

DELEGATED REPORT

SUBJECT: ZARBEAU PTY LTD - MATERIAL CHANGE OF USE - DUAL OCCUPANCY - LOT 24 ON M356231 - 64 JAMES STREET, MAREEBA - MCU/21/0025

DATE: 12 January 2022

REPORT OFFICER'S TITLE: Senior Planner

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	Zarbeau Pty Ltd	ADDRESS	64 James Street, Mareeba
DATE LODGED	14 December 2021	RPD	Lot 24 on M356231
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Dual Occupancy		

FILE NO	MCU/21/0025	AREA	800m2
LODGED BY	Neil Beck	OWNER	Zarbeau Pty Ltd
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Low Density Residential zone		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	n/a		

ATTACHMENTS: 1. Proposal Plan/s

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:

APPLICATION		PREMISES	
APPLICANT	Zarbeau Pty Ltd	ADDRESS	64 James Street, Mareeba
DATE LODGED	14 December 2021	RPD	Lot 24 on M356231
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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 A100 Issue 6	Site Plan No 64	Bau Design Architects	30/11/2021
21105 A110 Issue 6	Floor Plan No 64	Bau Design Architects	30/11/2021
21105 A120 Issue 6	Roof Plan No 64	Bau Design Architects	30/11/2021
21105 A140 Issue 6	Site Plan No 64	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 A110 Floor Plan No 64, 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.

- (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.

(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 land is described as Lot 24 on M356231, situated at 64 James Street, Mareeba.

The land has a regular shape with an area of 800 square metres and a frontage of approximately 20 metres to James Street. James Street is bitumen sealed with kerb on the development side.

The site remains unimproved and is cleared and grassed. Being an urban allotment, connections to all urban services are achievable. All surrounding allotments are also zoned Low Density Residential and are used for residential uses.



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 128m², excluding the area of the garage and patio.

Each unit will incorporate an enclosed double garage and patio in excess of 17m² in area.

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

Each unit will be provided with an area of private open space in excess of 130m² 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:	Land Use Category <ul style="list-style-type: none"> Residential Area Transport Elements <ul style="list-style-type: none"> Principal Cycle Network
Zone:	Low Density Residential zone
Overlays:	Airport Environs Overlay Bushfire Hazard Overlay

Planning Scheme Definitions

The proposed use is defined as:-

Column 1 Use	Column 2 Definition	Column 3 Examples include	Column 4 Does not include the following examples
Dual occupancy	Premises containing two dwellings, each for a separate household, and consisting of: <ul style="list-style-type: none"> a single lot, where neither dwelling is a secondary dwelling or two lots sharing common property where one dwelling is located on each lot. 	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 solutions (or probable solutions/performance criteria where no acceptable solution 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	The application complies with applicable acceptable/probable solutions/performance criteria apart from the following: <ul style="list-style-type: none"> ▪ AO3.2 Refer to planning discussion section of report.
Airport environs overlay 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).
Bushfire hazard overlay 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).
Accommodation activities code	The application complies with applicable acceptable/probable solutions/performance criteria apart from the following: <ul style="list-style-type: none"> ▪ AO1 Refer to planning discussion section of report.
Landscaping 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).
Parking and access 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).
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 1,000m² or greater.

As the subject land has an area of 800m², the level of assessment moves from accepted development to code assessment.

The planning scheme's accepted density for dual occupancy is one unit per 400m² of site area and the proposed development complies.

As the density of the proposed development is 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.*

AO3.2

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.

A screen fence is proposed along all side and rear property boundaries.

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

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.

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 12TH day of JANUARY 2022



BRIAN MILLARD
SENIOR PLANNER

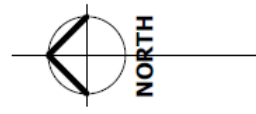


ANTHONY ARCHIE
MANAGER DEVELOPMENT & GOVERNANCE

MAREEBA SHIRE
AS A DELEGATE OF THE COUNCIL

PROPOSAL PLANS

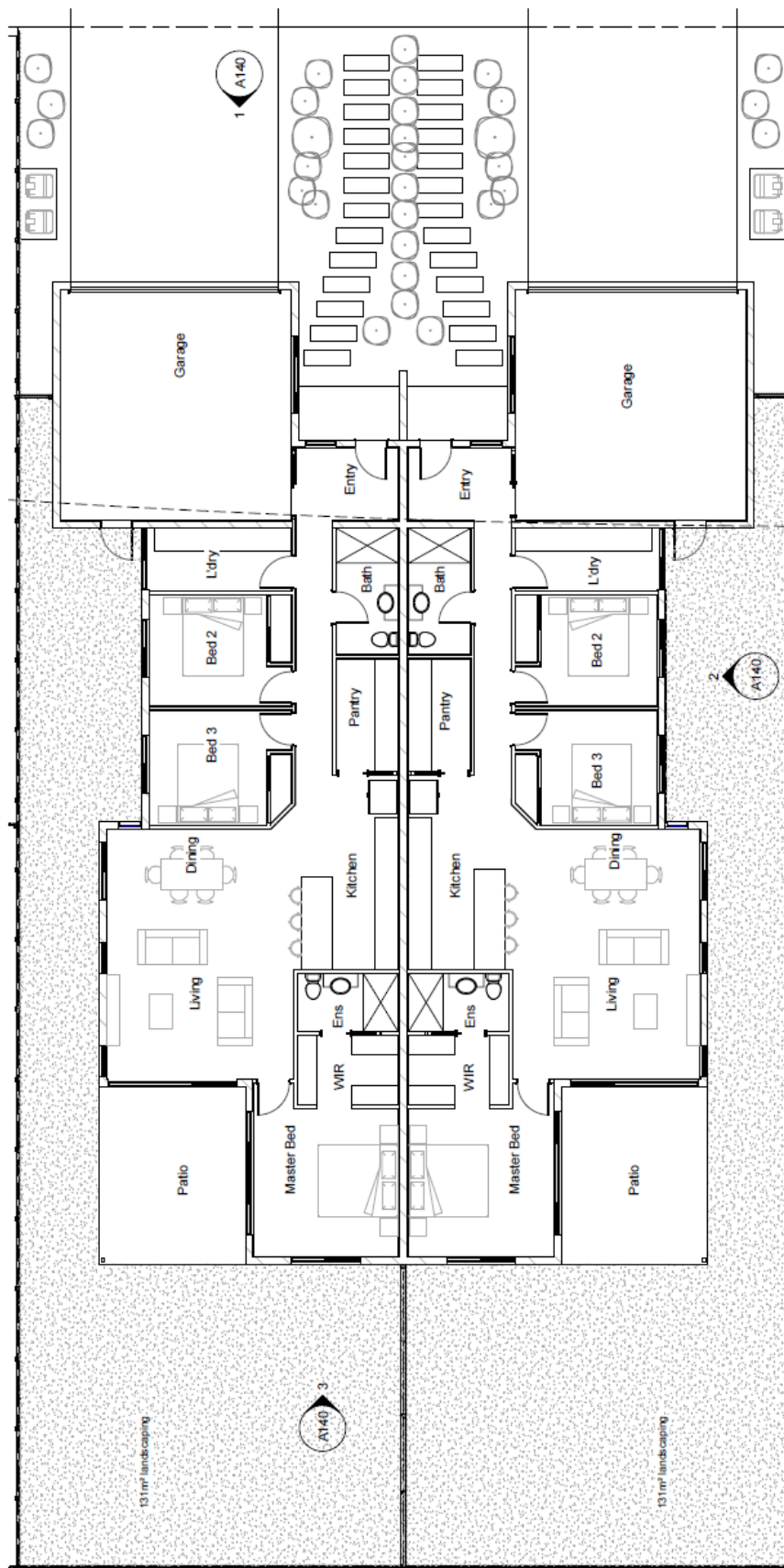
Proposed Duplex at 64
James Street, Mareeba



Sheet Number	Sheet Name	Issue
A100	Site Plan No 64	6
A110	Floor Plan No 64	6
A120	Roof Plan No 64	6
A140	Elevations No 64	6



New Duplex at 62 & 64 James Street, Mareeba
 A100 Site Plan No 64
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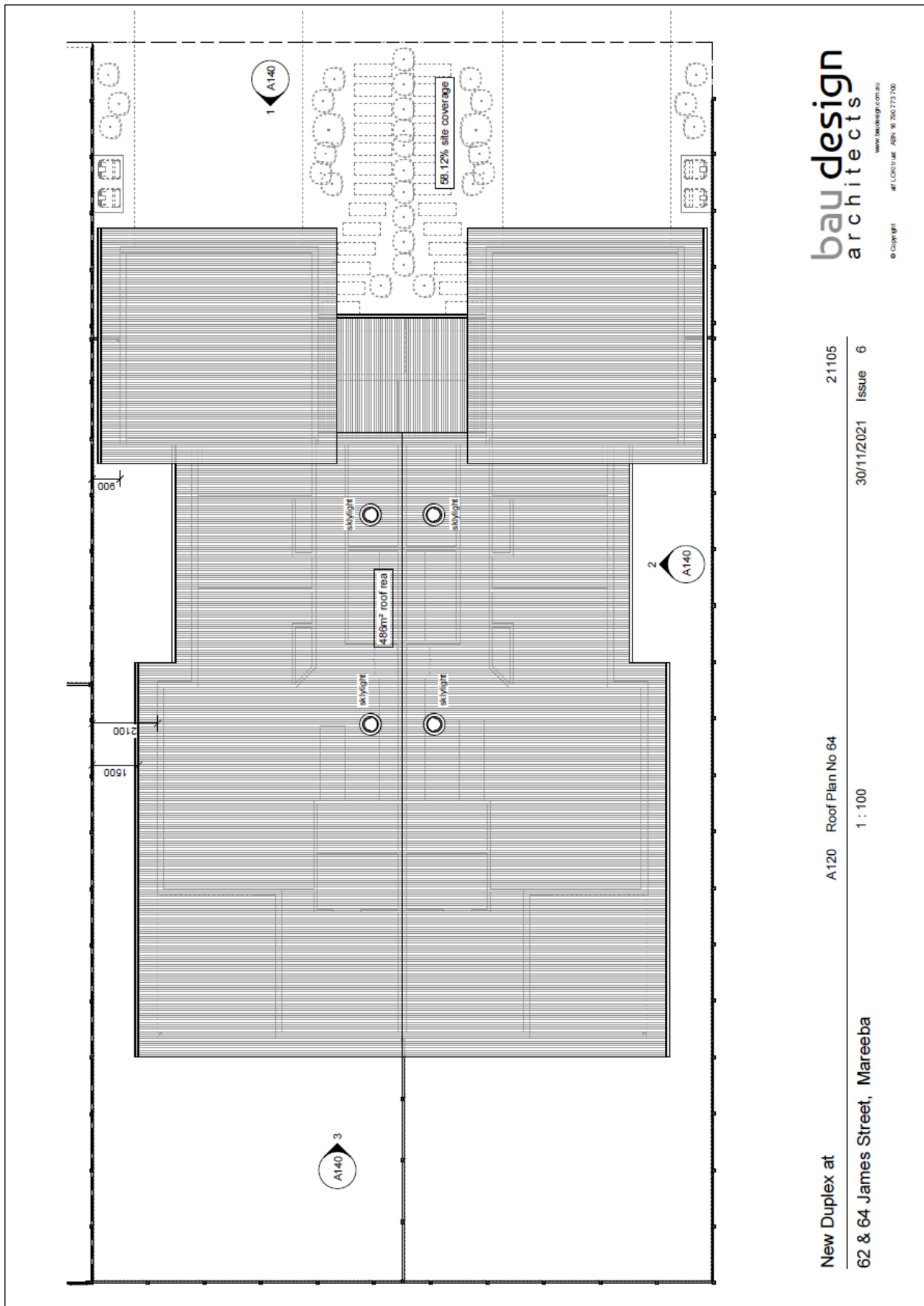
New Duplex at 62 & 64 James Street, Mareeba

A110 Floor Plan No 64

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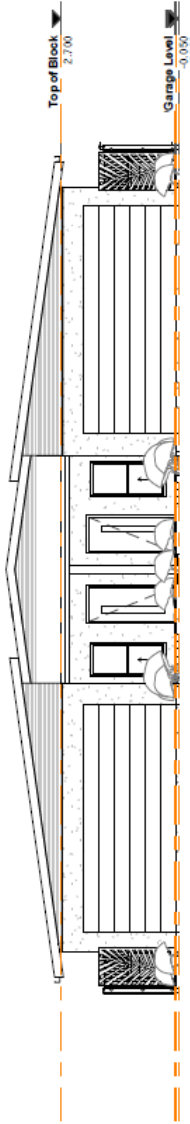
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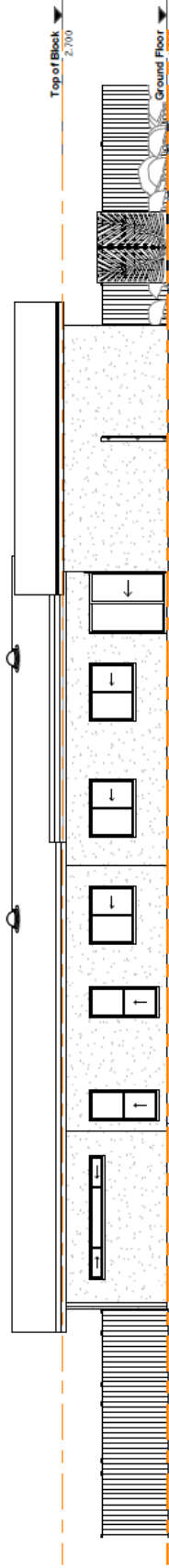
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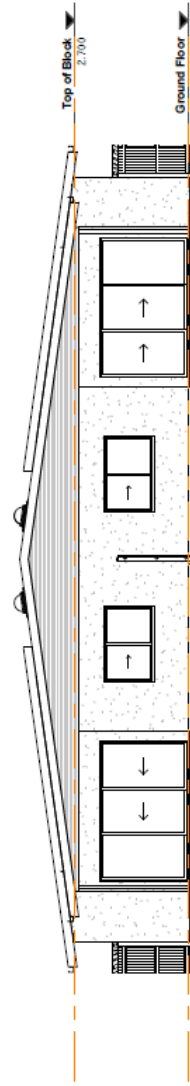
New Duplex at 62 & 64 James Street, Mareeba
A120 Roof Plan No 64
21105
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1 : 100



1 Elevation No 64 James Street
A110 1:100 @ A3



2 Elevation No 64 Side
A110 1:100 @ A3



3 Elevation No 64 Back
A20 1:100 @ A3

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