

16 June 2020

Enquiries: Jenny Elphinstone
Our Ref: MCUI 2015_901/2 (Doc ID 957832)
Your Ref: MCUI 901/2015

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

Pool Body Corporate CTS-37139
C/- recs@bigpond.com

Attention Mr Peter Dutallis

Dear Sir

**Application for a minor change (Multi-Unit Housing)
At 19-37 St Crispins Avenue Port Douglas
On land described as Lot 0 on SP174881**

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

Please quote Council's application number: MCUI 2015_901/2 in all subsequent correspondence relating to this development application.

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

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

encl.

- Decision Notice
 - Reasons for Decision
- Advice For Making Appeals (Decision Notice)



Decision Notice

Approval (with conditions)

Given under section 83 of the Planning Act 2016

Applicant Details

Name: Pool Body Corporate CTS-37139
Postal Address: C/- recs@bigpond.com

Property Details

Street Address: 19-37 St Crispins Avenue Port Douglas
Real Property Description: Lot: 0 on SP174881
Local Government Area: Douglas Shire Council

Details of Proposed Development

Application for a minor change to Condition 4.9 of the Amended Negotiated Decision Notice dated 9 July 2015 a for the Material Change of Use for 72 Multiple Dwelling Units consisting of 66 one (1) bedroom and 8 two (2) bedroom units for a variation of roof design and landscaping of the Multiple Dwelling Units over land described as Lots 0, 1-10 on SP174881 and Lot 0, 11-27 on SP204456, located at 19-37 St Crispins Avenue, Port Douglas, whereby the condition is amended as follows:

- 4.9 Landscaping shown on the approved plan shall be completed before the development is occupied and maintained thereafter except for those works identified under condition 4.8(g) above. All works identified in Condition 4.8 (g) above must be completed prior to 7 July ~~2020~~ 2023.

Decision

Date of Decision: 15 June 2020
Decision Details: Approved. All other conditions of the Amended Negotiated Decision Notice dated 9 July 2015 (Doc ID: 459734) remain unchanged.

Existing Approval

A copy of the existing approval is enclosed.

Further Development Permits

Not applicable

Currency Period for the Approval

Not applicable – continuing approval.

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*.

A copy of the relevant appeal provisions are attached.

Existing Approval

OUR REF: MCUI 901/2015 (459734)

9 July 2015

Pool Body Corporate CTS-37139
C/- Body Corporate Services
PO Box 1
PORT DOUGLAS QLD 4877

Attention: Cameron Kohring

Dear Sir

**NOTICE OF DECISION UNDER S 376 SUSTAINABLE PLANNING ACT 2009
REQUEST FOR A PERMISSIBLE CHANGE TO A DEVELOPMENT APPROVAL
19-37 ST CRISPINS AVENUE, PORT DOUGLAS**

With reference to the abovementioned Development Application, which was determined by Council at the Ordinary Meeting held on 7 July 2015, please find attached the relevant Notice of Decision.

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

Should you have any enquiries in relation to this Decision Notice, please contact Jenny Elphinstone of Development and Environment on telephone number 07 4099 9482.

Yours faithfully

Donna Graham
Manager Development & Environment

Att

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OUR REF: MCUI 901/2015 (459734)

**NOTICE OF DECISION UNDER S 376 SUSTAINABLE PLANNING ACT 2009
REQUEST FOR A PERMISSIBLE CHANGE TO A DEVELOPMENT APPROVAL
19-37 ST CRISPINS AVENUE, PORT DOUGLAS**

Applicant details:	Pool Body Corporate CTS-37139 C/- Body Corporate Services PO Box 1 PORT DOUGLAS QLD 4877
Land details: Street Address:	19-37 St Crispins Avenue, Port Douglas QLD 4877
Real Property Description:	Lots 0 and 1-10 on SP174881 Lots 0 and 11-27 on SP204456
Date original application decided:	5 November 2007 (Douglas Shire Council). A copy of this original Decision Notice is attached.
Request	For a Permissible Change to a Development Approval for the Negotiated Decision Notice for a Material Change of Use for 72 Multiple Dwelling Units consisting of 66 one (1) bedroom and 8 two (2) bedroom units for a variation of roof design and landscaping of the Multiple Dwelling Units over land described as Lots 0, 1-10 on SP174881 and Lot 0, 11-27 on SP204456, located at 19-37 St Crispins Avenue, Port Douglas,
Date request lodged	24 June 2015
Referral Agency:	None applicable
Decision:	Approved subject to conditions (refer to approval package below).

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Conditions Package:

1. Condition 4.1 is amended as follows:

Plan of Development

4.1 The approved development and the carrying out of any works on the premises associated with the development must be in accordance with Plan of Development No's. A-TP-04 Rev 04, A-TP-05 Rev 04 and A-TP-06 Rev 03 and as varied by the use of a roof design for units 1-10 on SP 174881 and Lot 11-27 on SP204456 on which there is no landscaping developed and in accordance with the Landscape Plan Drawing LP 01 Issue D dated 29 May 2015 prepared by Hortulus Landscape Design and Management, attached to this approval, subject to:

- (i) Modifications required by any condition of this approval and any minor alterations found necessary by Council at the time of examination of engineering plans.

2. Condition 4.8 is amended as follows:

Landscaping

4.8 The landscape concept plan has been approved in principle subject to more detailed landscape plans being submitted at Operational Work stage indicating:

- (a) proposed numbers of each species;
- (b) composition of each species on the layout;
- (c) concept drawings of the view from the street level showing screening effect 0, 2 and 5 years from completion;
- (d) details on planting bed size , preparation and related hardscape etc.;
- (e) details of depth and size of planting beds for those landscaped areas in the pool and courtyard areas which will be located above the underground carpark.;
- (f) Additional screen planting provided between the pool areas and the adjacent side boundaries.;
- and

(g) as amended by the redesign of units 1 to 27:

- (i) with no roof top landscaping to these units;
- (ii) the inclusion of landscaping as described on the Landscape Plan Drawing LP 01 Issue D dated 29 May 2015 prepared by Hortulus Landscape Design and Management; and
- (iii) the external painting of the western face of the swimming pools accompanying these units a darker colour; and
- (iv) the external painting of these units in a colour scheme that compliments the landscaping and reduces the visual impact of these

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DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

units when viewed from outside the site to the satisfaction of the Chief Executive Officer.

3. Condition 4.9 is amended as follows
 - 4.9 Landscaping shown on the approved plan shall be completed before the development is occupied and maintained thereafter, except for those works identified under condition 4.8(g) above. All works identified in Condition 4.8 (g) above must be completed prior to 7 July 2020.
4. That all other conditions of the Negotiated Decision Notice dated 5 November 2007 (D#375820) remain unchanged.

Decision Date: This Notice of Decision dated 7 July 2015 amends the Negotiated Decision Notice dated 5 November 2007.

This Notice of Decision includes extracts from the Act with respect to lodging an Appeal.

RIGHTS OF APPEAL

Attached

End of Decision Notice

APPENDIX 1: APPROVED DRAWING(S) & DOCUMENT(S)



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APPENDIX 2: ORIGINAL APPROVAL



8/38/2-12
3996016
D/L 375820

ENQUIRIES: Mrs Natalie Clark – Planning Officer
DEPARTMENT: Planning Services Section - ☎ (07) 4099 9456
EMAIL: planning@dsc.qld.gov.au

OUR REF: TPC 1137
YOUR REF:

Buildcorp Australia
Attn: Mr Andrew Corbin
4/10 Mallett Street
CAMPERDOWN NSW 2050

5 November 2007

INTEGRATED PLANNING ACT AMENDED NEGOTIATED DECISION NOTICE CHANGE OF CONDITIONS

Applicant's Name : Buildcorp Australia
Owner's Name : St Crispins Property Pty Ltd TTE
Proposal : Material Change of Use Development Permit to construct 72 Multiple Dwelling Units consisting of 52 one (1) bedroom and 20 two (2) bedroom units.
Application Number : TPC 1137
Site Address : 19-37 St Crispins Avenue, Port Douglas
Property Description : Lot 33-38 on RP747345, Parish of Salisbury, County of Solander

This Amended Negotiated Decision Notice replaces the Decision Notice dated 12th July 2004. Condition 4.18 has been amended. All other conditions remain unchanged

A. Decision: **Decision Date:** 6 July 2004

Approved subject to Conditions

B. Type of Development Approval:

Material Change of Use Negotiated Development Permit
.../2.

ADMINISTRATION CENTRE
(ALL DEPARTMENTS)
64-66 FRONT STREET, MOSSMAN

PHONE (07) 4099 9444 FACSIMILE (07) 4098 2902
INTERNET www.dsc.qld.gov.au

ALL COMMUNICATIONS TO BE
ADDRESSED TO:
THE CHIEF EXECUTIVE OFFICER
P.O. BOX 357
MOSSMAN, QLD 4873

LIBRARY 14 MILL ST., MOSSMAN

PHONE (07) 4099 9496 FACSIMILE (07) 4098 3298

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C. Referral Agency:

Nil

D. Conditions

Plan of Development

4.1 The approved development and the carrying out of any works on the premises associated with the development must be in accordance with Plan of Development No's. A-TP-04 Rev 04, A-TP-05 Rev 04 and A-TP-06 Rev 03 attached to this approval, subject to:

- (i) Modifications required by any condition of this approval and any minor alterations found necessary by Council at the time of examination of engineering plans.

Water Supply

4.2 The applicant shall provide a new connection branch off the existing main in St Crispins Drive to service the development including provision of a compound water meter.

Sewerage

4.3 The applicant is to maintain the existing sewerage main that transects the site along the northern boundary of Lot 37 and along the rear of lots 33-37 to the existing pump station to the north of the site. The applicant will be required to amend their designs by removing all building structures including pools from above and within load areas of this main. The architectural drawings will need to take into consideration the depth and location of the sewer so as not to increase load. Piercing of footings below the depth of the sewer may be required.

Alternatively,

4.4 The applicant is to provide an engineering solution to be ratified at Operational Works stage by Council. All works are to be undertaken by the applicant at their expense.

Water Supply & Sewerage Headworks

4.5 The Applicant shall pay to the Council headworks contributions for water supply and sewerage in accordance with Council's Local Planning Policy: "*Determination of Contributions for Water Supply and Sewerage Headworks and External Works*" ("the Policy").

- a. The contribution shall be calculated at the rate per Equivalent Domestic Connection ("EDC") applicable at the time of payment in accordance with the Policy.
- b. For information purposes only :
 - (i) The current rates per EDC at the time of this approval are:

Water Supply	\$ 5,330.00	
Sewerage	\$ 2,269.00	.../3.

- c. For information purposes only:
- (i) The current number of EDCs for the approved use are:
- | | |
|--------------|------|
| Water Supply | 10.5 |
| Sewerage | 11.7 |

Electrical & Telephone Services

- 4.6 Prior to approval of any development application for Building Work, the Applicant must submit to Council a copy of a letter from Ergon Energy stating that satisfactory arrangements have been made for the provision of:
- (a) an underground electrical supply to the development; and
 - (b) street lighting in accordance with Council's adopted standards.
 - (c) locating of all above ground transformer cubicles clear of footpath areas.
- 4.7 Prior to approval of any development application for Building Work, the Applicant must submit to Council a copy of a letter from Telstra stating that satisfactory arrangements have been made for the provision of:
- (a) an underground telephone service to the development; and
 - (b) locating of all above ground switching station cubicles clear of footpath areas.

Landscaping

- 4.8 The landscape concept plan has been approved in principle subject to more detailed landscape plans being submitted at Operational Works stage indicating:
- (a) proposed numbers of each species;
 - (b) composition of each species on the layout;
 - (c) concept drawings of the view from street level showing the screening effect at 0,2 and 5 years from implementation;
 - (d) details on planting bed size, preparation and related hardscape etc.
 - (e) details of depth and size of planting beds for those landscaped areas in the pool and courtyard areas which will be located above the underground carpark.
 - (f) Additional screen planting provided between the pool areas and the adjacent side boundaries.
- 4.9 The landscaping shown on the approved plan shall be completed before the development is occupied and maintained thereafter.

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Earthworks

- 4.10 Details of the proposed filling and excavation for the development including a detailed acid sulfate soils assessment including management program must be submitted for Operational Works approval.

Stormwater Drainage

- 4.11 The applicant's designs indicate buildings and pool areas over the existing drainage easement (Easement J on RP747345). The applicant will be required to amend their designs by removing all building structures including pools from this easement.

Alternatively,

- 4.12 The applicant will need to provide a detailed engineering solution to be ratified at Operational Works stage by Council. All works are to be undertaken by the applicant at their expense

Environmental Management Plans

- 4.13 The applicant is to have prepared with the submission for approval of the engineering plans, an Environmental Management Plan (EMP) detailing the controls to be utilised to ensure that no environmental harm or nuisance is caused from the proposed use of the land and construction of the works. In particular, this plan should address such issues as dust suppression, waste disposal, acid sulfate soil management, noise management and stormwater management (to minimise discharges of sediment, wastes and other substances).

Carparking & Access

- 4.14 The applicant shall provide bollard lighting at the property boundary to indicate access to the car parking area. This lighting is to be shown on the plans for Operational Works approval and installed prior to commencement of the use.
- 4.15 The applicant shall submit a report prepared by a qualified engineer on the basement carparking. The report shall be submitted to and approved by the Council prior to the issue of a Building Permit. The report shall address the following matters:-
- (a) Construction techniques.
 - (b) Dewatering and pumping equipment to be installed.
 - (c) Details of the satisfactory disposal of water.
 - (d) That the basement is impervious to water.
 - (e) Any effects the basement may have on adjoining properties.
 - (f) The method of ventilation.

.../5.

- 4.16 The ingress and egress of the basement car park shall be designed to prevent floodwaters entering the car park.
- 4.17 A car parking area shall be constructed, sealed, drained and line marked for a minimum of 92 unallocated spaces in accordance with the approved plan of development and maintained thereafter.

Waste Storage & Discharge

- 4.18 The waste storage area must be located in the location shown on the approved plan for this development and the front of each waste storage area must:
- (a) Have at least 4x45 litre Native Gardenias and 8x140mm Spider Lillies planted along the frontage;
 - (b) Contain an impervious surface space for the storage of waste containers suitably screened so as not to be visible from adjoining properties or the road reserve;
 - (c) Include a stop cock and stormwater diversion valve at the drainage point; and
 - (d) Contain sufficient storage space for the storage of a 240 litre refuse bin for each unit in the development.

- 4.19 Refuse storage, removal and collection methods shall be in accordance with the "*Environment Protection (Interim Waste) Regulations 1996*"

Air Conditioning & Service Equipment

- 4.20 All service equipment, outdoor lighting and air conditioning equipment must be located so as not to cause a nuisance to the occupants of adjoining units or neighbouring premises. The noise levels shall be maintained in accordance with the requirements of the Environmental Protection Policy - Noise.

Amalgamation

- 4.21 Lots 33-38 on RP747345 must be amalgamated into one allotment. The Plan of Survey must be registered with the Department of Natural Resources and Mines prior to final inspection and issuing of the Certificate of Classification.

Footpath Damage Liability

- 4.22 All damage occasioned to footpaths and roadways adjacent to the site and on designated transport routes for the construction, as a result of or in connection with this development must be repaired by the applicant, at their expense, prior to completion of works associated with the development.

.../6.

Maintenance

- 4.23 The Applicant shall maintain in accordance with the requirements of the Operational Works Development Permit and the Far North Queensland Regional Organisation of Councils Development Manual, all works of any nature whatsoever works carried out under the provisions of the subdivision of the land by-laws for a period of twenty-four (24) months. The Applicant shall make good within such period any defects arising from faulty workmanship or materials in respect to such works carried out as part of the works associated with the development.

Operational Works Development Permit

- 4.24 Full engineering drawings, prepared and/or checked by a Registered Professional Engineer, shall be submitted for all road works, stormwater drainage and lot improvement at Operational Works Application stage. Drawings should, in general, include the following:
- (a) locality plan;
 - (b) layout and staging plan, where applicable;
 - (c) earthworks plan;
 - (d) layout plan for each driveway;
 - (e) longitudinal section of each driveway;
 - (f) cross sections for each driveway, including standard cross sections;
 - (g) layout plan for each stormwater drainage;
 - (h) longitudinal sections for each stormwater drain line;
 - (i) details for non-standard drainage structures;
 - (j) Sewerage Reticulation Plan;
 - (k) Water Reticulation Plan;
 - (l) Erosion and Sediment Control Strategy;
 - (m) Service providers conduit plan, including street lighting; and
 - (n) Such other details for the proper construction of the works i.e. retaining walls etc.

Security

- 4.25 To guarantee the satisfactory completion of the building, site works, landscaping, drainage works and any required works external to the land and to ensure payment of the headworks charges, the applicant shall lodge with the Council a Cash Bond or Guarantee to the value of \$150,000.00, such Guarantee to be in a format considered satisfactory by the Manager Planning Services. The Bond or Guarantee shall be lodged prior to the issue of any Building Permit on the land in relation to this Consent Permit and the Council may call up the Guarantee to complete all or any part of the works mentioned herein to its satisfaction, should the applicant fail to do so.

Currency Period

- 4.26 This development approval lapses 4 years after the day that the development approval takes effect, unless works have substantially commenced or this period is extended under Section 3.5.22 of the *Integrated Planning Act 1997*.

.../7.

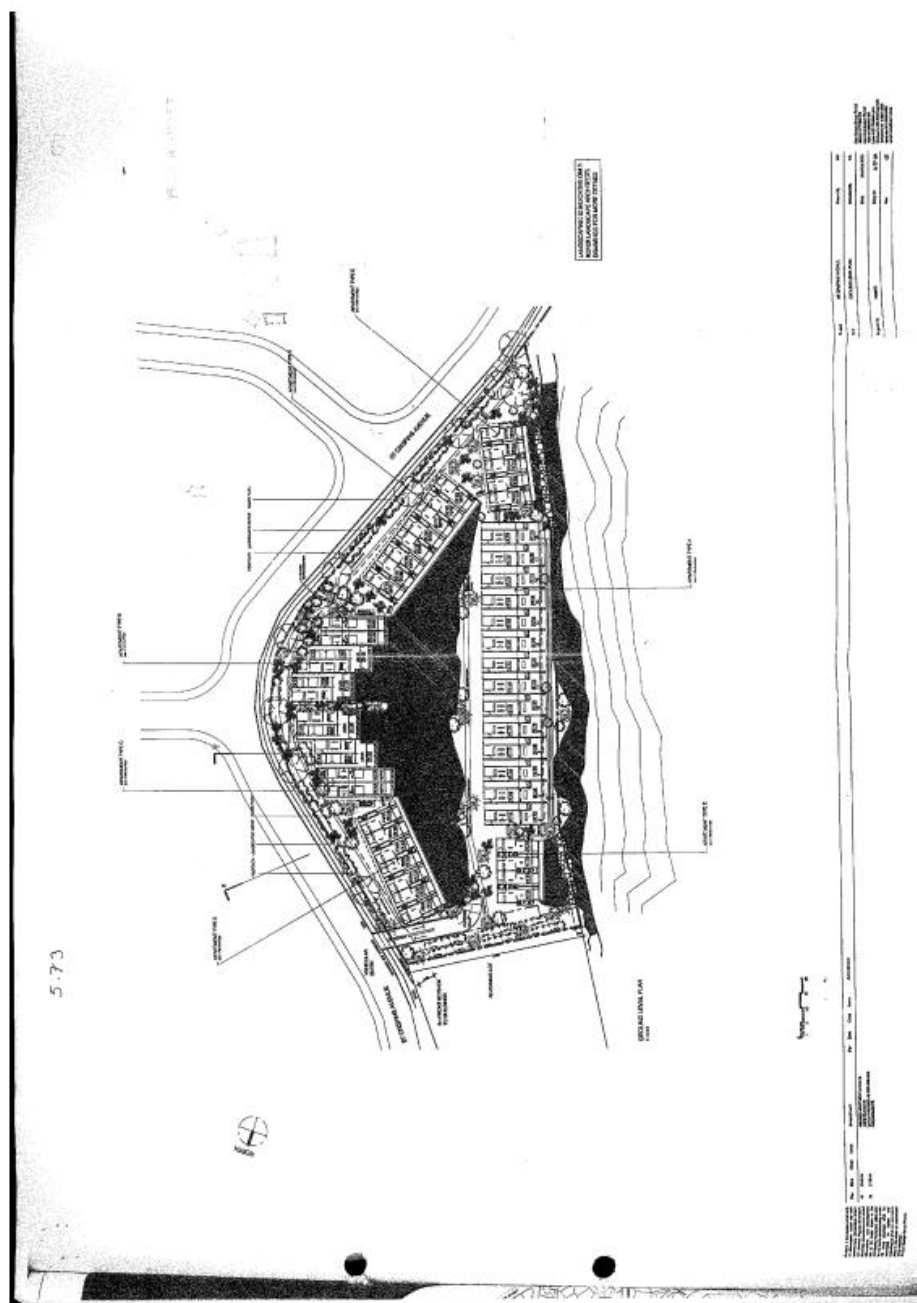
Compliance with Conditions

- 4.27 All works required pursuant to the above conditions shall be undertaken and completed in accordance with Council's requirements contained in the Planning Scheme Provisions/Codes and Engineering Standards.
- 4.28 Unless otherwise specified in this development permit, the conditions of this permit must be complied with prior to the occupancy of the building for the approved use or commencement of the approved use on the land.
- 4.29 The proposed Multiple Dwelling Units are to be used for residential purposes only in accordance with the intent and implementation criteria under Section 3.3.5 of the DCP2.

E. Further Development Approvals Required:

Operational Work	Development Permit
Building Permit	Development Permit
Plumbing & Drainage Permit	Development Permit

Paul Trotman
General Manager – Development & Environment

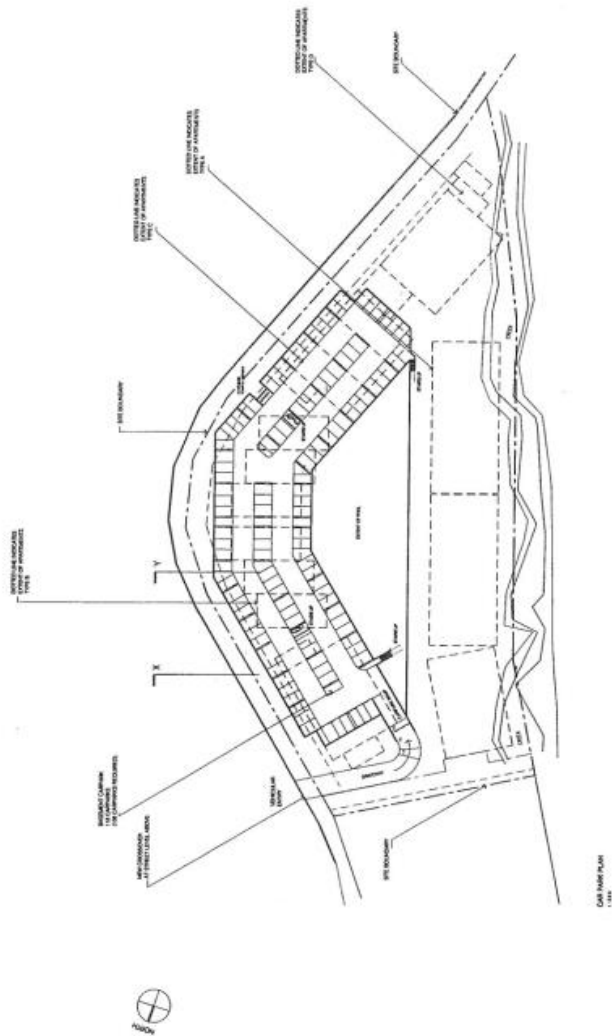


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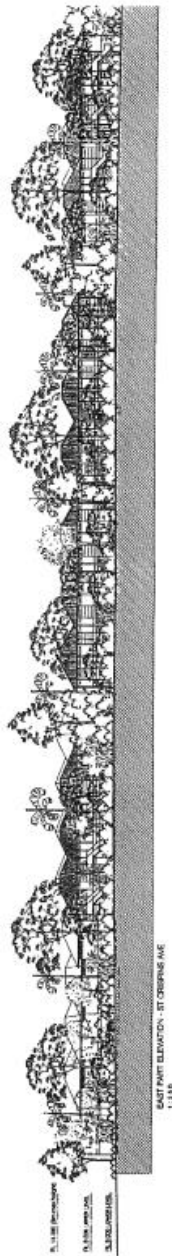
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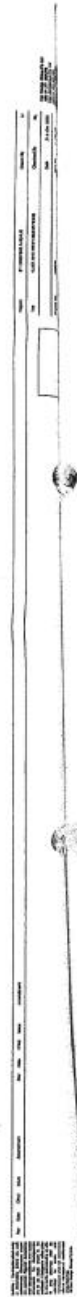
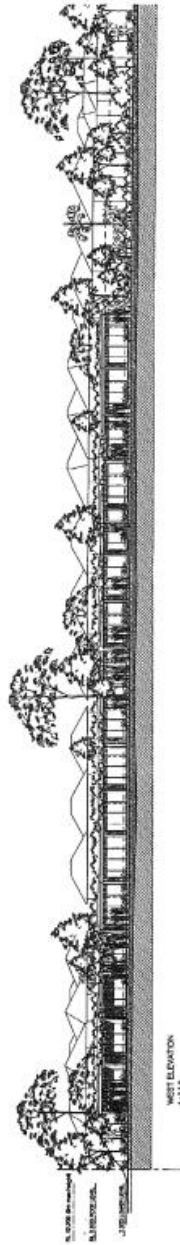


Project Information		Financial Summary	
Project Name	Project No.	Estimated Cost	Actual Cost
Project Location	Project Manager	Project Start Date	Project End Date
Project Description	Project Status	Project Budget	Project Actuals
Project Owner	Project Sponsor	Project Funding	Project Revenue
Project Contact	Project Advisor	Project Expenses	Project Income
Project Approval	Project Review	Project Profit	Project Loss
Project Sign-off	Project Close	Project Total	Project Balance

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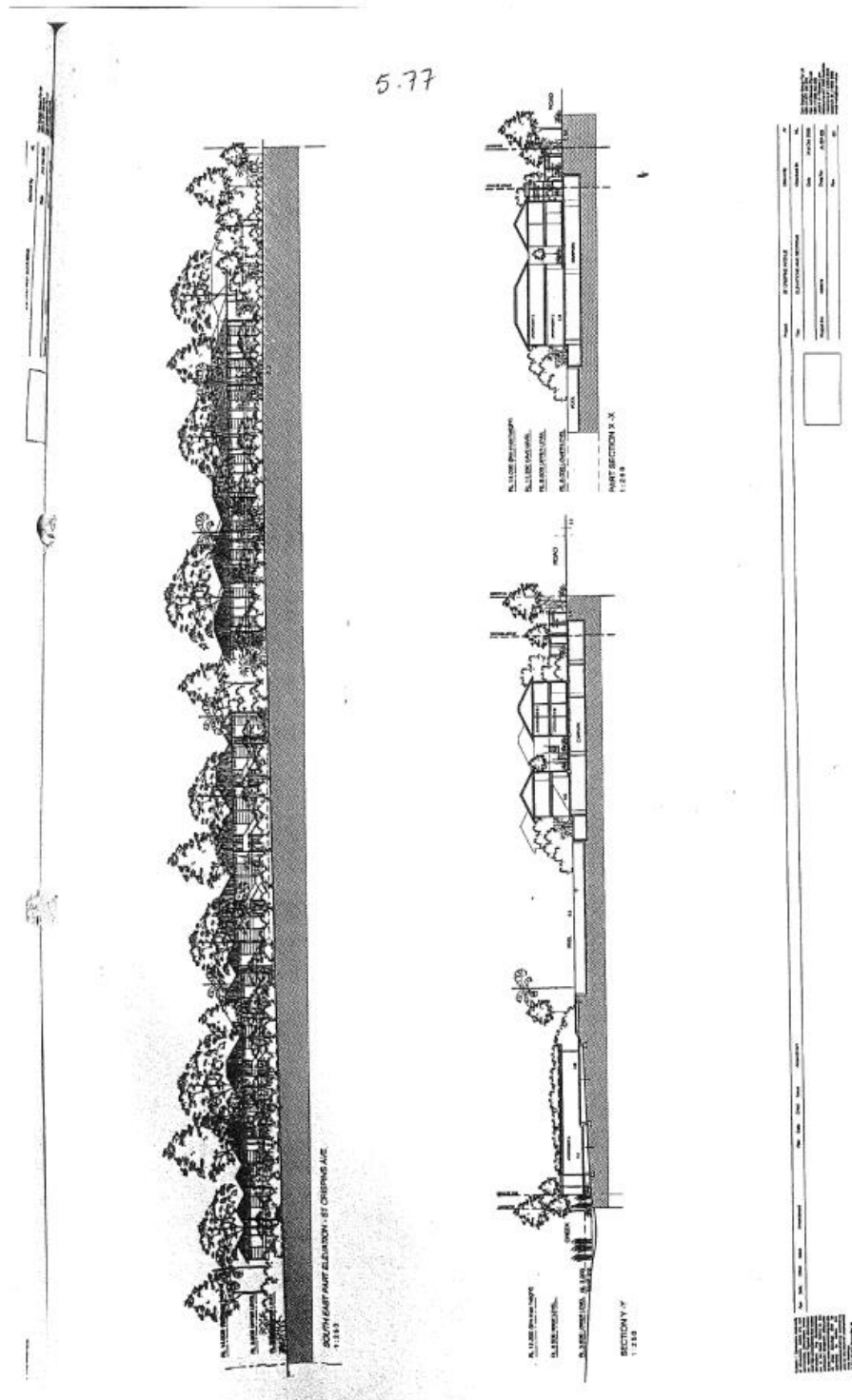


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Reasons for Decision

The reasons for this decision are:

1. Sections 79, 80, 81, 81A and 83 of the *Planning Act 2016*:
 - a. to ensure the development satisfies the benchmarks of the 1996 Douglas Shire Planning Scheme and has given due regard to the 2018 Douglas Shire Planning Scheme Version 1.0; and
 - b. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
 - a. the application for a minor change to the development approval was properly lodged to the Douglas Shire Council 16 June 2020 under sections 79 and 80 of the *Planning Act 2016*;
 - b. the application contained information from the applicant which Council reviewed together with Council's own assessment against the 1996 Douglas Shire Planning Scheme, the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
 - a. the development triggered assessable development under the 1996 Douglas Shire Planning Scheme;
 - b. Council undertook an assessment in accordance with the provisions of sections 81, 81A and 83 of the *Planning Act 2016*; and
 - c. the applicant's reasons have been considered and the following findings are made:
 - i. Subject to the amended conditions, the development satisfactorily meets the Planning Scheme benchmarks.

Non-Compliance with Assessment Benchmarks

None.

Extracts from the Planning Act 2016 – Appeal Rights

Planning Act 2016
Chapter 6 Dispute resolution

[s 229]

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.

- (3) In this section—

conduct means an act or omission.

representative means—

- (a) of a corporation—an executive officer, employee or agent of the corporation; or
(b) of an individual—an employee or agent of the individual.

state of mind, of a person, includes the person's—

- (a) knowledge, intention, opinion, belief or purpose; and
(b) reasons for the intention, opinion, belief or purpose.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
- (a) matters that may be appealed to—
- (i) either a tribunal or the P&E Court; or
- (ii) only a tribunal; or
- (iii) only the P&E Court; and
- (b) the person—
- (i) who may appeal a matter (the *appellant*); and
- (ii) who is a respondent in an appeal of the matter; and

-
- (iii) who is a co-respondent in an appeal of the matter;
and
 - (iv) who may elect to be a co-respondent in an appeal
of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
- (a) for an appeal by a building advisory agency—10
business days after a decision notice for the decision is
given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time
after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under
chapter 7, part 4, to register premises or to renew the
registration of premises—20 business days after a notice
is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—
20 business days after the infrastructure charges notice
is given to the person; or
 - (e) for an appeal about a deemed approval of a development
application for which a decision notice has not been
given—30 business days after the applicant gives the
deemed approval notice to the assessment manager; or
 - (f) for an appeal relating to the *Plumbing and Drainage Act
2018*—
 - (i) for an appeal against an enforcement notice given
because of a belief mentioned in the *Plumbing and
Drainage Act 2018*, section 143(2)(a)(i), (b) or
(c)—5 business days after the day the notice is
given; or
 - (ii) for an appeal against a decision of a local
government or an inspector to give an action notice
under the *Plumbing and Drainage Act 2018*—5
business days after the notice is given; or

- (iii) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

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

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—

-
- (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

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

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

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise,

whether by the Supreme Court, another court, any tribunal or another entity; and

- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

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

Part 2 Development tribunal

Division 1 General

233 Appointment of referees

- (1) The Minister, or chief executive, (the *appointer*) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—
 - (a) has the qualifications or experience prescribed by regulation; and
 - (b) has demonstrated an ability—
 - (i) to negotiate and mediate outcomes between parties to a proceeding; and
 - (ii) to apply the principles of natural justice; and
 - (iii) to analyse complex technical issues; and
 - (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.