

appendix 11 – Planning Advice

04 October 2011

Mr Adam Thomas
Divisional Director
Savills Property Management
Level 7, 50 Bridge Street
SYDNEY NSW 2000

Dear Adam,

PLANNING APPROVAL FRAMEWORK AND TIME FRAMES FOR THE PROPOSED CAIRNS ENTERTAINMENT PRECINCT (CEP) LOCATED AT WHARF STREET, CAIRNS

Further to our meeting with you on 29th September 2011, we understand the Cairns Entertainment Precinct (CEP) project will proceed in stages in accordance with funding allocation. The priority focus of the project is the delivery of Stage 1, however given the holistic nature of the site and its development, it is considered appropriate to secure approval for the entire precinct.

From our briefings this week we consider that the development approval process will comprise several discrete applications, detailed (in order) for your reference below.

1 Applications required to be lodged

1.1 APPLICATION 1 – RESOURCE ENTITLEMENT

Under section 264 of the *Sustainable Planning Act 2009* (SPA), Resource Entitlement is required to be obtained where development is proposed over State land. Evidence of Resource Entitlement is required to be obtained prior to the lodgement of any application involving this State land to ensure that the application is 'properly made'.

The covered link proposed over Wharf Street linking the Cairns Convention Centre with the CEP, is proposed to cross the Wharf Street which is designated as State land (i.e. road). As a result, Resource Entitlement will be required to be obtained to allow a development application involving this land to be lodged.

We will need to discuss this aspect of the proposal and the requirement for Evidence of Resource Entitlement with the Department of Environment and Resource Management (DERM) as DERM may require that appropriate tenure arrangements for the covered link be negotiated and agreed to prior to the grant of any Evidence of Resource Entitlement.

The request for Resource Entitlement involves the lodgement of an application to DERM. The application will essentially outline the proposal, highlight the portion of state land being applied over, and request DERM's consent or entitlement. We proposed to work closely with DERM to try to fast track this process as it can take several months for the required evidence to be granted. We note that where DERM requires that tenure arrangements be negotiated this poses a risk to the lodgement time frame given the time involved in negotiating such matters.

1.2 APPLICATION 2 – EXEMPTION CERTIFICATE

Whilst the Resource Entitlement matters are being discussed and resolved with DERM, a request for an Exemption Certificate under the *Queensland Heritage Act 1992* can be prepared. Under SPA, where a site contains a registered heritage place, an applicant may apply for an Exemption Certificate which grants the carrying out of the development on the site of the heritage place without the need for additional development permits. An Exemption Certificate can only be granted where the development will not have a detrimental impact on the cultural heritage significance of the heritage place and/or where the development is permitted under a heritage agreement.

Converge will lead and manage the process of applying for an Exemption Certificate. Please contact Converge to determine the documents required to be lodged within the Exemption Certificate application to DERM and also the relevant time frame.

1.3 APPLICATION 3 – PRELIMINARY APPROVAL

A Preliminary Approval application will be the third application required. The Preliminary Approval application will cover the whole site and will establish a framework for the future redevelopment of the precinct at a high level. The Preliminary Approval will not override the provisions of the Planning Scheme but will provide a level of certainty for the future redevelopment of the Precinct.

The Preliminary Approval application will consist of the following key elements:

- IDAS Forms;
- Landowner's consent;
- Evidence of Resource Entitlement;
- Town Planning Report;
- Architectural Plans (including site plans and elevations);
- Landscape Plans;
- Traffic Report;
- Acoustic Report;
- Heritage Report;
- Civil Engineering Report (Preliminary Services and Flood Reports);
- Hydraulic Report (Preliminary Flood and Stormwater Report).

The Preliminary Approval Application will be required to be lodged with Cairns Port Authority for assessment. It is anticipated that the Preliminary Approval application will be lodged by 1st November 2011¹.

The preparation of this application should occur concurrently whilst the Evidence of Resource Entitlement and the Exemption Certificate are being obtained from DERM.

1.4 APPLICATION 4 – SUBDIVISION BY LEASE

Where a lease is to be granted for a term exceeding 10 years, including renewal options, the granting of the lease is defined as 'reconfiguring a lot' which is defined as development under the SPA. Accordingly, the fourth application to be carried out is a Subdivision by Lease application. This application would allow for the southern extremity of the site to be leased to an alternate party. The Subdivision by Lease application will involve the following supporting documentation:

- IDAS Forms;

¹ Lodgement is premised on Evidence of Resource Entitlement being able to be secured for the State resources included in the application.

- Subdivision Plan indicating the proposed lease area;
- Town Planning Report;
- Landowner's consent.

The subdivision by Lease application could be carried out concurrently with the Preliminary Approval. It will likely take several months for the Assessment Manager to determine the application following lodgement.

1.5 APPLICATION 5 – STAGE 1 DEVELOPMENT APPLICATION

The fifth application required to be prepared is the Development Permit for a Material Change of Use for Stage 1. This development application will address the provisions outlined in the Preliminary Approval and will also demonstrate the proposal's compliance with the Ports North Development Scheme.

The Development Application will consist of the following key components:

- IDAS Forms;
- Landowner's consent;
- Evidence of Resource Entitlement²;
- Town Planning Report;
- Architectural Plans (including site plans and elevations);
- Landscape Plans;
- Traffic Report;
- Acoustic Report;
- Heritage Report;
- Civil Engineering Report (Preliminary Services and Flood Reports);
- Hydraulic Report (Preliminary Flood and Stormwater Report); and
- Land Survey (plan of future lot).

A number of these reports could be revised from those prepared as part of the Preliminary Approval application. It is assumed that the application will take between 6-12 months to assess. This timeframe could vary depending on the complexity of the application process.

1.6 APPLICATION 6 – TIDAL WORKS APPLICATION

An Application for Tidal Works is also required to be prepared, and can be carried out simultaneously with the Stage 1 Development Application. Tidal Works is defined by DERM as work undertaken on land that is in, on or above land under tidal water, or land that will or may be under tidal water because of development on or near the land and work that is an integral part of the relevant work, wherever located. Tidal works also includes works designed to be exposed to tidal water because of shoreline fluctuations.

Due to the location of the site adjacent to Trinity Inlet and within Strategic Port land, a Tidal Works Application will be required to be lodged to the Cairns Port Authority for assessment. The Tidal Works application may also be referred to DERM for assessment.

A Tidal Works application will likely be comprised of the following components:

- Planning report;
- Supporting reports including a Stormwater Management Plan;
- Relevant IDAS Forms; and

² If required to support the Stage 1 scope of works.

- Any necessary owner’s consent or Evidence of Resource Entitlement.

1.7 FURTHER APPLICATIONS

The following further applications would also be required to be lodged after the Stage 1 Development Approval has been received:

- Other Operational Works application for discrete components of work; and
- Building Works application for discrete components of work.

The Stage 2 & 3 Development Applications will also be required to be lodged following Stage 1 development approval.

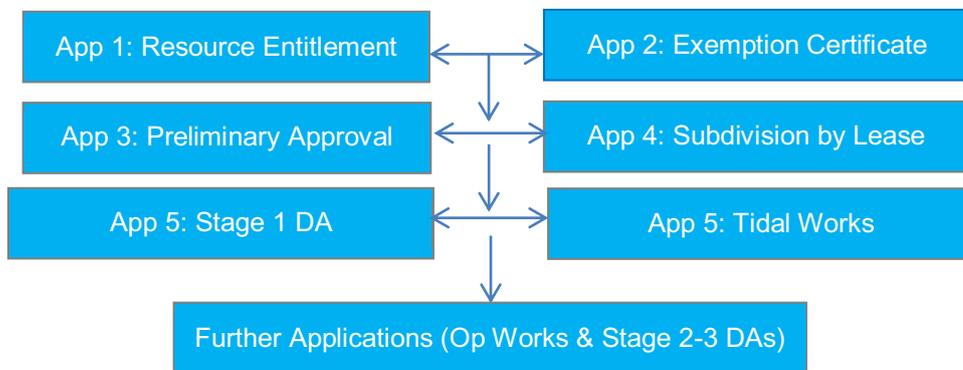
2 Signatories

Owners Consent and/or Evidence of Resource Entitlement will be required to be lodged with the above-mentioned applications. Owner’s Consent and/or Evidence of Resource Entitlement will be required from the following parties:

- Cairns Port Authority;
- Department of Environment and Resource Management (DERM); and
- Department of Public Works.

3 Summary of Application Program

The below diagram provides a graphical representation of the order in which the above-mentioned applications can be carried out.



4 Timeframe

A project timeframe has been prepared and is attached to this letter as Appendix A. The timeframe represents the anticipated timing for the Preliminary Approval, however can also be used as an indicative timeframe for the subsequent Stage 1, 2 & 3 Development Applications.

We trust the above information is of assistance to you. If you require any further information or clarification of the above matters, please don't hesitate to contact us on 3007 3800.

Yours sincerely,

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Peter Gill
Director

21 October 2011

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Divisional Director
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Further to our meeting with you on 29th September 2011, we understand the Cairns Entertainment Precinct (CEP) project will proceed in stages in accordance with funding allocation. The priority focus of the project is the delivery of Stage 1, however given the holistic nature of the site and its development, it is considered appropriate to secure approval for the entire precinct.

By way of background we note that to ensure the proposed development can proceed with confidence and that the planning and environmental requirements are fully met, Cairns Regional Council have appointed planning consultants Urbis Pty Ltd to provide ongoing review of the development of site design from a planning perspective, and to undertake the preparation of all required development applications.

The ongoing review process and preparation of development applications will include an assessment of:

- Compliance with Commonwealth, State and local legislative requirements
- Measures identified for managing environmental effects
- Effects propagated during construction, operation and decommissioning stages of the project
- On site and off site effects.

The Sustainable Planning Act 2009 (SPA) is the primary legislative mechanism governing the Queensland planning framework. A range of approval processes are applicable, and these consider various types of development including making a material change of use of premises, reconfiguring a lot and the carrying out of building, operational, plumbing or drainage work. IPA is aimed at achieving ecological sustainability by coordinating and integrating planning at the local, regional and state levels and managing the process by which development occurs, and managing the effects of development on the environment.

The Act provides a mechanism for gaining various development approvals via the Integrated Development Assessment System (IDAS), including required approvals under other Acts such as the Environmental Protection Act 1994 (EP Act), Nature Conservation Act 1992 (NCA) and Vegetation Management Act 1999 (VMA).

The assessment of and issue of development application determination in general is undertaken by Regional Councils, however of particular relevance to this project, being situated on Strategic Port Land governed by the Cairns Port Authority, development approval is subject to an alternative mechanism. Under the provisions of the Transport Infrastructure Act the Port Authority is conferred the power to prepare and administer its own planning scheme, governing land use activity on Strategic Port Land. As such, development applications for all aspects of the development will be prepared and lodged for assessment by Cairns Port Authority. The application process follows the IDAS process established under the SPA, and will be subject to all referral processes relevant under the Act.

As such, development applications to be prepared for the project (as detailed below) will be developed having consideration of all relevant federal and state legislation, Planning Scheme matters, regional planning and state matters, including (but not limited to):

- Environment Protection and Biodiversity Act 1999
- Native Title Act 1993
- Civil Aviation Regulations 1988 and Civil Aviation Safety Regulations 1988
- Electricity Act 1994
- Electricity Safety Act 2002
- Sustainable Planning Act 2009
- Transport Infrastructure Act 1994
- Marine Parks Act 2004
- Coastal Protection and Management Act 1995
- Environmental Protection Act 1994
- Fisheries Act 1994
- Nature Conservation Act 1992 and Nature Conservation Regulations
- Water Act 2000
- Land Act 1994
- Aboriginal Cultural Heritage Act 2003
- Queensland Heritage Act 1992
- Vegetation Management Act 1999
- South East Queensland Regional Plan 2006-2026
- South-East Queensland Infrastructure Plan and Program 2008-2026
- State Planning Policies
- Cairns Port Authority Land Use Plan

- CairnsPlan 2009

In order to ensure compliance with all relevant legislative and policy requirements, Cairns Regional Council has appointed specialist consultants to undertake technical assessment and design in all required fields, including:

- Architecture;
- Town Planning;
- Acoustic Engineering;
- Environmental;
- Traffic and Transport;
- Heritage;
- Civil Engineering; and
- Landscape Architecture.

Importantly, through the process of design and technical assessment, and linked to the preparation of all required development applications, Environmental Management Plans for both construction and operational phases of the development will be prepared and implemented. These plans will identify those areas of potential impact on the raft of legislative requirements identified above, and importantly also on continuing operation of strategic port activity, and identify appropriate mitigation and management strategies and actions to be applied throughout the course of the project.

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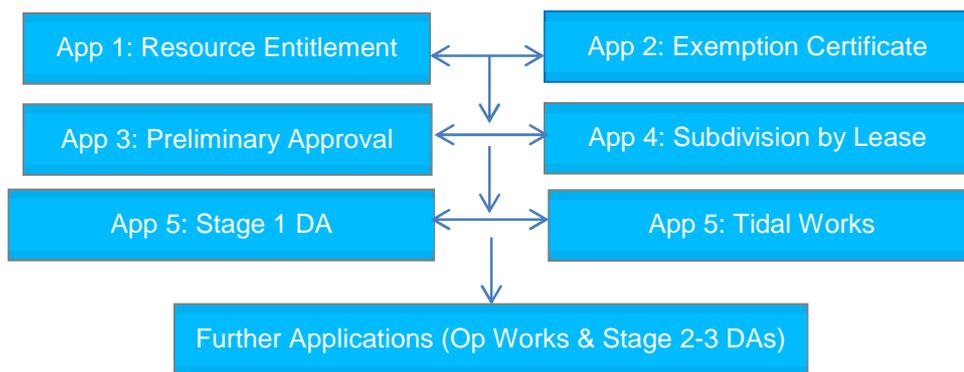
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Yours sincerely,

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Peter Gill
Director

Timeframe for Code Assessable Development Application - Cairns Entertainment Precinct

Task	2011																									
	October					November				December				January				February				March				
	3-7	10-14	17-21	24-28	31-4	7-11	14-18	21-25	28-2	5-9	12-16	19-23	26-30	2-6	9-13	16-20	23-27	30-3	6-10	13-17	20-24	27-2	5-9	12-16	19-23	26-30
Preparation of Application	█	█	█	█																						
Lodgement of Application					█ 1																					
Acknowledgement Notice (1)						█	█ 15																			
Referral to Referral Agencies (2)							█ 18																			
Information Request (3)								█	█ 2	█	█ 16															
Applicant Response (4)										█	█	█	█	█ 13	█	█	█	█	█	█ 24						
Assessment of Application and Decision (5)																█	█	█	█ 10	█	█	█	█ 9			
Decision Notice Issued (6)																				█ 17				█ 16		



Notes on Table

The Application will be lodged on 1st November 2011 (given Evidence of Resource Entitlement is obtained by this date).

1. Assessment Manager has 10 business days to issue the Acknowledgement Notice.
2. The application may require Referral to referral Agencies. We have allowed 3 business days for referral.
3. Assessment Manager and Referral Agencies have 10 business days to provide an information request. Assessment Manager and the Referral Agencies may extend by a further 10 business days.
4. Applicant has 6 months to respond to this request. A period of 6 weeks has been allocated, however this may take longer due to the Christmas period.
5. The Assessment manager has 20 business days to assess the application. This period can be extended by a further 20 business days without consent.
6. The Assessment manager has 20 business days to assess the application. This period can be extended by a further 20 business days without consent.
7. Assessment manager has 10 business days to provide the applicant with a Decision Notice, we have indicated a period of 5 business days.