# 5.02. REQUEST FOR PERMISSIBLE CHANGE - RECONFIGURING A LOT (1 INTO 5 LOTS) 1L OASIS DRIVE, WONGA BEACH, FLORO PTY LTD

<b>REPORT AUTHOR(S):</b>	Simon Clarke, Planning Consultant
GENERAL MANAGER:	Paul Hoye, General Manager Operations
DEPARTMENT:	Sustainable Communities

**PROPOSAL**Request for a Permissible Change - Reconfiguring<br/>a Lot (1 Lot into 5 Lots)

**APPLICANT** 

Floro Pty Ltd C/- Charles O'Neill Surveyors & Planners PO Box 5246 CAIRNS QLD 4870

LOCATION OF SITE

PROPERTY

Lot 1 on SP259953

1L Oasis Drive, Wonga

# LOCALITY PLAN



# LOCALITY

PLANNING AREA

Coastal Suburbs Tourist and Residential 14 of 263

PLANNING SCHEME	Douglas Shire Planning Scheme 2006
REFERRAL AGENCIES	None Applicable
NUMBER OF SUBMITTERS	Not Applicable
STATUTORY ASSESSMENT DEADLINE	13 May 2016
APPLICATION DATE	30 March 2016

# RECOMMENDATION

A. That Council approves the request for permissible change, in part, to the development permit for reconfiguration of a lot (1 into 5 lots, in 2 stages) over land described as Lot 1 on SP259953, located at Oasis Drive, Wonga Beach, subject to the following revised set of conditions.

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

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

Drawing or Document	Reference	Date
Plan of Proposed Lots /	CNS Drawing 30728-PP01	As submitted to Council on
Staging	Issue <u>A</u>	30 March 2016 1 August
		<del>2014</del>
Filling and Drainage Plan	PDR Engineers drawing 14810 – SK01 Revision A dated February 2015 and to be amended by the conditions of the approval	To be determined.

#### **Assessment Manager Conditions**

- 1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
  - a. The specifications, facts and circumstances as set out in the application submitted to Council; and
  - b. The following conditions of approval and the requirements of Council's Planning Scheme and the *FNQROC Development Manual*.

Except where modified by these conditions of approval

# Timing of Effect

2. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

#### Access

3. Access for Proposed Lot 1 must only be south of the proposed street trees to either Oasis Drive or Bells Reef Close as detailed on PDR Engineers drawing 14810 – Sk01 Revision A dated February 2015.

#### Layout and Design

- 4. The lot fill design is to be generally in accordance with PDR Filling and Drainage plan 14810 SK01 Revision A dated February 2015 subject to:
  - a. Setback of fill areas a minimum of 6m from the property boundary from all roads.
  - b. A minimum fill pad of 1000m<sup>2</sup> must be provided for each lot.
  - c. Fill lots in compliance with condition 9 below;
  - d. The fill pads for proposed Lots 3 and 5 are to be extended to the southern boundary of each lot and retained;
  - e. Appropriate protection is to be provided to prevent non authorised vehicles from entering the drainage easement including at a minimum, Barrier Kerbing. The applicant is to assess the need for additional barriers and or landscaping in these areas;
  - f. Delete the vehicle access from Bells Reef Close for proposed lot 5; and
  - g. A filling pad will be required within either proposed Lot 4 or 5 in Stage 2, that conforms with these conditions of approval, in association with the development of Stage 1; and
  - <u>h.g.</u> Any amendments required to comply with the conditions and the requirements of Queensland Streets and the FNQROC Development Manual.

The detailed design plans incorporating the above requirements must be submitted to the satisfaction of the Chief Executive Officer with the application for 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 Compliance Certificate for the Plan of Survey.

#### **External Works**

- 5. Undertake the following works external to the site:
  - a. Provide a single water connection to each lot to connect the site to the existing water supply infrastructure. The Applicant is to verify that sufficient pressure is available in the existing system to meet the FNQROC Development Manual operating standard. Where not compliant the Applicant must identify and provide the necessary upgrade to achieve the required pressure; and

b. Provide underground power to all lots.

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. Works must be designed in accordance with the FNQROC Development Manual.

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 Compliance Certificate for the Plan of Survey.

### On-Site Effluent Disposal

6. The method of on-site effluent disposal must be in accordance with the recommendations contained in the On-Site Sewage Disposal Assessment Report prepared by Zammataro Plumbing Pty Ltd as dated 24 February 2015 or as otherwise approved by the Chief Executive Officer.

#### Acid Sulfate Soil Investigation

7. Undertake an Acid Sulfate Soil investigation in the area to be affected by this development. Soil sampling and analysis must be undertaken in accordance with procedures specified in 'Guidelines for Sampling and Analysis of Lowland Acid Sulfate Soils in Queensland' (1998) or updated version of document produced by Department of Natural Resources and Mines (Previously DNRW – QASSIT), and State Planning Policy 2/02 – 'Planning and Managing Development involving Acid Sulfate Soils'. The results of this investigation must be submitted to Council for approval prior to any earthworks or clearing being commenced on the site.

Identification of soils with a pyrite content in excess of the action levels nominated in the latest version of DNRM – QASSIT: 'Guidelines for Sampling and Analysis of Lowland Acid Sulfate Soils in Queensland' (1998) will trigger the requirement for preparation of an Acid Sulfate Soil Environmental Management Plan in accordance with the most recent requirements of the DNRM: 'Queensland Acid Sulfate Soil Technical Manual' (2002), including Soil Management Guidelines (updated Feb 2003), which must be prepared to the satisfaction of the Chief Executive Officer.

#### Drainage Study of Site

8. The design of the drainage infrastructure is to be generally in accordance with the drainage study for the site by PDR Engineers. The applicant must certify that there are no adverse drainage impacts on upstream and downstream properties and/or identify the mitigation measures required to minimise such impacts.

The study must be endorsed as remaining current for this development or must be updated an approved by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

#### Extent of Earthworks

- 9. The concept for excavation and earthworks as detailed on PDR Engineers Fill and Drainage Plan Drawing 14810 – SK01 Revision A dated February 2015 is generally approved subject to compliance with the on-site disposal and drainage conditions and subject to the following amendments:
  - a. The earthworks fill zones are to be continuous to the southern boundaries of Lots 3 and 5;
  - b. For lots 1, 2, 3 and 5 the nominated fill level of 3.4m is to be increased to 4.04m AHD level unless otherwise approved by Council. Any reduction below 4.04m AHD must be supported by a further study, to the satisfaction of Council, to a lower level than 4.04 but no lower than 3.54m AHD. Any reduction below 4.04m AHD must utilise at least a 0.3 Sea Level Rise (SLR) and increase in intensity of cyclone action.

The final earthworks design is to be lodged with the application for a Development Permit for Operational Works. Such earthworks must be completed in accordance with the approved plans prior to the issue of a Compliance Certificate for the Plan of Survey.

Future Redevelopment of Proposed Lot 4

10. In the event that the proposed Lot 4 is redeveloped prior to any such redevelopment the lot must be land must be filled to a level of 4.04m AHD level unless otherwise approved by Council. Any reduction below 4.04m AHD must be supported by a further study, to the satisfaction of Council, to a lower level than 4.04 but no lower than 3.54m AHD. Any reduction below 4.04m AHD must utilise at least a 0.3 Sea Level Rise (SLR) and increase in intensity of cyclone action.

Building Envelope Plan

- 11. A building envelope plan for each of the lots must be lodged with Council prior to the issue of a Compliance Certificate for the Plan of Survey. The building envelope plan must comply with the following requirements:
  - a. The building envelope must be pegged on site to the requirements and satisfaction of the Chief Executive Officer; and

b. Identify the area of fill that meets the requirements of Condition 10 above.

The applicant / owner must also ensure that the endorsed building envelope plans are made known to all prospective purchasers of the lots.

Vehicle Access to Proposed Lot 5

12. Other than authorised Council access no vehicle access from Bells Reef Close is permitted for proposed lot 5

### Stockpiling and Transportation of Fill Material

13. 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.
- 14. 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

15. 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

16. The applicant / owner must undertake the development of the land in accordance with the findings of the Concept, Filling and Drainage Plan prepared by PDR Engineers as detailed on drawing 154810 – SK01 revision A dated February 2015.

Lawful Point of Discharge

17. 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

18. 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).

**Existing Services** 

- 19. 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, the lodgement of a Compliance Certificate for the Plan of Survey creating the lot.

#### **Electricity Supply**

20. 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**

21. 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 the issue of a Compliance Certificate for the Plan of Survey.

# Street Lighting

- 22. The following arrangements for the installation of street lighting for the frontage of the proposed subdivision to <del>Oasis Drive and</del> Bells Reef Close must be provided prior to the issue of a Compliance Certificate for the Plan of Survey:
  - a. Prior to the approval and dating of the Plan of Survey, a Rate 2 lighting scheme is to be prepared by Ergon Energy or its approved consultant and submitted to the Chief Executive Officer for approval. The Rate 2 lighting scheme is to be designed in accordance with the relevant Road Lighting Standard AS/NZS 1158 and the FNQROC Development Manual. The applicable lighting category is to be determined from the Road Hierarchy Table D1.1 and the corresponding applicable Lighting Categories Table D8.1 as identified in the FNQROC Development Manual.

The design must provide the applicable illumination level specified in the Road Lighting Standard AS/NZS 1158 at the following road elements:

- Intersections
- Pedestrian Refuges
- Cul-de-sacs (Including the new turnaround at the northern end of Marlin Drive)
- LATM Devices (Including Roundabouts)

LATM Devices are to be shown on the civil layout design, the electrical services and street lighting design must be submitted in accordance with Ergon Energy's latest Distribution Design Drafting Standard.

- b. Prior to the issue of a Compliance Certificate for the Plan of Survey written confirmation that the relevant capital contribution required by Ergon Energy has been paid must be submitted, to ensure that the street lighting will be constructed.
- c. Where a new intersection is formed on an existing roadway for the purpose of accessing a new subdivision development, the intersection and existing road approaches must be provided with street lighting for a distance equivalent to at least two (2) spans either side of the intersection to the relevant Lighting Category.

d. Where an existing intersection is required to be upgraded as part of a development approval, the intersection and existing road approaches must be provided with street lighting for a distance equivalent to at least two (2) spans either side of the intersection to the relevant Lighting Category.

#### Landscape Plan

- 23. Undertake landscaping of the conservation covenant areas for Lots 1 to 6 and 15 to 17 inclusive in accordance with FNQROC Development Manual and in accordance with a landscape plan. The landscape plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Work. In particular, the plan must show:
- a. The revegetation of cut and fill batters;
- b. provision of suitable street trees; and
  - c. Inclusion of all requirements as detailed in other relevant conditions included in this Approval, with a copy of this Development Approval to be given to the applicant's Landscape Architect / Designer.
- Two (2) A1 copies and one (1) A3 copy of the landscape plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works. Areas to be landscaped must be established prior to approval and dating of the Plan of Survey and must be maintained for the duration of the on-maintenance period to the satisfaction of the Chief Executive Officer.

#### Damage to Council Infrastructure

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

#### ADVICE

- 1. This approval, granted under the provisions of the Sustainable Planning Act 2009, shall lapse two (2) four (4) years from the day the approval takes effect in accordance with the provisions of sections 339 and 341 of the Sustainable Planning Act 2009.
- 2. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
- 3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.

#### Infrastructure Charges Notice

4. A charge levied for the supply of trunk infrastructure is payable to Council towards the provision of trunk infrastructure in accordance with the Adopted Infrastructure Charges Notice, a copy of which is attached for reference purposes only. The original Adopted Infrastructure Charges Notice will be provided under cover of a separate letter.

The amount in the Adopted Infrastructure Charges Notice has been calculated according to Council's Adopted Infrastructure Charges Resolution.

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

The amount in the Adopted Infrastructure Charges Notice is subject to index adjustments and may be different at the time of payment. Please contact Development and Environment at Council for review of the charge amount prior to payment.

The time when payment is due is contained in the Adopted Infrastructure Charges Notice.

- 5. For information relating to the Sustainable Planning Act 2009 log on to www.dsdip.qld.gov.au. To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.
- B. The request for a permissible change to conditions 4 and 11 is refused.

#### EXECUTIVE SUMMARY

A development permit subject to conditions was issued on 6 May 2015 to subdivide land located at 1L Oasis Drive, Wonga Beach into five (5) allotments. The land is low-lying and is subject to conditions that require that the allotments be filled to achieve adequate flooding immunity. The applicant has requested that these conditions be removed and that the future land owners fill the land prior to obtaining a development permit for building works. This aspect of the request is unsatisfactory as new allotments are required to be created to meet flood immunity standards. The other aspects associated with the request to change conditions are generally reasonable and have been recommended for amendment, accordingly.

#### TOWN PLANNING CONSIDERATIONS

#### Background

A development permit was issued on 6 May 2015 to subdivide the land from 1 lot into 5 lots subject to conditions. The applicant is now seeking to change a number of the conditions attached to the development permit.

#### **Proposal and comments**

The applicant is seeking to amend five (5) conditions of approval as follows:

# Condition 1

Condition 1 relates to the layout of the site. The applicant wishes to undertake the development in two (2) stages as depicted on proposal 30728-PP01A.

**Comment:** The only concern raised with the staging proposal is that it will create a balance lot (being Stage 2) that could be disposed of separately to Stage 1. Given that the lots are subject to potential storm-tide inundation, the balance lot will need to have the nominated fill in place within either proposed Lot 4 or 5 prior to Council being required to issue a certificate of compliance for Stage 1. Conditions 1 and 4 are recommended to be amended accordingly.

# Condition 4

Condition 4 relates to filling of the site. Condition 4b refers specifically to the area of fill required. The applicant requests that the area of fill be reduced from 1000m<sup>2</sup> to an area sufficient to contain a dwelling.

In addition to the above, the applicant acknowledges the requirements of this condition and requests that filling of the lots occurs individually at the time that any building works are undertaken on-site. The reason for requesting the change to this condition is to reduce the area of fill required on-site and to postpone filling of the lots to the time that the location of future dwellings are known.

As the proposed lots are larger than standard residential lots, filling of the site and nominating building envelopes prior to Council endorsing a compliance certificate for the plan of survey would restrict any future proprietor locating a dwelling to their preference.

A notation placed on Council's future rates notice would make any future proprietors aware of the fill requirements on the subject lots.

**Comment:** Part of the purpose of Council's assessment of planning applications for subdivision is to determine whether the proposed lots are suitable for their intended use. In this case, the land is subject to potential storm tide inundation. As this is the case, it is the applicant's responsibility to make the lots suitable for their intended use rather than pass that responsibility on to a future owner. A future owner may then choose to modify the filling on the land to suit their needs, if the need arises. This part of the request is not supported.

# Condition 11

Condition 11 requires a building envelope plan to be lodged with Council prior to the issue of a compliance certificate for the plan of survey.

As the proposed lots are larger than standard residential lots, filling of the site and nominating building envelopes prior to Council endorsing a compliance certificate for the plan of survey would restrict any future proprietor locating a dwelling to their preference.

Standard building setbacks in accordance with the development codes are considered acceptable in this instance.

A notation placed on Council's future rates notice would make any future proprietors aware of the fill and building envelope requirements on the subject lots.

**Comment:** In accordance with the comments relating to the request to change Condition 4, the purpose of the building envelope is to ensure that dwellings are sited on the area of fill to be placed on the land. It is the applicant's responsibility to make the lots suitable for their intended use rather than pass that responsibility on to a future owner. A future owner may then choose to modify the filling / building location envelope on their land to suit their needs, if the need arises. This part of the request is not supported.

#### Condition 22

Condition 22 relates to street lighting. Oasis Drive already has street lighting. The applicant requests that the condition be removed.

**Comment:** It is agreed that there is street lighting in Oasis Drive. However, there is no street lighting in Bells Reef Close. The condition is to be retained. However, the reference to Oasis Drive can be removed from the condition.

#### Condition 23

Condition 23 relates to the requirement for landscaping. The condition specifically relates to the development of the adjoining land located at 2L Oasis Drive (DSC Ref: 591/2014). The applicant requests that this condition be removed.

**Comment:** It is agreed that the lots referenced in this condition are located in the adjoining subdivision located at 2L Oasis Drive and the condition should be deleted.

#### Other issues:

**Infrastructure Charges** – The applicant requests that the development's infrastructure charges be calculated using the Douglas Shire Council Adopted Infrastructure Charges that had effect from 1 July 2015. It is usual practice to apply the infrastructure charges applicable at the time that Council is required to issue a compliance certificate for a plan of survey. An updated infrastructure notice has been prepared and attached to the approval.

**Currency Period** – The application requires further development permits for Operational Works. The currency period contained in the original development permit should have been 4 years, not 2 years as stated. The advice statement will be adjusted accordingly.

#### State Planning Requirements

None applicable

#### **COUNCIL'S ROLE**

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

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

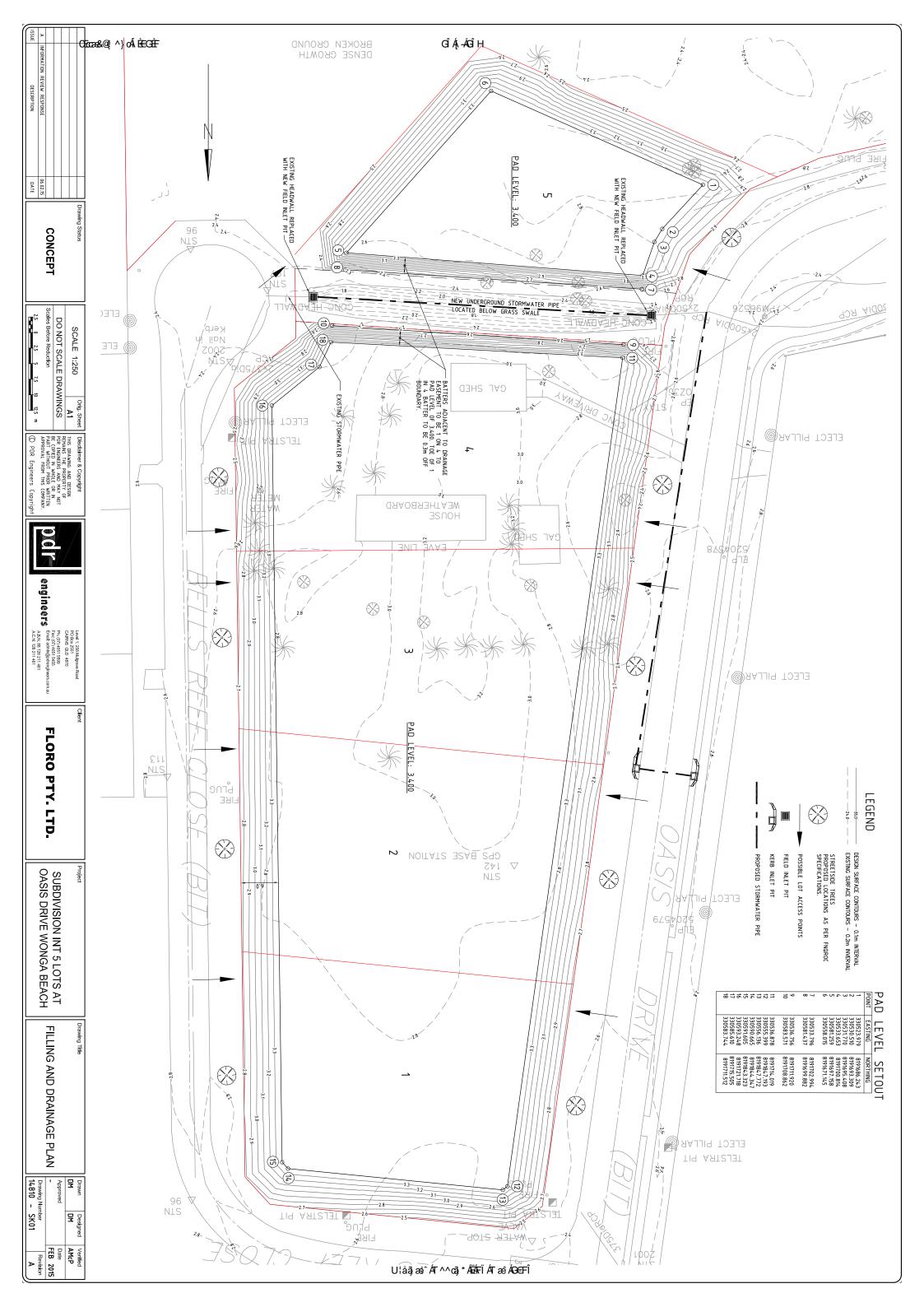
# **Regulator:** Meeting the responsibilities associated with regulating activities through legislation or local law.

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

# **ATTACHMENTS**

Attachment 1 –	Amended Approved Plans
Attachment 2 –	Amended Infrastructure Charges Notice





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SHIRE COUNCIL			HARGES NOTIC		
Floro Pty Ltd			0		0
DEVELOPERS NA	ME	Wanga	ESTATE		STAGE
1L Oasis Drive		Wonga Beach	Lot 1 SP2	259953	157269
STREET No. & NAME		SUBURB	LOT & RF	P No.s	PARCEL No.
ROL		209/2014	1-Jun-	-16	
DEVELOPMENT TYPE		COUNCIL FILI			VALIDITY PERIOD (years)
732376		1			
DSC Reference Doc . No.		VERSION No.			
	Use	Charge per Use	Amount Due	Amount Paid	Receipt Code & GL Co
Rural Areas - Water Only	0	0.00	0.00		
proposed	0	0.00	0.00		
	-				
existing	0	0.00	0.00		
Total			0.00		
Total			0.00		
Irban Areas - Water only					
proposed	5	12,832.47	64,162.35		
	0	0.00	0.00		
existing	1	12,832.47	12,832.47		
Total			51,329.88		
Jrban Areas - Water & Sewer					
proposed	0	0.00	0.00		
	0	0.00	0.00		
existing	0	0.00	0.00		
Total			0.00		
		TOTAL	\$51,329.88		
repared by S	Clarke		28-Apr-16	Amount Paid	
Checked by N	Beck		28-Apr-16	Date Paid	
Date Payable					
mendments		D	ate	Receipt No.	
				Cashier	

#### Note:

The Infrastructure Charges in this Notice are payable in accordance with Part 2 Division 1 of the Sustainable Planning Act 2009 (SPA).

Charges are payable to: Douglas Shire Council. You can make payment at any of Council's Business Offices or by mail with your cheque or money order to Douglas Shire Council, PO Box 723, Mossman QLD 4873. Cheques must be made payable to Douglas Shire Council and marked 'Not Negotiable.' Acceptance of a cheque is subject to collection of the proceeds. Post dated cheques will not be accepted

Any enquiries regarding Infrastructure Charges can be directed to the Development & Environment, Douglas Shire Council on 07 4099 9444 or by email on enquiries@douglas.qld.gov.au