

5 December 2024

**Enquiries:** Jenny Elphinstone  
**Our Ref:** CA 2024\_5692/1 (Doc ID 1266904)  
**Your Ref:** CA50

North Queensland Pty Ltd ATF Far North Queensland Unit Trust  
C/- Aspire Town Planning  
PO Box 1040  
MOSSMAN QLD 4873

Email: [admin@aspireqld.com](mailto:admin@aspireqld.com)

Attention Mr Daniel Favier

Dear Sir

**Development Application for Minor Change Request for an Amendment to Development Permit, CA50 at Lots 0 and 906 Bale Drive Port Douglas  
On Land Described as Lot 0 on SP165910 and Lot 906 on SP277141**

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

Please quote Council's application number: CA 2024\_5692/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully



**Neil Beck**  
**A/Manager Environment & Planning**

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

- Decision Notice
  - Reasons for Decision
  - Existing Approval
- Advice For Appeals (Decision Notice)



## Decision Notice

### Approval (with conditions)

*Given under s 83 of the Planning Act 2016*

#### Applicant Details

Name: North Queensland Pty Ltd ATF Far North Queensland Unit Trust  
Postal Address: C/ Aspire Town Planning  
PO Box 1040  
Mossman Qld 4873  
Email: [admin@aspireqld.com](mailto:admin@aspireqld.com)

#### Property Details

Street Address: Lots 0 and 906 Bale Drive Port Douglas  
Real Property Description: Lot 0 on SP165910 and Lot 906 on SP277141  
Local Government Area: Douglas Shire Council

#### Details of Proposed Development

Development Permit for Minor Change Request for Amendment to Development Permit for eth Combined application (CA50) for Material Change of Use to permit the construction of 81 Dwelling Houses, the permitted development in the Table of Zones for the Residential "B" zone, Indoor Recreation, Place of Assembly, Restaurant/Bar, Shop, Outdoor Recreation Ground, Place of Outdoor Entertainment (Golf Course), Offices and ancillary facilities generally in accordance with Master Plan (Reference A100 – Rev AT dated 25 February 2005), Plan numbers SK200 Rev D dated 23 February 2005, SK201 – Rev D dated 23 February 2005, LDA-01A dated June 2005. Reconfiguring a Lot application for the creation of eighty-one (81) residential lots one (1) parkland lot, one (1) Central Facilities Lot, two (2) private open space lots, Common Property and Road Reserve generally in accordance with Drawing No.31042/002G (dated 4 March 2005), 31042/03F (dated 4 March 2005), 310042/004F sheets 1 and 2 (dated 4 March 2005) and 31042/005/F sheets 1 and 2 (dated 4 March 2005) (staged), dated 17 October 2005 (Council document ID: 674179) to amend Part 5 of the Development Permit, specifically: Reconfiguring a Lot – Assessment Manager Condition 41 relating to Lot 906 whereby the condition reads as follows:

#### Compliance with Conditions

41. ~~The Plan of Survey with associated documents shall not be endorsed by Council~~

Application for endorsement of the plan of survey may be made to Council when all of conditions 1 to 40 relating to the Reconfiguring of a Lot component of this approval have been complied with, which may be prior to, and does not require, the construction of buildings on the proposed lots, which construction can take place after the reconfiguration.

## Decision

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Date of Decision: 5 December 2024

Decision Details:

Approved whereby:

1. Condition 4 (MCU Condition) of the approval is amended as follows:
  4. The landscaping shown on the approved plan shall be completed before the land is reconfigured or the development is occupied, whichever occurs first, and maintained thereafter.
2. Condition 41 (ROL condition) is amended as follows:

Compliance with Conditions

  41. ~~The Plan of Survey with associated documents shall not be endorsed by Council until all of the conditions of approval have been complied with.~~  
Application for endorsement of the plan of survey may be made to Council when all of conditions 1 to 40 relating to the Reconfiguring of a Lot component of this approval have been complied with and also the provision of landscaping generally as per the plan LDA-01 dated June 2005, which may be prior to, and does not require, the construction of buildings on the proposed lots, which construction can take place after the reconfiguration.
3. All other conditions of the Development Permit CA50 as approved 17 October 2005 remain unchanged. (subject to conditions)

## Existing Approval

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Copy of the existing approval is attached.

## Further Development Permits

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

- All Building Work

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

## Currency Period for the Approval

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

## **Rights to make Representations & Rights of Appeal**

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

A copy of the relevant appeal provisions is attached.



Mr Paul Gleeson – A/Manager Planning Services  
Planning Services ☎ (07) 4099 9456

CA50

Port Douglas Developments Pty Ltd  
C/- Victor Feros Town Planning Consultants  
PO Box 1256  
CAIRNS QLD 4870

17 October 2005

**INTEGRATED PLANNING ACT  
DECISION NOTICE  
  
MINOR AMENDMENT**

**Applicant’s Name:** Port Douglas Developments Pty Ltd

**Owner’s Name:** Port Douglas Developments Pty Ltd

**Proposal:** Material Change of Use to permit the construction of 81 Dwelling Houses, the permitted development in the Table of Zones for the Residential “B” Zone, Indoor Recreation, Place of Assembly, Restaurant/Bar, Shop, Outdoor Recreation Ground, Place of Outdoor Entertainment (Golf Course), Offices and ancillary facilities generally in accordance with Master Plan (Reference A100 – Rev AT dated 25 February 2005), Plan numbers SK200 Rev D dated 23 February 2005, SK201 – Rev D dated 23 February 2005, LDA-01A dated June 2005. Reconfiguring a Lot application for the creation of eighty one (81) residential lots one (1) parkland lot, one (1) Central Facilities Lot, two (2) private open space lots, Common Property and Road Reserve generally in accordance with Drawing Nos 31042/002G (dated 4 March 2005), 31042/03F (dated 4 March 2005), 310042/004F sheets 1 and 2 (dated 4 March 2005) and 31042/005/F- sheets 1 and 2 (dated 4 March 2005) (staged).

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**Application Number:** CA50  
**Site Address:** Port Douglas Road, Port Douglas  
**Property Description:** Lot 109 on SR591

**This Decision Notice supersedes the Amended Decision Notice for this site dated 9 May 2005. The proposal description and list of approved plan of development have been amended. All other conditions remain unchanged.**

**1. Decision:** **Decision Date: 4 October 2005**

Approved with Conditions

**2. Type of Development Approval:**

Material Change of Use	Development Permit
Reconfiguring a Lot	Development Permit

**3. Referral Agencies:**

Department of Main Roads  
Peninsular District  
PO Box 6185  
CAIRNS QLD 4870

Attn: Malcolm Hardy

**4. Material Change of Use – Assessment Manager Conditions**

**Plan of Development**

1. The approved development and the conduct of the approved use, the carrying out of any works on the premises and the construction of any buildings on the premises associated with the development must generally be in accordance with:
  - (a) The approved plans of development No. Reference A100 – Rev AT (dated 25 February 2005), Plan numbers SK200 Rev D dated (23 February 2005), SK201 Revision D (dated 23 February 2005) attached to this approval;

Except where such plans and/or specifications are modified by the terms of this approval.

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### **Landscaping**

2. The applicant shall prepare a detailed landscaping plan for the subject site, including the road reserve. This landscaping plan is to be designed in accordance with the requirements of the Planning Scheme and Local Planning Policy No.4 – Landscaping. This plan shall be submitted to Council for Operational Works approval.
3. The landscape areas adjoining the car parking area shall be protected from vehicles by a 150mm high vertical concrete kerb or similar obstruction.
4. The landscaping shown on the approved plan shall be completed before the development is occupied and maintained thereafter.

### **Currency Period**

5. This development approval lapses 4years after the day that the development approval takes effect, unless either works have substantially commenced on the land or this approval is extended under Section 3.5.22 of the *Integrated Planning Act 1997*.

### **Air Conditioning & Service Equipment**

6. All service equipment, outdoor lighting and air conditioning equipment must be located so as not to cause a nuisance to the occupants of adjoining units or neighbouring premises. The noise levels shall be maintained in accordance with the requirements of the Environmental Protection Policy - Noise.

### **Compliance**

7. All works required pursuant to the above conditions shall be undertaken and completed in accordance with Council's requirements contained in the Planning Scheme Provisions/Codes.
8. All conditions shall be complied with prior to the occupancy of the building for the approved use or commencement of the approved use on the land.

### **Central Facilities**

#### **Waste Storage & Discharge**

9. The waste storage area must be located outside of a three (3) metre wide landscape strip to the road frontage in the location shown on the approved plan for this development. The waste storage area must:
  - (a) Contain an impervious surface for the storage of waste containers suitably screened so as not to be visible from adjoining properties or the road reserve;

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- (b) Include a stop cock and stormwater diversion valve at the drainage point;
  - (c) Contain sufficient storage space for the storage of a 240litre refuse bin for the development.
10. Refuse storage, removal and collection methods shall be in accordance with the “*Environment Protection (Interim Waste) Regulations 1996*”
11. Wastewater generated by the proposed development must be discharged to Council’s sewer in accordance with the *Environmental Protection Act 1994*.

#### **Car Parking**

12. A car parking area shall be constructed, sealed, drained and line marked for a minimum of 22 spaces in accordance with the approved plan of development and maintained thereafter.

The provision of car parking may be staged in accordance with the construction stages for the Central Facilities. The rate of that car parking will be based on the following requirements:

Use	Nominated Floor Area/Use	Car Parking/Ratio	Required
Restaurant/Bar	107m <sup>2</sup>	1/15m <sup>2</sup> total use area	7.1 spaces
Shop	100m <sup>2</sup>	1/15m <sup>2</sup> of GFA	7 spaces
Tennis Court	One (1) Tennis Court	2 spaces/court	2 spaces
Ancillary Uses	343m <sup>2</sup>	1/20m <sup>2</sup>	17.1 spaces
Subtotal			26.6 spaces
Dispensation 30% for cross utilisation			7.875 spaces
Manager’s Residence	One residence	2 spaces/residence	2 spaces
<b>TOTAL</b>			<b>20.725 spaces</b>

#### **Stormwater Drainage**

13. All stormwater run-off from non-permeable surfaces and roof areas occurring on the site must be collected within the premises and discharged to the legal and practical point of discharge which has been nominated as the remnant vegetation to the west of the site.

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**Minimum Floor Levels**

14. The minimum floor level for all habitable rooms in any building erected on the premises must be:
  - (a) a minimum of 3.2m AHD; or
  - (b) a minimum of the Q100 flood level.

**Water Supply & Sewerage Headworks**

15. The Applicant shall pay to the Council headworks contributions for water supply and sewerage in accordance with Council's Local Planning Policy: "*Determination of Contributions for Water Supply and Sewerage Headworks and External Works*" ("the Policy").

The contribution shall be calculated at the rate per Equivalent Domestic Connection ("EDC") applicable at the time of payment in accordance with the Policy.

For information purposes only:

- (a) The current rates per EDC at the time of this approval are:

Water Supply	\$ 5,330.00
Sewerage	\$ 2,450.00

- (b) The current number of EDCs for the approved use are:

Water Supply	7
Sewerage	7

**5. Reconfiguring a Lot – Assessment Manager Conditions**

**Plan of Reconfiguration**

1. The approved reconfiguration and the carrying out of any works on the premises associated with the development must be in accordance with Plan of Reconfiguration Drawing Nos 31042/002G (dated 4 March 2005), 31042/03F (dated 4 March 2005), 31042/004F sheets 1 and 2 (dated 4 March 2005) and 31042/005F-sheets 1 and 2 (dated 4 March 2005) (staged), prepared by Brazier Motti and attached to this approval subject to:
  - (a) Modifications required by any condition of this approval and any minor alterations found necessary by Council at the time of examination of engineering plans; and

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- (b) Any development permit for Operational Works relating to the reconfiguration.

#### **Water Supply**

2. Mains shall be designed and constructed in accordance with Water Resources Guidelines for the Planning and Design of Urban Water Supply Schemes and to the following particular Council requirements.
  - (a) All road crossings must be laid and backfilled before gravel pavement is placed;
  - (b) Services to the boundaries of all lots;
  - (b) Mains are to be laid and generally 1.7m from the property alignment to serve all the lot within the subdivision;
  - (c) Hydrant indicator posts are to be in accordance with Council's specification; and
  - (d) All pipes, fittings and rubber rings shall be tested by Water Resources or an approved testing authority.
3. The applicant shall provide a 150mm diameter connection off the existing main located in Port Douglas Road to service the development.
4. The applicant shall provide a 100mm diameter service to be contained within the common property to service the residential allotments and the common property.
5. The subdivider shall be required to provide a 20mm diameter water service to the boundary of each lot to be created, together with the lodgement with Council of an amount equivalent to the cost of completing each service with a water meter. The service connection to the Council water main will remain closed until such time as the respective lot purchaser makes application to have the service operative. At this time, Council will install the water meter and turn the flow of water on through the service at no cost to the said lot purchaser.

A separate water meter is to be provided for the common property.

6. The amount lodged by the applicant shall be placed in Council's Trust Fund and is to be utilised when applications are received from the lot purchasers for a water service connection.
7. The plans and specifications of the internal water supply must be submitted to Council at Operational Works application stage for this reconfiguration for review.
8. The Council or an approved contractor will make all connections to the existing main in Port Douglas Road. Should the works be undertaken by Council, the applicant is to prepay to the Council the estimated cost of the connection of the new main to the existing system. The applicant will be responsible for meeting the actual cost of the work. Should the works be undertaken by an approved contractor, all such works shall be undertaken to the satisfaction of Council.

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### **Sewerage**

9. Provision of sewerage reticulation to plans approved by Council. Provision shall be made for house connection branches for each lot.
10. The plans and specifications of the internal sewerage works must be submitted to Council at Operational Works application stage for review.
11. The applicant shall install a sewerage pump station within the road reserve or dedicated parkland area as determined at Operational Works stage. The size of this pump station must be capable of servicing the subject development. The design of this pump station shall be submitted to Council at operational Works application stage for approval. The pump station is to include a Telemetric Monitoring System to Council's specifications. Pumping stations must be located on land vested under Council's control and incorporate and must have aluminium fabricated covers to Council's standards. Switchboards are to be aluminium or stainless steel construction. Ammeters are required for each pump motor.
12. Pumping stations are to be located on land vested under Council's control.
13. The design information submitted for Operational Works approval shall include design flows, pipe sizes, grades, pump rates, catchments and pressure main hydraulics.
14. The design and location of all sewers shall be in accordance with the Far North Queensland Regional Organisation of Councils (FNQROC) Development Design Manual.
15. deleted
16. deleted

### **Electrical & Telephone Services**

17. Prior to the approval of the Plan of Survey, the Applicant must submit to Council a copy of a letter from Ergon Energy stating that satisfactory arrangements have been made for the provision of:
  - (a) an underground electrical supply to each lot; and
  - (b) street lighting in accordance with Council's adopted standards.
  - (c) locating of all above ground transformer cubicles clear of footpath areas.
18. All external lighting installed upon the premises including car parking areas shall be certified by the Far North Queensland Electricity Board or such other suitably qualified person such that it shall conform with the Planning Scheme whereby vertical illumination at a distance of 1.5 metres outside the boundary of the site shall not exceed eight (8) lux measured at any level upwards from ground level.

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19. Prior to the approval of the Plan of Survey, the Applicant must submit to Council a copy of a letter from Telstra stating that satisfactory arrangements have been made for the provision of:
  - (a) an underground telephone service to each lot; and
  - (b) locating of all above ground switching station cubicles clear of footpath areas.

#### **Water Supply & Sewerage Headworks**

20. The Applicant shall pay to the Council headworks contributions for water supply and sewerage in accordance with Council's Local Planning Policy: "*Determination of Contributions for Water Supply and Sewerage Headworks and External Works*" ("the Policy").

The contribution shall be calculated at the rate per Equivalent Domestic Connection ("EDC") applicable at the time of payment in accordance with the Policy.

For information purposes only:

- (a) The current rates per EDC at the time of this approval are:

Water Supply	\$ 5,330.00
Sewerage	\$ 2,450.00

- (b) The current number of EDCs for the approved use are:

Water Supply	81
Sewerage	81

The payment of Water Supply and Sewerage Headworks contributions can be paid on a staged basis in accordance with the creation of the residential lots upon submission of the formal Plan of Survey to Council for the endorsement of each stage of the development.

#### **Parkland Contribution**

21. The applicant must transfer the proposed parkland to Council in satisfaction of the applicant's obligation to provide parkland to Council in accordance with Local Planning Policy No.5 – Applicant Contributions – Parks. The applicant must bear all costs of the transfer.
22. The applicant must undertake the following works within the parkland:
  - (a) A separate water connection is to be provided for the parkland; and
  - (b) Landscaping in accordance with the approved Landscaping Plan; and

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- (c) A 2metre wide concrete footpath for the full length of the parkland from Port Douglas Road to the southern boundary of the parkland; and
  - (d) Construction of a picnic shelter and gas barbeque as depicted on Plan no.SK04 (Issue B) and included in the application.
23. The applicant shall prepare a detailed landscaping plan for the proposed parkland area. This landscaping plan is to be designed in accordance with the requirements of the Planning Scheme and Local Planning Policy No.4 – Landscaping including irrigation. This plan shall be submitted to Council at Operational Works stage for approval. All works in conjunction with this plan shall be installed by the applicant and maintained for a period of 2 years.

The applicant is to enter into an agreement with Council binding them and successive Body Corporate over the land to the maintenance of particular features of the landscaping of the development in perpetuity. These features include:

- The roundabout on Port Douglas Road; and
- All water features including waterways, the proposed water entry features and the proposed central lagoon.

#### **Earthworks**

24. The lots shall be suitably levelled and sloped to the Street kerb and channel or other approved drainage runoff facilities. Any lots requiring filling to a depth greater than 600mm shall be compacted. Results of these tests shall be submitted for approval at Operational Works Development Permit stage.
25. The required footpath and lot slopes are as follows:
- (a) Footpath Slope:      Minimum      1:33 (3%)  
   Maximum      1:20 (5%)
  - (b) Lot Slope:              Minimum      1:200 (0.5%)

Except as otherwise modified by an Operational Works Development Permit associated with this Reconfiguration.

26. Details of the proposed filling and excavation for the reconfiguration must be included in a plan and submitted at the time of lodgement of the application for Operational Works.

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### **Stormwater Drainage**

27. The legal and practical point of discharge is to be nominated as the remnant vegetation along the western boundary of the site. The location and design of discharge points are to be shown on Operational Works drawings and are to be designed to avoid sediment loss and the effects of scouring and are to include sediment control devices at discharge points. Easements are to be provided where stormwater drainage paths transect allotments. All easements are to be transferred to Council as a drainage easement in fee simple at the applicant's cost.
28. With the lodgement of the application for Operational Works, the applicant must submit to Council a plan:
  - (a) detailing the drainage works to be undertaken on the land in connection with the reconfiguration;
  - (b) detailing the ability of the proposed drainage works to meet with the requirements of the Queensland Urban Drainage Manual (QUDM).
29. The calculated design frequency for all storm water drainage shall be determined on a five (5) year recurrence interval and all relevant design data shall be submitted with the engineering drawings at Operational Works application stage.
30. Such storm water drainage work shall be designed and constructed in accordance with the requirements of the Queensland Urban Drainage Manual (QUDM) and shall not cause scouring, erosion, loss of vegetation, excess turbidity and landslip either within or external to the site.

### **Bikeway/Pathway**

31. A bikeway/pathway shall be constructed to a minimum width of 2 metres on the western side of Port Douglas Road adjacent to and for the full frontage of the subject lot (Lot 109). A 2.0m wide footpath/bikeway is to be constructed within the proposed Park up to the western boundary of the site to facilitate connection with St Crispins Avenue and Port Douglas Road.
32. The bikeway/walkway(s) shall be of bitumen construction with a concrete strip on each side of the bitumen pathway and suitably signed in accordance with the relevant Standards Association of Australia Code.

### **Road Works**

33. The applicant must undertake the following works:

#### Internal

- (a) Provision is to be made for the following works internal to the subject site in accordance with Council's Requirements including:

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i. Internal Street off Port Douglas Road

Construction of a 6.5m wide bitumen sealed road with kerb and channelling on both sides for the full length of the proposed street.

ii. Internal Accesses

The internal accesses contained within the common property are to have a minimum width of 3.5m.

**Street Names**

34. At the time of lodging the Survey Plan with Council for endorsement, the applicant must lodge a plan of the reconfiguration displaying the proposed street names for the reconfiguration.
35. The street name signs shall be supplied and erected by the Applicant. The signs shall be aluminium on steel posts with reflective green legend (on both sides) on a white background.

**Environmental Management Plans**

36. The applicant is to have prepared with the submission for approval of the plans for Operational Works, an Environmental Management Plan (EMP) detailing the controls to be utilised to ensure that no environmental harm or nuisance is caused from the proposed use of the land and construction of the works. In particular, this plan should address such issues as dust suppression, waste disposal, noise management and stormwater management (to minimise discharges of sediment, wastes and other substances).

**Operational Works Development Permit**

37. Full engineering drawings, prepared and/or checked by a Registered Professional Engineer, shall be submitted for all road works, stormwater drainage and lot improvement at Operational Works Application stage. Drawings should, in general, include the following:
- (a) locality plan;
  - (b) layout and staging plan, where applicable;
  - (c) earthworks plan;
  - (d) layout plan for each new road;
  - (e) longitudinal section of each road;
  - (f) cross sections for each road, including standard cross sections;
  - (g) detailed plan of each intersection and cul-de-sac head where longitudinal grades do not exceed 1%;
  - (h) layout plan for each stormwater drainage;

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- (i) longitudinal sections for each stormwater drain line;
- (j) details for non-standard drainage structures;
- (k) Sewerage Reticulation Plan;
- (l) Water Reticulation Plan;
- (m) Erosion and Sediment Control Strategy;
- (n) The location, extent and proposed treatment of acid sulphate soils on the site;
- (o) Service providers conduit plan, including street lighting; and
- (p) Such other details for the proper construction of the works i.e. retaining walls etc.

#### **Covenant**

38. The applicant is required to enter into an environmental covenant with Douglas Shire Council “the Council”, over all of the existing remnant vegetation on the subject site (Lot 109 on SR591). The following requirements will be included in this covenant:

- No landscaping in the defined covenant areas is to be undertaken without the express permission of “the Council”;
- The clearing of vegetation from the defined covenant areas will not be permitted other than as approved by Council and the Body Corporate Manager;
- Any works, including drainage, undertaken outside the defined covenant area undertaken by the lot owner shall not prejudice the integrity of the existing vegetation;
- No structures shall be constructed within the covenant areas other than as approved by Council and the Body Corporate Manager.

This covenant is to be drafted and approved by Council prior to endorsement of the Plan of Survey. This Covenant is to be binding on successive owners of the land and a copy of this Covenant is to be included in the contract documentation for the sale of the effected allotments.

#### **Maintenance Period**

39. The Applicant shall maintain in accordance with the requirements of the Operational Works Development Permit and the Far North Queensland Regional Organisation of Councils Development Manual all road construction works of any nature whatsoever and any drainage works carried out under the provisions of the subdivision of the land and any parkland works for a period of twenty-four (24) months. The Applicant shall make good within such period any defects arising from faulty workmanship or materials in respect to such road construction and drainage works carried out as part of the works associated with the subdivision.

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**Currency Period**

40. This development approval lapses four (4) years after the day that the development approval takes effect, unless a Plan of Survey is lodged with Douglas Shire Council for endorsement or the development approval is extended under Section 3.5.22 of the *Integrated Planning Act 1997*.

**Compliance with Conditions**

41. The Plan of Survey with associated documents shall not be endorsed by Council until all of the conditions of approval have been complied with.

**6. Further Development Approvals Required:**

Operational Works	Development Permit
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Should you require any further information in relation to this matter, please do not hesitate to contact Mr Paul Gleeson on telephone (07) 4099 9456.

Yours Sincerely

J R Neely  
**A/Chief Executive Officer**

*Attached: Department of Main Roads Conditions  
Approved Plans of Development*

CC: Department of Main Roads  
North Queensland Region  
Peninsular District  
PO Box 6185  
CAIRNS QLD 4870





4.07.21 23/02/05 BALE-A100 DMG

**SCHEDULE:**  
**TOTAL 81 LOTS**  
**MIN. LOT AREA. 441 SQ. M.**  
**MIN. LOT LEVEL RL. 3.7M.**

DATE	DRAWN	SCALE	CHECKED
DEC'03	WL	1:1000	SB
PROJECT	CATEGORY	DRAWING No.	REVISION
2364	WD	Page 172	of 58
4.07.21 23/02/05 BALE-A100.DWG			









CENTRAL FACILITIES - PODIUM LEVEL PLAN



BALE  
PORT DOUGLAS

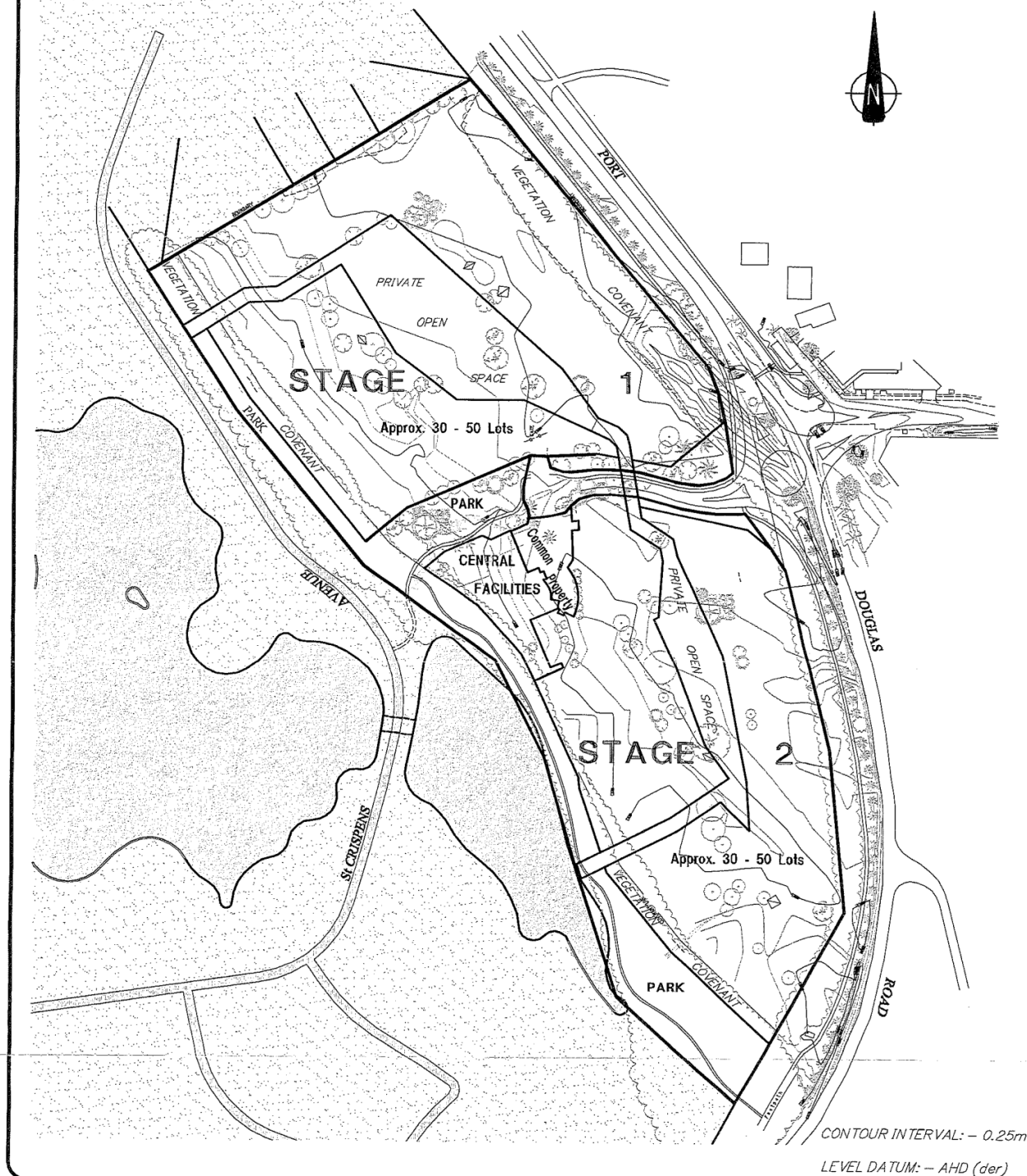







# "BALÉ" - Staging Concept Plan for Residential Scheme

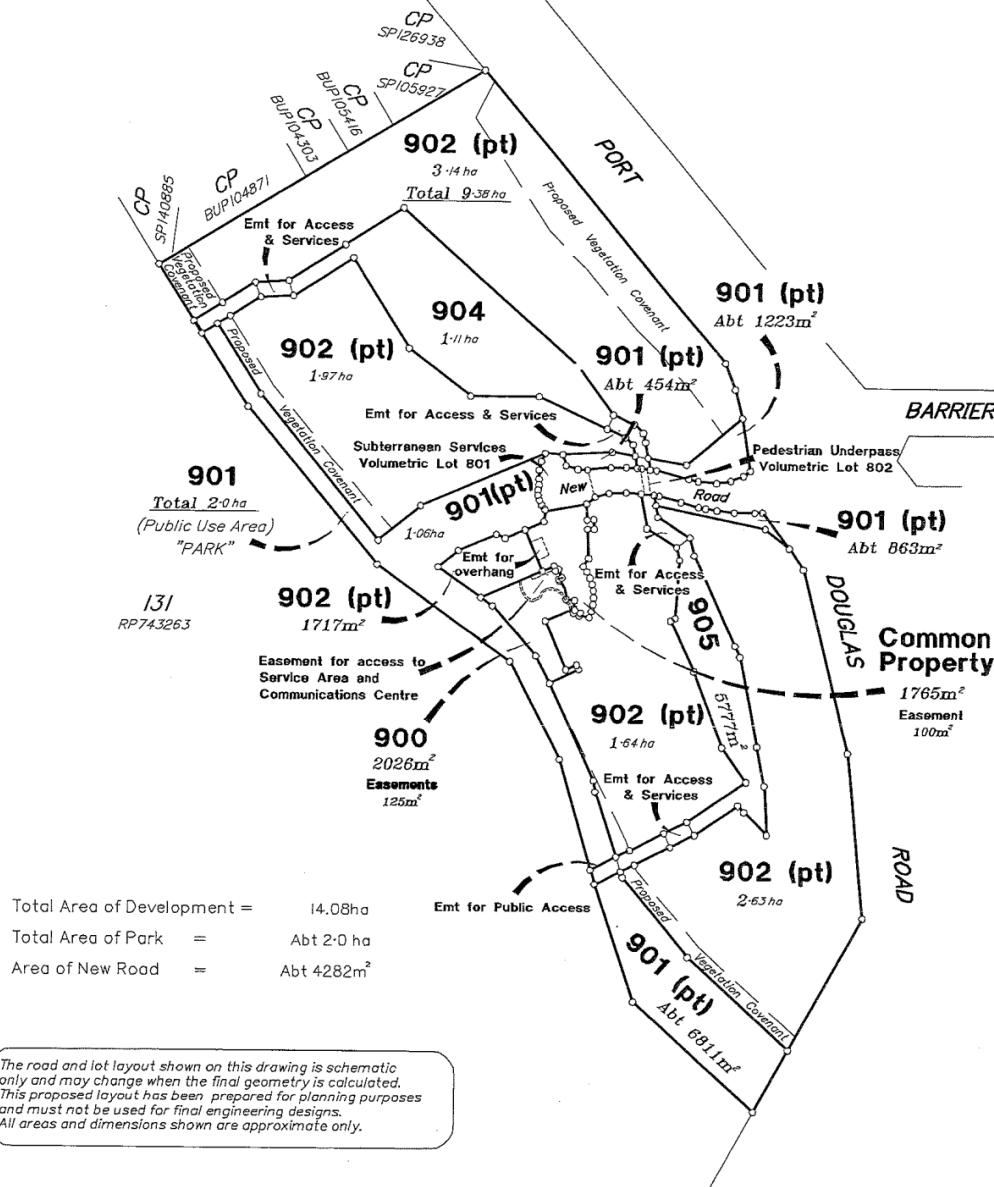
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Surveyed:	Comp.File: 31042_002G.DWG	Meridian:	Map Ref:	Rec.in D.B. by: SWCC	Date: 11/12/03
Drawn: SWCC	Disk No: O:\ CD	Field Book:	Date Drawn: 4th March 2005	Approved:	
 <b>brazier motti</b> surveying   town planning   project management   mapping and GIS Brazier Motti Pty Ltd (ABN 58 066 411 041) Cairns — Ground Floor, Woree Plaza, 12-20 Toogood Road, Woree Postal Address: PO Box 1185, Cairns, Qld 4870 Phone: 07 4033 2377 Fax: 07 4033 2599 email: cairns@braziermotti.com.au		Client:		Job No: 31042/1-3	
		Project		Scale: 1:2500	
		Lot 109 on SR591 — PORT DOUGLAS		Drawing No: 31042/002G	
		Parish: SALISBURY County: Solander			
TOWNSVILLE Ph: 07 4772 1144 Fax: 07 4772 2557		MACKAY Ph: 07 4853 1489 Fax: 07 4853 1838		BURDEKIN Ph: 07 4783 5788 Fax: 07 4783 2480	
Local Authority: Douglas Shire Council		Orig Par/Sec: 109			

# "BALE" - Principal Scheme

Meridian of SR591



Total Area of Development = 14.08 ha  
 Total Area of Park = Abt 2.0 ha  
 Area of New Road = Abt 4282m<sup>2</sup>

The road and lot layout shown on this drawing is schematic only and may change when the final geometry is calculated. This proposed layout has been prepared for planning purposes and must not be used for final engineering designs. All areas and dimensions shown are approximate only.

ALL DIMENSIONS SUBJECT TO FINAL SURVEY AND REGISTRATION OF THE PLAN IN THE DEPARTMENT OF NATURAL RESOURCES.

THE POSITION OF EASEMENTS IF REQUIRED WILL BE SUBJECT TO FINAL COUNCIL & CLIENT REQUIREMENTS.


Lots 904 & 905 are to be for Private Open Space (Golf Course)

The Subterranean Services Volumetric Lot 801 will contain connecting services under new road.

The Pedestrian Underpass Volumetric Lot 802 will contain a tunnel linking the Common Properties under the road.

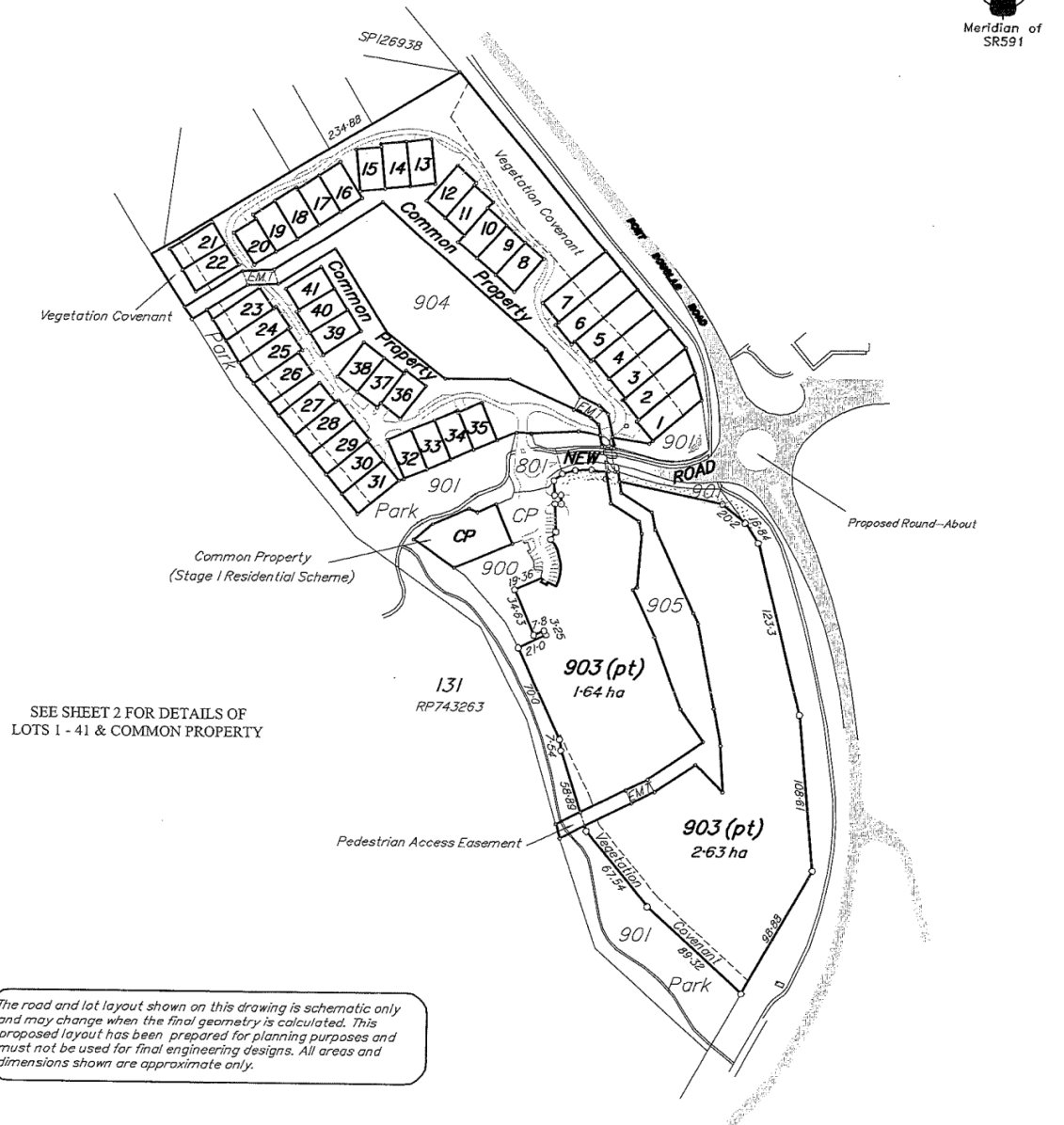
30m 0 30 60 90 120 150m



1 : 3000 (A3)

Surveyed: na	Comp.File: 31042_003F.DWG	Meridian: meridian of SR591	Map Ref:	Rec.in D.B. by: JR	Date: 10/12/03
Drawn: SWCC	Disk No: 0: \ CD	Field Book: na	Date Drawn: 4th March 2005	Approved:	
 <b>brazier mott</b> surveying   town planning   project management   mapping and GIS Brazier Mott Pty Ltd (ABN 58 066 411 041) Cairns - Ground Floor, Woree Plaza, 12-20 Taagood Road, Woree Postal Address: PO Box 1185, Cairns, Qld 4870 Phone: 07 4033 2377 Fax: 07 4033 2599 email: cairns@braziermott.com.au		Client: <b>PORT DOUGLAS DEVELOPMENTS PTY LTD</b> Project: <b>PLAN OF PROPOSED LOTS 801, 802, 900-905 &amp; COMMON PROPERTY CANCELLING LOT 109 ON SR591- "BALE" - PORT DOUGLAS</b> Parish: SALISBURY County: SOLANDER Local Authority: DOUGLAS S. C. Orig Por/Sec: 109		Job No: 31042/1-3 Scale: 1:3000 (A3) Drawing No: 31042/003F	
TOWNVILLE Ph: 07 4772 1144 Fax: 07 4772 2557		MACKAY Ph: 07 4953 1499 Fax: 07 4953 1838		BURDEYN Ph: 07 4783 5766 Fax: 07 4783 2460	

# "BALÉ" - Residential Scheme Stage 1

Sheet 1 of 2

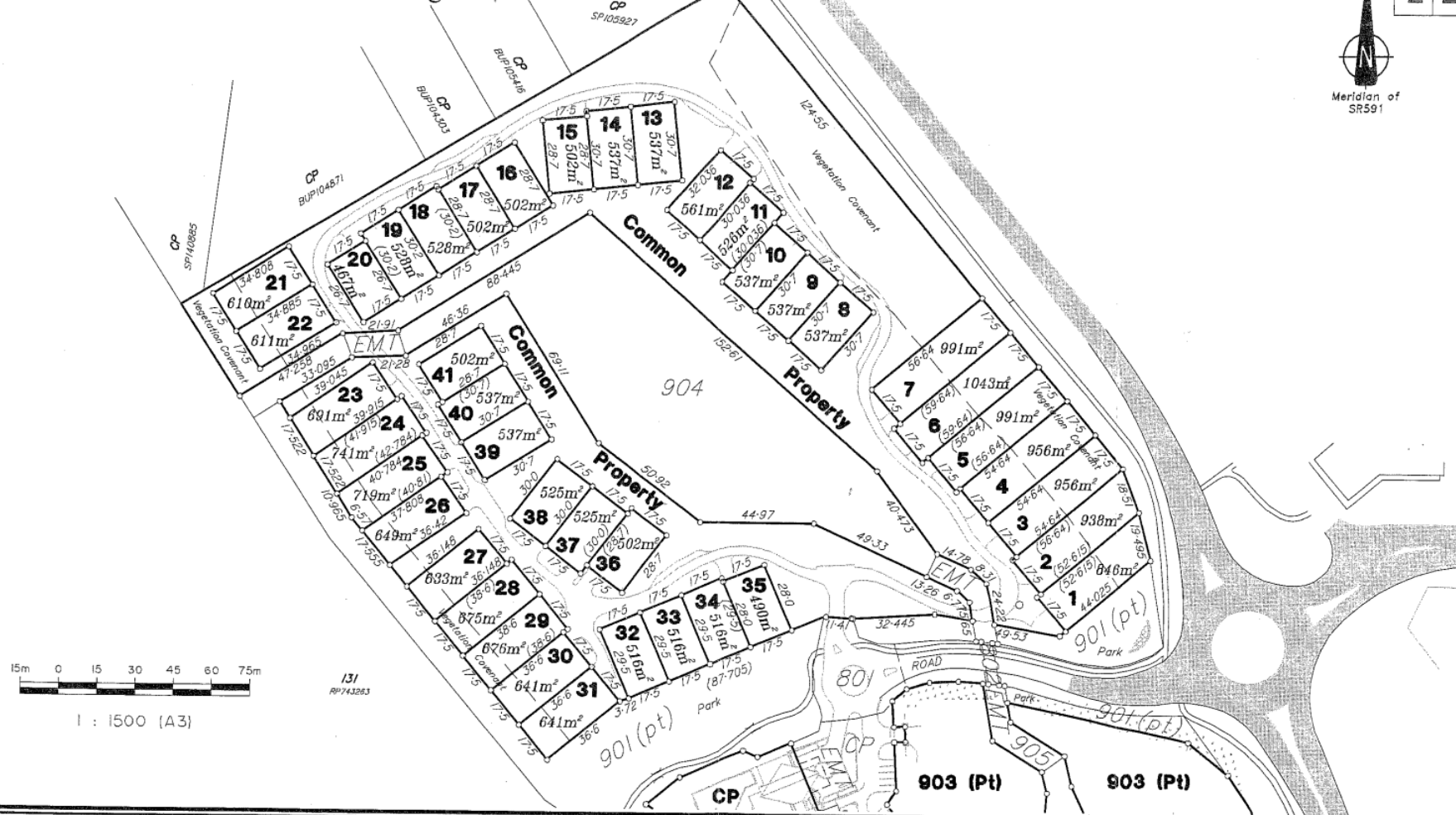



Surveyed: na		Comp.File: 31042_004F.DWC		Meridian: meridian of SR591		Map Ref:		Rec.in D.B. by:JR		Date: 9/12/03	
Drawn: SWCC		Disk No: O:\ CD		Field Book: na		Date Drawn: 4th March 2005		Approved:		Job No: 31042/1-3	
  <b>brazier motti</b> surveying   town planning   project management   mapping and GIS Brazier Motti Pty Ltd (ABN 58 065 411 041) Cairns — Ground Floor, Woree Plaza, 12-20 Taogood Road, Woree Postal Address: PO Box 1185, Cairns, Qld 4870 Phone: 07 4033 2377 Fax: 07 4033 2599 email: cairns@braziermotti.com.au  TOWNSVILLE Ph: 07 4772 1144 Fax: 07 4772 2557  MACKAY Ph: 07 4953 1499 Fax: 07 4953 1636  BURDEKIN Ph: 07 4783 5766 Fax: 07 4783 2460				Client:		PORT DOUGLAS DEVELOPMENTS PTY LTD					
				Project:		Proposed Lots 1-41, Common Property & 903					
						Cancelling Proposed Lot 902					
						"BALÉ" — PORT DOUGLAS					
						Parish: SALISBURY		County: SOLANDER			
				Local Authority: DOUGLAS S. C.		Orig Par/Sec: 109					
								Drawing No: 31042/004F		SHEET 1 of 2	



# "BALÉ" - Residential Scheme Stage 1

Sheet of  
2 2



 <b>brazier mott</b> surveying   town planning   project management   mapping and GIS Brazier Mott Pty Ltd (ABN 58 086 411 041) Cairns — Ground Floor, Woree Plaza, 12-20 Toogood Road, Woree Postal Address: PO Box 1185, Cairns, Qld 4870 Phone: 07 4033 2377 Fax: 07 4033 2599 email: cairns@braziermott.com.au  TOWNVILLE Ph: 07 4772 1144 Fax: 07 4772 2557  MACKAY Ph: 07 4953 1499 Fax: 07 4953 1838  BURDEKIN Ph: 07 4783 5766 Fax: 07 4783 2462	Comp.File: 31042_004F.DWG Disk No: O:\ CD Field Book: na Rec.In D.B. by: JR Date Recorded: 9/12/03 Checked:  Meridian: meridian of SR591 Map Ref: Surveyed: na Drawn: SWCC Date Drawn: 4th March 2005 Approved:	Client: <b>PORT DOUGLAS DEVELOPMENTS PTY LTD</b> Project Proposed Lots 1-41, Common Property & 903 Cancelling Proposed Lot 902 <b>"BALÉ" - PORT DOUGLAS</b> Parish: SALISBURY County: SOLANDER Local Authority: DOUGLAS S. C. Orig Por/Sec: 109	Job No: 31042/1-3 Scale: 1:1500 (A3) Drawing No: 31042/004F <b>SHEET 2 of 2</b>
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# "BALÉ" - Residential Scheme Stage 2

Sheet 1 of 2

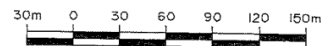


SEE SHEET 2 FOR DETAILS OF  
LOTS 1 - 41 & COMMON PROPERTY


The road and lot layout shown on this drawing is schematic only and may change when the final geometry is calculated. This proposed layout has been prepared for planning purposes and must not be used for final engineering designs. All areas and dimensions shown are approximate only.

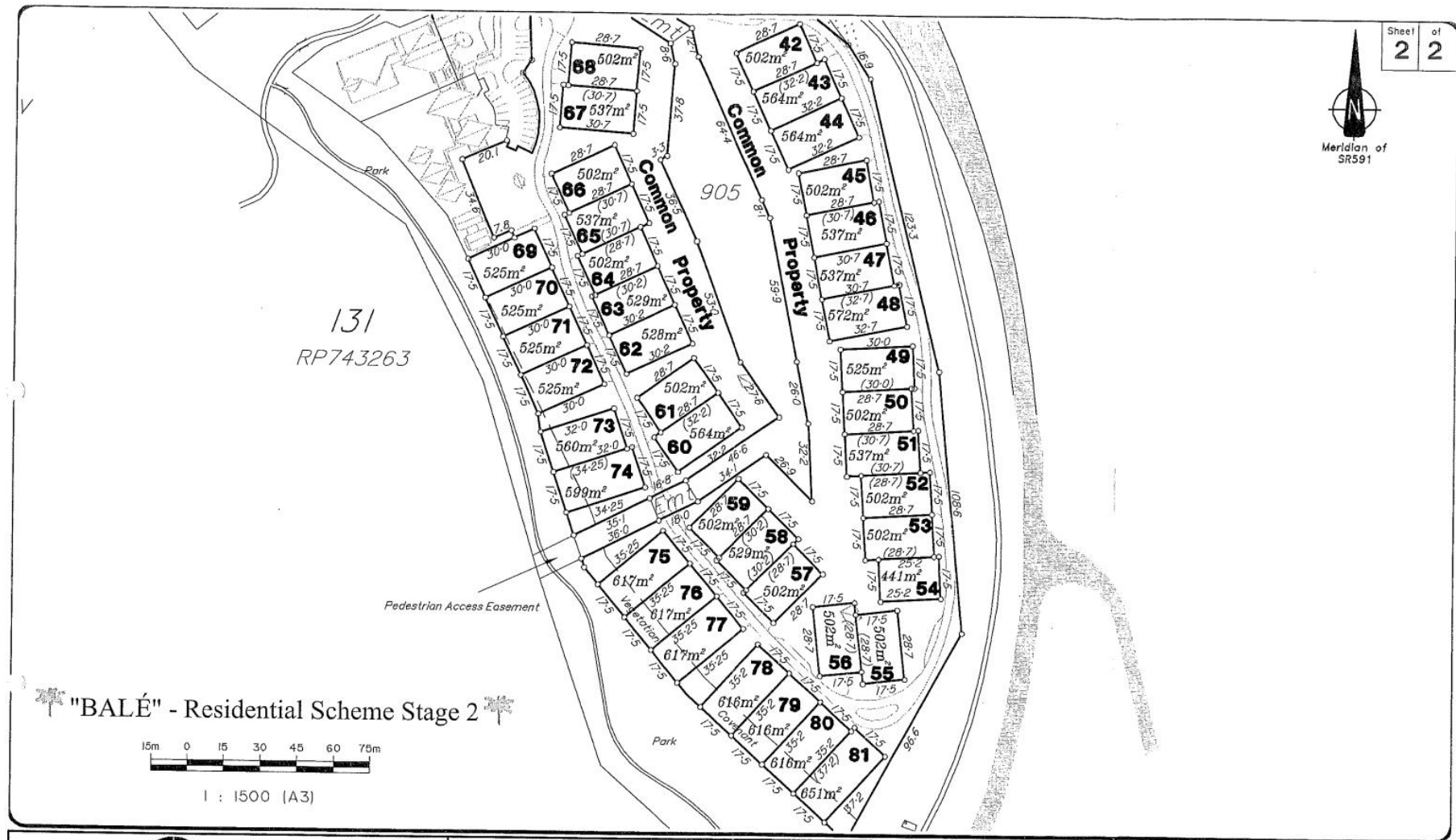
ALL DIMENSIONS SUBJECT TO FINAL SURVEY AND  
REGISTRATION OF THE PLAN IN THE DEPARTMENT  
OF NATURAL RESOURCES.


THE POSITION OF DRAINAGE EASEMENTS IF REQUIRED  
WILL BE SUBJECT TO FINAL COUNCIL REQUIREMENTS.



1 : 3000 (A3)

Surveyed: na	Comp.File: 31042_005F.DWG	Meridian: meridian of SR591	Map Ref:	Rec.in D.B. by: JR	Date: 9/12/03
Drawn: SWCC	Disk No: 0: \ CD	Field Book: na	Date Drawn: 4th March 2005	Approved:	
 <b>brazier motti</b> surveying   town planning   project management   mapping and GIS Brazier Motti Pty Ltd (ABN 58 068 411 041) Cairns - Ground Floor, Woree Plaza, 12-20 Toogood Road, Woree Postal Address: PO Box 1185, Cairns, Qld 4870 Phone: 07 4033 2377 Fax: 07 4033 2559 email: cairns@braziermotti.com.au		Client: <b>PORT DOUGLAS DEVELOPMENTS PTY LTD</b> Project: <b>Proposed Lots 42-81 &amp; Common Property</b> <b>Cancelling Proposed Lot 903</b> <b>"BALÉ" - PORT DOUGLAS</b> Parish: SALISBURY County: SOLANDER Local Authority: DOUGLAS S. C. Orig Par/Sec: 109			
TOWNSVILLE Ph: 07 4772 1144 Fax: 07 4772 2557		MACKAY Ph: 07 4953 1499 Fax: 07 4953 1838		BURDEKIN Ph: 07 4783 5766 Fax: 07 4783 2460	
CONSULTING SURVEYORS QUEENSLAND Ph: 180 0 50 50		Job No: 31042/1-3 Scale: 1:3000 (A3) Drawing No: 31042/005F <b>SHEET 1 of 2</b>			



 <b>brazier mott</b> consulting SURVEYORS QUEENSLAND surveying   town planning   project management   mapping and GIS Brazier Mott Pty Ltd (ABN 58 066 411 041) Coirns - Ground Floor, Woree Plaza, 12-20 Toogood Road, Woree Postal Address: PO Box 1185, Cairns, Qld 4870 Phone: 07 4033 2377 Fax: 07 4033 2599 email: coirns@braziermott.com.au TOWNVILLE Ph: 07 4772 1144 Fax: 07 4772 2557 MACKAY Ph: 07 4953 1499 Fax: 07 4953 1838 BURDEKIN Ph: 07 4783 5766 Fax: 07 4783 2486	Comp. File: 31042_005F.DWG	Meridian: meridian of SR591	Client: PORT DOUGLAS DEVELOPMENTS PTY LTD	Job No: 31042/1-3
	Disk No: O:\ CD	Map Ref:	Project: Proposed Lots 42-81 & Common Property	Scale: 1:1500 (A3)
	Field Book: no	Surveyed: no	Cancelling Proposed Lot 903	Drawing No: 31042/005F
	Rec. In D.B. by: JR	Drawn: SWCC	"BALE" - PORT DOUGLAS	SHEET 2 of 2
Date Recorded: 9/12/03	Date Drawn: 4th March 2005	Parish: SALISBURY	County: SOLANDER	
Checked:	Approved:	Local Authority: DOUGLAS S. C.	Orig Por/Sec: 109	



8 July 2004

Mr T Melchert  
Chief Executive Officer  
Douglas Shire Council  
PO Box 357  
Mossman Qld 4873

Department of Main Roads

<b>DOUGLAS SHIRE COUNCIL</b>	
FILE NO	<i>combined Appln</i>
DOCUMENT NO	<i>CA/50</i>
ATTENTION	<i>PTG</i>

Dear Mr T Melchert

**Douglas Shire: Port Douglas Road**  
**Situated opposite intersection of Barrier Street & Port Douglas Road, Port Douglas**  
**Lot 109 on SR 591, Parish of Salisbury**  
**Port Douglas Developments Pty Ltd**  
**Proposed Material Change of Use (130 Multiple Dwelling (Residential and/ or Tourist) units & Ancillary Facilities) and Reconfiguration of a Lot (130 Residential Allotments, 1 Park, 1 Central Facilities Allotment, Common Property & New Roads)**  
**Request to Change Conditions of Development (DMR as Concurrence Agency)**

I refer to:

- the above application received at this office on 3 February 2004 requesting consideration of the above development,
- the Department's letter of 18 March 2004 of conditions of development,
- Council's negotiated decision notice of 17 May 2004,
- the applicant's consultant's written representations of 15 June 2004 requesting a review of water service conditions of the assessment manager,
- the Department's letter of 16 June 2004 of reviewed and retained conditions of development, and
- the applicant's consultant's written representations of 11 June 2004 requesting a review of conditions to acknowledge an amended reconfiguration layout and Port Douglas Road roundabout location.

The Department has investigated the representations and is prepared to amend condition 2.

In accordance with section 3.5.33 of the *Integrated Planning Act 1997*, the Queensland Department of Main Roads, as a concurrence agency, has reviewed the impact of the proposed development on the State-controlled road network and requires that Council include the following amended conditions of development for the subject application:

**A. AMENDED CONDITIONS OF DEVELOPMENT**

**1. Permitted Road Access Location**

- (i) Vehicular access between the State-controlled road (i.e. Port Douglas Road) and the subject land shall be via a roundabout intersection at the existing intersection of Port Douglas Road and Barrier Street, and a minimum distance of 55m along the subdivision access road measured from the centre of the roundabout.

North Queensland Region  
Peninsula District  
PO Box 6185  
CAIRNS Queensland 4870  
ABN 57 836 727 711

Our ref 45/6504/102(2192A)  
Your ref CA 49  
Enquiries MALCOLM HARDY  
Telephone +61 7 4050 5511  
Facsimile +61 7 4050 5438



- (ii) No additional direct access between Port Douglas Road and the subject site is permitted.

## 2. Intersection Works

- (i) The landowner/ applicant shall construct a roundabout intersection at the existing intersection of Port Douglas Road and Barrier Street, and the proposed access road for the subject land in accordance with:
- the Department of Main Roads *Road Planning and Design Manual*, and
  - current Department of Main Roads standards.

A recent site inspection indicates a roundabout intersection with:

- a 15 metres radius island, drained, landscaped and kerbed,
- a 2 lane wide traffic circulation, bitumen sealed and internal sacrificial kerb and concrete infill to cater for single lane circulation of traffic flow,
- linked to the existing pavements of Port Douglas Road and Barrier Street, and the proposed access road for the subject land,
- with appropriate hydraulic structures, bicycle and pedestrian paths, regrassing, relocation of oil palms, kerbing and signage,

generally as shown in McPherson Maclean Wargon Chapman Drawing No. K7111 R-SK1 dated 7.07.04. All land within Lot 109 on SR 591 that is required to be dedicated for the 2 lane circulation roundabout shall be opened as road in conjunction with the opening of the road link to the subject land, generally as shown in the attached DMR Plan No. PD 227. The land dedication shall be in exchange for the Department allowing the buffer strip stated in section 3(a) below being located within the existing road reserve. The exchange is on the basis of no cost to the Department.

- (ii) The landowner/ applicant shall submit intersection design drawings prepared by a suitably qualified Registered Professional Engineer Queensland (RPEQ) for approval of the Cairns office of the Department of Main Roads prior to commencing works within the State-controlled road reserve (i.e. Port Douglas Road).
- (iii) All required intersection works and land dedication shall be completed to the satisfaction of the Director-General of the Department of Main Roads prior to the landowner/ applicant requesting Council to approve and date the first plan of survey containing any lots on the subject site.

## 3. Road Traffic Noise & Visual Treatments

For the purposes of this condition:

- Parts (a), (b) and (c) below shall apply to accommodation buildings or residential lots proposed to be located along the Port Douglas Road frontage of the subject site south of the proposed subdivision access road,
- attached 'DMR Plan No. PD 85C (dated 3/2001)' shall hereafter be referred to as the 'DMR Buffer Plan', and
- Parts (b) and (c) only below shall apply to accommodation buildings and residential lots proposed to be located along the Port Douglas Road frontage of the subject site north of the proposed subdivision access road.

(a) Buffer Strip

The applicant/landowner shall create a ten metre wide buffer strip, located along the full SCR frontage of the subject land, south of the proposed subdivision access road, generally as indicated on Grounds Kent Architects drawing SK01 dated December 03.

For the purposes of this condition any part (s) of the buffer strip within the subject land shall be covered by a registered covenant which shall:

- allow representatives of Council and the Department of Main Roads and public utility authorities to construct/ maintain/ upgrade/ remove noise attenuation treatments, landscaping and public utilities within the registered covenant,
- prevent (unless approved by Council and the Department of Main Roads) landowners from altering, damaging or destroying any noise ameliorative treatments, landscaping, or public utilities located within the registered covenant, and
- prohibit the construction of any structures within the registered covenant except where approved/ required otherwise by Council and the Department of Main Roads.

The registered covenant shall be created and the covenant agreement shall be registered in the Titles Office of the Department of Natural Resources. These requirements shall be completed prior to the applicant/ landowner requesting Council to approve and date the first plan of survey.

(b) Visual Amenity Works

(i) south of the proposed subdivision access road

The applicant/ landowner shall provide landscaping covering the entire buffer strip along the Port Douglas Road frontage. The landscaping shall be designed, installed and maintained such that existing and future Port Douglas Road infrastructure, any noise ameliorative works if applicable, and on site buildings and facilities, are screened as much as practicable from each other and generally as shown on Siteplan drawing Proposed Buffer Mound Southern End.

(ii) north of the proposed subdivision access road

If the road traffic noise report in condition 3(c)(iv) recommends a noise barrier to be installed, then the barrier shall be erected on the boundary with a minimum 3m wide landscaped buffer planted in front of the barrier and generally as shown on Siteplan drawings CP01 and CP02.

(iii) Landscaping requirements

The species of plants used in the landscaping works shall be in accordance with Council's standards. If Council doesn't have standards, then the only requirement is that they are native, compatible with the existing adjacent vegetation, low maintenance species which are effective at providing the necessary screening specified above and do not create a safety risk (i.e. no thorns, heavy nuts, or poisonous fruits or berries).

All landscaping of the buffer strip shall be completed prior to the applicant/ landowner requesting Council to approve and date the first plan of survey.



(c) Road Traffic Noise Ameliorative Works

(i) Location of Works

Road traffic noise ameliorative works shall be incorporated into the design of the development, including the buffer strip, and the applicant/landowner shall have regard to the design criteria specified within AS3671. Any noise barrier within the buffer south of the proposed subdivision access road shall be designed and constructed in accordance with the DMR Buffer Plan and Siteplan drawing Proposed Buffer Mound Southern End. Any noise barrier north of the proposed subdivision access road shall be located along the frontage of the subject land.

(ii) Maximum Noise Levels and Time Horizons

The following maximum road traffic noise free-field level must not be exceeded within 10 years of completion of the full development.

- External noise levels must not exceed 60 dB(A) L<sub>10</sub> (18 hour), where existing levels measured at the local government deemed-to-comply dwelling setback distance are greater than 40 dB(A) L<sub>90</sub> (8 hour) between 10pm and 6am; or
  - External noise levels must not exceed 57 dB(A) L<sub>10</sub> (18 hour), where existing levels measured at the local government deemed-to-comply dwelling setback distance are less than or equal to 40 dB(A) L<sub>90</sub> (8 hour) between 10pm and 6am;
  - Internal noise levels (i.e., within buildings above the ground floor level only) must not exceed the maximum noise levels specified in AS2107-1987.
- External noise shall be defined as being all open space including verandas, balconies, pool areas and gardens.

(iii) Noise Testing

The following parameters shall be used to determine the required noise amelioration works:

- External noise levels shall be those predicted to occur on the subject land in areas likely to be frequently occupied by people for significant periods.
- Internal noise levels shall be determined in accordance with AS2107-2000.
- Noise monitoring shall be carried out in accordance with AS2702-1984.
- Noise predictions shall be carried out in accordance with Calculation of Road Traffic Noise (CRTN88) United Kingdom Department of Transport.

(iv) Road Traffic Noise Report

The applicant/ landowner shall prepare a road traffic noise report, which demonstrates how the development is to be designed to conform to the above requirements. The report shall:

- predict the road traffic noise levels;
- identify the ameliorative works required within the buffer strip, the rest of the subject land, and the relevant buildings; and

- contain all relevant information and calculations upon which the conclusions of the report are based.

The applicant/ landowner shall submit the report to the Cairns Office of the Department of Main Roads, and if necessary, shall amend the report until the Department of Main Roads considers that the report reflects the requirements of this condition. The report and any subsequent amendments shall be completed prior to or concurrent with Council approving and dating the first plan of survey.

(v) Incorporation of Works into the Development

Noise ameliorative works within the buffer south of the proposed subdivision access road shall conform to the requirements of the approved noise report and DMR Buffer Plan.

All noise ameliorative works required within the Buffer Strip shall be completed prior to or concurrent with Council approving and dating the first plan of survey.

Noise ameliorative works north of the proposed subdivision access road shall conform to the requirements of an approved road traffic noise report.

All noise ameliorative works required within the relevant building(s) shall be:

- incorporated into the building design(s) prior to the applicant/ landowner seeking Council (or private certifier) approval for a development permit for carrying out building works on the subject land; and
- incorporated into the building(s) prior to commencement of use of the building.

(vi) Building Covenant

When a covenant is required by the Road Traffic Noise (acoustical) Report then the following requirements shall be met:

- The covenants shall be included on the same Plan of Survey which creates the lots which are subjected to the covenant and lodge concurrently the Plan of Survey and validly executed Covenant Form 31 referred to in the above conditions.
- Acknowledges to Main Roads that an acoustic covenant will be annexed to the REIQ contract for the relevant lots prior to execution of the Covenants Forms 31.
- Submit to Main Roads for approval a Noise Covenant Plan which shows:
  - the final layout plan with finished contour levels and highlighting lots effected by a covenant,
  - summary of noise amelioration works and covenant conditions, and
  - a table showing, pad levels in Australia Height Datum (AHD) and the type of covenant,prior to execution of the Covenants Forms 31.
- Submit to Main Roads, certification (RPEQ) from the civil engineer that the pad levels in (AHD) used on the Covenant Plan comply with the acoustical report, prior to the execution of the Covenant Form 31. If the building pad



levels have risen by more than 200mm, a new acoustical assessment must be submitted. Any new works or covenants to be registered or amended as detailed in the new acoustical assessment must be completed within the above relevant timeframes.

- Submit to Main Roads a properly executed Covenant Form 31 pursuant to Land Title Act 1994, and in terms approved by the District Director covering all lots where it has not been demonstrated that condition (c)(ii) above would be met, prior to the submission of the Plan of Survey to Council for approval and dating.
- Submit to Main Roads a copy of the receipt of the Registration Confirmation Statements for the Covenants within 14 days of the receipt being forwarded to the applicant or their agents.

#### **4. Provision of Street Lighting**

- (i) The applicant/ landowner shall provide street lighting at the proposed roundabout intersection of Port Douglas Road and Barrier Street in accordance with the following:
  - Designed in accordance with all parts of AS 1158 and the draft Departmental Policy & Guidelines for the Provision of Public Lighting Services.
  - Designed for a three year maintenance period.
  - Preferred luminaire shall be a 250 W HPS Aeroscreen as per Main Roads standard offer arrangement (except for intersection flag lights and specific locations requiring other specialised lights).
  - Where the appropriate clear zone distance, in accordance with 6.3 of the Main Roads Traffic Engineering Manual - Traffic Management Technical Guidelines, cannot be achieved, "Slip Base" poles shall be provided.
- (ii) Detailed plans of the required street lighting works shall be submitted to the Cairns Office of the Department of Main Roads for approval prior to commencing any works within the State-controlled road reserve (i.e. Port Douglas Road).
- (iii) The required street lighting works shall be designed, constructed and completed to the satisfaction of the Director-General, Department of Main Roads prior to the landowner/ applicant requesting Council to approve and date the first plan of survey containing any lots on the subject site.

#### **5. Hydraulic Considerations**

To protect the existing flood immunity of the State-controlled road (i.e. Port Douglas Road), the applicant/ landowner shall seek the approval of the Director-General of the Department of Main Roads prior to any works commencing on the subject land which may result in changes to the existing water flows, afflux levels and/or hydraulic structures along, under or over the State-controlled road. All of the requirements in this section shall be complied with prior to Council approving and dating the first plan of survey.

#### **6. Provision of Pedestrian/ Bicycle Paths**

- (i) The applicant/landowner shall provide a pedestrian/ bicycle path along the full Port Douglas Road frontage, subject to the approval of the Department of Main Roads.

- (ii) The applicant/landowner shall provide pedestrian/ bicycle path(s) between the subject site and the proposed Port Douglas Road pedestrian/ bicycle path via the proposed subdivision access road.
- (iii) The applicant/landowner shall construct the pedestrian/ bicycle paths to the requirements of the Douglas Shire Council prior to the applicant/landowner requesting Council to approve and date the first plan of survey of the subject land.

**7. Advertising**

No advertising device for the proposed development is permitted within the State-controlled road reserve (i.e. Port Douglas Road).

**8. Parking**

No parking associated with the proposed development is permitted within the State-controlled road reserve (i.e. Port Douglas Road).

**Reasons**

The reasons and information used in the setting of conditions detailed above include:

- Department of Main Roads Access Policy,
- Department of Main Roads Involvement in Development Applications Referrals and Assessment Guide, and
- The Douglas Shire Planning Scheme.

**B. GENERAL DISCUSSION**

Council is requested to reflect Conditions 1, 2, 3 and 4 above on its Rates Record, to ensure that the planning intentions of Conditions 1, 2, 3 and 4 are secured.

This Department would appreciate a copy of Council's decision notice regarding the application.

A copy of this letter has been sent to the applicant.

Yours sincerely

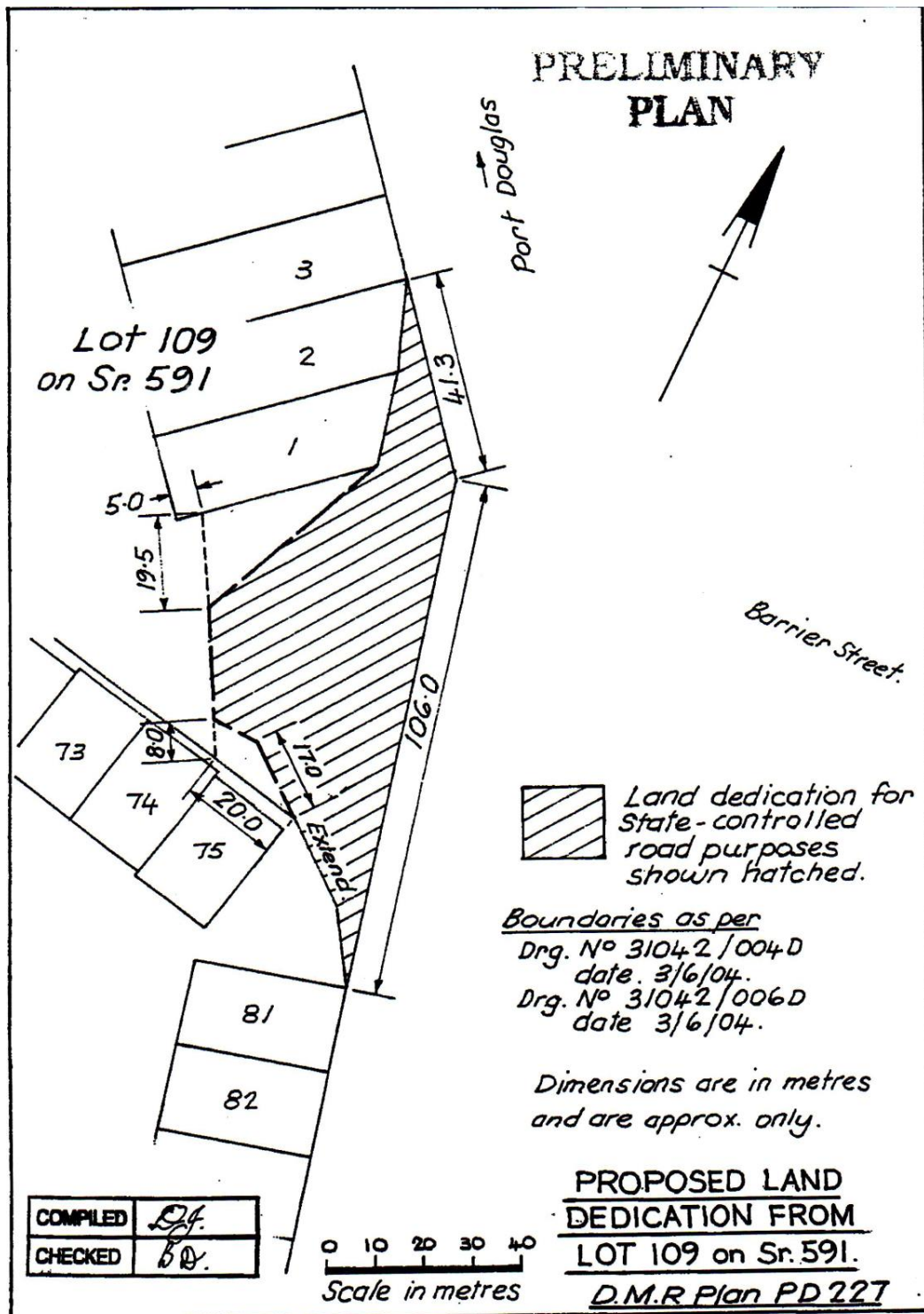


Brad Finegan

**A/MANAGER (TRANSPORT PLANNING) PENINSULA**

Enclosed DMR Plan No. PD 227

DMR Plan No. PD 85C dated 03/2001









## Reasons for Decision

1. The reasons for this decision are:
  - a. Sections 79, 80, 81, 81A and 83 of the *Planning Act 2016*;
  - b. to ensure the development satisfies the benchmarks of the 1996 Douglas Shire Planning Scheme and the 2018 Douglas Shire Planning Scheme Version 1.0; and
  - c. to ensure compliance with the Planning Act 2016.
2. Findings on material questions of fact:
  - a. the development application was properly lodged to the Douglas Shire Council 21 November 2024 under section 79 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
  - b. The application is for a minor change, being a minor change consistent with Schedule 2 of the *Planning Act 2016*;
  - c. 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 was impact assessable development under the 1996 Douglas Shire Planning Scheme;
  - b. the development, where considered under the 2018 Douglas Shire planning Scheme Version 1.0 would trigger code assessable development, as Multiple dwellings, under the Assessment Table associated with the Tourist Accommodation Zone Code;
  - c. Council undertook an assessment in accordance with the provisions of sections 81, 81A and 83 of the Planning Act 2016; and
  - d. the applicant's reasons have been considered and the following findings are made:
    - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

## Non-Compliance with Assessment Benchmarks

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

Planning Act 2016  
Chapter 6 Dispute resolution

[s 229]

---

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.

- (3) In this section—

**conduct** means an act or omission.

**representative** means—

- (a) of a corporation—an executive officer, employee or agent of the corporation; or
- (b) of an individual—an employee or agent of the individual.

**state of mind**, of a person, includes the person's—

- (a) knowledge, intention, opinion, belief or purpose; and
- (b) reasons for the intention, opinion, belief or purpose.

## 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 a decision of the Minister, under chapter 7, part 4, to amend the registration of premises to include additional land in the affected area for the premises—20 business days after the day a notice is published under section 269A(2)(a); or
  - (e) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
  - (f) 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
  - (g) 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
- (h) 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.

# **Part 2 Development tribunal**

## **Division 1 General**

### **233 Appointment of referees**

- (1) The Minister, or chief executive, (the ***appointer***) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—