

**Cairns Office**

135 Abbott Street, PO Box 1949, Cairns QLD Australia 4870

T +61 7 4031 1336 F +61 7 4031 2942 E [cairns@rpsgroup.com.au](mailto:cairns@rpsgroup.com.au) W [rpsgroup.com.au](http://rpsgroup.com.au)

**Our Ref:** 62857/OCK/AF/L73065

**Date:** 14 January 2014

Department of State Development, Infrastructure and Planning  
Far North Queensland Regional Office  
State Assessment and Referral Agency  
PO Box 2358  
Cairns QLD 4870

**Via: Mail**

Dear Sir/Madam,

**RE: REQUEST FOR EXTENSION OF RELEVANT PERIOD RELATING TO APPROVAL FOR FOUR MUTIPLE DWELLING UNITS AT 27 MURPHY STREET PORT DOUGLAS**

We confirm RPS Australia East Pty Ltd act on behalf of Fred and Lola Langton (the land owners and Applicant for the original approval) in relation to the above described matter and **enclose** a copy of our submission to the Douglas Shire Council for your consideration.

We ask that a response in accordance with Section 385 of the *Sustainable Planning Act 2009* be provided at your earliest convenience. We also note that the Department of Transport and Main Roads were the only referral agency and that the matter has been discussed with the Department's Ms Susie Marshall who has confirmed that referral would no longer be required to the Department and that the Department would have no objection to the proposal.

A copy of this notice has been forwarded to the Douglas Shire Council pursuant to Section 383(3)(b) of the Sustainable Planning Act.

We trust the details provided are adequate to facilitate your assessment. However, should you require any further details or clarification prior to formally responding, please do not hesitate to contact the undersigned.

Yours sincerely

**RPS**



Owen Caddick- King  
Principal- Planner

cc: Attn: Michelle Henderson  
Chief Executive Officer  
Douglas Shire Council  
PO Box 723  
MOSSMAN QLD 4873

Fred Langton  
PO Box 260  
PORT DOUGLAS QLD 4877

enc: **Attachment 1:** Extension of Currency Submission



# Attachment I

## Extension of Currency Submission



**Cairns Office**

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**Our Ref:** 62857/OCK/AF/L73064

**Date:** 14 January 2014

Attn: Ms Donna Graham  
Chief Executive Officer  
Douglas Shire Council  
PO Box 723  
MOSSMAN QLD 4873

**Via:** Mail

Dear Madam

**RE: REQUEST FOR EXTENSION OF RELEVANT PERIOD RELATING TO APPROVAL FOR FOUR MULTIPLE DWELLING UNITS AT 27 MURPHY STREET, PORT DOUGLAS**

We act of behalf of Fred and Lola Langton (the land owners and Applicant for the original approval) in respect of the above described matter.

It is noted that the material change of use (MCU) approval for the multiple dwelling unit proposal (refer to copy provided for reference in **Attachment 1**) was originally approved by the Douglas Iconic Panel. However, now that the Iconic Queensland Places Act has been repealed, the Department of State Development, Infrastructure and Planning has advised that the Douglas Shire Council will be responsible for dealing with any further matters related to the MCU approval.

Therefore, on behalf of the land owner, Fred and Lola Langton and in accordance with Section 383 of the *Sustainable Planning Act 2009*, we hereby request an extension of time of 4 years to the approval's relevant period.

In regard to this request, please find attached a cheque for the applicable fee currently understood to be as per the Cairns Regional Council 2013 / 2014 Schedule of Fees, being **\$896.70** (calculated as \$1,190.00 + \$343.00 x 4 units x 35%) and the attached land owners consent to the requested extension of time (refer to **Attachment 2**).

Our client is committed to bringing this development into fruition however the current economic climate has not been conducive to starting the project works.

Our client is committed to providing a building form which is a good fit within the locality. This is evident from the approved development being designed by Mr Roger Mainwood, Total Project Group (TPG), a recognised local architect. The building design was informed by and responds to the local streetscape, existing terrain and adjoining development. The subject proposal was recommended by the former Cairns Regional Council for approval by the Iconic Panel and subsequent to a site inspection with the Iconic Panel and various design changes being completed in response to the site meeting, was approved by the Douglas Iconic Panel.

Whilst the proposed development was approved under the Superseded Planning Scheme, the assessment of the proposal by the Cairns Regional Council and the Douglas Iconic Panel has ensured that the proposal is consistent with the current Planning Scheme's design intent and given that the local planning provisions have not changed since approval of the development, the proposed development remains consistent with the current Planning Scheme's design intent.

Given that the proposed development provides for a building form that is a good fit for the locality which has been the subject of assessment by the Cairns Regional Council and the former Douglas Iconic Panel and which remains consistent with the current Planning Scheme's design intent, it is considered reasonable that an extension of time of 4 years be granted for the current material change of use approval.

We trust the details provided are adequate for the assessment of the request. However, should you require any further details or clarification prior to finally determining the request, please do not hesitate to contact the undersigned.

Yours sincerely

**RPS**

A handwritten signature in black ink, appearing to read 'Owen Caddick-King', written in a cursive style.

Owen Caddick-King  
Principal - Planner

enc: **Cheque**  
**Attachment 1:** Current MCU Development Approval  
**Attachment 2:** Land Owners Consent

cc: Fred Langton  
PO Box 260  
PORT DOUGLAS QLD 4877



## Attachment I

### Current MCU Development Approval

**Amended Decision Notice  
APPROVAL**  
*Sustainable Planning Act 2009 S 802 and  
Integrated Planning Act 1997 S 3.5.15*



Our Ref: Meeting 47 Item 6.1 11 June 2010  
Council Ref: 8/35/88

Douglas Iconic Panel

RECEIVED  
21 JUN 2010

18 June 2010

FA Langton  
C/- Conics Pty Ltd  
PO Box 1949  
CAIRNS QLD 4870

BY: J1262857-OCK

**RE: Application for a Development Permit for a Material Change of Use for 4 Multiple Dwellings (Tourist) under the 1996 Superseded Planning Scheme**  
**27 Murphy Street, Port Douglas described as**  
**Lot 113 on PTD2091**

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Dear Sir / Madam

I wish to advise that, on 11 June 2010, the above development application was granted preliminary approval with conditions. The conditions relevant to this preliminary approval are attached as **Attachments 1 and 2**. These conditions are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

**1. Details of the approval**

The following type of approval has been issued:

	Development Permit	Preliminary Approval
<ul style="list-style-type: none"> <li><b>Material change of use</b> made assessable by the planning scheme</li> </ul>	✓	

## 2. The relevant period for the approval

The relevant periods stated in section 3.5.21 of the *Integrated Planning Act 1997* (IPA) apply to each aspect of development in this approval, as outlined below—

- material change of use – 4 years;
- reconfiguring a lot not requiring operational works – 2 years;
- reconfiguring a lot requiring operational works – 4 years;
- any other development not listed above – 2 years.

If there is 1 or more subsequent related approvals<sup>1</sup> for a development approval for a material change of use or a reconfiguration, the relevant period for the approval will be taken to have started on the day the latest related approval takes effect.

## 3. The approved plans

The approved plans and / or documents for this development approval are listed in the following table and attached as **Attachment 3**.

Drawing or Document	Reference	Date
Site Plan	Total Project Group Plan Da01-A	August 2008
Ground Floor Plan	Total Project Group Plan Da04- Rev D	September 2009
First Floor Plan	Total Project Group Plan Da03 A	August 2008
Sections And Elevations	Total Project Group Plan Da04 Rev G	03 June 2010
Comparative Street Elevations	Total Project Group Plan DA06-Engineering Revision	03 June 2010
Perspective	Total Project Group Plan DA05-Engineering Revision	03 June 2010
Northern Boundary Plantings	Pawsey & Prowse	02/09/09
Southern Boundary Plantings	Pawsey & Prowse	02/09/09
Eastern Boundary Plantings – Murphy St	Pawsey & Prowse	02/09/09

## 4. Other necessary development permits

Listed below are other development permits that are necessary to allow the development to be carried out:

- Development Permit for Operational Works; and
- Development Permit for Building Works.

<sup>1</sup> For the meaning of 'related approval', refer to section 3.5.21(7) of IPA

## 5. IDAS referral agencies

The IDAS referral agencies applicable to this application are:

	For an application involving...	Name of referral agency	Status	Address
<input checked="" type="checkbox"/>	1. State Controlled Roads	Department of Transport and Main Roads	Concurrence	Department of Transport and Main Roads Cairns District PO Box 6185 CAIRNS QLD 4870

## 6. Submissions

There was one properly made submission about the application. In accordance with s 3.5.15(2)(j) of the IPA, the name and address of the principal submitter for each properly made submission are as follows:

Name of principal submitter	Address
1. S. W. O'Brian	C/- Thomson Adsett Bentley PO Box 83 EDGE HILL QLD 4870

## 7. Appeal rights -

Attached, as **Attachment 4**, is an extract from the *Iconic Queensland Places Act 2008* (IQPA) and IPA which details your appeal rights and the appeal rights of any submitters regarding this decision.

## 8. When the development approval takes effect -

This development approval takes effect -

- from the time the amended decision notice is given, if there is no submitter and the applicant does not appeal the decision to the court

**OR**

- if there is a submitter and the applicant does not appeal the decision, the earlier date of either:
  - when the submitter's appeal period ends; or
  - the day the last submitter gives the assessment manager written notice that the submitter will not be appealing the decision.

**OR**

- subject to the decision of the court, when the appeal is finally decided, if an appeal is made to the court.



This approval will lapse if—

- for a material change of use, the first change of use under the approval does not start within the relevant period stated in section 2 of this amended decision notice;
- for a reconfiguration, a plan for the reconfiguration is not given to the local government within the relevant period stated in section 2 of this amend decision notice;
- for a development approval other than a material change of use or reconfiguration, the development does not substantially start within the relevant period stated in section 2 of this amended decision notice.

Note that in the case of a development approval for a material change of use or for reconfiguring a lot, if there is 1 or more subsequent related approvals the relevant period for the material change of use or reconfiguration will restart from the date of the related approval taking effect. Please refer to section 3.5.21 of IPA for further information.

If you wish to discuss this matter further, please contact the undersigned on 4039 8841.

Yours sincerely,



Ben Thrower  
**Project Manager**  
**Douglas Iconic Panel**

cc: Cairns Regional Council, Referral agency/s and Submitter/s (to be posted to the submitter in accordance with statutory requirements under IPA)

Mrs Lyn Russell  
Chief Executive Officer  
Cairns Regional Council  
PO Box 359  
CAIRNS QLD 4870

Mr Simon Clarke  
Assessment Manger  
Cairns Regional Council  
PO Box 359  
CAIRNS QLD 4870

Mr Malcolm Hardy  
Department of Transport and Main Roads  
Cairns District  
PO Box 6185  
CAIRNS QLD 4870

S. W. O'Brian  
C/- Thomson Adsett Bentley  
PO Box 83  
EDGE HILL QLD 4870

**Attachment 1**  
**Assessment Manager Conditions of Approval**

1. The applicant/owner must at all times during development of the subject land carry out the development and construction of any building thereon and conduct the approved use(s) generally in accordance with:
  - a. The plans, specifications, facts and circumstances as set out in the application submitted to Council;
  - b. To ensure that the development complies in all respects with the following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual; and

Except where modified by these conditions of approval.

**Timing of Effect**

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

**Amendment to Design**

3. The proposed development must be amended to accommodate the following changes:
  - a. The applicant is to show full compliance with AS2890.1 for access and parking following construction of the full on street works required by the conditions below. In particular the applicant must show how a B99 vehicle can enter and exit all of the proposed garages and visitor spaces including a full analysis of the driveway vertical and horizontal geometry and vehicle swept paths.

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

**Water Supply Contributions**

4. Pay a monetary contribution to Council in accordance with the Planning Scheme Policy towards the provision of water supply infrastructure.

Contributions must be paid at the rates applicable at time of payment. On the present method of calculation, the contributions are \$8,992.00 (1.00 EDC).

Payment is required prior issue of a Development Permit for Building Work.

**Wastewater Contributions**

5. Pay a monetary contribution to Council in accordance with the Planning Scheme Policy towards the provision of sewerage infrastructure.

Contributions must be paid at the rates applicable at time of payment. On the present method of calculation, the contributions are \$6,552.03 (1.80EDC).

Payment is required prior issue of a Development Permit for Building Work.

**Water Supply and Sewerage Works Internal**

6. Undertake the following water supply and sewerage works internal to the subject land:

- a. The development must be serviced by a single internal water and sewerage connection made clear of any buildings or structures;
- b. Water supply sub-metering must be designed and installed in accordance with *The Plumbing and Drainage Act 2002* and the *Water Supply (Safety and Reliability) Act 2008*.

All the above works must be designed and constructed in accordance with the FNQROC Development Manual.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of Cairns Regional Council's Chief Executive Officer prior to Commencement of Use or issue of a Compliance Certificate, whichever occurs first.

Three (3) copies of a plan of the works must be endorsed by Cairns Regional Council's Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

### **Damage to Infrastructure**

7. In the event that any part of Council's existing sewer/water infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to, mobilisation of heavy earthmoving equipment, stripping and grubbing, the applicant/owner must notify Cairns Regional Council Water and Waste immediately of the affected infrastructure and have it repaired or replaced by Cairns Regional Council Water and Waste, at the developers cost, prior to the Commencement of Use.

### **Water Saving**

8. All toilet devices in the development must be fitted with dual flush cisterns and showers and hand basins in the development must be fitted with flow control valves or similar water control devices to generally restrict flow to nine (9) litres of water per minute.

### **Vehicle Parking**

9. The amount of vehicle parking must be as specified in the 1996 Douglas Shire Planning Scheme which is a minimum of five (5) spaces. The car parking layout must comply with the Australian Standard AS2890.1 2004 Parking Facilities - off street car parking and be constructed in accordance with Austroads and good engineering design. In addition, all parking, driveway and vehicular manoeuvring areas must be imperviously sealed, drained.

### **Car Parking Layout**

10. The parking layout must comply with the Australian Standard AS2890.1 2004 Parking Facilities - off street car parking and the 1996 Douglas Shire Planning Scheme, in particular:
  - a. Parking spaces adjacent to columns and walls must have a minimum unobstructed clear width as determined by AS2890.1;
  - b. Manoeuvring space must be provided to enable all vehicles to enter and exit the site in forward gear (including refuse and service/delivery vehicles).

Amended plans (also as required by Condition 3) must be endorsed by Cairns Regional Council's Chief Executive Officer prior to the issue of a Development Permit for Building Work.

### **Protection of Landscaped Areas from Parking**

11. Landscaped areas adjoining the parking area must be protected by a 150mm 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**

12. Erect signs advising of the location of the off-street visitor parking area and access thereto. The signs must be erected prior to Commencement of Use. One sign must be located on the Murphy Street frontage.

### **Lighting**

13. 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.

### **External Works**

14. Undertake the following works external to the land at no cost to Council:
  - a. Re-profile the verge to match the profile at 29 Murphy Street and construct a 1.5m metre wide concrete footpath to the Murphy Street frontage as an extension to the footpath fronting 29 Murphy Street in accordance with FNQROC Development Manual Standard Drawing 1035;
  - b. Construct full width bitumen widening and kerb and channelling to the Murphy Street frontage (K & C to be on a 4.5m alignment);
  - c. Provision of a concrete crossover and apron in accordance with FNQROC Development Manual Standard Drawing 1015;
  - d. Upgrade the street lighting to comply with requirements of the FNQROC Development Manual;
  - e. Secondary drainage is to be fully contained in the road profile and is to be designed in accordance with QDUM;
  - f. Raise the existing stormwater inlet pit in the existing verge area of 27 Murphy Street to form a manhole with an approved lid at the finished verge profile;
  - g. Provide (if not provide through other nearby developments) a new inlet pit over the existing stormwater line in the western side of Murphy Street just north of the new crossover required for the subject development;
  - h. Make provision for separate pedestrian access to the site (if required);
  - i. Repair any damage to existing kerb and channel, footway or roadway (including removal of concrete slurry from footways, roads, kerb and channel and stormwater gullies and drain lines) that may occur during and works carried out in association with the construction of the approved development.

All works in the road reserve need to be properly separated from pedestrians and vehicles, with any diversions adequately signed and guarded. Particular attention must be given to providing safe passage for people with disabilities i.e. the provision of temporary kerb ramps if pedestrian diversions are necessary.

The external works outlined above constitute Operational Works. Three (3) copies of a plan of the works at A1 size and one (1) copy at A3 size must be endorsed by Cairns Regional Council's Chief Executive Officer prior to commencement of such works. Such work must be constructed in accordance with the endorsed plan to the satisfaction of Cairns Regional Council's Chief Executive Officer prior to Commencement of Use or issue of a Compliance Certificate, whichever occurs first.

### **Plan of Drainage Works**

15. The subject land must be drained to the satisfaction of Cairns Regional Council's Chief Executive Officer. In particular:
  - a. Drainage design and infrastructure is to be in accordance with;
    - i. FNQROC Development Manual;
    - ii. Drainage Plans produced by CMG Consulting Engineers numbered 25854 C-1 AMDT B , 25854 C-2 AMDT A, 25854 C-3 AMDT A.

The drainage works outlined above constitute Operational Works. Three (3) copies of a plan of the works at A1 size and one (1) copy at A3 size must be endorsed by Cairns Regional Council's Chief Executive Officer prior to commencement of such works. Such work must be constructed in accordance with the endorsed plan to the satisfaction of Cairns Regional Council's Chief Executive Officer prior to Commencement of Use or issue of a Compliance Certificate, whichever occurs first.

### **Lawful Point of Discharge**

16. All stormwater from the property must be directed to a lawful point of discharge (nominally the drainage easement in south-east corner of site – Easement A SP166318)) such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of Cairns Regional Council's Chief Executive Officer.

### **Sediment and Erosion Control**

17. Soil and water management measures must be installed/implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the Environmental Protection Act 1994, and the FNQROC Development Manual).

### **Drainage Easement**

18. Create a Drainage Easement having a minimum width of 3 metres along and parallel to the entire length of the rear boundary of Lot 113 PLN 2091 to be granted in favour of Council. Easement and associated works to be consistent with the drainage layout shown on Drainage Plans produced by CMG Consulting Engineers numbered 25854 C-1 AMDT B , 25854 C-2 AMDT A, 25854 C-3 AMDT A. A copy of the easement documents must be submitted to Council for the approval of Council's solicitors at no cost to Council.
  - a. The approved easement documents must be submitted at the same time as seeking a Compliance Certificate for the Plan of Survey and must be lodged and registered with the Department of Environment and Resource Management in conjunction with the Plan of Survey.

(NB: This condition may have been satisfied prior to the issue of the Development Approval for the subject development).

### **Geotechnical Assessment**

19. A geotechnical assessment of the site and adjoining street must be carried out by a qualified and experienced geotechnical engineer. The geotechnical report and details of any amendments to design must be provided to the satisfaction of Cairns Regional Council's Chief Executive Officer prior to issue of the both the Development Permit for Building Works and the Development Permit for Operational Works.

### **Geotechnical Assessment (Batters)**

20. All earthwork batters steeper than 1 in 2 and/or higher than 1.8 metres must be certified by a qualified Geotechnical Engineer prior to the Commencement of Use.

### **Structural Certification (Retaining Walls)**

21. All retaining walls or structures higher than 1.0 metre must be structurally certified prior to the issue of a Development Permit for Building Work.

Where the profile or height of the wall is redesigned during structural certification, amended plans must be endorsed by Cairns Regional Council's Chief Executive Officer prior to the issue of a Development Permit for Building Work.

### **Stockpiling and Transportation of Fill Material**

21. 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 7am or after 6pm Monday to Friday; or
  - c. before 7am or after 1pm Saturdays; or
  - d. on Sundays or Public Holidays.
23. Dust emissions or other air pollutants, including odours, do not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

### **Storage of Machinery & Plant**

24. The storage of any machinery, material and vehicles must not cause a nuisance to surrounding properties, to the satisfaction of Cairns Regional Council's Chief Executive Officer.

### **Demolish Structures**

25. All structures not associated with the approved development (including disused services and utilities) must be demolished and/or removed from the subject land prior to Commencement of Use.

### **Landscaping Plan**

26. The site must be landscaped in accordance with details included on a Landscaping Plan. The Landscaping Plan must show, but not be limited to:
- a. The location and species of all existing trees, with an indication as to whether each tree is to be retained or removed, and natural and finished ground levels if filling is to occur in the vicinity of any tree.
  - b. A planting design which is in accordance with the FNQROC Development Manual;
  - c. Provide deep landscaping to southern side set back areas;
  - d. The mixture of species planted on site must include a minimum of 60% native species.
  - e. Details of any perimeter, private yard or street fencing;
  - f. Protection of landscaped areas adjoining parking areas from vehicular encroachment by a 150mm high vertical concrete kerb or similar obstruction;

Two (2) A1 copies and one (1) A3 copy of the landscape plan must be endorsed by Cairns Regional Council's Chief Executive Officer. The approval and completion of all landscaping works must be

undertaken in accordance with the endorsed plan prior to the issue of a Certificate of Classification or issue of a Compliance Certificate whichever occurs first. Landscaped areas must be maintained at all times to the satisfaction of Cairns Regional Council's Chief Executive Officer.

### **Vegetation Clearing**

27. Existing vegetation on the subject land must be retained in all areas except those affected by the construction of road works/access driveways, the installation of services or improvements as detailed on the approved plans. Any further clearing requires an Operational Works Approval.

Vegetation to be retained is to be identified and adequately fenced off for protection purposes prior to construction work commencing on the site.

### **Screen Fence**

28. A screen fence must be provided to the side and rear boundaries of the subject land, to the satisfaction of Cairns Regional Council's Chief Executive Officer. The fencing must be consistent in terms of design and materials with other fences in the locality. The fencing must be completed prior to the Commencement of Use.

### **Street Fencing**

29. Any proposed fences and/or walls to any road frontage are to be limited to the following:

- a. 1.2 metres in height if solid; or
- b. 1.5 metres in height if at least 25% visually transparent; or
- c. 1.8 metres in height if at least 50% visually transparent.

Details of the street fencing must be detailed in the Landscape Plan and be endorsed by Cairns Regional Council's Chief Executive Officer prior to the issue of a Development Permit for Building Work.

### **Refuse Storage**

30. Refuse storage is required to service the site in accordance with Council requirements. Brochures on these requirements – 'Requirements for Refuse Storage' are available from Cairns Regional Council Water and Waste.
31. The refuse bin enclosure must be roofed and bunded and fitted with a bucket trap.

### **Details of Development Signage**

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

### **Advertising Signage**

33. All signage associated with the use must be approved by Cairns Regional Council's 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 Cairns Regional Council's Chief Executive Officer prior to the issue of a Development Permit for Building Works or Commencement of Use, whichever occurs first.

### **Construction Signage**

34. Prior to the commencement of any construction works associated with the development, a sign detailing the project team must be placed on the road frontage of the site and must be located in a prominent position. The sign must detail the relevant project coordinator for the works being undertaken on the site, and must list the following parties (where relevant) including telephone contacts:
- a. Developer;
  - b. Project Coordinator;
  - c. Architect / Building Designer;
  - d. Builder;
  - e. Civil Engineer;
  - f. Civil Contractor;
  - g. Landscape Architect

### **Crime Prevention through Environmental Design**

35. The applicant/owner must ensure that all lighting and landscaping requirements comply with Council's General Policy Crime Prevention through Environmental Design (CPTED).

### **Health Requirements**

36. 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 Cairns Regional Council's Chief Executive Officer, create an environmental nuisance having regard to the provisions of the *Environmental Protection Act 1994*, Environmental Protection (Noise) Policy 1998.
37. Swimming pool water quality must be maintained in accordance with the Queensland Health Swimming and Spa Pool Water Quality and Operational Guidelines 2004.

### **Screening - Air-conditioning Units**

38. 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.

A plan addressing the above must be provided to the satisfaction of Cairns Regional Council's Chief Executive Officer prior to issue of the both the Development Permit for Building Works

### **Screening - Windows/Decks**

39. Provide fixed louvre screens (or other approved mechanism) to the windows and balcony areas of the first floor level on the southern side of the proposed development to inhibit overlooking of the neighbouring residential properties. Alternatively indicate on a detailed drawing how the existing window and balcony configurations inhibit such overlooking.

A plan addressing the above must be provided to the satisfaction of Cairns Regional Council's Chief Executive Officer prior to issue of the both the Development Permit for Building Works.

### **Lockable Storage**

40. Provide each unit with a minimum of 2.5m<sup>2</sup> (minimum 5m<sup>3</sup> volume) of lockable storage space conveniently located with respect to car accommodation.




## **Bicycle Parking**

41. Provide secured, on-site bicycle parking in accordance with Table 10-1 of AUSTRROADS Guide to Traffic Engineering Practice Part 14 - Bicycles. Based on the provisions in Table 10-1 (page 133) the minimum number of parking spaces required for this development is 1 (one) space. The bicycle parking area must be constructed prior to Commencement of Use.

## **FURTHER ADVICE**

1. 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 Cairns Regional Council Officers, prior to commencement of works.
2. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
3. Headwork contribution calculations are attached as **Appendix 1**. Please note that the contributions must be paid at the rates applicable at the time of payment. Updated calculations must be requested prior to payment.
4. For information relating to the repealed *Integrated Planning Act 1997* and *Sustainable Planning Act 2009* log on to [www.dip.qld.gov.au](http://www.dip.qld.gov.au). To access Council's Development Manual, Local Laws and other applicable Policies log on to [www.cairns.qld.gov.au](http://www.cairns.qld.gov.au).

# Appendix 1 Headwork Contribution Calculations



## DEVELOPERS CONTRIBUTIONS

1996 Planning Scheme

### SUMMARY

<b>Preliminaries</b>		F Langton		Development Type		MCU	
Developer		Flagstaff		Status	1996 Douglas Shire Planning Scheme		
Estate Name		0		Quarter Ending Effective	Sep-09		
Stage		27 Murphy Street		SKIDS No.	2444343		
Street No. and Name		Port Douglas		Version No.	1		
Suburb		2360		Current RICI	0.00		
Parcel No.		Lot 113 on PTD2091		Current CPI	0.00		
Lot and RP No.		8/35/68		Validity Period	4		
Development Permit No.				Current R&B	167.6		

<b>Water Supply</b>			
District No.	11	Receipt Code Existing	05674
District Name	Port Douglas	Receipt Code Proposed	05660
Base Rate - existing	\$5,572.19	Current Rate (Indexed)	\$5,909.67
Base Rate - proposed	\$551.10	Current Rate (Indexed)	\$584.48
Base Rate - total	\$6,123.29	Current Rate (Indexed)	\$6,494.15
Base Date	Mar-08	Base Index:	148.60
<b>Proposed Demand</b>			
4 Multiple Dwelling (2 bedrooms)		2.00	EDC
None		0.00	EDC
None		0.00	EDC
Total demand		2.00	EDC
<b>Existing land use</b>			
1 Dwelling-house		1.00	EDC
None		0.00	EDC
None		0.00	EDC
Nominal use credit		1.00	EDC
<b>Long term water use</b>			
Credit for long term water consumption removed from policy on 12.2.2002 as per minutes of meeting #403689			
<b>Previous contribution</b>			
Historical amount		\$0.00	
Date of payment		0-Jan-00	
Credit for previous payment		0.00	EDC
<b>Credit for Works External</b>			
Opening balance of works external		\$0.00	
Opening balance of credits		\$0.00	
Credit claimed	\$0.00	0.00	EDC
Net demand			1.00 EDC
Net Charges	360	\$8,992.00	
Net Charges	357	\$584.48	
Contributions		\$8,992.00	
Time of payment			0

<b>Sewerage</b>			
District No.	2	Receipt Code Existing	05685
District Name	Pt D Town Area	Receipt Code Proposed	06679
Base Rate - existing	\$2,378.63	Current Rate (Indexed)	\$3,166.15
Base Rate - proposed	\$356.00	Current Rate (Indexed)	\$473.86
Base Rate - total	\$2,734.63	Current Rate (Indexed)	\$3,640.01
Base Date	Jun-03	Base Index:	113.60
<b>Proposed Demand</b>			
4 Multiple Dwelling (2 bedrooms)		2.80	EDC
None		0.00	EDC
None		0.00	EDC
Total demand		2.80	EDC
<b>Existing land use</b>			
1 Dwelling-house		1.00	EDC
None		0.00	EDC
None		0.00	EDC
Nominal use credit		1.00	EDC
<b>Long term water use</b>			
Credit for long term sewer use removed from policy on 12.2.2002 as per minutes of meeting #403689			
<b>Previous contribution</b>			
Historical amount		\$0.00	
Date of payment		0-Jan-00	
Credit for previous payment		0.00	EDC
<b>Credit for Works External</b>			
Opening balance of works external		\$0.00	
Opening balance of credits		\$0.00	
Credit claimed	\$0.00	0.00	EDC
Net demand			1.80 EDC
Net Charges Existing Works	359	\$5,899.07	
Net Charges Proposed Works	356	\$852.96	
Contributions		\$6,552.03	
Time of payment			


<b>Road Network</b>			
District No.	0	<b>No Policy in Former DSC Area</b>	
District Name	0		
Receipt Code	0		
Base Rate	\$0.00 /ERA	Base Index	0.00
Base Date	Jan-00	Current Rate (Indexed)	\$0.00 /ERA
<b>Proposed Demand</b>			
None		0.00	ERA
None		0.00	ERA
None		0.00	ERA
Total demand		0.00	ERA
<b>Existing land use</b>			
None		0.00	ERA
None		0.00	ERA
None		0.00	ERA
Allowable credit		0.00	ERA
Subtotal		0.00	ERA
<b>Credit for Works External</b>			
Works external	0	\$0.00	
Opening balance of credits		\$0.00	
Credit for this work		\$0.00	
Closing Balance for works external		\$0.00	
Contributions		\$0.00	
Time of payment			

<b>Drainage</b>			
District No.	44	<b>No Policy in former DSC Area</b>	
District Name	None		
Mitigation	Ha	Adjustment Index: 0	
Unit	0.00		
Quantity	0		
Receipt Code	0		
Base Rate	\$0.00	Base Index	0.00
Base Date	Jan-00	Current Rate (Indexed)	\$0.00
<b>Demand</b>			
None			\$0.00
Sub-total			\$0.00
<b>Credit for works external</b>			
Works external	0	\$0.00	
Opening balance of credits		\$0.00	
Credit for this work		\$0.00	
Closing Balance for works external		\$0.00	
Contributions (Mitigation)			\$0.00
<b>Water Quality</b>			
Unit	Ha	Adjustment Index: 0	
Quantity	0		
Receipt Code	0		
Base Rate	\$0.00	Base Index	0.00
Base Date	Jan-00	Current Rate (Indexed)	\$0.00
<b>Demand</b>			
None			\$0.00
Sub-total			\$0.00
<b>Credit for works external</b>			
Works external	0	\$0.00	
Opening balance of credits		\$0.00	
Credit for this work		\$0.00	
Closing Balance for works external		\$0.00	
Contributions (Water Quality)			\$0.00
Time of payment			

<b>Open Space</b>			
Adjustment Index: 0			
<b>Surrender of Land &amp;/or Money</b>			
Area of new allotments		ha	
Parkland proposed		ha	
Area of subject land		ha	
UCV of subject land			
Parkland required		ha	
<b>Districts</b>			
Number	Name	Receipt Code	
2	Former DSC Area	516	\$0.00
<b>Contribution for shortfall</b>			
Time of payment			\$0.00

<b>Other Bonds and Contributions</b>			
None			\$0.00
None			\$0.00
0		000/000	\$0.00
None			\$0.00
Subtotal			\$0.00
Time of payment prior to commencing works for reconfiguration			
Adjustment Index: R&B			

<b>Amendments</b>			
Prepared	Gary Warner	12/01/2010	12-Jan-10
Checked			
<b>TOTAL</b>			<b>\$16,128.50</b>

 Queensland  
Government

Department of Main Roads

09 October 2008

Mr. N Briggs  
Chief Executive Officer  
Cairns City Council  
PO Box 359  
CAIRNS, QLD 4870



Dear Mr. Briggs

Cairns Regional Council: Port Douglas Road  
Located at 27 Murphy Street, Port Douglas  
Lot 113 on PTD2091, Parish of Salisbury  
F.A. Langton  
Proposed Material Change of use (Multiple Dwellings - Tourist) Application  
Referral Agency's Response (no requirements)

I refer to the application received at the Department 08 October 2008 requesting consideration of the above development.

The Queensland Department of Main Roads, as a Concurrence Agency, has assessed the impact of the proposed development on the State-controlled road network and advises that it has no requirements with regard to the subject application.

This department would appreciate a copy of Council's decision notice for the application.

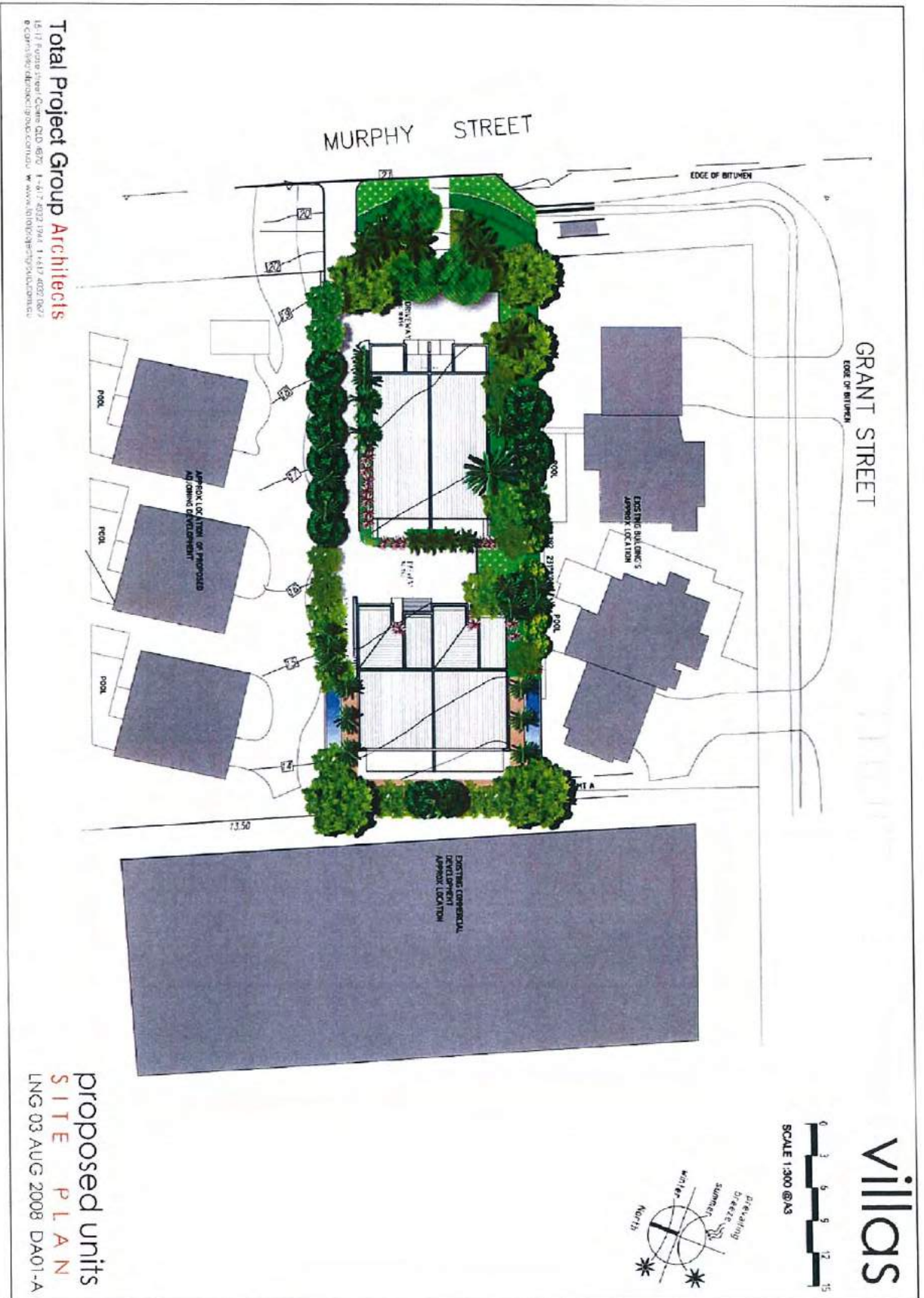
A copy of this letter has been sent to the applicants.

Yours sincerely

Malcolm Hardy  
SENIOR PLANNER FAR NORTH

Road Business Group  
Far North Regional Office  
Floor 4, Cairns Corporate Tower, 15 Lake Street  
Cairns Queensland 4870  
PO Box 6185 Cairns Queensland 4870  
ABN 57 836 727 711

Our Ref 2146504/103 (3623)  
Your Ref 07508  
Enquiries Mr. Malcolm Hardy  
Telephone +61 7 4050 5311  
Facsimile +61 7 4050 5438  
Website [www.peninsula@mainroads.qld.gov.au](http://www.peninsula@mainroads.qld.gov.au)  
Email [www.peninsula@mainroads.qld.gov.au](mailto:www.peninsula@mainroads.qld.gov.au)

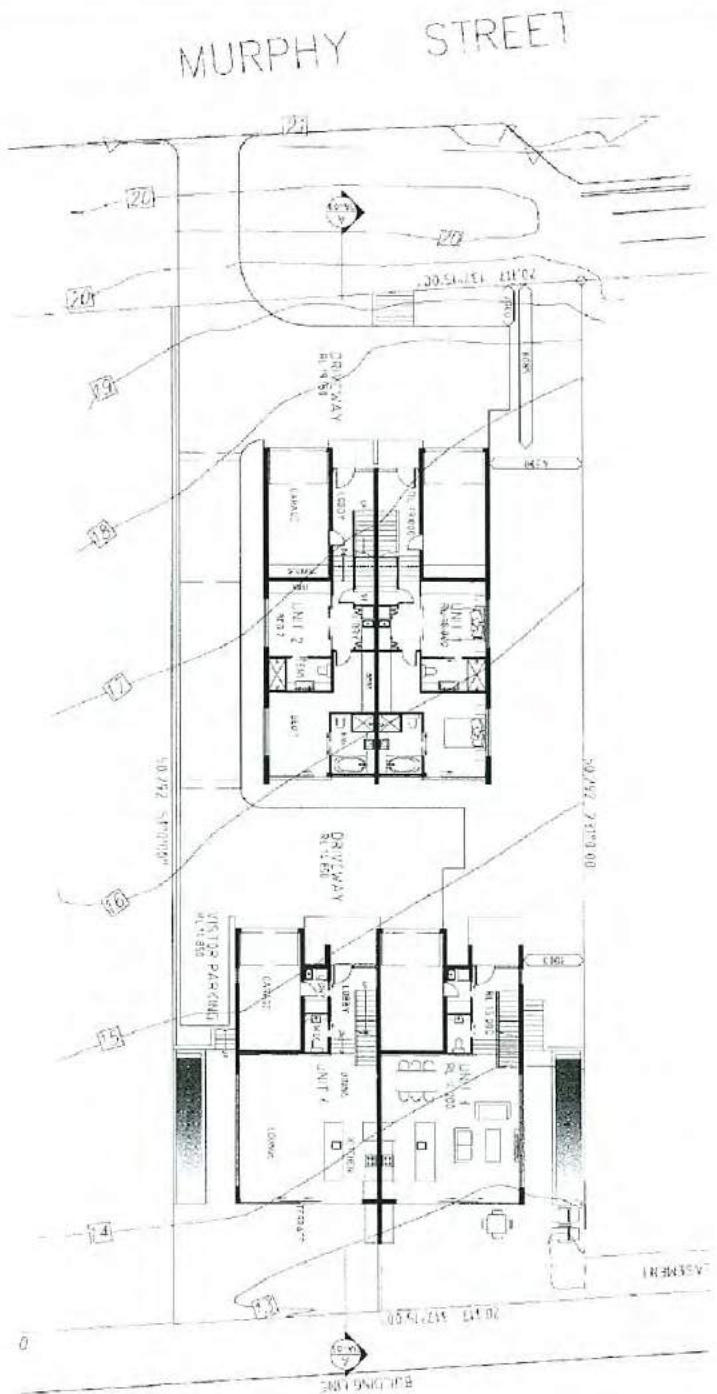


**Total Project Group Architects**  
 16-17 Fuzze Tree Court QLD 4670 1-617-2022 1944 1-617-2022 0667  
 e: [correspondence@totalprojectgroup.com.au](mailto:correspondence@totalprojectgroup.com.au) w: [www.totalprojectgroup.com.au](http://www.totalprojectgroup.com.au)

proposed units  
**SITE PLAN**  
 LNG 03 AUG 2008 DA01-A

# Murphy Street Villas

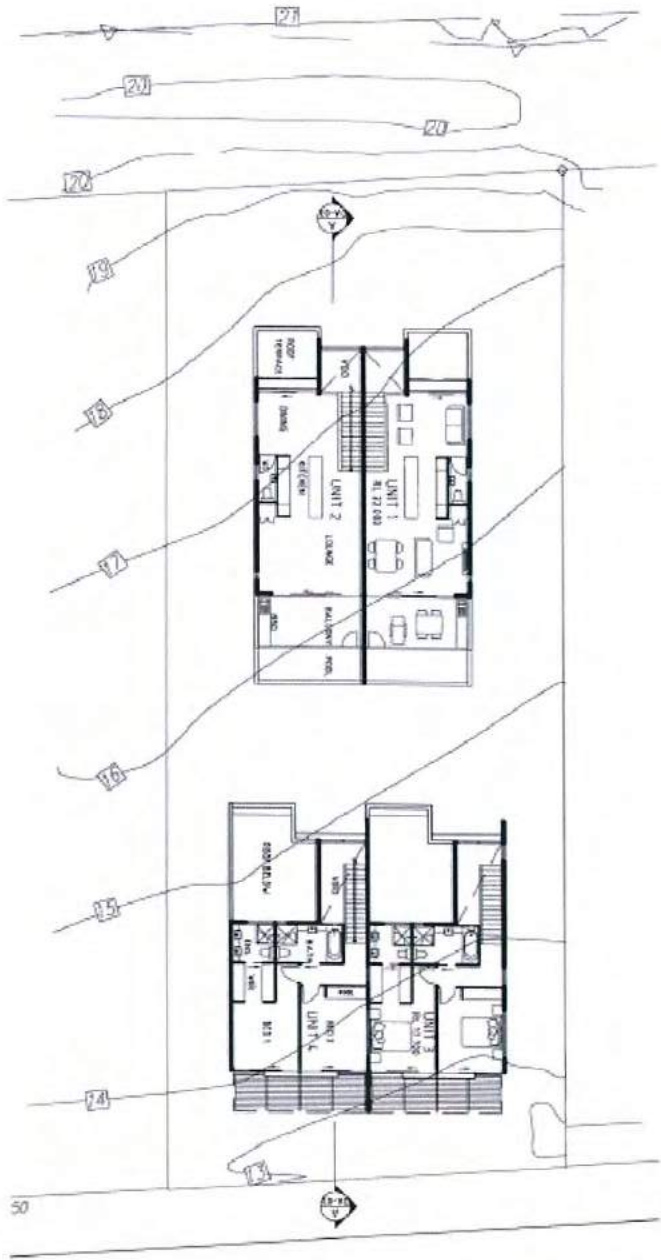
0 2 4 6 8 10  
SCALE 1:200 @A3



**Total Project Group Architects**  
 1517 Pershing Drive, S.D. 57105  
 Phone: 605.251.1441 Fax: 605.251.1442  
 Website: www.totalprojectgroup.com

**proposed units**  
**GROUND FLOOR PLAN**  
 LNG 03 SEP 2009 DA04 REV. D-ENGINEERING REVISION

# MURPHY STREET



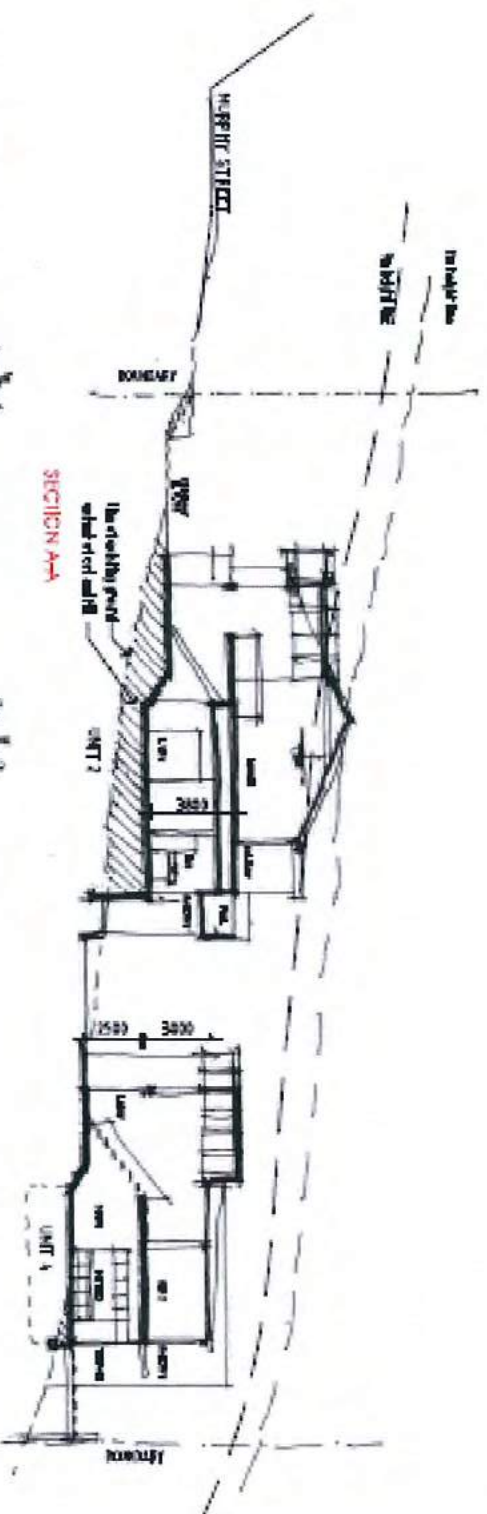
villas



**Total Project Group Architects**  
 1750 Highway 10 West, Suite 200, Delta, BC V4L 1A1  
 • construction@totalprojectgroup.com • www.totalprojectgroup.com

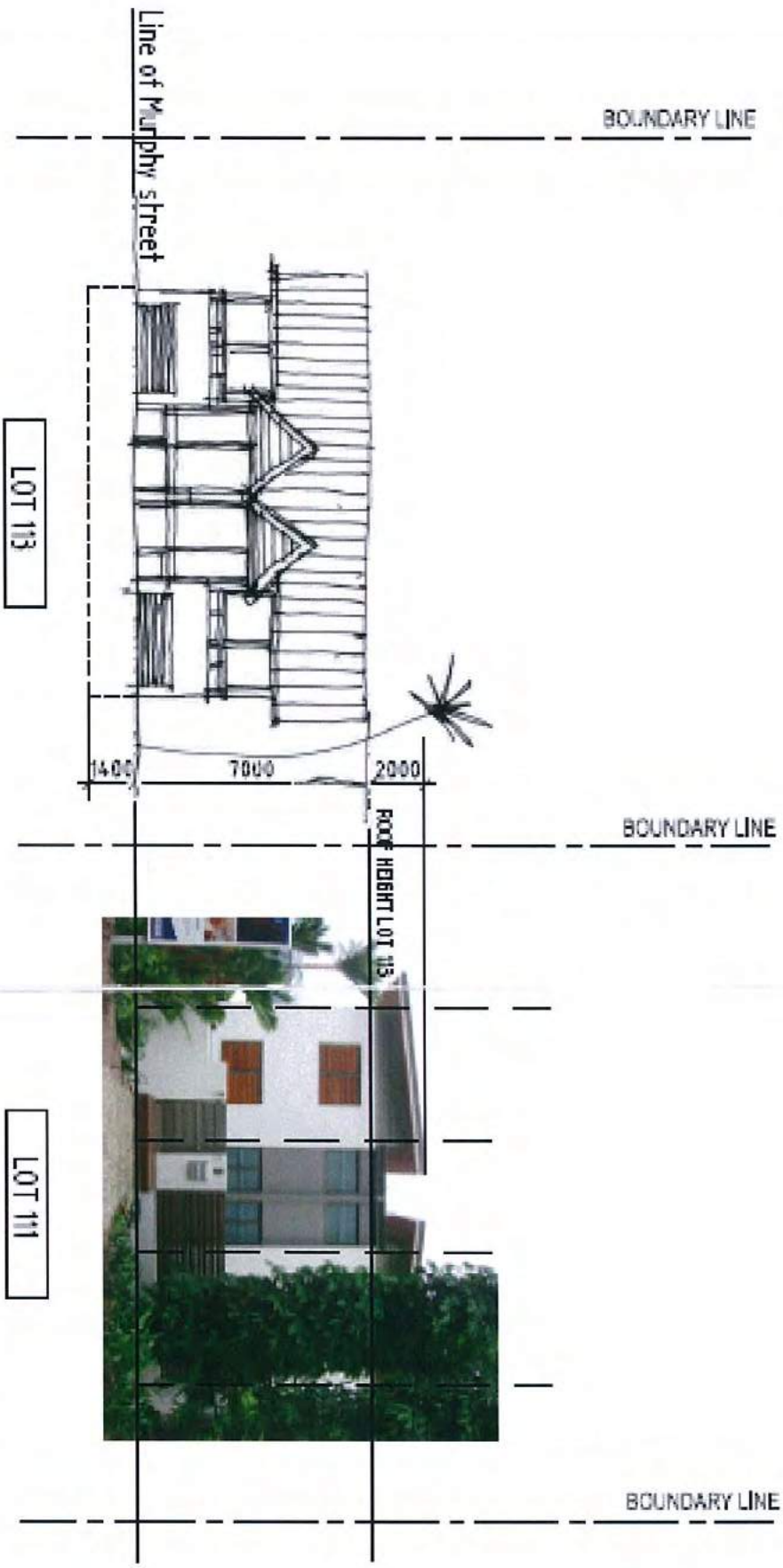
proposed units  
**FIRST FLOOR PLAN**  
 LING 03 AUG 2008 DA03-A

# murphystreetvillas



**Total Project Group Architects**  
Level 11, Regent Street, Brisbane, QLD 4000  
t: +61 7 4000 1111 f: +61 7 4000 1111  
a: [totalprojectgroup.com.au](mailto:totalprojectgroup.com.au) w: [www.totalprojectgroup.com.au](http://www.totalprojectgroup.com.au)

proposed units  
**SECTIONS & ELEVATIONS**  
LNG-03 JUNE 2010 DA004-REV. G-ENGINEERING REVISION

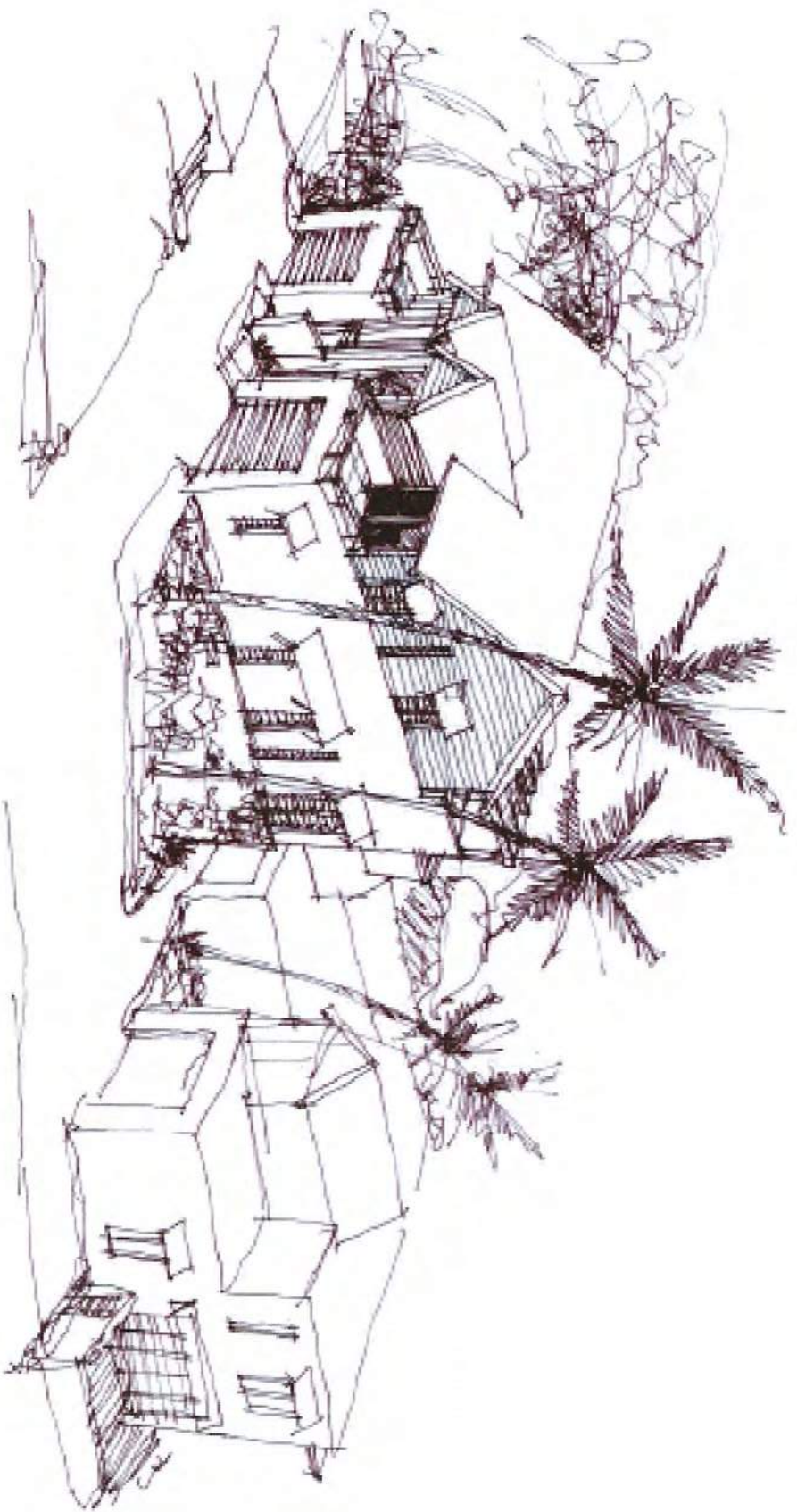


**Total Project Group Architects**  
16/17 Fraser Street, Cairns QLD 4870 T: +61 7 4021 1844 F: +61 7 4021 0477  
e: [info@totalprojectgroup.com.au](mailto:info@totalprojectgroup.com.au) w: [www.totalprojectgroup.com.au](http://www.totalprojectgroup.com.au)

**proposed units**  
**COMPARATIVE STREET ELEVATIONS**  
LNC 09 JUNE 2010 DA05 -ENGINEERING REVISION



# murphystreetvillas



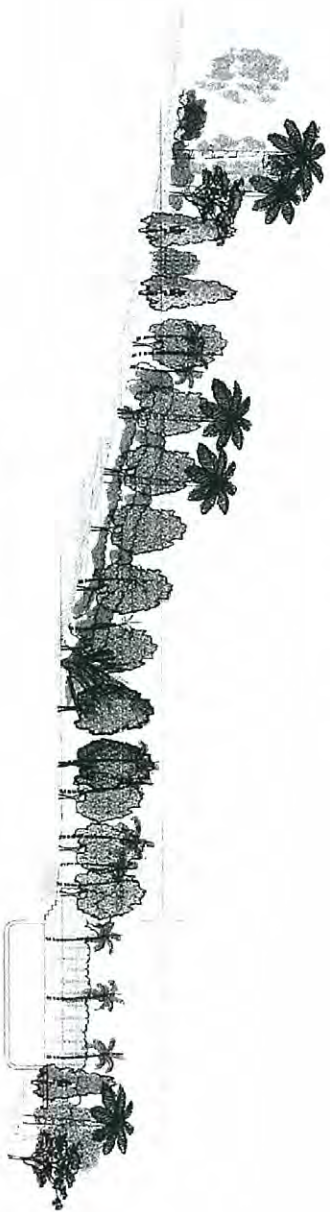
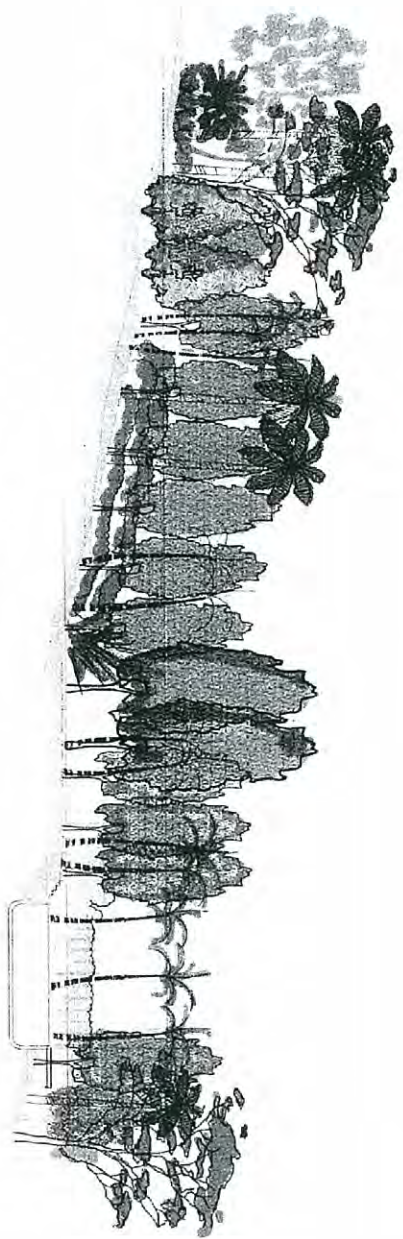
proposed units

**PERSPECTIVE**

LNG 03 JUNE 2010 DA05-ENGINEERING REVISION

**Total Project Group Architects**

1411 Newland CA 94040 1-415-203-1544 1-415-400-0407  
www.totalprojectgroup.com



**NORTHERN ELEVATION.**  
APPROXIMATE PLANT GROWTH AFTER 3 YEARS  
SCALE: 1/200 @ A3

**NORTHERN ELEVATION.**  
APPROXIMATE PLANT GROWTH AFTER 10 YEARS  
SCALE: 1/200 @ A3

REVISIONS	DATE	DESCRIPTION

**GENERAL NOTES:**

1. EXISTING SITE CONDITIONS AND PROPOSED PLANTING ARE SHOWN ON THE ATTACHED LAYOUTS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.

2. PLANTING SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

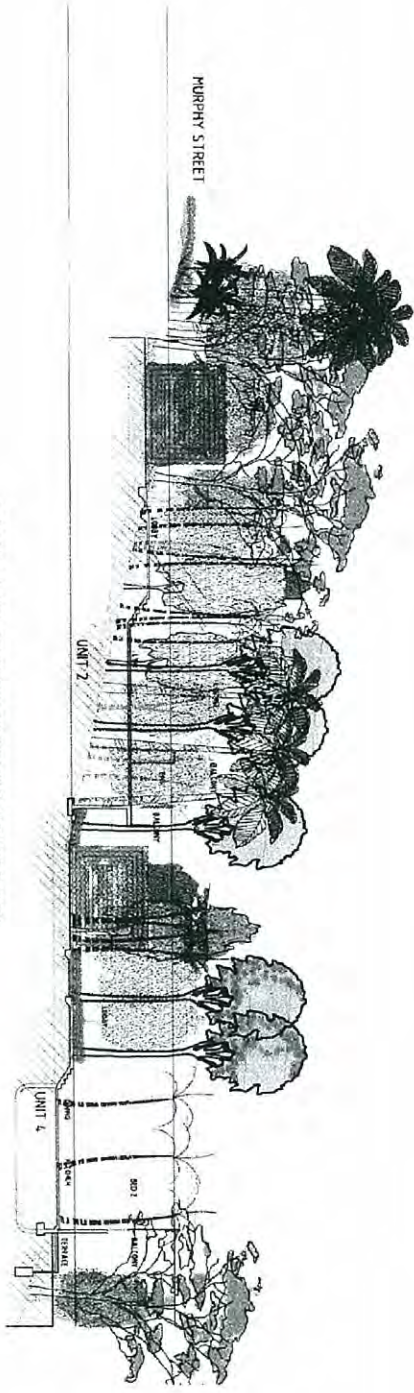
3. ALL DIMENSIONS TO BE SHOWN ON-DRAWING.

<b>PROJECT NAME</b>	HERITAGE STREET VILLAS
<b>PROJECT NO.</b>	892
<b>SCALE</b>	1/200 @ A3

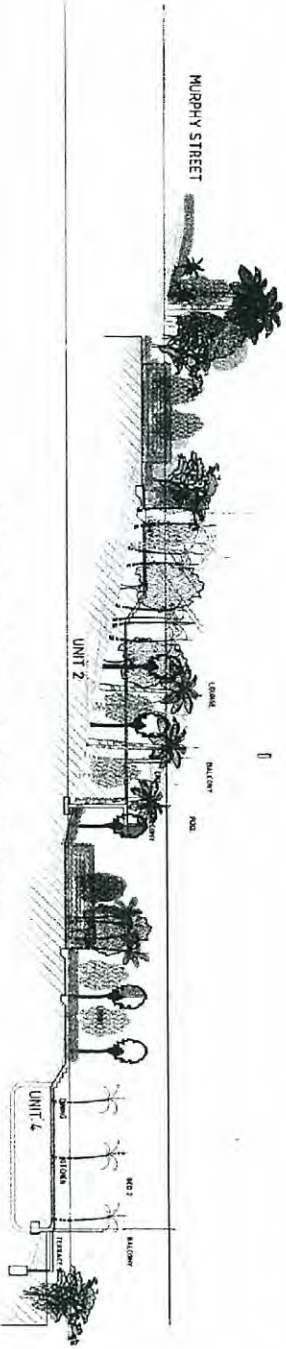
**PAWSEY PROWSE**

**LANDSCAPE ARCHITECTS**  
HERITAGE ADVISORS  
301, ROYAL BANK BUILDING  
141-151, P. 4021, 7212  
DUNNIS C. E. 401/200A  
www.pawseyprowse.com

<b>DRAWING TITLE</b>	<b>NORTHERN BOUNDARY PLANTINGS</b>
<b>DRAWING NO.</b>	OP02
<b>DATE</b>	REVISED
<b>APP.</b>	AP



SECTION AA WITH SOUTHERN BOUNDARY PLANTINGS SHOWN.  
 APPROXIMATE PLANT QUANTITIES AFTER 10 YEARS  
 SCALE: 1:200 @ A3

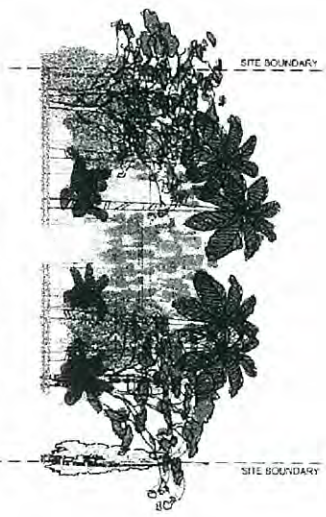


SECTION AA WITH SOUTHERN BOUNDARY PLANTINGS SHOWN.  
 APPROXIMATE PLANT QUANTITIES AFTER 7 YEARS  
 SCALE: 1:200 @ A3

PROJECT NAME MURPHY STREET VILLAS 27 MURPHY STREET, PORT DOUGLAS TROBRIANT 522		DRAWING NO OP03	
PROJECT NO 1520 B A3		REVISION -	
SCALE 1:200 @ A3		DATE 15/07/2018	
PROJECT LOCATION MURPHY STREET PORT DOUGLAS QLD 4222		DRAWING AUTHOR AEM	
PROJECT CLIENT PAWSEY PROWSE		CHECKED BY ACP	
PROJECT ARCHITECTS HERITAGE ADVISORS 161-167 WILSON STREET, PORT DOUGLAS QLD 4222 PH: 07 5521 4672 WWW.HERITAGEADVISORS.COM.AU		DRAWING DATE 15/07/2018	
PROJECT STATUS APPROXIMATE PLANT QUANTITIES AFTER 7 YEARS		DRAWING TITLE SOUTHERN BOUNDARY PLANTINGS	
PROJECT NO 1520 B A3		DRAWING NO OP03	
PROJECT NAME MURPHY STREET VILLAS		DRAWING TITLE SOUTHERN BOUNDARY PLANTINGS	
PROJECT LOCATION MURPHY STREET PORT DOUGLAS QLD 4222		DRAWING NO OP03	
PROJECT CLIENT PAWSEY PROWSE		DRAWING DATE 15/07/2018	
PROJECT ARCHITECTS HERITAGE ADVISORS 161-167 WILSON STREET, PORT DOUGLAS QLD 4222 PH: 07 5521 4672 WWW.HERITAGEADVISORS.COM.AU		DRAWING AUTHOR AEM	
PROJECT STATUS APPROXIMATE PLANT QUANTITIES AFTER 7 YEARS		DRAWING TITLE SOUTHERN BOUNDARY PLANTINGS	
PROJECT NO 1520 B A3		DRAWING NO OP03	
PROJECT NAME MURPHY STREET VILLAS		DRAWING TITLE SOUTHERN BOUNDARY PLANTINGS	
PROJECT LOCATION MURPHY STREET PORT DOUGLAS QLD 4222		DRAWING NO OP03	
PROJECT CLIENT PAWSEY PROWSE		DRAWING DATE 15/07/2018	
PROJECT ARCHITECTS HERITAGE ADVISORS 161-167 WILSON STREET, PORT DOUGLAS QLD 4222 PH: 07 5521 4672 WWW.HERITAGEADVISORS.COM.AU		DRAWING AUTHOR AEM	
PROJECT STATUS APPROXIMATE PLANT QUANTITIES AFTER 7 YEARS		DRAWING TITLE SOUTHERN BOUNDARY PLANTINGS	

NO. 1	DATE	DESCRIPTION

Figuring is subject to change the  
 in the event of any change in  
 the site plan or any other  
 information provided by the  
 client. All dimensions are to  
 the center of the line.



**EASTERN (MURPHY) STREET ELEVATION**  
APPROXIMATE PLANT SHOWING AFTER 2 YEARS  
SCALE: 1:500 @ 1/8"



**EASTERN (MURPHY) STREET ELEVATION**  
APPROXIMATE PLANT SHOWING AFTER 2 YEARS  
SCALE: 1:500 @ 1/8"

**LANDSCAPE PERFORMANCE SPECIFICATION**

**EXCAVATION** - All existing landscape and existing materials shall be removed to the depth of 200mm for all areas to be replaced. All excavated material to be removed from site and disposed of in an approved manner.

**PREPARATION** - Culture at least equal to a depth of 200mm. The excavation must be filled with imported topsoil. Cultivate all areas to a depth of 200mm after excavation and 1 year to bring well together.

**GARDEN EDGING** - 50mm x 100mm Hardwood direct edge applied to garden and gravel areas.

**GARDEN MIX** - Garden mix shall be applied to a minimum of 200mm in all areas to be replaced and to a 25mm depth to all other areas.

**PAVING & GRANITE** - Paving & Gravel areas to be installed as per supplier recommendations. Gravel to be applied 100mm deep.

**PLANT MATERIAL** - To be applied and installed by client's contractor.

**PIPE** - All applied & installed by client.

**FERTILISER** - 100g per square meter applied by Landscape Architect with 100g per square meter applied to the mulch layer. 500g per m<sup>2</sup> of 8:8:8 Dynamic Urea Granular.

**MULCH** - 75mm thick or equivalent approved by Landscape Architect shall be applied to a minimum depth of 100mm over all garden areas.

**IRIGATION** - Detailed & installed by client.

The irrigation system will be capable of watering all the landscape areas a minimum of two times per week. Clients to be liable to install and fix any overflowing or leaking. No low capacity pipe to be used. No steam or other specialty pipe. No gas. No oil based products.

The irrigation system shall be installed to the satisfaction of the necessary local government authorities. The irrigation system will include a filter, a pressure gauge, a pressure relief valve, a backflow preventer, a mainline valve, a shut-off valve, and a mainline pipe. The contractor will liaise with the relevant government authorities to ensure the system is installed to the satisfaction of the necessary local government authorities.

<p>The Client is to provide all materials, labour, and services for the construction of the landscape and irrigation system. The Client is to ensure that the landscape and irrigation system is installed to the satisfaction of the necessary local government authorities.</p> <p><b>PAWSEY</b> LANDSCAPE ARCHITECTS 100/101 ROBERT ROAD MELBOURNE VIC 3000 TEL: 03 9421 1310 FAX: 03 9421 1317 WWW.PAWSEY.COM.AU</p>		<p><b>PROJECT NAME</b> MURPHY STREET VILLAS 21 MURPHY STREET MELBOURNE</p> <p><b>PROJECT NO.</b> 902</p> <p><b>SCALE</b> 1:500 @ 1/8"</p> <p><b>DATE</b> 20/08/08</p>		<p><b>DESIGNED BY</b> EASTERN BOUNDARY PLANTINGS - MURPHY ST</p> <p><b>DRAWN BY</b> OP/DA</p> <p><b>CHECKED BY</b> MCH</p>		
<p><b>CLIENT</b> 20/08/08 13/08/08</p>	<p><b>NO.</b> 018</p>	<p><b>DATE</b> 18/08/08</p>	<p><b>SCALE</b> 1:500 @ 1/8"</p>	<p><b>DATE</b> 20/08/08</p>	<p><b>PROJECT NAME</b> MURPHY STREET VILLAS 21 MURPHY STREET MELBOURNE</p> <p><b>PROJECT NO.</b> 902</p> <p><b>SCALE</b> 1:500 @ 1/8"</p> <p><b>DATE</b> 20/08/08</p>	<p><b>DESIGNED BY</b> EASTERN BOUNDARY PLANTINGS - MURPHY ST</p> <p><b>DRAWN BY</b> OP/DA</p> <p><b>CHECKED BY</b> MCH</p>

**54 Provision about appeals against decision**

- (1) This section applies for any appeal relating to the application under the Integrated Planning Act, sections 4.1.27 to 4.1.29.
- (2) Despite the Integrated Planning Act, section 4.1.43, the State, as represented by the panel, is the respondent for the appeal.
- (3) The local government may appeal to the court as if it had been a submitter for the application.

## Division 8 Appeals to court relating to development applications

### 4.1.27 Appeals by applicants

- (1) An applicant for a development application may appeal to the court against any of the following—
  - (a) the refusal, or the refusal in part, of a development application;
  - (b) a matter stated in a development approval, including any condition applying to the development, and the identification of a code under section 3.1.6;
  - (c) the decision to give a preliminary approval when a development permit was applied for;
  - (d) the length of a period mentioned in section 3.5.21;
  - (e) a deemed refusal.
- (2) An appeal under subsection (1)(a) to (d) must be started within 20 business days (the *applicant's appeal period*) after the day the decision notice or negotiated decision notice is given to the applicant.
- (3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

[s 4.1.28]

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#### 4.1.28 Appeals by submitters—general

- (1) A submitter for a development application may appeal to the court only against—
  - (a) the part of the approval relating to the assessment manager's decision under section 3.5.14 or 3.5.14A; or
  - (b) for an application processed under section 6.1.28(2)—the part of the approval about the aspects of the development that would have required public notification under the repealed Act.
- (2) To the extent an appeal may be made under subsection (1), the appeal may be against 1 or more of the following—
  - (a) the giving of a development approval;
  - (b) any provision of the approval including—
    - (i) a condition of, or lack of condition for, the approval; or
    - (ii) the length of a period mentioned in section 3.5.21 for the approval.
- (3) However, a submitter may not appeal if the submitter—
  - (a) withdraws the submission before the application is decided; or
  - (b) has given the assessment manager a notice under section 3.5.19(1)(b)(ii).
- (4) The appeal must be started within 20 business days (the *submitter's appeal period*) after the decision notice or negotiated decision notice is given to the submitter.

#### 4.1.28A Additional and extended appeal rights for submitters for particular development applications

- (1) This section applies to a development application to which chapter 5, part 8A applies.

- (2) A submitter of a properly made submission for the application may appeal to the court about a referral agency response made by a prescribed concurrence agency for the application.
- (3) However, the submitter may only appeal against a referral agency response to the extent it relates to—
  - (a) if the prescribed concurrence agency is the chief executive (environment)—development for an aquacultural ERA; or
  - (b) if the prescribed concurrence agency is the chief executive (fisheries)—development that is—
    - (i) a material change of use of premises for aquaculture; or
    - (ii) operational work that is the removal, damage or destruction of a marine plant.
- (4) Despite section 4.1.28(1), the submitter may appeal against the following matters for the application even if the matters relate to code assessment—
  - (a) a decision about a matter mentioned in section 4.1.28(2) if it is a decision of the chief executive (fisheries);
  - (b) a referral agency response mentioned in subsection (2).

#### 4.1.29 Appeals by advice agency submitters

- (1) Subsection (1A) applies if an advice agency, in its response for an application, told the assessment manager to treat the response as a properly made submission.

*Editor's note—*

*See section 3.3.19 (Advice agency's response powers).*

- (1A) The advice agency may, within the limits of its jurisdiction, appeal to the court about any part of the approval relating to the assessment manager's decision under section 3.5.14 or 3.5.14A.



[s 4.1.30]

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- (2) The appeal must be started within 20 business days after the day the decision notice or negotiated decision notice is given to the advice agency as a submitter.
- (3) However, if the advice agency has given the assessment manager a notice under section 3.5.19(1)(b)(ii), the advice agency may not appeal the decision.

**4.1.30 Appeals for matters arising after approval given (co-respondents)**

- (1) For a development approval given for a development application, a person to whom any of the following notices have been given may appeal to the court against the decision in the notice—
  - (a) a notice giving a decision on a request for an extension of a period mentioned in section 3.5.21;
  - (b) a notice giving a decision on a request to make a minor change to an approval.
- (2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.
- (3) Subsection (1)(a) does not apply if the approval resulted from a development application (superseded planning scheme) that was assessed as if it were an application made under a superseded planning scheme.
- (4) Also, a person who has made a request mentioned in subsection (1) may appeal to the court against a deemed refusal of the request.
- (5) An appeal under subsection (4) may be started at any time after the last day the decision on the matter should have been made.

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**Division 9 Appeals to court about other matters**

**4.1.30A Appeals by applicant for approval of a proposed master plan**

- (1) A person who has applied for an approval of a proposed master plan may appeal to the court against—
  - (a) the refusal, or the refusal in part, to give the approval; or
  - (b) a matter stated in the notice of decision about the application; or
  - (c) a deemed refusal.
- (2) An appeal under subsection (1)(a) or (b) must be started within 20 business days (the *applicant's appeal period*) after the day the applicant is given the notice of the decision.
- (3) An appeal under subsection (1)(c) may be started at any time after the last day a decision on the matter should have been made.

**4.1.31 Appeals for matters arising after approval given (no co-respondents)**

- (1) A person to whom any of the following notices have been given may appeal to the court against the decision in the notice—
  - (a) a notice giving a decision on a request to change or cancel a condition of a development approval;
  - (b) a notice under section 3.5.33A(9)(b) or 6.1.44 giving a decision to change or cancel a condition of a development approval.
- (2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.

[s 4.1.32]

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- (3) Also, a person who has made a request mentioned in subsection (1)(a) may appeal to the court against a deemed refusal of the request.
- (4) An appeal under subsection (3) may be started at any time after the last day the decision on the matter should have been made.

#### **4.1.32 Appeals against enforcement notices**

- (1) A person who is given an enforcement notice may appeal to the court against the giving of the notice.
- (2) The appeal must be started within 20 business days after the day notice is given to the person.

#### **4.1.33 Stay of operation of enforcement notice**

- (1) The lodging of a notice of appeal about an enforcement notice stays the operation of the enforcement notice until—
  - (a) the court, on the application of the entity issuing the notice, decides otherwise; or
  - (b) the appeal is withdrawn; or
  - (c) the appeal is dismissed.
- (2) However, subsection (1) does not apply if the enforcement notice is about—
  - (a) a work, if the enforcement notice states the entity believes the work is a danger to persons or a risk to public health; or
  - (b) stopping the demolition of a work; or
  - (c) clearing vegetation on freehold land; or
  - (d) the removal of quarry material allocated under the *Water Act 2000*; or
  - (e) extracting clay, gravel, rock, sand or soil, not mentioned in paragraph (d), from Queensland waters; or

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[s 4.1.33A]

- (f) development the assessing authority reasonably believes is causing erosion or sedimentation; or
- (g) development the assessing authority reasonably believes is causing an environmental nuisance.

**4.1.33A Appeals against decisions to change approval conditions under the repealed Act**

- (1) A person who is dissatisfied with a decision made on an application to change the conditions attached to an approval given under section 2.19(3) or section 4.4 of the repealed Act may appeal to the court against—
  - (a) the decision; or
  - (b) a deemed refusal of the application.
- (2) An appeal under subsection (1)(a) must be started within 20 business days after the day notice of the decision is given to the person.
- (3) An appeal under subsection (1)(b) may be started at any time after the last day a decision on the matter should have been made.

**4.1.33B Appeals against local laws**

- (1) An applicant who is dissatisfied with a decision of a local government or the conditions applied under a local law about the use of premises or the erection of a building or other structure permitted by the planning scheme may appeal to the court against the decision or the conditions applied.
- (2) The appeal must be started within 20 business days after the day notice of the decision is given to the applicant.

**4.1.34 Appeals against decisions on compensation claims**

- (1) A person who is dissatisfied with a decision under section 5.4.8 or 5.5.3 for the payment of compensation may appeal to the court against—

[s 4.1.35]

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- (a) the decision; or
  - (b) a deemed refusal of the claim.
- (2) An appeal under subsection (1)(a) must be started within 20 business days after the day notice of the decision is given to the person.
  - (3) An appeal under subsection (1)(b) may be started at any time after the last day a decision on the matter should have been made.

**4.1.35 Appeals against decisions on requests to acquire designated land under hardship**

- (1) A person who is dissatisfied with a designator's decision to refuse a request made by the person under section 2.6.19, may appeal to the court against—
  - (a) the decision; or
  - (b) a deemed refusal of the request.
- (2) An appeal under subsection (1)(a) must be started within 20 business days after the day notice of the decision is given to the person.
- (3) An appeal under subsection (1)(b) may be started at any time after the last day a decision on the matter should have been made.

**4.1.36 Appeals about particular infrastructure charges**

- (1) This section applies to a person who has been given, and is dissatisfied with, an infrastructure charges notice or a regulated State infrastructure charges notice.
- (2) The person may appeal to the court against the notice.
- (3) The appeal must be started within 20 business days after—
  - (a) if the notice is given because of a development approval or master plan approval—the day the applicant is given notice of the decision about the approval; or

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- (b) otherwise—the day the notice is given to the person.
  - (4) An appeal under this section may only be about—
    - (a) whether a charge in the notice is so unreasonable that no reasonable relevant local government, State infrastructure provider or coordinating agency could have imposed it; or
    - (b) an error in the calculation of the charge.
  - (5) To remove any doubt, it is declared that an appeal under this section can not be about the methodology used to establish the charge in the relevant infrastructure charges schedule or regulated State infrastructure charges schedule.

#### **4.1.37 Appeals from tribunals**

- (1) A party to a proceeding decided by a tribunal may appeal to the court against the tribunal's decision, but only on the ground—
  - (a) of error or mistake in law on the part of the tribunal; or
  - (b) that the tribunal had no jurisdiction to make the decision or exceeded its jurisdiction in making the decision.
- (2) An appeal against a tribunal's decision must be started within 20 business days after the day notice of the tribunal's decision is given to the party.

#### **4.1.38 Court may remit matter to tribunal**

If an appeal includes a matter within the jurisdiction of a tribunal and the court is satisfied the matter should be dealt with by a tribunal, the court must remit the matter to the tribunal for decision.

[s 4.1.39]

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## **Division 10            Making an appeal to court**

### **4.1.39 How appeals to the court are started**

- (1) An appeal is started by lodging written notice of appeal with the registrar of the court.
- (2) The notice of appeal must state the grounds of the appeal.
- (3) The person starting the appeal must also comply with the rules of the court applying to the appeal.
- (4) However, the court may hear and decide an appeal even if the person has not complied with subsection (3).

### **4.1.41 Notice of appeal to other parties (div 8)**

- (1) An appellant under division 8 must give written notice of the appeal to—
  - (a) if the appellant is an applicant—
    - (i) the chief executive; and
    - (ii) the assessment manager; and
    - (iii) any concurrence agency; and
    - (iv) any principal submitter whose submission has not been withdrawn; and
    - (v) any advice agency treated as a submitter whose submission has not been withdrawn; or
  - (b) if the appellant is a submitter or an advice agency whose response to the development application is treated as a submission for an appeal—
    - (i) the chief executive; and
    - (ii) the assessment manager; and
    - (iii) any referral agency; and
    - (iv) the applicant; or

- (c) if the appellant is a person to whom a notice mentioned in section 4.1.30 has been given—
  - (i) the chief executive; and
  - (ii) the deciding entity; and
  - (iii) any entity that was a concurrence agency or building referral agency for the development application to which the notice relates.
- (2) The notice must be given within—
  - (a) if paragraph (b) does not apply—10 business days after the appeal is started; or
  - (b) if the appellant is a submitter or advice agency whose response to the development application is treated as a submission for an appeal—2 business days after the appeal is started.
- (3) The notice must state—
  - (a) the grounds of the appeal; and
  - (b) if the person given the notice is not the respondent or a co-respondent under section 4.1.43—that the person may, within 10 business days after the notice is given, elect to become a co-respondent to the appeal by filing in the court a notice of election in the approved form.

#### **4.1.42 Notice of appeal to other parties (div 9)**

- (1) An appellant under division 9 must, within 10 business days after the day the appeal is started give written notice of the appeal to—
  - (a) if the appellant is a person to whom a notice mentioned in section 4.1.31 has been given—the entity that gave the notice; or
  - (b) if the appeal is under section 4.1.30A—the local government and coordinating agency for the application for approval of the master plan; or



[s 4.1.43]

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- (c) if the appeal is under section 4.1.33A—the entity that made the decision about the application to change the conditions; or
  - (d) if the appeal is under section 4.1.33B—the local government; or
  - (e) if the appeal is under section 4.1.36—the entity that gave the notice the subject of the appeal; or
  - (f) if the appellant is a person to whom an enforcement notice is given—the entity that gave the notice and if the entity is not the local government, the local government; or
  - (g) if the appellant is a person dissatisfied with a decision about compensation—the local government that decided the claim; or
  - (h) if the appellant is a person dissatisfied with a decision about acquiring designated land—the designator; or
  - (i) if the appellant is a party to a proceeding decided by a tribunal—the other party to the proceeding.
- (2) The notice must state the grounds of the appeal.

**4.1.43 Respondent and co-respondents for appeals under div 8**

- (1) Subsections (2) to (8) apply for appeals under sections 4.1.27 to 4.1.29.
- (2) The assessment manager is the respondent for the appeal.
- (3) If the appeal is started by a submitter, the applicant is a co-respondent for the appeal.
- (4) Any submitter may elect to become a co-respondent to the appeal.
- (5) If the appeal is about a concurrence agency response, the concurrence agency is a co-respondent for the appeal.

- (6) If the appeal is only about a concurrence agency response, the assessment manager may apply to the court to withdraw from the appeal.
- (7) The respondent and any co-respondents for an appeal are entitled to be heard in the appeal as a party to the appeal.
- (8) A person to whom a notice of appeal is required to be given under section 4.1.41 and who is not the respondent or a co-respondent for the appeal may elect to be a co-respondent.
- (9) For an appeal under section 4.1.30—
  - (a) the assessment manager is the respondent; and
  - (b) any entity that was a concurrence agency or a building referral agency for the development application to which a notice under section 3.6.1(1)(a) relates may elect to become a co-respondent.

#### **4.1.44 Respondent and co-respondents for appeals under div 9**

- (1) This section applies if an entity is required under section 4.1.42 to be given a notice of an appeal.
- (2) The entity given written notice is the respondent for the appeal.
- (3) However, if under a provision of the section more than 1 entity is required to be given notice, only the first entity mentioned in the provision is the respondent.
- (4) The second entity mentioned in the provision may elect to be a co-respondent.

#### **4.1.45 How an entity may elect to be a co-respondent**

An entity that is entitled to elect to be a co-respondent to the appeal may do so, within 10 business days after notice of the appeal is given to the entity, by following the rules of court for the election.

[s 4.1.46]

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**4.1.46 Minister entitled to be party to an appeal involving a State interest**

If the Minister is satisfied an appeal involves a State interest, the Minister may, by filing in the court a notice of election in the approved form, elect to be a party to the appeal.

**4.1.47 Lodging appeal stops certain actions**

- (1) If an appeal (other than an appeal under section 4.1.30) is started under division 8, the development must not be started until the appeal is decided or withdrawn.
- (2) Despite subsection (1), if the court is satisfied the outcome of the appeal would not be affected if the development or part of the development is started before the appeal is decided, the court may allow the development or part of the development to start before the appeal is decided.



## Attachment 2

### Land Owners Consent

**Individual owner's consent to the making of a request for an extension of a relevant period under the *Sustainable Planning Act 2009***

I, Fred and Lola Langton

As owners of premises identified as follows:

27 Murphy Street, Port Douglas, Described as Lot 113 on PTD2091

Consent to the request for an extension of time of the relevant period under the *Sustainable Planning Act 2009* by

RPS Australia East Pty Ltd

On our behalf on the premises described above for the approval relating to:

A Material Change of Use for Four Multiple Dwelling Units (Douglas Iconic Panel Approval - Council Ref: 8/35/88)

Fred and Lola Langton

Signed on the

FOURTEENTH

day of January 2014