

SUBMISSION REGARDING DEVELOPMENT APPLICATION

19 Sand Street, Port Douglas - Material Change of Use (Short Term Accommodation and Dwelling House Use Rights)

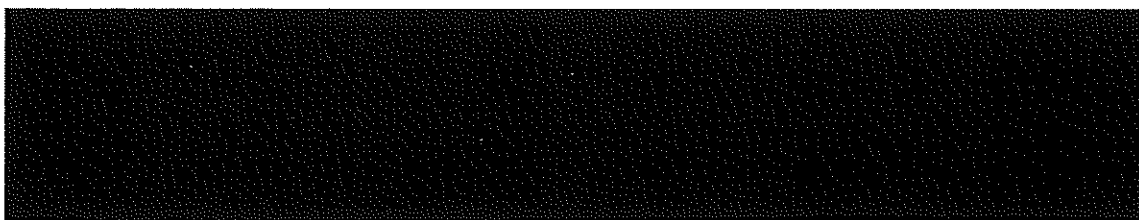
Application Ref: MCUI 2025_5816/1

Date: 29/09/2025

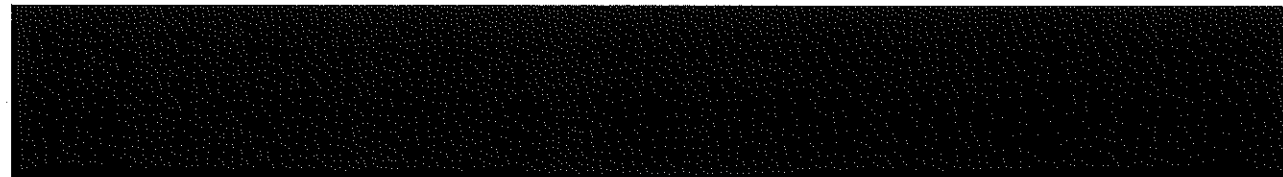
To: Douglas Shire Council

Email: enquiries@douglas.qld.gov.au

SUBMITTERS' DETAILS



SUBMISSION DETAILS



We have reviewed the development application for Material Change of Use (Short Term Accommodation and continuing existing Dwelling House use rights) and make the following submission.

GROUND OF SUBMISSION

1. Non-Compliance with Side Boundary Setback Requirements

Ground: The proposed development fails to comply with the minimum side boundary setback requirements under the Douglas Shire Planning Scheme 2018.

Facts and Circumstances:

- The Medium Density Residential Zone Code (Section 6.2.8.3.a, Performance Outcome PO2, Acceptable Outcome AO2) requires buildings to be setback a minimum of 2 metres from a side boundary or an average of half of the height of the building at the side setback, whichever is greater.
- The height of the developments side wall is circa 5.4 meters (as noted in the architectural plans) and we submit under the code requires a minimum setback of circa 2.7 meters.
- The application proposes a setback of only 1.15 metres from the northern side boundary (shared with our property at 17 Sand Street).

- This represents greater than a 57% reduction from the required setback distance.
- The applicant's solution of supplemental landscaping of the 1.15 meter setback with is not considered reasonable nor adequate.

2. Inappropriate Reliance on Neighbouring Property Features

Ground: The application inappropriately relies on features of our property to justify the setback variation.

Facts and Circumstances:

- The applicant's planning report states that "The adjoining building to the north is set back approximately 3m from the common boundary" and references "existing landscaping along the boundary" on our property.
- Our building setback is a feature that provides amenity and privacy, that should not be permitted to be diluted by a neighbouring property being permitted to vary its setback requirements.
- The applicant should not be entitled to rely on our property's setback and landscaping to meet planning requirements, as we retain the right to modify, remove, or redevelop these features in the future.
- The setback requirement exists to ensure adequate separation between buildings regardless of the configuration of neighbouring properties.

3. Adverse Impact on Residential Amenity and Privacy

Ground: The reduced setback and building height will adversely impact the residential amenity and privacy of our property.

Facts and Circumstances:

- The proposed building has a height of circa 9.5 metres (as noted in the architectural plans).
- The combination of the reduced 1.15 meters setback and considerable building height creates an imposing built form that will negatively impact the enjoyment of our property.
- The close proximity of a two-storey structure will create overlooking that compromises our privacy, in particular that of our second level outdoor living area.
- The bulk and scale of the building so close to the boundary will create a sense of enclosure and visual dominance that is inconsistent with the residential character of the area.

4. Failure to Achieve Performance Outcomes

Ground: The proposed development fails to achieve the Performance Outcomes of the Medium Density Residential Zone Code.

Facts and Circumstances:

- Performance Outcome PO2 requires setbacks to "maintain the character of residential neighbourhoods," "achieve separation from neighbouring buildings," and "provide daylight access, privacy and appropriate landscaping."
- The reduced setback fails to provide adequate separation from our dwelling and will compromise the residential character of the neighbourhood.
- Bed 5 Balconies (second level) of the development will overlook our second story outdoor living area (our most used and enjoyed area of the property).

- The development does not adequately provide for privacy and sufficient setback for landscaping along its northern boundary as required by the performance outcomes.

REQUESTED OUTCOME

We respectfully request that Douglas Shire Council:

1. Refuse the application in its current form due to non-compliance with setback requirements and failure to achieve performance outcomes; or
2. Require the applicant to modify the proposal to comply with the minimum side boundary setback requirement; and
3. Impose conditions that ensure adequate privacy screening, building design modifications, and landscape buffering to mitigate the impacts of the sense of enclosure and visual dominance, without relying on features of our property.

ADDITIONAL COMMENTS

While we are very supportive of appropriate residential development in our neighbourhood, planning controls exist to ensure that development occurs in a manner that protects the amenity of existing residents. The side boundary setback requirement is a fundamental control that should not be compromised without compelling justification and adequate mitigation measures.

We believe the applicant has not demonstrated that the proposed setback variation adequately protects our residential amenity or achieves the intended planning outcomes for the zone.

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