

Decision Notice

Planning Act 2016

6 July 2022

Frank Grasso
C/- Brazier Motti
PO Box 130
Ayr Qld 4807

Dear Frank,

I refer to your application and advise that Development Application No. **RAL22/0008** 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:	RAL22/0008
Street Address:	14 Ferguson Road and 196 and 150 Chippendale Street, Ayr
Real Property Description:	Lot 23 on SP177309, Lot 3 on SP273460 and Lot 3 on SP332234
Planning Scheme	<i>Burdekin Shire IPA Planning Scheme 2011</i>

Decision Details

Type of Decision:	Approval with conditions
Type of Approval:	Development Permit for Reconfiguring a Lot – (three (3) lots into four (4) lots and boundary realignment)
Date of Decision:	30 June 2022

Currency Period of Approval

Section 85 of the *Planning Act 2016* establishes when an approval lapses.

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

Refer Attachment 1.

Referral Agencies

Not Applicable.

Approved Plans

The following plans are approved plans for the development:

Approved Plans

Plan No.	Plan Name	Date
56245/016 A	PROPOSED RECONFIGURATION Lots 4 - 7 Cancelling Lot 23 on SP177309, Lot 3 on SP273460 and Lot 3 on SP332234	21 March 2022

Associated Reports

Development application prepared by Brazier Motti, dated 13 May 2022.

Referenced Documents

Not Applicable

Advisory 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: 30 June 2022.

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
- 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 size and configuration of the lots are able to accommodate a dwelling house that is capable of complying with the zone requirements.

Attachment 1 – Assessment Manager Conditions of Approval

Condition	Reason	Timing																
<div>1. Approved Plans and Supporting Documentation</div> <div>1.1 The development must generally comply with the plan(s) and supporting documentation referenced in the table below and attached as stamped “Approved Subject to Conditions” which forms part of this approval, unless otherwise specified by any condition of this approval.</div> <table><tr><th>Plan No.</th><th>Plan Name</th><th>Revision No.</th><th>Date</th></tr><tr><td>56245/016 A</td><td>PROPOSED RECONFIGURATION Lots 4 - 7 Cancelling Lot 23 on SP177309, Lot 3 on SP273460 and Lot 3 on SP332234</td><td>N/A</td><td>21 March 2022</td></tr><tr><td colspan="4">Associated Reports</td></tr><tr><td colspan="4">Development application prepared by Brazier Motti, dated 13 May 2022.</td></tr></table> <div>1.2 The recommendations outlined in the above reports must be implemented prior to the signing of the Plan of Survey.</div>	Plan No.	Plan Name	Revision No.	Date	56245/016 A	PROPOSED RECONFIGURATION Lots 4 - 7 Cancelling Lot 23 on SP177309, Lot 3 on SP273460 and Lot 3 on SP332234	N/A	21 March 2022	Associated Reports				Development application prepared by Brazier Motti, dated 13 May 2022.				The development must comply with all planning scheme requirements as approved by this development permit.	At all times.
Plan No.	Plan Name	Revision No.	Date															
56245/016 A	PROPOSED RECONFIGURATION Lots 4 - 7 Cancelling Lot 23 on SP177309, Lot 3 on SP273460 and Lot 3 on SP332234	N/A	21 March 2022															
Associated Reports																		
Development application prepared by Brazier Motti, dated 13 May 2022.																		
<div>2. Payment of Rates, Charges and Expenses</div> <div>2.1 Prior to signing the Plan of Survey, payment is required of any outstanding rates or charges levied by the Council or any expenses being a charge over the subject land.</div> <div>2.2 Pay the sum calculated at the current charge per lot to be levied on the Council by the Department of Natural Resources, Mines and Energy, for each new valuation.</div>		Prior to the release of the Plan of Survey.																

Attachment 1 – Assessment Manager Conditions of Approval

3. Confirmation of Existing Services The existing services for each lot must be contained within the individual allotments.	To ensure the development is appropriately serviced by in accordance with relevant code/s and policy direction.	Prior to the release of the Plan of Survey.
4. Relocation/alteration of Public Utilities The developer must at its own cost undertake all necessary alterations to public utility mains and services as rendered necessary by the carrying out of any required external works or other works associated with the approved development to the satisfaction of Council, and at no cost to Council.	To ensure development is appropriately serviced by public services and/or facilities in accordance with relevant code/s and policy direction.	Prior to the release of the Plan of Survey.
5. Roadworks The construction of any crossovers to give access to the land is to be the owner's responsibility and at no cost to Council, to the satisfaction of the Chief Executive Officer.	To provide appropriate access in accordance with relevant code/s and policy direction.	Prior to the issuing of a Development Permit for Building Works
6. Drainage/Stormwater 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.	To convey stormwater across other lands legally and in an environmentally responsible manner in accordance with relevant code/s and policy direction.	At all times
Advice <ol style="list-style-type: none"> 1. Unless otherwise specified by these conditions, the conditions must be complied with prior to approval of the Plan of Survey. 2. Any future on-site sewerage treatment and disposal on the proposed lots must be in accordance with the <i>On-Site Sewerage Code and AS/NZS 1547:2000</i>. 3. 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. 		

INFRASTRUCTURE CHARGES NOTICE

(Section 119 of the Planning Act 2016)

APPLICANT:	Frank Grasso
APPLICATION:	Reconfiguring a Lot – 3 Lots into 4 Lots
NOTICE NUMBER:	ICN2022-003
DATE:	11 th July, 2022
FILE REFERENCE:	RAL22/0008
AMOUNT OF THE LEVIED CHARGE: (Details of how these charges were calculated are shown overleaf)	\$2,500.00 Total \$2,500.00 Transport Network
AUTOMATIC INCREASE OF LEVIED CHARGE:	The amount of the levied charge is subject to an automatic increase. Refer to the General Information attached to this notice for more information on how the increase is worked out.
LAND TO WHICH CHARGE APPLIES:	Lot 3 on SP332234, Lot 3 on SP273460 and Lot 23 on SP177309
SITE ADDRESS:	14 Ferguson Road and 196 and 150 Chippendale Street, Ayr
PAYABLE TO:	Burdekin Shire Council
WHEN PAYABLE: (In accordance with the timing stated in Section 122 of the Planning Act 2016)	Reconfiguring a Lot – When Council approves the Plan of Subdivision.
OFFSETS OR REFUNDS:	Not Applicable.

This charge is made in accordance with Council's ***Charges Resolution (No. 2) 2018***

DETAILS OF CALCULATION

Transport

Adopted Charges

Development Description	Number of Units	Units of Measure	Charge Rate	Reference	Amount
Rural - Reconfiguring a Lot	4	Lots	\$2,500.00	CR Table 2.3	\$10,000.00

Discounts*

Description	Number of Units	Units of Measure	Discount Rate	Reference	Amount
Existing lawful use	3	Lots	\$2,500.00	CR Table 2.3	\$7,500.00

Levied Charges

Development Description	Water Supply	Sewerage	Transport	Public Parks & Land for Community Facilities	Stormwater	Total
Rural - Reconfiguring a Lot	\$0.00	\$0.00	\$2,500.00	\$0.00	\$0.00	
Total	\$0.00	\$0.00	\$2,500.00	\$0.00	\$0.00	\$2,500.00

* In accordance with Section 3.3 of the Charges Resolution, the discount may not exceed the adopted charge. Any surplus discounts will not be refunded, except at Council's discretion.

Yours faithfully



Kellie Galletta

MANAGER - PLANNING AND DEVELOPMENT

INFORMATION NOTICE

**Authority and Reasons
for Charge**

This Infrastructure Charges Notice has been given in accordance with section 119 of the *Planning Act 2016* to support the Local government's long-term infrastructure planning and financial sustainability.

Appeals

Pursuant to section 229 of the *Planning Act 2016* a person may appeal an Infrastructure Charges Notice. Attached is an extract from the *Planning Act 2016* that details your appeal rights.

**Automatic Increase
Provision of charge
rate (\$)**

An infrastructure charge levied by Council is to be increased by the difference between the Producer Price Index (PPI) applicable at the time the infrastructure charge was levied, and PPI Index applicable at the time of payment of the levied charge, adjusted by reference to the 3-yearly PPI Index average¹. If the levied charge is increased using the method described above, the charge payable is the amount equal to the sum of the charge as levied and the amount of the increase.

However, the sum of the charge as levied and the amount of the increase is not to exceed the maximum adopted charge the Council could have levied for the development at the time the charge is paid.

GST

The Federal Government has determined that contributions made by developers to Government for infrastructure and services under the *Planning Act 2009* are GST exempt.

**To whom the charge
must be paid**

Payment of the Charge must be made payable to BURDEKIN SHIRE COUNCIL, PO Box 974, Ayr, Qld 4807.

The Infrastructure Charge has been calculated in accordance with the charges stated in Council's Charges Resolution. This notice will be escalated to time of payment to the extent permitted under legislation in force at that time.

¹ 3-yearly PPI index average is defined in section 114 of the *Planning Act 2016* and means the PPI index smoothed in accordance with the 3-year moving average quarterly percentage change between quarters. PPI Index is the producer price index for construction 6427.0 (ABS PPI) index number 3101 – Road and Bridge construction index for Queensland published by the Australian Bureau of Statistics.

It is requested that you contact Council's Town Planning Department to confirm that amount payable prior to making payment.

Payment

This notice is due and payable by the due time shown. Cheques, money orders or postal notes should be made payable to BURDEKIN SHIRE COUNCIL and crossed "Not Negotiable". Change cannot be given on cheque payments. Property owners will be liable for any dishonour fees.

Overseas Payees

Please forward your infrastructure charges payment by way of a bank draft for the required amount in Australian dollars.

Method of Payment**PAYMENT BY MAIL**

Confirm the current Infrastructure Charge applicable and obtain an updated payment notice from Council's Town Planning Department.

Mail this updated payment notice immediately with your payment to: BURDEKIN SHIRE COUNCIL, PO Box 974, Ayr, Qld 4807.

NOTE: Cheques must be made payable to BURDEKIN SHIRE COUNCIL

PAYMENT AT COUNCIL OFFICES

Confirm the current Infrastructure Charge applicable.

Present written confirmation of charges with your payment to Burdekin Shire Council Chambers, 145 Young Street, Ayr.

NOTE: Cheques must be made payable to BURDEKIN SHIRE COUNCIL

PAYMENT MADE BY CREDIT CARD

Credit Cards accepted: Mastercard or Visa

Enquiries

Enquiries regarding this Infrastructure Charges Notice should be directed to the BURDEKIN SHIRE COUNCIL, Town Planning Department, during office hours, Monday to Friday by phoning (07) 4783 9800 or email at planning@burdekin.qld.gov.au

Schedule 1 Appeals

section 229

1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to—
 - (a) the P&E court; or
 - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
 - (a) the refusal, or deemed refusal of a development application, for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (b) a provision of a development approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (c) if a development permit was applied for—the decision to give a preliminary approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (d) a development condition if—
 - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
 - (ii) the building is, or is proposed to be, not more than 3 storeys; and
 - (iii) the proposed development is for not more than 60 sole-occupancy units; or
 - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
 - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
 - (g) a matter under this Act, to the extent the matter relates to the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
 - (h) a decision to give an enforcement notice—
 - (i) in relation to a matter under paragraphs (a) to (g); or
 - (ii) under the Plumbing and Drainage Act; or
 - (i) an infrastructure charges notice; or
 - (j) the refusal, or deemed refusal, of a conversion application; or
 - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
 - (a) for a matter in subsection (2)(a) to (d)—
 - (i) a development approval for which the development application required impact assessment; and
 - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or

- (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.
- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
- column 1 states the appellant in the appeal; and
 - column 2 states the respondent in the appeal; and
 - column 3 states the co-respondent (if any) in the appeal; and
 - column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.
- (8) In this section—
storey see the Building Code, part A1.1.

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
<p>4. Infrastructure charges notices</p> <p>An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds –</p> <ol style="list-style-type: none"> The notice involved an error relating to – <ol style="list-style-type: none"> The application of the relevant adopted charge; or <p><i>Examples of errors in applying an adopted charge –</i></p> <ul style="list-style-type: none"> The incorrect application of gross floor area for a non-residential development Applying an incorrect ‘use category’, under a regulation, to the development <ol style="list-style-type: none"> The working out of extra demand, for section 120; or An offset or refund; or There was no decision about an offset or refund; or If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or For an appeal to the P&E Court – the amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount. 			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the infrastructure charges notice	The local government that gave the infrastructure charges notice	-	-