

Administration Office

64 - 66 Front St Mossman

P 07 4099 9444

F 07 4098 2902

25 October 2022

Enquiries: Jenny Elphinstone
Our Ref: CA 2022_5113/1 (Doc ID 1116352)
Your Ref: PR152776

Martin and Lorraine Kay
C/- RPS AAP Consulting Pty Ltd
PO Box 1949
CAIRNS QLD 4870

Email: Patrick.clifton@rpsgroup.com.au

Attention Mr Patrick Clifton

Dear Sir

**Development Application for Combined Application (Minor Change to Material Change of
Use for Multiple Dwellings and Reconfiguration of a lot (1 lot into 2 lots)
At 131 Davidson Street Port Douglas
On Land Described as Lots 0, 1 and 2 on BUP70713**

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

Please quote Council's application number: CA 2022_5113/1 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



For
Paul Hoyer
Manager Environment & Planning

encl.

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Reasons for Decision
- Advice For Making Representations and Appeals (Decision Notice)



Decision Notice

Approval (with conditions)

Given under Sections 60, 62, 63 78, 78A, 79, 81, 81A and s83 of the Planning Act 2016

Applicant Details

Name: Martin and Lorraine Kay

Postal Address: C/- RPS AAP Consulting Pty Ltd
PO Box 1949
Cairns Qld 4870

Email: Patrick.clifton@rpsgroup.com.au

Property Details

Street Address: 131 Davidson Street Port Douglas

Real Property Description: Lots 0, 1 and 2 on BUP70713

Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Combined Application: minor change to the existing approval (Town Planning Consent TPC 268) for a material change of use to the existing multiple dwellings; and Reconfiguration of a Lot (1 lot into 2 lots).

Decision

Date of Decision: 25 October 2022

Decision Details: **A.** Minor change to the existing approval (Town Planning Consent TPC 268) for a material change of use to the existing multiple dwellings approved whereby:

1. The design of the development is in accordance with the following table of Approved Drawing(s) and / or Document(s).

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
Concept Design	Success by Design Architectural Building Designers, project LT131DVDST, Sheet C01.	11 October 2022
Site Plan - Existing	Success by Design Architectural Building Designers, project LT131DVDST, Sheet C02.	11 October 2022
Site Plan - Proposed	Success by Design Architectural Building Designers, project LT131DVDST, Sheet C03.	11 October 2022
Floor Plan - Existing	Success by Design Architectural Building Designers, project LT131DVDST, Sheet C05.	11 October 2022
Floor plan – Demolition	Success by Design Architectural Building Designers, project LT131DVDST, Sheet C06.	11 October 2022
Floor Plan - New	Success by Design Architectural Building Designers, project LT131DVDST, Sheet C07.	11 October 2022
Elevations	Success by Design Architectural Building Designers, project LT131DVDST, Sheet C08.	11 October 2022
Sections	Success by Design Architectural Building Designers, project LT131DVDST, Sheet C09.	11 October 2022
Plumbing	Success by Design Architectural Building Designers, project LT131DVDST, Sheet C19.	11 October 2022
Site Survey Proposal	Success by Design Architectural Building Designers, project LT131DVDST, Sheet C23.	11 October 2022
FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access		
Access Crossovers	In accordance with the Standard Drawing S1015 Issue E and excluding the provision of a public footpath.	27 August 2020
Concrete driveway for allotment access	Standard Drawing S1110 Issue F	27 August 2020

2. The following conditions and advices are included on the approval and apply to the minor change development:

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.

External Works

3. Undertake the following works external to the land at no cost to Council:
 - a. Provision of a concrete crossovers and aprons) in accordance with FNQROC Development Manual Standard Drawing S1015;
 - b. Make good the kerb and channel at the redundant crossovers, where not replaced by the new crossover;
 - c. Repair any damage to existing kerb and channel, footway or 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.

All works in the road reserve need to be properly separated from pedestrians and vehicles, with any diversions adequately signed and guarded.

Such work must be constructed in accordance with the endorsed plan to the satisfaction of the Chief Executive Officer prior to Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

Note: the above works are not considered to be creditable or trunk related works in accordance with Section 145 of the *Planning Act 2016*.

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, including but not limited to; mobilisation of heavy construction equipment, stripping and grubbing, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced at the developer's/owners/builders cost, prior to the Commencement of Use.

Stockpiling and Transportation of Fill Material (Existing Pool excavation & new Pools)

5. Soil used for filling or spoil from the excavation 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.
6. Dust emissions or other air pollutants, including odours, must not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

Lawful Point of Discharge

7. All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of the Chief Executive Officer.

ADVICE

1. This approval for the minor change, granted under the provisions of the *Planning Act 2016*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.
 2. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
 3. This approval does not negate the requirement for compliance with relevant Local Laws and statutory requirements.
 4. For information relating to the *Planning Act 2016* log on to www.dsdmip.qld.gov.au. To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.
3. All other requirements of the Decision Notice dated 4 March 1986 remain unchanged.

- B. Reconfiguration of a Lot (1 lot into 2 lots) - Approved (subject to conditions as listed below).

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

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

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

Drawing or Document	Reference	Date
Site Plan - Proposed	Success by Design Architectural Building Designers, project LT131DVDST, Sheet C03.	11 October 2022
Plumbing	Success by Design Architectural Building Designers, project LT131DVDST, Sheet C19.	11 October 2022
Site Survey Proposal	Success by Design Architectural Building Designers, project LT131DVDST, Sheet C23.	11 October 2022
FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access		
Access Crossovers	Generally in accordance with the Standard Drawing S1015 Issue E and excluding the provision of a public footpath.	27 August 2020
Concrete driveway for allotment access	Standard Drawing S1110 Issue F	27 August 2020

Assessment Manager Conditions & Advices

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;
 - 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 the issue of a Compliance Certificate for the Plan of Survey, except where specified otherwise in these conditions of approval. The Compliance Certificate for the Plan of Survey cannot be applied for prior to:-
 - a. The construction and completion of common property; and
 - b. All Villas being at lock-up stage; and

- c. The construction and completion of all external works.

Prior to the settlement and disposition of each lot, the Applicant must obtain a Final Certificate for the dwelling unit.

Water Supply and Sewerage Works Internal

3. Undertake the following water supply and sewerage works internal to the subject land:
 - a. Provide a single sewer and water connection to each lot in accordance with the FNQROC Development Manual;

All the above works must be designed and constructed in accordance with the *FNQROC Development Manual* under a development permit for operational work.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to the issue of a Compliance Certificate for the Plan of Survey.

The applicant is to consult with Council regarding the provision of the new jump up to the existing sewer.

Inspection of Sewers

4. CCTV inspections of existing sewers must be undertaken at works completion. An assessment of the CCTV records must be undertaken by the developer's consultant and a report along with the footage submitted to Council for approval. Defects must be rectified to the satisfaction of the Chief Executive Officer at no cost to Council prior to Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

Lawful Point of Discharge

5. All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development to the requirements and satisfaction of the Chief Executive Officer.

Existing Services

6. Written confirmation of the location of existing services for the land must be provided. In any instance where existing services are contained within another lot, the following applies, either:
 - a. Relocate the services to comply with this requirement; or
 - b. Arrange registration of necessary easements over services located within another lot prior to, or in conjunction with, the lodgement of a Compliance Certificate for the Plan of Survey creating the lot.

ADVICE

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.
2. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with all relevant Local Laws and statutory requirements.

4. For information relating to the *Planning Act 2016*, log on to www.dsdmip.qld.gov.au. To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.

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 Operational Work

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

Currency Period for the Approval

This approval, granted under the provisions of the *Planning Act 2016*, shall lapse four (4) 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 is attached.

MARTIN & LORRAINE KAY - PROPOSED VILLA
RENOVATION 131 DAVIDSON STREET PORT
DOUGLAS 4877

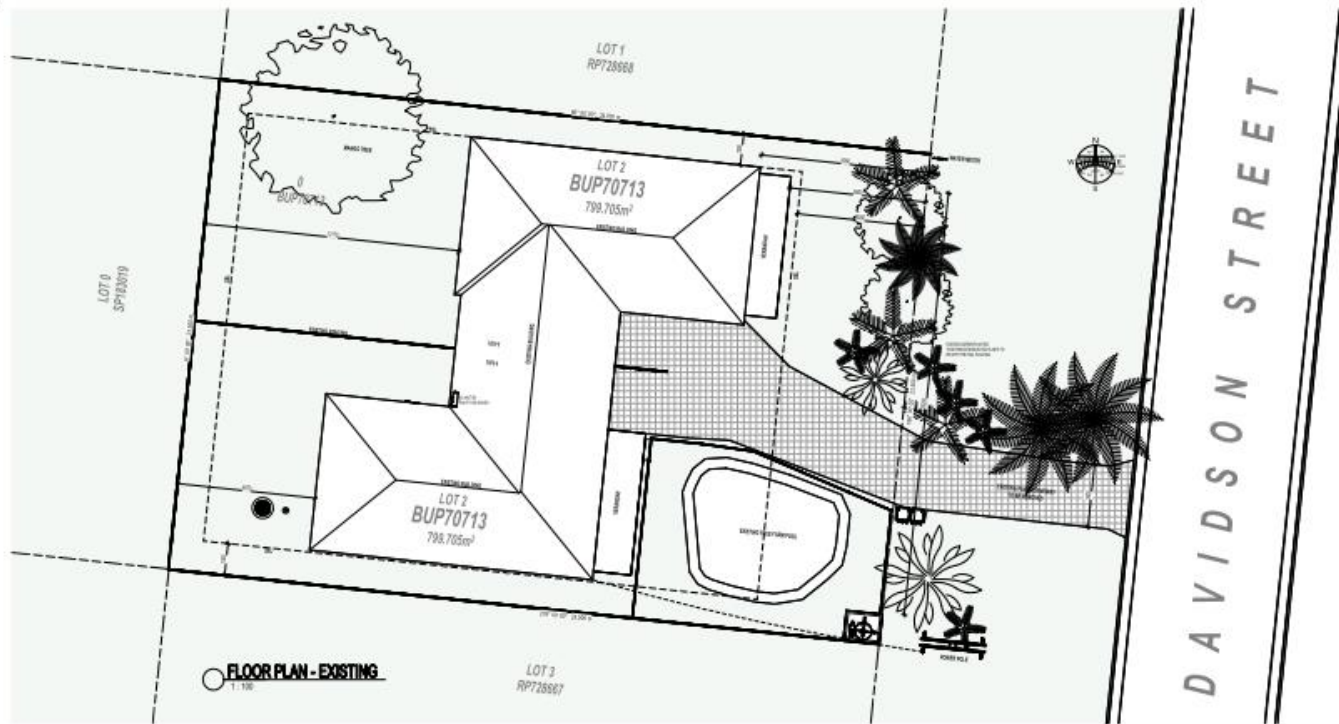
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STUDY 1: SPENDING TIME VS. DEPENDENCY						
AGE GROUP	DEPENDENCY		SPENDING TIME			
	LOW	HIGH	LOW		HIGH	
18-24	10	20	15	25	30	35
25-34	15	25	20	30	35	40
35-44	20	30	25	35	40	45
45-54	25	35	30	40	45	50
55-64	30	40	35	45	50	55
65+	35	45	40	50	55	60

DRAGAGE TRUSS EXHIBITION

- CHANGING DIMENSIONS ARE TO BE CIRCLED AND COMPARED TO BE BY THE BUILDING
- FINISHING AND DISPLAY BOARD AND WALL AND INTERIORS ARE FOR
- DURING PURPOSES AND NET TO BE INCLUDED IN TENDERING DOCUMENTATION
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- ARTIST CHANGING AND READING AND FOR VISUAL REPRESENTATION ONLY
- ARTIST NOT BE THE EXACT FINISH COLOR, TISSUE OR MATERIAL TO BE
- USED ALONGS UNLESS BUILDING SPECIFICATIONS FOR EXACT FINISH COLOR
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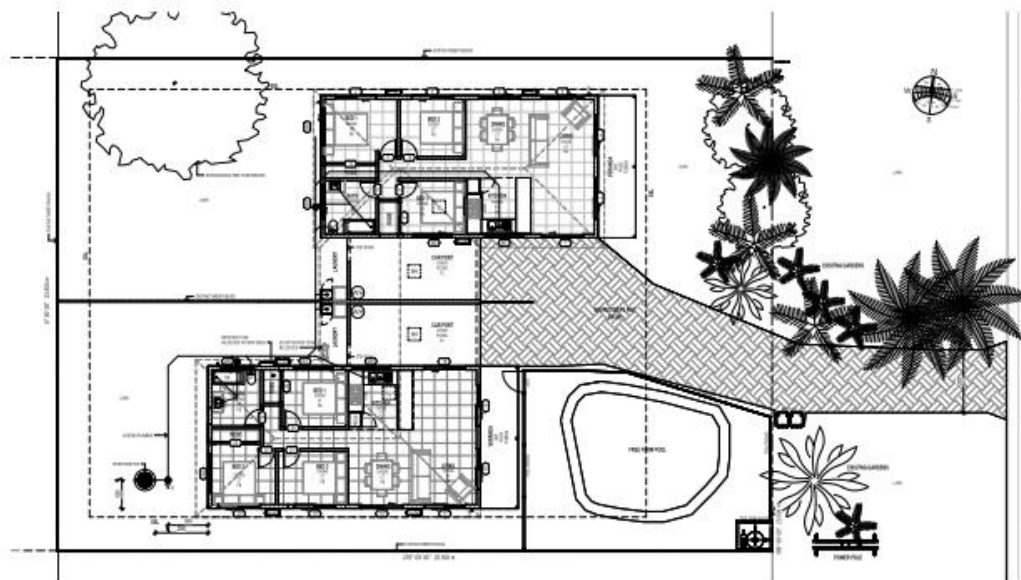


EXISTING LOT 1, 2, 3 AREA	
LOT 1 - EXISTING	
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<p>Success by Design Architectural Building Design</p> <p>11166352</p>	<p>PLAN ISSUE:</p> <p>CONCEPT DESIGN</p> <p>NOT FOR CONSTRUCTION</p>	<p>CERTIFIED AS</p> <p>STRUCTURALLY ADEQUATE</p> <p>11166352</p>	<p>PROJECT: RENOVATION DAVIDSON STREET DUPLEX</p> <p>PROJECT ADDRESS:</p> <p>131 Davidson Street, Port Douglas</p>	<p>DATE: 11/11/2021</p> <p>PROJECT NUMBER: 11166352</p> <p>SCALE: 1:100</p> <p>01</p>
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FLOOR PLAN - EXISTING
1:100



NO.	DESCRIPTION
1	EXISTING WALL
2	EXISTING DOOR
3	EXISTING WINDOW
4	EXISTING FURNITURE
5	EXISTING PLANT
6	EXISTING LIGHTING
7	EXISTING ROOF
8	EXISTING FLOOR
9	EXISTING CEILING
10	EXISTING STAIR
11	EXISTING ELEVATOR
12	EXISTING MECHANICAL
13	EXISTING ELECTRICAL
14	EXISTING TELEPHONE
15	EXISTING FIRE ALARM
16	EXISTING SMOKE DETECTOR
17	EXISTING SPRINKLER
18	EXISTING EXTINGUISHER
19	EXISTING FIRST AID KIT
20	EXISTING FIRE EXTINGUISHER



PLAN ISSUE:
CONCEPT DESIGN
NOT FOR CONSTRUCTION



PROJECT: RENOVATION DAVIDSON STREET DUPLEX
PROJECT ADDRESS:
131 Davidson Street, Port Douglas

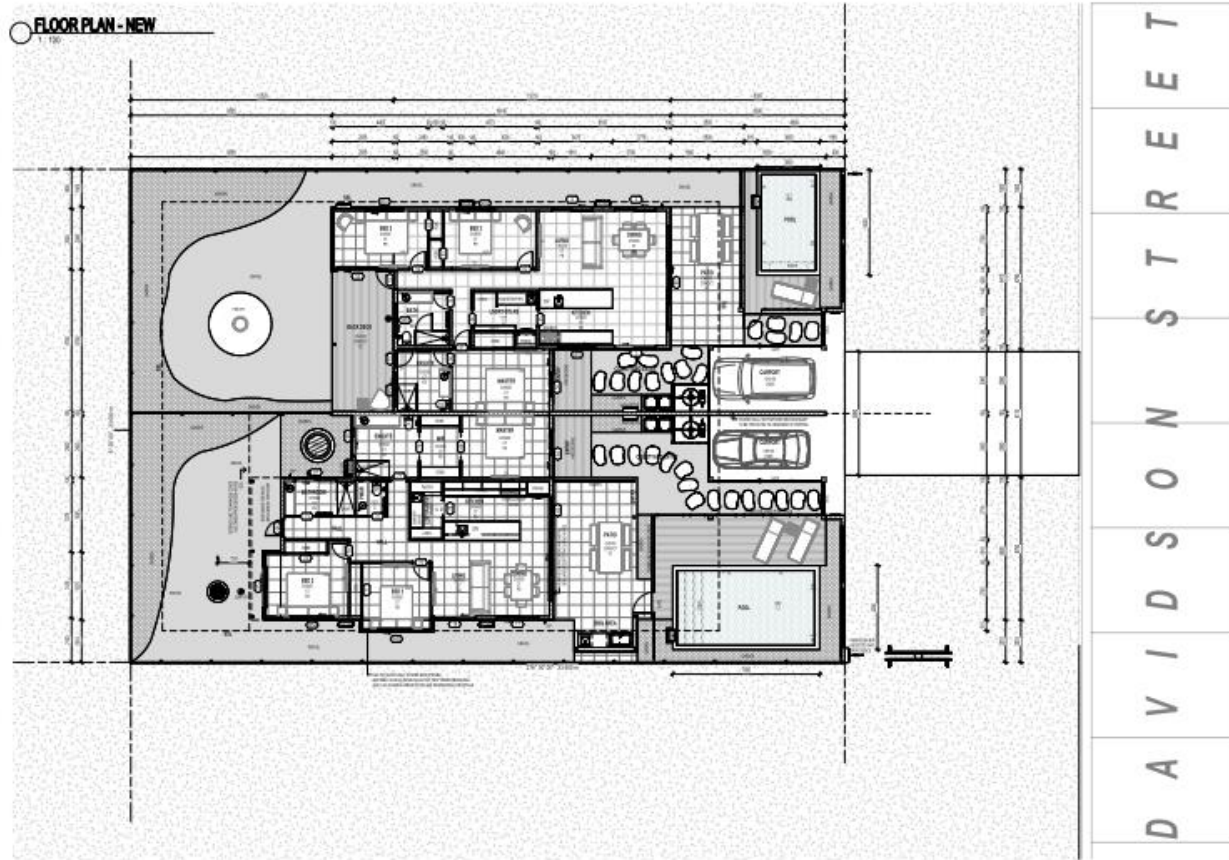
DATE: FLOOR PLAN - EXISTING PROJECT NUMBER: LT1010007

DESIGNER: PAVANDELA DRAWN: JAYEN DUBOIS SCALE: AS SHOWN SHEET: 001

FLOO
1:100



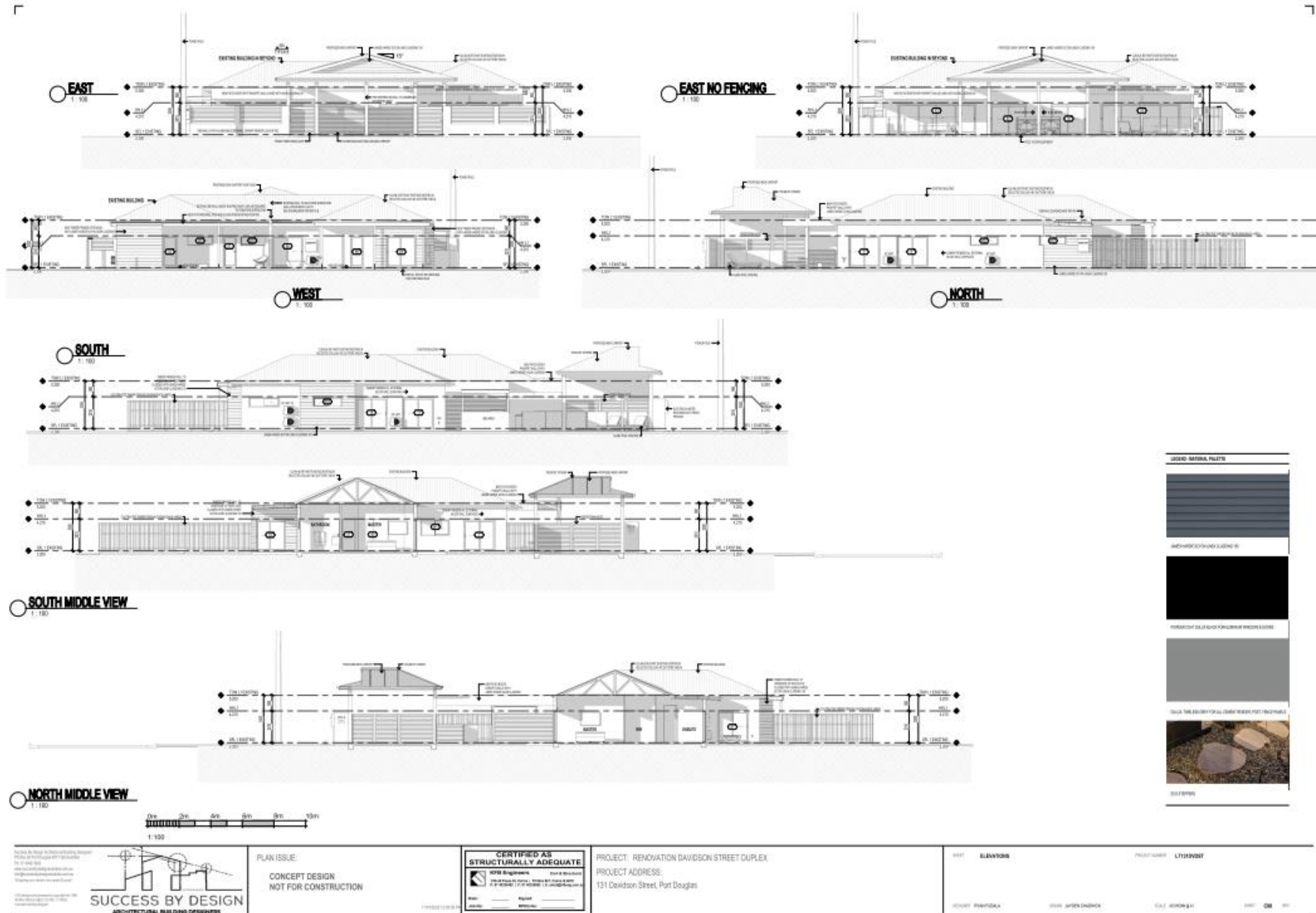
FLOOR PLAN - NEW



DAVIDSON STREET

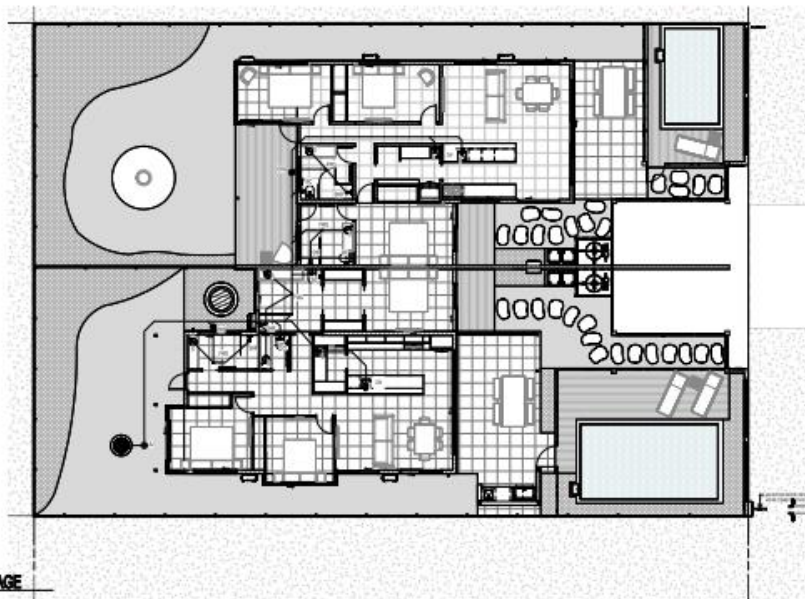


<p>SUCCESS BY DESIGN ARCHITECTURAL BUILDING DESIGNERS</p>	<p>PLAN ISSUE:</p> <p>CONCEPT DESIGN NOT FOR CONSTRUCTION</p>	<p>CERTIFIED AS STRUCTURALLY ADEQUATE</p> <p>NOTE: Engineers J. P. & S. P. Engineers 10000 100th Ave. S.E. Bellevue, WA 98003</p>	<p>PROJECT: RENOVATION DAVIDSON STREET DUPLEX</p> <p>PROJECT ADDRESS: 131 Davidson Street, Port Douglas</p>	<p>HEET: FLOOR PLAN - NEW</p> <p>PROJECT NUMBER: LT1000001</p> <p>DESIGNER: P. J. & S. P. ENGINEERS</p> <p>DATE: 08/20/2022</p> <p>SCALE: AS SHOWN</p> <p>DATE: 08/20/2022</p>
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GENERAL PLUMBING NOTES

- 1. ALL WORK SHALL BE IN ACCORDANCE WITH THE NEW ZEALAND PLUMBING CODE (NZPC) AND THE NEW ZEALAND BUILDING CODE (NZBC).
- 2. ALL WORK SHALL BE IN ACCORDANCE WITH THE NEW ZEALAND PLUMBING CODE (NZPC) AND THE NEW ZEALAND BUILDING CODE (NZBC).
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- 5. ALL WORK SHALL BE IN ACCORDANCE WITH THE NEW ZEALAND PLUMBING CODE (NZPC) AND THE NEW ZEALAND BUILDING CODE (NZBC).



LEGEND: PLUMBING & DRAINAGE		
PLUMBING & DRAINAGE		
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LOT 1
RP728668

PROPOSED NEW LOT 1
399.852m²

LOT 2
BUP70713
799.705m²

PROPOSED NEW LOT 2
399.852m²

LOT 3
RP728667

LOT 0
SP183019

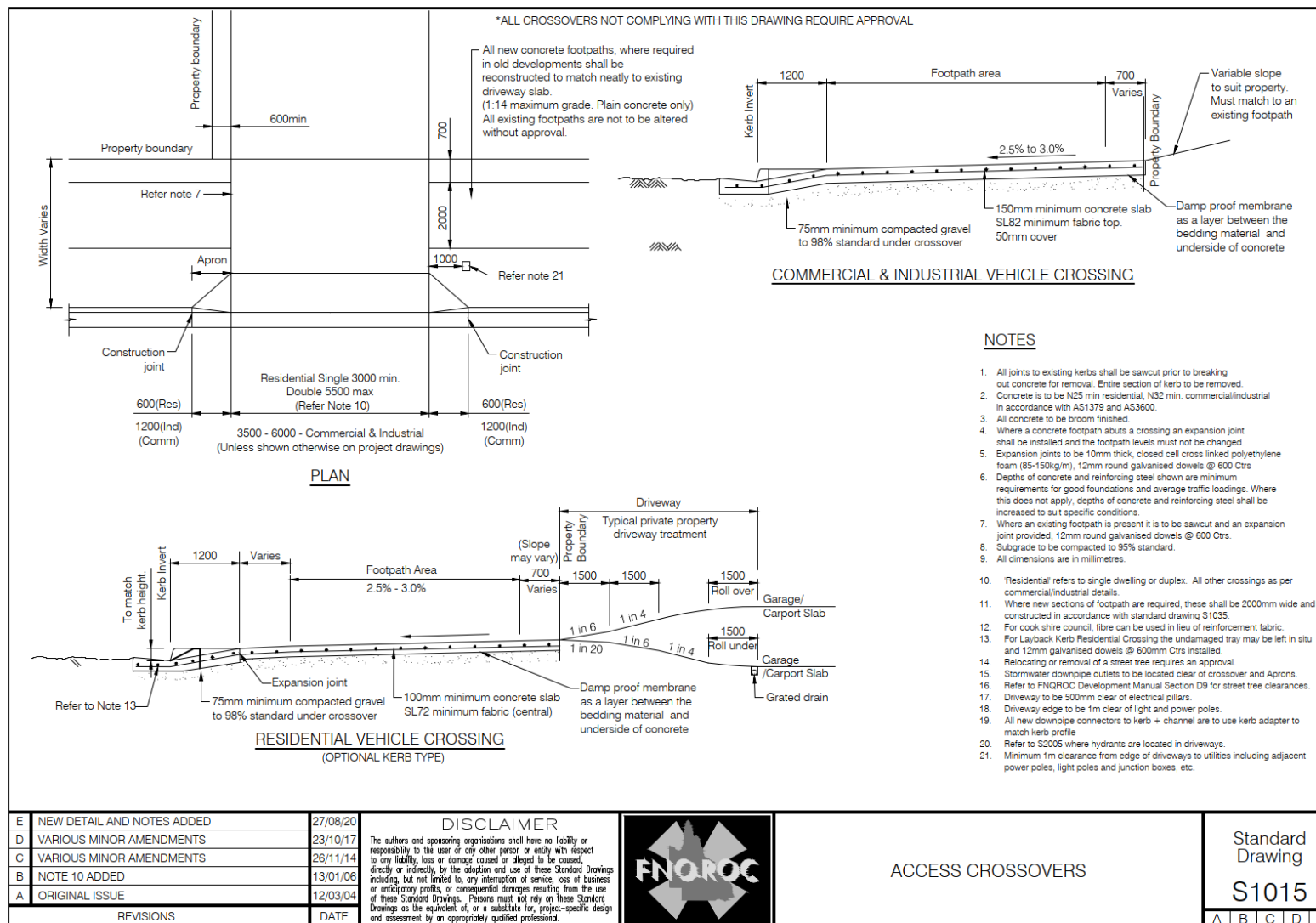
DAVIDSON STREET

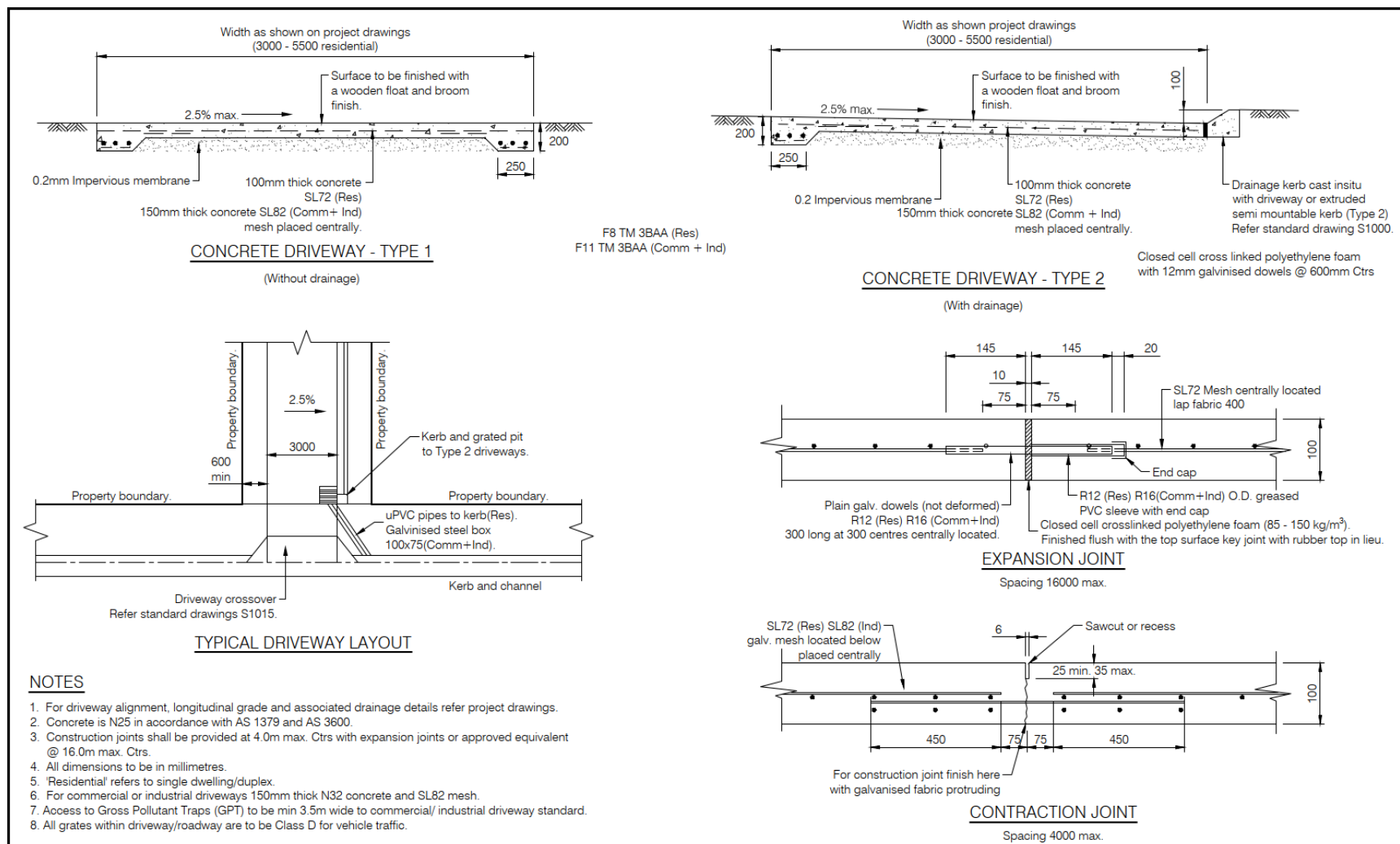


DAVIDSON STREET

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FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access





NOTES

1. For driveway alignment, longitudinal grade and associated drainage details refer project drawings.
2. Concrete is N25 in accordance with AS 1379 and AS 3600.
3. Construction joints shall be provided at 4.0m max. Ctrs with expansion joints or approved equivalent @ 16.0m max. Ctrs.
4. All dimensions to be in millimetres.
5. 'Residential' refers to single dwelling/duplex.
6. For commercial or industrial driveways 150mm thick N32 concrete and SL82 mesh.
7. Access to Gross Pollutant Traps (GPT) to be min 3.5m wide to commercial/ industrial driveway standard.
8. All grates within driveway/roadway are to be Class D for vehicle traffic.

E	VARIOUS AMENDMENTS	23/10/17	DISCLAIMER The authors and sponsoring organisations shall have no liability or responsibility to the user or any other person or entity with respect to any liability, loss or damage caused or alleged to be caused, directly or indirectly, by the adoption and use of these Standard Drawings including, but not limited to, any interruption of service, loss of business or anticipatory profits, or consequential damages resulting from the use of these Standard Drawings. Persons must not rely on these Standard Drawings as the equivalent of, or a substitute for, project-specific design and assessment by an appropriately qualified professional.		CONCRETE DRIVEWAY FOR ALLOTMENT ACCESS	Standard Drawing S1110	F C D E
D	MINOR AMENDMENTS	26/11/14					
C	TYPES 1 AND 2 REVISED, NOTE 3 AMENDED	01/02/06					
F	NOTE ADDED	27/08/20					
	REVISIONS	DATE					

DOUGLAS SHIRE COUNCIL



MOSSMAN Q. 4873

PO BOX 100

TELEPHONE (070) 98 1555 - ADMINISTRATION OFFICE
98 1644 - WORKS / ENGINEERING OFFICE

TELEX No. 48914

ALL COMMUNICATIONS TO BE ADDRESSED TO
THE SHIRE CLERK.

IF CALLING OR TELEPHONING
ON THIS MATTER ASK FOR:

Mr. J. Parsons

QUOTE REFERENCE T2A JFP MG

YOUR REFERENCE

4th March, 1986

B.M. Kedwell & S.M. Trunley,
137 Davidson St.,
PORT DOUGLAS. Q. 4871

Dear Sir/Madam,

Re: Town Planning Scheme Application No. 268

I refer to your application dated 29th December, 1985 for land use approval under the provisions of the Town Planning Scheme for the development of a Duplex on land described as Lot 2, R.P. 28667, Parish of Salisbury, County of Solander.

This application has been considered by Council and I have to advise that consent has been granted thereto subject to the following conditions:-

1. Should within a period of two years from the date of the permit work on the development as approved not be commenced Council may implement action to revoke the approval as given.
2. The submission of a building application in accordance with the Building Act showing substantial compliance with the sketch plan submitted with the consent application.
3. The approval does not constitute a building permit and a building permit must be obtained before any building operations proceed.

4. The development must comply with the provisions of:-

- (a) Council's Town Planning Scheme;
- (b) Council's Development Control Plan, and
- (c) Local Government Act, the Building Act, the Fire Safety Act and all other relevant Acts and Regulations and the By-laws of the Council shall at all times be observed and performed in relation to the land, the building and use and occupation thereof.

5. The conditions of the Town Planning Consent are to be affected prior to the commencement of the specific use as granted by the said consent.

6. Access to and egress from Davidson Street is to be of a design and on an alignment as specified by Council's Engineer. The access is to be bitumen sealed from the property alignment to the existing bitumen pavement.

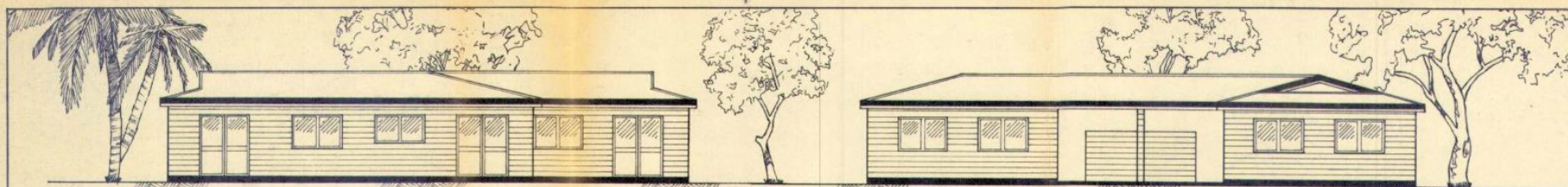
7. The driveways from the boundary to the carports is to be bitumen sealed or paved with paving blocks or concrete.

8. No trees are to be removed from the Road Reserve without prior approval of Council.

9. Contributions to headworks are to be paid as follows:-
Water - \$5,280
Sewerage - \$4,600
Total - \$9,880

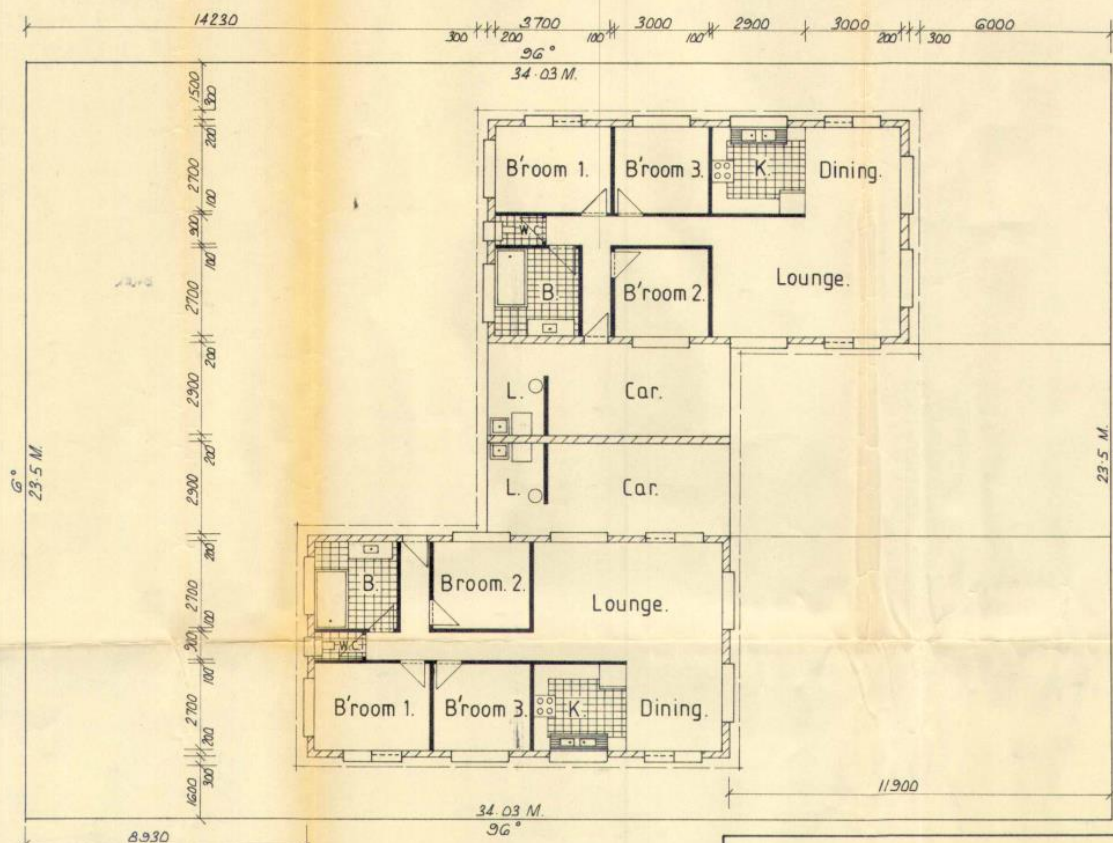
Yours faithfully,


A.J. Twomey
SHIRE CLERK



SIDE VIEW.

FRONT VIEW.



PROPERTY DESCRIPTION:

Lot 2. Davidson St.
Port Douglas.

R.P. 28667.

PROPERTY AREA:

800 M².

FLOOR & SITE PLAN.

PROPOSED DUPLEX FOR. B.M.KEDWELL & S.M.TRUNLEY.
AT. LOT. 2. DAVIDSON ST. PORT DOUGLAS.

Scale: 1:100 or
as shown.

Date: 28-12-85.

BRUCE M. CLARKE.
7 Helmet St. Four Mile Bch. Q. 4872.
P.O. Box 184. Port Douglas. Q. 4872.
Phone. (070) 98 5277.



Reasons for Decision

1. The reasons for this decision are:
 - a. Sections s60, s62, s63 s78, s78A, s79, s81, s81A and s83 of the *Planning Act 2016*:
 - b. to ensure the development satisfies the benchmarks of the 1981 Planning Scheme for the Whole of the Douglas Shire, in respect to the minor change, and the 2018 Douglas Shire Planning Scheme Version 1.0; and
 - c. 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 12 October 2022 under sections s51, s78, s78A, s79 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 and the 1981 Planning Scheme for the Whole of the Douglas Shire 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 Tourist Accommodation Zone Code;
 - b. Council undertook an assessment in accordance with the provisions of sections s60, s62, s63, 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.

Non-Compliance with Assessment Benchmarks

Through the conditions of the approval the development satisfactorily complies with the planning scheme and no concerns are raised.

Planning Act 2016
Chapter 3 Development assessment

[s 74]

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

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- (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) 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.