

10 March 2020

Enquiries: Daniel Lamond
Our Ref: OP 2019/ 3412 (943216)

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

Port Pacific Developments
C/- Brazier Motti Pty Ltd
PO BOX 1185
CAIRNS QLD 4870

Attention: Michael Tessaro

Dear Sir

**Operational works for vegetation damage
111-119 Port Douglas Road, Port Douglas**

Reference is made to the above development application. Please find attached the Decision Notice.

Please quote Council's application number OP 2019/ 3412 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Daniel Lamond on telephone 4099 9456.

Yours faithfully

Paul Hoyer
Manager Environment and Planning

encl.

- Decision Notice

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

Douglas Shire Council has assessed your application and decided it as follows:

1. Applicant's details

Name: Port Pacific Developments C/- Brazier Motti Pty Ltd
Postal Address: PO Box 1185
CAIRNS QLD 4870

2. Location details

Street Address: 111-119 Port Douglas Road, Port Douglas
Real Property Description: Lot 3 on RP729991
Local Government Area: Douglas Shire Council

3. Details of proposed development

Operational Works (Vegetation Damage)

4. Decision

Date of decision: 10 March 2020

Decision details: Development Permit

5. Approved plans and specifications

Plan	Reference	Date
Plan of Proposed Vegetation Clearing within Lot 3 on RP729991	34807-003-01	9 December 2019
Preliminary Site Grading- Common Property Road and Western Lots	188-002-SK04, plan prepared by Civil Walker Consulting Engineers	30 January 2020

6. Conditions

This approval is subject to the conditions in Schedule 1.

7. Further development permits

Not Applicable

8. Properly made submissions

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

9. Currency period for the approval

This development approval will lapse four (4) years from the date the approval takes effect.

10. Rights of appeal

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

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

SCHEDULE 1 – CONDITIONS AND ADVICE

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or documents, 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.

2. Council's Environment and Planning Department must be notified two (2) business days prior to the proposed date of commencement of any approved vegetation clearing.
3. All works must be undertaken by a suitably qualified and experienced contractor having full regard to Occupational Health and Safety considerations specific to tree work with relevant insurances in place.
4. The work authorized by this approval must be carried out in an environmentally sensitive manner in accordance with the conditions of this approval. If in doubt the precautionary principle should be applied. Stop work and contact Council for advice.
5. Prior to the removal of any tree, an inspection must be carried out for any signs of wildlife including nests and animal habitat. Should any recent wildlife activity be identified, removal of the tree must not occur until the animal has vacated the area of immediate danger.
6. Trees and/or vegetation that contain nesting native birds, dens or roosting sites of native animals are not to be removed while the nests, dens or roosting sites are in use, as per the requirements of the *Nature Conservation (Wildlife Management) Regulation 2006*, without the necessary approval. Information on approvals may be obtained from the Department of Environment and Science.
7. A clearing permit (protected plants) must be obtained from the Department of Environment and Science for the relocation of all specimens of 'Ant Plant' (*Myrmecodia beccarii*) prior to the removal of any host trees. 'Ant Plants' are listed as Vulnerable under both the *Nature Conservation Act 1992* and the *Environment Protection & Biodiversity Conservation Act 1999*.
8. Damaged vegetation is removed and disposed of at an approved site after Biosecurity Queensland have surveyed the site and issued a clearance for transfer.

Or;

Damaged vegetation is mulched or chipped and used onsite.

9. Prepare an erosion and sediment control strategy in accordance with *D5 Stormwater Quality* from the *FNQROC Development Manual*. The Erosion and Sediment Control Strategy must be endorsed by the Chief Executive Officer prior to commencing works.
10. Work is permitted between the hours of 6:30am and 6:30pm Monday to Saturday. Work is not to occur on Sundays or Public Holidays.
11. Prior to commencing work, the area approved for clearing must be pegged-out on site and endorsed by the Chief Executive Officer following an on-site inspection.

ADVICE NOTES

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse two (2) years from the day the approval takes effect in accordance with the provisions of section 85 of the *Planning Act 2016*.
2. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
3. For information relating to the *Planning Act 2016* log on to 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 .

REASONS FOR DECISION

1. To ensure the proposed development meets the requirements of the relevant benchmarks from the 2018 Douglas Shire Planning Scheme and in particular, the requirements of the FNQROC Development Manual and relevant Australian Standards.

SCHEDULE 2 – PLANNING ACT EXTRACT ON APPEAL RIGHTS

CHAPTER 6, PART 1 APPEAL RIGHTS

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the appellant); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note — See the P&E Court Act for the court's power to extend the appeal period.
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.

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

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The **service period** is—
 - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

SCHEDULE 1 APPEALS

1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to—
 - (a) the P&E court; or
 - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
 - (a) the refusal, or deemed refusal of a development application, for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (b) a provision of a development approval for—
 - (i) a material change of use for a classified building; or

- (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (c) if a development permit was applied for—the decision to give a preliminary approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (d) a development condition if—
 - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
 - (ii) the building is, or is proposed to be, not more than 3 storeys; and
 - (iii) the proposed development is for not more than 60 sole-occupancy units; or
 - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
 - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
 - (g) a matter under this Act, to the extent the matter relates to—
 - (i) the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
 - (ii) the Plumbing and Drainage Act, part 4 or 5; or
 - (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
 - (i) a decision to give an infrastructure charges notice; or
 - (j) the refusal, or deemed refusal, of a conversion application; or
 - (k) a matter that, under another Act, may be appealed to the tribunal; or
 - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
- (a) for a matter in subsection (2)(a) to (d)—
 - (i) a development approval for which the development application required impact assessment; and
 - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
 - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.
- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
- (a) column 1 states the appellant in the appeal; and
 - (b) column 2 states the respondent in the appeal; and
 - (c) column 3 states the co-respondent (if any) in the appeal; and
 - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.

Extract of Schedule 1 of the Planning Act 2016

Table 1	
Appeals to the P&E Court and, for certain matters, to a tribunal	
1.	Development applications An appeal may be made against— <ul style="list-style-type: none"> (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or

(d) if a development permit was applied for—the decision to give a preliminary approval.

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	<ol style="list-style-type: none"> 1 A concurrence agency that is not a co-respondent 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application

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

2. Eligible submitter appeals
 An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to—
 (a) any part of the development application for the development approval that required impact assessment; or
 (b) a variation request.

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

3. Eligible submitter and eligible advice agency appeals
 An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to—
 (a) any part of the development application or the change application, for the development approval, that required impact assessment; or
 (b) a variation request.

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

Note:

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

Approved Plans

Plan of Proposed Vegetation Clearing within Lot 3 on RP729991

111-119 Port Douglas Road, Port Douglas



10 30 34 15 10 27 40 W 81 30 35 45 27 40 E

A product of
 Queensland Globe

Legend located on next page



Includes material © State of Queensland 2018. You are responsible for ensuring that the map is suitable for your purposes. The State of Queensland makes no representation or warranties in relation to the map contents and disclaims all liability.
 Imagery includes material © CNES reproduced under license from Airbus DS, all rights reserved © 2017 C. Earth+, all rights reserved, 2019

N
 Scale: 1:10 000
 Printed at A3
 Print date: 9/12/2019

Datum: Geocentric Datum of Australia 1994
 Projection: UTM Mercator EPSG:102100
 For more information, visit <http://help.globe.qld.gov.au/help-info/Contact-us.html>

Queensland Government
 Department of Natural Resources, Mines and Energy

- Area of selective clearing

34807-003-01
 9/12/19

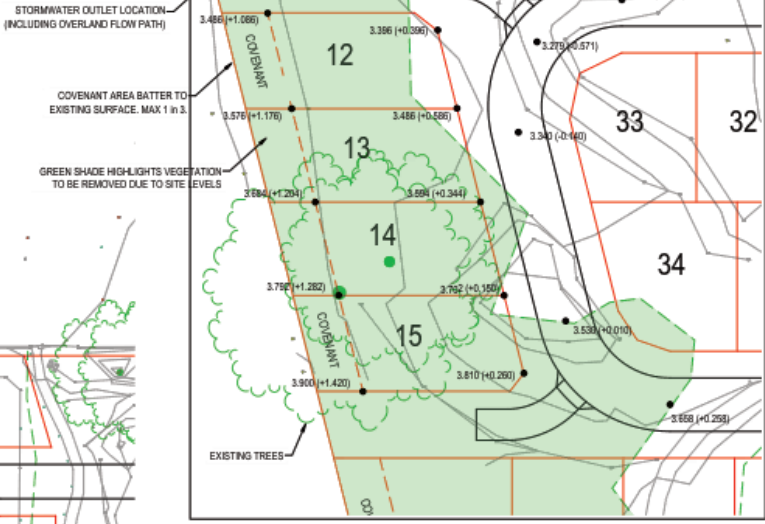
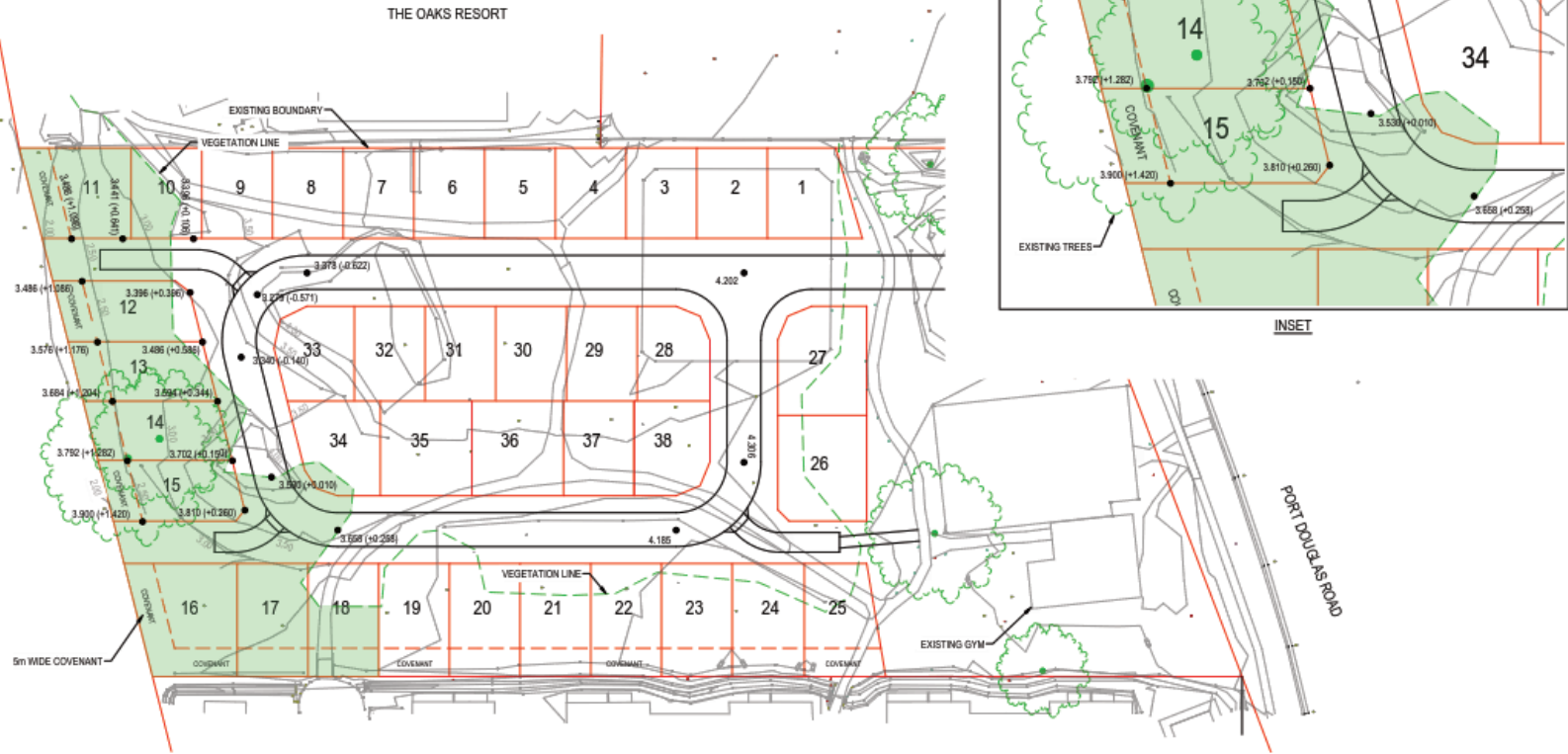


NOTE:

THE SITE LEVELS NOMINATED ON THIS PLAN ARE PRELIMINARY DESIGN LEVELS ONLY AND SUBJECT TO DETAILED DESIGN.

LEGEND

- EXISTING VEGETATION ON WESTERN BOUNDARY TO BE REMOVED DUE TO PROPOSED FILLING
- 3.378 (+0.622) PRELIMINARY LEVEL & FILL / CUT DEPTH
POSITIVE IS FILL, NEGATIVE IS CUT



PORT DOUGLAS ROAD

NO.	DATE	DESCRIPTION	DESIGN	APPROVED
2	30.01.20	LOT 16-18 CLEARING	CW	DJW
1	18.12.19	INITIAL ISSUE		

CLIENT

PORT PACIFIC DEVELOPMENTS

SCALE

1:400 0 4 8 12 16 20 24 A1
1:800

ALL DIMENSIONS IN METRES UNLESS NOTED OTHERWISE

CivilWalker
CONSULTING ENGINEERS

DESIGN	CW	CHKD	DJW
DESIGNED	CW	CHKD	DJW
DATE		REV	

PROPOSED DEVELOPMENT ON LOT 3 OF RP72991

PRELIMINARY SITE GRADING

COMMON PROPERTY ROAD & WESTERN LOTS

PROJECT NO. 188-002-SK04 REGION 2