



23 July 2019

Martin William Conole
c/o Brazier Motti Pty Ltd
PO Box 1185
CAIRNS QLD 4870

Dear Sir/Madam

Decision Notice *Planning Act 2016*

I refer to your application and advise that on 22 July 2019, Council under instrument of delegation, decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No:	RAL19/0018
Street Address:	118 Land Road BUTCHERS CREEK QLD 4885
Real Property Description:	Lot 39 NR 610 Lot 40 RP 867034
Planning Scheme:	Tablelands Regional Council 2016 (v3)

DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Reconfiguration of a Lot (Boundary Realignment)
Date of Decision:	22 July 2019

CURRENCY PERIOD OF APPROVAL

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

ASSESSMENT MANAGER CONDITIONS

1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
 - found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
 - to ensure compliance with the following conditions of approval.

Atherton Service Centre
PO Box 573, Atherton QLD 4883
Telephone: 1300 362 242

Community, Planning & Environment

Debbie Whitaker, Technical Officer Planning
Telephone: 07 4089 2375
Email: trcplanningadmin@trc.qld.gov.au

File Ref: RAL19/0018
Our Ref: TT:DAW:lje

2. Timing of Effect
 - 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the endorsement of the plan of survey, except where specified otherwise in these conditions of approval.
3. General
 - 3.1 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
 - 3.2 The developer must relocate (in accordance with FNQROC standards) any services such as water, sewer, drainage, telecommunications and electricity that are not wholly located within the lots that are being created/serviced where required by the relevant authority, unless approved by Council's delegated officer.
 - 3.3 Where approved existing buildings and structures are to be retained, setbacks to any new property boundaries are to be in accordance with Planning Scheme requirements for the relevant structure and/or Queensland Development Code. A plan demonstrating compliance must be submitted prior to endorsement of the plan of survey.
 - 3.4 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.
 - 3.5 Flood Immunity

All buildings on the proposed vacant lot (Lot 40) must be located such that the freeboard of the floor levels of all habitable rooms are a minimum of 300mm above the 100 ARI year level. A notation to this effect will be placed on Council's Rates database.
 - 3.6 No filling is to occur below the 100 ARI flood level on the subject lots.
4. Infrastructure Services and Standards
 - 4.1 Access

Prior to the issue of a certificate of classification for any building structure on the proposed vacant lot (Lot 40), a rural standard access crossover must be constructed in accordance with the FNQROC Development Manual. The application is to be accompanied by the relevant fee and will be assessed for compliance by Council's delegated officer.

REFERRAL AGENCIES

Not Applicable.

APPROVED PLANS

The following plans are Approved plans for the development:

Approved Plans

Plan No.	Rev.	Plan Name	Date
Brazier Motti - 34842/001A	-	Proposed Reconfiguration	18/06/2019

ADVISORY NOTES

The following notes are included for guidance and information purposes only and do not form part of the assessment manager conditions:

a) Endorsement Fees

Council charges a fee for the endorsement of a Survey Plan, easement documents, and covenants. The fee is set out in Council's Fees & Charges Schedule applicable for each respective financial year.

b) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

c) Notation on Rates Record

A notation will be placed on Council's Rate record with respect to each lot regarding the following conditions:

- (i) Flood immunity
- (ii) Access

d) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from <https://www.datsip.qld.gov.au/people-communities/aboriginal-torres-strait-islander-cultural-heritage>.

VARIATION APPROVAL

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

Not Applicable.

OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

Not Applicable.

SUBMISSIONS

Not Applicable.

RIGHTS OF APPEAL

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about the conditions contained within the development approval. If council agrees or agrees in part with the representations, a “negotiated decision notice” will be issued. Only one “negotiated decision notice” may be given. Taking this step will defer your appeal period, which will commence again from the start the day after you receive a “negotiated decision notice”.

OTHER DETAILS

If you wish to obtain more information about Council’s decision please contact the abovementioned officer.

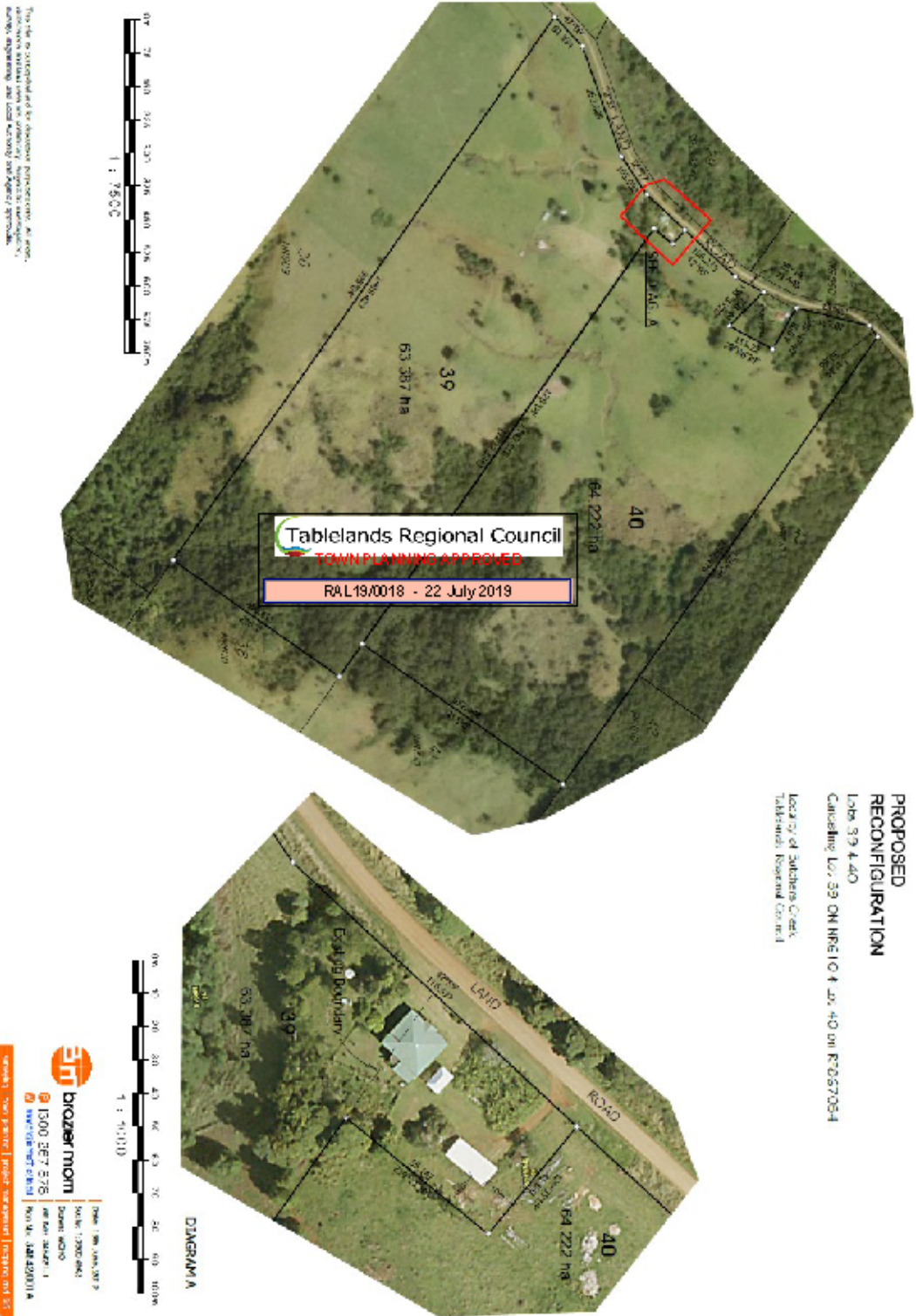
Yours faithfully

**TUDOR TANASE
MANAGER PLANNING & REGULATORY SERVICES**

Enc: Approved Plans/Documents
 Statement of Reasons
 Appeal Rights

Approved Plan/s

PLANNING ACT 2016 & THE PLANNING REGULATION 2017



Statement of Reasons

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

This Notice is prepared in accordance with s63(5) and s83(7) of the Planning Act 2016 to inform the public 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*.

Application Details

Application Number:	RAL19/0018
Property Address:	118 Land Rd, Butchers Creek
RPD:	Lot 39 on NR610 & Lot RP867034
Proposal:	Development permit for Reconfiguring a Lot (Boundary Realignment – 2 lots into 2 lots)
Planning Scheme:	Tablelands Regional Council Planning Scheme 2016 (v3)
Approved	22 July 2019 under instrument of delegation

Reasons for the Decision

The application is substantially consistent with the provisions of the Tablelands Regional Council Planning Scheme 2016 v3 and the proposed application is recommended for approval subject to reasonable and relevant conditions. The realignment is to correct a building encroachment between two lots in the same ownership and both lots will continue to meet the minimum lot size criteria for the Rural Zone.

Applicable Assessment Benchmarks

Assessment Benchmarks:	<p>State Planning Policy 2017</p> <p>Tablelands Regional Council Planning Scheme 2016 (v3)</p> <ul style="list-style-type: none"> • Rural Zone Cone • Environmental Significance Overlay Code • Flood Investigation Area Overlay • Slope Overlay • Parking & Access Code • Reconfiguring a Lot Code • Works, Services & Infrastructure Code
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Compliance with Benchmarks

Rural Zone	The proposed boundary realignment does not conflict with the applicable Acceptable and Performance Outcomes of this code.
Environmental Significance Overlay Code	The proposed boundary realignment will create a new common boundary near but not in an area mapped with this overlay (vegetation along a watercourse) however the drainage feature will be not be affected by the realignment and the existing dwelling house is located approx. 40m from the drainage line and does not conflict with the applicable Acceptable and Performance Outcomes of this code.
Flood Investigation Area Overlay	The proposed boundary realignment does not affect areas mapped with this overlay and does not conflict with the applicable Acceptable and Performance Outcomes of this code.
Slope Overlay Code	The proposed boundary realignment does not affect areas mapped with this overlay and does not conflict with the applicable Acceptable and Performance Outcomes of this code.
Parking and Access Code	The proposed boundary realignment does not conflict with the applicable Acceptable and Performance Outcomes of this code.
Reconfiguring a lot Code	The proposed boundary realignment does not conflict with the applicable Acceptable and Performance Outcomes of this code.
Works, Services & Infrastructure Code	<p>The proposed boundary realignment does not conflict with the applicable Acceptable and Performance Outcomes of this code.</p> <p>A condition will be included for an approved access to be constructed at building permit stage for the vacant lot (Lot 40)</p>

Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 of the *Planning Act 2016* 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.

(Refer to Schedule 1 of the Planning Act 2016)

- (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 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, table 1, item 1 – each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); 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 has 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 by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

231 Other appeals

- (1) Subject to this chapter, 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 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, a tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a 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 the rules of the P&E Court.