

Scott Waters  
CEO City of Moreton Bay

Dear Sir,

**15/Nov/2024**

**Re: DA/2024/4695 25 Marine Parade REDCLIFFE**

Based upon our early research and the feedback obtained from Council in connection with DA/2024/4695, which is for our neighbouring property, we are disturbed by the veracity of the information we have thus far.

### **Category of Assessment**

Each of the following state the Category of Assessment as "Code Assessable"

1. the Development Application by I B Town Planning
2. the DA Form-1 by I B Town Planning
3. the supporting Performance Outcomes Report by I B Town Planning
4. Several verbal responses from Council Officers
5. "Confirmation Notice" (of 4/Nov/2024) by Council

We have found several elements of the application which significantly deviate from planning policy instruments. As such our assessment is that this application is not Code Assessable in its present form.

We assert that there are clear and concise assessment benchmarks which are integral to the Council Town Planning Scheme that are being inappropriately considered. We refer to several criteria contained within Council's Policy documents.

By reference to the Planning ACT 2016, we see that Council Town Planning Scheme Policy documents are not simply supporting documents, but are in fact "planning instruments" and "categorising instruments".

### **From the Planning ACT 2016**

#### **s8 What are planning instruments**

- (1) A planning instrument is an instrument that sets out policies for planning or development assessment, and is either—
- (a) a State planning instrument; or
  - (b) a local planning instrument.

- .
- .
- (3) A local planning instrument is a planning instrument made by a local government, and is either—
- (a) a planning scheme; or
  - (b) a TLPI; or
  - (c) a planning scheme policy.

### Definition from the Planning ACT

**planning scheme policy** means a planning instrument that sets out the matters stated in section 4(e).

Section 4(e) of the Act shows:-

- (e) planning scheme policies setting out policies, for all or part of a local government area, that support—
- (i) planning and development assessment policies under planning schemes; and
  - (ii) action by a local government in making or amending local planning instruments; and
  - (iii) action by a local government under the development assessment system

Under the Planning Act 2016, s 43, the Planning Scheme Policy -Residential Design is a Categorising Instrument.

The Planning Act s 43 defines Categorising Instruments (emphasis added) as:-

- (1) A **categorising instrument** is a regulation or local **categorising instrument** that **does any** or all of the following—
- (a) categorises development as prohibited, assessable or **accepted development**;

The Planning Scheme Policy -Residential Design is an elemental component of the Planning Scheme and policies outlined within the document should not be disregarded or overridden.

The assessments within the policy document should be applied as stated within the policy document itself in para 1.2:-

## 1.2 Application

*This planning scheme policy applies to residential uses within the following zones, precincts or local plans:*

*a) General residential zone, all precincts;*

## Planning Scheme Policy Instruments

As shown above, under the Act a **Planning Scheme Policy** is a **Categorising Instrument** and must be used in determining if a development is Code Assessable or an Assessable Development as it does detail, in terms of the ACT, what is an accepted development. The current Town Planning Report Appendix document makes reference to the following 10 Planning Scheme Policy instruments:-

- Residential design
- Integrated design
- Noise
- Environmental areas
- Operational works
- Waste
- Acid sulfate soils
- Heritage, and landscape character
- Flood hazard, Coastal hazard and Overland flow
- Neighbourhood design

This signifies that the Policy Instruments are crucial in determining the Category of Assessment.

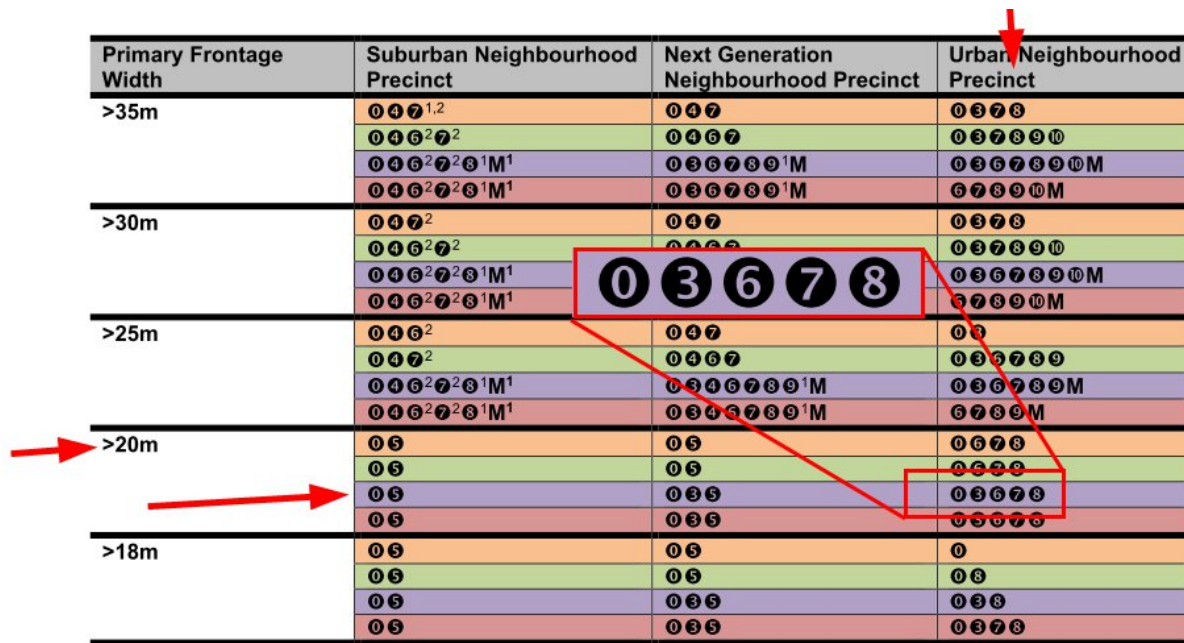
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The **Planning Scheme Policy** clearly categorises the Code Assessable limit for a building on 25 Marine Parade (fronting a district collector road, in an urban neighbourhood precinct and with a frontage of 21.5m) as Typology **8** - Multiple Dwelling (Low Rise Apartment). This Typology **8** is as based on a defining table within the policy document (a *Categorising Instrument* and a *Planning Instrument*).

Further, the "Planning Scheme Policy – Residential Design" is an instrument (a **Categorising Instrument**) and is issued by a Statutory Body (City of Moreton Bay). Thus it is a *Statutory Instrument*.

## Residential Design Policy

As defined in section 3.2.1 Suburban neighbourhood, Next generation neighbourhood and Urban neighbourhood precincts of the Planning Scheme Policy - Residential Design we see the below Typology table and we refer you to the Typologies as highlighted.



Primary Frontage Width	Suburban Neighbourhood Precinct	Next Generation Neighbourhood Precinct	Urban Neighbourhood Precinct
>35m	047 <sup>1,2</sup>	047	0378
	046 <sup>2,2</sup>	0467	03789 <sup>10</sup>
	046 <sup>2,2</sup> 3 <sup>1</sup> M <sup>1</sup>	036789 <sup>1</sup> M	036789 <sup>10</sup> M
	046 <sup>2,2</sup> 3 <sup>1</sup> M <sup>1</sup>	036789 <sup>1</sup> M	6789 <sup>10</sup> M
>30m	047 <sup>2</sup>	047	0378
	046 <sup>2,2</sup>	0467	03789 <sup>10</sup>
	046 <sup>2,2</sup> 3 <sup>1</sup> M <sup>1</sup>	036789 <sup>1</sup> M	036789 <sup>10</sup> M
	046 <sup>2,2</sup> 3 <sup>1</sup> M <sup>1</sup>	036789 <sup>1</sup> M	6789 <sup>10</sup> M
>25m	046 <sup>2</sup>	047	03
	047 <sup>2</sup>	0467	036789
	046 <sup>2,2</sup> 3 <sup>1</sup> M <sup>1</sup>	0346789 <sup>1</sup> M	036789 <sup>10</sup> M
	046 <sup>2,2</sup> 3 <sup>1</sup> M <sup>1</sup>	0346789 <sup>1</sup> M	6789 <sup>10</sup> M
>20m	05	05	0678
	05	05	03678
	05	035	03678
	05	035	03678
>18m	05	05	0
	05	05	03
	05	035	038
	05	035	0378

The Typology **8** is clearly shown in the Residential Design Policy Instrument to limit any development to a 2-3 story apartment building on a lot with a road frontage of 21.5m. We fail to see the rationale of assessing a 7 storey high rise building as Code Assessable on the small property with narrow frontage, and on a property tapering to just 12m at the rear. In Council's Planning Scheme, a 7 storey building is classed as a High-Rise building, 2 typologies more than policy dictates for the target lot.

This fact alone must preclude the application from being classed as Code Assessable.

## Waste Management

For waste management issues, we refer to the Policy Instrument for Waste.

In section 4: Bin types for specific uses and in particular s4.1 Dwelling house, dual occupancy and multiple dwellings with less than 6 dwellings, it is stated that (our emphasis) *"Each dwelling house and dwelling forming part of a dual occupancy or multiple dwelling with less than 6 dwellings is required to have a minimum of one wheeled bin for general waste and one wheeled bin for recyclable waste."* The forgoing is stated as a **requirement**. The DA does not meet this requirement of the Planning Instrument. This is another factor that determines that the DA be not Code Assessable.

S41.1 continues... "Bins for a multiple dwelling development may be stored in a common bin storage area however it **must comply with all relevant sections of this policy**. It should be noted that bin enclosures can have operational issues if the site does not have a caretaker. Issues may include lack of responsibility for putting the bins onto the kerbside, failure to return bins to the enclosure on service days and lack of responsibility for cleaning the bins and the enclosure. A **waste management program must** be provided and approved by Council for all developments with a common bin storage area (see section 10).

Section 10 states the 11 items to be detailed in the **Waste management program**. The Appendix within the site Traffic report addresses only some of the items required in the **Waste Management Program**.

### Noise

The Performance Outcome PO14 claims there will be no noise generating uses. We identify the below sources of noise that will impact neighbouring properties.

- The air conditioning plant, pool/spa, and associated pumping equipment will likely generate excessive noise, particularly during the night and early morning. This noise disturbance will severely affect the peace and quiet of the residential community, impacting our quality of life.
- The proposed rooftop terrace and entertainment area will further exacerbate noise issues, especially during social gatherings, creating a constant source of disturbance for nearby residents.

### Onsite Service Vehicle Parking

The Traffic Report details the requirement for a site manager to attend to waste management duties on the site.

- As designed, the building would require a site manager. If the site manager does reside away from the property, there should be provision for the granting of on-site parking. The vehicle will contain service and cleaning equipment and materials.

### Disability Parking

- The development plan does not make adequate provisions for onsite disabled parking. It is counter intuitive that a disabled toilet is included with the design but no suitable parking provided for a disabled person.

### Visitor Parking

- The development plan does not make adequate provisions for onsite visitor parking. This shortfall will lead to increased street congestion and

parking overflow onto adjacent residential streets, which are already limited in capacity.

### **Building Setbacks**

Performance Outcome PO6 attempts to circumvent the set back regulations by claiming they are insignificant.

The 500mm encroachments of the building fire stairs, lift and foyer for the upper levels on the south side is a concern.

The 719mm set back from the north boundary at one point on ground level is an extreme concern.

The access driveway is adjacent to the front northern boundary, and not 3M from the boundary.

### **In Summary**

We fail to see how Council could continue to assess the Category of Assessment as "Code Assessable" and we submit that it warrants being classed as Impact Assessable.

As stated in the Planning Regulation 2017, s27, a Code Assessable application must be assessed having regard to the Planning Scheme. The Planning Policy Instruments are integral to the Planning Scheme and must be used for any assessment. The Application as submitted does not comply with Council's Planning Scheme.

In view of the above we consider that the planned building is not appropriate for the target site.

Sincerely,

Body Corporate Committee;

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Ian Flint            mob: 04 [REDACTED]

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