

31 March 2026

**Enquiries:** Jenny Elphinstone  
**Our Ref:** MCUI 2025\_5809/1 (Doc ID 1358341)  
**Your Ref:** WP25 029 RAI

Administration Office  
64 - 66 Front St Mossman  
P 07 4099 9444  
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Rainforest Rescue  
C/- wildPLAN Pty Ltd  
PO Box 8028  
CAIRNS QLD 4870

**Email:** [dominic@wildplan.com.au](mailto:dominic@wildplan.com.au)

Attention Mr Dominic Hammersley

Dear Sir

**Development Application for Material Change of Use Impact - Permanent Plantation  
At Lower Daintree: 110 Cape Tribulation Road; L1, L2, L3, L9, Cape Tribulation Road; L8,  
L337, L354 Mossman-Daintree Road; and L1, L1, L2 L5 Prins Road.**

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

Please quote Council's application number: MCUI 2025\_5809/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully



**For**  
**Leonard Vogel**  
**Manager Environment & Planning**

encl.

- Decision Notice
  - Approved Drawing(s) and/or Document(s)
  - Reasons for Decision
- Advice For Making Representations and Appeals (Decision Notice)



# Decision Notice

## Part Refusal and Part Approval Only (with conditions)

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*Given under s 63 of the Planning Act 2016*

### Applicant Details

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Name: Rainforest Rescue A.C.N. 086 885 154  
Postal Address: C/- wildPLAN Pty Ltd  
PO Box 8028  
Cairns Qld 4870  
Email: [dominic@wildplan.com.au](mailto:dominic@wildplan.com.au)

### Property Details

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Street Address: Lower Daintree:  
110 Cape Tribulation Road;  
L1, L2, L3, L9, Cape Tribulation Road;  
L8, L337, L354 Mossman-Daintree Road; and  
L1, L1, L2 L5 Prins Road.

Real Property Description: Lot 2 on N15779  
Lot 9 on SP143026  
Lot 3 on SP126928  
Lot 8 on RP722116  
Lot 1 on RP706308  
Lot 1 on RP720435  
Lot 1 and Lot 2 on RP720582  
Lot 2 on RP721745  
Lot 5 on RP706307  
Lot 337 on RP800690  
Lot 354 on SR616

Local Government Area: Douglas Shire Council

### Details of Proposed Development

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Development Permit for a Material Change of Use (Impact Assessment) for Permanent Plantation (ecological restoration of nationally significant wetland and surrounds).

### Decision

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Date of Decision: 31 March 2026  
Decision Details: Refused in Part and Approved in Part (subject to conditions)

## Decision

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- A. That Council refuses in part for Material Change of Use (Impact Assessment) for Permanent Plantation (ecological restoration of nationally significant wetland and surrounds) over the balance of the land described as Lot 2 on N15779, Lot 9 on SP143026, Lot 3 on SP126928, Lot 8 on RP722116, Lot 1 on RP706308, Lot 1 on RP720435, Lot 1 and Lot 2 on RP720582, Lot 2 on RP721745, Lot 5 on RP706307, Lot 337 on RP800690, and Lot 354 on SR616, of areas not supported under the required amended plans below, on the following reasons for refusal:
1. The fragmentation of agricultural land is inconsistent with the Far North Queensland Regional Plan 2009-2031, the Draft Far North Regional Plan (2025), the State Planning Policy 2017 and the Planning Scheme. The Draft Far North Regional Plan identifies the land as Priority Agricultural Area. For Douglas Shire the Draft Far North Regional Plan prioritises the retention of agricultural land use over permanent plantation.  
  
The development of the balance of the lots, that are not included in the part approval, is inconsistent with the Draft Regional Plan being an identified Priority Agriculture Area and should be conserved and protected.  
  
There is no identified need or determined benefit for the broadscale development of permanent plantation in the rural area in order to achieve the outcomes of: the State Planning Policy 2017, the Far North Queensland Regional Plan 2009-2031, the Draft Far North Regional Plan (2025) or the 2018 Douglas Shire Planning Scheme version 1.0.
  2. The Strategic Framework recognises rural land as a natural resource and an asset of the Shire. The Strategic Framework identifies primary production is to remain a significant economic driver. The conversion of rural land to permanent plantation is a permanent loss of rural land.  
  
The development of the balance of the lots, that are not included in the part approval, is inconsistent with the Strategic Framework by resulting in a significant permanent loss of good quality agricultural land, fragmentation of remaining rural land and reduces the ability for the Shire to provide a diverse, sustainable economy.  
  
The permanent loss of significant areas of good quality agricultural land is beyond the policy direction of the Strategic Framework, reduces the Shire's assets and negates the ability to utilise this asset in the future.  
  
The conversion of the whole of the lots, in particular of Category X vegetation and being of good quality agricultural land is inconsistent with the Strategic Framework.  
  
It is imperative that the natural asset of agricultural land is not undervalued nor eroded.  
  
It is imperative that the areas of agricultural land that are not severely compromised are maintained and not fragmented.  
  
Development must give due regard to valuing and retaining primary production land in the Shire.
  3. The use of Permanent Plantation is not a rural activity as identified by the 2018 Douglas Shire Planning Scheme version 1.0. The use of Permanent Plantation is inconsistent with the Purpose of the Rural Zone. The use of Permanent Plantation is specifically listed as inconsistent use to establish in the Rural Zone and there are no sufficient reasons to justify the use in areas that are good quality agricultural land.  
  
The development of good quality agricultural land (GQAL) that is not marginalised and is identified as Class A and Class B, for permanent plantation is inconsistent with the purpose of the Rural Zone.

The proposed development of the balance land will fragment surrounding and nearby rural land, in particular good quality agricultural land (GQAL) that is identified as Class A and Class B Agricultural Land.

- B. That Council approves the development application in part for Material Change of Use (Impact Assessment) for Permanent Plantation (ecological restoration of nationally significant wetland and surrounds) over land described as Lot 2 on N15779, Lot 9 on SP143026, Lot 3 on SP126928, Lot 8 on RP722116, Lot 1 on RP706308, Lot 1 on RP720435, Lot 1 and Lot 2 on RP720582, Lot 2 on RP721745, Lot 5 on RP706307, Lot 337 on RP800690, and Lot 354 on SR616, where the extent of approval is limited to the Permanent Plantation Approval Areas Plan required as a condition of the approval, subject to the following:

**Approved Drawing(s) and/or Document(s) (Amended Plan Required)**

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

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

Drawing or Document	Reference	Date
Proposal Plan for Permanent Plantation (Cape Tribulation Road, Lower Daintree)	Generally in accordance with the WildPLAN drawing reference WP25 029 RAI, V1, dated 3 July 2025 and as amended by the conditions of the approval and the Council drawing Permanent Plantation Approval Areas Plan.	To be determined
FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access		
Rural Allotment Access	Standard Drawing S1105 Issue E	26 November 2014

**Note** – The plans referenced above will require amending in order to comply with conditions of this Decision Notice.

**Assessment Manager Conditions & Advices**

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

Except where modified by these conditions of approval.

**Timing of Effect**

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

**Amended Plans**

3. An amended plan must be provided, generally in accordance with the Proposal Plan for Permanent Plantation (Cape Tribulation Road, Lower Daintree) prepared by WildPLAN drawing reference WP25 029 RAI, V1, dated 3 July 2025 and amended as follows:
  - a. to only include the areas as identified on the Council drawing Permanent Plantation Approval Areas Plan;

- b. to identify and include vehicle access paths to:
  - i. the Permitted Permanent Plantation Approval Areas; and
  - ii. the remaining rural lands;
- c. the new permanent plantation areas to be setback from a State-controlled road or a local road for a sufficient distance to reduce wildlife injuries. Setbacks areas are to be established with grass species and maintained for clear visibility; and
- d. the location of areas where the Permanent Plantation will be development on batter slopes to creek and waterway areas.

The amended proposal plan must be provided to the satisfaction of the Chief Executive Officer prior to the Commencement of Use.

#### **Revegetation Plan for Permanent Plantation**

- 4. The site must be revegetated in accordance with an approved Revegetation Plan for the Permanent Plantation.

The Revegetation Plan for the Permanent Plantation must include the following:

- a. Areas to be revegetated as per the amended proposal plan as per the conditions of this approval.
- b. The species for each area must consist of native and endemic species only and planted in an irregular and random fashion to blend with existing vegetation. Exotic species are not permitted.
- c. Species forming a coastal area buffer must be predominantly marine species.
- d. No species that are identified as Declared or Environmental Weeds or constitute an Invasive Species are to be established.
- e. No contaminated mulch is to be used or placed on the land. (Electric Ant specific- maintenance- inspection ?)
- f. Only natural biodegradable weed matting can be installed.
- g. Areas are to be maintained free of Declared or Environmental Weeds or constitute an Invasive Species.
- h. All the trees in the planting sites must be watered during dry periods. No temporary drip or sprinkler irrigation system can be installed;
- i. Where soil is prepared prior to planting it must not be compacted and can only be fertilized with organic fertilizers that will not cause runoff to impact waterways and nearby marine plants etc.;
- j. The planting design is not to create ponding nuisances and/or concentration of stormwater flows to adjoining properties.
- k. The cross-section profile for to creek and waterway areas;
- l. Operational controls for volunteers on planting / maintenance days; and.
- m. A maintenance regime that includes inspections and actions to address weeds and pests including Electric Ants.

The Revegetation Plan for the Permanent Plantation must be provided to the satisfaction of the Chief Executive Officer prior to the commencement of any work or planting for the permanent plantation species.

Any area affected by natural flooding or cyclone events must be revegetated within twelve months of the event, or a further period as otherwise agreed to by the Chief Executive Officer.

All planting must be established and maintained in perpetuity to the satisfaction of the Chief Executive Officer.

### **Stockpiling and Transportation of Material**

5. Bulk materials, such as mulch, transported to the site are 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. Stockpiled materials must be bunded and covered to prevent loss of stockpile material.

### **Emissions**

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

### **Existing Creek and Drainage Systems**

7. 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 and Mines for carrying out works in a watercourse.

### **Sediment and Erosion Control**

8. In the event of stripping or significant ground disturbance a sediment and erosion control plan must be submitted prior to the commencement of any revegetation.

The plan must be installed/implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the *Environmental Protection Act 1994*, and the FNQROC Development Manual).

The sediment and erosion control plan must detail the various stages of revegetation for the development and the measures to be installed for each stage.

The sediment and erosion control plan must be provided to the satisfaction of the Chief Executive Officer prior to the commencement of use.

### **Volunteer Facilities**

9. On days when volunteers attend the site to assist with planting and maintenance suitable vehicle parking must be provided onsite to the satisfaction of the Chief Executive Officer.

### **Prevention of the spread of weeds and pests**

10. The operator/landowner must ensure the development is carried out in a manner that prevents the spread of weeds, seeds or other pests into clean areas or away from any existing infested areas.

### **ADVICES**

1. For the commencement of use. this approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with sections 85(1)(b) and 71 of the *Planning Act 2016*.
2. This approval does not negate the requirement for compliance with all relevant Local Laws and statutory requirements.
3. Any fill of material on the site, where fill material originates from an external site, must meet the Planning Scheme requirements for Operational Work.
4. Any machinery storage or nursery shed must meet be complaint with the Planning Scheme or achieve any necessary approval.

5. All site managers must take all action necessary to ensure materials and/or machinery and equipment on the site are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of work.
6. For information relating to the *Planning Act 2016*, log on to [www.dsd.qld.gov.au](http://www.dsd.qld.gov.au) . To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to [www.douglas.qld.gov.au](http://www.douglas.qld.gov.au).
7. The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* applies to action that has, will have or is likely to have a significant impact on matters of national environmental significance. Further information on the *EPBC Act* can be obtained from the Department of the Agriculture, Water and the Environment, website at <https://www.awe.gov.au/environment/epbc> .
8. Electric Ants  
Electric ants are designated as restricted biosecurity matter under the *Biosecurity Act 2014*.  
Certain restrictions and obligations are placed on persons dealing with electric ant carriers within the electric ant restricted zone. Movement restrictions apply in accordance with Sections 74–77 of the *Biosecurity Regulation 2016*. Penalties may be imposed on movement of electric ant carriers and electric ants in contravention of the legislated restrictions. It is the responsibility of the applicant to check if the nominated property lies within a restricted zone.  
All persons within and outside the electric ant biosecurity zone have an obligation (a general biosecurity obligation) to manage biosecurity risks and threats that are under their control, they know about, or they are expected to know about. Penalties may apply for failure to comply with a general biosecurity obligation.  
For more information please visit the electric ant website at <https://www.business.qld.gov.au/industries/farms-fishing-forestry/agriculture/biosecurity/plants/insects/electric-ants> or contact Biosecurity Queensland 13 25 23.
9. The taking of water, or interfering with water from streams or groundwater sources, will require a permit administered under the *Water Act 2000* and issued by the regional office of the Department of Natural Resources. Further information can be obtained from the Department at [www.dnr.qld.gov.au](http://www.dnr.qld.gov.au).

## Cultural Heritage

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

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

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

<https://www.qld.gov.au/firstnations/environment-land-use-native-title/cultural-heritage/cultural-heritage-duty-of-care>.

### **Further Development Permits**

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Not applicable

### **Currency Period for the Approval**

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

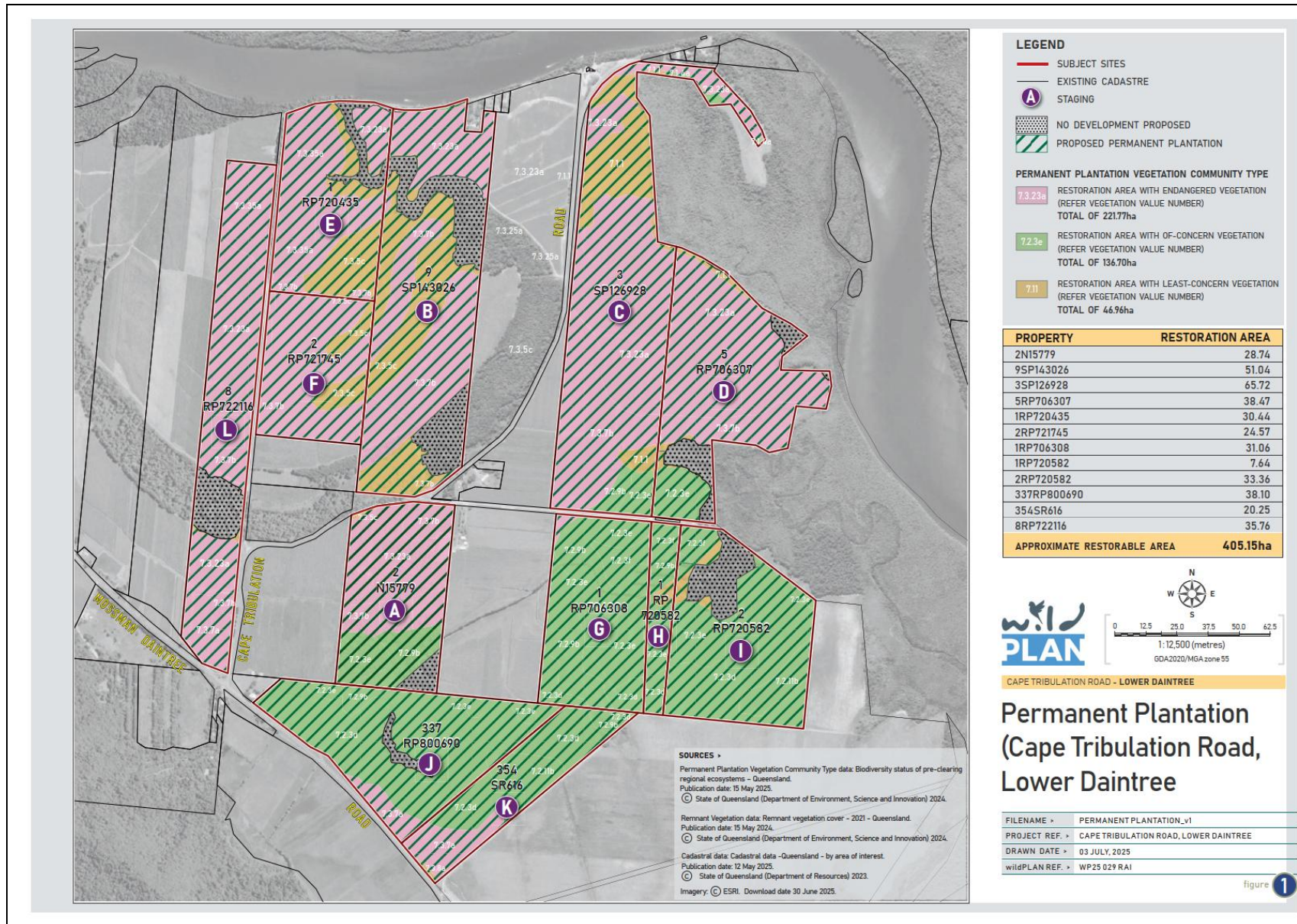
### **Rights to make Representations & Rights of Appeal**

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

A copy of the relevant appeal provisions is attached.

**For Part Approval - Approved Drawing(s) and/or Document(s) (Amended Plan Required)**



## Submitters who lodged properly made submissions

Name	Organisation	Address	Suburb, State & Postcode
Richard Fine	BioPak Pty Ltd	Suite 202 59-75 Grafton Street	Bondi Junction NSW 2022
Sarah Sims	Holloways Beach Coastcare Inc	11 Gommory Close	Earlville QLD 4870
Bennett Juan Walker		PO Box 1449	Mossman Q 4870
Barnaby Swan	Climateforce Ltd	96 Cape Kimberley Road	Kimberley Q 4873
Kasady Quaid	Daintree Farms Pty Ltd	1775 Mossman Daintree Road	Wonga Beach Q 4873
Angela Freeman	Hartley's Crocodile Adventures and North Queensland Wildlife Trust	PO Box 171	Palm Cove Q 4879
Heather Campbell	Greening Australia Ltd	Level 3, 349 Collins Street	Melbourne V 3759
Nicky Moffat	Queensland Conservation Council Inc & Queensland Conservation Council Ltd	Ground Floor, 35 Boundary Street	South Brisbane Q 4101
Rhonda Green	Wildlife Tourism Australia	1770 Running Creek Road	Rathdowney Q 4287
Maree Treadwell Kerr	Bats and Trees Society of Cairns Inc	PO Box 528	Kuranda Q 4881
Bronwyn Opie	Cairns and Far North environment Centre Inc.	PO Box 323N	North Cairns Q 4870
Kylie Mackay, John Mackay, Gary Mackay, Kirsty Mackay, Shane Mackay	Mackay Family	2595 Mossman Daintree Road	Lower Daintree Q 4873
Robert and Julie White		97 St Crispin Avenue	Port Douglas Q 4877
Tom Black		194-196 South Arm Drive	Wonga Beach Q 4873
Abi Ralph	Daintree Discovery Centre Pty Ltd	24 Tulip Road	Cowbay Q 4873
Grantley Smith	Restore Blue Pty Ltd	Level 3, 116 Military Road	Level 3, 116 Military Road

Name	Organisation	Address	Suburb, State & Postcode
Martin F Breed		Room 104a, Earth Science Building, Flinders University	Bedford Park SA 5042
Scott Buchanan	Wet Tropics Management Authority	PO Box 2050	Cairns Q 4870
Scott Olsen	Tourism Tropical North Queensland Ltd	PO Box 865	Cairns Q 4870
Ro Hill	Ro Hill Consulting	410 Flametree Road	Diwan Q 4873
Johan Larson	Daintree Rainforest Observatory, James Cook University	Room 102A, Level 1, Building E2, James Cook University Cairns, McGregor Road	Smithfield Q 4878
David White		1585 Mossman Daintree Road	Wonga Beach Q 4873
David White	Solar Whisper	2 Cape Tribulation Road	Lower Daintree Q 4873
Doug Mohr	Integrity Ag Pty Ltd	10 Neil Street	Toowoomba Q 4350
Dave Pinson	Daintree Life Pty Ltd	73 Cedar Road	Cow Bay Q 4873
Ian Darbyshire	Foundation for National Parks & Wildlife	GPO Box 2666	Sydney NSW 2000
Lucas Cernusak	College of Science and Engineering, James Cook University	Room 205, Building E2, Macgregor Road	Smithfield Q 4878
Alex Cheesman	James Cook University	A2, 227 McGregor Road	Smithfield Q 4878
Rachael Lowry	Bush Heritage Australia	PO Box 329	Flinders Lane Vic 8009

## Reasons for Decision

The reasons for this decision are:

1. Sections 60, 62 and 63 of the *Planning Act 2016*:
  - a. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
  - b. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
  - a. the development application was properly lodged to the Douglas Shire Council on 4 August 2025 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;

- b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
- a. the development triggered assessable development under the Assessment Table associated with the Rural Zone Code;
  - b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
  - c. the applicant's reasons have been considered and the following findings are made:
    - i. Part refusal of areas the balance areas being identified as unsuitable for permanent plantation as a permanent plantation development as per the reasons for refusal under A above.
    - ii. Despite the conflict with the Draft Regional Plan and the Planning Scheme benchmarks, part of the land is identified as suitable for approval, for permanent plantation due to the extremely marginalised agricultural quality of the land, the benefit to the Daintree River, the support for the revegetation of land that is included in the Queensland Wet Tropics World Heritage Area and the benefit to improved water quality of waters feeding the Great Barrier Reef, subject to conditions; and

### Assessment Benchmarks

The following are the benchmarks applying to the development.

Benchmarks applying for the development	Benchmark reference
	Draft Far North Queensland Regional Plan (2025)
Strategic Framework Rural zone code Acid sulphate soils overlay code Bushfire overlay code Coastal environment overlay code Flood and storm tide hazard overlay code Landscape values overlay code Natural areas overlay code Transport network overlay code Access, parking and servicing code Environmental performance code Filling and excavation code Infrastructure works code	Douglas Shire Planning Scheme 2018 (V1.0) in effect 2 January 2018 (including the consideration of the Far North Queensland Regional Plan 2009-2011)

### Consideration of Properly made Submissions

Grounds of submission	Officer comment
The development sets a dangerous precedent and Council should consider a Temporary Local Planning Instrument (TLPI) to prevent further application of this type until broad community consultation can occur and the Town plan is updated based on outcomes of that consultation	Council is required to consider the application on its merits having regard to the current Planning Scheme. The part approval with conditions and part refusal has regard to the Strategic Outcome  Council intends to undertake a Planning Scheme review as per the Council's Corporate Plan. This review will include broad community consultation and can develop a Policy position.

Grounds of submission	Officer comment
<p>The development goes against the Strategic Framework 3.8.4.1, Specific Outcomes (part 3) that, <i>'The availability and viability of rural land for ongoing agricultural uses is not compromised by inappropriate or incompatible development'</i>. The proposed development goes against this outcome.</p>	<p>The part approval with conditions and part refusal has regard to the Strategic Outcome and maintains ongoing areas of rural land for rural uses.</p>
<p>While part 5 says of that carbon sequestration can occur <i>'away from areas of quality agricultural land'</i> and the applicant proposes that the subject area is not quality agricultural land, however there is a long history of the land growing good cane and no reason why other crops or grazing would not be successful. If the odd inundation is reason to condemn land, then much of our arable land will be condemned.</p>	<p>The applicant does not demonstrate the permanent plantation will sequester carbon. Recent studies of tropical rainforest, in the North Queensland area, including sites within the Shire, have identified an increasing trend since 2000 of these areas sourcing rather than sinking carbon. It is agreed that occasional inundation of land does not render the land unusable for any agricultural purpose.</p> <p>Through the conditions of the approval very low-lying poor agricultural land to be developed and some of these areas include parts of the Oxbow.</p>
<p>The development is inconsistent with the Purpose of the Rural Zone Code and should be rejected.</p>	<p>The decision does not support the conversion of the entirety of the nominated lots. Full conversion is inconsistent with the Zone Code purpose.</p> <p>The part approval is limited to areas that are very low-lying and of poor agricultural quality.</p>
<p>Also in the Rural Zone Code 6.2.10.2 Purpose 3. (a) <i>'Areas for use for primary production are conserved, and fragmentation is avoided.'</i> This application does not seek to conserve rural land. It seeks the opposite.</p>	<p>The part approval is limited to areas that are very low-lying and of poor agricultural quality as well as consideration of fragmentation of the balance areas.</p>
<p>Table 6.2.10.3.b — Inconsistent uses within the Rural zone specifically includes 'Permanent Plantation'. They are applying for a specifically noted inconsistent use which should be refused.</p>	<p>The nomination of a land use to be inconsistent sets an initial position and further considerations are against the Code purpose. The part approval with conditions and part refusal considers the merits of the use and finds suitability only in limited instances having regard to the Code purpose.</p>
<p>Given that the applicant is applying for a fee waiver of around \$700k, the chances are that a further application for rates waiver would be made if this is approved. Given the financial situation of Council, approving either request would be fraught with danger.</p>	<p>The consideration of any rates reduction or waiver is not a matter in the assessment of the development application.</p>
<p>The suggestion that it will result in significant employment is laughable. There will perhaps be a few low paid jobs in seed collection and Nursery work, but Rainforest Rescue typically uses unpaid volunteers to plant. The only high paying jobs will be for the executive level, most of whom do not reside here.</p> <p>The development supports local employment and economic diversification through nature-based industries. Local jobs will be maintained and created as part of this project.</p> <p>The development supports local employment through seed collection, nursery propagation and land management roles, alongside new opportunities for eco-tourism and sustainable revenue streams.</p>	<p>It is agreed that the development provides only minimal employment opportunities or provides a significant economic stimulant to the local community. The forever conversion of the entirety of the lots would diminish future income potential.</p> <p>The part approval provides some employment opportunities.</p> <p>No part of the application is for a tourism use.</p>

Grounds of submission	Officer comment
<p>Rainforest Rescue has a dubious record regarding tourism promotion generally. Their marketing necessarily indicates that the area is less than pristine, and if not carefully managed can damage the mainstream marketing Council funds via Tourism Port Douglas Daintree. Given that the Douglas Shire will now rely almost exclusively on tourism, we need to tread carefully if we are to permanently remove rural land. Advertising to raise funds to replant this land will almost certainly be negative about farming, to the detriment of existing farm and farm tourism operators. The only benefactor will likely be Rainforest Rescue.</p>	<p>No part of the application seeks a particular tourism component.</p> <p>It is agreed that broadscale removal of rural land reduces the economic assets of the Shire. A sole economic reliance on tourism reduces economic resilience. The Shire has traditionally had a balance of conservation and development of which agriculture has played and continues to play a significant role.</p> <p>The part approval is limited to maintain the majority of the good quality land.</p>
<p>Rainforest Rescue rarely engages across community and relies instead of corporate and private out of town sponsors. While they make much in this application about their green credentials, they have been unable to even support a microgrid in the region, that would significantly reduce pollution. I suggest that they only support projects that result in direct financial gain to their organisation. On this basis alone, they should not be getting a 'hall pass' for inconsistent use of rural land.</p>	<p>A development application is considered on its merits, not the standing or viability of a developer.</p> <p>The part approval runs with the land, not the particular applicant or landowner.</p> <p>The capacity of a developer or landowner to follow and undertake a development is subject to their own financial circumstances. Hence the imposition of conditions that aim to provide certainty to result in expected outcomes.</p>
<p>Rainforest Rescue has a proven track record of protecting and restoring land in the Daintree. Hartley's Crocodile Adventures, North Queensland Wildlife Trust (NQWT) and Rainforest rescue have a long standing relationship, which has been growing strongly for over 20 years. It began when our NQWT was in its very initial stages and we would provide funding to support their tree planting projects in the Cape Tribulation area on former rainforest sites which had been cleared, degraded and eventually left abandoned. We later supported large scale cleaning up of Rainforest Rescue sites from abandoned waste such as tyres and full restoration with their nursery trees. We now provide larger sums for deposits to help secure target sites either in a pristine or highly degraded state.</p> <p>If under the planning scheme, high value agricultural land can be protected, and those significant areas of more marginal lands (in the right ecological locations) can be encouraged, then the Shire will be able to build a more robust economy, enhance farmer diversification options, and better protect the environmental and cultural values in the region. Such an approach can also further enhance the Shire's tourism assets and reputation.</p> <p>To achieve this though, I consider that there would be value in the Shire working collaboratively with the RRRC in considering these issues. To this end, we understand the Wet Tropics Management Authority (WTMA) and other key parties have offered to work with Council to develop a more nuanced and targeted mapping layer for the region that can</p>	<p>The locking up of land for permanent plantation where the Planning Scheme specifies land is to be maintained for other purposes is not supported unless there are suitable planning grounds.</p> <p>The part approval is limited to maintain the majority of the good quality land.</p>

Grounds of submission	Officer comment
<p>both protect high value agricultural land, while also attracting new investment and economic diversification in habitat restoration.</p> <p>this proposed permanent plantation has the potential to demonstrate the economic benefit of the Green Economy. Early indications are that accessing the environmental markets through stacking of biodiversity and carbon credits delivers the greatest return per hectare. Embracing the opportunities of new farming concepts such as carbon sequestration and nature positive biodiversity credit systems such as the Cassowary Credit has the potential to deliver wide-ranging benefits for the Douglas Shire.</p>	
<p>The proposal presents a net economic benefit to Douglas Shire by investing in our most valuable asset: our environment.</p> <p>The restoration directly strengthens our region's primary economic driver: nature-based tourism. It enhances the "Douglas Shire brand" and protects the environmental integrity that underpins it.</p> <p>It is always disappointing embarking on the iconic tourist drive northward from Cairns, passing Port Douglas and nearing the rainforest, only to see endless sugar cane farms in a world heritage listed area. This application presents a fantastic opportunity to reclaim land and return it to the core element that attracts tourists to the region – the rainforest and its connection to mangroves and the Great Barrier Reef.</p> <p>Furthermore, an economy based on environmental restoration and carbon sequestration is a valid and forward-thinking form of economic diversification, creating different but equally valuable local jobs and opportunities.</p> <p>This Rainforest Rescue application importantly signals the potential growth of investment in the Douglas Shire in habitat restoration in important parts of the landscape. New and emerging carbon and nature positive markets will increasingly drive demand for such investments in your Shire.</p> <p>At the same time, as transition in the agricultural economy emerges in the Shire, habitat restoration is also emerging as a complementary income stream for farmers.</p>	<p>There is a considerable percentage of the Shire that is already invested in the natural environment.</p> <p>The Planning Scheme seeks a balance of considerations and a balance of economic drivers. The landscape of the sugarcane farms is recognised by the Planning Scheme. The loss of the local Mill and stoppage of sugarcane production in the locality leads to alternative farming.</p> <p>The part approval considers compromised areas and areas that can provide improved water quality to the Great Barrier Reef.</p> <p>Recent studies identified tropic forests have a current trend of sourcing not sinking carbon.</p> <p>The conversion to permanent plantation provides low level employment for a limited period.</p>
<p>The development will restore a nationally significant wetland and endangered ecosystem, including the McDowell Swamp Oxbow.</p> <p>The development restores degraded land and protects Matters of State and National Environmental Significance.</p>	<p>The application did not seek to restore parts of the Oxbow that are currently poorly vegetated. The part approval allows for this restoration.</p> <p>The application is not over the whole of the Oxbow. Significant tacks of the land are not identified as endangered ecosystems under the State mapping.</p>
<p>Restoration will provide future habitat for native fauna and flora, including threatened species in the area.</p>	<p>Some 90% of the Shire provides natural habitat for flora and fauna. The addition of the proposed lots is a negligible increase in the extent of land</p>

Grounds of submission	Officer comment
	provided in the Shire for native flora and fauna.
The restoration through a permanent plantation will create long-term biodiversity and climate resilience through reforestation.	The application did not seek to restore parts of the Oxbow that are currently poorly vegetated as well as providing improved water quality to waters that feed into the Great Barrier Reef.
<p>The development will provide a sustainable and permanent land use to sugarcane farming, whilst supporting the local economy and community.</p> <p>The development supports the purpose of the <i>Planning Act 2016</i> by facilitating ecological sustainability through the integration of environmental protection, economic development and community wellbeing.</p>	The application does not substantiate the development will provide long term economic sustainability for the land or the community. The conversion to permanent plantation removes forever the ability for possible rural use. The part refusal addresses this consideration.
<p>The development responds to the Regional Plan's call for climate-responsive land uses, by restoring degraded land, improving flood resilience and supporting biodiversity corridors. These actions contribute to regional adaptation and align with broader sustainability goals.</p>	<p>The Regional Plan seeks a balance of development.</p> <p>The Draft Regional Plan (2025) identified the land as Priority Agricultural Area. The Draft Plan prioritises agricultural use over permanent plantation. The part refusal addresses this consideration.</p>
<p>The development enhances resilience to climate change and natural hazards through nature-based solutions.</p> <p>Ecological benefits – restoration of more than 400 hectares of former cane land, protection of nationally significant wetlands and re-establishment of endangered rainforest ecosystems.</p> <p>The Eastern Kuku Yalanji people and as such we are cognisant of the cultural damage done through the broad deforestation for farming and forestry. The connectivity between the Yalanji people, their culture, language, land and environment are of critical importance, and all restoration projects provide a level of cultural healing and reconciliation. The health of water catchments such as the Daintree River are significant to Yalanji people. Nature repair, particularly in riparian and wetland areas is therefore broadly supported by this organisation. The enhancement of biodiversity corridors, carbon sequestration and the improvement of water quality flowing to the Daintree River and Great Barrier Reef are all aligned with the Yalanji principles of traditional land management.</p>	<p>The part approval of the development improves water quality to the Reef and the Oxbow.</p> <p>It is acknowledged that natural landscapes gives meaning to Indigenous Persons and natural landscapes have cultural significance.</p> <p>The revegetation of land needs to be balanced with future economic value.</p>
<p>The proposed permanent plantation will significantly expand upon locally available roosting and feeding opportunities for endangered Spectacled flying-foxes (<i>Pteropus conspicillatus</i>), which regularly roost in large numbers - away from human habitation - in the existing adjacent Melaleuca swamp on the northern side of the main road. We feel this could help mitigate human/wildlife conflict in the urban roosts in and around Port Douglas, by giving the animals an increased and alternative roosting area within the DSC LGA.</p>	<p>The part approval of the development includes areas of the Oxbow swamp.</p>

Grounds of submission	Officer comment
<p>Restoration will improve habitat quality for a suite of beneficial insectivorous bats, the endangered Spectacled Flying-fox, <i>Pteropus conspicillatus</i>, a keystone species and Matter of National Environmental Significance (MNES) to the World Heritage Wet Tropics rainforest, and other non-echolocating pollinating and seed-dispersing bats, such as the small tube-nosed bat, <i>Nyctimene robinsoni</i>, and both blossom bats. An increase in insectivorous bat activity in the Douglas Shire will benefit agricultural land through increased pest predation services. The recent International Bat Research Conference (Cairns, 3 – 8 August 2025) showcased the significant role of insectivorous bats in agricultural pest predation and the importance of maintaining and restoring natural vegetation near agricultural properties.</p>	
<p>To support a smooth approval process, the following considerations are offered:</p> <ul style="list-style-type: none"> <li>• <b>Enhanced Community Engagement:</b> Consider including more detailed plans for ongoing community involvement, ensuring local stakeholders are engaged throughout the project lifecycle.</li> <li>• <b>Clearer Timeline and Milestones:</b> A detailed project timeline with key milestones would assist Council in monitoring and evaluating progress effectively.</li> <li>• <b>Additional Environmental Data:</b> Recent biodiversity surveys and climate impact assessments could help further demonstrate ecological benefits and address potential concerns.</li> <li>• <b>Integration with Local Planning Policies:</b> An explicit alignment with relevant Council planning strategies and environmental policies could reinforce the application's compatibility with local objectives.</li> </ul>	<p>The Planning Scheme does not require a development to include community engagement. This is a private business matter for a party acting on the approval.</p> <p>The application proposed staging of the development. The part approval is over limited areas. The undertaking of the approval is not time constrained.</p> <p>Recent academic studies of carbon sequestration identified a carbon sourcing trend.</p> <p>The Planning Scheme, including the Planning Scheme Policies, is the assessment code for the application.</p>
<p>We sincerely believe that Council and the Community in general, have an absolute responsibility to do everything in their power to protect or rehabilitate the natural environment. Here is a golden opportunity to do just that by supporting this proposed development, especially in such a flood prone catchment area of the Daintree River.</p> <p>We all support the approval of this environmentally important back to Nature development, and to even suggest that anybody opposing this application cannot be living in the real world!</p>	<p>The majority of rural along the Daintree River is subject to flood and/ or storm tide inundation. This does not mean these areas should be revegetated on this basis.</p> <p>The part approval and part refusal has consideration to a balance of environmental and economic considerations.</p>
<p>With the recent closure of the Mossman Mill, sugarcane farming on these low-lying, flood-prone lands is no longer profitable.</p> <p>This transition provides a sustainable land use that benefits both the community and the</p>	<p>The profitability for sugarcane production is based on the lack of a local Mill and the costs to transport the product to another Mill, not the ability of the land to grow the product.</p> <p>The forever loss of agricultural land does not yield</p>

Grounds of submission	Officer comment
environment.	a sustainable land use.
<p>All rivers meander, and the Daintree River moves quicker than most due to the high rainfall. When the lowland rainforest was first cleared and wetlands filled in, riparian buffer zones were left to protect the banks and slow erosion. Over the years I have watched the area covered in this proposal degrading severely. As the river moves, the riparian zones have become increasingly smaller and many areas totally disappeared altogether, and much of the area where most of the tour boats operate is just eroded bank and sugarcane. The trees can no longer grow back as there is no buffer zone just river and farmland.</p>	<p>The part approval has regard to providing a vegetated 20m setback from the top of bank of the Daintree River as per the Planning Scheme acceptable outcome.</p>
<p>Much of this area was cleared in the 1950s for cane growing, but has since been abandoned. Experts have assessed this flood-prone area as marginal for agriculture, and the area is becoming weed-infested. These weeds are encroaching on and impacting the natural values of surrounding protected areas. Wildlife Tourism is increasingly finding that visitors are looking for experiences that include stories of regeneration and resilience of these ancient rainforest, reef and wetland communities.</p>	<p>All landowners are required to contain weeds and invasive species on their lands. The conditions of the part approval also have regard to maintain land free of weed species.</p>
<p>While the Daintree name itself has a fantastic reputation, the value of the river as a product for eco-tourism, is not living to this reputation. Not just the look but the lack of wildlife due to habitat loss, the birdlife on the river in my time again has dramatically decreased. This is the marine park section of the river, the gateway to the oldest rainforest on the planet which we are all so proud of. But this area no longer an experience that it once was at the very least the riparian zones should be being maintained.</p> <p>Just last week I took out a National Geographic film crew scientists and again they reiterated a now common theme, surprised at the lack of riparian vegetation and said ‘no wonder it is hard to find fish and birds here’; it was not what they expected in a marine park. I now have people telling me they will go to the Northern Territory next time which for someone that has spent almost half of my life promoting this area is very hard to hear. But it is undeniable, the impact.</p> <p>Nature tourism is the biggest drawcard to Douglas Shire, which is unique in having the two World Heritage areas, the Great Barrier Reef and the World Heritage Wet Tropics Daintree Rainforest in close proximity, and was the first shire in Australia to achieve certification as an eco-destination. Between the two are significant wetlands, such as the area Daintree Rescue is proposing to restore. The IUCN's World conservation Conference currently being held in Abu Dhabi have been stressing the importance of the world's wetlands. Australia's</p>	<p>The plan of the allowed areas includes part of Lot 3 on SP SP126928 that is Wet Tropics land. Otherwise, the World Heritage Area registrations do not include the remainder of the sites and there was no requirement for these lowlands to be included in the registration.</p> <p>There was no back zoning in this area of the Daintree Lowlands in either the 2006 Planning Scheme nor the current Planning Scheme where the <i>conservation</i> of the land was identified as having a higher priority than agricultural use.</p> <p>The part approval has consideration of revegetating the setback from the Daintree River and this will improve the bank stability.</p> <p>No part of the application has been lodged for a tourism use.</p> <p>The approval does not remove or reduce the World Heritage Areas.</p>

Grounds of submission	Officer comment
<p>position as the world’s driest non-polar continent makes the conservation of ours especially important. These wetlands, rainforests, and reef support the highest biodiversity of plants and animals in Australia.</p>	
<p>One of the most common concerns raised when we talk about replanting land is the “loss of farmland.” It’s an understandable worry — agriculture has been the backbone of this region for generations, and farming families are rightly proud of that legacy. However: not all farmland in the Douglas Shire is equal. Some areas — especially low-lying land around the Daintree River is swampy ground that has never been truly productive. Heavy floods, salt intrusion, and poor soils mean those paddocks are often unproductive and with the sugar cane industry winding down, much of that ground is no longer viable for conversion to cattle. Combine this with the added risk of increased floods in the area, last two floods we had here, many cattle were killed and washed away. So, when we talk about restoring wetlands along the Daintree River, it’s important to clear this up. Farming is a proud part of the Douglas Shire story, and productive land will always have its place.</p> <p>This isn’t about farms versus forests. It’s about using land wisely: farming the best land productively and restoring the least productive land so it can serve another purpose — one that strengthens our economy, protects our environment, and keeps the Douglas Shire thriving. This isn’t about reducing the Shire’s assets — it’s about adding to them. Productive farmland remains farmland, while marginal land is turned into something that works better for everyone: healthier ecosystems, stronger flood protection, and an even more vibrant tourism industry.</p> <p>The bird life, that has declined over the last decades due to deforestation and farms using chemicals on their land, will most likely bounce back, which will benefit the ecosystem and diversity and in turn will bring more tourism to the area.</p>	<p>The part approval and part refusal has considered a balance of revegetating compromised land and MSES communities in the Oxbow.</p> <p>Many lots that are zoned rural, within the Shire, are subject to flooding and storm tide inundation. This does not mean that they have no contribution to the Shire to the extent of removing this agricultural asset forever. The Planning Scheme seeks a balance of land uses over the Shire. The application is not for forestry where vegetation can be established and harvested over and over again, but for permanent plantation.</p>
<p>This project represents a necessary and logical transition for this land. While acknowledging its agricultural past, it is crucial to assess the proposal based on current, factual evidence. The applicant’s own supplied documentation provides a compelling, evidence-based case for this restoration and directly addresses potential concerns.</p> <p>1. Making appropriate use of land</p> <p>The Good Quality Agricultural Land (GQAL) Addendum Report (Schedule 3) prepared by Dr. Charissa Rixon concludes that the land should be classified as ALC Class D – Not Suitable for Agriculture.</p> <p>The report details the non-viability of sugarcane</p>	<p>The GQAL report is not concurred with. The land has supported cropping for many decades, during which the area was impacted by very heavy rains, inundated by flood waters and impacted by storm tide inundation. The majority of rural land within the Shire is impacted by heavy rains, flood and or storm tide inundation. Traditionally marginal floodplain land has been utilised for agriculture. The impact of constraints can reduce the extent of crops or animal husbandry and the period of use. To discount all future use of the lots denies the ability for alternative crops and the scientific research for new variants, practises and techniques.</p>

Grounds of submission	Officer comment
<p>due to transport costs and logistical constraints, and the unsuitability of alternative crops like Bana Grass (invasive risk) and Sorghum (disease pressure).</p> <p>This is not a loss of productive land; it is the responsible repurposing of land that has is no longer sustainable for agriculture. It's hard to imagine a better use for this land moving forwards.</p>	

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

Planning Act 2016  
Chapter 3 Development assessment

[s 74]

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

### Division 2 Changing development approvals

#### Subdivision 1 Changes during appeal period

##### 74 What this subdivision is about

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

##### 75 Making change representations

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

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- (a) a matter in the development approval, other than—
    - (i) a matter stated because of a referral agency's response; or
    - (ii) a development condition imposed under a direction given by the Minister under part 6, division 2; or
    - (iii) a development condition imposed under a direction given by the chief executive under section 106ZF(2); or
  - (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(d).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
  - (3) Only 1 notice may be given.
  - (4) If a notice is given, the appeal period is suspended—
    - (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
    - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
      - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
      - (ii) the assessment manager gives the applicant the decision notice for the change representations; or
      - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
  - (5) If the applicant makes the change representations during the appeal period without giving a notice under subsection (2),

the appeal period is suspended from the day the representations are made until—

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

## **76 Deciding change representations**

- (1) The assessment manager must assess the change representations against and having regard to the matters that must be considered when assessing a development application, to the extent those matters are relevant.

*Note—*

For change representations for a development approval for development requiring social impact assessment, see also section 106ZI.

- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
- (a) the applicant; and
  - (b) if the assessment manager agrees with any of the change representations—
    - (i) each principal submitter; and
    - (ii) each referral agency; and
    - (iii) if the assessment manager is not a local government and the development is in a local

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

## **Subdivision 2      Changes after appeal period**

### **77      What this subdivision is about**

This subdivision is about changing a development approval, other than the currency period, after all appeal periods in relation to the approval end.

### **78      Making change application**

- (1) A person may make an application (a ***change application***) to change a development approval.

*Note—*

For the making of a change application for a development approval that was a PDA development approval, see also the *Economic Development Act 2012*, sections 51AM, 51AN and 51AO.

## Extracts from the Planning Act 2016 – Appeal Rights

Planning Act 2016  
Chapter 6 Dispute resolution

[s 229]

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

(3) In this section—

*conduct* means an act or omission.

*representative* means—

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

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

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

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

(1) Schedule 1 states—

(a) matters that may be appealed to—

- (i) either a tribunal or the P&E Court; or
- (ii) only a tribunal; or
- (iii) only the P&E Court; and

(b) the person—

- (i) who may appeal a matter (the *appellant*); and
- (ii) who is a respondent in an appeal of the matter; and

- (iii) who is a co-respondent in an appeal of the matter; and
- (iv) who may elect to be a co-respondent in an appeal of the matter.

*Note—*

For limitations on appeal rights in relation to a development approval for development requiring social impact assessment, see section 106ZJ.

- (2) An appellant may start an appeal within the appeal period.
- (3) The ***appeal period*** is—
  - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
  - (d) for an appeal against a decision of the Minister, under chapter 7, part 4, to amend the registration of premises to include additional land in the affected area for the premises—20 business days after the day a notice is published under section 269A(2)(a); or
  - (e) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
  - (f) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
  - (g) for an appeal relating to the *Plumbing and Drainage Act 2018*—
    - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and*

*Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or

- (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
  - (iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
  - (iv) otherwise—20 business days after the day the notice is given; or
- (h) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note—*

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

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

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**230 Notice of appeal**

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
  - (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
  - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
  - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
  - (f) for an appeal to the P&E Court—the chief executive; and
  - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
  - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
  - (b) otherwise—10 business days after the appeal is started.

- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
  - (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
  - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department’s website for this purpose.

## 231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—

**decision** includes—

  - (a) conduct engaged in for the purpose of making a decision; and
  - (b) other conduct that relates to the making of a decision; and

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- (c) the making of a decision or the failure to make a decision; and
  - (d) a purported decision; and
  - (e) a deemed refusal.

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

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

## 232 Rules of the P&E Court

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

## Part 2 Development tribunal

### Division 1 General

#### 233 Appointment of referees

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