

**REQUESTS TO EXTEND RELEVANT PERIOD – SUPERSEDED SCHEME APPROVALS - RECONFIGURING A LOT (1 LOT INTO 2 LOTS) & MATERIAL CHANGE OF USE FOR MULTIPLE DWELLINGS (RESIDENTIAL) – 36 MURPHY STREET PORT DOUGLAS**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: 41.2008.2760 & 41.2013.006 (CRC 8/35/86) & 43.2008.2736 (CRC 8/35/81) : 413074

<u>PROPOSAL:</u>	REQUESTS TO EXTEND RELEVANT PERIOD OF SUPERSEDED SCHEME APPROVALS FOR RECONFIGURING A LOT (1 LOT INTO 2 LOTS) AND MATERIAL CHANGE OF USE FOR MULTIPLE DWELLINGS (RESIDENTIAL)
<u>APPLICANT:</u>	CARRON PROPERTIES PTY LTD (TTE) C/- VICTOR G FEROS TOWN PLANNING CONSULTANTS PO BOX1256 CAIRNS QLD 4870
<u>LOCATION OF SITE:</u>	36 MURPHY STREET, PORT DOUGLAS
<u>PROPERTY:</u>	LOT 131 ON PTD2094
<u>PLANNING SCHEME:</u>	DOUGLAS SHIRE PLANNING SCHEME 1996
<u>STRATEGIC PLAN:</u>	URBAN AREA
<u>DCP:</u>	DCP 2 PORT DOUGLAS, MEDIUM DENSITY TOURIST ACCOMADATION AREA & SPECIAL AREA 5 OF FLAGSTAFF HILL
<u>ZONE:</u>	RESIDENTIAL B
<u>CURRENT PLANNING SCHEME:</u>	
<u>LOCALITY:</u>	PORT DOUGLAS AND ENVIRONS
<u>PLANNING AREA:</u>	RESIDENTIAL 1 (SPECIAL MANAGEMENT AREA 1 – OUTSIDE THE TOURIST CENTRE)
<u>REFERRAL AGENCIES:</u>	NONE APPLICABLE
<u>NUMBER OF SUBMITTERS:</u>	NOT APPLICABLE TO ROL NONE TO THE ORIGINAL MCU APPLICATION
<u>STATUTORY ASSESSMENT DEADLINE:</u>	24 FEBRUARY 2014
<u>APPLICATION DATE:</u>	11 SEPTEMBER 2008 (ORIGINAL ROL APPLICATION)

8 SEPTEMBER 2008 (ORIGINAL MCU APPLICATION)  
19 DECEMBER 2014 (REQUESTS TO EXTEND)

APPENDIX:

1. DEVELOPMENT PERMITS ISSUED FOR ROL
2. DEVELOPMENT PERMIT MCU
3. APPLICANT'S SUPPORTING REASONS

LOCALITY PLAN





#### **RECOMMENDATION:**

- A. That Council 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 Since the issue of the Development Permit the 1996 Douglas Shire Planning Scheme has been superseded by new planning controls.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;
  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 outweigh 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 outweigh 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 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.**
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#### **EXECUTIVE SUMMARY:**

The land is constrained by steep slopes and gullies, limited access with adjacent roadways affected by unstable batters and other geotechnical concerns. Despite the land fronting Murphy Street, Owen Street and Island Point Road there is as yet no fully constructed vehicle access to the land. Over the last fourteen years several approvals have issued to the land yet none have been acted on to completion.

Two mutually exclusive approvals are current: one to Reconfigure the Lot into two lots; and the other for a Material Change of Use for Multiple Dwellings (Residential). The Applicant chose not to lodge these applications for assessment against the current Planning Scheme. Instead, upon request Cairns Regional Council resolved at the ordinary Meeting held on 25 September 2008 to agree to assess the applications against the superseded Planning Scheme, thereby negating the risk of compensation potentially being payable to the land owner and allowing the development as per the requirements of the 1996 Scheme. The support of superseded scheme applications and subsequent issue of approvals follows the, "use it or lose it" principle.

In addition to the current approvals, a number of other approvals were previously issued which have lapsed. The history of these provided is for context and completeness

The superseded Scheme, under which the current applications were assessed and the approvals issued, came into effect in 1996, nearly twenty years ago. The current Scheme, adopted in its original format by the former Douglas Shire Council on 21 August 2006 came into effect on 4 September 2006. Under the *Integrated Planning Act 1997* Applicants had two years to lodge for assessment against the superseded scheme. The Scheme was amended by the Cairns Regional Council in 2008 and remains in effect. The land is included in the Special Management Area Flagstaff Hill. Flagstaff Hill is also affected by the Cultural Heritage and Valuable Sites Code. The land has a Low Scale Plot Ratio designation and is the Residential 1 Planning Area.

The Reconfiguring a Lot approval issued by the Cairns Regional Council is due to expire on 28 May 2014. The Material Change of Use approval issued by the Queensland Government's Douglas Iconic Panel is to expire on 3 September 2014. The Applicant has requested each approval be extended to 3 September 2016.

Section 388 of the *Sustainable Planning Act 2009* sets out the specific, limited matters that Council must as Assessment Manager apply to determine the report. These are:

- a. consistency of the approvals,
- b. including conditions, with current laws and planning requirements;
- c. the community's current awareness of the approvals, whether if refused further rights to make a submission would be available, the likely extent those rights would be exercised; and
- d. the views of any concurrence agency.

Considerations regarding downturn of economies and the inability of the Applicant to effect the approvals are not matters which the Act permits Council to have regard to.

The Applicant asserts that the developments are consistent with the current Scheme. This opinion is not concurred with. A significant difference between the 1996 and 2008 Schemes is the reduction in the extent and nature of development outcomes sought for Flagstaff Hill. The 1996 Scheme supported Multiple Dwellings and lot sizes of 1,000m<sup>2</sup>. The current Scheme seeks the development of Houses on larger lots of some 1500m<sup>2</sup>. The development will result in additional infrastructure and a significant extent of new road works on the slope. The elevated road access is a significant change to Flagstaff Hill may significantly fetter Council's ability to deal with its road in the future. The developments are inconsistent with the current scheme and planning requirements.

The Applicant has made much of the contentious description of the development through the application processing asserting that the development is two Dwelling Houses on new lots. This is not correct. The developments were not lodged as a combined application and conditions do not relate the approvals. The Applicant had opportunity to appeal the decisions regarding these issues and chose not to do so.

There has been no recent community engagement in regards to the Multiple Dwellings (Residential) development. Should the request be refused and a new application lodged this application would require public notification and would be likely to raise submissions. There is a community expectancy that the current Scheme should apply.

The test by which SPA requires Council to determine the requests has not been met. If any clause of s388 is not achieved then the request fails. The report recommends the requests be refused. Should appeals be lodged against the refusals then these same tests will be considered by the Planning and Environment Court. The Act does not prohibit the Applicant lodging new applications for the developments under the current Scheme.

### **TOWN PLANNING CONSIDERATIONS:**

Thirty-six Murphy Street has frontage to Murphy Street, Owen Street and Island Point Road. Owen Street is not constructed. The site is a large rectangular block with a total size of 2,023m<sup>2</sup>.

There is part of a track cut over the Owen Street road reserve between Island Point Road and the site. The track is unsealed, of minimal width, lies for the majority of length over the unconstructed Owen Street and appears to trespass over adjacent land to achieve connection to Island Point Road. This track is not in a good state and no vehicle access is currently available from Island Point Road. It has not been identified when the track was cut. Gullies traverse the land in a general north to south direction. The approved plan in Appendix 1 details the general land form.

### **Background – Reconfiguration of a Lot (ROL)**

#### **Court Approval of Prior Application (Lapsed 2008)**

The application to subdivide the land into two lots was initially lodged in 2000 under the 1996 Douglas Shire Planning Scheme. Council refused the application and an appeal was lodged (P&E Appeal 12 of 2000). The Court allowed the appeal finding the land suitable for a two lot subdivision. Conditions for the approval were finally determined by a Decision Notice for 022/04 being issued by Douglas Shire Council dated 6 August 2004. A copy of the approval is attached.

The Applicant has previously advised that an application for operation works was lodged with Council. However Council holds no record of any such application being lodged. Developer contributions were paid on 30 August 2006. Conditions of the approval required work to be undertaken prior to the signing and dating of the Survey Plan. Notably the Applicant had to prepare a drainage plan and undertake specific works. These works have not been undertaken. Other works associated with vehicle access were required to be undertaken prior to the issue of a Development Permit for Building Work for the respective new lots.

No Survey Plan was lodged within the required time and no request was made to Council by the Applicant to extend the currency period for the subdivision approval. The subdivision approval issued in 2004 therefore lapsed on 6 August 2008.

#### **Current Application – Reconfiguration of a Lot**

On 3 September 2008 an application was lodged to reconfigure the land into two lots. The development sought to divide the land in halves. The lower lot to be accessed from the elevated part of Murphy Street, utilising part of an existing, privately constructed driveway. The upper lot is to be accessed from Island Point Road using part of the existing cut and unconstructed track.

The application was accompanied by a request for assessment against the superseded 1996 Douglas Shire Planning Scheme. At the Ordinary Meeting held on 25 September 2008 Cairns Regional Council resolved that the application be assessed against the superseded Scheme. Cairns Regional Council initially issued a Preliminary Approval which was later amended to a Development Permit through the negotiated decision process. Council was not in a position to refuse the application. Council approved the application and a copy of the Negotiated Decision Notice is included in Appendix 1.

A condition of the approval requires the owner to “*construct access to each of the proposed lots from adjacent the carriageway to the lot boundary*” and “*incorporate a concrete crossover and apron.*” There is no specific requirement that the access be fully sealed. Conditions also required service conduits adjacent to the driveways and drainage works and a drainage easement on the land. The approved plans detail the drainage works required to be constructed.

The current approval is due to expire on 28 May 2014. The approval states that a further Development Permit for Operational Work is required. The Operational Work approval is required to undertake and construct infrastructure, such as road accesses from Island Point Road and Murphy Street, drainage infrastructure and connection to services. To date no application has been lodged for a Development Permit for Operational Work for this approval.

## **Background – Material Change of Use (MCU)**

### **First Dwelling House Approval (Lapsed 2004)**

Application was approved in March 2000 for the development of a Dwelling House on the land. The application as lodged by the previous land owners. The application as lodged under the 1996 Planning Scheme under which the development of a House was a “Column 3B Development,” meaning that Council could only apply conditions to the approval. Council could not refuse this application. Access to the proposed House was to utilise the “existing track” off Island Point Road and the proposed House was to be sited on the upper hillside of the land utilising the narrow bench cut some time previously. The Douglas Shire Council issued an approval on 1 March 2000.

Conditions of the approval limited the building height to ten metres, required the building be setback from the eastern side boundary and required site and drainage works in accordance with a Geotechnical report by Golder Associates. By siting the House on the upper part of the land the existing gully on the lower part could be utilised to carry stormwater from the House above. While the application and the accompanying Engineer’s report referred to the development of one House on the land, the Golder Associates Geotechnical report referred to the subdivision of the land into two allotments and the construction of a House on each lot. The September 1999 Golder report stated, “*At the time of fieldwork the cut bench and track were overgrown with small tress and shrubs.*” The report gave particular attention to the batters on the land and those in the Murphy Street road reserve, stating that these should be supported by retaining walls. The report required the construction of drainage works and use of pole or pier footings. The Site Plan in this report details the proximity of the toe bank and the top bank for the adjacent Murphy Street road reserve and the report commented, “*Potential for further instability of the cut batter along Murphy Street is considered high. Although this batter is about 10m to 15m outside the property boundary, its ongoing instability may eventually affect access to the lower lot.*” The Golder Site Plan is included in Appendix 2.



The "Column 3B Development," approval had a currency period of four years commencing 1 March 2000. The approval was not acted on and lapsed.

### **"Duplex Apartments" and Dwelling House (Invalid and / or Lapsed in 2010)**

On 1 September 2006 two applications were lodged with the former Douglas Shire Council. One application was for the development of "Duplex Apartments" to be constructed on the lower part of the land with access from Murphy Street. The other application was for a House to be constructed on the upper part of the land with access from Island Point Road. Both applications were made over the entire Lot 131 on PTD2094. Both applications were lodged under the 1996 Planning Scheme, which at that date was a transitional planning scheme. The site plan accompanying the applications is included in Appendix 2.

The applications were accompanied by a Geotechnical report by Douglas Partners that identified the land having slopes generally of 20° with some parts between 30°- 40°. The report raised concern with leaning trees as a sign of soil creep and noted particular concern with the "easternmost townhouse." The report called for drainage infrastructure, planting of deep rooted vegetation and engineered retaining walls. Particular attention was noted for the piers but no specific comment was made regarding the Murphy Street road reserve batters.

There is no definition under the Douglas Shire Planning Scheme 1996 for "Duplex Apartments" and this application was a 'not properly made' application and the application was considered invalid. This application for the House (TPC1271) was approved without conditions. The approval was as a result of the assessment not being undertaken within the statutory timeframes (s6.1.30 (5)(a) *Integrated Planning Act 1997*). TPC1271 provides for the construction of a dwelling on the existing bench within the northern portion of the lot. This approval lapsed in October 2010.

### **Multiple Dwellings and Dwelling House – Current Application**

Application was received on the 2 September 2008 for "Material Change of Use for purpose of 2 Multiple Dwelling Units and Dwelling House." The application was accompanied by a request for assessment against the superseded Planning Scheme. The plans detailed: two units on the lower part of the land with access from Murphy Street partly via an existing sealed driveway; and one, large unit on the upper part of the land with access from Island Point Road. The plan included the proposed boundary lot alignments being concurrently sought under a mutually exclusive application for lot reconfiguration.

Under the 1996 Planning Scheme the use of "Multiple Dwelling" is an Administrative definition, not a Land Use definition. The definition of Multiple Dwelling includes Multiple Dwellings (Tourist) and Multiple Dwellings (Residential).

On the 15 September 2008 the application was amended to "two Multiple Dwellings (Residential) and a Dwelling House." Council considered the request at the Ordinary Meeting held on 25 September 2008. The Council agenda report described the application as being for "Material Change of Use for two (2) Multiple Dwellings (Residential)." Copy of the plan that was considered by Council is included in Appendix 2. Council resolved to support the request for the assessment against the superseded Planning Scheme. The subsequent Acknowledgment Notice stated also this limited description of the land use to two (2) Multiple Dwellings (Residential)."

The Applicant's response to Council's request for further information on 23 October 2009 included amended plans showing two multiple dwellings over the whole of the land. The report accompanying the response stated that the use component of the application was amended, "to exclude the Multiple Dwellings (residential) – 2 units and include a single Dwelling House on proposed Lot 2." The report noted that a deemed approval was current for the Dwelling House on the upper part of the land (proposed Lot 1). The response did not include the appropriate IDAS forms to amend the description of the use. Clarification was sought from the Applicant as the amended plans clearly depicted two, separate residences on the land. Despite this request for clarification the Applicant undertook public notification stating the proposed use, "Development Permit for Material Change of Use (Impact Assessment) for Multiple Dwellings (Residential) - for 2 Dwelling Houses." The clarification of the proposed use does not appear to have been resolved. Technically the Scheme defines that more than one house on a lot is Multiple Dwellings (Residential).

The amended plan included the vehicle access infrastructure in the Owen Street road reserve repeats the drainage Engineer's design for the ROL application, namely the elevated vehicle access from Island Point Road through the Owen Street road reserve, and also includes an elevated vehicle turning platform in the road reserve. These works are significant and would require substantial works in the road reserve by way of footings, cuts, batters and removal of vegetation that would fetter Council's ability to deal with the road reserve in the future. There is no condition for the maintenance of the access and infrastructure in the road reserve post construction and costs would normally fall to Council.

Council resolved to recommend that the Iconic Places Panel support the application subject to conditions. The Iconic Places Panel initially issued a Preliminary approval that was upgraded to a Development Permit through a negotiated decision process. The Approval describes the development as "Development Permit for a Material Change of Use – Multiple Dwellings (Residential)(Impact Assessable)." The negotiated Decision (Development Permit) issued on 3 September 2010, has a four year currency

On the 5 October 2010 Council approved the landscape plan. A copy of the approved plan is included in Appendix 2. Council approved changes to the design of the Multiple Dwellings on the 5 July 2011. The issue of the amended approval did not vary the currency period and the description of the development is stated as "Multiple Dwellings – 2 units." The Development Permit is due to expire on 3 September 2014. A copy of the amended approval is included in Appendix 2.

### **Applicant's Request**

Under the *Sustainable Planning Act 2009* the approval has a four year currency period. The land owners have requested Council extend the period of the approvals to 23 September 2016. The Applicant nominated reasons by which Council should support this request which are included in Appendix 3. These are summarised as follows:

#### **ROL & MCU**

- a. Market conditions have been suppressed and constrained the development and sale of the lots and houses.
- b. The process of amending the MCU approval has delayed the development. The Applicant's is now aware of development on other land and the design requirements of that land. The Applicant is currently reviewing the original conditions and further time is required to respond to Council to achieve compliance with those conditions.

- c. There is local benefit to the construction of additional dwellings in Port Douglas.
- d. There is long term benefit by the development increasing the number of residents in Port Douglas.

#### ROL

- e. The development is one house on each of the proposed new lots. The reconfiguration is consistent with the purpose of the Reconfiguration of a Lot Code.
- f. The development will be similar to other development on Flagstaff Hill containing lots of equivalent size, maintaining and protecting the environmental and scenic values of Flagstaff Hill. The proposed lots are consistent in area and dimensions to other lots within the general vicinity and in particular the area located between Island Point Road and Murphy Street.
- g. The development is an efficient use of land and consistent in size and dimensions to other lots. The lots will be suitable for well designed houses that are appropriate to this location.
- h. Both lots have convenient road access. The current conditions demonstrate that infrastructure can be provided in an efficient manner. The connectivity to the existing road network will provide opportunities for walking and cycling.
- i. Both lots meet the acceptable solution in respect to minimum dimensions. Notwithstanding the lots have areas of 1,012m<sup>2</sup>, below the acceptable measure of 1,500m<sup>2</sup> the development meets the Performance Criteria which is the overarching planning intent for this requirement.

#### MCU

- j. The approval of the Negotiated Decision and the Amended Approval were issued after the introduction of the current Scheme and therefore regard was given to the planning intent of the current Scheme.
- k. The MCU application was lodged concurrently with the ROL application.
- l. No submissions were received during the public notification period.
- m. The Iconic Places Panel and the Cairns Regional Council had a “joint role” in the planning approval process.
- n. Following negotiations with Cairns Regional Council as part of providing a response to the Information Request the Application was amended to request approval for one (1) house on the upper lot and one (1) house on the lower lot. The reference to Multiple dwellings was based on advice from Council that the lot had not yet been subdivided. The proposal was publically notified in that form. The approval made reference to the approved plans that showed one house on the upper lot and one house on the lower lot.

- o. The Negotiated Decision after the adoption of the current Scheme. Council amended the approval after the adoption of the current Scheme and therefore had regard to the intent of this document. Both the Negotiated Decision and the Amended Approval refer to two dwelling houses and to approved plans showing one (1) dwelling house on the upper lot and one (1) dwelling house on the lower lot. Given this description the development could not revert to its original form of three units on the land. Council's determination to amend the approval had regard to S374 SPA and therefore the requirements of current planning instruments.

## **Planning Assessment**

In deciding a request made under s.383 SPA Council as assessment manager must only have regard to the following matters in deciding a request to extend the relevant period of an approval:

- “(a) the consistency of the approval, including its conditions, with the current laws and policies applying to the development; and*
- (b) the community's current awareness of the Development Permit; and*
- (c) whether, if the request were refused –*
  - (i) further rights to make a submission may be available for a further development application; and*
  - (ii) the likely extent to which those rights may be exercised; and*
- (d) the views of any concurrence agency for the approval.” S.388 SPA*

- a) Consistency of the approval with current requirements

### **State Planning Policy – Far North Queensland Regional Plan 2009-2031**

The Policy particularly states,

*“2.3.2 On coastal hill slopes and headlands contained between the boundary of the Wet Tropics World Heritage area to the west and the Great Barrier Reef lagoon to the east; and from the Daintree River to the north and Cardwell Gap to the south:*

- a) in the urban footprint and rural living area, reconfiguring a lot and other development inconsistent with a council planning scheme avoids slopes greater than 1:4 or upwards to and including the ridgeline unless there is an overriding need for essential community service infrastructure.*
- b) in the regional landscape and rural production area, development inconsistent with a council planning scheme avoids slopes greater than 1:6 or upwards to and including the ridgeline.*
- c) community consultation is undertaken for development on slopes greater than 1:4 and upward in the urban footprint and rural living area and on slopes greater than 1:6 and upward in the regional landscape and rural production area.*

The Regional Plan came into effect in February 2009, after the lodgement of the application made against the superseded Scheme and remains current. The land is in the urban footprint and has slopes in excess of 1:4. The use of Multiple Dwellings is reflected in the current Scheme as Multi-Unit housing and this is an inconsistent use on the land. The Approvals are inconsistent with the Regional Plan which is a State Planning Policy.

## Douglas Shire Planning Scheme 2008

An assessment against the current Douglas Shire Planning Scheme is as follows.

### Douglas Shire Planning Scheme Assessment - ROL

Douglas Shire		Code Applicability	Compliance
<b>Locality</b>	Port Douglas and Environs Locality Code	✓	Does not comply
<b>Planning Area</b>	Residential 1 (Special Management Area 1)	✓	Does not comply
<b>Defined Use</b>	No use specified – only ROL	✗	-
<b>Overlay Codes</b>	Acid Sulfate Soils Code	✗	-
	Cultural Heritage and Valuable Sites Code	✓	Has not been sufficiently demonstrated
	Natural Hazards Code (bushfires only)	✗	-
<b>General Codes</b>	Design and Siting of Advertising Devices Code	✗	-
	Filling and Excavation Code	✗	-
	Landscaping Code	✗	-
	Natural Areas and Scenic Amenity Code	✗	-
	Reconfiguring a Lot Code	✓	Does not comply
	Vehicle Parking and Access Code	✗	-
<b>Amendment</b>	Sustainable Development Code	✗	-
	Vegetation Management	✓	Has not been sufficiently demonstrated

### Compliance Issues

#### Port Douglas and Environs Locality Code

The development does not meet the Code Purpose to, *“protect sensitive environments and natural features which give Port Douglas its distinctive character and identity, in particular ... Flagstaff Hill.”*

Performance Criteria 4 requires, *“Development sites are provided with efficient and safe vehicle Access and manoeuvring on Site and to the Site, to an acceptable standard for the Locality.”* Significant concern is held with the proposed vehicle access. The access from Murphy Street is subject to instability and is not adequately complemented with stabilising engineering works to the batters. The geotechnical report accompanying the response to further information does not give particular detail to the access track from Island Point Road and instead concentrates on the benching and works on the land.

No particular design detail is included in the Approved Plans for the Island Point Road access. The drainage Engineer’s report states that access from Island Point Road will be via an elevated driveway. Detail of this access design is included in Appendix 1 and also shows an elevated turning bay with the road reserve. While this plan is not tabled in the Approval as the “Approved Plan” it does form part of the application. All road infrastructure including batters, will need to be retained with engineering works which will become a Council asset and a future on-going Council responsibility. The development does not meet the Performance Criteria 4 or PC1, *“Buildings and structures complement the height of surrounding development.”* At the point the Island Point Road access meets the land this elevated platform is 9.7m above ground level.

The development is inappropriate to development to Flagstaff Hill and detracts the Hill's importance as a natural landmark feature of Port Douglas.

#### Residential 1 (Special Management Area 1) & Culturally Valuable Sites

The development of an additional lot and associated, elevated vehicle access platform from Murphy Street is a significant impact on the landscape character of the surrounding area. The proposal is an overdevelopment and is not responsive to the site constraints the development does not meet the Purpose or the Performance Criteria of these Codes.

#### Reconfiguring a Lot Code

Amongst other matters the Code Purpose seeks development protect the Shire's scenic and environmental values, achieves good urban outcomes, safe, convenient and attractive neighbourhoods. The Code requirement to consider environmental constraints clearly reflects the Acceptable Measure of new lots achieving at least 1,500m<sup>2</sup> in the Residential 1 Planning area within the Special Management Area 1 – Flagstaff Hill. The additional lot is and its associated access from Island Point Road is inconsistent with the Code.

Should the lots be reconfigured prior to the expiry of the approval the form of development is likely to enable a House to be constructed on each lot. However, there is no current approval for Houses.

### Douglas Shire Planning Scheme Assessment - MCU

Douglas Shire		Code Applicability	Compliance
<b>Locality</b>	Port Douglas and Environs Locality Code	✓	Does not comply
<b>Planning Area</b>	Residential 1 (Special Management Area 1)	✓	Does not comply
<b>Defined Use</b>	Multi-Unit Housing	✓	Does not comply
<b>Overlay Codes</b>	Acid Sulfate Soils Code	✗	-
	Cultural Heritage and Valuable Sites Code	✓	Does not comply
	Natural Hazards Code	✓	-
<b>General Codes</b>	Design and Siting of Advertising Devices Code	✗	-
	Filling and Excavation Code	✓	Requires further demonstration
	Landscaping Code	✓	Does not comply
	Natural Areas and Scenic Amenity Code	✗	-
	Reconfiguring a Lot Code	✗	-
	Vehicle Parking and Access Code	✓	Does not comply
	Sustainable Development Code	✓	Has not been sufficiently demonstrated
<b>Amendment</b>	Vegetation Management	✓	Has not been sufficiently demonstrated

#### Compliance Issues

##### Port Douglas and Environs Locality Code

For similar reasons as stated above for the ROL the Material Change of Use development is inconsistent with the Code.

Significantly, the proposed MCU is an impact (inconsistent) use and does not meet the Performance Criteria to establish uses consistent with the outcomes sought by the Scheme nor the Purpose to, *“maintain and enhance the residential character and amenity of established residential neighbourhoods.”*

#### Residential 1 (Special Management Area 1) & Cultural Heritage

For similar reasons as stated above for the ROL the Material Change of Use development is inconsistent with the Code.

The development of a raised vehicle access or other substantial private use infrastructure through the Owen Street road reserve is inconsistent with the pattern and form of development on Flagstaff Hill and is likely to fetter Council’s ability to deal with the road reserve in the future.

#### Multi-Unit Housing

The Code Purpose are to, *“to ensure that Multi Unit Housing / Holiday Accommodation are compatible and complementary with surrounding development, with regard to scale, bulk, appearance and streetscape”* and *“to ensure that Multi Unit Housing / Holiday Accommodation does not adversely impact on the natural environment.”* Significant concern is raised with the raised access from Island Point Road through the Island Point road reserve and the associated raised vehicle turning area. The access is bulky in appearance, is out of scale with other roads in the area and adversely impacts on the natural environment. The development does not meet the Purpose of the Code.

#### Landscaping Code

Concern is raised with landscaping on the road reserve, outside the land. These areas are intended to be used to extend the garden and surrounds to the units. These areas are generally unstable. Council is responsible for road reserve areas and liability lies with Council.

#### Vehicle Parking and Access Code

The raised vehicle access from Island Point Road does not meet the Code Purpose. The development is inconsistent with the streetscape character and local character. The use of the road reserve area for vehicle turning is inappropriate.

The access from Island Point Road utilises the road reserve for a manoeuvring area. Detail of the approved design is included in Appendix 1. As the infrastructure will be constructed in Council’s road reserve Council will become the asset owner and responsible for its future maintenance. The infrastructure imposes on the ability for future development of the road reserve, erodes the naturally re-vegetating landscape and provides benefit to a single property. The development does not meet the current Scheme requirements and standards.

#### b & c) Community awareness – Further submissions

The community is aware of the limited period of approval and that a new Scheme now has effect over the land which is dissimilar to that under which the application was determined.

The community is not aware of the request for the extension of the period of approval other than the reporting of this matter to Council for determination. Should the application be refused and a new application be lodged then the community will be able to lodge submissions and these submitter's would hold third party appeal rights. The public notification for the application was under the use of Multiple Dwellings where the use was impact assessable. Under a current application the use would be impact (inconsistent). It is likely submissions will be lodged.

d) Concurrence agency views

None applicable.

### **Infrastructure Charges**

These remain applicable for the life of the approval. Council's Policy has not varied the amount due, except indexing, since the issue of the approval.

### **Planning Conclusions**

Council agreed with the Applicant's original request and resolved to consider the application under the Superseded Scheme offering the Applicant the ability to develop under a superseded Scheme, rather than potentially paying compensation for the loss of rights.

The development applications are not linked. The applications were submitted separately, were assessed separately and approved separately. The consideration of an extension of time cannot impose further conditions on the approvals. The Applicant's submission that the applications are in effect only for a one into two lot subdivision with a House on each is incorrect. While that is one possible outcome the nature of the approvals is potentially much broader.

Council's consideration of any amendments to the approvals is considered on the basis of the original assessment, being against the superseded Scheme. A Negotiated Decision is still considered an assessment against the Superseded Scheme. By agreeing to assess against the Superseded Scheme Council was bound by the *Integrated Planning Act 1997* to assess only against that Scheme. Determinations on minor amendments do not open a whole assessment against the current Scheme.

Under the current Douglas Shire Planning Scheme the land lies within the Residential 1 Planning Area of the Port Douglas & Environs Locality in the Special Management Area of Flagstaff Hill. The approved MCU development is tabled by the current Scheme as "impact (inconsistent) development." The current Scheme seeks the development of Houses in this area. The current Scheme seeks a lower density of development through lot sizes. The expected outcome under the current scheme would be a single House on the land.

The Development Permits are not consistent with current planning requirements. Given that the current Scheme seeks significantly different outcomes to that of the 1996 Scheme it is not considered appropriate that the requests be supported.

If the Applicant is of the opinion that the developments are appropriate under the current Scheme then there would have been no need for a superseded Scheme lodgement.



The impact of the development will result in a negligible difference in housing and resident population in Port Douglas. There is no defined need for the development other than the individual benefit to the current land owner. The personal economic circumstances of the land owner and the general downturn in global and local economies are not matters Council is permitted to consider under the *Sustainable Planning Act 2009* for extending the approvals.

The developments are significantly outside the future direction set by the current Scheme. Agreement to extend these approvals would set a precedent of support for similar development against the current Scheme.

**APPENDIX 1: DEVELOPMENT PERMITS ISSUED FOR ROL**

Mr Paul Gleeson  
A/Manager Planning Services - ☎ (07) 4099 9450

PTG: tap  
SUB 022/04

Carron Properties Pty Ltd  
C/- Suthers Taylors  
PO Box 1015  
TOWNSVILLE QLD 4810

6<sup>th</sup> August 2004

**INTEGRATED PLANNING ACT  
DECISION NOTICE  
DEVELOPMENT APPLICATION**

**Applicant's Name** : Carron Properties Pty Ltd  
**Owner's Name** : Carron Properties Pty Ltd  
**Proposal** : Council approves the application for a Development Permit for Reconfiguring a Lot to create two lots on land described as Lot 131 on PTD 2094 and situated at 36 Murphy Street, Port Douglas.  
**Application Number** : SUB 022/04  
**Site Address** : 36 Murphy Street, Port Douglas  
**Property Description** : Lot 131 on PTD2092, Parish of Salisbury, County of Solander

1. **Decision:** **Decision Date:** 3<sup>rd</sup> August 2004  
Approved subject to Conditions
2. **Type of Development Approval:**  
Reconfiguration a Lot Development Permit

.../2.

3. Referral Agency:

Nil

4. Conditions

- 4.1 The reconfiguration shall be generally in accordance with the C & B Group Drawing No. 61482-4 Dated. 19 April 2000.

ACCESS

- 4.2 A concrete driveway, minimum width three (3) metres and incorporating kerbing or nib walls, is required to connect the pavement of Island Point Road to the boundary of proposed Lot 1.

The driveway required by this condition shall be constructed in accordance with the conditions of a development permit for operational works and to the satisfaction of the Director, Engineering Services, prior to the commencement of any building work on the lot, or any use of the land.

- 4.3 A concrete driveway, minimum width three (3) metres and incorporating kerbing or nib walls, is required to connect the pavement of Murphy Street to the boundary of proposed Lot 2.

The driveway required by this condition shall be constructed in accordance with the conditions of a development permit for operational works and to the satisfaction of the Director, Engineering Services, prior to the commencement of any building work on the lot, or any use of the land.

- 4.4 The application for operational works for site access to proposed Lot 2 shall include engineered drainage works to collect stormwater flows from the gully system. Installation of a culvert and headwall directing stormwater via pipes or a batter chute into the stormwater system located in Murphy Street shall be provided to a standard acceptable to the Director Engineering Services.

The drainage works are required to be constructed to the satisfaction of the Director Engineering Services prior to signing and dating of a plan of survey.

- 4.5 The concrete driveways and associated drainage works required by 4.02, 4.03 and 4.04 shall be designed and constructed in accordance with the recommendations of a geotechnical engineer or engineering geologist. The operational works applications for the work shall be accompanied by the technical recommendations of the selected geotechnical engineer or engineering geologist and the conditions of the development permit may have reference to those technical recommendations.

.../3.

#### POWER

- 4.6 The applicant shall provide evidence to the Council to the effect that ERGON Energy is prepared to provide underground electricity to each of the proposed allotments prior to the signing and dating of a plan of survey.

#### TELSTRA

- 4.7 Plans of the proposed subdivision shall be submitted to the District Telecommunications Manager, Cairns. It shall be noted that unless these plans are received the applicant shall not be advised of Telstra's requirements. The developer is to provide Council with documentary evidence that Telstra has been advised of the proposed subdivision prior to the signing and dating of a plan of survey.

#### WATER

- 4.8 The applicant shall contribute, in accordance with Council policy, towards the provision of water headworks for each allotment prior to signing and dating of a plan, of survey. i.e. contribution is to be paid in accordance with the provision of Council's policy and at the rate applicable at the time of payment. On the basis of the facts and circumstances set out in the application and the current provisions of the policy the estimated contribution is \$10,660.00.
- 4.9 A 20 mm diameter water service is to be provided to the boundary of each lot to be created, together with the lodgement with Council of an amount equivalent to the cost of completing each service with a water meter. The service connection to the Council water main will remain closed until such time as the respective lot purchaser makes application to have the service operative. At this time, Council will install the water meter and turn the flow of water on through the service at no cost to the said lot purchaser.

The amount lodged by the applicant shall be placed in Council's Trust Fund and is to be utilised when applications are received from the lot purchaser for a water service connection.

#### SEWERAGE

- 4.10 The applicant is to contribute, in accordance with Council's policy towards the provision of sewerage headworks for each allotment, prior to signing and dating of a plan of survey. The contribution is to be paid in accordance with the provisions of Council's policy and at the rate applicable at the time of payment. On the basis of the facts and circumstances set out in the application and the current provisions of the policy the estimated contribution is \$4,436.00.

.../4.

- 4.11 The applicant is responsible for the external works to connect each lot to Council's sewerage reticulation system at a point of discharge specified by the Director of Engineering Services. The works are required to be constructed to the satisfaction of the Director, Engineering Services prior to signing and dating of a plan of survey.

#### **PARK CONTRIBUTION**

- 4.12 In accordance with Council's Policy on Parks and Recreation, the applicant shall make a contribution to Council prior to Council endorsement of a plan of survey. The contribution shall be at the rate which applies at the date the contribution is paid.

#### **ROAD CONTRIBUTION**

- 4.13 A monetary contribution of \$2,000.00 for each additional allotment is to be paid to Council for the upgrade of the roads in the area, prior to the signing and dating of a plan of survey.

#### **VEGETATION REMOVAL**

- 4.14 Vegetation clearing shall be permitted only in accordance with a permit given pursuant to Local Law No. 56 - Vegetation Management.

Note: As the Council wishes to retain a heavily vegetated backdrop to the commercial centre of Port Douglas, it is recommended that an application for vegetation clearing made pursuant to the local law should be limited to the areas of the proposed allotments required for construction of a dwelling and areas proximate thereto for domestic recreation including a swimming pool, a driveway and parking/manoeuvring spaces.

- 4.15 Removal of vegetation is permitted only at the time of development of each proposed allotment.

#### **SITE DEVELOPMENT**

- 4.16 At the time an application for material change of use - code assessment, is made to Council for the establishment of a dwelling house and ancillary facilities on either proposed Lot 1 or proposed Lot 2, the specific requirements of conditions 9.02, 9.03 and 9.04 shall apply in addition to the specific development conditions contained in the planning scheme for Special Area 5.

- 4.17 The development of a dwelling house on proposed Lot 1 or proposed Lot 2 shall be designed and constructed so that building loads are suspended between footings and borne by footings bearing directly on, and keyed into, sound rock. Any associated earthworks which may be required, such as areas of cut and fill, shall be minimised by design, and be structurally retained unless they are less than 500 mm high or deep.

.../5.

- 4.18 The design of all footings should make allowance for soil creep and potential slope failure. Footing design should accommodate lateral and impact loads imposed by potential slope failure uphill of the proposed building and/or include mounds, walls or other appropriate structures to deflect debris away from the building. Footing design should also allow for increased lateral load as a consequence of removal of soil by slope failure downhill of the proposed building.
- 4.19 A swimming pool shall not be constructed on proposed Lot 1 or proposed Lot 2 unless it is:
- Specifically engineered for the site;
  - Founded directly on rock via piers;
  - Provided with a complete external wall, drainage and underground drainage with outlets piped clear of the slopes beneath the dwelling; and
  - Designed for soil creep pressures on the uphill side with little or no lateral support on the downhill side.

#### GEOTECHNICAL ENGINEERING

- 4.20 All geotechnical advice and supervision required by these conditions shall be performed by a geotechnical engineer or engineering geologist experienced in and competent with local conditions.
- 4.21 Following reconfiguration, any further application for a development permit shall be accompanied by the endorsement of a geotechnical engineer or engineering geologist that the development the subject of the application, the works and the design of that development meets the performance criteria set out below:
- An operational works application for the new concrete access driveway to Lot 2 shall be accompanied by the endorsement of a geotechnical engineer or engineering geologist that the cut slopes above and below the existing access road to Lot 2 have been reviewed by the said geotechnical engineer or engineering geologist and the engineering works design submitted with the application for operational works ensures the stability of the cut slopes and protects the cut slopes from erosion.
  - Any development requiring foundations in or applying load to the ground (including without limitation dwellings, driveways, garages, sheds or other ancillary facilities) shall be designed to minimise the risk of slope instability.
  - Any building works application shall be accompanied by the endorsement of a geotechnical engineer or engineering geologist that the building works minimise the risk of slope instability.

.../6.

- All footings designs and slope stability improvement designs (including without limitation cut and fill batters and retaining walls in excess of 0.5 metres in height and operational works applications for such batters and walls) shall be accompanied by the endorsement of a geotechnical engineer or engineering geologist and designed to minimise the risk of slope instability.

4.22 Following reconfiguration, all building work or operational work shall be performed in accordance with the recommendations of the appointed geotechnical engineer or engineering geologist and without limiting the operation of this requirement all footing excavations shall be inspected by the appointed geotechnical engineer or engineering geologist prior to construction, to confirm founding conditions are adequate and are keyed into rock.

#### ENGINEERING WORKS

4.23 Any cut batter in excess of 0.5 metres in height is to be retained with wall construction undertaken in panels not exceeding five (5) metres in width. (the design of which shall be accompanied by the endorsement of a geotechnical engineer or engineering geologist.)

4.24 Prior to any building works occurring, cut off drains across the slope and debris protection structures are to be installed at locations to be determined by and in accordance with the recommendations of a geotechnical engineer or engineering geologist.

4.25 Any cut batters on proposed Lot 1 or proposed Lot 2 shall be revegetated immediately with grass or creepers to minimise erosion or weathering of the face.

4.26 There shall be no uncontrolled filling on either proposed lot 1 or proposed Lot 2.

4.27 Any excavations for inground services are required to be backfilled with properly compacted material and capped with a clay layer or equivalent to minimise water ingress in the backfill.

4.28 The applicant for building work shall provide Council with a report from a geotechnical engineer or engineering geologist that the existing unretained cutting along the southern boundary of proposed Lot 2, west of the gully feature, and the existing unretained cutting within the northern boundary of proposed Lot 1, has been reviewed by the said geotechnical engineer or engineering geologist. The report shall contain recommendations as to the works required to minimise erosion or weathering of the face. Such works shall be undertaken in accordance with the recommendations of the said geotechnical engineer or engineering geologist in conjunction with building work.

.../7.

**DRAINAGE**

- 4.29 Construction of all stormwater drainage works called up herein shall be supervised by a hydrologist or civil engineer, approved by, or who is considered competent and conversant with local conditions by the Director, Engineering Services.
- 4.30 A Stormwater Management Plan will be required to be lodged with any Application for Material Change of Use - Code Assessment for the development of a dwelling house on proposed Lot 1 and/or proposed Lot 2.
- 4.31 Stormwater drainage work shall be designed and constructed to approved engineering standards for hillside development for proposed Lot 1 and proposed Lot 2 by an approved hydrologist or civil engineer (12.01. above) and submitted to the Director Engineering Services. The stormwater drainage works shall be designed to control scouring, erosion, loss of vegetation, excess turbidity and landslip either or external to the site.
- 4.32 Details of surface and subsurface drainage measures to be incorporated in the gully systems on proposed Lot 1 and proposed Lot 2 to control erosion, landslip and slope stability shall be approved by a hydrologist or civil engineer (12.01 above) and any submitted to the Director Engineering Services.
- 4.33 A drainage easement shall be provided to collect all stormwater drainage which is required to be piped into Council's stormwater drainage system.
- 4.34 Any stormwater flows from the gullies is required to be piped beneath the driveway accessing proposed Lot 2 and connected via a suitable velocity retarder into the stormwater system in Murphy Street.
- 4.35 All drainage systems on proposed Lot 1 and proposed Lot 2 shall be maintained by the property owners.
- 4.36 Adequate surface drainage should be provided, via pipes or open lined channels, with flexible connections, to prevent ponding of water and to prevent runoff from hardstanding areas (roofing, driveways, decking) discharging onto and running down the slopes immediately above or below house locations.

**GENERAL**

- 4.37 The subdivider shall maintain to the satisfaction of the Director Engineering Services all construction works of any nature whatsoever within the road reserve and any drainage works carried out under the provisions of the planning scheme for subdivision of land for a period of twelve (12) months. The subdivider shall make good within such period any defects arising from faulty workmanship or materials in respect to such construction and drainage works within the road reserve carried out as part of the works associated with the subdivision.

.../8.



**FEEES**

4.38 The applicable fees as set by Council pertaining to subdivision of land proposals shall be paid to Council prior to signing and dating of a plan of survey.

**5. Further Development Approvals Required:**

Nil

Terry Melchert  
Chief Executive Officer

**ENQUIRIES:** Sarah Cook  
**PHONE:** (07) 4044 3381  
**FAX:** (07) 4044 3836  
**YOUR REF:**  
**OUR REF:** 8/35/86 (2604383)

28 May 2010

Carron Properties Pty Ltd (Tte)  
C/- Dennis Carron  
2/178 Boronia Road  
**BORONIA VICTORIA 3155**

Dear Sir/Madam

**NEGOTIATED DECISION UNDER S363 SUSTAINABLE PLANNING ACT 2009:  
DEVELOPMENT APPLICATION FOR 36 MURPHY STREET PORT DOUGLAS**

With reference to the abovementioned Development Application which was determined by Council at its Ordinary Meeting held on 26 May 2010 please find attached the relevant Negotiated Decision Notice.

The notice includes extracts from the Act with respect to making representations about conditions, negotiated decisions, suspension of the appeal period, and lodging an Appeal.

Should you have any enquires in relation to this Negotiated Decision Notice, please contact Sarah Cook of Council's Development Assessment Team on telephone number (07) 4044 3381.

Yours faithfully

Simon Clarke  
**Manager Development Assessment**

**Att.**

Cc Victor Feros

40.2008.2760  
1/13

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**PHONE:** (07) 4044 3381  
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**Manager Development Assessment**

**Att.**

Cc Victor Feros

40.2008.2760  
1/13

**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

**APPLICANT DETAILS**

Carron Properties Pty Ltd (Tte)  
C/- Dennis Carron  
2/178 Boronia Road  
BORONIA VICTORIA 3155

**ADDRESS**

36 Murphy Street Port Douglas

**REAL PROPERTY DESCRIPTION**

Lot 131 on PLN2094

**PROPOSAL**

1 lot into 2 Lots Request for a Negotiated Decision

**DECISION**

Approved subject to conditions (refer to approval package below).

**DECISION DATE**

26 May 2010

**TYPE**

Reconfiguration of a Lot (Development Permit)

**REFERRAL AGENCIES**

None Applicable

**SUBMISSIONS**

There were no submissions for this application.

**FURTHER DEVELOPMENT PERMITS REQUIRED**

Development Permit for Operational Work

**CODES TO COMPLY WITH FOR SELF-ASSESSABLE DEVELOPMENT**

None

**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

**DOES THE ASSESSMENT MANAGER CONSIDER THE APPLICATION TO BE IN CONFLICT WITH APPLICABLE CODES, PLANNING SCHEME, STATE PLANNING POLICIES OR PRIORITY INFRASTRUCTURE PLAN (IF YES, INCLUDE STATEMENT OF REASONS)**

Not in conflict

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

The term 'approved drawing(s) and/or document(s)' or other similar expression means:

<b>Drawing or Document</b>	<b>Reference</b>	<b>Date</b>
Proposal Plan	61482-4	April 2000
Proposal Plan	4852_TP1 Rev B	February 2010
Proposal Plan	4852_C3	February 2010
Proposal Plan	4852_C5	February 2010

**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.

**Timing of Effect**

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

**Parkland Contribution**

3. Pay a monetary contribution equivalent to ten (10) per cent of the Unimproved Capital Value of the created allotments in accordance with the Planning Scheme Policy.

At the time of seeking approval and dating of the Plan of Survey, a security equivalent to the amount payable must be submitted to Council. This security can take the form of a cash bond or bank guarantee. The amount payable must be determined by an appropriately qualified property valuer and must be submitted to Council as supporting information when seeking endorsement of the Survey Plan.

**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

The contribution payable must be made within three (3) months of the registration of the allotment/s.

**Water Supply and Sewerage Works External**

4. Undertake the following water supply and sewerage works external to the site to connect the site to existing water supply and sewerage infrastructure:
  - a. Extend the water main across Murphy Street with a 100DN road crossing and then provide a 50 DN rider main extending from the road crossing to the eastern side of the driveway;
  - b. Provide conduits for future water services in driveways for Lot 1 and Lot 2;
  - c. Extend the sewer main from MH 5(p) to service the subject land;

Three (3) copies of a plan of the works must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer, prior to approval and dating of the Plan of Survey.

**Water Supply and Sewerage Works Internal**

5. Undertake the following sewerage works internal to the subject land:
  - a. Provide a single internal sewer connection to each lot in accordance with the FNQROC Development Manual;
  - b. Provide a geotechnical report addressing the construction of the proposed sewer extension and connection;
  - c. Provide easements having a nominal width of 3m over sewers which are on a non-standard alignment.

All the above works must be designed and constructed in accordance with the *FNQROC Development Manual*.

Three (3) copies of a plan of the works must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to approval and dating of the Plan of Survey.

**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

**Inspection of Sewers**

6. CCTV inspections of all constructed sewers must be undertaken for all sewers that will become an asset of Council. An assessment of the CCTV records will be undertaken and any identified defects are to be rectified to the satisfaction of the Chief Executive Officer at no cost to Council.

**Damage to Infrastructure**

7. In the event that any part of Council's existing sewer / water 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 Cairns Water & Waste immediately of the affected infrastructure and have it repaired or replaced by Cairns Water & Waste, at the developer's cost, prior to the commencement of use.

**Geotechnical**

8. The applicant must implement in full the recommendations made in:
  - a. Douglas Partners Geotechnical Investigation Report (Project 38836.01 dated October 2009), specifically those recommendations outlined in Section 7.1 & 7.2 and summarised in Table 1 & 2; and
  - b. Douglas Partners additional Stability Analysis Report (Project38836.02 dated February 2010), specifically the recommendations outlined in Section 7 and Tables 1 & 2.

The recommendations must be implemented to the satisfaction of the Chief Executive Officer prior to signing and dating of the Plan of Survey.

**Access to Lots**

9. The applicant / owner must construct access to each of the proposed lots from adjacent the carriageway to the lot boundary. The accesses must incorporate a concrete crossover and apron in accordance with FNQROC Development Manual Standard Drawing S1015 and generally in accordance with Drawing No. 4852\_TP1 Rev B prepared by A.F. Colafella & Associates Pty Ltd dated 22 February 2010.

All works must be carried out to the requirements and satisfaction of the Chief Executive Officer prior to approval and dating of the Plan of Survey.

**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

**Service Conduits**

10. Provide service conduits to proposed Lot 1 and proposed Lot 2 adjacent to the driveway together with associated access pits if necessary, to extend from the front boundary to the end of the access driveway.

All works must be carried out to the requirements and satisfaction of the Chief Executive Officer prior to approval and dating of the Plan of Survey.

**Stockpiling and Transportation of Fill Material**

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

**Storage of Machinery and Plant**

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

**Drainage Construction**

14. The applicant / owner must construct all drainage works associated with Pits 1, 2, 3, 4, 8 & 9 as detailed on the Drainage Plan prepared by A.F. Colafella & Associated Pty Ltd, Drawing No. 4852\_C3 & 4852\_C5 dated 22 February 2010.

Associated earthworks and landscaping must be completed in accordance with the approved plans prior to approval and dating of the Survey Plan.

**Drainage Easements**

15. A Drainage Easement having a minimum width of three (3) metres along the entire length of the south east boundary of proposed Lot 1 in the location(s) shown on the proposal Plan No 4852\_C3, dated 28 October 2009 and prepared by A.F. Colafella & Associates Pty Ltd must be granted in favour of Council. A copy of the easement documents must be submitted to Council for the approval of Council's solicitors at no cost to Council.



**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

The approved easement documents must be submitted at the same time as seeking approval and dating of the Plan of Survey and must be lodged and registered with the Department of Environment & Resource Management in conjunction with the Plan of Survey.

**Vegetation Clearing**

16. Existing vegetation on the subject land must be retained in all areas except those affected by the construction of access driveways, the installation of services as detailed on the approved plans. Any further clearing requires a Permit to Damage Protected Vegetation under *Amendment 1 of 2006 of Local Law No 56 Vegetation Management*.

Vegetation to be retained is to be identified and adequately fenced off for protection purposes prior to construction work commencing on the site.

**Wildlife**

17. Prior to removal of any tree, an inspection must be carried out for any signs of protected wildlife including nests and animal habitat. Should any recent wildlife activity be identified, removal of the tree must not occur until the animal has vacated the area of immediate danger. If the animal does not move from the area of danger, the Queensland Parks and Wildlife Services must be contacted for advice. Important habitat trees should be retained wherever possible.

**Notification of Vegetation Clearing**

18. Council's Development Assessment Branch must be notified two (2) days prior to the proposed date of commencement of any approved vegetation clearing to facilitate community awareness of such works.

**Parkland Protection**

19. Any common boundaries with Owen Street road reserve must be temporarily delineated and fenced off to restrict building access for the duration of construction activity except for where works are approved in accordance with Condition 9 of this approval.

**Existing Creek and Drainage Systems**

20. All existing creek systems and drainage areas must be left in their current state, including no channel alterations and no removal of vegetation unless consented to in writing by the Chief Executive Officer.

The applicant / owner must obtain any necessary approvals from the Department of Environment & Resource Management for carrying out works in a watercourse.

**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

**Lawful Point of Discharge**

21. 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 to the requirements and satisfaction of the Chief Executive Officer.

**Sediment and Erosion Control**

22. A sediment and erosion control plan must be submitted prior the issue of a Development Permit for Operational Works. Such plans must be installed / implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the *Environmental Protection Act 1994*, and the FNQROC Development Manual).

**Ponding and/or Concentration of Stormwater**

23. The applicant/owner must ensure that the retaining wall does not result in the ponding or concentration of stormwater flows.

**Structural Certification**

24. All retaining walls or structures higher than one (1) metre must be structurally certified prior to the issue of a Development Permit for Building Work.  
  
Where the profile or height of the wall is redesigned during structural certification, amended plans must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.
25. All earthwork batters steeper than 1 in 2 and/or higher than 1.8 metres must be certified by a qualified Geotechnical Engineer prior to signing and dating of the Plan of Survey.

**Existing Services**

26. Written confirmation of the location of existing services for the land must be provided. In any instance where existing services are contained within another lot, the following applies, either:
  - a. Relocate the services to comply with this requirement; or
  - b. Arrange registration of necessary easements over services located within another lot prior to, or in conjunction with, submission of the Plan of Survey creating the lot.

**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

**Electricity Supply**

27. Written evidence from Ergon Energy advising if distribution substation/s are required within the development must be provided. If required, details regarding the location of these facilities must be submitted to the Chief Executive Officer accompanied by written confirmation from Ergon Energy. Details regarding electricity supply must be provided prior to the issue of a Development Permit for Operational Works.

**Electricity and Telecommunications**

28. Written evidence of negotiations with Ergon Energy and the telecommunication authority must be submitted to Council stating that both an underground electricity supply and telecommunications service will be provided to the development prior to approval and dating of the Plan of Survey.

**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 363 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.dip.qld.gov.au](http://www.dip.qld.gov.au). To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to [www.cairns.qld.gov.au](http://www.cairns.qld.gov.au).
5. Headwork contribution calculations are attached as Appendix 3. Please note that the contributions must be paid at the rates applicable at the time of payment. Updated calculations must be requested prior to payment.

**RIGHTS OF APPEAL**

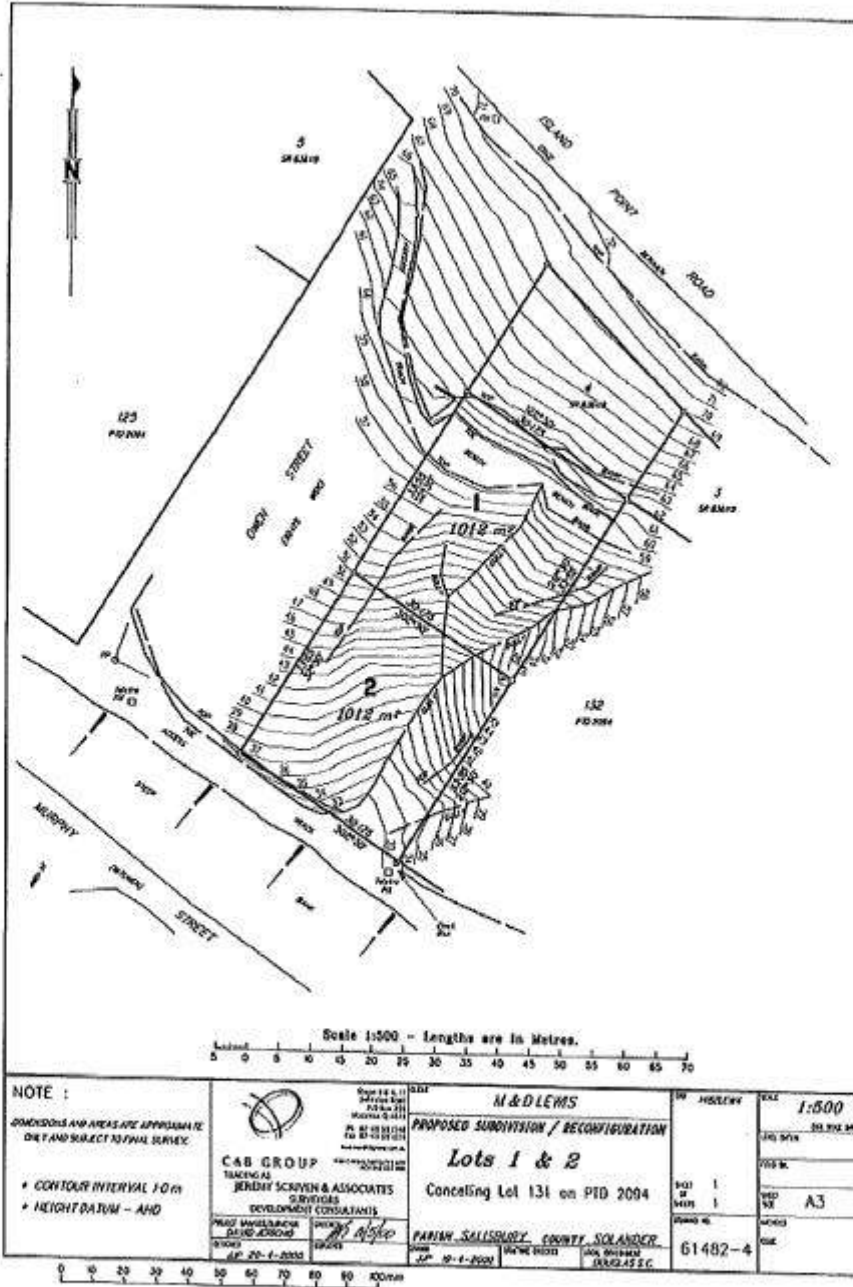
Attached

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**End of Decision Notice**

**DECISION NOTICE DETAILS  
SUSTAINABLE PLANNING ACT 2009**

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



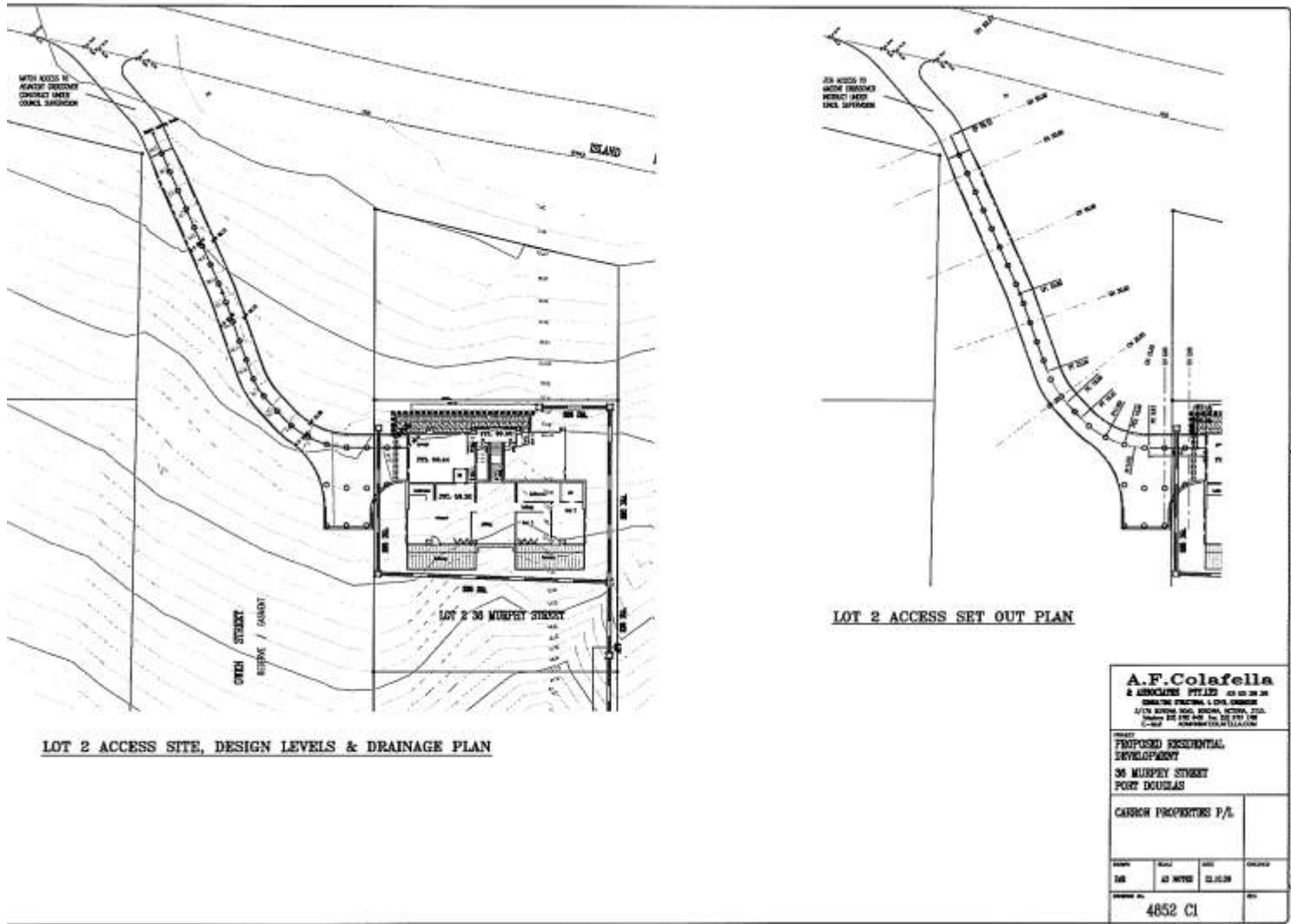
40.2008.2760  
10/13







# ISLAND POINT ROAD ACCESS (DRAINAGE ENGINEER'S REPORT) ROL



**A.F. Colafella**  
 & ASSOCIATES PTY LTD  
 ENGINEERING, SURVEYING & CIVIL ENGINEERING  
 1/178 BAYVIEW ROAD, BAYVIEW, SYDNEY, NSW  
 PHONE: 02 9550 4444 FAX: 02 9550 4444  
 C-502 A/NSWREGISTRATION.COM

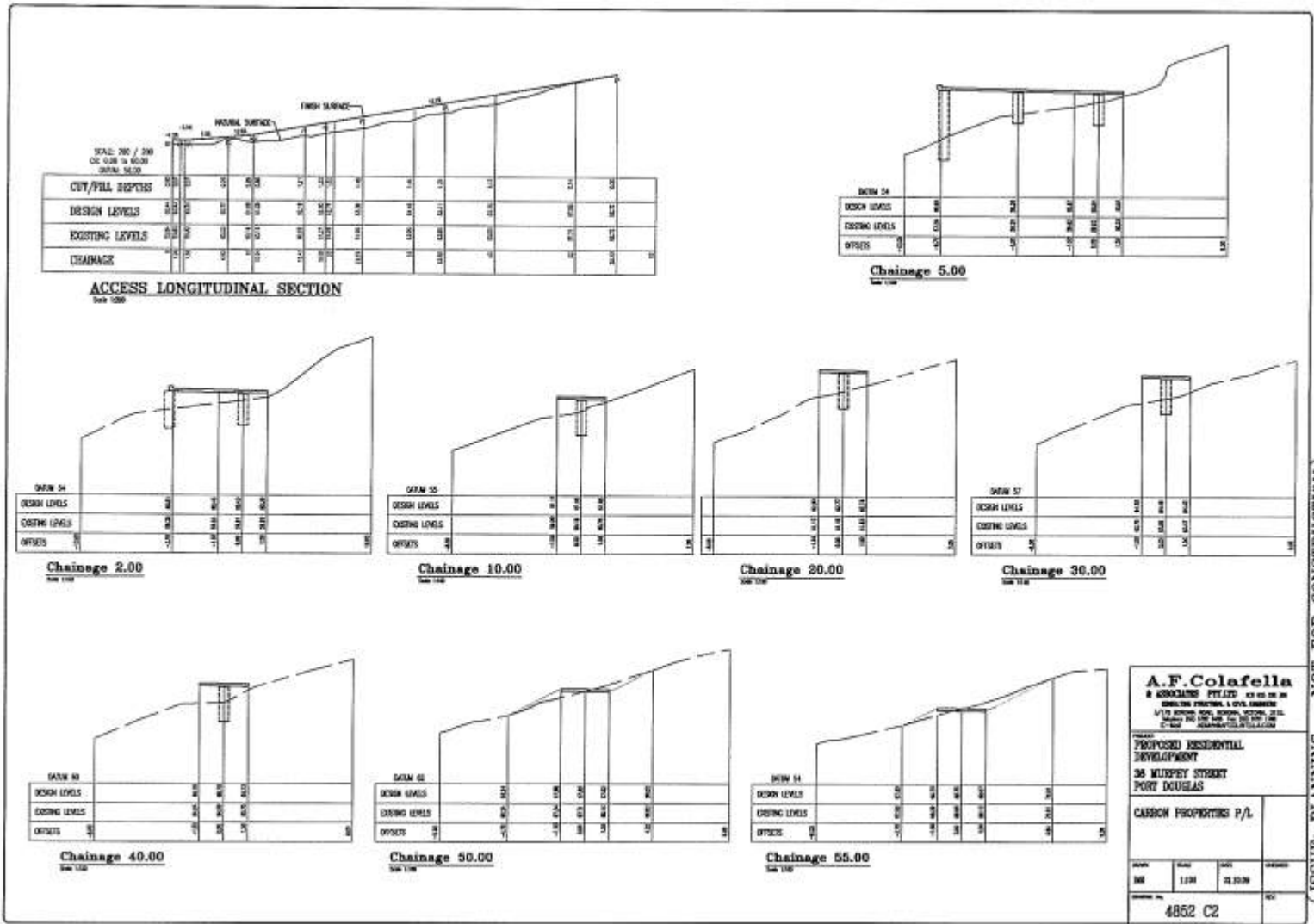
PROJECT:  
 PROPOSED RESIDENTIAL  
 DEVELOPMENT  
 36 MURPHY STREET  
 PORT DOUGLAS

CARRIERS PROPRIETORS P/L

DATE	REV	ISS	CHECKED
18 FEB	01	18 FEB 2014	

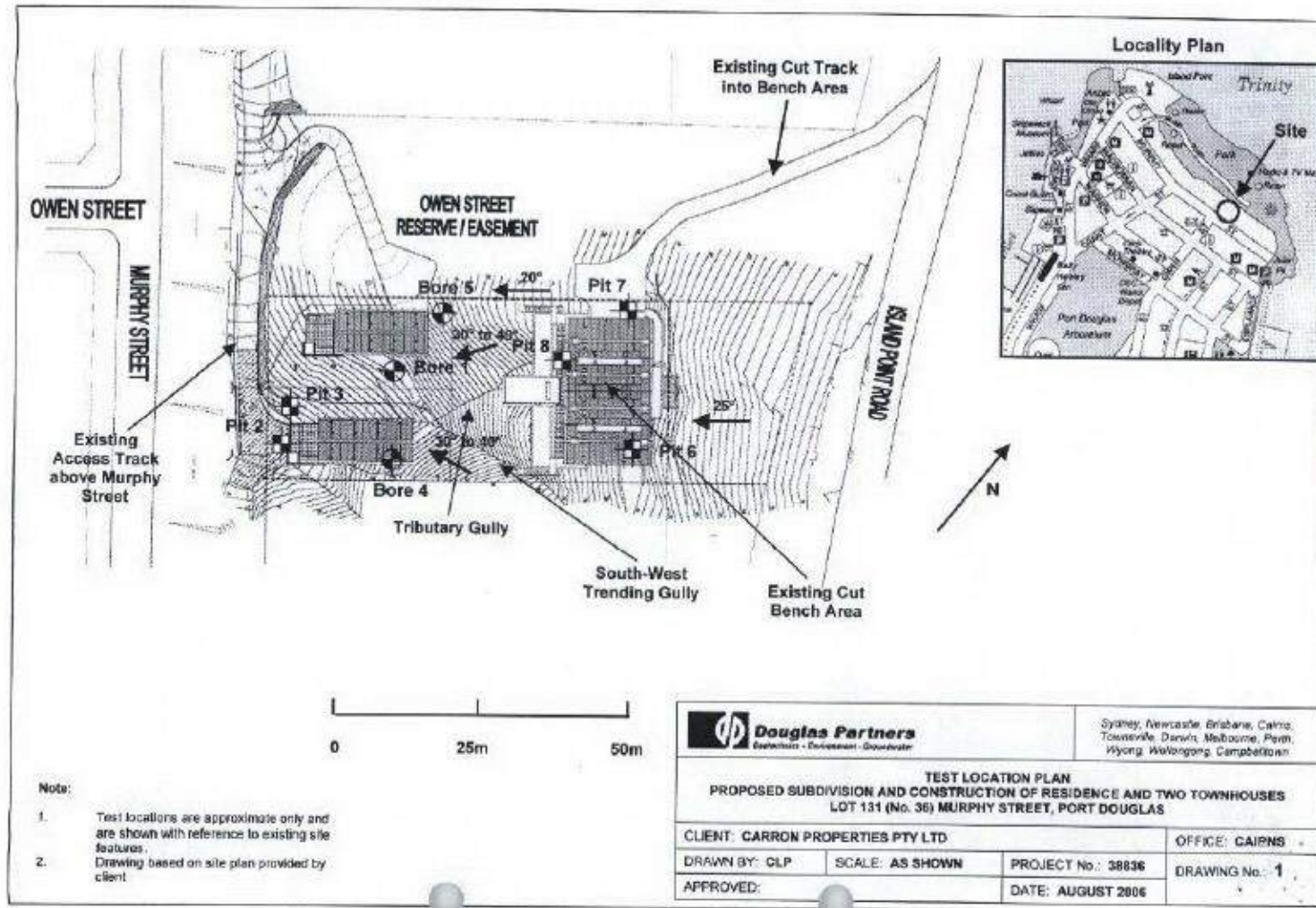
PROJECT NO:  
 4852 C1





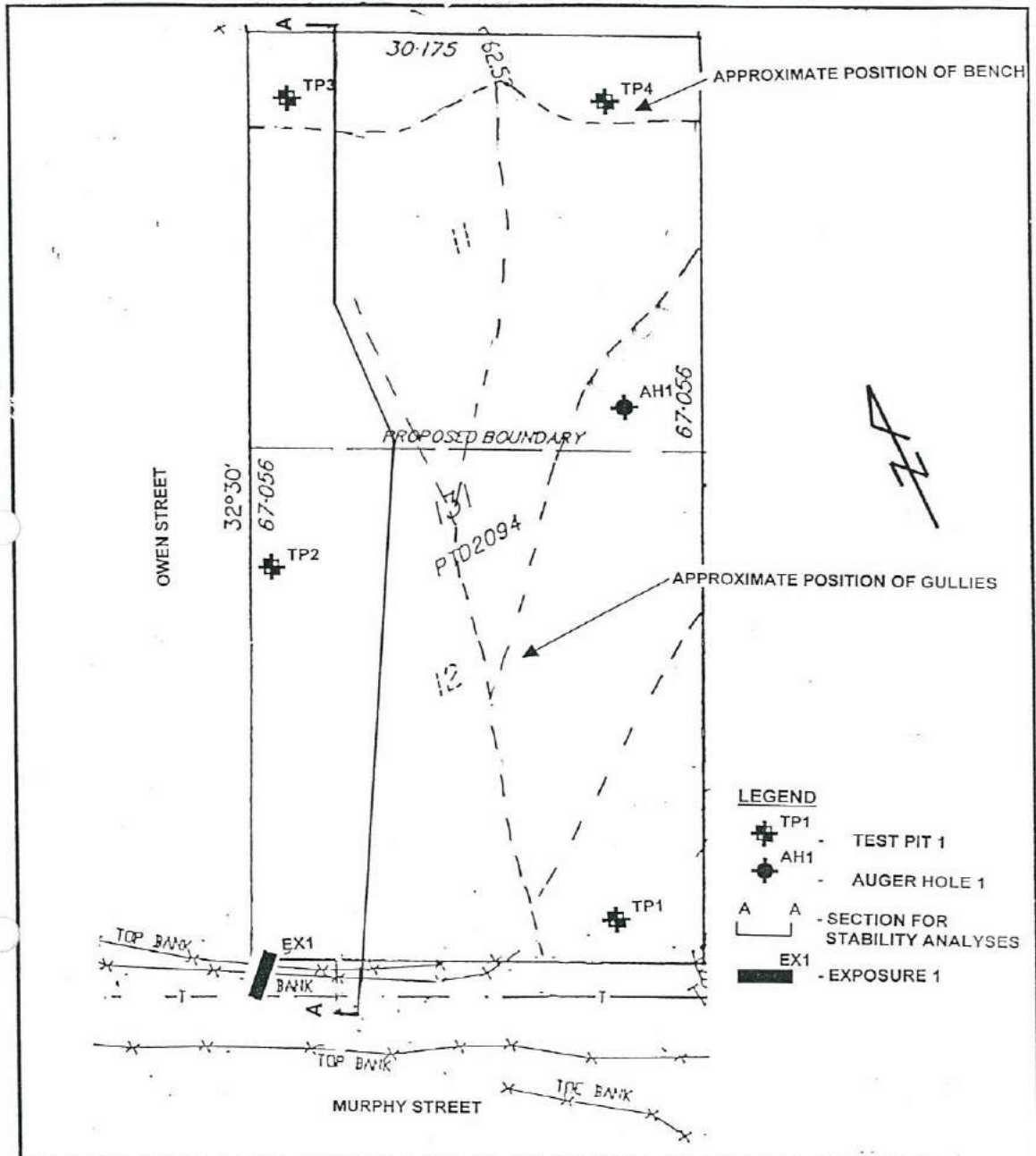
## APPENDIX 2 DEVELOPMENT PERMITS ISSUED FOR MCU

TPC 1271 – Site Plan Accompanying Douglas Partners Geotechnical Report for House and “Duplex Units”




Ordinary Meeting 18 February 2014

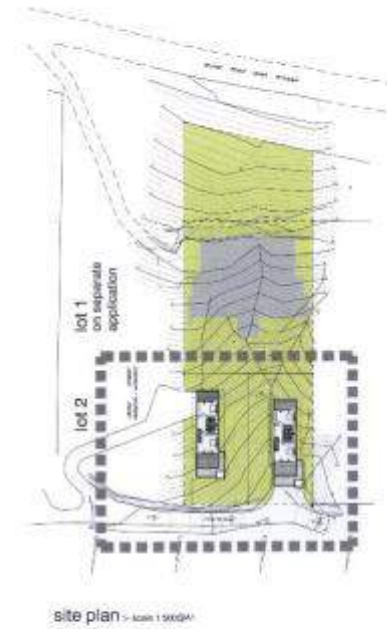
**GOLDER SITE PLAN – LOCATION OF BATTER IN MURPHY STREET ROAD RESERVE**



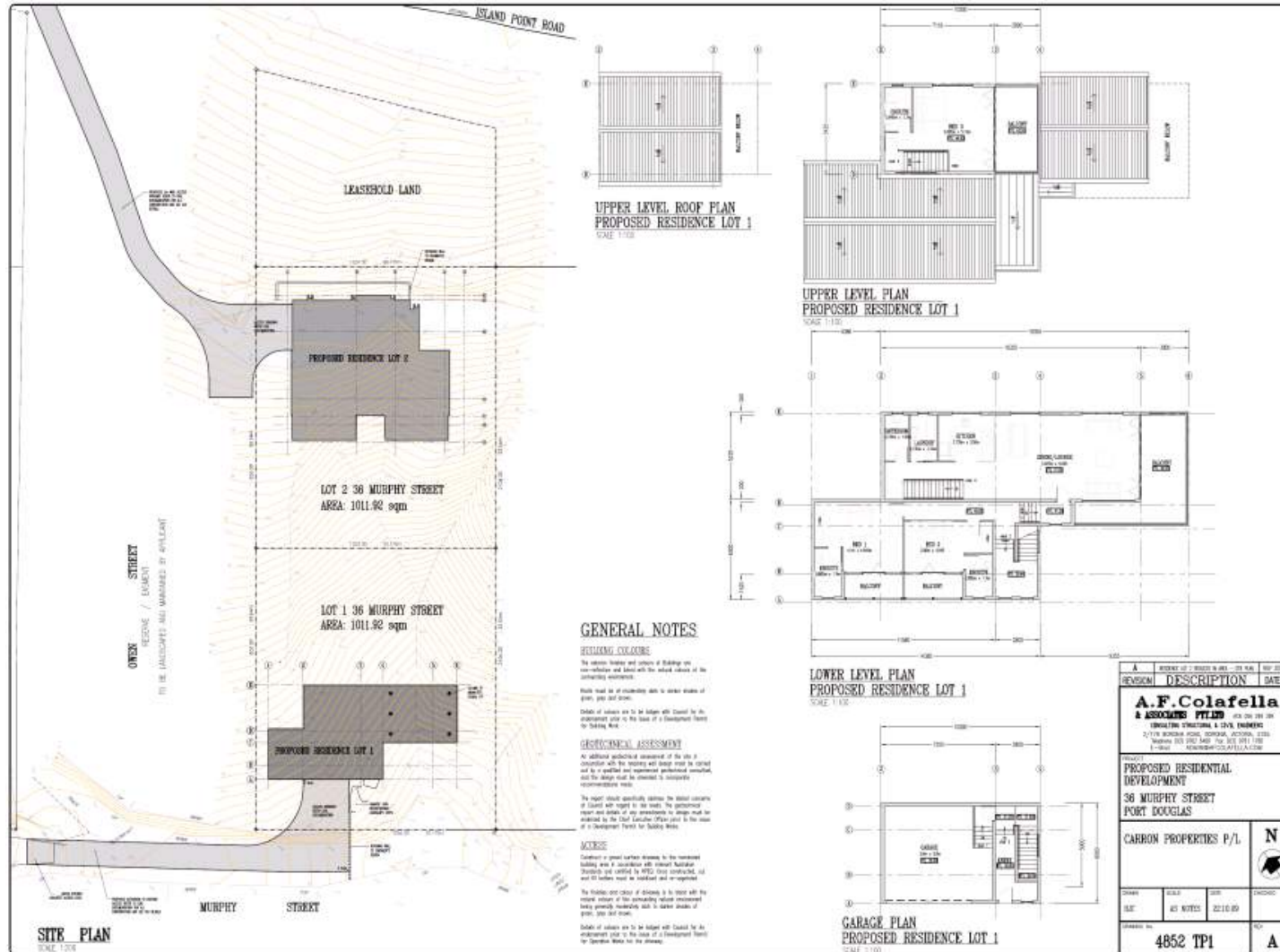
NOTE: SITE PLAN PREPARED FROM DRAWING SUPPLIED BY MCPHERSON MACLEAN WARGON CHAPMAN

	Drawn: SRF	Date: 24.8.99	GEOTECHNICAL INVESTIGATION	
	Checked: KL	Date: 3.09.09	LOT 131 MURPHY STREET, PORT DOUGLAS	
	Revision:	Date:	SITE PLAN	
	Scale: 1:350	A4	Project No.: 99672070	Fig. 1
			Project No.:	99672070
			Dwg No.:	2070001

ORIGINAL PLANS FOR DA 8/35/81 – SUPERSEDED SCHEME APPLICATION FOR TWO MULTIPLE DWELLINGS AND A HOUSE



**AMENDED PLANS FOR DA 8/8/81 (RESPONSE TO CRC REQUEST FOR FURTHER INFORMATION)**





## CURRENT MCU APPROVAL FOR MULTIPLE DWELLINGS

ENQUIRIES: Leon Doure  
PHONE: (07) 4044 3243  
FAX: (07) 4044 3836  
YOUR REF: Iconic  
OUR REF: 8/35/81 (3229413)

7 July 2011

Carron Properties Pty Ltd (Tte)  
C/- 2/178 Baronia Rd  
BARONIA VIC 3155

Dear Sir/Madam

**DECISION NOTICE UNDER S335 SUSTAINABLE PLANNING ACT 2009:  
AMENDMENT TO EXISTING APPROVAL FOR 36 MURPHY STREET PORT  
DOUGLAS**

With reference to the abovementioned Development Application, please find attached the relevant Decision Notice, which was determined under Instrument of Delegation on 7 July 2011.

The notice includes extracts from the Act with respect to making representations about conditions, negotiated decisions, suspension of the appeal period, and lodging an Appeal.

Should you have any enquires in relation to this Decision Notice, please contact Leon Doure of Council's Development Assessment Team on telephone number (07) 4044 3243.

Yours faithfully

Kelly Reaston  
**Manager Development Assessment**

Att.

43.2008.2736  
1/21

**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

**APPLICANT DETAILS**

Carron Properties Pty Ltd (Tte)  
C/- 2/178 Baronia Rd  
BARONIA VIC 3155

**ADDRESS**

36 Murphy Street Port Douglas

**REAL PROPERTY DESCRIPTION**

Lot 131 on PTD2094

**PROPOSAL**

Amendment to Existing Approval – Multiple Dwellings (Residential) – 2 Units

**DECISION**

Approved subject to conditions (refer to approval package below).

**DECISION DATE**

7 July 2011

**TYPE**

Material Change of Use (Development Permit)

**REFERRAL AGENCIES**

None Applicable

**SUBMISSIONS**

There were no submissions for this application.

**FURTHER DEVELOPMENT PERMITS REQUIRED**

Development Permit for Operational Work  
Development Permit for Building Works  
Development Permit for Plumbing Works

**CODES TO COMPLY WITH FOR SELF-ASSESSABLE DEVELOPMENT**

None

43.2008.2736  
2/21



**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

**DOES THE ASSESSMENT MANAGER CONSIDER THE APPLICATION TO BE IN CONFLICT WITH APPLICABLE CODES, PLANNING SCHEME, STATE PLANNING POLICIES OR PRIORITY INFRASTRUCTURE PLAN (IF YES, INCLUDE STATEMENT OF REASONS)**

Not in conflict

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

The term 'approved drawing(s) and/or document(s)' or other similar expression means:

<b>Drawing or Document</b>	<b>Reference</b>	<b>Date</b>
Site Plans Lot 2	CWA FH01 A310 RevC	May 2011
Site Plans Lot 1	CWA FH01 A311 RevC	May 2011
Elevations Lot 2	CWA FH01 A401 RevB	Sept 2010
Elevations Lot 1	CWA FH01 A402 RevB	Sept 2010
Schematic Elevations Lot 2	CWA FH01 A401 RevB	Sept 2010
Schematic Elevations Lot 1	CWA FH01 A402 RevB	Sept 2010

**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

**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.

**Operational Works**

3. An Operational Works Approval is required for the development. Such works must be completed in accordance with the standards outlined in the FNQROC Development Manual, to the satisfaction of the Chief Executive Officer prior to the issue of a Development Permit for Building Works. Where plans are required, three (3) A1 size copies of the plans and one (1) copy at A3 size must be submitted to Council.

43.2008.2736  
3/21

**Water Supply and Sewerage Works External**

4. Undertake the following water supply and sewerage works external to the site to connect the site to existing water supply and sewerage infrastructure:
  - a. Extend the water main across Murphy Street with a 100DN road crossing and then provide a 50 DN rider main extending from the road crossing to the eastern side of the driveway. The applicant is responsible for the design of the water main from the property to Council's existing infrastructure. Council will advise the minimum pressure and flow at the point of connection based on a fire hydrant pressure and flow test carried out at the owner's expense;
  - b. Extend the sewer main from MH 5(p) to service the subject land;

Three (3) copies of a plan of the works must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer, prior to the issue of a Development Permit for Building Works.

**Water Supply and Sewerage Works Internal**

5. Undertake the following sewerage works internal to the subject land:
  - a. Provide a standard 20mm water service to each Dwelling unit in accordance with the FNQROC Development Manual;
  - b. Provide a single internal sewer connection to each Dwelling unit in accordance with the FNQROC Development Manual;
  - c. Provide a geotechnical report addressing the construction of the proposed sewer extension and connection;
  - d. Provide easements having a nominal width of 3m over sewers which are on a non-standard alignment.

All the above works must be designed and constructed in accordance with the *FNQROC Development Manual*.

Three (3) copies of a plan of the works must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to issue of a Development Permit for Building Works.

**Inspection of Sewers**

6. CCTV inspections of all constructed sewers must be undertaken for all sewers that will become an asset of Council. An assessment of the CCTV records will be undertaken and any identified defects are to be rectified to the satisfaction of the Chief Executive Officer at no cost to Council.

**Damage to Infrastructure**

7. In the event that any part of Council's existing sewer / water 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 Cairns Water & Waste immediately of the affected infrastructure and have it repaired or replaced by Cairns Water & Waste, at the developer's cost, prior to the commencement of use.

**Water Saving**

8. All toilet devices in the development must be fitted with dual flush cisterns and showers and hand basins in the development must be fitted with flow control valves or similar water control devices to generally restrict flow to nine (9) litres of water per minute.

**Building Colours**

9. The exterior finishes and colours of Buildings must be non-reflective and must blend with the natural colours of the surrounding environment. Roofs and structures (including Water Tanks) must be of moderately dark to darker shades of green, grey, blue and brown.

Dark tinted glass is also required to be used for all finished glass surfaces of the buildings so to as ensure any reflection is minimised.

The applicant is to submit the proposed colours and finishes to Council to the satisfaction of the Chief Executive Officer, prior to the issue of a Development Permit for Building Works. The applicant/owner must also ensure that the above Building Exterior requirements are made known in writing to all prospective purchasers.

**Geotechnical**

10. The applicant must implement in full the recommendations made in:
  - a. Douglas Partners Geotechnical Investigation Report (Project 38836.01 dated October 2009), specifically those recommendations outlined in Section 7, which have been summarised under 'Remedial Work' in Table 1 & 2; and

**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

- b. Douglas Partners additional Stability Analysis Report (Project 38836.02 dated February 2010), specifically the recommendations outlined in Section 7 and Table 1, under the heading of 'Appropriate actions to be undertaken for development'.

The revised set of drawings are required to be submitted prior to any work commencing on the site. The drawings shall be certified by an RPEQ as being in accordance with the recommendations made in the aforementioned geotechnical reports.

**Access to Dwelling Units**

11. The applicant / owner must construct access to each of the proposed Dwelling Units from adjacent the carriageway to the lot boundary. The accesses must incorporate a crossover in accordance with FNQROC Development Manual Standard Drawing S1015 or S1105.

The driveway must be constructed in accordance with Standard Drawing S1110. The location of the driveway shall be generally in accordance with Drawing No. 4852\_TP1 Rev B; No. 4852\_C1 Rev A; and No. 4852\_C2 Rev A, prepared by A.F. Colafella & Associates Pty Ltd dated 22 February 2010.

All works must be carried out to the requirements and satisfaction of the Chief Executive Officer prior to the issue of a Development Permit for Building Works.

**Stockpiling and Transportation of Fill Material**

12. 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; or
- b. before 7:00 am or after 6:00 pm Monday to Friday; or
- c. before 7:00 am or after 1:00 pm Saturdays; or
- d. on Sundays or Public Holidays.

13. Dust emissions or other air pollutants must not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

**Storage of Machinery and Plant**

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

**Drainage Construction**

**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

15. The applicant / owner must construct all drainage works associated with the development and detailed in the Drainage Report and Plans. This includes but is not limited to: pits 1, 2, 3, 4, 8 & 9 as detailed on the Drainage Plan prepared by A.F. Colafella & Associated Pty Ltd, Drawing No. 4852\_C3 & 4852\_C5 dated 22 February 2010.

All associated earthworks and landscaping must be completed in accordance with the approved plans prior to the Commencement of Use or issue of a Compliance Certificate for the Building Format Plan.

**Drainage Easements**

16. A Drainage Easement having a minimum width of three (3) metres along the entire length of the south east boundary of proposed Lot 1 in the location(s) shown on the proposal Plan No 4852\_C3, dated 28 October 2009 and prepared by A.F. Colafella & Associates Pty Ltd must be granted in favour of Council.  
A copy of the easement documents must be submitted to Council for the approval of Council's solicitors at no cost to Council. The approved easement documents must be submitted prior to the Commencement of Use or issue of a Compliance Certificate for the Building Format Plan. All relevant documentation must be lodged and registered with the Department of Environment & Resource Management prior to the Commencement of Use.

**Landscaping**

17. The submitted Landscaping Plan, Landscape & Associates LA26-D10 must be revised to include the following:
- a. Provision of dense screening vegetation adjacent the side boundary opposite proposed Residence 2 (northernmost).

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.

18. Areas affected by building works must be landscaped in accordance with the FNQROC Development Manual. In particular, landscaping must include planting of all cut and fill batter areas. The disturbed areas of land for the creation of the driveway must also be revegetated with native species found in the locality.

**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

**Vegetation Clearing**

19. Existing vegetation on the subject land must be retained in all areas except those affected by the construction of access driveways, the installation of services as detailed on the approved plans. Any further clearing requires a Permit to Damage Protected Vegetation under Amendment 1 of 2006 of Local Law No 56 Vegetation Management.

Vegetation to be retained is to be identified and adequately fenced off for protection purposes prior to construction work commencing on the site.

**Wildlife**

20. Prior to removal of any tree, an inspection must be carried out for any signs of protected wildlife including nests and animal habitat. Should any recent wildlife activity be identified, removal of the tree must not occur until the animal has vacated the area of immediate danger. If the animal does not move from the area of danger, the Queensland Parks and Wildlife Services must be contacted for advice. Important habitat trees should be retained wherever possible.

**Notification of Vegetation Clearing**

21. Council's Development Assessment Branch must be notified two (2) days prior to the proposed date of commencement of any approved vegetation clearing to facilitate community awareness of such works.

**Existing Creek and Drainage Systems**

22. All existing creek systems and drainage areas must be left in their current state, including no channel alterations and no removal of vegetation unless consented to in writing by the Chief Executive Officer.

The applicant / owner must obtain any necessary approvals from the Department of Environment & Resource Management for carrying out works in a watercourse.

**Lawful Point of Discharge**

23. 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 to the requirements and satisfaction of the Chief Executive Officer.

**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

**Sediment and Erosion Control**

24. A sediment and erosion control plan must be submitted prior the issue of a Development Permit for Operational Works. Such plans must be installed / implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the Environmental Protection Act 1994, and the FNQROC Development Manual).

**Ponding and/or Concentration of Stormwater**

25. The applicant/owner must ensure that the retaining wall does not result in the ponding or concentration of stormwater flows.

**Structural Certification**

26. All retaining walls or structures higher than one (1) metre must be structurally certified prior to the issue of a Development Permit for Building Work.

Where the profile or height of the wall is redesigned during structural certification, amended plans must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

27. All earthwork batters steeper than 1 in 2 and/or higher than 1.8 metres must be certified by a qualified Geotechnical Engineer prior to the issue of a Development Permit for Building Works.

**Existing Services**

28. Written confirmation of the location of existing services for the land must be provided. In any instance where existing services are contained within another lot, the following applies, either:
- a. Relocate the services to comply with this requirement; or
  - b. Arrange registration of necessary easements over services located within another lot prior to the issue of Development Permit for Building Works.

**Electricity Supply**

29. Written evidence from Ergon Energy advising if distribution substation/s are required within the development must be provided. If required, details regarding the location of these facilities must be submitted to the Chief Executive Officer. Details regarding electricity supply must be provided prior to the issue of a Development Permit for Operational Works.

DECISION NOTICE DETAILS  
SUSTAINABLE PLANNING ACT 2009

**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 802 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.dip.qld.gov.au](http://www.dip.qld.gov.au). To access Council's Development Manual, Local Laws and other applicable Policies log on to [www.cairns.qld.gov.au](http://www.cairns.qld.gov.au).

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**RIGHTS OF APPEAL**

Attached

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**End of Decision Notice**

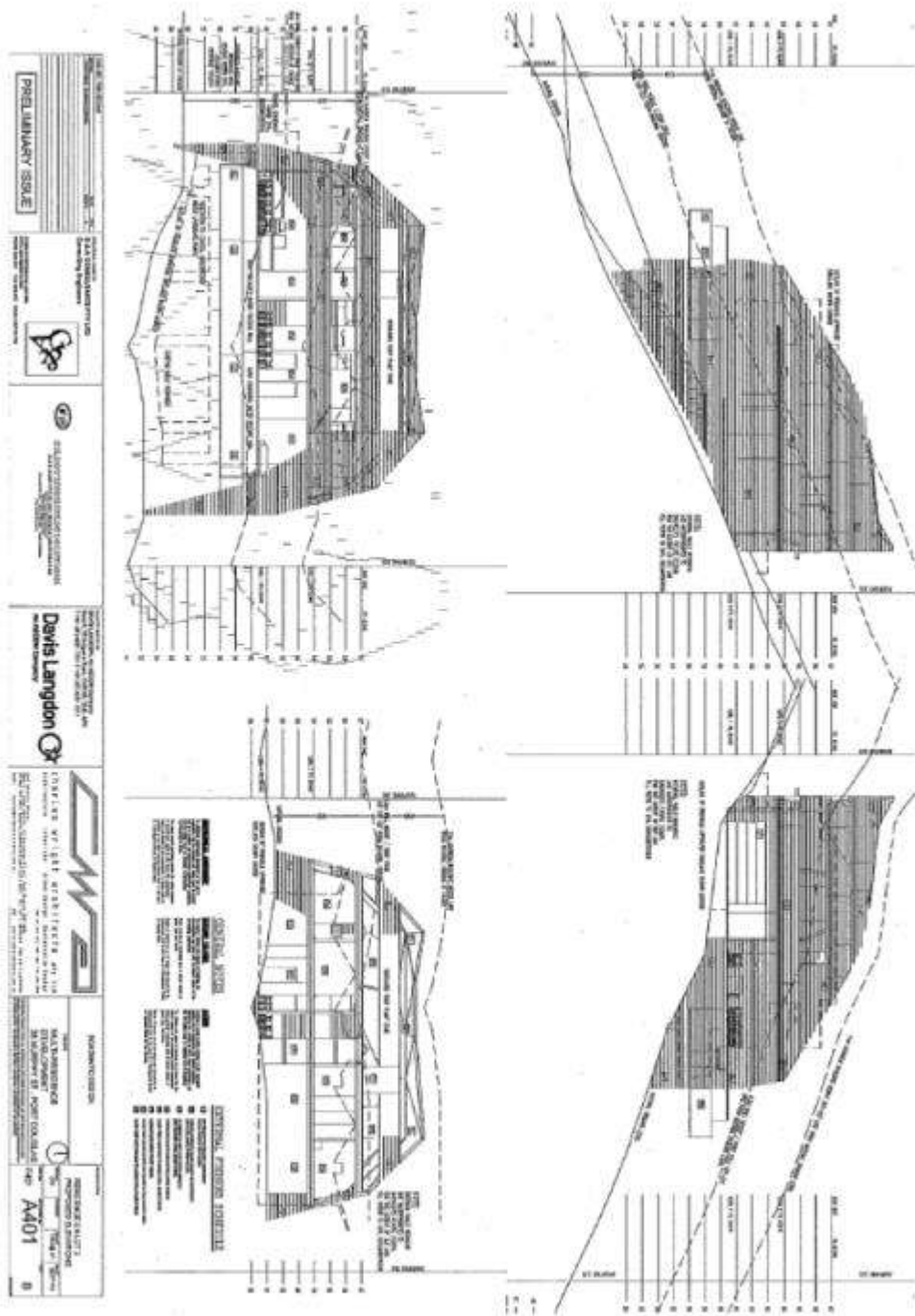
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**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**



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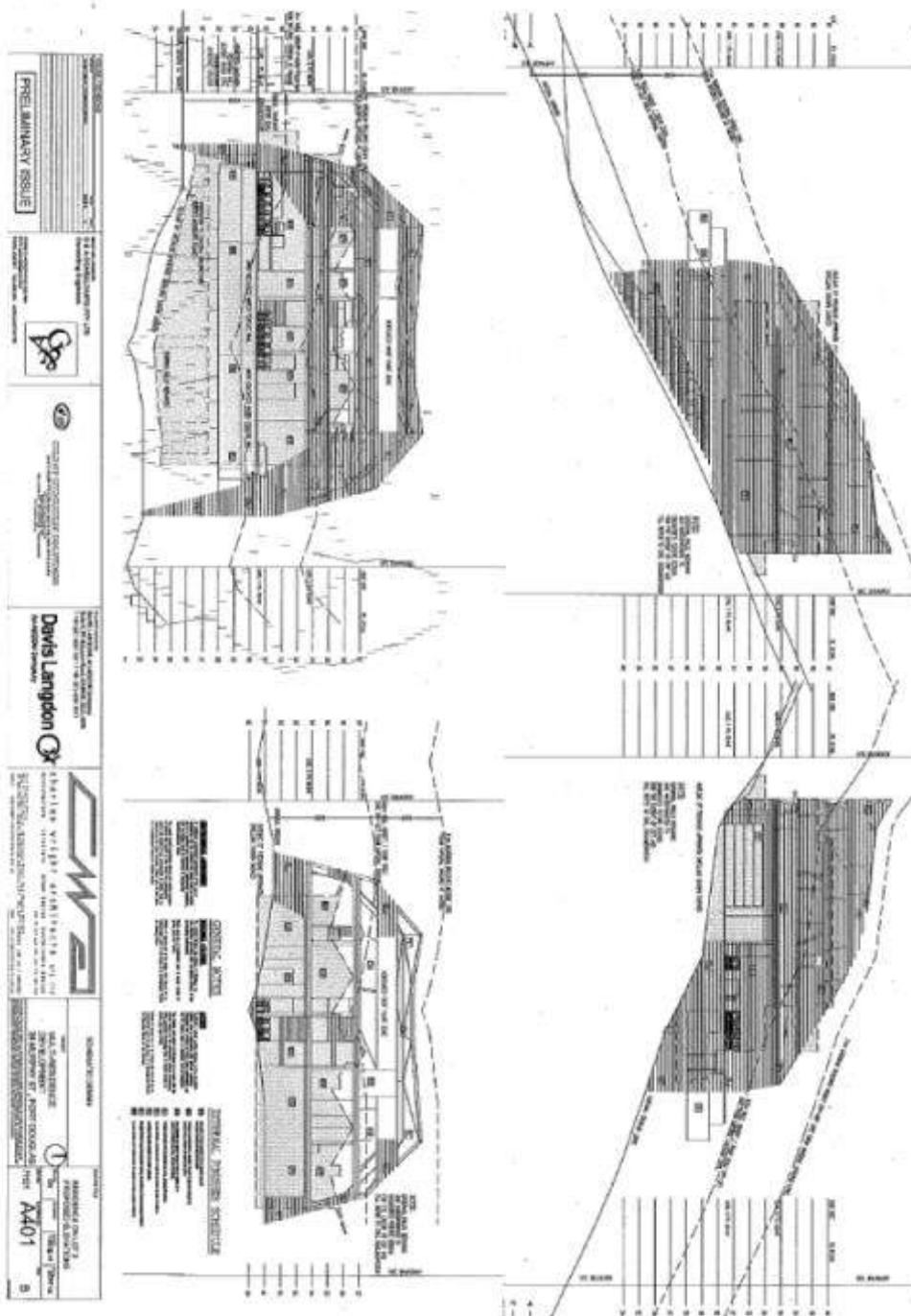
**DECISION NOTICE DETAILS  
SUSTAINABLE PLANNING ACT 2009**

The image displays a set of architectural drawings for a building project. It includes a site plan at the top left, a north-south elevation at the top right, a west-southwest elevation at the bottom left, and a west-southwest elevation at the bottom right. A technical specification table is located in the center-right area. The drawings show a building with a gabled roof and a series of windows. The site plan shows the building's footprint on a plot of land with surrounding vegetation and a road.

NO.	DESCRIPTION	UNIT	QTY	REMARKS
1	CONCRETE	M <sup>3</sup>	100	FOR FOUNDATION
2	BRICKWORK	M <sup>2</sup>	500	FOR EXTERIOR WALLS
3	ROOFING	M <sup>2</sup>	200	FOR GABLE ROOF
4	GLASS	M <sup>2</sup>	100	FOR WINDOWS
5	CEILING	M <sup>2</sup>	150	FOR INTERIOR CEILING
6	FLOORING	M <sup>2</sup>	150	FOR INTERIOR FLOOR
7	PAINT	LITRE	500	FOR EXTERIOR PAINT
8	PLASTER	M <sup>2</sup>	100	FOR INTERIOR PLASTER
9	DOORS	NO.	2	FOR EXTERIOR DOORS
10	WINDOWS	NO.	4	FOR INTERIOR WINDOWS
11	ROOFING	M <sup>2</sup>	100	FOR GABLE ROOF
12	CEILING	M <sup>2</sup>	100	FOR INTERIOR CEILING
13	FLOORING	M <sup>2</sup>	100	FOR INTERIOR FLOOR
14	PAINT	LITRE	200	FOR INTERIOR PAINT
15	PLASTER	M <sup>2</sup>	50	FOR INTERIOR PLASTER
16	DOORS	NO.	1	FOR INTERIOR DOOR
17	WINDOWS	NO.	2	FOR INTERIOR WINDOWS
18	ROOFING	M <sup>2</sup>	50	FOR GABLE ROOF
19	CEILING	M <sup>2</sup>	50	FOR INTERIOR CEILING
20	FLOORING	M <sup>2</sup>	50	FOR INTERIOR FLOOR
21	PAINT	LITRE	100	FOR INTERIOR PAINT
22	PLASTER	M <sup>2</sup>	25	FOR INTERIOR PLASTER
23	DOORS	NO.	1	FOR INTERIOR DOOR
24	WINDOWS	NO.	1	FOR INTERIOR WINDOW
25	ROOFING	M <sup>2</sup>	25	FOR GABLE ROOF
26	CEILING	M <sup>2</sup>	25	FOR INTERIOR CEILING
27	FLOORING	M <sup>2</sup>	25	FOR INTERIOR FLOOR
28	PAINT	LITRE	50	FOR INTERIOR PAINT
29	PLASTER	M <sup>2</sup>	12.5	FOR INTERIOR PLASTER
30	DOORS	NO.	1	FOR INTERIOR DOOR
31	WINDOWS	NO.	1	FOR INTERIOR WINDOW
32	ROOFING	M <sup>2</sup>	12.5	FOR GABLE ROOF
33	CEILING	M <sup>2</sup>	12.5	FOR INTERIOR CEILING
34	FLOORING	M <sup>2</sup>	12.5	FOR INTERIOR FLOOR
35	PAINT	LITRE	25	FOR INTERIOR PAINT
36	PLASTER	M <sup>2</sup>	6.25	FOR INTERIOR PLASTER
37	DOORS	NO.	1	FOR INTERIOR DOOR
38	WINDOWS	NO.	1	FOR INTERIOR WINDOW
39	ROOFING	M <sup>2</sup>	6.25	FOR GABLE ROOF
40	CEILING	M <sup>2</sup>	6.25	FOR INTERIOR CEILING
41	FLOORING	M <sup>2</sup>	6.25	FOR INTERIOR FLOOR
42	PAINT	LITRE	12.5	FOR INTERIOR PAINT
43	PLASTER	M <sup>2</sup>	3.125	FOR INTERIOR PLASTER
44	DOORS	NO.	1	FOR INTERIOR DOOR
45	WINDOWS	NO.	1	FOR INTERIOR WINDOW
46	ROOFING	M <sup>2</sup>	3.125	FOR GABLE ROOF
47	CEILING	M <sup>2</sup>	3.125	FOR INTERIOR CEILING
48	FLOORING	M <sup>2</sup>	3.125	FOR INTERIOR FLOOR
49	PAINT	LITRE	6.25	FOR INTERIOR PAINT
50	PLASTER	M <sup>2</sup>	1.5625	FOR INTERIOR PLASTER
51	DOORS	NO.	1	FOR INTERIOR DOOR
52	WINDOWS	NO.	1	FOR INTERIOR WINDOW
53	ROOFING	M <sup>2</sup>	1.5625	FOR GABLE ROOF
54	CEILING	M <sup>2</sup>	1.5625	FOR INTERIOR CEILING
55	FLOORING	M <sup>2</sup>	1.5625	FOR INTERIOR FLOOR
56	PAINT	LITRE	3.125	FOR INTERIOR PAINT
57	PLASTER	M <sup>2</sup>	0.78125	FOR INTERIOR PLASTER
58	DOORS	NO.	1	FOR INTERIOR DOOR
59	WINDOWS	NO.	1	FOR INTERIOR WINDOW
60	ROOFING	M <sup>2</sup>	0.78125	FOR GABLE ROOF
61	CEILING	M <sup>2</sup>	0.78125	FOR INTERIOR CEILING
62	FLOORING	M <sup>2</sup>	0.78125	FOR INTERIOR FLOOR
63	PAINT	LITRE	1.5625	FOR INTERIOR PAINT
64	PLASTER	M <sup>2</sup>	0.390625	FOR INTERIOR PLASTER
65	DOORS	NO.	1	FOR INTERIOR DOOR
66	WINDOWS	NO.	1	FOR INTERIOR WINDOW
67	ROOFING	M <sup>2</sup>	0.390625	FOR GABLE ROOF
68	CEILING	M <sup>2</sup>	0.390625	FOR INTERIOR CEILING
69	FLOORING	M <sup>2</sup>	0.390625	FOR INTERIOR FLOOR
70	PAINT	LITRE	0.78125	FOR INTERIOR PAINT
71	PLASTER	M <sup>2</sup>	0.1953125	FOR INTERIOR PLASTER
72	DOORS	NO.	1	FOR INTERIOR DOOR
73	WINDOWS	NO.	1	FOR INTERIOR WINDOW
74	ROOFING	M <sup>2</sup>	0.1953125	FOR GABLE ROOF
75	CEILING	M <sup>2</sup>	0.1953125	FOR INTERIOR CEILING
76	FLOORING	M <sup>2</sup>	0.1953125	FOR INTERIOR FLOOR
77	PAINT	LITRE	0.390625	FOR INTERIOR PAINT
78	PLASTER	M <sup>2</sup>	0.09765625	FOR INTERIOR PLASTER
79	DOORS	NO.	1	FOR INTERIOR DOOR
80	WINDOWS	NO.	1	FOR INTERIOR WINDOW
81	ROOFING	M <sup>2</sup>	0.09765625	FOR GABLE ROOF
82	CEILING	M <sup>2</sup>	0.09765625	FOR INTERIOR CEILING
83	FLOORING	M <sup>2</sup>	0.09765625	FOR INTERIOR FLOOR
84	PAINT	LITRE	0.1953125	FOR INTERIOR PAINT
85	PLASTER	M <sup>2</sup>	0.048828125	FOR INTERIOR PLASTER
86	DOORS	NO.	1	FOR INTERIOR DOOR
87	WINDOWS	NO.	1	FOR INTERIOR WINDOW
88	ROOFING	M <sup>2</sup>	0.048828125	FOR GABLE ROOF
89	CEILING	M <sup>2</sup>	0.048828125	FOR INTERIOR CEILING
90	FLOORING	M <sup>2</sup>	0.048828125	FOR INTERIOR FLOOR
91	PAINT	LITRE	0.09765625	FOR INTERIOR PAINT
92	PLASTER	M <sup>2</sup>	0.0244140625	FOR INTERIOR PLASTER
93	DOORS	NO.	1	FOR INTERIOR DOOR
94	WINDOWS	NO.	1	FOR INTERIOR WINDOW
95	ROOFING	M <sup>2</sup>	0.0244140625	FOR GABLE ROOF
96	CEILING	M <sup>2</sup>	0.0244140625	FOR INTERIOR CEILING
97	FLOORING	M <sup>2</sup>	0.0244140625	FOR INTERIOR FLOOR
98	PAINT	LITRE	0.048828125	FOR INTERIOR PAINT
99	PLASTER	M <sup>2</sup>	0.01220703125	FOR INTERIOR PLASTER
100	DOORS	NO.	1	FOR INTERIOR DOOR
101	WINDOWS	NO.	1	FOR INTERIOR WINDOW
102	ROOFING	M <sup>2</sup>	0.01220703125	FOR GABLE ROOF
103	CEILING	M <sup>2</sup>	0.01220703125	FOR INTERIOR CEILING
104	FLOORING	M <sup>2</sup>	0.01220703125	FOR INTERIOR FLOOR
105	PAINT	LITRE	0.0244140625	FOR INTERIOR PAINT
106	PLASTER	M <sup>2</sup>	0.006103515625	FOR INTERIOR PLASTER
107	DOORS	NO.	1	FOR INTERIOR DOOR
108	WINDOWS	NO.	1	FOR INTERIOR WINDOW
109	ROOFING	M <sup>2</sup>	0.006103515625	FOR GABLE ROOF
110	CEILING	M <sup>2</sup>	0.006103515625	FOR INTERIOR CEILING
111	FLOORING	M <sup>2</sup>	0.006103515625	FOR INTERIOR FLOOR
112	PAINT	LITRE	0.01220703125	FOR INTERIOR PAINT
113	PLASTER	M <sup>2</sup>	0.0030517578125	FOR INTERIOR PLASTER
114	DOORS	NO.	1	FOR INTERIOR DOOR
115	WINDOWS	NO.	1	FOR INTERIOR WINDOW
116	ROOFING	M <sup>2</sup>	0.0030517578125	FOR GABLE ROOF
117	CEILING	M <sup>2</sup>	0.0030517578125	FOR INTERIOR CEILING
118	FLOORING	M <sup>2</sup>	0.0030517578125	FOR INTERIOR FLOOR
119	PAINT	LITRE	0.006103515625	FOR INTERIOR PAINT
120	PLASTER	M <sup>2</sup>	0.00152587890625	FOR INTERIOR PLASTER
121	DOORS	NO.	1	FOR INTERIOR DOOR
122	WINDOWS	NO.	1	FOR INTERIOR WINDOW
123	ROOFING	M <sup>2</sup>	0.00152587890625	FOR GABLE ROOF
124	CEILING	M <sup>2</sup>	0.00152587890625	FOR INTERIOR CEILING
125	FLOORING	M <sup>2</sup>	0.00152587890625	FOR INTERIOR FLOOR
126	PAINT	LITRE	0.0030517578125	FOR INTERIOR PAINT
127	PLASTER	M <sup>2</sup>	0.000762939453125	FOR INTERIOR PLASTER
128	DOORS	NO.	1	FOR INTERIOR DOOR
129	WINDOWS	NO.	1	FOR INTERIOR WINDOW
130	ROOFING	M <sup>2</sup>	0.000762939453125	FOR GABLE ROOF
131	CEILING	M <sup>2</sup>	0.000762939453125	FOR INTERIOR CEILING
132	FLOORING	M <sup>2</sup>	0.000762939453125	FOR INTERIOR FLOOR
133	PAINT	LITRE	0.00152587890625	FOR INTERIOR PAINT
134	PLASTER	M <sup>2</sup>	0.0003814697265625	FOR INTERIOR PLASTER
135	DOORS	NO.	1	FOR INTERIOR DOOR
136	WINDOWS	NO.	1	FOR INTERIOR WINDOW
137	ROOFING	M <sup>2</sup>	0.0003814697265625	FOR GABLE ROOF
138	CEILING	M <sup>2</sup>	0.0003814697265625	FOR INTERIOR CEILING
139	FLOORING	M <sup>2</sup>	0.0003814697265625	FOR INTERIOR FLOOR
140	PAINT	LITRE	0.000762939453125	FOR INTERIOR PAINT
141	PLASTER	M <sup>2</sup>	0.00019073486328125	FOR INTERIOR PLASTER
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143	WINDOWS	NO.	1	FOR INTERIOR WINDOW
144	ROOFING	M <sup>2</sup>	0.00019073486328125	FOR GABLE ROOF
145	CEILING	M <sup>2</sup>	0.00019073486328125	FOR INTERIOR CEILING
146	FLOORING	M <sup>2</sup>	0.00019073486328125	FOR INTERIOR FLOOR
147	PAINT	LITRE	0.0003814697265625	FOR INTERIOR PAINT
148	PLASTER	M <sup>2</sup>	0.000095367431640625	FOR INTERIOR PLASTER
149	DOORS	NO.	1	FOR INTERIOR DOOR
150	WINDOWS	NO.	1	FOR INTERIOR WINDOW
151	ROOFING	M <sup>2</sup>	0.000095367431640625	FOR GABLE ROOF
152	CEILING	M <sup>2</sup>	0.000095367431640625	FOR INTERIOR CEILING
153	FLOORING	M <sup>2</sup>	0.000095367431640625	FOR INTERIOR FLOOR
154	PAINT	LITRE	0.00019073486328125	FOR INTERIOR PAINT
155	PLASTER	M <sup>2</sup>	0.0000476837158203125	FOR INTERIOR PLASTER
156	DOORS	NO.	1	FOR INTERIOR DOOR
157	WINDOWS	NO.	1	FOR INTERIOR WINDOW
158	ROOFING	M <sup>2</sup>	0.0000476837158203125	FOR GABLE ROOF
159	CEILING	M <sup>2</sup>	0.0000476837158203125	FOR INTERIOR CEILING
160	FLOORING	M <sup>2</sup>	0.0000476837158203125	FOR INTERIOR FLOOR
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162	PLASTER	M <sup>2</sup>	0.00002384185791015625	FOR INTERIOR PLASTER
163	DOORS	NO.	1	FOR INTERIOR DOOR
164	WINDOWS	NO.	1	FOR INTERIOR WINDOW
165	ROOFING	M <sup>2</sup>	0.00002384185791015625	FOR GABLE ROOF
166	CEILING	M <sup>2</sup>	0.00002384185791015625	FOR INTERIOR CEILING
167	FLOORING	M <sup>2</sup>	0.00002384185791015625	FOR INTERIOR FLOOR
168	PAINT	LITRE	0.0000476837158203125	FOR INTERIOR PAINT
169	PLASTER	M <sup>2</sup>	0.000011920928955078125	FOR INTERIOR PLASTER
170	DOORS	NO.	1	FOR INTERIOR DOOR
171	WINDOWS	NO.	1	FOR INTERIOR WINDOW
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173	CEILING	M <sup>2</sup>	0.000011920928955078125	FOR INTERIOR CEILING
174	FLOORING	M <sup>2</sup>	0.000011920928955078125	FOR INTERIOR FLOOR
175	PAINT	LITRE	0.00002384185791015625	FOR INTERIOR PAINT
176	PLASTER	M <sup>2</sup>	0.0000059604644775390625	FOR INTERIOR PLASTER
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178	WINDOWS	NO.	1	FOR INTERIOR WINDOW
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180	CEILING	M <sup>2</sup>	0.0000059604644775390625	FOR INTERIOR CEILING
181	FLOORING	M <sup>2</sup>	0.0000059604644775390625	FOR INTERIOR FLOOR
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199	WINDOWS	NO.	1	FOR INTERIOR WINDOW
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201	CEILING	M <sup>2</sup>	0.0000007450580596923828125	FOR INTERIOR CEILING
202	FLOORING	M <sup>2</sup>	0.00000074505805969	



**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**



**PRELIMINARY ISSUE**  
 PROJECT NO: A401  
 DATE: 17/2/14  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 APPROVED BY: [Name]  
**David Langdon**  
 ARCHITECT  
 100/100 [Address]  
 [City] [State] [Postcode]  
 [Phone] [Fax]  
 [Email]  
 [Website]

43.2008.2736  
 17/21

**DECISION NOTICE DETAILS  
SUSTAINABLE PLANNING ACT 2009**

The image displays a set of architectural drawings for a building project. The drawings include:

- Top Left:** A site plan showing the building footprint, parking areas, and surrounding site boundaries.
- Top Right:** An elevation drawing of the building's exterior, showing a modern design with large windows and a flat roof.
- Bottom Left:** A section drawing of the building, illustrating the internal structure, floor levels, and roof profile.
- Bottom Right:** Another elevation drawing, possibly showing a different side or detail of the building.

On the left side of the drawings is a title block containing the following information:

- PROJECT NUMBER:** 43.2008.2736
- DATE OF COMPLETION:** 18/21
- PRELIMINARY ISSUE:** (indicated by a box)
- DESIGNER:** DAVIS LANGDON
- CLIENT:** CHARLES STREET APARTMENTS UNIT 10/11
- PROJECT LOCATION:** 10/11 CHARLES STREET, SYDNEY NSW 2000
- SYNOPSIS:** A brief description of the project.
- DATE:** 18/21
- SCALE:** A402

43.2008.2736  
18/21



**DECISION NOTICE DETAILS  
SUSTAINABLE PLANNING ACT 2009**

The image displays a set of architectural drawings for a building project. It includes two floor plans, two elevations, and two sections. The drawings are detailed, showing structural elements, room layouts, and external features. A technical specification table is located to the right of the drawings, listing various materials and components with their corresponding specifications.

NO.	DESCRIPTION	SPECIFICATION
1	CONCRETE	20 MPa
2	STEEL	300 MPa
3	GLASS	6mm clear
4	BRICK	Common
5	ROOFING	Asph/Flt
6	INSULATION	100mm EPS
7	PLASTER	12.5mm
8	PAINT	White
9	WOOD	Timber
10	ROOFING	Asph/Flt
11	INSULATION	100mm EPS
12	PLASTER	12.5mm
13	PAINT	White
14	WOOD	Timber
15	ROOFING	Asph/Flt
16	INSULATION	100mm EPS
17	PLASTER	12.5mm
18	PAINT	White
19	WOOD	Timber
20	ROOFING	Asph/Flt
21	INSULATION	100mm EPS
22	PLASTER	12.5mm
23	PAINT	White
24	WOOD	Timber
25	ROOFING	Asph/Flt
26	INSULATION	100mm EPS
27	PLASTER	12.5mm
28	PAINT	White
29	WOOD	Timber
30	ROOFING	Asph/Flt
31	INSULATION	100mm EPS
32	PLASTER	12.5mm
33	PAINT	White
34	WOOD	Timber
35	ROOFING	Asph/Flt
36	INSULATION	100mm EPS
37	PLASTER	12.5mm
38	PAINT	White
39	WOOD	Timber
40	ROOFING	Asph/Flt
41	INSULATION	100mm EPS
42	PLASTER	12.5mm
43	PAINT	White
44	WOOD	Timber
45	ROOFING	Asph/Flt
46	INSULATION	100mm EPS
47	PLASTER	12.5mm
48	PAINT	White
49	WOOD	Timber
50	ROOFING	Asph/Flt
51	INSULATION	100mm EPS
52	PLASTER	12.5mm
53	PAINT	White
54	WOOD	Timber
55	ROOFING	Asph/Flt
56	INSULATION	100mm EPS
57	PLASTER	12.5mm
58	PAINT	White
59	WOOD	Timber
60	ROOFING	Asph/Flt
61	INSULATION	100mm EPS
62	PLASTER	12.5mm
63	PAINT	White
64	WOOD	Timber
65	ROOFING	Asph/Flt
66	INSULATION	100mm EPS
67	PLASTER	12.5mm
68	PAINT	White
69	WOOD	Timber
70	ROOFING	Asph/Flt
71	INSULATION	100mm EPS
72	PLASTER	12.5mm
73	PAINT	White
74	WOOD	Timber
75	ROOFING	Asph/Flt
76	INSULATION	100mm EPS
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78	PAINT	White
79	WOOD	Timber
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81	INSULATION	100mm EPS
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83	PAINT	White
84	WOOD	Timber
85	ROOFING	Asph/Flt
86	INSULATION	100mm EPS
87	PLASTER	12.5mm
88	PAINT	White
89	WOOD	Timber
90	ROOFING	Asph/Flt
91	INSULATION	100mm EPS
92	PLASTER	12.5mm
93	PAINT	White
94	WOOD	Timber
95	ROOFING	Asph/Flt
96	INSULATION	100mm EPS
97	PLASTER	12.5mm
98	PAINT	White
99	WOOD	Timber
100	ROOFING	Asph/Flt

PRELIMINARY ISSUE

DAVIS LANGDON

ARCHITECTS

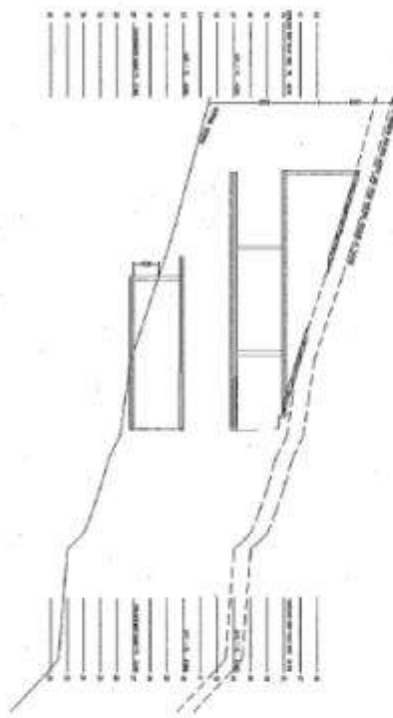
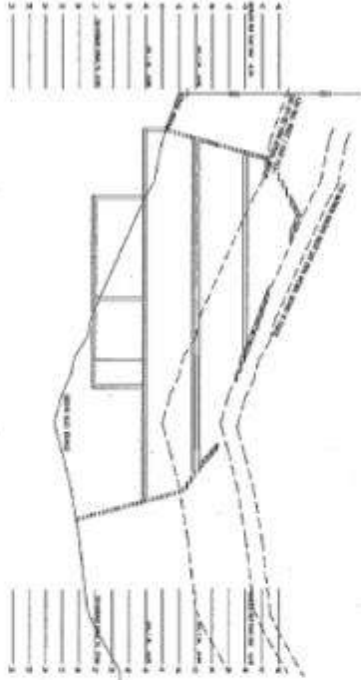
1000 WEST 10TH AVENUE, SUITE 1000, DENVER, CO 80202

43.2008.2736

19/21

**DECISION NOTICE DETAILS  
SUSTAINABLE PLANNING ACT 2009**

<p><b>PROJECT INFORMATION</b></p> <p>Project Name: [REDACTED]</p> <p>Project Address: [REDACTED]</p> <p>Project Reference: [REDACTED]</p>	
<p><b>PROJECT PRIMARY ISSUE</b></p> <p>[REDACTED]</p>	
<p><b>APPLICANT</b></p> <p>[REDACTED]</p>	
<p><b>APPLICANT CONTACTS</b></p> <p>[REDACTED]</p>	
<p><b>PROJECT DESCRIPTION</b></p> <p>[REDACTED]</p>	
<p><b>PROJECT LOCATION</b></p> <p>[REDACTED]</p>	
<p><b>PROJECT STATUS</b></p> <p>[REDACTED]</p>	
<p><b>PROJECT REFERENCE</b></p> <p>[REDACTED]</p>	



43.2008.2736  
20/21

**DECISION NOTICE DETAILS  
SUSTAINABLE PLANNING ACT 2009**



Our Ref: Meeting 51 Item 5.13 September 2010  
Council Ref: 80581

3 September 2010

Mrs Lyn Russell  
Chief Executive Officer  
Cairns Regional Council  
PO Box 359  
Cairns QLD 4870



Douglas Iconic Panel

Dear Mrs Russell

**Re Decision of the Development Assessment Panel for the Iconic  
Queensland Place of Douglas**

**Material Change of Use – Multiple Dwellings (Residential) (Impact  
Assessable) – Lot 131 on PTD2094, 36 Murphy Street, Port Douglas**

With reference to the abovementioned development application, please find attached the decision notice which was determined by the Development Assessment Panel for the Iconic Queensland Place of Douglas at its meeting held on 13 August 2010.

Pursuant to section 53(3) of the *Iconic Queensland Places Act 2008* (IQPA), the decision notice given by the Panel is taken to have been given by the local government as the assessment manager for the application in accordance with the *Sustainable Planning Act 2009* (SPA).

Accordingly, pursuant to section 728 of the SPA, Council is required to keep a copy of the decision notice available for inspection and purchase by the public.

Council's appeal rights are pursuant to section 54(3) of the IQPA.

Should you have any queries, please contact the undersigned on (07) 4039 8041.

Yours sincerely

Ben Throver  
Project Manager on behalf of the Development Assessment Panel for the Iconic  
Queensland Place of Douglas

cc: Mr Simon Clarke  
Assessment Manager  
Cairns Regional Council  
PO Box 359  
CAIRNS QLD 4870

Douglas Iconic Panel  
PO Box 5194  
Cairns QLD 4870  
Telephone +61 7 4039 8859  
Facsimile +61 7 4039 8860  
Website [www.dip.qld.gov.au](http://www.dip.qld.gov.au)  
E: [douglas.panel@dip.qld.gov.au](mailto:douglas.panel@dip.qld.gov.au)

43.2008.2736  
21/21

## APPENDIX 3: APPLICANT'S SUPPORTING REASONS

5 February 2014

Chief Executive Officer  
Douglas Shire Council  
PO Box 723  
MOSSMAN Q 4873

Att: Jenny Elphinstone

Dear Sir,

**RE: APPLICATIONS TO REQUEST TO EXTEND PERIOD OF APPROVAL IN  
RELATION TO LAND AT 36 MURPHY STREET PORT DOUGLAS AND  
DESCRIBED AS LOT 131 ON PTD 2094**

### 1.00 BACKGROUND

We act on instructions received from Carron Properties Pty Ltd the Applicant and land owner in relation to the above Applications lodged with the Cairns Regional Council on 19 December 2013.

Reference is also made to Council's letter dated 3 January 2014 and our meeting at Council's Office on 16 January 2014.

The Applications relate to the following approvals:-

- a) Development Permit for a Reconfiguration of a lot - one (1) lot into two (2) lots (Impact Assessment) - Council Reference **8/35/86**.

It is noted that Council issued a Negotiated Decision Notice for this Application with the relevant Decision Date being 26 May 2010.

It is further noted that the approval makes specific reference to a four (4) year currency period. Therefore the lapsing date for this approval is 26 May 2014.

- b) Development Permit for a Material Change of Use - Multiple Dwellings (Residential) (Impact Assessment) - Council Reference **8/35/81**.

It is noted that the Douglas Iconic Panel issued a Negotiated Decision Notice for this application with the relevant decision date being 3 September 2010. Therefore the lapsing date for this approval is 3 September 2014.

It is noted that an amended approval was issued by the Cairns Regional Council on 7 July 2011.

As detailed by Council's letter and confirmed at our meeting, the proponent is invited to make further representations in support of the Applications and in particular to respond to Section 388 of the Sustainable Planning Act 2009.

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Queensland Australia

Telephone 07 4031 3663  
Facsimile 07 4031 2238  
cairns@ferosplanning.com.au

Our Reference: **VGF C958**  
(WP: 21575)

### IN CONTINUOUS PRACTICE SINCE 1976

Principal  
**Victor G Feros**  
GCSJ BA MBS FPA CMILT LGPPQ CPP

Adjunct Professor  
School of Geography, Planning  
and Environmental Management  
University of Queensland

US Bicentennial Fellowship Award 1976

Administrative Director  
**Marion C Feros**  
B Plan MBS MPA ASA AFACP

Associate & Office Manager, Cairns  
**Nick Hardy**  
BAP (Hons) MPA LGPPQ

Senior Consultant Planner  
**Ken Todd**  
DIP(TACP) Dip Sec PLUPPA LGPPQ

Victor G Feros  
Town Planning  
Consultant Pty Ltd  
ABN 51 010 417 302

[www.ferosplanning.com.au](http://www.ferosplanning.com.au)

Based on the discussions at the meeting, it is understood that Council is seeking specific representations in relation to Section 388(1) (a):-

*"In deciding a request under Section 383, the assessment manager must only have regard to:-*

- a) *The consistency of the approval, including its conditions, with the current laws and policies applying to the development, including for example, the amount and type of infrastructure contributions, or charges payable under Chapter B, Part 1," (emphasis added)*

Further guidance in this regard is provided by Council's letter dated 3 January 2014 noting as follows:-

*"both applications relate to approvals issued for superseded scheme applications and that the land is now affected by a new Planning Scheme. It is Council Officer's opinion that the developments would not appear to be supported by the current Planning Scheme".*

A further concern was raised by the Council officer in relation to the approval for Multiple Dwellings two (2) dwellings. The Officer identified that should the Application to extend the period of approval be granted, this would allow the current approval to revert to the original Application for two (2) dwellings on the lower lot and one (1) dwelling on the upper lot.

Specific responses to these matters are provided below.

## **2.00 RECONFIGURATION OF A LOT APPLICATION**

This Application was lodged with Council and assessed by Council in accordance with the provisions of the Superseded Douglas Shire Planning Scheme (1996).

It is noted that the Reconfiguration of a Lot Code within the Superseded Douglas Shire Planning Scheme (1996) nominated a minimum lot size of 1000m<sup>2</sup> for land within the Residential B Zone.

The Reconfiguration of a Lot Code within the current Douglas Shire Planning Scheme (2006) has nominated a minimum lot size of 1500m<sup>2</sup> for land within the Residential 1 Planning Area and within the Special Management Area 1 – Flagstaff Hill.

As noted at the meeting on 16 January 2014, Council Officers seek a further response to the Reconfiguring of a lot Code as specified by the current Douglas Shire Planning Scheme (2006) given the previous reference to Section 388 (1) (a).

A response to this Code is detailed as follows:-

- a) Purpose Statements for the Code.

The purpose of the Code is to ensure that:-

- *Lots are suitable for their intended use*

### **Response:**

The land is within the Residential 1 Planning Area and it is proposed to develop a dwelling house on each proposed lot.

- *The environmental and scenic values of the Shire are protected*

**Response:**

The site will be developed in a similar manner to other lots on Flagstaff Hill containing equivalent lot sizes. As demonstrated by the Material Change of Use approval for residential uses on the site, the environmental and scenic values of Flagstaff Hill can be protected and maintained.

- *"lot reconfiguration in the Rural Planning Areas and Rural Settlement Planning Areas does not result in the fragmentation or alienation of GQAL"*

**Response:**

Not relevant in this instance

- *"Lot reconfiguration of land achieves good urban design outcomes;"*

**Response:**

The proposed lots represent an efficient use of the land and are consistent in size and dimensions to other lots in the general vicinity. The lots as proposed will enable dwellings to be constructed that are able to display good urban design and that are appropriate at this location.

- *"Lot reconfiguration in the urban areas of the shire facilitates" the following*  
*"The efficient use of land"*

**Response:**

The proposal represents an efficient use of land by allowing for the provision of an additional lot. It is submitted that the proposal is consistent with other recently created lots within the immediate vicinity.

*"Site, convenient and attractive neighbourhoods and functional industrial or commercial areas"*

**Response:**

It is submitted that the proposed subdivision has a form and function equivalent to existing lots within the surrounding locality. It is further submitted that both lots have convenient road access.

*"The efficient provision of infrastructure"*

**Response:**

The current conditions of approval demonstrate that infrastructure can be provided to the site in an efficient manner.

*"provision of public open space, landscaping and recreational areas for outdoor recreation and community activities"*

**Response:**

Given that this is a two (2) lot subdivision the provisions of these items is not relevant.

*"opportunities for walking and cycling recreation and as alternative methods of travel"*

**Response:**

Both lots will have connections to the existing road network and therefore opportunities for walking and cycling will be provided.

b) Elements of the code

*i) Area and Dimensions of Lots*

PERFORMANCE CRITERIA	ACCEPTABLE SOLUTIONS
P1 Lots are sufficient area and dimensions to meet the requirements of the users and accommodate the form of development likely to be constructed in the respective Planning Areas, together with the open space, Landscaping, Access and car parking associated with the particular form of development.	A1.1 Lots comply with the area and dimensions identified for lots in the respective Planning Areas in Table 1.  Table 1 notes a minimum area for lots of 1500m <sup>2</sup> and a requirement to accommodate a square with a minimum size of 30 metres for land within the Special Management Area 1 - Flagstaff Hill.

**Response:**

A copy of the proposed plan of survey is attached as **Appendix A**. It is noted that both proposed lots have overall dimensions of 30.175m by 33.535m. Accordingly, both lots comply with the acceptable solution for minimum dimensions. It is further noted both of the proposed lots have an area of 1012m<sup>2</sup> whereas the acceptable solution nominates a minimum area of 1500m<sup>2</sup>.

Notwithstanding the minimum lot size noted in the Acceptable Solutions, it is noted that the Performance Criteria establishes the overarching planning intent for this requirement.

In response to this matter the following aspects are noted:-

- a) The current Material Change of Use approval for the residential use of the lots clearly demonstrates that:-
  - (i) the lots are of "sufficient area and dimensions to meet the requirements of the users and accommodate the form of development likely to be constructed"
  - (ii) In addition, the current use approval demonstrates that the proposed lots can provide open space, landscaping, access and car parking associated with the residential use of the land.
  - (iii) It is noted that the suitability of the proposed lots for residential development was confirmed by the issue of the Negotiated Decision Notice on the 26 May 2010 and the subsequent amended approval issued on 7 July 2011. It is further noted that both approvals were issued after the adoption of the current Douglas Shire Planning Scheme (2006) and therefore regard was given to the planning intent of this document.

b) The proposed lots are consistent in area and dimensions to other lots within the general vicinity and in particular the area located between Island Point Road and Murphy Street.

*(ii) Rural Planning Area*

**Response:**  
Not Applicable

*(iii) Rural Settlement Area*

**Response:**  
Not Applicable

*(iv) Residential 1 Planning Area*

**Response:**  
Not Applicable as the proposal does not involve the creation of greater than 10 lots or multi-unit dwellings.

*(v) Commercial/Industrial Planning Area*

**Response:**  
Not Applicable

*(vi) Infrastructure for local communities*

**Response:**  
As noted by Condition 3 in the current Negotiated Decision Notice the proponent is required to pay a monetary contribution towards open space. Therefore the requirement of the Acceptable Solution can be met.

*(vii) Road Network*

**Response:**  
Not Applicable as no new roads are required to be constructed.

*(viii) Pedestrian and Bicycle Network*

**Response:**  
Not Applicable as no new pedestrian and bicycle networks are proposed.

*(ix) Stormwater Drainage Water Supply Treatment and Supply of Effluent*

**Response:**  
All of these matters can be addressed by compliance with the current conditions of approval and subsequent requirements specified by an operational works approval.

*(x) Residential Development - Standard Format Plan with Common Property*

**Response:**  
Not Applicable  
*(xi) Boundary Realignment*

**Response:**  
Not Applicable



(xii) *Energy Efficiency*

**Response:**

The proposed lots will enable energy efficient houses to be constructed on the site.

Given the above representations it is submitted that the currently approved Reconfiguration of a Lot Application can meet the planning intent of the Reconfiguration of a Lot Code as specified by the Douglas Shire Planning Scheme (2006).

It is further submitted that there is no statutory impediment to Council approving the request to extend the period of approval application.

**3.00 MATERIAL CHANGE OF USE APPLICATION- MULTIPLE DWELLINGS**

As background to this Application, the following aspects are noted:-

- a) The original Application was lodged with Council on 1 September 2008. This Application sought approval for Development Permit for a Material Change of Use (Superseded Douglas Shire Planning Scheme) for Multiple Dwelling (Residential Purposes).

It is noted that the Application was lodged concurrently with the Reconfiguration of a lot Application.

- b) It is noted that there were no submissions received by Council during the Public Notification Period.

- c) As part of the amalgamation process for both the Douglas Shire Council and the Cairns Regional Council, the Douglas Iconic Panel was enacted between 2008 and 2011. The Panel in conjunction with the Cairns Regional Council had a "joint role" in the planning approval process during this period.

Following the repeal of the Iconic Queensland Places Act (2008) and the recent de-amalgamation process resulting in the creation of the Douglas Shire Council, the previous decisions made by both the Panel and the Cairns Regional Council are now within the jurisdiction of the Douglas Shire Council.

- d) Following negotiations with Cairns Regional Council as part of providing a response to an Information Request, the Application was amended to request approval for one (1) house on the upper lot and one (1) house on the lower lot.

The reference to multiple dwellings was retained based on advice from Council that the lot had not yet been subdivided.

- e) The Application was determined by Council to require Impact Assessment and the public notification for the Application was undertaken between 23 November 2009 and 15 December 2009.

The proposal was described as follows within the public notification:-

*"Development Permit for Material Change of Use (Impact Assessment) - Request for consideration under superseded Planning Scheme for Multiple Dwellings (Residential) -two (2) Dwelling Houses"*.

- f) The Douglas Iconic Panel issued the Negotiated Decision Notice dated 3 September 2010.

The approval made reference to the approved plans showing one (1) dwelling house on the upper lot and one (1) dwelling house on the lower lot.

- g) Following further consideration of the approval the proponent undertook action to lodge an application with the Cairns Regional Council to amend an existing approval.

This Application was lodged with Council on 8 June 2011 and was approved by delegated authority on 7 July 2011.

The amended approval made reference to the proposal as "Multiple Dwellings (Residential) - 2 Units".

This approval also made specific reference to approved plans showing one (1) dwelling house on the upper lot and one (1) dwelling house on the lower lot.

- h) It is noted that the approvals described in items e) and f) above, were both issued after the adoption of the current Douglas Shire Planning Scheme (2006) and therefore had regard to the planning intent of this document.

In response to the matters raised by Council's letter dated 3 January 2014 and the meeting on 16 January 2014 the following submissions are made:-

- a) Both the Negotiated Decision Notice dated 3 September 2010 and the Amended Approval dated 7 July 2011 refer to two (2) dwelling houses and to approved plans showing one (1) dwelling house on the upper lot and one (1) dwelling house on the lower lot.

Given the specific nature of the current Material Change of Use approval it is submitted that Council's action to extend the currency period for the current approval would not allow the approval to revert to the original application for three (3) residential dwellings.

In addition, the proponent agreed to modify the Application as part of the response to the Information Request and did not lodge an appeal with the Planning and Environment Court against the decision by the Douglas Iconic Panel to issue approval for two (2) residential units rather than three (3) residential units.

- b) Council's reference to Section 388 (1) (a) of the Sustainable Planning Act (2009) noting that in deciding the Application to extend the period of approval Council must only have regard to "the consistency of the approval, including its conditions, with the current laws, and policies applying to the development" is acknowledged.

This reference has inferred that Council is to give regard to the current Douglas Shire Planning Scheme (2006).

It is submitted the action by Cairns Regional Council to consider and approve the Application to change an Existing Approval and issue the Decision Notice dated 7 July 2011 is also relevant.

In particular, Section 374 of the Sustainable Planning Act 2009 in relation to changing an existing approval is noted as follows:-

*"(1) To the extent relevant, the responsible entity must assess the request having regard to-*

- *the information the person making the request included with the request; and*
- *the matters the responsible entity would have regard to if the request were a development application; and*
- *if submissions were made about the original application- the submissions; and*
- *any notice about the request given under section 373 to the entity; and*
- *any pre-request response notice about the request given to the entity;*

*(2) For subsection (1)(b), the responsible entity must have regard to the planning instruments, plans, codes, laws or policies applying when the original application was made, but may give the weight if considers appropriate to the planning instruments, plans, codes, laws or policies applying when the request was made." (emphasis added)*

The following submissions are made in this regard:-

- a) Council at the time of assessing the Request to Change an Existing Approval in mid 2011 gave regard to provisions of the current Douglas Shire Planning Scheme (2006).
- b) This Practice together with Charles Wright Architects provided responses to Council in relation to changes proposed to the approval and the provisions of the current Douglas Shire Planning Scheme (2006). These responses are detailed in our Town Planning Report dated June 2011 (Reference VGF - C849).

This Report made a comparison between the approved development in accordance with the Negotiated Decision Notice dated 3 September 2010 and the revised development.

The significant aspects from this comparison are noted as follows:-

- a) Minimum building heights were reduced from a range of 12m to 13m to a maximum height of 10m.  
  
This accords with the maximum building height specified by the current Douglas Shire Planning Scheme (2006).
- b) The revised design allowed for on-site cut and fill to be minimized.
- c) The revised plans enabled the provision of an improved design response to the natural features of Flagstaff Hill, including the slope of the site and the vegetation located on the site and surrounding land.

It is considered that the Cairns Regional Council as the responsible entity has previously considered the current approval within the planning context of the Douglas Shire Planning Scheme (2006) and determined that development is suitable and appropriate.

On this basis it is submitted that there is no impediment to Council extending the period of approval for the current Application as the proposal accords with the planning intent of the Douglas Shire Planning Scheme (2006).

Council's favourable consideration of these submissions is commended.

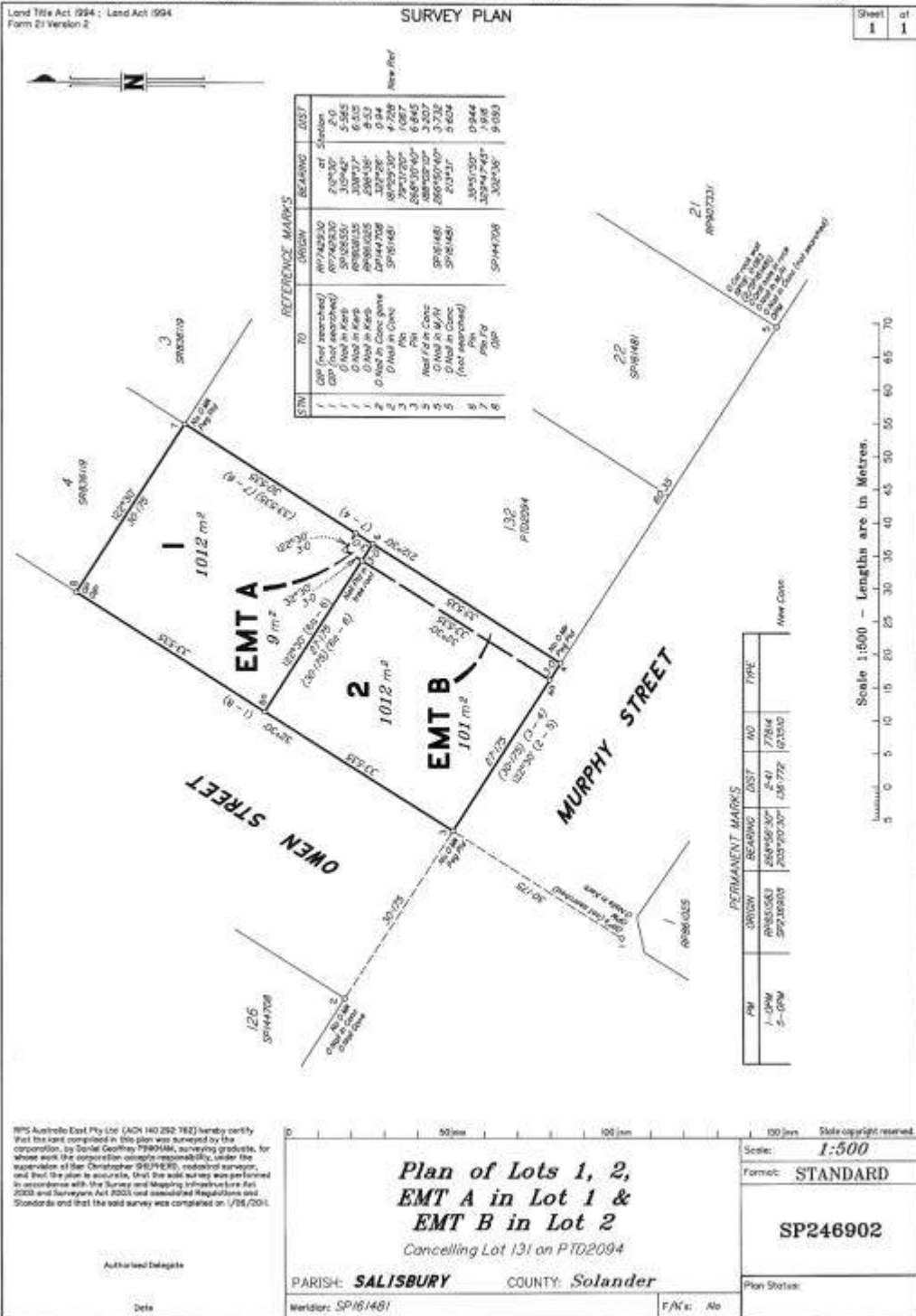
Yours faithfully  
VICTOR G FEROS TOWN PLANNING CONSULTANTS

A handwritten signature in black ink, appearing to read 'Nick Hardy', is written over a horizontal line. The signature is stylized and includes a small mark resembling a '2' at the end.

Nick Hardy  
Associate and Office Manager

cc Dennis Carron

## **APPENDIX A**



Sheet 1 of 1

Scale 1:500 - Lengths are in Metres.

RPS Australia East Pty Ltd (ACN 140 292 762) hereby certify that the land comprised in this plan was surveyed by the corporation, by Sante Geoffrey FROSTHAM, surveying graduate, for whose work the corporation accepts responsibility, under the supervision of Ben Christopher SELLERS, registered surveyor, and that the plan is accurate, that the said survey was performed in accordance with the Survey and Mapping Information Act 2000 and Surveyors Act 2001 and associated Regulations and Standards and that the said survey was completed on 1/26/2011.

Plan of Lots 1, 2, EMT A in Lot 1 & EMT B in Lot 2  
 Cancelling Lot 131 on PTD2094

PARISH: **SALISBURY** COUNTY: *Solander*

Worlds: SP161481 F/A's: No

Scale: **1:500**

Format: **STANDARD**

**SP246902**

Plan Status:



ORDINARY COUNCIL MEETING	5
18 FEBRUARY 2014	

**FINANCIAL BUDGET REPORT**

# **LATE ITEM**