DOUGLAS
SHIRE COUNCIL

PO Box 723 Mossman Qld 4873
www.douglas.qld.gov.au
enquiries@douglas.qld.gov.au
ABN 71 241 237 800

26 March 2019

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

Enquiries: Jenny Elphinstone Tel: 07 4099 9482
Our Ref: MCUI 2243/2017 (Doc ID 896086)
Your Ref: Ocean Safari, Cape Tribulation

Claxton Property Trust / Nothing Wrong Pty Ltd
C/ Peter Claxton
PO Box 106
CANNONVALE QLD 4802

Dear Sir

APPLICATION FOR A MINOR CHANGE
FOR THE MATERIAL CHANGE OF USE FOR REFRESHMENT SERVICES
AT 3903 CAPE TRIBULATION ROAD, CAPE TRIBULATION
ON LAND DESCRIBED AS LOT 14 ON RP33181

Council refers to the above applications lodged with Council on the 4 September 2017.

Please find attached the Decision Notice.

Please quote Council's application number: MCUI 2243/2017 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 Environment and Planning

encl.

- Decision Notice
- Schedule 1 – Conditions and Proposed Plans and Specifications
- Schedule 2 – Applicant's rights of appeal.

DOUGLAS SHIRE COUNCIL
DECISION NOTICE — APPROVAL (WITH CONDITIONS)
(GIVEN UNDER SECTIONS 81 & 87 OF *THE PLANNING ACT 2016*)

Council refers to the development application detailed below which was properly made on the 4 September 2017. Please be aware that Douglas Shire Council has assessed your application and decided it as follows.

1. Applicant's details

Name:	Claxton Property Trust / Nothing Wrong Pty Ltd
Postal Address:	C/ Peter Claxton PO Box 106 Cannonvale Qld 4802

2. Location details

Street address:	3903 Cape Tribulation Road, Cape Tribulation
Real property description:	Lots 4 on RP 733181
Assessment Manager:	Douglas Shire Council

3. Development permit

Development Permit for a minor change to the Refreshment Services originally approved under TPC34 on the 19 January 1982, amended under TPC159 approved on 15 May 1984 and further amended under TPC381 approved on the 1 December 1987 by the former Douglas Shire Council for the development of Refreshment services on land at 3903 Cape tribulation Road, Cape Tribulation, more particularly described as Lot 4 on RP733181,. A copy of the Development Permits are included in Attachment 2.

4. Details of the proposed development

A minor change to the Development Permit TPC 381 (and by association the previous approvals TPC34 and TPC 159) for the removal of vegetation and the construction of an open deck area with shade sails to the front of the premises generally in accordance with plans submitted with the application.

5. Decision

Date of Decision	26 March 2019
Decision details:	The application to change the Development Permit is approved in full with additional conditions and advices. These additional conditions and advices are set out in Schedule 1.

Reasons for supporting the decision, despite the conflict with benchmarks – as tabled below.

6. *Approved plans and specifications*

Copies of the following proposed plans, specifications and/or drawings are enclosed in Attachment 1 and are subject to the additional conditions included in Schedule 1.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Site Plans, Amended Floor Plan, Shade Sail Site Plan and Photograph of development	Applicant	Undated -as submitted to Council on the 20 August 2017	Refer to Council document ID 826186	No issue version and to be as varied by the conditions of the approval.

7. *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 2002.*

8. *Properly made submissions*

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

9. *Referral agencies for the application*

Not applicable.

10. *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(1)(a)(i) of the *Planning Act 2016.*

11. *Reasons for decision*

The reasons for this decision are:

1. Section 81 of the *Planning Act 2016*:

    a. The original application together with the approved minor changes as above;

    b. To ensure the development satisfies the benchmarks of the 1981 Planning Scheme for the whole of the Douglas Shire;

    c. To ensure the development satisfies the benchmarks of the 2018 Douglas Shire Council Planning Scheme; and

    d. To ensure compliance with the *Planning Act 2016*.

2. Findings on material questions of fact:

   a. The application for a minor change was properly lodged to the Douglas Shire Council on the 4 September 2017 under sections 78-80 of the *Planning Act 2016;*

3. Evidence or other material on which findings were based:

   a. Council undertook an investigation of assessment of the development, including the proposed minor change, against the State Development Requirements, the 1981 Planning Scheme for the Whole of the Douglas Shire and the 2018 Douglas Shire Council Planning Scheme in making its assessment manager decision;

   b. Council undertook an assessment in accordance with the provisions of section 81 of the *Planning Act 2016*; and

   c. The following findings are made:

      i. Subject to the additional assessment manager's conditions the development satisfactorily meets the planning considerations sufficient for the assessment of the applications against section 81 of the *Planning Act 2016*; and

      ii. In respect to section 83(9)(e) of the *Planning Act 2016*:

Benchmark reference	**Reasons for the approval or approval subject to conditions despite non-compliance with any of the benchmark.**
1981 Planning Scheme for the Whole of the Douglas Shire	
By-Law Part 3, section 3(4) and 3(5)(b) requires the setback of buildings and structures 10m from the road frontage.	By-Law, Part 2, 2 (a)-(o) inclusive and Part 2, 4 (a) to (h) inclusive allow discretion for variation and the development is considered to sufficiently satisfy the criteria on the following basis.
By-Law Part 4, 7(1) requires the provision of one car space per 10m^2 of dining areas open to the public	The development is not considered to change the use of the land. The extent of development is minimal in respect to the size and shape of the land. The building structure is open and intrudes only into the part of the frontage setback. The remainder of the development on the land is setback a significant distance from the frontage. The development is consistent with the character of the immediate area and the openness of the adjacent road and locality. The development does not adversely or detrimentally impact on development or amenity on adjoining land or the surrounding area. There are very limited shopping facilities in the area and the development does not impact on the existing or future amenity of the nearby facility. The development is consistent with the intent of the DCP and the Zone seeking a low scale tourist accommodation and associated facilities.

Benchmark reference	Reasons for the approval or approval subject to conditions despite non-compliance with any of the benchmark.
	The loss of a small amount of vegetation does not detrimentally impact on the biological significance of the area. The development is not considered to damage the environment to a major extent. The grassed area and low landscaping between the deck and the road is appropriate having regard to the alignment of the road works and footpath immediately adjacent to the property frontage. The openness of the design to the street and public footpath follows CPTED principles and improves public safety in the locality. The development is complimented with sufficient onsite services. The vehicle access is unchanged and a condition of the approval requires the upgrading of the onsite car parking area. A reduced number of car parking spaces is demanded as the dining area is available to both the public and guests staying on the property and nearby accommodation places. The building work is not considered to create a traffic hazard and council has undertaken works on the adjacent road to improve pedestrian safety and reduce conflict with vehicle movements. The shade sails can be removed and the area would be unusable, reducing risk to the public in severe weather events.
2006 Douglas Shire Planning Scheme	
Settlement Areas North of the Daintree River Locality Code	Despite not achieving Acceptable Solution A15, the development is considered to be consistent with the corresponding Performance Criteria P15 in that the extent of development and clearing is minimal and is not considered to detrimentally impact on the environmental values of the site. The new development is visible from the road and does not meet the Acceptable Solution A16 or the corresponding Performance Criteria P16. The development meets the Code purpose statements including that the development remains low key and sustainable, provided and adequate level of service and facilities to the area and an appropriate level of economic opportunity, the development is sensitive and sympathetic to the remote location and the unique Biodiversity and Scenic Amenity value.

Benchmark reference	Reasons for the approval or approval subject to conditions despite non-compliance with any of the benchmark.
Conservation Planning Area Code	The development does not meet the Acceptable Solution A2.1 as the clearing on the site exceeds 800m^2. The development is consistent with the associated Performance Criteria P2 as the development does not have an adverse effect on the conservation of scenic Amenity values of the site and the building structure is subservient to the surrounding natural environment. The new structure does not meet the minimum setback of 25 metres from the frontage to Cape Tribulation Road nominated under Acceptable Solution A3.1. The building structure is sufficiently screen from the adjoining properties as required under the associated Performance Criteria P3. While the structure is visible from the adjacent road, the development is considered to meet the Code Purpose in that the development does not effect the environmental, habitat, conservation or scenic values of that land or the surrounding area.
Vegetation Management Code	While part of the clearing meets the Acceptable outcome due to the siting within particular distances from buildings and infrastructure, part does not. The extent of clearing is minimal and is consistent with the associated Performance Criteria P1 including maintaining the character and amenity of the local area, damage does not fragment habitats, and the regions biodiversity and ecological values are maintained. The development does not meet the Acceptable Solution A3.1 requiring the retention of significant trees between the forward building line and the site frontage, nor does the damage meet the corresponding Performance Criteria P3, retaining significant trees in the streetscape. Despite this, considering the limited extent of vegetation removed from the overall site and the commercial nature of the land use, the development is considered to be consistent with the Code Purpose, being a balance providing for he protection and management of vegetation to facilitate sustainable development and to ensure the Region's biodiversity and ecological values, landscape character and amenity are maintained.

Benchmark reference	Reasons for the approval or approval subject to conditions despite non-compliance with any of the benchmark.
2018 Douglas Shire Planning Scheme	
Conservation Zone Code	As the development is setback less than 25m from the Cape Tribulation Road, the Acceptable Outcome AO3 is not achieved. The small opening in the vegetation on the site and the adjacent road area is a minimal interruption to the scenic route and does not detrimentally affect the scenic value of the area. The development is considered to satisfactorily align with the corresponding Performance Outcome PO3. The extent of clearing on the land, enabling all development, already exceeds 800m^2 and the Acceptable outcome AO4 is not achieved. The additional clearing and new building structure is a minimal. The development remains subservient to the surrounding environment. The development of all buildings and structures does not have an adverse effect on the conservation or scenic values of the site and surrounding area. The development meets the associated Performance Outcome PO4 and the overall outcomes sought for the Conservation Zone.
Cape Tribulation and Daintree Coast Local Plan Code	Acceptable Outcome AO28.2 limits development, other than a house, to existing cleared areas on the site. The corresponding Performance Outcome PO28 seeks development to complement, protect and enhance the environmental and scenic values of the site. The Purpose of the Code is achieved recognising the existing small-scale tourist accommodation and ancillary low-key activities based on and compatible with an appreciation of the natural environment an in appropriate locations. The development includes a new small clearing and a small scale expansion, meeting Performance Outcome PO29. The development meets the corresponding Performance Outcome PO28.
Vegetation Management Code	While part of the removed vegetation is beyond 3m from an existing structure, the removed vegetation is not considered to: detrimentally impact on the character and amenity of the local area; does not result in a fragmentation of habitats and does not detrimentally impact on the Shire's biodiversity and ecological values. The development is considered to satisfy the associated Performance Outcome PO1.

12. *Infrastructure charges notice*

The development does not trigger infrastructure charges as there is no additional floor area.

13. *Rights of appeal*

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions for the applications 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 are included in Schedule 2.

SCHEDULE 1 ADDITIONAL ASSESSMENT MANAGER CONDITIONS

The following additional conditions apply to the Development Permit TPC 381.

Approval Plans

13. 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.

Plans for Car Parking and Refreshment Services

14. A Site Plan must be provided that accurately identifies all development on the land to date and details the proposed deck and shade sail structure must also be included on a Floor Plan. A separate Elevation Plan must be provide for the deck and sail structure. These Plans must be drawn to a suitable metric scale.

    The Site Plan must include a car parking area to accommodate at least eight (8) car parking spaces towards the front of the site. The car parking spaces must be located off the existing driveway, near the southern boundary, and is to be suitably screened from the road and neighbouring properties with existing and/or planting with local endemic species. The surface of the driveway and associated car parking bays must be of a suitable gravel standard. The required Plans must be provided to the Chief Executive Officer within two months any required works must be undertaken within six months from the date of this planning approval for the new building deck structure. The design, finished construction and ongoing maintenance of the car parking area must be to the satisfaction of the Chief Executive Officer.

Timing of Effect

15. The conditions of the Development Permit must be effected prior to the Commencement of use of the additional floor area and structures, except or as specified otherwise in these conditions of approval.

Building Approval

16. Within three (3) months of the effect of this approval a Development Permit for Building Work must be achieved for the deck and associated sail structure and all requirements of that Permit must have been fulfilled.

The following Advice applies to the Development Permit TPC 381.

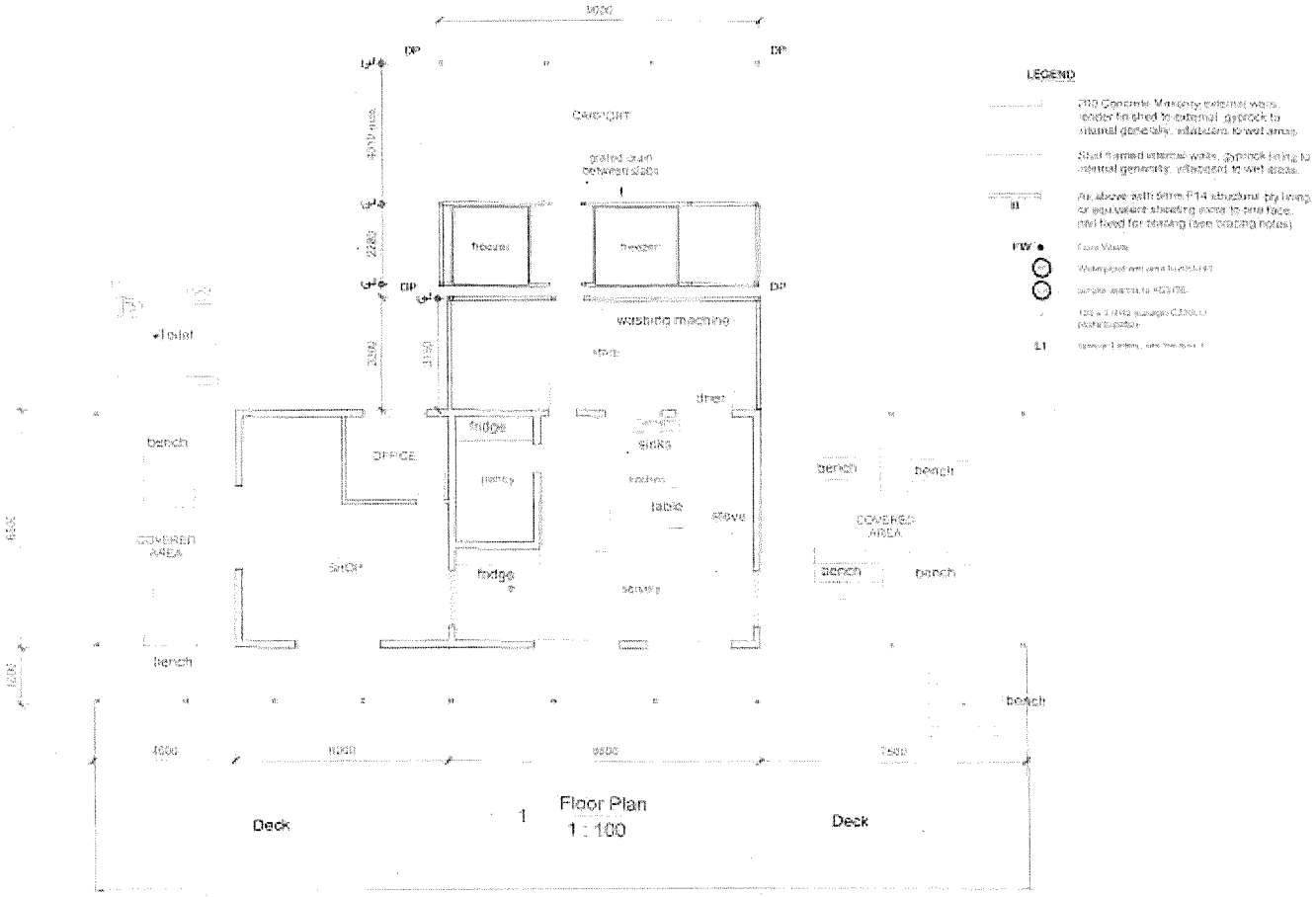
Advice

1. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements including the need to obtain building approval for the structure erected.

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 potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.

3. For information relating to the *Planning Act 2016* log on to www.dsdmip.qld.gov.au.. To access the *FNQROC Development Manual*, Local Laws and other applicable Policies, log on to www.douglas.qld.gov.au.

Attachment 1 Proposed plans and specifications
Amended Floor Plan



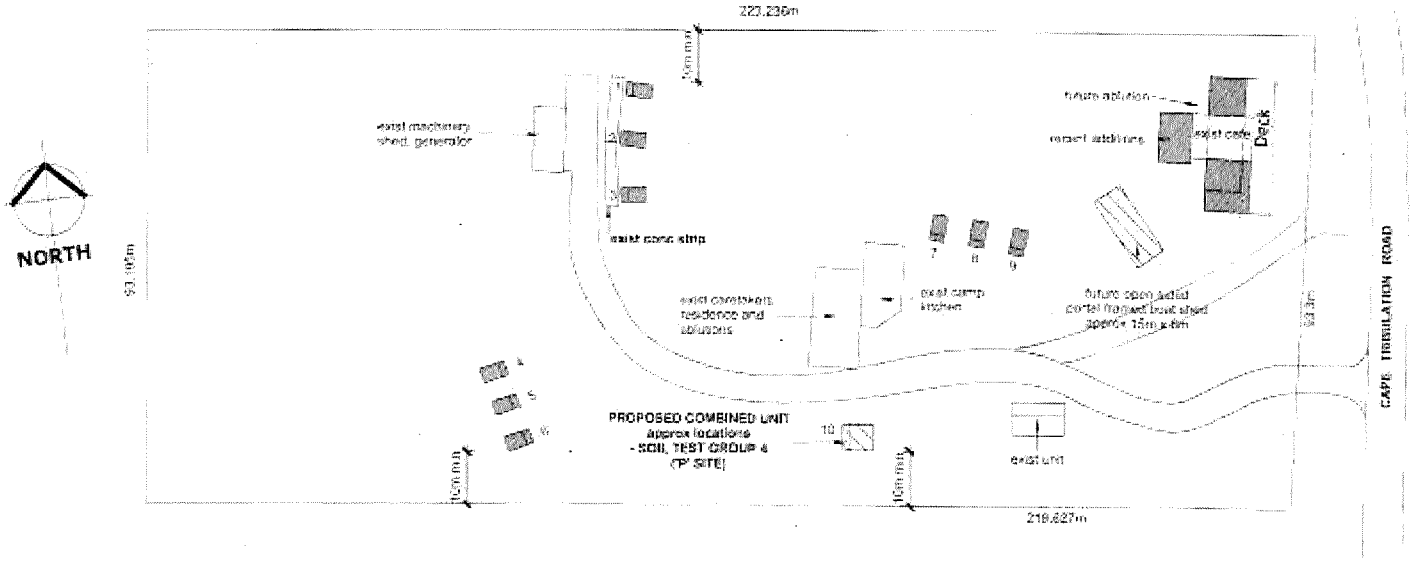
GREG SKYRING Design and DRAFTING Pty Ltd
11 Noll Close, Mossman Qld 4873

Proposed Additions to Shop,
L4 RP733181,
Cape TRibulation Road,
CAPE TRIBULATION

Safari Lodge and Turtle Rock Café | C2 | 301-13 | 2 of 4

1 : 100 | Floor Plan | prelim

Site Plan



Sheet List	
Sheet Number	**Sheet Name**
1 of 4	Site Plan, Sheet List
2 of 4	Floor, Foundation, Floor and Roof Framing Plans, Details
3 of 4	Elevations
4 of 4	Section 1, Notes

1 Site Plan
1 : 750

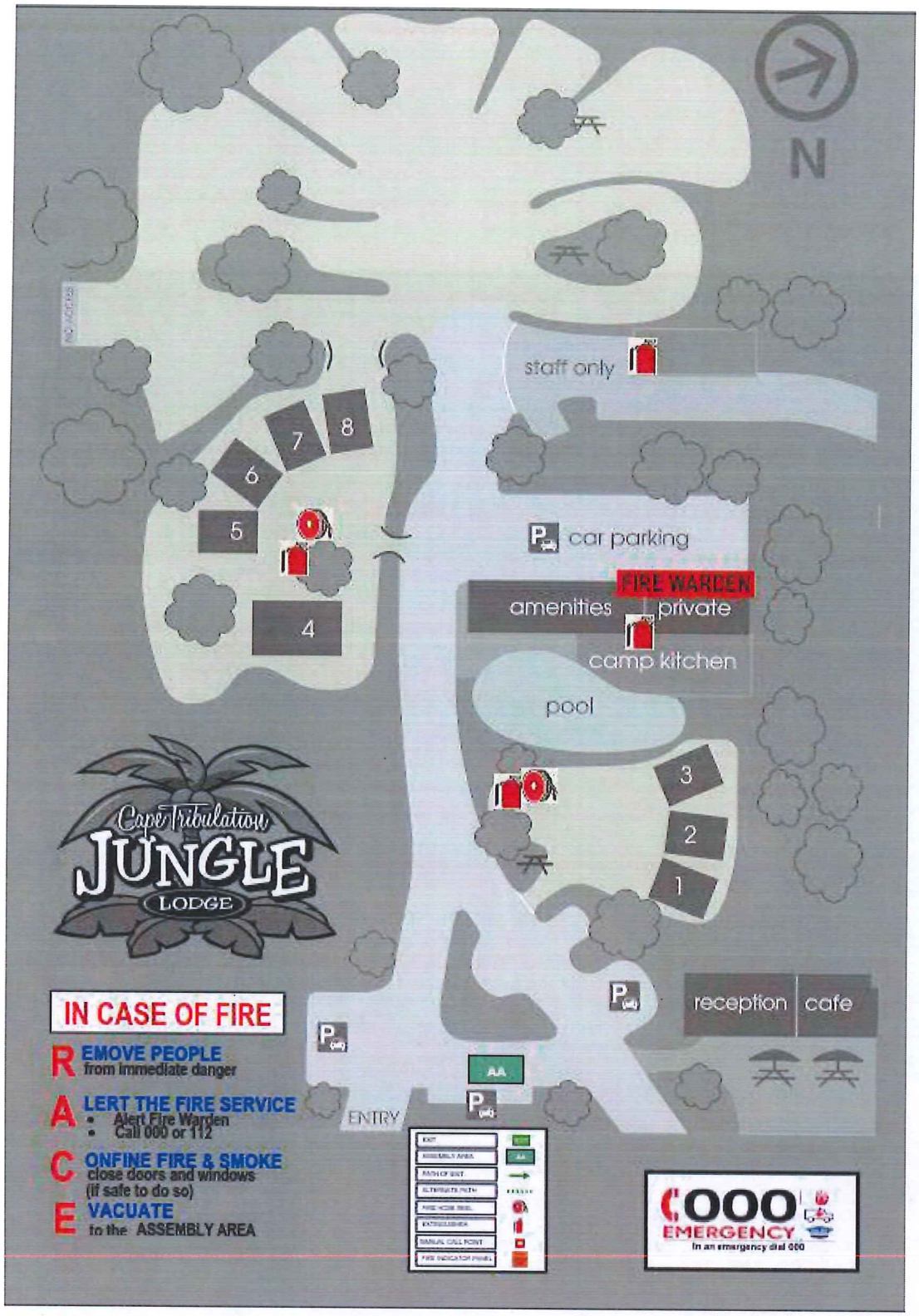
DATE CHECKED
USE FOR CONSTRUCTION
NOT APPROVED
APPROVED SUBJECT TO CONDITIONS IN ATTACHED LETTER
Michelle Doherty
ENVIRONMENTAL HEALTH OFFICER
DATE 13 July 2015

GREG SKYRING Design and DRAFTING Pty Ltd
11 Neil Close, Mareeba Q. 4873

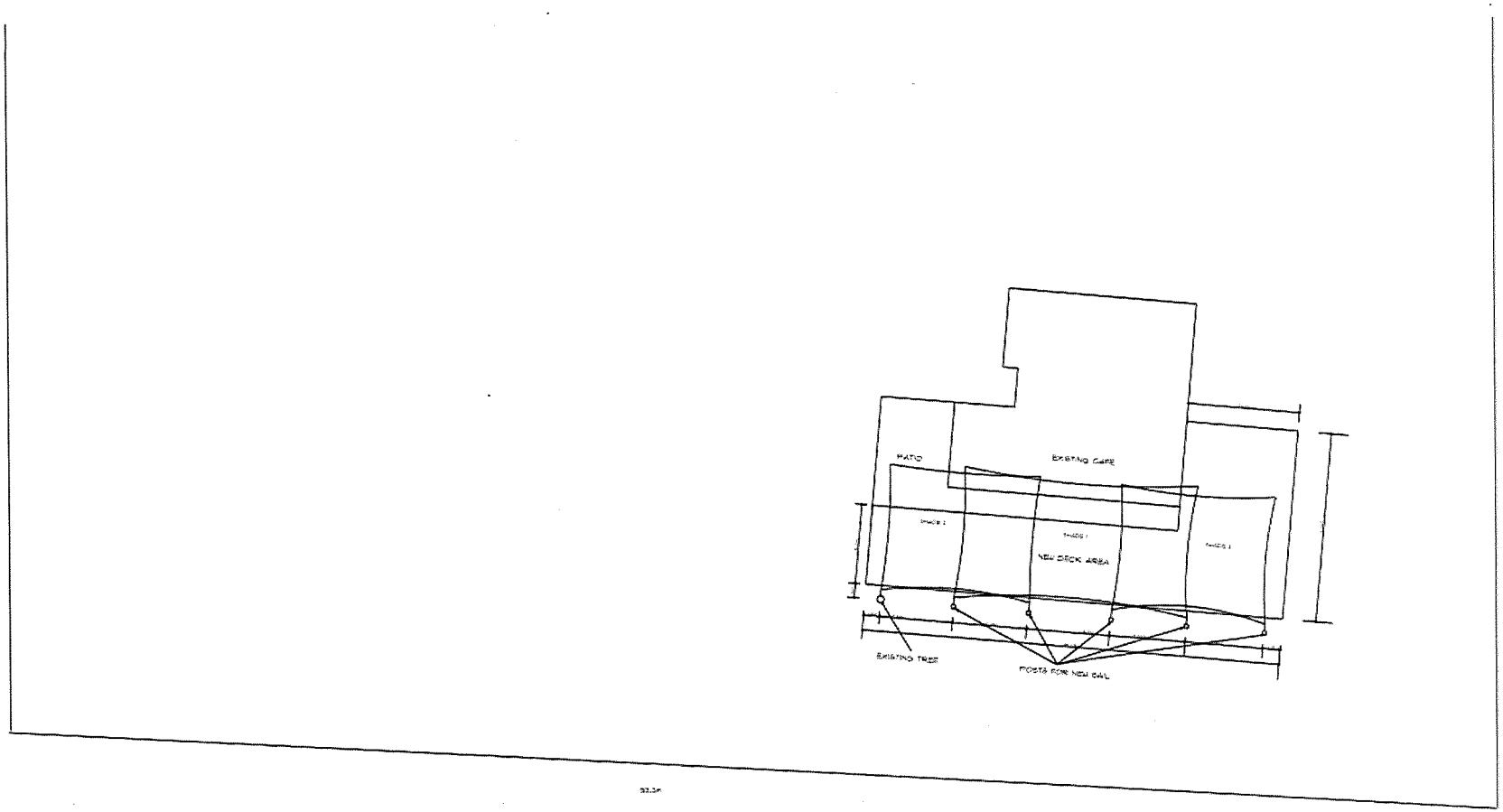
PROJECT: Proposed Staff Accomodation Double Unit. L4 RP733181. Cape Tribulation Road, CAPE TRIBULATION	CLIENT: Jungle Lodge and Boardwalk Cafe	WIND CLASS: C2	PLAN NUMBER: 603-14	SHEET: 1 of 4
	SCALES: 1 : 750	PLAN TITLE: Site Plan, Sheet List	DATE OF ISSUE: 01.04.14	REV: B

Building Structure

Site Plan


N
staff only
8
7
6
5
4
car parking
FIRE WARDEN
amenities
private
camp kitchen
pool
3
2
1
Cape Tribulation
JUNGLE
LODGE
IN CASE OF FIRE
R EMOVE PEOPLE
from immediate danger
A LERT THE FIRE SERVICE
• Alert Fire Warden
• Call 000 or 112
C ONFINE FIRE & SMOKE
close doors and windows
(if safe to do so)
E VACUATE
to the ASSEMBLY AREA
reception
cafe
AA
ENTRY
000
EMERGENCY
In an emergency dial 000

Site Plan of Shade Sails



Attachment 2 Original TP34 application approval

10. DOUGLAS SHIRE COUNCIL MINUTES 19/1/82

TOWN PLANNING APPLICATION NO. 34 - R. LOWE (B.S. Report)

GB&TP4. A.P. Mason, Mossman, 15.10.81, submitting an objection to the proposed use of an existing building on land described as Lot 7 on R.P. 33161, Parish of Noah, County of Solander for the purpose of Cafe, Take Away Food Services and Shop.

The objection as lodged by Mr. A.P. Mason was read in full to the Meeting.

Resolved that as the objection as lodged by Mr. A.P. Mason refers to land of a different description to that on which Mr. R. Lowe has made application to develop Cafe and Take Away Food Service such an objection cannot be classified as an objection to Mr. Lowe's proposed development.

Moved Cr. Weightman, seconded Cr. Watson, "That approval be granted to the Town Planning Application as submitted by R. Lowe of 26 Blackshaw Avenue, Mortdale for the development of a Cafe and Take Away Food Service on land described as Lot 4 on R.P. 33181, Parish of Noah, County of Solander subject to the conditions as recommended by the Building Surveyor in his Report of 18th January 1982 which recommendations are adopted."

CARRIED.

DOUGLAS SHIRE COUNCIL Page 20

BUILDING SURVEYOR'S REPORT CONTD.

7. Provision is to be made for the screening of clothes lines and other incidential structures in view of other properties and adjoining roads.

8. Carparking is to be provided as follows:-

One covered space for each dwelling unit.

RE: TOWN PLANNING SCHEME - APPLICATION NO. 34

One (1) objection has been received to the application and should Council grant approval to the application the following conditions should apply:-

1. Should, within a period of two (2) years from the date of this permit work on the development as approved not be commenced Council may implement action to revoke the approval as given.

2. The approval does not constitute a building permit and a building permit must be obtained before building operations proceed.

3. The food preparation area is to be approved by the Factories and Shops inspector and by Council's Health Surveyor prior to the operation of the cafe and take away food service commencing.

4. Car parking spaces for six (6) cars is to be approved by Council before the operation commences.

Rec'd 8/8/82 $80-00
1/12-81

APPLICATION NO. 34

DOUGLAS SHIRE COUNCIL

TOWN PLANNING SCHEME

APPLICATION FOR CONSENT

The Shire Clerk
Douglas Shire Council
P.O. Box 104
MOSSMAN, QLD.,4873

Dear Sir,

I/We hereby apply for consent to use or to alter the use, as the case may be, of land and/or building or other structure described hereunder for the following purpose:-

Real Property description of land for which consent is sought: LOT 4 R.P. 33181 PARISH OF NEAH

Postal Address of land: P.O. BOX 165 MANUNDA. 4870

Name of Registered Proprietor or lessee: R Lowe

Address: 26 Blackshaw Ave Mortdale 2223

Name of Applicant: R Lowe

Address: 26 Blackshaw Ave Mortdale 2223

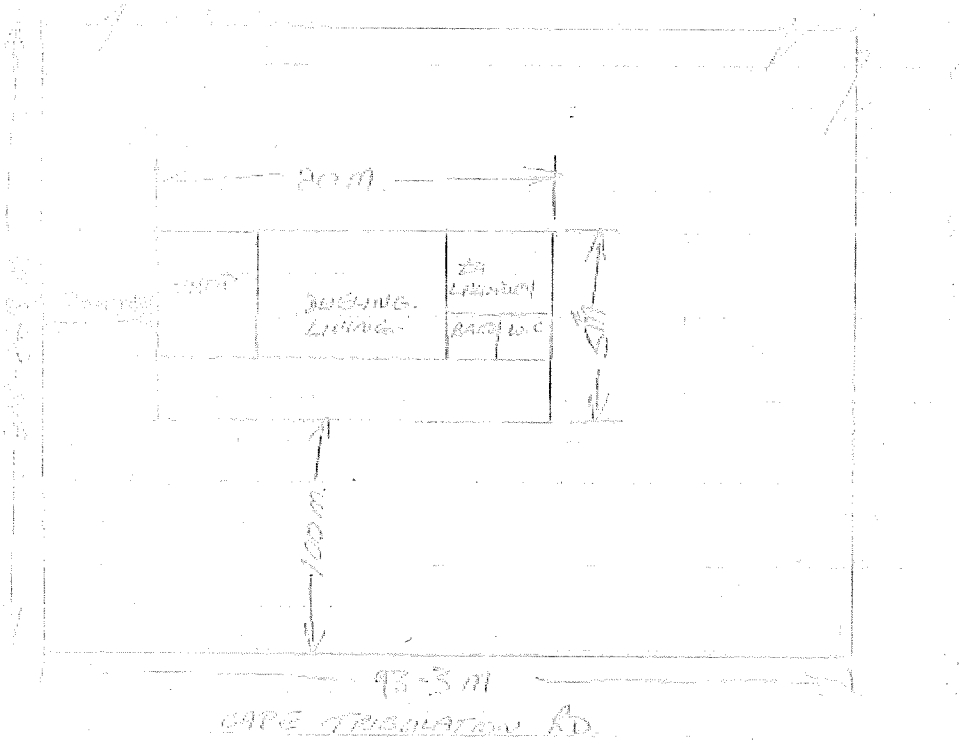
Name of Occupier: T & E PSZKIT

Use Desired to be Made of Land: CAFE AND TAKEAWAY FOOD To be served in General Store. when passed by Council

Dimensions of building: 15ft x 62ft.

Description and Use of Buildings or Other Structures Currently Erected on the land: The above building is a General Store & residence.

Height and Number of Storeys of Proposed Buildings: ONE STOREY


20 m
Dwelling Living
Bath
W.C
10 m
93.3 m
CAPE TRIBULATION RD

TPC 159

8/38/B-42
#57464

TOWN PLANNING APPLICATION NO. 157 J.W. MORROW & THE ESTATE OF R.W. MORROW (Cairns)

The following objection to Town Planning application no. 157 submitted by J.W. Morrow and the Estate of R.W. Morrow for the proposed development of a Caravan Park and Camping area on land described as Portion 81, Parish of Alexandra, County of Solander:

BAIP15. A. Wieland and R. Easton, Mossman, 14.3.84.
BAIP16. Rainforest Conservation Society of Queensland, Cairns, 14.3.84.
BAIP17. Wildlife Preservation Society, Petrie Terrace, 14.3.84.

The objections as lodged by Anthony Wieland, The Rainforest Conservation Society of Queensland, North Queensland Branch and the Wildlife Preservation Society were read in full at the Meeting.

Resolved that the objections as lodged be received and the Council propose to grant the Town Planning application as submitted by J.W. Morrow and the Estate of R.W. Morrow, Cairns for the development of a Caravan Park Camping area including Kiosk, Caretaker's Residence, fuel outlet and ablutionary block on land described as part of Portion 81, Parish of Alexandra, County of Solander subject to the conditions as recommended by the Building Surveyor in his report of 29th March 1984 and subject to the additional following condition:-

There is to be no interference with the amenity of the neighbourhood by reason of the emission of ash, electrical interference, fumes, grit, light, noise, oil, soot, smell, smoke, steam vapour, vibrations, waste water, waste products or otherwise.

TOWN PLANNING APPLICATION NO. 158 - M.S. & F. McDONALD (B.S. Report)

Resolved that approval be granted to the Town Planning application as submitted by M.S. and F. McDonald of Port Douglas for the development of a Duplex on land described as Portion 96, Parish of Salisbury, County of Solander subject to the conditions as recommended by the Building Surveyor in his Report of 29th March 1984 which recommendations are adopted.

TOWN PLANNING APPLICATION NO. 159 - R.O.S. & A.R. SHEPHERD (B.S. Report)

BAIP19. G. Long and P. & M. Stannard, Mareeba, 9.3.84, objecting to Town Planning application no. 159 submitted by R.O.S. and A.R. Shepherd for the proposed development of extensions to existing Refreshment Services, construction of house and storage shed on land described as lot 4 on R.P. 33181, Parish of Nogh, County of Solander.

The objection as lodged by G. Long and P. & M. Stannard was read in full at the Meeting.

Resolved that the objection as lodged be received and that Council propose to grant the Town Planning application as submitted by R.O.S. and A.R. Shepherd of Mossman for the development of extensions to existing Refreshment Service, Storage Shed, Dwelling, Fuel Storage Shed, Toilets and Tank Stand on land described as Lot 4 on R.P. 33181, Parish of Nogh, County of Solander subject to the conditions as recommended by the Building Surveyor in his Report of 29th March 1984 which recommendations are adopted.

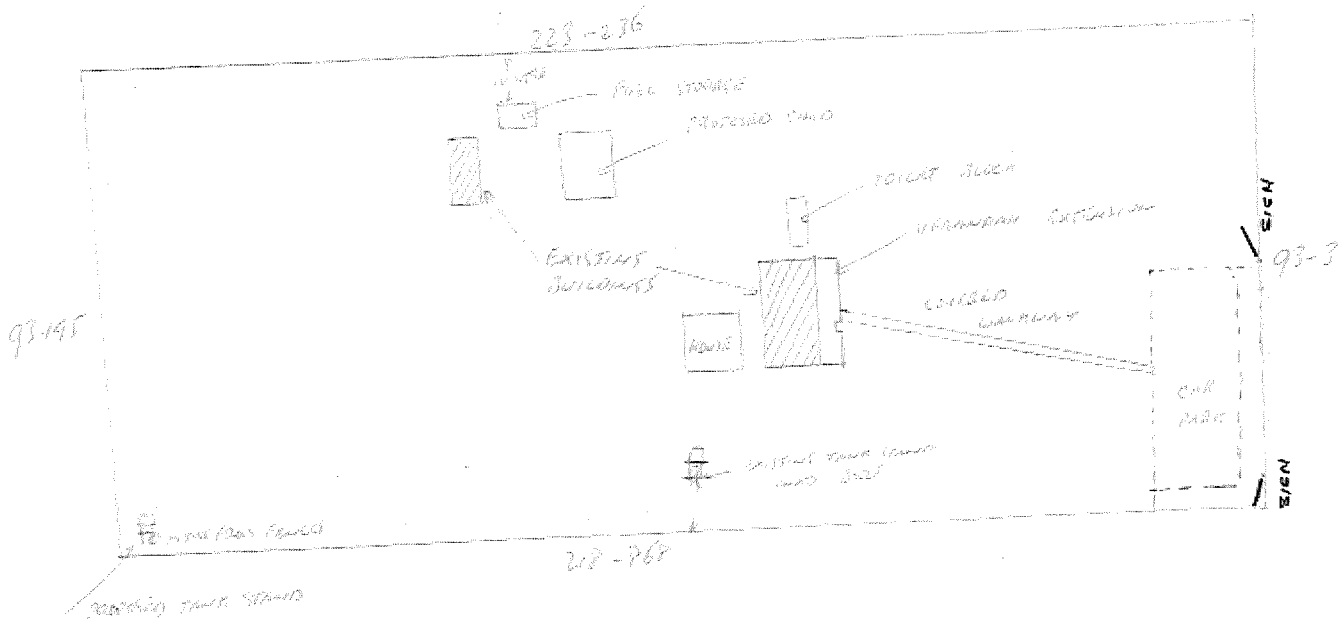
DOUGLAS SHIRE COUNCIL
BUILDING SURVEYOR'S REPORT NO. 1.

TOWN PLANNING SCHEME APPLICATION NO. 159.

The application is for an extension to existing refreshment services, construction of storage shed, a dwelling, fuel storage shed, toilets and tank stand on land described as Lot 4 on R.P. 33181, Parish of Nogh, County of Solander. There has been one objection to the application and should Council grant approval to the application the following conditions should apply:-

- Should within a period of two (2) years from the date of the permit work on the development is approved not be commenced Council may implement action to revoke the approval granted.
- The approval does not constitute a building permit and a building permit must be obtained before any building operations commenced.
- The development must comply with the provisions of Council's Town Planning Scheme.
- An approved drainage system to cater for the disposal of effluent from all septic tanks and other drainage fixtures is to be provided in accordance with the provisions of the standard sewerage by-laws.

Scale - 1cm - 1m (approx)



PROPOSED SITE PLAN LOT 6 ON RP 33181 PARISH OF NOAH COUNTY OF STANLEY

ROS & AR SHEPHERD

DOUGLAS SHIRE COUNCIL

MOSSMAN Q. 4873

TELEPHONE (070) 98 1555 - ADMINISTRATION OFFICES
98 1641 - WORKS / ENGINEERING OFFICE

TELEX No. 48014

P.O. BOX 357

Mr J F Parsons

QUOTE REFERENCE T2A JFP:SAS

YOUR REFERENCE 81/2090

1st December, 1987

R O S & A R Shepherd,
P O Box 320,
MOSSMAN QLD 4873.

Dear Sir/Madam,

RE: TOWN PLANNING SCHEME APPLICATION NO 381

I refer to your application dated 3rd September, 1987 for land use approval under the provisions of the Town Planning Scheme for the development of a camping ground, cabins, restaurant and ancillary uses on land described as Lot 4 on RP 33181, Parish of Noah, County of Solander.

This application together with the objections thereto have been considered by Council and I advise the Council has decided that it proposes to grant approval to the application subject to the following conditions:-

1. Should within a period of two years from the date of the permit, work on the development as approved not be commenced, Council may implement action to revoke the approval as given.

2. The Building Application when submitted must be in accordance with the Building Act and must also substantially comply with the sketch plan submitted with the consent application.

3. The approval does not constitute a Building Permit and a Building Permit must be obtained before any building operations proceed.

4. The development must comply with the provisions of:-

a) Council's Town Planning Scheme.

../2

b) Council's Development Control Plans.

c) The Local Government Act, The Building Act, the Fire Safety Act and all other relevant Acts and regulations and the by-laws of the Council shall at all times be observed and performed in relation to the land, the building and the use and occupation thereof.

5. WATER:

The applicant shall produce documentary evidence prior to the submission of the building application to confirm the capacity of the bores from which it is intended to obtain the required water supply and the suitability of this water for consumption.

6. EFFLUENT DISPOSAL:

(a) The applicant shall provide for the disposal of septic waste by means acceptable to Council.

(b) The manner and disposal point of treated waste is to be located in a position approved by Council and the Water Quality Control Council.

(c) Any sludge or other waste products from the sewerage waste disposal shall be disposed of in a manner and in a location satisfactory to the Council.

7. DRAINAGE:

(a) The applicant shall provide for a suitable storm water drainage system discharging to a lawful point of discharge on a natural water course as approved by Council.

(b) Such storm water drainage work shall be designed and constructed to the satisfaction of the Council and will not cause scouring, erosion, loss of vegetation, excess turbidity and landslip either within or external to the site.

(c) No building structure or other work will impede the natural flow of storm water over the site except where a satisfactory provision for such storm water has been approved by Council.

8. ACCESS:

(a) The internal driveway and visitor car parking areas shall be constructed to a bitumen standard to the satisfaction of the Shire Engineer.

../3

(b) No more than one point of access from Cape Tribulation Road, to the camping ground and visitor parking area. This access shall be located no closer than 10 metres to the southern property boundary, and shall be otherwise located and constructed to the satisfaction of Council.

(c) The applicant shall upgrade Cape Tribulation Road for the full frontage of the site to a formed gravel standard, to the satisfaction of Council.

9. COMMUNICATIONS AND POWER:

(a) The applicant shall establish to the satisfaction of Council that reliable telecommunications can be maintained to the proposed use.

(b) The applicant shall provide a reliable supply of electric power adequate for the needs of the proposed use including operation of waste and water treatment plants. The capacity of this supply shall not exceed a total of 85 KVA.

10. GARBAGE AND WASTE DISPOSAL:

(a) The applicant shall remove and dispose of all garbage from the proposed use in a manner satisfactory to Council.

(b) All waste water from any swimming pool shall be released only with prior approval of the Council and the Water Quality Control Council.

11. LANDSCAPING:

(a) No building or other structure shall be erected or otherwise located within 10 metres of any boundary. This 10 metre area shall be retained and maintained on the side and rear boundaries as buffer strips.

(b) The applicant shall undertake to remove only the existing vegetation within the site necessary for the erection of the buildings, or that which would endanger any building due to its physical state.

12. GENERAL:

(a) The land shall be developed generally in accordance with the submitted proposal plan.

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(b) No building or other structure shall excede the height of 7.5 m above natural ground level at any point.

(c) All air conditioning plants, pool filters and pumps, sewerage and water treatment plants, refrigeration plants, generators and other machinery shall be housed in a sound proof enclosure or otherwise baffled to the satisfaction of Council.

(d) The conditions of the Town Planning consent are to be effected prior to the commencement of the specific use of the said consent.

The objectors have the right under the provisions of the Local Government Act to loage an appeal with the Local Government Court within the prescribed time of thirty (30) days and should no appeals be lodged Council will confirm its decision and grant approval to the application.

You as the applicant have the right to know the names and addresses of the objectors which are listed below:-

L Crueger,
P O Box 843,
NUETRAL BAY NSW 2089.

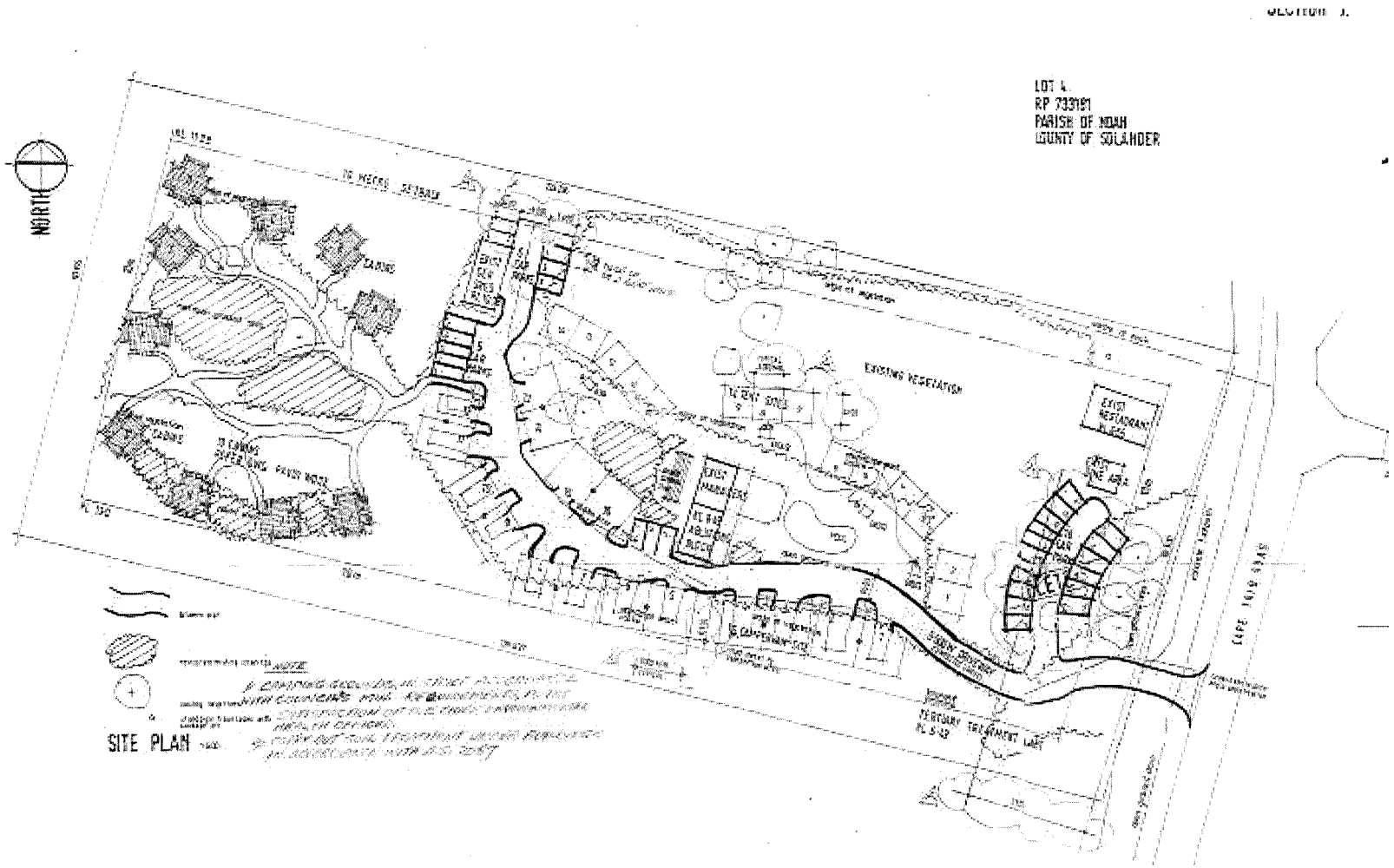
Dr C Wieland,
3 Mahale Street,
KEWARRA BEACH QLD 4871.

L Wallace,
CAIRNS & FAR NORTH ENVIRONMENT CENTRE.,
C M C Box 5918,
CAIRNS QLD 4870.

Yours faithfully,

A J TWOMEY,
SHIRE CLERK.

No plan is held on file to be that lodged with the application for TPC 381.
The plan below for a subsequent Building Approval met the Consent condition regarding plan compliance



(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

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(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.

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(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

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(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—

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(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.

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