

# Cloncurry Shire Council

38-46 Daintree Street  
PO Box 3  
Cloncurry QLD 4824  
ABN: 76 581 540 914



Telephone: (07) 4742 4100  
Facsimile: (07) 4742 1712  
Email: [council@cloncurry.qld.gov.au](mailto:council@cloncurry.qld.gov.au)  
Website: [www.cloncurry.qld.gov.au](http://www.cloncurry.qld.gov.au)

*Our ref: IE:LT - TP03/22*

27 April 2022

Mark Kierpal  
River of Gold Industries Pty Ltd  
C/- Urbicus Pty Ltd  
110 Kennedy Terrace  
PADDINGTON QLD 4064  
**Email:** [planning@urbicus.com.au](mailto:planning@urbicus.com.au)

Dear Mark

**DECISION NOTICE – DEVELOPMENT APPLICATION FOR A DEVELOPMENT PERMIT -  
MATERIAL CHANGE OF USE (MULTIPLE DWELLING) – 39 GREGORY STREET, LOT 4 ON  
RP745478, CLONCURRY.**

(Given under section 63 of the *Planning Act 2016*)

The development application described below was properly made to the Cloncurry Shire Council  
19 April 2022.

**Applicant details**

Applicant name:	Mark Kierpal Urbicus Pty Ltd
Applicant contact details:	110 Kennedy Terrace PADDINGTON QLD 4064

**Application details**

Application number:	TP03/22
Approval sought:	Development Permit
Nature of development proposed:	Material Change of Use
Description of the development proposed:	Multiple Dwelling
Category of assessment:	Code Assessment

**Location details**

Street address:	39 Gregory Street, Cloncurry
Real property description:	Lot 4 on RP745478
Local government area:	Cloncurry Shire

**Decision**

Date of decision:	19 April 2022
-------------------	---------------

## RESOLUTION 25.220419

Moved: Cr Dane Swalling

Seconded: Cr Nathan Keyes

That Development Application TP03/22 for a Material Change of Use for a Multiple dwelling at 39 Gregory Street, Cloncurry and described as Lot 4 on RP745478 be approved subject to relevant and reasonable conditions, as set out in Attachment 2.

In Favour: Crs Greg Campbell, Sam Daniels, Dane Swalling, Vicky Campbell, Nathan Keyes and Janessa Bidgood

Against: Nil

### **Details of the approval**

Development permit: Material Change of Use – Multiple dwelling

### **Conditions**

This approval is subject to the conditions in Attachment 1.

### **Properly made submissions**

There were no properly made submissions for this application.

### **Rights of appeal**

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

A copy of the relevant appeal provision is attached.

### **Currency period for the approval**

This development approval will lapse unless substantially started at the end of the period set out in section 85 of *Planning Act 2016* which is 6 years after this approval starts to take effect.

### **Approved plans and specifications**

**Table 1 Supporting documentation/reports**

Title	Plan Number	Rev no	Date	Prepared by
Site Plan	A-01	C	08-12-2021	Leavrage Project
Floor Plan	A-02	C	01-02-2022	Leavrage Project
Elevations	A-03	C	14-11-2021	Leavrage Project

Should you have any questions or concerns in respect of this matter please contact Council's Senior Town Planner, Larinda Turrell, at this office.

Yours faithfully



Philip Keirle  
Chief Executive Officer

Enc: Attachment 1—Conditions of the approval  
Attachment 2—Extract on appeal rights  
Attachment 3 – Statement of Reasons  
Attachment 4 - Approved Proposed Plan

## ATTACHMENT 1 – CONDITIONS OF APPROVAL

NATURE OF DECISION				
A Cloncurry Shire Council issues a development permit for Development application - Reference TP03/22 Material Change of Use for Multiple dwellings under the <i>Planning Act 2016</i> .				
GENERAL				
<b>1. Site Layout</b>				
The development must generally comply with the approved proposal plans as referenced in the table below, which forms part of this application, except as otherwise specified by any condition of this approval.				
Title	Plan Number	Rev no	Date	Prepared by
Site Plan	A-01	C	08-12-2021	Leavrage Project
Floor Plan	A-02	C	01-02-2022	Leavrage Project
Elevations	A-03	C	14-11-2021	Leavrage Project
<b>2. Compliance with conditions</b>				
All conditions must be complied with prior to the commencement of the use, unless specified in an individual condition.				
<b>3. Landscaping</b>				
A landscaping plan is to be submitted providing details of all proposed landscaping on the site, including adjacent to the vehicular entry and carparking areas. Such landscaping plan is to be approved by Council's delegated officer prior to the commencement of the use.				
<b>4. Internal Access and Carparking</b>				
(a) All driveways, parking and maneuvering areas are to be appropriately maintained to the satisfaction of Council to ensure there is no nuisance to adjoining land uses or damage to public roads or infrastructure.				
(b) Free and unrestricted access must be available to both the designated car parking spaces and vehicle access ways, to ensure useable access and appropriate off-street carparking is provided at all times.				
<b>5. Waste Management</b>				
(a) A screened waste storage area in the vicinity of a hose cock for cleaning proposes for general waste and regulated waste are to be provided within the site at accessible locations to allow for collection and removal to approved facilities.				
(b) All wheelie bins shall be placed on the Council's verge for collection days and removed from the verge as soon as practicable.				
<b>6. Stormwater Drainage</b>				
(a) Stormwater runoff from the site is to be collected internally and directed to a lawful point of discharge.				
(b) Overland flow paths on the site must not be altered in a way that inhibits or alters the characteristics of existing overland flows on other properties/infrastructure/buildings or that creates an increase in flood damage on other properties/infrastructure/buildings and should have a 'no worsening' effect.				
<b>7. Installation of Services</b>				
The owner/developer shall bear the cost of all alterations necessary to public utility mains, services or installations necessary by this approval and such works shall be to Council specifications and satisfaction.				
<b>8. Noise Management</b>				
Appropriate noise mitigation measures shall be put in place to contain and manage noise levels so as not to give rise to unacceptable effects on nearby sensitive receiving land uses.				
<b>9. Lighting</b>				
Any lighting is to be designed, installed and maintained in accordance with the requirement of AS4282-1997 "Control of the Obtrusive Effects of Outdoor Lighting".				

**10. Building works**

This Development Approval does not include an assessment of building work against the requirements of the *Building Act 1975* and does not permit building work to occur unless, prior to the commencement of any building work, a Development Permit to carry out assessable building work under the *Building Act 1975* has been issued.

**11. Building design**

The building design must be approved by a Building Certifier and in compliance with the Fire Engineering Brief provided to Council.

**12. Decision notice and approved plans to be submitted with subsequent applications.**

A copy of this decision notice and any accompanying stamped approved plans must be submitted with building or plumbing applications relating to or arising from this development approval.

**13. Damage to Council Assets**

Any damage to existing kerb and channel, footpath, stormwater reticulation, roadway or other public assets that may occur during any works associated with the approved development is to be reinstated by the applicant/developer to Council's satisfaction at applicants' expense.

**14. Inspection**

Prior to commencement of use the owner/developer is to contact Council to arrange a compliance inspection of the property to assess compliance with the Assessment Manager's Conditions of Approval and the approved plans.

**ADVICE – Please note that these are not conditions**

- A.** The Applicant is responsible for securing all necessary approvals, permits and tenure, providing statutory notifications and complying with all relevant laws. Nothing in this development approval alleviates the need for the Applicant to comply with all relevant Local, State and Commonwealth laws and to ensure appropriate tenure arrangements have been made where the use of/reliance upon land other than that owned by the Applicant is involved. Without limiting this obligation, the Applicant is responsible for:
- (a) Obtaining all other/further necessary approvals, licences, permits, resource entitlements etc by whatever name called (this may include further development approvals under the "*Planning Act 2016*" and the planning scheme) required by law before the development the subject of this approval can be lawfully commenced and to carry out the activity for its duration;
  - (b) Providing any notifications required by law (by way of example only, to notify the administering authority pursuant to the "*Environmental Protection Act 1994*" of environmental harm being caused/threatened by the activity, and upon becoming aware the premises is being used for a 'notifiable activity'); and
  - (c) Ensuring the correct siting of structures on the land. An identification survey demonstrating correct siting and setbacks of structures may be requested of the Applicant to ensure compliance with this decision notice and applicable codes.
- B. Indigenous Cultural Heritage Legislation and Duty of Care Requirement**
- The "*Aboriginal Cultural Heritage Act 2003*" (ACHA) establishes a duty of care to take **all** reasonable and practicable measures to ensure any activity does not harm Aboriginal cultural heritage. This duty of care:
- (a) Is not negated by the issuing of this development approval;
  - (b) Applies on all land and water, including freehold land;
  - (c) Lies with the person or entity conducting an activity; and
  - (d) If breached, is subject to criminal offence penalties.

Those proposing an activity involving surface disturbance beyond that which has already occurred at the proposed site must observe this duty of care. Details of how to fulfil this duty of care are outlined in the duty of care guidelines gazetted with the ACHA. The Applicant should contact Cultural Heritage Coordinator North Region Unit on (07) 4796 7862 for further information on the responsibilities of developers under the ACHA.

**C. Limitation of Approval**

The Council and its officers make no representations and provide no warranties as to the accuracy of the information contained in the development application including its supporting material provided to it by the Applicant.

The Council and its officers rely upon the applicant concerning the accuracy and completeness of the application and its supporting material and accepts the development application and supporting material as constituting a representation by the applicant as to its accuracy and completeness.

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
  - (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the *appellant*); and
    - (ii) who is a respondent in an appeal of the matter; and
    - (iii) who is a co-respondent in an appeal of the matter; and
    - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
  - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
  - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
  - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
  - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note—*

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
  - (a) the adopted charge itself; or
  - (b) for a decision about an offset or refund—
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

### 230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
  - (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
  - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
  - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
  - (f) for an appeal to the P&E Court—the chief executive; and
  - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
  - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
  - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.



**231 Other appeals**

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
  - (a) conduct engaged in for the purpose of making a decision; and
  - (b) other conduct that relates to the making of a decision; and
  - (c) the making of a decision or the failure to make a decision; and
  - (d) a purported decision; and
  - (e) a deemed refusal.

*non-appealable*, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

**232 Rules of the P&E Court**

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

## **ATTACHMENT 3 – STATEMENT OF REASONS – TP03/22**

### ***NOTICE ABOUT DECISION - STATEMENT OF REASONS***

The following information is provided in accordance with section 63(5) of *the Planning Act 2016*

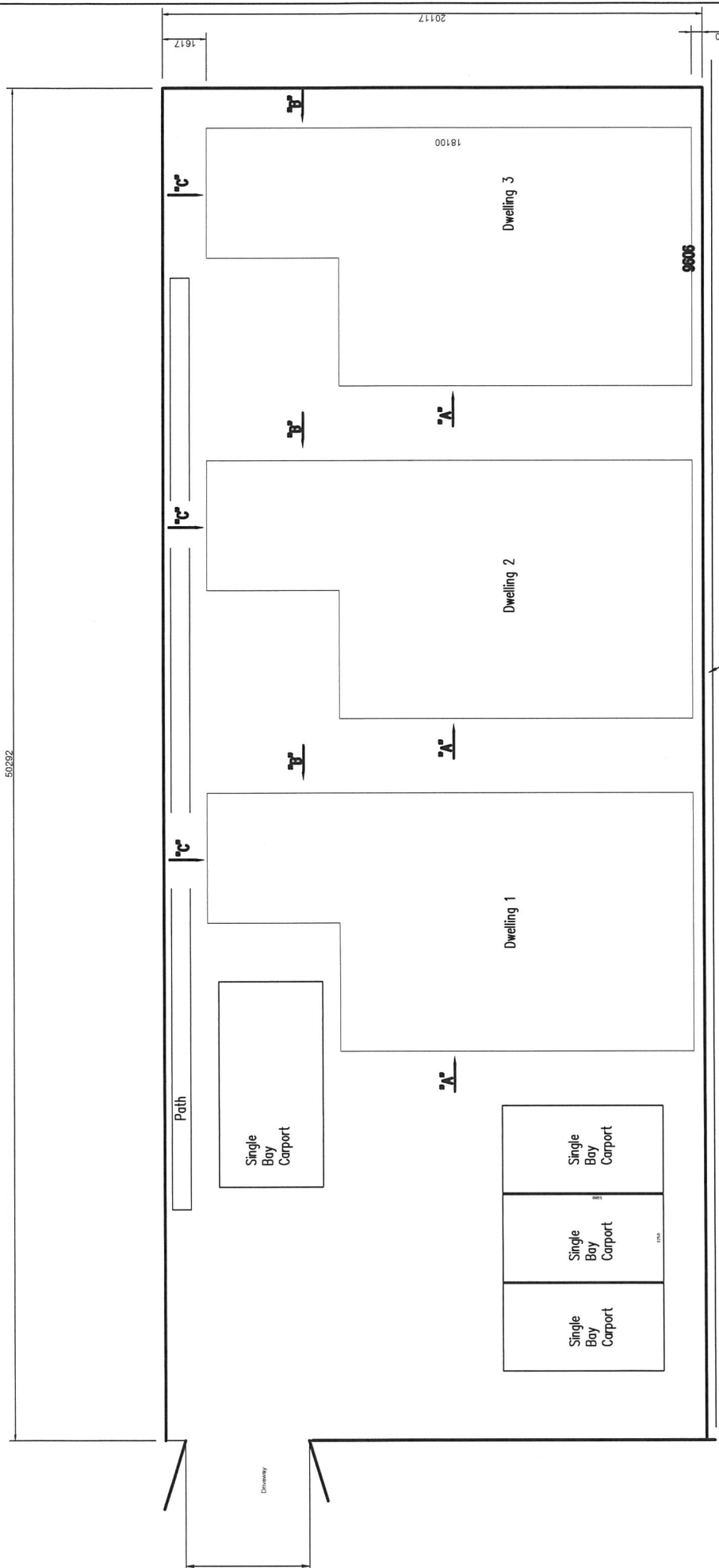
#### **Details of the Development**

The proposed development application is seeking a development permit for a Development application Material Change of Use -Multiple dwellings at 39 Gregory Street, Lot 4 on RP745478, Cloncurry.

#### **Reasons for the decision**

A detailed assessment of the application by Council assessing officers has been undertaken and it is concluded as documented in this Development Assessment Report that the applicant has satisfactorily demonstrated compliance with the applicable benchmarks of the relevant planning scheme codes to enable Council to support the proposed development in granting its approval, subject to reasonable and relevant conditions being imposed.

50292



Towards Gregory Street

CLIENT: Leverage project  
 LOCATION: 39 Gregory Street  
 Cloncurry  
 AREA: 1012 METER SQUARED  
 LOCAL AUTHORITY: Cloncurry Council  
 LOT 4 ON RP 745478  
 Class 1a - 149 m2  
 Carport 10a - --m2

**Cloncurry Shire Council**  
 Town Planning  
 Approved with Conditions  
 Approved Date: 19 APR 2022  
**F P 03/22**

**Note:**  
 All dimensions are scale and indicative only. Owner/Builder to confirm all dimensions on site prior to carrying out any construction work

- Legend**
- Boundary Line
  - Council Sewer Line
  - Storm Water Pipe
  - House H/D Line

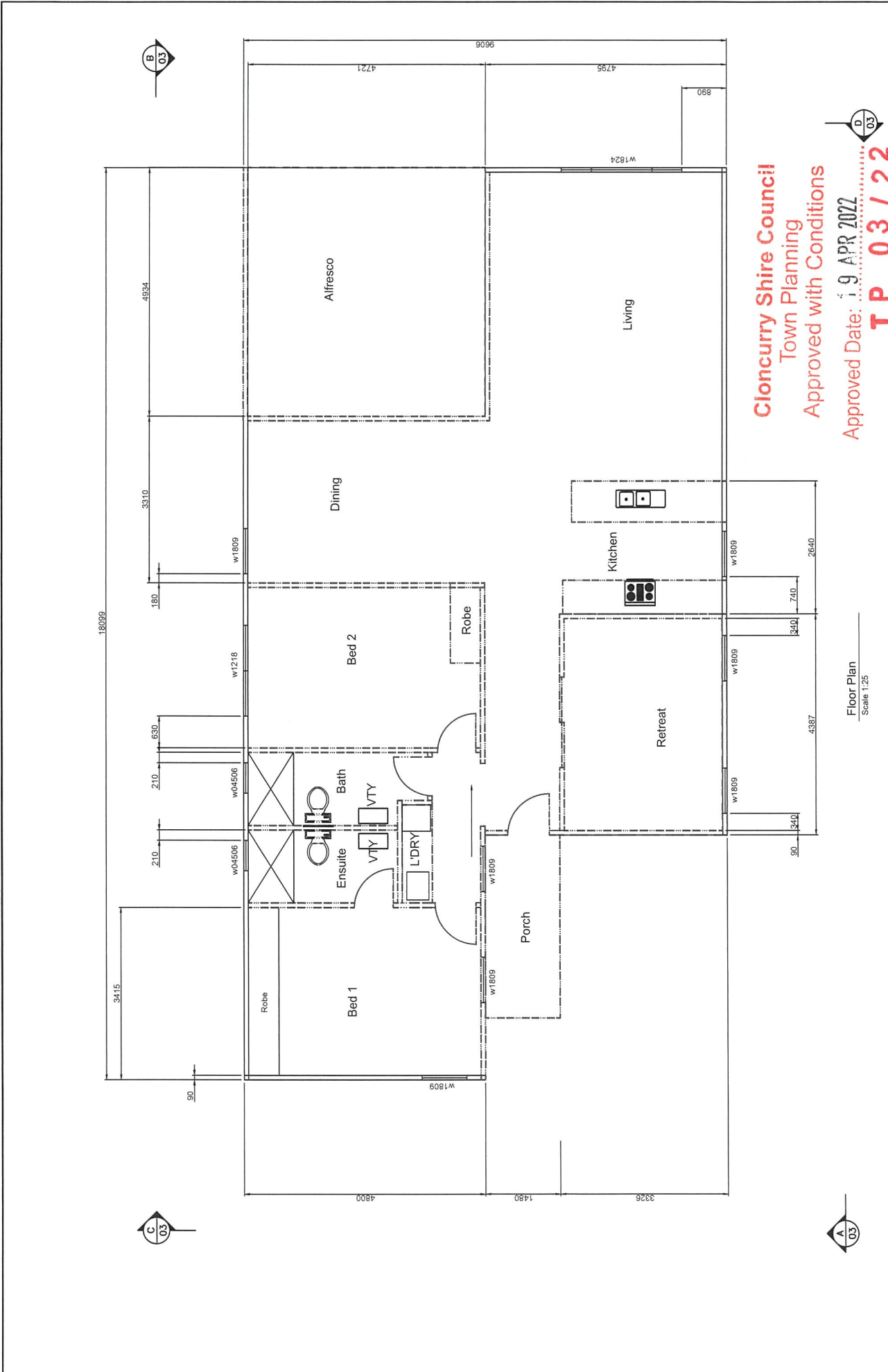
No.	DATE	DESCRIPTION	DRN	CHD
B	09-12-2021	Amended	DI	
A	11-11-2021	Preliminary	DI	

<p>70 Federation Drive                  Bulimba QLD                  Phone 0427 72580                  Mobile 0427 72580                  Email: <a href="mailto:leverage@leverage.com.au">leverage@leverage.com.au</a></p>		<p>PROJECT: Proposed Modular Buildings                  39 Gregory Street                  Cloncurry</p>
<p>CLIENT: Leverage Project</p>		<p>TITLE: Site Plan</p>
<p>70 Federation Drive                  Bulimba QLD                  Phone 0427 72580                  Mobile 0427 72580                  Email: <a href="mailto:leverage@leverage.com.au">leverage@leverage.com.au</a></p>		<p>DRAWING No: A-01</p>

**GENERAL NOTES**

- No water to leave this site other than by overhead flow to a storm water system or to a retention structure, embankments used to comply with NCC Volume 2 Parts 3.1.1 & 3.1.2
- Stormwater must comply with N.C.C. 3.2.2 & AS 3705 and must be intercepted
- Star & Boardwalk construction must comply with N.C.C. 3.8.1 & 3.8.2



**Cloncurry Shire Council**  
**Town Planning**  
 Approved with Conditions  
 Approved Date: 19 APR 2022  
**TP 03 / 22**

Floor Plan  
 Scale 1:25

No.	DATE	DESCRIPTION	DRN	CHD
C	01-02-2022	Preliminary	DI	ARCH
B	09-12-2021	Preliminary	DI	ARCH
A	14-11-2021	Preliminary	DI	ARCH

**REVISIONS**

**GENERAL NOTES**

- No water to leave this site other than by overhead flow to a storm water system or to street.
- All earthwork such as batter, embankments and to comply with NCC Volume 2 Parts 3.1.1 & 3.1.2.
- Smoke alarms must comply with N.C.C 3.2.2 & AS 3705 and must be interconnected.
- Stair & Balustrade construction must comply with N.C.C 3.8.1 & 3.8.2

**CLIENT:** Leverage Projects

**PROJECT:** Proposed Modular Units  
 39 Gregory Street  
 Cloncurry

**TITLE:** Floor Plan

**DRAWING No:** A-02

**Scale:** 1:25

**Sheet:** 03 of 03

**Project:** TP 03 / 22

**Approved Date:** 19 APR 2022

**Approved by:** [Signature]

**70 Federation Drive**  
**Dalrymple 4295**  
**Phone: 042792500**  
**Mobile: 042792500**  
**Business Hours: Monday 9:00am - 5:00pm**

