

| | |
|--|----------|
| ORDINARY MEETING 23 NOVEMBER 2011 | 1 |
|--|----------|

MATERIAL CHANGE OF USE (CODE ASSESSMENT) MULTIPLE DWELLING USE, SHORT TERM ACCOMMODATION AND HOLIDAY ACCOMMODATION - 143-145 ESPLANADE CAIRNS CITY - DIVISION 5

Gerard Rosse : 8/7/2296 SEDA : #3310465

PROPOSAL: MULTIPLE DWELLING USE, SHORT TERM ACCOMMODATION AND HOLIDAY ACCOMMODATION

APPLICANT: MICORP PROPERTY
PO BOX 502
MISSION BEACH QLD 4852

LOCATION OF SITE: 143-145 ESPLANADE CAIRNS CITY

PROPERTY: LOTS 1-57 ON BUP PLN: 70111

PLANNING DISTRICT: CBD NORTH CAIRNS

PLANNING AREA: TOURIST AND RESIDENTIAL

PLANNING SCHEME: CAIRNSPLAN 2009

REFERRAL AGENCIES: DEPARTMENT OF TRANSPORT & MAIN ROADS

STATUTORY ASSESSMENT DEADLINE: 23 NOVEMBER 2011

APPLICATION DATE: 26 JULY 2011

DIVISION: 5

APPENDIX:

1. APPROVED PLAN(S) & DOCUMENT(S)
2. INFRASTRUCTURE CHARGES NOTICE

LOCALITY PLAN



RECOMMENDATION:

That Council approves the development application for Multiple Dwelling Use, Short Term Accommodation and Holiday Accommodation over land described as Lots 1- 57 on BUP70111, located at 143-145 Esplanade Cairns City, subject to the following:

APPROVED DRAWING(S) AND / OR DOCUMENT(S)

The term 'approved drawing(s) and / or document(s)' or other similar expressions means:

| Drawing or Document | Reference | Date |
|--|--|-----------------|
| Ground Floor | JNP Pawsey & Prowse LP – M1.0 Ground Floor | 13 July 2011 |
| Level 1 Podium | JNP Pawsey & Prowse LP – M2.0 Level 1 Podium | 13 July 2011 |
| Ground Floor – Landscape Planting Plan | JNP Pawsey & Prowse LP – P1.0 Ground Floor – Landscape Planting Plan | 13 July 2011 |
| Landscape Specification & Planting List. | JNP Pawsey & Prowse LP – P2.0 Landscape Specification & Planting List. | 13 July 2011 |
| Level 2 | JNP Pawsey & Prowse LP – M3.0_B Rev Level 2 | 28 October 2011 |
| Level 3 to 6 | JNP Pawsey & Prowse LP – M3.0_B Rev Level 3 to 6 | 28 October 2011 |

| | | |
|-----------------------------|---|---------------------|
| Proposed Penthouses | JNP Pawsey & Prowse LP – M4.0 Proposed Penthouses | 13 July 2011 |
| North East Elevation | JNP Pawsey & Prowse LP – M5.0 North East Elevation | 13 July 2011 |
| North West Elevation | JNP Pawsey & Prowse LP – M6.0 North West Elevation | 13 July 2011 |
| South West Elevation | JNP Pawsey & Prowse LP – M7.0 South West Elevation | 13 July 2011 |
| Perspective View | JNP Pawsey & Prowse LP – M9.0 Perspective View | 13 July 2011 |

ASSESSMENT MANAGER CONDITIONS

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:-
 - a. The specifications, facts and circumstances as set out in the application submitted to Council;
 - b. The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

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.

Multiple Dwelling Units

3. Approved Units for Multiple Dwelling Use as identified on Building Unit Plan No. 70111:
 - BUP 70111 Level C – Lot 13
 - BUP 70111 Level D – Lot 23, Lot 24, Lot 25, Lot 26
 - BUP 70111 Level E – Lot 33, Lot 34, Lot 35, Lot 36
 - BUP 70111 Level F – Lot 43, Lot 44, Lot 45, Lot 46
 - BUP 70111 Level G – Lot 53, Lot 54, Lot 55, Lot 56

Holiday Accommodation Units

4. Approved Units for Holiday Accommodation Use as identified on Building Unit Plan No. 70111:

- BUP 70111 Level C – Lot 8, Lot 9, Lot 10, Lot 11, Lot 12, Lot 14, Lot 15, Lot 16, Lot 17
- BUP 70111 Level D – Lot 18, Lot 19, Lot 20, Lot 21, Lot 22, Lot 27
- BUP 70111 Level E – Lot 28, Lot 29, Lot 30, Lot 31, Lot 32, Lot 37
- BUP 70111 Level F – Lot 38, Lot 39, Lot 40, Lot 41, lot 42, Lot 47
- BUP 70111 Level G – Lot 48, Lot 49, Lot 50, Lot 51, Lot 52, Lot 57

5. The Approved penthouses are to be used for Holiday Accommodation only.

Short Term Accommodation - Number of Occupants

6. A maximum of eighty-six (86) persons are to reside in the approved Short Term Accommodation component of premises at any time.

Car Parking allocation

7. An allocation of one (1) car parking space per two (2) bedroom multiple dwelling unit is to be provided. No allocation of parking is to be provided to one (1) bedroom multiple dwelling units. Allocated car parking spaces are not required in addition to the required spaces as outlined in condition 8.

Vehicle Parking

8. The amount of vehicle parking provided is a minimum of forty (40) 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 and line marked.

Vehicle Wash Bay

9. A vehicle wash bay must be provided. It must be roofed and bunded and wastewater must be discharged through a 550 litre triple interceptor to sewer or as agreed to by the Chief Executive Officer.

Protection of Landscaped Areas from Parking

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

Provision of Communal Bicycles

11. Twenty (20) bicycles are to be provided onsite for use by residents and guests.

Bicycle Parking

12. Provide secured, on-site bicycle parking in accordance with Table 10-1 of *AUSTROADS Guide to Traffic Engineering Practice Part 14 – Bicycles*.
13. The minimum number of parking spaces required for this development is ten (10) spaces. These spaces are to be provided in addition to the twenty (20) communal bicycles provided. The bicycle parking area must be constructed prior to Commencement of Use.

Noise

14. At all times noise levels emanating from the site must not exceed normal ambient background noise levels commensurate with a residential area.

Any new air conditioning systems must be designed, located and installed in a way that will minimise the potential of such equipment causing a noise nuisance under the *Environmental Protection Act 1994* (Part 3B – Offences relating to noise standards).

Air-Conditioning Screens

15. 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. Such screening must be completed prior to the Commencement of Use.

Details of Development Signage

16. Details of any permanent signage proposed in association with the development must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work. In particular the development must provide clear and legible signage incorporating the street number.

Advertising Signage

17. Signs on the subject land must conform with Council's Local Law No. 28 (Control of Advertising), to the requirements and satisfaction of the Chief Executive Officer.

Lighting

18. 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.

Crime Prevention Through Environmental Design

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

Above Ground Transformer Cubicles/Electrical Sub-Stations

20. Above ground transformer cubicles and/or electrical sub-stations are to be positioned so that they do not detract from the appearance of the adjoining streetscape. This will require cubicles/sub-stations to be set back from the street alignment behind a screen of landscaping, or incorporated within the built form of the proposed building. Details of the electrical sub-station positioning must be endorsed by the Chief Executive Officer prior to the issue of Development Permit for Building Work.

Perimeter Fencing

21. Unless otherwise agreed in writing with neighbouring property owners, construct a screen fence (minimum height 1.8 metres and maximum gap of 10 mm) to the side and rear boundaries of the subject land. The fencing must be consistent in terms of design and materials with other fences in the locality. The cost of any new fencing, including any required resurvey and relocation of fencing on adjoining land, is to be borne by the developer. Details of the perimeter fence or alternative written agreements with neighbouring property owners must be provided to, and endorsed by, the Chief Executive Officer in association with Council's assessment of the landscaping plan.

Street Fencing

22. 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 endorsed by the Chief Executive Officer in association with the provision of a landscaping plan.

Health

23. An application for construction or alteration (existing) of any food premises must be accompanied by two (2) copies of plans drawn to a scale not smaller than 1:100. Such plans are to include details of ventilation (including mechanical exhaust ventilation systems), finishes to walls, floors and ceilings, and details of the proposed layout and materials to be used in the construction of all equipment, benches, fixtures and fittings.

The plans must include detailed cross-sections of all areas to be included in the construction or alteration. All works must be carried out in accordance with the requirements of the *Food Act 2006*, Food Safety Standards and AS 4674 – 2004 – Design, construction and fit-out of food premises.

24. Prior to operation of the food business, the operator must hold a Food Operators' Licence under the *Food Act 2006*.
25. Noise from either air conditioning units, swimming pool filters, service equipment or other mechanical equipment must not emanate from the subject land to a degree that would, in the opinion of the Chief Executive Officer, create an environmental nuisance having regard to the provisions of the *Environmental Protection Act 1994*, *Environmental Protection (Noise) Policy 1997* and *Environmental Protection Regulation 1998 (Part 2A - Environmental Nuisance)*.
26. Swimming pool water quality must be maintained so that it meets the Queensland Health Swimming and Spa Pool Water Quality and Operational Guidelines at all times.
27. The operator of proposed rental accommodation premises must make application for approval to operate such premises.

Street Numbering

28. The development must provide clear and legible signage incorporating the street numbers on letterboxes and the kerbside of Esplanade, Minnie Street and Abbott Street for the benefit of the motoring public.

Landscaping Plan

29. The site must be landscaped in accordance with details included on the Landscaping Plan and associated Landscape Specification & Planting List attached in Appendix A. Any amendments to this plan must be provided to and endorsed by, the Chief Executive Officer prior to the commencement of the uses on site.

Water Supply and Sewerage Works Internal

30. 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*;

- c. **Private Water and Sewerage infrastructure must be managed by a Community Management Scheme. If the development consists of more than one Body Corporate within Lot 0 BUP70111, a parent Body Corporate shall be established to manage the operation and maintenance of the internal water and sewerage infrastructure.**

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 the Chief Executive Officer prior to Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

Sewer Easement

31. **Create an easement in favour of Council having a nominal width of 3 metres over the existing sewer within the site to the requirements and satisfaction of the Chief Executive Officer. A copy of the easement document must be submitted to Council for the approval by Council's solicitors at no cost to Council.**
32. **The approved easement document must be submitted at the same time as seeking approval and dating of the Building Format Plan and must be lodged and registered with the Department of Environment and Resource Management in conjunction with the Plan of Survey.**

Damage to Infrastructure

33. **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 Water & Waste immediately of the affected infrastructure and have it repaired or replaced by Water & Waste, at the developer's cost, prior to the Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.**

External Works

34. **Undertake the following works external to the land at no cost to Council:**
- a. **Repair any damage to existing kerb and channel, crossovers, footpath or verge to each of the property frontages.**
- b. **Line mark parking spaces in front of and adjacent to the subject land on Minnie and Abbott Streets; where not already done so.**

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.

Street Lighting

35. Upgrade the street lighting to comply with requirements of the FNQROC Development Manual, if required.

Lawful Point of Discharge

36. All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of the Chief Executive Officer.

Retaining Walls

37. All new retaining walls or structures higher than 900mm must be structurally certified prior to the issue of a Development Permit for Building Work. The applicant/owner must ensure that the retaining wall does not result in the ponding or concentration of stormwater flows.

Construction Access

38. Vehicular access to the site for construction and demolition purposes must be provided from Abbott Street only, unless authorised by the Chief Executive Officer.

Stage 2 Development

39. At this stage Council does not support a "Stage 2" proposal to convert further holiday accommodation. A development application will be required for further conversion of Holiday Accommodation Units to Multiple Dwelling Units.

ADVICE

1. This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 339 of the *Sustainable Planning Act 2009* and 3.5.21 of the *Integrated Planning Act 2007*.
2. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council Officers, prior to commencement of works.

3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
4. A monetary contribution to Council towards the provision of infrastructure is required in accordance with the Infrastructure Charges Notice attached to this decision. The contribution payable will be in accordance with the Planning Scheme Policy.

Contributions must be paid at the rates applicable at time of payment. Payment is required prior to the commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

5. For information relating to the *Sustainable Planning Act 2009* log on to www.dlqp.qld.gov.au. To access FNQROC Manual, Local Laws and other applicable Policies log on to www.cairns.qld.gov.au.

RATES NOTATIONS

The following notations will be placed on the Rates Records of the proposed lots:

The following units are approved for Multiple Dwelling Use (Permanent Occupancy) as identified on Building Unit Plan No. 70111:

- BUP 70111 Level C – Lot 13
- BUP 70111 Level D – Lot 23, Lot 24, Lot 25, Lot 26
- BUP 70111 Level E – Lot 33, Lot 34, Lot 35, Lot 36
- BUP 70111 Level F – Lot 43, Lot 44, Lot 45, Lot 46
- BUP 70111 Level G – Lot 53, Lot 54, Lot 55, Lot 56

The following units are approved for Holiday Accommodation as identified on Building Unit Plan No. 70111:

- BUP 70111 Level C – Lot 8, Lot 9, Lot 10, Lot 11, Lot 12, Lot 14, Lot 15, Lot 16, Lot 17
- BUP 70111 Level D – Lot 18, Lot 19, Lot 20, Lot 21, Lot 22, Lot 27
- BUP 70111 Level E – Lot 28, Lot 29, Lot 30, Lot 31, Lot 32, Lot 37
- BUP 70111 Level F – Lot 38, Lot 39, Lot 40, Lot 41, lot 42, Lot 47
- BUP 70111 Level G – Lot 48, Lot 49, Lot 50, Lot 51, Lot 52, Lot 57

EXECUTIVE SUMMARY:

The Application seeks approval for a Material Change of Use over the existing Cairns Plaza Hotel building currently approved for Holiday Accommodation. The application seeks to convert part of the building to a Multiple Dwelling use and consolidate all uses and previous approvals on the site in one up to date approval for the site. This includes part of the site for Short Term Accommodation and Holiday Accommodation in accordance with previous approvals gained over the site. The proposed use is Code Assessable in accordance with CairnsPlan Planning Scheme.

The proposal does raise items of non compliance with the Planning Scheme most of which are the result of the building being approved and constructed some 30 years ago. Overall the proposal is not in conflict with the purpose of the majority of the codes contained within the CairnsPlan.

The main item of non compliance with the CairnsPlan is the provision of car parking spaces to meet the proposed Multiple Dwelling Land use. The proposal is approximately 10 Car Parking Spaces short of the required number under the CairnsPlan. This is primarily due to site constraints as a result of the building currently existing and the provision of a new basement car park previously ruled out due to excessive costs to retrofit the existing structure. The proposal does present a better scenario than which currently occurs on the site and improves on the 39 car park shortfall previously approved under the original Consent for the site.

The one concern from Infrastructure Management with the shortfall is the impact of on street car parking in the immediate area.

Despite these concerns it is recommended the application be approved subject to conditions.

TOWN PLANNING CONSIDERATIONS:

Background

The Cairns Plaza (also known as “Tuna Towers”) is a seven (7) storey building located on the corner of the Cairns Esplanade, Abbot Street and Minnie Street, opposite the popular ‘Muddies’ playground area. The site is contained within the CBD – North Cairns District in Tourist and Residential Planning Area under the CairnsPlan.

The original Consent was issued for the purposes of erection of *Professional Offices and Motel Units* dated 11 September 1979 under the 1971 Town Planning Scheme for the City of Cairns. Since then the building has provided a combination of uses including Holiday Accommodation; associated facilities including restaurant and bar and up until 2010, Medical Suites.

In addition to the original consent the site has been subject to several Development Applications with a recent approval issued for a Material Change of Use (8/7/2219) to convert the Medical Suites into Short Term Accommodation to provide new Traveller style/shared holiday accommodation.

Prior to this recent approval, the building and site were subject to another MCU development application (8/7/1134) approved in March 2008 and recently amended and re-approved in March 2010 for a major refurbishment and replacement of ancillary services and restaurant and to allow the whole of the building to be used for Holiday Accommodation. This included the approval of two (2) x three (3) bedroom penthouses to be located at the top of the current building.

There are 57 existing strata lots all in single ownership, comprising 6 former medical suite lots (Totalling 567 m2), restaurant and bar (262m2 including kitchen) and 50 hotel style units (a mix of studio, one and two bedrooms units). There are common areas including hotel reception, back of house offices, toilets, housekeeping, store, car parking & services such as stairs, lifts, air-conditioning plant which are managed through the existing Body Corporate and Hotel Operator. The building currently provides communal laundry facilities for guests and valet laundry and dry cleaning services at the concierge desk.

To assist in the rejuvenation of the building and replacing much of the older plant and equipment including lifts; central plant air-conditioning; repainting and repairing the internal and external façade; upgrade of the gardens and pool area and redecorate the reception, apartments, restaurant and bar areas the new owners are working on a business plan to self-fund these works. Part of this plan is to convert some of the larger one and two bedroom Holiday Accommodation apartments for Multiple Dwelling Use as defined under the CairnsPlan planning scheme.

Proposal

The application seeks approval for a Material Change of Use over the existing Cairns Plaza Hotel building currently approved for Holiday Accommodation. The application seeks to convert part of the building to a Multiple Dwelling use (this proposal includes the recently approved penthouses to Multiple Dwelling Use) and consolidate all uses and previous approvals on the site in one up to date approval for the site. This includes part of the site for Short Term Accommodation and Holiday Accommodation in accordance with previous approvals gained over the site.

Original application:

The original application was to convert 30 of the 50 separately strata titled Holiday Accommodation apartments to Multiple Dwelling use and the balance (20) would remain for Holiday Accommodation use. It was also proposed to convert the approved two yet to be constructed roof top Penthouse apartments from Holiday Accommodation use to Multiple Dwelling use.

Revised Application – Staged Development:

During the course of the application the applicant amended the proposal to reduce the impact of the shortfall of car parks and proposed to convert only 17 of the 50 units to Multiple Dwelling use. This included the balance of the units including the approved but yet to be constructed Penthouses to remain as Holiday accommodation. All other uses that are occurring are identified with the view to providing an “all in one” approval that identifies all uses on the site.

The applicant has indicated that the revised proposal to convert 17 holiday units to multiple dwellings is a “stage one” with the intention to convert the balance of the holiday units to multiple dwellings should no negative impacts of the local car parking situation be demonstrated. Comment on the proposed staging of the development is provided in the *Planning Officers Comment – Staging of Development* section of the report.

All proposed works involve minor internal modifications to the existing building interior structure apart from the establishment of the 2 penthouse apartments that have been carried forward from the previous approval for Holiday Accommodation. These 2 penthouses will remain as Holiday Accommodation as part of this revised application.

As part of this application the applicant has proposed to increase the onsite car parking by 33% from 30 spaces to 40 spaces. The item of car parking is discussed in detail in the Parking and Access section of the report.

In summary this Development Application for the Cairns Plaza building is proposed to consist of the following uses:

- 86 Bed Short-term Accommodation;
- 31 Holiday Accommodation - Non Self Contained apartments - (30 X 1 Bedroom and 1 X 2 bedroom);
- 4 Holiday Accommodation - Self Contained apartments - (2 X 3 Bedroom Penthouses, 1 X 2 bedroom and 1 X 1 Bedroom);
- 17 Multiple Dwelling Apartments (8 X 1 Bedroom and 9 X 2 Bedroom); and
- Associated restaurant and bar operation.

The Short Term Accommodation component of the use will remain as approved from the previous approval issued for a Material Change of Use (8/7/2219) to convert the Medical Suites into Short Term Accommodation to provide new Traveller style/shared holiday accommodation.

In reference to the existing Strata Plan the BUP strata number of each apartment proposed to change use from Holiday Accommodation to Multiple Dwelling use identified below and attached (Extract of relevant BUP Plans attached in Appendix 1):

- BUP 70111 Level C – Lot 13
- BUP 70111 Level D – Lot 23, Lot 24, Lot 25, Lot 26
- BUP 70111 Level E – Lot 33, Lot 34, Lot 35, Lot 36
- BUP 70111 Level F – Lot 43, Lot 44, Lot 45, Lot 46
- BUP 70111 Level G – Lot 53, Lot 54, Lot 55, Lot 56

CairnsPlan Assessment

| CairnsPlan CBD North Cairns Planning District | | Code Applicability | Compliance |
|--|---|-----------------------|--------------------------|
| Planning Area | Tourist and Residential | ✓ | ✗ (Refer to comments) |
| Land Use | Material Change of Use (Code Assessment) - Multiple Dwelling and Holiday Accommodation Code | ✓ | ✗ (Refer to comments) |

| | | | |
|-----------------|---|---|--------------------------|
| Overlays | Potential or Actual Acid Sulphate Soil Material | ✓ | ✓ |
| | Flood Management | ✓ | ✓ |
| | Height and Impact of Buildings | ✓ | ✗ (Refer to comments) |
| | Operational Aspects of the Cairns International Airport | ✓ | ✓ |
| | Excavation and Filling Code | ✓ | ✓ |
| General | Infrastructure Works Code | ✓ | ✓ |
| | Landscaping Code | ✓ | ✓ |
| | Parking & Access Code | ✓ | ✗ (Refer to comments) |
| | Development Near Major Transport Corridors & Facilities | ✓ | ✓ |

Compliance Issues

Tourist and Residential Planning Area:

The Tourist and Residential Planning Area code limits building height to 11 metres. However, this requirement is overruled by Overlay Code for Height and Impact of Buildings. It is noted that the development is responsive to the neighbouring property by providing landscaping to buffer the development to the northern neighbour. Overall the proposal is consentient with the Purpose of the Tourist and Residential Planning Area Code.

Multiple Dwelling and Holiday Accommodation Code:

The code identifies built form and siting requirements but in the case of this location these requirements are overruled by the Height and Impact of Buildings Overlay Code. It is noted that the building is existing and is an older configuration for residential use that predates the Cairns Plan and subsequent codes and Performance Criteria of the Multiple Dwelling and Holiday Accommodation Code. The existing layout and functions of the site are essentially constrained by the existing development and therefore meeting all aspects of the code is not possible but it is considered the above-mentioned site constraints are acceptable in this instance.

It is noted that the definition for a self-contained dwelling unit is to contain a number of essential items designed or appropriately adapted for human use which includes the provision of a laundry. As the existing building was built some thirty years ago the layout and provision of services predates modern residential multiple dwelling design. Of particular variance is the location of the laundry facilities. The building currently provides communal laundry facilities for residents and its guests and valet laundry and dry cleaning services at the concierge desk. Council Officers acknowledge that the existing provision of communal laundry facilities and additional valet service currently available will fulfil the needs of both permanent residents and guests at the building. It is also recognised that internal retrofits of units may be possible and the provision of individual laundry facilities within units may be possible for residents who wish to have private facilities.

Short Term Accommodation Code:

The Short Term Accommodation component of the use will remain as approved from the previous approval issued for a Material Change of Use (8/7/2219) to convert the Medical Suites into Short Term Accommodation to provide new Traveller style/shared holiday accommodation.

All previous conditions pertaining to this approval have been carried forward to the current application.

Height and Impact of Building Overlay Code:

Where an inconsistency between the Planning Area Code, Land Uses Code and Overlay Code exists, the requirements of the Overlay Code apply. In this case the Height and Impact of Building Overlay applies for height, setback and built form requirements.

Height:

The site is contained is within Precinct 3 of the Height and Impact of Building Overlay which nominates an Acceptable Measure for the building height of eighteen (18) metres as per P.1 A2.3 of Section 4.6.4 of the Overlay Code. The existing building height of 28.5m is above the preferred building height of 18 metres but it is noted the existing building predates the new CairnsPlan Planning Scheme by almost 30 years. It is Acknowledged that Council has already supported the addition of the two Penthouse apartments on the roof top as per MCU approval 8/7/1134 whereby Officer comments on the exceeding height included:

“The nearby Rydges Hotel to the south, at 131-139 The Esplanade, was approved as an eight (8) storey Hotel in November 1985. This building has a height of 32.8 metres. A newer construction by Hedley Constructions Pty Ltd at 155-159 Esplanade, further to the north, was given approval (8/8/534), under the Part Scheme, for a six storey construction to 18 metres height. The new refurbished Tuna Towers complex will sit between these structures in the Esplanade streetscape. The building tower is well setback from the road frontage to the Esplanade and as shadows will fall on the adjacent streets the building will not significantly impact on the surrounding area. Given the height of the Rydges complex together with the considerable setback of the main building structure to the Esplanade the proposed development is considered satisfactory.”

These grounds are therefore still valid and remain for the proposed application.

Podium and Built Form:

Site Coverage, Plot Ratio and Setbacks are also in conflict with current provisions contained within Height and Impact of Building Overlay Code and if constructed as new, the development would need to comply with the Scheme in regards to Acceptable Measures. However, the application is subject to an existing structure that has continuing use rights for siting beyond the current scheme parameters which must be considered. It is noted that there is no change to the existing internal floor area of the building with the exception of the pre-approved penthouse apartments (approved as Holiday Accommodation) by Council in accordance with MCU 8/7/1134.

Given the proposal involves no changes to the existing building structure, site or building envelope the development is considered appropriate in respect to achieving the overall purposes of Height and Impact of Building Overlay Code.

Parking and Access Code:

The original Consent was issued for the purposes of erection of *Professional Offices and Motel Units* dated 11 September 1979 under the 1971 Town Planning Scheme for the City of Cairns. Under that scheme the proposal required 69 car parking spaces however the use has operated with the provision of only 30 car parking spaces as identified in the below table:

| Use | 1971 Town Planning Scheme Landuse | Parking Rate | Area/units | Parking Required |
|--|--|--|-----------------------|------------------|
| Offices | Commercial Premises – (Professional Offices) | One car space per 30m ² or part thereof of gross floor area on ground floor level. | 567m ² GFA | 18.9 |
| Self-contained Holiday Accommodation | Motel Units | Self-contained units - One car space per unit. | 30 units | 30 |
| Non self-contained Holiday Accommodation | Motel Units | Non self-contained units - One car space per unit for the first 10 units. - One car space per two units for the next 20 units. | 30 units* | 20 |
| | | | Total Required | 68.9 |
| | | | Total Provided | 30 |
| | | | Shortfall | 39 |

* Slight reconfiguration of non self contained accommodation has occurred since the original Consent to reduce number of units to 20.

Under the current proposal and in accordance with the CairnsPlan Planning Scheme the required number of car parks for the proposed Multiple Dwelling Use, holiday Accommodation and Short Term Accommodation over the site is 50 spaces as outlined in the below table:

| Use | CairnsPlan Land Use | Parking Rate | Area/units | Parking Required | |
|----------------------------------|--|--|------------|-----------------------|--------------|
| Non-self Contained Holiday Units | Holiday Accommodation (Non Self Contained) | 0.25 Spaces per unit + 1 Space per 10 units | 31 Units | 10.75 | |
| Self-contained holiday units | Accommodation Units – Motel (Penthouses) | 0.75 spaces per unit + 1 Space per 10 units | 4 units | 3.0 | |
| Residential Unit | Multiple Dwelling | 1.5 Spaces per one or two bedroom unit | 17 Units | 25.5 | |
| Backpackers Accommodation | Short-term Accommodation | 1 space per 15 Beds | 86 beds | 5.73 | |
| Restaurant + Bar | Restaurant | 1 space per 25m2 of net lettable area. (minus 30% for cross utilisation) | 172m2 nla | 4.8 | |
| | | | | Total Required | 49.78 |
| | | | | Total Provided | 40 |
| | | | | Shortfall | 10 |

It is recognised that historically the proposal has operated with a shortfall of approximately 40 car parking spaces when compared to the requirements of the 1971 Town Planning Scheme for the City of Cairns.

As part of the current proposal the applicant has proposed to increase the onsite car parking from 30 spaces to 40 spaces (accommodation of the additional car parking spaces can be provided through realignment and design of the former drive-thru driveway / porte cochere situated on Abbott Street), an increase of 33%.

With respect to the above and with consideration the shortfall of 39 car parking spaces under the previous Consent, the current proposal provides an additional 10 car parking spaces on top of the existing 30 spaces on site. This provision of car parking reduces the shortfall to 10 spaces.

In addition to providing an extra 10 car parking spaces the applicant has also proposed the following measures to offset the shortfall in parking spaces.

- Twenty bikes to be provided onsite for use by residents and guests.
- 3 Smart Cars will be available for residents and guests on a hire basis.

Infrastructure Management Comment – Car Parking

Infrastructure Management is not in support of allowing a large scale relaxation of the Cairns Plan requirements for developments in terms of parking requirements. It is acknowledged there is scope for some relaxation but not on the scale that the applicant has proposed.

Due to the on-street parking situation in the area (approximately 100% occupancy of unrestricted parking during peak times in the area) the area is not suitable for large exemptions from the Cairns Plan at this time.

Planning Officer Comment – Car Parking

The original Consent was issued for the purposes of erection of *Professional Offices and Motel Units* dated 11 September 1979 under the 1971 Town Planning Scheme for the City of Cairns with a shortfall of 39 spaces on site. It is considered that the current proposal that includes the provision of an additional 10 spaces (in addition to the existing 30 spaces) and a subsequent shortfall of only 10 spaces is an acceptable outcome for the site.

The applicant has presented a proposal that provides sound town planning justification even though it is in conflict with the Parking and Access Code under the Cairns Plan. The proposal is somewhat contemporary in nature and a new concept for the region but is similar with proposals in larger cities that offer alternative housing products located in appropriate city fringe locations that negate the necessity for private car ownership.

It is also acknowledged that the applicant has revised the original proposal to significantly reduce the shortfall in car parking spaces.

With consideration to the above grounds and given the fact the site is constrained by the existing building, the shortfall in car parking is acceptable in this instance subject to conditions that ensure the provision of communal bicycle facilities and extra bicycle parking to be provided.

Planning Officers Comment – Staging of Development

Officers note the applicant has indicated that the current proposal to convert 17 holiday units to multiple dwellings is a “stage one” with the intention to convert the balance of the holiday units to multiple dwellings should no negative impacts of the local car parking situation be demonstrated.

At this stage Council Officers do not support a “Stage 2” proposal to convert further holiday accommodation units unless the shortfall in car parking can be justified. The proposed “justification” that no negative impacts of the local car parking situation of current proposal will be determined to the satisfaction of the Mayor and CEO. It is envisaged that proposed “justification” will include relevant traffic studies in relation to car parking subject to assessment by Council.

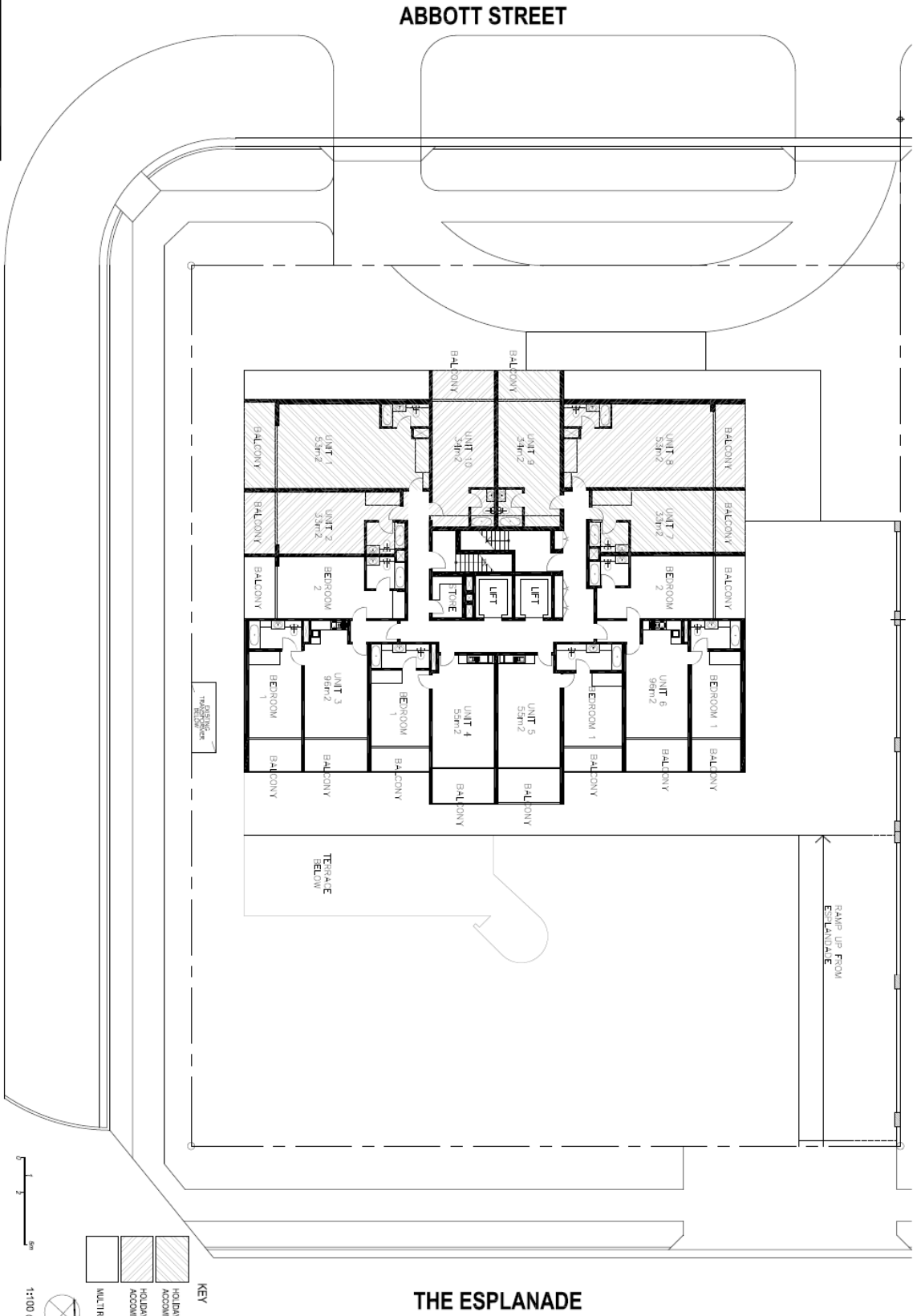
It must also be noted that this justification does not pre-empt an approval of a stage 2 in whatever form it may take. A proposed stage 2 application will undergo assessment against relevant legislative provisions applicable at the time any application is submitted.

HEADWORKS / CONTRIBUTIONS:

The proposed development triggers Developer's Headwork's Contributions. Refer to Appendix 2 to view calculations.

Gerard Rosse
Planning Officer
Action Officer

Kelly Reaston
Manager Development Assessment



ABBOTT STREET

THE ESPLANADE

ISSUED - 28 OCT 2011

REVISION : 8

PROJECT: 143 THE ESPLANADE, CAIRNS
 DRAWING NO: 101 - FLOOR PLANS
 DATE: 28 OCT 2011
 DRAWN BY: J.P. PAINSEY
 CHECKED BY: J.P. PAINSEY

MCorp Property
 ml@mlproperty.com.au

JNP Painsay & Prowse
 plans@jnpawseyprose.com

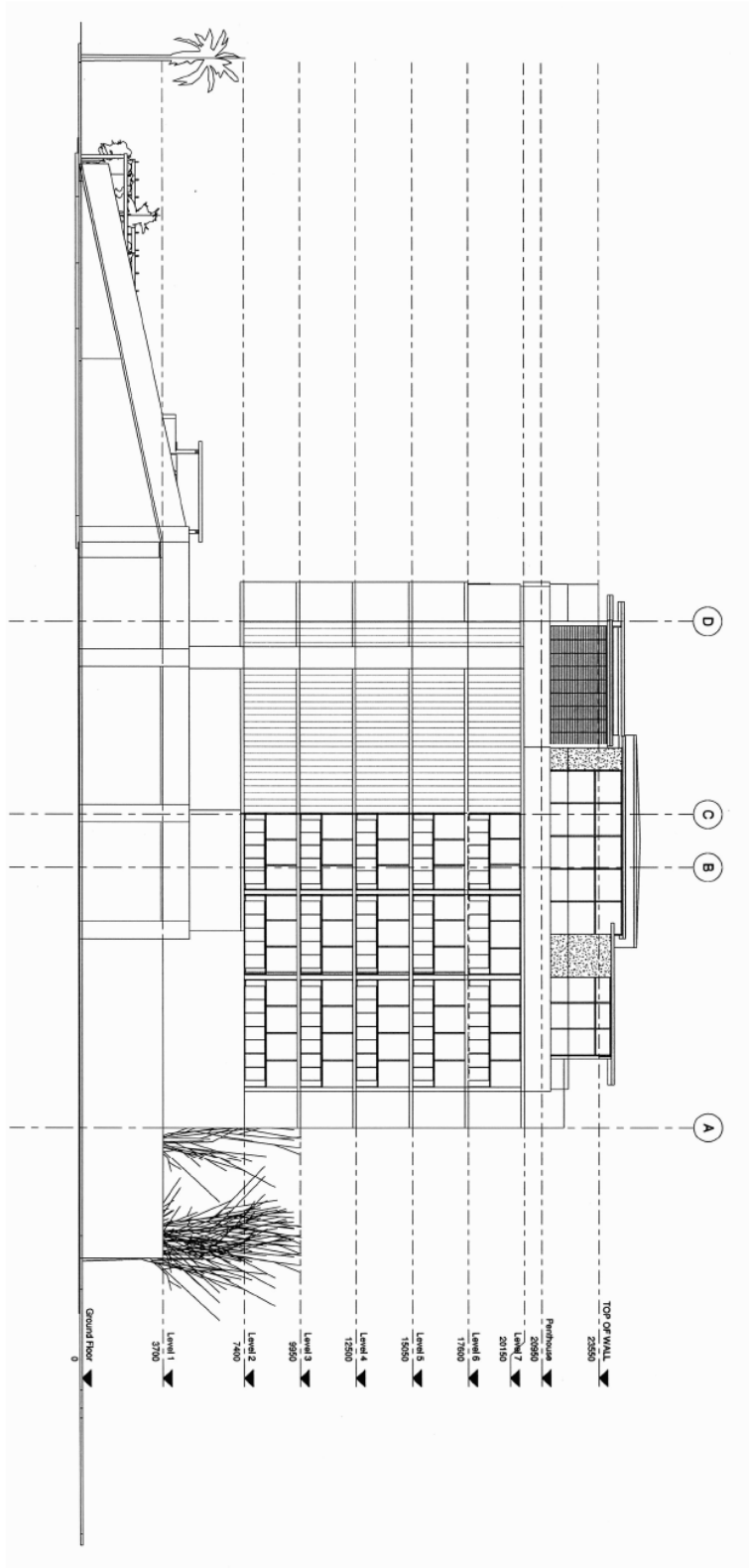


1:100 @ A1

KEY

| | |
|--|-----------------------|
| | HOLIDAY ACCOMMODATION |
| | HOLIDAY ACCOMMODATION |
| | MULTI RESIDENTIAL |

CAIRNS PLAZA
 143 THE ESPLANADE, CAIRNS
 LP-M3.0 B REV B LEVEL 3 TO 6
 2 x 2 Bedroom / 1 Half / 2 x 1 Bedroom / 6 x Studio Apartment
 (Note: 88 units 50/11 for holiday accommodation only)



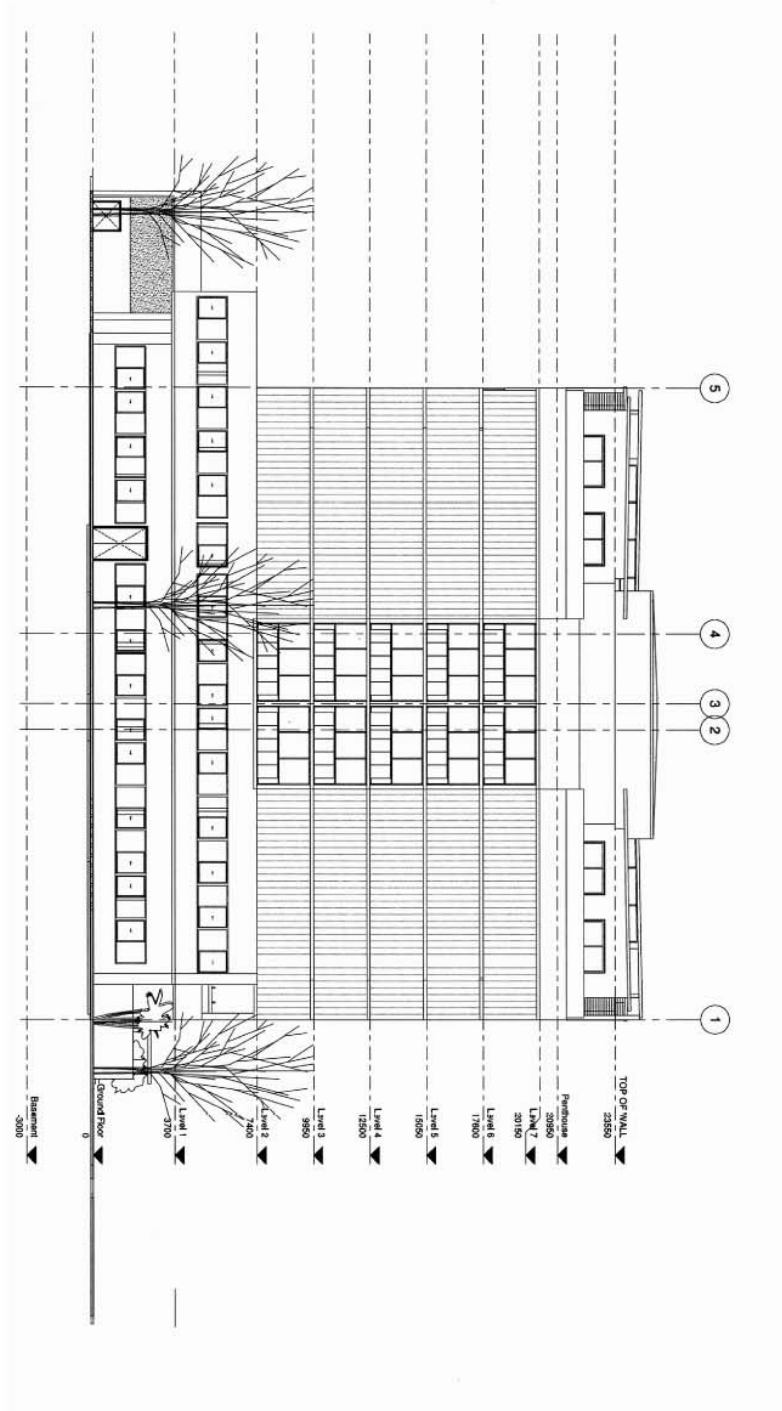
ISSUED - 13 JUL 2011

Prepared by: JNP & P
 Checked by: JNP & P
 Drawn by: JNP & P
 Date: 13 JUL 2011
 Scale: 1:100 @ A1

MCorp Property
 ml@corpproperty.com.au

JNP Pawsey & Prowse
 plans@jnpawseyprose.com

CAIRNS PLAZA
 143 THE ESPYLADE, CAIRNS
 LP-M5.0 NORTH EAST ELEVATION
 1:100 @ A1



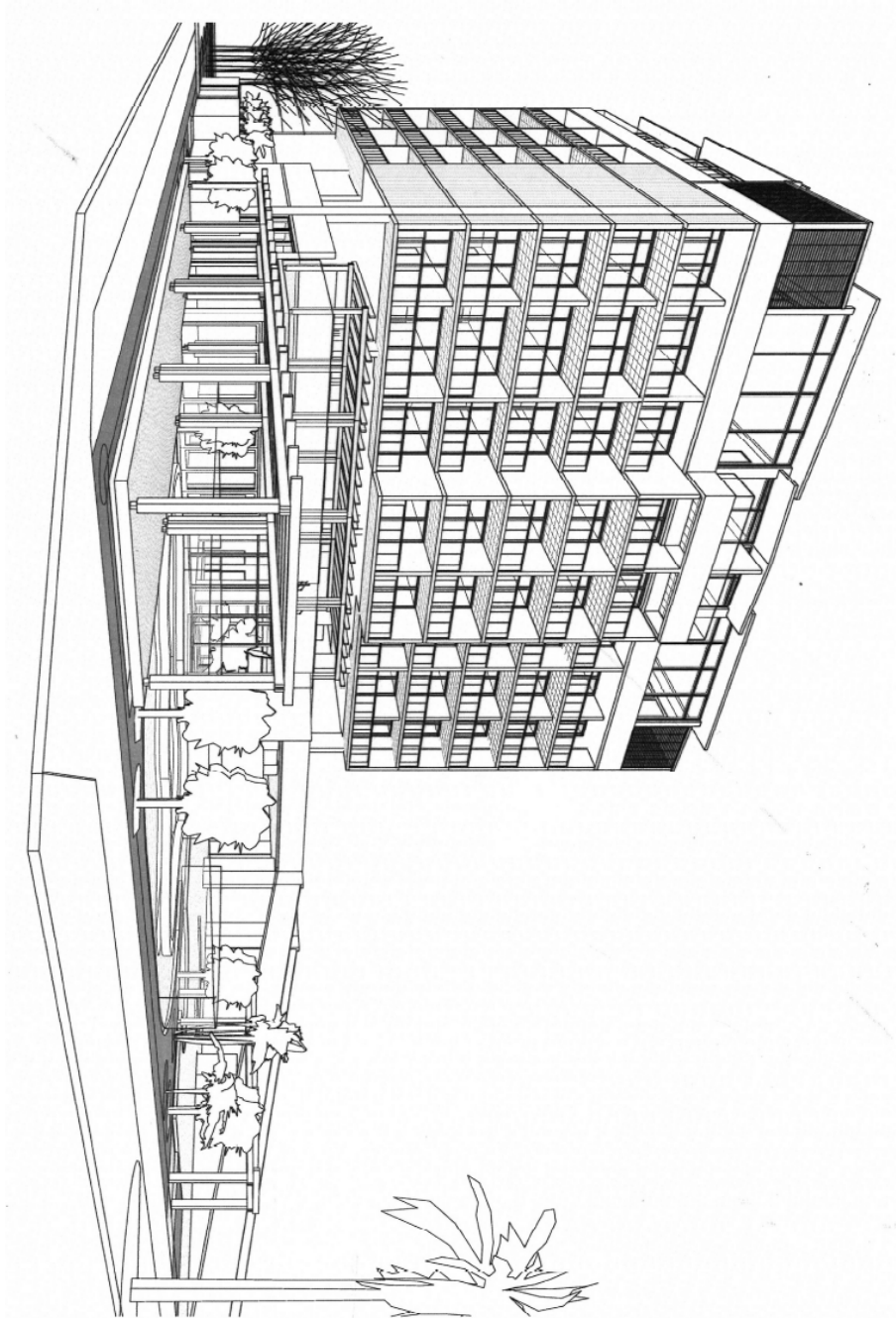
ISSUED - 13 JUL 2011

PROJ: 143 THE ESPYLADE, CAIRNS
 DRAWN BY: JNP
 CHECKED BY: JNP
 DATE: 13 JUL 2011

JNP Property
 ml@jnp-property.com.au

JNP Pawsey & Prowse
 plans@pawseyprose.com

CAIRNS PLAZA
 143 THE ESPYLADE, CAIRNS
 LP-M6.0 NORTH WEST ELEVATION
 1:100 @ A1



ISSUED - 13 JUL 2011

PREPARED FOR: QUILTER INVESTMENTS PTY LTD
4/3 THE ESPLANADE, CAIRNS
4000
SCALE: 1:1000 - PLAN & SECTION

MLCorp Property
m@mlcorp.com.au


JNP Pawsey & Prowse
plans@jnpawsey.com.au

LP-M9.0 PERSPECTIVE VIEW

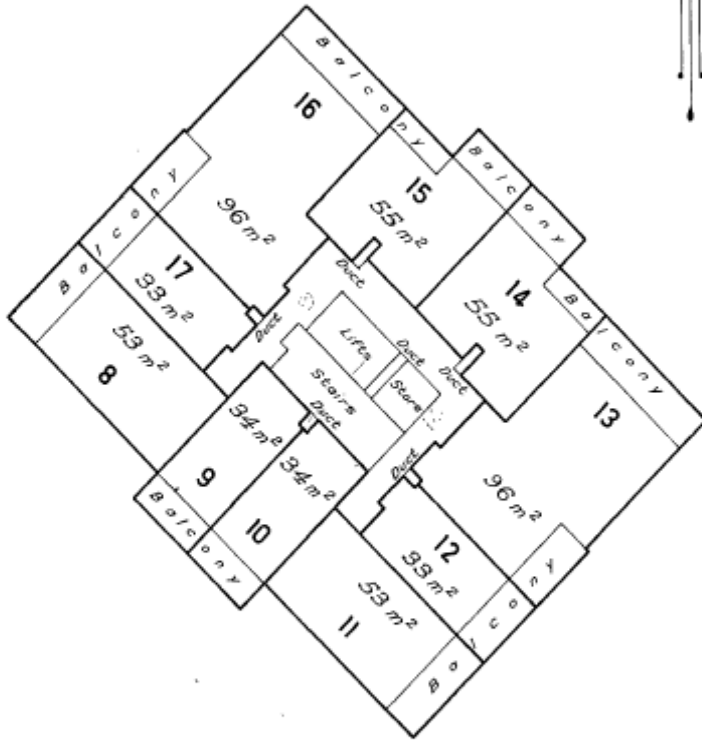
CAIRNS PLAZA
4/3 THE ESPLANADE, CAIRNS

Building Units and Group Titles Act 1980
BUILDING UNITS AND GROUP TITLES REGULATIONS 1980
(Form 9)

Regulation 8(1)(b)(vii)
Sheet No. 10 of 14 sheets.

BUILDING UNITS PLAN NO:  70111

LEVEL C



Scale +1:200


Floor areas are approximate only.

Signature of Registered Proprietors:

The Common Seal of PERMANENT TRUSTEE NOMINEES (Canberra) LIMITED was hereunto affixed by authority of the Directors in the presence of.


Assistant Secretary





Town Clerk
Council of the City of Cairns

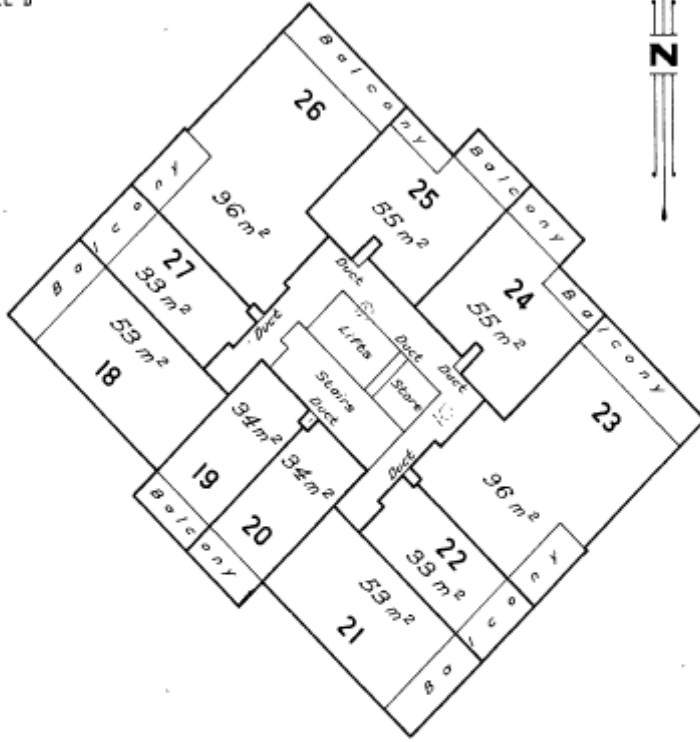
Building Units and Group Titles Act 1980
BUILDING UNITS AND GROUP TITLES REGULATIONS 1980
(Form 9)

Regulation 8(1)(b)(vii)
Sheet No. 11 of 14 sheets.

BUILDING UNITS PLAN NO: ██████ 70111

LEVEL D



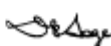



Scale=1:200

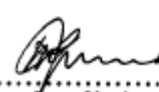
Floor areas are approximate only.

Signature of Registered Proprietors:

The Common Seal of PERMANENT TRUSTEE NOMINEES (Canberra) LIMITED was hereunto affixed by authority of the Directors in the presence of.


Assistant Secretary


DIRECTOR

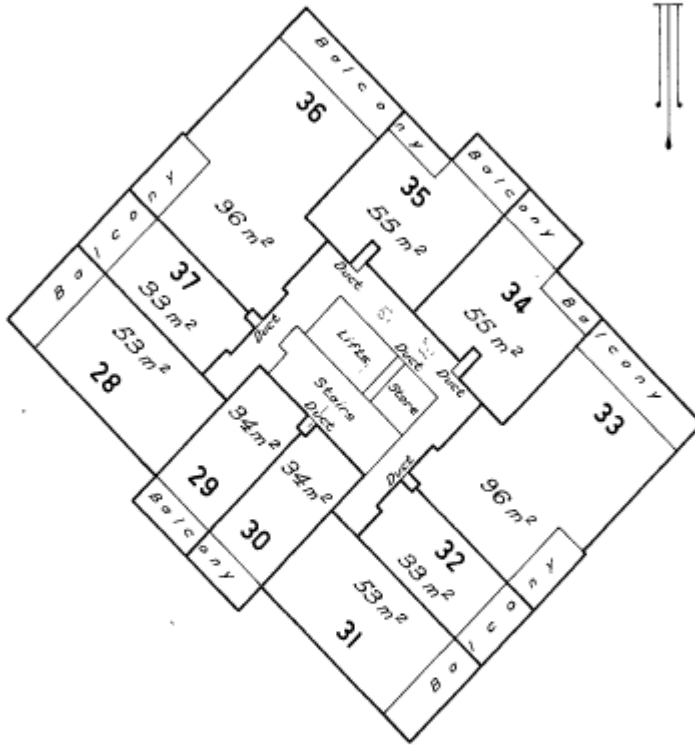

Town Clerk
Council of the City of Cairns

Building Units and Group Titles Act 1980
BUILDING UNITS AND GROUP TITLES REGULATIONS 1980
(Form 9)

Regulation 8(1)(b)(vii)
Sheet No. 12 of 14 sheets

BUILDING UNITS PLAN NO: [REDACTED] 70111

LEVEL E



Scale = 1:200


Floor areas are approximate only.

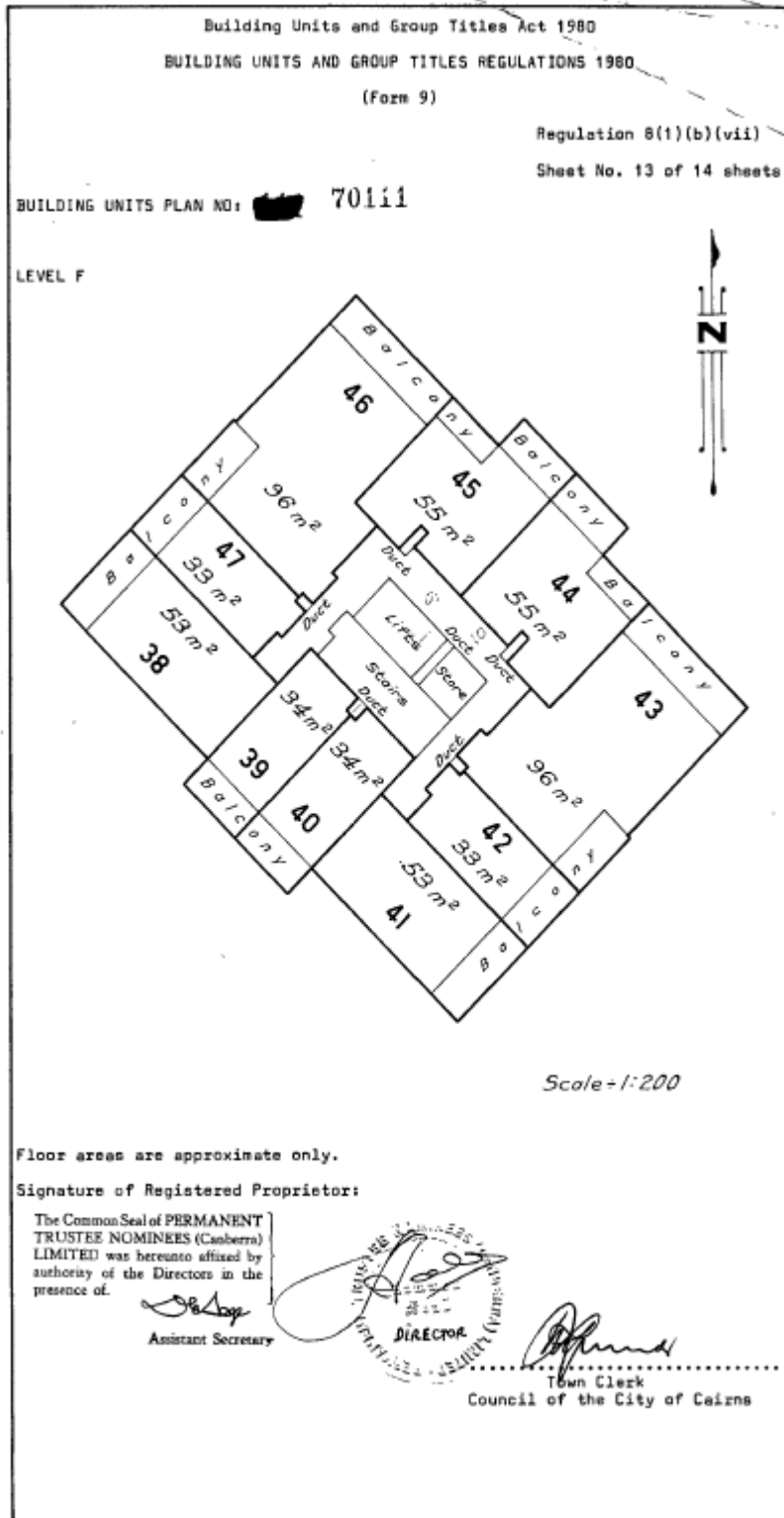
Signature of Registered Proprietor:

The Common Seal of PERMANENT TRUSTEE NOMINEES (Canberra) LIMITED was hereunto affixed by authority of the Directors in the presence of.


Assistant Secretary




Town Clerk
Council of the City of Cairns

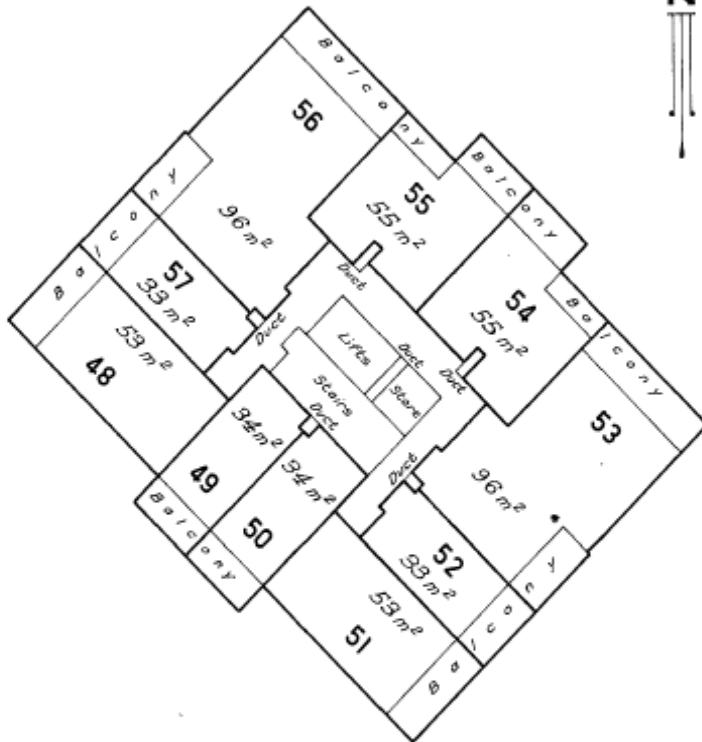


Building Units and Group Titles Act 1980
BUILDING UNITS AND GROUP TITLES REGULATIONS 1980
(Form 9)

Regulation 8(1)(b)(vii)
Sheet No. 14 of 14 sheets

BUILDING UNITS PLAN NO: [REDACTED] 70111

LEVEL G

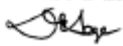


Scale 1:200


Floor areas are approximate only.

Signature of Registered Proprietor:


The Common Seal of PERMANENT TRUSTEE NOMINEES (Canberra) LIMITED was hereunto affixed by authority of the Directors in the presence of.


Assistant Secretary




.....
Town Clerk
Council of the City of Cairns

Appendix 2 – Infrastructure Charges Notice

| Infrastructure Charges Notice | | | |  | |
|---|---|------------------------------------|--------------------------------------|--|----------------------------------|
| Applicant: | MiCorp Property | File Number: | 8/7/2296 | DM5 Ref: | 3313791 |
| Address: | 143-145 ESPLANADE CAIRNS CITY 4870 | Date Issued: | | Officer: | Gerard Rosse |
| Parcel Number/s: | 54831 | Contributions Issued Under: | | Council Adopted Charges Resolution - Jun 2011 | |
| Lot & RP Number/s: | Lot 1-57 on BUP70111 | Index Used: | | CPI | 30-Jun-11 184.1 |
| Water | | Catchment: | City (W4) | Charge / EDU: | \$ 4,000.72 |
| Development Type: | Short Term / Special Res / Hospital / Institution - b per bed in a dormitory | Demand: | 17.20 EDU's | Charge: | \$68,812.34 |
| Development Type: | Multi-Unit / Holiday / Retire / Dual Occup / Caretaker - d) 1 bedroom unit | Demand: | 9.30 EDU's | Charge: | \$37,206.67 |
| Development Type: | Multi-Unit / Holiday / Retire / Dual Occup / Caretaker - c) 2 bedroom unit | Demand: | 0.50 EDU's | Charge: | \$2,000.36 |
| Development Type: | Multi-Unit / Holiday / Retire / Dual Occup / Caretaker - b) 3 bedroom unit | Demand: | 1.40 EDU's | Charge: | \$5,601.00 |
| Development Type: | Multi-Unit / Holiday / Retire / Dual Occup / Caretaker - c) 2 bedroom unit | Demand: | 4.50 EDU's | Charge: | \$18,003.23 |
| Development Type: | Multi-Unit / Holiday / Retire / Dual Occup / Caretaker - d) 1 bedroom unit | Demand: | 2.40 EDU's | Charge: | \$9,601.72 |
| Development Type: | Multi-Unit / Holiday / Retire / Dual Occup / Caretaker - e) Ancillary Kitchen, Dining, Licensed | Demand: | 3.74 EDU's | Charge: | \$14,962.68 |
| Total Existing Demand: | | 55.80 EDU's | Existing Land Use Credit \$91,216.36 | Total Charge: | \$51,416.55 |
| | | | | | Receipt Code: 635 / 05733 |
| Wastewater | | Catchment: | Northern (WW2) | Charge / EDU: | \$ 3,358.96 |
| Development Type: | Short Term / Special Res / Hospital / Institution - b per bed in a dormitory | Demand: | 17.20 | Charge: | \$57,774.12 |
| Development Type: | Multi-Unit / Holiday / Retire / Dual Occup / Caretaker - d) 1 bedroom unit | Demand: | 9.30 | Charge: | \$31,238.33 |
| Development Type: | Multi-Unit / Holiday / Retire / Dual Occup / Caretaker - c) 2 bedroom unit | Demand: | 0.60 | Charge: | \$2,015.38 |
| Development Type: | Multi-Unit / Holiday / Retire / Dual Occup / Caretaker - b) 3 bedroom unit | Demand: | 1.40 | Charge: | \$4,702.54 |
| Development Type: | Multi-Unit / Holiday / Retire / Dual Occup / Caretaker - c) 2 bedroom unit | Demand: | 5.40 | Charge: | \$18,138.39 |
| Development Type: | Multi-Unit / Holiday / Retire / Dual Occup / Caretaker - d) 1 bedroom unit | Demand: | 2.40 | Charge: | \$8,061.51 |
| Development Type: | Multi-Unit / Holiday / Retire / Dual Occup / Caretaker - e) Ancillary Kitchen, Dining, Licensed | Demand: | 3.74 | Charge: | \$12,562.51 |
| Total Existing Demand: | | 55.80 EDU's | Existing Land Use Credit \$79,943.26 | Total Charge: | \$43,112.16 |
| | | | | | Receipt Code: 636 / 05741 |
| Transport | | Catchment: | Cairns Urban (TR1) | Charge / EDU: | \$ 2,931.67 |
| Development Type: | Short Term Accommodation | Demand: | 8.60 | Charge: | \$25,212.32 |
| Development Type: | Holiday Accommodation within CBD / North Cairns Planning District - b) 1 or 2 bedrooms | Demand: | 9.30 | Charge: | \$27,264.49 |
| Development Type: | Holiday Accommodation within CBD / North Cairns Planning District - b) 1 or 2 bedrooms | Demand: | 0.30 | Charge: | \$879.50 |
| Development Type: | Holiday Accommodation within CBD / North Cairns Planning District - a) > 2 bedrooms | Demand: | 1.50 | Charge: | \$4,397.50 |
| Development Type: | Multi-Unit / Holiday / Dual Occup / Caretaker - a Units 1 bedroom | Demand: | 4.00 | Charge: | \$11,726.66 |
| Development Type: | Multi-Unit / Holiday / Dual Occup / Caretaker - a Units 2 bedroom | Demand: | 6.75 | Charge: | \$19,788.74 |
| Development Type: | Restaurant & Tavern - c) Other | Demand: | 2.83 | Charge: | \$8,295.44 |
| Total Existing Demand: | | 58.29 EDU's | Existing Land Use Credit \$70,222.77 | Total Charge: | \$21,732.77 |
| | | | | DTMR (Local Function): | \$0.00 |
| | | | | Council Infrastructure: | \$27,341.88 |
| | | | | | Receipt Code: 348 / 05764 |
| | | | | | Receipt Code: 348 / 05716 |
| Drainage | | Drainage Management Plan: | Cairns Business District | | |
| Nett Increase in Equivalent Contributing Area = | | 0 Ha | | | |
| Stream Management | Charge/Ha: | \$0.00 | Charge: | \$0.00 | Receipt Code: 358 / 5067 |
| Stormwater Quality Management | Charge/Ha: | \$4,279.96 | Charge: | \$0.00 | Receipt Code: 400 / 5143 |
| Total Charge: | | | | \$0.00 | |

| Public Parks and Community Land | | Catchment: | CBD - North Cairns (PPCL4) | Charge/EDU: | \$ | 2,663.18 |
|--|---|---|----------------------------|--------------------------------|---------------|---------------------|
| Development Type: | Multi-Unit Housing and Holiday Accommodation - d) 1 bedroom unit* | Demand: | 15.50 | Charge: | | \$41,279.35 |
| Development Type: | Multi-Unit Housing and Holiday Accommodation - c) 2 bedroom unit* | Demand: | 0.80 | Charge: | | \$2,130.55 |
| Development Type: | Multi-Unit Housing and Holiday Accommodation - b) 3 bedroom unit* | Demand: | 2.40 | Charge: | | \$8,391.64 |
| Development Type: | Multi-Unit Housing and Holiday Accommodation - d) 1 bedroom unit* | Demand: | 4.00 | Charge: | | \$10,652.73 |
| Development Type: | Multi-Unit Housing and Holiday Accommodation - c) 2 bedroom unit* | Demand: | 7.20 | Charge: | | \$19,174.92 |
| Development Type: | Short Term Accommodation - a) dormitory or communal room* | Demand: | 25.80 | Charge: | | \$68,710.14 |
| Total Proposed Charge | \$50.00 Existing Land Use Credit \$74,569.14 | | Total Charge: | \$58,484.12 | Receipt Code: | 354 / 05723 |
| Other Contributions | | | | | | |
| Contribution Type: | | Quantity: | \$ per unit | Charge | | Receipt Code |
| Public Art Contribution MCU (Multi Unit) | | 17 | \$150.00 | \$2,550.00 | | T 363 |
| | | 0 | | \$0.00 | | |
| | | 0 | | \$0.00 | | |
| | | | Total Charge: | \$1,943.58 | | |
| TOTAL CHARGES | | | | | | |
| CHECKED BY: | | Infrastructure Charges Discount Awarded | \$46,494.07 | TOTAL CHARGE: | | \$176,689.18 |
| | | | Date Payable: | MCU - Before the change occurs | | |
| Note: | | | | | | |
| The infrastructure charges in this notice are levied in accordance with Section 629 of the Sustainable Planning Act 2009 | | | | | | |
| Charge rates are subject to index adjustments. The total charge amount indicated on this notice is current at the date of issue, the total charge due at the date of payment may change. Please contact the Development Assessment Team, Cairns Regional Council prior to payment for review | | | | | | |
| Charges are payable to: Cairns Regional Council. You can make payment at any of Council's Business Offices or by mail with your cheque or money order to Cairns Regional Council, PO Box 359, Cairns QLD 4870. Cheques must be made payable to Cairns Regional Council and marked 'Not Negotiable.' Acceptance of a cheque is subject to collection of the proceeds. Post dated cheques will not be accepted | | | | | | |
| Please contact the Development Assessment Team on 07 4044 3044 or by email townplanner@cairns.qld.gov if you have any enquiries regarding infrastructure charging. | | | | | | |