

Our Ref: LM: lmc DA/4716 AD2024/0000975
Your Ref: BNE230332

13 March 2024

Sally & Stuart Saw c/- DTS Group
PO Box 3128
WEST END QLD 4101
E-mail: planning@dtsgld.gov.au

Attention: Liam Donald

Dear Mr Donald

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

With reference to the above-mentioned Development Application (DA/4716), 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 **11 March 2024**.

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

Application Details

Application Number: DA/4716

Approval Sought: Development Permit for Reconfiguration of a Lot

Description of the Development: Reconfiguration of Lot (1 into 2 Lots)

Category of Development: Assessable Development

Category of Assessment: Code Assessment

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

Location Details

Street Address: 62 Helen Street COOKTOWN 4895

Real Property Description: Lot 1 on Plan SP182725

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

Not applicable - no part of the application required referral.

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



Lisa Miller

Manager Planning and Environment
Cook Shire Council

enc: **Attachment 1** - Conditions Imposed by the Assessment Manager
Attachment 2 - Approved Plans (D24/7345)
Attachment 3 - Notice of Decision – Statement of Reasons (AD2024/0000974)
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 (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.	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
7.	COMMENCEMENT OF USE The use must not commence until the conditions of the approval relevant to each stage have been complied with.	At all times
8.	INFRASTRUCTURE CONDITIONS All development conditions contained in this development approval about infrastructure under Chapter 4 of the <i>Planning Act 2016</i> (the Act),	At all times

	should be read as being non-trunk infrastructure conditioned under section 145 of the Act, unless otherwise stated.	
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APPROVED PLANS & DOCUMENTS										
9.	<p>APPROVED PLANS & DOCUMENTS 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>Sheet No.</th> <th>Date</th> <th>Prepared By</th> </tr> </thead> <tbody> <tr> <td>Subdivision Proposal Plan</td> <td>A3 6759 – Issue C</td> <td>15/12/2023</td> <td>DTS Urban Planning, surveying and development</td> </tr> </tbody> </table>	Title	Sheet No.	Date	Prepared By	Subdivision Proposal Plan	A3 6759 – Issue C	15/12/2023	DTS Urban Planning, surveying and development	At all times
Title	Sheet No.	Date	Prepared By							
Subdivision Proposal Plan	A3 6759 – Issue C	15/12/2023	DTS Urban Planning, surveying and development							
10.	<p>CONDITIONS OF APPROVAL & APPROVED PLANS 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								

SERVICES		
11.	<p>ELECTRICITY SUPPLY Proposed Lot 1 and Lot 2 must be connected to the reticulated electricity supply. All electrical infrastructure serving proposed Lot 1 and Lot 2 must be contained entirely within each respective lot.</p>	Prior to Council endorsement of the Plan of Survey
12.	<p>TELECOMMUNICATIONS Telecommunications to proposed Lot 1 and Lot 2 must be provided to the premises to the standards and requirements of the relevant service provider. All telecommunication infrastructure serving proposed Lot 1 and Lot 2 must be contained entirely within each respective lot.</p>	Prior to Council endorsement of the Plan of Survey
13.	<p>RETICULATED WATER SUPPLY Proposed Lot 1 and Lot 2 must be individually connected to the reticulated water supply with a minimum 20mm water service connection with individual metering to each proposed lot prior to Council endorsement of the Plan of Survey. The developer will be responsible for metering.</p>	Prior to Council endorsement of the Plan of Survey
14.	<p>RETICULATED SEWERAGE SUPPLY Proposed Lot 1 and Lot 2 must be individually connected to the reticulated sewerage network Prior to Council endorsement of the Plan of Survey. Plans must be submitted as part of a plumbing application for approval by Council's Plumbing Inspector prior to works commencing.</p>	Prior to Council endorsement of the Plan of Survey

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BUILDING SITING		
15.	Any existing structures associated with proposed Lot 1 and Lot 2 must be entirely located within the boundary of each respective lot as nominated on the approved plans of development.	At all times

VEHICULAR ACCESS		
16.	Access to Lot 1 and Lot 2 must be achieved from Helen Street accordance with the approved plans of development.	At all times

BUSHFIRE MANAGEMENT		
17.	The development must be maintained at all times to a standard so as not to create a fire hazard.	At all times

STORMWATER		
18.	Stormwater drainage must be directed to a legal point of discharge.	At all times
19.	Site works must not adversely affect flooding or drainage characteristics of properties that are upstream, downstream, or adjacent to the development site.	At all times

SEDIMENT CONTROL		
20.	The developer must ensure that effective measures are put in place to ensure construction activity does not cause erosion.	At all times
21.	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

ENVIRONMENTAL		
22.	PEST MANAGEMENT No state declared or environmental pest, plants, and animals are to be introduced onto the property.	At all times

AMENITY		
23.	The development shall have no adverse impact on the amenity of the surrounding area by way of light nuisance, dust or noise.	At all times

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

A. 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 Lot 1 and Lot 2 – All existing buildings or structures associated with proposed Lot 1 and Lot 2 must be entirely located within the boundary of each respective lot as nominated on the approved plans of development. Should the owner wish to locate any building or structure outside the associated proposed lots identified in the approved plan of development, approval must be obtained from the Manager Planning and Environment Services at the time of lodgement of a Building Application.
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 2 – Approved Plans (D24/7345)

COOK SHIRE COUNCIL

**DIGITALLY STAMPED
APPROVED PLAN**

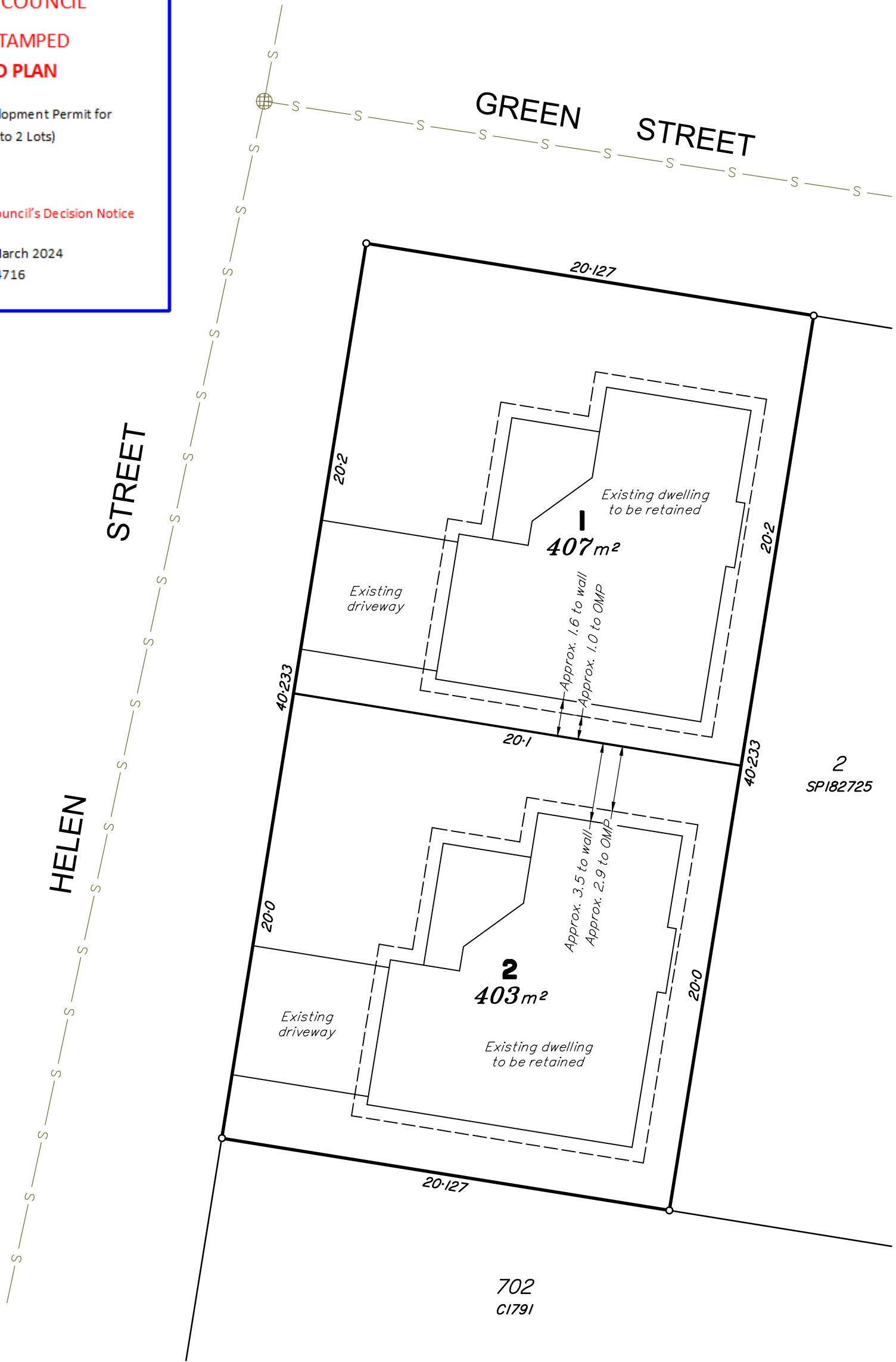
Development Application: Development Permit for Reconfiguration of a Lot (1 Lot into 2 Lots)

Lot: 1 on Plan SP182725

Referred to in Cook Shire Council's Decision Notice

Approval Date: 11 March 2024

Application Number: DA/4716



Issue	Revision	Int	Date
A	Original issue	AV	2/11/23
B	Amended plan	AV	14/12/23
C	Amended plan	AV	15/12/23

This plan has been prepared by DTS as a proposal plan and should not be used for any other purpose. The information contained on this plan is approximate only, has not been verified and may be subject to change. The intellectual property on this plan remains the property of DTS.

Statistics	
Total Area of Subdivision	810m ²
Number of Lots	2
Contour Interval	0.0 m

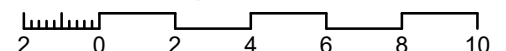


SUBDIVISION PROPOSAL PLAN

62 Helen Street, Cooktown



SCALE 1:200 @ A3



Brisbane
PO Box 3128, West End QLD 4101
Ph: 07 3118 0600
brisbane@dtsqld.com.au

Mackay
PO Box 11711, Mackay Caneland QLD 4740
Ph: 1300 278 783
mackay@dtsqld.com.au

Description
Local Authority
Client

Lot 1 on SP182725
Cook Shire Council

Project BNE230332
File B230332P1.dwg
Date 15/12/2023

Drawing A3 6759
Revision C
Sheet 1 of 1

Attachment 3 – Notice of Decision – Statement of Reasons (AD2024/0000974)

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/4716
Applicant:	Stuart and Sally Saw c/- DTS Group
Proposal:	Development Permit for a Reconfiguration of a Lot
Description of the Development:	1 Lot into 2 Lots
Street Address:	62 Helen Street Cooktown QLD 4895
Real Property Description:	Lot 1 on Plan SP182725
Planning Scheme:	Cook Shire Council Planning Scheme 2017 v2.0
Land Zoning:	Mixed Use Zone
Assessment Type:	Code Assessment

DECISION DETAILS

Type of Decision:	Approval with Conditions
Type of Approval:	Development Permit for a Reconfiguration of a Lot (1 Lot into 2 Lots)
Date of Decision:	11 March 2024

ASSESSMENT BENCHMARKS

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

Assessment Benchmarks	Comment
<i>Planning Regulation 2017</i> (Schedule 9)	Schedule 9 is not applicable as the application is not for building work under the Building Act.
<i>Planning Regulation 2017</i> (Schedule 10)	Not applicable
Regional Plan	Section 2.2 of the Planning Scheme identifies that the Cape York Regional Plan has been adequately reflected in the Planning Scheme. A separate assessment against the Regional Plan is not required.
State Planning Policy (SPP), Part E	<p>Section 2.1 of the Planning Scheme identifies that the superseded version of the 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.</p> <p>However, amendments to any part of the SPP or supporting mapping may result in a local planning instrument no longer appropriately integrating a particular State interest. In these instances the SPP and/or the supporting mapping apply to the extent of any inconsistency.</p>
Temporary State Planning Policy	There are no Temporary State Planning Policies.

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

- Reconfiguring a lot Code
- Mixed use zone Code
- Works, services and infrastructure Code
- Flood and Other Coastal Hazards Overlay Code
- Scenic Amenity Overlay Code
- Landslide hazard overlay Code
- Bushfire Hazard 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.