

OUR REF: MCUC 817/2015 (456130)

29 May 2015

Kiernan Investments Pty Ltd
PO Box 436
WULGURU QLD 4811

Dear Sir/Madam

**CHANGED DECISION NOTICE UNDER S 369 SUSTAINABLE PLANNING
ACT 2009: DEVELOPMENT APPLICATION FOR
3812R CAPE TRIBULATION ROAD, CAPE TRIBULATION**

With reference to the abovementioned Development Application, which was determined under Instrument of Delegation on 29 May 2015, please find attached the relevant Changed Decision Notice.

The Notice includes extracts from the Act with respect to lodging an Appeal.

Should you have any enquiries in relation to this Changed Decision Notice, please contact Neil Beck of Development and Environment on telephone number 07 4099 9451.

Yours faithfully

Donna Graham
Manager Development & Environment

Att

APPLICANT DETAILS

Kiernan Investments Pty Ltd
PO Box 436
WULGURU QLD 4811

ADDRESS

3812R Cape Tribulation Road, Cape Tribulation

REAL PROPERTY DESCRIPTION

Lot 11 on RP746567

PROPOSAL

Addition of six (6) new demountable cabins

DECISION

Approved subject to conditions (refer to approval package below).

DECISION DATE

This Changed Decision Notice dated 29 May 2015 replaces the Decision Notice dated 30 June 2003.

TYPE

Material Change of Use (Development Permit)

REFERRAL AGENCIES

None Applicable

SUBMISSIONS

There were no submissions for this application.

FURTHER DEVELOPMENT PERMITS REQUIRED

Development Permit for Building Works

CODES TO COMPLY WITH FOR SELF-ASSESSABLE DEVELOPMENT

None

DOES THE ASSESSMENT MANAGER CONSIDER THE APPLICATION TO BE IN CONFLICT WITH APPLICABLE CODES, PLANNING SCHEME, STATE PLANNING POLICIES OR PRIORITY INFRASTRUCTURE PLAN (IF YES, INCLUDE STATEMENT OF REASONS)

Not in conflict

APPROVAL CONDITIONS

1. Amend Item 2 B of the Decision Notice to remove reference to Plan No 1 and add the following table:

APPROVED DRAWING(S) AND / OR DOCUMENT(S)

The term 'approved drawing(s) and / or document(s)' or other similar expressions means:

Drawing or Document	Reference	Date
Site Plan illustrating existing and proposed structures	As submitted with the request	Undated
Plan illustrating demountable accommodation and additional amenities (x2 plans)	As submitted with the request	18 June 2003 Other plan undated
Demountable Floor Plan	As submitted with the request	Undated

2. Delete Condition 3
3. Delete Condition 19 and replace with the following

Vegetation Clearing

All existing native vegetation on the subject land must be retained. Other vegetation to be removed to accommodate the demountable buildings as detailed on the approved plans as stated in Condition 2B is permitted. Any further clearing requires an Operational Works Approval.

4. Condition 20 be deleted and replaced by the following:

An application for the construction or alteration of any food premises must be accompanied by two (2) copies of plans drawn to a scale not smaller than 1:100. Such plans are to include details of ventilation (including mechanical exhaust ventilation systems), finishes to walls, floors and ceilings, details of the proposed layout and materials to be used in the construction of all fixtures, fittings and equipment. The plans should include detailed cross sections of all areas to be included in the construction or alteration. All works must be carried out in accordance with approved and the requirements of the *Food Act 2006*, Food Safety Standards and AS 4674 – 2004 – Design, construction and fit-out of food premises. All works must be completed prior to the Commencement of Use.

DECISION NOTICE DETAILS
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5. Condition 22 be deleted and replaced by the following:

An application for an accommodation plans approval must be submitted and approved by the Environmental Health Unit prior to the issue of a Development Permit for Building Work.

Once plans approval has issued, an application must be made to amend the approval issued under Local Law No 1 (Administration) 2011 for the Operation of Camping Grounds.

6. That Condition 36 be deleted.
7. That all other conditions of the Decision Notice dated 30 June 2003 (#454234) remain unchanged.

FURTHER ADVICE

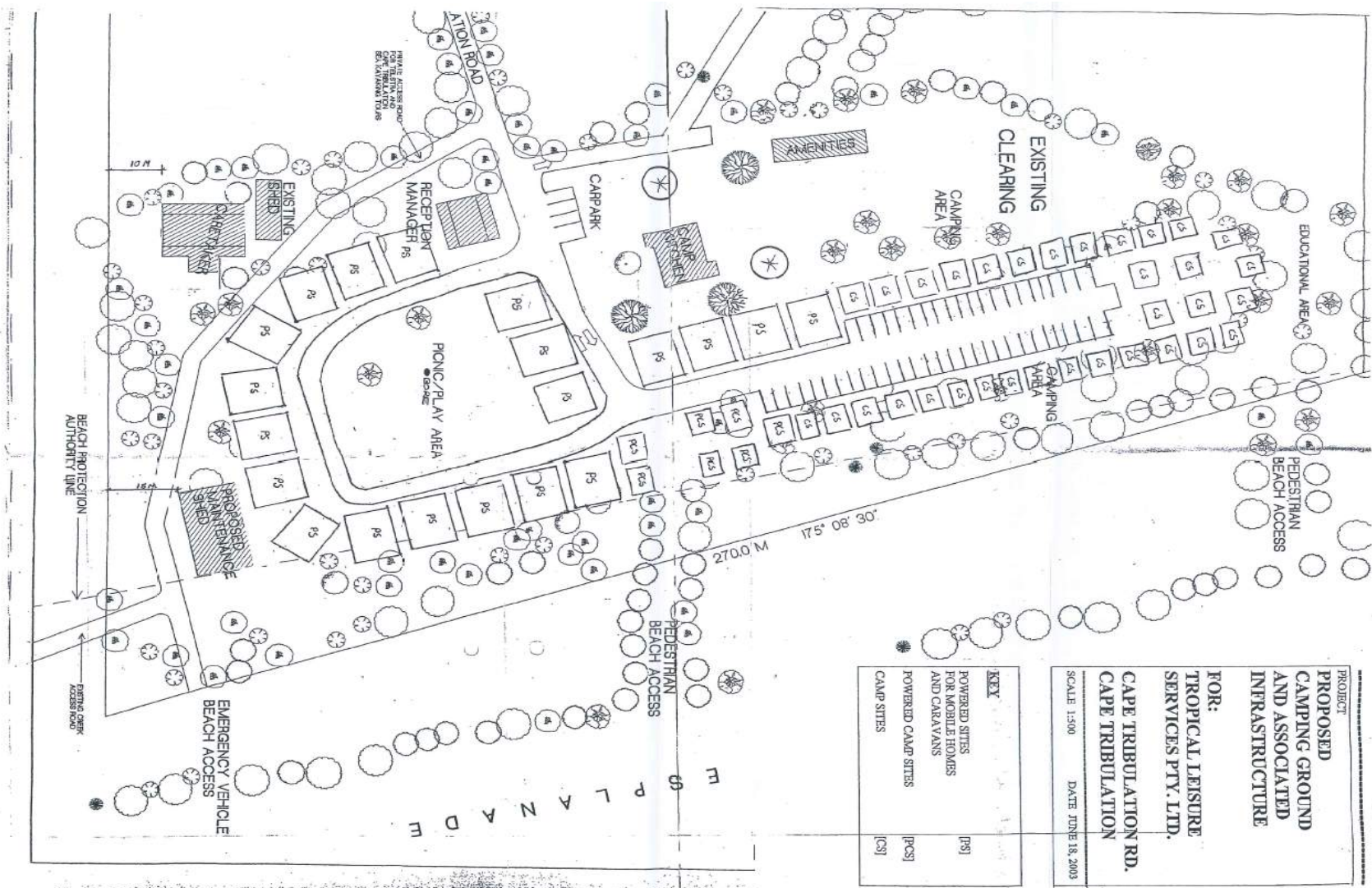
1. The request for a Permissible Change is granted in accordance with the provisions of section 375 of the *Sustainable Planning Act 2009*.
2. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
4. For information relating to the *Sustainable Planning Act 2009* log on to www.dilgp.qld.gov.au . To access the *FNQROC Development Manual*, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au .

RIGHTS OF APPEAL

Attached

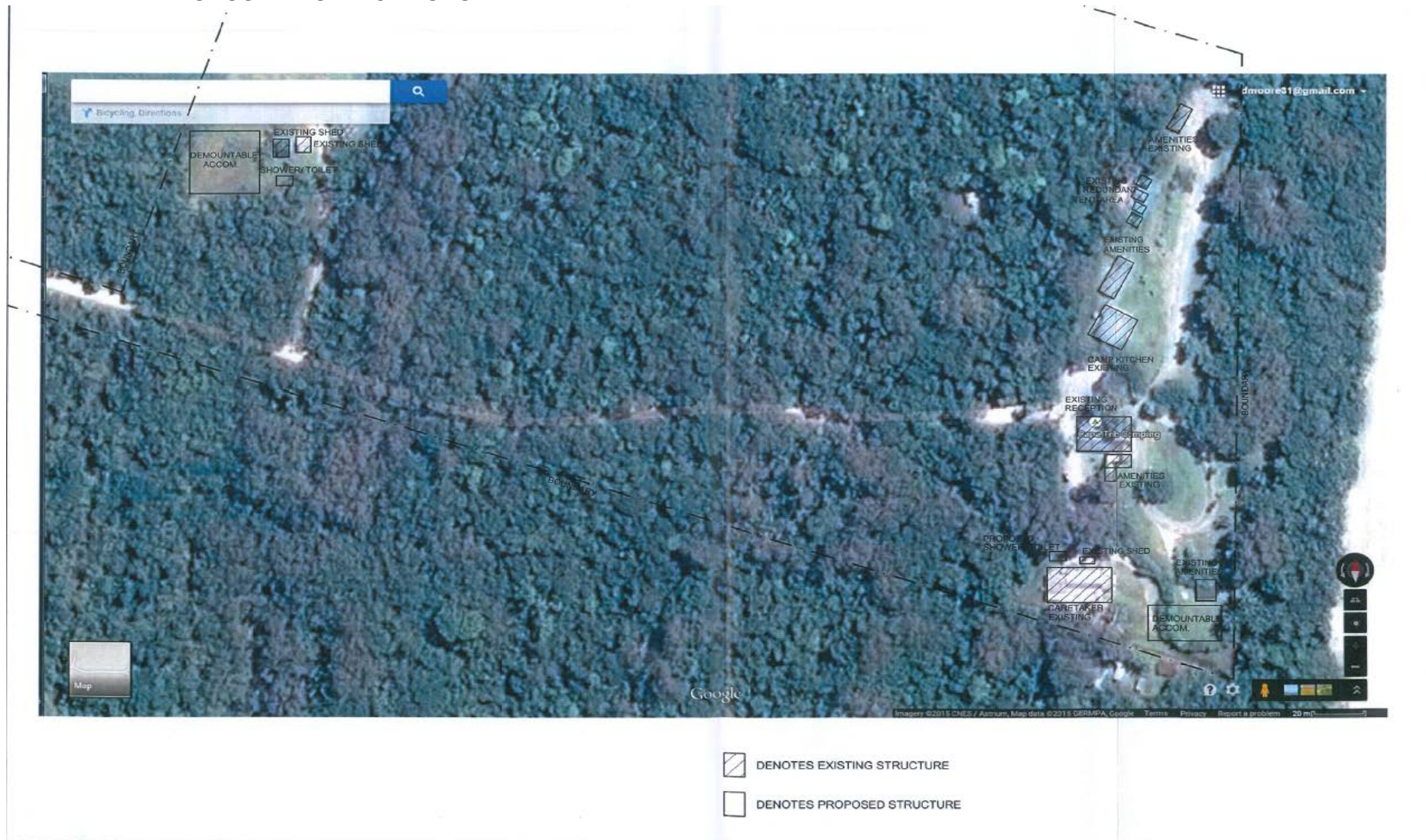
End of Decision Notice

APPENDIX 1: APPROVED PLAN – JUNE 2003

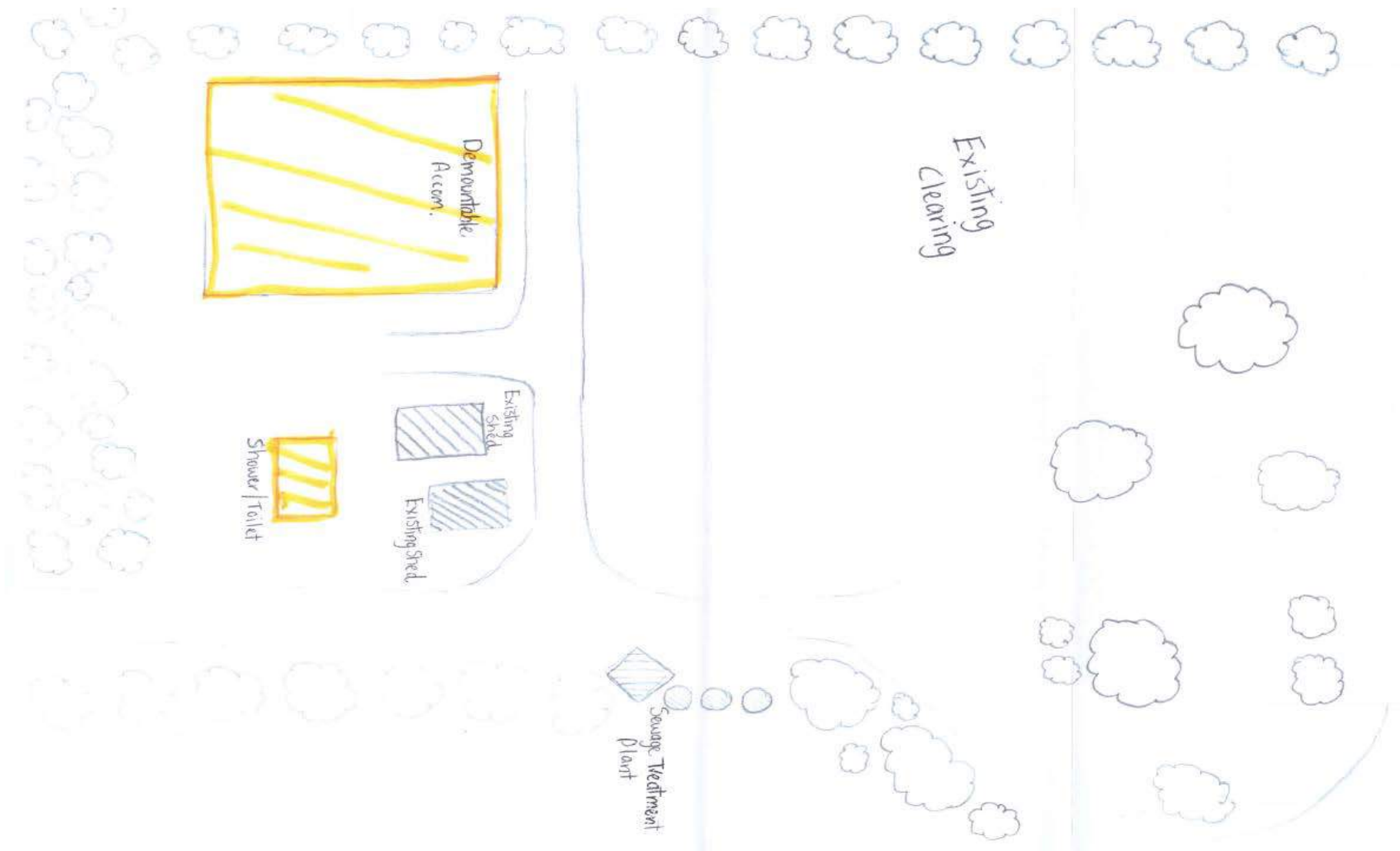


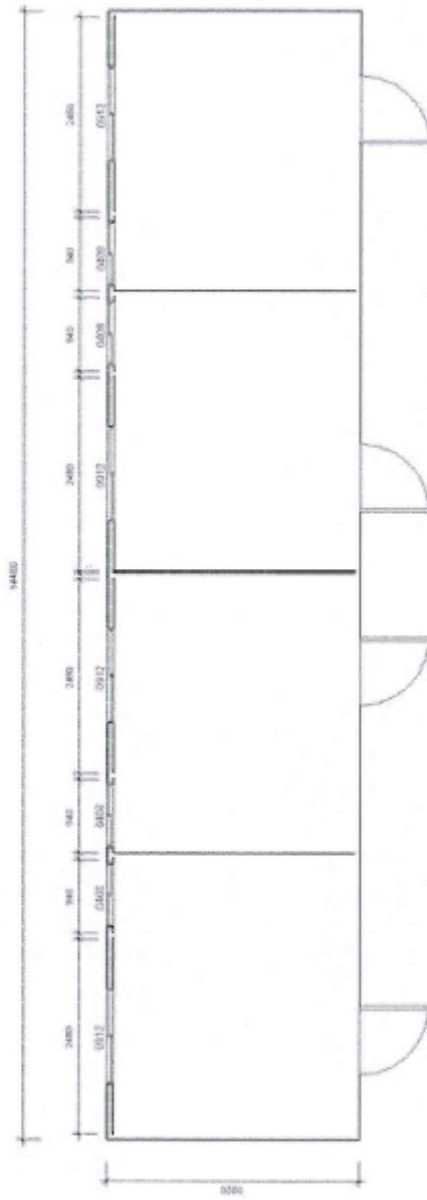
Obtain Approved drawings

APPENDIX 2: PROPOSED MODIFICATIONS









APPENDIX 3: DECISION NOTICE TPC 1112

Ms Liz Taylor - Consultant Planner
Planning Far North ☎ (07) 4051 0811

EAT:tap
TPC1112

2003/.

Mr Rod Colquhoun
C/- Peter Robinson Planner
PO Box 4751
CAIRNS QLD 4870

30th June 2003

Dear Mr Colquhoun

RE: DEVELOPMENT APPLICATION DECISION NOTICE, MATERIAL CHANGE OF USE OF PREMISES APPLICATION NO. TPC1112, DEVELOPMENT OF LAND LOCATED AT CAPE TRIBULATION ROAD, CAPE TRIBULATION DESCRIBED AS LOT 11 ON RP746567 FOR THE PURPOSE OF A CAMPING GROUND

The Development Application No. TPC1112 was assessed and approved with conditions. The decision was made by the Douglas Shire Council on the 26th June 2003.

The following schedule provides all the relevant details.

1. **Referral Agencies** : Nil
2. **Council decision** :
 - A. That Council approves the annotation of the Planning Scheme for the subject land, currently zoned Special Facilities – (Motel comprising 30 units and ancillary uses to a maximum density of 120 persons. Development to be generally in accordance with Plan Number 812 – RE21) to Camping Ground (Maximum 60 Camp Sites) and Ancillary Facilities.
 - B. That Council approve the development of land located at Cape Tribulation Road, Cape Tribulation and described as Lot 11 on RP 746567 for the development of a Camping Ground (Maximum 60 Camp Sites) and Ancillary Facilities. Development to be generally in accordance with Plan No 1, subject to the following conditions:-

.../2.

1. Before any works commence on site a Final Site Layout Plan shall be submitted to and approved by the Manager Planning Services which is in full compliance with Local Law 42 – Caravans, Caravan Parks: Tents and Camping; and by Council resolution 30 August 1990 – Minimum Requirements – Camping Grounds. In particular the plans shall incorporate but not be limited to the following development provisions:

Camping sites: (Maximum of 40 sites)

- Min. area of 27 m²
- Min. width of 6 m²

Caravan and motor home sites: (Maximum of 20 sites)

- Min. area 95 m²
- Min. width 9 m²

In addition, all campsites are required to be setback 3 metres from internal roads, 1.5m from side and rear boundaries and 6m from ablution facilities.

2. Any erection and use and occupation of the buildings shall at all times comply with the conditions laid down and provided for in the Douglas Shire Planning Scheme from time to time.
3. The provision of the *Integrated Planning Act 1997*, the Building Act, the Fire Safety Act, the Health Act, the *Food Act 1981* and all other relevant Acts and Regulations and the Local Laws of the Council from time to time shall at all times be observed and performed in relation to the land, the building and the use and occupation thereof.
4. Approval of satisfactory building plans and specifications in accordance with the Building Act, Council's Local Laws and the Shire of Douglas Planning Scheme where applicable and generally in accordance with the approved Final Site Layout Plan, required under Condition 1.
5. The issue of this Development Approval in no way implies building approval, either in principle or in detail, of any plans or the proposed development which may have been submitted with the application. Approval of any building works associated with the use shall be the subject of a separate Building Application in accordance with the Council's Local Laws.
6. The provisions of the Development Permit are to be effected prior to the commencement of the specific use as granted by Council.
7. The approval shall lapse four (4) years from the date of issue of the Development Permit unless the use is substantially commenced and all conditions complied with.

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8. To ensure the High Biological and/or scenic Value of the site and the area is not compromised, the 120 person overnight visitor capacity shall at no time be exceeded or further accommodation be established which could accommodate visitor numbers above this threshold.

Construction Stage/Site Management

9. All vehicles associated with the development of the site shall be legally parked and in a manner so as to not adversely impact on the immediate locality.
10. No building materials associated with the development of the site, shall be stored or stacked on Council owned land (including road pavement, road reserve and/or parklands) at any time.
11. That all refuse and building materials or similar, associated with the development of the site shall be stored on the subject site in a neat and tidy manner and screened from public view.
12. The building site shall be maintained in good condition at all times to the reasonable satisfaction of Council.

Car Parking and Access

13. Sixty two (62) vehicle car parking spaces shall be provided on site. All car parking areas, driveway and vehicular manoeuvring areas shall be constructed and/or upgraded to an all weather surface standard and maintained to the requirements and satisfaction of the Manager Planning Services prior to commencement of the use. The car parking spaces shall be clearly designated on the ground.
14. The applicant shall provide a sign to the satisfaction of the Manager Planning Services, advising the location of the car parking areas and access thereto and details of the signage and the proposed location of the sign, shall be submitted at the time of lodgement of a Building Application.
15. Any landscaped areas adjoining the car parking areas shall be protected from vehicular encroachment by 150mm high vertical concrete kerb low level Koppers log barrier, or similar obstruction approved by the Manager Planning Services and details of the concrete kerb or similar shall be submitted at the time of lodgement of a Building Application.

Landscaping and Vegetation Retention

16. The applicant shall landscape the site. The applicant shall implement landscaping in accordance with an approved landscaped plan to the requirements and satisfaction of the Manager Planning Services. Existing natural vegetation shall be retained and only removed with the Manager Planning Services written approval.
17. Areas to be landscaped shall be established and maintained at all times to the satisfaction of the Manager Planning Services.

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18. Any existing creek systems and drainage areas are to be left in their current state including no channel alterations and no removal of vegetation unless approved in writing by the Manager Planning Services.
19. Any clearing of vegetation required to establish the Camping Ground and Ancillary Facilities on site will require an application for a Permit to Damage Protected Vegetation to Council.

Health

20. The construction and operation of the Camping Ground shall be undertaken in accordance with Local Law 42 – Caravans, Caravan Parks, Tents and Camping, and by Council resolution 30 August 1990 – Minimum Requirements – Camping Grounds.
21. The applicant shall ensure that on completion of any site construction works the subject land shall be maintained in a clean and tidy condition at all times and to the requirements and satisfaction of the Manager Planning Services.
22. A plan of fixtures and fittings of the Camp Kitchen and details of the ablution block shall be submitted as the time of lodgement of the Building Application and shall be approved by the Manager Environmental Services.
23. Staff facilities shall be provided in accordance with the Workplace Health and Safety Act and Code of Practice to the satisfaction of the Manager Environmental Services.
24. (a) All toilets in the Camping Ground shall be fitted with dual flush cisterns to the satisfaction of the Manager Planning Services.
24. (b) Water flow regulators shall be fitted to all shower recesses, bathrooms and kitchen facilities where applicable and shall be submitted at the time of lodgement of a building application to the satisfaction of the Manager Planning Services.
25. The location of the refuse storage area shall be approved by the Manager Environmental Services, having regard to neighbouring properties. Refuse storage, removal and collection methods shall be in accordance with the "Environment Protection (Interim Waste) Regulations 1996", and to the satisfaction of Council's Manager Environmental Services.

Engineering Requirements

26. The applicant shall construct the following external works to the site frontage to the satisfaction of the Director Engineering Services:-
 - a) All weather access to the site shall be constructed and maintained over the shallow tabledrain, or alternatively, construct a culvert crossing, if necessary.

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A copy of a plan of the works shall be submitted at the time of lodgement of a Building Application and shall be approved by the Director Engineering Services prior to the issue of a Building Approval. Such works shall be constructed in accordance with the Council's current specifications.

27. Any Potential Acid Sulphate Soils encountered during the construction phase shall be managed safely and appropriately as required by the State Planning Policy and a management plan to deal with the Acid Sulphate Soils shall be lodged with the Manager Engineering Services prior to construction work proceeding on site.
28. A reliable supply of potable water adequate for the needs of the Camping Ground and adequate storage of water for the Camping Ground needs to be demonstrated at the time of applying for carrying out building work to the satisfaction of Manager Engineering Services.
29. In this regard, a full and detailed independent investigation shall be submitted to and approved by the Engineering Services detailing the ability of the on site bore to provide adequate and reliable water supplies for all associated Camping Ground requirements. In addition the detail of water storage facilities proposed to service the Camping Ground shall be provided to the Manager Engineering Services.
30. Plans of the proposed waste water treatment, designed in accordance with the specifications detailed in the Impact Consultant's Report lodged with the application, are required to be submitted to the Manager Engineering Services at the time of lodgement of application for building works and are to be approved and constructed prior to the commencement of the use.
31. The proposed effluent treatment system shall be installed and maintained in good working order during the operation of the Camping Ground. The system shall be inspected by Council officers at regular intervals (at least every 6 months), to ensure the system is operating efficiently and being well maintained.

Miscellaneous

32. Details of any signage proposed in association with the development shall be submitted for approval of the Manager Planning Services prior to the issue of a Certificate of Classification for the proposed development.
33. Details of the colours of the existing and proposed buildings, including external walls and roofing, shall be lodged at the time of application for carrying out building works, to the satisfaction of the Manager Planning Services.
34. The storage of any machinery, material and vehicles shall be appropriately screened so as not to be directly visible from any road frontage or public vantage point of the land, to the satisfaction of the Manager Planning Services.
35. All structures not associated with the approved development shall be demolished and/or removed from the site prior to the commencement of the use.

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Security

36. To guarantee the satisfactory completion of the building, site works, landscaping, drainage works and any required works external to the land, the applicant shall lodge with the Council a Cash Bond or Guarantee to the value of \$10,000.00, such Guarantee to be in a format considered satisfactory by the Manager Planning Services. The Bond or Guarantee shall be lodged prior to the issue of any Building Permit on the land in relation to this Consent Permit and the Council may call up the Guarantee to complete all or any part of the works mentioned herein to its satisfaction, should the applicant fail to do so.

- 3. **Approval Type** : Development Permit
- 4. **Rights of Appeal** : Attached standard form for applicant
- 5. **Assessment Manager** : Douglas Shire Council
- 6. **Compliance with Codes for Self-Assessable Development:** Not Applicable
- 7. **Properly made submissions** : Nil

Enclosed for your information are Sections 4.1.27 and 4.1.39 of the *Integrated Planning Act 1997* in relation to appeals to the Planning and Environment Court.

Should you require any further information in relation to this matter, please do not hesitate to contact Mr Liz Taylor, Consultant Planner, Planning Far North on telephone (07) 4051 0811.

Yours faithfully

T C Melchert
Chief Executive Officer

*Division 8 – Appeals to court relating to development applications***Appeals by applicants**

- 4.1.27.** (1) An applicant for a development application may appeal to the court against any of the following:-
- (a) the refusal, or the refusal in part, of a development application;
 - (b) a matter stated in a development approval, including any condition applying to the development, and the identification of a code under Section 3.1.6;66
 - (c) the decision to give a preliminary approval when a development permit was applied for;
 - (d) the length of a currency period;
 - (e) a deemed refusal.
- (2) An appeal under subsection (1)(a) to (d) must be started within twenty (20) business days (the “**applicant’s appeal period**”) after the day the decision notice or negotiated decision notice is given to the applicant.
- (3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

Division 10 – Making an appeal to court

How appeals to the court are started

- 4.1.39**
- (1) An appeal is started by lodging written notice of appeal with the registrar of the court.
 - (2) The notice of appeal must state the grounds of the appeal.
 - (3) The person starting the appeal must also comply with the rules of the court applying to the appeal.
 - (4) However, the court may hear and decide an appeal even if the person has not complied with subsection (3).

