

21 October 2021

Enquiries: Jenny Elphinstone
Our Ref: ROL 2015_612/61 (Doc ID 1042542)
Your Ref: 31122-042-03

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

Maxholl Pty Ltd
C/- Brazier Motti Pty Ltd
PO Box 1185
CAIRNS QLD 4870

Email cns.planning@braziermotti.com.au

Attention Mr Michael Tesaro

Dear Sir

**Development Application for Change Application (1 Lot into 68 Lots and Park)
At 91 Front Street (formerly known as 12-36 Alchera Drive) Mossman
On Land Described as Lot 401 SP317071 (formerly known as Lot 113 on SP213765)**

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

Please quote Council's application number: ROL 2015_612/61 in all subsequent correspondence relating to this development application.

Council actively encourages the developer to consider alternative access to ensure minimal disruption occurs during the development having regard to the feasibility of such an alternative access.

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

encl.

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



Decision Notice

Approval (with conditions)

Given under sections 86 and 87 of the Planning Act 2016

Applicant Details

Name: Maxholl Pty Ltd
Postal Address: C/- Brazier Motti Pty Ltd
PO Box 1185
CAIRNS QLD 4870
Email: cairns@braziermotti.com.au

Property Details

Street Address: 91 Front Street (previously known as 12-36 Alchera Drive)
Mossman
Real Property Description: Lot 401 on SP317071 (previously known as Lot 113 on
SP213765)
Local Government Area: Douglas Shire Council

Details of Proposed Development

Change application for the Development Permit (ROL 2015_612) for the Reconfiguring of a Lot for 1 Lot into 68 Lots and Park over land described as Lot 113 on SP213765 (now known as Lot 401 on SP317071), as per the Negotiated Decision Notice dated 28 March 2017, and the approval for an extension to the currency period (Decision Notice dated 27 July 2021).

Decision

Date of Decision: 20 October 2021
Decision Details: Approved whereby:
1. The Approved Draw(s) and/or Document(s) is amended as follows:
Approved Drawing(s) and/or Document(s)
The term 'approved drawing(s) and/or document(s) or other similar expressions means:

Drawing Document	or Reference	Date
Stage Plan Proposal Plan , <u>Stages 4 to 7</u>	Brazier Motti Job 31122/42-3 Plan No. 31122_121 A <u>D</u> .	4 March 2017 <u>8 October</u> <u>2021</u>

2. Condition 10 is amended as follows:

Provision of Park

10. The applicant is to provide park in accordance with the requirements of ~~Condition 4b~~ in prior to Council being required to issue a certificate of compliance for Stage ~~6~~ 5 ~~4B~~. The park area must include:

- Water service and provision of a tap for the central park;
- Bollards around the perimeter to prevent vehicle access with the exception of Council access;
- Shelter and seating area in the central park;
- Profiling of the park is to be demonstrated on the earthworks plan. In particular site grading, batter height and slope must meet the requirements of the Planning Scheme and FNQROC Development Manual;
- Seeded and grassed.

The inclusion of other embellishments will be determined at the time of seeking a Development Permit for Operational Works.

3. All other conditions and advices of the Decision Notice dated 27 July 2021 remain unchanged.

Existing Approval

A copy of the existing approval is attached.

Further Development Permits

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

- All Operational Work

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

Currency Period for the Approval

This approval, granted under the provisions of the *Planning Act 2016*, shall lapse on 28 September 2027 as per the existing approval in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Rights to make Representations & Rights of Appeal

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

A copy of the relevant appeal provisions is attached.

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



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EXITING APPROVAL FOLLOWS



Decision Notice

Approval

Given under sections 86 and 87 of the Planning Act 2016

Applicant Details

Name: Maxholl Pty Ltd

Postal Address: C/- Brazier Motti Pty Ltd
PO Box 1185
CAIRNS QLD 4870

Attention Mr Michael Tessaro

Email: cairns@braziermotti.com.au

Property Details

Street Address: 12-36 Alchera Drive Mossman (Now known as 91 Front Street Mossman)

Real Property Description: Lot 113 on SP213765 (Property now known as Lot 401 on SP317071)

Local Government Area: Douglas Shire Council

Details of Proposed Development

Extension application for the Development Permit (ROL 2015_612) for the Reconfiguring of a Lot for 1 Lot into 68 Lots and Park over land described as Lot 113 on SP213765 (now known as Lot 401 on SP317071), as per the Negotiated Decision Notice dated 28 March 2017, for a further six (6) years.

Decision

Date of Decision: 27 July 2021

Decision Details: Approved. The extension application for the Development Permit (ROL 2015_612) for the Reconfiguring of a Lot for 1 Lot into 68 Lots and Park over land described as Lot 113 on SP213765 (now known as Lot 401 on SP317071), as per the Negotiated Decision Notice dated 28 March 2017, has been approved for a further six (6) years, up to and including 28 September 2027.

Existing Approval

A copy of the existing approval is attached.

Further Development Permits

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

- All Operational Work

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

Rights of Appeal

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

A copy of the relevant appeal provisions is attached.

Existing Approval

YOUR REF: 31122-042-01
OUR REF: ROL 612/2015 (809730)

28 March 2017

Maxholt Pty Ltd
C/- Brazier Mott Pty Ltd
PO Box 1185
CAIRNS QLD 4870

Attention: Erin Berthelsen

Dear Madam

**REQUEST FOR A NEGOTIATED DECISION UNDER S 361 SUSTAINABLE
PLANNING ACT 2009: DEVELOPMENT APPLICATION FOR 12-36 ALCHERA
DRIVE MOSSMAN**

The abovementioned request for a Negotiated Decision was determined by Council at the Ordinary Meeting held on 28 March 2017. Please find attached the relevant Negotiated Decision Notice.

This Negotiated Decision Notice replaces the Decision Notice dated 2 February 2016.

This notice also includes an Infrastructure Charges Notice issued in accordance with section 648F of the *Sustainable Planning Act 2009*.

Should you have any enquiries in relation to this Decision Notice, please contact Simon Clarke of Development Assessment and Coordination on telephone number 07 4099 9444.

Yours faithfully

Paul Hoye | Manager
Sustainable Communities | Douglas Shire Council

Att

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APPLICANT DETAILS

Maxholt Pty Ltd
C/- Brazier Motti Pty Ltd
PO Box 1185
CAIRNS QLD 4870

ADDRESS

12-36 Alchera Drive MOSSMAN

REAL PROPERTY DESCRIPTION

Lot 113 on SP213765

PROPOSAL

Lot Reconfiguration (in Stages)

DECISION

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

DECISION DATE

28 March 2017

TYPE

Reconfiguration of a Lot (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

SUBMISSIONS

There were no submissions for this application.

FURTHER DEVELOPMENT PERMITS REQUIRED

Development Permit for Operational Work

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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

ASSESSMENT MANAGER CONDITIONS:

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

Drawing or Document	Reference	Date
Stage Plan	Brazier Motti Job 31122/42-1 Drawing No 31122/121A Drawing 31122/119 G dated 3 November 2015 and to be amended by the conditions of the approval	1 March 2017 To be Determined

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; and
 - 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.

Lot Yield

3. The allotment yield as detailed on the approved drawing ~~Drawing 31122/119 G dated 3 November 2015~~ prepared by Brazier Motti may reduce due to constraints. The lot yield will ultimately be determined following compliance with the conditions of this Development Permit requiring further investigation and design have potential implications to the lot layout.

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Extension to Daintree Horizon Drive Amendment to Design

4. ~~The lot reconfiguration layout as shown on Drawing 31122/119 G must be amended to provide:~~

- ~~a. road access to balance Lot 1000 in minimum of two (2) locations (nominally opposite Lot 349 in Stage 4A and an extension to Daintree Horizons Drive nominally in the vicinity of Lot 368 in Stage 4B). The extension to Daintree Horizon Drive is to be designed to be suitable for buses in accordance with the FNQROC Development Manual;~~
- ~~b. The location and configuration of the park as shown in Stage 4A is not approved. A centrally located area of park is to be provided within the estate to provide a centrepiece for the estate and to adequately cater for the existing stages (1, 2 and 3) and remaining stages of the estate. The park is to be provided with substantial road frontage. A minimum of 10 per cent of the entire estate area (ie all stages inclusive) is to be provided as park.~~

~~An amended plan showing the above amendments must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.~~

Traffic Impact Study

5. A Traffic Impact Study must be undertaken by an appropriately qualified professional with respect to the impacts of the current proposed development ~~(components of Stage 4) and for the ultimate development on the road network~~ and compliance with Austroads, (in particular *Guide to Traffic Management Part 12: Traffic Impacts of Developments*), Queensland Streets and the FNQROC Development Manual. The study is to include but not be limited to the following:
- a. Volume of traffic generated by the development for the current proposed stages and for the ultimate development (including ultimate connectivity through to developable land to the South);
 - b. Impact on the operation of the intersections at:
 - i. Daintree Horizon drive with Johnson Road; and
 - ii. Johnson Road with Front Street,for current ~~and ultimate development~~ traffic generation rates from the development in addition to existing and expected external traffic growth;
 - c. Advice on possible intersection reconfiguration or provision of traffic islands, line-marking, signage, street lighting and other necessary external work that may be required as a consequence of the increased traffic volumes at these intersection per the analysis in a and b above;

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- d. Assessment of the operation of existing lot accesses on Johnson Road and Daintree Horizon Drive (queuing areas, protection of stored vehicles and requirement for clearways) as a consequence of the operation of the intersection and possible upgrades;
- e. Consideration of the need for traffic calming to be installed at the internal intersections onto the major internal collector route Daintree Horizon Drive including in particular at its intersections with Riflebird Close and Springhill Close.

Three (3) copies of the Traffic Impact Study report must be submitted and endorsed by the Chief Executive Officer prior to issue of a Development Permit for Operational Work. Such works recommended by the approved report must be constructed in accordance with the approved plans to the satisfaction of the Chief Executive Officer prior to the issue of a Compliance Certificate for the Plan of Survey.

Road Safety Audit – Road Layout

- 6. Further investigations must be undertaken by an appropriately qualified professional with respect to the proposed road layout and compliance with Queensland Streets and the FNQROC Development Manual.

Three (3) copies of the road safety audit that is approved by a Registered Professional Engineer of Queensland (RPEQ) and a plan of the works must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

Where specific access locations are nominated for particular allotments, the crossover and aprons must be constructed prior to the issue of a Compliance Certificate for the Plan of Survey.

Drainage Study of Site

- 7. Undertake a local drainage study of the proposed ~~development components of Stage 4~~ to determine the drainage impacts on upstream and downstream properties and the mitigation measures required to minimise such impacts. In particular, the study must address the following:
 - a. The contributing catchment boundaries and supporting information substantiating these boundaries. In particular, the assessment of the capacity, tenure and operation of any upslope diversion drains relied on in assessing contributing catchment boundaries;
 - b. The extent of the 100 year ARI flood event in relation to the site both pre- and post-development;
 - c. Primary and secondary flow paths for the 5 and 100 year ARI flood events;
 - d. Identify any requirement for drainage easements. The lot layout does not currently identify drainage easements. Introduction of easements may have

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implications on Council acceptance of the layout and Council reserves the right to review the layout in the event easements are required within allotments;

- e. Identify the need and tenure for flood detention areas to ensure a no-worsening impact on downstream properties for the entire development;
- f. Information on the proposed works and any impacts proposed at the drainage outlet from the proposed development; and
- g. Lawful point of discharge.

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

Filling Lots

- 8. Each lot must be filled to achieve a Q100 plus hydraulic modelling flood immunity for the building envelope area and access thereto.

Street Layout and Design

- 9. The street layout and design must be revised to comply with Queensland Streets and the FNQROC Development Manual, to the satisfaction of the Chief Executive Officer. In particular:
 - a. Amend the design having regard to any requirements identified under further investigation required of Conditions 4 and 5 above;
 - b. All roads must have a minimum road reserve width of 16.5 metres;
 - c. Provision of a two (2) metre wide footpath is to be constructed within all Access Streets and higher order roads in accordance with Table D1.3;
 - d. Provide a convex viewing mirror at the bend in the pathway between lots 402/403 332/333 and 354/352;
 - f. Provide a four (4) metre wide grassed buffer strip between the farm land and the southern boundary of the approved residential lots and park.

~~Inclusion of a timber paling fence to a standard height of approximately 1.8 metres to the residential lots that have a common boundary to proposed Lot 1000 and suitable headland separation on proposed Lot 1000 from the common boundary to the residential lots and the Park lot for the ongoing agricultural use of the land;~~
 - g. The location of any substantial area of remaining fill / spoil must be suitably mounded, grassed and maintained to ensure no detriment to any property by way of ponding water or impact to drainage flows and not to be of such a height to be desirous to the visual amenity of residential properties;
 - h. Ensure the access place 'street leg length' is designed to satisfy the 30 km/hr design speed control criteria;

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- i. Ensure the access street 'street leg length' is designed to satisfy the 40 km/hr design speed control criteria;
- j. Nomination of location and provision of driveways for the proposed Lots 401, 508, 707, 708, 710, 711, 713, 714 and 715 ~~353, 354, 360, 359, 367, 368, 376, 375, 372, 373, 391, 392, 393 and 394~~ to ensure the maximum sight distance possible to reduce conflict at the adjoining intersections;
- k. A Master Plan for on-street parking must be provided for all lots with frontages less than 20m to demonstrate adequate parking opportunities can be provided to satisfy Qld Streets having regard to street services, road furniture, drainage inlet pits, street lights and driveways; and
- l. Provision of on-street car parking spaces as identified in the above parking Master Plan and as a minimum, within the cul-de-sac in the vicinity of lots 804 and 809 ~~403 to 408~~ to satisfy Queensland Streets.

An amended plan incorporating the above requirements must be submitted 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 issue of a Compliance Certificate for the Plan of Survey.

Provision of Park

- 10. The applicant is to provide park ~~in accordance with the requirements of Condition 4b~~ in prior to Council being required to issue a certificate of compliance for Stage 5 ~~4B~~. The park area must include:
 - a. Water service and provision of a tap for the central park;
 - b. Bollards around the perimeter to prevent vehicle access with the exception of Council access;
 - c. Shelter and seating area in the central park;
 - d. Profiling of the park is to be demonstrated on the earthworks plan. In particular site grading, batter height and slope must meet the requirements of the Planning Scheme and FNQROC Development Manual;
 - e. Seeded and grassed.

The inclusion of other embellishments will be determined at the time of seeking a Development Permit for Operational Works.

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This area of land must be to the requirements and satisfaction of the Chief Executive Officer. The land must be transferred at the same time as registering the Plan of Survey with the Department of Natural Resources and Mines.

Note: The provision of park in Stage 5 is only in partial compliance with park requirements for the the overall master plan approved for the estate.

Water Supply and Sewerage Master Plan

11. A Water Supply and Sewerage Master Plan accompanied by supporting calculations must be provided which demonstrates how the proposed stages and the ultimate development can be serviced. Any staging issues or future upgrades need to be identified and the timing for such upgrades nominated in the master plan.

Three (3) copies of a 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 issue of a Compliance Certificate for the Plan of Survey.

Water Supply and Sewerage Works Internal

12. Undertake the following water supply and sewerage works internal to the subject land:

- a. Provide a single internal sewer connection to each lot in accordance with the FNQROC Development Manual;
- b. Provide a water supply reticulation network to enable future connection of each lot in accordance with the FNQROC Development Manual;

All the above works must be designed and constructed in accordance with the FNQROC Development Manual. Plans and supporting documentation incorporating the above requirements must be submitted 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 issue of a Compliance Certificate for the Plan of Survey.

Acid Sulfate Soil Investigation

13. Undertake an Acid Sulfate Soil investigation in the area to be affected by this development. Soil sampling and analysis must be undertaken in accordance with procedures specified in 'Guidelines for Sampling and Analysis of Lowland Acid Sulfate Soils in Queensland' (1998) or updated version of document produced by Department of Natural Resources and Mines (Previously DNRW – QASSIT), and State Planning Policy 2/02 – 'Planning and Managing Development Involving Acid Sulfate Soils'. The results of this investigation must be submitted to Council for approval prior to any earthworks or clearing being commenced on the site.

Identification of soils with a pyrite content in excess of the action levels nominated in the latest version of DNRW – QASSIT: 'Guidelines for Sampling and Analysis of

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Lowland Acid Sulfate Soils in Queensland (1998) will trigger the requirement for preparation of an Acid Sulfate Soil Environmental Management Plan in accordance with the most recent requirements of the DNRM: *'Queensland Acid Sulfate Soil Technical Manual'* (2002), including Soil Management Guidelines (updated Feb 2003), which must be prepared to the satisfaction of the Chief Executive Officer.

Access to Hatchet or Battleaxe Lots

14. Construct a concrete driveway or other approved surface to battleaxe Lot ~~806~~ 405 extending the full length of the access leg from adjacent kerb and channel with a standard crossover in accordance with the FNQROC Development Manual Standard Drawings. Construction of the concrete driveway must be in accordance with the FNQROC Development Manual.

All works must be carried out to the requirements and satisfaction of the Chief Executive Officer prior to the issue of a Compliance Certificate for the Plan of Survey.

Service Conduits

15. Provide service conduits to Lot ~~806~~ 405 adjacent to the driveway together with associated access pits if necessary, to extend from the front boundary to the end of the access driveway.

All works must be carried out to the requirements and satisfaction of the Chief Executive Officer prior to the issue of a Compliance Certificate for the Plan of Survey.

Demolish Structures

16. 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 the issue of a Compliance Certificate for the Plan of Survey.

Temporary Vehicle Turnaround

17. A temporary vehicle turnaround at end of all partially constructed roads where the length of road exceeds 60 metres (ie maximum acceptable reversing distance for garbage truck) must be provided. The turning facility must be of sufficient size to turn around a garbage truck, either in a continuous forward movement or by a three-point turn.

Stockpiling and Transportation of Fill Material

18. 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 unless the mounded earth is grassed, maintained and does not detrimentally impact on stormwater. A drainage plan demonstrating the sufficiency for stormwater approved by an RPEQ must be provided to the satisfaction of the Chief Executive Officer where filling or spoil is stockpiled for more than one (1) month.

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

- a. peak traffic times; or

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- b. before 7:00 am or after 6:00 pm Monday to Friday; or
 - c. before 7:00 am or after 1:00 pm Saturdays; or
 - d. on Sundays or Public Holidays.
19. Dust emissions or other air pollutants must not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

Storage of Machinery and Plant

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

Construction Access

21. Vehicular access to the site for construction and demolition purposes must be provided from Daintree Horizon Drive only, unless authorised by the Chief Executive Officer.

~~Fence Requirement – Protection from ongoing cane usage~~

- ~~22. Construct an acoustic fence (that may be a standard 1.8m timber paling fence) to the common boundary of the residential lots to the proposed Lot 1000, authorised under this approval.~~

Vegetation Clearing

22. No vegetation clearing, other than regular agricultural activity is to occur on the Balance Lot 1000 unless further approval is gained as is necessary.

Weed Management

23. A Weed Management Plan for invasive pest species 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.

Lawful Point of Discharge

25. 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 to the requirements and satisfaction of the Chief Executive Officer.

Plan of Drainage Works

26. The subject land must be drained to the satisfaction of the Chief Executive Officer. In particular,
- a. Drainage infrastructure in accordance with the FNQROC Development Manual

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- b. The drainage system from the development must incorporate a gross pollutant trap(s) or equivalent measure(s), meeting the following Council specifications for stormwater quality improvement devices (SQID), namely:
 - i. End-of-line stormwater quality improvement devices (SQID) shall be of a proprietary design and construction and shall carry manufacturer's performance guarantees as to removal of foreign matter from stormwater and structural adequacy of the unit.
 - ii. SQIDs shall remove at least ninety-five per cent of all foreign matter with a minimum dimension of three (3) mm and shall be configured to prevent re-injection of captured contaminants. The SQID must treat all first flush runoff, which shall be defined as that volume of water equivalent to the runoff from the three (3) month ARI storm event. The location of SQIDs within the drainage system shall be planned to ensure that the first flush waters from all parts of the (developed) catchment are treated.
 - iii. The design of the SQID shall not compromise the hydraulic performance of the overall drainage system.
 - iv. SQIDs shall be positioned so as to provide appropriate access for maintenance equipment.
 - v. In the event that the master plan for the ultimate development proposes a SQID that is not within the current stages the applicant is to advise when the SQID will be provided and what temporary measures are proposed.
- c. All new allotments shall have immunity from flooding associated with a one (1) per cent AEP (ARI 100 year) rainfall event; and
- d. Where practical, all new allotments must be drained to the road frontages, drainage easements or drainage reserves and discharged to the existing drainage system via storm water quality device(s).

Sediment and Erosion Control

- 27. A sediment and erosion control plan must be submitted prior the issue of a Development Permit for Operational Works. Such plans 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).

Existing Services

- 28. Written confirmation of the location of existing services for the land must be provided. In any instance where existing services are contained within another lot, the following applies, either:
 - a. Relocate the services to comply with this requirement; or

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- b. Arrange registration of necessary easements over services located within another lot prior to, or in conjunction with, the lodgement of a Compliance Certificate for the Plan of Survey creating the lot.

Electricity Supply

29. Written evidence from Ergon Energy advising if distribution substation/s are required within the development must be provided. If required, details regarding the location of these facilities must be submitted to the Chief Executive Officer accompanied by written confirmation from Ergon Energy. Details regarding electricity supply must be provided prior to the issue of a Development Permit for Operational Works.

Electricity and Telecommunications

30. Written evidence of negotiations with Ergon Energy and the telecommunication authority must be submitted to Council stating that both an underground electricity supply and telecommunications service will be provided to the development prior to the issue of a Compliance Certificate for the Plan of Survey.

Street Lighting

31. The following arrangements for the installation of street lighting within the proposed subdivision must be provided prior to the issue of a Compliance Certificate for the Plan of Survey:

- a. Prior to the approval and dating of the Plan of Survey, a Rate 2 lighting scheme is to be prepared by Ergon Energy or its approved consultant and submitted to the Chief Executive Officer for approval. The Rate 2 lighting scheme is to be designed in accordance with the relevant Road Lighting Standard AS/NZS 1158 and the FNQROC Development Manual. The applicable lighting category is to be determined from the Road Hierarchy Table D1.1 and the corresponding applicable Lighting Categories Table D8.1 as identified in the FNQROC Development Manual.

The design must provide the applicable illumination level specified in the Road Lighting Standard AS/NZS 1158 at the following road elements:

- Intersections
- Pedestrian Refuges
- Cul-de-sacs
- LATM Devices (Including Roundabouts)

LATM Devices are to be shown on the civil layout design, the electrical services and street lighting design must be submitted in accordance with Ergon Energy's latest Distribution Design Drafting Standard.

- b. Prior to the issue of a Compliance Certificate for the Plan of Survey written confirmation that the relevant capital contribution required by Ergon Energy has been paid must be submitted, to ensure that the street lighting will be constructed.
- c. Where a new intersection is formed on an existing roadway for the purpose of accessing a new subdivision development, the intersection and existing road

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approaches must be provided with street lighting for a distance equivalent to at least two (2) spans either side of the intersection to the relevant Lighting Category.

- d. Where an existing intersection is required to be upgraded as part of a development approval, the intersection and existing road approaches must be provided with street lighting for a distance equivalent to at least two (2) spans either side of the intersection to the relevant Lighting Category.

Damage to Council Infrastructure

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

Landscape Plan

33. Undertake landscaping of the site and street frontages of new roads in accordance with FNQROC Development Manual and in accordance with a landscape plan. The landscape plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Work. In particular, the plan must show:

- a. Planting of the footpath with trees, using appropriate species;
- b. The provision of shade trees, especially in parks;
- c. Species to have regard to the Planning Scheme Policy No 7 Landscaping;
- d. Inclusion of all requirements as detailed in other relevant conditions included in this Approval, with a copy of this Development Approval to be given to the applicant's Landscape Architect / Designer.

Two (2) A1 copies and one (1) A3 copy of the landscape plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works. Areas to be landscaped must be established prior to approval and dating of the Plan of Survey and must be maintained for the duration of the on-maintenance period to the satisfaction of the Chief Executive Officer.

REFERRAL AGENCY CONDITIONS & REQUIREMENTS

Referral Agency	Referral Agency Reference	Date	Council Electronic Reference
State Assessment & Referral Agency	SDA-0215-018102	24 November 2015	761664

Refer to Attachment 2: Referral Agency Requirements. (Please note that these conditions / requirements may be superseded by subsequent negotiations with the relevant referral agencies. Note: The plan in SARA's response is not the approved plan).

41.2015.612
13/25

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

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

Any future development of Lot 1000 will require a Road and Site Grading Master plan to be undertaken for the entire site to a preliminary level. Stages contained in Stage 4 (A, B, C and D) and as amended by the conditions of the approval set the road alignments and geometry for future road connectivity within the estate. In order for any potential future development layouts of Lot 1000 to be accepted, the master plan will need to demonstrate that the proposed ultimate layout provides sufficient opportunities for efficient drainage through the site. ~~In order for Stage 4 layouts to be accepted, the master plan will need to demonstrate that the proposed ultimate layout provides sufficient opportunities for efficient drainage through the site.~~

Council notes that the road layout appears to follow the contours indicating limited longitudinal fall along the road. Provision of preliminary road grading together with the drainage study will need to demonstrate that layout is responsive to the topography and does not impose excessive stormwater infrastructure requirements.

5. Drainage

Future development of Lot 1000 will require the submission of a Drainage Study and master plan.

6. Infrastructure Charges Notice

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 *Sustainable Planning Act 2009* confers rights to make representations and appeals in relation to a Decision Notice and an Adopted Infrastructure Charges Notice separately.

41.2015.612
14/25

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

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

7. For information relating to the *Sustainable Planning Act 2009* log on to www.dilqp.qld.gov.au . To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.

RIGHTS OF APPEAL
Attached

End of Decision Notice

41.2015.612
15/25

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





Department of Infrastructure,
Local Government and Planning

Our reference: SDA-0215-018102
Your reference: ROL 612/2015

24 November 2015

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

Dear Sir/Madam

Amended concurrence agency response - changed condition

Development permit for a reconfiguration of a lot (1 Lot into 67 residential Lots, road, park and balance Lot) Daintree Horizons Estate Stage 4, on land located at 12-36 Alchera Drive, Mossman, QLD, described as Lot 113 on SP213765

(Given under section 290(1)(b) of the *Sustainable Planning Act 2009*)

The Department of Infrastructure, Local Government and Planning issued a concurrence agency response under section 285 of the *Sustainable Planning Act 2009* on 23 February 2015. On 3 November 2015 the department received representations from the applicant under section 320(1) of the Act requesting that the department amend its concurrence agency response under section 290(1)(b)(i) of the Act.

The department has considered the written representations and agrees to issue the following amended concurrence agency response.

Applicant details

Applicant name: Maxholt Pty Ltd
Applicant contact details: C/- Brazier Mottl Pty Ltd
PO Box 1185
Cairns QLD 4870
Cns_planning@braziermottl.com.au

Site details

Street address: 12-36 Alchera Drive, Mossman, QLD
Lot on plan: Lot 113 on SP213765

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Far North Queensland Regional Office
Devoted Place, Cairns Port Authority
PO Box 2058
Cairns QLD 4870

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

SDA.0215.612/2

Local government area: Douglas Shire Council

Application details

Proposed development: Development permit for a reconfiguration of a Lot (1 Lot into 67 residential Lots, road, park and balance Lot) Daintree Horizons Estate Stage 4

Aspects of development and type of approval being sought

Nature of Development	Approval Type	Brief Proposal of Description	Level of Assessment
Reconfiguring a Lot	Development permit	Reconfiguration of a Lot (1 Lot into 67 residential Lots, road, park and balance Lot) Daintree Horizons Estate Stage 4	Code 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 2, Item 2—State-controlled road
Schedule 7, Table 3, Item 2—State transport infrastructure (thresholds)

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
Aspect of development: Development Permit for a reconfiguration of a Lot (1 Lot into 67 Residential Lots, Park, Road and Balance Lot (Daintree Horizons Estate Stage 4))				
Proposed Reconfiguration Plan - Stages 4A, 4B, 4C &	Brazier Mott	03 November 2015	Plan No 31122/119	Issue G

Department of Infrastructure, Local Government and Planning

Page 2

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18/25

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

SDA-0215-018102

4D				
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The applicant has provided written agreement to this amended concurrence agency response, as attached.

For further information, please contact Sue Lockwood, Senior Planning Officer, SARA Far North QLD on (07) 4037 3215, or email sue.lockwood@dlgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Robin Clark
Manager (Planning)

cc: one.planning@braziermatt.com.au
enc: Attachment 1—Amended conditions to be imposed
Attachment 2—Reasons for decision to impose conditions
Attachment 3—Further advice
Attachment 4—Approved plans and specifications
Applicant written agreement to amended concurrence agency response

Department of Infrastructure, Local Government and Planning

Page 3

41.2015.612
19/25

Our reference: SDA-0215-018102
 Your reference: ROL 612/2015

Attachment 1—Amended conditions to be imposed

No.	Conditions	Condition timing
Development Permit - Reconfiguring a Lot (1 Lot into 67 Residential Lots, Park, Road and Balance Lot (Daintree Horizons Estate Stage 4))		
Schedule 7, Table 2, Item 2-State-controlled road and Schedule 7, Table 3, Item 2-State transport infrastructure (thresholds) —Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the chief executive administering the Act nominates the Director-General of the Department of Transport and Main Roads 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):		
1.	AD01 - Model Condition The development must be carried out generally in accordance with the following plans: <ul style="list-style-type: none"> Proposed Reconfiguration Plan - Stages 4A, 4B, 4C & 4D prepared by Brazier Mott, dated 03 November 2015, Plan No 31122/119, Issue G. 	At all times

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

SDA-2015-018102

Our reference: SDA-2015-018102
Your reference: ROL 612/2015

Attachment 2—Amended reasons for decision to impose conditions

The reasons for this decision are:

- To ensure the development is carried out generally in accordance with the plan of development submitted with the application

Department of Infrastructure, Local Government and Planning Page 8

41.2015.612
21/25

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

SDA-0215-018102

Our reference: SDA-0215-018102
Your reference: ROL 612/2015

Attachment 3—Further advice

General advice – advertising device	
1.	Under section 43 of the <i>Transport Infrastructure Act 1994</i> , a local government must obtain approval from the Department of Transport and Main Roads if it intends to approve the erection, alteration or operation of an advertising sign or other device that would be visible from a state-controlled road, and beyond the boundaries of the state-controlled road, and reasonably likely create a traffic hazard for the state-controlled road.
State Planning Policy July 2014 – interim development assessment provisions	
2.	Douglas Shire Council, in its role as assessment manager, must assess the development application against the State Planning Policy July 2014 and in particular the interim development assessment provisions, such as natural hazards and water quality, to the extent it is relevant to the proposed development.

Department of Infrastructure, Local Government and Planning

41.2015.612
22/25

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

SDA-0215-018102

Our reference: SDA-0215-018102
 Your reference: ROL 612/2015

Attachment 4—Approved plans and specifications



Department of Infrastructure, Local Government and Planning 0003

41.2015.612
 23/25

Adopted Infrastructure Charges



2018 Douglas Shire Planning Scheme version 1.0 Applications

ADOPTED INFRASTRUCTURE CHARGES NOTICE

Maxholt Pty Ltd		Daintree Horizons		0	
DEVELOPERS NAME		ESTATE NAME		STAGE	
12-36 Alchera Drive		L401 SP317071		1022579	
STREET No. & NAME		LOT & RP No.s		PARCEL No.	
ROL (1 into 68 lots and park)		ROL 2015_612/2		6	
DEVELOPMENT TYPE		COUNCIL FILE NO.		VALIDITY PERIOD (year)	
1043639					
DSC Reference Doc. No.		VERSION No.		Payment before the signing and dating of the Survey Plan	
3					

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

		Charge per Use	rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
Proposed Demand							
Residential lots	68	per 3 or more bedroom dwelling	24,143.38	68	1,641,749.84		
	Total Demand				1,641,749.84		
Existing Credit							
Residential Lot	1 lot	per 3 or more bedroom dwelling	24,143.38	1	24,143.38		
	Total Credit				24,143.38		Code 895 GL 7470.0135.0825

Required Payment or Credit **TOTAL** **\$1,617,606.46**

Prepared by	Jenny Elphinstone	20-Oct-21	Amount Paid	
Checked by	Neil Beck	20-Oct-21	Date Paid	
Date Payable	ROL - Before the Local Government approves the plan of subdivision		Receipt No.	
Amendments		Date	Cashier	
Updated date of issue to reflect new staging plan		20-Oct-21		

Note:

The Infrastructure Charges in this Notice are payable in accordance with Sections 119 and 120 of the *Planning Act 2016* as from Council's resolution from the Ordinary Meeting held on 23 February 2021.

Charge rates under the Policy are subject to indexing.

Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

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

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

Reasons for Decision

1. The reasons for this decision are:
 - a. Sections 80, 81, 81A and 83 of the *Planning Act 2016*;
 - b. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
 - c. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
 - a. the change application was properly lodged to the Douglas Shire Council 11 October 2021 under section 79 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
 - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
 - a. the development triggered assessable development under the Assessment Table associated with the Low Density Residential Zone Code;
 - b. Council undertook an assessment in accordance with the provisions of sections 80, 81, 81A and 83 of the *Planning Act 2016*; and
 - c. the applicant's reasons have been considered and the following findings are made:
 - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

Non-Compliance with Assessment Benchmarks

Through the conditions of the approval the development complies with the Planning Scheme and no concerns are raised.

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

74 What this subdivision is about

- (1) This subdivision is about changing a development approval before the applicant's appeal period for the approval ends.
- (2) This subdivision also applies to an approval of a change application, other than a change application for a minor change to a development approval.
- (3) For subsection (2), sections 75 and 76 apply—
 - (a) as if a reference in section 75 to a development approval were a reference to an approval of a change application; and
 - (b) as if a reference in the sections to the assessment manager were a reference to the responsible entity; and
 - (c) as if a reference in section 76 to a development application were a reference to a change application; and
 - (d) as if the reference in section 76(3)(b) to section 63(2) and (3) were a reference to section 83(4); and
 - (e) with any other necessary changes.

75 Making change representations

- (1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
 - (a) a matter in the development approval, other than—
 - (i) a matter stated because of a referral agency's response; or

- (ii) a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
- (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- (3) Only 1 notice may be given.
- (4) If a notice is given, the appeal period is suspended—
 - (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
 - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
 - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
 - (ii) the applicant receives notice that the assessment manager does not agree with the change representations; or
 - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

76 Deciding change representations

- (1) The assessment manager must assess the change representations against and having regard to the matters that

- must be considered when assessing a development application, to the extent those matters are relevant.
- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
- (a) the applicant; and
 - (b) if the assessment manager agrees with any of the change representations—
 - (i) each principal submitter; and
 - (ii) each referral agency; and
 - (iii) if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
 - (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
 - (v) another person prescribed by regulation.
- (3) A decision notice (a ***negotiated decision notice***) that states the assessment manager agrees with a change representation must—
- (a) state the nature of the change agreed to; and
 - (b) comply with section 63(2) and (3).
- (4) A negotiated decision notice replaces the decision notice for the development application.
- (5) Only 1 negotiated decision notice may be given.
- (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.

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.

21 October 2021

Enquiries: Jenny Elphinstone
Our Ref: ROL 2015_612 (Doc ID 1042542)
Your Ref: 31122-042-03

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

Maxholl Pty Ltd
C/- Brazier Motti Pty Ltd
PO Box 1185
CAIRNS QLD 4870

Email cns.planning@braziermotti.com.au

Attention Mr Michael Tesaro

Dear Sir

**Adopted Infrastructure Charge Notice For Change Application
Reconfiguration of a Lot (1 Lot into 68 Lots, Park and Balance)
At 91 Front Street (formerly known as 12-36 Alchera Drive) Mossman
On Land Described as Lot 401 SP317071 (formerly known as Lot 113 on SP213765)**

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

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

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

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

Please quote Council's application number: ROL 2015_612 in all subsequent correspondence relating to this matter.

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

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

encl.

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

Adopted Infrastructure Charges Notice



2018 Douglas Shire Planning Scheme version 1.0 Applications

ADOPTED INFRASTRUCTURE CHARGES NOTICE

Maxholl Pty Ltd DEVELOPERS NAME		Daintree Horizons ESTATE NAME	0 STAGE
12-36 Alchera Drive STREET No. & NAME	Mossman SUBURB	L401 SP317071 LOT & RP No.s	1022579 PARCEL No.
ROL (1 into 68 lots and park) DEVELOPMENT TYPE		ROL 2015_612/2 COUNCIL FILE NO.	6 VALIDITY PERIOD (year)
1043639 DSC Reference Doc . No.	3 VERSION No.	Payment before the signing and dating of the Survey Plan	

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

		Charge per Use	rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
0							
0							
Proposed Demand							
Residential lots	68	per 3 or more bedroom dwelling	24,143.38	68	1,641,749.84		
	Total Demand				1,641,749.84		
Existing Credit							
Residential Lot	1 lot	per 3 or more bedroom dwelling	24,143.38	1	24,143.38		
	Total Credit				24,143.38		
							Code 895 GL 7470.0135.0825

Required Payment or Credit **TOTAL** **\$1,617,606.46**

Prepared by	Jenny Elphinstone	20-Oct-21	Amount Paid	
Checked by	Neil Beck	20-Oct-21	Date Paid	
Date Payable	ROL - Before the Local Government approves the plan of subdivision		Receipt No.	
Amendments	Date		Cashier	
Updated date of issue to reflect new staging plan	20-Oct-21			

Note:

The Infrastructure Charges in this Notice are payable in accordance with Sections 119 and 120 of the *Planning Act 2016* as from Council's resolution from the Ordinary Meeting held on 23 February 2021.

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

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

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

Subdivision 5 Changing charges during relevant appeal period

124 Application of this subdivision

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

125 Representations about infrastructure charges notice

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

126 Suspending relevant appeal period

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

Division 3 Development approval conditions about trunk infrastructure

Subdivision 1 Conditions for necessary trunk infrastructure

127 Application and operation of subdivision

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

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.