

Cloncurry Shire Council

38-46 Daintree Street
PO Box 3
Cloncurry QLD 4824
ABN: 76 581 540 914



Telephone: (07) 4742 4100
Facsimile: (07) 4742 1712
Email: council@cloncurry.qld.gov.au
Website: www.cloncurry.qld.gov.au

Our ref: IE:LT – TP11/21

20 August 2021

Joanne Green
Cloncurry Shire Council
PO Box 3
CLONCURRY QLD 4824
Email: council@cloncurry.qld.gov.au

Dear Joanne

DECISION NOTICE – DEVELOPMENT APPLICATION FOR DEVELOPMENT PERMIT FOR RECONFIGURING A LOT AT THE CLONCURRY AIRPORT, CLONCURRY DESCRIBED AS LOT 36 ON RP884323 APPROVAL (WITH CONDITIONS)
(Given under section 63 of the *Planning Act 2016*)

The development application described below was properly made to the Cloncurry Shire Council on 17 August 2021

Applicant details

Applicant name:	Cloncurry Shire Council
Applicant contact details:	Joanne Green PO Box 3 CLONCURRY QLD 4824

Application details

Application number:	TP11/21
Approval sought:	Development Permit
Nature of development proposed:	Reconfiguring a Lot
Details of proposed development:	Creation of three new lots
Category of assessment:	Code Assessment

Location details

Street address:	Sir Hudson Fysh Drive, Cloncurry
Real property description:	Lot 36 on RP884323
Local government area:	Cloncurry Shire Council

Decision

Date of decision:	17 August 2021
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Decision details:

- 12.1 Planning & Development – Development Application for Development Permit for Reconfiguring a lot at the Cloncurry Airport, Cloncurry described as Lot 36 on RP884323

Moved: Cr V. Campbell	Seconded: Cr Bidgood
That Development Application TP11/21 for the Reconfiguring of a lot to create three (3) additional lots at the Cloncurry Airport, Sir Hudson Fysh Drive, Cloncurry, described as Lot 36 on RP 884323, be approved, subject to relevant and reasonable conditions set out in Attachment 2.	
CARRIED: 21.210817	

Details of the approval

Development permit: Reconfiguring a Lot (Creation of three new lots)

Conditions

This approval is subject to the conditions in Attachment 1.

Properly made submissions

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

Rights of appeal

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

A copy of the relevant appeal provisions is attached.

Currency period for the approval

This development approval will lapse at the end of the period set out in section 85 of *Planning Act 2016*: This approval lapses if a plan for the reconfiguration that, under the *Land Title Act 1994*, is required to be given to a local government for approval is not given within 4 years of the date this approval takes effect.

Approved plans and specifications

Copies of the following plans are enclosed.

Drawing/report title	Prepared by	Date	Reference no.	Version /issue
Copy of Survey Plan	Brazier Motti Pty Ltd		SP327293	

For further information please contact Larinda Turrell, Council's Senior Town Planner, on 4742 4100 or via email, council@cloncurry.qld.gov.au who will be pleased to assist.

Yours faithfully

A handwritten signature in black ink, appearing to read 'P. Keirle', with a stylized flourish at the end.

Phillip Keirle
Chief Executive Officer

Encl: Attachment 1—Assessment manager conditions
Attachment 2 – Statement of Reasons
Attachment 3 - Appeal provisions
Attachment 4 - Approved plans and specifications

ATTACHMENT 1 – CONDITIONS OF APPROVAL

NATURE OF DECISION				
<p>A This approval is subject to the following conditions, the facts set out in the application and all relevant Council provisions of the <i>Cloncurry Shire Planning Scheme 2016</i> and <i>Schedule 12</i> of the <i>Planning Regulation 2017</i>.</p>				
GENERAL				
<p>1. Site Layout The development must generally comply with the approved proposal plans and design drawings as referenced in the table below, which forms part of this application, except as otherwise specified by any condition of this approval.</p>				
Title	Plan Number	Rev no	Date	Prepared by
Survey Plan	SP327293		26.05.21	Brazier Motti Pty Ltd
<p>2. Compliance with conditions (a) All conditions must be complied with prior to the commencement of the use, unless specified in an individual condition. (b) The conditions of this development approval are to be read in conjunction with the approved plans /drawings/ documents at all times. Where a conflict occurs between the conditions of this approval and the approved plans / documents, the conditions of this development approval shall prevail.</p>				
<p>3. Building works This Development Approval does not include an assessment of building work against the requirements of the <i>Building Act 1975</i> and does not permit building work to occur unless, prior to the commencement of any building work, a Development Permit to carry out assessable building work under the <i>Building Act 1975</i> has been issued.</p>				
<p>4. Plan of survey A Plan of Survey prepared by an appropriately qualified person (surveyor), is to be submitted for approval by Council prior to lodgement with the Registrar of Titles at the Department of Natural Resources, Mines and Energy.</p>				
<p>5. Stormwater Drainage Stormwater discharging from the site is to be directed to a lawful point of discharge to the satisfaction of Council.</p>				
<p>6. Water Supply Each lot must be connected to Council's reticulated water supply network in accordance with the <i>Water Reticulation Code of Australia WSA03.1999</i>. i. Connection to Council's reticulated water system must be carried out at the developer's expense.</p>				
<p>7. Sewerage Each lot must be connected to Council's reticulated wastewater supply network in accordance with the <i>Sewerage Code of Australia WSA02-2002</i>. i. Connection to Council's reticulated sewerage system must be carried out at the developer's expense.</p>				
<p>18. Electricity and Telecommunications Supply (a) Each lot must be provided with connection to the reticulated electricity supply network so as to achieve compliance with Schedule 2 of the Planning Scheme – Construction Standards for Infrastructure Works. (b) Each lot must be provided with connection to the telecommunications network where available so as to achieve compliance with Schedule 2 of the Planning Scheme – Construction Standards for Infrastructure Works.</p>				
ADVICE – Please note that these are not conditions				
<p>A. The Applicant is responsible for securing all necessary approvals, permits and tenure, providing statutory notifications and complying with all relevant laws. Nothing in this development approval alleviates the need for the Applicant to comply with all relevant Local, State and Commonwealth laws and to ensure appropriate tenure arrangements have been made where the use of/reliance upon land other</p>				

than that owned by the Applicant is involved. Without limiting this obligation, the Applicant is responsible for:

- (a) Obtaining all other/further necessary approvals, licences, permits, resource entitlements etc by whatever name called (this may include further development approvals under the “*Planning Act 2016*” and the planning scheme) required by law before the development the subject of this approval can be lawfully commenced and to carry out the activity for its duration;
- (b) Providing any notifications required by law (by way of example only, to notify the administering authority pursuant to the “*Environmental Protection Act 1994*” of environmental harm being caused/threatened by the activity, and upon becoming aware the premises is being used for a ‘notifiable activity’); and
- (c) Ensuring the correct siting of structures on the land. An identification survey demonstrating correct siting and setbacks of structures may be requested of the Applicant to ensure compliance with this decision notice and applicable codes.

B. Indigenous Cultural Heritage Legislation and Duty of Care Requirement

The “*Aboriginal Cultural Heritage Act 2003*” (ACHA) establishes a duty of care to take **all** reasonable and practicable measures to ensure any activity does not harm Aboriginal cultural heritage. This duty of care:

- (a) Is not negated by the issuing of this development approval;
- (b) Applies on all land and water, including freehold land;
- (c) Lies with the person or entity conducting an activity; and
- (d) If breached, is subject to criminal offence penalties.

Those proposing an activity involving surface disturbance beyond that which has already occurred at the proposed site must observe this duty of care. Details of how to fulfil this duty of care are outlined in the duty of care guidelines gazetted with the ACHA. The Applicant should contact NRW’s Cultural Heritage Coordination Unit on (07) 3238 3838 for further information on the responsibilities of developers under the ACHA.

C. Limitation of Approval

The Council and its officers make no representations and provide no warranties as to the accuracy of the information contained in the development application including its supporting material provided to it by the Applicant.

The Council and its officers rely upon the applicant concerning the accuracy and completeness of the application and its supporting material and accepts the development application and supporting material as constituting a representation by the applicant as to its accuracy and completeness.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

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

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

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

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
 - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Other appeals

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

ATTACHMENT 3 – STATEMENT OF REASONS

STATEMENT OF REASONS – TP11/21

NOTICE ABOUT DECISION - STATEMENT OF REASONS

The following information is provided in accordance with section 63(5) of *the Planning Act 2016*

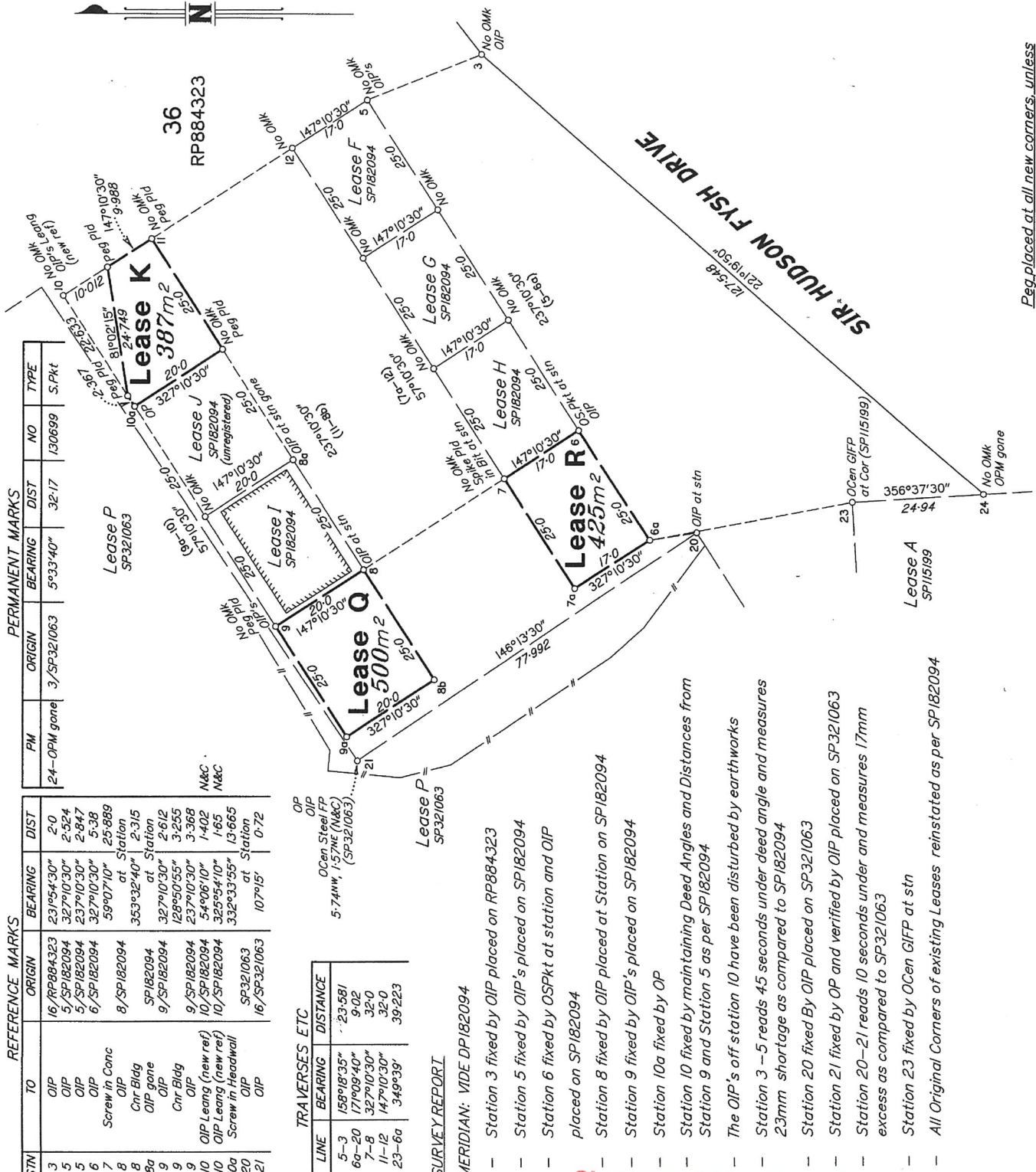
Details of the Development

The proposed development is for a Reconfiguring a Lot (create three (3) additional lots) at the Cloncurry Airport, Sir Hudson Fysh Drive, described as Lot 36 on RP884323.

On 17 August 2021, the above development application was approved in full with conditions.

Reason for the decision

The development application has demonstrated compliance with all of the relevant benchmarks of *Schedule 12 of the Planning Regulation 2017* and the purpose of the Community facility zone of the *Cloncurry Shire Planning Scheme 2016* as prescribed by the *Planning Regulation 2017*.



PERMANENT MARKS

PM	ORIGIN	BEARING	DIST	NO	TYPE
24-OPM gone	3/SP321063	5°33'40"	32.17	130699	S.Pkt

REFERENCE MARKS

STN	TO	ORIGIN	BEARING	DIST
3	OIP	16/PP884323	231°54'30"	2.0
5	OIP	5/SP182094	327°10'30"	2.524
6	OIP	5/SP182094	237°10'30"	2.847
7	OIP	6/SP182094	327°10'30"	5.38
8	Screw in Conc	8/SP182094	59°07'10"	25.889
8a	OIP	SP182094	353°32'40"	2.315
9	OIP	9/SP182094	327°10'30"	2.612
9	OIP	9/SP182094	128°50'55"	3.255
10	OIP Leang (new ref)	9/SP182094	237°10'30"	3.368
10	OIP Leang (new ref)	10/SP182094	54°06'10"	1.402
10a	Screw in Headwall	10/SP182094	325°54'10"	1.65
20	OIP	SP321063	332°33'55"	13.665
21	OIP	16/SP321063	107°15'	0.72

TRAVERSES ETC

LINE	BEARING	DISTANCE
5-3	158°18'35"	23.581
6a-20	171°09'40"	9.02
7-8	327°10'30"	32.0
11-12	147°10'30"	32.0
23-8a	349°39'	39.223

SURVEY REPORT

- MERIDIAN: VIDE DP182094
- Station 3 fixed by OIP placed on RP884323
 - Station 5 fixed by OIP's placed on SP182094
 - Station 6 fixed by OSPkt at station and OIP placed on SP182094
 - Station 8 fixed by OIP placed at Station on SP182094
 - Station 9 fixed by OIP's placed on SP182094
 - Station 10a fixed by OP
 - Station 10 fixed by maintaining Deed Angles and Distances from Station 9 and Station 5 as per SP182094
 - The OIP's off station 10 have been disturbed by earthworks
 - Station 3 -5 reads 45 seconds under deed angle and measures 23mm shortage as compared to SP182094
 - Station 20 fixed By OIP placed on SP321063
 - Station 21 fixed by OP and verified by OIP placed on SP321063
 - Station 20-21 reads 10 seconds under and measures 17mm excess as compared to SP321063
 - Station 23 fixed by OCen GIFF at stn
 - All Original Corners of existing Leases reinstated as per SP182094

BRAZIER MOTTI PTY LTD (ACN 066 411 041) hereby certify that the land comprised in this plan was surveyed by the corporation, by Jason Trevor Walter HARCH, Surveying Associate, for whose work the corporation accepts responsibility, under the supervision of Patrick John MADDEN, Cadastral Surveyor, and that the plan is accurate, that the said survey was performed in accordance with the Survey and Mapping Infrastructure Act 2003 and Surveyors Act 2003 and associated Regulations and Standards and that the said survey was completed on 17th March, 2021.



Director
Date 26.3.21

0m 37.5m 50mm 75mm 100mm 112.5m 150mm State copyright reserved.

Approved Date: 17 AUG 2021

Cloncurry Shire Council
Town Planning
Approved with Conditions

TP 11/21
Plan of Leases K, Q & R
in Lot 36 on RP884323

Scale: 1:750

Format: STANDARD



LOCAL CLONCURRY SHIRE
GOVERNMENT: COUNCIL LOCALITY: CLONCURRY

Meridian: MGA (Zone 54) Vide SP182094 Survey Records: No

Req. placed at all new corners, unless otherwise stated.

42715/001 WCH O

**WARNING : Folded or Mutilated Plans will not be accepted.
Plans may be rolled.
Information may not be placed in the outer margins.**

(Dealing No.)

4. Lodged by

(Include address, phone number, email, reference, and Lodger Code)

i. Existing		Created		
Title Reference	Description	New Lots	Road	Secondary Interests
50065708	Lot 36 on RP884323			Leases K, Q & R

Leases K, Q & R do not affect Leases / Sub Leases
 701477671
 703689460 (Lease A on SP115199)
 709275506 (Lease E on SP182094)
 709275523 (Lease G on SP182094)
 709282578 (Lease H on SP182094)
 709567436 (Lease L on SP182094)
 712786651 (Leases C & D on SP182094)
 712793476 (Lease F on SP182094)
 713661067 (Lease I on SP182094)
 715919980 (Lease M on SP223911)
 720480025 (Lease P on SP321063)

Cloncurry Shire Council
 Town Planning
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 TP 11/21

6. Building Format Plans only.
 I certify that :
 * As far as it is practical to determine, no part of the building shown on this plan encroaches onto adjoining lots or road;
 * Part of the building shown on this plan encroaches onto adjoining * lots and road

.....
 Cadastral Surveyor/Director* Date
 *delete words not required


7. Lodgement Fees :

Survey Deposit	\$
Lodgement	\$
.....New Titles	\$
Photocopy	\$
Postage	\$
TOTAL	\$

Lots	Orig

2. Orig Grant Allocation :

3. References :
 Dept File :
 Local Govt :
 Surveyor : 42715/001-01 - 42715_001A.dwg - WCHO - 03/2021

5. Passed & Endorsed :
 By: BRAZIER MOTTI PTY LTD
 Date: 20/8/21
 Signed: 
 Designation: Liaison Officer

8. Insert Plan Number
SP327293

OHCW 1001/51424