

Cloncurry Shire Council

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Our ref: IE:LT - TP01/22

21 February 2022

Dashellarra Discretionary Trust, Rhinoshell Pty Ltd,
Richard & Michelle Ryan - Dajarra Hotel
C/ Gilvear Planning Pty Ltd
PO Box 228
BABINDA QLD 4861
Email: kristy@gilvearplanning.com.au

Dear Sir/Madam

**DECISION NOTICE – DEVELOPMENT APPLICATION FOR MATERIAL CHANGE OF USE –
NON-RESIDENTIAL WORKFORCE ACCOMMODATION – 21 MATHESON STREET (LOT 38
ON MPH13988), DAJARRA.**

(Given under section 63 of the *Planning Act 2016*)

The development application described below was properly made to the Cloncurry Shire Council
15 February 2022.

Applicant details

Applicant name: Dashellarra Discretionary Trust, Rhinoshell Pty Ltd,
Richard & Michelle Ryan - Dajarra Hotel
Applicant contact details: C/ Gilvear Planning Pty Ltd
PO Box 228
BABINDA QLD 4861

Application details

Application number: TP01/22
Approval sought: Development Permit
Nature of development proposed: Material Change of Use
Description of the development proposed: Non-residential workforce accommodation
Category of assessment: Code Assessment

Location details

Street address: 21 Matheson Street, Dajarra
Real property description: Lot 38 on MPH13988
Local government area: Cloncurry Shire

Decision

Date of decision: 15 February 2022

15.2 Planning & Development – Development Application for Development Permit for a Material Change of Use for Non-residential Workforce Accommodation – 21 Matheson Street, on Lot 38 on MPH13988, Dajarra

Moved: Cr Daniels

Seconded: Cr V. Campbell

That Development Application TP01/22 for a Material Change of Use for Non-residential workforce accommodation 21 Matheson Street (Lot 38 on MPH13988), Dajarra be approved subject to relevant and reasonable conditions, as set out in Attachment 2.

CARRIED: 23.220215

6/0

Details of the approval

Development permit: Material Change of Use – Non-residential workforce Accommodation

Conditions

This approval is subject to the conditions in Attachment 1.

Properly made submissions

There were no properly made submissions for this application.

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 provision is attached.

Currency period for the approval

This development approval will lapse unless substantially started at the end of the period set out in section 85 of *Planning Act 2016* which is 6 years after this approval starts to take effect.

Approved plans and specifications

Table 1 Supporting documentation/reports

Title	Plan Number	Rev no	Date	Prepared by
Planning Report			03.02.2022	Gilvear Planning
Proposed Plan				SCD - Southern Cross Design and Drafting

Should you have any questions or concerns in respect of this matter please contact Council's Senior Town Planner, Larinda Turrell, at this office.

Yours faithfully



Philip Keirle
Chief Executive Officer

Enc: Attachment 1—Conditions of the approval
Attachment 2—Extract on appeal rights
Attachment 3 – Statement of Reasons
Attachment 4 - Approved Proposed Plan

ATTACHMENT 1 – CONDITIONS OF APPROVAL

NATURE OF DECISION				
A Cloncurry Shire Council issues a development permit for Development application - Reference TP01/22 Material Change of Use for Non-residential workforce accommodation under the <i>Planning Act 2016</i> .				
GENERAL				
1. Site Layout				
The development must generally comply with the approved proposal plans as referenced in the table below, which forms part of this application, except as otherwise specified by any condition of this approval.				
Title	Plan Number	Rev no.	Date	Prepared by
Proposed Plan				
2. Compliance with conditions				
All conditions must be complied with prior to the commencement of the use, unless specified in an individual condition.				
3. Site Plan				
Before the commencement of works, a site plan is to be lodged with Council showing the following information:				
<ul style="list-style-type: none"> (i) the location and site area of the land to which the application relates; (ii) the north point; (iii) the boundaries of the relevant land; (iv) any road frontages of the relevant land, including the name of the road; (v) the location and use of any existing or proposed buildings or structures on the relevant land (note: where extensive demolition or new buildings are proposed, two separate plans – an existing site plan and a proposed site plan – may be appropriate); (vi) any existing or proposed easements on the relevant land and their function; (vii) the location and use of buildings on land adjoining the relevant land; (viii) all vehicle access points and any existing or proposed car parking areas on the relevant land (car parking spaces for persons with disabilities and any service vehicle access and parking should be clearly marked); (ix) for any new building on the relevant land, the location of refuse storage; (x) the location of any proposed retaining walls on the relevant land and their height; (xi) the location of any proposed landscaping on the relevant land; and (xii) the location of any stormwater detention on the relevant land. 				
4. Landscaping				
<ul style="list-style-type: none"> (a) A landscaping plan is to be submitted providing details of all proposed landscaping on the site, including adjacent to the vehicular entry and carparking areas. Such landscaping plan is to be approved by Council's delegated officer prior to the commencement of the use (b) When lodging the landscaping plan for approval, the number of carparking spaces must be indicated on this plan. All carparking bays shall be maintained for the life of the development. 				
5. Access				
<ul style="list-style-type: none"> (a) Two new driveway crossovers are to be installed on Matheson Street. (b) Driveways shall be constructed to a standard as defined on IPWEA Standard drawing RS-049 and RS-050. (c) The applicant/owner is required to apply for a "Undertake Regulated Activities on Local Government Controlled Areas and Roads". (d) The two driveway crossovers are to be used one for entry only and the other for exit only movements. (e) The crossovers are to be clearly marked with Entry and Exit signages. 				

<p>(f) All vehicles entering and exiting the site must do so in a forward motion.</p> <p>(g) All loading and unloading associated with the approved use must occur wholly within the subject site.</p> <p>(h) Any new driveway crossovers must comply with regulations and permits in relation to works on Council property.</p>
<p>6. Internal Access and Carparking</p> <p>(a) All driveways, parking and manoeuvring areas are to be located within the property boundary of Lot 38 on MPH13988.</p> <p>(b) All driveways, parking and maneuvering areas are to be appropriately maintained to the satisfaction of Council to ensure there is no nuisance to adjoining land uses or damage to public roads or infrastructure. A program of regular inspection and maintenance is to be undertaken by the applicant/site operator.</p> <p>(c) On site access will be restricted to the highest design vehicle with such vehicles being capable of entering and exiting the site in forward gear at all times.</p> <p>(d) All staff and/or personal vehicles must utilise the identified car parking area.</p> <p>(e) The proposed development will ensure that there is no conflict on site between the movement of the design vehicle with the largest turning circle and other vehicles utilised by customers/staff to the site.</p>
<p>7. Service Vehicles</p> <p>No loading or unloading is permitted from the street.</p>
<p>8. Waste Management</p> <p>A screened waste storage area in the vicinity of a hose cock for cleaning proposes for general waste and regulated waste are to be provided within the site at accessible locations to allow for collection and removal to approved facilities.</p>
<p>9. Stormwater Drainage</p> <p>(a) Stormwater runoff from the site is to be collected internally and directed to a lawful point of discharge.</p> <p>(b) Overland flow paths on the site must not be altered in a way that inhibits or alters the characteristics of existing overland flows on other properties/infrastructure/buildings or that creates an increase in flood damage on other properties/infrastructure/buildings and should have a 'no worsening' effect.</p>
<p>10. Sewer</p> <p>A separate plumbing and drainage application and approval is required from Council in accordance with the <i>Plumbing and Drainage Act 2002</i>.</p>
<p>11. Water</p> <p>(a) Any upgrade or additional equipment required to address pressure issues shall be at the applicant/owner's cost.</p> <p>(b) Any works on existing Council water mains (including new service connections) shall be undertaken by Council at the applicant/owner's expense.</p>
<p>12. Works on Council Property</p> <p>Any disturbance or damage to Council's infrastructure including, but not limited to, water services, sewer services, stormwater infrastructure, footpath, road pavement including road furnishings or to other public assets (electricity, telecommunications etc.) is to be reinstated by the applicant to Council's satisfaction at the applicant/owner's expense.</p>
<p>13. Noise Management</p> <p>Appropriate noise mitigation measures shall be put in place to contain and manage noise levels so as not to give rise to unacceptable effects on nearby sensitive receiving land uses.</p>
<p>14. Dust Management</p> <p>During construction and operation of the approved use, the operator is to put in place appropriate mitigation measures for the suppression of dust, so as not to cause a nuisance.</p>

<p>15. Lighting Any lighting is to be designed, installed and maintained in accordance with the requirement of AS4282-1997 "Control of the Obtrusive Effects of Outdoor Lighting".</p>
<p>16. 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>17. Decision notice and approved plans to be submitted with subsequent applications. A copy of this decision notice and any accompanying stamped approved plans must be submitted with building or plumbing applications relating to or arising from this development approval.</p>
<p>18. Further development permits Please be advised that the following development permits are required to be obtained before the development can be carried out:</p> <ul style="list-style-type: none"> • All building work • All plumbing works • Driveway crossover and access
<p>19. Fencing Security fencing, suitable to prevent unauthorised persons entering the site, is to be installed and maintained around the perimeter of the proposed work area during construction.</p>
<p>20. Works during construction</p> <ol style="list-style-type: none"> (a) Unless otherwise approved in writing by the assessment manager, hours of construction must not exceed 8.00 am to 6.00pm (Monday to Saturday). (b) Unless otherwise approved in writing by an authorised council officer, work must not be conducted from or on the premises outside the above hours or on Sundays or public holidays.
<p>ADVICE – Please note that these are not conditions</p>
<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 than that owned by the Applicant is involved. Without limiting this obligation, the Applicant is responsible for:</p> <ol style="list-style-type: none"> (a) Obtaining all other/further necessary approvals, licences, permits, resource entitlements etc by whatever name called (this may include further development approvals under the "<i>Planning Act 2016</i>" 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 "<i>Environmental Protection Act 1994</i>" 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.
<p>B. Indigenous Cultural Heritage Legislation and Duty of Care Requirement The "<i>Aboriginal Cultural Heritage Act 2003</i>" (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:</p>

- (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 Cultural Heritage Coordinator North Region Unit on (07) 4796 7862 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 – TP01/22

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 application seeking a development permit for a Material Change of Use (Rural workers accommodation) at 21 Matheson Street also known as Lot 38 on MPH13988, Dajarra.

On 15 February 2022, the above development application was approved in full, with conditions.

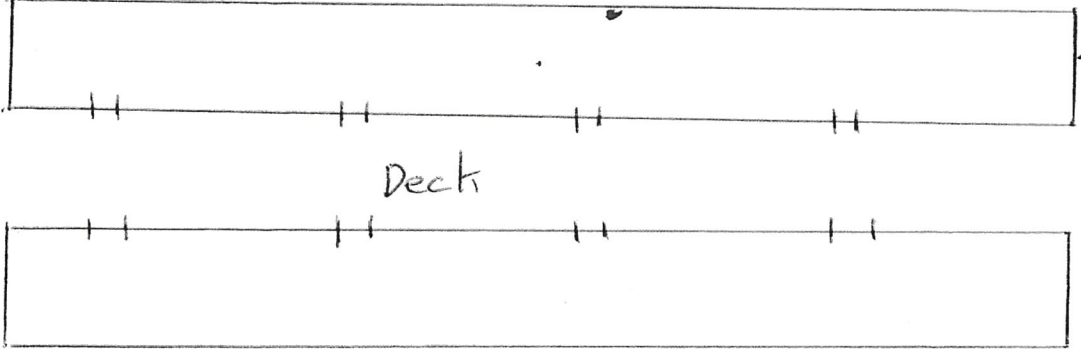
Reasons for the decision

A detailed assessment of the application by Council assessing officers has been undertaken and it is concluded as documented in this Development Assessment Report that the applicant has satisfactorily demonstrated compliance with the applicable benchmarks of the relevant planning scheme codes to enable Council to support the proposed development in granting its approval, subject to reasonable and relevant conditions being imposed.

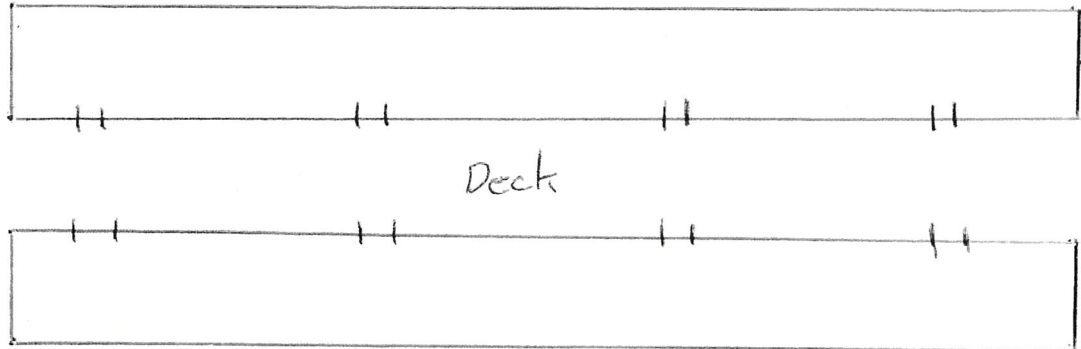
Fence Lot 26

Laundry

3m
6m

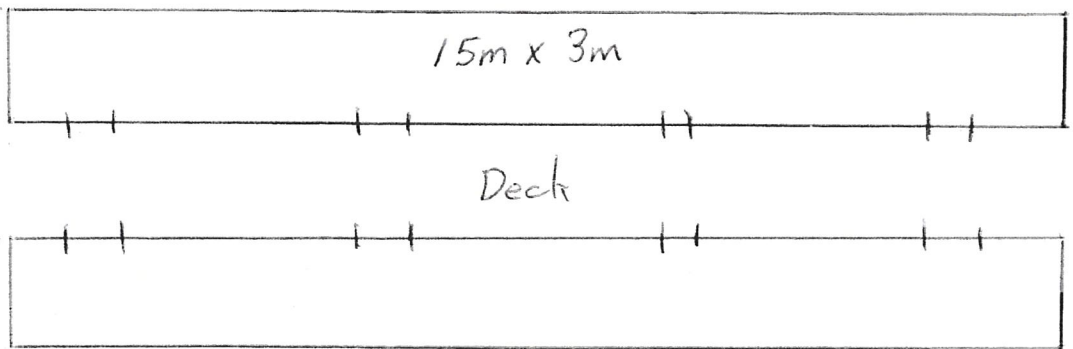


Deck



15m x 3m

Deck



3m
3m
TYP

20m x 4m
extra Parking
space

36m
14m

Car

Car

Car

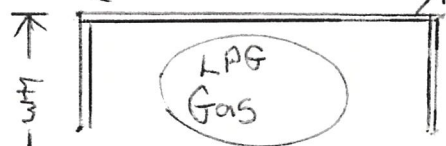
Car

Cloncurry Shire Council
Town Planning
Approved with Conditions
Approved Date: 15 FEB 2022

Bus

N
↓

TP 01/22
5m



entry

Matherson Street. Fence

exit