

**DELEGATED REPORT**

**SUBJECT:** ZARBEAU PTY LTD - MATERIAL CHANGE OF USE - DUAL OCCUPANCY - LOT 23 ON M356231 - 46 RAINS STREET, MAREEBA - MCU/21/0024

**DATE:** 12 January 2022

**REPORT OFFICER'S TITLE:** Senior Planner

**DEPARTMENT:** Corporate and Community Services

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**APPLICATION DETAILS**

| APPLICATION                 |   | PREMISES       |                          |
|-----------------------------|---|----------------|--------------------------|
| <b>APPLICANT</b>            | Zarbeau Pty Ltd                         | <b>ADDRESS</b> | 46 Rains Street, Mareeba |
| <b>DATE LODGED</b>          | 14 December 2021                        | <b>RPD</b>     | Lot 23 on M356231        |
| <b>TYPE OF APPROVAL</b>     | Development Permit                      |                |                          |
| <b>PROPOSED DEVELOPMENT</b> | Material Change of Use - Dual Occupancy |                |                          |

|                            |  |              |                 |
|----------------------------|--|--------------|-----------------|
| <b>FILE NO</b>             | MCU/21/0024                                | <b>AREA</b>  | 791m2           |
| <b>LODGED BY</b>           | Neil Beck                                  | <b>OWNER</b> | Zarbeau Pty Ltd |
| <b>PLANNING SCHEME</b>     | Mareeba Shire Council Planning Scheme 2016 |              |                 |
| <b>ZONE</b>                | Low Density Residential zone               |              |                 |
| <b>LEVEL OF ASSESSMENT</b> | Code Assessment                            |              |                 |
| <b>SUBMISSIONS</b>         | n/a  |              |                 |

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**ATTACHMENTS:** 1. Proposal Plan/s

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**EXECUTIVE SUMMARY**

Council is in receipt of a development application described in the above application details.

The application is code assessable and was not required to undergo public notification.

It has been assessed against the relevant statutory planning instruments, including the Regional Plan and the Planning Scheme and does not conflict with any relevant planning instrument.

Draft conditions were provided to the Applicant/ care of their consultant and have been agreed.

It is recommended that the application be approved in full with conditions.

**OFFICER'S RECOMMENDATION**

1. That in relation to the following development application:

|                             |   |                 |                             |
|-----------------------------|---|-----------------|-----------------------------|
| <b>APPLICATION</b>          |   | <b>PREMISES</b> |                             |
| <b>APPLICANT</b>            | Zarbeau Pty Ltd                         | <b>ADDRESS</b>  | 46 Rains Street,<br>Mareeba |
| <b>DATE LODGED</b>          | 14 December 2021                        | <b>RPD</b>      | Lot 23 on M356231           |
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| <b>PROPOSED DEVELOPMENT</b> | Material Change of Use - Dual Occupancy |                 |                             |

and in accordance with the Planning Act 2016, the applicant be notified that the application for a development permit for the development specified in (A) is:

Approved by Council in accordance with the approved plans/documents listed in (B), subject to assessment manager conditions in (C), assessment manager's advice in (D), relevant period in (E), further permits in (F), and further approvals from Council listed in (G);

And

The assessment manager does not consider that the assessment manager's decision conflicts with a relevant instrument.

(A) APPROVED DEVELOPMENT: Development Permit for Material Change of Use - Dual Occupancy

(B) APPROVED PLANS:

| Plan/Document Number | Plan/Document Title | Prepared by           | Dated      |
|----------------------|---------------------|-----------------------|------------|
| 21105 A00 Issue 6    | Site Plan No 62     | Bau Design Architects | 30/11/2021 |
| 21105 A10 Issue 6    | Floor Plan No 62    | Bau Design Architects | 30/11/2021 |
| 21105 A20 Issue 6    | Roof Plan No 62     | Bau Design Architects | 30/11/2021 |
| 21105 A40 Issue 6    | Elevations No 62    | Bau Design Architects | 30/11/2021 |

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out generally in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:

- found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
- to ensure compliance with the following conditions of approval.

2. Timing of Effect

- 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.
- 2.2 Prior to the commencement of use, the applicant must notify Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.

### 3. General

- 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure.
- 3.2 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
- 3.3 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to commencement of the use and at the rate applicable at the time of payment.
- 3.4 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.

#### 3.5 Noise Nuisance

Refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations.

The applicant is required to install and maintain suitable screening to all air conditioning, lift motor rooms, plant and service facilities located at the top of or on the external face of the building. The screening structures must be constructed from materials that are consistent with materials used elsewhere on the facade of the building. There are to be no individual external unscreened air conditioning units attached to the exterior building facade.

#### 3.6 Waste Management

On site refuse storage area must be provided and be screened from view from adjoining properties and road reserve by 1 metre wide landscaped screening buffer, 1.8m high solid fence or building.

#### 3.7 Letterbox

Each unit is to be provided with an individual letter box.

#### 3.8 Clothes Drying area

Sufficient area for clothes drying is to be provided in addition to the open space requirements of the units and is to be appropriately screened from view of adjoining properties and the street.

#### 4. Infrastructure Services and Standards

##### 4.1 Access

An access crossover must be constructed for each dwelling (from the edge of the road pavement to the property boundary of the subject lot) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

The applicant/developer is to make an application for driveway access onto a Council road. The application is to be accompanied by the relevant fee and will be required to certify or be assessed for compliance by Council's delegated officer.

##### 4.2 Stormwater Drainage/Water Quality

(a) The applicant/developer must take all necessary steps to ensure a non-worsening affect on surrounding land as a consequence of the development.

(b) All stormwater drainage must be discharged to an approved legal point of discharge.

##### 4.3 Car Parking/Internal Driveways

The applicant/developer must ensure the development is provided with three (3) on-site car parking spaces including one (1) visitor parking space, which are available solely for the parking of vehicles associated with the use of the premises. All car parking spaces and internal driveways must be concrete, bitumen or asphalt sealed and appropriately drained prior to the commencement of the use and to the satisfaction of Council's delegated officer.

All car parking spaces and internal driveways must be constructed in compliance with the following standards, to the satisfaction of Council's delegated officer:

- Australian Standard AS2890:1 Off Street Parking – Car Parking Facilities;
- Australian Standard AS1428:2001 – Design for Access and Mobility.

##### 4.4 Landscaping & Fencing

4.4.1 Prior to the commencement of the use of the site, a landscape plan must be prepared and submitted to Council's delegated officer for consideration and approval.

The landscape plan must include landscaping generally in accordance with Drawing 21105 A10 Floor Plan No 62, and use plant species selected from the Plant Schedule in Planning Scheme Policy 6 - Landscaping and preferred plant species.

The landscaping of the site must be carried out in accordance with the endorsed landscape plan prior to the commencement of the use, and mulched, irrigated and maintained to the satisfaction of Council's delegated officer.

- 4.4.2 (i) Prior to the commencement of the use, a solid 1.8 metre high timber paling (no gaps) or 1.8 metre high colorbond fence (neutral colour) is to be erected along the full extent of all side and rear boundaries.
- (ii) Prior to the commencement of the use, solid 1.8 metre high timber or 1.8 metre high colorbond fencing of neutral colour is to be erected between each dwelling unit, separating areas of private open space.
- (iii) The abovementioned fencing is to be erected and maintained in good order for the life of the development, to the satisfaction of Council's delegated officer.

#### 4.5 Lighting

Where outdoor lighting is required the developer shall locate, design and install lighting to operate from dusk to dawn within all areas where the public will be given access, which prevents the potential for light spillage to cause nuisance to neighbours and must be provided in accordance with Australian Standard 1158.1 – Lighting for Roads and Public Spaces.

Illumination resulting from direct, reflected or other incidental light emanating from the subject land does not exceed 8 lux when measured at any point 1.5m outside the property boundary of the subject site. The lighting fixtures installed on site must meet appropriate lux levels as documented within Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

#### 4.6 Water Supply

Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity, the developer is required to extend or upgrade the reticulated water supply infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

If a new or upgraded water service connection is required to service the development, it must be provided in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Each dwelling unit is required to be **separately metered**.

#### 4.7 Sewerage Connection

The developer must connect the proposed development to Council's reticulated sewerage system in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Where sewerage connections are not available to the site, or where existing connections are not satisfactory for the proposed development, the developer is required to extend or upgrade the reticulated sewerage infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

(D) ASSESSMENT MANAGER'S ADVICE

- (a) A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.

- (b) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

- (c) Compliance with Acts and Regulations

The erection and use of the building must comply with the Building Act and all other relevant Acts, Regulations and Laws, and these approval conditions.

- (d) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from [www.environment.gov.au](http://www.environment.gov.au).

- (e) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from [www.datsip.qld.gov.au](http://www.datsip.qld.gov.au).

(E) RELEVANT PERIOD

When approval lapses if development not started (s.85)

- Material Change of Use – six (6) years (starting the day the approval takes effect);

(F) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

- Development Permit for Building Work

(G) OTHER APPROVALS REQUIRED FROM COUNCIL

- Compliance Permit for Plumbing and Drainage Work
- Access approval arising from condition number 4.1

## THE SITE

The subject site is located on the corner of Rains Street and James Street, Mareeba, with the allocated property address of 46 Rains Street, Mareeba.

The site is described as Lot 23 on M356231, being regular in shape and having an area of 751 square metres. The site has frontages of approximately 40 metres to Rains Street and 20 metres to James Street. Both roads are bitumen sealed, with kerb and channel for the full frontage of the subject land.

The site remains unimproved and is cleared and grassed. Being an urban allotment, connections to all urban services are achievable. The local area is generally zoned Low Density Residential with most allotments improved with a single dwelling house.



### Map Disclaimer:

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## BACKGROUND AND CONTEXT

Nil

## PREVIOUS APPLICATIONS & APPROVALS

Nil

## DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use - Dual Occupancy in accordance with the plans shown in **Attachment 1**.

The proposed dual occupancy (duplex) consists of 2 x 3 bedroom units separated by an internal party wall. Each unit will have a gross floor area of approximately 120m<sup>2</sup>, excluding the area of the garage and patio.

Each unit will incorporate an enclosed double garage and patio in excess of 25m<sup>2</sup> in area.

Both units will be accessed via new separate driveways off Rains Street. Visitor parking is provided for on each driveway.

Each unit will be provided with an area of private open space in excess of 100m<sup>2</sup> which will be privatised with internal and boundary fencing.

The development will be connected to all urban services.



## REGIONAL PLAN DESIGNATION

The subject site is included within the Urban Footprint land use category in the Far North Queensland Regional Plan 2009-2031. Mareeba is identified as a Major Regional Activity Centre in the Regional Plan. The Regional Plan Map 3- 'Areas of Ecological Significance' does not identify the site as being of any significance.

## PLANNING SCHEME DESIGNATIONS

|                      |   |
|----------------------|---|
| Strategic Framework: | <b>Land Use Category</b> <ul style="list-style-type: none"> <li>Residential Area</li> </ul> <b>Transport Elements</b> <ul style="list-style-type: none"> <li>Principal Cycle Network</li> </ul> |
| Zone:                | Low Density Residential zone  |
| Overlays:            | Airport Environs Overlay<br>Bushfire Hazard Overlay   |

## Planning Scheme Definitions

The proposed use is defined as:-

| <b>Column 1<br/>Use</b> | <b>Column 2<br/>Definition</b>  | <b>Column 3<br/>Examples include</b>   | <b>Column 4<br/>Does not include the<br/>following examples</b> |
|-------------------------|---|--|---|
| Dual occupancy          | Premises containing two dwellings, each for a separate household, and consisting of: <ul style="list-style-type: none"> <li>a single lot, where neither dwelling is a secondary dwelling or</li> <li>two lots sharing common property where one dwelling is located on each lot.</li> </ul> | Duplex, two dwellings on a single lot (whether or not attached), two dwellings within one single community title scheme under the <i>Body Corporate and Community Management Act 1997</i> , two dwellings within the one body corporate to which the <i>Building Units and Group Title Act 1980</i> continues to apply | Dwelling house, multiple dwelling                               |

## RELEVANT PLANNING INSTRUMENTS

Assessment of the proposed development against the relevant planning instruments is summarised as follows:-

### (a) Far North Queensland Regional Plan 2009-2031

Separate assessment against the Regional Plan is not required because the Mareeba Shire Council Planning Scheme appropriately advances the Far North Queensland Regional Plan 2009-2031, as it applies to the planning scheme area.

**(b) State Planning Policy**

Separate assessment against the State Planning Policy (SPP) is not required because the Mareeba Shire Council Planning Scheme appropriately integrates all relevant aspects of the SPP.

**(c) Mareeba Shire Council Planning Scheme 2016****Relevant Development Codes**

The following Development Codes are considered to be applicable to the assessment of the application:

- 6.2.6 Low density residential zone code
- 8.2.2 Airport environs overlay code
- 8.2.3 Bushfire hazard overlay code
- 9.3.1 Accommodation activities code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.5 Works, services and infrastructure code

The application included a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable outcomes (or performance outcome where no acceptable outcome applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

| Relevant Codes                    | Comments  |
|-----------------------------------|---|
| Low density residential zone code | <p>The application complies with applicable acceptable/probable solutions/performance criteria apart from the following:</p> <ul style="list-style-type: none"> <li>▪ AO3.1</li> <li>▪ AO3.2</li> <li>▪ AO4</li> </ul> <p>Refer to planning discussion section of report.</p> |
| Airport environs overlay code     | <p>The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).</p>   |
| Bushfire hazard overlay code      | <p>The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).</p>   |
| Accommodation activities code     | <p>The application complies with applicable acceptable/probable solutions/performance criteria apart from the following:</p> <ul style="list-style-type: none"> <li>▪ AO1</li> <li>▪ AO7.1</li> </ul> <p>Refer to planning discussion section of report.</p>                  |
| Landscaping code                  | <p>The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).</p>   |
| Parking and access code           | <p>The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).</p>   |

|   |  |
|---|--|
| Works, services and infrastructure code | The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided). |
|---|--|

### (e) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

All development works will be conditioned to be designed and constructed in accordance with the FNQROC Development Manual.

### (f) Adopted Infrastructure Charges Notice

The subject land is in the Low Density Residential zone and dual occupancy is accepted development on land with an area of 1,000m<sup>2</sup> or greater.

The planning scheme's accepted density for dual occupancy is one unit per 400m<sup>2</sup> of site area.

The subject land has an area of 791m<sup>2</sup>, which is equivalent to an 800m<sup>2</sup> lot minus the 9m<sup>2</sup> corner truncation.

As the density of the proposed development is substantially consistent with PO4 of the Low Density Residential Zone code, it is not proposed to apply additional infrastructure charges.

## REFERRALS

This application did not trigger referral to a Referral Agency.

## Internal Consultation

Not applicable.

## PLANNING DISCUSSION

Compliance with the relevant acceptable outcomes/performance outcomes of the following development codes is discussed below. Where the development cannot comply with an acceptable outcome, it is considered compliance with the higher order performance outcome can be achieved.

### Low density residential code

#### **PO3**

*Development is sited in a manner that considers and respects:*

- (a) *the siting and use of adjoining premises;*
- (b) *access to sunlight and daylight for the site and adjoining sites;*
- (c) *privacy and overlooking;*
- (d) *opportunities for casual surveillance of adjoining public spaces;*
- (e) *air circulation and access to natural breezes; and*
- (f) *appearance of building bulk; and*
- (g) *relationship with road corridors.*

#### **AO3.1**

*Buildings and structures include a minimum setback of:*

- (a) 6 metres from the primary road frontage; and*
- (b) 3 metres from any secondary road frontage.*

#### Comment

The proposed development will achieve a setback of at least 6 metres to the wall fronting Rains Street.

The roof/eaves of the garages will be setback 5.7 metres from Rains Street.

Notwithstanding the 300mm lesser setback for the garages, the overall development achieves the outcome under PO3.

The proposed developments setback to James Street complies.

The development complies with PO3.

#### **AO3.2**

*Buildings and structures include a minimum setback of 2 metres from side and rear boundaries.*

#### Comment

The proposed development does not comply with AO3.2.

Notwithstanding, the proposed development is consistent with the side setbacks (and rear setback) requirements for a dwelling under the QDC.

The proposed development is considered to satisfy the requirements of PO3.

#### **PO4**

*The density of Accommodation activities:*

- (a) contributes to housing choice and affordability;*
- (b) respects the nature and density of surrounding land use;*
- (c) does not cause amenity impacts beyond the reasonable expectation of accommodation density for the zone; and*
- (d) is commensurate to the scale and frontage of the site.*

#### **AO4**

*Development provides a maximum density for Accommodation activities in compliance with **Table 6.2.6.3B**.*

#### Comment

The proposed development has minor noncompliance with the stated requirement of 1 dwelling per 400m<sup>2</sup>.

The subject land is 9m<sup>2</sup> short of 800m<sup>2</sup> due to the corner truncation.

Notwithstanding the slightly smaller area, the proposed development still satisfies PO4

#### Accommodation activities code

#### **PO1**

*Accommodation activities are located on a site that includes sufficient area:*

- (a) *to accommodate all buildings, structures, open space and infrastructure associated with the use; and*
- (b) *to avoid adverse impacts on the amenity or privacy of nearby land uses.*

**AO1**

*Development is located on a site which provides the applicable minimum site area and minimum road frontage specified in **Table 9.3.1.3B**.*

Comment

The proposed development fails to comply with AO1 and the level of assessment is therefore increased to Code.

The plans of the proposed development demonstrate that the land has sufficient area to accommodate the development. Screen fencing will ensure that there are no adverse impacts on amenity or privacy.

The development complies with PO1.

**PO7**

*Where establishing a Dual occupancy on a corner lot, the building is designed to:*

- (a) *maximise opportunities for causal surveillance;*
- (b) *provide for separation between the two dwellings; and*
- (c) *provide activity and visual interest on both frontages.*

**AO7.1**

*Where located on a corner allotment, each dwelling is accessed from a different road frontage.*

Comment

The proposed development does not comply with AO7.1. The design of the proposed development will achieve PO7.

**Date Prepared:** 12 January 2022

## DECISION BY DELEGATE

## DECISION

Having considered the Senior Planner's report detailed above, I approve, as a delegate of Council, the application subject to the conditions listed in the report.

Dated the 12<sup>TH</sup> day of JANUARY 2022



**BRIAN MILLARD**  
**SENIOR PLANNER**

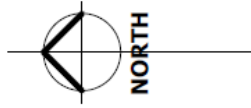
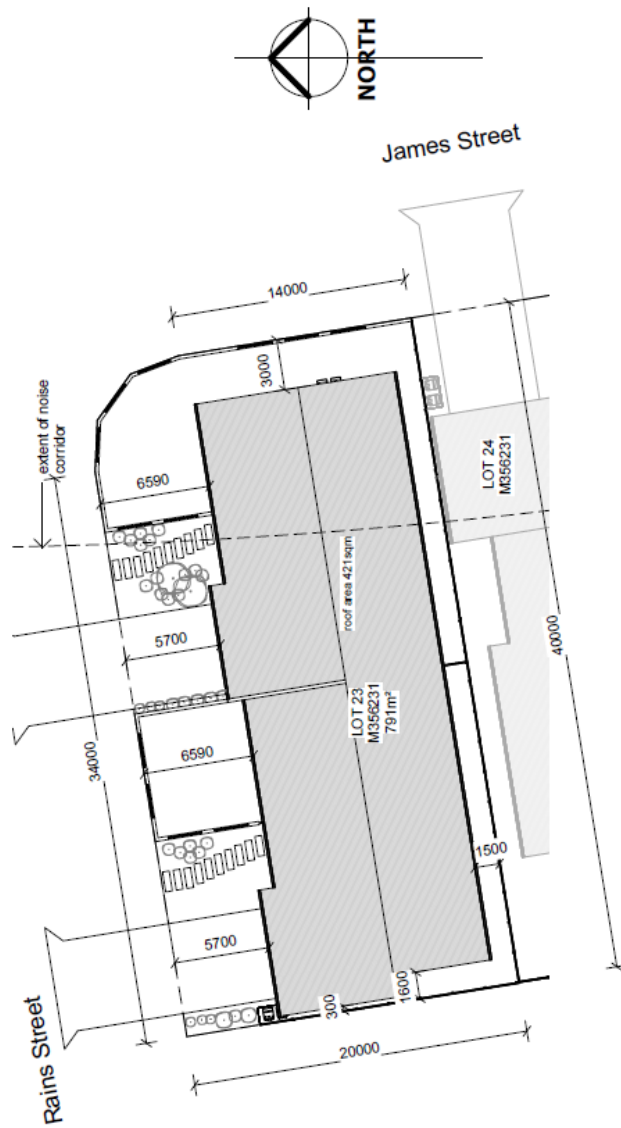


**ANTHONY ARCHIE**  
**MANAGER DEVELOPMENT & GOVERNANCE**

MAREEBA SHIRE  
AS A DELEGATE OF THE COUNCIL

PROPOSAL PLANS

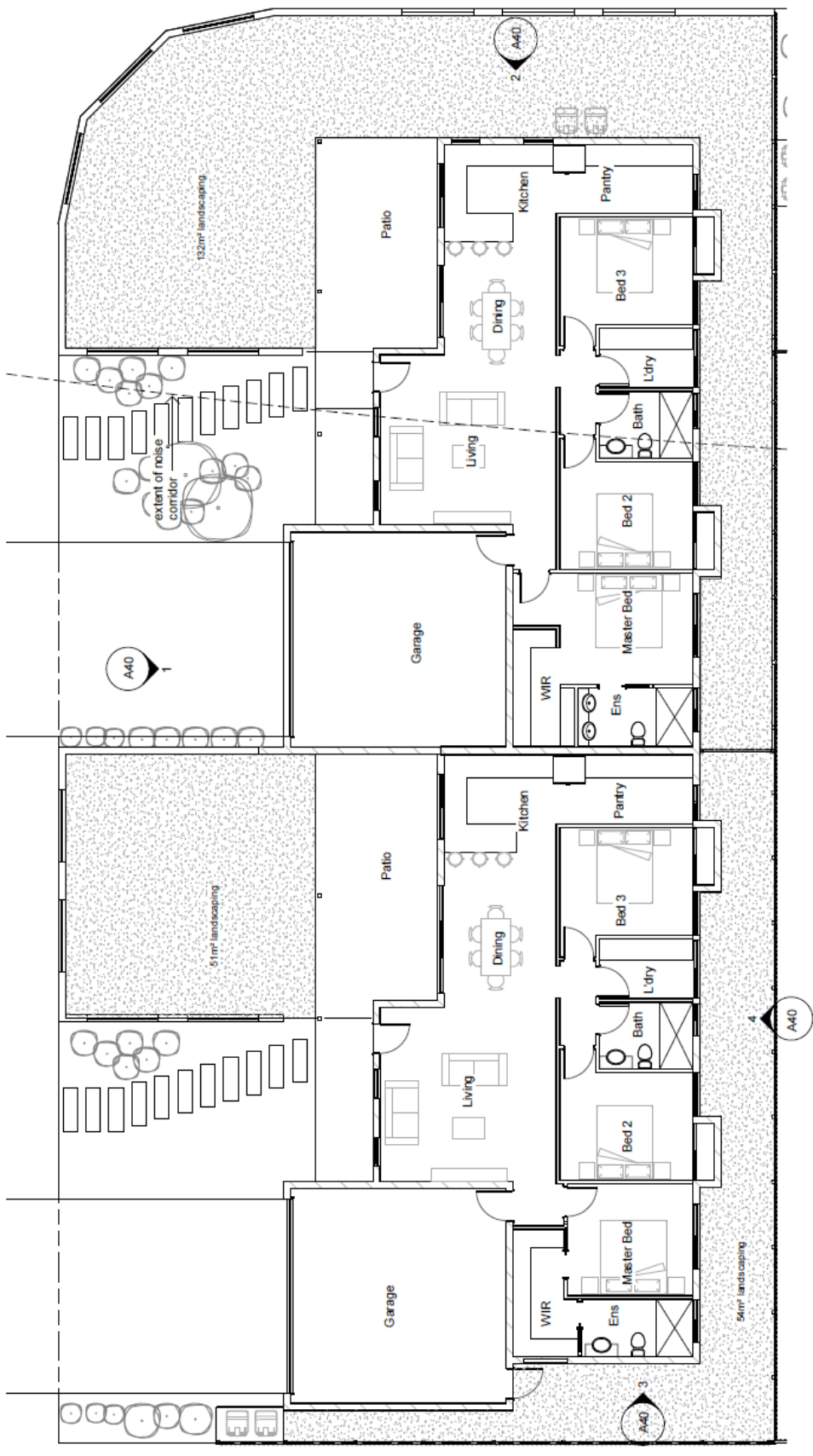
Proposed Duplex at 62  
James Street, Mareeba



| Sheet Number | Sheet Name      | Issue |
|--------------|-----------------|-------|
| A00          | Site Plan No 62 | 6     |
| A10          | Roof Plan No 62 | 6     |
| A20          | Roof Plan No 62 | 6     |
| A30          | Site Plan No 62 | 6     |

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A00 Site Plan No 62 1 : 250  
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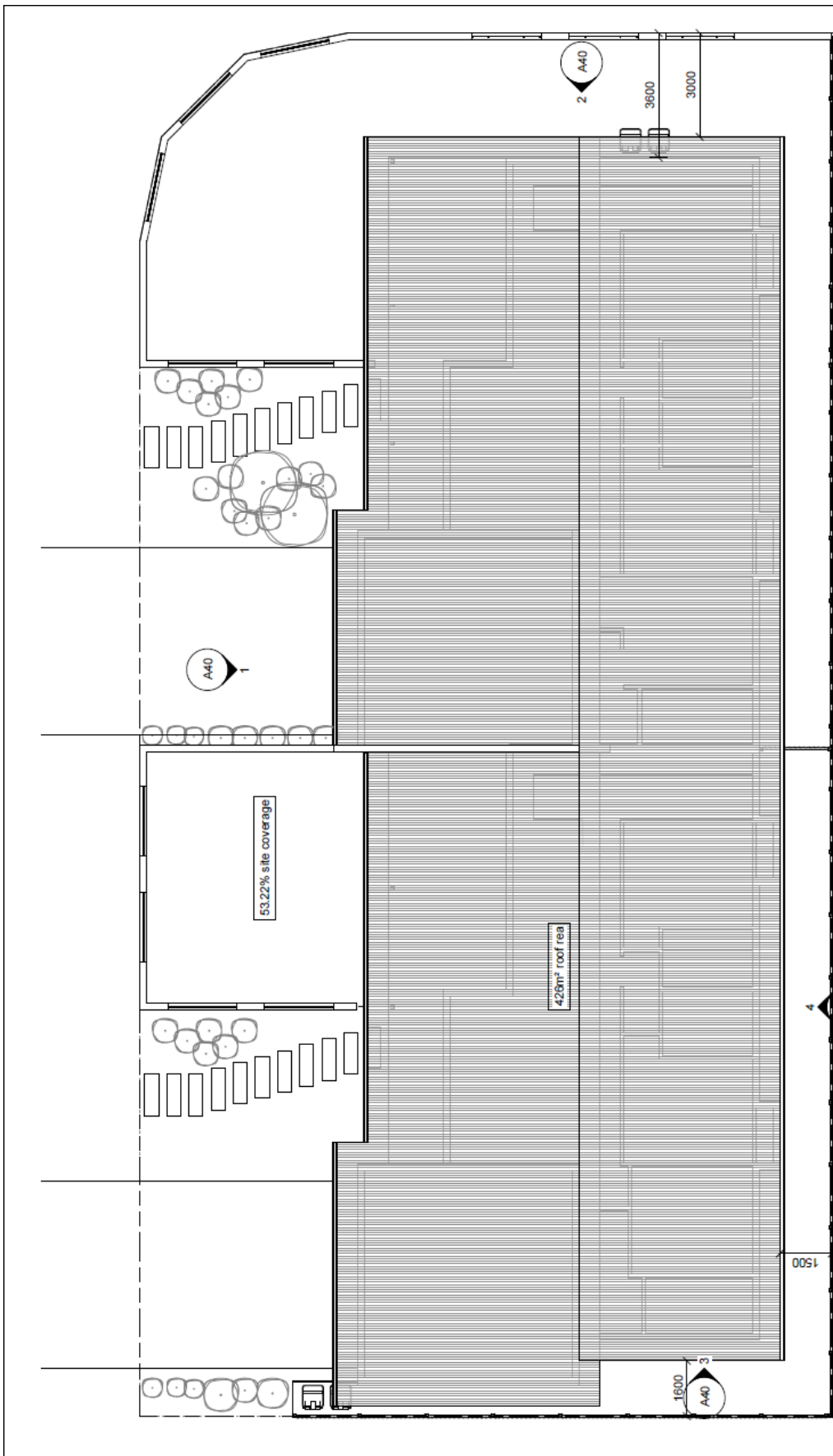
A10 Floor Plan No 62

21105

30/11/2021 Issue 6

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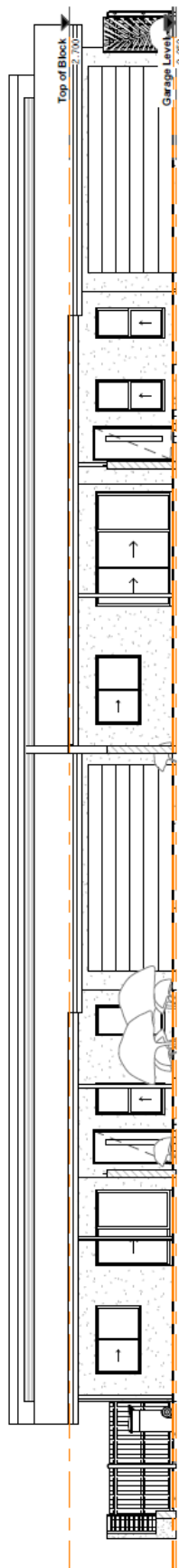




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A20 Roof Plan No 62  
21105 30/11/2021 Issue 6  
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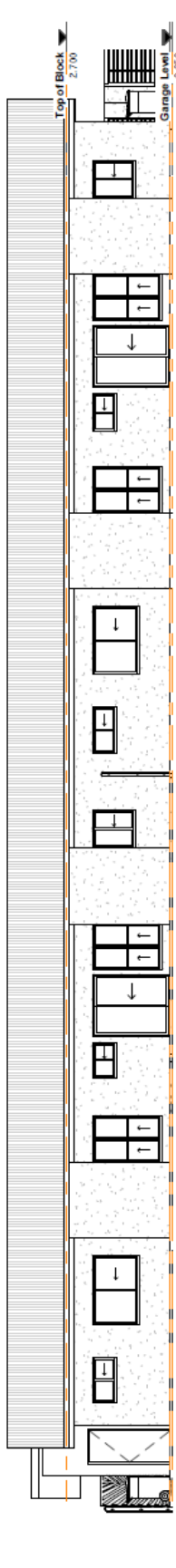


1 Elevation No 62 Rains Street  
A10 1:100 @ A3



2 Elevation No 62 James Street  
A10 1:100 @ A3

3 Elevation No 62 Side  
A10 1:100 @ A3



4 Elevation No 62 Back  
A10 1:100 @ A3

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New Duplex at  
62 & 64 James Street, Mareeba

A40 Elevations No 62  
1:100

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