

Our Ref: LM:tt DA/4548 AD2023/0003113

11 July 2023

Trevor Douglas Wellman
c/-Neil Beck
32 Yarun Close
Wonga Beach Qld 4873
E-mail: Neilrb11@outlook.com
Attention: Neil Beck

Dear Mr Beck

Decision Notice – (Minor Change)
Given under section 83 of the *Planning Act 2016*

With reference to your Minor Change Application, please find attached the relevant Decision Notice, which was approved by the Chief Executive Officer as delegated, 05 July 2023.

Details of the decision are as follows:

Application Details

Application Number:	DA/4548
Street Address:	16 Helen Street Cooktown QLD 4895
Real Property Description:	Lot 909 on C17912
Planning Scheme:	<i>Cook Shire Council Planning Scheme 2017 (v2)</i>

Decision Details

The original Decision Notice was dated 13 October 2022.
Council's Chief Executive Officer - as delegated on 5 July 2023, decided to issue the following type of approval:

Approval Sought: Change Application (Minor) - Development Permit for Material Change of Use
– Dual Occupancy

Currency Period for the Approval

This development approval will lapse at the end of the period set out in section 85 of the *Planning Act 2016*. This approval lapses if the first change of use does not happen within six (6) years.

Assessment Manager Conditions

This approval is subject to the conditions in Attachment 1.

Further Development Permits

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

1. Development Permit for carrying out Building Works;
2. Development Permit for Plumbing/Drainage Works.

Properly Made Submissions

Not applicable - no part of the application required public notification.

Reasons for the Decision

The proposed changes are consistent with the approval and introduce no new impacts.

Referral Agencies

Not applicable - no part of the application required referral.

Other requirements under section 43 of the *Planning Regulation 2017*

Not Applicable.

Approved Plans and Specifications

Copies of the approved plans, specifications and/or drawings are enclosed in **Attachment 2**.

Rights of Appeal

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* are provided in Attachment 4 of this Decision Notice.

Other Details

Council relies on the accuracy of information included in the application documentation when assessing and deciding applications.

If you find an inaccuracy in any of the information provided above, have a query, or need to seek clarification about any of these details, please contact Cook Shire Council's Planning and Environment Department on 07 4082 0500 or E-mail: mail@cook.qld.gov.au.

Yours sincerely



Lisa Miller
Manager
Planning and Environment

enc: **Attachment 1 (A)** – Conditions imposed by the assessment manager
Attachment 2 – Approved Plans (D23/23897)
Attachment 3 – Notice of Decision – Statement of Reasons (AD2023/0003115)
Attachment 4 - Extract of Appeal Provisions (Chapter 6 part 1 of the *Planning Act 2016*)



Attachment 1 (A) - Conditions imposed by the assessment manager (Cook Shire Council)

A. Assessment Manager (Council) Conditions

Approved Plans

1. The development must be carried out generally in accordance with the following plans/specialist reporting submitted with the application, except for any variations required to comply with the conditions of this approval:
 - Site Plan, Sheet No. 02, drawn by WE superior steel homes, dated 20 September 2022;
 - Floor Plan, Sheet No. 03, drawn by MB superior steel homes, dated 3 September 2022;
 - Elevations, Sheet No. 04, drawn by MB superior steel homes, dated 3 September 2022; and
 - 3D Views, Sheet No. 05, drawn by MB superior steel homes, dated 3 September 2022.

Access

2. Vehicle access to the site must be achieved from the existing access crossover ramp in accordance with the approved plan of the development.
3. The access driveway from the property boundary to the road pavement must be sealed with concrete or bitumen and be constructed to the requirements of the FNQROC Development Manual and subject to a Local Laws Permit 'Make Alterations or Improvements to a Road'.

Car Parking and internal driveway

4. A minimum of two (2) car parking spaces must be provided on site (1 per dwelling).
5. Car parking spaces and internal driveways must be concrete or bitumen sealed and comply with the Australian Standard 2890.1 – Parking Facilities – off-street parking and be constructed to the requirements of the FNQROC Development Manual.

Fencing

- ~~6. Fencing must be provided in accordance with approved plan of development.~~
6. Fencing must be provided in accordance with approved plan of development; or
- 6a. Retain the use of the existing fence along the site boundaries; and
- 6b. Install a new 1.8m height timber fence to the front yard of the new dwelling and carport in accordance with the approved plan of development.

Electricity

7. The development must be connected to the reticulated electricity supply.
8. Internal reticulation between the dwelling units must be via underground distribution.

Services

9. Electricity and telecommunication services must be provided to the premises in accordance with the standards and requirements of the relevant service provider.

Water

10. The development must be connected to the reticulated water supply prior to the commencement of the use at full cost to the applicant.

Sewerage supply

11. The development must be connected to the reticulated sewerage scheme prior to the commencement of the use, at full cost to the applicant. Plans must be submitted as part of a plumbing application for approval by Council's Plumbing Inspector prior to works commencing.

Waste Disposal

12. All bins and waste storage areas must be located on site and screened so they are not visible from the street or neighbouring properties.

Stormwater

13. Stormwater drainage must be directed to a lawful point of discharge being Helen Street.

Environmental

14. No State declared or environmental pest, plants, and animals are to be introduced onto the property.
15. The applicant must ensure that no soil or silt runoff occurs from the site during the construction and operational phase of the development.

Public Utilities

16. The developer is responsible for the cost of any alterations to public utilities as a result of complying with the conditions of this approval.

Amenity

17. The development shall have no adverse impact on the amenity of the surrounding area by way of light nuisance, dust or noise.

Compliance

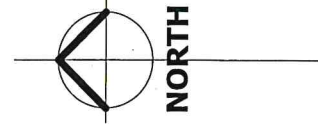
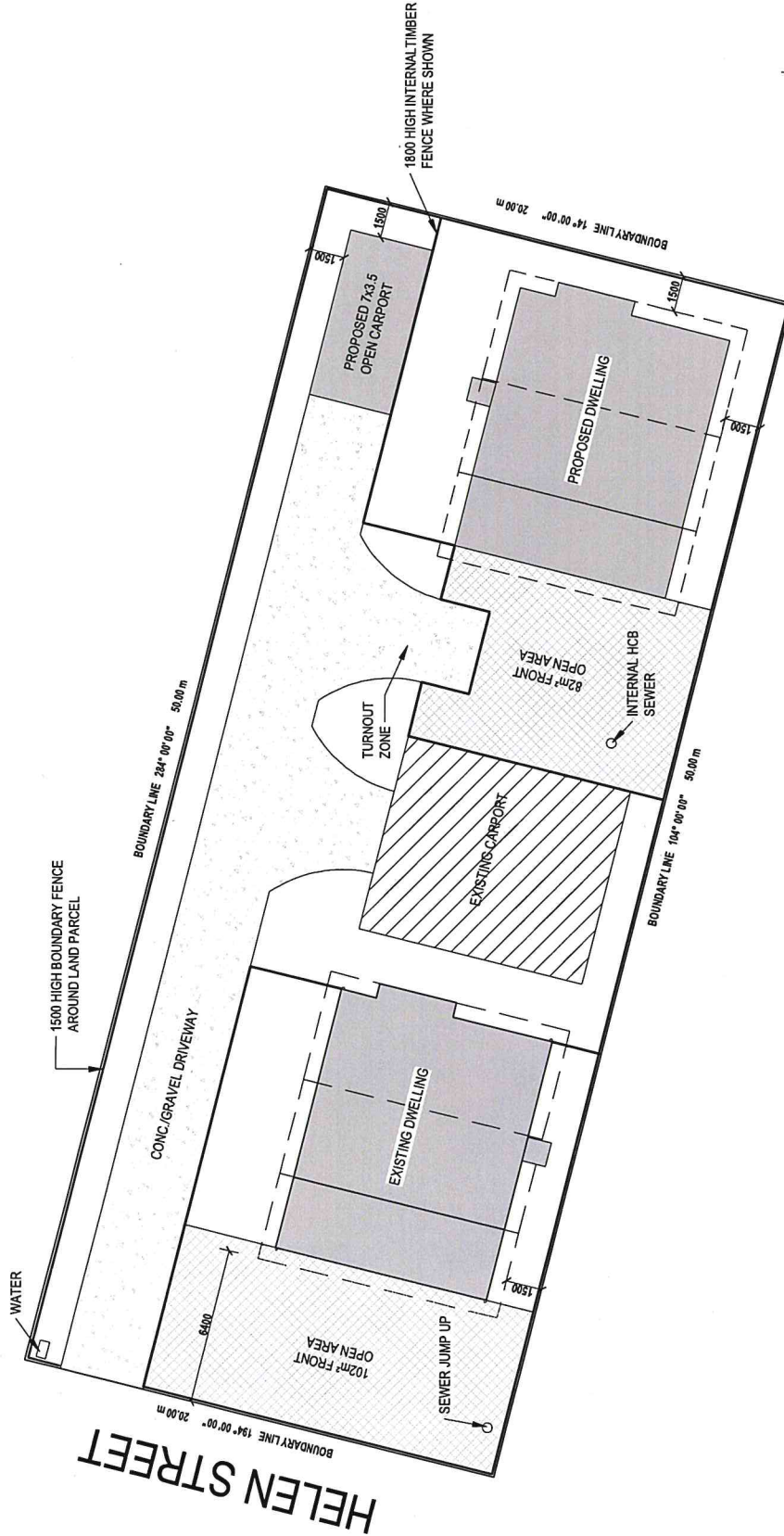
18. All conditions of this Development Permit are to be complied with prior to the use commencing and, where relevant, maintained during operation.



B. Assessment Manager (Council) Advice

1. A development permit is required for carrying out Building Works, and a Plumbing and Drainage Approval/compliance permit is required for Plumbing and Drainage Works prior to construction of any buildings associated with this development.
2. The currency period for this application is **six (6) years**. Should the approved use not commence within this time, the approval shall lapse.
3. Infrastructure charges must be paid to Council prior to the commencement of use of the new dwelling house as indicated on the attached Adopted Infrastructure Charges Notice at the rate applicable at the time of payment.
4. The applicant/owner must notify Council their intention to commence the use after acceptable of and compliance with these conditions or negotiated conditions (or court determined conditions) and prior to the commencement of the use. This will allow a check for compliance with conditions to be carried out by Council officers.
5. The applicant/owner is to ensure compliance with the requirements of the *Aboriginal Cultural Heritage Act* and in particular 'the duty of care' that it imposes on all landowners.



Attachment 2 – Approved Plans D23/23897



CERTIFIED AS STRUCTURALLY ADEQUATE		
	KFB Engineers Civil & Structural 104-12 Princes St, Cairns PO Box 937, Cairns Q 4870 P: 07 4032042 F: 4032092 E: email@kfbeng.com.au	
Date: _____	Signed: _____	
Job No: _____	RPEQ No: _____	
DESIGN WIND SPEED: C2	SOIL CLASSIFICATION: P	
A	2/09/22	CONSTRUCTION ISSUE
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		DRAWN BY: WE
CONSTRUCTION ISSUE		
SHPG JOB NO. _____	DRAWING NO. 22080401	
PROJECT		
PROPOSED RESIDENCE		
Lot 909 on C17912		
16 HELEN STREET		
COOKTOWN		
CLIENT		
TREVOR WELLMAN		
		
PO BOX 876 ATHONTON QLD 4883 33-35 ALBRECHT ST TOLGA INDUSTRIAL ESTATE, QLD, 4882 PH: 07 4095 4008 FAX: 07 4095 4417 EMAIL: info@sshng.com.au WEB: www.superiorsteelhomesq.com.au		
QBSA: 1097802 QBSA: 1097802		
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ELEVATION KEY

FLOOR AREAS LEGEND

LIVING	73.96 m ²
PATIO	27.00 m ²
	100.96 m ²

CERTIFIED AS STRUCTURALLY ADEQUATE

KFB Engineers Civil & Structural
 101-42 Pease St, Cairns | PO Box 327, Cairns Q.4870
 P: 07 4032482 | F: 07 4032095 | E: mail@kfbeng.com.au

Date: _____ Signed: _____
 Job No: _____ RPEQ No: _____
 DESIGN WIND SPEED: C2 SOIL CLASSIFICATION: P

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VARIATIONS INCLUDED IN THIS DRAWING

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CONSTRUCTION ISSUE

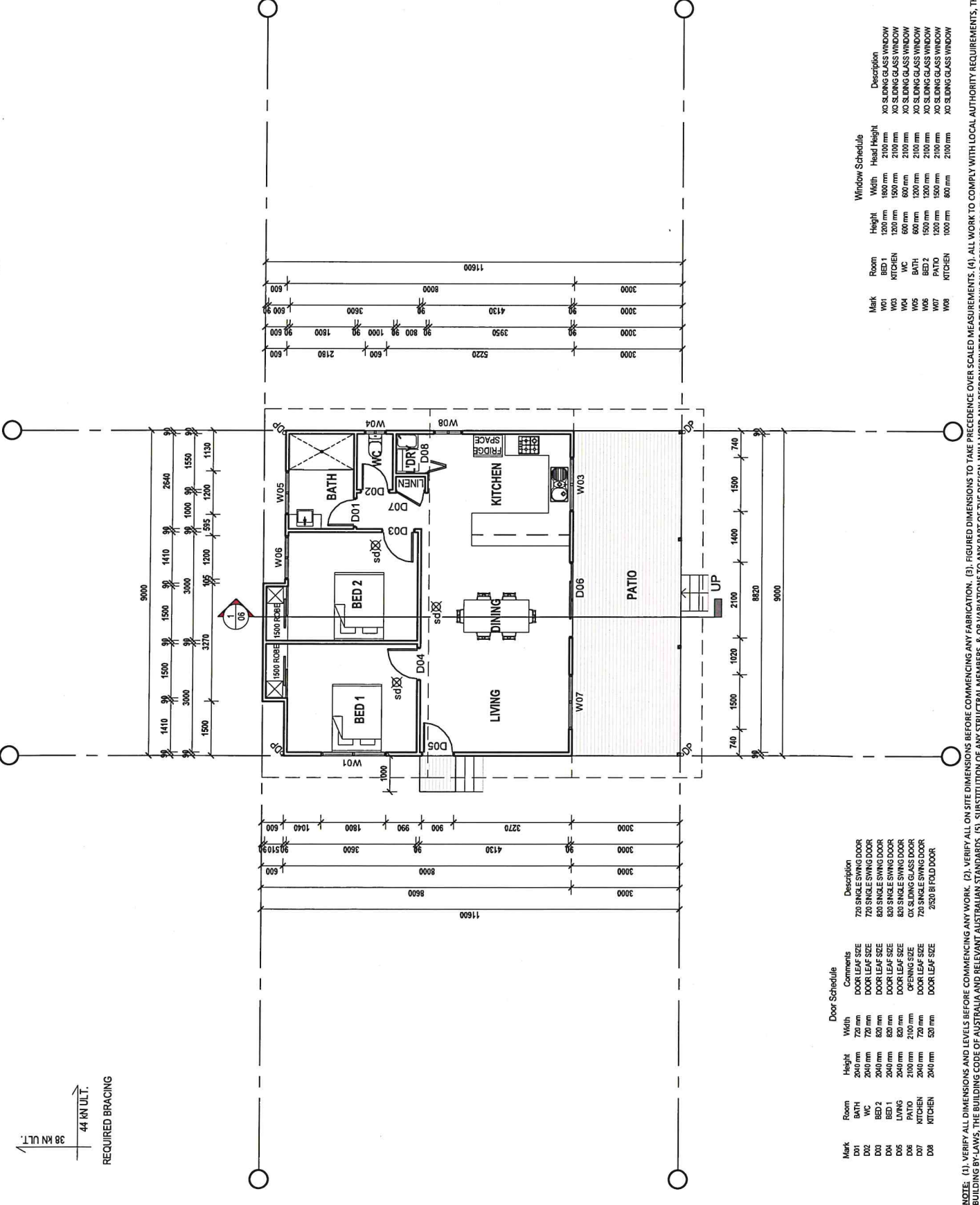
SI-PHO JOB NO. _____ DRAWING NO. 22080401

PROJECT
 PROPOSED RESIDENCE
 Lot 909 on C17912
 16 HELEN STREET
 COOKTOWN

CLIENT
 TREVOR WELLMAN

superiorsteel
Homes
 PO BOX 876 QBSA, 1097802
 33-35 ALBRECHT ST
 TOLGA INDUSTRIAL ESTATE, QLD, 4882
 PH: 07 4095 4008
 FAX: 07 4095 4417
 EMAIL: info@superiorsteelhomesna.com.au
 WEB: www.superiorsteelhomesna.com.au

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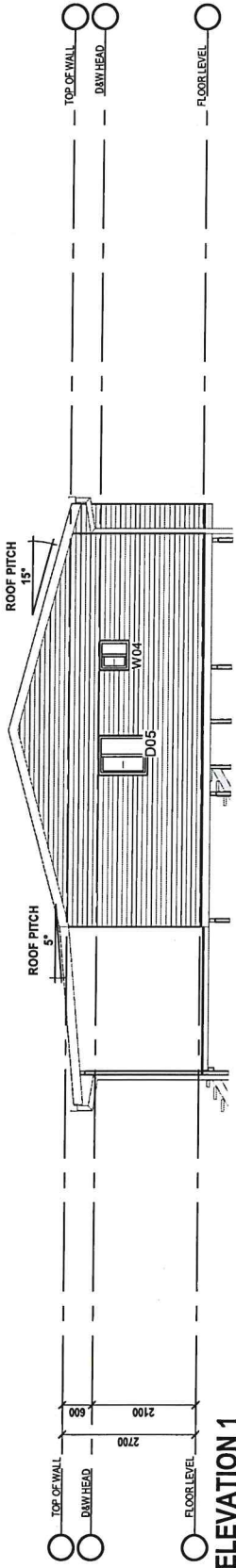
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Mark	Room	Height	Width	Comments	Description
D01	BATH	2040 mm	720 mm	DOOR LEAF SIZE	720 SINGLE SWING DOOR
D02	WC	2040 mm	720 mm	DOOR LEAF SIZE	720 SINGLE SWING DOOR
D03	BED 2	2040 mm	820 mm	DOOR LEAF SIZE	820 SINGLE SWING DOOR
D04	BED 1	2040 mm	820 mm	DOOR LEAF SIZE	820 SINGLE SWING DOOR
D05	LIVING	2040 mm	820 mm	DOOR LEAF SIZE	820 SINGLE SWING DOOR
D06	DINING	2100 mm	2100 mm	OPENING SIZE	OX SLIDING GLASS WINDOW
D07	PATIO	2040 mm	720 mm	DOOR LEAF SIZE	720 SINGLE SWING DOOR
D08	KITCHEN	2040 mm	520 mm	DOOR LEAF SIZE	2520 BI FOLD DOOR

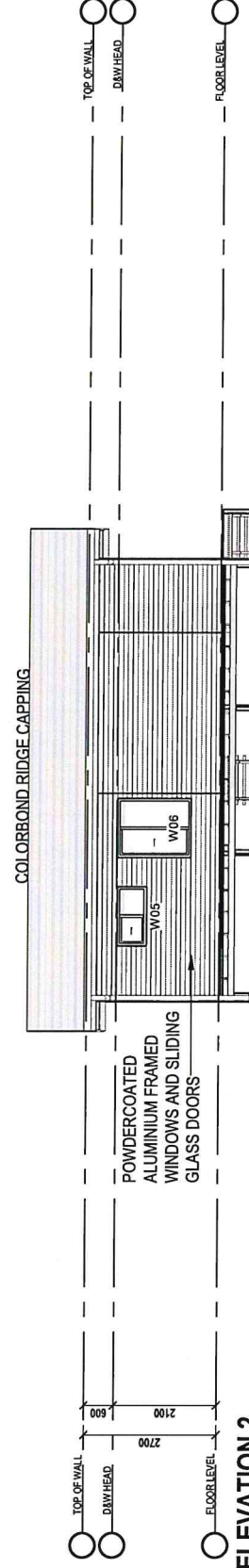
Window Schedule

Mark	Room	Height	Width	Head Height	Description
W01	BED 1	1200 mm	1800 mm	2100 mm	OX SLIDING GLASS WINDOW
W02	KITCHEN	1200 mm	1500 mm	2100 mm	OX SLIDING GLASS WINDOW
W03	WC	600 mm	600 mm	2100 mm	OX SLIDING GLASS WINDOW
W04	BATH	600 mm	1200 mm	2100 mm	OX SLIDING GLASS WINDOW
W05	BED 2	1500 mm	1200 mm	2100 mm	OX SLIDING GLASS WINDOW
W06	BED 1	1500 mm	1200 mm	2100 mm	OX SLIDING GLASS WINDOW
W07	PATIO	1000 mm	800 mm	2100 mm	OX SLIDING GLASS WINDOW
W08	KITCHEN	1000 mm	800 mm	2100 mm	OX SLIDING GLASS WINDOW

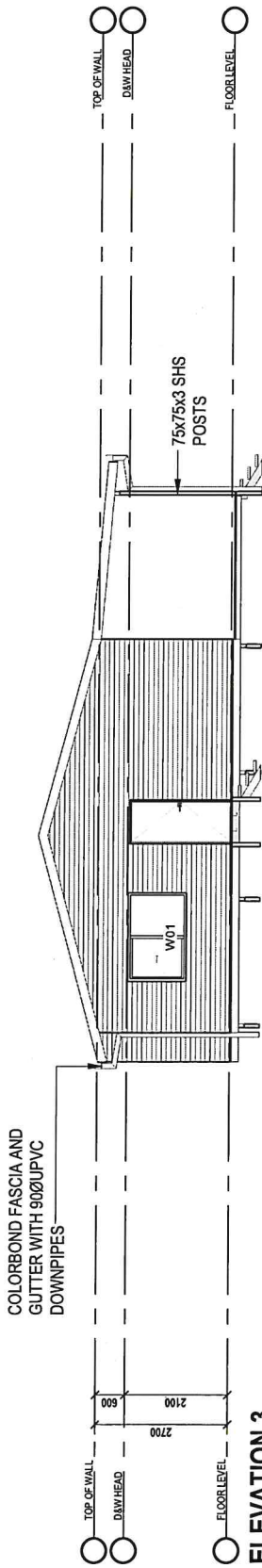
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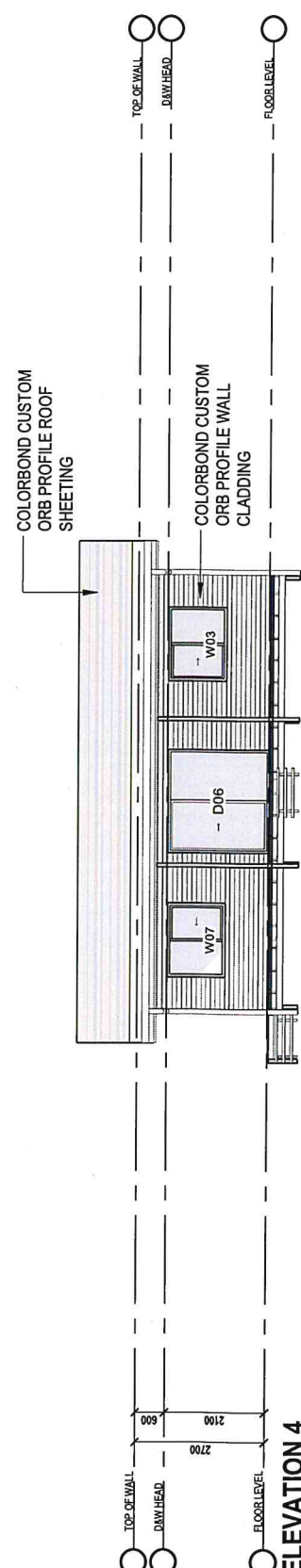
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ELEVATION 2



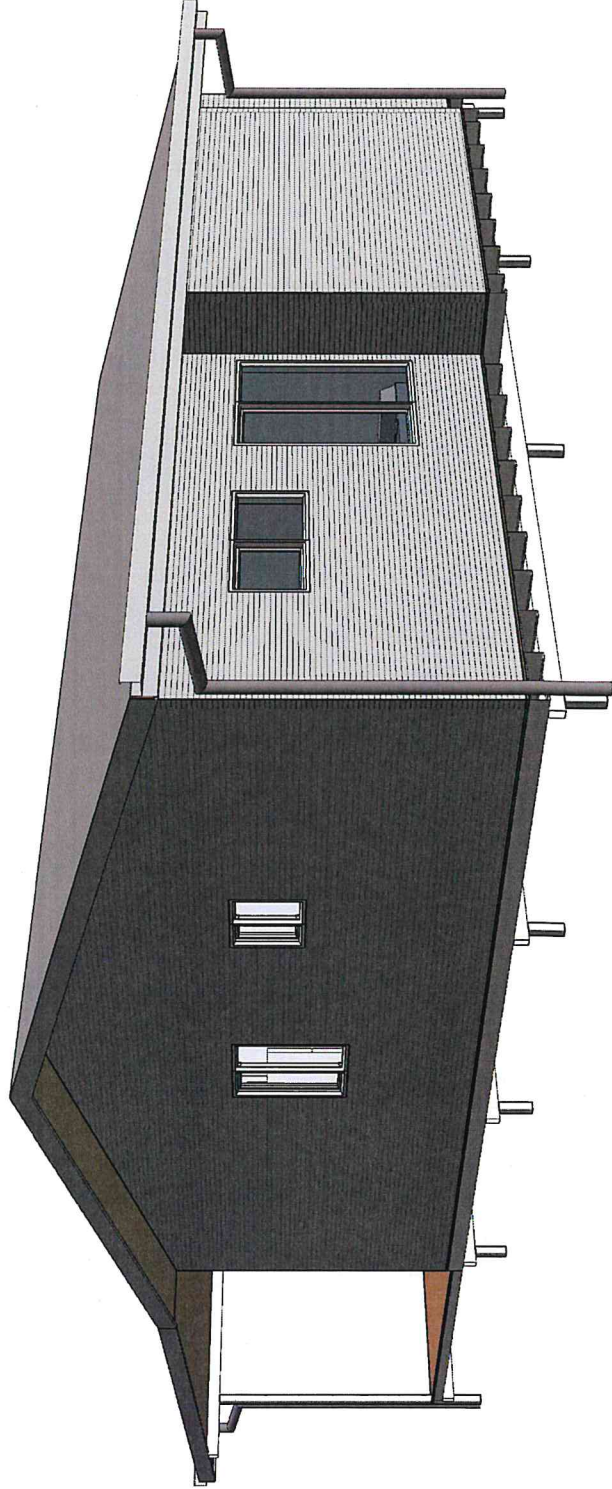
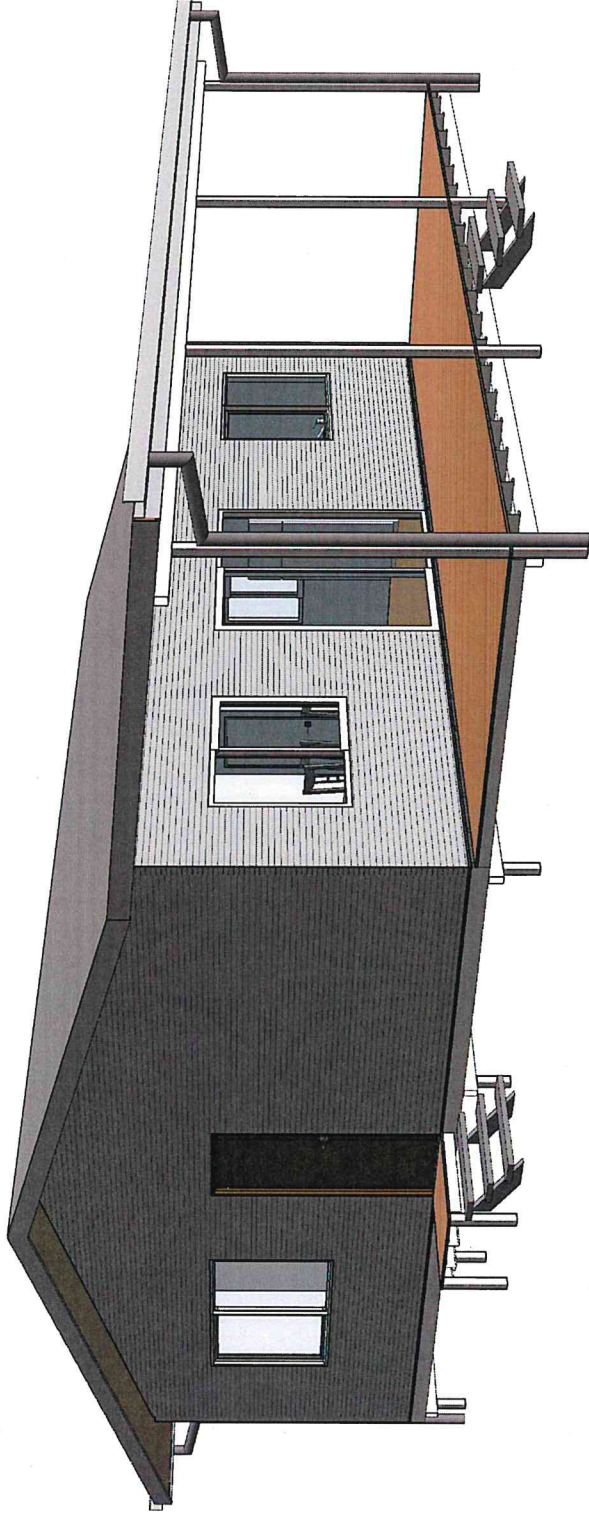
ELEVATION 3




ELEVATION 4

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Date: _____	Signed: _____						
Job No: _____	RPEQ No: _____						
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Lot 909 on C17912							
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COOKTOWN							
CLIENT							
TREVOR WELLMAN							
							
PO BOX 876 ATHONTON QLD 4883 33-35 ALBRECHT ST TOLGA INDUSTRIAL ESTATE, QLD, 4882 PH: 07 4095 4008 FAX: 07 4095 4417 EMAIL: info@sshmq.com.au WEB: www.superiorsteelhomesq.com.au							
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Date: _____	Signed: _____	Job No: _____	RREQ No: _____
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PROJECT			
PROPOSED RESIDENCE			
Lot 909 on C17912			
16 HELEN STREET			
COOKTOWN			
CLIENT			
TREVOR WELLMAN			
			
PO BOX 876 ATHERTON QLD 4883 33-35 ALBRECHT ST TOLGA INDUSTRIAL ESTATE, QLD, 4882 PH: 07 4095 4008 FAX: 07 4095 4417 EMAIL: info@sshq.com.au WEB: www.superiorsteelhomesq.com.au			
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Attachment 3 – Notice of Decision – Statement of Reasons (AD2023/0003115)

NOTICE ABOUT DECISION – STATEMENT OF REASONS

This Notice is prepared in accordance with s63(5) and s83(9) of the Planning Act 2016 to provide information about a decision that has been made in relation to a development application. The purpose of the Notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- the relevant parts of the Planning Scheme and Assessment Benchmarks against which the application was assessed; and*
- any other information, documents or other material Council was either required to, or able to, consider in its assessment.*

All terms used in this Notice have the meanings given them in the Planning Act 2016 or otherwise their ordinary meaning.

APPLICATION DETAILS

Application No:	DA/4548
Applicant:	Trevor Wellman
Proposal:	Development Permit for a Material Change of Use
Description of the Development:	Material Change of Use – Dual Occupancy
Street Address:	16 Helen Street Cooktown QLD 4895
Real Property Description:	Lot 909 on C17912
Planning Scheme:	Cook Shire Council Planning Scheme 2017 v2.0
Land Zoning:	Mixed Use
Assessment Type:	Code Assessment

DECISION DETAILS

Type of Decision:	Approval Subject to Conditions
Type of Approval:	Change Application (Minor) - Development Permit for Material Change of Use – Dual Occupancy
Date of Decision:	05 July 2023

ASSESSMENT BENCHMARKS

The following Assessment Benchmarks applied to the development from the following Categorising Instruments:

Assessment Benchmarks	Comment
<i>Planning Regulation 2017</i> (Schedule 9)	Schedule 9 is not applicable as the application is not for building work under the Building Act.
<i>Planning Regulation 2017</i> (Schedule 10)	The application does not trigger a referral under Schedule 10
Regional Plan	Section 2.2 of the Planning Scheme identifies that the Cape York Regional Plan has been adequately reflected in the Planning Scheme. A separate assessment against the Regional Plan is not required.
State Planning Policy (SPP), Part E	Section 2.1 of the Planning Scheme identifies that the superseded version of the <i>State Planning Policy</i> is integrated in the Planning Scheme. A review of the current version of the SPP (July 2017) and assessment benchmark mapping applicable to Part E has determined that the state interests are reflected in the Planning Scheme and no additional assessment provisions in the current SPP (part E) or updated mapping are applicable requiring further assessment against the SPP.
Temporary State Planning Policy	There are no Temporary State Planning Policies.

Local Categorising Instrument (Cook Shire Council Planning Scheme 2017):

- Mixed Use Zone Code;
- Residential Use Code – Section 1;
- Parking & Access Code;
- Works, Services & Infrastructure Code

Local Categorising Instrument (Variation Approval)

Not Applicable

Local Categorising Instrument (Temporary Local Planning Instrument)

Not Applicable

PUBLIC NOTIFICATION

Not Applicable

REASONS FOR THE DECISION

The application is **approved** on the following grounds:

- a. An assessment was made against the applicable assessment benchmarks and the proposed development demonstrated compliance.
- b. The proposed development for Development Permit for Material Change of Use – Dual Occupancy is an appropriate use to be located on the site and will have no adverse impact on the established residential character and amenity of the locality or adjoining lots.
- c. The amended Site Plan to change the internal fence of the rear dwelling to a 1.2m height chain link fence does not demonstrate compliance with AO14.1 of the Residential Use Code concerning overlooking or the loss of privacy between the new dwelling and neighbouring properties.
- d. Council recommends that Condition 6 be amended to provide the option of either implementing the proposed fencing in accordance with the approved plan of development or, by including additional Conditions 6a and 6b to retain the existing boundary fence with the addition of an internal 1.8m timber fence to the new dwelling to reduce overlooking and loss of privacy.

REASONS FOR APPROVAL DESPITE NON-COMPLIANCE WITH ASSESSMENT BENCHMARKS

Not Applicable

ADDITIONAL RELEVANT MATTERS FOR IMPACT ASSESSMENT

Not Applicable

OTHER MATTERS PRESCRIBED BY THE PLANNING REGULATION 2017

Not Applicable

OTHER DETAILS

If you wish to obtain more information about Council's decision, including a copy of Council's Decision Notice and any conditions or plans relating to the development, please refer to Council's webpage.



Attachment 4 - Extract of Appeal Provisions (Chapter 6 part 1 of the *Planning Act 2016*)

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.