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#### 6 September 2018

Enquiries: Our Ref: Daniel Lamond OP2694/2018 (870947)

N D Verri c/- PO Box 927 CAIRNS QLD 4870

Dear Sir

# Development Application for Operational Works Associated with Reconfiguring a Lot 24 Mudlo Street PORT DOUGLAS: Land Described as LOT 60 on PTD20911

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

In relation to the above application, please find attached the Decision Notice.

Also find attached a 'Pre-Start' meeting template, which identifies the information that must be provided for Council approval, prior to the commencement of works.

The template also provides the Consulting Engineer with a format for conducting the meeting. An invitation to attend the meeting must be sent to Neil Beck and Daniel Lamond giving at least five (5) working days notification if possible.

In addition to the Decision Notice, Council provides the following 'Advice Statement' which relates to issues that are relevant to the proposed works:

- 1. The Consulting Engineer is to present all contractors with a copy of this Decision Notice and the Council approved plans, prior to the commencement of works.
- 2. The Landscaping Plan prepared by Hortulus Australia Dated 30 October 2017 will be approved under separate cover. The applicant can expect this in the coming days.

Please quote Council's application number: OP2694/2018 in all subsequent correspondence relating to this development application. Should you require any clarification regarding this, please contact Daniel Lamond on telephone 07 4099 9456.

Yours faithfully

# **NEIL BECK A/ Manager Sustainable Communities**encl.

- Decision Notice
- Approved Plans

#### **DECISION NOTICE**

# APPROVAL (WITH CONDITIONS) (GIVEN UNDER SECTION 63 OF THE PLANNING ACT 2016)

Please be aware that Douglas Shire Council has assessed your application and decided it as follows:

#### 1. Applicant's details

Name: N D Verri

Postal Address: c/- PO Box 927

CAIRNS QLD 4870

#### 2. Location details

Street Address: 24 Mudlo Street PORT DOUGLAS

Real Property Description: LOT: 60 TYP: PTD PLN: 20911

Local Government Area: Douglas Shire Council

#### 3. Details of proposed development

Operational Works (Operational Works associated with Reconfiguration of a Lot)

#### 4. Decision

Date of decision: 4 September 2018

Decision details: Approved in full with conditions. These conditions are set out in Schedule 1 and

are clearly identified to indicate whether the assessment manager or a

concurrence agency imposed them.

#### 5. Approved plans and specifications

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

Drawing/report title	Prepared by	Date	Reference no.	Version/issue	
Aspect of development: Operational Works					
General Arrangement Driveways and Pathway	KFB Engineers	23 August 2018	K-3649, Sheet C01	D	
Water/ Sewerage Reticulatuion and Existing Services	KFB Engineers	23 August 2018	K-3649, Sheet C02	D	

#### 6. Conditions

This approval is subject to the conditions in Schedule 1. These conditions are clearly identified to indicate whether the assessment manager or concurrence agency imposed them.

#### 7. Further development permits

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

- All Building Work
- All Plumbing Work

#### 8. Properly made submissions

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

#### 9. Currency period for the approval

This development approval will lapse at the end of the period set out in section 85 of *Planning Act 2016*. This is a two (2) year period from the date the approval takes effect.

#### 10. Rights of appeal

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*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

A copy of the relevant appeal provisions are included in Schedule 2.

#### SCHEDULE 1 - CONDITIONS AND ADVICE

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

#### 1. General

- a. The conditions require amendments to the drawings. The revised drawings must be submitted "for construction" and must be certified as approved by a registered professional engineer of Queensland (RPEQ).
- An updated Statement of Compliance must be provided with the revised drawings required under the conditions of this approval.
   Reference is made to FNQROC Development Manual (refer Appendix A of Application Procedures (AP1)).

#### 2. Earthworks

- a. The applicant is to ensure that any earthworks undertaken as part of the works maintains a free draining surface with no ponding of standing water resulting. Any amendments proposed to the existing finished surface profiles are to be identified and reported to Council prior to being undertaken at the road verge. Resultant amendments shall be recorded on as constructed drawings to be submitted at the completion of the project.
- b. No filling of the road reserve is to occur. Filling of the site is to only occur within the property boundaries and is to be retained by the boundary fence.
- c. Prior to the pre-start meeting the applicant is to provide amended plans showing the earthworks fill levels required within each lot to ensure they are free draining to the lawful point of discharge. The earthworks levels on Beryl Street are proposed to be raised by up to 400mm on the revised drawings and may require filling of Lots 2 and 3 to drain to Beryl Street. This additional filling detail is required to be shown on drawings and approved prior to the pre-start meeting.

The above requirements must be satisfied prior to requesting a pre-start meeting.

#### 3. Water

- a. Drawings are to be amended to reflect the FNQROC requirements for pipes to be minimum PE100 PN16 per S5.05 note 2.
- b. Provide revised drawings showing clearance between water and sewer and confirm the water and sewer clearances meet the requirements of FNQROC and the reference WSA Table 4.2.
- c. Provide amended drawings to show how the connection to Lot 3/Villa 3 can be completed without being underneath the concrete footpath. The water connections must be sited at least 600mm from the electrical pillar boxes. This must be demonstrated on the amended plan.
- d. Provide conduits underneath the footpath at each proposed connection location.
- e. Confirm clearance to the new sewer ISO in front of Lot 1 (Villa 1) noting the clearance on the plan.

- f. Provide additional notation for the connection to Councils existing main to include Gibault joints and a thrust block.
- g. Provide amended drawings to show the water meters on the road verge and not within the property boundaries. The water meters should be sited between the Beryl Street boundary and the footpath.
- h. The above requirements must be satisfied prior to requesting a pre-start meeting.

#### 4. Sewer

- a. The Plans must be updated to specify the sewer drop type at the existing manhole including the incoming and outgoing invert levels. Note external drops are not permitted.
- b. The alignment of the sewer is to be confirmed on the "for construction" drawings. The RPEQ certified Revision B drawings indicated the manhole at 6.2 m from the Beryl Street kerb. The revised plan C (also RPEQ certified) nominates the distance to the manhole at 5.7m from kerb and 3.6m from the property boundary. The design report nominates the distance from kerb to sewer as 6.2m. Councils GIS records indicate the distance from the property boundary to be approximately 3 m which appears to indicate the sewer is closer to the water main and path and unlikely to meet clearance requirements per FNQROC and WSA.
- c. The for-construction drawings are to confirm the location of the existing manhole and confirm any changes required to the sewer reticulation design prior to the pre-start meeting. In particular, the clearance to the water main and alignment relative to the concrete path. The clearances to existing trees to be retained are to be shown on the plan.
- d. The above requirements must be satisfied prior to requesting a pre-start meeting.

#### 5. Roads and Paths

- a. The section of kerb to be replaced in front of Lot 3/Villa 3 must include those sections where the existing kerb is damaged due to the previous driveway use. The notation on the drawings is to be amended to include the requirement for the kerb to be assessed with Councils inspecting officer and the final extent agreed on site.
- b. Similar Notation is to be included on Mudlo Street requiring the existing kerb at the previous driveway crossing to be inspected with Council Officers and damaged sections to be identified and replaced.
- c. Council officers note that the existing concrete footpath on the eastern end of the project is shown clear of the sewer manhole on the Revision B drawings but is now shown to align with the Council sewer manhole on the Revision C and D drawings. All drawings have been certified by an RPEQ. Council requires that the drawings confirm the location of the existing concrete pathway, manhole and driveway for the adjacent lot. These surface elements can reasonably be assessed on site and should be shown accurately on the drawings submitted for approval.

#### 6. Traffic Report

The recommendations made in the traffic safety report prepared by Civil Walker dated 10 May 2018 must be complied with in full.

#### 7. Site Drainage

Provide amended plans detailing how the storm water collected on the site is managed. It is noted that the 'for construction' drawings include inlet pits in the courtyards of each lot. Demonstrate how the inlet pits create a lawful point of discharge to the Beryl Street kerb. Include separate catchment calculations for pipe diameter. The above requirements must be satisfied prior to requesting a pre-start meeting.

#### 8. Street Tree Protection

- a. The recommendations for existing street tree protection noted on the plan do not satisfy Australian Standard 4970-2009. In particular, the Tree Protection Zone is incorrect. Demonstrate how compliance with the standard can be achieved for the construction period.
- b. The road verge levels are conditioned so that not further elevation by filling occurs. The protection plan by Hortulus Australia relies on verge elevation to protect the roots of the Melaleuca Leucadendra adjacent to unit 2. Demonstrate how Council can be satisfied that the street tree will be protected where alternative solutions are inconsistent with the Australian Standard 4970-2009.
- c. The above requirements must be satisfied prior to requesting a pre-start meeting.

#### STANDARD CONDITIONS

#### General

- 1. The proposed works are permitted subject to any alterations:
  - a. found necessary by Chief Executive Officer at the time of examination of Engineering drawings or during construction of the works because of particular engineering requirements and.
  - b. to ensure the works comply in all respects with the requirements of the *FNQROC Development Manual* and good engineering practice; and
  - c. to comply with project specific conditions and the following standard conditions of approval.

All works must be carried out in accordance with the approved plans, conditions and specifications, to the requirements and satisfaction of the Chief Executive Officer.

- 2. Council's examination of the documents should not be taken to mean that the documents have been checked in detail and Council takes no responsibility for their accuracy. If during construction, inadequacies of the design are discovered, it is the responsibility of the Principal Consulting Engineer to resubmit amended plans to Council for approval and rectify works accordingly.
- 3. Notwithstanding any approval given to engineering documents, where a discrepancy occurs between these documents and Council's standards, then Council's standards

- shall apply. All works must be performed in accordance with Council standards and Local Laws and other statutory requirements.
- 4. If in fact there are errors, omissions or insufficient detail on the plans for the purpose of construction, these deficiencies shall be made good during construction and Council reserves the right to withhold approval of construction until such deficiencies are made good to its satisfaction.

#### Verges

5. All verges where they have been affected by works are to be covered full-width with topsoil (AS 4419/Soils for Landscaping and Garden Use) to a depth of not less than 40 mm, lightly compacted and grassed in accordance with Council's Guidelines and Specifications.

#### **Council Infrastructure and Other Utilities**

- 6. All works must not interfere or impact on Council water supply or other agency infrastructure and must comply with the following:
  - a. The developer shall be responsible for confirming the location of all existing services (including sewer, water and utility service infrastructure) prior to the commencement of works on site. Any permits necessary to alter/interfere with such services must be obtained prior to the commencement of work and be available for Council inspection if required.
  - b. Any works over or within the zone of influence of Council's existing water infrastructure must be approved by Douglas Shire Council prior to the commencement of the proposed works. Unless otherwise approved in writing, existing infrastructure impacted by the development shall be subject to the maintenance period provisions contained in this Decision Notice.

Construction works shall include any works that may impact on existing infrastructure such as, but not limited to, mobilisation of heavy earthmoving equipment, stripping and grubbing, site filling, stockpiling of materials and installation of erosion and sediment control measures.

#### **PART 1B—ADVICE NOTES**

- 1. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
- 2. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
- 3. For information relating to the *Planning Act 2016* log on to <a href="www.dsdmip.qld.gov.au">www.dsdmip.qld.gov.au</a>. To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to <a href="www.douglas.qld.gov.au">www.douglas.qld.gov.au</a>.
- 4. In accordance with previous discussions and agreements with Douglas Shire Council, the proposed new dwelling must be provided with onsite water storage given that reticulated water supply to the property is provided via the trunk main and water supply cannot be guaranteed by Douglas Shire Council.

#### PART 1C—STATEMENT OF REASONS

#### The reasons for this decision are:

- 1. Section 60 of the Planning Act 2016:
  - a. to apply the conditions and advices as per schedule 1 above;
  - b. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme, FNQROC Development Manual and relevant Australian Standards.
  - c. to ensure compliance with the Planning Act 2016.
  - 2. To ensure donated assets are maintainable and constructed to the relevant standards with quality materials.
  - 3. To ensure the safety of maintenance of personnel and safety of the public utilising and relying upon infrastructure and assets associated with the development.

#### SCHEDULE 2 – PLANNING ACT EXTRACT ON APPEAL RIGHTS

#### **CHAPTER 6, 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—
  - 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.

#### **SCHEDULE 1 APPEALS**

#### 1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to—
  - (a) the P&E court; or
  - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
  - (a) the refusal, or deemed refusal of a development application, for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (b) a provision of a development approval for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (c) if a development permit was applied for—the decision to give a preliminary approval for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (d) a development condition if—
    - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
    - (ii) the building is, or is proposed to be, not more than 3 storeys; and
    - (iii) the proposed development is for not more than 60 sole-occupancy units; or
  - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
  - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
  - (g) a matter under this Act, to the extent the matter relates to—

- (i) the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
- (ii) the Plumbing and Drainage Act, part 4 or 5; or
- (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
- (i) a decision to give an infrastructure charges notice; or
- (j) the refusal, or deemed refusal, of a conversion application; or
- (k) a matter that, under another Act, may be appealed to the tribunal; or
- a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
  - (a) for a matter in subsection (2)(a) to (d)—
    - a development approval for which the development application required impact assessment;
       and
    - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
  - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.
- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
  - (a) column 1 states the appellant in the appeal; and
  - (b) column 2 states the respondent in the appeal; and
  - (c) column 3 states the co-respondent (if any) in the appeal; and
  - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.

#### Extract of Schedule 1 of the Planning Act 2016

## Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal

1. Development applications

An appeal may be made against—

- (a) the refusal of all or part of the development application; or
- (b) the deemed refusal of the development application; or
- (c) a provision of the development approval; or
- (d) if a development permit was applied for—the decision to give a preliminary approval.

(a) If a development permit that applied for the decision to give a promitmary approval.				
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)	
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	<ol> <li>A concurrence agency that is not a co-respondent</li> <li>If a chosen assessment manager is the respondent—the prescribed assessment manager</li> </ol>	
			<ul><li>3 Any eligible advice agency for the application</li><li>4 Any eligible submitter for the</li></ul>	
			application	

### Table 2 Appeals to the P&E Court only

2. Eligible submitter appeals

An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to—

- (a) any part of the development application for the development approval that required impact assessment; or
- (b) a variation request.

Column 1	Column 2	Column 3	Column 4 Co-respondent by election (if any)
Appellant	Respondent	Co-respondent (if any)	
<ol> <li>For a development application—an eligible submitter for the development application</li> <li>For a change application—an eligible submitter for the change application</li> </ol>	1 For a development application—the assessment manager 2 For a change application—the responsible entity	The applicant     If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application

3. Eligible submitter and eligible advice agency appeals

An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to—

- (a) any part of the development application or the change application, for the development approval, that required impact assessment; or
- (b) a variation request.

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<ol> <li>For a development application—an eligible submitter for the development application</li> <li>For a change application—an eligible submitter for the change application</li> </ol>	1 For a development application—the assessment manager  2 For a change application—the responsible entity	The applicant     If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application
3 An eligible advice agency for the development application or change application			

#### Note:

Attached is a Rights of Appeal Waiver form (Schedule 3). Please complete and return this form if you are satisfied with the approval and agree to the conditions contained therein and you wish to waiver the 20 day appeal period available under the *Planning Act 2016* 

### APPROVED PLANS (NOTE THESE PLANS REQUIRE REVISION AND RE-SUBMISSION TO COUNCIL AS PER THE CONDITIONS OF THIS DEVELOPMENT APPROVAL)



