

**MEMO TO:** PAUL HOYE – GENERAL MANAGER OPERATIONS  
**FROM:** NEIL BECK – PLANNING OFFICER  
**DATE:** 14 JULY 2015  
**SUBJECT:** **DELEGATED AUTHORITY REPORT – REQUEST TO EXTEND  
RELEVANT PERIOD - AIRCRAFT LANDING FACILITY –  
COMMERCIAL - 6312R CAPTAIN COOK HIGHWAY, PORT  
DOUGLAS**

---

PROPOSAL: REQUEST TO EXTEND RELEVANT PERIOD -  
AIRCRAFT LANDING FACILITY - COMMERCIAL

APPLICANT: RPS AUSTRALIA EAST PTY LTD  
PO BOX 1949  
CAIRNS QLD 4870

LOCATION: 6312R CAPTAIN COOK HIGHWAY PORT DOUGLAS

PROPERTY: LOT 16 ON NR15

LOCALITY: PORT DOUGLAS AND ENVIRONS

PLANNING AREA: RURAL

PLANNING SCHEME: DOUGLAS SHIRE PLANNING SCHEME 2008

REFERRAL AGENCIES: DEPARTMENT OF INFRASTRUCTURE LOCAL  
GOVERNMENT & PLANNING

NUMBER OF SUBMITTERS: 15

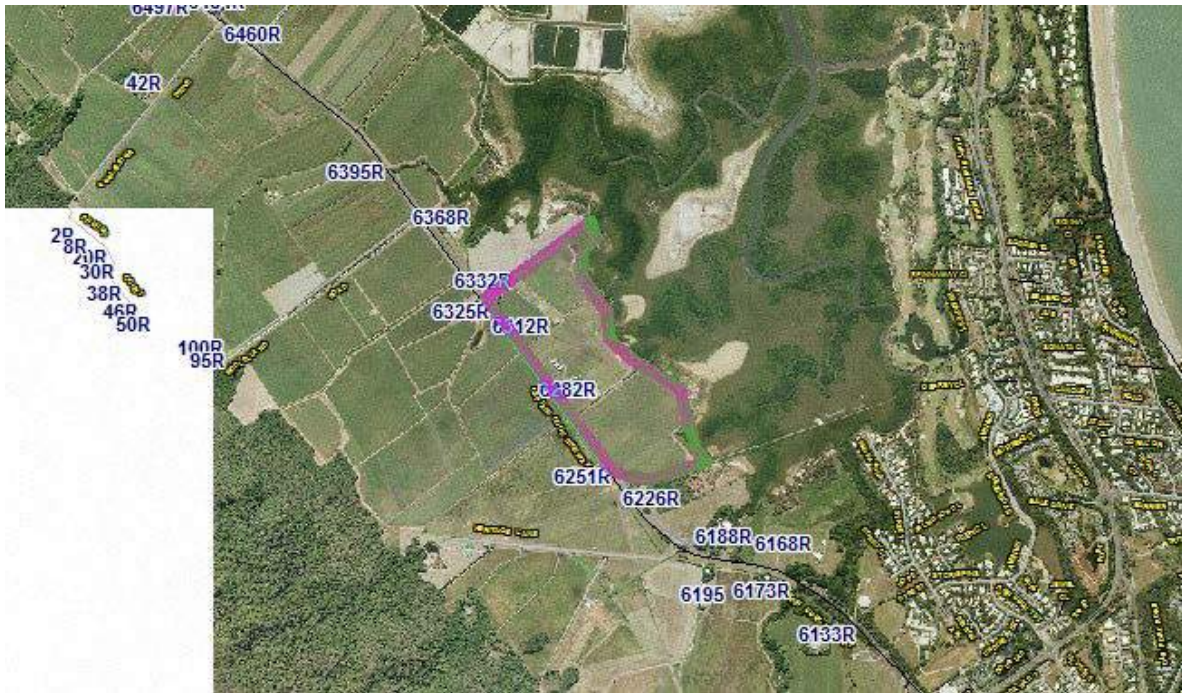
STATUTORY ASSESSMENT  
DEADLINE: 14 AUGUST 2015

APPLICATION DATE: 2 JULY 2015

APPENDIX:

1. NEGOTIATED DECISION NOTICE
2. SARA RESPONSE

## **LOCALITY PLAN**



## **RECOMMENDATION:**

**That the General Manager Operations, under Instrument of Delegation, approves the above application subject to the following:**

- 1. That the relevant period is extended for a further two (2) years to 14 July 2017.**
- 2. All other conditions of the Negotiated Decision Notice dated 10 July 2009 remain unchanged.**

---

## **EXECUTIVE SUMMARY:**

Council is in receipt of a request to extend the Relevant Period of a Development Approval under s369 of the *Sustainable Planning Act* (SPA) 2009, for a period of two (2) years. The approved use is an Aircraft Landing Facility – Commercial.

The approval issued by way of Negotiated Decision in July 2009. The approval has been acted upon with the facility currently being used for such purposes. The Applicant has sought to extend the Relevant Period as a consequence of outstanding access works required by DTMR and is of the opinion that such an extension is required in order to be considered a lawfully established use.

The requirement to obtain an extension of the Relevant Period is questionable in these circumstances. However, the request has been made for a further 2 year extension even though the access works are intended to commencement in the immediate future.

The applicant's request is reasonable and it is recommended that the request for an extension be granted for a period of two (2) years to 14 July 2017 subject to the conditions of the original Negotiated Decision Notice issued 10 July 2009 located at Appendix 1 of this report.

## **PLANNING CONSIDERATIONS:**

### **Background**

The land was subject to Douglas Shire Council approval reference number TPC1081 which was issued 22 May 2003 and enabled the site to be used in part as a helicopter landing site, and in part for the purpose of Primary Industry in the form of sugar cane cropping.

At a meeting held 27 May 2009 Council approved the Material Change of Use application for the purpose of an Aircraft Landing Facility – Commercial, the effect of which was to increase the number of aircraft movements from 6 movements per day to 20 movements per day. A Negotiated Decision was issued dated 10 July 2009.

### **Proposal**

The applicant seeks a two (2) year extension to the relevant period of the approval. The applicant states that the current access requirements to the State Controlled Road stated in the Development Approval have been the subject of on going negotiations with the State Government to determine an alternate access arrangement to the State Controlled Road that would be accepted by the Department of Transport & Main Roads (DTMR).

It is understood that the access arrangements have been agreed to and works will be completed in the near future to the satisfaction of DTMR.

It is noted that the approval has been acted upon with the facility currently operational. As previously indicated, the requirement to have the Relevant Period extended given the approval has been acted upon is questionable. However the request has been submitted to Council for a decision.

### **Officer's Comments**

The proposal remains consistent with the applicable town planning framework that applies to the site being the current Planning Scheme and the subsequent Development Permit issued in 2009 by way of a Negotiated Decision. A previous approval has been granted for an extension in 2013 on similar grounds.

In deciding a request under section 383, Council as Assessment Manager must only have regard to the following matters in deciding a request to extend the Relevant Period of an approval:

- (a) the consistency of the approval, including its conditions, with the current laws and policies applying to the development; and

- (b) the community's current awareness of the development approval; and
- (c) whether, if the request were refused –
  - (i) further rights to make a submission may be available for a further development application; and
  - (ii) the likely extent to which those rights may be exercised; and
- (d) the views of any concurrence agency for the approval.

**a) Consistency of the approval with current requirements**

The development is found to be generally consistent with the provisions of all relevant 2008 Douglas Shire Planning Scheme Codes. In seeking the extension, no changes are being sought by the Applicant.

**b) The community's current awareness of the development approval**

The original application was the subject of 15 properly made submissions. It is considered the community has a high level of awareness of the approval.

As previously noted, the approval has been acted upon with various flights taking place from the site each day.

**c) If the request were refused, rights to make a submission for a further development application and the likely extent to which those rights may be exercised.**

The Douglas Shire Planning Scheme remains largely unchanged since the original decision was issued. As such, the development remains impact assessable, and if the application were remade in its current form at the present date Council officers would be likely to recommend that the application be approved.

**(d) The views of any concurrence agency for the approval.**

The SARA Agency Response was received 7 July 2015, and advises that no objections are raised with the request to extend. The response is attached at Appendix 2.

**Conclusion**

Having assessed the request for extension to the relevant period against the criteria set by the *Sustainable Planning Act 2009*, the development is found to be generally consistent with the provisions of the 2008 Douglas Shire Planning Scheme. Approval of the request to extend the relevant period is recommended for a period of two (2) years.

**ADOPTED INFRASTRUCTURE CHARGES**

The proposed development does not trigger Adopted Infrastructure Charges.

**MAYORAL COMMENTS:**

The Mayor advised by email on 15 July 2015 that the matter can be dealt with by way of Delegated Authority.

Neil Beck  
Action Officer

Donna Graham  
Manager Development & Environment

Paul Hoyer  
General Manager Operations

Approved / ~~Not Approved~~

## APPENDIX 1: NEGOTIATED DECISION NOTICE

ENQUIRIES: Gary Warner  
PHONE: (07) 4044 3576  
FAX: (07) 4044 3836  
YOUR REF: 62894 (R64882)  
OUR REF: 8/8/1041 (2160336)

10 July 2009

Mrs Grace Cavallaro  
C/- Conics (Cairns) Pty Ltd  
PO Box 355  
**MOSSMAN QLD 4873**

Dear Madam

**NEGOTIATED DECISION NOTICE UNDER S3.5.15 INTEGRATED  
PLANNING ACT 1997: DEVELOPMENT APPLICATION FOR  
CAPTAIN COOK HIGHWAY, PORT DOUGLAS**

With reference to the abovementioned Development Application, please find attached the relevant Negotiated Decision Notice which was determined by Council at its Planning & Environment Committee Meeting held on 8 July 2009.

The notice includes extracts from the Act with respect to making representations about conditions, suspension of the appeal period, and lodging an Appeal.

Should you have any enquires in relation to this Negotiated Decision Notice, please contact Gary Warner of Council's Development Assessment team on telephone number (07) 4044 3576.

Yours faithfully

Simon Clarke  
**Manager Development Assessment**

**Att**

40.2008.2825  
1/22

**DECISION NOTICE DETAILS**  
**(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

**APPLICANT DETAILS**

Grace Cavallaro  
C/-Conics (Cairns)  
PO Box 359  
MOSSMAN QLD 4873

**ADDRESS**

Captain Cook Highway, Port Douglas

**REAL PROPERTY DESCRIPTION**

Lot 16 on N15

**PROPOSAL**

Aircraft Landing Facility (Commercial)

**DECISION**

Approved subject to conditions (refer to approval package below).

**DECISION DATE**

This Negotiated Decision dated 8 July 2009 replaces the Decision Notice dated 27 May 2009

**TYPE**

Material Change of Use (Development Permit)

**REFERRAL AGENCIES**

*(State Controlled Roads)*  
Department of Transport & Main Roads  
(Formerly DMR)  
PO Box 6185  
CAIRNS QLD 4870

*(Vegetation Clearing, Remnant Vegetation & Acid Sulfate Soils)*  
Department of Environment & Resources Management  
(Formerly DNRW)  
PO Box 937  
CAIRNS QLD 4870



**DECISION NOTICE DETAILS**  
**(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

*(Heritage, Coastal & ERAs)*  
Department of Environment & Resources Management  
(Formerly EPA)  
Ecoaccess Customer Service Unit  
PO Box 2066  
CAIRNS QLD 4870

**SUBMISSIONS**

There were 15 properly made submissions for this application.

Ms Patricia Clifford	7/65 Davidson Street	PORT DOUGLAS QLD 4877
Mr Robert Hanan President Douglas Shire Sustainability Group	PO Box 762	MOSSMAN QLD 4873
Ms Rhona Eastment	PO Box 712	MOSSMAN QLD 4873
Ms Tonia McNamara	31 Coral Drive	PORT DOUGLAS QLD 4877
Ms Alex Mateer and Mr Rick Kilpatrick	10 Limpet Avenue	PORT DOUGLAS QLD 4877
SC Thomas	PO Box 563	PORT DOUGLAS QLD 4877
Ms Ann Rodgers	27 Mossman Street	MOSSMAN QLD 4877
Ms PM Burden	PO Box 1066	MOSSMAN QLD 4877
Douglas Shire Sustainability Group	PO Box 762	MOSSMAN QLD 4877
A Hart	PO Box 323	HERBERTON QLD 4887
Mr Gary Gardiner	24 Albatross Close	COOYA BEACH QLD 4873
Lee Walters	5 Ocean View Road	PORT DOUGLAS QLD 4877
Ms Heather McGillvray-Taylor	15 Cooya Beach Road	COOYA BEACH QLD 4873
Mr Callum Jones	6 Shalom Close	COOYA BEACH QLD 4873
Environmental Protection Agency	PO Box 2066	CAIRNS QLD 4870

**FURTHER DEVELOPMENT PERMITS REQUIRED**

Development Permit for Building Works  
Development Permit for Plumbing Works

**CODES TO COMPLY WITH FOR SELF-ASSESSABLE DEVELOPMENT**

None

**DOES THE ASSESSMENT MANAGER CONSIDER THE APPLICATION TO BE IN  
CONFLICT WITH APPLICABLE CODES, PLANNING SCHEME, STATE  
PLANNING POLICIES OR PRIORITY INFRASTRUCTURE PLAN (IF YES,  
INCLUDE STATEMENT OF REASONS)**

Not in conflict



**DECISION NOTICE DETAILS**  
**(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

**APPROVED DRAWING(S) AND/OR DOCUMENT(S)**

The term 'approved drawing(s) and/or document(s)' or other similar expressions means:

Drawing or Document	Reference	Date
Proposed Aircraft Landing Facility	Conics 62894-2	04/02/2009
Fuel Farm Site Plan		Undated – received with application and attached in Appendix 1

**ASSESSMENT MANAGER CONDITIONS**

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:-
  - a. The specifications, facts and circumstances as set out in the application submitted to Council;
  - 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.

**Parking**

3. All parking associated with the uses must be in accordance with the parking requirements for Aircraft Landing Facilities – Commercial. A plan showing parking areas must be submitted for the approval of the Chief Executive Officer prior to the Commencement of Use.

**Hours of Operation**

4. The proposed use must only operate between the hours of 7:00 am and 7:00 pm Monday to Sunday except in emergencies or unless otherwise approved by the Chief Executive Officer.

40.2008.2825  
4/22

**DECISION NOTICE DETAILS**  
**(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

**Landscaping Plan**

5. The applicant/owner must landscape the subject land and street frontage in accordance with the FNQROC Development Manual and the Planning Scheme Landscaping code and in accordance with a landscape plan endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Works. In particular, the plan must show:
- a. The provision of screening along the State Controlled Road frontage in accordance with the Department of Main Roads requirements;
  - b. Screening of facilities in accordance with the Aircraft Landing Facility – Commercial Code;
  - c. Inclusion of all requirements as detailed in other relevant conditions included in this Development Permit. A copy of this Development Approval must be given to the applicant's Landscape Architect/Designer.

Two (2) A1 copies and one (1) A3 copy of the landscape plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Works. Areas to be landscaped must be established prior to Commencement of Use and must be maintained at all times, both to the satisfaction of the Chief Executive Officer.

**~~Limitations on Operators~~**

- ~~6. The use of the site shall be limited to the following operators;~~
- ~~— a. One (1) operator based on site (with access to all associated on site facilities);~~
  - ~~— b. One (1) operator using the site for re fuelling; and~~
  - ~~— c. One (1) operator/manager for the micro light facility.~~

**Flight records**

7. a. Provide a record of all flights in and out of the site over the past calendar year in order to establish a baseline from which to determine future extensions to flight frequencies. Provide the above record to the satisfaction of the Chief Executive officer prior to the establishment of the additional fuel facilities.
- b. Provide a three (3) monthly (calendar quarter) record of all flight movements, including ultra lights and micro-light aircraft.

40.2008.2825  
5/22

**DECISION NOTICE DETAILS**  
**(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

**Flight Frequencies**

8. The maximum number of flight movements per day is to be twenty (20). (A flight movement is defined as one(1) take off and one (1) landing of the same aircraft). This number of flights is to be reviewed by the Chief Executive Officer annually in accordance with records submitted under condition 7b. If the flight movements are exceeded by 20% in any one (1) calendar year this condition is to be reviewed by full Council through application to Council for a change to a Development Approval. NB micro-light flights (recreational or commercial) are not included in the flight movement count).

**Advertising Signage**

9. Signs on the subject land must conform with the Planning Scheme and Department of Main Roads requirements and to the requirements and satisfaction of the Chief Executive Officer.
10. The Helicopter Landing Pad Area must not be externally illuminated unless further approval is gained from the Chief Executive Officer.

**Aircraft Limitations**

11. The use of the facility shall be restricted to helicopters, ultra lights and micro light aircraft only.

Concurrency Agency	Concurrency Agency Reference	Date	Council Electronic Reference
Department of Transport & Main Roads	214/20A/102(1581.04)	16/02/2009	1971540
Department of Environment and Resource Management (formerly Department of Natural Resources and Water)	IC1108CNS002	14/04/2009	2023749

Refer to Appendix 2: Concurrency Agency Requirements. (Please note that these conditions / requirements may be superseded by subsequent negotiations with the relevant referral agencies).

**FURTHER ADVICE**

1. This approval, granted under the provisions of the *Integrated Planning Act 1997*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 3.5.21 of the *Integrated Planning Act 1997*.

40.2008.2825  
6/22

**DECISION NOTICE DETAILS**  
**(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

2. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council Officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
4. For information relating to the *Integrated Planning Act 1997* log on to [www.ipa.qld.gov.au](http://www.ipa.qld.gov.au). To access Council's Development Manual, Local Laws and other applicable Policies log on to [www.cairns.qld.gov.au](http://www.cairns.qld.gov.au).

**RIGHTS OF APPEAL**

Attached

---

**End of Decision Notice**

40.2008.2825  
7/22



## APPENDIX 1 APPROVED PLAN(S) & DOCUMENT(S)



The site plan for the Fuel Farm includes the following features:

- Legend:**
  - Helipad: Circle with 'H'
  - Parking: Circle with 'P'
  - Watercourse: Line with wavy arrows
  - Carve Roadbook: Line with arrows
  - North Indicator: Arrow pointing North
  - Tree Line: Line with 'X' marks
- Infrastructure:**
  - Highway:** Captain Cook Highway → Moesman Highway (20m wide)
  - Access:** A road branching off the highway, 140m from the intersection.
  - Watercourse:** A watercourse runs parallel to the highway, 20m from the access road.
- Buildings and Structures:**
  - SKY SAFARI:** A large rectangular building.
  - Hangers:** A long rectangular structure at the top of the site.
  - Micro/Ultra Lite Sheds & Hangers:** Two small rectangular structures on the right side.
- Storage Tanks:**
  - CERH Group:** A large rectangular area containing:
    - Jet A1 Bulk Storage Tank (Proposed): 3 x 5m
    - AVGAS Bulk Storage Tanks (Proposed): 2 x 3m
- Other Features:**
  - Tree Line:** A line of trees runs along the highway and around the storage tanks.
  - North Arrow:** Points towards the top right of the plan.

43.2015.917  
14/28

**DECISION NOTICE DETAILS**  
**(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

**APPENDIX 2 CONCURRENCE AGENCY REQUIREMENTS**

**1. DEPARTMENT OF MAIN ROADS (NOW TRANSPORT & MAIN ROADS)**



Department of Main Roads

16 February 2009

Noel Briggs  
Chief Executive Officer  
Cairns Regional Council  
PO Box 359  
Cairns Qld 4870



Dear Mr Briggs

**Cairns Regional Council : Captain Cook Highway Highway**  
**Situated approximately 2km north of Port Douglas Road intersection, Port Douglas**  
**Lot 16 on NR 15, Parish of Salisbury**  
**Grace Cavallaro**  
**Proposed Material Change of Use (Aircraft Landing Facility (Commercial)) Application**  
**Referral Agency Response (conditions apply)**

I refer to the above application received at the Department 30 October 2008 and 13 February 2009 requesting consideration of the above development.

Pursuant to sections 3.3.15, 3.3.16 and 3.3.18 of the *Integrated Planning Act 1997*, the Queensland Department of Main Roads, as a Concurrence Agency, has assessed the impact of the proposed development on the State-controlled road network and requires that Council include the following attached conditions of development for the subject application.

Should you have any queries regarding the response please contact Malcolm Hardy on telephone 4050 5511.

Council is requested to reflect the conditions on its Rates Record, to ensure that the planning intentions of the conditions are secured.

This Department would appreciate a copy of Council's decision notice regarding the application.

A copy of this letter has been sent to the applicant.

Yours sincerely

Malcolm Hardy  
SENIOR PLANNER FAR NORTH

Roads Business Group  
Far North Regional Office  
Floor 4 Cairns Corporate Tower 15 Lake Street  
PO Box 8180 CAIRNS Queensland 4870  
ABN 27 636 727 711

Our ref: 25420A/102(1551.04)  
Your ref: 8/81041  
Enquiries MALCOLM HARDY  
Telephone ext: 7 4050 5614  
Facsimile -01 7 4050 5438

40.2008.2825  
10/22



**DECISION NOTICE DETAILS**  
**(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

**Conditions of Development  
and  
Statement of Reasons**

**Council Ref:** 8/8/1041      **Date:** 16 February 2009  
**State-controlled road:** Captain Cook Highway  
**Proposal:** Material Change of Use (Aircraft Landing Facility (Commercial))  
**Real property description:** Lot 16 on NR 15, Parish of Salisbury  
**Site locality:** Approximately 2km north of Port Douglas Road intersection, Port Douglas  
**Applicant:** Grace Cavallaro

Conditions of Development	Reasons	Condition Basis
<b>Permitted Road Access Location</b> 1. Vehicular access between the state-controlled road (Captain Cook Highway) and the Subject Land shall be via: (i) The existing access located about 700m south of McLelland Road intersection for the Aircraft Landing Facility (Commercial) use. (ii) The existing access located about 400m south of McLelland Road intersection for the Candidate's Residence use; and (iii) The existing access located about 300m south of McLelland Road intersection for Agriculture use only.  2. No additional direct vehicular access between the state-controlled road (Captain Cook Highway) and the Subject Land is permitted.	Main Roads must ensure that access between the Subject Land does not adversely impact the safe and efficient operation of the state-controlled road	s. 62 Transport Infrastructure Act 1994 (Qld)

40.2008.2825  
11/22

**DECISION NOTICE DETAILS  
(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

Conditions of Development	Reasons	Condition Basis
<p><b>Intersection Works</b></p> <p>3. Prior to the commencement of the approved use on the Subject Land, the applicant/landowner shall design and construct a new Basic Right Turn (BART) treatment generally in accordance with Figure 13.58 in Chapter 13 of Main Roads' Road Planning and Design Manual.</p> <p>To this end:</p> <ul style="list-style-type: none"> <li>(i) The applicant/landowner shall obtain Main Roads approval prior to commencing any works within the state-controlled road reserve.</li> <li>(ii) The applicant/landowner shall submit to Main Roads for approval engineering drawings, certified by a Registered Professional Engineer of Queensland (RPEQ), of the proposed works.</li> <li>(iii) Subject to Main Roads approval of the engineering designs the applicant/landowner shall construct the works.</li> </ul> <p><b>Visual Amenity Treatments</b></p> <p>4. The applicant/landowner shall provide a 2m wide landscaped strip along the Subject Land's frontage to the Captain Cook Highway, except for the access driveways, to screen the onsite vehicular circulation. The landscaping shall be designed and planted such that when the landscaping matures, it provides a minimum 1m high screening and complementary screen trees approximately 6m tall at 7m spacings.</p> <p>The species of plants used in the landscaping works shall be in accordance with Council's standards. If Council does not have standards, then the only requirements are that the species are native, low maintenance species that are effective at providing the necessary screening specified above and do not create a safety risk (that is, no thorns, poisonous fruits or berries or large nuts).</p> <p>All landscaping works shall be completed prior to the commencement of the approved use to the written approval of Main Roads.</p>	<p>Access works at the permitted access location are required to mitigate the impacts of development generated traffic onto the state-controlled road.</p> <p>Any works within the state-controlled road reserve must have the written approval of the Chief Executive Officer</p> <p>To screen onsite vehicular circulation</p>	<p>s. 33 Transport Infrastructure Act 1994 (Qld) Main Roads' Road Planning and Design Manual</p> <p>s. 30 Transport Infrastructure Act 1994 (Qld)</p> <p>Main Roads' Road Landscape Manual</p>

40.2008.2825  
12/22

**DECISION NOTICE DETAILS**  
**(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

Conditions of Development	Reasons	Condition Basis
<b>Building Alignment Setback</b> 1. A minimum building alignment setback is required of at least the building alignment setback of the existing hangars from the Captain Cook Highway frontage of the Subject Land.	Main Roads has determined the land cleared in the condition as being within a proposed future land requirement area.	
<b>Advertising</b> 6. No advertising device for the proposed development is permitted within the state-controlled road reserve (Captain Cook Highway).	Advertising devices may obscure signage and distract motorist.	s. 50 Transport Infrastructure Act 1994 (Qld)

40.2008.2825  
13/22

**DECISION NOTICE DETAILS**  
**(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

**2. DEPARTMENT OF NATURAL RESOURCES AND WATER**  
**(DEPARTMENT OF ENVIRONMENT & RESOURCE MANAGEMENT)**

---

Your Reference: 3/81041  
Our Reference: C1108CNS0062  
Contact: Cristina Froemmcke  
Directorate / Unit: Landscapes and Community Services  
Phone: (07) 4057 3890



**Queensland**  
**Government**

14 April 2009

The Chief Executive Officer  
Cairns Regional Council  
PO Box 359  
CAIRNS QLD 4870

**Attention: Gary Warner**



Department of  
**Environment and Resource**  
**Management**

Dear Sir/Madam

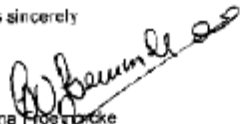
**APPLICATION FOR MATERIAL CHANGE OF USE FOR THE PURPOSE OF AN AIRCRAFT  
LANDING FACILITY - COMMERCIAL, LOT 16 ON NR 15, AT CAPTAIN COOK HIGHWAY, PORT  
DOUGLAS - REFERRAL AGENCY RESPONSE.**

The Department of Environment and Resource Management (Concurrence agency for the  
application) advises as follows:

The referral agency response for the application, prepared pursuant to section 3.3.16 of the  
*Integrated Planning Act 1997*, is enclosed. I look forward to receiving a copy of the decision notice  
for the application in due course.

Should you have any questions about this advice, please contact Cristina Froemmcke on 07 4057  
3890.

Yours sincerely

  
Cristina Froemmcke  
Natural Resource Officer  
Landscapes and Community Services  
North Region

CC  
G. Cavallaro  
c/- Conics Cairns Pty Ltd  
PO Box 355  
MOSSMAN QLD 4873

Department of Environment  
& Resource Management  
Level 3, 55 Sheridan Street  
PO Box 951  
Cairns Queensland 4870  
Australia  
Telephone + 617 4051 1800  
Facsimile + 61 7 4057 3388  
Website [www.derm.qld.gov.au](http://www.derm.qld.gov.au)

40.2008.2825  
14/22

**DECISION NOTICE DETAILS**  
**(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

---

**Department of Environment and Resource Management –  
Referral agency response**

Given under Section 3.3.16 of the *Integrated Planning Act 1997*

---

**Application details**

1.1. Applicant's name	G Cavallaro
1.2. Property description	Lot 16 NR 15
1.3. Development type	Material Change of Use (MCU)
1.4. Assessment manager	Cairns Regional Council
1.5. Referral date	3 November 2008
1.6. Our references	Trackjob: IC110BCNS0002 Reclind: CNS022730

**2. Concurrence agency response – Remnant Vegetation**

Please refer to the attached concurrence agency response from Senior Vegetation Management Officer Kathryn Dark dated 14 April 2009.

**3. Third Party Advice – Land Act 1994 – Development adjacent to State land**

The subject land is adjacent to Unallocated State Land (USL) described as mangrove area and owned by this Department.

The department's interest is to protect this resource from proposed activities occurring at the subject land. The proposed fuel storage area will be located at 5m from a drainage channel which discharges into the wetland area.

DERM recommends that only uncontaminated water reaches the drainage on the site.

**4. Third Party Advice – Water Act 2000 – Declared subartesian area (Mossman aquifer)**

The proposed development or creation of a permanent fuel storage area has potential to contaminate the groundwater.

The subject land is located within an area declared as subartesian area (Mossman aquifer) under the Water Act 2000 and Water Regulation 2002. No information is given if groundwater on the site will be used for potable or irrigation or wastewater purposes.

Departmental maps show that there is a moderate to high vulnerability to groundwater over the entire airstrip area.

**Recommendation**

DERM's role is to provide advice in relation to the protection of the water quality of this groundwater. The following advice is given:

- Under the *Water Act 2000*, section 206 a water licence/permit is required to take or interfere with subartesian water, other than for the purposes specified within Schedule 11 of the *Water Regulation 2002*. Schedule 11 of the *Water Regulation* states that the subartesian area of Mossman does not require water entitlement for stock or domestic purposes.
- The activity on-site should be conducted in a manner to prevent the contamination of groundwater.

**5. Third Party Advice – Aboriginal Cultural Heritage**

Under Section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure that the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for

Page 2 of 3

40.2008.2825  
15/22

**DECISION NOTICE DETAILS**  
**(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

---

**Department of Environment and Resource Management –**  
**Referral agency response**

Given under Section 3.3.16 of the *Integrated Planning Act 1997*

---

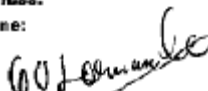
breaching the cultural heritage duty of care are \$750 000 for a corporation and \$75 000 for an individual.

Applicants will comply with the cultural heritage duty of care in relation to Aboriginal cultural heritage if they are acting in compliance with the cultural heritage duty of care guidelines gazetted under the *Aboriginal Cultural Heritage Act 2003*, available on the NRW's website, or in accordance with an agreement with the Aboriginal party for the area or a cultural heritage management plan approved under Part 7 of the *Aboriginal Cultural Heritage Act 2003*.

Applicants should also undertake a search of the Aboriginal Cultural Heritage Database and the Aboriginal Cultural Heritage Register, administered by the Cultural Heritage Coordination Unit, NRW. Application forms to undertake a free search of the Aboriginal Cultural Heritage Database and the Aboriginal Cultural Heritage Register may be obtained by contacting the Cultural Heritage Coordination Unit on (07) 323 83838 or on the NRW's website—  
[www.nrm.qld.gov.au/cultural\\_heritage](http://www.nrm.qld.gov.au/cultural_heritage).

Any queries about the assessment should be made to the coordinating officer for the application. Contact details for the coordinating officer are:

<b>Coordinating Officer:</b>	<b>Cristina Froemmcke</b>
<b>Address:</b>	<b>PQ Box 937, Cairns QLD 4870</b>
<b>Phone:</b>	<b>07 4057 3890</b>

  
Cristina Froemmcke  
Natural Resource Officer  
Landscapes and Community Services  
North Region

14 April 2009

**DECISION NOTICE DETAILS**  
**(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

---

**Referral Agency Response – Material Change of Use  
/ Reconfiguring a Lot**

*s 3.3.18 Integrated Planning Act 1997*

**1. Application information**

- 1.1. **Applicant's name:** Grace Cavallaro
- 1.2. **Property description:** 16 NR15 - Cairns Regional Council
- 1.3. **Assessment Manager/Reference:** Cairns Regional Council, Ref: 8/8/1041 (1855638)
- 1.4. **Date application was referred to Department:** 3 November 2008
- 1.5. **Departmental Reference:** eLVAS Case No: 2008/008927, File Ref. No: MBA/000650, Taskjob No: IC1108CNS0002
- 1.6. **Type/s of development sought by the application:**
  - Material Change of Use

**2. Concurrent Agency response:**

The Chief Executive of the Department of Environment and Resource Management directs that the following conditions must be imposed on any approval given by the Assessment Manager:

- 2.1. There must be no clearing of remnant vegetation as a result of the material change of use of Lot 16 NR15.
- 2.2. Any future clearing of assessable vegetation will require a development approval, unless the clearing is exempt under Schedule 8 of the *Integrated Planning Act 1997*.

**3. Reasons:**

A Statement of Reasons is attached at Schedule 1.

**4. Additional comments or information:**

**Moratorium on regrowth clearing**

On 7 April 2009 the Minister for Natural Resources, Mines and Energy announced a moratorium on certain regrowth clearing. This moratorium covers clearing of all native vegetation within 50 metres of a watercourse in the Mackay/Whitsunday, Wet Tropics and Burdekin catchments and endangered regrowth vegetation. This moratorium will be in place for three months from 12:01am 8 April 2009. The Government may extend the moratorium period if necessary.

The Department of Environment and Resource Management (DERM) has assessed your application and prepared its referral agency response against existing laws. However it is important to note that clearing on Lot 16 NR15 within 50 metres of the watercourse which has been identified as a watercourse of priority will still be subject to the moratorium rules. This is the case even where the approval for your development authorises clearing. This may also include vegetation which had previously been exempt development and did not require any approval.

IDAS Referral Agency Response

40.2008.2825  
17/22



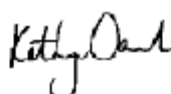
**DECISION NOTICE DETAILS**  
**(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

---

This means that your referral agency response will need to be read in conjunction with the moratorium rules to ensure that your clearing and development is lawful.

Vegetation affected by the moratorium is shown on a map created by DERM. This map and other information about the moratorium is available online at [www.derm.qld.gov.au](http://www.derm.qld.gov.au). If you are affected by the moratorium, the assessment of your clearing will occur at the operational works stage by DERM, under the moratorium rules. This may not prevent your clearing from proceeding but you will need to follow the correct processes.

**5. Authorised Officer Signature:**



**Kathryn Dark**  
**Senior Vegetation Management Officer**  
**North Region**

**Date of Response:** 14 April 2009

**Att. Schedule 1 – Statement of Reasons**

**DECISION NOTICE DETAILS**  
**(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

---

el.VAS Case No:	2004/068927
File Ref. No:	MIN/006690
Taskjob No:	IC1108CNS0062

**Schedule 1**

**Statement of Reasons  
Referral Agency Response  
Application for Material Change of Use  
Grace Cavallaro**

The following Statement of Reasons is provided pursuant to s. 3.3.18(8) of the *Integrated Planning Act 1997*:

**Introduction**

1. The Department Environment and Resource Management (DERM) received an application from Grace Cavallaro on 3 November 2008.
2. The application is for MCU (Concurrence-Multiple Issue) on 16 NR15 - Cairns Regional Council.
3. An Information Request was sent by registered post to the applicant on the 28 November 2008.
4. The applicant responded to the Information Request on the 18 February 2009.
5. An Assessment Report was sent to the Delegate of the Chief Executive, Kathryn Dark, on 8 April 2009.
6. The Delegate determined the Referral Agency Response on 14 April 2009.

**Evidence**

1. Application dated 3 November 2008.
  - a) Completed IDAS Form 1 Part "J".
  - b) Property Vegetation Management Plan.
2. *Integrated Planning Act 1997 & Integrated Planning Regulation 1998 (Schedule 2)*
3. *Vegetation Management Act 1999*
4. *Department of Natural Resources and Waters Concurrence Agency Policy for Material Change of Use/Reconfiguring a Lot dated 23 August 2007*
5. *State Planning Policy (SPP) 1/03 - Mitigating the Adverse Impacts of Flood, Bushfire, and Landslide.*
6. Natural Resources (IPA) Delegation (No.2) 2008
7. Information Request to applicant dated 28 November 2008.
8. Response to Information Request from applicant dated 18 February 2009.
9. Assessment Report dated 8 April 2009.
10. Current Title Search

**Findings of fact**

1. The lot contains assessable vegetation. The lot contains a small amount of remnant vegetation that is a *not of concern* regional ecosystem.
2. The area where the clearing to occur as a result of the MCU is not located within assessable vegetation and no additional exemptions to clear would be created and therefore the MCU will not result in the clearing of assessable vegetation.

Natural Resources and Water- Referral Agency Response

Page 3 of 4

40.2008.2825  
19/22

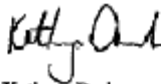
**DECISION NOTICE DETAILS**  
**(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

---

3. The lot does contain a watercourse that is considered to be within a reef catchment of priority by the moratorium. This watercourse is not within the area of the subject lot where development has been proposed.

**Reasons**

The application meets the performance requirements of Criteria Table A of the *Concurrence Agency Policy for Material Change of Use (MCU) 23 August 2007*. Clearing of assessable vegetation on Lot 16 NR15 will not occur as a result of the MCU and will be ensured by the attached conditions.



Kathryn Dark  
Senior Vegetation Management Officer (VM1)  
North Region

14 April 2009

**DECISION NOTICE DETAILS**  
**(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

---



Author: Steve Clayton  
File / Ref number: 100400497  
Referral No: MCH/400656  
Unit: Vegetation Management and Use  
Phone: (07) 4705 7082

Department of  
Environment and Resource  
Management

14 April 2009

Grace Cavallaro  
c/- Conica (Cairns) Pty Ltd  
PO Box 355  
Mossman Qld 4873

Dear Sir or Madam

**Re: Concurrence application to clear native vegetation on Lot 16 NR15 -  
Notice regarding moratorium on clearing regrowth vegetation**

On 7 April 2009 the Minister for Natural Resources, Mines and Energy announced a moratorium on certain regrowth clearing. This moratorium covers clearing of all native vegetation within 50 metres of a watercourse in the Mackay/Whitsunday, Wet Tropics and Burdekin catchments and endangered regrowth vegetation. This moratorium will be in place for three months from 12:01am 8 April 2009. The Government may extend the moratorium period if necessary.

The Department of Environment and Resource Management (DERM) has assessed your application and prepared its referral agency response against existing laws. However it is important to note that clearing on Lot 16 NR15 within 50 metres of the watercourse which has been identified as a watercourse of priority will still be subject to the moratorium rules. This is the case even where the approval for your development authorises clearing. This may also include vegetation which had previously been exempt development and did not require any approval.

This means that your referral agency response will need to be read in conjunction with the moratorium rules to ensure that your clearing and development is lawful.

Vegetation affected by the moratorium is shown on a map created by DERM. This map and other information about the moratorium is available online at [www.derm.qld.gov.au](http://www.derm.qld.gov.au) or can be viewed at your local DERM business centre.

DERM Townsville  
3<sup>rd</sup> Floor, State Govt Building  
187-209 Stanley Street  
PO Box 5318 Mx  
Townsville Qld 4810  
Telephone (07) 4760 7126  
Facsimile (07) 4769 7436  
Website [www.derm.qld.gov.au](http://www.derm.qld.gov.au)  
ASN 65 705 537 536

40.2008.2825  
21/22

**DECISION NOTICE DETAILS**  
**(SECTION 3.5.15 INTEGRATED PLANNING ACT 1997)**

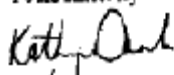
---

I would encourage you check the map and web site material as soon as possible and contact DERM if you think you might be affected.

If you are affected by the moratorium, the assessment of your clearing will occur at the operational works stage by DERM, under the moratorium rules. This may not prevent your clearing from proceeding but you will need to follow the correct processes.

If you wish to discuss this matter further, please contact Ms Bree Clouten, Vegetation Management Officer, North Region, on telephone number (07) 4799 7052 quoting the above reference number.

Yours sincerely



Kathryn Dark  
Senior Vegetation Management Officer  
North Region

## APPENDIX 2 CONCURRENCE AGENCY RESPONSE



Department of Infrastructure,  
Local Government and Planning

Our reference : SPD-0715-019044  
Your reference : 8/8/1041

7 July 2015

Chief Executive Officer  
Douglas Shire Council  
PO Box 723  
Mossman QLD 4873  
enquiries@douglas.qld.gov.au

Dear Sir / Madam

### **Notice about request to extend relevant period**

Development permit for material change of use (aircraft landing facility) at Captain Cook Highway, Port Douglas and more particularly described as Lot 16 on NR15  
(Given under section 385 of the *Sustainable Planning Act 2009*)

The Department of Infrastructure, Local Government and Planning received written notice under section 383(1)(a) of the *Sustainable Planning Act 2009* (the act) on 1 July 2015 advising the department, as a concurrence agency, of the request to extend the relevant period. The proposed extension to the relevant period is for a further two (2) years.

The department has considered the request to extend the relevant period and advises that it has no objection to the extension being approved.

If you require any further information, please contact Bec Turner, A/ Planning Officer, SARA Far North QLD on 4037 3208, or via email [bec.turner@dilgp.qld.gov.au](mailto:bec.turner@dilgp.qld.gov.au) who will be pleased to assist.

Yours sincerely

A handwritten signature in blue ink that reads "Robin Clark".

Robin Clark  
Manager (Planning)