

**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 18 FEBRUARY 2014, COMMENCING AT 10.00AM**

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**PRESENT**

Cr Julia Leu (Mayor), Cr David Carey, Cr Bruce Clarke, Cr Terry Melchert, Cr Abigail Noli, Darryl Crees (Acting Chief Executive Officer), Paul Hoyer (General Manager Operations), Donna Graham (Manager Development & Environment), Julian Porter (Manager Finance & IT), Jenny Elphinstone (Senior Planning Officer), Greg McLean (Communication/Events Officer) and Nicole Barton (Minutes Officer)

**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 for the meeting.

**CONFLICT OF INTEREST/MATERIAL PERSONAL INTEREST – LISTED AGENDA ITEMS**

Nil.

**MAYORAL MINUTE**

Nil.

**CONFIRMATION OF MINUTES OF COUNCIL MEETINGS**

**SPECIAL (BUDGET) MEETING HELD ON 24 JANUARY 2014**

**Moved** Cr Carey

**Seconded** Cr Clarke

*"That the Minutes of the Special (Budget) Meeting held on Friday 24 January 2014 be confirmed."*

**Carried** unanimously.

**ORDINARY MEETING HELD ON 28 JANUARY 2014**

**Moved** Cr Noli

**Seconded** Cr Carey

*"That the Minutes of the Ordinary Council Meeting held on Tuesday 28th January 2014 be confirmed subject to the following amendment:-*

- On Page 1, under the heading "**DECLARATION OF MATERIAL PERSONAL INTEREST**", on the 7<sup>th</sup> line, the first word "been" be deleted."

**Carried** unanimously.

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**SPECIAL MEETING HELD ON 13 FEBRUARY 2014**

**Moved** Cr Noli

**Seconded** Cr Carey

*"That the Minutes of the Special Meeting held on Thursday 13 February 2014 be confirmed."*

**Carried** unanimously.

**1. AUDIT COMMITTEE**

Darryl Crees – General Manager Corporate Services

**Moved** Cr Carey

**Seconded** Cr Clarke

*"That Council*

- adopt the Audit Committee Charter attached to the report; and*
- delegate to the Chief Executive Officer under Section 257 of the Local Government Act 2009 the authority to facilitate the recruitment process for an external Audit Committee member and report back to Council with recommended candidate."*

**Carried** unanimously.

**2. DETERMINATION AS TO WHETHER ELECTED MEMBERS WILL BE SUBJECT TO PAYG WITHHOLDING TAX**

Darryl Crees – General Manager Corporate Services

The Acting Chief Executive Officer advised of an amendment to the recommendation contained within the report with the second dot point to read:

*"not become an eligible governing body pursuant to Section 446-5 of Schedule 1 of the Taxation Administration Act 1953."*

**Moved** Cr Clarke

**Seconded** Cr Carey

*"That Council become an eligible governing body pursuant to Section 446-5 of Schedule 1 of the Taxation Administration Act 1953 effective 19 February 2014."*

**Carried** unanimously.

**3. MATERIAL CHANGE OF USE (CODE ASSESSMENT) - SERVICE INDUSTRY- 5957R DAVIDSON STREET CRAIGLIE**

Jenny Elphinstone – Senior Planning Officer

**Moved** Cr Carey

**Seconded** Cr Noli

*That Council approves the development application for a Material Change of Use for Service Industry over land described as Lot 57 on C22511, located at 5957R Davidson Street, Craiglie, subject to the following:*

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

The 'approved drawings', where tabled below and subject to the conditions of the approval, are included in Appendix 1. The term 'approved drawing(s) and / or document(s)' or other similar expressions means:

Drawing or Document	Reference	Date
Site Plan	Exemplar Drawing 101, Revision B	22 January 2014
Car Parking and Pedestrian Flows	Exemplar Drawing 102, Revision B	22 January 2014
Ground Floor Proposed Plan	Exemplar Drawing 202, Revision B	22 January 2014
Main Building, East and West Elevations	Exemplar Drawing 204, Revision B	22 January 2014
Main Building North and South Elevations	Exemplar Drawing 205, Revision B	22 January 2014
Schematics	Exemplar Drawing 500, Revision B	22 January 2014

Drawing or Document	Reference	Date
Ground Floor Existing	Exemplar Drawing 201, Revision A	6 December 2013
First Floor Existing and Proposed	Exemplar Drawing 203, Revision A	6 December 2013
Canopy Plan	Exemplar Drawing 206, Revision A	6 December 2013
Canopy Elevations	Exemplar Drawing 207, Revision A	6 December 2013
Landscape Overview	Exemplar Drawing 301, Revision A	6 December 2013
Landscape Plan	Exemplar Project no 1301, Drawing 302a	12 December 2013
Landscape Details	Exemplar Project no 1301, Drawing 302b	12 December 2013
Driveway Plan	Exemplar Project No 1301, Drawing 302c dated 12 December 2013 and as amended by condition 3	To be determined

**ASSESSMENT MANAGER CONDITIONS**

**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;
  - 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 Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.*

**Amendment to Design**

3. *The proposed development must be amended to accommodate the following changes:*
  - a. *Provide a two metre wide concrete footpath to the full width of the property frontage external to the land and landscape the verge between the footpath and the road pavement to Davidson Street (Captain Cook Highway) with plant material (not gravel or paving). The Driveway Plan, Exemplar Project No 1301, Drawing 302c dated 12 December 2013, is to be amended deleting the "Manicured Turf and Exiting Verge" and including the concrete pathway and landscaping in accordance with FNQROC Development Manual standard and any requirements of the Department of Transport and Main Roads;*
  - b. *Remove the existing grease trap, currently inside the premises;*
  - c. *Where it is proposed to provide onsite vehicle washing provide a silt trap to the covered, vehicle wash bay area;*
  - d. *Remove the two mango trees adjacent to the parking area in the rear yard adjacent to Council's sewer easement, by cutting the trunk above ground level and poisoning the remaining stump;*
  - e. *Remove pole structures in the front of the building and in the road reserve; and*
  - f. *Include "No Standing" signage adjacent to the road frontage for the full width of the property frontage to Davidson Street (Captain Cook Highway).*

*Details of the above amendments must be endorsed by the Chief Executive Officer prior to issue of a Development Permit for Operational Work.*

**Vehicle Wash Bay / Detailing Area**

4. *Where the land use includes a vehicle wash bay it must be undertaken in a covered and bunded area that is connected to Council's sewer with a silt trap and any other compliance requirements in accordance with a Trade Waste Environmental Management Plan 2011. The infrastructure must be to the satisfaction of the Chief Executive Officer and compliance achieved prior to the commencement of washing vehicles on the land.*

**Staff Parking**

5. *Staff vehicles are to be parked on the land.*

**Air-Conditioning Screens**

6. *Air-conditioning units located above ground level and visible from the street must be screened with appropriate materials to improve the appearance of the building.*

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**Sustainable Development**

7. *The office component of the Service Industry must comply as far as practically possible with the provisions of 4.6.7 Sustainable Development Code of the Douglas Shire Planning Scheme, 2006, or a higher standard as required by the Building Code of Australia (BCA).*

**Damage to Council Infrastructure**

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

**Water Supply Internal**

9. *When providing any water supply sub-metering, where installed, the infrastructure must be designed and installed in accordance with The Plumbing and Drainage Act 2002 and the Water Act 2000 at a location on the land agreed to by the Chief Executive Officer.*

**Vehicle Parking**

10. *The amount of vehicle parking must be as specified in Council's Planning Scheme which is a minimum of six (6) spaces. The car parking must be provided prior to Commencement of Use.*

*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 having regard to the following:*

- a. The initial driveway access from the state- controlled road and the disable driver car parking space and connecting pedestrian access to the building is to be sealed, drained and marked;*
- b. The remaining driveway and vehicular manoeuvring areas must be appropriately gravelled with crushed rock, drained and marked.*

*All works are to be undertaken to the satisfaction of the Chief Executive Officer under a Development Permit for Operational Work.*

**Bicycle Parking**

11. *Provide secured, on-site bicycle parking in accordance with Table 10-1 of AUSTRROADS Guide to Traffic Engineering Practice Part 14 – Bicycles for a minimum of two (2) parking spaces. The bicycle parking area must be constructed prior to Commencement of Use to the satisfaction of the Chief Executive Officer.*

**Loading and Unloading**

12. *All loading and unloading must occur on the land.*

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**Lighting**

13. *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.*

**External Works**

14. *Undertake the following works external to the land at no cost to Council:*
- a. *Construct a two (2) metre wide concrete footpath to Davidson Street (Captain Cook Highway) frontage, adjacent to the land and connecting with the adjoining pathway and in accordance with FNQROC Development Manual Standard Drawing S1035;*
  - b. *Landscape the verge between the footpath and the road pavement for Davidson Street (Captain Cook Highway) with plant material (not gravel or paving) for the whole width of the road frontage excepting the vehicle crossover to the requirements of the Department of Transport and Main Road; and*
  - c. *Provide "No Standing" signs to the whole width of the road frontage to Davidson Street (Captain Cook Highway).*

*All works in the road reserve need to be properly separated from pedestrians and vehicles, with any diversions adequately signed and guarded.*

*The external works outlined above constitute Operational Works. Three (3) copies of a plan of the works at A1 size and one (1) copy at A3 size must be endorsed by the Chief Executive Officer prior to commencement of such works. Such work must be constructed in accordance with the endorsed plan to the satisfaction of the Chief Executive Officer prior to Commencement of Use.*

**Stockpiling and Transportation of Fill Material**

15. *Soil used for filling or spoil from the excavation is not to be stockpiled in locations that can be viewed from adjoining premises or a road frontage for any longer than one (1) month from the commencement of works.*

*Transportation of fill or spoil to and from the site must not occur within:*

- a. *peak traffic times;*
  - b. *before 7:00 am or after 6:00 pm Monday to Friday;*
  - c. *before 7:00 am or after 1:00 pm Saturdays; or*
  - d. *on Sundays or Public Holidays.*
16. *Dust emissions or other air pollutants, including odours, must not extend beyond the boundary of the site and cause a nuisance to surrounding properties.*

**Storage of Machinery and Plant**

17. *The storage of any machinery, material and vehicles must not cause a nuisance to surrounding properties, to the satisfaction of the Chief Executive Officer.*

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**Landscaping Plan**

18. *The site must be landscaped in accordance with details included on a Landscaping Plan. The completion of all landscaping works must be undertaken in accordance with the approved plan prior Commencement of Use. Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer.*

**Lawful Point of Discharge**

19. *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.*

**Minimum Fill and Floor Levels**

20. *All floor levels in all buildings must be located 100 mm above the Q100 flood immunity, plus any hydraulic grade effect (whichever is the greater), in accordance with FNQROC Development Manual and Planning Scheme requirements.*

**Street Fencing**

21. *Any proposed fences and/or walls to any road frontage are to be limited to the following:*
- a. *1.2 metres in height if solid; or*
  - b. *1.5 metres in height if at least 25% visually transparent; or*
  - c. *1.8 metres in height if at least 50% visually transparent.*

**Refuse Storage**

22. *Refuse storage is required to service the site to the satisfaction of the Chief Executive Officer. The refuse bin enclosure must be roofed and enclosed.*

**Service Area**

23. *No washing of vehicles is permitted on the land other than as undertaken in regards to the requirement of Condition 4 above.*

**Crime Prevention Through Environmental Design**

24. *All lighting and landscaping requirements are to comply with Council's General Policy Crime Prevention Through Environmental Design (CPTED).*

**CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS**

<i>Concurrency Agency</i>	<i>Concurrency Agency Reference</i>	<i>Date</i>	<i>Council Electronic Reference</i>
<i>Department of State Development, Infrastructure and Planning</i>	<i>SDA-0114-007493</i>	<i>24 January 2014</i>	<i>412628</i>

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

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**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 Section 339 and Section 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 potential cyclone warning 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 relevant Local Laws and statutory requirements.*
4. *For information relating to the Sustainable Planning Act 2009 log on to [www.dsdp.qld.gov.au](http://www.dsdp.qld.gov.au). To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to [www.dsc.qld.gov.au](http://www.dsc.qld.gov.au).*
5. *Infrastructure Charges*

*A monetary contribution to Council towards the provision of infrastructure is required in accordance with the Infrastructure Charges Notice attached to this decision. The contribution payable will be the lesser amount as calculated in accordance with:-*

- a. *The Regulated Charge for non-residential development as detailed in the State Planning Regulatory Provision;*
- Or,*
- b. *The Planning Scheme Policy.*

*Contributions must be paid at the rates applicable at time of payment. Payment is required prior to the prior to issue of a Development Permit for Building Work.*

**LAND USE DEFINITIONS\***

*In accordance with Douglas Shire Planning Scheme 2008, the approved land use of Service Industry is defined as:*

**Service Industry**

*Means any premises used, or intended to be used for trades and services that cater to the tourist and marine activities in Port Douglas. This includes the manufacturing of goods on the premises, depots for receiving goods to be serviced and any administration and minor sales functions associated with the use, where these are carried out on the same Site and are ancillary to the Service Industry activity. Service Industry uses are limited to uses, which are allied to tourist and marine activities in Port Douglas.*



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*The term may include but is not limited to the following activities:*

- *Limousine/bus depot;*
- *Cleaning or detailing of motor vehicles;*
- *Catering business;*
- *Servicing of small items and appliances such as:*
  - *Bicycles;*
  - *Cameras;*
  - *Electrical appliances for domestic or office use; and*
  - *Marine equipment;*
- *Printing;*
- *Fishing gear manufacturing;*
- *Marine engineering;*
- *Bulk storage and ancillary sales of:*
  - *Indoor/Outdoor furniture;*
  - *Hardware supplies;*
  - *Raw materials;*
  - *Plants and Landscaping supplies;*

*Any off-Site effects do not cause any detriment to the amenity of the area. In particular, the noise levels generated, any dust, fumes, odours or other emissions produced from the Site, the appearance of the Site and any traffic generated by the activities on the Site must be managed so as not to cause detriment to adjoining Sites.*

*\*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.*

**Carried** unanimously.

**4. REQUESTS TO EXTEND RELEVANT PERIOD – SUPERSEDED SCHEME APPROVALS - RECONFIGURING A LOT (1 LOT INTO 2 LOTS) & MATERIAL CHANGE OF USE FOR MULTIPLE DWELLINGS (RESIDENTIAL) – 36 MURPHY STREET PORT DOUGLAS**

Jenny Elphinstone – Senior Planning Officer

The Mayor advised of a letter received just prior to the commencement of the meeting from Victor G Feros Town Planning Consultants who act on behalf of Carron Properties Pty Ltd, the land owner and proponent, respectfully requesting that Council defer further consideration of the matters contained in Clause 4 of the Agenda.

**Moved** Cr Carey

**Seconded** Cr Clarke

*“That Council:-*

- *decline the request for deferral of the application;*
- *refuse the request to extend the period of approval to the Development Permit for Reconfiguration of a Lot (1 lot into 2 lots) over land described as Lot 131 on PTD 2094, located at 36 Murphy Street, Port Douglas, on the following grounds:*
  1. *Since the issue of the Development Permit the 1996 Douglas Shire Planning Scheme has been superseded by new planning controls. The development approved under the Development Permit is inconsistent with the current Planning Scheme and planning controls;*

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2. *The delay in effecting the Reconfiguration of a Lot due to suppressed market conditions and the Applicant's economic circumstances and constraint on ability to develop and sale of the lots and houses are not planning considerations permitted to be considered for approving an extension to the period of the approval;*
  3. *The purported local economic benefit rising from development to increase resident population and the number of additional dwellings in Port Douglas is negligible and does not out weigh planning scheme considerations;*
  4. *The Applicant's awareness of approvals for other land and the conditions of those approvals, including design and siting requirements and associated external works, does not negate the Applicant's responsibility to meet the conditions of the approvals issued to the land. The complexity of the development and time requirement to achieve technical compliance with conditions are not valid planning considerations permitted to be considered in determining an application for extension nor is the time delay in the Applicant's undertaking the developments a permitted consideration to extend the approval;*
  5. *Based on the information provided in the Applicant's request to extend the Relevant Period of the Development Permit it is not considered that the request has sufficient merit, having regard to section 388 of the Sustainable Planning Act 2009, to support an extension to the relevant period. Having regard to the Sustainable Planning Act 2009 it is inappropriate for Council to extend the period of approval; and*
  6. *The extension to the Development Permit is contrary to the expected outcomes for the land held by the community.*
- B. *In respect to the proposed Reconfiguration of a Lot Council advise the Applicant that there remains opportunity for the Applicant to lodge an application under the current Scheme as the development is not prohibited development under the Sustainable Planning Act 2009 and any application would be considered on its merits.*
- C. *That Council refuse the request to extend the period of approval to the Development Permit for Material Change of Use for Multiple Dwellings (Residential), over land described as Lot 131 on PTD 2094, located at 36 Murphy Street, Port Douglas, on the following grounds:*
1. *Since the issue of the Development Permit the 1996 Douglas Shire Planning Scheme has been superseded by new planning controls. The development approved under the Development Permit is inconsistent with the current Planning Scheme and planning controls;*
  2. *The delay in effecting the Material Change of Use due to suppressed market conditions and the Applicant's economic circumstances and constraint on ability to develop and sale of the lots and houses are not planning considerations permitted to be considered for approving an extension to the period of the approval;*
  3. *The purported local economic benefit rising from development to increase resident population and the number of additional dwellings in Port Douglas is negligible and does not out weigh planning scheme considerations;*
  4. *The Applicant's awareness of approvals for other land and the conditions of those approvals, including design and siting requirements and associated external works, does not negate the Applicant's responsibility to meet the conditions of the approvals issued to the land.*

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*The complexity of the development and requirement to achieve technical compliance with conditions are not a valid planning considerations permitted to be considered in determining an application for extension nor is the time delay in the Applicant's undertaking the developments, based on insufficient knowledge and experience in addressing the site constraints and ability to develop, a permitted consideration to extend the approval;*

5. *While the application for a Material Change of Use for Multiple Dwellings (Residential) was lodged concurrently with an application to reconfigure the Lot (1 into 2 lots) the applications were lodged separately and exclusively to each other. The Applicant did not lodge a combined application for Material Change of Use and Reconfiguration of a Lot. The development approval for Multiple Dwellings (Residential) is over the whole of the land and is exclusive and not bound to the separate approval to reconfigure the land. There are no approvals issued for a House over the land. The development of Multiple Dwellings (Residential) under the current scheme falls within the defined use of Multi-Unit Housing and this development is inconsistent with the current scheme and planning controls;*
6. *Based on the information provided in the Applicant's request to extend the Relevant Period of the Development Permit it is not considered that the request has sufficient merit, having regard to section 388 of the Sustainable Planning Act 2009, to support an extension to the relevant period. Having regard to the Sustainable Planning Act 2009 it is inappropriate for Council to extend the period of approval; and*
7. *It is also considered that:*
  - a. *The Development Permit is contrary to the expected outcomes for the land held by the community; and*
  - b. *The development would, if applied for under the current Scheme, be likely to give rise to submissions against it.*

D. *In respect to the proposed development of more than one House on the land Council advise the Applicant that there remains opportunity for the Applicant to lodge an application under the current Scheme for a Material Change of Use for Multi-Unit Housing as the use is not prohibited development under the Sustainable Planning Act 2009 and that any application would be considered on its merits.*

**Carried** unanimously.

The Manager Development & Environment and the Senior Planning Officer withdrew from the meeting at 10.18am.

**5. FINANCIAL REPORT FOR PERIOD ENDED 31 JANUARY 2014**

Darryl Crees – General Manager Corporate Services

**Moved** Cr Noli

**Seconded** Cr Carey

*"That Council note the Financial Report for the period ended 31 January 2014 and that the monthly financial reporting will be subject to further refinements."*

**Carried** unanimously.

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GENERAL BUSINESS

Nil.

CLOSURE OF MEETING

The meeting closed at 10.30 am.

CONFIRMED THIS 11<sup>th</sup> DAY OF March 2014

  
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MAYOR/CHAIR