

Administration Office

64 - 66 Front St Mossman

P 07 4099 9444

F 07 4098 2902

23 March 2021

Enquiries: Neil Beck
Our Ref: ROL 2011_4332/2 (1003684)
Your Ref: L79890/9339/OC

Wonga Beach Village Pty Ltd
C/- RPS Australia P/L
PO Box 1949
CAIRNS QLD 4870

Dear Owen,

**Request to extend Material Change of Use, ROL (1 Lot into 99 Lots) & Operational Works
(Stage 1) & Request for Minor Change – Lot 51 Vixies Road Wonga Beach**

Please find attached the Decision Notice for the above-mentioned request.

Please quote Council's application number: ROL 2011_4332/2 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Neil Beck on telephone 07 4099 9451.

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

encl.

- Decision Notice
- Advice For Making Representations and Appeals (Decision Notice)
- Adopted Infrastructure Charges Notice
- Advice For Making Representations and Appeals (Infrastructure Charges)



Decision Notice

Approval (with conditions)

Given under section 63 of the Planning Act 2016

Applicant Details

Name: Wonga Beach Village Pty Ltd
Postal Address: C/- RPS Australia P/L
PO Box 1949
CAIRNS QLD 4870
Email: or jeff@mccloys.com.au

Property Details

Street Address: Vixies Road WONGA BEACH
Real Property Description: LOT: 51 SP: 155078
Local Government Area: Douglas Shire Council

Details of Proposed Development

Request to extend Material Change of Use, ROL (1 Lot into 99 Lots) & Operational Works (Stage 1) & Request for Minor Change

Decision

Date of Decision: 23 March 2021
Decision Details: Approved (subject to conditions)

Approval

Request to extend Material Change of Use, ROL (1 Lot into 99 Lots) & Operational Works (Stage 1) is approved subject to the following changes to conditions of Development Permit for the ROL dated 16 December 2013

Condition 4 be amended to read as follows

Concept Filling and Drainage Plan

4. The Concept Filling and Drainage Plan, referenced as RPS 9339-37 and dated 7 May 2013, must be amended as follows:
 - a. Provide a plan identifying a building pad of minimum 600m² above the identified Q100 ARI flood interval level for each lot on site;

- b. Finished levels for the pads on the easternmost sections of the site must be 300mm above the storm tide water levels as shown on the attached plan "Peak Storm Tide Levels :2100 1%AEP as attached. This ensures the finished floor levels of future dwellings will be compliant with the recommended freeboard of 500mm as detailed in the 2020 Storm Tide Inundation Methodologies Study prepared by JBP Scientist & Engineers. 3.4m AHD so as to provide suitable immunity from storm tide inundation; and
- c. Location and finished levels for a dedicated on-site wastewater treatment, being the 90m² required to accommodate the Wisconsin Mounds.

The amended Plan must be submitted to Council, to the satisfaction of the Chief Executive Officer, prior to submitting a Development Application for Operational Works and/or an Application to Change the existing Operational Works Approval. All filling is to be completed in accordance with the approved Plan during the Operational Works stage.

Condition 5 be amended to read as follows

Building Envelope Plan

5. Provide a Plan nominating building envelopes for all habitable buildings on each lot with a building pad having a minimum area of 600m² which is immune from storm tide inundation and the 1% AEP rainfall event. These envelopes are to correspond with the 600m² building pads required by Condition 3 of this Development Permit.

The Building Envelope Plan must be submitted to Council, to the satisfaction of the Chief Executive Officer prior to the issue of a Compliance Certificate for the Plan of Survey.

The applicant/owner must also ensure that the endorsed building envelope plans are made known to all prospective purchasers of the lots.

Further Development Permits

- All Building Work
- All Operational Work

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

Concurrence Agency Response

N/A

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 being 21 November 2026 in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Rights to make Representations & Rights of Appeal

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

A copy of the relevant appeal provisions are attached.

Plan Illustrating Peak Storm Tide Levels (Water Level only)



jbpacific.com.au
+61 (0)7 3085 7489
477 Boundary Street
Spring Hill
QLD 4004

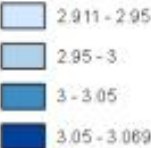
Scale



Date
14/12/2020

Legend

2100 1% AEP peak level (mAHDT)



Title

Peak Storm Tide Levels: 2100
1%AEP

Project

2020s1042 - Storm Tide Inundation
Methodologies Study

Client

Douglas Shire Council

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

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

- (iii) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

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

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

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—

- (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
decision includes—
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

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

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise,

whether by the Supreme Court, another court, any tribunal or another entity; and

- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

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

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—
 - (a) has the qualifications or experience prescribed by regulation; and
 - (b) has demonstrated an ability—
 - (i) to negotiate and mediate outcomes between parties to a proceeding; and
 - (ii) to apply the principles of natural justice; and
 - (iii) to analyse complex technical issues; and
 - (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.

23 March 2021

Enquiries: Neil Beck
Our Ref: ROL 2011_4332 (1003684)
Your Ref: L79890/9339/OC

Wonga Beach Village Pty Ltd
C/- RPS Australia P/L
PO Box 1949
CAIRNS QLD 4870

Dear Owen

**Request to extend Material Change of Use, ROL (1 Lot into 99 Lots) & Operational Works
(Stage 1) & Request for Minor Change – Lot 51 Vixies Road Wonga Beach**

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: ROL 2011_4332 in all subsequent correspondence relating to this matter.

Should you require any clarification regarding this, please contact Neil Beck on telephone 07 4099 9451.

Yours faithfully



Paul Hoyer
Manager Environment & Planning

encl.

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

Adopted Infrastructure Charges Notice



2018 Douglas Shire Planning Scheme version 1.0 Applications

ADOPTED INFRASTRUCTURE CHARGES NOTICE

Wonga Beach Aquaculture Resort Pty Ltd DEVELOPERS NAME		N/A ESTATE NAME	0 STAGE
Lot 51 Vixies Road STREET No. & NAME	Wonga Beach SUBURB	Lot 51 on RP155078 LOT & RP No.s	10957 PARCEL No.
ROL DEVELOPMENT TYPE		8/13/1625 COUNCIL FILE NO.	6 VALIDITY PERIOD (year)
8/13/1625 DSC Reference Doc. No.	1 VERSION No.	Payment prior to lodgment of survey plan for endorsement	

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

Locality	Charge per Use	rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
0						
Proposed Demand						
Dwelling house (including \$ per 3 or more bedroom dwelling)	24143.37505	24,143.38	99	2,390,194.13		
Total Demand				2,390,194.13		
Existing Credit						
Residential Lot Vacant Lot	24143.37505	24,143.38	1	24,143.38		
Total Credit				860,711.32		
						Code 895 GL 07500.0135.0825

Required Payment or Credit

TOTAL

\$1,529,482.81

Prepared by	Neil Beck	17-Mar-21	Amount Paid	
Checked by	Dan Lamond	23-Mar-21	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.

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

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.

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
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Chapter 6 Dispute resolution

Part 1 Appeal rights

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Note—

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

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

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- 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—
- (a) has the qualifications or experience prescribed by regulation; and
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- (i) to negotiate and mediate outcomes between parties to a proceeding; and
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- (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.