

## 5. AGENDA ITEMS

### 5.1. CONSIDERATION OF APPLICANT REPRESENTATIONS FOR RECONFIGURATION OF A LOT (ONE LOT INTO 39 LOTS), NEW ROAD AND BALANCE LAND

<b>REPORT AUTHOR</b>	Jenny Elphinstone, Senior Planning Officer
<b>MANAGER</b>	Paul Hoyer, Manager Environment and Planning
<b>DEPARTMENT</b>	Environment and Planning
<b>APPLICATION NO</b>	ROL 2021_4012/1
<b>PROPOSAL</b>	Applicant representations for a Negotiated Decision Notice for the Reconfiguring a Lot (One lot into 39 lots), New Road and Balance Land.
<b>APPLICANT</b>	Port Douglas Land Developments Pty Ltd C/- Cardno, PO Box 1619, Cairns Qld 4870
<b>LOCATION</b>	Captain Cook Highway Craiglie
<b>PROPERTY</b>	Lot 2 on SR 431
<b>PLANNING SCHEME</b>	2018 Douglas Shire Council Planning Scheme Version 1.0
<b>ZONING</b>	Low Density Residential Zone
<b>LEVEL OF ASSESSMENT</b>	Code
<b>PROPERLY MADE DATE</b>	1 February 2022 (Change representations received)
<b>STATUTORY ASSESSMENT DEADLINE</b>	Agreement to extend applicant's suspended appeal period to 31 March 2022
<b>REFERRAL AGENCIES</b>	State Assessment & Referral Agency – not required for consideration of representations
<b>LOCALITY</b>	



Figure 1 – Locality Plan

## RECOMMENDATION

- A. That Council approves in part the applicant's representations for a Negotiated Decision for reconfiguration of a lot, (Stage 2) for residential lots, park, drainage reserve, road and a balance lot, over land described as Lot 2 on SR431, located at L2 Captain Cook Highway (Corner of Andreassen Road), Craiglie whereby:

1. Condition 6 is amended as follows

### Road Upgrade

6. ~~At a minimum, upgrade the Beor Street intersection as required by Queensland Department of Transport and Main Roads, and also provide for an Auxiliary left turn (AUL) for the movements out of Beor Street (east).~~

Design and undertake construction of an upgrade to Beor Street (east) for the provision of two approach lanes at its intersection with Captain Cook Highway.

The lane capacity and configuration is to be determined from a revised traffic analysis.

The study must be prepared by an appropriately qualified and experienced RPEQ Traffic Engineer and be submitted to Council prior to the lodgement of the application for operational work for the subdivision. The report must detail:

- a. assumptions for the trip distribution and network assignment;
- b. a sensitivity analysis should be undertaken in relation to these assumptions; and
- c. SIDRA outputs for all legs and each approach lane for the intersection including LOS, DOS, queue length and delay.

The above considerations for the Study and the outcomes of the Study must be to the satisfaction of the Chief Executive Officer.

All works are to be at no cost to Council. The upgrade must include associated line-marking, pavement widening and street lighting.

The applicant must obtain an approval from the Department of Main Roads and Council regarding the works scope. ~~The agreed scope must be to the satisfaction of the Chief Executive Officer and achieved prior to the lodgement of the application for operational work for the subdivision.~~

2. Condition 16 is amended as follows:

### Landscape Plan

16. Undertake landscaping of the site and street frontages of new roads in accordance with *FNQROC Development Manual* and in accordance with a landscape plan. The landscape plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Work. In particular, the plan must show:
  - a. Planting of the footpath with trees, using appropriate species with consideration to be given to creating an individual sense of place and character to the estate;
  - b. Provision of an earth mound, landscaping and appropriate fencing along the western boundary for the extent of Stage 2

development, in order to provide sufficient screening and amenity for the development and external areas of the site;

- c. The provision of suitable shade trees;
- d. Species to have regard to the Planning Scheme Policy No.SC6.7 Landscaping; and
- e. Road verges to be seeded and grassed;

Permanent irrigation or any other embellishments are not permitted.

Inclusion of all requirements as detailed in other relevant conditions included in this Approval, with a copy of this Development Approval to be given to the applicant's Landscape Architect / Designer.

Two (2) A1 copies and one (1) A3 copy of the landscape plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works. Areas to be landscaped must be established prior to the lodgement of the Survey Plan with Council for endorsement and must be maintained for the duration of the on-maintenance period to the satisfaction of the Chief Executive Officer.

3. The following additional condition is included in the Decision

**Sewer Easement Agreement**

- 26. Council's standard sewer easement document is to be utilised for the Sewer Easement required under Conditions 1, 8 and 10 above.**

**Costs associated with the surveying of the easement for sewer infrastructure purposes and lodgement of the easement documents is to be reimbursed to the Applicant in accordance with an Infrastructure Agreement to the satisfaction of the Chief Executive Officer.**

**The agreement for the Sewer Easement is to be entered into prior to the issue of a Development Permit for Operational Work.**

**The applicant is to instigate the provision of the easement within 20 business days of Chief Executive Officer's formal request for the easement with a fulfillment of the provision within a further 20 business days.**

4. All other conditions and advices of the Decision notice dated 14 December 2021 remain unchanged.

**B. Council resolves to issue an amended Infrastructure Charges Notice whereby:**

- 1. The Notice clarifies credit for trunk infrastructure, as determined through an Infrastructure Agreement, can be offset against the applicable charges; and
- 2. There is no change to applicable Infrastructure Charges Resolution against which the charges are applied on the basis that:
  - a. The Infrastructure Charges Notice is issued after the Decision Notice is issued and is related to the Infrastructure Charges applicable at the time the application is determined. The Infrastructure Charges applicable to the development is not dependent on when the application was lodged.

**C. That Council provides advice to the applicant which:**

- 1. In respect to the Infrastructure Charges Notice clarifies where the condition of the approval requires an amended lot layout that is likely to result in a

reduced number of lots. As yet this final number of lots has not been determined and that the Infrastructure Charges Notice can be recalculated at the time of payment relevant to the number of lots sought for the respective survey plan; and

2. **Reiterates the following separate advice to the Applicant regarding the future development of the balance area of the land, as depicted in the Master Plan Port Douglas Estate, Captain Cook Highway, Craiglie, prepared by Cardno Plan Q184103-MP01E dated 13 February 2020, as follows:**
  - a. **The Planning Scheme supports appropriate residential development of the remaining balance of the land;**
  - b. **Council anticipates further development of the balance of the land is complimented by: the upgrade of the intersection of the Captain Cook Highway and Andreassen Road; the construction of an internal, connection of Wabul Street to Andreassen Road; and an appropriate sound mound and landscaping to ensure the visual amenity of the Highway and the entrance to Port Douglas and Craiglie is of a high standard; and**
  - c. **The future development of any further stages of the balance lot must be in accordance with an approved master plan including lot layout, infrastructure planning and flood and storm water modelling.**

## **EXECUTIVE SUMMARY**

The applicant has made representations for amended conditions. The applicant seeks that the conditions requiring a specific left turn lane for the Beor Street and Captain Cook Highway intersection as well as specific upgraded street lighting be replaced by recommendations from a third party assessment report. The representations also seek the sewer easement for the balance lot be specifically named as a “sewer trunk infrastructure easement” and that all associated costs associated with the sewer trunk infrastructure easement will be borne by Council. The applicant is seeking clarification for the extent of landscaped mounding along the Highway. The representations separately seek that Council issue a Negotiated Infrastructure Charges Notice where charges are as per the rates of the Infrastructure Charges Resolution No.1, rather than the current and applicable Infrastructure Charges Resolution No.2. The representations are discussed in the report and supported in part.

The recommendation also reiterates Council’s concerns with the Master Planning for the balance of the land.

## **TOWN PLANNING CONSIDERATIONS**

### **Background**

The land is located on the north-east corner of the Captain Cook Highway and Andreassen Road, Craiglie, south of the existing Port Pacific residential estate. Previous approvals were issued over the land and also to land south of Andreassen Road for the urban development of this area. Both developments, north and south of Andreassen Road, envisaged and required the upgrade of the Captain Cook Highway and Andreassen Road intersection to a set standard. It is anticipated this urban area will provide for some 350 residential lots. The ownership of land in the area has changed over time and some of these approvals have since lapsed.

The intent to develop the land for urban purposes is reflected in both the current 2018 Planning

Scheme and the Council's Local Government Infrastructure Plan (LGIP). The LGIP nominates the sequencing of construction of trunk road infrastructure from the Andreassen Road, heading north to then connect to the existing Port Pacific Estate, three stages at TRF006 in 2026, TRF007 in 2028 and TRF008 in 2030. The sequencing nominated by the LGIP expected the culvert crossing and connectivity over the drain (SCF012) to be in 2022 and this appears to be the anomaly in the LGIP timing. Refer to the plan below.

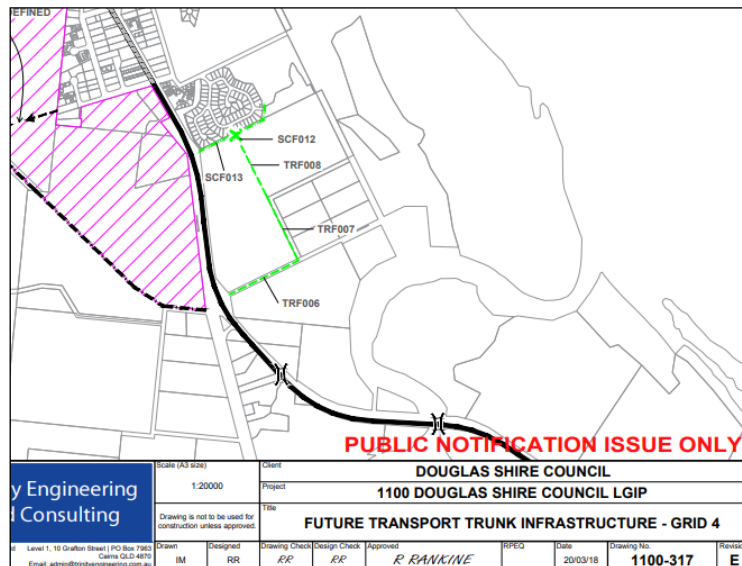


Figure 2 – LGIP Future Transport Trunk Infrastructure Plan

The LGIP nominated a sewer pump station to be located close to the north eastern corner of the intersection of the Captain Cook Highway and Andreassen Road with a rising main along the Highway with connection to the existing trunk infrastructure at the intersection at Beor Street. The pump station at SPSF001 was due in 2021. Refer to the plan below.

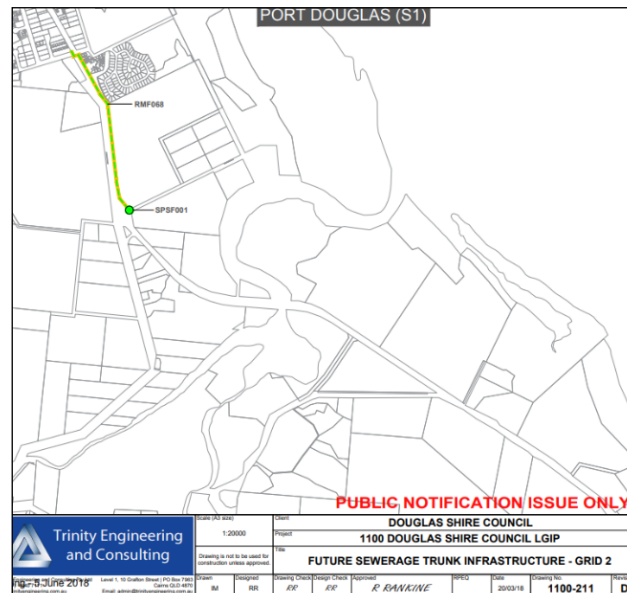


Figure 3 – LGIP Future Sewerage Trunk Infrastructure Plan

The owner of Lot 2, however, has chosen to develop the new estate, the *New Port Estate*, via the existing Port Pacific Estate and sequence staging from the north and heading south. The developer has also sought approval for small stages without any underlying preliminary approval for the whole site. When Council approved Stages 1a and 1b in 2019, concern was

raised with the lack of an approved overall master plan.

Council can only impose conditions and requirements that are reasonable and relevant. The construction of Stages 1a and 1b has been completed and the lots have been released. As the development sequencing for these stages is inconsistent with the LGIP sequencing, some infrastructure components have been delivered earlier than expected under the LGIP.

The sewer pump station was also repositioned further to the east with a 100mmØ rising main currently connecting to the existing sewer in the Port Pacific Estate. When the *New Port Estate* develops further stages and has a higher demand capacity, the connection to the Council's sewerage network will be via a 150mmØ rising main that will head westwards, through the Park and drainage area to the Captain Cook Highway and then to the Beor Street connection. The sewer pump station that has been installed is at a significant depth thereby providing for the remainder of the Estate and other land to the south of Andreassen Road to be serviced by gravity aligned infrastructure.

There is a cost difference between gravity and rising mains infrastructure. As the pipe size of the infrastructure increases so also does the cost. Rising mains tend to be directionally aligned with few turning points. Gravity mains follow the lot alignments, have more turns and require more service points and manholes. In general, gravity rising mains are significantly more expensive for this reason.

Where an applicant provides trunk infrastructure there is an ability under the *Planning Act 2016* for the costs associated with the provision to be returned to the applicant. The arrangement for the costing and return of costs is set by an Infrastructure Agreement. Council officers are continuing to discuss with the applicant the terms and conditions of the Infrastructure Agreement for trunk infrastructure that was provided to date (that is from the approval of Stages 1a and 1b). Any refund will typically be detailed in an Infrastructure Agreement.

At the Ordinary Meeting held on 14 December 2021 Council determined the application for Stage 2 which seeks an additional thirty-nine (39) residential lots and a further extension of Wabul Street. Vehicle access to the new Stage will still be limited to that via the existing Port Pacific Estate and the intersection of Beor Street and the Captain Cook Highway. Sewerage infrastructure will utilise the pump station established in Stages 1a and 1b. As with Stages 1a and 1b, Stage 2 was not accompanied by an approved underlying Master Plan.

Council approved the application for Stage 2 subject to a number of conditions that included a requirement for an amended plan to nominate an easement over the balance land for sewerage infrastructure to enable a defined route for future connection of services for land south of Andreassen Road to the repositioned pump station. The conditions also require a left-hand turn lane from the east approach of the Beor Street and Captain Cook Highway intersection, landscaping along the earth mound and suitable road lighting standards.

Council separately resolved to advise that further development of the balance of the land must be in accordance with an approved Master Plan including lot layout, overall infrastructure planning, the upgrade of the intersection of the Captain Cook Highway and Andreassen Road; the construction of an internal connection of Wabul Street to Andreassen Road; and an appropriate sound mound and landscaping to ensure the visual amenity of the Highway and the entrance to Port Douglas and Craiglie is of a high standard.

A copy of the proposed layout plan is included in Attachment 1. The submitted (Preliminary) Master Plan is included in Attachment 2.

### Negotiated Decision Request

Following the issue of the Decision Notice for Stage 2 the applicant has suspended the appeal period and lodged representations seeking amended conditions through a Negotiated Decision. The applicant has also made representations regarding the Adopted Infrastructure



Charges Notice. The representations are detailed below together with the relevant planning considerations.

Council can issue only one Negotiated Decision Notice, after which the applicant's appeal period restarts.

## **Sewer Trunk Infrastructure and Easement over Balance Land – Conditions 3, 8 and 10**

### **Applicant's Representations**

The applicant asserts that the timing of the Wabul Street Culvert for Future Transport infrastructure dated for 2022 year provision is not the anomaly in the LGIP on the basis that Council has already endorsed Stages 1 and 2. Further, any inconsistency with the LGIP has been considered by Council and is offset by the positive contribution of the development for the benefit for the community by way of providing additional housing opportunities in the area. The applicant notes that *"both stages 1 and 2 have been approved by Council, with the advice, with the advice within Stage 2 decision around requiring an approved master plan for future development being more clear and defined moving forward."*

The applicant acknowledges that the Trunk Infrastructure (Sewer - LGIP ID RMF068 & SPSF001) is identified within Council's LGIP along the western extent of the subject site. However, the requirement for an easement over the balance land is considered to be unreasonable and irrelevant to the subject development application. The developer also identifies the easement will unreasonably burden the balance land and any future extension/continuation of such infrastructure. The applicant notes that alternatively a required land acquisition could occur, when and as required, and this would enable the orderly and value for money infrastructure delivery.

The applicant also considers the sewer line to be trunk infrastructure on the basis that the alignment of this infrastructure (RMF068) was ultimately shifted eastward in consultation and agreement with Council during the Stage 1 Operational Work design, consistent with the intent for this trunk infrastructure to extend to the south and service other lands to the south of the site. Where Council considers that an easement for future sewer infrastructure extension connectivity through to the Andreassen Road reserve is necessary as part of this development application, the applicant has requested that Condition 3 be amended to specifically state that this easement is for Trunk Infrastructure purposes (Sewer- LGIP ID RMF068 & SPSF001), and that any costs associated with providing this easement will be paid for by Council.

The applicant seeks the following changes to the respective conditions.

3. *The lot layout plan must be revised and provided to the satisfaction of the Chief Executive Officer prior to the lodgement of the application for operational work, generally in accordance with the Cardno Plan No. Q184103-SP02B, dated 8 October 2021, and amended to detail:*

...

- e. *Provide a sewer trunk infrastructure easement for the future sewer trunk infrastructure extension through to Andreasson Road to guarantee security of tenure for the future sewer trunk infrastructure connectivity through to the Andreassen Road reserve noting the applicant's request for the current pump station to be considered as the trunk infrastructure for the local catchment (to avoid any doubt, the required sewer trunk infrastructure easement is included as part of Trunk Infrastructure LGIP ID RMF068 & SPSF001). All costs associated with the provision of an easement for the security of tenure for sewerage trunk infrastructure purposes is to be reimbursed to the Applicant in accordance with the Infrastructure Agreement.*

*The lot yield may change as a result of the above requirements.*

8. *The Development Application for Operational Work must include these Master Plans with supporting information (including Hydraulic Network Analysis) to demonstrate how Stage 2 and the ultimate development will be connected to and serviced by Council's Infrastructure. In particular:*
  - a. *For sewerage trunk infrastructure, the sizing, location and services corridor is to be identified for the gravity sewerage alignment from Andreasson Road through to the new sewage pump station. Security of tenure for sewerage trunk infrastructure in the form of an easement in favour of Council is to be provided for the full extent of this corridor through to Andreasson Road. All costs associated with the provision of an easement for the security of tenure for sewerage trunk infrastructure purposes is to be reimbursed to the Applicant in accordance with the Infrastructure Agreement.*
10. *The extent of Water Supply and Sewerage Works to the site to connect the site to existing water supply and sewerage infrastructure will be determined by the Master Plans to be prepared for consideration and approval by Council. The following minimum infrastructure elements are required:*

...

  - d. *Provide an sewerage trunk infrastructure easement from the southern extent of Stage 2 through to Andreasson Road on the sewerage trunk infrastructure reticulation alignment nominated in the Master Plan to ensure security of tenure for the connectivity of all lots as envisaged by the LGIP Plans. All costs associated with the provision of an easement for the security of tenure for sewerage trunk infrastructure purposes is to be reimbursed to the Applicant in accordance with the Infrastructure Agreement.*

### Officer Comment

Concern is raised with the proposed rewording as this specifically seeks to identify the easement and in turn the future infrastructure as *trunk infrastructure* and include this in the LGIP. Designation of the easement and in turn the sewer infrastructure within it as being trunk infrastructure will result in Council being liable to pay for this infrastructure. A gravity sewer main is a significant cost and the proposed alignment is not currently in the LGIP.

The conditions of a development approval cannot change a Local Government Infrastructure Plan to include such costs. The Applicant's staging and development via the existing Wabul Road network has caused a change in the LGIP sequencing, in particular for the location and timing of the trunk sewer pump station.

The LGIP nominates that the land, and land to the south of Andreassen Road, is in an urban area for planned sewerage service. The LGIP nominates the planned timing of the infrastructure to occur from an initial upgrade of the intersection of the Captain Cook Highway and Andreassen Road with a sewer pump station to be located at the corner of this intersection. Despite separate infrastructure plans within the LGIP, this plan was developed as an integrated model for future development.

Due to the applicant's desire to develop from the north, the sewer pumping station was required in the initial Stage 1 and was agreed to be located at the northern part of the site, rather than at the intersection of the Captain Cook Highway and Andreassen Road. This pump station serves both the remainder of the applicant's land, as well as other land beyond Andreassen Road. Security of tenure for the trunk infrastructure is necessary to ensure other development can be undertaken.

For these reasons the applicant's representations for the changed wording are not supported.



However, it is reasonable for Council to pay for the surveying costs associated with registering the easement. Council's standard sewer easement document can be utilised. It is not appropriate that any costs be provided for the land over which the easement burdens. A simple agreement should be sufficient for this purpose. The requirement for the easement can be flexible to enable the ability for further development in a timely manner with least burden on the applicant. A further condition can be included to address the easement agreement.

## Estate Access Road Upgrade – Condition 6

### Applicant's Representations

The applicant notes that the State Assessment and Referral Agency (SARA) imposed a condition for road works to the Captain Cook Highway / Beor Street intersection. Further, given the Captain Cook Highway is a State controlled road, only the State has jurisdiction to impose conditions in relation to road works on the Captain Cook Highway. The applicant contends that any condition imposed by Council in relation to the Beor Street intersection should be limited to Council roadway and jurisdiction.

The applicant reiterates a position that Council has approved both Stages 1 and 2 and asserts that the LGIP timing for the Wabul Street Culvert (2022 year of provision) anticipates some development will occur initially from the north.

The applicant recommends that the existing eastern approach to the Beor Street / Captain Cook Highway be assessed by a suitably qualified person as part of the development application for operational works. This assessment would eliminate any incorrect assumptions being made and ensure an appropriate and safe intersection design is provided to ensure no worsening or safety impacts to the community. Where Council has concerns, it may be appropriate for Council to undertake their own third-party assessment and peer review as part of the operational works assessment to further assess and address this aspect. Council is ultimately the assessment manager, owner and responsible entity for the eastern approach of the intersection roadway.

The applicant notes that previous developments in this locality have been conditioned for this upgrade and that DTMR have now called up the bonds held for this intersection upgrade works and are currently designing the intersection upgrade as at the 23rd March 2022. DTMR advise they will remove this condition requirement upon the applicant once the design has been reviewed and costs are confirmed to be covered by the bonds.

The applicant seeks the condition be amended as below to reflect Council's roadway and jurisdiction to limit the extent of assessment, to allow for a suitably qualified person to assess and determine if and what upgrades are required to the eastern approach to the Beor Street / Captain Cook Highway intersection and to delete the sentence regarding costs.

6. ~~At a minimum, upgrade the Beor Street intersection as required by Queensland Department of Transport and Main Roads, and also provide for an Auxiliary left turn (AUL) for the movements out of Beor Street (east) The existing eastern approach to the Beor Street / Captain Cook Highway intersection must be assessed by a suitably qualified person as part of the Development Application for Operational Works, and in addition to any requirements imposed by the State Assessment and Referral Agency (SARA) for the intersection, include any required upgrades to the eastern approach to the intersection as determined by the assessment. To avoid any doubt, the assessment must be made and based on the Traffic Engineering studies provided as part of this development application, or any subsequent studies prepared by a suitably qualified person. All works are to be at no cost to Council. Any upgrade must include associated linemarking, pavement widening and street lighting.~~

*The applicant must obtain an approval from the ~~Department of Main Roads and Council~~ regarding the works scope. The agreed scope must be to the satisfaction of the Chief Executive Officer and achieved prior to the lodgement of the application for operational work for the subdivision.*

### Officer Comment

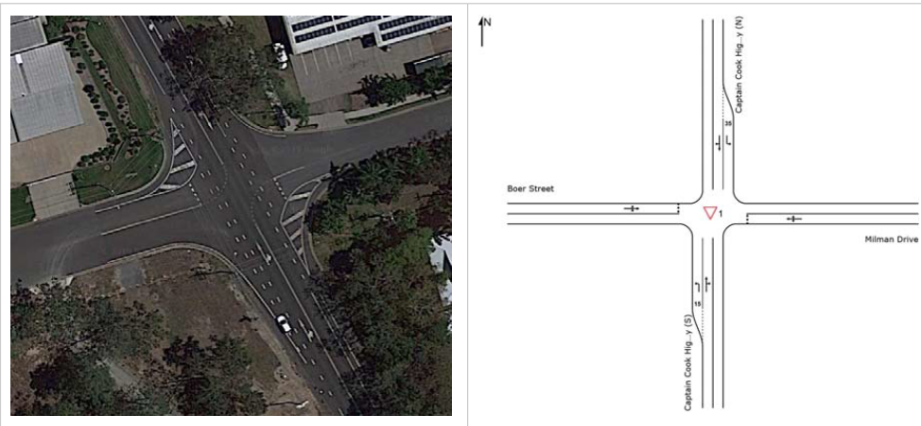
By developing from the north, without the upgrade to Andreassen Road and connecting road, the *New Port Estate* utilises and relies solely on the access / egress connection via the Beor Street and Captain Cook Highway intersection. The Beor Street / Captain Cook highway intersection is the only access and egress to and from the development. The Department of Transport and Main Roads has required an upgrade of this intersection having regard to impact on the State-controlled Captain Cook Highway. The upgrade required by SARA however did not specifically have regard to the movements from Beor Street (east and west).

The pre-development traffic volumes detailed in the Road Safety Audit undertaken by Cardno, as part of Stage 1 of the development, indicate that 59 vehicles exit Beor Street East in the morning peak hour. With the addition of traffic generated by Stage 1 & Stage 2, in accordance with the traffic analysis submitted by the applicant, the volume would increase by an additional 39 vehicles i.e. 70% increase in traffic. The applicant's traffic report from Stage 1 specifically identified the need to reconfigure the Captain Cook Highway / Milman Drive (Beor street) intersection to include the following, regardless of the development yield:

- *Major right turn lane and minor left/through short lane on the eastern approach*
- *Major left/through lane and minor short right turn lane on the southern approach*
- *Major left turn and minor short through/right lane on the western approach; and*
- *Northern approach unchanged."*

These requirements are included in the diagrams below.

Figure 4-1 Current and SIDRA assessed layout - Captain Cook Highway / Milman Drive Intersection



Source: Nearmap, SIDRA 8.0

Figure 4-2 SIDRA assessed layout - Captain Cook Highway / Milman Drive Intersection – reconfigured

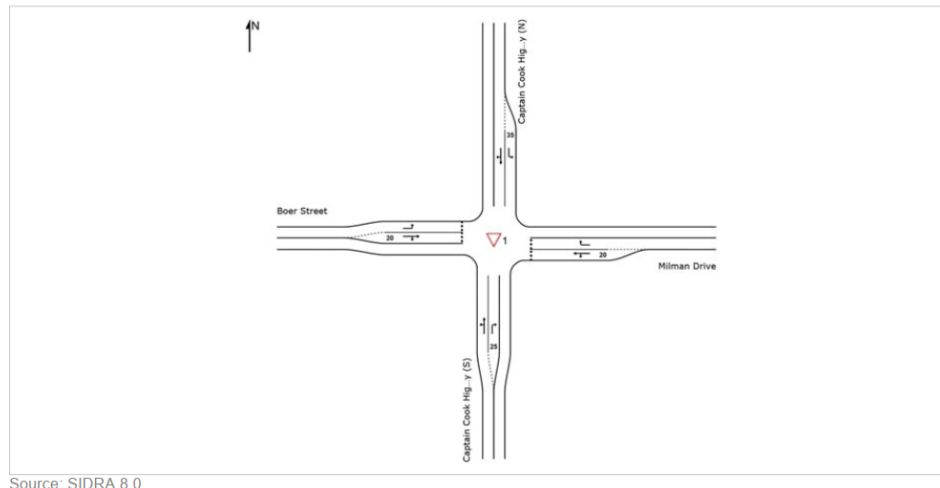


Figure 4 – Intersection works as identified by DTMR

Council's decision has considered there is capacity in the Wabul Road to provide for the additional trip movements for the additional stage of the Estate. Residential estates have peak traffic movements and a number of residents work in Cairns while others work or drop children to school and head north. Given the higher morning flow of traffic it is important that the additional new residential lots do not produce an inappropriate burden on the peak movement periods.

The condition currently requires an auxiliary left hand turn out lane to assist movements from the local network that head south. There appears to be sufficient land available in the road to enable this outcome. The applicant has not made representations asserting that there is insufficient area in the road to achieve this outcome. The applicant seeks to amend the requirement to be less specific on the outcome as a changed situation to the current movements and to be exclusively reliant on an external reviewer who is engaged by the developer. The additional stand up lane is therefore required to mitigate this impact and the requirement.

The applicant's assessment report identified upgrades required as identified below. However, the SARA condition only requires a Channelised right-turn treatment with a short turn slot (CHR(S)) two lane rural road for north bound vehicles turning right from Captain Cook Highway into Boer Street. There is no clarification regarding the remainder of the works to the intersection.

Any review needs to be to Council's satisfaction and that any identified works be consistent with all other required upgrades with all associated costs are borne by the developer. That the design be dependent on for a further review with an "out-clause" is not accepted. The condition has been reworded to include these outcomes.

Given it is a change to a State-controlled intersection TMR approval is required.

## Landscaping requirements – Condition 16

### Applicant's Representations

Condition 16. b does not explicitly specify the extent of the western boundary required to be provided with an earth mound, landscaping and appropriate fencing. The applicant seeks Condition 16. b be reworded to state the required earth mound, landscaping and fencing is to be provided for the extent of Stage 2 development, in order to provide suitable screening and amenity for Stage 2 development and external areas of the site. The proposed amendment is as follows:

### *Landscaping*

16. *Undertake landscaping of the site and street frontages of new roads in accordance with FNQROC Development Manual and in accordance with a landscape plan. The landscape plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Work. In particular, the plan must show:*

...

- b. Provision of an earth mound, landscaping and appropriate fencing along the western boundary for the extent of Stage 2 development, in order to provide sufficient screening and amenity for the development and external areas of the site.*

### **Officer Comment**

The applicant's request is considered reasonable. While concern is held with ongoing appearance of the construction site on the approach to the Craiglie / Port Douglas area this is an outcome of the expected extension of the urban area. The tidiness of the ongoing construction can be considered at the issue of the Development Permit for Operational Work.

### **Street Lighting – Condition 19**

#### **Applicant's Representations**

Where a new intersection is formed on an existing roadway or required to be upgraded. However, Conditions 19 c. and d. require street lighting to be provided for at least two spans either side of the intersection to the relevant Lighting Category. As per existing Traffic Studies, it is not agreed that these conditions are necessarily warranted.

The applicant seeks Condition 19 be amended as follows to require a suitably qualified person to assess any new or existing intersection in relation to street lighting and determine the extent of any required street lighting.

#### *Street Lighting*

19. *The following arrangements for the installation of street lighting within the proposed subdivision must be provided prior to the lodgement of the Plan of Survey for signing and dating:*

- a. Prior to the approval and dating of the Plan of Survey, a Rate 2 lighting scheme is to be prepared by Ergon Energy or its approved consultant and submitted to the Chief Executive Officer for approval. The Rate 2 lighting scheme is to be designed in accordance with the relevant Road Lighting Standard AS/NZS 1158 and the FNQROC Development Manual. The applicable lighting category is to be determined from the Road Hierarchy Table D1.1 and the corresponding applicable Lighting Categories Table D8.1 as identified in the FNQROC Development Manual.*

*The design must provide the applicable illumination level specified in the Road Lighting Standard AS/NZS 1158 at the following road elements:*

- i Intersections;*
- ii Pedestrian Refuges;*
- iii Cul-de-sacs; and*
- iv LATM Devices (Including Roundabouts)*

*LATM Devices are to be shown on the civil layout design, the electrical services and street lighting design must be submitted in accordance with*

*Ergon Energy's latest Distribution Design Drafting Standard.*

- b. *Prior to the lodgement of the Survey Plan with Council for endorsement written confirmation that the relevant capital contribution required by Ergon Energy has been paid must be submitted, to ensure that the street lighting will be constructed.*
- c. *Where a new intersection is formed on an existing roadway for the purpose of accessing a new subdivision development, the intersection and existing road approaches must be assessed by a suitably qualified person as part of the Development Application for Operational Works, and if determined necessary, provided with street lighting for a distance equivalent to at least two (2) spans either side of the intersection to the relevant Lighting Category.*
- d. *Where an existing intersection is required to be upgraded as part of a development approval, the intersection and existing road approaches must be assessed by a suitably qualified person as part of the Development Application for Operational Works, and if determined necessary, provided with street lighting for a distance equivalent to at least two (2) spans either side of the intersection to the relevant Lighting Category.*

The applicant has requested the condition reflect the standard.

*"The Street Lighting design must achieve AS/NZS 1158 (Road Lighting Standards), The FNQROC Regional development Manual requirements and the Electricity Authority's Lighting Construction Manual and Underground Construction Manual."*

#### **Officer Comment**

The proposed changes are not supported. The two-span requirement is a standard DSC condition that has applied for several years for many developments. Given Beor Street currently does not have any street lighting a minimum of two spans on the approach to the major highway intersection is considered even more critical to provide a safe road environment. It is important that the Street Lighting achieve all necessary standards to ensure the ongoing maintenance is transferrable to Ergon Energy.

#### **Adopted Infrastructure Charges**

##### **Applicant's Representations**

Council's Infrastructure Charges Resolution (No.2) 2021 was adopted by Council on 23 February 2021 and commenced on 1 March 2021. The applicant contends that the application was properly made prior to the 1 March 2021 and that the Infrastructure Charges applicable to the development should reflect those at the time the application was lodged, not at the time the application was determined. The applicant has indicated that the application of Council's Resolution No.2, with a higher rate charge, is putting at risk the progression of the development of Stage 2 and the release of further lots to the community.

The Applicant seeks an amended Notice as while the Infrastructure Charges imposed on the subject Development Permit have been calculated based on 39 Residential Lots and Balance Land/Lot, the conditions of approval may likely result in a decrease in yield moving forward with detailed design. The applicant acknowledges that Council decided to endorse the new IC Resolution (No.2) 2021, which included a greater charge rate than the previous charges resolution. However, in support of residential housing options in the area, Council may apply discretion to make a political resolution to recalculate the Infrastructure Charges for the subject Stage 2 development at the time of payment in accordance with the charges resolution in place at the time of lodgement and prior to Resolution (No.2) 2021. This would be a political decision and override the provisions of the *Planning Act*.



### Officer Comment

The difference between the charging rate for a new residential lot of the Infrastructure Charges Resolution No.1 and No.2 is \$5,062.81 per lot.

Refer to the following table:

Resolution	Date of Adoption	Charge Rate	Charge	Max Qld State Charge	Indexed March 2022 (1.7% PPI 3Yr Av)
Infrastructure Charges Resolution No.1	5 June 2018	As per a 3 bedroom house	<b>\$19,491.00</b>	\$25,870.00	No indexing
Infrastructure Charges Resolution No.2	1 March 2021	As per a 3 bedroom house	\$24,143.38	\$29,697.35	<b>\$24,553.81</b>

Under the *Planning Act 2016* the amount of infrastructure Charges applicable is determined by the relevant charging instrument in place at the date the approval is granted. The charging is not related to the date the application was lodged. This is different to assessment against a Planning Scheme which is set at the time the application was properly made.

The Council's initial Infrastructure Charges Resolution was made at a time where unless the LGIP and associated resolution was adopted prior to 1 June 2018, Council was at risk of being unable to apply any charge until such determinations were approved by Council and supported by the State Government. The initial resolution was also not indexed and referred to specific PIA that was developed under the now Superseded Planning Scheme.

The current Resolution No.2, supersedes the Resolution No.1, and took into account the variation that previously existed across the Shire. Lots released in Port Douglas required different charges to those lots for other areas of the Shire. The current Resolution No.2 provides more equitable charges across the whole of the Shire. The current Resolution also includes annual indexing that has regard to the Consumer Price Index (CPI) for the All Brisbane Group. Should a reduced rate be applied the shortfall, between the 2018 and current 2022 charges, is effectively a cost to Council and the community. For these reasons the request for the charges to be against the superseded and now outdated resolution is not supported.

The Infrastructure Charges Notice can be amended to reference the credit applicable for trunk infrastructure, as is required by the *Planning Act 2016*.

When the survey plan is lodged of endorsement the payment is relevant to the number of lots applied for and an amended Infrastructure Charges notice can also issue at this time.

Refer to Attachment 3 to review the recalculated and amended Infrastructure Charges Notice. The rates nominate the current indexed charge (March 2022).

### COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.



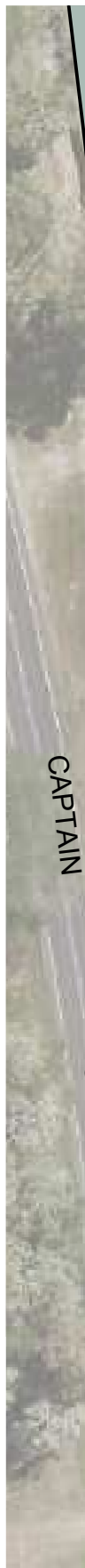
The following area outlines where Council has a clear responsibility to act:

**Regulator:** Meeting the responsibilities associated with regulating activities through legislation or local law.

Under the *Planning Act 2016* and the *Planning Regulation 2017*, Council is the assessment manager for the application.

## **ATTACHMENTS**

2. Attachment 1 Proposed Lot Layout [**5.1.1** - 1 page]
3. Attachment 2 Preliminary Master Plan [**5.1.2** - 1 page]
4. Attachment 3 Infrastructure Charges Notice [**5.1.3** - 1 page]



Drainage

COOK

HIGHWAY

Future Residential

Date: 8th October 2021 | Scale: 1:1000 @ A3 | Drawn: MC | Job No.: Q184103 | Plan No.: Q184103-SP02\_B  
Ordinary Council Meeting - 26 April 2022

Future Residential

## Future Park & Drainage Reserve

## Future Development

Future  
Residential

Future Residential

Future Residential

This plan is conceptual and for discussion purposes only. All areas, dimensions and land uses are preliminary, subject to investigation, survey, engineering, and Local Authority and Agency approvals.





# MASTER PLAN

PORT DOUGLAS ESTATE  
CAPTAIN COOK HIGHWAY  
CRAIGLIE





## ADOPTED INFRASTRUCTURE CHARGES NOTICE

<b>Port Douglas Land Developments Pty Ltd</b>		<b>New Port Estate</b>	<b>2</b>
DEVELOPERS NAME		ESTATE NAME	STAGE
<b>L2 Captain Cook Highway</b>	<b>Craiglie</b>	<b>L2 SR 431</b>	<b>4913</b>
STREET No. & NAME	SUBURB	LOT & RP No.s	PARCEL No.
<b>ROL (1 into 39 lots)</b>		<b>ROL 2021_4012/1</b>	<b>6</b>
DEVELOPMENT TYPE		COUNCIL FILE NO.	VALIDITY PERIOD (year)
<b>1079556</b>	<b>1</b>	Payment before commencement of use for MCU; and Prior to signing and sealing of survey form for ROL	
DSC Reference Doc . No.	VERSION No.		

Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021)

	Charge per Use	\$ Rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
<b>Proposed Demand</b>						
ROL 39 Lots	per lot	24,553.81	39	\$957,598.59		
Total Demand				<b>\$957,598.59</b>		
<b>Credit</b>						
3 or more bedroom dwelling	per 3 or more bedroom dwelling	24,553.81	1	\$24,553.81		
Total Credit				<b>\$24,553.81</b>		
Required Payment or Credit				<b>TOTAL</b>	<b>\$933,044.78</b>	<b>Code 895 GL GL7500.135.825</b>

Prepared by	<b>Jenny Elphinstone</b>	13-Apr-22	Amount Paid	
Checked by	<b>Neil Beck</b>	13-Apr-22	Date Paid	
Date Payable	ROL - Before the Local Government approves the plan of subdivision		Receipt No.	
Amendments		Date	Cashier	

**Note:**

The Infrastructure Charges in this Notice are payable in accordance with Sections 119 and 120 of the *Planning Act 2016* as from Council's resolution from the Ordinary Meeting held on 23 February 2021.

Charge rates under the Policy are subject to indexing.

Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

Charges are payable to: Douglas Shire Council. You can make payment at any of Council's Business Offices or by mail with your cheque or money order to Douglas Shire Council, PO Box 723, Mossman QLD 4873. Cheques must be made payable to Douglas Shire Council and marked 'Not Negotiable.' Acceptance of a cheque is subject to collection of the proceeds. Post dated cheques will not be accepted

Any enquiries regarding Infrastructure Charges can be directed to the Development & Environment, Douglas Shire Council on 07 4099 9444 or by email on enquiries@douglas.qld.gov.au