

6 April 2018

Enquiries: Jenny Elphinstone T 07 4099 9482  
Our Ref: ROL 2519/2018 (Doc ID 846067)  
Your Ref: 18-01/L000818

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

W H Ridderhof & C M Ridderhof  
c/ Planning Plus  
PO Box 8046  
**CAIRNS QLD 4870**

Attention Mr Evan Yelavich

Dear Sir

**DEVELOPMENT APPLICATION FOR RECONFIGURING A LOT (1 LOT INTO  
2 LOTS) AT 141 DAVIDSON STREET, PORT DOUGLAS ON LAND  
DESCRIBED AS LOT 7 ON RP749721**

Thank you for lodging the above Development Application with Council on 20 February 2018.

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

Please quote Council's application number ROL 2519/2018 in all subsequent correspondence relating to this development application. Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9482.

Yours faithfully

**PAUL HOYE**  
**Manager Sustainable Communities**



encl.

- Decision Notice
- Approved Plans
- Adopted Infrastructure Charges Notice

**DOUGLAS SHIRE COUNCIL  
DECISION NOTICE  
APPROVAL (WITH CONDITIONS)  
(GIVEN UNDER SECTION 63 OF THE *PLANNING ACT 2016*)**

Thank your for your development application detailed below which was properly made on 20 February 2018. Please be aware that Douglas Shire Council has assessed your application and decided it as follows:

**1. *Applicant's details***

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Name: W H Ridderhof & C M Ridderhof

Postal Address: C/- Planning Plus, Evan Yelavich  
PO Box 8046  
CAIRNS QLD 4870

**2. *Location details***

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Street Address: 141 Davidson Street, Port Douglas

Real Property Description: Lot 7 on RP749721

Local Government Area: Douglas Shire Council

**3. *Details of proposed development***

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Reconfiguring a Lot (1 Lot into 2 Lots)

**4. *Decision***

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Date of decision: 6 April 2018

Decision details: Development Permit, approved in full with conditions. These conditions are set out in Schedule 1.

**5. *Approved plans and specifications***

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Copies of the following plans, specifications and/or drawings are enclosed in Schedule 2.

| Drawing/report title                                  | Prepared by | Date                      | Reference no.    |
|---|-------------|---------------------------|------------------|
| Proposed Reconfiguration of a Lot (1 Lot into 2 Lots) | Applicant   | Received 20 February 2018 | Plan No 18-01/01 |

## **6. Conditions**

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This approval is subject to the conditions in Schedule 1.

## **7. Further development permits**

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Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Operational Work

## **8. Properly made submissions**

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

## **9. Currency period for the approval**

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This approval, granted under the provisions of the Planning Act 2016, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of section 85 Planning Act 2016.

## **1. Rights to make representations and rights of appeal**

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The rights of applicants to make representations regarding conditions under section 75 of the *Planning Act 2016* and the 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*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see Chapter 6, Part 2 of the *Planning Act 2016*).

Schedule 4 includes extracts from the *Planning Act 2016* that sets down the applicant's rights to make representations and the applicant's appeal rights.

## **SCHEDULE 1 – CONDITIONS AND ADVICE**

### **PART 1—CONDITIONS IMPOSED BY THE ASSESSMENT MANAGER**

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:-
  - a. The specifications, facts and circumstances as set out in the application submitted to Council;
  - b. The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

Except where modified by these conditions of approval.

#### **Timing of Effect**

2. The conditions of the Development Permit must be effected prior to the issue of a Compliance Certificate for the Plan of Survey, except where specified otherwise in these conditions of approval.

#### **Relocation of Services**

3. Provide written evidence from a licensed surveyor that all services (water, storm water, telecommunications and power) are contained within each respective lot.

#### **Sewerage Works Internal**

4. Undertake the following sewerage works internal to the land:
  - a. Provide a House Connection Branch to the new lot;
  - b. Ensure that the new dividing boundary is setback 0.8m either side of the 150 diameter sewer that runs north-south through the lot.

The above works constitutes Operational Works. The above works must be designed and constructed in accordance with a Development Permit for Operational Works and the *FNQROC Development Manual*.

#### **Electricity and Telecommunications**

5. Written evidence of negotiations with Ergon Energy and the telecommunication authority must be submitted to Council stating that both an underground electricity supply and telecommunications service will be provided to the development prior to Council being required to endorse a Plan of Survey.

## **PART 2—ADVICE NOTES**

1. This approval, granted under the provisions of the *Planning Act 2016*, shall in accordance with the provisions of Section 339 and Section 341 of the *Planning Act 2009*.
2. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.

### **Infrastructure Charges Notice**

3. A monetary contribution to Council towards the provision of infrastructure is required in accordance with the Infrastructure Charges Notice attached to this decision in Schedule 3. The contribution payable will be in accordance with the Planning Scheme Policy.

Contributions must be paid at the rates applicable at time of payment. Payment is required prior to the issue of a Compliance Certificate for the Plan of Survey.

The applicant's rights to make representations and rights to appeal regarding the adopted charges notice are included in Schedule 4.

SCHEDULE 2 APPROVED PLANS (ATTACHING TO THE DECISION NOTICE)



# SCHEDULE 3 ADOPTED INFRASTRUCTURE CHARGES

|  |   |
|--|---|
| <b>DOUGLAS</b><br>SHIRE COUNCIL              | <b>2008 Douglas Shire Planning Schemes Applications</b> |
| <b>ADOPTED INFRASTRUCTURE CHARGES NOTICE</b> |   |

|                                      |                        |                            |                        |
|--------------------------------------|------------------------|----------------------------|------------------------|
| WH & CM Ridderhof<br>DEVELOPERS NAME |                        | 0                          | 0                      |
| 141 Davidson Street                  |                        | ESTATE NAME<br>L7 RP749721 | STAGE<br>1646          |
| STREET No. & NAME                    | Port Douglas<br>SUBURB | LOT & RP No.s              | PARCEL No.             |
| ROL (1 Into 2 Lots)                  |                        | ROL 2619/2018              | 6                      |
| DEVELOPMENT TYPE                     |                        | COUNCIL FILE NO.           | VALIDITY PERIOD (year) |
| D8840671                             | 1                      |                            |                        |
| DSC Reference Doc. No.               | VERSION No.            |                            |                        |

|  | Use | Charge per Use | Amount Due         | Amount Paid | Receipt Code & GL Code |
|--|-----|----------------|--------------------|-------------|------------------------|
| <b>Rural Areas - Water Only</b>        |     |                |                    |             |                        |
| proposed                               | 0   | 0.00           | 0.00               |             |                        |
|  | 0   | 0.00           | 0.00               |             |                        |
| existing                               | 0   | 0.00           | 0.00               |             |                        |
|  | 0   | 0.00           | 0.00               |             |                        |
| Total                                  |     |                | 0.00               |             |                        |
| <b>Urban Areas - Water only</b>        |     |                |                    |             |                        |
| proposed                               | 0   | 0.00           | 0.00               |             |                        |
|  | 0   | 0.00           | 0.00               |             |                        |
| existing                               | 0   | 0.00           | 0.00               |             |                        |
|  | 0   | 0.00           | 0.00               |             |                        |
| Total                                  |     |                | 0.00               |             |                        |
| <b>Urban Areas - Water &amp; Sewer</b> |     |                |                    |             |                        |
| <b>Demand 2 Lots</b>                   |     |                |                    |             |                        |
|  | 2   | 14,342.13      | 28,684.26          |             |                        |
|  | 0   | 0.00           | 0.00               |             |                        |
|  | 0   | 0.00           | 0.00               |             |                        |
| Less credit (1 lot)                    | 1   | 14,342.13      | 14,342.13          |             |                        |
| Total                                  |     |                | 14,342.13          |             |                        |
| <b>TOTAL</b>                           |     |                | <b>\$14,342.13</b> |             |                        |

Code 885  
GL 07600.0135.0825

|              |               |             |             |  |
|--------------|---------------|-------------|-------------|--|
| Prepared by  | S Clarke      | 7-Mar-18    | Amount Paid |  |
| Checked by   | J Elphinstone | 7-Mar-18    | Date Paid   |  |
| Date Payable |               |             |             |  |
| Amendments   | Date          | Receipt No. |             |  |
|              |               | Cashier     |             |  |

## Note:

The Infrastructure Charges in this Notice are payable in accordance with Sections 119 and 120 of the *Planning Act 2016* as from Council's resolution from the Special meeting held on 24 June 2015.

Charge rates under the current Policy are not subject to indexing.

Charges are payable to: Douglas Shire Council. You can make payment at any of Council's Business Offices or by mail with your cheque or money order to Douglas Shire Council, PO Box 723, Mossman QLD 4873. Cheques must be made payable to Douglas Shire Council and marked 'Not Negotiable.' Acceptance of a cheque is subject to collection of the proceeds. Post dated cheques will not be accepted.

Any enquiries regarding Infrastructure Charges can be directed to the Development & Environment, Douglas Shire Council on 07 4099 9444 or by email on [enquiries@douglas.qld.gov.au](mailto:enquiries@douglas.qld.gov.au)

## SCHEDULE 4 PLANNING ACT 2016 EXTRACTS ON MAKING REPRESENTATIONS AND APPEAL RIGHTS

Planning Act 2016  
Chapter 3 Development assessment

[s 75]

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- (c) as if a reference in section 76 to a development application were a reference to a change application; and
- (d) as if the reference in section 76(3)(b) to section 63(2) and (3) were a reference to section 83(4); and
- (e) with any other necessary changes.

### 75 Making change representations

- (1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
  - (a) a matter in the development approval, other than—
    - (i) a matter stated because of a referral agency's response; or
    - (ii) a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
  - (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- (3) Only 1 notice may be given.
- (4) If a notice is given, the appeal period is suspended—
  - (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
  - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—

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Current as at 1 January 2018

Authorised by the Parliamentary Counsel



- (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
  - (ii) the applicant receives notice that the assessment manager does not agree with the change representations; or
  - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

## **76 Deciding change representations**

- (1) The assessment manager must assess the change representations against and having regard to the matters that must be considered when assessing a development application, to the extent those matters are relevant.
- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
  - (a) the applicant; and
  - (b) if the assessment manager agrees with any of the change representations—
    - (i) each principal submitter; and
    - (ii) each referral agency; and
    - (iii) if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
    - (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
    - (v) another person prescribed by regulation.

- (3) A decision notice (a *negotiated decision notice*) that states the assessment manager agrees with a change representation must—
  - (a) state the nature of the change agreed to; and
  - (b) comply with section 63(2) and (3).
- (4) A negotiated decision notice replaces the decision notice for the development application.
- (5) Only 1 negotiated decision notice may be given.
- (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.

## **Subdivision 2 Changes after appeal period**

### **77 What this subdivision is about**

This subdivision is about changing a development approval, other than the currency period, after all appeal periods in relation to the approval end.

### **78 Making change application**

- (1) A person may make an application (a *change application*) to change a development approval.
- (2) A change application must be made to the responsible entity.
- (3) The *responsible entity* is—
  - (a) for a change application for a minor change to a development condition that a referral agency imposes—the referral agency; or
  - (b) the P&E Court, if—
    - (i) the change application is for a minor change; and
    - (ii) the development approval was given because of an order of the court; and

- (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 any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note—*

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
  - (a) the adopted charge itself; or
  - (b) for a decision about an offset or refund—
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

### **230 Notice of appeal**

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
  - (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
  - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
  - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and

- (f) for an appeal to the P&E Court—the chief executive; and
  - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
  - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

## 231 Other appeals

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

- (a) conduct engaged in for the purpose of making a decision; and
- (b) other conduct that relates to the making of a decision; and
- (c) the making of a decision or the failure to make a decision; and
- (d) a purported decision; and
- (e) a deemed refusal.

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

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

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

## **Subdivision 5      Changing charges during relevant appeal period**

### **124      Application of this subdivision**

This subdivision applies to the recipient of an infrastructure charges notice given by a local government.

### **125      Representations about infrastructure charges notice**

- (1) During the appeal period for the infrastructure charges notice, the recipient may make representations to the local government about the infrastructure charges notice.
- (2) The local government must consider the representations.
- (3) If the local government—
  - (a) agrees with a representation; and
  - (b) decides to change the infrastructure charges notice;the local government must, within 10 business days after making the decision, give a new infrastructure charges notice (a *negotiated notice*) to the recipient.
- (4) The local government may give only 1 negotiated notice.
- (5) A negotiated notice—
  - (a) must be in the same form as the infrastructure charges notice; and



- (b) must state the nature of the changes; and
  - (c) replaces the infrastructure charges notice.
- (6) If the local government does not agree with any of the representations, the local government must, within 10 business days after making the decision, give a decision notice about the decision to the recipient.
- (7) The appeal period for the infrastructure charges notice starts again when the local government gives the decision notice to the recipient.

#### **126 Suspending relevant appeal period**

- (1) If the recipient needs more time to make representations, the recipient may give a notice suspending the relevant appeal period to the local government.
- (2) The recipient may give only 1 notice.
- (3) If the representations are not made within 20 business days after the notice is given, the balance of the relevant appeal period restarts.
- (4) If representations are made within the 20 business days and the recipient gives the local government a notice withdrawing the notice of suspension, the balance of the relevant appeal period restarts the day after the local government receives the notice of withdrawal.

### **Division 3 Development approval conditions about trunk infrastructure**

#### **Subdivision 1 Conditions for necessary trunk infrastructure**

#### **127 Application and operation of subdivision**

- (1) This subdivision applies if—

