

DETAILED ASSESSMENT REPORT

APPLICATION FOR DEVELOPMENT APPROVAL

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SUMMARY SHEET	
APPLICATION DETAILS	
Applicant:	Robert Bindon
Owner:	Robert Bindon
Consultant:	Vision Design Planning
Proposal	Development Permit for Material Change of Use of Premises to Establish a Dual Occupancy
Properly Made Date:	24 August 2018
Information Request Date:	21 September 2018
Information Response Received Date:	5 October 2018
Decision Due Date	17 December 2018
Number of Submissions	Nil
PROPERTY DETAILS	
Division:	2
Property Address:	41A Blaxland Street GOLDEN BEACH
RP Description:	Lot 6 RP 93762
Land Area:	701m ²
Existing Use of Land:	Single detached dwelling
STATUTORY DETAILS	
Planning Scheme:	Sunshine Coast Planning Scheme 2014 (29 June 2018)
SEQRP Designation:	Urban Footprint
Strategic Plan Designation:	Urban
Planning Area / Locality:	<i>Golden Beach/Pelican Waters local plan area</i>
Planning Precinct / Zone:	<i>Low density residential zone in Precinct LDR1 (Protected Housing Area)</i>
Assessment Type:	Impact

PROPOSAL

The application seeks approval for a Development Permit for Material Change of Use of Premises to establish a *Dual occupancy*. The proposal relates to an existing dwelling house which includes a secondary dwelling (under single ownership) since approximately 2006. It is proposed to convert the existing dwelling house to a *Dual occupancy* resulting in two separate freehold lots with a dwelling on each lot.

The proposed dual occupancy comprises one 2-bedroom unit and one 3-bedroom unit. Proposed Unit 1 would have a gross floor area of 136m² and proposed Unit 2 would have a gross floor area of 138m². The maximum height of the building would be 4.5m.

The applicant states that the existing dwelling house on the subject site was renovated and extended in 2006. The renovation resulted in a floor plan suitable to accommodate, more or less independently, two family sub-groups in each end of the dwelling. The plans show that each "living area" has its own point of entry and own bathroom, laundry, bedroom and kitchen facilities. The proposed development entails predominantly internal works by sealing off the connection between the two living areas, some additions to the building exterior and the creation of an additional covered car parking space for proposed Unit 1.

The application is impact assessable because the site is located in the *Low Density residential zone, Precinct LDR1 (Protected Housing Area)* in which *Dual occupancies* are identified by the *Sunshine Coast Planning Scheme 2014* as impact assessable, inconsistent uses.

An extract of the proposal plans is shown below:



SITE DETAILS:

SITE AND LOCALITY DESCRIPTION	
Land Area:	701m ²
Existing Use of Land:	Single detached dwelling
Road Frontage:	17m to Gregory Street 46m to Blaxland Street
Significant Site Features:	Site is largely clear of vegetation
Topography:	Slope of less than 15% gradient
Surrounding Land Uses:	Predominantly single detached dwellings

Site Description

The location of the subject site in relation to its surrounds is shown below:

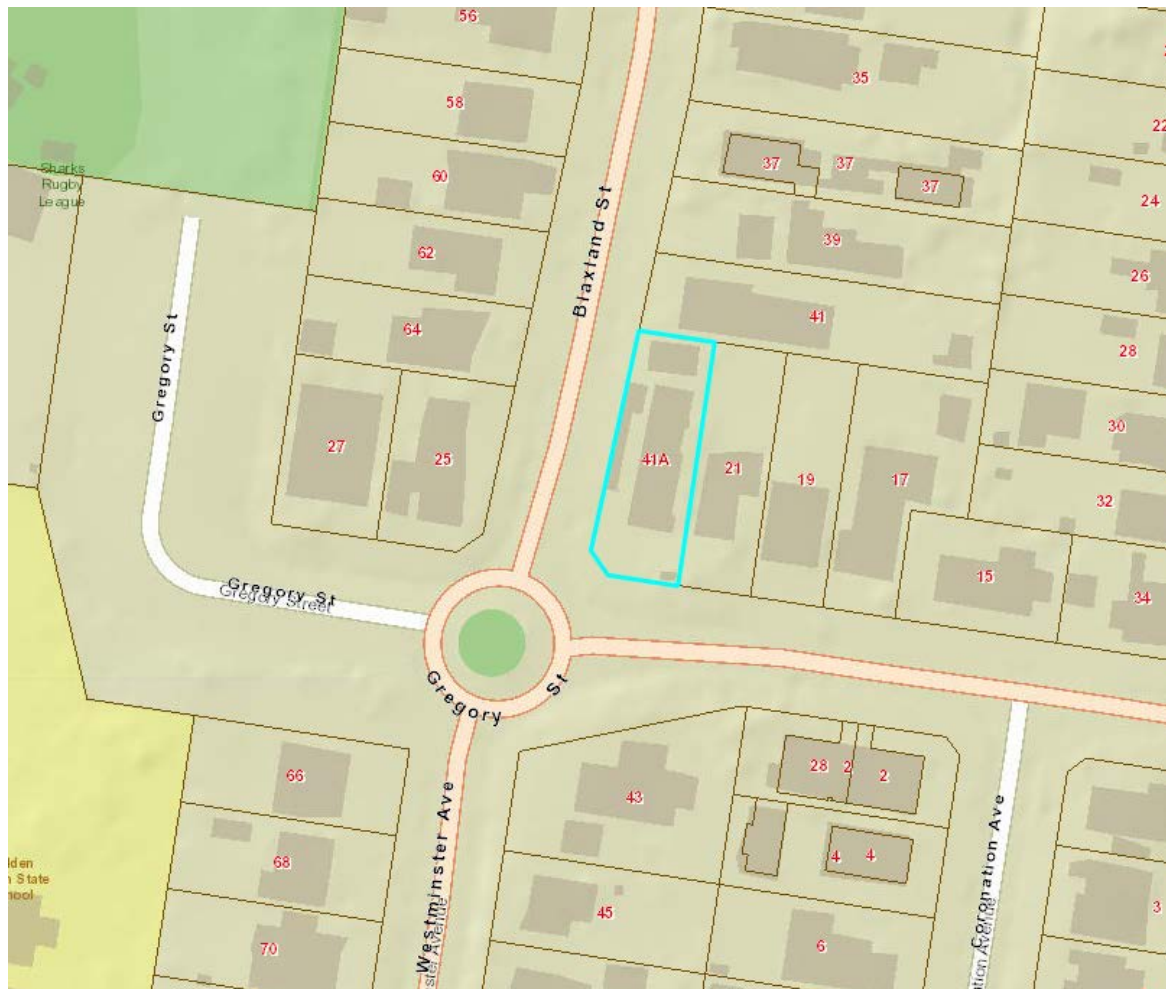


Figure 2: Street map with site highlighted in blue



Figure 3: Aerial image of site

Background / Site History

The following history is relevant to the site.

APPLICATION NO.	DECISION AND DATE
2005/BLD0001	Approved Building Works for Garage, 3 March 2005
2006/BLD1357	Approved Building Works for Dwelling Additions, 20 July 2006

ASSESSMENT

Framework for Assessment

Categorising Instruments for Statutory Assessment

For the *Planning Act 2016*, the following Categorising Instruments may contain Assessment Benchmarks applicable to development applications:

- the *Planning Regulation 2017*
- the Planning Scheme for the local government area
- any Temporary Local Planning Instrument
- any Variation Approval

Of these, the planning instruments relevant to this application are discussed in this report.

Assessment Benchmarks Pertaining to the *Planning Regulation 2017*

The following Assessment Benchmarks from the *Planning Regulation 2017* are applicable to this application:

PLANNING REGULATION 2017 DETAILS	
Assessment Benchmarks:	Nil.
SEQ Regional Plan Designation:	Urban footprint

Assessment Benchmarks Pertaining to the Planning Scheme

The applicable planning scheme for the application is Sunshine Coast Planning Scheme (29 June 2018). The following sections relate to the provisions of the Planning Scheme.

Planning Scheme:	<i>Sunshine Coast Planning Scheme (29 June 2018)</i>
Strategic Framework Land Use Category	Urban footprint
Local Plan Area:	<i>Golden Beach/Pelican Waters Local Plan Area</i>
Zone:	<i>Low density residential zone</i>
Consistent/Inconsistent Use:	Inconsistent
Assessment Benchmarks:	The proposal is impact assessable and therefore assessable against the entire Sunshine Coast Planning Scheme 2014.

Strategic Framework

The Strategic Framework considers the following matters:

- Settlement Pattern
- Economic Development
- Transport
- Infrastructure and Services
- Natural Environment
- Community Identity, Character and Social Inclusion
- Natural Resources
- Natural Hazards

The application has been assessed against each of the matters above. The pertinent issues arising out of assessment against the Strategic Framework are discussed below.

The application seeks the establishment of a dual occupancy within the *Low density residential zone (Protected housing area)* of the *Sunshine Coast Planning Scheme 2014*.

The *Sunshine Coast Planning Scheme 2014* Part 3 Strategic Framework, 3.3.4.1 Specific Outcome (d) provides that: *Existing established residential neighbourhoods that are identified as protected housing areas are retained generally in their current form.*

The current area is characterised by low rise, single dwelling houses on typically large lots. Whilst it is acknowledged that the proposed development relates to the conversion of an existing, established dwelling to a dual occupancy, the proposal would establish twice the density envisaged for the site. A dual occupancy would create two households on two titles, with each having the ability to be further changed and modified independently into the future, with the potential to create further inconsistency with the surrounding area.

The proposal is therefore inconsistent with the Strategic Framework as it does not provide that the area is retained with a low density character.

To overcome the conflict with the Strategic Framework, the applicant has argued that the retention of the existing built form (other than the addition of a carport and other minor embellishments) rather than the construction of a new building is consistent with Part 3 Strategic Framework, 3.3.4.1 Specific Outcome (d), as well as with specific Outcome (d) which seeks to ensure that urban consolidation "... *is compatible with and sympathetic to the preferred character of the local area*". The grounds provided are not sufficient to overcome the conflict with the planning scheme, because the development is proposing to introduce a new use to the site and does not provide that the area is retained with a low density character.

The proposed development is inconsistent with the intent of the Sunshine Coast Planning Scheme. In particular, a Dual Occupancy use is in conflict with the intent of the LDR1 (Protected Housing Area). The applicant relies on a combination of the existing built form and the perceived limited impact the proposal would have on the land parcel and surrounding area as grounds to approve the development. However, given the extent of conflicts with the planning scheme and the negative impacts that the current development could potentially have on all the Protected Housing Areas within the region, it is not agreed that the conflict can be overcome. The proposal cuts across multiple levels of policy expression embedded into the planning scheme provisions.

Assessment Benchmarks – Planning Scheme Codes

The application is impact assessable and subject to assessment against the whole planning scheme. The following codes which regulate land use and design that are most applicable to this application are discussed below.

Low density residential zone code (Protected housing area - Precinct LDR1)

History of the Protected housing area

Public consultation on the *Draft Sunshine Coast Planning Scheme* occurred in late 2012. The publicly exhibited version draft scheme proposed that development for the purposes of a *Dual occupancy* would be self-assessable where located within a defined area set aside for dual occupancy development (Precinct LDR 1 (Dual occupancy area)).

In response to submissions made to the *Draft Sunshine Coast Planning Scheme*, an alternative approach to the above was considered necessary to facilitate housing diversity across the region. In particular, it was considered that the planning scheme should allow Dual occupancy to occur in most parts of the Low density residential zone whilst identifying particular areas where *Dual occupancies* are not desired because of:-

- neighbourhood character or residential amenity considerations;
- servicing and infrastructure considerations;

- local community expectations; or
- the requirement to protect iconic values.

Through consultation, *Precinct LDR 1 (Protected Housing Area)* was created to exclude dual occupancy development and applied to a number of areas within the *Low density residential zone*, including parts of Aroona, Buddina, Buderim, Bokarina, Dicky Beach, Golden Beach, Little Mountain, Moffat Beach, Mooloolaba, Mudjimba, Pelican Waters, Twin Waters and Wurtulla.

Council's Strategic Planning Branch have advised that during the consultation process, the Protected Housing Precinct in the Golden Beach/Pelican Waters Local Plan Area was noted as being an area where there was strong community and Council support for the protection of existing low density residential neighbourhoods. At this time, it was communicated that there was an expectation from the community and Council that dual occupancies would not be supported in the Protected Housing Area precinct under the adopted Sunshine Coast Planning Scheme 2014.

Since the Sunshine Coast Planning Scheme 2014 came into effect, this position has been consistently held and there have been no approvals granted for *Dual occupancies* within Precinct LDR 1 (Protected Housing Area).

Previous Planning Scheme

It is noted that prior to the *Sunshine Coast Planning Scheme 2014* coming into effect, the subject site was regulated by *Caloundra City Plan 2004*.

Under *Caloundra City Plan 2004*, duplex dwellings were generally impact assessable development in the Low density residential precinct and Township residential precinct.

Duplex dwellings were only made code assessable development in the Low density residential precinct and Township residential precinct where they were located on a lot nominated as a 'Duplex Dwelling Lot' on an approved plan of development for reconfiguring a lot. The site was not a nominated allotment.

Caloundra City Plan also included a Duplex dwelling code that specified a minimum lot size of 800m² for a duplex dwelling where established in a traditional housing area.

As such, the provisions of the Caloundra City Plan 2004 did not envisage the development of a dual occupancy on the subject land.

Zone code assessment

The specific mechanisms of the *Low density residential zone code* of the *Sunshine Coast Planning Scheme 2014* precluding dual occupancy from the *Precinct LDR 1 (Protected housing area)* are:

- Overall outcome 6.2.1.2 (2) (c) – dual occupancies may only be established outside identified protected housing areas;
- Overall outcome 6.2.1.2 (2) (o) – an inconsistent use is not intended to occur in the Low density residential zone;
- Table 6.2.1.2.1 – dual occupancies are only consistent uses where not located in *Precinct LDR 1 (Protected housing area)*

The mapping for *Low density residential Precinct LDR 1 (Protected housing area)* is contained in the local plan mapping for the *Golden Beach/Pelican Waters local plan code*. An extract from the local plan mapping is shown below. It is noted that all the low density residential zoned land in the local plan area is mapped within the *Precinct LDR 1 (Protected housing area)*.

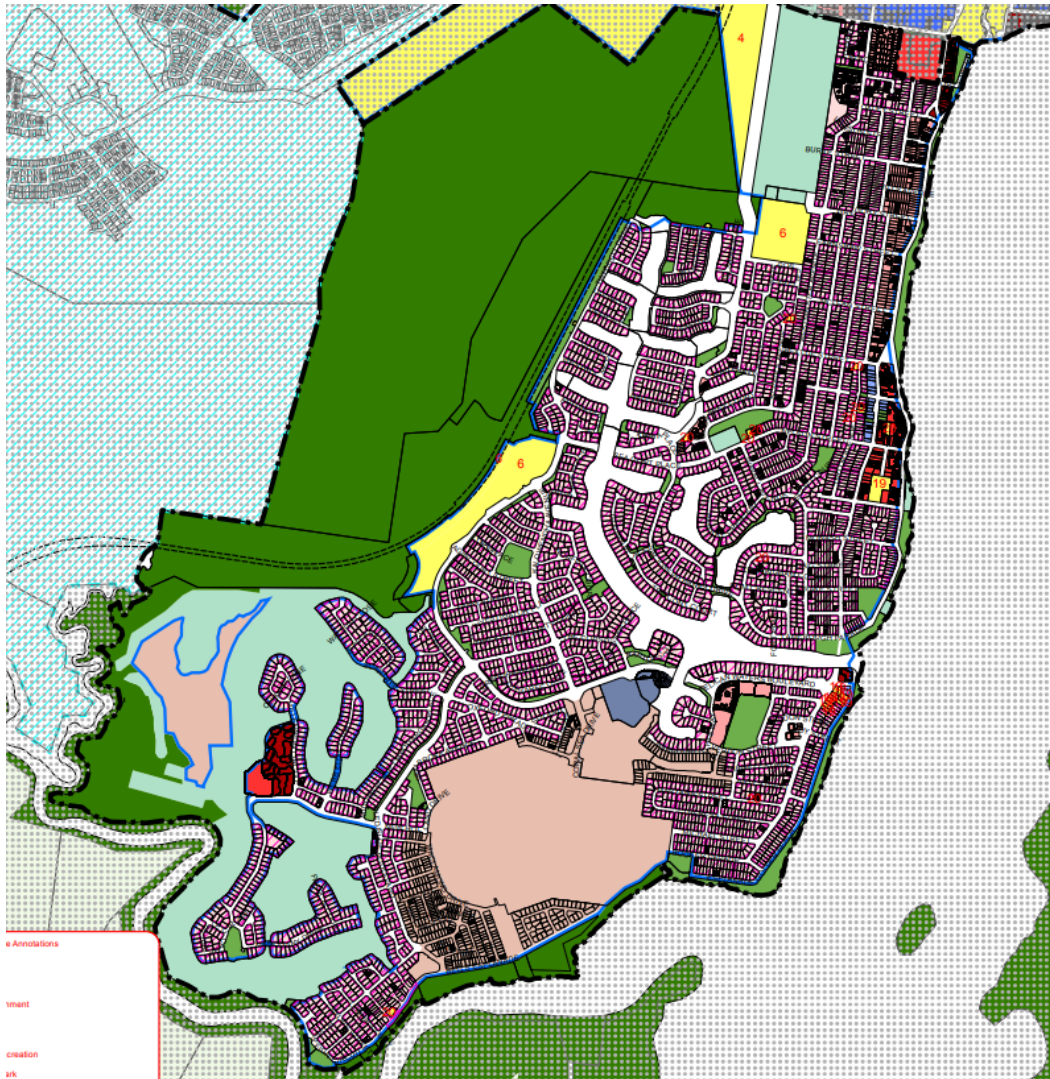


Figure 4: Precinct LDR 1 (Protected housing area) hatched in pink

The proposed development would be inconsistent with the Purpose and overall outcomes of the Low density residential zone *Precinct LDR 1 (Protected housing area)* because:

- The site is identified as *Precinct LDR 1 (Protected housing area)* area; and
- The proposal is an inconsistent use type for the zone.

Based on the above, approval of the proposed development would represent a significant departure from council policy in relation to the *Precinct LDR 1 (Protected housing area)*.

Additionally, there is concern that a proposal similar to this could be proposed on other sites in the *Precinct LDR 1 (Protected housing area)* which are located in parts of Aroona, Buddina, Buderim, Bokarina, Dicky Beach, Golden Beach, Little Mountain, Moffat Beach, Mooloolaba, Mudjimba, Pelican Waters, Twin Waters and Wurtulla and therefore set a precedent that is replicated by others.

Golden Beach/Pelican Waters local plan code

As above, the subject site is located in the Golden Beach/Pelican Waters local plan area. The provisions of the plan require buildings, structures and landscaping to be consistent with and reflect and enhance the coastal urban character of Golden Beach and Pelican Waters.

The application has been assessed against the local plan code and found to be generally compliant, with the exception of the zone map which denotes the *Precinct LDR 1 (Protected housing area)*.

Dual occupancy code

In addition to the wider land use matters raised above, the proposed dual occupancy is inconsistent with the design provisions of the *Dual occupancy code* in the following key ways.

Zoning/Precinct

Acceptable Outcome AO1.1 provides that a site for a dual occupancy must be outside Precinct LDR 1 (Protected housing area). The proposal is inconsistent with Acceptable Outcome AO1.1.

The associated Performance Outcome PO1 requires that the dual occupancy is located on a site which is *in an area intended to accommodate more diverse housing options*. The application has not demonstrated that the subject site is in an area that is intended to accommodate more diverse housing options because it locates a dual occupancy in an area where there is an expressed intent to exclude dual occupancies. Therefore, the application is inconsistent with Performance Outcome PO1 of the code.

Lot Size

Acceptable Outcome AO1.2 requires that, where located in the Low density residential zone, the subject site has a minimum area of 800m², exclusive of any access strip. The size of the subject site is 701m². Therefore the proposal does not meet the preferred minimum lot size for a *dual occupancy* and the application is inconsistent with Acceptable Outcome AO1.2 of the code.

The associated Performance Outcome PO1 requires that the dual occupancy is located on a site which has sufficient area and dimensions to accommodate the use (including associated access, parking, landscapes and setback requirements). Whilst access and parking would appear to be sufficient for the proposed development, the smaller lot size contributes to the proposal being unable to comply with the required setbacks. The setback inconsistencies are discussed below. The proposal is considered to be inconsistent with Performance Outcome PO1 of the code.

Setbacks

Acceptable Outcome AO3.2 requires that a dual occupancy is set back at least 4.5 metres from any street frontage, with any garage or carport set back at least 6 metres.

The subject site is a corner allotment and has two street frontages. The following street setbacks are proposed, as measured from outer most projection:-

- 6m southern setback to Gregory Street
- 3m western setback to Blaxland Street

The 6m setback proposed to Gregory Street is consistent with the requirements of the code. However, the 3m setback to Blaxland Street is inconsistent as the code requires a minimum setback of 4.5m. Furthermore, the setback to the garage associated with proposed Unit 2 is 3m (half the required setback distance). The proposal is inconsistent with Acceptable Outcome AO3.2 of the code.

The associated Performance Outcome PO3 requires that the dual occupancy is *designed and constructed to provide an attractive address to all street frontages and make a positive contribution to the preferred streetscape character of the locality*. The proposal would provide inconsistent setbacks which do not maintain the existing open character of the area. The application is inconsistent with Performance Outcome PO3 of the code.

Landscaping

Acceptable Outcome AO6.3 requires a minimum 1 metre wide landscape strip along the full length of the street frontage. In addition, Acceptable Outcome AO6.5 requires that fences or walls are not provided along street frontages or be no more than 1.2m high. The application

has not demonstrated compliance with either of these requirements in relation to landscaping. Therefore, the application is inconsistent with Acceptable Outcomes AO6.3 and AO6.5 of the code.

The applicant has argued that the existing masonry fencing on the site boundary precludes the provision of a frontage landscape strip.

The associated Performance Outcome PO6 requires that the dual occupancy development incorporates site landscapes that provide an attractive setting for the enjoyment and appreciation of residents and integrate the development into the surrounding urban landscape. The development is proposing a fence on the property boundary without the necessary landscaping that would provide a more attractive landscape setting. Furthermore, the proposed streetscape outcome would be inconsistent with the largely open character of the Golden Beach area. Therefore, the application is inconsistent with Performance Outcome PO6 of the Dual occupancy code.

Transport and parking code

Two car parking spaces are required to be provided per dwelling, with at least one of the spaces capable of being covered. The proposal plans identify that sufficient parking is provided.

Strategic Planning Advice

Council's Strategic Planning Branch were consulted as part of the application process. A summary of this assessment is provided below.

- The justification for the proposed development by the applicant provides that the Sunshine Coast Planning Scheme 2014 has become outdated by the release of the urban consolidation targets in the SEQ Regional Plan 2017. This argument is not supported. The Sunshine Coast Planning Scheme 2014 encourages urban consolidation in a broad range of appropriate areas (i.e. within and surrounding existing and planned activity centres, in the *Tourist accommodation zone*, the *High density residential zone*, the *Medium density residential zone* and the *Low density residential zone* outside of the *Precinct LDR 1 (Protected housing area)*). Aligned with the SEQ Regional Plan 2017, the Sunshine Coast Council's policy position of supporting urban consolidation in appropriate areas continues to be effectively implemented through the zoning allocations and provisions of the Sunshine Coast Planning Scheme 2014.
- The proposed development does not achieve Overall Outcome (c) of the *Low density residential zone code* because a dual occupancy may only be established outside identified protected housing areas. Whether the scale and operation of the use is compatible with residential character is only a matter for consideration in circumstances where the dual occupancy is proposed outside of protected housing areas.
- The proposed development does not achieve Overall Outcome (2)(a), Performance Outcome PO1 and Acceptable Outcome AO1.1 of the *Dual occupancy code* on the basis that it is not located in an area intended to accommodate more diverse housing options. The Strategic Framework identifies areas intended for more diverse housing options in Specific Outcomes 3.3.4.1(b) (including *High and medium density residential zones*, the *Tourist accommodation zone* and the *Low density residential zone* outside of the *Precinct LDR 1 (Protected housing area)* and 3.3.5.1(b)).
- The proposed development does not achieve Overall Outcome (c) of the *Low density residential zone code*.
- There are no provisions in relation to dual occupancies in the *Golden Beach/Pelican Waters local plan code*. Contrary to the suggestion of the applicant, even if all provisions within a local plan code can be achieved, this does not mean that lower-order codes no longer apply.
- The proposed development does not achieve Specific Outcome 3.3.4.1(b) of the Strategic Framework.

It is considered that the applicant's representations in relation to character, operation or impact are not relevant to the matters of conflict with the Sunshine Coast Planning Scheme listed above. These Outcomes relate to the location of the proposed dual occupancy in areas intended for urban consolidation and mixed housing forms (i.e. not the *Precinct LDR 1 (Protected housing area)*). These provisions have not been worded to consider a performance-based test of dual occupancies proposed in the *Precinct LDR 1 (Protected housing area)*.

Approved dual occupancies within the local area.

The following table identifies the details of dual occupancy approvals within Golden Beach between January 2004 and January 2019 (covering the lifespan of *Caloundra City Plan 2004* and *Sunshine Coast Planning Scheme 2014*).

Under *Caloundra City Plan 2004*, there was no equivalent Protected Housing Area precinct and each application listed below was largely consistent with the relevant planning scheme.

Application	Level of Assessment	Date Approved	Address	Notes
2007/500044	Code	17/7/07	4 and 5 Worthington Lane GOLDEN BEACH	This was an approval to extend an existing duplex. The subject allotment was located within the Multi Unit Residential Precinct where duplexes were code assessable where NOT located in a development area shown on Map KWP4 (the site was not in a development area).
2008/56M00 11	Code	18/7/08	45 Kennedy Parade GOLDEN BEACH	Application assessed under Caloundra City Plan 2004. The subject allotment was located within the Multi Unit Residential Precinct where duplexes were code assessable where NOT located in a development area shown on Map KWP4 (the site was not in a development area).
MCU11/0229	Impact	12/1/12	50 Nelson Street GOLDEN BEACH	Application assessed under Caloundra City Plan 2004, located in Low density residential precinct.
MCU12/0136	Impact	15/1/13	65 Coronation Avenue GOLDEN BEACH	Application assessed under Caloundra City Plan 2004, located in Low density residential precinct.
MCU14/0159	Code	7/1/15	111 Landsborough Parade GOLDEN BEACH	Sunshine Coast Planning Scheme application. Subject site located within Tourist Accommodation Zone where dual occupancy is a consistent use.

CONSULTATION

Referral Agencies

The application did not require referral to any Referral Agencies.

Other Referrals

The application was forwarded to the following internal council specialists:

- Principal Development Engineer, Engineering and Environment Assessment Unit

- Senior Landscape Officer, Engineering and Environment Assessment Unit
- Coordinator Planning Scheme and Projects, Strategic Planning Branch

Their assessment forms part of this report.

Public Notification

The application was publicly notified for 15 days in accordance with the requirements of the *Planning Act 2016*. No submissions were received.

CONCLUSION

Under the *Sunshine Coast Planning Scheme 2014*, *Dual occupancies* are not intended to occur in the *Low density residential LDR 1 (Protected Housing area)* and are identified as an inconsistent use. The application has not provided sufficient justification to overcome this inconsistency with the planning scheme and is considered unable to be justified given the nature of the inconsistency with the higher order zoning based provisions of the planning scheme.

The application is therefore recommended for refusal.