

Our Ref:BJ:tt:DA/4731 AD2024/0002342  
Your Ref: 35065-002-01

01 May 2024

D. & L. Miller c/-Brazier Motti Pty Ltd  
PO Box 1185  
Cairns Qld 4870  
E-mail: [cns.planning@braziermotti.com.au](mailto:cns.planning@braziermotti.com.au)

Attention: Michael Tessaro

Dear Mr Tessaro

**Decision Notice - Approval**  
Given under section 63 of the *Planning Act 2016*

With reference Development Application (DA/4731), please find attached the relevant Decision Notice, which was approved by Cook Shire Council in full, subject to conditions.

Details of the decision are as follows:

**Decision Details**

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Date of Decision: Council approved the Development Application by delegation on **29 April 2024**.

Approval Details: **Approved in full** with conditions. These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or concurrence agency imposed them.

**Application Details**

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Application Number: DA/4731

Approval Sought: Development Permit for Reconfiguring a Lot

Description of the Development: Reconfiguring a Lot (1 into 2 lots)

Category of Development: Assessable Development

Category of Assessment: Code Assessment

Planning Scheme: Cook Shire Council Planning Scheme 2017 v2.0

### Location Details

Street Address: 47 Buhmann Street COOKTOWN 4895

Real Property Description: Lot 2 on SP319394

Local Government Area: Cook Shire

### Assessment Manager Conditions

This approval is subject to the conditions in Attachment 1.

### Further Development Permits

Not Applicable.

### Properly Made Submissions

Not applicable - no part of the application required public notification.

### Referral Agencies

The referral agencies for the application are:

Referral Agency	Referral Matter
State Assessment and Referral Agency (SARA)  Far North Queensland Regional Office PO Box 2358 CAIRNS QLD 4870 Ph: 07 4037 3214  E-mail: <a href="mailto:CairnsSARA@dsdilgp.qld.gov.au">CairnsSARA@dsdilgp.qld.gov.au</a> MyDAS2 online referrals: <a href="https://prod2.dev-assess.qld.gov.au/suite/">https://prod2.dev-assess.qld.gov.au/suite/</a>	Schedule 10, Part 9, Division 4, Subdivision 2 , Table 1 ( <i>Planning            Regulation 2017</i> )

### Other requirements under section 43 of the *Planning Regulation 2017*

Not Applicable.

### Approved Plans and Specifications

Copies of the approved plans, specifications and/or drawings are enclosed in **Attachment 2**.

### Currency Period for the Approval

This development approval will lapse at the end of the period set out in section 85 of the *Planning Act 2016*.

### **Lapsing of approval if development started but not completed**

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In accordance with section 88(1) of the *Planning Act 2016*, a development approval, other than a variation approval, for development lapses to the extent the development is not completed within any period or periods required under a development condition.

### **Rights of Appeal**

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You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* are provided in Attachment 4 of this Decision Notice.

### **Other Details**

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Council relies on the accuracy of information included in the application documentation when assessing and deciding applications.

If you find an inaccuracy in any of the information provided above, have a query, or need to seek clarification about any of these details, please contact Cook Shire Council's Planning and Environment Department on 07 4082 0500 or E-mail: [mail@cook.qld.gov.au](mailto:mail@cook.qld.gov.au).

Yours sincerely



Brian Joiner  
Chief Executive Officer  
Cook Shire Council

- enc: **Attachment 1 (A)** – Conditions imposed by the assessment manager  
**Attachment 1 (B)** – Conditions imposed by a concurrence agency (D24/10671)  
**Attachment 2** – Infrastructure Charges (D24/14600)  
**Attachment 3** – Approved Plans (D24/14599)  
**Attachment 4** – Notice of Decision – Statement of Reasons (AD2024/0002350)  
**Attachment 5** – Extract of Appeal Provisions (Chapter 6 part 1 of the *Planning Act 2016*)

**Attachment 1 (A) - Conditions imposed by the assessment manager (Cook Shire Council)**



**A. ASSESSMENT MANAGER (COUNCIL) CONDITIONS**

No.	Condition	Timing
<b>GENERAL</b>		
1.	<b>COMPLIANCE WITH CONDITIONS</b> The Developer is responsible for ensuring compliance with this development approval and the conditions of the approval by an employee, agent, contractor, or invitee of the Developer.	At all times
2.	<b>OUTSTANDING CHARGES</b> All rates, service charges, interest and other charges levied on the land must be paid prior to Council endorsement of the Plan of Survey.	Prior to Council endorsement of the Plan of Survey
3.	<b>WORKS – APPLICANT’S EXPENSE</b> 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.	At all times
4.	<b>WORKS - DAMAGE TO INFRASTRUCTURE</b> The Developer must repair any damage to existing infrastructure 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, must be repaired immediately.	At all times
5.	<b>WORKS – DESIGN &amp; STANDARD</b> Unless otherwise stated, all works must be designed, constructed, and maintained in accordance with the relevant Council policies, guidelines, and standards.	At all times
6.	<b>WORKS – SPECIFICATION &amp; CONSTRUCTION</b> All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant Australian Standards and must be approved, supervised, and certified by a Registered Professional Engineer of Queensland (RPEQ).	At all times

<b>APPROVED PLANS &amp; DOCUMENTS</b>				
7.	Undertake the approved development generally in accordance with the approved plans and documents, including any amendments made in red on the approved plan(s) or document(s):			At all times
	<b>Title</b>	<b>Ref.</b>	<b>Date</b>	<b>Prepared By</b>
	Proposed Reconfiguration	Plan No. 35065/002 B	25 March 2024	Brazier Motti
8.	Where there is a conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval take precedence.			At all times

**WATER SUPPLY**

9.	Extend water infrastructure to connect the land to Council's existing water infrastructure at a point that has sufficient capacity to service the development (inclusive of firefighting demand).	Prior to Council approval of the Plan of Survey
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**ON-SITE WASTEWATER**

10.	Prepare a Preliminary Onsite Sewage Disposal Report for Lot 21 to demonstrate an on-site effluent disposal system is able to comply with minimum setbacks to lot boundaries, watercourses and building pads.  Details are to be provided at the time of lodgement of a plumbing and building application.	As stated.
11.	An on-site effluent disposal system must be provided on Lot 21 and Lot 22 at the time of construction of a Dwelling House.  Any application for wastewater treatment and disposal must include details of the proposed wastewater disposal systems and calculation demonstrating compliance with the Queensland Plumbing and Wastewater Code and AS/NZS 1547:2000 – 'On-site domestic wastewater management'.	At the time of construction of a Dwelling House

**ELECTRICITY SUPPLY**

12.	Each lot must be provided with a reliable electricity and telecommunications supply at the time of construction of a Dwelling House in accordance with the standards and requirements of the relevant service provider.	As stated.
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**BUSHFIRE MANAGEMENT**

13.	The development must be maintained at all times to a standard so as not to create a fire hazard.	At all times
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**ACCESS**

14.	Construct an access crossover and driveway to Lot 21 generally in accordance with FNQROC Development Manual Standard Drawings S1105 and S1110 to a Rural standard.	Prior to Council approval of the Plan of Survey
15.	Access to Lot 22 must be provided from the existing access on Buhmann Street and maintained to a Rural standard generally in accordance with FNQROC Standard Drawings S1105 and S1110.	At all times

**STORMWATER**

16.	Any site works must not adversely affect flooding or drainage characterises of properties that are upstream, downstream, or adjacent to the development site.	At all times
17.	Existing watercourse systems and drainage areas within the subject site must be left in their current state, including no channel alterations and no removal of vegetation, unless otherwise approved.	At all times
18.	All stormwater from the subject site must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development, in accordance with the Queensland Urban Drainage Manual.	At all times

## **B. ASSESSMENT MANAGER (COUNCIL) ADVICE**

1. The Reconfiguring a Lot approval authorised under this Development Permit must be completed and the Plan of Survey submitted to Council for endorsement within four (4) years from the commencement of this approval or the approval will lapse.
2. A development permit is required for carrying out Building Works, and a Plumbing and Drainage Approval/compliance permit is required for Plumbing and Drainage Works prior to construction of any buildings associated with this development.
3. The applicant/owner is to ensure compliance with the requirements of the Aboriginal Cultural Heritage Act and in particular 'the duty of care' that it imposes on all landowners.
4. **Removal of Protected Vegetation**  
This development approval does not approve or authorize the removal of vegetation that is otherwise protected under separate State or Federal legislation, including under the following:
  - *Environment Protection and Biodiversity Conservation Act 1999 (Cth);*
  - *Nature Conservation Act 1999 (Qld);*
  - *Vegetation Management Act 1999 (Qld).*

## **C. REFERRAL AGENCY RESPONSE**

1. State Assessment Referral Agency response dated 22 March 2024.

**Attachment 1 (B) – Conditions imposed by a concurrence agency (D24/10671)**



SARA reference: 2402-39231 SRA  
 Council reference: 12711/ 2024  
 Applicant reference: 35065-002-01

22 March 2024

Chief Executive Officer  
 Cook Shire Council  
 PO Box 3  
 Cooktown QLD 4895  
 mail@cook.qld.gov.au

Attention: Brian Joiner

Dear Sir/Madam

## SARA referral agency response— Reconfiguring a lot at 47 Buhmann Street, Cooktown

(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 23 February 2024.

### Response

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Outcome:	Referral agency response - No requirements Under section 56(1)(a) of the <i>Planning Act 2016</i> , SARA advises it has no requirements relating to the application.
Date of response:	22 March 2024
Advice:	Advice to the applicant is in <b>Attachment 1</b>
Reasons:	The reasons for the referral agency response are in <b>Attachment 2</b>

### Development details

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Description:	Development permit	Reconfiguring a lot (1 lot into 2 lots)
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 (Planning Regulation 2017) – Reconfiguring a lot near a State transport corridor Schedule 10, Part 9, Division 4, Subdivision 2, Table 3 (Planning Regulation 2017) – Reconfiguring a lot near a State-controlled road intersection	



SARA reference: 2402-39231 SRA  
Assessment manager: Cook Shire Council  
Street address: 47 Buhmann Street, Cooktown  
Real property description: Lot 2 on SP319394  
Applicant name: D. & L. Miller c/- Brazier Motti Pty Ptd  
Applicant contact details: PO Box 1185  
Cairns QLD 4870  
Michael.Tessaro@braziermotti.com.au  
*Human Rights Act 2019* considerations: A consideration of the 23 fundamental human rights protected under the *Human Rights Act 2019* has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

## Representations

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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 3**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Isley Peacey, Senior Planning Officer, on 4037 3202 or via email CairnsSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Anthony Walsh  
Manager Planning

cc D. & L. Miller c/- Brazier Motti Pty Ptd, Michael.Tessaro@braziermotti.com.au  
enc Attachment 1 - Advice to the applicant  
Attachment 2 - Reasons for referral agency response  
Attachment 3 - Representations about a referral agency response provisions

## Attachment 1—Advice to the applicant

<b>General advice</b>	
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.
2.	<p><b>Transport Noise Corridor</b></p> <p>Mandatory Part (MP) 4.4 of the Queensland Development Code (QDC) commenced on 1 September 2010 and applies to building work for the construction or renovation of a residential building in a designated <i>transport noise corridor</i>. MP4.4 seeks to ensure that the habitable rooms of Class 1, 2, 3 and 4 buildings located in a <i>transport noise corridor</i> are designed and constructed to reduce transport noise. <i>Transport noise corridor</i> means land designated under Chapter 8B of the <i>Building Act 1975</i> as a <i>transport noise corridor</i>. Information about <i>transport noise corridors</i> is available at state and local government offices.</p> <p>A free online search tool can be used to find out whether a property is located in a designated <i>transport noise corridor</i>. This tool is available at the State Planning Policy Interactive Mapping System website: <a href="https://spp.dsdip.esriaustraliaonline.com.au/geoviewer/map/planmaking">https://spp.dsdip.esriaustraliaonline.com.au/geoviewer/map/planmaking</a> and allows searches on a registered lot number and/or property address to determine whether and how the QDC applies to the land. Transport Noise Corridors are located under Information Purposes within Transport Infrastructure of the State Planning Policy (SPP) mapping system.</p>

## **Attachment 2—Reasons for referral agency response**

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

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

- The proposed development does not impact on the safety, function or efficiency of the state-controlled road;
- The proposed development does not adversely impact the physical condition of the state-controlled road or associated infrastructure;
- The development does not compromise future works or upgrades to the state-controlled road within the vicinity of the development site.
- Drainage and stormwater can be constructed so that it does not negatively impact on the state-controlled road.
- Noise impacts from the state-controlled road are appropriately mitigated through the design and construction of the development.
- The proposed development complies with SDAP version 3.0, State Code 1: Development in a state-controlled road environment.

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

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP, version [3.0], as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- Section 58 of the *Human Rights Act 2019*

## **Attachment 3— Representations about a referral agency response**

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# Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules<sup>1</sup> regarding **representations about a referral agency response**

## Part 6: Changes to the application and referral agency responses

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### 28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
  - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
  - (c) the applicant has given written agreement to the change to the referral agency response.<sup>2</sup>
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
  - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

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<sup>1</sup> Pursuant to Section 68 of the *Planning Act 2016*

<sup>2</sup> In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.



## **Part 7: Miscellaneous**

### **30 Representations about a referral agency response**

30.1. 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.<sup>3</sup>

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<sup>3</sup> An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

Attachment 2 – Infrastructure Charges (D24/14600)

Our Ref: BJ:tt:DA/4731:AD2024/0002350

01 May 2024

D. & L. Miller c/- Brazier Motti Pty Ltd  
PO Box 1185  
Cairns QLD 4870  
Email: [cns.planning@braziermotti.com.au](mailto:cns.planning@braziermotti.com.au)

Attention: Michael Tessaro

Dear Mr Tessaro

**ADOPTED INFRASTRUCTURE CHARGES NOTICE**  
**Development Application - DA/4731**  
**47 Buhmann Street Cooktown QLD 4895**

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<b>Proposal:</b>	Reconfiguring a Lot (1 into 2 lots)
<b>Applicant:</b>	D. & L. Miller c/- Brazier Motti Pty Ltd
<b>Location of Site:</b>	47 Buhmann Street Cooktown QLD 4895
<b>Real Property Description:</b>	Lot 2 on SP319394
<b>Level of Assessment:</b>	Code Assessment

**CHARGES CALCULATION**

Development Class	Charge	Unit of Measure	No. of Units	Amount of Charge
Residential RAL	\$2,100.00 (Water Supply)	Per allotment	2	\$4,200.00
Residential RAL	\$2,100.00 (Sewerage)	Per allotment	n/a	n/a
Residential RAL	\$2,520.00 (Transport)	Per allotment	2	\$5,040.00
Residential RAL	\$840.00 (Public Parks & Community Land)	Per allotment	2	\$1,680.00
Residential RAL	\$840.00 (Stormwater)	Per allotment	2	\$1,680.00
<b>Total Charge</b>				<b>\$12,600.00</b>

**CREDIT CALCULATION**

Development Class	Charge	Unit of Measure	No. of Units	Amount of Charge
Residential RAL	\$2,100 (Water Supply)	Per Lot	1	\$2,100.00
Residential RAL	\$2,100 (Sewerage)	Per Lot	n/a	n/a
Residential RAL	\$2,520 (Transport)	Per Lot	1	\$2,520.00
Residential RAL	\$840 (Public Parks & Community Land)	Per Lot	1	\$840.00
Residential RAL	\$840 (Stormwater)	Per Lot	1	\$840.00
<b>Total Credit</b>				<b>\$6,300.00</b>

**Net Adopted Infrastructure Charges Summary**

Total Adopted Charge	Total Credit	Total Infrastructure Charge
\$12,600.00	\$6,300.00	<b>\$6,300.00</b>

(Note: The Total Infrastructure Charge = Total Charges – Total Credit for Existing Use)

**Due Date for Payment:**

Payment of the total infrastructure charge must be made at the time of endorsement of the survey plan.

**Payment Details:**

Payment of the adopted infrastructure charge must be made to Cook Shire Council.

**Goods and Services Tax**

The federal government has determined that rates and utility charges levied by a local government will be GST free. Accordingly, no GST is included in this infrastructure charge notice.

**Adopted Infrastructure Charge is Subject to Price Variation**

The amount of the adopted infrastructure charge is subject to variations in the Consumer Price Index (C.P.I.). All groups from the reference date stated in this notice until the date the payment is made.

This notice will lapse if the development approval stops having effect.

**RIGHTS OF APPEAL:**

Pursuant to the provisions of Chapter 6 of *The Planning Act 2016*, a person may appeal to the Planning & Environment Court against the decision of this Council. Please refer to <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2016-025> to access the *Planning Act 2016*. Please refer to sections 124, 125, and 229 to 232 which detail your appeal rights regarding this notice.

Should you require any further information or assistance on this matter please contact Council's Manager Planning Environment Lisa Miller on (07) 4082 0500.

Yours faithfully

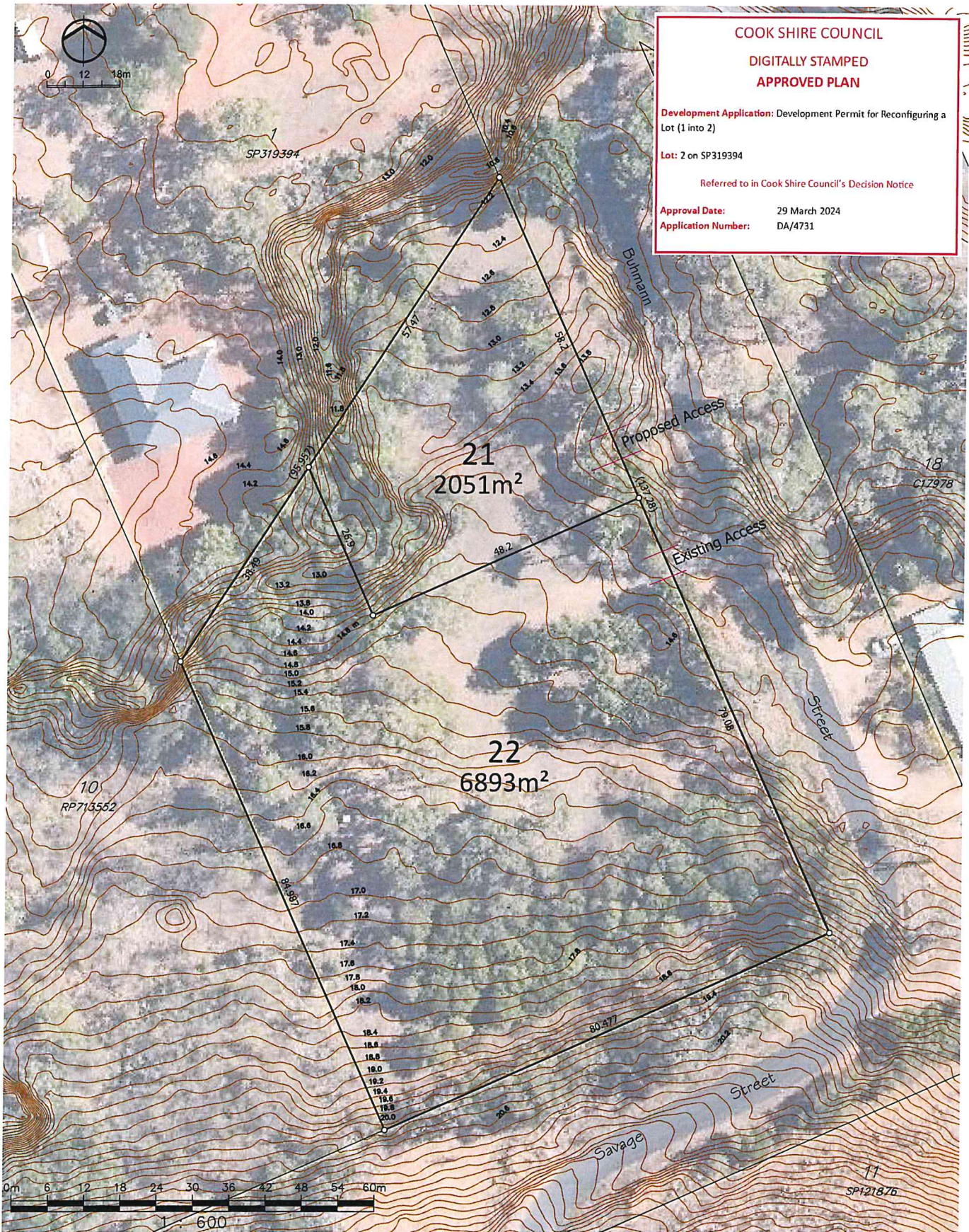


Brian Joiner  
Chief Executive Officer  
Cook Shire Council



Attachment 3 – Approved Plans (D24/14599)





**PROPOSED RECONFIGURATION**  
**Lots 21 & 22**  
 Cancelling Lot 2 on SP319394

Date: 25/03/2024	
Scale: 1:600	A3
Drawn: WCHO	
Job No: 35065/002-01	
Plan No: 35065/002	B

brazier mott

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.

braziermotti.com.au

SURVEYING  
 TOWNPLANNING  
 PROJECTMANAGEMENT  
 MAPPING&GIS





**Attachment 4 – Notice of Decision – Statement of Reasons (AD2024/0002350)**

## NOTICE ABOUT DECISION – STATEMENT OF REASONS

*This Notice is prepared in accordance with s63(5) and s83(9) of the Planning Act 2016 to provide information 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 or otherwise their ordinary meaning.*

### APPLICATION DETAILS

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Application No:	DA/4731
Applicant:	D. & L Miller c/- Brazier Motti Pty Ltd
Proposal:	Development Permit for Reconfiguring a Lot
Description of the Development:	Reconfiguring a Lot (1 into 2)
Street Address:	47 Buhmann Street, COOKTOWN QLD 4895
Real Property Description:	Lot 2 on SP319394
Planning Scheme:	Cook Shire Council Planning Scheme 2017 (V2.0)
Land Zoning:	Rural Residential
Assessment Type:	Code Assessment

### DECISION DETAILS

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Type of Decision:	Approval with Conditions
Type of Approval:	Development Permit for Reconfiguring a Lot (1 into 2 Lots)
Date of Decision:	29 March 2024

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## ASSESSMENT BENCHMARKS

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The following Assessment Benchmarks applied to the development from the following Categorising Instruments:

Assessment Benchmarks	Comment
<i>Planning Regulation 2017</i> (Schedule 9)	Schedule 9 is not applicable as the application is not for building work under the Building Act.
<i>Planning Regulation 2017</i> (Schedule 10)	<p>The application triggered a referral to SARA under Schedule 10, Part 3, Division 4, Table 1 and Table 3 for Reconfiguring a Lot near a State Transport Corridor and Reconfiguring a Lot near a State-controlled Road Intersection.</p> <p>A copy of the SARA Response is included as Attachment 1 (B)</p>
Regional Plan	Section 2.2 of the Planning Scheme identifies that the Cape York Regional Plan has been adequately reflected in the Planning Scheme. A separate assessment against the Regional Plan is not required.
State Planning Policy (SPP), Part E	<p>Section 2.1 of the Planning Scheme identifies that the superseded version of the <i>State Planning Policy</i> is integrated in the Planning Scheme.</p> <p>A review of the current version of the SPP (July 2017) and assessment benchmark mapping applicable to Part E has determined that the state interests are reflected in the Planning Scheme and no additional assessment provisions in the current SPP (part E) or updated mapping are applicable requiring further assessment against the SPP.</p>
Temporary State Planning Policy	There are no Temporary State Planning Policies.

### **Local Categorising Instrument (Cook Shire Council Planning Scheme 2017):**

In accordance with Table 5.6 the development application for Reconfiguring a Lot is subject to Code Assessment within the Rural Residential Zone.

The subject site is included in the following overlays:

- Bushfire Hazard Overlay; and
- Rural Land Use Overlay.





While included within the Rural Land Use overlay, there are no assessment benchmark codes for this overlay. The applicable overlays do not result in a change to the level of assessment.

#### Assessment Benchmarks

The applicable assessment benchmarks are the:

- 6.2.8 Rural Residential Zone Code;
- 8.2.3 Bushfire Hazard Overlay Code;
- 9.4.1 Reconfiguring a Lot Code; and
- 9.4.3 Works, Services, and Infrastructure Code.

#### **Local Categorising Instrument (Variation Approval)**

Not Applicable

#### **Local Categorising Instrument (Temporary Local Planning Instrument)**

Not Applicable

#### **PUBLIC NOTIFICATION**

Not Applicable

#### **REASONS FOR THE DECISION**

The application is **approved** on the following grounds:

- a. An assessment was made against the applicable assessment benchmarks and the proposed development demonstrated compliance.
- b. The proposed development for reconfiguring a Lot (1 into 2) will have no adverse impacts on the protection of agricultural land, rural character and amenity of the locality or adjoining lots.

#### **REASONS FOR APPROVAL DESPITE NON-COMPLIANCE WITH ASSESSMENT BENCHMARKS**

Not Applicable

#### **ADDITIONAL RELEVANT MATTERS FOR IMPACT ASSESSMENT**

Not Applicable

#### **OTHER MATTERS PRESCRIBED BY THE PLANNING REGULATION 2017**

Not Applicable

#### **OTHER DETAILS**

If you wish to obtain more information about Council's decision, including a copy of Council's Decision Notice and any conditions or plans relating to the development, please refer to Council's webpage.

**Attachment 5 - Extract of Appeal Provisions (Chapter 6 part 1 of the *Planning Act 2016*)**

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 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.
- (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 an appeal relating to the *Plumbing and Drainage Act 2018*—
  - (i) for an appeal against an enforcement notice given because of a breach mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
  - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
  - (iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
  - (iv) otherwise—20 business days after the day the notice is given; or
  - (g) 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.

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**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, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
  - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and

- (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application or subject of the appeal; and
- (1) for an appeal to the P&E Court—the chief executive; and
- (2) 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 is 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 to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
  - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

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**Non-appealable decisions and matters**

- (1) Subject to this chapter, section 316(2), 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 the 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, any tribunal or another entity; and
  - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any 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 rules of the P&E Court.