

**TOWN PLANNING REPORT**

**to**

**DOUGLAS SHIRE COUNCIL**

**for**

**CHANGE APPLICATION (OTHER CHANGE) FOR A  
MOBILE FOOD AND DRINK VEHICLE**

**for**

**DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF  
USE FOR SHOPPING CENTRE, FOOD AND DRINK OUTLET  
(WITH NO DRIVE-THROUGH FACILITY) AND OFFICE**

**land located at**

**147-149 PORT DOUGLAS ROAD, PORT DOUGLAS**

**described as**

**LOT 193 ON RP747071**

**on behalf of**

**T W PETERSON**

**PROJECT No.: C1403  
SEPTEMBER 2025**

**HARDY  
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## TOWN PLANNING REPORT

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**Amended 10/09/2025 (10am)**

**TOWN PLANNING REPORT FOR  
CHANGE APPLICATION (OTHER CHANGE)  
FOR MATERIAL CHANGE OF USE  
ON LAND LOCATED AT 147-149 PORT DOUGLAS ROAD, PORT DOUGLAS**

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**1.00 INTRODUCTION**

We act on behalf of T W Peterson, the landowner and applicant, in relation to the proposal to make a Change Application (Other Change) to enable a “mobile food and drink vehicle” to be operated within two (2) car parking spaces in the Habitat Shopping Village on land described as Lot 193 on RP747071 and located at 147-149 Port Douglas Road, Port Douglas.

This land is subject to a current Development Approval (Council Reference: MCUC 2021\_4248/1) and the proposed Change Application (Other Change) is made in relation to this Approval.

The subject site is shown in **Figure 1 – Location** and **Figure 2 – Locality**.

The Change Application Form 5, Development Assessment Form 1 and Landowner Consent Form are attached as **Appendix A**.

The current approval subject to the Change Application (Other Change) is described as:-

*“Development Permit for Material Change of Use for Shopping Centre, Food and Drink Outlet (with no drive-through facility) and Office”*

A copy of the current Decision Notice is attached as **Appendix B**.

Reference is also made to the pre-lodgement meeting with Council Officers on 4 June 2025 and further Council email advice dated 15 August 2025.

Based on this meeting and Council’s further email advice, it was determined that that in order to establish a “mobile food and drink vehicle” within the existing car parking spaces and as part of the existing and expanded shopping centre, it is necessary to lodge a Change Application (Other Change) with the Douglas Shire Council.

This Change Application was “elevated” from a “Minor Change” to an “Other Change” on the basis the Change Application requires referral to “extra referral agencies” in accordance with Section 82 (3) (a) (ii) of the Planning Act (2016) and specifically Ergon Energy, due to the presence of an easement benefitting Ergon Energy on the subject site.

Director Nick Hardy BRTP(Hons) MPIA LGTIP(Q) Mobile: 0412 756 622 Email: nick@hardyplanning.com.au	Senior Town Planner Stephen Walker B Blt Env GDURP Phone: 0480 472 377 Email: steve@hardyplanning.com.au	Hardy Town Planning and Consulting Pty Ltd ABN: 78 666 346 201	1
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## 2.00 THE SUBJECT SITE

The subject site comprises the following:-

- a) Lot 193 on RP747071 located at 147-149 Port Douglas Road, Port Douglas and containing the existing Habitat Shopping Centre and car parking and manoeuvring areas;
- b) Easement A on RP747071 located on Lot 193 on RP747071, forming part of the reciprocal easement arrangements with Easement B on adjoining Lot 194 on RP747071.

Easement A provides access from Port Douglas Road to both Lot 193 and Lot 194;

It is noted that Lot 194 contains the Wildlife Habitat Port Douglas tourism facility.

- c) Easement B on RP747071 located on the adjoining Lot 194 on RP747071, forming part of the reciprocal easement arrangement with Easement A on RP747071.

Easement B provides access to Port Douglas Road for both Lot 193 and Lot 194; and

- d) Easement E on SP121817 located on Lot 193 on RP747071. Easement E benefits Ergon Energy and contains Ergon Energy padmount infrastructure.

The subject site and the existing easement arrangements are shown by **Appendix C**.

## 3.00 RELEVANT APPROVALS

The existing Shopping Centre was constructed in approximately 2000 based on review of available historic aerial photography in accordance with a Decision Notice for Material Change of Use for Supermarket and One Speciality Shop dated 14 September 1999 (Council reference: 030/99) attached as **Appendix D**.

This Change Application (Other Change) is lodged in relation to the current Development Permit for *Material Change of Use for Shopping Centre, Food and Drink Outlet (with no drive-through facility) and Office* dated 3 December 2021 (Council reference: MCUC 2021\_4248/1) attached as **Appendix B**.





#### 4.00 PROPOSAL

The purpose of this Change Application (Other Change) is to seek Council approval to allow one (1) mobile food and drink vehicle, such as a coffee van or food truck, to operate in two (2) car parking spaces adjacent to the existing Shopping Centre entrance to coincide with the hours of operation for the shopping centre.

It is confirmed that the mobile food and drink vehicle will not provide a “drive-through” facility.

It is proposed that car parking spaces numbered 1 and 2 would be allocated for this purpose.

When the mobile food and drink vehicle is not operating in the nominated car parking spaces then these spaces would be available for customer parking.

The proposed hours of operation for the mobile food and drink vehicle is 6am to 6pm, Monday to Sunday.

Based on review of recent aerial photography, it is submitted that the current car parking layout provides 144 car parking spaces.

It is noted that the current approval including the modified car parking layout required by Condition 3 of the Decision Notice dated 3 December 2021 specified that the ultimate development will provide ninety-six (96) car parking spaces.

Under the current and approved arrangements, it is submitted that the use of two (2) car parking spaces for the operation of a mobile food and drink vehicle does not represent a significant reduction of the number of available car parking spaces or will inhibit the function of the shopping centre and is considered acceptable.

It is further submitted that the operation of a mobile food and drink vehicle is suitably defined as a Food and Drink Outlet use and that it is appropriate to consider this activity an additional minor expansion within the existing Food and Drink Outlet (with no drive-through facility) component of the current Development Permit.

The location of the proposed mobile food and drink vehicle is shown on the amended Site Plan and Detail Plan attached as **Appendix E**.



## 5.00 STATUTORY REQUIREMENTS FOR A CHANGE APPLICATION (OTHER CHANGE)

It is noted that this Change Application has been determined to be an Other Change rather than a Minor Change due to the additional referral requirement in accordance with Section 82 (3)(a)(ii) of the Planning Act (2016).

To demonstrate that the proposed Change Application meets the other criteria specified for a Minor Change by Schedule 2 of the Planning Act (2016) and Schedule 1: Substantially Different Development as identified by the Development Assessment Rules (Version 3.0), the following responses are provided:-

*“minor change means a change that—*

*(b) for a development approval—*

*i) would not result in substantially different development; and*

### Response

**Complies** - it is submitted that the operation of a mobile food and drink vehicle on the subject site does not represent a “*substantially different development*”. This regard, the following responses are provided below in response to *Schedule 1: Substantially Different Development*:-

*(a) involves a new use; or*

### Response

The proposed mobile food and drink vehicle is submitted to accord with the Food and Drink Outlet use component of the existing approval.

*(b) results in the application applying to a new parcel of land; or*

### Response

The proposed Other Change does not apply to a new parcel of land.



*(c) dramatically changes the built form in terms of scale, bulk and appearance; or*

**Response**

A proposed mobile food and drink vehicle does not dramatically change the built form of the approval in terms of scale, bulk or appearance.

*(d) changes the ability of the proposed development to operate as intended; or*

**Response**

The proposed mobile food and drink vehicle does not change the ability of the existing centre or the approved development to operate as intended.

*(e) removes a component that is integral to the operation of the development; or*

**Response**

The operation of the proposed mobile food and drink vehicle within two (2) car parking spaces does not remove a “component that is integral to the operation of the development”.

*(f) significantly impacts on traffic flow and the transport network, such as increasing traffic to the site; or*

**Response**

The proposed mobile food and drink vehicle does not significantly impact on traffic flow and the transport network as it does not provide a drive-through facility and is a small scale operation.

*(g) introduces new impacts or increase the severity of known impacts; or*

**Response**

It is submitted that the proposed mobile food and drink vehicle does not introduce “new impacts or increase the severity of known impacts”.



*(h) For a development prescribed by the Planning Regulation as requiring social impact assessment as identified under section 106T of the Act –*

- Introduces new social impacts or increase the severity of known social impacts; or*

**Response**

This criterion is not applicable to this Development Permit.

*(i) removes an incentive or offset component that would have balanced a negative impact of the development; or*

**Response**

The proposed mobile food and drink vehicles does not “removes an incentive or offset component that would have balanced a negative impact of the development”.

*(j) impacts on infrastructure provisions*

**Response**

It is submitted that the small scale nature of the development will not have an adverse impact on infrastructure provisions. In this regard, the proposal is “self sufficient” in relation to water requirements and waste disposal. The proposal is not required to be connected to Council sewerage system.

***ii) if a development application for the development, including the change, were made when the change application is made would not cause—***

*(A) the inclusion of prohibited development in the application; or*

**Response**

**Complies** – the operation of a mobile food and drink vehicle on the subject site is not prohibited development.



*(B) referral to a referral agency, other than to the chief executive, if there were no referral agencies for the development application; or*

**Response**

**Complies** – the development application for the current Development Permit was referred to the State Assessment and Referral Agency (SARA) in relation to “*Infrastructure-related referrals – State Transport Corridor and future state transport corridor*”.

This Change Application (Other Change) will be referred to SARA.

*(C) referral to extra referral agencies, other than to the chief executive; or*

**Response**

It is noted that the subject site contains an easement benefitting Ergon Energy located adjoining the boundary with Port Douglas Road and as shown in **Appendix C**. This easement contains padmount infrastructure.

Based on review of the application documents available on Council’s website for the current Decision Notice, it is noted that the Development Application was not referred to Ergon Energy as a Referral Agency.

It is noted that the approved uses are not located within the existing easement and that the proposed mobile food and drink vehicle is also not located within this easement.

It is submitted that as a consequence of this missed referral for the previous Development Approval for the Change Application (Minor Change) attached as **Appendix D** that it is now required to refer the current Change Application to Ergon Energy to resolve this previous procedural oversight and therefore this action “elevates” this Change Application from a “Minor Change” to an “Other Change”.



*(D) a referral agency, in assessing the application under section 55(2), to assess the application against, or have regard to, a matter, other than a matter the referral agency must have assessed the application against, or had regard to, when the application was made; or*

**Response**

**Complies** – it is submitted that the proposal to operate a mobile food and drink vehicle, with no drive-through facility, on the subject site does not represent an additional “matter” that would need to be assessed by a Referral Agency given that the Development Permit included a Food and Drink Outlet component.

*(E) public notification if public notification was not required for the development application.*

**Response**

**Complies** – the existing Development Application was determined to be Code Assessment and therefore was not subject to Public Notification requirements. The operation of a mobile food and drink vehicle on the subject site does not “elevate” the approved uses to Impact Assessment.

On this basis, Public Notification is not required for this application.



## **6.00 STAGED DEVELOPMENT**

Given the minor nature of the proposal to include the operation of a mobile food and drink vehicle on the subject site without the requirement to undertake other works identified in the current conditions of approval, it is proposed to “stage” the current Development Permit as follows:-

### **a) Stage 1**

This stage will include the retention of the current Shopping Centre and car parking layout and allow for the operation of a mobile food and drink vehicle within the two (2) nominated car parking spaces.

It is submitted that the Stage 1 Conditions of Approval would be limited to new conditions that are reasonable and relevant to the operation of a mobile food and drink vehicle on the subject site and exclude other works nominated and required by the current conditions of approval;

### **b) Stage 2**

This stage will encompass the ultimate development of the subject site including the new building containing Office and Shops and the major modifications to the existing car parking layout. The ultimate development would retain the mobile food and drink vehicle use from Stage 1.

It is submitted that Stage 2 Conditions of Approval would be those nominated in the current Decision Notice dated 3 December 2021.

## **7.00 INFRASTRUCTURE CHARGES**

It is considered that due to the minor nature of the proposed Mobile Food and Drink Vehicle that this activity will not create any additional demand on Council's urban infrastructure and therefore it is submitted that no additional Infrastructure Charges are applicable.



## 8.00 CHANGES REQUIRED TO EXISTING DECISION NOTICE

Based on the review of the current Decision Notice (refer to **Appendix B**) the following changes are required:-

- a) change the postal address for the applicant to:-

T W Peterson  
c/- Hardy Town Planning and Consulting  
PO Box 1256  
CAIRNS QLD 4870

- b) replace the existing site plan with the annotated Site Plan attached as **Appendix E**.
- c) stage the existing Development Permit, as detailed in **Section 6.00** of this Report, to enable the operation of a mobile food and drink vehicle on the subject site as Stage 1 and the ultimate development of the subject site as Stage 2;
- d) describe the Development Permit as an “Other Change” rather than a “Minor Change”;
- e) amend the “Reason for Decision” to refer to the amended site plan and the proposed staging of the development; and
- f) other reasonable amendments required by Council

## 9.00 CONCLUSIONS AND RECOMMENDATIONS

Based on the information contained within this Report, it is submitted that the proposal shown by the Plan attached as **Appendix E** represent a Change to the existing Development Permit.

It is submitted that the proposed “Other Change” to the Development Permit to approve the operation of a mobile food and drink vehicle on the subject site can be supported in Town Planning terms and no additional Infrastructure Charges are applicable.

Council's favourable consideration of this Application is commended.

**Hardy Town Planning and Consulting Pty Ltd**  
**SEPTEMBER 2025**



## FIGURES



**CHANGE APPLICATION (OTHER CHANGE)**

**T W PETERSON**

**147-149 PORT DOUGLAS ROAD, PORT DOUGLAS**

**LOCATION**

**FIGURE 1 SEPTEMBER 2025**







**CHANGE APPLICATION (OTHER CHANGE)**

**T W PETERSON**

**147-149 PORT DOUGLAS ROAD, PORT DOUGLAS**

**LOCALITY**

**FIGURE 2 SEPTEMBER 2025**



## **APPENDIX A**

# Change application form

**Planning Act Form 5 (version 1.2 effective 7 February 2020) made under Section 282 of the Planning Act 2016.**

This form is to be used for a change application made under section 78 of the *Planning Act 2016*. It is important when making a change application to be aware of whether the application is for a minor change that will be assessed under section 81 of the *Planning Act 2016* or for an other change that will be assessed under section 82 of the *Planning Act 2016*.

An applicant must complete all parts of this form, and provide any supporting information that the form identifies as being required to accompany the change application, unless stated otherwise. Additional pages may be attached if there is insufficient space on the form to complete any part.

**Note:** All terms used in this form have the meaning given under the *Planning Act 2016*, the *Planning Regulation 2017*, or the *Development Assessment Rules (DA Rules)*.

## PART 1 – APPLICANT DETAILS

1) Applicant details	
Applicant name(s) (individual or company full name)	T W Peterson
Contact name (only applicable for companies)	Nick Hardy
Postal address (P.O. Box or street address)	c/- Hardy Town Planning and Consulting PO Box 1256
Suburb	Cairns
State	QLD
Postcode	4870
Country	Australia
Email address (non-mandatory)	<a href="mailto:nick@hardyplanning.com.au">nick@hardyplanning.com.au</a>
Mobile number (non-mandatory)	0412 756 622
Applicant's reference number(s) (if applicable)	C1403

## 2) Owner's consent - Is written consent of the owner required for this change application?

**Note:** Section 79(1A) of the *Planning Act 2016* states the requirements in relation to owner's consent.

- ☒ **Yes – the written consent of the owner(s) is attached to this change application**  
☐ No

## PART 2 – LOCATION DETAILS

3) Location of the premises (complete 3.1) or 3.2), and 3.3) as applicable)				
3.1) Street address and lot on plan				
<input checked="" type="checkbox"/> Street address <b>AND</b> lot on plan (all lots must be listed), <b>or</b> <input type="checkbox"/> Street address <b>AND</b> lot on plan for an adjoining or adjacent property of the premises (appropriate for development in water but adjoining or adjacent to land e.g. jetty, pontoon. All lots must be listed).				
a)	Unit No.	Street No.	Street Name and Type	Suburb
		147-149	Port Douglas Road	Port Douglas
	Postcode	Lot No.	Plan Type and Number (e.g. RP, SP)	Local Government Area(s)
		193	RP747071	Douglas Shire Council
b)	Unit No.	Street No.	Street Name and Type	Suburb
	Postcode	Lot No.	Plan Type and Number (e.g. RP, SP)	Local Government Area(s)



**Queensland  
Government**

3.2) Coordinates of premises (appropriate for development in remote areas, over part of a lot or in water not adjoining or adjacent to land e.g. channel dredging in Moreton Bay)

**Note:** Place each set of coordinates in a separate row.

☐ Coordinates of premises by longitude and latitude

Longitude(s)	Latitude(s)	Datum	Local Government Area(s) (if applicable)
		<input type="checkbox"/> WGS84 <input type="checkbox"/> GDA94 <input type="checkbox"/> Other:	

☐ Coordinates of premises by easting and northing

Easting(s)	Northing(s)	Zone Ref.	Datum	Local Government Area(s) (if applicable)
		<input type="checkbox"/> 54 <input type="checkbox"/> 55 <input type="checkbox"/> 56	<input type="checkbox"/> WGS84 <input type="checkbox"/> GDA94 <input type="checkbox"/> Other:	

3.3) Additional premises

☐ Additional premises are relevant to the original development approval and the details of these premises have been attached in a schedule to this application

☒ **Not required**

## PART 3 – RESPONSIBLE ENTITY DETAILS

4) Identify the responsible entity that will be assessing this change application

**Note:** see section 78(3) of the Planning Act 2016

**Douglas Shire Council**

## PART 4 – CHANGE DETAILS

5) Provide details of the existing development approval subject to this change application

Approval type	Reference number	Date issued	Assessment manager/approval entity
<input checked="" type="checkbox"/> <b>Development permit</b> <input type="checkbox"/> Preliminary approval	<b>MCUC 2021_4248/1</b>	<b>3 December 2021</b>	<b>Douglas Shire Council</b>
<input type="checkbox"/> Development permit <input type="checkbox"/> Preliminary approval			

6) Type of change proposed

6.1) Provide a brief description of the changes proposed to the development approval (e.g. changing a development approval for a five unit apartment building to provide for a six unit apartment building):

Refer to **Town Planning Report dated September 2025**

6.2) What type of change does this application propose?

☐ Minor change application – proceed to Part 5

☒ **Other change application – proceed to Part 6**

## PART 5 – MINOR CHANGE APPLICATION REQUIREMENTS

7) Are there any affected entities for this change application		
<input type="checkbox"/> No – proceed to Part 7 <input type="checkbox"/> Yes – list all affected entities below and proceed to Part 7 <i>Note: section 80(1) of the Planning Act 2016 states that the person making the change application must give notice of the proposal and the details of the change to each affected entity as identified in section 80(2) of the Planning Act 2016.</i>		
Affected entity	Pre-request response provided? (where a pre-request response notice for the application has been given, a copy of the notice must accompany this change application)	Date notice given (where no pre-request response provided)
	<input type="checkbox"/> No <input type="checkbox"/> Yes – pre-request response is attached to this change application	
	<input type="checkbox"/> No <input type="checkbox"/> Yes – pre-request response is attached to this change application	
	<input type="checkbox"/> No <input type="checkbox"/> Yes – pre-request response is attached to this change application	

## PART 6 – OTHER CHANGE APPLICATION REQUIREMENTS

**Note:** To complete this part it will be necessary for you to complete parts of DA Form 1 – Development application details and in some instances parts of DA Form 2 – Building work details, as mentioned below. These forms are available at <https://planning.dsdmip.qld.gov.au>.

8) Location details - Are there any additional premises included in this change application that were not part of the original development approval?
<input checked="" type="checkbox"/> <b>No</b> <input type="checkbox"/> Yes

9) Development details
<b>9.1) Is there any change to the type of development, approval type, or level of assessment in this change application?</b> <input checked="" type="checkbox"/> <b>No</b> <input type="checkbox"/> Yes – the completed Sections 1 and 2 of Part 3 (Development details) of DA Form 1 – Development application details as these sections relate to the new or changed aspects of development are provided with this application.
<b>9.2) Does the change application involve building work?</b> <input checked="" type="checkbox"/> <b>No</b> <input type="checkbox"/> Yes – the completed Part 5 (Building work details) of DA Form 2 – Building work details as it relates to the change application is provided with this application.

10) Referral details – Does the change application require referral for any referral requirements?
<b>Note:</b> The application must be referred to each referral agency triggered by the change application as if the change application was the original development application including the proposed change. <input type="checkbox"/> No <input checked="" type="checkbox"/> <b>Yes – the completed Part 5 (Referral details) of DA Form 1 – Development application details as it relates to the change application is provided with this application. Where referral is required for matters relating to building work the <u>Referral checklist for building work</u> is also completed.</b>

11) Information request under Part 3 of the DA Rules
<input checked="" type="checkbox"/> <b>I agree to receive an information request if determined necessary for this change application</b> <input type="checkbox"/> I do not agree to accept an information request for this change application <b>Note:</b> By not agreeing to accept an information request I, the applicant, acknowledge:



- that this change application will be assessed and decided based on the information provided when making this change application and the assessment manager and any referral agencies relevant to the change application are not obligated under the DA Rules to accept any additional information provided by the applicant for the change application unless agreed to by the relevant parties
  - Part 3 of the DA Rules will still apply if the application is an application listed under section 11.3 of the DA Rules.
- Further advice about information requests is contained in the [DA Forms Guide: Forms 1 and 2](#).

## 12) Further details

- ☒ **Part 7 of DA Form 1 – Development application details is completed as if the change application was a development application and is provided with this application.**

# PART 7 – CHECKLIST AND APPLICANT DECLARATION

## 13) Change application checklist

I have identified the:

- responsible entity in 4); and
- for a minor change, any affected entities; and
- for an other change all relevant referral requirement(s) in 10)

☒ **Yes**

**Note:** See the Planning Regulation 2017 for referral requirements

For an other change application, the relevant sections of [DA Form 1 – Development application details](#) have been completed and is attached to this application

☒ **Yes**

☐ Not applicable

For an other change application, where building work is associated with the change application, the relevant sections of [DA Form 2 – Building work details](#) have been completed and is attached to this application

☐ Yes

☒ **Not applicable**

Supporting information addressing any applicable assessment benchmarks is attached to this application

**Note:** This includes any templates provided under 23.6 and 23.7 of DA Form 1 – Development application details that are relevant as a result of the change application, a planning report and any technical reports required by the relevant categorising instrument(s) (e.g. the local government planning scheme, State Planning Policy, State Development Assessment Provisions). For further information, see [DA Forms Guide: Planning report template](#).

☒ **Yes**

Relevant plans of the development are attached to this development application

**Note:** Relevant plans are required to be submitted for all relevant aspects of this change application. For further information, see [DA Forms Guide: Relevant plans](#).

☒ **Yes**

## 14) Applicant declaration

- ☒ **By making this change application, I declare that all information in this change application is true and correct.**
- ☒ **Where an email address is provided in Part 1 of this form, I consent to receive future electronic communications from the responsible entity and any relevant affected entity or referral agency for the change application where written information is required or permitted pursuant to sections 11 and 12 of the *Electronic Transactions Act 2001*.**

**Note:** It is unlawful to intentionally provide false or misleading information.

**Privacy** – Personal information collected in this form will be used by the responsible entity and/or chosen assessment manager, any relevant affected entity or referral agency and/or building certifier (including any professional advisers which may be engaged by those entities) while processing, assessing and deciding the change application.

All information relating to this change application may be available for inspection and purchase, and/or published on the assessment manager's and/or referral agency's website.

Personal information will not be disclosed for a purpose unrelated to the *Planning Act 2016*, Planning Regulation 2017 and the DA Rules except where:

- such disclosure is in accordance with the provisions about public access to documents contained in the *Planning Act 2016* and the Planning Regulation 2017, and the access rules made under the *Planning Act 2016* and Planning Regulation 2017; or
- required by other legislation (including the *Right to Information Act 2009*); or
- otherwise required by law.

This information may be stored in relevant databases. The information collected will be retained as required by the *Public Records Act 2002*.



## PART 8 – FOR COMPLETION OF THE ASSESSMENT MANAGER – FOR OFFICE USE ONLY

Date received:  Reference number(s):

### QLeave notification and payment

*Note: For completion by assessment manager if applicable*

Description of the work			
QLeave project number			
Amount paid (\$)		Date paid (dd/mm/yy)	
Date receipted form sighted by assessment manager			
Name of officer who sighted the form			

# DA Form 1 – Development application details

Approved form (version 1.6 effective 2 August 2024) made under section 282 of the Planning Act 2016.

This form **must** be used to make a development application **involving code assessment or impact assessment**, except when applying for development involving only building work.

For a development application involving **building work only**, use *DA Form 2 – Building work details*.

For a development application involving **building work associated with any other type of assessable development (i.e. material change of use, operational work or reconfiguring a lot)**, use this form (*DA Form 1*) and parts 4 to 6 of *DA Form 2 – Building work details*.

Unless stated otherwise, all parts of this form **must** be completed in full and all required supporting information **must** accompany the development application.

One or more additional pages may be attached as a schedule to this development application if there is insufficient space on the form to include all the necessary information.

This form and any other form relevant to the development application must be used to make a development application relating to strategic port land and Brisbane core port land under the *Transport Infrastructure Act 1994*, and airport land under the *Airport Assets (Restructuring and Disposal) Act 2008*. For the purpose of assessing a development application relating to strategic port land and Brisbane core port land, any reference to a planning scheme is taken to mean a land use plan for the strategic port land, Brisbane port land use plan for Brisbane core port land, or a land use plan for airport land.

**Note:** All terms used in this form have the meaning given under the Planning Act 2016, the Planning Regulation 2017, or the Development Assessment Rules (DA Rules).

## PART 1 – APPLICANT DETAILS

1) Applicant details	
Applicant name(s) (individual or company full name)	T W Peterson
Contact name (only applicable for companies)	Nick Hardy
Postal address (P.O. Box or street address)	c/- Hardy Town Planning and Consulting PO Box 1256
Suburb	Cairns
State	QLD
Postcode	4870
Country	Australia
Contact number	0412 756 622
Email address (non-mandatory)	<a href="mailto:nick@hardyplanning.com.au">nick@hardyplanning.com.au</a>
Mobile number (non-mandatory)	
Fax number (non-mandatory)	
Applicant's reference number(s) (if applicable)	C1403
1.1) Home-based business	
<input type="checkbox"/> Personal details to remain private in accordance with section 264(6) of Planning Act 2016	
2) Owner's consent	
2.1) Is written consent of the owner required for this development application?	
<input checked="" type="checkbox"/> Yes – the written consent of the owner(s) is attached to this development application	
<input type="checkbox"/> No – proceed to 3)	

## PART 2 – LOCATION DETAILS

### 3) Location of the premises (complete 3.1) or 3.2), and 3.3) as applicable)

**Note:** Provide details below and attach a site plan for any or all premises part of the development application. For further information, see [DA Forms Guide: Relevant plans](#).

#### 3.1) Street address and lot on plan

- ☒ Street address **AND** lot on plan (all lots must be listed), **or**  
☐ Street address **AND** lot on plan for an adjoining or adjacent property of the premises (appropriate for development in water but adjoining or adjacent to land e.g. jetty, pontoon. All lots must be listed).

a)	Unit No.	Street No.	Street Name and Type	Suburb
		<b>147-149</b>	<b>Port Douglas Road</b>	<b>Port Douglas</b>
	Postcode	Lot No.	Plan Type and Number (e.g. RP, SP)	Local Government Area(s)
		<b>193</b>	<b>RP747071</b>	<b>Douglas Shire Council</b>
b)	Unit No.	Street No.	Street Name and Type	Suburb
	Postcode	Lot No.	Plan Type and Number (e.g. RP, SP)	Local Government Area(s)

#### 3.2) Coordinates of premises (appropriate for development in remote areas, over part of a lot or in water not adjoining or adjacent to land e.g. channel dredging in Moreton Bay)

**Note:** Place each set of coordinates in a separate row.

- ☐ Coordinates of premises by longitude and latitude

Longitude(s)	Latitude(s)	Datum	Local Government Area(s) (if applicable)
		<input type="checkbox"/> WGS84 <input type="checkbox"/> GDA94 <input type="checkbox"/> Other:	

- ☐ Coordinates of premises by easting and northing

Easting(s)	Northing(s)	Zone Ref.	Datum	Local Government Area(s) (if applicable)
		<input type="checkbox"/> 54 <input type="checkbox"/> 55 <input type="checkbox"/> 56	<input type="checkbox"/> WGS84 <input type="checkbox"/> GDA94 <input type="checkbox"/> Other:	

#### 3.3) Additional premises

- ☐ Additional premises are relevant to this development application and the details of these premises have been attached in a schedule to this development application  
☒ **Not required**

#### 4) Identify any of the following that apply to the premises and provide any relevant details

- ☐ In or adjacent to a water body or watercourse or in or above an aquifer

Name of water body, watercourse or aquifer:

- ☐ On strategic port land under the *Transport Infrastructure Act 1994*

Lot on plan description of strategic port land:

Name of port authority for the lot:

- ☐ In a tidal area

Name of local government for the tidal area (if applicable):

Name of port authority for tidal area (if applicable):

<input type="checkbox"/> On airport land under the <i>Airport Assets (Restructuring and Disposal) Act 2008</i>
Name of airport: <input type="text"/>
<input type="checkbox"/> Listed on the Environmental Management Register (EMR) under the <i>Environmental Protection Act 1994</i>
EMR site identification: <input type="text"/>
<input type="checkbox"/> Listed on the Contaminated Land Register (CLR) under the <i>Environmental Protection Act 1994</i>
CLR site identification: <input type="text"/>

#### 5) Are there any existing easements over the premises?

*Note: Easement uses vary throughout Queensland and are to be identified correctly and accurately. For further information on easements and how they may affect the proposed development, see [DA Forms Guide](#).*

- ☒ **Yes – All easement locations, types and dimensions are included in plans submitted with this development application**
- ☐ No

## PART 3 – DEVELOPMENT DETAILS

### Section 1 – Aspects of development

<b>6.1) Provide details about the first development aspect</b>
a) What is the type of development? <i>(tick only one box)</i>
<input type="checkbox"/> Material change of use <input type="checkbox"/> Reconfiguring a lot <input type="checkbox"/> Operational work <input type="checkbox"/> Building work
b) What is the approval type? <i>(tick only one box)</i>
<input type="checkbox"/> Development permit <input type="checkbox"/> Preliminary approval <input type="checkbox"/> Preliminary approval that includes a variation approval
c) What is the level of assessment?
<input type="checkbox"/> Code assessment <input type="checkbox"/> Impact assessment <i>(requires public notification)</i>
d) Provide a brief description of the proposal <i>(e.g. 6 unit apartment building defined as multi-unit dwelling, reconfiguration of 1 lot into 3 lots):</i>
<input type="text"/>
e) Relevant plans
<i><b>Note:</b> Relevant plans are required to be submitted for all aspects of this development application. For further information, see <a href="#">DA Forms guide: Relevant plans</a>.</i>
<input type="checkbox"/> Relevant plans of the proposed development are attached to the development application
<b>6.2) Provide details about the second development aspect</b>
a) What is the type of development? <i>(tick only one box)</i>
<input type="checkbox"/> Material change of use <input type="checkbox"/> Reconfiguring a lot <input type="checkbox"/> Operational work <input type="checkbox"/> Building work
b) What is the approval type? <i>(tick only one box)</i>
<input type="checkbox"/> Development permit <input type="checkbox"/> Preliminary approval <input type="checkbox"/> Preliminary approval that includes a variation approval
c) What is the level of assessment?
<input type="checkbox"/> Code assessment <input type="checkbox"/> Impact assessment <i>(requires public notification)</i>
d) Provide a brief description of the proposal <i>(e.g. 6 unit apartment building defined as multi-unit dwelling, reconfiguration of 1 lot into 3 lots):</i>
<input type="text"/>
e) Relevant plans
<i><b>Note:</b> Relevant plans are required to be submitted for all aspects of this development application. For further information, see <a href="#">DA Forms Guide: Relevant plans</a>.</i>
<input type="checkbox"/> Relevant plans of the proposed development are attached to the development application

**6.3) Additional aspects of development**

- ☐ Additional aspects of development are relevant to this development application and the details for these aspects that would be required under Part 3 Section 1 of this form have been attached to this development application
- ☐ Not required

**6.4) Is the application for State facilitated development?**

- ☐ Yes - Has a notice of declaration been given by the Minister?
- ☐ No

**Section 2 – Further development details****7) Does the proposed development application involve any of the following?**

Material change of use	<input type="checkbox"/> Yes – complete division 1 if assessable against a local planning instrument
Reconfiguring a lot	<input type="checkbox"/> Yes – complete division 2
Operational work	<input type="checkbox"/> Yes – complete division 3
Building work	<input type="checkbox"/> Yes – complete <i>DA Form 2 – Building work details</i>

**Division 1 – Material change of use**

**Note:** This division is only required to be completed if any part of the development application involves a material change of use assessable against a local planning instrument.

**8.1) Describe the proposed material change of use**

Provide a general description of the proposed use	Provide the planning scheme definition (include each definition in a new row)	Number of dwelling units (if applicable)	Gross floor area (m <sup>2</sup> ) (if applicable)

**8.2) Does the proposed use involve the use of existing buildings on the premises?**

- ☐ Yes
- ☐ No

**8.3) Does the proposed development relate to temporary accepted development under the Planning Regulation?**

- ☐ Yes – provide details below or include details in a schedule to this development application
- ☐ No

Provide a general description of the temporary accepted development	Specify the stated period dates under the Planning Regulation

**Division 2 – Reconfiguring a lot**

**Note:** This division is only required to be completed if any part of the development application involves reconfiguring a lot.

**9.1) What is the total number of existing lots making up the premises?**

--

**9.2) What is the nature of the lot reconfiguration? (tick all applicable boxes)**

<input type="checkbox"/> Subdivision (complete 10)	<input type="checkbox"/> Dividing land into parts by agreement (complete 11)
<input type="checkbox"/> Boundary realignment (complete 12)	<input type="checkbox"/> Creating or changing an easement giving access to a lot from a constructed road (complete 13)

10) Subdivision				
10.1) For this development, how many lots are being created and what is the intended use of those lots:				
Intended use of lots created	Residential	Commercial	Industrial	Other, please specify:
Number of lots created				

10.2) Will the subdivision be staged?	
<input type="checkbox"/> Yes – provide additional details below <input type="checkbox"/> No	
How many stages will the works include?	
What stage(s) will this development application apply to?	

11) Dividing land into parts by agreement – how many parts are being created and what is the intended use of the parts?				
Intended use of parts created	Residential	Commercial	Industrial	Other, please specify:
Number of parts created				

12) Boundary realignment			
12.1) What are the current and proposed areas for each lot comprising the premises?			
Current lot		Proposed lot	
Lot on plan description	Area (m <sup>2</sup> )	Lot on plan description	Area (m <sup>2</sup> )
12.2) What is the reason for the boundary realignment?			

13) What are the dimensions and nature of any existing easements being changed and/or any proposed easement? (attach schedule if there are more than two easements)				
Existing or proposed?	Width (m)	Length (m)	Purpose of the easement? (e.g. pedestrian access)	Identify the land/lot(s) benefitted by the easement

### Division 3 – Operational work

**Note:** This division is only required to be completed if any part of the development application involves operational work.

14.1) What is the nature of the operational work?	
<input type="checkbox"/> Road work <input type="checkbox"/> Drainage work <input type="checkbox"/> Landscaping <input type="checkbox"/> Other – please specify:	<input type="checkbox"/> Stormwater <input type="checkbox"/> Earthworks <input type="checkbox"/> Signage <input type="checkbox"/> Water infrastructure <input type="checkbox"/> Sewage infrastructure <input type="checkbox"/> Clearing vegetation
14.2) Is the operational work necessary to facilitate the creation of new lots? (e.g. subdivision)	
<input type="checkbox"/> Yes – specify number of new lots:	
<input type="checkbox"/> No	

14.3) What is the monetary value of the proposed operational work? (include GST, materials and labour)

\$

## PART 4 – ASSESSMENT MANAGER DETAILS

15) Identify the assessment manager(s) who will be assessing this development application

**Douglas Shire Council**

16) Has the local government agreed to apply a superseded planning scheme for this development application?

- ☐ Yes – a copy of the decision notice is attached to this development application
- ☐ The local government is taken to have agreed to the superseded planning scheme request – relevant documents attached
- ☒ No

## PART 5 – REFERRAL DETAILS

17) Does this development application include any aspects that have any referral requirements?

**Note:** A development application will require referral if prescribed by the Planning Regulation 2017.

- ☐ No, there are no referral requirements relevant to any development aspects identified in this development application – proceed to Part 6

**Matters requiring referral to the Chief Executive of the Planning Act 2016:**

- ☐ Clearing native vegetation
- ☐ Contaminated land (*unexploded ordnance*)
- ☐ Environmentally relevant activities (ERA) (*only if the ERA has not been devolved to a local government*)
- ☐ Fisheries – aquaculture
- ☐ Fisheries – declared fish habitat area
- ☐ Fisheries – marine plants
- ☐ Fisheries – waterway barrier works
- ☐ Hazardous chemical facilities
- ☐ Heritage places – Queensland heritage place (*on or near a Queensland heritage place*)
- ☐ Infrastructure-related referrals – designated premises
- ☐ Infrastructure-related referrals – state transport infrastructure
- ☒ **Infrastructure-related referrals – State transport corridor and future State transport corridor**
- ☐ Infrastructure-related referrals – State-controlled transport tunnels and future state-controlled transport tunnels
- ☐ Infrastructure-related referrals – near a state-controlled road intersection
- ☐ Koala habitat in SEQ region – interfering with koala habitat in koala habitat areas outside koala priority areas
- ☐ Koala habitat in SEQ region – key resource areas
- ☐ Ports – Brisbane core port land – near a State transport corridor or future State transport corridor
- ☐ Ports – Brisbane core port land – environmentally relevant activity (ERA)
- ☐ Ports – Brisbane core port land – tidal works or work in a coastal management district
- ☐ Ports – Brisbane core port land – hazardous chemical facility
- ☐ Ports – Brisbane core port land – taking or interfering with water
- ☐ Ports – Brisbane core port land – referable dams
- ☐ Ports – Brisbane core port land – fisheries
- ☐ Ports – Land within Port of Brisbane's port limits (*below high-water mark*)
- ☐ SEQ development area
- ☐ SEQ regional landscape and rural production area or SEQ rural living area – tourist activity or sport and recreation activity
- ☐ SEQ regional landscape and rural production area or SEQ rural living area – community activity
- ☐ SEQ regional landscape and rural production area or SEQ rural living area – indoor recreation
- ☐ SEQ regional landscape and rural production area or SEQ rural living area – urban activity
- ☐ SEQ regional landscape and rural production area or SEQ rural living area – combined use
- ☐ SEQ northern inter-urban break – tourist activity or sport and recreation activity



**Queensland  
Government**

<input type="checkbox"/> SEQ northern inter-urban break – community activity <input type="checkbox"/> SEQ northern inter-urban break – indoor recreation <input type="checkbox"/> SEQ northern inter-urban break – urban activity <input type="checkbox"/> SEQ northern inter-urban break – combined use <input type="checkbox"/> Tidal works or works in a coastal management district <input type="checkbox"/> Reconfiguring a lot in a coastal management district or for a canal <input type="checkbox"/> Erosion prone area in a coastal management district <input type="checkbox"/> Urban design <input type="checkbox"/> Water-related development – taking or interfering with water <input type="checkbox"/> Water-related development – removing quarry material <i>(from a watercourse or lake)</i> <input type="checkbox"/> Water-related development – referable dams <input type="checkbox"/> Water-related development – levees <i>(category 3 levees only)</i> <input type="checkbox"/> Wetland protection area
<b>Matters requiring referral to the local government:</b> <input type="checkbox"/> Airport land <input type="checkbox"/> Environmentally relevant activities (ERA) <i>(only if the ERA has been devolved to local government)</i> <input type="checkbox"/> Heritage places – Local heritage places
<b>Matters requiring referral to the Chief Executive of the distribution entity or transmission entity:</b> <input checked="" type="checkbox"/> <b>Infrastructure-related referrals – Electricity infrastructure</b>
<b>Matters requiring referral to:</b> <ul style="list-style-type: none"> <li>• The <b>Chief Executive of the holder of the licence</b>, if not an individual</li> <li>• The <b>holder of the licence</b>, if the holder of the licence is an individual</li> </ul> <input type="checkbox"/> Infrastructure-related referrals – Oil and gas infrastructure
<b>Matters requiring referral to the Brisbane City Council:</b> <input type="checkbox"/> Ports – Brisbane core port land
<b>Matters requiring referral to the Minister responsible for administering the Transport Infrastructure Act 1994:</b> <input type="checkbox"/> Ports – Brisbane core port land <i>(where inconsistent with the Brisbane port LUP for transport reasons)</i> <input type="checkbox"/> Ports – Strategic port land
<b>Matters requiring referral to the relevant port operator, if applicant is not port operator:</b> <input type="checkbox"/> Ports – Land within Port of Brisbane's port limits <i>(below high-water mark)</i>
<b>Matters requiring referral to the Chief Executive of the relevant port authority:</b> <input type="checkbox"/> Ports – Land within limits of another port <i>(below high-water mark)</i>
<b>Matters requiring referral to the Gold Coast Waterways Authority:</b> <input type="checkbox"/> Tidal works or work in a coastal management district <i>(in Gold Coast waters)</i>
<b>Matters requiring referral to the Queensland Fire and Emergency Service:</b> <input type="checkbox"/> Tidal works or work in a coastal management district <i>(involving a marina (more than six vessel berths))</i>

<b>18) Has any referral agency provided a referral response for this development application?</b>		
<input type="checkbox"/> Yes – referral response(s) received and listed below are attached to this development application <input checked="" type="checkbox"/> <b>No</b>		
Referral requirement	Referral agency	Date of referral response
Identify and describe any changes made to the proposed development application that was the subject of the referral response and this development application, or include details in a schedule to this development application <i>(if applicable)</i> .		



## PART 6 – INFORMATION REQUEST

### 19) Information request under the DA Rules

☐ I agree to receive an information request if determined necessary for this development application

☐ I do not agree to accept an information request for this development application

**Note:** By not agreeing to accept an information request I, the applicant, acknowledge:

- that this development application will be assessed and decided based on the information provided when making this development application and the assessment manager and any referral agencies relevant to the development application are not obligated under the DA Rules to accept any additional information provided by the applicant for the development application unless agreed to by the relevant parties
- Part 3 under Chapter 1 of the DA Rules will still apply if the application is an application listed under section 11.3 of the DA Rules or
- Part 2 under Chapter 2 of the DA Rules will still apply if the application is for state facilitated development

Further advice about information requests is contained in the [DA Forms Guide](#).

## PART 7 – FURTHER DETAILS

### 20) Are there any associated development applications or current approvals? (e.g. a preliminary approval)

☒ **Yes – provide details below or include details in a schedule to this development application**

☐ No

List of approval/development application references	Reference number	Date	Assessment manager
<input checked="" type="checkbox"/> <b>Approval</b> <input type="checkbox"/> Development application	<b>MCUC 2021_4248/1</b>	<b>3 December 2021</b>	<b>Douglas Shire Council</b>
<input type="checkbox"/> Approval <input type="checkbox"/> Development application			

### 21) Has the portable long service leave levy been paid? (only applicable to development applications involving building work or operational work)

☐ Yes – a copy of the receipted QLeave form is attached to this development application

☐ No – I, the applicant will provide evidence that the portable long service leave levy has been paid before the assessment manager decides the development application. I acknowledge that the assessment manager may give a development approval only if I provide evidence that the portable long service leave levy has been paid

☒ **Not applicable (e.g. building and construction work is less than \$150,000 excluding GST)**

Amount paid	Date paid (dd/mm/yy)	QLeave levy number (A, B or E)
\$		

### 22) Is this development application in response to a show cause notice or required as a result of an enforcement notice?

☐ Yes – show cause or enforcement notice is attached

☒ **No**

## 23) Further legislative requirements

### Environmentally relevant activities

23.1) Is this development application also taken to be an application for an environmental authority for an **Environmentally Relevant Activity (ERA)** under section 115 of the *Environmental Protection Act 1994*?

- ☐ Yes – the required attachment (form ESR/2015/1791) for an application for an environmental authority accompanies this development application, and details are provided in the table below
- ☒ **No**

**Note:** Application for an environmental authority can be found by searching “ESR/2015/1791” as a search term at [www.qld.gov.au](http://www.qld.gov.au). An ERA requires an environmental authority to operate. See [www.business.qld.gov.au](http://www.business.qld.gov.au) for further information.

Proposed ERA number:		Proposed ERA threshold:	
Proposed ERA name:			

- ☐ Multiple ERAs are applicable to this development application and the details have been attached in a schedule to this development application.

### Hazardous chemical facilities

23.2) Is this development application for a **hazardous chemical facility**?

- ☐ Yes – *Form 536: Notification of a facility exceeding 10% of schedule 15 threshold* is attached to this development application
- ☒ **No**

**Note:** See [www.business.qld.gov.au](http://www.business.qld.gov.au) for further information about hazardous chemical notifications.

### Clearing native vegetation

23.3) Does this development application involve **clearing native vegetation** that requires written confirmation that the chief executive of the *Vegetation Management Act 1999* is satisfied the clearing is for a relevant purpose under section 22A of the *Vegetation Management Act 1999*?

- ☐ Yes – this development application includes written confirmation from the chief executive of the *Vegetation Management Act 1999* (s22A determination)
- ☒ **No**

**Note:** 1. Where a development application for operational work or material change of use requires a s22A determination and this is not included, the development application is prohibited development.  
2. See <https://www.qld.gov.au/environment/land/vegetation/applying> for further information on how to obtain a s22A determination.

### Environmental offsets

23.4) Is this development application taken to be a prescribed activity that may have a significant residual impact on a **prescribed environmental matter** under the *Environmental Offsets Act 2014*?

- ☐ Yes – I acknowledge that an environmental offset must be provided for any prescribed activity assessed as having a significant residual impact on a prescribed environmental matter
- ☒ **No**

**Note:** The environmental offset section of the Queensland Government's website can be accessed at [www.qld.gov.au](http://www.qld.gov.au) for further information on environmental offsets.

### Koala habitat in SEQ Region

23.5) Does this development application involve a material change of use, reconfiguring a lot or operational work which is assessable development under Schedule 10, Part 10 of the Planning Regulation 2017?

- ☐ Yes – the development application involves premises in the koala habitat area in the koala priority area
- ☐ Yes – the development application involves premises in the koala habitat area outside the koala priority area
- ☒ **No**

**Note:** If a koala habitat area determination has been obtained for this premises and is current over the land, it should be provided as part of this development application. See koala habitat area guidance materials at [www.desi.qld.gov.au](http://www.desi.qld.gov.au) for further information.

### **Water resources**

23.6) Does this development application involve **taking or interfering with underground water through an artesian or subartesian bore, taking or interfering with water in a watercourse, lake or spring, or taking overland flow water under the *Water Act 2000***?

☐ Yes – the relevant template is completed and attached to this development application and I acknowledge that a relevant authorisation or licence under the *Water Act 2000* may be required prior to commencing development

☒ **No**

**Note:** Contact the Department of Resources at [www.resources.qld.gov.au](http://www.resources.qld.gov.au) for further information.

DA templates are available from [planning.statedevelopment.qld.gov.au](http://planning.statedevelopment.qld.gov.au). If the development application involves:

- Taking or interfering with underground water through an artesian or subartesian bore: complete DA Form 1 Template 1
- Taking or interfering with water in a watercourse, lake or spring: complete DA Form 1 Template 2
- Taking overland flow water: complete DA Form 1 Template 3.

### **Waterway barrier works**

23.7) Does this application involve **waterway barrier works**?

☐ Yes – the relevant template is completed and attached to this development application

☒ **No**

DA templates are available from [planning.statedevelopment.qld.gov.au](http://planning.statedevelopment.qld.gov.au). For a development application involving waterway barrier works, complete DA Form 1 Template 4.

### **Marine activities**

23.8) Does this development application involve **aquaculture, works within a declared fish habitat area or removal, disturbance or destruction of marine plants**?

☐ Yes – an associated resource allocation authority is attached to this development application, if required under the *Fisheries Act 1994*

☒ **No**

**Note:** See guidance materials at [www.daf.qld.gov.au](http://www.daf.qld.gov.au) for further information.

### **Quarry materials from a watercourse or lake**

23.9) Does this development application involve the **removal of quarry materials from a watercourse or lake under the *Water Act 2000***?

☐ Yes – I acknowledge that a quarry material allocation notice must be obtained prior to commencing development

☒ **No**

**Note:** Contact the Department of Resources at [www.resources.qld.gov.au](http://www.resources.qld.gov.au) and [www.business.qld.gov.au](http://www.business.qld.gov.au) for further information.

### **Quarry materials from land under tidal waters**

23.10) Does this development application involve the **removal of quarry materials from land under tidal water under the *Coastal Protection and Management Act 1995***?

☐ Yes – I acknowledge that a quarry material allocation notice must be obtained prior to commencing development

☒ **No**

**Note:** Contact the Department of Environment, Science and Innovation at [www.desi.qld.gov.au](http://www.desi.qld.gov.au) for further information.

### **Referable dams**

23.11) Does this development application involve a **referable dam** required to be failure impact assessed under section 343 of the *Water Supply (Safety and Reliability) Act 2008* (the *Water Supply Act*)?

☐ Yes – the 'Notice Accepting a Failure Impact Assessment' from the chief executive administering the *Water Supply Act* is attached to this development application

☒ **No**

**Note:** See guidance materials at [www.resources.qld.gov.au](http://www.resources.qld.gov.au) for further information.

### **Tidal work or development within a coastal management district**

23.12) Does this development application involve **tidal work or development in a coastal management district**?

- ☐ Yes – the following is included with this development application:
- ☐ Evidence the proposal meets the code for assessable development that is prescribed tidal work (*only required if application involves prescribed tidal work*)
  - ☐ A certificate of title

☒ **No**

**Note:** See guidance materials at [www.desi.qld.gov.au](http://www.desi.qld.gov.au) for further information.

### **Queensland and local heritage places**

23.13) Does this development application propose development on or adjoining a place entered in the **Queensland heritage register** or on a place entered in a local government's **Local Heritage Register**?

☐ Yes – details of the heritage place are provided in the table below

☒ **No**

**Note:** See guidance materials at [www.desi.qld.gov.au](http://www.desi.qld.gov.au) for information requirements regarding development of Queensland heritage places. For a heritage place that has cultural heritage significance as a local heritage place and a Queensland heritage place, provisions are in place under the Planning Act 2016 that limit a local categorising instrument from including an assessment benchmark about the effect or impact of, development on the stated cultural heritage significance of that place. See guidance materials at [www.planning.statedevelopment.qld.gov.au](http://www.planning.statedevelopment.qld.gov.au) for information regarding assessment of Queensland heritage places.

Name of the heritage place:		Place ID:	
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### **Decision under section 62 of the Transport Infrastructure Act 1994**

23.14) Does this development application involve new or changed access to a state-controlled road?

☐ Yes – this application will be taken to be an application for a decision under section 62 of the *Transport Infrastructure Act 1994* (subject to the conditions in section 75 of the *Transport Infrastructure Act 1994* being satisfied)

☒ **No**

### **Walkable neighbourhoods assessment benchmarks under Schedule 12A of the Planning Regulation**

23.15) Does this development application involve reconfiguring a lot into 2 or more lots in certain residential zones (except rural residential zones), where at least one road is created or extended?

☐ Yes – Schedule 12A is applicable to the development application and the assessment benchmarks contained in schedule 12A have been considered

☒ **No**

**Note:** See guidance materials at [www.planning.statedevelopment.qld.gov.au](http://www.planning.statedevelopment.qld.gov.au) for further information.

## **PART 8 – CHECKLIST AND APPLICANT DECLARATION**

### **24) Development application checklist**

I have identified the assessment manager in question 15 and all relevant referral requirement(s) in question 17	<input type="checkbox"/> Yes
<b>Note:</b> See the Planning Regulation 2017 for referral requirements	
If building work is associated with the proposed development, Parts 4 to 6 of <i>DA Form 2 – Building work details</i> have been completed and attached to this development application	<input type="checkbox"/> Yes <input type="checkbox"/> Not applicable
Supporting information addressing any applicable assessment benchmarks is with the development application	<input type="checkbox"/> Yes
<b>Note:</b> This is a mandatory requirement and includes any relevant templates under question 23, a planning report and any technical reports required by the relevant categorising instruments (e.g. local government planning schemes, State Planning Policy, State Development Assessment Provisions). For further information, see <i>DA Forms Guide: Planning Report Template</i> .	
Relevant plans of the development are attached to this development application	<input type="checkbox"/> Yes
<b>Note:</b> Relevant plans are required to be submitted for all aspects of this development application. For further information, see <i>DA Forms Guide: Relevant plans</i> .	
The portable long service leave levy for QLeave has been paid, or will be paid before a development permit is issued (see 21)	<input type="checkbox"/> Yes <input type="checkbox"/> Not applicable

## 25) Applicant declaration

- ☐ By making this development application, I declare that all information in this development application is true and correct
- ☐ Where an email address is provided in Part 1 of this form, I consent to receive future electronic communications from the assessment manager and any referral agency for the development application where written information is required or permitted pursuant to sections 11 and 12 of the *Electronic Transactions Act 2001*

**Note:** It is unlawful to intentionally provide false or misleading information.

**Privacy** – Personal information collected in this form will be used by the assessment manager and/or chosen assessment manager, any relevant referral agency and/or building certifier (including any professional advisers which may be engaged by those entities) while processing, assessing and deciding the development application. All information relating to this development application may be available for inspection and purchase, and/or published on the assessment manager's and/or referral agency's website.

Personal information will not be disclosed for a purpose unrelated to the *Planning Act 2016*, Planning Regulation 2017 and the DA Rules except where:

- such disclosure is in accordance with the provisions about public access to documents contained in the *Planning Act 2016* and the Planning Regulation 2017, and the access rules made under the *Planning Act 2016* and Planning Regulation 2017; or
- required by other legislation (including the *Right to Information Act 2009*); or
- otherwise required by law.

This information may be stored in relevant databases. The information collected will be retained as required by the *Public Records Act 2002*.

## PART 9 – FOR COMPLETION OF THE ASSESSMENT MANAGER – FOR OFFICE USE ONLY

Date received:  Reference number(s):

### Notification of engagement of alternative assessment manager

Prescribed assessment manager	
Name of chosen assessment manager	
Date chosen assessment manager engaged	
Contact number of chosen assessment manager	
Relevant licence number(s) of chosen assessment manager	

### QLeave notification and payment

**Note:** For completion by assessment manager if applicable

Description of the work	
QLeave project number	
Amount paid (\$)	Date paid (dd/mm/yy)
Date receipted form sighted by assessment manager	
Name of officer who sighted the form	

**Individual owner's consent for making a development application under the *Planning Act 2016***

I, **T W Peterson**

as owner of the premises identified as follows:

**147-149 Port Douglas Road, Port Douglas and described as Lot 193 on RP747071**

consent to the making of a development application under the *Planning Act 2016* by:

**T W Peterson  
c/- Hardy Town Planning and Consulting  
PO Box 1256  
CAIRNS QLD 4870**

on the premises described above for:

**Change Application (Other Change) for a Mobile Food and Drink Vehicle for Development Permit for Material Change of Use for Shopping Centre and Food and Drink Outlet (with no drive-through facility) and Office**



**T W Peterson**  
dated 8/9/25

## **APPENDIX B**

3 December 2021

**Enquiries:** Jenny Elphinstone  
**Our Ref:** MCUC 2021\_4248/1 (Doc ID 1048202)  
**Your Ref:** 21-019/001114

Port Douglas Constructions Pty Ltd (Tte)  
C/- Planning Plus  
PO Box 399  
REDLYNCH QLD 4870

**Email:** [evan@planningplusqld.com.au](mailto:evan@planningplusqld.com.au)

Attention Mr Evan Yelavich

Dear Sir

**Development Application for Material Change of Use for  
Shopping Centre and Food & Drink Outlet)  
At 147-149 Port Douglas Road Port Douglas  
On Land Described as Lot 193 on RP747071**

Please find attached the Decision Notice for the above-mentioned development application.

Please quote Council's application number: MCUC 2021\_4248/1 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9444.

Yours faithfully



**For**  
**Paul Hoyer**  
**Manager Environment & Planning**

cc. State Assessment and Referral Agency (SARA) E: [CairnsSARA@dilgp.qld.gov.au](mailto:CairnsSARA@dilgp.qld.gov.au)  
encl.

- Decision Notice
  - Approved Drawing(s) and/or Document(s)
  - Concurrence Agency Response
  - Reasons for Decision
- Advice For Making Representations and Appeals (Decision Notice)
- Adopted Infrastructure Charges Notice
- Advice For Making Representations and Appeals (Infrastructure Charges)





## Decision Notice

### Approval (with conditions)

*Given under section 63 of the Planning Act 2016*

#### Applicant Details

Name: Port Douglas Constructions Pty Ltd (Tte)  
Postal Address: C/- Planning Plus  
PO Box 399  
Redlynch Qld 4870  
Email: [evan@planningplusqld.com.au](mailto:evan@planningplusqld.com.au)

#### Property Details

Street Address: 147-149 Port Douglas Road Port Douglas  
Real Property Description: Lot 193 on RP747071  
Local Government Area: Douglas Shire Council

#### Details of Proposed Development

Development Permit for Material Change of Use for Shopping Centre, Food & Drink Outlet (with no drive-through facility) and Office.

#### Decision

Date of Decision: 3 December 2021  
Decision Details: Approved (subject to conditions)

#### Approved Drawing(s) and/or Document(s)

The term 'approved drawing(s) and/or document(s) or other similar expressions means the following plans subject to compliance with Condition 3.

Copies of the following plans, specifications and/or drawings are enclosed.

Drawing or Document	Reference	Date
Site Plan	Generally in accordance with Balay Vandyke Building Design, Job 201-803, Drawing 01, Revision E, dated 28 August 2021 and amended as per Condition 3 of the approval.	To be determined.

Drawing or Document	Reference	Date
Floor Plan and Elevations	Generally in accordance with Balay Vandyke Building Design, Job 201-803, Drawing 02, Revision E, dated 28 August 2021 and amended as per Condition 3 of the approval.	To be determined.
Roof and Ceiling Plans	Generally in accordance with Balay Vandyke Building Design, Job 201-803, Drawing 03, Revision E, dated 28 August 2021 and amended as per Condition 3 of the approval.	To be determined.

**Note** – The plans referenced below will require amending in order to comply with conditions of this Decision Notice.

### Assessment Manager Conditions & Advices

#### 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 Commencement of Use, except where specified otherwise in these conditions of approval.

#### Amendment to Design

3. The proposed development must be amended to accommodate the following changes:
  - a. Include the provision of twelve (12) bicycle parking spaces;
  - b. Remove car space No.103 and widen the pavement for the left turning of vehicles from the shared driveway onto the land;
  - c. Replace six (6) standard parking spaces with three (3) "drive-through" parking spaces for Recreational Vehicles and/ or a B86 vehicle with a trailer;
  - d. Remove the car space No.19 and reposition the trolley collection bay and provide a 2.0m wide connecting pedestrian pathway to directly connect the Supermarket forecourt area with a pathway and connection to the pedestrian / cycle pathway on Port Douglas Road;
  - e. Provide minimal directional signage with appropriate landscaping to the new pedestrian entry to Port Douglas Road as required under Condition 3d above.
  - f. Ensure all pedestrian accesses must meet all relevant Australian Standards, Premises Standards and the National Construction Code requirements;
  - g. Provide a covered walkway with a suitably clearance beneath connecting the new and existing shops at the northern part of the site and along the central east-west pedestrian connecting walkway;

- h. Ensure that where the vehicle isles cross the raised pedestrian connecting pedestrian pavements, the pedestrian pavement must be linemarked to indicate that pedestrians have priority over vehicle movements;.
- i. Include lighting to the car parking and pedestrian access paths throughout the site; and
- j. All refuse, solid and recycle waste must be contained in a area that is roofed and bunded and fitted with a bucket trap.

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

#### **Access and Egress**

- 4. All vehicles access and egress to the site must be via Port Douglas Road.

#### **Water Supply and Sewerage Works Internal**

- 5. Undertake the following water supply and sewerage works internal to the subject land:
  - a. A single internal sewer connection to the property is maintained which must be clear of any buildings or structures;
  - b. A single internal water connection is maintained to the property;
  - c. Water supply sub-metering must be designed and installed in accordance with the Queensland Development Code and the Water Supply (Safety and Reliability) Act 2008

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 Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

#### **External Works**

- 6. Undertake the following works external to the land at no cost to Council:
  - a. Construct a 2.0 me wide pathway and associated appropriate splay to connect the site to the footpath / cycle path on the adjacent Port Douglas Road (north side of the road) in accordance with the FNQROC Regional Development Manual. The footpath is to connect to the pedestrian access to the to be provided under Condition 3 above near or utilising the car space No.19 on the submitted pan.

The external works outlined above must be constructed with a suitable approval from the Department of Transport and Main Roads.

Three (3) copies of a plan of the works at A1 size and one (1) copy at A3 size must be endorsed by the Chief Executive Officer prior to commencement of such works. Such work must be constructed in accordance with the endorsed plan to the satisfaction of the Chief Executive Officer prior to Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

Note: the above works are not considered to be creditable or trunk related works in accordance with Section 145 of the *Planning Act 2016*.

#### **Lawful point of discharge.**

- 7. The study must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work with the necessary works being undertaken prior to Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

## **Vehicle Parking**

8. The amount of vehicle parking must be as specified in Council's Planning Scheme which is a minimum of ninety-six (96) spaces including three (3) are disability driver parking spaces and three (3) are suitable "drive-through" spaces for Recreational Vehicles and/or a B86 vehicle with a trailer and twelve (12) bicycle parking spaces. The car parking layout must comply with the Australian Standard AS2890 Parking Facilities – off-street car parking and be constructed in accordance with Austroads and good engineering design. In addition, all parking, driveway and vehicular manoeuvring areas must be imperviously sealed, drained and line marked.

## **Access to rear Car Park**

9. No boom gate, pay machine or any other regulatory device is to be installed to access the car park. The car parking is to be maintained as accessible to all users of the premises including any public users.

## **Landscaped Areas**

10. Landscaped areas adjoining the parking area must be protected by a 150 mm high vertical concrete kerb or similar obstruction. The kerb must be set back from the garden edge sufficiently to prevent vehicular encroachment and damage to plants by vehicles.

All landscaped areas must be fully established prior to the commencement of use and must be maintained thereafter to the satisfaction of the Chief Executive Officer

## **Lighting**

11. All lighting installed upon the premises including car parking areas must be certified by Ergon Energy (or such other suitably qualified person). The vertical illumination at a distance of 1.5 metres outside the boundary of the subject land must not exceed eight (8) lux measured at any level upwards from ground level. The rear car parking area and the driveway must be sufficiently illuminated for all times that the car park area is in use.

All lighting and landscaping requirements are to comply with Council's General Policy Crime Prevention Through Environmental Design (CPTED).

## **Stockpiling and Transportation of Fill Material**

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

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

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

## **Storage of Machinery and Plant**

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

## **Damage to Council Infrastructure**

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

## Construction Signage

16. Prior to the commencement of any construction works associated with the development, a sign detailing the project team must be placed on the road frontage of the site and must be located in a prominent position. The sign must detail the relevant project coordinator for the works being undertaken on the site, and must list the following parties (where relevant) including telephone contacts:
  - a. Architect
  - b. Builder;
  - c. Landscape Architect

## Advices

1. This approval, granted under the provisions of the Planning Act 2016, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the Planning Act 2016.
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 relevant Local Laws and statutory requirements.
4. For future use of the premises as a Centre Activities (Food and drink outlet) note that a Trade Waste Permit is usually required for a pre-treatment device (grease trap).
5. For information relating to the Planning Act 2016 log on to [www.dsdmip.qld.gov.au](http://www.dsdmip.qld.gov.au). To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to [www.douglas.qld.gov.au](http://www.douglas.qld.gov.au).

## Infrastructure Charges Notice

6. A charge levied for the supply of trunk infrastructure is payable to Council towards the provision of trunk infrastructure in accordance with the Infrastructure Charges Notice. The original Infrastructure Charges Notice will be provided under cover of a separate letter.

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

Please note that this Decision Notice and the Infrastructure Charges Notice are stand-alone documents. The Planning Act 2016 confers rights to make representations and appeal in relation to a Decision Notice and an Infrastructure Charges Notice separately.

The amount in the 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.

## Further Development Permits

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

- All Building Work
- All Operational Work

All Plumbing and Drainage Work must only be carried in compliance with the Queensland *Plumbing and Drainage Act 2018*.

## Concurrence Agency Response

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Concurrence Agency	Concurrence Reference	Agency Date	Doc ID
Department of State Development, Manufacturing, Infrastructure and Planning.	2107-23868 SRA	18 October 2021	1043070

**Note** – Concurrence Agency Response is attached. This Concurrence Agency Response maybe amended by agreement with the respective agency.

## Currency Period for the Approval

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This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

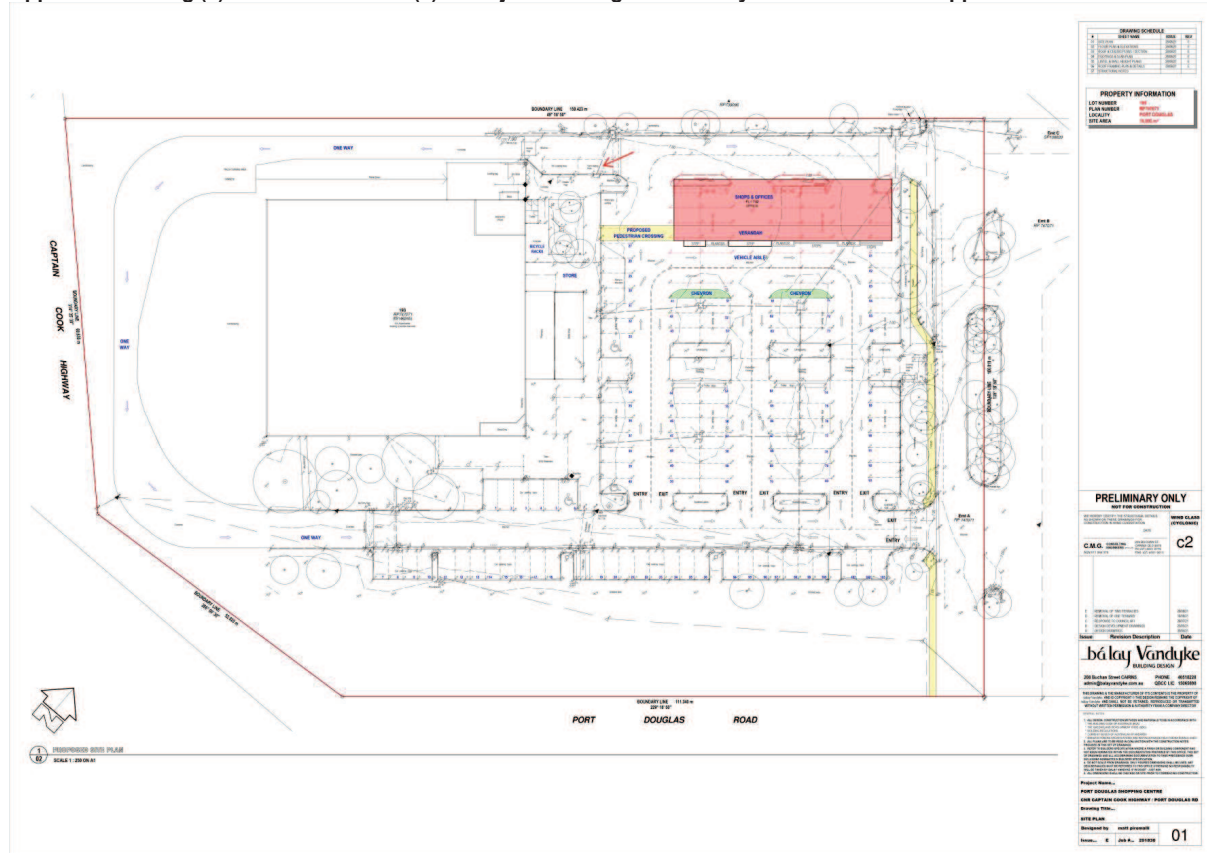
## Rights to make Representations & Rights of Appeal

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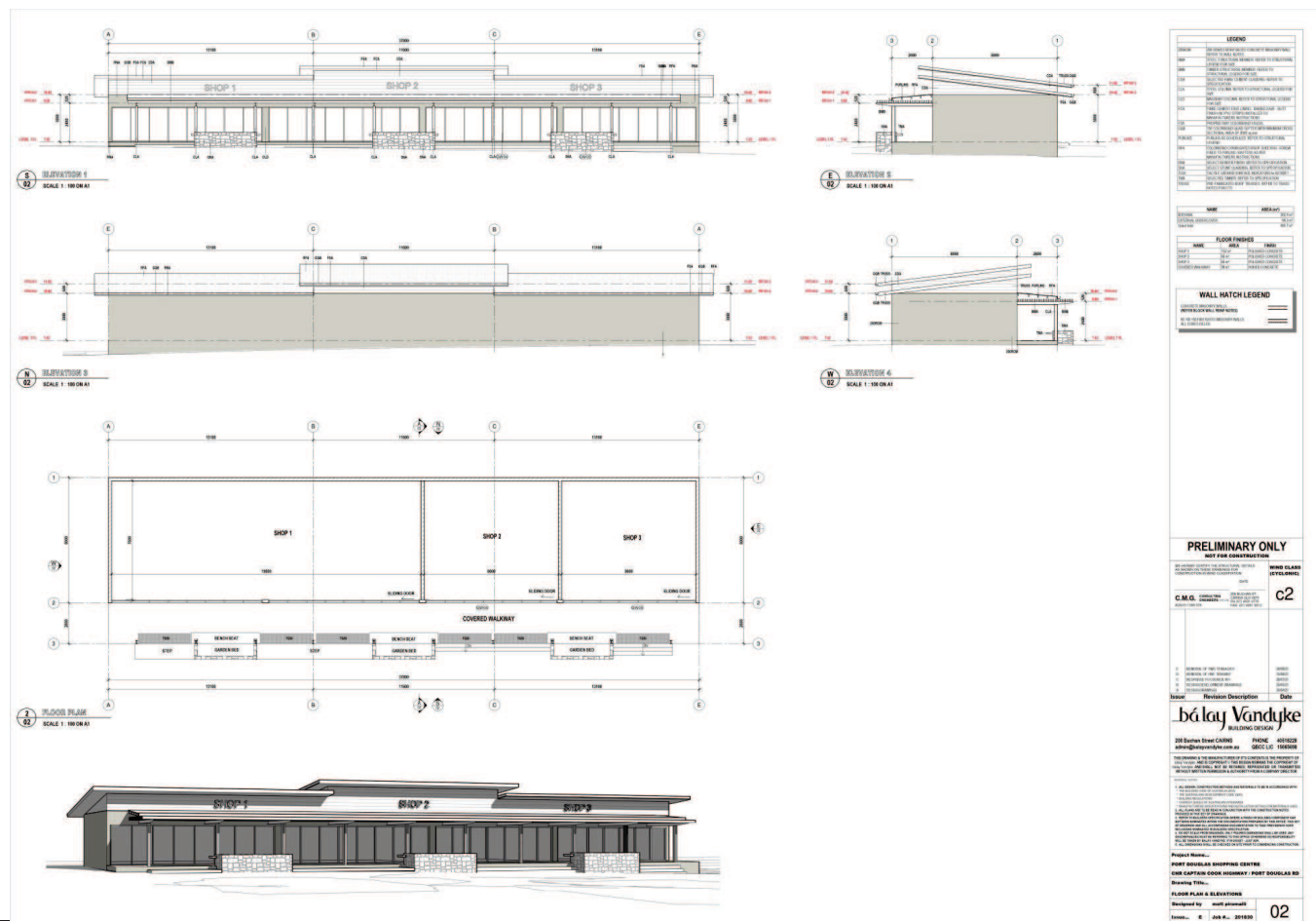
The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

A copy of the relevant appeal provisions is attached.

Approved Drawing (s) and / or Document(s) – Subject to being amended by Condition 3 of the approval.









**A**  
**02** SECTION A  
SCALE 1:50 ON A3

WSP FRONT WINDOW & DOOR SCHEDULE							
#	DESCRIPTION	UNIT	LOCATION	REFERENCE	FRAME MATERIAL	GLAZING FINISH	NOTING
001	GLASS DOOR & FRAME WINDOW CONNECTION	200	DOOR 1	LEVEL 1A	POSSUMPTIVE ALUMINUM	OPAL GLASS	NONE
002	GLASS DOOR & FRAME WINDOW CONNECTION	200	DOOR 2	LEVEL 1A	POSSUMPTIVE ALUMINUM	OPAL GLASS	NONE
003	GLASS DOOR & FRAME WINDOW CONNECTION	200	DOOR 3	LEVEL 1A	POSSUMPTIVE ALUMINUM	OPAL GLASS	NONE

3  
03

4  
02

ROOF PLAN

SCALE 1 : 100 ON A1

5  
02 REFLECTED CEILING PLAN  
SCALE: 1" = 100 ON A1

LEGEND	
ADJECTIVE	USED BEFORE NOUNS TO DESCRIBE QUALITY, QUANTITY, OR POSITION
ADVERB	USED BEFORE VERBS TO MODIFY ACTION OR TO MODIFY ADJECTIVES
CONJUNCTION	USED TO JOIN WORDS, PHRASES, OR SENTENCES
COORDINATE	USED TO JOIN WORDS, PHRASES, OR SENTENCES OF EQUAL IMPORTANCE
PREPOSITION	USED TO SHOW THE RELATIONSHIP BETWEEN A NOUN AND ANOTHER WORD
PRONOUN	USED TO REPLACE A NOUN
RELATIVE	USED TO JOIN A CLAUSE TO A SENTENCE
VERB	USED TO EXPRESS ACTION OR STATE

[illegible]

CEILING BATTENS	
1x6 (12' length)	CONCRETE CEILING BATTENS INSTALLED TO MANUFACTURER'S INSTRUCTIONS
1x6 (12' length)	4x12 (8' length) CEILING BATTENS INSTALLED TO MANUFACTURER'S INSTRUCTIONS
1x6 (12' length)	4x12 (8' length) CEILING BATTENS & DIMENSIONED BATTENS TO MANUFACTURER'S INSTRUCTIONS

**INSULATION / SISALATION**

UNLINED NOTED OTHER USE WITHIN DASHES EATING READY

WADPS COMBUSTIBLE: 100% BONDED BLANKET INSULATION OVER  
ROOF SHEETING OR AERIALS

WADPS COMBUSTIBLE: INSULATION TO EXTERNAL STUD WALLS

**CROSS SECTIONS**

USE PLUMED DIMENSIONS ONLY. DO NOT SCALE.  
SPACINGS OF COMPONENTS SHOWN ON THESE SECTIONS ARE  
INDICATIVE ONLY. THERE SHOULD BE BUT ARE NOT LIMITED TO:  
RAFTERS, MURALS, TRUSSES, FLOOR JOISTS, BLOCKING, COURSES,  
CEILING AND ROOF RAFTERS, ETC.

**PRELIMINARY ONLY**  
NOT FOR CONSTRUCTION

WIND CLASS (EYELOH)  
32

<b>C.M.G. CONSULTING ENGINEERS</b> 100-100 100-100 100-100 100-100		<b>C2</b>
1. RECEIVING OF TENDERS	2000-01	
2. RECEIVING OF TENDERS	2000-01	

Issue	Revision	Description	Date
bálay Vandyke			

208 Buchanan Street CANNES PHONE: 40518228  
adming@bulgawandylke.com.au QBOC LIC 15605698

THE DRAWING AND THE MANUFACTURE OF IT IS THE PROPERTY OF  
BULGAWANDYLKE AND IS CONFIDENTIAL. THE DESIGN REMAINS THE COPYRIGHT OF  
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WITHOUT VIOLATING PERMISSION & AUTHORITY FROM A COMPANY DIRECTOR

GENERAL NOTES

1. ALL DESIGN CONSTRUCTION METHODS AND MATERIALS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF ALABAMA (BCA)
2. THE OVERSIGHT DEVELOPMENT CODE (ODC)
3. BUILDING REGULATIONS
4. CURRENT CODES OF BEST PRACTICES (CIBP)
5. MATERIALS TESTING SPECIFICATIONS AND PERFORMANCE DETAILS FOR MATERIALS CODE
6. ALL PLANS AND TO BE IN ACCORDANCE WITH THE CONSTRUCTION NOTES

PROVIDED IN THE SET OF DRAWINGS:

1. BEFORE COMMENCING ANY CONSTRUCTION, A PHOTO OF EACH JOB COMPONENT (AND ANY SUBSEQUENT REVISIONS) SHALL BE SUBMITTED AND PROVIDED BY THE OFFICE. THIS SET OF DRAWINGS AND ALL ACCOMPANYING DOCUMENTATION TO TAKE PRECEDENCE OVER ANY OTHER DOCUMENTS IN ANY SUBSEQUENT APPLICATION.
2. IT IS NOT TO BE USED FOR ANY OTHER PURPOSE, AND ANY FURTHER IMPROVEMENTS MUST BE MADE AND SUBSEQUENTLY APPROVED BY THE OFFICE. THIS OFFICE CANNOT BE RESPONSIBLE FOR ANY DAMAGE TO THE PROJECT OR ANY OTHER, IF IN EXCESS OF THE SET.
3. ALL DRAWINGS SHALL BE LAYED OUT PRIOR TO COMMENCING CONSTRUCTION.

**Project Manager:**

PORT DOUGLAS SHOPPING CENTRE  
CNR CAPTAIN COOK HIGHWAY / PORT DOUGLAS RD  
Drawing Title:  
ROOF & CEILING PLANS / SECTION

Designed by	mult perwall	03
Issue...	Job #... 201820	

## Concurrence Agency Conditions

RA9-N



SARA reference: 2107-23868 SRA  
Council reference: MCUC2021\_4248/1  
Applicant reference: 21-19/001136

18 October 2021

Chief Executive Officer  
Douglas Shire Council  
PO Box 723  
Mossman Qld 4873  
enquiries@douglas.qld.gov.au

Attention: Jenny Elphinstone

Dear Sir/Madam

### SARA response—147 Port Douglas Road, Port Douglas Extension to Shopping Centre

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 5 August 2021.

#### Response

Outcome:	Referral agency response - No requirements Under section 56(1)(a) of the <i>Planning Act 2016</i> , SARA advises it has no requirements relating to the application.	
Date of response:	18 October 2021	
Conditions:	Nil	
Advice:	Advice to the applicant is in <b>Attachment 1</b> .	
Reasons:	The reasons for the referral agency response are in <b>Attachment 2</b> .	

#### Development details

Description:	Development permit	Material Change of Use for extensions to the existing Shopping Centre, for Shopping Centre, Food and Drink Outlet (with no drive-through facility) and Office.
SARA role:	Referral Agency.	

Page 1 of 5

Far North Queensland regional office  
Ground Floor, Cnr Grafton and Hartley  
Street, Cairns  
PO Box 2358, Cairns QLD 4870

SARA trigger: Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017) – State-controlled road

SARA reference: 2107-23868 SRA

Assessment Manager: Douglas Shire Council

Street address: 147 Port Douglas Road, Port Douglas

Real property description: 193RP747071

Applicant name: Port Douglas Constructions Pty Ltd

Applicant contact details: Planning Plus  
PO Box 399  
Redlynch QLD 4870  
info@planningplusqld.com.au

## Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s. 30 Development Assessment Rules)

Copies of the relevant provisions are in **Attachment 3**.

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

For further information please contact Tony Croke, Principal Planner, on 40373205 or via email CairnsSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Joanne Manson  
A/Manager (Planning)

cc Port Douglas Constructions Pty Ltd, info@planningplusqld.com.au

enc Attachment 1 – Advice to the applicant  
Attachment 2 - Reasons for referral agency response  
Attachment 3 - Representations provisions

## Attachment 1—Advice to the applicant

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General advice	
----------------	--

- |    |   |
|----|---|
| 1. | Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v2.6 effective 7 February 2020. If a word remains undefined it has its ordinary meaning. |
|----|---|



## Attachment 2—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

### The reasons for the department's decision are:

- The proposed development has been revised with a reduced building footprint, down from five (5) tenancies and 355m<sup>2</sup> gross floor area (GFA) to three (3) tenancies and 284m<sup>2</sup> GFA.
- Given the reduced floorspace and retention of the rear ingress/egress via Ribbon Avenue, the proposed development is not considered a significant traffic generator and is unlikely to impact on the function of a state-controlled road intersection or state-controlled road network.
- The site for the proposed development is located approximately 107 metres from Port Douglas Road, a state-controlled road.
- The proposed development will be screened by nature vegetation partly within the subject site and within the state-controlled road corridor.
- The proposed development is not increasing the impervious area of the premises.
- The proposed development will connect to existing stormwater infrastructure which discharges stormwater and drainage flows via Ribbon Avenue, a lawful discharge point.
- No stormwater and drainage run-off flows will be discharged via Port Douglas Road, a state-controlled road.
- The premises have direct vehicle access via Ribbon Avenue, a local council road and via Port Douglas Road, a state-controlled road.
- Port Douglas Road is not a limited access road.
- The proposed development will not require a new or changed access via Port Douglas Road.
- The existing access is improved by a channelized right turn (CHR) and auxiliary left turn (AUL) and complies with the Department of Transport and Main Roads' intersection standards for a shopping centre. This will also ensure that there is no queuing on Port Douglas Road.
- The proposed development will not require additional road works to improve the function and design of the state-controlled road intersection.
- On-site vehicle circulation will be via Ribbon Street, a local council road and Port Douglas Road, a state-controlled road.
- The design of the intersection with a channelized right turn (CHR) and auxiliary left turn (AUL) will adequately accommodate increased traffic generation from the proposed extensions to the existing shopping centre.

### Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version 2.6 effective 7 February 2020), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system

## Reasons for Decision

1. The reasons for this decision are:
  - a. Sections 60, 62 and 63 of the *Planning Act 2016*;
  - b. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
  - c. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
  - a. the development application was properly lodged to the Douglas Shire Council 26 July 2021 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
  - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
  - a. the development triggered assessable development under the Assessment Table associated with the Centre Zone Code;
  - b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
  - c. the applicant's reasons have been considered and the following findings are made:
    - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

## Non-Compliance with Assessment Benchmarks

Through the conditions of the approval the development complies with the planning scheme and no concerns are raised.

## ADOPTED INFRASTRUCTURE CHARGES NOTICE

Port Douglas Constructions Pty Ltd (Tte)		0	0
DEVELOPERS NAME		ESTATE NAME	STAGE
147-149 Port Douglas Road	Port Douglas	L193 RP747071	196
STREET No. & NAME		LOT & RP No.s	PARCEL No.
MCUC Shopping centre & Food and drink outlet		MCUI 2021_4248/1	6
DEVELOPMENT TYPE		COUNCIL FILE NO.	VALIDITY PERIOD (year)
1048215		Payment before the change occurs	
DSC Reference Doc. No.		VERSION No.	
		1	

Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021)

Charge per Use	rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
0					
0					
<b>Proposed Demand</b>					
Commercial (Retail) Shops	m <sup>2</sup> GFA at rate of \$165.54 per m <sup>2</sup>	\$ 165.54	284.00	47,013.36	
<b>Total Demand</b>				<b>47,013.36</b>	
					<b>Code 895 GL 7470.0135.0825</b>

Required Payment or Credit

TOTAL

\$47,013.36

Prepared by	Jenny Elphinstone	10-Nov-21	Amount Paid	
Checked by	Daniel Lamond	10-Nov-21	Date Paid	
Date Payable	MCU - Before the change occurs		Receipt No.	
Amendments		Date	Cashier	

**Note:**

The Infrastructure Charges in this Notice are payable in accordance with Sections 119 and 120 of the *Planning Act 2016* as from Council's resolution from the Ordinary Meeting held on 23 February 2021.

Charge rates under the Policy are subject to indexing.

Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

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

Planning Act 2016  
Chapter 3 Development assessment

[s 74]

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## **Division 2            Changing development approvals**

### **Subdivision 1        Changes during appeal period**

#### **74        What this subdivision is about**

- (1) This subdivision is about changing a development approval before the applicant's appeal period for the approval ends.
- (2) This subdivision also applies to an approval of a change application, other than a change application for a minor change to a development approval.
- (3) For subsection (2), sections 75 and 76 apply—
  - (a) as if a reference in section 75 to a development approval were a reference to an approval of a change application; and
  - (b) as if a reference in the sections to the assessment manager were a reference to the responsible entity; and
  - (c) as if a reference in section 76 to a development application were a reference to a change application; and
  - (d) as if the reference in section 76(3)(b) to section 63(2) and (3) were a reference to section 83(4); and
  - (e) with any other necessary changes.

#### **75        Making change representations**

- (1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
  - (a) a matter in the development approval, other than—
    - (i) a matter stated because of a referral agency's response; or



- (ii) a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
- (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- (3) Only 1 notice may be given.
- (4) If a notice is given, the appeal period is suspended—
  - (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
  - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
    - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
    - (ii) the applicant receives notice that the assessment manager does not agree with the change representations; or
    - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

## **76 Deciding change representations**

- (1) The assessment manager must assess the change representations against and having regard to the matters that

- must be considered when assessing a development application, to the extent those matters are relevant.
- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
- (a) the applicant; and
  - (b) if the assessment manager agrees with any of the change representations—
    - (i) each principal submitter; and
    - (ii) each referral agency; and
    - (iii) if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
    - (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
    - (v) another person prescribed by regulation.
- (3) A decision notice (a *negotiated decision notice*) that states the assessment manager agrees with a change representation must—
- (a) state the nature of the change agreed to; and
  - (b) comply with section 63(2) and (3).
- (4) A negotiated decision notice replaces the decision notice for the development application.
- (5) Only 1 negotiated decision notice may be given.
- (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

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

- (1) Schedule 1 states—
  - (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the *appellant*); and
    - (ii) who is a respondent in an appeal of the matter; and
    - (iii) who is a co-respondent in an appeal of the matter; and
    - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
  - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or



- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
  - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
  - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
  - (iii) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note—*

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
  - (a) the adopted charge itself; or

- (b) for a decision about an offset or refund—
  - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
  - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

### **230 Notice of appeal**

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

- (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
  - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
  - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
  - (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
  - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

## **231 Non-appealable decisions and matters**

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.



(4) In this section—

**decision** includes—

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

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

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

## 232 Rules of the P&E Court

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

Administration Office

64 - 66 Front St Mossman

P 07 4099 9444

F 07 4098 2902

3 December 2021

**Enquiries:** Jenny Elphinstone  
**Our Ref:** MCUC 2021\_4248 (Doc ID 1048202)  
**Your Ref:** 21-019/001114

Port Douglas Constructions Pty Ltd (Tte)  
C/- Planning Plus  
PO Box 399  
REDLYNCH QLD 4870

**Email:** [evan@planningplusqld.com.au](mailto:evan@planningplusqld.com.au)

Attention Mr Evan Yelavich

Dear Sir

**Adopted Infrastructure Charge Notice  
For Development Application Material Change of Use (Shopping Centre and Food & Drink  
Outlet)  
At 147-149 Port Douglas Road PORT DOUGLAS  
On Land Described as LOT: 193 RP: 747071**

Please find attached the Adopted Infrastructure Charges Notice issued in accordance with section 119 of the *Planning Act 2016*.

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

Please also find attached extracts from the Act regarding the following:

- your right to make representations to Council about the Adopted Infrastructure Charges Notice; and
- your Appeal rights with respect to the Adopted Infrastructure Charges Notice.

Please quote Council's application number: MCUC 2021\_4248 in all subsequent correspondence relating to this matter.

Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9444.

Yours faithfully



For

**Paul Hoyer**  
**Manager Environment & Planning**

encl.

- Adopted Infrastructure Charges Notice
- Rights to Make Representations and Appeals Regarding Infrastructure Charges



# Adopted Infrastructure Charges Notice



2018 Douglas Shire Planning Scheme version 1.0 Applications

## ADOPTED INFRASTRUCTURE CHARGES NOTICE

Port Douglas Constructions Pty Ltd (Tte)		0	0
DEVELOPERS NAME		ESTATE NAME	STAGE
147-149 Port Douglas Road	Port Douglas	L193 RP747071	196
STREET No. & NAME		LOT & RP No.s	PARCEL No.
MCUC Shopping centre & Food and drink outlet		MCUI 2021_4248/1	6
DEVELOPMENT TYPE		COUNCIL FILE NO.	VALIDITY PERIOD (year)
1048215	1	Payment before the change occurs	
DSC Reference Doc : No.		VERSION No.	

Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021)

Charge per Use	rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
0					
0					
<b>Proposed Demand</b>					
Commercial (Retail) Shops	m <sup>2</sup> GFA at rate of \$165.54 per m <sup>2</sup>	\$ 165.54	284.00	47,013.36	
<b>Total Demand</b>				<b>47,013.36</b>	
					Code 895 GL 7470.0135.0825

Required Payment or Credit

**TOTAL**

**\$47,013.36**

Prepared by	Jenny Elphinstone	10-Nov-21	Amount Paid	
Checked by	Daniel Lamond	10-Nov-21	Date Paid	
Date Payable	MCU - Before the change occurs		Receipt No.	
Amendments		Date	Cashier	

### Note:

The Infrastructure Charges in this Notice are payable in accordance with Sections 119 and 120 of the *Planning Act 2016* as from Council's resolution from the Ordinary Meeting held on 23 February 2021.

Charge rates under the Policy are subject to indexing.

Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

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

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## **Subdivision 5      Changing charges during relevant appeal period**

### **124      Application of this subdivision**

This subdivision applies to the recipient of an infrastructure charges notice given by a local government.

### **125      Representations about infrastructure charges notice**

- (1) During the appeal period for the infrastructure charges notice, the recipient may make representations to the local government about the infrastructure charges notice.
- (2) The local government must consider the representations.
- (3) If the local government—
  - (a) agrees with a representation; and
  - (b) decides to change the infrastructure charges notice;the local government must, within 10 business days after making the decision, give a new infrastructure charges notice (a *negotiated notice*) to the recipient.
- (4) The local government may give only 1 negotiated notice.
- (5) A negotiated notice—
  - (a) must be in the same form as the infrastructure charges notice; and
  - (b) must state the nature of the changes; and
  - (c) replaces the infrastructure charges notice.
- (6) If the local government does not agree with any of the representations, the local government must, within 10 business days after making the decision, give a decision notice about the decision to the recipient.
- (7) The appeal period for the infrastructure charges notice starts again when the local government gives the decision notice to the recipient.

**126 Suspending relevant appeal period**

- (1) If the recipient needs more time to make representations, the recipient may give a notice suspending the relevant appeal period to the local government.
- (2) The recipient may give only 1 notice.
- (3) If the representations are not made within 20 business days after the notice is given, the balance of the relevant appeal period restarts.
- (4) If representations are made within the 20 business days and the recipient gives the local government a notice withdrawing the notice of suspension, the balance of the relevant appeal period restarts the day after the local government receives the notice of withdrawal.

**Division 3 Development approval conditions about trunk infrastructure**

**Subdivision 1 Conditions for necessary trunk infrastructure**

**127 Application and operation of subdivision**

- (1) This subdivision applies if—
  - (a) trunk infrastructure—
    - (i) has not been provided; or
    - (ii) has been provided but is not adequate; and
  - (b) the trunk infrastructure is or will be located on—
    - (i) premises (the *subject premises*) that are the subject of a development application, whether or not the infrastructure is necessary to service the subject premises; or
    - (ii) other premises, but is necessary to service the subject premises.

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

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

- (1) Schedule 1 states—
  - (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the *appellant*); and
    - (ii) who is a respondent in an appeal of the matter; and
    - (iii) who is a co-respondent in an appeal of the matter; and
    - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
  - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or



- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
  - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
  - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
  - (iii) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note—*

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
  - (a) the adopted charge itself; or

- (b) for a decision about an offset or refund—
  - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
  - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

### **230 Notice of appeal**

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

- (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
  - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
  - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
  - (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
  - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

## **231 Non-appealable decisions and matters**

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.



(4) In this section—

**decision** includes—

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

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

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

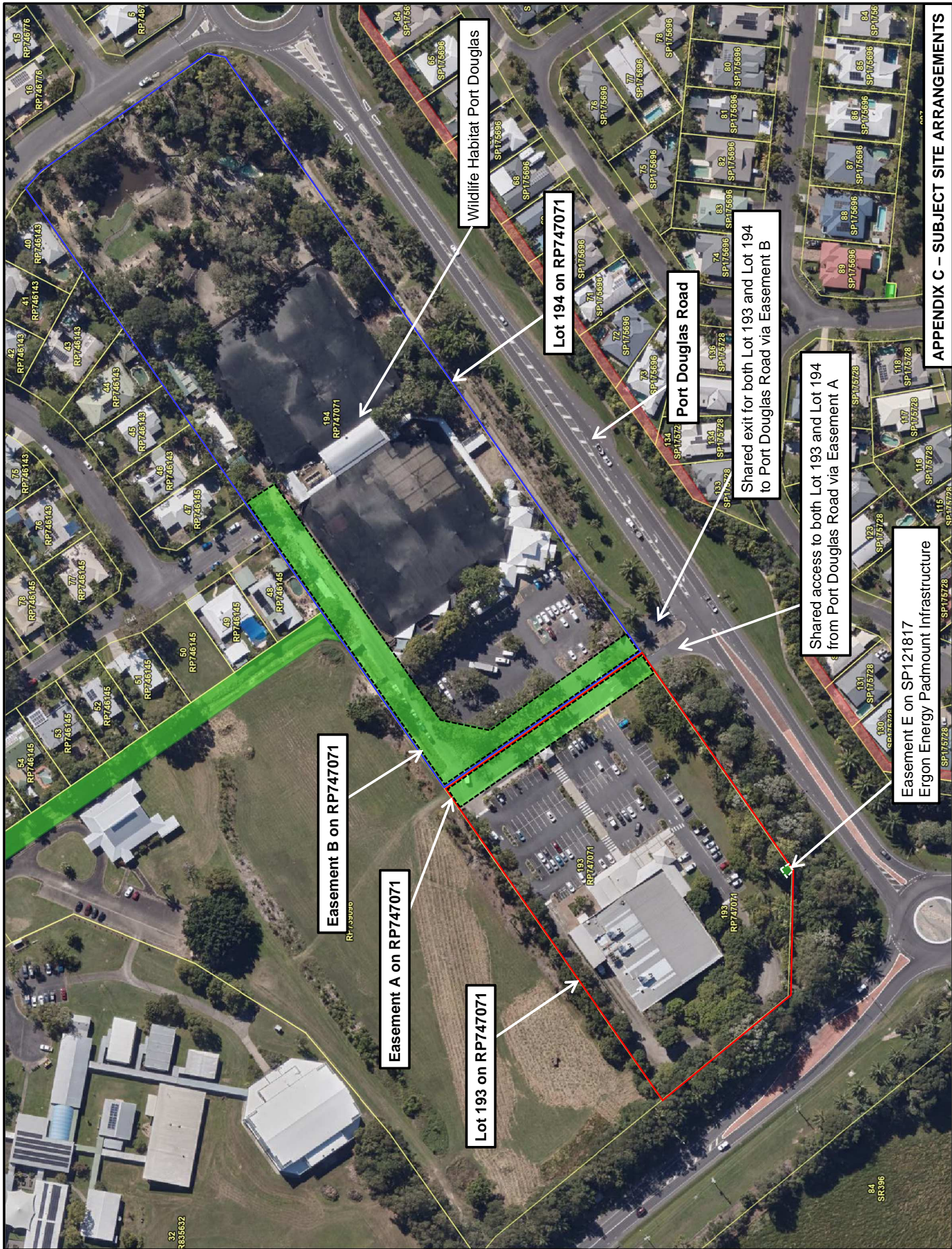
## 232 Rules of the P&E Court

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



## **APPENDIX C**







## **APPENDIX D**



ENQUIRIES: Mr Malcolm Hardy  
DEPARTMENT: Planning Services – (07) 4099 9450

OUR REF: 123150 MRH.sej  
YOUR REF:

99/...

DG Robertson Holdings Pty Ltd  
C/- Cottee Parker Architects  
501 Stanley Street  
SOUTH BRISBANE Q 4101

14 September 1999

Dear Sirs

**RE: DEVELOPMENT APPLICATION DECISION NOTICE –  
MATERIAL CHANGE OF USE OF PREMISES APPLICATION NO. 030/99 –  
SUPERMARKET AND ONE SPECIALTY SHOP ON LOT 193 ON RP 747071 –  
CNR CAPTAIN COOK HIGHWAY & PORT DOUGLAS ROAD, PORT DOUGLAS**

The Development Application No. 030/99 was assessed and approved with Conditions. The decision was made by Douglas Shire Council on 13 September 1999. Engineering plans were received by Council on 10 September 1999, and consequently Conditions relating to engineering matters remain the same as for Decision Permit 028/98 issued by Council on 21 September 1998. The updated engineering plans are being reviewed by Council and appropriate updated engineering Conditions advised shortly.

The following schedule provides all the relevant details.

**1. Referral Agencies** : Department of Main Roads  
PO Box 6185  
CAIRNS Q 4870  
Attention Manager Transport Planning

**2. Conditions of Approval** :

That the applicant and referral agency be advised that Council resolved to issue a Development Permit after the expiry of the appeal period, for a Supermarket and one Specialty Shop on Lot 193 on RP 747071, Parish of Salisbury, located at the corner of Captain Cook Highway and Port Douglas Road, PORT DOUGLAS, subject to the following conditions:

...2/.

## ASSESSMENT MANAGER

1. The approval does not constitute approval of building work or operational work and Development Permits for building work and operational work must be obtained prior to building operations.
2. The Site Plan, Drawing No. DD1001 dated 23 July 1999 and prepared by Cottee Parker Architects Pty Ltd is approved by Council, except for the following amendments to be made prior to building approval:

- (a) a concrete kerb is required at the boundary of the parking area,
- (b) carparking spaces of minimum dimensions 5.4 x 2.4m.

The Elevations, Drawing No DD1002 dated 23 July 1999, Floor Plan Drawing No DD2001 dated 3 August 1999, and Sections Drawing No DD3201 dated August 1999 and prepared by Cottee Parker Architects Pty Ltd are approved plans.

3. All parking and access areas shall be constructed, drained, sealed, marked and maintained to the satisfaction of the Director Engineering Services.
4. Signage indicating the parking area shall be subject to the approval of the Director Engineering Services.
5. The landscaping layout indicated in the drawings titled Landscape Plan - Planting and Irrigation dated 24 August 1999 and prepared by Hortulus Landscape Design, are approved by Council, except for the following amendments to be made prior to building approval:-
  - a) the plant schedule needs to be expanded to provide that trees are planted on the basis of one tree per 1.5m<sup>2</sup> of area to be subject to screen planting;
  - b) the trees to be included in the expanded plant schedule are not to be ground cover, but are to be species that grow from low to medium height; and
  - c) the "viewing window" located on the truncation in the south western corner of the site is to be closed up with plantings in line with (a) and (b) above; and
  - d) no screen plantings are to be ground pruned.
6. Changes to natural surface levels associated with the proposed development are approved by Council.
7. Drainage works from the north eastern corner of the carparking area of the land via the northern boundary of adjoining Lot 194 on RP 747071(The Rainforest Habitat) and thence along the eastern boundary of Lot 4 on RP 739096 (church/ school land), to an existing pit at Endeavour Street in the Reef Park estate, will need to be registered as drainage easements or reserves in Council's favour at no cost to the Council prior to any works being carried out.
8. Water supply and sewerage materials and work may be inspected by the Director Engineering Services.

9. Water supply and sewerage design and construction must be in accordance with Council's "Design and Construction Guidelines for Subdivisional Works."
- 10a). The supply of electricity for the proposed development is required by Council to be underground in order to preserve the amenity of the locality, with all road frontage and on-site electricity supplies to be underground
- 10b). The electricity transmission line that abuts the subject land along the Captain Cook Highway and the intersection truncation frontages, is to be located underground
11. The applicant shall bear the cost of any alterations and additions necessary to public utility mains, services or installations involved in the construction of external works.
12. The applicant shall construct a two (2) metre wide footpath/bikepath within the Captain Cook Highway and Port Douglas Road reserves along the frontage of the land, designed and aligned to link to the existing footpath to the satisfaction of the Director Engineering Services.
13. To guarantee the satisfactory completion of parking, access, loading, landscaping and required external works and to ensure maintenance of landscaping, the applicant shall lodge with Council a Cash Bond or Guarantee to the value of \$50,000, such Guarantee to be in a format considered satisfactory by the Manager Planning Services. The Bond or Guarantee shall be lodged within 14 days of building approval in relation to this Development Permit and the Council may call up the Guarantee to complete all or any part of the works mentioned herein to its satisfaction, should the applicant fail to do so.

## **REFERRAL AGENCY**

### **1. Access**

Access between Lot 193 on RP 747071 and Port Douglas Road shall be via the existing access located on the south-eastern boundary of the subject land and generally in accordance with Drawing No DD1001(A), dated July 1999, and prepared by Cottee Parker Architects Pty Ltd to the satisfaction of the Director General, Department of Main Roads.

No direct access to the Captain Cook Highway nor any additional direct access to Port Douglas Road is permitted.

### **2. Internal Access Arrangements**

The landowner shall ensure:

- that adequate queuing storage is provided and maintained within the subject land such that no part of any vehicle, using the access to the subject development, protrudes into the Port Douglas Road through traffic lands; and
- that internal parking arrangements do not compromise free movement through the site.

to the satisfaction of the Director General, Department of Main Roads.

A traffic engineering report shall be prepared by the landowner. The report shall demonstrate how the proposed internal access arrangements of the subject development conforms with the above requirements.

The landowner shall not request approval of building works for building/s on the subject land until the report demonstrating that the development complies with the above requirements has been submitted to the Cairns office of the Department of Main Roads.

All internal access works identified in the report and required<sup>d</sup> within the subject development shall be completed prior to the landowner requesting approval of building works for building/s on the subject land.

### **3. Parking**

Adequate on-site parking for customers, staff and service vehicles shall be provided to the satisfaction of the Manager Engineering Services, Douglas Shire Council.

No allowance should be made for parking within the State-controlled road reserves (ie Captain Cook Highway or Port Douglas Road).

A sign shall be erected in a suitable location on the Port Douglas Road frontage of the subject land notifying visitors and service vehicles that parking is located on-site, to the satisfaction of the Manager Planning Services, Douglas Shire Council.

### **4. Signage**

No advertising or signage associated with any commercial development of Lot 193 on RP747071 is permitted to be located within either of the State-controlled road reserves (ie Port Douglas Road or Captain Cook Highway).

A note shall be placed on Councils' Rates File reflecting the above requirement.

### **5. Provision for Public Transport**

The landowner shall design the access routes to the retail centre to accommodate both rigid body and articulated buses of all reasonable sizes. The landowner shall provide:

- at least one bus parking bay and at least one taxi parking bay near the main pedestrian entrance to the retail centre; and
  - roofing over these areas for waiting patrons,
- to the satisfaction of the Manager Engineering Services, Douglas Shire Council.

The development shall also be designed to facilitate pedestrian/bicycle access to the subject land to the satisfaction of the Manager Engineering Services, Douglas Shire Council.

**6. Transport-Related Visual Amenity Treatments**

The landowner shall establish and maintain landscaping along the Captain Cook Highway and Port Douglas Road frontages of the subject land, generally as indicated on Hortulus Landscape Design Plan dated August 1999. Such landscape planting shall be completed prior to the commencement of trading.

- |   |   |  |
|---|---|--|
| <b>3. Approval Type</b>   | : | Development Permit   |
| <b>4. Rights of Appeal</b>                                      | : | Attached separate standard forms for Applicant and Referral Agency |
| <b>5. Assessment Manager</b>                                    | : | Douglas Shire Council  |
| <b>6. Compliance with Codes for Self-Assessable Development</b> | : | Not applicable   |
| <b>7. Properly made Submissions</b>                             | : | Not applicable   |

Should you require any further information in relation to this matter, please do not hesitate to contact Mr Lloyd Nolan on telephone 4099 9450.

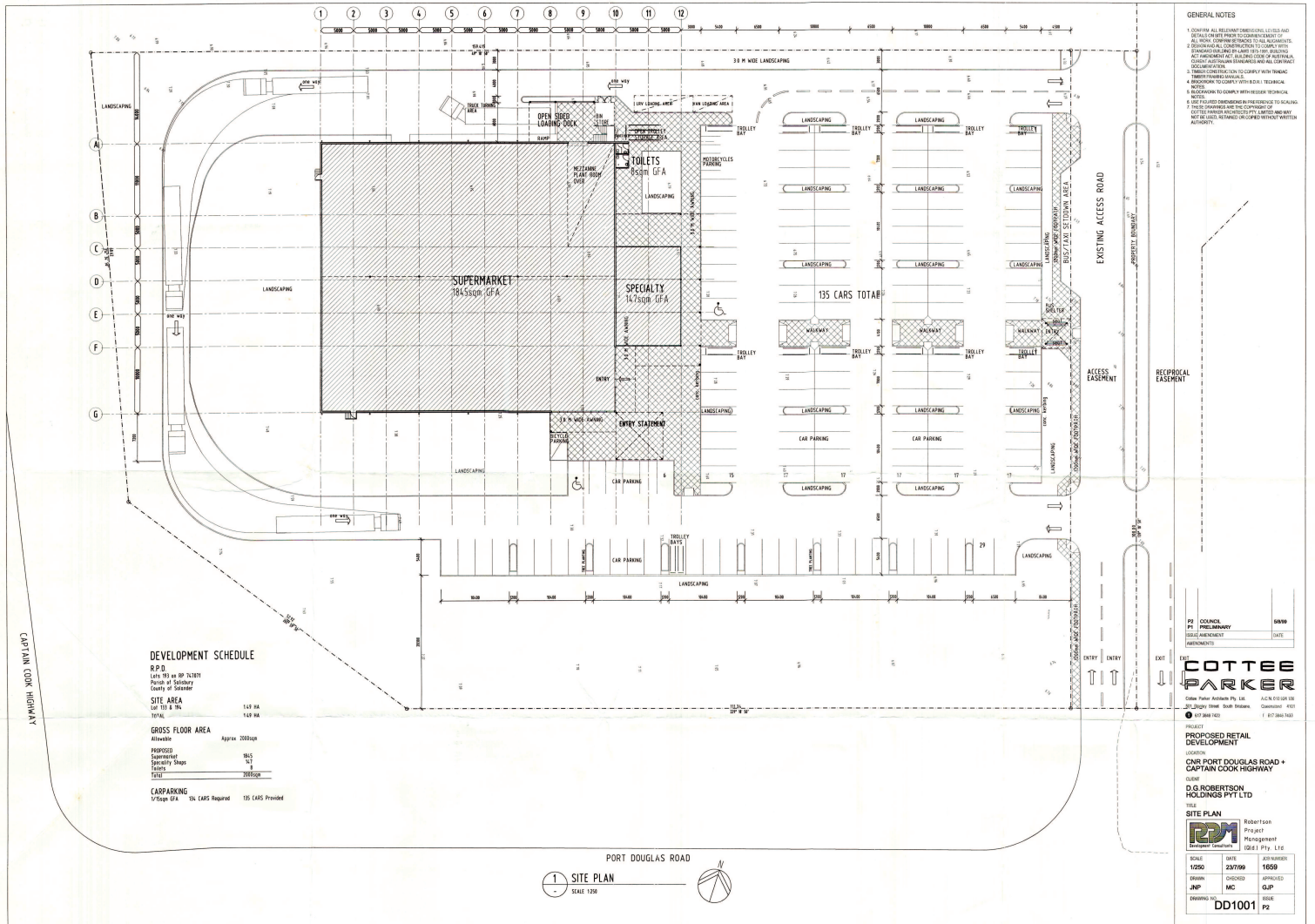
Yours faithfully

*TCM 14.09.99*

TC MELCHERT  
Chief Executive Officer







**GENERAL NOTES**

1. CONFIRM ALL RELEVANT COUNCIL, LOCAL GOVERNMENT AND UTILITIES REQUIREMENTS TO THE DEVELOPMENT.
2. ALL WORKS TO BE COMPLETED IN ACCORDANCE WITH THE LOCAL GOVERNMENT ACT, 2002 AND THE LOCAL GOVERNMENT ACT, 2009.
3. THE DEVELOPMENT IS TO BE COMPLETED IN ACCORDANCE WITH THE LOCAL GOVERNMENT ACT, 2002 AND THE LOCAL GOVERNMENT ACT, 2009.
4. THE DEVELOPMENT IS TO BE COMPLETED IN ACCORDANCE WITH THE LOCAL GOVERNMENT ACT, 2002 AND THE LOCAL GOVERNMENT ACT, 2009.
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12. THE DEVELOPMENT IS TO BE COMPLETED IN ACCORDANCE WITH THE LOCAL GOVERNMENT ACT, 2002 AND THE LOCAL GOVERNMENT ACT, 2009.

**DEVELOPMENT SCHEDULE**

R.P.D.  
Lots 101 to 107  
Port of Douglas  
County of Queensland

**SITE AREA**  
Lot 101 to 107  
TOTAL

**GROSS FLOOR AREA**  
Approx 200,000m²

**CARPARKING**  
1/5000 GFA 10% CARS Required 135 CARS Provided

**COTTEE PARKER**  
COTTEE PARKER ARCHITECTS PTY LTD  
20/21-22/23-24/25-26/27-28/29-30/31-32/33-34/35-36/37-38/39-40/41-42/43-44/45-46/47-48/49-50/51-52/53-54/55-56/57-58/59-60/61-62/63-64/65-66/67-68/69-70/71-72/73-74/75-76/77-78/79-80/81-82/83-84/85-86/87-88/89-90/91-92/93-94/95-96/97-98/99-100/101-102/103-104/105-106/107-108/109-110/111-112/113-114/115-116/117-118/119-120/121-122/123-124/125-126/127-128/129-130/131-132/133-134/135-136/137-138/139-140/141-142/143-144/145-146/147-148/149-150/151-152/153-154/155-156/157-158/159-160/161-162/163-164/165-166/167-168/169-170/171-172/173-174/175-176/177-178/179-180/181-182/183-184/185-186/187-188/189-190/191-192/193-194/195-196/197-198/199-200/201-202/203-204/205-206/207-208/209-210/211-212/213-214/215-216/217-218/219-220/221-222/223-224/225-226/227-228/229-230/231-232/233-234/235-236/237-238/239-240/241-242/243-244/245-246/247-248/249-250/251-252/253-254/255-256/257-258/259-260/261-262/263-264/265-266/267-268/269-270/271-272/273-274/275-276/277-278/279-280/281-282/283-284/285-286/287-288/289-290/291-292/293-294/295-296/297-298/299-300/301-302/303-304/305-306/307-308/309-310/311-312/313-314/315-316/317-318/319-320/321-322/323-324/325-326/327-328/329-330/331-332/333-334/335-336/337-338/339-340/341-342/343-344/345-346/347-348/349-350/351-352/353-354/355-356/357-358/359-360/361-362/363-364/365-366/367-368/369-370/371-372/373-374/375-376/377-378/379-380/381-382/383-384/385-386/387-388/389-390/391-392/393-394/395-396/397-398/399-400/401-402/403-404/405-406/407-408/409-410/411-412/413-414/415-416/417-418/419-420/421-422/423-424/425-426/427-428/429-430/431-432/433-434/435-436/437-438/439-440/441-442/443-444/445-446/447-448/449-450/451-452/453-454/455-456/457-458/459-460/461-462/463-464/465-466/467-468/469-470/471-472/473-474/475-476/477-478/479-480/481-482/483-484/485-486/487-488/489-490/491-492/493-494/495-496/497-498/499-500/501-502/503-504/505-506/507-508/509-510/511-512/513-514/515-516/517-518/519-520/521-522/523-524/525-526/527-528/529-530/531-532/533-534/535-536/537-538/539-540/541-542/543-544/545-546/547-548/549-550/551-552/553-554/555-556/557-558/559-560/561-562/563-564/565-566/567-568/569-570/571-572/573-574/575-576/577-578/579-580/581-582/583-584/585-586/587-588/589-590/591-592/593-594/595-596/597-598/599-600/601-602/603-604/605-606/607-608/609-610/611-612/613-614/615-616/617-618/619-620/621-622/623-624/625-626/627-628/629-630/631-632/633-634/635-636/637-638/639-640/641-642/643-644/645-646/647-648/649-650/651-652/653-654/655-656/657-658/659-660/661-662/663-664/665-666/667-668/669-670/671-672/673-674/675-676/677-678/679-680/681-682/683-684/685-686/687-688/689-690/691-692/693-694/695-696/697-698/699-700/701-702/703-704/705-706/707-708/709-710/711-712/713-714/715-716/717-718/719-720/721-722/723-724/725-726/727-728/729-730/731-732/733-734/735-736/737-738/739-740/741-742/743-744/745-746/747-748/749-750/751-752/753-754/755-756/757-758/759-760/761-762/763-764/765-766/767-768/769-770/771-772/773-774/775-776/777-778/779-780/781-782/783-784/785-786/787-788/789-790/791-792/793-794/795-796/797-798/799-800/801-802/803-804/805-806/807-808/809-810/811-812/813-814/815-816/817-818/819-820/821-822/823-824/825-826/827-828/829-830/831-832/833-834/835-836/837-838/839-840/841-842/843-844/845-846/847-848/849-850/851-852/853-854/855-856/857-858/859-860/861-862/863-864/865-866/867-868/869-870/871-872/873-874/875-876/877-878/879-880/881-882/883-884/885-886/887-888/889-890/891-892/893-894/895-896/897-898/899-900/901-902/903-904/905-906/907-908/909-910/911-912/913-914/915-916/917-918/919-920/921-922/923-924/925-926/927-928/929-930/931-932/933-934/935-936/937-938/939-940/941-942/943-944/945-946/947-948/949-950/951-952/953-954/955-956/957-958/959-960/961-962/963-964/965-966/967-968/969-970/971-972/973-974/975-976/977-978/979-980/981-982/983-984/985-986/987-988/989-990/991-992/993-994/995-996/997-998/999-1000/1001-1002/1003-1004/1005-1006/1007-1008/1009-1010/1011-1012/1013-1014/1015-1016/1017-1018/1019-1020/1021-1022/1023-1024/1025-1026/1027-1028/1029-1030/1031-1032/1033-1034/1035-1036/1037-1038/1039-1040/1041-1042/1043-1044/1045-1046/1047-1048/1049-1050/1051-1052/1053-1054/1055-1056/1057-1058/1059-1060/1061-1062/1063-1064/1065-1066/1067-1068/1069-1070/1071-1072/1073-1074/1075-1076/1077-1078/1079-1080/1081-1082/1083-1084/1085-1086/1087-1088/1089-1090/1091-1092/1093-1094/1095-1096/1097-1098/1099-1100/1101-1102/1103-1104/1105-1106/1107-1108/1109-1110/1111-1112/1113-1114/1115-1116/1117-1118/1119-1120/1121-1122/1123-1124/1125-1126/1127-1128/1129-1130/1131-1132/1133-1134/1135-1136/1137-1138/1139-1140/1141-1142/1143-1144/1145-1146/1147-1148/1149-1150/1151-1152/1153-1154/1155-1156/1157-1158/1159-1160/1161-1162/1163-1164/1165-1166/1167-1168/1169-1170/1171-1172/1173-1174/1175-1176/1177-1178/1179-1180/1181-1182/1183-1184/1185-1186/1187-1188/1189-1190/1191-1192/1193-1194/1195-1196/1197-1198/1199-1200/1201-1202/1203-1204/1205-1206/1207-1208/1209-1210/1211-1212/1213-1214/1215-1216/1217-1218/1219-1220/1221-1222/1223-1224/1225-1226/1227-1228/1229-1230/1231-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#### GENERAL NOTES

1. CONFIRM ALL RELEVANT DIMENSIONS, LEVELS AND ALL BUILDING CODES PRIOR TO COMMENCEMENT OF ALL WORK. OBTAIN ALL NECESSARY PERMITS AND APPROVALS PRIOR TO COMMENCEMENT OF ALL WORK. OBTAIN ALL NECESSARY PERMITS AND APPROVALS PRIOR TO COMMENCEMENT OF ALL WORK.
2. THESE DRAWINGS ARE THE PROPERTY OF COTTEE PARKER ARCHITECTS PTY LTD. AND ARE NOT TO BE REPRODUCED OR COPIED WITHOUT WRITTEN AUTHORITY.
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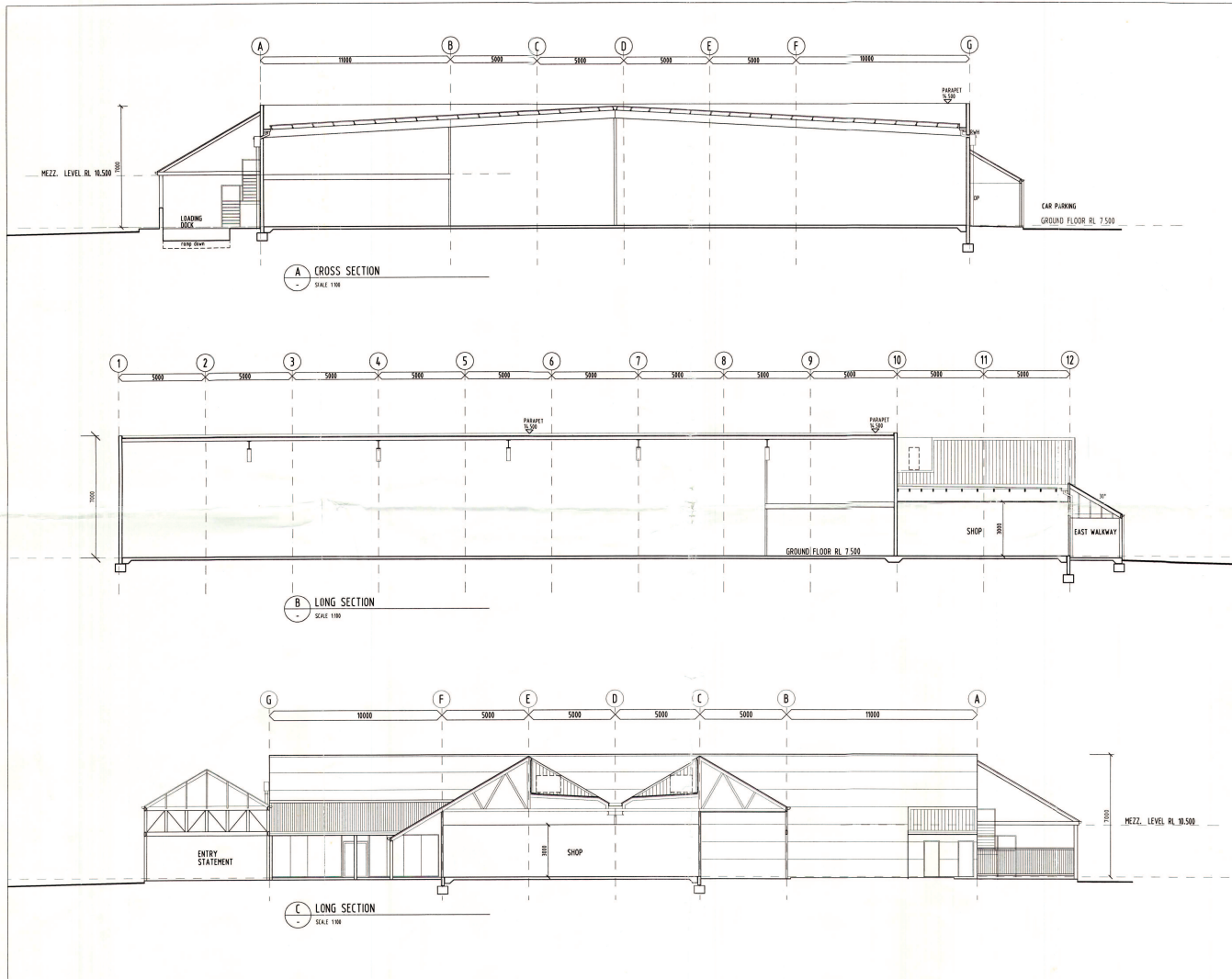
P2 COUNCIL  
P1 PRELIMINARY  
P3 DRAFT  
P4 FINAL  
P5 AS BUILT

COTTEE  
PARKER  
ARCHITECTS PTY LTD  
100/102 SOUTH BRIDGE ROAD  
SYDNEY NSW 2000  
T: 02 9550 1000  
F: 02 9550 1001

PROPOSED RETAIL  
DEVELOPMENT  
LOCATION  
CNR PORT DOUGLAS ROAD +  
CAPTAIN COOK HIGHWAY  
CLIENT  
D.G. ROBERTSON  
HOLDINGS PTY LTD

TITLE  
ELEVATIONS  
DESIGNED BY  
COTTEE PARKER  
ARCHITECTS PTY LTD  
DATE  
23/07/09  
JOB NUMBER  
1559  
SCALE  
1:100  
DRAWN BY  
JNP  
CHECKED BY  
MC  
APPROVED BY  
CLP  
DATE  
P2  
DD1002





**GENERAL NOTES**

1. CONFIRM ALL RELEVANT DIMENSIONAL LEVELS AND DETAILS ON SITE PRIOR TO COMMENCEMENT OF ALL WORK. CLARIFY DETAIL TO ALL ALIGNMENTS.
2. EXISTING AND ALL CONSTRUCTION TO COMPLY WITH ALL APPLICABLE STANDARDS AND REGULATIONS.
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12. EXISTING AND ALL CONSTRUCTION TO COMPLY WITH ALL APPLICABLE STANDARDS AND REGULATIONS.

**A** COUNCIL APPLICATION 10/09/09  
DATE 10/09/09

**COTTEE PARKER**

Cottee Parker Architects Pty Ltd  
101 Shirley Street, South Brisbane, Queensland 4101  
07 337 0000 FAX 07 337 0001

**PROPOSED RETAIL DEVELOPMENT**

**LOCATION**  
CNR PORT DOUGLAS ROAD + CAPTAIN COOK HIGHWAY

**CLIENT**  
D.J. ROBERTSON HOLDINGS PTY LTD

**SECTIONS**

SCALE	DATE	JOB NUMBER
1/80	09/09	1650
DRAWN	CHECKED	APPROVED
JNP		
DESIGNED BY	DATE	
DD3201	A	

Robertson Project Management (Pty) Ltd.





ENQUIRIES: Mr Malcolm Hardy  
DEPARTMENT: Planning Services – (07) 4099 9450

OUR REF: 123150 MRH.sej

YOUR REF:

99/...

Doug Robertson  
DG Robertson Holdings Pty Ltd  
Level 6, 400 Queen Street  
BRISBANE Q 4000

17 December 1999

Dear Sir

**RE: REQUEST TO CHANGE AND CANCEL CONDITIONS OF DEVELOPMENT PERMIT  
NO. 030/99 – SUPERMARKET AND ONE SPECIALTY SHOP ON LOT 193 ON RP 747071 –  
CNR CAPTAIN COOK HIGHWAY & PORT DOUGLAS ROAD, PORT DOUGLAS**

I refer to the abovementioned request in your letter of 9 December 1999 to Council, made under section 3.5.33 of the Integrated Planning Act.

I advise you that your request was considered by Council on 15 December 1999. Council resolved to amend Condition 5 to the following:

5. The landscaping layout indicated in the drawings titled Landscape Plan – Planting dated 6 December 1999 and titled Landscape Plan – Irrigation dated 24 August 1999 and prepared by Hortulus Landscape Design, are approved by Council, except for the following amendments to be made prior to building approval:-
- (a) the plant schedule needs to be expanded to provide trees planted on the basis of one tree per 1.5m<sup>2</sup> of area to be subject to screen planting, and the screen planting areas along the Captain Cook Highway and Port Douglas Road frontages of the land be an average of 4m wide, and a minimum width of 3m,
  - (b) the trees to be included in the expanded plant schedule are not to be ground cover, but are to be species that grow from low to medium height;
  - (c) the "viewing window" located at the truncation in the south western corner of the site is to be closed up with plantings in line with (a) and (b) above; and
  - (d) no screen plantings are to be ground pruned.

Council resolved to retain Conditions 10b) and 12 in the Development Permit

Council resolved to retain and amend Condition 13 to the following:

...2/.



- 2 -

13. To guarantee the satisfactory completion of parking, access, loading, landscaping and required external works and to ensure maintenance of landscaping **to reach the required stage of screening**, the applicant shall lodge with Council a Cash Bond or Guarantee to the value of \$50,000, such Guarantee to be in a format considered satisfactory by the Manager Planning Services. The Bond or Guarantee shall be lodged within 14 days of Building Approval in relation to this Development Permit and the Council may call up the Guarantee to complete all or any part of the works mentioned herein to its satisfaction, should the applicant fail to do so. **At the completion of each of the works mentioned, a proportion of the Bond or Guarantee which relates to the completed works shall be released by Council.**

Should you require any further information in relation to this matter, please contact Council's Senior Planning Officer Malcolm Hardy on telephone 4099 9450.

Yours faithfully

 TC MELCHERT  
Chief Executive Officer

Copy to Manager Transport Planning  
PO Box 6185  
Department of Main Roads  
CAIRNS Q 4870

In the Planning and Environment Court  
Registry: Brisbane

Appeal No. 5113 of 1999  
Between:  
D G ROBERTSON  
HOLDINGS  
PTY LTD ACN 010 515  
769

Appellant

And

DOUGLAS SHIRE  
COUNCIL

Respondent

#### NOTICE OF APPEAL

Take notice that DG Robertson Holdings Pty Ltd ACN 010 515 769 of care of Barker Gosling, Solicitors, Level 4, 307 Queen Street, Brisbane in the State of Queensland hereby appeals to the Planning and Environment Court at its next sittings against the decision of the Respondent on a request to change or cancel conditions of a development approval whereby Council resolved to:

(a) amend condition 5 to the following:

"5. The landscaping layout indicated in the drawings titled Landscape Plan -

Planting dated 6 December 1999 and titled Landscape Plan - Irrigation dated 24 August 1999 and prepared by Hortulus Landscape Design, are approved by Council, except for the following amendments to be made prior to building approval:-

(a) the plant schedule needs to be expanded to provide trees planted on the basis of one tree per 1.5m<sup>2</sup> of area to be subject to screen planting, and the screen planting areas along the

## 2.

Captain Cook Highway and Port Douglas Road frontages of the land be an average of 4m wide, and a minimum wide of 3m,

- (b) the trees to be included in the expanded plant schedule are not to be ground cover, but are to be species that grow from low to medium height;
- (c) the "viewing window" located at the truncation in the south western corner of the side is to be closed up with plantings in line with (a) and (b) above; and
- (d) no screen plantings are to be ground pruned."

(b) Retain conditions 10(b) and 12 in the development permit.

(c) Retain and amend condition 13 to the following:

"13. To guarantee and satisfactory completion of parking, access, loading, landscaping and required external works and to ensure maintenance of landscaping to reach the required stage of screening, the applicant shall lodge with Council a Cash Bond or Guarantee to the value of \$50,000, such Guarantee to be in a format considered satisfactory by the Manager Planning Services. The Bond or Guarantee shall be lodged within 14 days of Building Approval in relation to this Development Permit and the Council may call up the Guarantee to complete all or any part of the works mentioned herein to its satisfaction, should the applicant fail to do so. At the completion of each of the works mentioned, proportion of the Bond or Guarantee which relates to the completed works shall be released by

3.

Council."

and in lieu thereof seeks the following orders or judgment:

1. that the appeal be allowed;
2. that the changes and/or cancellations of conditions sought by the Applicant be approved;
3. any other necessary order.

**PARTICULARS OF THE DECISION THE SUBJECT OF THE APPEAL**

The street address of the relevant land is Corner Captain Cook Highway and Port Douglas Road, Port Douglas, Queensland.

The real property description is Lot 193 on Registered Plan 747001.

The decision appealed was made by Douglas Shire Council on 15 December 1999 upon the following application:

Application made by DG Robertson Holdings Pty Ltd on or about 9 December 1999 for cancellation and/or change of conditions imposed on an approval dated 14 September 1999 under Part 8.0 of the Planning Scheme of the Respondent.

The appeal is against the whole of the decision.

**PARTICULARS OF THE APPELLANT**

Name: DG ROBERTSON HOLDINGS PTY LTD ACN 010 515 769

Address: care of Barker Gosling, Solicitors, Level 4, 307 Queen Street,  
Brisbane, Queensland.

4.

Solicitor's name and firm name: Lesley King, Barker Gosling


Solicitor's business address: Level 4, 307 Queen Street, Brisbane,  
Queensland.

Address for service: Level 4, 307 Queen Street, Brisbane,  
Queensland.

Telephone: 07 3258 1200

Facsimile: 07 3258 1211

Email address: lking@qld.bglaw.com.au

..........  
Barker Gosling

Solicitors for the Appellant

Dated:

To the Respondent: Douglas Shire Council  
of 64-66 Front Street, Mossman

If you intend to contest this appeal you should file an Entry of Appearance in  
the Court within 10 days of you being served.

It is intended to effect service of this Notice of Appeal on:

The Respondent  
Chief Executive Officer  
Douglas Shire Council  
64-66 Front Street  
MOSSMAN QLD 4873



**WAYNE L. COCHRANE**  
Barrister-at-Law

ABN: 91 049 105 954

7th Level, Inns of Court  
107 North Quay  
BRISBANE Q 4000

DX 907  
BRISBANE UPTOWN

Telephone: (07) 3236 1575  
Mobile: 0419 798 164  
Facsimile: (07) 3236 3037  
(07) 3211 2850  
email: waynec@gil.com.au

**FACSIMILE TRANSMISSION SHEET**

DATE: 29 June, 2000

TO: Robyn Spiller  
Williams Graham & Carman

FAX NO: 4031 3146

FROM: Wayne Cochrane

NO. OF PAGES: 19 (incl. this one)

MATTER:

**MESSAGE:**

Herewith judgement delivered this morning.

With compliments

**WAYNE COCHRANE**  
Chambers

---

Should you experience any difficulties with this transmission, please contact the sender.

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## PLANNING AND ENVIRONMENT COURT OF QUEENSLAND

CITATION: *D G Robertson Holdings Pty Ltd v Douglas Shire Council*  
PARTIES: **D G ROBERTSON HOLDINGS PTY LTD**  
**ACN 010 515 769** Appellant  
And  
**DOUGLAS SHIRE COUNCIL** Respondent  
FILE NO/S: 5116 of 1999  
DIVISION: Planning and Environment Court  
PROCEEDING:  
ORIGINATING  
COURT:  
DELIVERED ON: 28<sup>th</sup> June 2000  
DELIVERED AT: Brisbane  
HEARING DATE:  
JUDGE: Quirk  
ORDER:  
CATCHWORDS:  
COUNSEL:  
SOLICITORS:

- [1] This Appeal relates to certain conditions imposed upon a development approval for land at the corner of Port Douglas Road and the Captain Cook Highway. The land occupies an area of 1.49 hectares and is part of a larger parcel which was, in 1986, included in "Special Facilities" zoning. The plan of development which was part of that zoning approval was before the court.
- [2] In the current town planning scheme which was gazetted in 1996, the subject land was included in an "Special Facilities (Information Centre, tea rooms, shopping centre and speciality shops with a gross floor area of 2,000 square metres) zone.

- [3] The approved development is consistent with that zoning being for a supermarket and one speciality shop. The layout can be seen from material placed before the court and, for the purposes of deciding the appeal, it is not necessary to go into any detail about it.
- [4] It is accepted that the application made for approval of this development required for a "Code Assessment" which was done. A number of conditions of approval were imposed. Although no appeal was lodged initially against the imposition of these conditions, the applicant made a subsequent application to change and/or cancel certain of those conditions under section 3.5.33 of the *Integrated Planning Act*.
- [5] This appeal is against part of the Council's response to that application and is in respect of only some of the conditions of approval. I will deal with each of these in turn.

Landscaping

- [6] The first of the disputed conditions relates to landscaping. The condition, which the Council declined to modify is as follows:

"5. The landscaping layout indicated in the drawings titled Landscape Plan-Planting dated 6 December 1999 and titled Landscape Plan – Irrigation dated 24 August 1999 and prepared by Hortulus Landscape Design, are approved by Council, except for the following amendments to be made prior to building approval:-

- (a) the plant schedule needs to be expended to provide trees planted on the basis of one tree per 1.5m<sup>2</sup> of area to be subject to screen planting, and the screen planting areas along the Captain Cook Highway and Port Douglas Road frontages of the land be an average of 4m wide, and a minimum width of 3m;
- (b) the trees to be included in the expanded plant schedule are not to be ground cover, but are to be species that grow from low to medium height;
- (c) the "viewing window" located at the truncation in the south western corner of the side is to be closed up with plantings in line with (a) and (b) above; and
- (d) no screen plantings are to be ground pruned."

[7] The importance of proper landscaping of development at this corner (a significant entry point to the town) is not in question. The need to provide such landscaping is identified in the original plan of development. Revised landscaping plans have been prepared on the appellant's behalf and have been accepted by the council. An elaborate irrigation system has been designed and, as the project is nearing completion, is (as I understand the evidence) in place. Mr Pike, the council officer responsible for these matters gave evidence of his satisfaction with the approved landscaping plan prepared by Lenny's Landscaping which was before the court as Exhibit 5.

[8] The controversy in respect of this condition appeared to diminish as the evidence unfolded. The appellant's town planning consultant, Mr McInnes, was concerned at information he had of council's possible intention to extensively landscape within the road reserve at the intersection. This, he feared, could lead to an unnecessary and unprofitable "doubling up" of landscaping effort. Although such an idea appears to have been floated at one point, the evidence does not show that it went any further than that. The reality appears to be that, with the results of the

landscaping contemplated by this condition, additional work by the council would not be called for.

- [9] There was concern about sub-paragraph (a) of the condition. The accepted plan does not appear to indicate a result which would achieve an average landscaping depth of 4m. An average of 3m would be more in keeping with what is shown. The appellant accepts this. The accepted plan also deals with the matters raised in sub-paragraphs (b) and (c). I see no reason to depart from it.
- [10] A final matter arose in respect of sub-paragraph (d). The rather absolute wording of which seemed to stand in the way of routine pruning which the vegetation's well-being might call for. I understand concerns that the intended screening effect of the planned landscaping should not be reduced by indiscriminate pruning, but the condition might be worded better.
- [11] I find that condition 5 should be amended to read:

"5. The landscaping layout indicated in the drawings and before the court as Exhibit 5. The landscaping is to be maintained in accordance with that shown in the plan. Although such pruning as is required to properly maintain the landscaping may be carried out, its screening effect shall not be thereby diminished particularly in respect of foliage capable of being ground pruned."

Underground electricity lines.

- [12] The second of the disputed conditions related to the location underground of electricity supply. The condition imposed was in these terms:

"10(a) The supply of electricity for the proposed development is required by Council to be underground in order to preserve the amenity of the locality, with all road frontage and on-site electricity supplies to be underground



10(b) The electricity transmission line that abuts the subject land along the Captain Cook Highway and the intersection truncation frontages, is to be located underground."

- [13] Sub-paragraph (a) is not contentious and indeed the work has been done. All electricity lines within the site are underground. The dispute is in respect of sub-paragraph (b) which calls for the location underground of a section of high voltage line external to the site and across its frontage. Its location is shown in a plan amended to the statement of Mr Bowes (Exhibit 6). It is that section of the line which runs between pole R8 and pole R10.
- [14] With modern development standards underground location of electricity lines is the norm rather than the exception. The reasons for this are both aesthetic and functional and were explained in evidence in the appeal without any real disagreement about the matter. Evidence was given that the council has consistently sought this with a new development and there is reference to such a requirement in the town planning scheme.
- [15] In dealing with matters of this kind conditions imposed must be consistent with the provisions of section 3.5.30 of the Integrated Planning Act which require that:
- "(1) a condition must -
    - (a) be relevant to, but not an unreasonable imposition on, the development; or
    - (b) be reasonably required in respect of the development.
  - (2) Sub-section (1) applies despite the laws that are administered by, and the policies that are reasonably identifiable as policies applied by, an assessment manager or concurrence agency."

- [16] Essentially the appellant's case is that, however worthy might be the objective of locating underground electricity lines in the Port Douglas area, it is not a reasonable imposition upon the approval of this development to require the underground location of lines external to the site. These are more part of the general electricity reticulation system than being specific to the use of this site.
- [17] On the other hand, it cannot be disputed that the supply of electricity to the site necessarily involves a reticulation system external to the site. The fact that the section of line with which we are concerned may also carry electricity to other sites does not alter this. It cannot therefore be said that the presence of the reticulated system along the site's frontage is irrelevant to the proposed use.
- [18] The importance of the visual appearance of this site in a developed state had already been emphasised. If overhead lines are to remain in place in this position the benefits of underground location within the site and the considerable landscaping effort that is intended would, in my view of the evidence, be substantially eroded. I am satisfied that the location underground of this section of the overhead line is relevant to and not an unreasonable imposition upon the development of the subject land which will settle, to a large extent, the future appearance of this important corner.
- [19] I would not rule out this condition.

Footpath/bikeway

- [20] The third condition in dispute related to the provision along the frontage of the land of a combined footpath and bikeway. The terms of the condition are:

"12. The applicant shall construct a two (2) metre wide footpath/bikeway within the Captain Cook Highway and Port Douglas Road reserves along the frontage of the land, designed and aligned to link to the existing footpath to the satisfaction of the Director Engineering Services."

- [21] Mr McInnes was concerned that such a footpath/bikeway would be "going nowhere" as it would be unlikely that cyclists would wish to move beyond Port Douglas Road into the Captain Cook Highway which he saw as a relatively hostile environment for bicycle riders. He pointed out that the main hirer of cycles in the town required, as a term of any agreement with its customers, that cycles not be taken onto the highway.

- [22] Mr Hardy, the council's town planner, painted a somewhat different picture. His evidence was that bicycles are widely used in Port Douglas and nearby centres which included the town of Mossman. He said that cyclists did move between the two towns and that this has been recognised in a Shire Bikeway Strategy prepared by consultants Maunsell McIntyre and adopted on 28 July 1999.

- [23] In the strategy a link between Port Douglas and Mossman was identified as a "future strategic link" (section 5.7). The study believes that a transport corridor including "a valuable bikeway link" be provided and goes on to show a proposed bikeway network to be implemented as growth and development occurs. One

section of this network passes along Port Douglas Road in front of the subject land and meets another section passing along the highway.

- [24] The probability appears to be that among those attracted to the development will be cyclists. That the development should provide (along its frontage) a section of an overall network from which it will draw benefit is not, in my view, unreasonable.

- [25] I would not rule out this condition.

#### Bonding

- [26] The last of the disputed conditions relates to bonding. It provides:

"13. The guarantee and satisfactory completion of parking, access, loading, landscaping and required external works and to ensure maintenance of landscaping to reach the required stage of screening, the applicant shall lodge with /council a Cash Bond or Guarantee to the value of \$50,000 such Guarantee to be in a format considered satisfactory by the Manager Planning Services. The Bond or Guarantee shall be lodged within 14 days of Building Approval in relation to this Development Permit and the Council may call up the Guarantee to complete all or any part of the works mentioned herein to its satisfaction, should the applicant fail to do so. At the completion of each of the works mentioned, proportion of the Bond or Guarantee which relates to the completed works shall be released by Council."

- [27] The initial concern was that this condition (in an earlier draft) did not contain a "sunset provision" ie., it did not make clear when the bonding would be released. A revision of the wording of the condition has made matters clearer and the breakup of the elements of the works (and the bonding attributable to those elements) has been given. As I understand the evidence the bulk of the works has been completed and bonding in respect of those matters will soon be released.

- [28] Further clarification in respect of landscape maintenance is called for. It is now accepted that the maintenance period for completed landscape works should be 12 months. That part of the bond which should be attributed to all landscaping matters was \$15,000. There was no direct evidence as to how this should be apportioned but I was informed that the total landscaping bill will be in the order of 6 figures. It is appreciated that once the landscaping (and irrigation) is established, the likelihood of the council's having to resort to the bond is not great. Doing the best I can I will rule that the condition should provide that:

"The Bonding referred to in the condition will contain an element of \$7,500 for landscaping maintenance which will be released after a period of 12 months if the landscaping is satisfactorily maintained during that time."

- [29] Accordingly the appeal should be allowed on the limited basis that conditions 5 and 13 be amended as indicated in this judgment. Perhaps a draft order to give effect to this could be submitted to me for initialling.



## **APPENDIX E**

DRAWING SCHEDULE			
NO.	DESCRIPTION	DATE	BY
1	PRELIMINARY SITE PLAN	15/09/2025	BA
2	PROPOSED SITE PLAN	15/09/2025	BA
3	PROPOSED SITE PLAN	15/09/2025	BA
4	PROPOSED SITE PLAN	15/09/2025	BA
5	PROPOSED SITE PLAN	15/09/2025	BA
6	PROPOSED SITE PLAN	15/09/2025	BA
7	PROPOSED SITE PLAN	15/09/2025	BA
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9	PROPOSED SITE PLAN	15/09/2025	BA
10	PROPOSED SITE PLAN	15/09/2025	BA
11	PROPOSED SITE PLAN	15/09/2025	BA
12	PROPOSED SITE PLAN	15/09/2025	BA

PROPERTY INFORMATION			
LOT NUMBER	193		
PLAN NUMBER	RP747871		
LOCALITY	PORT DOUGLAS		
STATE	QLD		
DATE	15/09/2025		

PRELIMINARY ONLY  
NOT FOR CONSTRUCTION

C.M.G. CONSULTANT	
NAME	BA
DATE	15/09/2025

WIND CLASS (CYCLONIC)	
CLASS	C2

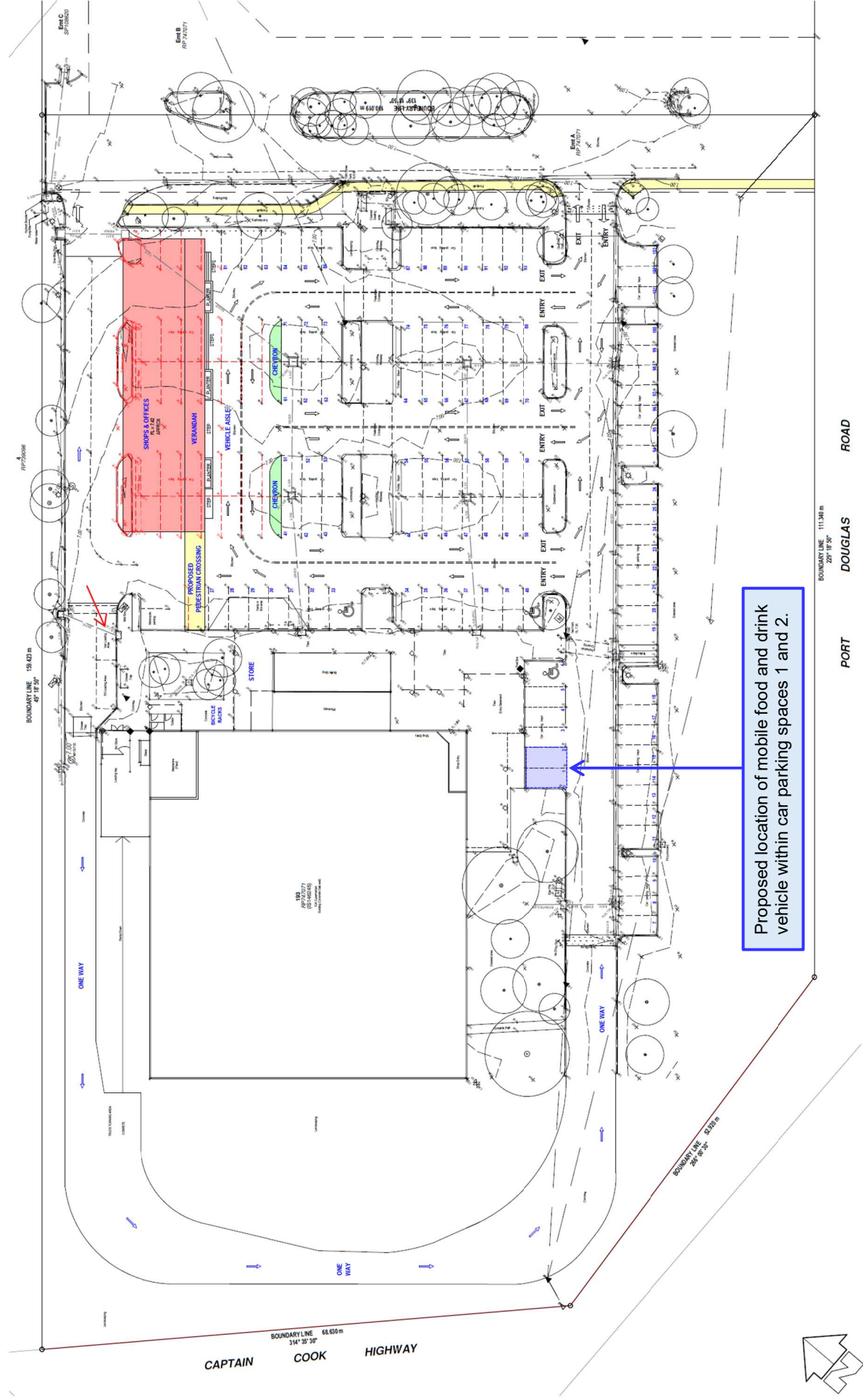
REVISION OF TWO TERRACES	2505/21
REVISION OF ONE TERRACE	1605/21
REVISION OF ONE TERRACE	2507/21
REVISION OF ONE TERRACE	2506/21
REVISION OF ONE TERRACE	3504/21

**bálay Vandyke**  
BUILDING DESIGN  
288 BUCKINGHAM STREET  
PORT DOUGLAS QLD 4812  
PHONE 0815228  
EMAIL admin@balyvandyke.com.au

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12. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.

Project Name	PORT DOUGLAS SHOPPING CENTRE
Client	MR CAPTAIN COOK HIGHWAY / PORT DOUGLAS RD
Drawing Title	SITE PLAN
Designed by	BA
Issue	01



**APPENDIX E**  
**SHEET 1 - AMENDED SITE PLAN**  
**9 SEPTEMBER 2025**

