

9 April 2025

**Enquiries:** Jenny Elphinstone  
**Our Ref:** CA 2017\_2275/1 (Doc ID 1288725)  
**Your Ref:** P81728

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

Jasbe Port Douglas Pty Ltd  
C/- Planz Town Planning  
PO Box 181  
**EDGE HILL QLD 4870**

Email: [nikki.huddy@planztp.com](mailto:nikki.huddy@planztp.com)

Attention Ms Nikki Huddy

Dear Madam

**Development Application for (Extension of Currency Period) Combined Application for  
Material Change of Use for Restaurant, Shop, Multi-unit housing & Holiday Units  
At 49 Macrossan Street Port Douglas  
On Land Described as Lot 410 on PTD2091**

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

Please quote Council's application number: MCUC 2017\_2275/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully



**Neil Beck**  
**A/Manager Environment & Planning**

cc. State Assessment and Referral Agency (SARA) E: [CairnsSARA@dilgp.qld.gov.au](mailto:CairnsSARA@dilgp.qld.gov.au)  
encl.

- Decision Notice
  - Existing Approval
  - Reasons for Decision
- Advice For Appeals (Decision Notice)



## Decision Notice

### Approval

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*Given under s 87 of the Planning Act 2016*

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#### Applicant Details

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Name: Jasbe Port Douglas Pty Ltd

Postal Address: C/- Planz Town Planning  
PO Box 181  
Edge Hill Qld 4870

Email: [nikki.huddy@planztp.com](mailto:nikki.huddy@planztp.com)

#### Property Details

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Street Address: 49 Macrossan Street Port Douglas

Real Property Description: Lot 410 on PTD2091

Local Government Area: Douglas Shire Council

#### Details of Proposed Development

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Application to extend the currency period a four (4) year extension up until the 28 June 2030 for the Development Approval for a material change of use for code assessment for restaurant, shopping facility and holiday accommodation and impact assessment for multi-unit housing.

#### Decision

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Date of Decision: 9 April 2024

Decision Details: Approved a four (4) year extension that provides for a currency up until the 28 June 2030

#### Existing Approval

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Copy of the existing approval is attached.

#### Rights of Appeal

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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*.

A copy of the relevant appeal provisions is attached.



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

27 September 2022

Enquiries: Jenny Elphinstone  
Our Ref: CA 2017\_2275/2 (Doc ID 1108051)  
Your Ref: P81728

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

Jasbe Port Douglas Pty Ltd  
C/- Planz Town Planning  
PO Box 181  
EDGE HILL QLD 4870

Email: [nikki.huddy@planztp.com](mailto:nikki.huddy@planztp.com)

Attention Ms Nikki Huddy  
Dear Madam

**Application for Minor Change for the Development Permit for a Material Change of Use  
For Restaurant, Shops, Multi-Unit Housing and Holiday Accommodation  
At 49 Macrossan Street Port Douglas  
On Land Described as Lot 410 on PTD2091**

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

Please quote Council's application number: CA 2017\_2275/2 in all subsequent correspondence relating to this development application.

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

Yours faithfully

A handwritten signature in blue ink, appearing to read "Paul Hoyer".

**Paul Hoyer**  
Manager Environment & Planning

cc. State Assessment and Referral Agency (SARA) E: [CairnsSARA@dilqp.qld.gov.au](mailto:CairnsSARA@dilqp.qld.gov.au)  
encl.

- Decision Notice
  - Approved Drawing(s) and/or Document(s)
  - Concurrence Agency Conditions
  - Reasons for Decision
- Advice For Appeals (Decision Notice)
- Adopted Infrastructure Charges Notice
- Advice For Making Representations and Appeals (Infrastructure Charges)

Doc ID: 1108051

CA 2017\_2275/2



## Decision Notice

### Approval (Subject to Conditions)

*Given under s78, s 78A, s79, s81, s81A and s83 of the Planning Act 2016*

#### Applicant Details

Name: Jasbe Port Douglas Pty Ltd  
Postal Address: C/- Planz Town Planning  
PO Box 181, Edge Hill Qld 4870  
Email: [nikki.huddy@planztp.com](mailto:nikki.huddy@planztp.com)

#### Property Details

Street Address: 49 Macrossan Street Port Douglas  
Real Property Description: Lot 410 on PTD2091  
Local Government Area: Douglas Shire Council

#### Details of Proposed Development

Request for Minor Change to the Development Permit issued for a Material Change of Use for mixed development of Shopping Facilities, Restaurant and Multi-unit Housing and Holiday Accommodation (seven (7) units).

#### Decision

Date of 27 September 2022

Decision:

Decision Approved whereby:

Details: 1. The table of Approved Drawing(s) and / or Document(s) is amended as follows:

#### APPROVED DRAWING(S) AND / OR DOCUMENT(S)

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

Drawing or Document	Reference	Date
Floor Plans	Prepared by TPG Architects, 49 Macrossan Street, Reference WLP-01-DA-100H dated December 2017 (Council electronic Document ID: 838319) Reference JSB-DA.01 Revision D dated August 2022 (Council document ID: 1107365) and amended as per Condition 3.	To be determined

Doc ID: 1108051

CA 2017\_2275/2

Drawing or Document	Reference	Date
Sections and Elevations	Prepared by TPG Architects, 49 Macrossan Street, <del>Reference WLP-01 DA-101D (Council electronic Document ID: 838319)</del> <u>Reference JSB-DA.02 Revision D and DA.03 Revision C (Council document ID 1107365).</u>	<del>December 2017</del> <u>July 2022</u>
Vehicle Swept Path Drawings	Prepared by CMG Consulting Engineers, Sheets 1 of 2 and 2 of 2 (Council electronic Document ID: 838319)	4 December 2017
Landscape Design Concept	Prepared by Andrew Proust Landscape Architect, Project 1238, Demolition Plan - Tree removal and Palm Retention Survey LA-E.01 and Landscape Concept Plan LA-P.01	5 December 2017

2. All other requirements of the Decision Notice dated 24 April 2018 remain unchanged.

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

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

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

Drawing or Document	Reference	Date
Floor Plans	Prepared by TPG Architects, 49 Macrossan Street, <del>Reference WLP-01 DA-100H dated December 2017 (Council electronic Document ID: 838319)</del> <u>Reference JSB-DA.01 Revision D dated August 2022 (Council document ID: 1107365)</u> and amended as per Condition 3.	To be determined
Sections and Elevations	Prepared by TPG Architects, 49 Macrossan Street, <del>Reference WLP-01 DA-101D (Council electronic Document ID: 838319)</del> <u>Reference JSB-DA.02 Revision D and DA.03 Revision C (Council document ID 1107365).</u>	<del>December 2017</del> <u>July 2022</u>

Drawing or Document	Reference	Date
Vehicle Swept Path Drawings	Prepared by CMG Consulting Engineers, Sheets 1 of 2 and 2 of 2 (Council electronic Document ID: 838319)	4 December 2017
Landscape Design Concept	Prepared by Andrew Proust Landscape Architect, Project 1238, Demolition Plan - Tree removal and Palm Retention Survey LA-E.01 and Landscape Concept Plan LA-P.01	5 December 2017

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

#### **Copy of Original Development Permit**

A copy of the original Development Permit is enclosed.

#### **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 Queensland Department of State Development, Manufacturing, Infrastructure and Planning, a referral agency, has issued a Decision (reference TMR 17-022871 (500-1184), Council electronic reference document ID: 839643, requiring conditions to be applied to the approval.

**Note** – Concurrence Agency Response is attached. This Concurrence Agency Response maybe amended by agreement with the respective agency.

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

No change has been made to the currency period for the original approval.

#### **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 is attached.



Approved Drawing(s) and/or Document(s) To be amended as per the Conditions of the Approval.



Doc ID: 1108051

CA 2017\_2275/2



Doc ID: 1108051

CA 2017\_2275/2





Doc ID: 1108051

CA 2017\_2275/2

## 49 Macrossan Street



**C.M.G. CONSULTING**  
ENGINEERS

STRUCTURAL AND CIVIL  
258 BULLOCK STREET  
GARRIC, 4870  
Phone: (07) 4231 2775  
P.O. Box 2921  
GARRIC, 4870  
Fax: (07) 4231 9013

**Vehicle Swept Paths**

Sheet 1 of 2

4 DEC 2017

## 49 Macrossan Street



**C.M.G. CONSULTING**  
**ENGINEERS** PTY. LTD.  
 A/CN 511 88 09 STRUCTURAL AND CIVIL

228 Buckton Street  
 CARMS, 4875  
 Phone: (07) 4251 2715 P.O. Box 5901  
 Cairns Mail Centre  
 Fax: (07) 4251 8013

**Vehicle Swept Paths**  
 Sheet 2 of 2 4 DEC 2017







## PLANTING LIST

<u>Code</u>	<u>Botanical Name</u>	<u>Common Name</u>	<u>Size</u>	<u>Spacing</u>
<b>Trees</b>				
ATR ft	<i>Atractocarpus fitzalanii</i>	Brown Gardenia	300mm	as shown
DIL ala	<i>Dillenia alata</i>	Red Beach	400mm	as shown
MEL rub	<i>Melicope rubra</i>	Little Evodia	300mm	as shown
XAN v TRA	<i>Xanthosolemon chrysanthus</i> 'Trailblazer'	Golden Penda Trailblazer	300mm	as shown
<b>Palms</b>				
CYR ren	<i>Cyrtostachys renda</i>	Lipstick Palm	300mm	as shown
LIC ram	<i>Licuala ramsayi</i>	Daintree Fan Palm	300mm	as shown
PTY ele	<i>Ptychosperma elegans</i>	Solitare Palm	300mm	as shown
PTY mac	<i>Ptychosperma macarthuri</i>	Macarthur Palm	300mm	as shown
<b>Shrubs and Ground Covers</b>				
ADI his	<i>Adiantum hispidulum</i>	Rough Maidenhair Ferns	140mm	9m <sup>2</sup>
ALO mac	<i>Alocasia macrorrhiza</i>	Elephant's Ears	200mm	1m <sup>2</sup>
ALP cae	<i>Alpinia caerulea</i> (red back leaf)	Native Ginger	200mm	3m <sup>2</sup>
ANG eve	<i>Angiopteris evecta</i>	King Fern	300mm	1m <sup>2</sup>
ASp md	<i>Asplenium nidus</i>	bird's Nest Fern	200mm	1m <sup>2</sup>
BLE v SIL	<i>Blechnum</i> v 'Silver'	Silver Blechnum Fern	140mm	3m <sup>2</sup>
COR can	<i>Cordyline canniolia</i>	Native Cordyline	200mm	2m <sup>2</sup>
COR v RED	<i>Cordyline fruticosa</i> 'Red Sister'	Red Sister Cordyline	200mm	1m <sup>2</sup>
DRA mar	<i>Dracaena marginata</i>	Dracaena	300mm	1m <sup>2</sup>
GAR v RAD	<i>Gardenia jasminoides</i> 'Radicans'	Gardenia Radicans	140mm	3m <sup>2</sup>
GAR v GLE	<i>Gardenia pallidifolia</i> 'Glennie River'	Prostrate Gardenia	140mm	1m <sup>2</sup>
GAR sca	<i>Gardenia scabra</i>	Native Gardenia	140mm	2m <sup>2</sup>
LEP v PIN	<i>Leptospermum polygalifolium</i> 'Pink Cascade'	Pink Cascade Tea Tree	140mm	3m <sup>2</sup>
LOM hys	<i>Lomandra hystrix</i>	Matt Rush	140mm	6m <sup>2</sup>
MEL mal	<i>Melastoma malabathricum</i>	Native Lassandra	140mm	1m <sup>2</sup>
MOL cap	<i>Molineria capitata</i>	Weevil Palm	140mm	2m <sup>2</sup>
ORT v MAU	<i>Orthosiphon aristatus</i> 'Mauve'	Cat's Whiskers (mauve flowers)	140mm	2m <sup>2</sup>
ORT v WHI	<i>Orthosiphon aristatus</i> 'White'	Cat's Whiskers (White Flowers)	140mm	3m <sup>2</sup>
SYZ pan	<i>Syzygium paniculatum</i> 'Select'	Lilly Pilly	140mm	2m <sup>2</sup>
VIO hed	<i>Viola hederacea</i>	Native Violet	140mm	12m <sup>2</sup>

## MACROSSAN ST, PORT DOUGLAS

### PLANTING SCHEME - PLANTING LIST

ISSUE DATE : 05/DEC/2017

**ANDREW PROWSE**  
LANDSCAPE ARCHITECT  
12/2018 10/2019 04/2021  
10/2021 04/2022 04/2023  
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# SHRUBS & GROUND COVERS



*Orthocentrus aristatus* 'Mauve'  
Mauve Cats Whiskers



*Melastoma malabothricum*  
Native Lassandra



*Orthocentrus aristatus* 'White'  
White Cats Whiskers



*Viola hederacea*  
Native Violet



*Melastoma malabothricum*  
Native Lassandra's flowers

## MACROSSAN ST, PORT DOUGLAS PLANTING SCHEME - SELECTED IMAGES OF SHRUBS & GROUND COVERS (2)

ISSUE DATE: 05/DEC/2017

**ANDREW PROWSE**  
LANDSCAPE ARCHITECT  
11/11/2017 11:11 AM  
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11/11/2017 11:11 AM  
11/11/2017 11:11 AM



# SHRUBS & GROUND COVERS



*Alpinia caerulea* (red back leaf)  
Native Ginger



*Angiopteris evecta*  
King Fern



*Candylime canifolia*  
Native Cordyline



*Drosera marginata*  
Drosera



*Gardenia scabra*  
Native Gardenia



*Asplenium nidus*  
Bird's Nest Fern



*Leptomerium polygalifolium* 'Pink Cascade'  
Pink Cascade Tea Tree



*Lamandra hybrid*  
Multiflora

## MACROSSAN ST, PORT DOUGLAS

PLANTING SCHEME - SELECTED IMAGES OF SHRUBS & GROUND COVERS (1)

ISSUE DATE : 05/DEC/2017

ANDREW PROWSE  
LANDSCAPE ARCHITECT  
11/11/17  
11/11/17  
11/11/17

#1238

CONCEPT IMAGERY OF LANDSCAPE DESIGN



MACROSSAN ST, PORT DOUGLAS

CONCEPT IMAGES

ISSUE DATE : 05/DEC/2017

ANDREW PROWSE  
LANDSCAPE ARCHITECT  
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## Concurrence Agency Conditions

RA6-N



Department of  
State Development,  
Manufacturing,  
Infrastructure and Planning

Our reference: 1710-2156 SRA  
Your reference: CA2275/2017

12 January 2018

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

Attention: Jenny Elphinstone

Dear Sir/Madam

### Referral agency response—with conditions

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

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning on 23 October 2017.

#### Applicant details

Applicant name: W & L Petrie c/- Planz Town Planning Pty Ltd  
Applicant contact details: PO Box 181  
Edge Hill QLD 4870  
info@planztp.com

#### Location details

Street address: 49 Macrossan Street (Port Douglas Road), Port Douglas  
Real property description: Lot 410 on PTD2091  
Local government area: Douglas Shire Council

#### Application details

Development permit: Material change of use for shopping facilities, restaurant, multi-unit housing and holiday accommodation.

#### Referral triggers

The development application was referred to the department under the following provisions of the Planning Regulation 2017:

Page 1 of 9

Far North Queensland regional office  
Ground Floor, Cnr Grafton and Hartley  
Street, Cairns  
PO Box 2358, Cairns QLD 4870

Doc ID: 1108051

CA 2017\_2275/2

Douglas Shire Council Decision Notice  
Section 63 of the *Planning Act 2016*

1710-2156 SRA

- 10.9.4.2.4.1 State transport corridors and future State transport corridors

**Conditions**

Under section 56(1)(b)(i) of the *Planning Act 2016* (the Act), the conditions set out in Attachment 1 must be attached to any development approval.

**Reasons for decision to impose conditions**

The department must provide reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

**Advice to the assessment manager**

Under section 56(3) of the Act, the department offers advice about the application to the assessment manager—see Attachment 3.

**Approved plans and specifications**

The department requires that the plans and specifications set out below and enclosed must be attached to any development approval.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
<b>Aspect of development: Material change of use</b>				
Floor Plans	TPG Architects	December 2017	DA-100H	
Vehicle Swept Paths	C.M.G Consulting Engineers Pty Ltd	4 December 2017	Sheet 1 of 2	
TMR Layout Plan (6504-5.46km)	Queensland Government, Transport and main Roads	08/01/2018	TMR17-22871(500-1184)	A

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

For further information please contact Belinda Jones, Senior Planning Officer, on 40373239 or via email [CaimsSARA@dlgo.qld.gov.au](mailto:CaimsSARA@dlgo.qld.gov.au) who will be pleased to assist.

Yours sincerely



Brett Nancarrow  
Manager (Planning)

cc W & L Petrie c/- Planz Town Planning Pty Ltd, [info@planztp.com](mailto:info@planztp.com)

enc Attachment 1—Conditions to be imposed  
Attachment 2—Reasons for decision to impose conditions  
Attachment 3—Advice to the assessment manager  
Approved plans and specifications

Department of State Development, Manufacturing, Infrastructure and Planning

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1710-2156 SRA

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
<b>Material Change of Use</b>		
10.9.4.2.4.1 State transport infrastructure—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):		
1.	The car parking and access arrangements must be carried out generally in accordance with the following plans: <ul style="list-style-type: none"> <li>Floor Plans prepared by TPG Architects, dated December 2017, Reference DA-100H.</li> <li>Vehicle Swept Paths, prepared by C.M.G Consulting Engineers Pty Ltd, dated 4 December 2017, sheet 1 of 2.</li> </ul>	Prior to the commencement of use and to be maintained at all times
2.	(a) The road access location is to be located generally in accordance with TMR Layout Plan (6504-5.49km), prepared by Queensland Government Transport and Main Roads, Reference TMR17-22671(500-1184), dated 08/01/2018, Issue A, (b) Road access works comprising a Commercial/Industrial Vehicle Crossing must be designed and constructed in accordance with FNQROC Standard Drawing S1015.	(a) At all times (b) Prior to commencement of use
3.	(a) The existing vehicle property access located between Macrossan Street and Lot 410 on PTD2091 must be permanently closed and removed. (b) The kerb and channel, table drain and concrete footpath must be reinstated in accordance with FNQROC standards.	Prior to commencement of use
4.	The location of the property gate must be positioned wholly within the boundaries of Lot 410 on PTD2091 such that: <ol style="list-style-type: none"> <li>No other gate infrastructure is to encroach into the state-controlled road corridor,</li> <li>The gate must open away from, or parallel to, Macrossan Street,</li> <li>It is controlled remotely, and</li> <li>There is no requirement for traffic to queue on Macrossan Street,</li> </ol>	At all times
5.	(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.  (b) Any works on the land must not: <ol style="list-style-type: none"> <li>create any new discharge points for stormwater runoff onto the state-controlled road;</li> <li>interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road;</li> <li>surcharge any existing culvert or drain on the state-controlled road;</li> <li>reduce the quality of stormwater discharge onto state-controlled road.</li> </ol>	(a) and (b) At all times
6.	Any excavation, filling/backfilling/compaction, retaining structures and other works involving ground disturbance must not encroach or de-stabilise the state-controlled road or the land supporting this infrastructure, or cause similar adverse impacts.	At all times

Department of State Development, Manufacturing, Infrastructure and Planning

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1710-2156 SRA

**Attachment 2—Reasons for decision to impose conditions**

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The reasons for this decision are:

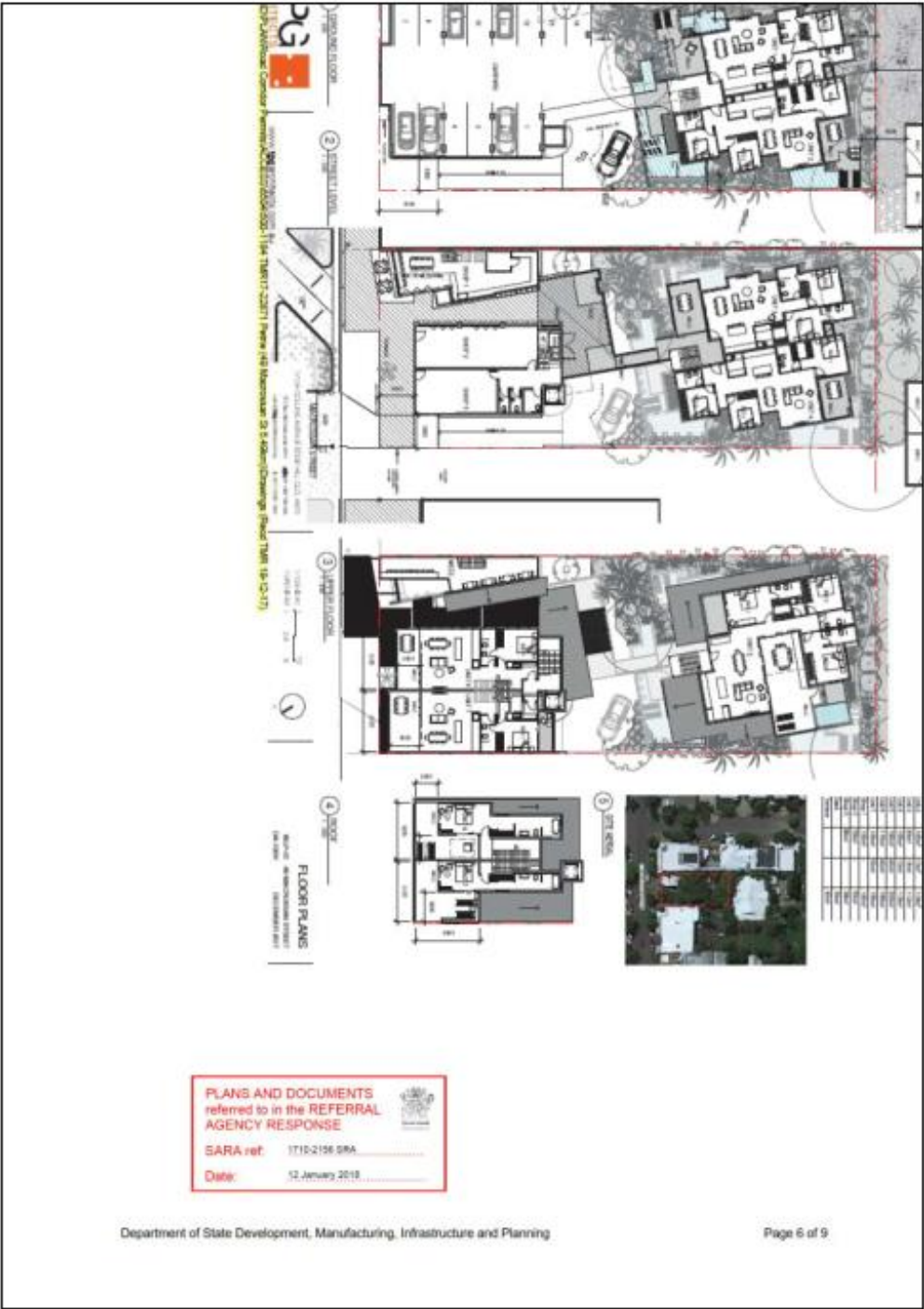
- To ensure that the development is carried out generally in accordance with the plans of development submitted with the application.
- To ensure the road access location to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road.
- To ensure the design of any road access maintains the safety and efficiency of the state-controlled road.
- To maintain the safety and efficiency of the state-controlled road by reducing the number of road accesses.
- To ensure that the impacts of stormwater events associated with development are minimised and managed to avoid creating any adverse impacts on the state-controlled road.
- To ensure the development and its construction does not cause adverse structural impacts on state-transport infrastructure.

1710-2156 SRA

**Attachment 3—Advice to the assessment manager**

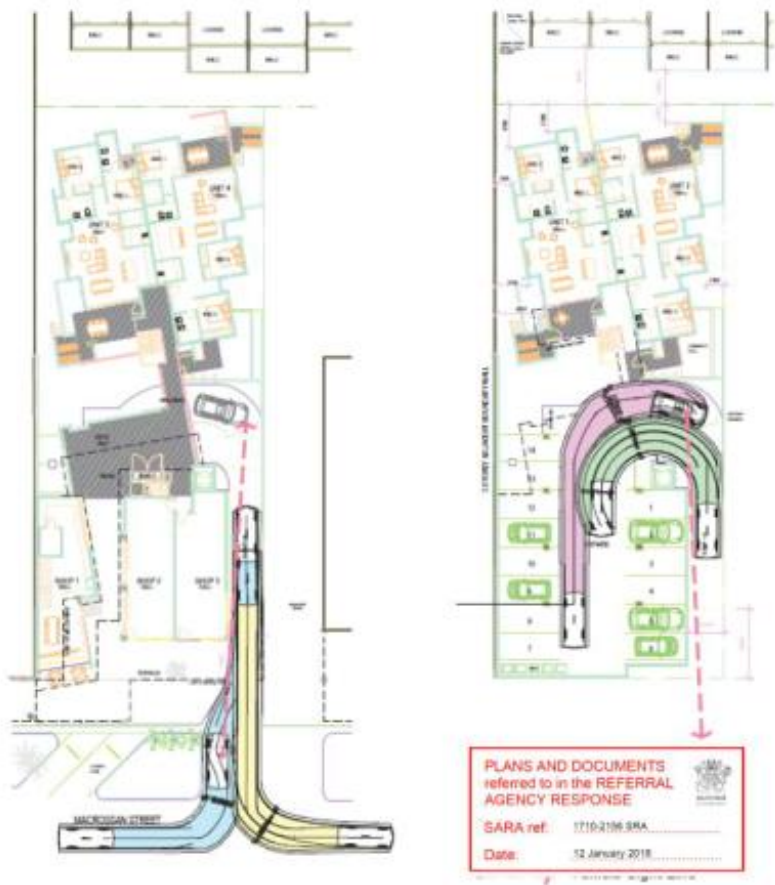
General advice	
Advertising advice	
1.	<p>A local government should obtain advice from the Department of Transport and Main Roads (DTMR) if it intends to approve the erection, alteration or operation of an advertising sign or another advertising device that would be visible from a state-controlled road, and beyond the boundaries of the state-controlled road, and reasonably likely to create a traffic hazard for the state-controlled road.</p> <p>Note: DTMR has powers under section 139 of the Transport Operations (Road Use Management - Accreditation and Other Provisions) Regulation 2015 to require removal or modification of an advertising sign and/or a device which is deemed that it creates a danger to traffic.</p>
Transport noise corridor	
2.	<p>Mandatory Part (MP) 4.4 of the Queensland Development Code (QDC) commenced on 1 September 2010 and applies to building work for the construction or renovation of a residential building in a designated transport noise corridor. MP4.4 seeks to ensure that the habitable rooms of Class 1, 2, 3 and 4 buildings located in a transport noise corridor are designed and constructed to reduce transport noise. Transport noise corridor means land designated under Chapter 8B of the Building Act 1975 as a transport noise corridor. Information about transport noise corridors is available at state and local government offices. A free online search tool can be used to find out whether a property is located in a designated transport noise corridor. This tool is available at the Department of Local Government and Planning website: <a href="http://www.dlglp.qld.gov.au/planning/state-planning-instruments/spp-interactive-mapping-system.html">http://www.dlglp.qld.gov.au/planning/state-planning-instruments/spp-interactive-mapping-system.html</a> and allows searches on a registered lot number and/or property address to determine whether and how the QDC applies to the land. Transport Noise Corridors (NAPMAP) are located under Administrative Layers within the State Planning Policy (SPP) mapping system.</p>
Further development permits required	
Road works approval	
3.	<p>In accordance with section 33 of the Transport Infrastructure Act 1994 (TIA), an applicant must obtain written approval from Department of Transport and Main Roads (DTMR) to carry out road works, including road access works on a state-controlled road. Please contact DTMR on 4045 7144 to make an application under section 33 of the TIA to carry out road works. This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p>The road works approval process takes time – please contact Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>
Road corridor permit	
4.	<p>An application for a Road Corridor Permit is required for any ancillary works and encroachments on the state-controlled road under section 50(2) and Schedule 6 of the Transport Infrastructure Act 1994 and Part 5 and Schedule 1 of the Transport Infrastructure (State-Controlled Roads) Regulation 2006. Please contact the Department of Transport and Main Roads on 4045 7144 at the Cairns district office to make an application for a Road Corridor Permit.</p> <p>Ancillary works and encroachments include but are not limited to advertising signs or other advertising devices, paths or bikeways, buildings/shelters, vegetation clearing, landscaping and planting.</p>





1710-2156 SRA

49 Macrossan Street

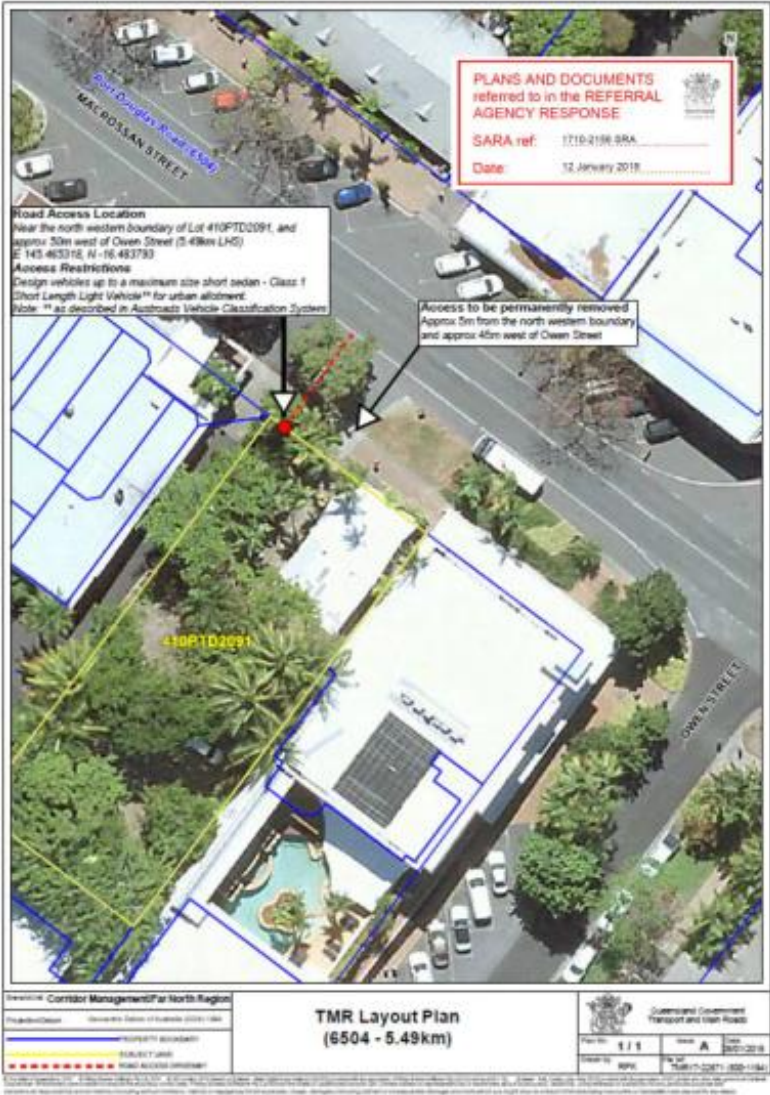


**CMG CONSULTING**  
ENGINEERS  
208 Burke Street  
Sydney, NSW  
Phone: (02) 9211 5710 Fax: (02) 9211 5613  
P.O. Box 9801  
Sydney NSW 1587  
Email: info@cmg.com.au

**Vehicle Swept Paths**  
Sheet 1 of 2 4 DEC 2017

G:\CAID\PLAN\Road Corridor Permits\ACCES\06204\000-1134 TMR17-32571 Petre (49 Macrossan St 5.4km)\Drawings (Reed TMR 19-12-17)

1710-2156 SRA



Department of State Development, Manufacturing, Infrastructure and Planning

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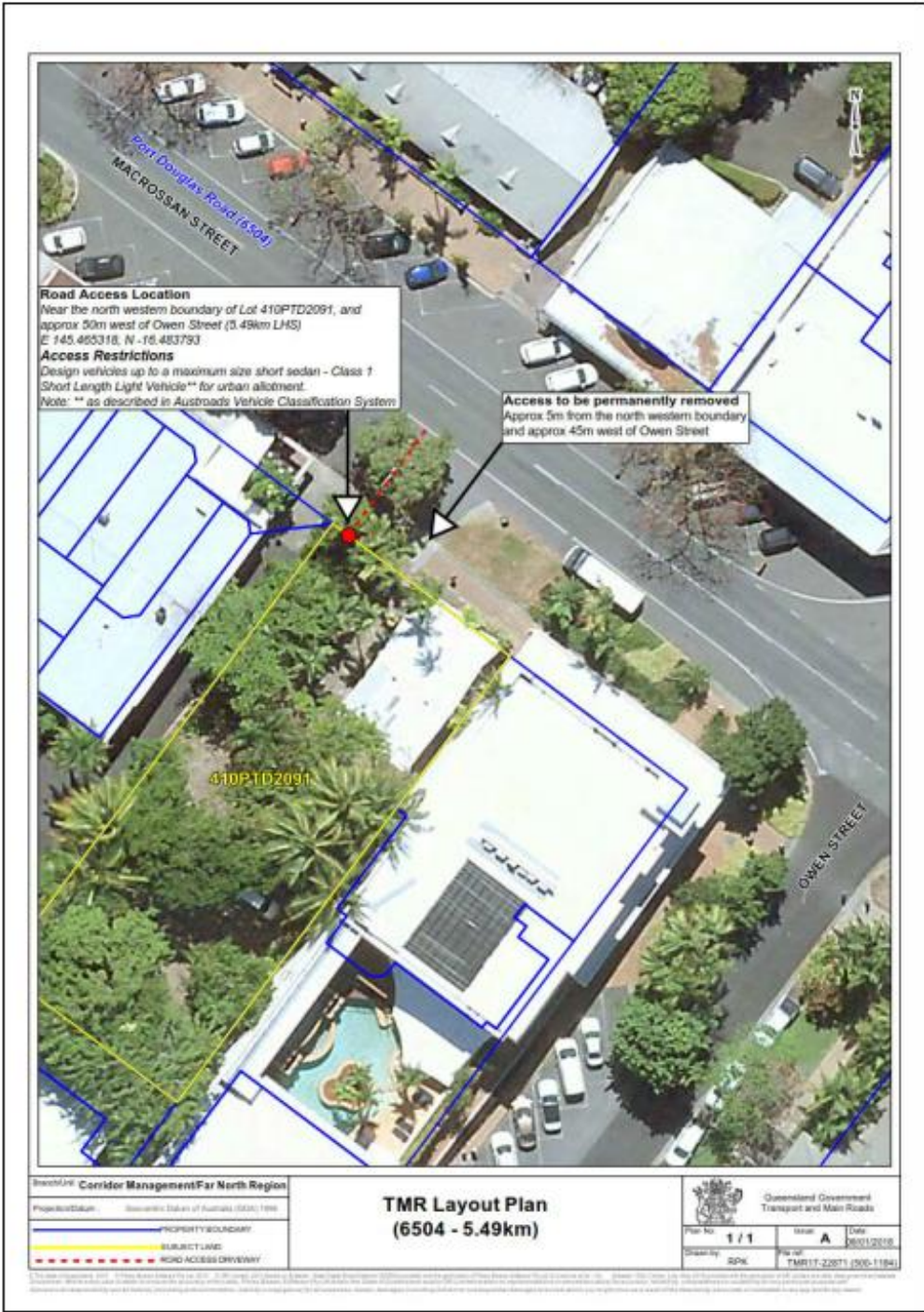
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**PLANS AND DOCUMENTS**  
referred to in the REFERRAL  
AGENCY RESPONSE

**SARA ref:** IT10-2156 SRA

**Date:** 12 January 2018



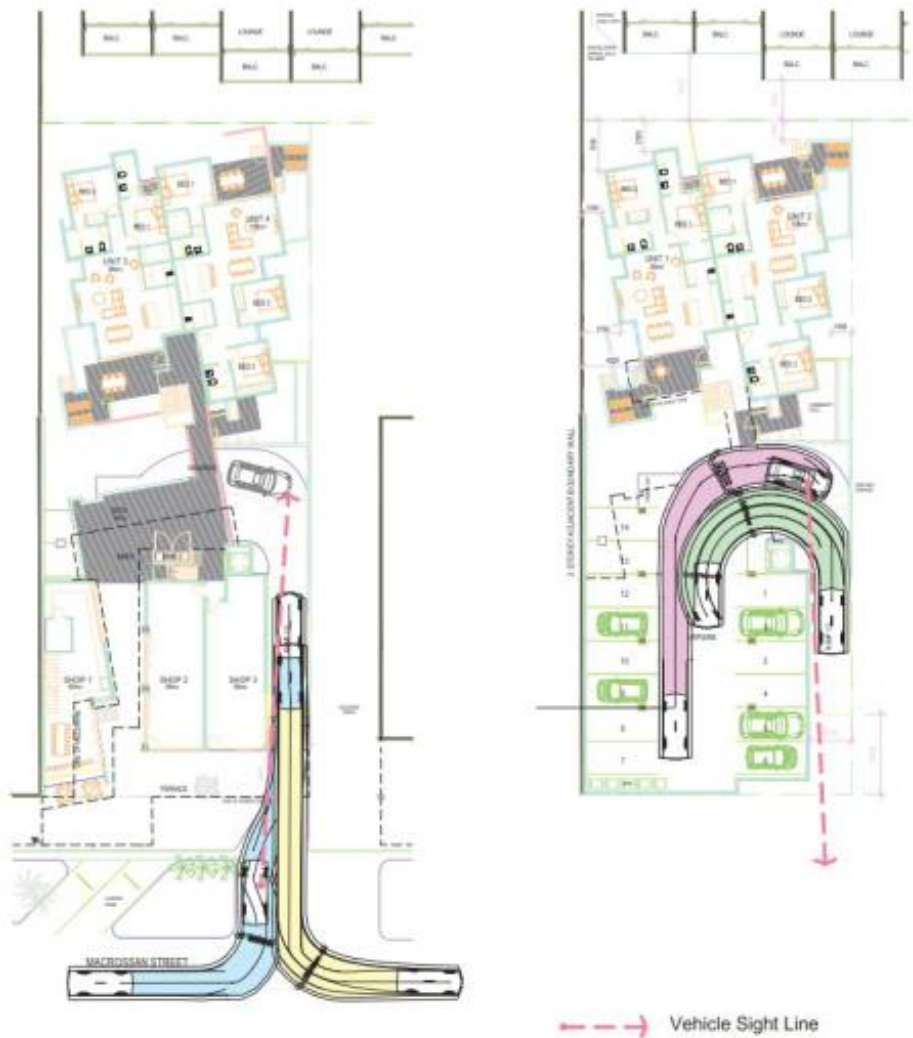




Douglas Shire Council Decision Notice  
Section 63 of the Planning Act 2016



49 Macrossan Street



**C.M.G. CONSULTING**  
**ENGINEERS** Pty. Ltd.

208 Barkan Street  
CAWNS, QLD  
Phone (07) 4531 2775

P.O. Box 5001  
Cairns Mail Centre  
Fax (07) 4531 5013

G:\CAD\PLAN\Road Corridor Permits\ACCESS\6504\500-1184 TMR17-22871 Petrie (49 Macrossan St 5.49km)\Drawings (Recd TMR 19-12-17)

Sheet 1 of 2  
4 DEC 2017

Table A 8: Austroads vehicle classification systems (updated in 1994)

Level 1	Level 2		Level 3	Austroads classification	
Length (indicative)	Axes and axle groups		Vehicle type		
Type	Axes	Groups	Description	Class	Parameters
Light vehicles					
Short Up to 5.5 m	2	1 or 2	Short Sedan, wagon, 4WD, utility, light van, bicycle, motorcycle, etc.	1	$d_1 \leq 3.2$ m and axles = 2
Medium 5.5 m to 14.5 m	3, 4 or 5	3	Short-loading trailer, caravan, boat, etc.	2	groups = 3, $2.1 \text{ m} \leq d_1 \leq 3.2 \text{ m}$ $d_2 \geq 2.1 \text{ m}$ and axles = 3, 4 or 5
	Heavy vehicles				
	2	2	Two axle truck or bus	3	$d_1 > 3.2$ m and axles = 2
	3	2	Three axle truck or bus	4	Axles = 3 and groups = 2
Long 11.5 m to 19.0 m	> 3	2	Four axle truck	5	Axles > 3 and groups = 2
	3	3	Three axle articulated or rigid vehicle and trailer	6	$d_1 > 3.2$ m Axles = 3 and groups = 3
	4	> 2	Four axle articulated or rigid vehicle and trailer	7	$d_2 < 2.1$ m, or $d_1 < 2.1$ or $d_1 > 3.2$ m Axles = 4 and groups > 2
	5	> 2	Five axle articulated or rigid vehicle and trailer	8	$d_2 < 2.1$ m, or $d_1 < 2.1$ or $d_1 > 3.2$ m Axles = 5 and groups > 2
Medium combination 17.5 m to 36.5 m	> 6	4	8 Double or heavy truck and trailer	10	Axles > 6 and groups = 4
	> 6	5 or 6	Double road train or heavy truck and two trailers	11	Axles > 6 and groups = 5 or 6
Long combination over 33 m	> 6	> 6	Triple road train or heavy truck and three trailers	12	Axles > 6 and groups > 6

Definitions:

Group (axle group) – where adjacent axles are less than 2.1 m apart

Groups: number of axle groups

Axles: number of axles (maximum axle spacing of 10 m)

$d_1$ : distance between first and second axle

$d_2$ : distance between second and third axle

Austroads 2013

— 119 —

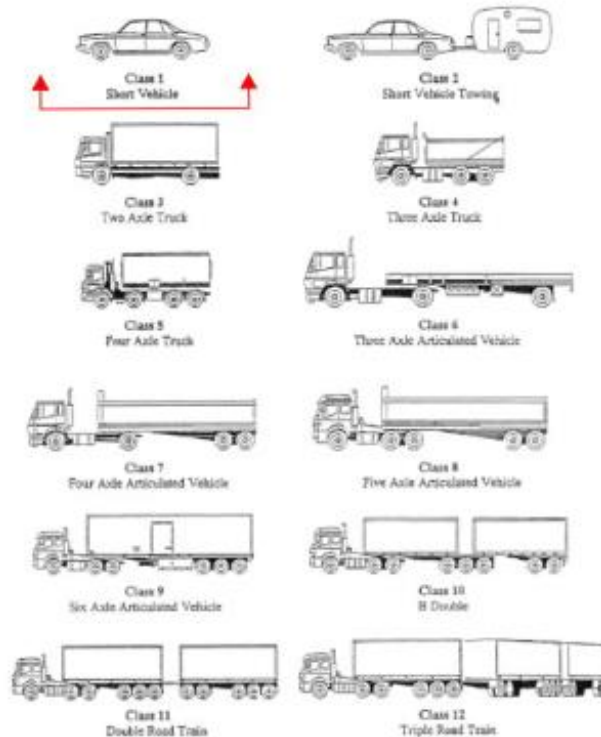
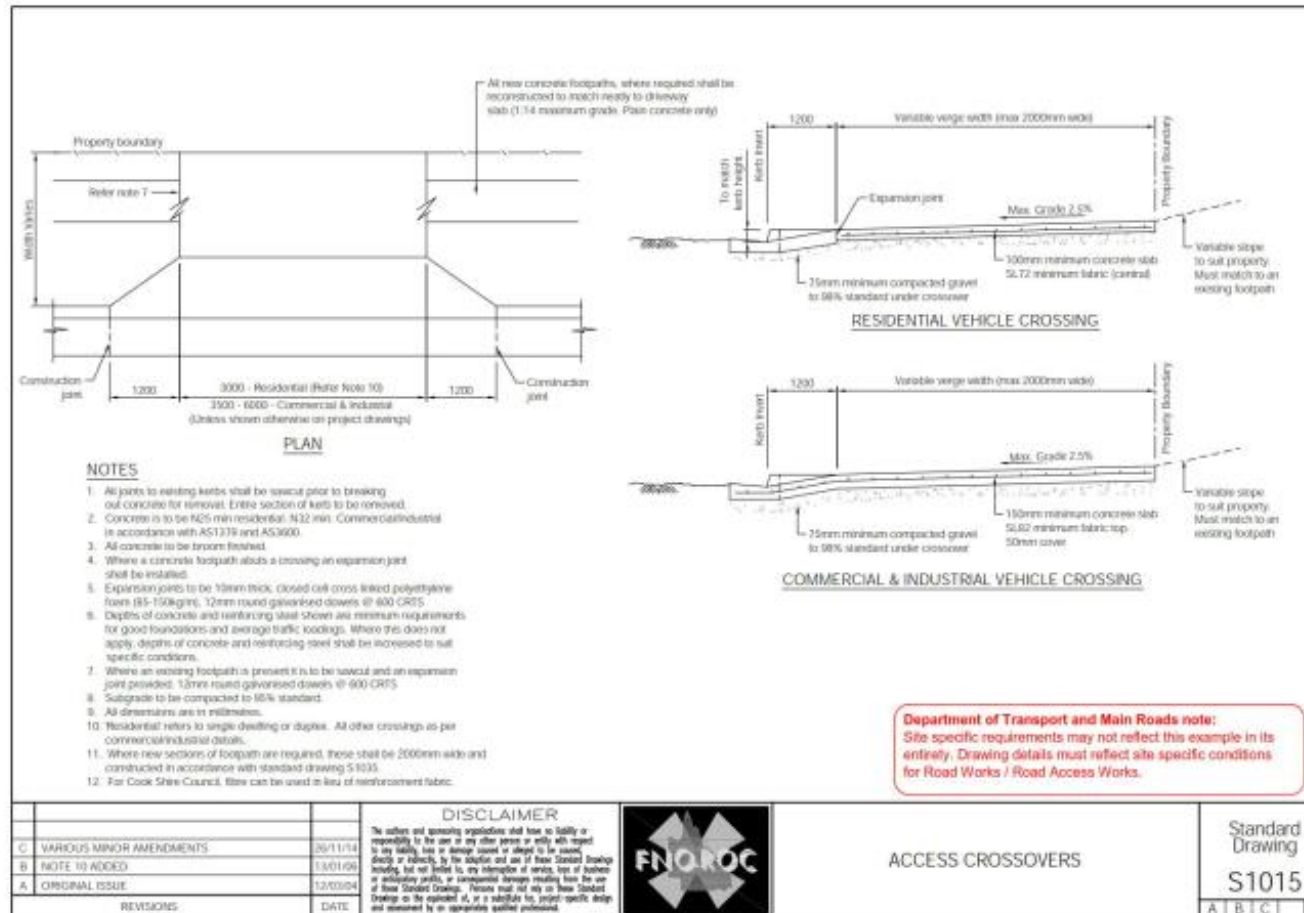


Figure A 13: Representative vehicles in Austroads 12-bin classification system

#### A.5.3 Methods of Collecting Vehicle Classification Data

Manual vehicle classification methods, based on either vehicle body type (e.g. surveys by the Australian Bureau of Statistics) or axle configurations (e.g. Austroads), have been used for many years. Manual methods are now largely confined to intersection turning movement counts. As these surveys require considerable human resources, they are costly and generally limited to short period counts – generally up to 12 hours duration.

Douglas Shire Council Decision Notice  
Section 63 of the *Planning Act 2016*





Douglas Shire Council Decision Notice  
Section 63 of the *Planning Act 2016*

GE78-N



Department of  
State Development,  
Manufacturing,  
Infrastructure and Planning

Department of State Development, Manufacturing, Infrastructure and Planning  
Statement of reasons for application 1710-2156 SRA  
(Given under section 56 of the *Planning Act 2016*)

Departmental role: Referral agency

**Applicant details**

Applicant name: W & L Petrie c/- Planz Town Planning Pty Ltd  
Applicant contact details: PO Box 181  
Edge Hill QLD 4870  
info@planztp.com

**Location details**

Street address: 49 Macrossan Street, Port Douglas  
Real property description: Lot 410 on PTD2091  
Local government area: Douglas Shire Council

**Development details**

Development permit: Material change of use for shopping facilities, restaurant, multi-unit housing and holiday accommodation.

**Assessment matters**

Aspect of development requiring code assessment	Applicable codes
1. Material change of use	State Development Assessment Provisions version 2.1, effective 11 August, 2017 - State code 1: Development in a state-controlled road environment

**Reasons for the department's decision**

The reasons for the decision are:

- The proposed development adjoins Macrossan Street (Port Douglas Road) which is a state-controlled road.
- A new access is proposed between Lot 410 on PTD2091 (the subject site) and Macrossan Street.
- With conditions, the proposed development complies with the relevant provisions in the State Development Assessment Provisions, State code 1: Development in a state-controlled road environment.
- The proposed access arrangements have been assessed against the *Transport Infrastructure Act 1994* and a decision notice has been issued approving the proposed access location.
- The proposed access arrangements are unlikely to impact on the efficiency and safety of Macrossan Street.

Page 1 of 2

Far North Queensland regional office  
Ground Floor, Cnr Grafton and Hartley  
Street, Cairns  
PO Box 2358, Cairns QLD 4870

**Douglas Shire Council Decision Notice**  
**Section 63 of the *Planning Act 2016***

1710-2156 SRA

**Decision**

- The development application is for a material change of use for a mixed development of shopping facilities, restaurant and multi-unit housing and holiday accommodation (7 units) on Lot 410 on PTD2091 (the subject site), located at 49 Macrossan Street (Port Douglas Road), Port Douglas.
- The department issued a referral agency response with conditions, dated 12 January 2018 to attach to any development permit issued.

**Relevant material**

- Development application material including planning report prepared by Planz Town Planning dated 20 September 2017 and the engineering report prepared by C.M.G Consulting Engineers, reference 38807R1, dated 15 December 2017.
- State Development Assessment Provisions, version 2.1 published by the Department of Infrastructure, Local Government and Planning
- Planning Act 2016
- Planning Regulation 2017
- Development Assessment Rules version 1.1.

**Original Approval (Council Document 850696)**

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Doc ID: 1108051

CA 2017\_2275/2

## Reasons for Decision

The reasons for the decision are as follows:

1. Sections 78, 78A, 79, 81, 81A and 83 of the *Planning Act 2016*:
  - a. to ensure the development satisfies the benchmarks of the 2006 Douglas Shire Planning Scheme (as amended) and having regard to the 2018 Douglas Shire Planning Scheme Version 1.0; and
  - b. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
  - a. the development application was properly lodged to the Douglas Shire Council 23 August 2023 under s78, s78A, s79 of the *Planning Act 2016* and Part 1 of the Development Assessment Rules;
  - b. The application is for a minor change, being a minor change consistent with Schedule 2 of the *Planning Act 2016*;
  - c. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy, 2006 Douglas Shire Planning Scheme (as amended), the 2018 Douglas Shire Planning Scheme Version 1.0 and the grounds of the properly made submission in making its assessment manager decision.
3. Evidence or other material on which findings were based:
  - a. the development triggered assessable development under the Assessment Table associated with the centre Planning Area of the Port Douglas and Environs Locality;
  - b. Council undertook an assessment in accordance with the provisions of s81, s81A and s83 of the *Planning Act 2016*; and
  - c. the applicant's reasons have been considered and the following findings are made:
    - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.



## ADOPTED INFRASTRUCTURE CHARGES NOTICE

Jasbe Port Douglas Pty Ltd DEVELOPERS NAME		N/A ESTATE NAME	6 STAGE
40 Macrossan Street STREET No. & NAME	Port Douglas SUBURB	L410 PTD2091 LOT & RP No.s	2181 PARCEL No.
MCU Multi Unit Housing, Holiday Accommodation, Shop, Restaurant DEVELOPMENT TYPE		CA 2017_2275/2 COUNCIL FILE NO.	28/06/2025 See Doc 1104675 VALIDITY PERIOD (year)
1104677 DSC Reference Doc. No.	1 VERSION No.	Payment before commencement of use for MCU; and Prior to signing and sealing of survey form for ROL	

Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021)

		Charge per Use	\$ Rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
<b>Proposed Demand</b>							
Residential	Multiple_dwelling	\$_per_2_bedroom_dwelling	20,169.83	2	\$40,339.66		
Residential	Multiple_dwelling	\$_per_3_or_more_bedroom_dwelling	24,553.82	5	\$122,769.10		
Commercial_retail	Shop and Food and Drink Out	\$_per_m2_GFA	168.35	263	\$44,276.05		
<b>Total Demand</b>					<b>\$207,384.81</b>		
<b>Credit</b>							
<u>Existing land use</u>							
3 or more bedroom dwelling	1 lot	\$_per_3_or_more_bedroom_dwelling	24,553.81	1	\$24,553.81		
<b>Total Credit</b>					<b>\$24,553.81</b>		
							<b>Code 895 GL GL7500.135.825</b>

Required Payment or Credit **TOTAL** **\$182,831.00**

Prepared by	J Diphthone	23-Aug-22	Amount Paid	
Checked by	D Lamond	23-Aug-22	Date Paid	
Date Payable	MCU - prior to the commencement of use			
Amendments		Date		
			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 Ordinary Meeting held on 23 February 2021.

Charge rates under the Policy are subject to indexing.  
Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

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

## 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) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
  - (iv) otherwise—20 business days after the day the notice is given; or
- (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.

Current as at 10 June 2022

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Authorised by the Parliamentary Counsel

## Adopted Infrastructure Charges Notice

DOUGLAS SHIRE COUNCIL		2018 Douglas Shire Planning Scheme version 1.0 Applications	
ADOPTED INFRASTRUCTURE CHARGES NOTICE			
Jasbe Port Douglas Pty Ltd DEVELOPERS NAME		N/A ESTATE NAME	0 STAGE
49 Macrossan Street STREET No. & NAME		Port Douglas SUBURB	L410 PTD2091 2181
MCU Multi Unit Housing, Holiday Accommodation, Shop, Restaurant DEVELOPMENT TYPE		CA2017_2275/2 COUNCIL FILE NO.	28/06/2025 PARCEL No. See Doc 1104675
1104677 DSC Reference Doc. No.		1 VERSION No.	Payment before commencement of use for MCU; and Prior to signing and sealing of survey form for ROL

Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021)

		Charge per Use	\$ Rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
Proposed Demand							
Residential	Multiple_dwelling	\$_per_2_bedroom_dwelling	20,169.83	2	\$40,339.66		
Residential	Multiple_dwelling	\$_per_3_or_more_bedroom_dwelling	24,553.81	5	\$122,769.10		
Commercial_retail	Shop and Food and Drink Out	\$_per_m²_GFA	168.35	263	\$44,276.05		
Total Demand					<b>\$207,384.81</b>		
Credit							
Existing land use							
3 or more bedroom dwelling	1 lot	\$_per_3_or_more_bedroom_dwelling	24,553.81	1	\$24,553.81		
Total Credit					<b>\$24,553.81</b>		Code 895 GL GL7500.135.825
Required Payment or Credit			<b>TOTAL</b>		<b>\$182,831.00</b>		

Prepared by	J Diphinone	23-Aug-22	Amount Paid	
Checked by	D Lamond	23-Aug-22	Date Paid	
Date Payable	MCU - prior to the commencement of use			
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 Ordinary Meeting held on 23 February 2021.

Charge rates under the Policy are subject to indexing.  
Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

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

Doc ID: 1108051

CA 2017\_2275/2

27 September 2022

Enquiries: Jenny Elphinstone  
Our Ref: CA 2017\_2275/2 (Doc ID)  
Your Ref: P81728

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

Jasbe Port Douglas Pty Ltd  
C/- Planz Town Planning  
PO Box 181  
EDGE HILL QLD 4870

Email: [nikki.huddy@planztp.com](mailto:nikki.huddy@planztp.com)

Attention Ms Nikki Huddy

Dear Madam

**Adopted Infrastructure Charge Notice  
For the Application for Minor Change for the Material Change of Use  
For Restaurant, Shops, Multi-Unit Housing and Holiday Accommodation  
At 49 Macrossan Street Port Douglas on Land Described as Lot 410 on PTD2091**

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: CA 2017\_2275 in all subsequent correspondence relating to this matter.

Should you require any clarification regarding this, please contact Jenny Elphinstone 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

Doc ID: 1108051

CA 2017\_2275/2



## Adopted Infrastructure Charges Notice



2018 Douglas Shire Planning Scheme version 1.0 Applications

### ADOPTED INFRASTRUCTURE CHARGES NOTICE

Jesbe Port Douglas Pty Ltd DEVELOPERS NAME		N/A ESTATE NAME	0 STAGE
49 Macrossan Street STREET No. & NAME	Port Douglas SUBURB	L416 PYD2091 LOT & RP No.s	2181 PARCEL No.
MCU Multi Unit Housing, Holiday Accommodation, Shop, Restaurant DEVELOPMENT TYPE		CA 2017_2275/2 COUNCIL FILE NO.	28/06/2025 See Doc 1104675 VALIDITY PERIOD (year)
1104677 DSC Reference Doc. No.	1 VERSION No.	Payment before commencement of use for MCU; and Prior to signing and sealing of survey form for ROL	

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	Charge per Use	\$ Rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
<b>Proposed Demand</b>						
Residential Multiple_dwelling	\$_per_2_bedroom_dwelling	20,169.83	2	\$40,339.66		
Residential Multiple_dwelling	\$_per_3_or_more_bedroom_dwelling	24,553.82	5	\$122,769.10		
Commercial_retail Shop and Food and Drink Out	\$_per_m²_GFA	168.35	263	\$44,276.05		
Total Demand				\$207,384.81		
<b>Credit</b>						
Existing land use						
3 or more bedroom dwelling 1 lot	\$_per_3_or_more_bedroom_dwelling	24,553.81	1	\$24,553.81		
Total Credit				\$24,553.81		Code 895 GL 7500.135.825

Required Payment or Credit TOTAL \$182,831.00

Prepared by	J Elphinstone	23-Aug-22	Amount Paid	
Checked by	D Lamond	23-Aug-22	Date Paid	
Date Payable	MCU - prior to the commencement of use		Receipt No.	
Amendments		Date		
			Cashier	

#### Note:

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Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

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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

Doc ID: 1108051

CA 2017\_2275/2

## **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) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
  - (iv) otherwise—20 business days after the day the notice is given; or
- (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.

Current as at 10 June 2022

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Authorised by the Parliamentary Counsel



## Reasons For Decision

### Reasons for Decision

1. The reasons for this decision are:
  - a. Sections 86 and 87 of the *Planning Act 2016*:
  - b. to ensure the development satisfies the benchmarks of the 2006 Douglas Shire Planning Scheme and the 2018 Douglas Shire Planning Scheme Version 1.0; and
  - c. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
  - a. the development application was properly lodged to the Douglas Shire Council date fee paid 7 March 2025 under section 86 of the *Planning Act 2016*;
  - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2006 Douglas Shire Planning Scheme, the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
  - a. the development triggered assessable development under the Assessment Table associated with the Centre Zone Code;
  - b. Council undertook an assessment in accordance with the provisions of sections 86 and 87 of the *Planning Act 2016*; and
  - c. the applicant's reasons have been considered and the following findings are made:
    - i. the approval is bound by the existing conditions, the development satisfactorily meets the Planning Scheme benchmarks to support an extension to the currency period.

## Extracts from the Planning Act 2016 – Appeal Rights

Planning Act 2016  
Chapter 6 Dispute resolution

[s 229]

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

- (3) In this section—

**conduct** means an act or omission.

**representative** means—

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

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

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

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

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

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

- 
- (iii) who is a co-respondent in an appeal of the matter;  
and
  - (iv) who may elect to be a co-respondent in an appeal  
of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
- (a) for an appeal by a building advisory agency—10  
business days after a decision notice for the decision is  
given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time  
after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under  
chapter 7, part 4, to register premises or to renew the  
registration of premises—20 business days after a notice  
is published under section 269(3)(a) or (4); or
  - (d) for an appeal against a decision of the Minister, under  
chapter 7, part 4, to amend the registration of premises  
to include additional land in the affected area for the  
premises—20 business days after the day a notice is  
published under section 269A(2)(a); or
  - (e) for an appeal against an infrastructure charges  
notice—20 business days after the infrastructure charges  
notice is given to the person; or
  - (f) for an appeal about a deemed approval of a development  
application for which a decision notice has not been  
given—30 business days after the applicant gives the  
deemed approval notice to the assessment manager; or
  - (g) for an appeal relating to the *Plumbing and Drainage Act  
2018*—
    - (i) for an appeal against an enforcement notice given  
because of a belief mentioned in the *Plumbing and  
Drainage Act 2018*, section 143(2)(a)(i), (b) or  
(c)—5 business days after the day the notice is  
given; or

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

*Note—*

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

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



## 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.

# Part 2 Development tribunal

## Division 1 General

### 233 Appointment of referees

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