

27 April 2021

**Enquiries:** Jenny Elphinstone  
**Our Ref:** MCUI 2020\_3910/1 (Doc ID1008797)  
**Your Ref:** 188-190 Trezise Road

John and Joanne Wootten  
C/- Eventcore  
45 Owen St  
CRAIGLIE QLD 4877

Attention Mr Nick White

**Email:** [nick@eventcore.com.au](mailto:nick@eventcore.com.au)

Dear Sir

**Development Application for Material Change of Use (Function facility)  
At 188-190 Trezise Road Mowbray  
On Land Described as Lot 115 on SP199697 and Lot 49 on N157479**

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

Please quote Council's application number: MCUI 2020\_3910/1 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



**Paul Hoyer**  
**Manager Environment & Planning**

encl.

- Decision Notice
  - Approved Drawing(s) and/or Document(s)
  - Reasons for Decision
- 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: J C Wootten & J P Wootten

Postal Address: C/- Eventcore  
Attention Mr Nick White  
45 Owen St  
CRAIGLIE QLD 4877

Email: [nick@eventcore.com.au](mailto:nick@eventcore.com.au)

#### Property Details

Street Address: 188-190 Trezise Road Mowbray

Real Property Description: Lot 115 on SP199697 and Lot 49 on N157479

Local Government Area: Douglas Shire Council

#### Details of Proposed Development

Development Permit for a Material Change of Use Function facility in addition to the continuing use of a dwelling house on each lot.

#### Decision

Date of Decision: 27 April 2021

Decision Details: Approved (subject to conditions)

#### 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
Site Layout	Lot 115 on SP199697 & Lot 49 on N157479 (Trezise Road, Mowbray), as prepared by the applicant and submitted to Council on 22 February 2021 (Council document 998018).	22 February 2021

Drawing or Document	Reference	Date
Event Floorplan	As prepared by the applicant and submitted to Council on 22 December 2020 (Council document 989347).	22 December 2020

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

## **Assessment Manager Conditions & Advices**

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### **Assessment Manager Conditions**

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; and
  - 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 Commencement of Use, except where specified otherwise in these conditions of approval.

### **Limitation of Use**

3. The Development Permit remains valid only while both Lot 115 on SP199697 and Lot 49 on Plan N157479 are both made available to accommodate the approved use. In the event circumstances change that result in either lot not being available to accommodate or be used for the approved use, the Development Permit has no force or effect.

### **Approved Use**

4. Approval is granted for the purpose of a private functions, that are facilitated by Eventcore Pty Ltd (or another event company, that is a registered company under Commonwealth law, to the satisfaction of the Chief Executive Officer) or the landowner.

### **Events Management Plan**

5. The applicant must submit a Function Facility Management Plan that outlines how functions will be managed including, but not limited to, matters such as parking, lighting, ablutions, noise, waste, health, service of food and beverages (including a copy of the associated food license held by a provider for the function) and safety (including crocodile management and the lake, such as temporary fencing as is necessary). The Function Facility Management Plan must be submitted to the satisfaction of the Chief Executive Officer prior to Commencement of Use. The Function Facility Management Plan must be adhered to at all times during events.

### **Location of the Function facility**

6. The location of the Function facility area must be generally in the north-western portion of Lot 115 on SP199697 as detailed on the applicant's Site Plan, as submitted to Council on 22 February 2021 (Council document reference 998018). The use of the Function facility must not be undertaken beyond the property boundary and if necessary temporary fencing is to be provided to the northern property boundary to ensure attendees remain on the land.

## **Availability of onsite management**

7. When hosting an event, the owners of the property or their representative (which maybe the event company providing for the Function facility) must be present at all times to ensure the Development Permit and the nominated Function Facility Management Plan are complied with.

The owner or their representative as the Function facility on-site manager is responsible for all persons on the premises (including all invited guests, hosts, employees, charter drivers and subcontractors) display an acceptable level of behaviour at all times.

The owner or their representative, who is attending the premises as the Function facility on-site manager, must make their telephone number available to nearby neighbours and Queensland Police (Port Douglas Station).

The owner or their onsite representative must manage any complaints immediately when a function occurs.

## **Maximum number of persons**

8. While it is anticipated the average number of attendees (excluding Function facility employees) is 80 persons, the maximum number is limited to 150 persons at any one event. A maximum of 20 employees/sub-contractors associated with the function can attend the site at any one time.

## **Function facility operations**

9. The Function facility can only operate during either of the following times:
- Daytime function – between 10:00 am and ending by 5:30 pm and all persons attending the Function facility (excluding employees) must be transported off the premises by 6:00pm that day;
  - After a daytime function all employees associated with the Function facility must depart the premises by 7:00pm and while attending and leaving and leaving must do so in a quiet manner;
  - Evening function – between 2:30pm and ending by 10:30pm and all persons attending the Function facility (including employees) must depart the premises by 11:00pm that evening;
  - Function facility employees may attend the day prior to, during the day or the day after an evening function to setup and pack away equipment. At all such time the employees must behave in an orderly and quiet manner;
  - Only one function (either an evening function or a daytime function) is to be held per day;
  - A maximum of two (2) daytime functions and one (1) evening can be held each calendar month between and including the months of April to November; and
  - No persons are permitted to stay on and either reside or camp on the premises other than the accommodation of persons associated with the established land use of House on each lot.

## **Transport of attendees**

10. With the exception of disabled persons utilising self-drive or assisted driver transport, all persons attending the function (excluding employees and those who are residing on the premises) must be transported to and from the Function facility by a chartered bus. Attendees are to be transported to and from their place of accommodation.

## **Onsite parking and access**

11. All vehicles associated with events must be contained onsite at all times generally in the area identified as the "Vehicle Carpark" on Lot 49 as detailed on the Site Plan. Parking of vehicles on Mowbray Road, Trezise Road or Spring Creek Road is not permitted.

For access and parking areas a minimum of a solid ground cover must be provided and maintained to a satisfactory standard for the life of the approved use (e.g.- blue stone and gravel products) to the satisfaction of the Chief Executive Officer.

All access and egress to the property must only be from the existing constructed access point at the north-eastern vehicle access to Trezise Road (on Lot 49 on N157479. No access or egress is permitted at the access point opposite the intersection of Spring Creek Road.

Provide sufficient concrete aprons on the site to each lot vehicle access point of a minimum of 10 metres length and 3 metres width, to ensure wheel turn does not carry gravel onto the adjacent road, to the satisfaction of the Chief Executive Officer.

All pedestrian accesses within the premises must have either a sealed surface or a minimum full ground cover must be maintained at all times (e.g. a defined pedestrian walkway of gravel or grass) to the satisfaction of the Chief Executive Officer.

## **Sound emissions**

12. Sound emitting from the site from entertainment, music or related activities must not exceed a maximum noise level of no more than 5dB(A) above background when measured from the following points along the boundary:
  - a. at the western corner of the common boundary corner of Lot 115 on SP199697 and Lot 49 on N157479;
  - b. at the eastern vehicle entry to Trezise Road, just south of the common boundary corner of Lot 115 on SP199697 and Lot 49 on N157479;
  - c. at the south-eastern boundary of Lot 49 on N157479, opposite the intersection of Trezise and Spring Creek Roads.

No entertainment, music or related activity is to be emitted after 10:30pm.

## **Lighting**

13. Lighting must not be directed toward nearby properties; and where applicable, shields and baffles must be installed on lighting to prevent spill onto adjoining properties.

## **Ablution Facilities**

14. Sufficient toilets facilities with an adequate supply of toilet paper, potable water and soap must be provided for and maintained during each event.

## **Waste**

15. Waste receptacles must be provided of sufficient number and size capable of containing the volume of waste produced on the premises during each event.

Waste generated during each event must be disposed of at an appropriate waste disposal facility.

## **Dust**

16. Dust emissions or other air pollutants must not extend beyond the boundary of the site. Where dust can be seen extending beyond the boundary of the site, the event manager must immediately provide a directive to cease the activity, or immediately implement corrective actions to prevent activities from causing further dust movements beyond the property boundaries.

## ADVICE

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.
2. 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.
3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
4. The food and beverage providers at each event must hold relevant licenses and approvals under the *Queensland Food Act 2006*.
5. Despite condition 12, noise emanating from the site must not cause a noise nuisance in accordance with the *Environmental Protection Act 1994* and the *Environmental Protection Policy (Noise) 2008*.
6. Light emanating from the site must not cause a light nuisance to surrounding properties in accordance with the *Environmental Protection Act 1994*.
7. Ablution facilities are to be provided having regard to the Commonwealth *Premises Standards* and the Building Code of Australia, under the *Building Act 1975*.
8. For information relating to the *Planning Act 2016* log on to [www.dsdmip.qld.gov.au](http://www.dsdmip.qld.gov.au) . To access the FNQROC Development Manual, Local Laws and other applicable Policies, log on to [www.douglas.qld.gov.au](http://www.douglas.qld.gov.au) .

## Further Development Permits

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Not applicable

## Currency Period for the Approval

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This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

## Rights to make Representations & Rights of Appeal

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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)

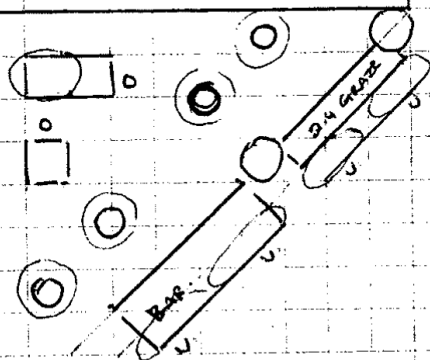
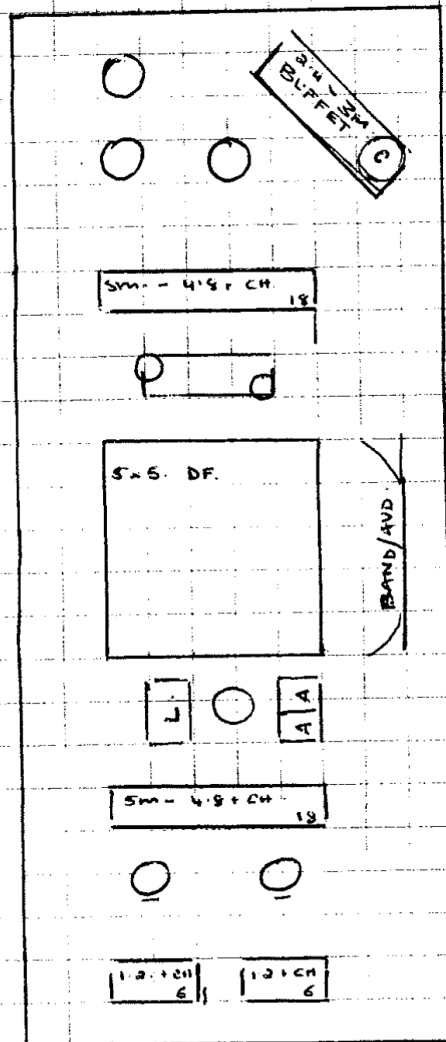
Site Layout: Lot 115 on SP199697 & Lot 49 on N157479 (Trezise Road, Mowbray)



# Function Facility Floor Plan

MARQUEE 10x24 - 150 PAX COCKTAIL

□ = 1.50m





## Reasons for Decision

1. The reasons for this decision are:
  - a. Sections 60, 62 and 63 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 development application was properly lodged to the Douglas Shire Council 21 January 2021 under section 51 of the *Planning Act 2016* and Part 1 of the Development Assessment Rules;
  - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
  - c. Two properly made submissions were received.
    - i. Submitters:

Mr Jeffrey Heidke  
143 Trezise Road  
Mowbray Valley  
Port Douglas Qld 4877

Ms Eleanor Jones  
[eleanor@jonespd.com](mailto:eleanor@jonespd.com)
    - ii. Consideration of Submissions

Grounds of Submissions	Planning Considerations
The emission of noise and amplified music will disturb the amenity of nearby residents. Local people reside in the area for the peace and quiet of the Mowbray Valley area. Residents work long hours and the disruption of loud music on a regular basis will be considerable and undesirable. Sound will detrimentally impact on houses that are located on the nearby hillside.	The conditions of the approval limit the number and extent of time which an event can occur. The amenity of the area is one of a rural activity and amenity can range from tranquillity to excessive sugarcane harvest and tractor hauling emissions. The conditions of the approval limit and reflect the nature of the development application sought for the Function facility activity. The use seeks to have 24 events during part of the year. Some of these events are during the day and some during the evening. Given the limited number and frequency of events noise emissions are not continual nor detrimental. Some of the hillside residents are located in rural zone, others are in the rural residential zone. There is always reverse amenity where residents are located in or close to rural zones, due to the nature of agricultural activities that may be conducted. There is "quietness" experienced by hillside residents is depreciated by the agricultural activities from the valley floor. Conversely, the hillside provides increased amenity achieved by the views from these elevated houses in terms of visual amenity and cool breezes. The conditions of the approval limit noise emissions by decibels and by time periods. The approval is only supported subject to the conditions of the approval.

Grounds of Submissions	Planning Considerations
The development will result in increased traffic in a rural residential area.	The traffic demand associated with the development is minimal and can be accommodated on the local roads. A condition of the approval requires utilising a single point of access and egress.
The facility is to be inappropriately located on a flood plain.	A condition of the approval requires safety considerations to be documented in the required Function Facility Event Management Plan.
The adjacent river has crocodiles. Concern is raised whether Council will protect the facility from crocodiles.	A condition of the approval requires safety considerations to be documented in the required Function Facility Event Management Plan. The ultimate safety for all those on the land during the function inactivity rests with the onsite manager.
The development will set a precedent. Concern is raised with more people seeking Function facilities on other land in the area.	Subject to compliance with the planning scheme codes there is opportunity for smaller functions as accepted development in the Rural Zone. This land is considered of sufficient size to accommodate the proposed development and through the conditions of the approval this development is considered meritorious. There is limited opportunity in the surrounding area for similar applications, in particular along the southern side of Mowbray River Road, as many of these lots are constrained by hillslopes and vegetation. Each application is considered separately.
The traffic associated with the development will be a safety hazard to children catching the school bus at the corner of Trezise and Spring Creek Roads.	The traffic demand associated with the development is minimal and can be accommodated on the local roads. A condition of the approval requires the access and egress only form the existing constructed vehicle access near to the common boundary of the two lots and is some distance from the intersection of Trezise and Spring Creek Roads.

3. Evidence or other material on which findings were based:
  - a. the development triggered assessable development under the Assessment Table associated with the Rural Zone Code;
  - b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 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 and address the grounds raised in the submissions.

### Non-Compliance with Assessment Benchmarks

None identified.

# Adopted Infrastructure Charges Notice



2018 Douglas Shire Planning Scheme version 1.0 Applications

## ADOPTED INFRASTRUCTURE CHARGES NOTICE

John and Joanne Wootten, C/- Eventcore DEVELOPERS NAME		N/A ESTATE NAME	0 STAGE
188-190 Trezise Road STREET No. & NAME	Mowbray SUBURB	L115 SP199697 & L49 N157479 LOT & RP No.s	13099 and 4754 PARCEL No.
MCU Function facility DEVELOPMENT TYPE		MCUI 2020_3910 COUNCIL FILE NO.	6 VALIDITY PERIOD (year)
1008303 DSC Reference Doc. No.	1 VERSION No.	Payment before the change occurs	

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
0						
0						
<b>Proposed Demand</b>						
Places of assembly	Function facility	\$ per m <sup>2</sup> GFA	64.38	240	15,451.20	
	Total Demand				15,451.20	
<b>Existing Credit</b>						
Non-sewer area discount	-35%	0.00	0	0.00		
	Total Credit				5,407.92	
						Code 895 GL 7470.0135.0825

Required Payment or Credit **TOTAL** \$10,043.28

Prepared by	Jenny Elphinstone	19-Apr-21	Amount Paid	
Checked by	Daniel Lamond	19-Apr-21	Date Paid	
Date Payable	MCU - Before the change occurs		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

## Division 2 Changing development approvals

### Subdivision 1 Changes during appeal period

#### 74 What this subdivision is about

- (1) This subdivision is about changing a development approval before the applicant's appeal period for the approval ends.
- (2) This subdivision also applies to an approval of a change application, other than a change application for a minor change to a development approval.
- (3) For subsection (2), sections 75 and 76 apply—
  - (a) as if a reference in section 75 to a development approval were a reference to an approval of a change application; and
  - (b) as if a reference in the sections to the assessment manager were a reference to the responsible entity; and
  - (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—
    - (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.



- (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.



27 April 2021

**Enquiries:** Jenny Elphinstone  
**Our Ref:** MCUI 2020\_3910 (Doc ID 1008797)  
**Your Ref:**

John and Joanne Wootten  
C/- Eventcore  
45 Owen St  
CRAIGLIE QLD 4877

**Email:** [nick@eventcore.com.au](mailto:nick@eventcore.com.au)

Attention Mr Nick White

Dear Sir

**Adopted Infrastructure Charge Notice  
For Development Application for Material Change of Use (Function facility)  
At 188-190 Trezise Road Mowbray  
On Land Described as Lot 115 on SP199697 and Lot 49 on N157479**

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: MCUI 2020\_3910 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

## Adopted Infrastructure Charges Notice



2018 Douglas Shire Planning Scheme version 1.0 Applications

### ADOPTED INFRASTRUCTURE CHARGES NOTICE

<b>John and Joanne Wooten, C/- Eventcore</b>		<b>N/A</b>	<b>0</b>
DEVELOPERS NAME		ESTATE NAME	STAGE
<b>188-190 Trezise Road</b>	<b>Mowbray</b>	<b>L115 SP199697 &amp; L49 N157479</b>	<b>13099 and 4754</b>
STREET No. & NAME	SUBURB	LOT & RP No.s	PARCEL No.
<b>MCU Function facility</b>		<b>MCUI 2020_3910</b>	<b>6</b>
DEVELOPMENT TYPE		COUNCIL FILE NO.	VALIDITY PERIOD (year)
<b>1008303</b>	<b>1</b>	<b>Payment before the change occurs</b>	
DSC Reference Doc. No.	VERSION No.		

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
0						
0						
<b>Proposed Demand</b>						
Places of assembly	Function facility	\$ per m <sup>2</sup> GFA	64.38	240	15,451.20	
	Total Demand				<b>15,451.20</b>	
<b>Existing Credit</b>						
Non-sewer area discount		-35%	0.00	0	0.00	
	Total Credit				<b>5,407.92</b>	<b>Code 895 GL 7470.0135.0825</b>

Required Payment or Credit **TOTAL** **\$10,043.28**

Prepared by	<b>Jenny Elphinstone</b>	<b>19-Apr-21</b>	Amount Paid	
Checked by	<b>Daniel Lamond</b>	<b>19-Apr-21</b>	Date Paid	
Date Payable	<b>MCU - Before the change occurs</b>		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

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## **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.

## 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 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.