

3 November 2023

**Enquiries:** Daniel Lamond  
**Our Ref:** ROL 2023\_5423/1 (1193816)

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

V G Scomazzon  
C/- Aspire Town Planning  
PO Box 1040  
MOSSMAN QLD 4873

**Email:** admin@aspireqld.com

Dear Sir

**NOTICE OF DECISION  
FOR REQUEST FOR NEGOTIATED DECISION NOTICE**

Council wishes to advise that your request for a Negotiated Decision Notice has been refused. More particularly, your request to have Condition 5 of the Decision Notice (doc #1187613) amended to lower the standard of treatment for the access road to a gravel surface is refused on the following grounds:

1. The road must be sealed to provide for efficient movement of vehicles to and from the site in accordance with PO12 of the Infrastructure Works Code;
2. The standard of road construction required by Condition 5 of the Decision Notice dated 6 October 2023 is fit for purpose and is generally consistent with the prescribed standard from Planning Scheme Policy SC6.5 FNQROC Regional Development Manual.
3. The development application creates an additional independent allotment which requires formalised access to Council's road network.

The Decision Notice dated 6 October 2023 remains valid and unchanged. Please see a copy of the Decision notice attached below. Should you wish to discuss this matter further, please contact Daniel Lamond on telephone 07 4099 9444.

Yours faithfully



**For**  
**Paul Hoyer**  
**Manager Environment & Planning**

Doc: #1193816

6 October 2023

**Enquiries:** Daniel Lamond  
**Our Ref:** ROL 2023\_5423/1 (1187613)  
**Your Ref:**

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

V G Scomazzon  
C/- Aspire Town Planning  
PO Box 1040  
MOSSMAN QLD 4873

Dear Sir/Madam

**Development Application for Reconfiguring a Lot (one lot into two lots)  
At 2-28 South Arm Drive WONGA BEACH  
On Land Described as LOT: 1 SP: 292103**

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

Please quote Council's application number: ROL 2023\_5423/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully



**For**  
**Paul Hoyer**  
**Manager Environment & Planning**

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

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



## Decision Notice

### Approval (with conditions)

*Given under s 63 of the Planning Act 2016*

#### Applicant Details

Name: V G Scmazzon  
Postal Address: C/- Aspire Town Planning  
PO Box 1040  
MOSSMAN QLD 4873  
Email: admin@aspireqld.com or

#### Property Details

Street Address: 2-28 South Arm Drive WONGA BEACH  
Real Property Description: LOT: 1 SP: 292103  
Local Government Area: Douglas Shire Council

#### Details of Proposed Development

Development Permit - Reconfiguring a Lot (one lot into two lots)

#### Decision

Date of Decision: 6 October 2023  
Decision Details: Approved (subject to conditions)

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

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

Drawing or Document	Reference	Date
Proposed Lots 1 and 2	Terra Modus Plan, Drawing No. 1707-01	16 May 2023

#### Assessment Manager Conditions & Advices

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 endorsement of the Survey Plan except otherwise nominated in these conditions of approval.

### Lawful Point of Discharge

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

### Electricity Supply

4. Written evidence from Ergon Energy advising suitable arrangements have been made to provide electricity supply services to Proposed Lot 2.

Written evidence from Ergon Energy must be provided prior to endorsing the Plan of Survey.

### External Works

5. Upgrade the unconstructed road giving lawful access to Proposed Lot 2 from the property boundary to the bitumen at the intersection with South Arm Drive. The road upgrade must be to a Rural Residential Road standard but may be less in width. The need for concrete invert drains will be determined subject to design review at operational works stage.

The above road upgrade works constitute Operational Works. The Development Application for Operational Works must be provided to Council with a contour survey and a complete RPEQ certified road design for the full length of the road to be formalised.

### Further Development Permits

Not applicable

### Concurrence Agency Response

Concurrence Agency			Concurrence Reference	Agency	Date	Doc ID
State	Assessment	and	2306- 35307 SRA		2 August 2023	#1174385
Referral Agency						

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

### **Currency Period for the Approval**

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This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) 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**

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

A copy of the relevant appeal provisions is attached.

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



## IMPORTANT NOTE

This plan was prepared for Vittorio Scomazzon as a proposed reconfiguration (2 into 2 Lots) to accompany a subdivision application to the Douglas Shire Council and should not be used for any other purpose.

The dimensions, areas and total number of lots shown herein are subject to field survey and also to the requirements of Council and any other authority which may have requirements under any relevant legislation.

In particular, no reliance should be placed on the information on this plan for any financial dealings involving the land.

TerraModus Surveying Pty Ltd therefore disclaims any liability for any loss or damage whatsoever or howsoever incurred arising from any party who uses or relies upon this plan for any purpose other than as a document prepared for the sole purpose of making a subdivision application to Council and which may be subject to alteration for reasons beyond the control of TerraModus Surveying Pty Ltd.

This is not a plan of an approved subdivision.

This note is an integral part of this plan.

## NOTES

Property boundaries shown have been compiled from Queensland Government data and TOPOLIS, NSW (TOPOLIS, NSW) State of Queensland (Department of Resources) 2020.

SCALE 1:6000 A3

V. SCOMAZZON

PROPOSED LOTS 1 & 2  
AND NEW CREEK  
DIVIDING LOT 1 ON SP204110  
AND NEW CREEK ROAD

IN

CP

15-05-2020

SA

15-05-2020

1:6000

A

1707-01

PROPOSED LOTS 1 & 2

AND NEW CREEK

DIVIDING LOT 1 ON SP204110

AND NEW CREEK ROAD

1:6000

A

1707-01

TerraModus  
SURVEYING

PO Box 5006  
155 FIVE 6 RD WOOD

PH: 08 9382 0040  
ADV@TERRAMODUS.COM.AU

1707-01

## Concurrence Agency Conditions

RA6-N



SARA reference: 2306-35307 SRA  
Applicant reference: 2022-03-47 – Scomazzon  
Council reference: ROL 2023\_5423

2 August 2023

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

Attention: Daniel Lamond

Dear Sir/Madam

### **SARA referral agency response—Reconfiguring a Lot (1 lot into 2 lots) at 2-28 South Arm Drive, Wonga Beach**

(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 30 June 2023.

#### **Response**

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

#### **Development details**

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Description:	Development permit    Reconfiguring a lot (1 lot into 2 lots)
SARA role:	Referral agency
SARA trigger:	<b>Schedule 10, Part 1, Division 3, Table 5</b> (Planning Regulation 2017) – Reconfiguring a lot in a coastal management district

Page 1 of 7

Far North Queensland regional office  
Ground Floor, Cnr Grafton and Hartley  
Street, Cairns  
PO Box 2358, Cairns QLD 4870



SARA reference: 2306-35307 SRA

Assessment manager: Douglas Shire Council

Street address: 2-28 South Arm Drive, Wonga Beach

Real property description: Lot 1 on SP292103

Applicant name: Vittorio Giuseppe Scomazzon

Applicant contact details: C/- Aspire Town Planning and Project Services  
PO Box 1040  
MOSSMAN QLD 4873  
admin@aspireqld.com

*Human Rights Act 2019* considerations: Section 58 of the *Human Rights Act 2019* specifies required conduct for public entities when acting or making a decision. Sections 15 – 37 of the *Human Rights Act 2019* identifies the human rights a public entity must consider in making a decision.

This decision does not limit the above identified 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 Anthony Westbury, Planning Officer, on 40373214 or via email CairnsSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow  
Manager (Planning)

cc Vittorio Giuseppe Scomazzon, admin@aspireqld.com

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  
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 plans and specifications referenced below are found at Attachment 5)

No.	Conditions	Condition timing
<b>Reconfiguring a Lot</b>		
Schedule 10, Part 17, Division 3, Table 5, Item 1 – Reconfiguring a lot in a coastal management district —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):		
1.	<p>The reconfiguration must be carried out generally in accordance with the following plan:</p> <ul style="list-style-type: none"> <li>V.SCOMAZZON, PROPOSED LOTS 1 &amp; 2 AND NEW CREEK CANCELLING LOT 1 ON SP292103 SOUTH ARM DRIVE, WONGA BEACH prepared by TerraModus Surveying, dated 16/05/2023, drawing no.1707-01, revision A.</li> </ul>	Prior to submitting the Plan of Survey to the local government for approval.

**Attachment 2—Advice to the applicant**

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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) v3.0. If a word remains undefined it has its ordinary meaning.

### **Attachment 3—Reasons for referral agency response**

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

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**The reasons for the SARA decision are:**

The proposed development, with conditions, complies with the relevant provisions of State code 8:

Coastal development and tidal works in that:

- The proposed development will maintain coastal processes and does not increase the risk of adverse impacts on people or property from coastal erosion.
- The development does not include any physical changes to the site or coastal erosion prone areas.
- The environmental values of receiving waters will be maintained.
- Adverse impacts to Matters of State Environmental Significance (MSES) have been avoided as no building works or operational works will occur as part of the development.

**Material used in the assessment of the application:**

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the State Development Assessment Provisions (version 3.0)
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- *Human Rights Act 2019*

## **Attachment 4— Representations about a referral agency response**

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(page left intentionally blank – attached separately)

## **Attachment 5—Documents referenced in conditions**

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(page left intentionally blank – attached separately)

## 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 06/06/2023 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 Rural Zone Code and the Rural 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.

Planning Act 2016  
Chapter 3 Development assessment

[s 74]

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## **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.



6 October 2023

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

**Enquiries:** Daniel Lamond  
**Our Ref:** ROL 2023\_5423 (1187613)  
**Your Ref:**

V G Scomazzon  
C/- Aspire Town Planning  
PO Box 1040  
MOSSMAN QLD 4873

Dear Sir/Madam

**Adopted Infrastructure Charge Notice  
For Development Application Reconfiguring a Lot (one lot into two lots)  
At 2-28 South Arm Drive WONGA BEACH  
On Land Described as LOT: 1 SP: 292103**

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 2023\_5423 in all subsequent correspondence relating to this matter.

Should you require any clarification regarding this, please contact Daniel Lamond 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

DOUGLAS SHIRE COUNCIL		2018 Douglas Shire Planning Scheme version 1.0 Applications	
ADOPTED INFRASTRUCTURE CHARGES NOTICE			
V G Scmazzon DEVELOPERS NAME		0 ESTATE NAME	0 STAGE
2-28 South Arm Drive	Wonga Beach	1SP292103	157891
STREET No. & NAME	SUBURB	LOT & RP No.s	PARCEL No.
Reconfiguring a Lot (1 into 2)		ROL 2023/ 5423	6
DEVELOPMENT TYPE		COUNCIL FILE NO.	VALIDITY PERIOD (year)
#1187586	1	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)

Proposed Demand		Charge per Use	\$ Rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
Residential	Dwelling_house	\$_per_3_or_more_bedroom_dwelling	25,314.98	2	\$50,629.96		
		Less 35% for no sewer connection to the land	-8,860.24	2			
		Less 25% for not water connection to the land	-6,328.75	2	\$20,251.98		
		Total Demand			\$20,251.98		
Credit							
Existing land use							Prior arrangement for online payment via invoicing - see below.
3 or more bedroom dwelling	1 lot	\$_per_3_or_more_bedroom_dwelling	25,314.98	1	\$25,314.98		
		Less 35% for no sewer connection to the land	-8,860.24				
		Less 25% for not water connection to the land	-6,328.75		\$10,125.99		
		Total Credit			\$10,125.99		
Required Payment or Credit		TOTAL		\$10,125.99			

Prepared by	D Lamond	6-Oct-23	Amount Paid	
	N Beck	6-Oct-23	Date Paid	
Checked by				
Date Payable	ROL - Before the Local Government approves the plan of subdivision	Date	Receipt No.	
Amendments				

**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

## **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
  - (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.