

Decision Notice

Planning Act 2016

1st May, 2019.

Daryl Stirling
PO Box 353
AYR. Q4807

Dear Sir,

I refer to your application and advise that Development Application No. **RAL19/0003** 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:	RAL19/0003
Street Address:	7 Trace Street & 1 Crofton Street, Ayr
Real Property Description:	Lot 1 on SP279587 & Lot 39 on SP305769
Planning Scheme	Burdekin Shire IPA Planning Scheme

Decision Details

Type of Decision:	Approval with conditions
Type of Approval:	Development Permit for Reconfiguring a Lot – Boundary Realignment (2 into 2 Lots)
Date of Decision:	30 th April, 2019.

Currency Period of Approval

The currency period for this development approval is 4 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

Not Applicable

Assessment Manager Conditions

GENERAL

- 1.1 The Council will not release the formal Plan of Reconfiguration until all rates and charges in arrears in respect of the land, the subject of the application, are paid in full.
- 1.2 Pay the sum of \$75.60 calculated on the basis of a charge per lot to be levied on the Council by the Department of Natural Resources, Mines and Energy for each new valuation.

ROADWORKS

2. The construction of any crossovers to give access to the land is to be the owner's responsibility and to the satisfaction of the Chief Executive Officer.

PROPOSAL PLAN

3. The reconfiguration of the land must be carried out generally in accordance with:-
 - (a) (i) the Atkinson & Booy Surveys proposal plan numbered P19-006d.dwg;
 - (ii) the plans, specifications, facts and circumstances as set out in the application submitted to Council;Except where modified by the conditions of approval and any approval issued there under;
and
 - (b) any approval issued under this approval; and
 - (c) any development permit for operational works relating to the reconfiguring of a lot;

DRAINAGE/STORMWATER

4. The approved development and use(s) 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.

DRAINAGE EASEMENT

- 5.1
 - a) Existing Easement S on SP136117 must have an additional clause included confirming that Council will not guarantee access across any part of the easement located within proposed Lot 1.
 - b) The amendment to existing Easement S on SP136117 including but not limited to, preparation and registration of the easement documents are to be borne by the developer.
- 5.2
 - a) Existing Easement R on SP136117 must have an additional clause included confirming that any works within easement R on SP136117 to provide access to proposed Lots 1 and 39 will be at the developer's expense. All works must be approved by the Chief Executive Officer.
 - b) The amendment to existing Easement R on SP136117 including but not limited to, preparation and registration of the easement documents are to be borne by the developer.

ACCESS EASEMENT

6. An easement must be registered over proposed Lot 39 in favour of proposed Lot 1 for access. The easement must meet the following requirements:
 - a) The applicant must provide to Council a certification from a registered land surveyor that the easement is correctly aligned to allow lot 1 access to a gazetted road.

- b) Easement plans and associated documents must be duly signed by the owner of the burdened land before they are submitted to Council for endorsement.
- c) The easement documents must be registered at the same time as registering associated Reconfiguring a Lot subdivision plans.

PUBLIC UTILITY SERVICES

- 7. 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.

Referral Agencies

Not Applicable.

Approved Plans

The following plans are Approved plans for the development:

Approved Plans

Plan No.	Rev.	Plan Name	Date
P19-006d.dwg		PROPOSED RECONFIGURATION of Lots 1 & 39 & Easement T in Lot 39, prepared by Atkinson & Booy Surveys	15/04/2019

Referenced Documents

Not Applicable.

Advisory Notes

The following notes are included for guidance and information purposes only and do not form part of the assessment manager conditions:

- *Unless otherwise specified by these conditions, the conditions must be complied with prior to approval of the Plan of Survey.*
- *Any future on-site sewerage treatment and disposal on the proposed lots must be in accordance with the On Site Sewerage Code and AS/NZS 1547:2000.*
- *A Development Application for building works which include habitable rooms may have to include a 1% AEP Flood Certificate. N.B. this applies in Localised and River Flood areas as identified in Burdekin Shire Councils mapping.*

Property Notes

Not Applicable.

Variation Approval

Not Applicable.

Further Development Permits Required

Not Applicable.

Submissions

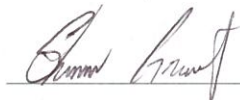
Not Applicable.

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 1st May, 2019

Enc: Approved Plans/Documents

Appeal Rights

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.

Assessment Benchmarks

The following assessment benchmarks applied to the proposed development:

- Rural Zone Code
- Residential Zone Code
- Reconfiguring a Lot Zone Code

REASONS FOR THE DECISION

Following an assessment of the development application against all of the assessment benchmarks listed above, it was determined the proposed development:

- The proposal is consistent with relevant codes and provisions of the Planning Scheme;
- The application does not propose any new allotments; and
- It is unlikely that the proposed reconfiguration will result in any detrimental outcomes to the continuation of existing farming practices on the rural land.

