

18 May 2018

Our ref: CA 2144/2017 (D#820018)

Your ref: P81722

Chief Executive Officer
Douglas Shire Council
PO Box 723
Mossman QLD 4873

Attention: Jenny Elphinstone

Dear Jenny,

Request to Negotiate Conditions At 6 Endeavour St, Port Douglas (Sustainable Planning Act)

I refer to the Decision Notice dated 15 May 2018 and request that Council 'suspend the appeal period' to enable the negotiation of conditions 3 and 4 as detailed below. Our engineers Daryl Walker and Kel Bruce would appreciate the opportunity to discuss the conditions with Council's engineer Michael Kriedemann.

Background: The conditions relating to stormwater, flooding and the drainage report (Conditions 3 and 4) do not accord with the outcomes agreed to in our meeting with Council of 27 April at Trinity Engineering Consultants Office, and also as per our advice to Council on 10 May.

Essentially, the conditions miss the critical point that there is an existing flooding issue and Council should undertake the required on street works associated with mitigating the additional flow contributed from tipping development lots to Endeavour Street and that in the event the development occurs before Council undertake these works, that Council indemnifies the Developer from any resulting action.

It is likely that the condition was not intended to have this effect.

It is submitted that the condition as worded presents unintended, unnecessary and inappropriate risks to the applicant with regard to stormwater / flooding. It requires the applicant to address the post development discharge issues, however there is no commitment from Council to undertake any works with regard to the existing flooding.

The condition requiring the drainage study puts the cost of determining the existing flooding characteristics etc. on the applicant. *It is a reasonable proposition that Council undertake such a study as part of any works to mitigate the existing flooding issue.* The applicant can then take this study and determine how to mitigate the increases associated with the development.

Change to conditions: Council is requested to review the conditions 3 and 4 to address the concerns outlined above. It is also suggested that conditions 3 and 4 could be replaced with the following:

3. The lot design is to be generally in accordance with Best Overend & Associates Drawing, Proposed Rectory Site Plan, WD0,3 Revision D dated 27 September 2017 subject to:
 - a. Each lot is to be drained to a Lawful Point of Discharge to the satisfaction of the Chief Executive Officer.
 - b. The spoon drain on proposed Lot 4, is to be drained to a Lawful Point of Discharge to the satisfaction of the Chief Executive Officer.

This approach will allow drainage to be addressed at Operational Works stage – Engineer to Engineer. Our engineers are available to discuss the conditions and I would be very happy to assist in coordinating a meeting.

Yours sincerely



Nikki Huddy
Managing Director (FPIA)