

Decision Notice

Planning Act 2016

4 July 2022

G Wood
C/- BNC Planning
PO Box 5493
Townsville Qld 4810

Email: bnc@bncplanning.com.au

Dear Gordon,

I refer to your application and advise that Development Application **MCU22/0001** was assessed and approved in full subject to conditions. The decision was made by the Assessment Manager on the date below.

Details of decision are as follows:

Application Details

Application Number:	MCU22/0001
Street Address:	20-26 Patricia Road, Ayr
Real Property Description:	Lot 29 on RP744911
Planning Scheme	Burdekin Shire IPA Planning Scheme 2011

Decision Details

Type of Decision:	Approval with Conditions
Type of Approval:	Development Permit for Material Change of Use – Material Change of Use for a Dual Occupancy
Date of Decision:	28 June 2022

Currency Period of Approval

The currency period for this development approval is 6 years starting the day that this development approval takes effect. (Refer to Section 85 “Lapsing of approval at end of currency period” of the *Planning Act 2016*.) Please note that in terms of the Planning Act, the currency period can only be extended if the request is received before the approval lapses. (see Section 85 “Lapsing of approval at end of currency period”)

Infrastructure

Where conditions relate to the provision of infrastructure, these are non-trunk infrastructure conditions unless specifically nominated as a “**necessary infrastructure condition**” for the provision of trunk infrastructure as defined under Chapter 4 of the *Planning Act 2016*.

Assessment Manager Conditions

See Attachment 1.

Referral Agencies

Not Applicable.

Approved Plans

The following plans are Approved plans for the development:

Drawing Title	Drawing Ref & Issue	Prepared by	Dated
SITE PLAN	PD01 Rev 1	Michael Case Homes	09.12.2021
FLOOR PLAN	PD02 Rev 1	Michael Case Homes	09.12.2021
ELEVATIONS	PD03 Rev 1	Michael Case Homes	09.12.2021
ELEVATIONS	PD04 Rev 1	Michael Case Homes	09.12.2021
Associated Reports			
Development application prepared by BNC Planning. File Ref: DA128-19 V1.0 December 2021			

Referenced Documents

Not Applicable

Advisory Notes

See Attachment 1

Property Notes

Not Applicable

Variation Approval

Not Applicable

Further Development Permits Required

Development Permit for Building Works.
Development Permit for Plumbing and Drainage Works.

Submissions


No properly made submissions were received.

Rights of Appeal

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about the conditions contained within the development approval. If council agrees or agrees in part with the representations, a "negotiated decision notice" will be issued. Only one "negotiated decision notice" may be given. Taking this step will defer your appeal period, which will commence again from the start the day after you receive a "negotiated decision notice".

**Assessment Manager
Signature:**



Date: 29 June 2022

Enc: Appeal Rights

Attachment 1 – Conditions of approval

Attachment 2 - Approved proposal plans

Appeal Rights

Planning Act 2016 & The Planning Regulation 2017

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 of the *Planning Act 2016* states –
 - (a) Matters that may be appealed to –
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) The person-
 - (i) who may appeal a matter (**the appellant**); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.

(Refer to Schedule 1 of the Planning Act 2016)

- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is –
 - (a) for an appeal by a building advisory agency – 10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal – at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises – 20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice – 20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given – 30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal – 20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note –

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund-
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that-
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to –
 - (a) the respondent for the appeal ; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1 – each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court – the chief executive; and

- (g) for an appeal to a tribunal under another Act – any other person who the registrar considers appropriate.
- (4) The *service period* is –
 - (a) if a submitter or advice agency started the appeal in the P&E Court – 2 business days after the appeal has started; or
 - (b) otherwise – 10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section –
 - decision* includes-
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or failure to make a decision; and
 - (d) a purported decision ; and
 - (e) a deemed refusal.
 - non-appealable*, for a decision or matter, means the decision or matter-
 - (a) is final and conclusive; and
 - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with the rules of the P&E Court.

Statement of Reasons

Planning Act 2016 & The Planning Regulation 2017

This notice is prepared in accordance with s63(5) and s83(7) of the *Planning Act 2016* to inform the public about a decision that has been made in relation to a development application.

The purpose of the notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- the relevant parts of the Planning Scheme and Assessment Benchmarks against which the application was assessed; and
- any other information, documents or other material Council was either required to, or able to, consider in its assessment.

All terms used in this notice have the meanings given them in the *Planning Act 2016*.

The proposed development is considered to be consistent with the relevant overall outcomes and assessment benchmarks of the *Burdekin Shire IPA Planning Scheme 2011*, in particular:

- the application has been approved as it is considered to meet, or have the ability to meet the requirements of the relevant aspects of the *Burdekin Shire IPA Planning Scheme 2011*; and
- Conditions of approval have been included to ensure compliance with the *Burdekin Shire IPA Planning Scheme 2011*.

Attachment 1 – Assessment Manager Conditions of Approval

Condition	Reason	Timing
1. General and Administration		
<p>1.1 The development and conduct of the approved use of the premises, the carrying out and maintenance of any works on the premises and construction and maintenance of any building on the premises must be generally in accordance with the applications supporting material, except where modified by the conditions of this Development Permit and any approval issued there under.</p> <p>1.2 Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) will prevail.</p> <p>1.3 The proposed development must comply with all Planning Scheme requirements as applying at the date of this approval, except as otherwise specified by any condition.</p>		At all times.
<p>2. Approved Plans and/or Supporting Documents</p> <p>2.1 The proposed development must be completed and maintained generally in accordance with the drawing/ documents identified in the Table below, except as otherwise specified by any condition of this approval.</p> <p>2.2 One full set of the most up to date approved plans must be held on site and available for inspection for the duration of the construction phase and during compliance checks.</p> <p>2.3 Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) will prevail.</p> <p>2.4 The proposed development must comply with all scheme requirements as applying at the date of this approval, except as otherwise specified by any condition of this approval.</p> <p>2.5 The development must be constructed in the position and at the levels identified on the approved plans or as stipulated by a condition of this approval, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.</p>	The development must comply with all planning scheme requirements and definitions as approved and conditioned by this development permit.	During the operation and life of the development.

Attachment 1 – Assessment Manager Conditions of Approval

Condition		Reason	Timing
3. Approved Plans			
Drawing Title	Drawing Ref & Issue	Prepared by	Dated
SITE PLAN	PD01 Rev 1	Michael Case Homes	09.12.2021
FLOOR PLAN	PD02 Rev 1	Michael Case Homes	09.12.2021
ELEVATIONS	PD03 Rev 1	Michael Case Homes	09.12.2021
ELEVATIONS	PD04 Rev 1	Michael Case Homes	09.12.2021
Associated Reports			
Development application prepared by BNC Planning. File Ref: DA128-19 V1.0 December 2021			
4. Community Title Scheme Not Permitted			
<p>The submission to Council for its endorsement of any Community Management Statement that would allow the development to be separately titled into a Community Titles Scheme is not permitted.</p> <p>i. A Land Memo will be imposed on the land parcel (Lot 29 on RP744911) prior to the issue of classification for the building approval, advising that separate titling of the land by way of a Community Titles Scheme is not permitted to occur.</p> <p>ii. The property record notation will read as follows: <i>'Subdividing the land by way of a Community Titles Scheme is not permitted to occur and has been prevented by way of a condition of development approval. A copy of the conditions of the development approval is available from Council. Landowners or purchasers are strongly advised to seek further details by contacting Council's Planning and Development section.'</i></p>		<p>To ensure all development is appropriately located, designed and operated to ensure that:</p> <p>i. Existing and future agricultural activities anticipated in the Rural Zone are not compromised; and</p> <p>ii. A safe and pleasant environment is provided while reasonably maintaining the amenity experienced in the locality.</p>	
5. Outstanding charges			
All rates and charges (including infrastructure charges), in arrears in respect of the land, subject of the application, are paid in full prior to the commencement of the proposed use		Prior to the issue of the certificate of final	

Attachment 1 – Assessment Manager Conditions of Approval

Condition	Reason	Timing
		inspection by the Building Certifier.
<p>6. Compliance with Conditions</p> <p>The proposed development must comply with all conditions of this development permit prior to the commencement of the use, or prior to the issue of the Certificate of Classification by the building certifier, whichever occurs first.</p>	<p>The development must comply with all planning scheme requirements and definitions as approved and conditioned by this development permit.</p>	<p>i. Prior to the issue of the certificate of final inspection by the Building Certifier; and</p> <p>ii. During the operation and life of the development.</p>
<p>7. On Site Water Supply</p>	<p>To ensure the development is appropriately and adequately serviced by private infrastructure and to ensure that excessive impacts to Council's reticulated infrastructure and water supply in the locality are effectively mitigated.</p>	<p>i. Prior to the issue of the certificate of final inspection by the Building Certifier; and</p> <p>ii. During the operation and life of the development.</p>
<p>7.1 i. No new water connection and/or meter for the development is permitted.</p> <p>ii. Water supply for the new dwelling is to be accessed via a connection from the existing property service to and meter that currently services Lot 29 on RP744911.</p>		
<p>7.2 An adequate flow restricting device as approved by Council, must be installed on the supply line to the new dwelling, with flow limited to 23 L/min.</p>		
<p>7.3 A physical air break is to be provided between the each residential supply. For example, the development is to be provided with adequate storage tanks (minimum storage capacity of 10,000 litres), installed to service the new dwelling.</p>		
<p>8. On Site Sewerage Treatment and Disposal</p>	<p>To ensure the development is appropriately serviced by the required infrastructure.</p>	<p>Prior to the issue of the certificate of final inspection by the Building Certifier.</p>
<p>8.1 At future building application stage, the applicant is to design and construct a suitable on-site sewerage treatment system for the new dwelling.</p> <p>8.2 Such work must be designed and constructed in accordance with <i>the On Site Sewerage Code and AS/NZS 1547:2000</i>.</p>		

Attachment 1 – Assessment Manager Conditions of Approval

Condition	Reason	Timing
9. Public Utility Services The developer must at its own cost undertake all necessary alterations to public utility mains and services as are rendered necessary by the carrying out of any required external works or other works associated with the approved development.		At all times.
10. Stormwater Drainage and Management 10.1 All site works must be undertaken to ensure that there is no increase in flood levels and/or flood frequency at any locations where existing landowners and/or users are adversely affected by waterway flooding for all events up to and including Q100. 10.2 The approved development must not interfere with the natural flow of stormwater in the locality in such a manner as to cause ponding or concentration of stormwater on adjoining land or roads. 10.3 Any external catchments discharging to the premises must be accepted and accommodated within the development's stormwater drainage system.	To convey stormwater legally and in an environmentally responsible manner in accordance with relevant standards, code/s and policy direction,	At all times.
11. Acid Sulfate Soils (Potential or Actual) Should the soil and groundwater investigations reveal the presence of acid sulfate soils or potential acid sulfate soils, an Acid Sulfate Soils Management Plan must be prepared and submitted to Council for approval	To ensure potential adverse impacts on the natural and built environment including infrastructure and human health as a result of acid sulfate soils are avoided in accordance with relevant code/s and policy direction.	Technical details are to be submitted to council prior to the issue of the certificate of final inspection by the Building Certifier.
12. Access, Roadworks and Traffic 12.1 No new access from Patricia Road to the new dwelling is permitted.	To provide development with access in accordance	Technical details are to be submitted to council prior to the issue of the certificate of final

Attachment 1 – Assessment Manager Conditions of Approval

Condition	Reason	Timing
<p>12.2 The applicant must design and reconstruct the existing internal access from Patricia Road to provide appropriate access to the new dwelling.</p> <p>12.3 All vehicle access, parking and manoeuvring areas proposed for the development must be adequate, safe and designed in accordance with the relevant standards and Council's policies, with all vehicles entering and exiting the site in a forward direction.</p> <p>12.4 The proposed development must not impact adversely on the efficiency and safety of the transport network and those who use it, nor adversely impact on the immediately surrounding uses.</p> <p>12.5 Accesses to the premises, car parking and manoeuvring areas must be constructed in an all-weather, suitably sealed, low glare paving (bitumen, asphalt, concrete) to the satisfaction of the Chief Executive Officer.</p> <p>12.6 Any damage which is caused to Council's infrastructure as a result of the proposed development must be repaired immediately.</p>	<p>with council standards.</p>	<p>inspection by the Building Certifier.</p>
<p>13. On Site Car Parking</p> <p>Provide adequate on site car parking spaces per dwelling for residents and visitors, in accordance with the requirements of the Dual Occupancy Code.</p> <p>All on-site car parking facilities, driveways and manoeuvring areas must be designed and constructed in accordance with Council's requirements and the relevant Standards.</p> <p>All car parking facilities must be always maintained to a safe operating standard thereafter.</p>	<p>To ensure the development is appropriately serviced by car parking and access facilities in accordance with relevant code/s and policy direction.</p>	<p>i. Technical details are to be submitted to council prior to the issue of the certificate of final inspection by the Building Certifier.</p> <p>ii. At all times and maintained for the life of the development.</p>
<p>14. Property Numbering</p> <p>Legible property numbers must be erected at the premises and must be maintained.</p>	<p>To allow the general public, service and</p>	<p>Prior to the commencement of the</p>

Attachment 1 – Assessment Manager Conditions of Approval

Condition	Reason	Timing
The site identification numbers should be of reflective material, maintained free from foliage and other obstructions, and be large enough to be read from the street.	emergency service providers to effectively identify the property.	use and maintained for the life of the development.
15. Relocation of Services or facilities Any required relocation and/or alteration to any public service or facility installation must be carried out at no cost to council.	To ensure development is appropriately serviced by public services and/or in accordance with relevant code/s and policy direction.	Prior to the issue of the certificate of final inspection by the Building Certifier and maintained for the life of the development.
16. Storage Any storage on site is required to be screened from view from all roads and adjacent properties.	To ensure the development does not have a detrimental effect on the visual amenity of the surrounding land in accordance with relevant code/s and policy direction.	At all times following the commencement of the use.
17. Soil Erosion Minimisation, Sediment Control Erosion and sediment control management including site specific stormwater treatment devices must be installed and maintained to the satisfaction of the Chief Executive Officer.	To ensure that receiving waters during construction of the development are managed from the effects of increased sediment run-off in accordance with relevant code/s and policy direction.	At all times during the construction phase.
18. Dust Management A dust management plan must be prepared and submitted to council for approval.	To mitigate potential adverse impacts of dust hazards.	Technical details are to be submitted to council prior to the issue of the certificate of final

Attachment 1 – Assessment Manager Conditions of Approval

Condition	Reason	Timing
		inspection by the Building Certifier.
<p>19. Waste Management Facilities</p> <p>Refuse collection arrangements on site must be provided by the developer to the satisfaction of the Chief Executive Officer.</p> <p>In particular:</p> <ul style="list-style-type: none"> a) The approved waste storage area is to be of sufficient size to house all garbage bins including recycling bins and area is to be suitably screened. b) All waste generated as a result of the construction of the development is to be effectively controlled and contained entirely within the boundaries of the site prior to disposal. c) All waste is to be disposed of in accordance with the <i>Environmental Protection Regulation 2019</i> and council's waste management policy. 	<p>To ensure the premises is appropriately serviced and to protect matters of public health and amenity in accordance with relevant code/s and policy direction.</p>	<p>Technical details are to be submitted to council prior to the issue of the certificate of final inspection by the Building Certifier.</p>
<p>20. Outdoor Lighting</p> <p>Any outdoor lighting fixtures must be installed and maintained so that they do not emit glare or light above the levels stated in <i>Australian Standard 4282 – 1997 Control of the Obtrusive Effects of Outdoor Lighting</i>.</p>	<p>To ensure that the use does not cause a light nuisance to nearby sensitive receptors, and to ensure that a nuisance is not caused to the use from other nearby light sources in accordance with the <i>Queensland Environmental Protection Act 1994</i> Section 440.</p>	<p>Prior to the issue of the certificate of final inspection by the Building Certifier, and to be maintained for the life of the development.</p>
<p>21. Limitation of Approval</p> <p>This approval is limited to a Dual Occupancy use defined by Schedule 1, Division 2 – Defined Uses and Use Classes of <i>Burdekin Shire IPA Planning Scheme</i>.</p>	<p>The development must comply with all planning scheme requirements and definitions as approved and</p>	<p>During the operation and life of the development.</p>

Attachment 1 – Assessment Manager Conditions of Approval

Condition	Reason	Timing
	conditioned by this development permit.	
22. Notice of Intention to Commence the Use Prior to the commencement of the use on the land the subject of the application, written notice must be given to Council that the use (development and/or works) fully complies with the decision notice issued in respect of the use.		Prior to the commencement of the use.

Advice	
1. Infrastructure Charges The Infrastructure Charges Notice outlining the estimated infrastructure contributions payable relevant to the Development Permit is attached for your information.	
2. General Council will not be obligated to upgrade any roads accessing the development due to increased vehicle numbers accessing the development.	
3. General – Environmental Health Waste and recycling services must be provided in accordance with Council's Waste Management Policy.	
4. Further Approvals Required a) Building Works <ul style="list-style-type: none"> i. A Development Permit for Building Works to carry out building works prior to works commencing on site. ii. Any Development Application for building works which include habitable rooms will have to include a 1% AEP Flood Certificate. N.B this only applies in Localised and River Flood areas as identified in Burdekin Shire Council's flood overlay mapping. iii. All habitable dwellings must be constructed to a level not less than 100mm above the Adopted Flood Level, in accordance with Council's policies. b) Plumbing and Drainage Works. Before an onsite sewerage facility can be installed on a property, the applicant is required to apply for a permit to install the treatment facility on that property as per the <i>Plumbing and Drainage Act 2018 and On-Site Sewerage Code and AS/NZS 1547:2000.</i>	

Attachment 1 – Assessment Manager Conditions of Approval

<p>5. Further Inspections Required</p> <p>Compliance with Conditions</p> <p>The following inspections will be required to be undertaken by council to determine compliance with conditions that are not subject to a further approval.</p> <p>Condition 12 – Roadworks, Access and Traffic Condition 13 – On Site Car Parking Condition 15 - Relocation of Services or facilities Condition 16 – Storage Condition 17 – Soil Erosion Minimisation, Sediment Control Condition 18 - Dust Management Condition 10 – Waste Management Facilities</p>	
<p>6. Council Water Supply Connection</p> <ol style="list-style-type: none"> Council will continue to supply a potable water service as per Council guidelines up to the existing meter located at 20 -26 Patricia Road only. Council is not however responsible for any non-conformance or supply issues past the location of current meter. 	
<p>7. Storage of Materials and Machinery</p> <p>All materials and machinery to be used during the construction period are to be wholly stored on the site, unless otherwise approved by council.</p>	
<p>8. Building Work Noise</p> <p>The hours of audible noise associated with construction and building work on site must be limited to between the hours of:</p> <ul style="list-style-type: none"> 6.30 a.m. to 6.30 p.m. Monday to Saturday; with No work on Sundays or Public Holidays. 	<p>To ensure compliance with the <i>Environmental Protection Act 1994</i>.</p>
<p>9. Dust Management</p> <p>Dust control measures should be implemented onsite during the construction phase to prevent an environmental nuisance from affecting the occupiers and users of nearby premises.</p>	
<p>10. Asbestos</p> <p>All asbestos removed from the site must be handled, transported and disposed of in accordance with the relevant legislation.</p>	
<p>11. Building Over/Adjacent to Services</p> <p>The developer is advised that should any proposed building structures be located over/adjacent to an existing service, an application to Council for consent under Section 191 of the <i>Water Supply (Safety and Reliability) Act 2008</i> for building over or adjacent to services may be required.</p>	

