

Our Ref: LM:DA/4548 AD2022/0009507

Your Ref:

13 October 2022

Mr Trevor Wellman  
c/-Neil Beck  
32 Yarun Close  
Wonga Beach Qld 4873  
E-mail: [Neilrb11@outlook.com](mailto:Neilrb11@outlook.com)  
Attention: Neil Beck

Dear Mr Beck

**Decision Notice - Approval**

Given under section 63 of the *Planning Act 2016*

With reference to the abovementioned Development Application, please find attached the relevant Decision Notice, which was approved by Cook Shire Council in full, subject to conditions.

Details of the decision are as follows:

**Decision Details**

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Date of Decision: Council approved the Development Application by delegation on 12 October 2022.

Approval Details: **Approved in full** with conditions. These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or concurrence agency imposed them.

**Variation approval details**

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Not Applicable

**Application Details**

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Application Number: DA/4548

Approval Sought: Development Permit for a Material Change of Use

Description of the Development: Dual Occupancy

Category of Development: Assessable Development

Category of Assessment: Code Assessment

Planning Scheme: Cook Shire Council Planning Scheme 2017

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**Location Details**

Street Address: 16 Helen Street, COOKTOWN 4895

Real Property Description: Lot 909 C17912

Local Government Area: Cook Shire

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**Assessment Manager Conditions**

This approval is subject to the conditions in Attachment 1.

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**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 Plumbing and Drainage Work
2. Development Permit for Building Work

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**Properly Made Submissions**

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

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**Referral Agencies**

Not applicable - no part of the application required referral.

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

Not Applicable.

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**Approved Plans and Specifications**

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

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**Currency Period for the Approval**

(For a material change of use) This approval lapses if the first change of use does not happen within *six (6) years*.

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**Lapsing of approval if development started but not completed**

In accordance with section 88(1) of the *Planning Act 2016*, a development approval, other than a variation approval, for development lapses to the extent the development is not completed within any period or periods required under a development condition.

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**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.

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**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](mailto:mail@cook.qld.gov.au).

Yours sincerely



Lisa Miller  
Manager  
Planning and Environment  
Cook Shire Council

enc: **Attachment 1 (A)** – Conditions imposed by the assessment manager  
**Attachment 2** – Approved Plans (D22/23897)  
**Attachment 3** – Notice about a Decision Notice (AD2022/0009508)  
**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.

**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.

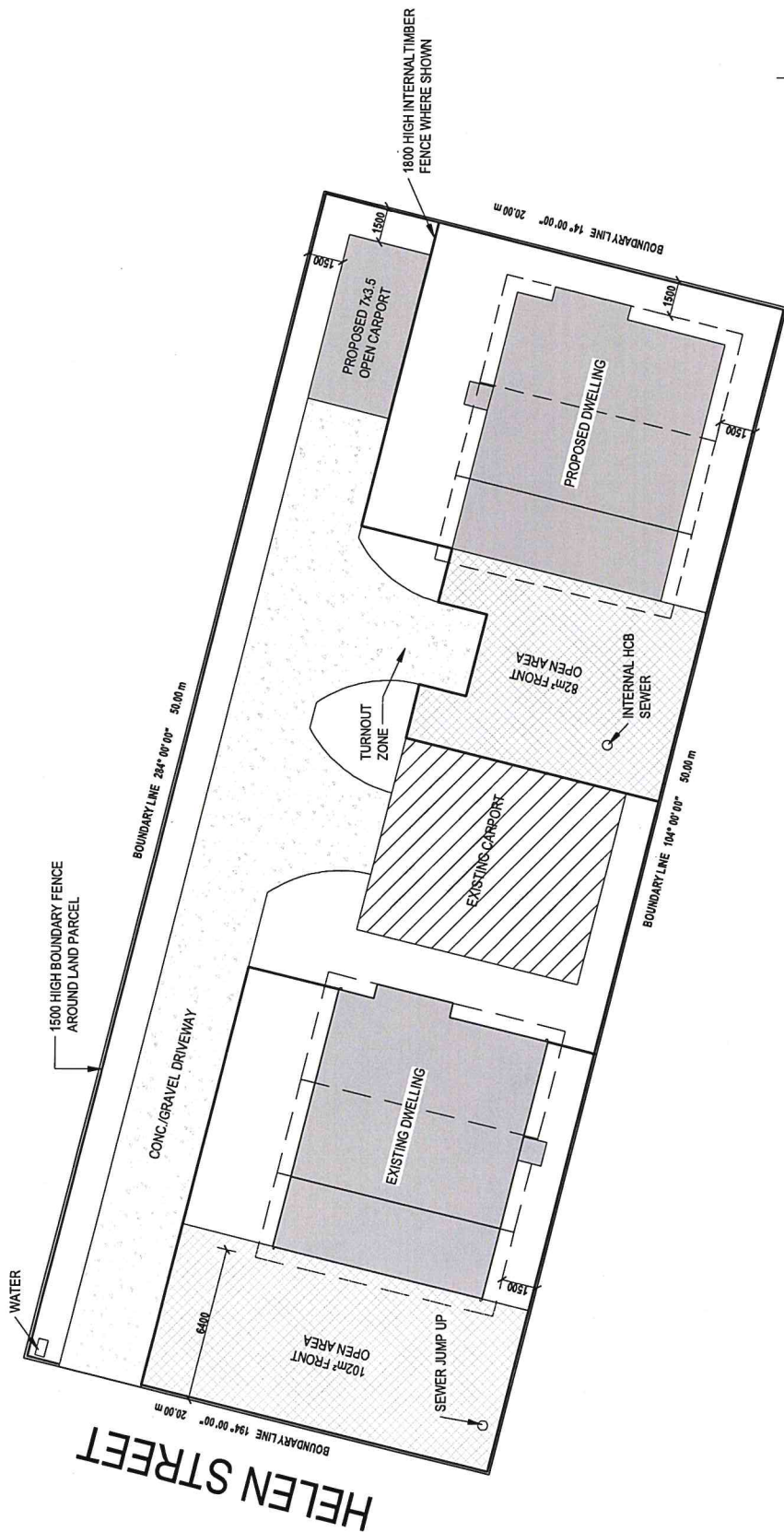
**B. Assessment Manager (Council) Advice**

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 (D22/23897)





<b>CERTIFIED AS STRUCTURALLY ADEQUATE</b>		<b>KFB Engineers</b> Civil & Structural 10M-42 Pease St, Cairns   PO Box 437, Cairns Q 4870 P: 07 4020662   F: 07 4020662   E: email@kfbeng.com.au	
Date: _____	Signed: _____	Job No: _____	RPEQ No: _____
DESIGN WIND SPEED - C2	SOIL CLASSIFICATION - P		
A	2/09/22	CONSTRUCTION ISSUE	DESCRIPTION
No.	DATE	CONSTRUCTION ISSUE	DESCRIPTION
VARIATIONS INCLUDED IN THIS DRAWING			
DRAWING TITLE			
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SHEET NO. 02	PRINT TIME 20/09/2022 12:15:12 PM	PRELIMINARY: 4/08/22	CONSTRUCTION: 2/09/22
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<b>CONSTRUCTION ISSUE</b>			
ESQNG JOB NO. _____	DRAWING NO. 22080401		
<b>PROJECT</b>			
PROPOSED RESIDENCE			
Lot 909 on C17912			
16 HELEN STREET			
COOKTOWN			
<b>CLIENT</b>			
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.superiorsteelhomesng.com.au			
<b>THIS DRAWING IS COPYRIGHT ©</b> <small>THE STANDARD</small> NOTE: (1). VERIFY ALL DIMENSIONS AND LEVELS BEFORE COMMENCING ANY WORK. (2). VERIFY ALL ON SITE DIMENSIONS BEFORE COMMENCING ANY FABRICATION. (3). FIGURED DIMENSIONS TO TAKE PRECEDENCE OVER SCALED MEASUREMENTS. (4). ALL WORK TO COMPLY WITH LOCAL AUTHORITY REQUIREMENTS, THE BUILDING BY-LAWS, THE BUILDING CODE OF AUSTRALIA AND RELEVANT AUSTRALIAN STANDARDS. (5). SUBSTITUTION OF ANY STRUCTURAL MEMBERS, & OR VARIATIONS TO ANY PART OF THE DESIGN, WILL VOID ANY RESPONSIBILITIES OF THE BUILDING DESIGNER FOR THE STRUCTURAL INTEGRITY & PERFORMANCE OF THE BUILDING			



**ELEVATION KEY**

FLOOR AREAS LEGEND	
LIVING	73.96 m <sup>2</sup>
PATIO	27.00 m <sup>2</sup>
	100.96 m <sup>2</sup>

**CERTIFIED AS STRUCTURALLY ADEQUATE**

**KFB Engineers** Civil & Structural  
 10/42 Pease St, Cairns | PO Box 87, Cairns QLD 4870  
 P: 07 4050402 | E: info@kfbeng.com.au

Date: \_\_\_\_\_ Signed: \_\_\_\_\_  
 Job No: \_\_\_\_\_ RPEQ No: \_\_\_\_\_

DESIGN WIND SPEED - C2 SOIL CLASSIFICATION - P

**CONSTRUCTION ISSUE**

ISSUE: A  
 DRAWN BY: MB

SCALE: 1:100 AT A3

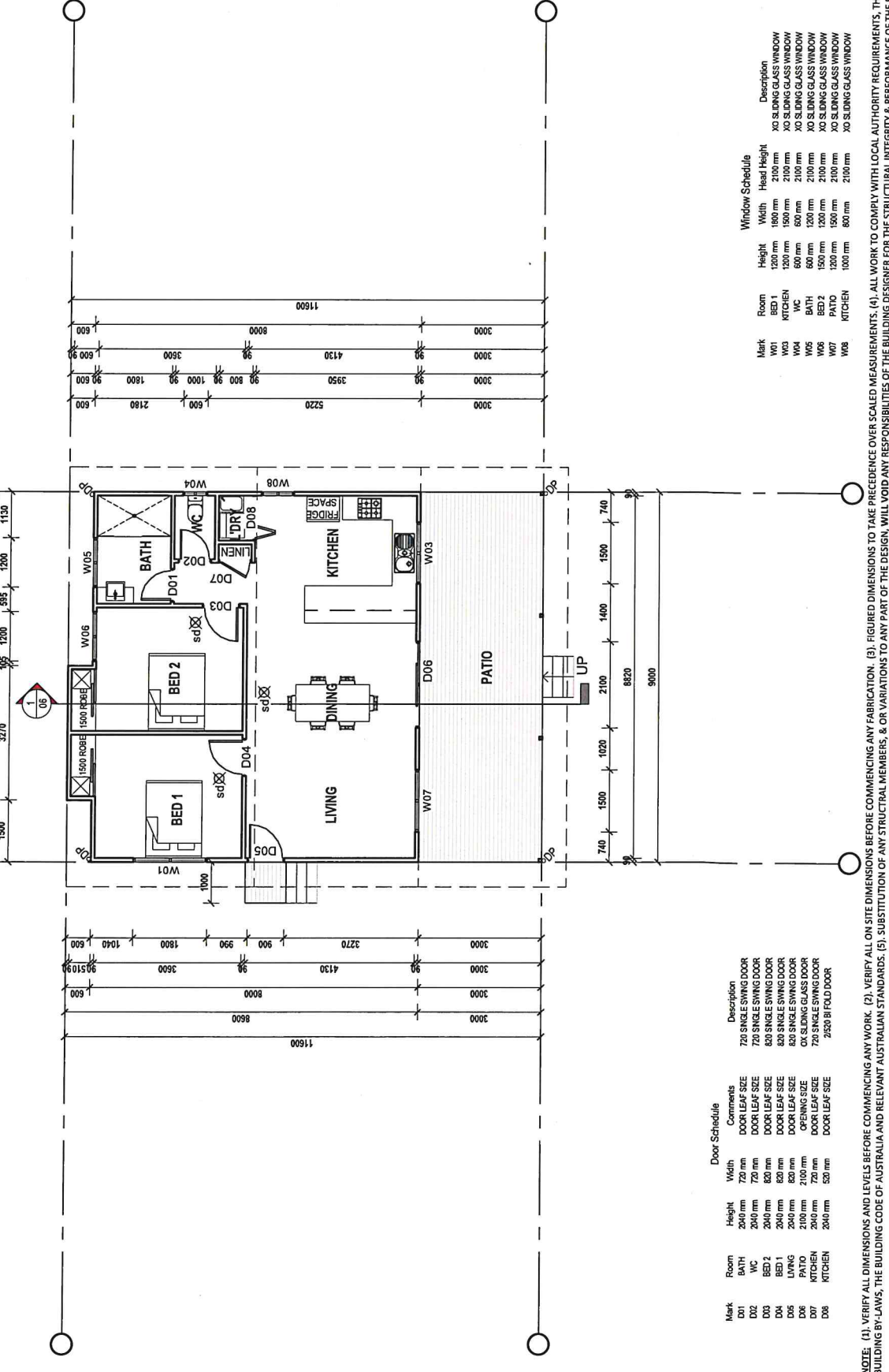
ESPNO JOB NO: \_\_\_\_\_ DRAWING NO: 22080401

**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@superiorsteelhomes.com.au  
 WEB: www.superiorsteelhomes.com.au

QBSA: 1097802



**Door Schedule**

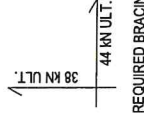
Mark	Room	Height	Width	Comments
D01	BATH	2040 mm	720 mm	720 SINGLE SWING DOOR
D02	WC	2040 mm	720 mm	720 SINGLE SWING DOOR
D03	BED 2	2040 mm	820 mm	820 SINGLE SWING DOOR
D04	BED 1	2040 mm	820 mm	820 SINGLE SWING DOOR
D05	LIVING	2100 mm	2100 mm	OX SLIDING GLASS DOOR
D06	PATIO	2040 mm	2040 mm	720 SINGLE SWING DOOR
D07	KITCHEN	2040 mm	720 mm	720 SINGLE SWING DOOR
D08	KITCHEN	2040 mm	520 mm	2920 BIF FOLD DOOR

**Window Schedule**

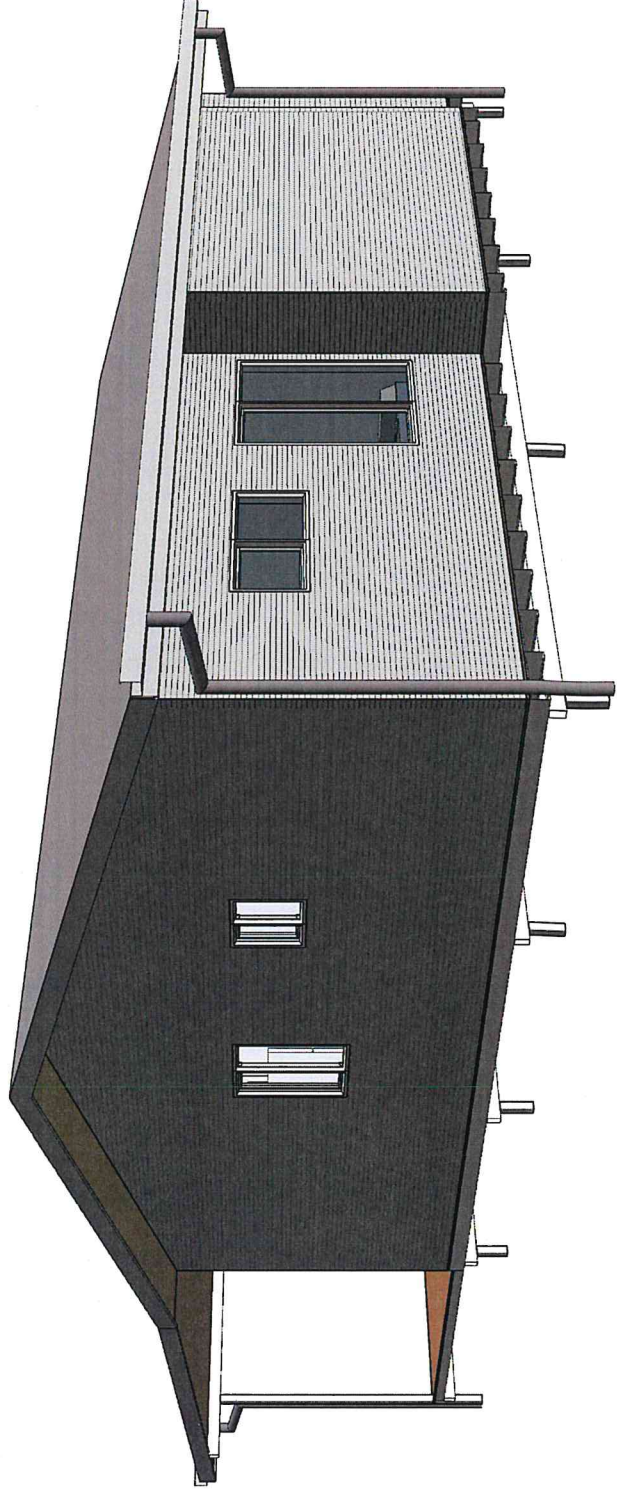
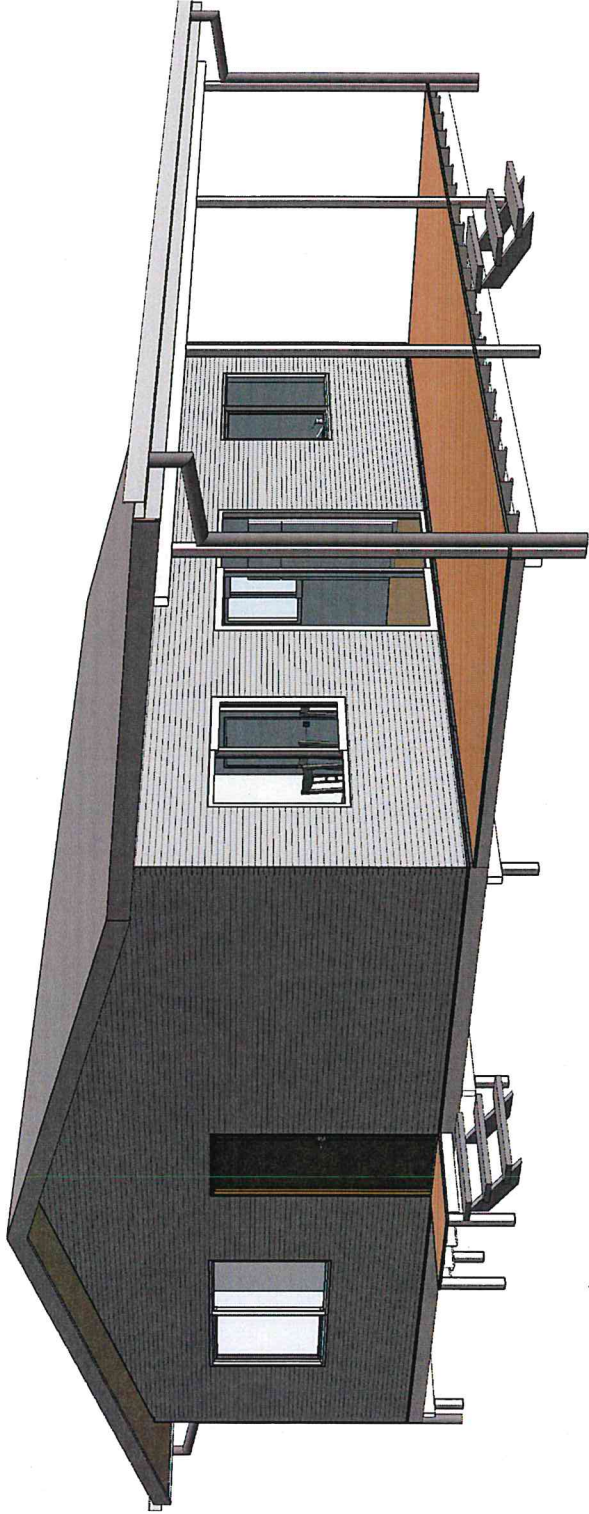
Mark	Room	Height	Width	Head Height	Description
W01	BED 1	1200 mm	1600 mm	2100 mm	OX SLIDING GLASS WINDOW
W02	KITCHEN	1200 mm	1500 mm	2100 mm	OX SLIDING GLASS WINDOW
W03	WC	600 mm	600 mm	2100 mm	OX SLIDING GLASS WINDOW
W04	BATH	600 mm	1200 mm	2100 mm	OX SLIDING GLASS WINDOW
W05	BED 2	1500 mm	1200 mm	2100 mm	OX SLIDING GLASS WINDOW
W06	PATIO	1200 mm	1500 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


**NOTE:** (1). VERIFY ALL DIMENSIONS AND LEVELS BEFORE COMMENCING ANY WORK. (2). VERIFY ALL ON SITE DIMENSIONS BEFORE COMMENCING ANY FABRICATION. (3). FIGURED DIMENSIONS TO TAKE PRECEDENCE OVER SCALED MEASUREMENTS. (4). ALL WORK TO COMPLY WITH LOCAL AUTHORITY REQUIREMENTS, THE STANDARD BUILDING BY-LAWS, THE BUILDING CODE OF AUSTRALIA AND RELEVANT AUSTRALIAN STANDARDS. (5). SUBSTITUTION OF ANY STRUCTURAL MEMBERS, & OR VARIATIONS TO ANY PART OF THE DESIGN, WILL VOID ANY RESPONSIBILITIES OF THE BUILDING DESIGNER FOR THE STRUCTURAL INTEGRITY & PERFORMANCE OF THE BUILDING.

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<b>CERTIFIED AS STRUCTURALLY ADEQUATE</b>		KFB Engineers Civil & Structural 17A-42 Pease St, Cairns   PO Box 837, Cairns Q 4870 P: 07 4020982   F: 07 4020982   E: email@kfbeng.com.au	
Date:	Job No:	Signed:	RPEQ No:
DESIGN WIND SPEED:	C2	SOL CLASSIFICATION: P	
No.	DATE	CONSTRUCTION ISSUE	DESCRIPTION
A	2/09/22	CONSTRUCTION ISSUE	
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DRAWING TITLE			
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PRELIMINARY:	4/08/22	CONSTRUCTION:	2/09/22
SCALE:	NTS AT A3	ISSUE:	A
		DRAWN BY:	MB
<b>CONSTRUCTION ISSUE</b>			
ESHA JOB NO:		DRAWING NO:	22080401
<b>PROJECT</b>			
PROPOSED RESIDENCE			
Lot 909 on C17912			
16 HELEN STREET			
COOKTOWN			
<b>CLIENT</b>			
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@superiorsteelhomesng.com.au WEB: www.superiorsteelhomesng.com.au			
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**Attachment 3 – Notice about a Decision Notice (AD2022/0009508)**

## 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

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

### DECISION DETAILS

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Type of Decision:	Approval with Conditions
Type of Approval:	Development Permit for Dual Occupancy
Date of Decision:	12 October 2022

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## **ASSESSMENT BENCHMARKS**

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

<b>Assessment Benchmarks</b>	<b>Comment</b>
Planning Regulation 2017 (Schedule 9)	Schedule 9 is not applicable as the application is not for building work under the Building Act
Planning Regulation 2017 (Schedule 10)	The application did not trigger a referral to the State Assessment Referral Agency (SARA).
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, 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; and
- Works, Services & Infrastructure Code.

### **Local Categorising Instrument (Variation Approval)**

Not Applicable

### **Local Categorising Instrument (Temporary Local Planning Instrument)**

Not Applicable

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**PUBLIC NOTIFICATION**

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Not Applicable

**REASONS FOR THE DECISION**

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

- An assessment was made against the applicable assessment benchmarks and the proposed development demonstrated compliance.
- The proposed development for Material Change of Use for 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.
- That an Infrastructure Charges Notice be issued for the amount of: \$6,000, in relation to the development approval for a Development Permit for Material Change of Use – Dual Occupancy at 16 Helen Street, Cooktown, formally described as Lot 909 on C17912.

**REASONS FOR APPROVAL DESPITE NON-COMPLIANCE WITH ASSESSMENT BENCHMARKS**

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Not Applicable

**ADDITIONAL RELEVANT MATTERS FOR IMPACT ASSESSMENT**

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Not Applicable

**OTHER MATTERS PRESCRIBED BY THE PLANNING REGULATION 2017**

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Not Applicable

**OTHER DETAILS**

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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) 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)(c)(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.

- (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.

- (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

- (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.