

Administration Office
64 - 66 Front St Mossman
P 07 4099 9444
F 07 4098 2902

OUR REF: OP 3246/2019 (Doc ID:917172)

29 August 2019

Jim Scott
P.O Box 1306
MOSSMAN QLD 4873

Dear Sir

**DECISION NOTICE FOR OPERATIONAL WORKS VEGETATION
DAMAGE/CLEARING
2/2 MORNING CLOSE PORT DOUGLAS: ON LAND DESCRIBED AS LOT 2 ON
SP199681**

Council acknowledges the above Development Application lodged and as properly made on 21 August 2019.

Please find attached the relevant Decision Notice for the above mentioned Operational Works.

Please quote Council application number: OP3246/2019 in all subsequent correspondence relating to this development application. Should you require further information or assistance, please contact Melissa Mitchell of Development and Environment on telephone 07 4099 9487.

Yours faithfully



 Paul Hoyer
Manager Environment & Planning

Encl.

- Decision Notice
- Approved Plans
- Rights to Make Representations and Rights of Appeal

**DOUGLAS SHIRE COUNCIL
DECISION NOTICE —
APPROVAL (WITH CONDITIONS)
(GIVEN UNDER SECTION 63 OF *THE PLANNING ACT 2016*)**

Council refers to the development application detailed below which was properly made on 21 August 2019. Please be aware that Douglas Shire Council has assessed the application and decided it as follows.

1. Applicant's details

Name: Jim Scott
Postal Address: P.O BOX 1306
MOSSMAN QLD 4873

2. Location details

Street Address: 2/2 Morning Close Port Douglas
Real Property Description: Lot 2 on SP199681
Local Government Area: Douglas Shire Council

3. Details of proposed development

Development Permit for Operational Work for Vegetation Damage/Clearing.

4. Decision

Date of decision: 30 August 2019
Decision details: Approved in full with conditions. These conditions are set out in Schedule 1 and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

5. Approved plans and specifications

Copies of the following plans, specifications and/or drawings are enclosed.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Aspect of development: Operational Work – Vegetation Damage/Clearing				
Tree Report	Central Tree Services	20/08/2019		Version 1

6. Further development permits

Not applicable – No development permits are required

7. Properly made submissions

Not applicable — No part of the application required public notification.

8. Currency period for the approval

This development approval, granted under the provisions of the *Planning Act 2016*, shall lapse two (2) years from the day the approval takes effect in accordance with the provisions of Section 85 of *Planning Act 2016*.

9. Rights to make representations and rights of appeal

The rights of applicants to make representations and rights to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

Schedule 2 includes extracts from the Development Assessment Rules and the *Planning Act 2016* that sets down these rights.

SCHEDULE 1 – CONDITIONS AND ADVICE

PART 1A – CONDITIONS IMPOSED BY THE ASSESSMENT MANAGER

The standard conditions are shown in Appendix A and must be read in conjunction with any approved plans and project specific conditions identified below.

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or documents, and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Council;
 - b. The following conditions of approval and the requirements of Council's Planning Scheme and the *FNQROC Development Manual*.

Except where modified by these conditions of approval.

2. The trees and/or vegetation to be removed (the subject of this approval) are identified on the plan attached as Appendix 1.
3. No other trees or vegetation are to be removed or damaged, and the removal of the subject trees is to be undertaken in a manner that incurs no damage to nearby vegetation.
4. Council's Environment and Planning Department must be notified two (2) business days prior to the proposed date of commencement of any approved vegetation clearing.
5. Provide a landscaping plan with species appropriate for the location for endorsement by the Chief Executive Officer prior to work commencing. The approved landscaping must be planted within three months of the vegetation removal.
6. All pruning/ removal works must conform to AS4373 (2009) and be undertaken by a suitably qualified and experienced contractor having full regard to safety precautions and considerations who is able to demonstrate a comprehensive Occupational Health and Safety Policy specific to tree work with relevant insurances in place.
7. The work authorized by this approval must be carried out in an environmentally sensitive manner in accordance with the conditions of this approval. If in doubt the precautionary principle should be applied. Stop work and contact Council for advice.
8. Prior to the removal of any tree, an inspection must be carried out for any signs of protected wildlife including nests and animal habitat. Should any recent wildlife activity be identified, removal of the tree must not occur until the animal has vacated the area of immediate danger.
9. Trees and/or vegetation that contain nesting native birds, dens or roosting sites of native animals are not to be removed while the nests, dens or roosting sites are in use, as per the requirements of the *Nature Conservation (Wildlife Management) Regulation 2006*, without the necessary approval. Information on approvals may be obtained from the Department of Environment and Science.
10. A clearing permit (protected plants) must be obtained from the Department of Environment and Heritage Protection for the relocation of all specimens of 'Ant Plant' (*Myrmecodia beccarii*) prior to the removal of any host trees. 'Ant Plants' are listed as Vulnerable under both the *Nature Conservation Act 1992* and the *Environment Protection & Biodiversity Conservation Act 1999*. Information on clearing permits may be obtained from the Department of Environment and Science.

11. Damaged Vegetation:

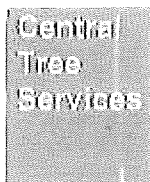
- a. Damaged vegetation is removed and disposed of at an approved site; and/or
- b. Damaged vegetation is mulched or chipped and used onsite.

Part 1B- ADVICE NOTES

- 1. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
- 2. For information relating to the *Planning Act 2016* log on to www.dsdip.qld.gov.au . To access the *FNQROC Development Manual*, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au .

APPROVED PLAN (S) & SPECIFICATIONS

ABN 69 631 537 641



20th August 2019

Daniel

We have been asked to remove five (5) mature *Syzygium* trees as located along the side boundary of Unit 2, 2 Morning Close, Port Douglas.

Although neither dead, dying or currently structurally dangerous, the trees are an inappropriate species for the location having a size at maturity which far exceeds the area within which they have become established.

Previous works to reduce the trees (and therefore manage the trees at a safe height and with consideration to building clearance) have led to a significant loss of form, with heavy poorly attached regrowth present throughout – the severity of pruning required in order to retain the trees would greatly exceed current guidelines as set out in AS4373-2009.

An additional concern is the extent of surface roots (originating from the identified trees) present within the unit's rear yard – these are now starting to impact upon the pool surrounds.

Please do not hesitate to contact me in relation to the above or with any additional requirements.

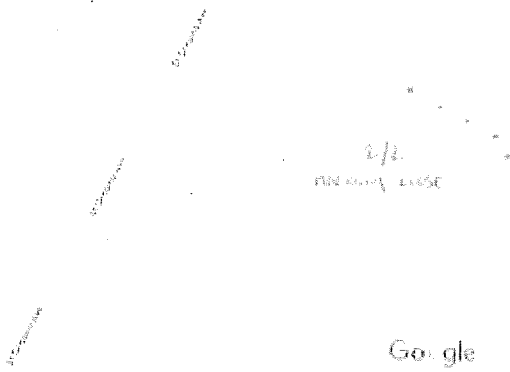
Regards

Jim Scott B.Sc. (Hons) – Level 8 Arborist

0459 567298

Tree trimming and removal • Qualified Arborists • Vegetation management
PO Box 1306, Mossman Qld

Google Maps



Google

Map data ©2019 5m

• — TAKE TO BE REMOVED

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.

- (3) In this section—

conduct means an act or omission.

representative means—

- (a) of a corporation—an executive officer, employee or agent of the corporation; or
- (b) of an individual—an employee or agent of the individual.

state of mind, of a person, includes the person's—

- (a) knowledge, intention, opinion, belief or purpose; and
- (b) reasons for the intention, opinion, belief or purpose.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
- (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and

- (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and

- (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
decision includes—

- (a) conduct engaged in for the purpose of making a decision; and
- (b) other conduct that relates to the making of a decision; and
- (c) the making of a decision or the failure to make a decision; and
- (d) a purported decision; and
- (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

SCHEDULE 3 – RIGHT OF APPEAL WAIVER

Mail To: Douglas Shire Council
Email Address: enquiries@douglas.qld.gov.au
Attention: Development Assessment

RE:

Council reference: OP 3246/2019

Property Address: 2/2 Morning Close Port Douglas, land described as Lot 2 on SP199681.

This advice is to confirm that I/We have received the above approval and agree to the conditions contained therein. I/We hereby waive My/Our appeal rights available under the *Planning Act 2016*.

Applicants Name: _____

Signature: _____

Date : _____