

ORDINARY COUNCIL MEETING	5.2
26 AUGUST 2014	

MATERIAL CHANGE OF USE (IMPACT ASSESSMENT) INDOOR SPORTS & ENTERTAINMENT (GYMNASIUM) – 1-5 DICKSON STREET, CRAIGLIE

Jenny Elphinstone – Senior Planning Officer: 43.2014.198: #421605

<u>PROPOSAL:</u>	MATERIAL CHANGE OF USE (IMPACT ASSESSMENT) INDOOR SPORTS & ENTERTAINMENT (GYMNASIUM)
<u>APPLICANT:</u>	JOHN GUERILLOT C/- POST OFFICE PORT DOUGLAS QLD 4877
<u>LOCATION OF SITE:</u>	1-5 DICKSON STREET CRAIGLIE QLD 4877
<u>PROPERTY:</u>	LOT 10 ON RP746523
<u>LOCALITY:</u>	PORT DOUGLAS AND ENVIRONS
<u>PLANNING AREA:</u>	INDUSTRY
<u>PLANNING SCHEME:</u>	DOUGLAS SHIRE PLANNING SCHEME 2008
<u>REFERRAL AGENCIES:</u>	DEPARTMENT OF TRANSPORT & MAIN ROADS
<u>NUMBER OF SUBMITTERS:</u>	NONE RECEIVED
<u>STATUTORY ASSESSMENT DEADLINE:</u>	1 SEPTEMBER 2014
<u>APPLICATION DATE:</u>	19 MAY 2014
<u>APPENDIX:</u>	<ol style="list-style-type: none"> 1. APPROVED PLAN(S) & DOCUMENT(S) 2. CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS

LOCALITY PLAN



RECOMMENDATION:

That Council approves the development application for a Material Change of Use for Indoor Sports & Entertainment (Gymnasium) over land described as Lot 10 on RP746523, located at 1-5 Dickson Street, Craiglie, subject to the following:

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
Building Layout	Prepared by the Applicant.	As submitted to Council on 19 May 2014 (Council document reference D#421462)
Site Plans	Prepared by the Applicant	As submitted to Council on 7 August 2014 (Council document reference D#425954)

ASSESSMENT MANAGER CONDITIONS

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; and
 - 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 Commencement of Use, except where specified otherwise in these conditions of approval.

Vehicle Parking

3. The amount of vehicle parking must be as specified in Council's Planning Scheme which is a minimum of ten (10) spaces must be provided for the Indoor Sport and Entertainment land use. One of the ten spaces must provide for a disabled person's car.

The car parking layout must comply with the Australian Standard AS2890.1 2004 Parking Facilities – off-street car parking and be constructed in accordance with Austroads and good engineering design.

Prior to the commencement of use the following must be provided to the satisfaction of the Chief Executive Officer:

- a. A concrete crossover and apron, for a length of at least 5m onto the land, consistent with the FNQROC Development Manual; and
- b. The car parking and remaining driveway area must be drained, sealed and constructed of a gravel or concrete or bitumen surface.

Protection of Landscaped Areas from Parking

4. Landscaped areas adjoining the parking area must be protected by a 150 mm high vertical concrete kerb or similar obstruction. The kerb must be set back from the garden edge sufficiently to prevent vehicular encroachment and damage to plants by vehicles.

Landscaping Plan

5. The site must be landscaped in accordance with details included on a Landscaping Plan. The Landscaping Plan must show:
 - a. Deep planting of setback areas using species as per the Planning Scheme Policy No.7; and
 - b. Inclusion of any other relevant conditions included in this Development Permit.

Two (2) A1 copies and one (1) A3 copy of the landscape plan must be endorsed by the Chief Executive Officer. The approval and completion of all landscaping works must be undertaken in accordance with the endorsed plan prior to the issue of a Certificate of Classification or Commencement of Use whichever occurs. Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer.

Bicycle Parking

6. Provide secured, on-site bicycle parking in accordance with Table 10-1 of *AUSTROADS Guide to Traffic Engineering Practice Part 14 – Bicycles*. Based on the provisions in Table 10-1 (page 133) the minimum number of parking spaces required for this development is two (2) spaces. The bicycle parking area must be constructed prior to Commencement of Use.

Lighting

7. All lighting installed upon the premises including car parking areas must be certified by Ergon Energy (or such other suitably qualified person). The vertical illumination at a distance of 1.5 metres outside the boundary of the subject land must not exceed eight (8) lux measured at any level upwards from ground level.

Damage to Infrastructure

8. In the event that any part of Council's existing sewer/water/road infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to, mobilisation of heavy earthmoving equipment, stripping and grubbing, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced by Council, at the developer's cost, prior to the Commencement of Use.

Advertising Signage

9. Prior to the display of advertising signage the Applicant must provide details of the signage including the content and proportions and method of erection to the Chief Executive Officer. The advertising device must be subservient in scale to the primary use of the land and where a banner sign must be maintained in good condition to the satisfaction of the Chief Executive Officer. A maximum of one sign per frontage is permitted for the use of Indoor Sports and Entertainment (Gymnasium). All signage must be within a landscaped setting. No flashing signage is permitted to face the State-controlled Road.

CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS

Concurrency Agency	Concurrency Agency Reference	Date	Council Electronic Reference
Department of State Development Infrastructure and Planning	SDA-0614-010912	4 August 2014	D#425804

Refer to Appendix 2: Concurrence Agency Requirements. (Please note that these conditions / requirements may be superseded by subsequent negotiations with the relevant referral agencies).

ADVICE

1. This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of select one sections 339 and 341 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.dsdip.qld.gov.au. To access the *FNQROC Development Manual*, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au .

LAND USE DEFINITIONS*

In accordance with the Douglas Shire Planning Scheme 2008, the approved land use of Indoor Sports & Entertainment is defined as:

Indoor Sports and Entertainment

Means the use of premises for sport, physical exercise, recreation or public entertainment predominantly within a Building.

The use includes facilities commonly described as:

- sports centre;
- gymnasium;
- amusement and leisure centre;
- cinema
- dance club;
- music club;
- nightclub;
- reception room;
- theatre;
- convention centre; or
- function centre.

*This definition is provided for convenience only. This Development Permit is limited to the specifications, facts and circumstances as set out in the application submitted to Council and is subject to the abovementioned conditions of approval and the requirements of Council's Planning Scheme and the *FNQROC Development Manual*.

EXECUTIVE SUMMARY:

Application has been made to utilise part of the premises, being the former Shire Hall which was previously used for storage and office, for an Indoor Sports and Entertainment (Gymnasium) together with associated car parking. Access to this part of the land will be via Owen Street. Despite the development being listed as an impact assessable (inconsistent) use in the Industry Planning Area for the Port Douglas and Environs Locality the development is not considered to be detrimental to the area or inconsistent with the Planning Scheme's Desired Environmental Outcomes. Subject to conditions the development is considered appropriate.

TOWN PLANNING CONSIDERATIONS:

Background

The land currently supports storage sheds and a timber supply business. The original timber Shire Hall building was relocated from Macrossan Street to the site many years ago when it was purchased from the former Douglas Shire Council by the present land owner. The land currently has vehicle accesses from Dickson Street and Owen Street.

Proposal

Application is made over the land to use part of the land, being primarily the former Shire Hall building for Indoor Sports and Entertainment (Gymnasium). The use will be conducted during the hours 6.30 am to 9pm seven days a week. Access to the site for the gymnasium use will be via Owen Street with onsite parking will be provided including a disabled person's car parking space. Access to the building will be improved by a disabled person's access ramp. The access and the car parking spaces will have a concrete finish. Ten car spaces will be provided for the gymnasium use meeting the Acceptable Solution of the Planning Scheme's Vehicle Access and Parking Code. The car parking areas will be screened from Owen Street by landscaping.

Signage, consisting of a banner sign, will be strung between two existing poles on the land. No details have been provided as to the sign content.

Parking will also be provided to the existing use of the storage sheds / timber supply. Separate accesses are provided for these other, existing uses enabling separation of the land uses and reducing conflict of traffic and pedestrian movements. . Details of the layout plan are included in Appendix 1.

Douglas Shire Planning Scheme Assessment

Douglas Shire Port Douglas and Environs Planning Locality		Code Applicability	Compliance
Locality	Port Douglas and Environs	✓	Refer to comment
Planning Area	Industry	✓	Refer to comment
Defined Use	Indoor Sports & Entertainment	✗	None Applicable
Overlay Codes	Acid Sulfate Soils Code	✗	
	Cultural Heritage and Valuable Sites Code	✗	Refer to comment
	Natural Hazards Code	✗	

Douglas Shire Port Douglas and Environs Planning Locality		Code Applicability	Compliance
General Codes	Design and Siting of Advertising Devices Code	✓	Can be suitably conditioned
	Filling and Excavation Code	✓	Complies
	Landscaping Code	✓	Can be suitably conditioned
	Natural Areas and Scenic Amenity Code	✗	-
	Reconfiguring a Lot Code	✗	-
	Vehicle Parking and Access Code	✓	Complies
	Sustainable Development Code	✗	-
Vegetation Damage	Amendment	✗	-

Compliance Issues

Port Douglas and Environs Locality Code

The proposed use is not Industry and therefore Performance Criteria 19 does not apply. The development utilises only a small area of land and the land retains part use for a continuing industry uses. The development meets the Code purpose, *“protect primary functions of the port (marine and fishing activities) from incompatible land uses and acknowledge the industrial and commercial land uses associated with the maritime industry, while providing secondary opportunities for recreational use by residents and tourists.”*

Industry Planning Area Code

The use of Industry is retained on part of the land and is sufficiently separated and “protected,” as required by the Code purpose, from the Indoor Sport and Entertainment use. This enables the industrial use on the land and in the surrounding area to continue without detriment. As only part of the land is utilised for the Indoor Sports and Entertainment use the development is not considered to significantly encroach on the industrial uses in the area. It is significant that no submissions were raised to the development. A similar use has established nearby and since this use commenced operation it has not caused detriment to the area.

Cultural Heritage and Valuable Sites Code

The former Shire Hall building is neither mapped on the Cultural Heritage and Valuable Sites Overlay nor listed in the Schedule 1 of Policy No.4. The land is not subject to the Code. There is ability under the Policy for additional places to be included and if successful this inclusion would be followed by a Council initiated Planning Scheme amendment. Given there is no current threat to the building and the development of a new Scheme is in hand there is little necessity to include the land at this time. Although the land is not the original site for the former Shire Hall it is important, original building fabric and relevant to the Community. It is significant that the building is being reused and will be again occupied as a place of active use by the community, despite its relocation.

Inconsistent Use

The use is listed as an impact assessable (inconsistent) use in the Assessment Table and under section 3.2 this, “*indicates that the use is not considered to be consistent with achieving ecological sustainability or the DEO’s for the Shire in that particular Planning Area and Locality.*” It is considered that the development has no impact on the DEO’s for Ecological Processes and Natural Systems, is not detrimental in respect to the Shire achieving the DEO’s for Economic Development, provides opportunity to the retention and protection of a place of cultural significance under DEO 9 and is not detrimental to the Shire achieving the DEO’s for Cultural, Economic, Physical and Social Well-being of the Community.

Under a merits assessment, the development is considered appropriate to the land.

Public Notification / Submissions

The Applicant has satisfied the requirements of the Sustainable Planning Act 2009. No submissions have been received.

Referral

As the land abuts the State-controlled Captain Cook Highway the application was referred to the Department of State Development, Infrastructure and Planning. The Department has determined conditions to be applied to the approval. A copy of the Department’s decision is included in Appendix 2.

ADOPTED INFRASTRUCTURE CHARGES

The proposed development does not trigger Adopted Infrastructure Charges.

COUNCIL’S ROLE

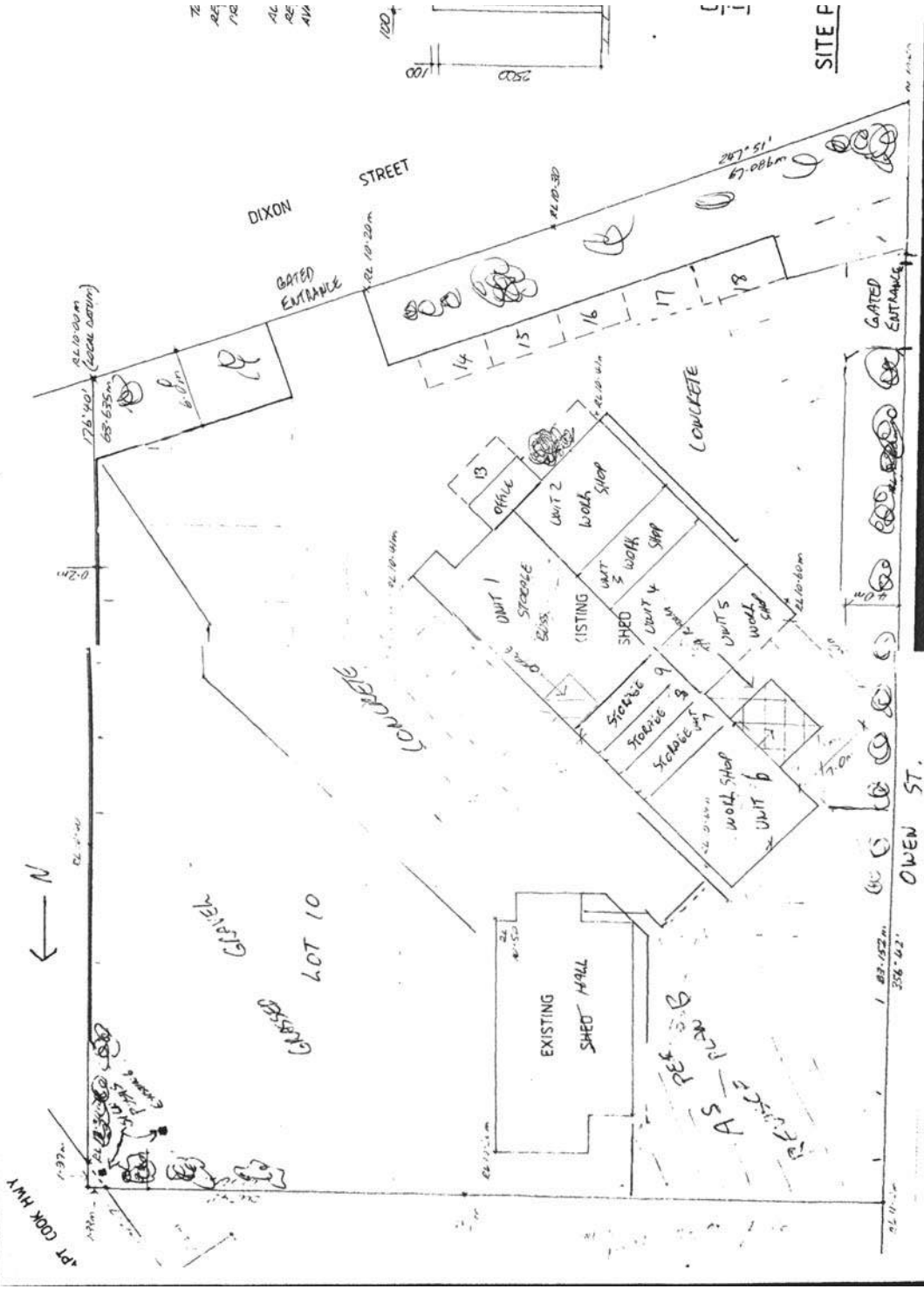
Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council’s involvement will vary from information only through to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

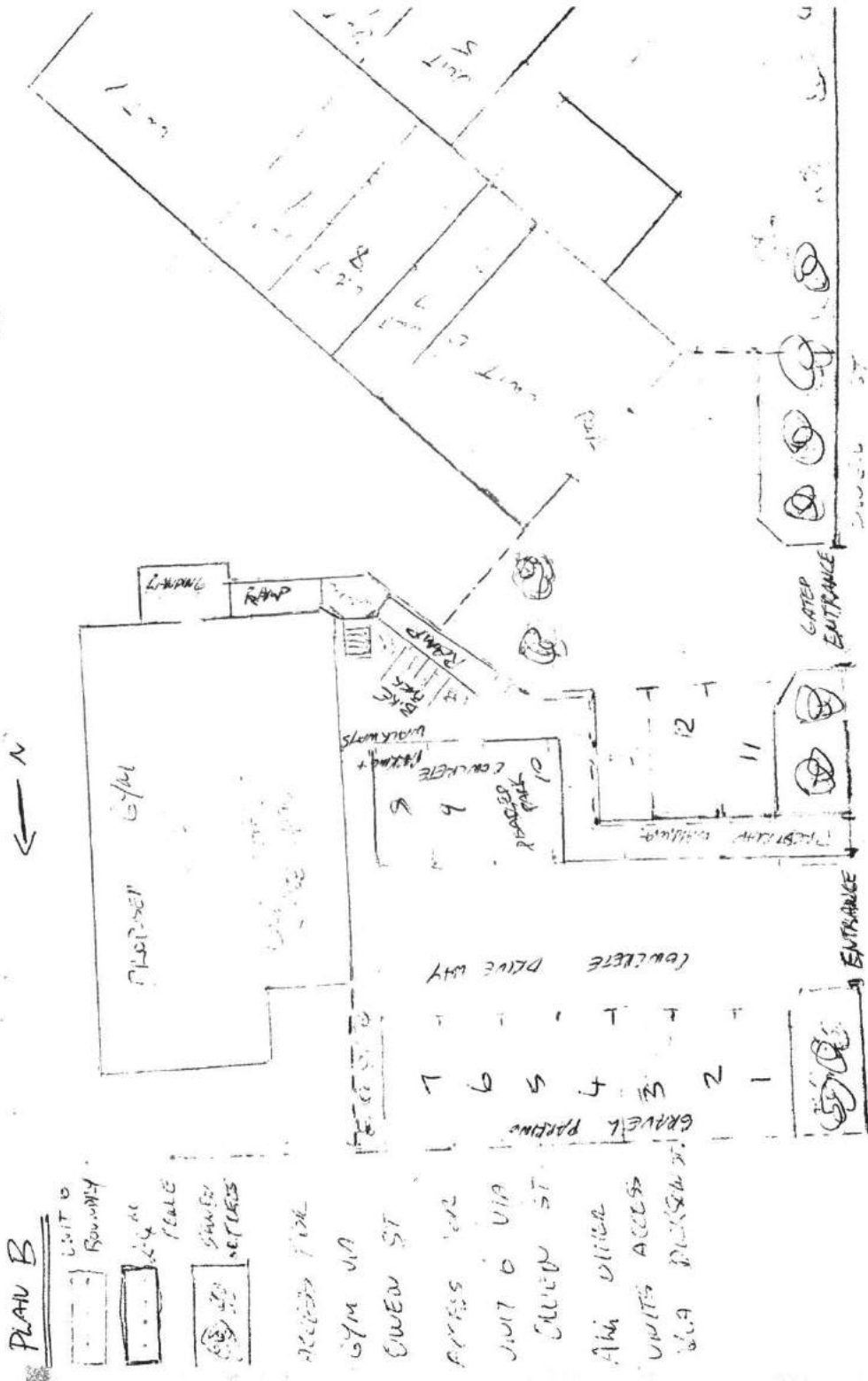
The following area outlines where Council has a clear responsibility to act:

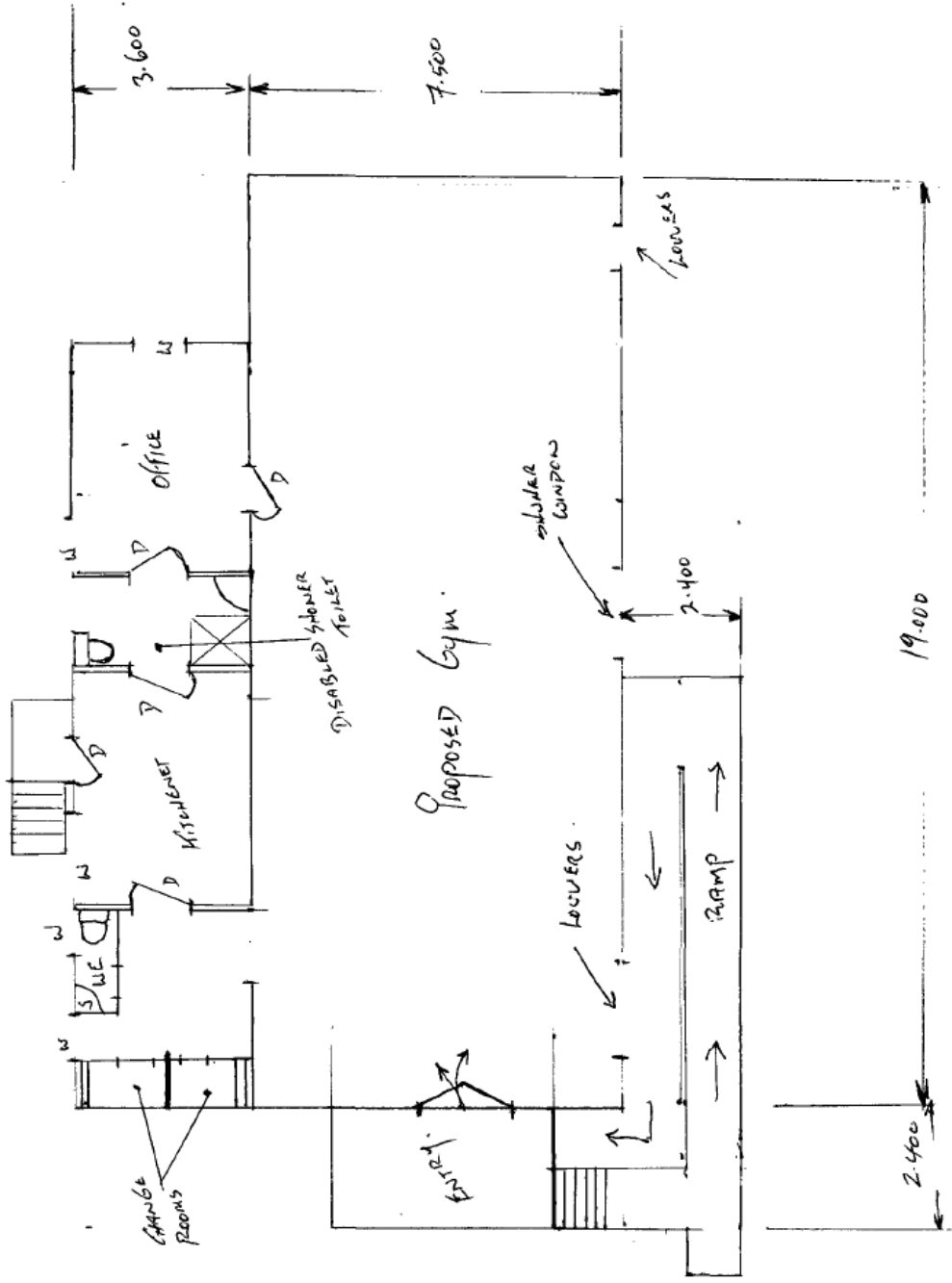
Regulator: Meeting the responsibilities associated with regulating activities through legislation or local law.

Under the *Sustainable Planning Act 2009* and the *Sustainable Planning Regulation 2009*, Council is the Assessment Manager for the application.

APPENDIX 1: APPROVED PLAN(S) & DOCUMENT(S)







APPENDIX 2: CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS



Department of
**State Development,
 Infrastructure and Planning**

Our reference: SDA-0614-010912
 Your reference: MCUI 198/2014

04 August 2014

Ms Linda Cardew
 Chief Executive Officer
 Douglas Shire Council
 PO Box 723
 Mossman QLD 4873

Att: Jenny Elphinstone

Dear Ms Cardew

Amended concurrence agency response

Material change of use – indoor sports and entertainment (gymnasium) at 1-5 Dickson Street, Craiglie and described as Lot 10 on RP746523
 (Given under section 290(1)(b) of the *Sustainable Planning Act 2009*)

The Department of State Development Infrastructure and Planning issued a concurrence agency response under section 285 of the *Sustainable Planning Act 2009* on 16 June 2014.

On 27 June 2014 the department received representations from the applicant under section 320(1) of the Act requesting that the department amend its concurrence agency response under section 290(1)(b)(i) of the Act.

The department has considered the written representations and agrees to issue the following amended concurrence agency response.

The applicant has provided written agreement to this amended concurrence agency response, as attached.

If you require any further information, please contact Joanne Manson, Senior Planning Officer, Regional Services – Far North QLD on 4037 3228, or via email joanne.manson@dsdip.qld.gov.au who will be pleased to assist.

Yours sincerely



Robin Clark
Manager (Planning)

cc: John Guerillot, email: JPGHot@yahoo.com
enc: Attachment 1—Amended conditions to be imposed
Attachment 2—Amended reasons for decision to impose conditions
Attachment 3 – Approved Plans and Specifications
Attachment 4 - Applicant written agreement to amended concurrence agency response

Our reference: SDA-0614-010912

Attachment 1—Amended conditions to be imposed

No.	Conditions	Condition timing
Material change of use – indoor sports and entertainment (gymnasium)		
State-controlled road (7.3.1) —Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the chief executive administering the <i>Sustainable Planning Act 2009</i> nominates the Director-General of the Department of Transport and Main Roads to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p>Development must be carried out generally in accordance with the following plans provided in the email to Douglas Shire Council and dated 16 May 2014, except as modified by these concurrence agency conditions:</p> <ul style="list-style-type: none"> • Proposed Gym & Unit 6– ‘Site Plan, Car Parking Area & Landscaping Plan’ (not dated) • Proposed Gym (Shed 2) and Shed 1, Layout Plan (not dated) • Proposed Martial Centre, Craiglie – Proposed Gym, dated 13/05/2014. 	Prior to the commencement of use and to be maintained at all times.
2.	<p>The permitted road access location for the development is between Lot 10 on RP746523 and the Captain Cook Highway is via Owen Street and generally in accordance with the Proposed Gym—‘Site Plan, Car Parking Area & Landscaping Plan’</p> <p>The permitted road access locations for the development shall be as follows:</p> <ul style="list-style-type: none"> • Proposed Gym (Shed 2) via a new access location via Owen Street, • Unit 6 via a new access location via Owen Street, • Existing Shed 1 via Dickson Street; and <p>generally in accordance with the revised development layout plans (received by the Department of State Development Infrastructure and Planning on 28 July 2014)</p>	Prior to the commencement of use and to be maintained at all times.
3.	CONDITION DELETED	
4.	Direct access is not permitted between the Captain Cook Highway, a state-controlled road and the subject site at any location other than the permitted road access location.	At all times

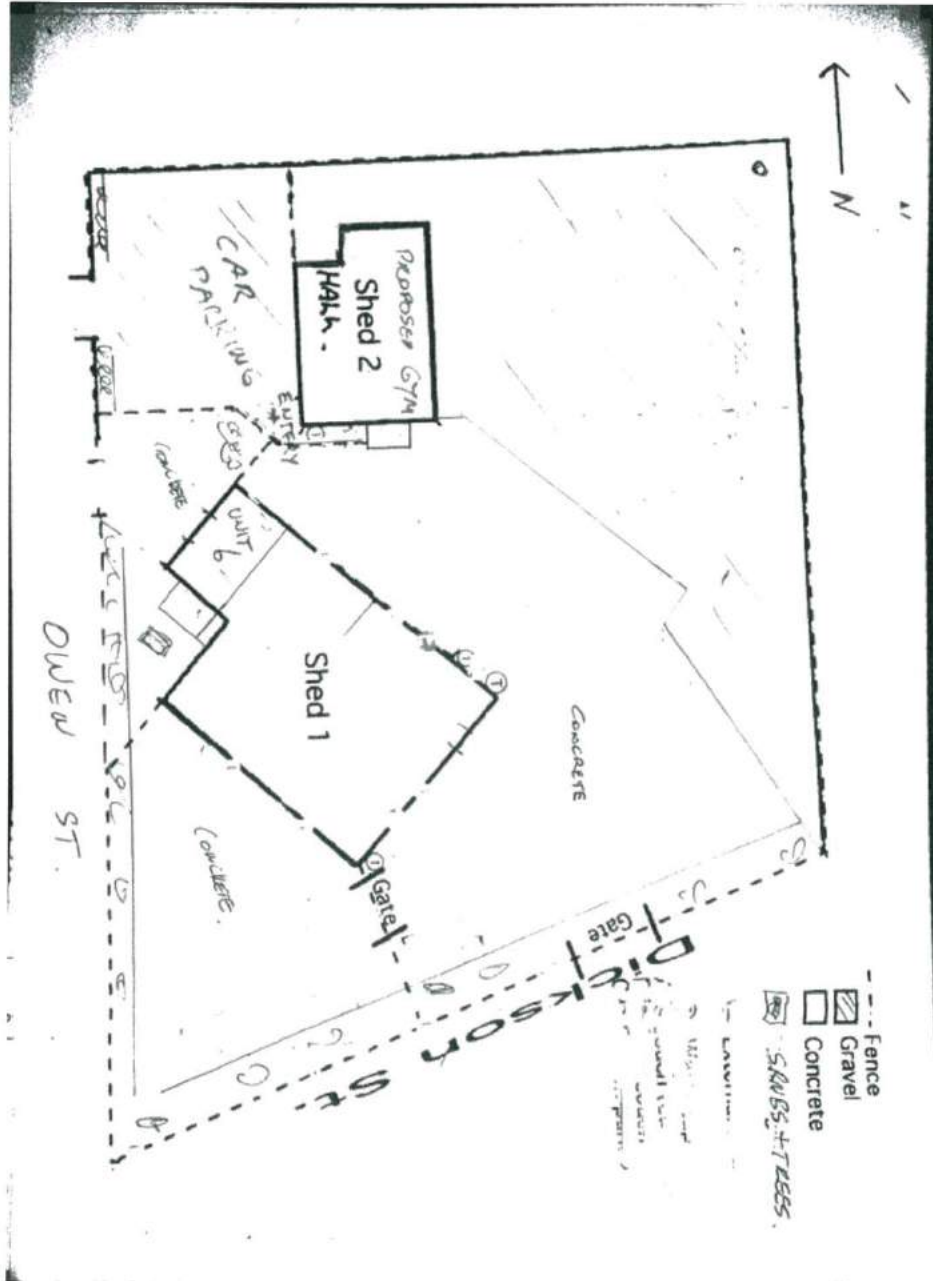
Our reference: SDA-0614-010912

Attachment 2—Amended reasons for decision to impose conditions

The reasons for this decision are:

- to ensure the proposed development generally proceeds in accordance with the cited plans provided **to the Department of State Development Infrastructure and Planning on 25 July 2014** ~~in the email to Douglas Shire Council that depicts how the development is to be carried out.~~
- to ensure the development achieves the relevant performance outcomes within Module 1 (Community amenity); Module 18 (State transport infrastructure protection) and Module 19 (State transport network functionality) prescribed in the State Development Assessment Provisions version 1.3 published 9 May 2014 and commenced 16 May 2014.
- to ensure that any impacts from the development are controlled and minimised; and
- to ensure that the development does not compromise the safety and efficiency or operation of the state-controlled road.

Attachment 3 — Approved Plans and Specifications





Attachment 4 – Applicant written agreement to amended concurrence agency response

A/EN JOANNE MANSON JOANNE.MANSON@DSDIP.QLD.GOV.AU

**APPLICANT WRITTEN AGREEMENT
Amended Concurrence Agency Response**

DSDIP Reference: SDA-0614-010912

Douglas Shire Council reference: MCUI 198/2014

I/we, as the applicant for the development application for a Development Permit for a Material Change of Use – indoor sports and entertainment (gymnasium), give written agreement to the Chief Executive of the Department of State Development, Infrastructure and Planning to give an amended concurrence agency response under section 290 of the *Sustainable Planning Act 2009*.

Name(s): John Guerillot
(Applicant)

Signed: J Guerillot

Date: 31-07-2014