



Charles O'Neill Surveyors & Planners

**Chief Executive Office
Douglas Shire Council
PO Box 723
MOSSMAN QLD 4873**

DOUGLAS SHIRE COUNCIL	
Received	
File Name	MCU1227/2014
Document No.	
-3 JUN 2014	
Attention	JE orig ✓
Information	

Attention: Development Assessment - J. Elphinstone

Our Ref: 30702-01
Your Ref: TPC 1215 (CRC Ref: 8/38/2)

2 June 2014

Dear Jenny,

**RE: REQUEST TO EXTEND CURRENCY PERIOD OF DEVELOPMENT APPROVAL - TPC 1215
MATERIAL CHANGE OF USE - MULTIPLE DWELLINGS
23 CORAL DRIVE, PORT DOUGLAS - LOT 31 ON RP734536**

I refer to the above approval which was originally conveyed by Council's Decision Notice of 6th June 2006 and Council's further Decision Notice of 8 July 2010 providing an extension of the currency period and advise that we act for S. & J. Kane Enterprises Pty Ltd and herein request the Assessment Manager to extend to the relevant period of that Decision Notice for an additional four (4) years, pursuant to the provisions of Section 383 of the Sustainable Planning Act 2009.

Pursuant to Section 383(3a) of the Sustainable Planning Act, we enclose IDAS Form - Request to change an existing approval template, duly completed, including the land owner's consent as required by Section 383(3d) of the Sustainable Planning Act. We also enclose our client's cheque for \$1,109.50 being for the applicable fee for this request.

The Development Approval for which this requests relates to is a Development Application that was lodged in 2005 for the re-development of a site containing three (3), existing Council approved dwellings into three (3), three (3) bedroom units. The subject application was made under the now superseded, 1996 Planning Scheme.

Circumstances outside the applicant's control, including the onset of the Global Financial Crisis (GFC) have prevented the development being completed within the currency period. As a result of the GFC, residential development in Far North Queensland as a region, including Port Douglas became a high risk ventures to all lending institutions. The global downturn and the corporate banking attitude sustained a futile attitude to financing such development programs

We ask Council to consider the merits of this approval when accessing the request to extend the currency period.

1. The approval is for the re-development of the site containing three (3) existing, Council approved dwellings. The re-development of the site would not result in a net increase of dwellings on the subject land.

Cairns
25 Grafton Street
PO Box 5246
Cairns Qld 4870
Phone (07) 4051 6722

Office Locations

- Brisbane
- Mackay
- Proserpine
- Bowen

manager@oneillsurveys.com.au
www.oneillsurveys.com.au
THG WSG Pty Ltd
ABN 55 156 210 052
trading as Charles O'Neill
Surveyors and Planners





2. The subject property already attracts rate charges for three (3) dwellings
3. The approved development is consistent with existing residential developments in Coral Drive. This is evident when viewing the plot ratios of nearby residential developments located at 10-12, 13-15, 14 & 16 Coral Drive.
4. The re-development will provide modern, high quality dwellings that will complement the streetscape of Coral Drive.
5. The re-development will stimulate the local building industry with flow on effects for the local economy.

The applicant acknowledges that during the assessment of this request, Council must have regard to Section 388 of the Sustainable Planning Act. As indicated below;

388 Deciding request

- (1) In deciding a request under section 383, the assessment manager must only have regard to--*
- (a) the consistency of the approval, including its conditions, with the current laws and policies applying to the development, including, for example, the amount and type of infrastructure contributions, or charges payable under chapter 8, part 1; and*
 - (b) the community's current awareness of the development approval; and*
 - (c) whether, if the request were refused -*
 - (i) further rights to make a submission may be available for a further development application; and*
 - (ii) the likely extent to which those rights may be exercised; and*
 - (d) the views of any concurrence agency for the approval given under section 385*

The matters to be considered by Council when deciding the request are addressed in further detail below.

The consistency of the approval with the current laws and policies.

The Development Approval for which this requests relates is to a Development Application that was lodged in 2005 for the development of three (3), three (3) bedroom units. The subject application was made under the now superseded, 1996 Planning Scheme. The 1996 Planning Scheme depicted the land to within the Residential Zone having a Medium Density designation. The current Scheme includes the land in the Port Douglas and Environs locality in the Residential 1 Planning Area with a Low Scale Plot Ratio.

The approved development achieves significant compliance with the current planning scheme in that the current scheme still permits the site to be developed for Multiple Dwellings (Residential). It is considered that the conditions previously imposed would be appropriate to the proposed development should it be approved today.



The communities awareness of the development approval

The development application that was made in 2005 was for impact assessable development, requiring public notification. There were no submissions made against the development application.

In receiving no submissions, suggests that the proposed development did not cause concern for the community as;

1. The proposal was for the re-development with no net increase in dwellings onsite;
2. The proposal was consistent with surrounding residential development on Coral Drive; and
3. The proposal would result in a high quality development that compliments the streetscape of Coral Drive

It is expected that granting of the extension of currency period would be generally accepted by the community now.

Further rights to make a submission may be available for a further development application and the likely extent to which those rights will be exercised

As indicated above, it is expected that a development approval made today would not attract any submissions as per the original application made to Council.

The views of any concurrence agency

Not applicable to this request as there were no concurrence agencies identified as part of the original application.

We consider the above request to be reasonable in the circumstances and reflecting realistic market and development considerations of the land owner, as outlined above. In particular, I would like to emphasise that the approval is for the re-development of site with no net increase in dwellings. In these circumstances, we consider that an extension of four (4) years is warranted.

Should you require any additional information or would like to discuss this matter further, please contact the undersigned.

Yours faithfully

Michael Tessaro
Planner

Bc: S. & J. Kane Enterprises Pty Ltd
Enc: Request to change existing approval template;
Cheque - \$1109.50



Request to change an existing approval template

(Sustainable Planning Act 2009 version 1.1 effective March 2010)

This template may be used for giving a written notice asking the responsible entity to make a permissible change to a development approval under section 369 of the *Sustainable Planning Act 2009* (SPA). It should be noted that if the responsible entity for the request has a form for the request, the request must be made using that form.

This template must be lodged with the following entity (the responsible entity) as applicable:

- if the change is to a condition imposed by a Minister under chapter 6, part 11, division 1 of SPA the template must be lodged with the Minister that imposed the condition
- if the approval was given by a Minister under chapter 6, part 11, division 2 of SPA the template must be lodged with the Minister that gave the approval
- if the change is to a condition of the approval imposed by a concurrence agency the template must be lodged with the concurrence agency
- if the approval was given by the Planning and Environment Court the template must be lodged with the Planning and Environment Court
- in all other cases the template must be lodged with the assessment manager for the original development application.

Attach extra pages if there is insufficient space on this template. Terms used in this template having the meaning given in the *Sustainable Planning Act 2009*.

1. Who is making the request?

Name/s (individual or company name in full)

Charles O'Neill Surveyors and Planners

For companies, contact name

Michael Tessaro

Postal address

PO Box 5246
CAIRNS QLD 4870

Contact phone number

07 4051 6722

Mobile number (non-mandatory)

Fax number (non-mandatory)

07 4031 1 446

e-mail address (non-mandatory)

michael.tessaro
@ oneillsurveys.com.au



2. What are the details of the existing approval sought to be changed?

Type of approval	Identification number	Date decision notice or negotiated decision notice issued	Name of entity that issued the approval or imposed the condition sought to be changed
<input checked="" type="checkbox"/> Development permit	8/38/2	8/7/10	Cairns Regional Council
<input type="checkbox"/> Preliminary approval			

3. Is the approval for a mobile and temporary environmentally relevant activity (ERA)?

- No
 Yes—complete table A and then go to question 5

Table A—name of each local government area in which the mobile and temporary ERA is proposed to operate/ is operating

--

4. Location of the premises (complete table B and/or table C as applicable. Identify each lot in a separate row)

Table B—street address/lot for the premises or street address/lot on plan for the land adjoining or adjacent to the premises

street address/lot on the plan
 street address/lot on plan for the land adjoining or adjacent to the premises (appropriate for development in water e.g. jetty, pontoon)

Street address				Lot on plan description		Local government area (e.g. Logan, Cairns)
Unit no.	Street no.	Street name and official suburb/locality name	Post-code	Lot no.	Plan type and plan no.	
				31	RP734536	Douglas Shire Council

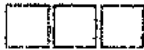


Table C—premises coordinates (appropriate for development in remote areas, over part of a lot or in water e.g. channel dredging in Moreton Bay)

Coordinates (note: place each set of coordinates in a separate row)				Zone reference	Datum	Local government area (if applicable)
Easting	Northing	Latitude	Longitude			
					<input type="checkbox"/> GDA94 <input type="checkbox"/> WGS84 <input type="checkbox"/> Other	

5. Details of the proposed change

Extension to currency period

6. Is owner's consent required for this request? (refer to notes at the end of this form for more information)

- No
 Yes—complete either table D or table E as applicable

Table D

Name of owner of the land	S & J Kane Enterprises Pty Ltd
I, the above-mentioned owner of the land, consent to the making of this request.	
Signature of owner of the land	
Date	29-5-2014.

Table E

Name of owner of the land	
<input type="checkbox"/> The owner's written consent is attached	

7. Does the request involve a state resource prescribed under the *Sustainable Planning Regulation 2009*, schedule 14? (e.g. the application involves state land, or taking quarry materials. Refer to the notes at the end of this form for more information)

- No Yes—the written agreement of the chief executive from whom evidence would need to be obtained under the *Sustainable Planning Act 2009*, section 254(1) must be attached.

8. Has a pre-request response notice been given for this request?

- No
 Yes—a copy of the pre-request response notice must be attached to this request

9. Is a copy of this request required to be given to another entity under section 372 of the *Sustainable Planning Act 2009*? (refer to notes at the end of this form for more information)

- No
 Yes—complete Table F

Table F

A copy of this request has been provided to the entities identified below (provide details for each entity given a copy of the request and the date the copy was given)

<input checked="" type="checkbox"/> Assessment manager for the original application	Douglas Shire Council
<input type="checkbox"/> Concurrence agencies for the original application	
<input type="checkbox"/> Any other entity prescribed by a regulation	

10. Provide details of any other supporting information attached to this request

Please see attached cover letter

Notes for completing this template

- This template is not an approved form under the *Sustainable Planning Act 2009*. The entity responsible for deciding the request may have their own form for the purpose of making a written request to change an existing development approval. A change to an existing development approval may involve:
 - a change to an approval given by the assessment manager
 - a change to a condition imposed by a concurrence agency
 - a change to an approval given by the Minister under a Ministerial call in
 - a change to a condition imposed by the Minister under a Ministerial direction
 - a change to an approval given by the Planning and Environment Court



Question 6:

- Under section 371 of the Sustainable Planning Act 2009, if the person making the request is not the owner of the land to which the approval relates, the request must be accompanied by the owner's consent.
- However, owner's consent is not required if the approval:
 - relates to land that was acquisition land to which section 263(2)(d) of the Sustainable Planning Act 2009 applied when the application for the approval was made
 - is for building work or operational work for the supply of community infrastructure on land designated for the community infrastructure, or
 - the consent of the owner would not be required under section 263(1) of the Sustainable Planning Act 2009 if a development application were made for the requested change
- Also, owners' consent is not required if the responsible entity is satisfied that:
 - the number of owners of the land make it impracticable to obtain owners' consent, and the requested change does not materially affect the owners' land, or
 - *having regard to the nature of the proposed change, the owner has unreasonably withheld consent and the requested change does not materially affect the owner's land.*

Question 7:

- Section 370(3) and (4) of the Sustainable Planning Act 2009 requires that if an application for the development approval were made at the time of making this request and evidence under section 264(1) of the Sustainable Planning Act 2009 would be required to support the application, this request must be accompanied by the written agreement of the chief executive from whom evidence would be required under section 264(1). (Section 264 of the Sustainable Planning Act 2009 provides that if a development involves a State resource, a regulation may require the application to be supported by certain evidence prescribed under the regulation. Schedule 14 of the Sustainable Planning Regulation 2009 prescribes the State resources for which evidence is required to be given, and the evidence required, to support the application.)

Question 9:

- Section 372 of the Sustainable Planning Act 2009 requires that a copy of the request be given to:
 - the assessment manager for the original application, if the request is made to a concurrence agency, the Minister, or the court
 - any concurrence agencies for the original application, if the request is made to the assessment manager for the original application, the Minister or the court
 - any other entity prescribed by a regulation.
- However, a copy of the request is not required to be given to an entity that has given a pre-request response notice for the request.

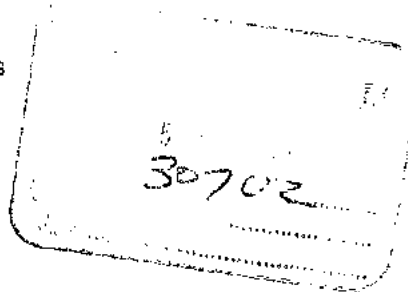
OFFICE USE ONLY

Date received		Reference numbers	
---------------	--	-------------------	--

YOUR REF: 23 Coral Drive, Pt Douglas
OUR REF: (420247)

1 May 2014

Mr Michael Tessaro
Charles O'Neill Surveyors Pty Ltd
PO BOX 5246
CAIRNS QLD 4870



Dear Sir

**RE : PROPOSED REQUEST TO EXTEND APPROVAL PERIOD FOR
DEVELOPMENT PERMIT FOR A MATERIAL CHANGE OF USE FOR
MULTIPLE DWELLINGS (RESIDENTIAL)
AT 23 CORAL DRIVE PORT DOUGLAS**

In response to your enquiry regarding the proposed extension of the existing Development Permit at 23 Coral Drive, Port Douglas Council advises as follows.

Background

The original development resulted in a duplex being constructed over the land, with planning approval, followed by the construction of a Dwelling. This has resulted in three residential units that currently exist on the land. These developments were undertaken under previous Schemes and continuing use rights have reference only to those particular forms of development.

Application TPC 1215 was lodged in 2005 for the development of three, 3 bedroom Multiple Dwellings (Residential). The application was for impact assessable development. The application was lodged under the 1996 Planning Scheme and an approval subsequently issued on 22 June 2006. The 1996 Planning Scheme has been superseded and is no longer in effect. It is noted that an extension of the approval period was issued by Cairns Regional Council on 5 July 2010 and the approval is valid up until 6 June 2014.

Current Planning Scheme

The current Scheme includes the land in the Port Douglas and Environs locality in Residential 1 Planning Area with a Low Scale Plot Ratio.

Extension of Period of Approval

A request can be made to Council to extend the period of approval for the Development Permit under the Sustainable Planning Act 2009. The request must be accompanied by a fee being \$1,109.50.

Note – Council must only assess the request under Section 388 of the Sustainable Planning Act 2009 so your request should include suitable information to address the legislative requirement.

388 Deciding request

- (1) *In deciding a request under section 383, the assessment manager must only have regard to—*
 - (a) *the consistency of the approval, including its conditions, with the current laws and policies applying to the development, including, for example, the amount and type of infrastructure contributions, or charges payable under chapter 8, part 1; and*
 - (b) *the community's current awareness of the development approval; and*
 - (c) *whether, if the request were refused—*
 - (i) *further rights to make a submission may be available for a further development application; and*
 - (ii) *the likely extent to which those rights may be exercised; and*
 - (d) *the views of any concurrence agency for the approval given under section 385.*
- (2) *If the assessment manager does not receive a notice under section 385 from a concurrence agency within 20 business days after the day the request was received by the assessment manager, the assessment manager must decide the request as if the concurrence agency had no objection to the request.*
- (3) *Despite subsection (2), if the development approval is subject to a concurrence agency condition about the period mentioned in section 341, the assessment manager must not approve the request unless the concurrence agency advises it has no objection to the extension being approved.*
- (4) *if the assessment manager receives a notice under section 385 from a concurrence agency within 20 business days after the day the request was received by the assessment manager, the assessment manager must have regard to the notice when deciding the request.*

The Sustainable Planning Act 2009 is available on line at <https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/S/SustPlanA09.pdf>

Concern is held at officer level with the ability of the development approval to meet the requirements of S.388 Sustainable Planning Act 2009. Please note that reasons regarding a downturn in the global economy or individual financial circumstances are not criteria under Section 388.

Other

The above information is offered on a without prejudice basis. The determination of an application is a decision of Council.

Should you seek to further discuss this matter please telephone Jenny Elphinstone of Council's Development Assessment unit on direct line 4099 9482.

Yours faithfully

A handwritten signature in black ink, consisting of a large, stylized loop followed by a vertical stroke and a horizontal line extending to the right.

Donna Graham
Manager Development and Environment



CHARLES O'NEILL PTY
LTD
REGISTERED CONSULTING SURVEYORS

Ph: (07) 40 516 722 Fax: (07) 40 311 446
email: manager@oneillsurveys.com.au
PO Box 5246 CAIRNS Q 4870
Office 20, "PENTAGON" 25 Grafton Street

A.B.N. 17 583 277 073
A.C.N. 010 329 174

Please make receipt out to

S + J Kane Enterprises Pty Ltd

and return to this office

Thank you

Receipt Sent 4-6-14 me



40-2014-227-1
DOUGLAS

DEVELOPMENT ASSESSMENT - RECEIPT SHEET

APPLICATION NO: TPC 1215 DATE: 2/6/14 RECEIPT NO: 20941
 APPLICANT: S + J Kane. Enterprise Agency CONTACT NAME: Michael Tessaro
 ADDRESS OF APPLICANT: C/- Charles O'Neill Surveyors + Planners Pty. Ltd. Box 5246 Cairns QLD 4870
 PHONE: 4051 6722 EMAIL: michael.tessaro@ooneillsurveyors.com.au
 SITE LOCATION: 23 Coral Drive Port Douglas
 LOT & PLAN: Lot 31 on RP734536

RECEIPT CODE	TYPE OF APPLICATION	AMOUNT PAID
1894	<ul style="list-style-type: none"> Planning and Development Certificates 	
1811	<ul style="list-style-type: none"> Consideration of Alternative Acceptable Measure / Report to Council Prelodgement Enquiry / Report to Council / Compliance Check for Self Assessable Development 	
1862	<ul style="list-style-type: none"> Application for Material Change of Use and Preliminary Approvals for Building Work - Code and Impact. Extension of Currency Period / Reconsider Lapsed Approval for Material Change of Use Request for Superseded Scheme application Signage under DSC Scheme (Op Works) 	\$1109 50
1806	<ul style="list-style-type: none"> Application for Reconfiguring a Lot Extension of Currency Period / Reconsider Lapsed Approval for Reconfiguring a Lot 	
1862/1806	Combined application (Split fee: Code: 1840 for MCU and Code: /1814 for ROL)	1840 MCU 1814 ROL
1896	Modification or Cancellation of Application or Consent Order	
1898	Landscape Plan Assessments	
1801	<ul style="list-style-type: none"> Vegetation Protection Permit to Damage Protected Vegetation 	
1816	Applications for Operational Works/Re-assessment (Excludes Signage - DSC Scheme)	
NA	Applications for Engineering Work on the Road Reserve - CAIRNS ONLY	
1816	Works/Final Works Inspections, Re-inspections	
1803	Bonds for Outstanding Works, Construction Security, Defects Liability, EPS	
1814	Endorsement of Survey Plans	
SALES		
1805	Public Notification Signs	
1807	Sale of Planning Documents (Including Hard Copies of Cairns Plan / Douglas Shire Planning Scheme)	
1809	<ul style="list-style-type: none"> CDs of Cairns Plan / Douglas Shire Planning Scheme and superseded schemes CDs - copy of application C-Data Manipulation CD supplied to customer <input type="checkbox"/> 	
1852	Copies of Development Application,	
1811	Letter of Enquiry to determine land use history	

DOUGLAS SHIRE COUNCIL
Received

File Name: _____
 Document No: _____
3 JUN 2014
 Attention: _____
 Information: _____
 TPC 1215