



1 September 2020

Urban Abode Building Design  
Katrina Girling  
PO Box 2915  
CAIRNS QLD 4870

Planning Officer: Carl Ewin  
Direct Phone: 4086 4656  
Our Reference: RAL/20/0005

Dear Applicant/s

## **Decision Notice**

### ***Planning Act 2016***

I refer to your application and advise that on 31 August 2020 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/20/0005
Street Address:	8-10 Barron Falls Road, Kuranda
Real Property Description:	Lot 22 on SP153917
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 2 Lots)
Date of Decision:	31 August 2020

#### **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, and subject to any alterations:
  - found necessary by the 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, 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 All payments or bonds required to be made to the Council pursuant to any condition of this approval or the Adopted Infrastructure Charges Notice must be made prior to the endorsement of the plan of survey and at the rate applicable at the time of payment.
  - 3.3 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.
  - 3.4 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.

- 3.5 Where approved existing buildings and structures are to be retained, setbacks to 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
- 3.6 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.
- 3.7 Environmental Covenant

The applicant shall be responsible for the preparation and registration of a statutory covenant with Council pursuant to S97A of the Land Title Act for the purposes of native vegetation and habitat preservation including the preservation, protection and maintenance of native vegetation.

The covenant will be of a form that is acceptable to the Registrar of Titles and will apply to all areas mapped as Wildlife Habitat within proposed Lot 222. The covenant location and the covenant document provisions will be to the satisfaction of Council's delegated officer. To reduce surveying costs, the covenant boundary a single or multiple straight survey lines, provided that all remnant vegetation is contained within the covenant area.

The covenant agreement shall be signed by the registered owner prior to endorsement of the survey plan by Council 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 shall require the registered owners of the site to obtain approval of the Council prior to undertaking any earthworks, clearing of vegetation, fencing or placement of water pumps and pipelines within or across the area of the Covenant. The building of structures shall be specifically excluded from within the area of the Covenant. The maintenance of the area of the Covenant shall be the responsibility of the owner of the land.

The Covenant must stipulate:-

- that it is for the express purpose of vegetation and habitat preservation, including the preservation of native plants and the natural features of the lot; and
- that no building, fixtures, infrastructure or improvements over the Covenant Area shall be permitted.

Any maintenance required to be performed in respect of the Covenant Area shall be the responsibility of the lot owner.

The covenant 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.

### 3.8 Charges

All outstanding rates, charges and expenses pertaining to the land are to be paid in full.

## 4. Infrastructure Services and Standards

### 4.1 Access

Access to each proposed allotment must be constructed (from the edge of the road pavement to the property boundary of each proposed allotment) in accordance with FNQROC Development Manual, to the satisfaction of Council's delegated officer.

A reinforced concrete driveway shall be provided within any battleaxe lot access handle. The driveway will:-

- have a minimum formation width of 3 metres
- be constructed for the full length of the access handle
- be formed with one-way crossfall to cater for stormwater drainage such that any stormwater runoff is contained within the access strip
- Conduits within access strip - service and utility conduits are to be provided for the full length of the concrete or sealed driveway constructed within the access handle of the battle axe allotment(s).

### 4.2 Stormwater Drainage

The applicant/owner must ensure that the flow of all external stormwater from the property is directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of Council's delegated officer.

### 4.3 Frontage Works

4.3.1 The developer is required to construct the following works, designed in accordance with FNQROC Development Manual standards (as amended) for the applicable planning scheme area to the satisfaction of Council's delegated officer:-

- (i) Roll over kerbing for the full frontage of Lot 22 on SP153917;
- (ii) Signage and line marking as per the Department of Main Roads Manual of Uniform Traffic control Devices (MUTCD);

- (iii) Footpath earthworks, topsoiling and turfing reinstatement of all disturbed footpath areas;
- (iv) Adjustments and relocations necessary to public utility services resulting from these works;
- (v) The applicant must widen the bitumen seal by 1.15 metres on the development side of Barron Falls Road for the full frontage of Lot 22 on SP153917, from the existing bitumen seal to the roll over kerbing required under (i) above;
- (vi) Prior to works commencing, plans for the works described above must be approved as part of an Operational Works application.

4.3.2 In lieu of undertaking the abovementioned operational works, the applicant/developer may elect to provide a monetary contribution to Council equal to the cost of undertaking the works required by condition 4.3.1. A written itemised quote from a civil contractor to determine the cost of the works must be provided and accepted by Council's delegated officer.

#### 4.4 Water Supply

4.4.1 The developer must connect each proposed lot to the Council's reticulated water supply system in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer

4.4.2 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 the reticulated water supply infrastructure (including additional fire hydrants where required) 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).

4.4.3 Each lot is required to be separately metered.

#### 4.5 Sewerage Connection/On site effluent disposal

4.5.1 Prior to the occupation of any dwelling house erected on proposed Lot 222, the land owner shall construct a domestic sewer pump station and an internal 40mm diameter sewer rising main from that pump station to the point of connection provided by Council adjacent to the Barron Falls Road frontage. The pump station and rising main will be designed in accordance with the Queensland Plumbing Code and constructed to the satisfaction of Council's delegated officer.

This will require a pump and pump well to be installed within proposed Lot 222 with future maintenance of the pump and pump well remaining the responsibility of the land owner.

- 4.5.2 The existing on-site effluent disposal system on proposed Lot 221 must be evaluated by a registered site and soil evaluator, and a report lodged with Council outlining compliance with the On-Site Domestic-Wastewater Management Standard (AS/NZS1547:2000) to the satisfaction of Council's delegated officer.

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.

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
Girling/03	Proposed Reconfiguration of a lot (1 lot into 2 lots)	Urban Abode	July 2020

**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 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) Water Meters/Water Service Connection

Prior to the water service connection works commencing, a Water Quotation, Connection, Disconnection Request must be lodged with Council. The cost of the required water connection will be determined based upon the assessment of the Water Quotation Request. The Water Quotation Request must be lodged and the required connection fee paid prior to the signing of the survey plan.

(d) 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.

(e) 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.

(f) 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.

(g) 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

(h) 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).

(i) 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.

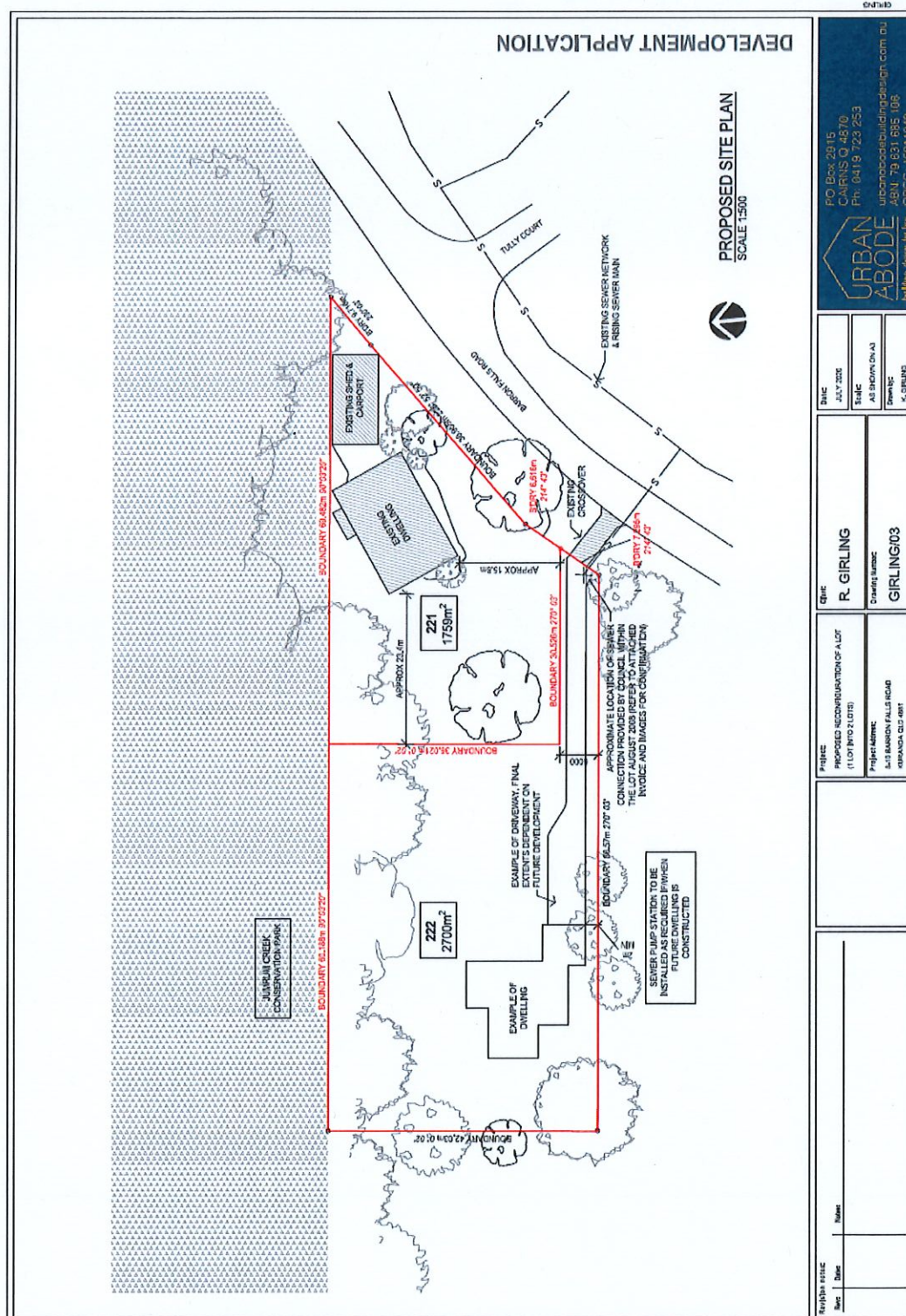
Yours faithfully



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

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

## Approved Plans/Documents



1/9/2020  
B. W. R.

## 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.