

Administration Office

64 - 66 Front St Mossman

P 07 4099 9444

F 07 4098 2902

8 December 2022

Enquiries: Jenny Elphinstone
Our Ref: CA 2022_5144/1 (Doc ID 1119994)
Your Ref: AU006895

Catherine Rosenbrauer
C/- 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 a Combined Application for a Material Change of Use for a
Dual Occupancy and Reconfiguration of a Lot (1 Lot into 2 Lots)
At 40 Cooya Beach Road Bonnie Doon
On Land Described as Lot 3 on SP199682**

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

Please quote Council's application number: CA 2022_5144/1 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)
- Adopted Infrastructure Charges Notice
- Advice For Making Representations and Appeals (Infrastructure Charges)



Decision Notice

Approval (with conditions)

Given under s 63 of the Planning Act 2016

Applicant Details

Name: Catherine M Rosenbrauer
Postal Address: C/- RPS Australia East Pty Ltd
PO Box 1949
CAIRNS QLD 4870
Email: Patrick.clifton@rpsgroup.com.au

Property Details

Street Address: 40 Cooya Beach Road Bonnie Doon
Real Property Description: LOT: 3 SP: 199682
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for a Combined Application for a Material Change of Use for a Dual Occupancy and Reconfiguration of a Lot (1 Lot into 2 Lots).

Decision

Date of Decision: 8 December 2022
Decision Details: Approved (subject to conditions)

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
Perspectives	Generally in accordance with the unauthored Drawing titled Project 2209C, A000, Issue 03 dated 24 September 23, as lodged in the RPS Report (Council Document 1119055), Printed 23 October 2022 and as amended by the	To be determined.

	Conditions of the approval.	
Drawing or Document	Reference	Date
Proposed Site Layout	Generally in accordance with the unauthored Drawing titled Project 2209C, A001, Issue 03 dated 24 September 23, as lodged in the RPS Report (Council Document 1119055), Printed 23 October 2022 and as amended by the Conditions of the approval.	To be determined.
Proposed Site layout - DIMS	Generally in accordance with the unauthored Drawing titled Project 2209C, A101, Issue 03 dated 24 September 23, as lodged in the RPS Report (Council Document 1119055), Printed 23 October 2022 and as amended by the Conditions of the approval.	To be determined.
Typical Sections	Generally in accordance with the unauthored Drawing titled Project 2209C, A202, Issue 03 dated 24 September 23, as lodged in the RPS Report (Council Document 1119055), Printed 23 October 2022 and as amended by the Conditions of the approval.	To be determined.
Proposed Elevations	Generally in accordance with the unauthored Drawing titled Project 2209C, A201, Issue 03 dated 24 September 23, as lodged in the RPS Report (Council Document 1119055), Printed 23 October 2022 and as amended by the Conditions of the approval.	To be determined.
Proposed Layout	Generally in accordance with the unauthored Drawing titled Project 2209C, A100, Issue 03 dated 24 September 23, as lodged in the RPS Report (Council Document 1119055), Printed 23 October 2022 and as amended by the Conditions of the approval.	To be determined.
FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access		
Access Crossovers	Standard Drawing S1015 Issue E	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 all required external works, the provision of services and the completion of conditions as listed; and
 - b. The new dwelling being at lockup stage.

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

Amended design

3. The proposed development must be amended to accommodate the following changes:
 - a. Required clearances for the building work:
 - i. 1m in every direction from the HCB riser;
 - ii. Invert level of the sewer main needs to be 300mm above the zone of influence of the building footings;or,
 - iii. The building footings need to be supported on screwed or bored (not Driven) piles or piers that are 1.2m from the centre line of the sewer and the sewer pipe invert level is 300mm above the zone of influence (the building may need to be located further from the sewer.); and
 - b. Clearances for access:
 - i. A wall, footing, pile, pier or floor of the structure is at least 1.2m from the centreline of sewer;
 - ii. A clear zone for the infrastructure 1.5m wide along the centre line of the sewer, a height clearance of 2.4m from finished surface level, this clearance applies for the length of the sewer; and
 - iii. A clear zone of 1.5m in every direction from circular maintenance cover with an infinite height clearance (manhole cover in the proposed front of lot).

Details of the above amendments must be endorsed by the Chief Executive Officer prior to issue of a Development Permit for Building Work.

Water Supply and Sewerage Works

4. Undertake the following water supply and sewerage works internal to the subject land:
 - a. Relocate the existing internal sewer supply to the existing dwelling to be suitably

clear of all buildings and structures for the new dwelling.

- b. Provide a single internal sewer connection to each lot in accordance with the Regional FNQROC Development Manual;
- c. Provide a single water connection to each lot in accordance with the regional FNQROC Development Manual;
- d. The sewer design plans are required to demonstrate that the sewer alignments achieve the separation and setback distances from buildings, structures and boundaries in accordance with FNQROC Regional Development Manual and Water and Sewerage Authority (WASA) guidelines;

All the above works must be designed and constructed in accordance with the *FNQROC Regional Development Manual*.

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 signing and dating of the Plan of Survey.

Sewer Easement

5. Create a Sewer Easement over proposed Lot 3B for the benefit of proposed Lot 3A to the requirements and satisfaction of the Chief Executive Officer. A copy of the easement documents must be submitted to Council for the approval of Council's solicitors at no cost to Council. The approved easement documents must be submitted at the same time as seeking approval and dating of the Plan of Survey and must be lodged and registered with the Department of Natural Resources and Mines in conjunction with the Plan of Survey.

General External Works

6. Undertake the following external works:
 - a. Provide a vehicle crossover and driveway to each dwelling constructed to FNQROC Regional Development Manual standard drawings S1015 and S1110.
 - b. Ensure the street tree is appropriately distanced from the vehicle access or relocate the street tree and replant as per the FNQROC Regional Development Manual Standards.

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

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

Electricity and Telecommunications

7. Written evidence of negotiations (certificate of supply) with Ergon Energy must be submitted to Council stating that an electricity supply and an underground telecommunications service will be provided to the development prior to the signing and dating of the Plan of Survey.

Damage to Council Infrastructure

8. 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.

Sewer Access

9. The developer and owner must maintain clear access to Council's sewer must be maintained at all times. All landscaping including any irrigation must be able to be removed. All costs associated with the removal / reinstatement of any items over Council's sewer affected by any Council inspection, maintenance and / or replacement of sewer is at the owner's expense.

Lawful Point of Discharge

10. 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, 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.

Infrastructure Charges Notice

5. A charge levied for the supply of trunk infrastructure is payable to Council towards the provision of trunk infrastructure in accordance with the Infrastructure Charges Notice. The original Infrastructure Charges Notice will be provided under cover of a separate letter.

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

Please note that this Decision Notice and the Infrastructure Charges Notice are stand-alone documents. The *Planning Act 2016* confers rights to make representations and appeal in relation to a Decision Notice and an Infrastructure Charges Notice separately.

The amount in the Infrastructure Charges Notice is subject to index adjustments and may be different at the time of payment. Please contact the Development Assessment Team at council for review of the charge amount prior to payment.

The time when payment is due is contained in the Adopted Infrastructure Charges Notice.

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*.

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.

Approved Drawing (s) and / or Document(s) (Subject to amendments are required by the Conditions of the approval) _____



PERSPECTIVE OF ENTRY



PERSPECTIVE FROM SE



PERSPECTIVE FROM STREET

A100	03	PROPOSED LAYOUT
A201	03	PROPOSED ELEVATIONS
A202	03	TYPICAL SECTIONS
A101	03	PROPOSED LAYOUT - DIMS
A001	03	PROPOSED SITE LAYOUT
A000	03	COVER SHEET
A302	03	TYPICAL BATHROOM
A301	03	INTERNAL VIEWS

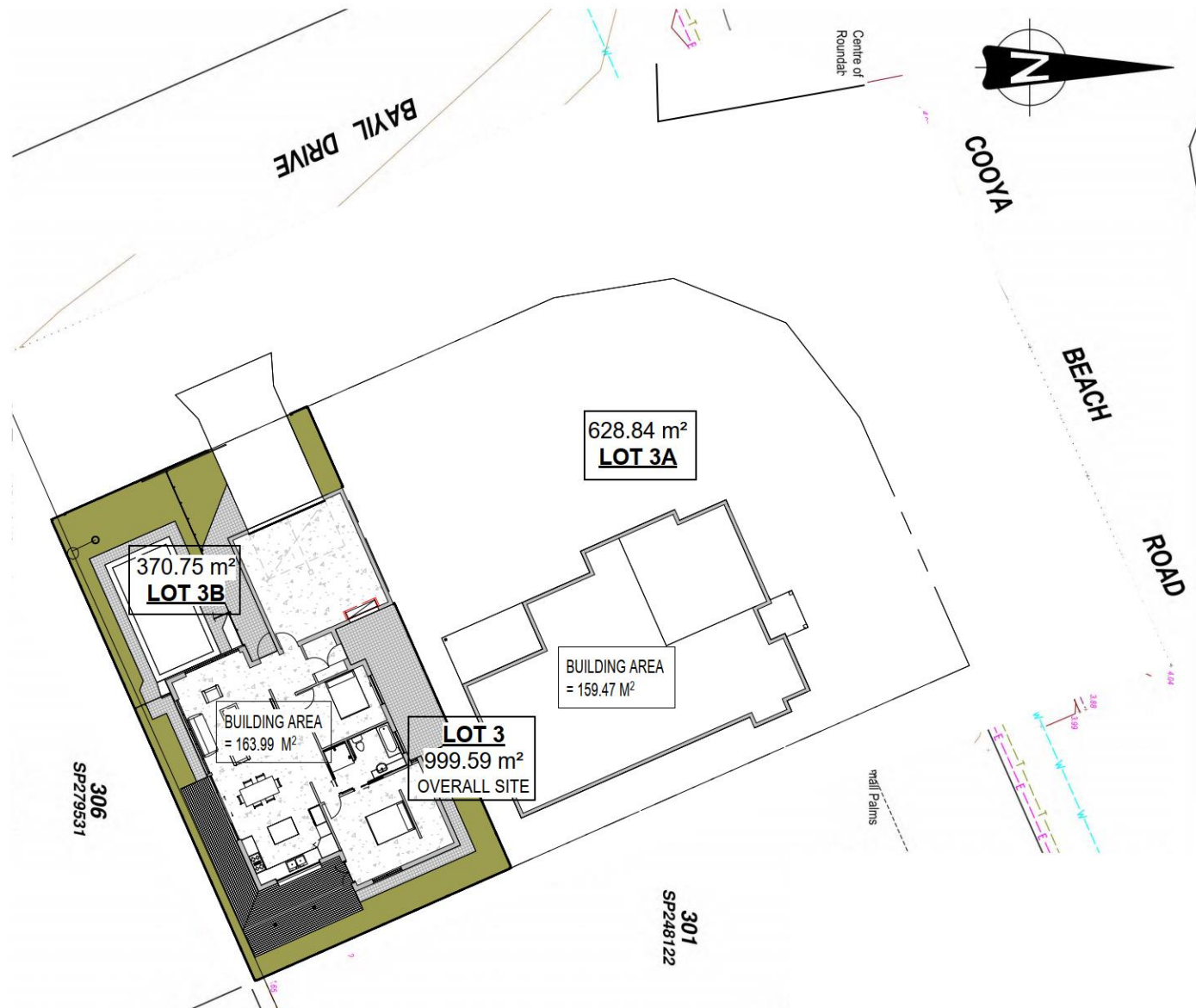
Project number	2209C	A000
Date	24Sep23	
Scale		
		Issue: 03

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Catherine Rosenbrauer

Rosenbrauer Cottage - IDEAS

COVER SHEET



LOT 3A	
LOT AREA	628.84
DWELLING AREA	159.47
PLOT RATION	25.36%
LOT 3B	
LOT AREA	370.75
DWELLING AREA	163.99
PLOT RATION	44.23%

BASED ON RPS DRWG 107714-121
DATED 13/06/22

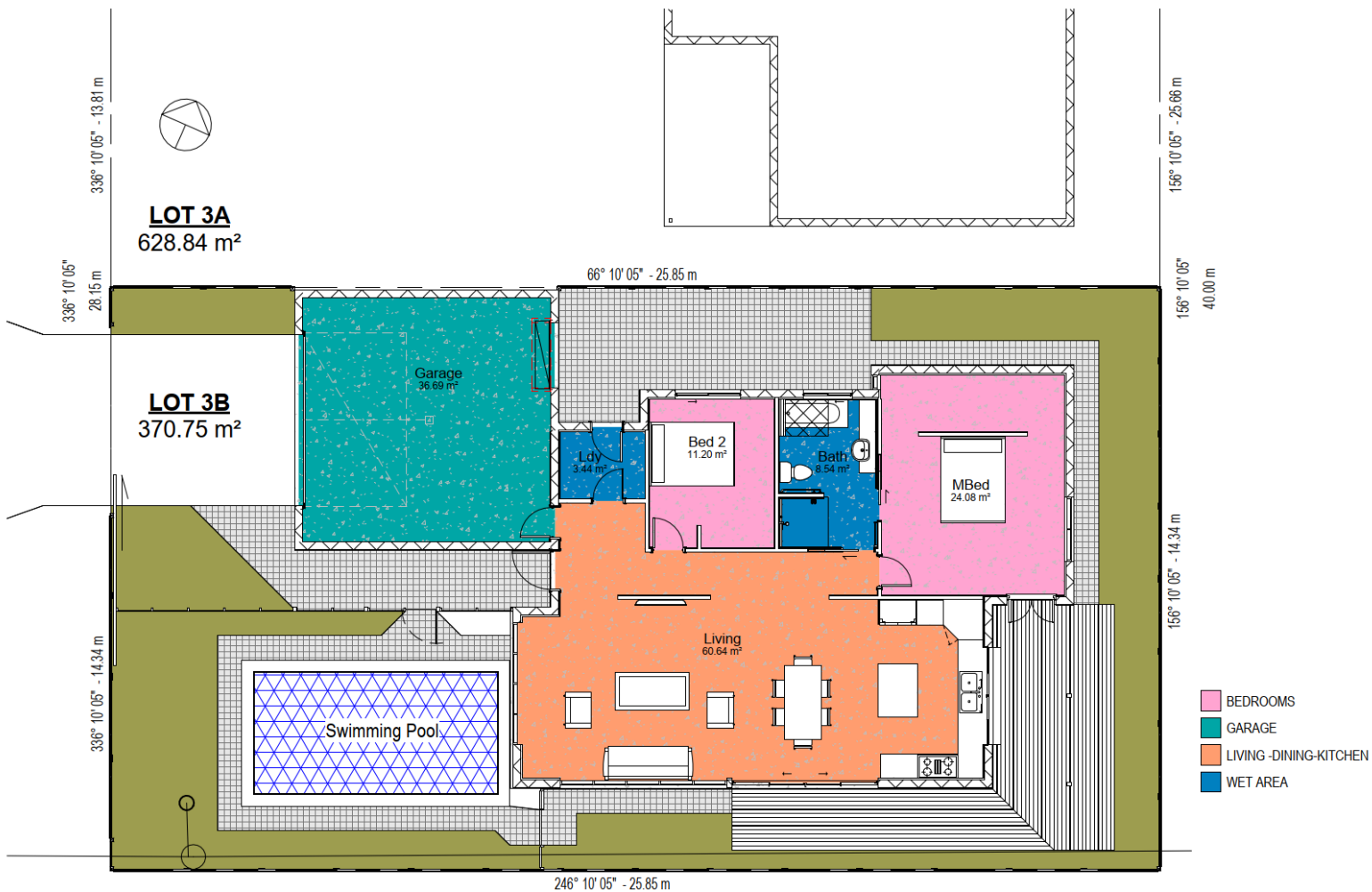
Catherine Rosenbrauer

Rosenbrauer Cottage - IDEAS

PROPOSED SITE LAYOUT

Project number	2209C	A001	Issue: 03
Date	24Sep23		
Scale	As indicated		

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Room Schedule (Nett)	
Name	Area
Ldy	3.44 m ²
Bath	8.54 m ²
Bed 2	11.20 m ²
MBed	24.08 m ²
Garage	36.69 m ²
Living	60.64 m ²
Grand total (Nett)	144.59 m ²

1 PROPOSED LAYOUT
1:100

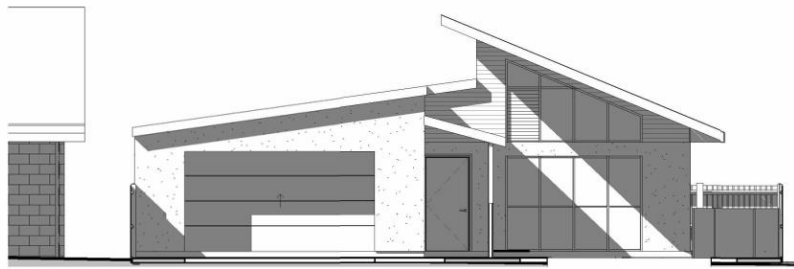
Catherine Rosenbrauer

Rosenbrauer Cottage - IDEAS

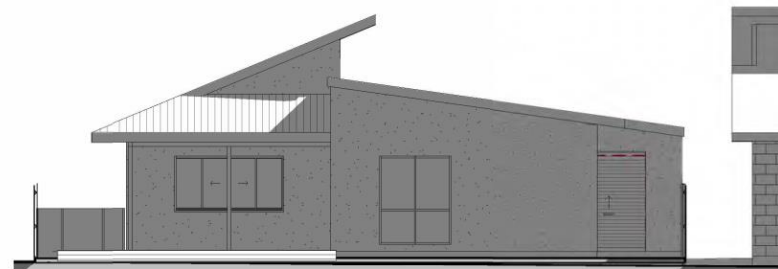
PROPOSED LAYOUT

Project number	2209C	A100	03
Date	24Sep23		
Scale	1 : 100		

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1 WEST
1:100



3 EAST
1:100

MATERIALS:

EXTERNAL WALLS:

BLOCKWORK, RENDERED,
HIGH BUILD PAINT

INTERNAL WALLS:

STUDWORK, PLASTERBOARD, PAINT
LIGHT COLOUR COLORBOND PROFILED

ROOF:

ROOFING
COLORBOND FASCIAS

WINDOWS

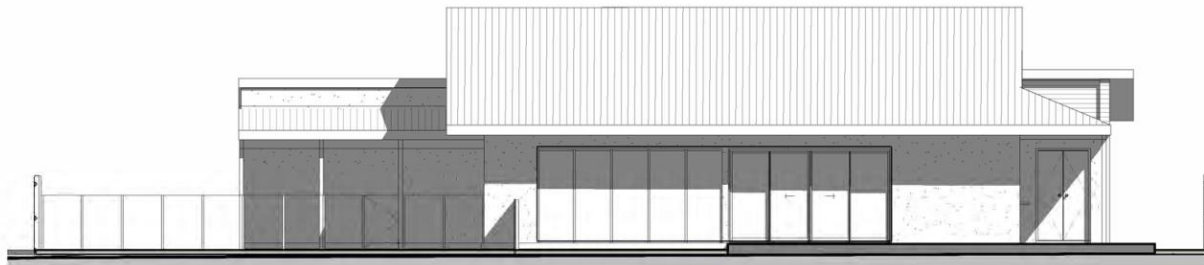
ALUM PPC FINISH

GARAGE DOORS

COLORBOND PANEL LIFT & ROLLER
DOORS

POOL FENCING

COMPLIANT TOUGHENED GLASS
POOL FENCING/GATES



2 SOUTH
1:100



4 NORTH
1:100

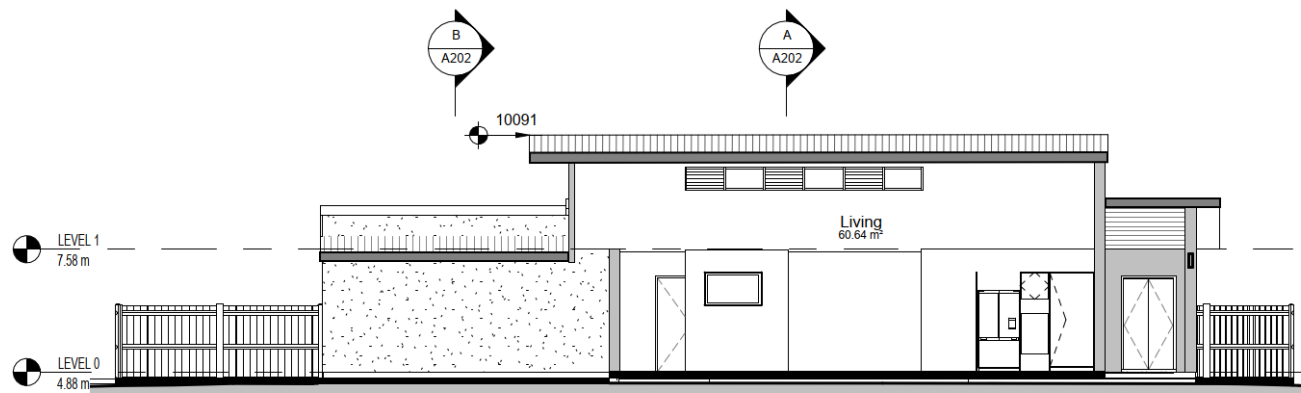
Catherine Rosenbrauer

Rosenbrauer Cottage - IDEAS

PROPOSED ELEVATIONS

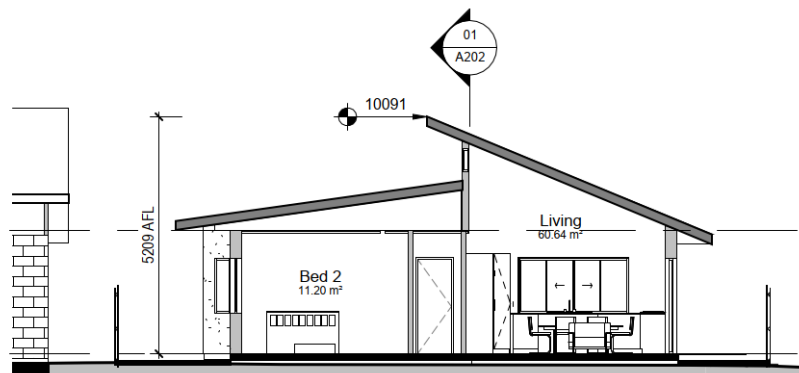
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Date	24Sep23		
Scale	As indicated		
		Issue:	03

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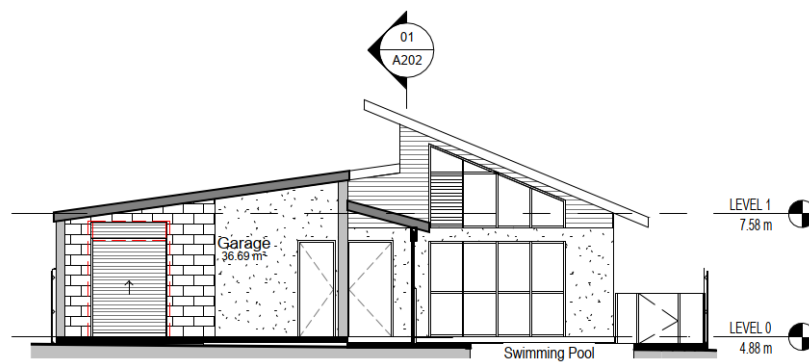


01 TYPICAL LONG SECTION 01
1:100

MATERIALS:
 EXTERNAL WALLS: BLOCKWORK, RENDERED, HIGH BUILD PAINT
 INTERANL WALLS: STUDWORK, PLASTERBOARD, PAINT
 ROOF: LIGHT COLOUR COLORBOND PROFILED ROOFING
 COLORBOND FASCIAS
 WINDOWS ALUM PPC FINISH
 GARAGE DOORS COLORBOND PANEL LIFT & ROLLER DOORS
 POOL FENCING COMPLIANT TOUGHENED GLASS
 POOL FENCING/GATES

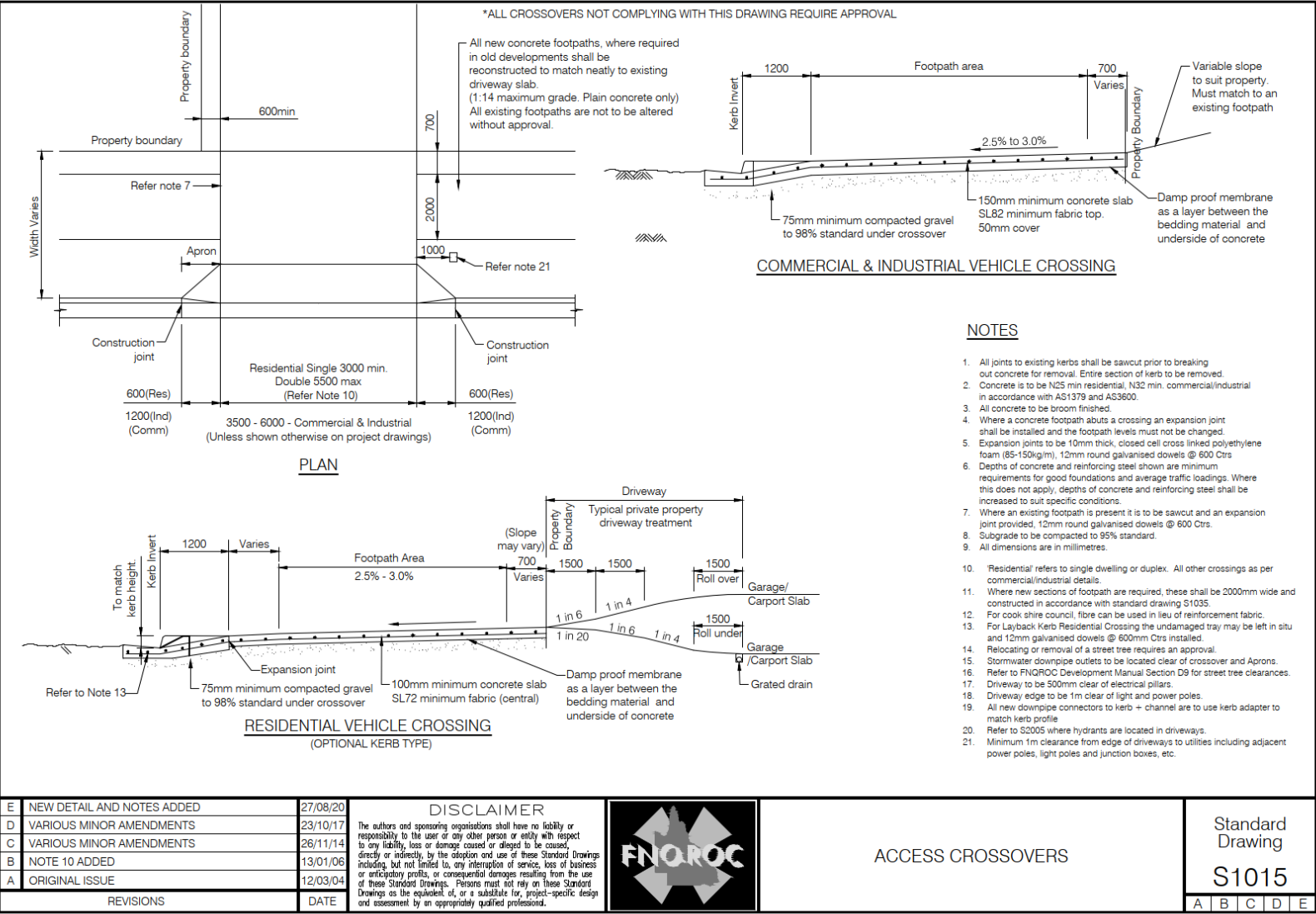


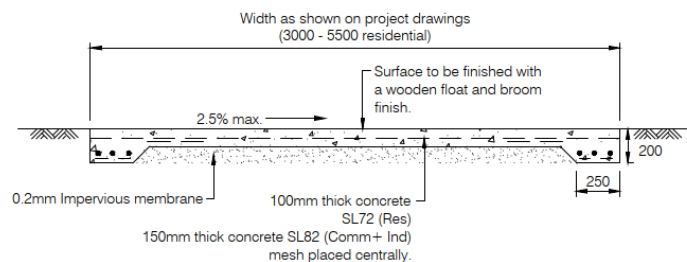
A TYPICAL CROSS SECTION A
1:100



B TYPICAL CROSS SECTION B
1:100

FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access

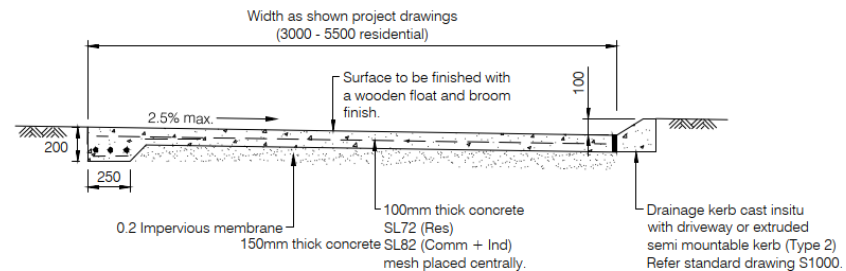




CONCRETE DRIVEWAY - TYPE 1

(Without drainage)

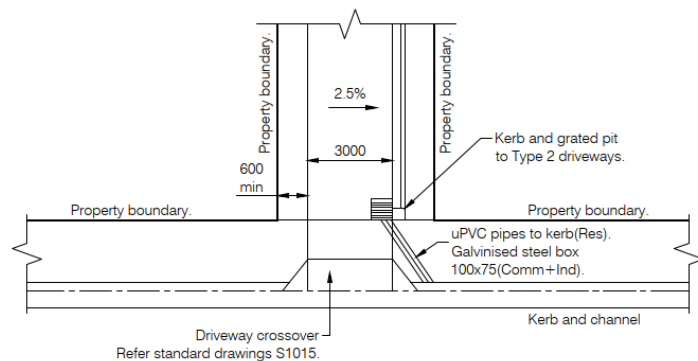
F8 TM 3BAA (Res)
F11 TM 3BAA (Comm + Ind)



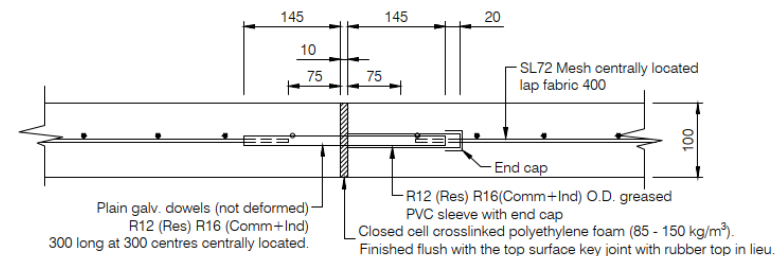
CONCRETE DRIVEWAY - TYPE 2

(With drainage)

Closed cell cross linked polyethylene foam
with 12mm galvanised dowels @ 600mm Ctrs

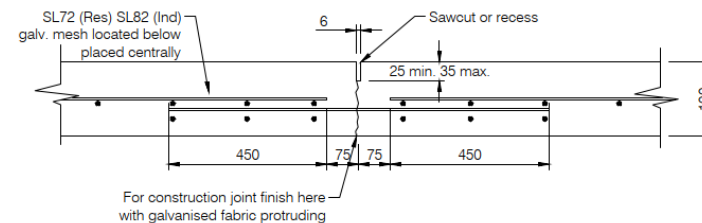


TYPICAL DRIVEWAY LAYOUT



EXPANSION JOINT

Spacing 16000 max.




CONTRACTION JOINT

Spacing 4000 max.

NOTES

- For driveway alignment, longitudinal grade and associated drainage details refer project drawings.
- Concrete is N25 in accordance with AS 1379 and AS 3600.
- Construction joints shall be provided at 4.0m max. Ctrs with expansion joints or approved equivalent @ 16.0m max. Ctrs.
- All dimensions to be in millimetres.
- Residential refers to single dwelling/duplex.
- For commercial or industrial driveways 150mm thick N32 concrete and SL82 mesh.
- Access to Gross Pollutant Traps (GPT) to be min 3.5m wide to commercial/ industrial driveway standard.
- 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	E C D
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					

Reasons for Decision

1. The reasons for this decision are:
 - a. Sections 60, 62 and 63 of the *Planning Act 2016*;
 - b. to ensure the development satisfies the benchmarks of 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 31/10/2022 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.
- c. One properly made submission was received.
 - i. Submitter;
Mr Trevor Pickering
1 Bougainvillea Street
Cooya Beach QLD 4873
 - ii. Consideration of Submission.

Grounds of Submissions	Planning Considerations
Increased traffic flow and more cars parking across resident's driveways.	The traffic demand associated with the proposed development is minimal and can be supported by the local road infrastructure. The proposal permits each allotment with a single point of access and egress and onsite parking for two (2) vehicles.
Impacts to pedestrian movements along the foreshore and beach.	The development of an additional dwelling for one (1) household, will not increase pedestrian movements on the foreshore and beach so much as to have a detrimental impact on other pedestrians.
The area does not have the ability or infrastructure to handle more people and the Shire is already on Stage 1 water restrictions.	Essential services located in Mossman and the surrounding area will not be compromised by the addition of one (1) household. Council's reticulated sewer has the capacity to service the development, augmentation of service mains is not required. An additional household will not impact the Shire's available water resources, water restrictions are seasonal in nature and do not reflect the water available during the remainder of the year.
At the beach and dog areas, extra people, and pets cause arguments between dogs/owners because of limited area, and extra rubbish is left lying around.	The dual occupancy development is for one (1) additional, two (2) bedroom household only. There is sufficient community open space and supporting infrastructure available for the needs of existing residents and their pets, and for those generated

	from the proposed development.
The development will set a precedent and other property owners will do the same.	Subject to compliance with the planning scheme codes there is opportunity for other property owners to undertake similar development although, each proposal would be considered on a case-by-case basis. The subject land is considered of sufficient size to accommodate the proposed development and through the conditions of the approval this development is considered meritorious.
Loss of community felt because of new housing estate. More availability of housing may result in reduced property values.	The proposed development will provide for one (1) extra household only, impacts from the new housing estate (Cooya Breeze Estate) should be considered as a separate matter. The impact on local housing prices due to the development of one dual occupancy is unknown but is likely to be insignificant.

3. Evidence or other material on which findings were based:
 - a. the development triggered assessable development under the Assessment Table associated with the Low Density Residential 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.

Non-Compliance with Assessment Benchmarks

None. Through the conditions of the approval the development 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

-
- (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.

8 December 2022

Enquiries: Jenny Elphinstone
Our Ref: CA 2022_5144 (Doc ID 1119994)
Your Ref: AU006895

Catherine Rosenbrauer
C/- RPS Australia East Pty Ltd
PO Box 1949
CAIRNS QLD 4870

Email: Patrick.clifton@rpsgroup.com.au

Attention Mr Patrick Clifton

Dear Sir

**Adopted Infrastructure Charge Notice
Development Application for a Combined Application for a Material Change of Use for a
Dual Occupancy and Reconfiguration of a Lot (1 Lot into 2 Lots)
At 40 Cooya Beach Road Bonnie Doon
On Land Described as Lot 3 on SP199682**

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 2022_5144 in all subsequent correspondence relating to this matter.

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

Yours faithfully



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 Scheme version 1.0 Applications

ADOPTED INFRASTRUCTURE CHARGES NOTICE

Catherine Rosenbrauer		N/A	0
DEVELOPERS NAME		ESTATE NAME	STAGE
40 Cooya Beach Road	Bonnie Doon	Lot 3 on SP199682	12903
STREET No. & NAME		LOT & RP No.s	PARCEL No.
CAMCUI Dual Occupancy & ROL (1 into 2)		CA 2022_5144	6
DEVELOPMENT TYPE		COUNCIL FILE NO.	VALIDITY PERIOD (year)
1120002	1	Payment before commencement of use for MCU; and Prior to signing and sealing of survey form for ROL	
DSC Reference Doc. No.		VERSION No.	

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

		Charge per Use	\$ Rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
Proposed Demand							
Residential	Dwelling_house	\$_per_3_or_more_bedroom_dwelling	24,553.81	1	\$24,553.81		
Residential	Dual_occupancy	\$_per_2_bedroom_dwelling	20,169.83	1	\$20,169.83		
	Total Demand				\$44,723.64		
Credit							
<u>Existing land use</u>							
3 or more bedroom dwelling	1 lot	\$_per_3_or_more_bedroom_dwelling	24,553.81	1	\$24,553.81		
	Total Credit				\$24,553.81		
							Code 895 GL GL7500.135.825

Required Payment or Credit **TOTAL** **\$20,169.83**

Prepared by	Jenny Elphinstone	2-Nov-22	Amount Paid	
Checked by	Rebecca Taranto	2-Nov-22	Date Paid	
Date Payable	ROL - Before the Local Government approves the plan of subdivision MCU- Prior to the commencement of Use		Receipt No.	
Amendments		Date	Cashier	

Note:

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

Charge rates under the Policy are subject to indexing.

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

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

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

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) 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.

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