

## 5.2. REQUEST FOR OWNERS CONSENT AND PRE-LODGEMENT ENQUIRY, 3 ESCAPE STREET, PORT DOUGLAS

<b>REPORT AUTHOR(S)</b>	Daniel Lamond, Planning Officer
<b>GENERAL MANAGER</b>	Nicholas Wellwood, General Manager Operations
<b>DEPARTMENT</b>	Sustainable Communities
<b>PROPOSAL</b>	Pre-lodgement Enquiry and Request for Owners Consent
<b>APPLICANT</b>	Optus Mobile Pty Ltd C/- Urbis Level 7, 123 Albert Street Brisbane QLD 4000
<b>LOCATION OF SITE</b>	3 Escape Street, PORT DOUGLAS
<b>PROPERTY</b>	Lot 48 on RP747344

### LOCALITY PLAN

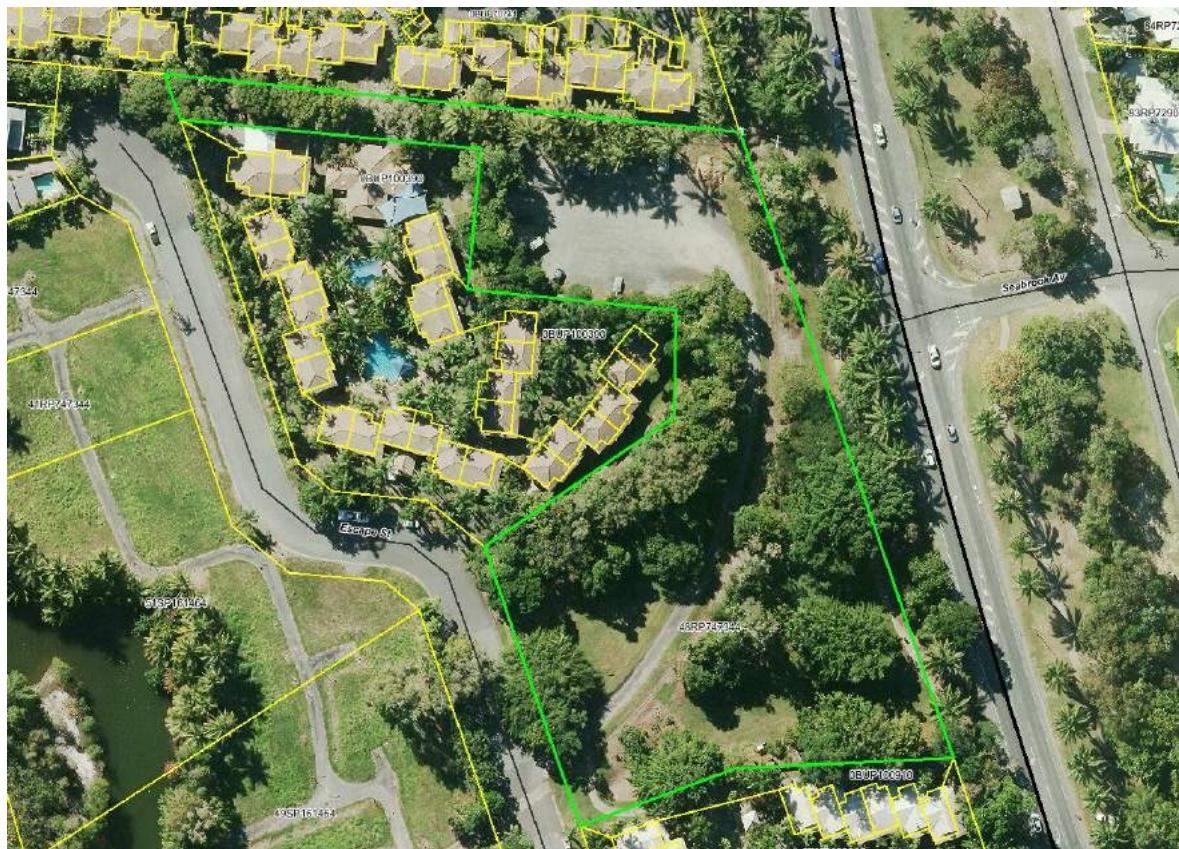


Figure 1 - Locality Plan

<b>LOCALITY</b>	Port Douglas and Environs
<b>PLANNING AREA</b>	Community and Recreation Facilities
<b>PLANNING SCHEME</b>	Douglas Shire Planning Scheme 2006
<b>REFERRAL AGENCIES</b>	State Assessment and Referral Agency (not applicable for a pre-lodgement enquiry)
<b>NUMBER OF SUBMITTERS</b>	Not applicable
<b>STATUTORY ASSESSMENT DEADLINE</b>	Not applicable
<b>APPLICATION DATE</b>	22 August 2016

### RECOMMENDATION

1. That with respect to the pre-lodgement enquiry lodged in relation to the proposed Telecommunications Facilities located at 3 Escape Street, Port Douglas, the proponent be advised that Council provides its in principle support. The following advice is provided:
  - a. The proposed telecommunications facility accommodates other service providers in order to co-locate their respective infrastructure from the proposed tower.
  - b. The proposed facility be landscaped in accordance with a landscaping plan to the satisfaction of the Chief Executive Officer, in order to screen the compound from view of the Bally Hooley train line and sight lines of the surrounding park and roads.
2. That Council Delegate authority to the Chief Executive Officer in accordance with section 257 of the Local Government Act 2009 to provide Owner's Consent with respect to Lot 48 on RP747344 and sign IDAS Form 1 to enable the development application to be considered properly made in accordance with section 260 of the Sustainable Planning Act 2009.
3. That Council resolves, pursuant to section 236 of the Local Government Regulation 2012, to dispose of a valuable non-current asset being part of Lot 48 on RP 747344 at Escape Street, Port Douglas, other than by tender or auction. The disposal of this land is for the purpose of a lease for a telecommunication tower (25m Monopole), and is subject but not limited to the following:
  - a. Optus Mobile Pty Ltd obtaining all necessary planning and building approvals prior to the commencement of any work on site.
  - b. The issue of a lease to Optus Mobile Pty Ltd including the following:
    - i. The mandatory heads of terms contract
    - ii. Two consecutive lease terms of ten (10) years.
    - iii. Optus Mobile Pty Ltd be responsible for all rates and charges, including any costs of water usage.
    - iv. Lease costs as per the formal offer from Optus Mobile Pty Ltd.

- c. Optus Mobile Pty Ltd to pay all reasonable costs legal costs associated with execution of the lease, any costs incurred by Council in obtaining the necessary Ministerial exemptions, all costs associated with the survey, all stamp duty incurred, and any other costs incurred by Council.**
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## EXECUTIVE SUMMARY

Council is in receipt of a formal pre-lodgement enquiry on behalf of Optus Mobile Pty Ltd, for a Telecommunications Facility at 3 Escape Street, Port Douglas. The proposal involves developing a fenced compound to secure a 25m high telecommunications tower (monopole) to service the southern end of Port Douglas and surrounds with Optus network coverage for mobile devices. The proposed compound will consist of a 12m by 8m fenced leased area, with a 25m high monopole centrally located. The enquiry is accompanied by plans and a photo montage depicting the development.

The land is located within the 'Community and Recreational Facilities' Planning Area and contained within the Port Douglas and Environs Locality under the 2006 Douglas Shire Planning Scheme.

The application requires code assessment. The proposal is generally consistent with the intent of the 'Community and Recreational Facilities' Planning Area as the Planning Scheme nominates the level of assessment as 'code assessable'.

The land has a total site area of 1.201 hectares, and is primarily utilized by the community as a park. The proposal involves a lease cost as per the formal offer by Optus Mobile Pty Ltd, to be paid per annum on a monthly basis to Council. No vegetation clearing on the site is proposed as the proposed development is sited in an existing cleared area. The land is burdened by an easement for access by the Bally Hooley train line, which traverses the allotment. The sites main street frontage of 70 metres adjoins Escape Street, where an access is constructed, and which forms the only access to the site. The site also fronts Port Douglas Road. However, no access from Port Douglas road exists.

The applicant is of the view that many of the issues raised through pre-lodgement discussions (amenity, access, proximity to housing etc.) can be appropriately managed. It is considered that the proposed use provides essential services which the surrounding area requires.

Lot 48 on RP747344 is owned by Douglas Shire Council in freehold land tenure. In order for an application to be considered as a properly made application under the Sustainable Planning Act, the consent of Douglas Shire Council as the owner of Lot 48 on RP747344 is required.

Urbis Australia is therefore seeking owner's consent to enable the application to be considered properly made.

It is recommended that Council favourably consider the request, provide in-principle support for the proposal and grant owner's consent for the purpose of lodging the development application.

## TOWN PLANNING CONSIDERATIONS

### Background

Urbis Australia has been engaged by Optus Mobile Pty Ltd to explore opportunities to expand network coverage throughout the Shire, particularly, in the Port Douglas and environs locality. Telecommunications network coverage is known to be sub-standard for many service providers in the Port Douglas and environs locality. The most common constraint to development for telecommunications facilities in the area is the lack of suitable land.

Council has been facilitating Urbis Australia in locating suitable land for telecommunications facilities in the Port Douglas area since December 2015. It has been determined that the only feasible allotment able to cater for the proposed development in the area is 3 Escape Street (based on tenure, proximity to populations, power connection etc).

### Proposal

The layout plan is included in Attachment 1. Optus Mobile Pty Ltd proposes to develop part of 3 Escape Street for the purpose of a telecommunications facility including a 25-metre-high mono pole enclosed within a 12m by 8m fenced compound. The area of land involved is 96m<sup>2</sup>, and will form the area of the lease. The proposal will subsequently require a development application for a material change of use.

The Department of Natural Resources and Mines (DNRM) accepts, and has accepted for a number of years, two 10-year lease terms, to be run concurrently for all Telco Carriers. The crucial point here is that the second term is not an option, but a concurrent term registered on title with the first term. This arrangement allows for the application to be lodged without the requirement to reconfigure the lot as each lease term will not exceed 10 years. Under section 10 of the *Sustainable Planning Act 2009*, a lease term including renewal options exceeding 10 years requires a development permit to reconfigure the lot. The subsequent development application will be for a material change of use only.

### Comment

The proposed site is compatible with the proposed development as the Planning Area requires code assessment, indicating general support from the Planning Scheme.

The proposal will be substantially screened from view from Port Douglas Road as the existing vegetation at the road verge and within the park provide high screening qualities as the vegetation is tall and dense. A photo montage of superimposed depictions of the proposed development can be seen in Attachment 2, which shows that the monopole will have a minimal aesthetic impact on the surrounding environment.

### State Planning Requirements

Under Schedule 7 of the *Sustainable Planning Regulation 2009*, the application will be required to be referred to the State Assessment and Referral Agency (SARA) as the allotment is within 25m of a State Controlled Road (Port Douglas Road). Referral to the Department of Transport and Main Roads will be required as part of this process through SARA.

## Douglas Shire Planning Scheme Assessment

Under the 2006 Douglas Shire Planning Scheme, the land is included within the Port Douglas and Environs Locality and is part of the Community and Recreational Facilities Planning Area. The proposed development is defined within the land use definitions of the scheme as 'Telecommunications Facilities', which is code assessable.

## Public Notification / Submissions

The land use for 'Telecommunications Facilities' is code assessable under the 2006 Douglas Shire Planning Scheme. Therefore, public notification is not required.

## 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.
- Asset Owner** Meeting the responsibilities associated with owning or being the custodian of assets such as infrastructure.

Under the *Sustainable Planning Act 2009* and the *Sustainable Planning Regulation 2009*, Council is the assessment manager for the application.

## CONSULTATION

**Internal:** Property Services

**External:** Urbis Australia

## FINANCIAL/RESOURCE IMPLICATIONS

Council will not experience any financial burden from the proposed development as all associated costs with the construction of the monopole and compound will be paid by Optus Mobile Pty Ltd. Optus will connect power to the facility and pay all installation and usage costs.

Optus have offered Council a fee for the lease of the site, within the proposed heads of terms, which is consistent with the other lease fees Optus and Council have previously agreed upon, and consistent with the fees the provider pays to other surrounding Councils.

## RISK MANAGEMENT IMPLICATIONS

The proposed location of the compound and tower is sited to have least environmental impact as no clearing is required, and the site is located within an area of vegetation which provides buffering and screening, mitigating the effects of partial loss of aesthetics.

## SUSTAINABILITY IMPLICATIONS

<b>Economic</b>	Revenue from the proposal will enable Council to reinvest into new infrastructure at the Park.
<b>Environmental</b>	The proposal is sited in an existing cleared area which requires no further clearing, resulting in minimal environmental impact.
<b>Social</b>	The proposal will benefit the businesses and wider community of Port Douglas and its environs by expanding the Optus network coverage

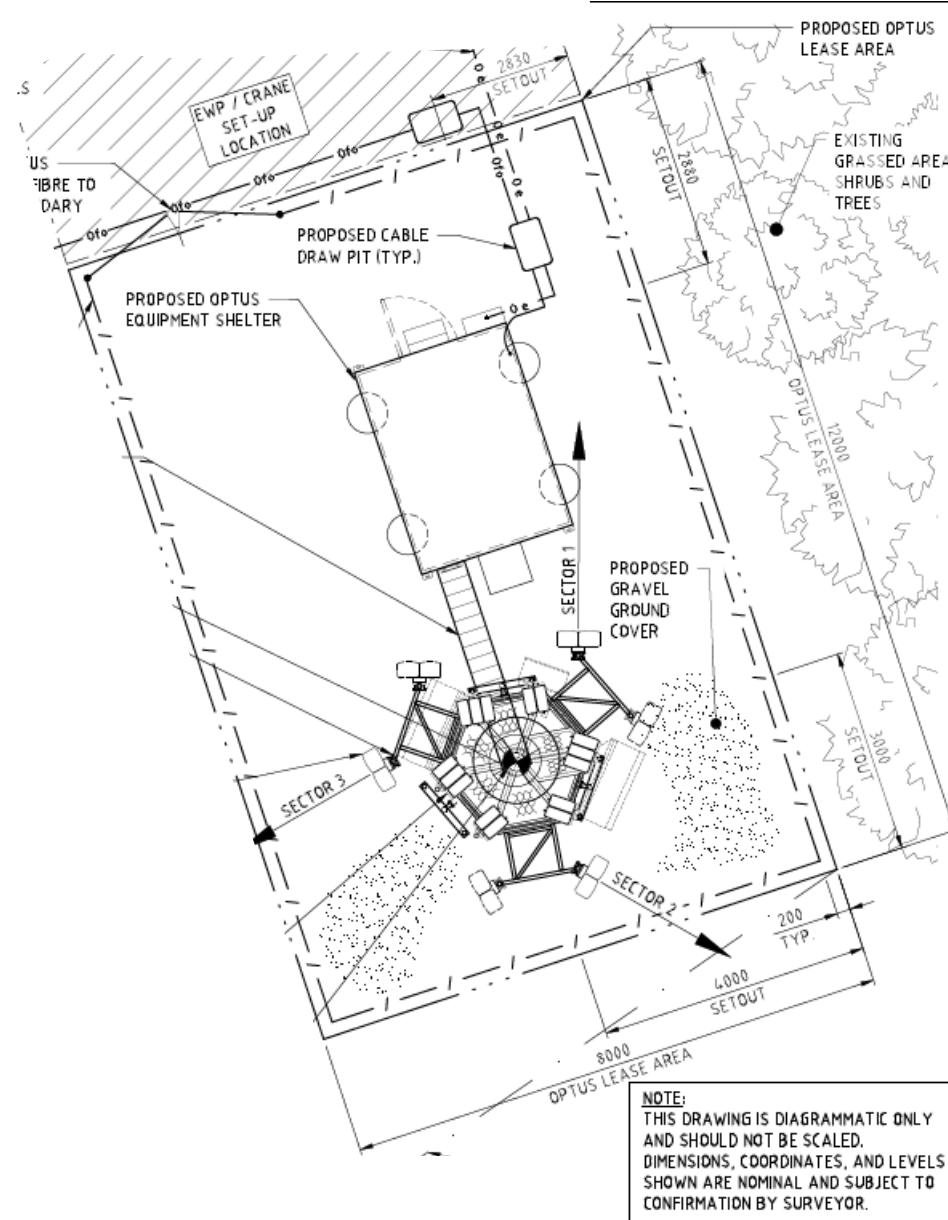
## ATTACHMENTS

Attachment 1 – Layout Plan

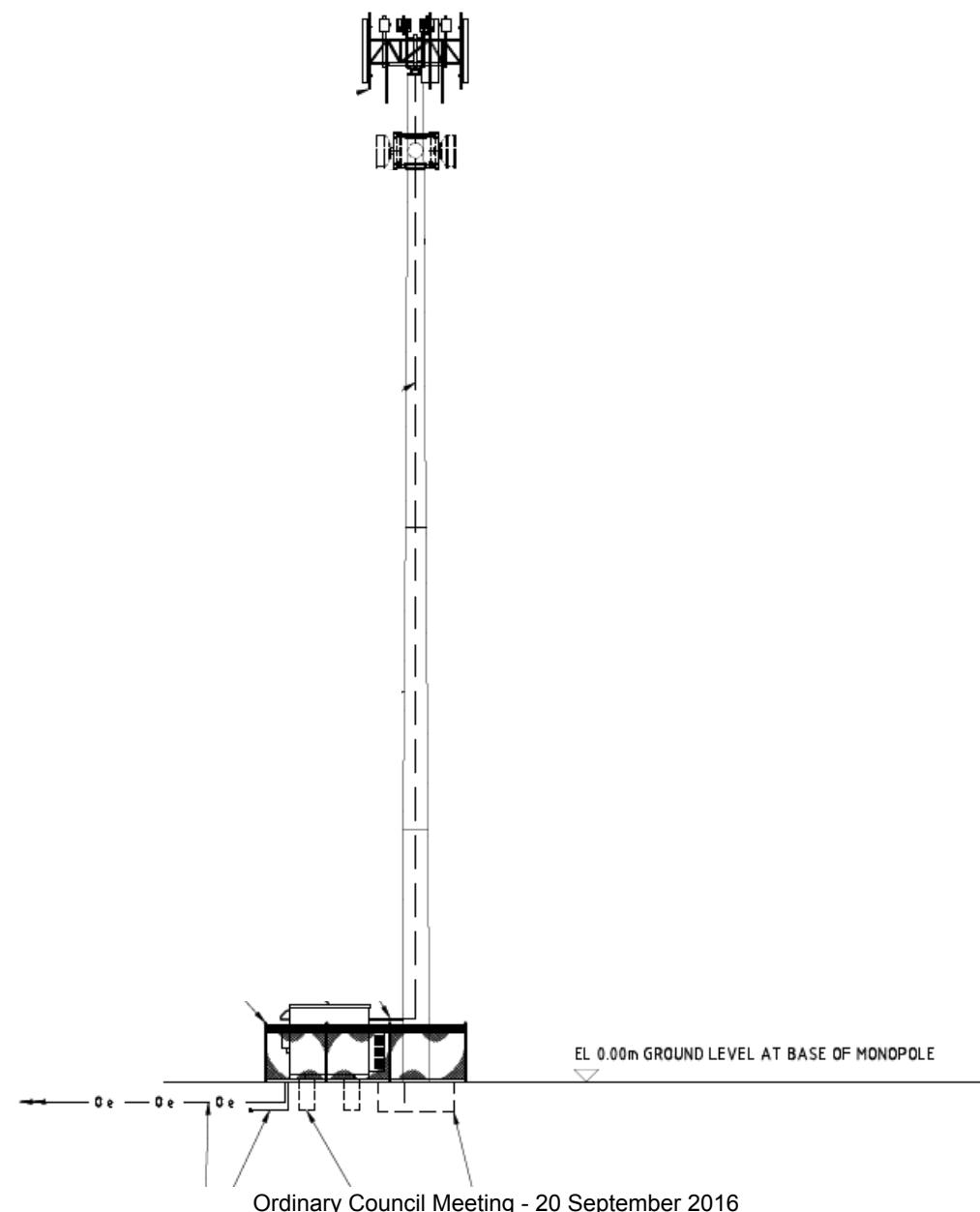
Attachment 2 – Photo Montage

Attachment 3 – Site Plan

## Typical Site Layout



## Typical Elevation View

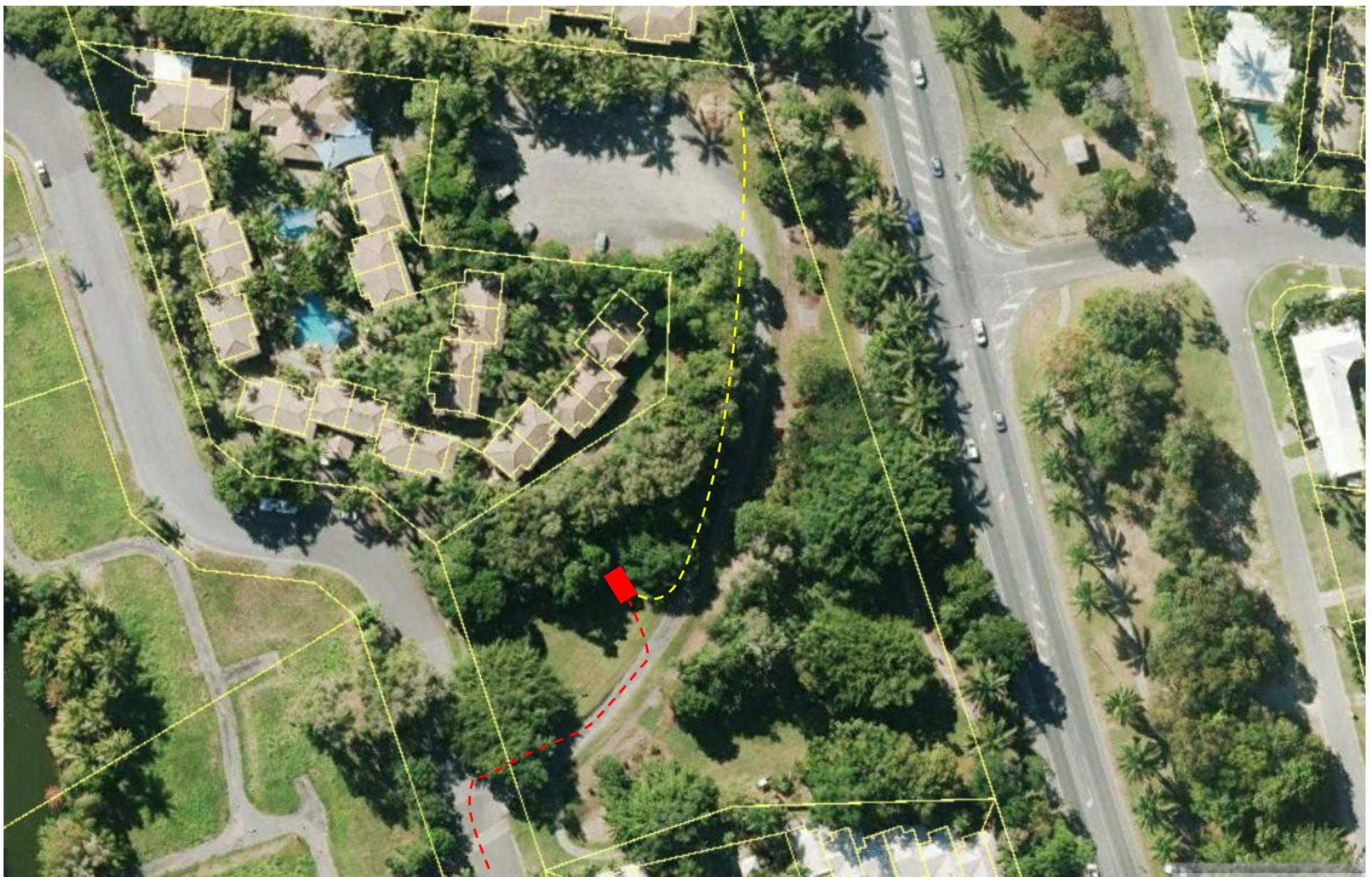








## Proposed site location



----- Proposed Access route

----- Proposed Power run, subject to Power Authority advice and final design

September 2016