



25 July 2019

Planning Officer: Carl Ewin  
Direct Phone: 4086 4656  
Our Reference: RAL/19/0016  
Your Reference: 32136

G Owen & C Retter  
C/- Brazier Motti  
PO Box 1185  
CAIRNS QLD 4870

Dear Applicant/s

## Decision Notice

### *Planning Act 2016*

I refer to your application and advise that on 25 July 2019 under delegated authority, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

#### APPLICATION DETAILS

Application No: RAL/19/0016  
Street Address: 19 Kullaroo Close, Kuranda  
Real Property Description: Lot 2 on RP734383  
Planning Scheme: Mareeba Shire Council Planning Scheme 2016

#### DECISION DETAILS

Type of Decision: Approval  
Type of Approval: Development Permit for Reconfiguring a Lot - Subdivision (1 into 6 lots and access easements) in 3 stages  
Date of Decision: 25 July 2019

#### CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is four (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*.)

**INFRASTRUCTURE**

Where conditions relate to the provision of infrastructure, these are non-trunk infrastructure conditions unless specifically nominated as a "*necessary infrastructure condition*" for the provision of trunk infrastructure as defined under Chapter 4 of the *Planning Act 2016*.

**ASSESSMENT MANAGER CONDITIONS****(A) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)****(a) Development assessable against the Planning Scheme**

1. Development must be carried out generally 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.
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 for each stage, except where specified otherwise in these conditions of approval.
3. General
  - 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure or the payment of infrastructure charges within the conditions of approval or the Adopted Infrastructure Charges Notice.
  - 3.2 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.
  - 3.3 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior the endorsement of the plan of survey and at the rate applicable at the time of payment.
  - 3.4 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.

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- 3.5 Where utilities (such as sewers on non-standard alignments) traverse lots to service another lot, easements must be created in favour of Council for access and maintenance purposes. The developer is to pay all costs (including Council's legal expenses) to prepare and register the easement documents.
- 3.6 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 of any existing buildings or structures that are in close proximity to any new property boundary must be submitted prior to endorsement of the plan of survey.
- 3.7 All development works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements and to the satisfaction of Council's delegated officer.
- 3.8 A suitable kerbside mobile garbage bin placement/collection area is to be provided on Kullaroo Close to the satisfaction of Council's delegated officer.
- 3.9 Environmental Covenant

The applicant shall be responsible for the preparation and registration of a statutory covenant/s with Council pursuant to S97A of the Land Title Act for the purposes of preserving native animals, plants and their habitat.

The covenant will be of a form that is acceptable to the Registrar of Titles and Council's delegated officer.

The covenant area shall comprise those parts of proposed lots identified as Cov A to D on the approved plans. The covenant area may strictly exclude any areas where vegetation clearing is necessary for stormwater retention purposes only, to the satisfaction of Council's delegated officer.

The covenant shall stipulate that the covenant area must be protected, preserved and conserved, including by strictly adhering to the following non-exhaustive conditions (which may be varied by written agreement between the parties):-

- (a) no existing living vegetation or hereafter existing in the covenant area, may be cut down, damaged or destroyed;
- (b) no buildings or fences may be erected in the covenant area;
- (c) no native animals within the covenant area shall be killed or interfered with;

- (d) no other acts may be carried out on or in respect of the covenant area which, in the opinion of the Council, acting reasonably may have a detrimental impact on the covenant area;

Notwithstanding clause (a) to (d), if any living or dead vegetation on the covenant area poses a risk to human safety:-

- (e) The vegetation may be cut down or trimmed with the prior written consent of the Council, not to be unreasonably withheld, so as to remove the risk;

Notwithstanding clause (a) to (e), if any native or indigenous animal on the covenant area poses a risk to human safety the native or indigenous animal may be removed with the prior written consent of the Council and any other approvals which might be required by law.

The covenant agreement shall be signed by the registered owner prior to Council endorsement of the survey plan for each stage containing any of the proposed covenant area, and the signed covenant shall be jointly lodged for registration with the survey plan, in the Department of Natural Resources, Mines and Energy.

The covenant document shall be to the satisfaction of Council's delegated officer, and the applicant shall be responsible for the cost of preparation and registration of the covenant.

### 3.10 Charges

All outstanding rates, charges and expenses pertaining to the land are to be paid in full prior to the endorsement of a plan of survey.

## 4. Infrastructure Services and Standards

### 4.1 Access

4.1.1 An access crossover must be constructed or upgraded from the edge of the Kullaroo Close road pavement to the proposed access driveway in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.1.2 A bitumen, asphalt or concrete access driveway shall be constructed within the easement servicing Lots 3, 4, 5 and 6 for the respective stage of the development to the satisfaction of Council's delegated officer. The driveway will:

- have a minimum formation width of:
  - 4 metres within Easement A (Stage 1); and
  - 3 metres within Easements C and D (Stage 3);
- be constructed for the full length of the easement;

- be formed with one-way crossfall to cater for stormwater drainage such that any stormwater is contained within the easement;
- include service and utility conduits to be provided for the full length of the concrete or bitumen sealed driveway.

4.1.3 Prior to works commencing, plans for the works described above must be approved as part of a subsequent application for operational works.

#### 4.2 Access/Services/Drainage Easement

To provide for the shared access driveway mentioned in Condition 4.1, an easement/s must be established for the purposes of access, drainage, maintenance and servicing for Lots 3, 4, 5 and 6.

The registered easement/s must be maintained in perpetuity to ensure Lots 3, 4, 5 and 6 do not become land locked.

The approved easement documents must be submitted at the same time the applicant/developer seeks endorsement of the plan of survey for the respective stage of the development and must be lodged and registered in the Department of Natural Resources, Mines and Energy in conjunction with the plan of survey.

#### 4.3 Stormwater Drainage/Water Quality

- (a) The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.
- (b) Prior to works commencing the applicant must submit a Stormwater Management Plan and Report prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual to the satisfaction of Council's delegated officer.

The Stormwater Management Plan and Report must include the design for the completed development and must also demonstrate how this stormwater infrastructure will be staged across the three (3) stages.

- (c) The Stormwater Quality Management Plan must include an Erosion and Sediment Control Plan that meets or exceeds the Soil Erosion and Sedimentation Control Guidelines (Institute of Engineers Australia) to the satisfaction of Council's delegated officer.
- (d) The applicant/developer must construct the stormwater drainage infrastructure in accordance with the approved Stormwater

Management Plan and/or Stormwater Quality Management Plan and Report.

- (e) Temporary drainage is to be provided and maintained during the construction phase of the development, discharged to a lawful point and not onto the construction site.
- (f) All stormwater channels through private property must be registered, with the easement for drainage purposes in favour of Council. All documentation leading to the registration of the easement must be completed at no cost to Council.
- (g) All stormwater drainage from the site must be discharged to an approved legal point of discharge.

#### 4.4 Water Supply

- (a) Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity, the developer is required to extend or upgrade the reticulated water supply infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).
- (b) A water service connection must be provided to each proposed allotment in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.
- (c) Fire hydrants are to be located in accessways or private roads at a maximum spacing of 120 metres; and at all intersections of accessways or private roads.

#### 4.5 Sewerage Connection

- 4.5.1 The developer must provide a connection for each proposed allotment to Council's reticulated sewerage system in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.
- 4.5.2 Where sewerage connections are not available to the site, or where existing connections are not satisfactory for the proposed development, the developer is required to extend or upgrade the reticulated sewerage infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

#### 4.6 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 each lot.

#### 4.7 Telecommunications

The applicant/developer must demonstrate that a connection to the national broadband network is available for each allotment, or alternatively, enter into an agreement with a telecommunication carrier to provide telecommunication services to each lot and arrange provision of necessary conduits and enveloping pipes.

### REFERRAL AGENCIES

Not Applicable.

### APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
31236/003B	Proposed Reconfiguration (Stage 1)	Brazier Motti	28 June 2019
31236/004B	Proposed Reconfiguration (Stage 2)	Brazier Motti	28 June 2019
31236/005A	Proposed Reconfiguration (Stage 3)	Brazier Motti	28 June 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) ASSESSMENT MANAGER'S ADVICE

- (a) An Adopted Infrastructure Charges Notice has been issued with respect to the approved development. The Adopted Infrastructure Charges Notice details the type of infrastructure charge/s, the amount of the charge/s and when the charge/s are payable.
- (b) The Adopted Infrastructure Charges Notice does not include all charges or payments that are payable with respect to the approved development. A number of

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other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.

(c) Easement Documents

Council has developed standard easement documentation to assist in the drafting of formal easement documents for Council easements. Please contact the Planning Section for more information regarding the drafting of easement documents for Council easements.

(d) Endorsement Fees

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.

(e) 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.

(f) Notation on Rates Record

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

- a registered covenant
- a registered easement over the subject site

(g) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from [www.environment.gov.au](http://www.environment.gov.au).

(h) 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 [www.datsip.qld.gov.au](http://www.datsip.qld.gov.au).

**PROPERTY NOTES**

Not Applicable.

**FURTHER DEVELOPMENT PERMITS REQUIRED**

- Development Permit for Operational Work

**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, electronic copies are available on line at [www.msc.qld.gov.au](http://www.msc.qld.gov.au), or at Council Offices.

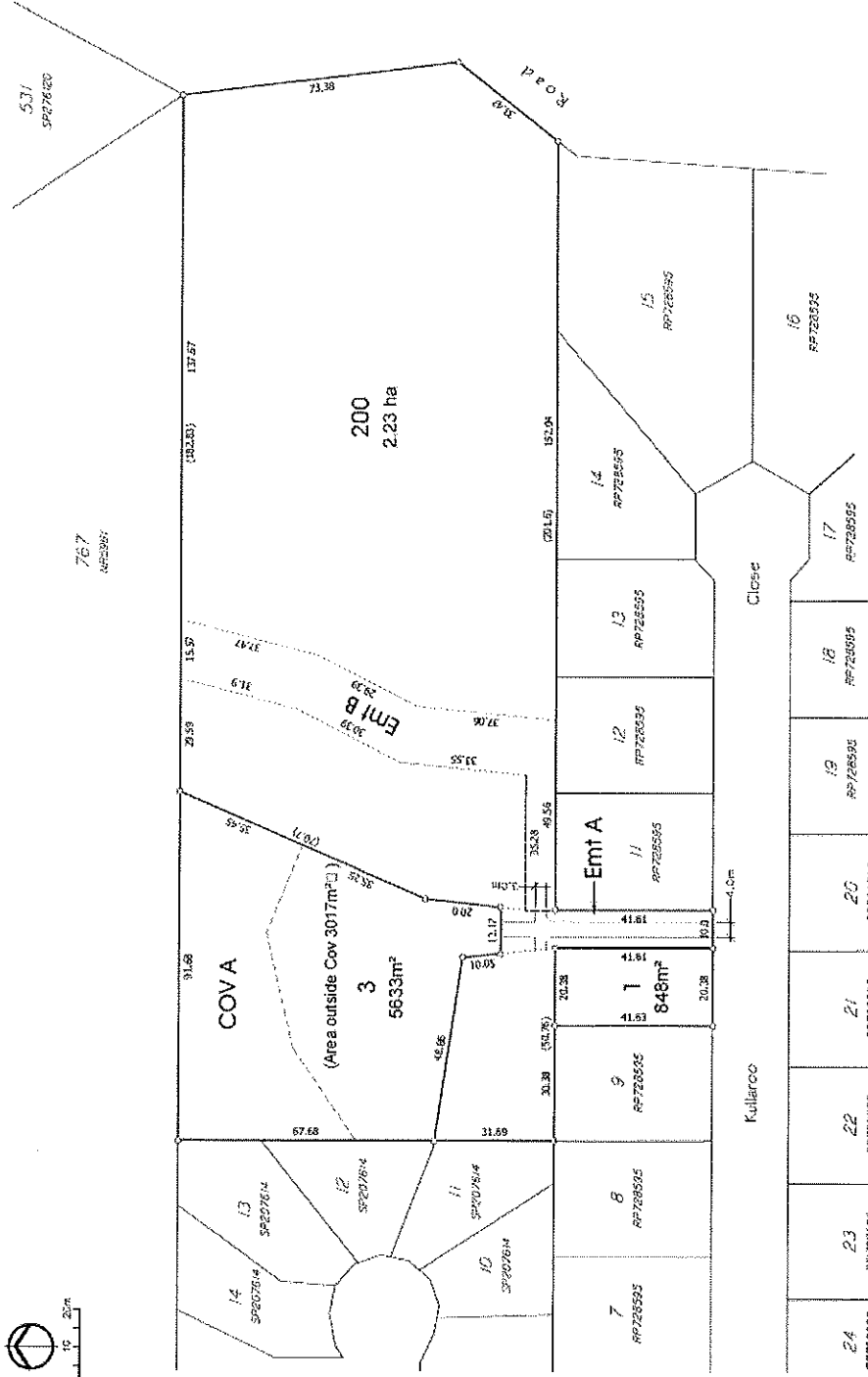
Yours faithfully



**BRIAN MILLARD**  
**SENIOR PLANNER**

Enc: Approved Plans/Documents  
Appeal Rights  
Adopted Infrastructure Charge Notice

### Approved Plans/Documents



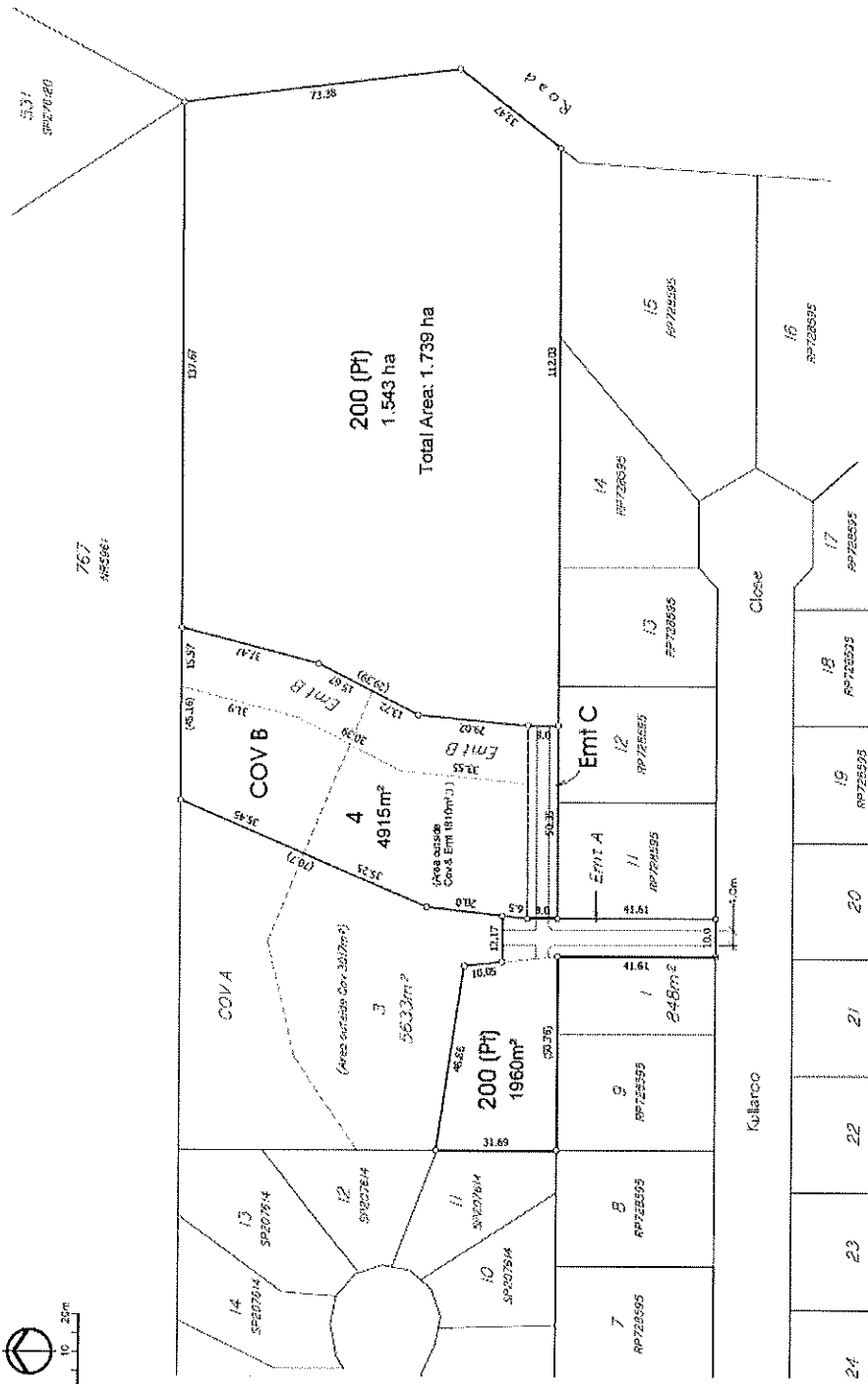
**brazier moir**  
1300 267 878  
www.brazier.com.au  
Date: 28th June 2019  
Scale: 1:10000 AI  
Drawn: WEC/C  
LPA No: 312346.1  
Plan No: 312346.001B


**PROPOSED RECONFIGURATION (STAGE 1)**  
Lots 1, 3 & 200, Emt A & B in Lot 200 and Cov A in Lot 3  
Cancelling Lot 2 on RP734365  
Locality of Kullaroo  
Mareeba Shire Council

**LEGEND**  
--- Crispey  
--- Easement (MPO, Access & Services)  
--- Emt A in Lot 200 - (Substage)  
--- Vegetation Corridor

The plan is prepared and for decision purposes only. All areas, boundaries and lot sizes are preliminary, subject to verification, survey, or planning, and to all Authority and Agency approvals.

25/7/2019  
B. Zeller

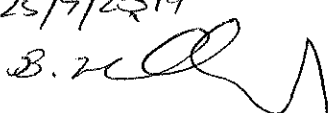


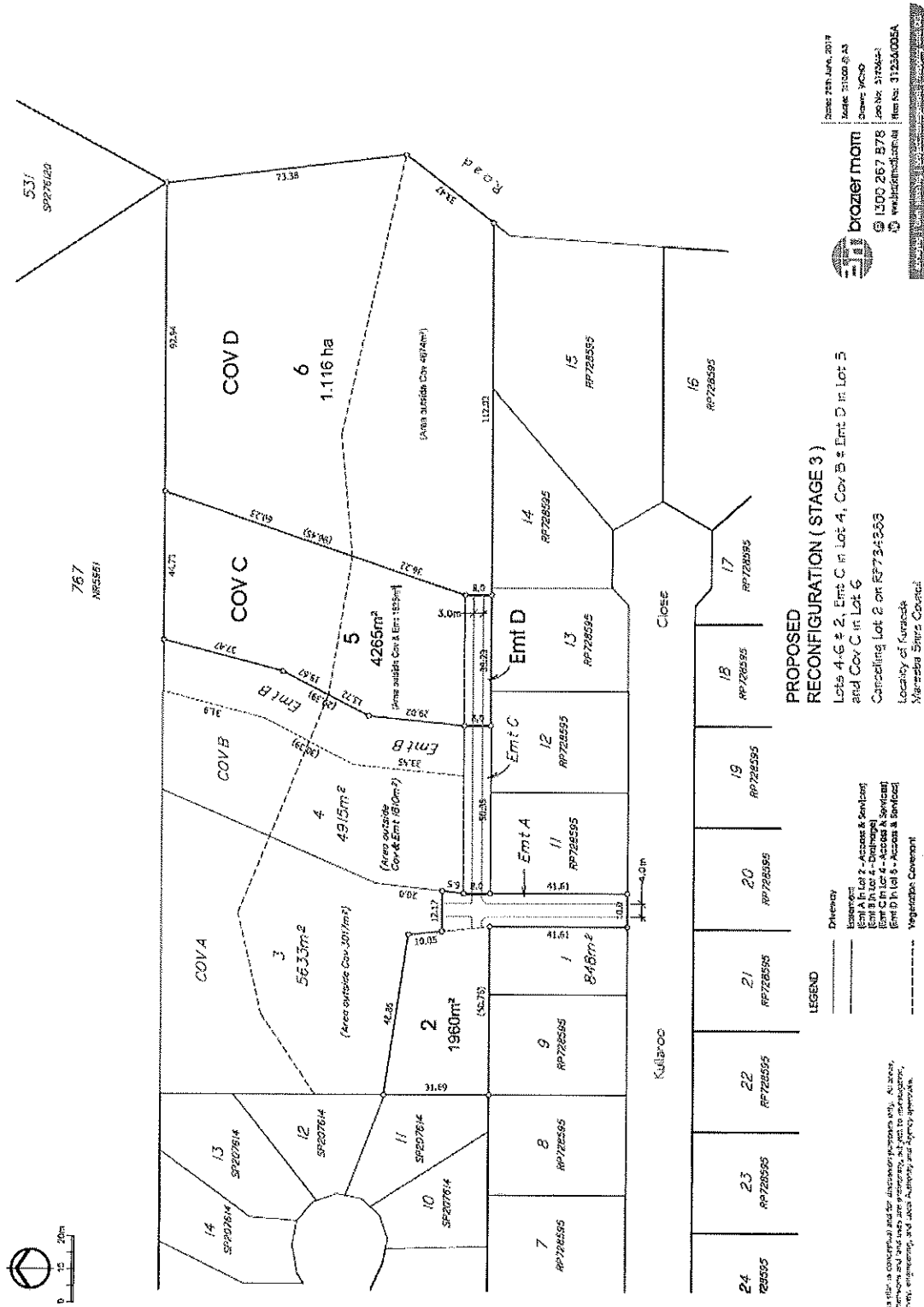

  
 Date: 25th June 2019  
 Scale: 1:500 @ A0  
 Drawn: WJC  
 Job No: 3733661  
 Client: Mareeba Shire Council  
 File No: 3123630043

**PROPOSED RECONFIGURATION (STAGE 2)**  
 Lots 4 & 200 and Emt C & Cov B in Lot 4  
 Cancelling Lot 2 of EF734333  
 Locality of Kuramba  
 Mareeba Shire Council

**LEGEND**  
 --- Driveway  
 --- Boundary  
 --- Emt A to Lot 200 - Access & Service  
 --- Emt B to Lot 4 - Driveway  
 --- Emt C to Lot 4 - Access & Service  
 --- Vegetation Cover

This plan is confidential and for discussion purposes only. All areas, boundaries and lot areas are preliminary, subject to investigation, survey, engineering, and other Advisory and Support activities.

25/7/2019  




**PROPOSED RECONFIGURATION (STAGE 3)**  
 Lots 4-6 # 2, Emt C in Lot 4, Cov B # Emt D in Lot 5 and Cov C in Lot 6  
 Cancelling Lot 2 on RP724933  
 Locality of Kurradak  
 Mareeba Shire Council

Drawn: 25th June, 2019  
 Made: 25/06/2019  
 Drawn: YC/O  
 Job No: 3170543  
 File No: 31723/005A

**brozier mott**  
 1300 267 878  
 www.brozieermott.com.au

25/7/2019  
*B. [Signature]*

## 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 and 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.