii) that the person may apply to the appeal court to have the original decision stayed.
- (4) Subsection (5) applies if—
 - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and

- (b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.
- (5) The court may order—
 - (a) the appeals to be heard together or 1 immediately after the other; or
 - (b) 1 appeal to be stayed until the other is decided.
- (6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.
- (7) In this section—

original decision means a decision described in schedule 3.

reviewed decision means the chief executive's decision on a review under section 485.

31 Applying for review

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if—
 - (a) the notice did not state the reasons for the original decision; and
 - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)the person may apply within 28 days after the person is given the statement of the reasons.
- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

32 Stay of operation of original decision

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
 - (a) may be given on conditions the relevant entity considers appropriate; and
 - (b) operates for the period specified by the relevant entity; and
 - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.

(8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

(9) In this section—

relevant entity means—

- (a) if the reviewed decision may be reviewed by QCAT—QCAT; or
- (b) if the reviewed decision may be appealed to the appeal court—the appeal court.

35 Time for making appeals

(1) A person may appeal against a reviewed decision only within—

- (a) if a decision notice is given to the person—28 days after the notice was given to the person; or
- (b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

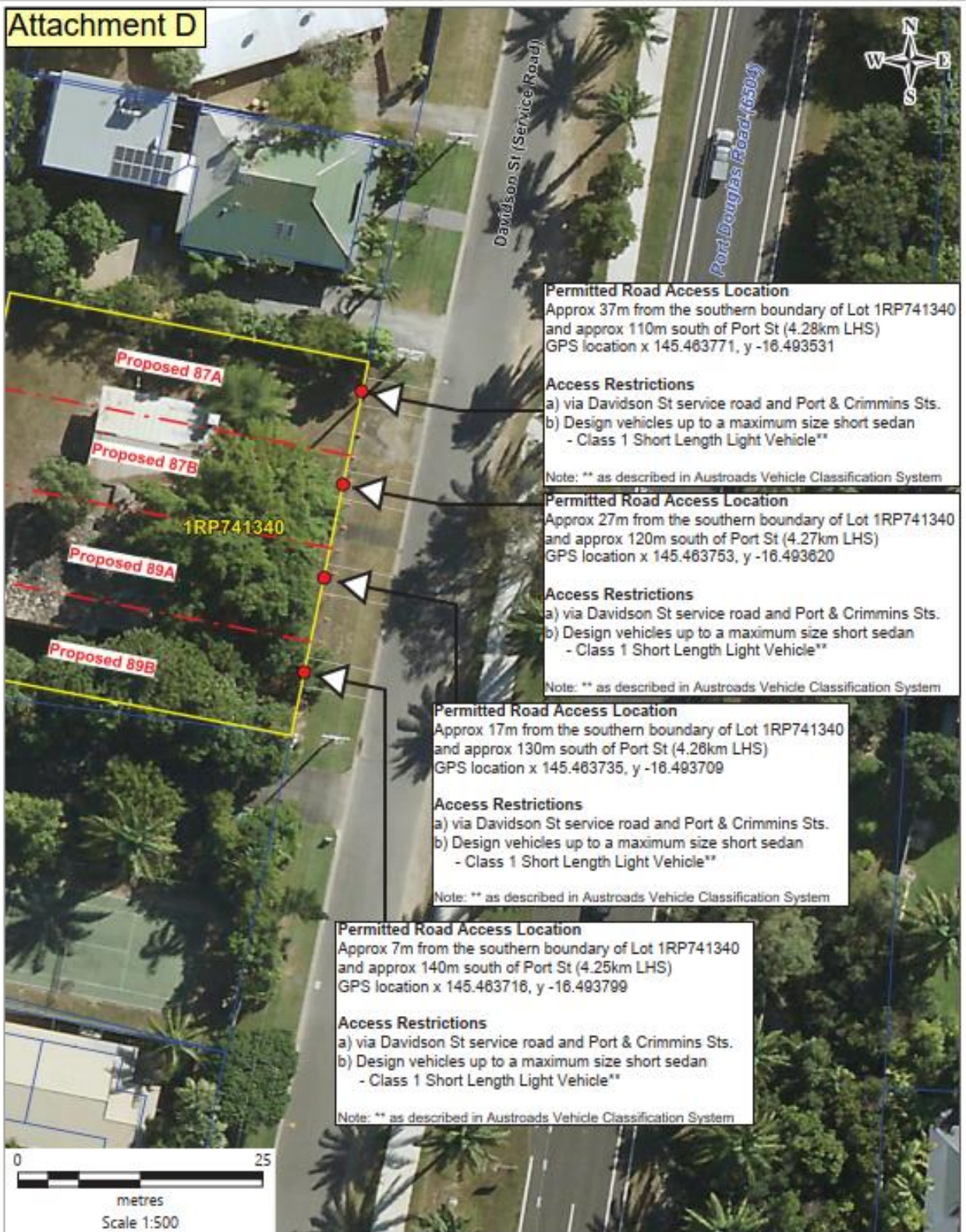
(2) However, if—

- (a) the decision notice did not state the reasons for the decision; and
- (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

the person may apply within 28 days after the person is given a statement of the reasons.

(3) Also, the appeal court may extend the period for appealing.

Attachment D



Branch/Unit:	
Corridor Management / Far North District	
Projection/Datum: Geocentric Datum of Australia (GDA) 2020	
Parcels	Subject land
Proposed boundaries	

TMR Layout Plan (6504 - 4.29km)



Queensland Government
Transport and Main Roads

Plan:	Issue:	Date:
1 / 1	A	16/02/2022
Drawn by:	File ref:	
RPK	TMR22-35262 (500-1666)	

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SARA reference: 2201-26870 SRA
 Council reference: CA2021_4560/1
 Applicant reference: 21-10/001160

25 February 2022

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

Attention: Daniel Lamond

Dear Sir/Madam

SARA response—87-89 Davidson Street, Port Douglas

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

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 19 January 2022.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	25 February 2022
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Development permit	Combined application for a Material change of use (multiple dwelling – 4 x 4 bedroom) and Reconfiguring a lot (1 lot into 4 lots).
SARA role:	Referral Agency.	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 (Planning Regulation 2017)	

Development application for a material change of use within 25m of a State-controlled road

Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1
(Planning Regulation 2017)

Development application for reconfiguring a lot within 25m of a State-controlled road

SARA reference: 2201-26870 SRA
 Assessment Manager: Douglas Shire Council
 Street address: 87-89 Davidson Street, Port Douglas
 Real property description: Lot 1 on RP741340
 Applicant name: NV & JS Pty Ltd
 Applicant contact details: C/- Planning Plus
 PO Box 399
 REDLYNCH QLD 4870
 info@planningplusqld.com.au

State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR22-035262 (500-1666)
- Date: 16 February 2022

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at cairns.office@tmr.qld.gov.au

Representations

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 Mary McCarthy, Senior Planning Officer, on 47583404 or via email CairnsSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Joanne Manson
A/Manager (Planning)

cc NV & JS Pty Ltd, info@planningplusqld.com.au

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
Reconfiguring a Lot		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1 – Reconfiguring a lot near a State transport corridor—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.	<p>(a) The road access locations are to be located generally in accordance with TMR Layout Plan (6504 – 4.29km), prepared by Queensland Government Transport and Main Roads, dated 16/02/2022, Reference TMR21-35262 (500-1666), Issue A.</p> <p>(b) Road access works comprising of four (4) residential property access crossovers must be provided at the road access locations.</p> <p>(c) The road access works must be designed and constructed in accordance with Far North Queensland Regional Organisation of Councils (FNQROC) Standard Drawing S1015 - Access Crossovers, dated 27/08/2020, Revision G.</p>	<p>(a) At all times.</p> <p>(b) and (c) Prior to submitting the Plan of Survey to the local government for approval.</p>
2.	Direct access is not permitted between Port Douglas Road and the subject site.	At all times.
3.	<p>(a) The existing vehicular property access located between Lot 1 on RP741340 and Davidson Street must be permanently closed and removed.</p> <p>(b) The kerb and channelling / footpath between the pavement edge and the property boundary must be reinstated in accordance with relevant standard drawings of Far North Queensland Regional Council Organisation (FNQROC) Concrete Kerb and Channel, Standard Drawing S1000, dated 27/08/2020, Revision G at no cost to the Department of Transport and Main Roads.</p>	Prior to submitting the Plan of Survey to the local government for approval.
Material change of use		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 – Material change of use of premises near a State transport corridor—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):		
4.	The road access locations are to be located generally in accordance with TMR Layout Plan (6504 – 4.29km), prepared by Queensland Government Transport and Main Roads, dated 16/02/2022, Reference TMR21-35262 (500-1666), Issue A.	At all times.
5.	Direct access is not permitted between Port Douglas Road and the subject site.	At all times.

6.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.</p> <p>(b) Any works on the land must not:</p> <ul style="list-style-type: none"> (i) create any new discharge points for stormwater runoff onto the state-controlled road. (ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road. (iii) surcharge any existing culvert or drain on the state-controlled road. (iv) reduce the quality of stormwater discharge onto the state-controlled road. 	At all times.
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Attachment 2—Advice to the applicant

General advice	
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.
Road Works Approval	
2.	<p>Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out road works.</p> <p>Please contact the Department of Transport and Main Roads on 4045 7144 to make an application for road works approval.</p> <p>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).</p> <p>Please contact the Department of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>

Attachment 3—Reasons for referral agency response

(Given under section 58(7) of the *Planning Act 2016*)

The reasons for the SARA decision are:

SARA has assessed the development against State code 1: Development in a State-controlled road environment of the State Development Assessment Provisions (SDAP), version 2.6, and determined that the development achieves compliance with the performance outcomes of the State code. Subject to reasonable and relevant conditions, the development does not:

- create a safety hazard for users of a State-controlled road
- result in a worsening of the physical conditions or operating performance of a State-controlled road
- comprise the State's ability to construct, maintain or operate State-controlled roads
- impact on the operational performance of the state transport network
- result in a worsening of the physical condition of the state transport network.

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)
- The Development Assessment Rules
- SARA DA Mapping system

Attachment 4—Change representation provisions

(page left intentionally blank – attached separately)

Attachment 5—Approved plans and specifications

(page left intentionally blank – attached separately)

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 Rules¹ regarding representations about a referral agency response

Part 6: Changes to the application and referral agency responses

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.²
- 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.

¹ Pursuant to Section 68 of the *Planning Act 2016*

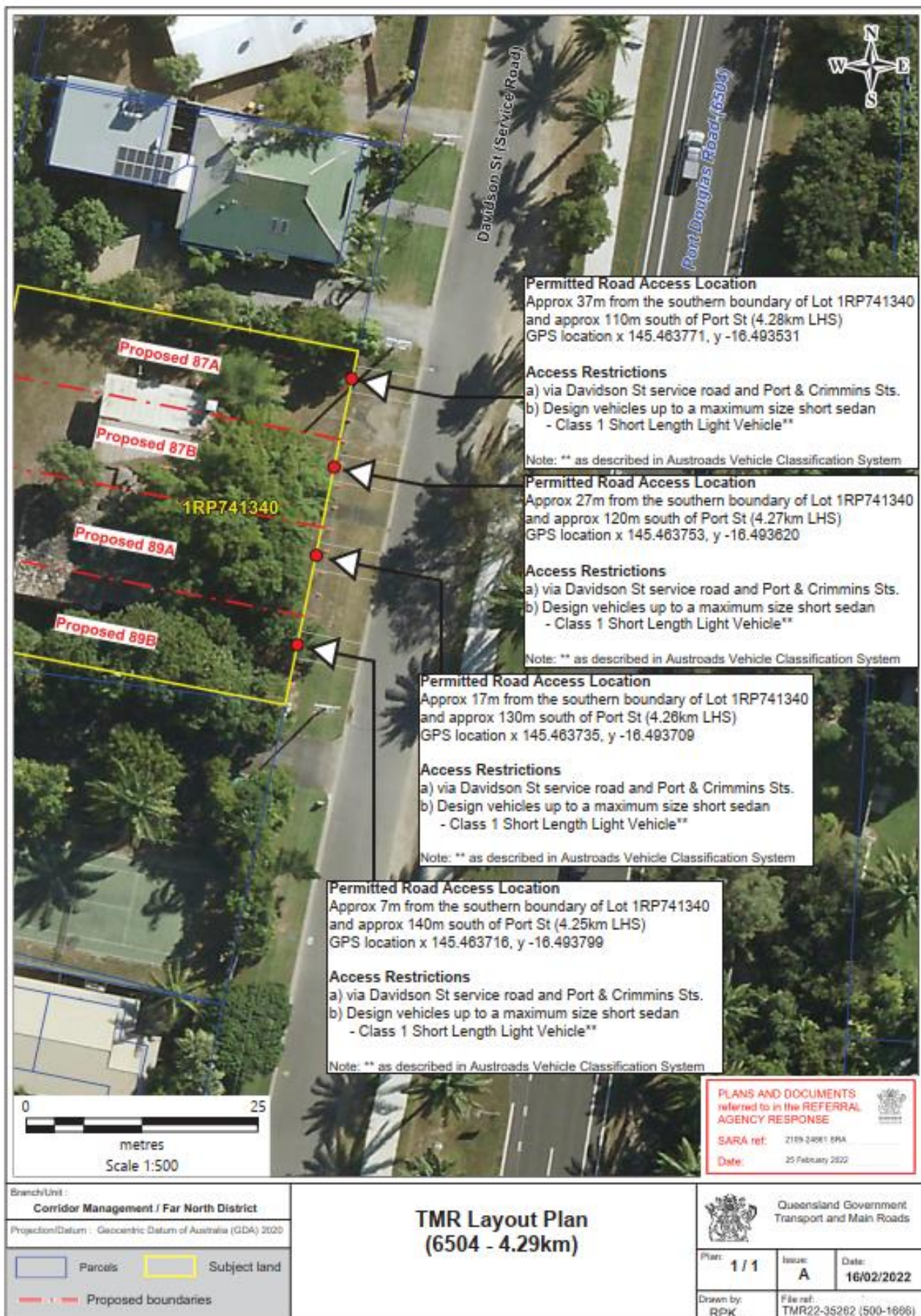
² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

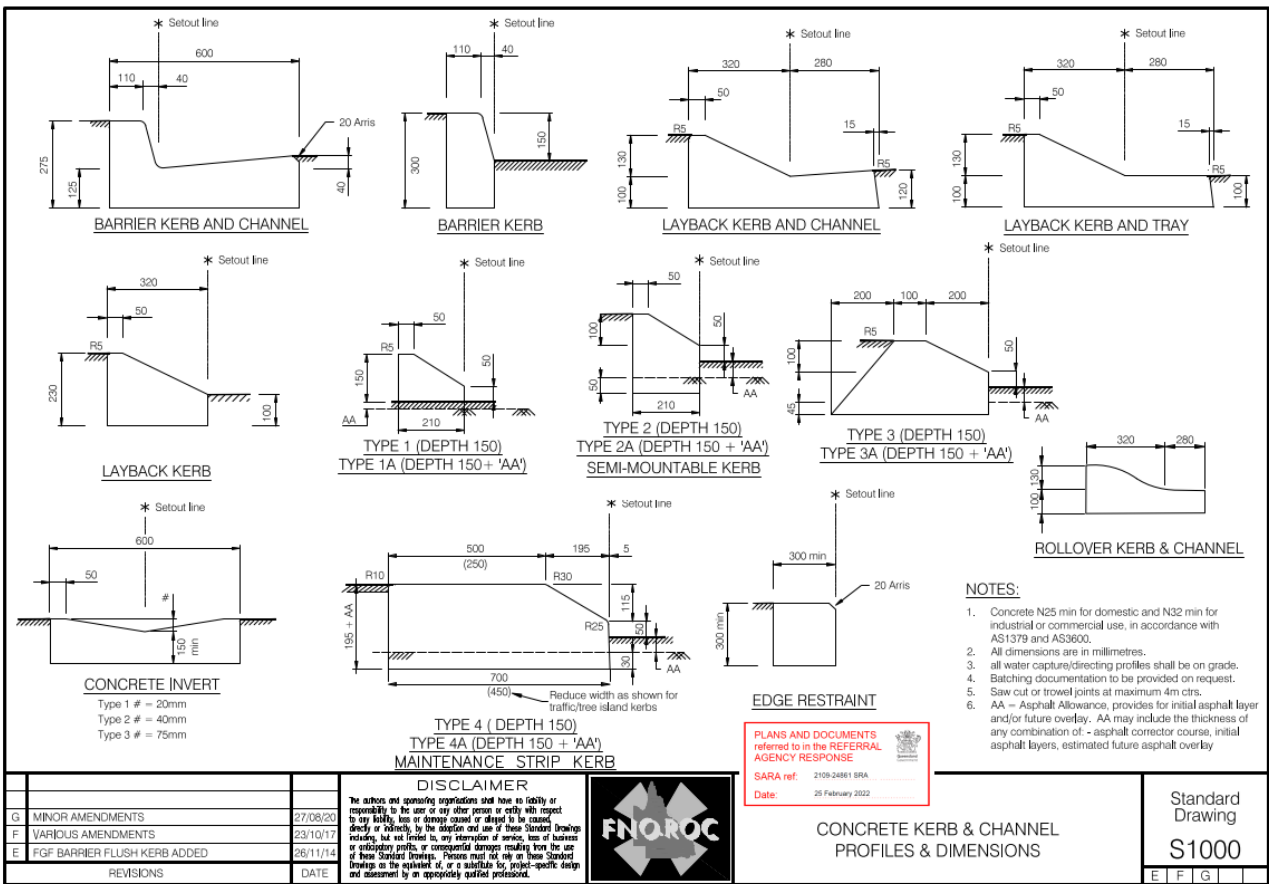
Part 7: Miscellaneous

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.³

³ 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.





Reasons for Decision

1. Sections 60, 62 and 63 of the *Planning Act 2016*:
 - a) to ensure the development satisfies the benchmarks of 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 on 18 January 2022 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
 - b) the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 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 Zone Code;
 - b) Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 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.

Extracts from the Planning Act 2016 - Making Representations During Applicant’s Appeal Period

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

74 What this subdivision is about

- (1) This subdivision is about changing a development approval before the applicant's appeal period for the approval ends.
- (2) This subdivision also applies to an approval of a change application, other than a change application for a minor change to a development approval.
- (3) For subsection (2), sections 75 and 76 apply—
 - (a) as if a reference in section 75 to a development approval were a reference to an approval of a change application; and
 - (b) as if a reference in the sections to the assessment manager were a reference to the responsible entity; and
 - (c) as if a reference in section 76 to a development application were a reference to a change application; and
 - (d) as if the reference in section 76(3)(b) to section 63(2) and (3) were a reference to section 83(4); and
 - (e) with any other necessary changes.

75 Making change representations

- (1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
 - (a) a matter in the development approval, other than—
 - (i) a matter stated because of a referral agency's response; or

- (ii) a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
 - (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- (3) Only 1 notice may be given.
- (4) If a notice is given, the appeal period is suspended—
- (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
 - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
 - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
 - (ii) the applicant receives notice that the assessment manager does not agree with the change representations; or
 - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

76 Deciding change representations

- (1) The assessment manager must assess the change representations against and having regard to the matters that

- must be considered when assessing a development application, to the extent those matters are relevant.
- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
- (a) the applicant; and
 - (b) if the assessment manager agrees with any of the change representations—
 - (i) each principal submitter; and
 - (ii) each referral agency; and
 - (iii) if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
 - (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
 - (v) another person prescribed by regulation.
- (3) A decision notice (a ***negotiated decision notice***) that states the assessment manager agrees with a change representation must—
- (a) state the nature of the change agreed to; and
 - (b) comply with section 63(2) and (3).
- (4) A negotiated decision notice replaces the decision notice for the development application.
- (5) Only 1 negotiated decision notice may be given.
- (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.

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) 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.

6 June 2022

Enquiries: Daniel Lamond
Our Ref: CA 2021_4560 (1090565)
Your Ref: 001160

NV & JS Pty Ltd
C/- Planning Plus Pty Ltd
PO Box 8046
CAIRNS QLD 4870

Dear Sir/Madam

**Adopted Infrastructure Charge Notice
For Combined Application (Multiple Dwellings & 1 Lot into 4 Lots)
At 87-89 Davidson Street PORT DOUGLAS
On Land Described as LOT: 1 RP: 741340**

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 2021_4560 in all subsequent correspondence relating to this matter.

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

Yours faithfully



For
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 Schemes Applications

ADOPTED INFRASTRUCTURE CHARGES NOTICE

NV & JS Pty Ltd DEVELOPERS NAME		BAHA ESTATE NAME	0 STAGE
87-89 Davidson Street STREET No. & NAME	Port Douglas SUBURB	Lot 1 ON RP741340 LOT & RP No.s	1730 PARCEL No.
Combined Application for multiple dwellings and reconfiguration of a lot DEVELOPMENT TYPE		CA2021/ 4560 COUNCIL FILE NO.	6 VALIDITY PERIOD (year)
1086874 DSC Reference Doc. No.	1 VERSION No.	Charges subject to indexation at time of payment	

Adopted Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021.

Locality	Charge per Use	rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
Port Douglas						
Proposed Demand						
multiple dwelling 4	1	24,143.38	3 or more bedroom	96,573.52		
Total Demand				96,573.52		
Existing Credit						
Restaurant 1	270	165.54	270	44,695.80		
						Code 895 GL 07500.0135.0825

Required Payment or Credit **TOTAL** \$51,877.72

Prepared by	D Lamond	19-May-22	Amount Paid	N/A
Checked by	N Beck	19-May-22	Date Paid	N/A
Date Payable			Receipt No.	N/A
Amendments	Date		Cashier	N/A

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 current policy are subject to indexing at the time of payment.

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

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.
- (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) 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.