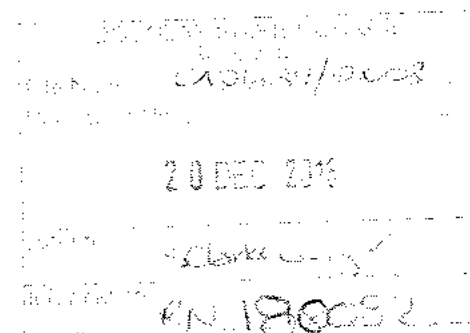




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Our Ref: PR133458/OCK/AF/L76300
Council Ref: CA 2639/2008 (768156)
Date: 15 December 2016

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

Attention: Mr Simon Clarke

Via: Email and Courier

Dear Simon

RE: REQUEST TO EXTEND RELEVANT PERIOD IN ACCORDANCE WITH S383 OF THE SUSTAINABLE PLANNING ACT 2009 IN RELATION TO DEVELOPMENT APPROVAL FOR MATERIAL CHANGE OF USE AND RECONFIGURATION OF A LOT (33 LOTS AND COMMON PROPERTY ON A COMMUNITY TITLE SCHEME) TO FACILITATE DEVELOPMENT OF A HOUSE ON EACH LOT AND USE OF ONE HOUSE AS A DISPLAY HOME, OVER LAND AT 4-10 AND 9 ESCAPE STREET, PORT DOUGLAS AND DESCRIBED AS LOTS 41 & 42 ON RP747344 AND LOTS 49 & 51 ON SP161464

RPS Australia East Pty Ltd ('RPS') acts on behalf of John Morris, Director, Port Douglas Steam Train Company Pty Ltd the owner and 'Applicant' in relation to the above described request and further to the meeting on Wednesday 30 November 2016, where we discussed the request, we now provide the formal submission for your consideration.

In support of the request, we **enclose** a signed copy of the Land Owners Consent (refer to **Attachment A**) and cheque for the amount of **\$6,162.80** being the fee payable to Douglas Shire Council for the "Request to Extend a Relevant Period" calculated consistent with Council's previous fee advice dated 12 January 2016 (refer to copy of advice in **Attachment B**).

We also provide the following background relating to the approved development and grounds in support of the requested extension of time to facilitate Council's consideration of the request.

BACKGROUND

The original Reconfiguration and MCU Development Application was assessed and decided under the Transitional Douglas Shire Planning Scheme and a Negotiated Decision Notice (Reconfiguration and MCU Development Approval) was received from the former Douglas Shire Council on 17 October 2006.

An amended Decision Notice (Amended Reconfiguration and MCU Development Approval) was later issued on 12 December 2008 in respect of an amendment to Condition 2(c) which previously did not allow construction of a fence within two metres of the road frontage.

A related Application for Operational Works was submitted to Council within the two year period, which provides for the 'roll forward' of the currency of the abovementioned Amended Reconfiguration and MCU Development Approval by four years from receipt of the Operational Works Approval. The Operational Works Development Permit was issued on 21 January 2008 and therefore, the Amended Reconfiguration and MCU Development Approval remained current up to 21 January 2012 and has been kept current through the issue of an two extensions to the currency of the Reconfiguration and MCU Development Approval by Council.

The last extension of time was granted by Council earlier this year and an additional 12 months, up to and including 21 January 2017, to complete the development in accordance with the conditions of Reconfiguration and MCU Development Approval was granted by Council.

By the time the decision to extend the currency of the Reconfiguration and MCU Development Approval was granted and notification received on 29 February 2016, it was potentially not possible to complete the development prior to the Reconfiguration and MCU Development Approval lapsing on 21 January 2017.

In addition, it is noted that the subject land has only recently been purchased by Port Douglas Steam Train Company Pty Ltd. Now that the purchase of the land has been finalised, the Port Douglas Steam Train Company are currently considering their options in respect of the potential development of the land and a 2 year extension to the currency of the Reconfiguration and MCU Development Approval is requested to allow a reasonable opportunity for the Port Douglas Steam Train Company to act in accordance with the Approval should they seek to do so.

Request and Grounds in Support

The Port Douglas Steam Train Company Pty Ltd requests that the relevant period for the Reconfiguration and MCU Development Approval be extended for a period of 2 years up to and including 21 January 2019 to allow the adequate time to determine the preferred option to develop the land and should the Port Douglas Steam Train Company seek to develop the land in accordance with the current Approval, to allow adequate time to complete the development.

While Council has already granted extensions of time for the Reconfiguration and MCU Development Approval, the land and its partially completed development has been held in abeyance since 2008 while the land has been held by the Receivers and Managers in Liquidation.

A review of the current Douglas Shire Planning Scheme indicates the site is located within the Residential 2 Planning Area and partly in the Community and Recreational Facilities Planning Area. The inclusion of the south-eastern portion of Lot 49 on SP161464 within the Community and Recreational Facilities Planning Area seems to be an anomaly given the inconsistency with the development approval granted for this portion of the site, particularly given the development application had been lodged and granted approval by Council while drafting of the current Planning Scheme was at its final stages. However, apart from this anomaly, the Planning Areas that relate to the land are considered consistent with the development approved on the land.

The development is unlikely to have any significant impacts on the infrastructure, environment or community of the surrounding area that have not already been considered under Council's previous assessment process.

In accordance with s388 of the *Sustainable Planning Act 2009*, when deciding the request Council must only have regard to; the consistency of the approval, including its conditions, with the current laws and policies applying to the development; the community's current awareness of the development approval; if the request were refused, the likelihood submissions would be lodged in response to a further development application for the development; and the views of any concurrence agency for the approval.

The following sections demonstrate the consistency of the approved development with these requirements.

Current Laws and Policies

The original Negotiated Decision Notice was issued under the now superseded Transitional Douglas Shire Planning Scheme. However, we submit the development continues to remain reasonably consistent with development outcomes sought for the land under the current Douglas Shire Planning Scheme.

With respect to the superseded Transitional Planning Scheme we confirm DCP2 Map shows the land within the 'Residential Area – Medium Density' and 'Open Space' designation. More specifically, Lots 41, 42, 51 and part of Lot 49 are designated as 'Residential Area – Medium Density' while part of Lot 49 is also designated 'Open Space'.

The intent of the 'Residential Area – Medium Density' designation under the Superseded Planning scheme is:

"To accommodate residential development, predominantly in the form of multiple dwellings (residential) and dwelling houses, together with related and compatible uses such as parks, some community facilities, child care centres and general stores in appropriate locations."

It is considered that the land use designation under the Superseded Planning Scheme, under which the development was approved, has been carried through to the land use designation under the current Planning Scheme. In support of this, we note that the purpose of the 'Residential 2 Planning Area', which relates to the majority of the site, is to facilitate achievement of the following outcomes:

- *encourage residential development which provides for a wider choice of housing in terms of form, size and affordability to meet the needs of residents;*
- *encourage medium density housing in a range of accommodation types, particularly in areas with a high level of accessibility to public transport, shopping facilities, community facilities and employment centres;*
- *ensure that residential development is of an appropriate scale and achieves an attractive built form which is sympathetic to the location and enhances the character of established residential areas;*
- *ensure that residential development is designed to take account of the tropical climate of the Shire by incorporating architectural features and elements which are appropriate in a tropical environment;*
- *promote the efficient use of physical and social infrastructure;*

- *ensure that Landscaping of residential development enhances the visual appearance of the development and the streetscape, provides attractive outdoor spaces and privacy between adjoining developments; and*
- *provide for the establishment of facilities to service the local community.*

At the time Council considered the extension of time request at its February 2016 Ordinary Meeting, Council's Proposed Planning Scheme was not available for consideration. Uncertainty with respect to the level of consistency the approved development would have with the Proposed Planning Scheme is suggested to be a strong motivating factor in Council only granting an extension of time of 12 months to complete the development.

However, the Proposed Planning Scheme has now been released for review and it is noted that the land is proposed to be included in the Medium Density Residential Zone. In addition, it is noted that the Port Douglas Steam Train Company Pty Ltd has requested that the land be included in the Tourist Accommodation Zone.

The development permitted in accordance with the Reconfiguration and MCU Development Approval is consistent with the purpose and intent of the Medium Density Residential Zone and while the development is residential in character, the permitted development is not inconsistent with development that may be permitted in the Tourist Accommodation Zone. In terms of the scale of development, the development permitted in accordance with the Reconfiguration and MCU Development Approval is considered to be at the lower end of the scale of development that may be permitted on the land pursuant to the Proposed Planning Scheme.

Community Awareness and Likelihood of Submissions

The original Material Change of Use and Reconfiguration of a Lot Development Application was Impact Assessable. RPS has reviewed the current Planning Scheme provisions and confirms if the Development Application were made under the current Planning Scheme it would remain Impact Assessable.

RPS confirms there were two submissions received by Council in relation to the original Development Application however the submitters never sought to appeal Council's granting of the approval. The Operational Works Permit was subsequently issued by Council in early 2008 and these are understood to have been substantially completed. The road accesses are clearly evident on-site.

Given the works completed on-site in accordance with the above-mentioned Approvals are clearly evident on-site, it is expected that the 'community' would remain reasonably aware of the project and the Reconfiguration and MCU Development Approval that permits the development.

While submissions were received in response to the original Development Application, it is noted that the submitters never sought to Appeal Council's Decision to grant Approval for the development. Given the development's partially completed state and that the development is not known to significantly vary from community expectations, it is expected that the community would be reasonably accepting that the development will be completed and therefore, a further development application for the development is expected to be unlikely to prompt submissions.

Concurrence Agencies

The Negotiated Decision Notice confirms the former Department of Natural Resources and Mines was a Referral Agency. However, it is understood that the department was an Advice Agency only in relation to Acid Sulfate Soil matters and is not required to be forwarded a copy of this correspondence.

CONCLUSION

We hereby respectfully request that the Douglas Shire Council, in accordance with s383 of the *Sustainable Planning Act 2009*, extend the currency/relevant period relating to the subject Material Change of Use and Reconfiguration of a Lot approval for an additional four (2) years up to and including **21 January 2019**.

We await your confirmation of receipt and assessment of this submission, however, should you require any further details or clarification, please do not hesitate to contact the undersigned in our Cairns office.

Yours sincerely

RPS



Owen Caddick-King
Principal – Planning

cc: John Morris
Port Douglas Steam Train Company Pty Ltd
1 Wharf Street
PORT DOUGLAS QLD 4877

enc: **Attachment A:** Executed Land Owners Consent
Attachment B: Council's Previous Fee Advice

RPS

Attachment A

Executed Land Owners Consent

Company owner's consent to the making of a development application
under the *Sustainable Planning Act 2009*

I John Morris

Director of the below mentioned company

Port Douglas Steam Train Company Pty Ltd

as owner of premises identified as follows:

**4-6, 8 and 10 Escape Street, Port Douglas and described as Lots 41 & 42 on RP747344 and Lots 49
& 51 on SP161464**

consent to the making of a request under the *Sustainable Planning Act 2009* by

RPS Australia East Pty Ltd

on the premises described above for the purposes of

Seeking an Extension to the Relevant Period of Development Permit for Material Change of Use

and Reconfiguration of a Lot (33 Lots and Common Property on a Community Title Scheme)

Including Development of a House on each Lot and Use of One House as a Display Home

signed on the 14th day of December 2016

Attachment B

Council's Previous Fee Advice

Owen Caddick-King

From: Jenny Elphinstone <Jenny.Elphinstone@douglas.qld.gov.au>
Sent: Tuesday, 12 January 2016 12:54 PM
To: Owen Caddick-King
Subject: DSC Advice Application Fee for Proposed Extension of Time Request - 4-6 and 10 Escape St, Pt Douglas
Attachments: Orig NDN.pdf; CRC conf re ext time.pdf; 2010 Amended Approval.pdf

Hi Owen,

Council agrees to a reduced fee.

See the following table of the calculation based on the current fees and charges -- this is slightly more than your estimate.

Base fee	\$ 1,277.25
charge per lot	479.8
number of lots	33
	<u>\$ 15,833.40</u>
total	\$ 17,110.65
35% fee for extension	\$ 0.35
	<u><u>\$ 5,988.73</u></u>
Required fee	\$ 5,988.73

Kind regards

Jenny Elphinstone | Senior Planning Officer

Development & Environment | Douglas Shire Council

P: 07 4099 9482 | F: 07 4098 2902

E: jenny.elphinstone@douglas.qld.gov.au | W: douglas.qld.gov.au

Mail: PO Box 723, Mossman Q 4873 | Office: 64-66 Front St, Mossman Q 4873

From: Owen Caddick-King [<mailto:owen.caddick-king@rpsgroup.com.au>]
Sent: Tuesday, 12 January 2016 10:20 AM
To: Jenny Elphinstone
Subject: Doc 764631 Proposed Extension of Time Request - 4-6 and 10 Escape St, Pt Douglas

Hello Jenny

As discussed, it is proposed that an extension of time request be lodged later this week and I seek to confirm the fees.

Based on the approval for 33 lots and that most of the Houses are self-assessable, I have calculated the Council fee as \$5,541.69. To allow the lodgement of a properly made request, it would be appreciate if you could confirm later this week the fee required.

For your info, I note that the extension of time request fee in 2010 was \$4,898.25.

To assist, please find attached a copy of the original NDN, the amended Development Approval and the extension of time advice which indicates that the approval lapses 21 January 2016.

Regards



Owen Caddick-King
Principal - Planning
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