

Ms Elizabeth Taylor
Town Planner
23 Vallely Street
FRESHWATER QLD 4870

Reference: ET15-027

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

19 January, 2016

Dear Madam,

**RE: APPLICATION FOR MATERIAL CHANGE OF USE-
PRELIMINARY APPROVAL UNDER SECTION 241 OF THE SUSTAINABLE PLANNING
ACT 2009, FOR STAGING SELF ASSESSABLE AND CODE ASSESSABLE
DEVELOPMENT, IN ACCORDANCE WITH A PRECINCT PLAN, A STAGING PLAN AND
OTHER SUPPORTING PLANS, ON LAND LOCATED IN THE PORT DOUGLAS
WATERFRONT NORTH PLANNING AREA, KNOWN AS THE REEF MARINA SITE.**

Please find attached the relevant documentation relating to the above referenced Application.

The Application is comprised of:

- The relevant IDAS Application Forms, including Land Owners Consent; and
- Supporting Town Planning Report, including a suite of Plans.

Payment of the agreed Council Application fee of \$10,000.00 will be made over the counter at the Council Chambers by Mr Robert Cruz of The Reef Marina within the next few days.

I look forward to Council is favourable consideration of the Application.

Please contact me if there are any queries in relation to this Application.

Yours faithfully,



**Elizabeth Taylor,
Town Planner**

IDAS form 1—Application details

(Sustainable Planning Act 2009 version 4.2 effective 3 August 2015)

This form must be used for **ALL** development applications.

You **MUST** complete **ALL** questions that are stated to be a mandatory requirement unless otherwise identified on this form.

For all development applications, you must:

- complete this form (*IDAS form 1—Application details*)
- complete any other forms relevant to your application
- provide any mandatory supporting information identified on the forms as being required to accompany your application.

Attach extra pages if there is insufficient space on this form.

All terms used on this form have the meaning given in the *Sustainable Planning Act 2009* (SPA) or the Sustainable Planning Regulation 2009.

This form and any other IDAS form relevant to your application must be used for development applications 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*. Whenever a planning scheme is mentioned, take it to mean land use plan for the strategic port land, Brisbane core port land or airport land.

PLEASE NOTE: This form is not required to accompany requests for compliance assessment.

Mandatory requirements

Applicant details (Note: the applicant is the person responsible for making the application and need not be the owner of the land. The applicant is responsible for ensuring the information provided on all IDAS application forms is correct. Any development permit or preliminary approval that may be issued as a consequence of this application will be issued to the applicant.)

Name/s (individual or company name in full)	The Reef Marina Pty Ltd			
For companies, contact name	C/- Elizabeth Taylor, Town Planner			
Postal address	23 Vallely Street			
	Suburb	Freshwater		
	State	QLD	Postcode	4870
	Country	Australia		
Contact phone number	Liz - 40552548			
Mobile number (non-mandatory requirement)	Liz - 0407584966			
Fax number (non-mandatory requirement)	N/A			

Email address (non-mandatory requirement)

liz

@ elizabethtaylor.net.au

Applicant's reference number (non-mandatory requirement)

ET15-027

1. What is the nature of the development proposed and what type of approval is being sought?**Table A**—Aspect 1 of the application (If there are additional aspects to the application please list in Table B—Aspect 2.)

- a) What is the nature of the development? (Please only tick one box.)
- ☒ Material change of use ☐ Reconfiguring a lot ☐ Building work ☐ Operational work
- b) What is the approval type? (Please only tick one box.)
- ☒ Preliminary approval under s241 of SPA ☐ Preliminary approval under s241 and s242 of SPA ☐ Development permit
- c) Provide a brief description of the proposal, including use definition and number of buildings or structures where applicable (e.g. six unit apartment building defined as a *multi-unit dwelling*, 30 lot residential subdivision etc.)
- Redevelopment of The Reef Marina site at Port Douglas to provide for staged development in accordance with a Precinct Plan and Staging Plan and other supporting Plans under the current Douglas Shire Planning Scheme 2006, as amended.
- d) What is the level of assessment? (Please only tick one box.)
- ☐ Impact assessment ☒ Code assessment

Table B—Aspect 2 of the application (If there are additional aspects to the application please list in Table C—Additional aspects of the application.)

- a) What is the nature of development? (Please only tick one box.)
- ☐ Material change of use ☐ Reconfiguring a lot ☐ Building work ☐ Operational work
- b) What is the approval type? (Please only tick one box.)
- ☐ Preliminary approval under s241 of SPA ☐ Preliminary approval under s241 and s242 of SPA ☐ Development permit
- c) Provide a brief description of the proposal, including use definition and number of buildings or structures where applicable (e.g. six unit apartment building defined as a *multi-unit dwelling*, 30 lot residential subdivision etc.)
-
- d) What is the level of assessment?
- ☐ Impact assessment ☐ Code assessment

Table C—Additional aspects of the application (If there are additional aspects to the application please list in a separate table on an extra page and attach to this form.)

☐ Refer attached schedule ☐ Not required

2. Location of the premises (Complete Table D and/or Table E as applicable. Identify each lot in a separate row.)

Table D—Street address and lot on plan for the premises or street address and lot on plan for the land adjoining or adjacent to the premises (Note: this table is to be used for applications involving taking or interfering with water.) (Attach a separate schedule if there is insufficient space in this table.)

- ☐ Street address **and** lot on plan (All lots must be listed.)
- ☐ Street address **and** lot on plan for the land adjoining or adjacent to the premises (Appropriate for development in water but adjoining or adjacent to land, e.g. jetty, pontoon. All lots must be listed.)

Street address					Lot on plan description		Local government area (e.g. Logan, Cairns)
Lot	Unit no.	Street no.	Street name and official suburb/ locality name	Post-code	Lot no.	Plan type and plan no.	
i)			Wharf St, Port Douglas		146	SR861	Douglas Shire
ii)					103	SR500	Douglas Shire
iii)					126 (part)	SR868	Douglas Shire

Planning scheme details (If the premises involves multiple zones, clearly identify the relevant zone/s for each lot in a separate row in the below table. Non-mandatory)

Lot	Applicable zone / precinct	Applicable local plan / precinct	Applicable overlay/s
i)	Port Douglas Waterfront North Planning Area	Tourist Centre	
ii)			
iii)			

Table E—Premises coordinates (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.) (Attach a separate schedule if there is insufficient space in this table.)

Coordinates (Note: place each set of coordinates in a separate row)				Zone reference	Datum	Local government area (if applicable)
Easting	Northing	Latitude	Longitude			
					<input type="checkbox"/> GDA94 <input type="checkbox"/> WGS84 <input type="checkbox"/> other	

3. Total area of the premises on which the development is proposed (indicate square metres)

Approximately 10 hectares.

4. Current use/s of the premises (e.g. vacant land, house, apartment building, cane farm etc.)

Marina and associated marina activities, commercial development and ancillary car parking

5. Are there any current approvals (e.g. a preliminary approval) associated with this application? (Non-mandatory requirement)

☒ No ☐ Yes—provide details below

List of approval reference/s	Date approved (dd/mm/yy)	Date approval lapses (dd/mm/yy)

6. Is owner's consent required for this application? (Refer to notes at the end of this form for more information.)

☐ No
☒ Yes—complete either Table F, Table G or Table H as applicable

Table F

Name of owner/s of the land	
I/We, the above-mentioned owner/s of the land, consent to the making of this application.	
Signature of owner/s of the land	
Date	

Table G

Name of owner/s of the land	State of Queensland
<input checked="" type="checkbox"/> The owner's written consent is attached or will be provided separately to the assessment manager.	

Table H

Name of owner/s of the land	QLD State Government
<input checked="" type="checkbox"/> By making this application, I, the applicant, declare that the owner has given written consent to the making of the application.	

7. Identify if any of the following apply to the premises (Tick applicable box/es.)

- ☒ Adjacent to a water body, watercourse or aquifer (e.g. creek, river, lake, canal)—complete Table I
- ☐ On strategic port land under the *Transport Infrastructure Act 1994*—complete Table J
- ☒ In a tidal water area—complete Table K
- ☐ On Brisbane core port land under the *Transport Infrastructure Act 1994* (No table requires completion.)
- ☐ On airport land under the *Airport Assets (Restructuring and Disposal) Act 2008* (no table requires completion)
- ☐ Listed on either the Contaminated Land Register (CLR) or the Environmental Management Register (EMR) under the *Environmental Protection Act 1994* (no table requires completion)

Table I

Name of water body, watercourse or aquifer
Dickson Inlet

Table J	
Lot on plan description for strategic port land	Port authority for the lot

Table K	
Name of local government for the tidal area (if applicable)	Port authority for the tidal area (if applicable)
Douglas Shire	

8. Are there any existing easements on the premises? (e.g. for vehicular access, electricity, overland flow, water etc)

☒ No ☐ Yes—ensure the type, location and dimension of each easement is included in the plans submitted

9. Does the proposal include new building work or operational work on the premises? (Including any services)

☒ No ☐ Yes—ensure the nature, location and dimension of proposed works are included in plans submitted

10. Is the payment of a portable long service leave levy applicable to this application? (Refer to notes at the end of this form for more information.)

☒ No—go to question 12 ☐ Yes

11. Has the portable long service leave levy been paid? (Refer to notes at the end of this form for more information.)

☐ No

☐ Yes—complete Table L and submit with this application the yellow local government/private certifier's copy of the receipted QLeave form

Table L		
Amount paid	Date paid (dd/mm/yy)	QLeave project number (6 digit number starting with A, B, E, L or P)

12. Has the local government agreed to apply a superseded planning scheme to this application under section 96 of the *Sustainable Planning Act 2009*?

☒ No

☐ Yes—please provide details below

Name of local government	Date of written notice given by local government (dd/mm/yy)	Reference number of written notice given by local government (if applicable)

13. List below all of the forms and supporting information that accompany this application (Include all IDAS forms, checklists, mandatory supporting information etc. that will be submitted as part of this application)

Description of attachment or title of attachment	Method of lodgement to assessment manager
LAND OWNERS CONSENT	By Email
IDAS FORM 5	By Email
SUPPORTING TOWN PLANNING REPORT AND ATTACHED SUITE OF PLANS	By Email

14. Applicant's declaration

☒ By making this application, I declare that all information in this application is true and correct (Note: it is unlawful to provide false or misleading information)

Notes for completing this form

- Section 261 of the *Sustainable Planning Act 2009* prescribes when an application is a properly-made application. Note, the assessment manager has discretion to accept an application as properly made despite any non-compliance with the requirement to provide mandatory supporting information under section 260(1)(c) of the *Sustainable Planning Act 2009*

Applicant details

- Where the applicant is not a natural person, ensure the applicant entity is a real legal entity.

Question 1

- Schedule 3 of the Sustainable Planning Regulation 2009 identifies assessable development and the type of assessment. Where schedule 3 identifies assessable development as "various aspects of development" the applicant must identify each aspect of the development on Tables A, B and C respectively and as required.

Question 6

- Section 263 of the *Sustainable Planning Act 2009* sets out when the consent of the owner of the land is required for an application. Section 260(1)(e) of the *Sustainable Planning Act 2009* provides that if the owner's consent is required under section 263, then an application must contain, or be accompanied by, the written consent of the owner, or include a declaration by the applicant that the owner has given written consent to the making of the application. If a development application relates to a state resource, the application is not required to be supported by evidence of an allocation or entitlement to a state resource. However, where the state is the owner of the subject land, the written consent of the state, as landowner, may be required. Allocation or entitlement to the state resource is a separate process and will need to be obtained before development commences.

Question 7

- If the premises is listed on either the Contaminated Land Register (CLR) or the Environmental Management Register (EMR) under the *Environmental Protection Act 1994* it may be necessary to seek compliance assessment. Schedule 18 of the Sustainable Planning Regulation 2009 identifies where compliance assessment is required.

Question 11

- The *Building and Construction Industry (Portable Long Service Leave) Act 1991* prescribes when the portable long service leave levy is payable.
- The portable long service leave levy amount and other prescribed percentages and rates for calculating the levy are prescribed in the Building and Construction Industry (Portable Long Service Leave) Regulation 2002.

Question 12

- The portable long service leave levy need not be paid when the application is made, but the *Building and Construction Industry (Portable Long Service Leave) Act 1991* requires the levy to be paid before a development permit is issued.
- Building and construction industry notification and payment forms are available from any Queensland post office or agency, on request from QLeave, or can be completed on the QLeave website at www.qleave.qld.gov.au. For further information contact QLeave on 1800 803 481 or visit www.qleave.qld.gov.au.

Privacy—The information collected in this form will be used by the Department of Infrastructure, Local Government and Planning (DILGP), assessment manager, referral agency and/or building certifier in accordance with the processing and assessment of your application. Your personal details should not be disclosed for a purpose outside of the IDAS process or the provisions about public access to planning and development information in the *Sustainable Planning Act 2009*, except where required by legislation (including the *Right to Information Act 2009*) or as required by Parliament. This information may be stored in relevant databases. The information collected will be retained as required by the *Public Records Act 2002*.

OFFICE USE ONLY

Date received

Reference numbers

NOTIFICATION OF ENGAGEMENT OF A PRIVATE CERTIFIER

To

Council. I have been engaged as the private certifier for the building work referred to in this application

Date of engagement	Name	BSA Certification license number	Building classification/s
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

QLEAVE NOTIFICATION AND PAYMENT (For completion by assessment manager or private certifier if applicable.)

Description of the work	QLeave project number	Amount paid (\$)	Date paid	Date receipted form sighted by assessment manager	Name of officer who sighted the form
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

The *Sustainable Planning Act 2009* is administered by the Department of Infrastructure, Local Government and Planning. This form and all other required application materials should be sent to your assessment manager and any referral agency.

Author: Tanya Murphy
File number: 2015/007063
Directorate / Unit: State Land Asset Management
Phone: 07 4742 3010



Department of
Natural Resources and Mines

16 December 2015

Elizabeth Taylor
Town Planner
23 Valley Street
Freshwater QLD 4870

Dear Madam

Reference is made to the request for owner's consent required to accompany the development application for Material Change of Use on land described as Lot 146 on Crown Plan SR861, Lot 103 on Crown Plan SR500 and part of Lot 126 on Crown Plan SR868 (the land) for prescribed works on the land. It is noted that your clients, The Reef Marina are the current lessee for the leases registered over the land. Further it is noted that the redevelopment of the Port Douglas Reef Marina site to provide for staged development in accordance with a Precinct Plan and Staging and other supporting Plans under the current Douglas Shire Planning Scheme 2006.

The department hereby gives owner's consent to the above development application for Material Change of Use over the land for the redevelopment of the Port Douglas Reef Marina site to provide for staged development in accordance with a Precinct Plan and Staging and other supporting Plans under the current Douglas Shire Planning Scheme 2006.

Although owner's consent for the development application has been provided, your client is always required to comply with the purpose, terms and conditions of lease purpose(s) registered over the land and undertake works only if and when the development application has been approved by the assessment manager, and in accordance with the conditions of that approval.

Although owner's consent to the development application has been provided and no tenure under the Land Act is required for the works on the USL, your client is to undertake works on the land only if and when the development application has been approved by the assessment manager, and in accordance with the conditions of that approval.

A copy of this letter is to be attached to your IDAS Form 1 as the required evidence of owner's consent.

Your client will also need to comply with all other legislative and regulatory requirements which may also include approvals that are not part of the assessment of the development application under the *Sustainable Planning Act 2009* (SPA) e.g. a marine park permit if in a marine park.

Further, please note that the above consent will expire on 30 June 2016. Should the development application not be lodged with the assessment manager prior to this date, your client will be required again to lodge the IDAS Form 1 and any attachments with this Department

with a further request for owner's consent - any further request will need to be reconsidered by the Department.

It is also advised that any land use activities must comply with the *Aboriginal Cultural Heritage Act 2003* or the *Torres Strait Islander Heritage Act 2003*.

Finally, owner's consent is required under SPA to enable the application to be considered properly made for lodging with the assessment manager and is a completely separate process to assessment of the application under SPA.

Accordingly, the State may act at a later date as assessment manager, concurrence/referral agency, or advice agency in the assessment of the development application - providing owners consent will not influence any statutory role the State may have in this assessment.

All future correspondence relative to this matter is to be referred to the contact Officer at the address below or by email to Townsville.SLAMS@dnrm.qld.gov.au. Any hard copy correspondence received will be electronically scanned and filed. For this reason, it is recommended that any attached plans, sketches or maps be no larger than A3-sized.

Please quote reference number 2015/007063 in any future correspondence.

If you wish to discuss this matter please contact Tanya Murphy on 07 4742 3010.

Yours sincerely



Rianha Rolland
A/Manager, Land Allocation and Sales
A duly authorised delegate of the Minister
under the current Land Act (Ministerial) Delegation

IDAS form 5—Material change of use assessable against a planning scheme

(Sustainable Planning Act 2009 version 3.1 effective 3 August 2015)

This form must be used for development applications for a material change of use assessable against a planning scheme.

You **MUST** complete **ALL** questions that are stated to be a mandatory requirement unless otherwise identified on this form.

For all development applications, you must:

- complete *IDAS form 1—Application details*
- complete any other forms relevant to your application
- provide any mandatory supporting information identified on the forms as being required to accompany your application.

Attach extra pages if there is insufficient space on this form.

All terms used on this form have the meaning given in the *Sustainable Planning Act 2009* (SPA) or the Sustainable Planning Regulation 2009.

This form must also be used for material change of use on 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* that requires assessment against the land use plan for that land. Whenever a planning scheme is mentioned, take it to mean land use plan for the strategic port land, Brisbane core port land or airport land.

Mandatory requirements

1. Describe the proposed use. (Note: this is to provide additional detail to the information provided in question 1 of *IDAS form 1—Application details*. Attach a separate schedule if there is insufficient space in this table.)

General explanation of the proposed use	Planning scheme definition (include each definition in a new row) (non-mandatory)	No. of dwelling units (if applicable) or gross floor area (if applicable)	Days and hours of operation (if applicable)	No. of employees (if applicable)
Preliminary Approval sought for the redevelopment of The Reef Marina site at Port Douglas in accordance with a Precinct Plan and a Staging Plan and other supporting Plans	Refer supporting Town Planning Report	N/A	N/A	N/A

2. Are there any current approvals associated with the proposed material change of use? (e.g. a preliminary approval.)

☒ No ☐ Yes—provide details below

List of approval reference/s	Date approved (dd/mm/yy)	Date approval lapses (dd/mm/yy)
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3. Does the proposed use involve the following? (Tick all applicable boxes.)

The reuse of existing buildings on the premises	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes
New building work on the premises	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes
The reuse of existing operational work on the premises	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes
New operational work on the premises	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes

Mandatory supporting information
4. Confirm that the following mandatory supporting information accompanies this application

Mandatory supporting information	Confirmation of lodgement	Method of lodgement
All applications		
<p>A site plan drawn to an appropriate scale (1:100, 1:200 or 1:500 are recommended scales) which shows the following:</p> <ul style="list-style-type: none"> the location and site area of the land to which the application relates (<i>relevant land</i>) the north point the boundaries of the relevant land any road frontages of the relevant land, including the name of the road the location and use of any existing or proposed buildings or structures on the relevant land (note: where extensive demolition or new buildings are proposed, two separate plans [an existing site plan and proposed site plan] may be appropriate) any existing or proposed easements on the relevant land and their function the location and use of buildings on land adjoining the relevant land all vehicle access points and any existing or proposed car parking areas on the relevant land. Car parking spaces for persons with disabilities and any service vehicle access and parking should be clearly marked for any new building on the relevant land, the location of refuse storage the location of any proposed retaining walls on the relevant land and their height the location of any proposed landscaping on the relevant land the location of any stormwater detention on the relevant land. 	<input checked="" type="checkbox"/> Confirmed	
A statement about how the proposed development addresses the local government's planning scheme and any other planning instruments or documents relevant to the application.	<input checked="" type="checkbox"/> Confirmed	
A statement about the intensity and scale of the proposed use (e.g. number of visitors, number of seats, capacity of storage area etc.).	<input checked="" type="checkbox"/> Confirmed	
<p>Information that states:</p> <ul style="list-style-type: none"> the existing or proposed floor area, site cover, maximum number of storeys and maximum height above natural ground level for existing or new buildings (e.g. information regarding existing buildings but not being reused) the existing or proposed number of on-site car parking bays, type of vehicle cross-over (for non-residential uses) and vehicular servicing 	<input type="checkbox"/> Confirmed <input checked="" type="checkbox"/> Not applicable	

arrangement (for non-residential uses).		
A statement addressing the relevant part(s) of the State Development Assessment Provisions (SDAP).	<input checked="" type="checkbox"/> Confirmed <input type="checkbox"/> Not applicable	
When the application involves the reuse of existing buildings		
Plans showing the size, location, existing floor area, existing site cover, existing maximum number of storeys and existing maximum height above natural ground level of the buildings to be reused.	<input type="checkbox"/> Confirmed <input checked="" type="checkbox"/> Not applicable	
When the application involves new building work (including extensions)		
Floor plans drawn to an appropriate scale (1:50, 1:100 or 1:200 are recommended scales) which show the following: <ul style="list-style-type: none"> the north point the intended use of each area on the floor plan (for commercial, industrial or mixed use developments only) the room layout (for residential development only) with all rooms clearly labelled the existing and the proposed built form (for extensions only) the gross floor area of each proposed floor area. 	<input type="checkbox"/> Confirmed	
Elevations drawn to an appropriate scale (1:100, 1:200 or 1:500 are recommended scales) which show plans of all building elevations and facades, clearly labelled to identify orientation (e.g. north elevation)	<input type="checkbox"/> Confirmed	
Plans showing the size, location, proposed site cover, proposed maximum number of storeys, and proposed maximum height above natural ground level of the proposed new building work.	<input type="checkbox"/> Confirmed <input type="checkbox"/> Not applicable	
When the application involves reuse of other existing work		
Plans showing the nature, location, number of on-site car parking bays, existing area of landscaping, existing type of vehicular cross-over (non-residential uses), and existing type of vehicular servicing arrangement (non-residential uses) of the work to be reused.	<input type="checkbox"/> Confirmed <input checked="" type="checkbox"/> Not applicable	
When the application involves new operational work		
Plans showing the nature, location, number of new on-site car parking bays, proposed area of new landscaping, proposed type of new vehicle cross-over (non-residential uses), proposed maximum new vehicular servicing arrangement (non-residential uses) of the proposed new operational work.	<input type="checkbox"/> Confirmed <input checked="" type="checkbox"/> Not applicable	

Privacy—Please refer to your assessment manager, referral agency and/or building certifier for further details on the use of information recorded in this form.

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Date received

Reference numbers

The *Sustainable Planning Act 2009* is administered by the Department of Infrastructure, Local Government and Planning. This form and all other required application materials should be sent to your assessment manager and any referral agency.

TOWN PLANNING REPORT

**APPLICATION FOR MATERIAL CHANGE OF USE-
PRELIMINARY APPROVAL UNDER SECTION 241 OF
THE SUSTAINABLE PLANNING ACT 2009, FOR
STAGING SELF ASSESSABLE AND CODE ASSESSABLE
DEVELOPMENT, IN ACCORDANCE WITH A
PRECINCT PLAN, A STAGING PLAN AND OTHER
SUPPORTING PLANS, ON LAND LOCATED IN THE
PORT DOUGLAS WATERFRONT NORTH PLANNING
AREA, KNOWN AS THE REEF MARINA SITE.**

PREPARED FOR

THE REEF MARINA PTY LTD

PREPARED BY

**ELIZABETH TAYLOR
TOWN PLANNER**

JANUARY, 2016

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1.0 INTRODUCTION

This report provides a town planning assessment of an application for Material Change of Use (MCU) over land located at Wharf Street, Port Douglas. The site is more particularly described as Lot 146 SR861, Lot 103 SR500 and part of Lot 126 SR686.

The MCU Application seeks a Preliminary Approval (MCU-PA) under Section 241 of the Sustainable Planning Act (SPA) for staging self-assessable and code-assessable development, in accordance with a Precinct Plan, a Staging Plan and other supporting Plans, on land located in the Port Douglas Waterfront North Planning Area, known as The Reef Marina site.

A Preliminary Approval is a legally binding approval that approves development, but does not authorise development to take place.

When a Preliminary Approval is issued, final detailed design of the development or other details and assessments remain outstanding and need to be submitted for any development permit to be issued.

There is no requirement for a proponent to seek a Preliminary Approval for development. However, a Preliminary Approval assists in the staging of development and providing certainty where several planning documents are relevant to a site.

The MCU-PA is code-assessable development under the Planning Scheme, on the basis that all proposed land uses are either self or code-assessable in the Table of Assessment for the Port Douglas and Environs Locality and the Port Douglas Waterfront North Planning Area (zone) in which the land is located.

The assessment of the MCU-PA Application takes account of the relevant provisions of the Sustainable Planning Act (SPA), the Douglas Shire Planning Scheme, the Port Douglas Waterfront Master Plan dated September 2009, the Council Pre-Lodgement Enquiry response and the various recent meetings held with Council Officers and other interested parties, including the commercial fishermen.

2.0 THE SITE AND THE LOCALITY

2.1 The Site

The site is known as Port Douglas Waterfront North (PDWN) located at the southern end of the Port Douglas Tourist Centre. The site is bounded by Dickson Inlet to the west, Wharf Street to the east, Reserve land to the north and Closehaven Marina and vacant Reserve land to the south.

Lot 146 SR861 has an area of 8.173 hectares and is improved by the Marina development, which has recently undergone significant refurbishment and expansion to the south and a commercial/retail complex, only part of which is currently operational.

The Reef Marina Pty Ltd (TRM) also has a Lease over part of Lot 126 SR686, which is a Reserve for Local Government (Port and Harbour) Purposes, with

Council as Trustee and TRM also holds the Lease over Lot 103 SR500, being the slipway site.

Inlet Street road reserve is proposed to be closed and incorporated into TRM site.

Lot 146, part of Lot 126 and Lot 103 and Inlet Street are currently in the process of being converted to freehold, through an Application to Convert SL 9/50240 made by TRM to the State Government.

2.2 The Locality

The locality is dominated by waterfront activities along Dickson Inlet, community and sporting facilities to the east and the Tourist Centre of Port Douglas.



3.0 THE PROPOSED DEVELOPMENT

The following documents are considered relevant or potentially relevant to the redevelopment of TRM site:

- Planning Scheme;
- Draft Planning Scheme, (to a lesser extent as it is yet to be released on public display);
- Port Douglas Waterfront Master Plan, prepared by Urbis, September 2009; and
- Council response to the Pre-Lodgement Enquiry, December 2015.

In order to provide certainty to the proponent in terms of the type, scale and form of the future redevelopment and to facilitate staging, a Preliminary Approval is sought over the Port Douglas Waterfront North Planning Area (TRM site).

The Application is for MCU - PA under Section 241 of the Sustainable Planning Act 2009, for staging self-assessable and code-assessable development, in accordance with a Precinct Plan and a Staging Plan and other supporting Plans.

Studio Tekton has been commissioned to prepare a suite of Plans to guide the future, staged, redevelopment of TRM site.

The suite of Plans, includes:

- Context Plan;
- Precinct Plan;
- Staging Plan;
- Access Plan; and
- South Marina Basin Precinct Plan.

The boundaries of each Precinct/Stage are indicative only, in order to provide some flexibility and allow minor adjustments to be made at the time the detailed design is undertaken.

The Plans are attached at **Appendix 1** and each Plan is described below:

Context Plan

The Context Plan illustrates the strategic location of TRM site, adjacent to Dickson Inlet and other commercial, marine, tourist activities; in close proximity to shops and restaurants in Macrossan Street, the heart of the Tourist Centre of Port Douglas; and in close proximity to community, recreation and sporting facilities, such as Anzac Park, Rex Smeal Park, the Sugar Wharf, Port Douglas Community Hall and the Port Douglas Sporting Complex.

The Context Plan identifies:

- Proposed strong pedestrian connections and linkages to Macrossan Street, via Wharf Street and Grant Street and along the waterfront;
- Retention/creation of view corridors through TRM site to the waterfront;
- Proposed primary vehicular arrival/entry point to the Tourist Centre via Wharf Street to maximise arrival impact / views and in recognition of the town being a national and international marine tourist destination; and
- Focal points providing a strong connection and integration between TRM site and Macrossan Street and creating one consolidated Tourist Centre in Port Douglas.

Precinct Plan

The Precinct Plan identifies five (5) Precincts to guide the future, staged, redevelopment of site:

- PRECINCT 1 – (Retain/Upgrade) is comprised of the existing commercial building adjacent to the Marina, the Bally Hooley railway infrastructure (train station and turntable), the adjacent bus parking area, to be retained and upgraded in the redevelopment and a connection to the waterfront walkway and an events area. The Precinct provides direct pedestrian connections via the Arbour Park and Public Plaza to Wharf Street and via Grant Street to the Tourist Centre and Macrossan Street.
-

A service road will be provided to access the accommodation premises in Precinct 2, the existing Marina and Precinct 5, through the main vehicular access in Precinct 1. The service road may be located in Precinct 1 or alternatively, in Precinct 2, this will be determined at detailed design stage.

It is expected that no expansion of the building footprint in this Precinct will occur in the short to medium term. Any future redevelopment in this Precinct, in the short term, will be undertaken within the area under the roof line of the existing building. The north-western wing of the building will be demolished and a new main entry created fronting a strong pedestrian link - the Arbour Park - between TRM site and the Tourist Centre, via Wharf Street.

Car parking associated with Precinct 1 is provided in Precinct 4.

Precinct 1 has direct vehicular access to and from Wharf Street. Vehicular and pedestrian access and circulation and indicative vehicular access to each stage of the redevelopment of the TRM site is shown on the Access Plan.

The list of land uses that may potentially establish in Precinct 1, are:

- Business Facilities;
- Car Park;
- Indoor Sport and Entertainment;
- Interpretive Facility;
- Outdoor Sport and Recreation;
- Restaurant;
- Shopping Facilities;
- Tavern;
- Tourist Attraction.

The design parameters for this Precinct can generally comply with the relevant provisions of the Port Douglas Waterfront North Planning Area Code, in the Planning Scheme.

- PRECINCT 2 – (Stage 1a and Stage 1b) is to be developed for a mix of both tourist and permanent accommodation uses with inlet and sea views. No commercial uses will be established in this Precinct. The Precinct includes part of the Arbour Park, which provides a strong pedestrian connection to the Tourist Centre and Macrossan Street, via a proposed Public Plaza and Wharf Street. If development in Precinct 3 is delayed, the first stage of the Arbour Park can provide connectivity to the Tourist Centre, via Inlet Street and Wharf Street.

As an alternative pedestrian route to the Arbour Park, a 4 metre wide fixed (not-floating) public pedestrian walkway will provide public access along the waterfront connecting the marina with the proposed Public Plaza. Within Precinct 2, the walkway will be situated over-water, adjacent to the existing rock wall. In addition, mooring pontoons outside of the public pedestrian walkway will provide direct access to Dickson Inlet and take advantage of the waterfront location of this

residential Precinct. The pontoons will include a new transfer facility for cruise ship tenders and upgrades to the existing berthing for private and commercial vessels.

A service road will be provided to access the accommodation premises in Precinct 2, the existing Marina and Precinct 5, through the main vehicular access in Precinct 1. The service road may be located in Precinct 2 or alternatively, in Precinct 1, this will be determined at detailed design stage.

Car parking associated with residential development in Precinct 2 will be provided in part, on-site (1 space per unit) with the balance of the car parking provided in Precinct 4.

Precinct 2 will be accessed, via access easements, through Precinct 1. Vehicular and pedestrian access and circulation and indicative vehicular access to each stage of the redevelopment of the TRM site is shown on the Access Plan.

The list of land uses that may potentially establish in Precinct 2, are:

- Holiday Accommodation;
- Marina – (specifically, facilities used to moor or store marine vessels);
- Multi -Unit Housing;
- Park and Open Space;
- Short Term Accommodation;
- Staff Quarters- (if associated with Holiday Accommodation, Short Term Accommodation or Multi Unit Housing).

The design parameters for this Precinct can generally comply with the relevant provisions of the Port Douglas Waterfront North Planning Area Code, in the current Planning Scheme.

- PRECINCT 3 – (Stage 2a, 2b and 2c) contains land adjacent to the Inlet, and includes the Duck Pond and the Slipway and part of the Arbour Park and Public Plaza and is proposed to be developed for a mix of both residential, commercial, recreational and Marina activities. Precinct 3 also includes the road reserve of Inlet Street, which will be closed as a road and included into the TRM site, as freehold land.

Inlet and sea views will be available throughout the Precinct and the Duck Pond. It is anticipated that activities in the Public Plaza, alfresco dining and access along the waterfront will be a feature of this Precinct.

The Duck Pond will be retained in situ but will be refurbished to be used as a small craft basin, with upgraded walkways and berthing facilities for use by private and commercial marine tourist operators, adjacent to Stage 2a. The northern side of the

Duck Pond, adjacent to Stage 2b, will be used to berth TRM's four existing commercial trawlers until a permanent relocation solution is realised. This location will be accessed from the Public Plaza and facilitate 'off the trawler' seafood. However, unloading and maintenance facilities will not be available due to the conflict with public recreational activities in the Public Plaza and the area, generally.

It is anticipated, that in line with the recently expressed wishes of the commercial fisherman and with the support of TRM and the Council, the commercial fishermen can ultimately be relocated to an area in proximity to the Port Douglas Waterfront South Planning Area, on vacant land described as Lot 96 SP134234.

The Slipway is a heavy industrial facility that is in conflict with surrounding land uses, (existing and proposed) outdated infrastructure and does not comply with contemporary environmental standards and, as such, has limited commercial viability.

The Waterfront Master Plan advocates relocating heavy industrial uses away from the Slipway facility and the Planning Scheme in the Port Douglas Waterfront South Planning Area Code specifically identifies a site at the Marano Lease as the preferred location. However, this is not something the proponent can facilitate or control, and the Slipway would not be commercially viable as a light industrial facility. The site of the Slipway will be redeveloped with a mix of uses that are complementary to the Duck Pond, the Public Plaza and other Reef Marina Precincts.

A Public Plaza is proposed at the entry to the Precinct and provides a connection to the Arbour Park to facilitate pedestrian connectivity between TRM site and the Tourist Centre.

Car parking for commercial activities in Precinct 3 will be provided in Precinct 4, with limited vehicular access across the Arbour Park for service vehicles and residents. All residential accommodation uses in Precinct 3 will be provided with one (1) car park on site, with the balance of the car parking being provided in Precinct 4.

Precinct 3 has frontage to Wharf Street but could also gain access, via access easements, through Precinct 4. Vehicular and pedestrian access and circulation and indicative vehicular access to each stage of the redevelopment of the TRM site is shown on the Access Plan.

The list of land uses that may potentially establish in the Precinct are:

- Caretaker's Residence- (if associated with a commercial activity);
- Business Facilities;
- Holiday Accommodation;
- Marina- (Duck Pond);
- Multi-Unit Housing;

- Park and Open Space;
- Restaurant;
- Shopping Facilities;
- Short Term Accommodation;
- Staff Quarters- (if associated with Holiday Accommodation, Short Term Accommodation or Multi Unit Housing).
- Tavern.

The design parameters for this Precinct can generally comply with the relevant provisions of the Port Douglas Waterfront North Planning Area Code, in the current Planning Scheme.

- PRECINCT 4 – (Stage 3) will be retained as car park in the short term. Ultimately this Precinct will provide car parking for all commercial premises within the redevelopment and may include other uses above ground level and commercial activities at ground level, to create an active edge with Wharf Street and the Arbour Park. Commercial activities may also be developed above ground level, in association with the redevelopment.

Precinct 4 has frontage to Wharf Street and Inlet Street but could also gain access, via access easements, through Precinct 1. Vehicular and pedestrian access and circulation and indicative vehicular access to each stage of the redevelopment of the TRM site is shown on the Access Plan.

The list of land uses that may potentially establish in the Precinct are:

- Business Facilities;
- Caretaker's Residence- (if associated with commercial premises);
- Car Park;
- Holiday Accommodation;
- Health Facility;
- Indoor Sport and Entertainment;
- Multi-Unit Housing;
- Park and Open Space; and
- Short Term Accommodation;
- Staff Quarters- (if associated with Holiday Accommodation, Short Term Accommodation or Multi Unit Housing).
- Tourist Attraction.

- PRECINCT 5 (Retain/Upgrade) – is currently developed as a hovercraft landing facility, car park and fuel depot servicing the Marina. It is intended that this Precinct will remain as the service area for the Marina.

The list of land uses that may potentially establish in the Precinct are:

- Car Park;
- Marina;
- Public Utilities and Facilities; and
- Service Industry.

A service road will be provided to access Precinct 5, the accommodation premises in Precinct 2 and the existing Marina, through the main vehicular access in Precinct 1. The service road may be located in Precinct 1 or alternatively, in Precinct 2, this will be determined at detailed design stage.

Vehicular and pedestrian access and circulation and indicative vehicular access to each stage of the redevelopment of the TRM site is shown on the Access Plan.

The design parameters for this Precinct can generally comply with the relevant provisions of the Port Douglas Waterfront North Planning Area Code, in the current Planning Scheme.

Staging Plan

The Staging Plan shows the proposed stages of the redevelopment of TRM site, as follows:

- Stages 1a and Stage 1b: Precinct 2 - development of these stages is likely to require Combined Applications for:
 - Material Change of Use - Development Permit; and
 - Reconfiguration of a Lot – Development Permit, including the creation of access and service Easements over balance areas of the site; and
 - Operational Works that are Tidal Works in a Coastal Management District.

Part of the Arbour Park and part of the Waterfront Boardwalk will be constructed in association with these stages of the redevelopment of the site.

- Stages 2a, 2b and 2c: Precinct 3 - development of these stages is likely to require a Combined Application for:
 - Material Change of Use - Development Permit; and

- Reconfiguration of a Lot – Development Permit, including the creation of access and service Easements over balance areas of the site; and
- Operational Works that are Tidal Works in a Coastal Management District.

The remaining part of the Arbour Park and the Public Plaza and the remaining part of the Waterfront Boardwalk will be constructed in association with these stages of the redevelopment of the site.

Stage 3: Precinct 4 – development of this stage is likely to require:

- Material Change of Use - Development Permit
- Any upgrading of Precincts 1 and 5 may require an Application for Material Change of use, unless the proposed uses are self-assessable, because the work is proposed to be carried out within an existing building. In any event, major redevelopment of these Precincts is not anticipated in the short term.

These two Precincts may also be the subject of an Application for Reconfiguration to create separate lots.

Under the current Planning Scheme there are no minimum area or dimension requirements for reconfiguration of land in the Port Douglas Waterfront North Planning Area (zone).

The staging of the redevelopment of the site can generally comply with the relevant provisions of the Port Douglas Waterfront North Planning Area Code, in the current Planning Scheme.

Access Plan

The Access Plan identifies the pedestrian and vehicular accesses and networks and public areas, proposed to service the site and to connect the site and integrate the site into the Tourist Centre.

The Access Plan is provided to illustrate to Council how the redevelopment of the site can be staged and successfully operate through the redevelopment and comply with Council requirements as outlined in the current Planning Scheme and the Port Douglas Waterfront Master Plan.

The Arbour Park, Public Plaza and Waterfront Pedestrian Walkway will provide significant landscape opportunities throughout TRM site and contribute to a high quality public realm. It is hoped that Council will acknowledge the extent of public landscaped open space being provided on the TRM site and consider providing landscaping dispensation, if required, for development in some of the Precincts.

South Marina Basin Precinct Plan

This Plan is provided to Council as it shows the preferred location for the mooring of the commercial fishing fleet, as agreed at a meeting with the commercial fisherman and others on 10 November, 2015.

The proponent remains committed to constructing the marine infrastructure for the commercial fisherman, as shown on the Plan and confirms a commitment to offer long term leases to the fishermen.

In the alternative, if the commercial fishermen cannot be relocated to the South Marina Basin Precinct on reasonable commercial terms, the proponent is prepared for the 4 existing commercial fishermen tenants currently moored adjacent to the site, to relocate to the northern side of the Duck Pond, as outlined above.

4.0 THE STATE CODE

This application is assessed against the relevant sections of Module 10- Coastal Protection, of the State Development Assessment Provisions (SDAP).

Module 10

Tidal works, or development in a coastal management district state code

Table 10.1.1: All development

Performance outcomes	Acceptable outcomes	Response
PO1 Development in a coastal hazard area is compatible with the level of severity of the coastal hazard.	AO1.1 Development is located outside a high coastal hazard area unless it is: (1) coastal-dependent development, or (2) compatible with inundation due to its nature or function, or (3) temporary, readily relocatable, or able to be abandoned, or (4) essential community service infrastructure, or (5) small - to medium-scale tourist development, or (6) redevelopment within an existing built-up urban area, or is redevelopment of built structures that cannot be relocated or abandoned. AND	Future development is coastal dependant development and also redevelopment within an existing built up urban area.
	AO1.2 Development referred to in AO1.1(6) avoids being located within a high coastal hazard area, or where this is not practicable, minimises the exposure of people and permanent structures to coastal hazard impacts.	Future development , at Development Permit stage, will minimise exposure of people and permanent structures to coastal hazard impacts.
PO2 Development siting, layout and access in a coastal hazard area responds to potential inundation due to a defined storm	AO2.1 Development within a coastal hazard area is located, designed, constructed and operated to maintain or enhance the community's resilience to defined storm tide events by limiting the exposure of people and structures to associated impacts.	Future development , at Development Permit stage, will limit exposure of people and permanent structures to coastal hazard impacts.

Performance outcomes	Acceptable outcomes	Response
tide event and minimises associated risks to personal safety and property.	AND	
	<p>AO2.2 Development mitigates any residual impacts from storm tide inundation in a coastal hazard area including by ensuring:</p> <ul style="list-style-type: none"> (1) habitable rooms of built structures are located above the defined storm tide event level and any additional freeboard level that would ordinarily apply in a flood prone area under a relevant planning scheme standard, or (2) a safe refuge is available for people within the premises during a defined storm tide event, or (3) at least one evacuation route remains passable for emergency evacuations during a defined storm tide event, including consideration of the capacity of the route to support the evacuation of the entire local population within a reasonably short timeframe (for example, 12 hours). <p>AND</p>	Future development , at Development Permit stage, will mitigate residual impacts and can be designed to comply with AO2.2 (1), (2), and (3).
	<p>AO2.3 Development within a coastal hazard area is located, designed and constructed to ensure exposed structures can sustain flooding from a defined storm tide event.</p> <p>AND</p>	Future development , at Development Permit stage, can be designed to comply with AO2.3.
	<p>AO2.4 Essential community service infrastructure is:</p> <ul style="list-style-type: none"> (1) located so that it is not inundated by a recommended storm tide event specified for that infrastructure, or (2) located and designed to ensure any components of the infrastructure that are likely to fail to function or may result in contamination when inundated by a storm tide (for example, electrical switch gear and motors, water supply pipeline air valves) are: <ul style="list-style-type: none"> located above the peak water level for a recommended storm tide event, or designed and constructed to exclude storm tide intrusions or infiltration (including by being located in the ground), or able to temporarily stop functioning during a recommended storm tide event without causing significant adverse impacts to the infrastructure or the community. <p>AND</p>	N/A
	<p>AO2.5 Emergency services infrastructure and emergency shelters, police facilities, and hospitals and associated facilities have an emergency rescue area above the peak water level for a recommended storm tide event.</p>	N/A
PO3 Development directly, indirectly and cumulatively avoids an unacceptable increase	<p>AO3.1 Development avoids increasing the number of premises from which people would need to be evacuated to prevent death or injury from a defined storm tide event.</p>	Future development can be designed and constructed to comply with PO3.

Performance outcomes	Acceptable outcomes	Response
in the severity of the coastal hazard, and does not significantly increase the potential for damage on the premises or to other premises.		
<p>PO4 Development avoids the release of hazardous materials as a result of a natural hazard event.</p> <p>Editor's note: Applications should:</p> <p>assess the risk of storm tide inundation releasing or otherwise exposing hazardous materials, including appropriate emergency planning and contingency measures.</p> <p>applications are to be supported by a report certified by a Registered Professional Engineer of Queensland (RPEQ) that demonstrates this performance outcome will be achieved.</p>	<p>AO4.1 Development that involves the manufacture or storage of hazardous materials in bulk are designed to:</p> <p>(1) prevent the intrusion of waters from a defined storm tide event into structures or facilities containing the hazardous materials, or</p> <p>ensure hazardous materials remain secured despite inundation, including secure from the effects of hydrodynamic forcing associated with wave action or flowing water.</p>	N/A
<p>PO5 Natural processes and the protective function of landforms and vegetation are maintained in coastal hazard areas.</p>	<p>AO5.1 Development in an erosion prone area within the coastal management district:</p> <p>(1) maintains vegetation on coastal landforms where its removal or damage may:</p> <p style="padding-left: 40px;">(a) destabilise the area and increase the potential for erosion, or</p> <p style="padding-left: 40px;">interrupt natural sediment trapping processes or dune or land building processes</p> <p>(2) maintains sediment volumes of dunes and near-shore coastal landforms, or where a reduction in sediment volumes cannot be avoided, increased risks to development from coastal erosion are mitigated by location, design, construction and operating standards</p> <p>(3) minimises the need for erosion control structures or riverbank hardening through location, design and construction standards</p> <p>(4) maintains physical coastal processes outside the development footprint for the development, including longshore transport of sediment along the coast</p> <p>(5) reduces the risk of shoreline erosion for areas adjacent to the development footprint unless the development is an erosion control structure</p> <p>(6) reduces the risk of shoreline erosion for areas adjacent to the development footprint to the maximum extent feasible in</p>	<p>The site is within an urban area and is devoid of any significant vegetation or dunal systems. A rock wall is located along the frontage with Dickson Inlet.</p>

Performance outcomes	Acceptable outcomes	Response
	the case of erosion control structures. AND	
	AO5.2 Development in a storm tide inundation area is located, designed, constructed and operated to: (1) maintain dune crest heights, or where a reduction in crest heights cannot be avoided, mitigate risks to development from wave overtopping and storm tide inundation (2) maintain or enhance coastal ecosystems and natural features, such as mangroves and coastal wetlands, between the development and tidal waters, where the coastal ecosystems and natural features protect or buffer communities and infrastructure from storm tide inundation. AND	Not Applicable
	AO5.3 Redevelopment of built structures in the erosion prone area within a coastal management district: (1) avoids intensifying the use of the premises, or (2) demonstrates that any intensification of use will not result in an increase in the need for erosion control structures or riverbank hardening. AND	This will be addressed at Future Development Permit stage.
	AO5.4 Development that is coastal protection work involves: (1) beach nourishment undertaken in accordance with a program of beach nourishment works that source sediment of a suitable quality and type from outside the active beach system, or (2) the construction of an erosion control structure, where it is demonstrated that installing an erosion control structure is the only feasible option for protecting permanent structures from coastal erosion and those structures cannot be abandoned or relocated in the event of coastal erosion occurring. Editor's note: Applications for coastal protection work should be supported by a report certified by a Registered Professional Engineer of Queensland (RPEQ) that demonstrates how the engineering solution sought by the work will be achieved. Editor's note: Applications for erosion control structures should demonstrate the consideration of beach nourishment techniques, and include a statement of why nourishment (in whole or part) has not been adopted as the preferred means of controlling the erosion risk. AND	N/A – AO5.4 (1) and (2)
	AO5.5 Development involving reclamation: (1) does not alter, or otherwise minimises impacts on, the physical characteristics of a waterway or the seabed near the	N/A

Performance outcomes	Acceptable outcomes	Response
	<p>reclamation, including flow regimes, hydrodynamic forces, tidal water and riverbank stability</p> <p>(2) is located outside the active sediment transport area, or otherwise maintains sediment transport processes as close as possible to their natural state</p> <p>(3) ensures activities associated with the operation of the development maintain the structure and condition of vegetation communities and avoid wind and water run-off erosion.</p> <p>Editor's note: Applications for reclamation should be supported by a report certified by an RPEQ that demonstrates how the engineering solutions sought by the work will be achieved</p>	
PO6 Erosion prone areas in a coastal management district are maintained as development free buffers, or where permanent buildings or structures exist, coastal erosion risks are avoided or mitigated.	AO6.1 Development locates built structures outside the part of the coastal management district that is the erosion prone area unless the development is listed under AO1.1 (1) – (5). AND	AO1.1 (1) applies
	AO6.2 Development is located outside the erosion prone area unless it is redevelopment. AND	Complies
	AO6.3 Coastal-dependent development: (1) locates, designs and constructs relevant buildings or structures to withstand coastal erosion impacts, including by use of appropriate foundations, or (2) installs and maintains coastal protection works to mitigate adverse impacts to people and permanent structures from coastal erosion at the location. AND	Can comply at Development Permit stage.
	AO6.4 Development that is temporary, readily relocatable or able to be abandoned, or essential community service infrastructure: (1) locates built structures landward of an applicable coastal building line, or (2) where there is no coastal building line, locates habitable built structures landward of the alignment of adjacent habitable buildings, or locates lifesaver towers or beach access infrastructure to minimise its impacts on physical coastal processes, or (3) where it is demonstrated that (1) or (2) is not reasonable and (3) does not apply: (a) locates built structures as far landward as practicable uses layout design to minimise the footprint of the development that remains within the erosion prone area. AND	N/A
	AO6.5 Redevelopment of existing built structures not referred to in AO6.4, and excluding marine development: (1) relocates built structures outside that part	To be assessed at Development Permit stage.

Performance outcomes	Acceptable outcomes	Response
	<p>of the erosion prone area that is within the coastal management district, or</p> <p>(2) relocates built structures as far landward as practicable, and landward of an applicable coastal building line, or</p> <p>(3) where there is no coastal building line:</p> <p>(a) relocates built structures landward of the alignment of adjacent habitable buildings, or</p> <p>uses layout design to minimise the footprint of the development that remains within the erosion prone area, or</p> <p>provides sufficient space seaward of the development within the premises to allow for the construction of erosion control structures.</p> <p>AND</p>	
	<p>AO6.6 Redevelopment of built structures in the erosion prone area within a coastal management district, which results in an intensification of use, mitigates the erosion threat to the development, having regard to:</p> <p>(1) design and construction standards</p> <p>(2) installing and maintaining on-site erosion control structures within the premises if the development is not intended to be temporary.</p>	To be assessed at Development Permit stage.
P07 Development avoids or minimises adverse impacts on coastal resources and their values, to the maximum extent reasonable.	<p>AO7.1 Coastal protection work that is in the form of beach nourishment uses methods of placement suitable for the location that do not interfere with the long-term use of the locality of, or natural values within or neighbouring, the proposed placement site.</p> <p>AND</p>	N/A
	<p>AO7.2 Marine development is located and designed to expand on or redevelop existing marine infrastructure unless it is demonstrated that it is not practicable to co-locate the development with existing marine infrastructure.</p> <p>AND</p>	To be assessed at Development Permit stage.
	<p>AO7.3 Marine development:</p> <p>(1) relies on a natural channel of a depth adequate for the intended vessels, or</p> <p>(2) where there are no feasible alternative locations for the facility in the local area that do not require dredging for navigation channel purposes:</p> <p>(a) involves capital dredging for new navigation channel purposes</p> <p>is located, designed and operated to minimise the need for capital and subsequent maintenance dredging for navigation channel purposes.</p> <p>AND</p>	To be assessed at Development Permit stage.
	<p>AO7.4 Development minimises dredging or the disposal of material in coastal waters during</p>	To be assessed at Development Permit stage.

Performance outcomes	Acceptable outcomes	Response
	key biological events (such as fish aggregations or spawning) for species found in the area. AND	
	A07.5 Measures are to be incorporated as part of siting and design of the development to protect and retain identified ecological values and underlying ecosystem processes within or adjacent to the development site to the greatest extent practicable. This includes: (1) maintaining or restoring vegetated buffers between development and coastal waters to the extent practicable, unless the development is within ports or airports, or is marine development (2) maintaining or enhancing the connectivity of ecosystems in consideration of the cumulative effect of the development in addition to existing developed areas (3) retaining coastal wetlands, seagrass beds and other locally important feeding, nesting or breeding sites for native wildlife. AND	N/A
	A07.6 Measures are incorporated as part of siting and design of the development to maintain or enhance water quality to achieve the environmental values and water quality objectives outlined in the <i>Environmental Protection (Water) Policy 2009</i> . AND	The development will be connected to all urban services and stormwater will be discharged to the environment through existing urban stormwater infrastructure.
	A07.7 Development avoids the disturbance of acid sulphate soils, or where it is demonstrated that this is not possible, the disturbance of acid sulphate soils is carefully managed to minimise and mitigate the adverse effects of the disturbance on coastal resources.	To be assessed at Development Permit stage. If acid sulfate soils are encountered during construction, standard ASS management procedures will be applied.
PO8 Coastal protection work is undertaken only as a last resort where erosion presents an imminent threat to public safety or permanent structures. Editor's note: Applications for coastal protection work must be supported by a report certified by an RPEQ that demonstrates how the engineering solution sought by the work will be achieved.	A08.1 Coastal protection work is only undertaken to protect existing permanent structures from imminent adverse coastal erosion impacts, and the structures cannot reasonably be relocated or abandoned. AND	To be assessed at Development Permit stage.
	A08.2 Coastal protection work to protect private structures is undertaken on private land to the maximum extent reasonable. AND	N/A.
	A08.3 Coastal protection work does not increase the coastal hazard risk for adjacent areas or properties.	To be assessed at Development Permit stage.
PO9 Development avoids adverse impacts on matters of state environmental	A09.1 Development: (1) is set back from matters of state environmental significance (2) avoids interrupting, interfering or	To be assessed at Development Permit stage.

Performance outcomes	Acceptable outcomes	Response
significance, or where this is not reasonably possible, impacts are minimised and an environmental offset is provided for any significant residual impacts to matters of state environmental significance that are prescribed environmental matters.	<p>otherwise adversely impacting underlying natural ecosystem components or processes and interactions that affect or maintain the matters of state environmental significance, such as water quality, hydrology, geomorphology and biological processes, or</p> <p>(3) incorporates measures as part of its location and design to protect and retain matters of state environmental significance and underlying ecosystem processes within and adjacent to the development site to the greatest extent practicable.</p> <p>Editor's note: Applications for development should identify any threatened species or their habitats, or threatened ecosystems that may be affected by the proposal. In particular, applications should identify and describe how the development avoids adverse impacts on any critical life stage ecological processes within or adjacent to the development area.</p> <p>AND</p>	
	<p>AO9.2 An environmental offset is provided for any significant residual impact on matters of state environmental significance that are prescribed environmental matters caused by the development.</p> <p>Editor's note: Applications for development should identify anticipated losses, and outline what actions are proposed to be undertaken to offset the loss in accordance with the relevant Queensland Environmental Offsets Policy.</p>	Not Applicable
PO10 Development maintains or enhances general public access to or along the foreshore, unless this is contrary to the protection of coastal resources or public safety.	<p>AO10.1 Development adjacent to state coastal land or tidal water:</p> <p>(1) demonstrates that restrictions to public access are necessary for:</p> <p style="padding-left: 40px;">(a) the safe or secure operation of development, or</p> <p style="padding-left: 40px;">the maintenance of coastal landforms and coastal habitat</p> <p>(2) separates residential, tourist and retail development from tidal water with public areas or public access facilities, or</p> <p>(3) maintains existing public access (including public access infrastructure that is in the public interest) through the site to the foreshore for:</p> <p style="padding-left: 40px;">(a) pedestrians, via access points including approved walking tracks, boardwalks and viewing platforms, or</p> <p style="padding-left: 40px;">vehicles, via access points including approved roads or tracks.</p> <p>AND</p>	Designated public access is to be provided along the foreshore where currently no formal public access exits.
	<p>AO10.2 Development adjacent to state coastal land, including land under tidal water:</p> <p>(1) is located and designed to:</p> <p style="padding-left: 40px;">(a) allow safe and unimpeded access to, over, under or around built structures located on, over or along</p>	Can be designed to comply

Performance outcomes	Acceptable outcomes	Response
	<p>the foreshore ensure emergency vehicles can access the area near the development, or</p> <p>(2) minimises and offsets any loss of access to and along the foreshore within two kilometres of the existing access points, and the access is located and designed to be consistent with (1)(a) and (b).</p> <p>AND</p>	
	<p>AO10.3 Any parts of private development that extend over tidal water are to be designed, constructed and used for marine access purposes only.</p>	Can be designed to comply
<p>PO11 Private marine development avoids structures attaching to, or extending across, non-tidal state coastal land abutting tidal waters.</p>	<p>AO11.1 Private marine development and other structures such as decks or boardwalks for private use do not attach to, or extend across state coastal land that is situated above the high water mark.</p> <p>Editor's note: For occupation permits or allocations of State land, refer to the <i>Land Act 1994</i>.</p>	To be assessed at Development Permit stage.
<p>PO12 Further development of artificial waterways avoids or minimises adverse impacts on coastal resources and their values, and does not contribute to:</p> <p>(1) an increase in the risk of flooding or erosion</p> <p>(2) degradation of water quality</p> <p>(3) degradation and loss of matters of state environmental significance (including, but not limited to, coastal wetlands, fish habitat areas and migratory species habitat).</p>	<p>AO12.1 The design, construction and operation of artificial tidal waterways maintains the tidal prism volume of the natural waterway to which it is connected.</p> <p>AND</p>	N/A
	<p>AO12.2 The design, construction and operation of artificial tidal waterways does not increase risk from flooding.</p> <p>AND</p>	N/A
	<p>AO12.3 The design, construction and operation of an artificial waterway in connection with the reconfiguration of a lot ensures:</p> <p>(1) water inlet and outlets structures are of sufficient capacity to maintain the water quality within the waterway</p> <p>(2) water discharged from the artificial waterway protects the environmental values and water quality objectives of the receiving waters</p> <p>(3) dredged material is not disposed of to tidal water beyond the artificial waterway unless there is a beneficial reuse, e.g. beach nourishment.</p> <p>Editor's note: For more information on environmental values and water quality objectives see Schedule 1 of the Environment Protection (Water) Policy 2009.</p> <p>AND</p>	N/A
	<p>AO12.4 The location of the artificial waterways avoids matters of state environmental significance, or does not result in any significant adverse impact on matters of state environmental significance.</p>	N/A

Performance outcomes	Acceptable outcomes	Response
PO13 Development does not involve reclamation of land below tidal water, other than for the purposes of: (1) coastal-dependent development, public marine development or community infrastructure (2) strategic ports, boat harbours or strategic airports and aviation facilities, in accordance with a statutory land use plan, where there is a demonstrated net benefit for the state or region and no feasible alternative exists (3) coastal protection work or work necessary to protect coastal resources or physical coastal processes.	No acceptable outcome is prescribed.	N/A

In summary, it is considered that the proposed development can comply with the relevant parts of Module 10 – Coastal Protection, or can be designed to comply at Development Permit stage and on that basis the proposed development for Preliminary Approval can be supported with a more detailed assessment undertaken at the detailed design stage, in association with future, staged Applications for Material Change of Use – Development Permit and/or Applications for Reconfiguration.

5.0 PLANNING SCHEME

5.1 Overview

Under the current Planning Scheme the site has the following designations/classifications:-

- Locality - Port Douglas and Environs
- Planning Area - Port Douglas Waterfront North

The Assessment Table for the Locality provides a guide to the applicability of Codes. The Codes which potentially apply to an Application for Material Change of Use – Preliminary Approval under Section 241, are identified in the Table below, together with comment on the applicability of the Codes to the proposal and to the

particular site and whether or not the identified Codes are addressed in detail in this Report.

Code	Applicability of Code	Comment
<i>Locality Code</i>		
Port Douglas and Environs Locality Code	The Code is applicable	The Code is addressed in Section 6.1
<i>Planning Area Code</i>		
Port Douglas Waterfront North	The Code is applicable	The Code is addressed in Section 6.2.
<i>Overlay Codes</i>		
Acid Sulfate Soils	The Code is not applicable at Preliminary Approval stage.	The Code is not addressed.
Cultural Heritage and Valuable Sites	The site is not affected by the Overlay. The Code is not applicable.	The Code is not addressed.
Natural Hazards	The Code is not applicable at Preliminary Approval stage.	The Code is not addressed.
<i>General Codes</i>		
Design and Siting of Advertising Devices	The Code is not applicable at Preliminary Approval stage.	The Code is not addressed.
Filling and Excavation	The Code is not applicable at Preliminary Approval stage.	The Code is not addressed.
Landscaping	The Code is not applicable at Preliminary Approval stage.	The Code is not addressed.
Natural Areas and Scenic Amenity	The Code is not applicable at Preliminary Approval stage.	The Code is not addressed.
Reconfiguring a Lot	The Code is not applicable at Preliminary Approval stage.	However, the Code is addressed briefly in Section 6.3.
Sustainable Development	The Code is not applicable at Preliminary Approval stage.	The Code is not addressed.

Planning Assessment

Outlined below is an assessment against the relevant Codes in the current Planning Scheme.

Locality

The site is located in the Port Douglas and Environs Locality. The Purpose statement for the Locality includes the following Outcomes that are relevant to the assessment of this Application:-

- *consolidate Port Douglas as the major tourist accommodation and tourist service centre in the Shire;*
- *ensure that tourist development and associated landscaping is of high quality which reflects and complements the image of Port Douglas as a tropical seaside resort town of international renown;*
- *consolidate the area between Macrossan Street and Marina Mirage as the major tourist, retail, dining and entertainment centre of the Shire;*
- *ensure that all forms of development complement the tropical image of the town by incorporating attractive design and architectural features;*
- *protect sensitive environments and natural features which give Port Douglas its distinctive character and identity, in particular Four Mile Beach, Dickson Inlet and Flagstaff Hill;*
- *protect primary functions of the port (marine and fishing activities) from incompatible land uses and acknowledge the industrial and commercial land uses associated with the maritime industry, while also providing secondary opportunities for recreational use by residents and tourist.*

The proposed staged redevelopment of TRM site will achieve (and possibly exceed) the Outcomes for the Locality.

However, in regard to the last Outcome, while the proponent acknowledges the industrial and commercial land uses associated with the maritime industry of the waterfront, the proponent is of the view that:

- the viability of the industrial slipway is marginal and this land use cannot be retained at this strategic location, as it will be in conflict with the public/pedestrian/recreational activities sought to activate the waterfront; and
- the recently expressed aspirations of the commercial fisherman to relocate to Lot 96, located within the Port Douglas Waterfront South Planning Area and create a vibrant and working Fisherman's Wharf, as a key entry feature on Wharf Street to the Port Douglas waterfront and Tourist Centre, necessitates review of this planning Outcome that dates from 2008, some eight (8) years ago and may well not express the current aspirations of the key stakeholders.

Outlined below is an assessment against the relevant sections of the Locality Code.

Port Douglas Locality Code

PERFORMANCE CRITERIA	ACCEPTABLE SOLUTIONS	THE PROPOSAL MEETS THE REQUIREMENTS OF THE ACCEPTABLE SOLUTIONS	THE PROPOSAL MEETS THE PERFORMANCE CRITERIA
<p>General Requirements</p> <p>P1 Buildings and structures complement the Height of surrounding development,</p> <p>AND</p> <p>The height of buildings in the Port Douglas Waterfront transition from single storey in the Community and Recreation Facilities Planning Area through to three storeys in the Port Douglas Water front North Planning Area.</p>	<p>A1.1 Port Douglas Waterfront North (where depicted within Figure 1 of the Port Douglas Waterfront North Planning Area Code):</p> <p>Maximum Height of Buildings/structures is 6.5 metres. In addition, the roof (including any ancillary roof features) does not exceed a maximum Height of 3.5 metres above the intersection of the pitching part of the roof and the wall of the building.</p> <p>OR</p> <p>Maximum Height of Buildings/structures is 10 metres and 3 storeys. In addition, the roof (including any ancillary roof features) does not exceed a maximum Height of 3.5 metres above the intersection of the pitching part of the roof and the wall of the building.</p>	<p>The proponent is prepared to comply with the specified building heights in the Planning Scheme at the time a Development Permit is sought for staged development.</p>	<p>Can comply at Development Permit stage.</p>
<p>P2 Development is connected to available urban services.</p>	<p>A2.1 Development is connected to available urban services by underground connections, wherever possible.</p>	<p>Complies</p>	<p>Complies</p>
<p>P3 Landscaping of development Sites complements the existing tropical seaside resort town character of Port Douglas and creates a dominant tropical vegetated streetscape.</p>	<p>A3.1 Landscaping of the development Site complies with Planning Scheme Policy 7 – Landscaping, with particular emphasis on appropriate species for Port Douglas.</p>	<p>The proponent is prepared to comply with the Policy at the time a Development Permit is sought for staged development.</p>	<p>Can comply at Development Permit stage.</p>
<p>P4 Development sites are provided with</p>	<p>A4.1 All roads, driveways and</p>	<p>The proponent is prepared to comply with</p>	<p>Can comply at Development Permit</p>

efficient and safe vehicle Access and manoeuvring areas on Site and to the Site, to an acceptable standard for the Locality.	manoeuvring areas on Site and adjacent to the Site are designed and maintained to comply with the specifications set out in the Planning Scheme Policy – 6 FNQROC Development Manual.	the FNQROC Development Manual at the time a Development Permit is sought for staged development.	stage.
Tourist Centre P5 Development in the Tourist Centre enhances the distinct tropical resort town character and identity of Port Douglas and encourages pedestrian activity at street level including shade protection across the entire footpath for the length of the building.	A5.1 Development is built up to the Street frontage/s at ground level and incorporates a light frame awning a minimum of 3 metres wide for the length of the street frontage/s. OR If the development includes an outdoor dining area ground/footpath level, the dining area has a maximum setback of 6 metres and the required awning is still maintained along the length of the street frontage/s.	The Planning Area Code specifies different provisions. It is intended to comply with these provisions.	Can comply at Development Permit stage.
P6 Development in the Tourist Centre is predominantly commercial in nature with any tourist accommodation having a secondary focus and not located on the street-level frontage.	A6.1 Commercial development establishes at ground level and a maximum of one level above ground with any residential tourist development establishing on levels above ground or on Ground Level but not on the street frontage, in any mixed use development.	The Planning Area Code specifies different provisions. It is intended to comply with these provisions.	The Planning Area Code specifies different provisions. It is intended to comply with these provisions.
P7 Development in the Tourist Centre is of a height and scale which complements the village character of the town and remains subservient to the natural environment and the backdrop of Flagstaff	A7.1 The achievement of a maximum building/structure Height specified above in A1.1, relies on compliance with acceptable solutions A7.2, A7.3, is A7.4 and a A8.1 below.	The proponent is prepared to comply with the architectural intent in the Policy, at the time a Development Permit is sought for staged development.	Can comply at Development Permit stage.

<p>Hill, in particular.</p>	<p>A7.2 Development has a maximum length of unbroken building facade of 20 metres and a maximum extent of the overall development in the same style/design along the Street frontage/s of 40 metres.</p> <p>A7.3 Any break in the building facade varies the alignment by a 1 metre minimum deviation.</p> <p>A7.4 A minimum of three of the following building design features and architectural elements detailed below are incorporated to break the extended facade of the development:</p> <ul style="list-style-type: none"> • a change in roof profile; • the changing parroted coping; • changing awning design; • a horizontal or vertical change in the wall plane; or • a change in the exterior finishes and exterior colours of the development. <p>Planning Scheme Policy 2 - Building Design And Architectural Elements, should be referred to for demonstrating compliance with elements listed above.</p>		
<p>P8 Development and the Tourist Centre is climate-responsive, contributes positively to the character of the locality, is complementary in scale</p>	<p>A8.1 Development incorporates the following design features and corresponding plot ratio bonuses [in brackets]:</p>	<p>The proponent is prepared to comply with the architectural intent in the Policy at the time a Development Permit is sought for staged development.</p>	<p>Can comply at Development Permit stage.</p>

<p>to surrounding development and does not exceed base Plot Ratio of 0.5:1 and a maximum Plot Ratio of 1:1.</p> <p>AND</p> <p>Will not achieve the maximum Plot Ratio specified above unless the development incorporates building design features and architectural elements detailed in Planning Scheme Policy- 2 - Building Design and Architectural Elements (and referred to in the Acceptable Solution).</p>	<ul style="list-style-type: none"> a) appropriate roof form and roofing material [10% Plot Ratio bonuses]; and b) appropriate fenestration in combination with roof form [5% Plot Ratio bonuses]; and c) appropriate window openings with window awnings, screens or each shading 80% of the window opening – refer Planning Scheme Policy - 2 – Building Design and Architectural Elements [15% Plot Ratio bonuses]; and d) minimum of 700 mm eaves (15% Plot Ratio bonuses]; and e) orientation of the building to address the street/s [5% Plot Ratio bonus]; and f) sheltered pedestrian access by arming close covered common area walkway of 1.5 metres in width from the car parking area/s to the development [5% Plot Ratio bonus]; and g) inclusion of Windows and balconies to the Street facade of the building [10% Plot ratio bonus]; and h) provision of lattice, batons or privacy screens [5% Plot Ratio bonus]; and i) the overall length of the building does not exceed 30 m and the overall length of any continuous wall 		
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	does not exceed 15 m [10% Plot Ratio bonus].		
<p>P9 Car parking generated by:</p> <p>a) the commercial component of development is fully or partly accommodated on the site of the development depending on the availability of alternative public car parking nearby with any balance to be paid in lieu of providing on-site car parking to commercial development in accordance with Planning Scheme Policy 3 - Car Parking Contribution; and</p> <p>b) the residential component of any mixed use development is provided on the site for the full allocation of the units as visitor parking and is held in a common pool, for common use.</p>	<p>A9.1 In respect to P9 (a), a minimum of 30% of the car parking requirements for the commercial component of the development is provided on the site of the development fronting Grant, Macrossan, Owen or Wharf Street, with 100% on-site provision applying for a commercial component along other streets in the Tourist Centre.</p> <p>AND</p> <p>Any balance is paid in lieu of providing on-site car parking to commercial development in accordance with Planning Scheme Policy 3 - Car Parking Contributions.</p>	The proponent is prepared to comply with the car parking requirements (subject to acknowledgment by Council of the existing car parking already provided on site in Precinct 4 and the intention to continue utilising Precinct 4 for all commercial car parking generated by the redevelopment of all Precincts) at the time a Development Permit is sought for staged development.	Can comply at Development Permit stage.
P10 The use of on-site public car parking in the Tourist Centre is maximised.	<p>A10.1 On-site car parking available for public use in the Tourist Centre is clearly sign posted at the site frontage.</p> <p>A10.2 Signage for car parking for public use is to be of a standard blue and white sign with a directional arrow unless otherwise specified.</p>	Can comply at Development Permit stage.	Can comply at Development Permit stage.

	A10.3 Boom gates, pay machines or other Redlynch and devices to control access to public car parking areas are not constructed/erected.		
P11 Car parking and access in the Tourist Centre: a) does not dominate Street frontages, especially along streets with high pedestrian traffic and pedestrian-oriented development; and b) facilitates pedestrian connectivity; and c) is safe and convenient.	A11.1 In respect to P11 (a) along Grant, Macrossan, Owen and Wharf Streets, on-site car parking and access is minimised and where possible, shared access driveways and access easements are to be provided to limit the number of vehicle crossings.	Can comply at Development Permit stage.	Can comply at Development Permit stage.
P12 Residents in residential accommodation located within the Tourist Centre are protected from noise intrusion associated with night time activities, such as outdoor dining, bars and nightclubs.	A12.1 No acceptable solution.	Can comply at Development Permit stage.	Can comply at Development Permit stage.
P13 Safe and convenient pedestrian linkages are promoted in the Tourist Centre.	A13.1 One centrally located pedestrian access is provided via sheltered walkway/arcade from Macrossan Street to Warner Street between Grant Street and Owen Street.	Not Applicable	Can comply at Development Permit stage.
Protection of Scenic Amenity and Natural Values P22 Development does not adversely impact on areas of sensitive natural vegetation, foreshore areas, watercourses and areas of tidal inundation which contribute to the	A22.1 No Acceptable Solution		Can comply at Development Permit stage.

Scenic Amenity and natural values of the Locality.			
<p>Port Douglas Waterfront</p> <p>P23 The Port Douglas Waterfront is protected from any new incompatible land uses and activities or intensification of existing incompatible uses, to allow for the future planned spatial arrangements of the waterfront.</p>	<p>A23.1 Development in the Port Douglas Waterfront North Planning Area and the Port Douglas Waterfront South Planning Area complies with the respective Codes for each Planning Area.</p>	<p>The viability of the industrial slipway is marginal and this land use cannot be retained at this strategic location, as it will be in conflict with the public/pedestrian/recreational activities sought to activate the waterfront; and</p> <p>The recently expressed aspirations of the commercial fisherman to relocate to Lot 96, located within the Port Douglas Waterfront South Planning Area and create a vibrant and working Fisherman's Wharf, as a key entry feature on Wharf Street to the Port Douglas waterfront and Tourist Centre, necessitates review of this planning Outcome that dates from 2008, some eight (8) years ago and my well not express the current aspirations of the key stakeholders.</p>	<p>Can generally comply, with consideration being given to updated various outdated and unworkable provisions.</p>

Planning Area

The site is included in the Port Douglas Waterfront North Planning Area (zone). The Purpose statement for the Port Douglas Waterfront North Planning Area Code seeks to achieve the following Outcomes that are relevant to the assessment of this Application:-

- *The Port Douglas Waterfront North Planning Area evolves as revitalised open space and waterside development precinct;*
- *Development within the Port Douglas Waterfront North Planning Area is designed to be sympathetic to the environmentally sensitive Dickson's Inlet and mitigates any adverse impacts;*
- *The establishment of mixed-use development is facilitated to promote activity and vitality;*

- *Development contributes to a high quality public realm;*
- *Built form provides an attractive point of arrival from both land and sea;*
- *Pedestrian connectivity is safe, efficient and provides for the needs of all users of the Port Douglas waterfront;*
- *Parking (and associated infrastructure) does not undermine the relationship between buildings and street;*
- *A sense of place is created through aesthetic streetscapes and innovative public and private open spaces;*
- *Character is enhanced through the identification of gateway sites, landmarks, main approach routes and pedestrian thoroughfares and view corridors;*
- *A high level of pedestrian and streetscape amenity is facilitated along the waterfront and road network through the use of landscaping, public art and streetscape elements;*
- *The importance of marine based industries to the area is recognised;*
- *Marine based industries are protected from incompatible uses;*
- *Marine infrastructure is established to service the tourism, fishing and private boating community;*
- *The functionality of the Bally Hooley tourist rail is retained;*
- *Uses identified as inconsistent uses in the Assessment Table dealing with material change of use for the Port Douglas and Environs Locality are not established in the Port Douglas Waterfront North Planning Area.*

The proposed staged redevelopment of the site, as outlined in the supporting Plans, is compliant with the Outcomes of the Code, subject to consideration being given to the validity of the Outcomes seeking to retain (even in the short term) industrial activities in a public recreational area, in conflict with good town planning outcomes.

An assessment against the Port Douglas Waterfront North Planning Area Code is outlined below.

Port Douglas Waterfront North Planning Area Code

*(NOTE: Figure 1 referenced in the Code, below, is not attached).

PERFORMANCE	ACCEPTABLE	THE PROPOSAL	THE PROPOSAL
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CRITERIA	SOLUTIONS	MEETS THE REQUIREMENTS OF THE ACCEPTABLE SOLUTIONS	MEETS THE PERFORMANCE CRITERIA
<p>Consistent and Inconsistent Uses</p> <p>P1 The establishment of uses is consistent with the outcomes sought for the Port Douglas Waterfront (South) (sic) Planning Area</p>	<p>A1.1 Uses identified as inconsistent uses in the Assessment Table are not established in the Waterfront (sic) North Planning Area.</p>	<p>All uses indicatively proposed are self-assessable or code-assessable – Complies</p>	<p>All uses indicatively proposed are self-assessable or code-assessable – Complies</p>
<p>Design Layout and Built Form</p> <p>P2 The bulk and scale of buildings is consistent with surrounding development and steps down to complement the open space areas in the northern parts of the Port Douglas Waterfront.</p>	<p>A2.1 Development is designed in accordance with the control guidelines shown in Figure 1*. Setbacks and building envelopes will be generally in accordance with those specified in this Figure.</p>	<p>Can generally comply at Development Permit stage.</p>	<p>Can comply at Development Permit stage.</p>
<p>P3 Building design is distinctive and reflects the tropical character of Port Douglas and reinforces the amenity of the waterfront and surrounding areas as a major component of the tourism experience.</p>	<p>A3.1 Building design incorporates lightweight cladding an extensive sun-shading and shadowing devices to improve aesthetics and energy efficiency; and</p> <p>A3.2 Buildings are designed in accordance with the requirements of the Planning Scheme Policy 2 – Building Design And Architectural Elements.</p>	<p>Can comply at Development Permit stage.</p>	<p>Can comply at Development Permit stage.</p>
<p>P4 Buildings are designed and oriented to address and provide activity in the public realm, particularly the public plaza and Wharf Street.</p>	<p>A4.1 Land uses, such as shops, restaurants, bars and commercial services, activate wharf Street and the pedestrian plazas; and</p>	<p>Can comply at Development Permit stage.</p>	<p>Can comply at Development Permit stage.</p>

	<p>A4.2 Where a building is adjacent to a park, public place, the building's main entrance addresses the public place; and</p> <p>A4.3 Through the use of design features, development enables;</p> <p>a. activities in public areas, such as outdoor dining; and</p> <p>b. passive recreation (such as places for meeting or basking); and</p> <p>c. informal seating around edges such as garden beds</p>		
<p>P5 The design of buildings ensures that:</p> <p>a. the streetscape is cohesive; and</p> <p>b. pedestrians are afforded protection from the sun and from the rain; and</p> <p>c. development allows for on-site landscaping and street trees for an attractive and tropical streetscape.</p>	<p>A5.1 A nontransparent cantilevered awning is provided for the full length of the Road frontage/s of buildings with a 0 m setback, as generally depicted in Figure 1. Posts may be included in the awning design however these are to be non-load-bearing; and</p> <p>A5.2 The underside of the awning is a minimum of 3 metres and a maximum of 4 metres above the finished level of the footpath; and</p> <p>A5.3 The design of the awning allows for street tree planting; and</p> <p>A5.4 Dense landscaping is provided adjacent to the road frontage where buildings are not built to the front boundary.</p>	Can generally comply at Development Permit stage.	Can comply at Development Permit stage.

<p>Retention of Bally Hooley Rail Line</p> <p>P6 The Bally Hooley rail line and turn-table is retained and incorporated in development to maintain its functionality.</p>	<p>A6.1 No Acceptable Solution Specified.</p>		<p>The Bally Hooley will be retained in the redevelopment of the site. Can comply at Development Permit stage.</p>
<p>P7 Development mitigates the adverse impacts of flood, storm tide inundation and sea level rise.</p>	<p>A7.1 Floors that provide tourist or permanent accommodation are located above the Storm Tide Inundation Area and consider rising sea level; and</p> <p>A7.2 Floors for new commercial and retail uses are located 150 mm above the one in 100 year ARI flood event; or</p> <p>A7.3 Additions to existing buildings may use the existing floor only where it is necessary to retain functionality of the building's use.</p>	<p>Can comply at Development Permit stage.</p>	<p>Can comply at Development Permit stage.</p>
<p>P8 Development recognises the importance of the relationship between the Marina, commercial and residential development in the Port Douglas waterfront planning area, and includes measures to mitigate the impact of:</p> <p>a. Noise; and b. odour; and c. hazardous materials; and d. aesthetics.</p>	<p>A8.1 Development incorporates buildings, structures and landscaped areas that can serve as a buffer between residential and non-residential use areas; and</p> <p>A8.2 Service and rubbish collection points:</p> <p>a. are position to minimise conflict with residential accommodation; and</p> <p>b. include measures to mitigate adverse noises and smell; and</p> <p>c. minimise the need for</p>	<p>Can comply at Development Permit stage, having regard to identifying a suitable mix of marine, commercial, residential and recreational land uses.</p>	<p>Can comply at Development Permit stage.</p>

	<p>trucks to use the reversing horns.</p> <p>A8.3 Service structures and mechanical plant is not visible from:</p> <p>a. the street; and b. adjoining properties; and c. public open space; and</p> <p>A8.4 Service structures and mechanical plant is located away from:</p> <p>a. balconies or adjacent to other liveable areas; and b. multiple reflective surfaces such as walls and eaves; and</p> <p>A8.5 Potential noise impacts are mitigated through the use of:</p> <p>a. Sound insulate; and b. Sensitive internal planning; and c. Acoustic barriers between residential and non-residential uses; and</p> <p>A8.6 Hazardous materials are stored in an enclosed, bunded area, away from residential uses.</p>		
<p>Sustainable Building Design</p> <p>P9 New buildings promote exemplary environmentally sustainable building design outcomes.</p>	<p>A9.1 No Acceptable Solution Specified.</p>		<p>Can comply at Development Permit stage.</p>
<p>Parking, Access and Mobility</p> <p>P10 Vehicle access, parking and service</p>	<p>A10.1 For all buildings parking is:</p> <p>a. to the side of buildings and recess behind the</p>	<p>Can comply at Development Permit stage.</p>	<p>Can comply at Development Permit stage.</p>

<p>areas:</p> <p>a. do not undermine the relationship between buildings and street or dominate the streetscape; and</p> <p>b. are designed to minimise pedestrian and vehicle conflict.</p>	<p>main building line; or</p> <p>b. behind building; or</p> <p>c. wrapped by the building facade, and not visible from the street; and</p> <p>A10.2 Ground level parking incorporates clearly defined pedestrian route; and</p> <p>A10.3 Any porte cocheres, disabled and pedestrian access are accommodated within the boundary of new or refurbished development.</p> <p>A10.4 Where development provides floor area for the Bally Hooley rail station, the gross floor area of the rail line and station does not attract a vehicle parking rate under this Code, or Schedule 1 of the Parking and Access Code.</p> <p>A10.5 Where the development is an integrated mixed-use development incorporating holiday accommodation or multiple dwellings (sic) and either restaurant or tavern or shopping facilities or business facilities, on-site parking spaces are provided as per the number prescribed in Schedule 1 – Car Parking Requirements of the Vehicle Parking And Access Code with a relaxation of 30% of the non-residential use.</p>		
<p>P11 Pedestrians, cyclists, motorists and public transport users can easily move into and through the waterfront a long planned connectivity</p>	<p>A11.1 An integrated pedestrian and cycle movement network is provided as depicted on the Port Douglas Pedestrian and Cycle</p>	<p>Refer Plans - Can comply at Development Permit stage.</p>	<p>Refer Plans -Can comply at Development Permit stage.</p>

routes.	<p>Movement Overlay.</p> <p>A11.2 Vehicular access from Wharf Street, is provided for the:</p> <p>a. accommodation parking and drop-off area, this may include a porte cochere and entry features; and</p> <p>b. Non--residential parking; and</p> <p>A11.3 To avoid any confusion, vehicular access may be via separate access points from Wharf Street which must be designed to maintain the pedestrian integrity of the area through safe sight lines for both pedestrians and vehicles.</p>		
<p>P12 A combination of pedestrian linkages and open space areas in the private and public realms are provided:</p> <p>a. as a key feature of the Port Douglas waterfront; and</p> <p>b. through the creation of a continuous waterfront promenade/boardwalk along the quayline.</p>	<p>A12.1 Development establishes an integrated open space and pedestrian movement network, (sic) is provided, as generally depicted on the Port Douglas Pedestrian and Cycle Movement Overlay.</p>	Refer Master Plans - Can comply at Development Permit stage.	Refer Plans - Can comply at Development Permit stage.
<p>P13 A public plaza and pedestrian access is established to create an arrival node to the Port Douglas waterfront.</p>	<p>A13.1 Development establishes the public plaza and shown in Figure 1.</p>	Complies – refer Plans.	Complies – refer Plans.
<p>P14 The public plaza shown in Figure 1 is designed and constructed to:</p> <p>a. Reflect the character of the Port Douglas waterfront;</p> <p>b. meet the needs of its users;</p> <p>c. Provide opportunities for social interaction.</p>	<p>A14.1 Public plaza is designed to be adaptable to community-based events and are serviced accordingly; and</p> <p>A14.1 (sic) A14.2 Paths, meeting spaces and seat locations are designed to encourage incidental social interaction; and</p> <p>A14.3 Shaded seats and shaded standing areas are</p>	Complies – refer Plans.	Complies – refer Plans.

	provided along with drinking taps.		
P15 Formalise public spaces and pedestrian paths/areas on freehold land are made accessible to the public, particularly the public plaza and foreshore access.	A15.1 No Acceptable Solution is Specified.		Complies – refer Plans.
P16 Buildings, civic spaces, roads and pedestrian links: a. are enhanced by appropriate landscape design and planting; and b. themed planting defined entry points, and create strong ‘entry corridors’ into the waterfront; and c. lighting and well-considered signage complements the building and landscape design; and d. Public art work and other similar features are provided to reflect the heritage and character of the Port Douglas waterfront.	A16.1 No Acceptable Solution is Specified.		Can comply at Development Permit stage.
P17 Buildings are designed and sited to provide vistas along shared pedestrian/open space and movement areas in suitable locations.	A17.1 Development is in accordance with the control guidelines shown in Figure 1.	Can generally comply at Development Permit stage.	Can comply at Development Permit stage.
P18 Development does not diminish the viability of marine-based industrial uses that directly serve the Port Douglas tourist and fishing operators and private boat owners, particularly with respect to the slipway operation.	A18.1 The slipway is retained until such time as the capacity of the existing slipway is established in the Port Douglas Waterfront South Planning Area*, or as otherwise approved by Council; and A18.2 Buildings are designed to minimise conflict between tourist and pedestrian areas and continued marine-based industrial activities.	The slipway is in conflict with the redevelopment of the site.	The viability of the marine-based industrial use (slipway) is already compromised and the use is in conflict with the redevelopment of the site.

P19 Marine infrastructure is established to service the tourism, fishing and private boating community.	A19.1 No Acceptable Solution is Specified.	The slipway is in conflict with the redevelopment of the site.	Refer to Plans, the proponent is making every effort to facilitate the commercial fishermen and other marine tourism operators.
P20 Changes to the Port Douglas waterfront quayline does (sic) not cause adverse impacts on the environmentally sensitive Dickson's Inlet.	A20.1 Development that results in changes to the Port Douglas waterfront quayline are only established where an Ecological Assessment Report provides support to the changes.	No change proposed to the quayline. This is understood to be compliant with Council's current views on this issue.	No change proposed to the quayline. This is understood to be compliant with Council's current views on this issue.

(*The Port Douglas Waterfront South Planning Area Code identifies in P3, Figure 1 the preferred location of a slipway as the Marano site. However, given that the existing slipway is financially unviable and given the extensive marine industrial slipways located nearby in Cairns, refer Section 10.0 of this report, it is unlikely that a slipway will ever be considered economically viable at the Marano site. Certainly no economic assessment of the viability of the existing slipway and the relocation of the slipway was undertaken in association with the PDWMP - upon which the slipway provisions in the current Planning Scheme are based).

Reconfiguring a Lot Code

The Reconfiguring a Lot Code is only relevant to the MCU-PA on the basis that the staging of the redevelopment of the site will necessitate the staged reconfiguration of the site at the time applications are made for the issue of Development Permits.

The following Purpose statements of the Code are relevant to the assessment of this Application:-

- *lots are suitable for their intended purpose;*
- *the environmental and scenic values of the Shire are protected;*
- *lot reconfiguration of land achieves good urban design outcomes; and*
- *lot reconfiguration in the urban areas of the Shire facilitates:*
 - *the efficient use of land;*
 - *safe, convenient and attractive neighbourhoods and functional industrial or commercial areas;*
 - *the efficient provision of infrastructure and the:*
 - *the efficient provision of transport services;*
 - *the provision of public open space, landscaping and recreational areas for outdoor recreation and community activities; and*
 - *opportunities for walking and cycling for recreation and as alternative methods of travel.*

In this instance it is only proposed to address Performance Criteria- P1 of the Code, as follows:

PERFORMANCE CRITERIA	ACCEPTABLE SOLUTIONS
P1 Lots are of sufficient area and dimensions to meet the requirements of the users and accommodate the form of development likely to be constructed in the respective Planning Areas, together with the open space, landscaping, access and car parking associated with a particular form of development.	A1.1 Lots comply with the area and dimensions identified for lots in the respective Planning Areas in Table 1.

TABLE 1 (Extract)

PLANNING AREA	MINIMUM AREA	MINIMUM DIMENSION
Port Douglas Waterfront North	Not specified – must be able to accommodate development in accordance with Figure 1 of the Port Douglas Waterfront North Planning Area Code.	Not specified – must be able to accommodate development in accordance with Figure 1 of the Port Douglas Waterfront North Planning Area Code.

The proposed development, as outlined in Plans attaching to this Application, is generally in accordance with Figure 1 of the Port Douglas Waterfront North Planning Area Code.

The Access Plan has been produced, as part of the suite of Plans, specifically to identify how vehicle and pedestrian circulation will work within the site, between the Precincts and as part of the Tourist Centre, during the future staging of the redevelopment.

It is proposed that a lot, with all necessary Easements for drainage, services and access, will be created for each Stage of the development with Building Format Plans/Standard Format Plans with Common Property, facilitating the sale and staging of various development components in the future.

6.0 DRAFT PLANNING SCHEME

Notwithstanding that the proponent has held several detailed discussions and meetings with Council Officers with regard to the planning parameters intended to guide redevelopment of the site under the draft Planning Scheme, to date there has been no draft documentation provided that relates to the PDNW site.

Verbal advice has been provided by Council Officers in relation to a number of matters, in particular that Figure 1, which relates to the site in the Planning Scheme, has not been included in the draft Planning Scheme.

On the basis of the lack of documentation provided by Council relating to the draft Planning Scheme and given that the draft Planning Scheme has not yet been on public display (which would allow Council to consider or give some weight to the redevelopment of the site in light of the contemporary planning principles outlined in the draft Planning Scheme- under the Coty Principal), no consideration has been able to be undertaken in relation to the planning parameters intended to guide redevelopment of the site in the draft Planning Scheme document.

7.0 PORT DOUGLAS WATERFRONT MASTER PLAN (PDWMP)

The PDWMP, finalised six years ago, includes six (6) Objectives and seeks..... to *integrate the existing values and features of the waterfront with a range of new initiatives in order to cement the western shoreline of the Peninsula as one of the world's great waterfronts.*

The six (6) Objectives are as follows:

- *To document the results of an intensive analysis and interactive community consultation process;*
- *To set out a vision for a revitalised waterfront that is the civic and economic heart of Port Douglas and to leverage this to encourage wider investment in the town;*
- *To protect and enhance the environmental attributes and credentials of the town;*
- *To provide a flexible framework, expressed through several key strategies and scenarios, that will assist the Council and community in managing change;*
- *To return access to the waterfront of the town to residents and visitors; and*
- *To retain key aspects of the working and heritage character of the waterfront by integrating existing marine maritime activity with new open space and tourism uses.*

The Key elements identified from the Study area are listed below with a comment with regard to compliance, or otherwise, of the proposed redevelopment of TRM site.

KEY ELEMENT	COMMENT
Protection and Enhancement	Complies
A Walkable Waterfront	Complies
A Working Waterfront	Can comply at a certain level
A New Gateway	Complies
A Quayside Public Plaza	Complies
A Reshaped Quay	Not believed to be a current objective
Increased Public Mooring	Complies
A Transition in (building) Height	Can Comply
Marina Mirage Redevelopment – <i>A key feature of the master plan is recognition of the redevelopment potential of the existing Marina Mirage site. This site forms the southern 'bookend' to the main waterfront area and has been identified through the EBD process as having the potential to become a high quality; distinctly tropical, mixed use development that includes residential and maritime activity. The details for this site will ultimately come forward through the design process being undertaken by the landowner and will be guided by the principles set out in section 5.4</i>	Complies
Swimming Lagoon	N/A to this development
New Uses for the Sugar Wharf	N/A to this development
A Mobility Hub	N/A to this development

Island Point Road lookout	N/A to this development
A Sustainable Market	N/A to this development
Extended Tourism Opportunities	Complies
A Community and Sports Precinct	N/A to this development
A Revitalised Macrossan Street	Will contribute
Tropical Streetscapes	Complies

Layered Strategies

In support of the illustrative plan a number of more explicit strategies have been developed, each aiming to provide further clarity in relation to the projects and initiatives that will be required to be delivered if the vision is to be realised. These strategies are presented in layers to assist in their interpretation and include:

- *Strategy 1: Access: With a focus upon creating gateways and encouraging public transport, walking and cycling - **Complies***
- *Strategy 2: Land Use and Economics: Setting out the proposed future land uses for areas within, and adjacent to, the waterfront - **Complies.***
- *Strategy 3: Environment and Sustainability: Crystallising the measures that will be put in place by the master plan (and subsequent planning policy) to preserve and enhance the environment - **Complies***
- *Strategy 4: Physical Character: Describing the height, scale, form and style of new buildings and the character of the waterfront open spaces - **Complies***
- *Strategy 5: Public Space and Streetscape: A framework identifying the proposed interconnected network of streets and public spaces and the unique qualities of each- **Complies***

Section 5.4- Physical Character – identifies the character of ‘Port’ as its tropical latitude, waterside location and mix of tourism and marine industry related activities.

The existing commercial/retail part of TRM site is identified as Character Precinct 5 – Marina Mirage:

Built form within this area will be taller and higher in intensity than the waterfront area to the north but will respect the overall built form strategy for the township. The waterfront area will adopt a ‘harder’ quayside character, softened through the use of natural materials, shade trees and landscaping.

The proposed redevelopment will achieve this built form character.

Schedule of Projects

It is acknowledged that the ultimate sequencing of investment for and development or the schedule of projects is dependent upon, yet to be determined, funding streams, approval processes and market forces. The list of Schedule of Projects represents an ideal sequence that is subject to ongoing review and re-prioritisation.

Relevant to TRM site are the following projects:

Marina Mirage redevelopment:

1. Opportunities - establishment of high quality resort with complementary uses in place of the existing Marina Mirage building, within the Planning Scheme bounds- indicative timeframe: Medium Term;
2. Marina expansion and improvements - establishment of new, extended berthing facilities in line with demand and establishment of best practice waste disposal system - indicative timeframe: Medium Term;
3. Waterfront Plaza and Mowbray Street Inlet Improvements- create a waterfront Plaza and improve the facilities in the Mowbray Street Inlet to ensure fishing fleet and other vessels allow for interactive opportunities for residents and tourists; to be established in line with Project, 1 above - indicative timeframe: Medium Term;
4. Fishing fleet use of Mowbray Street Inlet Improvements -fishing fleet and other vessels use the Mowbray Street Inlet as their berthing facilities and opportunities provided for interaction between the vessels and residents/tourists- to be established in line with Project 1 above -indicative timeframe: Medium Term.

Marine industry reorganisation:

1. Relocation of existing abrasive marine industries - relocating the more abrasive/hazardous industries in the waterfront to ensure that conflicting land uses with public access and use of the waterfront do not arise- leases containing abrasive marine industries are not renewed for their current purpose - indicative timeframe: Short – Medium-Term;
2. Slipway removal/relocation - the slipway is removed from adjacent the public use areas after the establishment of a more suitable location where the slipway will best service the marine industry without causing conflict with public use access and use of the waterfront – depends upon the existence of an alternative functional slipway - indicative timeframe: Medium – Long Term.

(My emphasis)

Background studies were undertaken during the preparation of the PDWMP. In particular the following studies were undertaken:

- Non-Indigenous Cultural Heritage Study- August 2008;
- Environmental Constraints Assessment- August 2008;
- Transport and Traffic Review-August 2008;
- Economic Analysis - June 2008; and
- Indigenous Cultural Heritage - undated.

The Economic Analysis identified the following key findings:

- The need for a year-round public bathing facility;
- The adaptive re-use of sites of heritage significance;
- An oversupply of midmarket accommodation but a demand for high-end accommodation;
- An oversupply of retail and hospitality floor space;
- Improving pedestrian networks and cycle trials to broaden the tourism product;
- Need for additional recreational boating for berthing facilities, including wet berths and dry storage facilities;
- Need for land for marine industry activities, including slipways, boat maintenance facilities and commercial fishing wharf;
- Establish unloading facilities of live catch from commercial fishing vessels and the sale of live fish and observation decks for tourists to provide value adding opportunities for the commercial fishing fleet and to better integrate commercial fishing with Port Douglas's existing tourism activities.

The PDWMP provides a broad range of guidelines for the upgrading and redevelopment of the Port Douglas waterfront. While the majority of guidelines can be supported, it is considered that elements and guidelines relating to marine industries/maritime activities, in particular the slipway and the preferred location for the commercial fishermen, have never been subject to any economic analysis or any clear understanding of how the outcomes can be achieved in the redevelopment process and therefore these elements do not represent viable, contemporary, sound or achievable land use planning outcomes.

8.0 COUNCIL PRELODGEEMENT ENQUIRY RESPONSE

In response to the Pre-Lodgement Enquiry lodged by The Reef Marina, Council by letter dated the 21 December 2015, outlined its position with regard to the redevelopment of TRM site. Outlined below are the six (6) matters raised by the Council, with a response provided, on behalf of The Reef Marina.

Item - a

Council will not be in a position to support a development application that does not satisfactorily address and give certainty with respect to the commercial fishing operations currently undertaken within the precinct. This will require agreement to be reached among all relevant stakeholders sufficient to enable Council to provide written confirmation to the Department of Natural Resources that such development does not diminish the viability of marine-based industrial uses that directly serve the Port Douglas tourist and fishing operators and private boat owners, in line with one of the overarching principles of the Port Douglas Waterfront Master Plan

Response

It is important that Council is aware that the commercial fishing trawlers that are currently moored in the Precinct only number four (4); it is not the entire commercial fishing fleet. Nonetheless TRM has engaged with representatives of all the commercial fishermen and

TRM strongly believes, for the reasons outlined in the Pre-Lodgement Enquiry and above, that it is in the long term interests of the fishing industry to develop a 'Seafood Precinct/Fisherman's Wharf' in the southern end of the marina basin and on the adjacent land (Lot 96) controlled by the Council. It is important to note that the commercial fishermen have given support to this proposal.

TRM has consulted extensively with the fishing industry and other stakeholders, most recently on 15 December 2015, regarding various long term berthing options for commercial fishermen and specifically regarding the proposed 'Seafood Precinct/Fisherman's Wharf'. The consultations conclude that there is broad support within the fishing industry for the proposal.

However, TRM acknowledges that many of the steps required to realise the 'Seafood Precinct/Fisherman's Wharf' are outside of its control and that it may take some time for "agreement to be reached among all relevant stakeholders". However, TRM is prepared to work with Council and the fishermen to achieve a 'Seafood Precinct/Fisherman's Wharf'.

As an interim solution until the 'Seafood Precinct/Fisherman's Wharf' is adequately progressed, TRM adopts the solution suggested in Council's letter that "an alternative use for the northern side of the Duck Pond for the fishing fleet may be necessary". TRM proposes to offer long-term berthing arrangements to all of its existing commercial fishing customers (4 operators) on an upgraded berthing facility along the northern side of the Duck Pond. This location will facilitate 'off the trawler' seafood sales to the public utilising the Public Plaza. However, due to the conflict between public access and commercial activities, certain activities will need to be restricted including vessel maintenance and refuelling, equipment storage and product offloading.

Item- b

In accordance with A18.1 of the Port Douglas Waterfront North Planning Area Code, 'the Slipway is retained until such time as the capacity of the existing slipway is established in the Port Douglas South Waterfront Planning Area, or as otherwise approved by Council'.

Response

TRM's Preliminary Approval application is dependent upon the closure and redevelopment of the slipway.

- 1) It is not appropriate for heavy industry including sand blasting, welding, antifouling, painting and similar activities to be undertaken within the Port Douglas Tourist Centre.
- 2) It is inappropriate for Council to dictate the continuance of a private, commercial business activity. If indeed slipway services are regarded as a public good, then the Council should sponsor the development of a new slipway.
- 3) Due to its age, the slipway is antiquated and would not comply with the environmental standards required of a modern facility.
- 4) The slipway is not financially viable. In FY2015, revenues of approximately \$210,000 were well below operating costs of approximately \$245,000. Irrespective

of the redevelopment of the Port Douglas waterfront, it is likely that TRM will seek to close or substantially reduce the scope of the slipway in the future.

- 5) In the two years that TRM has operated the slipway (December 2013 to December 2015), commercial trawlers only account for \$25,800 of revenue, that is approximately 6% of annual revenue). It is clear that the local fishing fleet do not regularly use nor rely upon the facility.
- 6) TRM has no available land and is in no position to commit to the development of a new slipway which, in any event, is identified for relocation in the Planning Scheme to the Port Douglas Waterfront South Planning Area. Given the limited Port Douglas market and the substantial capital cost of a new facility, TRM believes that such facility will not be financially viable and therefore will never proceed.
- 7) The proposed Arbour Park, Public Plaza and adjacent commercial development are substantially located upon the slipway site. It is inconsistent for Council and poor planning, to encourage considerable investment in creating high quality public amenity while requiring that the slipway remain operational and also to propose relocating the heavy industrial component elsewhere, further reducing the viability of the slipway, based on no knowledge or understanding of slipway operations or sound business principles.
- 8) The commercial viability of the entire site redevelopment is jeopardised by continuation of the industrial slipway. Commercial tenants and residential buyers will only be attracted to the site if it is certain that the slipway will close and that the Arbour Park and Public Plaza will be completed to create a high quality public realm.

The Planning Scheme requires, as an end goal, the removal of all the industrial marine activities out of the Port Douglas Waterfront North Planning Area. The removal must occur now to facilitate the successful redevelopment of the site. It should not be encumbered by a requirement over which the proponent and Council have no control; that is, to relocate a slipway, which is marginal at best and unlikely to be redeveloped elsewhere in Port Douglas by any party, due to very high development costs and likely negative returns.

Item – c

With regard to the waterfront walk, Council requires implementation of the Boardwalk generally as depicted in the Port Douglas Waterfront North Planning Area Code shown in Development Control Guideline 1 as opposed to a floating walkway. The concept of improving cruise ship tender transfers is supported. However, this could be delivered via a separate floating pontoon that is attached to the boardwalk. Formalise public spaces and pedestrian paths/areas are to be made accessible to the public within the waterfront areas via easements or The Reef Marina Pty Ltd providing written evidence from (*sic*) Council confirming that public access areas, as required by Council are provided for and evidenced in any development approval.

Response

TRM acknowledges Council's comments and will not construct a floating public walkway.

Due to the limited stage 1a and 1b footprint adjacent to the portion of the existing retail complex that will be retained and the need for separation between residences and the public, TRM proposes that the walkway adjacent to stages 1a and 1b shall be a fixed (not floating) over-water structure adjacent to the rock wall. The walkway adjacent to stage 2a will be on-land.

Upgraded floating berthing facilities, including for cruise ship transfers, will be constructed outside of the public access walkway.

Item – d

Staging of the proposed development is supported in principle. However, it is preferred that either:

i. Stage one be completed as one single stage; or alternatively

ii. To the extent possible, the publicly accessible waterfront walkway proposed for all of Stage 1 is made available for public use with Stage 1a even if the mixed-use residential/tourism and commercial development is not established in conjunction with Stage 1a.

Long-term stages of the development are to be designed to be landscaped and attractive interim spaces that provide connections across the precinct until such time that future stages are developed.

Response

TRM is hopeful of developing stages 1a, 1b, 2a, 2b and 2c as a single stage, including the entire Arbour Park, Public Plaza and public waterfront access. However, stage 2a cannot be commenced until expiry of certain commercial leases over the area.

Item – e

Council is supportive of the principle of ‘management subdivisions’ within the Waterfront North Planning Area where they assist in the staged development of the site into manageable sized land parcels and where they facilitate the comprehensive development of the precinct. However, Council is opposed to any small scale subdivisions that fragment the site into small landholdings for separate disposal, until developments are completed within each relevant precinct.

Response

It is the intention of the proponent to develop and complete each stage, prior to sale. There is no intention to undertake the redevelopment in a piecemeal fashion, as each stage must be

integrated into the redevelopment of TRM Precinct and complement the vision for the Precinct.

Item – f

Council supports in principle the design objectives of the Arbour Park, Public Plaza and the Stage 1a and 1b mix of land uses and acknowledges that the adaptive re-use of the existing Duck Pond quay line represents a more practical design solution when compared to the quay line depicted in the Port Douglas Waterfront North Planning Area Code shown in the Development Control Guideline 1.

Response

Council support to retain the existing Duck Pond quay line is appreciated. In line with that support and varying a relevant provision of the Port Douglas Waterfront North Planning Area Code, it is hoped that Council will reconsider its position with regard to the slipway and to the ultimate objective of creating a Seafood Precinct/Fishermen's Wharf in the southern part of the Marina, as these are other initiatives that reflect good planning and better outcomes for key stakeholders and the redevelopment of the TRM precinct.

9.0 COMMERCIAL FISHERMEN

The proponent has held a number of meetings with the commercial fishermen, in addition to having numerous informal conversations with various fishermen.

A proposal to develop Lot 96 adjacent to the southern part of the Marina was discussed at length at a meeting held in October 2015. At that meeting there was a general consensus that this site had the potential to be developed as a commercial fishing hub with opportunities for direct sale of seafood to the public, to create a Seafood Precinct/Fisherman's Wharf.

Bringing this site to fruition requires support from the Council as Trustee of Lot 96, which is currently a Reserve for Park and Recreation but remains undeveloped for its intended Reserve purpose.

An alternate, less suitable site is the northern side of the Duck Pond which can be made available for the mooring of existing commercial trawler tenants and the direct sale of seafood to the public, in the short term.

However, Lot 96 offers a great opportunity for the commercial fishermen to establish a stand-alone Seafood Precinct/Fisherman's wharf, in line with the PDWMP objective to transform the Port Douglas waterfront into a maritime and tourist waterfront Precinct of national and international renown.

10.0 SLIPWAY SITE

The slipway site occupies a strategic location between TRM site and Macrossan Street. The redevelopment of the site, in line with the PDWMP, proposes the total removal of the heavy and light industrial activities undertaken at the slipway and the use of the slipway site for

boutique slipway activities that may be of interest to tourists. There is no clear indication in the Master Plan how this can be effectively and commercially achieved in either the short medium or longer term.

However, the retention of the slipway in any form at this location is unviable at a number of levels:

- Waterfront land is a finite resource and should be used for its highest and best use to achieve the Objectives of improving public access to and along the waterfront and integrating and consolidating the Tourist Centre of Port Douglas;
- In land use terms, industrial activities, however boutique they may be, should not be retained in a waterfront location, where the objective is to create an exemplar of waterfront design and a world class waterfront destination.

The proponent has operated the slipway since December 2013. Between December 2013 and December 2015, a period of two (2) years, only 16 vessels from the commercial fishing fleet that operates out of Port Douglas utilised the facility, generating revenue of just under \$26,000.00. Vessels that need major repairs or a lengthy time on the slipway to undertake more significant repairs go to Cairns as the hard stand day rates are cheaper.

Cairns has the largest marine services industry in Far North Queensland and the Port Douglas slipway cannot compete with the economies of scale offered at the Cairns slipways, with three major facilities capable of handling vessels of varying sizes, Tropical Reef slipway- up to 3000 tonnes, BSE Cairns slipway - up to 1200 tonnes and Norship slipway up to 400 tonnes.

The Tropical Reef slipway offers a comprehensive range of ship repair services and was established in 1977. The slipway provides a range of specialist services including:

- 3000 tonne slipway;
- vessels to 100 metres;
- highly qualified staff who can work 24/7;
- deep water berths;
- outfit wharves;
- two cranes;
- three elevated work platforms;
- three work boats;
- 350 tonne dry dock;
- full machine workshop; and
- propeller re-pitching.

The BSE Cairns Slipway is a complete marine repair and refit facility that was founded in the early 1970s. The slipway provides a range of specialist services including:

- 1200 tonne slipway;
- 300 metre of fit out berths;
- 3 x 78 metre sheds for undercover refits;
- painting to luxury standard;

- propeller repairs and engine overhauls;
- structural repairs;
- electrical and electronic repairs and installation; and
- marine safety repairs and services.

The Norship Marine slipway provides a comprehensive refit and repairs service and has a long history in shipbuilding and repair in the marine industry. The slipway provides a range of specialist services including:

- 400 tonne and 160 tonne travel lift machines;
- 50 hard stand bays fully serviced;
- 60 metre and 25 metre wharves - vessels to 85 metres;
- 2 x blast and paint sheds - vessels to 27 metres;
- blast chamber;
- cranes, forklifts and EWPs;
- high pressure water blasters;
- trade workshops and storage units; and
- paint shop – paint and supplies.

The likelihood of anyone establishing a new slipway facility in Port Douglas is remote, given;

- the very limited market for marine repair services in Port Douglas;
- the range of services offered locally in Cairns and the economies of scale that can be offered; and
- the high cost of achieving stringent environmental standards in establishing a new facility, making the facility commercially unviable.

It is difficult to see how the relevant provisions of the Planning Scheme can be achieved and this brings into question the validity of these provisions.

It is considered to be contrary to good town planning and possibly unlawful, to delay the redevelopment of TRM site, which will generate significant long term investment in Port Douglas and promote Port Douglas tourism; on the basis that the Planning Scheme requires the retention of unviable marine industrial activities, such as the existing slipway, and also requires the relocation, locally, of this unviable maritime industry. This is counter to the 'need' argument, often espoused in planning, where proposed development can be conditioned so it cannot proceed until a population threshold has been reached to ensure the commercial development is viable and does not cause economic hardship to existing commercial entities, in the local area.

Any condition requiring such actions is likely to be unlawful. Under the Sustainable Planning Act 2009, at Clause 345 it states:

345 Conditions must be relevant or reasonable

(1) Condition must-

- (a) *be relevant to, but not an unreasonable imposition on, the development or use of premises as a consequence of the development; or*
- (b) *be reasonably required in relation to the development or use of premises as a consequence of development.*

(My emphasis)

It would be an unreasonable imposition on TRM's development, for Council to impose any condition of approval that specifies that the slipway has to remain operational until it is relocated into Waterfront South - an action that may never be undertaken and thereby totally compromising the achievement of all the other objectives for the Port Douglas waterfront redevelopment. Particularly given that the slipway may never be viable elsewhere and the Planning Scheme only envisages it being located on one other specific site.

In addition, Clause 346, states;

346 *Conditions generally*

(1) *A condition may –*

- (a) *place a limit on how long a lawful use may continue or works may remain in place; or*
- (b) *state development may not start until other development permits or compliance permits, for development on the same premises, have been given or other development on the same premises, including development not covered by the development application have been substantially started or completed; or*
- (c) *require compliance with an infrastructure agreement relating to the land; or*
- (d) *require a document or work to be subject to compliance assessment; or*
- (e) *require development, or an aspect of development, to be completed within a particular time; or*
- (f) *require the payment of security under an agreement under section 348 to support a condition mentioned in paragraph (e).*

This clause clearly states that a condition may deal with other development permits/compliance permits/development on the same premises. The Council cannot impose a condition that requires the action of a third party on other premises, over which the proponent of the development has no control. This would be considered to be an unlawful condition.

10.0 CONCLUSION

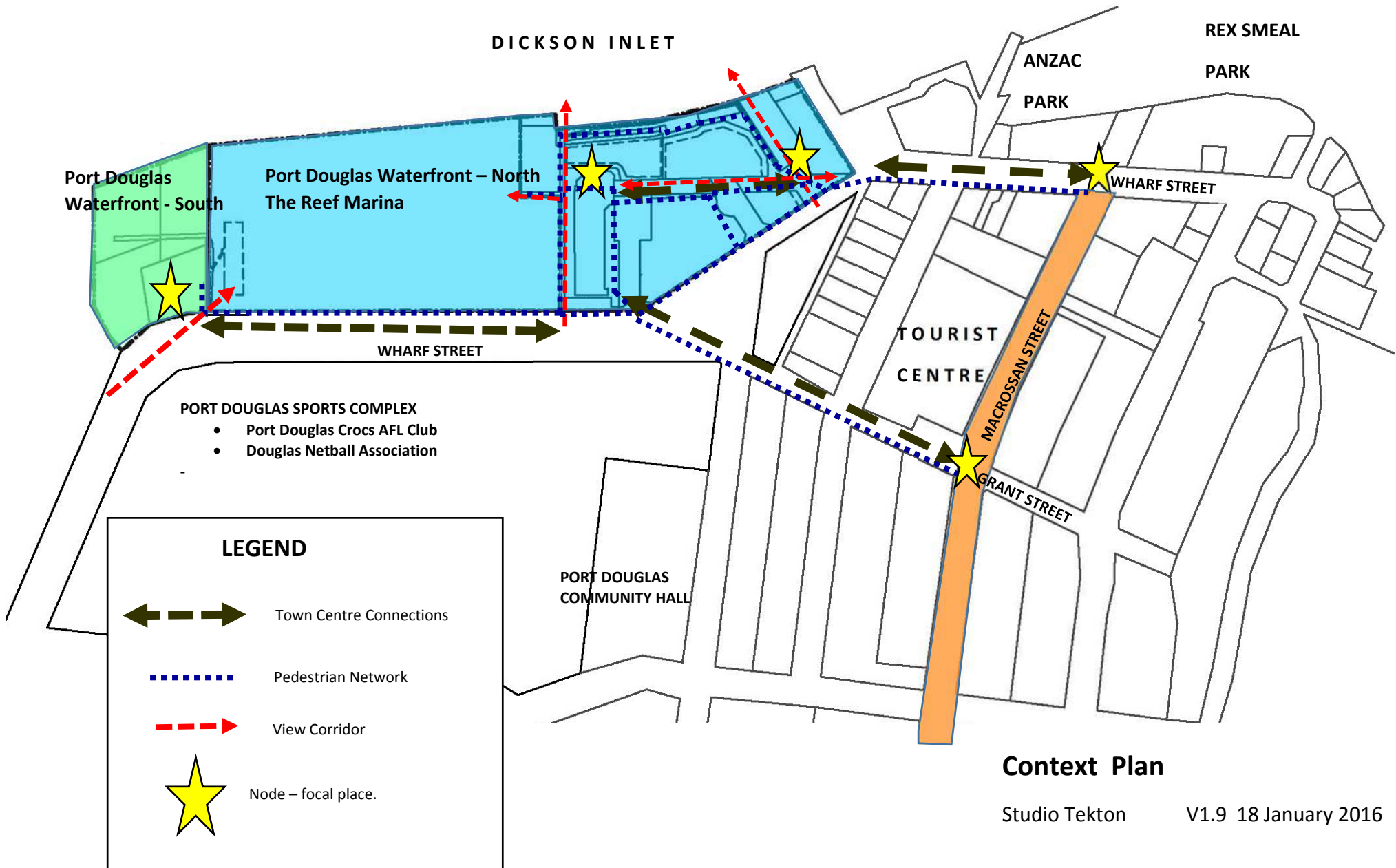
The redevelopment of TRM site is a major project for Port Douglas and the proponent has sought to engage at both levels of Government and with key community, commercial stakeholders, in progressing the redevelopment process.

This Application for Preliminary Approval is another step in the process to provide certainty to the proponent, the Council and key stakeholders, such as the commercial fisherman, that the redevelopment will be undertaken in a considered and transparent manner.

Council's support for the Preliminary Approval is requested and encouraged.

EA TAYLOR
January, 2016.

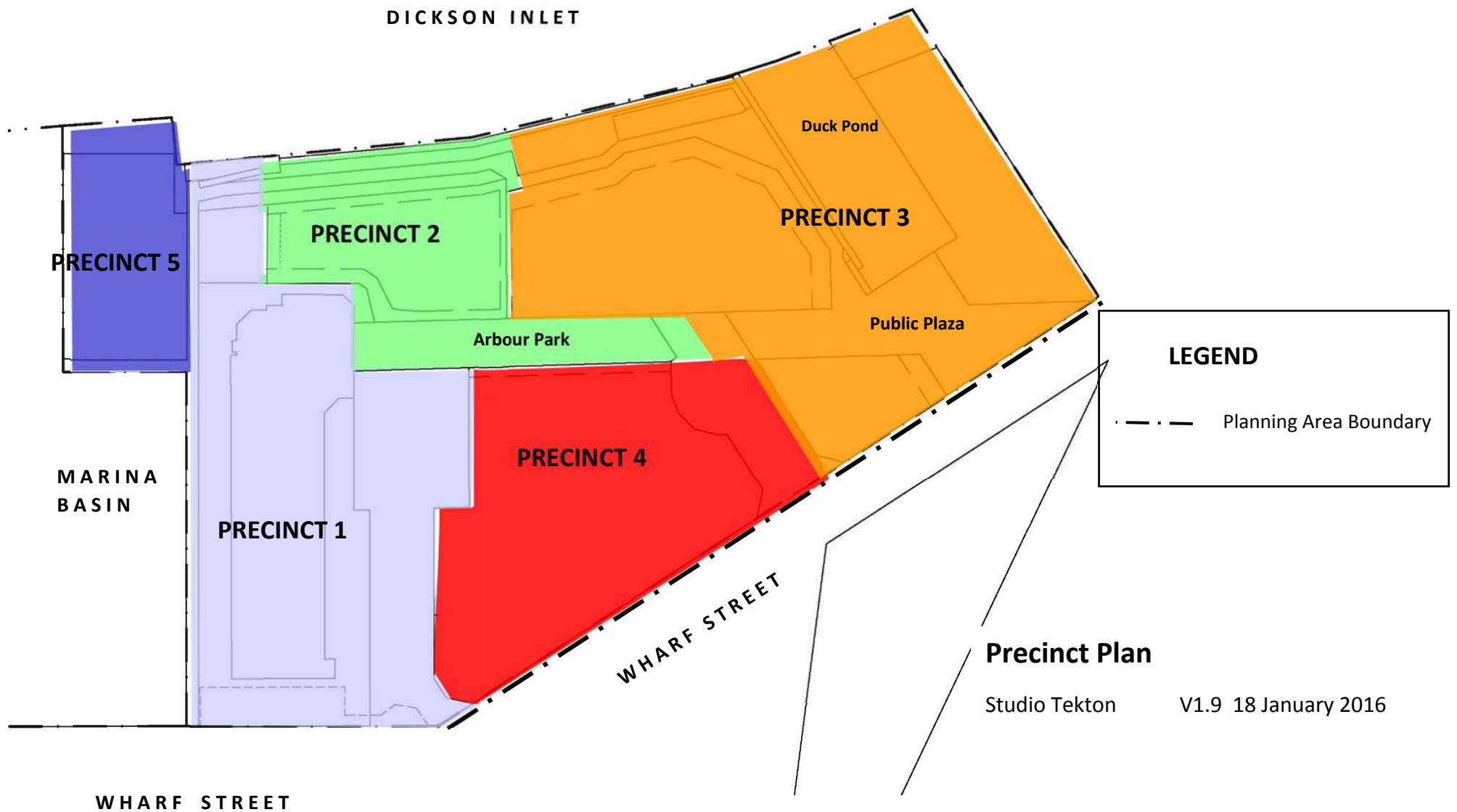
APPENDIX 1

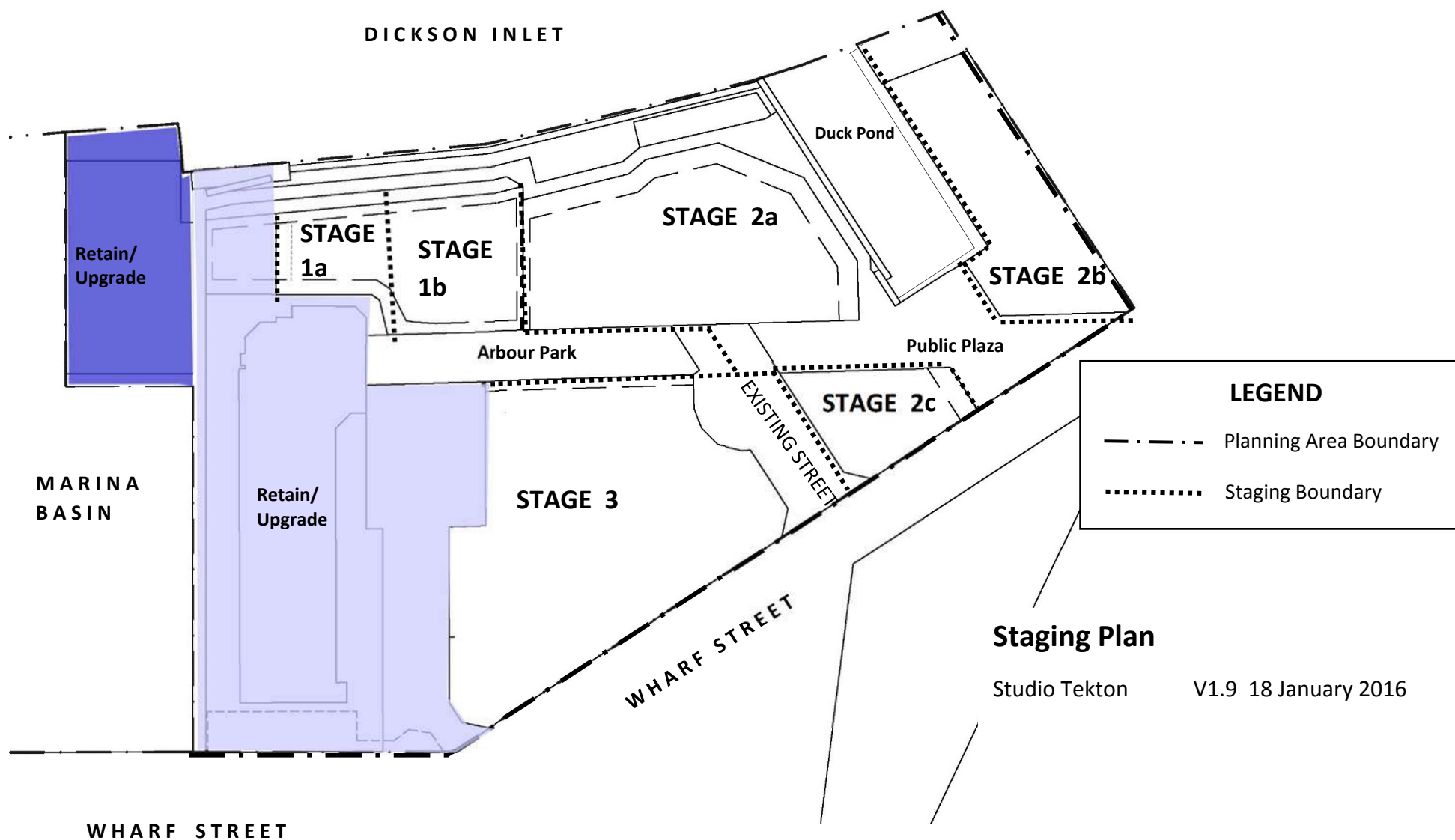


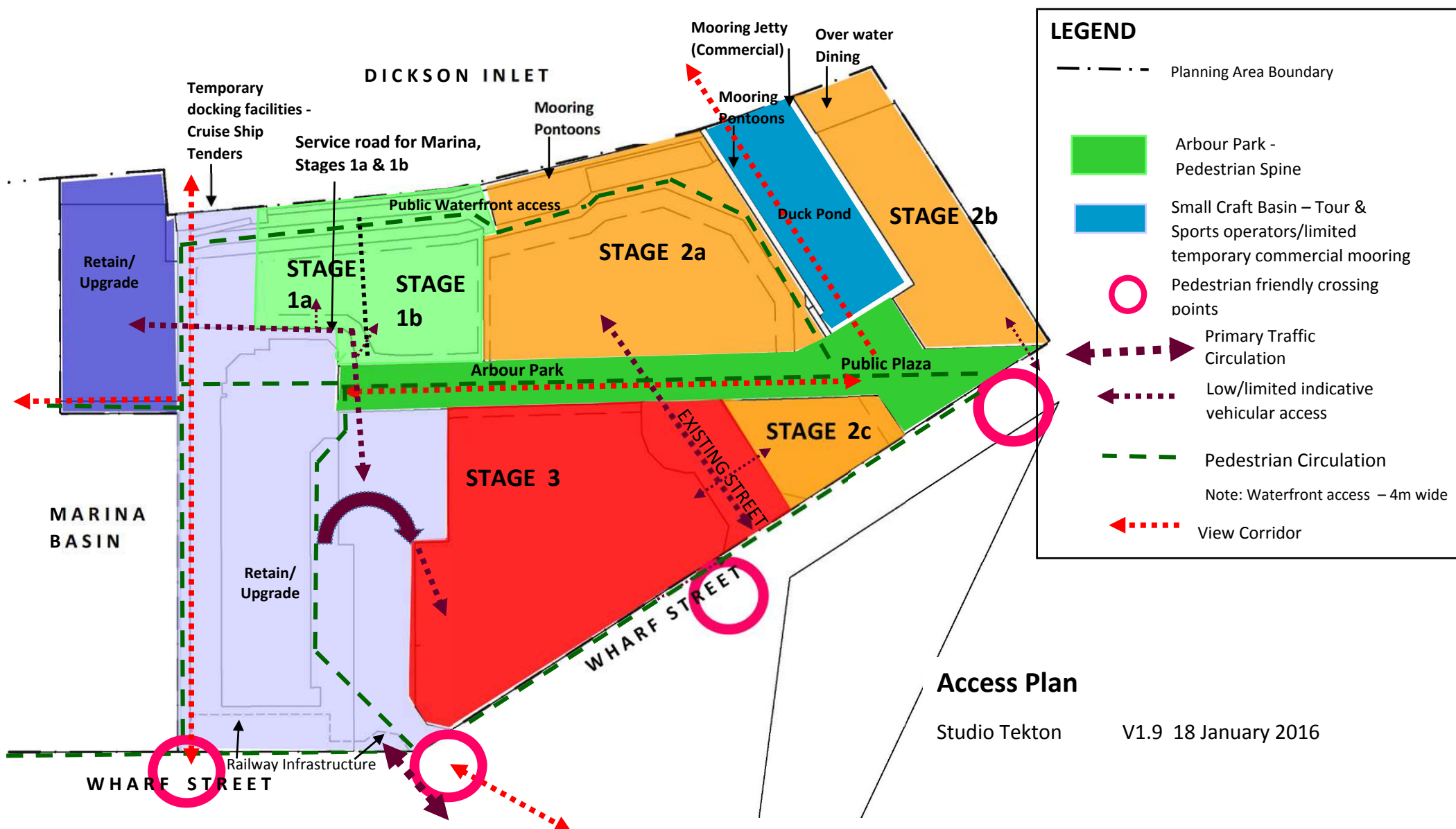
Context Plan

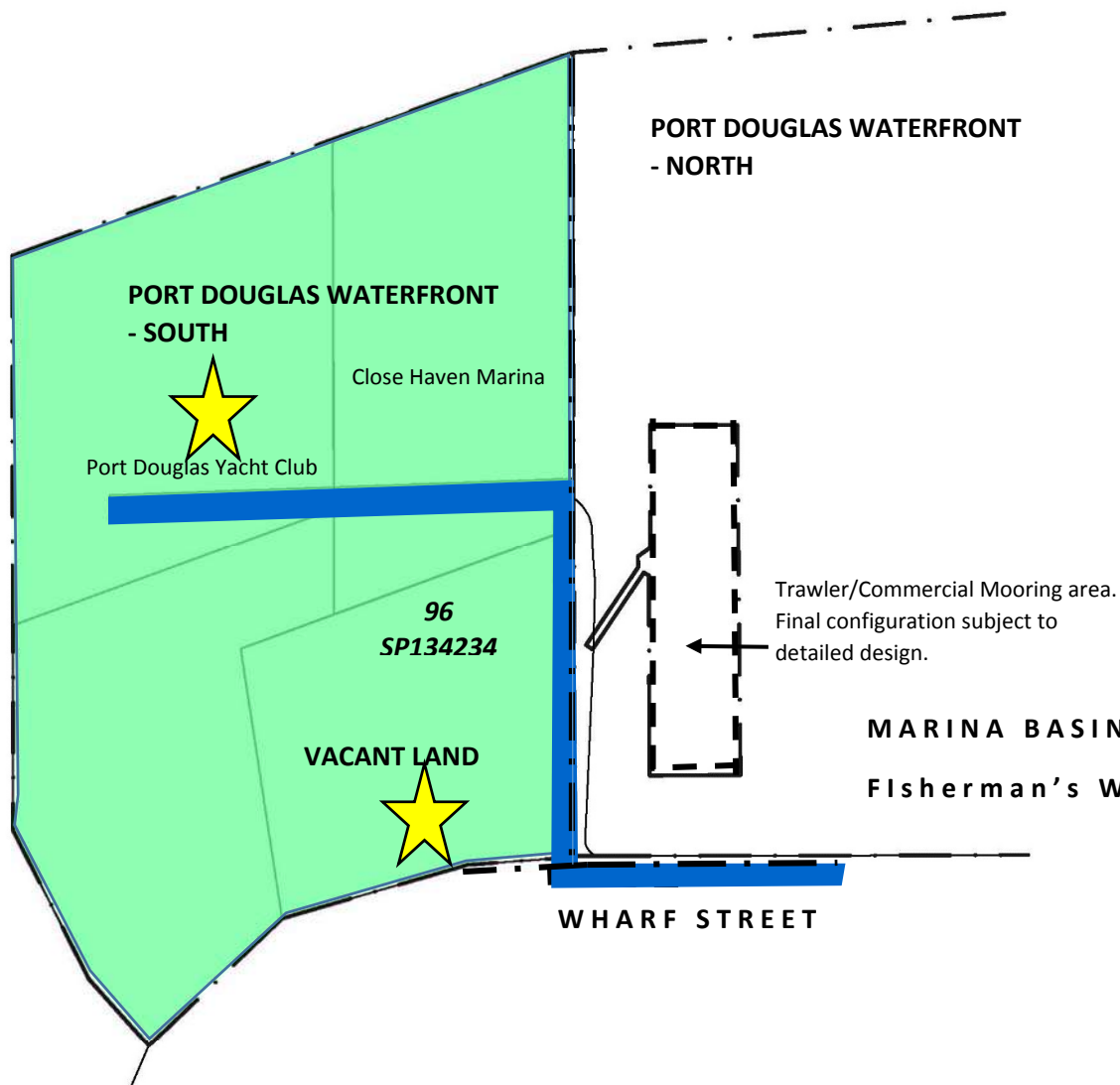
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V1.9 18 January 2016









LEGEND

- . — Precinct Boundary
- - - Sub Precinct Boundary – Proposed Fisherman's Wharf
- Port Douglas Waterfront South Planning Area – not part of proposal
- Walkable Waterfront – 4m wide
- Node – focal place.

Precinct Plan – South Marina Basin

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