

Our Ref: LM:DA/4490 AD2022/0010362

Your Ref: R4/22

24 October 2022

Gregory and Penny Johnson
c/-U&i Town Plan
PO Box 426
COOKTOWN QLD 4895
E-mail: ramon@uitownplan.com.au
Attention: Ramon Samanes

Dear Mr Samanes

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

With reference to the abovementioned Development Application, 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

Date of Decision: Council approved the Development Application by delegation on 20 October 2022.

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.

Variation approval details

Not Applicable

Application Details

Application Number: DA/4490

Approval Sought: Development Permit for Reconfiguration of a Lot

Description of the Development: Reconfiguration of a Lot - one (1) into two (2) lots

Category of Development: Assessable Development

Category of Assessment: Code Assessment

Planning Scheme: Cook Shire Council Planning Scheme 2017

Location Details

Street Address: 27-33 Hutchinson Street COOKTOWN 4895

Real Property Description: Lot 2 on SP161235

Local Government Area: Cook Shire

Assessment Manager Conditions

This approval is subject to the conditions in Attachment 1.

Further Development Permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

1. Development Permit for Plumbing and Drainage Work

Properly Made Submissions

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

Referral Agencies

Not applicable - no part of the application required referral.

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

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

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

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.

Yours sincerely



Lisa Miller
Manager
Planning and Environment
Cook Shire Council

enc: **Attachment 1 (A)** – Conditions imposed by the assessment manager
Attachment 2 – Approved Plans (D22/24232)
Attachment 3 – Notice of Decision – Statement of Reasons (AD2022/0010362)
Attachment 4 - 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
GENERAL		
1.	COMPLIANCE WITH CONDITIONS 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.	OUTSTANDING CHARGES 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.	WORKS – DEVELOPER’S EXPENSE 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.	WORKS - DAMAGE TO INFRASTRUCTURE 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.	WORKS – DESIGN & STANDARD 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.	WORKS – SPECIFICATION & CONSTRUCTION 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

APPROVED PLANS & DOCUMENTS														
7.	<p>APPROVED PLANS & DOCUMENTS</p> <p>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):</p> <table border="1"> <thead> <tr> <th>Title</th> <th>Date</th> <th>Prepared By</th> </tr> </thead> <tbody> <tr> <td>Subdivision plan 1 into 2 lots - Lot 2 on SP161235 @ 27-33 Hutchinson St, Cooktown Plan# 2.0</td> <td>09.08.22</td> <td>-</td> </tr> <tr> <td>Site and Soil Evaluation Report</td> <td>Sept 22</td> <td>Earth Test</td> </tr> <tr> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Title	Date	Prepared By	Subdivision plan 1 into 2 lots - Lot 2 on SP161235 @ 27-33 Hutchinson St, Cooktown Plan# 2.0	09.08.22	-	Site and Soil Evaluation Report	Sept 22	Earth Test				At all times
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Subdivision plan 1 into 2 lots - Lot 2 on SP161235 @ 27-33 Hutchinson St, Cooktown Plan# 2.0	09.08.22	-												
Site and Soil Evaluation Report	Sept 22	Earth Test												
8.	<p>CONDITIONS OF APPROVAL & APPROVED PLANS</p> <p>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.</p>	At all times												

BUILDING ENVELOPE		
9.	<p>AMENDED BUILDING ENVELOPE</p> <p>An amended building envelope plan for proposed Lot 2 must be lodged and approved by Council's delegated officer. The amended plan must be generally in accordance with the plan attached to the approved site and soil evaluation report. The amended building envelope must be setback a minimum of 10 metres from the watercourse and detail setback distances from the boundaries and access easement.</p>	Prior to Council endorsement of the Plan of Survey
10.	<p>BUILDING ENVELOPE</p> <p>All buildings, structures, on-site wastewater treatment and associated vegetation clearing must be located within the approved amended building envelope plan.</p>	At all times

VEHICLE ACCESS		
11.	Access to proposed Lot 1 must be provided from the existing access crossover and maintained in accordance with the requirements of the FNQROC Development Manual.	At all times
12.	Access to the existing shed on proposed Lot 2 must be provided from the existing access crossover and maintained in accordance with the requirements of the FNQROC Development Manual.	At all times
13.	<p>VEHICLE ACCESS PERMIT</p> <p>An application with Engineered Plans must be submitted to Council for approval by Council's Director Infrastructure as part of a Local Law application to 'Make Alterations or Improvements to a Road', prior to works commencing for construction of the access to the approved building envelope on proposed Lot 2. These plans must provide evidence that the sight distance requirements as per AS2890.1:2004 will be met.</p>	At the time of building approval of a dwelling house

EASEMENTS & SERVICES		
14.	<p>ACCESS & SERVICES EASEMENT</p> <p>Register and retain an access and services easement generally in accordance with the approved plan of development over the existing access driveway. The easement, burdening proposed Lot 2 to the benefit of proposed Lot 1 must be a minimum width of six (6) metres. The existing access driveway must be wholly contained within the easement.</p>	At all times.
15.	All services must be wholly contained within the boundary of each proposed lot or within the designated easement.	Prior to Council endorsement of the Plan of Survey and at all times.
16.	<p>EASEMENT DOCUMENTATION</p> <p>Provide copies of the signed easement documentation for the required easement.</p>	Prior to Council endorsement of the Plan of Survey



BUSHFIRE		
17.	FIRE MANAGEMENT The development must be maintained to a standard so as not to create a fire hazard.	At all times
18.	WATER SUPPLY A separate source of water for fire-fighting purposes of not less than 10,000 litres must be provided for the dwelling house on proposed Lot 1. Delivery of the water should be provided through a 50mm male Camlock fitting. The outlet from the tank water supply shall be located within an accessible position within forty (40) metres from the habitable buildings.	Prior to Council endorsement of the Survey Plan

WATER SUPPLY		
19.	RETICULATED WATER SUPPLY Proposed Lot 2 must be connected to the reticulated water supply by means of the existing metered connection.	At all times.
20.	Written confirmation from a suitably qualified person must be provided confirming the disconnection and removal of the existing internal water connection to proposed Lot 1.	Prior to Council endorsement of the Plan of Survey
21.	ON-SITE WATER SUPPLY A separate on-site water supply must be provided to proposed Lot 1 by the provision of a rainwater tank(s) with a minimum capacity of 50,000 litres.	Prior to Council endorsement of the Plan of Survey

EFFLUENT DISPOSAL		
22.	The existing on-site wastewater system on proposed Lot 1 must be redesigned and installed to comply with current standards in accordance with the Site and Soil Evaluation Report prepared by Earth Test, dated September 2022, reference SI 559-22Report A Plumbing Application for the onsite wastewater treatment and disposal system for proposed Lot 1 including details of the proposed wastewater disposal systems and calculation	Prior to Council endorsement of the Plan of Survey



	demonstrating compliance with the Queensland Plumbing and Wastewater Code and AS/NZS 1547:2000 – ‘On-site domestic wastewater management’ must be submitted to Council.	
23.	An on-site wastewater system must be provided to proposed Lot 2 at the time of construction of a dwelling house. The application for the 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 lodgement of a plumbing and building application.

STORMWATER

24.	LAWFUL POINT OF DISCHARGE Stormwater drainage must be directed to a lawful point of discharge.	At all times
25.	DRAINAGE 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

VEGETATION MANAGEMENT

26.	Vegetation clearing must be limited to that required for firebreaks, dwelling houses and associated infrastructure. Any regulated vegetation not required for building works or bushfire management purposes must be retained.	At all times
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ELECTRICITY

27.	Evidence must be provided confirming each proposed lot has a separate connection to the reticulated electricity supply.	Prior to Council endorsement of the Plan of Survey
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EROSION & SEDIMENT CONTROL		
28.	The applicant must ensure that no sand, soil or silt runoff occurs from the site during the construction and operational phase of the development and erosion and sediment controls are in place.	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. **Property Notation for proposed Lot 2 –**
 - (a) All new buildings, structures and wastewater systems must be located within the approved building envelope (Council file reference DA/4490).
 - (b) The existing building located in the south-western corner is not approved as a dwelling house.
 - (c) The lot is connected to Council’s reticulated water supply via a service connection to the Annan Trunk Main. Water pressure and chlorine residual is not guaranteed.
4. On registration of the survey plan proposed Lot 1 will be removed from the designated water service catchment area.
5. 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.
6. **Removal of Protected Vegetation**
This development approval does not approve of authorize the removal of vegetation that is otherwise protected under separate State or Federal legislation, including under the following:
 - A. *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*;
 - B. *Nature Conservation Act 1999 (Qld)*;
 - C. *Vegetation Management Act 1999 (Qld)*.



Attachment 2 – Approved Plans (D22/24232)

Subdivision plan - 1 into 2 lots

Lot 2 on SP161235 @ 27-33 Hutchinson St, Cooktown Plan# 2.0, dated 09.08.22

15°30'10"S 145°13'46"E

15°30'10"S 145°13'53"E



15°30'16"S 145°13'46"E

15°30'17"S 145°13'52"E

A product of

 Queensland Globe

Legend located on next page



0 25 metres

Scale: 1:1053

Printed at: A4

Print date: 9/8/2022

Projection: Web Mercator EPSG 102100 (3857)

For more information, visit
<https://qldglobe.information.qld.gov.au/help-info/Contact-us.html>

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Attachment 3 – Notice of Decision – Statement of Reasons (AD2022/0010362)

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

Application No:	DA/4490
Applicant:	Gregory & Penny Johnson c/- U&I Town Plan
Proposal:	Development Permit for a Reconfiguration of a Lot
Description of the Development:	Reconfiguration of a Lot - one (1) into two (2) lots
Street Address:	27-33 Hutchinson Street, Cooktown 4895
Real Property Description:	Lot 2 on SP161235
Planning Scheme:	Cook Shire Council Planning Scheme 2017
Land Zoning:	Rural Residential
Assessment Type:	Code Assessment

DECISION DETAILS

Type of Decision:	Approval with Conditions
Type of Approval:	Development Permit for Reconfiguration of a Lot
Date of Decision:	20 October 2022

ASSESSMENT BENCHMARKS

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

Assessment Benchmarks	Comment
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)	The application did not trigger a referral under Schedule 10.
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	<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 mapping has determined that the state interests, namely Biodiversity and Bushfire 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 for these interests.</p> <p>However, the Planning Scheme does not reflect SPP Assessment Benchmark mapping for Natural Hazards Risk and Resilience – Storm Tide inundation areas. An assessment against the State Planning Policy was addressed as part of the assessment of the application.</p>
Temporary State Planning Policy	There are no Temporary State Planning Policies

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

- Rural Residential Zone Code;
- Reconfiguring a Lot Code;
- Biodiversity Overlay Code;
- Bushfire Hazard Overlay 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 development will have no detrimental impact on the property, surrounding properties, or the environment itself.

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*)

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 belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(o)(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.

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, 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 the subject of the appeal; 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 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.

231 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.