

5.3. RECONFIGURATION OF A LOT - 1 INTO 72 LOTS (PLUS PARK), VIXIES ROAD, WONGA BEACH

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DEPARTMENT: Development and Environment

PROPOSAL Reconfiguring a Lot (1 Lot into 72 Lots) plus Park

APPLICANT V G Scomazzon
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Po Box 1619
Cairns Qld 4870

LOCATION OF SITE Vixies Road Wonga

PROPERTY Lot 32 on SP126925

LOCALITY PLAN



LOCALITY Rural Areas and Rural Settlements

PLANNING AREA Rural Settlement

PLANNING SCHEME Douglas Shire Planning Scheme 2008

REFERRAL AGENCIES

Department of Transport and Main Roads
Department of Natural Resources and Mines

NUMBER OF SUBMITTERS

Not Applicable

STATUTORY ASSESSMENT DEADLINE

Expired

APPLICATION DATE

14 August 2009

RECOMMENDATION

That Council approves the development application for Reconfiguring of a Lot (1 Lot into 72 Lots) over land described as Lot 32 on SP126925 located at Vixies Road Wonga Beach, subject to the following:

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

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

Drawing or Document	Reference	Date
Contour & Drainage Plan – Sheet 1 of 3	Q144007-001-C01 Rev 03	25 March 2015
Contour & Drainage Plan – Sheet 2 of 3	Q144007-001-C02 Rev 03	25 March 2015
Contour & Drainage Plan – Sheet 3 of 3	Q144007-001-C03 Rev 04	6 May 2015
Layout Plan – Sheet 1 of 3	Q144007-001-L01 Rev 02	24 September 2015
Layout Plan – Sheet 2 of 3	Q144007-001-L02 Rev 02	24 September 2015
Layout Plan – Sheet 3 of 3	Q144007-001-L02 Rev 03	24 September 2015
Supporting Technical Documents		
Wonga Beach Flood Study	Q144007	20 November 2014

ASSESSMENT MANAGER CONDITIONS

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

Except where modified by these conditions of approval

Timing of Effect

2. The conditions of the Development Permit must be effected prior to issue of a Compliance Certificate for the Plan of Survey, except where specified otherwise in these conditions of approval.

Street Layout and Design

3. The street layout and design is to be generally in accordance with Cardno Drawings Q144007-001-C01 to C03 subject to any amendments to comply with conditions, Queensland Streets and the FNQROC Development Manual, to the satisfaction of the Chief Executive Officer. In particular:
 - a. Design and construct the internal road servicing lots 6 to 72 in accordance with the FNQROC Development Manual and generally in accordance with the Cross Section as detailed on Drawing No. Q144007-001-C01 subject to the construction of a 7 metre sealed pavement with 1 metre gravel shoulders.
 - b. Design and construct the road connection to South Arm Drive. Lots 27 and 28 are to be amended to ensure the road reserve width is consistent for the entire length of the road. Noting the vegetation constraints in the drainage reserve, the road connection within the drainage corridor is to meet the following performance criteria:
 - (i) the road connection is to be a two lane road;
 - (ii) pedestrian access is to be provided on at least one side;
 - (iii) suitable barriers are to be provided as required;
 - (iv) plans are to demonstrate clearance to and location of significant vegetation;
 - (v) drainage calculations are to show the crossing achieves flood immunity for the ARI 10 year rainfall event and are to show compliance with the Queensland Urban Drainage Manual for events flows up to and including the 100 year ARI rainfall event (1%AEP).

An amended plan incorporating the above requirements must be submitted prior to the issue of a Development Permit for Operational Works.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to the issue of a Compliance Certificate for the Plan of Survey.

Earthworks and Drainage Plan

4. Provide revised earthworks and drainage plans to address the following requirements:
 - a. Provide a plan identifying a building pad of minimum 1000m² located at least 300mm above the identified Q100 ARI flood interval level for each lot on site. The minimum freeboard is to be confirmed based on the freeboard requirements in QUDM but shall be a minimum of 300mm; and

- b. Where cutting and filling is proposed to achieve the building pad footprint, confirm extents of cut and fill and demonstrate the proposed work does not have a worsening impact on the drainage and flooding. In particular that the areas of the site being cut down do not become impacted by flooding as a result of the earthworks.

The amended Plan must be submitted to Council, to the satisfaction of the Chief Executive Officer, prior to submitting a Development Application for Operational Works. All filling is to be completed in accordance with the approved plans during the Operational Works stage.

Building Envelope Plan

5. Provide a Plan nominating building envelopes for all habitable buildings on each lot. These envelopes are to correspond with the 1000m² building pads required by conditions of this Development Permit.

The Building Envelope Plan must be submitted to Council, to the satisfaction of the Chief Executive Officer prior to the issue of a Compliance Certificate for the Plan of Survey.

The applicant / owner must also ensure that the endorsed building envelope plans are made known to all prospective purchasers of the lots.

Updated Flood Study Plan

6. The Wonga Beach Flood Study prepared by Cardno and dated 20 November 2014, must be updated based on detailed survey of the site and drainage lines adjacent to the site. Subject to the findings of the updated flood modelling the development footprint and layout must be confirmed and any changes identified.

The updated study based on detailed survey is to verify the findings of the November 2014 assessment that relied on LIDAR data. In particular the flood modelling must consider the following elements:

- a. The in-stream barriers where existing crossings occur including on existing Lot 31 to the north of the development;
- b. The impact of the proposed crossings for the accesses to Lots 70 to 72;
- c. The impact of the proposed crossing linking the development to South Arm Drive between Lots 27 and 28;
- d. The detailed survey of the site and subsequent flood modelling must also verify that the existing site levels on the northern lots are consistent with the LIDAR data and therefore the extent of inundation of these lots is not greater than currently indicated in the November 2014 assessment.

The detailed survey and amended flood study must be endorsed by the Chief Executive Officer prior to issue of a Development Permit for Operational Works.

External Works

7. Undertake the following external works:-

- a. Construct the intersection for the proposed new road with Vixies Road in accordance with the FNQROC Development Manual requirements, including line marking, street lighting, drainage, pavement design and carriageway widening if required to facilitate the intersection operation.

Three (3) copies of a plan of the works must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works. All works must be carried out in accordance with the approved plan prior to the issue of a Compliance Certificate for the Plan of Survey.

Plan of Drainage Works

8. The subject land must be drained to the satisfaction of the Chief Executive Officer. This includes provision of the following:

- a. Drainage infrastructure generally in accordance with the concepts shown on Cardno drawings Q144007-001-C01 to C03 Revision 3 & 4 subject to amendments required to comply with the FNQROC Development Manual. Calculations of the sub-catchment discharge and the flow width and depth in roadside drains and easements must be provided prior to the issue of a Development Permit for Operational Works. The calculations must demonstrate that the flows are fully contained in the drainage paths and do not enter private property except where easements exist;
- b. The drainage lines along the side boundaries are to be included in easements with sufficient width for vehicular access for maintenance;
- c. The cross drainage culverts for the accesses to Lots 70 to 72 are to be designed to provide immunity for the ARI 10 year event unless otherwise approved by Council. Any alternative crossing arrangement must demonstrate that acceptable immunity is provided for minor rainfall events with access maintained for the 100 year ARI event (1%AEP event). In particular trafficability and flow depth are to be demonstrated for the accesses for various rainfall events.
- d. The building pads and on-site sewage disposal areas on all new allotments shall have immunity from flooding associated with an ARI 100 year rainfall event;
- e. The drainage swale at the rear of Lots 1 – 5 inclusive can be re-profiled to formalise the drainage line through this area. The rear boundaries of Lots 1-5 must be amended to reflect the re-profiling works undertaken. The re-profiling works must also be reflected in the updated flood study required by conditions of the Development Permit.

The nature and extent of drainage easements will be determined at the time of seeking a Development Permit for Operational Works.

All drainage works must be completed to the satisfaction of the Chief Executive Officer, prior to the issue of a Compliance Certificate for the Plan of Survey.

Existing Creek and Drainage Systems

9. All existing creek systems and drainage areas must be left in their current state, including no channel alterations and no removal of vegetation unless consented to in writing by the Chief Executive Officer.

The applicant / owner must obtain any necessary approvals from the Department of Natural Resources & Mines for carrying out works in a watercourse.

Lawful Point of Discharge

10. 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.

Open Space

11. The area identified as Park on Drawing No. Q144007-001-C02 / 03 is not suitable to be dedicated as Park due to the characteristics and location of the land. The land could form one additional residential lot within the development.

Water Supply Master Plan

12. A Water Supply Master Plan accompanied by supporting calculations must be provided which demonstrates how the development can be connected to Council's water supply network at the nearest point of connection.

The calculations must include modelling of the internal reticulation and the external connection mains and must include provision for fire fighting flows in accordance with FNQROC.

Three (3) copies of a plan of the works must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer, prior to the issue of a Compliance Certificate for the Plan of Survey for Stages 2 – 6 inclusive.

Water Supply Works Internal

13. Undertake the following water supply works internal to the subject land for Stages 2 – 6 inclusive:
 - a. Provide ability for water connection to each lot in accordance with the FNQROC Development Manual;
 - b. Provide the conduit for water supply for the full length of the access leg for proposed Lots 70 to 72 & Lot 39. The conduit does not need to be connected to Council's water supply. The conduit must be capped and staked at the road frontage and at the nominated building pad for easy identification when a future house is constructed on these lots.

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

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to the issue of a Compliance Certificate for the Plan of Survey.

Infrastructure Credits for Augmentation of Water Main

14. Where water supply infrastructure has the potential to service external development areas, some of this work may be subject to infrastructure credits. The value will need to be assessed in consultation with Council Officers for the costs over and above that which the developer would need to provide to service the proposed development subject of this Development Permit.

Subject to detailed design for water supply and where it is agreed that a credit is applicable, the cost of constructing water supply infrastructure must be agreed to by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works to construct the infrastructure.

Damage to Infrastructure

15. In the event that any part of Council's existing infrastructure is damaged as a result of construction activities occurring on the site, Council must be notified of the affected infrastructure and have it repaired or replaced at no cost to Council.

Electricity Supply

16. 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.

Electricity and Telecommunications

17. Written evidence of negotiations with Ergon Energy and the telecommunication authority must be submitted to Council stating that both an underground electricity supply and telecommunications service will be provided to the development prior to the issue of a Compliance Certificate for the Plan of Survey for Stages 2 – 6 inclusive. Stage 1 may be serviced by existing over head power.

Stockpiling and Transportation of Fill Material

18. 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 7:00 am or after 6:00 pm Monday to Friday; or
- c. before 7:00 am or after 1:00 pm Saturdays; or
- d. on Sundays or Public Holidays.

19. Dust emissions or other air pollutants must not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

Storage of Machinery and Plant

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

Construction Access

21. Vehicular access to the site for construction and demolition purposes must be provided from Vixies Road only, unless authorised by the Chief Executive Officer.

Access to Hatchet or Battleaxe Lots

22. Construct an imperviously sealed driveway to battleaxe Lots 70, 71, 72 & 39 extending the full length of the access leg from adjacent edge of carriageway with an approximate crossover of the road side table drain in accordance with FNQROC Development Manual Standard Drawings. The access legs must have a minimum width of 6 metres.

Construction of the concrete driveways must be generally in accordance with FNQROC Development Manual Standard Drawing except that the minimum width of the sealed pavement must be 3m for Lot 70 with a passing bay on the western side of the drainage swale and 4.5m for the shared access for Lots 71 & 72. The width and alignment of the cross drainage culverts for Lots 71 & 72 will be determined at the time of seeking Operational Works approval and must seek to retain the significant vegetation at this location. Council will accept a bitumen sealed driveway if requested.

The size of the drainage crossing is to be confirmed in accordance with the drainage conditions of this Development Permit.

All works must be carried out to the requirements and satisfaction of the Chief Executive Officer prior to the issue of a Compliance Certificate for the Plan of Survey.

Service Conduits

23. Provide service conduits to lots 70, 71, 72 and 39 adjacent to the driveway together with associated access pits if necessary, to extend from the front boundary to the end of the access driveway.

All works must be carried out to the requirements and satisfaction of the Chief Executive Officer prior to the issue of a Compliance Certificate for the Plan of Survey.

Temporary Vehicle Turnaround

24. A temporary vehicle turnaround at end of all partially constructed roads where the length of road exceeds sixty (60) metres (ie maximum acceptable reversing distance for garbage truck) must be provided. The turning facility must be of sufficient size to turn around a garbage truck, either in a continuous forward movement or by a three-point turn.

Access & Service Easement/s

25. Create Access and Service Easements to allow vehicle access and on-site manoeuvring for lots 71 and 72 & lots 39 & 40 to the requirements and satisfaction of the Chief Executive Officer.

Create an Access Easement over Lot 72 in favour of Lot 59 on SP204110 to the requirements and satisfaction of the Chief Executive Officer.

A copy of the easement documents must be submitted to Council for the approval of Council's solicitors at no cost to Council. The approved easement documents must be submitted at the same time as seeking approval and dating of the Plan of Survey and must be lodged and registered with the Department of Natural Resources and Mines in conjunction with the Plan of Survey.

Acid Sulfate Soil Investigation

26. 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 the document produced by Department of Natural Resources and Mines – QASSIT Guidelines. The results of this investigation must be submitted to Council for approval prior to any earthworks being commenced on the site.

Identification of soils with a pyrite content in excess of the action levels nominated in the latest version of DNRM – 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 DNRM: '*Queensland Acid Sulfate Soil Technical Manual*' (2002), including Soil Management Guidelines 2014, which must be prepared to the satisfaction of the Chief Executive Officer.

CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS:

Concurrency Agency	Concurrency Reference	Agency	Date	Council Reference	Electronic
Department of Environment & Heritage Protection	DEHP - IC0909CNS0006		15 February 2012	#309310	
Department of Main Roads	214/655/102 (1489.06)		15 September 2009	#160587	

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

ADVICE

1. This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of sections 339 and 341 of the *Sustainable Planning Act 2009*.

2. **All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.**
 3. **This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.**
 4. **If the works identified in Condition 14 generate a credit, Council and the applicant/owner shall enter into an Infrastructure Agreement. The Agreement shall document, to the satisfaction of both parties, the terms and conditions under which the applicant is to be reimbursed.**
 5. **For information relating to the *Sustainable Planning Act 2009* log on to www.dilgp.qld.gov.au . To access the *FNQROC Development Manual*, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.**
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EXECUTIVE SUMMARY

An application to reconfigure the land was made to the former Cairns Regional Council in August 2009. The application seeks approval to develop the land for 72 large residential allotments being consistent with the planning intent of the Rural Settlement Planning Area.

The land has an area of 56.33 hectares with a frontage of approximately 250 metres to Vixies Road and approximately 300 metres to South Arm Drive. At present, the site is not serviced by reticulated water or sewer.

Throughout the assessment, concerns were raised with regard to a number of issues. Such issues related to the ability to service the land with reticulated water, suitability for onsite effluent disposal and the ability to ensure the proposed lots were not unduly impacted and vulnerable to flooding events including storm tide inundation and sea level rise.

The applicant has undertaken the necessary investigations and provided Council with the information required to complete an assessment. Despite the lodgement of the application in August 2009, the investigations and subsequent findings in conjunction with the assessment and subsequent Recommendation to Council represents contemporary expectations and outcomes when developing land for residential purposes.

The application was referred to the Department of Main Roads and Department of Environment and Resource Management as Concurrence Agencies. Conditions forwarded by each agency form Attachment 3.

Draft conditions of approval were forwarded to the Applicant to gain their response prior to presenting the matter to Council. It is understood the Applicant is accepting of conditions of approval and therefore unlikely that Council will receive a request for a negotiated decision.

The development of the land in the manner proposed is responsive to the constraints of the site and consistent with the intent of the Rural Settlement Planning Area. Approval of the application is recommended subject to conditions.

TOWN PLANNING CONSIDERATIONS

Site & Surrounds

The application relates to a 56.33 hectare rectangular parcel of land situated on the northern side of Vixies Road. The site is mostly cleared of native vegetation with the exception of two distinct vegetated swales extending through the site in a south to north direction being parallel to the beach.

The site is currently improved by a single residence and a lychee orchard in the southern portion of the site.

The applicant has relied upon LIDAR survey (released by Department of Natural Resources & Mines) in conjunction with several detailed survey locations to assist with the layout of the subdivision and more specifically, to determine the vulnerability of the development from flooding impacts. Various boundary characteristics including storm tide events, storm surge tail water levels along with the external contributing catchment for the Average Recurrence Interval (ARI) 1 in 100 year rainfall event has been investigated and analysed to demonstrate the development has adequate flood immunity.

The survey data reveals the topography is characterised by a sandy ridge located between two vegetated swale drains which drain from south to north. Site levels range between approximately 1.25m AHD (bottom of the swale drains) to a little over 4.0m AHD. The site is sheltered from the Coral Sea by a significant coastal mangrove and marine plant buffer having a width of approximately 500 metres.

A mix of land uses are proximate to the site which include rural, rural residential, an aquaculture facility (barramundi farm) and the Pinnacle Village Caravan Park. The large lot to the south of the site between Vixies Road and Snapper Island Drive has an approval to be developed into 99 residential lots.

The proposed development represents a logical extension to the existing rural settlement development of South Arm Drive immediately to the west of the site.

Proposal

The application seeks a Development Permit for the reconfiguration of the land into 72 lots, open space and drainage areas. The layout provides for a new road off Vixies road extending in a northerly direction through the site. The road is positioned on top of an existing ridgeline with lots located either side of the road.

The development is intended to take place in six stages.

For the most part, the lots vary in size from approximately 4000m² to several hectares. Several very large lots being 70 – 72 are located further east of the vegetated swale drain and sit adjacent to the eastern boundary of the site. These lots will be accessed via a shared access between Lot 48 & Lot 49. The alignment of the access coincides with an existing access through the vegetated swale. The layout also provides a road connection to South Arm Drive between Lots 27 & 28.

The copy of the proposal plans and staging plans form Attachment 1 & Attachment 2 respectively.

Far North Queensland Regional Plan

The site is located within the Regional Landscape and Rural Production Area of the Far North Queensland Regional Plan (FNQRP) in which subdivision for residential purposes is not anticipated or encouraged. However the land is contained within the Rural Settlement Planning Area within the Planning Scheme conferring use rights over the land.

While not included within the Rural Living designation within the Regional Plan, the proposed development will not undermine the intent of the Regional Plan. Adjacent lots are not in agricultural use and the majority of lots are constrained as far as potential agricultural uses due to large areas of remnant vegetation and residential occupation. There is limited opportunity to amalgamate adjacent lots to provide for viable rural land holdings.

The land is identified as containing areas of ecological significance under the Regional Plan being the wetlands within the swales. The land use policies of the Regional Plan requires urban development in or adjacent to areas of general ecological significance to be located, designed and operated to avoid or, where avoidance is not possible, minimise any adverse impacts on the ecological values where possible.

The layout of the development is designed to avoid such adverse impacts on ecological values by protecting the whole of the area within the swales. Conservation covenants will be placed over remnant vegetation and drainage lines within each allotment. The conservation covenants will prohibit any development within the covenanted area as well as prohibiting clearing of vegetation for any purpose.

Douglas Shire Planning Scheme Assessment

Douglas Shire Coastal Suburbs Planning Locality		Code Applicability	Compliance
Locality	Rural Areas and Rural Settlements Locality Code	✓	Complies
Planning Area	Rural Settlement Planning Area Code	✓	Complies
Overlay Codes	Acid Sulfate Soils	✓	Conditioned to Comply - see comment below
General Codes	Filling and Excavation Code	✓	Conditioned to Comply – see comments below
	Natural Areas and Scenic Amenity Code	✓	Conditioned to Comply – see comments below
	Reconfiguring a Lot Code	✓	Complies

Coastal Planning & Flooding Considerations

A detailed flood analysis for the site and the contributing catchment was undertaken by Cardno. The flood study calculated the ARI 1 in 100 year rainfall event in conjunction with three possible boundary conditions being:-

1. ocean outlet sanded up to a level of 1.5m AHD;
2. a high tide scenario using Highest Astronomical Tide (HAT) level of 1.78m AHD; and,
3. a 100 year ARI storm tide level (including climate change and 0.8m sea level rise) of 2.8m AHD

Of the three scenarios modelled, the event which had the most impact on the site was the ARI 1 in 100 year rainfall event coinciding with a 100 year ARI storm tide level of 2.8m AHD.

When calculating these levels for this particular event, a higher coefficient for roughness (vegetation in swales) was also used.

The above event results in peak water levels in the range of 3.15m AHD to 3.45m AHD across the site which is generally consistent with the historical development in the local area and beach suburbs of Far North Queensland.

The flood study relied upon LIDAR survey released by Department of Natural Resources & Mines in association with detailed survey of the culverts on Vixies Road and spot levels taken within the site.

Further assessment revealed inconsistencies in ground levels when comparing the dataset utilised by the applicant and Council's own LIDAR level data. When comparing the two data sets, significant differences in levels, up to 1 metre in the northern portion of the site were evident. The applicant was made aware of the observation and in response, cross referenced the detailed site specific survey data with that of the LIDAR survey and produced the following table.

Table 1. Comparison of Survey Levels

Survey Point	C&B Level (mAHD)	Lidar Level (mAHD)	Difference (m)
9002	5.11	5.16	+0.05
9015	2.24	2.28	+0.04
9015 (East)	2.98	3.02	+0.04
9016	3.12	3.18	+0.06
9017	3.37	3.56	+0.19
9018	3.40	3.54	+0.14
9019	3.57	3.75	+0.18
9020	3.49	3.68	+0.19
9034	3.44	3.63	+0.19
9034 (East)	3.54	3.55	+0.01
9038	3.20	3.36	+0.16
9038 (East)	3.45	3.49	+0.04
9039	3.24	3.33	+0.09
9039 (East)	2.96	3.02	+0.06

The above table illustrates the use of higher ground levels (positive variances) of between 0mm to 190mm to that of existing ground levels for the flood study. The variations identified in the table are not significant for the purpose of the flood study. However, issue is still held with regard to the balance of the site and the inconsistency of greater variations between data sets. Conditions have been included within the approval to update the flood study having regard to detailed survey of the site and drainage lines, and confirm any changes to the development footprint or layout as a consequence.

Plans from the flood study for the site illustrating both pre and post development flood levels form Attachment 5. Plans C7 & C8 of Attachment 5 illustrate the extent of flood inundation for the event with the most impact as identified above. It must be noted that these plans represent the Q100 surface level but doesn't provide information on the depth or significance of inundation. To gain an appreciation of these characteristics, refer to Plans C5 & C6.

These plans illustrate flows being largely contained to the drainage swales with isolated and scattered areas of inundation within the proposed lots (excluding the drainage swales). The analysis suggests that the extent of inundation within the lots is less than 250mm and would be reflective of depressions and localised variations in ground levels. Minor earthworks of grading and levelling the land would overcome these issues and therefore are not significant.

In relation to earthworks, conditions of approval require a building pad having an area of 1000m² with a finished pad level being a minimum 300mm above the Q100 ARI flood level for each lot. A condition of approval also requires that where cutting and filling is proposed to achieve the building pad footprint, the applicant must confirm the extent of cut and fill and demonstrate that the proposed work does not have a worsening impact on drainage and flooding. In particular, the areas of the site being cut down do not become more vulnerable to flooding as a result of the earthworks.

To improve the utility of the lots forming Stage 1 and the absence of environmental constraints at the rear of these lots, it is likely the applicant will seek to re-profile this section of drainage line immediately adjacent Vixies Road. In the event the applicant intends to undertake this work, conditions of approval have been included regarding the alignment of the rear boundary of the lots for Stage 1 to ensure they are appropriately placed with respect to the re-profiled drainage swale.

Road Layout & Local Road Network

The layout provides for a new road off Vixies road extending in a northerly direction through the site. The road is positioned on top of an existing ridgeline with lots located either side of the road. A new road is proposed linking the internal road through to South Arm Drive between Lots 27 and 28. The applicant has suggested that this road be constructed as a single lane road due to vegetation constraints and as a consequence of discussions with Department of Environment and Resource Management (DERM). A single lane road is not supported and conditions of approval require the link road to be a two lane road to connect to South Arm Drive and to achieve certain level of performance as opposed to the road standards set by the FNQROC Development Manual. This is intended to result in minimal disturbance to the drainage swale while ensuring the new road is fit for purpose. It is noted that the conditions forwarded by DERM with regard to the protection of Remnant Vegetation within the drainage swales excludes roads.

The extension of South Arm Drive to connect to Lot 39 in the northern portion of the site is not feasible due to flooding constraints and the extent of works required to gain practical access. As an alternative, Lot 39 is accessed via an access easement from the head of the cul-de-sac.

Stage 1 has frontage to South Arm Drive being a constructed road with access to telecommunications and over head power. The lots comprising Stage 1 are also the least impacted by flood levels as illustrated at Attachment 5.

Filling

In order to comply with conditions of approval, the applicant will be required to undertake filling on certain lots to achieve the minimum flood immunity of 300mm above the Q100 ARI flood level. As detailed above, the applicant will likely pursue a cut and fill option in order to reduce the amount of imported fill.

Details of proposed earthworks and the extent of cut and fill required will form part of the detail associated with the downstream Operational Works submission. It is standard practice

that such detail is investigated and clarified at this stage of the development approval process.

On-Site Sewerage

Investigations undertaken on this site in conjunction with findings of detailed investigations for the site immediately to the south suggest that there is an ability to dispose of effluent onsite in a manner which complies with the Australian Standard.

Concerns were held with regard to the fluctuating water table and high ground water levels which may render certain lots unsuitable for onsite waste disposal. However, sufficient evidence has been provided to indicate that the separation distance of 600mm for advanced secondary systems from ground water can be achieved.

Private Certifiers can only issue building approval for structures containing fixtures once a plumbing approval has been issued by Council in areas not serviced by reticulated sewer. This provides Council with a further opportunity to consider the issue of onsite effluent disposal for each allotment. If the level of ground water and separation distances remains a concern for a particular allotment at this point in time, then there is the opportunity for mounding, or otherwise known as the "Wisconsin Mound" to achieve separation. However based on the information provided and other plumbing approvals issued by Council in the locality over the last 18 months, it is unlikely that this will represent an issue.

Water Supply

The recommendation contains conditions requiring the applicant to investigate the nearest point of connection to service the development. This will involve the extension of the water main along Mossman- Daintree Road and down Vixies Road to the site.

Augmentation of the reticulated water supply required to service the development is not identified in Council's infrastructure planning undertaken to date.

The approved development of the land to the south (McCloy's land) has the ability to service up to 20 lots from Snapper Island before being required to extend the water main in the manner required to service this land.

A condition of approval flags a potential opportunity to obtain infrastructure credits associated with the extension of the water main. A credit arrangement will be entertained whereby the extension has the ability to service external development areas and provides additional capacity over and above that required to service the subject development. Detailed consideration of this matter will be undertaken at the time of seeking Operational Works approval.

Conditions of approval provide for the creation of the five lots fronting South Arm Drive forming Stage 1 of the proposal without the requirement to provide reticulated water as this stage fronts a constructed road, has access to services and is the least constrained lots in the development. It also forms an extension of the existing lots to the east fronting South Arm Drive. However, in order to progress Stage 2 and subsequent stages of the development, reticulated water supply is required.

The ability to service this land and surrounding properties with a reticulated water supply and whether such works will form part of Council's trunk water supply network will be considered when preparing the Local Government Infrastructure Plan.

Acid Sulfate Soils (ASS)

The volume of earthworks (cut / fill) required to achieve the level of flood immunity required is currently unknown. However it will involve earthworks that will trigger the requirement for a detailed assessment of this issue. A condition is recommended to be placed on the approval to ensure the matter is adequately addressed.

No excavation or filling of the existing natural areas is proposed.

Open Space

The proposed layout identifies a significant area of land opposite Lots 19 – 22 to be dedicated to Council as park. The land is proposed to be dedicated in order to satisfy the developments obligations with respect to open space.

The proposed park lot contains a significant water feature and is undesirable in terms of its features and location. The public demand for open space in this location is extremely low and would be an inefficient use of Council's resources should this land be dedicated for such a purpose and maintained by Council in perpetuity. Furthermore the presence of a significant water feature is a public hazard.

Conditions of approval do not accept this land as park and advises that such land can be used for residential purposes.

The Infrastructure Charges at Attachment 4 includes a monetary contribution for open space.

Access to Country

The land immediately to the east of this site being Lot 59 on SP204110 has an area of 333.5 hectares and is currently owned in freehold by Jabalbina Yalanji Land Trust as trustee for the land. The land further to the east adjacent the Coral Sea has an area of 220 hectares being Unallocated State Land.

An informal access track exists through the subject land in order to gain access to Lot 59 which then extends through to the beach. The proposal plans at Attachment 1 identifies this track as being the shared access for Lots 71 & 72. Other than an 11 metre wide strip of unconstructed (heavily vegetated) road reserve at the north eastern corner of Pinnacle Village Caravan Park, no other lawful or practical access is available.

The Applicant has advised that local indigenous people and other locals often use this track in order to gain access to the beach. The Applicant has expressed his interest in formalising this track and opening this section of track as a continuation of road reserve. Earlier proposal plans identified a road extending to the eastern boundary and a car park to formalise beach access.

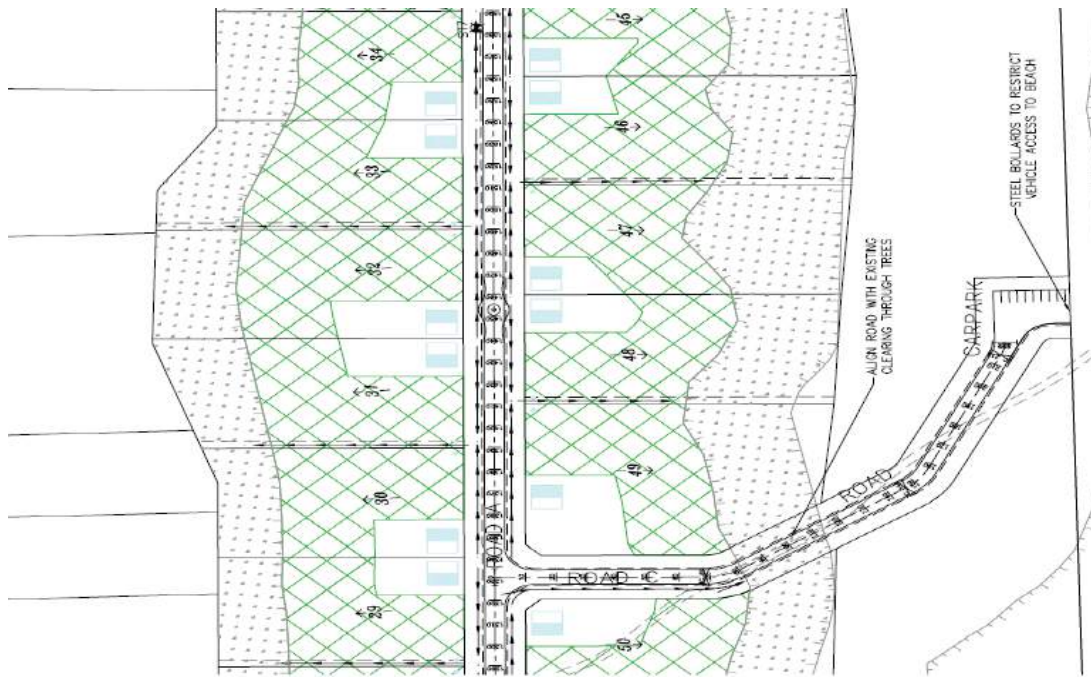
Access onto Lot 59 is restricted by a locked gate on the eastern boundary. It is understood that the key/s to the gate are held by local indigenous people.

Illustrations are provided below.

Beach Access



Informal track through the land gaining access to Lot 59. Note access onto the beach (bottom right corner)



Earlier proposal plan nominating new road and car park to eastern boundary



Esplanade frontage to Lot 59 (north east corner of Pinnacle Village Caravan Park)

In order to improve lawful and practical access to Lot 59, it is recommended that an access easement over proposed Lot 72 be granted in favour of Lot 59 on SP204110. This option is preferable over the proposal of opening new road which will encourage and promote general public access through to the beach which requires traversing freehold land.

How general public access is managed once the development is created is a matter for the owners of the residential lots and Jabalbina Yalanji Land Trust.

Referral Agency Requirements

The application was referred to the former Department of Environment and Resource Management (now DEHP) as a Concurrence and Advice Agency and the Department of Main Roads (now DTMR) as a Concurrence Agency.

Key conditions imposed by the agencies seek to protect the remnant vegetation within the drainage swales through the placement of such areas within conservation covenants in addition to requiring an upgrade to the intersection of Vixies Road and Mossman-Daintree Road.

The intersection upgrade is required prior to the creation of any lots within the development. The applicant has the ability to request a change to this condition through direct discussions with DTMR particularly with regard to the release of Stage 1 as detailed at Attachment 2.

Referral agencies responses form Attachment 3.

ADOPTED INFRASTRUCTURE CHARGES

The Development triggers infrastructure charges. A copy of the calculation forms Attachment 4.

COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following area outlines where Council has a clear responsibility to act:

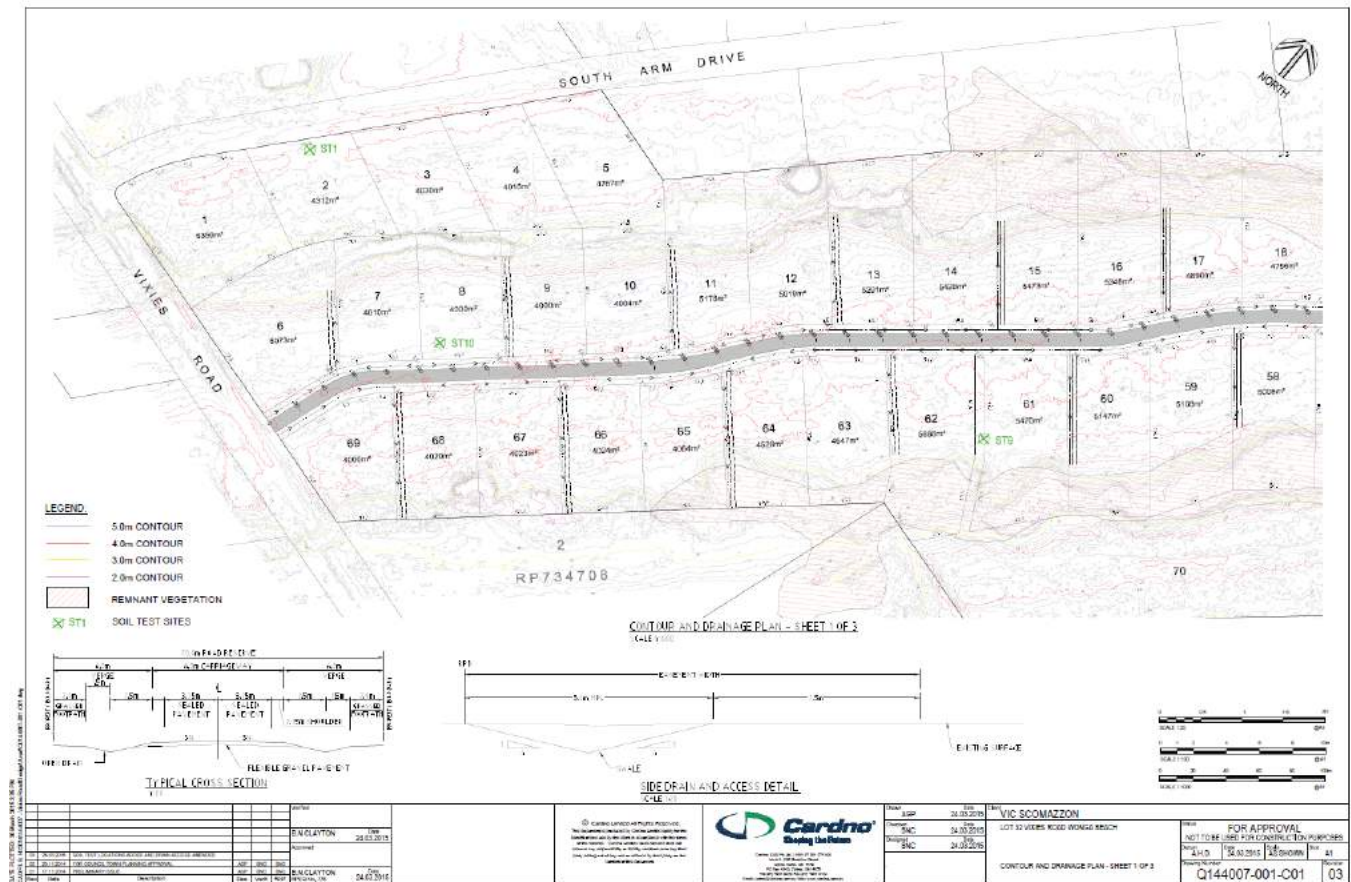
Regulator: Meeting the responsibilities associated with regulating activities through legislation or local law.

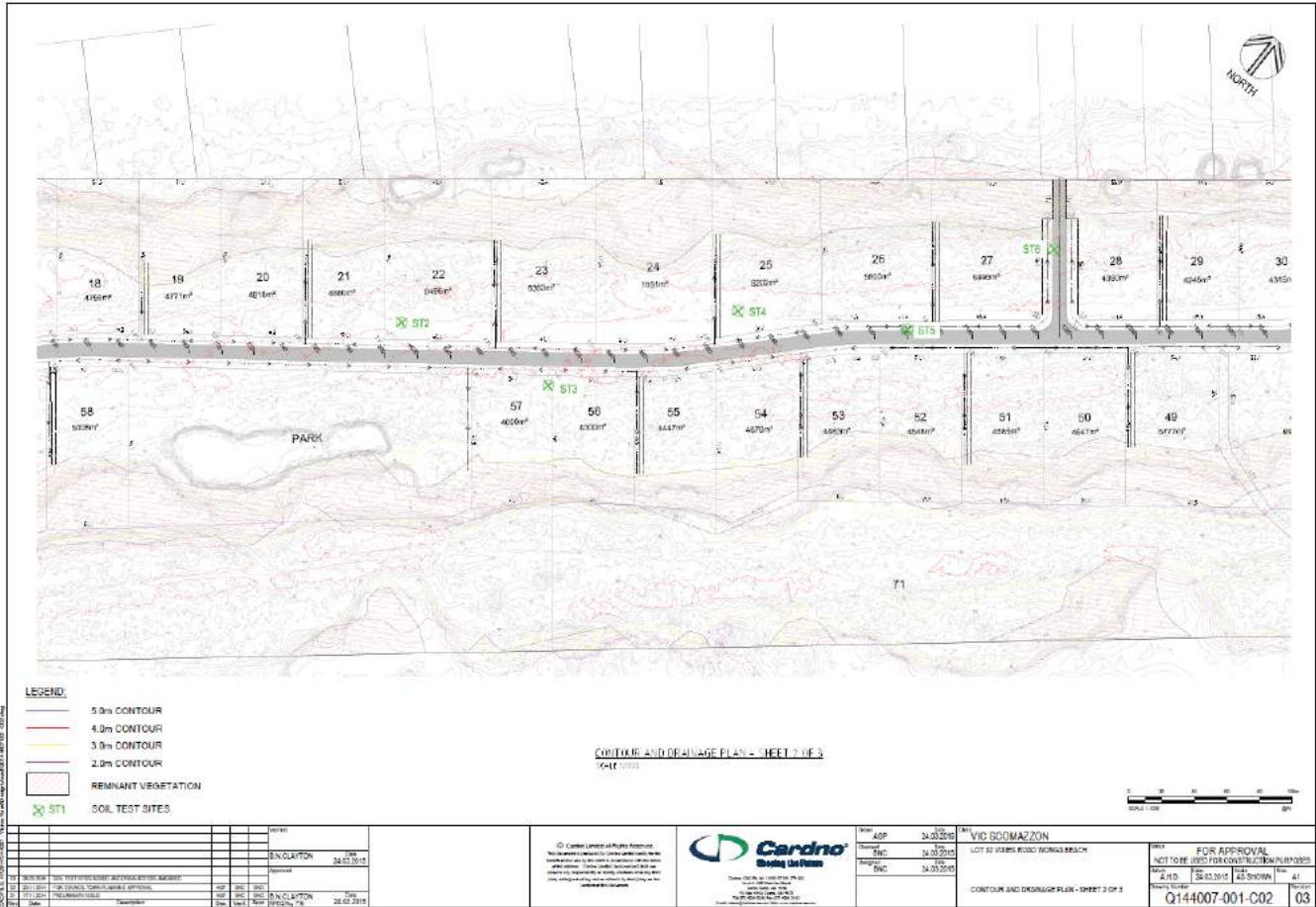
Under the *Sustainable Planning Act 2009* and the *Sustainable Planning Regulation 2009*, Council is the assessment manager for the application.

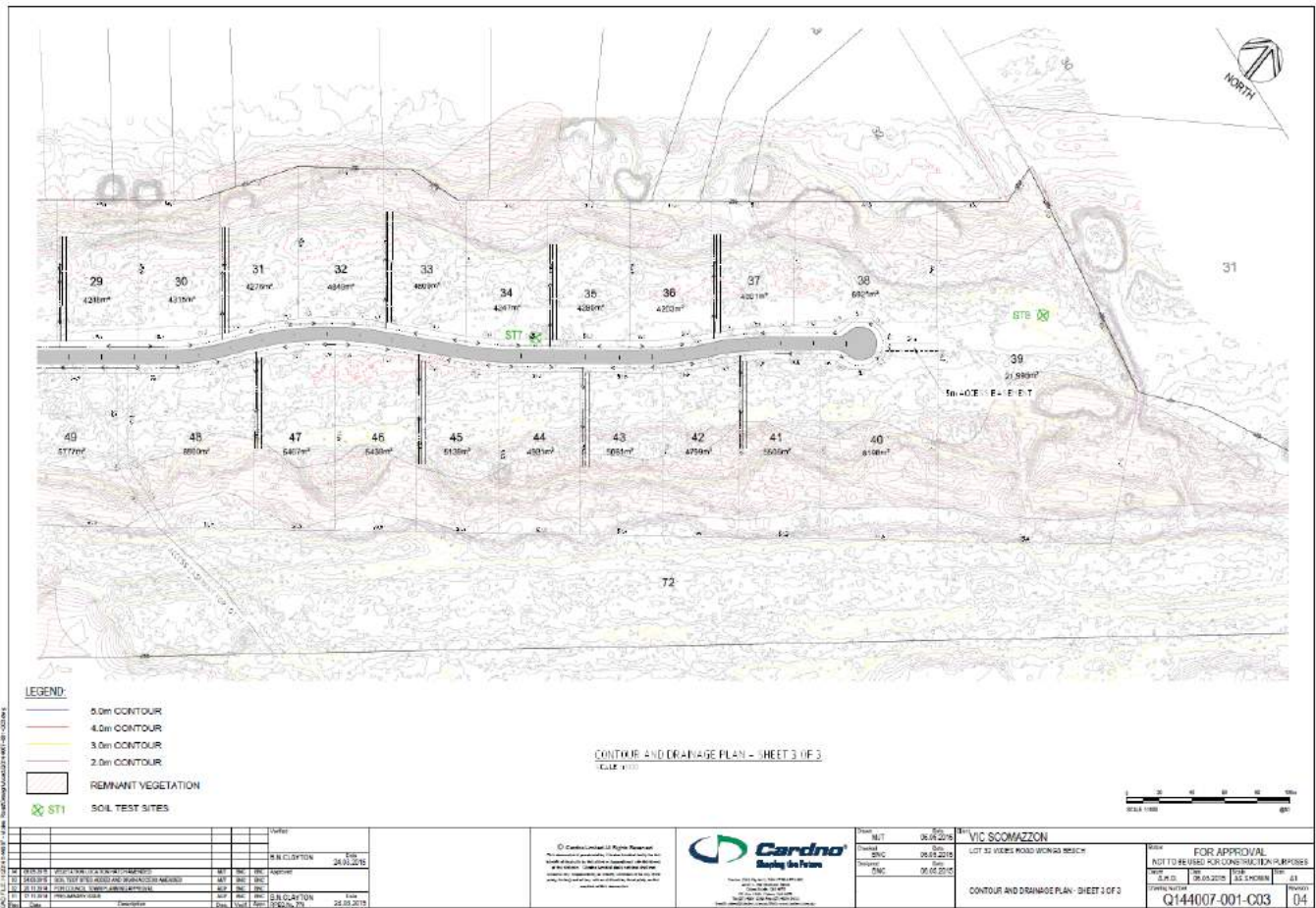
ATTACHMENTS

- Attachment 1 – Approved Plan(s) & Document(s)
- Attachment 2 – Staging Plans
- Attachment 3 – Concurrence Agency Conditions & Requirements
- Attachment 4 – Infrastructure Charges
- Attachment 5 – Extract of Wonga Beach Flood Study (Pre & Post Development)

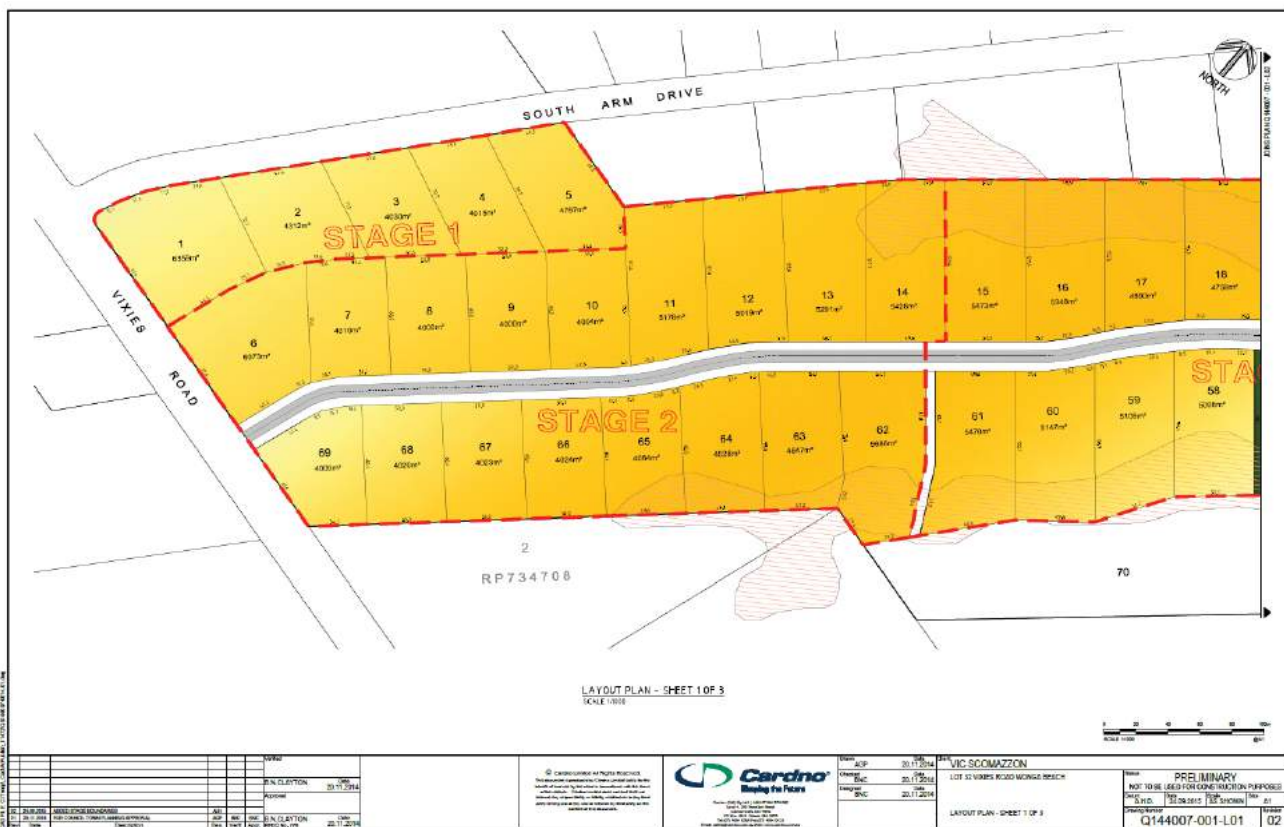
ATTACHMENT 1 – APPROVED PLANS



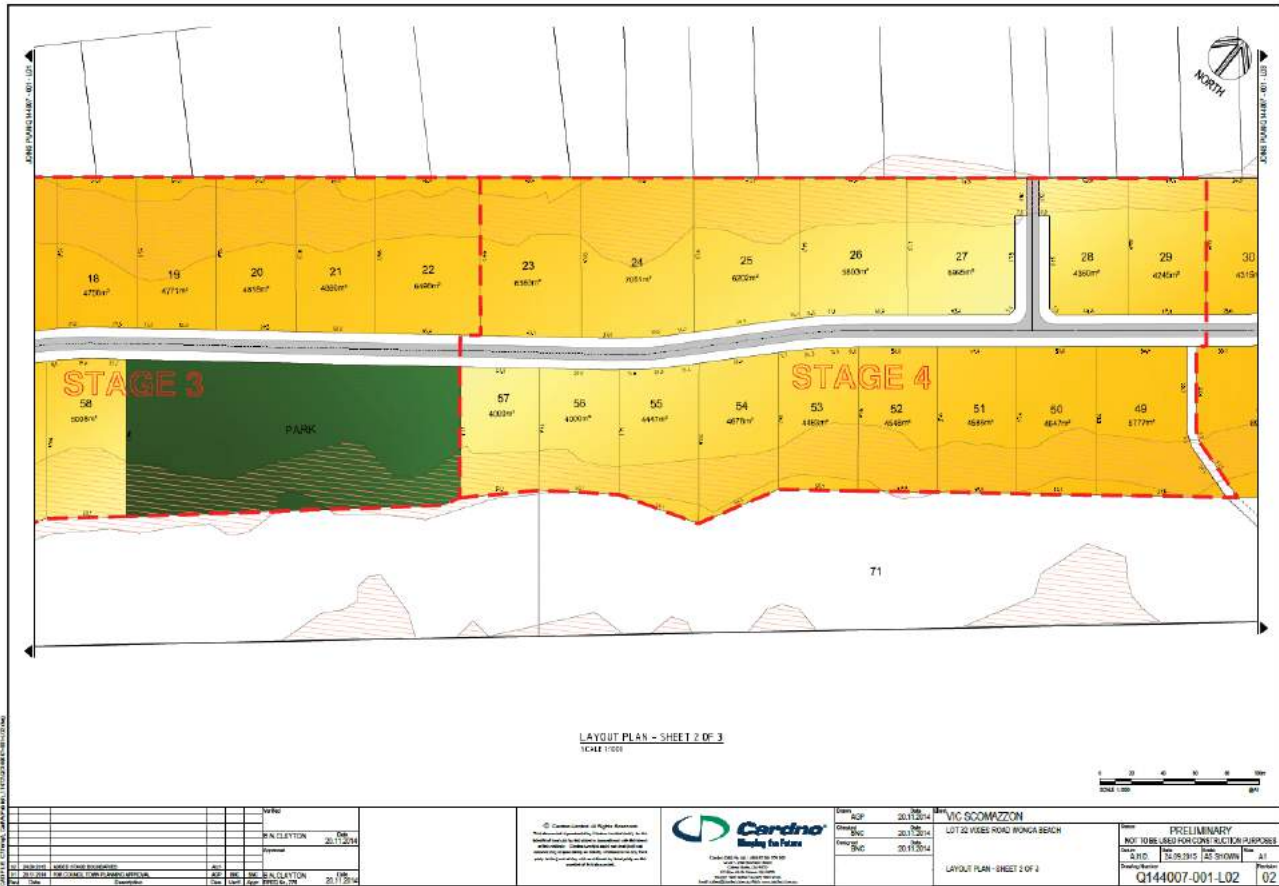


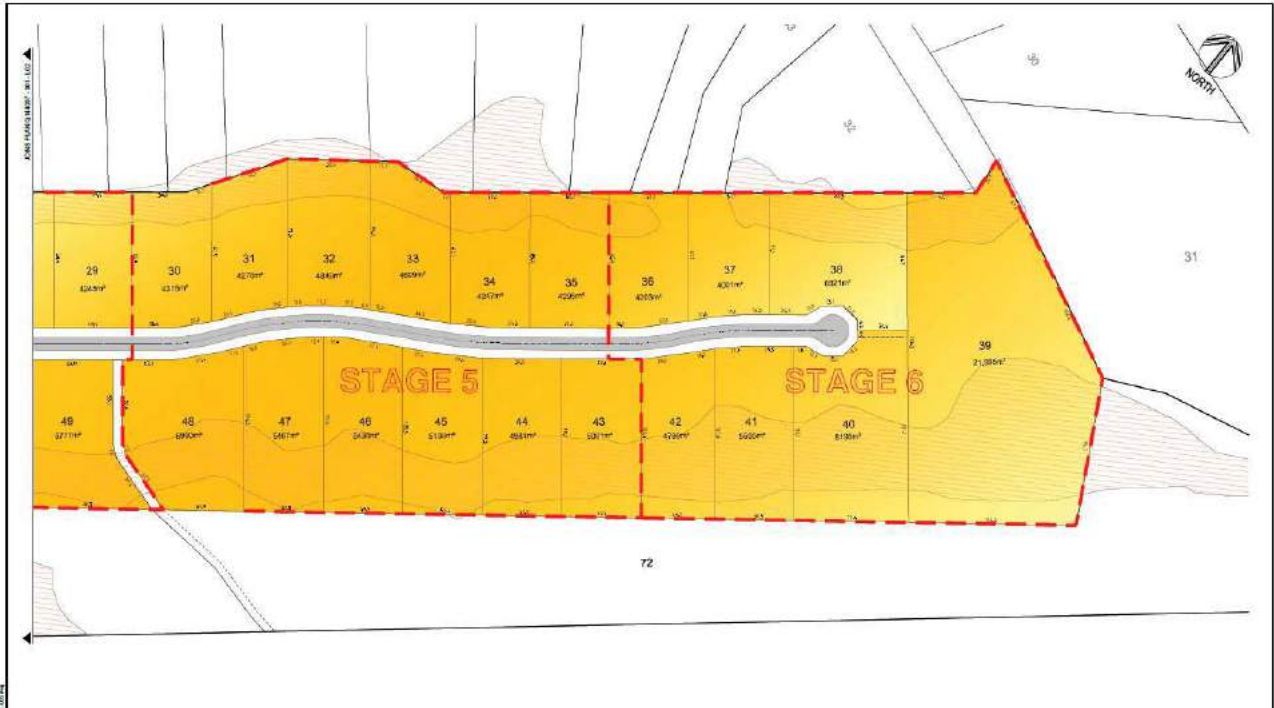


ATTACHMENT 2 – STAGING PLANS



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LAYOUT PLAN - SHEET 3 OF 3
SCALE 1:500



PREPARED BY: P.N. CLAYTON DATE: 20.11.2014			PROJECT: VC SCOMAZZON LOT 31 VEERS ROAD WINGO BRACK		PRELIMINARY NOT TO BE USED FOR CONSTRUCTION PURPOSES DATE: 02.09.2014 DRAWING NO: A1 PROJECT NO: Q144007-001-L03 SHEET NO: 02
CHECKED BY: P.N. CLAYTON DATE: 20.11.2014			DATE: 20.11.2014 TIME: 10:00 AM		

ATTACHMENT 3 – CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS



Council Ref: 8/13/1481

15 September 2009

Department of Main Roads

Chief Executive Officer
Cairns Regional Council
PO Box 359
Cairns Qld 4870



Attention: Gary Warner

Dear Mr Warner

Integrated Planning Act 1997 – Referral Agency Response

Applicant: Vittorio Scomazzon

Application: Reconfiguration of Lot (72 Rural Settlement Allotments, Parks & New Roads)

Location: Lot 32 on SP 126925, Parish of Whyanbeel
Vixies Road, Wonga Beach

I refer to the above application received at the Department of Transport & Main Roads (DTMR) on 11 September 2009 requesting consideration of the above development.

Pursuant to sections 3.3.15, 3.3.16 and 3.3.18 of the *Integrated Planning Act 1997*, the Department, as a Concurrence Agency, has assessed the impact of the proposed development on the State-controlled road network and requires that Council include the following attached conditions of development for the subject application

Should you have any queries regarding the response please contact Malcolm Hardy on telephone 4050 5511.

Council is requested to reflect the conditions on its Rates Record, to ensure that the planning intentions of the conditions are secured.

The 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

Malcolm Hardy
Senior Planner (Assets & Operations) Far North

Assets & Operations (A&O)
Floor 4 Cairns Corporate Tower 15 Lake Street
PO Box 6185 CAIRNS Queensland 4870
ABN 57 836 727 711
A&O Enquiries Malcolm Hardy
Our Ref : 214/655/102 (1489.0B)
Telephone - 4050 5511
Facsimile - 4050 5429



**Conditions of Development
and
Statement of Reasons**

Council Ref: 8/13/1481 **Date:** 15 September 2009
State-controlled road: Mossman-Daintree Road
Proposal: Reconfiguration of Lot (72 Rural Settlement Allotments, Parks & New Roads)
Real property description: Lot 32 on SP 126925, Parish of Whyanbeel
Site locality: Vixies Road, Wonga Beach
Applicant: Vittorio Scomazon

Conditions of Development	Reasons	Condition Basis
Layout 1. Unless otherwise approved in writing by DTMR the development site layout must generally comply with Projex North Pty Ltd drawing numbered 09-012-SK01-14A "Lot 32 Vixies Road Wonga Beach General Layout Plan".	To ensure the development proceeds in accordance with the proposal	
Permitted Road Access Location 2. Vehicular access between the state-controlled road (Mossman-Daintree Road) and the Subject Land shall be via Vixies Road only, to the satisfaction of Cairns Regional Council.	DTMR must ensure that access between to the Subject Land does not adversely impact the safe and efficient operation of the state-controlled road	s. 62 <i>Transport Infrastructure Act 1994 (Qld)</i>
3. No direct vehicular access between the state-controlled road (Mossman-Daintree Road) and the Subject Land is permitted.		

Conditions of Development	Reasons	Condition Basis
<p>Intersection Works</p> <p>4. Prior to Council signing and sealing the first plan of survey for the proposed reconfiguration, the applicant/landowner shall design and construct an upgrade of the Mossman-Daintree Road/ Vixies Road intersection with Channelised Right Turn (CHR) treatment generally in accordance with Figure 13.60 in DTMR's <i>Road Planning and Design Manual</i> and Basic Left Turn (BAL) treatment generally in accordance with Figure 13.80 in DTMR's <i>Road Planning and Design Manual</i> with a 15m radius and concrete kerb return. The design shall include:</p> <ul style="list-style-type: none"> • Through and turn lane widths no less than 3.5m, and • Shoulders sealed to a width no less than 1.5m. <p>The intersection shall include intersection lighting to a minimum V5 standard in accordance with Chapter 17 of DTMR's <i>Road Planning and Design Manual</i> and shall comply with:</p> <ul style="list-style-type: none"> • The Electrical Safety Act and regulations 2002 • Australian Standards (AS1158.1.1 2005 Lighting for roads and public spaces, AS3000 2000 Australian wiring rules for electrical installations) • MR specifications MRS11.91, MRS11.92, MRS11.94 & MRS11.95 • MR Standard Drawings and • District specific standards, notes and drawing details (made available on request) <p>Registered Professional Engineer Queensland (RPEQ) (Electrical) certification is mandatory</p> <p>To this end:</p> <ul style="list-style-type: none"> (i) The applicant/landowner shall obtain DTMR approval prior to commencing any works within the state-controlled road reserve. (ii) The applicant/landowner shall submit to DTMR for approval engineering drawings, certified by a Registered Professional Engineer of Queensland (RPEQ), of the proposed works. (iii) Subject to DTMR approval of the engineering designs the applicant/landowner shall construct the works. 	<p>Access works at the permitted access location are required to mitigate the impacts of development generated traffic onto the state-controlled road.</p> <p>Any works within the state-controlled road reserve must have the written approval of the Chief Executive Officer</p>	<p>s. 33 <i>Transport Infrastructure Act 1994</i> (Qld) DTMR's <i>Road Planning and Design Manual</i></p> <p>s. 50 <i>Transport Infrastructure Act 1994</i> (Qld)</p>

Conditions of Development	Reasons	Condition Basis
Advertising 5. No advertising device for the proposed development is permitted within the state-controlled road reserve (Mossman-Daintree Road).	Advertising devices may obscure signage and distract motorists.	s. 50 <i>Transport Infrastructure Act 1994</i> <i>(Qld)</i>



Your Reference: 8/13/1481 (2194244)
Our Reference: IC0909CNS0006
Ecotrack project: 340610
Contact: Cristina Cochenec
Directorate / Unit: Regional Planning & Coordination
Phone: (07) 4222 5446

Department of
**Environment and Resource
Management**

15 February 2012

The Chief Executive Officer
Cairns Regional Council
PO Box 359
CAIRNS QLD 4870

Attention: G Warner

Dear

Development Application for Reconfiguration of a Lot (1 Lot into 72 Lots and Park) Vixies Road, Wonga Beach (Lot 32 SP126925) – REFERRAL AGENCY RESPONSE.

The Department of Environment and Resource Management (Concurrence and Advice agency for the application) advises as follows:

The referral agency response for the application, prepared pursuant to section 3.3.16 of the *Integrated Planning Act 1997*, is **enclosed**. I look forward to receiving a copy of the decision notice for the application in due course.

Should you have any questions about this advice, please contact Cristina Cochenec on 07 4222 5446

Yours sincerely

Cristina Cochenec
Natural Resource Officer
Regional Planning & Coordination
North Region

CC

V G Scomazon
c/ - Peter Robinson Planner
P O Box 4751
CAIRNS QLD 4870

Department of Environment
& Resource Management
Level 4, 5b Sheridan Street
PO Box 937
Cairns Queensland 4 870
Australia
Telephone + 617 4222 5446
Facsimile + 61 7 4222 5493
Website www.derm.qld.gov.au

Department of Environment and Resource Management – Referral agency response

Given under Section 3.3.16 of the *Integrated Planning Act 1997*

Application details

1.1. Applicant's name	V G Scmazzon
1.2. Property description	LOT 32 on SP126925
1.3. Development type	Reconfiguring a Lot
1.4. Assessment manager	Cairns Regional Council
1.5. Referral date	14 September 2009
1.6. Our references	Trackjob: IC0909CNS0006 Ecotrack: Project No 340610

2. **Concurrence Agency Response: Vegetation Management Act 1999 - Remnant Vegetation**

Please refer to the attached concurrence agency response from Senior Vegetation Management Officer Shannon Farrell dated 2 February 2012 (**Attachment 1**).

3. **Advice agency response – Wetlands and Conservation Estate**

Please refer to the attached advice agency response from Mike Trenerry dated 17 February 2010. (**Attachment 2**).

4. **Third Party Advice: Water Act 2000 – Watercourse**

It is noted that part of the proposed development covers an area that has two (2) identified watercourse as defined by the *Water Act 2000*. Please refer to the attached NRW map of 24 September 2009 showing the two (2) watercourses in blue.

From the information provided by the applicant and specifically Drawings 09-012-SK01-05 to 07 show that a proposed road will be crossing a watercourse.

Any activities within these watercourses will require approval under a separate operational works application and must satisfy sustainability criteria under the *Water Act 2000*.

5. **Third Party Advice – Sewage treatment & Groundwater**

The submitted 'On-site effluent disposal report' for the proposed Reconfiguration of a Lot, prepared by Projex North Pty Ltd on 12/08/09, proposes the following:

- On-site secondary sewage treatment.
- Conventional trenches and beds of an area of 45 m² for each allotment.
- 30 m buffer from top of bank of watercourse, drains, etc.

DERM advises that the proposed effluent disposal system, via trenches, is not suitable for category 2 soil (sand and loamy sand). The proposed system can cause groundwater pollution and subsequently health risks for the users of the potable water coming from bore water.

Recommendation

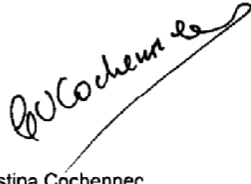
The recommended effluent disposal system for shallow watertable and category 2 soil is an irrigation system (AS 1547:2000 – On-Site Domestic-wastewater Management). This system will require a larger area of effluent disposal than shown in the Drawings 09-012-SK01-03 to 09.

Department of Environment and Resource Management – Referral agency response

Given under Section 3.3.16 of the *Integrated Planning Act 1997*

Any queries about the assessment should be made to the coordinating officer for the application.
Contact details for the coordinating officer are:

Coordinating Officer:	Cristina Cochenec
Address:	PO Box 937, Cairns QLD 4870
Phone:	07 4222 5446



Cristina Cochenec
Natural Resource Officer
Regional Planning & Coordination
North Region

15 February 2012



200 0 200 400 600 800 1,000 Meters
 Printing Date: September 24, 2009
 NRW 1:10,000

- DF To Be Inspected
- Watercourse WA2000
- - - Drainage Feature
- - - Named Drainage Feature

MAP SHOWING WATERCOURSES



ATTACHMENT 1



Vegetation Management Referral Agency Response – Reconfiguring a Lot

S3.3.16 Integrated Planning Act 1997

1. Application information

- 1.1. **Applicant's name:** VG Scomazzon C/- PRP Planning
- 1.2. **Property description:** 32 SP126925
- 1.3. **Assessment Manager/Reference:** 8/12/1481 (2194244) Cairns Regional Council
- 1.4. **Date application was referred to Department:** 14 September 2009
- 1.5. **Departmental Reference:** eLVAS Case No: 2009/008520, File Ref. No: MBA000764, Trackjob No: IC0909CNS0006
- 1.6. **Type of development sought by the application:**
 - Reconfiguring a Lot

2. Concurrence Agency response:

The Chief Executive of the Department of Environment and Resource Management directs that the application is approved subject to the following conditions:

1. All infrastructure associated with the reconfiguration of Lot 32 SP126925 must be located outside of 'Area A' (Parts A1 to A8) as identified on Referral Agency Response (Vegetation) Plan 2009/008520, dated 4 January 2012.
2. All infrastructure, apart from roads, fences or underground services, must be located at least 20 metres from 'Area A' (Parts A1 to A8) as identified on Referral Agency Response (Vegetation) Plan 2009/008520, dated 4 January 2012.

Covenant:

3. The applicant will, upon Council's approval of the development application, have registered in the land registry, simultaneously with registration of the survey plan for the reconfiguration of the lot:
 - a) A properly completed plan of survey:
 - i) Over the area of which is generally in accordance with the area identified as 'Area A' (A1 to A8) as identified on Referral Agency Response (Vegetation) Plan 2009/008520, dated 4 January 2012; and
 - ii) To the standards required by the Registrar of Titles for registration of an instrument of covenant over part of a lot; and
 - iii) That the Department of Environment and Resource Management agrees is generally in accordance with the area identified as 'Area A' (A1 to A8) of Referral Agency Response (Vegetation) Plan 2009/008520, dated 4 January 2012; and
 - b) A properly completed instrument of covenant in the form and including such terms as set out in Schedule 2 of this approval.
4. The State of Queensland, represented by the Department of Environment and Resource Management will not bear any of the costs associated with the lodging and registration of the instrument of covenant including:
 - a) The preparation of any documents

IDAS Referral Agency Response

- b) The preparation of a survey plan suitable for registration
 - c) Legal fees; and
 - d) Any lodgement fees.
5. The applicant must comply with the terms of the registered covenant.
6. Clearing of remnant vegetation must not occur within 'Area A' (A1 to A8) on Referral Agency Response (Vegetation) Plan 2009/008520, dated 4 January 2012 except in accordance with the terms of the registered covenant required by Condition 3.

3. Reasons:

A Statement of Reasons is attached at Schedule 1.

4. Authorised Officer Signature:



Shannon Farrell
Senior Vegetation Management Officer
North Region

Date of Response: 2 February 2012

Att. Schedule 1 – Statement of Reasons
Schedule 2 – Draft Instrument of Covenant

eL VAS Case No:	2009/008520
File Ref. No:	MBA000784
Trackjob No:	IC0909CNS0006

Schedule 1

Statement of Reasons Referral Agency Response Application for Reconfiguring a Lot VG Scomazzon

The following Statement of Reasons is provided pursuant to s.3.3.16 of the *Integrated Planning Act 1997*

Introduction

1. The Department of Environment and Resource Management (DERM) received an application from VG Scomazzon on 14 September 2009
2. The application is for 14 September 2009 for Reconfiguring a Lot on 32 on SP128925 – Cairns Regional Council.
3. Information request period extended 10 business days sent on 25 September 2009
4. An Information Request was sent by registered post to the applicant on the 12 October 2009. This request disclosed information on addressing Part P of the *Regional Vegetation Management Code for the Coastal Bioregions – 20 November 2006*.
5. The applicant responded to the Information Request on the 16 April 2010.
6. The application provided draft covenant documents on 9 August 2010.
7. The application was extended several times between April 2010 and February 2012. The Referral Agency Response is due on 6 February 2012.
8. An Assessment Report was sent to the Delegate of the Chief Executive, Senior Vegetation management Officer, on 1 February 2012
9. The Delegate determined the Referral Agency Response on 2 February 2012.

Evidence

1. Application dated 23 August 2009.
 - a) Completed IDAS Form 1 Part 'J'.
 - b) Property Vegetation Management Plan.
2. *Integrated Planning Act 1997 & Integrated Planning Regulation 1997*
3. *Vegetation Management Act 1999*
4. *Sustainable Planning Act 2009*
5. *Department of Environment and Resource Management Concurrence Agency Policy for Reconfiguring a Lot – 23 August 2007 (RaL Policy)*
6. *State Planning Policy (SPP) 1/03 – Mitigating the Adverse Impacts of Flood, Bushfire, and Landslide*
7. Response to information request dated 16 April 2010
8. Proposed covenant documents submitted 9 August 2010
9. SmartMap
10. Cairns Regional Council Planning Scheme zoning information

11. Regional ecosystem Description Database (2009) (version 6) Regional Ecosystem data.

Findings of fact

1. An application was received from VG Scomazzon on 14 September 2009 for Reconfiguring a Lot on Lot 32 on SP126925- Cairns Regional Council. The Reconfiguring a Lot application is a 1 into 70, rural residential allotments
2. The subject lot is freehold land and zoned "Rural 4"
3. The applicant has proposed the use of a covenant to ensure no clearing as a result of the RaL. The application is therefore assessable under Criteria Table A of the RaL Policy.
4. The application satisfies Performance Requirement (PR) A.1 of Criteria Table A as clearing will not occur within assessable vegetation.

Reasons

The assessing officer is satisfied that the application meets the Performance Requirement of **Criteria Table A.1**: A RaL assessed under this Table may occur only where clearing as a result of the RaL will not occur within assessable vegetation of the *Concurrence Agency Policy for Reconfiguring a Lot (RaL) 23 August 2007* and therefore recommends the application be approved with conditions.

Conditions are required to ensure that the covenant is finalised at the time of approval of the application by the Cairns Regional Council.



Shannon Farrell
Senior Vegetation Management Officer
North Region

Date: 02/02/2012

Schedule 2: Draft Instrument of Covenant

Form 31 and Form 20 attached.



COVENANT

Dealing Number



Lodger (Name, address & phone number)

Lodger Code

Vittorio Scomazzon
C/- Peter Robinson
PO Box 4751
Cairns QLD 4870
Ph: (07) 4041 5118

OFFICE USE ONLY

Privacy Statement
Collection of this information is authorised by the Land Title Act 1994 and the Land Act 1994 and is used to maintain the publicly searchable registers in the land registry. For more information about privacy in NR&W see <http://www.nrw.qld.gov.au/about/privacy/index.html>.

1. **Covenantor**

Vittorio G Scomazzon

2. Description of Covenant / Lot on Plan	County	Parish	Title Reference
Lot 32 SP126925	Solander	Whyanbeel	50336091

3. **Covenantee**

THE STATE OF QUEENSLAND (Represented by Department of Environment and Resource Management)

4. **Description of Covenant** (Include reference to relevant section of legislation)

Pursuant to Section 97A (3)(b)(i) of the Land Title Act 1994 and the terms of the attached schedule A to preserve the vegetation in the Covenant Area.

5. **Execution**

The Covenantor being the registered owner of the lot described in item 2 covenants with the Covenantee in respect of the covenant described in item 4 and the attached schedule A.

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

.....signature

.....full name

.....qualification

Witnessing Officer

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

/ /
Execution Date

.....
Covenantor's Signature

.....signature

.....full name

.....qualification

Witnessing Officer

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

/ /
Execution Date

.....
Covenantee's Signature

Title Reference

This is Schedule A referred to in Covenant dated <insert date>

1. Interpretation

Unless the context otherwise requires or the contrary intention appears, the following terms shall have the meanings respectively assigned to them –

"Clearing" – as defined in the *Vegetation Management Act 1999* and as amended from time to time

"Council" means Cairns Regional Council together with its assigns and successors and includes all persons authorised by the Council

"Covenant Area" means that area referred to in Item 2 of the Form 31.

"Covenantee" means the State of Queensland (represented by Department of Environment and Resource Management) including any delegated or authorised officer

"Covenantor" means the person or persons named in item 1 of the Form 31 and their and each of their successors in title, transferees and assigns.

"Covenantor's obligations" means the obligations set out in clause 3 (Covenantor's Obligations)

"Development approval" – means the approval given by the Cairns Regional Council DA 8/13/1481

"Fence" means a structure of posts and boards, palings, rails, galvanised iron, metal, or wire, or a wall, ditch, or embankment, or a combination of any of these, enclosing or bounding land, and includes any foundation, foundation wall, or support reasonably necessary for the support and maintenance of the fence, but does not include a wall which is part of a house or other building.

"Infrastructure" – includes roads and excavation for civil works and other fixtures

"Structure/s" – includes any building, shed, pergola, gazebo, wall, fence, pillar, post and pool

"the Land" – means the lots specified in item 2 of the Form 31 and any land created in lieu the lots mentioned in item 2 of the Form 31 by registration of any other plan and howsoever described

"Vegetation" - as defined in the *Vegetation Management Act 1999* and as amended from time to time

2. Description of Covenant

This Covenant is for the purpose of preserving the vegetation in the Covenant Area.

3. Covenantor's Obligations

The Covenantor covenants, and agrees with the Covenantee, that:

3.1 Except as provided in clause 3.3, clearing of vegetation is not authorised in the Covenant Area.

3.2 Infrastructure and structures, including fences are not permitted in the Covenant Area.

3.3 Clearing of vegetation in the Covenant Area is allowed:

- (a) by fire under the *Fire and Rescue Service Act 1990* to reduce hazardous fuel loads or an activity under the *Fire and Rescue Service Act 1990*, section 53, 68 or 69; or
- (b) where it is necessary to remove or reduce the imminent risk that the vegetation poses to serious personal injury or damage to property; or

Title Reference

- (c) to give effect to any subsequent development approvals for operational works that is the clearing of native vegetation.
- 3.4 Subject to the conditions of the development approval, nothing prevents the Covenantor from using the Covenant Area, provided such use is consistent with the obligations imposed by this covenant.
- 4. Rights of Access**
The Covenantor covenants, and agrees with the Covenantee, that:
- 4.1 The Covenantee or the Council may inspect the vegetation within the Covenant Area at any reasonable time after the giving of notice.
- 4.2 Representatives of the Queensland Fire and Rescue Service (or any successor to that body), may at any reasonable time after giving notice enter, re-enter and traverse the covenant area each year to assess the bushfire hazard risk of the Covenant Area.
- 5. Release and Indemnity**
- 5.1 The Covenantor irrevocably releases the Covenantee from, and waives, any claim, right, remedy, action, cause of action, loss, damage, expense or liability which the Covenantor may have against the Covenantee in respect of this Covenant or its performance or breach.
- 5.2 The Covenantor indemnifies and holds the Covenantee harmless from and against any claim, right, remedy, action, cause of action, loss, damage, expense or liability incurred, suffered or asserted by any person in connection with the performance of this Covenant by the Covenantor or its breach by the Covenantor or connected with any negligence or other legal wrong of the Covenantor.
- 6. No Obligations on Covenantee**
- 6.1 The rights given to the Covenantee by this covenant are permissive only and nothing in this Covenant imposes any duty of any kind on the Covenantee to anyone or obliges the Covenantee to perform any act or to incur any expense for any of the purposes set out in this Covenant.
- 7. No Effect on Rates and Charges**
- 7.1 Nothing in this Covenant of itself affects any obligations of the Covenantor to pay all taxes, rates, charges and levies lawfully imposed in respect of the Land.
- 8. Registration**
- 8.1 The Covenantor agrees to do everything necessary at the Covenantor's expense to ensure that this Covenant is registered against the title to the Covenant Area.
- 9. Waiver**
- 9.1 Any alleged waiver of any breach of this Covenant is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Covenant does not operate as a waiver of any other breach of this Covenant.
- 10. Severance**
- 10.1 If any part of this Covenant is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Covenant and the rest of this Covenant remains in force unaffected by that holding or by the severance of that part.
- 11. Enurement**
- 11.1 This Covenant binds the parties to it and their respective successors, heirs, executors and administrators.



1:7000 @ A3 size
 0 50 100 200 300 400 500 m
 Projection: UTM (MGA Zone 55) Datum: GDA94

Note: Derived Reference Points are provided to assist in the location of the Referral Agency Response boundaries. Responsibility for locating these boundaries lies solely with the landholder and delegated contractor(s).

The property boundaries shown on this plan are APPROXIMATE ONLY. They are NOT an accurate representation of the legal boundaries.
 Note: This plan must be read in conjunction with Referral Agency Response 2009/008520

LEGEND

- + Derived Reference Points for GPS
- Subject Lot(s)
- ▨ Area A Area to be surveyed for Statutory Covenant
- ~ Watercourse

Referral Agency Response (Vegetation) Plan
 Plan of Areas A (Parts A1 - A8) in Lot 32 on SP126925

CENTRE: TOWNSVILLE LOCALITY OF WONGA	REGION: NORTH LOCAL GOVT: CAIRNS
Map Reference: 7965	Compiled from: DCDB, PVMP & VMG Notes
File Reference: MRA000764	Prepared by: EMR Date: 4 January 2012

N

RARP
2009/008520
 Sheet 1 of 2

ATTACHMENT 2

Advice Agency Response – Wetlands and Conservation Estate

This notice is issued by the Department of Environment and Resource Management acting as an advice agency under the Integrated Planning Act 1997 ("the Act").

Our reference: 340610

1. **Application Details**

Assessment Manager ref.: 8/13/1481 (2194244)

Date application referred to DERM:

14-SEP-2009

Development approval applied for:

Development permit

Aspect of development:

*Integrated Planning Regulation 1998 - Schedule 2, table 2, item 38;
Integrated Planning Regulation 1998 - Schedule 2, table 2, item 39*

Development description:

Reconfiguring a Lot – 1 Lot onto 72 Lots & Park

Property/Location description:

Lot 32 on SP126925, Vixies Road, WONGA BEACH.

2. The Chief Executive, Department of Environment and Resource Management (DERM) concurrence agency response, amended concurrence agency response for the concurrence agency referral jurisdiction for the aspect of development involved with the application the subject of this Notice is to tell the assessment manager as follows.

Not Applicable

3. The Chief Executive, Department of Environment and Resource Management (DERM) advice agency response for the advice agency referral jurisdiction for the aspect of development involved with the application the subject of this Notice is to recommend to the assessment manager as follows.

The reconfiguration involves the creation of 72 new allotments on a dune and swale system at Vixies Road. The supporting information comprises Engineering and a Planning Report.

A key unresolved and constraining issue relates to water supply and wastewater management. The proponent has not demonstrated that the aquifer can supply sufficient freshwater all year for all of the new residents. No meaningful work has been done to establish the seasonal variation in aquifer depth, current water quality or the potential for saline water ingress should the aquifer be depressed from extraction. The photos show mangroves in one of the swales.

Insufficient work has also been carried out to establish what the risks are from wastewater releases to water quality of the aquifer. This is especially important if residents are compelled to use groundwater for domestic purposes. Compatibility of waste releases with groundwater extraction and sustainability of use require further scrutiny.

The above matters need to be resolved to the satisfaction of Cairns Regional Council.

4. **Approved plans / specifications**

Nil

5. **General advice to assessment manager**

Pursuant to sections 334 and 363 of the Act, a copy of a decision notice or negotiated decision notice issued by the assessment manager must be forwarded to DERM as a referral agency for the relevant application at Department of Environment and Resource Management, PO Box 2066, CAIRNS QLD 4870 and an electronic copy to eco.access@derm.qld.gov.au.

The State's Native Title Work Procedures provide that responsibility for assessment of native title issues for an IDAS application rests with the assessment manager. Therefore, DERM as a referral agency for the relevant application has not provided notification to native title parties.

6. **Additional comments or advice about the application**

Nil

7. **Additional information for applicants**

Notifiable Activities under the *Environmental Protection Act 1994*

It is a requirement of Section 371 of the *Environmental Protection Act 1994* that if the owner or occupier of this site becomes aware that a Notifiable Activity (as defined under Schedule 3 of the *Environmental Protection Act 1994*) is being carried out on this land or that the land has been affected by a hazardous contaminant they must, within thirty (30) days after becoming aware the activity is being carried out, give notice to the Department of Environment and Resource



Aboriginal Cultural Heritage

Under section 23 of the *Aboriginal Cultural Heritage Act 2003* a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are \$750,000 for a corporation and \$75,000 for an individual.

Applicants will comply with the duty of care in relation to Aboriginal cultural heritage if they are acting in accordance with cultural heritage duty of care guidelines gazetted under the *Aboriginal Cultural Heritage Act 2003*, available on the DERM website, or in accordance with an agreement with the Aboriginal party for the area or a cultural heritage management plan approved under part 7 of the *Aboriginal Cultural Heritage Act 2003*.

Applicants are also encouraged to undertake a search of the Aboriginal Cultural Heritage Database and the Aboriginal Cultural Heritage Register, administered by the Cultural Heritage Coordination Unit, DERM. Application forms to undertake a free search of the Cultural Heritage Register and the Database may be obtained by contacting the Cultural Heritage Coordination Unit on (07) 3238 3838 or on the DERM website www.derm.qld.gov.au/cultural_heritage




Delegate
Mike Trenerry
Far Northern Region
Department of Environment and Resource
Management
17/05/2010

Enquiries:
Matt Bogart
Department of Environment and Resource
Management
PO Box 2066
Cairns Q 4870
Phone: (07) 4046 6680
Fax: (07) 4046 6606
Email: matt.bogart@derm.qld.gov.au

Attachment(s)

Nil

ATTACHMENT 4 – INFRASTRUCTURE CHARGES

	2006 & 2008 Douglas Shire Planning Schemes Application
INFRASTRUCTURE CHARGES NOTICE	

V Scomazzon	N/A	0
DEVELOPERS NAME	ESTATE NAME	STAGE
Vixies Road	Lot 32 SP126925	10343
STREET No. & NAME	LOT & RP No.s	PARCEL No.
Wonga Beach	31-Mar-15	4
ROL	3316/2009	31-Mar-15
DEVELOPMENT TYPE	COUNCIL FILE	VALIDITY PERIOD (years)
732376	1	
DSC Reference Doc. No.	VERSION No.	

	Use	Charge per Use	Amount Due	Amount Paid	Receipt Code & GL Code
Rural Areas - Water Only					
proposed	68	14,263.83	969,940.44		
	0	0.00	0.00		
existing	1	14,263.83	14,263.83		
Total			955,676.61		
Urban Areas - Water only					
proposed	0	0.00	0.00		
	0	0.00	0.00		
existing	0	0.00	0.00		
Total			0.00		
Urban Areas - Water & Sewer					
proposed	0	0.00	0.00		
	0	0.00	0.00		
existing	0	0.00	0.00		
Total			0.00		
TOTAL			\$955,676.61		

Prepared by	N Beck	15-Oct-15	Amount Paid	
Checked by	J Elphinstone	15-Oct-15	Date Paid	
Date Payable				
Amendments	Date	Receipt No.		
		Cashier		

Note:
 The Infrastructure Charges in this Notice are payable in accordance with Part 2 Division 1 of the *Sustainable Planning Act 2009 (SPA)*.

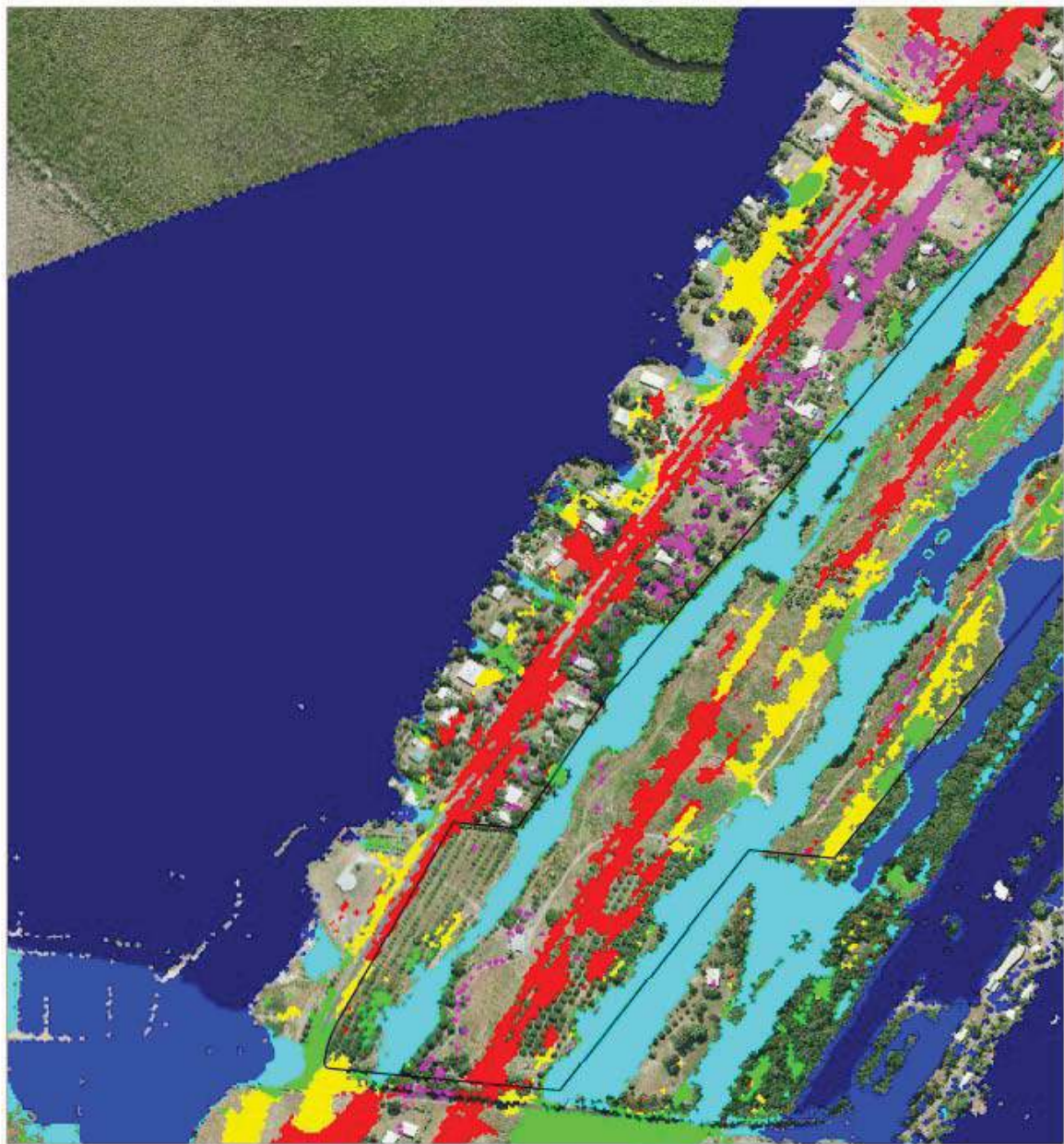
Charges are payable to: Douglas Shire Council. You can make payment at any of Council's Business Offices or by mail with your cheque or money order to Douglas Shire Council, PO Box 723, Mossman QLD 4873. Cheques must be made payable to Douglas Shire Council and marked 'Not Negotiable.' Acceptance of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

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



ATTACHMENT 5 – EXTRACT OF WONGA BEACH FLOOD STUDY

Pre-Development Conditions



Scale: 1:4,000
 40 0 40 80 120
 Metres



SHEET A3
 Project No: 014607
 Date: 30 September 2014
 Revision Number
 Designed by
 Client Name: Storm320



Cardno (QLD) Pty Ltd | ABN: 67 091 074 992
 Level 11, North Tower, 515 St Pauls Terrace
 Lakeside Bayside, Fortitude Valley QLD 4006
 Tel: 07 3369 9922 Fax: 07 3369 9722

LEGEND

100 Year ARI Flood Level (mAHD)

- 2.75 to 3.00
- 3.00 to 3.25
- 3.25 to 3.50
- 3.50 to 3.75
- 3.75 to 4.00
- 4.00 to 4.25
- 4.25 to 4.50

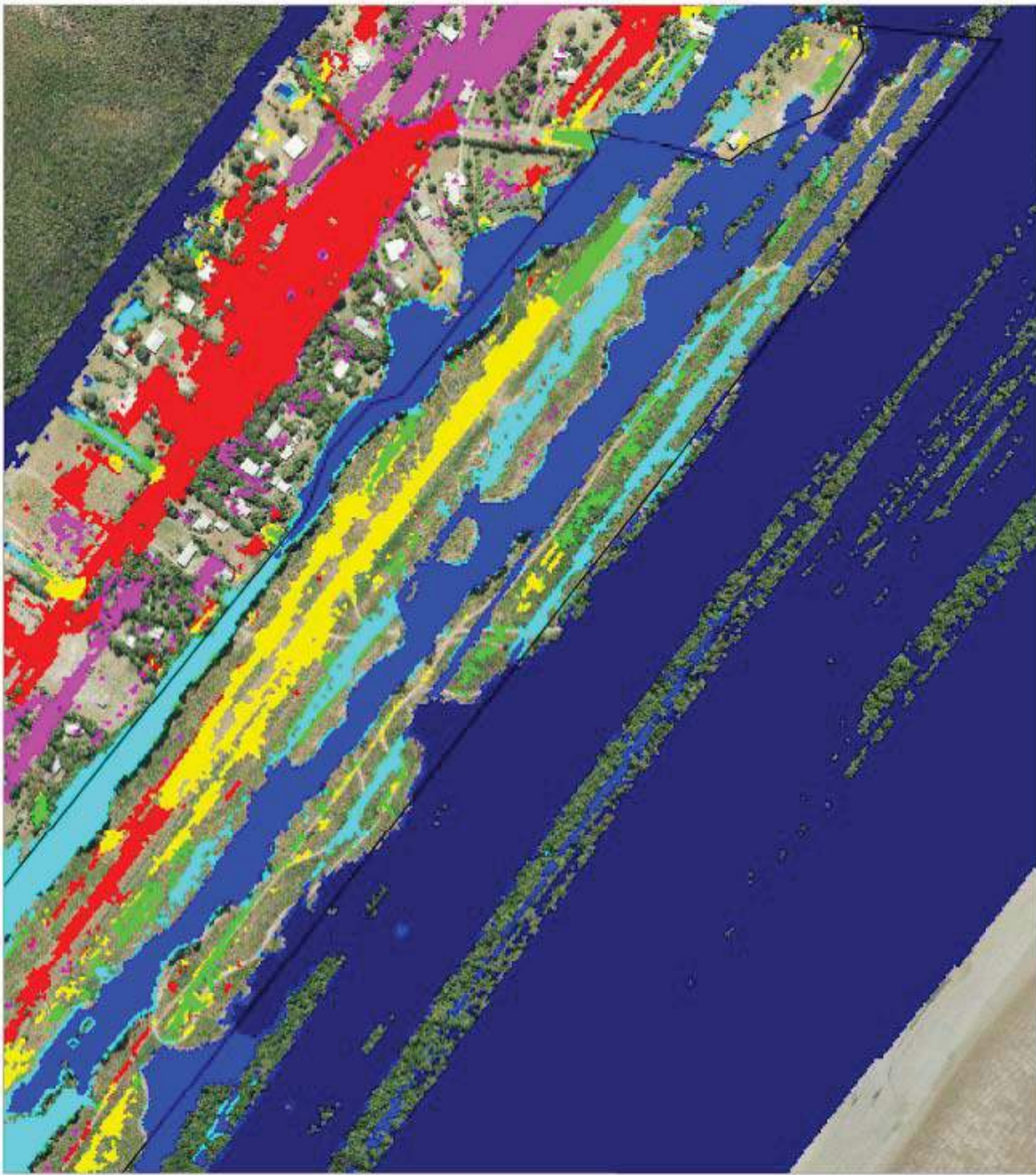
Figure B3

Wonga Beach

100 Year ARI
 Flood Levels
 (Southern End)
 with Storm Surge
 Existing Conditions

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Scale: 1:14,000
 40 0 40 80 120
 Metres



Sheet: A3
 Project No: C144067
 Date: 30 September 2016
 Revision Number:
 Designed by:
 Client Name: BOYKAZZINI

LEGEND

100 Year ARI Flood Level (mAHD)

- 2.75 to 3.00
- 3.00 to 3.25
- 3.25 to 3.50
- 3.50 to 3.75
- 3.75 to 4.00
- 4.00 to 4.25
- 4.25 to 4.50

Figure B4

Wonga Beach

**100 Year ARI
 Flood Levels
 (Northern End)
 with Storm Surge
 Existing Conditions**

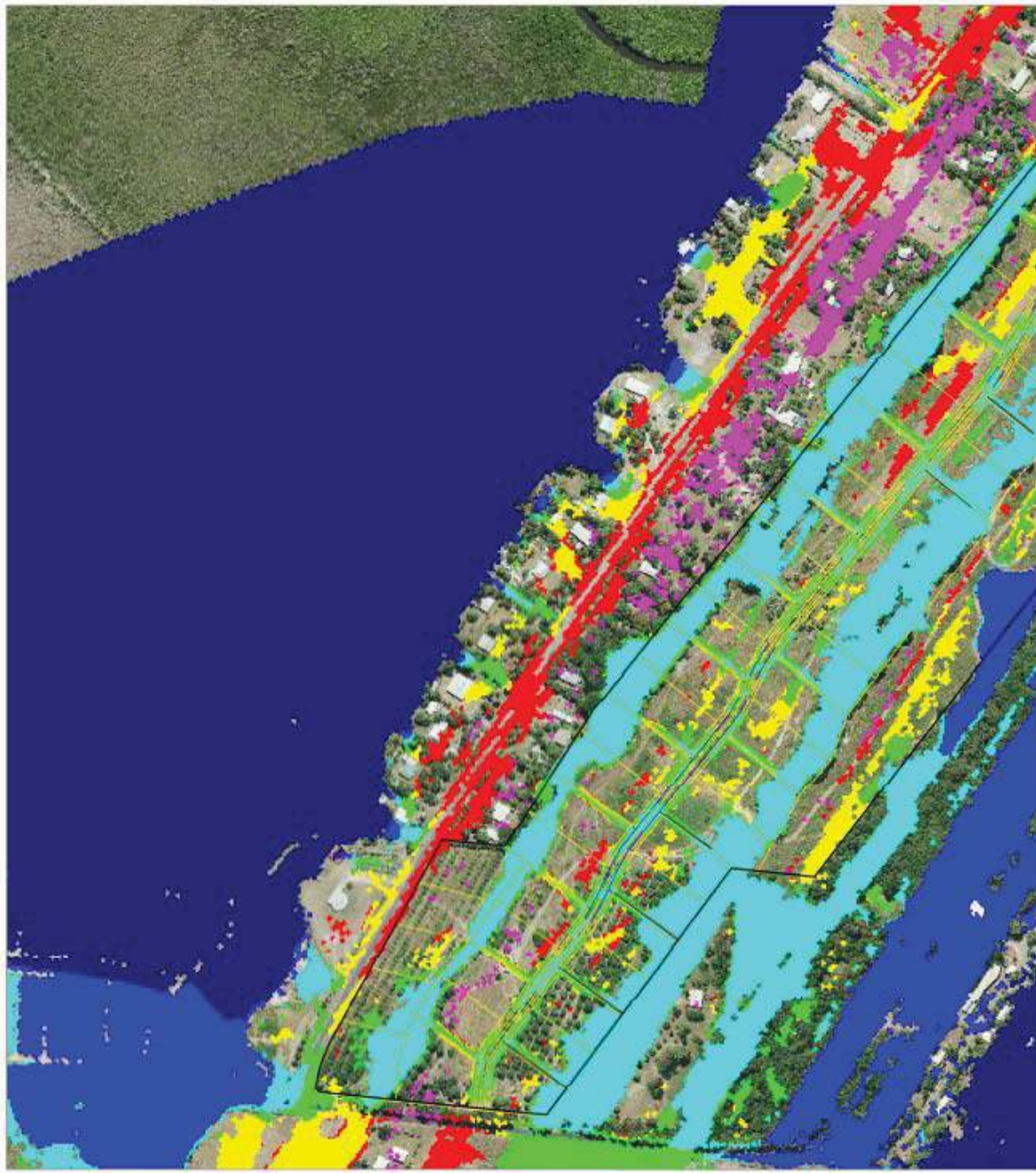


Cardno (GLD) Pty Ltd | ABN 67 051 074 992
 Level 11, North Tower, 515-54 Paula Terrace
 Locked Bag 4008, Fortitude Valley QLD 4006
 Tel: 07 3369 8822 Fax: 07 3369 9722

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Post Development Conditions



The plan: M:\0000\0000000000\0000000000

Scale: 1:4,000
40 0 40 80 120
Metres

SHEET: A9
 Project No: Q144057
 Date: 30 September 2014
 Revision Number:
 Designed by:
 Client Name:

LEGEND

100 Year ARI Flood Level (mAHd)

- 2.75 to 3.00
- 3.00 to 3.25
- 3.25 to 3.50
- 3.50 to 3.75
- 3.75 to 4.00
- 4.00 to 4.25
- 4.25 to 4.50

Figure C7

Wonga Beach

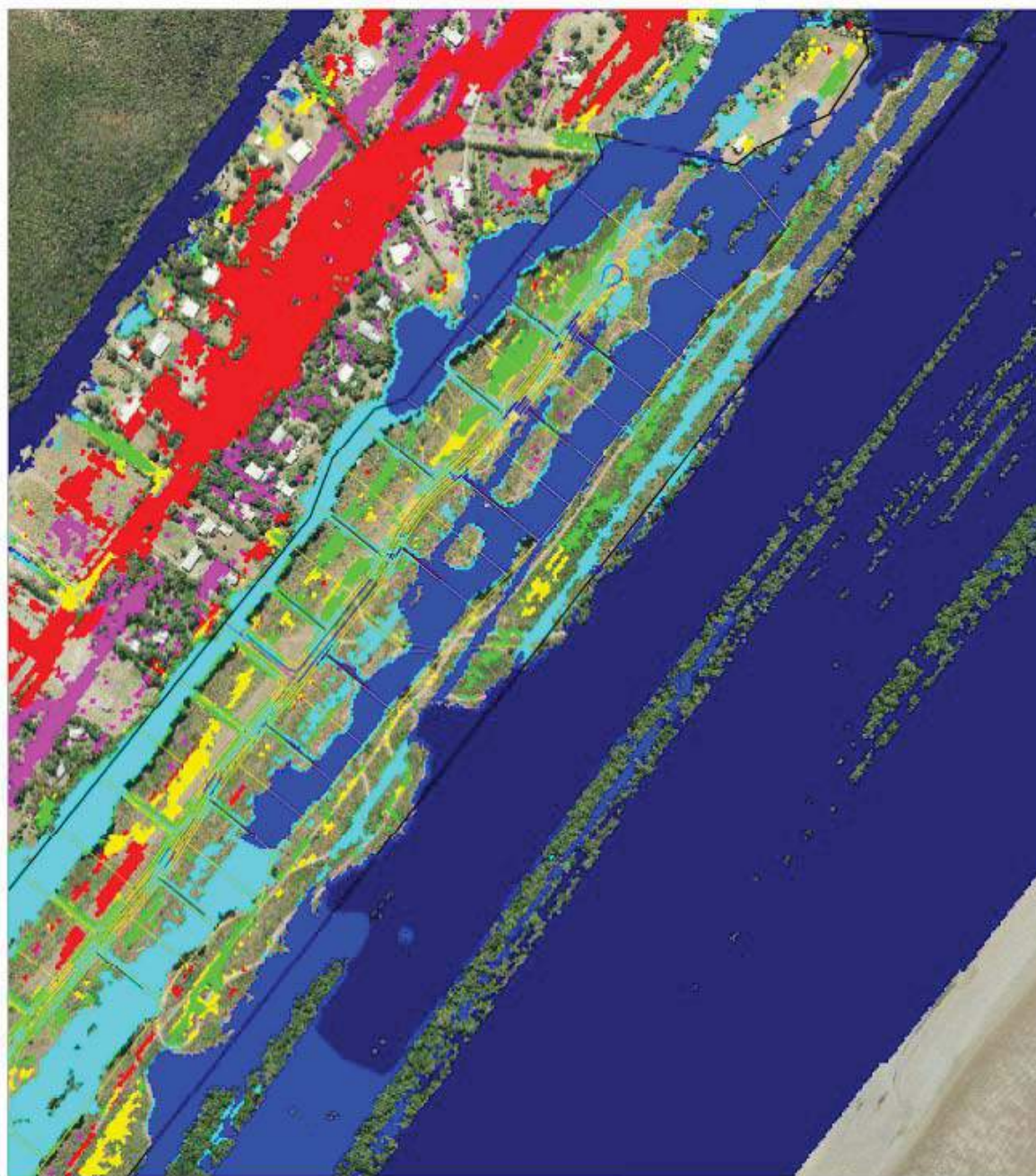
**100 Year ARI
 Flood Levels
 (Southern End)
 with Storm Surge
 and Higher Roughness
 Developed Conditions**



Cardno (QLD) Pty Ltd | ABN 67 051 074 992
 Level 11 North Tower, 515 St Pauls Terrace
 Locked Mail Bag 4008, Fortitude Valley QLD 4008
 Tel: 07 3369 9822 Fax: 07 3369 9722

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Scale: 1:4,000
 40 0 40 80 120
 Metres

W N E S
 SHEET A3
 Project No: G144007
 Date: 30 September 2014
 Revision Number:
 Designed by:
 Client Name: Seonmazzi

LEGEND

- 100 Year ARI Flood Level (mAHd)
- 2.75 to 3.00
 - 3.00 to 3.25
 - 3.25 to 3.50
 - 3.50 to 3.75
 - 3.75 to 4.00
 - 4.00 to 4.25
 - 4.25 to 4.50

Figure C8

Wonga Beach
100 Year ARI
Flood Levels
(Northern End)
with Storm Surge
and Higher Roughness
Developed Conditions

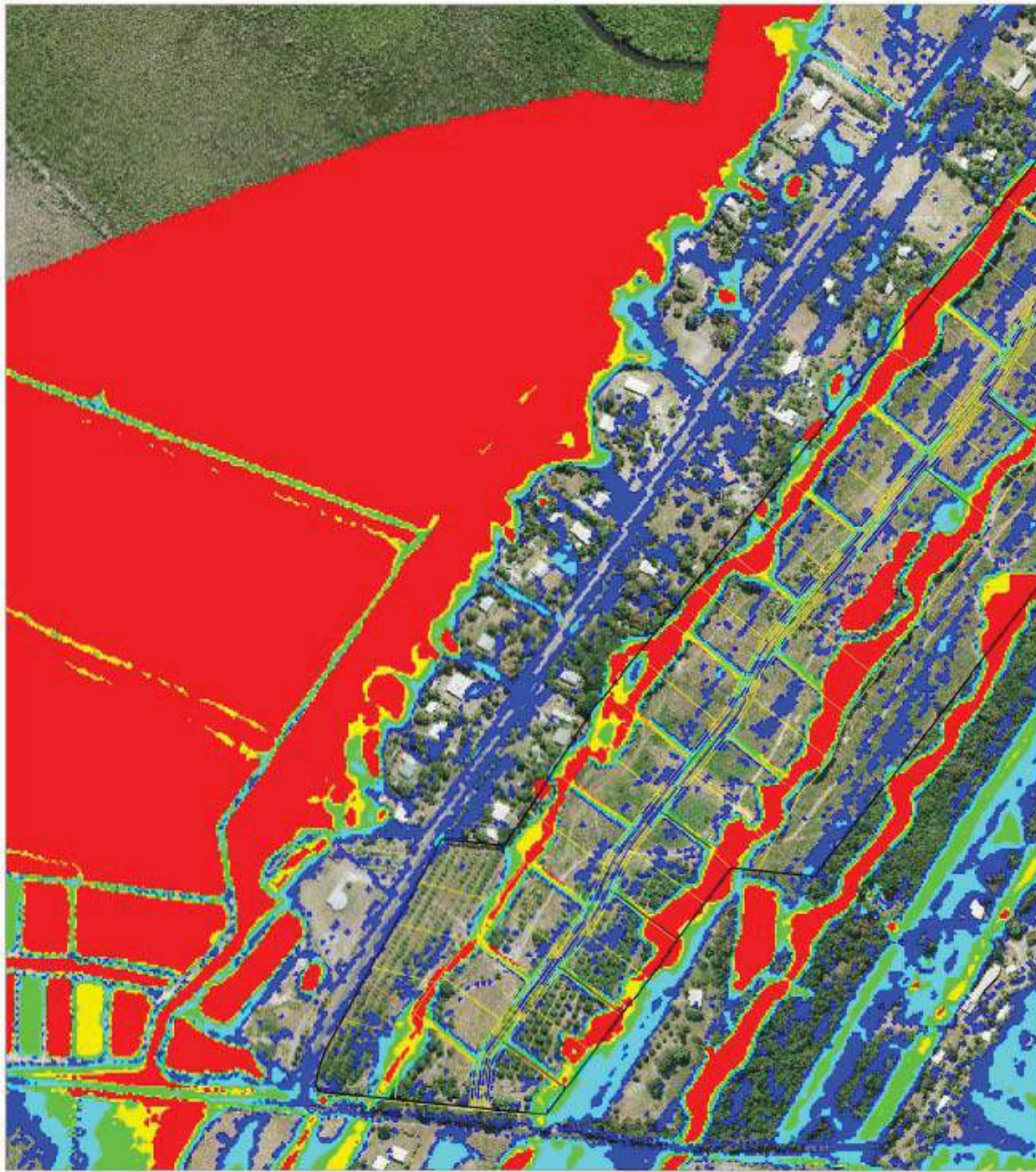


Cardno (GLD) Pty Ltd | ABN 67 051 074 992
 Level 11 North Tower, 515 St Pauls Terrace
 Locked Bag 9200, Fortitude Valley QLD 4006
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Depth of Flows



File Path: M:\XXXXX\XXXXX\XXXXX\XXXXX\XXXXX

Scale: 1:4,000

Metres

SHEET A3
Project No: 0144607
Date: 30 September 2014
Revision Number:
Designed by:
Client Name: Sirona2014

Cardno (GLD Pty Ltd) | ABN 67 051 074 992
Level 11, Fortis Tower, 515 St Pauls Terrace
Liswood Reg 4006, Brisbane Valley QLD 4006
Tel: 07 3369 9922 Fax: 07 3369 9723

LEGEND

100 Year ARI Flood Depth (m)

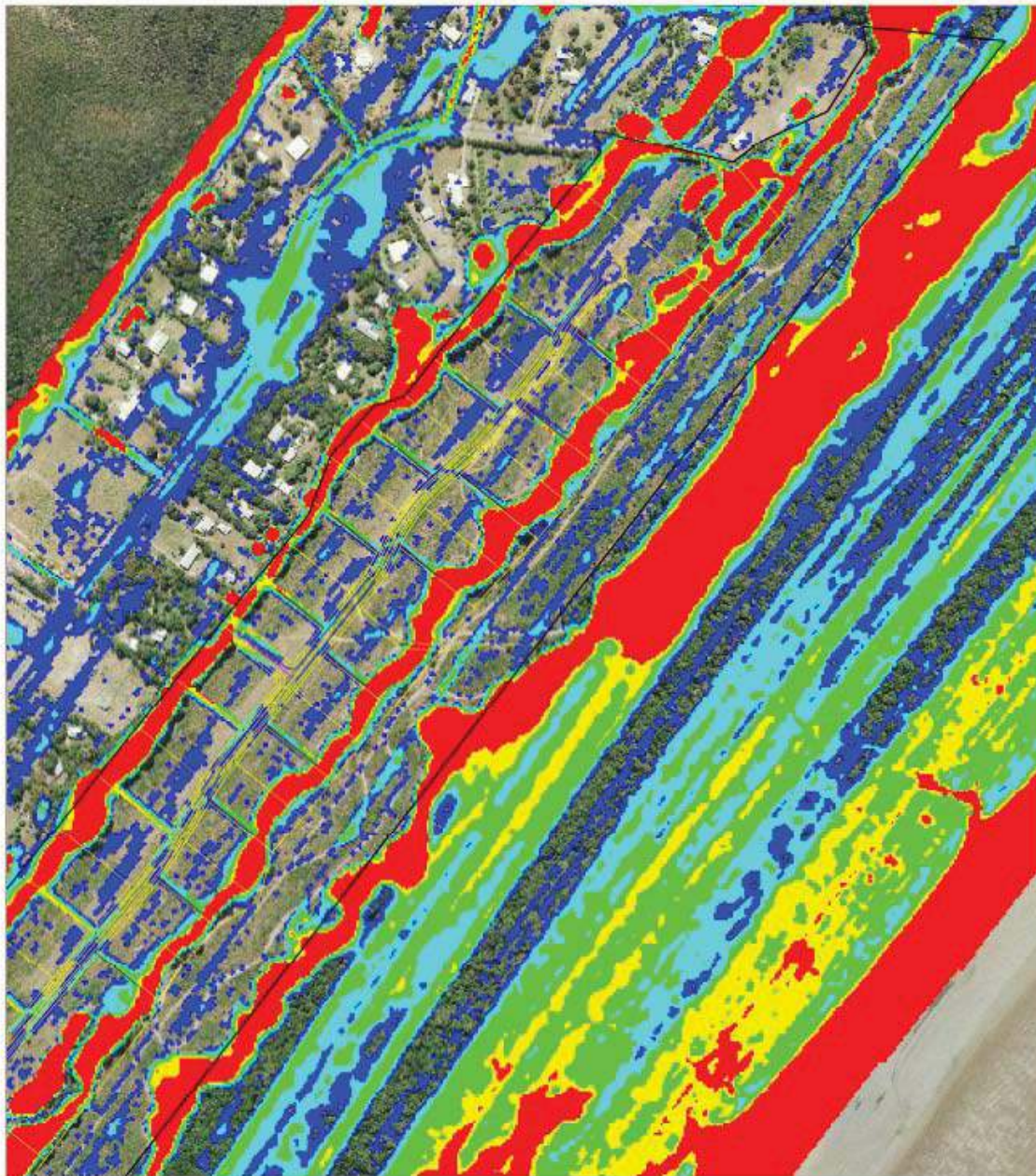
- 0 to 0.25
- 0.25 to 0.50
- 0.50 to 0.75
- 0.75 to 1.0
- > 1.0

Figure C5

Wonga Beach

**100 Year ARI
Flood Depths
(Southern End)
with Storm Surge
Developed Conditions**





Scale: 1:14,000

40 0 40 80 120
Metres

W
N
E
S

SHEET: A0
Project No: C144857
Date: 30 September 2014
Revision Number:
Designed by:
Client Name: Sirona220n

LEGEND

100 Year ARI Flood Depth (m)

- 0 to 0.25
- 0.25 to 0.50
- 0.50 to 0.75
- 0.75 to 1.0
- > 1.0

Figure C6

Wonga Beach

**100 Year ARI
Flood Depths
(Northern End)
with Storm Surge
Developed Conditions**



Cardno (QLD) Pty Ltd | ABN 07 051 074 992
Level 11 North Tower, 510 St Pauls Terrace
Lindwood Bldg 4000, Fortitude Valley QLD 4000
Tel: 07 3389 9822 Fax: 07 3389 9722

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