

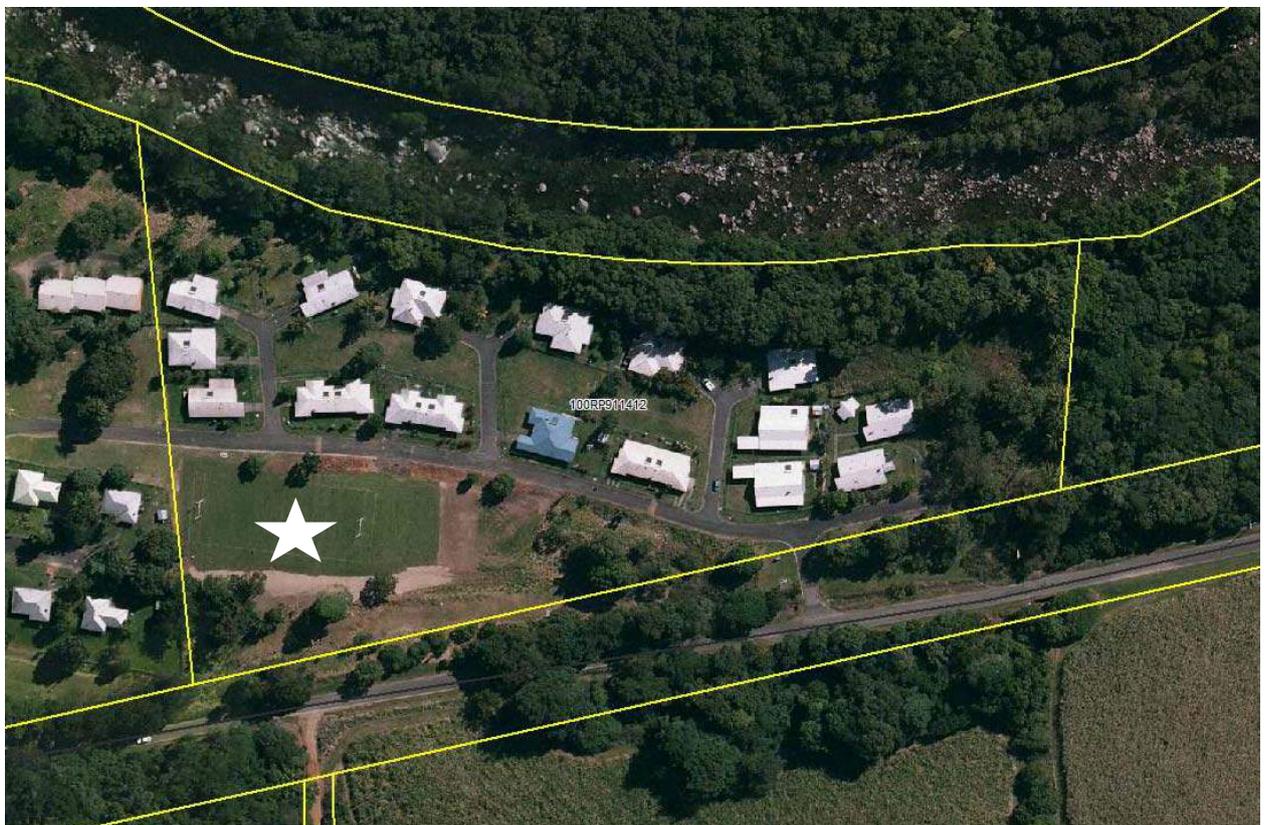
ORDINARY MEETING 16 DECEMBER 2014	5.11
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RECONFIGURING A LOT (1 LOT INTO 19 LOTS) - L100 GORGE ROAD,
MOSSMAN GORGE

Jenny Elphinstone: ROL 396/2014: 429208

<u>PROPOSAL:</u>	RECONFIGURING A LOT (1 INTO 19 LOTS AND ROAD)
<u>APPLICANT:</u>	DEPARTMENT OF ABORIGINAL & TORRES STRAIT ISLANDER & MULTI-CULTURAL AFFAIRS (REMOTE INDIGENOUS LAND AND INFRASTRUCTURE PROGRAM OFFICE) C/- GILVEAR PLANNING PTY LTD PO BOX 228 BABINDA QLD 4861
<u>LOCATION OF SITE:</u>	L100 GORGE ROAD, MOSSMAN GORGE
<u>PROPERTY:</u>	LOT 100 ON RP911412
<u>LOCALITY:</u>	RURAL AREAS AND RURAL SETTLEMENTS
<u>PLANNING AREA:</u>	RURAL
<u>PLANNING SCHEME:</u>	DOUGLAS SHIRE PLANNING SCHEME 2008
<u>REFERRAL AGENCIES:</u>	NONE APPLICABLE
<u>NUMBER OF SUBMITTERS:</u>	NOT APPLICABLE
<u>STATUTORY ASSESSMENT DEADLINE:</u>	19 DECEMBER 2014
<u>APPLICATION DATE:</u>	11 SEPTEMBER 2014
<u>APPENDIX:</u>	<ol style="list-style-type: none"> 1. APPROVED PLAN(S) & DOCUMENT(S) 2. INFRASTRUCTURE CHARGES NOTICE

LOCALITY PLAN



RECOMMENDATION:

That Council approves the development application to reconfigure the land described as Lot 100 on RP911412, located at Gorge Road, Mossman Gorge, subject to the following:

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

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

Drawing or Document	Reference	Date
Proposed Lot Layout	Black and More Drawing Project 7019 Sketch 7019-1 Revision B (As amended by Conditions of this Development Permit)	18 March 2014

ASSESSMENT MANAGER CONDITIONS

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

Except where modified by these conditions of approval.

Timing of Effect

2. The conditions of the Development Permit must be effected prior to the issue of a Compliance Certificate for the Plan of Survey except where specified otherwise in these conditions of approval.

Street Hierarchy

3. For the development the following street hierarchy is applied:
 - a. Lund Street and Bamabubu Street are access streets;
 - b. Jankaji Close, Manjal Close, Walkarr Close are access places; and
 - c. the extension of Lund Street / new Close past the Bamabubu Street exit is an access place.

Amended Design - Street Layout and Design

4. The street layout and design must be revised to comply with Queensland Streets and the *FNQROC Development Manual*, to the satisfaction of the Chief Executive Officer. In particular:
 - a. The street hierarchy nominated under Condition 3 above;
 - b. Following the endorsement of the Traffic Study required under Condition 5 inclusion of upgrades required to the existing road network;

- c. Following the endorsement of the Drainage Study required under Condition 6 inclusion of the upgrades required to the existing stormwater infrastructure;
- d. Provision of a two (2.0) metre wide footpath is to be constructed within all Access Streets in accordance with Table D1.3 of the *FNQROC Development Manual*;
- e. Remove the pedestrian links at the end of Jankaji Close, and Manjal Close and Walkarr Close and incorporate these areas into the neighbouring residential lots;
- f. Provision of a bus stop near Bamabubu Street and Mossman Gorge Road;
- g. A temporary vehicle turnaround at end of all roads where the length of road exceeds sixty (60) metres (i.e. maximum acceptable reversing distance for garbage truck) must be provided. The turning facility must be of sufficient size to turn around a garbage truck, either in a continuous forward movement or by a three-point turn. Alternatively, a common refuse collection area may be provided where suitably located. The location of any proposed common refuse collection area must be identified on the amended plans and approved by the Chief Executive Officer prior to the issue of a Development Permit for Operational Work;
- h. Revisit the design of the close, adjacent to Lot 39 and servicing Lots 40 and 41, on the eastern extent of the development. The current design is not supported. The road reserve width and road formation must be upgraded in all locations to comply with the requirements of the *FNQROC Development Manual* or be redesigned as a shared reciprocal access arrangement to Lots 39, 40, 41 and 53;
- i. Change the description of “Lot 53” that is a lot adjacent to the Mossman River from a freehold lot to land dedicated to the State as a Nature Reserve; and
- j. Note on the plan that Lot 42 is private community land;
- k. Compliance with the current version of Council’s *FNQROC Development Manual* – Road Network

The Applicant must engage a suitably qualified and experienced Registered Professional Engineer of Queensland (RPEQ) to assess the existing roads infrastructure (including all aspects of the design as noted in condition 5) against the current engineering standards.

Where deviations from the current *FNQROC Development Manual* standards exist, the Applicant is to:

- i. Identify the non-conformance (location, extent etc).
- ii. Provide details of the works required to bring the specific non-conformances up to current engineering standards.

It should be noted that Council may consider non-standard infrastructure where it can be demonstrated that:-

- . There is no increased risk to Council accepting the infrastructure (safety, environmental, financial (i.e. increased maintenance costs or likely replacement costs) over the levels which would be expected and accepted with donation of *FNQROC Development Manual* standard infrastructure; and
- . Acceptance of non-standard infrastructure will be undertaken on a case by case basis, once the specific non-conformances have been identified in the report required as part of this condition.

It should be noted that, the acceptance of non-standard infrastructure shall remain at the discretion of the Douglas Shire Council. Where an agreement cannot be reached, the standard *FNQROC Development Manual* infrastructure requirements shall prevail.

The Applicant must provide a set of amended drawings reflecting any changes required from conditions of approvals (including revised traffic and drainage studies). The Applicant must ensure that an appropriately qualified and experienced RPEQ certifies that the design and construction of the road network infrastructure and associated utilities, signage, lighting etc proposed to be handed over to Council as part of the donated assets process at plan sealing is in accordance with the *FNQROC Development Manual*, except where an alternative standard has been explicitly agreed between the parties. The Applicant must submit a Statement of Compliance for the Operational Works Design as provided in Appendix A of Section AP 1 of the *FNQROC Development Manual* with the revised set of drawings.

The set of amended drawings must be submitted to Council and endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

All works must be carried out by the Applicant at no cost to Council in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to the issue of a Compliance Certificate for the Plan of Survey.

Traffic Assessment

5. Undertake a detailed traffic assessment in accordance with Council's requirements to identify and assess:
 - a. Any impacts of the proposed development upon the Council's Road Network. The assessment must include (but not be limited to):
 - i. All Intersections – Capacity, Geometry and Treatments

The Applicant must demonstrate that the intersections within the proposed reconfiguration of a lot (RoL) and those that will be traversed to directly access the development from Mossman Gorge Road, comply with current engineering standards and the *FNQROC Development Manual*. The Applicant must provide amended plans which show and document the extent of works which are required to ensure compliance with Section D1 (specifically Section D1.12) of the *FNQROC Development Manual*. The amended plans are to identify and nominate all vegetation which requires removal for the safe and efficient movement of vehicles and pedestrians through the proposed development and intersections feeding the development from Mossman Gorge Road;

ii. All Road links – Capacity, Geometry and Form

The Applicant must review all road links within the bounds of the proposed development and those links which link the proposed development to Mossman Gorge Road (Junkurrji Street, Lund Road (Western End) and Bamabubu Street. The Applicant must demonstrate that each road link complies with Section D1 (in particular Section D1.10) of the *FNQROC Development Manual* or identify what works are required to be undertaken to ensure that compliance with Section D1 of the *FNQROC Development Manual*. A revised plan showing the extent of works required is to be provided to Council for review and approval, prior to the issue of a Development Permit for Operational Works;

iii. Public Transport Network

The Applicant must demonstrate that the development complies with the requirement for a bus-route and section D1.16 of the *FNQROC Development Manual*;

iv. Garbage Collection / Emergency Vehicle Access;

The Applicant must demonstrate that the development complies with the requirement for a Section D1 of the *FNQROC Development Manual* (in particular sections D1.02, D1.10, D1.12 and D1.14) unless an alternative common area for garbage collection is agreed to by the Chief Executive Officer under Condition 4 above; and

v. Pedestrians and Cyclists

The Applicant must demonstrate that the development complies with the requirement for a bus-route and section D1.19 of the *FNQROC Development Manual*;

- c. Compliance of the existing network infrastructure with current engineering standards and the *FNQROC Development Manual*; and
- d. Determine any mitigation measures required to ameliorate the effects of the proposed development and identify these in revised drawings.

The Applicant must provide a set of amended drawings reflecting any changes required from the traffic study and conditions. The Applicant must ensure that an appropriately qualified and experienced RPEQ certifies that the design and construction of the proposed traffic network, proposed to be handed over to Council as part of the donated assets process, is in accordance with the *FNQROC Development Manual*. The Applicant must submit a Statement of Compliance for the Operational Works Design as provided in Appendix A of Section AP 1 of the *FNQROC Development Manual* with the revised set of drawings.

Drainage Study of Site

6. Undertake a local drainage study of the site to determine the drainage impacts on upstream and downstream properties and the mitigation measures required to minimise such impacts. In particular, the study must address the following:
 - a. The contributing catchment boundaries;
 - b. The extent of the 100 year ARI flood event in relation to the site both pre and post development;
 - c. Primary and secondary flow paths for the 5, 10, and 100 year ARI flood events;
 - d. Identify any requirement for drainage easements;
 - e. Identify the need and tenure for flood detention areas to ensure a no worsening impact on downstream properties for the entire development;
 - f. Information on the proposed works and any impacts proposed at the drainage outlet from the proposed development;
 - g. Lawful point of discharge;
 - h. Consideration of the following particular requirements:
 - i. Stormwater drainage improvements on the eastern end of the proposed development are required. This includes, but is not limited to resolving the poor drainage in the area at the eastern end of the sports oval (proposed Lot 42);
 - ii. The headwall adjacent to Lund Street needs to be relocated further from the road carriageway;
 - iii. The minimum size RCP to be used within the development is 375mm in accordance with the current requirements of the *FNQROC Development Manual*;
 - iv. Structures must be provided to the western boundary of the land at proposed lots 21, 22 and 23 to mitigate inundation of lots 21, 22 and 23 from overland flows;

- v. Consideration must be given to the separation of gross pollutants from the storm water prior to it exiting the community; and
 - vi. Easements must be established for the drains passing through allotments, or for stormwater infrastructure which is not on a standard alignment;
- i. **Compliance with the current version of Council's *FNQROC Development Manual* – Stormwater**

The Applicant must have an suitably qualified and experienced RPEQ assess the existing infrastructure capacity, condition and performance (where possible) against the current engineering standards as defined by the *FNQROC Development Manual* and associated reference documents (including QUDM)

Where deviations from the current *FNQROC Development Manual* standards exist, the applicant is to:

- i. Identify the non-conformance (location, extent etc); and
- ii. Provide details of the works required to bring the specific of non-conformances up to current engineering standards.

It should be noted that Council may consider non-standard infrastructure where it can be demonstrated that:-

- . There is no increased risk to Council accepting the infrastructure (safety, environmental, financial (i.e. increased maintenance costs or likely replacement costs) over the levels which would be expected and accepted with donation of *FNQROC Development Manual* standard infrastructure;
- . Acceptance of non-standard infrastructure will be undertaken on a case by case basis, once the specific non-conformances have been identified in the report required as part of this condition; and
- . The non-standard infrastructure shall be required to be certified as fit-for-purpose.

The Applicant must provide a set of amended drawings reflecting any changes required from the drainage study and conditions. The Applicant must ensure that an appropriately qualified and experienced RPEQ certifies that the design and construction of the stormwater system proposed to be handed over to Council as part of the donated assets process at plan sealing is in accordance with the *FNQROC Development Manual*, except where an alternative standard has been explicitly agreed between the parties – in accordance with the provisions outlined above. The Applicant must submit a Statement of Compliance for the Operational Works Design as provided in Appendix A of Section AP 1 of the *FNQROC* with the revised set of drawings.

The drainage study and amended drawings must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

It should be noted that in all cases, the acceptance of non-standard infrastructure shall remain at the discretion of the Chief Executive Officer. Where agreement cannot be reached, the standard *FNQROC Development Manual* infrastructure requirements shall prevail.

Existing Creek and Drainage Systems

- 7. All existing creek systems and drainage areas adjacent to or leading into the Mossman River to the North of the proposed development must be left in their current state, including no channel alterations and no removal of vegetation unless consented to in writing by the Chief Executive Officer.**

The Applicant/owner must obtain any necessary approvals from the Department of Natural Resources and Mines for carrying out works in a watercourse.

Lawful Point of Discharge

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

Access to Hatchet or Battleaxe Lots

- 9. Construct a concrete driveway or other approved surface to battle-axe Lot 40 extending the full length of the access leg from the T-head intersection adjacent, with a Standard Cross-over in accordance with Council Standard Drawing S1015B. Construction of the concrete driveway must be in accordance with Council Standard Drawing S1110.**

All works must be carried out to the requirements and satisfaction of the Chief Executive Officer prior to the issue of a Compliance Certificate for the Plan of Survey.

Service Conduits

- 10. Provide service conduits to Lot 40 adjacent to the driveway together with associated access pits if necessary, to extend from the front boundary to the end of the access driveway.**

All works must be carried out to the requirements and satisfaction of the Chief Executive Officer prior to the issue of a Compliance Certificate for the Plan of Survey.

Street Lighting

- 11. The following arrangements for the installation of street lighting within the proposed subdivision must be provided prior to the approval and dating of the Plan of Survey:**

- a. Prior to the issue of a Compliance Certificate for the Plan of Survey, a Rate 2 lighting scheme is to be prepared by Ergon Energy or its approved consultant and submitted to the Chief Executive Officer for approval. The Rate 2 lighting scheme is to be designed in accordance with the relevant Road Lighting Standard AS/NZS 1158 and the *FNQROC Development Manual*. The applicable lighting category is to be determined from the Road Hierarchy Table D1.1 and the corresponding applicable Lighting Categories Table D8.1 as identified in the *FNQROC Development Manual*.

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

- i. Intersections;
- ii. Pedestrian Refuges;
- iii. Cul-de-sacs; and
- iv. LATM Devices (Including Roundabouts).

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

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

Water Supply and Sewerage Infrastructure Plan

12. An updated water supply and sewerage infrastructure plan and supporting information including hydraulic network analysis must be submitted demonstrating how the development can be adequately serviced by Council's existing infrastructure.

The analysis must identify any deficiencies or non-compliances of the existing water and sewer networks which are used to service the proposed development. Where non-compliances are identified, the Applicant must modify, repair, replace or design and construct any augmentations or remediation works required to bring the infrastructure up to current engineering standards at no cost to Council.

In particular the plan must:

- a. Identify the materials that the sewer and water networks are constructed from;

- b. Identify any non-conformances in terms of the performance, design and construction of the infrastructure networks against current standards (*FNQROC Development Manual*);
- c. Identify what works are required to be undertaken to enable certification that the infrastructure is compliant in all regards to the requirements of the *FNQROC Development Manual* (Sections D6 and D7);
- d. Identify any locations where easements would be required to be obtained for water and sewer on non-standard alignments;
- e. Identify any external catchments that will be connected to the internal sewer or water networks; and
- f. Identify any trunk infrastructure external to the proposed subdivision that may require upgrading to accommodate the development.
- g. Compliance with the current version of Council's *FNQROC Development Manual – Water and Sewerage*

The water supply and sewerage infrastructure plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

The Applicant must engage a suitably qualified and experienced RPEQ to assess the infrastructure against the current engineering standards.

Where deviations from the current *FNQROC Development Manual* standards exist, the applicant is to:

- i. Identify the non-conformance (location, extent etc); and
- ii. Provide details of the works required to bring the specific non-conformances up to current engineering standards.

It should be noted that Council may consider non-standard infrastructure where it can be demonstrated that:

- . There is no increased risk to Council accepting the infrastructure (safety, environmental, financial (i.e. increased maintenance costs or likely replacement costs) over the levels which would be expected and accepted with donation of *FNQROC Development Manual* standard infrastructure;
- . Acceptance of non-standard infrastructure will be undertaken on a case by case basis, once the specific non-conformances have been identified in the report required as part of this condition; and
- . The Applicant must provide a set of amended drawings reflecting any changes required from conditions of approvals. The amended drawings must be submitted to Council and endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

It should be noted that in all cases, the acceptance of non-standard infrastructure shall remain at the discretion of the Douglas Shire Council. Where agreement cannot be reached, the standard *FNQROC Development Manual* infrastructure requirements shall prevail.

Prior to the acceptance of works by Council, the Applicant must ensure that an appropriately qualified and experienced RPEQ certifies that the design and construction of the water and sewer infrastructure proposed to be handed over to Council as part of the donated assets process at plan sealing is in accordance with the *FNQROC Development Manual*, except where an alternative standard has been explicitly agreed between the parties – in accordance with the provisions outlined above. The Applicant must submit a Statement of Compliance for the Operational Works Design as provided in Appendix A of Section AP 1 of the *FNQROC Development Manual* with the revised set of drawings.

Water Supply and Sewerage Works (External)

13. The Applicant must undertake the following works:

- a. Upgrade, replace or provide any works as are required from Condition 6 (Water Supply and Sewerage Infrastructure Plan)
- b. Undertake the following water supply and sewerage works external to the site to connect the site to existing water supply and sewerage infrastructure:-
 - i. Upgrade the sewer pump station on the Eastern extent of the development, located opposite to block number 39, within the Mossman Gorge Road reserve. It should be noted that any upgrade to or construction of a sewerage pump station will require full design drawings and a commissioning plan in accordance with the *FNQROC Development Manual* submitted with the plan of works and will be subject to compliance with the State Purchasing Policy for competitive Tendering;
 - ii Provide district meters at locations nominated by Douglas Shire Council; and
 - iii. CCTV footage taken after the completion of works must be submitted to Council.

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

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer, prior to the issue of a Compliance Certificate for the Plan of Survey.

Water Supply and Sewerage Works (Internal)

14. The Applicant must undertake the following works:

- a. Upgrade, replace or provide any works as are required from Condition 12 (Water Supply and Sewerage Infrastructure Plan);
- b. Provide water and sewerage infrastructure free of defects, constructed to current engineering standards and in accordance with Council's *FNQROC Development Manual*; and
- c. Required works are, but not limited to:

- i. All non-compliances and defects of the sewerage reticulation system as identified in Condition 12 (Water Supply and Sewerage Infrastructure Plan) must be rectified;
- ii. Provide easements over any water or sewer infrastructure assets that are on non-standard alignments OR relocate the water and sewer assets to be on a standard alignment (as per the *FNQROC Development Manual*);
- iii. The sewerage system must be extended to provide a defect free connection to each existing dwelling. In the case when a dwelling does not exist provide a single internal sewer connection to each lot in accordance with the *FNQROC Development Manual*; and
- iv. If any existing sewer connection is required to be retained but is inadequately sized to service the development, it must be upgraded. Existing sewer connections not retained must be decommissioned.

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

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to the issue of a Compliance Certificate for the Plan of Survey.

Inspection of Sewers

15. CCTV inspections of all constructed sewers must be undertaken for all sewers that will become an asset of Council. The CCTV records must be provided to Council the issue of a Compliance Certificate for the Plan of Survey. An assessment of the CCTV records will be undertaken and any identified defects are to be rectified to the satisfaction of the Chief Executive Officer at no cost to Council.

Vegetation Clearing

16. Existing vegetation on the subject land must be retained in all areas except those affected by the construction of access driveways, the installation of services as detailed on the approved plans. Any further clearing requires a Development Permit for Operational Works.

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

Wildlife

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

Parkland Protection

- 18. Any common boundaries with the adjacent Mossman Gorge River must be temporarily delineated and fenced off to restrict building access for the duration of construction activity.**

Weed Management

- 19. A Weed Management Plan for invasive pest species must be submitted to and endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.**

Demolish Structures

- 20. All structures not associated with the approved development (including disused services and utilities) must be demolished and/or removed from the subject land prior the issue of a Compliance Certificate for the Plan of Survey.**

Stockpiling and Transportation of Fill Material

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

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

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

Storage of Machinery and Plant

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

Access Easement/s

- 24. Create a reciprocal Access Easement to allow vehicle access and on-site manoeuvring for lots 39, 40, 41 and 53, to the requirements and satisfaction of the Chief Executive Officer. A copy of the easement documents must be submitted to Council for the approval of Council's solicitors at no cost to Council. The approved easement documents must be submitted at the same time as seeking approval and dating of the Plan of Survey and must be lodged and registered with the Department of Natural Resources and Mines in conjunction with the Plan of Survey.**

Sewer Easement/s

25. Create an easement in favour of Council over all sewers on non-standard alignments or within any private lots to be created, to the requirements and satisfaction of the Chief Executive Officer. A copy of the easement documents must be submitted to Council for the approval by Council's solicitors at no cost to Council prior to the issue of a Compliance Certificate for the Plan of Survey. The approved easement documents must be submitted at the same time as seeking approval and dating of the Plan of Survey and must be lodged and registered with the Department of Natural Resources and Mines in conjunction with the Plan of Survey.

Existing Services

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

Electricity Supply

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

Electricity and Telecommunications

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

29. Infrastructure Charges

A monetary contribution to Council towards the provision of infrastructure is required in accordance with the Infrastructure Charges Notice attached to this decision. The contribution payable will be in accordance with the Planning Scheme Policy.

Contributions must be paid at the rates applicable at time of payment. Payment is required prior to the issue of a Compliance Certificate for the Plan of Survey.

ADVICE

1. Prior negotiations with Cairns Regional Council are not considered to confer any ongoing concessions or agreements to the application made to Douglas Shire Council. Council has made an independent assessment of the current application against Council policies and guidelines and current engineering standards.
2. It is Council's expectation that all created allotments need to be adequately serviced. Urban allotments, with urban use rights are expected to be serviced with urban standards of infrastructure that comply in full with the current engineering standards and Council's *FNQROC Development Manual*.
3. Neither Lot 53 or Lot 42 are accepted as Park or considered as Park.
4. This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of sections 339 and 341 of the *Sustainable Planning Act 2009*.
5. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
6. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.

Infrastructure Charges Notice

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

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

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

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

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

8. For information relating to the *Sustainable Planning Act 2009* log on to www.dsdip.qld.gov.au. To access the *FNQROC Development Manual*, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.

EXECUTIVE SUMMARY:

The Mossman Gorge community is an established hamlet of individual houses, open undeveloped areas and community services. The land currently consist of two main titles a freehold lot (Lot 100 on RP911412) and State Reserve (Lot 152 on SR832). Application has been made to reconfigure a Lot 100 into nineteen lots and road.

Concern is held with the Applicant's expectation for Lots 42 and 53 to be Park. These lots are not fully accessible to the whole of the Douglas community. Lot 42 should remain as a lot held by the Bamanga Bubu Ngadimunku. Lot 53 should become State Reserve as it does not meet the requirements for a local park due to limited accessibility. The proposed access ways to Lot 53 should be removed and replaced with frontage to an extended new cul-de-sac off Lund Street.

The creation of lots and road effectively transfers civil infrastructure into Council assets. Once the land is reconfigured Council is then responsible for the ongoing and future maintenance and delivery of all infrastructure services (road, water, drainage and sewerage). The Applicant anticipates the need for infrastructure upgrades. Conditions of the approval ensure the development is captured in the local infrastructure plans for the provision of services and payment of infrastructure charges. Concern is held with the standard of the existing civil infrastructure including roads, water and sewer services as this is less than Far North Queensland Regional Organisation of Councils (FNQROC) Development Manual Standard. This is the standard required and expected in all Douglas Shire developments. It would be inappropriate for Council to accept a lower standard of design for part of the Douglas community.

Conditions of the approval require the development to meet FNQROC Development Manual standard prior to the lodgement of a compliance certificate for the signing and dating of the survey plan. A condition of the approval requires the upgrading of the existing infrastructure through an infrastructure agreement. Upgrading is to include the sewerage pump station, water metering to all new lots and compliant pipe networks and road design and construction. For any handover of infrastructure and roads this must be provided at handover at least to FNQROC Development Manual standards unless a suitable alternative has been designed by a RPEQ qualified Engineer and agreed to by the Chief Executive Officer.

TOWN PLANNING CONSIDERATIONS:**Background**

The land has been provided as housing for Indigenous persons for more than fifty years having been originally established as an enclosed Aboriginal reserve settlement. Over time changes in legislation giving rights to Indigenous persons has resulted in independent living in the community under the State. The State Government is pursuing the ability for the Traditional Owners to self manage and own the community land. At the Planning and Sustainability Committee Meeting held on 13 March 2013 Cairns Regional Council determined to continue to work in a partnership with the Australian and Queensland Governments, associated State agencies and Bamanga Bubu Ngadimunku (BBN) to assist in the transition of the former Indigenous community housing model to the State Government's One Social Housing system and to facilitate the aspirations of Traditional Owners in accordance with the principles established in Council's Operational Plan and Reconciliation Action Plan (RAP).

A separate Development Application was lodged for a Material Change of Use seeking a Preliminary approval to vary the Scheme for the use rights “consistent with a Township Zone.” The application also sought to vary the effect of the Scheme in respect to the Desired Environmental outcomes and various Planning Code design requirements. The application underwent public notification. The land is currently zoned Rural and the Material Change of Use application was lodged on the basis that it was considered necessary in order to enable the reconfiguration of the existing community land into individual residential lots. A review of the application by Council officers has identified the residential community having been established well prior to the introduction of planning controls in the Douglas Shire holds continuing use rights for residential development. To this extent the Material Change of Use is not considered necessary.

Parallel to the application to reconfigure Lot 100 application has been made under the Land Act 1994 to create separate lots, leases and open road over the neighbouring Lot 152 on CPSR832. This application is dealt with under a referral from the Department of Natural Resources and Mines and will be separately reported to Council in due course once the operational works are complete.

It is understood that funding of approximately \$1.3M is available for the upgrade of civil works.

Proposal

The land has an area of 3.887 hectares and comprises of dwellings, undeveloped housing lots, parks, access ways and civil works including roads, bus stops, water and waste water infrastructure. The civil works extend over the neighbouring Lot 152. The road network has access to the Mossman Gorge Road. The proposed lot layout, which also includes the proposed layout for the lease lots and road openings for the neighbouring Lot 152 is included in Appendix 1. An aerial overlay of the proposed lot reconfiguration is also included in Appendix 1.

Proposed lots 21, 22, 23, 24, 25, 27, 29, 30, 32, 33, 35, 36, 37 and 38 each contain a single dwelling. Lot 39 is partly developed by units. Lots 40 and 41 are undeveloped residential lots. Lot 42 and 53 are parks. Access ways provide connectivity from the internal roads (Jankaji Close, Manjal Close and Walkarr Close) to the park lot 53. The park lot 53 is adjacent to the Mossman River. The Park lot 42 is bounded by Lund Street, Mossman Gorge Road and the Neighbouring Lot 152.

The respective site areas of the proposed lots are tabled below.

Lot Number	Area (m ²)	Road Frontage (m) (minimum)	Depth (m) (minimum)	Description
21	539	15.714	15.485	House
22	533	21.938	17.673	House
23	924	17.462	24.63	House
24	1343	31.948	21.471	House
25	902	24.878	24.878	House
27	914	26.907	28 (approx..)	House
29	1318	29.432	22.983	House
30	1486	30.292	40.792	House
32	998	26.327	26.327	House
33	849	27.209	27.209	House
35	1386	33.363	26 (approx..)	House
36	981	19.502	25.252	House

Lot Number	Area (m ²)	Road Frontage (m) (minimum)	Depth (m) (minimum)	Description
37	618	24.909	25.252	House
38	605	16.18	33.276	House
39	2091	32.401	30.45	Units
40	2041	8.899	36.313	Undeveloped house lot
41	1409	31	25	Undeveloped house lot
42	7835	176.938	10 (approx.)	Park
53	5026	2.411	Varies	Park

The Applicant advises that, "At this stage, it is anticipated that Lots 42 and 53 will be community park and/or Council reserve."

The proposal includes the dedication of 403m of road reserve. The road reserves are described as follows.

"The proposed reserve width for Jankaji Close is approximately 10.5m. Lund Street reserve varies in width, from 15.2m to 16.6m at the intersection with Walkarr Close, to 8m at its narrowest point near proposed Lot41. Manjal Close has a proposed reserve width of approximately 10.5m, as does Walkarr Close. The proposed 'new' Close on the eastern end of the site, providing access to Lots 39, 40 and 41, has a proposed reserve width of 8.899m at its narrowest point."

Civil infrastructure currently existing on the land includes:

- Sewerage: Man holes, gravity mains and a fenced pump station with flows leading to a rising main on Mossman Gorge Road;
- Water: Reticulated water supply to the individual lots connecting via a single, Council water meter on the neighbouring Lot 152,
- Drainage: Spoon drains and earth drains, kerb inlet pits and headwalls; and
- Road: Road pavement, kerb and channel, road and street name signage.

The creation of the lots and road will effectively transfer the civil infrastructure to Council. Council will then be responsible for the maintenance and delivery of all future infrastructure services (road, water, drainage and sewerage). The Applicant anticipates the need for infrastructure upgrades and notes an Infrastructure Agreement may be required.

Douglas Shire Planning Scheme Assessment

Douglas Shire Rural Areas and Rural Settlements Planning Locality		Code Applicability	Compliance
Locality	Rural Areas and Rural Settlements	✓	Complies - continuing use rights
Planning Area	Rural	✓	Complies – continuing use rights
Defined Use	No change of use proposed	✗	-
Overlay Codes	Acid Sulfate Soils Code	✗	-
	Cultural Heritage and Valuable Sites Code	✗	-
	Natural Hazards Code	✗	-

Douglas Shire Rural Areas and Rural Settlements Planning Locality		Code Applicability	Compliance
General Codes	Design and Siting of Advertising Devices Code	X	-
	Filling and Excavation Code	X	-
	Landscaping Code	X	-
	Natural Areas and Scenic Amenity Code	✓	See discussion below
	Reconfiguring a Lot Code	✓	See discussion below
	Vehicle Parking and Access Code	X	-
	Sustainable Development Code	X	-

Compliance Issues

Natural Areas and Scenic Amenity Code

The lot design has regard to areas that are essentially cleared and developed with a buffer Lot 53 to the Mossman River.

Reconfiguring a Lot Code

The Acceptable Solution for lot size in a sewerred area is 800m². Of the seventeen residential lots, four are of a size less than 800m². The four lots, 21, 22, 37 and 38, having less than 800m² all support an existing dwelling and to this extent the proposed reconfiguration meets the requirements of the existing users and the Code's Performance Criteria and Purpose.

Proposed Lot 53 follows the natural line of the Mossman River. Significant concern is raised with Applicant's intent that these lots be considered as Park and in particular the pedestrian access ways to Proposed Lot 53. These access ways are narrow, have poor CPTED (Crime prevention through environmental design) value, and will result in areas where rubbish and waste materials are likely to be dumped. Conditions of the approval require: the access ways be removed and the land incorporated into the adjacent residential lots; Lot 53 to be provided with frontage to the new cul-de-sac from land within proposed Lot 40; and inclusion of Lot 53 as State reserve.

Proposed Lot 42 encompasses undeveloped land used as a recreation park and is constrained by an open drain. The Mossman River and Gorge area are very significant to the local Indigenous community. The area has restricted access, with the Mossman Gorge Road being gated further to the east, and the proposed park areas are not available to the whole of the Douglas Shire community. Proposed Lot 42 is not considered to be appropriate for Park. This lot should continue to be held and maintained as a freehold lot by the local community.

A condition of the approval requires a new bus stop to be provided near Bamabubu Street and Mossman Gorge Road for local connectivity for school children and the local community. This facility needs to be well illuminated and of an open design compliant with CPTED standards. Concern is raised with the state of current infrastructure including roads, water and sewer services. The existing civil infrastructure does not meet FNQROC standard. This is the standard required and expected in all Douglas Shire developments. It would be inappropriate for Council to accept a lower standard of design for part of the Douglas community. A condition of the approval requires the development to meet FNQROC Development Manual standard prior to the lodgement of a compliance certificate for the signing and dating of the survey plan. A condition of the approval requires the upgrading of the existing infrastructure. Upgrading is to include the sewerage pump station, water metering to all new lots and compliant pipe networks and road design and construction.

Conditions

A set of draft conditions was issued to the Applicant on a without prejudice basis. The Applicant has made submissions seeking that the wording of some conditions be varied to allow:

1. limiting the approval to “non-conforming uses;”
2. “general” or “satisfactory” compliance with *FNQROC Development Manual* standards;
3. reduced culvert pipe size from 450mm to 375mm;
4. providing a common refuse collection area instead of enabling refuse collection from adjacent properties; and
5. compliance with “major” rather than “all” non-compliant infrastructure provision;

The approval is for a reconfiguration of a lot and therefore cannot have regard to the land use. Concern is held with the proposed terms of “general” and “satisfactory.” While in practice this may be what is agreed to Council should not limit its ability to refuse high risk infrastructure items by a phrase of “general” or “satisfactory.” The conditions include a requirement for the Applicant to identify if there is any additional risk for Council and such to be addressed through an alternative arrangement such as a benefitted rate. Alternatively if no agreement can be reached then the *FNQROC Development Manual* standards apply.

ADOPTED INFRASTRUCTURE CHARGES

The proposed development triggers Adopted Infrastructure Charges. While credit is given under recent changes to SPA 2009 for existing residential lots this does not apply to the undeveloped lots (40, 41 and 42) and water and wastewater charges should apply to these lots.

It is considered reasonable that contributions for open space are not levied against the development due to the location of the site and the tenure of Lot 42 to remain with the community.

COUNCIL’S ROLE

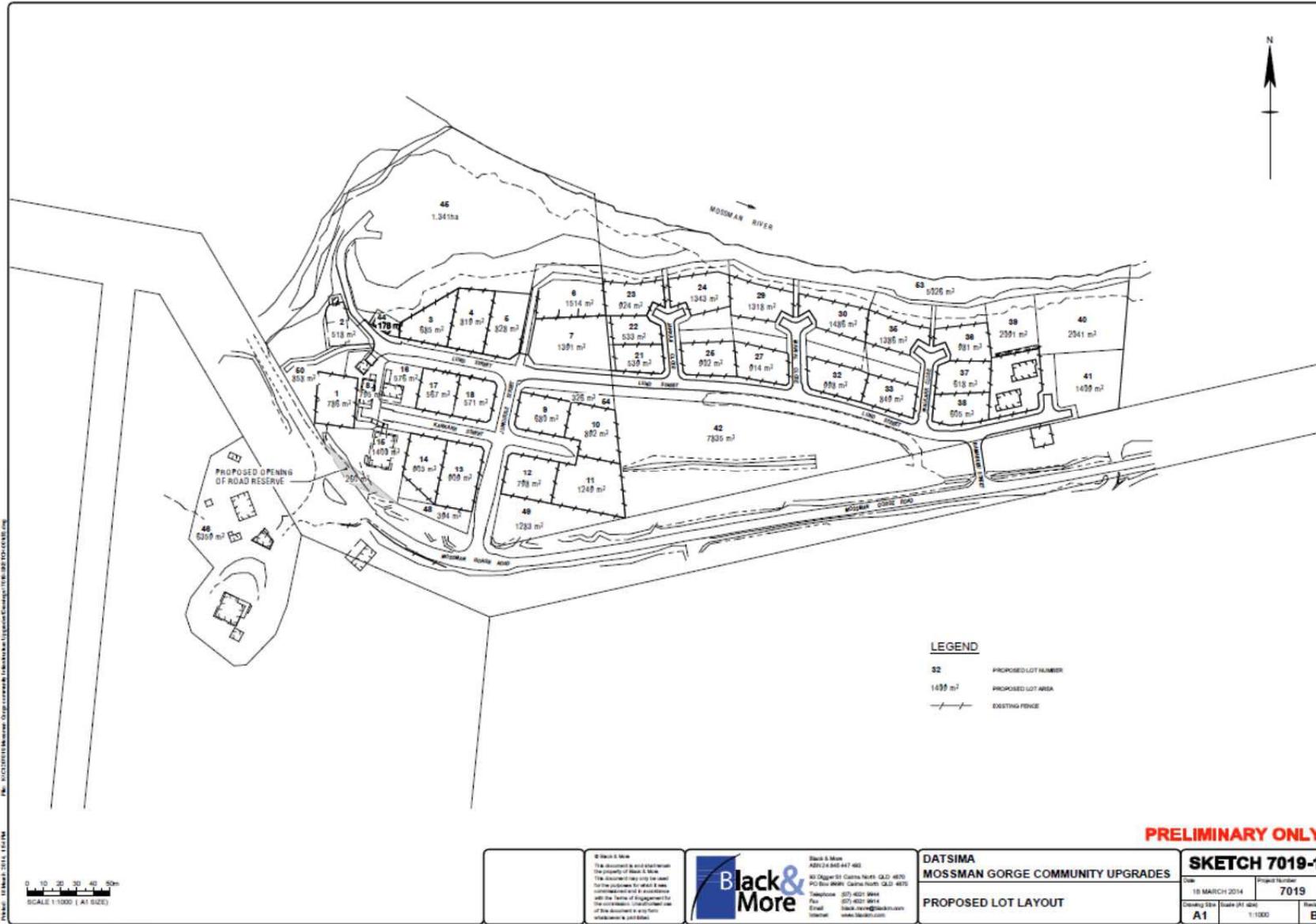
Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council’s involvement will vary from information only through to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

APPENDIX 1: PROPOSED PLAN(S) & DOCUMENT(S)





APPENDIX 2: INFRASTRUCTURE CHARGES NOTICE

		2006 & 2008 Douglas Shire Planning Schemes Applications	
INFRASTRUCTURE CHARGES NOTICE			
DATISMA		Gorge Community	
DEVELOPERS NAME		ESTATE NAME	
Gorge Road		L100 RP911412	
STREET No. & NAME		PARCEL No.	
ROL		4	
DEVELOPMENT TYPE		COUNCIL FILE NO.	
429859		1	
DSC Reference Doc. No.		VERSION No.	
429859		1	
R&B INDEX QUARTER ENDING			
This logsheet is indexed appropriately only for payments made within the quarter noted above.			
DIST		\$/ EDC	
8		4,354.64 X	
NET EDC		ADJUSTMENT	
3.00		0.00	
AMOUNT DUE		AMOUNT PAID	
\$13,063.93			
Receipt Code & GL Code			
858 GL 07470.0135.0823			
Existing		Proposed	
8		8	
560.31 X		3.00	
0.00		0.00	
Water sub - total		\$14,744.86	
SEWERAGE		AMOUNT DUE	
1		\$6,697.27	
Existing		Proposed	
1		1	
2,232.42 X		3.00	
0.00		0.00	
Sewerage sub - total		\$26,778.36	
OPEN SPACE		AMOUNT DUE	
DSC Area		\$0.00	
0.00		\$0.00	
Off-Site Car Parking		AMOUNT DUE	
		\$0.00	
TOTAL		\$41,523.22	
Prepared by		on	
J Elphinstone		8-Dec-14	
Checked by		on	
Neil Beck		8-Dec-14	
Date Payable		Amount Paid	
Amendments		Date	
		Cashier	

Note:

The Infrastructure Charges in this Notice are payable in accordance with Section 629 of the *Sustainable Planning Act 2009 (SPA)*.

Charge rates are subject to index adjustments (QLD Road & Bridge Index, ABS data as per SPA). The total charge amount indicated on this notice is current at the date of issue. The total charge due at the date of payment must reflect the current indexed value. Please contact the Development & Environment Douglas Shire Council prior to payment for review.

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

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