

PLANNING & ENVIRONMENT COMMITTEE	3
9 AUGUST 2023	

COMBINED APPLICATION FOR MATERIAL CHANGE OF USE FOR MARINE INDUSTRY AND ENVIRONMENTALLY RELEVANT ACTIVITY (ERA) 49: BOAT MAINTENANCE OR REPAIR, OPERATIONAL WORK FOR PRESCRIBED TIDAL WORK – BOAT RAMP AND ENVIRONMENTAL AUTHORITY FOR ERA 49 – 69R LEE YAN ROAD, ESPLANADE AND LAND BELOW HIGH WATER MARK ADJACENT TO 69R LEE YAN ROAD, EAST TRINITY – DIVISION 1

8/30/345 | #7195295

PROPOSAL:

DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE FOR MARINE INDUSTRY AND ENVIRONMENTALLY RELEVANT ACTIVITY (ERA) 49 BOAT MAINTENANCE AND REPAIR, OPERATIONAL WORK FOR PRESCRIBED TIDAL WORK - BOAT RAMP AND ENVIRONMENTAL AUTHORITY FOR ERA 49

LANDOWNER:

B A MUMBY & J C MUMBY

APPLICANT:

J C MUMBY & B A MUMBY
C/- PLANNING PLUS
PO BOX 399
REDLYNCH QLD 4870

INTERESTED PARTIES:

PLANNING PLUS (QLD) PTY LTD
5KF
RPS AAP CONSULTING PTY LTD
SGS AUSTRALIA PTY LTD
MD LAND SURVEYS

Note: The identification of interested parties is provided on a best endeavours basis by Council Officers and may not be exhaustive.

LOCATION OF SITE:

69R LEE YAN ROAD, ESPLANADE AND LAND BELOW HIGH WATER MARK ADJACENT TO 69R LEE YAN ROAD, EAST TRINITY

PROPERTY:

LOT 56 ON NR2045

ZONE:

RURAL

PLANNING SCHEME: CAIRNSPLAN 2016 V2.1

REFERRAL AGENCIES: STATE ASSESSMENT AND REFERRAL AGENCY

NUMBER OF SUBMITTERS: TWO (2) PROPERLY MADE SUBMISSIONS

STATUTORY ASSESSMENT DEADLINE: ENDED

APPLICATION DATE: 30 APRIL 2021

DIVISION: 1

APPENDIX:

1. APPROVED PLAN(S) & DOCUMENT(S)
2. NOTICE OF INTENTION TO COMMENCE THE USE
3. REFERRAL AGENCY CONDITIONS & REQUIREMENTS

LOCALITY PLANS:





RECOMMENDATION

That Council approves the Development Application seeking a Development Permit for a Material Change of Use for Marine Industry and Environmentally Relevant Activity (ERA) 49: Boat Maintenance or Repair, Operational Work (Prescribed Tidal Work) and approves the issue of an Environmental Authority for ERA 49: Boat Maintenance or Repair over land described as 69R Lee Yan Road, East Trinity, located at Lot 56 on NR2045, subject to the following:

PART A: MATERIAL CHANGE OF USE (MARINE INDUSTRY)

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

The term ‘approved drawing(s) and / or document(s)’ or other similar expressions means the drawings and documents identified in A, B and C below:

Drawing Document	or	Reference	Date
Site Layout Plan		Dwg. No. 016-2101-01-CI-DRG-0001 Revision A prepared by 5KF	9 Nov 2021

Assessment Manager Conditions

Lapse of approval

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse two (2) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Generally in Accordance

2. 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, including recommendations and findings confirmed within technical reports; and
 - 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

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

Notice of Intention to Commence Use

4. Prior to the Commencement of Use on the site, written notice must be given to Council that the development fully complies with this Development Permit. Please return the attached "*Notice of Intention to Commence Use*" form when the use has commenced (attached at Appendix 2).

Associated approvals

5. This development permit must be read in conjunction with:
 - a. PART C - Development Permit for Material Change of Use for Environmentally Relevant Activity (ERA) 49: Boat Maintenance or Repair;
 - b. PART D - Environmental Authority for ERA 49: Boat Maintenance or Repair; and
 - c. PART B - Development Permit for Operational Work (Prescribed Tidal Works) for Boat Ramp, Pontoon, Jetty and Revetment Wall.

Limitations of Use

6. **The owner/operator must have a current approval for ERA 49 Boat Maintenance or Repair, prior to Commencement of Use and at all times the use is being carried out on the land.**
7. **All access associated with the approved Marine Industry use, including customers, suppliers/deliveries and service providers must occur via Trinity Inlet only (i.e. via water). Access to the land for purposes associated with the approved use must not occur via Council's road network and Easements X and Z on SP121857 in Lot 36 on RP749582. Land based access is restricted to the residential use of the land only. The Integrated Environmental Management System (IEMS) report required by conditions of this approval must reflect these requirements and all persons or entities who access the land must be made aware of the access requirements for the site.**
8. **To prevent contamination of stormwater and tidal waters, all repairs and surface preparation activities, including scraping of hulls, sanding, abrasive blasting and painting, are to be conducted on the fully sealed surface at the top of the boat ramp, such that no part of any vessel being actively worked on extends beyond the sealed surface.**

Water Supply

9. **Water storage tank(s) with a minimum capacity not less than 30,000 litres must be installed prior to Commencement of Use. Such water tanks must be provided with:**
 - a. **Mosquito-proof screens of brass, copper, aluminium or stainless steel gauze not coarser than 1mm aperture mesh of substantial construction and installed in such manner as not to cause or accelerate corrosion; or**
 - b. **Flap valve at every opening of the tank or other receptacle; or**
 - c. **Other approved means for preventing the ingress or egress of mosquitoes; and**
 - d. **Where a tank or other receptacle is provided with a manhole, the manhole must have a diameter of no more than 40cm; and**
 - e. **The water tank(s) shall be fitted with a 50mm ball valve with a camlock fitting.**

The above works must be installed prior to Commencement of Use.

On-site Effluent Disposal

10. The method of on-site effluent disposal must be in accordance with the Plumbing and Drainage Act 2018. A wastewater consultant must be engaged in order to confirm the location of existing trenches. If the trenches are found to be located on adjoining land, trenches are to be relocated on to the subject site. Details of the wastewater treatment system must be approved by the Chief Executive Officer prior to Commencement of Use.

Refuse Storage

11. The development is to be serviced by a private waste collection contractor.

The refuse bin enclosure is to be in accordance with Council requirements and designed to accommodate bulk bins. Brochures on these requirements – ‘Requirements for Refuse Storage’ are available from Cairns Regional Council. The refuse bin enclosure is to be roofed and bunded and fitted with a bucket trap.

Integrated Environmental Management System (IEMS)

12. All relevant site management information must be documented in a single Integrated Environmental Management System (IEMS) report. The IEMS must include, but is not limited to the Site Based Management Plan (SBMP), Site Based Stormwater Management Plan (SBSMP) and SBSMP Implementation Plan for the management of all activities authorised under this approval and the associated environmental authority for ERA 49 Boat Maintenance or Repair. The IEMS must identify all sources of potential or actual environmental harm, including but not limited to the actual and potential release of all contaminants, the potential impact of these sources, each environmental receptor that could be impacted; and what actions will be taken to prevent the likelihood of environmental harm being caused. The IEMS must:
- a. Identify control measures that minimise the potential for environmental harm;
 - b. Detail operational procedures for all activities authorised under this approval;
 - c. Detail corrective actions, mitigation measures and ameliorants;
 - d. Detail emergency plans and procedures, including but not limited to flood emergency management, procedures and preparedness;
 - e. Detail incident management procedures; and
 - f. Document appropriate record keeping procedures.

The IEMS must be prepared by a suitably qualified and experienced person and must be prepared/collated to the satisfaction of the Chief Executive Officer of Cairns Regional Council. The IEMS must be provided for Council endorsement within four (4) months of this approval taking effect.

Acid Sulfate Soils

13. In the event that acid sulfate soils are encountered, the applicant is to ensure the site is managed in accordance with requirements of the Queensland Acid Sulfate Technical Manual. In addition, an ASS/PASS Management Plan prepared by a suitably qualified professional is to be submitted to Council within seven (7) days, should site excavations identify the presence of acid sulphate soils.

Lawful Point of Discharge

14. All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream, in accordance with the *Queensland Urban Drainage Manual, Fourth Edition (2016)*.

Concentration of Stormwater

15. The proposed development must not create ponding nuisances and/or a concentration of stormwater flows to adjoining properties.

Drainage

16. All water from the washdown area must be directed to an appropriate oil/water separator and solids trap before being released.

Erosion and Sediment Control

17. The management and control of Stormwater, Erosion and Sediment must be undertaken in accordance with the Stormwater Management Plan and the Site Based Management Plan. Erosion and sediment control measures are to be installed prior to the commencement of earthworks.

Boundary Treatments

18. Prior to the Commencement of Use, construct a chain wire, weldmesh or similar permeable weather resistant boundary fence with a minimum height of 1.8m along all boundaries of the site that are common with adjoining Lot 36 on RP749582, with the exception of the vehicle access. An identification survey is to be undertaken by an appropriately qualified Surveyor to accurately identify the location and extent of the relevant property boundaries prior to commencement of construction of the fence.

Flood Levels

19. All new electrical fixtures, including any on the lower levels of the Dwelling House on site, are to be located at a level above the 1% AEP storm surge extent.
20. Storage of all fuel, chemicals and hazardous substances must be within the Shed and above the storm tide line (3.15m AHD).

PART B: OPERATIONAL WORK - PRESCRIBED TIDAL WORK

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 Layout Plan	Dwg. No. 016-2101-01-CI-DRG-0001 Revision A prepared by 5KF	9 Nov 2021

Assessment Manager Conditions

Lapse of approval

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse two (2) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Generally in Accordance

2. 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

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

General

4. **This Development Permit for Operational Works (Prescribed Tidal Work) covers the installation of a boat ramp as shown in the approved plans. All works not explicitly covered by this approval must be covered by a separate Development Permit for Operational Works.**

Associated approvals

5. **This development permit must be read in conjunction with:**
 - a. **Part A – Material Change of Use for Marine Industry;**
 - b. **Part C – Material Change of Use for an ERA 49: Boat Maintenance or Repair; and**
 - b. **Part D – Environmental Authority associated with ERA 49: Boat Maintenance or Repair.**

Construction

6. **The applicant/owner must:**
 - a. **Ensure that construction of the works is carried out only by means of suitable plant and equipment and that measures are taken to limit turbidity in tidal waters as a result of the construction; and**
 - b. **Ensure that disturbance to the bed and banks of the waterway is kept to a minimum; and**
 - c. **Take all appropriate measures to minimise pollution of tidal waters as a result of silt runoff and discharge of other contaminants such as fuel, oil and hydraulic fluid to the waterway during construction of the works.**
 - d. **The developer shall be held responsible for any rectification works required to clean up dust, pollutants and sediments that may leave the site as a result of construction activities.**
 - e. **The developer or their representative shall be responsible for communicating with third parties affected by any dust, pollutants or sediment leaving the site as a result of any construction activity that is associated with the project site.**

7. All reasonable and practicable measures must be taken to prevent pollution entering existing creeks, waterways or drainage lines, as a result of silt run-off, oil and grease spills from any machinery. Wastewater as a result of cleaning equipment must not be discharged directly or in-directly to any watercourses, stormwater systems or private properties (in accordance with the requirements of the Environmental Protection Act (1994), the FNQROC Development Manual and Best Practice Erosion & Sediment Control – IECA Australasia, November 2008).

Acid Sulfate Soils

8. In the event that acid sulfate soils are encountered, the applicant is to ensure the site is managed in accordance with requirements of the Queensland Acid Sulfate Technical Manual and State Planning Policy SPP2/02. In addition, an ASS/PASS Management Plan is to be submitted to Council within seven (7) days, should site excavations identify the presence of acid sulphate soils.
9. Ensure acid sulfate soils are managed so that contaminants are not directly or indirectly released as a result of the construction activity to any waters or the bed and banks of any waters.
10. The use must not cause, or be likely to cause, environmental harm resulting from the release of contaminants, dust, noise or sediments from the site. Appropriate Erosion and Sediment Control (ESC) measures must be installed and maintained for the duration of the works or until all exposed areas have been fully stabilized.

Debris

11. The applicants/owner must remove any material deposited outside the alignment of the works shown on the approved plans, or any debris that falls or is deposited on the tidal lands or into tidal waters during construction of the works.
12. The bed and banks of the waterway must be clear of all debris for a minimum distance of 15 metres around the site of the works.

PART C: MATERIAL CHANGE OF USE FOR AN ENVIRONMENTALLY RELEVANT ACTIVITY (ERA) 49: BOAT MAINTENANCE AND REPAIR

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 Layout Plan	Dwg. No. 016-2101-01-CI-DRG-0001 Revision A prepared by 5KF	9 Nov 2021

Lapse of approval

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Generally in Accordance

2. 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, including recommendations and findings confirmed within technical reports; and
 - 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

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

Associated approvals

4. This development permit must be read in conjunction with:
 - a. Part A - Development Permit for Material Change of Use for Marine Industry;
 - b. Part B – Development Permit for Operational Work (Prescribed Tidal Works) for Boat Ramp, Pontoon, Jetty and Revetment Wall; and
 - c. PART D - Environmental Authority for ERA 49: Boat Maintenance or Repair.

PART D: ENVIRONMENTALLY RELEVANT ACTIVITY (ERA) 49 (BOAT MAINTENANCE OR REPAIR)

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 Layout Plan	Dwg. No. 016-2101-01-CI-DRG-0001 Revision A prepared by 5KF	9 Nov 2021

SCHEDULE A - GENERAL CONDITIONS

Financial Assurance

A1: The holder of the environmental authority must submit the required amount of financial assurance to the administering authority prior to carrying out any activities on the Licenced Place. If the activities that are being carried out by the holder of the environmental authority are altered so as to cause a change in the category of total area of disturbance, the holder of the environmental authority must submit an application to amend their financial assurance to the administering authority. If an application is lodged to transfer the environmental authority to another person or company, the proposed transferee must submit the required financial assurance prior to the transfer taking effect.

Note 1 – The Financial Assurance must be calculated in accordance with Guideline for Estimated Rehabilitation Cost under the *Environmental Protection Act 1994* and supporting Estimated Rehabilitation Cost Calculator published by the Department of Environment and Science.

Note 2 - Chapter 5, Part 12, Division 2 of the Environmental Protection Act 1994 requires that the holder of the environmental authority gives the administering authority a financial assurance in a form acceptable to the administering authority. When necessary, the holder of the environmental authority must submit an application to amend their financial assurance under section 302 of the Environmental Protection Act 1994. The holder of the environmental authority must lodge a single financial assurance with Cairns Regional Council. The financial assurance will consist of two components:

- a. An amount to cover the potential costs to Cairns Regional Council of rehabilitating areas disturbed by activities on the Licenced Place should the environmental authority holder failure to do so; and**

- b. **An amount to cover the potential costs to Cairns Regional Council of demolishing and removing for the purpose of rehabilitating disturbed areas or restoring property improvements disturbed by activities on the Licenced Place.**

Access to Copy of Environmental Authority

- A2. A copy of this licence must be kept in a location readily accessible to personnel carrying out the activity.**
- A3. The licensee shall ensure that any person(s) responsible for the carrying out of the environmentally relevant activities are familiar with the conditions of this licence as they relate to the person's responsibilities.**

Records

- A4. Any record or document required to be kept by a condition of this licence must be kept at the licensed place for a period of at least five (5) years and be available for examination by an authorised person.**
- A5. The licensee must keep a logbook of vessels which have boat maintenance or repair activities undertaken at the licensed place.**

The logbook must specify:

- a. **name and contact details of vessel owner; and**
- b. **name of vessel, location(s) and date(s) stored at the licensed place.**

Alterations

- A6. No change, replacement or operation of any plant or equipment is permitted if the change, replacement or operation of the plant or equipment increases, or is likely to substantially increase, the risk of environmental harm above that expressly provided by this environmental authority.**

An example of a substantial increase in the risk of environmental harm is an increase of 10% or more in the quantity of the contaminant to be released into the environment.

Integrated Environmental Management System (IEMS)

- A7. The licensee must:**
 - a. **Develop and implement an Integrated Environmental Management System which provides for the following functions:**
 - a. **monitor the releases of contaminants into the environment and an environmental assessment of the releases;**
 - b. **staff training and awareness of environmental issues;**
 - c. **the conduct of environmental and energy audits;**
 - d. **waste prevention, treatment and disposal;**

- e. a program for continuous improvement; and
 - f. reporting arrangements on the effectiveness of the environmental management of the activities.
- b. lodge a draft IEMS with Cairns Regional Council for review and comment;
 - c. have due regard to draft IEMS comments made by Council in the finalisation of the IEMS; and
 - d. have commenced implementation of the IEMS.
- A8. The licence holder must submit details of any amendment to the IEMS to the administering authority with the Annual Return which immediately follows the enactment of any such amendment.**
- A9. A copy of the IEMS must be kept in a location readily accessible to the personnel carrying out the environmentally relevant activity.**

SCHEDULE B - AIR DISCHARGE CONDITIONS

General

- B1. Thinners, paints including anti-fouling paints, solvents and other volatile substances utilised by the licensee in undertaking the licensed activity must be stored in sealed containers to prevent the discharge of volatile organic compounds to the atmosphere.**
- B2. The licensee must not carry out incineration or open burning.**

Abrasive Blasting

- B3. The licensee must ensure that abrasive blasting is not carried out at the licensed place unless all wastes generated, including blast agent and paint debris, are contained and collected for storage, treatment, recycling and/or disposal.**
- B4. The licensee must ensure that all abrasive blasting operations carried out at the licensed place are undertaken:**
- a. on a sealed surface, or using a containment system or structure which prevents abrasive wastes from entering stormwater or marine water;
 - b. in such a manner as to ensure no visible abrasive media or dust escapes from the licensed place;
 - c. in accordance with any handling recommendations from abrasive media manufacturers; and
 - d. by other methods which are approved in writing by Cairns Regional Council which prevent contamination of surrounding areas.

Spray Painting

- B5. The licensee must ensure that, where possible, the application of paint, including antifouling paint, is carried out using brushes or rollers.**

- B6. The licensee must ensure that any spray painting, including spraying of anti-fouling paint, is carried out:**
- a. using airless, air assisted airless and electrostatic spray guns for the application of antifouling paint below the waterline;
 - b. using high pressure, airless and air assisted airless spray guns for spray painting top sides and decks;
 - c. using a containment system or structure which prevents or minimises paint overspray and the escape of waste materials for the duration of the operation; and
 - d. in accordance with any handling recommendations from accredited paint manufacturers.

SCHEDULE C – STORMWATER MANAGEMENT

- C1. The licensee must ensure that uncontaminated stormwater is diverted away from waste bins or areas where spent abrasive media, oil, lubricants, thinners, paint (including anti-fouling paints) paint debris and contaminated or spent solvent are stored.**
- C2. The licensee must not allow any direct or indirect release of stormwater contaminated with spent abrasive, paint debris, paint (including anti-fouling paint), solvents or metals from the licensed place to the stormwater system or marine environment.**
- C3. The licensee must ensure that stormwater is not discharged to the sewerage system.**
- C4. The licensee must ensure that any spillage of potential contaminants including oil, paint (including anti-fouling paints) spent abrasive media and solvents are:**
- a. cleaned up promptly; and
 - b. cleaned up using an absorbent material; and
 - c. that the used absorbent material is isolated before disposal in a waste bin.
- C5. To prevent contamination of stormwater and tidal waters, the licensee must ensure that no potential contaminants, including paint debris, abrasive blasting waste, and other wastes generated from boat maintenance and repairing activities accumulate on or below the average high-water mark.**

Storage Area Bunding

- C6. The licensee must ensure that there is an area designated for the storage of potential contaminants (including oils, greases, fuels, acids, paints, thinners and cleaning solvents) as well as waste generated from undertaking the activities (including waste oil, spent abrasive media, thinners, paints (including anti-fouling paint), solvents and other volatile substances).**

- C7. The licensee must ensure that all designated storage areas as specified in condition number (C6) are:**
- a. contained within a secure, covered area away from through traffic;
 - b. bunded* in accordance with Australian Standard AS1940;
 - c. constructed and maintained to be impervious to the materials being stored within the bund; and
 - d. located in areas not susceptible to inundation from marine waters.

***NOTE: Tank storage – 110% of the capacity of the largest tank;**

Package storage – 100% of the capacity of the largest container plus 25% of the total storage volume.

Tank – Container having a capacity larger than 250 L.

Package – Container having a capacity of 250 L or less.

- C8. The licensee must have an adequate spill kit, including a supply of absorbent material in an accessible location, sufficient to contain all of the largest container of liquid not stored within a bunded area, in the event of a spillage of a potential contaminant at the licensed place.**
- C9. The licensee must ensure that contaminated stormwater captured within any bunded area is disposed of at premises whose operator is licensed under the Environmental Protection Act 1994 to receive such wastes.**
- C10. The licensee must ensure that all regulated wastes stored at the licensed place are transported to:**
- a. a waste disposal facility whose operator is licensed to receive and treat and / or dispose of regulated waste; and
 - b. such a facility by a licensed regulated waste transporter, where regulated waste exceeds 250 kg per load.

SCHEDULE D - WASTEWATER CONDITIONS

Vessel Surface Cleaning

- D1. Where practicable, marine organisms must be removed from vessels by scraping rather than high pressure water blasting.**
- D2. The licensee must ensure that wastewater pre-treatment works are installed at the licensed place to direct and pre-treat all Vessel washdown waste waters generated from the vessel washdown area to sewer for the duration of all vessel washdown operations.**
- D3. The licensee must ensure that all vessels maintained, repaired and/or stored at the licensed place are washed down only within the designated Vessel Washdown area.**

- D4. The licensee must ensure that the level of accumulated marine organisms, sediment and sludge collected within sewer pre-treatment units is monitored in accordance with a routine operating procedure.**
- D5. The licensee must ensure that the wastes specified in condition (D4) are removed from the licensed place by a licensed regulated waste transporter for disposal in accordance with a routine operating procedure in order to:**
- a. ensure that the pre-treatment unit is operating to its optimum design efficiency; and**
 - b. prevent overflow of wastes out of the unit.**
- D6. The licensee must ensure that waste waters discharged to sewer from the Vessel Washdown area are released in accordance with a trade waste agreement with Cairns Regional Council.**
- D7. Records of any trade waste agreement with Cairns Regional Council for discharge of wastes from the licensed places to sewers must be made available for inspection by an Authorised Person on request at any reasonable time.**
- D8. The licensee must carry out a program to advise all existing and new users of the Licenced Place that they must not release sewage, oils, chemical spirits, inflammable liquids and bilge wastes to any waters within/adjacent to the Licenced Place.**

SCHEDULE E – LAND MANAGEMENT

- E1. The licensee must ensure that engines and other metal parts with any residual oil or grease are stored undercover, on a sealed surface, in such a manner as to prevent oil, grease and other contaminants entering the soil.**

SCHEDULE F – NOISE MANAGEMENT

Emission of Noise

- F1. In the event of a complaint made to the administering authority (which is neither frivolous or vexatious) about noise generated in carrying out the environmentally relevant activity, and the noise is considered by the administering authority to be an unreasonable noise, the holder of this environmental authority must take steps to ensure that it is no longer an unreasonable noise.**

SCHEDULE G - WASTE MANAGEMENT

General

- G1. The licensee must not:**
- a. burn waste at or on any licensed place covered by this environmental authority unless otherwise authorised by this licence; nor**

- b. allow waste to burn or be burnt at or on any licensed place covered by this licence unless otherwise authorised by the administering authority; nor
- c. remove waste from any licensed place covered by this licence and burn such waste elsewhere except in accordance with the requirements of the Environmental Protection Act 1994.

Waste Storage

- G2. The licensee must ensure that waste oil collection receptacles and facilities are provided at the site.
- G3. The licensee must ensure that waste oil receptacles are emptied as often as is necessary to provide sufficient capacity for continued use.

Signage

- G4. The licensee must install and maintain adequate signs in prominent positions which will provide, at least, the following information:
 - a. advice that discharging wastes to Licenced Place waters is strictly prohibited; and
 - b. advice on the waste reception services available and their location; and
 - c. emergency procedures and/or contacts for the containment and 'clean-up' of spills.
- G5. The licensee must ensure that clearly labelled litter bins, fitted with hinged lids and placed in prominent positions are provided at the Licenced Place.
- G6. An area must be set aside for the segregation and storage of recyclable solid wastes.
- G7. Reasonable and practicable steps must be taken to ensure recyclable waste is not deposited in the general waste stream. Such steps may include the provision of receptacles and suitable signage.

Battery Storage

- G8. The licensee must ensure that waste batteries are stored in a covered area on the licensed place.

Spills

- G9. Spill equipment including but not limited to absorbent material must be maintained and stored on the licensed place.
- G10. Any spillage of wastes, contaminants or other materials must be cleaned up as quickly as practicable using the spill equipment. Spillages must not be cleaned up by hosing, sweeping or otherwise releasing such wastes, contaminants or material to any stormwater drainage system, roadside gutter or waters.

G11. The licensee must cause the absorbent materials used to clean up any spillage to be disposed of only at premises whose operator is licensed under the Environmental Protection

Off Site Movement of Regulated Wastes

G12. Where regulated waste is removed from the licensed place (other than by a release as permitted under another schedule of this licence), the licensee must monitor and keep records of the following:

- a. the date, quantity and type of waste removed;
- b. name of the waste transporter that removed the waste; and
- c. the intended treatment/disposal destination of the waste.

Note: Records of documents maintained in compliance with a waste tracking system established under the *Environmental Protection Act 1994* or any other law for regulated waste will be deemed to satisfy this condition.

G13. The licensee must ensure that disused oil, paint (including anti-fouling paints) and thinner drums are drained, sealed and stored in a covered area on a sealed surface prior to being:

- a. sent to a metal recycling agent; or
- b. returned to the drum supplier; or
- c. disposed of at a waste disposal facility whose operator is licensed in accordance with the Environmental Protection Act 1994.

G14. The licensee must ensure that any abrasive blasting waste and material generated from scraping of hulls and high pressure vessel washing, including paint and organic marine growth, are:

- a. isolated and collected as soon as practicable during or after generation of such waste in a covered and sealed area prior to disposal; and
- b. stored in such a manner which prevents stormwater contamination and dust nuisance; and
- c. transported by a licensed regulated waste transporter where regulated waste loads exceed 250 kg; and
- d. disposed of at a waste disposal facility whose operator is licensed to accept such waste; and
- e. records in relation to conditions G14 (c) and G14 (d) must be kept at the licensed place and provided to an Authorised Person upon request.

SCHEDULE H - MONITORING AND REPORTING

Complaint Recording

H1. All complaints received by the licensee relating to releases of contaminants from activities undertaken at the licensed place must be recorded and kept with the following details:

- a. time, date and nature of complaint;
- b. type of communication (telephone, letter, personal etc.);
- c. name, contact address and contact telephone number of complainant/s
(Note: If the complainant does not wish to be identified then “Not identified” is to be recorded);
- d. response and investigation undertaken as a result of the complaint;
- e. name of person responsible for investigating complaint; and
- f. action taken as a result of the complaint investigation and signature of responsible person.

Report Submission

H2. The licensee must ensure that any monitoring results generated through the implementation of the IEMS specified in condition number (A6) of this licence are submitted to Cairns Regional Council in accordance with the annual return requirements of the Environmental Protection Act 1994.

Notification of Emergencies and Incidents

H3. Where the licensee has not given notification to Council under section 37 of the Environmental Protection Act, as soon as practicable after becoming aware of any emergency or incident which results in the release of contaminants not in accordance, or reasonably expected to be not in accordance with the conditions of this licence, the licensee must advise Council of the release by telephone or facsimile or submission of a program notice in accordance with Section 101 of the Act.

H4. Where the licensee has not given notification to Council under section 37 of the Environmental Protection Act, the notification of emergencies or incidents as required by condition number (H3) must, unless a program notice in accordance with Section 101 of the Act is submitted, include but not be limited to the following:

- a. details of the Licensee;
- b. the location of the emergency or incident;
- c. the number of the environmental authority;
- d. the name and telephone number of the designated contact person;
- e. the time of the release;
- f. the time the holder of this environmental authority became aware of the release;
- g. the suspected cause of the release;
- h. the environmental harm and or environmental nuisance caused, threatened, or to be caused by the release; and

- i. actions taken to prevent any further release and mitigate any environmental harm and or environmental nuisance caused by the release.

H5. Where the licensee has not given notification to Council under section 37 of the Environmental Protection Act, not more than fourteen (14) days following the initial notification of an emergency or incident, the licensee must provide written advice of the information supplied in accordance with condition number (H4) in addition to:

- a. proposed actions to prevent a recurrence of the emergency or incident; and
- b. outcomes of actions taken at the time to prevent or minimise environmental harm and or environmental nuisance.

SCHEDULE I - DEFINITIONS

11. For the purposes of the licence, any term not otherwise defined in Schedule I of this licence has the meaning conferred to that term in the Act or in the absence of a meaning in the Act, has the meaning conferred to that term in its common use.

12. In the event of any inconsistency arising between the meaning of any term provided in Schedule I of this licence and the meaning in the Act or any common usage of that term, the meaning conferred in Schedule I will apply.

13. For the purposes of the licence the following definitions apply:

“Act” means the Environmental Protection Act 1994.

“application” means the application for transfer of an environmental authority in relation to the licensed activity received and dated 15 June 2018 (including any amendments to the application submitted by the licensee) and all plans specifications and information submitted with the application or provided to the Council in response to a request from the Council for additional information.

“authorised person” means a person appointed under the Act by the Chief Executive Officer of the Council.

“Administering Authority” means Cairns Regional Council and its successors.

“licensee” means Cairns Boat Yard.

“licensed activity” means the environmentally relevant activities to which this licence relates.

“licence conditions” means the conditions set out in Schedules A to I of this licence.

“licensed place” means 69R Lee Yan Road, East Trinity Qld 4871.

“personnel” means those persons or entities used by the licensee in carrying out the licensed activity, either directly or indirectly and includes without limitation employees, agents, contractors and sub-contractors.

FURTHER ADVICE

Planning Laws

1. Information relating to the *Planning Act 2016* (Qld), *Planning Regulation 2017* (Qld) and Development Assessment Rules is located on the Queensland Government’s planning website - <https://planning.statedevelopment.qld.gov.au>.

Definitions

2. All terms used in this development approval have those definitions as defined under the *Planning Act 2016* (Qld) and *Planning Regulation 2017* (Qld) (as at the date of the approval), Queensland Development Code and CairnsPlan 2016.

To the extent of any inconsistency, the order of precedence of the above instruments is as follows:

- a. *Planning Act 2016* (Qld);
- b. *Planning Regulation 2017* (Qld);
- c. Queensland Development Code;
- d. CairnsPlan 2016.

FNQROC Development Manual

3. Access to the *FNQROC Development Manual*, Local Laws, CairnsPlan 2016 and other referenced planning scheme policies are located on Council’s website – www.cairns.qld.gov.au.

Road Licence/Permit

4. The operator of the approved use, Environmentally Relevant Activity 49 and associated Environmental Authority must obtain and maintain a suitable form of tenure over the esplanade adjacent to the site.

Cyclone Watch Site Management

5. 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.

Building Work

6. This approval does not approve or authorise the construction of building work. A Development Permit for Building Work must be obtained in order for construction to commence.

Future Compliance

7. This approval does not negate the requirement for compliance of any future use with CairnsPlan 2016 or any future in force planning schemes, all other relevant Local Laws and other statutory requirements.

Weeds, Pest Animals and Ants

8. Biosecurity Queensland of the Department of Agriculture and Fisheries leads the Queensland Government's efforts to prevent, respond to and recover from pests and diseases threatening agricultural prosperity, the environment, social amenity and human health. All landscape materials, including but not limited to, soils, mulch, grass, gravel, potted or ground plants, pavers and timber used in landscape treatments must be free from weeds, pest animals and ants.

Yellow Crazy Ants

9. Yellow crazy ants are designated as invasive biosecurity matter under the *Biosecurity Act 2014* (Qld). All parties (whether landholders or not) are required to take all reasonable measures to prevent the movement of yellow crazy ants. This includes restrictions on the movement of any materials deemed to be infested with yellow crazy ants.

For further information contact the Department of Environment and Science – <https://www.daf.qld.gov.au/business-priorities/biosecurity/policy-legislation-regulation/biosecurity-act-2014/biosecurity-matter-report/restricted-matter>.

Environmental Nuisance

10. Construction or operational activities, including but not limited to, the operation of mechanical plant and equipment, must not cause an 'environmental nuisance' within the meaning of the *Environmental Protection Act 1994* (Qld) to any sensitive receptor as stated within Schedule 1 of the *Environmental Protection (Noise) Policy 2019* (Qld).

Noise from air-conditioning units, swimming and spa pool filters, service equipment or other mechanical equipment must not emanate from the subject land to a degree that would in the opinion of an Authorised Person (officer) of Council, create an environmental nuisance having regard to the provisions of Chapter 8 Part 3B of the *Environmental Protection Act 1994* (Qld).

Advice Statement for EPBC Act

11. 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).

Dust Nuisance

12. The Applicant is to ensure that all steps are taken to minimise the amount of dust emanating from the site and environs.

Noise

13. Noise levels from the site, must not emanate from the subject land to a degree that would create an environmental nuisance having regard to the provisions of Chapter 8 Part 3B of the Environmental Protection Act 1994.

Water Management Quantity/Quality

14. Water Contamination from the site, must not emanate from the subject land to a degree that would create an environmental nuisance having regard to the provisions of Chapter 8 Part 3C of the Environmental Protection Act 1994.

LAND USE DEFINITIONS*

In accordance with Schedule 24 of the *Planning Regulation 2017*, and CairnsPlan 2016 the approved land use of Marine Industry is defined as:

“Premises used for waterfront based marine industries involved in any activity relating to the manufacturing, storage, repair or servicing of vessels and maritime infrastructure. The use may include the provision of fuel and disposal of waste.”

*This definition is provided for convenience only. This Development Permit is limited to the specifications, facts and circumstances as set out in the application submitted to Council and is subject to the abovementioned conditions of approval and the requirements of Council’s Planning Scheme and the FNQROC Development Manual.

EXECUTIVE SUMMARY

Council is in receipt of a combined application over land located at 69R Lee Yan Road, Esplanade and land below high water mark and adjacent to 69R Lee Yan Road, East Trinity, and formally described as Lot 56 on RP2045. The application seeks the following:

- Development Permit for a Material Change of Use for Marine Industry;
- Development Permit for a Material Change of Use for an Environmentally Relevant Activity (ERA) 49: Boat Maintenance or Repair;
- Development Permit for Operational Work for Prescribed Tidal Work; and
- Environmental Authority (EA) for the ERA 49 Boat Maintenance or Repair.

The subject site is located within the Rural Zone of the CairnsPlan 2016v2.1. The site is affected by the following overlays: Acid Sulfate Soils, Airport Environs, Coastal Processes, Flood & Inundation Hazard, Hazardous and Explosive Facilities, Landscape Values and Natural Areas Overlays.

The Material Change of Use development application for Marine Industry is subject to Impact Assessment in accordance with Table 5.5.s – Rural zone of CairnsPlan 2016 V2.1, and the Operational Works for Prescribed Tidal Works triggers Code Assessment.

Schedule 10, Part 5 of the *Planning Regulation 2017* identifies that a Material Change of Use for an Environmentally Relevant Activity is assessable development if the activity is a 'Concurrence ERA'. The proposed ERA 49 is identified as a Concurrence ERA pursuant to Schedule 2 of the *Environmental Protection Regulation 2017*.

It is also noted that during the assessment of this application, CairnsPlan v2.1 became a superseded planning scheme on 26 October 2021 with the commencement of v3.0. Relevant consideration of the new planning scheme, now version 3.1 has been undertaken in this assessment.

Lot 56 on NR2045 covers an area of 5,514m² and is bounded to the west by Trinity Inlet and to the north, east and south by Lot 33 on RP749582. The site is generally flat and cleared of vegetation; and contains a Dwelling House and several sheds, as well as a boat ramp, rock revetment wall, jetty and pontoon within the road reserve/esplanade. Land-based access is provided to the subject site over the areas identified as Easements X and Y in Lot 36 on RP749582.

The development application was lodged as a result of Council compliance action, and seeks to legitimise the land use, including the replacement of the previous boat ramp with the current boat ramp, which has been significantly extended. The proposed use as shown in the proposal plans at Appendix 1, includes:

- Boat ramp, revetment wall, jetty and pontoon located in the northern portion of the adjoining esplanade;
- Boat ramp extends over the area of road reserve which is subject to a Road Permit;

- Wash-down bay;
- Office and residence are located in the southern portion of the site comprising a 2 storey structure;
- Outdoor boat storage area located along the south-western site boundary;
- Shed comprising an approximate area of 380m² is located in the northern portion of the site used for storage of machinery and hazardous substances and for general mechanical and fabrication work;
- Road access to the site is from the north over Easements X & Z on SP121857 via Lee Yan Road.

The subject site is accessible by road only for residential purposes; as such the application proposes that all customer, supplier and service provider access is to occur via Trinity Inlet.

The application was publicly notified by the Applicant. As a result of public notice of the application, two (2) properly made submissions were received. The submissions have been considered in this assessment.

The proposed development has been assessed in accordance with the legislative framework for Impact Assessment and Code Assessment under the *Planning Act 2016*, *Planning Regulation 2017*, *Environmental Protection Act 1994* and *Environmental Protection Regulation 2019*.

Officers consider that the proposed development, comprised of Marine Industry, ERA 49 (Boat Maintenance or Repair), the associated Environmental Authority for ERA 49 and Operational Works (Prescribed Tidal Work) is substantially compliant with the provisions of the relevant assessment benchmarks, including CairnsPlan 2016 v2.1, the State Planning Policy (SPP 2017), the Far North Queensland Regional Plan 2009-2031, Schedule 3 of the *Coastal Protection and Management Regulation 2017* and standard criteria under the *Environmental Protection Act 1994*. Further, it is considered that the non-compliances with the benchmarks are able to be managed via the imposition of reasonable and relevant Development conditions.

On balance, Officers recommend that Council, as the assessment manager, Approves the Development Application in full, subject to reasonable and relevant development conditions.

TOWN PLANNING CONSIDERATIONS

Background

Approvals were issued under Section 86 of the *Harbours Act 1955* for a boat ramp, rock wall, jetty and pontoon in 1980. Correspondence from the State listing coastal development approvals over the site, and a copy of the registered suitable operator decision are attached at Appendix 5.

It is understood that activities conducted on the land in the absence of approvals by prior owners include a combination of boat storage, boat maintenance, repair, dismantling, recycling and related activities.

Site and Surrounds

The subject site has an area of 5,514m² and contains existing buildings, landscaping, boat ramp and associated vehicle access, manoeuvring and parking areas. The portion of road reserve included in the proposal comprises an area of approximately 1,870m².

The site is generally flat and clear of vegetation and contains several sheds and a Dwelling House as well as a boat ramp, rock revetment wall, jetty and pontoon within the road reserve/esplanade.

The site is located approximately 70m south of a prawn farm. Access to the site is obtained via Trinity Inlet, and via Lee Yan Road and via Easements X and Z on SP121857 which burden Lot 36 on RP749582. The subject site has existing onsite water and wastewater treatment, and is not connected to Council's water or sewerage networks.

Proposal

The application seeks the following:

- Development Permit for a Material Change of Use for Marine Industry;
- Development Permit for a Material Change of Use for an Environmentally Relevant Activity (ERA) 49: Boat Maintenance or Repair;
- Development Permit for Operational Work for Prescribed Tidal Work; and
- Environmental Authority (EA) for the ERA 49 Boat Maintenance or Repair.

The development application was lodged as a result of Council compliance action, and seeks to legitimise the land use, including the replacement of the previous boat ramp with the current boat ramp, which has been significantly extended. The proposed use as shown in the proposal plans at Appendix 1, includes:

- Boat ramp, revetment wall, jetty and pontoon located in the northern portion of the adjoining esplanade;
- Boat ramp extends over the area of road reserve which is subject to a Road Permit and leads to a wash-down bay;
- Wash-down bay includes stormwater controls to ensure that any contaminants are directed to a separator tank for collection by a waste contractor;
- Office and residence are located in the southern portion of the site comprising a two (2) storey structure;
- Outdoor boat storage area located along the south-western site boundary;
- Shed comprising an approximate area of 380m² is located in the northern portion of the site used for storage of machinery and hazardous substances and for general mechanical and fabrication work;
- Road access to the site is from the north over Easements X and Z on SP121857 via Lee Yan Road.

The proposed development includes detail on a number of management practices to avoid or minimise impacts on the receiving environment, including air quality management, stormwater and wastewater management, and solid waste management.

The subject site is accessible by road only for residential purposes; as such the application proposes that all customer, supplier and service provider access is to occur via Trinity Inlet.

COMMON MATERIAL, EXISTING USES AND DEVELOPMENT APPROVALS

In assessing the application, regard was given to the following common material:

- Town Planning Report prepared by Planning Plus;
- Plans of Development prepared by 5KF;
- Environmental Investigation Report prepared by RPS;
- Analytical Report prepared by SGS;
- Response to Council's Information Request;
- Response to Council's Further Issues Letter;

In addition to the material provided by the Applicant, the following additional materials were considered:

- Referral agency response and conditions;
- Submissions made for the application during the Public Notification period;
- Internal referral advice from Cairns Regional Council business units;
- Existing uses and development approvals in proximity to the subject land.

CairnsPlan Major Amendment

At the time of lodgement of the application, a proposed CairnsPlan 2016 Major Amendment was in progress. At the time of making this decision, the amendment had been approved and subsequently commenced by Cairns Regional Council. The amendment, Version 3.1, commenced on 26 October 2021.

While there have been alterations to Overlay Codes, including the Natural Areas Code requiring consideration in the assessment of the application, the amendment does not materially affect the consideration of this development application.

LEGISLATIVE FRAMEWORK

Statutory Planning Considerations

In respect of the Material Change of Use for Marine Industry, assessment must be carried out against the following benchmarks, to the extent they are relevant to the development:

Assessment Benchmarks	
Schedules 9 and 10 Part 14 of the Planning Regulation 2017 (PR)	There are no relevant assessment benchmarks under these Schedules.

<p>State Planning Policy (SPP) 2017 Part E in effect when the application was properly made</p>	<p>The State Planning Policy (SPP) contains the State Interest Policies and Assessment Benchmarks which are applicable to the development.</p> <p>The CairnsPlan 2016 advances the SPP 2014, except for erosion prone areas and coastal management district.</p> <p>State Planning Policy 2017 has not been fully integrated into CairnsPlan 2016 and is therefore, a relevant assessment benchmark.</p> <p>The SPP states that the performance outcomes (assessment benchmarks) of Part E apply to the following development applications, to the extent of the SPP has not been identified in a local planning instrument as being appropriately integrated.</p> <p>In respect of the SPP Assessment Benchmarks for development within an Erosion Prone Area of the Coastal Management District, such development can be located in this area where it is identified as Coastal Dependant Development, with such development mitigating the risks to people and property to an acceptable or tolerable level.</p> <p>However, it is noted that the benchmarks identified in the SPP only apply where the Chief Executive is not identified as a referral agency for the application. In this case, the Chief Executive, through the SARA is a referral agency for the application and further assessment of that element is not required. In respect of the other assessment benchmarks, these matters are considered to be adequately addressed through other assessment criteria under the planning scheme and further assessment is not required.</p>
<p>Far North Queensland Regional Plan 2009-2031 (FNQ Regional Plan) in effect when the development application was properly made</p>	<p>The FNQ Regional Plan 2009-2031 designation:</p> <p><i><u>Regional Landscape and Rural Production Area</u></i></p> <p>The Regional Plan has been appropriately advanced through CairnsPlan 2016 (Strategic Framework). It is a relevant assessment benchmark, but limited consideration is required given the policy alignment to CairnsPlan.</p>
<p>Temporary Local Planning Instrument (TLPI)</p>	<p>There are currently no Temporary Local Planning Instruments in effect.</p>
<p>Variation Approval</p>	<p>There are no Variation Approvals in effect over the subject land.</p>
<p>Council's LGIP in effect when the application was properly made</p>	<p>Version 2.1 is in effect when application was properly made.</p>
<p>Local Categorising Instrument</p>	<p>At the time of lodgement of the application, the current planning scheme in effect for the Cairns Local Government Area was CairnsPlan 2016 v2.1. Section 5.4(1)(d) states that impact assessable development must be assessed against the whole scheme to the extent relevant.</p>

LOCAL CATEGORISING INSTRUMENT

CairnsPlan 2016 v2.1 – Relevant Assessment Benchmarks

Local Categorising Instrument – CairnsPlan 2016	
CairnsPlan 2016 v2.1	<p>At the time of lodgement of the application, the current planning scheme in effect for the Cairns Local Government Area was CairnsPlan 2016 v2.1.</p> <p>It is noted that during the assessment of this application, CairnsPlan v2.1 became a superseded planning scheme on 26 October 2021. It is noted that the zoning and applicable overlays relative to the subject site remain unchanged. Relevant consideration of the CairnsPlan v3.0 planning scheme has been given in this assessment.</p>
Purpose of instrument	Strategic Framework
Zone	Rural Zone Code
Overlays	<p>Acid Sulfate Soils Overlay Code</p> <p style="padding-left: 40px;"><i>Land at or below 5m AHD</i></p> <p>Airport Environs Overlay Code</p> <p style="padding-left: 40px;"><i>Surface Height 151m - 151m AHD</i></p> <p style="padding-left: 40px;"><i>Procedures for Air Navigation Services - Aircraft Operational (PANS-OPS) Surfaces</i></p> <p style="padding-left: 40px;"><i>Redden Creek PSR SSR</i></p> <p style="padding-left: 40px;"><i>Wildlife Hazard Zone 8-13km</i></p> <p>Coastal Processes</p> <p style="padding-left: 40px;"><i>Erosion Prone Area</i></p> <p style="padding-left: 40px;"><i>Coastal Management District</i></p> <p>Flood & Inundation Hazards</p> <p style="padding-left: 40px;"><i>Flood inundation (100 year ARI)</i></p> <p>Landscape Values</p> <p>Natural Areas</p> <p>Transport network overlay code</p>
Development Codes	<p>Environmental Performance Code</p> <p>Excavation and Filling Code</p> <p>Industry Design Code</p> <p>Infrastructure Works Code</p> <p>Landscaping Code</p> <p>Parking and Access Code</p> <p>Vegetation Management Code</p>

Strategic Framework Assessment

The development is subject to Impact Assessment and therefore requires assessment against the Strategic Framework of the CairnsPlan 2016, in accordance with section 45 (5) of the *Planning Act 2016*.

Strategic Framework	
3.3 Settlement Pattern Theme	
3.3.1 Strategic Outcomes	<p>The proposal does not compromise this element overall.</p> <p>The purpose of the settlement pattern theme is to ensure the region's urban development occurs within the urban area and ensure there are no adverse environmental impacts. The proposed Marine Industry seeks to operate outside of the urban area, however the proposal requires a waterfront location given the nature of the use. The proposal is located near a similar lawful use, and does not include any further physical development. The proposed development is considered to be able to operate in a way which avoids/mitigates adverse impacts to the surrounding natural environment, subject to conditions.</p>
3.3.2 Element – Centres and Centre Activities	The proposal does not compromise this element.
3.3.3 Element – Mixed Use Areas and Specialised Centres	The proposal does not compromise this element.
3.3.4 Element – Industry Areas and Activities	The proposal does not compromise this element overall. The proposed use is considered to be coastal dependent development. While the subject site is not located within Strategic Port Land, the use is relatively small in scale, and will not compromise the waterfront and marine industry area.
3.3.5 Element – Residential Areas and Activities	The proposal does not compromise this element.
3.3.6 Element – Rural Activities	<p>The proposal does not compromise this element overall.</p> <p>Contextually, the land is cleared of vegetation and contains existing infrastructure including a shed, boat ramp, and jetty. The adjoining site, Lot 36 on RP749582, is understood to contain an aquaculture farm. The land is zoned Rural, however it is located outside of the agricultural land classification areas A and B. In considering its tidal location, relatively small area (5,514m²), lack of vegetation and existing infrastructure onsite, the proposed use is considered to not compromise this element overall, subject to conditions imposed to ensure the use will not conflict with the agricultural use of the adjoining land.</p>
3.3.7 Element – Townships and Small Communities	The proposal does not compromise this element.
3.3.8 Element – Islands	The proposal does not compromise this element.
3.3.9 Element – Built Form, Design and City Image	The proposal does not compromise this element.

3.3.10 Element – Places of Significance & Neighbourhood Character	The proposal does not compromise this element.
3.3.11 Element – Community Health and Wellbeing	The proposal does not compromise this element overall. The proposed Marine Industry development provides for adequate separation distances from sensitive land uses.
3.4 Natural Areas and Features Theme	
3.4.1 Strategic Outcomes	The proposal does not compromise this element overall. The site is already cleared, and no further vegetation clearing is proposed. The built form is already in place, including a Dwelling House, Shed, jetty, boat ramp and associated infrastructure. The use is able to be conditioned to be operated and managed to mitigate adverse impacts on this area of environmental significance.
3.4.2 Element – Biodiversity	The proposal does not compromise this element overall. The proposal relates to an existing use and does not include any further physical development. The site is already cleared, and no further vegetation clearing is proposed. The applicant has supplied an Environmental Investigation Report providing a contamination assessment and recommended actions moving forward. Among other conditions, the approval is conditioned to require provision of a Site Based Management Plan (SBMP) and SBMP Implementation Plan to ensure the use is operated and managed to mitigate adverse impacts.
3.4.3 Element – Waterways, wetlands and water catchments	The proposal does not compromise this element overall. The Applicant has submitted supporting information to demonstrate that waterways will be protected. This includes an Environmental Investigation Report and a stormwater management plan to ensure that the receiving waters are not contaminated. Further, the approval is conditioned to require an SBMP and SBMP Implementation Plan which will provide for active management of potential impacts and assist with managing the existing site contamination identified in the Environmental Investigation Report so as to prevent sediment washing into Great Barrier Reef catchment waters.
3.4.4 Element - Landscapes	The proposal does not compromise this element overall. The proposal relates to an existing use and does not include any further physical development. The site is already cleared, and no further vegetation clearing is proposed. The applicant has supplied an Environmental Investigation Report providing a contamination assessment and recommended actions moving forward.
3.4.5 Element – Coastal areas	The proposal does not compromise this element overall. The proposal relates to an existing use and does not include any further physical development. The site is already cleared, and no further vegetation clearing is proposed. The applicant has supplied an Environmental Investigation Report providing a contamination assessment and recommended actions moving forward. Among other conditions, the approval is conditioned to require provision of a Site Based Management Plan (SBMP) and SBMP Implementation Plan to ensure the use is operated and managed to avoid/mitigate adverse impacts.
3.4.6 Element – Natural Hazards	The proposal does not compromise this element overall. The proposal relates to an existing use and does not include any further physical development. The development does not directly or cumulatively cause, or increase, adverse impacts of natural hazards on other properties. Consideration is given to the impacts of natural hazards and the approval is conditioned to require development be maintained and operated in order to avoid/mitigate potential adverse impacts on persons and property.

	In terms of coastal processes, there is an existing revetment wall to protect against coastal processes, noting that approvals were issued under Section 86 of the Harbours Act 1955 for a boat ramp, rock wall, jetty and pontoon in 1980. No new works which may be vulnerable to such processes are proposed.
3.4.7 Element – Resource extraction	The proposal does not compromise this element, resource extraction is not proposed.
3.5 Economic Theme	
3.5.1 Strategic Outcomes	The proposal does not compromise this element. The proposal contributes to the economy of the region through the establishment of marine industry located adjacent to similar lawful uses and it is considered the potential for conflict with Rural uses is adequately addressed through conditions of approval.
3.5.2 Element – Strong and Diverse Economy	The proposal does not compromise this element overall. The small scale of the proposed development does not compromise the established hierarchy of centres and is located in proximity to a similar lawful use.
3.5.3 Element – Tourism	The proposal does not compromise this element overall. No new vegetation clearing or buildings/structures are proposed to be constructed.
3.5.4 Element – Agriculture	The proposal does not compromise this element overall. Contextually, the land is cleared of vegetation and contains existing infrastructure including a shed, boat ramp, and jetty. The adjoining site, Lot 36 on RP749582, is understood to contain an aquaculture farm. The land is zoned Rural, however it is located outside of the agricultural land classification areas A and B. In considering its tidal location, relatively small area (5,514m ²), lack of vegetation and existing infrastructure onsite, the proposed use is considered to not compromise this element overall, subject to conditions imposed to ensure the use will not conflict with the agricultural use of the adjoining land.
3.5.5 Element – Ports, Aviation and Defence	While not directly associated with the Port of Cairns, the proposal does not compromise this element.
3.6 Infrastructure Theme	
3.6.1 Strategic Outcomes	The proposal does not compromise this element overall. The site contains on-site waste water disposal and water supply, and is accessed via Trinity Inlet.
3.6.2 Element – Energy	The proposal does not compromise this element.
3.6.3 Element – Transport	The proposal does not compromise this element. The approval is conditioned to required that all access associated with the approved Marine Industry, including for customers, suppliers/deliveries and service providers, is to be via Trinity Inlet only and not from Council's road network. Land based access is restricted to the residential use of the land only.
3.6.4 Element – Water and Waste	The proposal does not compromise this element overall. The site contains on-site waste water disposal and water supply, and the approval is conditioned to require waste management and recycling where possible.
3.6.5 Element – Open Space and Recreation	The proposal does not compromise this element.

Assessment against the Outcomes of the Relevant Benchmarks

Where non-compliant with an Outcome of a relevant benchmark, a performance-based assessment has been undertaken, as detailed below.

Assessment Benchmark	
6.2.19 Rural zone code	
Acceptable Outcome AO2.1 Setbacks	There are non-compliances with the 6m setback requirement to side and rear boundaries, however these buildings are existing and no additional buildings / structures are proposed to be constructed. Adequate separation is considered to be achieved from neighbouring buildings and agricultural activities occurring on adjoining premises. The rural character of the area is considered to be maintained.
Performance Outcome PO3 Purpose and Overall Outcomes of the Zone	<p>The purpose of the Rural Zone Code seeks to provide for rural uses and to protect areas of Agricultural Land Classification Class A and Class B by avoiding locating non-agricultural development on or adjacent to Rural zoned land. However the purpose also includes provision of opportunities for non-rural uses.</p> <p>Consideration is given to the context of the site, being an existing cleared site with infrastructure in place and no new proposed buildings or structures. The site is also located in proximity to a similar use, as well as buildings/structures associated with an aquaculture land use and it could be argued is therefore consistent with the surrounds.</p> <p>As outlined in the Environmental Investigation Report, existing contaminants found at the site indicate the site has historically been used for boat maintenance activities which have resulted in minor contamination within the site. This coupled with its estuarine location, likely preclude the site from many if not most rural uses. The nature of the use is acknowledged as being coastal dependent development. It is considered that adverse impacts of the proposed Marine Industry, both on-site and on adjoining areas, are able to be avoided or mitigated through design, operation and management and the imposition of reasonable and relevant conditions.</p>
Performance Outcome PO4 Purpose and Overall Outcomes of the Zone	<p>The proposed use does not promote rural activities or promote low impact tourist activities. However, the proposal is compatible with nearby similar uses. The proposed development is capable of establishing in the setting with suitable buffers so that nearby aquaculture activities are not compromised, and conditions of approval are imposed to protect the soil, receiving waters and adjoining and nearby land.</p> <p>A condition has been imposed requiring that all landward property boundaries (i.e. northern, eastern and southern boundaries) of the site that are common with adjoining Lot 36 on RP749582, with the exception of the vehicle access are fenced with a 1.8 metre high boundary fence. The boundary fence will assist in containing the marine industry use within the subject land and protect adjoining areas.</p>
Performance Outcome PO6 Site Constraints	The built form is already in place, however conditions of approval are imposed to ensure the use is operated and managed to respond to the constraints of the site and it's surrounds.
Performance Outcome PO7 Amenity	PO7 states that rural activities are protected from the intrusion of incompatible uses. The only rural activity in proximity to the subject site is the aquaculture farm located on Lot 36 on RP749582. The existing Shed is located in excess of 50 metres from the aquaculture related buildings on the adjoining site.

8.2.1 Acid sulfate soils overlay code	
Performance Outcomes PO1-PO3 Acid Sulfate Soils	No new buildings/structures are proposed. Only minimal scraping of the surface of the site appears to be proposed for laying of gravel as shown on the proposal plans at Appendix 1. The approval is conditioned to require that in the event that acid sulfate soils are encountered, the applicant is to ensure the site is managed in accordance with requirements of the Queensland Acid Sulfate Technical Manual and State Planning Policy SPP2/02. In addition, an ASS/PASS Management Plan is to be submitted to Council within seven (7) days, should site excavations identify the presence of acid sulphate soils.
8.2.5 Coastal processes overlay code	
Performance Outcome PO2 Coastal Building Lines	Where a coastal building line does not exist on a lot fronting the coast or a reserve adjoining the coast, development is to be set back not less than 6 metres from the seaward boundary of the lot. The Dwelling House is located approximately 4.9 meters from the western boundary fronting Trinity Inlet. The existing Dwelling House is understood to have been constructed in the late 1970's, and no new buildings/structures are proposed.
Performance Outcome PO4 Coastal Processes	This Performance Outcome states that development is to allow for natural fluctuations of the coast to occur, including appropriate allowance for climate change and sea level rise. There is an existing revetment wall to protect against coastal processes, noting that approvals were issued under Section 86 of the Harbours Act 1955 for a boat ramp, rock wall, jetty and pontoon in 1980. No new works which may be vulnerable to such processes are proposed.
Acceptable Outcome AO 5.1 Erosion Prone Areas	Compliance is considered to be achieved with this Acceptable Outcome, as the proposed Marine Industry is considered to be coastal-dependent development that cannot be feasibly located elsewhere. Approvals are already in place for the rock wall and jetty/pontoon. No new works are proposed for the use.
8.2.7 Flood and inundation hazards overlay code	
Performance Outcome PO1 Safety of People and Property	No new buildings/structures are proposed. While the existing Shed is not designed to provide flood immunity, it's a Class 10a structure and as such is not required to provide flood immunity. The existing Dwelling House is a two (2) storey building including habitable floor space above the 1% AEP.
Performance Outcome PO4 Hazardous Materials and Chemicals	The application indicates the existing shed includes storage facilities which place hazardous chemicals above flood levels. The approval requires provision of a Site Based Management Plan which will ensure compliance.
Performance Outcome PO5 Safety of People and Property	In addition to the information provided in the address of PO1, above, given the nature of the use evacuation of the site via boat is also an available option.
8.2.10 Landscape Values Overlay Code	
Performance Outcome PO1 Development within the High landscape value area	The proposal relates to an existing use and does not include any further physical development. The site is already cleared, and no further vegetation clearing is proposed. The built form is already in place, including a Dwelling House, shed, jetty, pontoon, boat ramp and associated infrastructure. Given the context of the use being coastal dependent, the location of the site, the locality and that the use is only visible from Trinity Inlet it is considered that the development does not adversely impact on region's landscapes or scenic qualities.
8.2.11 Natural areas overlay code	
Performance Outcome PO1 Non Urban Waterways	The proposal includes an existing Dwelling House and other infrastructure within the waterway corridor for a coastal dependent use. The approval is conditioned to avoid/mitigate adverse impacts on the receiving waters and flora and fauna. Conditions include a requirement for provision of a Site Based Management Plan (SBMP) and SBMP Implementation Plan to ensure the use is operated and managed to mitigate adverse impacts.

Performance Outcome PO3 Biodiversity Area	The proposed use is coastal dependent development, however it is located within an existing cleared area and is able to be conditioned to ensure the development is operated and maintained so as to avoid adverse impacts on biodiversity values.
Performance Outcome PO4 Water Quality	The conditions package includes a requirement for provision of a Site Based Management Plan (SBMP) and SBMP Implementation Plan to ensure the use is operated and managed to avoid adverse impacts on the quality and integrity of water in upstream or downstream catchments.
Performance Outcomes PO6-PO8 Wetlands and Wetland Buffer Areas	The proposed development is located adjacent to but outside of wetlands; and is located within the prescribed wetland buffer area. The site is cleared of vegetation and contains buildings, structures and associated infrastructure including a boat ramp, revetment wall, jetty and pontoon. The approval contains conditions to require the use is operated and maintained so as to avoid adverse impacts on wetland values.
Performance Outcome PO9 Waterways and Waterway Buffer Areas	The proposal includes existing lawful infrastructure within the waterway corridor and seeks approval for a coastal dependent land use. Conditions of approval will ensure management and operational practices to protect waterway values.
Acceptable Outcome AO10.2 Additional Non Urban Waterway Requirements	This Acceptable Outcome pertains to land tenure of waterway corridors. The proposal includes securing appropriate tenure arrangements over the existing infrastructure.
9.4.3 Environmental performance code	
Performance Outcome PO2 Odour	The proposed development is located a significant distance from other uses, which will minimise the potential for adverse impacts. Conditions of approval include those pertaining to air discharge, and the development is required to operate in accordance with a SBMP.
Performance Outcome PO3 Noise	In addition to the requirement to operate in accordance with a SBMP, the approval is conditioned to require that the use must not cause, or be likely to cause, environmental harm resulting from the release of contaminants, dust, noise or sediments from the site.
Performance Outcome PO4 Airborne Particles and Other Emissions	Conditions of the development permit and environmental authority include those pertaining to air discharge, and the development is required to operate in accordance with a SBMP.
Performance Outcome PO5 Waste and Recyclable Material Storage	As part of the response to Council's information request, the applicant supplied confirmation from Cleanaway Pty Ltd confirming the ability to service the site. Conditions of approval include requirements for waste storage, and recyclable material where possible.
Performance Outcome PO9 Stormwater Quality	Conditions of approval require a stormwater quality management plan, and an SBMP that will detail erosion and sediment control practices for the use.
Performance Outcome P10 Land Contaminants	As outlined in the Environmental Investigation Report, existing contaminants found at the site indicate the site has historically been used for boat maintenance activities which have resulted in minor contamination within the site. The proposed development includes a wash-down bay with stormwater controls to ensure that any contaminants are directed to a separator tank for collection by a waste contractor, and storage of hazardous substances is conditioned to be located within the Shed, above the storm tide line (3.15m AHD). Further, the development is required to operate in accordance with a SBMP.
Performance Outcome PO11 Hazardous materials and Chemicals	The application indicates the existing shed includes storage facilities which place hazardous chemicals above flood levels. The approval requires storage of all fuel, chemicals and hazardous substances within the Shed and above the storm tide line (3.15m AHD). Provision of a Site Based Management Plan which will ensure compliance.

9.4.4 Industry design code		
Performance Outcome PO3 Amenity		The subject site is accessible by road only for residential purposes. All customer, supplier and service provider access is to occur via Trinity Inlet. Accordingly, there is no customer car parking proposed, which is considered appropriate given the nature and proposed access arrangements of the land use.
Performance Outcome PO5 Landscaping		Performance Outcome PO5 states in part that landscaping is provided to enhance the appearance and amenity of the development. While a large proportion of the site is grassed, it is otherwise for the most part denuded of vegetation.
Performance Outcome PO7 Access and loading / unloading of goods		The transport of goods and materials to and from the site will not adversely affect the movement of traffic on roads adjacent to the site, as all business access to the site is conditioned to be via Trinity Inlet. The approval is conditioned to ensure compliance.
Performance Outcome PO8 Air and Noise Pollution		The use is not located in proximity to sensitive land uses, and the approval is conditioned appropriately to avoid adverse impacts on nearby/surrounding properties.
Performance Outcome PO10 Storage and Handling of Hazardous Chemicals		The approval requires provision of a Site Based Management Plan (SBMP) for the management of all activities authorised under the Material Change approval and the associated environmental authority for ERA 49 Boat Maintenance or Repair including chemical storage and handling.
Performance Outcome PO11 Contaminated Land		The Environmental Investigation Report identifies the presence of minor levels of contaminants. The approval requires provision of a Site Based Management Plan and Stormwater Management Plan to ensure a no worsening effect by the proposed use.
Performance Outcome PO12 Hazardous Chemicals		The application indicates the existing shed includes storage facilities which place hazardous chemicals above flood levels. The approval requires provision of a Site Based Management Plan and Stormwater Management Plan to ensure chemical handling and storage will not have adverse impacts on nearby/adjoining land uses. It is understood the nearest sensitive land use is located approximately 90 metres from the subject site.
Performance Outcome PO15 Chemical Storage Quantities in Flood Hazard Areas		While the applicant has not provided information indicating tank storage in quantities >2,500L or kg, the approval requires provision of a Site Based Management Plan to ensure chemical handling and storage will not have adverse impacts on nearby/adjoining land uses. In the instance that storage is intended to exceed this threshold, storage areas will be required to achieve compliance with the requirements of the code.
9.4.6 Infrastructure works code		
Performance Outcome PO3 Water Supply		Reticulated water supply is not available to the premises. The application was unclear on the capacity of the onsite water storage; as such the approval is conditioned to require a minimum tank storage of 30,000 litres, with tank(s) fitted with a 50mm ball valve with a camlock fitting for firefighting purposes.
Performance Outcome PO4 Effluent Treatment and Disposal		The approval is conditioned to require confirmation of the location of existing trenches. If the trenches are found to be located on adjoining land, trenches are to be relocated on to the subject site and the wastewater treatment system is to be endorsed by Council prior to Commencement of Use.
Performance Outcome PO5 Stormwater Quality		Conditions of approval require a stormwater quality management plan, and an SBMP that will detail erosion and sediment control practices for the use. The approval requires storage of all fuel, chemicals and hazardous substances within the Shed and above the storm tide line (3.15m AHD).
Performance Outcome PO7 Wastewater Discharge and PO18 Trade Waste		The approval is conditioned to ensure appropriate storage, handling and disposal of waste including maintenance of holding tanks and other pollution control facilities. The applicant has supplied written confirmation from Cleanaway Pty Ltd that they are licenced to transport solid, liquid and contaminated waste from the site via Trinity Inlet. Wastewater discharge will be managed by the SBMP and other conditions of approval.

9.4.7 Landscaping code	
Performance Outcomes PO1 and PO3 Landscape Design and Character	The application to Council states that the site contains existing areas of vegetation which are considered to qualify as landscaping and that the location of the site is such that any landscaping is unlikely to achieve any significant amenity outcomes. The site is mainly denuded of vegetation with the exception of turfed areas, many of which are proposed as part of this development to be surfaced with gravel.

ASSESSMENT BENCHMARKS FOR PRESCRIBED TIDAL WORKS

Prescribed tidal works are defined in section 15 of the *Coastal Protection and Management Regulation 2017 (Coastal Regulation)*. They are a subclass of tidal works which are operational works carried out in, on or above tidal land. Tidal works are defined in the *Coastal Protection and Management Act 1995* and include jetties, pontoons, boat ramps, seawalls, pipelines and bridges.

For this application, the local government is the assessment manager for development applications for prescribed tidal works within the tidal area for a local government area as specified in Schedule 8, Table 2, Item 1(c) of the Planning Regulation 2017.

The assessment benchmark set by the Planning Regulation for local government is the *Coastal Protection and Management Regulation Schedule 3 – Code* for assessable development that is prescribed tidal works. The assessment must use the Code for assessable development that is prescribed tidal works when assessing prescribed tidal works. This is to ensure consistency of development assessment state-wide and to ensure State interests are appropriately dealt with, especially as most tidal water is over State land.

Generally, a local government cannot apply planning schemes outside of their local government areas or have not had provisions in their planning schemes for assessment of tidal works and is subject to the provision of Section 19 of the *Planning Act 2016*. The Code for assessable development that is prescribed tidal works allows, in some cases, the planning scheme to be applied if provisions exist.

A full assessment of the proposal against the *Coastal Protection and Management Regulation Schedule 3 – Code* is provided below.

Prescribed Tidal Work Code	Summary of Assessment
1.1 Prescribed tidal works in a canal are compatible with their location, having regard to the following— (a) the character and amenity of the works' immediate surroundings and the locality within which the works are located; (b) if the relevant planning scheme states the desired character or amenity for the works' immediate surroundings or the locality within which the works are located—the stated desired character or amenity.	PO1.1 is not applicable The proposed structure is not within a canal.

Prescribed Tidal Work Code	Summary of Assessment
<p>2.1 Prescribed tidal works not in a canal are compatible with their location, having regard to the following—</p> <ul style="list-style-type: none"> (a) the character and amenity of the works' immediate surroundings and the locality within which the works are located; (b) if the relevant planning scheme states the desired character or amenity for the works' immediate surroundings or the locality within which the works are located—the stated desired character or amenity. 	<p>Complies with PO2.1</p> <p>The prescribed tidal works are not located within a canal and are directly associated to the marine industry use that is operating over the subject land. There are similar structures, which are associated with marine industries located to the north of the site. Overall, the prescribed tidal works are compatible with the character and amenity of the locality in which they are located.</p>
<p>3.1 Prescribed tidal works are of a height, scale and size to ensure the works are compatible with the character and amenity of their location, having regard to the following—</p> <ul style="list-style-type: none"> (a) the height, scale and size of the natural features of the works' immediate surroundings and the locality within which the works are located; (b) the height, scale and size of the existing buildings or other structures in the works' immediate surroundings and the locality within which the works are located; (c) if the relevant planning scheme states the desired height, scale or size of buildings or other structures in the works' immediate surroundings or the locality within which the works are located—the stated desired height, scale or size. 	<p>Complies with AO3.1</p> <p>The prescribed tidal works are consistent with the height, scale and size of existing structures and works within the locality. It is also noted that the structures do not exceed the quantitative benchmarks set for the Rural Zone in CairnsPlan 2016.</p>

Prescribed Tidal Work Code	Summary of Assessment
<p>4.1 The materials used for, and the colours of, prescribed tidal works are compatible with the character and amenity of the works' location, having regard to the following—</p> <p>(a) the natural features of the works' immediate surroundings and the locality within which the works are located;</p> <p>(b) the existing buildings or other structures in the works' immediate surroundings and the locality within which the works are located;</p> <p>(c) if the relevant planning scheme states the desired materials to be used for, or desired colours of, buildings or other structures in the works' immediate surroundings or the locality within which the works are located—the stated desired materials or colours.</p>	<p>Complies with AO4.1</p> <p>The prescribed tidal works are consistent with the colours and materials of other, similar works within the locality (to the north of the site) and are complimentary to the surrounding locality.</p>
<p>5.1 Lighting, other than an aid to navigation, for prescribed tidal works is installed in a way to ensure the security and safe use of the works without causing significant adverse effects on the amenity of the locality within which the works are located.</p>	<p>PO5.1 not applicable</p> <p>No lighting is proposed.</p>
<p>6.1 A sign erected or otherwise placed in position for prescribed tidal works, other than a sign erected or placed for safety reasons or under an Act—</p> <p>(a) is compatible with the character and amenity of the works' immediate surroundings and the locality within which the works are located; and</p> <p>(b) is not a dominant feature of the works, unless the dominance is for safety reasons.</p>	<p>PO6.1 is not applicable</p> <p>No signage is proposed or required for the work.</p>
<p>7.1 Excavation and filling for prescribed tidal works—</p> <p>(a) is carried out only to the extent reasonably necessary for the works; and</p> <p>(b) does not have a significant adverse effect on—</p> <p>i. the natural features, including the banks, of the tidal water in the works' immediate surroundings; or</p> <p>ii. the level of the surface of the land under the tidal water in the works' immediate surroundings or any foreshore near the works.</p>	<p>Complies with PO7.1</p> <p>The prescribed tidal works are generally existing works, however, there will be some widening and rectification of the existing boat ramp, which will involve minimal earthworks.</p>

Prescribed Tidal Work Code	Summary of Assessment
7.2 The location and construction of prescribed tidal works ensures vegetation is cleared or disturbed only to the extent reasonably necessary for the works.	Complies with AO7.2 The subject land has been previously cleared of vegetation and no further vegetation clearing is proposed.
7.3 After the construction of prescribed tidal works, any land damaged or destabilised by, and any vegetation damaged, destroyed or removed by, the construction of the works is rehabilitated.	Complies with AO7.3 The prescribed tidal works are generally existing works. The subject land has been previously cleared of vegetation and no further vegetation clearing is proposed.
8.1 Prescribed tidal works do not have a significant adverse effect on the availability of public access to, along or across State coastal land.	Complies with AO8.1 The prescribed tidal works do not hinder public access to the coast and suitable tenure over all non-freehold land that the proposed development utilises is being sought.
9.1 The location and design of prescribed tidal works does not adversely affect the safety of members of the public accessing State coastal land.	Complies with PO9.1 The proposed work will not adversely affect the safety of members of the public.
10.1 Prescribed tidal works that are for a private purpose do not adversely affect navigable access to, or navigable egress from, any lot that adjoins, or is in the immediate surroundings of, a lot connected to prescribed tidal works.	Complies with PO10.1 The prescribed tidal works are associated with the Marine Industry land use. The nature of the proposed works does not adversely affect navigable access.
11.1 Prescribed tidal works have appropriate infrastructure, including, in particular, road access, parking facilities, sewerage services and water services, having regard to the following— (a) the nature and scale of the works; (b) the number of people that may be on or at the works at any given time; (c) the number of vehicles that may be on or moored at the works at any given time; (d) the protection of any foreshores near the works and the vegetation and marine plants on the foreshores.	Complies with PO11.1 The prescribed tidal works are directly associated with and form part of the Marine Industry land use. The proposed works does not require any new infrastructure to be established.

Prescribed Tidal Work Code	Summary of Assessment
<p>12.1 Prescribed tidal works are designed and constructed in a way to ensure they are structurally sound, having regard to the following—</p> <ul style="list-style-type: none"> (a) relevant engineering standards; (b) the location of the works; (c) the purpose for which the works are to be used; (d) the impact of flooding, storm tide, overtopping by waves, projected sea level rise, tidal influences and hydrodynamic forces; (e) the design life of the works; (f) the dead load of the works and the intended live load for the works; (g) the impact of hydrostatic pressures on the works; (h) the stability of individual components of the works, including, for example, boulders, concrete blocks or sandbags. 	<p>Complies with PO12.1 The prescribed tidal works are generally existing works, however, there will be some widening and rectification of the existing boat ramp to improve the structural integrity.</p>
<p>12.2 Prescribed tidal works do not adversely affect the structural integrity of any existing revetment or seawall or another existing structure.</p>	<p>Complies with PO12.2 The proposed work is not located within close proximity to any existing coastal infrastructure.</p>
<p>12.3 Prescribed tidal works are designed and constructed in a way to ensure they do not adversely affect the stability of the bed and banks of tidal water.</p>	<p>Complies with PO12.3 The prescribed tidal works are generally existing works, widening and rectification of an existing boat ramp and involves minimal changes to the landform or stability of the waterway banks.</p>
<p>12.4 Prescribed tidal works are designed and constructed using materials suitable for marine environments, having regard to their ability to resist the following—</p> <ul style="list-style-type: none"> (a) attack by marine organisms; (b) corrosion; (c) deterioration or breakage resulting from exposure to environmental conditions including, for example, the following— <ul style="list-style-type: none"> i. abrasion; ii. immersion in seawater; iii. wave action. 	<p>Complies with PO12.4 The prescribed tidal works are generally existing works., widening and rectification of an existing boat ramp. All works have been / will be constructed of materials suitable for a marine environment.</p>
<p>12.5 Prescribed tidal works are designed and constructed in a way to ensure they do not adversely affect the operation or maintenance of any existing stormwater outlet.</p>	<p>Complies with PO12.5 The proposed work is not located within close proximity to any existing infrastructure and has a minimal disturbance footprint.</p>

Prescribed Tidal Work Code	Summary of Assessment
<p>12.6 Prescribed tidal works are designed and constructed in a way to ensure they do not adversely affect the water quality of tidal water, including, in particular, as a result of—</p> <p>(a) release, into the tidal water, of materials used in the construction of the works; or</p> <p>(b) disturbance to the sediment on the bed and banks of the tidal water; or</p> <p>(c) exposure to acid sulphate soils.</p>	<p>Complies with PO12.6 The prescribed tidal works are generally existing works. The work will not adversely affect water quality. Site treatments prevent the release of sediment and acid sulphate soil into tidal water</p>
<p>12.7 Prescribed tidal works are designed and constructed in a way to ensure they are safe for persons using the works.</p>	<p>Complies with PO12.7 The prescribed tidal works have been constructed to ensure they safe for persons using the works.</p>
<p>12.8 Appropriate measures are taken for prescribed tidal works for a non-private purpose to ensure an unsupportable live load is not applied to the works by persons or vehicles.</p>	<p>Complies with PO12.8 The prescribed tidal works are directly associated with and form part of the Marine Industry land use.</p>
<p>12.9 Prescribed tidal works, other than a prescribed deck for a private purpose, are designed and constructed in a way to ensure the use of tidal water in a canal for a non-maritime purpose is minimised.</p>	<p>PO12.9 is not applicable The proposed work is not within a canal.</p>
<p>12.10 Prescribed tidal works that are a prescribed deck and for a private purpose, are designed and constructed in a way to ensure the use of tidal water in a canal for a non-maritime purpose is minimised.</p>	<p>PO12.10 is not applicable The proposed work is not within a canal.</p>
<p>13.1 Prescribed tidal works that are a boat ramp or slipway for a private purpose are designed and constructed in a way to ensure they are structurally sound while also ensuring the safe movement of vehicles or persons between the boat ramp or slipway and the surface of the land on which the boat ramp or slipway is located.</p>	<p>PO13.1 is not applicable The proposed works do not include a boat ramp or slipway for a private purpose.</p>
<p>13.2 Prescribed tidal works that are a boat ramp or slipway for a private purpose are designed and constructed in a way to ensure the safe movement of vehicles or persons over the boat ramp or slipway.</p>	<p>PO13.2 is not applicable The proposed works do not include a boat ramp or slipway for a private purpose.</p>
<p>14.1 Prescribed tidal works that are a bridge do not adversely affect existing public use of tidal water, including, for example, use of the tidal water for canoeing, swimming or other recreational activities.</p>	<p>PO14.1 is not applicable The proposed work is not for a bridge.</p>
<p>14.2 Prescribed tidal works that are a bridge do not adversely affect the flow of tidal water under the bridge.</p>	<p>PO14.2 is not applicable The proposed work is not for a bridge.</p>

Prescribed Tidal Work Code	Summary of Assessment
15.1 Prescribed tidal works that are a prescribed deck and for a private purpose are designed and constructed in a way to ensure the deck is able to support its intended loads, having regard to its relevant loading matters.	PO15.1 is not applicable The proposed works do not include a prescribed deck.
15.2 Prescribed tidal works that are a prescribed deck and for a non-private purpose are designed and constructed in a way to ensure the deck is able to support its intended loads, having regard to its relevant loading matters.	PO15.2 is not applicable The proposed works do not include a prescribed deck.
15.3 Prescribed tidal works that are a prescribed deck do not prevent or hinder remedial work being undertaken on any bank of tidal water or for any existing revetment or seawall or another existing structure.	PO15.3 is not applicable The proposed works do not include a prescribed deck.
16.1 Prescribed tidal works that are a jetty or pier are designed and constructed in a way to ensure the jetty or pier is able to support its intended loads, having regard to its relevant loading matters.	PO16.1 is not applicable The proposed works do not include a jetty or pier.
16.2 Prescribed tidal works that are a jetty or a pier are designed and constructed in a way to ensure the jetty or pier remains above the water at highest astronomical tide.	PO16.2 is not applicable The proposed works do not include a jetty or pier.
16.3 Prescribed tidal works that are a jetty or pier and for a private purpose and are on State tidal land are designed and constructed in a way to ensure the jetty or pier is of a size suitable for the use of a vessel while still minimising the amount of tidal water occupied by the jetty or pier.	PO16.3 is not applicable The proposed works do not include a jetty or pier.
17.1 The design and construction of prescribed tidal works that are a pipeline or another underground service ensures vessels anchoring near the works cannot interfere with, or damage, the works.	PO17.1 is not applicable The proposed works are not for pipelines or underground services.
18.1 Prescribed tidal works that are a pontoon and not used only for rowing, are designed and constructed in a way to ensure the pontoon is able to support its intended loads, having regard to its relevant loading matters.	PO18.1 is not applicable The proposed works do not include a pontoon.

Prescribed Tidal Work Code	Summary of Assessment
<p>18.2 Prescribed tidal works that are a pontoon and used only for rowing are designed and constructed in a way to ensure—</p> <p>(a) the pontoon is able to support its intended loads, having regard to its relevant loading matters; and</p> <p>(b) the pontoon is safe for persons using the pontoon to launch and retrieve rowing vessels.</p>	<p>PO18.2 is not applicable The proposed works do not involve a pontoon only used for rowing.</p>
<p>18.3 Prescribed tidal works that are a pontoon are designed and constructed in a way to ensure any load applied to the pontoon by a person or thing on the pontoon does not cause the pontoon to tip over or tilt to a degree causing the person or thing to fall off the pontoon.</p>	<p>PO18.3 is not applicable The proposed works do not include a pontoon.</p>
<p>18.4 Prescribed tidal works that are a pontoon are designed and constructed in a way to ensure the pontoon's flotation unit will—</p> <p>(a) rise and fall to allow for a change in tidal water levels, including a change caused by a flood or storm tide; and</p> <p>(b) not be separated from the lot to which the pontoon is connected because of—</p> <p>i. a change in tidal water levels mentioned in paragraph (a); or</p> <p>ii. the flow of tidal water around the pontoon, including tidal water affected by a flood or storm tide.</p>	<p>PO18.4 is not applicable The proposed works do not include a pontoon.</p>
<p>18.5 Prescribed tidal works that are a pontoon identifies the lot to which the pontoon is connected.</p>	<p>PO18.5 is not applicable The proposed works do not include a pontoon.</p>
<p>18.6 Prescribed tidal works that are a pontoon permanently used for the fuelling of, or the storage of fuel for, vessels are designed and constructed in a way to ensure—</p> <p>(a) the pontoon is able to support its intended loads, having regard to its relevant loading matters; and</p> <p>(b) the pontoon is safe for persons using the pontoon.</p>	<p>PO18.6 is not applicable The proposed works do not include a pontoon.</p>

Prescribed Tidal Work Code	Summary of Assessment
19.1 Prescribed tidal works that are a revetment or seawall, are designed and constructed in a way to ensure the revetment or seawall is able to support its intended loads, having regard to its relevant loading matters and its intended design life.	PO19.1 is not applicable The proposed works do not include a revetment wall or seawall.
19.2 Prescribed tidal works that are a revetment or seawall, are designed and constructed in a way to ensure the revetment or seawall can withstand— (a) any tendency of overturning or sliding; and (b) any other effects of waves or changes in water levels on the revetment or seawall.	PO19.2 is not applicable The proposed works do not include a revetment wall or seawall.
19.3 Prescribed tidal works that are a revetment or seawall are designed and constructed to protect the revetment or seawall from erosion at the base of the revetment or seawall.	PO19.3 is not applicable The proposed works do not include a revetment wall or seawall.
19.4 Prescribed tidal works that are a revetment or seawall are not adversely affected by hydrostatic pressure.	PO19.4 is not applicable The proposed works do not include a revetment wall or seawall.
20.1 Prescribed tidal works that are a wharf are designed and constructed in a way to ensure it is able to support its intended loads, having regard to its relevant loading matters.	PO20.1 is not applicable The proposed works are not for a wharf.

ENVIRONMENTAL PROTECTION ACT 1994

Section 115 of the *Environmental Protection Act 1994* identifies particular circumstances when a development application under the *Planning Act* is taken to be an application for an environmental authority. In this case, the application seeks approval for a Material Change of Use for an ERA 49: Boat Maintenance or Repair; accordingly, the application is also taken to be an application for an Environmental Authority (EA) for the ERA.

The nature of the EA application under section 124 of the EP Act is a 'site-specific application' meaning that there are not standard conditions for the proposed ERA or EA. The assessment process for the application largely follows that prescribed under the Planning Act. There are specific assessment criteria relevant to both the ERA and EA which do not form part of the assessment for the land use or operational work elements of the application.

In respect of the EA component, Section 176 of the EP Act provides the decision criteria in relation to a site-specific application. In deciding the application, Council, as the administering authority of the EA must:

- (a) *comply with any relevant regulatory requirement; and*
- (b) *subject to paragraph (a), have regard to each of the following—*
 - (i) *the application;*
 - (ii) *the standard conditions for the relevant activity or authority;*
 - (iii) *the standard criteria.*

In addition, Section 21 of the *Environmental Protection Regulation 2019* provides the relevant assessment benchmarks that an application for a Material Change of Use for a Concurrence ERA is to be assessed against. These matters include:

- (a) *an environmental objective assessment against the environmental objectives and performance outcomes stated in schedule 8, part 3, division 2;*
- (b) *the standard criteria;*
- (c) *if the concurrence ERA is to be carried out in a strategic environmental area – the impacts of the activity on the environmental attributes for the area under the Regional Planning Interests Act 2014.*

The following sections provides Officers assessment against the relevant criteria for both the ERA and EA.

Suitable Operator

An Environmental Authority cannot be granted / held unless the applicant is registered as a suitable operator. The following provides details of the person that is registered with the Department of Environment and Science as being a Registered Suitable Operator:

Details of Suitable Operator – Cairns Boat Yard Pty Ltd	
Entity Type	Corporation (Company)
Business Number	ACN 636682516
RSO Registration Date	22 nd November 2021
Registration Number	100166675
Registration Status	Registered
Location	East Trinity, Queensland 4871

Assessment against Schedule 8, Part 3, Division 2 – Land Use Assessment of the *Environmental Protection Regulation 2019*

Site Suitability
<p>Environmental Objective</p> <p>The choice of the site, at which the activity is to be carried out, minimises serious environmental harm on areas of high conservation value and special significance and sensitive land uses at adjacent places.</p>

Performance Outcomes	Performance Outcomes
<p>1 Both of the following apply—</p> <p>(a) areas of high conservation value and special significance likely to be affected by the proposal are identified and evaluated and any adverse effects on the areas are minimised, including any edge effects on the areas;</p> <p>(b) the activity does not have an adverse effect beyond the site.</p>	<p>Areas of environmental significance surround the development to the north, south and east. To the west of the development is Trinity Inlet, which discharges into the Coral Sea and Great Barrier Reef Marine Park.</p> <p>The proposed use is coastal dependent development; however it is located within an existing cleared area and is able to be conditioned to ensure the development is operated and maintained so as to avoid adverse impacts on environmental values.</p> <p>A condition has been imposed requiring that all landward property boundaries (i.e. northern, eastern and southern boundaries) of the site that are common with adjoining Lot 36 on RP749582, with the exception of the vehicle access, be fenced with a 1.8 metre high boundary fence. The boundary fence will assist in containing the marine industry use within the subject land and protect adjoining environmental areas.</p> <p>Furthermore, conditions have been imposed that require all site management information to be collated into a single Integrated Environmental Management System (IEMS) inclusive of the Site Based Management Plan (SBMP), Site Based Stormwater Management Plan (SBSMP) and SBSMP Implementation Plan for the management of all activities authorised under this approval and the associated environmental authority for ERA 49 Boat Maintenance or Repair.</p>
<p>2 Both of the following apply—</p> <p>(a) areas of high conservation value and special significance likely to be affected by the proposal are identified and evaluated and any adverse effects on the areas are minimised, including any edge effects on the areas;</p> <p>(b) critical design requirements will prevent emissions having an irreversible or widespread impact on adjacent areas.</p>	<p>As identified above, conditions have been imposed that require all site management information to be collated into a single Integrated Environmental Management System (IEMS) inclusive of the Site Based Management Plan (SBMP), Site Based Stormwater Management Plan (SBSMP) and SBSMP Implementation Plan for the management of all activities authorised under this approval and the associated environmental authority for ERA 49 Boat Maintenance or Repair.</p> <p>The IEMS is to identify all sources of potential or actual environmental harm, including but not limited to the actual and potential release of all contaminants, the potential impact of these sources, each environmental receptor that could be impacted; and what actions will be taken to prevent the likelihood of environmental harm being caused.</p> <p>It is considered that the potential environmental impacts from the use can be suitably controlled and managed if the use is operated in accordance with the IEMS.</p>

Location on Site	
Environmental Objective The location for the activity on a site protects all environmental values relevant to adjacent sensitive uses.	
Performance Outcomes	Performance Outcomes
1 The location for the activity means there will be no adverse effect on any environmental values.	The proposed use is coastal dependent development, however it is located within an existing cleared area and is able to be conditioned to ensure the development is operated and maintained so as to avoid adverse impacts on environmental values. As identified above, conditions have been imposed, such as landward boundary fencing and the collation of a single Integrated Environmental Management System (IEMS) to ensure the potential environmental impacts from the use can be suitably controlled and managed, to avoid adverse impacts on environmental values.
2 Both of the following apply— (a) the activity, and components of the activity, are carried out on the site in a way that prevents or minimises adverse effects on the use of surrounding land and allows for effective management of the environmental impacts of the activity; (b) areas used for storing environmentally hazardous materials in bulk are located taking into consideration the likelihood of flooding.	A condition has been imposed that require all site management information to be collated into a single Integrated Environmental Management System (IEMS). The IEMS is to identify all sources of potential or actual environmental harm, including but not limited to the actual and potential release of all contaminants, the potential impact of these sources, each environmental receptor that could be impacted; and what actions will be taken to prevent the likelihood of environmental harm being caused. Conditions have been imposed requiring that the storage of potential contaminants (including oils, greases fuels, acids, paints etc.) as well as waste generated from undertaking the activities are stored in a designated area. Storage of hazardous substances is conditioned to be located within the Shed, above the storm tide line (3.15m AHD).
Critical Design Requirements	
Environmental Objective The design of the facility permits the site at which the activity is to be carried out to operate in accordance with best practice environmental management.	

Performance Outcomes	Performance Outcomes
<p>1 The activity does not involve the storage, production, treatment or release of hazardous contaminants, or involve a regulated structure.</p>	<p>A condition has been imposed that require all site management information to be collated into a single Integrated Environmental Management System (IEMS).</p> <p>The IEMS is to identify all sources of potential or actual environmental harm, including but not limited to the actual and potential release of all contaminants, the potential impact of these sources, each environmental receptor that could be impacted; and what actions will be taken to prevent the likelihood of environmental harm being caused.</p> <p>It is considered that the potential environmental impacts from the use can be suitably controlled and managed if the use is operated in accordance with the IEMS.</p>
<p>2 All of the following apply—</p> <p>(a) all storage provided for hazardous contaminants includes secondary containment to prevent or minimise releases to the environment from spillage or leaks;</p> <p>(b) regulated structures comply with the document called 'Manual for assessing consequence categories and hydraulic performance of structures', published by the department;</p> <p>(c) containers are provided for the storage of hazardous contaminants that are secured to prevent the removal of the containers from the site by a flood event;</p> <p>(d) the design of the facility prevents or minimises the production of hazardous contaminants and waste;</p> <p>(e) if the production of hazardous contaminants and waste is not prevented or minimised under paragraph (d)—the design of the facility contains and treats hazardous contaminants rather than releasing them.</p>	<p>The IEMS is to identify all sources of potential or actual environmental harm, including but not limited to the actual and potential release of all contaminants, the potential impact of these sources, each environmental receptor that could be impacted; and what actions will be taken to prevent the likelihood of environmental harm being caused.</p> <p>It is considered that the potential environmental impacts from the use can be suitably controlled and managed if the use is operated in accordance with the IEMS. Without the implementation of adequate controls, there is high potential for the release of contaminants from boat maintenance and storage facility operations. This could potentially pose a high risk to the surrounding environmental values.</p> <p>Conditions have been imposed requiring that the storage of potential contaminants (including oils, greases fuels, acids, paints etc.) as well as waste generated from undertaking the activities are stored in a designated area.</p> <p>Storage of hazardous substances is conditioned to be located within the Shed, above the storm tide line (3.15m AHD).</p> <p>It is noted that the proposed development does not involve any regulated structures.</p>

The standard criteria are a series of considerations defined in Schedule 4 (Dictionary) of the *Environmental Protection Act 1994*. These criteria must be considered under section 176 of the *Environmental Protection Act 1994* as part of deciding an application for both an ERA and an EA. The following provides an assessment of the proposal against the standard criteria:

Standard Criteria	Summary of Assessment
<p>(a) the following principles of environmental policy as set out in the Intergovernmental Agreement on the Environment -</p> <p>(i) the precautionary principle;</p> <p>(ii) intergenerational equity;</p> <p>(iii) conservation of biological diversity and ecological integrity; and</p>	<p>Conditions have been imposed that require all site management information to be collated into a single Integrated Environmental Management System (IEMS) inclusive of the Site Based Management Plan (SBMP), Site Based Stormwater Management Plan (SBSMP) and SBSMP Implementation Plan for the management of all activities authorised under this approval and the associated environmental authority for ERA 49 Boat Maintenance or Repair.</p> <p>The IEMS is to identify all sources of potential or actual environmental harm, including but not limited to the actual and potential release of all contaminants, the potential impact of these sources, each environmental receptor that could be impacted; and what actions will be taken to prevent the likelihood of environmental harm being caused.</p> <p>It is considered that the potential environmental impacts from the use can be suitably controlled and managed if the use is operated in accordance with the IEMS.</p>
<p>(b) any Commonwealth or State government plans, standards, agreements or requirements about environmental protection or ecologically sustainable development; and</p>	<p>An assessment of the proposed development has been undertaken against the relevant legislative framework (refer above). The assessment has determined that the proposed development is consistent with the applicable assessment benchmarks, and conditions have been imposed to ensure that the development achieves appropriate environmental protection outcomes.</p>
<p>(d) any relevant environmental impact study, assessment or report; and</p>	<p>An Environmental Investigation Report has been undertaken which identified that the historical use of the land for boat maintenance has resulted in minor contamination of the site and at one section of Trinity Inlet. The report recommended that mitigation measures be employed to prevent the potential of environmental harm occurring in the future as a result of the activities undertaken at the site and existing controls to prevent sediment washing into Trinity Inlet and adjoining sites are maintained.</p> <p>Conditions have been imposed that require all site management information to be collated into a single Integrated Environmental Management System (IEMS) inclusive of the Site Based Management Plan (SBMP), Site Based Stormwater Management Plan (SBSMP) and SBSMP Implementation Plan for the management of all activities authorised under this approval and the associated environmental authority for ERA 49 Boat Maintenance or Repair.</p>

<p>(e) the character, resilience and values of the receiving environment; and</p>	<p>Areas of environmental significance surround the development. To the west of the development is Trinity Inlet, which discharges into the Coral Sea and Great Barrier Reef Marine Park. Without the implementation of adequate controls, there is high potential for the release of contaminants from boat maintenance and storage facility operations. This could potentially pose a high risk to the surrounding environmental values. The IEMS provides measures which are required to contain such wastes and are intended to reduce the risk of contaminants being released offsite.</p>
<p>(f) all submissions made by the applicant and submitters; and</p>	<p>The submissions received relate to access to the development via the easement only being permitted for residential purposes only not for the Applicant to run the business. The application proposes that the access easements, including Easement X and Z, be used for residential purposes, and that all business related traffic (customer, supplier and service provider access) is to occur via Trinity Inlet. The approval is conditioned to require all Marine Industry related access to be via Trinity Inlet.</p> <p>In addition, the submissions raised concerns with disposing rubbish onto adjoining land. A condition has been imposed requiring boundary fencing to limit this occurring.</p> <p>Thirdly, the submissions identified concerns regarding the use resulting in environmental harm. The Applicant has submitted supporting information to demonstrate that waterways will be protected. This includes an Environmental Investigation Report and a stormwater management plan to ensure that surrounding sites and receiving waters are not contaminated. Further, the approval is conditioned to require an SBMP and SBMP Implementation Plan which will provide for active management of potential impacts and assist with managing the existing site contamination identified in the Environmental Investigation Report so as to prevent adverse impacts on adjoining and nearby land and uses and on the waters of Trinity Inlet.</p>
<p>(g) the best practice environmental management for activities under any relevant instrument, or proposed instrument, as follows –</p> <p>(i) an environmental authority;</p> <p>(ii) a transitional environmental program;</p> <p>(iii) an environmental protection order;</p> <p>(iv) a disposal permit;</p> <p>(v) a development approval; and</p>	<p>Conditions have been imposed that require all site management information to be collated into a single Integrated Environmental Management System (IEMS) inclusive of the Site Based Management Plan (SBMP), Site Based Stormwater Management Plan (SBSMP) and SBSMP Implementation Plan for the management of all activities authorised under this approval and the associated environmental authority for ERA 49 Boat Maintenance or Repair.</p> <p>The IEMS is to identify all sources of potential or actual environmental harm, including but not limited to the actual and potential release of all contaminants, the potential impact of these sources, each environmental receptor that could be impacted; and what actions will be taken to prevent the likelihood of environmental harm being caused.</p>

(h) the financial implications of the requirements under an instrument, or proposed instrument, mentioned in paragraph (g) as they would relate to the type of activity or industry carried out, or proposed to be carried out, under the instrument; and	It is considered that the requirements imposed to ensure that management systems are prepared and implemented to manage the activity to minimise environmental harm are reasonable and do not impose undue financial implications.
(i) the public interest; and	The development provides for a storage, maintenance and repair facility for marine vessels. While not a use that benefits the whole community, it is considered that development provides a service to the marine community. The nature and location of the proposed development, if operated and managed in accordance with conditions of approval will not adversely impact the good order and functioning of the community.
(j) any relevant site management plan; and	As identified conditions have been imposed that require all site management information to be collated into a single Integrated Environmental Management System (IEMS) inclusive of the Site Based Management Plan (SBMP), Site Based Stormwater Management Plan (SBSMP) and SBSMP Implementation Plan for the management of all activities authorised under this approval and the associated environmental authority for ERA 49 Boat Maintenance or Repair.
(k) any relevant integrated environmental management system or proposed integrated environmental management system; and	<p>Conditions have been imposed that require all site management information to be collated into a single Integrated Environmental Management System (IEMS) inclusive of the Site Based Management Plan (SBMP), Site Based Stormwater Management Plan (SBSMP) and SBSMP Implementation Plan for the management of all activities authorised under this approval and the associated environmental authority for ERA 49 Boat Maintenance or Repair.</p> <p>The IEMS is to identify all sources of potential or actual environmental harm, including but not limited to the actual and potential release of all contaminants, the potential impact of these sources, each environmental receptor that could be impacted; and what actions will be taken to prevent the likelihood of environmental harm being caused.</p>
(l) any other matter prescribed under a regulation.	All relevant matters have been taken into consideration.

MATTERS RAISED IN SUBMISSIONS FOR IMPACT ASSESSABLE DEVELOPMENT

In accordance with Impact Assessment procedures outlined in Part 4 of the Development Assessment Rules (DA Rules) the proposal was publicly notified for a minimum of 15 business days, with the following actions being carried out by the Applicant:

- Publish a notice at least once in the newspaper circulating generally in the locality;
- Place a notice on the land in the way prescribed under the regulation; and
- Give a notice to the owners of all lots adjoining the premises.

A Notice of Compliance was received 3 March 2022 and two (2) submissions were received within the public notification period. A summary of the submissions received is provided in the table below:

No. of submissions received	2	Properly Made	2	Not Properly Made	
Nature of properly made submission		In Support	0	Object	2

The following matters were raised in submissions.

Matter	Comment
Approving a Material Change of Use would be a breach of the Supreme Court Order No. 7 of 1999 (Residential access only via the easements over Lot 36 on RP749582)	<p>The Supreme Court Order dated 18 September 2003 states in part that:</p> <p><i>‘...the Respondents grant to Smith an Easement for access purposes over that part of the Servient Land as identified in Annexure B, which easement shall be described as Easement Z. The access shall be for the purposes of ingress and egress of reasonable domestic vehicular traffic and traffic associated with the current business carried on by the owner of Lot 56 and any other business purposes which do not result in a material change in circumstances.’</i></p> <p>The application proposes that the access easements, including Easement Z, be used for residential purposes only, and that all business related traffic (customer, supplier and service provider access) is to occur via Trinity Inlet. The approval is conditioned to require all Marine Industry related access to be via Trinity Inlet.</p>
Alleged dumping of rubbish and other materials onto Lot 36 on RP749582.	The approval includes a condition requiring the installation of boundary fencing along all common boundaries with Lot 36 on RP749582. Alleged issues or non-compliance with matters within Council’s jurisdiction are investigated and actioned as required.
Concern the proposed use will result in environmental harm to the adjoining property (in particular the existing aquaculture operation) and Trinity Inlet.	The Applicant has submitted supporting information to demonstrate that waterways will be protected. This includes an Environmental Investigation Report and a stormwater management plan to ensure that surrounding sites and receiving waters are not contaminated. Further, the approval is conditioned to require an SBMP and SBMP Implementation Plan which will provide for active management of potential impacts and assist with managing the existing site contamination identified in the Environmental Investigation Report so as to prevent adverse impacts on adjoining and nearby land and uses and on the waters of Trinity Inlet.
Concerns that the application contains incorrect information regarding the history of the site.	A review of Council’s files on the history of the site and surrounds has been undertaken as part of the assessment of the application.

REFERRAL AGENCY ASSESSMENT

The application triggered referral to the State Assessment and Referral Agency (SARA) for tidal works and works in a coastal management district, as well as for a material change of use involving the removal, destruction or damage of a marine plant.

The application also triggered referral to Ports North for land within the limits of another port where for prescribed assessable development and on land below high-water mark and within the limits of a port under the Transport Infrastructure Act.

Referral Agency conditions are attached at Appendix 3.

RELEVANT MATTERS

The development is subject to Impact Assessment and therefore consideration was given to the following relevant matters, in accordance with section 45 of the *Planning Act 2016*.

Relevant Matters	Assessed against or if had regard to
CairnsPlan 2016 Major Amendment	In accordance with section 45 of the <i>Planning Act</i> , consideration was given to the draft CairnsPlan 2016 Major Amendment 3.0 and Minor Amendment Version 3.1 in the assessment of the development application. It is noted that the relative zoning and applicable overlays remain substantially similar and further detailed assessment is not warranted in the circumstances.

INFRASTRUCTURE CHARGES

Council's Infrastructure Charges Resolution No. 2 of 2021 identifies that an Infrastructure Charge is levied for the development. When considering the amount of any levied charge, regard must be had to the requirements of section 120 of the *Planning Act 2016*. Section 120(1) states that "*a levied charge may be only for extra demand placed on trunk infrastructure that the development will generate*".

In this case, the development will be serviced by on-site water supply and sewerage infrastructure, is not connected to any stormwater infrastructure and access to the site for the Marine Industry use must only occur via Trinity Inlet (confirmed as a condition of approval).

In consideration of these specific circumstances, Officers consider that the use of premises will not generate an extra demand on Council's trunk infrastructure network and accordingly, a levied charge does not apply.

LOCAL GOVERNMENT INFRASTRUCTURE PLAN (LGIP)

The development does not require the delivery of trunk infrastructure identified within the Local Government Infrastructure Plan to facilitate the development.

REASONS FOR DECISION

The reasons for this decision are:

1. The proposed development has been assessed in accordance with the provisions of the CairnsPlan 2016 v2.1 and is considered to comply with the Strategic Framework, Overall Outcomes and Performance Outcomes of the applicable codes subject to the imposition of reasonable and relevant development conditions.
2. The proposed development is considered to be substantially compliant with the provisions of other relevant assessment benchmarks, including the State Planning Policy (SPP 2017) and the Far North Queensland Regional Plan 2009-2031. Further, it is considered that the non-compliances with the benchmarks are able to be managed via the imposition of reasonable and relevant development conditions.
3. The proposed development has adequately demonstrated that the region's natural environment, ecological processes and biodiversity values can be protected and appropriately managed where necessary. Conditions to this effect have been imposed on the Development Permit and Environmental Authority.
4. In assessing the proposed development, conditions have been imposed to ensure compliance with the assessment benchmarks of CairnsPlan 2016 and other relevant statutory instruments.

RISK MANAGEMENT

Council Finance and the Local Economy

The development is to occur on privately owned land and all costs are the responsibility of the developer.

Community and Cultural Heritage

CairnsPlan 2016 sets out framework to ensure appropriate development occurs. The framework is reflected within the overlay, local plan, zone and development codes of which this development application has been assessed against.

Natural Environment

CairnsPlan 2016 sets out framework to ensure appropriate development occurs. The framework is reflected within the overlay, local plan, zone and development codes of which this development application has been assessed against.

SUMMARY

Officers consider that the proposed development, comprising of Marine Industry, ERA 49 (Boat Maintenance or Repair), Environmental Authority for ERA 49 and Operational Works (Prescribed Tidal Work) is substantially compliant with the provisions of the relevant assessment benchmarks, including CairnsPlan 2016 v2.1, the State Planning Policy (SPP 2017), the Far North Queensland Regional Plan 2009-2031, Schedule 3 of the *Coastal Protection and Management Regulation 2017*, the land use assessment criteria under the *Environmental Protection Regulation 2019* and the Standard Criteria under the *Environmental Protection Act 1994*. Further, it is considered that the non-compliances with the relevant benchmarks are able to be adequately managed via the imposition of reasonable and relevant Development conditions.

On balance, Officers recommend that Council, as the assessment manager, Approves the Development Application in full, subject to reasonable and relevant development conditions.

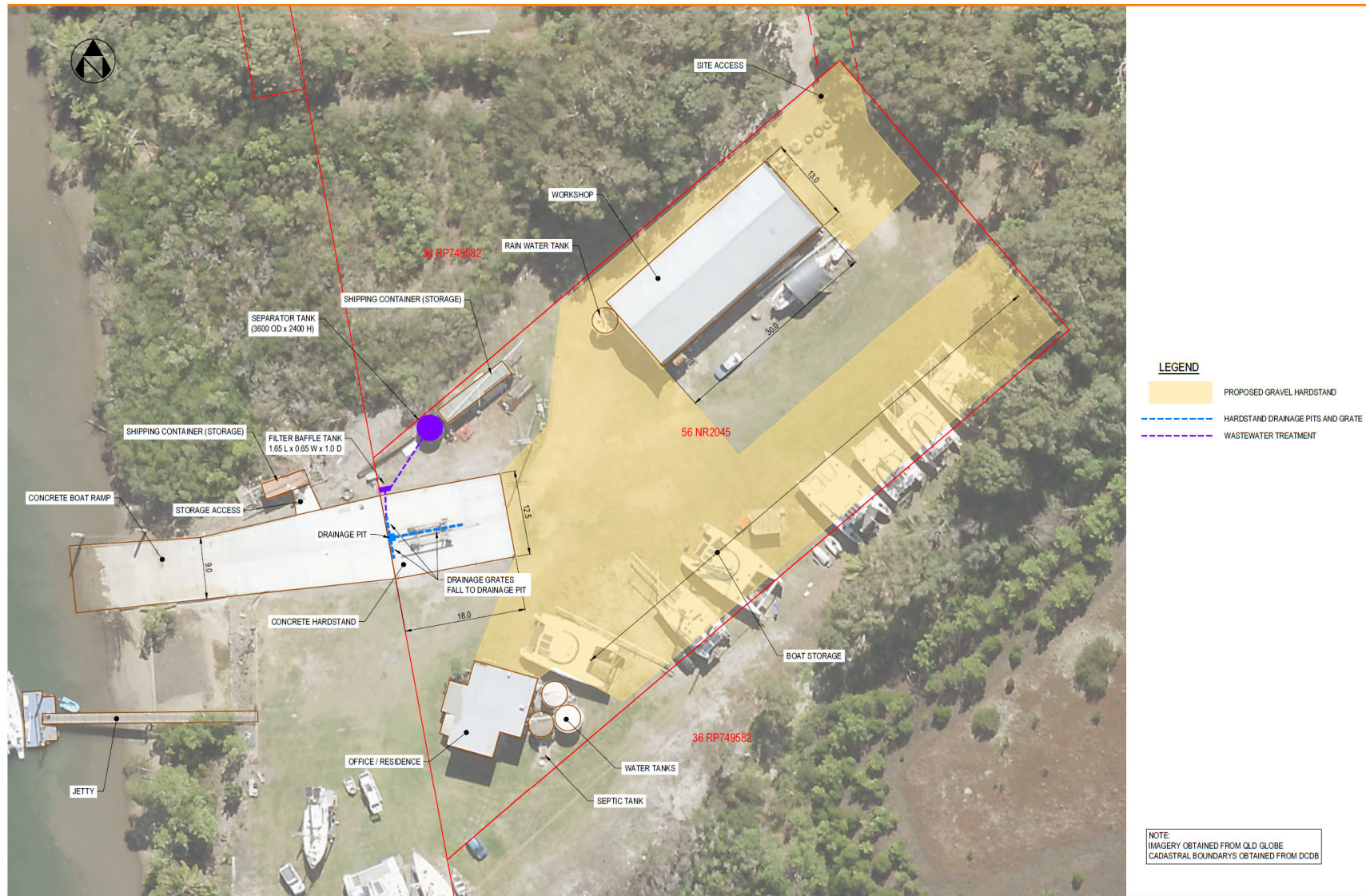
ATTACHMENTS

1. APPROVED PLAN(S) & DOCUMENT(S)
2. NOTICE OF INTENTION TO COMMENCE USE
3. REFERRAL AGENCY RESPONSE



Ed Johnson
Director Planning, Growth & Sustainability

ATTACHMENT 1: APPROVED PLAN(S) & DOCUMENT(S) (#7239994)



69R LEE VAN ROAD, EAST TRINITY
SITE LAYOUT PLAN

CAIRNS BOAT YARD PTY LTD

SKF

A	08.11.21	INITIAL ISSUE					
Drawn	Design	Checked	Approved	PROJECT	AS FILED (Scale as shown)	016-2101-01-CI-DRG-0001	A
PAM	PAM	CJC	CJC	C.J. CAPLOCK	08.11.21		

ATTACHMENT 2: NOTICE OF INTENTION TO COMMENCE USE



Notice of Intention to Commence Use

DEVELOPMENT PERMIT
Planning Act 2016

Development Permit	8/30/345
Date of Approval	9 August 2023
Approved Use	Marine Industry and ERA49 Boat Maintenance and Repair
Location	69R Lee Yan Road EAST TRINITY
Property Description	Lot 56 on PLAN2045

I/we are hereby notifying Cairns Regional Council of my/our intention to commence the approved use outlined above

on _____ (insert date).

I have read the conditions of the Decision Notice issued and believe that all the applicable conditions have been complied with.

Applicant:

Address:

Contact Phone:

Signature of Applicant/Owner:

Date:

ATTACHMENT 3: REFERRAL AGENCY RESPONSE (#6907269)

RA6-N



SARA reference: 2111-25949 SRA
 Council reference: 8/30/345
 Applicant reference: 17-04/001091

9 February 2022

Chief Executive Officer
 Cairns Regional Council
 PO Box 359
 Cairns Qld 4870
 PlanningAdmin@cairns.qld.gov.au

Attention: Ian Elliot-Smith

Dear Sir/Madam

SARA response—69 Lee Yan Road, East Trinity—Boat Yard

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency on 30 November 2021.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	9 February 2022
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Development permit	Material change of use Marine Industry and ERA 49 (Boat Maintenance or Repair) Operational work for Prescribed Tidal Works
SARA role:	Referral Agency	
SARA trigger:	Schedule 10, Part 17, Division 3, Table 1 (Planning Regulation 2017)	Development application for tidal works and works in a coastal

Page 1 of 8

Far North Queensland regional office
 Ground Floor, Cnr Grafton and Hartley
 Street, Cairns
 PO Box 2358, Cairns QLD 4870

2111-25949 SRA

management district

Schedule 10, Part 17, Division 3, Table 2 (Planning Regulation 2017)
Development application for tidal works in tidal watersSchedule 10, Part 6, Division 3, Subdivision 3, Table 2 (Planning
Regulation 2017)
Development application for material change of use involving the
removal, destruction or damage of a marine plant

SARA reference: 2111-25949 SRA
 Assessment Manager: Cairns Regional Council
 Street address: 69 Lee Yan Road, East Trinity
 Real property description: Lot 56 on NR2045, esplanade and land below high water mark
 adjacent to Lot 56 on NR2045
 Applicant name: J C & B A Mumby
 Applicant contact details: c/- Planning Plus
 PO Box 399
 Redlynch QLD 4870
 info@planningplusqld.com.au

Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules) Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Tony Croke, Principal Planner, on 40373205 or via email CairnsSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Joanne Manson
A/Manager (Planning)

cc J C & B A Mumby, info@planningplusqld.com.au
 enc Attachment 1 - Referral agency conditions
 Attachment 2 - Advice to the applicant
 Attachment 3 - Reasons for referral agency response
 Attachment 4 - Representations provisions
 Attachment 5 - Approved plans and specifications

2111-25049 SRA

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the plans and specifications referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Operational Works		
Schedule 10, Part 17, Division 3, Table 1 - Tidal works and works in a coastal management district — The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Environment and Science to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
1.	The Concrete Ramp and Jetty must be carried out generally in accordance with the following plans: (a) Site Layout Plan prepared by 5KF dated 09.11.2021, reference 016-2101-01-CI-DRG-0001 and revision A.	For the duration of the works
2.	Should the marine access structure/s (concrete boat ramp, jetty) collapse, fail or otherwise suffer structural consequences which impact their integrity or ability to function as intended, the works must be: (a) reinstated in accordance with this development approval; or (b) removed and disposed of at an appropriately licensed facility.	As soon as reasonably practicable subsequent to the damage
Schedule 10, Part 17, Division 3, Table 2 - Tidal works in tidal waters — The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition:		
3.	(a) Any debris or similar obstruction encountered whilst undertaking the work must be disposed of at the applicant's cost. AND (b) All piles and/or structures to be demolished, both above and below the waterline must be completely extracted/removed.	While the works are occurring
Schedule 10, Part 6, Division 3, Subdivision 3, Table 2 - Marine plants — The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Agriculture and Fisheries to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
4.	Development authorised under this approval is limited as follows: (a) Operational work for the permanent removal, destruction or damage of marine plants being limited to the footprint of the boat ramp and jetty and shown in Site Layout Plan, 5KF, 09/11/2021, 016-2101-01-CI-DRG-0001, Issue A.	At all times
5.	The shipping container must be completely removed from tidal lands.	Within four (4) weeks of the issue of this approval
6.	Provide written notice to notifications@daf.qld.gov.au , when the	Within 15 business day

2111-25949 SRA

	works specified in conditions 4 and 5: (a) have been completed. These notices must state this permit number 2111-25949 SRA .	of the completion of the works specified in conditions 4 and 5
7.	This fisheries development (as defined by the <i>Fisheries Act 1994</i>) constitutes a place that is required to be open for inspection by an inspector at all times, pursuant to section 145 of the <i>Fisheries Act 1994</i> .	At all times

2111-25049 SRA

Attachment 2—Advice to the applicant

General advice

- | | |
|----|--|
| 1. | Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) version 2.6 effective 7 February 2020. If a word remains undefined it has its ordinary meaning. |
|----|--|

Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

The reasons for the department's decision are:

- The works are existing coastal dependant development, which causes no new impacts on coastal processes.
- The works cannot be moved further landward.
- There is no new risk of impacts to people or property from coastal erosion as a result of this development.
- The boat ramp and jetty are situated in a section of hardened shoreline and do not cause an erosion risk on or off-site.
- The existing marine access structures do not result in a significant risk to water quality.
- The development does not create significant residual impacts on matters of state environmental significance values.
- A boat ramp and jetty have a functional requirement to be located on tidal lands as they form an integral part of a boat yard.
- A shipping container for safety equipment does not have a functional requirement to be located on tidal lands. There are viable alternatives so the shipping container must be relocated to non-tidal lands.
- Although the area was previously cleared of marine plants, the shipping container restricts marine plant restoration.
- There is not expected to be any impacts to erosion and accretion.
- The boat ramp and jetty are designed, sited and constructed to ensure long term use and operability will not impact fisheries resources.
- Once the shipping container is removed, there will be no significant residual impact (SRI) as a result of the development.
- The development does not reduce public use or access to state coastal land or fisheries resources.
- The proposed development does not impact on:
 - o the viable operation of aids to navigation
 - o the safe operation of vessels in navigable waterways.

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version 2.6 effective 7 February 2020), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system

2111-25949 SRA

Attachment 4—Change representation provisions

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2111-25049 SRA

Attachment 5—Approved plans and specifications

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Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding representations about a referral agency response

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

Part 7: Miscellaneous

30 Representations about a referral agency response

- 30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

