

19 October 2021

Enquiries: Daniel Lamond
Our Ref: MCUI 2021_4156/1 (1043405)
Your Ref: PR149569

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

Algona Developments Pty Ltd (Tte)
C/- RPS Australia East Pty Ltd
PO Box 1949
CAIRNS QLD 4870

Dear Sir/Madam

**Development Application for Material Change of Use – Air Services (helicopter pad and pilots accommodation)
At Captain Cook Highway MOWBRAY
On Land Described as LOT: 78 TYP: SR PLN: 416**

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

Please quote Council's application number: MCUI 2021_4156/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

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

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



Decision Notice

Approval (with conditions)

Given under section 63 of the Planning Act 2016

Applicant Details

Name: Algona Developments Pty Ltd (Tte)
Postal Address: C/- RPS Australia East Pty Ltd
PO Box 1949
CAIRNS QLD 4870
Email: ian.doust@rpsgroup.com.au

Property Details

Street Address: Captain Cook Highway MOWBRAY
Real Property Description: LOT: 78 TYP: SR PLN: 416
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit- Material Change of Use- Air Services (helicopter pad and pilots accommodation)

Decision

Date of Decision: 19 October 2021
Decision Details: Approved (subject to conditions)

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

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

Drawing or Document	Reference	Date
Site Plan	Plan prepared by Louis Jackson Design, Sheet 2109-02.1	20 July 2021
Plan Views	Plan prepared by Louis Jackson Design, Sheet 2109-02.2	20 July 2021
Elevations	Plan prepared by Louis Jackson Design, Sheet 2109-04.1	20 July 2021

10,000L Aviation Fuel Tank General Arrangement	IOR Aviation drawing, TA10	9 April 2021
Proposed Takeoff and Landing Flight Paths for Helipad	RPS Plan, Drawing PR149569-5	5 July 2021
Vegetation Retention and Maintenance Plan for Helipad	RPS Plan, Drawing PR149569-5	5 July 2021

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;
 - 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.

Flight Limitation

3. No more than five (5) helicopter movements from the site and five (5) helicopter movements to the site are permitted per day.

Operating times

4. Hours of operation are restricted to between 6:30am and 6:30pm Monday to Saturday. Helicopter flights are not permitted on Sundays or Public Holidays unless otherwise approved by the Chief Executive Officer.

Environmental Management

5. The helicopter must operate in accordance with the following restrictions at all times;
 - a. Before crossing the mangroves to the east of the site, the helicopter must elevate to a minimum of 50 metres above ground;
 - b. For landing the helicopter must be no less than 50 metres above ground before it enters the site boundaries;
 - c. The helicopter pilot must maintain surveillance for marine mammals (Dugongs, Whales and Dolphins).
 - d. The helicopter must not hover above marine mammals.
 - e. The helicopter must not go within 500 metres of any marine mammal.
 - f. If a marine mammal is sighted on the sand flats located adjacent and to the east of the facility, helicopter operations must cease from the facility until such time as the marine mammal has vacated the sand flats.

On-Site Effluent Disposal

6. The method of on-site effluent disposal must be in accordance with the Queensland Plumbing & Wastewater Code. Details of the wastewater treatment system to be installed must be approved by the Chief Executive Officer prior to the issue of a Development

Water Supply

7. The on-site water supply designated for use on site must be for a minimum of 30,000 litres of storage.

Vehicle Parking and Access

8. No less than three (3) vehicle parking spaces are to be provided on site.
The parking areas must be sealed, drained and line marked to the satisfaction of the Chief Executive Officer.

Vegetation Clearing

9. Existing vegetation on the land must be retained in all areas except those affected by the construction and construction of access driveways and/or the installation of services as detailed on the approved plans. Any further clearing requires assessment against the Planning Scheme where outside the self assessable requirements and exemptions.

Fuel Storage

10. All fuels must be stored in an undercover, secure and bunded location. The 10,000 litre Jet A1 certified tank is approved for use on site.

Sediment and Erosion Control

11. During construction sediment and erosion control measures must be in place in accordance with the Concurrence agency response conditions.

Building Height

12. Buildings must be no greater than 8.5 metres in height.

Building Colour

13. Exterior building colours must be consistent with shades of the natural environment and must not be white or reflective. Prior to the issue of a Development Permit for Building Work, exterior colours must be endorsed by the Chief Executive Officer.

Landscaping

14. The road frontage boundary must be landscaped with a three (3) metre wide landscaping planting buffer separating the facility from the road. The landscaping must be implemented prior to commencement of use and details of the planting must be provided on a landscaping plan to be endorsed by the Chief Executive Officer. The landscaping plan must be prepared in accordance with Planning Scheme Policy *SC6.7 Landscaping*.

Finished floor levels

15. The finished floor level for the buildings inclusive of fuel storage area, hangar and pilots accommodation must be no less than 3.548m AHD.

Further Development Permits

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

- All Building Work

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

Concurrence Agency Response

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

Currency Period for the Approval

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

Rights to make Representations & Rights of Appeal

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

A copy of the relevant appeal provisions are attached.

PROPERTY DESCRIPTION
LOT 78 CAPTAIN COOK HIGHWAY
HOWARTH, 4877 QLD
LOT AREA 5.259HA
SR416

LANDING AREA
HANGAR
COMPOSITION
PARKING (10 SPACES)
STORAGE
HARDSTAND

EXISTING DRIVE

201.84M 24°4'18"
211.88M 129°38'39"
241.32M 127°2'18"
211.88M 53°32'28"

4000 04.1
4 04.1

20000
92763
116.10M 121°55'22"
38343

DEVELOPMENT APPROVAL

REVISIONS

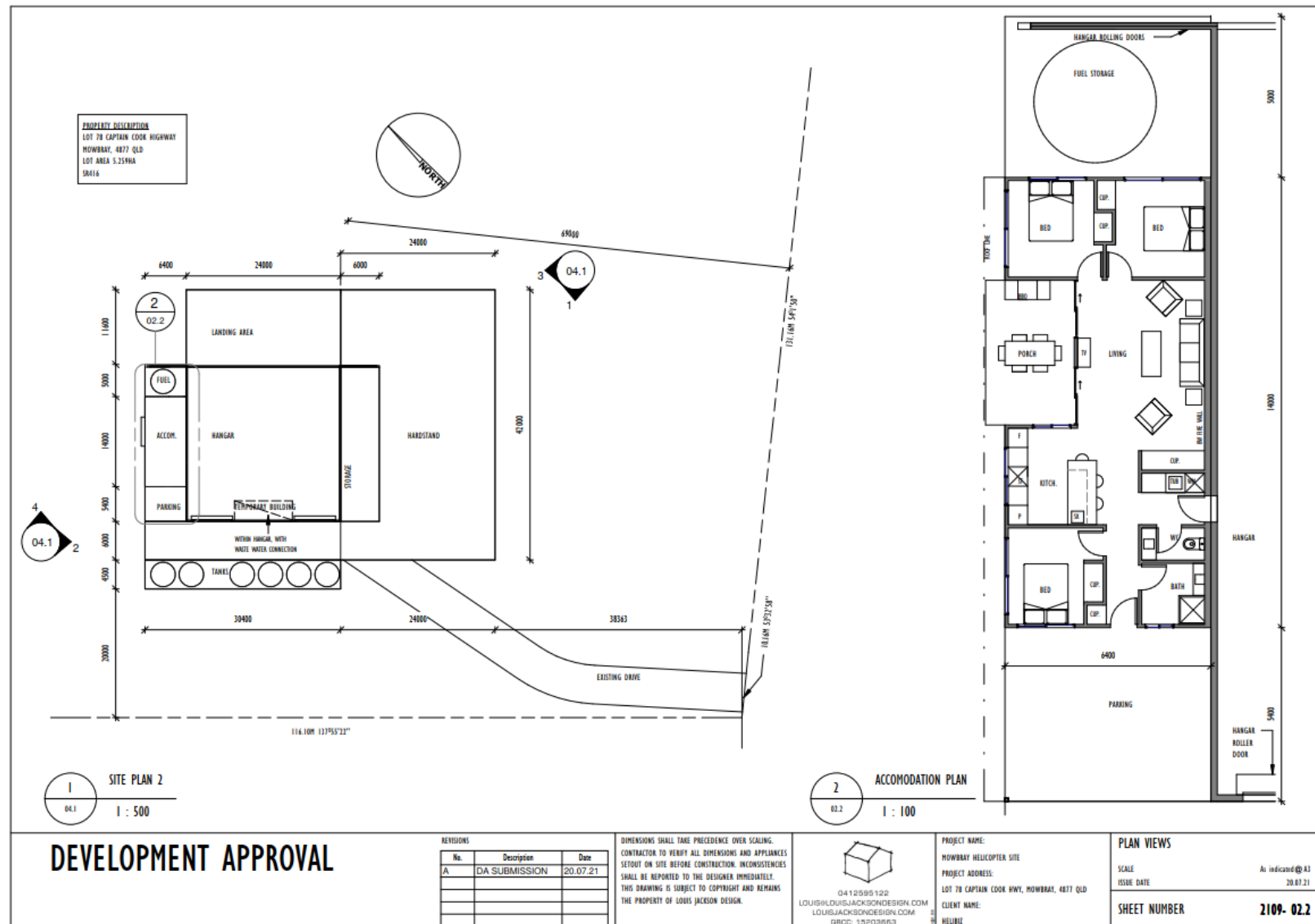
No.	Description	Date
A	DA SUBMISSION	20.07.21

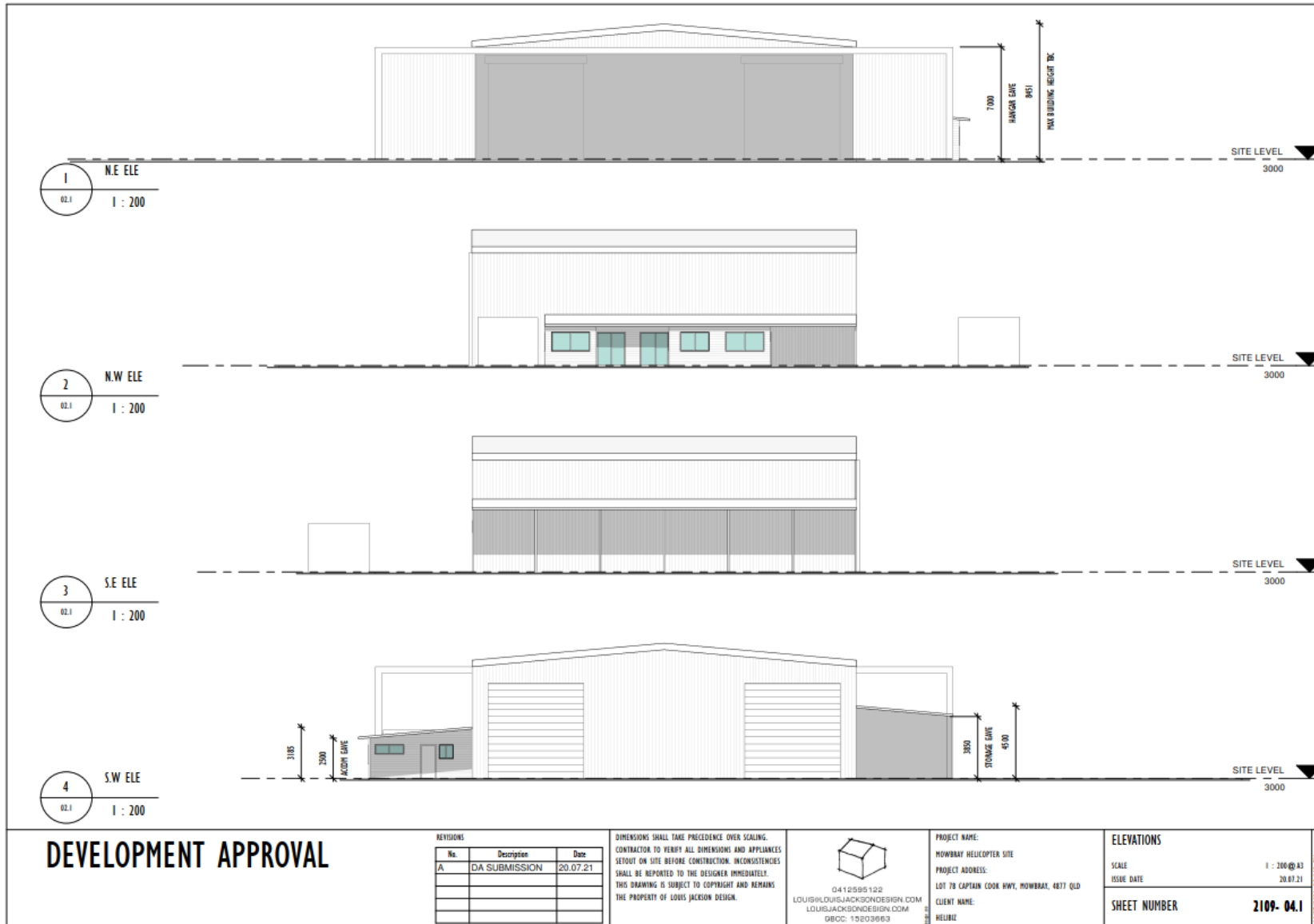
DIMENSIONS SHALL TAKE PRECEDENCE OVER SCALING.
CONTRACTOR TO VERIFY ALL DIMENSIONS AND APPLIANCES
SETOUT ON SITE BEFORE CONSTRUCTION. INCONSISTENCIES
SHALL BE REPORTED TO THE DESIGNER IMMEDIATELY.
THIS DRAWING IS SUBJECT TO COPYRIGHT AND REMAINS
THE PROPERTY OF LOUIS JACKSON DESIGN.

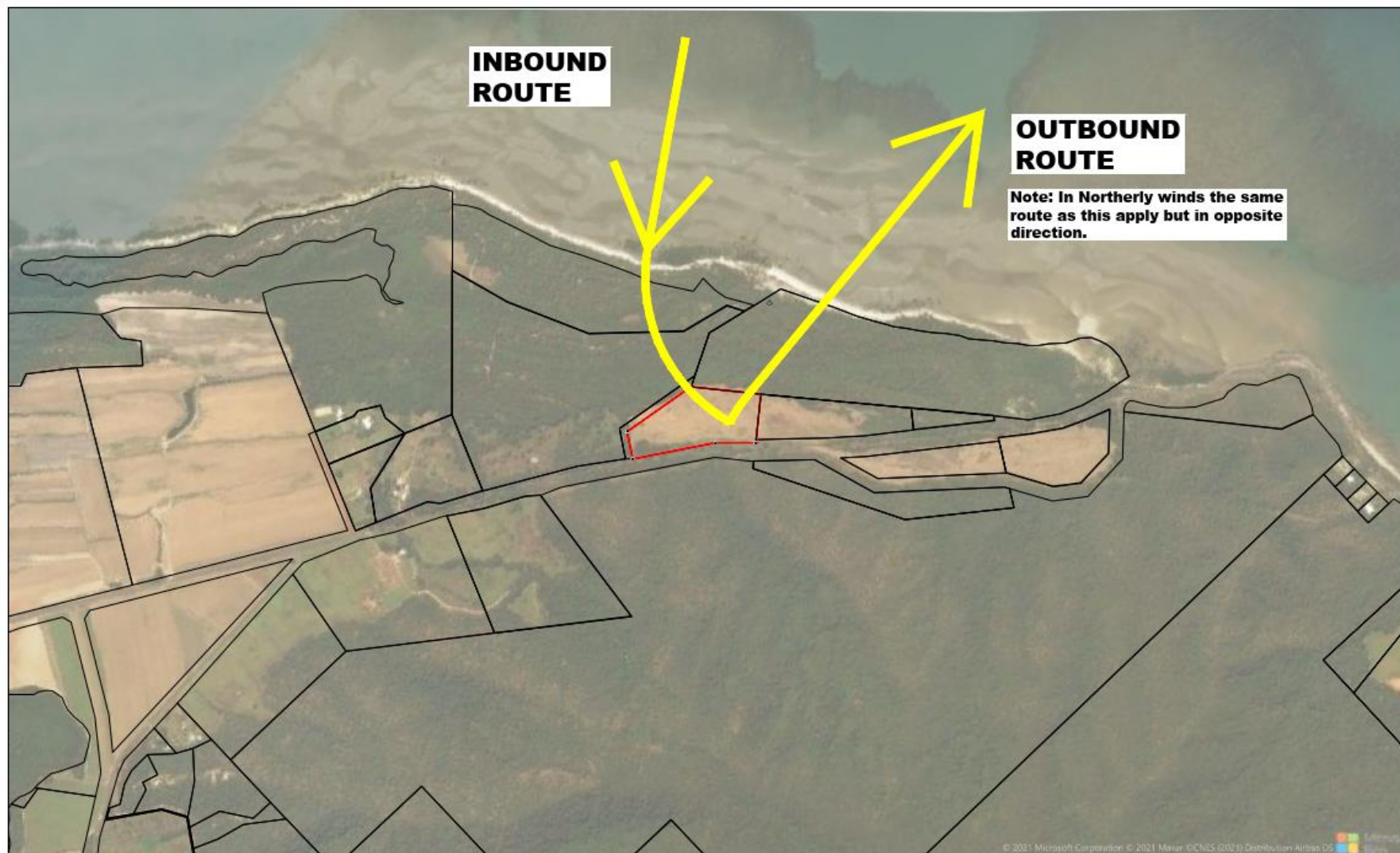
PROJECT NAME:
HOWARTH HELICOPTER SITE
PROJECT ADDRESS:
LOT 78 CAPTAIN COOK HWY, HOWARTH, 4877 QLD
CLIENT NAME:
REHUBZ

SITE PLAN
SCALE
ISSUE DATE
SHEET NUMBER

1 : 1000 @ A3
20.07.21
2109- 02.1







Mowbray Helicopter Site
 Proposed Takeoff and Landing Flightpaths for Helipad
 lot 78 SR416 - Captain Cook Highway, Mowbray

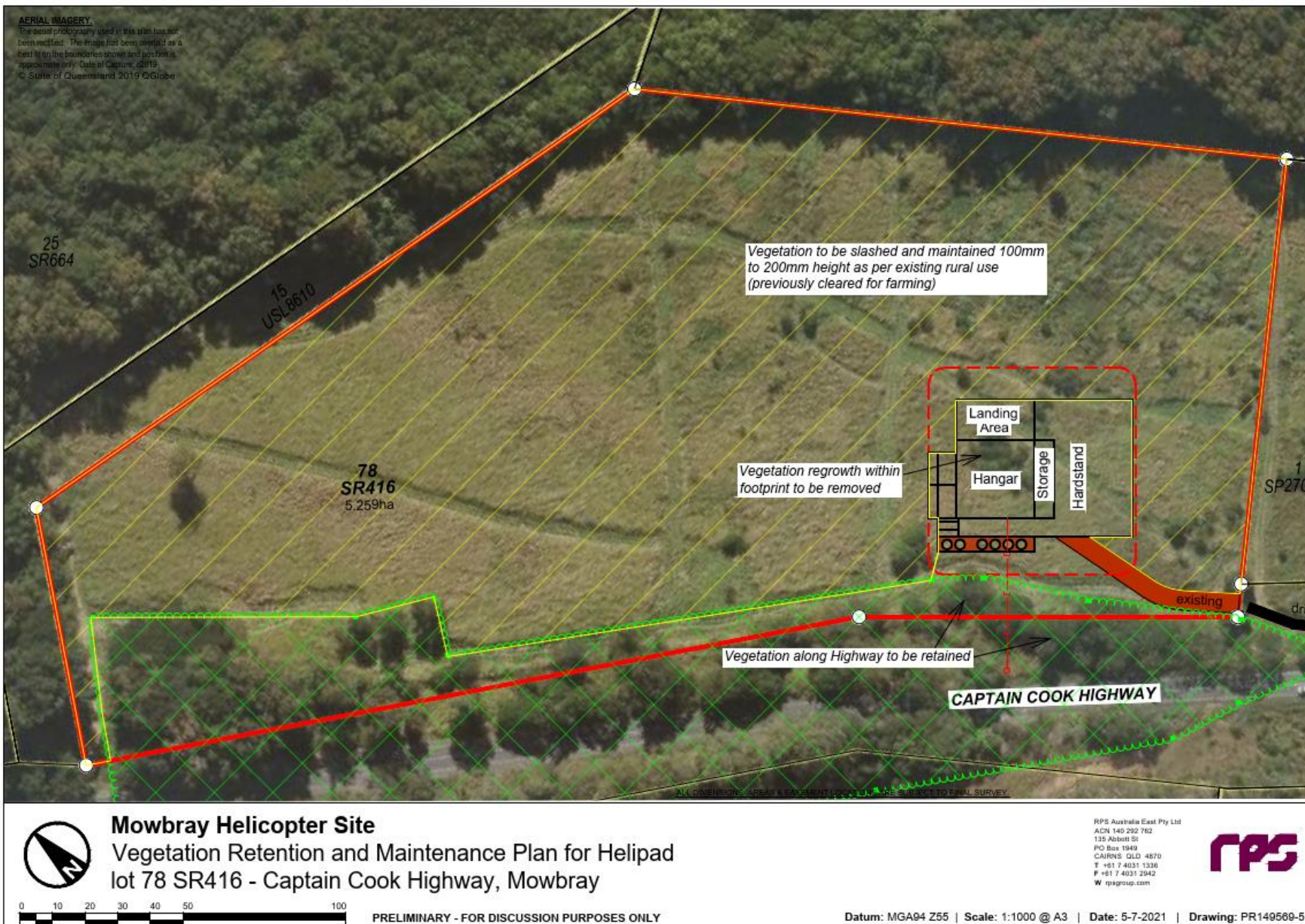


PRELIMINARY - FOR DISCUSSION PURPOSES ONLY

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 CAIRNS QLD 4870
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 W rpsgroup.com



Datum: MGA84 Z55 | Scale: 1:1000 @ A3 | Date: 5-7-2021 | Drawing: PR149569-5



Concurrence Agency Conditions

RA6-N



SARA reference: 2106-23029 SRA
Council reference: MCUC2021_4156/1
Applicant reference: PR149569

21 July 2021

Chief Executive Officer
Douglas Shire Council
PO Box 723
Mossman Qld 4873
enquiries@douglas.qld.gov.au

Attention: Daniel Lamond

Dear Sir/Madam

SARA response—Helicopter Base and Pilot's Accommodation at Captain Cook Highway, Mowbray

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

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 19 June 2021.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	21 July 2021
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Development permit	Material Change of Use for Air Services and Ancillary Use (Pilots Accommodation)
SARA role:	Referral Agency.	

SARA trigger: **Schedule 10, Part 20, Division 4, Table 3** (Planning Regulation 2017) Material change of use within a wetland protection area

Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017) Material change of use near a state-controlled road

SARA reference: 2106-23029 SRA

Assessment Manager: Douglas Shire Council

Street address: Captain Cook Highway, Mowbray

Real property description: Lot 78 on SR416

Applicant name: Algona Developments Pty Ltd

Applicant contact details: C/- RPS Cairns
135 Abbott Street
Cairns QLD 4870
ian.doust@rpsgroup.com.au

Representations

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

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

For further information please contact Anthony Westbury, Planning Officer, on 40373215 or via email CairnsSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Joanne Manson
A/Manager (Planning)

cc Algona Developments Pty Ltd, ian.doust@rpsgroup.com.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations provisions
Attachment 5 - Approved plans and specifications

Attachment 1—Referral agency conditions

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

No.	Conditions	Condition timing
Material change of use		
Schedule 10, Part 20, Division 4, Table 3, Item 1 – Material change of use of premises within a wetland protection area—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Environment and Science to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	Stormwater runoff leaving the site or discharging into the Wetland Protection Area (WPA) must not exceed a maximum concentration of 50 mg/L of total suspended solids.	At all times.
2.	<p>(a) A sewerage treatment plan must be prepared by an appropriately qualified person that establishes measures to reduce the risk of contamination of the groundwater dependent wetland, taking into account:</p> <ul style="list-style-type: none"> (i) nature of the substrate (ii) proximity of the aquifer to surface (iii) measures for monitoring (in particular monitoring contamination of groundwater and leachates into the wetland) (iv) measures for rapid clean-up and remediation should contamination occur. <p>(b) Submit the plan from part (a) of this condition to palm@des.qld.gov.au or mail to:</p> <p>Department of Environment and Science Permit and Licence Management GPO Box 2454 Brisbane Qld 4001</p> <p>(c) Undertake the development generally in accordance with the plan</p>	<p>(a) and (b) Prior to the commencement of works.</p> <p>(c) For the duration of the work.</p>
3.	Earthworks must only occur during April - October of the dry season.	For the duration of the works.
4.	Erosion and sediment control measures which are in accordance with the Best Practice Erosion and Sediment Control (BPESC) guidelines for Australia (International Erosion Control Association), are to be installed and maintained to prevent the release of sediment to Wetland Protection Area on Lot 118 on SR286, Lot 25 on SR664 and Lot 17 on USL8610.	For the duration of the works.
5.	Maintain an 82m wide buffer for the purpose of protecting the environmental values within the Wetland Protection Area as shown on Proposed Concept for Helipad, prepared by RPS Australia East Pty Ltd, dated 18.05.2021 drawing reference PR149569-1, revision C.	At all times.

6.	Prior to arrival on site, all vehicles and machinery is to be cleaned down in accordance with the Department of Agriculture and Fisheries <i>Queensland Vehicle and machinery checklists Clean-down procedures 2014</i> .	At all times during construction works.
Material change of use		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 – Material change of use of premises near a State transport corridor—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
7.	The road access location is to be located generally in accordance with TMR Layout Plan (20A – 54.49km), prepared by Queensland Government Transport and Main Roads, dated 25/06/2021, Reference TMR21-033283 (500-708) and Issue A.	At all times.
8.	Direct access is not permitted between the Captain Cook Highway and the subject site.	At all times.

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v2.6. If a word remains undefined it has its ordinary meaning.

Attachment 3—Reasons for referral agency response

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

The reasons for the SARA decision are:

- The subject site is adjacent to mapped wetlands and located within the wetland protection trigger area, with road frontage and existing vehicle access to Captain Cook Highway, a state-controlled road.
- The proposed development will be separated from the wetland by an 82m vegetation buffer of tall guinea grass which will assist in filtering and preventing chemicals such as hydrocarbons, septic tank seepage and heavy metals from entering the wetland.
- The proposed development is unlikely to change the existing surface water hydrology and adversely affect the wetland protection area, or significantly restrict the infiltration of rainwater into the groundwater table.
- Land degradation or soil degradation is unlikely to occur as a result of the proposed works.
- The proposed development is not likely to have adverse impacts to the water-quality of the wetland protection area.
- As the development is located at a high topography, the viability of the wetland is likely to be maintained with adequate management and monitoring practices in place.
- Given the proximity to the state-controlled road, it is unlikely that the use of helicopters in this area will cause measurable noise disturbance to fauna within the wetland protection area.
- Adverse impacts on matters of state environmental significance (MSES) have been avoided as the development is located outside of the areas containing the environmental values.
- The existing access is via a sealed shared access located approximately 170m from the subject site via an unsealed driveway. This access complies with the Department of Transport and Main Roads' access standards.
- There will be no significant change in the number of vehicles or types of vehicles utilising the existing shared vehicular access, and the proposed development will not require a new or changed access to the state-controlled road.
- The proposed development will be setback approximately 46m from the carriageway of the Captain Cook Highway and screened by mature vegetation along the property boundary.
- Required excavation and filling is located approximately 20m from the Captain Cook Highway road reserve and is unlikely to impact the state controlled road.
- The subject site can be connected to council services, infrastructure and essential utilities without the connections being located in a state-controlled road.
- The pilot's accommodation is located at least 30m from the Captain Cook Highway and can be appropriately constructed to minimise traffic noise from vehicles using the state-controlled road.
- The proposed development is unlikely to compromise the safety, efficiency, and operating conditions of Captain Cook Highway.
- The proposed development will avoid adverse impacts on wetland environmental values.
- With conditions, the proposed development complies with the relevant provisions of the following:
 - o State code 1: Development in a state-controlled road environment.
 - o State code 9: Great Barrier Reef wetland protection area.

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version 2.6)
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system

Attachment 4—Change representation provisions

(page left intentionally blank – attached separately)

Attachment 5—Approved plans and specifications

(page left intentionally blank - attached separately)

**PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE**



SARA ref: 2106-23029 SRA

Date: 21 July 2021

Amended in red by SARA on
21 July 2021

In accordance with Condition 5, an 82m
buffer must be maintained between the
development and the adjacent wetland.

AERIAL IMAGERY

The aerial photography used in this plan has not
been rectified. The image has been overlaid as a
best fit on the boundaries shown and position is
approximate only. Date of Capture: 05/19
© State of Queensland 2019 QGIS/Geo

ALL DIMENSIONS, AREAS & EASEMENT LOCATIONS ARE SUBJECT TO FINAL SURVEY.



Mowbray Helicopter Site
Proposed Concept for Helipad
lot 78 SR416 - Captain Cook Highway, Mowbray



PRELIMINARY - FOR DISCUSSION PURPOSES ONLY

Datum: MGA94 Z55 | Scale: 1:2000 @ A3 | Date: 18-5-2021 | Drawing: PR149509-1 C

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- IMPORTANT NOTES**
1. This plan was prepared for the client for the specific purpose of accompanying an application to the Queensland Planning and Environment Department for a Development Approval. It is not to be used for any other purpose and does not constitute a contract. The client is responsible for the accuracy of the data and the client is not to be held responsible for any errors or omissions.
 2. RPS Australia East Pty Ltd will not be liable in negligence or otherwise for any direct or indirect loss, damage, liability or cost arising from the use of this plan.
 3. Third Party planning, zoning or mapping in the plan.
 4. RPS Australia East Pty Ltd does not warrant or represent that it is the owner of the land shown in the plan or that it is the owner of the land shown in the plan or that it is the owner of the land shown in the plan.
 5. Any easements or other rights or interests in the land shown in the plan are shown in the plan.
 6. The client is responsible for the accuracy of the data and the client is not to be held responsible for any errors or omissions.
 7. The client is responsible for the accuracy of the data and the client is not to be held responsible for any errors or omissions.
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 10. The client is responsible for the accuracy of the data and the client is not to be held responsible for any errors or omissions.



Branch/Unit:	Corridor Management / Far North District
Projection/Datum:	Geocentric Datum of Australia (GDA) 2020
Legend:	<div>Parcels</div> <div>Subject Land</div>

TMR Layout Plan (20A - 54.49km)

Queensland Government Transport and Main Roads		
Plan:	1 / 1	Issue:
		A
Date:	25/06/2021	
Drawn by:	File ref:	
RPK	TMR21-033283 (500-708)	

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Development Assessment Rules—Representations about a referral agency response

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

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

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

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

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

Part 7: Miscellaneous

30 Representations about a referral agency response

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

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

Reasons for Decision

The reasons for this decision are:

Sections 60, 62 and 63 of the Planning Act 2016:

to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and

to ensure compliance with the Planning Act 2016.

Findings on material questions of fact:

- a) the development application was properly lodged to the Douglas Shire Council on 3 June 2021 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.

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:

Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

Submissions

Submitter	Residential or Business Address	Electronic Address
John Lordan	Not provided	jlland1@bigpond.com
Dean Miller	Not provided	seadean@gmail.com
Helen Lac	Not provided	helen.h.lac@gmail.com
Mark Wright-Brown	Not provided	markwrightbrown@gmail.com
Jenna Rumney	Not provided	jennarumney@gmail.com
Douglas Shire Sustainability Group	Not provided	sustainabilitydouglas@gmail.com
Cairns and Far North Environment Centre	Not provided	director@cafneec.org.au
Lachie Templeton	Not provided	lachietemp@hotmail.com
Jonathan Huntley	1303 Mossman-Daintree Road, Rocky Point	Not provided
Aleksandra Srsa	27/ 12-16 Cannon St, Manunda QLD 4870	alex101@hotmail.com
Linda Rumney	10 Sherrington Road, Mowbray	lindarumney@gmail.com
Josh Gibson	Not provided	joshagibson4@gmail.com
Belinda Sheppard	5251 Captain Cook Highway, Mowbray	bellechef86@gmail.com

The principal grounds for submission against the proposed development include;

1. The subject site is zoned as "Rural" under the Douglas Shire Planning Scheme 2018.

Comment

The site and adjoining properties which contain the closest sensitive receptors are located within the Rural zone, which in accordance with the Douglas Shire Council Planning Scheme 2018 provides for:

- (a) rural uses including cropping, intensive horticulture, intensive animal industries, animal husbandry, animal keeping and other primary production activities;
- (b) opportunities for non-rural uses, such as ancillary tourism activities that are compatible with agriculture, the environmental features, and landscape character of the rural area where the uses do not compromise the long-term use of the land for rural purposes;
- (c) protect or manage significant natural resources and processes to maintain the capacity for primary production.

The proposal is not at odds with the planning intent for the Rural zone and has been proposed and conditioned carefully to be compliant with its purpose. Although an Air Services use is not a rural activity or a Rural use, if it can be demonstrated that it does not create significant impacts affecting the overall outcomes sought for the zone. The site has not been used for primary production and is poor in quality for such a use due to its physical constraints (size, elevation, soil quality etc). The site provides for an appropriate location for air services due to its proximity to sensitive uses and constrained primary production characteristics.

Further, within the Rural zone, large sheds can be developed for rural uses via self assessable code considerations so the development of the facility is considered to not be out of character. The facility takes the appearance of a large shed with site cover of 2% and siting of the helicopter landing pad behind the shed to mask the use of the site.

2. The impact of the proposed development upon the environmental values and recreational values.

Comment

Most submissions detailed concerns over the proposed developments impacts on the site and surrounding areas environmental and recreational values.

Noise as an impact on the recreational use of the sand flats at Yule Point was raised as well as noise impacting future houses and existing houses to be developed on adjoining and surrounding properties.

Recreational use of the Yule Point sand flats is popular but the claim that the arrival and departure of a helicopter from time to time will substantially affect the amenity of the area is unrealistic. The coastline is already an existing popular scenic route for helicopter charter companies in the region and it is not uncommon to see this activity occurring. The helicopter taking off and landing at the site means that the duration of the noise impact is in the order of about 2-3 minutes, which is negligible. Officers note that excessive use of the site has the potential to cause a level of discomfort for neighbours and Yule Point users, so a condition has been imposed to rule out helicopter operations on Sundays and public holidays unless of a particular need requiring express permission from time to time.

The planning framework considers noise impacts at existing sensitive land uses to be the primary concern for particularly loud uses. A submission was received detailing that the noise impact will render the neighbouring allotment unsuitable for a future dwelling house land use and this is noted but considered unreasonable as the site may never be developed for a sensitive use. Further, a dwelling house land use is not the only land use able to be developed at the adjoining site and this approval may give rise to additional opportunities for use at the neighbouring site.

There was a submission received in relation to noise impact for a sensitive land use to the South of Yule Point 1.7 kilometres from the facility. The dwelling house that the submission was based on is sited at the base of a hill with a ridge line 58 metres above the house. The take-off and landing of helicopters at the facility will not be to the detriment of the amenity at the house 1.7 kilometres away.

3. Setbacks to the State controlled transport corridor;

Comment

The State Transport Corridor known as Captain Cook Highway at the sites frontage requires a building setback of 40 metres under the Planning Scheme. The proposal is for a 20 metre highway frontage setback. The facility is constrained on the land by land levels decreasing toward its seaward boundary rendering the proposed development site on the land the most appropriate area on the site for construction. Further, the area in between the proposed building area and the highway includes a strip of vegetation in the road reserve which provides screening qualities to be increased in thickness by three metres as part of the landscaping condition imposed. With this imposed the development is able to be consistent with the Rural character of the area.

4. The need for the development and the proximity of the site to the existing Port Douglas air services facility known as Paddy's Air Park;

Comment

The proposal provides a suitable facility in the region for non-tourist purposes inclusive of helicopter access and lifting operations. The 'Paddy's Air Park' facility located 8 kilometres to the north on Captain Cook Highway is a private facility known as the Nautilus Aviation scenic tourist flight facility which cannot cater for the needs of a non-tourist helipad facility. Paddy's Air Park cannot cater for the additional number of flight movements required as it has conditions limiting daily movements and does not have capacity in the existing hangars to accommodate the use.

Further, there are seven sensitive land uses within 850 metres of the Paddy's Air Park on an open plain so an increase in intensity of the use at this site may be unreasonable and unsupportable.

5. The existing habitat values – cassowary, mangrove communities, dugong habitat and in shore reef habitat;

Comment

The site is adjacent to mapped habitat for cassowaries, birds, dugongs and a range of biodiversity, however, impacts have been mitigated through imposition of conditions and the relatively small scale of development being proposed. The site is clear of vegetation with the exception of the odd small low value re-growth tree and has historically been used for cattle grazing. It is important to recognise that the site is adjacent to a major transport corridor so vehicle noise has historically affected adjacent habitat areas. The cassowary habitat issue raised in the submissions relates to a previous proposal to clear vegetation for an animal husbandry use on a nearby site and is not comparable to this proposal as no remnant vegetation clearing is being proposed.

Concern is raised with the impact of down draught from helicopters on the mangrove ecosystem to the east of the site. A condition has been imposed to require that the helicopter must elevate to a minimum of 50 metres above ground before crossing the mangrove vegetation line. For the lifting helicopters, downdraught is eliminated by this height. It is well known that helicopters must take off into the wind therefore requiring a horizontal distance to traverse while elevating. The siting of the helipad allows 90 metres of horizontal distance to utilise before crossing the mangrove line where the trees start, for take-off. The condition also reflects this requirement for landing.

Concerns relating to disturbance of dugongs feeding on the seagrass beds of Yule Point are recognised by officers. The area is known habitat for the marine mammals. It is noted that dugongs can only be present in the intertidal seagrass meadows and banks during high tide. The Commonwealths Department of Agriculture, Water and the Environment have released the Australian National Guidelines for Whale and Dolphin Watching (2017) which can reasonably be applied to dugong interaction given they are also a marine mammal. The guidelines give separation and manoeuvring distance requirements for boats, personal watercraft and aircraft. A condition has been formulated consistent with the guidelines to require that the helicopter pilot must maintain surveillance for marine mammals (dugongs, whales and dolphins). The helicopter must not hover above marine mammals and the helicopter must not go within 500 metres of any marine mammal. In addition, if a marine mammal is sited on the sand flats located adjacent to the east of the facility, helicopter operations must cease from the facility until such time as the marine mammal has vacated the sand flats.

6. Wetland Protection Area and High Impact Earthworks

Comment

The site is within the Wetland Protection Trigger Area within the State DA mapping. The Department of Environment and Science have issued a set of conditions through the State Assessment and Referral Agencies concurrence response which are formulated to protect the natural values of the Wetland adjacent to the site. The site has historically been cleared and the Ecological Assessment submitted by the applicant confirms that the site does not contain wetlands with various mapping errors in the State mapping portraying constraints that do not exist. The proposed development will be sited 92 metres from the wetlands at the seaward boundary. The State Assessment and Referral Agency concurrence response provided on behalf of the Department of Environment and Science includes conditions relating to how the State interest (Wetland area) is protected from disturbance generally centred around regulation of earthworks during the construction period. Wetland protection in this case is the jurisdiction of the State however conditions have been formulated to control the risk of fuel storage at the site, earthworks

(discharge water quality) and helicopter down draught as part of Council's Assessment Manager conditions.

7. Linkage to the Port Douglas wave park development application;

Comment

The proposal is not linked in any capacity to the Wave Park development application.

8. Fuel Storage;

Comment

Fuel storage concerns have been raised primarily with respect to the wetlands at the sites seaward boundary. The applicant have provided detail of a 10,000 litre storage tank designed to Australian Standards which is bunded. Conditions have been imposed to require that all fuel storage is roofed, bunded, secured and sited to be immune of the 1 in 100 storm tide event level. This level includes 500mm of freeboard and is inclusive of an 800mm mean sea level rise by 2100.

Concerns were also raised in respect of bushfire risk to the fuel storage area however the setback distance to vegetation is adequate to be determined a low risk inclusive of the requirement to implement an additional three-metre-wide landscaping buffer at the sites frontage.

9. Need for permits over Marine Parks;

Comment

The requirement to hold a marine park permit not within the jurisdiction of the planning process. However, the applicant already holds a Great Barrier Reef Marine Park Permit to operate business.

10. Dust and flying object risk;

Comment

Dust nuisance has been raised as a concern however the facility is inclusive of hardstand sealed surface surrounded by grass so no dust impact is expected. Further, it is in the applicants best interest to mitigate dust for the safety of machinery and pilots, hence the proposal to seal all areas proposed for use.

Flying objects are not considered to be a significant risk given the helipad is separated from the highway by the hangar and the helipad is around 80 metres from the carriageway of the highway.

Planning Act 2016
Chapter 3 Development assessment

[s 74]

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

74 What this subdivision is about

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

75 Making change representations

- (1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
 - (a) a matter in the development approval, other than—
 - (i) a matter stated because of a referral agency's response; or

- (ii) a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
- (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- (3) Only 1 notice may be given.
- (4) If a notice is given, the appeal period is suspended—
 - (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
 - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
 - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
 - (ii) the applicant receives notice that the assessment manager does not agree with 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) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

76 Deciding change representations

- (1) The assessment manager must assess the change representations against and having regard to the matters that

- must be considered when assessing a development application, to the extent those matters are relevant.
- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
- (a) the applicant; and
 - (b) if the assessment manager agrees with any of the change representations—
 - (i) each principal submitter; and
 - (ii) each referral agency; and
 - (iii) if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
 - (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
 - (v) another person prescribed by regulation.
- (3) A decision notice (a ***negotiated decision notice***) that states the assessment manager agrees with a change representation must—
- (a) state the nature of the change agreed to; and
 - (b) comply with section 63(2) and (3).
- (4) A negotiated decision notice replaces the decision notice for the development application.
- (5) Only 1 negotiated decision notice may be given.
- (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

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

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

Note—

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or

- (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

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

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

231 Non-appealable decisions and matters

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

(4) In this section—

decision includes—

- (a) conduct engaged in for the purpose of making a decision; and
- (b) other conduct that relates to the making of a decision; and
- (c) the making of a decision or the failure to make a decision; and
- (d) a purported decision; and
- (e) a deemed refusal.

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

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

232 Rules of the P&E Court

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

19 October 2021

Enquiries: Daniel Lamond
Our Ref: MCUI 2021_4156 (1043405)
Your Ref: PR149569

Algona Developments Pty Ltd (Tte)
C/- RPS Australia East Pty Ltd
PO Box 1949
CAIRNS QLD 4870

Dear Sir/Madam

**Adopted Infrastructure Charge Notice
For Development Application Material Change of Use- Air Services (helicopter pad and
pilots accommodation)
At Captain Cook Highway MOWBRAY
On Land Described as LOT: 78 TYP: SR PLN: 416**

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

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

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

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

Please quote Council's application number: MCUI 2021_4156 in all subsequent correspondence relating to this matter.

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

Yours faithfully




Paul Hoyer
Manager Environment & Planning

encl.

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

Adopted Infrastructure Charges Notice

	2018 Douglas Shire Planning Schemes Applications
INFRASTRUCTURE CHARGES NOTICE	

Algona Developments Pty Ltd C/- RPS Australia East Pty Ltd	0	0	
DEVELOPERS NAME	ESTATE NAME	STAGE	
Lot 78 on SR416	Mowbray	Lot 78 on SR416	4688
STREET No. & NAME	SUBURB	LOT & RP No.s	PARCEL No.
Air Services (helicopter pad and pilots accommodation)		MCUC2021_4156	6
DEVELOPMENT TYPE		COUNCIL FILE NO.	VALIDITY PERIOD (year)
DOC ID 1041715	1		
DSC Reference Doc. No.	VERSION No.		

	Use	Charge per Use	Amount Due	Amount Paid	Receipt Code & GL Code
Proposed Demand					
Residential (Pilots accommodation)	1	\$ 24,143.38	\$ 24,143.38		Code 895 GL 07500.0135.0825
Industrial (Transport depot)	576m ²	\$49.24 per m ²	\$ 28,362.24		
Total Demand			\$ 52,505.62		
Existing Credit					
Less Credit for 3 Bedroom Dwelling house	1	\$ 24,143.38	\$ 24,143.38		
Net Demand			\$ 28,362.24		
Discount					
Non-sewer and non-water area discount (for non-residential use)	-60%	\$28,362.24	-\$ 17,017.34		
TOTAL			\$ 11,344.90		

Prepared by	D Lamond	12-Oct-21	Amount Paid	
Checked by	J Elphinstone	12-Oct-21	Date Paid	
Date Payable	MCU - Before the change occurs			
Amendments			Receipt No.	
			Cashier	

Note:

The Infrastructure Charges in this Notice are payable in accordance with Sections 119 and 120 of the *Planning Act 2016* as from Council's *Local Government Infrastructure Plan and Charges Schedule*.

Charge rates under the current Policy are not subject to indexing.

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 Environment & Planning on 07 4099 9444 or by email on enquiries@douglas.qld.gov.au

Subdivision 5 Changing charges during relevant appeal period

124 Application of this subdivision

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

125 Representations about infrastructure charges notice

- (1) During the appeal period for the infrastructure charges notice, the recipient may make representations to the local government about the infrastructure charges notice.
- (2) The local government must consider the representations.
- (3) If the local government—
 - (a) agrees with a representation; and
 - (b) decides to change the infrastructure charges notice;the local government must, within 10 business days after making the decision, give a new infrastructure charges notice (a *negotiated notice*) to the recipient.
- (4) The local government may give only 1 negotiated notice.
- (5) A negotiated notice—
 - (a) must be in the same form as the infrastructure charges notice; and
 - (b) must state the nature of the changes; and
 - (c) replaces the infrastructure charges notice.
- (6) If the local government does not agree with any of the representations, the local government must, within 10 business days after making the decision, give a decision notice about the decision to the recipient.
- (7) The appeal period for the infrastructure charges notice starts again when the local government gives the decision notice to the recipient.

126 Suspending relevant appeal period

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

Division 3 Development approval conditions about trunk infrastructure

Subdivision 1 Conditions for necessary trunk infrastructure

127 Application and operation of subdivision

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

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

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

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

Note—

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or

- (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

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

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

231 Non-appealable decisions and matters

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

(4) In this section—

decision includes—

- (a) conduct engaged in for the purpose of making a decision; and
- (b) other conduct that relates to the making of a decision; and
- (c) the making of a decision or the failure to make a decision; and
- (d) a purported decision; and
- (e) a deemed refusal.

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

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

232 Rules of the P&E Court

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