

Our Ref: LM:DA/4561 AD2022/0010647  
Your Ref: 1205

15 November 2022

Ronald Edward Palmer & Christa Palmer  
c/-MD Land Surveys  
25 Gouldian Street  
Bayview Heights QLD 4868  
E-mail: [erin@mdlandsurveys.com.au](mailto:erin@mdlandsurveys.com.au)  
Attention: Erin Berthelsen

Dear Ms Berthelsen

**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**

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Date of Decision: Council approved the Development Application by delegation on 09 November 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**

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Not Applicable

**Application Details**

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Application Number: DA/4561

Approval Sought: Development Permit for Reconfiguration of a Lot

Description of the Development: Reconfiguration of a Lot (Boundary Realignment)

Category of Development: Assessable Development

Category of Assessment: Code Assessment

Planning Scheme: Cook Shire Council Planning Scheme 2017

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#### **Location Details**

Street Address: 55 Helen Street, COOKTOWN 4895

Real Property Description: Lot 323 C1791

Local Government Area: Cook Shire

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#### **Assessment Manager Conditions**

This approval is subject to the conditions in Attachment 1.

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#### **Further Development Permits**

Not Applicable.

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#### **Properly Made Submissions**

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

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#### **Referral Agencies**

Not applicable - no part of the application required referral.

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

Not Applicable.

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#### **Approved Plans and Specifications**

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

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#### **Currency Period for the Approval**

(For a configuring a lot) This approval lapses if a plan for the reconfiguration that, under the *Land Title Act 1994*, is required to be given to a local government for approval is not given within *four (4) years*.

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**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.

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**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.

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**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](mailto:mail@cook.qld.gov.au).

Yours sincerely



Lisa Miller

Manager

Planning and Environment

Cook Shire Council

enc:   **Attachment 1** –       Conditions imposed by the assessment manager  
          **Attachment 2** –       Approved Plans (D22/27468)  
          **Attachment 3** –       Notice of Decision – Statement of Reasons (AD2022/0010667)  
          **Attachment 4** -       Extract of Appeal Provisions (Chapter 6 part 1 of the *Planning Act 2016*)



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

## A. Assessment Manager (Council) Conditions

No.	Condition	Timing
<b>GENERAL</b>		
1.	<p><b>COMPLIANCE WITH CONDITIONS</b></p> <p>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.</p>	At all times
2.	<p><b>OUTSTANDING CHARGES</b></p> <p>All rates, service charges, interest and other charges levied on the land must be paid prior to Council endorsement of the Plan of Survey.</p>	Prior to Council endorsement of the Plan of Survey
3.	<p><b>WORKS – DEVELOPER’S EXPENSE</b></p> <p>The cost of all works associated with the development and construction of the development, including services, facilities and/or public utility alterations required are met at no cost to the Council or relevant utility provider, unless otherwise stated in a development condition.</p>	At all times
4.	<p><b>WORKS - DAMAGE TO INFRASTRUCTURE</b></p> <p>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.</p>	At all times
5.	<p><b>WORKS – DESIGN &amp; STANDARD</b></p> <p>Unless otherwise stated, all works must be designed, constructed, and maintained in accordance with the relevant Council policies, guidelines, and standards.</p>	At all times
6.	<p><b>WORKS – SPECIFICATION &amp; CONSTRUCTION</b></p> <p>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).</p>	At all times



APPROVED PLANS & DOCUMENTS								
7.	<p><b>APPROVED PLANS &amp; DOCUMENTS</b> 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" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 35%;">Title</th> <th style="width: 20%;">Date</th> <th style="width: 45%;">Prepared By</th> </tr> </thead> <tbody> <tr> <td>Proposed Reconfiguration of a Lot (Boundary Realignment)</td> <td>20 September 2022</td> <td>MD Land Surveys</td> </tr> </tbody> </table>	Title	Date	Prepared By	Proposed Reconfiguration of a Lot (Boundary Realignment)	20 September 2022	MD Land Surveys	At all times
Title	Date	Prepared By						
Proposed Reconfiguration of a Lot (Boundary Realignment)	20 September 2022	MD Land Surveys						
8.	<p><b>CONDITIONS OF APPROVAL &amp; APPROVED PLANS</b> 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						
STORMWATER								
9.	<p><b>LAWFUL POINT OF DISCHARGE</b> Stormwater drainage must be directed to a lawful point of discharge.</p>	At all times						
10.	<p><b>DRAINAGE</b> Site works must not adversely affect flooding or drainage characterises of properties that are upstream, downstream, or adjacent to the development site.</p>	At all times						
SERVICES								
11.	<p>Evidence must be provided confirming all services and infrastructure is wholly contained within the boundary of the proposed new lots.</p>	Prior to Council endorsement of the Plan of Survey						

## 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. This development approval does not include any change to vehicle access to the site. Should any works including an access crossover be proposed over a State heritage listed kerb and channel a separate approval is required from the State Department of Environment and Science.
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:

- 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 (D22/27468)**





**NOTES:**

1. This plan is conceptual and for discussion purposes only. All areas and dimensions are preliminary and subject to further investigation and survey.
2. Boundaries by Subject Survey Plan & Imagery by Old Globe

**COOK SHIRE COUNCIL**  
**DIGITALLY STAMPED**  
**APPROVED PLAN**

**Development Application:** Development Permit for Reconfiguration of a Lot (Boundary Realignment)

Lot: 321 on RP745022 and Lot 323 C1791

Referred to in Cook Shire Council's Decision Notice

**Approval Date:** 09 November 2022  
**Application Number:** DA/4561

**PROPOSED RECONFIGURATION OF A LOT**  
**(Boundary Realignment)**  
 Lots 321 & 323  
 Cancelling Lot 321 on RP745022 & Lot 323 on C1791  
 5 Furneaux Street & 55 Helen Street, Cooktown



**Date:** 20 September 2022  
**Scale:** 1:300 @ A3  
**Drawn:** E Berthelsen  
**Job No:** 1205  
**Plan No:** Boundary Realignment Rev A



**Attachment 3 – Notice of Decision – Statement of Reasons (AD2022/0010667)**

## 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/4561
Applicant:	Ronald and Christa Palmer c/- MD Land Surveys
Proposal:	Development Permit for Reconfiguration of a Lot
Description of the Development:	Reconfiguration of a Lot (Boundary Realignment)
Street Address:	5 Furneaux Street and 55 Helen Street, Cooktown 4895
Real Property Description:	Lot 321 on RP745022 and Lot 323 on C1791
Planning Scheme:	Cook Shire Council Planning Scheme 2017
Land Zoning:	Centre Zone
Assessment Type:	Code Assessment

### DECISION DETAILS

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Type of Decision:	Approved with Conditions
Type of Approval:	Development Permit
Date of Decision:	09 November 2022

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## **ASSESSMENT BENCHMARKS**

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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)	The application did not trigger a 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 (SPP), Part E	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. A review of the current version of the SPP (July 2017) and assessment benchmark mapping applicable to Part E has determined that 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 Policies

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

- Centre Zone Code
- Landslide Hazard Overlay Code
- Reconfiguring a Lot Code
- Works, Services, and Infrastructure Code

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

Not Applicable

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

Not Applicable

**PUBLIC NOTIFICATION**

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Not Applicable

**REASONS FOR THE DECISION**

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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 (Rearranging the Boundary) results in lot sizes consistent with the overall purpose of the zone and remain suitable for their current uses.

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

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Not Applicable

**ADDITIONAL RELEVANT MATTERS FOR IMPACT ASSESSMENT**

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Not Applicable

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

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Not Applicable

**OTHER DETAILS**

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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)(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.

- (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.

- (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



(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.