

Enquiries to: Planning Department
Our Reference: RAL22/0020
Your Reference: 56906-1-1

30 November 2022

Gianni Scott and Arthur Heatley
C/- Brazier Motti
PO Box 130
Ayr QLD 4807

Via email: burdekin@braziermotti.com.au

Dear Sirs,

Development Approval – Decision Notice for RAL22/0020

Reconfiguring a lot – Boundary Realignment (2 Lots into 2 Lots) on land described as Lots 4 and 5 on SP322881 and located at 66 and 48 Anabran Road, Jarvisfield.

In reference to the above described application, Council advises that the Development Application **RAL22/0020** was assessed and approved in full, subject to conditions on the **25 November 2022**.

Council's Decision Notice is attached and outlines the developments conditions of approval, currency period, and approved plans 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

Decision Notice

Planning Act 2016

30 November 2022

Section 83 of the *Planning Act 2016*

Application Details

This Decision Notice relates to the below Development Application:

Application Number:	RAL22/0020
Applicant Details:	Gianni Scott and Arthur Heatley C/-Brazier Motti PO Box 130 Ayr QLD 4807 Email: burdekin@braziermotti.com.au
Owner Details:	Gianni Alister Scott 100 Twelfth Avenue Home Hill QLD 4806 Arthur Macedon Heatley PO Box 150 Home Hill QLD 4806
Street Address:	66 and 48 Anabranh Road Jarvisfield
Real Property Description:	Lots 4 and 5 on SP322881
Proposal:	Reconfiguring a Lot – Boundary Realignment (2 Lots into 2 Lots)
Planning Scheme:	Burdekin Shire IPA Planning Scheme
Level of Assessment:	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*.

Type of Decision:	Approval with conditions
Date of Decision:	25 November 2022
Decision Type:	Development Permit
Deemed Approval:	The Development Permit is not a deemed approval under Section 64 of the <i>Planning Act 2016</i>
Submissions:	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

Not Applicable.

Further Approvals Required

Not Applicable.

Infrastructure Charges

Not Applicable.

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.

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:

- The proposal is consistent with relevant codes and provisions of the Planning Scheme;
- Does not detract from the rural amenity of the area; and
- The application does not propose any new allotments.

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.

Attachment 1 – Assessment Manager Conditions of Approval

Condition	Reason	Timing																
<p>1. Approved Plans and Supporting Documentation</p> <p>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.</p> <table><tr><th>Plan No.</th><th>Plan Name</th><th>Revision No.</th><th>Date</th></tr><tr><td>56906/001 A</td><td>Proposed Reconfiguration Lots 8 & 9 Cancelling Lots 4 & 5 on SP322881</td><td>N/A</td><td>16 September 2022</td></tr><tr><td colspan="4">Associated Reports</td></tr><tr><td colspan="4">Development application prepared by Brazier Motti, dated 19 September 2022</td></tr></table> <p>1.2 The recommendations outlined in the above reports must be implemented prior to the signing of the Plan of Survey.</p>	Plan No.	Plan Name	Revision No.	Date	56906/001 A	Proposed Reconfiguration Lots 8 & 9 Cancelling Lots 4 & 5 on SP322881	N/A	16 September 2022	Associated Reports				Development application prepared by Brazier Motti, dated 19 September 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															
56906/001 A	Proposed Reconfiguration Lots 8 & 9 Cancelling Lots 4 & 5 on SP322881	N/A	16 September 2022															
Associated Reports																		
Development application prepared by Brazier Motti, dated 19 September 2022																		
<p>2. Payment of Rates, Charges and Expenses</p> <p>2.1 Prior to endorsement of 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.</p> <p>2.2 Pay the sum calculated at the current charge per lot to be levied on the Council by the Department of Resources for each new valuation.</p>		Prior to the release of the Plan of Survey.																
<p>3. Confirmation of Existing Services</p> <p>The existing services for each lot must be contained within the individual allotments.</p>	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.																

Attachment 1 – Assessment Manager Conditions of Approval

Condition	Reason	Timing
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"> 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.

PROPOSED RECONFIGURATION

Lots 8 & 9

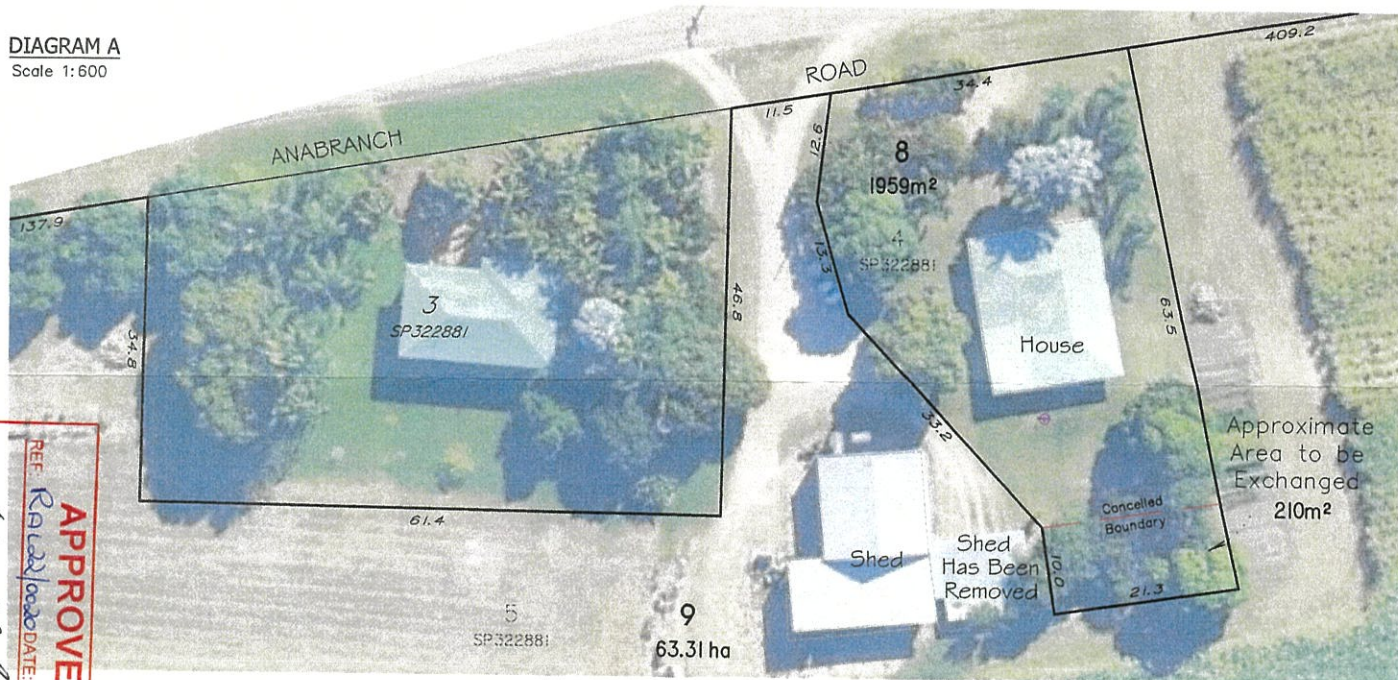
Cancelling Lots 4 & 5 on SP322881

Locality of Jarvisfield
Shire of Burdekin



DIAGRAM A

Scale 1:600



LEGEND

- Septic
- Cancelled Boundary

brazier motti
P 1300 267 878
W www.braziermotti.com.au

Date: 16 September 2022
Scale: 1:5000 @ A3
Drawn: PLT
Job No: 56906-001-01
Plan No: 56906/001A

surveying | town planning | project management | mapping and GIS

This plan is conceptual and for discussion purposes only. All areas, dimensions and land uses are preliminary, subject to investigation, survey, engineering, and Local Authority and Agency approvals.

APPROVED
REF: RA102/2022
DATE: 05.11.22
Dr. Williams