

Enquiries to: Planning Department  
Our Reference: RAL22/0015  
Your Reference: N/A

31 October 2022

L Poppi and D Fowler  
PO Box 47  
Home Hill QLD 4806  
Via email: [info@dyadicventures.com.au](mailto:info@dyadicventures.com.au)

Dear Lucy and David,

**Development Approval – Decision Notice for RAL22/0015**  
**Reconfiguring a lot (1 Lot into 2 Lots) on land described as Lot 220 on SB108 and located at 20 Fowler Road, Osborne.**

In reference to the above described application, Council advises that the Development Application **RAL22/0015** was assessed and approved in full, subject to conditions on the **25 October 2022**.

Council's Decision Notice is attached and outlines the developments conditions of approval, currency period, approved plans, referral agency response (if applicable) and includes extracts from the *Planning Act 2016* with respect to making representations about conditions, suspension of the appeal period, negotiated decisions and lodging an appeal, should you wish to do so.

Should you have any further queries in relation to the above, please do not hesitate to contact the Planning Department on the above number.

Yours faithfully



Kellie Galletta  
Manager Planning and Development

Enc: **Decision Notice**  
**Appeal Rights**  
**Infrastructure Charges Notice**

# Decision Notice

## Planning Act 2016

31 October 2022

Section 83 of the *Planning Act 2016*

### Application Details

This Decision Notice relates to the below Development Application:

<b>Application Number:</b>	RAL22/0015
<b>Applicant Details:</b>	Lucy Jane Poppi and David Mark Fowler PO Box 47 Home Hill QLD 4806 Email: <a href="mailto:info@dyadicventures.com.au">info@dyadicventures.com.au</a>
<b>Owner Details:</b>	Kent George Fowler and Sandra Mary Fowler PO Box 412 Home Hill QLD 4806
<b>Street Address:</b>	20 Fowler Road, Osborne
<b>Real Property Description:</b>	Lot 220 on SB108
<b>Proposal:</b>	Reconfiguring a Lot (1 Lot into 2 Lots)
<b>Planning Scheme:</b>	Burdekin Shire IPA Planning Scheme
<b>Level of Assessment:</b>	Code

### Decision Details

The information below outlines the specifics of any approval or refusal issued by the Assessment Manager resulting from development assessment as per the provision of the *Planning Act 2016*.

<b>Type of Decision:</b>	Approval with conditions
<b>Date of Decision:</b>	25 October 2022
<b>Decision Type:</b>	Development Permit
<b>Deemed Approval:</b>	The Development Permit is not a deemed approval under Section 64 of the <i>Planning Act 2016</i>
<b>Submissions:</b>	Not applicable – The application was not subject to public notification

### Conditions of Approval

The Conditions of Approval are set out in **Attachment 1** of this Decision Notice. The conditions are identified to indicate whether the Assessment Manager or a Referral Agency imposed them.

### Approved Plans and Documents

The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit. Copies of the approved plans are included as **Attachment 2** of this Decision Notice.

## Referral Agencies

The development application was referred in accordance with the following provisions of the *Planning Regulation 2017*:

Referral Status	Referral Agency and Address	Referral Trigger
Concurrence	SARA (State Assessment & Referral Agency) Email: <a href="mailto:nqsara@dsdmip.qld.gov.au">nqsara@dsdmip.qld.gov.au</a>	Site 25m State Transport corridor– Schedule 10, Part 9, Division 4, Subdivision 2, table 1

Pursuant to S56 of the *Planning Act 2016*, the SARA provided its response and conditions (as **attached**).

## Further Approvals Required

Not Applicable.

## Infrastructure Charges

An Infrastructure Charges Notice is enclosed.

## Rights of Appeal

The rights of an applicant to appeal to the Planning and Environment Court against a decision about a Development Application area set out in Chapter 6, Part 1 of the *Planning Act 2016*. There may also be the right to make an application for a declaration by Tribunal (refer Chapter 6, Part 2 of the *Planning Act 2016*).

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the *Planning Act 2016*.

A copy of the relevant appeal provisions from the *Planning Act 2016* is **attached**.

## Approval Currency Period

Pursuant to Section 85 of the *Planning Act 2016*, the Development Approval will lapse four (4) years after the approval starts to have effect, unless otherwise conditioned. The currency period can only be extended if the request is received before the approval lapses.

## Notice About Decision – Statement of Reasons

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*.

### Reasons for the Decision

- Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity; and
- On balance, the application should be approved because the circumstances favour Council exercising its discretion to approve the application even though the development does not comply with an aspect of the assessment benchmarks.

### Assessment Benchmarks

The following assessment benchmarks applied to the proposed development:

- Rural Zone Code
- Reconfiguring a Lot Zone Code

### Compliance with Assessment Benchmarks

Following an assessment of the development application against all of the assessment benchmarks listed above, it was determined the proposed development complies where relevant with the exceptions listed below:

Assessment Benchmark		Reason for the approval despite non – compliance with Benchmark
<b>Reconfiguring a Lot Code</b>		
Specific Outcome 06 - Lot Layout	The lot layout provides for:  a) a wide range of needs for land; and  b) lots of a size and dimension suitable for their intended use.	<p>The proposed development does not comply with the acceptable solutions listed for the minimum frontage and lot sizes specified for a rural zoned lot.</p> <p>Despite this, the subdivision:</p> <ul style="list-style-type: none"> <li>• proposes a logical outcome where productive rural land and land holdings are restructured to provide a suitable outcome that assists with ensuring the ongoing viability of agricultural activity on the subject site while facilitating the finalisation of estate planning proposed for the family owned farm; and</li> <li>• is not considered to have a detrimental impact on the good quality agricultural land as the existing dwelling located on the subject site is a small section of land already removed from potential production, however the larger balance parcel is maintained for continued agricultural activity.</li> </ul> <p>Therefore the proposal is considered to achieve the Specific Outcome.</p>

# 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.

Condition	Reason	Timing
<p><b>1. General and Administration</b></p> <p><u>Compliance with Conditions</u></p> <p>1.1 The Applicant is responsible for ensuring compliance with this development approval and the conditions of the approval by an employee, agent, contractor or invitee of the Applicant.</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 Where these conditions refer to 'Council' in relation to requiring Council to approve or be satisfied as to any matter or conferring on Council a function, power or discretion that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by Council.</p> <p>1.4 The proposed development must comply in full with all conditions of this approval, relevant Planning Scheme requirements and the relevant policies, guidelines and standards, as applying at the date of this approval, except as otherwise specified by any condition, to Council's satisfaction prior to the commencement of the use.</p> <p>1.5 All civil works associated with this development permit must be constructed by a suitably qualified/ licenced contractor and delivered as per the accepted design plans, as per Council specifications and requirements.</p> <p>1.6 Council's assessment of the design has been an audit only. In the issuing of this permit Council makes no acknowledgement that the design meets the above requirements.</p> <p>1.7 It is a condition of this permit that any errors in the design are the responsibility of the consulting engineer, and that any rectification costs which may be applicable are to be borne by the developer. Council bears no responsibility for any errors associated with the design or any costs arising therefrom.</p>	<p>The development must comply with all planning scheme requirements as approved and conditioned by this development permit.</p>	<p>During the operation and life of the development.</p>

## Attachment 1 – Conditions of Approval

Condition	Reason	Timing
<p><u>Works – Applicant's Expense</u></p> <p>1.8 The cost of all works associated with the development and construction of the development including services, facilities and/or public utility alterations required are met at no cost to the Council or relevant utility provider, unless otherwise stated in a development condition.</p> <p><u>Infrastructure Conditions</u></p> <p>1.9 All development conditions contained in this development approval about infrastructure under Chapter 4 of the <i>Planning Act 2016 (the Act)</i>, should be read as being non-trunk infrastructure conditioned under section 145 of the Act, unless otherwise stated.</p> <p><u>Works – Applicants Responsibility</u></p> <p>1.10 The Applicant must repair any damage to existing infrastructure (e.g. kerb and channel, footpath or roadway) that may have occurred during any works undertaken as part of the development. Any damage that is deemed to create a hazard to the community, it must be repaired immediately.</p> <p><u>Works – Design and Standard</u></p> <p>1.11 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.</p>		



## Attachment 1 – Conditions of Approval

Condition		Reason	Timing
2. Approved Plans and Supporting Documents			
Drawing Title		Drawing/Revision	Date
Proposed Reconfiguration of Lots 1 & 2, cancelling Lot 220 on SB108		P22-132a.dwg	04/05/2002
Associated Reports			
Development application prepared by the applicant and Atkinson & Booy Surveyors, August 2022			
2.1	The proposed development must be completed, comply with and maintained generally in accordance with the drawings/ documents identified in the above, except as otherwise specified and/or amended by any condition of this approval.	The development must comply with all planning scheme requirements as approved and conditioned by this development permit.	At all times.
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.		
2.3	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.		
2.4	Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.		
3. Payment of Rates, Charges and Expenses			
3.1	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.	Confirmation to be provided to Council prior to the release of the Plan of Survey.	
3.2	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.		

Condition	Reason	Timing
<b>4. Confirmation of Existing Services</b> 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.	Confirmation to be provided to Council prior to the release of the Plan of Survey.
<b>5. Relocation/alteration of Public Utilities</b> 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.
<b>6. Roadworks</b> 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.
<b>7. Drainage/Stormwater</b> 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.

<b>Advice</b>
<b>1. Infrastructure Charges</b> An Infrastructure Charges Notice outlining the estimated infrastructure contributions payable relevant to the Development Permit is attached for your information.
<b>2. Acid Sulfate Soils</b> Should the presence of acid sulfate soils or potential acid sulfate soils be detected, an Acid Sulfate Soils Management Plan may be required to be prepared and submitted to Council for approval.
<b>3. Compliance with Conditions</b> Unless otherwise specified by these conditions, the conditions must be complied with prior to Council's endorsement of the Plan of Survey.
<b>4. Future Development</b> 4.1 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. 4.2 Any development application for building works which includes 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.



**APPROVED**  
REF: RAL22/0015 DATE: 31-10-22  
*[Signature]*

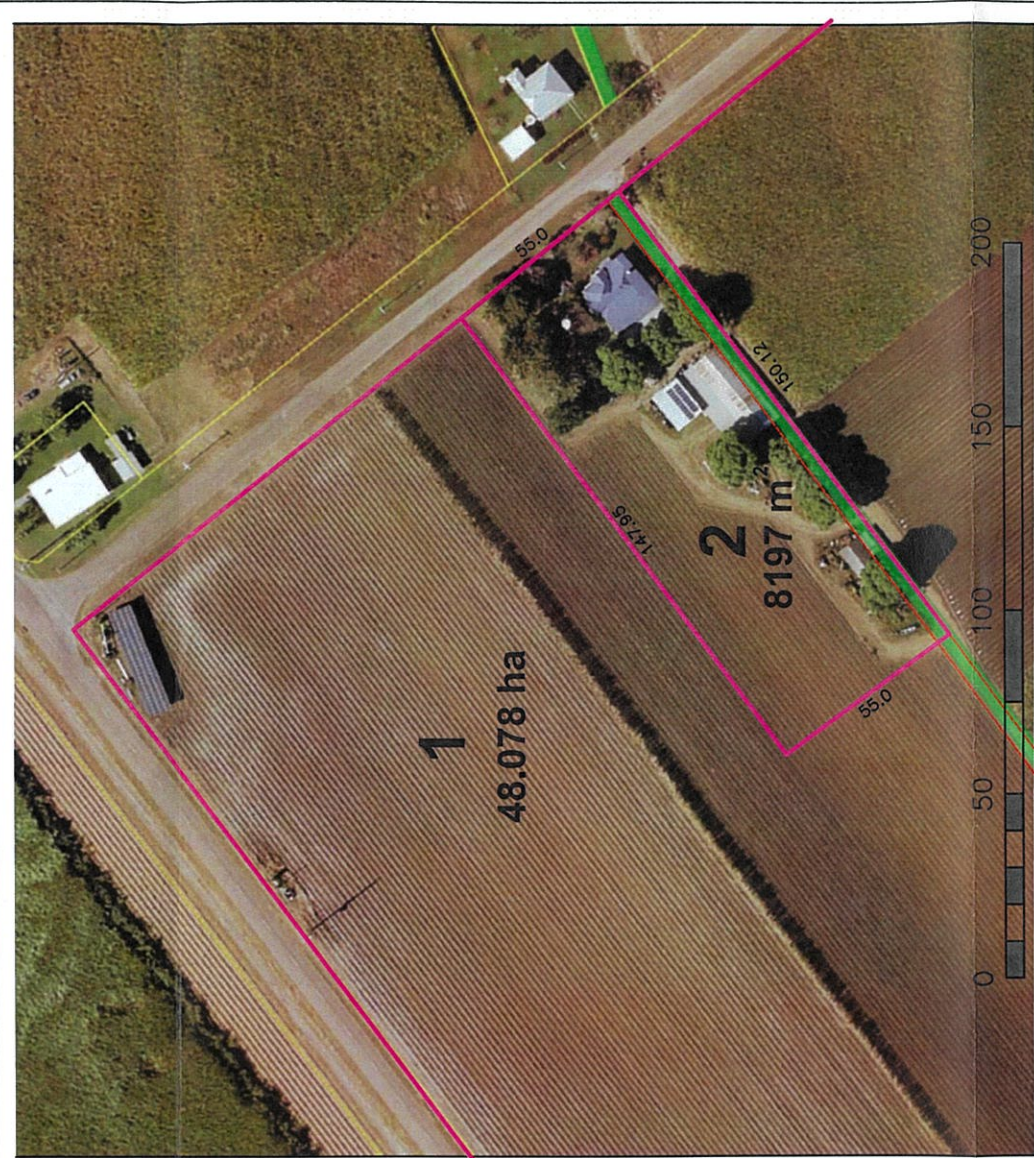
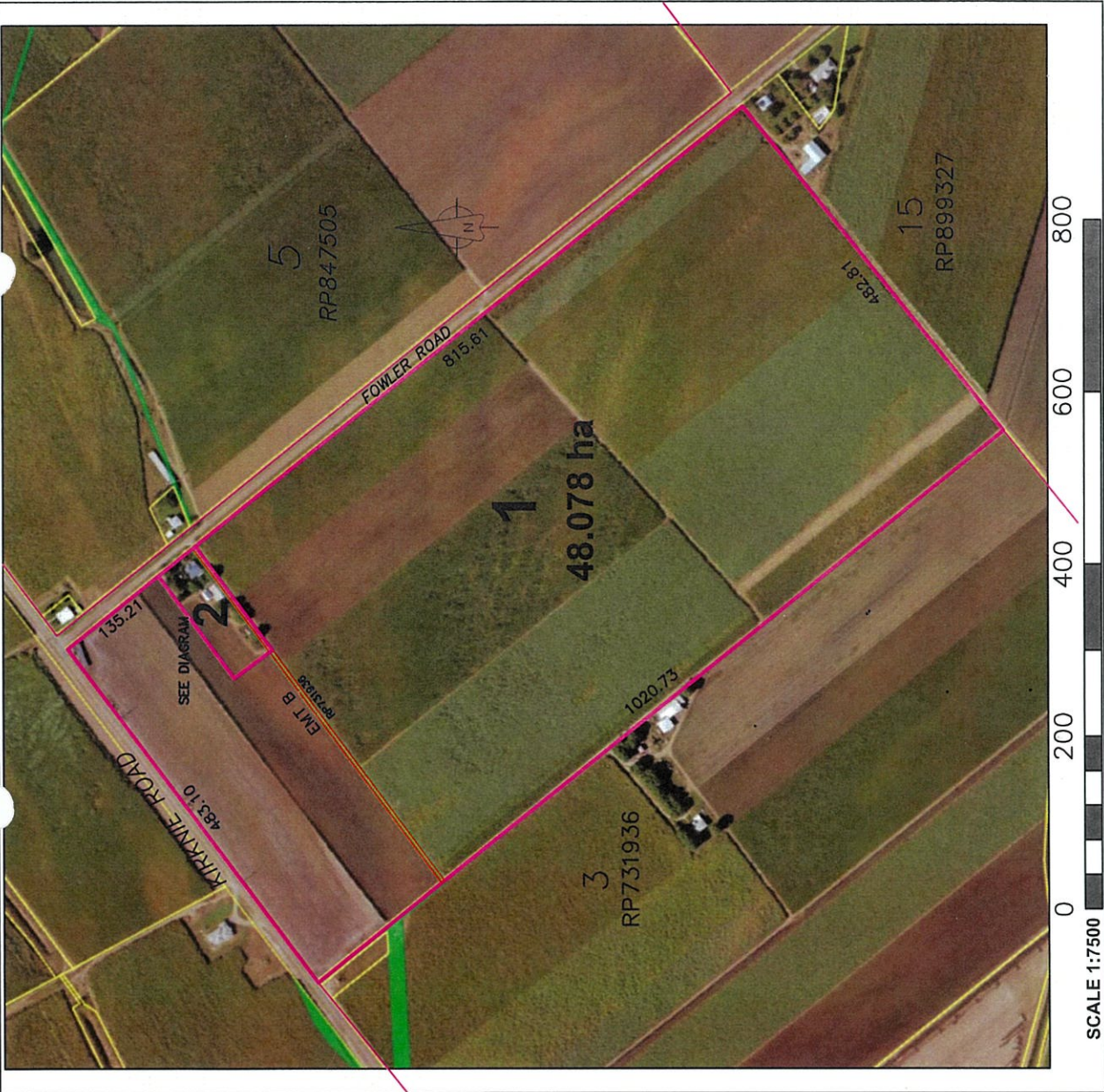


DIAGRAM  
SCALE 1:2000

This plan was prepared for the purpose and exclusive use of David Fowler to accompany application to BURDEKIN SHIRE COUNCIL for approval to rezone/subdivide the land described in this plan. This does not infer in any way that council will approve this subdivision. This plan is not to be used for any other purpose or by any other person or corporation without the written approval of the producer. Atkinson & Booy Surveys accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this plan in contravention of the terms of this clause or the clauses below.

The dimensions, area, size and location of improvements, flood information (if shown) and number of lots shown on this plan are approximate only and may vary.

This plan may not be reproduced unless the above notes are included.

**PROPOSED RECONFIGURATION**  
**Lots 1 & 2**

Cancelling Lot 220 on SB108

CLIENT Lucy Poppi and David Fowler		DATE 4/5/2022
LOCAL GOVERNMENT BURDEKIN SHIRE		SCALE AS SHOWN
TITLE REF: 20545211	FILE N/A	DRAWN: IWF
SURVEYOR REF: 22-132	FIELDBOOK Toughbook	

LOCALITY: OSBORNE

**Atkinson & BOOY SURVEYS**  
56 Thuringowa Drive, Kirwan QLD 4817  
Phone: (07) 47234885

**CADASTRAL SURVEYS**

P22-132a.dwg  
Sheet 1 of 1  
Form 1.4



RA6-N



SARA reference: 2209-30759 SRA  
Council reference: RAL22/0015

11 October 2022

Burdekin Shire Council  
PO Box 974  
AYR QLD 4807  
planning@burdekin.qld.gov.au

Attention: Kellie Galletta

Dear Ms Galletta

## SARA response—20 Fowler Road, Osborne

(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 (SARA) on 5 September 2022.

### Response

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Outcome:	Referral agency response – with conditions.
Date of response:	11 October 2022
Conditions:	The condition in <b>Attachment 1</b> must be attached to any development approval.
Advice:	Advice to the applicant is in <b>Attachment 2</b> .
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b> .

### Development details

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Description:	Development Permit for Reconfiguring a Lot (1 into 2 Lots)
SARA role:	Referral Agency
SARA trigger under the Planning Regulation 2017:	<ul style="list-style-type: none"> <li>Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1 (10.9.4.2.1.1) – Reconfiguring a lot near a State transport corridor</li> <li>Schedule 10, Part 9, Division 4, Subdivision 2, Table 3, Item 1 (10.9.4.2.3.1) – Reconfiguring a lot within 100m of a state-controlled road intersection</li> </ul>
SARA reference:	2209-30759 SRA
Assessment manager:	Burdekin Shire Council
Street address:	20 Fowler Road, Osborne

Real property description: Lot 220 on SB108  
Applicant name: Lucy Jane Poppi and David Mark Fowler  
Applicant contact details: PO Box 47  
HOME HILL QLD 4806  
info@dyadicventures.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 Sahil Gill, Graduate Planner, on 07 3452 7200 or via email NQSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Graeme Kenna  
Manager (Planning)

cc Lucy Jane Poppi and David Mark Fowler, info@dyadicventures.com.au

enc Attachment 1 - Referral agency condition  
Attachment 2 - Advice to the applicant  
Attachment 3 - Reasons for referral agency response  
Attachment 4 - Representations about a referral agency response provisions

## Attachment 1—Referral agency condition

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following condition must be attached to any development approval relating to this application)

No.	Condition	Condition timing
	10.9.4.2.1.1—Reconfiguring a lot near a State transport corridor—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(s):	
1.	Access is not permitted between Kirknie Road and Lot 1.	At all times

## Attachment 2—Advice to the applicant

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General advice	
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|----|--|
| 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 3.0. If a word remains undefined it has its ordinary meaning. |
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## **Attachment 3—Reasons for referral agency response**

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

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### **The reasons for the SARA's decision are:**

The proposed development complies with State code 1: Development in a state-controlled road environment of the SDAP. Specifically, the proposed development:

- does not increase the likelihood or frequency of accidents, fatalities or serious injury for users of a state-controlled road
- does not adversely impact the structural integrity or physical condition of state-controlled roads or road transport infrastructure
- does not adversely impact the function and efficiency of state-controlled roads or future state-controlled roads
- does not adversely impact the state's ability to plan, construct, maintain, upgrade or operate state-controlled roads, future state-controlled roads or road transport infrastructure
- does not significantly increase the cost to the state to plan, construct, upgrade or maintain state-controlled roads, future state-controlled roads or road transport infrastructure.

### **Material used in the assessment of the application:**

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- SDAP (version 3.0), as published by SARA
- Development Assessment Rules
- SARA DA Mapping system
- *Human Rights Act 2019*.

## **Attachment 4—Representations about a referral agency response provisions**

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