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## Community, Planning & Environment

2 October 2019

**Patterson Ngwira, Principal Planner**  
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**File Ref:** RAL19/0021  
**Our Ref:** TT:PN:lje

P G Want TTE  
PO Box 177  
YUNGABURRA QLD 4884

Dear Sir/Madam

### **Decision Notice** *Planning Act 2016 s63*

I refer to your application and advise that under Council's delegated authority on 2 October 2019, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

#### **APPLICATION DETAILS**

Application No:	RAL19/0021
Street Address:	32-34 Victoria Street ATHERTON QLD 4883
Real Property Description:	Lot 506 RP 748117
Planning Scheme:	Tablelands Regional Council 2016 (v3)

#### **DECISION DETAILS**

Type of Decision:	Approval
Type of Approval:	Development Permit for Reconfiguration of a Lot (1 lot into 2 lots)
Date of Decision:	2 October 2019
Deemed Approval (s64):	Not applicable

#### **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****General - Timing and Costs**

1. Development must be carried out substantially in accordance with the approved plans and supporting documentation, 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.
2. 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. 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.
4. All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to endorsement of the plan of survey and at the rate applicable at the time of payment.
5. The developer must relocate (in accordance with FNQROC Development Manual standards) any services such as water, sewer, drainage, telecommunications and electricity that are not wholly located within the lots that are being created/served where required by the relevant authority, unless approved by Council's delegated officer.
6. 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.
7. Charges  
  
All outstanding rates and charges pertaining to the land are to be paid, prior to the sealing of the plan of survey.

**Infrastructure Services and Standards**

## 8. Water Supply

The applicant must arrange for a metered supply to be installed on proposed Lot 2 to service the small dwelling (i.e. relatives unit) which has been relocated onto proposed Lot 2.

## 9. Access

The existing access to Lot 1 must be upgraded in accordance with the FNQROC Development Manual standards, to the satisfaction of Council's delegated officer.

## 10. Electricity provision/supply

The applicant/developer must ensure that an appropriate level of electricity supply is provided to each allotment in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Written advice from an Electricity Service Provider is to be provided to Council indicating that an agreement has been made for the provision of power reticulation to the proposed lots.

## 11. Telecommunications

The applicant/developer must demonstrate the ability to provide telecommunication services to each allotment created as part of this development, to the satisfaction of Council's delegated officer.

## 12. Internal Lot Servicing

The applicant must provide a statutory declaration stating that each respective lot is serviced independently and that no infrastructure services (electricity, water, sewage and telecommunications) cross the common boundary, prior to Council signing a plan of survey.

### ASSESSMENT MANAGER ADVICE

- a) No Adopted Infrastructure Charges have been levied to this proposed development. A number of charges or payments other than the Adopted Infrastructure Charges Notice may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.
- b) The Tablelands Regional Council has developed standard easement documentation to assist in the drafting of formal easement documents for Council easements. Please contact the Community, Planning and Environment Department for more information regarding the drafting of easement documents for Council easements.
- c) Please be advised that Council charges a fee for the endorsement of a Survey Plan, Community Management Statements, easement documents, and covenants. The fee is set out in Council's Fees & Charges Schedule applicable for each respective financial year.
- d) Compliance with applicable codes/policies
- e) Cultural Heritage
- f) In carrying out the activity the Applicant/Developer 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/Developer 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 the Department of Aboriginal and Torres Strait Islander Partnerships on [www.datsip.qld.gov.au](http://www.datsip.qld.gov.au).

### REFERRAL AGENCIES

Not Applicable.

### APPROVED PLANS

The following plans are Approved plans for the development:

#### Approved Plans

Plan/Document Number	Plan/Document Title	Prepared by	Dated
Site Plan, Sheet 1 of 1	Reconfiguration of a Lot (1 into 2)	P G Want	28 Aug 2019

### VARIATION APPROVAL

Not Applicable.

**FURTHER DEVELOPMENT PERMITS REQUIRED**

Not Applicable.

**OTHER APPROVAL/S REQUIRED FROM ASSESSMENT MANAGER (COUNCIL)**

- Nil

**SUBMISSIONS**

Not Applicable.

**OTHER DETAILS**

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

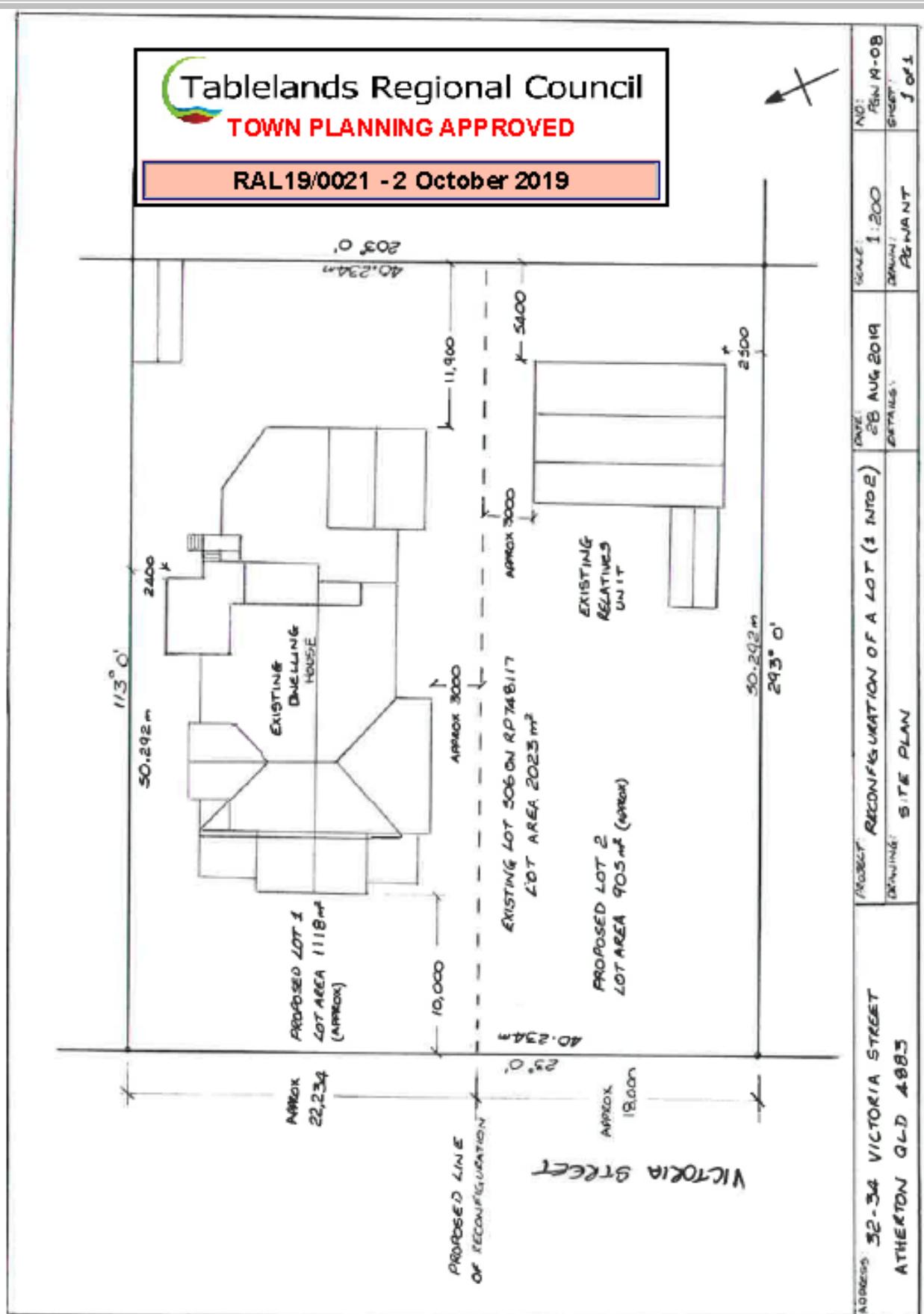
Yours faithfully

**TUDOR TANASE  
MANAGER PLANNING & REGULATORY SERVICES**

Attachments:

1. Approved Plans/documents
2. Statement of Reasons
3. Appeal Rights

Attachment 1 – Approved Plans/Documents



## Attachment 2 - Statement of Reasons

SECTION 63 PLANNING ACT 2016

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

<b>Application Number:</b>	RAL19/0021
<b>Property Address:</b>	32-34 Victoria Street ATHERTON QLD 4883
<b>RPD:</b>	Lot 506 RP 748117
<b>Proposal:</b>	Development Permit for a Reconfiguring a Lot (1 Lot into 2 Lots)
<b>Planning Scheme:</b>	TRC Planning Scheme (V3)
<b>Approved</b>	Approved subject to conditions

### Reasons for the Decision

The application is substantially consistent with the provisions of the Tablelands Regional Council Planning Scheme 2016 (v3) and has been recommended for approval subject to reasonable and relevant conditions. Where the application displays a conflict with an applicable Acceptable Outcome it either complies with, or has been conditioned to comply with, the corresponding Performance Outcome.

### Applicable Assessment Benchmarks

Assessment Benchmarks:	Medium Density Residential Zone Code Atherton Local Plan Code Reconfiguring a Lot Code Works, Services & Infrastructure Code Transport Noise Corridors Mandatory Overlay (Category 0: Noise Level <58dB (A))
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### Compliance with Benchmarks

Relevant Codes	Comments
Medium Density Residential Zone Code	The application complies with the applicable acceptable outcomes and/or performance outcomes of these code without conditions.
Atherton Local Plan Code	The application complies with the applicable acceptable outcomes and/or performance outcomes of these code without conditions.
Reconfiguring a Lot Code	The application complies with the applicable acceptable outcomes and/or performance outcomes of these code without conditions.
Works, Services & Infrastructure Code	The application complies with the applicable acceptable solutions and/or performance criteria, albeit with conditions recommended in relation to the following: <ul style="list-style-type: none"> <li>• Water Supply (PO1/AO1.1)</li> <li>• Access (AO5 &amp; PO5)</li> <li>• Telecommunications (PO7/AO7)</li> <li>• Electricity (PO8/AO8)</li> </ul>

# Attachment 3 - 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.