

5.5. L45 CAPT. COOK HWY CARAVAN PARK REQUEST NEGOTIATED DECISION

REPORT AUTHOR(S)	Jenny Elphinstone, Senior Planning Officer
GENERAL MANAGER	Nick Wellwood, General Manager Operations
DEPARTMENT	Development Assessment and Coordination
PROPOSAL	Request for a Negotiated Decision Notice for a Caravan Park
APPLICANT	Fiona and Richard Hewitt C/- Urban Sync Pty Ltd PO BOX 2970 CAIRNS QLD 4870
LOCATION OF SITE	L45 Captain Cook Highway Port Douglas
PROPERTY	Lot 45 on SR835

LOCALITY PLAN



Figure 3 - Locality Plan

LOCALITY	Rural Areas and Rural Settlements
PLANNING AREA	Rural
PLANNING SCHEME	Douglas Shire Planning Scheme 2006
REFERRAL AGENCIES	State Assessment and Referral Agency (SARA) for Development adjacent to a State-Controlled Road
NUMBER OF SUBMITTERS	Two (one not properly made).
STATUTORY ASSESSMENT DEADLINE	Not Specified under SPA for the Negotiated Decision Not Specified under PA for the Negotiated Infrastructure Charges Decision
APPLICATION DATE	2 August 2016 (Application) 3 August 2017 (Request for a Negotiated Decision) 3 August 2017 (Request for a Negotiated Infrastructure Charges Notice)

RECOMMENDATION

A. That Council supports in part, the request for a negotiated decision for a Caravan Park on land described as Lot 45 on SR835, located at L45 Captain Cook Highway, Port Douglas, whereby:

i. Condition 3, Amendment to Design, is amended with the following additional part:

j. Inclusion of the staging plan being:

Stage 1: Entrance, external works (access, water and sewer etc.), reception, car park, pool, and central park area, inclusive of bbq's, bathrooms/toilets and laundry area, kitchen and dishwashing area, signage, sites 1-10, 29, 11-18, 19-28 and 33 to 43, the internal loop driveway adjacent to sites 1-10, 29, 11-18, 19-28 and 33 to 43, and all necessary, associated, internal infrastructure and landscaping; and

Stage 2: Rear bathrooms/toilets and laundry area, sites 3-31, 44-50, 63-69, 70-80, B1-B30, the remainder of the internal driveway not included in Stage 1.

ii The wording of Conditions 4, 5, 7, 8, 9, 10, 12 and 29 are amended as follows to have regard to timing of the condition relevant to the commencement of use.

Condition 4 is amended as follows.

Damage to Council Infrastructure

4. In the event that any part of Council's existing; water, road, or drainage infrastructure is damaged as a result of construction activities occurring on the site or adjoining road, including, but not limited to, mobilisation of heavy earthmoving equipment, stripping and grubbing, the applicant/owner must notify Douglas Shire Council immediately of the affected infrastructure and have it repaired or replaced at the developer's cost, prior to the Commencement of Use ~~or issue of a Compliance Certificate for the Plan of Survey, whichever occurs first.~~

The last paragraph of Condition 5 is amended as follows.

Such works must be completed to the satisfaction of the Chief Executive Officer prior to Commencement of Use ~~or issue of a Compliance Certificate for the Plan of Survey, whichever occurs first.~~ Where plans are required, three (3) A1 size copies of the plans and one (1) copy at A3 size must be submitted to Council.

The last paragraph of Conditions 7, 8, 9, 10 are amended as follows.

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 Commencement of Use ~~issue of a Compliance Certificate for the Plan of Survey.~~

The last paragraph of Condition 12 is amended as follows:

The study must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work with the necessary works being undertaken prior to Commencement of Use ~~or issue of a Compliance Certificate for the Plan of Survey, whichever occurs first.~~

The last paragraph of Condition 29 is amended as follows.

Two (2) A1 copies and one (1) A3 copy of the landscape plan must be endorsed by the Chief Executive Officer. The approval and completion of all landscaping works must be undertaken in accordance with the endorsed plan prior to the ~~issue of a Certificate of Classification or Commencement of Use whichever occurs first.~~ Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer.

- iii. Condition 25 is amended as follows.

Compliance with Access and Mobility

25. Prior to the commencement of use provide written advice, from a suitably qualified professional that the development all pathways and recreational areas comply with all relevant disability standards must be provided to the Chief Executive Officer. ~~This approval has~~

~~not been assessed for compliance with the requirements for disability access.~~

- iv. The following condition is included in the approval.

Development Staging

50. The development is to be staged as follows:

Stage 1: Entrance, external works (access, water and sewer etc.), reception, car park, pool, and central park area, inclusive of bbq's, bathrooms/toilets and laundry area, kitchen and dishwashing area, signage, sites 1-10, 29, 11-18, 19-28 and 33 to 43, the internal loop driveway adjacent to sites 1-10, 29, 11-18, 19-28 and 33-43, and all necessary, associated, internal infrastructure and landscaping; and

Stage 2: Rear bathrooms/toilets and laundry area, sites 3-31, 44-50, 63-69, 70-80, B1-B30, the remainder of the internal driveway not included in Stage 1;

- a. Stage 2 must only follow after the completion of Stage 1;**
- b. The applicant must provide advice to the Chief Executive Officer regarding the availability of sites within a particular stage within seven (7) days of the commencement of use of the available sites; and**
- c. Where a further design detail, management plan, further approval and/or infrastructure (water supply, sewerage works, car parking, access construction) is required by a condition of the approval these conditions must be achieved to the satisfaction of the Chief Executive Officer prior to the commencement of use of any part of Stage 1.**

- v. The following additional advice is included on the Decision Notice.

13. The design and development of all buildings and structures must have regard to the Premises Standards.

- vi. All other parts of the Decision Notice issued 11 July 2017 remain unchanged.

- B. That Council does not support the request for a Negotiated Adopted Charges Infrastructure Notice related to the Decision Notice issued 11 July 2017 for the material change of use for a Caravan Park on land described as Lot 45 on SR835, located at L45 Captain Cook Highway, Port Douglas.**

EXECUTIVE SUMMARY

Council has determined to approve a development permit for a material change of use for a Caravan Park at Lot 45, Captain Cook Highway, Port Douglas, just north of Crees Creek subject to conditions. The applicant has requested numerous changes to the conditions including:

- a. a significant change to the bush camping area now proposed over an expansive area rather than in set sites;
- b. setting a particular AHD height to reflect the 1% inundation levels without any local studies;
- c. provide for an alternative onsite wastewater treatment facility;
- d. remove the setback and noise attenuation requirements; and
- e. incorporate particular staging for construction and use.

Concern is raised with the request. The current conditions seek to contain the impacts of the activity to the land to ensure sufficient amenity and safety is provided to occupants and to ensure the development is safe in major weather events.

The alternative onsite wastewater treatment would trigger an ERA (Environmentally Relevant Activity) and a further concurrence agency. There appears to be no ability under the *Sustainable Planning Act 2009* to make such a change to the application after Council's initial determination and at the negotiated decision stage. No details have been provided as to the location of the onsite waste treatment disposal area and how component impacts on the development. There has been neither public notification about the proposed ERA nor the proposed change to the bush camping. Once an approval is fully determined and the appeal stage has concluded there is the opportunity under the *Planning Act 2016* for the applicant to apply to change the application.

There is no condition requiring the development be completed by a particular time. Once an application is acted on there is flexibility under the planning legislation to continue to develop the approved use. Given the applicant's insistence on staging, a proposed condition has been provided.

The concern about the timing of the conditions is agreed with and the timing of relevant conditions are recommended to be amended for fulfilment prior to the commencement of use.

TOWN PLANNING CONSIDERATIONS

Background

The land is situated on the east side of Captain Cook Highway, north of the Port Douglas road turnoff. The site contains low lying areas that are subject to flood and storm tide inundation that limits the extent of developable land. At the Ordinary Meeting held on 11 July 2017 Council approved a development permit for a material change of use for a Caravan Park subject to conditions.

The applicant has requested a negotiated decision and seeks an amended set of conditions.

Each condition variation requested by the applicant is discussed separately below together with an officer comment.

Condition 3 Amendment to Design

The applicant seeks the following changes to the condition,

Amendment to Design

3. The proposed development must be amended to accommodate the following changes:
 - a. ~~remove wording of all individual "bush camping" sites from the plan other than the designated individual sites (B1 to B340 inclusive) on Drawing L-05 Revision 3 dated 12 December 2017 and L-03 Revision 3 dated 12 December 2016~~ Drawing L-02 Revision 4 dated 24/01/2017;
 - b. ~~camping sites are to be as per the general layout of Drawing L-05 Revision 3 dated 12 December 2017 and L-03 Revision 3 dated 12 December 2016 and not as per Drawing L-02 Revision 4 dated 24 January 2017.~~
 - c. ~~having regard to condition 12, clarification that all permanent buildings and ablution facilities are sited above 1% flood inundation and storm tide inundation (including 0.8m sea level rise);~~
 - d. ~~inclusion of drainage buffer for introduced nutrients;~~
 - e. ~~inclusion of undulated mounds along the front setback for noise reduction accompanied by dense landscaping of the frontage setback;~~
 - f. ~~inclusion of crocodile fencing to areas adjacent to waterways and drain to the mangrove vegetation area;~~
 - g. ~~all powered sites to be above 1% flood inundation level and storm tide hazard;~~
 - h. ~~relocate powered sites 32 and 51 on (Drawing L-05 Revision 3 dated 12 December 2017 and L-03 Revision 3 dated 12 December 2016) at least 30m from the front boundary. This is also in reference to sites 23, 34 and 53 (on Drawing L-02 Revision 4 dated 24 January 2017) to be located at least 30 metres away from the front setback; and~~
 - i. ~~drain lots to the internal road network.~~

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

Applicant Request

- “Condition 3a: The plans referenced in this condition do not reference the approved plan noted in the ‘Approved Drawing(s) and/or Documents’ in the Decision Notice, of which is Drawing L-02 Revision 4 dated 24/01/2017, as was submitted with the response to Council’s Information Request. Additionally, in the response to Council’s Information Request, it was also clearly explained that the bush camping was to be spread out and not located on individual sites as per the plan. This was an error on our side and we acknowledged the plan would require amending in due course. We are agreeable to identifying a delineated area for the bush camping and a condition being imposed which limits the maximum number of camping sites to 40. This condition should be deleted as per the table above.*
- Condition 3b: This condition references the incorrect plan. This condition should be deleted in full.”*
- Condition 3c: This condition is vague and open to interpretation and does not need to be shown on a plan as the provisions being requested are conditioned under condition 36. This condition should be deleted in full.*
- Condition 3d: We do not believe it is reasonable to show this information on the DA drawings. This detail will be documented as part of the Operational Works application and associated drawings. This condition should be deleted in full.*
- Condition 3e: The provision of noise buffers along the frontage of the site is not a reasonable imposition on a development for short term style accommodation. To help Council demonstrate it is in fact a reasonable condition, we request that Council advise the section of the Planning Scheme that requires the provision of the requested noise buffers along the front of the site. Please also refer to the response to point 33 of our response to Council’s Information Request for further justification as to why this requirement should be removed. This condition should be deleted in full, as should all requirements for noise buffers on the site.*
- Condition 3f: We do not see the need to show this information on the DA drawings as crocodile fencing is covered in depth as part of condition 22 which in itself, requires the details of the fencing to be shown. This condition should be deleted in full.*
- Condition 3g: We do not see the need to show this information on the DA drawings as flood immunity is conditioned as part of condition 36. This condition should be deleted in full.*
- Condition 3h: This condition references the incorrect plan and should be deleted in full.*
- Condition 3i: We do not believe it is reasonable to show this information on the DA drawings. This detail will be documented as part of the Operational Works*

application and associated drawings. This condition should be deleted in full."

Officer Comment

Condition 3a: Clarification with the applicants identified that the wording of the "bush camping" in the expansive areas was incorrect. There was opportunity for the applicant to amend the submitted plans prior to the public notification, or alternatively amend and re-notify the application. The plan lodged in response to Council's request for further information nominates the bush camping sites immediately adjacent to existing vegetation and this lack of setback is unacceptable and these additional sites are not supported. Significant concern is held with the spreading out of the bush camping sites in the low lying areas and the impact on the land. There is a requirement that ablution facilities be located at particular minimum distances from camping sites and this would not be achieved where the sites were not contained to a particular area. The condition is considered reasonable and relevant, reflects Council's consideration of the development as a whole and concern for the low lying areas.

Conditions 3c and 3g: There are two different inundation considerations, one for flood events and one for storm tide events. As it is intended that the applicant connect the land to Council's sewerage infrastructure it is very important that all ablution facilities be located at least above the 1% inundation levels so as not to jeopardise Council's infrastructure. For the safety of people and property it is important that all buildings, structures are located above the 1% inundation level. The master plan needs to clarify the 1% level with respect to studies and local attributes such as the adjacent creek, road etc., as required under Condition 12. The interpretation of 1% levels, as to the particular heights these relate to on the land is discussed under the request to delete Condition 12.

The applicant has advised that the proposed ensuites to the caravan sites could be removed to mitigate the impact on Council's sewerage system.

Condition 3g requires all powered sites to be located above the 1% inundation levels. While the consideration of sea level rise of 0.8m is for the year 2100, the approval over the land is not limited to a period of time and once commenced can be used for this purpose in perpetuity. The State Planning Policy insists on Council utilising a 0.8m sea level rise. For areas beyond 200 metres from the frontal dune this level equates to 2.70mAHD. The proposed powered sites are well above this level and any local considerations in the Study required under Condition 12 are unlikely to result in any significant change.

The applicant has advised that it is unlikely the development would be at full capacity during the wet season and an alternative solution is to evacuate all sites when a severe weather event is to occur.

The traditional use of marginal land for caravan and camping sites relies on evacuation in severe weather events. There is concern as to whether evacuation is an acceptable and reasonable response for new developments. Certainly when the wet season, being a time of higher probability to when severe weather events occur, does not usually coincide with peak tourist activity, evacuation of bush camping sites could reasonably be to the higher positioned and available powered sites. However, the evacuation of all sites relies on all occupants being capable and available to evacuate and sufficient “safe” destinations these persons could evacuate to. Evacuation is already expected for existing caravan and camping areas in Port Douglas that were established prior to current standards. Evacuation of all sites would result in additional number of vehicles on local roads and an additional number of persons seeking a “safe” destination. Successful evacuation depends on the availability of a “safe” destination and ability to use local and regional roads. Development should be sustainable so that reasonable safety is provided to occupants and the impacts of the use is contained to the land. The request is not supported.

Condition 3d: The land drains to the adjacent waterways and it is important that any dispersed nutrients on the land are adequately filtered on the land. The matter is included in the development approval conditions as a requirement and the detail of the filtration system is a matter that will be considered when determining the development permit for operational work.

Condition 3e: The planning scheme requires development to be setback from the State-controlled road having regard to visual amenity of the road, limiting the impact of the development to the land and having regard to amenity and in particular noise impacts. The condition is considered relevant as it gives amenity to the occupants of the land. The temporary status of the occupants does not justify a diminished level of amenity as proposed by the applicant. The condition requires the relocation of two sites. The condition is considered reasonable.

Conditions 3b, 3f, 3g, 3h and 3i: The master plan needs to reflect the conditions and requirements of the approval. The applicant chose to amend only one of the three plans that were lodged for the development. This creates confusion as the plans vary in layout. A copy of the site plans submitted with the application is included in Attachment 1. Referral to a particular plan clarifies the extent of approval issued.

The plan lodged as a response to the request for information is the least desirable layout. Clarification with the applicant identified that there was no intention for bush camping to be spread out over the low lying area at the rear of the property.

The discharge of stormwater should not drain to the rear of the individual sites but to the internal driveway. Draining to the rear of the individual sites can result in vector issues, would be difficult to access for maintenance

and would impact on occupants. This is a main consideration and a matter for determination at the planning stage and not consideration of the Development Permit for Operational Work.

The conditions are considered reasonable and relevant and the requests are not supported

Conditions 7, 8 and 10 Alternative Onsite Wastewater Facility

The applicant has requested the following changes to the conditions.

Water Supply and Sewerage Infrastructure Plan

7. An updated water supply and sewerage infrastructure plan and supporting information including hydraulic network analysis must be submitted demonstrating how the development will be serviced by Council's Infrastructure. In particular, the plan must:
 - a. confirm the site population and associated loadings for each service noting the apparent anomaly between the engineering advice and the town planning advice on site population; and
 - b. identify any trunk infrastructure external to the subdivision that may require upgrading to accommodate the development. The plan should also clarify the proposed infrastructure corridors and land tenure for the external mains.

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.

Should an on-site sewerage system be proposed, sewerage does not need to be addressed in the infrastructure plan, although an on-site effluent report prepared by a suitably qualified professional must be endorsed by the Chief Executive Officer at the same time as the infrastructure plan for water.

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~~ commencement of use

Water Supply and Sewerage Works External

8. Undertake the following water supply and sewerage works external to the site to connect the site to existing water supply and sewerage infrastructure:
 - a. the applicant is to augment existing water supply infrastructure to the extent necessary such that the development does not adversely affect the water supply to adjacent properties;
 - b. extend the water and sewerage rising mains from the proposed site to connect to Council's Existing infrastructure at the point(s) where sufficient capacity exists. Once demands have been confirmed Council is to be

contacted to confirm the connection points;

- c. the extension require works in the State road reserve and approval from DTMR will be required. The alignments within the state road corridor are to be agreed with DTMR and Council prior completion of the detailed design for each service and must have regard to accessibility for operational and maintenance requirements; and
- d. owners consent will be required if the sewerage main (if required) is required to enter private property or Council land. The applicant will need to secure the owner's consent and comply with any conditions attached to that approval. A copy of the owner's consent must be provided with the application for operational works.

The 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 commencement of use ~~issue of a Compliance Certificate for the Plan of Survey.~~

Sewerage Internal

10. Undertake the following Sewerage works internal to the subject land:

- a. design a private pump station and rising main to connect the subject site to Council's sewerage system.
- b. provide a design report confirming operation levels, storage, backup power etc. in accordance with the FNQROC development manual and WASA codes. The supporting information is to include draft operational plan and must nominate how the pump station will be operated and maintained; and
- c. provide confirmation of how the internal, supporting water and sewer infrastructure for the site including the ensuite facilities and the eastern bathroom/toilet/laundry block that is susceptible to inundation are located clear of flood waters; or
- d. Or in lieu of compliance with points (a) and (b) provide a suitable onsite effluent disposal system that complies with all relevant standards/ the Queensland Plumbing and wastewater Code.

The above 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 commencement of use ~~issue of a Compliance Certificate for the Plan of Survey.~~

Applicant Request

“Additions have been included to allow the flexibility for the Applicant to use an on-site effluent system in lieu of connecting to Council’s reticulated sewerage system and avoid having to come back and formally change any conditions of approval.”

Officer Comment

Having been lodged under the *Sustainable Planning Act 2009* (SPA), the *Planning Act 2016*, requires the assessment to be under the now repealed SPA. No plans or amended IDAS forms have been provided. The inclusion of onsite waster facility is not considered a minor change under section 350 of the SPA as the change would result in a substantially different development and would trigger an Environmentally Relevant Activity (ERA) requiring an additional concurrence referral as the infrastructure would accommodate more than 21 Equivalent Persons (EP). Concern is raised as to the location of the infrastructure, in particular the proposed discharge areas that would need to have regard to storm tide and flood inundation. The area of land not impacted by inundation is limited and proposed to be utilised for caravan and camping sites.

Section 351 of the SPA only provides for an application be changed prior to being decided. Council has already decided the application on 11 July 2017. There is no ability for this change to the application at this stage.

Had the application been amended prior to being determined, the application would have reverted to the information request stage and the applicant would have redo the public notification. The applicant’s consultant had indicated the applicant was considering onsite waste water treatment prior to the application being determined but advised the applicant was not committed to this alternative and that the approval would be amended at a later date if necessary. Once an approval is issued and any relevant appeals determined or the appeal period expired an application can be made under the *Planning Act 2016* for a change other than a minor change and the assessment (further information, referral and public notification) is limited only to the requested change.

Conditions 12 Drainage Study and Condition 36 Minimum Flood Level

The applicant has requested Condition 12 be deleted and condition 36 be amended.

Drainage Study of Site

- ~~12. The applicant is to review the existing local drainage study and update where necessary to ensure it addresses the following requirements.~~

~~The operation of the adjacent drainage lines to ensure that they do not impose a greater hydraulic constraint than the whole of catchment assessments undertaken to date. In particular, for the local catchments the applicant must confirm:~~

- ~~a. the contributing catchment boundaries;~~
- ~~b. the extent of the 1%AEP/100 year ARI flood event and 1% AEP/100 year storm tide inundation 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. ~~storm tide inundation must consider 0.8 metre sea level rise;~~
- e. ~~the location of proposed drainage crossings of the flow paths (if any) for pedestrian and vehicle movements within the site and the hydraulic implication of these on the flood modelling;~~
- f. ~~confirm the extent of the stormwater swales through the site.~~
- g. ~~identify the need and tenure for flood detention areas to ensure a no worsening impact on downstream properties for the entire development;~~
- h. ~~information on the proposed works and any impacts proposed at the drainage outlet from the proposed development;~~
- i. ~~drain to the internal road network, not to behind the sites; and~~
- j. ~~lawful point of discharge.~~

~~The study must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work with the necessary works being undertaken prior to Commencement of Use or issue of a Compliance Certificate for the Plan of Survey, whichever occurs first.~~

Minimum Fill and Floor Levels

- 36. All floor levels in all permanent buildings must be located at or above 3.30m AHD,. Permanent buildings are to include: the camp kitchen, reception, ensuites, shed/s, bathrooms, kitchen and laundries 150mm above the Q100 flood immunity level, plus any hydraulic grade effect (whichever is the greater), plus storm tide inundation areas, in accordance with FNQROC Development Manual and Planning Scheme requirements.

Applicant Request

Condition 12

“Condition 12a-e: As the Planning Scheme is silent on flooding inundation, it is our understanding that any assessment in relation to flooding reverts back to Part E of the single SPP (April 2016 which was in effect at the time), of which, states that the proposed development only needs to: “mitigate the risks of the natural hazard to an acceptable or tolerable level”.

We importantly note here that the single SPP does not require development to be located at a certain level, nor achieve a specific level of immunity. It simply needs to mitigate the risk to within an ‘acceptable or tolerable level’, of which could be a number of levels, and as we understand it, does not specifically need to be at or above a 1% Annual Exceedance Probability (AEP) event. Hence, we do not believe that Council can require that the proposed development achieve a 1% AEP flood level and in turn, the need to determine this level via a

flood study is unreasonable, on the proviso that the requirements of the single SPP can be complied with.

With the above in mind, in terms of mitigating the risk to within 'acceptable and tolerable levels', as is required by the single SPP and as was agreed to 'in principle' with Council (see Attachment 2 of the Response to Council's Information Request), we have first sought to delineate and determine the areas of the site which are subject to a 'low' risk of inundation, or in other words, an 'acceptable and tolerable level'. To determine this, we draw Council's attention to the AECOM mapping provided in Attachment 5 of the response to Council's Information Request which highlights the risk of flooding inundation (excluding storm tide) for the site in to 'low', 'significant', high' and 'extreme'. Given the lack of data available in the area, combined with the size of the development, we would consider the use of this data as suitable, in particular as it provides for a 'low' level of risk, which we would consider akin to an 'acceptable and tolerable' level of risk, as is required by the single SPP.

We note that the levels provided in the AECOM mapping are for both a 2% AEP event (Q50) as well as a 0.2% AEP event (Q500). No level of hazard was shown on the said mapping for the 1% AEP flood event, rather only indicative levels of inundation, of which was not considered suitable data for the purposes of this exercise as it does not assist in determining an 'acceptable and tolerable' level of risk. Hence, to determine and provide a 'low', or otherwise defined as an 'acceptable and tolerable' level of risk for a 1% AEP flood event on the site, the data from the 2% and 0.2% AEP flood events was extrapolated and the results provided in Attachment 6 of the response to Council's Information Request. We note here that the 1% AEP event was used as a base, solely as it is generally the accepted level of flood immunity throughout Queensland. This extrapolation also highlights the areas of the site subject to a 'significant', high' and 'extreme' level of inundation during a 1% AEP event, as well as the erosion prone area (EPA).

With regards to the latter, it is our view that any land in the EPA is not able to be considered of a 'low' risk and in turn, would not fit within the parameters associated with an 'acceptable or tolerable' level of risk. Based on this data, the proposed development was redesigned from that which was originally submitted as part of the response to Council's Information Request, as outlined below:

- *No 'hard' infrastructure will be located in the lower portions of the site which are subject to a 'significant' (or higher) flood hazard and/or that were previously located in the EPA. We note here that the camping sites and some parts of sites 73-84 are located within the EPA, although there is no 'hard' infrastructure associated with the bush camping sites, nor the portions of sites 73-84 which are located within the EPA i.e., if these sites were to be eroded over time, there would be no risk to persons as they would simply no longer be used. Additionally, there would be no damage to property, as there is no infrastructure located in the area subject to erosion;*
- *All other sites i.e., sites 1-71, roads and 'hard' infrastructure are located on the areas of the site which are subject to a 'low' level of flood hazard risk (i.e., in an area with an 'acceptable and tolerable' level of risk, as is required by the single SPP), or located entirely above any potential inundation on the site; and*

- *The reception area has been located clear of all forms of inundation to allow it to act as an evacuation centre during any extreme events, if required.*

Levels of Inundation:

- *Based on preliminary engineering advice, we understand that the estimated 1% AEP flood event on the site to be approximately RL 3.0m AHD (see original engineering report);*
- *The Cairns Region Storm Tide Inundation Study lists the 2100 1% AEP storm tide inundation level for Port Douglas and hence, the site, as being RL 2.7m AHD;*
- *The data included as Attachment 6 in the response to Council's Information Request highlights that areas on the site above approximately RL 2.6m AHD are defined as being subject to a 'low' risk of flooding inundation during a 1% AEP event and hence, any areas above RL 2.6m AHD can be considered to have mitigated the risks of flooding to within an acceptable or tolerable level.*

Hence, we would expect that the maximum inundation level on the site during a 1% AEP flood event will be approximately RL 3.0m AHD, while the area of 'low' hazard over the site during the same event will generally be, above approximately RL 2.6m AHD.

With the above in mind, if a 1% AEP event was experienced on the site, all of the camp sites will be inundated, while a small number of caravan sites will also be inundated with between 0mm and 400mm of water (plus any wave run up etc.). Given persons will have been evacuated prior to water reaching this level (as detailed in an evacuation/hazard management plan for the site), we do not consider such a level of inundation to be associated with a significant (or higher) level of risk. Moreover, all of the hard infrastructure on the site will not only be located in the area of the site defined as a 'low' risk, but also above the expected 1% AEP level of RL 3m AHD. We would consider a level of 300mm above RL 3m AHD as being suitable in this instance i.e., all hard infrastructure needs to be located at RL 3.3m AHD. We note that there will be infrastructure on the site which is subject to inundation during a 1% AEP event. However, any such infrastructure that is connected to Council owned infrastructure will be suitably protected while any private infrastructure will be the responsibility of the owner to re-establish.

We believe that the above methodology, accompanied by the redesigned development, now ensures that the level of risk associated with the proposed development is 'low' and within an 'acceptable and tolerable level' For example, the chance of such an event occurring is low i.e., a 1% chance in any one year, while the risk to persons and property during any such event is also be 'low' i.e., levels of inundation over the developed portion of site will not be significant/hazardous and all hard infrastructure will be located 300mm above the expected 1% AEP event. There will also be time to excavate and/or relocate from the site with warning times for these events exceeding twelve (12) hours for localised flooding (as stated by the Bureau of Meteorology), with even longer lead times for storm surge. All of the above is able to be documented in a hazard/excavation management plan to ensure the proposed approach to risk mitigation on the site is implemented at all times. Hence, we are of the view that the above outlined approach demonstrates that the risk of flooding on the site has been mitigated to within an acceptable and tolerable level of risk and in turn, compliance with the single SPP has been demonstrated which furthermore, demonstrates

that no flood study for the site is required. Accordingly, these conditions should be deleted in full.

- *Condition 12f-j: This information will be shown in the Operational Works application and associated drawings. These conditions should be deleted in full."*

Condition 36

"The Q100 level for the site is not known conclusively and hence, it should not be referenced in the condition. As was outlined above in the justification for condition 12, we have established a floor level on the site for all hard infrastructure that meets the requirements of the single SPP, being RL 3.3m AHD. This floor level was also referenced by Council in condition 6 as being the suitable floor level for permanent structures. Hence, it should be RL 3.3m AHD that is referenced in the condition and all reference to 1% AEP should be removed."

Officer Comment

Ensuring suitable drainage and acceptable immunity from storm tide and flood inundation is a basic planning consideration. In this case the acceptable community standard determines the extent of developable land. The requirement for a local study has been sought from the applicant in response to a prelodgement enquiry and as a request for further information. The proposed planning scheme gives particular attention to flooding and storm tide inundation to clarify this fundamental consideration. The Shire has experienced past instances where local studies and calculations are necessary to give appropriate consideration and ensure safety for persons and property. The Filling and Excavation Code refers to the FNQROC Development Manual which in turn refers to the Queensland and Urban Drainage Manual (QUDM) and the Australian Rainfall and Runoff Guide to Flood Estimation (ARR). It is State Policy that storm tide is considered being 0.8m sea level rise for the year 2100. This parameter cannot be changed. The best known identification of the respective level for Port Douglas is currently identified in the BMT-WBM Cairns Region Storm Tide Inundation Study, Final Report and Mapping January 2013 identified the 1% AEP storm tide event, including wave action, to be as 3.87m AHD for Port Douglas having regard to a 0.8m sea level rise and intensity of cyclonic action. However, the Study also identified that outside the wave action area, that is beyond 200m from the frontal dune, the required minimum height is 2.70m AHD. A copy of this report was provided to the applicant. It is anticipated that the development will achieve the minimum required height.

The applicant appears to base its development proposal on having to "mitigate the risks of the natural hazard to an acceptable or tolerable level". "Best practice" stormwater guides include QUDM and ARR etc. QUDM strongly reinforces the 100 year ARI level as the "acceptable level" (note 100 year ARI and 1%AEP are the same event). The applicant appears to accept that meeting the 1%AEP/100 year ARI is the acceptable standard. The difference in the applicant's position and Council's conditions appears to come down to the assertion by the applicant that the site only needs to consider the inlet flooding event. This does not address the risk that a smaller localised rainfall event within the sub-catchment may be more critical for this site. That is, whilst an event may be a shorter duration event with limited impact at Dickson Inlet; it may be critical for the local drainage paths. This type of development site specific study is quite common.

The conditions are reasonable and relevant and are essential to assess the development constraints on a site and to provide suitable protection.

Conditions 25 Disability Access

The applicant has requested the condition, which reads as follows be deleted.

Compliance with Access and Mobility

~~25. Prior to the commencement of use provide written advice, from a suitably qualified professional that the development complies with all relevant disability standards. This approval has not been assessed for compliance with the requirements for disability access.~~

Applicant Request

“As outlined in the response to Council’s Information Request, a Building Approval will not be issued for the development unless compliance with all relevant disability requirements are met. Hence, this condition seems pointless. If the condition has to be retained, it should be re-worded to say the Building Approval needs to be provided to Council, not separate written advice.”

Officer Comment

As an impact assessable application the proposal needs to meet the whole of the scheme requirements. The purpose of the Caravan Park Code is to, “ensure that Caravan Parks are located and designed to provide attractive and liveable environments for travellers.” Considerations regarding equitable access have developed since the formulation of the Planning Scheme that came into effect in 2004. Notably the Premises Standards came into effect in May 2011 for new buildings and structures. It is acknowledged that the Premises Standards only applies to buildings and structures and do not meet the disability access for a wider range of premises under the Disability Discrimination Act 1992 (Cth) (DDA). A premises, defined under the DDA can include a land use, such as park land or areas where the disabled persons would be expected. For the proposed use this would include access driveways, pathways, car parking facilities and recreational areas. The requirement can be reworded to reflect recreational areas and pathways with an advice statement can refer to the Premises Standards for buildings and structures.

Condition 50 Staging

The applicant has requested the following additional condition be included.

The development must be staged as per the below:

50. The development must be staged as per the below:

Stage 1:

- Sub-Stage 1: Entrance, external works (access, water and sewer etc.), reception, car park, pool, and central park area, inclusive of bbq’s, bathrooms/toilets and laundry area, kitchen and dishwashing area, sites 1-5, 15-18, 23-26, 34-37, 53-56 &

72-75 (25 sites total) and all necessary, associated, internal infrastructure and landscaping;

- Sub-Stage 2: Sites 6-10, 19-22, 27-30, 38-41, 57-60 & 76-79 (25 sites total) and all necessary, associated, internal infrastructure and landscaping; and
- Sub-Stage 3: Sites 11-12, 31-33, 42-44, 61-63 & 80-82 (14 sites total) and all necessary, associated, internal infrastructure and landscaping.

Stage 2:

- Sub-Stage 1: Rear bathrooms/toilets and laundry area and sites 13-14, 45-52, 64-72 & 83-84 (20 sites total), and all necessary, associated, internal infrastructure and landscaping;
- Sub-Stage 2: Sites B1-B5, B11-B14, B31-B34 (13 sites total) and all necessary, associated, internal infrastructure and landscaping; and
- Sub-Stage 3: Sites B6-B10, B15-B30 & B35-B40 (27 sites total) and all necessary, associated, internal infrastructure and landscaping.

Applicant Request

As per the response to Council's Information Request, the development will be staged and hence, a condition on the staging is required to be included, generally as per the suggested condition above.

Officer Comment

The applicant has requested a staging plan that utilises the plan submitted as a response to Council's request for further information that contradicts the request for the change to bush camping area. Concern is raised with the staging plan to "release" sites similar to a staged subdivision however without the driveway through-vehicle connectivity and lack of overall stormwater design.

A more appropriate design is to separate the development into two stages, based on the amenities and internal road network and this alternative design is included in Attachment 3 reflecting the wording of the recommended condition.

The advice to Council of the release of sites can then coincide with the payment of adopted infrastructure charges.

Negotiated Adopted Infrastructure Charges Notice

The land is currently vacant and is granted a credit of an equivalent dwelling. The application was lodged for a Caravan Park that included a three bedroom Manager's Unit.

The issued Adopted Infrastructure Charges Notice nominated the dwelling credit to an amount of \$14,342.13 and charged for 30 bush camping sites at a rate of \$4,200.00 per site, 84 caravan sites charged at a rate of \$4,200.00 per site and one caretaker's unit at a rate of \$11,411.06. The total value of the charge is \$475,868.93. A copy of the Adopted Infrastructure Charges Notice is included in Attachment 2.

As the Decision was issued after 3 July 2016 the Adopted Infrastructure Charges Notice was issued under the *Planning Act 2016 (PA)*.

The Applicant has requested a Negotiated Adopted Infrastructure Notice to delete the caretaker's unit.

Applicant Request

"A caretaker's unit was not applied for. This is a separate use with a separate use definition. Moreover, the 'Caravan Park' use definition in the Douglas Shire Planning Scheme includes the provision for a managers/caretaker's residence. Furthermore, this component of the use does not have its own charge rate within the Adopted Infrastructure Charges Resolution. Hence, we do not believe that Council can impose a charge for this use in the Infrastructure Charges Notice as the AICR includes it within the charges applied for each individual tent/caravan park site.

The infrastructure charges notice also needs to be amended to reference '40' bush camping sites."

Officer Comment

The number of bush camping sites in the Adopted Infrastructure Charges Notice of 30 sites reflects the conditions of the approval which limit of the approval, by plans, to 30 bush camping sites. The consideration of the applicant's request to amend Condition 3, to provide for a greater number of bush camping sites over a dispersed area is not supported.

Section 120 of the PA gives Council the ability to levy charges, "only for extra demand placed on trunk infrastructure that the development will generate" and credit is given for, "other development on the premises if the development may be lawfully carried out without the need for a further development permit." The use of a House accepted development and the highest credit for a House was applied.

The applied charge for the Manager's unit has utilised the Caretaker's Charge as this is an equivalent use and the lowest charge available. The charge is considered reasonable and the request for a Negotiated Adopted Infrastructure Decision Notice is not supported.

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

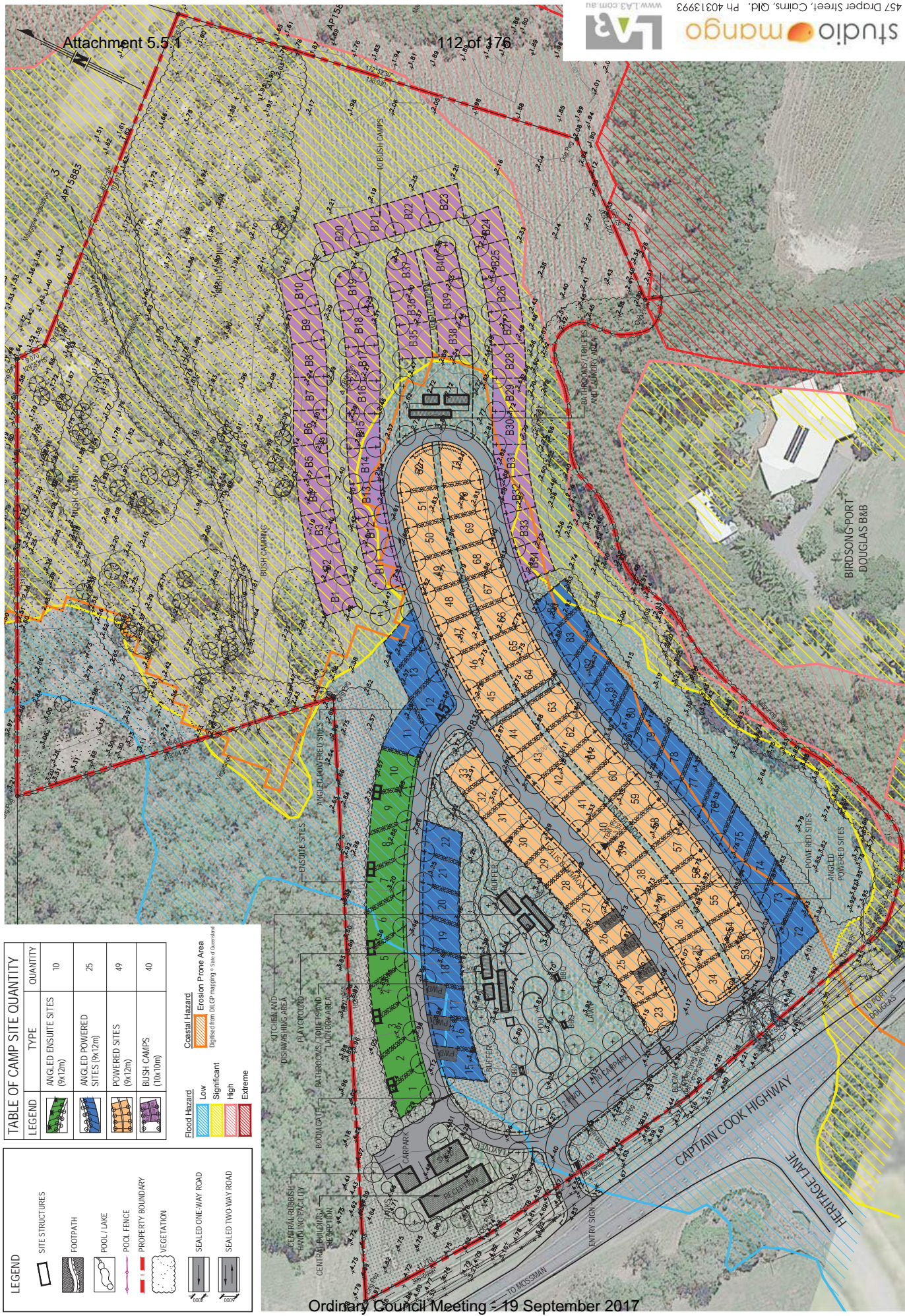
1. L 45 Capt Cook Hwy Attachment 1 Application Plans **[5.5.1]**
2. L 45 Capt Cook Hwy Attachment 2 Infrastructure Charges Notice **[5.5.2]**
3. L 45 Capt Cook Hwy Attachment 3 Proposed and Suggested Alternative Staging **[5.5.3]**

TABLE OF CAMP SITE QUANTITY		
LEGEND	TYPE	QUANTITY
	ANGLED ENSUITE SITES (9x12m)	10
	ANGLED POWERED SITES (9x12m)	25
	POWERED SITES (9x12m)	49
	BUSH CAMPS (10x10m)	40

LEGEND	
	SITE STRUCTURES
	FOOTPATH
	POOL / LAKE
	POOL FENCE
	PROPERTY BOUNDARY
	VEGETATION
	SEALED ONE WAY ROAD
	SEALED TWO WAY ROAD

Flood Hazard	
	Low
	Significant
	High
	Extreme

Coastal Hazard	
	Erosion Prone Area
	Digitized from DLGP mapping - Site of Queensland



Ordinary Council Meeting - 19 September 2017

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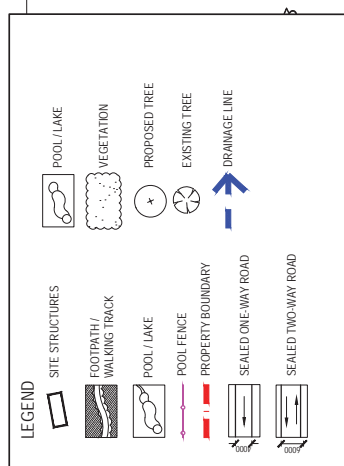
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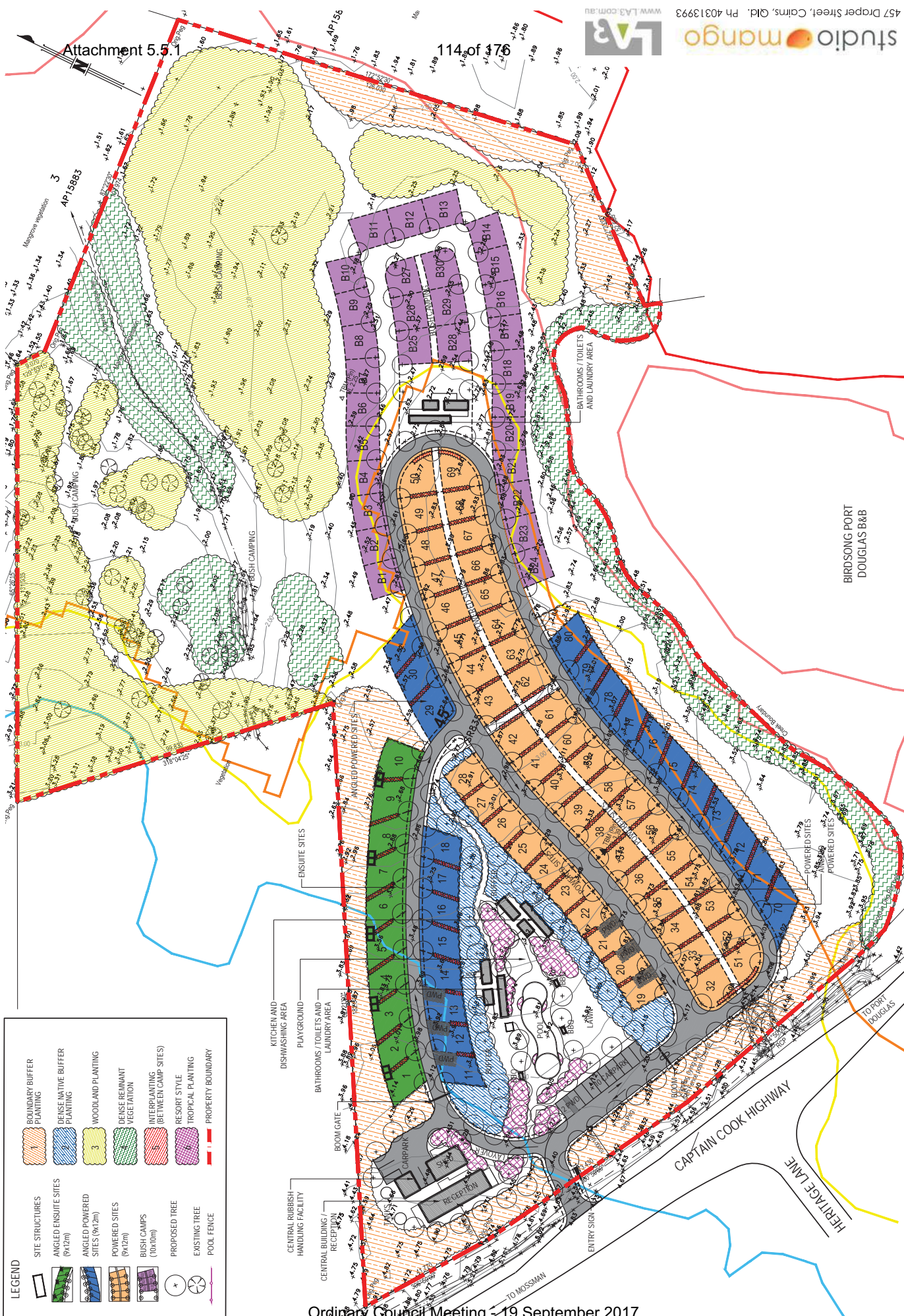
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For Approval Issue	24/01/2017	J.C. Appr	Job	Proposed Port Douglas Caravan Park	Client	Richard Hewitt	Address	Captain Cook Highway, Port Douglas	Drawing Title	Site Masterplan Concept	Scale	1:1000@A3	Job No.	57-	Dwg. No.	L-02	Rev.	4
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LEGEND

1 BOUNDARY BUFFER PLANTING	SITE STRUCTURES
3 WOODLAND PLANTING	ANGLED ENSUITE SITES (9x12m)
4 DENSE REMNANT VEGETATION	ANGLED POWERED SITES (9x12m)
5 INTERPLANTING (BETWEEN CAMP SITES)	POWERED SITES (9x12m)
6 RESORT STYLE TROPICAL PLANTING	BUSH CAMPS (10x10m)
PROPERTY BOUNDARY	PROPOSED TREE
	EXISTING TREE
	POOL FENCE

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For Approval Issue	12/12/2016	J.C. Appr	Job	Proposed Port Douglas Caravan Park	Client	Richard Hewitt	Address	Captain Cook Highway, Port Douglas	Drawing Title	Landscape Masterplan Concept	Scale	1:1000@A3	Job No.	57-	Dwg. No.	L-03	Rev.	3
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	2008 Douglas Shire Planning Schemes Applications		
	ADOPTED INFRASTRUCTURE CHARGES NOTICE		

Richard and Fiona Hewitt	0	0
DEVELOPERS NAME	ESTATE NAME	STAGE
L45 Captain Cook Highway	Port Douglas	L2 SP259953
STREET No. & NAME	SUBURB	LOT & RP No.s
MCU Caravan Park	MCU159 1/2016	4
DEVELOPMENT TYPE	COUNCIL FIL	VALIDITY PERIOD (year)
D#819909	1	
DSC Reference Doc. No.	VERSION No.	

	Use	Charge per Use	Amount Due	Amount Paid	Receipt Code & GL Code
Rural Areas - Water Only					
proposed	0	0.00	0.00		
	0	0.00	0.00		
existing	0	0.00	0.00		
Total			0.00		
Urban Areas - Water only					
proposed	0	0.00	0.00		
	0	0.00	0.00		
existing	0	0.00	0.00		
Total			0.00		
Urban Areas - Water & Sewer					
Proposed caretaker's unit	1	11,411.06	11,411.06		Code 895
Proposed (through conditions) bush camping sites	30	4,200.00	126,000.00		GL 07500.0135.0825
Proposed cavanan sites	84	4,200.00	352,800.00		Code 895
Existing vacant land (credit)	1	14,342.13	14,342.13		GL 07500.0135.0825
Total			475,868.93		
TOTAL			\$475,868.93		

Prepared by	J Elphinstone	3-Jul-17	Amount Paid	
Checked by	D Lamond	3-Jul-17	Date Paid	
Date Payable			Receipt No.	
Amendments		Date	Cashier	

Note:

The Infrastructure Charges in this Notice are payable in accordance with Sections 119 and 120 of the *Planning Act 2016* as from Council's resolution from the Special meeting held on 24 June 2015.

Charge rates under the current Policy are not subject to indexing.

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

PROPOSED STAGING PLAN

TABLE OF CAMP SITE QUANTITY		
LEGEND	TYPE	QUANTITY
	ANGLED ENSUITE SITES (9x12m)	16
	ANGLED POWERED SITES (9x12m)	25
	POWERED SITES (9x12m)	49
	BUSH CAMPS (10x10m)	40

	SITE STRUCTURES
	FOOTPATH
	POOL/LAKE
	POOL FENCE
	PROPERTY BOUNDARY
	VEGETATION
	SEALED ONE-WAY ROAD
	SEALED TWO-WAY ROAD

	Flood Hazard Low
	Flood Hazard Significant
	Flood Hazard High
	Flood Hazard Extreme
	Constant Hazard Erosion Prone Area
	Disturbance by OP mapping & data of Queensland



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