

17 September 2021

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**DECISION NOTICE**  
**APPROVAL**

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*PLANNING ACT 2016, SECTION 63*

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I refer to your application and advise that on 15 September 2021, Weipa Town Authority decided to approve the application in full, subject to conditions. Details of the decision are as follows:

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**APPLICATION DETAILS**

**Application Number:** DA210008  
**Properly Made Date:** 13 August 2021  
**Decision Date:** 15 September 2021  
**Planning Scheme:** Weipa Town Planning Scheme 2019 (v1.0)

**APPLICANT DETAILS**

**Name:** Gurukol Pty Ltd  
C/- Mewing Planning Consultants  
**Postal Address:** Mewing Planning Consultants  
GPO Box 1506  
BRISBANE QLD 4874  
**Email Address:** leo.mewing@mewing.com.au

**PROPERTY DETAILS**

**Street Address:** 2 Tom Morrison Drive, Rocky Point  
**Real Property Description:** Lot 2 SP183867  
**Local Government Area:** Weipa Town Authority

**DECISION DETAILS**

The following type of approval has been issued:

- Development Permit for Material Change of Use for Short Term Accommodation (8 x 1 Bedroom Units)

**CURRENCY PERIOD**

The use of the subject land must be commenced within a period of six (6) years from the date, unless otherwise stated, the approval takes effect in accordance with section 71 of the *Planning Act 2016*. Should the subject use not be commenced prior to the expiry of such period, this approval will lapse.

## ASSESSMENT MANAGER CONDITIONS

This approval is subject to the conditions in Attachment 1.

## PROPERLY MADE SUBMISSIONS

Not applicable – no part of the application required public notification.

## REFERRAL AGENCIES

There were no referral agencies as part of this application.

## APPROVED PLANS AND SPECIFICATIONS

The approved plans are attached to this Decision Notice.

## RIGHTS OF APPEAL

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

## OTHER DETAILS

You are further advised that the truth and accuracy of the information provided in the application form and accompanying information is relied on when assessing and deciding this application. If you find an inaccuracy in any of the information provided above or have a query or need to seek clarification about any of these details, please contact Weipa Town Authority on ☎ 4030 9400.

## DELEGATED PERSON

**Name:** Judey Browne

**Signature:**



**Date:** 17 September 2021

- Enc. **Attachment 1** – Conditions imposed by the Assessment Manager  
**Attachment 2** – Approved Plans  
**Attachment 3** – Notice about a Decision Notice  
**Attachment 4** - Extract of Appeal Provisions (Chapter 6, Part 1 and Schedule 1 of the *Planning Act 2016*).  
**Attachment 5** – Infrastructure Charges Notice

**ATTACHMENT 1 – CONDITIONS IMPOSED BY THE ASSESSMENT MANAGER**

No.	Conditions	Condition Timing									
<b>Material Change of Use</b>											
<b>1.0 Parameters of Approval</b>											
1.1	The Developer is responsible for ensuring compliance with this development approval and the conditions of the approval by an employee, agent, contractor, or invitee of the Developer at all times unless otherwise stated.	At all times.									
1.2	Where these conditions refer to “WTA” in relation to requiring Weipa Town Authority to approve or be satisfied as to any matter, or conferring on the WTA a function, power, or discretion, that role of the WTA may be fulfilled in whole or in part by a delegate appointed for that purpose by WTA.	At all times.									
1.3	The cost of all works associated with the development and construction of the development including services, facilities and/or public utility alterations required are met at no cost to the WTA or relevant utility provider, unless otherwise stated in a development condition.	At all times.									
1.4	The developer is required to have repaired any damage to existing infrastructure that may have occurred during any works carried out associated with the development. To the extent the damage is deemed by Council to create a hazard to the community, it must be repaired immediately.	At all times.									
1.5	All development conditions contained in this development approval about <i>infrastructure</i> under Chapter 4 of the <i>Planning Act 2016</i> (the Act), should be read as being non-trunk infrastructure conditioned under section 145 of the Act, unless otherwise stated.	At all times.									
1.6	Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant WTA policies, guidelines and standards.	At all times.									
<b>2.0 Approved Plans and Documents</b>											
2.1	<p>The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:</p> <table border="1" data-bbox="220 1630 1027 2016"> <thead> <tr> <th data-bbox="220 1630 497 1715">Plan/Document Name</th> <th data-bbox="497 1630 778 1715">Plan/Document No.</th> <th data-bbox="778 1630 1027 1715">Date</th> </tr> </thead> <tbody> <tr> <td data-bbox="220 1715 497 1868">Existing Accommodation and Motel Ground Flood Plan (OP.4)</td> <td data-bbox="497 1715 778 1868">Project No. 2152 - Drawing No. A400.12 - Revision C</td> <td data-bbox="778 1715 1027 1868">10.08.21</td> </tr> <tr> <td data-bbox="220 1868 497 2016">Donga Ground Floor Plan (OP.4)</td> <td data-bbox="497 1868 778 2016">Project No. 2152 - Drawing No. A410.12 - Revision C</td> <td data-bbox="778 1868 1027 2016">10.08.21</td> </tr> </tbody> </table>	Plan/Document Name	Plan/Document No.	Date	Existing Accommodation and Motel Ground Flood Plan (OP.4)	Project No. 2152 - Drawing No. A400.12 - Revision C	10.08.21	Donga Ground Floor Plan (OP.4)	Project No. 2152 - Drawing No. A410.12 - Revision C	10.08.21	At all times.
Plan/Document Name	Plan/Document No.	Date									
Existing Accommodation and Motel Ground Flood Plan (OP.4)	Project No. 2152 - Drawing No. A400.12 - Revision C	10.08.21									
Donga Ground Floor Plan (OP.4)	Project No. 2152 - Drawing No. A410.12 - Revision C	10.08.21									

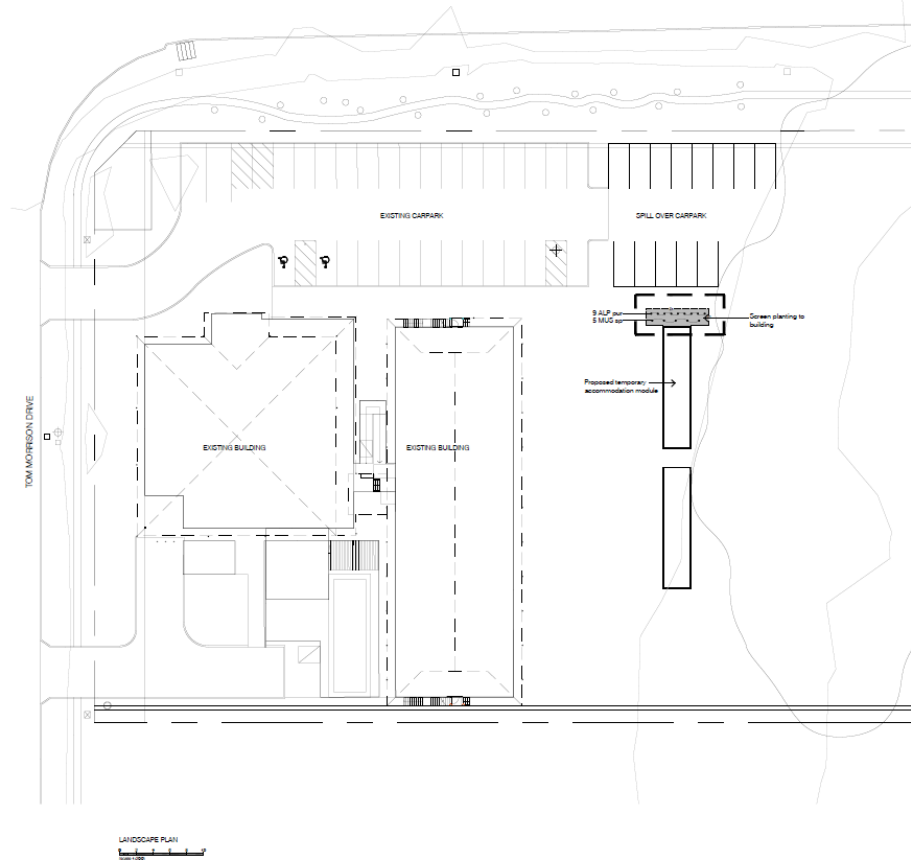
	Landscape Plan	Project No. 2111901 Sheet No. LP-01	27.08.21	
2.2	Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.			At all times.
<b>3.0 Cessation of Use</b>				
3.1	The development must cease operating within two (2) years from the date of this approval.			At all times. The development must cease operating within two (2) years from the date of this approval.
<b>4.0 Parking Works</b>				
4.1	Provide a minimum of thirteen (13) car parking spaces associated with the short-term accommodation buildings (8 x 1 bedroom units). The parking spaces must be clearly delineated.			Prior to commencement of the use.
4.2	All car parking and vehicle manoeuvring areas must be either asphalt sealed, concreted, or gravel maintained to an all-weather standard suitable for a two-wheel drive vehicle.			Prior to commencement of the use.
4.3	Design and construct all car parking and vehicle manoeuvring areas in accordance with the approved plans, <i>Far North Queensland Regional Organisation of Councils Development Manual (FNQROCDM)</i> , <i>Australian Standard AS2890 "Off Street Car Parking"</i> , <i>Manual of Uniform Traffic Control Devices (Queensland)</i> .			Prior to commencement of the use.
4.4	Car parking for guests is to be wholly contained within the property boundary and approved car parking area on the subject site.			Prior to commencement of the use.
<b>5.0 Landscaping</b>				
5.1	Landscaping is to be carried out generally in accordance with the approved <i>Landscape Plan</i> . The landscaping must screen the proposed development from Central Avenue to the best extent possible.			Prior to commencement of the use.
<b>6.0 Stormwater and Allotment Drainage</b>				
6.1	All roof and allotment runoff from the development site must be directed to a lawful point of discharge and must not restrict, impair, or change the natural flow of runoff water or cause nuisance to surrounding land or infrastructure.			At all times.
<b>7.0 Sewerage and Water</b>				
7.1	The development must be connected to the site's existing reticulated water and sewerage connections and be maintained in accordance with the approved plans, FNQROCDM, <i>Water Supply (Safety and Reliability) Act</i> and the <i>Plumbing and Drainage Act</i> .			Prior to commencement of the use and at all times.
<b>8.0 Services</b>				
8.1	The existing electricity and telecommunication services must be maintained in accordance with the standards and requirements of the relevant service provider.			Prior to commencement of the use and at all times.

<b>9.0 Waste Management</b>		
9.1	Store all waste within a waste storage area (for example, general waste recyclable waste, pallets, empty drums etcetera). The waste storage area must be: <ul style="list-style-type: none"> <li>8.1.1 Designed to not cause nuisance to neighbouring properties;</li> <li>8.1.2 Screened from any road frontage or adjoining property.</li> </ul>	At all times.
<b>10.0 Amenity and Environmental Health</b>		
10.1	Undertake the approved development so there is no environmental nuisance or detrimental effect on any surrounding land uses and activities by reason of the emission of noise, vibration, odour, fumes, smoke, vapour, steam soot, ash, wastewater, waste products, oil or otherwise.	At all times.
10.2	Install and operate all outdoor lighting to comply with AS4282 – 1997 “Control of the Obtrusive Effects of Outdoor Lighting”.	At all times.
<b>11.0 Site Works and Erosion and Sediment Control</b>		
11.1	Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to adjoining properties or infrastructure.	Prior to commencement of the use and at all times.
11.2	Prepare and implement an Erosion and Sediment Control Strategy (ESCS) in accordance with the FNQROCDM Design Guideline D5 (Stormwater Quality) as it relates to the construction phase. The ESCS must be available for inspection by WTA officers during the construction phase.	Prior to commencement of the use.
11.3	Implement the ESCS for the duration of the construction phase and until such time all exposed soils areas are permanently stabilised (for example, turfed, hydro mulched, concrete or landscaped).	Prior to commencement of the use.
<b>12.0 Asset Management</b>		
12.1	Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be undertaken and completed at no cost to WTA.	At all times.

<b>General Advice</b>	
1.	Prior to commencing any construction activities, the applicant/developer will be required to obtain further development permits for building work, and plumbing and drainage work, as required under relevant legislation for this work.
2.	All guests of the Weipa Motel are to be parked within the property boundary of the site, in accordance with the relevant Local Law.
3.	This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements. Any provisions contained in this approval relating to the enforcement of any of the conditions shall be in addition to all other rights, powers and privileges that the WTA may possess or obtain, and nothing contained in these conditions shall be construed so as to prejudice, affect or otherwise derogate or limit these rights, powers and privileges of the WTA.

4.	General environmental duty under the Environmental Protection Act 1994 and subordinate legislation prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash, fumes, light, odour or smoke beyond the boundaries of the development site during all stages of the development including earthworks, construction and operation.
5.	This development approval does not authorise any activity that may harm Aboriginal cultural heritage. It is advised that under section 23 of the Aboriginal Cultural Heritage Act 2003, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the “cultural heritage duty of care”).

**ATTACHMENT 2 – APPROVED PLANS**



**LANDSCAPE SPECIFICATION NOTES**

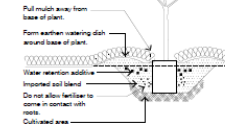
- DRAINAGE:** Paving is unacceptable. Refer to Hydraulic Engineers drawings for sizes and locations of fall gullies/traps and for all stormwater retention piping.
- SERVICES:** The contractor shall make themselves aware of all underground and overhead services prior to the commencement of work. The contractor shall also be responsible for determining the locations of subsoils and to be constructed services during the course of the works. The locations of services on these drawings are indicative only. As they are designed locations for general information or consult approval and may not reflect site conditions.
- SURFACE LEVELS AND FALLS:** Grade all surface finishes evenly away from buildings for a minimum of 500mm. Set down paving and hardscape areas minimum 100mm below finished floor level. If wormmesh is used paving and turfing areas are to be set down minimum 250mm below finished floor level.
- PLANTING AREA PREPARATION:** Weed growth on subgrade to receive an application of Glyphosate herbicide (or equivalent fog friendly product) prior to works commencing. Top sub-grade to desired level, cultivate 150mm deep place 100g/m<sup>2</sup> of Blood and Bone and 100g/m<sup>2</sup> of Gypsum.
- TURFING AREAS:** Prepare as noted, place 100mm of imported topsoil (to A2419) and lay min 25mm thick Agrigade Green Couch. All turf grass and topsoil to be certified seed free.
- PLANTING AREAS:** Prepare as noted, place 300mm deep of imported topsoil (to A2419) and place 100mm deep of max organic mulch.
- TOPSOIL:** Tested locally and sample waiting to comply with A2419 Code for Landscaping and Garden Use. All imported topsoil shall be free from weeds, stints, rats or 20mm dia, plastic contaminants, construction rubbish and other deleterious materials.
- MOWING EDGE TYPE 1:** See cut edge. Refer detail.

**SHRUBS**

CODE	SPECIES	POT.	HIGHT/PRD	QTY
SHRUBS				
SLF pot	SLF species	300mm	900-600mm	3
MUS pot	MUS species	300mm	900-600mm	3

**Notes:**

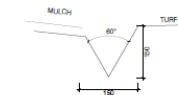
- Place the rootball on a firm base to achieve required FCL.
- Thoroughly water the root ball immediately after planting.
- Number of stakes will vary with pot size. Refer plant schedule.
- Cut back sides and base of excavated hole 50mm. Apply Gypsum @100g/m<sup>2</sup>.



**150mm to 300mm PLANTING**

**Notes:**

- Soak edge to be cut in a smooth continuous line.



**GRADE CUT EDGE**

**LEGEND**

- GENERAL**
- SUBSOIL
  - EXTENT OF WORKS
  - PLANTING AREA
  - EDGE TYPE 1
  - SHRUBS

**WEIPA TOWN AUTHORITY**  
**DIGITALLY STAMPED**  
**APPROVED PLAN**

**Development Application:** Development Permit for Material Change of Use for Short Term Accommodation (8 x 1 Bedroom Units)  
**Lot: 2 on SP183867**

Referred to in WTA's Decision Notice

**Approval Date: 15/09/2021**  
**Application Number: DA210008**

**APPROVED:** The Council of the Weipa Town Authority has approved this Development Application for the proposed development on the subject site, subject to the conditions of the Development Permit and the approval of the relevant authorities. This approval is valid for 12 months from the date of issue.

From:  
WEIPA ACCOMMODATION  
Owner:  
OWNER  
Address:  
TOM MORRISON DRIVE, WEIPA

**DUNN MORAN**  
LANDSCAPE ARCHITECTS

Project Name: WEIPA ACCOMMODATION  
Project No: 2111901  
Project Date: 15/09/2021  
Project Status: APPROVED

LANDSCAPE PLAN

From:  
AG SHOWNI  
Project:  
2111901

Sheet:  
LP-01



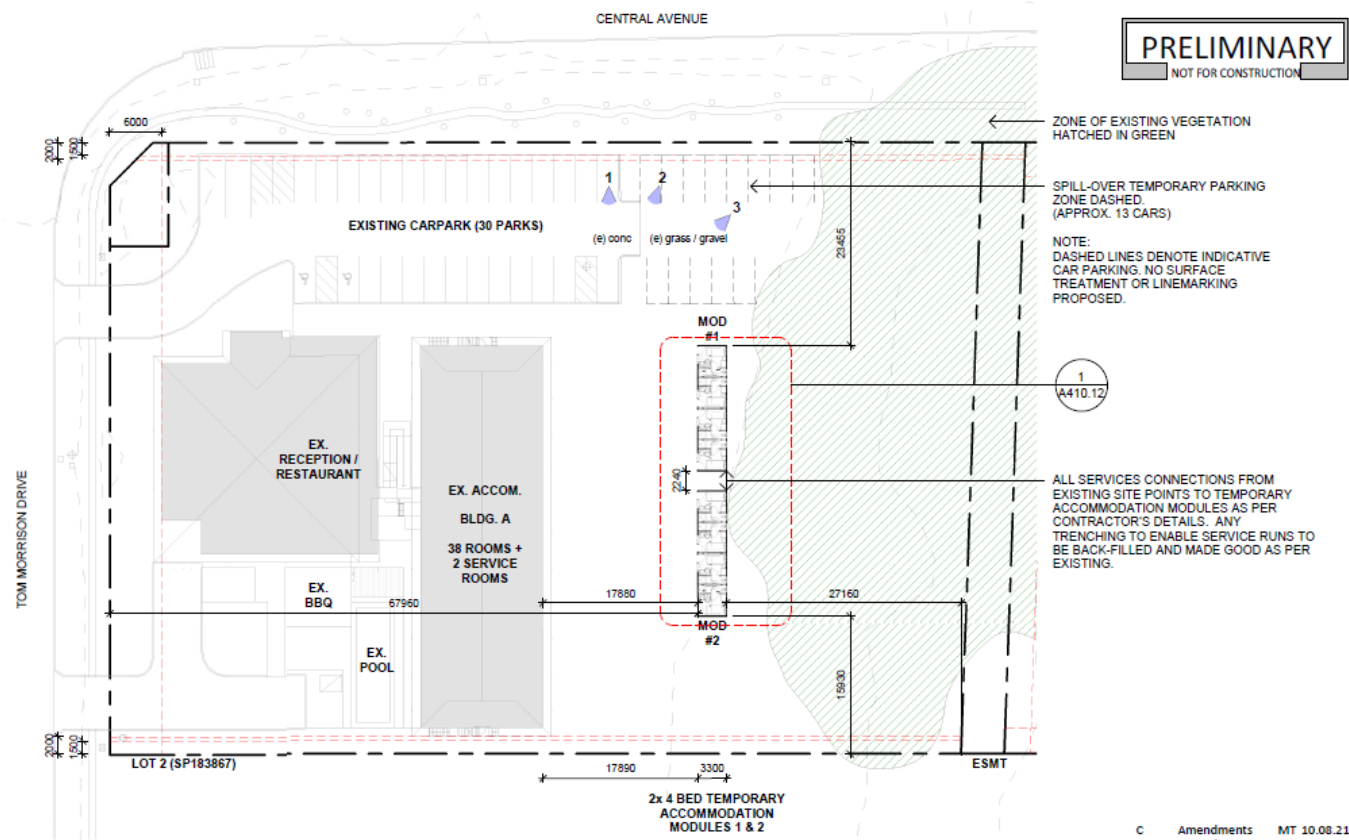
1 CARPARK VIEW TO EXISTING MOTEL



2 CARPARK VIEW TO EXISTING MOTEL



3 CARPARK VIEW TO EXISTING MOTEL



**PRELIMINARY**  
NOT FOR CONSTRUCTION

ZONE OF EXISTING VEGETATION  
HATCHED IN GREEN

SPILL-OVER TEMPORARY PARKING  
ZONE DASHED  
(APPROX. 13 CARS)

NOTE:  
DASHED LINES DENOTE INDICATIVE  
CAR PARKING. NO SURFACE  
TREATMENT OR LINEMARKING  
PROPOSED.

1  
A410.12

ALL SERVICES CONNECTIONS FROM  
EXISTING SITE POINTS TO TEMPORARY  
ACCOMMODATION MODULES AS PER  
CONTRACTOR'S DETAILS. ANY  
TRENCHING TO ENABLE SERVICE RUNS TO  
BE BACK-FILLED AND MADE GOOD AS PER  
EXISTING.

DEVELOPMENT INFORMATION		LOT 2 on SP183867
ZONE:	TOURISM ZONE	
SITE COVER:	60% MAX. EXISTING	(Approx. 20.5% PROVIDED)
	PROPOSED ADDITIONAL	(Approx. 1.5% PROVIDED)
	TOTAL	(Approx. 22% PROVIDED)
ADDITIONAL GFA:	Approx. 96m <sup>2</sup>	
SITE AREA:	7321m <sup>2</sup>	
BOUNDARY SETBACKS:	FRONT:	6m (PRIMARY STREET FRONTAGE) 4m (PRIMARY STREET FRONTAGE FROM VERANDAH) 3m (ALL OTHER ROAD FRONTAGES)
	SIDE:	1.5m (BELOW 4.5m) 2.0m (BETWEEN 4.5m - 7m) +0.5m (FOR EVERY 3m OR PART THEREOF GREATER THAN 7.5m)
	REAR:	Not Specified

C	Amendments	MT 10.08.21
B	Amendments	MT 09.08.21
A	Amendments	MT 09.08.21
Issue	revision	initials date

**Cayas**

Suite 2, 15-25 Musk Avenue, Kelvin Grove, PO Box 360, Wilton Q 4051  
P 07 3366 6100 e admin@cayasarchitects.com.au

client	Owner
project	Weipa Accommodation Tom Morrison Drive
drawing title	Existing Accommodation and Motel Ground Floor Plan (OP.4)
drawn	MT
date	AUGUST 2021
scale	As indicated@A3

project no.	drawing number	issue
2152	A400.12	C

**WEIPA TOWN AUTHORITY  
DIGITALLY STAMPED  
APPROVED PLAN**

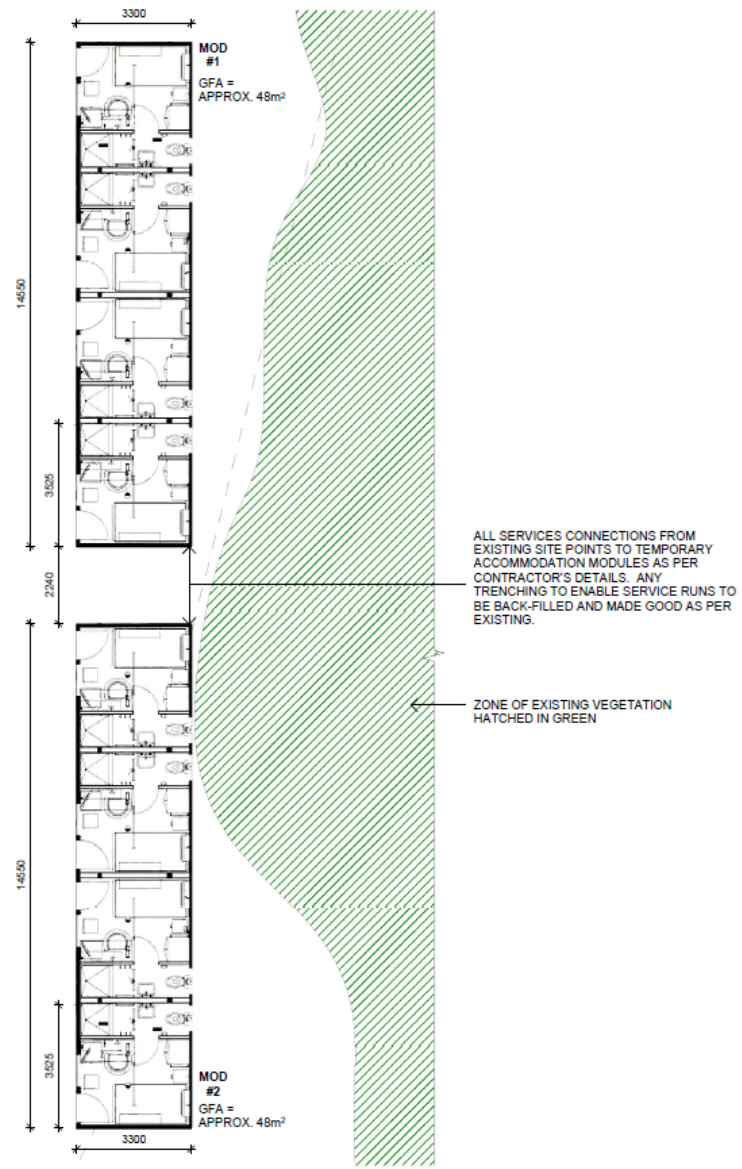
**Development Application:** Development Permit for Material Change of Use for Short Term Accommodation (8 x 1 Bedroom Units)  
**Lot: 2 on SP183867**

Referred to in WTA's Decision Notice

**Approval Date: 15/09/2021**  
**Application Number: DA210008**



**PRELIMINARY**  
NOT FOR CONSTRUCTION



**WEIPA TOWN AUTHORITY  
DIGITALLY STAMPED  
APPROVED PLAN**

**Development Application:** Development Permit for Material Change of Use for Short Term Accommodation (8 x 1 Bedroom Units)  
**Lot: 2 on SP183867**

Referred to in WTA's Decision Notice

**Approval Date: 15/09/2021**  
**Application Number: DA210008**

C	Amendments	MT	10.08.21
B	Amendments	MT	09.08.21
A	Amendments	MT	09.08.21
Issue	revision	Initials	date

**Cayas**

Suite 2, 19-25 Mask Avenue, Kivie Grove, PO Box 360, Wilton Q 4251  
p 07 2386 6100 e admin@cayasarchitects.com.au

client | Owner

project | Weipa Accommodation  
Tom Morrison Drive

drawing title | Donga Ground Floor  
Plan (OP.4)

drawn | MT  
date | AUGUST 2021  
scale | 1 : 125 @ A3

project no. | drawing number | issue  
**2152** | **A410.12** | **C**

**ATTACHMENT 3 – NOTICE ABOUT A DECISION NOTICE**

**NOTICE ABOUT A DECISION NOTICE**

In accordance with section 63(4) and (5) of the *Planning Act*

**DESCRIPTION OF THE DEVELOPMENT**

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<b>Application number:</b>	DA210008
<b>Property description:</b>	Lot 2 on SP183867
<b>Approval sought:</b>	Development Permit for Material Change of Use
<b>Description of the development:</b>	Short Term Accommodation (8 x 1 Bedroom Units)
<b>Decision:</b>	Approved with Conditions
<b>Decision date:</b>	15 September 2021

**APPLICABLE ASSESSMENT BENCHMARKS**

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<b>Planning Scheme:</b>	Weipa Town Planning Scheme 2019 (v1.0) <ul style="list-style-type: none"><li>• Tourism Zone Code</li><li>• Parking and Access Code</li><li>• Works, Services and Infrastructure Code</li></ul>
<b>State Planning Policy (SPP):</b>	State Planning Policy (July 2017)
<b>Planning Regulation 2017:</b>	The application did not trigger any matters prescribed by the regulation.

**PUBLIC NOTIFICATION**

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Not applicable – no part of the application required public notification.

**REASONS FOR THE DECISION**

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The application is **approved** on the following grounds:

- The proposal is compliant with the assessment benchmarks and consistent with the strategic framework of the Weipa Town Planning Scheme 2019;
- The subject site is not subject to defined natural risks or hazards or environmental values;
- The proposal is for additional temporary units which contribute to the overall service centre of Weipa by providing accommodation to tourists.

## ATTACHMENT 4 – EXTRACT OF APPEAL PROVISIONS

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For certain applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

### Appeal by an applicant

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

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

An applicant may also have a right to appeal to the Development tribunal. For more information, see schedule 1 of the *Planning Act 2016*.

### Appeal by an eligible submitter

An eligible submitter for a development application may appeal to the Planning and Environment Court against the decision to approve the application, to the extent the decision relates to:

- any part of the development application that required impact assessment
- a variation request.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the *Planning Act 2016*.

**Attachment 4** is an extract from the *Planning Act 2016* that sets out the applicant's appeal rights and the appeal rights of a submitter.

To stay informed about any appeal proceedings which may relate to this decision visit:  
<https://planning.dsdmip.qld.gov.au/planning/our-planning-system/dispute-resolution/pe-court-database>.

**ATTACHMENT 5 – INFRASTRUCTURE CHARGES NOTICE**

Attached under separate cover. This page has been intentionally left blank.

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## Chapter 6 Dispute resolution

### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
  - (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the *appellant*); and
    - (ii) who is a respondent in an appeal of the matter; and
    - (iii) who is a co-respondent in an appeal of the matter; and
    - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
  - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or

- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
  - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
  - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
  - (iii) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note—*

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency’s response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
  - (a) the adopted charge itself; or

- 
- (b) for a decision about an offset or refund—
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

### **230 Notice of appeal**

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

- (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
  - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
  - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
  - (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
  - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department’s website for this purpose.

### **231 Non-appealable decisions and matters**

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.



(4) In this section—

**decision** includes—

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

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

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

## **232 Rules of the P&E Court**

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

## **Schedule 1      Appeals**

section 229

### **1      Appeal rights and parties to appeals**

- (1) Table 1 states the matters that may be appealed to—
  - (a) the P&E court; or
  - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
  - (a) the refusal, or deemed refusal of a development application, for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (b) a provision of a development approval for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (c) if a development permit was applied for—the decision to give a preliminary approval for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (d) a development condition if—
    - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and

- 
- (ii) the building is, or is proposed to be, not more than 3 storeys; and
    - (iii) the proposed development is for not more than 60 sole-occupancy units; or
  - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
  - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
  - (g) a matter under this Act, to the extent the matter relates to the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
  - (h) a decision to give an enforcement notice—
    - (i) in relation to a matter under paragraphs (a) to (g); or
    - (ii) under the *Plumbing and Drainage Act 2018*; or
  - (i) an infrastructure charges notice; or
  - (j) the refusal, or deemed refusal, of a conversion application; or
  - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
- (a) for a matter in subsection (2)(a) to (d)—
    - (i) a development approval for which the development application required impact assessment; and
    - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
  - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.

- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
  - (a) column 1 states the appellant in the appeal; and
  - (b) column 2 states the respondent in the appeal; and
  - (c) column 3 states the co-respondent (if any) in the appeal; and
  - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.
- (8) In this section—  
*storey* see the Building Code, part A1.1.

<b>Table 1</b> <b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>
<p>1. Development applications</p> <p>For a development application other than an excluded application, an appeal may be made against—</p> <ul style="list-style-type: none"><li>(a) the refusal of all or part of the development application; or</li><li>(b) the deemed refusal of the development application; or</li><li>(c) a provision of the development approval; or</li><li>(d) if a development permit was applied for—the decision to give a preliminary approval.</li></ul>

<b>Table 1</b> <b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	<p>1 A concurrence agency that is not a co-respondent</p> <p>2 If a chosen assessment manager is the respondent—the prescribed assessment manager</p> <p>3 Any eligible advice agency for the application</p> <p>4 Any eligible submitter for the application</p>
<p><b>2. Change applications</b></p> <p>For a change application other than an excluded application, an appeal may be made against—</p> <p>(a) the responsible entity's decision on the change application; or</p> <p>(b) a deemed refusal of the change application.</p>			

<b>Table 1</b> <b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 The applicant</p> <p>2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice</p>	<p>The responsible entity</p>	<p>If an affected entity starts the appeal—the applicant</p>	<p>1 A concurrence agency for the development application</p> <p>2 If a chosen assessment manager is the respondent—the prescribed assessment manager</p> <p>3 A private certifier for the development application</p> <p>4 Any eligible advice agency for the change application</p> <p>5 Any eligible submitter for the change application</p>
<p><b>3. Extension applications</b></p> <p>For an extension application other than an extension application called in by the Minister, an appeal may be made against—</p> <p>(a) the assessment manager’s decision on the extension application; or</p> <p>(b) a deemed refusal of the extension application.</p>			

<b>Table 1</b> <b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 The applicant</p> <p>2 For a matter other than a deemed refusal of an extension application—a concurrence agency, other than the chief executive, for the application</p>	<p>The assessment manager</p>	<p>If a concurrence agency starts the appeal—the applicant</p>	<p>If a chosen assessment manager is the respondent—the prescribed assessment manager</p>
<p><b>4. Infrastructure charges notices</b></p> <p>An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds—</p> <p>(a) the notice involved an error relating to—</p> <p style="padding-left: 20px;">(i) the application of the relevant adopted charge; or</p> <p><i>Examples of errors in applying an adopted charge—</i></p> <ul style="list-style-type: none"> <li>• the incorrect application of gross floor area for a non-residential development</li> <li>• applying an incorrect ‘use category’, under a regulation, to the development</li> </ul> <p style="padding-left: 20px;">(ii) the working out of extra demand, for section 120; or</p> <p style="padding-left: 20px;">(iii) an offset or refund; or</p> <p>(b) there was no decision about an offset or refund; or</p> <p>(c) if the infrastructure charges notice states a refund will be given—the timing for giving the refund; or</p> <p>(d) for an appeal to the P&amp;E Court—the amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			

<b>Table 1</b>			
<b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the infrastructure charges notice	The local government that gave the infrastructure charges notice	—	—
<p><b>5. Conversion applications</b></p> <p>An appeal may be made against—</p> <p>(a) the refusal of a conversion application; or</p> <p>(b) a deemed refusal of a conversion application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The local government to which the conversion application was made	—	—
<p><b>6. Enforcement notices</b></p> <p>An appeal may be made against the decision to give an enforcement notice.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the enforcement notice	The enforcement authority	—	If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government



**Table 2  
Appeals to the P&E Court only**

<p>1. Appeals from tribunal</p> <p>An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of—</p> <p>(a) an error or mistake in law on the part of the tribunal; or</p> <p>(b) jurisdictional error.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	—	—
<p>2. Eligible submitter appeals</p> <p>For a development application or change application other than an excluded application, an appeal may be made against the decision to approve the application, to the extent the decision relates to—</p> <p>(a) any part of the development application or change application that required impact assessment; or</p> <p>(b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency’s referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>

**Table 2  
Appeals to the P&E Court only**

3. Eligible submitter and eligible advice agency appeals

For a development application or change application other than an excluded application, an appeal may be made against a provision of the development approval, or a failure to include a provision in the development approval, to the extent the matter relates to—

- (a) any part of the development application or change application that required impact assessment; or
- (b) a variation request.

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p> <p>3 An eligible advice agency for the development application or change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency’s referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>

4. Compensation claims

An appeal may be made against—

- (a) a decision under section 32 about a compensation claim; or
- (b) a decision under section 265 about a claim for compensation; or
- (c) a deemed refusal of a claim under paragraph (a) or (b).

<b>Table 2 Appeals to the P&amp;E Court only</b>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person dissatisfied with the decision	The local government to which the claim was made	—	—
<p><b>5. Registered premises</b> An appeal may be made against a decision of the Minister under chapter 7, part 4.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 A person given a decision notice about the decision</p> <p>2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision</p>	The Minister	—	If an owner or occupier starts the appeal—the owner of the registered premises
<p><b>6. Local laws</b> An appeal may be made against a decision of a local government, or conditions applied, under a local law about—</p> <p>(a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or</p> <p>(b) the erection of a building or other structure.</p>			

<b>Table 2 Appeals to the P&amp;E Court only</b>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who— (a) applied for the decision; and (b) is dissatisfied with the decision or conditions.	The local government	—	—

<b>Table 3 Appeals to a tribunal only</b>			
<p><b>1. Building advisory agency appeals</b></p> <p>An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A building advisory agency for the development application related to the approval	The assessment manager	The applicant	<p>1 A concurrence agency for the development application related to the approval</p> <p>2 A private certifier for the development application related to the approval</p>

<b>Table 3 Appeals to a tribunal only</b>			
<p><b>2. Inspection of building work</b> An appeal may be made against a decision of a building certifier or referral agency about the inspection of building work that is the subject of a building development approval under the Building Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant for the development approval	The person who made the decision	—	—
<p><b>3. Certain decisions under the Building Act and the <i>Plumbing and Drainage Act 2018</i></b> An appeal may be made against—</p> <p>(a) a decision under the Building Act, other than a decision made by the Queensland Building and Construction Commission, if an information notice about the decision was given or required to be given under that Act; or</p> <p>(b) a decision under the <i>Plumbing and Drainage Act 2018</i>, other than a decision made by the Queensland Building and Construction Commission, if an information notice about the decision was given or required to be given under that Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who received, or was entitled to receive, an information notice about the decision	The entity that made the decision	—	—
<p><b>4. Local government failure to decide application under the Building Act</b> An appeal may be made against a local government’s failure to decide an application under the Building Act within the period required under that Act.</p>			

<b>Table 3 Appeals to a tribunal only</b>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive notice of the decision	The local government to which the application was made	—	—
<p>5. Failure to make a decision about an application or other matter under the <i>Plumbing and Drainage Act 2018</i></p> <p>An appeal may be made against a failure to make a decision under the <i>Plumbing and Drainage Act 2018</i>, other than a failure by the Queensland Building and Construction Commission to make a decision, within the period required under that Act, if an information notice about the decision was required to be given under that Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive an information notice about the decision	The entity that failed to make the decision	—	—

Application number:	<b>DA210008</b>	Your reference:	<b>ICN – DA210008</b>
Date Properly Made:	<b>13 January 2021</b>	Contact:	<b>Kerri Kuehn</b>
Date of decision:	<b>15 September 2021</b>	Contact number:	<b>(07) 4030 9400</b>

## 1. APPLICANT DETAILS

Name:	<b>Gurukol Pty Ltd</b>		
Postal address:	<b>C/- Mewing Planning Consultants GPO Box 1506 BRISBANE QLD 4001</b>		
Phone:	<b>0421 780 354</b>	Email:	<b>leo.mewing@mewing.com.au</b>

## 2. PROPERTY DESCRIPTION

Street address:	<b>2 Tom Morrison Drive, Rocky Point</b>
Property description:	<b>Lot 2 on SP183867</b>

## 3. OWNER DETAILS

Name:	<b>Gurukol Pty Ltd</b>
Postal address:	<b>N/a</b>

## 4. DEVELOPMENT APPROVAL

<b>Development Permit for Material Change of Use for <i>Short-Term Accommodation (8 x 1 Bedroom Units)</i></b>
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## 5. DECISION TO GIVE AN INFRASTRUCTURE CHARGES NOTICE

Pursuant to section 119 of the *Planning Act 2016*, WTA decided to give an infrastructure charges notice relevant to the development based on the developments increased demand on trunk infrastructure.

## 6. INFRASTRUCTURE CHARGE

The charge is levied pursuant to the *Weipa Town Authority Charges Resolution (No.1) 2019*. The details and breakdown of the charge are outlined below:

Total charge:	<b>\$81,937.60</b> This charge may be indexed in line with Consumer Price Index on an annual basis.
Charge area:	Accommodation (short-term) – 1 or 2 bedroom suite

Calculation:	The proposed development for Short-Term Accommodation is the 'Accommodation (short-term) category of Table 1.1 of CR No. 1. In accordance with Table 2.1 (Adopted Infrastructure Charges) of the CR No. 1, WTA's adopted charge for a Accommodation (short-term) – 1 or 2 bedroom suite, is \$10,242.20 per suite. As there a total of 8 x 1 Bedroom units, the charge is multiplied by 8 which equals the total charge of \$81,937.60.
Credit:	No credits are applicable to the development.
Offset:	No offsets are applicable to the development.

## 7. PAYMENT DETAILS

The charge must be paid:	Prior to the change of use for <i>Short-Term Accommodation</i> occurring.
Payment options:	Payment of the infrastructure charge can be made: <b>IN PERSON</b> –at WTA's Customer Service Centre at Hibberd Drive. <b>TELEPHONE</b> – Call (07) 4030 9400 to pay via MasterCard or Visa. <b>MAIL</b> – post a cheque payable to 'Weipa Town Authority and send to PO Box 420, Weipa Queensland 4874.

## 8. LAPSING OF INFRASTRUCTURE CHARGES NOTICE

This infrastructure charges notice lapses if the development approval to which it pertains ceases to have effect in accordance with section 71 and 119 (11) of the *Planning Act 2016*.


## 9. APPEAL RIGHTS

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision about an infrastructure charges notice are set out in chapter 6, part 1 of the *Planning Act 2016* and an extract is provided in Attachment 1. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

An applicant may also have a right to appeal to the Development tribunal. For more information, see schedule 1 of the *Planning Act 2016*.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the *Planning Act 2016*.

## 10. ASSESSMENT MANAGER

Judey Browne Superintendent		Date:	17 September 2021
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# Attachment 1 – Appeal rights

Planning Act 2016 Extract from schedule 1 - Appeals

The extract is provided for information purposes only. Whilst care is taken to ensure the data is current, WTA accepts no responsibility for reliance on this information where amendments to the legislation are not reflected in the information. The applicant must refer to the Act available on the Legislation Queensland website

## Schedule 1

## Appeals

section 229

### 1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to—
- the P&E court; or
  - a tribunal.
- .....
- (2) Table 2 states the matters that may be appealed only to the P&E Court.
- (3) Table 3 states the matters that may be appealed only to the tribunal.
- (4) In each table—
- column 1 states the appellant in the appeal; and
  - column 2 states the respondent in the appeal; and
  - column 3 states the co-respondent (if any) in the appeal; and
  - column 4 states the co-respondents by election (if any) in the appeal.
- (5) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.

<b>Table 1</b> <b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
<p>4 .Infrastructure charges notice</p> <p>An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds—</p> <p>(a) the notice involved an error relating to—</p> <ol style="list-style-type: none"> <li>the application of the relevant adopted charge; or</li> </ol> <p>Examples of errors in applying an adopted charge —</p> <ul style="list-style-type: none"> <li>the incorrect application of gross floor area for a non-residential development</li> <li>applying an incorrect 'use category', under a regulation, to the development</li> </ul> <ol style="list-style-type: none"> <li>the working out of extra demand, for section 120; or</li> <li>an offset or refund; or</li> </ol> <p>(b) there was no decision about an offset or refund; or</p> <p>(c) if the infrastructure charges notice states a refund will be given—the timing for giving the refund; or</p> <p>(d) for an appeal to the P&amp;E Court—the amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the infrastructure charges notice	The local government that gave the infrastructure charges notice	-	-