# AGENDA FOR PLANNING & DEVELOPMENT COMMITTEE MEETING

**To Be Held In Committee Room, Bundaberg**  
**On Thursday 19 August 2010, Commencing at 8.30 am**

<table>
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<tr>
<th>Page</th>
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<td>N6</td>
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<td>5</td>
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</table>
Item 19 August 2010

<table>
<thead>
<tr>
<th>Item Number:</th>
<th>File Number:</th>
<th>Part:</th>
</tr>
</thead>
<tbody>
<tr>
<td>N1</td>
<td>322.2010.29051.1</td>
<td>DEVELOPMENT</td>
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</tbody>
</table>

**Portfolio:**
Planning & Development Services

**Subject:**
89 Woongarra Street, Bundaberg West; Material Change of Use for Medical Centre

**Report Author:**
Grant Barringer, Planning Officer

**Authorised by:**
Rob Thompson, Manager Planning (City & Hinterland)

**Link to Corporate Plan:**
Nil -

**Applicant:**
Bundy (QLD) Pty Ltd

**Owner:**
Bundy (QLD) Pty Ltd & Mandala Investment Company Pty Ltd

**Location:**
89 Woongarra Street, Bundaberg West

**RPD:**
Lot 713 on B1582, County Cook, Parish Bundaberg

**Area:**
1012 m²

**Land Designation:**
Residential "B" (Local Area 4).

**Planning Scheme:**
Planning Scheme for Bundaberg City

1. **Proposal:**

   This is a Development Application seeking a Development Permit for a Material Change of Use to construct a Medical Centre.
The proposed development intends to convert the existing dwelling. The proposed medical centre includes a reception / waiting room, nurse’s office, four (4) practitioner’s rooms, a procedure room, staff room, store room and washroom.

Site access is proposed via a three (3) metres wide crossover along Woongarra Street. Egress from the site is via a separate four (4) metre wide crossover to the east of the entry driveway. Sixteen (16) carparking spaces have been provided internally to cater for the patrons and staff. The proposed plans also indicate a one (1) metre wide landscaping strip along the northern and eastern boundaries.

**Subject Site & Surrounding Land Uses**

The site is located on Residential “B” Precinct allotments located along Woongarra Street with Local Area 4 (Higher Density Residential). Currently on the site is a single dwelling house with carport and associated garage. Since the area predominantly comprises Residential “B” Precinct allotments, surrounding land uses include a variety of multi-unit and single residential dwellings. Commercial uses also exist to the North and East of the subject site.

**Considerations**

1. **Planning Scheme**

The site is included within a Residential "B" Precinct in Local Area 4 in the Planning Scheme for Bundaberg City. The proposed development, a Medical Centre, is defined as a Commercial Activity “A” in the Planning Scheme. In Local Area 4, a Commercial Activity “A” on a Residential “B” Precinct allotment represents Impact Assessable Development that is otherwise consistent with the Local Area Planning Intent, and City Planning Strategies.

The development will also be assessed against the provisions of the Commercial Activity Code.

1.1 **Local Area 4 – Higher Density Residential**

Since the commencement of the current Planning Scheme, Local Area 4, the Local Area in the Planning Scheme that comprises the majority of Residential “B” Precinct allotments in the Bundaberg City area, has been subject to several professional office and medical office developments on Residential “B” Precinct allotments. Such developments are considered favourably particularly when they display due care in minimising impacts on adjacent residential properties. The interface between commercial and residential uses is critical in these instances.

The proposed new medical offices, operating on a 1012m² rectangular shaped allotment with access to Woongarra Street propose to operate from the site with the prescribed minimum number of carparking (16). The customer carpark is located to the northern end of the subject site to assist in protecting land use conflicts. The interface between adjacent residential developments has been maintained.
1.2 **Commercial Activity Code**

The purpose of the Commercial Activity Code is:

“To facilitate new commercial development that makes a positive contribution to streetscape through building design, siting and scale while ensuring that adverse off-site impacts are within limits acceptable to the local community.”

The proposed development is for the conversion of the existing dwelling house for a commercial activity “A” use. The prescribed solution for minimum setback for buildings is 6m and 3m from the frontage and rear boundaries respectively. The proposed development is 6.887 metres from Woongarra Street.

It is considered that the proposed Medical Centre is in accord with the intent of the Commercial Activity Code, and the Acceptable Solutions prescribed.

2. **Engineering**

2.1 **Water**

To comply with performance criteria P2 of the Infrastructure Services Code, the developer must insure that infrastructure available adjacent to the frontage of the site is disrupted by the construction or operation of the development.

Water mains exist on both street frontages; however, the provision road widening in Wongarra Street has the potential to damage the existing 100 mm AC water main.

2.2 **Sewerage**

To comply with performance criteria P3 of the Infrastructure Services Code the developer is required to adequate protection against damage to existing underground infrastructure services, and must ensure access is available for future maintenance of the services. Section 4.2 of the Bundaberg City Development Manual requires the provision of a 2.5 metre sewer easement over sewers. Accordingly, this development will be required to provide a 2.5 metre sewer easement over the existing sewer where it traverses the site.

2.3 **Stormwater**

The Commercial Activity Code and Infrastructure Services Code (ISC) refer to the provision of stormwater for this development. Performance Criteria P4 of the ISC pertains to the stormwater for the development and it requires controls to ensure that stormwater drainage does not result in unacceptable water quality, increased flooding or erosion impacts.

2.4 **Roadworks**

The Vehicle Parking and Access Code (VPAC) performance criteria P4 refers to the necessity for the design, construction and operation of vehicle parking and access
areas to be in accordance with AS 2890. The layout of the carpark complies with the standard.

To comply with performance criteria P2 of the Infrastructure Services Code, the developer is to provide acceptable infrastructure to the frontage of the proposed development. This is achieved through compliance with the items outlined in Table 4.3 of the Code. In this instance the table requires both road widening and sealed footpath.

3. **Referral Agencies**

The Department of Transport and Main Roads as a concurrence agency responded with “no requirements” by letter dated 22 June 2010.

4. **Infrastructure Charges**

Infrastructure charges contributions are required as per the attached calculation sheet.

**Attachments:**
1. Locality Plan
2. Proposal Plans
3. Infrastructure Contributions
4. Decision Notice

**Recommendation:**

That application (Council Reference Number 322.2010.29051.1) for Material Change of Use for Medical Centre at 89 Woongarra Street, Bundaberg West; land described as Lot: 713 B: 1582, County Cook, Parish Bundaberg be APPROVED with conditions and Council issue the attached Decision Notice, including attachments.
Planning Scheme for Bundaberg City, Planning Scheme Policy 5.10 Sewerage, Water Supply, Stormwater, Transport & Parks, Recreation and Community Land Infrastructure

**File Reference:** 322.2010.29051.1

**Existing Use:** Residential B (4a).

**Proposed Use:** Commercial – Medical Centre

**Local Area:** “4”

**Acronyms**

- **SIC** = Sewerage Infrastructure Contribution
- **WSIC** = Water Supply Infrastructure Contribution
- **SWIC** = Stormwater Infrastructure Contribution
- **TRIC** = Transport Infrastructure Contribution
- **PCIC** = Pedestrian & Cycle Way Infrastructure Contribution
- **PRCLIC** = Parks, Recreation & Community Land Infrastructure Contribution

- **ED** = Equivalent Demand
- **PC** = recognised Previous Contribution
- **CR** = Contribution Rate
- **I** = Indexed by the Infrastructure Indexation Unit Rate:
  \[
  1 + \left(\frac{\text{Consumer Price Index} + \text{Producer Price Index}}{2}\right)
  \]
  to 2010 then CPI

**Sewerage Infrastructure Contribution**

**SIC** = \((\text{ED} – \text{PC}) \times \text{CR}) \times I\)

**Where:**
- **ED** = 17 EDUs per hectare (0.1012 ha) = 1.7204
- **PC** = 1/EDU per Lot (1 dwelling “As of Right”) = 1
- **CR** = $3,215.00
- **I** = 1.1011

\[
(1.7204 – 1.0) \times 3125.00 \times 1.1101 = 2,478.85
\]

**Water**

**WCIS** = \((\text{ED} – \text{PC}) \times \text{CR}) \times I\)

**Where:**
- **ED** = 17 EDUs per hectare (0.1012 ha) = 1.7204
- **PC** = 1/EDU per Lot (1 dwelling “As of Right”) = 1
- **CR** = $3,029.00
- **I** = 1.1101
\[(1.7204 - 1.0) \times 3,029.00 \times 1.1101 = 2,402.70\]

**Stormwater**

SWIC = (ED - PC) x CR

Where:

- ED = 1 per 400m² of Site Area (0.1012 ha) = 2.53
- PC = 1/EDU per Lot (1 dwelling “As of Right”) = 1
- CR = $1,500.00

\[(2.53 - 1.0) \times 1,500.00 = 2,295.00\]

**Transport**

TRIC = \((ED - PC) \times CR\) x I

Where:

- ED = 0.7 per 100m² of GFA (166 m²) = 1.162
- PC = 1/EDU per Lot (1 dwelling “As of Right”) = 1
- CR = $1,231.00 (Council)
  = $1,256.00 (DMR)
- I = 1.067

\((1.162 - 1.0) \times 1,231.00 \times 1.1101 = 219.58 \text{ (Council)}\)
\((1.162 - 1.0) \times 1,256.00 \times 1.1101 = 224.04 \text{ (DMR)}\)

**Pedestrian & Cycle Ways**

Na

**Parks, Recreation & Community Land**

Na
I acknowledge receipt your Development Application for Material Change of Use for Medical Centre at 89 Woongarra Street BUNDABERG WEST; land described as Lot: 713 B: 1582, County Cook, Parish Bundaberg lodged with Council on 24 May 2010 and deemed to be properly made on 2 June 2010 and confirm that, on 19 August 2010, the above development application was approved in full with conditions by Council under delegation at the Planning and Development Committee Meeting.

The conditions of this approval are set out in Attachment 1. These conditions are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them or

The conditions of this approval are set out in Attachment 1. These conditions are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

Approval under s331

This application has not been deemed to be approved under section 331 of the Sustainable Planning Act 2009 (SPA).

1. Details of the approval

The following approvals are given:

<table>
<thead>
<tr>
<th>Sustainable Planning Regulation 2009, schedule 3 reference</th>
<th>Development Permit</th>
<th>Preliminary Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Making a material change of use assessable under the planning scheme, a temporary local planning instrument, a master plan or a preliminary approval to which section 242 applies</td>
<td>✔️</td>
<td></td>
</tr>
</tbody>
</table>

2. Preliminary approval affecting the planning scheme – N/A.

3. Other necessary development permits and/or compliance permits – Nil.
   - Operational Works – Assessable against the Planning Scheme for Bundaberg City Plan (Version 2.00)
4. Codes for self-assessable development – N/A.

5. Details of any compliance assessment required for documents or work in relation to the development – N/A.

6. Submissions – N/A.
There were no properly made submissions about the application.

7. Referral agencies – N/A.
The referral agencies for this application are:

<table>
<thead>
<tr>
<th>For an application involving</th>
<th>Name of referral agency</th>
<th>Advice agency or concurrence agency</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development site located with 100m of a State Controlled Road (Bourbong Street)</td>
<td>Department of Transport and Main Roads</td>
<td>Concurrence Agency</td>
<td>Wide Bay/ Burnett Region Locked Bag 486, Bundaberg QLD 4670</td>
</tr>
</tbody>
</table>

8. Approved plans – N/A.
The approved plans and/or documents for this development approval are listed in the following table:

<table>
<thead>
<tr>
<th>Plan/Document number</th>
<th>Plan/Document name</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>100105- DA1</td>
<td>Site Plan</td>
<td>10/05/10</td>
</tr>
<tr>
<td>100105- DA2</td>
<td>Existing Floor Plan</td>
<td>10/05/10</td>
</tr>
<tr>
<td>100105- DA3</td>
<td>Proposed Floor Plan</td>
<td>10/05/10</td>
</tr>
<tr>
<td>100105- DA4</td>
<td>Existing Elevations</td>
<td>10/05/10</td>
</tr>
<tr>
<td>100105- DA5</td>
<td>Proposed Elevations</td>
<td>10/05/10</td>
</tr>
</tbody>
</table>

9. When approval lapses if development not started (s.341)
This development approval will lapse as per set out by Section 341 of the Sustainable Planning Act 2009 and any condition attached to this notice, unless otherwise approved by Council.

10. When approval lapses if development started but not completed—preliminary approval to which section 242 of the SPA applies (s.343) – N/A.

11. Appeal rights
Appeals by applicants
An applicant for a development application may appeal to the Planning and Environment Court against the following:
The refusal, or refusal in part of the development application

any condition of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242 of SPA

the decision to give a preliminary approval when a development permit was applied for

the length of a period mentioned in section 341

a deemed refusal of the development application.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 461(2) of SPA.

Applicants may also have a right to appeal to the Building and Development Dispute Resolution Committee. For more details, see SPA, chapter 7, part 2.

**Appeals by submitters**

A submitter for a development application may appeal to the Planning and Environment Court against:

the part of the approval relating to the assessment manager’s decision about any part of the application requiring impact assessment

the part of the approval relating to the assessment manager’s decision under section 327.

Details about submitter appeal rights for the Planning and Environment Court are set out in sections 462, 463 and 464 of SPA.

Submitters may also have a right to appeal to the Building and Development Dispute Resolution Committee. For more details, see SPA, chapter 7, part 2.

**Attachment 2** is an extract from SPA which details the applicant’s appeal rights and the appeal rights of any submitters regarding this decision.

If you wish to discuss this matter further, please contact me on the above telephone number.

Yours sincerely

19 August 2010

(Peter Byrne)
Chief Executive Officer
Bundaberg Regional Council

cc: Principal submitters

**Attachment 1—Conditions of the approval**

**Part 1—Conditions imposed by the assessment manager**

**Part 2—Concurrence agency conditions**

**Attachment 2—SPA extract on appeal rights**
Attachment 1 – Conditions of the Approval

Development Permit for Material Change of Use – Impact Assessment

<table>
<thead>
<tr>
<th>Council Reference:</th>
<th>322.2010.29051.1</th>
</tr>
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<tbody>
<tr>
<td>Development Permit Date:</td>
<td>19 August 2010</td>
</tr>
<tr>
<td>Applicant:</td>
<td>Bundy (QLD) Pty Ltd</td>
</tr>
<tr>
<td>Real Property Description:</td>
<td>Lot: 713 B: 1582, County Cook, Parish Bundaberg</td>
</tr>
<tr>
<td>Location:</td>
<td>89 Woongarra Street BUNDABERG WEST</td>
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<tr>
<td>Approval Detail:</td>
<td>Medical Centre</td>
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Part 1(a). Conditions Imposed by the Assessment Manager

General
1. All works are to be undertaken at the Developer’s expense;

2. All Conditions contained in this Decision Notice are to be completed/complied with before the use hereby approved commences, unless otherwise stated within this notice;

Approved Plans
3. The proposed development is to be generally constructed in accordance with Conditions contained within this notice and the following Approved Plans;

<table>
<thead>
<tr>
<th>Plan/Document number</th>
<th>Plan/Document name</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>100105- DA1</td>
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</tr>
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<td>100105- DA3</td>
<td>Proposed Floor Plan</td>
<td>10/05/10</td>
</tr>
<tr>
<td>100105- DA4</td>
<td>Existing Elevations</td>
<td>10/05/10</td>
</tr>
<tr>
<td>100105- DA5</td>
<td>Proposed Elevations</td>
<td>10/05/10</td>
</tr>
</tbody>
</table>

Infrastructure Contributions

4. Payment of Infrastructure contributions for Sewerage, Water Supply, Stormwater, Transport (local and state controlled roads), Pedestrian and Cycle Ways, and Parks, Recreation and Community Land, in accordance with Council’s adopted Planning Scheme Policy, is required.

Contributions required, if paid by 30 June, 2011, are:-

<table>
<thead>
<tr>
<th>Type of Contribution</th>
<th>Equivalent Demand</th>
<th>Recognised Previous Contribution</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Sewerage</td>
<td>1.72</td>
<td>1</td>
<td>$ 2,478.85</td>
</tr>
<tr>
<td>Water</td>
<td>1.72</td>
<td>1</td>
<td>$ 2,402.70</td>
</tr>
<tr>
<td>Stormwater</td>
<td>2.53</td>
<td>1</td>
<td>$ 2,295.00</td>
</tr>
<tr>
<td>Transport - Sectoral (local controlled roads)</td>
<td>1.162</td>
<td>1</td>
<td>$ 219.58</td>
</tr>
<tr>
<td>Transport - Regional (state controlled roads)</td>
<td>1.162</td>
<td>1</td>
<td>$ 224.04</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>$ 7,620.17</td>
</tr>
</tbody>
</table>

All contributions are payable prior to the issue of a Development Permit for Building Works, unless stated otherwise within this notice. The actual contribution payable will be
adjusted if necessary to allow for variations determined in accordance with the applicable Planning Scheme policy current at the time of payment;

Water

5. The developer must replace the full length of the 100 mm AC water main in Woongarra Street where the subgrade level of the approved pavement (associated with road widening) is within 200 mm of the top of the water main;

Sewerage

6. Dedication of minimum 2.5 metre wide Sewerage Easement in favour of Bundaberg Regional Council is to be provided to contain the sewerage infrastructure where it traverses each lot from property boundary to property boundary. Easement documentation is to be acceptable to Bundaberg Regional Council and be prepared at no cost to Bundaberg Regional Council;

Stormwater Drainage

7. The point of discharge for major site stormwater associated with the car parking areas must be Woongarra Street;

8. The design for the site drainage system, fill, car parking and access shall be undertaken such that flows from adjacent properties will not be impeded by the proposed development;

9. Detention storage is required to be provided to cater for increased stormwater runoff as a result of this development. Stormwater discharge from the subject land is to be limited to pre-development generated peak levels up to and including Q100 ARI flows via the provision of on site detention storage. The detention storage shall be visually integrated into the surrounding landscape and designed with a high level of visual amenity or can be integrated into the car parking facilities (maximum depth of storage – 200mm);

10. Stormwater drainage shall be designed and constructed in accordance with the requirements of the Queensland Urban Drainage Manual and Bundaberg City Council, ie. piped system is to be provided with a capacity to cater for Q10 ARI flows with overland flowpaths to be provided for a capacity of Q100 ARI less piped flow;

11. A grated trench drain is to be provided at the entry/exit to the property where the Q10 ARI flows are not contained within the site;

12. Stormwater quality improvement (SQID) and bioretention devices are to be provided to treat runoff from all car park areas from the proposed development. The objective of the SQID is to remove oil, grit and sediments. The details of this device and the bioretention devices are to be submitted with the required Operational Works application and a performance based approach will be used to assess the SQID system proposed;

Roadworks and Car Parking

13. The internal parking layout is to be generally in accordance with Direct>Design Proposed Medical Centre [Layout Plan] 10 May 2010;

14. Provision of an off-street car parking and vehicle manoeuvring area for four (4) staff twelve (12) visitor parking. Such car parking, access and manoeuvring areas shall be:-

   (i) constructed and sealed with bitumen, asphalt, concrete or approved pavers;
   (ii) line-marked into parking bays;
   (iii) designed to include a manoeuvring area to allow vehicles to leave the site in a forward gear;
(iv) designed to include the provision of fill and/or boundary retaining walls to allow for the containment and management of site stormwater drainage as required;
(v) drained to the relevant site discharge point;

15. Pavement construction and asphaltic concrete (AC) sealing is to be provided to the full site frontage of Woongarra Street from the existing kerb and channelling to the edge of the existing pavement. The widening will make allowance to retain and protect the existing street trees. The pavement specifics shall be determined at the Operational Works Stage;

16. Construction of a reinforced concrete industrial footpath invert crossing in accordance with Council’s Drawing No. R-0051 (Current Version) for the Woongarra Street site access. The crossing shall be: a minimum of three (3) metres entry and four (4) metres exit. The specific requirements of the crossing shall be determined at the Operational Works stage of the development;

17. Removal of obsolete kerb crossings, kerb drainage outlets and footpath crossovers. Works shall include the reinstatement of frontage kerb and channelling and footpath profile to suit;

18. A 1.5 metre wide concrete ribbon footpath shall be provided for the full length of the site frontage in accordance with Council’s Drawing 13977. Works shall include re-grading of the grassed area to suit the new footpath, with topsoiling and grass seeding to disturbed path areas as well as fill material to the footpath to remove trip hazards;

**Landscaping**

19. Landscaping of the site is to:-
   (i) consist of the construction of permanent garden beds planted with trees and shrubs, with particular attention to the street frontages of the site.

   Landscaping is to be completed prior to the premises being occupied and is to be maintained while the use of the premises for the ‘approved use’ continues;

   (ii) include species recognised for their low water requirements and is to be provided with an approved controlled underground or drip watering system.

Any such system is to be fitted with an approved backflow prevention device at the Developer’s expense. Please liaise with Council’s Building Services, and Water and Wastewater Infrastructure Planning Technical Support Sections in this regard;

**Fencing**

20. The provision of a 1.8 metre high solid screen fence along the side and rear boundaries of the site, commencing from the front boundary of the subject property, where such fencing does not currently exist. From the front building line of the structure to the front boundary of the site such fencing may be reduced to a height of 1.2 metres with exception of any private open space areas between the main building line and Woongarra Street. The total cost of this new fencing is to be met by the Developer;

21. Screen fencing must contain no gaps so that the privacy of adjoining residents is protected. Where timber paling fences are proposed, the palings are to be overlapped to allow for the natural shrinkage of the timber;

22. The erection of a second boundary line fence parallel to any existing boundary fence, is prohibited, thereby preventing the creation of an unmaintainable area between two fences that may attract or harbour vermin or pests;
23. Should any existing fence provide insufficient screening then the Developer may, by agreement with the owner/s of the neighbouring property, replace the existing fence wholly at the Developer’s expense. Any replacement fence must comply with the requirements of this approval;

24. Should any existing fence not comply with the requirements of this approval then the Developer must replace said fencing in accordance with the requirements of this approval;

**Lighting**

25. External lighting is to be designed in accordance with AS4282-1997: ‘Control of the Obtrusive Effects of Outdoor Lighting’ so as not to cause nuisance to nearby residents or passing motorists;

**Noise**

26. Any noise produced by the use is not to exceed the background noise level plus 5db(A) (6am-6pm) or background noise level plus 3db(A) (6pm-10pm) or background noise level (10pm-6am) measured as the adjusted maximum sound pressure level at any noise sensitive place;

**Air Conditioners**

27. Air Conditioning units are to be designed, installed, maintained, and operated so that noise emissions are within the limits imposed by the Environmental Protection Act, Regulations and Policies;

28. Condensation from air conditioning units is to be discharged to the sewerage system;

**Other**

29. Any damage occasioned to the kerb and channelling and / or footpath is to be repaired / reinstated at the completion of all works;

30. A sufficient area is to be provided for the storage of all waste bins. This area is to be sealed, screen fenced and designed so as to prevent the release of contaminants to the environment;

31. Any placement of fill material within the subject land is to comply with the Planning Scheme for Bundaberg City’s ‘Filling and Excavation Code’. All fill material to be placed on the subject allotment is to be tested and structurally certified in accordance with the Code;

**Part 1(b). Assessment Manager’s Advices**

**Rates and Charges**

A. In accordance with the Integrated Planning Act, all rates, charges or any expenses being a charge over the subject land under any Act shall be paid prior to the Plan of Survey being endorsed by Council;

**Operational Work**

The following conditions list the requirements to obtain a Development Approval for Operational works for this development. The conditions promulgate the necessity to have plans prepared and certified by engineers that are registered with the Board of Professional Engineers of Queensland.
B. Plans and specifications for Operational Work must be prepared and certified by a Professional Engineer registered with the Board of Professional Engineers of Queensland;

C. Prior to both commencement of use and sealing of a survey plan, plans and specifications for Operational Work must be approved by Council;

D. Prior to both commencement of use and sealing of a survey plan, Operational Work must be certified by an Engineer registered with the Board of Professional Engineers of Queensland;

**Part 2. Concurrence Agency's Conditions**

The Department of Transport and Main Roads, by letter dated 22 June 2010 (copy letter attached for information).

**End of Attachment 1**
Attachment 2 – SPA Extract on Appeal Rights

Sustainable Planning Act 2009
Chapter 7 Appeals, offences and enforcement
Part 1 Planning and Environment Court
2009 Act No. 36 Page 320

Division 8 Appeals to court relating to development applications and approvals

461 Appeals by applicants

(1) An applicant for a development application may appeal to the court against any of the following—

(a) the refusal, or the refusal in part, of the development application;
(b) any condition of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242;
(c) the decision to give a preliminary approval when a development permit was applied for;
(d) the length of a period mentioned in section 341;
(e) a deemed refusal of the development application.

(2) An appeal under subsection (1)(a), (b), (c) or (d) must be started within 20 business days (the applicant’s appeal period) after—

(a) if a decision notice or negotiated decision notice is given—the day the decision notice or negotiated decision notice is given to the applicant; or
(b) otherwise—the day a decision notice was required to be given to the applicant.

(3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

462 Appeals by submitters—general

(1) A submitter for a development application may appeal to the court only against—

(a) the part of the approval relating to the assessment manager’s decision about any part of the application requiring impact assessment under section 314; or
(b) the part of the approval relating to the assessment manager’s decision under section 327.

(2) To the extent an appeal may be made under subsection (1), the appeal may be against or more of the following—

(a) the giving of a development approval;
(b) any provision of the approval including—
   (i) a condition of, or lack of condition for, the approval; or
   (ii) the length of a period mentioned in section 341 for the approval.

(3) However, a submitter may not appeal if the submitter—

(a) withdraws the submission before the application is decided; or
(b) has given the assessment manager a notice under section 339(1)(b)(ii).
(4) The appeal must be started within 20 business days (the submitter’s appeal period) after the decision notice or negotiated decision notice is given to the submitter.

End of Attachment 2
Item 19 August 2010

Item Number: N2  
File Number: 322.2009.26232.1  
Part: DEVELOPMENT

Portfolio:  
Planning & Development Services

Subject:  
2 Churchill Street, Childers - Request for Negotiated Decision Notice (under IPA, section 3.5.17) - Material Change of Use - Accommodation Unit (Itinerant Workers Accommodation) and Motel

Report Author:  
Alicia Otto, Planning Officer

Authorised by:  
Wayne Phillips, Manager Planning (Coastal and Strategic)

Link to Corporate Plan:  
Nil -

Applicant:  
Sunstate Hotels Pty Ltd C/- Randall Barrington Town Planning

Owner:  
Sunstate Hotels Pty Ltd

Location:  
2 Churchill Street, Childers

RPD:  
Lot 1 on RP197210, County Cook, Parish Childers;

Area:  
0.7038 ha

Land Designation:  
Residential

Planning Scheme:  
Planning Scheme for Isis Shire Council 2007

1. Background:  
Council issued a Development Permit for Material Change of Use - Accommodation Units (Itinerant Workers Accommodation) and Motel over land situated at 2 Churchill
Street, Childers and described as Lot: 1 RP: 197210 by Decision Notice date 16 February 2010.

The application was lodged in response to Council’s compliance action regarding the unlawful backpackers operation occurring on the site. The application was conditionally approved on the 16 February 2010 for a 64 bed backpacker’s accommodation in the existing Panda Motel building. There is to be four beds in Units 1-7 and six beds in Units 8-13

The Integrated Planning Act 1997 affords the Applicant the right to negotiate about certain matters stated in a Decision Notice. In this regard, the Applicant has made representations under letter dated 9 March 2010 regarding the following matters:

- the conditions of approval.

Specifically;

- Condition 11 – Infrastructure Charges

2. **Considerations**

Additional to the request to negotiate Condition 11 of the Decision Notice, and despite lodgement of the development application, the Applicant has continued to dispute that the use is unlawful. The NDN request again seeks clarification on this point from Council. Council’s Planning Services has attended meetings and provided correspondence, confirming Council’s position on this matter. The applicant has previously had opportunity to formally appeal this consideration in response to Council’s Enforcement Notice, however the applicant chose not to exercise this appeal right.

Council’s Planning Services Department will not be entering into further discussions regarding the definition of the unlawful use. As discussed, the Applicant had the ability to formally contest/appeal the content of the Enforcement Notice (which outlined the nature of the use in detail) through the Planning and Environment Court.

In accordance with section 3.5.17 (6) of the Integrated Planning Act 1997 in considering the Applicant’s representations in regard to the Negotiated Decision request the Assessment Manager must reconsider the matters considered when the original decision was made; to the extent the matters are relevant.

Planning and Development’s assessment and recommendations on the matters raised in the Applicant’s representations about the original Decision Notice are provided below.

2.3 **The Conditions of Approval**

The Applicant’s representations with respect to Condition 11 and Planning and Developments comments and recommendations are detailed below.
2.3.1 Condition 11 - Infrastructure Charges

The Applicant is seeking a review of Infrastructure Charges applicable to the Panda Backpacker Material Change of Use application. Council’s Decision Notice dated 16 February 2010, outlined an Infrastructure Charge of $156,560.79 (based on an EP of 64 – Sewerage = $72,769.38 and Water = $83,809.9)

The Isis Planning Scheme Policy 3/07 Contributions towards Water Supply and Sewerage does not define a motel or backpacker use definition.

Appendix 4 of the policy provides a definition for Hotel at 1.6EPs per suite and Institutional Accommodation at 1EP per bed. These loadings were used to calculate the original infrastructure charge the applicant wishes to negotiate. At the base of Appendix 4 the following quantifying note is provided.

"Information in this appendix is to be used as a guide only where particular applications do not itemize maximum population usage”.

It is thus reasonable to argue that Appendix 4 of the Planning Scheme Policy provides little assistance to define the quantum of infrastructure charges and it is reasonable to base calculations on the population usage of the facility.

The applicant’s argument is accepted that “Institutional Accommodation” does not likely reflect the infrastructure usage associated with a backpacker’s hostel (since backpackers are likely to be away from the premises for up to 10 hours a day) and the equivalent population of 1.6EP per suite for a Hotel does not represent the likely population.

The backpacker’s establishment is for 64 beds plus manager’s residence and kitchen. The Manager’s Residence and kitchen facility have not changed since the facility was a motel and are therefore ignored in the calculations.

The Applicants argue that the budget motel should have an ‘as of right’ of 51 beds, this being the actual number of beds in the facility, however no Council records support this claim, no accommodation licence was issued by the former Isis Shire Council supporting this number of beds nor has the Applicant been able to supply any Council documentation to substantiate this number of beds.

In order to substantiate a reasonable infrastructure charge, the following assumptions and methodology is proposed:-

Population after Application

Whilst a hotel suite is defined at 1.6EP per suite, and this figure also applies to Motels in other infrastructure charges policies, it would be reasonable to say that a budget motels usage of infrastructure is likely to be somewhat above this figure. It is thus proposed to apply a ‘population before application’ of 2.0EP per room, therefore:-

**Backpacker Population (After Application)**

To determine the maximum EP as a result of the application, in the absence of guidance from the Planning Scheme Policy, it is proposed to utilize the Gold Coast Infrastructure Charges Policy which provides a usage figure for Hostel Accommodation, this being 0.24ET (equivalent tenements) per bed. Noting that the Gold Coast Planning Policy uses equivalent tenements, equating 1 equivalent tenement to a detached dwelling and also noting that the Queensland Office of Economic and Statistical Research local government profiles identifies the average occupancy of a detached dwelling on the Gold Coast to be 2.8 persons, we can thus equate 1 equivalent tenement to 2.8EP therefore the backpackers population:-

0.24ET/bed x 64 beds x 2.8EP/ET = 43EP (+ Manager’s Residence; + Kitchen)

The nett increase as a result of the application for the purposes of determining an infrastructure charge is 43EP – 26EP = 17EP

It should be noted that the above logic should not be applied to other areas of the Bundaberg Regional Council Local Government Area as more succinct definitions may apply.

The infrastructure charges are thus:-

Water Supply - $20,499.49 (indexed December 2009);
Sewerage - $42,558.59 (indexed December 2009).

It is deemed that the calculation based on the charges outlined in the attached calculation sheet is reasonable and relevant in this instance and Council’s Director of Planning and Development recommends the changes above with regard to Condition 11.

3. **Conclusion**

The Applicant has requested that Council undertake a review of the Infrastructure Charges contained in Condition 11 of the approval. The review has found that the charges can be amended to a total of $63,057.78. In summary, Council’s Director of Planning and Development recommends these changes be approved.

**Attachments:**

1. Representations
2. Original Decision Notice
3. Negotiated Decision Notice
Recommendation:

The Applicant be advised that Council has considered the representations contained in their letter dated 9 March 2010 regarding Condition 11 – Infrastructure Charges of Council’s Approval (322.2009.26232.1) for Material Change of Use for Accommodation Units (Itinerant Workers Accommodation) and Motel, over land situated at 2 Churchill Street, Childers described as Lot 1 on RP 197210, and dated 16 February 2010 and agrees to amend Condition 11 of the Development Permit as detailed in the attached Negotiated Decision Notice.
16 February 2010

Sunstate Hotels Pty Ltd
c/- Coral Cove Golf Club
1 Pebble Beach Drive
CORAL COVE QLD 4670

Attn: Vince Brockfield

Dear Sir,

Development Application Decision Notice
Approval
Integrated Planning Act 1997 Section 3.5.15

RE: – Development Application for Material Change of Use for
Accommodation Units (Backpackers Itinerant Workers Accommodation)
and Motel at 2 Churchill Street CHILDERS; land described as Lot: 1
RP: 197210, County Cook, Parish Childers;

I refer to the above-described development application, received by Council on 26
August 2009. This application has been assessed by Council and approved under
delegation by the Planning and Development Committee, with conditions on the 4
February 2010.

1. Details of Approval
   Development Permit for Material Change of Use – Impact Assessable –
   Accommodation Units (Backpackers Itinerant Workers Accommodation) and
   Motel.

2. Referral Agencies
   Concurrence Agencies: State Controlled Road Matters
   Queensland Department of Transport and Main
   Roads
   PO Box 486
   BUNDABERG Q. 4670
   Tel: 07 4154 0200
   Fax: 07 4152 3878

   Advice Agencies: N/A

   Our Reference: 322.2009.26232.1
   Your Reference: 9013
   Contact Person: Miss Alicia Otto
3. **Approved Plans**

<table>
<thead>
<tr>
<th>Plan/Document Number</th>
<th>Plan/Document Name</th>
<th>Prepared By</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>9013-03A</td>
<td>Site Plan</td>
<td>John Gatley Building Design</td>
<td>19 June 2009</td>
</tr>
<tr>
<td>9013-01A</td>
<td>Floor Plan - Units 1-7 and Managers Residence (Amended)</td>
<td>John Gatley Building Design</td>
<td>19 June 2009</td>
</tr>
<tr>
<td>9013-02</td>
<td>Floor Plan - Units 8-13</td>
<td>John Gatley Building Design</td>
<td>19 June 2009</td>
</tr>
</tbody>
</table>

4. **Assessment Manager's Conditions and Advices**

- Assessment Manager's Conditions: As per attached Schedule 1.
- Assessment Manager's Advices: As per attached Schedule 2.

5. **Referral Agency's Response**

- Concurrence Agencies: The Department of Transport and Main Roads, by letter dated 5 November 2009 (copy letter attached for information).
- Advice Agencies: N/A

6. **Conflicts with Laws and Policies and Reasons for the Decision Despite the Conflict**

The Assessment Manager considers this decision conflicts with the following Planning Provisions: N/A

7. **Further Development Permits Required**

- The following development permits are necessary to allow the development to be carried out:
  - Building Works – Assessable against the Building Codes of Australia and the Building Regulations 2006;

8. **Submissions**

There was one (1) properly made submission about the application. In accordance with s 3.5.15(2)(j) of the IPA, the name and address of the principal submitter for each properly made submission are as follows:

<table>
<thead>
<tr>
<th>Name of Principal Submitter</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>N. Krause</td>
<td>10 Well Lane, Childers</td>
</tr>
</tbody>
</table>
9. Rights of Appeal
Attached is an extract from the Integrated Planning Act 1997 which details your appeal rights regarding this decision.

10. When the Development Approval Takes Effect
This development approval takes effect as per set out by s 3.5.19 of the Integrated Planning Act 1997.

Yours faithfully,

(Peter Byrne)
Chief Executive Officer

Enclosures: Schedule 1 – Assessment Manager’s Conditions;
Schedule 2 – Assessment Manager’s Advices;
Concurrence Agency’s Conditions;
Approved Plans;

cc. For Information Purposes
Department of Transport and Main Roads
PO Box 486
BUNDABERG Q. 4670
Schedule 1
Assessment Manager’s Conditions

Development Permit for Material Change of Use – Impact Assessment

<table>
<thead>
<tr>
<th>Council Reference:</th>
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<tbody>
<tr>
<td>Development Permit Date:</td>
<td>4 February 2010</td>
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<tr>
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<td>Sunstate Hotels Pty Ltd</td>
</tr>
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<td>Property Owner:</td>
<td>Sunstate Hotels Pty Ltd</td>
</tr>
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<td>Real Property Description:</td>
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</tr>
<tr>
<td>Location:</td>
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<tr>
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<td>Accommodation Units (Backpackers/Itinerant Workers Accommodation) and Motel</td>
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<tr>
<td>Planning Scheme:</td>
<td>Isis Shire Council Planning Scheme 2007</td>
</tr>
<tr>
<td>Land Designation:</td>
<td>Residential Zone</td>
</tr>
</tbody>
</table>

Development Conditions

Approved Plans

1. The proposed development is to be generally conducted in accordance with Conditions contained within this notice and the following Approved Plans:

<table>
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<td>19 June 2009</td>
</tr>
</tbody>
</table>

2. The approved plans are subject to the following modifications:
   (i) The above Floor Plan 9013-01A Bedrooms 1-7 are to contain a maximum of four (4) beds. No additional/rollaway beds are to be provided to these rooms. The beds are to be labelled “single”, “double” or “bunk beds”;
   (ii) The above floor plan 9013-02 Bedrooms 8-13 are to contain a maximum of six (6) beds. No additional/rollaway beds are to be provided to these rooms. The beds are to be labelled “single”, “double” or “bunk beds”;

Attachment 2 - Original Decision Notice
(iii) The above Floor Plans 9013-01A and 9013-02 are to show a minimum egress path of 900mm to the door of the bedroom for Units 1-13. There is to be no furniture blocking this path;
(iv) The above site plan 9013-03A is to be amended to include the designated outdoor smoking area, refuse storage facility and clothes drying areas;

Management

3. The premises are to be managed in accordance with a Management Plan that includes, but is not limited to the following requirements:
   (i) Code of conduct;
   (ii) House rules;
   (iii) External visitor policy;
   (iv) Hours of use of washing machines and communal areas;
   (v) Noise requirements and limitations;
   (vi) Safety (including fire and emergency management plans)
   (vii) Security;
   (viii) Cleaning routines and procedures;
   (ix) Onsite alcohol limitations or ban;
   (x) Designated outdoor smoking areas;
   (xi) Refuse disposal;
   (xii) Maintenance program; and
   (xiii) Complaints mechanisms.

   The management plan must be prepared by the applicant to be to the satisfaction of Council’s Planning and Development Department. Once approved, this will form part of this approval.

4. Bedrooms 1-7 are to contain a maximum of four (4) beds.

5. Bedrooms 8-13 are to contain a maximum of six (6) beds.

6. The management is to maintain a register of guests (including information on length of stay and contact details). The facility is to provide accommodation for a maximum of 64 guests at any one time.

7. The provision of a manager or supervisor, over the age of 18 years is required at all times. Guests (backpackers/itinerant workers) shall not be used as temporary managers.

8. The management plan must link the person living in the manager’s residence as the one responsible for the management of the facility. It will be the ongoing responsibility of the owners to ensure an appropriate person is employed to manage the facility in accordance with the Management Plan.
Decision Notice

9. The managers residence is not to be used to provide accommodation to backpackers/itinerant workers.

Bed Bugs

10. The operator must take appropriate measures to prevent / reduce the potential for bed bug infestation and transport to and from the premises. Appropriate measures are to include but should not be limited to:

   (i) restricting the use of sleeping bags by travellers in rooms by displaying appropriate multi-lingual signage and providing sealed storage for individual sleeping bags outside sleeping quarters;
   (ii) providing a regular linen replacement and cleaning service;
   (iii) training staff on recognising the signs of bed bugs, including blood spotting on the sheets, mattresses and walls, and bed bug identification;
   (iv) routinely inspecting beds in the premise for signs of bed bug activity;
   (v) considering the type of bed frames and mattresses used in the premise to limit harbourage areas (i.e. metal bed frames / seamless mattresses); and,
   (vi) conducting regular vacuuming in all areas of the rooms, especially around skirtings and under lounges and sofas.

Should the premise become infested with bed bugs use of the effected rooms must cease until the effected rooms and rooms adjoining are treated and considered safe (by providing a certificate of treatment and written statement to the Regional Council) by a professional pest management agency.

Infrastructure Contributions

11. Prior to commencement of use, pay Headwork Fees for Sewerage & Water Supply in accordance with Council’s adopted Policy;

<table>
<thead>
<tr>
<th>Type of Contribution</th>
<th>Equivalent Demand (EP)</th>
<th>Recognised Previous Contributions (EP)</th>
<th>Infrastructure Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sewerage</td>
<td>64</td>
<td>20.8</td>
<td>$72,760.89</td>
</tr>
<tr>
<td>Water Supply</td>
<td>64</td>
<td>20.8</td>
<td>$83,809.90</td>
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<td></td>
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Note: Council’s adopted Policy allows the value of the Headwork Fees to vary unless payment is received by Council within six (6) months of the date on this Decision Notice.
Decision Notice

Water Connections

12. The Developer is to provide a metered service, and internal infrastructure as required, to satisfy the fire fighting and water supply demands of the proposed development;

13. Arrangements for the installation of any new metered service or removal of an existing service, are to be made with Council’s Water and Wastewater Infrastructure Planning Technical Support Section. All works are to be undertaken by Council at the Developer’s expense;

Vehicular Movement

14. Provision of an off-street car parking and vehicle maneuvering area for thirteen (13) visitor parking spaces in accordance with Council’s requirements.

15. All vehicle parking, access and maneuvering areas must be:-
   (i) constructed and maintained to a sealed standard with bitumen, asphalt, concrete or approved pavers;
   (ii) line-marked into parking bays;
   (iii) designed to include a maneuvering area to allow vehicles to leave the site in a forward gear;
   (iv) designed to include the provision of fill and/or boundary retaining walls to allow for the containment and management of site stormwater drainage as required;
   (v) sign posted to indicate entry / exit points, in addition to line marking, to indicate the traffic flow through the site;
   (vi) drained to the relevant site discharge point;

16. All vehicles and vehicle movements associated with the use are to be accommodated onsite. In the event that buses and mini buses are required as part of the use, provision must be made for buses/mini buses to enter and leave the site in a forward direction and load/unload passenger’s onsite.

Fencing

17. The developer must construct a noise barrier fence for the length of the common boundary with Lot 3 on RP72591 extending from the Churchill Street frontage south and extending west for a distance of 5 metres (in the vicinity of the ‘shed’ on the site plan) and along the common boundary with Lot 2 on RP197210 from the Churchill Street frontage, extending for a distance not less than 55 metres.
Decision Notice

The noise barrier fence shall be:
(i) a total height of 2.0 metres;
(ii) constructed of suitable material, with no gaps, with minimum density of 12.5kg/m2, and with consideration of the visual amenity;
(iii) embedded in the ground, with connections to any buildings and other structures to be sealed;
(iv) constructed with a 300mm wide concrete mower strip centrally located under the fence;

18. The erection of a second boundary line fence parallel to any existing boundary fence, is prohibited, thereby preventing the creation of an unmaintainable area between two fences that may attract or harbour vermin or pests;

19. Should any existing fence not comply with the requirements of this approval then the Applicant must replace said fencing in accordance with the requirements of this approval;

Lighting

20. External lighting is to be designed in accordance with AS4282-1997: 'Control of the Obtrusive Effects of Outdoor Lighting' so as not to cause nuisance to nearby residents or passing motorists;

Noise

21. The premises is to be managed to ensure that noise does not cause nuisance or annoyance to adjacent residents and no recorded music is to be played outside the building.

22. Any noise produced by the use is not to exceed the background noise level plus 5db(A) (6am-6pm) or background noise level plus 3db(A) (6pm-10pm) or background noise level (10pm-6am) measured as the adjusted maximum sound pressure level at any noise sensitive place;

Air Conditioners

23. Air Conditioning units shall be designed, installed, maintained, and operated so that noise emissions are within the limits imposed by the Environmental Protection Act, Regulations and Policies;

24. Condensation from air conditioning units is to be discharged to the sewerage system;

Clothes Drying Areas

25. External clothes drying facilities (fixed or free standing) must be provided for each room/unit prior to the commencement of the use.
Decision Notice

26. Clothes drying facilities must be fully screened from view at the front property boundary and adjoining properties.

Health Licensing

27. The design, construction and fit-out of all food premises and/or food preparation areas should be in accordance with AS:4671 - 2004, and the Food Safety Standards

28. Should the premises serve food to guests, the applicant is required to make application to the Bundaberg Regional Council for a Food Licence.

Garbage Storage Areas

29. Rubbish bin storage areas are to be fully screened from view at the Churchill Street property boundary and adjoining properties. No rubbish bins are to be stored outside the units.

Maintenance

30. The balance of the site (behind the motel buildings and extending along the rear boundaries of Lot 3 on RP72597 and Lot 1 on RP65789) is to be maintained in an orderly and tidy manner at all times and is at no time to be used for any purposes associated with the approved use (including but not limited to vehicle parking or recreation areas, unless otherwise agreed to by Council in writing.

General

31. All works are to be undertaken at the developer’s expense;

32. All Conditions contained in this Decision Notice are to be completed/complied with before the use hereby approved commences, unless otherwise stated within this notice;

End of Schedule 1
Schedule 2
Assessment Manager's Advices

Development Permit for Material Change of Use – Impact Assessment

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<tr>
<td>Land Designation:</td>
<td>Residential Zone</td>
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</tbody>
</table>

Development Advice

Legal

A. The relevant period for this development is in accordance with section 3.5.21 and 3.5.21A of the Integrated Planning Act 1997.

B. The applicant be advised they have twenty (20) business days after the day the decision notice is given to the applicant to appeal against the conditions of approval, in accordance with Section 4.1.27 of the Integrated Planning Act.

C. The applicant be supplied with a copy of Section 4.1.27 of the said Act.

Rates and Charges

D. In accordance with the Integrated Planning Act, all rates, charges or any expenses being a charge over the subject land under any Act shall be paid prior to the Plan of Survey being endorsed by Council;

Water

E. Sub meters will be required for:
   1. Units 1-7;
   2. Units 8-13; and
   3. Manager’s residency.
Schedule 1 – Assessment Manager’s Advices

F. A Master meter for the pool, landscape and tanks and sub-meters is also required.

Other Considerations

G. Environmental nuisance

As advice only under Section 15 of the Environmental Protection Act 1994, a person must not create environmental nuisance.

Environmental nuisance is unreasonable interference or likely interference with an environmental value caused by—
(a) aerosols, fumes, light, noise, odour, particles or smoke;
or
(b) an unhealthy, offensive or unsightly condition because of contamination; or
(c) another way prescribed by regulation.

H. Depositing prescribed water contaminants in waters and related matters.

As advice only under Section 440ZG of the Environmental Protection Act 1994, a person must not deposit prescribed water contaminants.
A person must not—
(a) unlawfully deposit a prescribed water contaminant—
(i) in waters; or
(ii) in a roadside gutter or stormwater drainage; or
(iii) at another place, and in a way, so that the contaminant could reasonably be expected to wash, blow, fall or otherwise move into waters, a roadside gutter or stormwater drainage;
or Example of a place for subparagraph (iii)— a building site where soil may be washed into an adjacent roadside gutter
(b) unlawfully release stormwater run-off into waters, a roadside gutter or stormwater drainage that results in the build-up of earth in waters, a roadside gutter or stormwater drainage.

Considerations post construction

I. Air-conditioners

As advice only under Section 440U of the Environmental Protection Act 1994 the occupier of the premises must not use, or permit the use of, the air-conditioner outside of the under-mentioned parameters—
before 7:00am or after 10:00pm — less than 3dB(A) above background,
between 7:00am and 10:00pm — less than 5dB(A) above background

End of Schedule 2
19 August 2010

Sunstate Hotels Pty Ltd
c/- Randall Barrington Town Planning
PO Box 8045
BARGARA BEACH QLD 4670

Attn: Randall Barrington

Dear Sir,

**Negotiated Decision Notice**

*Integrated Planning Act 1997 Section 3.5.17*

RE: – Request for a Negotiated Decision Notice (Accommodation Unit (Itinerant Works Accommodation) and Motel) at 2 Churchill Street Childers; land described as Lot: 1 RP: 197210, County Cook, Parish Childers;


I refer to your letter dated 9 March 2010 requesting a Negotiated Decision to a Development Permit for a Material Change of Use (Accommodation Unit Itinerant Works Accommodation) and Motel. This request has been assessed by Council at the Planning and Development Committee Meeting held on the 19 August 2010, and agrees to amend or alter Condition 11 of the Development Permit as follows:

Prior to commencement of use, pay Headwork Fees for Sewerage & Water Supply in accordance with Council's adopted Policy:

<table>
<thead>
<tr>
<th>TYPE OF CONTRIBUTION</th>
<th>EQUIVALENT DEMAND (EP)</th>
<th>RECOGNISED PREVIOUS CONTRIBUTIONS (EP)</th>
<th>INFRASTRUCTURE CONTRIBUTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEWERAGE</td>
<td>43</td>
<td>26</td>
<td>$42,558.59</td>
</tr>
<tr>
<td>WATER SUPPLY</td>
<td>43</td>
<td>26</td>
<td>$20,499.49</td>
</tr>
</tbody>
</table>

Note: Council’s adopted Policy allows the value of the Headwork Fees to vary unless payment is received by Council within six (6) months of the date on this Decision Notice.
The conditions attached to Council’s Development Permit for a Material Change of Use issued by Decision Notice dated 16 February 2010 remains unchanged.

Rights of Appeal

Attached is an extract from the Integrated Planning Act 1997 which details your appeal rights regarding this decision.

Yours faithfully

(Peter Byrne)
Chief Executive Officer
Item 19 August 2010

Item Number: N3
File Number: 322.2010.28760.1
Part: DEVELOPMENT

Portfolio:
Planning & Development Services

Subject:
37 Sharon Road, Sharon; Material Change of Use for Telecommunication Facility (Major)

Report Author:
Merinda Grayson, Planning Officer

Authorised by:
Wayne Phillips, Manager Planning (Coastal and Strategic)

Link to Corporate Plan:
Nil -

Applicant:
Optus Mobile Pty Limited

Owner:
Pettinella Distributors Pty Ltd

Location:
37 Sharon Road, Sharon

RPD:
Lot 2 on SP182590, County Cook, Parish Tantitha

Area:
18.6 ha

Land Designation:
Rural (Rural Planning Area)

Planning Scheme:
Planning Scheme for Burnett Shire 2006

1. Proposal:
A development application has been lodged with Council seeking approval for Material Change of Use for Telecommunication Facility (Major) at 37 Sharon Road, Sharon more accurately described as Lot 2 on SP182590.
The proposed tower will be in the form of:

- A 50 metre high monopole (pole & antenna 51.315 m);
- Three (3) proposed, six (6) future panel antennas (2.63 metres long) affixed to a headframe at the top of the pole;
- Two (2) parabolic dishes (1.2 metres diameter) are proposed to be attached at an elevation of 47 metres.
- An equipment shelter (3 metre (l) x 2.5 metre(w) x 3 meter (h)); and
- A 1.8 metre manproof fence with access gate to be erected around the proposed compound area.

The proposed facility will be positioned within a 10 metre x eight (8) metre lease area to be located near the eastern boundary of the site. Access to the site will be obtained via the existing access from Sharon Road.

The proposed development is not exempt from the provisions of the Integrated Planning Act 1997 under the Telecommunications Act 1997, as it is not defined as a low impact facility.

2. **Subject Site & Surrounding Land Uses**

The subject site is described as Lot 2 SP182590 with an area of 69.9 hectares. The site predominantly supports sugar cultivation and accommodates various structures associated within the rural use of the site. There are some large rural sheds located close to the eastern boundary of the site.

Surrounding land uses are predominantly rural in nature, with existing operating farms abutting all boundaries of the subject site. Sharon State School buildings are located approximately 700m from the location of the telecommunication facility.

3. **Planning History**

There is no planning history relevant to this development application.

4. **Considerations**

4.1. **Burnett Shire Planning Scheme 2006**

The Burnett Shire Planning Scheme 2006 has a number of Codes and Policies which are relevant to the assessment and decision of applications for Telecommunication Facility (Major). Within the Rural Zone, Telecommunication Facility (Major) is Code Assessable. The Codes and Policies relevant to this development application include the following:

- Rural Planning Area Code;
- Rural Code;
- Natural Resources or Features Overlay Code;
- Infrastructure Overlay Code;
- Development Infrastructure & Works Code;
• Landscaping Code;
• Telecommunication Facilities Code; and
• Vehicle Parking & Access Code.

A summary of the application’s compliance and non-compliances with the relevant codes is provided in the following sections of this report.

4.1.1. Rural Planning Area Code

The overall outcomes of the Rural Planning Area Code seeks to ensure that the rural landscape of farms interspersed in the natural environment is maintained and contributes to the attractiveness of the local government area particularly when visible from the periphery of coastal towns, State Controlled roads, principal local government roads and areas where concentrations of people are likely to gather.

The proposed Telecommunication Facility is designed to be constructed in the form of a monopole with an overall height not exceeding 52 metres which is measured from the top of the proposed panel antennas. The facility is to be housed on an 80m² leased parcel of land located approximately 73 metres from the northern boundary of the site.

Telecommunication Tower locations are generally selected based on identified optimum telecommunications coverage/servicing areas. Proponents of towers have to also be cognisant of the impacts of the development on adjoining land uses, particularly residential or community based land uses. Council’s Planning Services acknowledge that due to the scale of these types of development (a 52 metres monopole) they will almost exclusively be required to locate in the Rural Planning Area of the Planning Scheme. There are of course various locations or areas within the Rural Planning Area which are more or less suitable to deal with the impacts of telecommunications developments on the surrounding receiving environment.

In consideration of the site location for the tower proposal, the applicant’s submission informs Council that the proposed development’s location meets all telecommunications coverage and servicing requirements for the telecommunications provider. The applicant also relates that the height of the structure (52 metres) is necessary to ensure they can improve and expand mobile communications in the Sharon area. The structure is located fronting a State-controlled Road (Gin Gin Road).

Council’s Planning and Development Department acknowledge that the proposed facility is significant in height (52 metres) and will be visible (in some form) from multiple locations within the surrounding area particularly from Sharon Road and Gin Gin Road. It is also acknowledged that the monopole construction, although significant in height, does not have a dominant or bulky built form, as evidenced by similar constructions in other areas of the region. It is Council’s Planning Services consideration that the subject development site has been selected to optimise telecommunications coverage whilst also being cognisant of the impact of the development on surrounding sensitive environmental areas and adjoining land uses.
Despite the significant height of the structure it is considered that the proposal is consistent with the requirements of the Rural Planning Area Code. Specifically, the location and design of the tower are unlikely to significantly reduce the rural landscape values of farms in the locality, or natural environment values from the periphery of coastal towns, State controlled roads, principal local government roads and areas where concentrations of people are likely to occur.

4.1.2. Rural Code
The overall outcomes of the Rural Zone Code are to maintain rural areas for sustainable rural production and maintain the rural character of these localities. The overall outcomes of the Rural Zone Code also allow for uses other than general rural uses where a development provides a significant and direct community benefit and no other location is suitable and available having regard to the activity’s specific location requirements.

The proposed Telecommunications Facility occupies 80m$^2$ of existing rural land adjacent to existing rural use sheds and aims to provide a significant and direct community benefit to Sharon and surrounding localities by way of improved telecommunication services. Direct loss of agricultural land or disruption to ongoing agricultural uses of the balance parcel is considered negligible. In consideration of the development’s specific locational requirements, it is not irregular that development of the type and scale proposed is required to locate on rural zoned land. As related in Section 4.1.1 of this report the applicant states that the site meets the telecommunications coverage objectives for the service provider and maximises available setbacks to sensitive receiving environments in proximity of the site. The development is considered to be consistent with the provisions of the Rural Zone Code.

4.1.3. Natural Resources or Features Overlay Code
The site is identified as containing Good Quality Agricultural Land “Class A” and “Class B which make the development assessable against the Natural Resources or Features Overlay Code.

The proposed Telecommunications Facility will only occupy an area of 80m$^2$ which is situated within GQAL “Class A” land. The location of the Telecommunications Facility is adjacent to an existing farm shed in an area not under cultivation. It is Council’s Planning Services consideration therefore that no adverse impacts are likely to result from the proposed development being sited within the GQAL contained on this site.

4.1.4. Infrastructure Overlay Code
The proposed development has a frontage to a State-controlled Road (Gin Gin Road) and therefore triggers an assessment against the Infrastructure Overlays Code. The proposal is to be located at the rear of the site away from the State-controlled Road, will be predominately screened by sugarcane cultivation and will generate only a couple of vehicle movements per year after the initial construction stage of the development. It is Planning Services consideration that the proposal will have negligible impacts on the State-controlled Road.
4.1.5. Development Infrastructure & Works Code

The Development Infrastructure and Works Code seeks to ensure that infrastructure is provided to development in a cost effective and coordinated manner. The facility does not require connection to regular urban or business infrastructure items. It is Council’s Planning Services consideration that the development is considered to comply with the Code and appropriate conditions will be placed on any approval in this regard.

4.1.6. Landscaping Code

The Landscaping Code seeks to incorporate existing vegetation into developments and landscaping is provided that compliments the built environment and strengthens the green subtropical character of the area while creating a safe and functional environment for people to live, work, visit and invest. The Applicant has not included any proposed landscaping with the proposed application and no clearing of existing vegetation is proposed. It is considered that the existing vegetation on the site and adjoining sites would be sufficient to mitigate any adverse visual impacts from the proposed development on the surrounding area.

4.1.7. Telecommunication Facilities Code

The Telecommunications Facilities Code is applicable to the development. The Code is to ensure that telecommunications facilities are provided to meet the needs of the community in an orderly, coordinated, efficient and cost effective manner. Facilities are intended to be located, designed and constructed to ensure they achieve a high level of visual integration with the surrounding natural or built environment.

The proposed location for the monopole has been selected as it is outside any surrounding mapped sensitive environmental areas, no clearing is required for the structure and existing surrounding vegetation can be used to screen and reduce the potential for adverse visual impacts from the surrounding area.

It is Planning Services consideration that the proposal generally complies with the provisions of the Telecommunications Facilities Code.


The Vehicle Parking and Access Code requires that land uses provide adequate on-site car parking for vehicles, as well as provision for delivery and service vehicles. The Code also seeks to ensure that the use provides safe and efficient vehicle access to and within the site and does not generate excessive parking, manoeuvring or servicing on nearby roads.

The site is currently a rural property with an access to Sharon Road. The site has sufficient room on-site to accommodate vehicles associated with the general maintenance of such facility. The lease area doesn’t appear to be able to incorporate sufficient room to accommodate parking for maintenance vehicles. However, the proposed development is considered to be able to generally comply with the Code through to use of appropriate conditions relevant to the code.
4.2. **Engineering or Internal Referral**
Council’s Engineers have assessed the application and advised that they have no conditions/requirements.

4.3. **State Planning Policies**
The Queensland Government has prepared a number of State Planning Policies to enunciate the State dimensions of various aspects of planning and development. In this instance, it is not considered that any of the State Planning Policies have an overriding bearing on the assessment and decision of the proposed development.

4.4. **Referral Agencies**

4.4.1. **Department of Transport and Main Roads**
The subject site is adjoins Gin Gin Road (a state controlled road) and therefore triggers referral to the Department of Transport and Main Roads (Sch 7, Tab 3, Item 1). The Department has assessed the impact of the proposed development on the state-controlled road network and advised by letter dated 29 June 2010 that the following condition of development should be included for the subject application:

- Access to the telecommunication facility, for construction and maintenance purposes, shall be via Sharon Road and then the unnamed local road. Direct access to the Bundaberg – Gin Gin Road is prohibited.

A copy of the Department’s response is attached to the Decision Notice of this application.

4.5. **Grounds of Submissions**
The application is Code Assessable and therefore did not require public notification.

4.6. **Infrastructure Charges**
In accordance with Council’s Infrastructure Contributions Planning Scheme Policy, a Telecommunications Facility (major) does not attract any infrastructure contribution charges.

5. **Conclusions**
The above report provides a summary review of the proposal to establish a Telecommunication Facility on Lot 2 SP182590 to service the Sharon locality and surrounding areas.

Council’s Planning and Development Department acknowledge that the location of telecommunications towers of the type and scale proposed can be a contentious issue for Council and residents in the locality in which they are proposed to locate. In the present case the Applicant has provided information which clearly relates that the proposed development site is considered to be optimum for their coverage requirements in a location largely removed from residential land uses. The Applicant provided a list of two (2) investigation sites originally chosen to service the subject area and the selected site will have the least impact on sensitive locations within the
immediate vicinity and the existing vegetation will assist in screening the development.

It is considered that the subject site is suitable for the intended purpose considering the specific locational requirements of telecommunication facilities and in review of the characteristics of the locality surrounding the proposed telecommunication facility.

It is Council's Planning Services consideration that the proposal meets the requirements of Council’s Burnett Shire Planning Scheme. It is therefore recommended that the application be approved subject to reasonable and relevant conditions of approval.

**Attachments:**
1. Locality Plan
2. Concurrence Agency
3. Plan of Development
4. Decision Notice

**Recommendation:**

That application (Council Reference Number 322.2010.28760.1) for a Material Change of Use for a Telecommunication Facility (Major) at 37 Sharon Road Sharon; land described as Lot: 2 SP: 182590, County Cook, Parish Tantitha be APPROVED with conditions and Council issue the attached Decision Notice, including attachments.
Locality Plan

37 Sharon Road, Sharon

While every care is taken to ensure the accuracy of this data, the Department of Environment and Resource Management and Bundaberg Regional Council makes no representation or warranties about its accuracy, reliability, completeness or stability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which you might incur as a result of the data being inaccurate or incomplete in any way and for any reason.
NOTES:
1. DATE OF INSPECTION
   07/10/2020
2. PANEL ANTENNAS
   - 9-OFF PANEL ANTENNAS (263mm LONG)
   - 3-OFF PROPOSED, OFF FUTURE
3. SECTOR
   - SECTOR 1 - 0°, SECTOR 2 - 120°, SECTOR 3 - 240°
   - MOUNTED ON CIRCULAR HEADFRAME
4. NETWORK LINK
   - #1200 PARABOLIC ANTENNA TO LINK SITE TO NETWORK (TBX)
5. STRUCTURE
   - NEW 10M X 4.4M MONOPOL
6. EQUIPMENT SHIELD
   - CYCLONE PHASE 8 3M X 2.5M "FAKE EUCALYPT" SUPPORTED ON SHED PIER
7. CABLE LADDER
   - 50MM X 20MM HORIZONTAL CABLE LADDER
   - TO HAVE GALVANIZED STEEL COVERS
   - FEEDER TO BE RUN VERTICALLY THROUGH MONOPOL
   - PAINTING AIRCRAFT WARNING LIGHTS
   - REQUIREMENTS TO BE COMFORMED BY CASA AND LOCAL GOVT
8. SITE ACCESS
   - ACCESS VIA EXISTING DRIVEWAY OFF SHARON ROAD, AND UNEELED ACCESS TRACK TO SITE
9. ANTENNA ACCESS
   - ANTENNAS TO BE ACCESS BY STEEL PIER
10. ELECTRICAL POWER
    - 380 3-PHASE POWER SUPPLY TO BE PROVIDED
    - SUPPLY MAY BE AVAILABLE FROM EXISTING MAIN SWITCH BOARD
    - DETAILS TO BE ADVISED
    - DE ISOLATION IN ACCORDANCE WITH ENERGY AUSTRALIA PROTOCOL

FOR APPROVAL

Attachment 3 - Plan of Development
19 August 2010

I acknowledge receipt of your Development Application for a Material Change of Use for a Telecommunication Facility (Major) at 37 Sharon Road SHARON; land described as Lot: 2 SP: 182590, County of Cook, Parish of Tantitha lodged with Council on 30 April 2010 and deemed to be properly made on May 2010 and confirm that, on 19 August 2010, the above development application was approved in full with conditions by Council under delegation at the Planning and Development Committee Meeting.

The conditions of this approval are set out in Attachment 1. These conditions are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them;

1. Details of the approval

The following approvals are given:

<table>
<thead>
<tr>
<th>Sustainable Planning Regulation 2009, schedule 3 reference</th>
<th>Development Permit</th>
<th>Preliminary Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Making a material change of use assessable under the planning scheme, a temporary local planning instrument, a master plan or a preliminary approval to which section 242 applies</td>
<td>✔</td>
<td></td>
</tr>
</tbody>
</table>

2. Other necessary development permits and/or compliance permits

Listed below are other development permits and/or compliance permits that are necessary to allow the development to be carried out:


3.
Referral agencies

The referral agencies for this application are:

<table>
<thead>
<tr>
<th>For an application involving</th>
<th>Name of referral agency</th>
<th>Advice agency or concurrence agency</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land relating to a State-controlled road</td>
<td>Department of Transport and Main Roads</td>
<td>Concurrence Agency</td>
<td>Wide Bay/Burnett Region (Bundaberg) Locked Bag 486 BUNDABERG QLD 4670</td>
</tr>
</tbody>
</table>

4. Approved plans

The approved plans for this development approval are listed in the following table:

<table>
<thead>
<tr>
<th>Plan number</th>
<th>Plan name</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>D8950D-P1 Revision 02</td>
<td>Draft Site Layout</td>
<td>28 July 2010</td>
</tr>
<tr>
<td>B-8950D-P2 Revision 02</td>
<td>Draft Site Elevation</td>
<td>28 July 2010</td>
</tr>
</tbody>
</table>

5. When approval lapses if development not started (s.341)

This development approval will lapse as per set out by Section 341 of the Sustainable Planning Act 2009 unless otherwise approved by Council.

6. Appeal rights

Appeals by applicants

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal, or refusal in part of the development application
- any condition of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242 of SPA
- the decision to give a preliminary approval when a development permit was applied for
- the length of a period mentioned in section 341
- a deemed refusal of the development application.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 461(2) of SPA.

Applicants may also have a right to appeal to the Building and Development Dispute Resolution Committee. For more details, see SPA, chapter 7, part 2.

Attachment 2 is an extract from SPA which details the applicant’s appeal rights regarding this decision.
If you wish to discuss this matter further, please contact me on the above telephone number.

Yours sincerely

19 August 2010

(Peter Byrne)
Chief Executive Officer
Bundaberg Regional Council

Attachment 1—Conditions of the approval

Part 1—Conditions imposed by the assessment manager

Part 2—Concurrence agency conditions (Department of Transport and Main Roads)

Attachment 2–SPA extract on appeal rights
Attachment 1 – Conditions of the Approval

Development Permit for Material Change of Use – Code Assessment – Telecommunication Facility (Major)

| Council Reference: | 322.2010.28760.1 |
| Development Permit Date: | 19 August 2010 |
| Applicant: | Optus Mobile Pty Limited |
| Real Property Description: | Lot 2 SP182590, County Cook, Parish Tantitha |
| Location: | 37 Sharon Road SHARON |
| Approval Detail: | Telecommunication Facility (Major) |

Part 1(a). Conditions Imposed by the Assessment Manager

PLAN OF DEVELOPMENT
1. Development is to be undertaken generally in accordance with the following except as modified by the conditions contained hereunder:
   1.1. Drawing No. D8950D-P1 Revision 02 Draft Site Layout prepared by Aurecon Australia Pty Ltd and dated 28 July 2010; and
   1.2. Drawing No. B-8950D-P2 Revision 02 Draft Site Elevation prepared by Aurecon Australia Pty Ltd and dated 28 July 2010.

AMENITY
2. The approved use is to be undertaken so that no undue disturbance is caused to surrounding properties by virtue of bright lights, traffic, noise or interfere with other existing radiofrequency signals.
3. The facility is to be developed in accordance with relevant Australian Standards for electromagnetic radiation and industry codes of practice.
4. The maximum height of the facility must not exceed 52 metres above natural ground level.

AVIATION SAFETY
5. Prior to the issue of any building approval the Applicant is to provide evidence from the Civil Aviation Authority that all aviation safety measures are incorporated into the design of the tower, as required. Any recommended aviation safety treatment is to be included to the tower prior to the commencement of the use.

BUILDING
6. All building work for the development is to be in accordance with the Building Act 1975 and the Building Regulations 2006.

SITE DEVELOPMENT
7. Construction work on the site is not to commence on any day before 7.00am, or continue any such work after 6.00pm. No construction work is to be undertaken on a Sunday or Public Holiday.
8. Adequate precautions, are to be taken to ensure dust does not cause annoyance to adjacent sites or dwellings during construction on the site, including through use of the access road. This may mean the cessation of work during periods of adverse climatic conditions, if directed by Council.
9. During construction, sediment and erosion control is to be undertaken where applicable, in accordance with the ‘Stormwater Management Planning Scheme Policy’ and the ‘Development Works Planning Scheme Policy’.

ALTERATION/DAMAGE TO SERVICES AND UTILITIES
10. Alterations to public utilities, mains and services made necessary in connection with any of the works arising from this approval including works to restore and reinstate all roads are to be completed at no cost to Council.

GENERAL
11. All works are to be undertaken at the Developer’s expense.
12. All Conditions contained in this Decision Notice including necessary works to achieve compliance are to be complied with/completed prior to the commencement of the use unless otherwise stated.

13. Where there is any conflict between Conditions of this Decision Notice and details shown on the Approved Plans, the Conditions must prevail.

AMENITY

14. The site is to be maintained in a neat and tidy state at all times.

Part 1(b). Assessment Manager’s Advices

A. This Decision Notice does not represent an approval to commence Building Works.

B. The proposed siting of the proposed structure has not been assessed against the requirements of the Building Act 1975

Part 2. Concurrence Agency’s Conditions

The Department of Transport and Main Roads, by letter dated 29 June 2010 (copy letter attached for information).

End of Attachment 1
Division 8  Appeals to court relating to development applications and approvals

461  Appeals by applicants

(1) An applicant for a development application may appeal to the court against any of the following—

(a) the refusal, or the refusal in part, of the development application;
(b) any condition of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242;
(c) the decision to give a preliminary approval when a development permit was applied for;
(d) the length of a period mentioned in section 341;
(e) a deemed refusal of the development application.

(2) An appeal under subsection (1)(a), (b), (c) or (d) must be started within 20 business days (the applicant’s appeal period) after—

(a) if a decision notice or negotiated decision notice is given—the day the decision notice or negotiated decision notice is given to the applicant; or
(b) otherwise—the day a decision notice was required to be given to the applicant.

(3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

End of Attachment 2
Item Number: N4  
File Number: 322.2010.29120.0  
Part: DEVELOPMENT

Portfolio: Planning & Development Services

Subject: 44 Nicholl Road, Branyan; Material Change of Use for Telecommunication Facility (Major)

Report Author: Alicia Otto, Planning Officer

Authorised by: Wayne Phillips, Manager Planning (Coastal and Strategic)

Link to Corporate Plan: Nil

Applicant: Optus Mobile Pty Limited

Owner: F A Zanda & I T Zanda

Location: 44 Nicholl Road, Branyan

RPD: Lot 1 on RP 89412, County Cook, Parish Takalvan

Area: 20.23 ha

Land Designation: Rural

Planning Scheme: Planning Scheme for Burnett Shire Council 2006

Proposal: Council is in receipt of an application for Material Change of Use – Telecommunication Facility (Major) at 44 Nicholl Road, Branyan on land described as Lot 1 on RP 89412.
The proposed tower will be in the form of:

- A 51.5 metre high monopole (pole & antenna 51.5 m);
- Six (6) panel antennas (2.63 metres long) affixed to a circular headframe at the top of the pole;
- An equipment shelter (3.0 m x 2.5 m and 3.0 m high);
- An 8.0 m x 10.0 m lease area around the proposed compound; and
- The entire facility will be surrounded by a 2.0 m high security fence.

Site access will be from Nicholl Road and along a dirt track past the farm house and between the storage sheds. The site is located across a pineapple crop, next to a pump station and powerline.

The proposed development is not exempt from the provisions of the Integrated Planning Act 1997 under the Telecommunications Act 1997, as it is not defined as a low impact facility.

**Subject Site & Surrounding Land Uses**

The subject site is located on the north eastern side of Nicholl Road. The site is currently being operated as a pineapple farm, with an existing farm house (being approximately 350m from the proposed tower site) and associated equipment sheds located on the site. Along the northern boundary of the site is an existing irrigation channel. An existing powerline runs through the subject site.

Surrounding land uses are predominantly rural in nature, with existing operating farms abutting all boundaries of the subject site. The Bundaberg Airport is located approximately 4km from the subject site.

**Planning History**

There is no planning history relevant to the assessment of this application.

**Considerations**

1. **Burnett Shire Planning Scheme 2006**

In the Burnett Shire Planning Scheme 2006, a Telecommunication Facility Major, within the Rural Zone attracts a Code Assessable application. The applicable codes include:

- Rural Planning Area Code;
- Rural Zone Code;
- Natural Features or Resource Overlay Code (GQAL Class A & B and Declared Groundwater Area);
- Infrastructure Overlays Code (frontage to Principal Local Government Road);
• Development Infrastructure and Works Code;
• Landscaping Code;
• Telecommunications Facilities Code; and
• Vehicle Parking and Access Code.

The Development Application’s compliance with the relevant Codes is addressed in the following sections.

The overall outcomes of the Rural Planning Area (RPA) Code seek to ensure that the rural landscape of farms interspersed in the natural environment is maintained and contributes to the attractiveness of the local government area particularly when visible from the periphery of coastal towns, State Controlled roads, principal local government roads and areas where concentrations of people are likely to gather.

The proposed Telecommunication Facility is designed to be constructed in the form of a monopole with an overall height not exceeding 51.5 metres which is measured from the top of the proposed panel antennas. The facility is to be housed within an 80 square metre leased parcel of land located 480 metres from the front boundary in the north eastern corner of the subject site.

Telecommunication Tower locations are generally selected based on identified optimum telecommunications coverage/servicing areas. Proponents of towers have to also be cognisant of the impacts of the development on adjoining land uses, particularly residential or community based land uses. Council’s Planning and Development Department acknowledge that due to the scale of these types of development (in this case a 51.5m monopole) they will almost exclusively be required to locate in the Rural Planning Area of the Planning Scheme. There are of course various locations or areas within the Rural Planning Area which are more or less suitable to deal with the impacts of telecommunications developments on the surrounding receiving environment.

In consideration of the site location for the tower proposal, the applicant’s submission informs Council that the proposed development’s location meets all telecommunications coverage and servicing requirements for the telecommunications provider. The applicant also relates that the height of the structure (51.5m) is necessary to ensure they can improve and expand mobile communications in the Branyan area.

The proposed tower will have large separation distances to sensitive land uses. Within a 500 metre radius of the subject site, the closest dwelling is located 240 metres to the west of the subject site and is separated by mature vegetation. Another dwelling is located 470 metres to the south west and is also situated on a heavily vegetated site. It is considered that there will be a negligible impact on these dwellings from the proposed telecommunication facilities.

Council’s Planning and Development Department acknowledge that the proposed facility is significant in height (51.5m) and will be visible (in some form) from multiple
locations within the surrounding area. It is also acknowledged that the monopole construction, although significant in height, does not have a dominant or bulky built form, as evidenced by similar constructions in other areas of the region. It is the Planning and Development Department's consideration that the subject site has been selected to optimise telecommunications coverage whilst also being cognisant of the impact of the development on surrounding sensitive environmental areas and adjoining land uses.

Despite the significant height of the structure it is considered that the proposal is consistent with the requirements of the Rural Planning Area Code. Specifically, the location and design of the tower is unlikely to significantly reduce the rural landscape values of farms in the locality, or natural environment values from the periphery of coastal towns, State controlled roads, principal local government roads and areas where concentrations of people are likely to occur.

1.1 Rural Zone Code

The overall outcomes of the Rural Zone Code are to maintain rural areas for sustainable rural production and maintain the rural character of these localities. The overall outcomes of the Rural Zone Code also allow for uses other than general rural uses where a development provides a significant and direct community benefit and no other location is suitable and available having regard to the activity's specific location requirements.

The proposed Telecommunications Facility occupies 80 square metres of existing rural land and aims to provide a significant and direct community benefit to Branyan and surrounding localities by way of improved telecommunication services. Direct loss of agricultural land or disruption to ongoing agricultural uses of the balance parcel is considered negligible. In consideration of the development's specific locational requirements, it is not irregular that development of the type and scale proposed is required to locate on rural zoned land. The applicant states that the site meets the telecommunications coverage objectives for the service provider and maximises available setbacks to sensitive receiving environments in proximity of the site. The development is considered to be consistent with the provisions of the Rural Zone Code.

1.2 Natural Features or Resources Overlay Code

The site has the following features that make the development assessable against the overlay code:

- GQAL Class A; and
- Declared Groundwater Area

The proposed Telecommunications Facility will only occupy an area of 80 square metres which is situated within GQAL Class A land. The area has not been used for agriculture purposes and is surrounded by native vegetation and agricultural fields. Therefore, no adverse impacts are likely to result from the proposed development being sited within the GQAL contained on this site.
The proposed Telecommunications Facility is unlikely to have any adverse affects on the quality of groundwater in proximity to the development site.

**1.3 Development Infrastructure and Works Code**

The Development Infrastructure and Works Code seeks to ensure that infrastructure is provided to development in a cost effective and coordinated manner. The facility does not require connection to regular urban or business infrastructure items. The development is considered to comply with the Code and appropriate conditions will be placed on any approval in this regard.

**1.4 Landscaping Code**

The Landscaping Code seeks to incorporate existing vegetation into developments and landscaping is provided that compliments the built environment and strengthens the green subtropical character of the area while creating a safe and functional environment for people to live, work, visit and invest. The applicant has not included any proposed landscaping with the proposed application and no clearing of existing vegetation is proposed. It is considered that the existing vegetation on the site and adjoining sites would be sufficient to mitigate any adverse visual impacts from the proposed development on the surrounding area.

**1.5 Telecommunications Facilities Code**

The Telecommunications Facilities Code is applicable to the development. In general the Code aims to ensure that telecommunications facilities are provided to meet the needs of the community in an orderly, coordinated, efficient and cost effective manner. Facilities are intended to be located, designed and constructed to ensure they achieve a high level of visual integration with the surrounding natural or built environment.

The proposed location for the monopole has been selected as it is outside any surrounding mapped sensitive environmental areas, no clearing is required for the structure and existing surrounding vegetation can be used to screen and reduce the potential for adverse visual impacts from the surrounding area.

It is Council’s Planning and Development Department’s consideration that the proposal generally complies with the provisions of the Telecommunications Facilities Code.

**1.6 Vehicle Parking and Access Code**

The Vehicle Parking and Access Code requires that land uses provide adequate on-site car parking for vehicles, as well as provision for delivery and service vehicles. The Code also seeks to ensure that the use provides safe and efficient vehicle access to and within the site and does not generate excessive parking, manoeuvring or servicing on nearby roads.
The site is currently a rural property with an access to the site via Nicholl Road. The security enclosure surrounding the proposed telecommunication facility has access via an existing internal driveway. The site has sufficient room on-site to accommodate vehicles associated with the general maintenance of such facility. The lease area doesn't appear to be able to incorporate sufficient room to accommodate parking for maintenance vehicles, however, the proposed development is considered to be able to generally comply with the Code.

2. **Engineering or Internal Referral**

Standard Engineering conditions have been applied to this application.

3. **State Planning Policies**

There are no State Planning Policies which are not appropriately reflected in the Burnett Shire Planning Scheme 2006 which require consideration for this proposal.

4. **Referral Agencies**

There were no referrals made to State or other agencies in regards to this application.

5. **Grounds of Submissions**

The application is Code Assessable and therefore not subject to public notification.

6. **Infrastructure Charges**

In this instance infrastructure charges contributions are not payable as the Equivalent Demand of the proposed development does not exceed the recognised Previous Contribution of the land.

**Conclusions**

The above report provides a summary review of the proposal to establish a Telecommunication Facility on 1 on RP89412 to service the Branyan locality and surrounding areas.

Council’s Planning and Development Department acknowledge that the location of telecommunications towers of the type and scale proposed can be a contentious issue for Council and residents in the locality in which they are proposed to locate. In the present case the applicant has provided information which clearly relates that the proposed development site is considered to be optimum for their coverage requirements in a location largely removed from residential land uses (only 2 houses located within 500 metres of the subject use area). The applicant provided a list of three (3) investigation sites originally chosen to service the subject area and the selected site will have the least impact on sensitive locations within the immediate vicinity and the existing vegetation will assist in screening the development.
It is considered that the subject site is suitable for the intended purpose considering the specific locational requirements of telecommunication facilities and in review of the characteristics of the locality surrounding the proposed telecommunication facility.

It is Council’s Planning and Development Department’s consideration that on balanced assessment the proposal meets the requirements of Council’s established planning provisions. It is recommended that the application be approved subject to reasonable and relevant conditions of approval.

**Attachments:**

1. Locality Plan
2. Proposal Plans
3. Decision Notice

**Recommendation:**

That application (Council Reference Number 322.2010.29120.1) for a Material Change of Use for a Telecommunication Facility at 44 Nicholl Road, Branyan; land described as Lot 1 on RP 89412, County Cook, Parish Takalvan be APPROVED with conditions and Council issue the attached Decision Notice, including attachments.
SOUTH WESTERN ELEVATION

SITE ADDRESS
PINEAPPLE FARM,
44 Moc-A-Bridge Road,
Brandan, QLD 4670

NOTES

1. DATE OF INSPECTION
   - 25 JANUARY 2010

2. PANEL ANTENNAS
   - 5 No. PANEL ANTENNAS (0.6m LINE) 2 PANEL ANTENNAS PER SECTOR
   - ORIENTATIONS TO BE: SECTOR 1 - 0deg, SECTOR 2 - 360deg, SECTOR 3 - 72deg
   - MOUNTED ON CIRCULAR HEADFRAME

3. NETWORK LINK
   - SITE SHALL BE LINKED TO THE NETWORK VIA 1.2M PARABOLIC ANTENNA (TBM)

4. EQUIPMENT
   - OPTUS EQUIPMENT IS PROPOSED TO BE HOUSED WITHIN A STANDARD PHB 0 CYLINDRICALLY RATED EQUIPMENT SHELTER
   - SHELTER SHALL BE FOUND ON RAFT SLAB (ITBC), 100 YEAR FLOOD LEVEL TO BE INVESTIGATED
   - AC UNITS TO BE EARED

5. CABLE LADDER
   - 45mm wide CABLE LADDER SHALL BE FITTED FROM EQUIPMENT SHELTER TO MONOPOLE
   - FOOTED TO RUN VERTICALLY THROUGH MONOPOLE SUPPORTED BY PROPRIETARY SLEEVE SYSTEM TO ANTENNA LEVEL

6. PAINTING / WARNING LIGHTS
   - AS PER STATUTORY AUTHORITY REQUIREMENTS

7. SITE ACCESS
   - FROM GUNDUREG TRAVELING SOUTH WEST ALONG THE BSD HIGHWAY, TRAVEL APPROXIMATELY 4 km
   - PAST THE BEAUDEKING AIRPORT AND TURN RIGHT INTO MONTJOY RD. TRAVEL 200m ALONG MONTJOY ROAD
   - THEN TURN RIGHT INTO NUMBER 44, FOLLOW DRIVE THROUGH TO FARMLAND AND BETWEEN STORAGE SHEDS
   - SITE IS LOCATED ACROSS PINEAPPLE FARM TO PUMP SHED AT MATERIAL SCHEME

8. ANTENNA ACCESS
   - OPTUS ANTENNAS TO BE ACCESSED USING STEPS PEGS, LAD-5AF AND HEADFRAME

9. POWER SUPPLY
   - THREE PHASE SUPPLY IS AVAILABLE FROM EXISTING IRRIGATION PUMP SHED
   - FURTHER INVESTIGATION REQUIRED TO DETERMINE CAPACITY OF EXISTING IRRIGATION ENERGIZER AND SERVICE MAINS
   - PROPOSED UPGRADE OF FUSE CARTRIDGE AND FUSES MOUNTED ON THE CUSTOMER'S SERVICE POLE AND 5 METER LONG CONSUMER MAINS INSTALLED IN SURFACE MOUNTED CONDUITS
   - PROPOSED OPTUS IRRIGATION PUMP POLYPHASE 7.5KW METER IS TO BE INSTALLED IN A NEW METER BOX MOUNTED ON THE INTERNAL WALL ADJACENT TO THE EXISTING IRRIGATION PUMP SWITCHBOARD
   - EXISTING SWITCHBOARD AND ASSOCIATED EQUIPMENT FOR THE 380V IRRIGATION PUMP WILL REQUIRE MODIFICATIONS TO ENSURE THE INSTALLATION IS COMPLIANT WITH CURRENT STANDARDS
   - PROPOSED OPTUS 30 METER LONG RUBBER SUBMAIN FROM THE NEW METER BOX TO THE OPTUS SHELTER IS TO BE ROUTED PARALLEL TO BOUNDARY FENCE

10. VEGETATION MANAGEMENT
    - NO CLEARING REQUIRED
I acknowledge receipt your Development Application for a Material Change of Use for a Telecommunication Facility (Major) at 44 Nicholl Road, Branyan; land described as Lot 1 on RP89412, County Cook, Parish Takalvan lodged with Council on 1 June 2010 and confirm that, on 19 August 2010, the above development application was approved in full with conditions by Council under delegation at the Planning and Development Committee Meeting.

The conditions of this approval are set out in Attachment 1. These conditions are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

1. **Details of the approval**

The following approvals are given:

<table>
<thead>
<tr>
<th>Sustainable Planning Regulation 2009, schedule 3 reference</th>
<th>Development Permit</th>
<th>Preliminary Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Making a material change of use assessable under the planning scheme, a temporary local planning instrument, a master plan or a preliminary approval to which section 242 applies</td>
<td>✓</td>
<td></td>
</tr>
</tbody>
</table>

2. **Other necessary development permits and/or compliance permits**

Listed below are other development permits and/or compliance permits that are necessary to allow the development to be carried out:


3.
Approved plans
The approved plans for this development approval are listed in the following table:

<table>
<thead>
<tr>
<th>Plan number</th>
<th>Plan name</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>B8947A-P2 – Revision 1</td>
<td>Draft Site Elevation, drawn by Aurecon</td>
<td>26 July 2010</td>
</tr>
<tr>
<td>B8947A-P1 – Revision 2</td>
<td>Draft Site Plan</td>
<td>29 July 2010</td>
</tr>
</tbody>
</table>

4. When approval lapses if development not started (s.341)
This development approval will lapse as per set out by Section 341 of the Sustainable Planning Act 2009 unless otherwise approved by Council.

5. Appeal rights
Appeals by applicants
An applicant for a development application may appeal to the Planning and Environment Court against the following:
- the refusal, or refusal in part of the development application
- any condition of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242 of SPA
- the decision to give a preliminary approval when a development permit was applied for
- the length of a period mentioned in section 341
- a deemed refusal of the development application.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 461(2) of SPA.

Applicants may also have a right to appeal to the Building and Development Dispute Resolution Committee. For more details, see SPA, chapter 7, part 2.

Attachment 2 is an extract from SPA which details the applicant’s appeal rights regarding this decision.

If you wish to discuss this matter further, please contact me on the above telephone number.

Yours sincerely

19 August 2010

(Peter Byrne)
Chief Executive Officer
Bundaberg Regional Council

Attachment 1—Conditions of the approval

Part 1—Conditions imposed by the assessment manager

Attachment 2—SPA extract on appeal rights
Attachment 1 – Conditions of the Approval

Development Permit for Material Change of Use – Code Assessment – Telecommunication Facility (Major)

<table>
<thead>
<tr>
<th>Council Reference:</th>
<th>322.2010.28760.1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Permit Date:</td>
<td>19 August 2010</td>
</tr>
<tr>
<td>Applicant:</td>
<td>Optus Mobile Pty Limited</td>
</tr>
<tr>
<td>Real Property Description:</td>
<td>Lot 1 on RP89412, County Cook, Parish Takalvan</td>
</tr>
<tr>
<td>Location:</td>
<td>44 Nicholl Road, Branyan</td>
</tr>
<tr>
<td>Approval Detail:</td>
<td>Telecommunication Facility (Major)</td>
</tr>
</tbody>
</table>

Part 1(a). Conditions Imposed by the Assessment Manager

PLAN OF DEVELOPMENT

1. Development is to be undertaken generally in accordance with the following except as modified by the conditions contained hereunder:
   1.1. Drawing No. B8947A-P2 – Revision 1 Draft Site Elevations prepared by Aurecon Australia Pty Ltd and dated 26 July 2010; and
   1.2. Drawing No. B-8947A-P1 Revision 02 Draft Site Plan prepared by Aurecon Australia Pty Ltd and dated 29 July 2010.

AMENITY

2. The approved use is to be undertaken so that no undue disturbance is caused to surrounding properties by virtue of bright lights, traffic, noise or interfere with other existing radiofrequency signals.

3. The facility is to be developed in accordance with relevant Australian Standards for electromagnetic radiation and industry codes of practice.

4. The maximum height of the facility must not exceed 52 metres above natural ground level.

AVIATION SAFETY

5. Prior to the issue of any building approval the Applicant is to provide evidence from the Civil Aviation Authority that all aviation safety measures are incorporated into the design of the tower, as required. Any recommended aviation safety treatment is to be included to the tower prior to the commencement of the use.

BUILDING

6. All building work for the development is to be in accordance with the Building Act 1975 and the Building Regulations 2006.

SITE DEVELOPMENT

7. Construction work on the site is not to commence on any day before 7.00am, or continue any such work after 6.00pm. No construction work is to be undertaken on a Sunday or Public Holiday.

8. Adequate precautions, are to be taken to ensure dust does not cause annoyance to adjacent sites or dwellings during construction on the site, including through use of the access road. This may mean the cessation of work during periods of adverse climatic conditions, if directed by Council.

9. During construction, sediment and erosion control is to be undertaken where applicable, in accordance with the ‘Stormwater Management Planning Scheme Policy’ and the ‘Development Works Planning Scheme Policy’.

ALTERATION/DAMAGE TO SERVICES AND UTILITIES

10. Alterations to public utilities, mains and services made necessary in connection with any of the works arising from this approval including works to restore and reinstate all roads are to be completed at no cost to Council.

GENERAL

11. All works are to be undertaken at the Developer's expense.
12. All Conditions contained in this Decision Notice including necessary works to achieve compliance are to be complied with/completed prior to the commencement of the use unless otherwise stated.

13. Where there is any conflict between Conditions of this Decision Notice and details shown on the Approved Plans, the Conditions must prevail.

AMENITY

14. The site is to be maintained in a neat and tidy state at all times.

Part 1(b). Assessment Manager’s Advices

A. This Decision Notice does not represent an approval to commence Building Works.

B. The proposed siting of the proposed structure has not been assessed against the requirements of the Building Act 1975

End of Attachment 1
Attachment 2 – SPA Extract on Appeal Rights

Sustainable Planning Act 2009
Chapter 7 Appeals, offences and enforcement
Part 1 Planning and Environment Court
2009 Act No. 36 Page 320

Division 8 Appeals to court relating to development applications and approvals

461 Appeals by applicants

(1) An applicant for a development application may appeal to the court against any of the following—

(a) the refusal, or the refusal in part, of the development application;
(b) any condition of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242;
(c) the decision to give a preliminary approval when a development permit was applied for;
(d) the length of a period mentioned in section 341;
(e) a deemed refusal of the development application.

(2) An appeal under subsection (1)(a), (b), (c) or (d) must be started within 20 business days (the applicant’s appeal period) after—

(a) if a decision notice or negotiated decision notice is given—the day the decision notice or negotiated decision notice is given to the applicant; or
(b) otherwise—the day a decision notice was required to be given to the applicant.

(3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

End of Attachment 2
Item Number: N5  
File Number: 322.2009.27246.1  
Part: DEVELOPMENT

**Portfolio:**
Planning & Development Services

**Subject:**
1312 Buxton Road, Buxton; Request to change an existing approval – An extension of the period before an approval lapses (under IPA, section 3.5.22) and Request to change an existing approval – To change or cancel a condition of approval (under IPA, section 3.5.33) - Material Change of Use for Caravan Park 9 Sites and camp kitchen.

**Report Author:**
Merinda Grayson, Planning Officer

**Authorised by:**
Wayne Phillips, Manager Planning (Coastal and Strategic)

**Link to Corporate Plan:**
Nil -

**Applicant:**
B Payne

**Owner:**
B J Payne

**Location:**
1312 Buxton Road, Buxton

**RPD:**
Lot 6 on RP840129, County Cook, Parish Isis

**Area:**
7.096 ha

**Land Designation:**
Rural Protected (Category 2) – Isis Shire Planning Scheme 2007
Rural C – Superseded Planning Scheme for the Balance of the Shire of Isis

**Planning Scheme:**
Isis Shire Planning Scheme 2007
1. **Proposal:**

Council issued a Development Permit for a Caravan Park (9 Sites and camp kitchen) over land situated at 1312 Buxton Road, Buxton and described as Lot 6 on RP840129 by Decision Notice dated 29 November 2005.

The proposal consisted of nine (9) sites, each with its own ensuite, and a communal camp kitchen. The development is intended for tourist accommodation for caravans and motor homes/recreation vehicles. It is not intended to allow permanent residential or permanent caravans or structures on the sites (other than ensuites and a camp kitchen).

A Request to Change the Existing Approval has been made by letter received by Council on 19 November 2009. The request proposes to change the existing approval to the extent detailed below:

- Extend the Relevant Period for the Approval.
  - Additional four (4) years.
- Change or cancel a condition of approval.
  - Specifically:
    - Condition 1 – Currency Period

2. **Considerations**

Sections 3.5.23 of the *Integrated Planning Act 2009* provides the legislative framework for considering a request to extend the period before an approval lapses.

Section 3.5.33 of the *Integrated Planning Act 2010* provides the legislative framework for considering a request to change or cancel a condition of approval.

The Assessment and Decision of this application is in accordance with these provisions.

**Request to Extend the Relevant Period for an Approval**

Consideration of the request against the criteria provided under 3.5.23 *Planning Act 2009* is tabulated below:

<table>
<thead>
<tr>
<th>SPA provision</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(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 infrastructure charges payable under an infrastructure charges schedule; and</td>
<td>Council’s Isis Shire Planning Scheme 2007 commenced on 19 February 2007. Despite the application being assessed under the superseded planning scheme the current approval conditions reference the current planning scheme requirements. Therefore the current laws and policies applying to the development have not changed significantly as a result of the new Planning Scheme.</td>
</tr>
<tr>
<td>(b) the community’s current awareness of the development approval; and</td>
<td>The development approval was subject to public notification and received no</td>
</tr>
</tbody>
</table>
SPA provision | Comment
--- | ---
(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 | Opportunities would still exist for an application to be made under the current planning scheme.
(d) the views of any concurrence agency for the approval. | There were no concurrence agencies to the original application

### Request to Change or Cancel Conditions of the Approval

Condition 1 of the approval currently states:

> The approval is current for a period of four (4) years starting the day the approval takes effect. The approval shall lapse at the end of the currency period unless the use commences before the end of the currency period.

The applicant requests that the currency period be extended and Condition 1 be deleted.

In accordance with Section 3.5.33 of the Integrated Planning Act 1997 the Assessment Manager in assessing and deciding a request to change or cancel conditions must have regard to:

(a) the matters the responsible entity would have regard to if the request were a development application; and,

(b) if submissions were made about the original application—the submissions.

### Planning and Development Comments

It is Council’s Planning Services consideration that Condition 1 is unnecessary due to the Integrated Planning Act 1997 regulating the currency period and the applicant not requesting an additional time period as part of the original approval. It is noted that the original application was not subject to submissions.

It is therefore recommended that Condition 1 (Currency Period) be deleted.

### 3. Conclusion

The planning provisions and infrastructure charges relating to the development have not substantially changed since this application was approved and accordingly it is recommended that Council agree to the extension of currency period as requested.
Attachments:

1. Representations
2. Original Decision Notice
3. Notice
4. Plan of Development
5. Locality Plan

Recommendation:

That Council agree to delete Condition 1 (Currency Period) and grant an extension of four (4) years for the existing development approval resulting in the relevant period expiry date being on 29 November 2013 and Council issue the attached Notice to Extend Period and Change an Existing Approval.
Decision Notice
APPROVAL
Integrated Planning Act 1997 S 3.5.15

Our Ref: EF:AC:TP641 [File reference]
Evan Fritz [Contact name]
(07) 4192 1015 [Contact number]

1 December 2005

Barbara Payne
C/- Buxton Post Office
BUXTON Q 4660

APPLICATION FOR MATERIAL CHANGE OF USE
1312 BUXTON ROAD, BUXTON – LOT 6 ON RP840129, PARISH OF ISIS

Dear Madam

I wish to advise that on 29 November 2005 the above development application was approved in full with conditions. The conditions relevant to this approval are attached.

1. Details of the approval -
The following type of approval has been issued -

<table>
<thead>
<tr>
<th>Development Permit</th>
<th>Preliminary Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Material change of use made assessable by the planning scheme</td>
<td>✗</td>
</tr>
</tbody>
</table>

2. The currency period -
The standard currency periods stated in section 3.5.21 of IPA apply to each aspect of development in this approval.

3. The approved plans -
The approved plans and / or documents for this development approval are listed in the following table –
4. Other necessary development permits -
Listed below are other development permits that are necessary to allow the development to be carried out -
- Building Works

5. Submissions -
There were no properly made submissions about the application.

6. Appeal rights -
Attached is an extract from the Integrated Planning Act 1997 which details your appeal rights regarding this decision.

7. When the development approval takes effect -
This development approval takes effect -
- from the time the decision notice is given, if the applicant does not appeal the decision to the court

OR
- subject to the decision of the court, when the appeal is finally decided, if an appeal is made to the court.

This approval will lapse unless substantially started within the above stated currency periods (refer to sections 3.5.19 and 3.5.20 of IPA for further details).

Should you have any queries in relation to this matter, please contact Council’s Shire Planner, Evan Fritz. To assist in processing any further correspondence, could you please quote Council’s file reference located at the top of this letter.

Yours faithfully

SD JOHNSTON
Chief Executive Officer
CONDITIONS – TP641
GENERAL MEETING 29 NOVEMBER 2005

A. The applicant be advised that Council approves the application for a Material Change of Use of land situated at 1312 Buxton Road, Buxton and described as Lot 6 on RP840129, Parish of Isis, and issues a development permit for a Caravan Park (9 sites and camp kitchen), subject to the following conditions:-

CURRENCY PERIOD

1. This approval is current for a period of four (4) years starting the day the approval takes effect. The approval shall lapse at the end of the currency period unless the use commences before the end of the currency period.

PLAN OF DEVELOPMENT

2. The layout as depicted on the proposal plans, Drawing No. 050611 (Site Plan, Kitchen-Laundry Facilities Plan, Ensuite Plan) prepared by Brian O’Sullivan Design & Drafting received at Council 6 September 2005 are generally acceptable.

Nothing in this permit may be construed to imply approval of any “future development” on any other part of the site shown on the proposal plan.

APPROVAL

3. The approval relates to not more than nine (9) sites for the short-term/ temporary parking of caravans, motor homes and other similar recreational vehicles by tourists/ travellers. No permanent caravans or structures are permitted on the sites (other than the proposed ensuites). Further, not more than one caravan or motor home/recreational vehicle shall be parked on each site at any time.

ACCESS

4. A sealed two lane access turnout shall be provided from the existing carriageway on Buxton Road and tapering to a minimum 3.5m width at the property line, with appropriate drainage works if necessary, to the satisfaction of Council.

5. All internal roads/driveways and carparking areas shall be designed, constructed and maintained to the satisfaction of Council and shall be either imperviously sealed or otherwise surfaced to facilitate all weather use by vehicles while eliminating potential dust, scouring, ponding and other nuisance.

Specifically, the internal driveway from the property line for the length of the access handle (approximately 260m) shall be a minimum 3.5m wide sealed standard. The remaining length of the internal driveway and other internal roads used as part of the development shall be constructed to a minimum 3.5m wide gravel standard.

WASTEWATER DISPOSAL

6. On-site wastewater treatment and disposal shall be generally in accordance with the report prepared by Scarecrow Plumbing & Drainage/ Kieran O’Toole received at Council on 6 September 2005. Formal application for plumbing and drainage works is still required be submitted to and approved by Council prior to construction.

WATER SUPPLY
7. A supply of potable water is to be made available to guests. The water shall satisfy the Australian Drinking Water Guidelines 2004, or relevant standard applicable at the time.

The developer shall provide additional water supplies for other household purposes via a 45,000 litre rainwater storage tank, or other means satisfactory to Council. Any water supply point which provides water not suitable for drinking must be labelled "unsuitable for drinking".

**STORMWATER DRAINAGE**

8. The applicant shall provide and maintain permanent stormwater quality control devices on-site for the purpose of trapping gross pollutants (including the collection of rubbish, sediment and oil separation) from the driveways, car parking and hard standing areas prior to discharge from the site. Details of proposed stormwater quality control measures shall be submitted to and approved by Council prior to approval of any application for building work.

**FENCING**

9. No access from the caravan park area to the Isis River is permitted. The developer shall construct a minimum standard 1.2 metre high fence to prevent access (including both pedestrian and vehicular access) from the caravan park to the Isis River. Details of fencing materials and location of the fence shall be submitted to and approved by Council's Chief Executive Officer and fencing works shall be completed prior to commencement of the use.

**LANDSCAPING**

10. Landscaping shall be provided to suitably screen and buffer the development from adjoining properties. The following details shall be submitted to and approved by Council's Chief Executive Officer prior to issue of any development permit for building works:
   (a) details of proposed landscaping, including any vegetated mounds or fencing;
   (b) establishment detail such as layout, growth media, mulch, plant species, irrigation systems, etc. Species should include those indigenous to the area.

Landscaping works are to be completed prior to occupation of the premises.

**LIGHTING**

11. All night lighting (including security lights, illuminated advertising signage, and car park illumination) shall be designed and constructed to ensure that light emitted from the subject land does not exceed the limits stated in Australian Standard AS4282-1997 'Control of the Obtrusive Effects of Outdoor Lighting'.

**AMENITY**

12. The subject land shall be maintained in a neat and tidy state at all times with any outdoor storage areas screened from view by fencing or landscaping.

13. The use shall not, in the opinion of Council, detrimentally affect the existing or prospective amenity of the locality due to, but not limited to noise, vibration, lighting, traffic generation and/or hours of operation.

**WASTES**

14. All wastes and rubbish shall be stored, collected and disposed of to the satisfaction of Council's Manager, Environmental Services, with full costs borne by the applicant. No wastes or rubbish shall be burned or buried on-site. The storage area for garbage receptacles shall be screened from public view and direct sunlight, suitably paved and drained and provided with suitable washdown facilities.
FOOD HYGIENE

15. The applicant shall obtain any necessary approvals required under the Food Hygiene Regulation from Council’s Manager of Environmental Services.

BUILDING APPROVAL

16. Building approval, as required by the Building Act 1975 and the Building Code of Australia, shall be obtained in respect of any building work in relation to this approval (including demolition or removal of existing buildings) before any building work is commenced.

ENGINEERING PLANS

17. Any on-site works associated with but not limited to vehicular access, car parking, stormwater drainage, water supply works, sewerage works and any works required in the road reserve, shall not be commenced until plans and specifications have been prepared and certified by a Civil Engineer registered with the Board of Professional Engineers of Queensland and are submitted to and approved by Council. The execution of the works shall be supervised by a Civil Engineer registered with the Board of Professional Engineers of Queensland. Engineering fees for checking, overseeing and/or supervision of any such works shall be payable to Council by the Applicant in accordance with charges adopted at the Council’s Annual Budget Meeting. The fee shall be paid prior to the approved used being commenced on the subject land and or the endorsing of the survey plans by Council.

SITE DEVELOPMENT

18. The Developer or any of his agents, contractors or servants shall not commence construction work on the site on any day before 7:00 a.m., nor continue any such work after 6:00 p.m., nor shall they undertake any construction work on a Sunday without the prior approval of Council. Adequate precautions, to the satisfaction of the Council shall be taken to ensure dust does not cause annoyance to adjacent and nearby dwellings during construction work on the site. This may mean cessation of work during periods of adverse climatic conditions, if directed by Council.

SERVICES AND REINSTATEMENT

19. The applicant shall meet the cost of all alterations to public utilities, mains and services made necessary in connection with any of the works arising from this approval and shall restore and reinstate all roads to the satisfaction of the Council when such works have been carried out.

CONDITIONAL COMPLIANCE

20. All conditions contained in this permit shall be complied with before occupancy of the building for the approved purpose or the commencement of the use of the land.

21. The applicant shall be responsible for ensuring that all persons charged with the administration of the permitted use are at all times aware of the conditions of this approval.

LEGAL ADVICE

B. The applicant be advised of their appeal rights and supplied with a copy of the relevant appeal provisions of the Act, pursuant to Section 3.5.15 of the Integrated Planning Act
19 August 2010

Barbara Payne
11 Nicolson Avenue
WHYALLA SA 5600

Attn: Barbara Payne

Dear Madam,

**Notice to Extend Period & Notice to Change an Existing Approval**

*Integrated Planning Act 1997 Section 3.5.22 & 3.5.23 and Section 3.5.25 & 3.5.33*

RE: – Request to Extend Relevant Period and Change an Existing Approval – Development Application for Material Change of Use for Caravan Park (9 sites and camp kitchen) at 1312 Buxton Road, Buxton and described as Lot 6 RP84012;

– Superseded Planning Scheme for the Balance of the Shire of Isis.

I refer to the above-described request, received by Council on 11 November 2009 and formally accepted on 7 December 2009. Your request to change the existing approval issued by Decision Notice 29 November 2009 (Council Reference: TP641) has been assessed and approved by Council under delegation at the Planning and Development Committee Meeting on 19 August 2010 to the extent detailed below:

(i) Council agrees to extend the relevant period by four (4) years until 29 November 2013; and,

(ii) Council agrees to delete Condition 1 (Currency Period).

Attached is an extract from the *Integrated Planning Act 1997* which details your appeal rights regarding this decision.

If you have any queries please contact Merinda Grayson on 1300 883 699.

Yours faithfully

(Peter Byrne)
Chief Executive Officer
Locality Plan

1312 Buxton Road, Buxton

While every care is taken to ensure the accuracy of this data, the Department of Environment and Resource Management and Bundaberg Regional Council makes no representation or warranties about its accuracy, reliability, completeness or stability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which you might incur as a result of the data being inaccurate or incomplete in any way and for any reason.
Item Number: N6  
File Number: 321.2009.27374.1  
Part: DEVELOPMENT

Portfolio:  
Planning & Development Services

Subject:  
64 Jealous Road, Kalkie; Reconfiguring a Lot for Subdivision 37 Lots plus Drainage area (in 3 stages).

Report Author:  
Gail Downie, Senior Planner

Authorised by:  
Rob Thompson, Manager Planning (City & Hinterland)

Link to Corporate Plan:  
Nil -

Applicant:  
Vasco Pty Ltd

Owner:  
Vasco Pty Ltd

Location:  
64 Jealous Road, Kalkie

RPD:  
Lots 1 & 2 on RP24923 and Lot 2 on RP229039, County Cook, Parish Kalkie.

Area:  
Total Area of Parent Lot: 11.0856 Hectares (Note: Stage 1 Subdivision has been completed)

Stage 2A – 4.7393 ha.
Stage 2B – 1.4345 ha
Stage 2C – 1.3166 ha.

(Total area of Stage 2: 7.4803 ha).

Land Designation:  
“Non-Urban” Precinct (Local Area 6)

(Note: MCU for “Residential Subdivision plus Parkland, Agricultural Buffer and Drainage Reserve” issued 01 June 2007)
Planning Scheme:
Planning Scheme for Bundaberg City

1. Proposal:
The site is located on the northern side of Jealous Road and contains a total area of 11.08 hectares. The site is traversed by an existing drainage easement in the northern and western portions of the site. The portion of the site towards the Jealous Road frontage is presently being developed for a residential housing estate.

Plans lodged with the application indicate that the lot sizes range from 708 square metres to 1,279 square metres. The Applicant proposes to back lots onto the proposed Drainage area. A drainage area totalling 9,211 square metres is proposed. The proposal plan does not provide for the provision of any Parkland for this Stage and the Applicant has requested that Council accept a cash contribution in lieu of provision of parkland.

The Applicant proposes to develop the site for residential housing lots in this application, in three stages, viz:

- Stage 2A – 14 lots (including a 2.7202 hectare lot) plus balance area
- Stage 2B – 12 lots plus balance area
- Stage 2C – 11 lots

The Applicant advises that the 2.7202 hectare lot (Lot 100) created in Stage 2A will be subject to a future Material Change of Use Application for a Multi-unit development (for 46 accommodation units). It is to be noted that this Application was lodged with Council on 09 March 2010 and is currently awaiting a response to Council’s Information Request (issued on 19 April 2010).

Subject Site & Surrounding Land Uses

The site comprises a total area of 11.08 hectares, with approximately 100 metre frontage to Jealous Road. Stage 1 of a residential subdivision has recently been completed.

The elevation of the site varies from approximately RL 13 metres AHD in the northern portion of the site and falls gently towards the south-western corner to approximately RL 8 metres AHD. The site has previously been cleared of significant vegetation and was used for agricultural purposes.

The site is adjoined to the north west and west by agricultural lands included in the “Non Urban” precinct, and presently under sugar cane cultivation. Land to the north-east and east is situated in the “Residential A” precinct and comprises mainly single unit dwelling houses.

Land opposite the site in Campbell Street is located in an Industrial precinct, and comprises industrial land uses. Land uses in Morrison Street comprise mainly single unit dwelling houses.
Planning History

Previous approvals by Council in respect to these parcels of land include:

01 June 2007 – Combined Application for Part A: Material Change of Use of site for “Residential Subdivision plus Parkland, Agricultural Buffer and Drainage Reserve; and Part B – Reconfiguring a Lot – Stage 1 (22 lots plus balance area)

17 June 2009 – Notice of Change of an Existing Approval issued. This change involved a re-design of the layout of Stage 1 Subdivision layout, and incorporated an increase in the number of lots from 22 to 25 lots, deletion of the requirement to install an approved drip watering system within the buffer area plantings, and changes to stormwater drainage conditions.

Considerations

1. Planning Scheme
The site is situated in the “Non Urban” Precinct (Local Area 6) and the proposed Reconfiguring a Lot application represents Impact Assessable Development under the provisions of the Planning Scheme for Bundaberg City.

(a) Structure Plan – The site has a part “Low Density Residential” and part “Open Space” designation on the Structure Plan. The “Open Space” designation generally incorporates the path of the drainage system which traverses the site.

(b) Residential Strategy – The use of the site for the purposes of low density residential development generally complies with the intent of the Residential strategy. The site is capable of being connected to Council’s reticulated water and sewer networks. The development will need to provide suitable buffers to adjoining agricultural land uses and/or “Non Urban” precinct lands.

1.1 Reconfiguring a Lot Code

P1 - All proposed lots are greater than the Code’s 600 square minimum, and with the exception of the proposed hatchet-shaped lots (Lots 55 and 56) have a street frontage of at least 15 metres. Proposed Lots 55 and 56 have areas, excluding the area of the access strip, greater than 600 square metres.

P2 – Infrastructure – All proposed lots are capable of being connected to all reticulated services (water, sewer, electricity and telecommunications) and adequately drained. The applicant proposes to dedicate as Drainage Reserve, a 25 metre wide strip over the drainage path with traveses the site.

<table>
<thead>
<tr>
<th>Performance Criteria</th>
<th>Probable Solutions (illustrate how compliance with the Performance Criteria may be achieved)</th>
</tr>
</thead>
<tbody>
<tr>
<td>P3</td>
<td>Sufficient open space is provided to meet the A3.1 – Proposals to create additional allotments include provision of 10% of the area to be subdivided to be dedicated for parkland that</td>
</tr>
</tbody>
</table>

Meeting held: 19 August 2010
needs of the likely occupants of the proposed allotments

satisfies the criteria set out in the Open Space and Recreation Planning Scheme Policy; and

- Parklands are not located on land that is:
  - below the 20% AEP localised flood level; or
  - contaminated; or
  - encumbered by electricity supply easements; or
  - smaller than 4,000 square metres, excluding when adjoining an existing park; or
  - of a gradient/slope in excess of 1 (vertical) in 10 (horizontal); or
  - less than 40 metres in width; and

- Parklands are provided with road frontage equal to 50% of the perimeter distance; and

- 90% of residential allotments are located within 400 metres safe walking distance from parkland; and

- The necessary works are carried out to the parkland to render it useable for its intended use.

The applicant does not propose to provide Public Open Space, and requests Council accept a monetary contribution in lieu thereof.

As part of the previous approval for Stage 1 subdivision of this development (containing an area of 3.8468 hectares), the Developer was conditioned to provide Parkland comprising an area of 3,379 square metres (as shown on Plan 41-20969 Rev C SK009) plus $5,000 cash parkland contribution, or to provide an area of Parkland comprising 10 percent of the area of the stage – i.e. 3,846 square metres.

Stage 2 comprises a total area of 7.4803 hectares. The area, minus the proposed site of a community title (accommodation unit site for 46 dwelling units) is 4.7601 hectares (i.e. 7.4803 hectares minus 2.7202 hectares). The Reconfiguring a lot code requires that Parkland be provided at the rate of ten percent of the area to be subdivided, and thus an area of 4,760 square metres is required at Stage 2 (excluding the community title lot).

As mentioned previously, the Developer does not propose to provide Parkland for this stage, and requests that a cash contribution be accepted by Council in lieu of Parkland.

In Council’s Information request, Council requested the Applicant to address the shortfall of Parkland. The Applicants advance the following in their Information Response:

“Further parkland is not proposed in the Stage 2 application. Instead, it is proposed to make a per lot monetary contribution to Council with a view to that money being expended on infrastructure improvements to the active recreation park provided in Stage 1. The Applicant submits that this approach has the following advantages over merely providing more parkland:
1. It is consistent with the preferred position of the Open Space and Recreation Planning Scheme Policy (OSRPSP) Policy 2.1 of the OSRPSP identifies criteria which Council will consider when "determining whether an area for parkland should be sought instead of a monetary contribution". The Policy pre-empts that a monetary contribution will be required unless the parkland satisfies those criteria (including the prerequisites identified in the Council Request for Further Information). Making a monetary contribution toward park improvements in lieu of providing further land is thus prima facie consistent with the council policy.

2. The utility of a park is a function of a number of variables, one of which is the raft of facilities that it provides. By making a contribution toward infrastructure such as play equipment, shelter, seating and bar-b-que, residents will have a higher propensity to use the park than if it were a barren parcel of land;

3. The higher use of a park contributes to building a sense of community as residents engage in an informal, attractive setting.

4. As an entrance to the estate, an attractively landscaped park with community infrastructure will make a positive contribution to the streetscape and engender a sense of belonging for residents;

5. In terms of maintenance costs to Council, it is cheaper per square metre of land to provide fewer but higher quality parks than more parks (which may or may not be of inferior quality).

It therefore remains the Applicant’s contention that a monetary contribution invested in the Stage 1 park will deliver a better community outcome than further open space.

It is to be noted that the total area of Stages 1 and 2 subdivision (excluding the proposed Community title lot area of 2.7202 hectares) is 8.3654 hectares (11.0856 – 2.7202). For this area of the residential subdivision, the Developer proposes only to provide a Parkland comprising 3846 square metres (at best), which equates to a 4.6 percent parkland contribution, which is less than half the required 10 percent land contribution. The proposed area of parkland is also less than Council’s nominated Probable Solution of 4,000 square metres. The Developer has requested that in lieu of providing the required 10 percent of land contribution for Stage 2, that Council accept a cash contribution.

Open Space and Recreation Planning Scheme Policy 5.1 states at Clause 2.3 “that where Council requires a monetary contribution in lieu of provision of an area of land as parkland, the amount of the contribution will be in accordance with Planning Scheme Policy 5.10 for each additional allotment proposed in the subdivision”. In this case, the contribution in lieu of 10 per cent land as Park, would be in the 2009/2010 Financial Year, $2,535.19 per lot, and for 37 lots, would equate to $93,802.03 in lieu of a land contribution of 4,760 square metres.

It is considered that the Parkland provided in Stage 1 is adequate to service this site, and Council agree to accept a Cash contribution in lieu of land contribution in this instance.
P4 – No new residential lots are created in natural hazard areas, (eg within the Defined Flood Event (DFE))

P5 – requires that new residential allotments must be adequately buffered from any adjacent incompatible land uses. The proposed development incorporates a continuation of the landscaped buffer/fencing treatment constructed at Stage 1 along the common boundary with the caneland to the west.

P6 – Access Strips – It is noted that two lots in Stage 2A of the subdivision will gain access to the new road via 6.0 metre wide access strips. Council’s Lot Reconfiguration Planning Scheme Policy requires that the access strips be sealed with asphalt, concrete or pavers to a width of 3.5 metres centrally located within the strip. The pavement is to be edged with concrete kerb on both sides and a 1.8 metre high screen privacy fence to be constructed on both sides of the strip. Provision is to be made in the strip for conduits for services (water, electricity, telecommunications etc).

1.2 Flood Management Code

The site is affected by the Q50 Burnett River flooding, as well as the Q100 ARI Localised flood event. The portion of the land at the Jealous Road frontage (covered by stage 1) is affected by the Q50 flood level to a height of RL 8.5 metres.

The Q100 ARI flood event relates closely to the discharge of stormwater from upstream drainage reserves across the site. The applicant intends to formalise the flow of stormwater across the site and contain the flowpath within a Drainage Reserve 25 metres wide through the site.

2. Engineering

2.1 Water

The development proposes to connect to an existing water main on the northern side of Jealous Road via works in Stage 1 of the subdivisional works. The Developer will be also conditioned at Stage 3 to connect the internal water to the water supply network in Maike Street.

2.2 Sewerage

The development proposes to connect into the sewer infrastructure to be provided at Stage 1 of the subdivisional works.
2.3 Roadworks

The development proposes the continuation of Stage 1 internal roadways and the creation of a linking road and three cul-de-sacs. All road reserves will be 15 metres wide with a pavement width of 7.0 metres.

2.4 Drainage

As part of the Information request Council sought clarification in regard to vehicular access to the Drainage Reserve and also Crime Prevention Through Environmental Design (CPTED) principles the developer proposes in respect to the residential lots which abut the proposed drainage reserve. The Developer’s response to these matters is as follows:

“the object of the CPTED principles is to make public spaces safer spaces. The principles encourage passive surveillance of publicly owned land and seek to limit places of entrapment or concealment.

It is the Applicant’s view that CPTED is not directly relevant to the current application as it applies to the proposed drainage reserve. The reason for this position is that CPTED specifically addresses public spaces ‘which are intended for use by the public’ (cf definition of ‘public spaces’ in CPTED Guidelines for Queensland). Neither the Council, nor the applicant seeks the drainage reserve as a place of social engagement. It is not, for example, a ‘gathering place’ as anticipated by Action 1.5 of Chapter 6 CPTED Guidelines for Specific Urban Environments of the Guidelines. It is not a ‘shared space’ as envisaged by Principle 3A and has not been designed to satisfy the ‘needs of different groups’ as envisaged by Action 3.1 of Chapter 6. As indicated in the Town Planning Report that accompanied the development application, the drainage reserve has been located and designed to satisfy a specific function – the carriage and detention of stormwater. For this reason, it is our client’s submission that CPTED is not directly relevant to the design of the drainage reserve.

Notwithstanding this position, the applicant has no objection to Council imposing a condition that requires it to build a drainage reserve boundary fence to Lots 42, 48, 49, 50, 51, 55, 56 and 61 with not less than 50% of the boundary fence area being permeable. This will ensure passive surveillance of the reserve and could be complemented by a similar condition of the aforementioned community title development proposal on the north side of the reserve.

With respect to the matter of vehicle access to the drainage reserve, discussions between this consultancy and Council officers indicated that the pivotal issue was more a matter of maintenance vehicle access along the reserve (particularly during a flood event) rather than to the reserve. With this in mind, the present 1:3 grade is considered to be too steep to enable a vehicle to safely drive along the reserve. GHD engineers have reviewed the cross-sectional design of the reserve and admit that a 1:4 grade is achievable. This grade can be traversed by maintenance vehicles. It is therefore
recommended that Council impose a condition that requires the operational works drawings to show a bank gradient to the drainage reserve of not greater than 1:4.”

It is to be noted that the matter of lots abutting the proposed drainage reserve was discussed with the previous property owners/developer at the time of consideration of the material change of use application for the entire site. At that time, the proposed drainage reserve was designed to be adjoined on both sides by a narrow strip of Parkland, and with the southern side abutting a future roadway, with only two lots in the extreme north-eastern corner abutting the drainage reserve. This design had the advantage of providing additional parkland and open space for the entire development, as well as achieving the design element of good accessibility and visibility from roadways to the drainage reserve as envisaged by CPTED. It is noted in the past that where lots abut drainage reserves, high screen fences are usually constructed, and the drainage reserve becomes an informal “dumping ground” for garden and other rubbish.

The drainage reserve area to the east of this site, contains an underground pipe drainage system, which outlets onto the subject site. The Developer’s proposed drainage system involves an open drain system, and where the drain meets the proposed extension of Road 1, a series of 1300 diameter pipes to divert the drainage to the drainage area provided at Stage 1. This situation will result in the proposed drainage reserve east of Road 1 serving the purpose of a detention basin and at its meeting with Road 1 road reserve, would be approximately 4.0 metres deep. Safety concerns are held especially where young children may be caught in the open drain, and do not readily have an escape path.

The Crime Prevention Through Environmental Design (CPTED) Guidelines for Queensland – Part A – Essential Features of safer places aim is to influence and inform decision makers about designing and managing the built environment, so that our communities, towns and cities are safer, more secure and therefore more sustainable. Designing and managing for security is about many, sometimes competing, goals and responses. The Guidelines state that no one single detailed CPTED strategy or principle should be followed in isolation from the others, with the best approach being “based upon an understanding and application of the whole body of CPTED ideas.” The focus of CPTED is about preventing crime against people and property. The Applicant’s statement that the proposed drainage area is not intended as a “public space” will not prevent the use of such a space by the public, and in fact will be workspace for Council maintenance workers. It is impracticable to adequately and securely fence such an area to prevent entry by any person. It is desirable that such an environment be designed to be safe for maintenance workers and any person who may enter upon such area.

It is to be noted that an ARC type pool fence, would normally be 1.2 metres high and have a transparency factor of approaching 85 per cent.

Batter slopes – the Developer has requested that Council accept 1(V): 4(H) batter slopes within the proposed Drainage reserve east of the extension of proposed Road 1. It is to be noted that this slope is similar to the slope of the drainage reserve to
the east of the development site. It is further noted that the drainage reserve land to the east does not contain an open drain, but underground pipe drainage.

3. **State Planning Policies**

   This Development has been designed to provide a landscaped buffer to adjacent agricultural land in Jealous Road, in line with that required at Stage 2 of the development.

4. **Referral Agencies**

   There are no referral agencies.

5. **Infrastructure Charges**

   Infrastructure charges contributions are required as per the attached calculation sheet.

   **Request by Application for Reduction/Refund of Fees**

   As mentioned previously, the Applicant has a current MCU application for 46 units on proposed Lot 100 of Stage 2A of this application.

   By letters dated 09 March and 24 March 2010, the Applicant has requested that refund of fees in respect of this and the MCU application. [Copies of letters are attached].

   It is noted that the fees paid at the time of lodgement of this application, and also that for the MCU were the fees scheduled in Council’s adopted Schedule of fees.

   - This matter is submitted for Council’s consideration.

**Attachments:**

1. Proposal Plan
2. Buffer Elevations
3. Locality Plan
4. GHD Letters
5. Decision Notice
**Recommendation:**

That:

(A) The request for reduction/refund of part of the fees paid is submitted for Council’s consideration;

(B) That application (Council Reference Number 321.2009.27374.1) for Reconfiguring a Lot for Subdivision 37 Lots plus Drainage area (in 3 stages) at 64 Jealous Road, Kalkie; land described as Lot: 1 RP: 24923, Lot: 2 RP: 24923, Lot: 2 RP: 229039, County Cook, Parish Kalkie be APPROVED with conditions and Council issue the attached Decision Notice, including attachments.
Attachment 2 - Buffer Elevations
10 August 2010

Vasco Pty Ltd
C/- GHD Pty Ltd
PO Box 712
BUNDABERG QLD 4670

Dear Sir

**Development Application Decision Notice**

**Approval**

*Integrated Planning Act 1997 Section 3.5.15*

RE: Development Application for Reconfiguring a Lot for Subdivision 37 Lots plus Drainage area (in 3 stages) at 64 Jealous Road KALKIE; land described as Lot: 1 RP: 24923, Lot: 2 RP: 24923, Lot: 2 RP: 229039, County Cook, Parish Kalkie;

– Planning Scheme for Bundaberg City.

I refer to the above-described development application, received by Council on 02 December 2009. This application has been assessed by Council and approved under delegation by the Planning and Development Committee, with conditions on the 10 August 2010.

1. **Details of Approval**


2. **Referral Agencies**

   Concurrence Agencies: nil
   Advice Agencies: nil
3. **Approved Plans**

<table>
<thead>
<tr>
<th>Plan/Document Number</th>
<th>Plan/Document Name</th>
<th>Prepared By</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>RD09120 Sub 01 Issue A</td>
<td>Proposed Residential Subdivision – Jealous Road, Bundaberg – Subdivision Layout Stage 2 – Vasco Pty Ltd</td>
<td>Raymond Design</td>
<td>04 August 2010</td>
</tr>
<tr>
<td>SK002 – Job No. 41-22193</td>
<td>Vasco Pty Ltd – Proposed Residential Subdivision – Proposed Landscape Works – Buffer Treatment Sections</td>
<td>GHD</td>
<td>March 2010</td>
</tr>
</tbody>
</table>

4. **Assessment Manager’s Conditions and Advices**

Assessment Manager’s Conditions: As per attached Schedule 1.
Assessment Manager’s Advices: As per attached Schedule 2.

5. **Referral Agency’s Response**

Concurrence Agencies: nil
Advice Agencies: nil

6. **Further Development Permits Required**

The following development permits are necessary to allow the development to be carried out:
- Operational Works – Assessable against the Planning Scheme for Bundaberg City

7. **Submissions**

There were no properly made submissions about the application.

8. **Rights of Appeal**

Attached is an extract from the *Integrated Planning Act 1997* which details your appeal rights regarding this decision.

9. **When the Development Approval Takes Effect**

This development approval takes effect as per set out by s 3.5.19 of the *Integrated Planning Act 1997*. 
Yours faithfully

(Peter Byrne)
Chief Executive Officer

Enclosures: Schedule 1 – Assessment Manager’s Conditions; Schedule 2 – Assessment Manager’s Advices; Approved Plans; Extract from the Integrated Planning Act 1997.
Schedule 1
Assessment Manager’s Conditions

Development Permit for Reconfiguring a Lot – Impact Assessment

Council Reference: 321.2009.27374.1
Development Permit Date: 10 August 2010
Applicant: Vasco Pty Ltd
Property Owner: Vasco Pty Ltd
Real Property Description: Lot: 1 RP: 24923, Lot: 2 RP: 24923, Lot: 2 RP: 229039, County Cook, Parish Kalkie
Location: 64 Jealous Road KALKIE
Approved Use: Subdivision 37 Lots plus Drainage area (in 3 stages)
Planning Scheme: Planning Scheme for Bundaberg City
Land Designation: “Non-Urban” (Local Area 6)

Development Conditions – All Stages

General

1. All works are to be undertaken at the Developer’s expense;

Approved Plans

2. The proposed development is to be generally constructed in accordance with Conditions contained within this notice and the following Approved Plans;

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<tr>
<th>Plan/Document Number</th>
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<tr>
<td>RD09120 Sub 01 Issue A</td>
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<td>GHD</td>
<td>March 2010</td>
</tr>
</tbody>
</table>

All lots are to comprise an area of not less than 600 square metres. All lots, excluding Lots 55 and 56, are to have a frontage of not less than 15.0 metres to a dedicated road reserve;
3. The Developer must comply with all of the conditions of this Development Permit prior to the submission of a Plan of Survey for each respective stage, unless otherwise stated within this notice;

4. The Developer is to lodge a Plan of Survey, for each respective stage, for Council’s endorsement;

Staging

5. The development is to be staged generally as follows:
   (i) Stage 2A (14 lots [Lot 101 and Lots 26 to 30 inclusive and Lots 54 to 61 inclusive] plus Drainage Reserve plus balance area); and
   (ii) Stage 2B (12 lots [Lots 31 to 34 inclusive and Lots 46 to 53 inclusive] plus balance area); and
   (iii) Stage 2C (11 lots [Lots 35 to 45 inclusive]);

Water

6. The Developer will provide for the reticulation of Water Supply to each and every lot into which the land is proposed to be reconfigured by supplying all necessary materials and works, including structures and equipment, and performing all necessary works at the expense of the Developer. Works shall include network modelling with main sizing to be finalised at the development’s operational works application. The network modelling is to be carried out by Council at the Developer’s expense.

7. Provision of a partial property (water) service to each proposed lot in accordance with Council’s Standard Drawing No. BuCC 17918;

8. Fire hydrants and sluice valves shall be provided at the termination of reticulation and at Stage boundaries;

9. Looped water reticulation will be required throughout the development;

10. Prior to the endorsement of Stage 2C final plan of survey, the Developer must connect to the existing water main in Maike Street;

Sewerage

11. The Developer will provide for the reticulation of sewerage to each and every lot into which the land is proposed to be reconfigured by supplying all necessary materials and works, including structures and equipment, and performing all necessary works at the expense of the Developer;

12. House connections are not permitted to the existing 300mm trunk sewer main. All house connections must be to existing sewerage access chambers;

13. No minimum grade sewers will be accepted by Council;

14. No sewer pump stations will be accepted by Council;
15. Dedication of 2.5 metre wide Sewerage Easements, at no cost to Council, to contain the sewer reticulation where it traverses the lots created from property boundary to property boundary. The Easements shall be located to provide a minimum distance of one (1.0) metre between the easement boundary and the sewerage reticulation. The easement documentation shall be acceptable to Council and be prepared at the full cost of the Developer;

16. Prior to the commencement of the defects liability period, all sewerage infrastructure shall be inspected with a CCTV unit and an infrastructure condition report prepared for Council approval;

17. All sewerage infrastructure shall be inspected with a CCTV unit and an Infrastructure Condition Report prepared for Council approval prior to the conclusion of the defects liability period;

18. All costs associated with the inspections shall be borne by the Developer;

Infrastructure Contributions

19. Payment of Infrastructure contributions for Sewerage, Water Supply, Stormwater, Transport (local and state controlled roads), Pedestrian and Cycle Ways, and Parks, Recreation and Community Land, in accordance with Council’s adopted Planning Scheme Policy, is required.

Contributions required, if paid by **30 June, 2010**, are:-

<table>
<thead>
<tr>
<th>Type of Contribution</th>
<th>Equivalent Demand</th>
<th>Recognised Previous Contribution</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Sewerage</td>
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<tr>
<td>- Stage 2A</td>
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<td>Pedestrian and Cycle Ways</td>
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<td>- Stage 2A</td>
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<td>- Stage 2B</td>
<td>12</td>
<td>Nil</td>
<td>$8,156.15</td>
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<td>- Stage 2C</td>
<td>11</td>
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<td>Parks, Recreation and Community Land</td>
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<tr>
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<td>- Stage 2C</td>
<td>11</td>
<td>Nil</td>
<td>$27,887.11</td>
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</tbody>
</table>

All contributions are payable at the time of lodgement of the survey plan for Council’s endorsement unless stated otherwise within this notice. The actual contribution payable will be adjusted if necessary to allow for variations determined in accordance with the applicable Planning Scheme policy current at the time of payment;

**Stormwater Drainage**

20. Stormwater drainage must be designed and constructed in accordance with the requirements of the Queensland Urban Drainage Manual (QUDM) and Bundaberg Regional Council, ie., a piped system with a capacity to cater for Q5 ARI flows with overland flowpaths to be provided for a capacity of Q100 ARI less piped flows. The drainage system must incorporate water sensitive urban design principles;

21. The proposed Drainage Reserve between Road 1 and the existing drain (Lot 26 on RP229688, County Cook, Parish Kalkie) must be constructed with a batter slope not greater than 1V : 4H.

22. All lots must be provided with Q100 ARI Local Flood immunity;

23. The surface of each lot must be shaped to drain directly to either a Road or Drainage Reserve. Inter-allotment drainage will only be permitted for proposed Lots 36 to 41 inclusive;

24. For each lot, the Developer will provide two (2) points of connection in the concrete kerb and channelling for roofwater discharge. These points of connection shall comprise of a heavy duty galvanised steel kerb adaptor located a minimum of One (1.0) metre from any property boundary;

25. Any new earthworks or structures are not to concentrate or impede the natural flow of water across property boundaries or onto any other lots;

26. Stormwater drainage is to be designed such that no restriction to existing or developed stormwater flow from upstream properties or ponding of stormwater within upstream properties occurs as a result of the development;

27. Proposed Lot 101 is to be dedicated to the State as Public Use Land – Drainage Reserve – at no cost to Council;
Roadways

28. The new roadways must have a minimum dedication width of Fifteen (15.0) metres. Roads with:
   (a) 15.0 metre reserves where servicing more than Thirty (30) lots, must be paved to a minimum width of Seven (7.0) metres measured from kerb line to kerb line;
   (b) 15.0 metre reserves, when servicing a maximum of Thirty (30) lots, must be paved to a minimum width of Five point Five (5.5) metres measured from kerb line to kerb line;

29. Each proposed road is to be designed both in layout and structural strength to cope with the frequencies and weights of traffic likely to use it, as determined by Council. The design shall be carried out by a Chartered Professional Engineer in accordance with the methods detailed in Bundaberg City’s “Design and Construction Standards and Guidelines – Stormwater and Roadworks”.

30. All roads are to be surfaced with asphaltic concrete;

31. Cul-de-sac bulbs are required to provide for a minimum Twenty (20.0) metres turning circle measured from the nominal face of kerb;

32. Truncation of all corners shall be a minimum of six (6.) metres. Dedication of the truncated areas as “road reserve” free of cost to Council, shall be undertaken;

33. A temporary sealed turn-around shall be provided at the end of each internal roadway at the Development’s stage boundaries;

34. The Developer must provide at Stage 2A sealed vehicular access from the existing open Drain (Lot 26 on RP229688, County Cook, Parish Kalkie) to the proposed Drainage Reserve adjacent to the outlet of the low flow pipe, to facilitate access of Council maintenance vehicles;

35. The Developer must provide at Stage 2A, a sealed Vehicular egress point from the proposed Drainage Reserve to a constructed roadway. Where the access is through private property, the Developer must provide an access easement – minimum Three (3.0) metres wide to the satisfaction to Council. All costs associated with the preparation and provision of this easement shall be borne by the Developer;

36. The Developer will construct 1.5 metre wide concrete footpaths along one side of all roadways, excluding cul-de-sacs;

37. The Access strips providing access to proposed Lots 55 and 56 must be constructed to the following minimum standards:
   (a) constructed and sealed with asphalt, concrete or approved pavers for the full length to a minimum width of 3.5 metres centrally located within the access strip. The pavement must be edged with concrete kerb on both sides.
   (b) A 1.8 metre high screen privacy fence must be erected to each boundary of the Access strip;
   (c) The access strip shall provide for conduits and/or services for water, underground power, stormwater and telecommunications;
   (d) Landscaping must be provided on both sides of the pavement;
Street Signs

38. The Developer shall supply and erect all necessary “No Through Road” signs and Street Name Signs and posts. The Developer shall liaise with Council for determination of the name for the development’s new roadways;

Filling and Excavation

39. Any placement of fill material within the subject land shall comply with the Bundaberg City Planning Scheme Policy “Filling and Excavation Code”. Where fill is placed upon any proposed lot, such fill shall be tested and structurally certified. Such certification is to be provided prior to Council endorsement of any Final Plan of Survey;

Electricity

40. The Developer is to submit evidence from Ergon Energy that the Developer has reached agreement with such Corporation to provide underground electricity reticulation mains and overhead Street lighting, at their cost to every Lot prior to the Plan of Survey being endorsed by Council;
41. Where possible, Padmount transformer locations are to be located within Road Reserves fronting proposed or existing Parkland or Drainage Reserves;
42. Electricity crossings are generally to be to the opposite boundary to the water service crossings;
43. Street Lighting to new roads and intersections is to be way of provision of underground conduits and cables, poles and street lights. The design and provision of Street Lighting shall be in accordance with Australian Standard 1158.3.1:2005. The applicable Lighting Category is “P4”;

Telecommunications

44. The Developer is to make arrangements for the provision of underground telecommunications to the proposed Lots within the subdivision. Evidence is to be submitted that an agreement has been reached with an authorised supplier of such services, prior to the Plan of Survey being endorsed by Council;
45. One copy of the proposal plan is to be forwarded to Australia Post, 55 Enterprise Street, Bundaberg 4670 for updating of the postal database;

Buffering

46. (a) The Applicant shall provide permanent buffer areas to be incorporated within the development to minimise land use conflict between adjoining agricultural practices, and the proposed residential use of the subject land;
(b) The said buffer areas are to be provided as follows:-

(i) A buffer within the open drain and road reserve to the full boundary adjoining Lot: 3 on RP: 55730 to ensure an effective barrier between the cane lands on Lot: 3 on RP: 55730 and the proposed development:-

(A) It shall comprise the following:-

(B) The fifteen (15m (A) metre road reserve referred to in sub-clause (A) hereof shall have street trees at a rate of one tree for each lot fronting the buffer. The street trees may be located on either side (or both) of the street. Species of trees shall be in accordance Council’s Landscaping Planning Scheme Policy: Street Trees list.

Note: Due to the Leopard Tree (Caesalpinia Feera) losing its leaves and dropping large numbers of hard seed pods that could possibly become missiles when the area is mowed, it is recommended that the Leopard Tree be replaced with any of the following substitutes – Tabebuia Palmerii, Flindersia Brayleana, or Acmena Hemilampra.

(C) The five (5) metre (B) metre cleared strip referred to in sub-clause (A) hereof shall be kept clear of vegetation and other flammable material in accordance with the requirements of Section 64(2)(b) of the Fire Service Act 1990;
(D) The twenty (20) metre vegetated open drain referred to in Sub-clause (A) hereof shall be densely planted with suitable mature trees and shrubs generally in accordance with GHD Drawing Nos SK001 and SK002 Job No. 41-22193, Revision 0, dated March 2010, as amend by the conditions within this Decision Notice. Such trees and shrubs are:-

(i) To be provided with an automatic drip watering system to be approved by Council. This watering system shall be provided with approved testable backflow prevention devices to the requirements of the “Plumbing and Drainage Act 2002”;

(ii) Prior to Council’s endorsement of the plan of survey, the vegetation is to be well established with abundant foliage and density of a minimum height of Two (2) metres. Council will not endorse any final plan of Survey unless plants have a minimum height of Two (2) metres;

(iii) Plant species to be selected from the following list, ensuring plants chosen include a broad range of leaf morphology (size and shape). Plant species are available from Forestry Nursery:-

<table>
<thead>
<tr>
<th>Large</th>
<th>Medium</th>
<th>Small</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blepharocarya Involucrigera</td>
<td>Acacia Aulacocarpa</td>
<td>Backhousia Citiodora</td>
</tr>
<tr>
<td>Caesalpinia Ferrea</td>
<td>Acmema Smithii</td>
<td>Callistemon Polandii</td>
</tr>
<tr>
<td>Cassia Brewsterii</td>
<td>Allocasuarina Littoralis</td>
<td>Callistemon Tinaroo</td>
</tr>
<tr>
<td>Casuarina Cunninghamii</td>
<td>Allocasuarina Torulosa</td>
<td>Leptospermum Brachyandrum</td>
</tr>
<tr>
<td>Cappaniopsis Anacardioides</td>
<td>Buckinghamia Celcisima</td>
<td>Leptospermum Polyalifolium</td>
</tr>
<tr>
<td>Eucalyptus Citriodora</td>
<td>Callistemon Salignum</td>
<td>Melaleuca Linearifolia</td>
</tr>
<tr>
<td>Eucalyptus Microcorys</td>
<td>Callistemon Formosa</td>
<td>Xanthostemon Chrysanthus</td>
</tr>
<tr>
<td>Flindersia Brayleyana</td>
<td>Eucalyptus Ptychocardia</td>
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<td>Flindersia Australia</td>
<td>Pararchidendron</td>
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<tr>
<td>Lophostemon Confertus</td>
<td>Pruinosum</td>
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<tr>
<td>Melaleuca Dealbatha</td>
<td>Randia Fitzalania</td>
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<tr>
<td>Melaleuca Lleucadendra</td>
<td>Syzygium Leuhmannii</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Schotia Brachypetala</td>
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</tr>
</tbody>
</table>

The area to be planted should undergo soil preparation including cultivation by ripping and hoeing, correct plant nutrients, irrigation and mulching after planting to achieve optimum results. The break should consist of rows of plants with Three metres between plants and Three (3) metres between rows of large, medium and small trees and shrubs. If space allows, the
above should be repeated, e.g. L=Large, M=Medium, S=Small

\[
\begin{array}{cccccccc}
L & 3m & S & M & L & S & M & L \\
M & L & S & M & L & S & M & L \\
L & S & M & L & S & M & L & S \\
\end{array}
\]

The plants referred to as medium and large are to be a minimum pot size of 200mm at the time of planting.

Provided always that in determining the species of trees to be planted, a determination shall be made so that provided the trees so recommended are planted and cared for in a manner usual to such trees, then the provisions this Cause can be complied with within Two (2) Years of establishment;

(iv) The maximum batter slope is not to exceed 1V:6 H;

(v) The vegetated areas shall be a minimum width of six (6) metres with a minimum of two (2) rows in accordance with point (iii) above;

(E) Construction of a two (2) metre high solid screen fence along the boundaries that adjoin Lot: 3 on RP: 55730 and Lot: 3 on SP: 182626. The fence is to be located on the Applicant’s side of the boundary and constructed at the Applicant’s expense. The fence is to be constructed with fire proof materials;

End of Schedule 1
## Schedule 2

### Assessment Manager’s Advices

#### Development Permit for Reconfiguring a Lot - Impact Assessment

<table>
<thead>
<tr>
<th>Council Reference:</th>
<th>321.2009.27374.1</th>
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<tbody>
<tr>
<td>Development Permit Date:</td>
<td>10 August 2010</td>
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<tr>
<td>Applicant:</td>
<td>Vasco Pty Ltd</td>
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<tr>
<td>Property Owner:</td>
<td>Vasco Pty Ltd</td>
</tr>
<tr>
<td>Real Property Description:</td>
<td>Lot: 1 RP: 24923, Lot: 2 RP: 24923, Lot: 2 RP: 229039, County Cook, Parish Kalkie</td>
</tr>
<tr>
<td>Location:</td>
<td>64 Jealous Road KALKIE</td>
</tr>
<tr>
<td>Approved Use:</td>
<td>Subdivision 37 Lots plus Drainage area (in 3 stages)</td>
</tr>
<tr>
<td>Planning Scheme:</td>
<td>Planning Scheme for Bundaberg City</td>
</tr>
<tr>
<td>Land Designation:</td>
<td>“Non-Urban” (Local Area 6)</td>
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#### Development Advice

**Rates and Charges**

A. In accordance with the Integrated Planning Act, all rates, charges or any expenses being a charge over the subject land under any Act shall be paid prior to the Plan of Survey being endorsed by Council;

**Operational Works**

B. Prior to Operational Works approval, the Developer is to provide Council with a detailed Stormwater Management Plan, for the discharge of stormwater flows from the site. Should this report identify that easements are required to secure areas of open drainage within the proposed lots, the developer shall dedicate such easements for drainage purposes prior to endorsement of the Plan of Survey;

**Property Note**

C. Where applicable, a Property Note is to be placed on the proposed lots indicating that Filling of Lots has been carried out.

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**End of Schedule 2**