

4 August 2021

Enquiries: Jenny Elphinstone
Our Ref: MCUC 2021_4008/1 (Doc ID 1010128)
Your Ref: 21-05/001073

"Verge" Port Douglas Pty Ltd
C/- Planning Plus
PO Box 399
REDLYNCH QLD 4870

Email: evan@planningplusqld.com.au

Attention Mr Evan Yelavich

Dear Sir

**Development Application for Material Change of Use for
Multiple Dwellings & Short Term Accommodation
At 8 Davidson Street Port Douglas
On Land Described as Lot 704 on PTD2092**

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

Please quote Council's application number: MCUC 2021_4008/1 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

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

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Concurrence Agency 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: "Verge" Port Douglas Pty Ltd

Postal Address: C/- Planning Plus
Attention Mr Evan Yelavich
PO Box 399
Redlynch Qld 4870

Email: evan@planningplusqld.com.au

Property Details

Street Address: 8 Davidson Street Port Douglas

Real Property Description: Lot: 704 on PLN2092

Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for a Material Change of Use for Multiple Dwellings and Short Term Accommodation.

Decision

Date of Decision: 4 August 2021

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 |
|---------------------|--|---------------|
| Survey Plan | C&B Group, Project 21-0002, Drawing TP200, Revision C. | February 2021 |

| Drawing or Document | Reference | Date |
|---|--|----------------|
| Ground Floor Plan | Peddle Thorp International, Project 21-0002, drawing TP210, Revision C. | June 2021 |
| First Floor Plan | Peddle Thorp International, Project 21-0002, drawing TP220, Revision C. | June 2021 |
| Roof Plan | Peddle Thorp International, Project 21-0002, drawing TP230, Revision C. | June 2021 |
| North and South Elevations | Peddle Thorp International, Project 21-0002, drawing TP240, Revision C. | June 2021 |
| West and East Elevations | Peddle Thorp International, Project 21-0002, drawing TP250, Revision C. | June 2021 |
| Perspectives | Peddle Thorp International, Project 21-0002, drawing TP270, Revision C. | June 2021 |
| Artist Impressions | Peddle Thorp International, Project 21-0002, drawings TP271-275 inclusive, Revision C. | June 2021 |
| Axonometric Overall View | Peddle Thorp International, Project 21-0002, drawing TP280, Revision C. | June 2021 |
| Development Plans – Ground Level | Peddle Thorp International, Project 21-0002, drawing TP310, Revision C. | June 2021 |
| Development Plans – Level 01 | Peddle Thorp International, Project 21-0002, drawing TP311, Revision C. | June 2021 |
| Drawing or Document | Reference | Date |
| 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 |

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

Assessment Manager Conditions & Advices

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 Commencement of Use, except where specified otherwise in these conditions of approval.

Amendment to Design

3. The proposed development must be amended, or further details provided to Council, to accommodate the following changes:
 - a. Include a gated access of a minimum 3m width to the rear yard of unit 4, (the eastern unit at the rear of the development) to enable access by vehicles to Council's sewer and easement area. The access needs to be at ground level of even surface;
 - b. Setback the pool for unit 4 (the eastern unit at the rear of the development) to ensure the integrity of nearby Council's infrastructure is not compromised;
 - c. All landscaping in the easement area for unit 4 is to be limited to grass cover;
 - d. Clarify the elevation for the opening screens is as per the artists impression drawings;
 - e. Include requirements as identified under Condition 4 below; and
 - f. Include the external works as required under Condition 5 below.

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

Local Drainage Plan and Lawful Point of Discharge.

4. Undertake a local drainage study of the site to determine the drainage impacts on upstream and downstream properties and the mitigation measures required to minimise such impacts. In particular, the study must address the following:
 - a. The contributing catchment boundaries;
 - b. The extent of the 100 year ARI flood event in relation to the site both pre and post development;
 - c. Primary and secondary flow paths for the 5, 20, 50 and 100 year ARI flood events;
 - d. Identify any requirement for further or additional drainage easements;
 - e. Identify the need and tenure for flood detention areas to ensure a no worsening impact on downstream properties for the entire development;
 - f. post development must not detrimentally impact on Council's sewerage infrastructure and must include suitable immunity for significant events; and
 - g. Information on the proposed works and any impacts proposed at the drainage outlet from the proposed development;

The post-development discharge of stormwater from the subject site must have no worsening effect on the drainage of upstream or downstream properties.

The study must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work with the necessary works being undertaken prior to Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

External Works

5. Undertake the following works external to the land at no cost to Council:
 - a. Construct full-width bitumen widening to the Davidson Street frontage including the provision of a concrete verge island, a 2m wide pedestrian footpath and onstreet angled parking consistent with the neighbouring on-street conditions to the north and integrate this design appropriately with the neighbouring design to the south as well as providing sufficient protection of the existing street tree;
 - b. Provision of a concrete crossover(s) and apron(s) in accordance with FNQROC Development Manual Standard Drawing S1015;
 - c. Construct tree a concrete verge island around the existing trees in the road reserve. This tree is to remain and be protected;
 - d. Construct kerb and channel to the full frontage of the site; and
 - e. Line mark parking spaces in front of the subject land.

All works in the road reserve need to be properly separated from pedestrians and vehicles, with any diversions adequately signed and guarded. Particular attention must be given to providing safe passage for people with disabilities i.e., the provision of temporary kerb ramps if pedestrian diversions are necessary.

The external works outlined above constitute Operational Works. Three (3) copies of a plan of the works at A1 size and one (1) copy at A3 size must be endorsed by the Chief Executive Officer prior to commencement of such works. 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*.

Minimum Floor to Ceiling Clearance

6. All units must have a minimum floor to ceiling clearance of 2.7 metres.

Air-Conditioning Screens

7. 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

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.

Water Supply and Sewerage Works External

9. Undertake the following water supply and sewerage works external to the site to connect the site to existing water supply and sewerage infrastructure:
 - a. Augment existing water supply infrastructure to the extent necessary such that the development does not adversely affect the water supply to adjacent properties and such that a water service connection can be provided at the lot frontage;

The external works outlined above constitute Operational Works. A Development Permit for Operational Work must be achieved prior to commencement of such works. 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*.

Water Supply and Sewerage Works Internal

10. Undertake the following water supply and sewerage works internal to the subject land:
- Provide a single internal sewer connection which must be clear of any buildings or structures;
 - Provide a single internal water connection; and
 - Any water supply sub-metering must be designed and installed in accordance with the *Queensland Development Code* and the *Water Supply (Safety and Reliability) Act 2008*

All the above works must be designed and constructed in accordance with the FNQROC 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 Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

Inspection of Sewers

11. CCTV inspections of sewers must be undertaken both prior to commencement of works on site and at works completion where works have been undertaken over or to sewers. 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.

Vehicle Parking

12. The amount of vehicle parking must be as specified in Council's Planning Scheme which is a minimum of six (6) spaces of which two (2) spaces must be provided as visitor spaces. The visitor parking spaces must be signposted as such. The car parking layout must comply with the Australian Standard AS2890 Parking Facilities – off-street car parking and be constructed in accordance with Austroads and good engineering design. In addition, all parking, driveway and vehicular maneuvering areas must be imperviously sealed, drained and line marked.

Protection of Landscaped Areas from Parking

13. Landscaped areas adjoining the parking area must be protected by a minimum of a 150 mm high vertical concrete kerb or similar obstruction. The kerb must be set back from the garden edge sufficiently to prevent vehicular encroachment and damage to plants by vehicles.

Lighting

14. All lighting installed upon the premises including car parking areas must be certified by Ergon Energy (or such other suitably qualified person). 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.

Above Ground Transformer Cubicles / Electrical Sub-Stations

15. Any above ground transformer cubicles and/or electrical sub-stations is to be positioned so that it does not detract from the appearance of the streetscape and must be clear of footpath areas. Any required cubicles / sub-stations must be setback from the street alignment behind a screen of landscaping, or incorporated within the built form of the proposed development. Details of the electrical sub-station positioning must be endorsed by the Chief Executive Officer prior to the issue of Development Permit for Building Work.

Acid Sulfate Soils –Pool Disturbance

16. The basement / pool excavation proposed may result in disturbance of potential acid sulfate soils (PASS). Prior to excavation, in association with a geotechnical assessment, an acid sulfate soil investigation must be undertaken. The investigation must be performed in accordance with the latest '*Guidelines for Sampling and Analysis of Lowland Acid Sulfate Soils in Queensland*' produced by the Department of Natural Resources and Mines (previously DNRW), and State Planning Policy 2/02 – Planning and Managing Development Involving Acid Sulfate Soils. Where it is found that PASS exist, treatment of soil must be undertaken on-site to neutralise acid, prior to disposal as fill, in accordance with the DNRW '*Queensland Acid Sulfate Soil Technical Manual*'.

Landscaping Plan

17. The site must be landscaped in accordance with details included on a Landscaping Plan. The Landscaping Plan must show:
 - a. Deep planting of setback areas;
 - b. Planting of the footpath with trees, using appropriate species with regard to any site constraints.
 - c. Species to have regard to Council's Planning Scheme Policy No.7 Landscaping.
 - d. Inclusion of any other relevant conditions included in this Development Permit. A copy of this Development Approval must be given to the applicant's Landscape Architect/Designer.
 - e. All lighting and landscaping requirements are to comply with Council's General Policy Crime Prevention Through Environmental Design (CPTED).

Two (2) A1 copies and one (1) A3 copy of the landscape plan must be endorsed by the Chief Executive Officer. The approval and completion of all landscaping works must be undertaken in accordance with the endorsed plan prior to the issue of a Certificate of Classification or Commencement of Use whichever occurs. Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer.

Details of Development Signage

18. The development must provide clear and legible signage incorporating the street number for the benefit of the public.

Construction Signage

19. 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;

Advice

1. 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*.
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.

Adopted 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 Adopted 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 Adopted Infrastructure Charges Resolution (No.2) 2021.

Please note that this Decision Notice and the Adopted 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 Adopted 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 Operational Work

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

Note works undertaken within the road corridor requires an approval from the Department of Main Roads and Transport.

Concurrence Agency Response

| Concurrence Agency | Concurrence Reference | Agency Date | Doc ID |
|---|-----------------------|-------------|---------|
| State Assessment and Referral Agency (SARA) | 2103-21831 SRA | 31 May 2021 | 1016111 |

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

Currency Period for the Approval

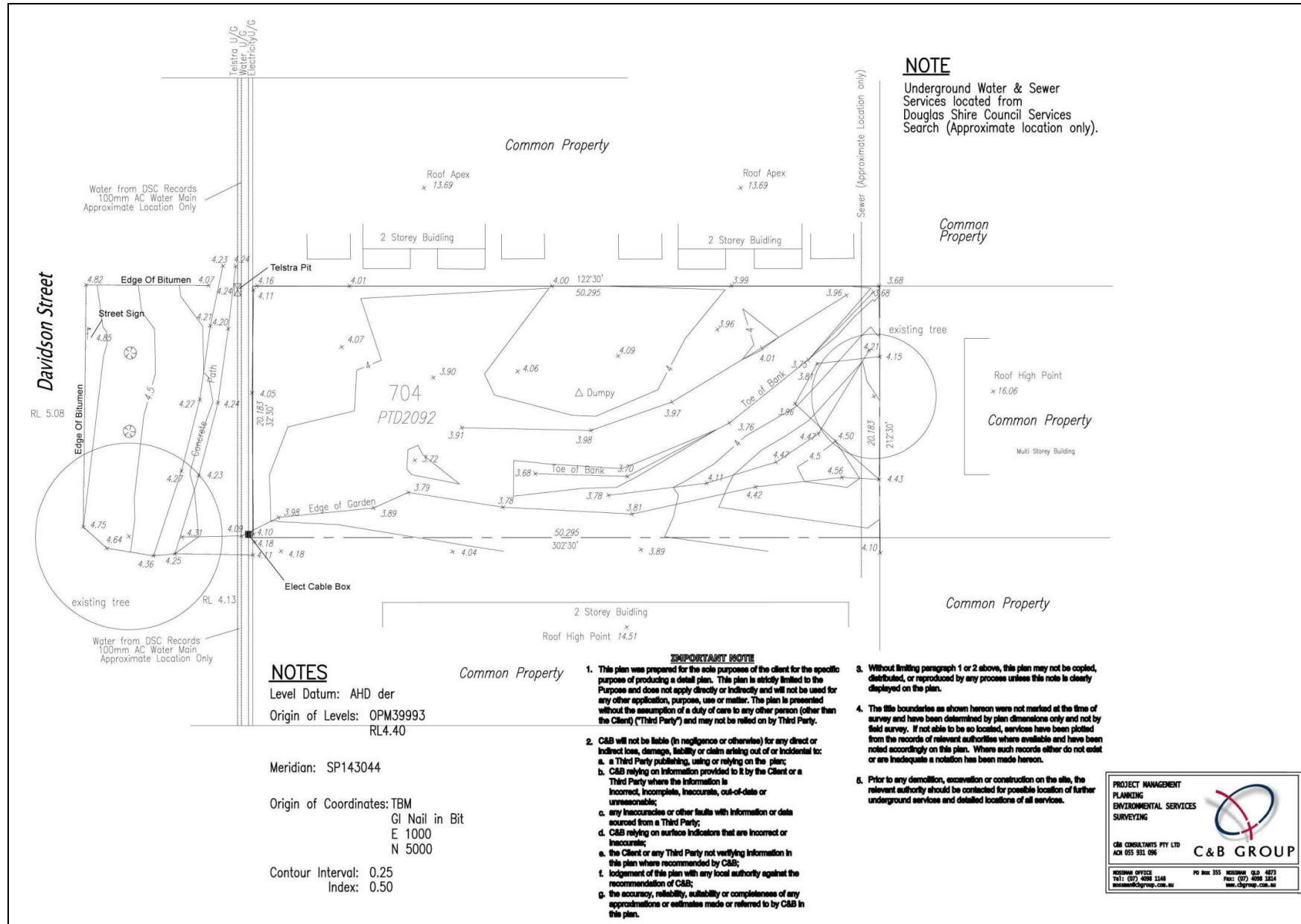
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

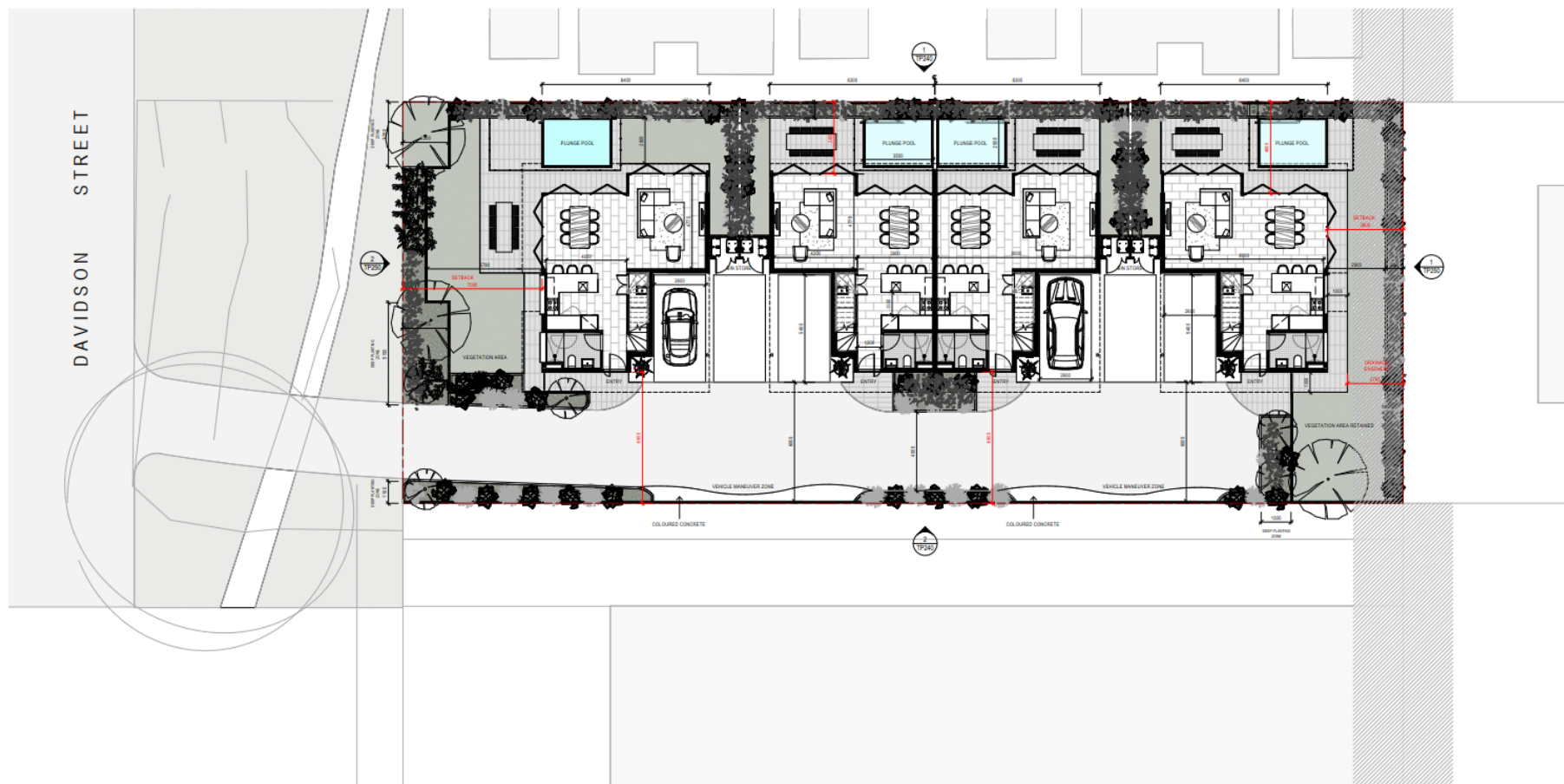
Rights to make Representations & Rights of Appeal

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 is attached.

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





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ACTN 100 979 600

DAVIDSON STREET, PORT DOUGLAS
8 Davidson Street, Port Douglas, QLD 4877

PROJECT NO:
21-0002

PROJECT DATE:
Issue Date

REASON FOR ISSUE:
TOWN PLANNING

TP WITHOUT PREJUDICE

GROUND FLOOR PLAN

REVISION:
C

SHEET DATE:
JUNE 2021

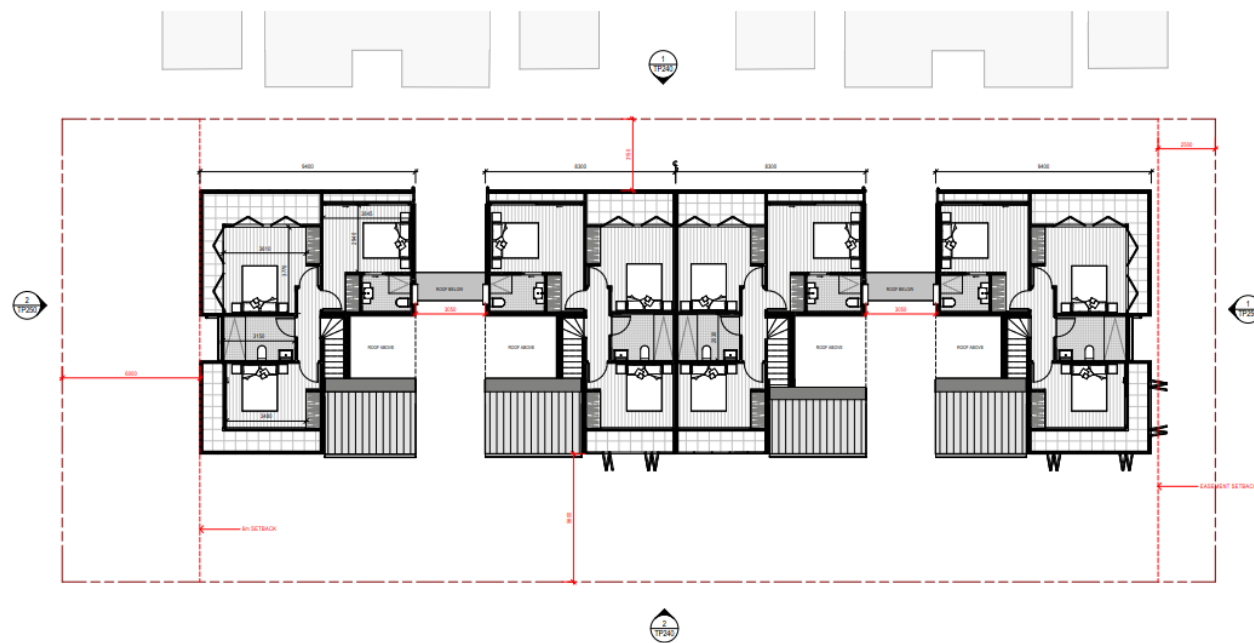
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DRAWING NO:
TP210



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DAVIDSON STREET



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NOTA: 100 070 000

DAVIDSON STREET, PORT DOUGLAS
8 Davidson Street, Port Douglas, QLD 4877

PROJECT NO:
21-0002

PROJECT DATE:
Issue Date

REASON FOR ISSUE:
TOWN PLANNING

TP WITHOUT PREJUDICE

FIRST FLOOR PLANS

REVISION:
C

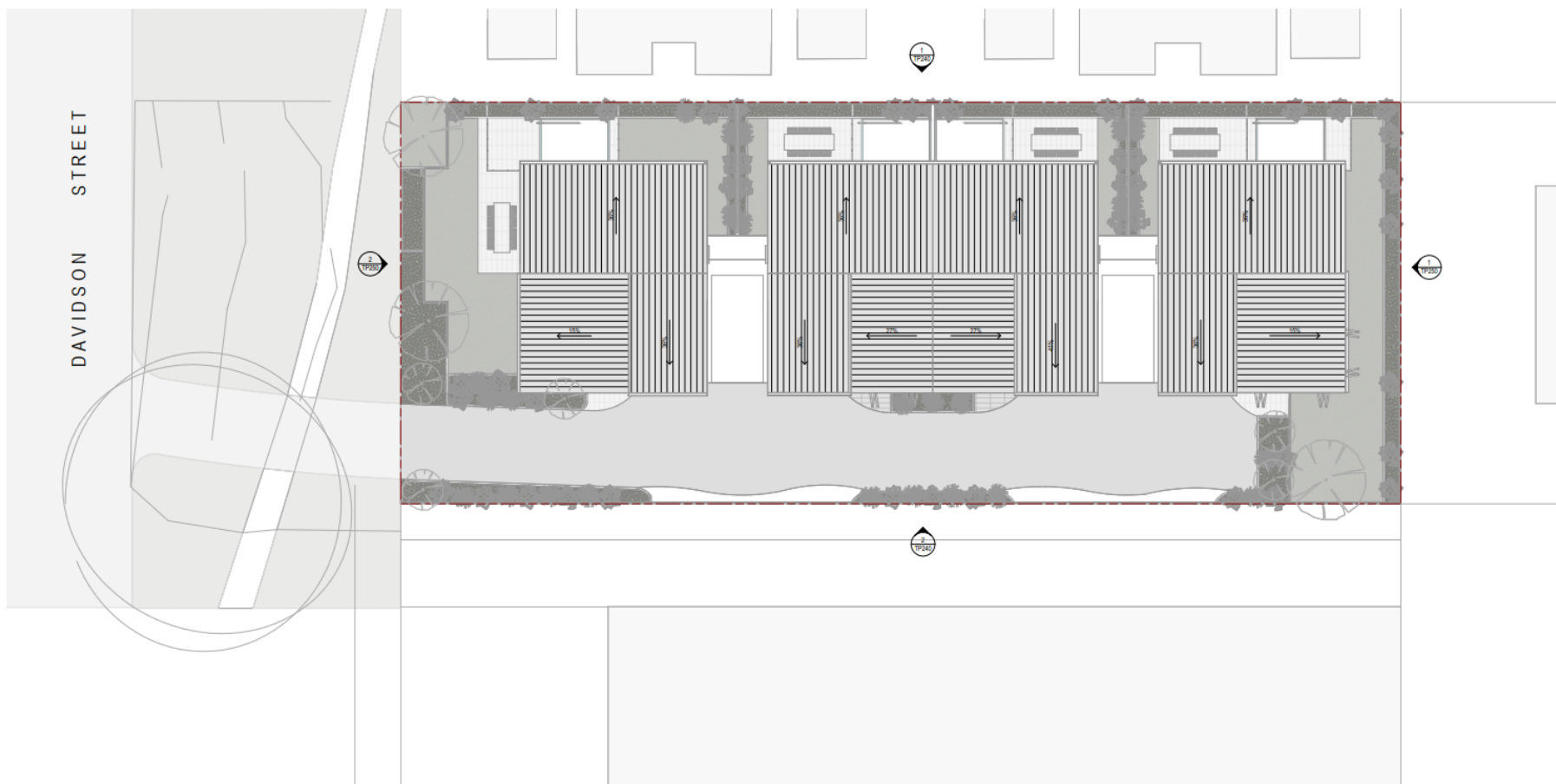
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JUNE 2021

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TP220



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NOTA: 100 070 000

DAVIDSON STREET, PORT DOUGLAS
8 Davidson Street, Port Douglas, QLD 4877

PROJECT NO:
21-0002

PROJECT DATE:
Issue Date

REASON FOR ISSUE:
TOWN PLANNING

TP WITHOUT PREJUDICE

ROOF PLAN

REVISION:
C

SHEET DATE:
JUNE 2021

SCALE:
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DRAWING NO:
TP230



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1 Elevation North
TP210 Scale 1:100



2 Elevation South
TP210 Scale 1:100



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NOTA: 100-079-004

DAVIDSON STREET, PORT DOUGLAS
8 Davidson Street, Port Douglas, QLD 4877

PROJECT NO:
21-0002

PROJECT DATE:
Issue Date

REASON FOR ISSUE:
TOWN PLANNING

TP WITHOUT PREJUDICE

NORTH & SOUTH ELEVATION

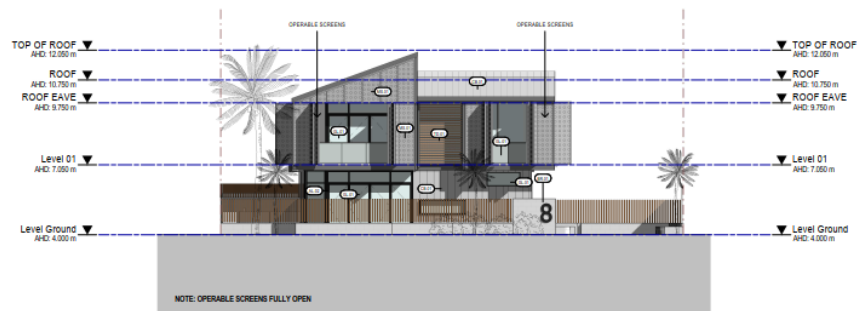
REVISION:
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SHEET DATE:
JUNE 2021

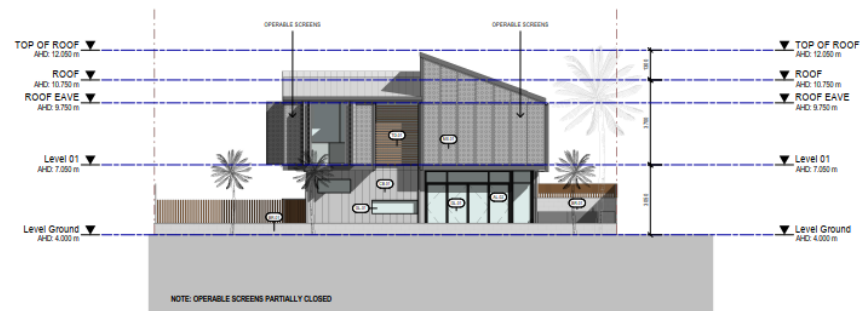
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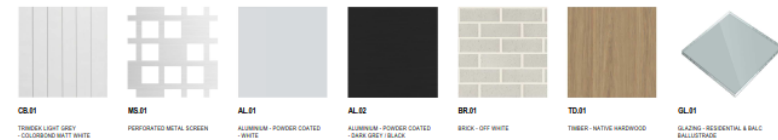
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2 Elevation West
TP210 Scale 1:100



1 Elevation East
TP210 Scale 1:100



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NOTA: 100 979 000

DAVIDSON STREET, PORT DOUGLAS
8 Davidson Street, Port Douglas, QLD 4877

PROJECT NO:
21-0002

PROJECT DATE:
Issue Date

REASON FOR ISSUE:
TOWN PLANNING

TP WITHOUT PREJUDICE

WEST & EAST ELEVATION

REVISION:
C

SHEET DATE:
JUNE 2021

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TP250

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2 DAVIDSON STREET VIEW
Scale



3 INTERNAL COURTYARD VIEW
Scale



1 NORTH VIEW
Scale

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ACTN 100 079 006

DAVIDSON STREET, PORT DOUGLAS
8 Davidson Street, Port Douglas, QLD 4877

PROJECT NO.
21-0002

PROJECT DATE:
Issue Date

REASON FOR ISSUE:
TOWN PLANNING

TP WITHOUT PREJUDICE

PERSPECTIVES

REVISION:
C

SHEET DATE:
JUNE 2021

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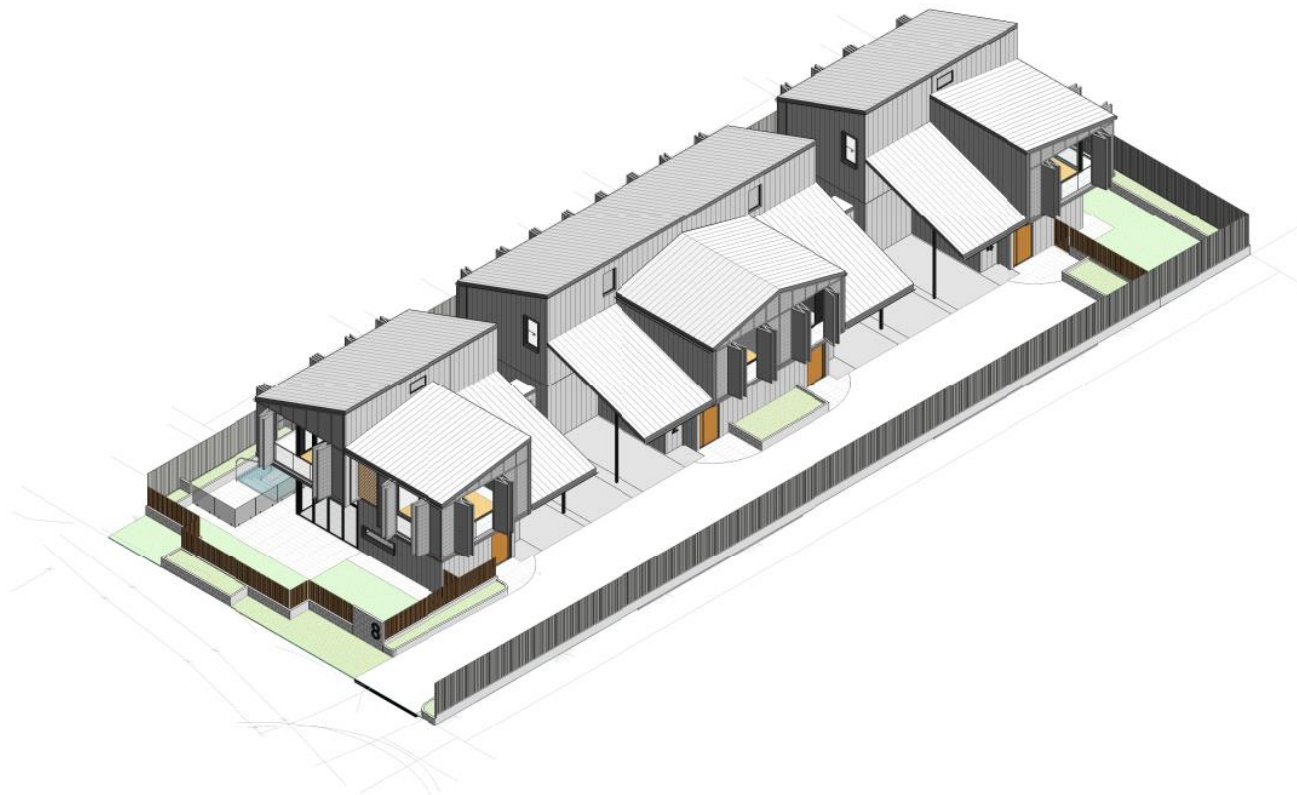












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ACT 100 079 000

DAVIDSON STREET, PORT DOUGLAS
8 Davidson Street, Port Douglas, QLD 4877

PROJECT NO.
21-0002

PROJECT DATE:
Issue Date

REASON FOR ISSUE:
TOWN PLANNING

TP WITHOUT PREJUDICE

AXONOMETRIC

REVISION:
C

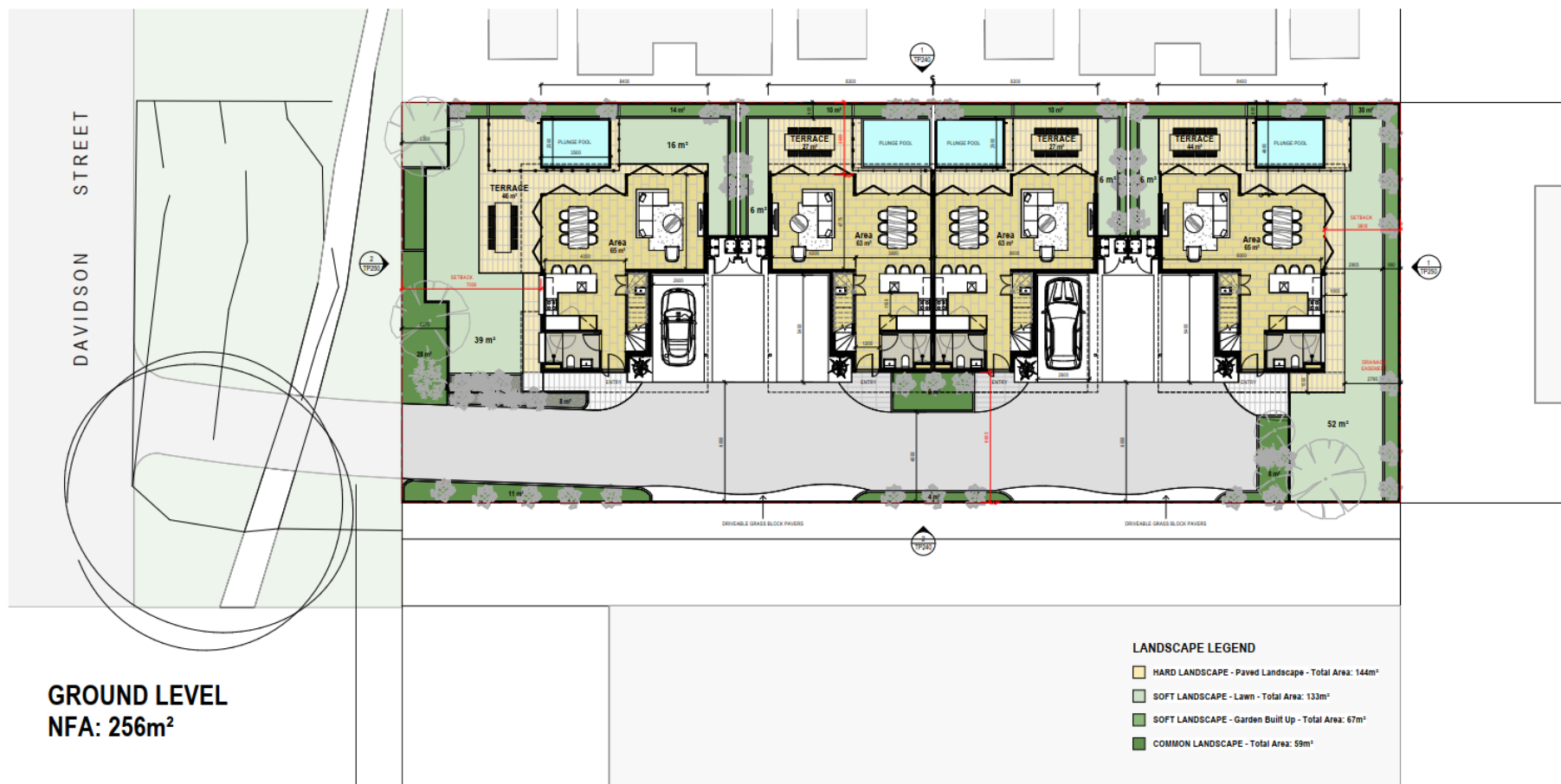
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NCA 100 979 004

DAVIDSON STREET, PORT DOUGLAS
8 Davidson Street, Port Douglas, QLD 4877

PROJECT NO:
21-0002

PROJECT DATE:
Issue Date

REASON FOR ISSUE:
TOWN PLANNING

DEVELOPMENT PLANS - GROUND LEVEL

REVISION:
C

SHEET DATE:
JUNE 2021

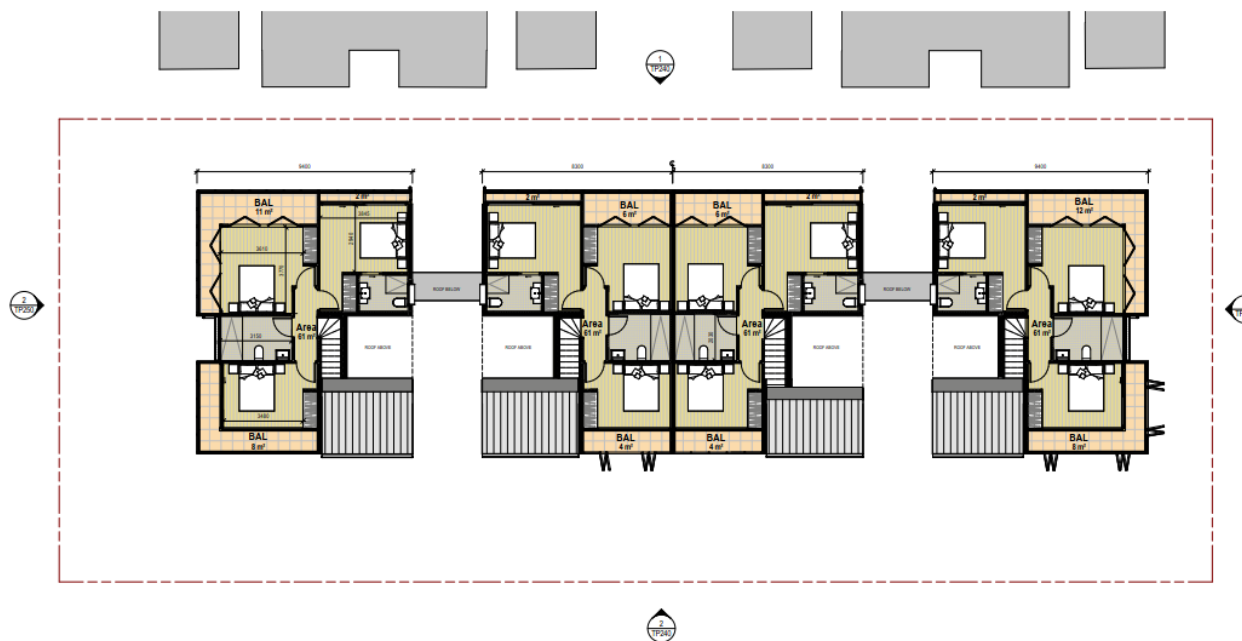
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TP310



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DAVIDSON STREET



LEVEL 01
NFA: 244m²

TOTAL
NFA: 500m²

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ACT 100 979 006

DAVIDSON STREET, PORT DOUGLAS
8 Davidson Street, Port Douglas, QLD 4877

PROJECT NO:
21-0002

PROJECT DATE:
Issue Date

REASON FOR ISSUE:
TOWN PLANNING

DEVELOPMENT PLANS - LEVEL 01

REVISION:
C

SHEET DATE:
JUNE 2021

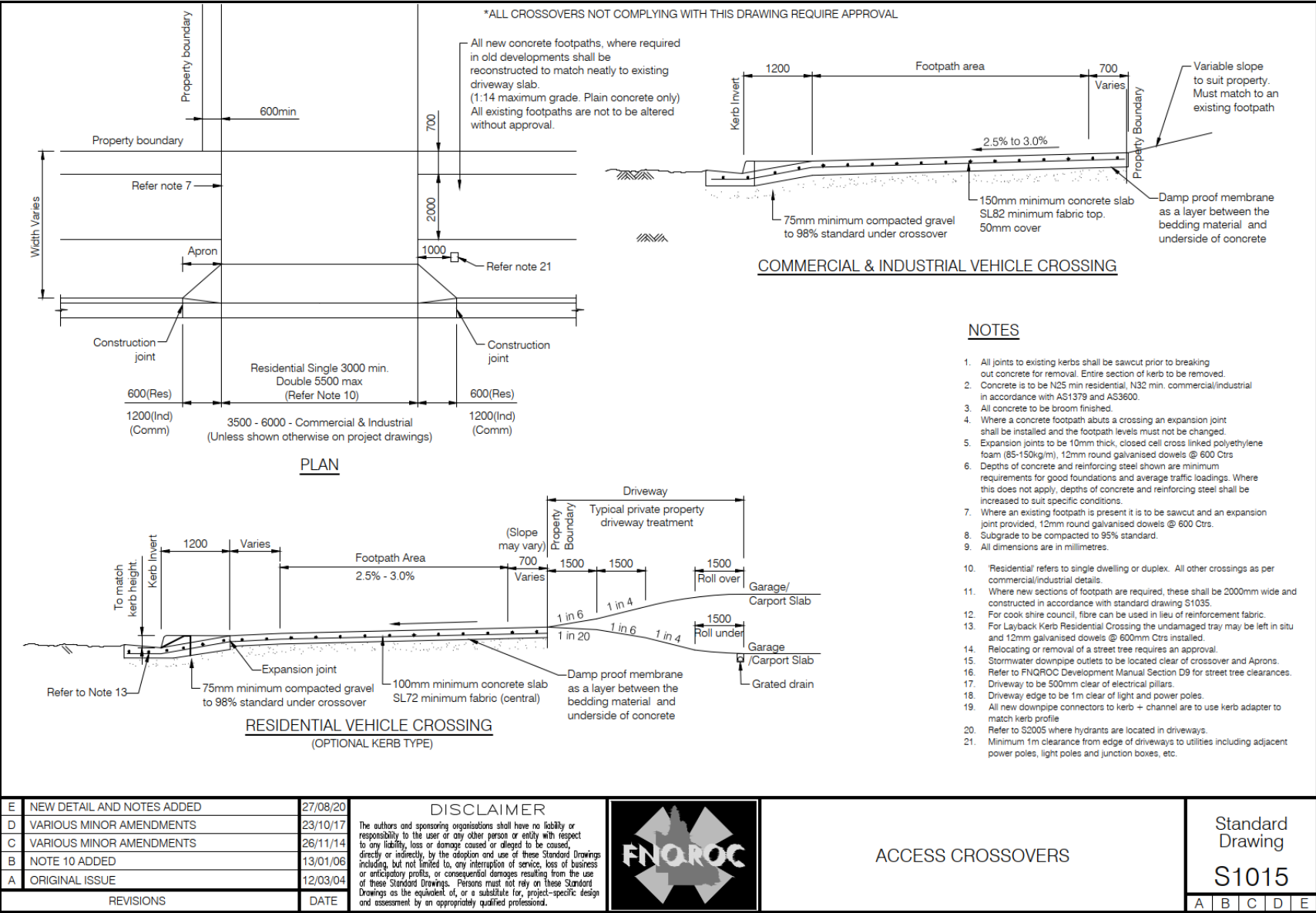
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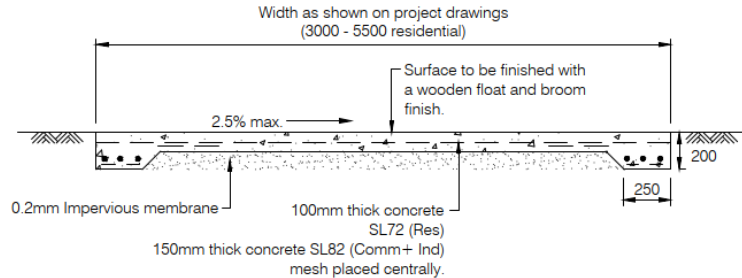
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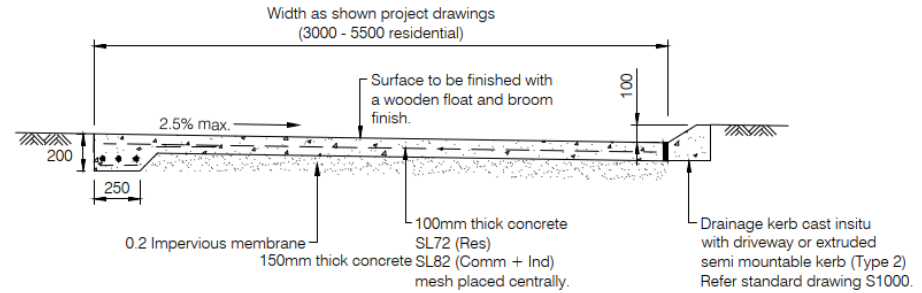
FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access





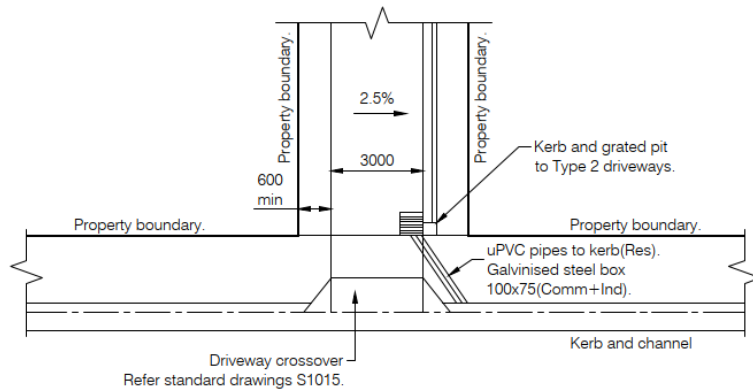
CONCRETE DRIVEWAY - TYPE 1
(Without drainage)

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

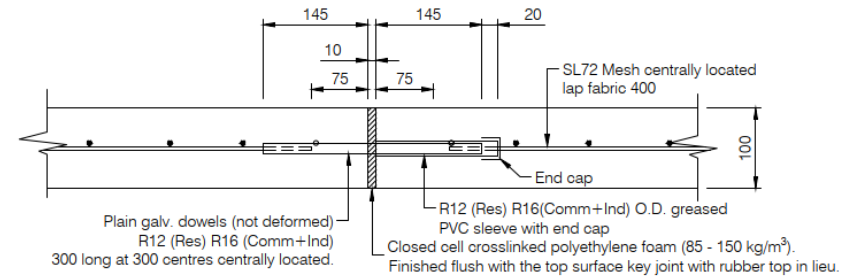


CONCRETE DRIVEWAY - TYPE 2
(With drainage)

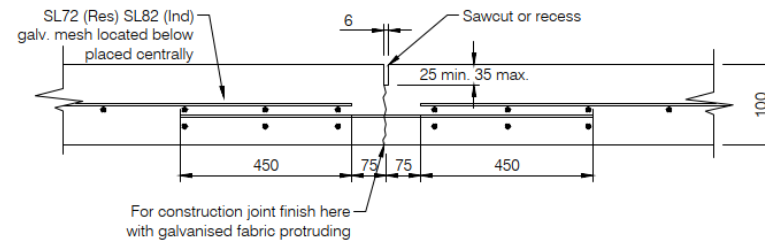
Closed cell cross linked polyethylene foam
with 12mm galvanised dowels @ 600mm Ctrs



TYPICAL DRIVEWAY LAYOUT



EXPANSION JOINT
Spacing 16000 max.



CONTRACTION JOINT
Spacing 4000 max.

NOTES

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 | | | | | |

Concurrence Agency Conditions

RA6-N



SARA reference: 2103-21831 SRA
Council reference: MCUC2021_4008/1
Applicant reference: 21-05/001073

31 May 2021

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

Attention: Jenny Elphinstone

Dear Sir/Madam

SARA response—Multiple Dwellings and Short-term Accommodation at 8 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 30 April 2021.

Response

| | |
|-------------------|---|
| Outcome: | Referral agency response – with conditions. |
| Date of response: | 31 May 2021 |
| 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 | Material change of use for Multiple Dwellings & Short Term Accommodation |
| SARA role: | Referral Agency | |
| SARA trigger: | Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017) | |

Development application for a material change of use near a state-controlled road

SARA reference: 2103-21831 SRA

Assessment Manager: Douglas Shire Council

Street address: 8 Davidson Street, Port Douglas

Real property description: Lot 704 on PTD2092

Applicant name: "Verge" Port Douglas 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: TMR21-032805 (500-1586)
- Date: 24 May 2021

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at ron.p.kaden@tmr.qld.gov.au or on (07) 4045 7151.

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 Anthony Westbury, Planning Officer, on 40373215 or via email CairnsSARA@dsmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Joanne Manson
A/Manager (Planning)

cc "Verge" Port Douglas 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 |
|--|---|---|
| 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): | | |
| 1. | Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road. | At all times |
| 2. | <p>(a) The road access location is to be located generally in accordance with TMR Layout Plan (6504 – 5.23km), prepared by Queensland Government Transport and Main Roads, dated 24/05/2021, Reference TMR21-32805 (500-1586), Issue A.</p> <p>(b) Road access works comprising of a sealed commercial vehicular crossover and driveway must be provided at the road access location.</p> <p>(c) The road access works must be designed and constructed in accordance with:</p> <ul style="list-style-type: none"> Far North Queensland Regional Organisation of Councils (FNQROC) Standard Drawing S1015 - Access Crossovers, dated 23/10/17, Revision D. Far North Queensland Regional Organisation of Councils (FNQROC) Standard Drawing S1110 – Concrete Driveway for Allotment Access, dated 23/10/17, Revision E. | <p>(a): At all times.</p> <p>(b) and (c): Prior to the commencement of use.</p> |

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. |
| 2. | <p>Road works approval</p> <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 56(7) of the *Planning Act 2016*)

The reasons for the SARA decision are:

- The site has road frontage to Davidson Street (Port Douglas Road), a state-controlled road.
- The proposed development is located approximately 19m from the Davidson Street carriageway, and will not be significantly impacted by the noise of vehicles using the state-controlled road.
- The proposal is considered a low scale development and increased traffic generation and vehicle movements will not impact on the function of Davidson Street.
- Road works to construct a sealed property crossover and driveway access will ensure that operating conditions and safety on the state-controlled road network is maintained.
- Increased stormwater and drainage flows will be discharged to the drainage easement at the rear of the site, and are unlikely to impact the state-controlled road.
- The proposed development is unlikely to compromise the safety, efficiency, and operating conditions of Davidson Street.
- The proposed development complies with the relevant provisions of State code 1: Development in a state-controlled road environment.

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
- State Planning Policy mapping system

Attachment 5—Approved plans and specifications

(page left intentionally blank – attached separately)

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE



SARA ref: 2103-21831 SRA

Date: 31 May 2021

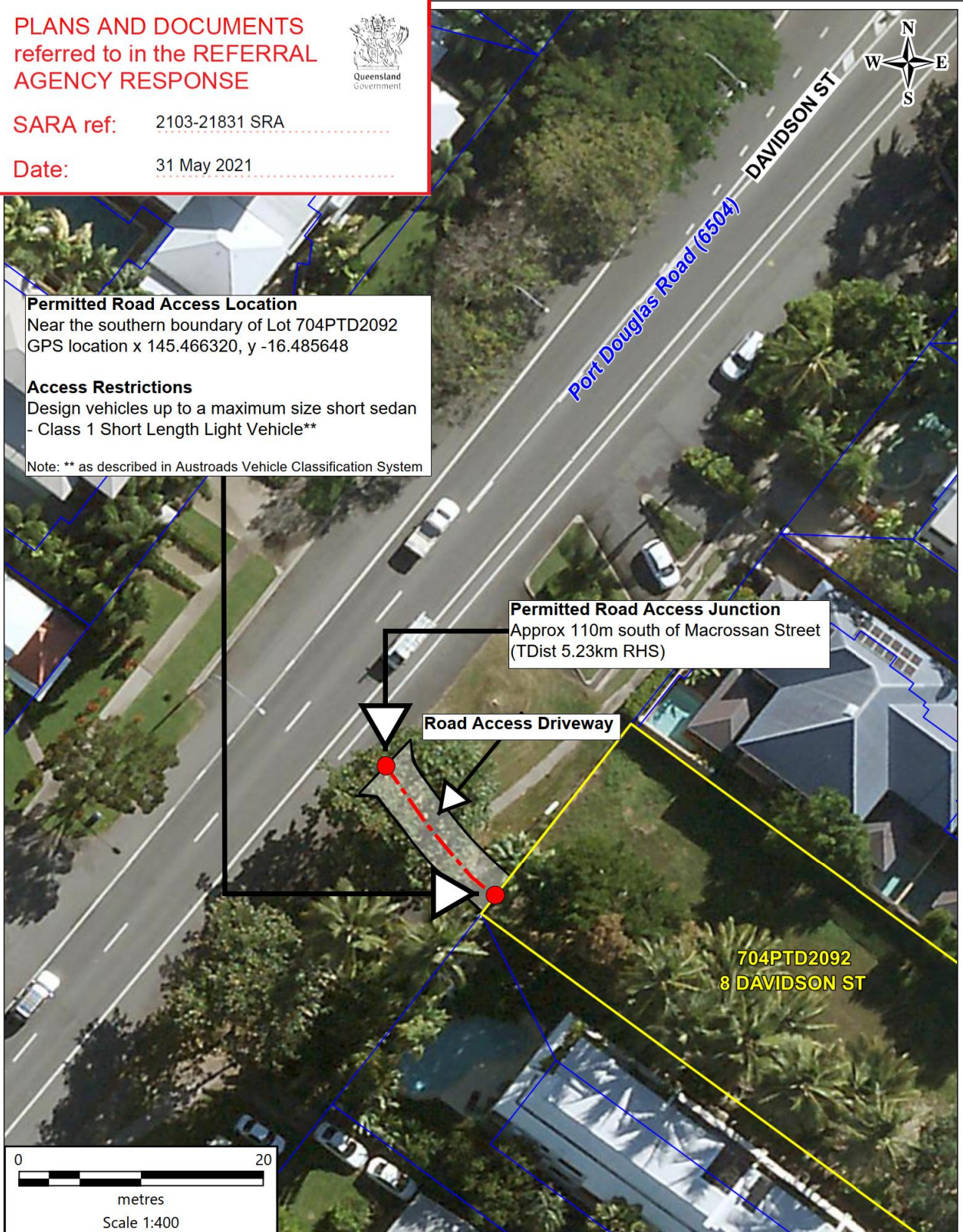
Permitted Road Access Location

Near the southern boundary of Lot 704PTD2092
GPS location x 145.466320, y -16.485648

Access Restrictions

Design vehicles up to a maximum size short sedan
- Class 1 Short Length Light Vehicle**

Note: ** as described in Austroads Vehicle Classification System



| | |
|---|--------------|
| Branch/Unit : | |
| Corridor Management / Far North District | |
| Projection/Datum : Geocentric Datum of Australia (GDA) 1994 | |
| Parcels | Subject Land |

**TMR Layout Plan
(6504 - 5.23km)**



Queensland Government
Transport and Main Roads

| | | |
|-----------------------|-------------------------------------|----------------------------|
| Plan: 1 / 1 | Issue: A | Date: 24/05/2021 |
| Drawn by: RPK | File ref: TMR21-32805 (500-1586) | |

© The State of Queensland, 2010. © Pinney Bowes Software Pty Ltd, 2010. © OR Limited, 2010. Based on [Dataset - State Digital Road Network (SDRN)] provided with the permission of Pinney Bowes Software Pty Ltd (Current as at 04/10/2020). [Dataset - Rail, Centre Line, May 2010] provided with the permission of OR Limited and other state government datasets. Disclaimer: While every care is taken to ensure the accuracy of this data, Pinney Bowes Software Pty Ltd and/or the State of Queensland and/or OR Limited makes no representations or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which you might incur as a result of the data being inaccurate or incomplete in any way and for any reason.

Our ref TMR21-032805 (500-1586)
Your ref
Enquiries Ronald Kaden



Department of
Transport and Main Roads

24 May 2021

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 MCUC 2021_4008/1, lodged with Douglas Shire Council involves constructing or changing a vehicular access between Lot 704PTD2092, 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 "Verge" Port Douglas
C/- Planning Plus
PO Box 399
Redlynch QLD 4870

Application Details

Address of Property 8 Davidson Street, Port Douglas QLD 4877
Real Property Description 704PTD2092
Aspect/s of Development Development Permit for Material Change of Use for Multiple Dwellings & Short Term Accommodation

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 | The permitted road access location is near the southern boundary of Lot 704PTD2092, in accordance with: a) TMR Layout Plan (6504 - 5.23km) Issue A 24/05/2021 | At all times. |
| 2 | Direct access is prohibited between Port Douglas Road (Davidson Street) and 704PTD2092 at any other location other than the permitted road access location described in Condition 1. | At all times. |
| 3 | The use of the permitted road access location is to be restricted to: a) Design vehicles up to a maximum size short sedan - Class | 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 ron.p.kaden@tmr.qld.gov.au
ABN: 39 407 690 291

| No. | Conditions of Approval | Condition Timing |
|-----|--|------------------|
| | 1 Short Length Light Vehicle ** | |
| | Note: ** as described in Austroads Vehicle Classification System | |

Reasons for the decision

The reasons for this decision are as follows:

- a) The subject site (Lot 704 on PTD2092) has road frontage to Port Douglas Road (Davidson Street), a state-controlled road.
- b) The subject site currently has no direct access to the state-controlled road.
- c) No alternative arrangements (e.g. local government-controlled road or via easement) are available or practical.
- d) The proposed development will require construction of a new commercial access via Thursday Island Road and to construct a new residential access via John Street, a local road controlled by Council.
- e) As the proposed development is seeking a new access and increasing generation, a new 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

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 - 5.23km) | Queensland Government Transport and Main Roads | 24 May 2021 | TMR21-32805 (500-1586) | A |
| Ground Floor Plan Project 21-0002 | C&B Group | February 2021 | TP210 | A |
| Access Crossovers | FNQROC | 23 October 2017 | S1015 | D |
| Concrete Driveway for Allotment Access | FNQROC | 23 October 2017 | S1110 | E |

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.



Adopted Infrastructure Charges



2018 Douglas Shire Planning Scheme version 1.0 Applications

ADOPTED INFRASTRUCTURE CHARGES NOTICE

| | | | |
|---|-------------------------------|---|------------------------------------|
| "Verge" Port Douglas Pty Ltd DEVELOPERS NAME | | N/A ESTATE NAME | 0 STAGE |
| 8 Davidson Street STREET No. & NAME | Port Douglas SUBURB | Lot 704 on PTD2092 LOT & RP No.s | 1811 PARCEL No. |
| MCU Multiple Dwelling & Short Term Accommodation DEVELOPMENT TYPE | | MCUC 2021_4008/1 COUNCIL FILE NO. | 6 VALIDITY PERIOD (year) |
| 1008303 DSC Reference Doc . No. | 1 VERSION No. | Payment before the change occurs | |

Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021).
Douglas Shire Council Infrastructure Charges Resolution (No.2) 2021.

| | Charge per Use | rate | Floor area/No. | Amount | Amount Paid | Receipt Code & GL Code |
|--|----------------------|-----------|----------------|------------------|-------------|---------------------------------------|
| Proposed Demand | | | | | | |
| Multiple Dwelling / Short Three bedroom unit | \$24,143.38 per unit | 24,143.38 | 4 | 96,573.52 | | |
| Total Demand | | | | 96,573.52 | | |
| Existing Credit | | | | | | |
| Vacant Land : 3 bedroom Dwelling House | | 24,143.38 | 1 | 24,143.38 | | |
| Total Credit | | | | 24,143.38 | | |
| | | | | | | Code 895 GL 7470.0135.0825 |

Required Payment or Credit

TOTAL

\$72,430.14

| | | | | |
|--------------|---------------------------------------|------------------|-------------|--|
| Prepared by | Jenny Elphinstone | 17-Jun-21 | Amount Paid | |
| Checked by | | | Date Paid | |
| Date Payable | MCU - Before the change occurs | | 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

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 18 March 2021 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 Tourist Accommodation 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

| Benchmark Reference | Alternative Measure/Comment |
|---|--|
| Tourist Accommodation Zone Code AO1 - Buildings are setback: (a) a minimum of 6 metres from the main street frontage; (b) a minimum of 4 metres from any secondary street frontage; (c) 4.5 metres from a rear boundary; (d) 2 metres from a side or an average of half of the height of the building at the side setback, whichever is the greater. | No concern is raised with the setbacks to the northern common boundary as the neighbouring units have a similar or less than these setbacks. These neighbouring units also have swimming pools in the adjacent rear yards and a narrow landscape strip to the common boundary. |
| PO 1 Buildings are setback to: (a) maintain the character and amenity of the area; (b) achieve separation from neighbouring buildings and from road frontages. | No concern is raised with the setback to the rear boundary. The amenity for both the land and the neighbour are compromised and limited due to the drainage easement and need to access for maintenance of the sewerage infrastructure. |
| Multiple Dwelling, Short-Term Accommodation & Retirement Facility | The neighbouring development to the north has a varied setback of the fence and front landscaped area. The stepping of the proposed fence line is compatible with this streetscape. The street design provides extensive areas of landscaping and a condition of the approval requires a detailed landscape plan. |

| | |
|---|--|
| <p>Code</p> <p>AO4.1 Buildings and structures are set back not less than 6 metres from a road frontage.</p> <p>AO4.2 Buildings and structures are setback not less than 4 metres to the rear boundary.</p> <p>PO4 Development is sited so that the setback from boundaries:</p> <ul style="list-style-type: none"> (a) provides for natural light, sunlight and breezes; (b) minimises the impact of the development on the amenity and privacy of neighbouring residents; (c) provides for adequate landscaping. <p>AO11 Development provides landscaping as follows:</p> <ul style="list-style-type: none"> (a) A dense landscape planting strip of at least 2 metres width suitable for deep planting is provided and maintained along all street frontages; (b) A dense landscape planting strip of at least 1.5 metres width suitable for deep planting is provided along all side and rear boundaries. <p>PO11 Landscaping must contribute positively to the amenity of the area, streetscape and public spaces.</p> | |
|---|--|

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) 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.

4 August 2021

Enquiries: Jenny Elphinstone
Our Ref: MCUC 2021_4008 (Doc ID)
Your Ref: 21-05/001073

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

"Verge" Port Douglas Pty Ltd
C/- Planning Plus
PO Box 399
REDLYNCH QLD 4870

Attention Mr Evan Yelavich

Email: evan@planningplusqld.com.au

Dear Sir

Adopted Infrastructure Charge Notice
For Development Application Material Change of Use
For Multiple Dwellings & Short Term Accommodation
At 8 Davidson Street Port Douglas
On Land Described as Lot 704 on PTD2092

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: MCUC 2021_4008 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

| | | | |
|---|--|---|--|
| "Verge" Port Douglas Pty Ltd DEVELOPERS NAME | | N/A ESTATE NAME | 0 STAGE |
| 8 Davidson Street STREET No. & NAME | | Port Douglas SUBURB | Lot 704 on PTD2092 LOT & RP No.s |
| MCU Multiple Dwelling & Short Term Accommodation DEVELOPMENT TYPE | | MCUC 2021_4008/1 COUNCIL FILE NO. | 1811 PARCEL No. |
| 1008303 DSC Reference Doc . No. | | 1 VERSION No. | 6 VALIDITY PERIOD (year) |

Payment before the change occurs

Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021).
Douglas Shire Council Infrastructure Charges Resolution (No.2) 2021.

| | Charge per Use | rate | Floor area/No. | Amount | Amount Paid | Receipt Code & GL Code |
|--|----------------------|-----------|----------------|------------------|-------------|---------------------------------------|
| Proposed Demand | | | | | | |
| Multiple Dwelling / Short Three bedroom unit | \$24,143.38 per unit | 24,143.38 | 4 | 96,573.52 | | |
| Total Demand | | | | 96,573.52 | | |
| Existing Credit | | | | | | |
| Vacant Land : 3 bedroom Dwelling House | | 24,143.38 | 1 | 24,143.38 | | |
| Total Credit | | | | 24,143.38 | | Code 895 GL 7470.0135.0825 |

Required Payment or Credit

TOTAL

\$72,430.14

| | | | | |
|--------------|---------------------------------------|-----------|-------------|--|
| Prepared by | Jenny Elphinstone | 17-Jun-21 | Amount Paid | |
| Checked by | | | Date Paid | |
| Date Payable | MCU - Before the change occurs | | 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) 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.

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- (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.

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- (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.
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- (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.

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- (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.