

2 November 2022

Enquiries: Jenny Elphinstone
Our Ref: MCUC 2022_5143/1 (Doc ID 1120031)
Your Ref:

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

Oxmon Pty Ltd
T/A Central Plaza
1/35-37 Davidson Street
PORT DOUGLAS QLD 4877

Email: info@plazaportdouglas.com.au

Attention Rodney and Glenys O'Brien

Dear Sir/Madam

**Development Application for Request for Minor Change (Plantation Shutters) for the
Town Planning Consent TPC 1051
At 1/35-37 Davidson Street Port Douglas
On Land Described as Lot 1 on SP148779**

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

Please quote Council's application number: MCUC 2022_5143/1 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 Appeals (Decision Notice)



Decision Notice

Approval (with conditions)

Given under s78, s78A, s79, s81, s81A and s83 of the Planning Act 2016

Applicant Details

Name: Oxmon Pty Ltd, Trading as Central Plaza
Postal Address: Unit 1, 35-37 Davidson Street
Port Douglas Qld 4877
Email: info@plazaportdouglas.com.au

Property Details

Street Address: Unit 1, 35-37 Davidson Street Port Douglas
Real Property Description: Lot 1 on SP148779
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for a Minor Change (Plantation Shutters to Unit 1 Balcony Area) to the Town Planning Consent TPC 1051.

Decision

Date of 2 November 2022

Decision:

Decision Details: Minor change to the existing approval (Town Planning Consent TPC 1051) for a material change of use to the existing Twenty-seven (27) Multiple Dwellings (Tourist) Units and Manager's Residence is approved whereby:

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

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

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

Drawing or Document	Reference	Date
Shutter Design	Detail provided by owner (Council document 1118665).	25 October 2022

Drawing or Document	Reference	Date
Unit Location Plan	Provided by Council (Council document 1114384).	5 October 2022

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

Assessment Manager Conditions

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

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.

ADVICE

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

- C.** All other requirements of the Decision Notice dated 30 October 2001 remain unchanged.

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

Currency Period for the Approval

This approval for the minor change development, 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*.

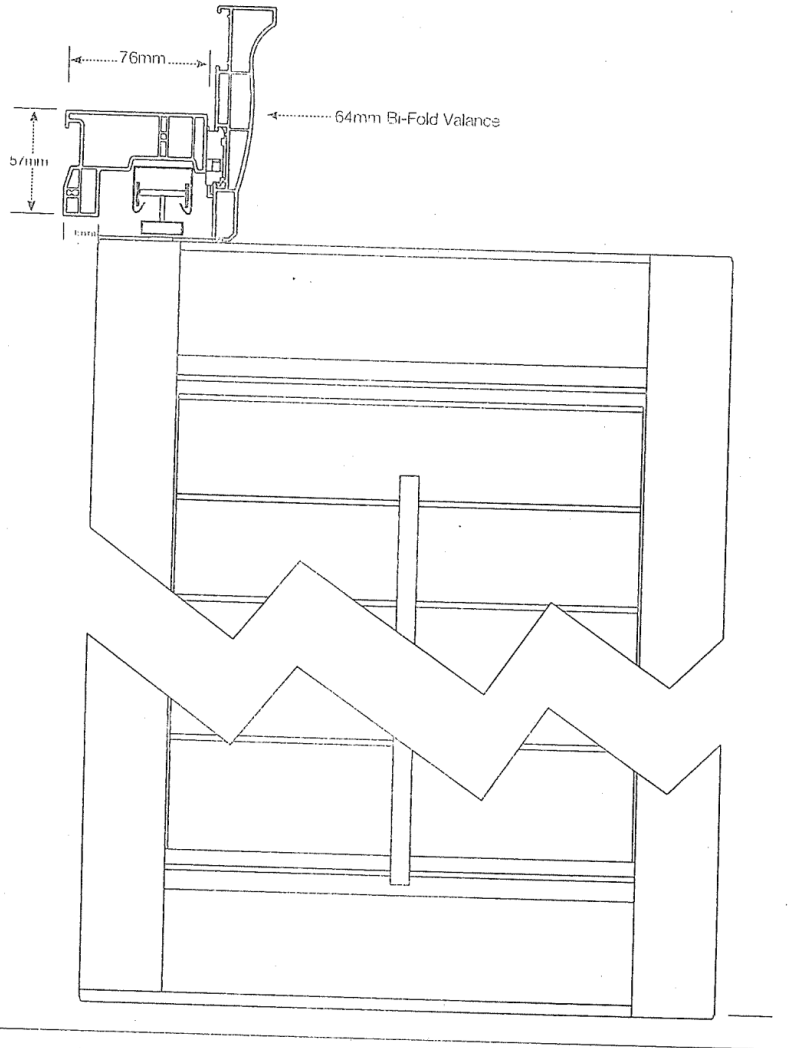
A copy of the relevant appeal provisions is attached.

Reasons for Decision

1. The reasons for this decision are:
 - a. Sections s78, s78A, s79, s81, s81A and s83 of the *Planning Act 2016*:
 - b. to ensure the development satisfies the benchmarks of the 1996 Douglas Shire Council Planning Scheme, in respect to the minor change, and the 2018 Douglas Shire Planning Scheme Version 1.0; and
 - c. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
 - a. the development application was properly lodged to the Douglas Shire Council on 25 October 2022 under sections s78, s78A, s79 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
 - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 and the 1996 Douglas Shire Planning Scheme in making its assessment manager decision.
3. Evidence or other material on which findings were based:
 - a. Council undertook an assessment in accordance with the provisions of sections s81, s81A and s83 of the *Planning Act 2016*; and
 - b. 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.



Bi-Fold Track System Diagram



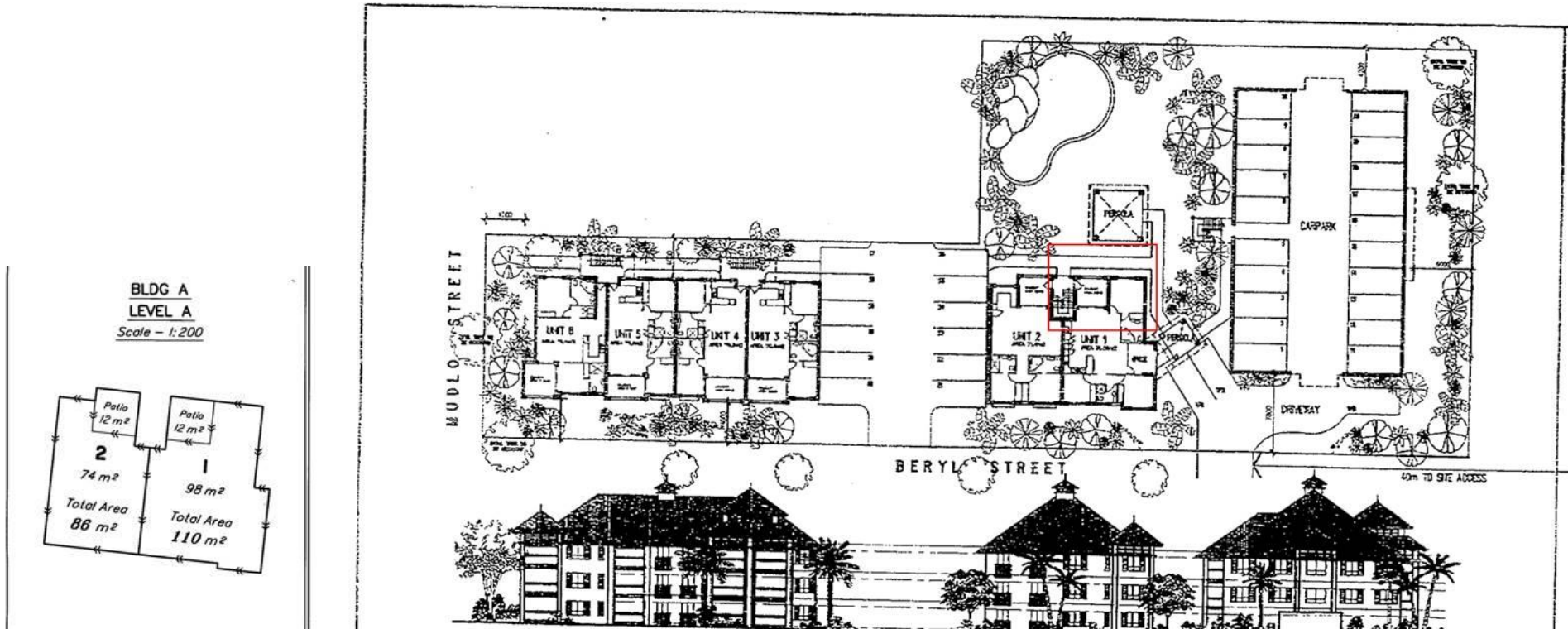
Clearance
15mm Internal Tracks (Nominal)
30mm External Tracks (Nominal)

H-1

ISSUE DATE: MAY 2019
REPLACES ISSUE DATE: APRIL 2010

ORIGINATOR: SKILTEC
APPROVED BY: A. GARNICA

Location Plan



82404



ENQUIRIES: Mr Lloyd Nolan
Planning Services – (07) 4099 9450
DEPARTMENT:

OUR REF: 123100 LFN.sej
YOUR REF:

2001

Hedley Constructions Pty Ltd
PO Box 5902
CAIRNS QLD 4870

TOWN PLANNING DEVELOPMENT PERMIT

Application Number: 1051
Permit Number: TPC 1051
Date of Issue: 30 October 2001

- Real Property Description** : Lot 10 on RP 851581 and Lot 923 on PTD 2092, Parish of Salisbury, County of Solander
- Postal Address of Land** : Cnr Davidson, Beryl & Mudlo Streets
PORT DOUGLAS QLD 4871
- Nature of Existing Use** : Two (2) Dwelling Houses.
- Council Meeting** : 11 October 2001
- Nature of Approved Use** : Twenty-seven (27) Multiple Dwelling (Tourist) Units and Manager's Residence.

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ADMINISTRATION CENTRE
(ALL DEPARTMENTS)
64-66 FRONT STREET, MOSSMAN
LIBRARY 14 MILL ST., MOSSMAN

PHONE (07) 4098 2599 FACSIMILE 07) 4098 2902
EMAIL douglas@dsc.qld.gov.au
PHONE (07) 4099 9496 FACSIMILE 07) 4098 3298

ALL COMMUNICATIONS TO BE
ADDRESSED TO:
THE CHIEF EXECUTIVE OFFICER
P.O. BOX 357
MOSSMAN, QLD 4873

Conditions of Approval:

That Council resolve to approve the application for a Development Permit for Material Change of Use of premises located at the Corner of Davidson, Beryl and Mudlo Streets, Port Douglas and described as Lot 10 on RP 851581 and Lot 923 on PTD 2092, Parish of Salisbury, to facilitate the development of 27 Multiple Dwelling (Tourist) units, consisting of 6 x 3 bedroom Multiple Dwelling (Tourist) units and 21 x 2 bedroom Multiple Dwelling (Tourist) units, and a 1 x 3 bedroom manager's residence subject to the following conditions:

1. Any erection and use and occupation of the premises shall at all times comply with the conditions laid down and provided for in the Douglas Shire Planning Scheme from time to time.
2. The provision of the Integrated Planning Act, the Food Act 1981 and all other relevant Acts and Regulations and the Local Laws of the Council from time to time shall at all times be observed and performed in relation to the land, the building and the use and occupation thereof.
3. Approval if satisfactory building plans and specifications in accordance with the Building Act, Council's Local Laws and the Douglas Shire Planning Scheme where applicable and generally in accordance with the approved Plan, number 0127/1, prepared by Max Clarke Architects and landscape plan prepared by Landscape and Associates, No LD197 and dated August 2001, shall be required prior to the commencement of the use subject to the following amendments:
 - Reduction of the building height to 12.5 metres by reducing the roof pitch
 - The provision of cover over a further eight of the on site car parking spaces
 - Three metres of deep planting to the road frontages
 - No fences within two metres of any property frontage to a road.
4. The issue of this Development Permit approval in no way implies building approval, either in principle or in detail, of any plans or the proposed development which may have been submitted with the application. Approval of any building works associated with the use shall be the subject of a separate Building Application in accordance with the Council's Local Laws.
5. Lot 10 RP851581 and Lot 295 PTD2092 Parish of Salisbury, shall be amalgamated with an accurate plan of survey of the amalgamated allotment lodged and registered with the Registrar of Titles, prior to the issue of building approval.
6. The provisions of the Development Permit are to be effected prior to the commencement of the specific use as granted by Council.
7. The approval shall lapse four (4) years from the date of issue of the Development Permit unless the use is substantially commenced and all conditions complied with.

Car Parking and Access Requirements

8. All car parking, driveway and vehicular manoeuvring areas shall be paved, drained, sealed, linemarked and maintained to the requirements and satisfaction of the Council prior to commencement of the use.
9. Car parking, access and loading/unloading areas shall be constructed in accordance with the requirements of the Douglas Shire Planning Scheme and Local Laws and the approved plans and to the reasonable satisfaction of the Council.

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10. The applicant shall provide a sign to the site frontage to the satisfaction of the Council, advising the location of the off-street car parking area and access thereto, including visitor car parking, and details of the signage and the proposed location of the sign, shall be submitted at the time of applying for carrying out building works.
11. The applicant shall provide bollard lighting at the property boundary to indicate access to the car parking area to the satisfaction of the Council at the time of applying for carrying out building works.
12. The visitor car parking spaces shall be clearly delineated as visitor car parking spaces and shall be kept clear for use by visitors at all times. Details of visitor car parking shall be submitted at the time of applying for building works.

Landscaping and Screening Requirements

13. The applicant shall implement landscaping in accordance with the approved landscaped plan except where modified by Condition 12. Existing natural vegetation shall be retained and only removed with the Council written approval where required. A permit to damage protected vegetation is required to damage or remove all trees on the site with a trunk circumference of 80 centimetres or greater.
14. The landscape plan is required to be amended to show dense landscaping, in the form of shade trees and advanced native species, within a three (3) metre strip on site, adjacent to the Davidson Street, Beryl Street and Mudlo Street site frontages to screen the development from the street and improve the amenity of the streetscape.
15. Areas to be landscaped shall be established and maintained at all times to the satisfaction of the Council.
16. The applicant shall provide a 1.8 metre high screen fence to the side and rear boundaries, except where modified by Condition 15, to the satisfaction of the Council and details of the screen fence shall be submitted at the time of lodgement of a Building Application.
17. No fencing is permitted to be constructed within 2 metres of either site frontage.
18. Airconditioning plant and other structures shall not be added to the roof top of the buildings and appropriately screened so as not to be seen from any road frontage or adjoining property.

Health Requirements

19. All refuse bin enclosures shall be suitably located outside of the setback landscaped strip to the road frontage(s) and sited on the property to the requirements and satisfaction of the Council.
20. No noise from either airconditioning units, swimming pool filters, service equipment or other mechanical equipment shall occur that would create a nuisance to adjoining residences and the noise levels shall be to the requirements and satisfaction of the Council.
21. The applicant shall ensure that on completion of any site construction works the subject land shall be maintained in a clean and tidy condition at all times and to the requirements and satisfaction of the Council.

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22. All toilets shall be fitted with dual flush cisterns to the satisfaction of the Council.
23. Water flow regulators shall be fitted to all shower recesses, bathrooms and kitchen facilities where applicable and shall be submitted at the time of lodgement of a building application to the satisfaction of the Council.
24. The location of the refuse storage area shall be approved by the Manager Environmental Services, having regard to neighbouring residential properties. Refuse storage, removal and collection methods shall be in accordance with the "Environment Protection (Interim Waste) Regulations 1996", and to the satisfaction of Council's Manager Environmental Services. The refuse storage area shall feature a hose cock and shall be drained to Council's sewer. The refuse storage area shall provide for the separation of various components of refuse as required by the Council.
25. All building work, shall be confined to the following hours:

6.30 am to 6.30 pm Monday to Saturday inclusive, excepting that no machinery shall be operated or used in conjunction with any building work prior to 7.00am.

NOTE: Building work is not permitted on a Sunday or Public Holiday at any time.

Construction Stage/Site Management

26. At all times, the applicant is to ensure dust suppression measures are undertaken for the site and adjoining road reserves to ensure that all materials are appropriately stored and any unsealed areas do not create a dust nuisance to surrounding areas to the satisfaction of the Council.
27. All vehicles associated with the development of the site shall be legally parked and in a manner so as to not adversely impact on the immediate locality.
28. No building materials associated with the development of the site, shall be stored or stacked on Council owned land (including road pavement, road reserve and/or parklands) at any time.
29. All refuse and packing materials or similar, associated with the development of the site shall be stored on the subject site in a neat and tidy manner and screened from public view.
30. That silt control measures, shall be put in place by the developer prior to construction commencing on the site and maintained in good working order during the construction.

General Works and Contributions

31. The applicant is to ensure that the flow of all external stormwater from the property is directed to a lawful point of discharge such that it does not adversely affect surrounding or downstream properties from the development and to the requirements and satisfaction of the Council.
32. The applicant shall construct the following external works to the site frontage to the satisfaction of the Council:-
 - Provision of underground power in Mudlo Street
 - provision of an industrial crossover and apron at the location of the proposed driveway(s);
 - make good any redundant crossovers with kerb and channel;

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- provide a 1.5 metre wide footpath for the full frontage of Davidson, Beryl and Mudlo Streets. The footpath to the Beryl Street frontage is to connect with the existing footpath provided to Davidson Street and shall include any necessary footpath works across the existing verge planter located on the corner of Beryl and Davidson Street.

A copy of a plan of the works shall be submitted at the time of lodgement of a Building Application and shall be approved by the Director Engineering Services prior to the issue of a Building Approval. Such works shall be constructed in accordance with the Council's current specifications.

33. The applicant shall contribute towards the augmentation of water supply and sewerage services. The amount of contribution shall be determined by the Council prior to the issue of the Building Permit. On the present method of calculation, the augmentation costs shall be \$63,393.60 for water supply and \$38,777.70 for sewerage. Payment to Council shall be made within 14 days of the issue of the relevant Building Permit.
34. The applicant shall contribute towards the augmentation of stormwater drainage and services. The amount of the contribution shall be determined by the Council prior to the issue of the Development Permit for building works.
35. The supply of electricity for the proposed development is required by Council to be underground in order to preserve amenity of the locality, with all road frontage and on site electricity supplies to be underground.

Signs

36. Details of any signage proposed in association with the development shall be submitted for approval of the Manager Planning Services at the time of applying for carrying out building works for the proposed development, and in accordance with Council's draft controls on Advertising Signs.

Miscellaneous

37. All external lighting installed upon the premises including car parking areas shall be certified by the Far North Queensland Electricity Board or such other suitably qualified person such that it shall conform with the Planning Scheme whereby vertical illumination at a distance of 1.5 metres outside the boundary of the site shall not exceed eight (8) lux measured at any level upwards from ground level to the requirements and satisfaction of the Manager Planning Services.
38. All night lighting shall be designed and constructed to the satisfaction of the Manager Planning Services so as to ensure that light emitted from the subject land does not, in the opinion of the Council, cause nuisance or annoyance to residents in the immediate vicinity or to passing motorists.
39. No covered verandahs or balconies shall be enclosed without the consent of Council.

REFERRAL AGENCY

1. Permitted Road Access

- (i) Access between Port Douglas Road and Lot 10 on RP851581 shall be via Beryl Street, at least 40 metres from the State-controlled road frontage (ie Port Douglas Road/Davidson Street), to the satisfaction of the Manager Engineering Services, Douglas Shire Council.
- (ii) No direct access between State-controlled road reserve (ie Davidson Street) and Lot 10 RP851581 is permitted.

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
2. Advertising

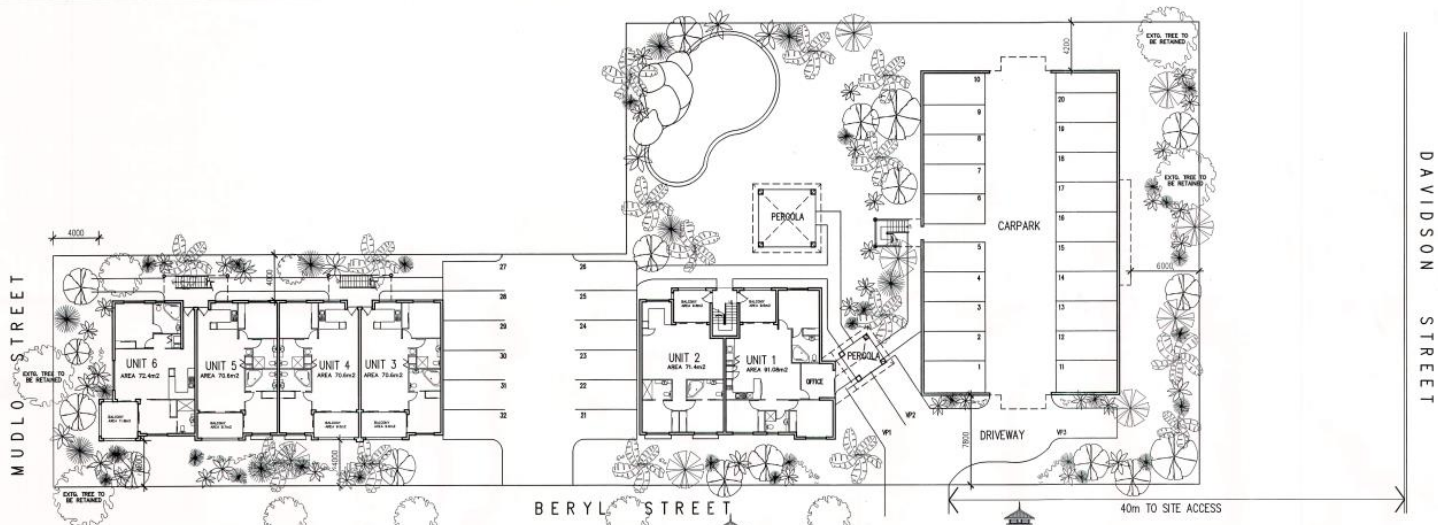
No advertising device for the proposed development is permitted within the State-controlled road reserve (ie Davidson Street).

3. Parking

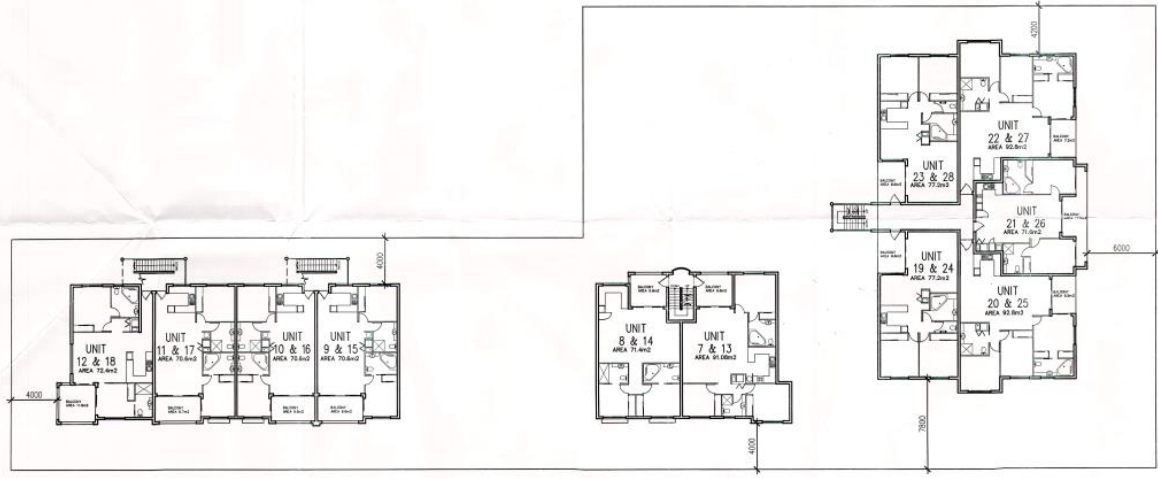
When calculating carparking requirements associated with the proposed development no allowance shall be made for parking within the State-controlled road reserve (ie Davidson Street).



 Terry Melchert
Chief Executive Officer



TOWNPLANNING
 28 Units = 7x3 Bed Units
 and 21x2 Bed Units.
 Site Area: 3048m²
 Site Coverage: 35%
 Landscape Areas:
 1365m² required
 1472.3m² provided
 Carparking:
 Required = 35
 35 provided



PROPOSED UNIT DEVELOPMENT
 for HEDLEY CONSTRUCTIONS P/L

Cnr BERYL & DAVIDSON ST
 PORT DOUGLAS

SCALE: AS SHOWN DRAWN: S. BARNES
 DATE: JULY 2001 DWG. No. 0127/1

MAX CLARK ARCHITECTS
 PO BOX 6540
 CAIRNS, QLD, 4870
 PH: 07 40534748
 FAX: 07 40534608
 Email: maxclark@cairns.net.au

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

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

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

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.

- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and

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

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.

- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
decision includes—
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.**non-appealable**, for a decision or matter, means the decision or matter—
 - (a) is final and conclusive; and
 - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

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