

## 5.1. EXTEND APPROVAL ROL AND MCU (SERVICE INDUSTRY) AT 43, 45 AND 100L BEOR ST CRAIGLIE

<b>REPORT AUTHOR</b>	Jenny Elphinstone, Senior Planning Officer
<b>GENERAL MANAGER</b>	Nick Wellwood, General Manager Operations
<b>DEPARTMENT</b>	Development Assessment and Coordination
<b>PROPOSAL</b>	Extension application for Combined approval for Reconfiguring a Lot (1 Lot into 19 Lots) and a Preliminary Approval for a Material Change of Use to permit uses consistent with Industry (Service Industry).
<b>APPLICANT</b>	IPDG (S2) Pty Ltd and IPDG (37/38) Pty Ltd C/- Gilvear Planning Pty Ltd PO Box 228 BABINDA QLD 4861
<b>LOCATION OF SITE</b>	43, 45 and 100L Beor Street, Craiglie
<b>PROPERTY</b>	Lots 37, 38 and 100 on SP248126

### LOCALITY PLAN



Figure 1 - Locality Plan

<b>LOCAL PLAN (2018 SCHEME)</b>	Port Douglas/ Craiglie
<b>ZONE (2018 SCHEME)</b>	Industry
<b>PLANNING SCHEME</b>	Douglas Shire Planning Scheme 1996
<b>REFERRAL AGENCIES</b>	None applicable for the extension application. Continuing conditions apply from the Department of State Development, Manufacturing, Infrastructure and Planning.
<b>NUMBER OF SUBMITTERS</b>	Not applicable.
<b>STATUTORY ASSESSMENT DEADLINE</b>	Extended to 15 March 2018 (with the applicant's agreement).
<b>APPLICATION DATE</b>	Original Application 12 August 2014. Extension Application 7 February 2018

## RECOMMENDATION

**That Council approves the extension applications for the combined development approvals for Reconfiguring a Lot (1 Lot into 19 Lots) and a Preliminary Approval for a material change of use for the Special Management Area 3 (Service Industry Craiglie) over land described as Lot 37, 38, 100 on SP248126, located at 43, 45 and 100L Beor Street Craiglie, up to and including 15 February 2022.**

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## EXECUTIVE SUMMARY

The land is situated on the south side of Beor Street in the Craiglie industrial area. A combined approval was originally issued by the former Douglas Shire Council for the industrial development of the land, being the creation of industrial lots and preliminary approval for industrial land uses. Part of the development has been acted on, being the creation of the current three lots. Park has been provided with the creation of the wetlands area to the east and the transfer of this land to Council.

The reconfiguration of a lot approval is due to expire on 25 August 2019 and the material change of use approval expired on the 15 February 2018. As the extension application for the material change of use component was received by Council prior to 15 February 2018, Council is still able to determine this application. The applicant has requested extension applications for both components of the approvals up to and including the 15 February 2022. This will extend and align the approvals to the same expiry date.

No concern is raised with the request and it is recommended the extension applications be approved.

## **TOWN PLANNING CONSIDERATIONS**

### **Background**

The former Douglas Shire Council issued the original approval on 13 August 2007 for the combined approval to reconfigure the land and for a material change of use for the Special Management Area 3 (Service Industry Craiglie) in the Port Douglas and Environs locality code of the then Draft Planning Scheme. The application had been lodged under the 1996 Planning scheme and the draft scheme referred to is the 2006 Douglas Shire Planning Scheme.

The approval also included a material change of use for intensive animal husbandry. This component of the application has since lapsed.

A request to change the approval was approved by Council at its Ordinary Meeting held on 5 May 2015 and a request to extend the reconfiguration of a lot component was approved by Council at its Ordinary Meeting held on the 8 September 2015. The Decision Notices that were issued on 8 May 2015 and 11 September 2015 incorrectly referred to the originating approval as CA 61 instead of CA69. Corrected notices were issued on 31 October 2017 and a copy of these corrected decisions is included in Attachment 1.

The reconfiguration of a lot approval is due to expire on 25 August 2019 and the material change of use approval expired on the 15 February 2018. As the extension application for the material change of use component was received by Council prior to 15 February 2018, Council is still able to determine this application.

Since the issue of the original combined approval the 2006 Planning Scheme (as amended) has come into effect and has been superseded. Under the 2006 planning Scheme the land was included in the Rural Planning Area of the Port Douglas and Environs Locality.

The 2018 Planning Scheme that came into effect on 2 January 2018 includes the land in the Industry Zone and Precinct 3 of the Port Douglas and Craiglie Local Plan.

Part of the reconfiguration of approval has been acted on through the creation of lots 37, 38 and 100. The further reconfiguration of Lot 100 into industrial lots remains outstanding.

### **Proposal**

The applicant has requested extension applications for both components of the approvals up to and including the extension to both the Preliminary Approval and Reconfiguration Approval until 15 February 2022. This will extend and align the approvals to the same expiry date.

## Planning Act 2016 (PA)

The request has been lodged under section 86 of the *Planning Act 2016* (PA).

Council must decide the request for an extension approval to the Decision Notice under section 87(a) of the PA,

*“When assessing an extension application, the assessment manager may consider any matter that the assessment manager considers relevant, even if the matter was not relevant to assessing the development application.”*

No referrals are necessary for extension applications.

In deciding the request section 87(2) of the PA states that the assessment manager must decide whether to:

- “(a) give or refuse the extension sought; or*
- (b) extend the currency period for a period that is different from the extension sought.”*

## State Planning Requirements

The State Planning Policy (SPP) requires consideration be given to state interests. The approval includes conditions regarding the nearby State Controlled road and these conditions continue to apply.

## Douglas Shire Planning Scheme Assessment

Assessment of the approvals against the 2018 Planning Scheme is tabled below.

2018 Douglas Shire Planning Scheme Codes		Code Applicability	Compliance
<b>Zone</b>	Industry Zone	✓	Complies.
<b>Local Plan</b>	Port Douglas / Craiglie	✓	Complies.
<b>Precinct / Sub Precinct</b>	None Specified	✓	
<b>State Codes</b>	Community Residence Code	x	Not Applicable
	Forestry For Wood Production Code	x	Not Applicable
	Reconfiguring A Lot (Subdividing One Lot Into Two Lots) And Associated Operational Work Code	x	Not Applicable
<b>Overlay Codes</b>	Acid Sulfate Soils Code	✓	<ul style="list-style-type: none"> <li>Acid Sulfate Soils (5-20m AHD)</li> </ul> Complies.
	Bushfire Hazard Code	x	Not mapped.
	Coastal Environment Overlay Code	x	Not mapped.
	Flood And Storm Tide Hazard Overlay Code	x	Not mapped.



2018 Douglas Shire Planning Scheme Codes		Code Applicability	Compliance
	Hillslopes Overlay Code	x	Not mapped.
	Landscape Values Overlay Code	✓	<ul style="list-style-type: none"> <li>Part of Lot 100 is mapped as medium Landscape Value and Scenic route buffer and rout corridor.</li> </ul> <p>These overlays generally apply to the neighbouring Teamster's Park and the wetlands area. Complies.</p>
	Natural Areas Overlay Code	✓	<ul style="list-style-type: none"> <li>Part mapped as MSES regulated vegetation.</li> </ul> <p>This overlay reflects the creek in the neighbouring wetlands area. Complies.</p>
	Places Of Significance Overlay Code	x	Not mapped.
	Potential Landslide Hazard Overlay Code	x	Not mapped.
	Transport Network Overlay Code: (Pedestrian and Cycle) Overlay	x	Not mapped.
	Transport Network Overlay Code: (Road Hierarchy) Overlay	✓	<ul style="list-style-type: none"> <li>Beor Street is an industrial road.</li> </ul> <p>Complies.</p>
	Transport Network Overlay Code: (Transport Noise Corridor) Overlay	✓	<p>Part of lot 100 is mapped as Category 0: Noise Level &lt; 58 dB(A). Complies – Approval limited to industrial uses.</p>
	Land Use Code:	✓	<p>Approval limited to a Preliminary approval for industrial uses and use subject to further development permits. Complies.</p>
<b>Other Development Codes</b>	Access, Parking And Servicing Code	✓	<p>Land use approval limited to a Preliminary approval for industrial uses and use subject to further development permits. Complies</p>
	Advertising Devices Code	x	None included in approvals. Complies.
	Environment Performance Code	✓	<p>Approval limited to a Preliminary approval for industrial uses and use subject to further</p>

2018 Douglas Shire Planning Scheme Codes		Code Applicability	Compliance
			development permits. ROL consistent with Code Purpose. Wetlands area already created and transferred to Council. Complies.
	Filling And Excavation Code	✓	Approval limited to a Preliminary approval for industrial uses and use subject to further development permits. ROL component is consistent with Code. Complies.
	Infrastructure Works Code	✓	Approval limited to a Preliminary approval for industrial uses and use subject to further development permits. ROL component is consistent with Code. Further Operational work approval necessary to complete ROL. Complies.
	Landscaping Code	✓	Approval limited to a Preliminary approval for industrial uses and use subject to further development permits. Complies.
	Reconfiguring A Lot Code	✓	ROL component is consistent with Code. Further Operational work approval necessary to complete ROL. Complies.
	Ship-Sourced Pollutants Reception Facilities In Marina Code	x	Not Applicable.
	Vegetation Management Code	x	Not Applicable.

### Compliance Issues

None. The conditions of the approval satisfactorily address the Planning Scheme benchmarks.

### ADOPTED INFRASTRUCTURE CHARGES

The proposed development triggers infrastructure charges. Water and Sewer contributions were paid to the former Douglas Shire Council on 26 July 2007 and open space contributions were paid by a deed of grant and the provision of park. No further contributions are payable.

## **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**

1. Attachment 1 Current Decision Notices **[5.1.1]**

31 October 2017

Enquiries: Jenny Elphinstone  
Phone: (07) 4099 9482  
DSC Reference: CA 2876/2008 (D#832401)  
Your Ref: J000085 Waks

Administration Office  
64 - 66 Front St Mossman  
P 07 4099 9444  
F 07 4098 2902

WAKS Developments Pty Ltd  
C/- Gilvear Planning Pty Ltd  
PO Box 228  
**BABINDA QLD 4861**

Attention Ms Kristy Gilvear

Dear Madam

**CORRECTED DECISION NOTICES  
REQUEST TO CHANGE THE APPROVAL  
REQUEST TO EXTEND RELEVANT PERIOD  
AT 43, 45 AND 100L BEOR STREET CRAIGLIE  
LAND DESCRIBED AS LOTS 37, 38 AND 100 ON SP248126**

Reference is made to the Development Approval for a combined development for:

- a Preliminary Approval for a Material Change of Use to permit uses consistent with industry (Service Industry),
- a Reconfiguration of a Lot (1 into 19 lots); and
- a Material Change of Use for the purpose of Animal Husbandry (Kennel/Cattery) and Caretaker's residence.

The approval was originally issued by the former Douglas Shire Council on 13 August 2007.

A request to change the approval was approved by Council at its Ordinary Meeting held on 5 May 2015 and a request to extend the reconfiguration of a lot component was approved by Council at its Ordinary Meeting held on the 8 September 2015. The Decision Notices that were issued on 8 May 2015 and 11 September 2015 incorrectly referred to the originating approval as CA 61 instead of CA69 and the incorrect original approval was attached to the issued Notices. The enclosed Corrected Decision Notices amend the clerical errors and replace the Decision Notices issued on 8 May 2015 and the 11 September 2015.

For clarification please note the reconfiguration of a lot component is valid up to and including 25 August 2019. The preliminary approval component was originally valid up to 13 August 2017. However, as two subsequent and related approvals were issued to the land the Preliminary Approval is now valid up to and including the 15 February 2018.



Should you have any enquiries in relation to this Decision Notice, please contact Jenny Elphinstone of Development and Environment on telephone number 07 4099 9482.

Yours faithfully

**TRACEY CROUCH**  
**A/Manager Sustainable Communities**

cc. [CairnsSARA@dilgp.qld.gov.au](mailto:CairnsSARA@dilgp.qld.gov.au)

encl.

- Corrected Decision Notice request to change (ROL componenet)
- Corrected Decision Notice request to extend (ROL component)

**DOUGLAS SHIRE COUNCIL  
CORRECTED DECISION NOTICE — COMBINED APPROVAL  
REQUEST TO CHANGE  
(GIVEN UNDER SECTION 83 OF *THE PLANNING ACT 2016*)**

Douglas Shire Council assessed your application and decided it as follows:

### 1. Applicant's details

Name: WAKS Developments Pty Ltd  
Postal Address: C/- Gilvear Planning Pty Ltd  
PO Box 228  
BABINDA QLD 4861

### 2. Location details

Street Address: 43, 45 and 100L Beor Street, Craiglie  
Real Property Description: Lots 37, 38 and 100 on SP248126

Local Government Area: Douglas Shire Council

### 3. Details of proposed development

Request to change the Reconfiguring of a Lot component of the combined approval for

- a Preliminary Approval for a Material Change of Use to permit uses consistent with industry (Service Industry),
- a Reconfiguration of a Lot (1 into 19 lots); and
- a Material Change of Use for the purpose of Animal Husbandry (Kennel/Cattery) and Caretaker's residence.

### 4. Decision

Date of decision: 5 May 2017  
This Decision Notice issued 31 October 2017 replaces the Decision Notice dated 8 May 2015.

Decision details:

1. Condition 20 is amended as follows:

#### 20. Plan of Development

The approved plan of reconfiguration and carrying out of any works on the premises associated with this development must be in accordance with the following approved plan/s of reconfiguration.

Title	Plan No	Date
<del>Proposal Plan (stage 2)</del>	<del>8294-10</del>	21/9/06
<u>Reconfiguration of a Lot, Proposed Stage 2 Craiglie Business Park</u>	<u>RPS Drawing No. PR108905-17</u>	<u>31 July 2014</u>

2. A new condition, 29A, is inserted after Condition 29 as follows:

29A. Stormwater Drainage Design

Stormwater drainage from Lots 37 and 38 must be provided in a piped underground form beneath the easements and carriage way over Lot 37 to discharge onto Lots 36 and 39 (currently known as Lot 100 on SP248126) and to be disposed of to the satisfaction of the Chief Executive Officer.

3. A new Condition 33A is inserted after Condition 33 as follows:

33A. The Applicant must provide six (6) car spaces in the area Easement C to the satisfaction of the Chief Executive Officer.

4. Condition 38 is amended as follows:

38. ~~Council acknowledges that with Stage One (1) of the proposal the applicant intends to provide a land component of 4000m<sup>2</sup> to the Paws and Claws organisation, together with \$200 000 worth of works in lieu and a monetary contribution equivalent to 9% of the total open space and recreation required for Stage One (1) and Stage Two (2) of the development.~~

~~With Stage 2 of the development the applicant is required to contribute the balance of the contribution 43.9% as land in the south-eastern portion of the site as indicated in the plan of development.~~

Council acknowledges that Park was provided (including the provision of upgrading works) through Stage 1 of the Industrial Estate and that provision is complimented with a financial deed of gift of \$200 000 to the Homeless Animal Society and Boarding Kennels Incorporated IA20194. These provisions of land, upgrading works and deed of gift satisfy the provision of Park and must be provided prior to the issue of a Compliance Certificate for the Plan of Survey.

## **5. Original Approval**

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A copy of the original approval (CA 69 issued by the former Douglas Shire Council on 13 August 2007) is included in Schedule 1.

## **6. Concurrence Agency**

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The State Department of Infrastructure and Planning (former concurrence agency Department of Main Roads). Refer to Schedule 3.

## **7. Further development permits**

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Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Building Work
- All Operational Work

Plumbing approvals are also required for all plumbing work.

## **8. Properly made submissions**

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There were no properly made submissions for this application.

## **9. Rights of appeal**

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The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

A copy of the relevant appeal provisions are included in Schedule 4.

**END DECISION NOTICE**

**SCHEDULE 1 – ORIGINAL APPROVAL**

ENQUIRIES:  
DEPARTMENT  
EMAIL:

Mrs Natalie Clark – Planning Officer  
Planning Services Section - ☎ (07) 4099 9456  
planning@dsc.qld.gov.au

Flanagan Consulting Group  
PO Box 5820  
CAIRNS QLD 4870

OUR REF:		YOUR REF:	
FLANAGAN		CA 69	
CONSULTING GROUP			
RECEIVED			
14 AUG 2007			
ACTION			
FILE			

CA 69

13 August 2007

**INTEGRATED PLANNING ACT  
DECISION NOTICE  
DEVELOPMENT APPLICATION**

**Applicant's Name** : Waks Pty Ltd

**Owner's Name** : Waks Pty Ltd

**Proposal** : A. Reconfiguration of a Lot to create 19 Lots  
B. Preliminary Approval for a Material Change of Use to permit uses consistent with Industry (Service Industry)  
C. Development Permit for a Material Change of Use for the purpose of Intensive Animal Husbandry (Kennel/Cattery) and Caretaker's Residence

**Application Number** : CA 69

**Site Address** : Beor Street, Craiglie

**Property Description** : Lot 83 on SR724, Parish of Salisbury, County of Solander

**1. Decision:** **Decision Date:** 7 August 2007

This negotiated decision notice replaces the decision notice dated 18 May 2007. Condition 38 has been amended. All other conditions remain unchanged.

Approved subject to Conditions

ADMINISTRATION CENTRE  
(ALL DEPARTMENTS)  
64-66 FRONT STREET, MOSSMAN

LIBRARY 14 MILL ST., MOSSMAN

PHONE (07) 4099 9444 FACSIMILE (07) 4098 2902  
INTERNET [www.dsc.qld.gov.au](http://www.dsc.qld.gov.au)

PHONE (07) 4099 9496 FACSIMILE (07) 4098 3298

ALL COMMUNICATIONS TO BE  
ADDRESSED TO:  
THE CHIEF EXECUTIVE OFFICER  
P.O. BOX 357  
MOSSMAN, QLD 4873

**2. Type of Development Approval:**

Material Change of Use	Development Permit
Reconfiguration of a Lot	Development Permit
Material Change of Use	Preliminary Approval

**3. Referral Agency:**

Department of Main Roads  
 Peninsula District  
 PO Box 6185  
 CAIRNS QLD 4870

**4. Conditions****MATERIAL CHANGE OF USE (Intensive Animal Husbandry & Caretaker's Residence)****Plan of Development**

1. The approved development and the conduct of the approved use, the carrying out of any works on the premises and the construction of any buildings on the premises associated with the development must generally be in accordance with the details of the application and the following approved Plan/s of Development:

Title	Plan No.	Date
Overall Site Plan	SD 01	Sept 06
Proposed Layout Plan	SD 02	Sept 06
Proposed Layout – Elevations, Sections, Images	SD 03	Sept 06

Except where such plans are modified by the terms of this approval.

**Currency Period**

2. This development approval lapses four (4) years after the day that the development approval takes effect, unless extended under Section 3.5.22 of the Integrated Planning Act 1997.

**Landscaping**

3. The landscaping plan submitted with the proposed development referenced as:

Title	Plan No.	Date
Landscape Plan	SD 01	-

Has been approved, as part of this development, except where otherwise stated as a condition of this approval.



4. The owner/developer shall be responsible for all maintenance work for a period of twenty-four (24) months. Council will not accept the landscaping off maintenance until it meets the requirements of Council's Engineering Services.
5. Irrigation for external landscaping shall be transferred to Council's reticulated water system prior to landscaping being accepted as off maintenance.

**Sewerage**

6. No additional external structural loads are permitted to be applied to Council's existing sewer as a consequence of the approved development.
7. Animal faeces are to be collected on site and disposed of in the general refuse.
8. No animal faeces are to be placed into the sewer.

**Electricity and Telephone Services**

9. All electrical lines along the full frontages of the subject site (unnamed proposed cul-de-sac) are to be placed underground. These works are to be undertaken by Ergon Energy at the developers/owners expense and are to be completed prior to commencement of the approved use.

**Stormwater**

10. All stormwater run-off from non-permeable surfaces and roof areas occurring on the site must be collected within the premises and discharged to the legal and practical point of discharge which has been nominated as unnamed road. The approved use must not:
  - a) Interfere with the natural flow of stormwater;
  - b) Cause ponding of stormwater on adjoining properties.

**Carparking**

11. A carparking area with a minimum of sixteen (16) spaces shall be constructed, sealed, drained and line marked in accordance with the relevant Australian Standard, and the approved plan of development and maintained thereafter.

**Refuse**

12. A waste storage area is to be available on site in a location approved by the Manager Environmental Health Services. The storage area is to be of sufficient size to house all mobile garbage (wheelie) bins including recycling bins. The storage area is to be suitably paved, with a hose cock fitted in close proximity to the enclosure and drain to sewer via a legal sewer connection.

**Compliance**

13. All conditions shall be complied with prior to the occupancy of the building for the approved use or commencement of the approved use on the land. Any developer

security, associated with this approval will not be released until all conditions of approval are complied with.

#### **Construction Requirements**

14. All construction works are to be carried out in compliance with the Environmental Protection (Water) Policy 1997 and the Environmental Protection Regulation 1998.
15. Adequate facilities must be provided during construction to contain all site refuse. Facilities should be designed to prevent loose items of refuse being displaced by wind forces or being washed off site.
16. All liquid wastes generated during construction of the premises should be managed so that they are not permitted to enter a roadside gutter, stormwater drain or a water tank.
17. Waste solvents, solvent and acrylic based paints and waste water generated during construction must not be introduced to sewer or stormwater systems and should be disposed of using the services of a trade waste contractor or other approved disposal agency.
18. All sites are to be provided with sediment control measures to prevent any run-off of mud, silt or sand to stormwater. (Further advice on sediment control can be obtained by contacting Council's Environmental Health Services Section for a free booklet).
19. The applicant is to provide an Acoustic Report prepared by an Acoustic Engineer that demonstrates that measures proposed to be installed on the kennel site will be adequate to mitigate potential noise nuisance as defined by the Environmental Protection Regulation 1998.

#### **RECONFIGURING A LOT**

##### **Plan of Development**

20. The approved plan of reconfiguration and carrying out of any works on the premises associated with this development must be in accordance with the following approved plan/s of reconfiguration.

Title	Plan No.	Date
Proposal Plan (Stage 2)	8294-10	21/9/06

Except where such plans are modified by the terms of this approval.

##### **Water Supply**

21. The plans and specifications of the internal water supply must be submitted to Council at Operational Works application stage for this reconfiguration for review.

This system must make provision for services to the boundaries of all lots, including main works, enveloper pipes at cross street services and valve and hydrant markers and be

designed in accordance with the requirements of Planning Policy No.6 "Planning Scheme Policy No.6 "FNQROC Development Manual".

22. The developer must provide a new water supply connection for proposed Lots 24 - 42. The design and specifications for the new connection must be submitted to Council for its approval prior to the lodgement of the Survey Plan for endorsement.
23. The developer is responsible for the external works to connect the site with Council's water supply at Beor Street.
24. The developer shall be required to provide a 20mm diameter water service to the boundary of each lot to be created, together with the lodgment 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 allotment purchasers for a water service connection

#### **Sewerage**

25. The plans and specifications of the internal sewerage works must be submitted to Council at Operational Works application stage for approval.
26. The developer must provide a new sewerage connection for proposed Lots 24 - 42. The design and specifications for the new connection must be submitted to Council for its approval prior to the lodgement of the Survey Plan for endorsement.

#### **Electrical & Telephone Services**

27. Prior to the approval of the Plan of Survey, the Developer must submit to Council a copy of a letter from Ergon Energy stating that satisfactory arrangements have been made for the provision of:
  - (a) an underground electrical supply to each lot; and
  - (b) street lighting in accordance with Council's adopted standards.
  - (c) locating of all above ground transformer cubicles clear of footpath and parkland areas.
28. Prior to the approval of the Plan of Survey, the Developer must submit to Council a copy of a letter from Telstra stating that satisfactory arrangements have been made for the provision of:
  - (a) an underground telephone service to each lot; and
  - (b) locating of all above ground switching station cubicles clear of footpath and parkland areas.

**Stormwater Drainage**

29. The Developers are required to place pollution control devices in stormwater drains in accordance with the requirements of Planning Policy No.6 "Planning Scheme Policy No.6 "FNQROC Development Manual". The design and location of these devices must be submitted at Operational Works application stage.

**Operational Works Development Permit**

30. The developer must submit as part of an application for a Development Permit for Operational Works information and plans in accordance with Section AP1 "Application Procedures" of Planning Policy No.6 "Planning Scheme Policy No.6 "FNQROC Development Manual". Currency Period
31. The development authorised by this Development Permit must cease at the expiration of four (4) years from the day that this Development Permit takes effect under the *Integrated Planning Act 1997* unless a detailed plan of survey has been lodged with Council for endorsement and all conditions of this approval complied with.

**Compliance with Conditions**

32. The Plan of Survey with associated documents shall not be endorsed by Council until Conditions 20 to 38 have been complied with.

**Road Works**

33. The developer must undertake the following works:
- (a) Internal  
Provision is to be made for the following works in accordance with Planning Policy No.6 "Planning Scheme Policy No.6 "FNQROC Development Manual" for Industrial Access Roads.
    - i. Unnamed Roads
      - Kerb and channelling along the full length of the frontage;
      - Full width bitumen surface;
      - Footpaths;
      - Underground Drainage.
  - (b) External  
Provision is to be made for the following works external to the site in accordance with Planning Policy No.6 "Planning Scheme Policy No.6 "FNQROC Development Manual" for Industrial Collector Roads.
    - i. Beor Street
      - Kerb and channelling along the full length of the frontage;
      - Construction of road shoulders, to full width;
      - Footpaths;
      - Underground Drainage

The plans and specifications of the internal and external road works must be submitted to Council at Operational Works application stage for review.

34. All damage to the road and/or road reserve adjacent to the site as a result of, or in connection with this development must be repaired by the developer, at their expense, prior to completion of works associated with the development.

#### **Environmental Management Plan**

35. The Developer is to submit with the application for approval of Operational Works, an Environmental Management Plan (EMP) in accordance with the requirements of Planning Scheme Policy No.10 *"Reports and Information the Council may Request"*. This EMP must detail the controls to be utilised to ensure that no environmental harm or nuisance is caused from the proposed use of the land and construction of the works.

#### **Water supply & Sewerage Headworks**

36. The developer/owner shall pay to the Council headworks contributions for water supply and sewerage in accordance with Council's Planning Scheme Policy No. 11 – Water Supply and Sewerage Headworks and Works External Contributions (The Policy). The contribution shall be calculated at the rate per Equivalent Domestic Connection (EDC) applicable at the time of payment in accordance with the policy.

The current number of EDC's for the approved use are:

Water Supply	69
Sewerage	69

#### **Street Tree Planting**

37. The applicant is to undertake street tree planting in accordance with the requirements of the FNQ Development Manual.

#### **Contributions**

38. Council acknowledges that with Stage One (1) of the proposal the applicant intends to provide a land component of 4 000m<sup>2</sup> to the Paws & Claws Organisation, together with \$200,000 worth of works in lieu and a monetary contribution equivalent to 9% of the total open space and recreation required for Stage One (1) and Stage Two (2) of the development.

With Stage 2 of the development the applicant is required to contribute the balance of the contribution 43.9% as land in the south-eastern portion of the site as indicated on the plan of development.

**ENVIRONMENTALLY RELEVANT ACTIVITY CONDITIONS*****SCHEDULE A – GENERAL CONDITIONS***

- A1. The environmentally relevant activity must be constructed, operated and maintained in accordance with the plans, specifications and information submitted by the applicant which are approved by the Administering Authority as set out in the attached schedule to this development approval except that, in the event of an inconsistency arising between the application and the conditions of this development approval, the conditions of the development approval must apply.
- A2. The holder of the development approval must not change the method of disposal or increase the amount of disposed waste under this development approval if the change is likely to increase.
- A3. Contaminant must not be released to the environment other than in accordance with the development approval.
- A4. The holder of the development approval must install and operate all works and control equipment, and take all measures, perform all acts and do all things necessary to ensure compliance with the conditions of the development approval.
- A5. A copy of this development approval must be kept in a location readily accessible to personnel carrying out the activity.
- A6. The holder of the development approval must ensure that those persons responsible for day-to-day operations at the approved place are familiar with the conditions of this development approval.
- A7. Any record required to be kept as a condition of the development approval must be kept at the approved place and be available for examination by an authorised person.
- A8. Copies of any record required to be kept by a condition of the development approval must be provided to any authorised person or the administering authority on request.

***SCHEDULE B – AIR DISCHARGE***

- B1. Notwithstanding any other condition of the development approval, no odour determined by an authorised person to be noxious or offensive is to be released beyond the boundaries of the approved place.
- B2. No release of contaminants, including but not limited to odour, dust, smoke, fumes, particulates and aerosols is to cause or likely to cause an environmental nuisance beyond the boundaries of the approved place.
- B3. No incineration or open burning is to be carried out on the approved place

***SCHEDULE C – WATER DISCHARGE***



- C1. Except as otherwise provided by the conditions of the water schedule of this development approval, the environmentally relevant activity must be carried out by such practical means, which may be necessary to prevent or minimise the release of contaminants to waters.
- C2. Contaminants must not be directly or indirectly released from the approved place to any waters or the bed and banks of any waters (except as permitted under another schedule of this development approval)

#### ***SCHEDULE D – STORMWATER MANAGEMENT***

- D1. Except as provided by the conditions of the stormwater management schedule and the water schedule of this development approval, the environmentally relevant activity must be carried out by such practical means which may be necessary to prevent or minimise the contact of incident rainfall and stormwater runoff with wastes, contaminants or material to any stormwater drainage system, roadside gutter or water.
- D2. Any stormwater leaving the approved place shall contain no visible floating oil, grease, scum, litter or other matter.
- D3. Any spillage of wastes, contaminants or other material must be cleaned up as quickly as practical. Such spillage must not be cleaned up by hosing, sweeping or otherwise releasing such wastes, contaminants or material to any stormwater drainage system, roadside gutter or water.
- D4. All wastewater produced as a result of the environmentally relevant activity, including water produced from the washing of animals and animal accommodation is to be discharged to the sewer via an approved silt trap.

#### ***SCHEDULE E – LAND APPLICATION***

- E1. The environmentally relevant activity must be carried out by such practical means that may be necessary to prevent or minimise the release of contaminants to the land.

#### ***SCHEDULE F – NOISE CONTROL***

- F1. Except as otherwise provided by the condition of the Noise schedule of this development approval, the environmentally relevant activity must be carried out by such means that may be necessary to prevent or minimise the emission or noise.
- F2. The emission of noise from the approved place must not result in offensive noise levels being emitted beyond the boundaries of the approved place, as determined by an authorised person.

#### ***SCHEDULE G – WASTE MANAGEMENT***

- G1. Waste must not be released to the environment or disposed contrary to the condition of this development approval.

- G2. Waste must not be burnt or allowed to burn at the approved place or removed and burnt elsewhere.
- G3. Where a recycling service is available, recyclable waste must not be deposited in the general waste stream.

#### ***SCHEDULE H – SELF MONITORING***

- H1. All complaints received by the holder of this development approval of this environmentally relevant activity relating to operations at the approved place must be recorded in a logbook with the following details:
- Time and date of complaint;
  - Contact details of the complainant;
  - Response and investigation undertaken as a result of the complainant;
  - Name of person responsible for investigating complaint; and
  - Action taken as a result of the investigation of the complaint.
- H2. The complaints recorded required by condition H1 shall be maintained for a period of not less than 3 years.
- H3. As soon as practical after becoming aware of any emergency or incident which results in the release of contaminants not in accordance, or reasonably expected to be not in accordance with the condition of this development approval, the holder of this development approval, to their operator on site must notify the administering authority of the release by telephone or facsimile.
- H4. The notification of emergencies or incidents as required by condition H3 must include but not limited to the following:
- The name of the holder of this development approval
  - The location of the emergency of the incident
  - The name and telephone number of the designated contact person
  - The time of release
  - The time the holder of the development approval became aware of the release
  - The suspected cause of the release
  - The environmental harm and or the environmental nuisance caused, threatened or suspected to be caused by the release
  - Actions taken to prevent any further release and mitigate any environmental harm or environmental nuisance caused by the release

#### ***SCHEDULE I – DEFINITIONS***

- I1. For the purpose of this development approval any term not otherwise defined in legislation or in the definitions schedule of this development approval has the meaning conferred to that term in its common usage.
- I2. In the event of any inconsistency arising between the meaning of any term provided in the definitions schedule of this development approval and any common usage of that

term, the meaning conferred in the definitions schedule of this development approval must apply.

13. For the purpose of this development approval the following definitions apply:

“Act” means the Environmental Protection Act 1994

“Administering Authority” means the Douglas Shire Council or its successor

**Advice**

- Water connection and electricity transformer cubicles are located on alternate lot boundaries to ensure safety when requiring maintenance.
- In accordance with the Queensland State regulations for pool fencing there shall be no climbable vegetation within 1.2 metres of the pool fence.
- No Advertising Device has been approved with this application. Any Advertising Device proposed will require an operational works application in accordance with the 2006 Douglas Shire Planning Scheme.

**5. Further Development Approvals Required:**

Operational Work  
Building Permit

Development Permit  
Development Permit



Paul Trotman  
**General Manager – Development & Environment**

## Appendix A – Concurrence Agency Response

2 November 2006

Mr T Melchert  
 Chief Executive Officer  
 Douglas Shire Council  
 PO Box 357  
 Mossman Qld 4873

DOUGLAS SHIRE COUNCIL	
<b>RECEIVED</b>	
FILE NAME	10011 Concurrence Agency
DOCUMENT	- 5 NOV 2006
ATTENTION	LS
INFORMATION	

**Queensland  
 Government**

Department of Main Roads

Dear Mr Melchert:

Douglas Shire : Captain Cook Highway (Cairns-Mossman)  
 Situated at Bear Street, Craiglie  
 Lot 83 on SR 724, Parish of Salisbury  
 Waka Pty Ltd  
 Proposed Material Change of Use (Service Industry Zone & Proposed Lot 37 - Intensive Animal Husbandry & Caretaker's Residence) & Reconfiguration of Lot (19 Allotments & New Roads)  
 Application  
 Notification of Changed Conditions of Development (DMR as Concurrence Agency)

I refer to:

- the above application received at the Department 23 October 2005 requesting consideration of the above development,
- the Department's letter of conditions of development dated 27 October 2006, and
- written representation from the applicant's consultants received at the Department 2 November 2006 clarifying reference to a proposed adjoining park in condition 1 and requesting an amended wording of the condition.

The Department has reviewed the request and is able to amend condition 1.

In accordance with section 3.3.17 of the *Integrated Planning Act 1997*, the Queensland Department of Main Roads, as a Concurrence Agency, has reviewed the impact of the proposed development on the State-controlled road network and requires that Council include the following amended conditions of development for the subject application.

**A. AMENDED CONDITIONS OF DEVELOPMENT****1. Permitted Road Access Location**

- (i) Access between the State-controlled road (i.e. Captain Cook Highway) and the subject land shall be via Bear Street only, to the satisfaction of Douglas Shire Council. A vehicle barrier shall be constructed along the boundary between the proposed Lots 24, 27 and 28 and Teamsters Park and the boundary between the proposed Lots 28 and 29 and the proposed Lot 23 (park) to prevent alternative traffic access.

North Queensland Region  
 Peninsula District  
 PO Box 6103  
 CAIRNS Queensland 4870  
 ABRN 67 826 727 711

Our ref: 46/2004/192/2020.02A)  
 Your ref: CA 69  
 Enquiries MALCOLM HARDY  
 Telephone +61 7 4660 6611  
 Facsimile +61 7 4252 5426

- 2 -

- (ii) No direct access between the State-controlled road reserve (i.e. Captain Cook Highway) and the subject land is permitted.

**2. Development Staging**

The landowner/ applicant shall not lodge a plan of survey creating the first industrial allotment in "Craiglie Business Park Stage 2" to Council for signing and dating until after the conditioned Captain Cook Highway/ Bear Street intersection works attached to Council's negotiated decision notice CA 61 dated 14 September 2006 for "Craiglie Business Park Stage 1" are completed to the satisfaction of the Director General of the Department of Main Roads.

**3. Advertising**

No advertising device for the proposed development is permitted within the State-controlled road reserve (i.e. Captain Cook Highway).

**Reasons**

The reasons and information used in the setting of conditions detailed above include:

- Department of Main Roads Access Policy;
- Department of Main Roads Involvement in Development Application Referrals and Assessment Guide; and
- Douglas Shire Planning Scheme.

**B. GENERAL DISCUSSION**

Council is requested to reflect the above conditions on its Rates Record, to ensure that the planning intentions of the conditions are secured.

This Department would appreciate a copy of Council's decision notice regarding the application.

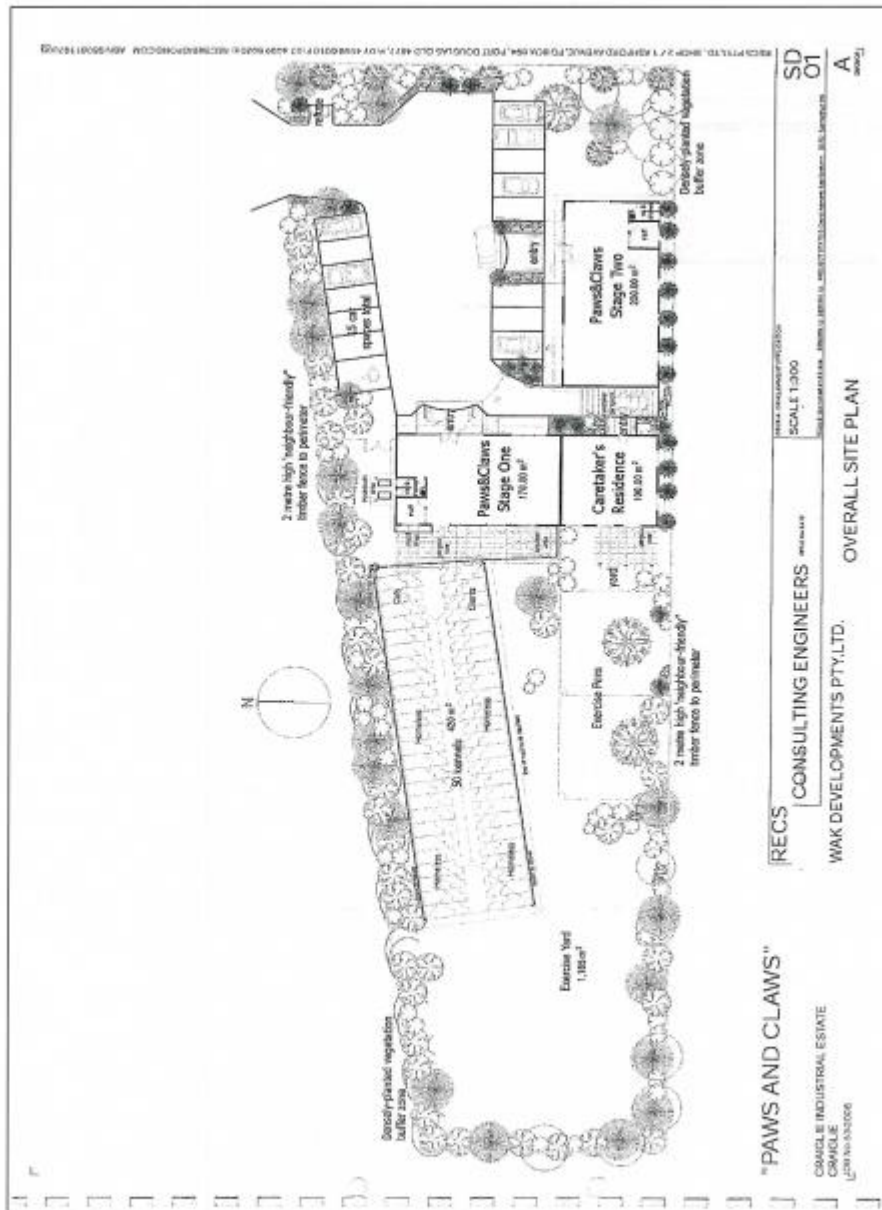
A copy of this letter has been sent to the applicant.

Yours sincerely

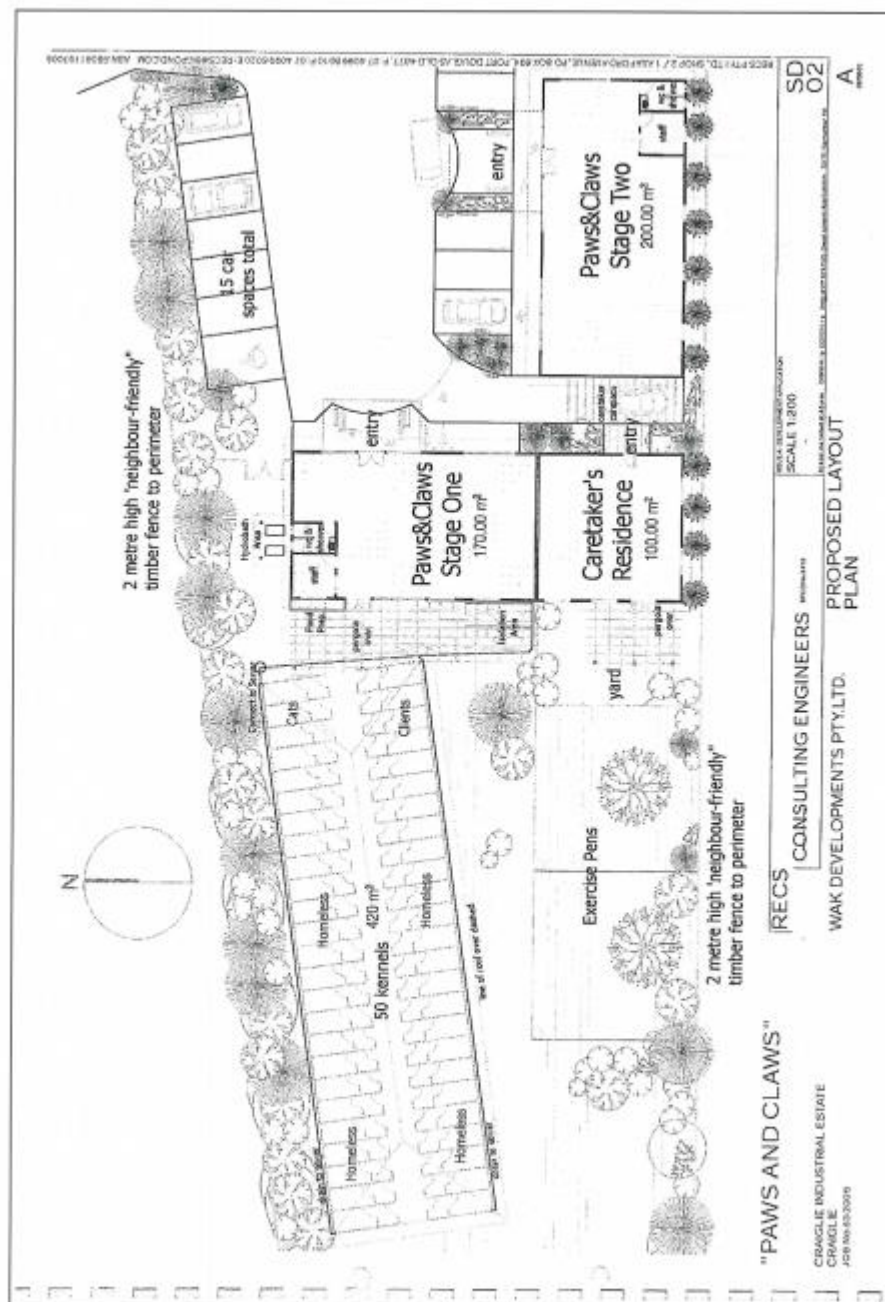


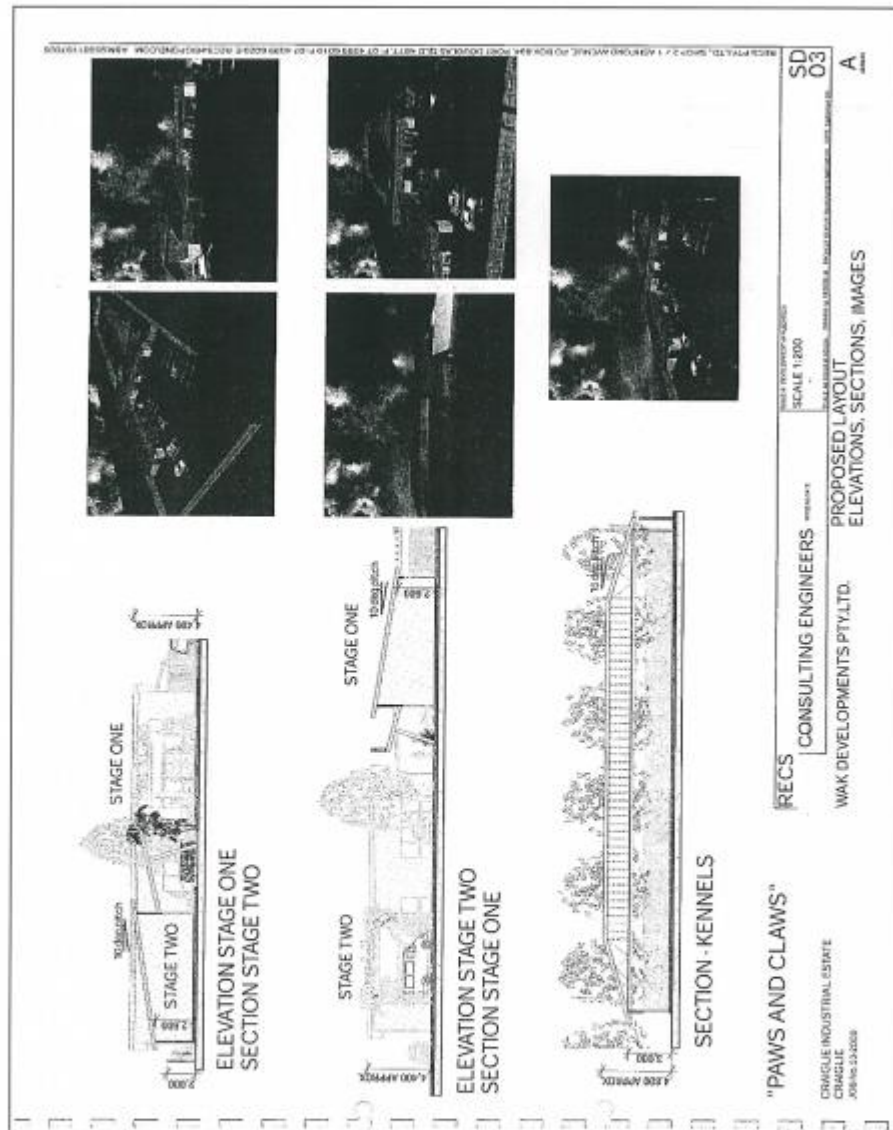
David Hubner  
MANAGER (TRANSPORT PLANNING) PENINSULA

## Appendix B – Plans of Development









## Plan of Reconfiguration



**PRELIMINARY ONLY**

**IMPORTANT NOTE**  
This plan was prepared as a concept plan only and accuracy of all aspects of the plan have not been verified.  
All lots, areas and dimensions are approximate only. Subject to relevant approvals, the final plan may vary from this preliminary plan.  
No reliance should be placed on the plan and RPS Australia East Pty Ltd accepts no responsibility for any loss or damage suffered by owners or any person who may use or rely on this plan.

**Scale:** 1:1500 IS APPLICABLE ONLY TO THE ORIGINAL SHEET SIZE. (A3)

**Project Details:**  
PROJECT: RECONFIGURATION OF A LOT PROPOSED STAGE 2 CRAIGIE BUSINESS PARK  
CANCELLING LOT 100 ON SP248125  
PROJECT MANAGER: D. PINKHAM  
COMPLETED: [ ]  
SHEET 1 OF 1  
SHEET SIZE: A3  
DATE: 30/07/2014  
SCALE: 1:1500  
DRAWING NO: DP108005-17  
RPS Australia East Pty Ltd  
ACH 1 HD 202 762  
136 Abbott St  
CRAIGIE QLD 4070  
T +61 7 4031 1338  
F +61 7 4031 2942  
W rpsgroup.com.au

**Lot Details:**  
Lots 1-38 are shown with their respective areas and dimensions. Key lots include:  
Lot 1: SP144722  
Lot 10: RP004923  
Lot 11: RP804923  
Lot 21: SP201317  
Lot 22: SP201317  
Lot 23: SP204464  
Lot 24: 2284m<sup>2</sup>  
Lot 25: 2494m<sup>2</sup>  
Lot 26: 2591m<sup>2</sup>  
Lot 27: 3514m<sup>2</sup>  
Lot 28: 3309m<sup>2</sup>  
Lot 29: 2756m<sup>2</sup>  
Lot 30: 2184m<sup>2</sup>  
Lot 31: 2000m<sup>2</sup>  
Lot 32: 2000m<sup>2</sup>  
Lot 33: 2000m<sup>2</sup>  
Lot 34: 2256m<sup>2</sup>  
Lot 35: 2495m<sup>2</sup>  
Lot 36: 2907m<sup>2</sup>  
Lot 37: SP248126  
Lot 38: SP248126

**Roads and Features:**  
Roads: Teamsters Cl, Bear Street, Owen Street, Road, ROAD 21m WIDE, ROAD 21m WIDE, Captain Cook Highway.  
Other features: Emt A, Emt B, Emt C, Emt D, EXISTING DRIVEWAY.

**Orientation and Scale:**  
North arrow pointing towards the top left.  
Scale bar showing 0 to 75 metres.

## SCHEDULE 3 REFERRAL AGENCY ADVICE

---



Department of  
**State Development,  
Infrastructure and Planning**

Our reference: SPD-0814-010287

Your reference:

Date: 21 August 2014

Ms Linda Cardew  
Chief Executive Officer  
Douglas Shire Council  
PO Box 723  
MOSSMAN QLD 4873

Dear Ms Cardew

**Notice about request for permissible change—relevant entity**

43 Beor - Craiglie, Douglas Shire - QLD; 45 Beor - Craiglie, Douglas Shire - QLD;  
(Given under section 373(1) of the *Sustainable Planning Act 2009*)

The Department of State Development, Infrastructure and Planning received a copy of the request for a permissible change under section 372(1) of the *Sustainable Planning Act 2009* on 11 August 2014 advising the department, as a relevant entity, of the request for a permissible change made to the responsible entity under section 369 of the *Sustainable Planning Act 2009*.

The department understands that the proposed changes are as follows:

- That Condition 20 of the Negotiated Decision Notice, issued 13 August 2007 change the referencing with respect to Plan No. 8294-10 dated 21/09/06 to Plan No. PR108905-17 dated 31/07/2014.
- In summary effectively: (a) altering access to lots 37 and 38; (b) modifying internal access for the balance of lots within Stage 2 to comply with FNQROC Development Manual

The department has considered the proposed changes to the development approval and advises that it has no objection to the change being made.

If you require any further information, please contact Angela Foster, Principal Planning Officer, on 4037 3233, or via email [angela.foster@dsdip.qld.gov.au](mailto:angela.foster@dsdip.qld.gov.au) who will be able to assist.

Yours sincerely

A handwritten signature in blue ink that reads "Robin Clark".

Robin Clark  
Manager (Planning)

cc Waks Developments Pty Ltd  
K/- Kristy Gilvear, Gilvear, Planning  
[kristy@gilvearplanning.com.au](mailto:kristy@gilvearplanning.com.au)



## SCHEDULE 4 APPEAL RIGHTS

Planning Act 2016  
Chapter 6 Dispute resolution

[s 229]

- 
- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.
  - (3) In this section—
    - conduct* means an act or omission.
    - representative* means—
      - (a) of a corporation—an executive officer, employee or agent of the corporation; or
      - (b) of an individual—an employee or agent of the individual.
    - state of mind*, of a person, includes the person's—
      - (a) knowledge, intention, opinion, belief or purpose; and
      - (b) reasons for the intention, opinion, belief or purpose.

## Chapter 6      Dispute resolution

### Part 1            Appeal rights

#### 229    Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
  - (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the *appellant*); and
    - (ii) who is a respondent in an appeal of the matter; and

Current as at 3 July 2017

Page 203

Authorised by the Parliamentary Counsel

Planning Act 2016  
Chapter 6 Dispute resolution

[s 229]

- (iii) who is a co-respondent in an appeal of the matter; and
  - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
- (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
  - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
  - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
  - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.
- Note—*  
See the P&E Court Act for the court's power to extend the appeal period.
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

- 
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
- (a) the adopted charge itself; or
  - (b) for a decision about an offset or refund—
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

### **230 Notice of appeal**

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
  - (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
  - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
  - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and

Planning Act 2016  
Chapter 6 Dispute resolution

[s 231]

- (f) for an appeal to the P&E Court—the chief executive; and
- (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
  - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
  - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

## 231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—  
*decision* includes—



- 
- (a) conduct engaged in for the purpose of making a decision; and
  - (b) other conduct that relates to the making of a decision; and
  - (c) the making of a decision or the failure to make a decision; and
  - (d) a purported decision; and
  - (e) a deemed refusal.

***non-appealable***, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

## 232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

**DOUGLAS SHIRE COUNCIL  
CORRECTED DECISION NOTICE — COMBINED APPROVAL  
REQUEST TO EXTEND  
(GIVEN UNDER SECTION 87 OF *THE PLANNING ACT 2016*)**

Douglas Shire Council assessed your application and decided it as follows:

---

**10. Applicant's details**

---

Name: WAKS Developments Pty Ltd  
Postal Address: C/- Gilvear Planning Pty Ltd  
PO Box 228  
BABINDA QLD 4861

---

**11. Location details**

---

Street Address: 43, 45 and 100L Beor Street, Craiglie  
Real Property Description: Lots 37, 38 and 100 on SP248126  
  
Local Government Area: Douglas Shire Council

---

**12. Details of proposed development**

---

Request to extend the relevant period for five years for the Reconfiguring of a Lot component of the combined approval for

- a Preliminary Approval for a Material Change of Use to permit uses consistent with industry (Service Industry),
- a Reconfiguration of a Lot (1 into 19 lots); and
- a Material Change of Use for the purpose of Animal Husbandry (Kennel/Cattery) and Caretaker's residence.

---

**13. Decision**

---

Date of decision: 8 September 2015  
This Decision Notice issued 31 October 2017 replaces the Decision Notice dated 11 September 2015.

Decision details: Council has extended the relevant period and this Development Permit is now valid up to and including 25 August 2019. All other conditions of the Development Permit (attached) issued on 6 May 2015 remain unchanged.

---

**14. Existing Approval**

---

A copy of the existing approval (CA 69 issued by the former Douglas Shire Council on 13 August 2007 and amended by Douglas Shire Council on 5 May 2015) is included in Schedule 1.

**15. Concurrence Agency**

---

The State Department of Infrastructure and Planning (former concurrence agency Department of Main Roads). Refer to Schedule 2.

**16. Further development permits**

---

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Building Work
- All Operational Work

Plumbing approvals are also required for all plumbing work.

**17. Properly made submissions**

---

There were no properly made submissions for this application.

**18. Rights of appeal**

---

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

A copy of the relevant appeal provisions are included in Schedule 3.

**END DECISION NOTICE**

**SCHEDULE 1 – EXISTING APPROVAL**

ENQUIRIES:  
DEPARTMENT  
EMAIL:

Mrs Natalie Clark – Planning Officer  
Planning Services Section - ☎ (07) 4099 9456  
planning@dsc.qld.gov.au

Flanagan Consulting Group  
PO Box 5820  
CAIRNS QLD 4870

OUR REF:		YOUR REF:	
FLANAGAN		CA 69	
CONSULTING GROUP			
RECEIVED			
14 AUG 2007			
ACTION			
FILE			

CA 69

13 August 2007

**INTEGRATED PLANNING ACT  
DECISION NOTICE  
DEVELOPMENT APPLICATION**

**Applicant's Name** : Waks Pty Ltd

**Owner's Name** : Waks Pty Ltd

**Proposal** : A. Reconfiguration of a Lot to create 19 Lots  
B. Preliminary Approval for a Material Change of Use to permit uses consistent with Industry (Service Industry)  
C. Development Permit for a Material Change of Use for the purpose of Intensive Animal Husbandry (Kennel/Cattery) and Caretaker's Residence

**Application Number** : CA 69

**Site Address** : Beor Street, Craiglie

**Property Description** : Lot 83 on SR724, Parish of Salisbury, County of Solander

**1. Decision:** **Decision Date:** 7 August 2007

This negotiated decision notice replaces the decision notice dated 18 May 2007. Condition 38 has been amended. All other conditions remain unchanged.

Approved subject to Conditions

ADMINISTRATION CENTRE  
(ALL DEPARTMENTS)  
64-66 FRONT STREET, MOSSMAN

LIBRARY 14 MILL ST., MOSSMAN

PHONE (07) 4099 9444 FACSIMILE (07) 4098 2902  
INTERNET [www.dsc.qld.gov.au](http://www.dsc.qld.gov.au)

PHONE (07) 4099 9496 FACSIMILE (07) 4098 3298

ALL COMMUNICATIONS TO BE  
ADDRESSED TO:  
THE CHIEF EXECUTIVE OFFICER  
P.O. BOX 357  
MOSSMAN, QLD 4873



**2. Type of Development Approval:**

Material Change of Use	Development Permit
Reconfiguration of a Lot	Development Permit
Material Change of Use	Preliminary Approval

**3. Referral Agency:**

Department of Main Roads  
 Peninsula District  
 PO Box 6185  
 CAIRNS QLD 4870

**4. Conditions****MATERIAL CHANGE OF USE (Intensive Animal Husbandry & Caretaker's Residence)****Plan of Development**

1. The approved development and the conduct of the approved use, the carrying out of any works on the premises and the construction of any buildings on the premises associated with the development must generally be in accordance with the details of the application and the following approved Plan/s of Development:

Title	Plan No.	Date
Overall Site Plan	SD 01	Sept 06
Proposed Layout Plan	SD 02	Sept 06
Proposed Layout – Elevations, Sections, Images	SD 03	Sept 06

Except where such plans are modified by the terms of this approval.

**Currency Period**

2. This development approval lapses four (4) years after the day that the development approval takes effect, unless extended under Section 3.5.22 of the Integrated Planning Act 1997.

**Landscaping**

3. The landscaping plan submitted with the proposed development referenced as:

Title	Plan No.	Date
Landscape Plan	SD 01	-

Has been approved, as part of this development, except where otherwise stated as a condition of this approval.

4. The owner/developer shall be responsible for all maintenance work for a period of twenty-four (24) months. Council will not accept the landscaping off maintenance until it meets the requirements of Council's Engineering Services.
5. Irrigation for external landscaping shall be transferred to Council's reticulated water system prior to landscaping being accepted as off maintenance.

**Sewerage**

6. No additional external structural loads are permitted to be applied to Council's existing sewer as a consequence of the approved development.
7. Animal faeces are to be collected on site and disposed of in the general refuse.
8. No animal faeces are to be placed into the sewer.

**Electricity and Telephone Services**

9. All electrical lines along the full frontages of the subject site (unnamed proposed cul-de-sac) are to be placed underground. These works are to be undertaken by Ergon Energy at the developers/owners expense and are to be completed prior to commencement of the approved use.

**Stormwater**

10. All stormwater run-off from non-permeable surfaces and roof areas occurring on the site must be collected within the premises and discharged to the legal and practical point of discharge which has been nominated as unnamed road. The approved use must not:
  - a) Interfere with the natural flow of stormwater;
  - b) Cause ponding of stormwater on adjoining properties.

**Carparking**

11. A carparking area with a minimum of sixteen (16) spaces shall be constructed, sealed, drained and line marked in accordance with the relevant Australian Standard, and the approved plan of development and maintained thereafter.

**Refuse**

12. A waste storage area is to be available on site in a location approved by the Manager Environmental Health Services. The storage area is to be of sufficient size to house all mobile garbage (wheelie) bins including recycling bins. The storage area is to be suitably paved, with a hose cock fitted in close proximity to the enclosure and drain to sewer via a legal sewer connection.

**Compliance**

13. All conditions shall be complied with prior to the occupancy of the building for the approved use or commencement of the approved use on the land. Any developer

security, associated with this approval will not be released until all conditions of approval are complied with.

#### **Construction Requirements**

14. All construction works are to be carried out in compliance with the Environmental Protection (Water) Policy 1997 and the Environmental Protection Regulation 1998.
15. Adequate facilities must be provided during construction to contain all site refuse. Facilities should be designed to prevent loose items of refuse being displaced by wind forces or being washed off site.
16. All liquid wastes generated during construction of the premises should be managed so that they are not permitted to enter a roadside gutter, stormwater drain or a water tank.
17. Waste solvents, solvent and acrylic based paints and waste water generated during construction must not be introduced to sewer or stormwater systems and should be disposed of using the services of a trade waste contractor or other approved disposal agency.
18. All sites are to be provided with sediment control measures to prevent any run-off of mud, silt or sand to stormwater. (Further advice on sediment control can be obtained by contacting Council's Environmental Health Services Section for a free booklet).
19. The applicant is to provide an Acoustic Report prepared by an Acoustic Engineer that demonstrates that measures proposed to be installed on the kennel site will be adequate to mitigate potential noise nuisance as defined by the Environmental Protection Regulation 1998.

#### **RECONFIGURING A LOT**

##### **Plan of Development**

20. The approved plan of reconfiguration and carrying out of any works on the premises associated with this development must be in accordance with the following approved plan/s of reconfiguration.

Title	Plan No.	Date
Proposal Plan (Stage 2)	8294-10	21/9/06

Except where such plans are modified by the terms of this approval.

##### **Water Supply**

21. The plans and specifications of the internal water supply must be submitted to Council at Operational Works application stage for this reconfiguration for review.

This system must make provision for services to the boundaries of all lots, including main works, enveloper pipes at cross street services and valve and hydrant markers and be

designed in accordance with the requirements of Planning Policy No.6 "Planning Scheme Policy No.6 "FNQROC Development Manual".

22. The developer must provide a new water supply connection for proposed Lots 24 - 42. The design and specifications for the new connection must be submitted to Council for its approval prior to the lodgement of the Survey Plan for endorsement.
23. The developer is responsible for the external works to connect the site with Council's water supply at Beor Street.
24. The developer shall be required to provide a 20mm diameter water service to the boundary of each lot to be created, together with the lodgment 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 allotment purchasers for a water service connection

#### **Sewerage**

25. The plans and specifications of the internal sewerage works must be submitted to Council at Operational Works application stage for approval.
26. The developer must provide a new sewerage connection for proposed Lots 24 - 42. The design and specifications for the new connection must be submitted to Council for its approval prior to the lodgement of the Survey Plan for endorsement.

#### **Electrical & Telephone Services**

27. Prior to the approval of the Plan of Survey, the Developer must submit to Council a copy of a letter from Ergon Energy stating that satisfactory arrangements have been made for the provision of:
  - (a) an underground electrical supply to each lot; and
  - (b) street lighting in accordance with Council's adopted standards.
  - (c) locating of all above ground transformer cubicles clear of footpath and parkland areas.
28. Prior to the approval of the Plan of Survey, the Developer must submit to Council a copy of a letter from Telstra stating that satisfactory arrangements have been made for the provision of:
  - (a) an underground telephone service to each lot; and
  - (b) locating of all above ground switching station cubicles clear of footpath and parkland areas.

### **Stormwater Drainage**

29. The Developers are required to place pollution control devices in stormwater drains in accordance with the requirements of Planning Policy No.6 "Planning Scheme Policy No.6 "FNQROC Development Manual". The design and location of these devices must be submitted at Operational Works application stage.

### **Operational Works Development Permit**

30. The developer must submit as part of an application for a Development Permit for Operational Works information and plans in accordance with Section AP1 "Application Procedures" of Planning Policy No.6 "Planning Scheme Policy No.6 "FNQROC Development Manual". Currency Period
31. The development authorised by this Development Permit must cease at the expiration of four (4) years from the day that this Development Permit takes effect under the *Integrated Planning Act 1997* unless a detailed plan of survey has been lodged with Council for endorsement and all conditions of this approval complied with.

### **Compliance with Conditions**

32. The Plan of Survey with associated documents shall not be endorsed by Council until Conditions 20 to 38 have been complied with.

### **Road Works**

33. The developer must undertake the following works:
- (a) Internal  
Provision is to be made for the following works in accordance with Planning Policy No.6 "Planning Scheme Policy No.6 "FNQROC Development Manual" for Industrial Access Roads.
    - i. Unnamed Roads
      - Kerb and channelling along the full length of the frontage;
      - Full width bitumen surface;
      - Footpaths;
      - Underground Drainage.
  - (b) External  
Provision is to be made for the following works external to the site in accordance with Planning Policy No.6 "Planning Scheme Policy No.6 "FNQROC Development Manual" for Industrial Collector Roads.
    - i. Beor Street
      - Kerb and channelling along the full length of the frontage;
      - Construction of road shoulders, to full width;
      - Footpaths;
      - Underground Drainage

The plans and specifications of the internal and external road works must be submitted to Council at Operational Works application stage for review.

34. All damage to the road and/or road reserve adjacent to the site as a result of, or in connection with this development must be repaired by the developer, at their expense, prior to completion of works associated with the development.

#### **Environmental Management Plan**

35. The Developer is to submit with the application for approval of Operational Works, an Environmental Management Plan (EMP) in accordance with the requirements of Planning Scheme Policy No.10 *"Reports and Information the Council may Request"*. This EMP must detail the controls to be utilised to ensure that no environmental harm or nuisance is caused from the proposed use of the land and construction of the works.

#### **Water supply & Sewerage Headworks**

36. The developer/owner shall pay to the Council headworks contributions for water supply and sewerage in accordance with Council's Planning Scheme Policy No. 11 – Water Supply and Sewerage Headworks and Works External Contributions (The Policy). The contribution shall be calculated at the rate per Equivalent Domestic Connection (EDC) applicable at the time of payment in accordance with the policy.

The current number of EDC's for the approved use are:

Water Supply	69
Sewerage	69

#### **Street Tree Planting**

37. The applicant is to undertake street tree planting in accordance with the requirements of the FNQ Development Manual.

#### **Contributions**

38. Council acknowledges that with Stage One (1) of the proposal the applicant intends to provide a land component of 4 000m<sup>2</sup> to the Paws & Claws Organisation, together with \$200,000 worth of works in lieu and a monetary contribution equivalent to 9% of the total open space and recreation required for Stage One (1) and Stage Two (2) of the development.

With Stage 2 of the development the applicant is required to contribute the balance of the contribution 43.9% as land in the south-eastern portion of the site as indicated on the plan of development.

**ENVIRONMENTALLY RELEVANT ACTIVITY CONDITIONS*****SCHEDULE A – GENERAL CONDITIONS***

- A1. The environmentally relevant activity must be constructed, operated and maintained in accordance with the plans, specifications and information submitted by the applicant which are approved by the Administering Authority as set out in the attached schedule to this development approval except that, in the event of an inconsistency arising between the application and the conditions of this development approval, the conditions of the development approval must apply.
- A2. The holder of the development approval must not change the method of disposal or increase the amount of disposed waste under this development approval if the change is likely to increase.
- A3. Contaminant must not be released to the environment other than in accordance with the development approval.
- A4. The holder of the development approval must install and operate all works and control equipment, and take all measures, perform all acts and do all things necessary to ensure compliance with the conditions of the development approval.
- A5. A copy of this development approval must be kept in a location readily accessible to personnel carrying out the activity.
- A6. The holder of the development approval must ensure that those persons responsible for day-to-day operations at the approved place are familiar with the conditions of this development approval.
- A7. Any record required to be kept as a condition of the development approval must be kept at the approved place and be available for examination by an authorised person.
- A8. Copies of any record required to be kept by a condition of the development approval must be provided to any authorised person or the administering authority on request.

***SCHEDULE B – AIR DISCHARGE***

- B1. Notwithstanding any other condition of the development approval, no odour determined by an authorised person to be noxious or offensive is to be released beyond the boundaries of the approved place.
- B2. No release of contaminants, including but not limited to odour, dust, smoke, fumes, particulates and aerosols is to cause or likely to cause an environmental nuisance beyond the boundaries of the approved place.
- B3. No incineration or open burning is to be carried out on the approved place

***SCHEDULE C – WATER DISCHARGE***



- C1. Except as otherwise provided by the conditions of the water schedule of this development approval, the environmentally relevant activity must be carried out by such practical means, which may be necessary to prevent or minimise the release of contaminants to waters.
- C2. Contaminants must not be directly or indirectly released from the approved place to any waters or the bed and banks of any waters (except as permitted under another schedule of this development approval)

#### ***SCHEDULE D – STORMWATER MANAGEMENT***

- D1. Except as provided by the conditions of the stormwater management schedule and the water schedule of this development approval, the environmentally relevant activity must be carried out by such practical means which may be necessary to prevent or minimise the contact of incident rainfall and stormwater runoff with wastes, contaminants or material to any stormwater drainage system, roadside gutter or water.
- D2. Any stormwater leaving the approved place shall contain no visible floating oil, grease, scum, litter or other matter.
- D3. Any spillage of wastes, contaminants or other material must be cleaned up as quickly as practical. Such spillage must not be cleaned up by hosing, sweeping or otherwise releasing such wastes, contaminants or material to any stormwater drainage system, roadside gutter or water.
- D4. All wastewater produced as a result of the environmentally relevant activity, including water produced from the washing of animals and animal accommodation is to be discharged to the sewer via an approved silt trap.

#### ***SCHEDULE E – LAND APPLICATION***

- E1. The environmentally relevant activity must be carried out by such practical means that may be necessary to prevent or minimise the release of contaminants to the land.

#### ***SCHEDULE F – NOISE CONTROL***

- F1. Except as otherwise provided by the condition of the Noise schedule of this development approval, the environmentally relevant activity must be carried out by such means that may be necessary to prevent or minimise the emission or noise.
- F2. The emission of noise from the approved place must not result in offensive noise levels being emitted beyond the boundaries of the approved place, as determined by an authorised person.

#### ***SCHEDULE G – WASTE MANAGEMENT***

- G1. Waste must not be released to the environment or disposed contrary to the condition of this development approval.



- G2. Waste must not be burnt or allowed to burn at the approved place or removed and burnt elsewhere.
- G3. Where a recycling service is available, recyclable waste must not be deposited in the general waste stream.

#### ***SCHEDULE H – SELF MONITORING***

- H1. All complaints received by the holder of this development approval of this environmentally relevant activity relating to operations at the approved place must be recorded in a logbook with the following details:
- Time and date of complaint;
  - Contact details of the complainant;
  - Response and investigation undertaken as a result of the complainant;
  - Name of person responsible for investigating complaint; and
  - Action taken as a result of the investigation of the complaint.
- H2. The complaints recorded required by condition H1 shall be maintained for a period of not less than 3 years.
- H3. As soon as practical after becoming aware of any emergency or incident which results in the release of contaminants not in accordance, or reasonably expected to be not in accordance with the condition of this development approval, the holder of this development approval, to their operator on site must notify the administering authority of the release by telephone or facsimile.
- H4. The notification of emergencies or incidents as required by condition H3 must include but not limited to the following:
- The name of the holder of this development approval
  - The location of the emergency of the incident
  - The name and telephone number of the designated contact person
  - The time of release
  - The time the holder of the development approval became aware of the release
  - The suspected cause of the release
  - The environmental harm and or the environmental nuisance caused, threatened or suspected to be caused by the release
  - Actions taken to prevent any further release and mitigate any environmental harm or environmental nuisance caused by the release

#### ***SCHEDULE I – DEFINITIONS***

- I1. For the purpose of this development approval any term not otherwise defined in legislation or in the definitions schedule of this development approval has the meaning conferred to that term in its common usage.
- I2. In the event of any inconsistency arising between the meaning of any term provided in the definitions schedule of this development approval and any common usage of that

term, the meaning conferred in the definitions schedule of this development approval must apply.

13. For the purpose of this development approval the following definitions apply:

“Act” means the Environmental Protection Act 1994

“Administering Authority” means the Douglas Shire Council or its successor

**Advice**

- Water connection and electricity transformer cubicles are located on alternate lot boundaries to ensure safety when requiring maintenance.
- In accordance with the Queensland State regulations for pool fencing there shall be no climbable vegetation within 1.2 metres of the pool fence.
- No Advertising Device has been approved with this application. Any Advertising Device proposed will require an operational works application in accordance with the 2006 Douglas Shire Planning Scheme.

**5. Further Development Approvals Required:**

Operational Work  
Building Permit

Development Permit  
Development Permit



Paul Trotman  
**General Manager – Development & Environment**

## Appendix A – Concurrence Agency Response

2 November 2006

Mr T Melchert  
 Chief Executive Officer  
 Douglas Shire Council  
 PO Box 357  
 Mossman Qld 4873

DOUGLAS SHIRE COUNCIL	
<b>RECEIVED</b>	
FILE NAME	10011 Concurrence Agency
DOCUMENT	
- 5 NOV 2006	
ATTENTION	LS
INFORMATION	

**Queensland  
 Government**

Department of Main Roads

Dear Mr Melchert

Douglas Shire : Captain Cook Highway (Cairns-Mossman)  
 Situated at Bear Street, Craiglie  
 Lot 83 on SR 724, Parish of Salisbury  
 Waka Pty Ltd  
 Proposed Material Change of Use (Service Industry Zone & Proposed Lot 37 - Intensive Animal Husbandry & Caretaker's Residence) & Reconfiguration of Lot (19 Allotments & New Roads)  
 Application  
 Notification of Changed Conditions of Development (DMR as Concurrence Agency)

I refer to:

- the above application received at the Department 23 October 2005 requesting consideration of the above development,
- the Department's letter of conditions of development dated 27 October 2006, and
- written representation from the applicant's consultants received at the Department 2 November 2006 clarifying reference to a proposed adjoining park in condition 1 and requesting an amended wording of the condition.

The Department has reviewed the request and is able to amend condition 1.

In accordance with section 3.3.17 of the *Integrated Planning Act 1997*, the Queensland Department of Main Roads, as a Concurrence Agency, has reviewed the impact of the proposed development on the State-controlled road network and requires that Council include the following amended conditions of development for the subject application.

**A. AMENDED CONDITIONS OF DEVELOPMENT****1. Permitted Road Access Location**

- (i) Access between the State-controlled road (i.e. Captain Cook Highway) and the subject land shall be via Bear Street only, to the satisfaction of Douglas Shire Council. A vehicle barrier shall be constructed along the boundary between the proposed Lots 24, 27 and 28 and Teamsters Park and the boundary between the proposed Lots 28 and 29 and the proposed Lot 23 (park) to prevent alternative traffic access.

North Queensland Region  
 Peninsula District  
 PO Box 6103  
 CAIRNS Queensland 4870  
 ABRN 67 826 727 711

Our ref: 46/2004/192/2020.02A)  
 Your ref: CA 89  
 Enquiries MALCOLM HARDY  
 Telephone +61 7 4660 6611  
 Facsimile +61 7 4252 5426

- 2 -

- (ii) No direct access between the State-controlled road reserve (i.e. Captain Cook Highway) and the subject land is permitted.

**2. Development Staging**

The landowner/ applicant shall not lodge a plan of survey creating the first industrial allotment in "Craiglie Business Park Stage 2" to Council for signing and dating until after the conditioned Captain Cook Highway/ Bear Street intersection works attached to Council's negotiated decision notice CA 61 dated 14 September 2006 for "Craiglie Business Park Stage 1" are completed to the satisfaction of the Director General of the Department of Main Roads.

**3. Advertising**

No advertising device for the proposed development is permitted within the State-controlled road reserve (i.e. Captain Cook Highway).

**Reasons**

The reasons and information used in the setting of conditions detailed above include:

- Department of Main Roads Access Policy;
- Department of Main Roads Involvement in Development Application Referrals and Assessment Guide; and
- Douglas Shire Planning Scheme.

**B. GENERAL DISCUSSION**

Council is requested to reflect the above conditions on its Rates Record, to ensure that the planning intentions of the conditions are secured.

This Department would appreciate a copy of Council's decision notice regarding the application.

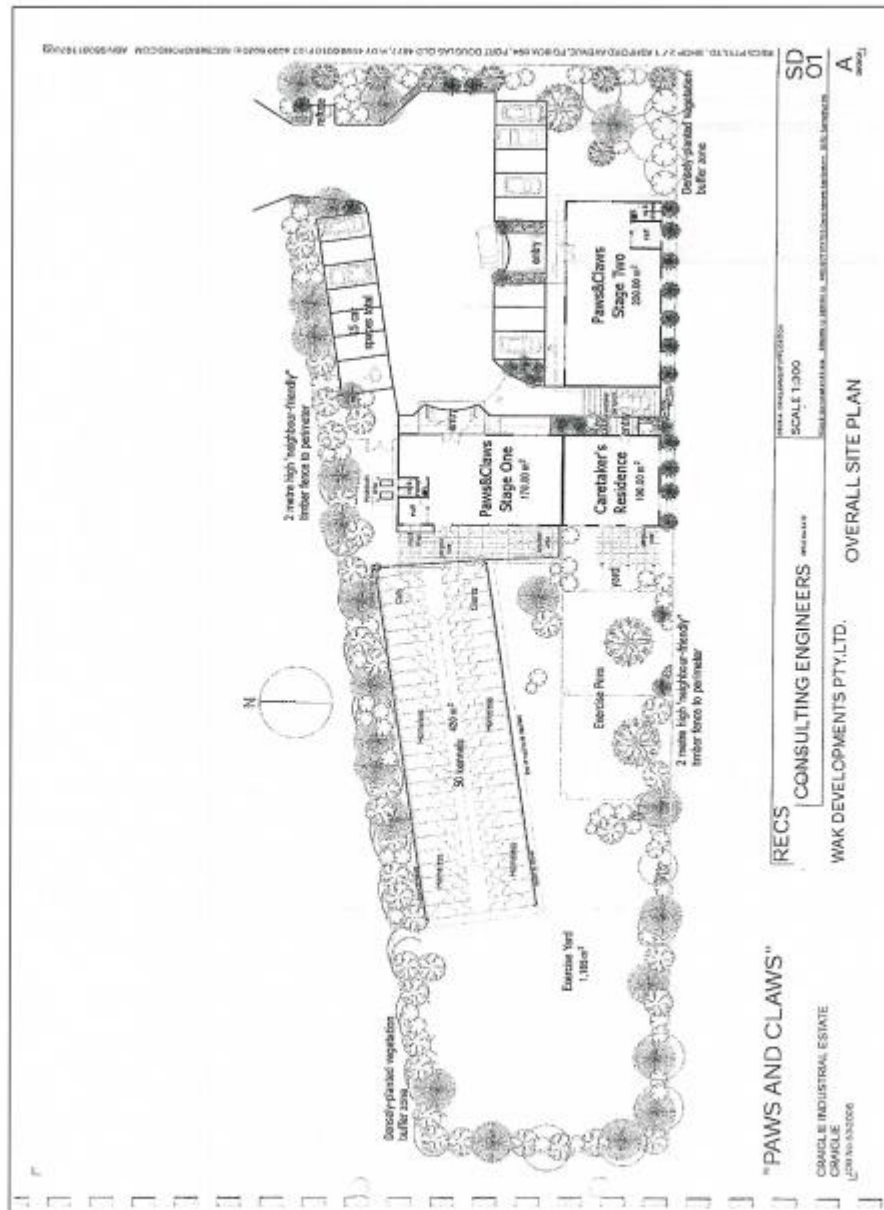
A copy of this letter has been sent to the applicant.

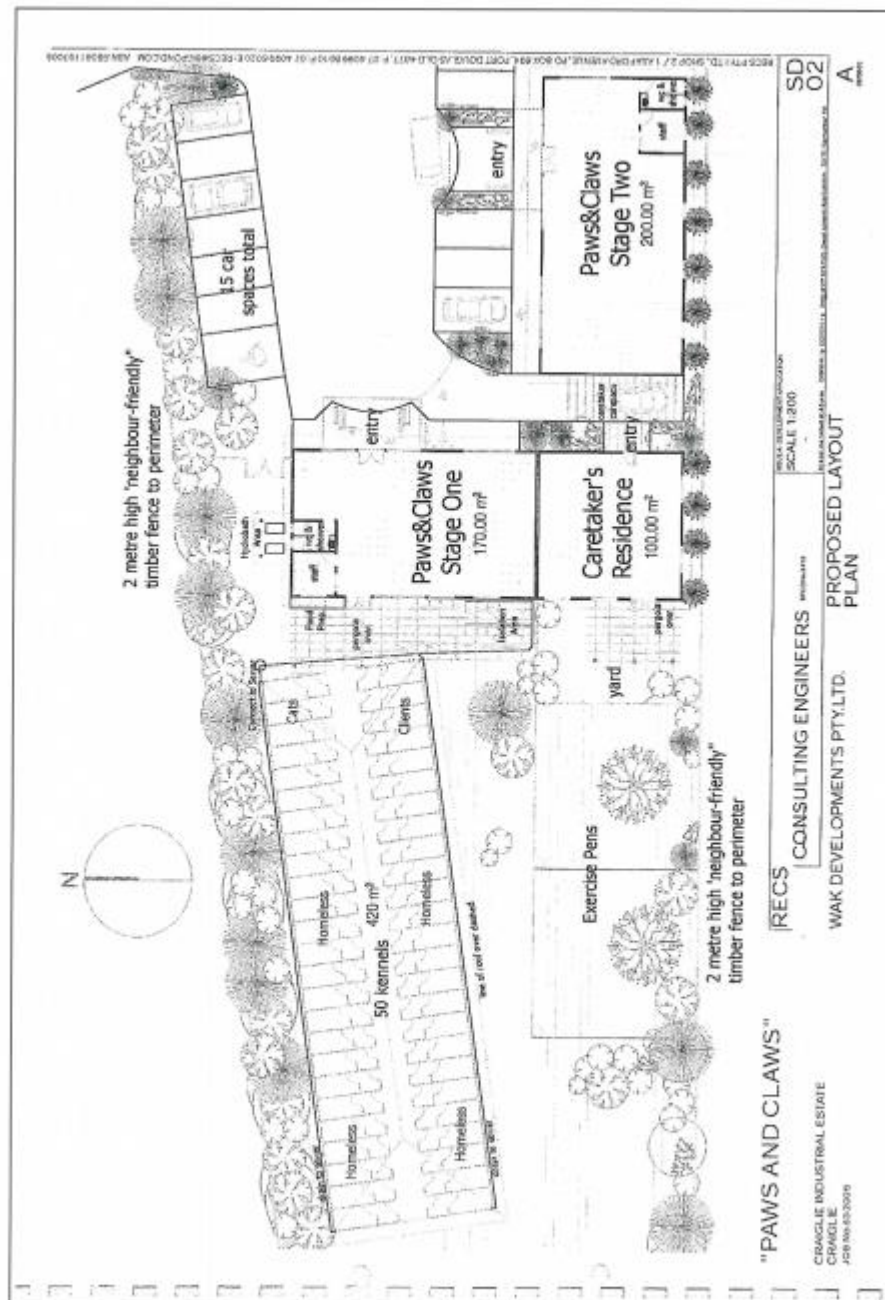
Yours sincerely

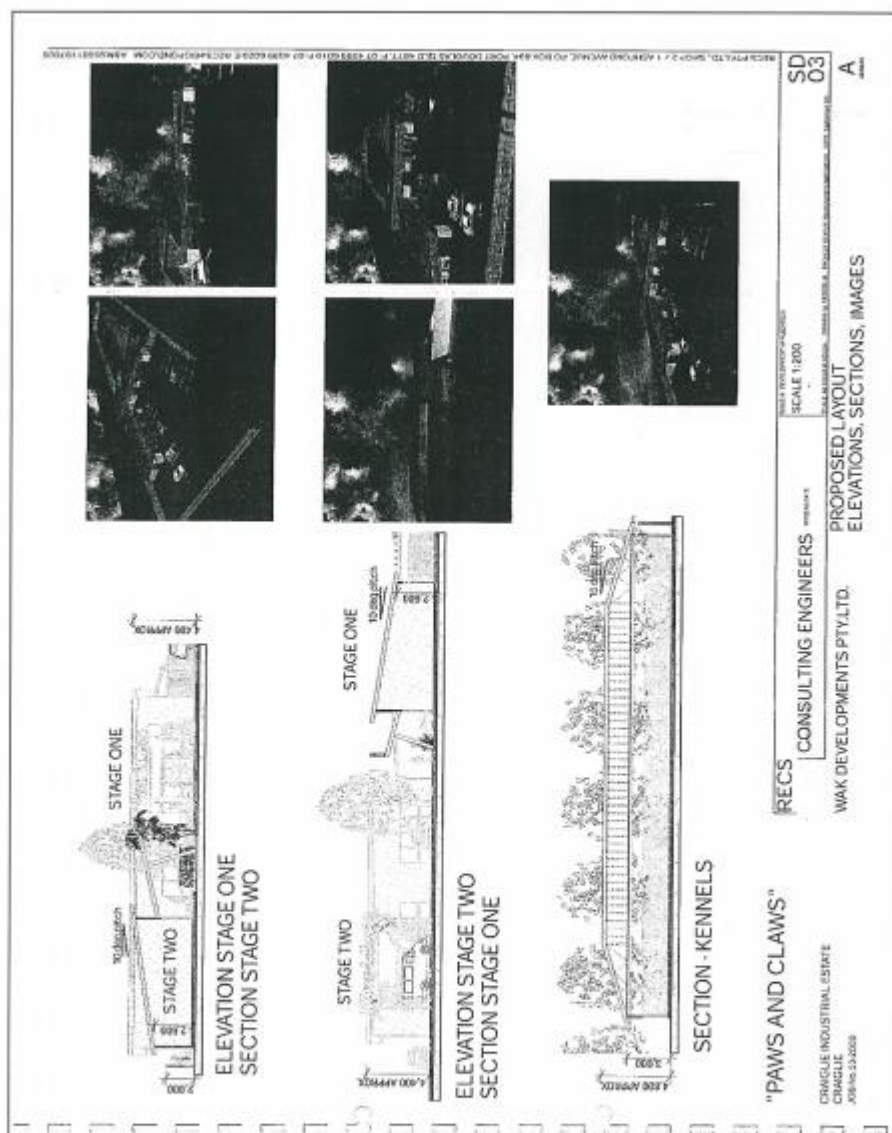


David Hubner  
MANAGER (TRANSPORT PLANNING) PENINSULA

## Appendix B – Plans of Development









## Plan of Reconfiguration





### Council Amendments 5 May 2015

1. Condition 20 is amended as follows:

#### 20. Plan of Development

The approved plan of reconfiguration and carrying out of any works on the premises associated with this development must be in accordance with the following approved plan/s of reconfiguration.

Title	Plan No	Date
<del>Proposal Plan (stage 2)</del>	<del>8294-10</del>	<del>21/9/06</del>
<u>Reconfiguration of a Lot, Proposed Stage 2 Craiglie Business Park</u>	<u>RPS Drawing No. PR108905-17</u>	<u>31 July 2014</u>

2. A new condition, 29A, is inserted after Condition 29 as follows:

#### 29A. Stormwater Drainage Design

Stormwater drainage from Lots 37 and 38 must be provided in a piped underground form beneath the easements and carriage way over Lot 37 to discharge onto Lots 36 and 39 (currently known as Lot 100 on SP248126) and to be disposed of to the satisfaction of the Chief Executive Officer.

3. A new Condition 33A is inserted after Condition 33 as follows:

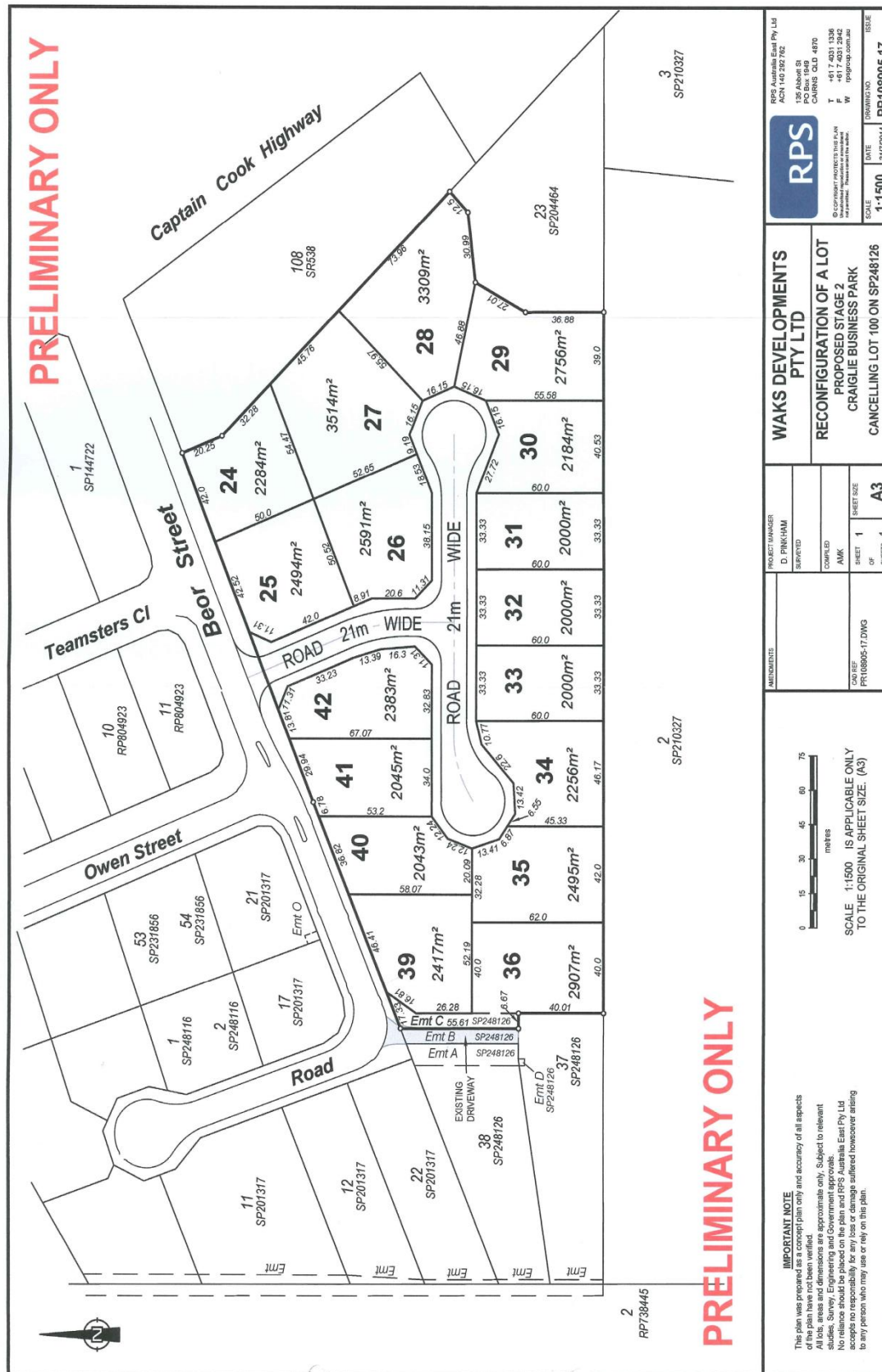
#### 33A. The Applicant must provide six (6) car spaces in the area Easement C to the satisfaction of the Chief Executive Officer.

4. Condition 38 is amended as follows:

38. ~~Council acknowledges that with Stage One (1) of the proposal the applicant intends to provide a land component of 4000m<sup>2</sup> to the Paws and Claws organisation, together with \$200 000 worth of works in lieu and a monetary contribution equivalent to 9% of the total open space and recreation required for Stage One (1) and Stage Two (2) of the development.~~

~~With Stage 2 of the development the applicant is required to contribute the balance of the contribution 43.9% as land in the south-eastern portion of the site as indicated in the plan of development.~~

Council acknowledges that Park was provided (including the provision of upgrading works) through Stage 1 of the Industrial Estate and that provision is complimented with a financial deed of gift of \$200 000 to the Homeless Animal Society and Boarding Kennels Incorporated IA20194. These provisions of land, upgrading works and deed of gift satisfy the provision of Park and must be provided prior to the issue of a Compliance Certificate for the Plan of Survey.





Department of  
**State Development,  
Infrastructure and Planning**

Our reference: SPD-0814-010287

Your reference:

Date: 21 August 2014

Ms Linda Cardew  
Chief Executive Officer  
Douglas Shire Council  
PO Box 723  
MOSSMAN QLD 4873

Dear Ms Cardew

**Notice about request for permissible change—relevant entity**

43 Beor - Craiglie, Douglas Shire - QLD; 45 Beor - Craiglie, Douglas Shire - QLD;  
(Given under section 373(1) of the *Sustainable Planning Act 2009*)

The Department of State Development, Infrastructure and Planning received a copy of the request for a permissible change under section 372(1) of the *Sustainable Planning Act 2009* on 11 August 2014 advising the department, as a relevant entity, of the request for a permissible change made to the responsible entity under section 369 of the *Sustainable Planning Act 2009*.

The department understands that the proposed changes are as follows:

- That Condition 20 of the Negotiated Decision Notice, issued 13 August 2007 change the referencing with respect to Plan No. 8294-10 dated 21/09/06 to Plan No. PR108905-17 dated 31/07/2014.
- In summary effectively: (a) altering access to lots 37 and 38; (b) modifying internal access for the balance of lots within Stage 2 to comply with FNQROC Development Manual

The department has considered the proposed changes to the development approval and advises that it has no objection to the change being made.

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Far North Queensland Regional  
Office Ground Floor, Cairns Port  
Authority PO Box 2358  
Cairns QLD 4870

If you require any further information, please contact Angela Foster, Principal Planning Officer, on 4037 3233, or via email [angela.foster@dsdip.qld.gov.au](mailto:angela.foster@dsdip.qld.gov.au) who will be able to assist.

Yours sincerely



Robin Clark  
Manager (Planning)

cc Waks Developments Pty Ltd  
K/- Kristy Gilvear, Gilvear, Planning  
[kristy@gilvearplanning.com.au](mailto:kristy@gilvearplanning.com.au)

**SCHEDULE 3 REFERRAL AGENCY ADVICE**

Department of Infrastructure,  
Local Government and Planning

Our reference : SPD-0815-019930  
Your reference : 8/30/126 (CRC Ref); CA69 (DSC Ref: May 2007)

13 August 2015

Chief Executive Officer  
Douglas Shire Council  
PO Box 723  
MOSSMAN QLD 4873  
[enquiries@douglas.qld.gov.au](mailto:enquiries@douglas.qld.gov.au)

Dear Sir/Madam,

**Notice about request to extend relevant period**

Lot on plan	Street address
Lots 37, 38 and 100 on SP248126	43 Beor Street, Craiglie, Douglas Shire Council, QLD

(Given under section 385 of the *Sustainable Planning Act 2009*)

The Department of Infrastructure, Local Government and Planning received written notice under section 383(1)(a) of the *Sustainable Planning Act 2009* (the act) on 2 August 2015 advising the department, as a concurrence agency, of the request to extend the relevant period. The proposed extension to the relevant period is for a further 12 months until 25 August 2019.

The department has considered the request to extend the relevant period and advises that it has no objection to the extension being approved.

If you require any further information, please contact Sue Lockwood, Senior Planning Officer, on (07) 4037 3215, or via email [sue.lockwood@dilgp.qld.gov.au](mailto:sue.lockwood@dilgp.qld.gov.au) who will be pleased to assist.

Yours sincerely

A handwritten signature in black ink, appearing to read "Brett Nancarrow".

Brett Nancarrow  
A/Manager (Planning)

Page 1

Cairns Port Authority  
Grafton and Hartley Streets  
PO Box 2358  
Cairns QLD 4870  
Telephone +61 7 40373209  
Website [www.dilgp.qld.gov.au](http://www.dilgp.qld.gov.au)  
ABN 25 166 523 889



## SCHEDULE 3 APPEAL RIGHTS

Planning Act 2016  
Chapter 6 Dispute resolution

[s 229]

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.
- (3) In this section—
  - conduct* means an act or omission.
  - representative* means—
    - (a) of a corporation—an executive officer, employee or agent of the corporation; or
    - (b) of an individual—an employee or agent of the individual.
  - state of mind*, of a person, includes the person's—
    - (a) knowledge, intention, opinion, belief or purpose; and
    - (b) reasons for the intention, opinion, belief or purpose.

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
  - (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the *appellant*); and
    - (ii) who is a respondent in an appeal of the matter; and

Current as at 3 July 2017

Page 203

Authorised by the Parliamentary Counsel



Planning Act 2016  
Chapter 6 Dispute resolution

[s 229]

- (iii) who is a co-respondent in an appeal of the matter; and
  - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The ***appeal period*** is—
- (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
  - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
  - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
  - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.
- Note—*  
See the P&E Court Act for the court's power to extend the appeal period.
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

- 
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
- (a) the adopted charge itself; or
  - (b) for a decision about an offset or refund—
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

### **230 Notice of appeal**

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
  - (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
  - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
  - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and

Planning Act 2016  
Chapter 6 Dispute resolution

[s 231]

- (f) for an appeal to the P&E Court—the chief executive; and
- (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
  - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
  - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

## 231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—  
*decision* includes—

- 
- (a) conduct engaged in for the purpose of making a decision; and
  - (b) other conduct that relates to the making of a decision; and
  - (c) the making of a decision or the failure to make a decision; and
  - (d) a purported decision; and
  - (e) a deemed refusal.

***non-appealable***, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

## 232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.