

Our Ref: LM:DA/4426 :D22/11671

Your Ref: 100550

31 May 2022

Endeavour Reach Pty Ltd  
c/- Murray & Associates (Qld) Pty Ltd  
PO Box 246  
NAMBOUR QLD 4560  
E-mail: [bwbell@msurv.com](mailto:bwbell@msurv.com) and [admin@mursurv.com](mailto:admin@mursurv.com)  
Attention: Blake Bell

Dear Mr Bell

**Negotiated Decision Notice**

Given under section 76 of the *Planning Act 2016*

I refer to your application and the representations you made in respect to the Decision Notice. On 27 May 2022, Council decided your representations.

Details of the decision are as follows:

**Application Details**

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Application Number:	DA/4426
Street Address:	23 - 26 Webber Esplanade, Cooktown 4895
Real Property Description:	Lot 0 on SP188678 Lot 1 on SP188678 Lot 2 on SP188678 Lot 3 on SP188678 Lot 4 on SP188678
Planning Scheme:	Cook Shire Council Planning Scheme 2017 v2

### **Decision Details**

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Council on 22 February 2022, decided to issue the following type of approval:

Development Permit for Reconfiguration of a Lot Four (4) Lots and Common Property into Four (4) Lots and Access and Services Easement into Four (4) Lots.

In relation to representation, Council decided to:

- (a) Not agree to change Condition 9;
- (b) Agree to delete Condition 10;
- (c) Agree to delete Condition 11;
- (d) Agree to amend Condition 16 to include services within the required easement.
- (e) Agree to amend advice clause 6, regarding sewer inspection opening and provide advice regarding ownership of sewerage infrastructure

### **Currency Period of Approval**

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The currency period for this development approval is four (4) years starting the day that this development approval takes effect. (Refer to section 85 "Lapsing of approval at end of currency period" of the *Planning Act 2016*.)

### **Assessment Manager Conditions**

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This approval is subject to the conditions in Attachment 1.

### **Referral Agencies**

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Not applicable - no part of the application required referral.

### **Further Development Permits**

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Not Applicable.


### **Properly Made Submissions**

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

For further information, please contact Council's Planning and Environment Department on 07 4082 0500 or email: [mail@cook.qld.gov.au](mailto:mail@cook.qld.gov.au).

Yours sincerely



Lisa Miller  
Manager – Planning and Environment

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

### **Approved Plans and Documents**

1. The development must be carried out generally in accordance with the following plans/specialist reporting submitted with the application, except for any variations required to comply with the conditions of this approval – see Attachment 2.
  - Plan of Development - Murray & Associates, Drawing No. 7967-23343, dated 10/08/2021 (not including the Development Controls).

### **Amendment to approved plans**

2. The proposed lot layout must be amended to ensure all services and retaining wall structures are wholly contained within the proposed lot boundaries as follows:
  - (a) amendment to the boundary of proposed Lot 1 in the south-eastern corner to ensure the retaining wall is wholly contained within proposed Lot 2;
  - (b) amendment to the boundary of proposed Lot 3 to ensure the retaining wall in the access handle of proposed Lot 4 is wholly contained within proposed Lot 3;
  - (c) amendment to the boundary of proposed Lot 3 to ensure existing stormwater infrastructure is wholly contained within proposed Lot 3; and
  - (d) amendment to the boundary of proposed Lot 4 to ensure the retaining wall is wholly contained within proposed Lot 3.
3. The Development Controls identified on the approved plan of development (Murray & Associates, Drawing No. 7967-23343, dated 10/08/2021) do not form part of this approval.

### **Works – Applicants Expense**

4. 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.

### **Damage to Council Asset and Services**

5. The Developer is required to have repaired any damage to existing infrastructure (e.g. kerb and channel, footpath or roadway) that may have occurred during any works carried out associated with the development. To the extent the damage is deemed to create a hazard to the community, it must be repaired immediately

### **Works – Design, Construction and Maintenance**

6. Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.

### **Water Supply and Sewerage Infrastructure**

7. Each lot must be connected to Council's reticulated sewerage and water network. Sufficient reticulated water capacity must be provided for domestic and firefighting purposes.
8. The developer must design and construct all sewerage and water works in accordance with the approved plans, FNQROC Development Manual, Water Supply (Safety and Reliability) Act and the Plumbing and Drainage Act, prior to endorsement of the Survey Plan.
9. Each of the approved lots must be provided with a separate water connection point and water meter, located along the Gore Street frontage. The water connection point and water meter must be installed prior to endorsement of the Survey Plan.
10. Existing private water and sewerage infrastructure proposed to be retained within the subject lots must be inspected, tested and remedial works undertaken. A report by the consulting Engineer must be submitted and approved by Council prior to the endorsement of the Survey Plan.

### **Services**

11. Electricity and telecommunication services must be provided to each lot in accordance with the standards and requirements of the relevant service provider at the time of construction of dwelling houses on the lots.

### **Structural Certification of Retaining Walls**

12. All existing retaining walls must be certified by a Structural Engineer (RPEQ) and documentation lodged with Council prior to the endorsement of the Survey Plan.

### **Refuse collection**

13. Refuse collection is to be undertaken from the existing refuse collection area at the eastern extent of Webber Esplanade. Wheelie bins must be appropriately positioned to enable Council's refuse collection vehicle to manoeuvre and collect the refuse. Following collection all wheelie bins must be returned and stored within the boundary of the subject lots.

### **Easements**

14. An access and services easement must be provided burdening proposed Lot 4 to the benefit of proposed Lot 3.
15. Copies of the easement documentation must be provided to Council at the time of the request to endorse the Survey Plan.

### **Protection of vegetation / Slope protection**

16. Existing vegetation identified on the approval plan of development must be retained where possible.

### **Sediment Control**

17. The developer must ensure that effective measures are put in place to ensure construction activity does not cause erosion. A sediment control plan must be submitted to Council for approval prior to works commencing.
18. The developer must ensure that no soil or silt runoff occurs from the site during the construction and operational phase of the development.

### **Fire Management**

19. All lots and fire breaks must be maintained by the owner at all times so as not to create a fire hazard.

### **Access**

20. Vehicle access to proposed Lot 3 must be achieved via the access easement burdening proposed Lot 4. Direct vehicular access to Lot 3 from the Gore Street frontage is not permitted.
21. Existing vehicle access to proposed Lots 1, 2 and 4 must be retained. No additional vehicle access driveways are permitted.

### **Stormwater**

22. All stormwater drainage must be to a legal point of discharge and constructed in accordance with section D4 of the FNQROC Manual.
23. The stormwater management system or site works must not adversely affect flooding or drainage characteristics of properties that are upstream, downstream, or adjacent to the development site.

## **Compliance**

24. All relevant conditions of this development permit must be complied with prior to the Plan of Survey being submitted to Council for endorsement.

## **Outstanding Charges**

25. All rates, service charges, interest and other charges levied on the land are to be paid prior to Council endorsement of the Plan of Survey.

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

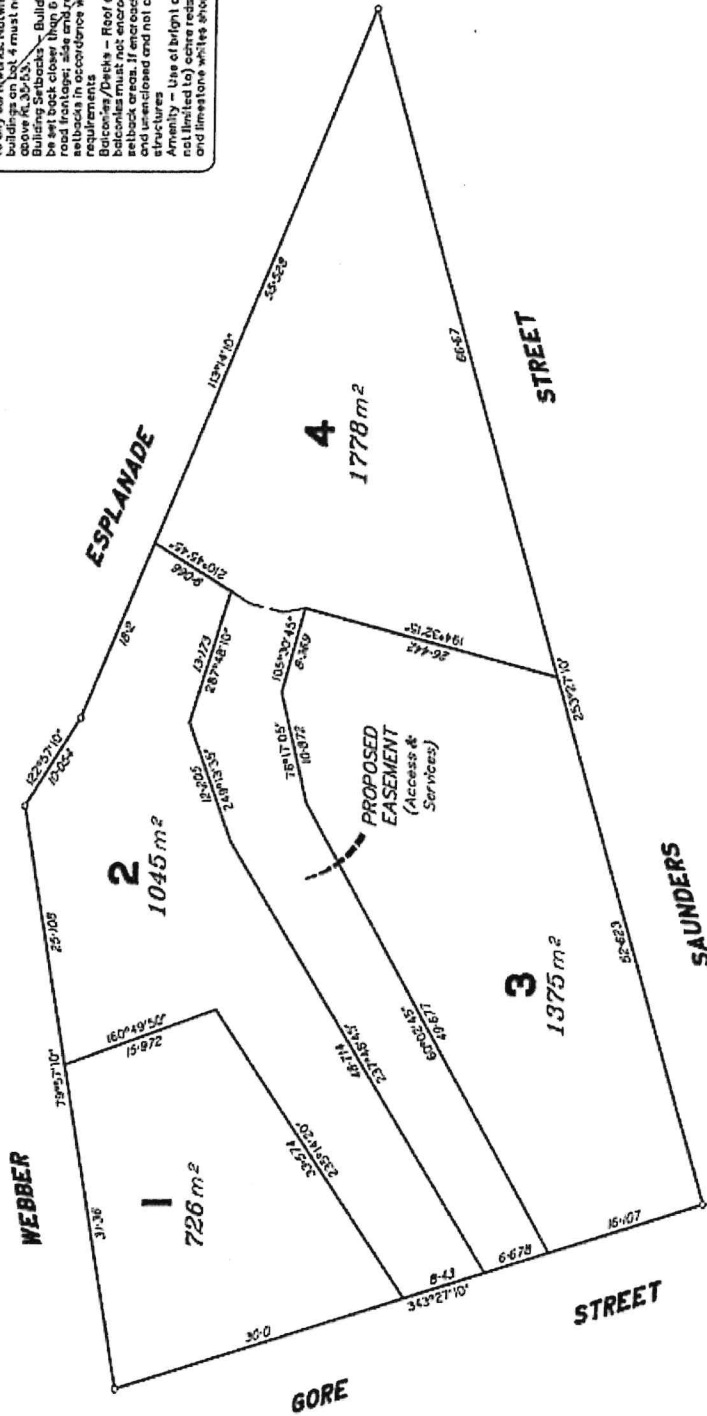
1. The applicant/owner is to ensure compliance with the requirements of the *Aboriginal Cultural Heritage Act* and in particular 'the duty of care' that it imposes on all landowners.
2. The reconfiguring a lot approval authorised under this Development Permit must be completed and the Plan of Survey submitted to Council for endorsement within four (4) years from the commencement of this approval or the approval will lapse.
3. Property notation for proposed Lots 3 and 4. Proposed Lots 3 and 4 are designated in the Scenic Amenity Overlay. Future development on these lots must be assessed against the provisions of the Scenic Amenity Overlay Code. If the acceptable outcomes of the Code cannot be achieved a Development Application for Material Change of Use will be required to be lodged with Council.
4. Property notation for each lot - The approved refuse collection point is located at the eastern extent of Webber Esplanade. Wheelie bins must be appropriately positioned to enable Council's refuse collection vehicle to manoeuvre and collect the refuse. Following collection all wheelie bins must be returned and stored within the boundary of the lot.
5. An application for a water service connection/disconnection must be lodged with Council prior to undertaking the works. Contact Council's Manager Water and Wastewater to discuss the required works prior to the lodgment of the application.
6. Sewer infrastructure on Gore Street to the property boundary of Lot 1, 2, 3 and 4 will be owned and maintained by Council. The sewer infrastructure on Lot 2, Lot 3 and Lot 4 will be owned and maintained by the property owners.

Attachment 2 – Approved Plans

Areas and dimensions are approximate only and subject to final Survey and Council approval.

Development Controls do not form part of the development approval

**Development Controls**  
 Building Height - No buildings to exceed 10 metres above the natural ground level, to be set back parallel to the slope of the land prior to construction. Buildings above 4.5 metres in height on lot 4 must not be constructed above R. 3.5-3.5.  
 Building Setbacks - Building walls should not be set back closer than 6 metres from principal boundaries on the side and rear boundary requirements.  
 Balconies/Decks - Roof overhangs/enclosed balconies must not encroach within building setback areas. If encroaching - must be open and unenclosed and not contain enclosed areas.  
 Aesthetics - Use of bright colours including (but not limited to) scarlet, terracotta, orange, and limestone whites should be restricted.



Scale 1:400 - Lengths are in metres.

CLIENT		Endeavour Reach Pty Ltd	
LOCALITY	MAP REF.		
Cooktown	7967-23343		
DATE 10/08/2023	LEVEL		
FILE 100550 (Proposed) Endeavour	DATE		
DRAWN BY	CHECKED	ORIGINAL	ALLOYS 1A3
SCALE	1:400	-X8 No 100550	

**PLAN OF DEVELOPMENT**  
**Proposed Subdivision of**  
**Lots 1-4 & CP on SP188678**

**MURRAY & M**  
 ASSOCIATES  
 SURVEYORS & TOWNPLANNERS  
 10/11-13/15, 10/11-13/15, 10/11-13/15  
 10/11-13/15, 10/11-13/15, 10/11-13/15  
 COASTAL SURVEYOR

LOCAL AUTHORITY: COOK SHIRE COUNCIL



**Attachment 3 – Notice about a Decision Notice**

## 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/4426
Applicant:	Endeavour Reach Pty Ltd C/- Murray & Associates (QLD ) Pty Ltd
Proposal:	Development Permit for a Reconfiguration of a Lot
Description of the Development:	Reconfiguration of a Lot - 4 into 4 lots and access and services easement
Street Address:	23-26 Webber Esplanade, Cooktown
Real Property Description:	Lot 0 on SP188678 Lot 1 on SP188678 Lot 2 on SP188678 Lot 3 on SP188678 Lot 4 on SP188678
Planning Scheme:	Cook Shire Council Planning Scheme 2017
Land Zoning:	Low Density Residential
Assessment Type:	Code

### DECISION DETAILS

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Type of Decision:	Approval with Conditions
Type of Approval:	Development Permit for a Reconfiguration of a Lot - 4 into 4 lots and access and services easement

Date of Decision:

27 May 2022

### **ASSESSMENT BENCHMARKS**

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

<b>Assessment Benchmarks</b>	<b>Comment</b>
Planning Regulation 2017 (Schedule 9)	Schedule 9 is not applicable as the application is not for building work under the Building Act
Planning Regulation 2017 (Schedule 10)	Schedule 10 is not applicable as the application did not trigger referral
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, part E	Section 2.1 of the Planning Scheme identifies that the superseded version of the State Planning Policy is integrated in the Planning Scheme.  A review of the current version of the SPP (July 2017) and mapping has determined that the state interests are adequately 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.
Temporary State Planning Policy	There are no Temporary State Planning Policy

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

- Low Density Residential Zone Code;
- Biodiversity Overlay Code;
- Bushfire Hazard Overlay Code;
- Scenic Amenity Overlay Code;
- Reconfiguring a Lot Code; and
- 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 lot layout has been appropriately designed for the subject site.
- (c) The proposed development will have no detrimental impact on the subject site or adjoining properties.

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