

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE DOUGLAS SHIRE COUNCIL
HELD AT THE DOUGLAS SHIRE COUNCIL CHAMBERS, 64-66 FRONT STREET, MOSSMAN
ON TUESDAY, 30 JANUARY 2018, COMMENCING AT 10.00 AM**

1. PRESENT

Cr Julia Leu (Mayor), Cr Abigail Noli (Deputy Mayor), Cr David Carey, Cr Michael Kerr, Cr Roy Zammataro, Linda Cardew (Chief Executive Officer), Darryl Crees (General Manager Corporate Services), Nicholas Wellwood (General Manager Operations), Joanne Jacobson (Manager Governance); Nicole Barton (Mayoral and Councillor Support Officer) and Brenda Jang (Executive Assistant).

Part Meeting:

Simon Clarke; Daniel Lamond; Nicola Learmond; Ada Mari Pasanen; Susanna Andrews; Robert Donovan; Tim Ellis; Gary Kerr; John Rehn; Michael Kriedemann

ACKNOWLEDGEMENT OF COUNTRY

Cr Leu acknowledged the Kuku Yalanji people who are the Traditional Custodians of the Land and paid respect to their Elders both past and present and extended that respect to other Indigenous Australians present.

APOLOGIES

There were no apologies.

2. CONFLICT OF INTEREST/MATERIAL PERSONAL INTEREST

Cr Carey declared a perceived conflict of interest in respect to item 5.9 Port Douglas Markets Policy, in that he recognises that his relationship with a permanent stall holder of the Port Douglas Markets could reasonably be taken to be a perceived conflict of interest in item 5.9, Port Douglas Markets Policy, but has considered his position and is firmly of the opinion that he can participate in debate and vote on the matter in the public interest.

3. MAYORAL MINUTE

Nil

4. CONFIRMATION OF MINUTES OF COUNCIL MEETING

ORDINARY MEETING HELD ON 12 DECEMBER 2017.

Moved Cr Carey

Seconded Cr Noli

“That the Minutes of the Ordinary Meeting held on Tuesday, 12 December 2017 be confirmed.”

Carried unanimously

SPECIAL MEETING HELD ON 20 DECEMBER 2017.

Moved Cr Noli

Seconded Cr Kerr

“That the Minutes of the Ordinary Meeting held on Wednesday, 20 December 2017 be confirmed.”

Carried unanimously

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5. AGENDA ITEMS

5.1. MATERIAL CHANGE OF USE FOR A CARETAKER'S RESIDENCE AT 4990R
CAPTAIN COOK HWY OAK BEACH
Jenny Elphinstone, Senior Planning Officer

Moved Cr Noli

Seconded Cr Kerr

“That Council approves a Preliminary Approval for the development application for the Material Change of Use to convert the existing House to a Caretakers Residence over land described as Lot 1 on RP744764, located at 4990R Captain Cook Highway, Oak Beach, subject to the following:

A. *APPROVED DRAWING(S) AND / OR DOCUMENT(S)*

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

<i>Drawing or Document</i>	<i>Reference</i>	<i>Date</i>
<i>Existing Building</i>	<i>RECS Consulting Engineers & Building Designers, Project No.31-2013. SK1 Revision A</i>	<i>Undated, as submitted to Council on 29 November 2017 (Council electronic document D#835666)</i>
<i>Existing Site Plan</i>	<i>RECS Consulting Engineers & Building Designers, Project No. 31-2013, Sheet 1, Revision A, Undated, as submitted to Council on 22 November 2017 (Council electronic document D#834678) and as amended by Condition 2.</i>	<i>Undetermined</i>

B. *ASSESSMENT MANAGER CONDITIONS AND ADVICES*

The approval is subject to the following conditions and advices:

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

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Timing of Effect

2. *The conditions of the Preliminary Approval must be effected prior to the lodgement of an application for a Development Permit, except where specified otherwise in these conditions of approval.*

Currency Period

3. *The currency period for the Preliminary Approval is to be two (2) years starting from the day the approval takes effect.*

Amended Plan

4. *The proposed development must be generally in accordance with the Existing Site Plan, prepared by RECS Consulting Engineers & Building Designers, Project No. 31-2013, Sheet 1, Revision A, Undated, as submitted to Council on 22 November 2017 (Council electronic document D#834678) and as amended to accommodate the following:*
 - a. *Provision of a private yard area:*
 - i. *Being of a minimum area of 35m²;*
 - ii. *That is suitably screened to provide to enable private enjoyment of this area by the caretaker's household;*
 - iii. *That is for the exclusive use by the Caretaker and the Caretaker's Household;*
 - iv. *That is directly accessible from the residence;*
 - v. *That has a minimum dimension of 3 metres;*
 - vi. *That is be suitably landscaped in accordance with the Planning Scheme General 4.6.3 Landscaping Code;*
 - vii. *The area of the yard does not impact in any loss of remnant vegetation; and*
 - viii. *The land used as the private yard must be allocated so as to limit any impact on Good Quality Agricultural Land.*
 - b. *The car parking space must be of suitable dimensions for a disabled car parking space with suitable all abilities access between the car parking space and the building;*
 - c. *The indicative location and extent of curtilage for the proposed House, including any onsite waste water treatment area;*
 - d. *A landscape plan to the curtilage for the proposed Caretaker's Residence;*
 - e. *The indicative location and area for the proposed orchard and any ancillary buildings;*
 - f. *The extent of existing vegetation and cleared areas on the land; and*
 - g. *Provide a suitable setback from natural vegetation and provide firebreaks as necessary for any additional buildings nominated under (c) and/or (d) above having regard to the Natural Hazards Overlay Code.*

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Details of the above amendments must be included in the subsequent application for a Development Permit.

Approved Use

- 5. Prior to the lodgement of an application for a Development Permit, a non-residential use (e.g., cropping) must be lawfully established on the land. (The issue of the approval for a Caretaker's Residence does not entitle the development of a non-residential use on the land. Any application for non-residential use will be considered on its merits as required by the Planning Act 2016.)*

Continued Us

- 6. The continued use of the Caretaker's Residence must only be in association with a lawfully established and continued use of the land as required by the Planning Scheme definition for Caretaker's Residence, that being a non-residential use of the land.*

Advices

- 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.*
- 2. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.*
- 3. For information relating to the Planning Act 2016 log on to www.dilgp.qld.gov.au. To access the FNQROC Development Manual, Local Laws and other applicable Policies, log on to www.douglas.qld.gov.au.*
- 4. Council takes no responsibility or liability for the Commonwealth Government's taxation implication on the use of land for non-residential purposes. Council recommends land owners seek legal advice regarding this issue.*

Advice Statement for Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

You are advised that the EPBC Act applies to action that has, will have, or is likely to have, a significant impact on matters of national environmental significance.

Further information on the EPBC Act can be obtained from the Department of the Environment's website www.environment.gov.au/epbc EPBC Act Policy Statement 1.1 Significant Impact Guidelines Matters of National Environmental Significance (Oct 2009).

LAND USE DEFINITIONS*

In accordance with the Douglas Shire Planning Scheme 2006, the approved land use of Caretakers' Residence is defined as follows.

Means the use of premises comprising one Dwelling Unit for the use by a caretaker or manager, including their Household, who is employed for care taking or management purposes in connection with a commercial, industrial, recreational or other non-residential use conducted on the premises.

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The use does not include:

- *a manager's unit located within Multi-Unit Housing; Holiday Accommodation; or Short term Accommodation.*

**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.*

C. Further Development Permits

The following Development Permits are required to be obtained before the development can be carried out:

- a. *Development Permit for the Caretaker's Residence; and*
- b. *Development Permit for Building Work for the carport.*

D. Properly made submissions

None, no part of the application required public notification.

E. Referral agencies for the application

None, no part of the application required a referral.

F. Currency period for the approval

Under section 85(1)(a)(i) of the Planning Act 2016, the relevant period for the Preliminary Approval is to be two (2) years starting from the day the approval takes effect.

G. Reasons for Decision

The reasons for this decision are:

1. *Section 60 of the Planning Act 2016:*
 - a. *Conditions and advices as per B Above; and*
 - b. *to ensure the development satisfies the following benchmarks of the 2006 Douglas Shire Planning Scheme (as amended);*
 - c. *to ensure compliance with the Planning Act 2016 and the 2018 Douglas Shire Planning Scheme for non-residential use of the land.*
2. *Findings on material questions of fact:*
 - a. *the development application was properly lodged to the Douglas Shire Council on 24 November 2017 under section 51 of the Planning Act 2016 and Part 1 of the Development Assessment Rules; and*
 - b. *The development application contained a report, a response to Council's request for information and further advice from the applicant which Council reviewed together with Council's own investigation in making its assessment manager decision.*
3. *Evidence or other material on which findings were based:*
 - a. *the development triggered assessable development under the Assessment Table associated with the Rural Areas and Rural Settlements Locality, 2006 Douglas Shire Planning Scheme (as amended);*

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- b. Council undertook an assessment in accordance with the provisions of section 60 of the Planning Act 2016; and
- c. the applicant's reasons have been considered and the following findings are made:
 - i. The Planning Scheme definition requires a caretaker's residence to care take or manage a non-residential use. No non-residential use has as yet been established. Non-residential uses are not supported under the 2018 Douglas Shire Council Planning Scheme that came into effect on 2 January 2018;
 - ii. The application is relies on an orchard being established and will be limited by the intended future residence. The applicant has advised that no details are as yet available for these other uses on the land. The applicant has suggested the caretaker's residence could be operated in conjunction with a non-residential use of the land;
 - iii. No application has been made nor has any lawful approval been issued for: the proposed orchard; or for any alternative non-residential use, on which the caretaker / manager is to be responsible; nor for a use for a House;
 - iv. The use of the land for a non-residential purpose and/or for House will constrain the use of the available developable land; and
 - v. The issue of a Preliminary Approval conditions the development to being associated with a lawfully established non-residential use and ensures the Caretaker's Residence is afforded appropriate amenity and privacy."

Carried unanimously

5.2. MATERIAL CHANGE OF USE- 1-5 DICKSON STREET, CRAIGLIE
Daniel Lamond, Planning Officer

Moved Cr Noli

Seconded Cr Kerr

"That Council approves the development application for material change of use for Service Industry, Caretaker's Residence, Shopping Facility (Second hand sales/ repair) & Indoor Sport and 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
Site Plan	Plan Prepared By Greg Skyring Design and Drafting Pty Ltd, Sheet 1 of 4, Revision C	24 October 2017
Ablution Floor Plan, Elevations	Plan Prepared By Greg Skyring Design and Drafting Pty Ltd, Sheet 2 of 4, Revision C	24 October 2017
Shed Floor Plan, Elevations	Plan Prepared By Greg Skyring Design and Drafting Pty Ltd, Sheet 3 of 4, Revision C	24 October 2017

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<i>Caretakers Floor Plan, Elevations</i>	<i>Plan Prepared By Greg Skyring Design and Drafting Pty Ltd, Sheet 4 of 4, Revision C</i>	<i>24 October 2017</i>
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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.*

Landscaping Plan

3. *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 2006 Douglas Shire Planning Scheme Policy No. 7.*

One (1) A3 copy of the landscaping 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 first. Landscaped areas must be maintained at all times.

Vehicle Parking

4. *The amount of vehicle parking must be as specified in Council's Planning Scheme which is a minimum of thirty-one (31) spaces must be provided for the land uses.*

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. *The car parking and remaining driveway area must be drained, sealed and constructed with a gravel, concrete or bitumen surface.*

Protection of Landscaped Areas from Parking

5. *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.*

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Damage to Infrastructure

6. *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

7. *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 uses. All signage must be within a landscaped setting. No flashing signage is permitted to face the State-controlled Road. All signage must be approved via an operational works development application.*

Lighting

8. *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.*

Lawful Point of Discharge

9. *All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of the Chief Executive Officer.*

Refuse Storage

10. *Refuse storage is required to service the site in accordance with Council requirements. Adequate space on site for each tenancy, where appropriate, must be provided for in the refuse storage.*

Limitations of Use

11. *Limitations of use apply beyond the scope of the land use definitions published in the 2006 Douglas Shire Planning Scheme for the below land uses:*
 - a. *Indoor Sport and Entertainment*
The Indoor sport and Entertainment land use is maintained and operated as a gymnasium. The use is contained to the area nominated on Plan number 703-17, Sheet 1 of 4, Revision C, prepared by Greg Skyring Design and Drafting Pty Ltd.
 - b. *Shopping Facility*
The Shopping Facility is to remain as an outlet for second hand goods. The sale of bulky, recycled or second hand goods is approved as part of this approval. The repair of the goods for sale at the site remains ancillary to the approved use.

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REFERRAL AGENCY CONDITIONS & REQUIREMENTS

<i>Referral Agency</i>	<i>Referral Agency Reference</i>	<i>Date</i>	<i>Council Electronic Reference</i>
<i>State Assessment & Referral Agency (Department of Infrastructure, Local Government & Planning)</i>	<i>SDA-0717-040809</i>	<i>22 November 2017</i>	<i>834837</i>

Refer to Attachment 2: Referral 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 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.*

Infrastructure Charges Notice

- 1. A charge levied for the supply of trunk infrastructure is payable to Council towards the provision of trunk infrastructure in accordance with the Adopted Infrastructure Charges Notice, a copy of which is attached for reference purposes only. The original Adopted Infrastructure Charges Notice will be provided under cover of a separate letter. The amount in the Adopted Infrastructure Charges Notice has been calculated according to Council's Adopted Infrastructure Charges Resolution.*

Please note that this Decision Notice and the Adopted Infrastructure Charges Notice are stand-alone documents. The Sustainable Planning Act 2009 confers rights to make representations and appeals in relation to a Decision Notice and an Adopted Infrastructure Charges Notice separately.

- 2. For information relating to the Sustainable Planning Act 2009 or the Planning Act 2016 log on to www.dilgp.qld.gov.au. To access the FNQROC Development Manual, Local Laws and other applicable Policies, log on to www.douglas.qld.gov.au."*

Carried unanimously

- 5.3. WET TROPICS REPORT CARD 2017
Nicola Learmond, Sustainability Officer

Moved Cr Noli

Seconded Cr Zammataro

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“That Council notes the release of the Wet Tropics Healthy Waterways Partnership Report Card 2017 which reports on water quality data from July 2015 to June 2016.”

Carried unanimously

5.4. TEMPORARY ROAD CLOSURE ADJOINING 12-36 ALCHERA DR, MOSSMAN,
DESCRIBED AS LOT 1 ON RP851453
Susanna Andrews, Property Officer

Moved Cr Carey

Seconded Cr Zammataro

“That Council:

1. *advises the Department of Natural Resources and Mines that it:*
 - a. *does not object to the temporary road closure of an area of about 1.15 ha of esplanade abutting the north eastern boundary of Lot 1 on RP851435; and*
 - b. *requires all costs associated with the road closure be paid by the applicant.*
2. *delegates authority to the Chief Executive Officer, in accordance with section 257 of the Local Government Act 2009, to finalise all matters associated with the temporary road closure.”*

Carried unanimously

5.5. JOINT TRUSTEE ARRANGEMENTS WITH JABALBINA YALANJI
ABORIGINAL CORPORATION LOT 900 SP238233 BLUE POOLS
Robert Donovan, Senior Property Officer

Moved Cr Carey

Seconded Cr Noli

“That Council:

1. *progresses the relinquishment of the joint Trusteeship of Lot 900 SP238233 by advising Jabalbina Yalanji Aboriginal Corporation that Council supports their development of a new Land Management Plan and relevant community consultation as advised by the Department of Natural Resource (DNRM) and as required by the Land Act 1994;*
2. *delegates authority to the Chief Executive Officer, in accordance with section 257 of the Local Government Act 2009, to progress all matters associated with these discussions”.*

Carried unanimously

5.6. REGIONAL ARTS DEVELOPMENT FUND (RADF) 2017-18 PROGRAM
Tim Ellis, Community & Economic Development Officer

Moved Cr Kerr

Seconded Cr Noli

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“That Council:

- 1. endorses the 2017-2018 Regional Arts Development Fund (RADF) Program Guidelines; and*
- 2. delegates authority to the Mayor and Chief Executive Officer in accordance with the Local Government Act 2009 to administer Council's RADF program.”*

Carried unanimously

5.7. CARNIVALE 2018

Gary Kerr, Executive Officer

Moved Cr Leu

Seconded Cr Noli

“That Council resolves to:

- reallocate \$45,000 unspent funds from the Council Grants Programs budget to the Carnivale budget;*
- endorses the theme Tropical Magic for the 2018 Festival; and*
- confirm the Saturday evening concert be a ticketed event at \$40 per person.”*

Carried unanimously

5.8. FINANCIAL REPORT FOR THE PERIOD ENDED 31 DECEMBER 2017

John Rehn, Manager Finance and IT

Moved Cr Leu

Seconded Cr Noli

“That Council notes the Financial Report for the period ended 31 December 2017.”

Carried unanimously

5.9. PORT DOUGLAS MARKETS POLICY

Joanne Jacobson, Manager Governance

Moved Cr Carey

Seconded Cr Zammataro

“That Council:

- 1. adopts the 2017-18 Port Douglas Markets Policy with clause 9.5 amended to read: “9.5 Acoustic performances only are to be permitted and amplification of any kind is prohibited; and*
- 2. directs staff to ensure all stallholders strictly adhere to the policy terms and conditions, with particular emphasis on the Cotters Market requirements.”*

For Cr Leu; Cr Carey; Cr Zammataro

Against Cr Noli; Cr Kerr

Carried

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5.10. DAINTREE RIVER FERRY - ANALYSIS OF EARLY BIRD FARES
Darryl Crees, General Manager Corporate Services

Moved Cr Carey

Seconded Cr Kerr

“That Council notes the results of the trial of the Daintree River Ferry Early Bird Fares.”

Carried unanimously

5.11. WARNER STREET DRAINAGE AND FOOTPATH DESIGN PROJECT
Michael Kriedemann, Manager Infrastructure

Moved Cr Kerr

Seconded Cr Carey

“That Council resolves to adopt the revised budget of \$120,000 for Warner Street Drainage and Footpath Works – Design project.”

Carried unanimously

5.12. OPERATIONAL PLAN PROGRESS REPORT OCTOBER - DECEMBER 2017
Linda Cardew, Chief Executive Officer

Moved Cr Noli

Seconded Cr Zammataro

“That Council notes the progress of the implementation of the Operational Plan 2017 - 2018.”

Carried unanimously

5.13. CAPITAL WORKS PROGRESS REPORT FOR THE 2ND QUARTER 2017 -
2018
Michael Kriedemann, Manager Infrastructure

Moved Cr Carey

Seconded Cr Noli

“That Council receives and notes the progress of the Capital Works Program to 31 December 2017 for the 2017 - 2018 financial year.”

Carried unanimously

6. NOTICES OF MOTION

Nil

7. URGENT BUSINESS

Nil

8. CLOSED SESSION

Nil

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CLOSURE OF MEETING

The meeting closed at 11.38am.

CONFIRMED THIS 20TH DAY OF FEBRUARY 2018


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MAYOR/CHAIR