

5 December 2024

Enquiries: Jenny Elphinstone
Our Ref: MCUC 2024_5568/1 (Doc ID 1266535)
Your Ref: 72322

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

KTJ 3 Pty Ltd (Tte) & BTLT Port Douglas Pty Ltd
C/- Planz Town Planning
PO Box 181
EDGE HILL QLD 4870

Email: info@planztp.com

Attention Mr Peter Boyd and Ms Nikki Huddy

Dear Sir/Madam

**Development Application for Material Change of Use for Multiple Dwellings and
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 2024_5568/1 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



Neil Beck
A/ 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 s 63 of the Planning Act 2016

Applicant Details

Name: KTJ 3 Pty Ltd (Tte) & BTLT Port Douglas Pty Ltd
Postal Address: C/- Planz Town Planning
PO Box 181
Edge Hill Qld 4870
Email: info@planztp.com

Property Details

Street Address: 8 Davidson Street Port Douglas
Real Property Description: Lot 704 on PTD2092
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Material Change of Use for Multiple Dwellings and Short-term Accommodation.

Decision

Date of Decision: 5 December 2024
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
Proposed Floor Plan	TPG Architects, Drawing LBT-01 SKD01 (L) dated July 2024 (Council Doc ID 1242674) and as amended by the conditions of approval.	To be determined.

Drawing or Document	Reference	Date
Site Plan	TPG Architects, Drawing LBT-01 SKD02 (L) dated July 2024 (Council Doc ID 1242674) and as amended by the conditions of approval.	To be determined.
Planning Compliance	TPG Architects, Drawing LBT-01 SKD06 (J) dated July 2024 (Council Doc ID 1242674) and as amended by the conditions of approval.	To be determined.
Elevation & Section	TPG Architects, Drawing LBT-01 SKD07 (J) dated July 2024 (Council Doc ID 1242674) and as amended by the conditions of approval.	To be determined.
Planting Concept Revised	Landplan Landscape Architecture, Drawings L1.01 and L1.02 dated 18 April 2024 and as amended by the conditions of approval.	To be determined.
Drainage Study	Generally in accordance with the C.M.G. Consulting Engineers Report Reference 47256RFI (1) dated 19 April 2024 and amended by the conditions of the approval.	To be determined.
FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access		
Access Crossovers	Standard Drawing S1015 Issue F	5 December 2023.
Concrete driveway for allotment access	Standard Drawing S1110 Issue G	5 December 2023.

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 generally in accordance with the Plans lodged with Council on 6 August 2024 (Council document ID 1242674) where:
 - a. All structures and development have been removed from the easement area;
 - b. The landscape plan for Unit 3, in the easement area is grass cover with limited removable pavers;
 - c. The letterboxes are located the front of the property and are to comply with Australia Post standard requirements; and
 - d. The plans are to be further amended to detail:
 - i. Setback all buildings a minimum of 2.5 metres from the northern (side) boundary;
 - ii. Include a gated access of a minimum 3m width to the rear yard of unit 3 (the eastern unit at the rear of the development) and the gazebo positioned in the driveway must have a minimum clearance height of 3.0 m to enable access by vehicles to Council's sewer and easement area. The rear access needs to be at ground level and be of an even surface;
 - iii. Include the external works as required under Condition 5 below; and
 - iv. Include requirements as identified under Condition 6 below.

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

Drainage Design and Lawful Point of Discharge

4. The proposed drainage design must be generally in accordance with the C.M.G. Consulting Engineers Report Reference 47256RFI (1) dated 19 April 2024 and amended to have regard to Condition 1a and 1b. The amended report and design must be to the satisfaction of the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

All necessary drainage work must be undertaken prior to Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

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

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 on-street 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. The car parking space proposed immediate to the new driveway is to be replaced with a concrete verge island and planted with a suitable clear trunked specimen tree;
 - b. Provision of a concrete crossover(s) and apron(s) in accordance with FNQROC Development Manual Standard Drawing S1015;
 - c. Construct a concrete verge island around the existing tree 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*.

Refuse Bin Enclosure

- 6. The refuse bin enclosure must be roofed and bunded and fitted with a bucket trap.
Odours or airborne particulates must not cause environmental nuisance to any sensitive receptor. The refuse bin enclosure must be maintained in a clean and tidy state at all times to the satisfaction of the Chief Executive Officer.

Minimum Floor to Ceiling Clearance

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

Air-Conditioning Screens

- 8. 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

- 9. 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.

Access for Council Infrastructure

- 10. Access to the rear easement must be made available to the Chief Executive Officer, or their agent, at all times.
All rehabilitation (including landscaping) affected by any Council inspection, maintenance and / or replacement of Council infrastructure is at the owner's expense.

Water Supply and Sewerage Works External

- 11. 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

12. 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

13. 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

14. The amount of vehicle parking must be as specified in Council's Planning Scheme which is a minimum of five (5) spaces, of which two (2) spaces must be provided as visitor spaces, is to be provided on the land. The visitor parking spaces must be signposted as such. The car parking layout must comply with the Australian Standard AS2890 Parking Facilities – off-street carparking 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

15. 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

16. 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

17. 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

18. 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

19. The site must be landscaped generally in accordance with Planting Concept Revised Plan prepared by Landplan Landscape Architecture, Drawings L1.01 and L1.02 dated 18 April 2024 as amended by Condition 3 above.

The Landscaping Plan must show:

- a. Deep planting of setback areas with the exception of the land within the easement;
- 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).

A copy of the landscape plan must be submitted to the satisfaction of the Chief Executive Officer prior to the commencement of landscape work. 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

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

Construction Signage

21. 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*.

Concurrence Agency Response

Concurrence Agency	Concurrence Reference	Agency	Date	Doc ID
State Assessment and Referral Agency (SARA)	2024-5568 SRA		23 May 2024	1229355

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

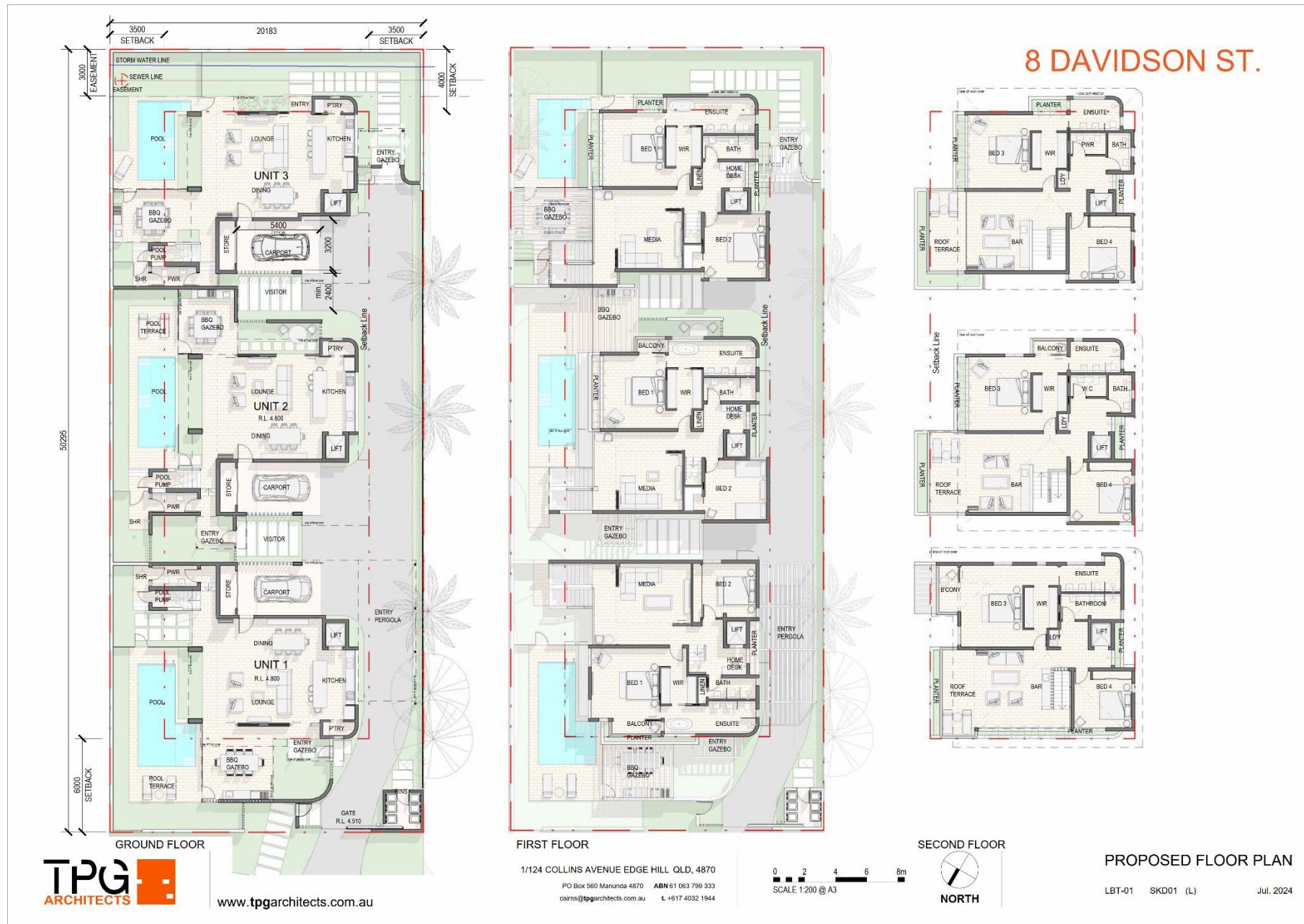
Currency Period for the Approval

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.



8 DAVIDSON ST.
PORT DOUGLAS



TPG
ARCHITECTS

www.tpgarchitects.com.au

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PO Box 560 Manunda 4870 ABN 61 063 799 333
cairms@tpgarchitects.com.au t. +617 4032 1944

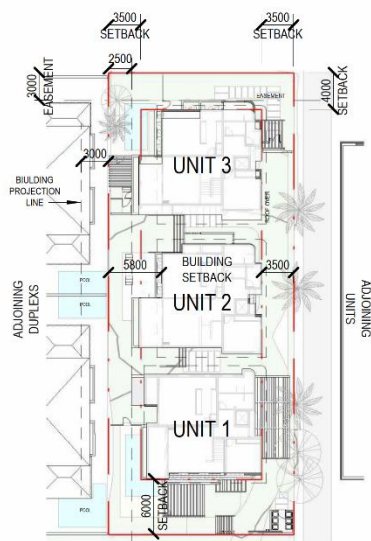


SITE PLAN

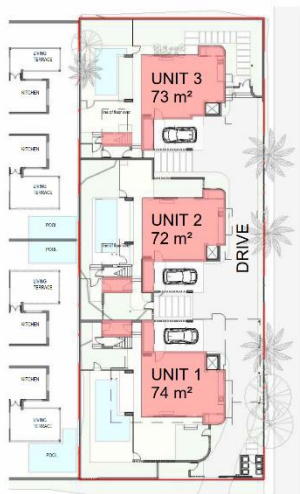
LBT-01 SKD02 (L)

Jul. 2024

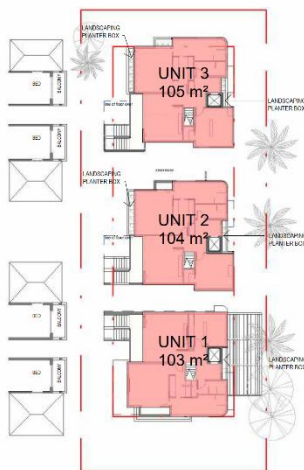
8 DAVIDSON ST.
PORT DOUGLAS



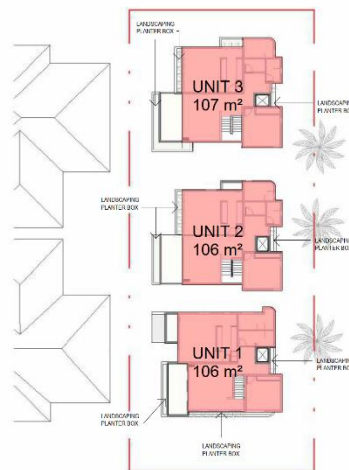
SETBACKS



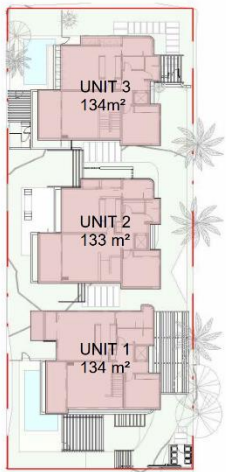
GROUND FLOOR GFA



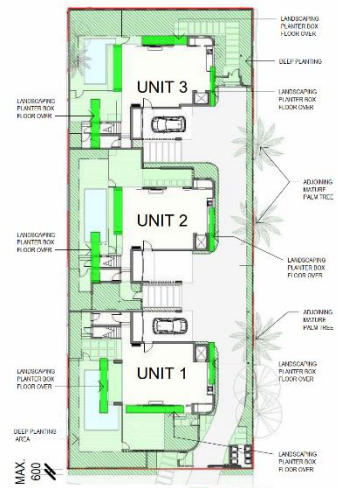
1st FLOOR GFA



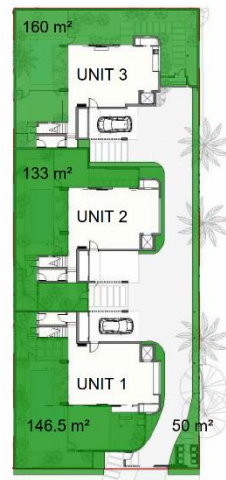
2nd FLOOR GFA



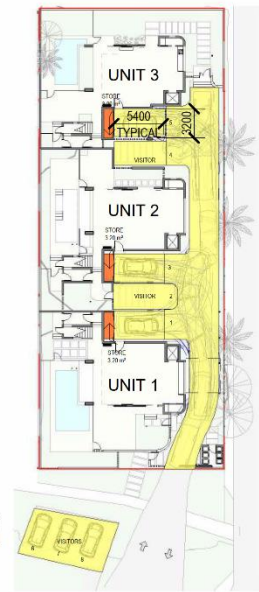
SITE COVER



LANDSCAPING & DEEP PLANTING AREA



LANDSCAPING & RECREATIONAL AREA



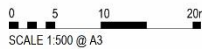
CAR PARKING CIRCULATION

ZONE	USE	PROVIDED
TOURISM ACCOMMODATION	MULTI DWELLING SHORT TERM ACCOMMODATION	
Site Area	min. 1000 m ²	1015 m ²
Site Cover	max. 40% 406 m ²	39.5% 401 m ²
Plot Ratio GFA	max. 1.2 x Site Area =1218 m ²	850 m ² = 0.837
Height	max. 13.5 m 3 storey	11.5-12.5 m 3 storey
Ceiling Height	min. 2.7 m	min. 2.8 m
SETBACKS		
Front	6 m	6 m
Sides - 2nd STOREY	2.5 m	2.5 m
Sides - 3rd STOREY	3.5 m	3.5 m
Rear	4 m	3 to 4 m
LANDSCAPING AREA		
Setback	Front: 2 m Side & Rear: 1.5 m	2m - 6m 0.6m - 4m
Area	min. 35 % = 355 m ²	436 m ² = 43% planters: 45 m ² Total: 481 m ² = 47%
Landscaping Planting (Deep Planting)	min 30% of 35% = 106.5 m ²	205 m ²
RECREATIONAL LANDSCAPING AREA		
	min. 35 m ² Unit min. 3 m Wide	Unit 1: 146.5 m ² Unit 2: 133 m ² Unit 3: 160 m ² Communal: 50 m ²
CARPARKING		
Multi Dwelling Houses	1.5 Spaces/Unit (3x1.5) = 4.5 spaces min. 60% Covered	On Site: 3 Covered 2 Uncovered Off Site: 3 Uncovered



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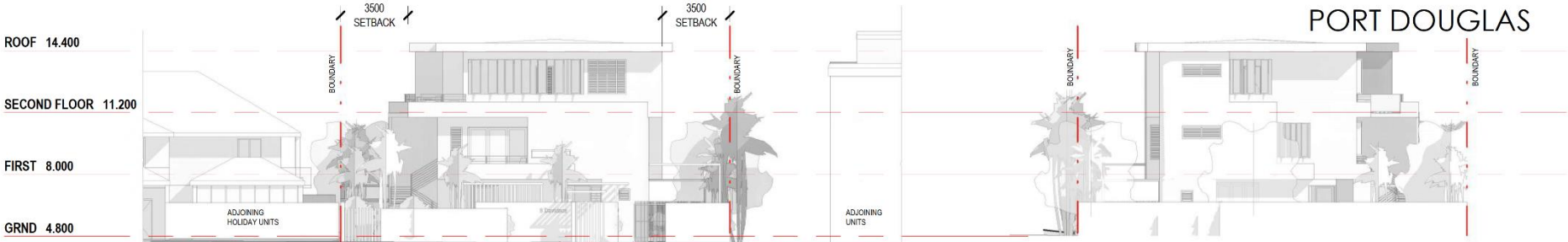
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PLANNING COMPLIANCE

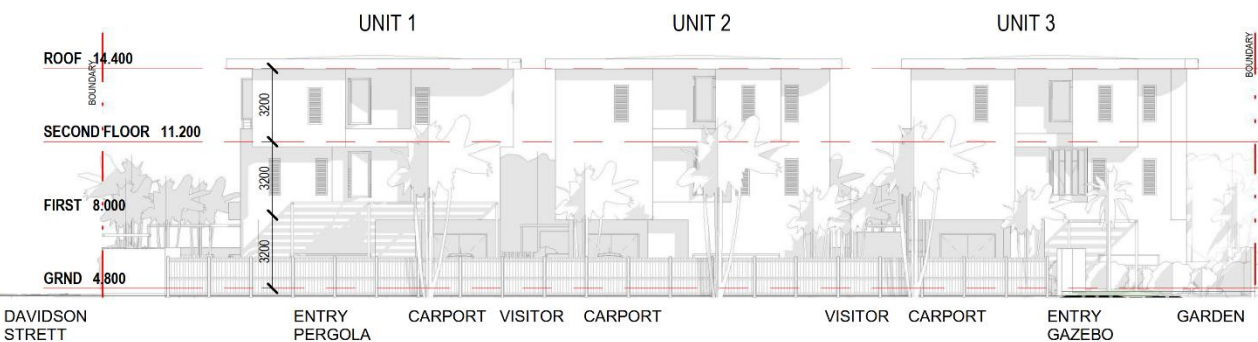
LBT-01 SKD06 (J) Jul. 2024

8 DAVIDSON ST. PORT DOUGLAS

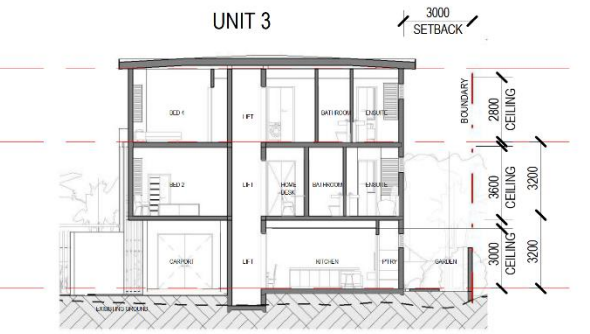


DAVIDSON STREET ELEVATION

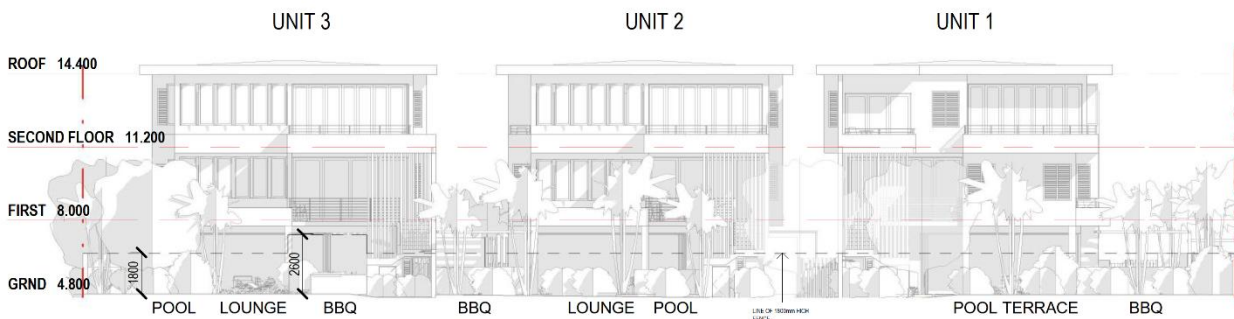
SOUTH ELEVATION



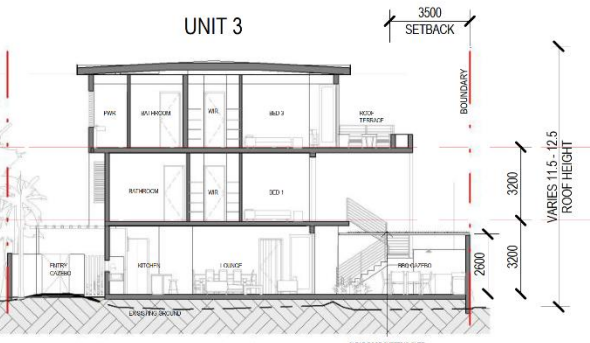
WEST ELEVATION



SECTION A



EAST ELEVATION



SECTION B

ELEVATION & SECTION

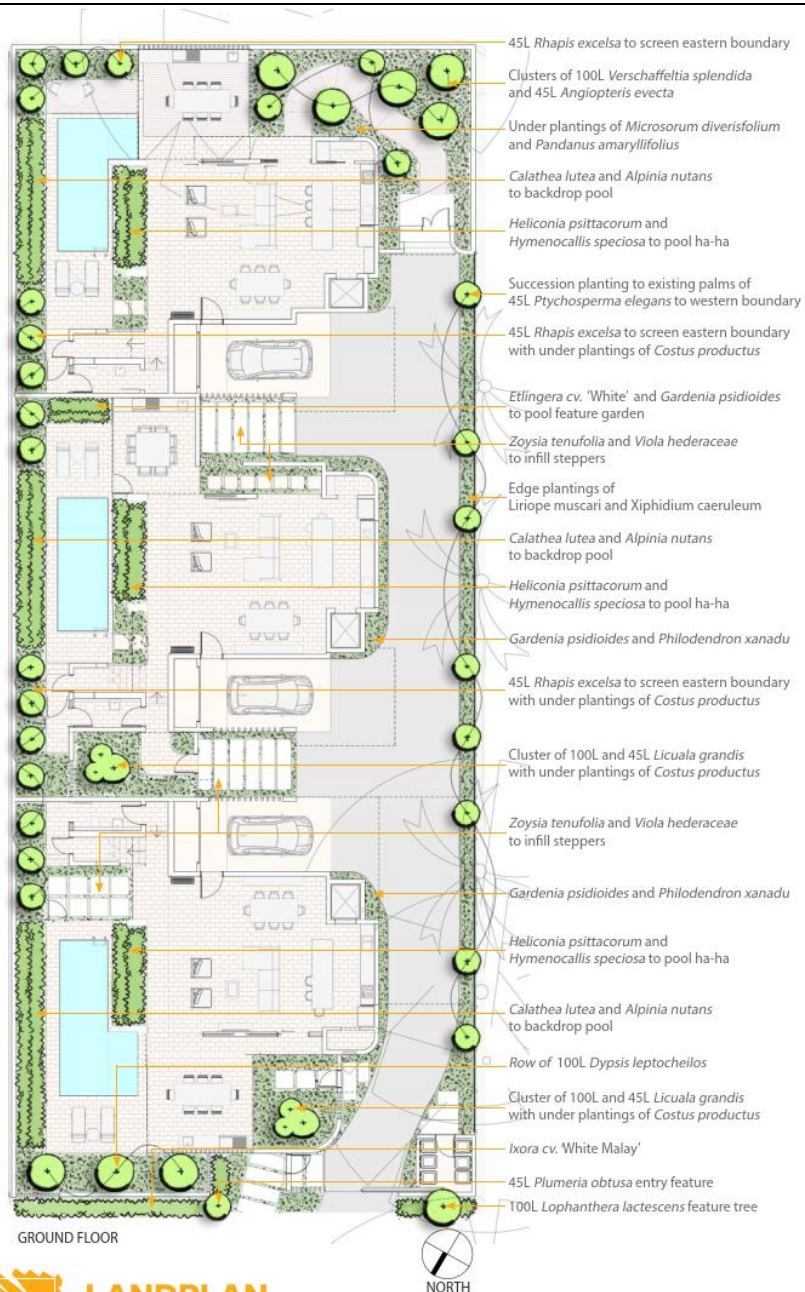


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caims@tpgarchitects.com.au t. +617 4032 1944

0 2 4 6 8m
SCALE 1:200 @ A3

LBT-01 SKD07 (J) Jul. 2024



PALMS & TREES

Structurally elegant palm and tree species creating height and filtered shade to proposed gardens. Flowering and foliage species to frame the built form and existing views. Feature riverine species aggregated around boardwalk and swale beneath, forming a natural creek atmosphere.



SCREENING & MID STORY

Robust species to screen hard walls and create mid story depth. Visually striking flowering species to create pockets of interest to pool surrounding gardens.



GROUND COVERS & UNDER STORY

Dense plantings of hardy, low growing, ground covering species. Illustrating garden extents, whilst creating further depth and detail to garden understory.





ARBOURS

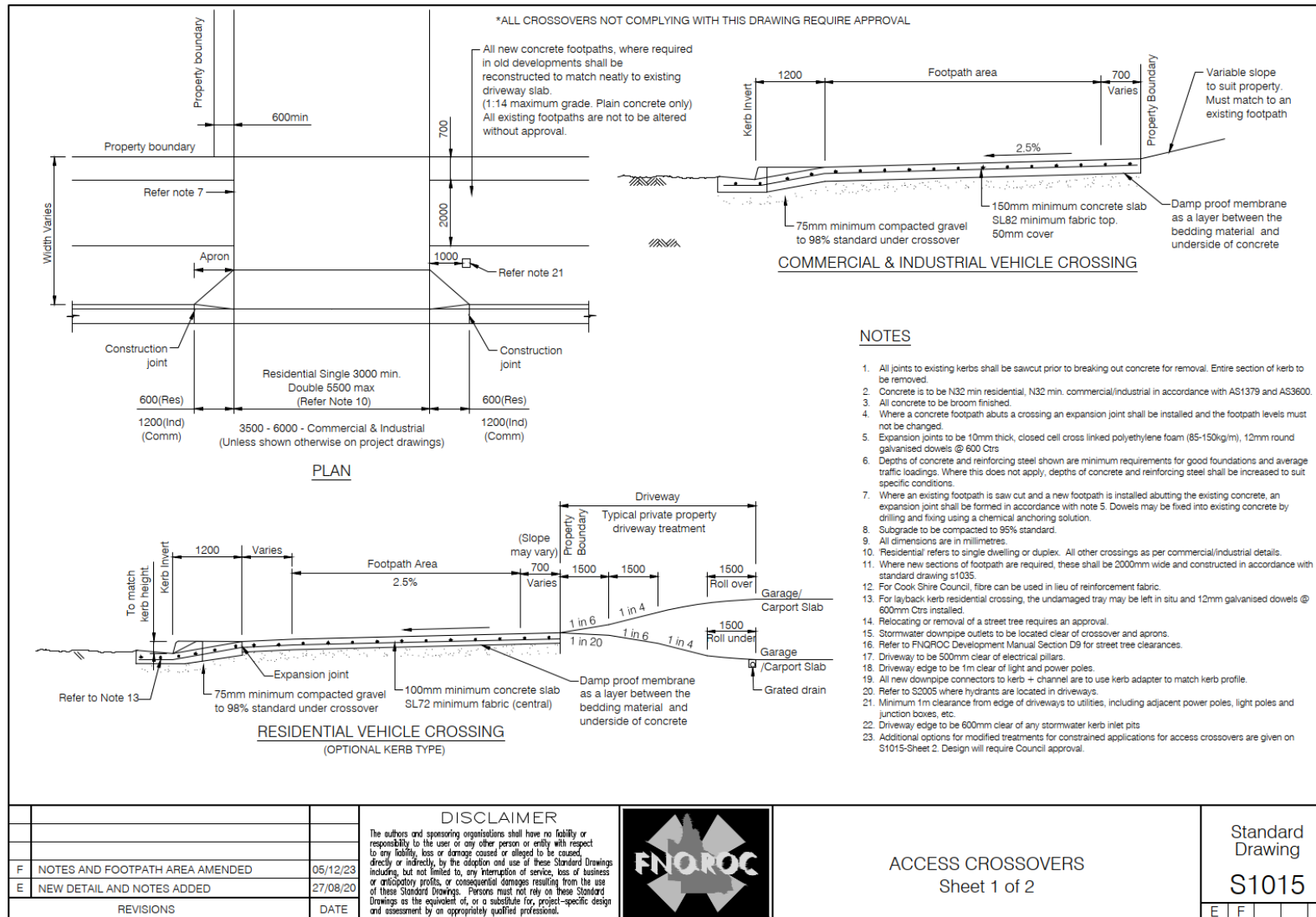
Prolific flowering climbers to veil overhead arbours, casting dense shade to beneath surfaces and creating 'green corridors'. Species planted to arbour posts and planters above to creep onto arbour framing.

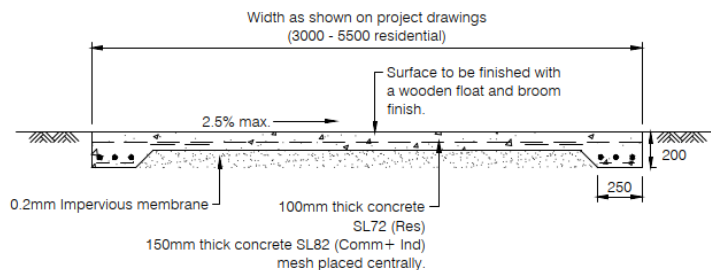


TERRACE PLANTERS

Vertical greening to building facade with the use of cascading species. Broad leaved foliage species to contrast. Showy feature tree and robust ground covers planted within large feature pots to roof terraces, framing views.



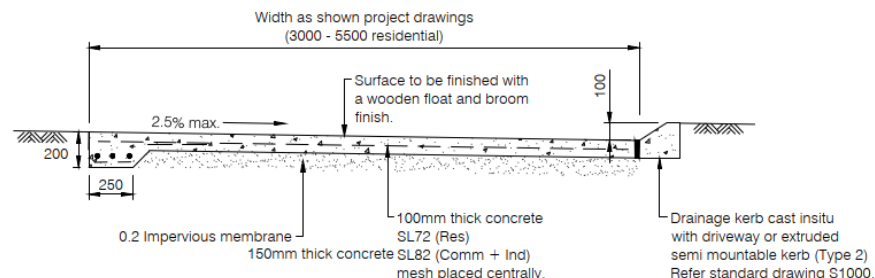




CONCRETE DRIVEWAY - TYPE 1

(Without drainage)

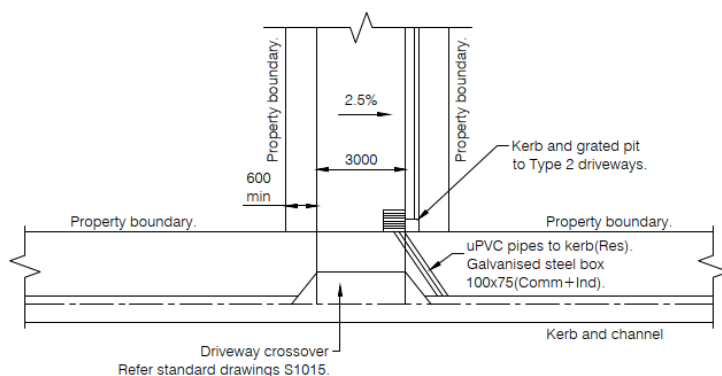
F8 TM 3BAA (Res)
F11 TM 3BAA (Comm + Ind)



CONCRETE DRIVEWAY - TYPE 2

(With drainage)

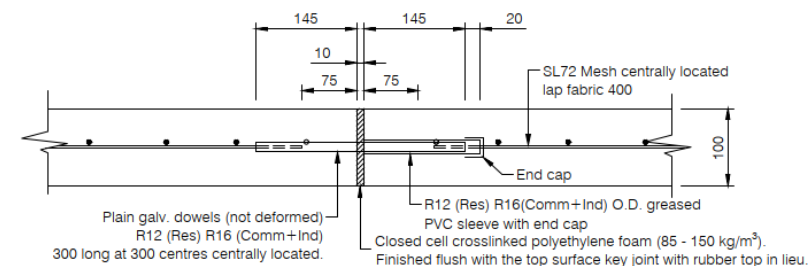
Closed cell cross linked polyethylene foam
with 12mm galvanised dowels @ 600mm Ctrs



TYPICAL DRIVEWAY LAYOUT

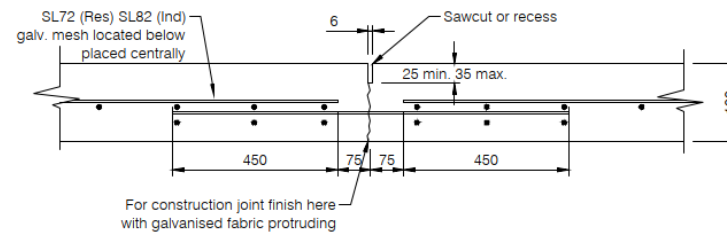
NOTES

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



EXPANSION JOINT

Spacing 16000 max.



CONTRACTION JOINT

Spacing 4000 max.

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 G

Concurrence Agency Conditions

RA6-N



SARA reference: 2401-38891 SRA
Council reference: MCUC 2024_5568/1
Applicant reference: P72322

23 May 2024

Douglas Shire Council
PO Box 723
MOSSMAN QLD 4873
enquiries@douglas.qld.gov.au

Attention: Jenny Elphinstone

Dear Ms Elphinstone

SARA referral agency response—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 31 January 2024.

Response

Outcome:	Referral agency response – with conditions	
Date of response:	23 May 2024	
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 and Short-term accommodation. (3 units)
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1	

(Planning Regulation 2017) - Material change of use near a State transport corridor

SARA reference: 2401-38891 SRA

Assessment manager: Douglas Shire Council

Street address: 8 Davidson Street, Port Douglas

Real property description: Lot 704 on PTD2092

Applicant name: KTJ 3 Pty Ltd (Tte) & BTLT Port Douglas Pty Ltd
c/- Planz Town Planning

Applicant contact details: PO Box 181
Edge Hill QLD 4870
info@planztp.com

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: TMR24-041680
- Date: 22 May 2024

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

Human Rights Act 2019 considerations: A consideration of the 23 fundamental human rights protected under the *Human Rights Act 2019* has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

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 Leanne Simpson, Principal Planning Officer, on 5352 9707 or via email CairnsSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc KTJ 3 Pty Ltd (Tte) & BTLT Port Douglas Pty Ltd c/- Planz Town Planning, info@planztp.com

enc Attachment 1 - Referral agency conditions

Attachment 2 - Advice to the applicant

Attachment 3 - Reasons for referral agency response

Attachment 4 - Representations about a referral agency response provisions

Attachment 5 - Documents referenced in conditions

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 documents referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Material change of use (Multiple dwelling and Short-term accommodation)		
10.9.4.2.4.1 – Material change of use 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 conditions:		
Managing noise impacts		
1.	<p>The first floor balcony and roof terrace of Unit 1 facing Port Douglas Road (Davidson Street) as shown on the Elevation & Section, prepared by TPG Architects, dated April 2024, reference SKD07 and revision H, as amended in red by SARA must include:</p> <ul style="list-style-type: none"> • balustrades that are solid, gap-free and continuous for their complete length other than gaps required for drainage purposes in accordance with the Building Code of Australia; and • highly acoustically absorbent material treatment for the total area of the soffit above the balcony and roof terrace. 	Prior to the commencement of use and to be maintained at all times.
Stormwater management		
2.	<p>(a) Stormwater management of the development must not cause a worsening to the operating performance of the state-controlled road network, such that any works on the land must not:</p> <ul style="list-style-type: none"> (i) create any new discharge points for stormwater runoff onto the state-controlled road; (ii) concentrate or increase the velocity of flows to the state-controlled road; (iii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road; and (iv) surcharge any existing culvert or drain on the state-controlled road. 	At all times.
Vehicular access to a state-controlled road		
3.	<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 21/05/2024, reference TMR24-41680 (500-1586) and Issue B.</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"> (i) Standard Drawing - Access Crossovers, prepared by FNROC, dated 27/08/20, reference S1015 and revision E. (ii) Standard Drawing - Concrete Driveway for Allotment Access, prepared by FNQROC, dated 27/08/20, reference 	<p>(a) At all times.</p> <p>(b) and (c): Prior to the commencement of use</p>

	S1110 and revision F.	
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Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> , its regulation or the State Development Assessment Provisions (SDAP) (version 3.0). If a word remains undefined it has its ordinary meaning.
On-street carparking within a state-controlled road	
2.	The development proposes to establish and utilise on-street car parking spaces within the state-controlled road corridor (Port Douglas Road / Davidson Street) to service the development. DTMR is not obligated or required to retain car parking within the state-controlled road corridor. On-street carparking may be removed at any time to facilitate road widening works or transport infrastructure works.
Transport noise corridor	
3.	<p>Mandatory Part (MP) 4.4 of the Queensland Development Code (QDC) commenced on 1 September 2010 and applies to building work for the construction or renovation of a residential building in a designated transport noise corridor. MP4.4 seeks to ensure that the habitable rooms of Class 1, 2, 3 and 4 buildings located in a transport noise corridor are designed and constructed to reduce transport noise. Transport noise corridor means land designated under Chapter 8B of the <i>Building Act 1975</i> as a transport noise corridor. Information about transport noise corridors is available at state and local government offices.</p> <p>A free online search tool can be used to find out whether a property is located in a designated transport noise corridor. This tool is available at the State Planning Policy Interactive Mapping System website: https://spp.dsdp.esriaustraliaonline.com.au/geoviewer/map/planmaking and allows searches on a registered lot number and/or property address to determine whether and how the QDC applies to the land. Transport Noise Corridors are located under Information Purposes within <i>Transport Infrastructure of the State Planning Policy (SPP) mapping system</i></p>
Road works approval	
4.	<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. 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's decision are:

The proposed development complies with the relevant provisions of State code 1: Development in a state-controlled road environment, as it:

- does not increase the likelihood or frequency of accidents, fatalities or serious injury for users of Davidson Street;
- does not adversely impact the structural integrity or physical condition of Davidson Street, other road transport infrastructure, public passenger transport infrastructure or active transport infrastructure;
- does not adversely impact the function and efficiency of Davidson Street or future state-controlled roads;
- does not adversely impact the state's ability to plan, construct, maintain, upgrade or operate state-controlled roads, future state-controlled roads or road transport infrastructure;
- does not significantly increase the cost to the state to plan, construct, upgrade or maintain state-controlled roads, future state-controlled roads or road transport infrastructure;
- maintains access to public passenger transport infrastructure or active transport infrastructure;
- does not adversely impact the state's ability to operate public passenger services on state-controlled roads;
- adequately protects community amenity from significant adverse impacts of environmental emissions generated by road transport infrastructure or vehicles using Davidson Street through a combination of part solid / part open fence design coupled with adequate separation of buildings and private open space from the road.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 3.0), as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- section 58 of the *Human Rights Act 2019*

Attachment 4—Representations about a referral agency response provisions

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Attachment 5—Documents referenced in conditions

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Provide noise mitigation measures to the first floor balcony and roof terrace of Unit 1 facing Port Douglas Road (Davidson Street) in accordance with Condition 1 of the SARA referral agency response ref. 2401-38891 SRA

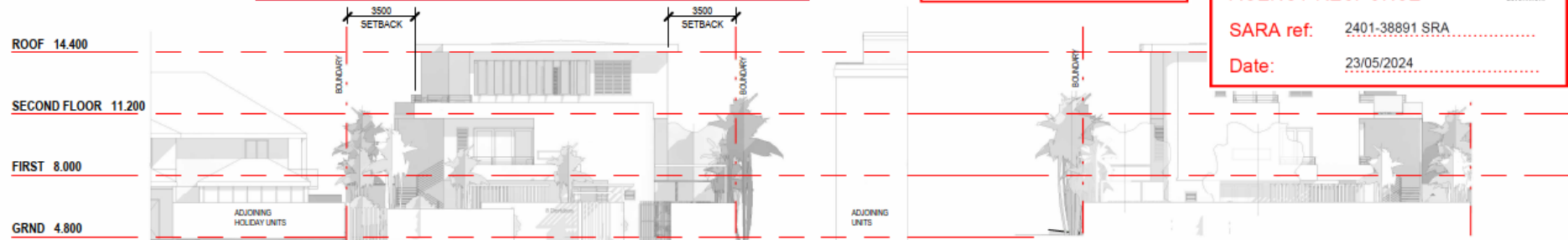
Amended in red by SARA on
23/05/2024

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE



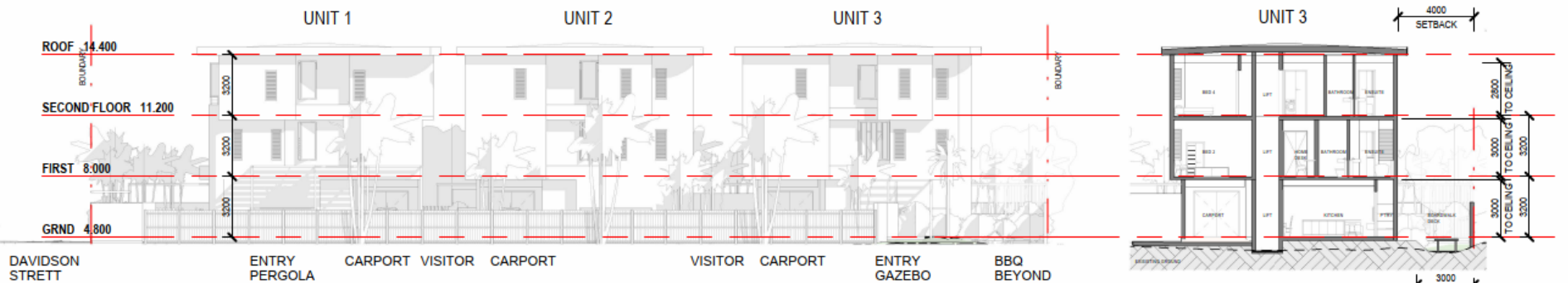
SARA ref: 2401-38891 SRA

Date: 23/05/2024



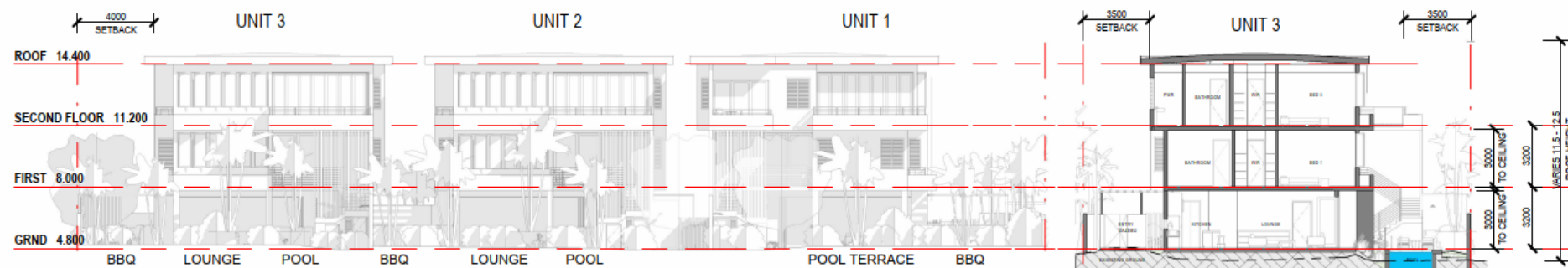
DAVIDSON STREET ELEVATION

SOUTH ELEVATION



WEST ELEVATION

SECTION A



EAST ELEVATION

SECTION B

ELEVATION & SECTION

LBT-01 SKD07 (H)

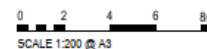
Apr. 2024

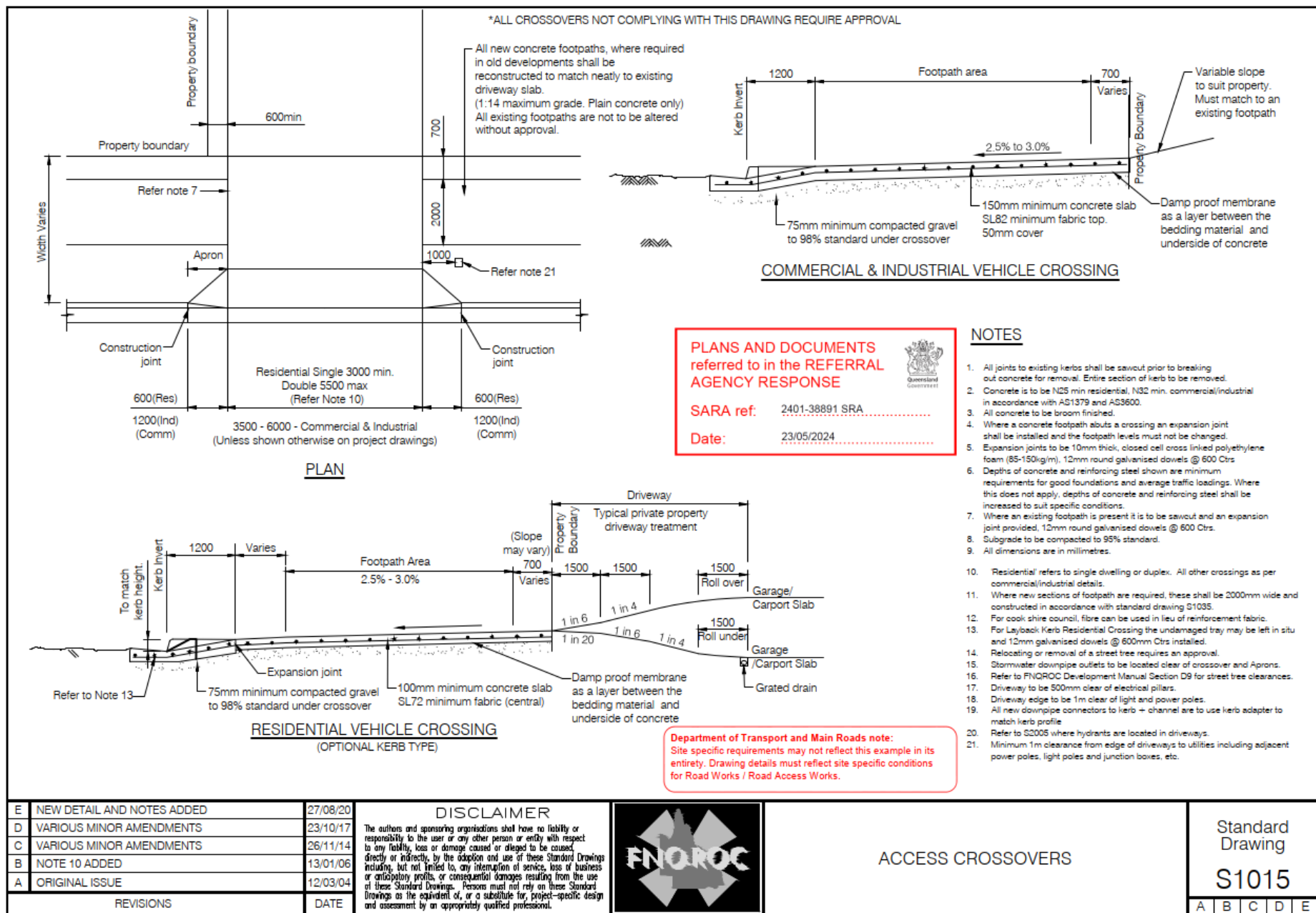


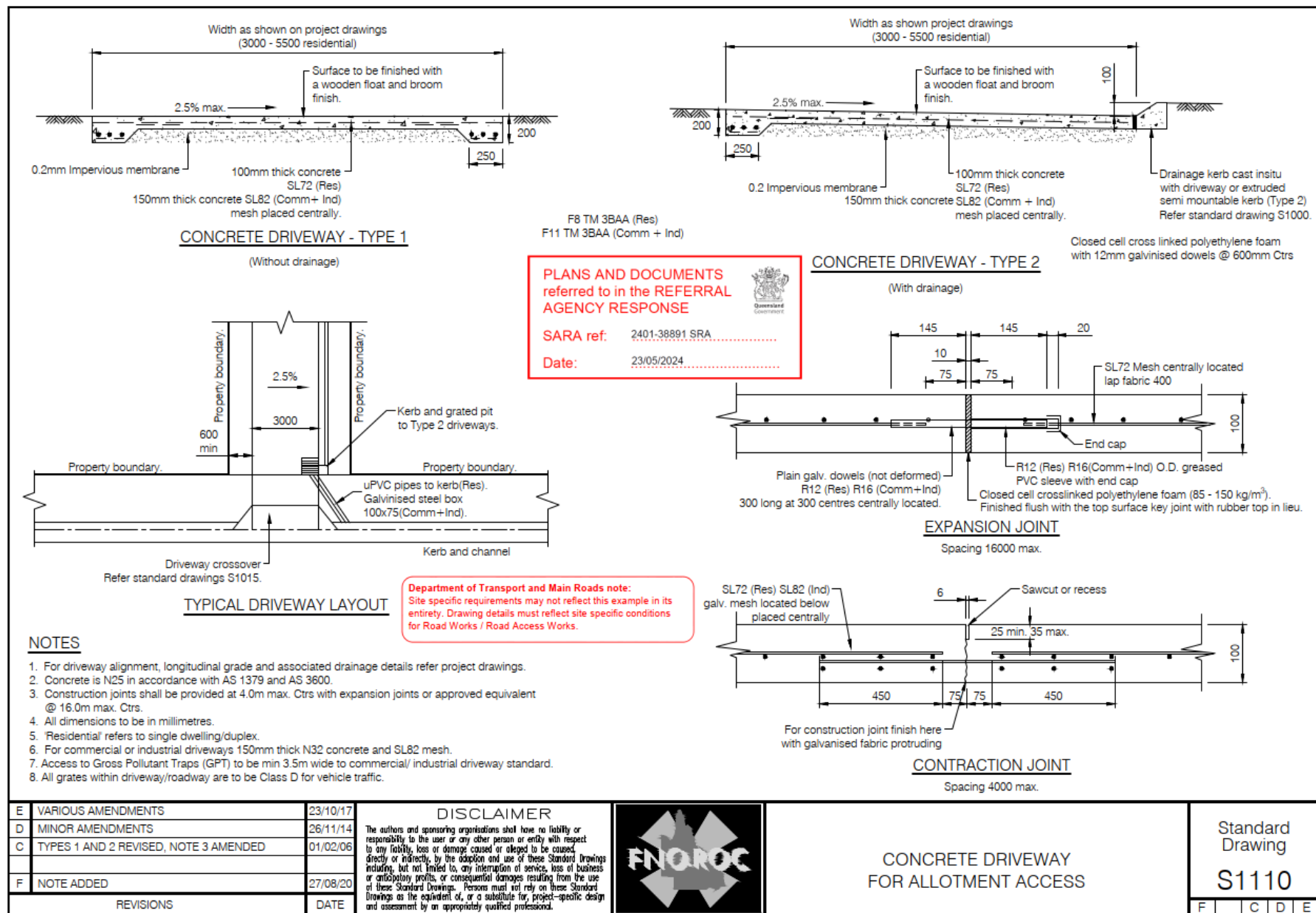
www.tpgarchitects.com.au

1/124 COLLINS AVENUE EDGE HILL QLD, 4870

PO Box 560 Marunda 4870 ABN 61 063 799 333
calms@tpgarchitects.com.au t. +617 4032 1944







Our ref TMR24-041680 (500/1586)
Your ref 72322
Enquiries Ron Kaden



22 May 2024

Department of
Transport and Main Roads

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 MCUC2024_5568/1, 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 (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 KTJ 3 PTY LTD (TTE) BTLT PORT DOUGLAS PTY LTD c-/
Planz Town Planning Pty Ltd
PO Box 181
Edge Hill 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 and Short-term Accommodation (3 units)

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 B 21/05/2024.	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.

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 7 (07) 4045 7063
Website www.tmr.qld.gov.au
Email Far.North.Queensland.IDAS@tmr.qld.gov.au
ABN: 39 407 690 291

No.	Conditions of Approval	Condition Timing
3.	<p>The use of the permitted road access location is to be restricted to:</p> <p>a) Design vehicles up to a maximum size short sedan - Class 1 Short Length Light Vehicle **</p> <p>Note: ** as described in Austroads Vehicle Classification System</p>	At all times.
4.	<p>Road access works to a commercial / industrial standard including a sealed driveway must be constructed, generally in accordance with:</p> <p>a) FNQROC Standard Drawing S1015 - Access Crossovers dated 27/08/20, Revision E.</p> <p>b) FNQROC Standard Drawing S1110 – Concrete Driveway for Allotment Access, dated 27/08/20, Revision F.</p>	Prior to the commencement of use.

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 Port Douglas Road.
- 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, Ron Kaden Technical Officer (Corridor Management) should be contacted via email at ron.p.kaden@tmr.qld.gov.au or phone 07 4045 7151.

Yours sincerely



Liliya Yates
A/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	21 May 2024	TMR24-41680 (500-1586)	B
Site Plan	TPD Architects	April 2024	SKD02	J
Access Crossovers	FNQROC	27 August 2020	S1015	E
Concrete Driveway for Allotment Access	FNQROC	27 August 2020	S1110	F

Attachment B

Section 70 of TIA

Transport Infrastructure Act 1994

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

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

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

Maximum penalty—200 penalty units.

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

Attachment C
Appeal Provisions

Transport Infrastructure Act 1994
Chapter 16 General provisions

485 Internal review of decisions

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

485B Appeals against decisions

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

- (5) The court may order—
 - (a) the appeals to be heard together or 1 immediately after the other; or
 - (b) 1 appeal to be stayed until the other is decided.
- (6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.
- (7) In this section—

original decision means a decision described in schedule 3.

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

31 Applying for review

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

32 Stay of operation of original decision

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

(9) In this section—

relevant entity means—

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

35 Time for making appeals

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

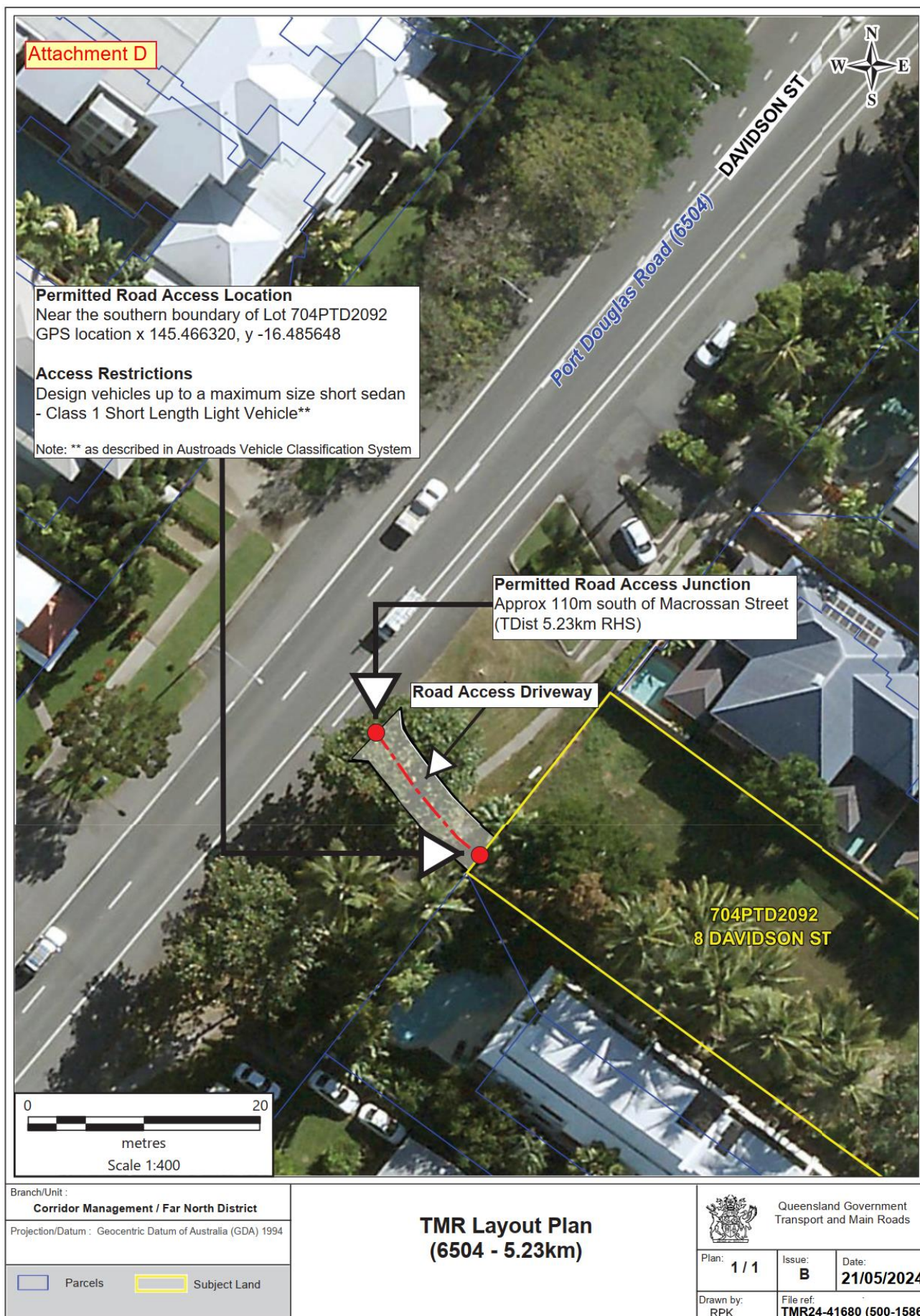
- (a) if a decision notice is given to the person—28 days after the notice was given to the person; or
- (b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

(2) However, if—

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

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

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



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 16 January 2024 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

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

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 assessment manager gives the applicant the decision notice for 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) If the applicant makes the change representations during the appeal period without giving a notice under subsection (2), the appeal period is suspended from the day the representations are made until—
 - (a) the applicant withdraws the change representations by notice given to the assessment manager; or
 - (b) the assessment manager gives the applicant the decision notice for the change representations; or

- (c) 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.
- (6) Despite subsections (4) and (5), if the decision notice mentioned in subsection (4)(b)(ii) or (5)(b) is 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.

Subdivision 2 Changes after appeal period

77 What this subdivision is about

This subdivision is about changing a development approval, other than the currency period, after all appeal periods in relation to the approval end.

78 Making change application

- (1) A person may make an application (a *change application*) to change a development approval.

Note—

For the making of a change application for a development approval that was a PDA development approval, see also the *Economic Development Act 2012*, sections 51AM, 51AN and 51AO.

- (2) A change application must be made to the responsible entity for the application.

78A Responsible entity for change applications

- (1) The *responsible entity* for a change application is—
 - (a) if the change application is for a minor change to a development condition of a development approval stated in a referral agency's response for the development application or another change application for the approval—the referral agency; or

Planning Act 2016
Chapter 6 Dispute resolution

[s 229]

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.

- (3) In this section—

conduct means an act or omission.

representative means—

- (a) of a corporation—an executive officer, employee or agent of the corporation; or
- (b) of an individual—an employee or agent of the individual.

state of mind, of a person, includes the person's—

- (a) knowledge, intention, opinion, belief or purpose; and
- (b) reasons for the intention, opinion, belief or purpose.

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 a decision of the Minister, under chapter 7, part 4, to amend the registration of premises to include additional land in the affected area for the premises—20 business days after the day a notice is published under section 269A(2)(a); or
 - (e) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (f) 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
 - (g) 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
- (h) 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.

Part 2 Development tribunal

Division 1 General

233 Appointment of referees

- (1) The Minister, or chief executive, (the ***appointer***) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—

5 December 2024

Enquiries: Jenny Elphinstone
Our Ref: MCUC 2024_5568 (Doc ID: 1266535)
Your Ref: 72322

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

KTJ 3 Pty Ltd (Tte) & BTLT Port Douglas Pty Ltd
C/- Planz Town Planning
PO Box 181
EDGE HILL QLD 4870

Email: info@planztp.com

Attention Mr Peter Boyd and Ms Nikki Huddy

Dear Sir/Madam

**Adopted Infrastructure Charge Notice
For Development Application Material Change of Use for Multiple Dwellings and
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 2024_5568 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



Neil Beck
A/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

KTJ 3 Pty Ltd (Tte) & BTLT Port Douglas Pty Ltd		NA	0
DEVELOPERS NAME		ESTATE NAME	STAGE
8 Davidson St	Port Douglas	Lot 704 on PTD2092	1811
STREET No. & NAME	SUBURB	LOT & RP No.s	PARCEL No.
MCU Multiple dwellings & Short-term Accommodation		MCUC 2024_5568/1	6
DEVELOPMENT TYPE		COUNCIL FILE NO.	VALIDITY PERIOD (year)
1232261	1	Payment before commencement of use for MCU; and Prior to signing and sealing of survey form for ROL	
DSC Reference Doc. No.	VERSION No.		

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

Proposed Demand	Charge per Use	\$ Rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
Residential Multiple_dwelling	\$_per_3_or_more_bedroom_dwelling	26,479.47	3	\$79,438.41		
Total Demand				\$79,438.41		
Credit						
Existing land use						
=Charges!B23 Dwelling_house	Dwelling_house	26479.47	1	\$26,479.47		
Total Credit				\$26,479.47		
						Prior arrangement for online payment via invoicing - see below.
						Code 895 GL GL7500.135.825

Required Payment or Credit **TOTAL** **\$52,958.94**

Prepared by	J Elphinstone	13-Jun-24	Amount Paid	
Checked by	R Taranto	14-Jun-24	Date Paid	
Date Payable	MCU - prior to the commencement of use		Receipt No.	
Amendments		Date	Cashier	

Note:

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

Charge rates under the Policy are subject to indexing.
Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

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

If you seek to pay online, please request an invoice to be issued via enquiries@douglas.qld.gov.au

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 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 any representations made by the recipient.
- (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.
- (8) However, if the recipient gives the local government a notice withdrawing the representations before the local government has given a negotiated notice or decision notice—
 - (a) the appeal period is taken to have been suspended from the day the representations were made; and
 - (b) the balance of the appeal period restarts on the day after the day the local government receives the notice of withdrawal.

Note—

See also section 126 in relation to suspending the appeal period by notice.

126 Suspending appeal period by notice

- (1) If the recipient needs more time to make representations, the recipient may give a notice suspending the 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 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 appeal period restarts on the day after the day the local government receives the notice of withdrawal.

Note—

See also section 125(7) and (8) in relation to other circumstances affecting the appeal period.

Planning Act 2016
Chapter 6 Dispute resolution

[s 229]

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.

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conduct means an act or omission.

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- (a) of a corporation—an executive officer, employee or agent of the corporation; or
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Chapter 6 Dispute resolution

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- (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.

Part 2 Development tribunal

Division 1 General

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- (1) The Minister, or chief executive, (the ***appointer***) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—