

2 May 2025

Enquiries: Jenny Elphinstone
Our Ref: CA 2008_2876/2 (Doc ID1290878)
Your Ref: CA 2876/2008

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

IPDG (S2) Pty Ltd
C/- RPS AAP Consulting Pty Ltd
PO Box 1949
CAIRNS QLD 4870

Email Owen.Caddickking@rpsconsulting.com

Attention Mr Owen Caddick-King

Dear Sir

**Representations for Negotiated Infrastructure Charges Notice
for Development Approval for the Extension Application for
Reconfiguring a lot (1 lot into 17 lots) at L100 Beor Street, Craiglie
On Land Described as Lot 100 on SP248126**

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

Please quote Council's application number: CA 2008_2876/2 in all subsequent correspondence relating to this development application.

It is noted that the attachments to the Decision Notice, being copies of the current approvals were unclear due to repeated copying. A clearer copy of these documents (Council Doc 1291190) is attached to this correspondence for your convenience.

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

Yours faithfully



Neil Beck
A/Manager Environment & Planning

encl.

- Decision Notice
 - Reasons for Decision
- Copy of Adopted Infrastructure Charges Notice
- Advice For Appeals (Infrastructure Charges)

Attached – Copy of the Corrected Decision Notice (Doc 1209602) respective to the ICN.

Attached - Copy of Doc 1291190 – Clear copy of attachments to Doc 1209602.



Decision Notice

Representations Not Agreed With

Given under s 125 of the Planning Act 2016

Applicant Details

Name: IPDG (S2) Pty Ltd
Postal Address: C/- RPS AAP Consulting Pty Ltd
PO Box 1949
CAIRNS QLD 4870
Email: owen.caddick-king@rpsgroup.com.au

Property Details

Street Address: L100 Beor Street Craiglie
Real Property Description: Lot 100 on SP248126
Local Government Area: Douglas Shire Council

Details of Proposed Development

Extension application to the currency period for a further four years for the Reconfiguring a Lot (1 Lot into 17 Lots) on part of the land being Lot 100 on SP248126, located at 100L Beor Street Craiglie up to 22 February 2028.

Representations to Assessment Manager

Date of Representations 6 March 2024
Representations Applicant made representations seeking a Negotiated Infrastructure Charges Notice where the charge is Nil on the basis that previous water supply and sewer headworks developer contributions had been paid to the former Douglas Shire Council and consideration be given to the previous provision of Park.

Decision

Date of Decision: 1 May 2025
Decision Details: The applicant's representations have been considered and determined as not being agreed to on the following basis:
i. Council has the ability to issue an Infrastructure Charges Notice associated with an approval for an extension application under Section 119 of the *Planning Act 2016*;

- ii. Council has no record of infrastructure charges having been paid for the approval of the Combined Application CA69; and
- iii. The Council's Resolution No.2 provides no discount for any previous Park provision.

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.

Reasons for Decision

1. The reasons for this decision are:
 - a. Section 125 of the *Planning Act 2016*;
 - b. to ensure the development satisfies the benchmarks of 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 Applicant's representations were properly lodged to the Douglas Shire Council 6 March 2024 under section 125 of the *Planning Act 2016*;
 - b. The representations were reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 (including Council's Local Government Infrastructure Plan) and the Council's Infrastructure Charges Resolution (No.2) 2021 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
 - a. the associated development approval triggered Infrastructure Charges;
 - b. Council undertook an assessment in accordance with the provisions of section 125 of the *Planning Act 2016*; and
 - c. the applicant's representations have been considered and determined as not being agreed to on the following basis:
 - i. Council has the ability to issue an Infrastructure Charges Notice associated with an approval for an extension application under Section 119 of the *Planning Act 2016*;
 - ii. Council has no record of infrastructure charges having been paid for the approval of the Combined Application CA69; and
 - iii. The Council's Resolution No.2 provides no discount for any previous Park provision.

Adopted Infrastructure Charges Notice



2018 Douglas Shire Planning Scheme version 1.0 Applications

ADOPTED INFRASTRUCTURE CHARGES NOTICE

IPDG (S2) Pty Ltd DEVELOPERS NAME		N/A ESTATE NAME	0 STAGE
L100 Beor Street STREET No. & NAME	Craiglie SUBURB	L100 on SP248126 LOT & RP No.s	156875 PARCEL No.
ROL DEVELOPMENT TYPE		CA 2008_2876 COUNCIL FILE NO.	6 VALIDITY PERIOD (year)
0 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							
Lots comersurate to a Dwelling-House							
Residential	Dwelling_house	\$_per_3_or_more_be droom_dwelling	25,314.98	17	\$430,354.66		Prior arrangement for online payment via invoicing - see below.
Total Demand					\$430,354.66		
Credit							
<u>Existing land use</u>							
<u>Vacant Lot Comersurate to a Dwelling-House</u>							
3 or more bedroom dwelling	1 lot	\$_per_3_or_more_be droom_dwelling	25,314.98	1	\$25,314.98		
Total Credit					\$25,314.98		Code 895 GL GL7500.135.825

Required Payment or Credit **TOTAL** **\$405,039.68**

Prepared by	J Elphinstone	7-Feb-24	Amount Paid
Checked by	R Taranto	7-Feb-24	Date Paid
Date Payable	ROL - Before the Local Government approves the plan of subdivision		Receipt No.
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.

If you seek to pay online, please request an invoice to be issued via enquiries@douglas.qld.gov.au

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

Planning Act 2016
Chapter 6 Dispute resolution

[s 229]

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

- (3) In this section—

conduct means an act or omission.

representative means—

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

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

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

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

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

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Authorised by the Parliamentary Counsel

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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 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—