

20 December 2023

Enquiries: Neil Beck
Our Ref: MCUI 2023_5339/1 (Doc ID:1202202)
Your Ref: AU009246

Wade Peter Tibaldi
C/- RPS AAP Consulting Pty Ltd
PO Box 1949
CAIRNS QLD 4870

Email: Patrick.clifton@rpsgroup.com.au

Attention Mr Patrick Clifton

Dear Sir

**Development Application for Material Change of Use for a Transport Depot
At 37 Splendour Road Mossman
On Land Described as Lot 5 on SP297291**

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

Please quote Council's application number: MCUI 2023_5339/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

encl.

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Reasons for Decision - response to properly made submissions.
- 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 s 63 of the Planning Act 2016

Applicant Details

Name: Wade Peter Tibaldi
Postal Address: C/- RPS AAP Consulting Pty Ltd
PO Box 1949
Cairns Qld 4870
Email: Patrick.clifton@rpsgroup.com.au

Property Details

Street Address: 37 Splendour Road Mossman
Real Property Description: Lot 5 on SP297291
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Material Change of Use for a Transport Depot.

Decision

Date of Decision: 12 December 2023
Decision Details: Approved (subject to conditions)

Approved Drawing(s) and/or Document(s)

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

Drawing or Document	Reference	Date
Site Plan	Unauthored Drawing Council Doc: 1190398	Submitted with Application on 19 October 2023
FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access		
Rural Allotment Access	Standard Drawing S1105 Issue E	26 November 2014

Assessment Manager Conditions & Advices

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;
 - 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.

Hours of Operation

3. Operating vehicles associated with Transport Depot, loading of trucks and transportation of material to and from the site must not occur:
 - a. before 6.30 am or after 6:00 pm Monday to Friday;
 - b. before 6.30 am or after 1:00 pm Saturdays; or
 - c. on Sundays or Public Holidays.

Unless otherwise authorised by the Chief Executive Officer for specific projects over limited periods.

Noise Emissions

4. Noise from the approved transport depot must not cause environmental nuisance to any sensitive receptor. In accordance with the *Environmental Protection Act 1994*, any emission of noise from activities on site must ensure that the emissions are consistent with the *Environmental Protection (Noise) Policy 2019*.

Off-Site Impacts

5. Dust emissions or other air pollutants, including odours, must not extend beyond the site and cause an environmental nuisance to any sensitive receptor. In accordance with the Environmental Protection Act 1994, any emission of dust from activities on site must ensure that the emissions are consistent with the Environmental Protection (Air) Policy 2008.

Work Internal to the Site

6. The development must undertake the following at no cost to Council:
 - a. Construct a hard stand area for the LV Parking as per the approved drawing (Council doc id; 1190398). The hardstand area must provide for parking and maneuvering for six (6) rigid vehicles. The hardstand area must be constructed in accordance with FNQROC Development Manual;
 - b. Construct an access crossover and a sealed driveway access from the hardstand area to meet with Syndicate Road. The driveway and access crossover must be constructed in accordance with FNQROC Development Manual;
 - c. Construct concrete bunded raw material storage bays as per the approved plans (Council doc id; 1190398). The storage bays must be provided with an impervious base; and

- d. Ensure sediment and other potential contaminants are contained onsite at all times and not discharged to areas external to the property in accordance with the requirements of the *Environmental Protection Act 1994* and the FNQROC Development Manual.

The works must be completed within 30 business days of the approval taking effect.

Approved Use Area

7. The use of the site as a Transport Depot is restricted to the area identified in the approved plan.

Shed Layout.

8. Submit a Shed Layout Plan for both sheds for endorsement by the Chief Executive Officer within 5 business days of the approval taking effect. The plan must detail the area of the sheds associated with parking and activities ancillary to the proposed use. Please note that the area of the sheds identified for use will result in a variation to the infrastructure charges payable.

Fire Management

9. Mulch kept at the premises must be:
 - a. Limited to one (1) storage bay with a maximum of 80m³ of mulch stored within the bay;
 - b. Must be broken-up, turned and sufficiently watered to prevent self-combustion. Mulch must not be mechanically compacted;
 - c. Provided with a 5m wide fire break continuous around the storage bay area. The firebreak must be maintained by mowing such that grass is a maximum of 10cm high;
 - d. Separated from flammable liquids by a distance of 20m; and
 - e. Provided with a 10,000 litre onsite water storage/supply. The water storage must be fitted with a 50mm ball valve with a camlock fitting.

Fuel Storage

10. All fuel storage must be secured and banded and comply with AS1940:2017 *Storage and Handling of Flammable and Combustible Materials*.

Fuel storage in excess of 10,000 litres is not permitted on the site.

Landscaping

11. Provide a Landscape Plan that details:
 - a. Landscaping that can provide adequate screening from viewpoints external to the site within five (5) years from the commencement of use.
 - b. Species to be used in plantings that have regard to Council's Planning Scheme Policy SC6.7 Landscaping.
 - c. Detailed ground preparation and landscape maintenance schedule. The soil must be well prepared (not compacted) and fertilized with organic fertilizers to encourage strong growth; and

Prior to the undertaking of landscaping works the landscape plan must be submitted to the satisfaction of the Chief Executive Officer. The approved landscaping must be implemented as detailed in the approved landscape plan within 30 business days.

The landscaping must be maintained to the satisfaction of the Chief Executive Officer at all times.

Site Maintenance

12. The area surrounding the development site as depicted in the approved plans must be kept free of stockpiled rubbish, metal and machinery and be kept in a presentable condition to the satisfaction of the Chief Executive Officer.

Storage of Raw Materials

13. All bulk materials held on the site must be contained within the bunded concreted bin areas to the satisfaction of the Chief Executive Officer.

Contaminants

14. All reasonable and practicable measures must be taken to prevent pollution to the existing open drains, waterways or drainage lines, as a result of silt and sediment run-off from the storage of raw materials, oil and grease spills from any machinery. Wastewater for cleaning equipment must not be discharged or indirectly released to any watercourses or stormwater systems.

Sales to Public and signage

15. This approval does not permit sale of landscape supplies to the general public or the erection of signage.

Disposal of Garden Waste and Other Waste

16. The incineration of garden waste and other waste is not permitted at the development site. All waste must be disposed of in a lawful manner.

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 potential cyclone warning 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 relevant Local Laws and statutory requirements.
4. The information relating to the *Planning Act 2016* log on to 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

Infrastructure Charges Notice

5. A charge levied for the supply of trunk infrastructure is payable to Council towards the provision of trunk infrastructure in accordance with the Infrastructure Charges Notice. The original Infrastructure Charges Notice will be provided under cover of a separate letter. The amount in the Infrastructure Charges Notice has been calculated according to Council's Infrastructure Charges Resolution.

Please note that this Decision Notice and Infrastructure Charges Notice are stand-alone documents. The *Planning Act 2016* confers rights to make representations and appeal in relation to a Decision Notice and an Infrastructure Charges Notice separately.

The amount in the Infrastructure Charges Notice is subject to index adjustments and may be different at the time of payment. Please contact the Development Assessment Team at council for review of the charge amount prior to payment. The time when payment is due is contained in the Adopted Infrastructure Charges Notice.

Further Development Permits

Not applicable

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

Currency Period for the Approval

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

Rights to make Representations & Rights of Appeal

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

A copy of the relevant appeal provisions is attached.

Approved Drawing(s) and/or Document(s)



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 11 April 2023 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.
 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. One properly made submission was received, and one not properly made submission was received.
 - Submitters;
 - i. William and Geneva Postans
115 Syndicate Road
Mossman QLD 4873
- Consideration of Submissions.

Grounds of Properly Made Submissions	Planning Considerations
We purchased our property in 2007 when it was a peaceful environment. We believe the proposed site will decrease the value of our property and cause further disturbances within what should be a quiet rural/residential area.	Due to the nature of rural activities, the amenity of rural areas can range from tranquillity to excessive sugarcane harvest and tractor hauling emissions.
A shed was built 10-12 years ago, opposite our property at the above-mentioned site. Initially the shed was utilised as a farm shed	The construction of the shed was lawfully constructed and can be used for rural activities.
In the past 7 years the shed has progressively been utilised for commercial use, including a hydraulic machinery repair business, truck and heavy machinery mechanical facility, metal fabrication shop and earthmoving bulk materials depot. Many years of noise and dust pollution have already been endured, the legality of which is questionable.	This is a compliance matter and has been addressed by Council.

<p>Noise Pollution</p> <p>Obvious noise-based pollution is created with such businesses as listed above. Noise levels are escalating with heavy vehicles passing our property, most recently since June 2022, including body trucks, semi-trailers, floats, excavators, and front-end loaders.</p> <p>Heavy vehicles operate at all hours, as early 4am until the evening, up to 8pm, 7 days a week.</p> <p>Noises include reversing beepers, engine exhaust breaks, loading of heavy machinery, truck movements and heavy machinery noise.</p> <p>Our family often experiences sleep disturbances due to the noisy vehicles passing.</p> <p>Our two pet dogs are startled by the noise and vehicular lights at night, causing barking.</p>	<p>Noise Pollution concerns and light emissions have been addressed through the Environmental Performance code and through conditions of the approval that restrict hours of operation, therefore, nearby sensitive land uses (dwellings) will not be subject to a continuity of noise or light emissions from the development.</p>
<p>Air contamination</p> <p>Heavy trucks give off diesel dust contaminating the air.</p>	<p>The traffic demand associated with the development is unlikely to have a detrimental impact on air quality.</p>
<p>Past businesses have been caught on multiple occasions burning their own refuse, including rubber tyres and plastic, causing toxic fumes and smoke polluting the air, which was highly offensive.</p>	<p>A condition of approval will require that refuse be disposed of in a lawful manner. The disposal of waste through incineration will not be permitted at the development site.</p>
<p>The site has a dirt entrance and operation area, which becomes unsettled each time any vehicle, be it large or small, enters, causing dust to fill the surrounding environment, including our property, especially with northerly winds.</p> <p>Dirt and mud from the area and truck tyres builds up along Syndicate Road, including at the front of our property, causing further dust pollution, not just from trucks, but also from general local traffic.</p>	<p>A condition of approval requires that an access driveway, access crossover and paved hardstand be constructed to stop mud being transported off the site. This will prevent dust being generated at the site and Syndicate Road. The vegetated bund at the front of the premises adjacent to Syndicate Road will also act to buffer from airborne to areas external to the site.</p>
<p>Bore and tank water has been contaminated by neighbouring pollutants.</p>	<p>Activities associated with the development are not expected to result in contamination of aquifers or waterways. A condition of approval will require that measures be taken to prevent pollution and contaminates from entering waterways.</p>
<p>Operation of heavy vehicles can be experienced 7 days per week between 4am – 8pm, and we believe these times contravene local laws noise regulations and work periods.</p> <p>One example: Sunday, September 10, around 15 times trucks were heard entering and exiting the site loudly, causing dust and noise pollution.</p> <p>As many as 40 trucks per day and night enter and leave the site.</p>	<p>A condition of the approval will restrict the hours the Transport Depot are permitted to operate, to between 6.30am-6pm Monday to Friday and 6.30am – 1.00pm on Saturdays. The Depot <u>will not</u> be permitted to operate outside of these hours including Sundays and Public Holidays unless otherwise authorised by the Chief Executive Officer for specific projects over limited time periods.</p>

<p>We have great concerns about the use of the site with the proposal including retail sales, creating even further traffic from the public.</p> <p>We are highly opposed to any future retail signage and business advertising which inevitably occurs when retail business begins.</p>	<p>No retail sales to the public or signage are proposed or permitted under the approval.</p>
<p>The proposed Development Application is clearly better suited to an industrial area, as it is mainly industrial / commercial business by nature.</p>	<p>The nature of the proposed development is suitably located within the Rural zone, where similar land uses are already established.</p>
<p>Further more (sic) this truck and Machinery business has been operating on another block of rural land on Syndicate Road a couple of hundred metres from the proposed block for the same period of time. We have endured many years of noise and dust pollution from the Truck and Machinery business.</p>	<p>Application has been made for a Transport Depot to operate from Lot 5 on SP297291 (now formally recognised as Lot 1 on SP 337285), no additional parcels of land were included in the application.</p>

Planning Act 2016
Chapter 3 Development assessment

[s 74]

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.

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) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
 - (iv) otherwise—20 business days after the day the notice is given; or
- (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.

20 December 2023

Enquiries: Neil Beck
Our Ref: MCU1 2023_5339 (Doc ID:1202202)
Your Ref: AU009246

Wade Peter Tibaldi
C/- RPS AAP Consulting Pty Ltd
PO Box 1949
CAIRNS QLD 4870

Email: Patrick.clifton@rpsgroup.com.au

Attention Mr Patrick Clifton

Dear Sir

**Adopted Infrastructure Charge Notice
For Development Application Material Change of Use for a Transport Depot
At 37 Splendour Road Mossman
On Land Described as Lot 5 on SP297291**

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: MCU1 2023_5339 in all subsequent correspondence relating to this matter.

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

Yours faithfully



For

**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

W.P. Tibaldi		0	0
DEVELOPERS NAME		ESTATE NAME	STAGE
37 Splendour Road	Mossman	Lot 5 on SP297291 (now formally recognised as Lot 1 on SP337285)	158384
STREET No. & NAME	SUBURB	LOT & RP No.s	PARCEL No.
Transport Depot		MCUI 2023_5339	6
DEVELOPMENT TYPE		COUNCIL FILE NO.	VALIDITY PERIOD (year)
1195526	1	Payment before commencement of use for MCU; and Prior to signing and sealing of survey form for ROL	
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
Proposed Demand						
Industry	Transport_Depot	\$_per_m ² _GFA	51.63	275	\$14,198.25	
	Total Demand				\$14,198.25	
Deductions as per Resolution						Prior arrangement for online payment via invoicing - see below.
Less 30% no water connection					-\$4,529.47	
Less 35% no waste water connection					-\$4,969.38	
Existing Use Credit	(Nil Charge)				\$0.00	
	Total Credit				\$0.00	Code 895 GL GL7500.135.825

Required Payment or Credit

TOTAL

\$4,969.40

Prepared by	Neil Beck	14-Nov-23	Amount Paid
Checked by	Daniel Lamond	14-Nov-23	Date Paid
Date Payable	<p>Infrastructure Charges are payable within 5 business days of endorsement of the Shed Layout Plan</p>		
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 Ordinary Meeting held on 23 February 2021.

Charge rates under the Policy are subject to indexing.

Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

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

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

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

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.

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) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
 - (iv) otherwise—20 business days after the day the notice is given; or
- (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.