

**YOUR REF:** PR128488/OLD/AF/L75836  
**OUR REF:** MCUI 1232/2015 (789710)

22 SEPTEMBER 2016

Mossman Canegrowers Limited  
C/- RPS Australia East Pty Ltd  
PO Box 1949  
**CAIRNS QLD 4870**

Attention: Mr Owen Dalton

Dear Sir

**NEGOTIATED DECISION NOTICE UNDER S 361 SUSTAINABLE PLANNING  
ACT 2009: DEVELOPMENT APPLICATION FOR 5 MOSSMAN STREET & 2  
MILL STREET, MOSSMAN**

With reference to the abovementioned Development Application, for which a Negotiated Decision was determined by Council at the Ordinary Meeting held 20 September 2016, please find attached the relevant Negotiated Decision Notice.

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

Should you have any enquiries in relation to this Negotiated Decision Notice, please contact Neil Beck of Development Assessment and Coordination on telephone number 07 4099 9451.

Yours faithfully

Nick Wellwood  
General Manager Operations

Att

**APPLICANT DETAILS**

Mossman Canegrowers Limited  
C/- RPS Australia East Pty Ltd  
PO Box 1949  
CAIRNS QLD 4870

**ADDRESS**

5 Mossman Street MOSSMAN & 2 Mill Street

**REAL PROPERTY DESCRIPTION**

Lot 50 on RP706250 & Lot 51 on SP113404

**PROPOSAL**

Display Facilities (Hardware Store)

**DECISION**

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

**DECISION DATE**

20 September 2016 (This Negotiated Decision Notice replaces the Decision Notice dated 17 May 2016).

**TYPE**

Material Change of Use (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

**SUBMISSIONS**

There were two (2) properly made submissions and one (1) not properly made.

Diana Abiad	7 Mossman Street	Mossman QLD 4873
Darryl & Margaret Parker	8 Junction Road	Mossman QLD 4873
Lisa Shanahan (not properly made)	9 Mossman Street	Mossman QLD 4873

**FURTHER DEVELOPMENT PERMITS REQUIRED**

Development Permit for Operational Work

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

None

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

Not in conflict

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

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

Drawing or Document	Reference	Date
On-Street Parking & Swept Path	PR128488-2 Issue A	9 September 2015

**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 no later than 6 months from the date the Development Permit takes effect except where specified otherwise in these conditions of approval or extended by the Chief Executive Officer. Any request to extend the time must be made prior to the end date and must be made in writing and addressed to the Chief Executive Officer.

**Operational Works**

3. An Operational Works Approval is required for the site works, concrete surfacing or sealing of hardstand areas and storage areas, drainage and external works associated with the development.

A Statement of Compliance must be provided for the Operational Works Application as required by the FNQROC Development Manual (refer Appendix A of Application Procedures (AP1)).

All plans submitted to Council must be certified by a suitably qualified and experienced registered professional engineer of Queensland (RPEQ) as required by the FNQROC Development Manual and conditions of this Development Permit.

The works must be constructed in accordance with the endorsed plan to the satisfaction of the Chief Executive Officer.

**Roads and Paths**

4. The applicant must provide supporting information including existing and finished surface contours to demonstrate that the proposed access to be provided from Junction Street does not create a nuisance or impede access to the existing access to Lot 97 on SR836110.

5. The applicant must provide an updated traffic assessment for the proposed development identifying the impact of the development on the existing transport network (including a consideration of likely impacts on the road network, the public transport network, freight movements, pedestrians and cyclists); In particular, the report must specifically address: -

- a. Updated swept path diagrams of the access and egress points of the development for the design vehicle for the finalised design layout. Plans showing the swept path diagrams for entry, exit and circulation within the proposed development for the nominated design vehicle(s) are to be provided.

Compliance with the requirements of AS2890.1 and AS 2890.2. A suitably qualified and experienced RPEQ must be required to certify that the proposed plans comply with these identified Australian Standards, and the FNQROC Development Manual.

- b. Any mitigation measures required to ameliorate the effects of the proposed development with indicative timings nominated. Specific consideration must be given to the mitigation measures to be provided for any impacts from Junction Road access (access to the site and Lot 97 on SR836110), on and off – street parking considering the required geometry to access the site), and similarly, impacts of the development which are shown to occur on Mossman Street must also be ameliorated with additional on-street parking provided;
- c. Traffic controls required for Mossman to control the parking to ensure the carriageway remains clear to facilitate the exit movement;
- d. The traffic study is to consider parking, access, ramping, pedestrian conflicts and movements and cyclists.

The traffic assessment must be to the satisfaction of the Chief Executive Officer. The Operational Works application must detail the proposed on-street works associated with the point to the development from Mossman Street which is consistent with the findings and recommendations of the traffic assessment.

### **Heavy Vehicle Access & Unloading & Loading of Vehicles**

6. All heavy vehicles accessing the site must do so via Junction Road. Gates are to be installed on the Junction Road access and are to be closed to prevent general vehicle access to site.

All unloading and loading of vehicles must be undertaken on-site at all times.

### **External Works**

7. Undertake the following works external to the land at no cost to Council:
- a. Provision of concrete crossovers and aprons for all points of entry and egress in accordance with FNQROC Development Manual Standard Drawings for commercial crossover. The extent of the crossovers is to be minimised where possible to limit the conflict with pedestrians utilising the roadway verge;

**DECISION NOTICE DETAILS**  
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Consideration is to be given to commencing the left turn associated with exit manoeuvre for the semi-trailer within the site to minimise the apron width and the carriageway encroachment on Mossman Street.

The extent of crossovers proposed is to be substantiated with the swept path diagrams for the design vehicle at each point of entry or egress.

Note: The maximum grade for a cross-over is 2.5% and the new cross-over must not interfere with existing footpath formation.

- b. Confirm clearance to existing power poles for the swept path of the design vehicles having regard to the proposed ingress and egress points of the site. This may determine if further works are required to the electrical reticulation system and poles;
- c. Replacement of the displaced on street parking with additional parking on the western side of Mossman Street to the satisfaction of the Chief Executive Officer as follows:
  - (i) Replace displaced Angled angled parking generally as shown on the RPS Drawing PR128488-2 Issue A dated 26 November 2015. The number of spaces to be replaced will be determined at the time of seeking Operational Works approval for on-street works. except that the northern extent must be for the full frontage of the development (generally aligning with the northern boundary of Lot 15 on RP706250;
  - (ii) The parking is to be angled parking and is to be imperviously sealed and line-marked;
  - (ii) The parking must be graded to drain back to a new FNQROC Type 1 concrete invert to be provided at the current kerb location;
  - (iv) Where required to protect existing trees including their roots, construct tree guard around the existing trees in the road reserve;
- d. Repair the existing damaged kerb and channel commencing approximately 3m south from the southern entry/exit and extending to tie into the driveway to adjacent lot 49 on RP706250. These sections of kerb having been damaged by previous entry, exit and unloading operations associated with the use of this site.
- e. Repair any damage to footpaths, verges or roadway (including removal of concrete slurry from footways, roads, kerb and channel and stormwater gullies and drain lines) that may occur during and works carried out in association with the construction of the approved development;
- f. Suitable traffic and parking signs are to be located along Mossman Street to control parking and keep the carriageway free for the exit manoeuvre. The signage is to be in accordance with MUTCD and to the satisfaction of Council.

The external works outlined above require operational works approval. The works must be endorsed by the Chief Executive Officer prior to commencement of such works. Such work must be constructed in accordance with the endorsed plan to the satisfaction of the Chief Executive Officer.

## **Earthworks**

8. Earthworks and/or ramping required to provide access to and from the property must be created within the bounds of the property unless otherwise approved by Council. Ramping of the access in the public road reserve steeper than 5% is not supported.

The concrete footpath cross fall must not exceed 2.5% as required under the access codes.

## **Landscaping Plan**

9. The site must be landscaped in accordance with details included on a Landscaping Plan. The Landscaping Plan must show:
- a. a 2-metre-wide landscaped buffer adjacent the northern and eastern boundary of the site;
  - b. Nominate the plant species to be used and planting densities in order to achieve screening of the development from adjoining properties over time;
  - c. Detail ground preparation and removal of potential contaminated soils associated with concrete surfacing works. The soil must be well prepared (not compacted) and fertilized with organic fertilizers to encourage strong growth;
  - d. The selection of plant species to ensure the integrity of the retaining wall adjacent the eastern boundary is not compromised;
  - e. Species to have regard to Council's Planning Scheme Policy No.7 Landscaping;
  - f. Detail the extent and height of the screen fence to be provided. The top of the fence must have the same reduced level and be designed in consultation with adjoining property owners with respect to the overall height of the fence.
  - g. Inclusion of any other relevant conditions included in this Development Permit. A copy of this Development Approval must be given to the applicant's Landscape Architect/Designer.

The Landscape Plan must accompany the application for Operational Works and be endorsed by the Chief Executive Officer. All landscaping works must be undertaken in accordance with the endorsed plan and maintained at all times to the satisfaction of the Chief Executive Officer.

10. Details of the proposed retaining walls and the interface between the proposed concrete hardstand surfacing must be provided with the operational works application. This must include section through the wall, landscaped buffer and into existing properties to enable the relative levels and interface to be assessed.

The landscaped buffer on the northern boundary is to be a minimum of 2m wide and must include a solid screen fence.

Structural Certification must be required for any new or existing retaining walls over 1.0m in height. The certification must include consideration of the additional loading

which may be applied to the wall as a consequence of the design vehicle for the site.

### **Protection of Landscaped Areas from Parking**

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

### **Stormwater**

12. The applicant must demonstrate how the proposed development is able to convey the stormwater run-off to a lawful point of discharge – as required by the principals of QUDM and the FNQROC Development Manual (D4.04 Cl.2).
13. The size and extent of the existing stormwater infrastructure must be identified and assessed for compliance with the principals of QUDM and the Council's FNQROC Development Manual (D4.04 Cl.4, 5 and 6). A plan of works must be submitted with the application for Operational Works.

Such works must be constructed in accordance with the endorsed plan to the satisfaction of the Chief Executive Officer.

### **Drainage Study of Site**

14. Undertake a local drainage study on the subject land to determine drainage impacts on downstream properties and the mitigation measures required to minimise such impacts. In particular, the post-development discharge of stormwater from the subject site must have no worsening effect on the drainage of upstream or downstream properties. The study must also identify the need and location of any drainage easements to convey stormwater to the lawful point of discharge. The drainage study must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works with such works being undertaken in accordance with the endorsed study.

### **Inspection of Existing Stormwater Drainage**

15. CCTV inspections of existing stormwater drainage must be undertaken prior to commencement of works on site and a condition report provided to Council as supporting information to the application for Operational Works for the concrete hardstand and storage areas.

The condition report must identify the age, material type, class of pipe and cover. An assessment of the proposed loads and the pipes ability to carry those loads must also be provided. This must include loads from construction equipment when pipe cover may be compromised.

Further CCTV inspections of the stormwater drainage must be undertaken at works completion and a condition report provided to Council. Defects must be rectified to the satisfaction of the Chief Executive Officer at no cost to Council.

### **Amalgamation of Lots Required**

16. A Plan of Survey must be prepared amalgamating Lot 50 and Lot 51 into one allotment. The Plan of Survey must be registered with the Department of Natural Resources and

Mines and a new certificate of title issued at the applicant's/owner's cost.

### **Drainage Easements**

17. Create a Drainage Easement having a minimum width of 3 metres along the entire length of the existing drainage line within the site must be provided. A copy of the easement documents must be submitted to Council for approval.

The approved easement documents must be lodged and registered with the Department of Natural Resources & Mines at the same time as the amalgamation of Lot 50 & Lot 51.

### **Lawful Point of Discharge**

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

### **Sediment and Erosion Control**

19. Soil and water management measures must be installed / implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the *Environmental Protection Act 1994*, and the FNQROC Development Manual).

### **Inspection of Sewers**

20. CCTV inspections of sewers must be undertaken both prior to commencement of works on site and at works completion where works have been undertaken over or to sewers. Defects must be rectified to the satisfaction of the Chief Executive Officer at no cost to Council.

### **Damage to Council Infrastructure**

21. In the event that any part of Council's existing; sewer, water, road, or drainage infrastructure is damaged as a result of construction activities occurring on the site or adjoining road, the applicant/owner must notify Douglas Shire Council immediately of the affected infrastructure and have it repaired or replaced at no cost to Council.

### **Noise Nuisance & Traffic Impact Mitigation Measures**

22. Operational aspects of the approved development must be undertaken in accordance with the following requirements: -
  - a. Delivery and loading of goods are only permitted to occur between the hours of 7.00am and 7.00pm Monday to Saturday (excluding public holidays), whilst loading of goods is permitted on Sundays only between the hours of 8.00am and 1.00pm.
  - b. Noise generated by activities on the site must be mitigated and managed to ensure that the environmental values for noise sensitive receptors (e.g. dwellings) are achieved, as per section 7 of the Environmental Protection (Noise) Policy 2008.



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- c. The delivery of goods to and from the site must be co-ordinated to avoid delivery trucks arriving at the site prior to times stated in Item (a) above and to avoid multiple trucks arriving at the site at the same time.

**Lighting**

23. All lighting installed upon the premises including car parking areas must be certified by Ergon Energy (or such other suitably qualified person). The vertical illumination at a distance of 1.5 metres outside the boundary of the subject land must not exceed eight (8) lux measured at any level upwards from ground level.

**REFERRAL AGENCY CONDITIONS & REQUIREMENTS**

Referral Agency	Referral Agency Reference	Date	Council Electronic Reference
State Assessment & Referral Agency (Department of Infrastructure, Local Government & Planning)	SDA-0216-028001	10 March 2016	#769399

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

**ADVICE**

1. This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of sections 339 and 341 of the *Sustainable Planning Act 2009*.
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. Further noise mitigation and amenity concerns can be improved through investigating operational aspects of the activity being undertaken onsite. Examples of noise mitigation measures include:
  - Replacing tonal reversing beepers with directional broadband noise emitters or other non-auditory alarm signals.
  - Ensuring the layout of the loading/delivery area encourages only forward movement of vehicles attached with reversing beepers or other auditory alarms.

- Locating noise generating equipment in places with less potential for impacting noise sensitive receptors.

#### **LAND USE DEFINITIONS\***

In accordance with the Douglas Shire Planning Scheme 2006, the approved land use of Display Facilities is defined as:

Means the use of premises for the display, hire or sale, by retail or by auction, of goods such as:

- Building and construction materials with or without hardware;
- garden supplies including plants, tools, garden furniture and equipment and other products for use in gardening and Landscaping;
- vehicles including cars, trucks, motor cycles, boats, caravans and trailers;
- produce, animal fodder and farming goods and equipment.

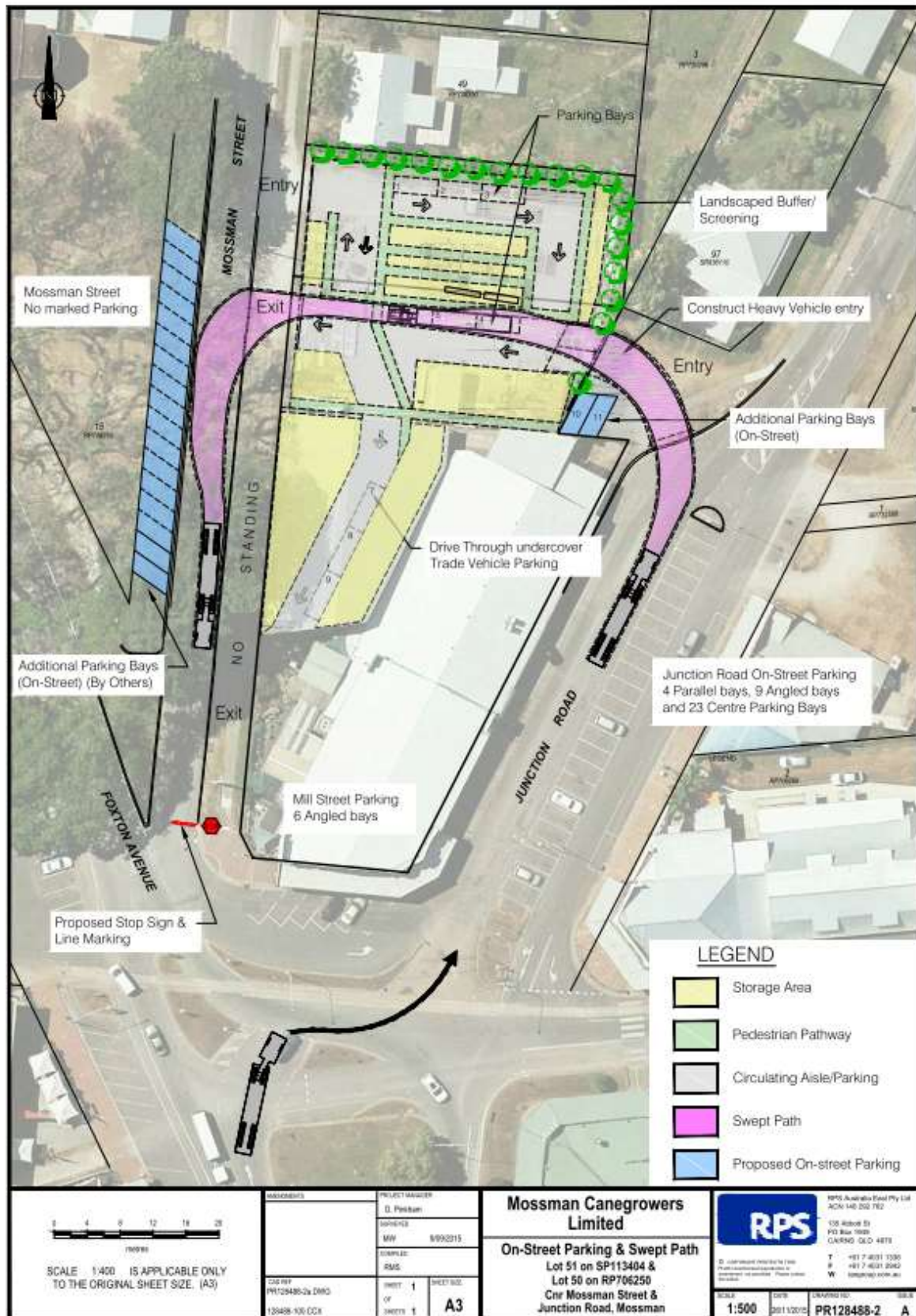
#### **RIGHTS OF APPEAL**

Attached

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**End of Decision Notice**

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



## Application details

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Department of Infrastructure,  
Local Government and Planning

Our reference: SDA-0216-028001  
Your reference: MCUI 1232/2015

10 March 2016

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

Att: Jenny Elphinstone

Dear Sir / Madam

### Concurrence agency response—with conditions

Development application for material change of use for display facilities (hardware store) on land located at 5 Mossman Street and 2 Mill Road, Mossman and described as Lot 50 on RP706250 and Lot 51 on SP113404

(Given under section 285 of the *Sustainable Planning Act 2009*)

The referral agency material for the development application described below was received by the Department of Infrastructure, Local Government and Planning under section 272 of the *Sustainable Planning Act 2009* on 23 February 2016.

## Applicant details

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Applicant name: Mossman Cane Growers Limited  
c/- RPS Australia East Pty Ltd  
Applicant contact details: PO Box 1949  
Cairns QLD 4870  
alex.bowen@rpsgroup.com.au

## Site details

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Street address: 5 Mossman Street and 2 Mill Road, Mossman  
Lot on plan: Lot 50 on RP706250 and Lot 51 on SP113404  
Local government area: Douglas Shire Council

## Application details

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

Proposed development: Development permit for material change of use for display facilities (hardware store)

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

Nature of Development	Approval Type	Brief Proposal of Description	Level of Assessment
Material Change of Use	Development permit	Material Change of Use for 'Display Facilities'.	Impact Assessment

#### Referral triggers

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

Referral trigger **Schedule 7, Table 3, Item 1— State-controlled road**

#### 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: Material Change of Use - Display Facilities (Hardware Store)				
On-Street Parking & Swept Path (as amended in red)	RPS	26/11/2015	PR128488-2	A
Town Planning Report	RPS	18 December 2015	PR128488/OLD/AMB/L75011	-

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



For further information, please contact Joanne Manson, Principal Planning Officer, SARA Far North QLD on 4037 3228 or email [joanne.manson@dilgp.qld.gov.au](mailto:joanne.manson@dilgp.qld.gov.au) who will be pleased to assist.

Yours sincerely



Brett Nancarrow  
A/Manager (Planning)

cc: Mossman Cane Growers Limited, c/- RPS Australia East Pty Ltd, email: [alex.bowen@rpsgroup.com.au](mailto:alex.bowen@rpsgroup.com.au)

enc: Attachment 1—Conditions to be imposed  
Attachment 2—Reasons for decision to impose conditions  
Attachment 3—Further advice  
Attachment 4—Approved Plans and Specifications

Our reference: SDA-0216-028001  
 Your reference: PR128488/OLD/AMB/L75011

### Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
<b>Material Change of Use - Display Facilities (Hardware Store)</b>		
Schedule 7, Table 3, Item 1 – State-controlled road —Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the chief executive administering the Act nominates the Director-General of 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):		
<b>In accordance with approved plans</b>		
1.	<p>The development must be carried out generally in accordance with the following plans:</p> <ul style="list-style-type: none"> <li>On-Street Parking &amp; Swept Path prepared by RPS, dated 26/11/2015, Reference Drawing No PR128488-2, Issue A (as amended in red)</li> </ul>	Prior to the commencement of use and to be maintained at all times
<b>In accordance with approved report</b>		
2.	<p>The development must be generally in accordance with the Town Planning Report prepared by RPS, date 18 December 2015, Reference PR128488/OLD/AMB/L75011, in particular:</p> <ul style="list-style-type: none"> <li>Inbound deliveries from Cairns generate 1 service per week, this schedule will not change in the near future.</li> <li>Delivery vehicles must access the subject land via Junction Road only and leave the subject site via Mossman Street.</li> </ul>	Prior to the commencement of use and to be maintained at all times
<b>Wayfinding signage</b>		
3.	Signage, indicating vehicles must stop before proceeding, is to be installed at the Mossman Street / Mossman-Daintree Road (Foxton Avenue) intersection in accordance with the Department of Transport and Main Roads' Manual of Uniform Traffic Control Devices.	Prior to the commencement of use

Our reference: SDA-0216-028001  
Your reference: PR128488/OLD/AMB/L75011

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

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The reasons for this decision are:

- To ensure the development is carried out generally in accordance with the plans of development submitted with the application
- To ensure the development does not compromise the safe and efficient management or operation of the state-controlled.
- To ensure the development achieves the outcomes in 19.1 Access to state-controlled roads state code in the State Development Assessment Provisions version 1.7.



Our reference: SDA-0216-028001

Your reference: MCUI 1232/2015

**Attachment 3—Further advice**

General advice	
Ref	State Planning Policy July 2014 interim development assessment provisions
1.	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 (Part E), such Natural hazards, risk and resilience and to the extent it is relevant to the proposed development.
Ref	Advertising device
2.	<p>A local government should obtain advice from the Department of Transport and Main Roads if it intends to approve the erection, alteration or operation of an advertising sign or another advertising device that would be visible from a state-controlled road, and beyond the boundaries of the state-controlled road, and reasonably likely to create a traffic hazard for the state-controlled road.</p> <p>Note: The Department of Transport and Main Roads has powers under section 111 of the <i>Transport Operations (Roads Use Management – Accreditation and Other Provisions) Regulations 2005</i> to require removal or modification of an advertising sign and / for a device which is deemed that it creates a danger to traffic.</p>
Further development permits, compliance permits or compliance certificates	
Ref	Road access works approval
3.	<p>Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out road works on a state-controlled road.</p> <p>Please contact the Department of Transport and Main Roads on 4045 7144 to make an application for road works approval. This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p>The road works approval process takes time – please contact the Department of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>

Our reference: SDA-0216-028001  
Your reference: PR128488/OLD/AMB/L75011

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

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