

20 November 2018

Enquiries: Jenny Elphinstone Tel 07 4099 9482
Our Ref: ROL 2918/2018 (Doc ID 880805)
Your Ref:

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

Mr Paul Christie and Ms Claire Donnelly
PO Box 424
PORT DOUGLAS QLD 4877

Dear Sir/Madam

**DEVELOPMENT APPLICATION TO RECONFIGURE A LOT (1 LOT INTO 2 LOTS)
AT 9 SPINNAWAY CLOSE, PORT DOUGLAS
ON LAND DESCRIBED AS LOTS 0, 1 AND 2 ON BUP70674**

Council refers to the above development application lodged with Council and as properly made on the 2 November 2018.

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

Please quote Council's application number: ROL 2918/2018 in all subsequent correspondence relating to this development application. Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9482 or at enquiries@douglas.qld.gov.au .

Yours faithfully

PAUL HOYE
Manager Sustainable Communities

encl.

- Decision Notice
- Approved Plans
- Infrastructure Charges Notice
- Applicant's Rights to make representations and applicant's appeal rights.

DOUGLAS SHIRE COUNCIL

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

Thank you for your development application detailed below which was properly made on the 2 November 2018. Please be aware that Douglas Shire Council has assessed your application and decided it as follows.

1. Applicant's details

Name: Paul Christie and Claire Donnelly

Postal Address: PO Box 424
Port Douglas Qld 4877

2. Location details

Street address: 9 Spinnaway Close, Port Douglas

Real property description: Lots 0, 1 and 2 on BUP 70674

Assessment Manager: Douglas Shire Council

3. Details of the proposed development

Reconfiguration of a Lot (1 into 2 Lots).

4. Decision

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

Reasons for supporting the decision, despite the conflict with benchmarks – as tabled below.

Decision Date: 20 November 2018

5. Approved plans and specifications

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

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Proposed Layout Plans	Applicant	Undated -as submitted to Council on the 2 November 2018 October 2018	Refer to Council document ID 878992	N/A

6. Further development permits

Please be advised that no further development permits are required. However, all Plumbing and Drainage Work must only be carried in compliance with the Queensland *Plumbing and Drainage Act 2002*. A plumbing approval is necessary for the additional connections to Council's water supply and sewer service.

7. Properly made submissions

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

8. Referral agencies for the application

Not applicable

9. Currency period for the approval

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

10. Reasons for decision

The reasons for this decision are:

- A. Sections 60 and 63 of the *Planning Act 2016*:
1. The conditions and advices as per Schedule 1;
 2. To ensure the development satisfies the benchmarks of the 2018 Douglas Shire Council Planning Scheme; and
 4. To ensure compliance with the *Planning Act 2016*.
- B. Findings on material questions of fact:
1. The application was properly lodged to the Douglas Shire Council on the 2 November 2018 under section 51 of the *Planning Act 2016*;
- C. Evidence or other material on which findings were based:
1. Council undertook an investigation of assessment of the development, against the State Development Requirements and the 2018 Douglas Shire Council Planning Scheme in making its assessment manager decision;
 2. Council undertook an assessment in accordance with the provisions of section 60 of the *Planning Act 2016*; and
 3. The following findings are made:
 - a. Subject to amended assessment manager's conditions the development satisfactorily meets the State Planning Policy considerations and the 2018 Douglas Shire Council Planning Scheme requirements sufficient for the assessment of the applications against section 60 of the *Planning Act 2016*.

b. In regards to Section 63(iii)(e) of the *Planning Act 2016*:

Benchmark reference	Reasons for the approval or approval subject to conditions despite non-compliance with any of the benchmark.
<p>Flood and Storm Tide Overlay PO1 Development is located and designed to: ensure the safety of all persons; minimise damage to the development and contents of buildings; provide suitable amenity; minimise disruption to residents, recovery time, and rebuilding or restoration costs after inundation events.</p> <p>Note – For assessable development within the flood plain assessment sub-category, a flood study by a suitably qualified professional is required to identify compliance with the intent of the acceptable outcome.</p>	<p>The development is considered to comply with the performance outcome as there is no change to existing conditions.</p>

11. 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*.

Schedule 2 includes extracts from the Development Assessment Rules and the *Planning Act 2016* that sets down these rights.

SCHEDULE 1 CONDITIONS AND ADVICES IMPOSED BY THE ASSESSMENT MANAGER

PART 1A – CONDITIONS IMPOSED BY THE ASSESSMENT MANAGER

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

Except where modified by these conditions of approval

Timing of Effect

2. The conditions of the Development Permit must be effected prior to the lodgement of the Plan of Survey to the Chief Executive Officer for endorsement, except where specified otherwise in these conditions of approval.

Internal Wall and Easement

3.
 - a. Install a fire wall in the ceiling of the premises to enable suitable fire separation. This work must be undertaken as part of a Development Permit for Building Work and evidence of a suitable final inspection must be provided prior to the lodgement of the Plan of Survey to the Chief Executive Officer for endorsement.
 - b. Provide a reciprocal easement over the central shared wall. The easement documentation must be included with the Plan of Survey lodged with the Chief Executive Officer for endorsement.

Water Supply and Sewerage Works

4. Provide a sewer connection (cut in a new house connection branch) and a water supply connection to the existing development to ensure each new lot has separate and independent connections and metering.

All the above works must be designed and constructed in accordance with the FNQROC Development Manual.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer and must be completed prior to the lodgement

Existing Electricity and Telecommunications Services

5. Written confirmation of the location of existing services for the land must be provided. In any instance where existing services are contained within another lot, the following applies, either:
 - a. Relocate the services to comply with this requirement; or
 - b. Arrange registration of necessary easements over services located within another lot prior to, or in conjunction with, the lodgement of the Plan of Survey to the Chief Executive Officer for endorsement.

PART 1B – ADVICE NOTES

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

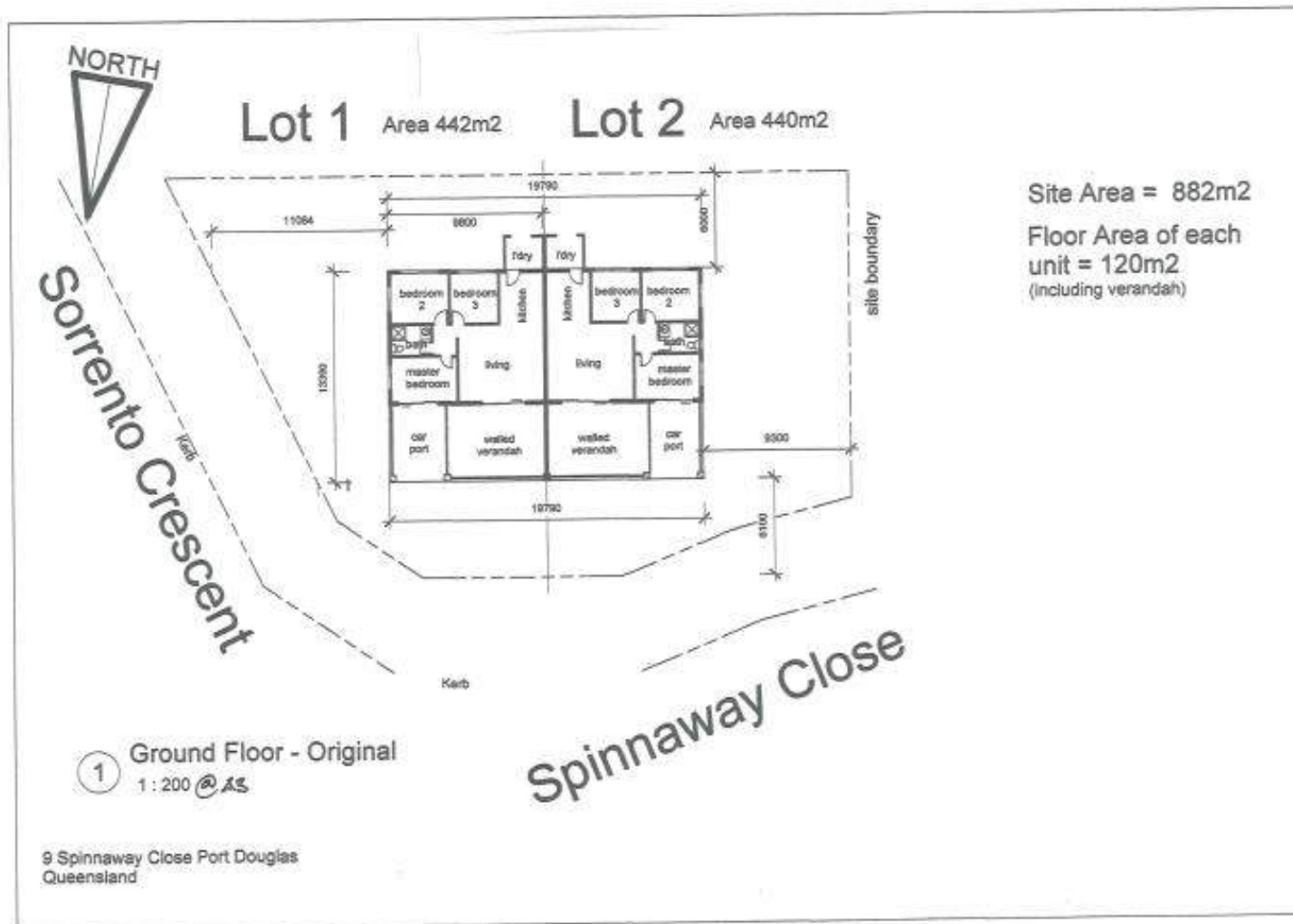
2. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
3. The current FNQROC Development Manual (Version 7) Standard Drawings for vehicle access crossovers and driveways are included in Schedule 2. Note a development permit for operational work is required where these required works are inconsistent with the FNQROC Development Manual.
4. This approval does not negate the requirement for compliance with relevant Local Laws and statutory requirements. Infrastructure Charges Notice
5. A monetary contribution to Council towards the provision of infrastructure is required in accordance with the Infrastructure Charges Notice attached to this decision. The contribution payable will be in accordance with the Planning Scheme Policy.

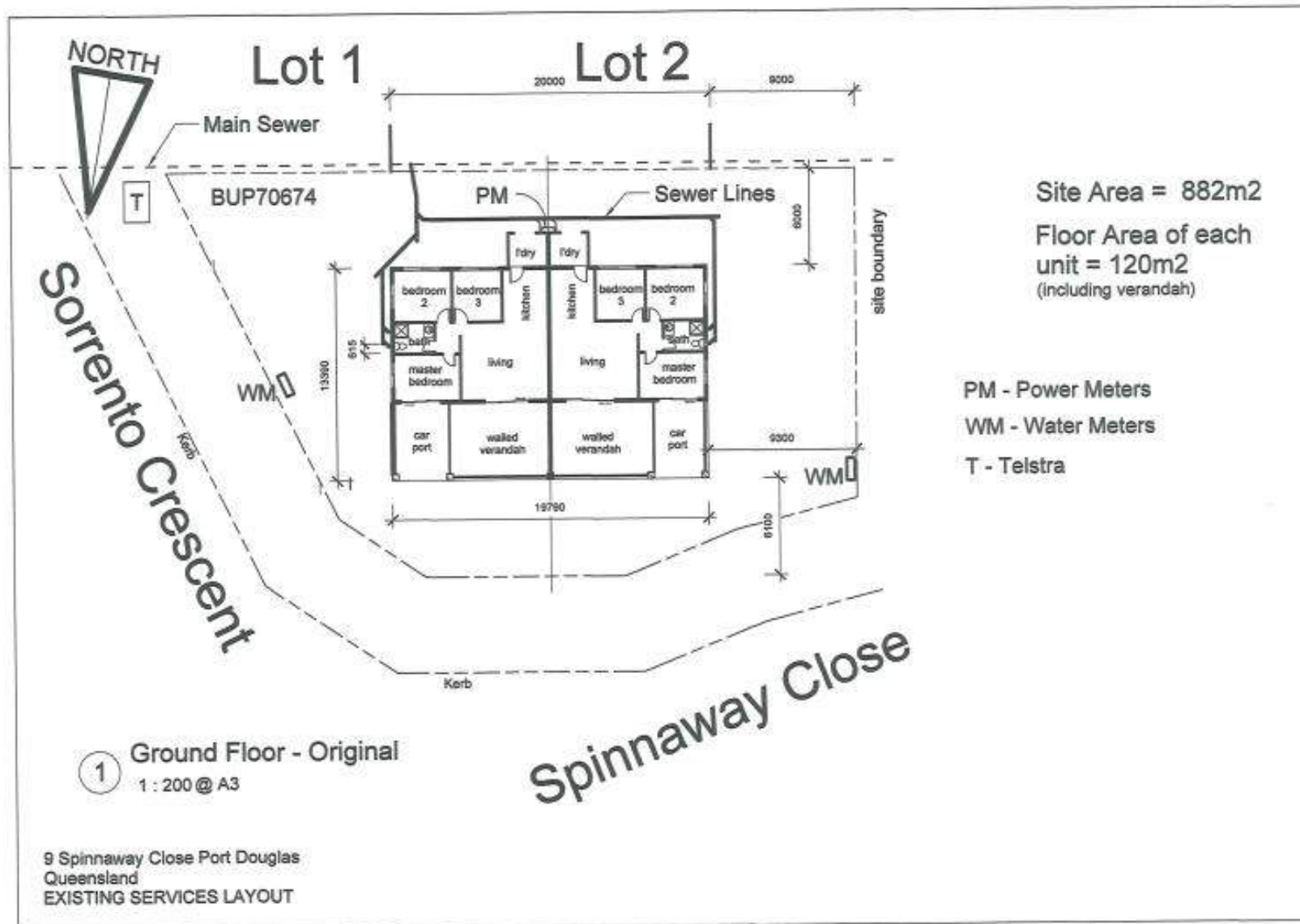
Contributions must be paid at the rates applicable at time of payment. Payment is required prior to lodgement of the Plan of Survey to the Chief Executive Officer for endorsement.

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


7. 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.

Attachment 1 Approved plans and specifications





Attachment 2 Infrastructure Charges Notice

	2008 Douglas Shire Planning Schemes Applications	
ADOPTED INFRASTRUCTURE CHARGES NOTICE		
Paul Christie & Claire Dnnelly	0	0
DEVELOPERS NAME	ESTATE NAME	STAGE
9 Spinnaway Close	LO, 1 & 2 BUP70674	12483
STREET No. & NAME	LOT & RP No.s	PARCEL No.
ROL (1 into 2)	ROL 2918/2018	6
DEVELOPMENT TYPE	COUNCIL FILE NO.	VALIDITY PERIOD (year)
D#880943	1	Payment prior to Commencement of Use
DSC Reference Doc. No.	VERSION No.	

Adopted Charges as resolved by Council at the Ordinary Meeting held on 5 June 2018, Local Government Infrastructure Plan, Planning Scheme Amendment (effect on and from 2 July 2018)

Locality	Charge per Use	rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
Mossman						
Proposed Demand						
House Lot House	Dwelling Lot	19,491.00	2	38,982.00		
Total Demand				38,982.00		
Existing Credit						
Duplex Semi detached	Semi detached	15,718.00	2	31,436.00		
Total Credit				31,436.00		Code 895 GL 07600.0135.0825
Required Payment or Credit				TOTAL	\$7,546.00	

Prepared by	J Elphinstone	16-Nov-18	Amount Paid	
Checked by	D Lamond	16-Nov-18	Date Paid	
Date Payable			Receipt No.	
Amendments			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 5 June 2018.

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

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

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

2018 Douglas Shire Planning Scheme

Preliminaries				
Developer	Paul Christie & Claire Dnnelly			ROL (1 into 2)
Estate Name				0
Stage				0
Street No. and Name	9 Spinnaway Close	MagicQ Doc ID:	880943	
Suburb	Port Douglas	Version No.	1	
Parcel No.	12483			
Lot and RP No.	L0, 1 & 2 BUP70674			
Development Permit No.	ROL 2918/2018	Validity Period		4 years

Adopted Charges as resolved by Council at the Ordinary Meeting held on 6 June 2018, Local Government Infrastructure Plan, Planning Scheme Amendment (effect on and from 2 July 2018)

Locality Mossman

Proposed Demand

House Lot	House	\$	38,982.00
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Total demand		\$	38,982.00
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Existing land use

Duplex	Semi detached	\$	31,436.00
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Nominal use credit			31,436.00
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Historical amount		\$0.00
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Date of payment		
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Credit for previous payment		0.00
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Credit for Works External

Opening balance of works external		\$0.00
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Opening balance of credits		\$0.00
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Credit claimed	\$0.00	0.00
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Contributions			7546.00
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Time of payment: Prior to the commencement of use

Amendments

0	<u>Prepared</u>	J Elphinstone	16-Nov-18
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0	<u>Checked</u>	D Laird	16-Nov-18
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TOTAL			7546.00
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SCHEDULE 2 – PLANNING ACT 2016 - EXTRACTS ON MAKING REPRESENTATIONS AND ON APPEAL RIGHTS

Planning Act 2016 Making Representations

Planning Act 2016
Chapter 3 Development assessment
[s 74]

- (a) any part of the building work must be assessed against, or having regard to, a matter that is not a building assessment provision; and
 - (b) none of the referral agencies are required to assess the application against, or having regard to, the matter.
- (5) A development permit given by the private certifier for the building work does not authorise the carrying out of the part requiring assessment against, or having regard to, the matter, unless a relevant preliminary approval is in effect for the part.
- (6) In this section—
- relevant preliminary approval* means a preliminary approval given under the old Act by an entity other than a private certifier.

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.

Subdivision 2 Changes after appeal period

77 What this subdivision is about

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

78 Making change application

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

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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 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.

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

230 Notice of appeal

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

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

231 Other appeals

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

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

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

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

20 November 2018

Enquiries: Jenny Elphinstone Tel 07 4099 9482
Our Ref: ROL 2918/2018 (Doc ID 80805)
Your Ref:

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

Mr Paul Christie and Ms Claire Donnelly
PO Box 424
PORT DOUGLAS QLD 4877

Dear Sir/Madam

**INFRASTRUCTURE CHARGES RELEVANT TO THE DEVELOPMENT APPROVAL TO
RECONFIGURE A LOT (1 LOT INTO 2 LOTS)
AT 9 SPINNAWAY CLOSE, PORT DOUGLAS
ON LAND DESCRIBED AS LOTS 0, 1 AND 2 ON BUP70674**

Council refers to the above development approval issued by Council on the 16 November 2018.

Please find attached the associated Infrastructure Charges Notice. The charges are required to be paid prior to lodging the Survey Plan for endorsement by the Council.

Please quote Council's application number: ROL 2918/2018 in all subsequent correspondence relating to this development application. Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9482 or at enquiries@douglas.qld.gov.au .

Yours faithfully

PAUL HOYE
Manager Sustainable Communities

encl.

- Infrastructure Charges Notice

ADOPTED INFRASTRUCTURE CHARGES NOTICE

Paul Christie & Claire Dnnolly DEVELOPERS NAME		0	0
9 Spinaway Close	Port Douglas SUBURB	L0, 1 & 2 BUP70674	12483
ROL (1 into 2)		ROL 2918/2018	6
DEVELOPMENT TYPE		COUNCIL FILE NO.	VALIDITY PERIOD (year)
D#880943	1	Payment prior to Commencement of Use	
DSC Reference Doc. No.	VERSION No.		

Adopted Charges as resolved by Council at the Ordinary Meeting held on 5 June 2018, Local Government Infrastructure Plan, Planning Scheme Amendment (effect on and from 2 July 2018)

Locality	Charge per Use	rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
Mossman						
Proposed Demand						
House Lot	House	Dwelling Lot	19,491.00	2	38,982.00	
		Total Demand			38,982.00	
Existing Credit						
Duplex	Semi detached	Semi detached	15,718.00	2	31,436.00	
		Total Credit			31,436.00	Code 895 GL 07600.0135.0825
Required Payment or Credit		TOTAL			\$7,546.00	

Prepared by	J Elphinstone	16-Nov-18	Amount Paid	
Checked by	D Lamond	16-Nov-18	Date Paid	
Date Payable			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 5 June 2018.

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

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

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

2018 Douglas Shire Planning Scheme

Preliminaries			
Developer	Paul Christie & Claire Drnnelly		ROL (1 into 2)
Estate Name	0		
Stage	0		
Street No. and Name	9 Spinnaway Close	MagicQ Doc ID:	880943
Suburb	Port Douglas	Version No.	1
Parcel No.	12483		
Lot and RP No.	L0, 1 & 2 BUP70674		
Development Permit No.	ROL 2918/2018	Validity Period	4 years

Adopted Charges as resolved by Council at the Ordinary Meeting held on 5 June 2018, Local Government Infrastructure Plan, Planning Scheme Amendment (effect on and from 2 July 2018)

Locality	Mossman		
Proposed Demand			
House Lot	House	\$	38,982.00
Total demand			
		\$	38,982.00
Existing land use			
Duplex	Semi detached	\$	31,436.00
Nominal use credit			
			31,436.00
Historical amount			
			\$0.00
Date of payment			
			0.00
Credit for previous payment			
			0.00
Credit for Works External			
Opening balance of works external			
			\$0.00
Opening balance of credits			
			\$0.00
Credit claimed			
		\$0.00	0.00
Contributions			
			<u>7546.00</u>
Time of payment:	Prior to the commencement of use		

Amendments			
0			
0			
TOTAL			7546.00

Prepared	J Elphinstone	16-Nov-18
Checked	D Lamond	16-Nov-18

Planning Act 2016
Chapter 4 Infrastructure

[s 124]

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

Subdivision 5 Changing charges during relevant appeal period

124 Application of this subdivision

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

125 Representations about infrastructure charges notice

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

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

126 Suspending relevant appeal period

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

Division 3 Development approval conditions about trunk infrastructure

Subdivision 1 Conditions for necessary trunk infrastructure

127 Application and operation of subdivision

- (1) This subdivision applies if—

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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 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.

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

230 Notice of appeal

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

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

231 Other appeals

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

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- (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.