

5.1. REQUEST FOR MINOR CHANGE TO DEVELOPMENT APPROVAL 2639/2008

REPORT AUTHOR	Mark Stoermer, Chief Executive Officer
DEPARTMENT	Office of the Chief Executive
APPLICATION NO	CA 2008_2639/4
PROPOSAL	Request for Minor Change to development approval 2639/2008
APPLICANT	Port Douglas Steam Train Co Pty Ltd C/- RPS Australia East Pty Ltd PO Box 1949 CAIRNS QLD 4870
LOCATION	9 St Crispins Avenue, Port Douglas and 4-10 Escape Street, Port Douglas
PROPERTY	LOT: 1 on SP: 311489 & LOT: 2 on SP: 311489
PLANNING SCHEME	2018 Douglas Shire Council Planning Scheme Version 1.0
ZONING	Tourist Accommodation Zone
LEVEL OF ASSESSMENT	The original application was impact assessable, however the minor change proposal does not require public notification.
PROPERLY MADE DATE	2 March 2020
STATUTORY ASSESSMENT DEADLINE	6 May 2020
REFERRAL AGENCIES	N/A



Figure 1 – Locality Plan

RECOMMENDATION

That Council approves the request for minor change to the combined development approval for a material change of use and reconfiguration of a lot (30 lots & common property) with a House on 28 lots, a display home on a lot and a food and drink outlet on a lot over land described as Lots 1 and 2 on SP311489, subject to the following changes to conditions listed:

ASSESSMENT MANAGER CONDITIONS & ADVICES

1. Condition 15 be deleted.
2. Condition 17 be amended to read as follows:-

Minimum Floor Levels

17. The minimum floor level for all habitable rooms in any building erected on the premises must be a minimum of 3.4 metres AHD or an alternative level justified within an RPEQ certified localised flood and drainage study.
3. Condition 38 & 39 be deleted and replaced with the following.

Bikeway/Pathway

38. Remove the existing section of Bikeway/ Pathway at the Western Side of Escape Street and re-turf to the satisfaction of the Chief Executive Officer.

4. All other conditions as detailed in Decision Notice dated 24 April 2019 remain unchanged and renumbered where required.

REASONS FOR DECISION

The reasons for this decision are:

- 3. Sections 80 and 81A of the *Planning Act 2016*:**
 - a. to ensure compliance with the *Planning Act 2016*.**
- 4. Findings on material questions of fact:**
 - a. the change application was properly lodged to the Douglas Shire Council on 2 March 2020.**
 - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment in making its assessment manager decision.**
- 5. Evidence or other material on which findings were based:**
 - a. the applicant's reasons have been considered and the following findings are made:**
 - i. Conditions regarding flood levels and habitable floor levels have been changed to allow the applicant to seek a new RPEQ flood and drainage study to determine the Q100 flood level for the development.**
 - ii. Conditions requiring the applicant to install a pollution control device at the storm water outlet for the development have been deleted as the previous Douglas Shire Council administration approved the operational works plans for the civil works supporting the development without a pollution control device. Retrospectively requiring a pollution control device would be considered unreasonable given the civil works have been completed for the subdivision.**
 - iii. Conditions requiring the applicant to develop a footpath at the Escape Street Frontage have been deleted because upon inspection of the site, a landscaped outcome is more suitable to protecting the amenity of the street and neighbourhood's character. A wide footpath that occupies most of the verge against a wall without any room for shade providing greenery will render the western side of Escape Street an overly hot and suburban looking zone. Escape Street is not a through way and has little traffic. With a proper landscaping plan, pedestrian space can be provided without sacrificing the character of the area.**

EXECUTIVE SUMMARY

Council is in receipt of a proposed minor change to the combined development approval for a material change of use and reconfiguration of a lot (30 lots & common property) with a House on 28 lots, a display home on a lot and a food and drink outlet on a lot. The existing development approval with conditions is included as Attachment 1. The land is described as Lots 1 and 2 on SP311489, located at 4-10 Escape Street and 9 St Crispins Avenue, Port Douglas.

The approval includes a condition which requires a footpath to be developed at the Escape Street frontage to connect to the existing footpath network on St Crispin's Avenue. The approval also includes a condition which requires that finished floor levels of habitable buildings are a minimum of 3.4m AHD.

The proposed minor change seeks changes to these conditions. The changes propose to remove the condition requiring the development of a footpath at the Escape Street frontage. The proposed minor change also seeks to lower the minimum habitable floor levels of the houses to 3.2m AHD.

TOWN PLANNING CONSIDERATIONS

Background

The development approval is a small lot subdivision containing allotments of between 250 and 350 square metres with a body corporate and community titles scheme with a private access road and infrastructure. The approval over the land was first issued in 2005 and has been extended by Council approximately every four years until now, with a number of minor changes being made over this time.

Footpaths are a standard requirement for all urban subdivisions in the Douglas Shire where the street services more than 26 dwellings as per standard drawing s1005 from the FNQROC Development Manual.

Proposal

The minor change request seeks to change a number of the conditions on the development approval. These changes proposed are:

1. Delete reference to the requirement to provide a Bikeway/Pathway (Conditions 38 and 39) and include a condition that requires the removal of the existing section of path that exists along the land's Escape St frontage.
2. Amend Condition 9 to require landscaping to be provided within the Escape Street frontage (in place of the Bikeway/Pathway).
3. Amend Condition 17 to permit the minimum floor level of habitable rooms in any building erected on the premises to be a minimum of 3.2mAHD.

ASSESSMENT

Bikeway/ Pathway

Conditions 38 and 39 require a two metre wide footpath/ bikeway to be constructed for the full length of the sites frontage on the western side of Escape Street. The applicant seeks to have these conditions deleted and replaced with a condition which requires the section of footpath that exists for a portion of the frontage to be removed and replaces with landscaping on the road verge.

Footpaths are a standard requirement for all urban subdivisions in the Douglas Shire where the street services more than 26 dwellings as per standard drawing s1005 from the FNQROC Development Manual.

This request can be supported by Council because upon inspection of the site, a landscaped outcome is more suitable to protecting the amenity of the street and neighbourhoods character. A wide footpath that occupies most of the verge against a wall without any room for shade providing greenery will render the western side of Escape Street an overly hot and

suburban looking zone. Escape Street is not a through way and has little traffic. With a proper landscaping plan, pedestrian space can be provided without sacrificing the character of the area). Conditions 38 and 39 can be replaced with a new condition 38 which accommodates the applicants request to not be required to construct a footpath. Condition 38 has been changed to require the applicant to remove the existing section of footpath and make good the road verge.

Landscaping

The applicant proposes to have Condition 9 amended to require landscaping to be provided within the Escape Street frontage in place of the section of bikeway/ pathway. Condition 9 is not being recommended for any changes as the condition requires the applicant to submit a landscaping plan for council endorsement at a later date.

Flood levels

The minimum habitable floor level of 3.4 metres Australian Height Datum (AHD) was imposed via a condition from the former Douglas Shire Council. This was required on the basis that this level was expected to provide immunity from the 1 in 100 (Q100) year flood event that may affect the site. This is also the default level that Council's in the region use for minimum habitable floor levels for coastal development when sites do not have an RPEQ Certified drainage study supporting the development, and where storm tide inundation is not a significant risk. Council has no RPEQ certified drainage study which gives the Q100 flood level for this site. The National Construction Code and all modern Queensland Planning Schemes require new dwelling houses to have minimum habitable floor levels immune of the Q100 flood level. The lower allotments in the constructed subdivision have an existing site level of around 3m AHD. The applicant has requested that Council agree to amend condition 17 to lower the required habitable floor levels of the houses in the development from 3.4m AHD to 3.2m AHD. The applicants request is not accompanied by any certified flood or drainage study and cannot be supported in full. However, Council can partly accommodate the request by changing the wording of the condition to require minimum habitable floor levels to be 3.4m AHD or a lower level if detailed within an RPEQ certified local flood and drainage study.

Stormwater Drainage

Although not part of the applicants formal minor change request, the applicant has requested that Council allow the development to continue without providing a pollution control device at the storm water outlet into the canal at the sites west because of cost to retrospectively retrofit. The former Douglas Shire Council approved the operational works plans for the subdivision construction without a requirement for inline gross pollutant trap (GPT) on the plans and therefore it is considered unreasonable to require the applicant to retrofit an inline GPT. It is recommended to remove Condition 15 from the approval which requires the installation of a pollution control device prior to the point of discharge into tidal waters. It is also noted that the condition incorrectly makes reference to a road reserve area to the West.

Referral Agency Requirements

There was no requirement to refer the minor change request to the State Assessment and Referral Agency.

Internal Referrals

Nil. Referrals not necessary due to the minor nature of the proposal.

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

1. Attachment 1- Current Development Approval C A 2639-2008 [5.1.1 - 19 pages]

24 April 2019

Enquiries: Daniel Lamond
Our Ref: CA2639/2008 (899713)

Administration Office
64 - 66 Front St Mossman
P 07 4099 9444
F 07 4098 2902

Port Douglas Steam Train Co P/L
C/- RPS Australia East Pty Ltd
PO Box 1949
CAIRNS QLD 4870

Dear Sir/Madam

Application for Minor Change
Combined Application (Material Change of Use and Reconfiguration of a Lot (30
lots & common property) with a house on each lot and a display home.
8 Escape Street, 10 Escape Street, 4-6 Escape Street & 9 St Crispins Avenue,
Port Douglas
Land Described as LOT: 41 RP: 747344, LOT: 42 RP: 747344, LOT: 51 SP: 161464,
LOT: 49 SP: 161464.

Please find attached the Decision Notice for the above-mentioned development application.

Please quote Council's application number: CA2639/2019 in all subsequent correspondence relating to this development application. Should you require any clarification regarding this, please contact Daniel Lamond on telephone 07 4099 9456.

Yours faithfully

PAUL HOYE
Manager Environment and Planning

encl.

- Decision Notice
- Approved Plans

**DECISION NOTICE —
MINOR CHANGE APPROVAL (WITH CONDITIONS)
(GIVEN UNDER SECTION 63 OF *THE PLANNING ACT 2016*)**

Please be aware that Douglas Shire Council has assessed your application and decided it as follows:

1. Applicant's details

Name: Port Douglas Steam Train Co P/L

Postal Address: C/- RPS Australia East Pty Ltd
PO Box 1949
CAIRNS QLD 4870

2. Location details

Street Address: 8 Escape Street PORT DOUGLAS, 10 Escape Street PORT DOUGLAS, 4-6 Escape Street PORT DOUGLAS, 9 St Crispins Avenue PORT DOUGLAS

Real Property Description: LOT: 41 RP: 747344, LOT: 42 RP: 747344, LOT: 51 SP: 161464, LOT: 49 SP: 161464

Local Government Area: Douglas Shire Council

3. Details of proposed development

Minor Change to Combined Application (Material Change of Use (30 lots & common property) with a house on each lot & a display home).

4. Decision

Date of decision: 16 April 2019

Decision details: Approved in full with conditions. These conditions are set out in Schedule 1 and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

5. Approved plans and specifications

Copies of the following plans, specifications and/or drawings are enclosed.

Drawing or Document	Reference	Date
PR133458-7a	Plan Prepared by RPS Australia East Pty Ltd, Sheet 1 of 3.	6 November 2018

6. Conditions

This approval is subject to the conditions in Schedule 1. These conditions are clearly identified to indicate whether the assessment manager or concurrence agency imposed them.

7. Further development permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Building Work
- All Plumbing and Drainage Work

8. Properly made submissions

Not applicable — No part of the application required public notification.

9. Currency period for the approval

This development approval will lapse at the end of the period set out in section 85 of *Planning Act 2016*.

10. Rights of appeal

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

A copy of the relevant appeal provisions are included in Schedule 2.

SCHEDULE 1 – CONDITIONS AND ADVICE

PART 1A—CONDITIONS IMPOSED BY THE ASSESSMENT MANAGER

Plan of Development

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:-
 - (a). The specifications, facts and circumstances as set out in the application submitted to Council;
 - (b). The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

Except where modified by these conditions of approval.

Timing of Effect

2. The conditions of the Development Permit must be effected prior to endorsing the Plan of Survey, except where specified otherwise in these conditions of approval.

Amendment to Design

3. The approved plan must be amended to accommodate the following requirements:-
 - (a). Provide a staging plan illustrating each stage of the residential development. Each stage is to comprise of a stand alone group of allotments where the opportunity exists;
 - (b) provide a central waste storage facility accessed via Escape Street. In order to comply with this condition, it is required that Lot 15 be dedicated to contain the waste storage facility and that the surrounding allotment boundaries be reconfigured accordingly;
 - (c) the nominated building footprints on the approved plan are no longer being pursued and therefore are not approved and do not apply.

An amended layout plan and staging plan detailing the above requirements must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work for the first house on the land.

Boundary Setbacks

4.
 - (a). Side and rear boundary setbacks for each dwelling on each lot must be compliant with the Queensland Development Code MP1.1 unless otherwise approved by the Chief Executive Officer;
 - (b). Setbacks to Escape Street may be no less than four (4) metres except for lots 16, 28 and 29 which may have a building setback of three (3) metres from Escape Street for a maximum of 30% of the building fronting Escape Street unless otherwise approved by the Chief Executive Officer;

- (c). Setbacks to St Crispins Avenue may be no less than four (4) metres; and
- (d). Setbacks to the internal CTS road must be determined in accordance with Conditions of this approval.

Currency Period

5. This development approval is valid up to and including 21 January 2021.

Amenity

6. The approved use must not be conducted so as to cause a nuisance or annoyance to persons not associated with the use and so as not to adversely affect any other property.

Traffic Management

7. The ingress/egress to the site shall be provided with a physical means of speed control. Such speed control device shall be shown on any plans submitted for approval for building works and shall be constructed and maintained at all times.
8. The applicant shall provide bollard lighting at the property boundary to indicate access to the car parking area at the time of applying for carrying out building works.

Landscaping & Fencing

9. Provide a Landscape Concept Plan for the development that provides for an attractive residential development and details how the development interacts with the external roads of Escape Street and St Crispins Avenue. The Landscape Concept Plan must include:-
- (a) Street tree planting in accordance with the FNQROC Development Manual;
 - (b) Deep planting of setback areas fronting Escape Street and St Crispins Avenue;
 - (c) External fencing treatment details;
 - (d) Internal plantings;
 - (e) Opportunities for internal street tree planting;
 - (f) A species list in accordance with Planning Scheme Policy SC6.7- Landscaping.

The Landscape Plan must be endorsed by the Chief executive Officer prior to the issue of a Development Permit for Building Work. All landscaping and fence treatments must be installed in accordance with the endorsed landscape plan prior to endorsing the Plan of Survey for the respective allotment or stage.

10. The applicant shall provide a 1.8 metre high acoustic screen fence to the side boundaries to ensure the privacy and amenity of adjoining properties is maintained. A minimum standard for a fence of this type is a timber paling fence that is lapped and has no gaps.

Waste Storage & Discharge

11. A central waste storage facility must be included in the layout of the development. The facility must;
- (a) Provide storage area for the storage of a minimum of 3 bulk bins (1100L capacity) and 15 (240L capacity) recycling bins.

- (b) Contain an impervious surface for the storage of waste containers with a suitable hosecock with hose attached, located on an external front corner of the enclosure with a reduced pressure zone device;
- (c) Be roofed, bunded and connected to sewer with an approved collection device at the drainage point to sewer;
- (d) Include a two (2) metre wide sealed path to the road frontage of Escape Street for practical bin display to the satisfaction of the Chief Executive Officer;
- (e) The Community Management (CMS) Statement must state that this central facility is the waste storage facility for all of the development and must form part of the common property for the development. The CMS must state waste storage bins are not permitted to be housed within the private Community Title Scheme (CTS) allotments.
- (f) Be screened from view via landscaping treatments to be detailed on a site specific landscaping plan and noted on the landscape concept plan.
- (g) Be constructed prior to Council endorsing the first CTS allotment Plan of Survey including all landscaping treatments.

Air Conditioning & Service Equipment

12. All service equipment, outdoor lighting and air conditioning equipment must be located so as not to cause a nuisance to the occupants of adjoining units or neighbouring premises. The noise levels shall be maintained in accordance with the requirements of the Environmental Protection Policy - Noise.

Stormwater Drainage

13. All stormwater run-off from non-permeable surfaces and roof areas occurring on the site must be collected within the premises and discharged to the legal and practical point of discharge which has been nominated as Escape Street and/or the lagoon within the site.
14. The approved use must not:
 - (a) Interfere with the natural flow of stormwater;
 - (b) cause ponding of stormwater on adjoining properties.
15. The applicant is to install a pollution control device on stormwater pipes prior to the point of discharge into the road reserve to the west.
16. The applicant is to provide scour protection at the proposed discharge point/s. The location/s, size, velocity, proposed means of scour protection and bank stabilisation, where required, is to be designed and submitted for approval by Council prior to lodgement of an application for Building Work. Such stormwater drainage work shall be designed and constructed in accordance with the requirements of the Far North Queensland Regional Organisation of Councils' Development Manual and shall not cause scouring, erosion, loss of vegetation, excess turbidity and landslip either within or external to the site.

Minimum Floor Levels

17. The minimum floor level for all habitable rooms in any building erected on the premises must be a minimum of 3.4 metres AHD.

Amalgamation

18. Lots 49 and 51 on SP 161464 and Lots 41 and 42 on RP 747344 must be amalgamated into one (1) allotment. The Plan of Survey must be registered with the Department of Natural Resources and Water (DNRW) prior to the issue of a development permit for building work or commencement of building work. Alternatively, a new Survey Plan in accordance with the approved plan is to be lodged for Council endorsement.

Compliance

19. All works required pursuant to the conditions of this Development Permit shall be undertaken and completed in accordance with Council's requirements contained in the Planning Scheme Provisions/Codes.
20. All conditions shall be complied with prior to the final building inspection for the proposed buildings on the land or as otherwise stated in any condition of this approval.

External Works

21. The applicant shall construct a six (6) metre wide concrete vehicle crossover to the site in accordance with the requirements of the FNQ Development Manual.

Parkland

22. The applicant shall make contribution for parkland for thirty-three (33) allotments in accordance with Council's requirements for parkland contribution, as defined under Planning Policy No.5 or any other relevant Policy or Code applicable at time of payment.

Security

23. 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 \$20,000, such Guarantee shall be lodged prior to the issue of a Development Permit for Building Works on the land in relation to this Development Permit.

The Council may call up this Guarantee to complete all or any part of the works mentioned herein in accordance with the conditions of this approval, should the applicant fail to do so prior to issuing of a Certificate of Classification for the propose development.

Acid Sulfate Soils

24. The applicant is to undertake a detailed acid sulfate soil investigation over the subject land in accordance with the requirements of the (DNRW) Guidelines for Managing Acid Sulfate Soils. This report and associated management plan are to be provided to DNRW for approval prior to the approval of the Operational Works approval.

Environmental Management Plan

25. The applicant is to have prepared with the submission for approval of the engineering plans, an Environmental Management Plan (EMP) detailing the controls to be utilised to ensure that no environmental harm or nuisance is caused from the proposed use of the land and construction of the works. In particular, this plan should address such issues as

dust suppression, waste disposal, acid sulfate soil management, noise management and stormwater management (to minimise discharges of sediment, wastes and other substances).

Stormwater Management and Erosion and Sediment Control

26. The management of stormwater and erosion and sediment control must be undertaken in accordance with the Preliminary Site Based Stormwater Management Plan and Erosion and Sediment Control Plan prepared by Arup and dated September 2004.

Health Requirements

27. 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.
28. All building work, maintenance, repair demolition and other activities on site shall be confined to the following hours:
- (a) 6:30 am to 6:30 pm Monday to Saturday inclusive, excepting that no machinery shall be operated in conjunction with building work prior to 7:00 am.
 - (b) Building work is not permitted on a Sunday or Public Holiday at any time.

All construction works are to be carried out in compliance with the *Environmental Protection Policy (Water)* and the *Environmental Protection Amendment Regulation (No. 2)*

29. The applicant shall connect Proposed Lots 1 and 2 on RPS Drawing PR133458-4B to reticulated water supply via the main contained within the Escape Street road reserve using an easement or the provision of a separate water supply connection.
- The proposed connection point including all works required to take the reticulated supply to the boundary of the site are to be shown on the plans for Plumbing and Drainage Works approval.
30. The applicant shall provide a 100 mm diameter service to be contained within the common property to service the residential allotments and the common property.
31. The Council will make all connections to the existing main in Escape Street. The applicant is to prepay to the Council the estimated cost of the connection of the new main to the existing system. The applicant will be responsible for meeting the actual cost of the work.
32. *The applicant shall connect Proposed Lots 1 and 2 on RPS Drawing PR133458-4B to Council's reticulated sewerage network using an easement or the provision of a separate sewer connection.* The plans and specifications of the internal sewerage works must be submitted to Council at Plumbing & Drainage works application stage of review.
33. No buildings or other structures are permitted to be located within 3.5 metres of any main located on the subject site.

Electrical & Telephone Services

34. Prior to the endorsement of the Plan of Survey for Proposed Lots 1 and 2 on RPS Drawing PR133458-4B and the proposed community titles development, the Applicant must submit to

Council a copy of a letter from Ergon Energy stating that satisfactory arrangements have been made for the provision of:

- (a) an underground electrical supply to the development; and
- (b) street lighting in accordance with Council's adopted standards.
- (c) locating of all above ground transformer cubicles clear of footpath area.

35. All Electricity Lines along the full frontages of the subject site (Escape Street) are to be placed underground. These works are to be undertaken by Ergon Energy at the applicant's expense.
36. All external lighting installed upon the premises including car parking areas shall be certified by Ergon Energy or such other suitably qualified person such that it shall conform with the Planning Scheme whereby vertical illumination at a distance of 1.5 metres outside the boundary of the site shall not exceed eight (8) lux measured at any level upwards from ground level.
37. Prior to the endorsement of the Plan of Survey for Proposed Lots 1 and 2 on RPS Drawing PR133458-4B and the community titles development, the Applicant must submit to Council a copy of a letter from Telstra stating that satisfactory arrangements have been made for the provision of:
- (a) an underground telephone service to the development lot; and
 - (b) locating of all above ground switching station cubicles clear of footpath areas.

Bikeway/Pathway

38. A bikeway/pathway shall be constructed to a minimum width of two (2) metres on the western side of Escape Street past the full frontage of the subject site.
39. The bikeway/walkway(s) shall be suitably signed in accordance with the relevant Standards Association of Australia Code.

Road Works

40. All unused vehicle crossovers shall be reinstated with kerb and channel and landscaping.

Maintenance Period

41. The Applicant shall maintain in accordance with the requirements of the Far North Queensland Regional Organisation of Councils' Development Manual all road construction works of any nature whatsoever and any drainage works carried out under the provisions of this approval for the land for a period of twenty-four (24) months. The Applicant shall make good within such period any defects arising from faulty workmanship or materials in respect to such road construction and drainage works carried out as part of the works associated with the subdivision.

Footpath Damage Liability

42. All damage occasioned to footpaths and roadways adjacent to the site as a result of, or in connection with, this development must be repaired by the applicant, at their expense, prior to completion of works associated with the development.

Access to St Crispins Station

43. The applicant is to provide public pedestrian access to the St Crispins Rail/Tram Station from Escape Street within an easement for the purposes of public access. The minimum width of the easement is to be two (2) metres.

Display Home

44. After a period of two (2) years from the date of issue of the Development Permit for Building Work the use will cease and the display home will revert back to being used as a dwelling house.
45. This approval shall lapse four (4) years from the date of issue of this Development Permit, unless the use is substantially commenced and all conditions complied with.
46. The Display Home must be connected to Council's reticulated sewerage and water supply schemes. House connection branches are acceptable at this stage with full construction of the works to be undertaken prior to any additional works, beyond this approval, being undertaken on site. At time of further development the existing services to the Display House are to be disconnected and reconnected to the new system.

Design Review, Construction & Survey Plan Endorsement

47. All house designs for each allotment comprising a stage must be submitted for review and endorsement prior to the issue of a Development Permit for Building Work for the first house within the stage.

Allotments within a stage can have their individual Plans of Survey endorsed by the Chief Executive Officer once the building slab is completed and three courses of blocks have been laid for an individual house or construction work has substantially commenced to the satisfaction of the Chief Executive Officer where not a block house.

Easement

48. The applicant is to create an easement for public access purposes benefiting Douglas Shire Council, over the complete area of land encumbered by Easement A on RP746139 and Easement J on SP161480. The details of this easement are to be dealt with as part of the formulation of the easement documentation in consultation with Council.
49. The applicant is required to tidy up the site and maintain the site to an acceptable standard.

Service and Access Easements

50. Written confirmation of the location of exiting services (water, sewer, electricity and telecommunications) for the land must be provided. In any instance where existing services are contained within another lot, the following applies, either;
- (a) Relocation of the services to comply with this requirement; or
- (b) Arrange registration of necessary easements over services and vehicle access located within another lot prior to, or in conjunction with, the lodgement of the plan sealing application for Proposed Lots 1 and 2 on RPS Drawing PR133458-4B.

Vehicle Parking and Access

51. The amount of vehicle parking to be provided on Proposed Lot 1 on RPS Drawing PR133458-4B must be as specified in Council's Planning Scheme which is a minimum of 9 car parking spaces. The car parking layout must comply with the Australian Standard AS2890.1 2004 Parking Facilities – off-street car parking and be constructed of a compacted granitic surface to be confirmed with Council prior to construction. In addition, all parking, driveway and vehicular manoeuvring areas must be drained, use pavers or the like to delineate car parking spaces, include concrete crossover/s and the vehicle parking area shall be provided with two-way access consistent with the design standards adopted in the existing community titles development. The vehicle parking area is to be established in accordance with this condition prior to the endorsement of the Plan of Survey for Proposed Lots 1 and 2 on RPS Drawing PR133458-4B.

Design Guidelines

52. A set of design guidelines must be prepared and submitted for endorsement by the Chief Executive Officer prior to submission of house and stage designs for endorsement. The design guidelines must include but no limited to the following design outcomes:-
- (a) The internal CTS road is not dominated by garages with reduced setbacks with the elements of the house fronting the internal street to promote casual surveillance from the residence;
 - (b) Houses have staggered setbacks to the internal CTS road to create visual interest and opportunity for landscaping treatments internal to the site;
 - (c) House designs do not create a nuisance or detrimentally impact the safety of people upon entry and egress of vehicles to the CTS allotments;
 - (d) House designs provide adequate daylight and ventilation to habitable rooms;
 - (e) House designs provide adequate daylight and ventilation to habitable rooms of houses on adjoining lots within each stage;
 - (f) House designs do not impact of the amenity and privacy of residents or future residents on adjoining lots.
53. All other conditions remain unchanged and conditions are renumbered to accommodate the above amendments.

PART 1B—ADVICE NOTES

1. 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.
2. For information relating to the *Planning Act 2016* log on to www.dilqp.qld.gov.au. To access the *FNQROC Development Manual*, Local Laws and other applicable Policies, log on to www.douglas.qld.gov.au.

PART 1C- REASONS FOR DECISION

1. The proposal is a minor change under the Planning Act 2016 and Planning Regulation 2017 and is considered to reflect the requirements and intent of the 2006 Douglas Shire Planning Scheme and the 2018 Douglas Shire Planning Scheme version 1.0.
2. The minor change approval includes conditions formulated and imposed to manage risks associated with the proposal. Risks include impacts to amenity for end uses and impacts to services and infrastructure.

SCHEDULE 2 – PLANNING ACT EXTRACT ON APPEAL RIGHTS

CHAPTER 6, PART 1 APPEAL RIGHTS

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
- (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the appellant); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is—
- (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.
- Note — See the P&E Court Act for the court's power to extend the appeal period.*
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
- (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
- (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.

- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to—
- (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The **service period** is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

SCHEDULE 1 APPEALS

1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to—
- (a) the P&E court; or
 - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
- (a) the refusal, or deemed refusal of a development application, for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (b) a provision of a development approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (c) if a development permit was applied for—the decision to give a preliminary approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (d) a development condition if—
 - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
 - (ii) the building is, or is proposed to be, not more than 3 storeys; and
 - (iii) the proposed development is for not more than 60 sole-occupancy units; or
 - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
 - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
 - (g) a matter under this Act, to the extent the matter relates to—

- (i) the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
 - (ii) the Plumbing and Drainage Act, part 4 or 5; or
 - (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
 - (i) a decision to give an infrastructure charges notice; or
 - (j) the refusal, or deemed refusal, of a conversion application; or
 - (k) a matter that, under another Act, may be appealed to the tribunal; or
 - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
- (a) for a matter in subsection (2)(a) to (d)—
 - (i) a development approval for which the development application required impact assessment; and
 - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
 - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.
- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
- (a) column 1 states the appellant in the appeal; and
 - (b) column 2 states the respondent in the appeal; and
 - (c) column 3 states the co-respondent (if any) in the appeal; and
 - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.

Extract of Schedule 1 of the Planning Act 2016

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
1. Development applications An appeal may be made against— <ul style="list-style-type: none"> (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval. 			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	1 A concurrence agency that is not a co-respondent 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application

Table 2 Appeals to the P&E Court only			
<p>2. Eligible submitter appeals</p> <p>An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to—</p> <p>(a) any part of the development application for the development approval that required impact assessment; or</p> <p>(b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency's referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>
<p>3. Eligible submitter and eligible advice agency appeals</p> <p>An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to—</p> <p>(a) any part of the development application or the change application, for the development approval, that required impact assessment; or</p> <p>(b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p> <p>3 An eligible advice agency for the development application or change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency's referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>

Note:

Attached is a Rights of Appeal Waiver form (Schedule 3). Please complete and return this form if you are satisfied with the approval and agree to the conditions contained therein and you wish to waive the 20 day appeal period available under the *Planning Act 2016*

APPROVED PLANS (ATTACHING TO THE DECISION NOTICE)





