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Douglas Shire Council  
PO Box 723  
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Your Ref: CA 880/2015

15 October 2015

**REQUEST FOR PERMISSIBLE CHANGE FOR A COMBINED APPLICATION – CODE ASSESSMENT FOR MATERIAL CHANGE OF USE FOR PUBLIC UTILITIES & FACILITIES (WATER RESERVOIR & ASSOCIATED INFRASTRUCTURE) AND RECONFIGURATION OF A LOT AT FERRERO AND CREES ROADS, CRAIGLIE**

Further to Council's decision notice dated 10 September 2015, it is requested that the following changes be made to the conditions of approval.

**(1) Condition A.2**

**The conditions of the Development Permit for Reconfiguration of a lot component must be effected prior to the issue of a Compliance Certificate for the Plan of Survey, except where specified otherwise in these conditions of approval.**

This condition is unworkable under Council's contract to purchase the land and is also unworkable to the owner and lessee of the land in which the road reserve lies.

At the moment, the purchase of the land necessary for the reservoir cannot be completed in order to meet Council's contractual obligations for the land purchase, as the timing condition requires that a variety of other work, including gravel road construction, drainage study etc. must be completed before Council has the ability to issue a compliance certificate for the Plan of Survey. Necessary approvals and construction may take considerable time (possibly greater than 8 - 12 weeks and such works are also weather-dependent).

Furthermore, the cane grower of the property affected by the road construction has the land under cane cultivation. The construction of the road and drainage is likely to prevent the farmer from harvesting any of the cane off the land as the road will affect his ability to turn the harvester due to the grades on the land. It would be preferable to all parties to negotiate a time next year at the commencement of the harvest for the cane to be harvested and the road constructed.

It is therefore suggested that condition A.2 be amended as follows:

*"The conditions of the Development Permit for the Reconfiguration of a lot component must be completed within 12 months of the Decision Date."*

This amendment will allow the purchase of the land to proceed, the road and other works to be planned and the lessee canefarmer to harvest to crop.

## **(2) Conditions A.3, A.4, A.5, A.6 and A.7**

Each condition makes reference to the following in a variety of formats according to the particular condition:

**"Prior to endorsement by the Chief Executive Officer the amended plans must be assessed by a qualified and independent person." (A.3)**

**"Prior to endorsement by the Chief Executive Officer the plan of works must be assessed by a qualified and independent person." (A.4)**

**"Prior to endorsement by the Chief Executive Officer the drainage study must be assessed by a qualified and independent person." (A.5)**

**"Prior to endorsement by the Chief Executive Officer the agreed standard must be assessed by a qualified and independent person." (A.6)**

**"Prior to endorsement by the Chief Executive Officer the nominated lawful point of discharge must be assessed by a qualified and independent person." (A.7)**

The addition of the requirement to obtain the assessment of a variety of matters by qualified and independent people is considered to be highly unusual and imposes an alternative approval process mechanism that strays away from the requirements of the *Sustainable Planning Act 2009*.

The approved plans that attach to the development permit have already been prepared by qualified and independent people, and where additional plans are required (i.e. landscaping plan), those plans will be prepared by qualified and independent people.

Therefore these requirements in each of the nominated conditions are unnecessary and not warranted. It is requested that each reference in each condition be deleted.

**(3) Conditions B.3, B.4, B.5, B.6, B.7, B.9 and B.12**

Conditions B.3, B.4, B.5, B.6 and B.7 respectively duplicates the requirement to seek assessment by a qualified and independent people as outlined in (2) above.

Additionally the requirement also appears in the following conditions:

**“Prior to endorsement by the Chief Executive Officer the submissions must be assessed by a qualified and independent person.” (B.9)**

**“Prior to endorsement by the Chief Executive Officer the landscape plan must be assessed by a qualified and independent person.” (B.12)**

The addition of the requirement to obtain the assessment of a variety of matters by qualified and independent people is considered to be highly unusual and imposes an alternative approval process mechanism that strays away from the requirements of the *Sustainable Planning Act 2009*.

The approved plans that attach to the development permit have already been prepared by qualified and independent people and where additional plans are required (i.e. landscaping plan), those plans will be prepared by qualified and independent people.

Therefore these requirements in each of the nominated conditions are unnecessary and not warranted. It is requested that each reference in each condition be deleted.

Finally, the request for a permissible change meets the tests outlined in Section 367 of the *Sustainable Planning Act 2009* to qualify as a permissible change.

If you require any further assistance, please do not hesitate to contact Simon Clarke at SCTP on 0400979799 or via email at [scla4255@outlook.com](mailto:scla4255@outlook.com).

A handwritten signature in black ink, appearing to read 'S. Clarke'.

Simon Clarke Sctp

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