

2 May 2024

Enquiries: Daniel Lamond
Our Ref: CA 2023_5488/1 (1225076)
Your Ref:

Administration Office
64 - 66 Front St Mossman
P 07 4099 9444
F 07 4098 2902

Allaro Homes Cairns Pty Ltd
C/- Planning Plus
PO Box 399
REDLYNCH QLD 4870

Dear Sir/Madam

**Combined Application for Preliminary Approval including a Variation Request for Use Rights Associated with the Low-Medium Density Residential Zone Code and Development Permit for Reconfiguring a Lot (3 Lots into 33 Lots)
At 42-44 Mitre Street CRAIGLIE and 46-52 Mitre Street, Craiglie
On Land Described as Lot 900 on SP342106 and Lot 0 on SP342106**

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

Please quote Council's application number: CA 2023_5488/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

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

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



Decision Notice

Approval (with conditions)

Given under s 63 of the Planning Act 2016

Applicant Details

Name: Allaro Homes Cairns Pty Ltd
Postal Address: C/- Planning Plus
PO Box 399
REDLYNCH QLD 4870
Email: evan@planningplusqld.com.au

Property Details

Street Address: 42-44 Mitre Street CRAIGLIE, 46-52 Mitre Street CRAIGLIE
Real Property Description: Lot 900 on SP342106 and Lot 0 on SP342106
Local Government Area: Douglas Shire Council

Details of Proposed Development

Combined Application for Preliminary Approval including a Variation Request for Use Rights Associated with the Low-Medium Density Residential Zone Code and Development Permit for Reconfiguring a Lot (3 Lots into 33 Lots)

Decision

Date of Decision: 30 April 2024
Decision Details: Approved (subject to conditions)

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

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

Drawing or Document	Reference	Date
RAL Proposal Plan	AU6631-06a prepared by RPS Group	8 April 2024
Plan of Development	AU213006631-07b prepared by RPS Group	8 April 2024

Assessment Manager Conditions & Advices

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

Timing of Effect

2. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

Community Management Scheme

3. Prepare a Community Management Statement which provides for the following:
 - a. development to be in accordance with the approved Plan of Development AU6631-07b, dated 8 April 2024 prepared by RPS Group and;
 - b. house construction and design to be compliant with the document entitled 'Design Guideline, 42 – 52 Mitre Street and Sagiba Avenue, Craiglie';
 - c. no prohibition of informal vehicle parking on the road verge of the common property where crossover blockage does not occur.The Community Management Statement must be endorsed by the Chief Executive Officer prior to approval of the Plan of Survey.

Access Road

4. Provide the access road as detailed in the approved Plan of Development AU6631-07b, dated 8 April 2024 prepared by RPS Group with a minimum of six (6) formalised visitor parking spaces and a two metre wide internal footpath.
5. The car parking layout must comply with the Australian Standard AS2890.1 2004 Parking Facilities – off-street car parking and be constructed in accordance with Austroads and good engineering design. In addition, all parking, driveway and vehicular maneuvering areas must be imperviously sealed, drained and line marked.

Existing Parking Space Offsets

6. Provide seven (7) on-street parking spaces in Sagiba Avenue to replace those removed by the driveway access. Detailed design of the on-street parking must be submitted as part of the Development Application for Operational Works.

Matters of Environmental Significance

7. The development must be carried out in accordance with the recommendations of the 'Matters of Environmental Significance' report dated 25 September 2023 by EcoRex.

Staging Plan

8. Provide a staging plan demonstrating the proposed amount and sequencing of stages for house construction to be endorsed by the Chief Executive Officer prior to submission of the Operational Works Development Application.

Operational Works

9. A Development Permit for Operational Works must be obtained for the following activities:
- a. vegetation removal and bulk earthworks associated with site grading;
 - b. construction of internal roads and drainage works;
 - c. water supply and sewer works;
 - d. All external works.

A Development Permit for Operational Works must be obtained prior to commencing any works associated with the redevelopment of the site. Operational Works.

Fire Hydrants

10. Place fire hydrants at intervals of no more than 120 metres and at each intersection within the common property road. Hydrants may have a single outlet and be sited above or below ground.

Retaining Walls

11. All retaining walls or structures higher than 1.0m must be certified by a suitably experienced RPEQ Structural Engineer.

Where the profile or height of the wall is redesigned during structural certification, amended plan(s) must be approved by Council.

12. The design of all retaining wall structures must be wholly contained within the development site and must not encroach into adjacent lots or road reserve.

The design of all retaining structures proposed must be provided to the satisfaction of the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

Construction Signage

13. Prior to the commencement of any construction works associated with the development, a sign detailing the project team must be placed on the road frontage of the site and must be located in a prominent position. The sign must detail the relevant project coordinator for the works being undertaken on the site, and must list the following parties (where relevant) including telephone contacts:
- a. Developer;
 - b. Project Coordinator;
 - c. Architect/Building Designer;
 - d. Builder;
 - e. Civil Engineer;
 - f. Civil Contractor;
 - g. Landscape Architect.

Minimum Fill and Floor Level

14. All building pad levels must be constructed to be immune of the Q100 flood immunity level, plus any hydraulic grade effect (whichever is the greater), in accordance with FNQROC Development Manual and Planning Scheme requirements.

Site Based Stormwater Management Plan

15. Provide a Site Based Stormwater Management Plan (SBSMP) reporting on the stormwater quantity and quality management required for the land, and must focus on, but not be limited to, the following:
- a. nominate best practice site management procedures to control the severity and extent of soil erosion, pollutant transport, and other water quality issues that may arise during the construction phase and post-construction phase;
 - b. nominate requirements for ongoing post-construction management (inclusive of responsibility) of the drainage channel located adjacent Lot 33, and within the turnaround road internal to the site; and
 - c. the drainage network for the development must incorporate a gross pollutant trap(s) or equivalent measure(s), meeting the following Council specifications for stormwater quality improvement devices (SQID), namely:
 - i. End-of-line stormwater quality improvement devices (SQID) must be of a proprietary design and construction and must carry manufacturer's performance guarantees as to removal of foreign matter from stormwater and structural adequacy of the unit;
 - ii. SQIDs must be positioned to provide appropriate unrestricted access for maintenance equipment;
 - iii. SQIDS (e.g. GPTs) must allow simple and economical maintenance of the device. They must be positioned to allow for economic and efficient maintenance operations and be provided with a hardstand structure suitable to bear the weight of a design truck and located off the road pavement so as to not to interfere with the movement of traffic or household driveways whilst in operation;
 - iv. Clearly nominate Council infrastructure and privately owned stormwater infrastructure. The maintenance of all private stormwater infrastructure is the sole responsibility of the owner/operator of the development site. Council is under no obligation to maintain private stormwater quality device/s installed on the subject site;

The SBSMP must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

Stormwater

16. Provide drainage calculations to demonstrate capacity for existing infrastructure on Sagiba Avenue to convey the post-development runoff through to the Esplanade area with no adverse operational issues for the road function.

Information must include:

- a. Revised stormwater catchments (internal and external);
- b. Supporting drainage calculations for the existing Lucas Lane cross road culvert and concrete lined drain; and
- c. Longitudinal and cross sections of the current drainage profile on Sagiba Avenue.

The calculations must demonstrate capacity to convey the post-development discharge to the satisfaction of the Chief Executive Officer prior to issue of a Development Permit for Operational Works.

17. All stormwater from the property must be directed to a lawful point of discharge such

that it does not adversely affect surrounding properties or properties downstream from the development to the requirements and satisfaction of the Chief Executive Officer prior to Works Acceptance.

Pump Station Access

18. The pump station driveway hardstand is to be amended to allow the service vehicle to exit the driveway hardstand in a forward direction. The amended driveway hardstand design and vehicle turn path must be provided to submitted with the Development Application for Operational Works.

Electricity

19. Any padmount transformer must be installed on site and positioned in accordance with the following requirements:
 - a. not located on land used for open space or sport and recreation purposes;
 - b. screened from view by landscaping, sightcreens and/or fencing;
 - c. accessible for maintenance in accordance with the relevant utility provider;
 - d. must be located clear of footpaths;
 - e. must not be located over existing infrastructure;

Internal Sewer

20. An exclusion radius of 30m from the existing sewer pump station must be provided to all dwellings within the development, generally as shown on the approved 'Plan of Development' AU6631-07b, dated 8 April 2024 prepared by RPS Group.

The exclusion radius must be to the satisfaction of the Chief Executive Officer prior to Works Acceptance.

Water Supply Works Internal

21. Undertake the following water supply works internal to the subject land:
 - a. provide a single internal water connection; and
 - b. water supply sub-metering must be designed and installed in accordance with The Plumbing and Drainage Act 2002 and the Water Act 2000 and applies to developments which will be reconfigured by Standard Format Plan with common property.

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

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to Commencement of Use or approval and dating of the Plan of Survey, whichever occurs first.

Landscaping

22. The development site must be landscaped in accordance with a landscaping plan. landscape plans are to be provided to and endorsed by the chief Executive Officer prior to the issue of a Development Permit for Operational Works.

All landscaping works must be undertaken prior to approval and dating of the Plan of Survey and must be maintained at all times to the satisfaction of the Chief Executive Officer.

23. Prior to the issue of a Development Permit for Operational Works, provide a Tree Protection Plan prepared by a minimum qualification level 5 arborist for the trees on road reserve at Sagiba Avenue and Mitre Street, for endorsement by the Chief Executive Officer. The plan must include SRZ and TPZ measures.

These protection measures are to be maintained at all times until works acceptance.

24. Council must be notified two (2) business days prior to the proposed date of commencement of any approved vegetation clearing within the development site.

Stockpiling and Transportation of Fill Material

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

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

- a. peak traffic times; or
- b. before 7:00am or after 6:00pm Monday to Friday; or
- c. before 7:00am or after 1:00pm Saturdays; or
- d. on Sundays or Public Holidays.

Environmental Protection Policy – Noise & Dust

26. All reasonable and practicable measures must be implemented during the construction phase of the development for the purpose of ensuring the development does not create a noise or dust nuisance in accordance with the Environmental Protection Policy. These measures must be capable of minimising the potential for unreasonable impacts to residents, guests and other activities that may be occurring on site or at nearby locations.

Damage to Council Infrastructure

27. Prior to any works occurring on the site, the applicant is to prepare a road condition report of the proposed road access and haulage route(s) to and from the site. The report is to identify relevant existing defects or problems with the roadway along the identified route.

On completion of the works, the access and haul route(s) shall be subject to a joint inspection by the applicant and Council Officers to identify any further damage that has occurred. Where additional damage has occurred, all rectification works shall be at the applicant's expense, to the satisfaction of the Chief Executive Officer.

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

Electricity Supply

29. Written evidence from Ergon Energy advising if distribution substation/s are required within the development must be provided. If required, details regarding the location of these facilities must be submitted to the Chief Executive Officer accompanied by written confirmation from Ergon Energy.

Details regarding electricity supply must be provided prior to the issue of a Development Permit for Operational Works.

30. Where Ergon Energy requires a padmount substation within the development site, written confirmation from Ergon Energy of this requirement and details of the proposed location must be submitted to the Chief Executive Officer.

Electricity and Telecommunications

31. Written evidence of negotiations with Ergon Energy and the telecommunication authority must be submitted to Council stating that both an underground electricity supply and telecommunications service will be provided to the development prior to approval and dating of the Plan of Survey.
32. Ownership, costs and maintenance associated with all electrical metering internal to the development will not be the responsibility of Council at any time before, during or post construction.

Acid Sulfate Soil Investigation

33. Undertake an Acid Sulfate Soil investigation in the area to be affected by this development. Soil sampling and analysis must be undertaken in accordance with procedures specified in, '*Guidelines for Sampling and Analysis of Lowland Acid Sulfate Soils in Queensland*' (1998) or updated version of document produced by the Department of Resources, and State Planning Policy 2/02 – '*Planning and Managing Development involving Acid Sulfate Soils*'. The results of this investigation must be submitted to Council for approval prior to any earthworks or clearing being commenced on the site.

Identification of soils with a pyrite content in excess of the action levels nominated in the latest version of DR – QASSIT: '*Guidelines for Sampling and Analysis of Lowland Acid Sulfate Soils in Queensland*' (1998) will trigger the requirement for preparation of an Acid Sulfate Soil Environmental Management Plan in accordance with the most recent requirements of the DR: '*Queensland Acid Sulfate Soil Technical Manual*' (2002) including Soil Management Guidelines (updated Feb. 2003) which must be prepared to the satisfaction of the Chief Executive Officer.

ADVICE

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with sections 85(1)(b) and 71 of the *Planning Act 2016*.
2. This approval does not negate the requirement for compliance with all relevant Local Laws and statutory requirements.
3. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
4. For information relating to the *Planning Act 2016*, log on to www.dsd.qld.gov.au . To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.

Cultural Heritage

5. The *Aboriginal Cultural Heritage Act 2003* and *Torres Strait Islander Cultural Heritage Act 2003* (the Cultural Heritage Acts) require anyone who carries out a land-use activity to exercise a duty of care.

This '*duty of care*' means land users must take all reasonable and practicable measures to ensure their activity does not harm Aboriginal or Torres Strait Islander cultural heritage. The duty of care applies to any activity where Aboriginal or Torres Strait Islander cultural heritage is located. This includes cultural heritage located on freehold land and regardless of whether or not it has been identified or recorded in a database.

Consultation with the Aboriginal or Torres Strait Islander party for an area may be necessary if there is a high risk that the activity may harm Aboriginal or Torres Strait Islander cultural heritage. Guidelines have been produced to enable assessment of sites under the Act. These are available from the Queensland Government website and can be downloaded from the following website.

Environmental

6. An Ecoaccess approval must be obtained from the Department of Environment and Science prior to the clearing of vegetation and/or tree removal that involves damage or destruction of plant species protected under the provisions of the *Nature Conservation Act 1992*. Information on Ecoaccess approvals may be obtained at www.des.qld.gov.au.

Infrastructure Charges Notice

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

The amount in the Infrastructure Charges Notice has been calculated according to Council's Infrastructure Charges Resolution. Please note that this Decision Notice and the Infrastructure Charges Notice are stand-alone documents. The *Planning Act 2016* confers rights to make representations and appeal in relation to a Decision Notice and an Infrastructure Charges Notice separately.

Further Development Permits

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

- All Operational Work

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

Concurrence Agency Response

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

Currency Period for the Approval

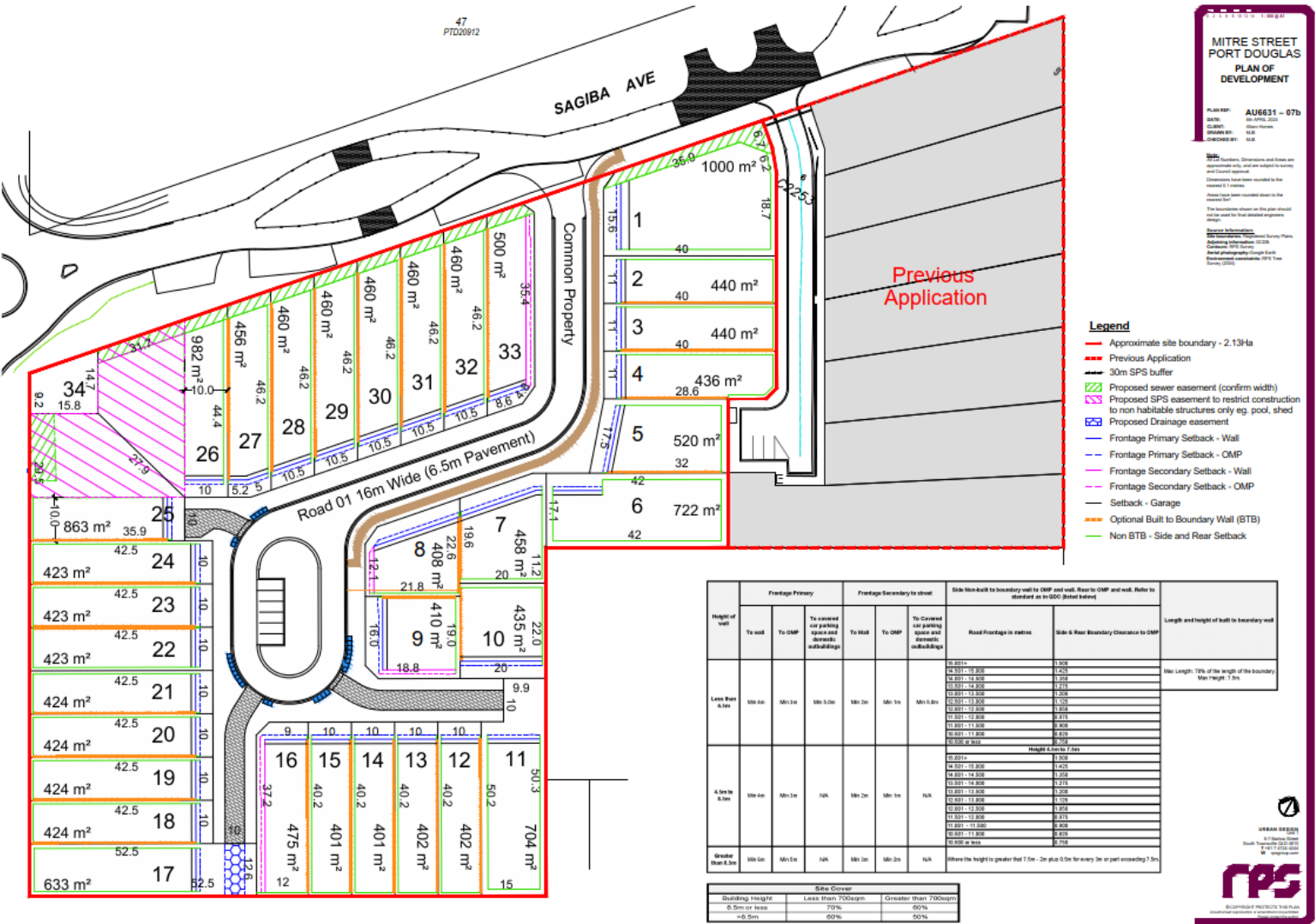
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

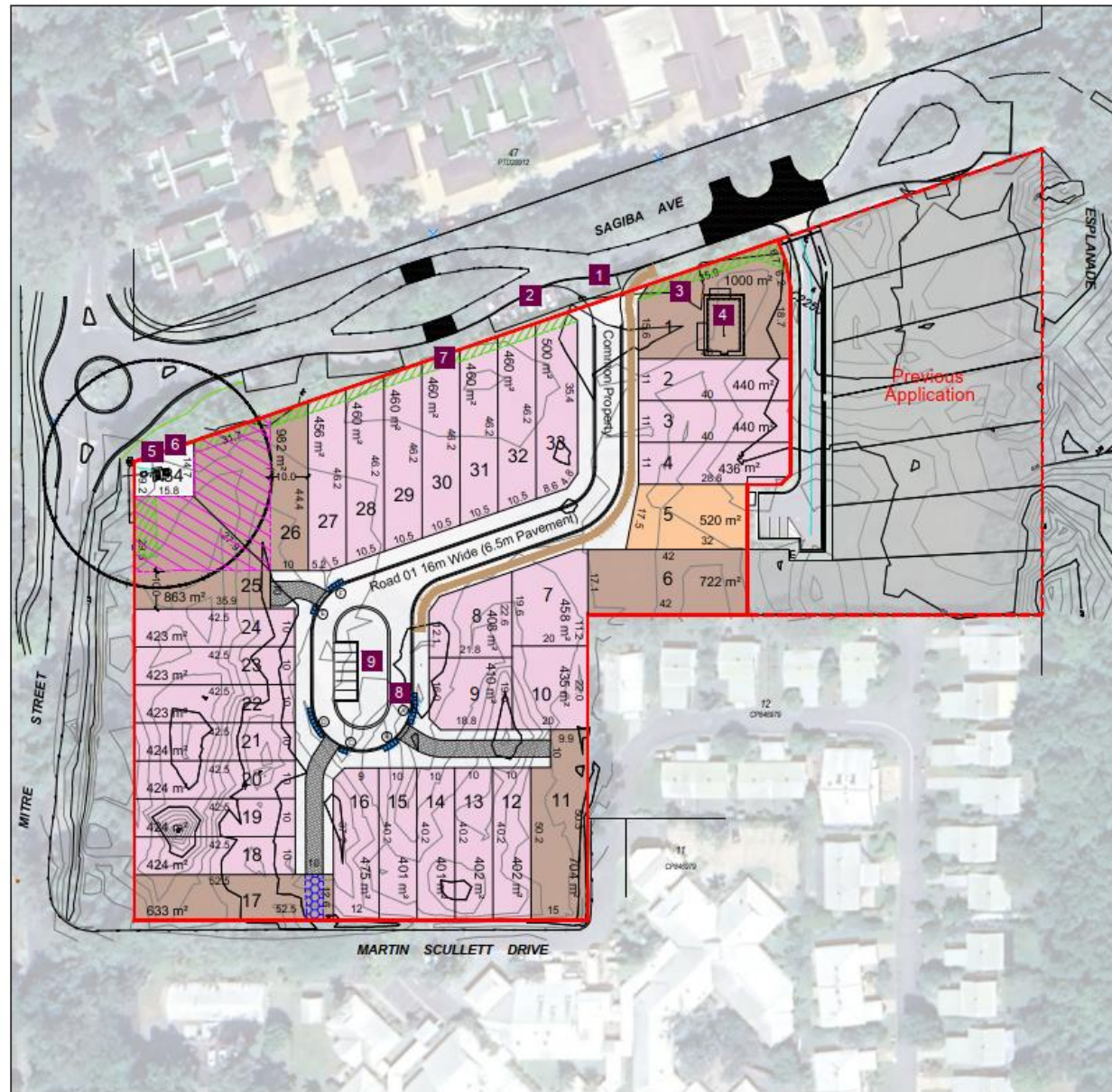
Rights to make Representations & Rights of Appeal

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

A copy of the relevant appeal provisions is attached.

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





Legend

- Approximate site boundary - 2.13Ha
- Previous application
- 30m SPS buffer
- Proposed sewer easement (confirm width)
- Proposed SPS easement to restrict construction to non habitable structures only eg. pool, shed
- Proposed drainage easement
- Bin pads for garbage collection
- Lots 10, 11, 12 & 13
- Lot 14 & 15
- Lot 17
- Lots 18, 19, 20 & 21
- Lot 25
- Lots 26, 27
- 1 New entry/exit - located east of the existing median to provide all movements access.
- 2 Partial removal of existing parking bays.
- 3 Future duplex allotment.
- 4 Temporarily retain the existing structure.
- 5 Signage feature - Common Property
Detail design to be agreed with Council
- 6 Pump station lot. Transfer to Council.
- 7 Confirm property boundary clearance to the existing manhole.
- 8 5.5m Pavement - 2 way movement.
- 9 Landscape feature.

Development Statistics

Saleable Land - 1.67 Ha
Road Area - 0.43 Ha (20.1%)

Total No Allotments	33
400m ² - 500m ² Allotments	26
501m ² - 600m ² Allotments	1
>600m ² Allotments	6

Average Lot Size - 505m²

Average Lot Size (inc. previous application) - 580m²

**MITRE STREET
PORT DOUGLAS
RURAL PROPOSAL PLAN
CANCELLING LOTS
1, 2 & 6 C2253**

PLAN REF: AU6631 - 06a

DATE: 06 APR 2022

CUSTOMER: Urban Design

SPONSOR BY: U.D.S.

DRAWN BY: U.D.S.

Notes:
1. All dimensions, orientations and areas are approximate only, and are subject to survey and Council approval.
2. Dimensions have been rounded to the nearest 0.1 metres.
3. Areas have been rounded down to the nearest 0.1 metres.
4. The boundaries shown on this plan should not be used for final detailed engineering design.
5. Survey Information:
a. Surveyed by: Urban Design Survey Plans
b. Surveyed on: 06 APR 2022
c. Contour: 10m
d. Aerial photography: Google Earth
e. Background coordinates: NZGS 2000

URBAN DESIGN
0-1 Station Street
South, Townsville 4810 QLD
T +61 7 4750 0444
W www.urbandesign.com.au

rps
Rural Planning Services
Rural Planning & Development
Rural Planning & Development

Concurrence Agency Conditions

RA6-N



SARA reference: 2308-36408 SRA
Council reference: CA2023_5488/1 (1178907)
Applicant reference: 23-06/001261

19 February 2024

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

enquiries@douglas.qld.gov.au

Attention: Daniel Lamond

Dear Sir/Madam

SARA referral agency response

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

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 1 September 2023.

Response

Outcome:	Referral agency response – with conditions	
Date of response:	19 February 2024	
Conditions:	The conditions in Attachment 1 must be attached to any development approval	
Advice:	Advice to the applicant is in Attachment 2	
Reasons:	The reasons for the referral agency response are in Attachment 3	

Development details

Description:	Development permit	Reconfiguring a Lot (3 Lots into 33 Lots)
	Preliminary approval that includes a variation request	Material change of use for use rights consistent with the Low to Medium Density Residential Zone
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 17, Division 3, Table 5, Item 1 (10.17.3.5.1) of the Planning Regulation 2017 - Reconfiguring a lot in a coastal	

management district

Schedule 10, Part 17, Division 3, Table 6, Item 1 (10.17.3.6.1) of the Planning Regulation 2017 - Material change of use involving work in a coastal management district

Schedule 10, Part 20, Division 4, Table 2, Item 1 (10.20.4.2.1) of the Planning Regulation 2017 - Reconfiguring a lot in a wetland protection area

Schedule 10, Part 20, Division 4, Table 3, Item 1 (10.20.4.3.1) of the Planning Regulation 2017 - Material change of use of premises in a wetland protection area

SARA reference: 2308-36408 SRA

Assessment manager: Douglas Shire Council

Street address: 42-44 & 46-52 Mitre Street Craiglie

Real property description: Lot 1 on C2253; Lot 6 on C2253 and Lot 2 on C2253 (now Lot 900 on SP342106)

Applicant name: Allaro Homes Cairns Pty Ltd C/- Planning Plus

Applicant contact details: PO Box 399
REDLYNCH QLD 4870
info@planningplusqld.com.au

Human Rights Act 2019 considerations: A consideration of the 23 fundamental human rights protected under the *Human Rights Act 2019* has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules). Copies of the relevant provisions are in **Attachment 4**.

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

For further information please contact Isley Peacey, Senior Planning Officer, on 4037 3202 or via email CairnsSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Allaro Homes Cairns Pty Ltd C/- Planning Plus, info@planningplusqld.com.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant

Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations about a referral agency response provisions
Attachment 5 - Documents referenced in conditions

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the documents referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Material change of use		
10.17.3.6.1 - Material change of use involving work in a coastal management district and 10.20.4.3.1 – Material change of use of premises in a wetland protection area —The chief executive administering the <i>Planning Act 2016</i> nominates the Department of Environment, Science and Innovation to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	The development must be undertaken generally in accordance with the following plans: <ul style="list-style-type: none"> - Locality Plan prepared by Neon Consulting dated 14/07/2023, drawing number 016-2304-00-SK-0001, revision A. - Earthworks Concept prepared by Neon Consulting dated 17/10/2023, drawing number 016-2304-00-SK-0021, revision A. 	Prior to the commencement of use and to be maintained at all times
2.	For the proposed works, only use clean materials which are free from prescribed water contaminants.	For the duration of the works.
3.	Development must prevent the release of sediment to tidal waters and/or to the wetland by installing and maintaining erosion and sediment control measures in accordance with the Best Practice Erosion and Sediment Control (BPESC) guidelines for Australia (International Erosion Control Association).	For the duration of the works.
4.	Stormwater discharge must be treated in accordance with the <i>Queensland Best Practice Environmental Management Guidelines</i> before stormwater flow enters the buffer of the wetland as show on Figure 3-1 MUSIC Model Layout – Stormwater Catchment and Land Uses within Technical Memorandum prepared by SLR Consulting Australia dated 21 December 2023, project no. 620.040627.00001.	At all times
5.	(a) In the event that the works cause disturbance or oxidisation of acid sulfate soil, the affected soil must be treated and thereafter managed (until the affected soil has been neutralised or contained) in accordance with the current <i>Queensland Acid Sulfate Soil Technical Manual: Soil management guidelines</i> , prepared by the Department of Science, Information Technology, Innovation and the Arts, 2014. (b) Certification by an appropriately qualified person, confirming that the affected soil has been neutralised or contained, in accordance with (a) above is to be provided to palm@des.qld.gov.au or mailed to: Department of Environment, Science and Innovation Permit and Licence Management Implementation and Support Unit	(a) Upon disturbance or oxidisation until the affected soil has been neutralised or contained. (b) At the time the soils have been neutralised or contained.

	GPO Box 2454 Brisbane Qld 4001	
	Note: Appropriately qualified person means a person or persons who has professional qualifications, training, skills and experience relevant to soil chemistry or acid sulfate soil management and can give authoritative assessment, advice and analysis in relation to acid sulfate soil management using the relevant protocols, standards, methods or literature.	
6.	Enter into an agreed delivery arrangement to deliver an environmental offset in accordance with the <i>Environmental Offsets Act 2014</i> to counterbalance the significant residual impacts on the matter/s of state environmental significance being 0.87ha of Wildlife Habitat (endangered or vulnerable).	Prior to commencing any works that impact on the Wildlife Habitat (endangered or vulnerable)
7.	A licenced fauna spotter catcher must be present during clearing activities.	During clearing activities.
8.	Operational works must not be undertaken between 01 December to 31 March.	For the duration of works.
Reconfiguring of a lot		
10.17.3.5.1 -Reconfiguring a lot in a coastal management district and 10.20.4.2.1 - Reconfiguring a lot in a wetland protection area -The chief executive administering the <i>Planning Act 2016</i> nominates the Department of Environment, Science and Innovation to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
14.	The reconfiguration must be undertaken generally in accordance with the following plans: - Locality Plan prepared by Neon Consulting dated 14/07/2023, drawing number 016-2304-00-SK-0001, revision A.	Prior to submitting the Plan of Survey to the local government for approval

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> , its regulation or the State Development Assessment Provisions (SDAP) (version 3.0). If a word remains undefined it has its ordinary meaning.

Attachment 3—Reasons for referral agency response

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

The reasons for the SARA's decision are:

- The development complies with State code 8: Coastal development and tidal works of SDAP. Specifically, the development:
 - o protects life, buildings and infrastructure from the impacts of coastal erosion;
 - o maintains coastal processes;
 - o conserves coastal resources;
 - o maintains appropriate public use of, and access to and along, State coastal land;
 - o account for the projected impacts of climate change;
 - o reasonably minimises and mitigates impacts on matters of state environmental significance
 - o provides an offset for the significant residual impact on a matter of state environmental significance.
- The development complies with State code 9: Great Barrier Reef wetland protection areas of SDAP. Specifically, the development:
 - o is located outside of a wetland;
 - o does not have an unacceptable impact on wetland environmental values;
 - o reasonably minimises and mitigates impacts on matters of state environmental significance
 - o provides an offset for the significant residual impact on a matter of state environmental significance.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 3.0), as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- section 58 of the *Human Rights Act 2019*

Attachment 4—Representations about a referral agency response provisions

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Attachment 5—Documents referenced in conditions

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Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding **representations about a referral agency response**

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

Part 7: Miscellaneous

30 Representations about a referral agency response

30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

Reasons for Decision

The reasons for this decision are:

1. Sections 60, 62 and 63 of the *Planning Act 2016*:
 - a. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
 - b. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
 - a. the development application was properly lodged to the Douglas Shire Council on 28 August 2023 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
 - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
 - a. the development triggered assessable development under the Assessment Table associated with the Tourist Accommodation Zone Code;
 - b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
 - c. the applicant's reasons have been considered and the following findings are made:
 - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

Non-Compliance with Assessment Benchmarks

Low-medium Residential Zone Code

The proposal seeks the application of the Low-medium residential zone code to accommodate the subdivision with small allotments.

Performance Outcome PO7 of the code prescribes that new lots contain a minimum area of 450m². The proposal includes four lots with site area as low as 401m². PO8 prescribes that new lots have a minimum road frontage of no less than 15 metres and PO9 requires that new lots have a 20m x 15m rectangle. 23 of the 33 proposed lots do not comply with the three performance outcomes as the lots are as small as 401m² and have frontages 10 metres wide. The overall outcomes of the code must be assessed as the proposal is not compliant with the performance outcomes.

In particular, the overall outcomes seek a range of residential dwelling choices including multiple dwellings at overall outcome (a). It is evident that the proposal provides a diverse range of allotments for single detached houses or multiple dwelling construction by proposing lots ranging from 401m² to 1000m² and it must be noted that the proposed allotments are regular in shape and are not constrained by acute boundary angles or rear lot design.

Overall outcome (b) seeks that development encourages and facilitates urban consolidation and the efficient use of infrastructure. The proposal is a good example of efficient urban consolidation as the site is already

served by water, sewer and external drainage infrastructure as is sited between two existing urban developments. Further, the development does not result in urban sprawl.

Overall outcome (c) seeks that development provides safe and walkable neighbourhoods. The proposal includes a private internal access road equipped with an internal footpath connecting to the footpath network on Sagiba Avenue.

Overall outcome (d) prescribes that development maintains a high level of residential amenity having regard to traffic, noise, dust, odour, lighting and other locally specific impacts. The site is not adjacent a high order road or any uses with incompatible impacts to sensitive uses.

Overall outcome (e) requires that development is reflective and responsive to the environmental constraints of the land. The urban development of the land relies upon clearing the vegetation on the land in order to fill and create sufficient drainage solutions. The development includes two bioretention basins to improve stormwater quality for discharge to the receiving ecosystem downstream. A Matters of Environmental Significance Assessment has been undertaken and the report gives recommendations for the appropriate management and relocation of protected species. The vegetation on the land is highly fragmented and isolated within an existing urban area and is considered to provide limited ecological function. Urban land in Port Douglas is finite and becoming more limited, therefore it is considered that there is no overriding need to retain this section of land in its current state.

Overall outcome (f) prescribes that the development provides a high level of amenity and is reflective of the surrounding character of the area. Small lots on their own generally result in poor amenity outcomes as the size constraint means that there are limited opportunities to achieve adequate privacy outcomes with the future building design. However, the applicant has provided a building envelope plan which is master planned for the small allotments proposed in the subdivision. This plan regulates which boundaries can be built to, and how close construction can occur to adjoining boundaries of other lots. In addition, the applicant has prepared a building design guideline which regulates a high standard of building appearance through design features and also regulates privacy implications through window locations, balcony locations, the use of privacy screens and window slats and other appropriate measures. Given the proposed subdivision is centred around an internal private road and reflects a gated community outcome, there is no detrimental impact on the character of the area, albeit that the area is already characterised by small residential houses on the adjoining allotment and small modular villas as the Sea Temple across the road.

Overall Outcome (g) seeks that development is supported by necessary community facilities, open space and recreational areas and appropriate infrastructure to support the needs of the local community. The proposal includes a central area of open space sited with visitor parking spaces. The site is located as close to the beach and there is ample opportunity for recreation at Four Mile Beach which is easily accessible via the existing path at the end of Sagiba Avenue.

Reconfiguring a Lot Code

The primary component of the application is the proposal to apply the Low-medium density residential zone framework to the land. The reconfiguration component of the proposal is for the subdivision of the three lots into 33 residential lots and must be assessed against the provisions of the Reconfiguring a Lot development code from the planning scheme.

AO4 of the code requires that existing site features such as significant vegetation and trees are incorporated into open space, road reserves, or a common property. The site is partly vegetated with significant and well established category B vegetation. If the land is to be developed for urban purposes, the vegetation cannot be retained. This is because the land needs filling in order to re-profile for flood immune allotments. Further, the installation of sewer and water reticulation and associated trenching is not compatible at scale with the existing vegetation. The State Assessment and Referral Agency has agreed to allow the application to proceed on the basis that environmental offsets are paid for the loss of the vegetation community. The applicant has undertaken a Matters of Environmental Significance assessment and has found that the site contains matters of both State and National Environmental Significance. The report includes recommendations for the management and relocation of the relevant species such as ant plants in order to comply with the corresponding performance outcome PO4, requiring that development responds appropriately to its local context, natural systems and site features. Further, it must be noted that the existing

approval over the land for a large holiday accommodation development already includes approval to clear the vegetation. The subdivision design includes two considerable areas within the common property set aside as bio-retention basins which manage the water quality of the runoff leaving the site.

Acid Sulphate Soils Overlay Code

The site is within the potential acid sulphate soils trigger area given its proximity to the coast and elevation below five metres AHD. The application was not accompanied by an acid sulphate soils investigation; however, this is required as greater than 100 cubic metres of fill is being imported. A condition has been imposed to require the applicant to undertake the investigation and supply results to Council prior to site works commencing.

Bushfire Hazard Overlay Code

The site includes impact buffer areas and medium and high potential hazard areas given by the overlay code for bushfire hazard. However, given the site is being cleared and will be developed between two existing urban development, the risk of bushfire is diminished. No concerns are raised with bushfire hard post development.

Flood and Storm Tide Hazard Overlay Code

The site is within the medium hazard storm tide overlay area. A condition has been imposed to require that the finished pad levels are immune. The finished floor level published on Councils website is approximately 3.5m AHD. The applicant has prepared detailed design plans nominating compliant pad levels with considerations for hydraulic grade effects from stormwater.

Natural Areas Overlay Code

The code requires that development mitigates impacts on environmental values including water quality, hydrology and biological processes at acceptable outcome AO1.3. The corresponding performance outcome requires that development protects matters of environmental significance at PO1. As detailed above, the development application material was accompanied by a matters of environmental significance ecology report which gave recommendations for relocation endangered species located at the site. It is considered that the vegetation is of low retention value and that the removal is justified by way of the offset payment SARA have required. In addition, the site has been developed with on-site stormwater detention bio-retention basins which clean stormwater prior to discharge to the downstream catchment. The bio-retention basins are designed within the common property central to the development.

Transport Network Overlay Code

The codes prescribe that development does not compromise the safety and efficiency of the transport network at acceptable outcome AO1.2. It must be noted that the common property access driveway location at Sagiba Avenue results in the loss of seven on-street car parking spaces. However, a condition has been imposed to require the applicant to construct seven car parking spaces in an alternative location on Sagiba Avenue as car parking is a known issue for the street. It should also be noted that the development provides for ample on-site visitor parking opportunities and a condition has been imposed to require that the Community Management Statement for the common property cannot prohibit internal informal visitor parking.

Landscaping Code

Acceptable Outcome A01 requires that development is landscapes in accordance with planning scheme policy SC6.7. The applicant has not prepared a landscaping plan. A condition has been imposed to require the submission of a landscaping plan which will be implemented as part of the subdivision construction.

Extracts from the Planning Act 2016 - Making Representations During Applicant's Appeal Period

Planning Act 2016
Chapter 3 Development assessment

[s 74]

relevant preliminary approval means a preliminary approval given under the old Act by an entity other than a private certifier.

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

74 What this subdivision is about

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

75 Making change representations

- (1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—

-
- (a) a matter in the development approval, other than—
 - (i) a matter stated because of a referral agency's response; or
 - (ii) a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
 - (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- (3) Only 1 notice may be given.
- (4) If a notice is given, the appeal period is suspended—
- (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
 - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
 - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
 - (ii) the assessment manager gives the applicant the decision notice for the change representations; or
 - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (5) If the applicant makes the change representations during the appeal period without giving a notice under subsection (2), the appeal period is suspended from the day the representations are made until—

- (a) the applicant withdraws the change representations by notice given to the assessment manager; or
 - (b) the assessment manager gives the applicant the decision notice for the change representations; or
 - (c) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (6) Despite subsections (4) and (5), if the decision notice mentioned in subsection (4)(b)(ii) or (5)(b) is a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

76 Deciding change representations

- (1) The assessment manager must assess the change representations against and having regard to the matters that must be considered when assessing a development application, to the extent those matters are relevant.
- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
 - (a) the applicant; and
 - (b) if the assessment manager agrees with any of the change representations—
 - (i) each principal submitter; and
 - (ii) each referral agency; and
 - (iii) if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
 - (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
 - (v) another person prescribed by regulation.

- (3) A decision notice (a ***negotiated decision notice***) that states the assessment manager agrees with a change representation must—
 - (a) state the nature of the change agreed to; and
 - (b) comply with section 63(2) and (3).
- (4) A negotiated decision notice replaces the decision notice for the development application.
- (5) Only 1 negotiated decision notice may be given.
- (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

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

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

Note—

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.

- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

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

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

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.

- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
decision includes—
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

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

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

232 Rules of the P&E Court

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

2 May 2024

Enquiries: Daniel Lamond
Our Ref: CA 2023_5488 (1225076)
Your Ref:

Allaro Homes Cairns Pty Ltd
C/- Planning Plus
PO Box 399
REDLYNCH QLD 4870

Dear Sir/Madam

Adopted Infrastructure Charges Notice for Combined Application for Preliminary Approval including a Variation Request for Use Rights Associated with the Low-Medium Density Residential Zone Code and Development Permit for Reconfiguring a Lot (3 Lots into 33 Lots)

At 42-44 Mitre Street CRAIGLIE and 46-52 Mitre Street, Craiglie On Land Described as Lot 900 on SP342106 and Lot 0 on SP342106

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

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

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

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

Please quote Council's application number: CA 2023_5488 in all subsequent correspondence relating to this matter.

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

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

encl.

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

Adopted Infrastructure Charges Notice

DOUGLAS SHIRE COUNCIL		2018 Douglas Shire Planning Scheme version 1.0 Applications	
ADOPTED INFRASTRUCTURE CHARGES NOTICE			
Allaro Homes Cairns Pty Ltd DEVELOPERS NAME		ESTATE NAME	STAGE
42-52 Mitre Street and Sagiba Avenue		900 on SP342106, 0 on SP342106	158436, 158437
STREET No. & NAME		LOT & RP No.s	PARCEL No.
Preliminary Approval including a Variation Request for Use Rights associated with the Low – Medium Density Residential Zone and		CA 2023_5488	6
DEVELOPMENT TYPE		COUNCIL FILE NO.	VALIDITY PERIOD (year)
1221782		Prior to signing and sealing of survey form for ROL	
DSC Reference Doc. No.		VERSION No.	
1			

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

Proposed Demand	Charge per Use	\$ Rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
Residential Dwelling_house	\$_per_3_or_more_bedroom_dwelling	26,470.47	33	\$873,822.51		
Total Demand				\$873,822.51		
Credit						
Total Credit				\$0.00		
Required Payment or Credit				TOTAL	\$873,822.51	

No credit available

Prior arrangement for online payment via invoicing - see below.

Code 895
GL GL7500.135.825

Prepared by	D Lamond	12-Apr-24	Amount Paid
Checked by	N Beck	12-Apr-24	Date Paid
Date Payable	ROL - Before the Local Government approves the plan of subdivision		
Amendments		Date	
			Cashier

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

Charge rates under the Policy are subject to indexing.
Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

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

If you seek to pay online, please request an invoice to be issued via enquiries@douglas.qld.gov.au

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

Subdivision 5 Changing charges during appeal period

124 Application of this subdivision

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

125 Representations about infrastructure charges notice

- (1) During the appeal period for the infrastructure charges notice, the recipient may make representations to the local government about the infrastructure charges notice.
- (2) The local government must consider any representations made by the recipient.

- (3) If the local government—
 - (a) agrees with a representation; and
 - (b) decides to change the infrastructure charges notice;the local government must, within 10 business days after making the decision, give a new infrastructure charges notice (a *negotiated notice*) to the recipient.
- (4) The local government may give only 1 negotiated notice.
- (5) A negotiated notice—
 - (a) must be in the same form as the infrastructure charges notice; and
 - (b) must state the nature of the changes; and
 - (c) replaces the infrastructure charges notice.
- (6) If the local government does not agree with any of the representations, the local government must, within 10 business days after making the decision, give a decision notice about the decision to the recipient.
- (7) The appeal period for the infrastructure charges notice starts again when the local government gives the decision notice to the recipient.
- (8) However, if the recipient gives the local government a notice withdrawing the representations before the local government has given a negotiated notice or decision notice—
 - (a) the appeal period is taken to have been suspended from the day the representations were made; and
 - (b) the balance of the appeal period restarts on the day after the day the local government receives the notice of withdrawal.

Note—

See also section 126 in relation to suspending the appeal period by notice.

126 Suspending appeal period by notice

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

Note—

See also section 125(7) and (8) in relation to other circumstances affecting the appeal period.

Division 3 Development approval conditions about trunk infrastructure

Subdivision 1 Conditions for necessary trunk infrastructure

127 Application and operation of subdivision

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

infrastructure is necessary to service the subject premises; or

- (ii) other premises, but is necessary to service the subject premises.

- (2) Section 128 provides for the local government to be able to impose particular development conditions (each a ***necessary infrastructure condition***) on the development approval.

Note—

For imposing or amending development conditions in relation to an approval of a change application, see sections 81A(2)(a) and 82(3)(b).

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

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

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

Note—

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.

- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

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

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

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.

- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
decision includes—
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

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

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

232 Rules of the P&E Court

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