

29 September 2023

Enquiries: Jenny Elphinstone
Our Ref: ROL 2022_4962/1(Doc ID 1186333)
Your Ref: ARO0188

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John Stuart William Donald
C/- Kelly Reaston Development & Property
44 McLeod Street
CAIRNS QLD 4870

Email: kelly@kellyreaston.com.au

Attention Ms Kelly Reaston

Dear Madam

**Development Application for Reconfiguring a Lot (One lot into nine lots and new road)
At 368-380 Port Douglas Road Port Douglas
On Land Described as Lot 3 on RP729037**

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

Please quote Council's application number: ROL 2022_4962/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

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

- Decision Notice
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Decision Notice

Approval (with conditions)

Given under s 63 of the Planning Act 2016

Applicant Details

Name: John Stuart William Donald
Postal Address: C/- Kelly Reaston Development & Property
44 McLeod St
Cairns Qld 4870
Email: kelly@kellyreaston.com.au

Property Details

Street Address: 368-380 Port Douglas Road Port Douglas
Real Property Description: Lot 3 on RP729037
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Reconfiguring a Lot for one lot into nine lots and new road.

Decision

Date of Decision: 29 September 2023
Decision Details: Approved (subject to conditions)

Approved Drawing(s) and/or Document(s) (To be amended as per Conditions)

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

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

Drawing or Document	Reference	Date
Layout Plan	Generally in accordance with the ARO Drawing ARO0188-SK05, dated 28 March 2023 and as amended as required by the conditions of the approval.	To be determined.

Drawing or Document	Reference	Date
FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access		
Access Crossovers	Standard Drawing S1015 Issue E	27 August 2020
Concrete driveway for allotment access	Standard Drawing S1110 Issue F	27 August 2020

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

Assessment Manager Conditions & Advices

Conditions

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Council; 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 the issue of a Compliance Certificate for the Plan of Survey, except where specified otherwise in these conditions of approval.

Street Layout and Design

3. 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. All roads must have a minimum road reserve width of an Access Street with a minimum of 15.5m width and nominate the footpath;
 - b. Realignment and provision of a two (2) metre wide footpath on Port Douglas Road that integrates the existing position approximately 20m south of the northern boundary of lot 4 on RP729037 to connect with the existing path north of the new road intersection such that sufficient pedestrian crossing is achieved over the new road considering holding vehicle queuing, safe pedestrian crossing and a natural pedestrian travel route;
 - c. Relocate the sewer alignment at the rear of Lots 6 to 9 to be setback from the boundary retaining wall in accordance with the Acceptable Solutions of MP 1.4;
 - d. The crossover and driveway requirements as per Condition 4 below;
 - e. Retaining walls and structures as per Condition 7 below;
 - f. Access for Lot 5 as per Condition 10 below; and
 - g. Intersection alignment amendment as per Condition 11 below.

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.

Crossover and Driveway to Lot 4 on RP729037

4. The access crossover and driveway to the neighbouring Lot 4 on RP729037 (as proposed on the Approved Plans) must be constructed in accordance with FNQROC Development Manual Standard Drawings S1015/1105 and S1110 to a Residential standard.

The driveway must be provided with a reinforced concrete driveway and must have a minimum width of 3.0m, extending the full length of the access leg to the allotment. It is to be splayed on the entry/exit and corner of Lot 4 on RP729037 to provide sufficient space for access for a articulated vehicle.

The constructed driveway must commence at the adjacent kerb and channel with a standard kerb crossover or at the existing edge of pavement.

Conduits for internal allotment services must be provided adjacent to the concrete driveway with the correct clearances for the full length of the driveway, unless otherwise approved.

Additionally, the applicant shall provide a concrete bin set down adjacent the kerb on the western side of the proposed driveway access for Lot 4 on RP729037. The concrete bin set down must accommodate two wheelie bins and remain a minimum of 1m clear from the driveway.

Clearance to Ergon Power Lines

5. The applicant is to confirm with appropriate site survey, the height above ground for the existing power lines. Based on the surveyed height, the applicant is to provide confirmation that the minimum clearances required by ERGON Energy are achieved within the proposed Road A road corridor.
6. Clearance to the power lines and poles for the Garbage truck is to be confirmed by the applicant and shown in the operational works application.

Retaining Walls and Structures

7.
 - a. The height of the proposed retaining wall at the rear of lots 6 to 9 is to be increased to avoid the earthworks fill batter discharging runoff to the existing lot.
 - b. the applicant needs to demonstrate the proposed batter along the southern boundary of Lots 1 to 4 (bordering Lot 4 RP 729037), and the eastern boundary of lot 4 that borders Lot 5 of the proposed development, is sufficient with appropriate drainage so as not to cause upstream, downstream or surrounding impacts to the neighbouring lots. Consideration can be given to replacing the batters with a retaining wall with runoff directed to the new road.

Retaining walls must include adequate drainage behind the top of the wall to ensure surface stormwater flows do not flow over the top of the wall but are contained in a designed system to pass the wall and include appropriate scour protection to the base of the wall.

All retaining walls or structures higher than 1 metre must be structurally certified. Where the profile or height of the wall is redesigned during structural certification, amended plan(s) must be approved by Council.

These details must be provided on the engineering plans prior to Council approval of the operational works.

Sewer Easement – Non-standard alignment.

8. Where the sewer alignment at the rear of Lots 6 to 9 is a non-standard alignment, a minimum three (3) meter wide easement is to be provided over the sewers at the rear of Lots 6 to 9 due to the zoning of the development as medium density. The easement is to be shown in the engineering drawings submitted with the operational works application and must comply with the requirements of the FNQROC Development Manual.

Access to Lots

9. Vehicle access to Lots 1 and 9 is to be achieved via the access nominated from the proposed internal road, Road A. Direct vehicle access and/or an additional access crossover for Lots 1 and 9 from Port Douglas Road or any other point is not permitted.
10. Access to Lot 5 must be shown to comply with FNQROC Standards. Current plans show surface level at boundary of Lot 5 and road verge as being 4.18m and existing surface level of Lot as 3.40m.

Plans to be amended and submitted with the operational works application.

Intersection Alignment

11. The proposed intersection alignment plan must be amended to reflect the conditions provided by TMR and show the resulting clearances to existing services and trees.

The amended engineering drawings must show the Tree Protection Zone and Structural Root Zone and confirm that the works do not exceed the minimum clearances or allowable encroachments into the zones per the Australian Standards.

Any trees that will be cleared as a result of the intersection must be identified on the engineering drawings.

The intersection alignment plan is to be shown in the engineering drawings submitted with the operational works application.

Offsets of Driveway

12. The edge of a new driveway (inclusive of access aprons) must be no closer than 1.0m to any power pole, street light pole or electrical junction box.

Ramping

13. Any ramping to meet with floor/garage levels must occur within the property.
No grade change for vehicular access is permitted within the road reserve.

Reinstatement of Verge

14. All land adjacent to the driveway and/or footpath in the road verge which is disturbed as a consequence of creating the driveway, including the existing kerb and channel, footway, or roadway, must be reinstated to its pre-works condition.

Flooding

15. All new allotments must have building pads with finished surface levels 300mm above the 1% AEP defined inundation event.

Confirmation of the finished surface levels of building pads must be provided prior to Council approval of the Plan of Subdivision.

Bulk Earthworks

16. All batters must be designed to be 1 in 4 - or flatter, for batters fronting the road reserve and located wholly within private land.

All earthworks batters steeper than 1 in 2 (50%) or higher than 1.5 metres require geotechnical certification.

Earthworks plans to confirm height of batters proposed in the development prior to the issue of a Development Permit for Operational Work.

Impact on Existing Infrastructure

17. Excavation and filling must be clear of the zone of influence of public utilities, unless otherwise approved. Particular attention must be paid to the existing services in the road reserve at the proposed development frontage. The new access road works must maintain minimum coverage to the existing services and must be shown on plans prior to the issue of permit for Operational Works.

Roads and Footpaths

18. Roads and Footpaths as shown on the Approved Plan(s), must be provided with concrete infill, and be constructed in accordance with relevant design and specifications sections FNQROC Development Manual, the conditions provided by the relevant State Agency and the following:
 - a. All road and footpath works must be in accordance with relevant design and specifications sections of the FNQROC Development Manual, unless approved otherwise by Council;
 - b. The Left in – Left out median nominated by TMR must be treated with a Terracotta epoxy surface colour;
 - c. Alternative access to neighbouring lot to be in accordance with approved plans and relevant specifications in the FNQROC Development Manual, unless approved otherwise by council.
 - d. Plans must show swept paths to confirm design is sufficient for waste collection vehicle. Amendments to the plan must be provided if required to accommodate the waste collection vehicle.

Retain Footpath

19. Retain the existing footpath along the Port Douglas Road frontage except where amended to interface with the new road and neatly tie in access crossovers for the proposed access road (Road A).

Where the existing footpath is damaged as a result of the construction activities the footpath must be reinstated ensuring the same surface finish is used and there is no change in level of new and existing sections.

New Footpath

20. A minimum Two (2) metre wide footpath must be provided in the new Access Street (Road A) in accordance with FNQROC Development Manual Standard Drawing 1035D. The new section of footpath must match neatly to the existing footpath in relation to alignment and grade at the Port Douglas Road end of the development.

The footpath must be provided on the engineering plans prior to Council approval of the operational works.

Kerb Ramps

21. Create a safe pedestrian crossing point across the new internal road by constructing kerb ramps in accordance with FNQROC Development Manual Standard Drawing S1016D.

Provision for On-Street Parking

22. Within the development a minimum of 0.75 spaces per lot must be available on-street to accommodate parking in accordance with Section 4.4 of IPWEAQ Street Design Manual: Walkable Neighbourhoods. A plan demonstrating that this can be achieved giving consideration to property accesses, location of street lighting, street trees and essential infrastructure must be provided prior to the issue of a Development Permit for Operational Work.

Water Supply and Sewerage Works External

23. Undertake the following water supply and sewerage work external to the premises to connect the land to existing water supply and sewerage infrastructure:

- a. Undertake an assessment of the existing sewer capacity between the subject site and the pump station in Barrier Street.

The assessment must confirm that the proposed development can be connected to Council's sewer reticulation system without negative impact on the operation of the existing sewer network, pump station and rising main.

In particular, for each reach of the sewer (for the extent nominated above), the sewer capacity assessment must identify:

- i. existing sewer loads from the current connected catchment;
- ii. the cumulative pre-development sewage load at each node;
- iii. residual capacity in each reach of the sewer; and
- iv. Confirm the pre and post development load on the sewage pump station and rising main.

The output may be represented on a plan format summarising the findings for each reach and at the pump station.

The assessment must be certified by an RPEQ and must identify any upgrades necessary to allow connection of the proposed development.

The assessment report / summary plan must be submitted with the application for operational works. Any system upgrades must be designed and submitted for approval as part of the operational works application.

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

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

- b. Extend water infrastructure as required to connect the land to Council's existing water infrastructure at a point that has sufficient capacity to service the development. The developer's nominated point in Port Douglas Road at the frontage to the site is generally accepted, provided the connection point is readily accessible for operation and maintenance as per the following conditions:

- i. The connection location is not in close proximity to an existing oil palms or other mature tree;
- ii. The connection location allows for a thrust block to be installed and does not bear against other services in the road verge; and
- iii. The location is clear of the road carriageway and on-road cycle lanes and can be constructed without need for road closures.

The design must be prepared and certified by an RPEQ and must identify all details of fittings, thrust block size, soil bearing conditions and identify all services in the vicinity. Clearances to existing services and site features must be nominated on the design plans.

The connection design and details must be submitted with the application for operational works.

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

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

All the above work must be designed and constructed in accordance with the FNQROC Development Manual.

Water Supply and Sewerage Works Internal

24. 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 detailed hydraulic water network analysis and supporting calculations which demonstrate any required upgrades to existing water supply infrastructure and the internal design parameters set in order to ensure an adequate standard of service is achieved for each lot within the development.
- c. Provide the conduit for water supply for the full length of the access leg for existing Lot 4. The conduit does not need to be connected to Council's water supply. The conduit must be capped and staked at the road frontage of existing Lot 4 and at the end of the access leg for easy identification when a future house is constructed on this lot.

All the above works must be designed and constructed in accordance with the FNQROC Development Manual.

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

Sewer and Water Work

25. All water and sewerage works must be in accordance with Sections D6 and D7 of the FNQROC Development Manual, and must comply with the following:

- a. Provide to Council confirmation of the location of all existing sewer, water, and utility service infrastructure prior to the commencement of works on site. Any permits necessary to alter/interfere with such infrastructure or services must be obtained prior to the commencement of work and be available for Council inspection if required;
- b. Any works over or within the zone of influence of Council's existing water and sewerage infrastructure must be approved by Council prior to the commencement of the proposed works;
- c. Construction works shall include any works that may impact on existing infrastructure such as, but not limited to, mobilisation of heavy earthmoving equipment, stripping and grubbing, site filling, stockpiling of materials and installation of erosion and sediment control measures;
- d. Any direct connection to live gravity sewer mains are to be performed under the direct supervision of Council's plumbing inspector. Any connection involving trunk infrastructure or sewer rising mains will require at least six (6) weeks' notice and submission of a work methodology statement to Council with the notice;
- e. Minimum clearances between sewer mains and other services must be in accordance with the clearance requirements in the FNQROC Development Manual;
- f. Where a manhole is located in a batter, a flat area of 1.5 metre radius from the centre of the manhole must be provided. Where the manhole is located along a side or rear boundary and is on the 0.8 metre standard alignment then the flat area must be on at least three sides;

- g. Minimum clearances between water mains and other services must be in accordance with the clearance requirements in the FNQROC Development Manual in particular the minimum clearance between water mains and sewer mains must be 500mm with the sewer under the water main.

Removal of Existing Septic System

- 26. If an existing septic sewer system is located on site (including all tanks and pipework) it is to be removed from the site in accordance with any requirements under the Plumbing and Drainage Act 2018 (Qld) prior to Council approval of the Plan of Subdivision.

Site Based Stormwater Management Plan

- 27. Provide a Site Based Stormwater Management Plan (SBSMP) and associated amended design which details a stormwater point of discharge.

This document is required to report on the stormwater quantity and quality management required for the land, and must focus on, but not be limited to, the following:

- a. Nominate best practice site management procedures to control the severity and extent of soil erosion and pollutant transport and other water quality issues that may arise during the construction phase and post-construction phase;
- b. Nominate requirements for ongoing post-construction management (inclusive of responsibility) of the stormwater drainage system within the proposed development.
- c. Provide a Stormwater Supply layout Plan (the Plan) in accordance with the FNQROC Development Manual. The plan must be accompanied by supporting calculations that demonstrates how the development will be serviced. The design must be prepared and
- d. certified by an RPEQ and must identify all details manholes, stormwater pits and identify all services in the vicinity. Clearances to existing services and site features must be nominated on the design plans.

The connection design and details must be submitted with the application for operational works.

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

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

Local Drainage Study

- 28. Subject to any changes as a result of these development conditions, review and update the Local Drainage Study (ARO Engineering 25 May 2023) 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. All internal and external contributing catchment boundaries;
- b. The extent of the 1% AEP Storm tide hazard event in relation to the land both pre and post development;
- c. The extent of the 1% AEP flood hazard event in relation to the land both pre and post development;
- d. Primary and secondary flow paths for the 5, 20, 50 and 100 year ARI flood events;
- e. Identify any requirements for drainage easements;

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

The study must be certified by an RPEQ and must identify any upgrades necessary to allow connection of the proposed development to any existing stormwater infrastructure.

The assessment report / summary plan must be submitted with the application for operational works. Any system upgrades must be designed and submitted for approval as part of the operational works application.

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

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

Drainage Design

29. Design a stormwater drainage system (internal and external to the land) in accordance with section D4 of the FNQROC Development Manual to satisfactorily drain the subject land such that the upstream drainage is not adversely affected, and that the downstream drainage system is capable of adequately catering for the discharge of the modified flow produced as a result of the development.

Detailed design drawings of all stormwater infrastructure required as a result of the development are to be provided to Council for endorsement. In particular, the discharge to the drainage flow path on the proposed development frontage to Port Douglas Road, and the Council Drainage lo (lot 10) at the rear of the property.

The proposed concentrated Drainage discharge to surface at the property boundary of Lot 10 is not supported. The applicant is to review the drainage design and provide an alternative that does not result in access restrictions within Lot 10. Suitable cover to the stormwater pipes in Road A must be achieved.

The design must be certified by an RPEQ and 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.

Lawful Point of Discharge

30. All stormwater from the land must be directed to a lawful point of discharge as per the approved plan(s) such that it does not adversely affect surrounding properties or properties downstream from the development, in accordance with the Queensland Urban Drainage Manual.

Existing Creek and Drainage Areas

31. Existing creek systems and drainage areas must be left in their current state, including no channel alterations and no removal of vegetation, unless otherwise approved.

Electricity and Telecommunications

32. 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.

33. 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

34. 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 issue of a development permit for Operational Works a Rate 2 lighting scheme is to be prepared by an Ergon Energy 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 lighting scheme must show light pole locations that align with property boundaries that represent the permitted design spacing and demonstrates no conflicts with stormwater, kerb inlet pits and other services.

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

- i. Intersections;
- ii. Pedestrian Refuges;
- iii. Cul-de-sacs; and
- iv. 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 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.

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

Road Traffic Noise Attenuation

35. Where required by the relevant State Agency, provide noise attenuation measures along the common boundary between the development and Port Douglas Road.

Such measures must be constructed in conjunction with the development of the relevant stage and must be wholly contained within the development site (including footings). Specific attenuation measures must be documented as part of the Operational Work application.

The noise attenuation measures are to be certified acoustically and structurally by suitably qualified persons.

The approved works must be constructed prior to the application for Works Acceptance.

Acid Sulfate Soils Investigation

36. Prepare and provide to Council an Acid Sulfate Soils Investigation Report for the area of the proposed development. The report must be prepared in accordance with the requirements of the Planning Scheme Policy – Acid Sulfate Soils and Queensland Acid Sulfate Soils Technical Manual (QASSTM) and provided to Council prior to the issue of a Development Permit for Operational Work to commence.

Stockpiling and Transportation of Fill Material

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

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

- a. peak traffic times; or
 - 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.
38. 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

39. 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

40. Vehicular access to the site for construction and demolition purposes must be provided from Port Douglas Road only, unless authorised by the Chief Executive Officer.

Landscape Plan

41. 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 with regard to any overhead powerline constraints;
- b. Species to have regard to the Planning Scheme Policy No.7 Landscaping;
- c. 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.

Wildlife

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

Notification of Vegetation Clearing

43. Council must be notified two (2) days prior to the proposed date of commencement of any approved vegetation clearing to facilitate community awareness of such works.

Neighbouring waterway Protection

44. The common boundaries with Lot 10 RP729037 must be temporarily delineated and fenced off to restrict building access for the duration of construction activity.

Existing Creek and Drainage Systems

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

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

Provision of fencing to neighbouring lots

46. With the exception of the part of the eastern boundary to Lot 10 on RP729037, being the part of new road to the boundary of Lot 10 on RP729037, Prior to the lodgement of the survey plan for endorsement the applicant must provide a standard common property fence to all surrounding neighbouring lots. The cost of the fencing must be borne by the applicant. It is noted that in some locations, due to the provision of a retaining wall, the boundary fence will be constructed above the retaining wall.

Advices

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.
2. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with all relevant Local Laws and statutory requirements.
4. For information relating to the *Planning Act 2016*, log on to www.dsdmip.qld.gov.au. To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.

Infrastructure Charges

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

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

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

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

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

- Where the site is located within a pest quarantine area declared under section 4(1) of the *Plant Protection (Electric Ant) Quarantine Notice 2006*. The *Plant Protection (Electric Ant) Quarantine Notice 2006* places restrictions on the movement of electric ants and “high risk items” within and out of the pest quarantine area and places certain obligations and restrictions on land owners within the quarantine area. For further information on the *Plant Protection (Electric Ant) Quarantine Notice 2006* consult either the Department of Employment, Economic Development & Innovation (formerly the Department of Primary Industry & Fisheries) (21-23 Redden Street, Cairns), Council’s Land Protection or the following website: www.deedi.qld.gov.au.

Property Notations

The following notation will be placed on Council's future rates record in respect of the new lots:

Access Limitation

- Access to Lots 1 and 9 is only permitted via the internal road within the development. Dual access is not permitted.

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*.

Concurrence Agency Response

Concurrence Agency	Concurrence Agency Reference	Date	Doc ID
State Assessment Referral Agency	2210-31740 SRA	13 July 2023	1170381

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

Currency Period for the Approval

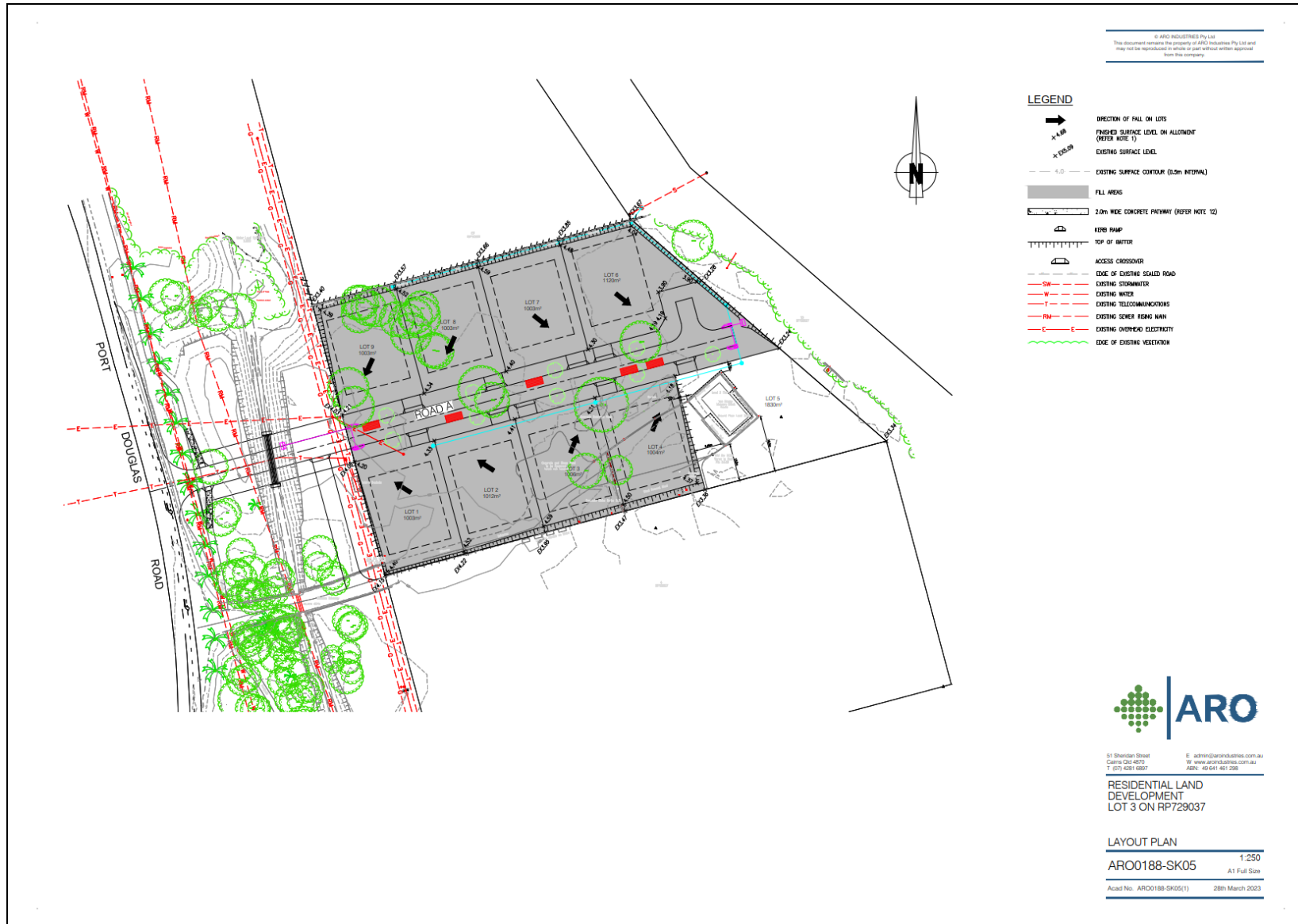
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Rights to make Representations & Rights of Appeal

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) (To be amended as per Conditions)



Concurrence Agency Conditions

RA6-N



SARA reference: 2210-31740 SRA
Council reference: ROL 2022_4962/1
Applicant reference: ARO0188

13 July 2023

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

Attention: Ms Jenny Elphinstone

Dear Sir/Madam

SARA referral agency response—368-380 Port Douglas Road and Barrier Street, Port Douglas

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

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 31 October 2022.

Response

Outcome:	Referral agency response – with conditions	
Date of response:	13 July 2023	
Conditions:	The conditions in Attachment 1 must be attached to any development approval	
Advice:	Advice to the applicant is in Attachment 2	
Reasons:	The reasons for the referral agency response are in Attachment 3	

Development details

Description:	Development permit	Reconfiguring a Lot (one lot into nine lots)
SARA role:	Referral agency	

SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 (Planning Regulation 2017) – Reconfiguring a lot near a state transport corridor. Schedule 10, Part 9, division 4, Subdivision 2, Table 3 (Planning Regulation 2017) – Reconfiguring a lot near a state-controlled road intersection. Schedule 10, Part 20, Division 4, Table 2 (Planning Regulation 2017) – Reconfiguring a lot in a wetland protection area.
SARA reference:	2210-31740 SRA
Assessment manager:	Douglas Shire Council
Street address:	368-380 Port Douglas Road and Barrier Street, Port Douglas
Real property description:	Lot 10 on RP729037 and Lot 3 on RP729037
Applicant name:	John Stuart William Donald C/- Kelly Reaston Development and Property Services
Applicant contact details:	51 Sheridan Street Cairns QLD 4870 kelly@kellyreaston.com.au
State-controlled road access permit:	This referral included an application for a road access location, under section 62A(2) of <i>Transport Infrastructure Act 1994</i> . Below are the details of the decision: <ul style="list-style-type: none"> • Approved • Reference: TMR22-038192 • Date: 28 June 2023 <p>If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at far.north.queensland.idas@tmr.qld.gov.au.</p>
<i>Human Rights Act 2019</i> considerations:	A consideration of the 23 fundamental human rights protected under the <i>Human Right Act 2019</i> has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules). Copies of the relevant provisions are in **Attachment 4**.

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

For further information please contact Belinda Jones, Principal Planning Officer, on 40373208 or via email CairnsSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc John Stuart William Donald, kelly@kellyreaston.com.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations about a referral agency response provisions
Attachment 5 - Documents referenced in conditions

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the documents referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Reconfiguring a Lot		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 (Planning Regulation 2017) – Reconfiguring a lot near a state transport corridor and Schedule 10, Part 9, division 4, Subdivision 2, Table 3 (Planning Regulation 2017) – Reconfiguring a lot near a state-controlled road intersection — The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement 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.	Stormwater infrastructure (shown in pink) and the direction of fall of the proposed lots must be carried out generally in accordance with Layout Plan prepared by ARO, dated 15 June 2023, Drawing ARO0188-SK05, Issue 2.	At all times.
2.	<p>(a) The shared road access location is to be located generally in accordance with TMR Layout Plan (6504 – 1.02km), prepared by Queensland Government Transport and Main Roads, dated 14/06/2023, Reference TMR22-38192 (500-1734), Issue A.</p> <p>(b) Road access works must reinstate a sealed property driveway access to Lot 4 on RP729037.</p> <p>(c) The road access works must be designed and constructed in accordance with the Department of Transport and Main Roads', Road Planning and Design Manual, 2nd Edition, November 2021, Volume 3 – Guide to Road Design.</p>	<p>(a) At all times.</p> <p>(b) and (c): Prior to submitting the Plan of Survey to the local government for approval.</p>
3.	<p>(a) Road works comprising of a sealed left-in / left-out property access must be provided, (at the access location) generally in accordance with TMR Layout Plan (Access Footprint), prepared by Queensland Government Transport and Main Roads, dated 22/06/2023, Reference TMR22-38192 (500-1734), Issue A.</p> <p>(b) The road works must be designed and constructed in accordance with:</p> <ul style="list-style-type: none"> • Austroads Guide to Road Design, Part 4A: Unsignalised and Signalised Intersections, 2021, Figure A 17: Auxiliary left-turn treatment (AUL(S)) on the major leg of an intersection; • Austroads Guide to Road Design Part 4A: Unsignalised and Signalised Intersections: Part 6 Traffic Islands and Medians; and • Department of Transport and Main Roads', Road Planning and Design Manual, 2nd Edition, November 2021, Volume 3 – Guide to Road Design. 	<p>(a) At all times.</p> <p>(b) Prior to submitting the Plan of Survey to the local government for approval.</p>
4.	(a) The existing shared vehicular property access located between Lot 3 and Lot 4 on RP729037 must be permanently closed and	(a) and (b): Prior to submitting the Plan of Survey to the

	removed. (b) The table drain between the pavement edge and the property boundary must be reinstated in accordance with Department of Transport and Main Roads', Road Planning and Design Manual, 2 nd Edition, November 2021, Volume 3 – Guide to Road Design, at no cost to the Department of Transport and Main Roads'.	local government for approval.
5.	<p>(a) Provide noise attenuation measures to achieve the following noise criteria for proposed Lot 1 and proposed Lot 9:</p> <ul style="list-style-type: none"> • ≤57 dB(A) L10 (18 hour) free field (measured L90 (18 hour) free field between 6am and 12 midnight ≤45 dB(A)). <p>OR</p> <ul style="list-style-type: none"> • ≤60 dB(A) L10 (18 hour) free field (measured L90 (18 hour) free field between 6am and 12 midnight >45 dB(A)). <p>(b) RPEQ certification must be provided to the Cairns Corridor Management Unit, Far North Queensland Region (Far.North.Queensland.IDAS@tmr.qld.gov.au) within the Department of Transport and Main Roads, confirming that the development has been constructed in accordance with part (a) of this condition.</p>	(a) and (b): Prior to submitting the Plan of Survey to the local government for approval and to be maintained at all times.
Schedule 10, Part 20, Division 4, Table 2 (Planning Regulation 2017) – Reconfiguring a lot in a wetland protection area — The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Environment and Science to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
6.	<p>The reconfiguration of a lot must be undertaken generally in accordance with the following plans:</p> <ul style="list-style-type: none"> • Residential Land Development Lot 3 on RP729037 – Layout Plan prepared by ARO Industries dated 28/03/2023, reference ARO0188-SK05, version 1. • Residential Land Development Lot 3 on RP729037 – Alternate Intersection Location prepared by ARO Industries dated 28/03/2023, reference ARO0188-SK06, version 1. 	Prior to submitting the Plan of Survey to the local government for approval.
7.	Untreated stormwater from the works must be diverted or bypassed around the wetland in the Wetland Protection Area (WPA).	For the duration of the work.
8.	Stormwater runoff leaving the site or discharging into the Wetland Protection Area must not exceed a maximum concentration of 50 mg/L of total suspended solids.	For the duration of the work.
9.	Earthworks and construction must only occur during May to November of the dry season.	For the duration of the work.
10.	Erosion and sediment control measures which are in accordance with the <i>Best Practice Erosion and Sediment Control (BPESC) guidelines for Australia (International Erosion Control Association)</i> , are to be	For the duration of the work.

	installed and maintained to prevent the release of sediment to the wetland buffer.	
11.	Prior to arrival on site, all vehicles and machinery is to be cleaned down in accordance with the Department of Agriculture and Fisheries <i>Queensland Vehicle and machinery checklists Clean-down procedures 2014.</i>	For the duration of the work.

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> , its regulation or the State Development Assessment Provisions (SDAP) (version 3.0). If a word remains undefined it has its ordinary meaning.
2.	<p>Mandatory Part (MP) 4.4 of the Queensland Development Code (QDC) applies to building work for the construction or renovation of a residential building in a designated transport noise corridor. MP4.4 seeks to ensure that the habitable rooms of Class 1, 2, 3 and 4 buildings located on proposed Lot 1 and Lot 9 are designed and constructed to reduce transport noise. Transport noise corridor means land designated under Chapter 8B of the <i>Building Act 1975</i> as a transport noise corridor. Information about transport noise corridors is available at state and local government offices.</p> <p>A free online search tool can be used to find out whether a property is located in a designated transport noise corridor. This tool is available at the State Planning Policy Interactive Mapping System website: https://spp.dsdip.esriaustraliaonline.com.au/geoviewer/map/planmaking and allows searches on a registered lot number and/or property address to determine whether and how the QDC applies to the land. Transport Noise Corridors are located under Information Purposes within Transport Infrastructure of the State Planning Policy (SPP) mapping system.</p>
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. Please contact the Department of Transport and Main Roads on 4045 7144 to make an application for road works approval.</p> <p>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). Please contact the Department of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>

Attachment 3—Reasons for referral agency response

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

The reasons for the SARA's decision are:

- The site has frontage to Port Douglas Road, a state-controlled road.
- Stormwater resulting from the proposed development is unlikely to adversely impact on the state-controlled road.
- The development is unlikely to compromise the safety, efficiency and operating conditions of the state-controlled road.
- The new access is of a left-in and left-out configuration adequately setback from Old Port Road intersection at the commencement of the auxiliary left-turn treatment. The new access will be a shared vehicular access to the site and adjoining Lot 4 on RP729037.
- The development is unlikely to impact the structural integrity or physical condition of the state-controlled road.
- The proposed development is unlikely to impact on the ability or cost to plan, construct, maintain or operate state transport corridors.
- The reconfiguring a lot will minimise free field noise intrusion from Port Douglas Road.
- The site is located over 70 metres from a mapped wetland.
- The proposed development is unlikely to result in an unacceptable impact on wetland environmental values and matters of state environmental significance.
- SARA has carried out an assessment of the development application against State code 1: Development in a state-controlled road environment and State code 9: Great Barrier Reef wetland Protection areas and has found that with conditions the proposed development complies with relevant performance outcomes.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 3.0), as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- section 58 of the *Human Rights Act 2019*

Attachment 4—Representations about a referral agency response provisions

(page left intentionally blank – attached separately)

Attachment 5—Documents referenced in conditions

(page left intentionally blank – attached separately)



PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE



SARA ref: 2210-31740 SRA

Date: 13 July 2023

Branch/Unit : Corridor Management / Far North District

Projection/Datum : Geocentric Datum of Australia (GDA) 2020

File ref: TMR22-38192 (500-1734)

Land parcels

Subject land

Proposed road access driveway

Proposed boundaries

State-controlled road corridor

**TMR Layout Plan
(6504 - 1.02km)**

Plan: 1 / 1

Issue: A

Drawn by:
RPK



Queensland Government
Transport and Main Roads

Date: 14/06/2023

Disclaimer: While every care is taken to ensure the accuracy of this data, Pinney Bowes Software Pty Ltd and/or the State of Queensland and/or QR Limited makes no representations or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damages) and costs which you might incur as a result of the data being inaccurate or incomplete in any way and for any reason.

Based on [Dataset - State Digital Road Network (SDRN)] provided with the permission of Pinney Bowes Software Pty Ltd (Current as at 04/1/10). [Dataset - Rail Centre Line, May 2010] provided with the permission of QR Limited and other state government datasets.



Branch/Unit : Corridor Management / Far North District
Projection/Datum : Geocentric Datum of Australia (GDA) 2020
All information is indicative only.

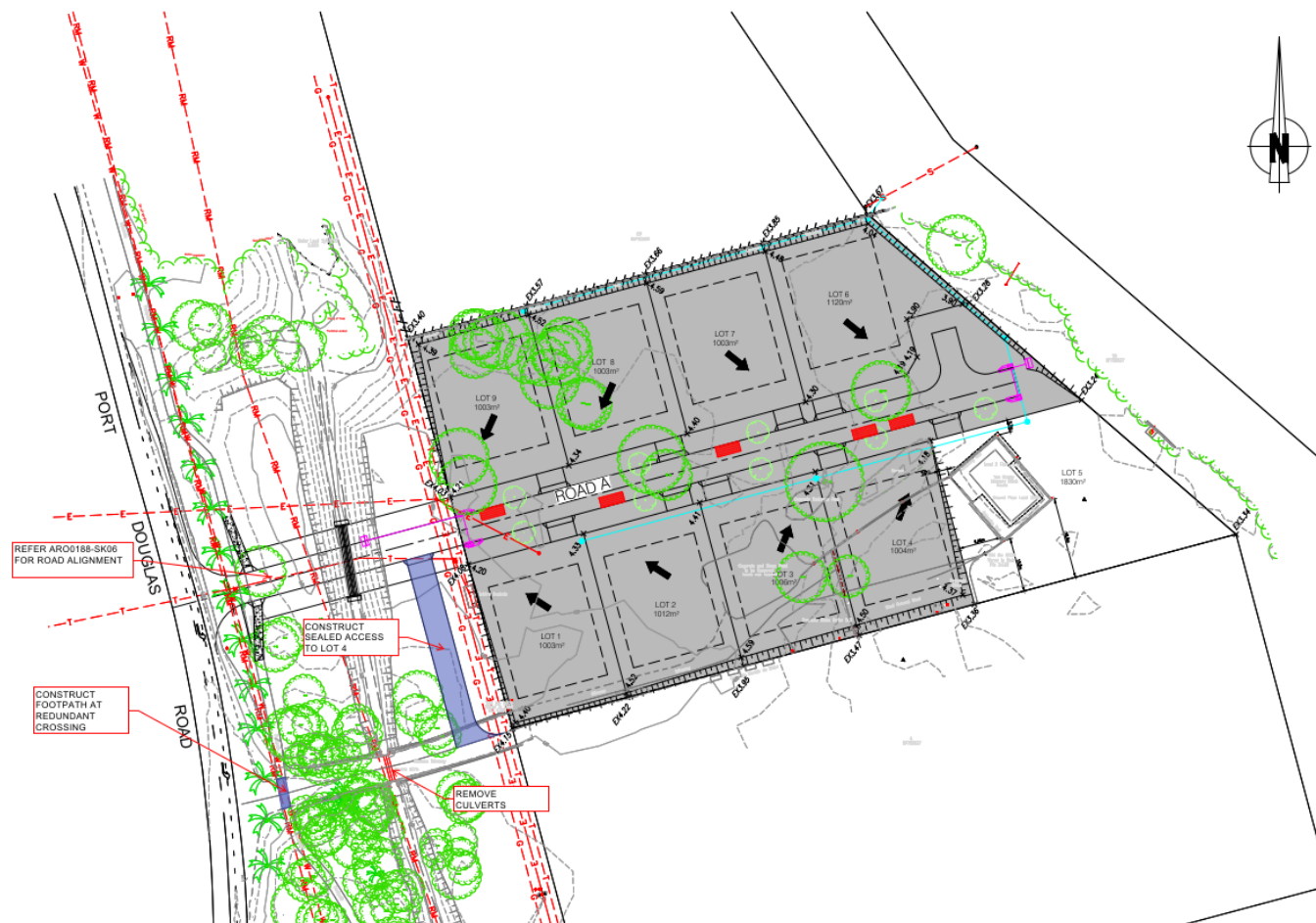
TMR Layout Plan (Access Footprint)



Queensland Government
Transport and Main Roads

Plan: 1 / 1	Issue: A	Date: 22/06/2023
Drawn by: RPK	File ref: TMR22-38192 (500-1734)	

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LEGEND

- DIRECTION OF FALL ON LOTS
- FINISHED SURFACE LEVEL ON ALLOTMENT (REFER NOTE 1)
- EXISTING SURFACE LEVEL
- EXISTING SURFACE CONTOUR (0.5m INTERVAL)
- FILL AREAS
- 2.0m WIDE CONCRETE PATHWAY (REFER NOTE 12)
- KERB RAMP
- TOP OF BATTER
- ACCESS Crossover
- EDGE OF EXISTING SEALED ROAD
- EXISTING STORMWATER
- EXISTING WATER
- EXISTING TELECOMMUNICATIONS
- EXISTING SEWER / RISING MAIN
- EXISTING OVERHEAD ELECTRICITY
- EDGE OF EXISTING VEGETATION

PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE



SARA ref: 2210-31740 SRA

Date: 13 July 2023



51 Sheldon Street
Cairns Qld 4870
T (07) 4281 6887

E admin@arindustries.com.au
W www.arindustries.com.au
ABN: 49 641 481 296

RESIDENTIAL LAND
DEVELOPMENT
LOT 3 ON RP729037

LAYOUT PLAN

ARO0188-SK05

1:250
A1 Full Size

Acad No: ARO0188-SK05(2)

15th June 2023

Our ref TMR22-038192 (500-1734)
Your ref ARO0188
Enquiries Ronald Kaden



28 June 2023

Department of
Transport and Main Roads

Decision Notice – Permitted Road Access Location (s62(1) *Transport Infrastructure Act 1994*)

This is not an authorisation to commence work on a state-controlled road¹

Development application reference number ROL 2022_4962/1, lodged with Douglas Shire Council involves constructing or changing a vehicular access between Lot 3RP729037 the land the subject of the application, Lot 4RP729037 the adjacent property, and Port Douglas Road (a state-controlled road).

In accordance with section 62A(2) of the *Transport Infrastructure Act 1994* (TIA), this development application is also taken to be an application for a decision under section 62(1) of TIA.

Applicant Details

Name and address John Stuart William Donald
C/- Kelly Reaston Development & Property Services
44 McLeod Street
Cairns QLD 4870

Application Details

Address of Property 368-380 Port Douglas Road, Port Douglas QLD 4877
Real Property Description 3RP729037
Aspect/s of Development Development Permit for Reconfiguration of a Lot for 1 Lot into 9 Lots and road

Decision (given under section 67 of TIA)

It has been decided to approve the application, subject to the following conditions:

No.	Conditions of Approval	Condition Timing
1	Proposed Lots 1 - 9 and new road The permitted road access location is approximately 90 metres from the northern boundary of Lot 3 on RP729037, in accordance with: 1. TMR Layout Plan (6504 - 1.02km) Issue A 14/06/2023	At all times.
2	Direct access is prohibited between Port Douglas Road and Lot 3 on RP729037 at any other location other than the permitted road access location described in Condition 1.	At all times.

¹ Please refer to the further approvals required under the heading 'Further approvals'

Program Delivery and Operations
Far North Region
Cairns Corporate Tower, 15 Lake Street Cairns QLD 4870
PO Box 6185 Cairns QLD 4870

Telephone +61 7 (07) 4045 7151
Website www.tmr.qld.gov.au
Email Far.North.Queensland.IDAS@tmr.qld.gov.au
ABN: 39 407 690 291

No.	Conditions of Approval	Condition Timing
3	<p>The use of the permitted road access location is to be restricted to:</p> <ul style="list-style-type: none"> a) Left-In, Left-Out vehicle movements only b) Design vehicles up to a maximum size Four Axle Truck - Class 5 Medium Length Heavy Vehicle** <p>Note: ** as described in Austroads Vehicle Classification System</p>	At all times.
4	<p>Road access works comprising:</p> <ul style="list-style-type: none"> 1. Auxiliary left-turn treatment at the road access junction, 2. Raised concrete traffic island, 3. Reinstating a sealed access (like for like) to Lot 4 on RP729037, 4. Sealing of the road access driveway to the property boundary <p>must be provided generally in accordance with:</p> <ul style="list-style-type: none"> a) Austroads Guide to Road Design Part 4: Intersections and Crossings - General Figure A 17: Auxiliary left-turn treatment AUL(S). b) Department of Transport and Main Roads Road Planning & Design Manual Part 4A: Unsignalised & Signalised Intersections, c) Austroads Guide to Road Design Part 4A: Unsignalised and Signalised Intersections Part 6 Traffic Islands and Medians d) Property Access drawing prepared by Queensland Government dated 11/2021 reference 1807 Issue B 	Prior to submitting the Plan of Survey to the local government for approval
5	<p>The existing road access works situated:</p> <ul style="list-style-type: none"> a) between Port Douglas Road and Lots 3 & 4 on RP729037, and b) at the common boundary of Lots 3 & 4 on RP729037, <p>must be permanently closed, removed and the table drain, concrete footpath and revegetated between the pavement edge and the property boundary in accordance with Department of Transport and Main Roads', Road Planning and Design Manual, 2nd Edition, November 2021, Volume 3 – Guide to Road Design, at no cost to the Department of Transport and Main Roads'.</p>	Prior to submitting the Plan of Survey to the local government for approval

Reasons for the decision

The reasons for this decision are as follows:

- a) Currently the subject site (Lot 3 on RP729037) has road frontage and vehicle access via a shared driveway with Lot 4 on RP729037 to Port Douglas Road, a state-controlled road.
- b) The proposed development intends removing the existing access, relocating it northward, still to service both lots.

- c) The proposed development is for only left-in, left-out vehicle movements to occur.
- d) Additional road works will be required to ensure that vehicles turning left into the proposed reconfiguration (1 lot into 9 lots) development including Lot 4 on RP229037 do not conflict with vehicles turning left into Old Port Road.
- e) A concrete median will be required at the access junction to ensure left-in, left-out restriction as there is no reasonable alternative option to ensure these vehicle movements are maintained.
- f) As the proposed development is seeking a new access and increasing generation, a new section 62 approval is required to be issued by TMR.

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

Information about the Decision required to be given under section 67(2) of TIA

1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
2. This decision has been based on the current land use and the historic nature of the access subject to this decision. Be advised that if the land is further developed and/or intensified, the department will reassess the access requirements in accordance with the department's policies at that time to ensure that the road safety and transport efficiency outcomes for the state-controlled road network are maximised. This may or may not require all future access to be provided via the local road network.
3. In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

Further information about the decision

1. In accordance with section 67(7) of TIA, this decision notice:
 - a) starts to have effect when the development approval has effect; and
 - b) stops having effect if the development approval lapses or is cancelled; and
 - c) replaces any earlier decision made under section 62(1) in relation to the land.
2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.
3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

Further approvals

The Department of Transport and Main Roads also provides the following information in relation to this approval:

1. Road Access Works Approval Required – Written approval is required from the department to carry out road works that are road access works (including driveways) on a state-controlled road in accordance with section 33 of the TIA. This approval must be obtained prior to commencing any works on the state-controlled road. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the department to make an application.

If further information about this approval or any other related query is required, Ronald Kaden, Technical Officer (Development Control) should be contacted by email at ron.p.kaden@tmr.qld.gov.au or on (07) 4045 7151.

Yours sincerely



Peter McNamara
Principal Engineer (Civil)

Attachments: Attachment A – Decision evidence and findings
Attachment B - Section 70 of TIA
Attachment C - Appeal Provisions
Attachment D - Permitted Road Access Location Plan

Attachment A
Decision Evidence and Findings

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version / Issue
TMR Layout Plan (6504 - 1.02km)	Queensland Government Transport and Main Roads	14 June 2023	TMR22-38192 (500-1734)	A
Layout Plan	ARO	15 June 2023	ARO0188-SK05	2
Vehicle Access to state- controlled roads policy	Queensland Government Transport and Main Roads	2019	-	-

Attachment B
Section 70 of TIA

Transport Infrastructure Act 1994
Chapter 6 Road transport infrastructure
Part 5 Management of State-controlled roads

70 Offences about road access locations and road access works, relating to decisions under s 62(1)

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
- (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
 - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
 - (c) obtain any other access between the land and the road contrary to the decision; or
 - (d) use a road access location or road access works contrary to the decision; or
 - (e) contravene a condition stated in the decision; or
 - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
 - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

Attachment C
Appeal Provisions

Transport Infrastructure Act 1994
Chapter 16 General provisions

485 Internal review of decisions

- (1) A person whose interests are affected by a decision described in schedule 3 (the **original decision**) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
 - (a) applies to the review; and
 - (b) provides—
 - (i) for the procedure for applying for the review and the way it is to be carried out; and
 - (ii) that the person may apply to QCAT to have the original decision stayed.

485B Appeals against decisions

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
 - (a) applies to the appeal; and
 - (b) provides—
 - (i) for the procedure for the appeal and the way it is to be disposed of; and
 - (ii) that the person may apply to the appeal court to have the original decision stayed.
- (4) Subsection (5) applies if—
 - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and
 - (b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

- (5) The court may order—
 - (a) the appeals to be heard together or 1 immediately after the other; or
 - (b) 1 appeal to be stayed until the other is decided.
- (6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.
- (7) In this section—

original decision means a decision described in schedule 3.

reviewed decision means the chief executive's decision on a review under section 485.

31 Applying for review

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if—
 - (a) the notice did not state the reasons for the original decision; and
 - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)the person may apply within 28 days after the person is given the statement of the reasons.
- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

32 Stay of operation of original decision

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
 - (a) may be given on conditions the relevant entity considers appropriate; and
 - (b) operates for the period specified by the relevant entity; and
 - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.
- (8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

(9) In this section—

relevant entity means—

- (a) if the reviewed decision may be reviewed by QCAT—QCAT; or
- (b) if the reviewed decision may be appealed to the appeal court—the appeal court.

35 Time for making appeals

(1) A person may appeal against a reviewed decision only within—

- (a) if a decision notice is given to the person—28 days after the notice was given to the person; or
- (b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

(2) However, if—

- (a) the decision notice did not state the reasons for the decision; and
- (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

the person may apply within 28 days after the person is given a statement of the reasons.

(3) Also, the appeal court may extend the period for appealing.

Attachment D

Permitted Road Access Location - Lot 3RP729037

Approx 45m from the northern boundary of Lot 3RP729037

GPS location x 145.468431, y -16.521976

Access Restrictions

- a) Left-In, Left-Out vehicle movements only
- a) Design vehicles up to a maximum size four axle truck
- Class 5 Medium Length Heavy Vehicle**

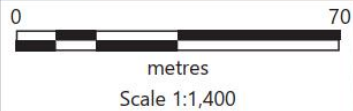
Note: ** as described in Austroads Vehicle Classification System

Road Access Junction

Approx 100m north of Old Port Road
(1.02km RHS)

Access to be permanently removed

Approx 50m north of Old Port Road
(0.97km RHS)



Branch/Unit: **Corridor Management / Far North District**

Projection/Datum: Geocentric Datum of Australia (GDA) 2020

File ref: TMR22-38192 (500-1734)

Land parcels Subject land

Proposed road access driveway Proposed boundaries

State-controlled road corridor

TMR Layout Plan (6504 - 1.02km)

Disclaimer: While every care is taken to ensure the accuracy of this data, Pitney Bowes Software Pty Ltd and/or the State of Queensland and/or QR Limited makes no representations or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which you might incur as a result of the data being inaccurate or incomplete in any way and for any reason.

Based on [Dataset - State Digital Road Network (SDRN)] provided with permission of QR Limited and other state government datasets

Reasons for Decision

1. The reasons for this decision are:
 - a. Sections 60, 62 and 63 of the *Planning Act 2016*;
 - b. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
 - c. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
 - a. the development application was properly lodged to the Douglas Shire Council 29/07/2022 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
 - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
 - a. the development triggered assessable development under the Assessment Table associated with the Medium Density Residential Zone Code;
 - b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
 - c. the applicant's reasons have been considered and the following findings are made:
 - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

Non-Compliance with Assessment Benchmarks

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

Planning Act 2016
Chapter 3 Development assessment

[s 74]

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) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
 - (iv) 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.

29 September 2023

Enquiries: Jenny Elphinstone
Our Ref: ROL 2022_4962/1 (Doc ID 1186333)
Your Ref: ARO0188

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

John Stuart William Donald
C/- Kelly Reaston Development & Property
44 McLeod Street
CAIRNS QLD 4870

Email: kelly@kellyreaston.com.au

Attention Ms Kelly Reaston

Dear Madam

**Adopted Infrastructure Charge Notice
For Development Application Reconfiguring a Lot (One lot into nine lots and road)
At 368-380 Port Douglas Road Port Douglas
On Land Described as Lot 3 on RP729037**

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 2022_4962 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

John Stuart William Donald		N/A	0
DEVELOPERS NAME		ESTATE NAME	STAGE
368-380 Port Douglas Road	Port Douglas	LOT 3 on RP729037	722
STREET No. & NAME	SUBURB	LOT & RP No.s	PARCEL No.
ROL (1 into 9 lots and new road)		ROL 2022_4962	6
DEVELOPMENT TYPE		COUNCIL FILE NO.	VALIDITY PERIOD (year)
1186335	1	Payment before commencement of use for MCU; and Prior to signing and sealing of survey form for ROL	
DSC Reference Doc. No.	VERSION No.		

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

	Charge per Use	\$ Rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
Proposed Demand						
Residential Dwelling_house	\$_per_3_or_more_bedroom_dwelling	25,314.98	9	\$227,834.82		
Total Demand				\$227,834.82		
Credit						
Existing land use						
3 or more bedroom dwelling 1 lot	\$_per_3_or_more_bedroom_dwelling	25,314.98	1	\$25,314.98		
Total Credit				\$25,314.98		
						Prior arrangement for online payment via invoicing - see below.
						Code 895 GL GL7500.135.825

Required Payment or Credit **TOTAL** \$202,519.84

Prepared by	J Elphinstone	29-Sep-23	Amount Paid	
Checked by	0	0-Jan-00	Date Paid	
Date Payable	ROL - Before the Local Government approves the plan of subdivision		Receipt No.	
Amendments		Date	Cashier	

Note:

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

Charge rates under the Policy are subject to indexing.

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

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

If you seek to pay online, please request an invoice to be issued via enquiries@douglas.qld.gov.au

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) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
 - (iv) 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
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- (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.
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- (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.

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- (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.