

25 February 2025

Enquiries: Jenny Elphinstone
Our Ref: MCUC 2024_5607/1 (Doc ID 1261184)
Your Ref: 72402

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

Perfect Finish Services Pty Ltd (Tte)
C/- Planz Town Planning
PO Box 181
EDGE HILL QLD 4870

Email: info@planztp.com

Attention Ms Nikki Huddy

Dear Madam

**Negotiated Decision Notice
Development Application for Material Change of Use (Short Term Accommodation)
At 9-13 Port Street Port Douglas
On Land Described as Lot 4 on RP738564**

Please find attached the Negotiated Decision Notice for the above-mentioned development application. This Negotiated Decision Notice replaces the Decision Notice dated 25 September 2024.

Please quote Council's application number: MCUC 2024_5607/1 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

encl.

- Negotiated Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Reasons for Decision
 - Copy of the Existing Approval
- Advice For Appeals (Negotiated Decision Notice)



Negotiated Decision Notice

Approval (with conditions)

Given under s 63, 75 and 76 of the Planning Act 2016

Applicant Details

Name: Perfect Finish Services Pty Ltd (Tte)

Postal Address: C/- Planz Town Planning
PO Box 181
Edge Hill Qld 4870

Email: info@planztp.com

Property Details

Street Address: 9-13 Port Street Port Douglas

Real Property Description: Lot 4 on RP738564

Local Government Area: Douglas Shire Council

Details of Proposed Development

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

Decision

Date of Decision: 25 February 2025. This Negotiated Decision Notice places the Decision Notice dated 25 September 2024

Decision Details: Approved whereby:

1. The table under the Approved Drawing (s) and/or Document(s) is amended as follows:

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
Cover Sheet & Site Plan	TPG Architects, Drawing CBL-02 DA000 Issue E.	1 July 2024

Drawing or Document	Reference	Date
Existing Site Plan	TPG Architects, Drawing CBL-02 DA001 Issue E.	1 July 2024
Proposed Site Plan	TPG Architects, Drawing CBL-02 DA003 Issue G <u>DA002 (1) and DA 002.1 (A).</u>	1 July 2024 <u>7 November 2024</u>
Site Plan Areas	TPG Architects, Drawing CBL-02 DA003 Issue E.	1 July 2024
Detail Plan	TPG Architects, Drawing CBL-02 DA004 Issue F.	1 July 2024
Setback and Site Cover Plans	TPG Architects, Drawing CBL-02 DA005 Issue F.	1 July 2024
Elevations and Sections	TPG Architects, Drawing CBL-02 DA007 Issue F.	1 July 2024
Proposed Bunk House Elevation	TPG Architects, Drawing CBL-02 DA007 Issue D.	1 July 2024

2. Condition 2 is amended as follows:

Timing of Effect and Staging

2. The development may be undertaken in stages as follows:

Stage 1 Bunkhouse 1 and other works as identified in the Proposed Site Plan DA002 (1) dated 7 November 2024, including the onsite provision of car parking; and

Stage 2 Remaining Bunkhouses.

The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

3. Condition 3 is amended as follows:

Maximum Number of Guest Beds

3. The approved maximum number of guests accommodated at any one time on the premises is 80 persons for stage 1, and 119 persons for the total development.

4. All other conditions of the Decision Notice dated 25 November 2024 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

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

Currency Period for the Approval

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

Existing Approval

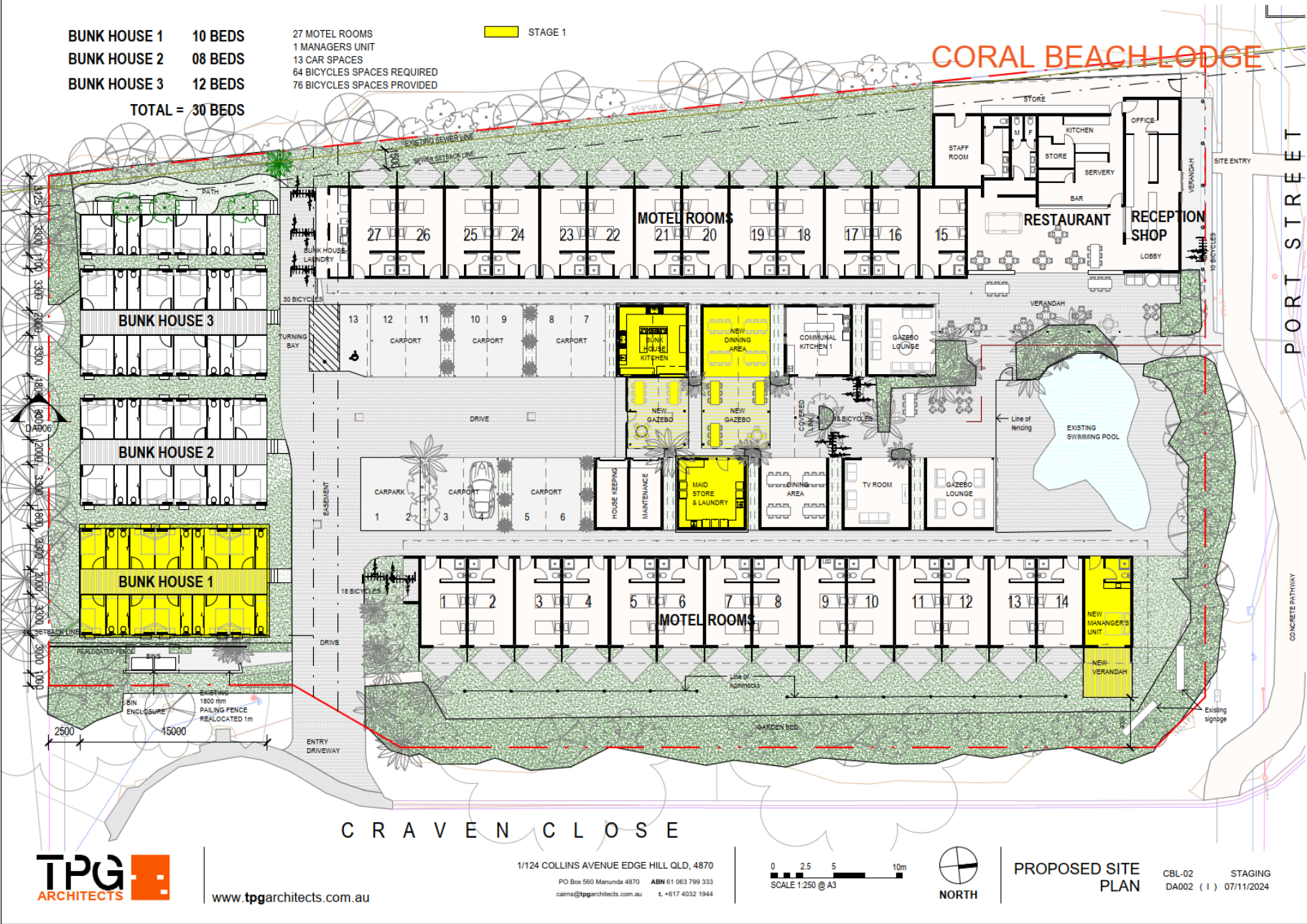
A copy of the existing approval is attached.

Rights of Appeal

The rights of applicants 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.

Staged Plan Drawing (s) and / or Document(s)



STAGE 1

BUNK HOUSE 1 10 BEDS
1 MANAGERS UNIT
48 BICYCLES SPACES
11 CAR SPACES

27 MOTEL ROOMS
RESTAURANT
AMENITIES
RECEPTION



TPG
ARCHITECTS

www.tpgarchitects.com.au

1/124 COLLINS AVENUE EDGE HILL QLD, 4870

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

0 2.5 5 10m
SCALE 1:250 @ A3



STAGE 1 -
PROPOSED SITE
PLAN

CBL-02
DA002.1 (A) 07/11/2024
STAGING



PO Box 723 Mossman Qld 4873
www.douglas.qld.gov.au
enquiries@douglas.qld.gov.au
ABN 71 241 237 800

25 September 2024

Enquiries: Daniel Lamond
Our Ref: MCUC 2024_5607/1 (Doc ID 1242113)
Your Ref: 72402

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

Perfect Finish Services Pty Ltd (Tte)
C/- Planz Town Planning
PO Box 181
EDGE HILL QLD 4870

Email: info@planztp.com

Attention Ms Nikki Huddy

Dear Madam

**Development Application for Material Change of Use (Short Term Accommodation)
At 9-13 Port Street Port Douglas
On Land Described as Lot 4 on RP738564**

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

Please quote Council's application number: MCUC 2024_5607/1 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

A handwritten signature in black ink, appearing to read "Paul Hoyer".

**For
Paul Hoyer
Manager Environment & Planning**

encl.

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



Decision Notice

Approval (with conditions)

Given under s 63 of the Planning Act 2016

Applicant Details

Name: Perfect Finish Services Pty Ltd (Tte)
Postal Address: C/- Planz Town Planning
PO Box 181
Edge Hill Qld 4870
Email: info@planztp.com

Property Details

Street Address: 9-13 Port Street Port Douglas
Real Property Description: Lot 4 on RP738564
Local Government Area: Douglas Shire Council

Details of Proposed Development

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

Decision

Date of Decision: 25 September 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
Cover Sheet & Site Plan	TPG Architects, Drawing CBL-02 DA000 Issue E.	1 July 2024
Existing Site Plan	TPG Architects, Drawing CBL-02 DA001 Issue E.	1 July 2024
Proposed Site Plan	TPG Architects, Drawing CBL-02 DA003 Issue G.	1 July 2024
Site Plan Areas	TPG Architects, Drawing CBL-02 DA003 Issue E.	1 July 2024

Drawing or Document	Reference	Date
Detail Plan	TPG Architects, Drawing CBL-02 DA004 Issue F.	1 July 2024
Setback and Site Cover Plans	TPG Architects, Drawing CBL-02 DA005 Issue F.	1 July 2024
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Proposed Bunk House Elevation	TPG Architects, Drawing CBL-02 DA007 Issue D.	1 July 2024

Assessment Manager Conditions & Advices

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

Except where modified by these conditions of approval

Timing of Effect

2. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

Maximum Number of Guest Beds

3. The approved maximum number of guests accommodated at any one time on the premises is 119 persons.

Waste Storage

4. Provide a central bin storage facility within the site with the following attributes:
 - a. Be an extent of storage area for a minimum of two commercial bins;
 - b. Contain an impervious surface for the storage of waste containers with a suitable hosecock with hose attached, located on an external front corner of the enclosure with a reduced pressure zone device; and
 - c. be roofed, bunded and connected to sewer with an approved collection device at the drainage point to sewer.

Prior to the issue of a Development Permit for Building Work provide an updated site plan detailing the central bin storage facility for endorsement by the Chief Executive Officer.

Amended Landscape Plan and Landscaping

5. The site must be landscaped.
A landscape plan, generally in accordance with the Landplan Landscape Architecture, Project 2404-022-SD, Landscape Concept Plans 1 of 2 & 2 of 2, Drawing L1.01 and L1.02, Revision 2, dated 8 May 2024 and amended to incorporate:
 - i. The amended site plans;

- ii. Landscaping limited to the land with the exception of street trees in the adjacent road verge; and;
- iii. A timber boundary fence to the rear and side boundaries.

The amended landscape plan is to be submitted to the satisfaction of the Chief Executive Officer prior to the issue of the development permit for building work.

The Landscaping Plan must also show:

- a. Deep planting of setback areas;
- b. Planting of the footpath with trees, using appropriate species with regard to any site constraints.
- c. Plantings to give protection to western walls.
- d. Species to have regard to Council's Planning Scheme Policy No.7 Landscaping.
- e. 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.

All work is to be completed prior to the commencement of use. All landscaping is to be maintained thereafter to a satisfaction of the Chief Executive Officer.

Minimum Fill and Floor Levels

- 6. All floor levels in all buildings must be located 150 mm above the Q100 flood immunity level plus hydraulic grade effect, in accordance with FNQROC Development Manual and Planning Scheme requirements.

For the consideration of storm water inundation levels the total required Finished Floor Level for habitable rooms must be at least 3.467 m AHD.

Vehicle Parking

- 7. The amount of vehicle parking must be at least thirteen (13) spaces and one of the thirteen spaces to provided as a disability driver space. The car parking layout must comply with the Australian Standards: AS2890.1 Parking Facilities; AS 2890.3 – bicycle parking; and AS2890.6 off-street parking for people with disabilities. Parking areas must be constructed in accordance with Austroads and good engineering design. In addition, all parking, driveway and vehicular manoeuvring areas must be imperviously sealed, drained and line marked.

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.

Landscaped areas adjoining the parking area must be protected by 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.

Parking Signage

- 8. Erect a sign to Port Road advising of the location of the off-street visitor parking area and access thereto. The sign must be erected prior to Commencement of Use.

Crime Prevention Through Environmental Design

- 9. All lighting and landscaping requirements are to comply with Council's General Policy Crime Prevention Through Environmental Design (CPTED).

Lawful Point of Discharge

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

Note: the above works are not considered to be creditable or trunk related works in

accordance with Section 145 of the *Planning Act 2016*.

Air-Conditioning Screens

11. 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

12. In the event that any part of Council's existing sewer / water or road infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to; mobilisation of heavy construction equipment, stripping and grubbing, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced at the developer's/owners/builders cost, prior to the Commencement of Use.

Stockpiling and Transportation of Fill Material

13. Soil used for filling or spoil from the excavation is not to be stockpiled in locations that can be viewed from adjoining premises or a road frontage for any longer than one (1) month from the commencement of works.

Transportation of fill or spoil to and from the site must not occur within:

- a. peak traffic times;
 - b. before 7:00 am or after 6:00 pm Monday to Friday;
 - c. before 7:00 am or after 1:00 pm Saturdays; or
 - d. on Sundays or Public Holidays.
14. Dust emissions or other air pollutants, including odours, must not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

Storage of Machinery and Plant

15. The storage of any machinery, material and vehicles must not cause a nuisance to surrounding properties, to the satisfaction of the Chief Executive Officer.

Wildlife

16. Prior to removal of any tree, an inspection must be carried out for any signs of protected wildlife including nests and animal habitat. Should any recent wildlife activity be identified, removal of the tree must not occur until the animal has vacated the area of immediate danger. If the animal does not move from the area of danger, the Queensland Parks and Wildlife Services must be contacted for advice. Important habitat trees should be retained wherever possible.

Notification of Vegetation Clearing

17. Council must be notified two (2) business days prior to the proposed date of commencement of any approved vegetation clearing.

Details of Development Signage

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

Advertising Signage

19. All signage associated with the use must be approved by the Chief Executive Officer. The signage must comply with the Design and Siting of Advertising Devices Code contained within the Douglas Shire Planning Scheme and plans detailing the signage must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Works or Commencement of Use, whichever occurs first.
20. Noise from air-conditioning units, swimming and spa pool filters, service equipment or other mechanical equipment must not emanate from the subject land to a degree that would, in the opinion of the Chief Executive Officer, create an environmental nuisance

having regard to the provisions of Chapter 8 Part 3B of the *Environmental Protection Act 1994*.

21. Swimming pool water quality must be maintained in accordance with the Queensland Health Swimming and Spa Pool Water Quality and Operational Guidelines 2004.

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 s85 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 cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements. Note the proprietor of rental accommodation premises must maintain approvals as per Council's Local Laws. Contact the Council's Public Health Unit for further information on the application process.
4. Noise emanating from the site must not cause a noise nuisance in accordance with the *Environmental Protection Act 1994* and the *Environmental Protection Policy (Noise) 2008*.
5. Light emanating from the site must not cause a light nuisance to surrounding properties in accordance with the *Environmental Protection Act 1994*.
6. For information relating to the *Planning Act 2016* log on to www.dsdmip.qld.gov.au . To access the FNQROC Development Manual, Local Laws and other applicable Policies, log on to www.douglas.qld.gov.au .

Further Development Permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Building Work

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

Currency Period for the Approval

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

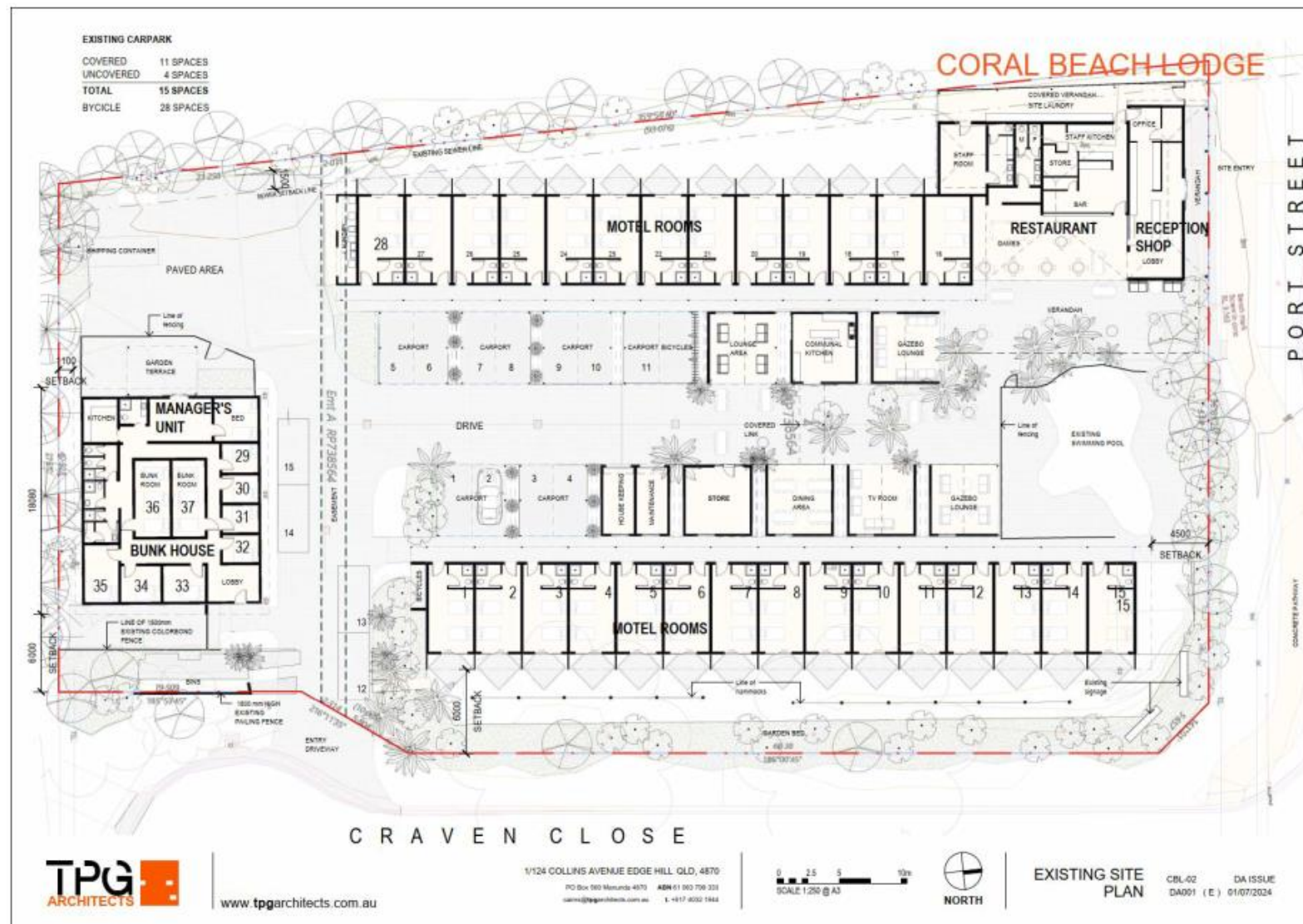
Rights to make Representations & Rights of Appeal

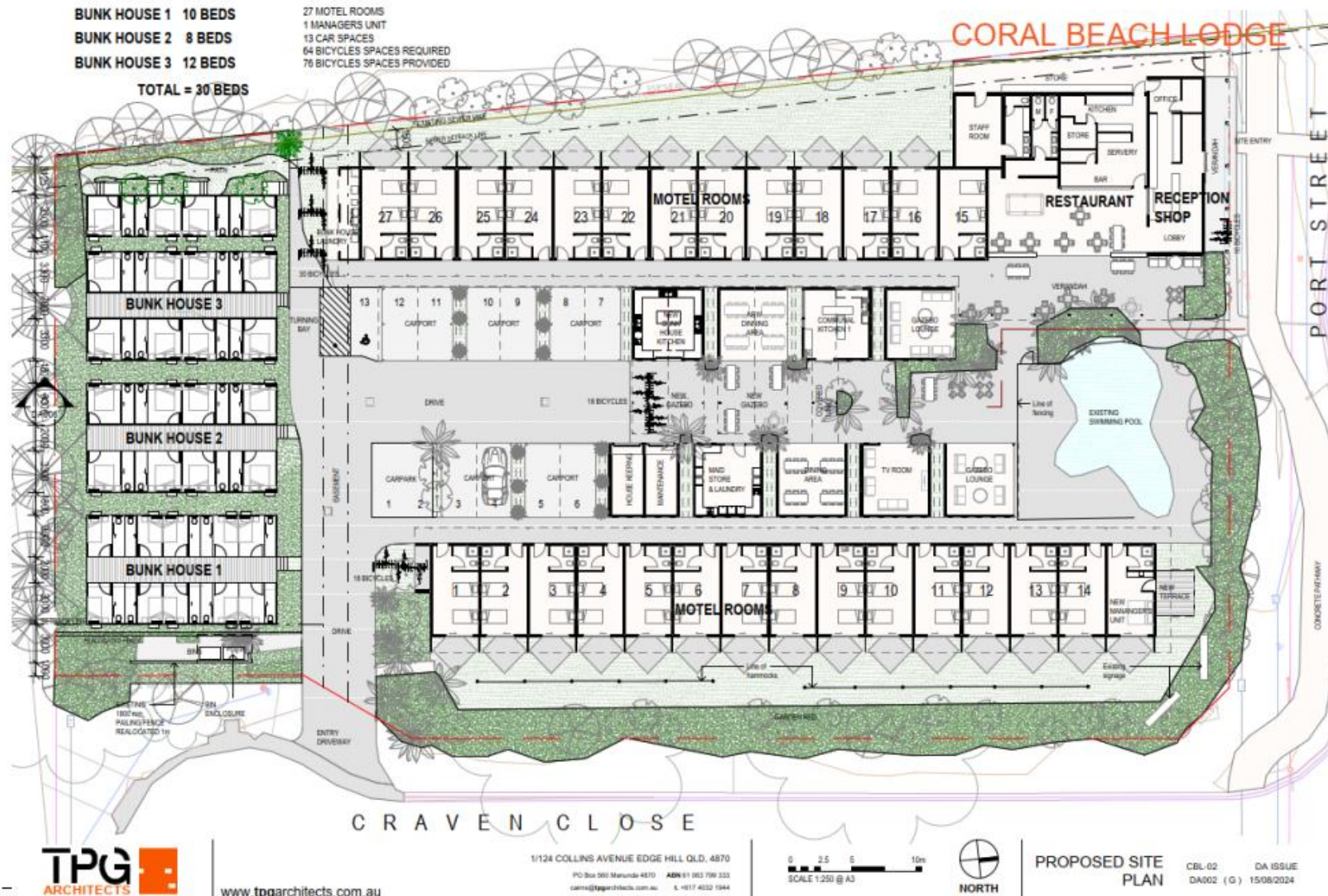
The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

A copy of the relevant appeal provisions is attached.

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











GROUND FLOOR PLAN



www.tpgarchitects.com.au

1/124 COLLINS AVENUE EDGE HILL QLD, 4870
 P.O. Box 902 Maryville 4870 ABN 61 183 790 330
 carroll@tpgarchitects.com.au G. +617 4032 1944

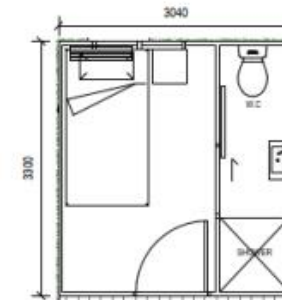
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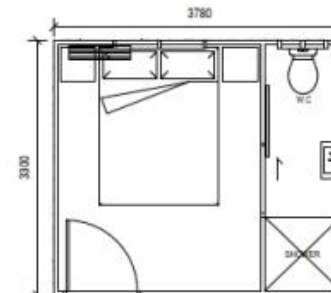
DETAIL PLAN

CBL-02 DA ISSUE
 DA004 (F) 15/08/2024

CORAL BEACH LODGE



BUNK HOUSE ROOM - TYPE A
 1:50



BUNK HOUSE ROOM - TYPE B
 1:50

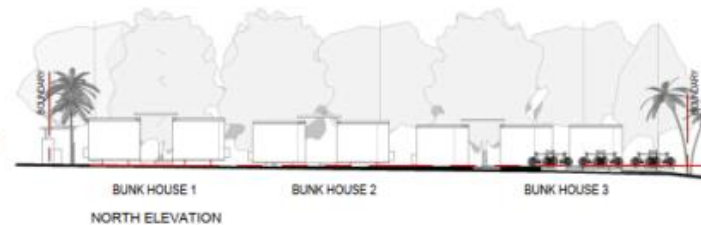
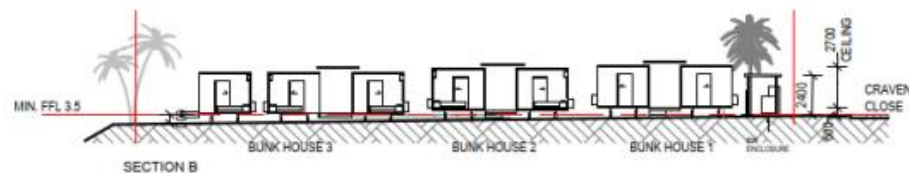
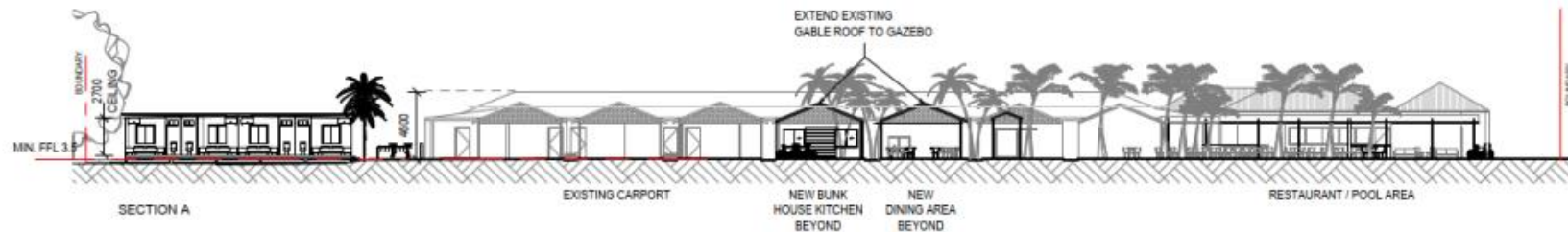
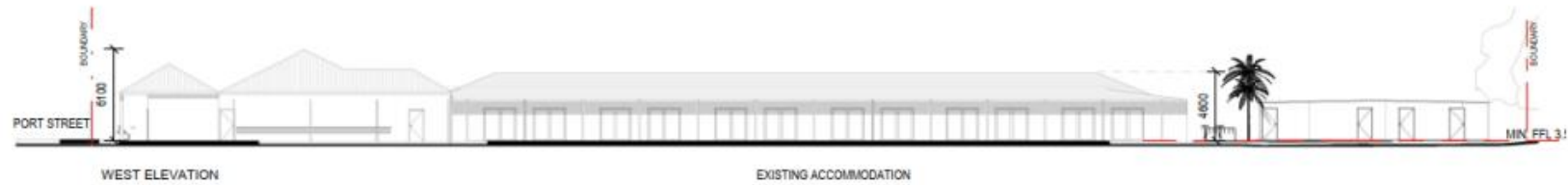
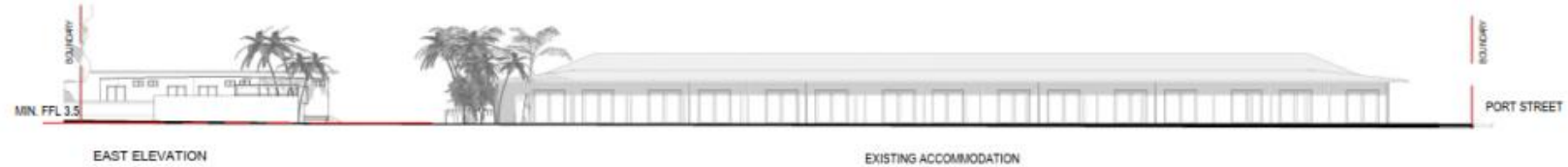
PROPOSED NEW BUILDING PLANNING GFA

BUNK HOUSE 1 100 m²
 BUNK HOUSE 2 100 m²
 BUNK HOUSE 3 150 m²

TOTAL: 350m²



CORAL BEACH LODGE



TPG
ARCHITECTS

www.tpgarchitects.com.au

1/124 COLLING AVENUE EDGE HILL QLD, 4870
PO Box 960 Mareeba 4870 ABN 61 963 799 333
carm@tpgarchitects.com.au t +617 4032 1944

0 1 2 4m
SCALE 1:100 @ A3



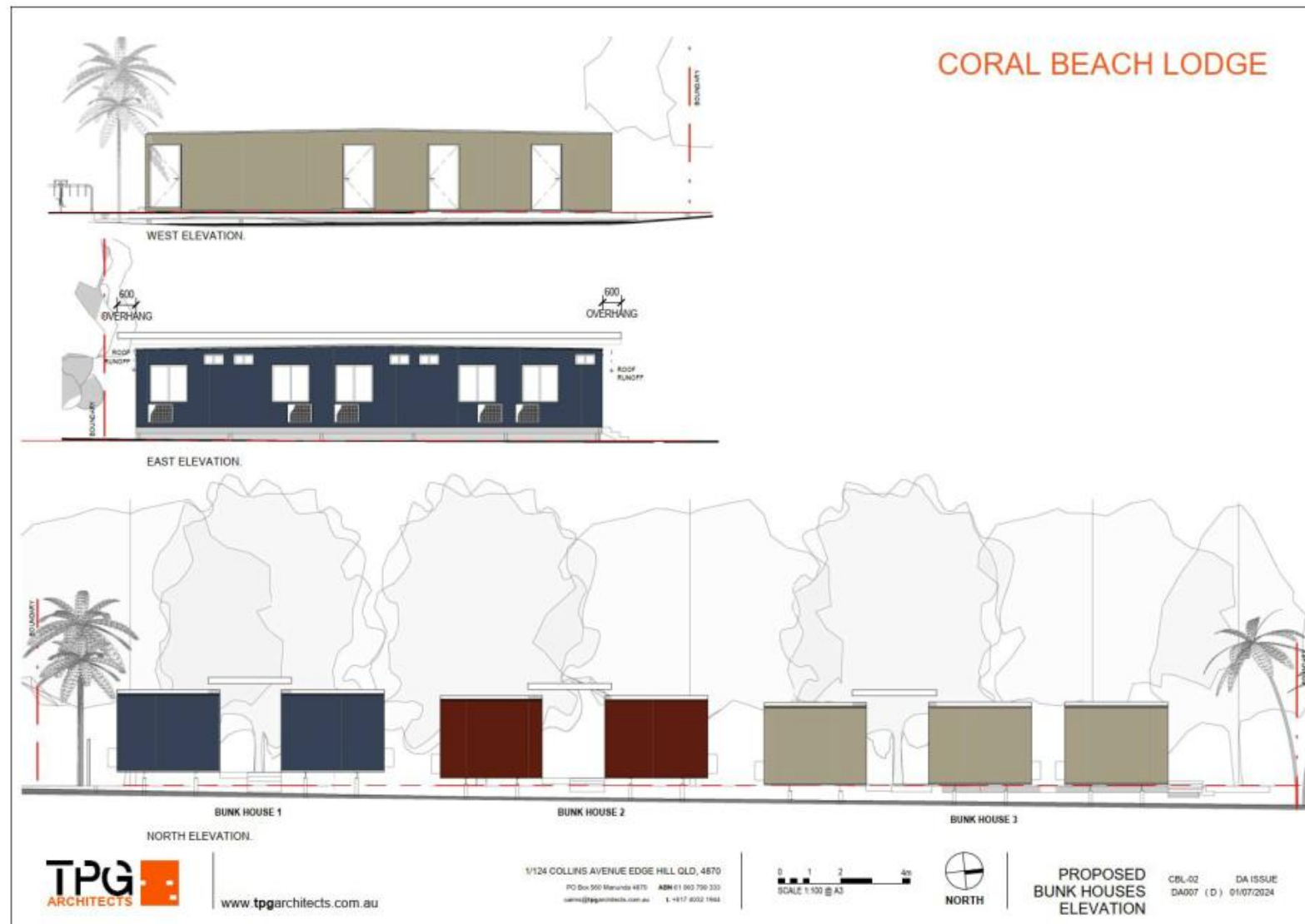
ELEVATIONS &
SECTIONS

CBL-02 DA ISSUE
DA006 (F) 15/08/2024

Doc ID: 1242113

MCUC 2024_5607/1

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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 17 May 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

Douglas Shire Planning Locality	Comment
Planning Zone	
Tourist Accommodation Zone	The land has three street frontages and one rear boundary. The new building component does not meet the acceptable outcome setback of 4.5m from the rear boundary, the setback is consistent with what would be required for a dwelling house and provides a 3m setback to the common boundary to the neighbouring residential development. A condition of the approval requires suitable landscaping to this setback area. Outdoor living areas are limited to the ground floor rooms. Through the conditions of the approval the development satisfactorily complies with the other sections of the Code.
Local Plan Code	
Port Douglas / Craiglie Local Plan	Not within a Precinct. Complies through the conditions of the approval in respect to landscaping to Craven Close.
Overlay Codes	
Acid sulphate soils overlay	Complies – no excavation or filling.

Coastal environment overlay	Complies through the conditions of the approval. Land is within the erosion prone area. Development is to be undertaken on the higher part of the land and a condition of the approval requires a minimum finished floor level height.
Flood and storm tide hazard overlay	Complies through the conditions of the approval. The land is mapped as medium storm tide hazard with the western edge also within the high storm tide hazard area and flood area. The findings of Council's recent <i>Storm Tide Inundation Methodology Study Report</i> requires a finished floor level for habitable rooms of 3.467m AHD. The land has a ground level of around 3.25m AHD. A condition of the approval nominates the minimum Finished floor Level.
Transport network overlay	Complies. Vehicle access is to Craven Close, which is the lower order street.
Other Development Codes	
Access, parking and servicing code	Refer to comments below.
Environmental performance code	Complies through the conditions of the approval.
Infrastructure works code	Complies through the conditions of the approval.
Landscaping code	Complies through the conditions of the approval.

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

Extracts from the Planning Act 2016 – Appeal Rights

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

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Current as at 22 July 2024

Authorised by the Parliamentary Counsel

- (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—

Reasons for Decision

1. The reasons for this decision are:
 - a. Sections 63, 74, 75 and 76 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 17 May 2024 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*,
 - b. The request for changes during the applicant's appeal period was properly lodged to Douglas Shire Council on 13 November 2024 under section 75 of the *Planning Act 2016*;
 - c. 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 63, 74, 75 and 76 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.



PO Box 723 Mossman Qld 4873
www.douglas.qld.gov.au
enquiries@douglas.qld.gov.au
ABN 71 241 237 800

25 September 2024

Enquiries: Daniel Lamond
Our Ref: MCUC 2024_5607/1 (Doc ID 1242113)
Your Ref: 72402

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

Perfect Finish Services Pty Ltd (Tte)
C/- Planz Town Planning
PO Box 181
EDGE HILL QLD 4870

Email: info@planztp.com

Attention Ms Nikki Huddy

Dear Madam

**Development Application for Material Change of Use (Short Term Accommodation)
At 9-13 Port Street Port Douglas
On Land Described as Lot 4 on RP738564**

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

Please quote Council's application number: MCUC 2024_5607/1 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

A handwritten signature in black ink, appearing to be "P. Hoyer".

For
Paul Hoyer
Manager Environment & Planning

encl.

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



Decision Notice

Approval (with conditions)

Given under s 63 of the Planning Act 2016

Applicant Details

Name: Perfect Finish Services Pty Ltd (Tte)
Postal Address: C/- Planz Town Planning
PO Box 181
Edge Hill Qld 4870
Email: info@planztp.com

Property Details

Street Address: 9-13 Port Street Port Douglas
Real Property Description: Lot 4 on RP738564
Local Government Area: Douglas Shire Council

Details of Proposed Development

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

Decision

Date of Decision: 25 September 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
Cover Sheet & Site Plan	TPG Architects, Drawing CBL-02 DA000 Issue E.	1 July 2024
Existing Site Plan	TPG Architects, Drawing CBL-02 DA001 Issue E.	1 July 2024
Proposed Site Plan	TPG Architects, Drawing CBL-02 DA003 Issue G.	1 July 2024
Site Plan Areas	TPG Architects, Drawing CBL-02 DA003 Issue E.	1 July 2024

Drawing or Document	Reference	Date
Detail Plan	TPG Architects, Drawing CBL-02 DA004 Issue F.	1 July 2024
Setback and Site Cover Plans	TPG Architects, Drawing CBL-02 DA005 Issue F.	1 July 2024
Elevations and Sections	TPG Architects, Drawing CBL-02 DA007 Issue F.	1 July 2024
Proposed Bunk House Elevation	TPG Architects, Drawing CBL-02 DA007 Issue D.	1 July 2024

Assessment Manager Conditions & Advices

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

Except where modified by these conditions of approval

Timing of Effect

2. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

Maximum Number of Guest Beds

3. The approved maximum number of guests accommodated at any one time on the premises is 119 persons.

Waste Storage

4. Provide a central bin storage facility within the site with the following attributes:
 - a. Be an extent of storage area for a minimum of two commercial bins;
 - b. Contain an impervious surface for the storage of waste containers with a suitable hosecock with hose attached, located on an external front corner of the enclosure with a reduced pressure zone device; and
 - c. be roofed, bunded and connected to sewer with an approved collection device at the drainage point to sewer.

Prior to the issue of a Development Permit for Building Work provide an updated site plan detailing the central bin storage facility for endorsement by the Chief Executive Officer.

Amended Landscape Plan and Landscaping

5. The site must be landscaped.
 A landscape plan, generally in accordance with the Landplan Landscape Architecture, Project 2404-022-SD, Landscape Concept Plans 1 of 2 & 2 of 2, Drawing L1.01 and L1.02, Revision 2, dated 8 May 2024 and amended to incorporate:
 - i. The amended site plans;

- ii. Landscaping limited to the land with the exception of street trees in the adjacent road verge; and;
- iii. A timber boundary fence to the rear and side boundaries.

The amended landscape plan is to be submitted to the satisfaction of the Chief Executive Officer prior to the issue of the development permit for building work.

The Landscaping Plan must also show:

- a. Deep planting of setback areas;
- b. Planting of the footpath with trees, using appropriate species with regard to any site constraints.
- c. Plantings to give protection to western walls.
- d. Species to have regard to Council's Planning Scheme Policy No.7 Landscaping.
- e. 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.

All work is to be completed prior to the commencement of use. All landscaping is to be maintained thereafter to a satisfaction of the Chief Executive Officer.

Minimum Fill and Floor Levels

- 6. All floor levels in all buildings must be located 150 mm above the Q100 flood immunity level plus hydraulic grade effect, in accordance with FNQROC Development Manual and Planning Scheme requirements.

For the consideration of storm water inundation levels the total required Finished Floor Level for habitable rooms must be at least 3.467 m AHD.

Vehicle Parking

- 7. The amount of vehicle parking must be at least thirteen (13) spaces and one of the thirteen spaces to provided as a disability driver space. The car parking layout must comply with the Australian Standards: AS2890.1 Parking Facilities; AS 2890.3 – bicycle parking; and AS2890.6 off-street parking for people with disabilities. Parking areas must be constructed in accordance with Austroads and good engineering design. In addition, all parking, driveway and vehicular manoeuvring areas must be imperviously sealed, drained and line marked.

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.

Landscaped areas adjoining the parking area must be protected by 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.

Parking Signage

- 8. Erect a sign to Port Road advising of the location of the off-street visitor parking area and access thereto. The sign must be erected prior to Commencement of Use.

Crime Prevention Through Environmental Design

- 9. All lighting and landscaping requirements are to comply with Council's General Policy Crime Prevention Through Environmental Design (CPTED).

Lawful Point of Discharge

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

Note: the above works are not considered to be creditable or trunk related works in

accordance with Section 145 of the *Planning Act 2016*.

Air-Conditioning Screens

11. 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

12. In the event that any part of Council's existing sewer / water or road infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to; mobilisation of heavy construction equipment, stripping and grubbing, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced at the developer's/owners/builders cost, prior to the Commencement of Use.

Stockpiling and Transportation of Fill Material

13. Soil used for filling or spoil from the excavation is not to be stockpiled in locations that can be viewed from adjoining premises or a road frontage for any longer than one (1) month from the commencement of works.

Transportation of fill or spoil to and from the site must not occur within:

- a. peak traffic times;
 - b. before 7:00 am or after 6:00 pm Monday to Friday;
 - c. before 7:00 am or after 1:00 pm Saturdays; or
 - d. on Sundays or Public Holidays.
14. Dust emissions or other air pollutants, including odours, must not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

Storage of Machinery and Plant

15. The storage of any machinery, material and vehicles must not cause a nuisance to surrounding properties, to the satisfaction of the Chief Executive Officer.

Wildlife

16. Prior to removal of any tree, an inspection must be carried out for any signs of protected wildlife including nests and animal habitat. Should any recent wildlife activity be identified, removal of the tree must not occur until the animal has vacated the area of immediate danger. If the animal does not move from the area of danger, the Queensland Parks and Wildlife Services must be contacted for advice. Important habitat trees should be retained wherever possible.

Notification of Vegetation Clearing

17. Council must be notified two (2) business days prior to the proposed date of commencement of any approved vegetation clearing.

Details of Development Signage

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

Advertising Signage

19. All signage associated with the use must be approved by the Chief Executive Officer. The signage must comply with the Design and Siting of Advertising Devices Code contained within the Douglas Shire Planning Scheme and plans detailing the signage must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Works or Commencement of Use, whichever occurs first.
20. Noise from air-conditioning units, swimming and spa pool filters, service equipment or other mechanical equipment must not emanate from the subject land to a degree that would, in the opinion of the Chief Executive Officer, create an environmental nuisance

having regard to the provisions of Chapter 8 Part 3B of the *Environmental Protection Act 1994*.

21. Swimming pool water quality must be maintained in accordance with the Queensland Health Swimming and Spa Pool Water Quality and Operational Guidelines 2004.

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 s85 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 cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements. Note the proprietor of rental accommodation premises must maintain approvals as per Council's Local Laws. Contact the Council's Public Health Unit for further information on the application process.
4. Noise emanating from the site must not cause a noise nuisance in accordance with the *Environmental Protection Act 1994* and the *Environmental Protection Policy (Noise) 2008*.
5. Light emanating from the site must not cause a light nuisance to surrounding properties in accordance with the *Environmental Protection Act 1994*.
6. For information relating to the *Planning Act 2016* log on to www.dsdmip.qld.gov.au . To access the FNQROC Development Manual, Local Laws and other applicable Policies, log on to www.douglas.qld.gov.au .

Further Development Permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Building Work

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

Currency Period for the Approval

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

Rights to make Representations & Rights of Appeal

The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

A copy of the relevant appeal provisions is attached.

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

CORAL BEACH LODGE



DRAWING LIST	
DA000	COVER SHEET & SITE PLAN
DA001	EXISTING SITE PLAN
DA002	PROPOSED SITE PLAN
DA003	SITE PLAN AREAS
DA004	DETAIL PLAN
DA005	SETBACK & SITE COVER PLANS
DA006	ELEVATIONS & SECTIONS
DA007	PROPOSED BUNK HOUSES ELEVATION
DA008	ENTRY VIEW FROM CLOSE



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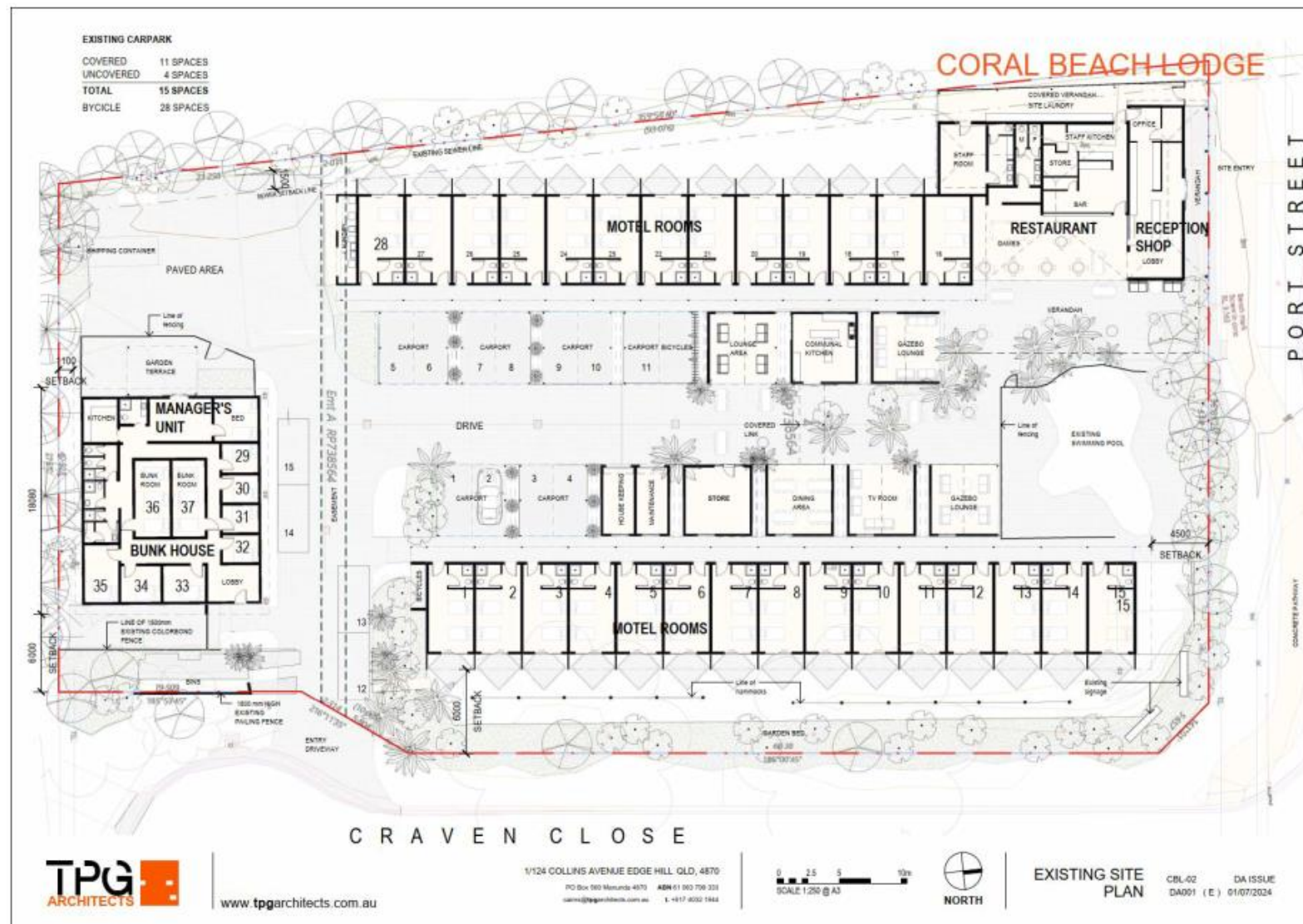
1/124 COLLINS AVENUE EDGE HILL QLD, 4870
 PO Box 500 Mandurah 6570 ABN 61 063 769 333
 carmen@tpgarchitects.com.au 08 9577 4032 1844

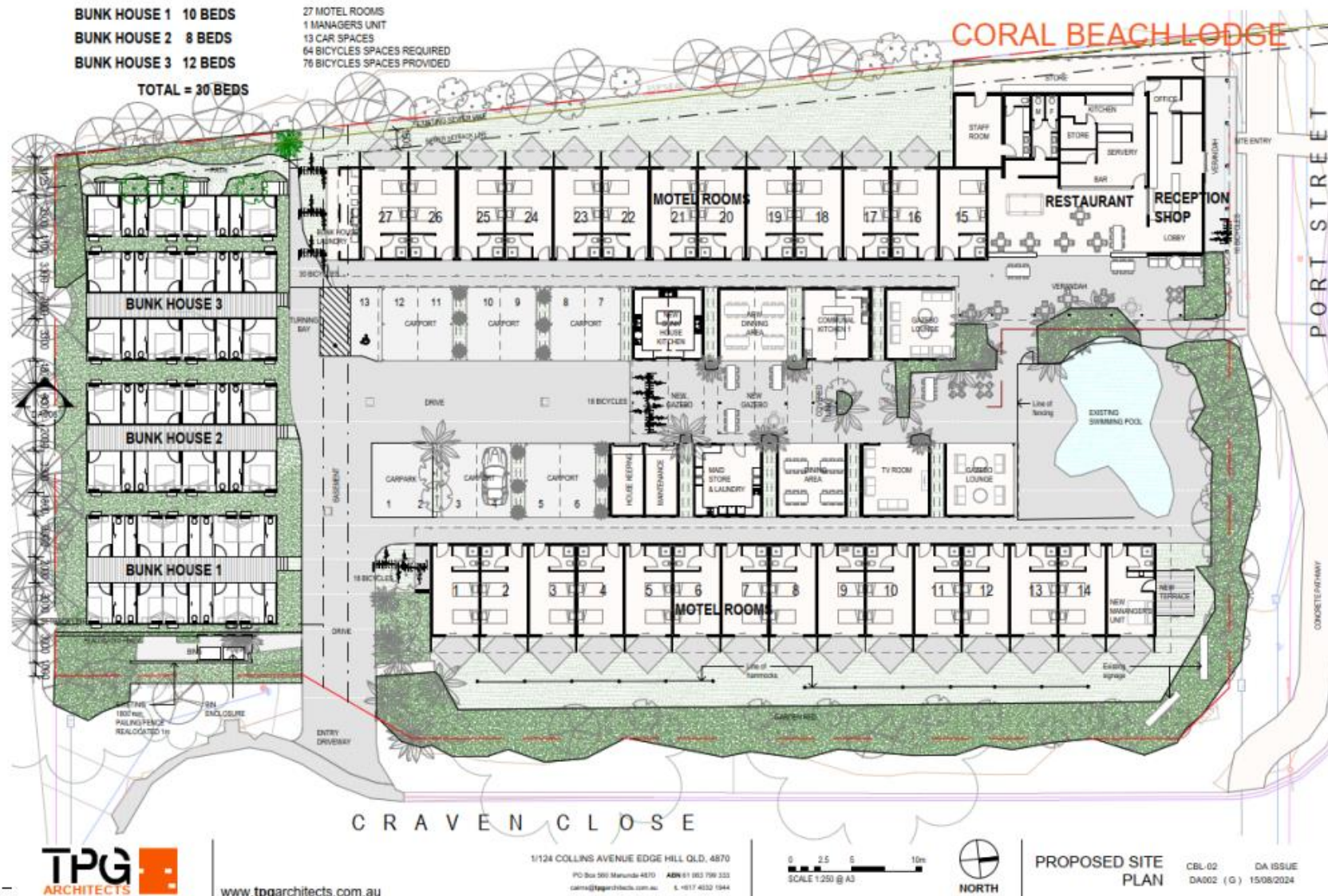
0 5 10 20m
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COVER SHEET &
 SITE PLAN

CR-L-02 DA ISSUE
 DA000 (E) 01/07/2024









GROUND FLOOR PLAN



www.tpgarchitects.com.au

1/124 COLLINS AVENUE EDGE HILL QLD, 4870
 P.O. Box 902 Maryville 4870 ABN 61 183 799 330
 carroll@tpgarchitects.com.au G. +617 4032 1844

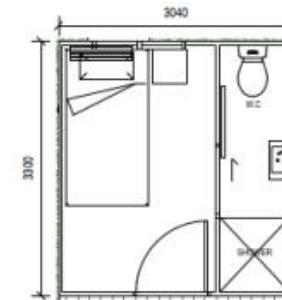
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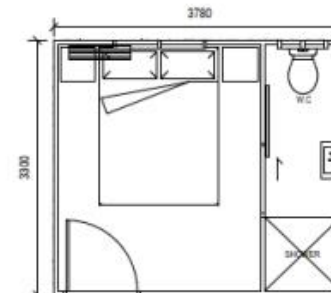
DETAIL PLAN

CBL-02 DA ISSUE
 DA004 (F) 15/08/2024

CORAL BEACH LODGE



BUNK HOUSE ROOM - TYPE A
 1:50



BUNK HOUSE ROOM - TYPE B
 1:50

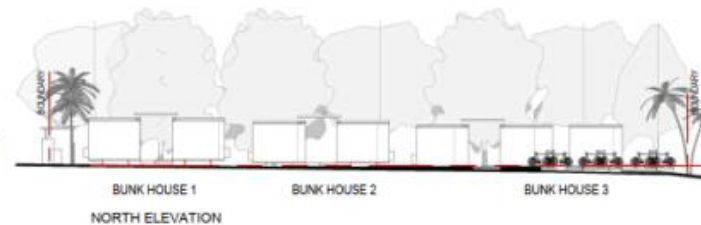
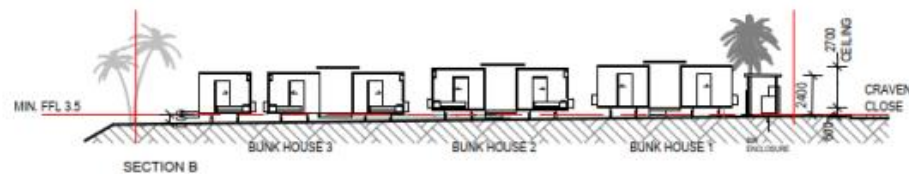
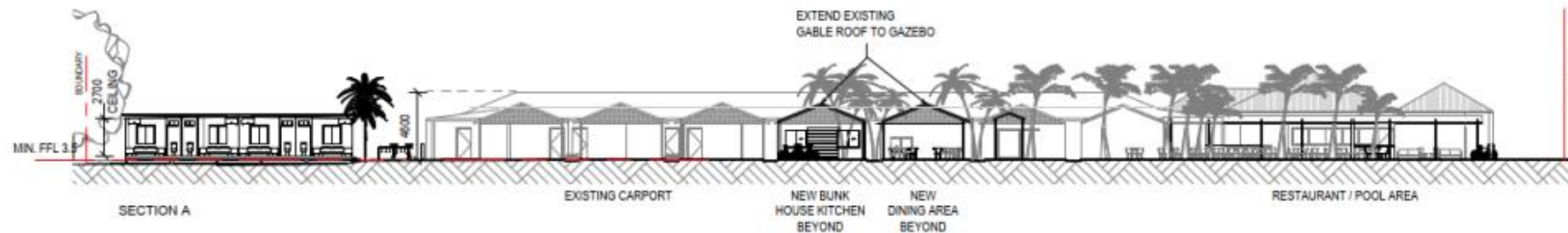
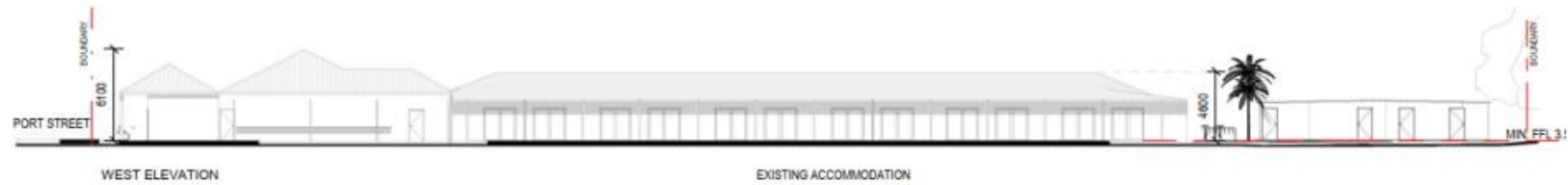
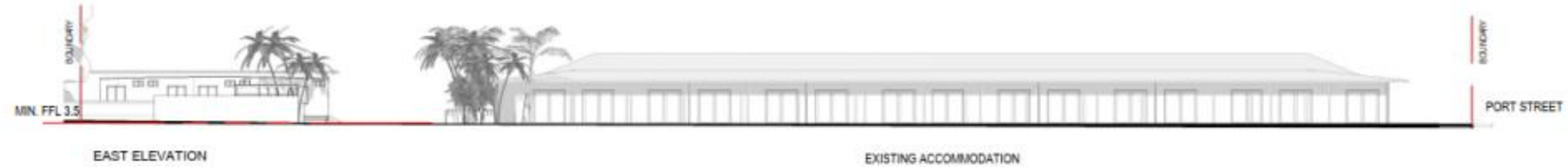
PROPOSED NEW BUILDING PLANNING GFA

BUNK HOUSE 1 100 m²
 BUNK HOUSE 2 100 m²
 BUNK HOUSE 3 150 m²

TOTAL: 350m²



CORAL BEACH LODGE



TPG
ARCHITECTS

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1/124 COLLING AVENUE EDGE HILL QLD, 4870
PO Box 960 Mareeba 4870 ABN 61 963 739 333
carm@tpgarchitects.com.au t +617 4032 1944

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SCALE 1:100 @ A3



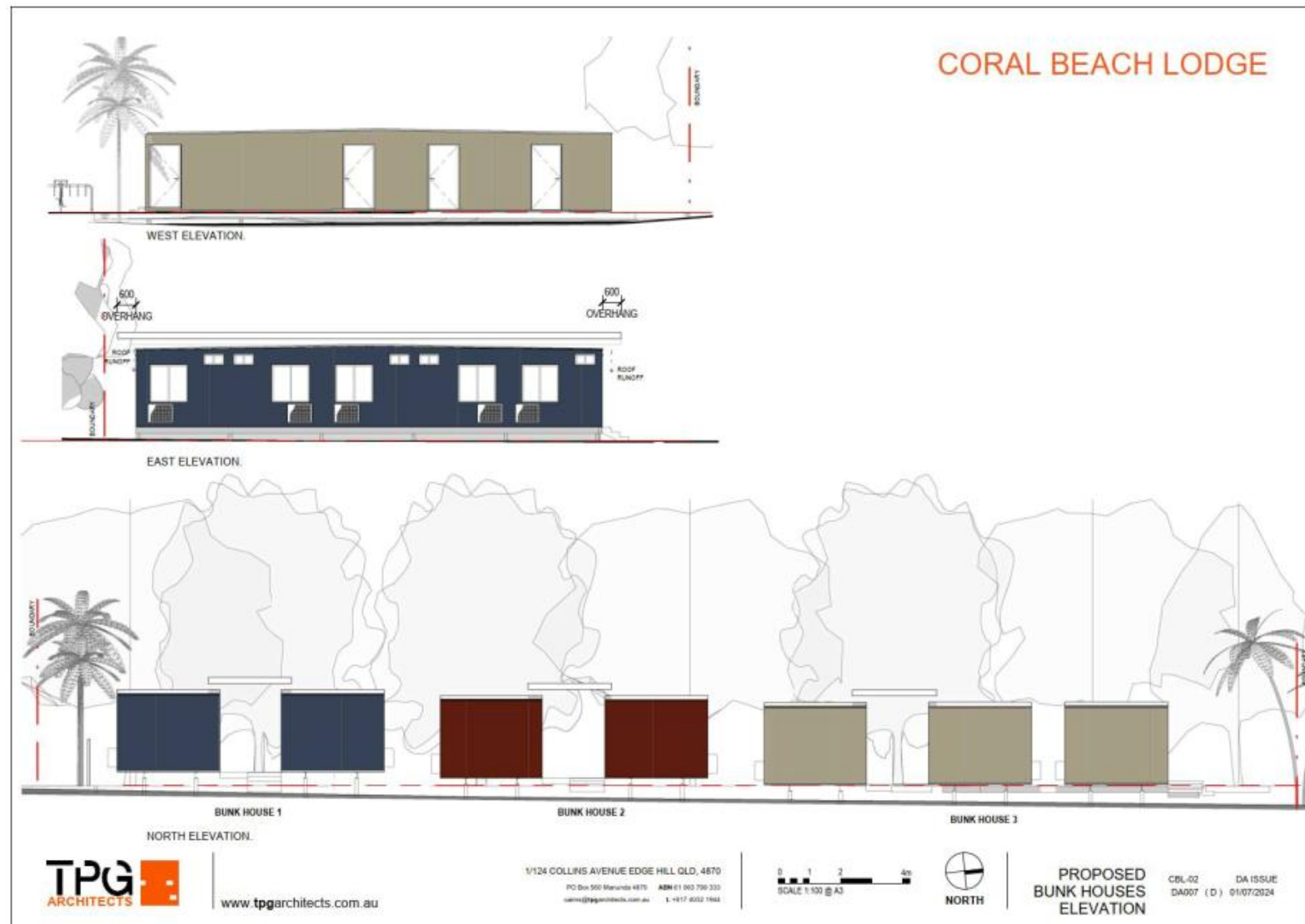
ELEVATIONS &
SECTIONS

CBL-02 DA ISSUE
DA006 (F) 15/08/2024

Doc ID: 1242113

MCUC 2024_5607/1

Page 13 of 26



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 17 May 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

Douglas Shire Planning Locality	Comment
Planning Zone	
Tourist Accommodation Zone	The land has three street frontages and one rear boundary. The new building component does not meet the acceptable outcome setback of 4.5m from the rear boundary, the setback is consistent with what would be required for a dwelling house and provides a 3m setback to the common boundary to the neighbouring residential development. A condition of the approval requires suitable landscaping to this setback area. Outdoor living areas are limited to the ground floor rooms. Through the conditions of the approval the development satisfactorily complies with the other sections of the Code.
Local Plan Code	
Port Douglas / Craiglie Local Plan	Not within a Precinct. Complies through the conditions of the approval in respect to landscaping to Craven Close.
Overlay Codes	
Acid sulphate soils overlay	Complies – no excavation or filling.

Coastal environment overlay	Complies through the conditions of the approval. Land is within the erosion prone area. Development is to be undertaken on the higher part of the land and a condition of the approval requires a minimum finished floor level height.
Flood and storm tide hazard overlay	Complies through the conditions of the approval. The land is mapped as medium storm tide hazard with the western edge also within the high storm tide hazard area and flood area. The findings of Council's recent <i>Storm Tide Inundation Methodology Study Report</i> requires a finished floor level for habitable rooms of 3.467m AHD. The land has a ground level of around 3.25m AHD. A condition of the approval nominates the minimum Finished floor Level.
Transport network overlay	Complies. Vehicle access is to Craven Close, which is the lower order street.
Other Development Codes	
Access, parking and servicing code	Refer to comments below.
Environmental performance code	Complies through the conditions of the approval.
Infrastructure works code	Complies through the conditions of the approval.
Landscaping code	Complies through the conditions of the approval.

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

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- (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

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- (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

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- (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.

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- (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—

- (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.
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 - (a) of a corporation—an executive officer, employee or agent of the corporation; or
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 - state of mind*, of a person, includes the person's—
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-
- (iii) who is a co-respondent in an appeal of the matter;
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