

13 March 2018

Enquiries: Jenny Elphinstone 07 4099 9842
Our Ref: MCUC 728/2015 (43.728.2015) (Doc ID 844596)
Your Ref: 18-00535-L1

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

Henson Pty Ltd
C/- GW Clegg & Co
PO Box 2144
TOOWONG BC QLD 4066

graham@cleggco.com.au

Attention Mr Graham Clegg

Dear Sir

**EXTENSION APPLICATION FOR DEVELOPMENT APPROVAL FOR A MATERIAL
CHANGE OF USE FOR SHOPS & OFFICES AT PORT DOUGLAS ROAD PORT
DOUGLAS ON LAND DESCRIBED AS LOT 193 ON RP747071**

Thank you for lodging the above Development Application with Council on 13 February 2018.

Please find attached the Decision Notice.

This notice also includes an Infrastructure Charges Notice issued in accordance with section 119 of the *Planning Act 2016*.

Please quote Council's application number: MCUC 728/2015 in all subsequent correspondence relating to this development application. Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9482.

Yours faithfully


PAUL HOYE
Manager Sustainable Communities

cc. SARA Cairns: Department of State Development, Manufacturing, Infrastructure and Planning,
CairnsSARA@dilgp.qld.gov.au

encl.

- Decision Notice
- Adopted Infrastructure Charges Notice

DECISION NOTICE — APPROVAL
(GIVEN UNDER SECTION 87 OF THE PLANNING ACT 2016)

Thank you for your development application detailed below which was properly made on 15 February 2018. Please be aware that Douglas Shire Council has assessed your application and decided it as follows:

1. Applicant's details

Name: Henson Pty Ltd

Postal Address: C/- Clegg Town Planning
PO Box 2144
TOOWONG BC QLD 4066

2. Location details

Street Address: Lot 193 Port Douglas Road, Port Douglas

Real Property Description: Lot 193 on RP747071

Local Government Area: Douglas Shire Council

3. Details of proposed development

Extension application for the Development Permit for the material change of use for Shops and Offices over land described as Lot 193 on RP747071, located at Port Douglas Road, Port Douglas, up to and including 25 March 2021.

4. Decision

Date of decision: 13 March 2018.

Decision details: Approved.

5. Approved Development

A copy of the approved development is included in Schedule 1.

6. 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; and
- All Operational Work.

Please be advised that approvals are also required for work under the *Plumbing and Drainage Act 2002*.

7. Properly made submissions

Not applicable — no part of the application required public notification.

8. Referral Agencies

A copy of the Decision is issued to the Referral Agency the Department of State Development, Manufacturing, Infrastructure and Planning, for the Department of Transport and Main Roads.

9. Currency period for the approval

This development approval has a currency period up to and including the 25 March 2021.

10. Adopted Charges

Adopted Infrastructure Charges apply to the extension and these are included in Schedule 2.

11. Rights of appeal

The rights of applicants 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*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

A copy of the relevant appeal provisions is included in Schedule 3.

SCHEDULE 1 – CURRENT APPROVAL

YOUR REF: 15-00342-L1
OUR REF: MCUC 728/2015 (455975)

27 May 2015

Henson Pty Ltd
C/- GW Clegg & Co
PO Box 2144
TOOWONG BC QLD 4066

Attention: Mr Graham Clegg

Dear Sir

**DECISION NOTICE UNDER S 383 SUSTAINABLE PLANNING ACT 2009:
DEVELOPMENT APPLICATION FOR
PORT DOUGLAS ROAD, PORT DOUGLAS**

Reference is made to your request to extend the relevant period for the abovementioned Development Application, which was determined at the Ordinary Meeting of Council on 26 May 2015.

The Development Permit is now valid up to and including 25 March 2018.

Council further resolved that the applicant be advised that conditions of Negotiated Decision MCU 3B 016/06 issued on 26 September 2006 remain applicable, except where varied by changes to conditions and the additional advice statements contained in Council's Decision Notice issued on 28 October 2013.

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

Should you have any enquiries in relation to this Decision Notice, please contact Jenny Elphinstone of Development and Environment on telephone number 07 4099 9482.

Yours faithfully

Donna Graham
Manager Development & Environment

Att

43.2015.726
1/19

APPENDIX 1: DECISION NOTICE ISSUED 28 OCTOBER 2013

**DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009**

INQUIRIES:	Meredith Harrison
PHONE:	087 400 3457
FAX:	087 404 3250
YOUR REF:	
OUR REF:	6740/2013.016.02/4107450

28 October 2013

Hanson Pty Ltd
C/- GW Pegg & Co
PO Box 2144
TOOWONG DC QLD 4066

Dear Sir/Madam

**DECISION NOTICE TO EXTEND RELEVANT PERIOD AND CHANGES TO
CONDITIONS OF APPROVAL FOR DEVELOPMENT APPLICATION FOR PORT
DOUGLAS ROAD PORT DOUGLAS**

With reference to the Request to Extend Relevant Approval and Changes to Conditions of Approval, please find attached the relevant Decision Notice which was determined under Instrument of Delegation on 28 October 2013.

Please note that this Relevant Period is extended for this Development Permit and is now valid up to and including 25 March 2015.

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

This notice also includes an Infrastructure Charges Notice issued in accordance with s64BF of the *Sustainable Planning Act*.

The following changes have been made to the Negotiated Decision Notice which was issued on 26 September 2006:

1. That condition 13 is deleted
13. ~~Pay a necessary contribution to Council in accordance with the Planning Scheme Policy towards the provision of water supply and sewerage infrastructure.~~

43.2015.726
2/19

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

Contributions must be paid at the rates applicable at time of payment and be based on the types of uses established.

Payment is required prior to commencement of use.

- 2 That the following advice statements be included in the notice of decision:
 - 1 A charge levied for the supply of trunk infrastructure is payable to Council towards the provision of trunk infrastructure in accordance with the Adopted Infrastructure Charges Notice, a copy of which is attached for reference purposes only. The original Adopted Infrastructure Charges Notice will be provided under cover of a separate letter.

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

Please note that this Decision Notice and the Adopted Infrastructure Charges Notice are stand-alone documents. The Sustainable Planning Act 2009 confers rights to make representations and appeal in relation to a Decision Notice and an Adopted Infrastructure Charges Notice separately.

The amount in the Adopted Infrastructure Charges Notice is subject to index adjustments and may be different at the time of payment. Please contact the Development Assessment Team at council for review of the charge amount prior to payment.

The time when payment is due is contained in the Adopted Infrastructure Charges Notice.
 - 2 All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council Officers, prior to commencement of works.
 - 3 This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
 - 4 For information relating to the Sustainable Planning Act 2009 log on to www.ds.lip.qld.gov.au. To access the NC&RCS Manual, Local Laws and other applicable Provisions log on to www.councils.lip.qld.gov.au.
- 3 All other conditions of the Negotiated Decision Notice for MC0135 016306 remain unchanged (copy attached)

**DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009**

Should you have any enquiries in relation to this Decision Notice, please contact
Michelle Henderson of Council's Development Services Team on telephone number
(07) 4089 9457.

Yours faithfully

Graham Boyd
Manager Development & Regulatory Services

Att.

43.2015 726
4/19

APPENDIX I: CONCURRENCE AGENCY RESPONSE

[illegible]11574 (1993) *Aspergillus*374 *Environ Biol Fish* (2015) 98:369–380

Figure 17: $\gamma_{\text{eff}}^{\text{eff}}$ vs. γ_{eff}

Next, we make the following definition:

On Port 20, the Router is configured to accept Port 20, as List 110 in FIG. 11B, 11.

The Department of Urban Development, Infrastructure, and Planning is responsible for the following: (1) MHEC (the Massachusetts Housing Endowment Fund) is a state corporation that provides financial assistance to the state's low-income housing stock; (2) the Department's participation in the development of the state's public housing program; and (3) MassHousing.

The Department of Social and Environmental Sciences, University of York, 100, 75th St., Toronto, Ont. M6P 3K5, Canada. E-mail: robert.hartmann@yorku.ca

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

43/2015/726

If you require any further information, please contact Tony Clarke, Principal Planner on 01740 491000, or via email tony.clarke@scot.nhs.uk for all who will be able to assist.

Yours faithfully,



Tony Clarke
Manager (Planning)

Coventry and Warwickshire, Warwickshire and Forests

Page 1

43.2015.726
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DECISION NOTICE DETAILS

APPENDIX 2: INFRASTRUCTURE CHARGES CALCULATIONS

[illegible][illegible]

APPENDIX 2: NEGOTIATED DECISION NOTICE MCU 3B 016/06



**SIGLARS
COMMUNITY**

NAME: Louise Styles - Planning Officer
Planning Services Section - 22 (07) 4079 0456
planning@douglas.gov.au

**CLERK
MCU 3B**

MCU 3B 016/06

D.G. Robertson Holdings
C/O C & R Group
PO Box 1946
Chairs QLD 4870

6th February 2007

**INTEGRATED PLANNING ACT
NEGOTIATED DECISION NOTICE
DEVELOPMENT APPLICATION**

Applicant's Name : D.G. Robertson Holdings
Owner's Name : D.G. Robertson Holdings
Proposal : Shops & Offices
Application Number : MCU 3B 016/06
Site Address : Car Port Douglas Road and Captain Cook Highway, Port Douglas
Property Description : Lot 192 on RP747071

1. Decision: Approved subject to Conditions **Decision Date:** 26 September 2006

Approved subject to Conditions

2. Type of Development Approval:

Material Change of Use **Development Permit**

3. Referral Agencies:

Queensland Department of Main Roads (conditions attached)

**ADMINISTRATION CENTRE
(ALL DEPARTMENTS)
14-18 FRONT STREET, MESSIAH**

**PHONE (07) 4079 0444 FACSIMILE (07) 4079 0402
INTERNET www.douglas.gov.au**

LIBRARY 14-18 FRONT STREET, MESSIAH

PHONE (07) 4079 0467 FACSIMILE (07) 4079 0402

**ALL COMMUNICATIONS TO BE
ADDRESSED TO:
THE DEPUTY EXECUTIVE OFFICER
PLANNING
14-18 FRONT STREET, MESSIAH**

43.2015 728
E/19

4. Conditions

Plan of Development

1. The approved development and the conduct of the approved use, the carrying out of any works on the premises and the construction of any buildings on the premises associated with the development must generally be in accordance with:
 - a. The approved plans of development No.DA/31 A and DA/32 A attached to this approval,
 - b. Except where such plans and/or specifications are modified by the terms of this approval.
2. A pathway shall be constructed to a minimum width of 2m from the entry to the existing supermarket to the pedestrian footpath located on Port Douglas Road. A formalised pedestrian crossing point is to be provided on the entry/exit point a minimum distance of 10m from the boundary of the site.

Amenity

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

Currency Period

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

Compliance

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

Footpath Damage Liability

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

Stormwater Drainage

7. All stormwater run-off from non-permeable surfaces and roof areas occurring on the site must be collected within the premises and discharged to the legal and practical point of discharge which has been nominated as the underground drainage system in Port Douglas Road.

8. The approved use must not:
 - a. interfere with the natural flow of stormwater;
 - b. cause ponding of stormwater on adjoining properties

Landscaping & Fencing

9. The landscape area adjoining the car parking area shall be protected from vehicles by a 120mm high vertical concrete kerb or similar obstruction.
10. The landscaping plan submitted with the proposed development, referenced as plan No 771760-SD-L1.01 Rev 01, 771760-SD-L1.02 Rev 01 and 771760-SD-L1.02 Rev 02 prepared by Vivo Design has been approved, as part of this development, except where otherwise stated as a condition of this approval.
11. The landscaping shown on the approved plan shall be completed before the development is occupied and maintained thereafter.

Works within the Access Easement

12. The applicant shall construct the following works external to the site in accordance with Council's adopted standards:
 - a. Street lighting to FNQROC Development Manual standards for a minor collector road (Section D8.07) and in accordance with AS/NZS 1158 for intersections.

Details and specifications for the above works shall be shown on the plans for building work.

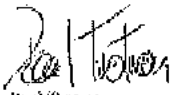
Security

13. To guarantee the satisfactory completion of the building, site works, landscaping, drainage works and any required works external to the land, and to ensure payment of headworks contribution, the applicant shall lodge with the Council a Cash Bond or Guarantee to the value of \$35,000, such Guarantee shall be lodged prior to the issue of a Development Approval for Building Works on the land in relation to this Development Permit. The Council may call up this Guarantee to complete all or any part of the works mentioned herein in accordance with the conditions of this approval, should the applicant fail to do so prior to issuing of a Development Permit for Building Work.

5. Further Development Approvals Required:

Building Work
Plumbing and Drainage Permit

Development Permit
Development Permit



Paul Tutton
General Manager – Development & Environment

43/2015 728
M019



11 August 2006

Mr T. Mitchell
Chief Executive Officer
Douglas Shire Council
PO Box 137
Musselie QLD 4871

Department of State Assets

DOUGLAS SHIRE COUNCIL	
RECEIVED	
FILE NAME: 43.2015.728	ACCOUNT NO. 43.2015.728
11 AUG 2006	
ATTENTION: <i>PTC</i>	
DESCRIPTION:	

Dear Mr Mitchell

Douglas Shire Council, Captain Cook Highway & Port Douglas Road
The Trolley Shopping Centre, Port Douglas
Lot 191 on RP 747071, Parish of Saldanha
DU: Robertson Holdings Pty Ltd
Proposed Material Change of Use (shops & offices) Application
Notification of Change Conditions of Development (NCD) as Referral Agency

I refer to:

- the above application received at the Department 26 July 2005 requesting consideration of the above development;
- the Department's letter of conditions of development dated 10 August 2005; and
- written representations from the applicant's consultants received at the Department 17 August 2005 requesting the deletion of conditions 2 and 4.

The Department has reviewed the intent of the conditions in the light of the representations made and a decision to delete conditions 2 and 4, and amend the Landscaping Works condition to include the form of the Deleted Physical Barrier condition.

In accordance with section 3.3.17 of the Integrated Planning Act 1997, the Queensland Department of State Assets, as a Concurrence Agency, has reviewed the impact of the proposed development on the state controlled road network, and requires that Council include the following amended conditions of development for the subject application:

A. AMENDED CONDITIONS OF DEVELOPMENT

1. Permanent Road Access Location

- Access between the State controlled road (i.e. Port Douglas Road) and Lot 191 on RP 747071 shall be via the access easement along the north-eastern boundary of Lot 191 on RP 747071 and the associated registered access easement along the north-western boundary of Lot 191 on RP 747071.
- No additional access between the State controlled road (i.e. Port Douglas Road) and Lot 191 on RP 747071 is permitted.

Local Councils and Region
Musselie QLD 4871
PO Box 137
LA 10011 Coverpages 1816
43.2015.728 11

On 11 AUGUST 2006
Forwarded: 11/08/06
Approved: MALCOLM HARRISON
Telephone: 07 4700 3016
Facsimile: 07 4700 3016

43.2015.728
11/08

- (iii) No direct access between the State-controlled road reserve (i.e. Captain Cook Highway) and Lot 121 or RP 741001 is permitted.

2. Landscaping Works

- (i) The applicant/landowner shall provide landscaping along the full frontage of the subject land to Port Douglas Road and Captain Cook Highway. The landscaping shall be designed generally in accordance with Main Roads Drawing Plan No. PD 85 (B) with a 3m wide strip, such that when the landscaping matures it provides a minimum of 1 metre high screening and complementary meet approximately 1 metre at 1 metre spacing.

The landscaping shall be designed to prevent headlight glare generated by vehicles on the subject land from affecting the safety of traffic travelling along Port Douglas Road and Captain Cook Highway and to prevent vehicles and pedestrians travelling directly between Port Douglas Road and Captain Cook Highway and the subject land.

- (ii) The species of plants used in the landscaping works shall be in accordance with Council's standards. If Council doesn't have standards, then the only requirement is that they are native, low maintenance species that are effective at providing a filtered view between the road and the building and do not create a safety risk (i.e. no thorns, heavy nuts or poisonous fruits or berries).

- (iii) The landscaping works shall be completed prior to, or in conjunction with the commencement of the approved use, to the satisfaction of the Director-General of the Department of Main Roads and the Chief Executive Officer of the Douglas Shire Council.

3. Advertising

No additional advertising device for the proposed development is permitted within the State-controlled road reserves (i.e. Port Douglas Road and Captain Cook Highway) to the existing signage.

4. Parking

When calculating carparking requirements associated with the proposed development no allowance shall be made for parking within the State-controlled road reserves (i.e. Port Douglas Road and Captain Cook Highway).

The landowner/applicant shall also provide adequate and safe on-site parking provision for:

- buses, with covered area for waiting patients,
- taxis, with covered area for waiting patients, and
- bicycles.

to the satisfaction of the Douglas Shire Council.

Reasons

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

- Department of Main Roads Access Policy,

- Department of City Roads Involvement in Development Applications Referrals and Assessment Guide, and
- Douglas Shire Planning Scheme.

11. GENERAL DISCUSSION

Council is requested to reflect the above conditions on its Rates Recroll, to ensure that the planning intention of the conditions are achieved.

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

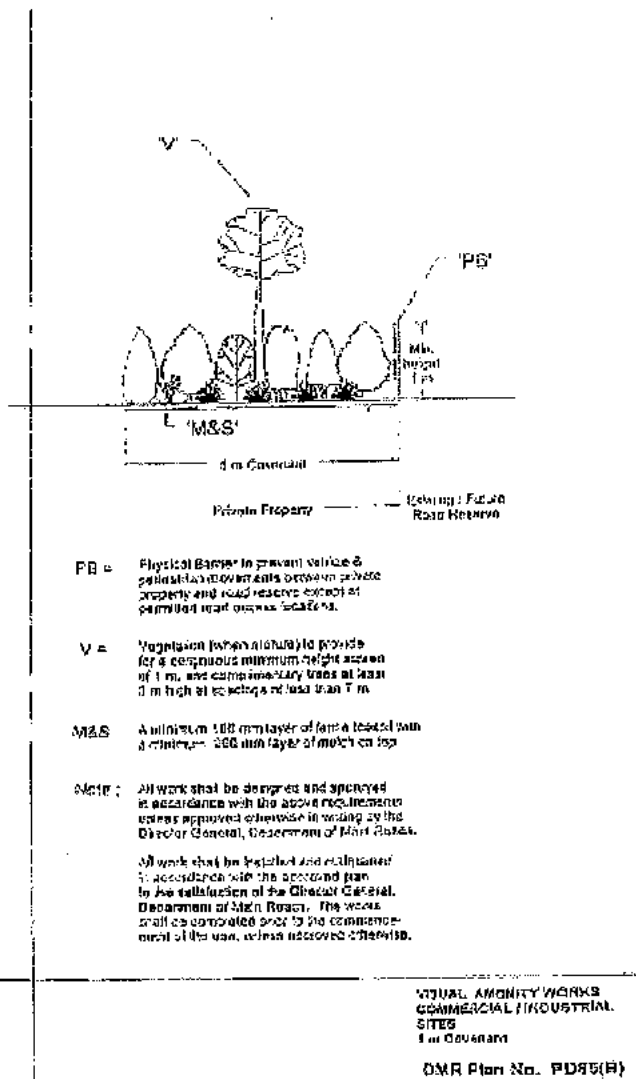
A copy of this letter has been sent to the applicant.

Yours sincerely,

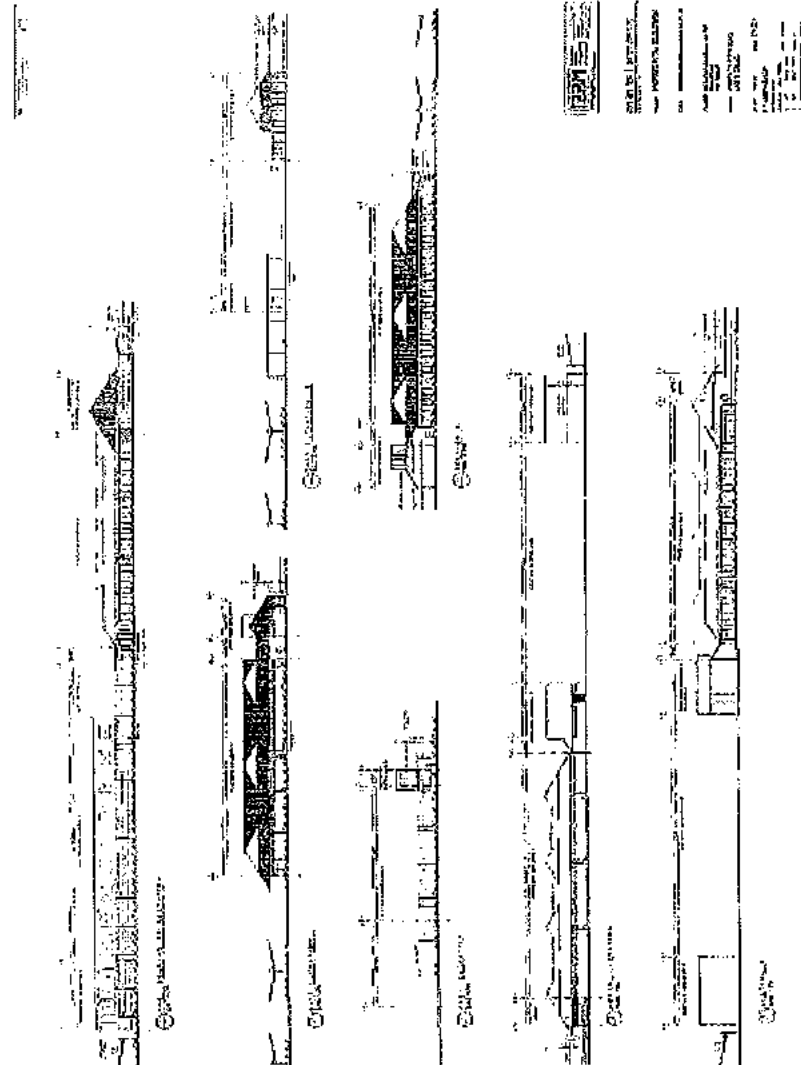


David Hubler
MANAGER (TRANSPORT PLANNING) PENINSULA

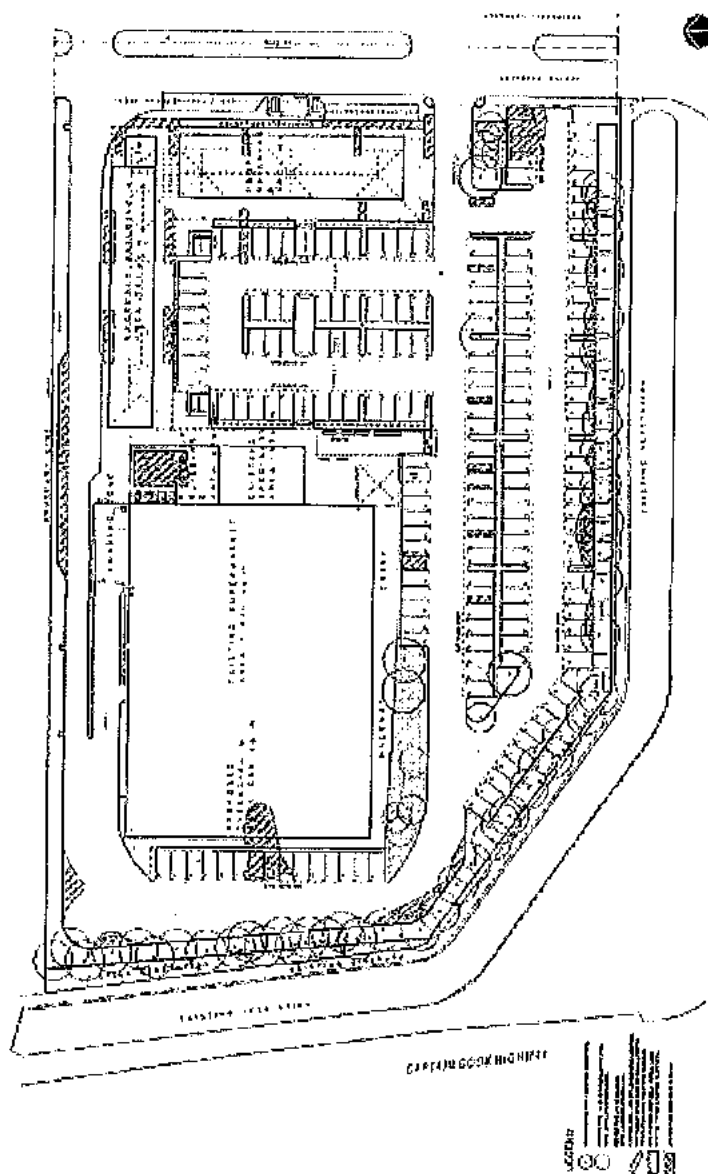
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14/19



43.2015 726
10/19



VIVO
 11/13/14

RAINFORST HABITAT SHOPS - LANDSCAPE CONCEPT PLAN
 11/13/14

43-2015-728
 17/19

**APPENDIX 3: LETTER FROM DEPARTMENT OF STATE DEVELOPMENT,
INFRASTRUCTURE AND PLANNING 2 MARCH 2015**



REPUBLIC OF SOUTH AFRICA
DEPARTMENT OF STATE DEVELOPMENT,
INFRASTRUCTURE AND PLANNING

Our reference: SDP/2015/04624
Your reference: RSD/2015/04624

2 March 2015

Chief Executive Officer
Douglas Shire Council
PO Box 723
Mossburn 2561, 4873

ceo@dsir@douglas-shire.gov.au

Dear Sir/Madam,

**Notice about request to extend relevant period
Material Change of Use (Shops and Offices)**

Lot or plan	Street address
183RP747071	Port Douglas Road, Port Douglas QLD

(The material change of use was submitted on 25 February 2015)

The Department of State Development, Infrastructure and Planning received written notice under section 240(1)(a) of the Sustainable Planning Act 2005 (the act) on 25 February 2015 advising the department, as a concurrence agency, of the request to extend the relevant period. The proposed extension to the relevant period is for a further 3 years until 25 March 2018.

The department has considered the request to extend the relevant period and advises that it has no objection to the extension being approved.

Yours faithfully

43/2015/728
18/19

If you require any further information, please contact Brett Burrows, Principal Planning Officer on 4067 3229, or via email b.burrows@wagfish.co.uk who will be pleased to assist.


1000 660

$$x_{k+1} = (1 + \alpha_k) x_k + \beta_k y_k, \quad \alpha_k \geq 0, \quad \beta_k \geq 0, \quad \alpha_k + \beta_k = 1, \quad x_0 = x, \quad y_0 = y.$$

• **Keynote:**

Doc ID 844596

SCHEDULE 2 ADOPTED INFRASTRUCTURE CHARGES

	2016 Douglas Shire Planning Scheme
ADOPTED INFRASTRUCTURE CHARGES NOTICE	

Hensan Pty Ltd (Tte)	0	MCUC
DEVELOPERS NAME	ESTATE NAME	STAGE
L193 Port Douglas Road	Port Douglas	L193 on RP747071
STREET No. & NAME	SUBURB	LOT & RP No.s
MCUC Shops and Offices		MCUC 726/2015
DEVELOPMENT TYPE		VALIDITY PERIOD (year)
D#843793	1	
DSC Reference Doc. No.	VERSION No.	

	Use	Charge per Use	Amount Due	Amount Paid	Receipt Code & GL Code
Rural Areas - Water Only					
proposed	0	0.00	0.00		
	0	0.00	0.00		
existing	0	0.00	0.00		
Total			0.00		
Urban Areas - Water only					
proposed	0	0.00	0.00		
	0	0.00	0.00		
existing	0	0.00	0.00		
Total			0.00		
Urban Areas - Water & Sewer					
Proposed additional floor area of 1598m ² , charged at the rate of \$50.10 per m ² .		1598	50.10	80,059.80	
	0	0.00	0.00		
	0	0.00	0.00		
	0	0.00	0.00		
Total			80,059.80		
TOTAL			\$80,059.80		

Code 895
GL 07500.0135.0825

Prepared by	J Elphinstone	19-Feb-16	Amount Paid
Checked by	D Lamond	27-Feb-16	Date Paid
Date Payable			
Amendments	Date	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 resolution from the Special meeting held on 24 June 2015.

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 the Development & Environment, Douglas Shire Council on 07 4099 9444 or by email on enquiries@douglas.qld.gov.au

SCHEDULE 3 – PLANNING ACT EXTRACT ON APPEAL RIGHTS

Planning Act 2016
Chapter 6 Dispute resolution

[s 229]

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.
- (3) In this section—
 - conduct* means an act or omission.
 - representative* means—
 - (a) of a corporation—an executive officer, employee or agent of the corporation; or
 - (b) of an individual—an employee or agent of the individual.
 - state of mind*, of a person, includes the person's—
 - (a) knowledge, intention, opinion, belief or purpose; and
 - (b) reasons for the intention, opinion, belief or purpose.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and

Current as at 3 July 2017

Page 203

Authorised by the Parliamentary Counsel

- (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 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, table 1, item 1—each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); 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 by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- (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 Other appeals

- (1) Subject to this chapter, 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 1901* 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.

13 March 2018

Enquiries: Jenny Elphinstone 07 4099 9842
Our Ref: MCUC 728/2015 (43.728.2015) (Doc ID 844596)
Your Ref: 18-00535-L1

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

Henson Pty Ltd
C/- GW Clegg & Co
PO Box 2144
TOOWONG BC QLD 4066

graham@cleggco.com.au

Attention Mr Graham Clegg

Dear Sir

**ADOPTED INFRASTRUCTURE CHARGES NOTICE FOR
EXTENSION APPLICATION FOR DEVELOPMENT APPROVAL FOR A MATERIAL
CHANGE OF USE FOR SHOPS & OFFICES AT PORT DOUGLAS ROAD PORT
DOUGLAS ON LAND DESCRIBED AS LOT 193 ON RP747071**

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

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

The amount in the Adopted Infrastructure Charges Notice is subject to index adjustments and may be different at the time of payment. Please contact Development and Environment at Council for review of the charge amount prior to payment.

These charges are payable prior to the change of use occurring in accordance with section 119 of the Act.

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.

Should you have any enquiries in relation to this Adopted Infrastructure Charges Notice, please contact Jenny Elphinstone of Development Assessment and Coordination, Sustainable Communities on telephone number (07) 4099 9482.

Yours faithfully

Paul Hoyer
Manager Sustainable Communities

Attch – Adopted Charges Notice

	2018 Douglas Shire Planning Scheme	
	ADOPTED INFRASTRUCTURE CHARGES NOTICE	

Hensan Pty Ltd (Tte)		0	MCUC
DEVELOPERS NAME		ESTATE NAME	STAGE
L193 Port Douglas Road	Port Douglas	L193 on RP747071	196
STREET No. & NAME	SUBURB	LOT & RP No.s	PARCEL No.
MCUC Shops and Offices		MCUC 728/2015	4
DEVELOPMENT TYPE	COUNCIL FILE NO.		VALIDITY PERIOD (year)
D#843793	1		

DSC Reference Doc. No.

VERSION No.

	Use	Charge per Use	Amount Due	Amount Paid	Receipt Code & GL Code
Rural Areas - Water Only					
proposed	0	0.00	0.00		
	0	0.00	0.00		
existing	0	0.00	0.00		
Total			0.00		
Urban Areas - Water only					
proposed	0	0.00	0.00		
	0	0.00	0.00		
existing	0	0.00	0.00		
Total			0.00		
Urban Areas - Water & Sewer					
Proposed additional floor area of 1598m ² , charged at the rate of \$50.10 per m ² .		1598	50.10	80,059.80	
	0	0.00	0.00		
	0	0.00	0.00		
		0.00	0.00		
Total			80,059.80		
TOTAL			\$80,059.80		

Code 695
GL 07500.0135.0825

Prepared by	J Elphinstone	19-Feb-18	Amount Paid	
Checked by	D Lamond	27-Feb-18	Date Paid	
Date Payable				
Amendments	Date	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 resolution from the Special meeting held on 24 June 2015.

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 the Development & Environment, Douglas Shire Council on 07 4099 9444 or by email on enquiries@douglas.qld.gov.au

Rights to Make Representations and Appeals Regarding Infrastructure Charges

Planning Act 2016
Chapter 4 Infrastructure

[s 124]

- (a) whether the levied charge under the notice may be paid other than as required under section 122 including whether the charge may be paid by instalments;
 - (b) whether infrastructure may be provided instead of paying all or part of the levied charge.
- (2) If the levied charge is subject to an automatic increase provision, the agreement must state how increases in the charge are payable under the agreement.

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—