

PLANNING AND ENVIRONMENT COMMITTEE 8 FEBRUARY 2012	12
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MATERIAL CHANGE OF USE (IMPACT) AIRCRAFT LANDING FACILITY – COMMERCIAL (MICROLIGHT) - CAPTAIN COOK HIGHWAY KILLALOE – DIVISION 10

Michelle Henderson : 8/8/1205 : #3471579

<u>PROPOSAL:</u>	AIRCRAFT LANDING FACILITY – COMMERCIAL (MICROLIGHT)
<u>APPLICANT:</u>	UPDRAUGHT MICROFLIGHTS/HANGGLIDERS C/- KEVIN GILLIGAN 21 HARTLEY ST WANGETTI QLD 4877
<u>LOCATION OF SITE:</u>	CORNER BONNIE DOON ROAD AND CAPTAIN COOK HIGHWAY KILLALOE
<u>PROPERTY:</u>	LOT 2 ON RP893855
<u>PLANNING LOCALITY:</u>	RURAL AREAS AND RURAL SETTLEMENTS
<u>PLANNING AREA:</u>	RURAL
<u>PLANNING SCHEME:</u>	DOUGLAS SHIRE PLANNING SCHEME 2008
<u>REFERRAL AGENCIES:</u>	DEPT OF ENVIRONMENT & RESOURCE MANAGEMENT DEPT OF TRANSPORT & MAIN ROADS
<u>NUMBER OF SUBMITTERS:</u>	5 SUBMISSIONS AGAINST AND 1 PETITION IN SUPPORT OF THE APPLICATION
<u>STATUTORY ASSESSMENT DEADLINE:</u>	8 FEBRUARY 2012
<u>APPLICATION DATE:</u>	1 SEPTEMBER 2011
<u>DIVISION:</u>	1
<u>APPENDIX:</u>	<ol style="list-style-type: none"> 1. APPROVED PLAN(S) & DOCUMENT(S) 2. CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS 3. SUPPORTING INFORMATION TO PLANNING REPORT

LOCALITY PLAN



RECOMMENDATION:

That Council approves the development application for Aircraft Landing Facility – Commercial (Microlight) over land described as Lot 2 on RP893855, located at Captain Cook Highway Killaloe, subject to the following:

APPROVED DRAWING(S) AND / OR DOCUMENT(S)

The term 'approved drawing(s) and / or document(s)' or other similar expressions means:

Drawing or Document	Reference	Date
Site Plan	Drawing prepared by K. Gilligan (Council Ref No 3372759)	Received 28 Oct 2011
Aerial Photo	Drawing prepared by K. Gilligan (Council Ref No 3372759)	Received 28 Oct 2011

ASSESSMENT MANAGER CONDITIONS

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

Except where modified by these conditions of approval

Timing of Effect

2. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

Hours of Operation

3. The proposed use must only operate between the hours of 7am and 7pm daily except in emergencies or unless otherwise approved by the Chief Executive Officer.

Limitations on Operators

4. The commercial use of the site shall be limited to the single operator.
5. Flight paths are to avoid flying over residential areas, except in the case of an emergency.
6. Operations must at all times comply with the requirements of the relevant regulatory bodies, including the Hang Gliding Federation of Australia and the Civil Air Safety Authority.

Flight Frequencies

7. The maximum number of aircraft movements per day is to be six (6), with an aircraft movement consisting of one (1) takeoff and one (1) landing.

Aircraft Limitations

8. The commercial use of the facility shall be restricted to microlight aircraft only.

Vehicle Parking and Access

9. The amount of vehicle parking to be provided is a minimum of four (4) spaces. The car parking layout must comply with the Australian Standard AS2890.1 2004 Parking Facilities – off-street car parking and be constructed in accordance with Austroads and good engineering design.

In addition, all parking, driveway and vehicular manoeuvring areas servicing the airfield must be appropriately surfaced (graveled).

10. Property access from Bonnie Doon Road is to be constructed at no cost to council in accordance with FNQROC Standard Drawing S1105.

Building/Structure Colours

11. The exterior finishes and colours of buildings/structures are preferably non-reflective and are to blend with the natural colours of the surrounding environment. Roofs and structures are preferably of moderately dark to darker shades of green, grey, blue or brown.

Fuel Storage

12. All fuels must be stored in an undercover and secure location at all times. Should fuel storage onsite achieve 'minor quantities' as defined in the relevant Australian Standard, all petroleum product storage on site must be designed, constructed and maintained in accordance with *AS1940-2004 - The storage and handling of flammable and combustible liquids*.

On Site Facilities

13. A covered waiting area is to be provided for passengers. Details of the covered passenger waiting area must be endorsed by the Chief Executive Officer within one (1) month of the issue of the Development Permit.

Advertising Signage

- All signage associated with the use must be approved by the Chief Executive Officer. The signage must comply with the Design and Siting of Advertising Devices Code contained within the Douglas Shire Planning Scheme and plans detailing the signage must be endorsed by the Chief Executive Officer prior to the erection of signage.

LAND USE DEFINITIONS

The approved land use is an Aircraft Landing Facility – Commercial, for the specific use of a single Microlight aircraft. A Weightshift Microlight is defined by the Hang Gliding Federation of Australia as:

Weightshift Microlight

Any lightweight aeroplane controlled by weight shift as defined in CAO 95.32 or meeting the requirements of CAO 95.10.

Note: Further definitions are contained in the Civil Aviation Regulations Part 1, Regulation 2.

CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS

Concurrency Agency	Concurrency Agency Reference	Date	Council Electronic Reference
DTMR	214/20A/102 (1484.01)	3 Oct 2011	3302211
DERM	375133/SPAR03075711	10 Oct 2011	3346952

Refer to Appendix 2: Concurrence Agency Requirements. (Please note that these conditions / requirements may be superseded by subsequent negotiations with the relevant referral agencies).

ADVICE

- This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 339 of the *Sustainable Planning Act 2009* and 3.5.21 of the *Integrated Planning Act 2007*.
- All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council Officers, prior to commencement of works.

3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
4. For information relating to the *Sustainable Planning Act 2009* log on to www.dlgp.qld.gov.au. To access FNQROC Manual, Local Laws and other applicable Policies log on to www.cairns.qld.gov.au.

Advice Statement for EPBC Act

You are advised that the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* applies to action that has, will have or is likely to have a significant impact on matters of national environmental significance.

Further information on the *EPBC Act* can be obtained from the Department of the Environment, Water, Heritage and the Arts website www.environment.gov.au/epbc EPBC Act Policy Statement 1.1 Significant Impact Guidelines Matters of National Environmental Significance (Oct. 2009).

EXECUTIVE SUMMARY:

Council is in receipt of an Impact Assessable Material Change of Use application seeking retrospective approval for an existing Aircraft Landing Facility – Commercial, at the corner of the Captain Cook Highway and Bonnie Doon Road, Killaloe, more particularly described as Lot 2 on RP893855. This report was previously deferred from the last Council meeting pending advice from the Councillor. The proposed use complies with the Douglas Shire Planning Scheme and is recommended for approval subject to conditions

TOWN PLANNING CONSIDERATIONS:

Background

A review of Council files revealed that the business had operated since 2005 on the subject site and an adjacent property (Lot 1 on RP893855), but the use had ceased following correspondence from Council advising of the need to make a Material Change of Use application to conduct the use.

In June 2011 it was brought to the attention of Council officers that Lot 2 on RP893855, the subject of this application, was being utilised for the purpose of an Aircraft Landing Facility – Commercial. On 2 August 2011 a letter was posted to the landowner and the business operator advising of the need for a Material Change of Use application to be made to Council (Council Ref No 3254787).

At a meeting attended by the operator and Council officers 17 August 2011, the operator indicated that Lot 2 had been utilised since 2005 for his commercial flights, and that the airstrip was also used by two (2) additional guests who are invited by the landowners to utilise the airstrip for private, non-commercial purposes. The business operator was advised that under the 1996 Douglas Shire Planning Scheme, a commercial operation required an Impact Assessable application to be made to Council, however utilising an airstrip for private, non-commercial purposes did not at that time attract the need for an application to be made to Council. Under the 2006 Douglas Shire Planning Scheme, a landing area for Microlight aircraft used for personal recreation and not for commercial gain is captured under the Outdoor Sport and Recreation land use definition. Should any additional operators wish to use the airstrip, for either commercial or non-commercial uses, a further application to Council would be required.

On 1 September 2011 a Material Change of Use application, being the subject of this report, was made to Council.

Proposal

The Impact Assessable Material Change of Use application is for an Aircraft Landing Facility – Commercial on land at the corner of Captain Cook Highway and Bonnie Doon Road, Killaloe more particularly described as Lot 2 on RP893855. The land is located in the Rural Areas and Rural Settlement Locality, and the Rural Planning Area.

The proposal is for a single operator with a single Microlight aircraft, who seeks approval for a maximum of four (4) aircraft movements per day. An 'aircraft movement' consists of one takeoff and one landing. Flights will primarily consist of taking both tourists and local customers on Trial Introductory Flights (TIFs). There are 3 TIFs currently available, being:

- A. Fly Port Douglas
- B. Fly Daintree River and
- C. Fly Cape Tribulation.

The Port Douglas and Daintree River flights are requested frequently, with option C only requested occasionally. Flight paths for Fly Port Douglas and Fly Daintree River are attached at Appendix 3 of this report. The airfield is comprised of mown grass, is surrounded on all sides by sugar cane paddocks and the airfield dimensions are 320 metres x 30 metres. The airfield is setback a minimum of 120 metres from Bonnie Doon Road, and in excess of 400 metres from the Captain Cook Highway. The applicant has indicated that takeoff generates more noise than approach or cruise, due to power requirements. The orientation of the airfield ensures that the takeoff direction is to the south east, away from Cooya Beach, which is the nearest residential centre. The proximity of the site to the sea ensures that the takeoff flight path is over open agricultural land and mangroves/mud flats. The applicant has indicated that potential noise impacts are minimised through both the takeoff flight path, and the practice of maintaining separation by flying at 1500ft and a minimum of 1 kilometre out to sea.

A secondary activity of the business involves instruction of trainees on how to fly a Microlight, and additional aircraft movements are requested to accommodate this aspect of the business.

A 40 foot (12.192m) steel container is used to store the Microlight and associated equipment. The container is setback approximately 30 metres from the Bonnie Doon Road frontage, and is painted varying shades of green in order to minimise visual impacts. Sugar cane is grown in the area between the container and Bonnie Doon Road; as such the container is screened from view for a large portion of any given year. The applicant indicates there is no need or intent for fuel storage onsite, as Microlights are designed to be refuelled by means of a jerry can. Two jerry cans fill the Microlight fuel tank, with a full tank sufficient for between 2 and 3 flights depending upon conditions. The land is in close proximity to a service station, should additional fuel be required on any given day.

The proposed Aircraft Landing Facility is to be undertaken on rural land in conjunction with the existing Primary Industry (sugar cane) use, with the intent that the small-scale Microlight operation should in no way interfere with the day to day operating of the farm. As such, it is the intent of the applicant to keep infrastructure on the site to a minimum, to optimise the primary use, being sugar cane farming.

The Designated Development Area (DDA) is located in an area of the farm that shares access to the sugar cane for harvesters, tractors and other agricultural equipment, and directly abuts sugar cane paddocks. Any further landscaping of the area could potentially impact on the ability to access the sugar cane. In addition, the container and airstrip are obscured from view for a great deal of the year by the sugar cane. Therefore it is proposed that the area be kept mown and free of weeds, in keeping with the existing rural amenity.

The existing access is via Bonnie Doon Road, and no vegetation is required to be removed to conduct the use.

Douglas Shire Planning Scheme Assessment

Douglas Shire Rural Areas and Rural Settlements Planning Locality		Code Applicability	Compliance
Locality	Rural Areas and Rural Settlements Locality Code	✓	Complies – see comment below
Planning Area	Rural Planning Area Code	✓	Complies – see comment below
Overlays	Acid Sulfate Soils Code	✗	-
	Cultural Heritage and Valuable Sites Code	✗	-
	Natural Hazards Code	✓	Complies
Defined Use	Aircraft Landing Facility – Commercial Code	✓	Complies with conditions – see comment below
General Codes	Design and Siting of Advertising Devices Code	✓	Complies with conditions – see comment below
	Filling and Excavation Code	✓	Complies
	Landscaping Code	✓	Complies – see comment below
	Natural Areas and Scenic Amenity Code	✓	Complies
	Reconfiguring a Lot Code	✗	-
	Vehicle Parking and Access Code	✓	Complies with conditions – see comment below
	Sustainable Development Code	✓	Complies

Compliance Issues

Rural Areas and Rural Settlements Locality Code and Landscaping General Code

Performance Criteria P2 requires connection of development to urban services, or alternately, sustainable onsite infrastructure services. It is the intent of the applicant to keep infrastructure on the site to a minimum, to optimise the primary use, being sugar cane farming. This will also enable flexibility to revert solely to primary industry pursuits, should be combined uses be found to be incompatible over time. The proposal is small in scale, with conditions of approval to allow for a limited amount of aircraft movements, with a single operator/instructor. The proposal does not include provision of an office on the site for administrative functions, which are handled off-site. The only structure on the land associated with the use is a 40 foot (12.192m) steel container, used to store the Microlight and associated equipment.

Based on the circumstances of the application, it is considered appropriate that urban services such as power supply, water supply and onsite sewerage facilities not be required in this instance. The Site Plan is attached at Appendix 1.

Should the operator intend to expand the use in future, a Request to Change the existing approval, or potentially a new Material Change of Use application would need to be lodged with Council, and would be assessed on its merits at that point in time.

As mentioned above, the application seeks approval of four (4) aircraft movements per day, with provision of additional aircraft movements for the purpose of trainee instruction. It is considered reasonable to approve a maximum of six (6) aircraft movements per day, to be undertaken by the sole operator only. The approval is conditioned to ensure compliance.

The Locality Code states that landscaping is to compliment the existing rural character of the Locality, and the Landscaping Code requires landscaping to contribute to a sense of place, be functional to the surroundings, provide screening and provide visual interest and form. The land is currently utilised for the purpose of farming sugar cane, and adjoins agricultural land on all sides. In this context, and taking into account the scale of the proposed use, formal landscaping is not viewed to compliment the existing rural character of the Locality. Sugar cane is grown in the area between the proposed Microlight field and both the Captain Cook Highway and Bonnie Doon Road; as such the container and Microlight Landing Field are screened from view for a large portion of any given year. Conditioning of landscaping would take up space better able to be utilised for sugar cane production and for access by farm machinery such as harvesters, tractors and the like.

Performance Criteria P4 requires provision of efficient and safe vehicle access and manoeuvring areas onsite, to an acceptable standard for the Locality. The approval is conditioned to require construction of property access in accordance with the FNQROC (Standard Drawing S1105 attached at Appendix 3).

Performance Criteria P11 states that development is not to adversely impact on areas of sensitive natural vegetation, foreshore areas, watercourses and areas of tidal inundation which contribute to the scenic amenity and natural values of the Locality. The Designated Development Area (DDA) is located in the centre of a sugar cane paddock, with the vehicle access being an existing internal gravel road. Vehicles utilised on the site for the purposes of sugar cane farming include tractors and harvesters. The proposed use is considered to be small in scale, and positioned such that it complies with the Performance Criteria.

Rural Planning Area Code

The proposed use complies with the requirement of the Code pertaining to Good Quality Agricultural Land (GQAL), as the principal use of the land remains Primary Industry, while the Microlight Landing Facility is a small scale, secondary use.

Aircraft Landing Facility – Commercial Land Use Code

The proposed Microlight Landing Facility is considered to comply with the purpose and elements of the Code. Native vegetation is not required to be removed in order to conduct the use. The airstrip has an area of approximately 9600m², comprising 2% of the 45.04ha parcel. Based on the small scale of the use, and the ability for the land to be reverted back to agricultural uses at any time, the proposal is not seen to result in the alienation of GQAL. As advised by the applicant, it is noted that the airstrip is also utilised for private, non-commercial purposes which have an existing use right.

Performance Criteria P3 states that the establishment of an Aircraft Landing Facility – Commercial is not to adversely affect residential amenity. The closest larger scale residential area is Cooya Beach, at a distance of approximately 2km to the north of the site. Smaller family style subdivisions are located at McCracken Road/Eagle Close, a distance of approximately 980m west of the site, and at Francis Road, which is approximately 980m southwest of the site. A map illustrating the distance of the site from Cooya Beach and Mossman is attached at Appendix 3.

The applicant has indicated that takeoff generates more noise than approach or cruise, and therefore the orientation of the airfield ensures that the takeoff direction is to the south east, away from Cooya Beach and the other smaller abovementioned properties. The proximity of the site to the sea ensures that the takeoff flight path is over open agricultural land and mangroves/mud flats. The applicant has indicated that potential noise impacts are minimised through both the takeoff flight path, and the practice of maintaining separation by flying at 1500ft and a minimum of 1 kilometre out to sea. Based on the distance from existing residential land, the above information and the small scale of the use, it is considered that the Aircraft Landing Facility – Commercial will not adversely affect residential amenity.

Conditions of approval include provision of a covered reception/waiting area, to be provided commensurate with the scale of the use. The existing vehicle access and parking is considered to be proportionate with the scale of the use, and will not impact adversely on safety or the amenity of the surrounding area.

As mentioned above, the approval is conditioned to require construction of property access in accordance with the FNQROC.

The Code states that landscaping is to be provided to create an attractive Aircraft Landing Facility. It is considered that the existing vegetation along the northwestern boundary of the site provides sufficient visual interest in keeping with the rural character of the locality as well as screening of the development from Bonnie Doon Road. The sugar cane provides additional screening of the development from surrounding roads and properties. Further landscaping of the area would take up space better able to be utilised for sugar cane production and for access by farm machinery such as harvesters, tractors and the like and is not viewed as necessary in this instance.

The applicant indicates there is no need or intent for fuel storage onsite, as Microlights are designed to be refuelled by means of a jerry can. Two jerry cans fill the Microlight fuel tank, with a full tank sufficient for between 2 and 3 flights depending upon conditions.

The land is in close proximity to a service station, should additional fuel be required on any given day. The proposal does not trigger an Environmentally Relevant Activity (ERA), and the approval is conditioned to ensure that fuel is stored in an undercover and secure location at all times.

Design and Siting of Advertising Devices General Code

The applicant indicated no intention to erect Advertising Devices in the foreseeable future, and proposed signage did not form part of this application. The approval is conditioned to require future signage to comply with the Code. Plans of all signage associated with the use are to be endorsed by the Chief Executive Officer prior to installation of any signage.

Vehicle Parking and Access General Code

The proposal does not comply with Acceptable Solution A1.1, which requires an Aircraft Landing Facility – Commercial to accommodate 1 car space per 20m² of covered reception area, plus 1 car space per every 2 staff, plus a covered bus setdown area adjacent to the entry to the reception area and 2 bus parking spaces.

The proposal is considered to comply with the related Performance Criteria P1, which states that sufficient parking spaces are to be provided to accommodate the amount and type of vehicle traffic expected to be generated by the use or uses of the site. Taking into account the scale of the proposed use, being a single operator with the capacity to take only one (1) passenger up at a time, with a maximum of six (6) aircraft movements per day, it is considered that provision of four (4) car parking spaces is sufficient for the proposed demand.

Based on the desire of the landowner to have the flexibility to revert to primary industry pursuits, and the scale of the proposed use, it is considered that gravelled vehicle manoeuvring and parking areas are a suitable standard, and in keeping with the rural amenity.

Public Notification / Submissions

The application was publicly notified in accordance with the *Sustainable Planning Act 2009* between 9 November 2010 and 29 November 2010. Five (5) properly made submissions were received objecting to the application, and a single petition was received in support of the application with 65 signatures. The following section summarises the key grounds for submissions and provides an officer response for each key ground.

The need for such a facility has not been established, considering that there is an existing facility approximately 5 kilometres south along the Captain Cook Highway, as well as a facility north of the Daintree River.

The approval referenced allows for a maximum number of aircraft movements per day. This application was assessed on its merits and found to comply with the Douglas Shire Planning Scheme subject to conditions.

The facility will potentially create noise nuisance for the residents of Cooya Beach, and for residential properties in closer proximity to the airfield. Noise pollution not only harms quality of life but also has the potential to reduce property values. The applicant claims to have conducted noise tests within the noise footprint of the aircraft and has come up with the figure of 55 decibels. The applicant fails to provide any information as to whether these tests were professionally conducted, what altitude the aircraft was flying at and what throttle setting was being used.

The proposed use is considered to be located at sufficient distance from residential areas to not impact adversely on residential amenity. An Aircraft Noise Certificate has been issued by the Commonwealth Department of Transport and Regional Development stating that the aircraft is accepted as complying with the standards in respect of noise expressed in Civil Aviation Order Part 101 applicable to aircraft of the class to which the aircraft belongs as required by the Air Navigation (Aircraft Noise) Regulations. Further, the approval is conditioned to prohibit flying over residential areas except in emergency situations.

The area is low-lying with a wetland nearby. Concern is raised that the additional activity will compromise the natural habitat, especially in/around the watercourse, with negative implications for bird life in the area.

The Department of Environment and Resource Management was triggered as an Advice Agency for land with any part situated in a wetland management area, and recommends a minimum buffer distance of 200m from the wetland in order to maintain existing biodiversity values, habitat connectivity and to minimise edge effects. The Microlight Landing Facility is located approximately 450m from the vegetated edge of the wetland, exceeding the DERM requirement by 250m. This, combined with the small scale of the use, is viewed to meet the outcomes desired by DERM.

There is no provision for containment and removal of waste after servicing of the aircraft and there is no provision for water or fire-fighting facilities. Concern is raised with regard to the lack of onsite facilities.

Due to the small scale of the use, the applicant transports all waste from the use of the site for appropriate disposal. Potable water is able to be transported to the site in small quantities for use by himself and his clients. A first aid kit and fire extinguisher are stored on the site in case of emergencies.

Clarification is sought as to whether containers are secured in case of a cyclone and whether the landowner/applicant have adequate public liability insurance.

The shipping container is classed as a Class 10a Structure and as such Building Approval will be required for its use. Building Approval requirements include ensuring a container is secured in case of a cyclone. Public liability insurance is provided in the amount of \$10,000,000.00 for all members of the regulating body, the Hang Gliding Federation of Australia.

Council has no method of monitoring the number of aircraft movements per day.

The approval is conditioned to allow a maximum of six (6) aircraft movements per day. Should the operator exceed the approved number of aircraft movements, it would become a compliance matter for Council's Development Control Officers to deal with.

Should the applicant decide to sell, an incoming owner would more than likely wish to upgrade the business and flight numbers. Further there is no provision to ban Fly-Ins where numerous aircraft come from near and far for the purpose of recreational fly-in en masse.

The approval is conditioned to allow use by a single commercial operator, and there are two (2) additional recreational users with existing use rights who utilise the site independently of the commercial use. Any additional use of the site for commercial purposes would require either a Request to Change the existing approval or alternately a new Material Change of Use application for an Aircraft Landing Facility – Commercial, depending on the scale of the proposed use. Any additional use of the site for ultralight aircraft for personal recreation and enjoyment would require a Material Change of Use application for Outdoor Sport and Recreation.

The applicant may wish to use a promotional billboard at some time in the future. This is contrary to the Douglas Shire Planning Scheme, which remains in force until Cairns Regional Council completes the combined planning scheme.

The approval is conditioned to require signage to comply with the Design and Siting of Advertising Devices Code contained within the Douglas Shire Planning Scheme and plans detailing the signage must be endorsed by the Chief Executive Officer prior to the erection of signage.

The approval of this application would lead to further depletion of cane growing in the Mossman Mill region.

The airstrip has an area of approximately 9600m², comprising 2% of the 45.04ha parcel. Based on the small scale of the use, and the ability for the land to be reverted back to agricultural uses at any time, the proposal is not seen to result in the alienation of Good Quality Agricultural Land.

Approval of this application means changing an important rural zoning and going against the Douglas Shire Planning Scheme purely to allow one person to conduct a business that impacts in a negative way on a small number of local residents. This is a dangerous precedent in that any cane farmers could apply to change the zoning of their farms and put in other inappropriate commercial facilities.

The application is a Material Change of Use for the purpose of an Aircraft Landing Facility – Commercial and will not result in the rezoning of land. The primary use of the land will continue to be sugar cane production, as the airstrip has an area of approximately 2% of the site only.

The proposed use is secondary in nature, with the owners of the land indicating that the facility is to in no way interfere with the day to day operation of the farm. The proposal has demonstrated compliance with the Douglas Shire Planning Scheme. In terms of setting a precedent, if additional applications were made in future Council would be required to assess them on their merits against the controls in place at the time applications are made.

There are three (3) containers stored on the site which are visible for a large portion of the year once the cane has been harvested, impacting adversely on my view.

The proposed use includes only one (1) of the three (3) containers housed on the site. The other two (2) containers belong to non-commercial users of the site, and are not the responsibility of the applicant. The sugar cane on the site effectively screens the container from view for a large portion of the year. In addition, conditions of approval require the container to be non-reflective, and to be coloured so as to blend with the surrounding environment.

The surrounding rural land uses include structures such as Sheds for large scale agricultural use, which are in many instances larger than a container, constructed with reflective material, and are therefore much more visually prominent. Further landscaping of the area would take up space better able to be utilised for sugar cane production and for access by farm machinery such as harvesters, tractors and the like and is not viewed as necessary in this instance. The container is considered to be adequately screened for the majority of any given year, and in keeping with the character of the area.

Safety issues have to be considered. The fact remains, anything that goes up needs to come down. One would only hope not over a residential area if problems occur.

The approval is conditioned to prohibit flying directly over residential areas.

It would also be interesting to note if any flight commercial dealings have already been operating from the site without the proper legal procedures being in place with Council.

Acknowledged and discussed in detail in the Background section of this report.

In addition to the submissions received by Council against the proposal, a petition was received in support of the proposal. The petition was signed by a total of 65 people, and reads "...I support Kevin Gilligan's application to the Cairns Regional Council for a Commercial Microlight Air Field. I believe it adds to the diversity of business in the area and is at the heart of adventure tourism. Those of us who have flown with Kevin think it is a great experience that showcases the local area in a very positive light".

Support for the proposal is noted, although the grounds of the petition are not viewed to be relevant planning grounds in the case of this application.

REFERRAL AGENCY COMMENT:

The application triggered the Department of Transport and Main Roads (DTMR) as a Concurrence Agency, and the Department of Environment and Resource Management (DERM) as an Advice Agency.

DTMR conditions of approval require access and signage to be located along the Bonnie Doon Road frontage only. No additional access or signage is allowed along the Captain Cook Highway frontage.

DERM recommendations include ensuring that there is no loss of wetland habitat and adverse impacts on the functioning and integrity of a wetland from development are avoided. DERM advice also includes maintaining wetland water quality and wetland water regime, and a buffer distance of 200m from the edge of the wetland. Referral Agency comment/conditions are attached at Appendix 2 of this report.

INFRASTRUCTURE CHARGES:

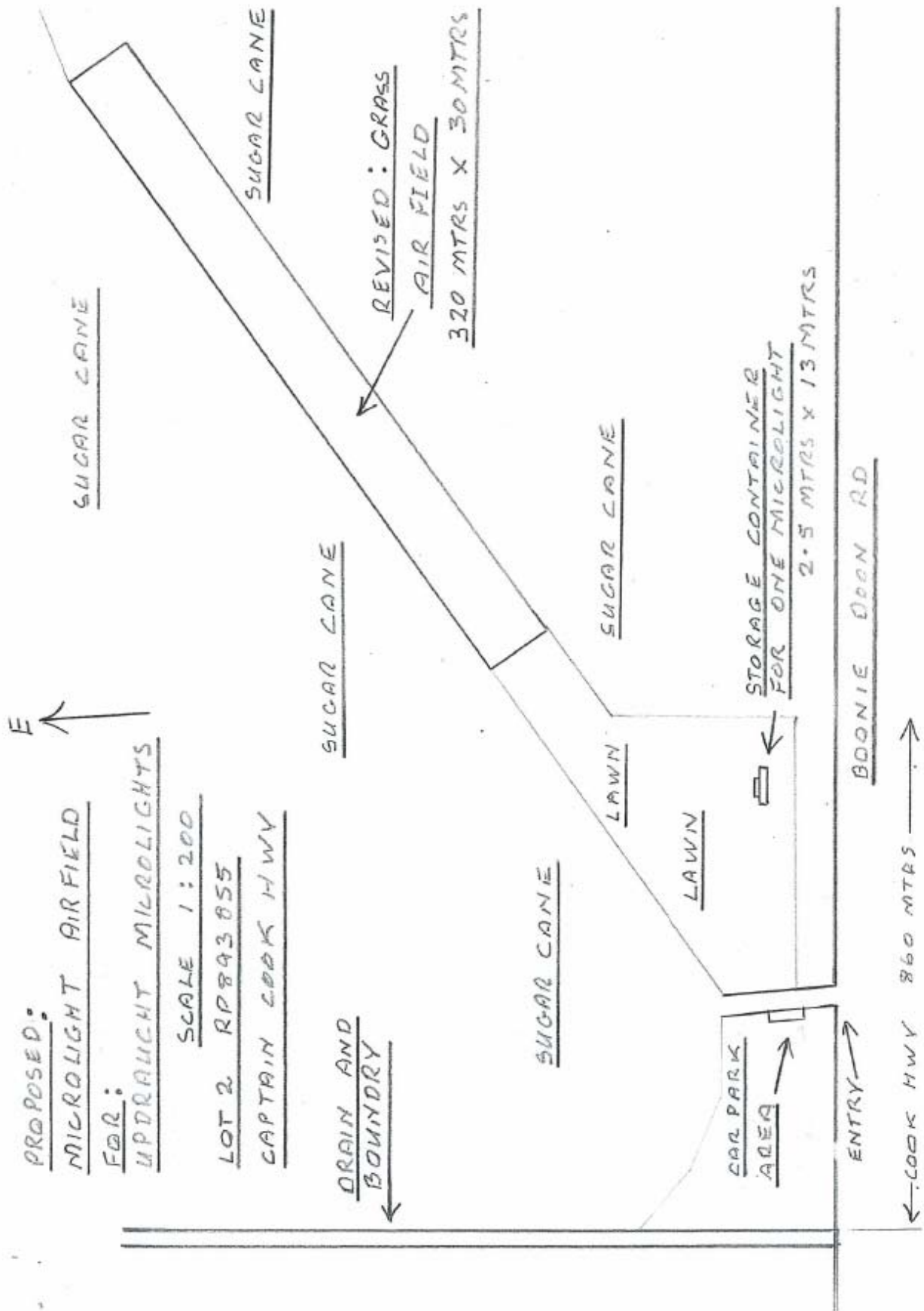
The proposed development does not trigger Developer's Headwork's Contributions.

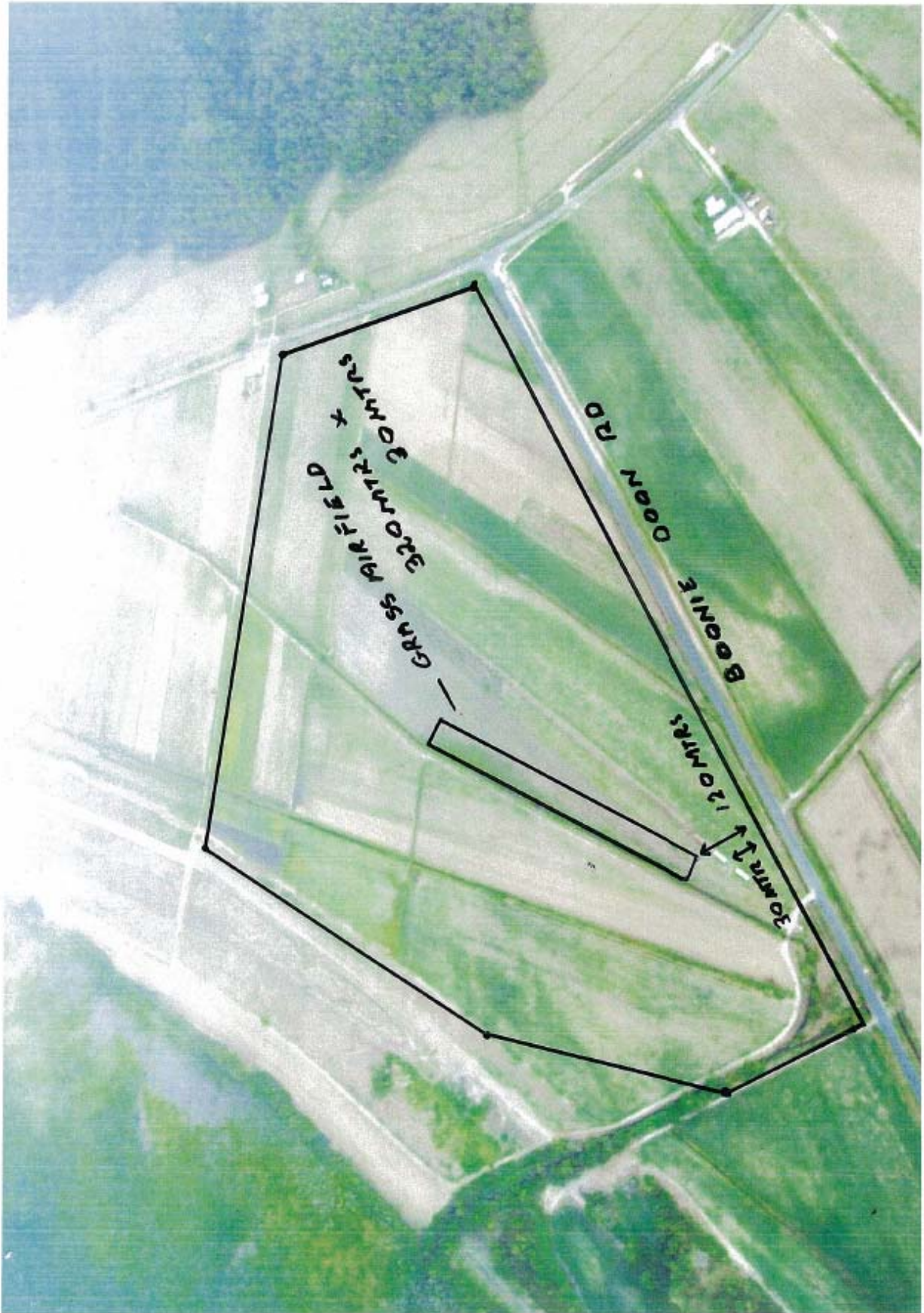
Michelle Henderson
Planning Officer

Action Officer

Kelly Reaston
Manager Development Assessment

APPENDIX 1 APPROVED PLAN(S) & DOCUMENT(S)





APPENDIX 2 CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS



Council Ref: 8/8/1205

30 September 2011

Chief Executive Officer
Cairns Regional Council
PO Box 359
Cairns Qld 4870



Attention: Ms Michelle Henderson

Dear Ms Henderson

Referral Agency Response — s. 287 of the Sustainable Planning Act 2009 (Qld)

Applicant: Updraft Microflights & Hang Gliders

Application: Material Change of Use – Aircraft Landing Facility

Location: Lot 2 on RP893855, Parish of Victory
Captain Cook Highway, Killaloe

I refer to the above application received at the Department of Transport & Main Roads (TMR) on 22 September 2011 requesting consideration of the above development.

Pursuant to section 287 of the *Sustainable Planning Act 2009 (Qld)*, the Department, as a Concurrence Agency, has assessed the impact of the proposed development on the state-controlled road network and requires that Council include the attached conditions of development for the subject application.

Should you have any queries regarding the response please contact Steven Zelenika on 4050 5511.

Council is requested to reflect the conditions on its Rates Record, to ensure that the planning intentions of the conditions are secured.

The Department would appreciate a copy of Council's decision notice regarding the application.

A copy of this letter has been sent to the applicant.

Yours sincerely

Steven Zelenika
A/Senior Planner (PD&O) Far North

Department of Transport and Main Roads
Program Delivery & Operations
Far North Region / Cairns Office
Floor 5 Cairns Corporate Tower
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ABN 39 407 690 291

Enquiries Steven Zelenika
Our Ref #: 214/20A/102 (1484.01)
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**Conditions of Development and Statement of Reasons
Concurrence Agency Response – Development impacting on a state-controlled road**

Council Ref: 8/8/1205 **Date:** 30 September 2011 **Our Ref:** 214/20A/102 (1484.01)
State-controlled road: Captain Cook Highway (Cairns – Mossman)
Proposal: Material Change of Use – Aircraft Landing Facilities
Real property description: Lot 2 on RP893855
Site locality: Captain Cook Highway, Killaloe
Applicant: Upgrade Microflights and Hang Gliders

Conditions of Development	Reasons	Condition Basis
1. Permitted Road Access Location a) Vehicular access between the state-controlled road (Captain Cook Highway) and the Subject Land shall be via Bonnie Doon Road. b) No additional direct vehicular access between the state-controlled road (Captain Cook Highway) and the Subject Land is permitted.	TMR must ensure that access to the Subject Land does not adversely impact the safe and efficient operation of the state-controlled road	s. 62 Transport Infrastructure Act 1994 (Qld)
2. Advertising No advertising device for the proposed development is permitted within the state-controlled road reserve (Captain Cook Highway).	Advertising devices may obscure signage and distract motorists.	s. 50 Transport Infrastructure Act 1994 (Qld)

Advice:**Aviation**

The applicant is responsible for obtaining any necessary approvals, permits and/or licences from Air Services Australia, Civil Aviation Safety Authority (CASA) and any other relevant authority for the proposed development.

Appeals

Section 482 of the *Sustainable Planning Act 2009* requires that an appellant give notice of an appeal to a referral agency in certain circumstances. Where notice of an appeal is required to be given to the Department of Transport and Main Roads that notice may be given by any of the methods mentioned below:

By prepaid mail:

Planning Legislation Unit
 Integrated Transport Planning
 The Department of Transport and Main Roads
 GPO Box 213
 Brisbane Qld 4001

By email:

TMRAppeals@tmr.qld.gov.au

In person:

Level 3
 Terrica Place
 140 Creek Street
 Brisbane Qld 4000

Department of Environment
and Resource Management



Notice

Advise Agency Response - Referable Wetland

This notice is issued by the Department of Environment and Resource Management pursuant to section 292 (advice agency response) of the Sustainable Planning Act 2009 ("the Act").

Cairns Regional Council
PO Box 359
CAIRNS QLD 4870

cc. Updraught Microflights and Hang Gliders
21 Hartley Street
WANGETTI QLD 4877

Attn: Michelle Henderson

Attn: Kevin Gilligan

Project reference: 375133
DERM Permit Number: SPAR03075711

Application Details

Assessment Manager Reference: 8/8/1205 (3302219) ATTN: Michelle Henderson

Date properly referred to DERM: 28 September 2011

Development approval applied for: Development permit

Aspect of development: Material Change of Use, other than for a domestic housing activity, if any part of the land is situated in a wetland management area
Sustainable Planning Regulation 2009 - Schedule 7, Table 3, Item 21

Development description: Material Change of Use – xxxx

Property/Location description: Captain Cook Highway, KILLALOE (Lot 2 on RP893855)

Recommendation

The Chief Executive, Department of Environment and Resource Management (DERM), makes the following recommendation to the assessment manager:

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Wetland:

The Assessment Manager should consider the potential impacts of the proposed development on wetland values, including the water quality, natural hydrological flows and ecological functioning of the wetland. Development should meet the following outcomes:

- **Maintain ecological values of the wetland.** There is no loss of wetland habitat and adverse impacts on the functioning and integrity of a wetland from development are avoided. A report prepared and certified by an appropriately qualified professional may assist the Assessment Manager to consider the impacts of the development on the ecological values and functioning of the wetland. If adverse impacts are unavoidable, the Assessment Manager is encouraged to ensure that the values lost are offset in order to achieve an environmental outcome equal or better than the wetland values that are impacted.

Where a wetland management area is mapped as a 'significant coastal wetland' under a *Regional Coastal Management Plan* it should be assessed against the policy for areas of state significance (natural resources). An Implementation Guideline should be consulted:

http://www.derm.qld.gov.au/services_resources/item_details.php?item_id=202304&topic_id=54.

For areas where a regional coastal management plan does not exist, where the wetland management area is also defined as a 'significant coastal wetland' under the *State Coastal Management Plan – Queensland's Coastal Policy 2001 (SCMP)*, any approval is consistent with SCMP policy 2.8.1, Areas of state significance (natural resources).

- **Maintain wetland water quality.** The water quality of any waters in and linked to the wetland is maintained and managed to protect the environmental values of the wetland, and to ensure that the water quality objectives listed under Schedule 1 of the *Environmental Protection (Water) Policy 2009* are achieved.
- **Maintain wetland water regime.** The existing water regime (including surface and groundwater) within and linked to the wetland is maintained and managed to protect existing natural hydrological processes within the wetland ecosystem. This includes safeguarding natural fluctuations in size and location of the wetland, and retaining and allowing for regeneration of native vegetation.

To ensure that the proposed development is able to meet the above outcomes, the Assessment Manager is encouraged to consider the requirement for a buffer area between any proposed works and the wetland. A wetland buffer has two components:

- a support area adjacent to the wetland that maintains and supports the environmental values of the wetland; and
- a separation area around the support area that protects the wetland from external threats such as sediment and nutrient discharge from surrounding landuse.

Buffer distances should be maximised in order to maintain existing biodiversity values, habitat connectivity and to minimise edge effects. Unless otherwise determined by a suitably qualified professional, the following buffer widths are accepted by DERM as precautionary buffer widths likely to absorb impacts from external uses.

- within urban areas, a minimum 50m buffer to wetland
- outside of urban areas a minimum 200m buffer to wetland
- for 'significant coastal wetlands', a buffer width of 200m to wetland

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Where required, revegetation of the buffer is recommended using native species representative of the pre-clearing regional ecosystem, with preference given to endemic species. Plants should be of local provenance where possible. A rehabilitation/ revegetation management plan including weed management strategies may assist in determining the rehabilitation requirements for the development. Conditioning of any approval with building or development envelope(s) may also be a useful way to give formal effect to any required buffer area.

The Assessment Manager should consider requiring applicants to provide a Stormwater Management Plan to demonstrate how stormwater, sediment and other run-off from the site (associated with the construction and operational phases of development) will be effectively managed to prevent adverse impacts on wetland values. Potential impacts are to be addressed through water sensitive urban design including compliance with *South East Queensland Regional Plan 2009-2031 Implementation Guideline No. 7: Water sensitive urban design – design objectives for urban stormwater management*. For areas outside of the South-east Queensland Regional Plan area any approval should recognise the requirements of the *Draft Urban Stormwater – Queensland Best Practice Environmental Management Guidelines 2009*¹.

General information for assessment managers

The State's Native Title Work Procedures provide that responsibility for assessment of native title issues for an IDAS application rests with the assessment manager. Therefore, DERM as a referral agency for the relevant application has not provided notification to native title parties.

Additional information for applicants

It is a requirement of the *Environmental Protection Act 1994* that if an owner or occupier of land becomes aware of a Notifiable Activity (as defined in Schedule 3 and Schedule 4 of the *Environmental Protection Act 1994*) being carried out on the land, or that the land has been, or is being, contaminated by a hazardous contaminant, the owner or occupier must, within 22 business days after becoming so aware, give written notice to the Department of Environment and Resource Management.

Aboriginal Cultural Heritage

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"). Maximum penalties for breaching the duty of care are \$1,000,000 for a corporation and \$100,000 for an individual.

Applicants will comply with the duty of care in relation to Aboriginal cultural heritage if they are acting in accordance with cultural heritage duty of care guidelines gazetted under the *Aboriginal Cultural Heritage Act 2003*, available on the DERM website, or in accordance with an agreement with the Aboriginal party for the area or a cultural heritage management plan approved under part 7 of the *Aboriginal Cultural Heritage Act 2003*.

Applicants are also encouraged to undertake a search of the Aboriginal Cultural Heritage Database and the Aboriginal Cultural Heritage Register, administered by the Cultural Heritage Coordination Unit, DERM. Application forms to undertake a free search of the Cultural Heritage Register and the Database may be

¹ The Draft Urban Stormwater – Queensland Best Practice Environmental Management Guidelines 2009, is available at: http://www.derm.qld.gov.au/environmental_management/water/environmental_values_environmental_protection_water_policy/draft_urban_stormwater_qbpm_guideline_2009.html

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obtained by contacting the Cultural Heritage Coordination Unit on (07) 3239 3647 or on the DERM website www.derm.qld.gov.au/cultural_heritage

Should you have any questions about the above, please contact Glenn Laanekorb on telephone 1300 130 372, quoting the above reference number.

Bleak

Delegate

Bernadette Carter

Delegate for the Chief Executive administering the
Coastal Protection and Management Act 1995,
Environmental Protection Act 1994,
Nature Conservation Act 1992.
Department of Environment and
Resource Management

Enquiries:

Glenn Laanekorb
Department of Environment and
Resource Management
Permit and Licence Management
Address: GPO Box 2454 BRISBANE QLD 4001
Telephone: 1300 130 372
Facsimile: 07 3896 3342
Email: palm@derm.qld.gov.au

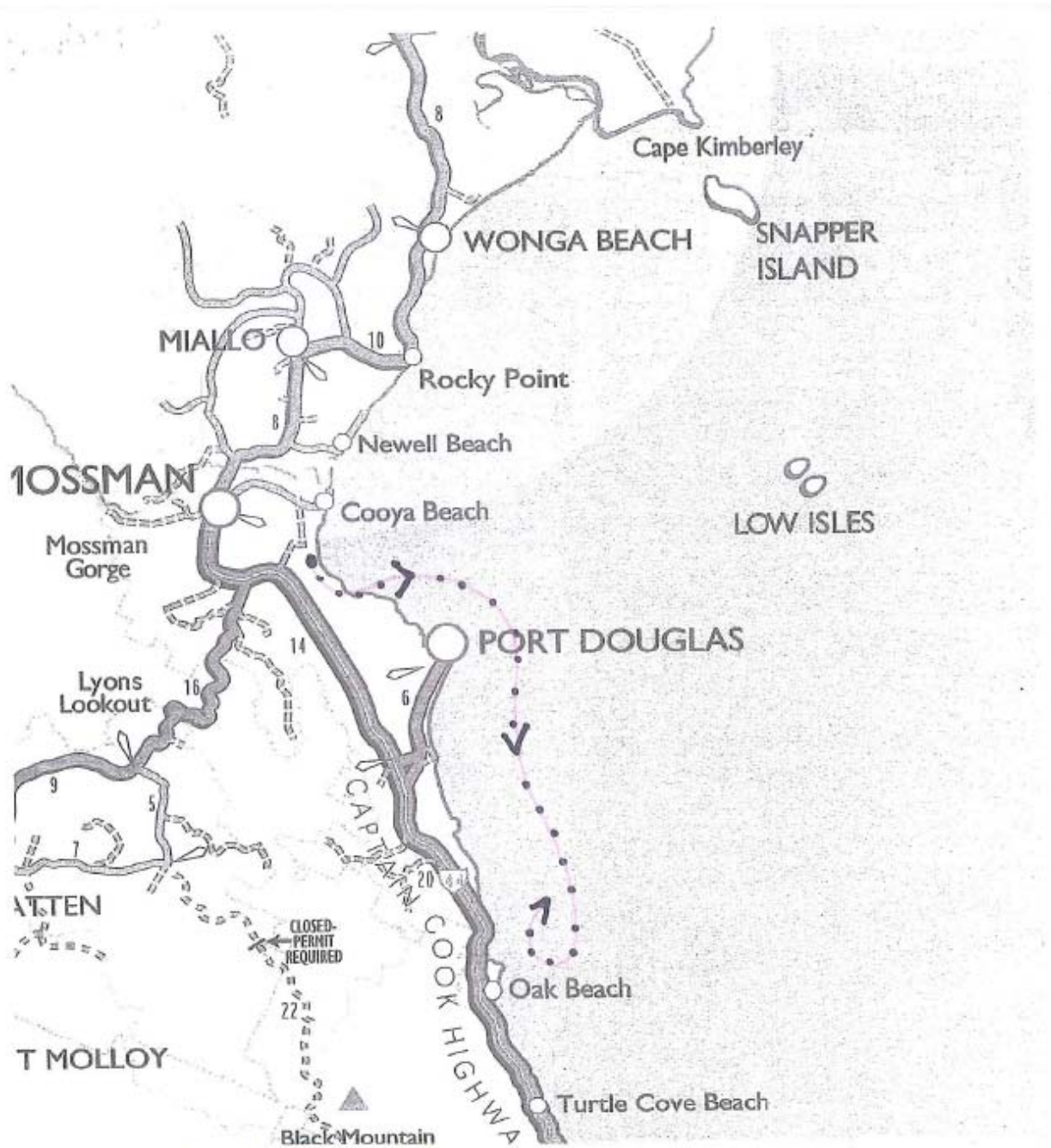
5 October 2011

APPENDIX 3 SUPPORTING INFORMATION TO PLANNING REPORT

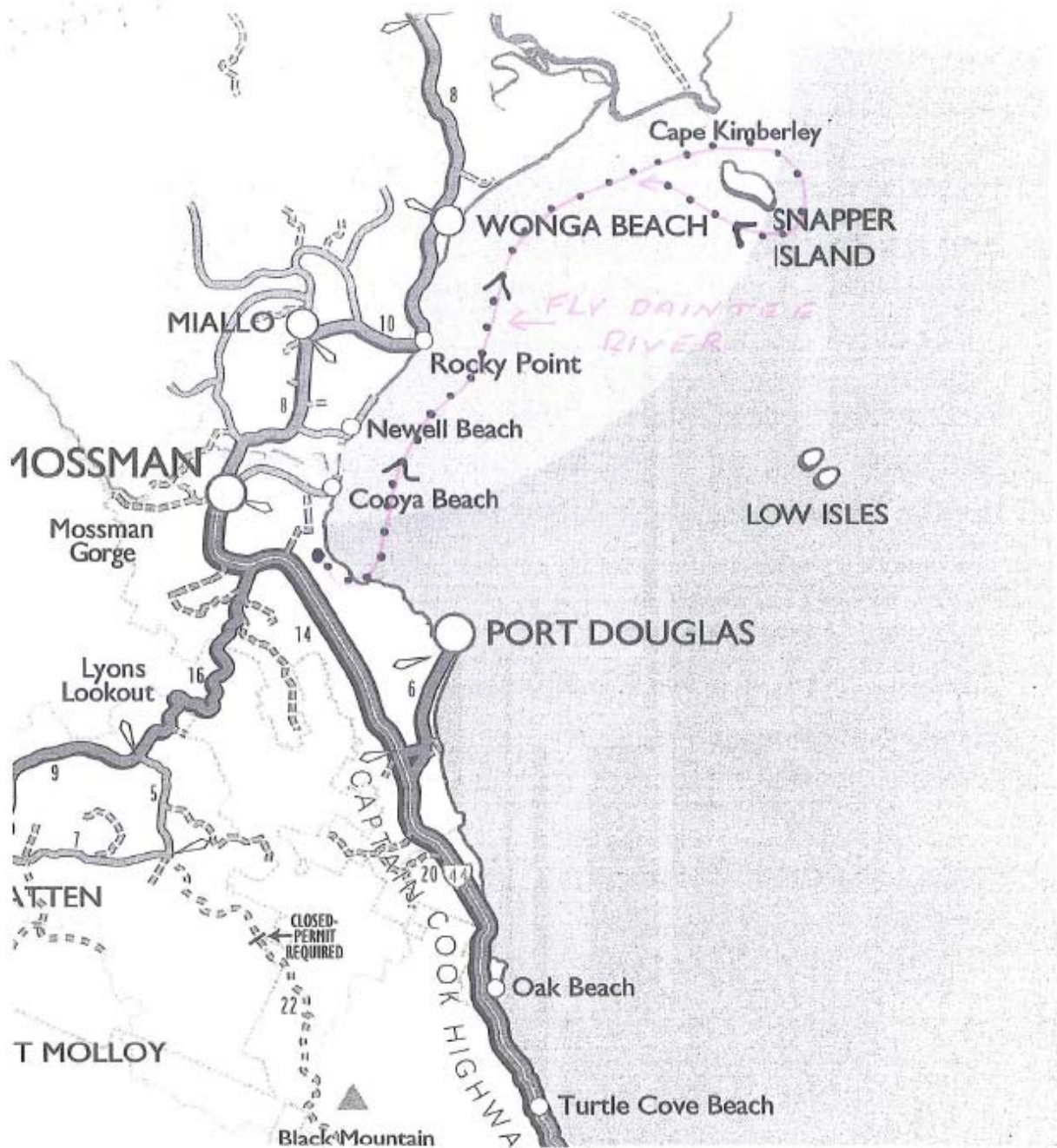
Aerial Photo Illustrating Distances from Site to Cooya (2km) and Mossman (3.3km)



Plans of Flight Paths



Fly Port Douglas
 Depart The Air Field Into The S-East
 Heading For Muddy Creek And
 Climbing To 1500' Then Head East
 Paralleling The Coast 1 Km Out To Sea
 Bound For Yule Point Return.



Fly Daintree River

Depart The Air Field Into The S. East
 Heading For Muddy Creek, Climbing To
 1500'. Then Head For Daintree River
 And Snapper Island Fly 1 Klm Out To
 Sea Parallel To The Coast.

RC pipe / RCBC under access where required, refer project drawings for size, length and grade.

Existing shoulder level to be maintained.

Edge of gravel

Edge of shoulder

Table drain Invert

Divert table drain to pipe centreline both sides.

Property Boundary

150mm gravel minimum CBR 60 compacted to 98% RCD in accordance with AS 1288 unless otherwise approved by Council. (Refer Note 6).

Precast concrete headwall (Refer Note 7).

Flow

Width 5.0m Single access
Width 5.0m Double access

10m mark

Extent of Seal

Unless otherwise approved, all accesses onto sealed roads shall have 300mm A.C. or 2 coat bitumen seal extending from the road edge to the property boundary.

Edge of shoulder

Edge of gravel

Table drain Invert

Divert table drain to pipe centreline both sides.

Property Boundary

150mm gravel minimum CBR 60 compacted to 98% RCD in accordance with AS 1288 unless otherwise approved by Council. (Refer Note 6).

Precast concrete headwall (Refer Note 7).

Flow

Width 5.0m Single access
Width 5.0m Double access

Denotes guide posts.

DISCLAIMER
No other drawings are intended to be relied upon for the design of any structure or works shown on this drawing. The design is based on the information provided and is not a guarantee of performance. The user of this drawing is responsible for ensuring that the design is suitable for the intended use and for obtaining all necessary approvals.

NOTES

1. Minimum length of culvert shall be 4.0m for single access, 7.0m for double access.
2. Minimum pipe size shall be 20375. Minimum RCBC to be 300mm high.
3. Minimum RC pipe / RCBC gradient shall be 1:100.
4. Where cover to RC pipes is less than 200mm pipe shall have 100mm concrete surround.
5. Drainage from accesses must not flow over the through road. All stormwater runoff shall be directed to the table drain.
6. Where grade is steeper than 6% the culvert seal shall extend from the road edge to the property boundary unless otherwise approved.
7. Precast sloping headwalls shall be used when:
 - a) the through road has a signposted speed of 60km/hr or greater.
 - b) the through road has a signposted speed of 80km/hr and the offset distance from the table drain to the culvert is less than 4.5m.
8. Concrete shall be grade N55 in accordance with AS 1379 and AS 3600.
9. All dimensions are in metres.

ALLOTMENT ACCESS OFF SEALED ROAD

ALLOTMENT ACCESS OFF UNSEALED ROAD

RURAL ALLOTMENT ACCESSES

Standard Drawing S1105

A B C