

3 December 2019

Enquiries: Jenny Elphinstone
Our Ref: ROL 2019_3061/1 (Doc ID 931072)
Your Ref: FGC: 6038/01 L-EC2114

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

KS3 Pty Ltd
C/- Flanagan Consulting Group
C/ GHD
71 Stanley Street
TOWNSVILLE QLD 4810

Email: Erin.Campbell@ghd.com

Attention Ms Erin Campbell

Dear Madam

**Development Application for Reconfiguring of a Lot (1 Lot into 15 Lots)
At 20-30 Langley Road Port Douglas
On land described as Lot 5 on RP804926**

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

Please quote Council's application number: ROL 2019_3061/1 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9482.

Yours faithfully


Paul Hoyer
Manager Environment & Planning

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

encl.

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Concurrence Agency Response
 - Reasons for Decision - non-compliance with assessment benchmark.
- 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 section 63 of the Planning Act 2016

Applicant Details

Name: KS3 Pty Ltd
Postal Address: C/- Flanagan Consulting Group
C/ GHD
71 Stanley Street
Townsville Qld 4810
Email: Erin.Campbell@ghd.com

Property Details

Street Address: 20-30 Langley Road, Port Douglas
Real Property Description: Lot 5 on RP804926
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Reconfiguring of a Lot (1 Lot into 15 Lots).

Decision

Date of Decision: 3 December 2019
Decision Details: Development Permit Approved (subject to conditions).

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

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 generally the following plans together with any amendments as required by the Conditions of the approval:

| Drawing or Document | Reference | Date |
|-----------------------------|---|-------------------|
| Proposal Plan | Flanagan Consulting Group Drawing 6038-SK01 F (Council Document ID 912385). | 13 September 2019 |
| Roadworks and Drainage Plan | Flanagan Consulting Group Drawing 6038-SK02 e (Council Document ID 928437). | 12 November 2019. |
| Concept Site Grading | Flanagan Consulting Group Drawing 6038-SK05 e (Council Document ID 928437). | 12 November 2019. |
| Sewerage Reticulation Plan | Flanagan Consulting Group Drawing 6038-SK04 D (Council Document ID 928437). | 12 November 2019. |
| Water Reticulation Plan | Flanagan Consulting Group Drawing 6038-SK03 E dated 19 December 2019 and as annotated by Council (Council Document ID 930021) | 26 November 2019. |

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

Assessment Manager Conditions & Advices

Assessment Manager Conditions:

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Council; and
 - b. The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

Except where modified by these conditions of approval.

Timing of Effect

2. The conditions of the Development Permit must be effected prior to the lodgement of the Survey Plan for signing and dating, except where specified otherwise in these conditions of approval.

Access

3.
 - a. No lot is to have vehicle access to or from Solander Boulevard.
 - b. Vehicle Access to proposed Lot 9 is limited to Langley Road. No vehicle access to and from Lot 9 is permitted to the internal cul-de-sac.

Building and Structure setbacks

4. No buildings or structures are to be located within 3 m of the Solander Boulevard frontage of the site on Lots 1-4 unless otherwise approved by the Chief Executive Officer.

Street Layout and Design

5. The street layout and design is to be generally in accordance with Flanagan Consulting Group Proposal Plan 6038-SK02e dated 19 November 2019 and must comply with Queensland Streets and the FNQROC Development Manual, to the satisfaction of the Chief Executive Officer. In particular:

- a. The new internal road must have a minimum road reserve width of 14.5 metres;
- b. Langley Road must be upgraded to reflect the road form and geometry of the existing constructed Langley Road west from Andrews Close for the full frontage of the site. Unless otherwise approved, the road upgrade must include new kerb and channel, subsoil drains and road pavement to the crown of the road;
- c. The upgrade of Langley Road must include the provision of a two (2) metre wide concrete footpath along the frontage of the site including a new kerb ramp on Andrews Close;
- d. The upgrade of Langley Road must be designed to ensure that the intersection with Solander Boulevard is designed to suitable enable Council vehicle access and public pedestrian access onto Solander Boulevard;
- e. Detail of proposed retaining structure along the Solander Boulevard frontage of the site that may include a single pedestrian access for each lot fronting Solander Boulevard and must be provided prior to seeking a Development Permit for Operational Work. The retaining structure is to have regard to protection from future storm tide inundation and amenity to the neighbouring Solander Boulevard. These works are to be undertaken at the time of other civil work associated with the development.

f. Provision of a fill on each lot whereby:

- i. Fill areas for the lots are at a level to provide an immunity to a 1% storm tide event (having regard to a 0.8m sea level rise for the year 2100 or a lower level if nominated under a State Planning Policy at the time of lodgement of the application for Operational Work) and a 1% flood event.

The nominated fill level to provide immunity to the 1% AEP stormtide event is to be as per the Cairns BMT-WMB Cairns Region Storm Tide Inundation Study, Final Report and Mapping January 2013 (Council reference Doc ID: 462510) or another superseding report or individual study approved or found satisfactory to the satisfaction of the Chief Executive Officer.

Where the freeboard applied relevant to the BMT WMB report (Page 45 of the Study report) is less than the report recommendation, such lesser height must be qualified by the study author as suitable for the land to the satisfaction of the Chief Executive Officer. Alternatively, the qualification may be provided by a peer coastal engineer to the satisfaction of the Chief Executive Officer;

- ii. All fill is to drain to lawful point of discharge and must not detrimentally impact on upstream, downstream or surrounding land and/or proposed lots;
- iii. Fill areas must be suitably retained with suitably revetment protection from coastal erosion and impacts of storm tide inundation;
- v. Where the minimum fill results in an increase of ground level of 1m or greater to the neighbouring northern boundary for proposed lots 4, 5, 6 and 7, section and site plans are to be provided, for each of the adjacent lots and at least at the highest point, detailing the proposed height and proposed treatment(s) including landscaping to ensure the continued amenity of the neighbouring lots. The design is to ensure no ponding occurs to neighbouring properties and all drainage received from the neighbouring land is adequately catered for. These works are to be undertaken at the time of other civil work associated with the development;

- vi. Where the minimum fill results in an increase of ground level of less than 1m, to the neighbouring northern boundary for proposed lots 4, 5, 6 and 7, the fill may be constructed to the boundary provided no ponding occurs to neighbouring properties and all drainage received from the neighbouring land is adequately catered for;

g. All lots must provide for suitable vehicle access.

An amended plan incorporating the above requirements must be submitted prior to the issue of a Development Permit for Operational Work.

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 lodgement of a Survey Plan for signing and dating.

Water Supply and Sewerage Works Internal

6. Undertake the following water supply and sewerage works internal to the subject land generally in accordance with Flanagan Consulting Group Sketches 6038-SK03D and 6038-SK04D:

- a. Provide a single internal sewer connection to each lot in accordance with the FNQROC Development Manual;
- b. If any existing sewer connections or property connection branches are proposed to be retained, further detail is to be provided to support the condition and capacity of the connection. CCTV footage is required to confirm the suitability of the existing connections for reuse. Existing sewer connections not retained must be decommissioned.
- c. Provide a minimum 100mm (PN16, Blue Brute) diameter water main in the new cul-de-sac with a 63mm (HDPE, PN16 blue) OD loop main in accordance with the FNQROC Development Manual requirements;
- d. Provide a minimum 125mm HDPE SDR11 PN 16 road crossing connecting to the 100mm main on the southern side of Langley Road connected with Hot Tap (tapping under pressure) and under DSC water supervision. The 100mm road crossing must be on the eastern side of the new cul-de-sac;
- e. Services to be installed and tapped during the main laying, bring service into property boundary 500mm and 300mm deep, If driveways/cross overs have not been allocated then service is to be installed in the middle of block, this avoids the chance of the service being under a driveway,
- f. Provide all fittings and valving in accordance with the FNQROC Development Manual requirements; and
- g. Decommission and remove the existing AC water main along the Langley Road frontage of the site and any existing water meters or water supply connections into the site.

All the above works must be designed and constructed in accordance with the FNQROC Development Manual and generally as the annotated water reticulation plan.

Engineering design plans incorporating the above requirements must be submitted prior to the issue of a Development Permit for Operational Work.

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 lodgement of the Survey Plan for signing and dating.

Damage to Infrastructure

7. In the event that any part of Council's existing sewer / water infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to, mobilisation of heavy earthmoving equipment, stripping and grubbing, the applicant / owner must notify Council immediately of the affected infrastructure and have it repaired or replaced by Council, at the developer's cost, prior to the lodgement of the Survey Plan for signing and dating.

Acid Sulfate Soil Management Plan

8. a. Undertake an Acid Sulfate Soil sampling, investigation and analysis in the area to be affected by this development in accordance with:
 - i. the Queensland Acid Sulfate Soil Technical Manual Soil Management Guidelines version 4.0 (2014);
 - ii. the Acid Sulfate Soils - Laboratory Methods Guidelines (version. 2.1, June 2004; and
 - iii. the State Planning Policy 2017.
- b. Provide a statement to Council that
 - i. present Acid Sulfate Soils and/or Possible Acid Sulfate Soils are not present; or
 - ii. that management of present Acid Sulfate Soils and/or Possible Acid Sulfate Soils has been incorporated into an Acid Sulfate Soils Environmental Management Plan prepared in accordance with the abovementioned documents.

Identification of soils with a pyrite content in excess of the action levels will trigger a Acid Sulfate Soil Environmental Management Plan which must be prepared to the satisfaction of the Chief Executive Officer.

Where earthworks are undertaken without a Development Permit for Operational Work, the results of this investigation must be submitted to Council for approval, ten (10) business days prior to any earthworks or clearing being commenced on the site.

Where earthworks are undertaken in association with a Development Permit for Operational Work, the results must accompany such application lodged to Council.

Drainage Study of Site and drainage Design Plan

9. Undertake a local drainage study of the site to determine the drainage impacts on upstream and downstream properties and the mitigation measures required to minimise such impacts. In particular, the study must address the following:
 - a. The contributing catchment boundaries, including specifically the drainage from northern properties entering the site and discharging via surface drainage and pipe systems through proposed lot 4 and within Solander Boulevard to the east of proposed lot 4;
 - b. The extent of the 100 year ARI flood event in relation to the site both pre- and post-development;
 - d. Primary and secondary flow paths for the 5 and 100 year ARI flood events, including external flows currently discharging through the site;
 - e. Identify any requirement 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. In the absence of flood detention, the drainage study provides a concept design to limit the primary piped drainage flows entering the existing drainage system that drains to the west to no more than the pre-development flows and ensure that all overland flows are able to be conveyed to Langley Road east to Solander Boulevard to the existing drainage swale outlet near the northern property boundary on Solander Boulevard. Depth and width of flows in Langley Road east from the cul-de-sac in the minor event are to be provided in the supporting calculations for the operational works submission;
- h. Information on the proposed works and any impacts proposed at the drainage outlet from the proposed development; and
- i. Lawful point of discharge.

A plan of proposed drainage works must then be prepared to show the study outcomes and include the following considerations:

- i. Drainage infrastructure in accordance with FNQROC Development Manual except as modified under (g) above.
- ii. All new allotments shall have immunity from flooding associated with the ARI 100 year rainfall event and the 100 year storm tide event;
- iii. Where practical, all new allotments must be drained to the road frontages, drainage easements or drainage reserves and discharged to the existing drainage system via stormwater quality device(s);
- iv. Existing surface drainage along the northern property boundary must be addressed in the plan of drainage works unless otherwise approved by Council following review of the outcomes of the drainage study; and
- v. The underground drainage network to the west is to be limited to the predevelopment flows and any additional runoff is to be conveyed overland in Langley Road east to Solander Boulevard

The study and the proposed drainage works plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Work.

Access Construction

- 10. Construct a concrete driveway or other approved surface to the nominated building area located in Lot 4.

All works must be carried out in accordance with the approved plans and must be to the requirements and satisfaction of the Chief Executive Officer prior to the lodgement of the Survey Plan for signing and dating.

Demolish Structures

- 11. All structures not associated with the approved development (including disused services and utilities) must be demolished and/or removed from the subject land prior to the lodgement of the Survey Plan for signing and dating.

Stockpiling and Transportation of Fill Material

- 12. 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.

13. 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

14. 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

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

Sediment and Erosion Control

16. A sediment and erosion control plan must be submitted prior the issue of a Development Permit for Operational Works. Such plans must be installed / implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the Environmental Protection Act 1994, and the FNQROC Development Manual).

Existing Services

17. Written confirmation of the location of existing services for the land must be provided. In any instance where existing services are contained within another lot, the following applies, either:
 - a. Relocate the services to comply with this requirement; or
 - b. Arrange registration of necessary easements over services located within another lot prior to, or in conjunction with, the lodgement of a Survey Plan for signing and dating to create a lot.

Electricity Supply

18. 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 Work.

Electricity and Telecommunications

19. 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 lodgement of a Survey Plan for signing and dating.

Street Lighting

20. The following arrangements for the installation of street lighting within the proposed subdivision must be prior to the lodgement of a Survey Plan for signing and dating:
 - a. Prior to the issue of a Development Permit for Operational Work 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
- iv. LATM Devices

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.

Damage to Council Infrastructure

- 21. In the event that any part of Council's existing infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to; mobilisation of heavy construction equipment, stripping and grubbing, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced at the developer's/owners/builders cost, prior to the lodgement of the Survey Plan for signing and dating.

Landscape Plan

- 22. Undertake landscaping of the street frontages of new roads, Langley Road and Andrews Close in accordance with FNQROC Development Manual and in accordance with a landscape plan.

Where Solander Boulevard is disturbed for drainage purposes, the area is to be grassed and in a mowable condition with a maximum profile of 1:4.

The landscape plan must be to the satisfaction of 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. The revegetation of cut and fill batters;
- c. Species to have regard to the Planning Scheme Landscaping Policy;
- d. Remediation and revegetation works to be undertaken within the both the major drainage line and the drainage reserve, including any works in Solander Boulevard;
- e. 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.

The landscape plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Work. Areas to be landscaped must be established prior to lodgement of the survey Plan for signing and dating. Landscaping must be maintained for the duration of the on-maintenance period to the satisfaction of the Chief Executive Officer.

Construction Signage

23. Prior to the commencement of any construction works associated with the development, a sign detailing the project team must be placed on the road frontage of the site and must be located in a prominent position. The sign must detail the relevant project coordinator for the works being undertaken on the site, and must list the following parties (where relevant) including telephone contacts:
 - a. Developer;
 - b. Project Coordinator;
 - c. Civil Engineer; and
 - d. Civil Contractor.

Advice

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 sections 85(1)(b) and 71 of the *Planning Act 2016*.
2. This approval does not negate the requirement for compliance with all relevant Local Laws and statutory requirements.
3. 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.
4. The *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* applies to action that has, will have or is likely to have a significant impact on matters of national environmental significance.

Further information on the *EPBC Act* can be obtained from the Department of the Environment, Water, Heritage and the Arts website www.environment.gov.au/epbc EPBC Act Policy Statement 1.1 Significant Impact Guidelines Matters of National Environmental Significance (Oct. 2009).

Infrastructure Charges Notice

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 the Development Assessment Team at council for review of the charge amount prior to payment.

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

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 | Council Electronic Reference |
|---|------------------------------|-------------|------------------------------|
| State Department Manufacturing, Infrastructure and Planning | 1904-10894 SRA | 30 May 2019 | 904465 |

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

Currency Period for the Approval

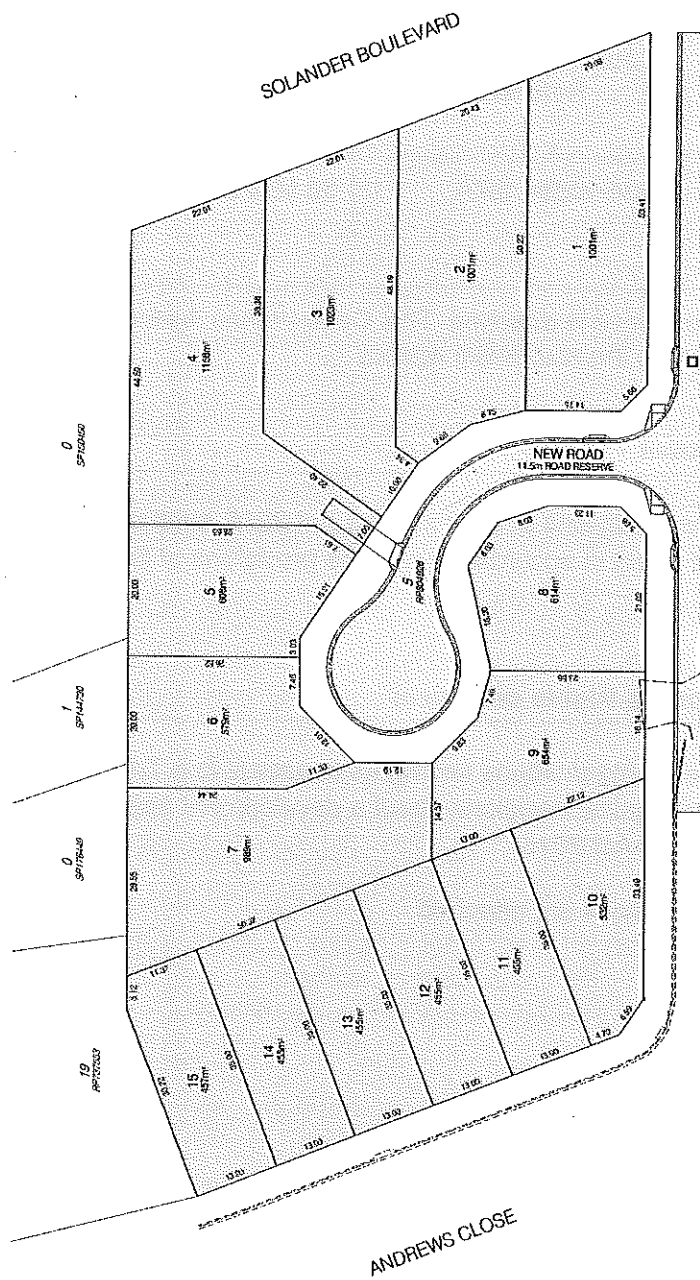
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

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 are attached.

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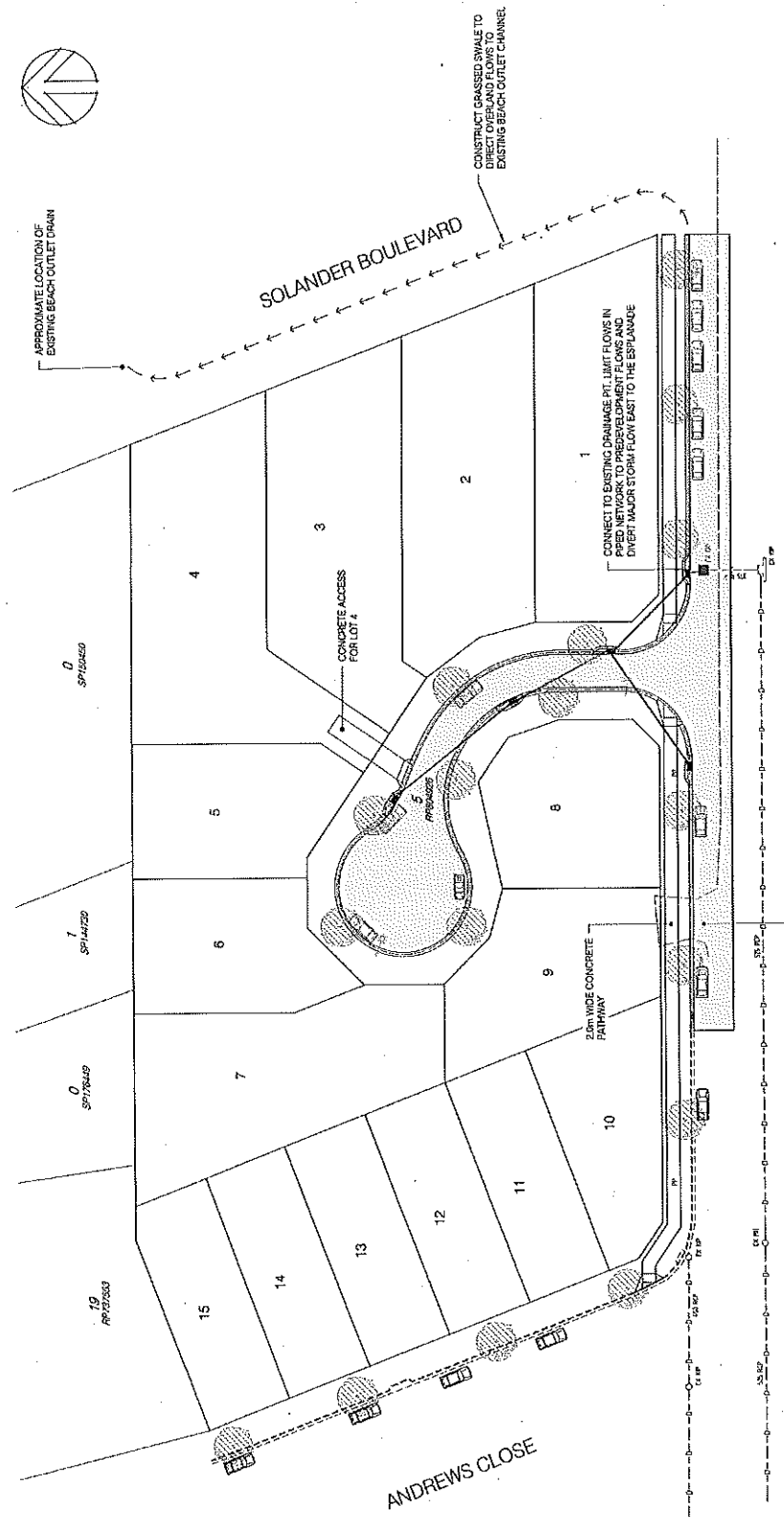


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PROPOSAL PLAN

6038-SK01 F 1:300 AT Full Size 13 September 2018

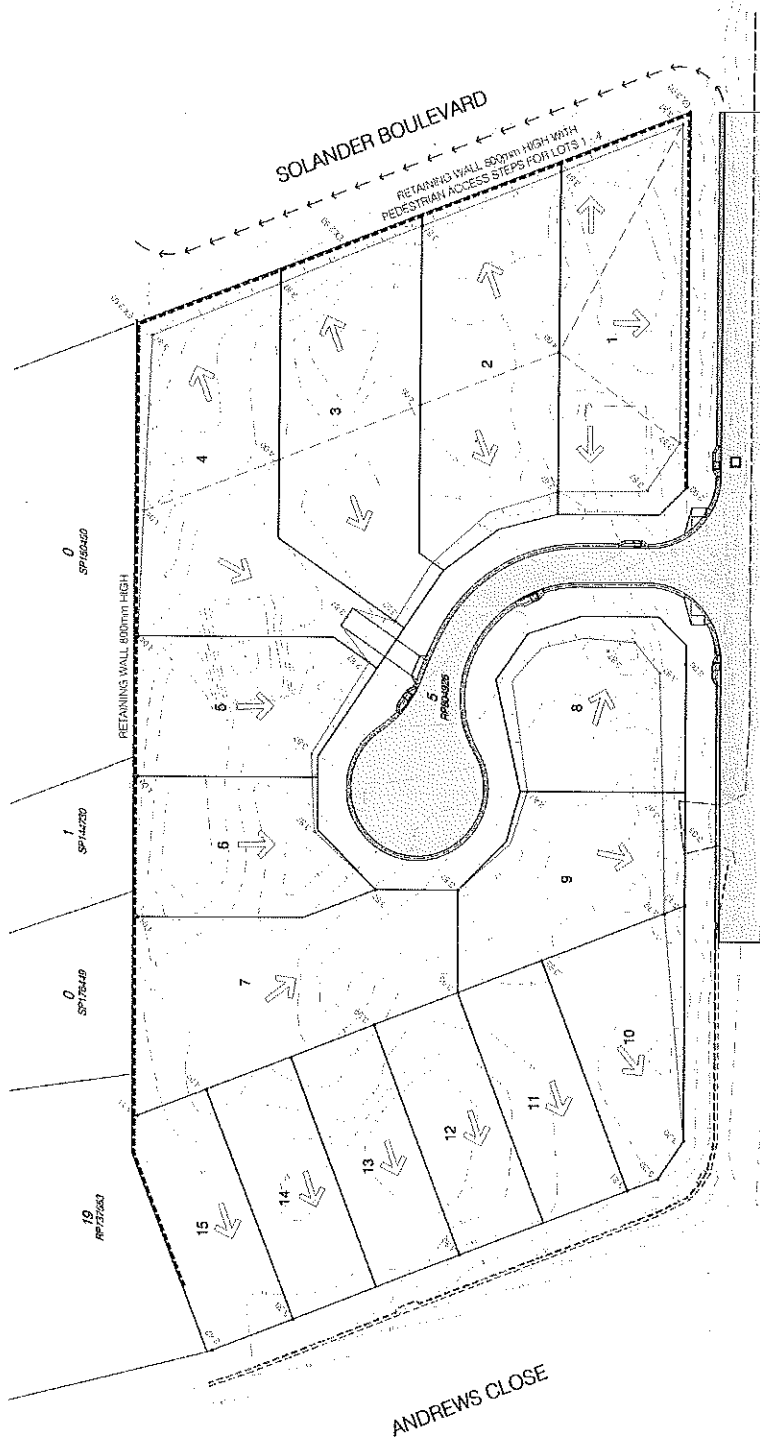
1. All drainage is shown on the basis of the information provided by the owner and is not intended to be used for any other purpose.
2. The drainage system is shown on the basis of the information provided by the owner and is not intended to be used for any other purpose.
3. The drainage system is shown on the basis of the information provided by the owner and is not intended to be used for any other purpose.



ELANAGAN CONSULTING GROUP
 DEVELOPMENT CONSULTANTS AND DESIGNERS
 15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/32/33/34/35/36/37/38/39/40/41/42/43/44/45/46/47/48/49/50/51/52/53/54/55/56/57/58/59/60/61/62/63/64/65/66/67/68/69/70/71/72/73/74/75/76/77/78/79/80/81/82/83/84/85/86/87/88/89/90/91/92/93/94/95/96/97/98/99/100/101/102/103/104/105/106/107/108/109/110/111/112/113/114/115/116/117/118/119/120/121/122/123/124/125/126/127/128/129/130/131/132/133/134/135/136/137/138/139/140/141/142/143/144/145/146/147/148/149/150/151/152/153/154/155/156/157/158/159/160/161/162/163/164/165/166/167/168/169/170/171/172/173/174/175/176/177/178/179/180/181/182/183/184/185/186/187/188/189/190/191/192/193/194/195/196/197/198/199/200/201/202/203/204/205/206/207/208/209/210/211/212/213/214/215/216/217/218/219/220/221/222/223/224/225/226/227/228/229/230/231/232/233/234/235/236/237/238/239/240/241/242/243/244/245/246/247/248/249/250/251/252/253/254/255/256/257/258/259/260/261/262/263/264/265/266/267/268/269/270/271/272/273/274/275/276/277/278/279/280/281/282/283/284/285/286/287/288/289/290/291/292/293/294/295/296/297/298/299/300/301/302/303/304/305/306/307/308/309/310/311/312/313/314/315/316/317/318/319/320/321/322/323/324/325/326/327/328/329/330/331/332/333/334/335/336/337/338/339/340/341/342/343/344/345/346/347/348/349/350/351/352/353/354/355/356/357/358/359/360/361/362/363/364/365/366/367/368/369/370/371/372/373/374/375/376/377/378/379/380/381/382/383/384/385/386/387/388/389/390/391/392/393/394/395/396/397/398/399/400/401/402/403/404/405/406/407/408/409/410/411/412/413/414/415/416/417/418/419/420/421/422/423/424/425/426/427/428/429/430/431/432/433/434/435/436/437/438/439/440/441/442/443/444/445/446/447/448/449/450/451/452/453/454/455/456/457/458/459/460/461/462/463/464/465/466/467/468/469/470/471/472/473/474/475/476/477/478/479/480/481/482/483/484/485/486/487/488/489/490/491/492/493/494/495/496/497/498/499/500/501/502/503/504/505/506/507/508/509/510/511/512/513/514/515/516/517/518/519/520/521/522/523/524/525/526/527/528/529/530/531/532/533/534/535/536/537/538/539/540/541/542/543/544/545/546/547/548/549/550/551/552/553/554/555/556/557/558/559/560/561/562/563/564/565/566/567/568/569/570/571/572/573/574/575/576/577/578/579/580/581/582/583/584/585/586/587/588/589/590/591/592/593/594/595/596/597/598/599/600/601/602/603/604/605/606/607/608/609/610/611/612/613/614/615/616/617/618/619/620/621/622/623/624/625/626/627/628/629/630/631/632/633/634/635/636/637/638/639/640/641/642/643/644/645/646/647/648/649/650/651/652/653/654/655/656/657/658/659/660/661/662/663/664/665/666/667/668/669/670/671/672/673/674/675/676/677/678/679/680/681/682/683/684/685/686/687/688/689/690/691/692/693/694/695/696/697/698/699/700/701/702/703/704/705/706/707/708/709/710/711/712/713/714/715/716/717/718/719/720/721/722/723/724/725/726/727/728/729/730/731/732/733/734/735/736/737/738/739/740/741/742/743/744/745/746/747/748/749/750/751/752/753/754/755/756/757/758/759/760/761/762/763/764/765/766/767/768/769/770/771/772/773/774/775/776/777/778/779/780/781/782/783/784/785/786/787/788/789/790/791/792/793/794/795/796/797/798/799/800/801/802/803/804/805/806/807/808/809/810/811/812/813/814/815/816/817/818/819/820/821/822/823/824/825/826/827/828/829/830/831/832/833/834/835/836/837/838/839/840/841/842/843/844/845/846/847/848/849/850/851/852/853/854/855/856/857/858/859/860/861/862/863/864/865/866/867/868/869/870/871/872/873/874/875/876/877/878/879/880/881/882/883/884/885/886/887/888/889/890/891/892/893/894/895/896/897/898/899/900/901/902/903/904/905/906/907/908/909/910/911/912/913/914/915/916/917/918/919/920/921/922/923/924/925/926/927/928/929/930/931/932/933/934/935/936/937/938/939/940/941/942/943/944/945/946/947/948/949/950/951/952/953/954/955/956/957/958/959/960/961/962/963/964/965/966/967/968/969/970/971/972/973/974/975/976/977/978/979/980/981/982/983/984/985/986/987/988/989/990/991/992/993/994/995/996/997/998/999/1000/1001/1002/1003/1004/1005/1006/1007/1008/1009/1010/1011/1012/1013/1014/1015/1016/1017/1018/1019/1020/1021/1022/1023/1024/1025/1026/1027/1028/1029/1030/1031/1032/1033/1034/1035/1036/1037/1038/1039/1040/1041/1042/1043/1044/1045/1046/1047/1048/1049/1050/1051/1052/1053/1054/1055/1056/1057/1058/1059/1060/1061/1062/1063/1064/1065/1066/1067/1068/1069/1070/1071/1072/1073/1074/1075/1076/1077/1078/1079/1080/1081/1082/1083/1084/1085/1086/1087/1088/1089/1090/1091/1092/1093/1094/1095/1096/1097/1098/1099/1100/1101/1102/1103/1104/1105/1106/1107/1108/1109/1110/1111/1112/1113/1114/1115/1116/1117/1118/1119/1120/1121/1122/1123/1124/1125/1126/1127/1128/1129/1130/1131/1132/1133/1134/1135/1136/1137/1138/1139/1140/1141/1142/1143/1144/1145/1146/1147/1148/1149/1150/1151/1152/1153/1154/1155/1156/1157/1158/1159/1160/1161/1162/1163/1164/1165/1166/1167/1168/1169/1170/1171/1172/1173/1174/1175/1176/1177/1178/1179/1180/1181/1182/1183/1184/1185/1186/1187/1188/1189/1190/1191/1192/1193/1194/1195/1196/1197/1198/1199/1200/1201/1202/1203/1204/1205/1206/1207/1208/1209/1210/1211/1212/1213/1214/1215/1216/1217/1218/1219/1220/1221/1222/1223/1224/1225/1226/1227/1228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The owner is advised that the information contained herein is for informational purposes only and should not be used for any other purpose without the written consent of the engineer.

10/06



LEGEND

- EXISTING SURFACE CONTOURS
- FINISHED SURFACE LEVEL
- DIRECTION OF FALL
- PROPOSED TOP OF WATER ALL BATTERS SHOWN INDICATIVELY AT 1:1 (NO)
- CHANGE OF GRADE
- PROPOSED RETAINING WALL

MINIMUM ALLOWABLE FILL LEVELS
 3.87 MHD < 200m SETBACK FROM COASTLINE
 2.70 MHD > 200m SETBACK FROM COASTLINE
 (REF Cairns Region Storm Tide inundation Study - 2017 prepared by BMT WBM)

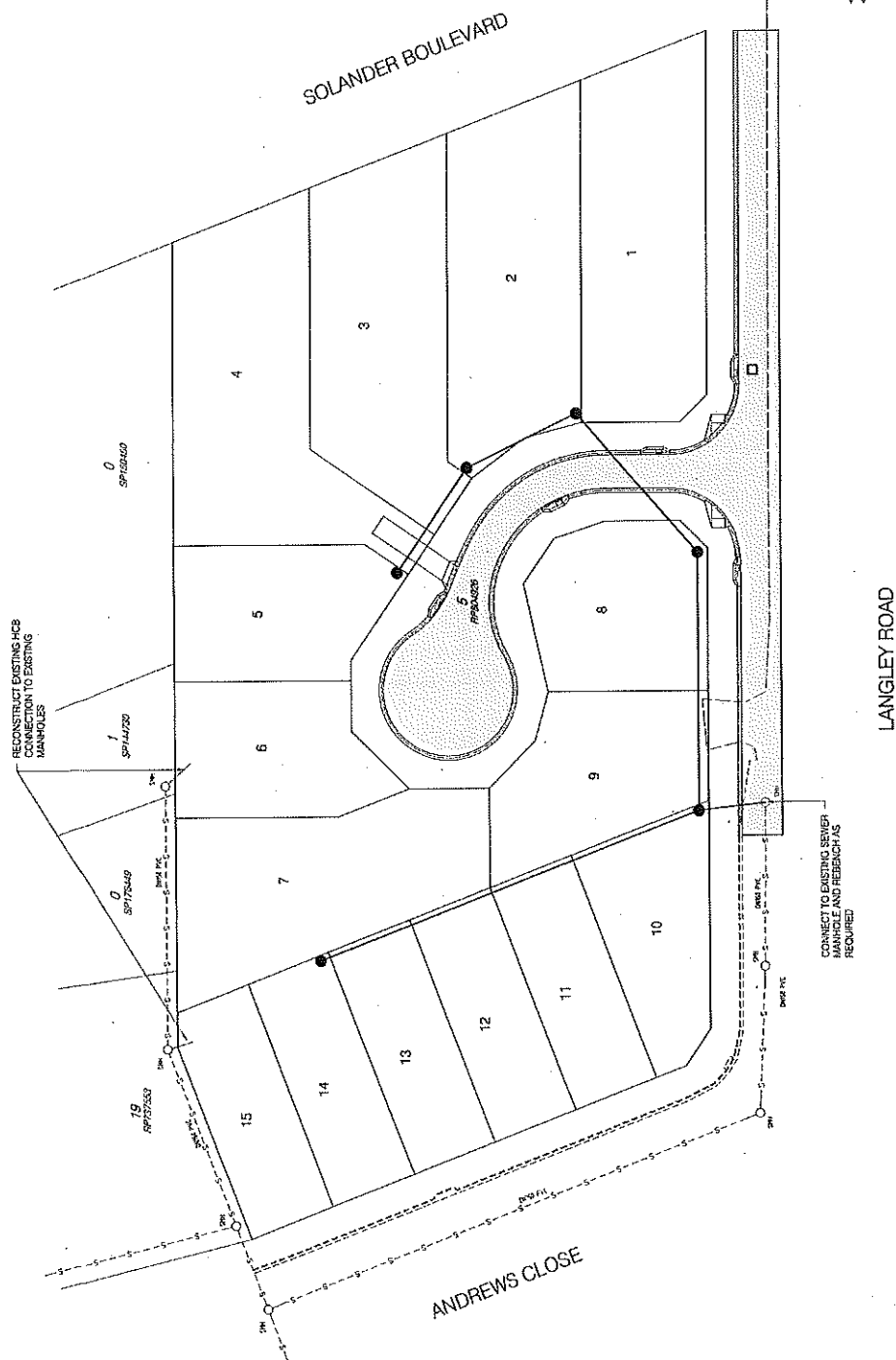
FLANAGAN CONSULTING GROUP
 CONSULTING ENGINEERS
 CURRAN DARWIN MACQUAY TOWNSVILLE
 50-501 156 08 664 262 08 664 262 08 664 262

RECONFIGURATION OF LOT
 LOT 5 on RP 804926
 15 Lot Subdivision

CONCEPT SITE GRADING

6038-SK05 E
 1:300
 A1 PLS
 12 November 2018

Abstract.



LEGEND

—○— EXISTING SEWER MAIN
—●— PROPOSED SEWER MAIN

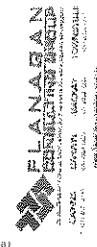
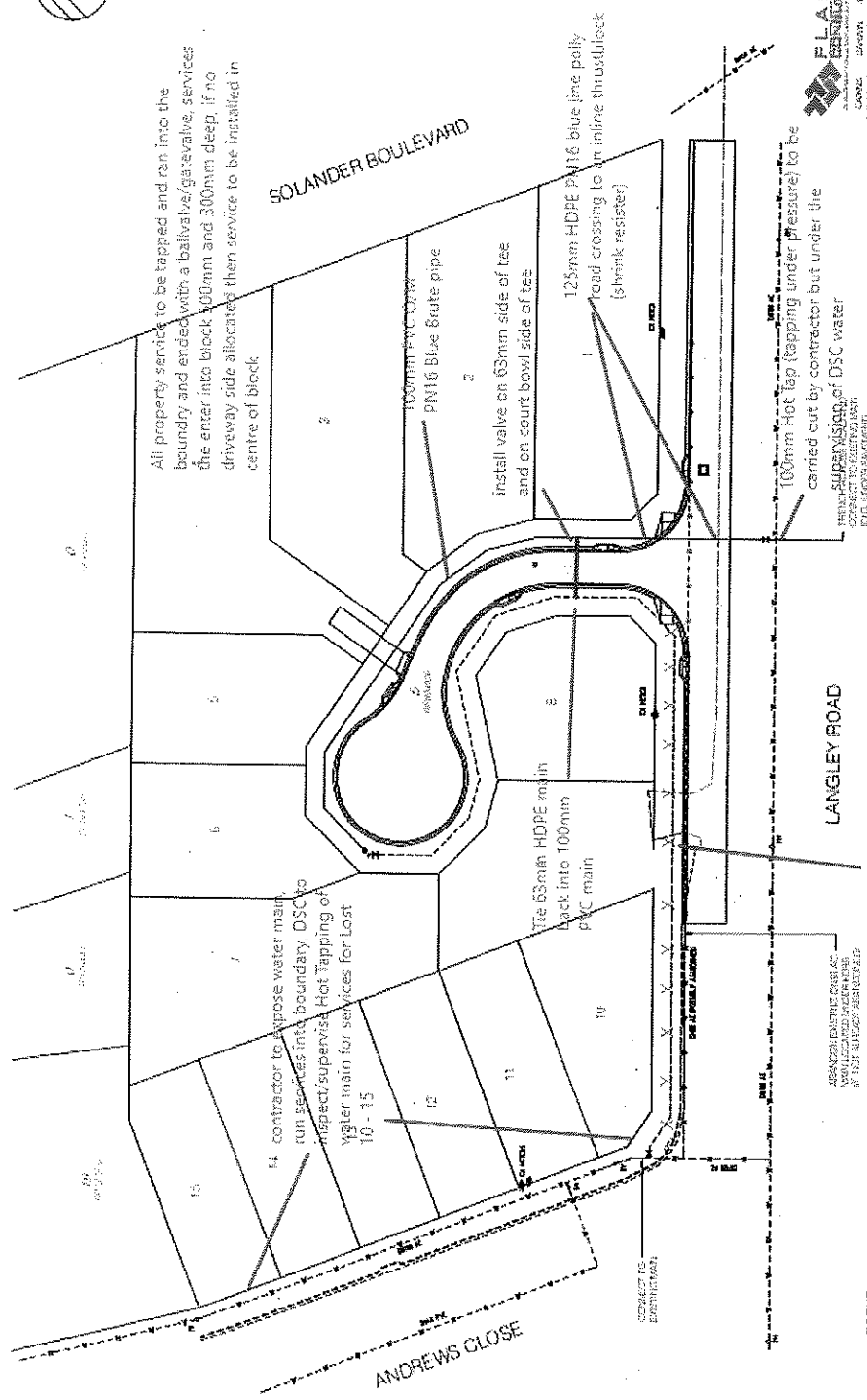
FLANAGAN CONSULTING GROUP
OVER 10 YEARS OF SPECIALTY TRUCK, TRAILER, PRODUCT SOLUTIONS. #1 ON THE PLACER
CARRIS DARWIN MACKEY TOWNSVILLE
(86) (84) (602) (87) (44) (30)
(72) (42) (256) (41) (72) (27)
www.flanagancgroup.com 44

RECONFIGURATION OF LOT
LOT 5 on RP 804926
15 Lot Subdivision

SEWERAGE RETICULATION

6038-SK04 D
T:300
At Full Size
12 November 2019
Access No. 6038-SK04

1. All work to be done in accordance with the relevant standards and specifications.
2. All work to be done in accordance with the relevant standards and specifications.
3. All work to be done in accordance with the relevant standards and specifications.



| | |
|---------------------------|----------------|
| RECONFIGURATION OF LOT 12 | |
| LOT 12 SANITARY | |
| 12 Lot Substation | |
| WATER RETICULATION | |
| 8038-SK03 D | 1:200 |
| Author: [Name] | Scale: [Scale] |
| Drawn: [Name] | Sheet: [Sheet] |

ADOPTED INFRASTRUCTURE CHARGES NOTICE

| | | | |
|------------------------|--|--|------------------------|
| KS3 Pty Ltd | | 0 | 0 |
| DEVELOPERS NAME | | ESTATE NAME | STAGE |
| 20-30 Langley Road | | L5 RP804926 | 1528 |
| STREET No. & NAME | | LOT & RP No.s | PARCEL No. |
| ROL 16 lots | | ROL 2019_3061 | 4 |
| DEVELOPMENT TYPE | | COUNCIL FILE NO. | VALIDITY PERIOD (year) |
| Doc ID: 921611 | | Payment prior to lodgment of survey plan for endorsement | |
| DSC Reference Doc. No. | | VERSION No. | |
| 1 | | | |

Adopted Charges as resolved by Council at the Ordinary Meeting held on 5 June 2018, Local Government Infrastructure Plan, Planning Scheme Amendment (effect on and from 2 July 2018)

| Locality | Charge per Use | rate | Floor area/No. | Amount | Amount Paid | Receipt Code & GL Code |
|------------------------|----------------|---------------|----------------|------------|-------------|--------------------------------|
| Port Douglas | | | | | | |
| Proposed Demand | | | | | | |
| Residential Lots | Separate house | Per House lot | 15 | 292,365.00 | | |
| | Total Demand | | | 292,365.00 | | |
| Existing Credit | | | | | | |
| Residential Lot | Vacant Lot | Per House lot | 1 | 19,491.00 | | |
| | Total Credit | | | 19,491.00 | | |
| | | | | | | Code 895 GL 07600.0135.0825 |

Required Payment or Credit

TOTAL

\$272,874.00

Prepared by

J Elphinstone

26-Sep-19

Amount Paid

Checked by

D Lamond

30-Sep-19

Date Paid

Date Payable

Prior to endorsement of survey plan

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 5 June 2018.

Charge rates under the current Policy are not currently subject to indexing.

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

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

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

Concurrence Agency Conditions

RA6-N



Department of
State Development,
Manufacturing,
Infrastructure and Planning

SARA reference: 1904-10894 SRA
Council reference: ROL 3061/2019
Applicant reference: 6038/01-L-EC2114

30 May 2019

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

Attention: Jenny Elphinstone

Dear Sir/Madam

SARA response—20-30 Langley Road, 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 Department of State Development, Manufacturing, Infrastructure and Planning on 30 April 2019.

Response

| | |
|-------------------|---|
| Outcome: | Referral agency response – with conditions. |
| Date of response: | 30 May 2019 |
| 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 (1 lot into 13 lots) |
| SARA role: | Referral Agency | |
| SARA trigger: | Schedule 10, Part 20, Division 4, Table 2, Table 1 (Planning Regulation 2017) | |
| | Wetland protection area | |
| SARA reference: | 1904-10894 SRA | |
| Assessment Manager: | Douglas Shire Council | |

Page 1 of 6

Far North Queensland regional office
Ground Floor, Orr Graham and Hantley
Street, Cairns
PO Box 2358, Cairns QLD 4870

Street address: 20-30 Langley Road, Port Douglas
Real property description: Lot 5 on RP804926
Applicant name: KS3 Pty Ltd
Applicant contact details: PO Box 891
TOWNSVILLE QLD 4810
erin@flanaganconsulting.com.au

Representations

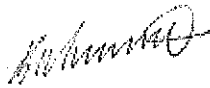
An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules)

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 Joanne Manson, Principal Planning Officer, SARA Far North QLD on 40373228 or via email CairnsSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc KS3 Pty Ltd, c/- Flanagan Consulting, erin@flanaganconsulting.com.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Change representation provisions

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)

| No. | Conditions | Condition timing |
|--|--|---|
| Reconfiguring a lot | | |
| Schedule 10, Part 20, Division 4, Table 2, Table 1 - 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 conditions: | | |
| 1. | <p>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 installed and maintained to prevent the release of sediment to the HES wetland as shown on the map of referable wetlands as defined in the Environmental Protection Regulation 2008.</p> <p>Note: HES referable wetlands are wetlands shown on the <u>map of referable wetlands</u> as defined in the Environmental Protection Regulation 2008.</p> | For the duration of the works |
| 2. | <p>Stormwater discharge must be treated in accordance with the Queensland Best Practice Environmental Management Guidelines before stormwater flow enters the HES wetland as shown on the map of referable wetlands as defined in the Environmental Protection Regulation 2008.</p> <p>Note: HES referable wetlands are wetlands shown on the <u>map of referable wetlands</u> as defined in the Environmental Protection Regulation 2008.</p> | At all times |
| 3. | <p>(a) A Fauna Spotter Catcher (an authorised person who holds a rehabilitation permit with a spotter catcher endorsement under the <i>Nature Conservation Act 1992</i>), must be present on site to monitor earthworks and to respond to any situations that may arise from the discovery of native wildlife.</p> <p>(b) If any native wildlife are identified onsite, work must cease. The Fauna Spotter Catcher must supervise the relocation of any identified wildlife prior to clearing and earthwork operations recommencing and relocate any found wildlife species at an appropriate location in close proximity of the subject site.</p> | <p>(a) Prior to works commencing</p> <p>(b) While clearing/earthworks are occurring</p> |

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) [v2.4]. If a word remains undefined it has its ordinary meaning. |
| Tampering with an Animal Breeding Place of a Protected Species | |
| 2. | <p>Under the Nature Conservation (Wildlife Management) Regulation 2006, in order to tamper with the breeding place of a protected species (identified in the <i>Nature Conservation Act 1992</i>) appropriate authorisation is required.</p> <p>For further guidance on this please see the Species Management Program information on the Department of Environment and Science's website.</p> |
| Protected plants | |
| 3. | <p>A clearing permit under the <i>Nature Conservation Act 1992</i> will be required to remove any protected plants from the premises.</p> <p>More information on the clearing of protected plants can be found on the Department of Environment and Science's website.</p> <p>It is recommended you meet with the Department of Environment and Science prior to applying for a permit under the <i>Nature Conservation Act 1992</i>.</p> <p>The completed pre-design conference application form should submit to palm@des.qld.gov.au.</p> <p>The Department of Environment and Science can be contacted via email at palm@des.qld.gov.au or by contacting 1300 130 372 (option 4) for information regarding clearing requirements under the <i>Nature Conservation Act 1992</i>.</p> |

Attachment 3—Reasons for referral agency response

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

The reasons for the department's decision are:

- The department carried out an assessment of the development application against the relevant state codes and complies with the relevant performance outcomes.
- The proposed development is not located in a high ecological significance wetland.
- The proposed development avoids adverse impacts on the adjacent high ecological significance wetland.
- With conditions the proposed development does not impact on matters of state environmental significance.

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 2.4), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system

Attachment 4—Change representation provisions

(page left intentionally blank – attached separately)

Reasons for Decision

The reasons for this decision are:

1. Sections 60, 62 and 63 of the *Planning Act 2016*:
 - a. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
 - b. 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 on the 26 March 2019 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*; and
 - 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; and
3. Evidence or other material on which findings were based:
 - a. the development triggered assessable development under the Assessment Table associated with the Tourist Accommodation 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

| Benchmark Reference | Alternative Measure/Comment |
|---|---|
| <p>Tourist Accommodation Zone Code: PO10-PO12:</p> <p>New lots contain a minimum area of 1,000m².</p> <p>New lots have a minimum road frontage of 20 metres.</p> <p>New lots contain a 25m x 20m rectangle.</p> | <p>Some of the proposed lots do not meet the Performance Outcomes. The development meets the Code Purpose (3)(a) providing for "a range of accommodation activities, with an emphasis on short-term accommodation is established at a scale and density to service tourist needs." The layout provides a range of lot sizes that can provide for a range of accommodation activities including self-assessable dwelling houses and code assessable short-term accommodation, both activities that meet the Code Purpose. The development complies with the code.</p> |
| <p>Local Plan Code:</p> <p>AO2.1 Development provides for the retention and enhancement of existing mature trees and character vegetation that contribute to the lush tropical character of the town.</p> <p>PO2 Development retains and enhances key landscape elements including character trees and areas of significant vegetation contributing to the character and quality of the local plan area and significant views and vistas and other landmarks important in the context of the Port Douglas/ Craiglie Township Plan map contained in Schedule 2).</p> | <p>The development is unable to retain mature vegetation that currently exists on the land due to the need to fill to achieve suitable ground heights respective to coastal processes (storm tide inundation). The vegetation was reviewed and found to not be of state significance. The land is not at a gateway. The vegetation on the nearby road and Reserve provides a physical and aesthetic buffer to the coastline. The development meets the Performance Outcome.</p> |
| <p>Reconfiguring of a Lot Code</p> <p>PO1 Lots comply with the lot reconfiguration outcomes of the applicable Zone Code.</p> | <p>Despite the non achievement of the lot configuration outcomes, the development achieves many of the ROL Code Purposes, namely</p> <ul style="list-style-type: none"> (a) development results in a well-designed pattern of streets supporting walkable communities; (b) lots have sufficient areas, dimensions and shapes to be suitable for their intend use taking into account environmental features and site constraints; (c) road networks provide connectivity that is integrated with adjoining existing or planned development while also catering for the safe and efficient access for pedestrians, cyclists and for public transport; |

| Benchmark Reference | Alternative Measure/Comment |
|---|--|
| | <p>(d) lots are arranged to front all streets and parkland such that development enhances personal safety, traffic safety, property safety and security; and contributes to streetscape and open space quality;</p> <p>(f) people and property are not placed at risk from natural hazards;</p> <p>The development complies with the Code.</p> |
| <p>Vegetation Management Code</p> <p>AO1 An acceptable outcome provides for vegetation damage where the removal facilitates an approved development.</p> <p>PO1 (includes) Vegetation is protected to ensure that:</p> <p>(a) the character and amenity of the local area is maintained;</p> <p>(b) vegetation damage does not result in fragmentation of habitats;</p> <p>(c) vegetation damage is undertaken in a sustainable manner;</p> <p>(d) the Shire's biodiversity and ecological values are maintained and protected;</p> <p>Code Purpose includes:</p> <p>(a) vegetation is protected from inappropriate damage; (b) where vegetation damage does occur it is undertaken in a sustainable manner; c) significant trees are maintained and protected;</p> <p>(d) biodiversity and ecological values are protected and maintained;</p> <p>(e) habitats for rare, threatened and endemic species of flora and fauna are protected and maintained;</p> <p>(f) landscape character and scenic amenity is protected and maintained;</p> | <p>The development is supported despite the conflict with the vegetation management code. The development meets the State Planning Policy (SPP) regarding Natural Hazards of Storm Tide Inundation. Under section 1.5 of the Planning Scheme, the Overlay Code and the State Planning Policy prevail over the Vegetation Management Code.</p> |

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.

Extracts from the Planning Act 2016 – Appeal Rights

Planning Act 2016
Chapter 6 Dispute resolution

[s 229]

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.

- (3) In this section—

conduct means an act or omission.

representative means—

- (a) of a corporation—an executive officer, employee or agent of the corporation; or
- (b) of an individual—an employee or agent of the individual.

state of mind, of a person, includes the person's—

- (a) knowledge, intention, opinion, belief or purpose; and
- (b) reasons for the intention, opinion, belief or purpose.

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

Page 212

Current as at 1 July 2019

Authorised by the Parliamentary Counsel

- (iii) who is a co-respondent in an appeal of the matter;
and
 - (iv) who may elect to be a co-respondent in an appeal
of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
- (a) for an appeal by a building advisory agency—10
business days after a decision notice for the decision is
given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time
after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under
chapter 7, part 4, to register premises or to renew the
registration of premises—20 business days after a notice
is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—
20 business days after the infrastructure charges notice
is given to the person; or
 - (e) for an appeal about a deemed approval of a development
application for which a decision notice has not been
given—30 business days after the applicant gives the
deemed approval notice to the assessment manager; or
 - (f) for an appeal relating to the *Plumbing and Drainage Act
2018*—
 - (i) for an appeal against an enforcement notice given
because of a belief mentioned in the *Plumbing and
Drainage Act 2018*, section 143(2)(a)(i), (b) or
(c)—5 business days after the day the notice is
given; or
 - (ii) for an appeal against a decision of a local
government or an inspector to give an action notice
under the *Plumbing and Drainage Act 2018*—5
business days after the notice is given; or

(iii) otherwise—20 business days after the day the notice is given; or

(g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—

- (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, 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.

Part 2 Development tribunal

Division 1 General

233 Appointment of referees

- (1) The Minister, or chief executive, (the *appointer*) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—
 - (a) has the qualifications or experience prescribed by regulation; and
 - (b) has demonstrated an ability—
 - (i) to negotiate and mediate outcomes between parties to a proceeding; and
 - (ii) to apply the principles of natural justice; and
 - (iii) to analyse complex technical issues; and
 - (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.

3 December 2019

Enquiries: Jenny Elphinstone
Our Ref: ROL 2019_3061 (Doc ID)
Your Ref: 6038/01 L-EC2114

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

KS3 Pty Ltd
C/- Flanagan Consulting Group
C/ GHD
71 Stanley Street
TOWNSVILLE QLD 4810

Email: Erin.Campbell@ghd.com

Attention Ms Erin Campbell

Dear Madam

**Adopted Infrastructure Charge Notice
For Development Application for Reconfiguring of a Lot (1 Lot into 15 Lots)
At 20-30 Langley Road Port Douglas
On land described as Lot 5 on RP804926**

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 2019_3061 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


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

| | | | |
|------------------------|--|--|------------------------|
| KS3 Pty Ltd | | 0 | 0 |
| DEVELOPERS NAME | | ESTATE NAME | STAGE |
| 20-30 Langley Road | | L5 RP804926 | 1528 |
| STREET No. & NAME | | LOT & RP No.s | PARCEL No. |
| ROL 15 lots | | ROL 2019_3061 | 4 |
| DEVELOPMENT TYPE | | COUNCIL FILE NO. | VALIDITY PERIOD (year) |
| Doc ID: 921611 | | Payment prior to lodgment of survey plan for endorsement | |
| DSC Reference Doc. No. | | VERSION No. | |

Adopted Charges as resolved by Council at the Ordinary Meeting held on 5 June 2018, Local Government Infrastructure Plan, Planning Scheme Amendment (effect on and from 2 July 2018)

| Locality | Charge per Use | rate | Floor area/No. | Amount | Amount Paid | Receipt Code & GL Code |
|------------------------|---------------------|---------------|----------------|-------------------|-------------|------------------------|
| Port Douglas | | | | | | |
| Proposed Demand | | | | | | |
| Residential Lots | Separate house | Per House lot | 15 | 292,365.00 | | |
| | Total Demand | | | 292,365.00 | | |
| Existing Credit | | | | | | |
| Residential Lot | Vacant Lot | Per House lot | 1 | 19,491.00 | | |
| | Total Credit | | | 19,491.00 | | |

Required Payment or Credit **TOTAL** \$272,874.00

| | | | |
|--------------|-------------------------------------|-----------|-------------|
| Prepared by | J Elphinstone | 26-Sep-19 | Amount Paid |
| Checked by | D Lamond | 30-Sep-19 | Date Paid |
| Date Payable | Prior to endorsement of survey plan | | 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 5 June 2018.

Charge rates under the current Policy are not currently subject to indexing.
Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

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

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

Subdivision 5 Changing charges during relevant appeal period

124 Application of this subdivision

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

125 Representations about infrastructure charges notice

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

126 Suspending relevant appeal period

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

Division 3 Development approval conditions about trunk infrastructure

Subdivision 1 Conditions for necessary trunk infrastructure

127 Application and operation of subdivision

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

Extracts from the Planning Act 2016 –Appeal Rights

Planning Act 2016
Chapter 6 Dispute resolution

[s 229]

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.

- (3) In this section—

conduct means an act or omission.

representative means—

- (a) of a corporation—an executive officer, employee or agent of the corporation; or
- (b) of an individual—an employee or agent of the individual.

state of mind, of a person, includes the person's—

- (a) knowledge, intention, opinion, belief or purpose; and
- (b) reasons for the intention, opinion, belief or purpose.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—

- (a) matters that may be appealed to—
- (i) either a tribunal or the P&E Court; or
- (ii) only a tribunal; or
- (iii) only the P&E Court; and
- (b) the person—
- (i) who may appeal a matter (the *appellant*); and
- (ii) who is a respondent in an appeal of the matter; and

- (iii) who is a co-respondent in an appeal of the matter;
and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
- (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or

- (iii) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—

- (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, 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.

Part 2 Development tribunal

Division 1 General

233 Appointment of referees

- (1) The Minister, or chief executive, (the *appointer*) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—
 - (a) has the qualifications or experience prescribed by regulation; and
 - (b) has demonstrated an ability—
 - (i) to negotiate and mediate outcomes between parties to a proceeding; and
 - (ii) to apply the principles of natural justice; and
 - (iii) to analyse complex technical issues; and
 - (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.

