YOUR REF: PR106283/OCK/AF/L753 **OUR REF:** CA 2639/2008 (768156)

24 February 2016

Momentum Mortgages Ltd (Receivers & Managers Appointed) C/- RPS Australia East Pty Ltd PO Box 1949 CAIRNS QLD 4870

Attention: Owen Caddick-King

Dear Sir

REQUEST TO EXTEND PERIOD OF APPROVAL FOR DEVELOPMENT PERMIT 4-10 AND 9 ESCAPE STREET, PORT DOUGLAS

In accordance with section 383 of the *Sustainable Planning Act* 2009, please be advised that Council has extended the Period of Approval for 12 months, up to and including 21 January 2017, subject to the conditions contained within the Amended Decision Notice dated 12 December 2008 (copy attached).

Should you require further information or assistance, please contact Simon Clarke of Development Assessment and Coordination on telephone number 07 4099 9480.

Yours faithfully

Paul Hoye General Manager Operations

Att

Attachment 1: Amended Decision Notice 12 December 2008

ENQUIRIES: Mrs Jenny Elphinstone **PHONE:** (07) 4044 3365 (Cairns)

(07) 4099 9482 (Mossman)

FAX: (07) 4044 3836 **OUR REF:** 8/37/130 (1910916)

12 December 2008

Ezcape St Projects Pty Ltd C/- Michael Kirkby PO Box 6036 FRENCHS FOREST NSW 2086

Dear Sir

DECISION NOTICE UNDER \$3.5.15 INTEGRATED PLANNING ACT 1997: DEVELOPMENT APPLICATION FOR 4-10 & 9 ESCAPE STREET, PORT DOUGLAS

With reference to the abovementioned Development Application, which was determined under Instrument of Delegation on 12 December 2008, please find attached the relevant Decision Notice.

The notice includes extracts from the Act with respect to lodging an Appeal.

Should you have any enquires in relation to this Decision Notice, please contact Jenny Elphinstone of Council's Development Assessment Team on telephone number (07) 4099 9482.

Yours faithfully

Simon Clarke

Manager Development Assessment

Att.

APPLICANT DETAILS

Ezcape St Projects Pty Ltd C/- Michael Kirkby PO Box 6036 FRENCHS FOREST NSW 2086

ADDRESS

4-10 & 9 Escape Street Port Douglas Qld 4877

REAL PROPERTY DESCRIPTION

Lots 41 & 42 on RP747344, Lots 49 & 51 on SP161464

PROPOSAL

Material Change of Use and Reconfiguration of a Lot (33 lots and common property on a Community Title Scheme, development of a House on each lot, and use of one House as a Display Home)

DECISION

Approved subject to conditions (refer to approval package below).

DECISION DATE

This Decision Notice dated 12 December 2008 replaces the Negotiated Decision Notice dated 13 October 2006.

TYPE

Material Change of Use (Development Permit) Reconfiguration of a Lot (Development Permit)

REFERRAL AGENCIES

(Vegetation Clearing, Remnant Vegetation & Acid Sulfate Soils)
Department of Natural Resources and Water
PO Box 937
CAIRNS QLD 4870

SUBMISSIONS

There were two (2) submissions for this application:

A & V Crowe, 14 Escape Street, Port Douglas

FURTHER DEVELOPMENT PERMITS REQUIRED

Development Permit for Building Works
Development Permit for Plumbing Works

CODES TO COMPLY WITH FOR SELF-ASSESSABLE DEVELOPMENT None

40.2008.2639

DOES THE ASSESSMENT MANAGER CONSIDER THE APPLICATION TO BE IN CONFLICT WITH APPLICABLE CODES, PLANNING SCHEME, STATE PLANNING POLICIES OR PRIORITY INFRASTRUCTURE PLAN (IF YES, INCLUDE STATEMENT OF REASONS)

Not in conflict

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.AR02 Rev A, AR03 Rev A, AR04 Rev A, AR00 Rev C, AR01 Rev G prepared by Anna Vaughn Architects, dated September 2005 and attached to this approval. It is acknowledged that the proposed reconfiguration layout may be amended to accommodate the requirements of condition 2(a) and that the proposed development may be undertaken in stages to be determined at the Operational Works stage;
 - (b) The plans and specifications submitted with the application to Council attached to this approval

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

- 2. The Plan of Development must be amended as follows:
 - (a) The minimum setbacks to boundaries as described under the Douglas Shire Planning Scheme shall apply, in particular no buildings will be permitted within the following setbacks:
 - (i) Escape Street four (4) metres, except that Villas 15, 28 and 29 may have a building setback of three (3) metres from Escape Street subject to the provision of dense tropical landscaping between Villas 15, 28 and 29 and the Escape Street frontage subject to a plan to be submitted at Operational Works stage for Council approval. Any densely planted landscape areas adjacent to Villas 15, 28 and 29 will need to be included in the common property for the Development to ensure that the vegetation is retained.
 - (ii) St Crispins Avenue six (6) metres
 - (iii) Side boundaries half the height of the building element
 - (b) The maximum height of any building is nine (9) metres. The structures on the roof terraces of dwelling type C will need to be reduced in height to

below nine (9) metres. The only permitted roof structure on dwelling type C is over the proposed stairwell.

(c) In accordance with section 10.6.8 (2) and (3) of the Planning Scheme the whole of the required setback to the road frontage of an allotment shall be provided as landscape and recreation area with no fences within two (2) metres of the road frontages. A minimum depth of two (2) metres adjoining the road frontage shall be provided a deep planted landscaping at natural ground level. A suitable alternative may be negotiated in consultation with Council.

The amended plan of development is to be provided to Council for confirmation of compliance prior to the lodgement of an application for building work over the site or prior to Council endorsement of the Plan of Survey, whichever occurs first.

Currency Period

3. This development approval lapses four (4) years after the day that the development approval takes effect, unless extended under Section 3.5.22 of the *Integrated Planning Act 1997*.

Amenity

4. The approved use must not be conducted so as to cause a nuisance or annoyance to persons not associated with the use and so as not to adversely affect any other property.

Traffic Management

- 5. The ingress/egress to the site shall be provided with a physical means of speed control. Such speed control device shall be shown on any plans submitted for approval for building works and shall be constructed and maintained at all times.
- 6. The applicant shall provide bollard lighting at the property boundary to indicate access to the car parking area at the time of applying for carrying out building works.

Landscaping & Fencing

- 7. The landscaping concept plans submitted with the proposed development, referenced as plan No LMP-01, Type A Indicative Landscape Setout, LMSDA03,EVVP01 Issue E prepared by 360° Landscape Architects has been generally approved, subject to the following amendments:
 - (a) The following plants are to be replaced on the planting schedule:
 - i. Alphitonia excelsa (Red Ash); and
 - ii. Nauclea orientalis (Leichhardt Pine)
 - iii. These species are considered unsuitable in an urban environment.

- (b) A detailed landscaping plan must be submitted for approval at Operational Works stage. This plan must indicate:
 - i. proposed numbers of each species;
 - ii. stem densities:
 - iii. species composition:
 - details of planting bed size, preparation and related landscape, etc.
- Landscaping must not interfere with the rail easement so that the easement (c) may remain functional for future use.
- A maintenance schedule for the development must stipulate the correct (d) disposal of garden waste so as to mitigate the potential spread of environmental weeds.

The amended plan is to be submitted to Council for an Operational Works Development Permit.

- 8. The landscaping shown on the approved plan shall be completed before the development is occupied and maintained thereafter.
- The applicant shall provide a 1.8 metre high acoustic screen fence to the side 9. boundaries to ensure the privacy and amenity of adjoining properties is maintained. A minimum standard for a fence of this type is a timber palling fence that is lapped and has no gaps.

Waste Storage & Discharge

- The waste storage area must be located outside of a three (3) metre wide 10. landscape strip to the road frontage in the location shown on the approved plan for this development. The waste storage area must:
 - 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;
 - Include a stop cock and stormwater diversion valve at the drainage point;
 - Contain sufficient storage space for the storage of a 240 litre refuse bin for each unit in the development.

Refuse storage, removal and collection methods shall be in accordance with the "Environment Protection (Interim Waste) Regulations 1996".

Air Conditioning & Service Equipment

11. 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.

Stormwater Drainage

- 12. 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 Escape Street and/or the lagoon within the site.
- 13. The approved use must not:
 - (a) Interfere with the natural flow of stormwater;
 - (b) cause ponding of stormwater on adjoining properties.
- 14. The applicant is to install a pollution control device on stormwater pipes prior to the point of discharge into the road reserve to the west.
- 15. The applicant is to provide scour protection at the proposed discharge point/s. The location/s, size, velocity, proposed means of scour protection and bank stabilisation, where required, is to be designed and submitted for approval by Council prior to lodgement of an application for Building Work. Such stormwater drainage work shall be designed and constructed in accordance with the requirements of the Far North Queensland Regional Organisation of Councils' Development Manual and shall not cause scouring, erosion, loss of vegetation, excess turbidity and landslip either within or external to the site.

Minimum Floor Levels

16. The minimum floor level for all habitable rooms in any building erected on the premises must be a minimum of 3.4 metres AHD.

Amalgamation

17. Lots 49 and 51 on SP 161464 and Lots 41 and 42 on RP 747344 must be amalgamated into one (1) allotment. The Plan of Survey must be registered with the Department of Natural Resources and Water (DNRW) prior to the issue of a development permit for building work or commencement of building work. Alternatively, a new Survey Plan in accordance with the approved plan is to be lodged for Council endorsement.

Compliance

- 18. All works required pursuant to the conditions of this Development Permit shall be undertaken and completed in accordance with Council's requirements contained in the Planning Scheme Provisions/Codes.
- 19. All conditions shall be complied with prior to the final building inspection for the proposed buildings on the land or as otherwise stated in any condition of this approval.

External Works

20. The applicant shall construct a six (6) metre wide concrete vehicle crossover to the site in accordance with the requirements of the FNQ Development Manual.

Parkland

21. The applicant shall make contribution for parkland for thirty-three (33) allotments in accordance with Council's requirements for parkland contribution, as defined under Planning Policy No.5 or any other relevant Policy or Code applicable at time of payment.

Security

22. To guarantee the satisfactory completion of the building, site works, landscaping, drainage works and any required works external to the land, the applicant shall lodge with the Council a Cash Bond or Guarantee to the value of \$20,000, such Guarantee shall be lodged prior to the issue of a Development Permit for Building Works on the land in relation to this Development Permit.

The Council may call up this Guarantee to complete all or any part of the works mentioned herein in accordance with the conditions of this approval, should the applicant fail to do so prior to issuing of a Certificate of Classification for the propose development.

Acid Sulfate Soils

23. The applicant is to undertake a detailed acid sulfate soil investigation over the subject land in accordance with the requirements of the (DNRW) Guidelines for Managing Acid Sulfate Soils. This report and associated management plan are to be provided to DNRW for approval prior to the approval of the Operational Works approval.

Environmental Management Plan

24. The applicant is to have prepared with the submission for approval of the engineering plans, 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, acid sulfate soil management, noise management and stormwater management (to minimise discharges of sediment, wastes and other substances).

Stormwater Management and Erosion and Sediment Control

25. The management of stormwater and erosion and sediment control must be undertaken in accordance with the Preliminary Site Based Stormwater Management Plan and Erosion and Sediment Control Plan prepared by Arup and dated September 2004.

Health Requirements

- 26. The applicant shall ensure that on completion of any site construction works the subject land shall be maintained in a clean and tidy condition at all times.
- 27. All building work, maintenance, repair demolition and other activities on site shall be confined to the following hours:
 - (a) 6:30 am to 6:30 pm Monday to Saturday inclusive, excepting that no machinery shall be operated in conjunction with building work prior to 7:00 am.
 - (b) Building work is not permitted on a Sunday or Public Holiday at any time.

All construction works are to be carried out in compliance with the *Environmental Protection Policy (Water)* and the *Environmental Protection Amendment Regulation (No. 2)*

Water Supply

- 28. The applicant shall connect to reticulated water supply via the main contained within the Escape Street road reserve.
 - The proposed connection point including all works required to take the reticulated supply to the boundary of the site are to be shown on the plans for Plumbing and Drainage Works approval.
- 29. The applicant shall provide a 100 mm diameter service to be contained within the common property to service the residential allotments and the common property.
- 30. The Council will make all connections to the existing main in Escape Street. 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.

Sewerage

- 31. The plans and specifications of the internal sewerage works must be submitted to Council at Plumbing & Drainage Works application stage for review.
- 32. No buildings or other structures are permitted to be located within 3.5 metres of any main located on the subject site..

Electrical & Telephone Services

- 33. Prior to the endorsement of the Plan of Survey for the proposed development, 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 the development; and
 - (b) street lighting in accordance with Council's adopted standards.
 - (c) locating of all above ground transformer cubicles clear of footpath areas.
- 34. All Electricity Lines along the full frontages of the subject site (Escape Street) are to be placed underground. These works are to be undertaken by Ergon Energy at the applicant's expense.
- 35. All external lighting installed upon the premises including car parking areas shall be certified by Ergon Energy 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.
- 36. Prior to the endorsement 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 the development lot; and
 - (b) locating of all above ground switching station cubicles clear of footpath areas.

Bikeway/Pathway

- 37. A bikeway/pathway shall be constructed to a minimum width of two (2) metres on the western side of Escape Street past the full frontage of the subject site.
- 38. The bikeway/walkway(s) shall be suitably signed in accordance with the relevant Standards Association of Australia Code.

Road Works

39. All unused vehicle crossovers shall be reinstated with kerb and channel and landscaping.

Maintenance Period

40. The Applicant shall maintain in accordance with the requirements of 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 this approval for the land 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.

Footpath Damage Liability

41. All damage occasioned to footpaths and roadways adjacent to the site as a result of, or in connection with, this development must be repaired by the applicant, at their expense, prior to completion of works associated with the development.

Access to St Crispins Station

42. The applicant is to provide public pedestrian access to the St Crispins Rail/Tram Station from Escape Street within an easement for the purposes of public access. The minimum width of the easement is to be two (2) metres.

Display Home

- 43. After a period of two (2) years from the date of issue of the Development Permit for Building Work the use will cease and the display home will revert back to being used as a dwelling house.
- 44. This approval shall lapse four (4) years from the date of issue of this Development Permit, unless the use is substantially commenced and all conditions complied with.
- 45. The Display Home must be connected to Council's reticulated sewerage and water supply schemes. House connection branches are acceptable at this stage with full construction of the works to be undertaken prior to any additional works, beyond this approval, being undertaken on site. At time of further development the existing services to the Display House are to be disconnected and reconnected to the new system.

38 of 250 DECISION NOTICE DETAILS (SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)

Plan of Survey

46. Conditions 1, 2, 3, 5, 7, 9, 12, 13, 14, 15, 20, 21, 23, 24, 25, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, 41 & 42 must be complied with prior to Council endorsement of the Plan of Survey for the proposed standard format subdivision.

Easement

- 47. The applicant is to create an easement for public access purposes benefiting Douglas Shire Council, over the complete area of land encumbered by Easement A on RP746139 and Easement J on SP161480. The details of this easement are to be dealt with as part of the formulation of the easement documentation in consultation with Council.
- 48. The applicant is required to tidy up the site and maintain the site to an acceptable standard.
- 5. Further Development Approvals Required:

Operational Work
Building Work
Plumbing and Drainage Work

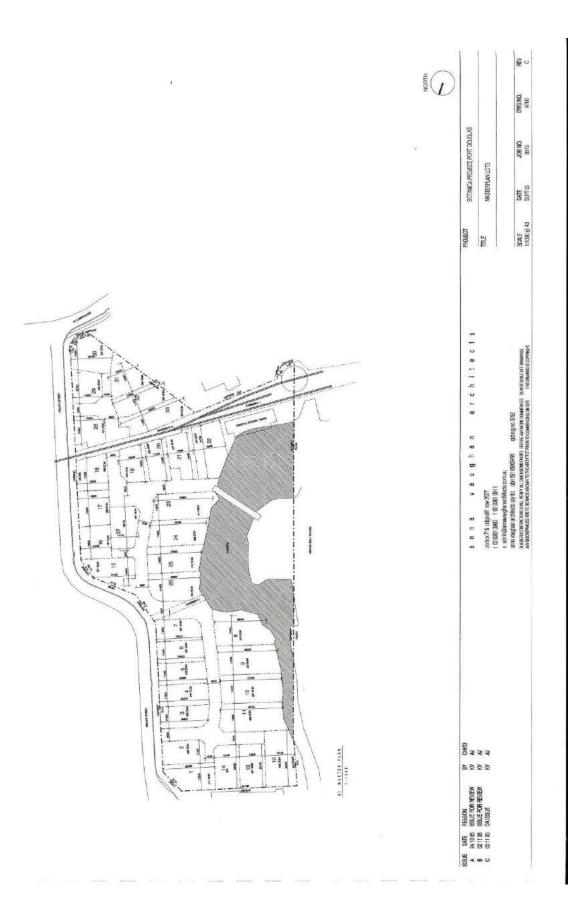
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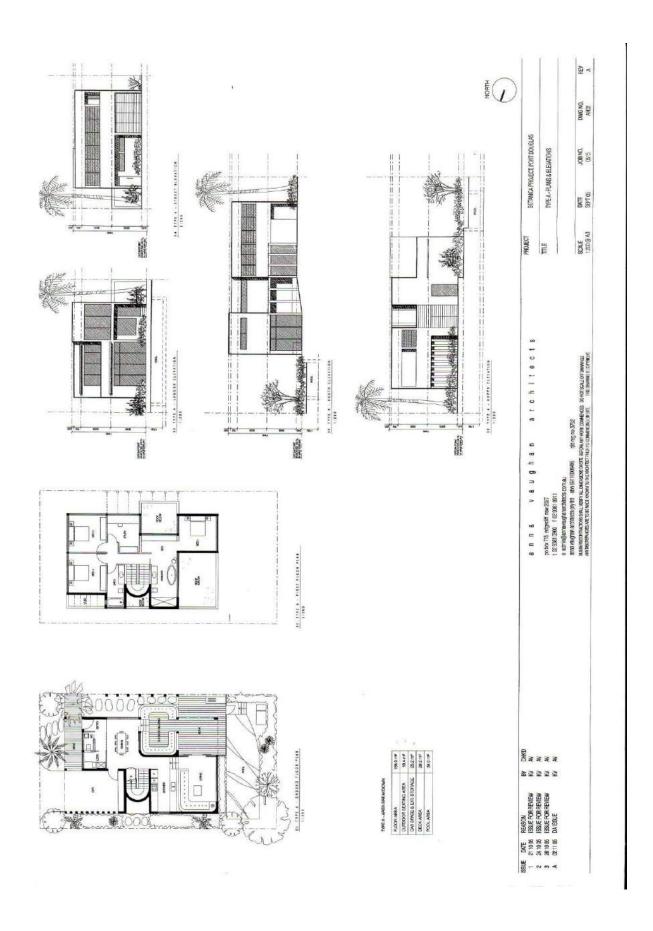
RIGHTS OF APPEAL

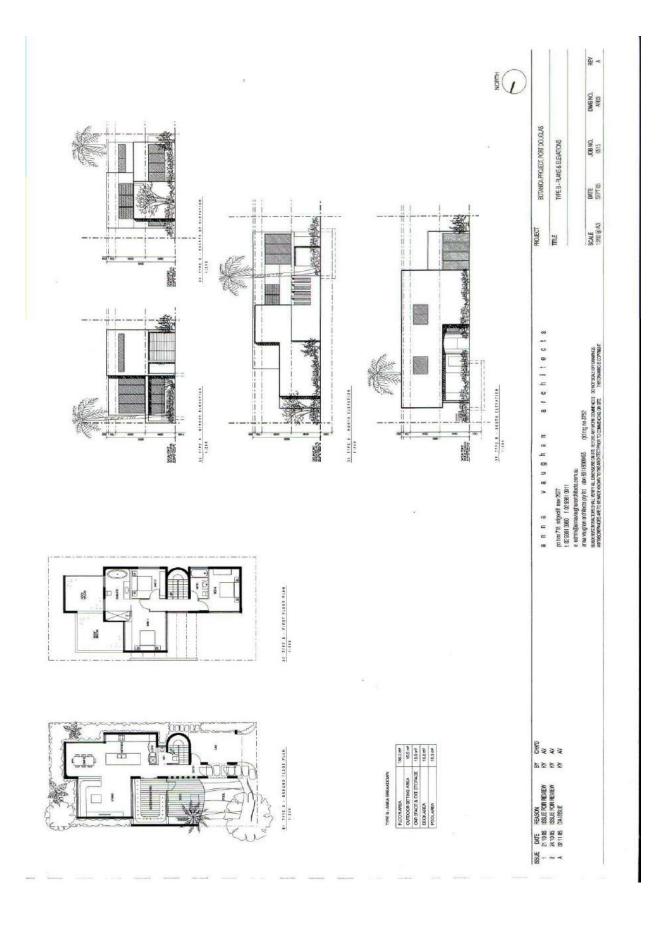
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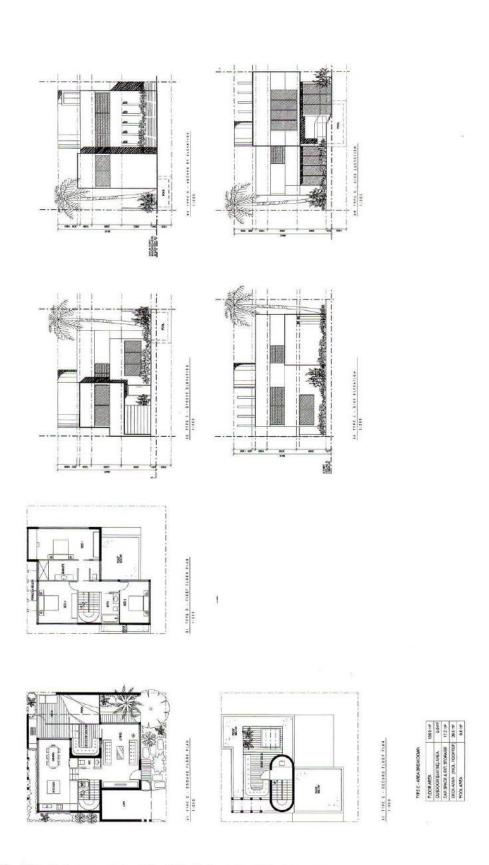
End of Decision Notice

APPENDIX 1: Approved Drawing(s) & Document(s) CMG NO. BOTANCA PROJECT, POST DOJSLAS SEFTOS SCUE 1.100@A3 architects v a u g h a n LIGEND THREA THREA









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