Mr Paul Gleeson PTG:mrh
Manager Planning Services - ☎ (07) 4099 9456 CA 58

Belle Property Mango House Pty Ltd C/- C & B Group PO Box 1949 Cairns QLD 4870

13 October 2006

# INTEGRATED PLANNING ACT NEGOTIATED DECISION NOTICE

# **Development Application**

**Applicant's Name** : Belle Property Mango House Pty Ltd

Owner's Name : Mr DR & Mrs J Lucas

**Proposal** : Reconfiguring by subdivision three (3) standard format lots

into five (5) standard format lots with Common Property. One hundred and six (106) Multiple Dwelling Units (Tourist) and ancillary facilities including a reception area, restaurant and recreation facilities. A preliminary approval to permit the construction of a Dwelling House on each of proposed Lots 1-

4 on the Plan of Development.

**Application Number** : CA 58

Site Address : Mitre Street, Port Douglas

**Property Description**: Lots 1, 2 & 6 on C2253

This Negotiated Decision Notice supersedes the Decision Notice dated 15 May 2006. Conditions 1, 2, 10 and 39 were amended. All other conditions remain unchanged.

1. **Decision:** Decision Date: 26 September 2006

Approved subject to Conditions

# 2. Type of Development Approval:

Material Change of Use Reconfiguring a Lot Material Change of Use (Dwelling House) Development Permit Development Permit Preliminary Approval

# 3. Referral Agency:

#### Concurrence

Department of Natural Resources and Mines

#### Advice

**Qld Department of Main Roads** 

#### 4. Conditions

#### Multiple Dwellings (Tourist), Restaurant and Ancillary Facilities

#### **Plan of Development**

- 1. The approved development and the carrying out of any works on the premises associated with the development must generally be in accordance with Plans of Development numbers A-TP-02 to A-TP-05 Rev 1 attached to this approval, subject to:
  - (i) modifications required by any condition of this approval and any minor alterations found necessary by Council at the time of examination of engineering plans;
  - (ii) the proposed building, car parking and driveway design and layout is to be amended to preserve the following significant trees on site as depicted on Plan VP-01 Revision A, prepared by Siteplan:
    - 115, 116, 117, 392-395, 399, 400 and 617,
    - 683 is to be relocated on site:
  - (iii) the applicant is to provide a minimum of 133 car spaces/parks on site. Alternatively, the applicant may provide less car parking spaces with the shortfall to be provided in the form of a monetary contribution equivalent to \$3,575 per space in accordance with Planning Scheme Policy No. 2 or by way of providing any shortfall in car parking spaces on-site within on-street works adjacent to the site. Any monetary contribution associated with this condition is to be paid prior to the granting of a building approval and any on-street works associated with this condition are to be completed prior to the commencement of the use;
  - (iv) the proposed development and any associated works, contributions and lodgement of security being undertaken/made in stages to be determined at the Operational Works stage.
- 2. The following external works will be required to connect the proposed development to the existing water supply network.

- (i) Extend the existing 150 mm diameter water main located at the eastern end of Sagiba Avenue along the length of Sagiba Avenue to connect with the existing 150 mm main in Mitre Street.
- 3. The design will be required to be provided for approval prior to construction at Operational Works stage.

#### Sewerage

- 4. The following external works will be required to connect the proposed development up to the existing sewerage network:
  - Installation of a sewerage pump station to be located internally to the site together with a rising main to connect to Council's existing trunk sewer main located in Old Port Road. Council will pay half the cost of the rising main only.
- 5. The design will be required to be provided for approval prior to construction at Operational Works stage.

# Water Supply & Sewerage Headworks

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

The contribution shall be calculated at the rate per Equivalent Domestic Connection ("EDC") applicable at the time of payment in accordance with the Policy.

For information purposes only:

The current number of EDCs for the approved use are:

Water Supply 67.7 Sewerage 78.5

#### **Electrical & Telephone Services**

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

- a. an underground telephone service to the development including undergrounding of aboveground powerlines adjacent to the site; and
- b. locating of all above ground switching station cubicles clear of footpath areas.

#### Landscaping

- 9. All fences, on road frontages, are to be set back two metres from the property boundary with at least 2m dense tropical landscaping provided to the frontage of the fence.
- 10. The landscape concept plans numbered LPP 1.00, LPP 2.00, LPP 3.00 and LPP 4.00 dated October 2005 prepared by Siteplan are approved in general subject to the following amendments.
  - (a) The following trees, as depicted on Plan VP01 Revision A, prepared by Siteplan are to be retained or relocated on site:
    - 115, 116, 117, 392-395, 399, 400 and 617,
    - 683 is to be relocated on site.

Full set of landscape plans, in accordance with Council Planning Policy No. 4, is to be submitted to Council for approval prior to the commencement of any landscaping works. These plans should include details of the proposed irrigation system, hard landscaping, et cetera.

11. The landscaping shown on the approved plan shall be completed before the development is occupied and maintained thereafter. The applicant is also required to revegetate the esplanade adjacent to the subject site, with the design to be subject to Council approval with the full landscape plans required by condition 10.

#### **Earthworks**

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

# **Stormwater Drainage**

- 13. The legal point of discharge for all impervious surfaces, including roof water, is the swale located in the Esplanade to the east of the development site. The balance of the site can be drained to the points of discharge nominated on Plan number 83307/82 C01 prepared by ARUP. This discharge point requires the approval of the EPA for drainage works in the Coastal Management District (CMD). This approval will be required prior to Council issuing an Operational Works Development Permit for external and internal site works.
- 14. Drainage easements and/or reserves as reasonably required following review of Operational Works drawings are to be registered in Council's favour, at no cost to Council.
- 15. The developer is required to place pollution control devices and sumps in the stormwater systems within their allotment. The quality of any stormwater discharge

from the site is to meet the EPA Queensland coastal waters of the Douglas Shire draft environmental values and water quality objectives May 2005.

#### Roadworks

- 16. The applicant is to undertake the following roadworks external to the site in accordance with the requirements of the Far North Queensland Regional Organisation of Councils (FNQROC) Development Manual:
  - Upgrading of the intersection of Nautilus Street and Mitre Street with the design and construction of a roundabout; and
  - Lighting of the roundabout in accordance with the requirements of the FNQ Development Manual.
  - A 2metre wide footpath along the full Mitre Street and Sagiba Avenue (new road) frontages of the subject site.

#### **Environmental Management Plans**

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

#### **Carparking & Access**

- 18. The access/egress point to and from the western carpark is to be relocated so as to avoid the removal of trees numbered 115 and 116 on Plan number VP01 Revision A prepared by Siteplan.
- 19. The proposed egress onto Martin Scullet Drive is not approved.
- 20. The applicant shall submit a report prepared by a qualified engineer on the basement carparking. The report shall be submitted to and approved by the Council prior to the issue of a Building Permit. The report shall address the following matters:
  - a. Construction techniques.
  - b. Dewatering and pumping equipment to be installed.
  - c. Details of the satisfactory disposal of water.
  - d. That the basement is impervious to water.
  - e. Any effects the basement may have on adjoining properties.
  - f. The method of ventilation.
- 21. The ingress and egress of the basement carparks shall be designed to prevent floodwaters entering the carparks.

#### **Waste Storage & Discharge**

- 22. The waste storage area must be located outside of a three (3) metre wide landscape strip to the road frontage in the location shown on the approved plan for this development. The waste storage area must:
  - a. Contain an impervious surface for the storage of waste containers suitably screened so as not to be visible from adjoining properties or the road reserve;
  - b. Include a stop cock and stormwater diversion valve at the drainage point;
  - c. Contain sufficient storage space for the storage of a 240litre refuse bin for each unit in the development.
- 23. Refuse storage, removal and collection methods shall be in accordance with the "Environment Protection (Interim Waste) Regulations 1996"

# **Air Conditioning & Service Equipment**

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

#### **Footpath Damage Liability**

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

#### Maintenance

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

#### **Operational Works Development Permit**

- 27. Full engineering drawings, prepared and/or checked by a Registered Professional Engineer, shall be submitted for all road works, stormwater drainage, water supply, sewerage and lot improvement at Operational Works Application stage. Drawings should, in general, include the following and be designed in accordance with the requirements of the FNQ Development Manual:
  - a. locality plan;

- b. layout and staging plan, where applicable;
- c. earthworks plan;
- d. layout plan for each driveway;
- e. longitudinal section of each driveway;
- f. cross sections for each driveway, including standard cross sections;
- g. layout plan for each stormwater drainage;
- h. longitudinal sections for each stormwater drain line;
- i. details for non-standard drainage structures;
- j. Sewerage Reticulation Plan;
- k. Water Reticulation Plan;
- 1. Erosion and Sediment Control Strategy;
- m. Service providers conduit plan, including street lighting; and
- n. Such other details for the proper construction of the works i.e. retaining walls etc.

#### **Security**

28. To guarantee the satisfactory completion of the building, site works, landscaping, drainage works and any required works external to the land and to ensure payment of the headworks charges, the applicant shall lodge with the Council a Cash Bond or Guarantee to the value of \$750,000.00, such Guarantee to be in a format considered satisfactory by the Manager Planning Services. The Bond or Guarantee shall be lodged prior to the issue of any Building Permit on the land in relation to this Consent Permit and the Council may call up the Guarantee to complete all or any part of the works mentioned herein to its satisfaction, should the applicant fail to do so.

# **Currency Period**

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

#### **Compliance with Conditions**

- 30. All works required pursuant to the above conditions shall be undertaken and completed in accordance with Council's requirements contained in the Planning Scheme Provisions/Codes and Engineering Standards.
- 31. Unless otherwise specified in this development permit, the conditions of this permit must be complied with prior to the occupancy of the building for the approved use or commencement of the approved use on the land.

#### **Acid Sulfate Soils**

- 32. That the Golders Associates acid sulfate soil management plan ref 05673000-17(A) be adopted.
- 33. That the bunding of any material should be as per section 8.3.6 Treatment Pad design in the Queensland Acid Sulfate Soil Technical Manual Management guidelines 2002 by Dear et al.

- 34. Prior to the commencement of any excavation work on the basement carpark or the installation of underground services the Construction Manager is to provide evidence to Council that site personnel have received the appropriate training in the recognition and management of PASS material as per as per Appendix "A" of the ASS Management Plan prepared by Golder Associates.
- 35. Provide to Council information on where the off-site treatment of Pass from the basement carpark and or the installation of underground services is to occur and where this material is to be disposed.
- 36. A report from a specialist consultant covering the excavations, treatment and disposal of PASS materials is to be provided to Council on the completion of the basement excavations.
- 37. A report from a specialist consultant covering the monitoring and treatment of seepage and dewatering discharges is to be provided to Council on the completion of excavation and dewatering works.
- 38. All discharge of surface waters, groundwater, seepage and dewatering is to meet the performance indicators prescribed in Appendix 5 of the ASS Management Plan.

#### Reconfiguring a Lot -3 lots into 5 lots and common property

- 39. The approved reconfiguration and the carrying out of any works on the premises associated with the reconfiguration must be in accordance with Plan of Reconfiguration 8243-2 attached to this approval, subject to:
  - (i) modifications required by any condition of this approval and any minor alterations found necessary by Council at the time of examination of engineering plans.

The lots to have a minimum level within the building footprints to be determined at the Operational Works stage as described in Council's development manual.

- 40. The applicant shall make contribution for parkland for four (4) additional allotments in accordance with Council's requirements for parkland contribution valid at time of payment.
- 41. The Applicant shall pay to the Council headworks contributions for water supply and sewerage in accordance with Council's Local Planning Policy: "Determination of Contributions for Water Supply and Sewerage Headworks and External Works" ("the Policy").

The contribution shall be calculated at the rate per Equivalent Domestic Connection ("EDC") applicable at the time of payment in accordance with the Policy.

For information purposes only:

The current number of EDCs for the approved use are:

Water Supply 4 Sewerage 4

- 42. This development approval lapses 4 years after the day that the development approval takes effect, unless the Plan of Survey has been lodged with Council for endorsement or this period is extended under Section 3.5.22 of the *Integrated Planning Act 1997*.
- 43. All works required pursuant to the above conditions shall be undertaken and completed in accordance with Council's requirements contained in the Planning Scheme Provisions/Codes and Engineering Standards.
- 44. Unless otherwise specified in this development permit, the conditions of this permit must be complied with prior to Council endorsement of the Plan of Survey

#### **Dwelling Houses (Preliminary Approval)**

- 45. A further application for Material Change of Use (Code Assessment) will be required to construct a Dwelling House on proposed Lots 1 to 4.
- 46. The gross floor areas of any dwelling designed on proposed Lots 1-4 shall not exceed the following areas:

Lot 1	404m²
Lot 2	426m²
Lot 3	429m²
Lot 4	419m²

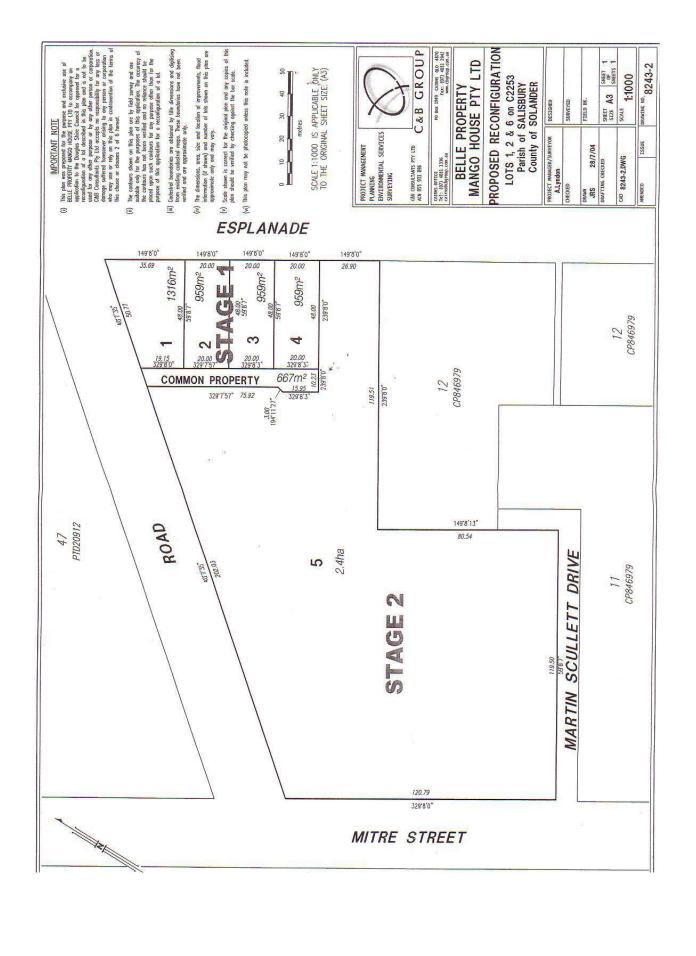
- 47. No building work (including pools) is permitted to be erected or constructed within the Erosion Prone Zone as shown on Plan LPP 1.00 dated Oct 05 and prepared by Siteplan.
- 48. No vegetation is to be removed from the Erosion Prone Zone.
- 49. The height of any proposed Dwelling House is not to exceed 7.5metres above natural ground level
- 50. This development approval lapses 4years after the day that the development approval takes effect, unless an application for a Material Change of Use Development Permit over each proposed allotment has been lodged for the approval of Council. Or this period is extended under Section 3.5.22 of the *Integrated Planning Act 1997*.
- 51. All works required pursuant to the above conditions shall be undertaken and completed in accordance with Council's requirements contained in the Planning Scheme Provisions/Codes and Engineering Standards.
- 52. Unless otherwise specified in this development permit, the conditions of this permit must be complied with prior to the occupancy of the building for the approved use or commencement of the approved use on the land.

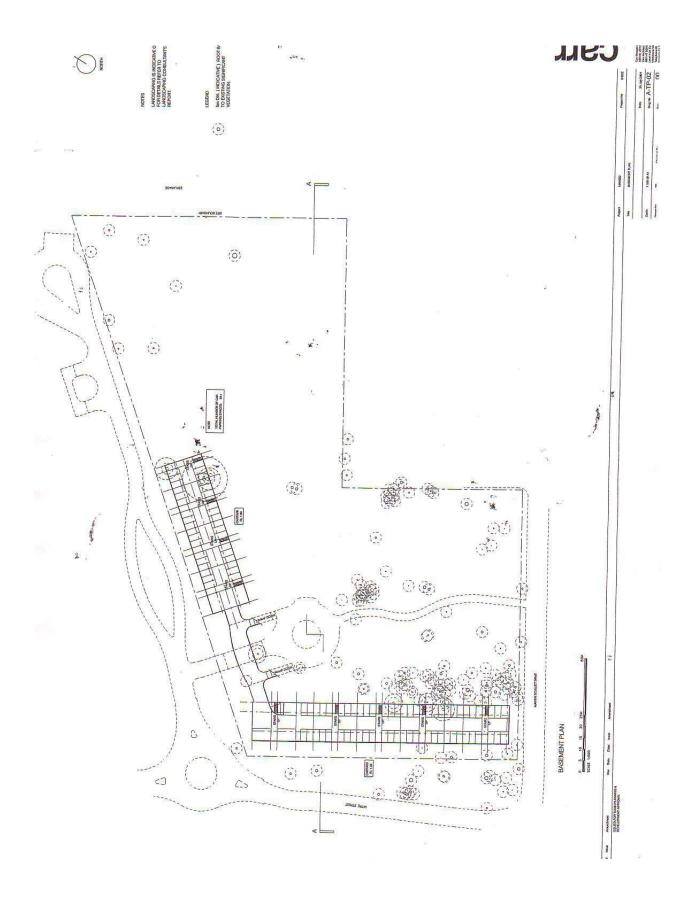
# **Further Development Approvals Required:**

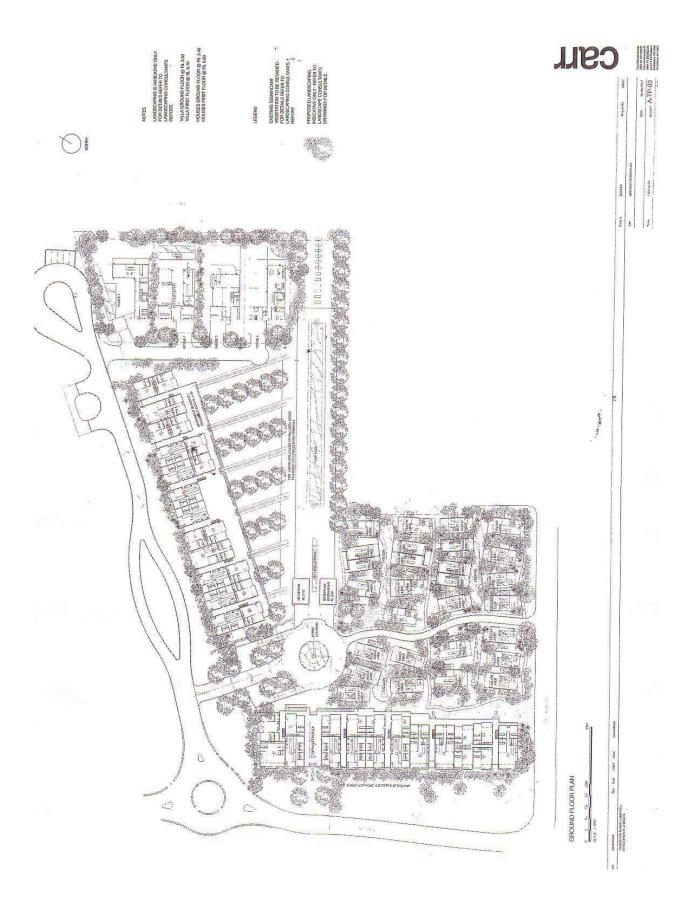
Material Change of Use (Dwelling Houses)
Operational Works
Development Permit
Building Work
Development Permit
Plumbing & Drainage Work
Development Permit

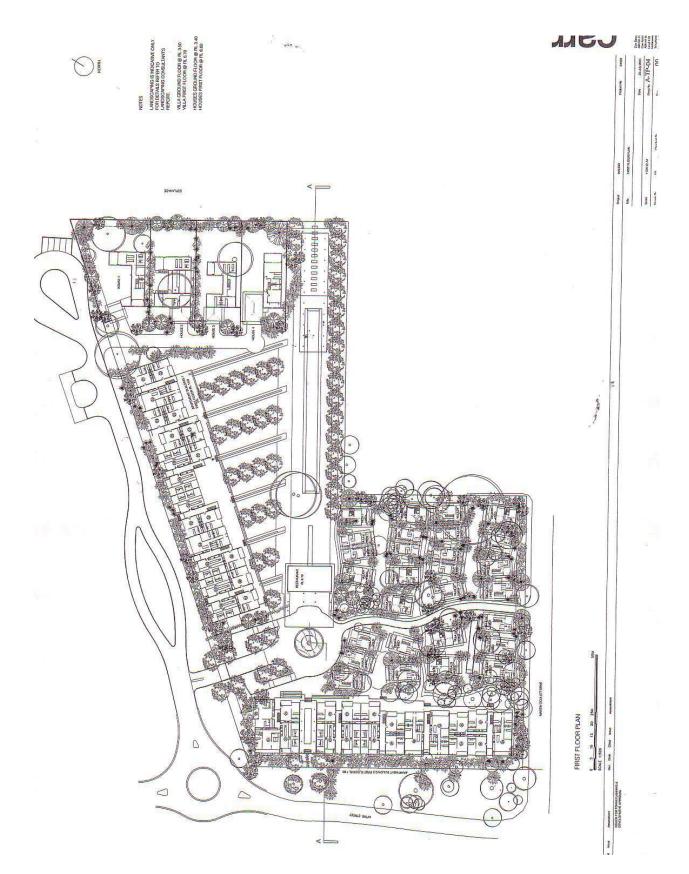
Paul Trotman

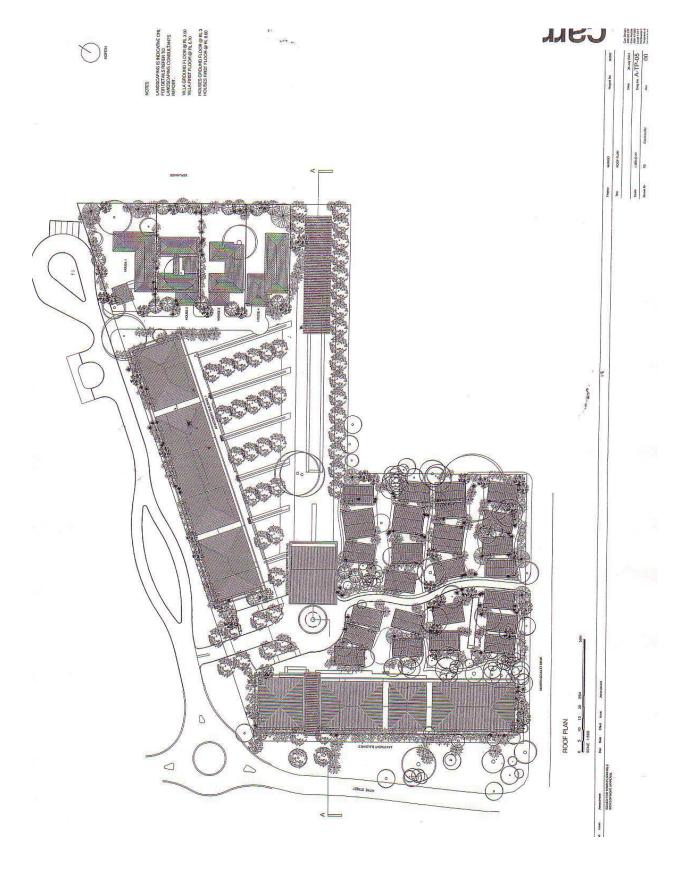
**General Manager Development & Environment** 











JJEJ

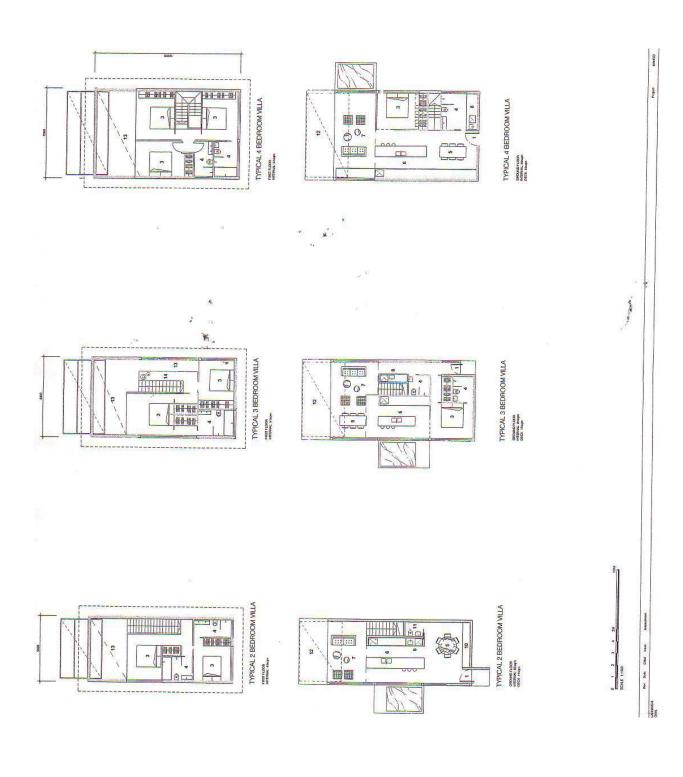
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TYPICAL 3 BEDROOM APARTMENT

TYPICAL 2 BEDROOM APARTMENT

TYPICAL 1 BEDROOM APARTMENT

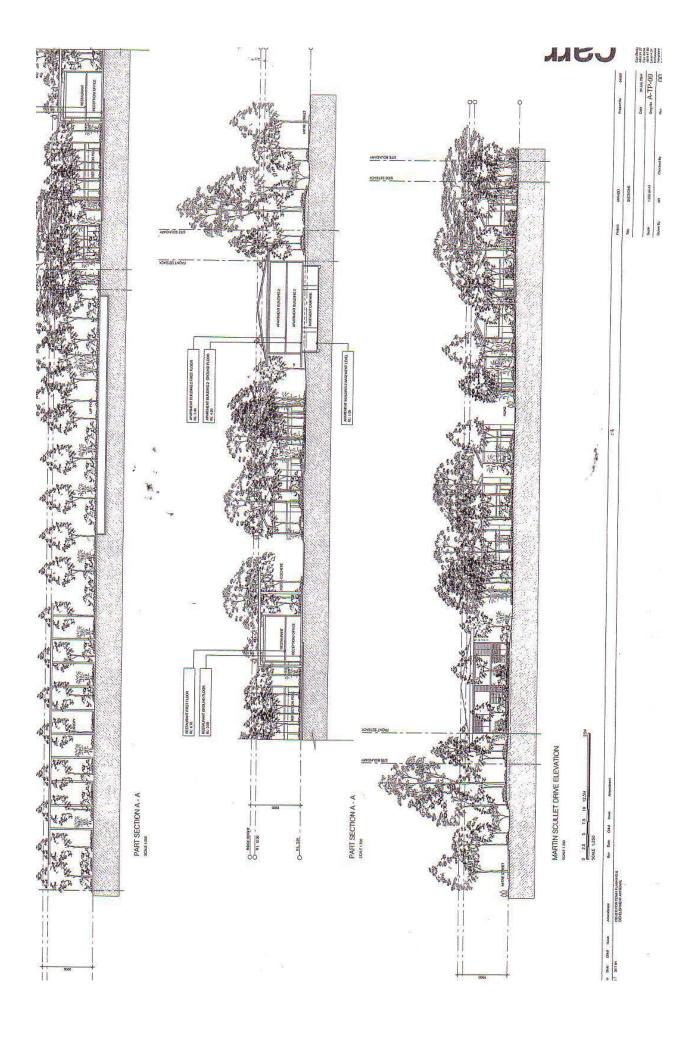
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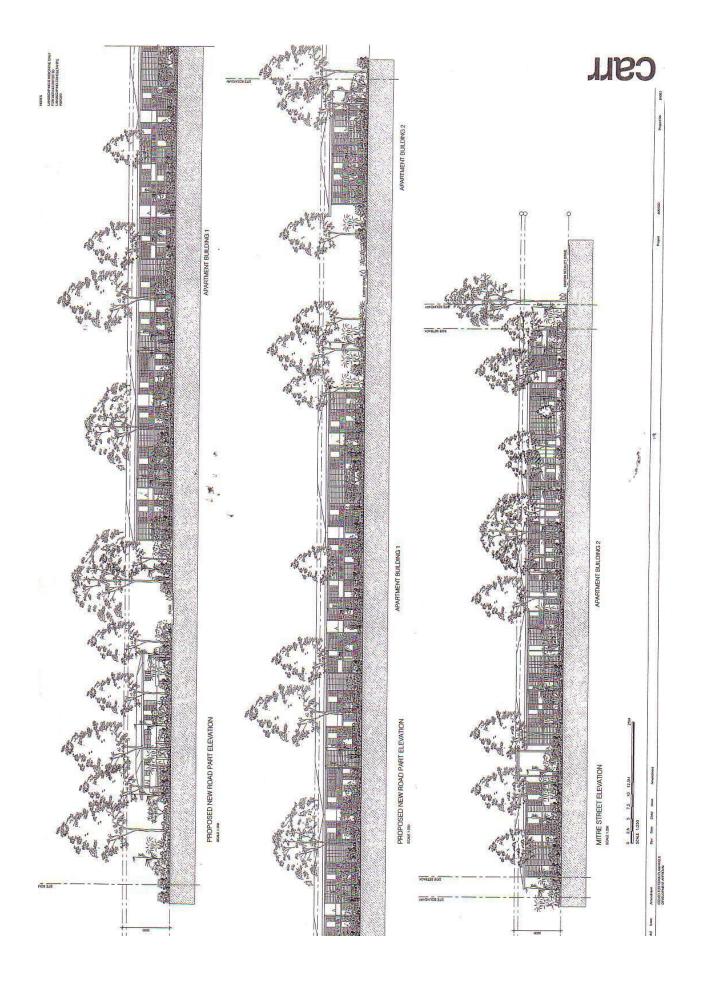




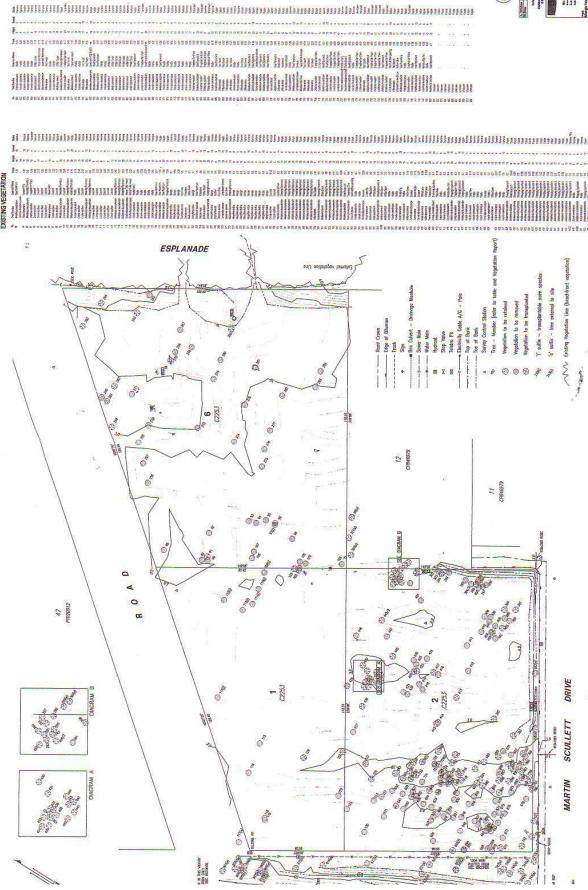
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200   190	(REFER DRAWING TP-09)		MARTIN SCULLET DRIVE ELEVATION (REFER DRAWING TP-09)	EVATION (REFER DRAWING TP-10)	
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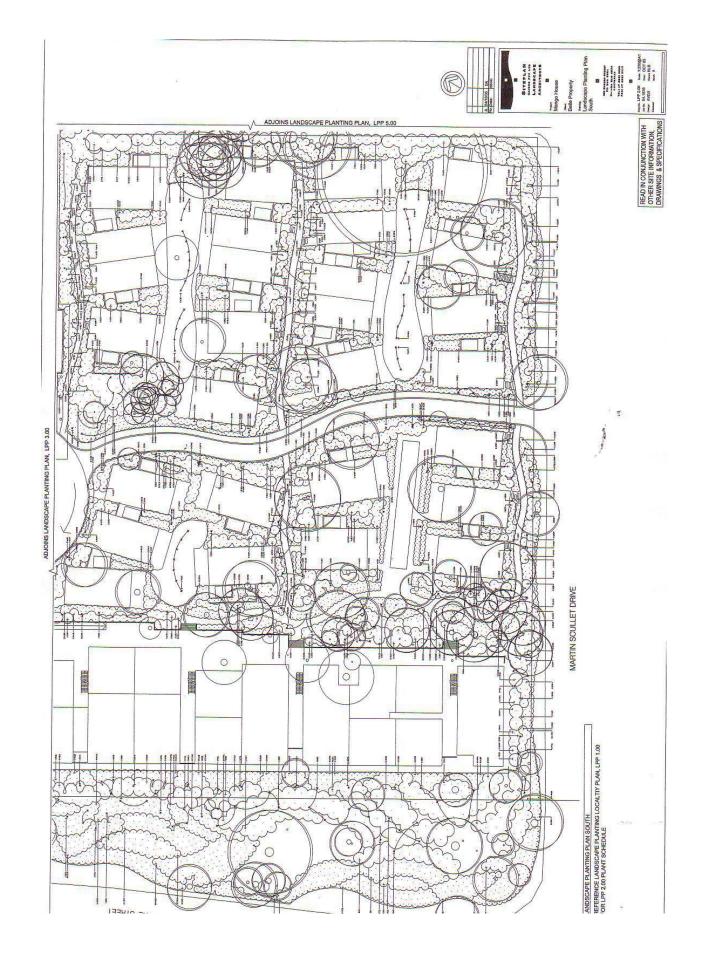
PROPOSED NEW ROAD ELEVATION (REFER DRAWING TP-10) xxxxxxxx

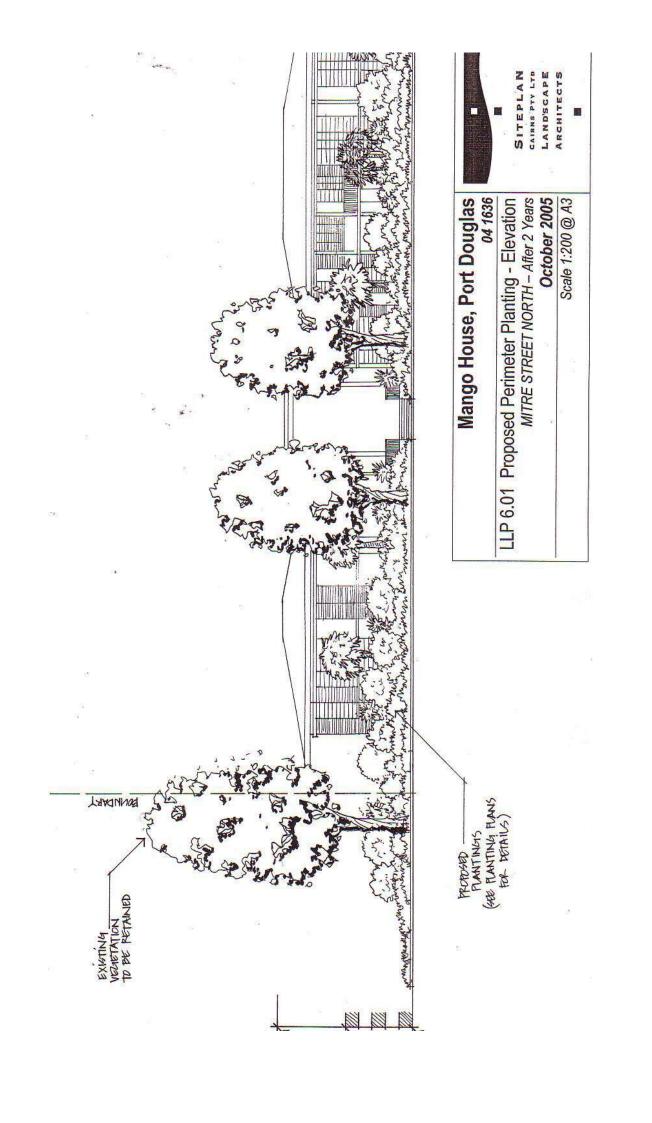


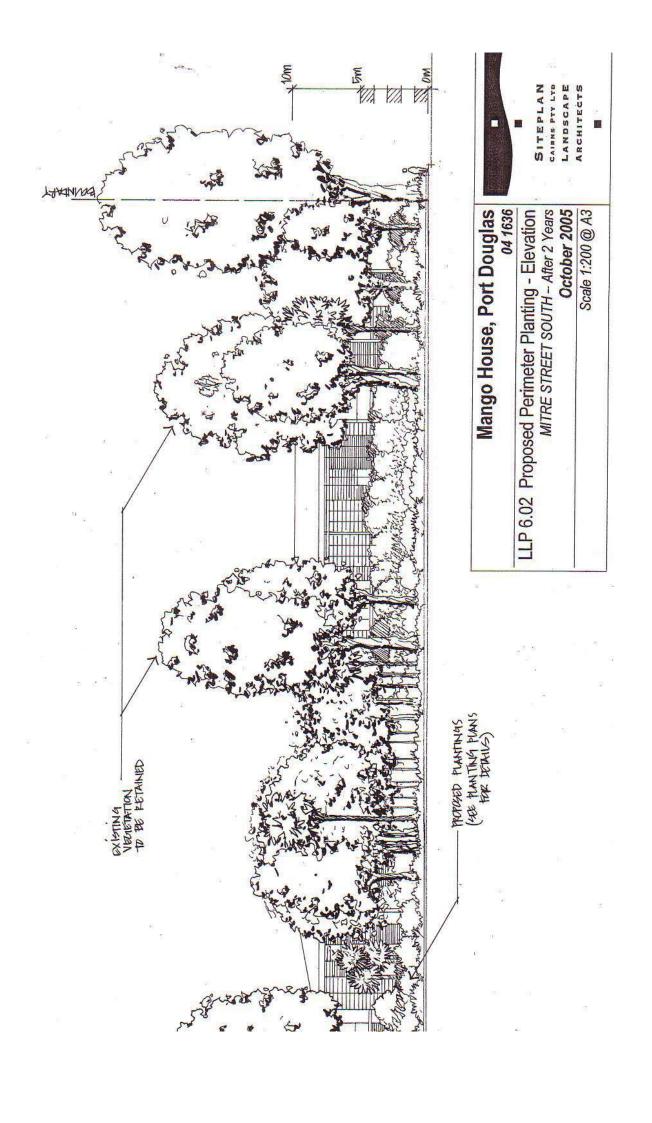


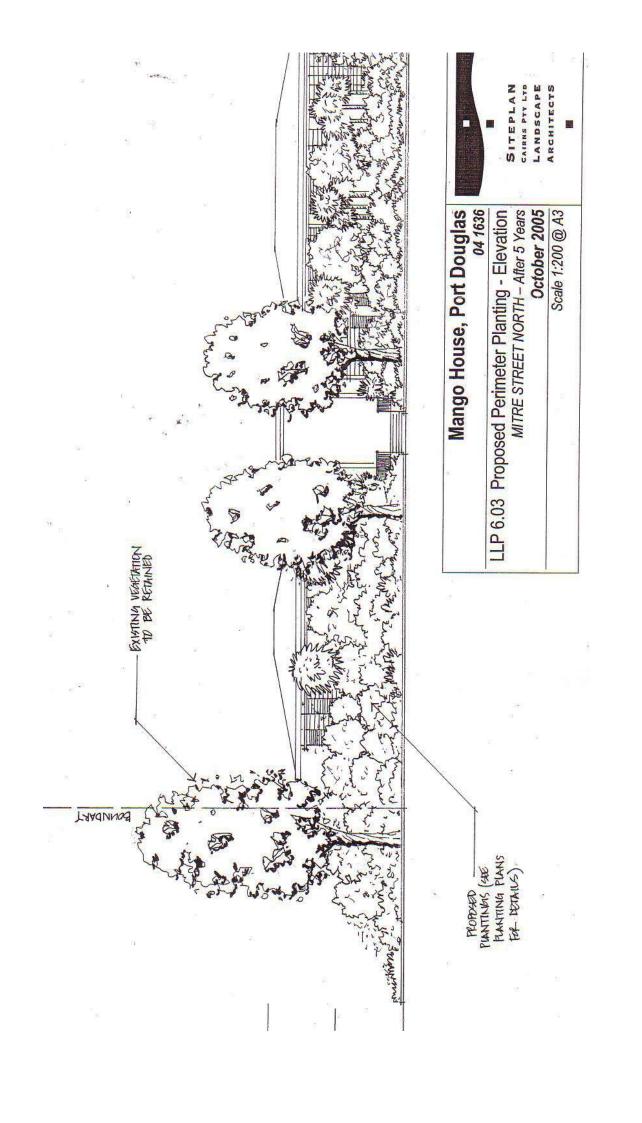


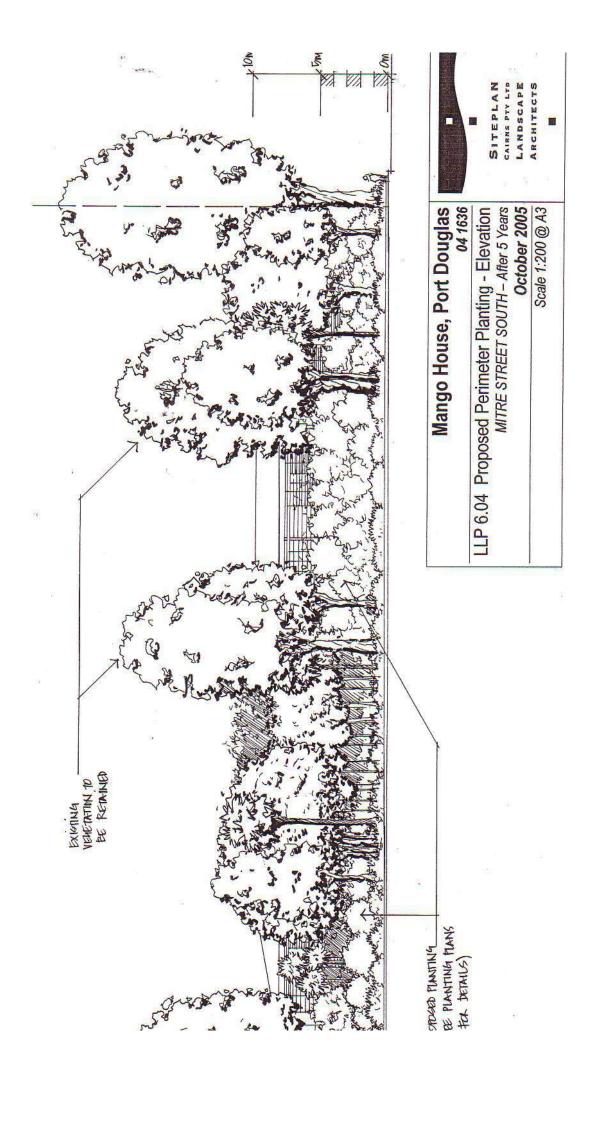












Author Ian Sinclair File / Ref number ATH/006604 IA1005ATH0001 Directorate / Unit Catchment & Regional Planning Phone 40 957026

14 February 2006

Chief Executive Officer Douglas Shire Council PO Box 357 Mossman 4873

**Attention Paul Gleeson** 

Dear Paul

# APPLICATION FOR RECOFIGURATION OF LOTS 1, 2 & 6 C22853 BELLE PROPERTY MANGO HOUSE PTY LTD

The material provided on the 21 October 2005 has been reviewed by officers of this Department and generally the approach taken is satisfactory. It is recommended that the following conditions be applied to the application:

- ➤ That the Golders Associates acid sulfate soil management plan ref 05673000-17(A) be adopted.
- ➤ That the bunding of any material should be as per section 8.3.6 Treatment Pad design in the Queensland Acid Sulfate Soil Technical Manual Management guidelines 2002 by Dear et al.

Yours sincerely

Ian Sinclair Senior Resource Planning Officer



DOUGLAS SHIRE COUNCIL

FILE NO. Combined applications CA 58

2 9 SEP 2004

#### **Facsimile Transmission**

Our ref 45/20A/102 (1500) Your ref CA 58/04

Attention

Vanessa Maruna

Planning Services Douglas Shire Council

From

Subject

Malcolm Hardy

Facsimile no

4098 2902

Douglas Shire: Captain Cook Highway

Situated at Mitre Street, Port Douglas Lots 1, 2 & 6 on C 2253, Parish of Salisbury Belle Property Mango House Pty Ltd

Proposed Material Change of Use (106 Multiple Dwelling (Tourist) units,

ATTENTION

INFORMATION

Restaurant/ Bar & 4 Dwelling Houses) & Reconfiguration of Lot (5

Allotments & Common Property) Application Referral Agency's Response (no requirements)

No of pages

1 (including cover sheet)

#### I refer to:

- the above application received at this office on 18 August 2004 requesting consideration of the above development,
- the Department's letter of 27 August 2004 advising of no requirements, and
- · further application material received at this office on 28 September 2004, including a copy of the Amended Acknowledgement Notice dated 22 September 2004.

I wish to advise that the DMR Referral Agency Response of 27 August 2004 remains valid for the application, except that the Queensland Department of Roads is an advice agency for the purposes of the assessment of the application, and not a concurrence agency as indicated in that letter.

Malcol Malcolm Hardy

Senior Planner

Copy to Owen Caddick-King, C&B Group, fax 4031 2942 (Your Ref 8243)

IMPORTANT NOTICE CONFIDENTIALITY AND LEGAL PRIVILEGE

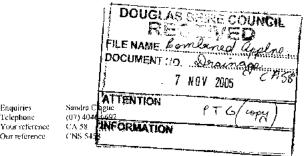
IMPORTANT NOTICE CONTINUE TO THE LOSAL PROVIDED.

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Enquiries MALCOLM HARDY Talephone +61 7 4050 5511 Facsimile +61 7 4050 5438

ABN 57 838 727 711

TOTAL P.01





**Environmental Protection Agency** 

Incorporating the Queensland Parks and Wildlife Service

4 November 2005

Enquiries

Chief Executive Officer Douglas Shire Council PO Box 357 MOSSMAN OLD 4873

Attention: Mr Paul Gleeson

Dear Sir

#### Mango House proposal - Mitre Street, Port Douglas Re:

This Agency is in receipt of the response to the information request regarding the application for a reconfiguration of a lot (3 into 5) and MCU for 106 multiple dwellings (tourist) and ancillary guest facilities and preliminary approval for a dwelling house on each of proposed lots 1-4 on land at Mitre Street, Port Douglas, lots 1-2 and 6 on C2253.

This response raises matters of concern in relation to drainage works in the coastal management district (CMD) and proposed development within the erosion prone area. The boundary of the CMD is the eastern boundary of lot 6 with the erosion prone area extending into this lot.

In the stormwater drainage plan, drawing CO1, a discharge location on the eastern boundary of lot 6 is identified as draining to a sump in the CMD and then into the natural drainage across the beach. Pollution control structures and sumps should be contained within the property boundaries and any drainage works, including any disturbance of sand or soil in the CMD, will require approval as operational works on State land above high water mark. The impact on the foreshore vegetation and dunes of the proposed increased discharge of stormwater, and the works required to accommodate this, will be subject to rigorous assessment.

The proximity of the site to the coast will require that the quality of all stormwater exiting the site meet the water quality objectives as specified in the response document. The under-building car park areas could potentially accumulate water contaminated with hydrocarbons. Any system installed to remove water from these areas must incorporate adequate pollution controls.

Drawing MP01 indicates swimming pools in the erosion prone area. The state policy (2.2.2) in relation to development on erosion prone areas, which must be considered by Council, is that "To the extent practicable, erosion prone areas are to remain undeveloped apart from temporary or

Page 1 of 2

5B Sheridan Street Carris Queensland 4870 Australia PO Box 2066 Carros Queens and 4870 Australia Telepkone 40 46 6601 Facsimile 40 46 6604 Website www.epa.qid.gov.au ABN 87 221 158 786

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relocatable structures for safety and recreational purposes". Accordingly, it is recommended that Council not approve the proposed swimming pools within the erosion prone area.

Should you have any queries concerning this matter, please contact Ms Sandra Clague on telephone  $40\,46\,6697$ .

Yours sincerely

Gary Innis

Manager Environmental Planning

# Division 8 – Appeals to court relating to development applications

# Appeals by applicants

- **4.1.27.** (1) An applicant for a development application may appeal to the court against any of the following:-
  - (a) the refusal, or the refusal in part, of a development application;
  - (b) a matter stated in a development approval, including any condition applying to the development, and the identification of a code under Section 3.1.6;66
  - (c) the decision to give a preliminary approval when a development permit was applied for;
  - (d) the length of a currency period;
  - (e) a deemed refusal.
  - (2) An appeal under subsection (1)(a) to (d) must be started within twenty (20) business days (the "applicant's appeal period") after the day the decision notice or negotiated decision notice is given to the applicant.
  - (3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

# Integrated Planning

# Division 10 - Making an appeal to court

How appeals to the court are started

- **4.1.39** (1) An appeal is started by lodging written notice of appeal with the registrar of the court.
  - (2) The notice of appeal must state the grounds of the appeal.
  - (3) The person starting the appeal must also comply with the rules of the court applying to the appeal.
  - (4) However, the court may hear and decide an appeal even if the person has not complied with subsection (3).