

22 October 2020

**Enquiries:** Jenny Elphinstone  
**Our Ref:** MCUI 2016\_1591/2 (Doc ID: 976315)  
**Your Ref:**

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

Hozcole Pty Ltd  
PO Box 137  
DOUBLE BAY NSW 1360

**Email:** [ssandacoleman1@bigpond.com](mailto:ssandacoleman1@bigpond.com)

Attention Messrs John Hoswell and Steve Coleman

Dear Sirs

**Development Application for Request for Extension to the Currency Period for the Material  
Change of use for a Caravan Park  
At Captain Cook Highway Port Douglas  
On Land Described as Lot 45 on SR835**

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

Please quote Council's application number: MCUI 2016\_1591/2 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**

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

encl.

- Decision Notice
- Copy of Existing Approval
- Advice For Making Representations and Appeals (Decision Notice)



## Decision Notice

### Approval

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*Given under section 86 and 87 of the Planning Act 2016*

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#### Applicant Details

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Name: Hozcole Pty Ltd

Postal Address: PO Box 137  
Double Bay NSW 1360

Email: [ssandacoleman1@bigpond.com](mailto:ssandacoleman1@bigpond.com)

#### Property Details

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Street Address: Captain Cook Highway Port Douglas

Real Property Description: Lot 45 on SR835

Local Government Area: Douglas Shire Council

#### Details of Proposed Development

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Application for a four year extension to the period of currency for the Development Permit for Material Change of Use for a Caravan Park.

#### Decision

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Date of Decision: 22 October 2020

Decision Details: Approved. The currency period of the Development Approval for a Material change of use for a Caravan Park is extended for a further four (4) years up to and including 17 October 2025.

#### Existing Approval

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A copy of the existing approval is attached.

#### 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 are attached.

## Attachment – Existing Approval

**YOUR REF:** 16-147  
**OUR REF:** MCUI 1591/2017 (D#827522)

19 September 2017

Richard and Fiona Hewitt  
C/ Urban Sync Pty Ltd  
PO Box 2970  
**CAIRNS QLD 4870**

Attention: Mr Matt Ingram

matt@urbansync.com.au

Dear Sir

**NEGOTIATED DECISION NOTICE UNDER SECTIONS 285-289 *PLANNING ACT 2016* AND SECTION 335 SUSTAINABLE PLANNING ACT 2009  
DEVELOPMENT APPLICATION  
LOT 45 CAPTAIN COOK HIGHWAY PORT DOUGLAS**

With reference to the abovementioned Development Application, which was determined by Council at the Ordinary Meetings held on 11 July 2017 and the 19 September 2017, please find attached the relevant Negotiated Decision Notice.

The Notice includes extracts from the Acts with respect to lodging an Appeal.

This notice also includes a Decision Notice for the request for a Negotiated Infrastructure Charges Notice issued in accordance with sections 119 -121 and 125 of the *Planning Act 2016*.

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

Yours faithfully

**Tracey Crouch**  
A/Manager Sustainable Communities

Att

43.2016.1591  
1/51 (D#827522)

**NEGOTIATED DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

**APPLICANT DETAILS**

Richard and Fiona Hewitt  
C/ Urban Sync Pty Ltd  
PO Box 2970  
CAIRNS QLD 4870

**ADDRESS**

Lot 45 Captain Cook Highway, Port Douglas

**REAL PROPERTY DESCRIPTION**

Lot 45 on SR835

**PROPOSAL**

Material change of use for a Caravan Park

**DECISION**

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

**DECISION DATE**

19 September 2017 (This Negotiated Decision Notice replaces the Decision Notice issued on 11 July 2017.)

**TYPE**

Development Permit

**REFERRAL AGENCIES**

For an application involving	Name of referral agency	Advice agency or concurrence agency	Address
State-controlled road	Department of Infrastructure, Local Government and Planning	Concurrence	Far North Queensland Regional Office PO Box 2358 CAIRNS QLD 4870
State transport infrastructure (thresholds)	Department of Infrastructure, Local Government and Planning	Concurrence	Far North Queensland Regional Office PO Box 2358 CAIRNS QLD 4870

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**DECISION NOTICE DETAILS**  
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**SUBMISSIONS**

There was one (1) submission for this application.

Michael Scott  
49 Mowbray River Road  
Mowbray QLD 4877  
[mas@bigpond.com](mailto:mas@bigpond.com)

**FURTHER DEVELOPMENT PERMITS REQUIRED**

Development Permit for Building Work  
Development Permit for Operational Work

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

None

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

Not in conflict

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

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

Drawing or Document	Reference	Date
Site Masterplan Concept	Generally in accordance with Studio Mango LA3 Job 57, Drawing L-02, Revision 4, Dated 24 January 2017 and submitted to Council 8 March 2017 and as amended by conditions of the approval.	To be determined
Drainage Concept Plan	Generally in accordance with Studio Mango LA3 Job 57, Drawing L-05, Revision 3, Dated 12 December 2016 and submitted to Council 8 March 2017 and as amended by conditions of the approval.	To be determined
Landscape Masterplan Concept	Generally in accordance with Studio Mango LA3 Job 57, Drawing L-04, Revision 3, Dated 12 December 2016 and submitted to Council 8 March 2017 and as amended by conditions of the approval.	To be determined

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**ASSESSMENT MANAGER CONDITIONS**

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

Except where modified by these conditions of approval

**Timing of Effect**

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

**Amendment to Design**

3. The proposed development must be amended to accommodate the following changes:
  - a. remove wording of "bush camping" from the plan other than the designated individual sites (B1 to B30 inclusive) on Drawing L-05 Revision 3 dated 1 December 2017 and L-03 Revision 3 dated 12 December 2016;
  - b. camping sites are to be as per the general layout of Drawing L-05 Revision 3 dated 12 December 2017 and L-03 Revision 3 dated 12 December 2016 and not as per Drawing L-02 Revision 4 dated 24 January 2017.
  - c. having regard to condition 12, clarification that all permanent buildings and ablution facilities are sited above 1% flood inundation and storm tide inundation (including 0.8m sea level rise);
  - d. inclusion of drainage buffer for introduced nutrients;
  - e. inclusion of undulated mounds along the front setback for noise reduction accompanied by dense landscaping of the frontage setback;
  - f. inclusion of crocodile fencing to areas adjacent to waterways and drain to the mangrove vegetation area;
  - g. all powered sites to be above 1% flood inundation level and storm tide hazard;

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- h. relocate powered sites 32 and 51 on (Drawing L-05 Revision 3 dated 12 December 2017 and L-03 Revision 3 dated 12 December 2016 ) at least 30m from the front boundary. This is also in reference to sites 23, 34 and 53 (on Drawing L-02 Revision 4 dated 24 January 2017) to be located at least 30 metres away from the front setback; and
- i. drain lots to the internal road network. And
- j. Inclusion of the staging plan being:
  - Stage 1: Entrance, external works (access, water and sewer etc.), reception, car park, pool, and central park area, inclusive of bbq's, bathrooms/toilets and laundry area, kitchen and dishwashing area, signage, sites 1-10, 29, 11-18, 19-28 and 33 to 43, the internal loop driveway adjacent to sites 1-10, 29, 11-18, 19-28 and 33 to 43, and all necessary, associated, internal infrastructure and landscaping; and
  - Stage 2: Rear bathrooms/toilets and laundry area, sites 3-31, 44-50, 63-69, 70-80, B1-B30, the remainder of the internal driveway not included in Stage 1.

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

**Damage to Council Infrastructure**

- 4. In the event that any part of Council's existing; water, road, or drainage infrastructure is damaged as a result of construction activities occurring on the site or adjoining road, including, but not limited to, mobilisation of heavy earthmoving equipment, stripping and grubbing, the applicant/owner must notify Douglas Shire Council immediately of the affected infrastructure and have it repaired or replaced at the developer's cost, prior to the Commencement of ~~Use or issue of a Compliance Certificate for the Plan of Survey, whichever occurs first.~~

**Operational Works**

- 5. An Operational Works Approval is required for the earthworks, drainage, water supply and sewerage associated with the development.

Such works must be completed to the satisfaction of the Chief Executive Officer prior to Commencement of ~~Use or issue of a Compliance Certificate for the Plan of Survey, whichever occurs first.~~ Where plans are required, three (3) A1 size copies of the plans and one (1) copy at A3 size must be submitted to Council.

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### **Earthworks**

6. The extent of the works is to be clearly delineated for the site. In particular, the filling for the permanent structures and earthworks for the pool area. The limit of works for the proposed drainage swales and the filling associated with the disposal of excavated material on the site is also to be detailed on the earthworks plan.

The minimum finished floor level for all permanent structures including but not limited to Reception, kitchen, BBQ and pool and ablution facilities is to be 3.3m in accordance with the applicant's response to information request.

Any earthworks required at the eastern bathroom, toilet and laundry (nominated to be on stilts) is to be confirmed on appropriate site plans to ensure the site remains free drainage. Similarly, where localized earthworks are proposed at the ensuite sites, this information and grading should be nominated to confirm the site remains free drainage.

Earthworks to achieve the minimum floor levels outlined above and including excavation of the swimming pool require approval from Council and 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.

### **Water Supply and Sewerage Infrastructure Plan**

7. An updated water supply and sewerage infrastructure plan and supporting information including hydraulic network analysis must be submitted demonstrating how the development will be serviced by Council's Infrastructure. In particular, the plan must:
  - a. confirm the site population and associated loadings for each service noting the apparent anomaly between the engineering advice and the town planning advice on site population; and
  - b. identify any trunk infrastructure external to the subdivision that may require upgrading to accommodate the development. The plan should also clarify the proposed infrastructure corridors and land tenure for the external mains.

The water supply and sewerage infrastructure plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer, prior to the Commencement of Use ~~issue of a Compliance Certificate for the Plan of Survey.~~



**Water Supply and Sewerage Works External**

8. Undertake the following water supply and sewerage works external to the site to connect the site to existing water supply and sewerage infrastructure:
- the applicant is to augment existing water supply infrastructure to the extent necessary such that the development does not adversely affect the water supply to adjacent properties;
  - extend the water and sewerage rising mains from the proposed site to connect to Council's Existing infrastructure at the point(s) where sufficient capacity exists. Once demands have been confirmed Council is to be contacted to confirm the connection points;
  - the extension require works in the State road reserve and approval from DTMR will be required. The alignments within the state road corridor are to be agreed with DTMR and Council prior completion of the detailed design for each service and must have regard to accessibility for operational and maintenance requirements; and
  - owners consent will be required if the sewerage main is required to enter private property or Council land. The applicant will need to secure the owner's consent and comply with any conditions attached to that approval. A copy of the owner's consent must be provided with the application for operational works.

The plan of the works must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer, prior to the prior to the Commencement of Use ~~issue of a Compliance Certificate for the Plan of Survey.~~

**Water Supply Internal**

9. Undertake the following water supply works internal to the subject land:
- ensure the appropriate minimum water pressure and flows (including fire-fighting flow) requirements can be provided to the site in accordance with FNQROC and the appropriate building classification for the use. Identify any extensions or upgrades proposed including on-site storage if required to achieve compliance for the classification of building and the use. Certification from an appropriately qualified hydraulic designer is required to confirm compliance; and
  - provide a single metered internal water connection;

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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 the prior to the Commencement of Use ~~issue of a Compliance Certificate for the Plan of Survey.~~

#### **Sewerage Internal**

10. Undertake the following Sewerage works internal to the subject land:

- a. design a private pump station and rising main to connect the subject site to Council's sewerage system;
- b. provide a design report confirming operation levels, storage, backup power etc. in accordance with the FNQROC development manual and WASA codes. The supporting information is to include draft operational plan and must nominate how the pump station will be operated and maintained; and
- c. provide confirmation of how the internal, supporting water and sewer infrastructure for the site including the ensuite facilities and the eastern bathroom/toilet/laundry block that is susceptible to inundation are located clear of flood waters;

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 the prior to the Commencement of Use ~~issue of a Compliance Certificate for the Plan of Survey.~~

#### **Vehicle Parking**

11. The amount of vehicle parking must be as specified in Council's Planning Scheme which is a minimum of 13 spaces of which 3 must be provided as visitor spaces. The car parking layout must comply with the Australian Standard AS2890.1 2004 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.

Turning templates for the design vehicle must be submitted to confirm the manoeuvring areas and to demonstrate the clearances to proposed parking areas.

The parking, manoeuvring and access plans (and construction details) must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

The areas set aside for parking, vehicle manoeuvring must not be used for the storage or placement of goods or materials.

**Drainage Study of Site**

12. The applicant is to review the existing local drainage study and update where necessary to ensure it addresses the following requirements.

The operation of the adjacent drainage lines to ensure that they do not impose a greater hydraulic constraint than the whole of catchment assessments undertaken to date. In particular, for the local catchments the applicant must confirm:

- a. the contributing catchment boundaries;
- b. the extent of the 1%AEP/100 year ARI flood event and 1% AEP/100 year storm tide inundation in relation to the site both pre and post development;
- c. primary and secondary flow paths for the 5, 10, and 100 year ARI flood events;
- d. storm tide inundation must consider 0.8 metre sea level rise;
- e. the location of proposed drainage crossings of the flow paths (if any) for pedestrian and vehicle movements within the site and the hydraulic implication of these on the flood modelling;
- f. confirm the extent of the stormwater swales through the site.
- g. identify the need and tenure for flood detention areas to ensure a no worsening impact on downstream properties for the entire development;
- h. information on the proposed works and any impacts proposed at the drainage outlet from the proposed development;
- i. drain to the internal road network, not to behind the sites; and
- j. lawful point of discharge.

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 issue of a Compliance Certificate for the Plan of Survey, whichever occurs first.~~

**Acid Sulfate Soil Investigation**

13. The earthworks to be undertaken onsite may result in disturbance of potential acid sulfate soils (PASS).

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Where it is found that PASS exist, treatment of soil must be undertaken on-site to neutralise acid, prior to disposal as fill, in accordance with the 'Queensland Acid Sulfate Soil Technical Manual: Soil Management Guidelines', and the State Planning Policy—Appendix 3 SPP code: Water quality.

**Stockpiling and Transportation of Fill Material**

14. 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.
15. 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**

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

**Demolish Structures**

17. All structures not associated with the approved development (including disused services and utilities) must be demolished and/or removed from the subject land prior to Commencement of Use.

**Existing Creek and Drainage Systems**

18. All existing creek systems and drainage areas must be left in their current state, including no channel alterations and no removal of vegetation unless consented to in writing by the Chief Executive Officer.

The applicant / owner must obtain any necessary approvals from the Department of Natural Resource Management for carrying out works in a watercourse.



**Lawful Point of Discharge**

19. All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of the Chief Executive Officer.

**Sediment and Erosion Control**

20. Soil and water management measures must be installed / implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the Environmental Protection Act 1994, and the FNQROC Development Manual).
21. An electrical design must be undertaken by a suitably qualified consultant to provide connection to the powered sites within the development and their protection from inundation by storm tide and floods. Details regarding this supply must be provided to the Chief Executive Officer prior to commencement of the use.

**Demarcation of Boundaries - Crocodile Management**

22. Provide a crocodile management plan that includes suitable demarcation (fencing / bollards) along boundaries of adjacent waterways and tidal creeks to prevent crocodiles from accessing the low-lying areas. The management plan is to include suitable signs are to be provided to warn people of the presence of crocodile's adjacent estuarine environment and as found necessary at any other locations within the development. The design outcomes from the management plan are to be erected prior to the site being opened to the public.

**Weed Management**

23. A Weed Management Plan for Class 1-3 Pest Plants under the Land Protection (Pest & Stock Route Management) Act 2002, prepared in accordance with AP1.34 'Pest Plant Management' of the FNQROC Development Manual, must be submitted to and endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.
24. A vehicle wash down and inspection facility for all machinery entering and leaving the site during construction must be provided to reduce the spread of invasive weed species.

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**Compliance with Access and Mobility**

25. Prior to the commencement of use provide written advice, from a suitably qualified professional that ~~the development~~ all pathways and recreational areas complyes with all relevant disability standards must be provided to the Chief Executive Officer. ~~This approval has not been assessed for compliance with the requirements for disability access.~~

**Lighting**

26. 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.

**Above Ground Transformer Cubicles / Electrical Sub-Stations**

27. Any above ground transformer cubicles and/or electrical sub-stations are to be positioned so that they do not detract from the appearance of the streetscape and must be clear of footpath areas. This will require cubicles / sub-stations to be setback from the street alignment behind a screen of landscaping, or incorporated within the built form of the proposed building. Details of the electrical sub-station positioning must be endorsed by the Chief Executive Officer prior to the issue of Development Permit for Building Work.

**Construction Access**

28. Vehicular access to the site for construction and demolition purposes must be provided from Captain Cook highway at the Department of Transport and Main Roads approved point of access only, unless authorised by the Chief Executive Officer.

**Landscaping Plan**

29. The site must be landscaped in accordance with details included on a Landscaping Plan. The Landscaping Plan must show:

**Planting Design**

- a. the location and species of all existing trees, with an indication as to whether each tree is to be retained or removed, and natural and finished ground levels if filling is to occur in the vicinity of any tree;
- b. species to have regard to Council's Planning Scheme Policy No.7 Landscaping;
- c. a planting design which is in accordance with the FNQROC Development Manual;

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- d. a planting design that does not include any species that are identified as Declared or Environmental Weeds or constitute an Invasive Species;
- e. provide a hierarchy of planting, which includes shade trees, shrubs and groundcovers;
- f. planting details of the ten (10) metre wide landscape zone as a setback to the frontage. Tree species to be used must have the ability to grow in excess of six (6) metres and must be well established at the time of planting. They must be planted at regular intervals to achieve an immediate screening effect. The whole planting area must be mulched with shredded / chipped vegetation waste, or similar material. All the trees in the planting sites must be watered during dry periods, either by water truck or with a temporary drip or sprinkler irrigation system; and
- g. the detail concerning the soil preparation of the ten (10) metre wide landscape zone adjacent the earthworks. The soil must be well prepared (not compacted) and fertilized with organic fertilizers to encourage strong growth; and

**Hard Landscaping Works**

- h. natural and finished ground levels including details of all retaining works; and
- i. protection of landscaped areas adjoining parking areas from vehicular encroachment by a 150 mm high vertical concrete kerb or similar obstruction.

Two (2) A1 copies and one (1) A3 copy of the landscape plan must be endorsed by the Chief Executive Officer. The approval and completion of all landscaping works must be undertaken in accordance with the endorsed plan prior to ~~the issue of a Certificate of Classification or~~ Commencement of Use ~~whichever occurs first~~. Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer.

**Vegetation Clearing**

- 30. Existing vegetation on the subject land must be retained in all areas except those affected by the construction of roadworks / access driveways, the installation of services as detailed on the approved plans as stated in Condition 1. Any further clearing requires an Operational Works Approval.

Vegetation to be retained is to be identified and adequately fenced off for protection purposes prior to construction work commencing on the site.

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### **Building Colours**

31. The exterior finishes and colours of Buildings must be non-reflective and must blend with the natural colours of the surrounding environment. Roofs and structures (including Water Tanks) must be of moderately dark to darker shades of green, grey, blue and brown.

The applicant / owner must also ensure that the above Building Exterior requirements are made known in writing to all prospective purchasers.

### **Wildlife**

32. Prior to removal of any tree, an inspection must be carried out for any signs of protected wildlife including nests and animal habitat. Should any recent wildlife activity be identified, removal of the tree must not occur until the animal has vacated the area of immediate danger. If the animal does not move from the area of danger, the Queensland Parks and Wildlife Services must be contacted for advice. Important habitat trees should be retained wherever possible.

### **Removal of Protected Vegetation**

33. A clearing permit (protected plants) must be obtained from the Department of Environment and Heritage Protection prior to the clearing of vegetation and/or tree removal as plant species protected under the provisions of the Nature Conservation Act 1992 are known to occur within the area covered by this development approval. Information on clearing permits may be obtained at [www.ehp.qld.gov.au](http://www.ehp.qld.gov.au)

### **Notification of Vegetation Clearing**

34. Council must be notified two (2) business days prior to the proposed date of commencement of any approved vegetation clearing.

### **Parkland Protection**

35. Any common boundaries to the adjacent creek and wetlands must be temporarily delineated and fenced off to restrict building access for the duration of construction activity.

### **Minimum Fill and Floor Levels**

36. All floor levels in all buildings must be located 150mm above the Q100 flood immunity level, plus any hydraulic grade effect (whichever is the greater), plus storm tide inundation areas, in accordance with FNQROC Development Manual and Planning Scheme requirements.

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**Street Fencing**

37. Any proposed fences and/or walls to any road frontage are to be limited to the following:

- a. 1.2 metres in height if solid; or
- b. 1.5 metres in height if at least 25% visually transparent; or
- c. 1.8 metres in height if at least 50% visually transparent.

Details of the street fencing must be detailed in the Landscape Plan and be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

**Ponding and/or Concentration of Stormwater**

38. The proposed development is not to create ponding nuisances and/or concentration of stormwater flows to adjoining properties.

**Refuse Storage**

39. Refuse storage is required to service the site in accordance with Council requirements. The refuse bin storage area must be on a concrete base of a size suitable for the development.

The refuse bin enclosure must be roofed and bunded and fitted with a bucket trap.

The area must be screened from the public view to the satisfaction of Council.

**Liquid Waste Disposal**

40. Any liquid discharge to sewer must comply with Council's Trade Waste requirement.

**Land Use**

- 41. The use does not include the accommodation of any relocatable homes or permanent residential uses/ buildings.
- 42. The facilities within the site are only available to the persons accommodated on the land and are not available to the general public.
- 43. Where a dump point is to be incorporated into the designated it must be at a suitable location on the land and be in a bunded and roofed area.
- 44. An emergency evacuation plan must be developed and maintained to demonstrate safe emergency evacuation is feasible without increasing the burden on the State Emergency Service.

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**Details of Development Signage**

45. The development must provide clear and legible signage incorporating the street number for the benefit of the public.

**Advertising Signage**

46. All signage associated with the use must be approved by the Chief Executive Officer. The signage must comply with the Design and Siting of Advertising Devices Code contained within the Douglas Shire Planning Scheme and plans detailing the signage must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Works or Commencement of Use, whichever occurs first.

**Construction Signage**

47. 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. developer;
  - b. project coordinator;
  - c. architect / building designer;
  - d. builder;
  - e. civil engineer;
  - f. civil contractor; and
  - g. landscape architect.

**Crime Prevention Through Environmental Design**

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

**Fuel Storage**

49. All fuels must be stored in an undercover and secure location at all times.



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**Development Staging**

50. The development is to be staged as follows:

Stage 1: Entrance, external works (access, water and sewer etc.), reception, car park, pool, and central park area, inclusive of bbq's, bathrooms/toilets and laundry area, kitchen and dishwashing area, signage, sites 1-10, 29, 11-18, 19-28 and 33 to 43, the internal loop driveway adjacent to sites 1-10, 29, 11-18, 19-28 and 33-43, and all necessary, associated, internal infrastructure and landscaping; and

Stage 2: Rear bathrooms/toilets and laundry area, sites 3-31, 44-50, 63-69, 70-80, B1-B30, the remainder of the internal driveway not included in Stage 1;

- a. Stage 2 must only follow after the completion of Stage 1;
- b. The applicant must provide advice to the Chief Executive Officer regarding the availability of sites within a particular stage within seven (7) days of the commencement of use of the available sites; and
- c. Where a further design detail, management plan, further approval and/or infrastructure (water supply, sewerage works, car parking, access construction) is required by a condition of the approval these conditions must be achieved to the satisfaction of the Chief Executive Officer prior to the commencement of use of any part of Stage 1.

**REFERRAL AGENCY CONDITIONS & REQUIREMENTS**

<b>Referral Agency</b>	<b>Referral Agency Reference</b>	<b>Date</b>	<b>Council Electronic Reference</b>
State Assessment & Referral Agency (Department of Infrastructure, Local Government & Planning)	SDA-0117-036553	17 March 2017	D#809506

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

**ADVICE**

1. This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse four(4) years from the day the approval takes effect in accordance with the provisions of sections 339 and 341 of the *Sustainable Planning Act 2009*.

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**SUSTAINABLE PLANNING ACT 2009**

2. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.

**Conflict Between Plans and Written Conditions**

4. Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plan(s), the requirements of the written condition(s) will prevail.
5. Premises intended to be used for the storage, preparation, handling, packing and/or service of food must comply with the requirements of the Food Act 2006 and the Food Standards Code.
6. Prior to construction or alteration of any premises used for storage, preparation, handling, packing and/or service of food, application for such must be made with Council's Public Health Unit.
7. An application for the construction or alteration of any food premises must be accompanied by two (2) copies of plans drawn to a scale not smaller than 1:100. Such plans are to include details of ventilation (including mechanical exhaust ventilation systems), finishes to walls, floors and ceilings, details of the proposed layout and materials to be used in the construction of all fixtures, fittings and equipment. The plans should include detailed cross sections of all areas to be included in the construction or alteration. All works must be carried out in accordance with the requirements of the Food Act 2006, Food Safety Standards and AS 4674 – 2004 – Design, construction and fit-out of food premises.
8. Noise from generators, air-conditioning units, swimming and spa pool filters, service equipment or other mechanical equipment must not emanate from the subject land to a degree that would, in the opinion of the Chief Executive Officer, create an environmental nuisance having regard to the provisions of Chapter 8 Part 3B of the Environmental Protection Act 1994.
9. Swimming pool water quality must be maintained in accordance with the Queensland Health Swimming and Spa Pool Water Quality and Operational Guidelines 2004 and Council's Local Law.
10. The proprietor of proposed rental accommodation premises must make application for approval under Council's Local Law.

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**Infrastructure Charges Notice**

11. A charge levied for the supply of trunk infrastructure is payable to Council towards the provision of trunk infrastructure in accordance with the Adopted Infrastructure Charges Notice, a copy of which is attached for reference purposes only. The original Adopted Infrastructure Charges Notice will be provided under cover of a separate letter.

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

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

The amount in the Adopted Infrastructure Charges Notice is subject to index adjustments and may be different at the time of payment. Please contact Development Assessment and Coordination 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.

12. For information relating to the *Sustainable Planning Act 2009* and the *Planning Act 2016* log on to [www.dilgp.qld.gov.au](http://www.dilgp.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).

**Advice Statement for Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).**

You are advised that the EPBC Act applies to action that has, will have, or is likely to have, a significant impact on matters of national environmental significance.

Further information on the EPBC Act can be obtained from the Department of the Environment's website [www.environment.gov.au/epbc](http://www.environment.gov.au/epbc) EPBC Act Policy Statement 1.1 *Significant Impact Guidelines Matters of National Environmental Significance* (Oct 2009).

13. The design and development of all buildings and structures must have regard to the Premises Standards.



**LAND USE DEFINITIONS\***

In accordance with the *Douglas Shire Planning Scheme 2006*, the approved land use of Caravan Park is defined as:

Means the use of premises for the placement of cabins, camping areas, caravans, campervans and motorhomes, primarily for temporary residential accommodation.

A Caravan Park includes:

- camping areas and cabins for overnight and holiday accommodation;
- amenity Buildings;
- recreational and entertainment facilities;
- manager's office and residence;
- kiosk and storage facilities which cater exclusively for occupants of the Caravan Park.

\*This definition is provided for convenience only. This Development Permit is limited to the specifications, facts and circumstances as set out in the application submitted to Council and is subject to the abovementioned conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

**RIGHTS OF APPEAL**

Attached

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**End of Negotiated Decision Notice**





The site plan illustrates the Douglas Bay Development, featuring a large central area divided into numerous numbered residential lots (e.g., 1-60). The development is bordered by Captain Cook Highway to the north and Heritage Lane to the east. Key features include:

- Residential Lots:** Numerous lots are shown, some colored green (lots 1-10), blue (lots 11-20), orange (lots 21-40), and purple (lots 41-60).
- Road Network:** Includes Captain Cook Highway, Heritage Lane, and various internal access roads like "Access Road" and "Service Road".
- Landscaping & Amenities:** Shows areas for "Plantings", "Lawns", "Play Areas", "Landscape", "Paved Area", "Grass Area", "Shrub Area", "Tree Area", "Water Feature", "Fountain", "Garden Bed", "Drainage Line", "Boundary Line", "Setback Line", "Road Right-of-Way", and "Road Median Area".
- Infrastructure:** Includes "Electricity Lines", "Gas Lines", "Water Mains", "Sewer Main", "Storm Water", "Fire Hydrant", "Valve", "Manhole", "Catchment", "Inlet", "Outlet", "Flow Direction", "Proposed Road", "Existing Road", "Proposed Lot", "Existing Lot", "Proposed Boundary", "Existing Boundary", "Proposed Setback", "Existing Setback", "Proposed Road Right-of-Way", "Existing Road Right-of-Way", "Proposed Road Median Area", "Existing Road Median Area", "Proposed Road Shoulder", "Existing Road Shoulder", "Proposed Road Edge", "Existing Road Edge", "Proposed Road Kerb", "Existing Road Kerb", "Proposed Road Gully", "Existing Road Gully", "Proposed Road Drainage", "Existing Road Drainage", "Proposed Road Culvert", "Existing Road Culvert", "Proposed Road Bridge", "Existing Road Bridge", "Proposed Road Tunnel", "Existing Road Tunnel", "Proposed Road Viaduct", "Existing Road Viaduct", "Proposed Road Overpass", "Existing Road Overpass", "Proposed Road Underpass", "Existing Road Underpass", "Proposed Road Trestle", "Existing Road Trestle", "Proposed Road Arch", "Existing Road Arch", "Proposed Road Suspension", "Existing Road Suspension", "Proposed Road Cable-stayed", "Existing Road Cable-stayed", "Proposed Road Gravity", "Existing Road Gravity", "Proposed Road Pumped", "Existing Road Pumped", "Proposed Road Siphon", "Existing Road Siphon", "Proposed Road Tunnel", "Existing Road Tunnel", "Proposed Road Viaduct", "Existing Road Viaduct", "Proposed Road Overpass", "Existing Road Overpass", "Proposed Road Underpass", "Existing Road Underpass", "Proposed Road Trestle", "Existing Road Trestle", "Proposed Road Arch", "Existing Road Arch", "Proposed Road Suspension", "Existing Road Suspension", "Proposed Road Cable-stayed", "Existing Road Cable-stayed", "Proposed Road Gravity", "Existing Road Gravity", "Proposed Road Pumped", "Existing Road Pumped", "Proposed Road Siphon", "Existing Road Siphon".
- Legend:** A legend box at the bottom left defines symbols for "Setback Line", "Proposed Lot", "Existing Lot", "Proposed Boundary", "Existing Boundary", "Proposed Setback", "Existing Setback", "Proposed Road Right-of-Way", "Existing Road Right-of-Way", "Proposed Road Median Area", "Existing Road Median Area", "Proposed Road Shoulder", "Existing Road Shoulder", "Proposed Road Edge", "Existing Road Edge", "Proposed Road Kerb", "Existing Road Kerb", "Proposed Road Gully", "Existing Road Gully", "Proposed Road Drainage", "Existing Road Drainage", "Proposed Road Culvert", "Existing Road Culvert", "Proposed Road Bridge", "Existing Road Bridge", "Proposed Road Tunnel", "Existing Road Tunnel", "Proposed Road Viaduct", "Existing Road Viaduct", "Proposed Road Overpass", "Existing Road Overpass", "Proposed Road Underpass", "Existing Road Underpass", "Proposed Road Trestle", "Existing Road Trestle", "Proposed Road Arch", "Existing Road Arch", "Proposed Road Suspension", "Existing Road Suspension", "Proposed Road Cable-stayed", "Existing Road Cable-stayed", "Proposed Road Gravity", "Existing Road Gravity", "Proposed Road Pumped", "Existing Road Pumped", "Proposed Road Siphon", "Existing Road Siphon".

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[illegible]



**BOUNDARY BUFFER PLANTING**  
THE INTENTION OF RE-PLANTING TO GREEN ACQUIRED BY THE CHRYSLER PARK AND CONSUMERS THE ADJACENT PROPERTIES IN THIS NEW DEVELOPMENT. THE PLANTING WILL OCCUR ON THE CAPITOL CORRIDOR AND THE NORTH AND SOUTH BOUNDARIES OF THE SITE. THE PLANTING SELECTIONS WILL CONSIST OF PLANTING COMPLEMENTARY TO THE TWO ADJACENT PLANTING TYPES OF REMNANT WOODLAND PLANTING. THE PLANTS WILL INCLUDE: TALL TREES AND FOLIAGE OF PALM, ATREURUS, COATING WITH SPICE SHRUBS AND LOROPHYLLUM TO CREATE A WALL OF VEGETATION. ALL THE PLANTS SPECIES SELECTED FOR THIS SHAP WILL BE ENDORIC TO THE LOCAL PLANT COMMUNITIES.

**DENSE, BUT PER PLANTING.** THE INTENT OF THIS PLANTING IS ALSO TO SCREEN, BUT THE SCALE IS DIFFERENT AS THESE TREES OCCUR WITH THE TRELLISWORK. THE HEIGHT WILL BE LONGER THAN TYPE 1, AND THE DENSITY PLANTING AND INTEREST AT GROUNDLEVEL WILL BE GREATER. THE WALL OF VEGETATION IS STILL THE INTENTION BUT WILL BE AS LOW AS NATURALITY ONLY SPECIES WILL BE MOSTLY NATIVE WITH A SMALL PERCENTAGE OF EXOTIC-HIGHLIGHTS TO COMPLEMENT THE ADVANCED RESORT STYLE. TROPICAL PLANTING.

[illegible]

**4** DENSE REMNANT VEGETATION

LOCATED ALONG THE SOUTHERN SHORELINE AND ALONG THE MAIN DRAINAGE LINE BELOW THE LAKE AND ON THE LAKE ISLAND THIS PLANTING TYPE IS REPRESENTED BY LOCAL SOFT OREST OR VINE FOREST. THE SPECIES ARE ALL ENDEMIC AND PROVIDE ECOLOGICAL ACTIVITY AND HABITAT FOR BIRDS.

**INTER-PLANTING (BETWEEN CAMP SITES)**  
THE TYPE IS 3-40 IN HEIGHT BUT MAY CONTAIN SOME FEATURING NATIVE PALM PLANTS. THIS WILL BE PROBABLY NATIVE.

**RESORT STYLE PLANTING AROUND POOL AREA**

THE AREA IS THE ONLY AREA THAT WILL BE PREDOMINANTLY TROPICAL PLANTING WHICH REFLECTS THE LOCAL PORT COLONIAL DESIGN CHARACTER. HERE THE USE OF REMARKABLE PLANTING AND LEAVE COLOUR PLANTS WILL BE USED. SOME EXOTIC FLOWERS AND PLANTING TREES ALONG WITH ORNAMENTALS DOWN TO THE DETAIL. GROUND COVER PLANTS WILL BE USED HERE AND ORNAMENTAL THE GARDEN CREATED. THE POOL AREA

For Approval Date	12/2/2016	J.C. City	Proposed Port Dough Capitol Park	Client Richard Heath	Address Capitol Cook Highway, Port Doughs	Transect PLANTING TYPES	Scale 1"=10'	Job No. 52-	Aug. No. 1.04	Est. 1
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**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

**ATTACHMENT 2: REFERRAL AGENCY REQUIREMENTS**



Department of Infrastructure,  
Local Government and Planning

Our reference: SDA-0117-036553  
Council reference: MCUI 2016/1591 (D#782952)

9 March 2017

Chief Executive Officer  
Douglas Shire Council  
PO Box 723  
MOSSMAN QLD 4873

Dear Sir/Madam

**Amended Concurrence agency response—with conditions**

Material change of use for a caravan park on land situated at Captain Cook Highway, Port Douglas and described as Lot 45 on SR835.  
(Given under section 285 of the *Sustainable Planning Act 2009*)

The referral agency material for the development application described below was received by the Department of Infrastructure, Local Government and Planning under section 272 of the *Sustainable Planning Act 2009* on 1 February 2017.

**Applicant details**

Applicant name:	Richard Hewitt
Applicant contact details:	PO Box 2970 CAIRNS QLD 4870 matt@urbansync.com.au

**Site details**

Street address:	Captain Cook Highway, Port Douglas
Lot on plan:	Lot 45 on SR835
Local government area:	Douglas Shire Council

**Application details**

Proposed development:	Material change of use for a Caravan Park
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Far North Queensland Regional Office  
Ground Floor, Cairns Port Authority  
PO Box 2358  
Cairns QLD 4870

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## NEGOTIATED DECISION NOTICE DETAILS SUSTAINABLE PLANNING ACT 2009

SDA-0117-036553

### Aspects of development and type of approval being sought

Nature of Development	Approval Type	Brief Proposal of Description	Level of Assessment
Material Change of Use	Development permit	A caravan park comprising 84 van sites, 40 bush camping sites and associated buildings	Impact Assessment

### Referral triggers

The development application was referred to the department under the following provisions of the *Sustainable Planning Regulation 2009*:

Referral trigger                      Schedule 7, Table 3, Item 1 - State-controlled road  
Schedule 7, Table 3, Item 2 - development impacting on State transport infrastructure

### Conditions

Under section 287(1)(a) of the *Sustainable Planning Act 2009*, the conditions set out in Attachment 1 must be attached to any development approval.

### Reasons for decision to impose conditions

Under section 289(1) of the *Sustainable Planning Act 2009*, the department must set out the reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

### Further advice

Under section 287(6) of the *Sustainable Planning Act 2009*, the department offers advice about the application to the assessment manager—see Attachment 3.

### Approved plans and specifications

The department requires that the following plans and specifications set out below and in Attachment 4 must be attached to any development approval.

Drawing/Report Title	Prepared by	Date	Reference no.	Version/ Issue
<b>Aspect of development: Material Change of Use – Caravan Park</b>				
Site Masterplan Concept	Studio Mango	12/12/2016	L-02	3
Site Masterplan Concept	Studio Mango	24/01/2017	L-02	4
Drainage Concept Plan	Studio Mango	12/12/2016	L-05	3
TMR Layout Plan (20A - 62.01km)	Queensland Government Transport and Main Roads	TMR17-20459 (500-1082)	22/02/2017	A
Channelised right-turn (CHR) on a two-lane rural road	Austroads Guide to Road Design: Part 4A Unsignalised and Signalised Intersections	2010	Figure 7.7	-
Auxiliary left-turn treatment (AUL) on a rural road	Austroads Guide to Road Design: Part 4A Unsignalised and Signalised Intersections	2010	Figure 8.4	-



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

For further information, please contact Patricia Gadsden, Senior Planning Officer, SARA Far North QLD on 4037 3233, or email [patricia.gadsden@dlgp.qld.gov.au](mailto:patricia.gadsden@dlgp.qld.gov.au) who will be pleased to assist.

Yours sincerely



Brett Nancarrow  
Manager (Planning)

cc: Richard Hewitt, CI- Urban Sync, [matt@urbansync.com.au](mailto:matt@urbansync.com.au)  
enc: Attachment 1—Conditions to be imposed  
Attachment 2—Reasons for decision to impose conditions  
Attachment 3—Further advice  
Attachment 4—Approved Plans and Specifications

## NEGOTIATED DECISION NOTICE DETAILS SUSTAINABLE PLANNING ACT 2009

SDA-0117-036553

Our reference: SDA-0117-036553  
Council reference: MCUI 2016/1591 (D#782952)

### Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
<b>Material change of use</b>		
<p><b>Schedule 7, Table 3, Item 1</b> – State-controlled road —Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i>, the chief executive administering the Act nominates the Director-General of <b>Department of Transport and Main Roads</b> to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):</p> <p><b>In accordance with approved plans</b></p>		
1	<p>The development must be carried out generally in accordance with the following plans:</p> <ul style="list-style-type: none"> <li>Site Masterplan Concept prepared by Studio Mango, dated 12/12/2016, Dwg No. L-02 and Rev 3.</li> <li>Site Masterplan Concept prepared by Studio Mango, dated 24/01/2017, Dwg No. L-02 and Rev 4.</li> <li>Drainage Concept Plan prepared by Studio Mango, dated 12/12/2016, Dwg No. L-05 and Rev 3.</li> <li>TMR Layout Plan (20A - 62.01km) prepared by Queensland Government Transport and Main Roads, dated 22/02/2017, Reference TMR17-20459 (500-1082), Issue A.</li> </ul>	Prior to the commencement of use and to be maintained at all times.
<b>Vehicular access to the state-controlled road</b>		
2	The road access location is to be located generally in accordance with TMR Layout Plan (20A - 62.01km) prepared by Queensland Government Transport and Main Roads, dated 22/02/2017, Reference TMR17-20459 (500-1082), Issue A.	Prior to the commencement of use and to be maintained at all times.
<b>Road works on a state-controlled road</b>		
3	<p>(a) Roadworks comprising of a Channelized Right-turn (CHR) treatment, a Rural Auxiliary Left-turn (AUL) treatment and Category V5 Lighting must be provided at the road access location.</p> <p>(b) The roadworks must be designed and constructed in accordance with:</p> <ul style="list-style-type: none"> <li>Austroads Guide to Road Design: Part 4A Unsignalised and Signalised Intersections, dated 2010. <ul style="list-style-type: none"> <li>Figure 7.7: Channelised right-turn (CHR) on a two-lane rural road, and</li> <li>Figure 8.4: Auxiliary left-turn treatment (AUL) on a rural road.</li> </ul> </li> <li>The Department of Main Roads Road Planning and Design Manual (2<sup>nd</sup> edition), Volume 6: Lighting, dated July 2016.</li> </ul>	Prior to the commencement of use.
<b>Removal of redundant road access works</b>		
4	The existing vehicular property access located between Lot 45 on SR835 and the Captain Cook Highway must be permanently closed and removed.	Prior to the commencement of use.

Department of Infrastructure, Local Government and Planning

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SDA-0117-036553

Our reference: SDA-0117-036553  
Council reference: MCUI 2016/1591 (D#782952)

**Attachment 2—Reasons for decision to impose conditions**

The reasons for this decision are:

- To ensure the development is carried out generally in accordance with the plans of development submitted with the application
- To ensure the road access location to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road.
- To ensure the design of any road access maintains the safety and efficiency of the state-controlled road.
- To ensure the road works on, or associated with, the state-controlled road network are undertaken in accordance with applicable standards.
- To maintain the safety and efficiency of the state-controlled road by reducing the number of road access.

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**NEGOTIATED DECISION NOTICE DETAILS**  
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SDA-0117-036553

Our reference: SDA-0117-036553  
Council reference: MCUI 2016/1591 (D#782952)

**Attachment 3—Further advice**

General advice	
Ref.	Advertising device
1.	<p>A local government should obtain advice from the Department of Transport and Main Roads (DTMR) if it intends to approve the erection, alteration or operation of an advertising sign or another advertising device that would be visible from a state-controlled road, and beyond the boundaries of the state-controlled road, and reasonably likely to create a traffic hazard for the state-controlled road.</p> <p>Note: DTMR has powers under section 139 of the Transport Operations (Roads Use Management – Accreditation and Other Provisions) Regulations 2015 to require removal or modification of an advertising sign and/or a device which is deemed that it creates a danger to traffic.</p>
Further development permits, compliance permits or compliance certificates	
Ref.	Road access works approval
2.	<p>Under sections 62 and 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out road works that are road access works (including driveways) on a state-controlled road. Please contact the Cairns district office of the Department of Transport and Main Roads on 4045 7144 to make an application for road works approval. This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p><b>The road access works approval process takes time – please contact Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</b></p>

43.2016.1591  
30/51 (D#827522)

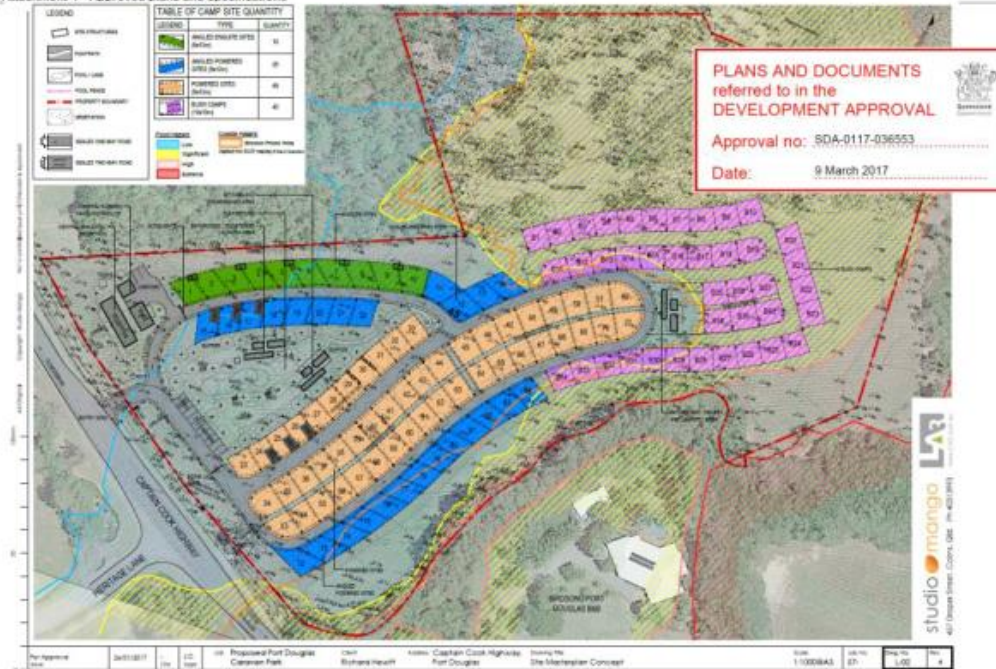


# **NEGOTIATED DECISION NOTICE DETAILS** **SUSTAINABLE PLANNING ACT 2009**

SDA-0117-036553

Our reference: SDA-0117-036553  
 Council reference: MCUI 2016/1591 (D#752952)

## **Attachment 4—Approved plans and specifications**



43.2016.1591  
 31/51 (D#820819)

## 1004-2117/03/0005-0000\$05.00/0



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## **NEGOTIATED DECISION NOTICE DETAILS**

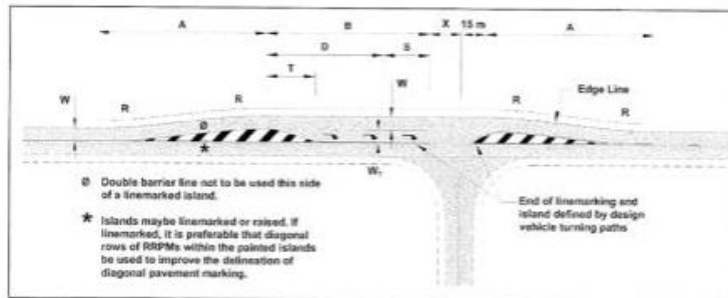


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**Notes:**

1. An alternative to the double white line on the offside edge of the right-turn slot is a 1.0 m painted median. The 1.0 m median is particularly useful when the major road is on a right horizontal curve and oncoming vehicles track across the centreline. Provision of this median will require the dimension 'A' to be increased.
2. A raised concrete median on the minor road may be used with this treatment to minimise 'corner cutting', particularly for higher turning volumes.
3. The dimensions of the treatment are defined below and values of A, D, R and T are shown in Table 7.2.

- W = Nominal through lane width (m) (including widening for curves). For a new intersection on an existing road, the width is to be in accordance with the current link strategy.
- W<sub>r</sub> = Nominal width of turn lane (m), including widening for curves based on the design turning vehicle. Desirable minimum = W, absolute minimum = 3.0 m.
- B = Total length of auxiliary lane including taper, divergence/deceleration and storage (m).
- D = Divergence/deceleration length including taper. Adjust for grade using the 'correction to grade' factor (Section 5)
- T = Physical taper length (m) and is given by:
- $$T = \frac{0.33W_r}{3.6}$$
- S = Storage length (m) should be the greater of:
1. the length of one design turning vehicle or
  2. (calculated car spaces -1) x 6 m (Guide to Traffic Management – Part 2: Traffic Studies and Analysis (Austroads 2009)), or use computer program e.g. asSIDRA).
- V = Design speed of major road approach (km/h)
- X = Distance based on design vehicle turning path, typically 10–15 m
- Source: Based on QDMR (2006).

Figure 7.7: Channelised right turn (CHR) on a two-lane rural road

#### 7.5.4 Rural Right-Left Staggered T

##### Basic two-lane two-way road

This layout should be designed to ensure that:

- the stagger distance between the minor legs is large enough to discourage drivers from 'taking a short-cut on the wrong side of the traffic islands (e.g. at least 15 m to 25 m depending on the site characteristics)
- the island treatments in the minor roads are long enough to also discourage wrong way movements
- sufficient width is provided on the major road within the intersection to enable through vehicles to pass slowly to the left of vehicles waiting to turn right (e.g. 12 m), a similar principle to the BAR treatment.

PLANS AND DOCUMENTS  
referred to in the  
DEVELOPMENT APPROVAL

Approval no: BDA-0117-006553

Date: 9 March 2017



Austroads 2010

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**Department of Transport and Main Roads note:**  
Site specific requirements may not reflect this example in its entirety. Detailed drawings will be issued upon application for Road Works / Road Access Works.

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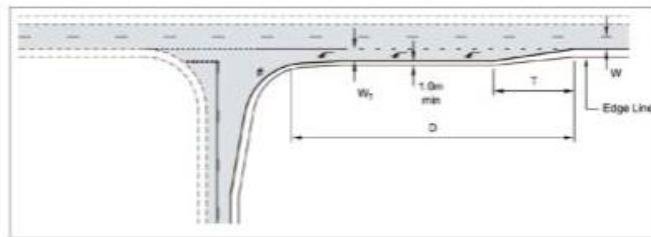
Table 8.2: Dimensions for AUL(S) treatment on major leg

Design speed of major road approach (km/h)	Diverge/deceleration length D (m)1	Taper length T (m)2
50	15	15
60	25	15
70	35	20
80	45	20
90	55	25
100	70	30
110	85	30
120	100	35

1. Based on a 20% reduction in through road speed at the start of the taper and a value of deceleration of  $3.5 \text{ m/s}^2$  (Table 5.2). Adjust for grade using the 'correction to grade', Table 5.3.
  2. Based on a turn lane width of 3.0 m.
- Source: QDMR (2006).

### 8.2.3 Rural Auxiliary Left-turn Lane Treatment (AUL)

A diagram of an AUL turn treatment on the major leg of a rural road is shown in Figure 8.4. The length of the auxiliary left-turn lane should not be restricted to the minimum if there is little difficulty in making it longer and the demand warrants the treatment (Section 4.8).



**Notes:**

1. # For setting out details of the left-turn geometry, use to vehicle turning path software or templates.
2. Approaches to left-turn slip lanes can create hazardous situations between cyclists and left-turning motor vehicles. Treatments to reduce the number of potential conflicts at left-turn slip lanes are given in this guide.
3. The dimensions of the treatment are defined thus:
  - W = Nominal through lane width (m) (incl. widening for curves). For a new intersection on an existing road, the width is to be in accordance with the current link strategy.
  - Wt = Nominal width of turn lane (m) (incl. widening for curves based on the design turning vehicle) = 3.0 m minimum.
  - D = Diverge/deceleration length including taper – Table 5.2. (Adjust for grade using the 'correction to grade' in Table 5.3).
  - T = Physical taper length (m) given by:

$$T = \frac{0.33V^2}{3.6}$$

- V = Design speed of major road approach (km/h).

Figure 8.4: Auxiliary left-turn treatment (AUL) on a rural road

**Department of Transport and Main Roads note:**  
 Site specific requirements may not reflect this example in its entirety. Detailed drawings will be issued upon application for Road Works / Road Access Works.

Austrorads 2010

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**PLANS AND DOCUMENTS**  
 referred to in the  
**DEVELOPMENT APPROVAL**

Approval no.: SDA-0117-036553

Date: 9 March 2017

**NEGOTIATED DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

Our reference: SDA-0117-036553  
Council reference: MCUI 2016/1591 (D#782952)

Attn: Patricia Gadsden, Senior Planning Officer

**Written agreement for the Department of Infrastructure, Local Government and Planning to  
amend its concurrence agency response**

Material change of use for a caravan park  
(Given under section 290(1)(b)(i) of the Sustainable Planning Act 2009)

Street address: Captain Cook Highway, Port Douglas  
Real property description: Lot 45 on SR835  
Assessment manager reference: MCUI 2016/1591 (D#782952)  
Local government area: Douglas Shire Council

As the applicant of the above development application, I hereby agree to the amended  
concurrence agency response provided to me in the notice dated 9 March 2017:

Name of applicant: Richard Hewitt, C/- Matt Ingram, Urban Sync

Signature of applicant:

Date:



17/3/2017

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Far North Queensland Regional Office  
Ground Floor, Cairns Port Authority  
PO Box 2358  
Cairns QLD 4870

43.2016.1591  
36/51 (D#827522)

**ATTACHMENT 3 INFRASTRUCTURE CHARGES NOTICE**

DOUGLAS SHIRE COUNCIL		2008 Douglas Shire Planning Schemes Applications			
ADOPTED INFRASTRUCTURE CHARGES NOTICE					
Richard and Fiona Hewitt		0		0	
DEVELOPERS NAME		ESTATE NAME		STAGE	
L45 Captain Cook Highway		Port Douglas		L2 SP259953	
STREET No. & NAME		SUBURB		LOT & RP No.s	
MCU Caravan Park		MCUI159 1/2016		157270	
DEVELOPMENT TYPE		COUNCIL FII		PARCEL No.	
D#S19909		1		4	
DSC Reference Doc. No.		VERSION No.		VALIDITY PERIOD (year)	

	Use	Charge per Use	Amount Due	Amount Paid	Receipt Code & GL Code
<b>Rural Areas - Water Only</b>					
proposed	0	0.00	0.00		
	0	0.00	0.00		
existing	0	0.00	0.00		
Total			0.00		
<b>Urban Areas - Water only</b>					
proposed	0	0.00	0.00		
	0	0.00	0.00		
existing	0	0.00	0.00		
Total			0.00		
<b>Urban Areas - Water &amp; Sewer</b>					
Proposed caretaker's unit	1	11,411.06	11,411.06		Code 895
Proposed (through conditions) bush camping sites	30	4,200.00	126,000.00		GL 07500.0135.0525
Proposed caravan sites	84	4,200.00	352,800.00		Code 895
Existing vacant land (credit)	1	14,342.13	14,342.13		GL 07500.0135.0525
Total			475,868.93		
<b>TOTAL</b>			<b>\$475,868.93</b>		

Prepared by	J Elphinstone	3-Jul-17	Amount Paid	
Checked by	D Lamond	3-Jul-17	Date Paid	
Date Payable				
Amendments			Receipt No.	
			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 Special meeting held on 24 June 2015.

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

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

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

43.2016.1591  
37/51 (D#827522)



**ATTACHMENT 4 – APPEAL RIGHTS PLANNING ACT 2016**

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

Current as at 3 July 2017

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Authorised by the Parliamentary Counsel

43.2016.1591  
38/51 (D#827522)

Planning Act 2016  
Chapter 6 Dispute resolution

[s 229]

- 
- (iii) who is a co-respondent in an appeal of the matter;  
and
  - (iv) who may elect to be a co-respondent in an appeal  
of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is—
- (a) for an appeal by a building advisory agency—10  
business days after a decision notice for the decision is  
given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time  
after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under  
chapter 7, part 4, to register premises or to renew the  
registration of premises—20 business days after a notice  
is published under section 269(3)(a) or (4); or
  - (d) for an appeal against an infrastructure charges  
notice—20 business days after the infrastructure charges  
notice is given to the person; or
  - (e) for an appeal about a deemed approval of a development  
application for which a decision notice has not been  
given—30 business days after the applicant gives the  
deemed approval notice to the assessment manager; or
  - (f) for any other appeal—20 business days after a notice of  
the decision for the matter, including an enforcement  
notice, is given to the person.
- Note—*  
See the P&E Court Act for the court's power to extend the appeal  
period.
- (4) Each respondent and co-respondent for an appeal may be  
heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the  
assessment manager may apply to the tribunal or P&E Court  
to withdraw from the appeal.

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Current as at 3 July 2017

Authorised by the Parliamentary Counsel

43.2016.1591  
39/51 (D#827522)

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

**230 Notice of appeal**

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



Planning Act 2016  
Chapter 6 Dispute resolution

[s 231]

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

#### **231 Other appeals**

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

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Authorised by the Parliamentary Counsel

43.2016.1591  
41/51 (D#827522)

**NEGOTIATED DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

Planning Act 2016  
Chapter 6 Dispute resolution  
[s 232]

- (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.

Current as at 3 July 2017

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Authorised by the Parliamentary Counsel

43.2016.1591  
42/51 (D#827522)

**YOUR REF:** 16-147  
**OUR REF:** MCUI 1591/2017 (D#820819)

19 September 2017

Richard and Fiona Hewitt  
C/ Urban Sync Pty Ltd  
PO Box 2970  
**CAIRNS QLD 4870**

Attention: Mr Matt Ingram

matt@urbansync.com.au

Dear Sir

**ADOPTED INFRASTRUCTURE CHARGES NOTICE FOR  
L45 CAPTAIN COOK HIGHWAY PORT DOUGLAS**

Council refers to your request under section 125 of the *Planning Act 2016* (PA 2016) for a Negotiated Adopted Infrastructure Charges Notice which Council considered at the Ordinary Meeting held on 19 September 2017. Your request was not supported, please refer to the attached Decision Notice.

Please find attached the original Adopted Infrastructure Charges Notice issued in accordance with sections 119 and 120 of the *Planning Act 2016* (the Act).

The amount in the Adopted Infrastructure Charges Notice has been calculated according to Council's Adopted Infrastructure Charges Resolution. The amount in the Adopted Infrastructure Charges Notice is subject to index adjustments and may be different at the time of payment. Please contact Development Assessment and Coordination at Council for review of the charge amount prior to payment.

These charges are payable prior to the change of use occurring.

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

- your Appeal rights with respect to the Adopted Infrastructure Charges Notice.

Should you have any enquiries in relation to this Adopted Infrastructure Charges Notice, please contact Jenny Elphinstone of Development Assessment and Coordination on telephone number (07) 4099 9482.

43.2016.1591  
43/51 (D#827522)

Yours faithfully

**Tracey Crouch**  
A/Manager Sustainable Communities

Att

43.2016.1591  
44/51 (D#827522)



**DOUGLAS SHIRE COUNCIL**  
**DECISION NOTICE — REQUEST FOR A NEGOTIATED ADOPTED CHARGES**  
**INFRASTRUCTURE NOTICE**  
**(GIVEN UNDER SECTION 125 *PLANNING ACT 2016*)**

**1. Applicant's details**

---

Name:	Richard And Fiona Hewitt
Postal Address:	C/- Urban Sync Pty Ltd PO Box 2970 CAIRNS QLD 4870  Attention Mr Matt Ingram
Email:	matt@urbansync.com.au

**2. Location details**

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Street Address:	L45 Captain Cook Highway, port Douglas
Real Property Description:	Lot 45 on SR835
Local Government Area:	Douglas Shire Council

**3. Details of proposed development**

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Request for a Negotiated Adopted Charges Infrastructure Notice related to the material change of use for a Caravan Park on land described as Lot 45 on SR835, located at Lot 45 Captain Cook Highway, Port Douglas.

**4. Decisions**

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Date of decisions:	19 September 2017.
Decision details:	Council considered the request, under section 125 of the <i>Planning Act 2016</i> at the Ordinary Meeting held on 19 September 2017 and resolved that Council does not support the request for a Negotiated Notice

**5. Original Adopted Charges infrastructure Notice**

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A copy of the original Notice is included in Schedule 1.

**6. Rights of appeal**

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


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

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**END OF DECISION NOTICE**

43.2016.1591  
45/51 (D#827522)

## Schedule 1: Infrastructure Charges Notice

		<b>2008 Douglas Shire Planning Schemes Applications</b>	
<b>ADOPTED INFRASTRUCTURE CHARGES NOTICE</b>			
Richard and Fiona Hewitt <b>DEVELOPERS NAME</b>		0 <b>ESTATE NAME</b>	0 <b>STAGE</b>
L45 Captain Cook Highway <b>STREET No. &amp; NAME</b>	Port Douglas <b>SUBURB</b>	L2 SP259953 <b>LOT &amp; RP No.s</b>	157270 <b>PARCEL No.</b>
MCU Caravan Park <b>DEVELOPMENT TYPE</b>	MCUI159 1/2016 <b>COUNCIL FI</b>	4 <b>VALIDITY PERIOD (year)</b>	
D#S19909 <b>DSC Reference Doc. No.</b>	1 <b>VERSION No.</b>		

	Use	Charge per Use	Amount Due	Amount Paid	Receipt Code & GL Code
<b>Rural Areas - Water Only</b>					
proposed	0	0.00	0.00		
	0	0.00	0.00		
existing	0	0.00	0.00		
Total			<b>0.00</b>		
<b>Urban Areas - Water only</b>					
proposed	0	0.00	0.00		
	0	0.00	0.00		
existing	0	0.00	0.00		
Total			<b>0.00</b>		
<b>Urban Areas - Water &amp; Sewer</b>					
Proposed caretaker's unit	1	11,411.06	11,411.06		Code 895
Proposed (through conditions) bush camping sites	30	4,200.00	126,000.00		GL 07500.0135.0825
Proposed caravan sites	84	4,200.00	352,800.00		Code 895
Existing vacant land (credit)	1	14,342.13	14,342.13		GL 07500.0135.0825
Total			<b>475,868.93</b>		
<b>TOTAL</b>			<b>\$475,868.93</b>		

Prepared by	J Elphinstone	3-Jul-17	Amount Paid	
Checked by	D Lamond	3-Jul-17	Date Paid	
Date Payable			Receipt No.	
Amendments		Date	Cashier	

**Note:**  
 The Infrastructure Charges in this Notice are payable in accordance with Sections 119 and 120 of the Planning Act 2016 as from Council's resolution from the Special meeting held on 24 June 2015.

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

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

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

43.2016.1591  
 46/51 (D#827522)

## Schedule 2 Appeal Rights Planning Act 2017

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

Current as at 3 July 2017

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Authorised by the Parliamentary Counsel

43.2016.1591  
47/51 (D#827522)

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

*Note—*

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.



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

### **230 Notice of appeal**

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

[s 231]

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

## 231 Other appeals

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

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

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

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1901* 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.

- (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, 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.

# **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.