



An **ORDINARY MEETING** of the Douglas Shire Council will be held on **TUESDAY 8 AUGUST 2014 at 10.00a.m.** at the Council Chambers, 64-66 Front Street, Mossman, and the attendance of each Councillor is requested.

AGENDA

‘ACKNOWLEDGEMENT OF COUNTRY’

‘I would like to acknowledge the Kuku Yalanji people who are the Traditional Custodians of the Land. I would also like to pay respect to their Elders both past and present and extend that respect to other Indigenous Australians who are present’.

1. *Attendance & Apologies*
2. *Conflict of Interest/Material Personal Interest*
3. *Mayoral Minutes*
4. *Confirmation of Minutes of the Ordinary Council Meeting held on 15 July 2014*
5. *Agenda Items as Listed*
6. *Notices of Motion*
7. *Urgent Business*
8. *Closed Session Items as Listed*
9. *Consideration of matter as discussed in Closed Session*

NEXT ORDINARY MEETING – 26 AUGUST 2014

A handwritten signature in black ink, which appears to read "Linda Cardew".

CHIEF EXECUTIVE OFFICER

DOUGLAS SHIRE COUNCIL

ORDINARY MEETING

TUESDAY 5 AUGUST 2014

10.00 A.M.

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ORDINARY COUNCIL MEETING	5.1
5 AUGUST 2014	

REQUEST TO AMEND THE EXISTING MATERIAL CHANGE OF USE APPROVAL FOR MARINA AND WATERFRONT INDUSTRY AND APPLICATION TO RECONFIGURE THE LOT (1 LOT INTO 2 LOTS) AND CREATE AN ACCESS EASEMENT TO A ROAD – PORT STREET, PORT DOUGLAS

Jenny Elphinstone: 43.2008.2770, 41.2012.4894 : (1232)

<u>PROPOSAL:</u>	REQUEST TO AMEND THE EXISTING MATERIAL CHANGE OF USE APPROVAL FOR MARINA AND WATERFRONT INDUSTRY AND APPLICATION TO RECONFIGURE THE LOT (1 LOT INTO 2 LOTS) AND CREATE AN ACCESS EASEMENT TO A ROAD.
<u>APPLICANT:</u>	PORT DOUGLAS MASTER FISHERMAN'S ASSOCIATION INC C/ RECS ENGINEERING PO BOX 894 PORT DOUGLAS QLD 4877
<u>LOCATION:</u>	PORT STREET, PORT DOUGLAS
<u>PROPERTY:</u>	LOTS 1 AND 3 ON SP262338 (MCU) LOT 1 ON SP262338 (ROL)
<u>PLANNING SCHEME:</u>	DOUGLAS SHIRE PLANNING SCHEME 1996 (MCU) DOUGLAS SHIRE PLANNING SCHEME 2008 (ROL)
<u>STRATEGIC PLAN:</u>	URBAN AREA
<u>DCP:</u>	DCP 2 PORT DOUGLAS, WATERFRONT INDUSTRY
<u>ZONE:</u>	PORT FACILITIES
<u>CURRENT PLANNING SCHEME:</u>	
<u>LOCALITY:</u>	PORT DOUGLAS AND ENVIRONS
<u>PLANNING AREA:</u>	PORT DOUGLAS WATERFRONT SOUTH
<u>REFERRAL AGENCIES:</u>	DEPARTMENT OF STATE DEVELOPMENT, INFRASTRUCTURE AND PLANNING
<u>NUMBER OF SUBMITTERS:</u>	NONE TO THE ORIGINAL APPLICATION (MCU) NOT APPLICABLE FOR ROL APPLICATION
<u>STATUTORY ASSESSMENT DEADLINE:</u>	27 AUGUST 2014

APPLICATION DATE:

2 JUNE 2014

APPENDIX:

1. APPROVED AMENDED PLAN (MCU)
2. APPROVED PLANS (ROL)
3. CONCURRENCE AGENCY DECISION
4. INFRASTRUCTURE CHARGES
5. SUPPORTING INFORMATION - EXISTING APPROVAL (MCU)

LOCALITY PLAN



RECOMMENDATION:

- A. That Council approve the request to change the existing Development Permit for Material Change of Use for Marina and Waterfront Industry, over land described as Lots 1 and 3 on SP262338, located at Port Street, Port Douglas, whereby:

1. Condition 4.1 is amended as follows:

Plan of Development

- 4.1 The approved development and the conduct of the approved use, the carrying out of any works on the premises and the construction of any buildings on the premises associated with the development:

- a) are generally in accordance with the plan titled "general Arrangement" drawing No Q014043/C)1-C drawing prepared by Charles O'Neill Pty Ltd 6978MAR-04A sheet 2 of 2 dated 28 November 2013 as amended by RECS Pty Ltd 2 June 2014; and

- b) may be carried out in stages with the first stage of the use being generally shown on drawing ~~No. Q014043-TP1~~ prepared by Charles O'Neill Pty Ltd 6978MAR-04A sheet 2 of 2 dated 28 November 2013 as amended by RECS Pty Ltd 2 June 2014;

2. Condition 4.28 is amended as follows:

4.28 All car parking areas shall be constructed, sealed, drained and line marked to the satisfaction of Council. A minimum of 32 27 car parking spaces shall be provided in and constructed in stages in accordance with approved plans of development ~~Q014043-TP1~~ prepared by Charles O'Neill Pty Ltd 6978MAR-04A sheet 2 of 2 dated 28 November 2013 as amended by RECS Pty Ltd 2 June 2014. The car parking for stages is as follows:

Stage 1(a) ~~18~~ a minimum of 13 car parking spaces

Stage 1(b) a minimum of 14 car parking spaces.

Stage 1(a) is represented by proposed Lot 12 and Stage 1(b) is represented by proposed Lot 11.

Car parking shall be maintained in a safe, serviceable condition throughout the life of the use;

3. Attachments 1(a) and 1(b) of the Decision Notice dated 6 November 2007, and included as an Appendix 1 to the Decision Notice dated 19 December 2011, are deleted and replaced with the drawing prepared by Charles O'Neill Pty Ltd 6978MAR-04A sheet 2 of 2 dated 28 November 2013 as amended by RECS Pty Ltd 2 June 2014 where Stage 1(a) is represented by proposed Lot 12 and Stage 1(b) is represented by proposed Lot 11.
4. The following conditions are included in the approval:
- 4.4.1 All development must be contained within the land currently known as Lot 1 on SP262338 and the term lease over Lot 3 on SP262338.
- 4.4.2 All dry dock storage (marine based industry) must be contained within stage 1(b) (proposed Lot 11).
5. The repeated page 27 of 37, page 30 of 31 and page 31 of 31 referring to appeals under the Integrated Planning Act 1997 of the Decision Notice dated 19 December 2011 are deleted.
6. All other conditions of the approval as amended and issued on 19 December 2011 remain unchanged.

- B. That Council approves the Development Application for Reconfiguring a Lot over land described as Lot 1 on SP262338 located at Port Street, Port Douglas, subject to the following:

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

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

Drawing or Document	Reference	Date
Plan of Proposed Lots and Easements	Charles O'Neill Pty Ltd drawing 6978MAR-04A sheet 2 of 2 dated 28 November 2013 as amended by RECS Pty Ltd 2 June 2014.	2 June 2-014

Assessment Manager Conditions

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

Except where modified by these conditions of approval.

Timing of Effect

2. The conditions of the Development Permit must be effected prior to the issue of a Compliance Certificate for the Plan of Survey, except where specified otherwise in these conditions of approval.
3. Prior to the issue of a Compliance Certificate for the Plan of Survey the use of the land must comply with the Planning Scheme or any approval issued by the Chief Executive Officer over the land.

Water Supply and Sewerage Works Internal

4. Undertake the following water supply and sewerage works internal to the subject land:
 - a. Provide a single internal sewer connection to each lot in accordance with the FNQROC Development Manual;

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

Lawful Point of Discharge

5. 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.

Electricity and Telecommunications

6. 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.

CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS

Concurrence Agency	Concurrence Agency Reference	Date	Council Electronic Reference
Department of State Development Infrastructure and Planning	SDA-0614-011076	30 JULY 2014	D# 425275

Refer to Appendix 3: Concurrence Agency Requirements. (Please note that these conditions / requirements may be superseded by subsequent negotiations with the relevant referral agencies).

ADVICE

- 1 This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse (four 4) years from the day the approval takes effect in accordance with the provisions of sections 339 and 341 of the *Sustainable Planning Act 2009*.
2. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with all relevant Local Laws and statutory requirements.
4. For information relating to the *Sustainable Planning Act 2009*, log on to www.dip.qld.gov.au. To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to www.dsc.qld.gov.au.
5. 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 Assessment Team 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.

6. *The Commonwealth Environment Protection and Biodiversity Conservation Act 1999* applies to action that has, will have or is likely to have a significant impact on matters of national environmental significance.

Further information on the EPBC Act can be obtained from the Department of the Environment, Water, Heritage and the Arts website www.environment.gov.au/epbc EPBC Act Policy Statement 1.1 Significant Impact Guidelines Matters of National Environmental Significance (Oct. 2009).

EXECUTIVE SUMMARY:

Approval originally issued under the former Douglas Shire Council under the 1996 Douglas Shire Planning Scheme for a staged Material Change of Use for the purposes of a Marina and Waterfront Industry. At the time of the approval the land consisted of a lease from the State Government. The approval was amended and the period of approval extended by Cairns Regional Council in December 2011. In November 2013 the Department of Natural Resources and Mines converted the lease holding to a freehold lot, which is now owned by the Port Douglas Master Fisherman's Association.

Request has been made to amend the approval in respect to car parking associated with the marina and refuelling component and to vary the areas over which the two stages apply. The proposed amendments will result in the proposed lots more clearly reflecting the stages of the underlying Material Change of Use approval. No concern is raised with the requested amendments.

Separate application has been made to reconfigure the freehold lot into two lots and an access easement to a road. No overall concern is raised with the proposed lot and access easement configuration. A condition of the approval requires that prior to the issue of a Compliance Certificate for Plan of Survey that the uses on the land comply with the Planning Scheme or respective requirements of approvals issued over the land.

TOWN PLANNING CONSIDERATIONS:

Background

At the Council Meeting held 27 October 2003, the former Douglas Shire Council granted approval for a Material Change of Use for a Marina and Waterfront Industry on land known as Lot A on SR808245. A Negotiated Decision Notice, encompassing a request to change conditions of approval, was issued 6 November 2007.

To date the Stage 1(a) works – refuelling and marina works have been completed. Request was made in December 2011 to amend the approval and to extend the relevant period for the following reasons:

- a. The significant economic impacts of the recent Global Financial Crisis have resulted in delays in carrying the project forward to Stage 2 – Travel Lift and Boat Maintenance Facilities;
- b. The site has been identified as a critical part of the land use transition required under the Port Douglas Waterfront Master Plan for the move of more robust marine maintenance activities to a more suitable site; and
- c. In particular, Council has indicated that the redevelopment of the Marina and adjoining properties is dependent upon the provision of new facilities to replace the services provided to boat owners by the existing slipway.

It is understood that while the use has commenced concern was also raised by Cairns Regional Council with regards to the compliance of land uses with the approval. The extension gave opportunity for the development to be lawfully commenced within the approval period. At the time of the approval the development was considered to comply with the then current Planning Scheme that had been amended to reflect the Port Douglas Waterfront.

On the 19 December 2011 Cairns Regional Council approved requests to change the approval conditions and extend the Relevant Period of a Development Approval for a period of four (4) years, to 28 November 2015. A copy of the current approval is included in Appendix 5.

On the 14 November 2013 the Department of Natural Resources and Mines created a freehold lot over the land being lot 1 on SP262338. Prior to this the land consisted of a lease of part of Lot 122 on CP890712.

REQUEST TO CHANGE (MCU)

Applicant's Request

Request has been made for the following changes to the existing approval.

1. Reduce the car parking spaces required by Stage 1(a) and amend the approved plan, including the conditions that refer to the approved plans, to reflect the reduced car parking.

The approval currently requires the provision of 18 car spaces for Stage 1 (a) and it is requested that this be reduced to 13 spaces having regard to the proposed separation of the dock facility and refuelling with the marine repair and boat building use. The docking area provides for 10 boat bays. The proposed 13 spaces are nominated as being sufficient to provide for the boat bays together with staff and visitor parking to the refuelling component. The amount of car parking associated with boat repairs and boat building will not change.

2. Amend the stages of the approved plan to reflect the proposed boundary reconfiguration lodged under separate application. In order to reconfigure the land there needs to be consistency of the underlying stages of the Material Change of Use with the proposed new lots. Currently the approved plans associated with the Material Change of Use do not anticipate the use being developed by different owners and simply reflect timing stages. The proposed amended staging reflects the separation of the uses of boat dock and refuelling component with the boat repair and boat building area.

Planning Assessment

Officer's Comment

The proposed changes are considered to be “permissible changes” having regard to s.367 Sustainable Planning Act 2009. That is, the changes do not result in a substantially different development, do not give rise to an additional concurrence agency or cause development to which the approval relates to include any prohibited development.

Section 374 SPA requires Council's assessment of the request to have regard to the planning instruments, plans, codes, laws or policies applying when the original application was made, but may give the weight it considers appropriate to the planning instruments, plans, codes, laws or policies applying when the request was made.

The Application was made under the 1996 Douglas Shire Planning Scheme. The approved development was an undefined use. Under the 1996 Scheme provisions there was no set car parking demand requirement. Under the current Scheme the use of “Marina” is now defined and there is no allocated car parking demand to be provided. Given the limited mooring facilities and the small refuelling component the proposed provision of 13 car parking spaces is considered appropriate and sufficient.

No concern is raised with the realignment of the stages as this will more generally reflect the marina and refuelling component from the boat building and boat repair marine industry component. A condition of the approval notes that all dry dock storage is to be contained within Stage 1(b) being proposed Lot 11.

APPLICATION (ROL)

Proposal

Application has been made to reconfigure the land into two lots and easements including an access easement to a road. Proposed Lot 12 has an area of approximately 3,538m² and proposed Lot 11 has an area of approximately 4,895m². Proposed Lot 11 is over the area for Stage 1(a) and proposed Lot 12 is over the area for Stage 1(b) of the underlying approval for a Material Change of Use for Marina and Waterfront Industry.

State Referral

The Department of State Development, Infrastructure and Planning has required conditions be applied to the approval. A copy of the Department's decision is included in Appendix 2.

The Department has also advised that Council must assess the application against the State Planning Policy December 2013, in particular the interim development assessment provisions such as Biodiversity, Coastal Environment and Natural hazards (Coastal), and to the extent that is relevant to the proposed development.

The assessment of applications in this instance is under Part E of the State Planning Policy. The development is considered to meet the assessment requirements as there is no change of land use and the reconfiguring incorporates the future, approved uses, in a more appropriate lot arrangement. There is no further clearing or impact on the natural systems than what is existing or otherwise approved.

Douglas Shire Planning Scheme Assessment

Douglas Shire		Code Applicability	Compliance
Locality	Port Douglas and Environs Locality Code	✓	Complies
Planning Area	Port Douglas Waterfront South	✓	Complies
Defined Use	N/A	✗	-
Overlay Codes	Acid Sulfate Soils Code	✗	-
	Cultural Heritage and Valuable Sites Code	✗	-
	Natural Hazards Code	✗	-
General Codes	Design and Siting of Advertising Devices Code	✗	-
	Filling and Excavation Code	✗	-
	Landscaping Code	✗	--
	Natural Areas and Scenic Amenity Code	✗	-
	Reconfiguring a Lot Code	✓	Complies as the lots provide for the approved uses of Marina and Marine Industry.
	Vehicle Parking and Access Code	✗	-
	Sustainable Development Code	✗	-
Amendment	Vegetation Management	✓	Complies – none proposed

Compliance Issues

None. As a condition of the approval prior to the issue of a Certificate of Compliance for the Survey Plan development on the proposed lots must comply with the Planning Scheme of any relevant approval issued over the land.

COUNCIL'S ROLE

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

ADOPTED INFRASTRUCTURE CHARGES

The proposed development triggers Adopted Infrastructure Charges.

Council permitted the use of the Marina and Marine Industry under MCU3B045/02 no contributions were applied to the approval. This was due to the approval having issued under the 1996 Planning Scheme and as a "3B" application. Council could only apply conditions and under State legislation these conditions could not include charging for water and sewer infrastructure.

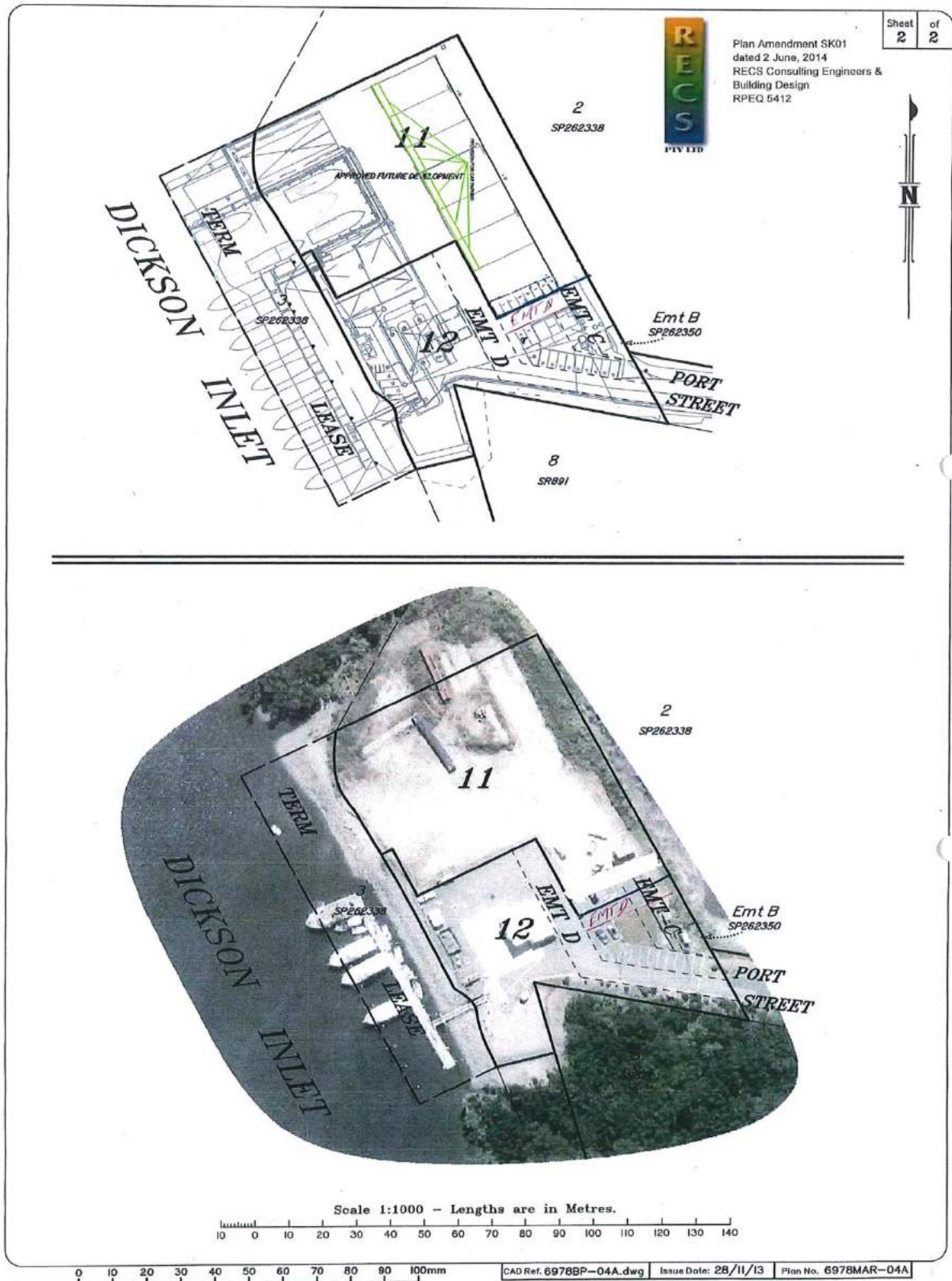
Council's current Policy normally charges for the whole of the land where no developer contributions have previously been paid, that is no credit applies unless a contribution had previously been paid to Council. In this instance the reconfiguring of industrial land would generate a demand on a per hectare basis for the whole of the land and would amount to some \$115,897.25 plus a park contribution of 10% of the capital value of both of the unimproved new lots.

Recent changes by the State Government to the Sustainable Planning Act 2009, section 636, came into effect on 4 July 2014 and give credit to existing development in the following instances:

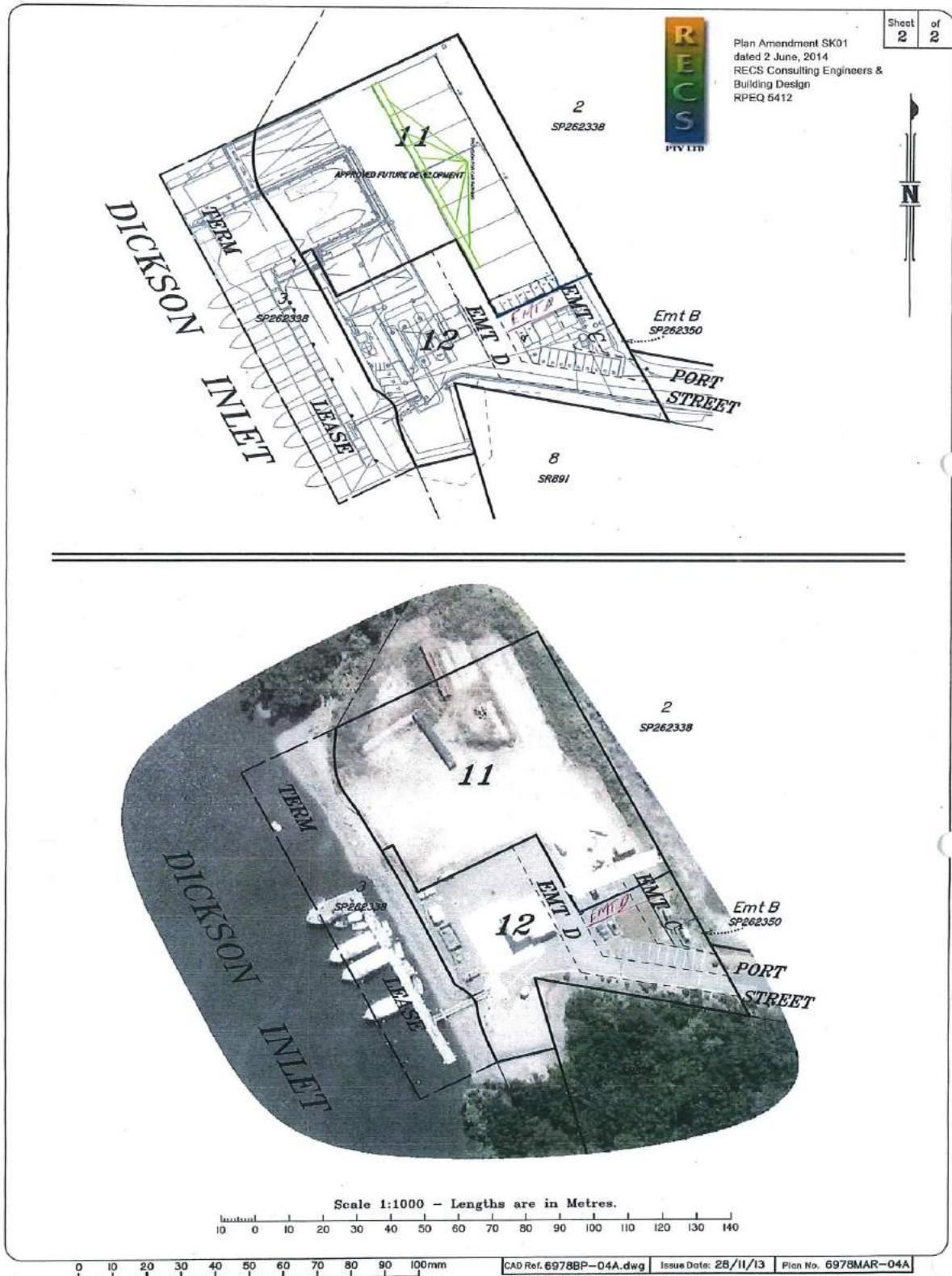
- "(a) an existing use on the premises if the use is lawful and already taking place on the premises;*
- (b) a previous use that is no longer taking place on the premises if the use was lawful at the time it was carried out;*
- (c) other development on the premises if the development may be lawfully carried out without the need for a further development permit."*

Under these provisions Council can no longer apply a charge to the proposed Lot 12, as the use on this land has been lawfully established. While a use has been approved over the proposed Lot 11 further development permits (Building Work and Operational Work) will be required and it is reasonable to apply the Policy over this new lot. Refer to Appendix 4 to view calculations. The impact of the SPA amendment reduces the charges to \$67,224.99 plus 10% of the capital unimproved value of Lot 11.

APPENDIX 1. APPROVED AMENDED PLAN (MCU)



APPENDIX 2. APPROVED PLANS (ROL)



APPENDIX 3. CONCURRENCE AGENCY DECISION

SDA-0614-011076



Department of
State Development,
Infrastructure and Planning

Our reference: SDA-0614-011076

Your reference: 41.2013.5513 (1231)

30 July 2014

Ms Linda Cardew
Chief Executive Officer
Douglas Shire Council
PO Box 723
Mossman QLD 4873
enquiries@douglas.qld.gov.au

Attention: Jenny Elphinstone

Dear Ms Cardew

Amended Concurrence agency response—with conditions

Reconfiguring a Lot (1 Lot into 2 Lots) and Create an Access Easement to a Road – Port Street, Port Douglas - 1 SP262338
(Given under section 285 of the *Sustainable Planning Act 2009*)

The Department of State Development Infrastructure and Planning issued a concurrence agency response under section 285 of the *Sustainable Planning Act 2009* on 15 July 2014. On 25 July 2014 the department received representations from the applicant under section 320(1) of the *Sustainable Planning Act 2009* requesting that the department amend its concurrence agency response under section 290(1)(b)(i) of the *Sustainable Planning Act 2009*.

The department has considered the written representations and agrees to issue an amended concurrence agency response.

The referral agency material for the development application described below was received by the Department of State Development, Infrastructure and Planning on 12 June 2014 and properly referred on 16 June 2014 under section 272 of the *Sustainable Planning Act 2009*.

Applicant details

Applicant name: Port Douglas Master Fishermans Association Inc
 Applicant contact details: P O Box 894
 Port Douglas QLD 4877

Site details

Street address: Port St, Port Douglas
 Real property description: 1 SP262338
 Local government area: Douglas Shire Council

Application details

Proposed development: Development Permit for Reconfiguring a Lot (1 Lot into 2 Lots) and Create an Access Easement to a Road

Referral triggers

The development application was referred to the department under the following provisions of the *Sustainable Planning Regulation 2009*:

Referral trigger Schedule 7, Table 2, Item 14 – Tidal works, or development in a coastal management district

Conditions

Under section 287(1)(a) of the *Sustainable Planning Act 2009*, the department requires that the conditions set out in Attachment 1 attach to any development approval.

Reasons for decision to impose conditions

Under section 289(1) of the *Sustainable Planning Act 2009*, the department is required to set out the reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

Further advice

Under section 287(6) of the *Sustainable Planning Act 2009*, the department offers advice about the application to the assessment manager—see Attachment 3.

Approved plans and specifications

The department requires that the following plans and specifications set out below attach to any development approval.

Drawing or document	Reference no.	Version	Date
Plan of Proposed Lots 11, 12 & Emt C & D in Lot 12 (as amended in red on sheet 2)	Plan No. 6978MAR-04A Sheet 2	04A	28/11/13 and amended on 02/06/2014

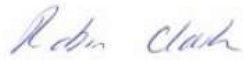
A copy of this response has been sent to the applicant for their information.

Please be advised that the applicant has provided written agreement to this amended concurrence agency response, as attached.

SDA-0614-011076

If you require any further information, please contact Tony Croke, Principal Planning Officer, on 4037 3205, or via email tony.croke@dsdip.qld.gov.au who will be pleased to assist.

Yours sincerely



Robin Clark
Manager (Planning)

cc: Port Douglas Master Fishermans Association Inc, c/- peter@recs.net.au
enc: Attachment 1—Conditions to be imposed
Attachment 2—Reasons for decision to impose conditions
Attachment 3—Further advice
Attachment 4 – Approved plans and specifications
Attachment 5 - Applicant written agreement to amended concurrence agency response

Our reference: SDA-0614-011076
 Your reference: 41.2013.5513 (1231)

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Reconfiguring a lot situated completely or partly within a coastal management district		
Development in a Coastal Management District —Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the chief executive administering the <i>Sustainable Planning Act 2009</i> nominates the Director-General of Environment and Heritage Protection to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	Provide to the Environmental Services and Regulation section of the Department of Environment and Heritage Protection the final title plan lodged and approved by the registrar of titles.	Within one month of approval of title plan by the registrar of titles

Our reference: SDA-0614-011076
 Your reference: 41.2013.5513 (1231)

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

- to ensure that the development achieves the performance outcomes within the SDAP, Module 10, and other policies and processes identified in the "evidence or other material on which the findings were based".

Findings on material questions of fact

- The application seeks only to realign the reconfiguration to enable potential further coastal dependant development in the form of marine facilities.
- The provision of conditions ensures that suitable coastal and environmental outcomes are reached.

Evidence or other material on which the findings were based

- The material provided by the applicant with the development application.
- *Sustainable Planning Act 2009* and *Sustainable Planning Regulation 2009*.
- *Coastal Protection and Management Act 1995*, *Coastal Protection and Management Regulation 2003*.
- State Development Assessment Provisions, Module 10 version 1.3, dated 9 May 2014, in particular Module 10: Coastal protection
- Department of Environment and Heritage Protection coastal development guidelines <http://www.ehp.qld.gov.au/coastal/development/guidelines.html>
- Department of Environment and Heritage Protection coastal development policy documents http://www.ehp.qld.gov.au/coastal/development/operational_policies.html
- Department of Environment and Heritage Protection coastal development information sheets http://www.ehp.qld.gov.au/coastal/development/information_sheets.html
- Queensland Coastal Plan Maps and Erosion prone area maps – Douglas Shire Local Government Area, Plan No DOS2A.

Our reference: SDA-0514-010383

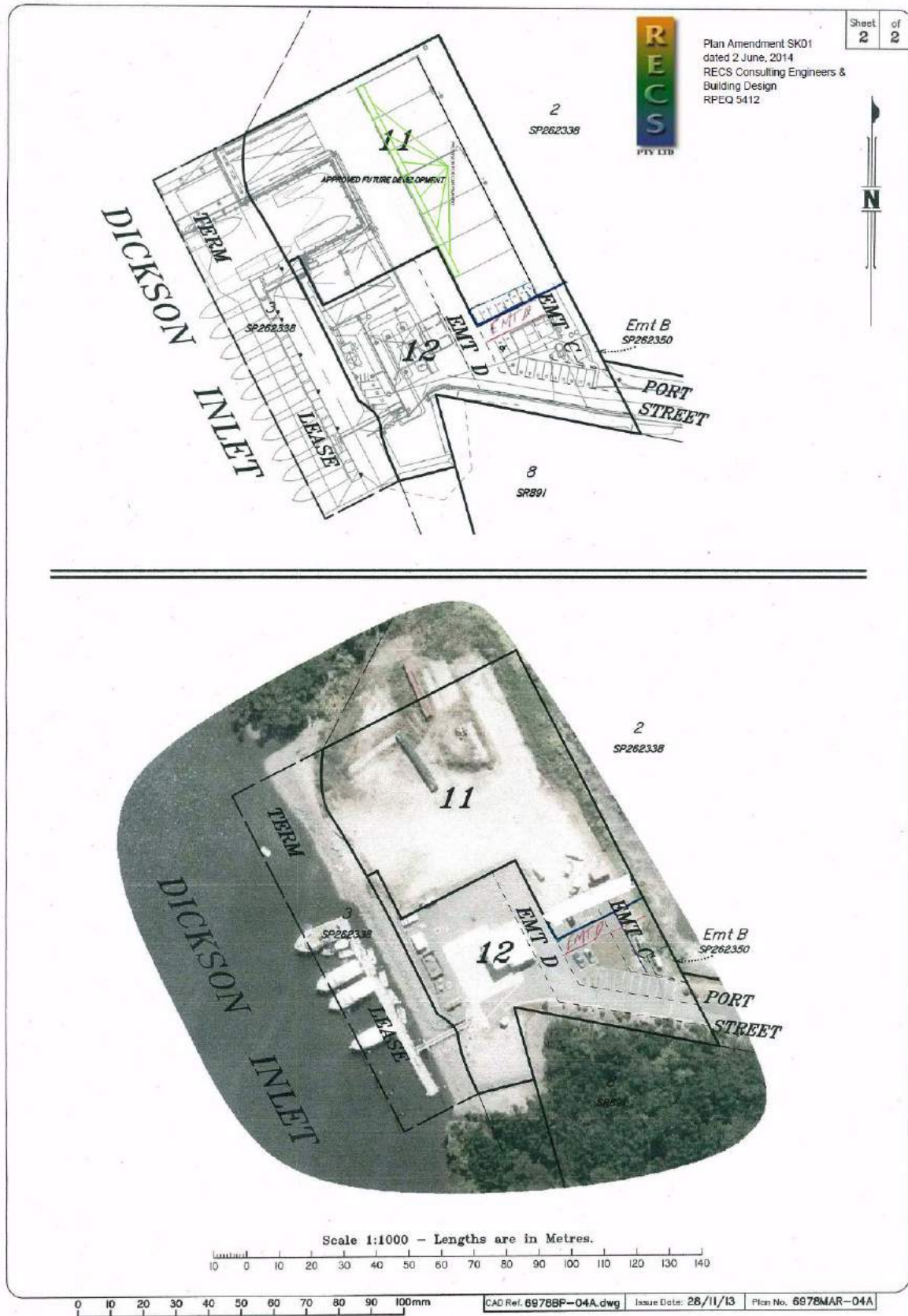
Your reference: DA3254

Attachment 3—Further advice

State Planning Policy 2013 – interim development assessment provisions	
1.	Douglas Shire Council, in its role as Assessment Manager, must assess the part of the application against the State Planning Policy December 2013, in particular the interim development assessment provisions such as Biodiversity, Coastal environment and Natural hazards (Coastal), and to the extent it is relevant to the proposed development.

Our reference: SDA-0514-010383
Your reference: DA3254

Attachment 4—Approved plans and specifications



Our reference: SDA-0514-010383
Your reference: DA3254

**Attachment 5—Applicant written agreement to amended concurrence agency
response**

APPLICANT WRITTEN AGREEMENT**Amended Concurrence Agency Response**

DSDIP Reference: SDA-0614-011076
Douglas Shire Council reference: 41.2013.5513 (1231)

I/we, as the agent and consulting engineer for the development application for a Development Permit for reconfiguring a lot (1 lot into 2 lots) (Council reference 41.2013.5513 (1231)), give written agreement to the Chief Executive of the Department of State Development, Infrastructure and Planning to give an amended concurrence agency response under section 290 of the *Sustainable Planning Act 2009*.

Signed:



(Director, RECS Consulting Engineers)

Date:

28 July, 2014

APPENDIX 4. ADOPTED INFRASTRUCTURE CHARGES

DOUGLAS SHIRE COUNCIL		2006 & 2008 Douglas Shire Planning Schemes Applications					
INFRASTRUCTURE CHARGES NOTICE							
Port Douglas Master Fisherman's Association		NA	0				
DEVELOPERS NAME		ESTATE NAME	STAGE				
Port Street	Port Douglas	L1 SP262338	8508				
STREET No. & NAME	SUBURB	LOT & RP No.s	PARCEL No.				
ROL	41.2012.4894	30-Jun-14	2				
DEVELOPMENT TYPE	COUNCIL FILE NO.	QUARTER ENDING	VALIDITY PERIOD				
425313	1	This logsheet is indexed appropriately only for payments made within the quarter noted above.					
DSC Reference Doc. No.	VERSION No.						
	DIST	\$ / EDC	NET EDC	ADJUSTMENT	AMOUNT DUE	AMOUNT PAID	Receipt Code
WATER							
Existing	11	6,679.03	X 5.87	0.00	\$39,205.92		861
Proposed	11	660.57	X 5.87	0.00	\$3,877.56		875
Port Douglas	Water sub - total				\$43,083.48		
SEWERAGE							
Existing	2	3,577.22	X 5.87	0.00	\$20,998.29		882
Proposed	2	535.47	X 5.87	0.00	\$3,143.22		888
Pt D Town Ar	Sewerage sub - total				\$24,141.51		
OPEN SPACE							
DSC Area					\$0.00		894
Off-Site Car Parking	None				\$0.00		
TOTAL					\$67,224.99		
Prepared by	J Elphinstone		on	30-Jul-14	Amount Paid		
Checked by			on		Date Paid		
Date Payable							
Amendments	Date						
					Cashier		

Note:

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

Charge rates are subject to index adjustments. The total charge amount indicated on this notice is current at the date of issue, the total charge due at the date of payment may change. 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

APPENDIX 5 SUPPORTING INFORMATION - EXISTING APPROVAL (MCU)

ENQUIRIES: Michelle Henderson
PHONE: (07) 4099 9457
FAX: (07) 4044 3836
YOUR REF:
OUR REF: 8/37/149 (MCU 3B 046/02)
(3434789)

19 December 2011

Port Douglas Master Fishermen's Association Inc
PO Box 47
MOSSMAN QLD 4873

Dear Sir/Madam

**DECISION NOTICE RE CHANGES TO EXISTING APPROVAL AND REQUEST
TO EXTEND RELEVANT PERIOD FOR: DEVELOPMENT APPLICATION FOR
DICKSON INLET PORT DOUGLAS**

With reference to the abovementioned Request to Extend Relevant Approval please be advised that the Acting General Manager under Instrument of Delegation approved this request for four (4) years up to 21 November 2015. Please find attached the relevant Decision Notice relating to request To Change an Existing Approval which was also approved under Instrument of Delegation.

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

Should you have any enquires in relation to this Decision Notice, please contact Michelle Henderson of Council's Development Assessment Team on telephone number (07) 4099 9457.

Yours faithfully

Kelly Reaston
Manager Development Assessment

Att.

43.2002.4312
1/31

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

APPLICANT DETAILS

Port Douglas Master Fishermen's Association Inc
PO Box 47
MOSSMAN QLD 4873

ADDRESS

Dickson Inlet Port Douglas

REAL PROPERTY DESCRIPTION

Lot A on N808245

PROPOSAL

Marina & Waterfront Industry

DECISION

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

DECISION DATE

19 December 2011

TYPE

Material Change of Use (Development Permit)

REFERRAL AGENCIES

Environmental Health Services
Cairns Regional Council

SUBMISSIONS

There were no submissions for this application.

FURTHER DEVELOPMENT PERMITS REQUIRED

None

CODES TO COMPLY WITH FOR SELF-ASSESSABLE DEVELOPMENT

None

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

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

Not in conflict

That conditions on Development Permit MCU 3B 046/02 be amended as follows:

1. That condition 4.9 be amended to read:

4.9 A sewerage reticulation design incorporating pump stations, property sewers, design flows, pipe sizes, grades pump rates, catchments, and pressure main hydraulics is to be submitted to Council for Operational works approval. All works must be designed and constructed in accordance with the FNQROC Development Manual.

2. That condition 4.11 be amended to read:

4.11 Waste water generated by the proposed development must be discharged to Council's sewer in accordance with the Environmental Protection Act 1994. As-constructed details of the existing external sewer from the site to council's sewer in Wharf Street must be provided with Operational Works submission.

3. That condition 4.13 be amended to read:

4.13 The water reticulation design shall be submitted for approval at Operational Works stage. The water reticulation infrastructure including private property water mains must be designed and constructed in accordance with the FNQROC Development Manual.

4. That condition 4.15 be deleted:

~~4.15 The developer must provide a registered engineer who must be in attendance at all times when backfilling of trenches for mains outside the private property is carried out. All fittings including bends, tapping bands, etc, must all be measured by the registered professional engineer and recorded on the 'As Constructed' plan.~~

5. That condition 4.17 be deleted:

~~4.17 Mains shall be designed and constructed in accordance with Water Resources Guidelines for the Planning and Design of Urban Water Supply Schemes and to the following particular Council requirements:~~

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

- ~~a) All road crossings must be laid and backfilled before gravel pavement is placed.~~
- ~~b) Mains are to be laid within the road reserve of Port Street.~~
- ~~c) Hydrant indicator posts are to be in accordance with Council's specification.~~

~~All pipes, fittings and rubber rings shall be tested by Water Resources or an approved testing authority.~~

6. That the following conditions be added:

Sewerage

4.43 Precast manholes and pump station units not yet constructed at the time of this approval to extend the relevant period are not permitted for use on this development.

Sewer Easement

4.44 Create an easement in favour of Council over any Council sewerage infrastructure located within the site to the requirements and satisfaction of the Chief Executive Officer. A copy of the easement document must be submitted to Council for the approval by Council's solicitors at no cost to Council.

The approved easement document must be lodged and registered with the Department of Environment and Resource Management prior to the Commencement of Use.

Inspection of Sewers

4.45 CCTV inspections of all constructed sewers (including property sewers) must be undertaken. An assessment of the CCTV records must be undertaken by the developer's consultant and a report along with the footage submitted to Council for approval. Identified defects are to be rectified to the satisfaction of the Chief Executive Officer at no cost to Council prior to Commencement of Use.

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Damage to Infrastructure

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

Refuse Storage

4.47 Refuse storage is required to service the site in accordance with Council requirements. Brochures on these requirements – 'Requirements for Refuse Storage' are available from CRC Water & Waste.

Liquid Waste Disposal

4.48 Trade waste discharge to sewer must meet the requirements of CRC Water and Waste's Trade Waste Environmental Management Plan (TWEMP).

A report demonstrating that the facility complies with the TWEMP must be submitted to and be approved by Council prior to the issue of a Development Permit for Building Work.

The applicant must have all measures for pre-treatment installed prior to commencement of use.

FNQROC Development Manual

4.49 All construction/operational works are to be in accordance with FNQROC Development Manual requirements and are subject to the associated application procedures.

2. All other conditions of the Decision Notice for MCU 3B 046/02 dated 6 November 2007 (attached) remain unchanged.

RIGHTS OF APPEAL
 Attached

End of Decision Notice

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

APPENDIX 1 ORIGINAL NEGOTIATED DECISION NOTICE



PREPARED BY: Louise Smyth - A/Manager
 DISTRIBUTION: Planning Services Section - ☎ (07) 4099 9636
 EMAIL: planning@pdc.qld.gov.au

CYCLE NO: MCU 3B 046/02
 YOUR REF:

Port Douglas Master Fisherman's Association
 C/- S & J Marino
 PO BOX 47
 MOSSMAN QLD 4873

6th November 2007

INTEGRATED PLANNING ACT
NEGOTIATED DECISION NOTICE
CHANGE OF CONDITIONS

Applicant's Name	:	Port Douglas Master Fisherman's Association
Owner's Name	:	Pacific Fuel Services Pty Ltd
Proposal	:	Material Change of Use of Premises for purposes of a Marina and Waterfront Industry.
Application Number	:	MCU 3B 046/02
Site Address	:	Dickson Inlet, Port Douglas
Property Description	:	Lot A on SR806245 being part of Lot 122 on CP890172; SLO9/1821/PT Reserve 177, Parish of Salisbury, County of Salander

This Decision Notice for Change of Conditions replaces the Negotiated Decision Notice dated 28 November 2003. Conditions 4.1, 4.4, 4.7, 4.28 and 4.41 have been amended and a new Condition 4.41 has been added. Conditions 4.3 and 4.5(c) have been deleted. All other conditions remain unchanged.

.../2.

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

PHONE (07) 4099 9444 FACSIMILE (07) 4099 2302
 INTERNET www.pdc.qld.gov.au

LIBRARY 11 MILL ST., MOSSMAN

PHONE (07) 4099 0400 FACSIMILE (07) 4099 3206

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

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

-2-

1. **Decision:** **Decision Date:** 27th November 2003

Approved subject to Conditions

2. **Type of Development Approval:**

Material Change of Use

Development Permit

3. **Referral Agency:**

Douglas Shire Council
 PO Box 357
 MOSSMAN QLD 4873

Attn: Environmental Health Services Section

4. **Conditions**

Plan of Development

- 4.1 The approved development and the conduct of the approved use, the carrying out of any works on the premises and the construction of any buildings on the premises associated with the development:

- a) are to be generally in accordance with the plan titled "General Arrangement" Drawing No Q014043/CO1/C; and
- b) may be carried out in stages with the first stage of the use being generally shown on drawing No. Q014043 TP1.

Amenity

- 4.2 The approved use must not be conducted so as to cause a nuisance or annoyance to persons not associated with the business and so as not to adversely affect any other property.

~~Regenerative Works (deleted)~~

- ~~4.3 The applicant shall commission a qualified environmental scientist to undertake a review of the causes of the mangrove die back on the south east boundary of the subject lease. A report identifying the probable causes, and recommended ameliorative measures, relating to the mangrove dieback is to be submitted to Council with the landscape plan referred to in condition number 4.4 of this approval.~~

Landscaping & Fencing

- 4.4 The applicant shall prepare a detailed landscaping plan for the subject site. This landscaping plan is to be designed in accordance with the requirements of the

DECISION NOTICE DETAILS
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Planning Scheme and Local Planning Policy No.4 - Landscaping. This plan shall be submitted to Council for consideration and approval.

- 4.5 The landscaping plan submitted with the proposed development, titled 'Landscape Concept', dated 30 July 2003 and prepared by Landscape is to be amended as follows -

- a) The following species listed on the Proposed Plant Schedule are not endemic to the Port Douglas area and should **NOT** be used in the landscape plan.
- *Carpentaria acuminata*
 - *Casuarina imphloia* (*C. equisetifolia* to be used)
 - *Paralorea jasminoides*
 - *Pennisetum alopecuroides*
- b) Based on the species proposed in the plant schedule the following have been identified as being suitable for use in the landscape area on this site as they will tolerate the harsh conditions. These species **SHOULD** be the dominant species used in the landscape plan.
- *Cyrtus pendulatus*
 - *Cynometra iripa*
 - *Diploteris tetraphylla*
 - *Hortiera littoralis*
 - *Ipomoea pes-capra*
 - *Randia fitzlandii*
 - *Scaevola verticillata* (*laeviuscula*)
 - *Vitex ovata*
- c) ~~The landscape plan is to include regenerative measures for the mangrove die back area as recommended in the report required in Condition number 4.3 of this approval.~~

The amended plan is to be submitted to Council for Operational Works approval

- 4.6 The landscape areas adjoining the car parking area shall be protected from vehicles by a 150mm high vertical concrete kerb or similar obstruction.
- 4.7 The landscaping shown on the approved plan is to be completed in stages. Before development in that stage may be occupied, the landscaping for that stage is to be completed and maintained thereafter.

Footpath Damage Liability

- 4.8 All damage occasioned to footpaths and roadways adjacent to the site as a result of or in connection with this development must be repaired by the applicant, at their expense, prior to completion of works associated with the development.

DECISION NOTICE DETAILS
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Sewerage

- 4.9 A sewerage reticulation design incorporating pump stations, design flows, pipe sizes, grades, pump rates, catchments and pressure main hydraulics is to be submitted to Council for Operational Works approval.
- 4.10 Other than that approved, no additional external structural loads are permitted to be applied to Council's existing sewer as a consequence of the approved development.
- 4.11 First Flush (first 20mm of rainfall) waste water generated by any maintenance bays, wash down bay, dry storage bays, bulk fuel delivery bay and unregulated waste storage bay of the proposed development must be discharged to Council's sewer in accordance with the Environmental Protection Act 1994 plans and specifications to be included at Operational Works stage.
- 4.12 The unregulated waste storage area must be located within the development site and be screened from the road frontage. The location of this storage area must be indicated on plans submitted for Operational Works approval.

The unregulated waste storage area must:

- (a) Contain an impervious surface for the storage of waste containers suitably screened so as not to be visible from adjoining properties or the road reserve;
- (b) Include a stop cock and stormwater diversion valve at the drainage point;
- (c) Contain two industrial waste bins of nominal capacity 1500 litres and not less than two 240 litre bins.
- (d) Drain into a sewerage inlet.

Refuse storage, removal and collection methods shall be in accordance with the "Environment Protection (Interim Waste) Regulations 1996" Water

- 4.13 The water reticulation design shall be submitted for approval at Operational Works stage.
- 4.14 The Council will make all connections to existing main. The developer is to prepare to the Council the estimated cost of the connection of the new main to the existing system. The applicant will be responsible for meeting the actual cost of the work.
- 4.15 The developer must provide a registered engineer who must be in attendance at all times when backfilling of trenches for mains outside the private property is carried out. All fittings including bends, tapping bands etc, must all be measured by the registered professional engineer and recorded on the 'As Constructed' plan.
- 4.16 The developer is responsible for the external works to connect the site with Council's water supply at a point specified at Operational Works stage.

DECISION NOTICE DETAILS
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4.17 Mains shall be designed and constructed in accordance with Water Resources Guidelines for the Planning and Design of Urban Water Supply Schemes and to the following particular Council requirements:

- a) All road crossings must be laid and backfilled before gravel pavement is placed.
- b) Mains are to be laid within the road reserve of Port Street.
- c) Hydrant indicator posts are to be in accordance with Council's specifications.

All pipes, fittings and rubber rings shall be tested by Water Resources or an approved testing authority.

4.18 Prior to connection of the new work by the Council, the developer's Engineer shall certify that:-

- a) All mains have been satisfactorily pressure tested in accordance with the water resource guidelines.
- b) All mains have been cleared and sterilised by chlorination to his satisfaction.

4.19 The mains shall be maintained by the developer for a period of twenty four (24) months after completion of the work. In the event of urgent maintenance work being carried out by the Council at the subdivisor's expense.

4.20 The Developer is to provide appropriate sized water metres for all town water entering the development.

Electrical & Telephone Services

4.21 Prior to the commencement of the use the developer must submit to Council a copy of a letter from Ergon Energy stating that satisfactory arrangements have been made for the provision of:

- (a) an underground electrical supply to the lot; and
- (b) street lighting in accordance with Council's adopted standards.
- (c) locating of all above ground transformer cubicles clear of footpath and parkland areas.

Prior to the commencement of the use, the Applicant must submit to Council a copy of a letter from Telstra stating that satisfactory arrangements have been made for the provision of:

- (a) an underground telephone service to the lot; and
- (b) locating of all above ground switching station cubicles clear of footpath and parkland areas.

4.22 The developer shall provide underground electricity to the development in accordance with Ergon Energy requirements. It shall be the developer's

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

responsibility to provide tapered tubular steel light posts within the road reserve at locations as directed by Ergon Energy.

Road Construction

- 4.23 The thickness of pavement gravel will be determined at Operational Works stage after soaked C.B.R. tests have been carried out on subgrade. The minimum depth of pavement shall be 200mm compacted.
- 4.24 The access road serving the development shall have hot mixed asphalt pavement, 30mm mix complying with Department of Transport's Hot Mixed Asphalt Pavement Specification (11/09 8/88). Port Street access handle is to be constructed to an 8.0m wide bitumen surface.
- 4.25 The developer shall upgrade the intersection of Port and Wharf streets in accordance with the requirements of *QLD Streets 1995*. The intersection is to be widened to incorporate two lanes entering and exiting the service road. Designs and specifications are to be approved by Council at Operational Works stage.
- 4.26 The developer shall undertake revegetation of road embankment batters utilising indigenous species compatible to the surrounding environment. This revegetation shall be included in the landscape plan submitted for Operational Works approval.

Traffic Management and Carparking

- 4.27 The ingress/egress to the site shall be provided with a physical means of speed control. This speed control device shall be shown on the plans submitted for Operational Works approval and shall be constructed prior to the use commencing and maintained at all times.
- 4.28 The applicant shall provide bollard lighting at the property boundary to indicate access to the site. This lighting shall be installed prior to the commencement of the use.
- 4.28 All car parking areas shall be constructed, sealed, drained and line marked to the satisfaction of Council. A minimum of 32 car parking spaces shall be provided in and constructed in stages in accordance with approved plans of development Q014043 TP1 as follows:
 Stage 1(a) - 18 car parking spaces
 Stage 1(b) - minimum of 14 car parking spaces.
 Car parking shall be maintained in a safe, serviceable condition throughout the life of the use.
- 4.29 Where a refuse collection service is to be provided to collection points within the development, the internal road construction should allow for use by multi axle trucks with a total capacity of 24 tonnes. A minimum road width of 3.5 metres is required, with a minimum turning circle of 10.3 metres and an adequate corner curves are to be included suitable for the passage of such vehicles.

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

Drainage

- 4.30 All stormwater run-off from non-porous surfaces occurring on the site must be collected within the lease boundary and discharge, excluding roofwater, to the legal and practical point of discharge via the storm water quality improvement devices (SQIDs) as identified on figure E3 dated 10/11/2003 (attached).
- 4.31 The subject site must be graded so that it drains freely to the storm water quality improvement devices as shown on figure E3 dated 10/11/2003 (attached).
- 4.32 Drainage easements and/or reserves as deemed necessary following submission of engineering drawings and designs are to be registered in Council's favour at no cost to the Council.
- 4.33 The calculated design frequency for all storm water drainage shall be determined on a five year recurrence interval and all relevant design data shall be submitted with the engineering drawings.

Acid Sulphate Soils

- 4.34 The developer shall dispose of acid sulphate soils or potential acid sulphate soils in accordance with the Queensland Acid Sulphate Soils Investigation Team (QASSIT) Guidelines.
- 4.35 The developer shall provide Council a certificate from a certified engineer indicating that the disposal of the acid sulphate soils or potential acid sulphate soils has been undertaken in accordance with the QASSIT guidelines prior to the commencement of the use.
- 4.36 The transport route for the disposal of the acid sulphate soils or potential acid sulphate soils shall be identified on a plan lodged with Council for approval at Operational Works stage.

Dredging

- 4.37 The developer shall gain approval from the Environmental Protection Agency for the section 86 and 67 applications referring to dredging works prior to the commencement of works on-site.

Engineering Drawings and Designs

- 4.38 Full engineering drawings, prepared and/or checked by a Registered Professional Engineer, shall be submitted for all road works, stormwater drainage and lot improvement at Operational Works Application stage. Drawings should, in general, include the following:
 - (a) locality plan;
 - (b) layout and staging plan, where applicable;
 - (c) earthworks plan;

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

- (d) layout plan for each new road;
- (e) longitudinal section of each road;
- (f) cross sections for each road, including standard cross sections;
- (g) detailed plan of each intersection and cul-de-sac head where longitudinal grades do not exceed 1%;
- (h) layout plan for each stormwater drainage;
- (i) longitudinal sections for each stormwater drain line;
- (j) details for non-standard drainage structures;
- (k) Sewerage Reticulation Plan;
- (l) Water Reticulation Plan;
- (m) Erosion and Sediment Control Strategy;
- (n) The location, extent and proposed treatment of acid sulphate soils on the site;
- (o) Service providers conduit plan, including street lighting; and
- (p) Such other details for the proper construction of the works i.e. retaining walls etc.

4.39 The developer is responsible for the external works to connect the site with Council's sewerage reticulation system at a point of discharge specified by the Director of Engineering Services.

Compliance

- 4.40 All works required pursuant to the above conditions shall be undertaken and completed in accordance with Council's requirements contained in the Planning Scheme Provisions/Codes and Council's engineering standards.
- 4.41 All conditions relevant to each stage shall be complied with prior to the occupancy of any building or the commencement of the approved use for that stage.

Security

- 4.42 Payment of \$150,000.00 security bond is required prior to the issue of a development permit for building work. The bond may be in the form of cash or an irrevocable bank guarantee issued by a major trading bank operating within Australia. Council will not accept a guarantee, which has a termination date. The purpose of the security is to guarantee the satisfactory completion of building, site works, landscaping, drainage works and any required works external to the land.

Currency Period

- 4.43 This development approval lapses 4 years after the day that this development approval takes effect, unless extended under Section 3.5.22 of the *Integrated Planning Act 1997*.

Mangrove Remediation

- 4.44 Within two (2) years of the issuing of the amended Decision Notice (Change of Conditions), the applicant is to demonstrate to Council in written documentation that the construction of the drainage pipes recommended in the Natural Resource

DECISION NOTICE DETAILS **SUSTAINABLE PLANNING ACT 2009**

Assessment report (dated 22/12/2003) (Attachment A) has facilitated the recolonisation of the identified mangrove dieback area to the satisfaction of the Department of Primary Industries and Fisheries. To ensure the successful recolonisation of the identified mangrove dieback area, the developer shall lodge with Council a Cash Bond or Guarantee to the value of \$7,500. Such guarantee shall be lodged prior to the commencement of the approved use if recolonisation has not been adequately demonstrated and will be returned on receipt of the required documentation.

General Advice

You are advised that the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* applies to proposed activities likely to have a significant impact on the matters of 'national environmental significance', including world heritage properties. Such activities may require approval under this Act prior to any works being undertaken. Further information on the Act can be obtained from Environment Australia's Community Information unit (1800 803 772) or from the following website www.environment.gov.au/epbc. EPBC Act *Administrative Guidelines on Significance (July 2000)* are available to assist people in deciding whether activities are likely to need consideration under the Act.

You are advised that the taking of water, or interfering with water from streams or groundwater sources will require a permit administered under the *Water Act 2000* and issued by the regional office of the Department of the Natural Resources and Mines. The related infrastructure will may require an approval for operational works pursuant to the *Integrated Planning Act 1997*. Further information can be obtained from the Department of Natural Resources and Mines at Cairns, Telephone 4039 8275.

Marine Plants

Advice

1. Prior to the removal of marine plants the applicant must gain a permit to remove, destroy or damage marine plants pursuant to section 51 of the Fisheries Act 1994.

Landscaping

Advice

1. The species selected are determined by a listing defining a thorough vegetation analysis of ecological communities within a close proximity and relative to the same soil type as located at the project site. Council has this information on database and can provide this to the applicant.
2. Where possible, species of local provenance must be sought and utilised. All effort must be expended to ensure that this integrity is maintained. Where the securing of some species of local provenance is not possible, the responsible persons must liaise with Council's Technical Officer of Parks and Recreation and disclose the difficulties encountered thus ensuring that every avenue of procurement has been exhausted.

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

3. There are a number of other species that are suitable to be used on the site that are already growing onsite which would be preferable to use which the landscape architects have not considered. It is recommended that these be incorporated into the landscape plan as they are tolerant to the conditions

- *Metaleuca leucodendron* *
- *M. guineensis* *
- *M. dealbata* *
- *M. viridiflora* *
- *Parosela falcata*
- *Hibiscus tiliaceus* *
- *Casuarina equisetifolia*

* Note caution should be used in planting these trees near buildings or structures. A minimum of ten meters should be maintained between the tree and the building to avoid root damage, especially if a dense row of trees is planted. However these species should still be incorporated in the landscape if possible.

Flammable Liquids

Advice

1. The storage of flammable and combustible liquids must be in accordance with the *Building (Flammable and Combustible) Liquids Regulation 1944*.
2. The storage of chemicals of more than 10m³ amounts to an environmentally relevant activity (ERA), which requires a further development approval under the *Integrated Planning Act 1997* and an environmental authority under the *Environmental Protection Act 1994*.
3. You are advised that the taking of water, or interfering with water from streams or groundwater sources will require a permit administered under the *Water Act 2000* and issued by the regional office of the Department of the Natural Resources and Mines. The related infrastructure will/may require an approval for operational works pursuant to the *Integrated Planning Act 1997*. Further information can be obtained from the Department of Natural Resources and Mines at Cairns, Telephone 4039 8275.
4. The provision of the *Integrated Planning Act 1997*, the *Building Act*, the *Fire Safety Act*, the *Health Act*, the *Food Act 1981* and all other relevant Acts and Regulations and the Local Laws of the Council from time to time shall at all times be observed and performed in relation to the land, the building and the use and occupation thereof.

DECISION NOTICE DETAILS
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5. The issue of this Development Approval in no way implies building approval, either in principle or in detail, of any plans or the proposed development which may have been submitted with the application. Approval of any building works associated with the use shall be the subject of a separate Building Application in accordance with the Council's Local Laws.

Advertising Signage

Advice

1. Any on-site signage is to comply with the relevant requirements of s8.16 of the Douglas Shire Planning Scheme gazetted Dec 1996 or any amendments relating to signage from time to time.

Road Works

Advice

1. Road works involved with the development shall be maintained by the developer for a period on twenty four (24) months after the completion of work. In the event of urgent maintenance work, Council will carry out the work at the developers expense.

5. Concurrence Agency Conditions

Relevant Laws: Environmental Protection Act and subordinate legislation and Policies

Development Description:

Carrying out Environmentally Relevant Activities:

73(a) - Marina for less than 20 berths or moorings.

11(a) - Crude oil or petroleum storage in tanks or containers having a combined storage capacity 10,000L or more but less than 500,000L.

69 - Boat maintaining or repairing facility.

23(a) - Abrasive blasting at a permanent location.

25(a) - Metal surface coating having an annual throughput of metal products less than 2000T

At the following place:

Lot A SR808245 Parish of Salisbury, County of Solander.

Located at:

Un-named service road off Port Street, Port Douglas, Qld 4871.

Schedule A - General

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

Schedule B	-	Air
Schedule C	-	Water
Schedule D	-	Noise
Schedule E	-	Fuel Storage and Handling
Schedule F	-	Acid Sulphate Soils
Schedule G	-	Waste
Schedule H	-	Definitions

Schedule A - General

Prevent and/or minimise likelihood of environmental harm.

- A1 In carrying out the environmentally relevant activities the holder of the development approval must ensure that all reasonable and practicable measures to prevent and/or to minimise the likelihood of environmental harm being caused. Any environmentally relevant activity, that, if carried out incompetently, or negligently, may cause environmental harm in a manner that could have been prevented, shall be carried out in a proper manner in accordance with the conditions of this approval.

NOTE: This approval authorises the environmentally relevant activities. It does not authorise environmental harm. Where there is no condition or the approval is silent in manner, the lack of a condition or silence shall not be construed as authorising harm.

Maintenance of measures, plant and equipment.

- A2 You must:
- install all measures, plant and equipment necessary to ensure compliance with the conditions of this approval; and
 - maintain such measures, plant and equipment in a proper and efficient condition; and
 - operate such measures, plant and equipment in a proper and efficient manner.

Training of staff and users of facilities.

- A3 The holder of the development approval must ensure that all staff, contractors and people using this facility are trained so that they have the appropriate skills and knowledge to be able to comply with the conditions of this approval and any Environmental Management Plan or Procedures that are in place.
- A4 A record of staff, contractors and customers that have received training must be kept on site for inspection by an authorised officer.

Monitoring and measurements

- A5 All monitoring, assessments, sampling and field tests to be carried out in compliance with the conditions of the development approval and your Environmental Management Plans and Procedures must be done by a person or body possessing appropriate experience and qualifications to perform the required determinations and the required measurements.

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

Notifications of Emergencies, Incidents and Exceptions

- A6 You must, as soon as practicable after becoming aware of:
- a) any emergency or incident which results in the release of contaminants not in accordance with the conditions of this development approval; or
 - b) any monitoring results that indicates an exceedance of any development approval limit, notify the administering authority of the release by telephone or facsimile.

Environmental Management Plans

- A7 The submitted Draft Environmental Management Plan (Construction), Draft Environmental Management Plan (Operational), Draft Environmental Control System and Draft Waste Management System (Operational) must be amended only where appropriate to take into account the conditions contained within this development approval or otherwise to the prior approval of the concurrence agency.
- A8 The amended Environmental Management Plans and Procedures (specified in A7) must be approved by the administering authority prior to the commencement of any work.
- A9 The approved Environmental Management Plans and Procedures must be implemented in full from the commencement of construction of the activities.
- A10 All Environmental Management Plans and Procedures must provide for the review and continual improvement in the overall environmental performance of all environmental relevant activities that are carried out.

Schedule B – Air

- B1 The release of noxious or offensive odours or any other noxious or offensive airborne contaminants resulting from the activity must not cause a nuisance at any odour sensitive place.
- B2 The release of dust and/or particulate matter resulting from the activity must not cause an environmental nuisance at any dust sensitive place.
- B3 Exceedence of any of the following levels when measured at any dust sensitive place is an environmental nuisance for the purposes of B.2.
- a) Dust deposition of 120 milligrams per square metre per day, when monitored in accordance with AS 3580.10 of 1991; or
 - b) A concentration of particulate matter with an aerodynamic diameter of less than 10 micrometre suspended in the atmosphere of 150 micrograms per cubic metre over a 24 hour averaging time, at a dust sensitive place, when monitored in accordance with:
 - (i) AS 3580.9.6 Ambient air – Particulate matter – determination of suspended particulate PM10 high volume sampler with size selective inlet – Gravimetric method; or

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- (ii) any alternative method of monitoring PM10 which may be permitted by the Air Quality Sampling Manual as published from time to time by the Environmental Protection Agency.

- B4 Any abrasive blasting, spraypainting or spray application of anti-fouling agents must be carried out in a permanent and approved enclosure (paint shed) constructed for those purposes. The enclosure shall be effectively sealed to prevent any escape of airborne contaminants and be provided with a filtered exhaust system adequate to remove airborne contaminants and to satisfy workplace health and safety requirements.
- B5 Where an abrasive medium is used as part of the abrasive blasting process, the medium that is used must be "garnet".
- B6 Running and idling of motors and engines must be kept to a minimum and generally only occur if needed for servicing purposes or to enter and exit the marina.
- B7 No incineration or open burning is to be carried out at the site.
- B8 Only isocyanate free paints are to be used on site.

Schedule C – Water

Construction

- C1 All works must be undertaken in line with Element E3 of the Draft Environmental Management Plan (Construction).
- C2 Construction works undertaken in Dickson Inlet such as pile driving, etc, must be contained within a silt curtain.
- C3 All water quality monitoring results undertaken in line with Table E3 of the Draft Environmental Management Plan must be faxed through to Douglas Shire Council at the end of each week of construction. If any test result falls outside the parameters set in table E3 or turbidity levels exceed 20 NTU then the Douglas Shire Council must be notified as soon as is practicable.
- C4 Excavation of the proposed fuelling/loading/unloading basin shall be, as far as is practicable, undertaken using land based excavation plant, leaving a band between the excavation and Dickson Inlet.

Operational

- C5 All surfaces of the site other than landscaped areas are to be sealed.
- C6 All areas of the facility where washdown and boat repairs will occur, or where there is potential for water to become contaminated, must be bunded or suitably graded to prevent contaminated water running offsite, except when the discharge exceeds that corresponding to a five year recurrence interval discharge.
- C7 The areas that are bunded or suitably graded to prevent stormwater runoff (C.6) must drain to a silt trap and a stormwater quality improvement device (SQID) for treatment.

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The silt trap and SQID must be capable of separating out all collected sediment, hydrocarbons and other potential toxicants such as bioxides and heavy metals, using best available technology not exceeding excessive costs. Stormwater drainage from roofs may be discharged to Dickson Inlet.

- C8 The silt trap and SQID must be capable of treating a flow of at least the equivalent of the catchment's first 20mm of rainfall without any bypass. Where a rainfall exceeds the capacity of the silt trap and SQID it shall not resuspend any previously captured pollutants.
- C9 Contaminated water that has been treated by the SQIDS serving the washdown bay, dry storage bays, bulk fuel unloading bay, maintenance areas and any work areas where stormwater may become contaminated must then be pumped to Douglas Shire Council's saline sewage treatment plant for further treatment and disposal. This must be done to the satisfaction of Council's Engineering Services Department – for further information contact Peter Cymbala on 40999460. Water that has been treated by SQIDS serving areas other than those nominated above may be discharged to the legal point of stormwater drainage.
- C10 The SQID must be cleaned out on at least a six monthly basis or more frequently as required.
- C11 A record is to be kept on site of the date the SQID was cleaned and the name of the person/business performing the cleaning and collecting the waste.
- C12 No scraping or clearing of hulls is to be carried out outside the nominated wash down bay or dry storage/maintenance bays.
- C13 Vessels that have any part or section coated or treated with TBT (Tributyltin) shall not be accepted at this facility. All reasonable tests and investigations must be carried out to ensure that this condition is complied with.
- C14 Roller or brush application of paints and anti-fouling agents are only to be done within the enclosed shed or hardstand bays that are drained to the SQID. In addition, groundsheets are to be used to catch spills and drips which shall be collected and stored in the waste storage area for disposal.
- C15 All uncontaminated stormwater from offsite, from roofs or from uncontaminated areas must be directed away from or around contaminated areas.
- C16 A concrete pad must be provided to the bulk fuel unloading area. The pad must be graded to inlet pits sufficient to prevent any contaminants running off site. The inlet pits are to be constructed and installed in line with drawing number QSK99C02. All discharge from the separator must be pumped to Council's sewage treatment plant.
- C17 Any vessel moored at the marina or using its facilities shall not discharge any bilge water or effluent to Dickson Inlet.
- C18 Effluent pump out facilities are to be provided at the marina. This effluent is to be pumped and discharged to Douglas Shire Council's saline sewage treatment plant to the satisfaction of Council's Engineering Services. It will be acceptable to use a mobile pump out facility of an appropriate size and construction that shall remain accessible at

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all times to vessels using the facility. Appropriateness of mobile pump out facilities will need to be assessed by the Manager of Environmental Services before operation begins.

- C19 A bilge water pump out facility is to be provided at the marine straddle carrier jetty. The bilge water shall be pumped into to storage drums which are to be stored in a roofed bunded waste store prior to collection. It will be acceptable to use a mobile pump out facility of an appropriate size and construction that shall remain accessible at all times to vessels using the facility. Appropriateness of mobile pump out facilities will need to be assessed by the Manager of Environmental Services before operation begins.
- C20 All regulated waste, waste oil, oil, packaged fuel, paints, solvents, chemicals, batteries, lime and other possible contaminants must be stored within sealed containers in a roofed bunded storage area. This bund must be impervious and capable of holding at least 110% of the volume of the largest container stored therein.
- C21 All waste generated by boat repairs in unroofed hardstand dry storage/maintenance bays must be cleaned up at the end of each job.
- C22 Any spillage of wastes, contaminants or other materials must be cleaned up as quickly as practicable. All such spills must be picked up using dry absorbent material or be contained and collected through the SQID.
- C23 The site must be cleaned up to remove all waste, potential contaminants and litter at the end of each day or more frequently as required.
- C24 Materials and parts visibly contaminated with oil, grease or other contaminants must be stored undercover and in such a manner as to prevent the contamination of stormwater or land.
- C25 A spill containment kit of the appropriate size must be kept at the site in an accessible position at all times.

Water Quality Monitoring

- C26 Water quality samples must be taken from Dickson Inlet at:
 - 1) A point 5m upstream from and 5m on the waterway side of the lease boundary; and
 - 2) A point 5m downstream from and 5m on the waterway side of the lease boundary at the following frequencies:

Monthly over the first six months and then at least three monthly thereafter. The samples must be taken one hour after the low tide and wherever possible during or immediately following a rainfall event.

Samples must be taken in line with Environmental Protection Agency Guidelines and be analysed by a NATA accredited laboratory.

Water quality testing results must be measured against:

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- a) the default trigger values for physical and chemical stressors for tropical Australia (Ecosystem type – Estuarine) contained in **Table 3.3.4** of the ANZECC Guidelines for Fresh and Marine Water Quality (2000); and
- b) the turbidity trigger value - 20 NTU - for estuarine and Marine contained in **Table 3.3.5** of the ANZECC Guidelines for Fresh and Marine Water Quality (2000); and
- c) trigger values for toxicants in marine water contained in **Table 3.4.1** of the ANZECC Guidelines, at a 95% level of protection (toxicants tested for must reflect the types of toxicants that may be used or generated on site, and must include Copper, Zinc, Tributyltin as Sn, oils and petroleum hydrocarbons).
- d) any water quality objectives set for Dickson Inlet under Schedule 1 of the Environmental Protection (Water) Policy 1997.

If the results of the water quality monitoring carried out in C.26 exceed the default trigger values then the Douglas Shire Council must be notified as soon as is practicable.

All water quality testing results must comply with recreational water quality guidelines for general chemicals, contained in **Table 5.2.3** of the ANZECC Guidelines for Fresh and Marine Water Quality (2000). Those that do not must be brought to the attention of Douglas Shire Council as soon as is practicable.

Schedule D – Noise

- D1 During the construction phase all work must be carried out in line with Australian Standard AS 2436-1981 (Guide to Noise Control of Construction, Maintenance and Demolition Sites).
- D2 Operation of activities likely to generate significant noise, such as abrasive blasting, construction work, the use of power tools, etc, shall be limited to the hours of 7am to 7pm on a business day or Saturday and 8am to 12noon on a Sunday or public holiday.
- D3 Noise from activities must not cause an environmental nuisance at any noise affected premises.
- D4 All noise from activities other than short term construction activities such as pile driving must not exceed the levels specified in Schedule D - Table 1 at any noise affected premises.

Schedule D – Table 1

Noise Level DB(A) Measured as	Monday to Saturday			Sundays and public holidays		
	7am – 6pm	6pm – 10pm	10pm – 7am	9am – 6pm	6pm – 10pm	10pm – 9am
	Noise measured at noise sensitive place					
L _{A10} ,eq,10mins	45	40	30	45	40	30
L _{A1} ,eq,10mins	50	45	35	50	45	35
	Noise measured at a Commercial place					
L _{A10} ,eq,10mins	50	45	35	50	45	35
L _{A1} ,eq,10mins	55	50	40	55	50	40

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Schedule E – Fuel Storage and Handling

- E1 The construction and operation of the fuel facility must comply with AS 1940 – 1993 “The storage and handling of flammable and combustible liquids”.
- E2 Monitoring wells constructed in line with submitted drawing number SGR51014(A) shall be installed at each corner of the tank excavation. The wells are to be checked on a weekly basis to monitor the integrity of the underground fuel tanks.
- E3 Any fuel package storage areas that are classed as minor storage under AS 1940 must at all times comply with the precautions contained in section 2.2 of that standard.
- E4 The operator of the fuel facility must acquire and maintain a license under the Dangerous Goods Safety Management Regulation 2001.

Schedule F – Acid Sulphate Soils

- F1 Wherever possible the disturbance of potential acid sulphate soils on the site shall be avoided.
- F2 All works on the site shall be carried out in line with the Queensland Acid Sulphate Soil Technical Manual (Version 3.7) and Element E3 of your Draft Environmental Management Plan (Construction).
- F3 Stockpiles of actual and potential acid sulphate soil (A&PASS) must be effectively bunded at all times to ensure that leachate does not escape the bunded area.
- F4 All leachate must be collected and treated prior to release. Settlement ponds must have a volume capacity capable of containing all run-off and leachate from the A&PASS stockpiles after a 20mm rainfall event.
- F5 During times of discharge from the treated settlement ponds pH must be monitored on an hourly basis to ensure that the pH range is between 6.0 and 8.2. Where this range is breached the discharge must be stopped immediately.
- F6 All stockpiled A&PASS that is to be removed offsite must be done so within 48 hours of excavation.
- F7 Vehicles transporting the A&PASS offsite must be constructed to ensure that no leachate or A&PASS material escapes during transport.
- F8 The A&PASS that is to be treated offsite must be done so at an approved location. The location and bunded area provided must be inspected and given approval by an authorised officer of the Douglas Shire Council before any A&PASS is taken in at the site.
- F9 All A&PASS material to be lime neutralised must receive a liming rate calculated and specified by an appropriately qualified person. Records of volumes of A&PASS, liming rates and pH tests must be provided to council on a weekly basis when treatment is underway.

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- F10 Treated A&P/ASS can only be removed for reuse or disposal once a qualified person is satisfied that neutralisation is complete

Schedule G - Waste

- G1 The site must be operated at all times in line with your Draft Waste Management System (Operational).
- G2 Whenever possible the waste management hierarchy principles of waste avoidance, waste re-use and waste recycle must be applied in the operation of this site.
- G3 An area must be set aside for the segregation and storage of recyclable solid wastes.
- G4 Where a recycling collection service is available, recyclable material must not be deposited in the general waste stream.
- G5 All waste oil enclosures and waste storage areas must be supervised by trained staff that must ensure that all people using the facility do so as directed.
- G6 A sign must be placed on the waste oil enclosure that clearly and legibly states that – "All waste oil and waste oil containers are to be placed inside the bunded compound".
- G7 You must ensure that all regulated waste is collected by an operator licensed to carry such waste by the Environmental Protection Agency.

Schedule H – Definitions

Words and phrases used throughout this development approval are defined below:

Where a definition for a term used in this approval is sought and the term is not defined within this approval the definitions provided in the Environmental Protection Act 1994, its regulations, and Environmental protection Policies shall be used.

"Administering authority" means the Douglas Shire Council or its successor.

"AHD" means Australian Height Datum.

"ANZECC" means the Australia and New Zealand Environment and Conservation Council.

"approval" means 'notice of development application decision' or 'notice of concurrence agency response' under the *Integrated Planning Act 1997*.

"Authorized officer" means an officer of the Douglas Shire Council authorized under the Environmental Protection Act 1994.

"commercial place" means a place used as an office or for business or commercial purposes.

"most sensitive place" means –

- a dwelling, mobile home or caravan park, residential marina or other residential place;
- a motel, hotel or hostel;

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- a kindergarten, school, university or other educational institution;
- a medical center or hospital;
- a protected area;
- a park or gardens; or
- a place used as an office or for business or commercial purposes and includes the curtilage of any such place.

"dwelling" means any of the following structures or vehicles that is principally used as a residence –

- a house, unit, motel, nursing home or other building or part of a building;
- a caravan, mobile home or other vehicle or structure on land;
- a water craft in a marina.

" $LA_{10,adj,10min}$ " means the A-weighted sound pressure level, (adjusted for tonal character and impulsiveness of the sound) exceeded for 10% of any 10 minute measurement period, using Fast response.

" $LA_{1,adj,10 min}$ " means the A-weighted sound pressure level, (adjusted for tonal character and impulsiveness of the sound) exceeded for 1% of any 10 minute measurement period, using Fast response.

" $LA_{max,adj,T}$ " means the average maximum A-weighted sound pressure level, adjusted for noise character and measured over any 10 minute period, using Fast response.

"leachate" means a liquid that has passed through or emerged from, or is likely to have passed through or emerged from, a stockpile of actual or potential acid sulphate soil and is therefore likely to have a pH value less than seven.

"maximum" means that the measured value of the quality characteristic or contaminant must not be greater than the release limit stated.

"minimum" means that the measured value of the quality characteristic or contaminant must not be less than the release limit stated.

"noise affected premises" means a "noise sensitive place" or a "commercial place"

"noise sensitive place" means –

- a dwelling, mobile home or caravan park, residential marina or other residential premises; or
 - a motel, hotel or hostel; or
 - a kindergarten, school, university or other educational institution; or
 - a medical center or hospital; or
 - a protected area; or
 - a park or gardens
- and includes the curtilage of such place.

"NTU" means nephelometric turbidity units.

"odour sensitive place" has the same meaning as a "dust sensitive place".

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"offensive" means causing offence or displeasure; is disagreeable to the sense; disgusting, nauseous or repulsive.

"plant and equipment" includes:

- plant and equipment used to prevent and/or minimise the likelihood of environmental harm being caused;
- devices and structures to contain foreseeable escapes of contaminants and waste;
- fuel burning equipment;
- devices and structures used to store, handle, treat and dispose of waste;
- monitoring equipment and associated alarms; and
- backup systems that act in the event of failure of a primary system.

"recyclable material" means material that can be used or recycled for a beneficial reuse including energy recovery.

"regulated waste" means non-domestic waste mentioned in Schedule 7 of the Environmental Protection Regulation 1998 (whether or not it has been treated or immobilised), and includes:

- for an element – any chemical compound containing the element; and
- anything that has contained the waste.

"site" means the place to which this environmental authority relates or the premises to which this development approval relates.

"tank" means any individual container for holding a waste, hydrocarbon or chemical and having a capacity of more than 250 litres.

"the Act" means the *Environmental Protection Act 1994*.

"waters" includes river, stream, lake, lagoon, pond, swamp, wetland, unconfined surface water, unconfined water natural or artificial watercourse, bed and bank of any waters, dams, non-tidal or tidal waters (including the sea), stormwater channel, stormwater drain, roadside gutter, stormwater run-off, and groundwater and any part thereof.

"you" means the holder of this Environmental Authority or owner / occupier of the land which is the subject of this Development Approval.

5. Further Development Approvals Required:

Building Work
 Plumbing & Drainage Permit
 Environmentally Relevant Activity Permit



Paul Trotman
 General Manager – Development & Environment

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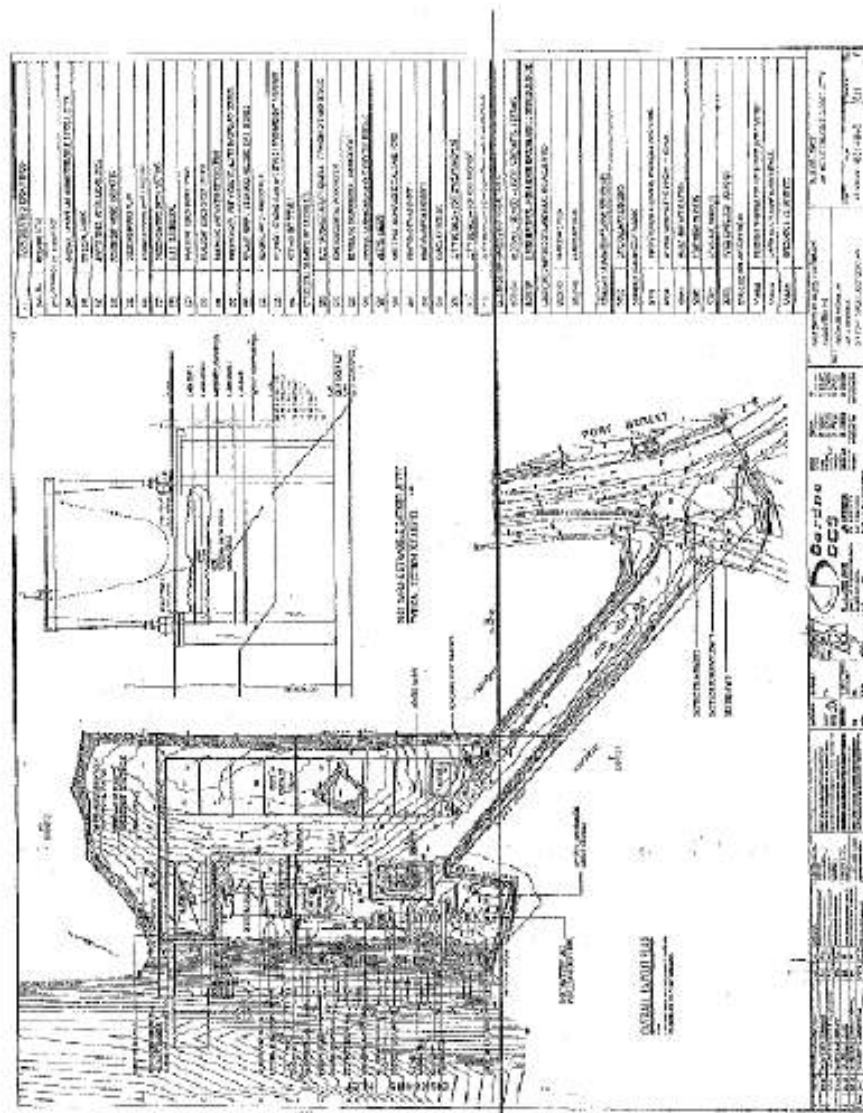
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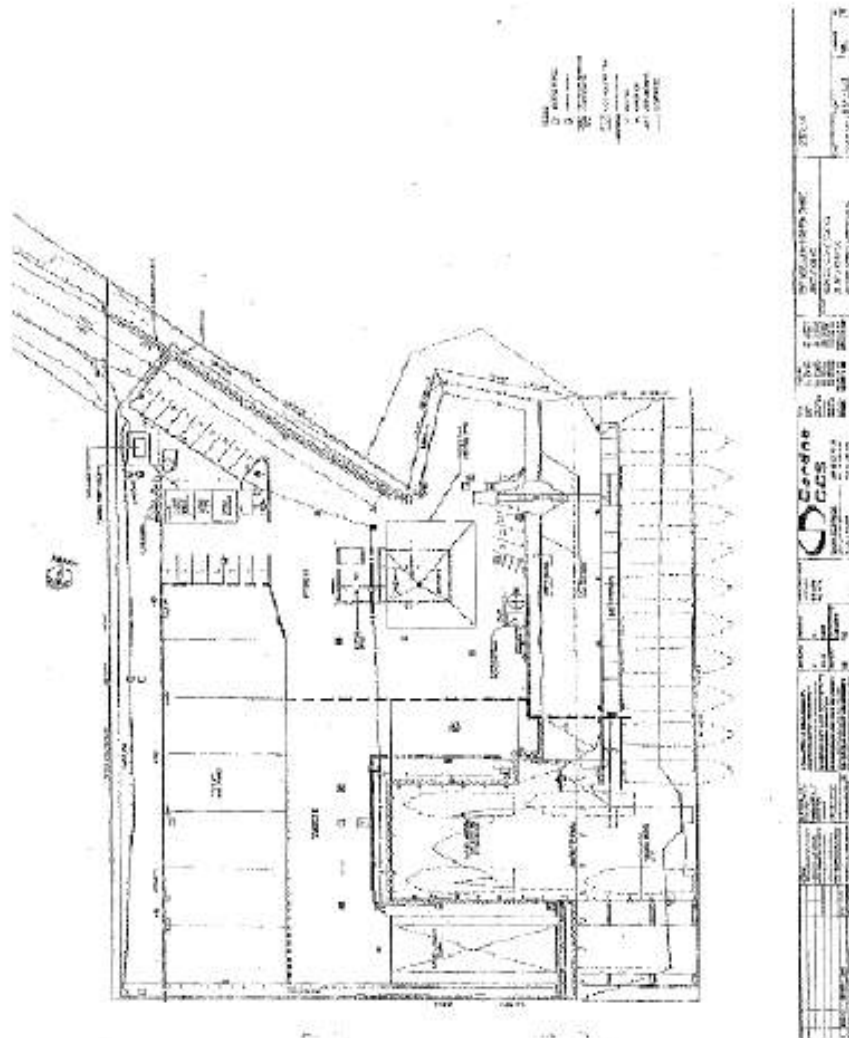
Paul Trotman
 General Manager – Development & Environment

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ATTACHMENT 1(a) General Arrangement - Drawing No Q914043/CO1 C

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ATTACHMENT 1 (b) Staged Development (stage 1(a) and stage 1(b)) – Drawing No. Q014043 TPL.

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s4.1.27

147
*Integrated Planning*s 4.1.28
No. 69, 1997

Division 8 – Appeals to court relating to development applications

Appeals by applicants

- 4.1.27. (1)** An applicant for a development application may appeal to the court against any of the following:-
- (a) the refusal, or the refusal in part, of a development application;
 - (b) a matter stated in a development approval, including any condition applying to the development, and the identification of a code under Section 3.1.6.66;
 - (c) the decision to give a preliminary approval when a development permit was applied for;
 - (d) the length of a currency period;
 - (e) a deemed refusal.
- (2)** An appeal under subsection (1)(a) to (d) must be started within twenty (20) business days (the “applicant’s appeal period”) after the day the decision notice or negotiated decision notice is given to the applicant.
- (3)** An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

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s 4.1.36

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Integrated Planning

s 4.1.39

Division 10—Making an appeal to court

How appeals to the court are started

- 4.1.39 (1) An appeal is started by lodging written notice of appeal with the registrar of the court.
- (2) The notice of appeal must state the grounds of the appeal.
- (3) The person starting the appeal must also comply with the rules of the court applying to the appeal.
- (4) However, the court may hear and decide an appeal even if the person has not complied with subsection (3).

ORDINARY COUNCIL MEETING**5 AUGUST 2014****5.2****COMPLAINTS MANAGEMENT PROCESS GENERAL POLICY**

Darryl Crees: General Manager Corporate Services

RECOMMENDATION:**That Council adopts the Complaints Management Process General Policy.****EXECUTIVE SUMMARY:**

The Complaints Management Process General Policy was previously presented to Council at its meeting on 24 June 2014. Council resolved at that meeting for the policy to be advertised for a period of ten days seeking community feedback and after this period re-present policy to Council for adoption.

The policy was advertised by way of Public Notice in the Port Douglas and Mossman Gazette on 26 June 2014, on Council's website from 24 June 2014 to 10 July 2014 and on Council's Facebook Page.

There were no submissions received during the community consultation period and the policy is now presented to Council for adoption.

BACKGROUND:

Pursuant to section 268 of the Local Government Act 2009, Council is required to adopt a process for resolving administrative action complaints.

PROPOSAL:

The Complaints Management Policy is presented for adoption and will be utilised by all staff who are involved in investigation and assessment of administrative action complaints.

CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE:

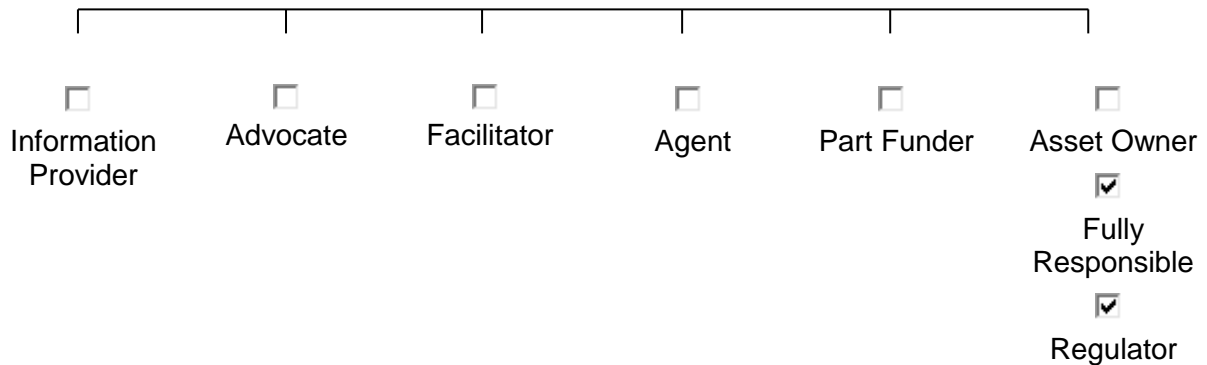
This policy has been prepared in accordance with:

- Corporate Plan – Goal 5.2.2 – *“Implement adopted policies and guidelines to ensure consistency in administrative management which also encourages innovation in Council operations.”*
- Operational Plan – Major Initiative G2 – *“Develop a Complaints Management Process”*

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 areas outline where Council has a clear responsibility to act:



Fully Responsible: Funding the full cost of a program or activity.

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

FINANCIAL/RESOURCE IMPLICATIONS:

There is a legislative requirement for Council to investigate administrative action complaints therefore any costs incurred will be absorbed within budget.

RISK MANAGEMENT IMPLICATIONS:

Complying with legislative requirements ensures Council mitigates any regulatory or reputational risk.

INTERNAL/EXTERNAL CONSULTATION:

Following Council's resolution at 24 June 2014 meeting, the Complaints Management Process General Policy was advertised for community feedback. During this period there were no submissions received.

ATTACHMENTS:

Complaints Management Process General Policy

DOUGLAS SHIRE COUNCIL

General Policy**COMPLAINTS MANAGEMENT PROCESS**

Intent To support Council's continuing commitment to inclusive and ethical governance for the Douglas communities.

Scope Applies to all administrative action complaints received by Council.

REFERENCE**Legislation:**

Local Government Regulation 2012

Other:

Guide to Developing Effective Complaints Management Policies and Procedures – Queensland Ombudsman

PROVISIONS

In accordance with Section 306 of the Local Government Regulation 2012, Council must adopt a complaints management process with supporting policies and procedures. This policy has been established to achieve the following objectives:

- Provide a framework for the resolution of complaints about the administrative actions of Council which is easy to understand and readily accessible to all.
- Treat complaints in a fair and objective manner ensuring an efficient and consistent approach is undertaken with the assessment of all complaints.
- Enhance the reputation of Council as being accountable and transparent.
- Implement, where appropriate, enhancements to Council's administrative processes through the effective management of complaints and foster an organisational culture of continuous improvement.
- Through relevant on-going training build the capacity of staff to effectively manage complaints.

The Complaints Management Process applies to administrative action complaints lodged by an affected person and is defined in Section 268 of the *Local Government Act 2009* as:

(2) An **administrative action complaint** is a complaint that—

(a) is about an administrative action of a local government, including the following, for example—

- (i) a decision, or a failure to make a decision, including a failure to provide a written statement of reasons for a decision;
- (ii) an act, or a failure to do an act;
- (iii) the formulation of a proposal or intention;
- (iv) the making of a recommendation; and

(b) is made by an affected person.

However the Complaints Management Process does not cover:

- Any complaints about the conduct or decisions of elected representatives.
- Any complaints that, following a preliminary assessment, involve official misconduct which must be reported to the Crime and Misconduct Commission as per the *Crime and Misconduct Act 2001*.
- Requests for service.
- Any matter that is covered by a separate statutory review process.

COMMITMENT

Council acknowledges the rights of persons to provide feedback, both positive and negative, on its services and/or to lodge a complaint about the administrative actions of Council.

The Complaints Management Process has been established to ensure complaints are dealt with fairly, objectively, professionally, respectfully and subject to any legal requirements, in confidence.

Council commits to providing adequate resources and training for officers to deal with complaints including the recording and analysis of complaints data.

PROCESS TO LODGE AN ADMINISTRATIVE COMPLAINT

The preferred method for an affected person to lodge a complaint is in writing (letter or email) addressed to the Chief Executive Officer however verbal complaints may also be accepted. Should the complainant require assistance in lodging their complaint, a Council officer will assist to the extent practicable.

Address details for lodging a complaint can be located on Council's website <http://douglas.qld.gov.au> or by contacting Council's Frontline Services on (07) 4099 9444.

Anonymous complaints are to be referred to the Manager Governance who, in consultation with the Chief Executive Officer, will determine whether further action will be taken.

In all instances, complaints are to be recorded and lodged in Council's Records Management System.

COMPLAINT PROCESS

Complaints received will be directed to relevant area manager to investigate or if the complaint concerns a manager to the relevant General Manager or Chief Executive Officer.

The timeframe for dealing with a complaint will depend on an assessment of:

- the urgency of the situation in terms of loss or damage likely to be incurred;
- the complexity of the issue;
- the time required to locate all relevant documentation; and
- the availability of persons, staff or external parties, who need to be consulted.

In general terms, Council will endeavour to meet the following timeframes:

- a) an acknowledgement of the complaint will be issued within 10 working days. The complainant will be provided with the contact details of the officer investigating the complaint and likely timeframe to advise of decision;
- b) for complaints that are not of a complex nature – within 20 working days;
- c) for complex complaints – within 40 working days.

Please note: These time frames referred to above are indicative and during the course of investigation, should the investigating officer determine more time is required and after reference to the Chief Executive Officer the complainant will be advised of the amended time frame.

The following principles will adopted by any officer investigating a complaint:

- confidentiality of the investigation is to be maintained to the extent that it can be reasonably achieved;
- procedural fairness and natural justice;
- establishment and maintenance of a complete document trail;
- a determination on whether the action was unfair, unreasonable or wrong;
- being able to substantiate allegations.

Following the investigation of the complaint, the officer undertaking the investigation will submit a report to the Chief Executive Officer providing the following:

- the complaint issue
- a concise summary of the facts and circumstances
- any relevant legislation or relevant Council policy
- details of persons interviewed or consulted and information obtained
- results of any relevant research
- analysis of the complaint issues
- whether or not if the complaint is substantiated and reasons for the findings
- recommendations to the Chief Executive Officer to finalise complaint
- recommendations to the Chief Executive Officer regarding any opportunities for systemic and/or service level improvements.

A written notice will be provided to complainants advising the outcome of the investigation and the reasons for the decision. This notice will also detail their rights to request an internal review of the decision should the complainant be dissatisfied with the outcome.

Upon receipt of a request for an internal review, the Chief Executive Officer will make a determination on whether the review will be undertaken by an independent area of Council or whether an appropriate consultant should be engaged. The outcomes of the internal review will be conveyed in writing to the complainant and provide information on how to seek an external review should they remain dissatisfied with the outcome.

REFUSAL TO INVESTIGATE COMPLAINTS LODGED

The right is reserved to refuse to investigate a complaint if it is reasonably considered that:

- the complaint is trivial; or
- the complaint concerns frivolous matter or was made vexatiously; or
- the complainant does not have a sufficient direct interest in the administrative action which is the subject of the complaint; or
- the complainant has a right of appeal, reference or review, or another remedy, that the person has not exhausted; or
- the complaint has been previously investigated by a former Council which had jurisdiction over the Douglas Shire Council local government area.

DEFINITIONS

TERM	DEFINITION
Affected person	A person who is apparently directly affected by an administrative action of Council.
Complainant	The affected person or organisation making a complaint
Council officer or officer	Includes a permanent, temporary, casual or contract member under Council employment.
Management Team	Team comprising of the Chief Executive Officer and Senior Managers of Council.
Request for service	A request for the Council to take action to satisfy the needs of a customer or ratepayer.

REPORTING

Council's Record Management System will be utilised to record all administrative complaints and the complaint register will contain sufficient information to enable analysis of complaints received, to report on trends and provide ability to review service levels through identified improvements.

The Manager Governance will report to the Management Team on a quarterly basis regarding the complaints received including comparisons with historical data.

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This policy is to remain in force until otherwise determined by Council.

General Manager Responsible for Review:

General Manager Corporate Services

ADOPTED: [Click here to enter a date.](#)

DUE FOR REVISION: [Click here to enter a date.](#)

REVOKED/SUPERSEDED: [Click here to enter a date.](#)

COUNCIL ORDINARY MEETING**6.1****5 AUGUST 2014****NOTICE OF MOTION – CR MELCHERT****Feasibility Review – Bridge Over the Daintree River**

I hereby give notice of my intention to move the following motion at the Council Meeting scheduled for Tuesday 5th August 2014 :-

“That the Douglas Shire Council commence a preliminary literature review and scoping study on the feasibility, in the medium term, of constructing a bridge over the Daintree River to provide transport certainty for local residents and the tourism industry. The material to be reviewed by Council with a view towards conducting public consultation to determine the level of community support for the concept.”

BACKGROUND

Recent cyclonic events have highlighted how significantly the current ferry service can be affected by flooding, and more particularly the incessant movement of sand into the ferry operating channel.

This has caused inconvenience to local residents and tourism operators, and significant and ongoing dredging costs. It has also highlighted just how isolated the community North of the Daintree River could become if a really significant natural disaster were to occur in the future.

Given the recent construction of a high level bridge over the Bloomfield River and the upgrading of other river crossings it seems an appropriate time to ask the question as to whether there is community support for the future construction of a bridge over the Daintree River.

It is important to note that work on a bridge would require large levels of funding from the Federal and State Governments and years of detailed design and project review. Even if the community supports the concept it would therefore be a number of years before any bridge service could be provided.

Having said this, if there is community support for the concept, and given the long planning process the time is right, in my opinion, to commence the discussion.

CEO’S COMMENT

The views of professional staff have been sought in compiling the following commentary.

Corporate Plan - Operational Plan and Budget

Council's work for the forthcoming year is prescribed by the key strategic planning documents: the 2014-2019 Corporate Plan and the 2014-2015 Operational Plan, together with the 2014-2015 Capital Works Program. These Plans were adopted by Council after several weeks of workshops in May and June 2014 (with the community consulted on the development of the Corporate Plan).

The adopted 2014-2015 Budget provides funding for all initiatives and programs identified in the Operational Plan and the Capital Works Program.

A proposal to undertake consultation and a feasibility study for the construction of a bridge over the Daintree River (whether simply a literature review or a more extensive scope) was not raised or discussed with Councillors or staff at any time during the strategic planning and budget discussions.

Consequently this work is not scheduled and has no budget allocation.

Community support

While it is essential to seek community's views on the proposal in order to avoid unwarranted expenditure if the project is not one that the community needs, it is equally important to have identified the high level issues and consequences (if any) that should be considered if the community indicates its support and the feasibility study is to progress.

The question to be answered is whether Council could in fact realistically undertake this project, and whether it is at risk of representing to the community that the project could be achieved. If these questions are not addressed at a high level, a very costly feasibility study will be unusable, "sitting on the shelf", gradually becoming more out of date. The following comments address some of the considerations.

Planning Scheme

The building of a Bridge over the Daintree River is not supported by the current Planning Scheme. If it is to be considered for the next Scheme significant external consultant investigations would need to be undertaken. There is no provision in the planning scheme review budget for such an undertaking. Given nature of the review required, the cost would be extremely high.

It is expected that a feasibility study to construct a bridge across the Daintree River would need to include the preparation of an Environmental Impact Statement (EIS), to allow a greater level of public scrutiny. At an early stage, terms of reference would be required to be developed that provide the minimum expectations for the scope of the EIS. The draft terms of reference include a diverse range of matters: the potential impacts on the Wet Tropics Area, land and land tenure issues, flora and fauna; biosecurity; water quality; water resources; flooding; air; noise and vibration; waste management; cultural heritage; social and economic; transport; hazards and safety. The purpose of an EIS is to determine possible environmental, social and economic impacts and mitigate harm from a given development for both construction and operation phases. The EIS requires administrative and approval input from both the Queensland State and Australian Governments.

It should be noted that the EIS process can be financially costly and will take considerable time to achieve completion and approval.

Cyclonic and other extreme events

While the Daintree community north of the river was isolated for a period following cyclone ITA, the ferry was operational in under 48 hours. The primary cause of community isolation was extensive debris, vegetation and mud rendering the roads on the north side of the Daintree River impassable or dangerous, and fallen power lines on Bailey's Creek Road south of the River making access to and from the Daintree impossible. Heavy machinery to clear roads could not be brought in to clear vegetation as the roads were closed with fallen power lines.

While more recent data is not available at this time, ferry records for the period July 2006 to December 2010, show that ferry service operations were interrupted (from all causes including flooding) for only 0.19% of its 29,604 operating hours. Over this 4 year period, 18 hours in total were lost to severe flooding, which also rendered access roads impassable.

Staff noted that flooding can occur from the ferry north to beyond Forest Creek Road and South to the Mossman Daintree Road. It is unlikely that an affordable bridge could be realistically designed to mitigate the effects of flooding spanning more than 5 kms.

Financial considerations

Council is yet to complete a full financial year of operations and whilst our long term financial forecast is quite optimistic it still requires considerable refinement. For example, Council currently has a detailed capital works program for only one year; depreciation expenses and future capital revenue is uncertain.

At this stage Council has no need for loan borrowings and no future projection for borrowings will be made in the short term. Currently, the long term financial forecast is very much based around a “business as usual” approach, with a reasonable level of capital expenditure. Significant expenditure on any study or on any new asset could impact on Council’s sustainability ratios, depending upon the funding source(s) and ongoing depreciation expense relating to that asset.

Whole of life costs are a major consideration, particularly depreciation expense, but also operating / maintenance costs and debt servicing costs (principal and interest). These costs (with the exception of principal repayments) could have a very significant impact on Council’s ability to achieve / sustain a balanced operating position, while the principal repayments (even supported with substantial grant funds) could also impact on Council’s ability to fund other capital projects.

The level and availability of external funding sources is critical to a project like this and the funding bodies often attach very complex and sometimes arduous requirements to their funding submission processes. This also applies to the Queensland Treasury Corporation (QTC) from a loan borrowing perspective, as Council would be required to undertake a Credit Review (Financial Sustainability Review). As Council is still in its infancy, with no real financial history (and with a 10 year model requiring refinement over time, as history is developed), Council may not be able to provide sufficient financial justification for grant funding and a loan approval of any significant magnitude.

RECOMMENDATION

This proposal is not supported by staff on the grounds expressed above.