

Inquiry into the provision and regulation of supported accommodation in Queensland

Submission No: 140
Submitted by: Burdekin Shire Council
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Attachments:
Submitter Comments:

Enquiries to: Planning and Development
Your reference: N/A
Our reference: 226; 241; 1413 TB:kg

1 February 2024

Committee Secretariat
Community Support and Services Committee
Parliament House Queensland
Via online portal

Dear Sir/Madam,

Re: Submission – Inquiry into the provisions and regulation of supported accommodation in Queensland

Burdekin Shire Council provides this submission as an interested stakeholder and as a regulatory body involved in the assessment and approval of supported accommodation uses, from both a land use activity perspective and a building regulation perspective, in particular the design of the premises.

Specifically, Council officers involved in development assessment (namely Town Planners and Building Certifiers) have recently identified the following concerns with applications received of late from the Private Certification sector.

Attachments A and B are included for your reference, being an extract from a recent privately certified building approval submitted to Council that is an example that illustrates the design and approval concerns Council has currently.

1. Planning Considerations

Council considers that a supported accommodation use fits within the definition of a 'Community Residence' as defined in the current planning legislation.

a) Non Compliance with Planning Regulations 2017 - Exempt Development Requirements

Section 6 of Part 2 of Schedule 6 of the *Planning Regulation 2017* states that a Material Change of Use for a Community Residence is exempt from assessment against the Planning Scheme if -

- a. *the premises are included in a prescribed zone under a local categorising instrument; and*
- b. *no more than 7 support workers attend the residence in a 24-hour period; and*
- c. *at least 2 car parks are provided on the premises for use by residents and visitors; and*
- d. *at least 1 of the car parks stated in paragraph (c) is suitable for persons with disabilities; and*
- e. *at least 1 car park is provided on the premises for use by support workers.*

For Council to consider that developments of this nature are exempt as per the requirements of the Planning Regulations above, proposal plans need to provide (at a minimum) three (3) on-site parking spaces with at least one (1) of the car parks stated in paragraph (c) to be suitable for persons with disabilities.

Refer **Attachment A** which includes a floor plan and a site plan for a two (2) unit x Community Residence (supported accommodation) development proposed in the Burdekin Shire. The development provides only two (2) identified car spaces (located within an enclosed garage), which do not appear to be of a size suitable to be an accessible parking space for persons with disabilities.

Further issues with onsite parking design are as follows.

b) Carparking Requirements and Design of Supported Accommodation

Council has found that the recent design of buildings and sites proposed to house a supported accommodation use and approved by a Private Certifier are not considered to provide compliant onsite carparking.

Councils' minimum expectation for carparking in an urban zoning is that spaces must comply with *Australian Standards AS2890* and be clearly defined, safe and easily accessible.

Neither unmarked parking areas and/or tandem parking spaces in front of the garages are considered appropriate by Council in supplying compliant on site visitor and/or support worker carparking, as these areas are located within a shared driveway and are not attached nor dedicated to each unit/single tenant. This is particularly inappropriate for supported accommodation premises where residents may not be related parties.

As mentioned previously, Council notes the planning regulations requirements for exempt development require that at least one (1) of the two (2) carparks provided for residents and/or visitors must be an accessible parking space, suitable for persons with disabilities.

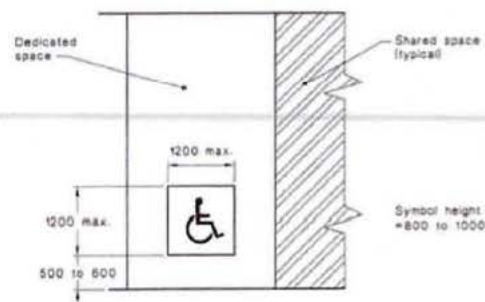
Typically the minimum dimensions for an accessible parking space are 3.2m minimum width x 7.8m minimum length, as follows (refer extract):

PARALLEL PARKING







- Dedicated Space - 3200mm x 7800mm
- Shared Space - 1600mm x 7800mm (required on one side of the dedicated space)
- Headroom Height - 2500mm minimum

IDENTIFICATION/SIGNAGE

- Symbol Height - 800 to 1000mm (white symbol on blue background)
- Dimensions - 1200mm x 1200mm
- Location - 500 to 600mm (measured from parking line)
- Shared Space - 80 to 100mm wide unbroken yellow lines



Council however notes that at Item 3. Carparking of the *NDIS Specialist Disability Accommodation Design Standard*, parts 3.4 and 3.5 (as per the following extract), requires:

Clause	Design Requirement	Rationale	Applicable to
3.4	<p>If providing a car parking space, for use of the participant, it shall be provided with:</p> <ul style="list-style-type: none"> • Minimum dimensions of 3800mm (width) x 5400mm (length). • An even, firm and slip-resistant surface of P4 or R11. • A level surface with a maximum 1:40 gradient in any direction, and • Roof over space with clear vertical clearance in accordance with AS2890.6 	<p>Required to provide enhanced space, to access a vehicle either as a driver or passenger</p> <p>Gradients are considered to be essential for safety of movement.</p> <p>Car ports comply with the roof over car space requirement.</p>	 
3.5	<p>Based on the building classification, the NCC or the local government authority may require the provision of an accessible parking space in accordance with AS2890.6, in which case the full compliance with AS2890.6 shall be required.</p>	<p>As required under the NCC. Use of access symbol and in some cases bollard may not be required (or appropriate) depending on use and management of the parking space.</p>	   

Attachment A includes the floor plan and a site plan for a two (2) unit Community Residence (supported accommodation) development proposed in the Burdekin Shire currently.

These plans show the development providing only two (2) identified car spaces (located within an enclosed garage), which do not appear to be of a size suitable to be an accessible parking space for persons with disabilities, as required by the applicable design standard.

2. Building Considerations

a) Non-compliance with *Building Act 1975*

Development approvals provided by Private Certifiers need to demonstrate clear compliance with the requirements of the planning regulations for Council to consider it exempt development.

Unless clear compliance is demonstrated by the applicant that no planning approval is required prior to the issue of a building works approval, Council considers the submission of such an application from a private certifier as being an action that is in direct conflict with Part 6, s83 (1) (a) of the *Building Act 1975*, which requires:

(1) *The private certifier must not grant the building development approval applied for—*

(a) *until, under the Planning Act and the Economic Development Act 2012, all necessary development permits and PDA development permits are effective for development, other than building work, that may affect any or all of the following—*

- (i) *the form or location of the building work;*
- (ii) *the use of the building or other structure;*
- (iii) *the assessment of the building development application;*

Example— A proposal involving building work also involves a material change of use, reconfiguring a lot and operational work under the Planning Act. The material change of use, reconfiguring a lot and operational work are categorised as assessable development under the Planning Act.

The private certifier is engaged to carry out building assessment work and decide the building development application. The private certifier must not grant the building development approval applied for until, under the Planning Act, all necessary development permits are effective.

b) Incorrect Classification of Buildings

The National Construction Code defines building classifications, which relevant to this submission are as follows:

- **Class 1a** being a single dwelling being a detached house; or one of a group of attached dwellings being a town house, row house or the like; with a
- **Residential care building** being a Class 3, 9a or 9c building which is a place of residence where 10% or more of persons who reside there need physical assistance in conducting their daily activities and to evacuate the building during an emergency (including any aged care building or residential aged care building) but does not include a hospital.

It is the use of the premises however that defines the Class.

For the purposes of Council's assessment of supported accommodation uses including the correct classification, the following is considered a reasonable explanation of the differences between a Class 1a and a Class 3 building classification:

1. A Class 1a supported accommodation use typically being a home where a couple reside with their children with the spouse/partner being eligible for externally funded support services; whereas a
2. A Class 3 premises is considered to be a 'home' in which multiple unrelated persons reside who are provided with externally funded support services including dedicated on-site overnight assistance located within the 'home'.

Given the above, Council's Building Certifier nominates that a Community Residence (supported accommodation) use that requires on site overnight accommodation to be provided within the building, is a Class 3 Building classification, and not a Class 1a building classification.

Attachment B provides an extract of an example of a recently submitted Form 20 – Lodgement of Building Work Documentation together with the Development Application Decision Notice issued by a private certifier. Both of these documents show the supported accommodation premises being classified as Class 1a and Class 10a.

Where non-compliance is identified whether for planning, building or both, Council is currently returning any privately certified documentation to the applicant and/or the private certifier if they are not the applicant, unactioned.

Closing Comments

Council thanks the Community Support and Services Committee for its invitation to provide a submission and hopes that it has assisted with its inquiry.

Burdekin Shire Council recognises the need for and welcomes the provision of appropriately designed supported accommodation premises in the region and throughout Queensland and believes that quality and safeguards (such as adequate parking provisions, correct building classifications) are 'foundational' requirements to ensure the wellbeing and safety of future residents.

Council has a responsibility to the community and its residents to ensure the correct planning and building requirements are addressed in the development assessment stage for any supported accommodation premises proposed.

Unfortunately, these matters of non-compliance by a private certifier may lead to delays in providing the much needed accommodation 'on the ground,' which is not a result Council nor the Community would want.

Council hopes the actions of the private certification sector is an anomaly and not reflective of overall State findings. It would be disappointing to find that despite the best efforts by the State Government and others at a higher level, supported accommodation properties being delivered to the market are falling short of meeting the requirements of residents and care providers due to poor design.

The development of prescriptive requirements that sit within the applicable design standard together with supporting guidance material for the private certification sector may be part of the solution in addressing the current matters of non-compliance that Burdekin Shire is experiencing.

Should you have any queries or require further information please contact Council's Manager Planning and Development, Kellie Galletta, directly on (t) [REDACTED].

Yours faithfully

[REDACTED]

Terry Brennan
Chief Executive Officer

- Attachment A** Proposal Plans for a recent Privately Certified Development Approval (extract) for a Supported Accommodation received by Burdekin Shire Council.
- Attachment B** Privately Certified Development Approval Documentation (extract) for a Supported Accommodation received by Burdekin Shire Council.

ATTACHMENT A

SITE NOTES

THE FINISHED SURFACE IMMEDIATELY SURROUNDING THE DWELLINGS, 1000mm WIDE, IS TO FALL AWAY FROM THE DWELLING AT A SLOPE OF 1 IN 20 MINIMUM TO AN EARTH DRAIN AS INDICATED ON THE SITE PLAN.

SURFACE DRAINAGE IS TO DISCHARGE EVENLY WITHIN THE SITE AND WITHOUT NUISANCE TO ADJOINING PROPERTIES.

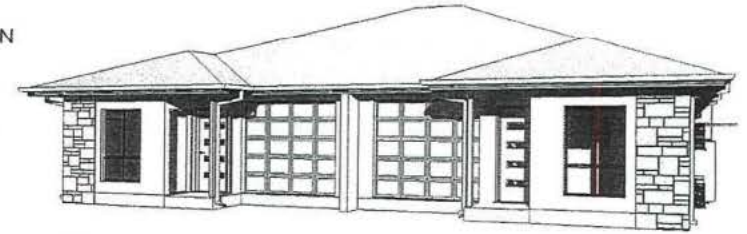
ALL SUB-FLOOR AREAS MUST BE GRADED TO AVOID THE PONDING OF WATER.

CUT AND FILL BATTERS NOT TO EXCEED A MAXIMUM SLOPE AS PER BCA TABLE 3.1.1.1 FOR THE SITE SPECIFIC SOIL TYPE, REFER ALSO TO BCA CLAUSE 3.2.2.4 FOR SLAB EDGE SUPPORT ON SLOPING SITES.

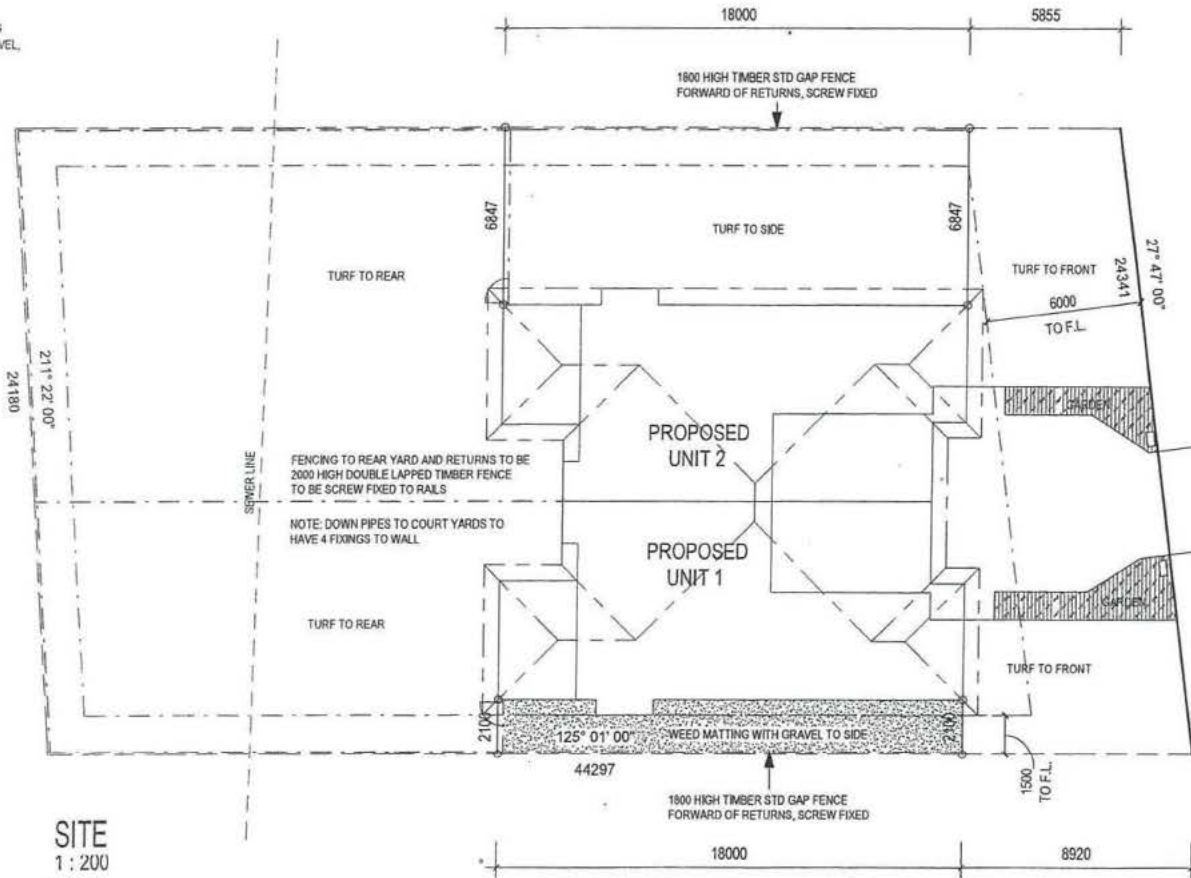
1000 MAXIMUM HIGH TIMBER RETAINING WALLS WITH 65Ø AG PIPE BEHIND (TO DISCHARGE TO STORMWATER LINE) AND GRANULAR BACKFILL BEHIND, TO BE WHOLLY CONTAINED WITHIN THE SITE ONLY IF INDICATED ON THE PLANS.

THE HEIGHT OF FENCES, INCLUDING THE HEIGHT OF RETAINING WALLS ARE NOT TO EXCEED 2.0m ABOVE FINISHED GROUND LEVEL, ONLY IF INDICATED ON THE PLANS AND TO LOCAL AUTHORITY APPROVAL.

IT IS THE BUILDERS RESPONSIBILITY TO CONFIRM THE LOCATION AND DEPTH OF THE SEWER, WATER AND STORMWATER INFRASTRUCTURE AND ENSURE FOUNDATION CONSTRUCTION ACHIEVES THE REQUIREMENTS OF THE QUEENSLAND DEVELOPMENT CODE MP 1.4 - BUILD OVER OR NEAR RELEVANT INFRASTRUCTURE.



3D



DRIVEWAY AND PATHS TO PROVIDE CONTINUOUS STEP FREE ACCESSWAY FROM BOUNDARY TO ENTRY DOOR GRADIENT NO STEEPER THAN 1:21 MAX, BE EVEN AND FIRM SURFACE WITH NOT MORE THAN 1:40 CROSSFALL. MAX VERTICAL TOLERANCE OF 3mm TO 5mm BETWEEN ABUTTING SURFACES. LETTER BOX HARD STAND GRADIENT AND CROSSFALL OF LESS THAN 1:40

STREET

SITE
1 : 200
LOT : 18
REGISTERED PLAN : 711846
AREA: 1051 SQM

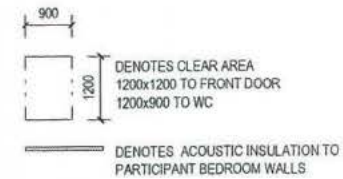
HOUSING THAT HAS BEEN DESIGNED TO INCORPORATE A REASONABLE LEVEL OF PHYSICAL ACCESS PROVISION AND BE VERY RESILIENT, REDUCING THE LIKELIHOOD OF REACTIVE MAINTENANCE AND REDUCE THE RISK TO THE PARTICIPANT & THE COMMUNITY

NOTE: THESE PLANS ARE TO BE READ IN CONJUNCTION WITH NDIS SPECIALIST DISABILITY ACCOMODATION DESIGN STANDARD. STANDARD CAN BE DOWNLOADED FROM <https://www.ndis.gov.au>

SITE PLAN

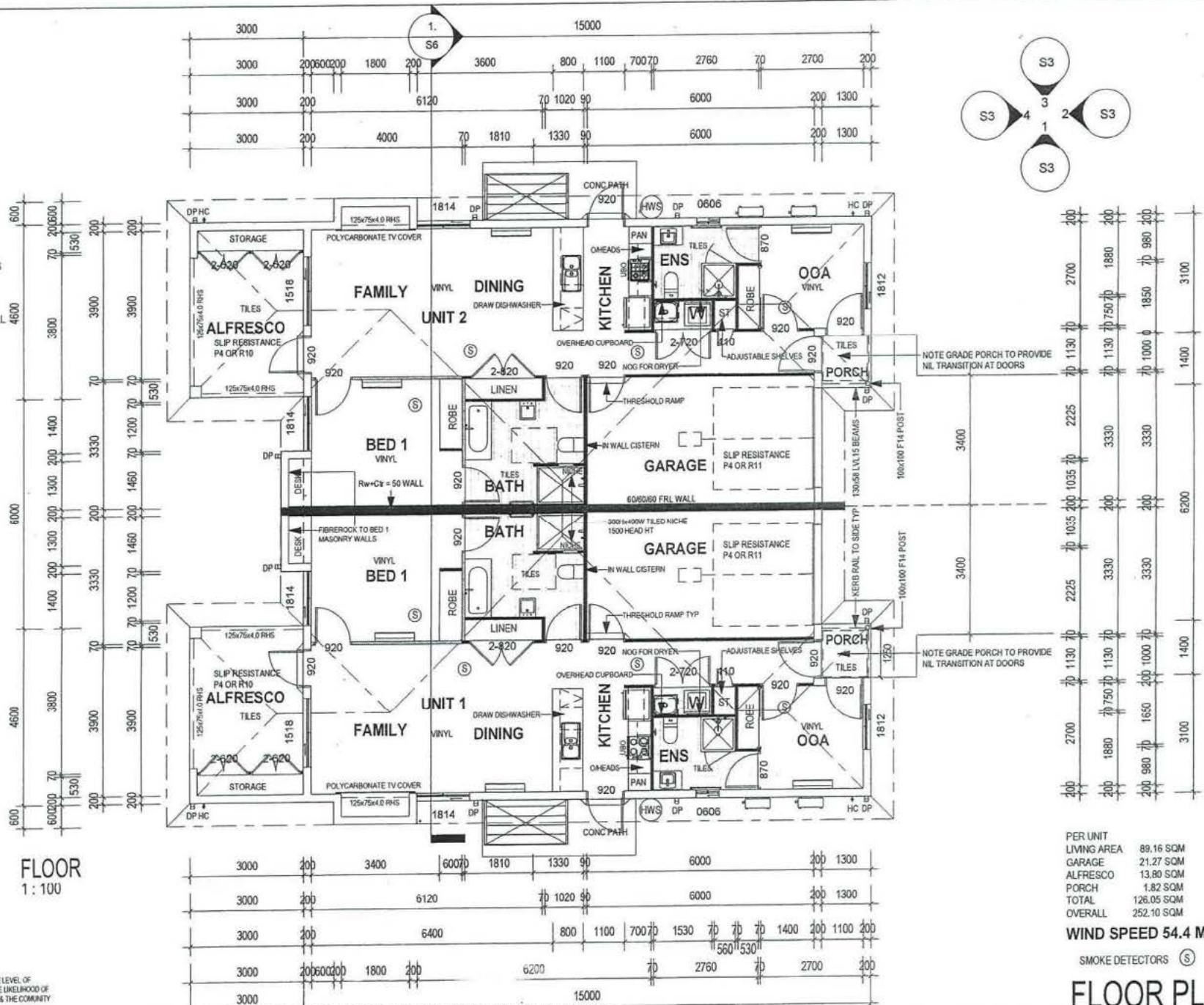
NDIS ROBUST NOTES

- 12mm STRUCTURAL PLY INSTALLED TO TIMBER WALLS IN PARTICIPANT BATHROOMS. LARGE REVEALS TO SUIT.
- 1:80 FALL TO ENTIRE WET AREAS TO FLOOR WASTE.
- ALL INTERNAL FLOORING SHALL BE FIRM, EVEN AND SLIP RESISTANT TO P3 OR R10. LEVEL TRANSITION BETWEEN ABUTTING SURFACES. MAX TOLERANCE 3mm OR 5mm
- DOORS TO HAVE COMMERCIAL VANDAL PROOF DOOR HANDLES INSTALLED BETWEEN 900mm TO 1100mm ABOVE FFL
- TIMBER DOORS WHERE PROVIDED SHALL BE SOLID CORE
- WINDOWS TO BE LOCKABLE
- PARTICIPANT'S BEDROOMS SHALL BE SOUND INSULATED
- FIXTURES AND FITTINGS TO BE HIGH IMPACT/VANDAL PROOF
- LIGHTING FIXTURES TO BE RECESSED
- WALL LININGS ARE TO BE HIGH IMPACT
- KITCHEN BENCH TOPS AND CABINETRY SHALL BE MADE OF ROBUST MATERIALS
- ALL GLAZED AREAS, GLAZED DOORS, SIDELIGHTS AND WINDOWS TO BE LAMINATED GLASS OR POLYCARBONATE RESIN THERMOPLASTIC THROUGHOUT ENTIRE DWELLING
- SOLID & NON-TRANSLUCENT CONTRASTING GLAZING STRIP OF 75mm WIDTH AND BETWEEN 900mm TO 1100mm ABOVE FFL. SHALL BE PROVIDED FOR THE FULL WIDTH OF A GLAZED AREA THAT COULD BE MISTAKEN FOR AN OPENING.



SMOKE ALARMS MUST COMPLY WITH THE REQUIREMENTS OF BCA, PART 3.7 - FIRE SAFETY AND THE BUILDING REGULATION PART 4

FIRE SEPARATING WALLS MUST HAVE AN FRL OF NOT LESS THAN 60/60/60 AND MUST COMPLY WITH NCC H3D4.

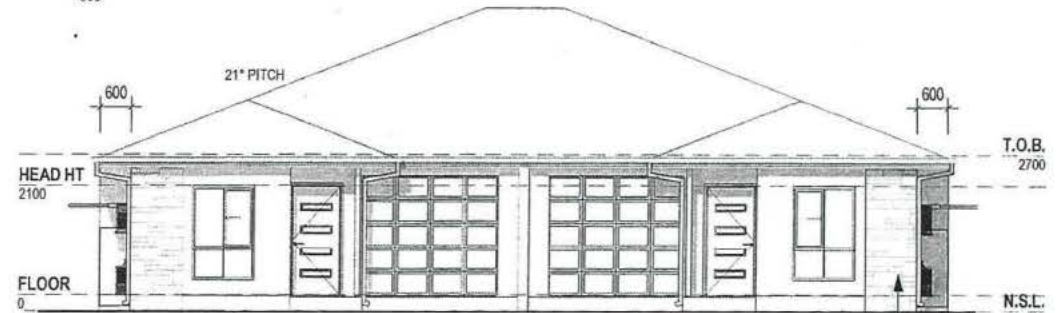


Robust HOUSING THAT HAS BEEN DESIGNED TO INCORPORATE A REASONABLE LEVEL OF PHYSICAL ACCESS PROVISION AND BE VERY RESILIENT, REDUCING THE LIKELIHOOD OF REACTIVE MAINTENANCE AND REDUCE THE RISK TO THE PARTICIPANT & THE COMMUNITY.

NOTE: THESE PLANS ARE TO BE READ IN CONJUNCTION WITH NDIS SPECIALIST DISABILITY ACCOMODATION DESIGN STANDARD. STANDARD CAN BE DOWNLOADED FROM <https://www.ndis.gov.au>



ELEVATION 1
1 : 100



ELEVATION 2
1 : 100



ELEVATION 3
1 : 100

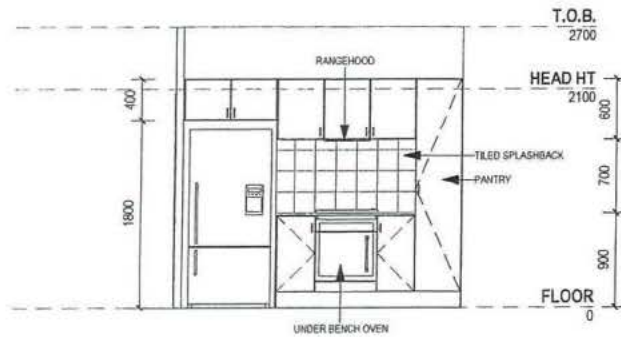


ELEVATION 4
1 : 100

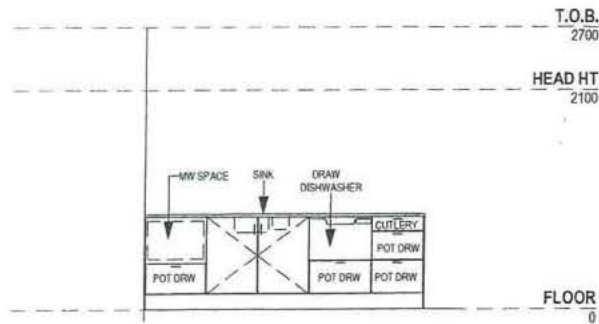
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NOTE: THESE PLANS ARE TO BE READ IN CONJUNCTION WITH NDIS SPECIALIST DISABILITY ACCOMODATION DESIGN STANDARD. STANDARD CAN BE DOWNLOADED FROM <https://www.ndis.gov.au>

ELEVATIONS



KITCHEN ELEVATION 1
1 : 50



KITCHEN ELEVATION 2
1 : 50

NOTE:
 - TASK LIGHTING SHALL BE PROVIDED ABOVE KITCHEN WORK SPACES, A MINIMUM LEVEL OF 300lux SHALL BE ACHIEVED WHEN TESTED AT MAXIMUM INTERVALS OF 1500mm DIRECTLY OVER THE SURFACE OF THE BENCH TOPS.
 - D PULL CUPBOARD HANDLES LOCATED TOWARDS THE TOP OF BELOW-BENCH CUPBOARDS
 - D PULL CUPBOARD HANDLES LOCATED TOWARDS THE BOTTOM OF OVERHEAD CUPBOARDS OVERHANGING LIP OF MINIMUM 20mm FOR OVERHEAD CUPBOARDS OR PUSH TO RELEASE MECHANISMS FOR BOTH OVERHEAD AND BELOW-BENCH CUPBOARDS
 - AIRCONDITIONING AS PER BUILDERS SPEC

12. Switches and powerpoints

Clause	Design Requirement	Rationale	Applicable to
12.1	Light switches shall be positioned in a consistent location: <ul style="list-style-type: none"> Between 900mm – 1000mm above the FFL, and Horizontally aligned with the door handle at the entrance to a room. 	For ease of access and consistency of locations.	
12.2	GPOs shall be installed between 600mm and 1100mm above the FFL.	For ease of access by user.	
12.3	Light and GPO switches shall be rocker action, toggle or push pad in design with a minimum width of 35mm.	For ease of access by user.	
12.4	Dimmable lighting switches shall be provided in living areas and bedrooms.	For comfort level selections. Provision of standard type rotary dimmer controls will satisfy this requirement.	

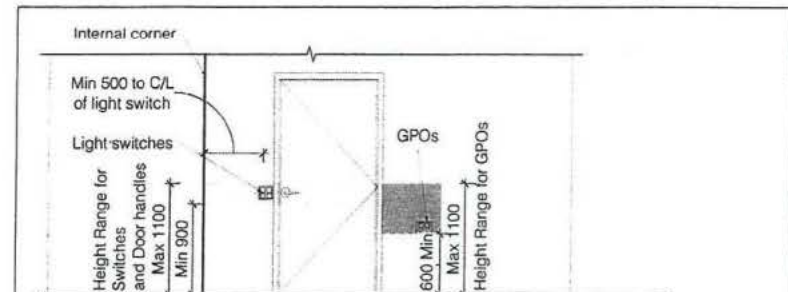


Figure 19 - Location of light switches, GPOs and door handles

Note: Unless a range of dimensions are specified, all dimensions noted in the figures are the minimum required and in millimetres.

LEGEND Improved Liveability Robust Fully Accessible High Physical Support

ATTACHMENT B



Form 20—Lodgement of building work documentation

Version 5 – July 2017

<p>1. Building description</p>	<p>Building use New Construction of Duplex - 1 Storey, of Attached Garage x2, of Attached Alfresco x2, of Attached Porch x2</p>	<p>Building class 1a & 10a & 10a & 10a</p>	<p>Shop/tenancy no.</p>	<p>Storey/level 1</p>
<p>2. Property description The description must identify all land the subject of the application. The lot and plan details (e.g. SP/RP) are shown on title documents or a rates notice. If the plan is not registered by title, provide previous lot and plan details.</p>	<p>Street address (include no., street, suburb/locality and postcode)</p> <div style="border: 1px solid black; height: 100px; width: 100%;"></div> <p style="text-align: right;">ea of land</p> <p>In which local government area is the land situated? Burdekin Shire Council</p>			
<p>3. Documents lodged Please attach one copy of these documents, submitted under section 5 of the <i>Planning Regulation 2017</i> and sections 86 and 87 of the <i>Building Act 1975</i>. (Tick applicable box/es) The private certifier must ensure each document is marked to identify it as a document approved by the private certifier and relating to the development approval. Before giving the documents to the assessment manager the private certifier must ensure the approved form for the application is completed.</p>	<p><input checked="" type="checkbox"/> The application</p> <p><input checked="" type="checkbox"/> The approval documents for the application</p> <p><input checked="" type="checkbox"/> The decision notice or negotiated decision notice for the application</p> <p><input checked="" type="checkbox"/> A copy of the plans, drawings and specifications and other documents and information lodged by the applicant, stamped approved or otherwise endorsed by the assessment manager</p> <p><input type="checkbox"/> A list of required fire safety installations and required special fire services applying to the building work</p> <p><input type="checkbox"/> Certificates relied on to decide the application</p> <p><input type="checkbox"/> Information relied on to decide the application in relation to local government easements, encumbrances or estates or interests in land likely to be relevant to the application</p>			
<p>4. Confirmation receipt If the assessment manager is a local government, the local government must immediately give the private certifier a document acknowledging the receipt of the archiving fee. The private certifier must not give the applicant any approved documents until the private certifier has received the acknowledgement</p>	<p>Private certifier's name (in full)</p> <hr/>			

DEVELOPMENT APPLICATION DECISION NOTICE

Decision Notice issued in accordance with s63 of the Planning Act 2016 (QLD)

File reference number:

DEVELOPMENT DESCRIPTION

Approval Type:	Development Permit for Building Works				
Building Works Description:	New Construction	of Duplex - 1 Storey		Building Classification/s:	1a
	New Construction	of Attached Garage x2			10a
	New Construction	of Attached Alfresco x2			10a
	New Construction	of Attached Porch x2			10a
Site Address:	18 Margaret St, AYR QLD 4807				
Real Property Description:	Lot Type:	Lot No:	Plan Type :	Plan Number (s):	Council: Burdekin Shire Council
	Current				
Land Use:	Community residence				
Applicant:					
Applicant's Address:					
Landowner's Name:					
Builder's Name:					
Builder's Address:					

DECISION

The development application for the building works described above has been assessed and is **Approved with Conditions** as shown in the approved documentation including any marked changes, accompanying this application. The approval is subject to the following conditions, required inspections and required certificates.

The application was assessed in accordance with the Building Assessment Provisions as prescribed in the *Building Act 1975*, including:

- The National Construction Code (BCA) 2019.1
- The Queensland Development Code; and
- any relevant local laws and local planning instruments.

Notwithstanding anything otherwise stated or implied in this Development Permit, pursuant to s.36 of the *Building Act 1975*, building assessment work must comply with the Building Assessment Provisions in force when the application is approved.