

Our Ref: LM:lmcDA/4639 AD2023/0004681
Your Ref: 230417 - ROL - QBR

7 September 2023

Mobar Pty Ltd
PO Box 85
COOROY QLD 4563
E-mail: mosheva@hotmail.com

Attention: Louise Shay

Dear Ms Shay

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 **7 September 2023**.

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

Application Number: DA/4639

Approval Sought: Development Permit for Reconfiguring a Lot

Description of the Development: Reconfiguration of Lots (2 lots into 3 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: Lot 48 & 382 Quarantine Bay Road COOKTOWN 4895

Real Property Description: Lot 98 on Plan SP117596 and Lot 48 on Plan RP739954

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: CairnsSARA@dasilgp.qld.gov.au MyDAS2 online referrals: https://prod2.dev-assess.qld.gov.au/suite/	Schedule 10, Part 17, Division 3, Table 5, Item 1 (<i>Planning Regulation 2017</i>) – Reconfiguring a lot in a coastal management district or for a canal.

Variation approval details

Not Applicable

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 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*.

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



Darryn Higgins
Acting Manager Planning and Environment

cc: State Assessment Referral Agency (SARA) CairnsSARA@dsdmip.qld.gov.au

enc: **Attachment 1 (A)** Conditions Imposed by the Assessment Manager
Attachment 1 (B) Conditions Imposed by a Concurrence Agency (D23/21687)
Attachment 2 Approved Plans on development (D23/26550)
Attachment 3 Notice of Decision – Statement of Reasons (AD2023/0004723)
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.	<p>COMPLIANCE WITH CONDITIONS</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>WORKS – DEVELOPER’S EXPENSE</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
3.	<p>WORKS - DAMAGE TO INFRASTRUCTURE</p> <p>The Developer must repair any damage to existing infrastructure (e.g. kerb and channel, footpath, or roadway) 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
4.	<p>WORKS – DESIGN & STANDARD</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
5.	<p>WORKS – SPECIFICATION & CONSTRUCTION</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
6.	<p>COMMENCEMENT OF USE</p> <p>The use must not commence until the conditions of the approval relevant to each stage have been complied with.</p>	At all times



7.	<p>INFRASTRUCTURE CONDITIONS</p> <p>All development conditions contained in this development approval about infrastructure under Chapter 4 of the Planning Act 2016 (the Act), should be read as being non-trunk infrastructure conditioned under section 145 of the Act, unless otherwise stated.</p>	At all times
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APPROVED PLANS & DOCUMENTS

8.	<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" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 25%;">Title</th> <th style="width: 15%;">Sheet No.</th> <th style="width: 15%;">Date</th> <th style="width: 45%;">Prepared By</th> </tr> </thead> <tbody> <tr> <td>Proposed Subdivision Plan</td> <td>230417-ROL-QBR-PP-A</td> <td>April 2023</td> <td>Mobar Pty Ltd</td> </tr> <tr> <td>Plans and Documents referred to in the Referral Agency response</td> <td>2306-35309 SRA</td> <td>20 July 2023</td> <td>Mobar Pty Ltd and Approved by The State of Queensland</td> </tr> </tbody> </table>	Title	Sheet No.	Date	Prepared By	Proposed Subdivision Plan	230417-ROL-QBR-PP-A	April 2023	Mobar Pty Ltd	Plans and Documents referred to in the Referral Agency response	2306-35309 SRA	20 July 2023	Mobar Pty Ltd and Approved by The State of Queensland	At all times
Title	Sheet No.	Date	Prepared By											
Proposed Subdivision Plan	230417-ROL-QBR-PP-A	April 2023	Mobar Pty Ltd											
Plans and Documents referred to in the Referral Agency response	2306-35309 SRA	20 July 2023	Mobar Pty Ltd and Approved by The State of Queensland											
9.	<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												

WATER SUPPLY

10.	<p>A separate source of water supply is to be provided for the existing dwelling and associated structures for proposed Lot A. A separate water tank for each Lot 48 and balance of Lot 98 is required at the time of construction of any new dwelling.</p>	At all times
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	This would be satisfied by the provision of a rainwater tank with a minimum capacity of 50,000 litres. Where an alternative source of supply is available within the allotment, the applicant can provide certified evidence as to the flow rates and water quality of the bore water or other supply to eliminate or reduce the requirement of on-site water storage.	
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EFFLUENT DISPOSAL		
11.	On-site septic systems must be provided to proposed Lot 48, Lot A and balance Lot 98 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’. Details are to be provided at the time of lodgement of a plumbing and building application.	At all times

ACCESS		
12.	Access to proposed Lot 48, balance of Lot 98 and Lot A must be provided from the existing crossovers to Quarantine Bay Road. Access to be maintained in accordance with the requirements of the FNQROC Development Manual.	At all times

FIREMANAGEMENT		
13.	The development must be maintained at all times to a standard so as not to create a fire hazard.	At all times
14.	Any new building (other than a class 10a) erected on any of the proposed lots shall: (i) Achieve setbacks from fire hazardous vegetation of 1.5 times the predominant mature canopy tree height or ten (10) metres, whichever is greater; (ii) Be provided with a source of water for fire-fighting purposes of not less than 10,000 litres. This must be satisfied by the provision of an accessible dam, swimming pool, or	At all times

	water tank. In the case of a tank supply, delivery of the water should be provided through a 50mm male Camlock fitting. The outlet from the tank water supply or the dam/pool shall be located within an accessible position within forty (40) metres from the habitable buildings.	
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VEGETATION CLEARING

15.	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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STORMWATER

16.	Stormwater drainage must be directed to a legal point of discharge.	At all times
17.	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

SEDIMENT CONTROL

18.	The developer must ensure that effective measures are put in place to ensure construction activity does not cause erosion.	At all times
19.	The developer must ensure that no soil or silt runoff occurs from the site during the construction and operational phase of the development.	At all times

OUTSTANDING CHARGES

20.	All rates, service charges, interest and other charges levied on the land must be paid prior to Council endorsement of the Plan of Survey.	At all times
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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. Property Notation for proposed balance of Lot 98 and Lot A – All buildings or structures must be located within the existing building envelope. Should the owner wish to locate any building or structure outside the identified building envelope, approval must be obtained from the Director of Planning and Environment Services at the time of Building application. In addition, a property notation will be included for Lot 1 and Lot 2 regarding the non-compliant existing structures on the site.
5. **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 1 (B) - Conditions Imposed by a Concurrence Agency (D23/21687)



SARA reference: 2306-35309 SRA
 Council reference: DA4639
 Applicant reference: LM:tt:DA/4639:AD2023/0002772

20 July 2023

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

Attention: Lisa Miller

Dear Sir/Madam

SARA referral agency response— Quarantine Bay Road, 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 22 June 2023.

Response

Outcome:	Referral agency response – with conditions
Date of response:	20 July 2023
Conditions:	The conditions in Attachment 1 must be attached to any development approval
Advice:	Advice to the applicant is in Attachment 2
Reasons:	The reasons for the referral agency response are in Attachment 3

Development details

Description:	Development permit Reconfiguring a lot (2 lots into 3 lots)
SARA role:	Referral agency
SARA trigger:	Schedule 10, Part 17, Division 3, Table 5, Item 1 (Planning Regulation 2017)

Reconfiguring a lot in a coastal management district or for a canal

SARA reference: 2306-35309 SRA

Assessment manager: Cook Shire Council

Street address: 382 Quarantine Bay Road, Cooktown and Quarantine Bay Road,
Cooktown

Real property description: Lot 98 on SP117596 and Lot 48 on RP739954

Applicant name: Mobar Pty Ltd

Applicant contact details: P.O BOX 85
Cooroy QLD 4563
mosheva@hotmail.com

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

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 4**.

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@dSDLGP.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Mobar Pty Ltd, mosheva@hotmail.com

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations about a referral agency response provisions
Attachment 5 - Documents referenced in conditions

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the documents referenced below are found at Attachment 5).

No.	Conditions	Condition timing
Reconfiguring a lot		
10.17.3. 5.1 Reconfiguring a lot in a coastal management district or for a canal - The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of DES to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	The reconfiguring a lot must be undertaken generally in accordance with the following plans: <ul style="list-style-type: none"> - PROPOSED SUBDIVISION PLAN prepared by Mobar Pty Ltd dated April 2023, reference 230417-ROL-QBR-PP-A. 	Prior to submitting the Plan of Survey to the local government for approval

Attachment 2—Advice to the applicant

General advice	
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.

Attachment 3—Reasons for referral agency response

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

The reasons for the SARA's decision are:

- Built infrastructure can be located to avoid the erosion prone area, as much of the development site is not within the erosion prone area.
- The development allows for coastal processes to be maintained and coastal resources to be conserved.
- The development does not change the level of public accessibility to State coastal land.
- The development avoids negatively impacting on matters of state environmental significance, with the development designed to avoid vegetation clearing.
- There is no significant residual impact on matters of state environmental significance as a result of the development.

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
- section 58 of the *Human Rights Act 2019*

Attachment 4—Representations about a referral agency response provisions

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Attachment 5—Documents referenced in conditions

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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 Rules¹ regarding **representations about a referral agency response**

Part 6: Changes to the application and referral agency responses

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.²
- 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.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² 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

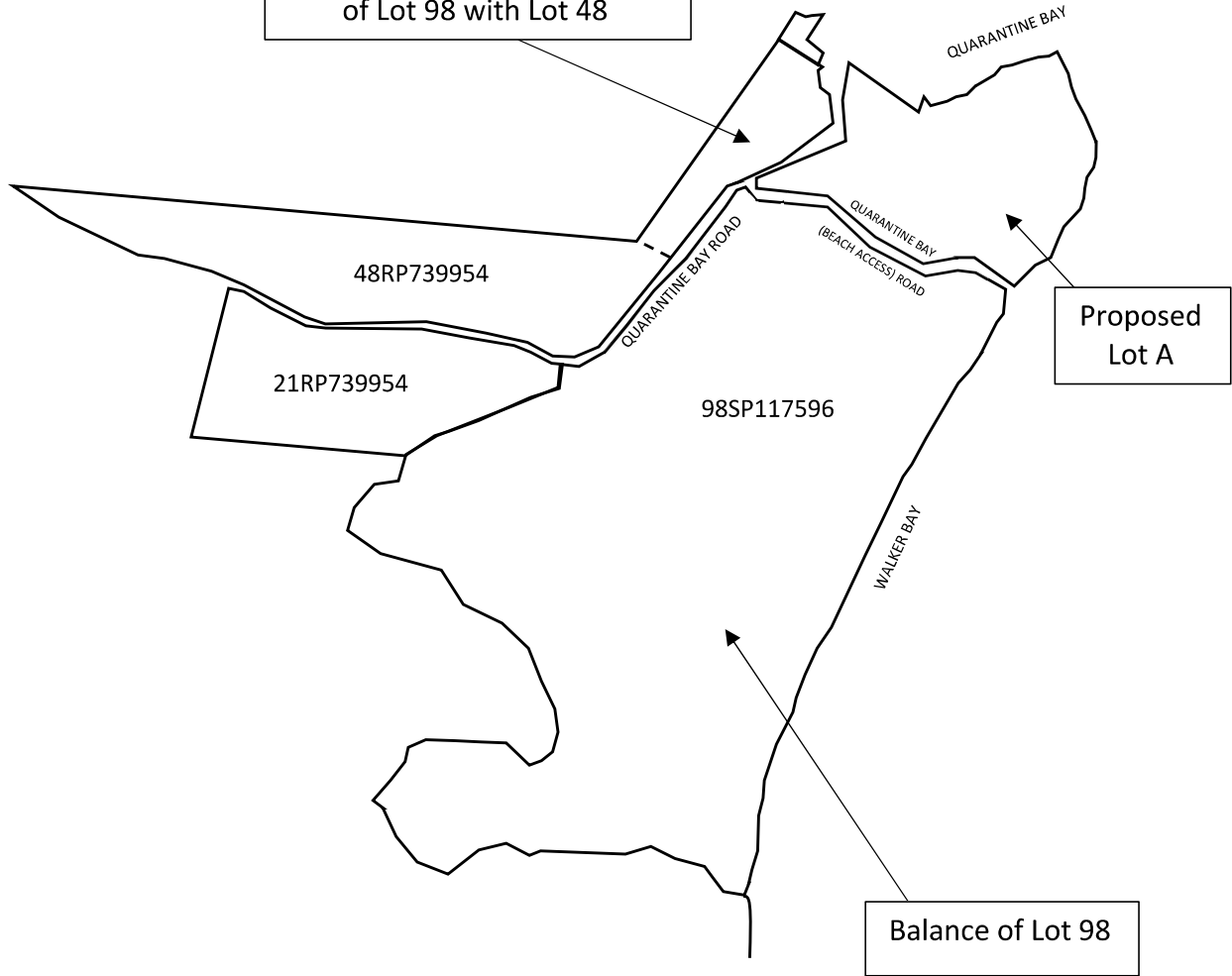
- 30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ 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.



NORTH

Inclusion of western portion
of Lot 98 with Lot 48



PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE



SARA ref: 2306-35309 SRA

Date: 20 July 2023

DRAWING TITLE: PROPOSED SUBDIVISION PLAN

PROJECT DESCRIPTION:
PROPOSED SUBDIVISION (2 INTO 3 LOTS)

DRAWING REFERENCE:
230417-ROL-QBR-PP-A

ADDRESS:
QUARANTINE BAY ROAD, COOKTOWN

DATE:
APRIL 2023

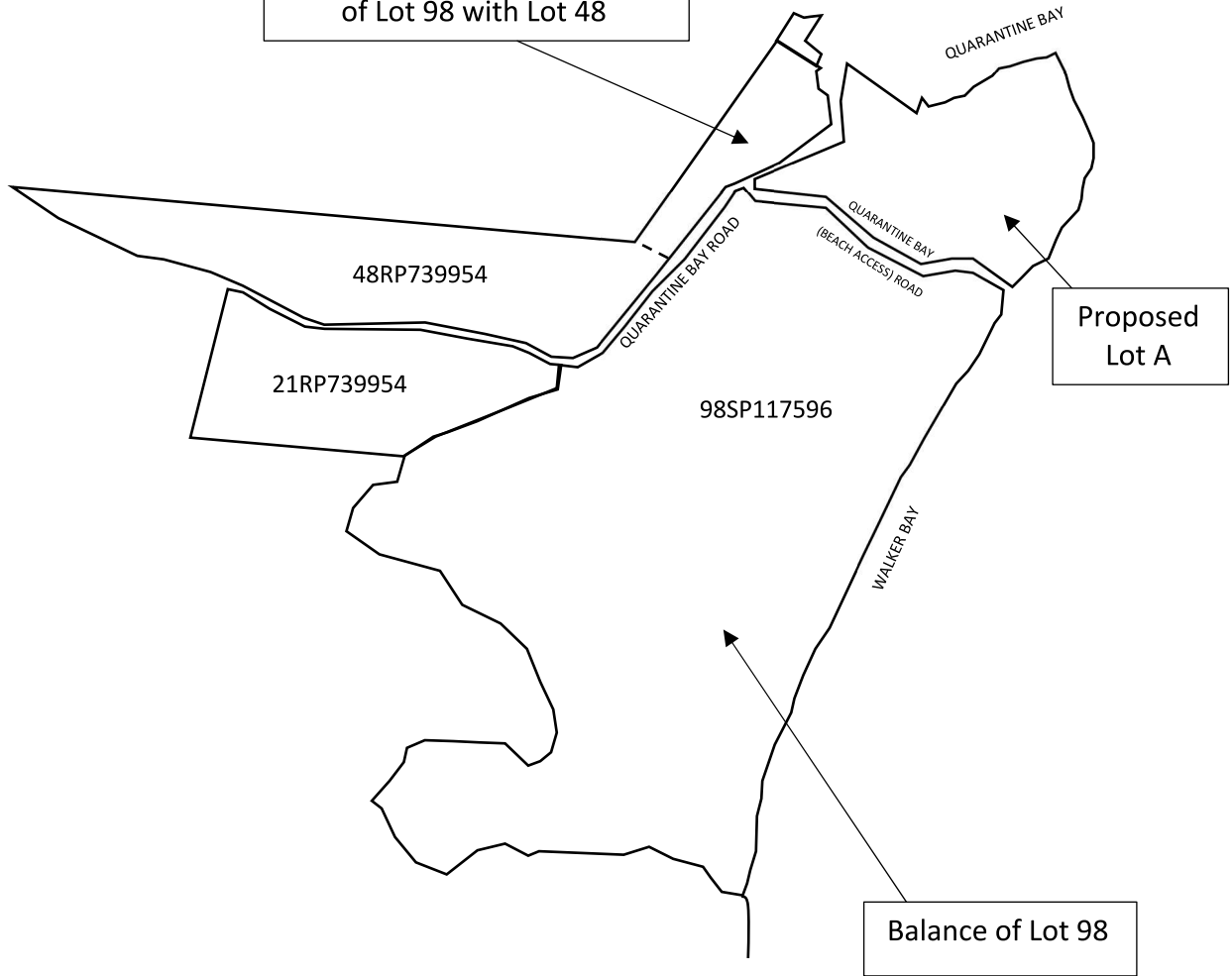
NOT TO SCALE

Attachment 2 - Approved Plans (D23//26550)



NORTH

Inclusion of western portion
of Lot 98 with Lot 48



COOK SHIRE COUNCIL

DIGITALLY STAMPED

APPROVED PLAN

Development Application: Development Permit for
Reconfiguration of a Lot (2 lots into 3 lots)

Lot: Lot 98 SP117596 and Lot 48 RP739954

Referred to in Cook Shire Council's Concurrence
Agency Response

Approval Date: 7 September 2023

Application Number: DA/4639

DRAWING TITLE: PROPOSED SUBDIVISION PLAN

PROJECT DESCRIPTION:
PROPOSED SUBDIVISION (2 INTO 3 LOTS)

DRAWING REFERENCE:
230417-ROL-QBR-PP-A

ADDRESS:
QUARANTINE BAY ROAD, COOKTOWN

DATE:
APRIL 2023

NOT TO SCALE

Attachment 3 - Notice of Decision – Statement of Reasons (AD2023/0004723)

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/4639
Applicant:	Mobar Pty Ltd
Proposal:	Development Permit for Lot Reconfiguration
Description of the Development:	Reconfiguration of Lots (2 lots into 3 lots)
Street Address:	Lot 48 & 382 Quarantine Bay Road Cooktown 4895
Real Property Description:	Lot 98 on Plan SP117596 and Lot 48 on Plan RP739954
Planning Scheme:	Cook Shire Council Planning Scheme 2017 v2.0
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 (2 lots into 3 lots)
Date of Decision:	7 September 2023

ASSESSMENT BENCHMARKS

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

Assessment benchmarks	Comment
Schedule 9	Schedule 9 is not applicable as the application is not for building work under the Building Act.
Schedule 10	Schedule 10, Part 17, Division 3, Table 5, Item 1 – Reconfiguring a lot in a coastal management district or for a canal.
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 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 Policies.

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

- Rural Zone Code
- Rural Residential Zone Code
- Reconfiguring a Lot Code
- Works, Services, and Infrastructure Code
- Biodiversity Overlay Code
- Bushfire Hazard Overlay Code
- Flood and other coastal hazards overlay code
- Landslide Overlay Code
- Scenic Amenity Overlay 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)(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.

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.