

16 November 2023

Enquiries: Neil Beck
Our Ref: OP 2023_5541/1 (1195114)
Your Ref: 227-002

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

NV & JS Pty Ltd
C/- Civil Walker Consulting Engineers
PO Box 542
CLIFTON BEACH QLD 4879

Dear Daryl

**Development Application for Operational Works (On-Street Works)
Associated with Development at 30 - 32 Warner Street PORT DOUGLAS**

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

Please quote Council's application number: OP 2023_5541 in all subsequent correspondence relating to this development application.

Also find attached a 'Pre-Start' meeting template, which identifies the information that must be provided for Council approval, prior to the commencement of works.

The template also provides the Consulting Engineer with a format for conducting the meeting. An invitation to attend the meeting must be sent to Council's representative Neil Beck on telephone number 07 4099 9451, giving at least five (5) working days notification if possible.

In addition to the Decision Notice, Council provides the following 'Advice Statement' which relates to issues that are relevant to the proposed works:

1. The Consulting Engineer is to present all contractors with a copy of this Decision Notice and the Council approved plans, prior to the commencement of works.

Should you require any clarification regarding this, please contact Neil Beck on telephone 07 4099 9451.

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

encl.

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - 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: NV & JS Pty Ltd
Postal Address: C/- Civil Walker Consulting Engineers
PO Box 542
CLIFTON BEACH QLD 4879
Email: daryl@civilwalker.com.au

Property Details

Street Address: 30 – 32 Warner Street PORT DOUGLAS
Real Property Description: LOT: 419 TYP: PTD PLN: 2091, LOT: 418 TYP: PTD PLN: 2091
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Operational Works (On-Street Works)

Decision

Date of Decision: 13 November 2023
Decision Details: Approved (subject to conditions)

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

Copies of the following plans, specifications and/or drawings are enclosed.

Title	Reference No.	Revision
Cover Sheet, Drawing Index & Locality	227-002-C01	A
Important Notes	227-002-C02	A
General Arrangement	227-002-C03	A
Water & Sewer Arrangement	227-002-C04	A
Car Parking Arrangement	227-002-C05	A
Traffic Island Set-Out Details	227-002-C06	A
Miscellaneous Details	227-002-C07	A

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

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.

Timing of Effect

2. The conditions of the Development Permit must be effected prior to the lodgement for the signing and dating of the Survey Plan except where specified otherwise in these conditions of approval.

Service Clearances

3. Prior to the Pre-Start Meeting, confirm and revise as required the horizontal alignment of all water main connections from the existing trunk main in accordance with Water Services Association of Australia (WSA) to the satisfaction of the Chief Executive Officer.

Advice Note: CivilWalker Drawing 227-002-C04 indicates water mains are aligned with limited horizontal clearance to proposed electrical pillar boxes located at the boundary between Villa A and B, and between Villa C and D.

As shown in Figure 1 below, Officers interpret clearances as limited as 100mm between pillar boxes and water mains. WSA requires a minimum horizontal clearance of 500mm.

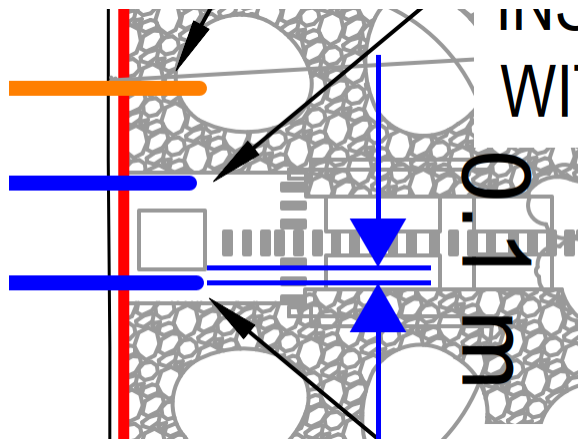


Figure 1: Interpreted Horizontal Clearance between Proposed Water and Electrical Services (CivilWalker Drawing 227-002-C04)

Water Supply and Sewerage Works External

4. Provide sufficient supporting information endorsed by a suitably qualified and experienced professional to confirm that the water and sewerage capacity requirements of Condition 6 of the Combined Application Decision Notice Dated 6 October 2023 have been addressed.

Any works required to address the water and sewer conditions, from the earlier Decision Notice, will constitute Operational Works. The plan of the works must be endorsed by the Chief Executive Officer prior to commencement of such works. Clarification is required prior to requesting a Pre-Start Meeting.

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.

Inspection of Sewers

5. 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.

Landscaping

6. Amend the civil plans to clearly indicate the trees to be removed relative to the trees that will remain within the Warner Street road verge, and indicate the location of the two new street trees noting the requirements of Condition 4(c) of the Combined Application Decision Notice Dated 6 October 2023. The revised plan must be supported by advice from a Level 5 Arborist confirming the health of the trees will not be compromised as a consequence of the on-street works and construction of the proposed traffic island / planter island. The advice must be consistent with the Australian Standard – Protection of trees on development sites.

The two narrow traffic islands are not approved and are to be removed from the plan.

Amended plans and further supporting information is to be submitted and endorsed by the Chief Executive Officer prior to requesting a Pre-Start Meeting.

7. The landscaping plan must be amended to avoid planting of trees above Council's water and sewer assets. In particular, relocate the planting currently shown above the existing sewerage main.

Revised plans must be submitted for approval, clearly showing the location and dimensioned offsets to existing Council services. The plan of the landscaping works 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.

Road Condition Assessment

8. Prior to works acceptance, the Contractor is to prepare a road condition report identifying the condition of pavement infrastructure fronting the development site pre- and post-completion of works. The report is to identify relevant existing defects or problems with the roadway.

On completion of the works, the pavement infrastructure shall be subject to a joint inspection by the Applicant and Council Officers to identify any further damage that has occurred. Where additional damage has occurred, all rectification works shall be at the Applicant's expense, to the satisfaction of the Chief Executive Officer.

Vegetation Clearing

9. Removal of the two street trees is not permitted to take place before the Pre-Start Meeting process and works have been authorised to commence. Council must be notified two (2) business days prior to the proposed date of commencement of any approved vegetation clearing to facilitate community awareness of such works.

Stockpiling and Transportation of Fill Material

10. 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; or
 - b) Before 7:00am or after 6:00pm Monday to Friday; or
 - c) Before 7:00am or after 1:00pm Saturdays; or
 - d) On Sundays or Public Holidays.
11. Dust emissions or other air pollutants must not extend beyond the boundary of the site and cause nuisance to surrounding properties.

Storage of Machinery and Plant

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

Damage to Council Infrastructure

13. In the event that any part of Council's existing water, sewer 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, and 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 any Use.

Advices

The following elements are not part of this Operational Works and remain to be addressed by the Applicant as required under the requirements of the Combined Application Decision Notice Dated 6 October 2023.

Stormwater Management

1. Per the requirements of Condition 14 of the Decision Notice, a drainage study on the subject land must be undertaken and be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work with the necessary works being undertaken prior to Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

Advice Note: Officers have identified that an external catchment naturally falls through the site from the north. Officers are not currently able to assess the post-development implications of external runoff directed through the site from the northern site boundary and whether management of this stormwater will impact a third party downstream as defined by Queensland Urban Drainage Manual (QUDM).

The Applicant may seek to resolve this matter prior to the Building Permit application by providing this information prior to the On-Street Works to ensure that no rework is required at the developers cost.

Earthworks

2. In addition to the external catchment stormwater, internal drainage as a consequence of lot filling is required to be addressed to satisfy the requirements of Condition 14 of the Decision Notice. A bulk earthworks plan for works internal to the development footprint, demonstrating that the works do not to create ponding nuisances and/or concentration of stormwater flows to adjoining properties will need to be provided to the satisfaction of the Chief Executive Officer prior to achieving the requirements of Condition 14 and achieving a Building Permit.

Advice Note: If this information is not addressed as part of this development application, it must be addressed prior to the issue of a Building Permit.

The Applicant is to advise Council's Delegated Officer of when this information will be provided prior to the pre-start meeting for on-street works.

3. This approval, granted under the provisions of the Planning Act 2016, shall lapse two (2) years from the day the approval takes effect in accordance with sections 85(1)(b) and 71 of the Planning Act 2016.
4. The Douglas Shire Council area is subject to water restrictions during dry season months that may limit and/or restrict the use of Council water for landscaped areas. Council recommends water harvesting and water saving devices to be included to cater for the dry season periods.
5. 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.
6. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements. In particular, the use of the adjacent sidewalk area is subject to a Local Law approval for outdoor dining. The use of the sidewalk area for outdoor dining is subject to a Local Laws approval.

Further Development Permits

Not applicable

Concurrence Agency Response

Not Applicable

Currency Period for the Approval

This approval, granted under the provisions of the *Planning Act 2016*, shall lapse two (2) 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*.

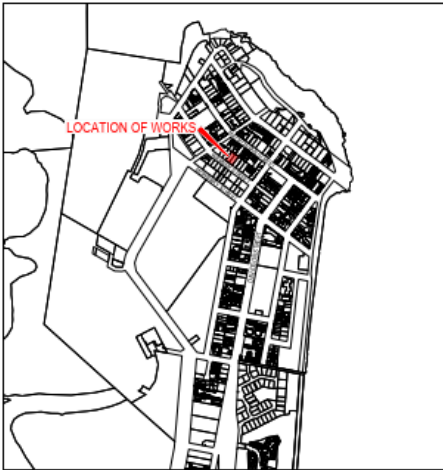
A copy of the relevant appeal provisions is attached.

NV & JS PTY LTD

30-32 WARNER STREET, PORT DOUGLAS

OPERATIONAL WORK

PROJECT No: 227-002



LOCALITY PLAN
N.T.S.

PROJECT DRAWINGS

DRAWING No.	DRAWING TITLE
227-002-C01	COVER SHEET, DRAWING INDEX & LOCALITY
227-002-C02	IMPORTANT NOTES
227-002-C03	GENERAL ARRANGEMENT
227-002-C04	WATER & SEWER ARRANGEMENT
227-002-C05	CAR PARKING ARRANGEMENT
227-002-C06	TRAFFIC ISLAND SET-OUT DETAILS
227-002-C07	MISCELLANEOUS DETAILS

ENQROC STANDARD DRAWINGS

DRAWING No.	DRAWING TITLE
S1015	ACCESS CROSSED
S1005	PATHWAYS / BIKEWAYS
S1110	CONCRETE DRIVEWAY FOR ALLOTMENT ACCESS
S2008	STANDARD ARRANGEMENT OF 20mm WATER SERVICE AND RECYCLED WATER INSTALLATIONS
S3005	PROPERTY CONNECTION BRANCHES

REV	DATE	DESCRIPTION	DESIGN	APPROVED
A	17.10.23	INITIAL ISSUE		

NV & JS PTY LTD

ALL DIMENSIONS IN METRES UNLESS NOTED OTHERWISE



CW	DJW	30-32 WARNER STREET, PORT DOUGLAS
CW	DJW	
COVER SHEET, DRAWING INDEX & LOCALITY		
227-002-C01		A

FNQROC REGIONAL DEVELOPMENT MANUAL

1. CONSTRUCTION AND INSTALLATION OF ALL WORKS AS DETAILED ON THESE DRAWINGS SHALL BE IN ACCORDANCE WITH THE PROCEDURES, SPECIFICATIONS AND REFERENCED STANDARD DRAWINGS CONTAINED IN THE CURRENT ISSUE OF THE FNQROC DEVELOPMENT MANUAL AND TO THE REQUIREMENTS OF DOUGLAS REGIONAL COUNCIL.

COMPLIANCE WITH ASSESSMENT MANAGER CONDITIONS

1. CONSTRUCTION OF THE WORKS DETAILED ON THESE DRAWINGS SHALL NOT COMMENCE UNTIL AN OPERATIONAL WORKS PERMIT HAS BEEN ISSUED BY COUNCIL AND THE REQUIRED PRE-START MEETING HAS BEEN HELD.
2. THE CONTRACTOR SHALL COMPLY WITH ALL CONDITIONS SET OUT IN THE COUNCIL DECISION NOTICE FOR OPERATIONAL WORKS.

SURVEY & EXISTING SERVICES

1. LEVEL DATUM & ORIGIN OF LEVELS IS AS NOMINATED ON RPS SURVEY DRAWING.
2. THE EXISTING SERVICES SHOWN ON THESE DRAWINGS ARE DERIVED FROM SURFACE SURVEY AS DETAILED ON THE RPS SURVEY DRAWING. THEY MAY NOT REPRESENT ALL OF THE SERVICES SHOWN ON THOSE DRAWINGS, OR ALL OF THE EXISTING SERVICES PRESENT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR REVIEWING THE SURVEY DRAWINGS AND SUBSEQUENTLY LOCATING ALL EXISTING SERVICES PRIOR TO ANY WORKS COMMENCING. ONCE THE LINE AND LEVEL OF EXISTING UNDERGROUND SERVICES HAS BEEN CONFIRMED BY THE CONTRACTOR, THE ENGINEER SHALL BE NOTIFIED OF ANY POTENTIAL CLASHES WITH THE DESIGN PRIOR TO COMMENCEMENT OF CONSTRUCTION.
3. ALL DAMAGE TO EXISTING SERVICES SHALL BE MADE GOOD TO THE SATISFACTION OF THE SUPERINTENDENT AND THE RELEVANT AUTHORITY AT THE CONTRACTOR'S EXPENSE. THE CONTRACTOR SHALL NOTIFY THE RELEVANT AUTHORITY IMMEDIATELY IF ANY DAMAGE OCCURS.



SEWER

1. ALL WORKS SHALL BE IN ACCORDANCE WITH FNQROC STANDARD SPECIFICATION SS, UNLESS NOTED OTHERWISE.
2. FOR DETAILS OF PROPERTY CONNECTION BRANCHES REFER FNQROC STANDARD DRAWING S3065.
3. CONNECTION OF NEW SEWER MAIN TO EXISTING MANHOLES SHALL BE IN ACCORDANCE WITH THE REQUIREMENTS OF FNQROC / COUNCIL.
4. ALL PROPERTY CONNECTION BRANCHES SHALL BE BROUGHT TO WITHIN A MAXIMUM OF 300mm OF THE FINISHED SURFACE LEVEL AND A GUBED CAP INSTALLED. THE RISER MUST BE CONNECTED TO A MARKER PEG WITH PLASTIC COATED WIRE. THE MARKER PEG SHALL BE OF HARDWOOD MATERIAL PROTRUDING 200mm ABOVE THE FINISHED GROUND LEVEL AND INSTALLED IMMEDIATELY ADJACENT TO THE RISER.

WATER

1. ALL WATER WORKS TO BE IN ACCORDANCE WITH FNQROC STANDARD SPECIFICATION SS, UNLESS NOTED OTHERWISE.
2. PROVIDE THRUST BLOCKS IN ACCORDANCE WITH FNQROC REQUIREMENTS.
3. CONNECTION TO EXISTING WATER MAIN SHALL BE IN ACCORDANCE WITH THE REQUIREMENTS OF DOUGLAS SHIRE COUNCIL. CONTRACTOR TO LIAISE WITH COUNCIL & ORGAMISE FOR CONNECTION AS NECESSARY.

PAVEMENT

1. PAVEMENT CONSTRUCTION METHODOLOGY SHALL BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE FNQROC REGIONAL DEVELOPMENT MANUAL STANDARD SPECIFICATIONS.
2. THE CONTRACTOR IS REMINDED OF THE REQUIREMENT FOR HOLD POINT AND WITNESS POINT INSPECTIONS AS REQUIRED BY THE RELEVANT SPECIFICATION. THE ENGINEER SHALL BE CONTACTED FOR PROOF ROLL AND PRE-SEAL INSPECTIONS WITH 48 HOURS NOTICE.
3. THE CONTRACTOR IS REMINDED OF THE REQUIREMENT FOR MATERIAL AND COMPACTION TESTING REQUIREMENTS AS REQUIRED BY THE STANDARD SPECIFICATION.

EROSION SEDIMENT CONTROL STRATEGY

1. THE CONTRACTOR SHALL BE RESPONSIBLE TO PROTECT AND PRESERVE THE NATURAL ENVIRONMENT AND SHALL AVOID ENVIRONMENTAL POLLUTION IN ACCORDANCE WITH THE ENVIRONMENTAL PROTECTION ACT.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE INCORPORATION OF APPROPRIATE CONTROL AND MANAGEMENT MEASURES CONFORMING TO THE REQUIREMENTS OF THE ACT AND THE RELEVANT AUTHORITIES.
3. THE CONTRACTOR SHALL INSTALL ALL DEVICES/MEASURES NECESSARY TO COMPLY WITH THE PROVISIONS OF THE FNQROC DEVELOPMENT MANUAL, THE ENVIRONMENTAL PROTECTION ACT AND COUNCIL REQUIREMENTS.
4. ANY SOIL STOCKPILES SHALL BE PROTECTED AGAINST WIND EROSION BY COVERING AND AGAINST STORMWATER RUNOFF BY SILT FENCES AT THE DOWNHILL SLOPES. STOCKPILE LOCATIONS SHALL BE DETERMINED BY THE CONTRACTOR AND EROSION/CONTROL MEASURES IMPLEMENTED & MAINTAINED FOR THE LIFE OF THE STOCKPILE.
5. SEQUENCING OF CONTROL MEASURES:
 - 5.1. INSTALL STABLE POINT OF ENTRY
 - 5.2. INSTALL SILT FENCES / BUNDS
 - 5.3. PROTECT SOIL STOCKPILES
 - 5.4. CONSTRUCT TEMPORARY SEDIMENT BASINS
 - 5.5. INSTALL STORMWATER PIPES
 - 5.6. IMPLEMENT PROTECTION MEASURES TO STORMWATER PITS
 - 5.7. REVEGETATE BARE AREAS UPON COMPLETION OF EARTHWORK
6. CONTROL MEASURES SHALL BE INSPECTED AFTER EACH RAIN EVENT AND CLEANED / MAINTAINED AS REQUIRED.
7. RETURNS IN SILT FENCE SHALL BE AT 20m INTERVALS WHEN INSTALLED ALONG THE CONTOUR. SPACING TO DECREASE TO 5 - 10m INTERVAL DEPENDENT ON SLOPE IF INSTALLED AT AN ANGLE TO THE CONTOUR. THE CONTRACTOR SHALL SELECT A COMPLIANT SPACING AND MONITOR / CHANGE AS NECESSARY.
8. SILT FENCE RETURNS SHALL CONSIST OF EITHER A V-SHAPED SECTION EXTENDING A MINIMUM OF 1.5m UP THE SLOPE OR A SANDBAG / ROCK/AGGREGATE CHECK DAM HALF THE HEIGHT OF SILT FENCE A MINIMUM OF 1.5m UP THE SLOPE.
9. STORMWATER PITS SHALL HAVE PIT PROTECTION MEASURES AS DETAILED IN FNQROC.
10. THE FOLLOWING REVEGETATION MEASURES SHALL BE UNDERTAKEN IMMEDIATELY UPON COMPLETION OF EARTHWORK:
 - 10.1. CUT / FILL BATTERS STEEPER THAN 1 in 4 TO BE HYDROMULCHED
 - 10.2. A STRIP OF TURF TO BE Laid BEHIND ALL KERB LINES
11. ALL REVEGETATION / GRASS TO BE WATER AS REQUIRED TO MAINTAIN UNTIL GROWTH IS ESTABLISHED.
12. A SUITABLE DUST MANAGEMENT STRATEGY SHALL BE MAINTAINED TO MINIMISE DUST NUISANCE ON ADJACENT PROPERTIES. DETAILS OF THE DUST MANAGEMENT STRATEGY SHALL BE INCORPORATED INTO THE CONTRACTOR'S EROSION AND SEDIMENT CONTROL STRATEGY.
13. SEDIMENT BASIN
 - 13.1. INLET PROTECTION SHALL BE PROVIDED TO MINIMISE SCOUR AND EVENLY DISTRIBUTE FLOW THROUGHOUT THE BASIN.
 - 13.2. A MARKER PEG SHALL BE INSTALLED TO SHOW THE STORAGE DEPTH RESULTING FROM RAIN EVENTS.
 - 13.3. SEDIMENT SHALL BE REMOVED FROM THE BASIN WHEN 30% OF THE STORAGE DEPTH IS REACHED. SEDIMENT SHALL BE APPROPRIATELY DISPOSED OF.

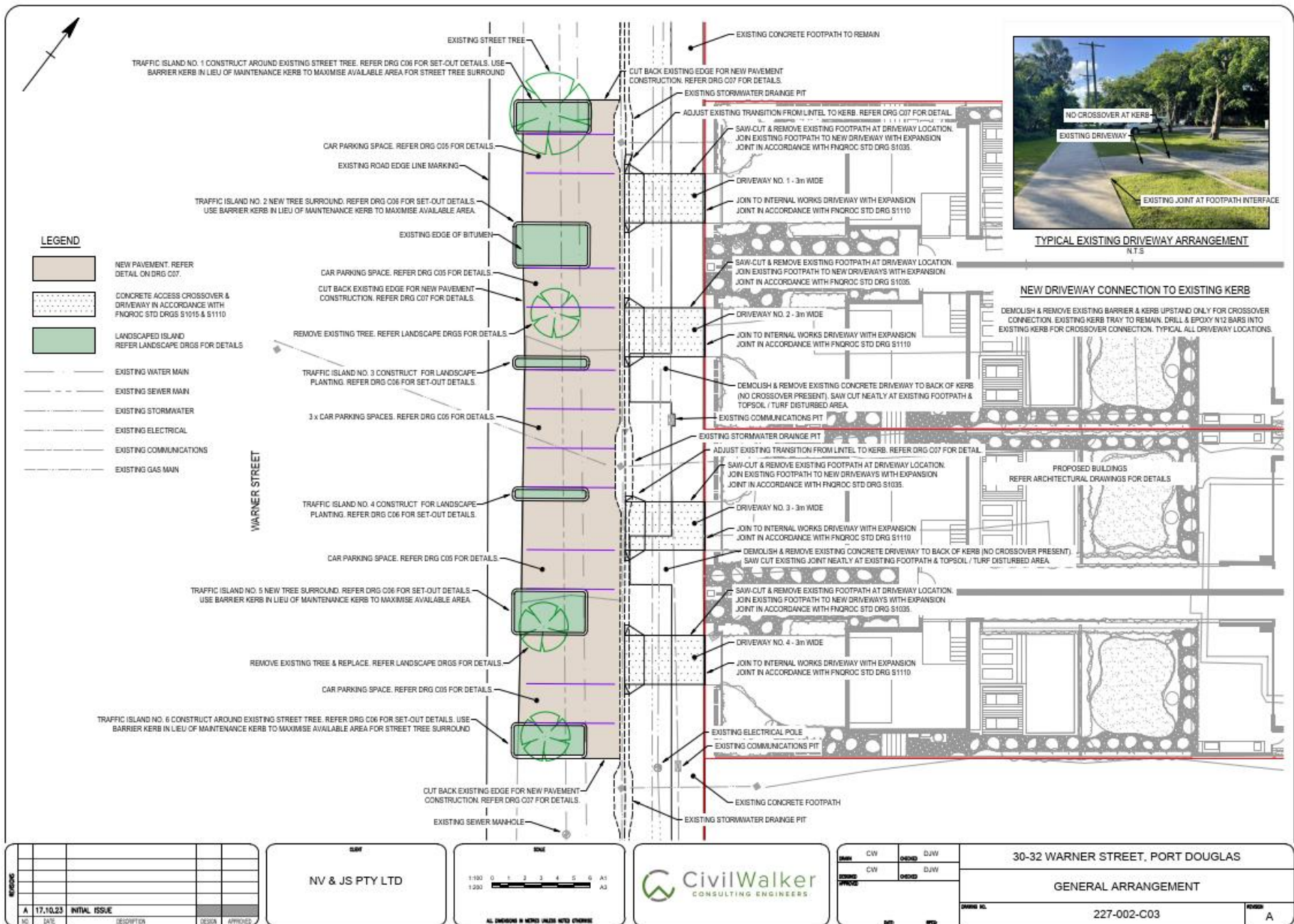
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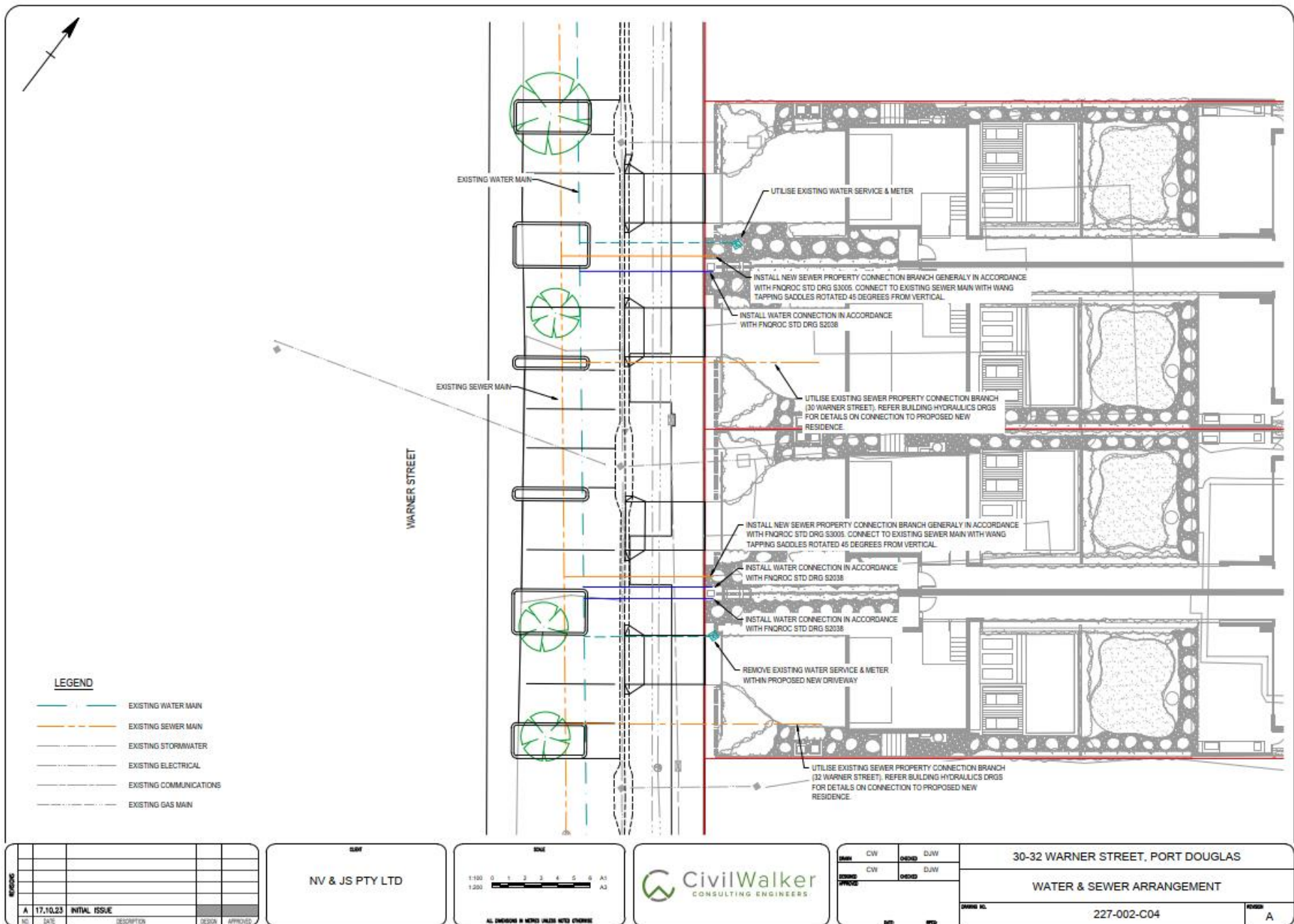
CLIENT	NV & JS PTY LTD
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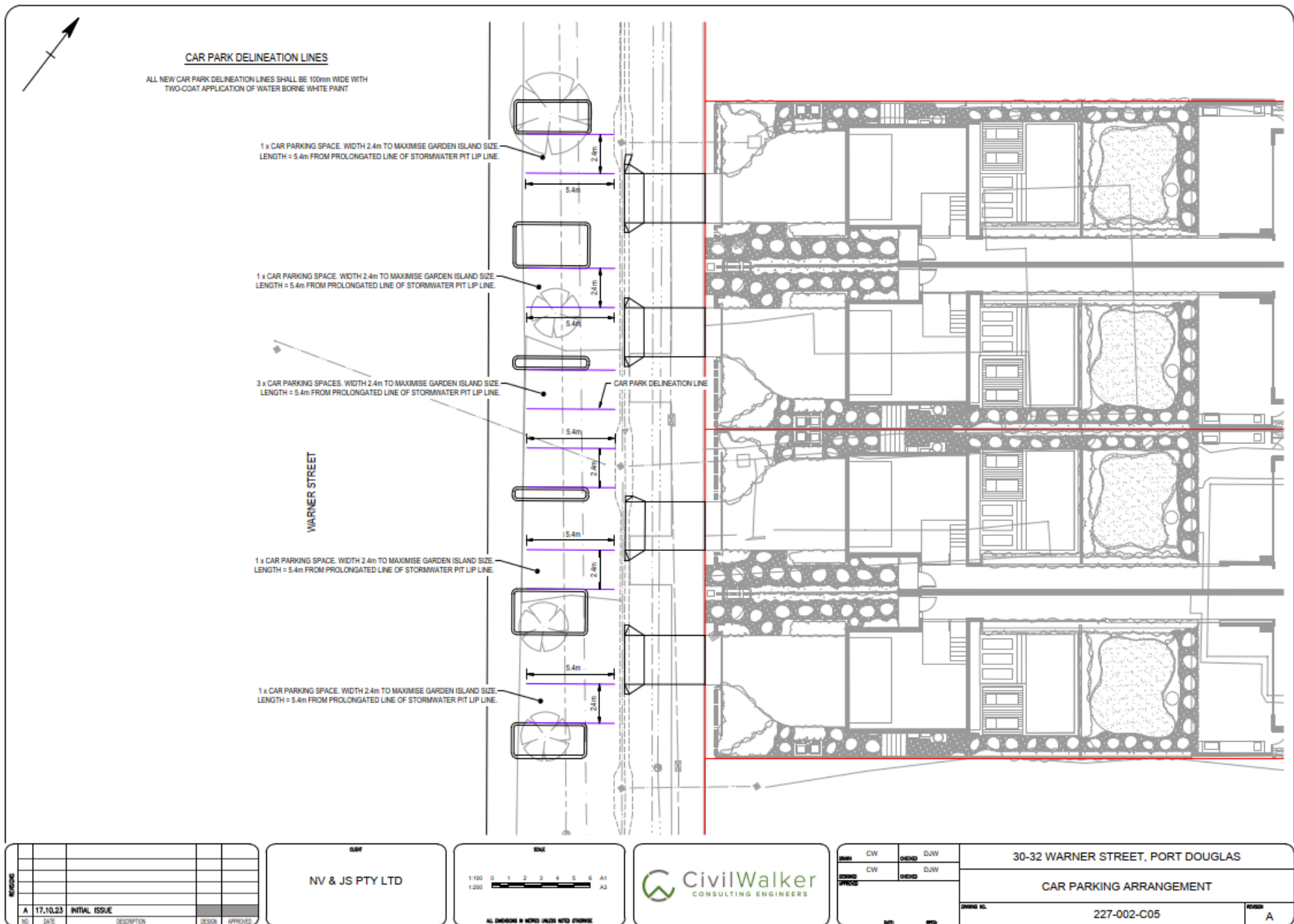
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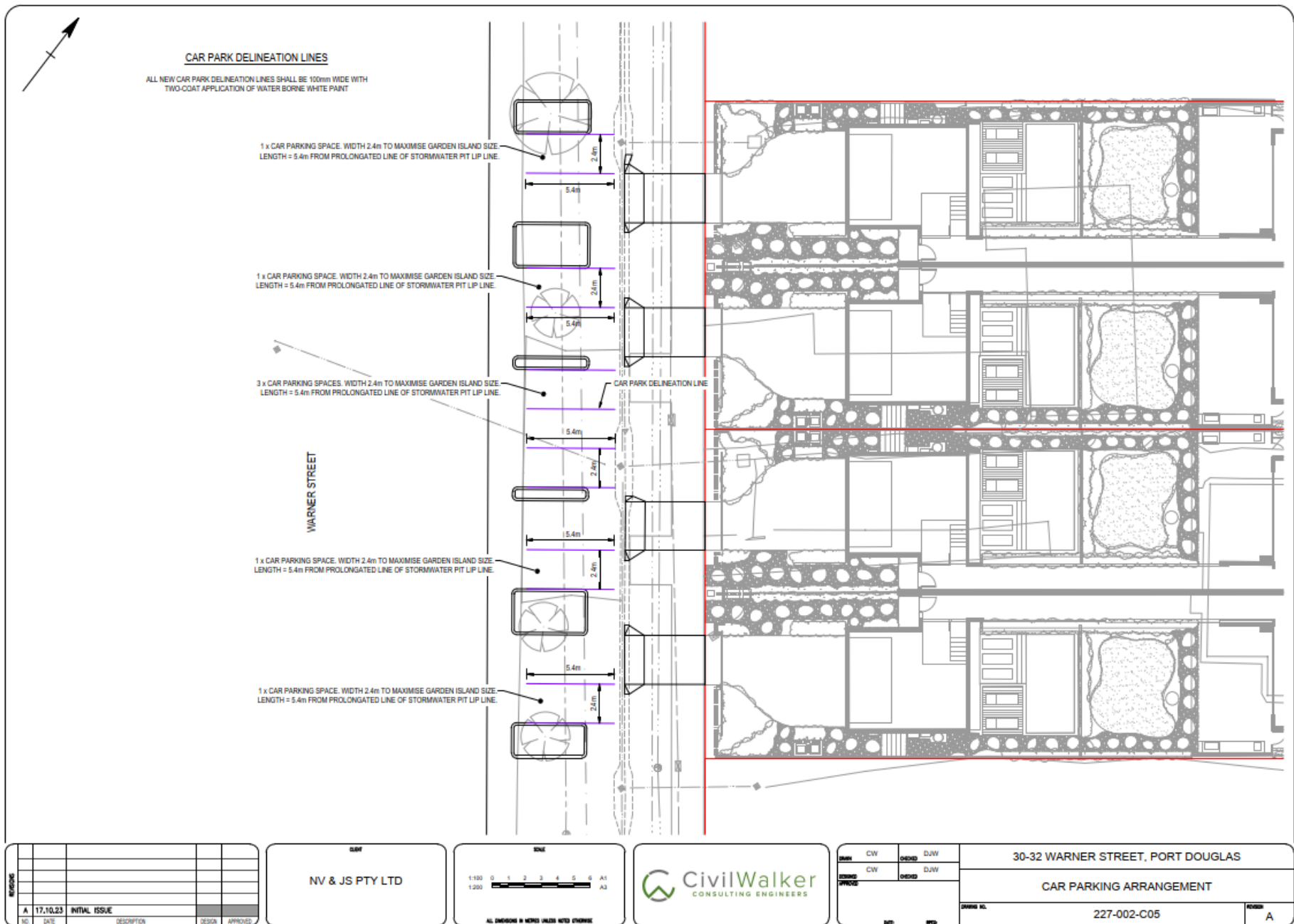


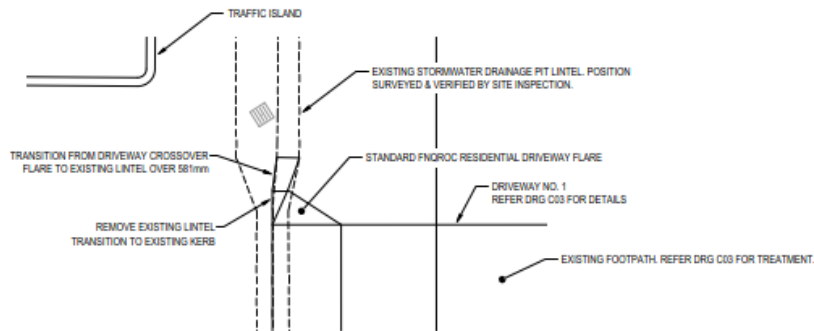
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ISSUED	CW	DATE	DJW	IMPORTANT NOTES
PROJECT		DATE		
NO.		NO.		227-002-C02
				A



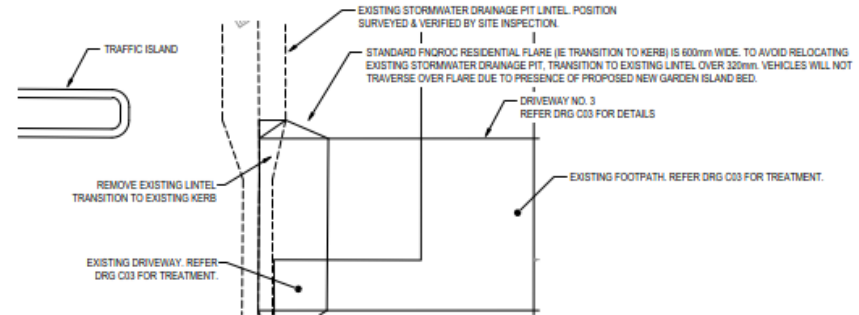




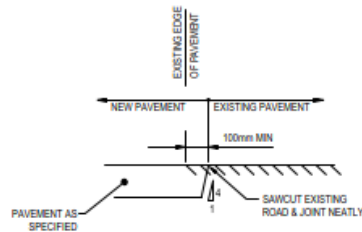




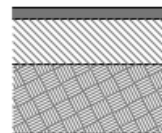
DRIVEWAY NO. 1 TRANSITION DETAIL
SCALE: 1:40 A1; 1:80 A3



DRIVEWAY NO. 2 TRANSITION DETAIL
SCALE: 1:40 A1; 1:80 A3



JOINT TO EXISTING PAVEMENT
N.T.S.



PAVEMENT DETAILS
N.T.S.

30mm OG14 OPEN GRADED ASPHALT
100mm TYPE 2.2 BASE COURSE (CBR90)
EXISTING ROAD VERGE MATERIAL

REV	DATE	DESCRIPTION	DESIGN	APPROVED
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CLIENT
NV & JS PTY LTD

SCALE
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1:200 0 1 2 3 4 5 6 A3
ALL DIMENSIONS IN METRES (UNLESS NOTED OTHERWISE)



DESIGN	CW	DJW	30-32 WARNER STREET, PORT DOUGLAS
CHECKED	CW	DJW	
APPROVED			MISCELLANEOUS DETAILS
DRAWING NO.			227-002-C07
REVISION			A

Planning Act 2016
Chapter 3 Development assessment

[s 74]

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

74 What this subdivision is about

- (1) This subdivision is about changing a development approval before the applicant's appeal period for the approval ends.
- (2) This subdivision also applies to an approval of a change application, other than a change application for a minor change to a development approval.
- (3) For subsection (2), sections 75 and 76 apply—
 - (a) as if a reference in section 75 to a development approval were a reference to an approval of a change application; and
 - (b) as if a reference in the sections to the assessment manager were a reference to the responsible entity; and
 - (c) as if a reference in section 76 to a development application were a reference to a change application; and
 - (d) as if the reference in section 76(3)(b) to section 63(2) and (3) were a reference to section 83(4); and
 - (e) with any other necessary changes.

75 Making change representations

- (1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
 - (a) a matter in the development approval, other than—
 - (i) a matter stated because of a referral agency's response; or

-
- (ii) a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
 - (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- (3) Only 1 notice may be given.
- (4) If a notice is given, the appeal period is suspended—
- (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
 - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
 - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
 - (ii) the applicant receives notice that the assessment manager does not agree with the change representations; or
 - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

76 Deciding change representations

- (1) The assessment manager must assess the change representations against and having regard to the matters that

- must be considered when assessing a development application, to the extent those matters are relevant.
- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
- (a) the applicant; and
 - (b) if the assessment manager agrees with any of the change representations—
 - (i) each principal submitter; and
 - (ii) each referral agency; and
 - (iii) if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
 - (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
 - (v) another person prescribed by regulation.
- (3) A decision notice (a ***negotiated decision notice***) that states the assessment manager agrees with a change representation must—
- (a) state the nature of the change agreed to; and
 - (b) comply with section 63(2) and (3).
- (4) A negotiated decision notice replaces the decision notice for the development application.
- (5) Only 1 negotiated decision notice may be given.
- (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

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

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

Note—

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

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

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

230 Notice of appeal

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

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

231 Non-appealable decisions and matters

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

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

232 Rules of the P&E Court

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