

**ENQUIRIES:** Ross McKim  
**PHONE:** (07) 4044 3010  
**FAX:** (07) 4044 3836  
**YOUR REF:**  
**OUR REF:** 8/10/157 (4100255)

30 August 2013

Mr Jim Papas  
Jim Papas Drafting Pty Ltd  
PO Box 2347  
**MAREEBA QLD 4880**

Dear Sir

**OCEAN BREEZE ESTATE – STAGE 5A – COOYA BEACH ROAD**  
**DECISION NOTICE APPEAL PERIOD**

I refer to your letter dated 6 August 2013 regarding your request to suspend the appeal period and subsequent questions regarding Decision Notice clause 5b and 6a (our ref: 8/10/157 #4034522). Council advice is as follows;

**Condition 5 (b) Easements**

Council has considered the option of a Building Envelope in lieu of an easement. Building Envelopes are not registered with the land nor shown on the survey plan. They are not legally enforceable as they are not a legal agreement. Building Envelopes are held as a separate layer on Council's mapping system and can only be found by a rates notice search. They also only deal with limits on the built form rather than all types of development work. Hence a Building Envelope would be deficient in that it's not shown on the survey plan and can be overlooked by successive purchasers of the land. A Building Envelope also wouldn't provide legal certainty in the case of disputes over use and access rights or reinstatement. The only other alternative to an easement would be a Building Covenant. A Building Covenant is shown on the survey plan, is registered with the land and is similar to an easement in that it consists of an agreement.

Based on the above, Water and Waste could only agree to a Building Covenant as an alternative to an easement. Therefore a Building Envelope would not be accepted as a substitute for an easement.

**Condition 6 (a) Water modelling**

The aim of this condition is to ensure that there is a documented modelling result showing that the subdivision will meet the required minimum pressure criteria based

on revised boundary conditions reflecting interconnection of the 225ND main in Bonnie Doon Road. Modelling of this additional scenario is considered necessary given the previous modelling, based on boundary conditions without the interconnection, showed pressure issues in other parts of the subdivision.

The applicant can request a Hydrant Test by completing the attached form and lodging it with Customer Service. The form should be addressed for the attention of Ricky Hewitt. The deposit is \$600 per hydrant test (these works are charged out at actual cost). A plan showing the location of hydrants and number to be tested should also be lodged with your application.

As per section 366.4(b) of the sustainable planning act, the balance of your appeal period restarts after receiving this notice.

Should you require any further information, please contact Development Engineering Executive Officer Ross McKim on telephone number (07) 4044 3010, or via email address [r.mckim@cairns.qld.gov.au](mailto:r.mckim@cairns.qld.gov.au).

Yours faithfully

Graham Boyd  
**Acting General Manager Planning and Environment**