

3 December 2021

**Enquiries:** Jenny Elphinstone  
**Our Ref:** MCUC 2021\_4248/1 (Doc ID 1048202)  
**Your Ref:** 21-019/001114

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

Port Douglas Constructions Pty Ltd (Tte)  
C/- Planning Plus  
PO Box 399  
REDLYNCH QLD 4870

**Email:** [evan@planningplusqld.com.au](mailto:evan@planningplusqld.com.au)

Attention Mr Evan Yelavich

Dear Sir

**Development Application for Material Change of Use for  
Shopping Centre and Food & Drink Outlet)  
At 147-149 Port Douglas Road Port Douglas  
On Land Described as Lot 193 on RP747071**

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

Please quote Council's application number: MCUC 2021\_4248/1 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**

cc. State Assessment and Referral Agency (SARA) E: [CairnsSARA@dilgp.qld.gov.au](mailto:CairnsSARA@dilgp.qld.gov.au)

encl.

- Decision Notice
  - Approved Drawing(s) and/or Document(s)
  - Concurrence Agency Response
  - Reasons for Decision
- Advice For Making Representations and Appeals (Decision Notice)
- Adopted Infrastructure Charges Notice
- Advice For Making Representations and Appeals (Infrastructure Charges)



# Decision Notice

## Approval (with conditions)

*Given under section 63 of the Planning Act 2016*

### Applicant Details

Name: Port Douglas Constructions Pty Ltd (Tte)  
Postal Address: C/- Planning Plus  
PO Box 399  
Redlynch Qld 4870  
Email: [evan@planningplusqld.com.au](mailto:evan@planningplusqld.com.au)

### Property Details

Street Address: 147-149 Port Douglas Road Port Douglas  
Real Property Description: Lot 193 on RP747071  
Local Government Area: Douglas Shire Council

### Details of Proposed Development

Development Permit for Material Change of Use for Shopping Centre, Food & Drink Outlet (with no drive-through facility) and Office.

### Decision

Date of Decision: 3 December 2021  
Decision Details: Approved (subject to conditions)

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

The term 'approved drawing(s) and/or document(s) or other similar expressions means the following plans subject to compliance with Condition 3.

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

Drawing or Document	Reference	Date
Site Plan	Generally in accordance with Balay Vandyke Building Design, Job 201-803, Drawing 01, Revision E, dated 28 August 2021 and amended as per Condition 3 of the approval.	To be determined.

Drawing or Document	Reference	Date
Floor Plan and Elevations	Generally in accordance with Balay Vandyke Building Design, Job 201-803, Drawing 02, Revision E, dated 28 August 2021 and amended as per Condition 3 of the approval.	To be determined.
Roof and Ceiling Plans	Generally in accordance with Balay Vandyke Building Design, Job 201-803, Drawing 03, Revision E, dated 28 August 2021 and amended as per Condition 3 of the approval.	To be determined.

**Note** – The plans referenced below will require amending in order to comply with conditions of this Decision Notice.

### Assessment Manager Conditions & Advices

#### Conditions

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

Except where modified by these conditions of approval

#### Timing of Effect

2. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

#### Amendment to Design

3. The proposed development must be amended to accommodate the following changes:
  - a. Include the provision of twelve (12) bicycle parking spaces;
  - b. Remove car space No.103 and widen the pavement for the left turning of vehicles from the shared driveway onto the land;
  - c. Replace six (6) standard parking spaces with three (3) "drive-through" parking spaces for Recreational Vehicles and/ or a B86 vehicle with a trailer;
  - d. Remove the car space No.19 and reposition the trolley collection bay and provide a 2.0m wide connecting pedestrian pathway to directly connect the Supermarket forecourt area with a pathway and connection to the pedestrian / cycle pathway on Port Douglas Road;
  - e. Provide minimal directional signage with appropriate landscaping to the new pedestrian entry to Port Douglas Road as required under Condition 3d above.
  - f. Ensure all pedestrian accesses must meet all relevant Australian Standards, Premises Standards and the National Construction Code requirements;
  - g. Provide a covered walkway with a suitably clearance beneath connecting the new and existing shops at the northern part of the site and along the central east-west pedestrian connecting walkway;

- h. Ensure that where the vehicle isles cross the raised pedestrian connecting pedestrian pavements, the pedestrian pavement must be linemarked to indicate that pedestrians have priority over vehicle movements;.
- i. Include lighting to the car parking and pedestrian access paths throughout the site; and
- j. All refuse, solid and recycle waste must be contained in a area that is roofed and bunded and fitted with a bucket trap.

Details of the above amendments must be endorsed by the Chief Executive Officer prior to issue of a Development Permit for Building Work.

### **Access and Egress**

4. All vehicles access and egress to the site must be via Port Douglas Road.

### **Water Supply and Sewerage Works Internal**

5. Undertake the following water supply and sewerage works internal to the subject land:
  - a. A single internal sewer connection to the property is maintained which must be clear of any buildings or structures;
  - b. A single internal water connection is maintained to the property;
  - c. Water supply sub-metering must be designed and installed in accordance with the Queensland Development Code and the Water Supply (Safety and Reliability) Act 2008

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 prior to Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

### **External Works**

6. Undertake the following works external to the land at no cost to Council:
  - a. Construct a 2.0 me wide pathway and associated appropriate splay to connect the site to the footpath / cycle path on the adjacent Port Douglas Road (north side of the road) in accordance with the FNQROC Regional Development Manual. The footpath is to connect to the pedestrian access to the to be provided under Condition 3 above near or utilising the car space No.19 on the submitted pan.

The external works outlined above must be constructed with a suitable approval from the Department of Transport and Main Roads.

Three (3) copies of a plan of the works at A1 size and one (1) copy at A3 size must be endorsed by the Chief Executive Officer prior to commencement of such works. Such work must be constructed in accordance with the endorsed plan to the satisfaction of the Chief Executive Officer prior to Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

Note: the above works are not considered to be creditable or trunk related works in accordance with Section 145 of the *Planning Act 2016*.

### **Lawful point of discharge.**

7. The study must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work with the necessary works being undertaken prior to Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

## **Vehicle Parking**

8. The amount of vehicle parking must be as specified in Council's Planning Scheme which is a minimum of ninety-six (96) spaces including three (3) are disability driver parking spaces and three (3) are suitable "drive-through" spaces for Recreational Vehicles and/or a B86 vehicle with a trailer and twelve (12) bicycle parking spaces. The car parking layout must comply with the Australian Standard AS2890 Parking Facilities – off-street car parking and be constructed in accordance with Austroads and good engineering design. In addition, all parking, driveway and vehicular manoeuvring areas must be imperviously sealed, drained and line marked.

### **Access to rear Car Park**

9. No boom gate, pay machine or any other regulatory device is to be installed to access the car park. The car parking is to be maintained as accessible to all users of the premises including any public users.

### **Landscaped Areas**

10. Landscaped areas adjoining the parking area must be protected by a 150 mm high vertical concrete kerb or similar obstruction. The kerb must be set back from the garden edge sufficiently to prevent vehicular encroachment and damage to plants by vehicles.

All landscaped areas must be fully established prior to the commencement of use and must be maintained thereafter to the satisfaction of the Chief Executive Officer

### **Lighting**

11. All lighting installed upon the premises including car parking areas must be certified by Ergon Energy (or such other suitably qualified person). The vertical illumination at a distance of 1.5 metres outside the boundary of the subject land must not exceed eight (8) lux measured at any level upwards from ground level. The rear car parking area and the driveway must be sufficiently illuminated for all times that the car park area is in use.

All lighting and landscaping requirements are to comply with Council's General Policy Crime Prevention Through Environmental Design (CPTED).

### **Stockpiling and Transportation of Fill Material**

12. Soil used for filling or spoil from the excavation is not to be stockpiled in locations that can be viewed from adjoining premises or a road frontage for any longer than one (1) month from the commencement of works.

Transportation of fill or spoil to and from the site must not occur within:

- a. peak traffic times;
- b. before 7:00 am or after 6:00 pm Monday to Friday;
- c. before 7:00 am or after 1:00 pm Saturdays; or
- d. on Sundays or Public Holidays.

13. Dust emissions or other air pollutants, including odours, must not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

### **Storage of Machinery and Plant**

14. The storage of any machinery, material and vehicles must not cause a nuisance to surrounding properties, to the satisfaction of the Chief Executive Officer.

### **Damage to Council Infrastructure**

15. In the event that any part of Council's existing sewer / water or road infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to; mobilisation of heavy construction equipment, stripping and grubbing, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced at the developer's/owners/builders cost, prior to the Commencement of Use.

## Construction Signage

16. Prior to the commencement of any construction works associated with the development, a sign detailing the project team must be placed on the road frontage of the site and must be located in a prominent position. The sign must detail the relevant project coordinator for the works being undertaken on the site, and must list the following parties (where relevant) including telephone contacts:
  - a. Architect
  - b. Builder;
  - c. Landscape Architect

## Advices

1. This approval, granted under the provisions of the Planning Act 2016, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the Planning Act 2016.
2. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with relevant Local Laws and statutory requirements.
4. For future use of the premises as a Centre Activities (Food and drink outlet) note that a Trade Waste Permit is usually required for a pre-treatment device (grease trap).
5. For information relating to the Planning Act 2016 log on to [www.dsdmip.qld.gov.au](http://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](http://www.douglas.qld.gov.au).

## Infrastructure Charges Notice

6. A charge levied for the supply of trunk infrastructure is payable to Council towards the provision of trunk infrastructure in accordance with the Infrastructure Charges Notice. The original Infrastructure Charges Notice will be provided under cover of a separate letter.

The amount in the Infrastructure Charges Notice has been calculated according to Council's Infrastructure Charges Resolution.

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

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

The time when payment is due is contained in the Adopted Infrastructure Charges Notice.

## Further Development Permits

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Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Building Work
- All Operational Work

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

## Concurrence Agency Response

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Concurrence Agency	Concurrence Reference	Agency Date	Doc ID
Department of State Development, Manufacturing, Infrastructure and Planning.	2107-23868 SRA	18 October 2021	1043070

**Note** – Concurrence Agency Response is attached. This Concurrence Agency Response maybe amended by agreement with the respective agency.

## Currency Period for the Approval

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

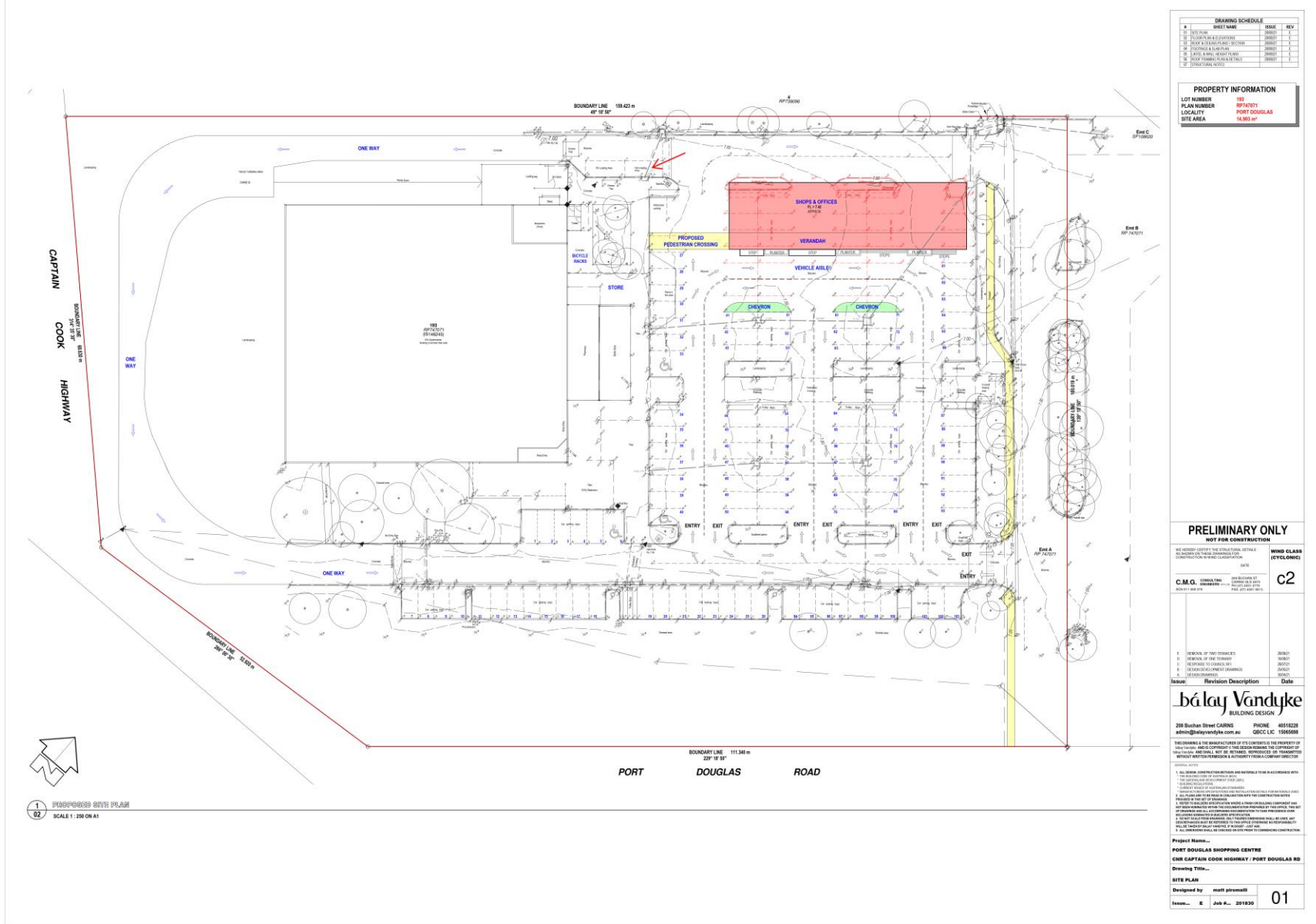
## Rights to make Representations & Rights of Appeal

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

A copy of the relevant appeal provisions is attached.

Approved Drawing (s) and / or Document(s) – Subject to being amended by Condition 3 of the approval.



DRAWING SCHEDULE			
#	SHEET NAME	ISSUE	REV
1	101 SITE PLAN	ISSUE 1	1
2	102 FLOOR PLAN & LIFT DETAILS	ISSUE 1	1
3	103 ROOF & EXTERIOR WALL DETAILS	ISSUE 1	1
4	104 STRUCTURAL & LIFT PLAN	ISSUE 1	1
5	105 EXTERIOR WALL & ROOF FINISH	ISSUE 1	1
6	106 ROOF FINISH & GROUND LEVEL	ISSUE 1	1
7	107 EXTERIOR WALL FINISH	ISSUE 1	1
8	108 EXTERIOR WALL FINISH	ISSUE 1	1

PROPERTY INFORMATION	
LOT NUMBER	193
PLAN NUMBER	SP14/011
LOCALITY	PORT DOUGLAS
SITE AREA	14,893 m <sup>2</sup>

PRELIMINARY ONLY	
NOT FOR CONSTRUCTION	
WE HEREBY CERTIFY THE STRUCTURAL DETAILS AS SHOWN ON THESE DRAWINGS ARE IN ACCORDANCE WITH THE REQUIREMENTS OF THE BUILDING ACT 1975.	WIND CLASS (CYCLONIC)
C.M.G. CONSULTING ENGINEERS	c2
DATE	
1. REMOVAL OF TWO STORES	20/01/21
2. REMOVAL OF ONE STORE	20/01/21
3. REVISION TO STORES BY	20/01/21
4. DESIGN DEVELOPMENT DRAWING	20/01/21
5. AS PER APPROVAL	20/01/21

**Issue**    **Revision Description**    **Date**

**bálay Vandyke**  
BUILDING DESIGN

208 Buchanan Street CARNS    PHONE 40518228  
admin@bavandyke.com.au    QCCC LIC 15665898

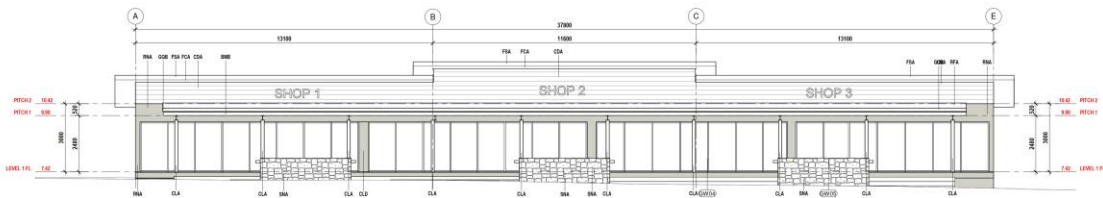
**Project Name:**  
PORT DOUGLAS SHOPPING CENTRE  
CNR CAPTAIN COOK HIGHWAY / PORT DOUGLAS RD

**Drawing Title:**  
SITE PLAN

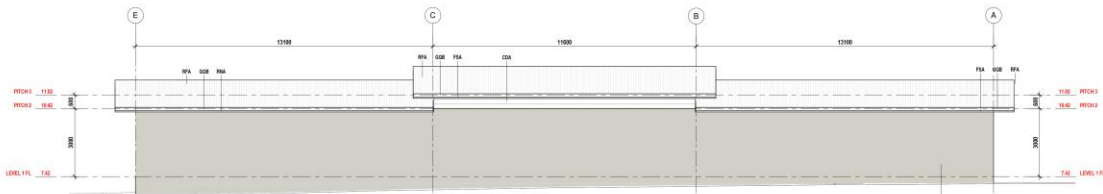
**Designed by:** matt jovanetti

**Issue:** E    **Job #:** 201930    **01**

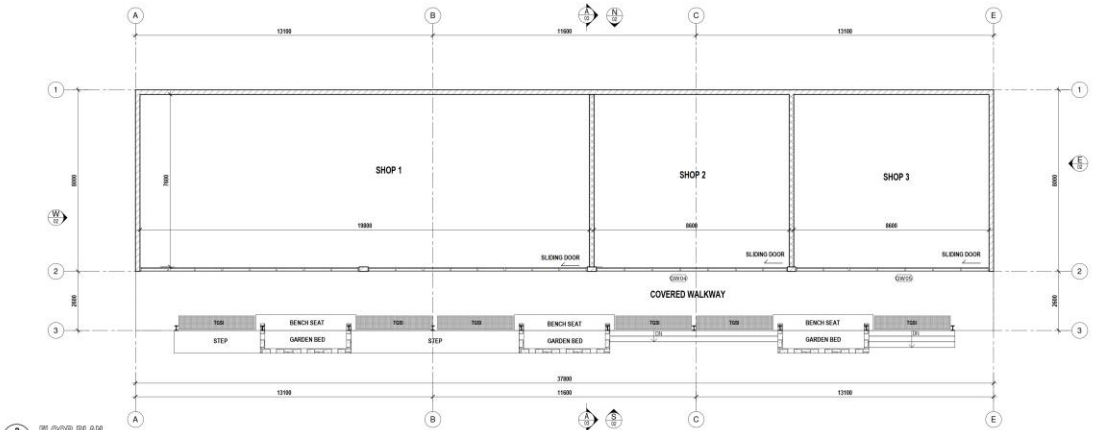




**S**  
**02** ELEVATION 1  
SCALE 1:100 ON A1



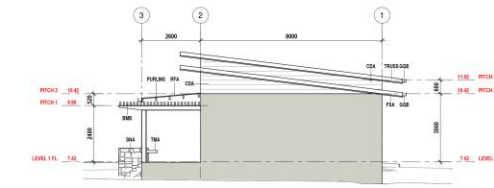
**N**  
**02** ELEVATION 2  
SCALE 1:100 ON A1



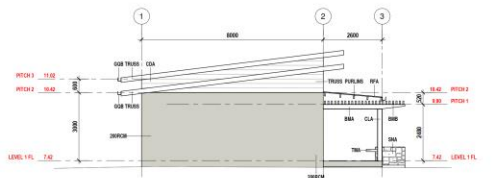
**W**  
**02** ELEVATION 3  
SCALE 1:100 ON A1



**E**  
**02** ELEVATION 4  
SCALE 1:100 ON A1



**1-1**  
**02** SECTION 1-1  
SCALE 1:100 ON A1



**2-2**  
**02** SECTION 2-2  
SCALE 1:100 ON A1

LEGEND	
CONCRETE	CONCRETE MASONRY WALL
BRICK	BRICK MASONRY WALL
GLASS	GLASS CURTAIN WALL
ROOF	ROOF
CEILING	CEILING
FLOOR	FLOOR
FOUNDATION	FOUNDATION
LANDSCAPE	LANDSCAPE
MECHANICAL	MECHANICAL
ELECTRICAL	ELECTRICAL
PLUMBING	PLUMBING
PAINT	PAINT
FINISHES	FINISHES
VEGETATION	VEGETATION
MOBILITY	MOBILITY
ACCESSIBILITY	ACCESSIBILITY
ENVIRONMENTAL	ENVIRONMENTAL
ENERGY	ENERGY
WATER	WATER
WIND	WIND
SEISMIC	SEISMIC
OTHER	OTHER

NAME	AREA (m <sup>2</sup> )
RETAIL	307.4
OFFICE	88.4
Grand Total	395.8

FLOOR FINISHES	
NAME	AREA
SHOP 1	100.0
SHOP 2	100.0
SHOP 3	100.0
COVERED WALKWAY	95.8

WALL HATCH LEGEND	
CONCRETE MASONRY WALLS	[Hatch Pattern]
BRICK MASONRY WALLS	[Hatch Pattern]
GLASS CURTAIN WALLS	[Hatch Pattern]
ALL OTHERS	[Hatch Pattern]

**PRELIMINARY ONLY**  
**NOT FOR CONSTRUCTION**

WE HEREBY CERTIFY THE STRUCTURAL DETAILS SHOWN ON THESE DRAWINGS FOR CONSTRUCTION BY THE DESIGNER.

DATE: \_\_\_\_\_

**C.M.G.** CONSULTING ENGINEERS  
PROVINCIAL NO. 078

DATE: \_\_\_\_\_

CONTRACT NO. 2018-078

SCALE: 1:100 ON A1

Issue	Revision Description	Date
E	REVISION OF TWO TERRACES	20/05/21
D	REVISION OF ONE TERRACE	18/05/21
C	REVISION OF TWO TERRACES	08/05/21
B	REVISION OF TWO TERRACES	20/05/21
A	ISSUE FOR PERMIT	08/05/21

**bag lay Vanduyke**  
BUILDING DESIGN

208 Buchan Street CARNS PHONE: 40518228  
admin@baglayvanduyke.com.au GBCS/LIC: 15065086

THIS DRAWING IS THE PROPERTY OF BAG LAY VANDUYKE AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS WITHOUT WRITTEN PERMISSION OF BAG LAY VANDUYKE.

1. ALL DESIGN CONSTRUCTION DETAILS ARE SUBJECT TO BE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS (NBR).

2. ALL DESIGN CONSTRUCTION DETAILS ARE SUBJECT TO BE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS (NBR).

3. ALL DESIGN CONSTRUCTION DETAILS ARE SUBJECT TO BE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS (NBR).

4. ALL DESIGN CONSTRUCTION DETAILS ARE SUBJECT TO BE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS (NBR).

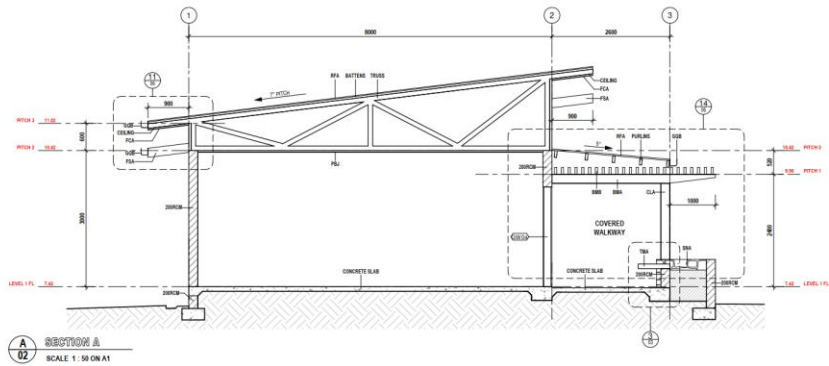
5. ALL DESIGN CONSTRUCTION DETAILS ARE SUBJECT TO BE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS (NBR).

Project Name...  
**PORT DOUGLAS SHOPPING CENTRE**  
**CHR CAPTAIN COOK HIGHWAY / PORT DOUGLAS RD**

Drawing Title...  
**FLOOR PLAN & ELEVATIONS**

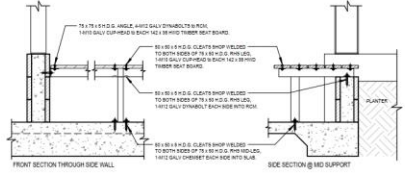
Designed by **matt pinomial**

Issue... E Job No. 201830 **02**

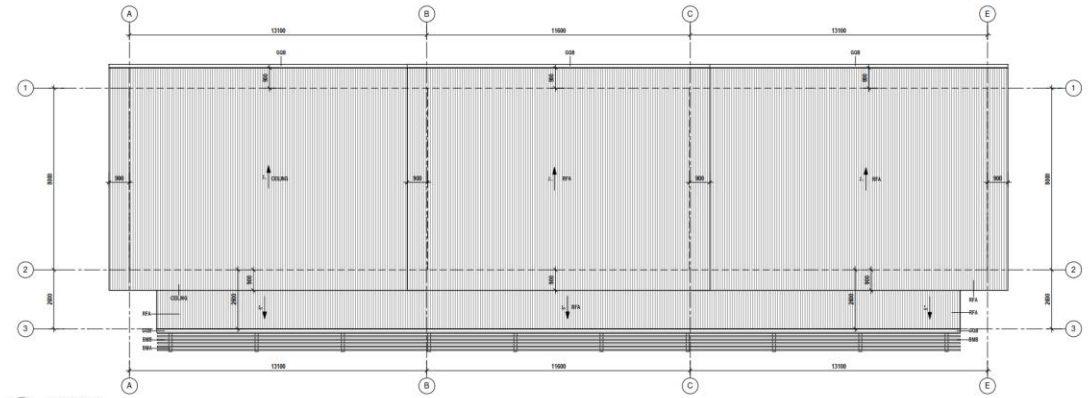


**SECTION A**  
SCALE 1:50 ON A1

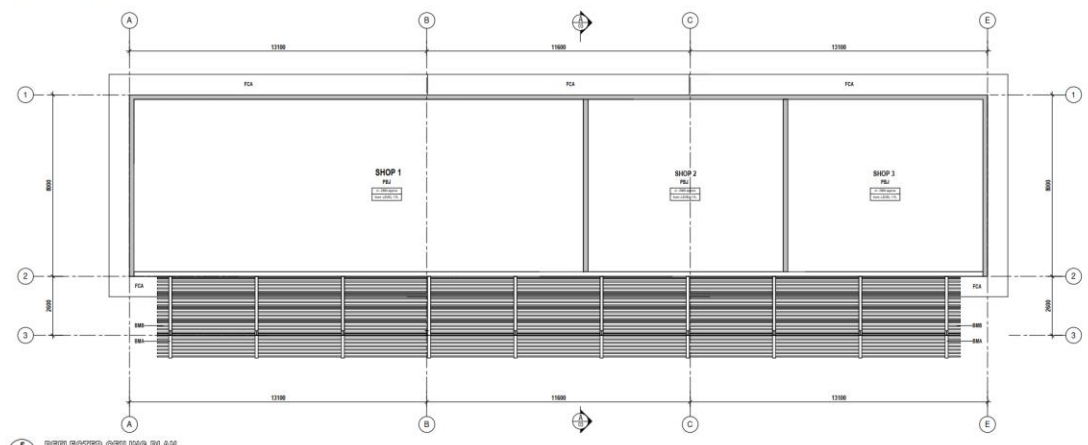
SHOP FRONT WINDOW & DOOR SCHEDULE							
#	DESCRIPTION	TYPE	LOCATION	REFERENCE	FRAME MATERIAL	GLAZING/FINISH	SCREENING
01	BLINDING DOOR & FUSE WINDOW COMBINATION	DOOR	SHOP 1	REF. 1A	POWDERCOAT ALUMINIUM	SPRT GLASS	NONE
02	BLINDING DOOR & FUSE WINDOW COMBINATION	DOOR	SHOP 2	REF. 1A	POWDERCOAT ALUMINIUM	SPRT GLASS	NONE
03	BLINDING DOOR & FUSE WINDOW COMBINATION	DOOR	SHOP 3	REF. 1A	POWDERCOAT ALUMINIUM	SPRT GLASS	NONE
04	BLINDING DOOR & FUSE WINDOW COMBINATION	DOOR	SHOP 4	REF. 1A	POWDERCOAT ALUMINIUM	SPRT GLASS	NONE



**TIMBER SLAT DETAILS**  
SCALE 1:20 ON A1



**ROOF PLAN**  
SCALE 1:100 ON A1



**REFLECTED CEILING PLAN**  
SCALE 1:100 ON A1

LEGEND	
CONCRETE	CONCRETE CONSTRUCTION
WOOD	WOOD CONSTRUCTION
GLASS	GLASS CONSTRUCTION
ALUMINIUM	ALUMINIUM CONSTRUCTION
STEEL	STEEL CONSTRUCTION
INSULATION	INSULATION CONSTRUCTION
CEILING BATTEN	CEILING BATTEN CONSTRUCTION
ROOF BATTEN	ROOF BATTEN CONSTRUCTION
RAFTER	RAFTER CONSTRUCTION
PURLIN	PURLIN CONSTRUCTION
SLAT	SLAT CONSTRUCTION
TRUSS	TRUSS CONSTRUCTION
WALKWAY	WALKWAY CONSTRUCTION
DOOR	DOOR CONSTRUCTION
WINDOW	WINDOW CONSTRUCTION
GLAZING	GLAZING CONSTRUCTION
SCREENING	SCREENING CONSTRUCTION

**WINDOW & DOOR NOTES**  
 WINDOW & DOOR TYPES ARE INDICATED ONLY.  
 ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO FABRICATION.  
 ALL HEIGHTS SHALL BE TAKEN FROM THE REFERENCE LEVEL.  
 PROVIDE COVER OVER ALL EXTERNAL JOINTS AND INTERNAL JOINTS INTO ROOMS WITH AIR CONDITIONING.  
 PROVIDE COVER OVER ALL EXTERNAL JOINTS AND INTERNAL JOINTS INTO ROOMS WITH AIR CONDITIONING.  
 WHERE 2 DOORS TO ALL DOORS IN WINDOWS WITH FRAME MATERIALS IN FRAME TO PROVIDE TO ALL EXTERNAL JOINTS, INCLUDING COULSERS, CEILING AND ROOF BATTENS, ETC.

**WIND CLASS C2**  
 SPECIFICALLY WIND PRESSURE: 1.20kN/m² (WIND PRESSURE)  
 1.20kN/m² - GENERAL NOTES  
 1.20kN/m² - GENERAL NOTES  
 1.20kN/m² - GENERAL NOTES  
 1.20kN/m² - GENERAL NOTES

**CEILING BATTENS**  
**FLAT/ROOFING** 42x100mm TIMBER BATTENS AFFIXED TO MANUFACTURER'S INSTRUCTIONS.  
**ROOF BATTENS** 42x100mm TIMBER BATTENS AFFIXED TO MANUFACTURER'S INSTRUCTIONS.  
**USE OF SLAT** 42x100mm TIMBER BATTENS & BATTENS AFFIXED TO MANUFACTURER'S INSTRUCTIONS.

**INSULATION / SILATION**  
 UNLESS NOTED OTHERWISE WITHIN DRAWING DETAILS.  
 ROOFS GENERALLY: 60mm BONDED BLANKET INSULATION OVER ROOF STRUCTURE.  
 WALLS GENERALLY: INSULATION TO EXTERNAL STUD WALLS.

**CROSS SECTIONS**  
 USE FIGURED DIMENSIONS ONLY. DO NOT SCALE.  
 DIMENSIONS OF COMPONENTS SHOWN IN THESE SECTIONS ARE INDICATED ONLY. THESE VALUES ARE NOT LIMITED TO PARTS, SLATS, TRUSSES, COULSERS, ALUMINIUM COULSERS, CEILING AND ROOF BATTENS, ETC.

**PRELIMINARY ONLY**  
**NOT FOR CONSTRUCTION**

WE HEREBY CERTIFY THE STRUCTURAL DETAILS DESCRIBED IN THESE DRAWINGS TO BE CONSTRUCTION IN WIND CLASSIFICATION C2.  
 DATE: \_\_\_\_\_  
**C.M.G.** CONSULTING ENGINEERS  
 100/100 ST. GEORGE'S ROAD, PORT DOUGLAS QLD 4870  
 PHONE: 07 4671 1111  
 FAX: 07 4671 1111

Issue	Revision Description	Date	WIND CLASS (CYCLOGIC)
E	REMOVAL OF TWO TENANCIES	28/08/21	<b>C2</b>
D	REMOVAL OF ONE TENANT	18/08/21	
C	RESPONSE TO COMMENTS	28/07/21	
B	DESIGN DEVELOPMENT DRAWINGS	28/05/21	
A	CONCEPT DRAWINGS	28/05/21	

**bailey Vanduyke**  
 BUILDING DESIGN

208 Buchanan Street CARBON PHONE: 40516228  
 admin@baileyvanduyke.com.au GBCS LIC: 15062486

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**GENERAL NOTES**  
 1. ALL DESIGN CONSTRUCTION METHODS ARE MATERIALS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA.  
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.  
 3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.  
 4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.  
 5. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.  
 6. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.  
 7. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.  
 8. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.  
 9. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.  
 10. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.

**Project Name:**  
 PORT DOUGLAS SHOPPING CENTRE  
**CHR CAPTAIN COOK HIGHWAY / PORT DOUGLAS RD**  
**Drawing Title:**  
**ROOF & CEILING PLANS / SECTION**  
 Designed by **matt pinemall**  
 Issue... E Job No... 201830 **03**

# Concurrence Agency Conditions

RA9-N



SARA reference: 2107-23868 SRA  
Council reference: MCUC2021\_4248/1  
Applicant reference: 21-19/001136

18 October 2021

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

Attention: Jenny Elphinstone

Dear Sir/Madam

## SARA response—147 Port Douglas Road, Port Douglas Extension to Shopping Centre

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 5 August 2021.

### Response

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Outcome:	Referral agency response - No requirements Under section 56(1)(a) of the <i>Planning Act 2016</i> , SARA advises it has no requirements relating to the application.
Date of response:	18 October 2021
Conditions:	Nil
Advice:	Advice to the applicant is in <b>Attachment 1</b> .
Reasons:	The reasons for the referral agency response are in <b>Attachment 2</b> .

### Development details

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Description:	Development permit	Material Change of Use for extensions to the existing Shopping Centre, for Shopping Centre, Food and Drink Outlet (with no drive-through facility) and Office.
SARA role:	Referral Agency.	

SARA trigger: Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017) – State-controlled road

SARA reference: 2107-23868 SRA

Assessment Manager: Douglas Shire Council

Street address: 147 Port Douglas Road, Port Douglas

Real property description: 193RP747071

Applicant name: Port Douglas Constructions Pty Ltd

Applicant contact details: Planning Plus  
PO Box 399  
Redlynch QLD 4870  
info@planningplusqld.com.au

## Representations

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An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s. 30 Development Assessment Rules)

Copies of the relevant provisions are in **Attachment 3**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Tony Croke, Principal Planner, on 40373205 or via email CairnsSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Joanne Manson  
A/Manager (Planning)

cc Port Douglas Constructions Pty Ltd, info@planningplusqld.com.au

enc Attachment 1 – Advice to the applicant  
Attachment 2 - Reasons for referral agency response  
Attachment 3 - Representations provisions

## Attachment 1—Advice to the applicant

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<b>General advice</b>	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v2.6 effective 7 February 2020. If a word remains undefined it has its ordinary meaning.

## Attachment 2—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

### The reasons for the department's decision are:

- The proposed development has been revised with a reduced building footprint, down from five (5) tenancies and 355m<sup>2</sup> gross floor area (GFA) to three (3) tenancies and 284m<sup>2</sup> GFA.
- Given the reduced floorspace and retention of the rear ingress/egress via Ribbon Avenue, the proposed development is not considered a significant traffic generator and is unlikely to impact on the function of a state-controlled road intersection or state-controlled road network.
- The site for the proposed development is located approximately 107 metres from Port Douglas Road, a state-controlled road.
- The proposed development will be screened by nature vegetation partly within the subject site and within the state-controlled road corridor.
- The proposed development is not increasing the impervious area of the premises.
- The proposed development will connect to existing stormwater infrastructure which discharges stormwater and drainage flows via Ribbon Avenue, a lawful discharge point.
- No stormwater and drainage run-off flows will be discharged via Port Douglas Road, a state-controlled road.
- The premises have direct vehicle access via Ribbon Avenue, a local council road and via Port Douglas Road, a state-controlled road.
- Port Douglas Road is not a limited access road.
- The proposed development will not require a new or changed access via Port Douglas Road.
- The existing access is improved by a channelized right turn (CHR) and auxiliary left turn (AUL) and complies with the Department of Transport and Main Roads' intersection standards for a shopping centre. This will also ensure that there is no queuing on Port Douglas Road.
- The proposed development will not require additional road works to improve the function and design of the state-controlled road intersection.
- On-site vehicle circulation will be via Ribbon Street, a local council road and Port Douglas Road, a state-controlled road.
- The design of the intersection with a channelized right turn (CHR) and auxiliary left turn (AUL) will adequately accommodate increased traffic generation from the proposed extensions to the existing shopping centre.

### Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version 2.6 effective 7 February 2020), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system

## Reasons for Decision

1. The reasons for this decision are:
  - a. Sections 60, 62 and 63 of the *Planning Act 2016*;
  - b. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
  - c. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
  - a. the development application was properly lodged to the Douglas Shire Council 26 July 2021 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
  - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
  - a. the development triggered assessable development under the Assessment Table associated with the Centre Zone Code;
  - b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
  - c. the applicant's reasons have been considered and the following findings are made:
    - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

## Non-Compliance with Assessment Benchmarks

Through the conditions of the approval the development complies with the planning scheme and no concerns are raised.

**ADOPTED INFRASTRUCTURE CHARGES NOTICE**

Port Douglas Constructions Pty Ltd (Tte)		0	0
DEVELOPERS NAME		ESTATE NAME	STAGE
147-149 Port Douglas Road	Port Douglas	L193 RP747071	196
STREET No. & NAME	SUBURB	LOT & RP No.s	PARCEL No.
MCUC Shopping centre & Food and drink outlet		MCUI 2021_4248/1	6
DEVELOPMENT TYPE		COUNCIL FILE NO.	VALIDITY PERIOD (year)
1048215	1	Payment before the change occurs	
DSC Reference Doc. No.	VERSION No.		

Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021)

	Charge per Use	rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
0						
0						
<b>Proposed Demand</b>						
Commercial (Retail) Shops	m <sup>2</sup> GFA at rate of \$165.54 per m <sup>2</sup>	\$ 165.54	284.00	47,013.36		
<b>Total Demand</b>				<b>47,013.36</b>		
						Code 895 GL 7470.0135.0825

Required Payment or Credit **TOTAL** \$47,013.36

Prepared by	Jenny Elphinstone	10-Nov-21	Amount Paid	
Checked by	Daniel Lamond	10-Nov-21	Date Paid	
Date Payable	MCU - Before the change occurs		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 23 February 2021.

Charge rates under the Policy are subject to indexing. Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

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

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



## **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.

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## 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, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.

- (4) In this section—
- decision** includes—
- (a) conduct engaged in for the purpose of making a decision; and
  - (b) other conduct that relates to the making of a decision; and
  - (c) the making of a decision or the failure to make a decision; and
  - (d) a purported decision; and
  - (e) a deemed refusal.
- non-appealable**, for a decision or matter, means the decision or matter—
- (a) is final and conclusive; and
  - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
  - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

## 232 Rules of the P&E Court

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



3 December 2021

**Enquiries:** Jenny Elphinstone  
**Our Ref:** MCUC 2021\_4248 (Doc ID 1048202)  
**Your Ref:** 21-019/001114

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

Port Douglas Constructions Pty Ltd (Tte)  
C/- Planning Plus  
PO Box 399  
REDLYNCH QLD 4870

**Email:** [evan@planningplusqld.com.au](mailto:evan@planningplusqld.com.au)

Attention Mr Evan Yelavich

Dear Sir

**Adopted Infrastructure Charge Notice  
For Development Application Material Change of Use (Shopping Centre and Food & Drink  
Outlet)  
At 147-149 Port Douglas Road PORT DOUGLAS  
On Land Described as LOT: 193 RP: 747071**

Please find attached the Adopted Infrastructure Charges Notice issued in accordance with section 119 of the *Planning Act 2016*.

The amount in the Adopted Infrastructure Charges Notice has been calculated according to Council's Adopted Infrastructure Charges Resolution.

Please also find attached extracts from the Act regarding the following:

- your right to make representations to Council about the Adopted Infrastructure Charges Notice; and
- your Appeal rights with respect to the Adopted Infrastructure Charges Notice.

Please quote Council's application number: MCUC 2021\_4248 in all subsequent correspondence relating to this matter.

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.

- Adopted Infrastructure Charges Notice
- Rights to Make Representations and Appeals Regarding Infrastructure Charges

# Adopted Infrastructure Charges Notice



2018 Douglas Shire Planning Scheme version 1.0 Applications

## ADOPTED INFRASTRUCTURE CHARGES NOTICE

Port Douglas Constructions Pty Ltd (Tte)		0	0
DEVELOPERS NAME		ESTATE NAME	STAGE
147-149 Port Douglas Road	Port Douglas	L193 RP747071	196
STREET No. & NAME		LOT & RP No.s	PARCEL No.
MCUC Shopping centre & Food and drink outlet		MCUI 2021_4248/1	6
DEVELOPMENT TYPE		COUNCIL FILE NO.	VALIDITY PERIOD (year)
1048215	1	Payment before the change occurs	
DSC Reference Doc . No.		VERSION No.	

Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021)

	Charge per Use	rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
0						
0						
<b>Proposed Demand</b>						
Commercial (Retail) Shops	m <sup>2</sup> GFA at rate of \$165.54 per m <sup>2</sup>	\$ 165.54	284.00	47,013.36		
<b>Total Demand</b>				<b>47,013.36</b>		
						Code 895 GL 7470.0135.0825

Required Payment or Credit **TOTAL** \$47,013.36

Prepared by	Jenny Elphinstone	10-Nov-21	Amount Paid	
Checked by	Daniel Lamond	10-Nov-21	Date Paid	
Date Payable	MCU - Before the change occurs		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 23 February 2021.

Charge rates under the Policy are subject to indexing. Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

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

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

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## **Subdivision 5      Changing charges during relevant appeal period**

### **124      Application of this subdivision**

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

### **125      Representations about infrastructure charges notice**

- (1) During the appeal period for the infrastructure charges notice, the recipient may make representations to the local government about the infrastructure charges notice.
- (2) The local government must consider the representations.
- (3) If the local government—
  - (a) agrees with a representation; and
  - (b) decides to change the infrastructure charges notice;the local government must, within 10 business days after making the decision, give a new infrastructure charges notice (a *negotiated notice*) to the recipient.
- (4) The local government may give only 1 negotiated notice.
- (5) A negotiated notice—
  - (a) must be in the same form as the infrastructure charges notice; and
  - (b) must state the nature of the changes; and
  - (c) replaces the infrastructure charges notice.
- (6) If the local government does not agree with any of the representations, the local government must, within 10 business days after making the decision, give a decision notice about the decision to the recipient.
- (7) The appeal period for the infrastructure charges notice starts again when the local government gives the decision notice to the recipient.

**126 Suspending relevant appeal period**

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

**Division 3 Development approval conditions about trunk infrastructure**

**Subdivision 1 Conditions for necessary trunk infrastructure**

**127 Application and operation of subdivision**

- (1) This subdivision applies if—
  - (a) trunk infrastructure—
    - (i) has not been provided; or
    - (ii) has been provided but is not adequate; and
  - (b) the trunk infrastructure is or will be located on—
    - (i) premises (the *subject premises*) that are the subject of a development application, whether or not the infrastructure is necessary to service the subject premises; or
    - (ii) other premises, but is necessary to service the subject premises.

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## 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, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.



(4) In this section—

**decision** includes—

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

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

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

## 232 Rules of the P&E Court

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