

17 December 2020

Planning Officer: Carl Ewin  
Direct Phone: 4086 4656  
Our Reference: RAL/20/0014

S & K Gargan  
PO Box 1959  
MAREEBA QLD 4880

Dear Applicant/s

## Decision Notice

### *Planning Act 2016*

I refer to your application and advise that on 16 December 2020, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

#### APPLICATION DETAILS

Application No:	RAL/20/0014
Street Address:	78 & 576 Collins Weir Road, Mutchilba
Real Property Description:	Lots 49 & 50 on SP220744
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

#### DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Reconfiguring a Lot - Subdivision (2 into 3 Lots)
Date of Decision:	16 December 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, 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, 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 additional payment condition within these conditions of approval.
  - 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.
  - 3.5 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.

- 3.6 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements and to the satisfaction of Council's delegated officer.

3.7 Bushfire Management

A Bushfire Management Plan must be prepared for proposed Lots 51-53 to the satisfaction of Council's delegated officer. The future use of proposed Lot 51-53 must comply with the requirements of the Bushfire Management Plan at all times.

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

4.1.1 The existing access crossover servicing the shared driveway within Easement A on SP170379 must be upgraded/constructed (from the edge of the Collins Weir Road to the boundary of Lot 304 on HG634) generally in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.1.2 An access crossover to service Lot 53 must be upgraded/constructed (from the edge of Collins Weir Road to the boundary of Lot 53) generally in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer. This requirement will be waived if alternate lawful access is provided to Lot 53 in accordance with the requirements of development permit RAL/20/0009.

4.2 Stormwater Drainage

The applicant must ensure a non-worsening effect on surrounding land as a consequence of the development and must take all reasonable and practicable measures to ensure discharge occurs in compliance with the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual.

4.3 On-Site Wastewater Management

At the time of construction of a new dwelling on any lot, any associated on-site effluent disposal system must be constructed in compliance with the latest version On-Site Domestic Wastewater Management Standard (ASNZ1547) to the satisfaction of the Council's delegated officer.

## 5. Additional Payment Condition/s (section 130 of the Planning Act 2016)

- 5.1 The additional payment condition has been imposed as the development will create additional demand on trunk infrastructure which will create additional trunk infrastructure costs for council.
- 5.2 The developer must pay a one-off payment of \$4,820.00 per additional lot, as a contribution toward trunk infrastructure with the amount of the contribution increased on 1 July each year in accordance with the increase for the PPI index for the period starting on the day the development approval takes effect, adjusted by reference to the 3-yearly PPI index average to the date of payment.
- 5.3 The trunk infrastructure for which the payment is required is:
- The trunk transport network servicing the land (\$4,820.00 per additional lot)
- 5.4 The developer may elect to provide part of the trunk infrastructure instead of making the payment.
- 5.5 If the developer elects to provide part of the trunk infrastructure the developer must:
- Discuss with Council's delegated officer the part of the works to be undertaken;
  - Obtain the necessary approvals for the part of the works;
  - Indemnify the Council in relation to any actions, suits or demands relating to or arising from the works;
  - Take out joint insurance in the name of the Council and the developer in the sum of \$20,000,000 in relation to the undertaking of the works;
  - Comply with the reasonable direction of Council officers in relation to the completion of the works;
  - Complete the works to the standards required by the Council; and
  - Complete the works prior to endorsement of the plan of subdivision.

## REFERRAL AGENCIES

The referral agencies applicable to this application are:

Reconfiguring a lot subject to an easement or near a substation		
Development application for reconfiguring a lot that is assessable development under section 21, if- (a) all or part of the lot is subject to an Easement- (i) for the benefit of a distribution entity, or transmission entity, under the Electricity Act; and	Schedule 10, Part 9, Division 2, Table 1	Town Planning Ergon Energy PO Box 264 Fortitude Valley Qld 4006  <a href="mailto:townplanning@ergon.com.au">townplanning@ergon.com.au</a>  Note: Referral agency may give advice only.

(ii) for a transmission grid or supply network; or (b) part of the lot is within 100m of a substation site.		
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#### APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
-	Lots 49 and 50 Lot 49 Boundary Adjustment (pink line) and Lot 50 Subdivision (blue line)	S & K Gargan	30/09/2020
-	-	S & K Gargan	30/09/2020

#### 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) 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.

(b) 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.

(c) 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.

(d) 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)



(e) 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**

- Access approval arising from condition number 4.1 (Please contact Planning Section to obtain application form and applicable fee)

**SUBMISSIONS**

There were no properly made submissions about the application.

**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".

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**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  
         Referral Agency Response  
         Appeal Rights

Copy:   Town Planning  
         Ergon Energy  
         [townplanning@ergon.com.au](mailto:townplanning@ergon.com.au)

## Approved Plans/Documents

## Lots 49 and 50

**Lot 49 Boundary Adjustment (pink line) and Lot 50 Subdivision ( blue line)**



17°15'36"S 145°21'5"E

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Printed at A4  
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Datum: Geocentric Datum of Australia 1994  
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For more information, visit  
<https://qdglobe.information.qld.gov.au/help-info/contact-us.html>

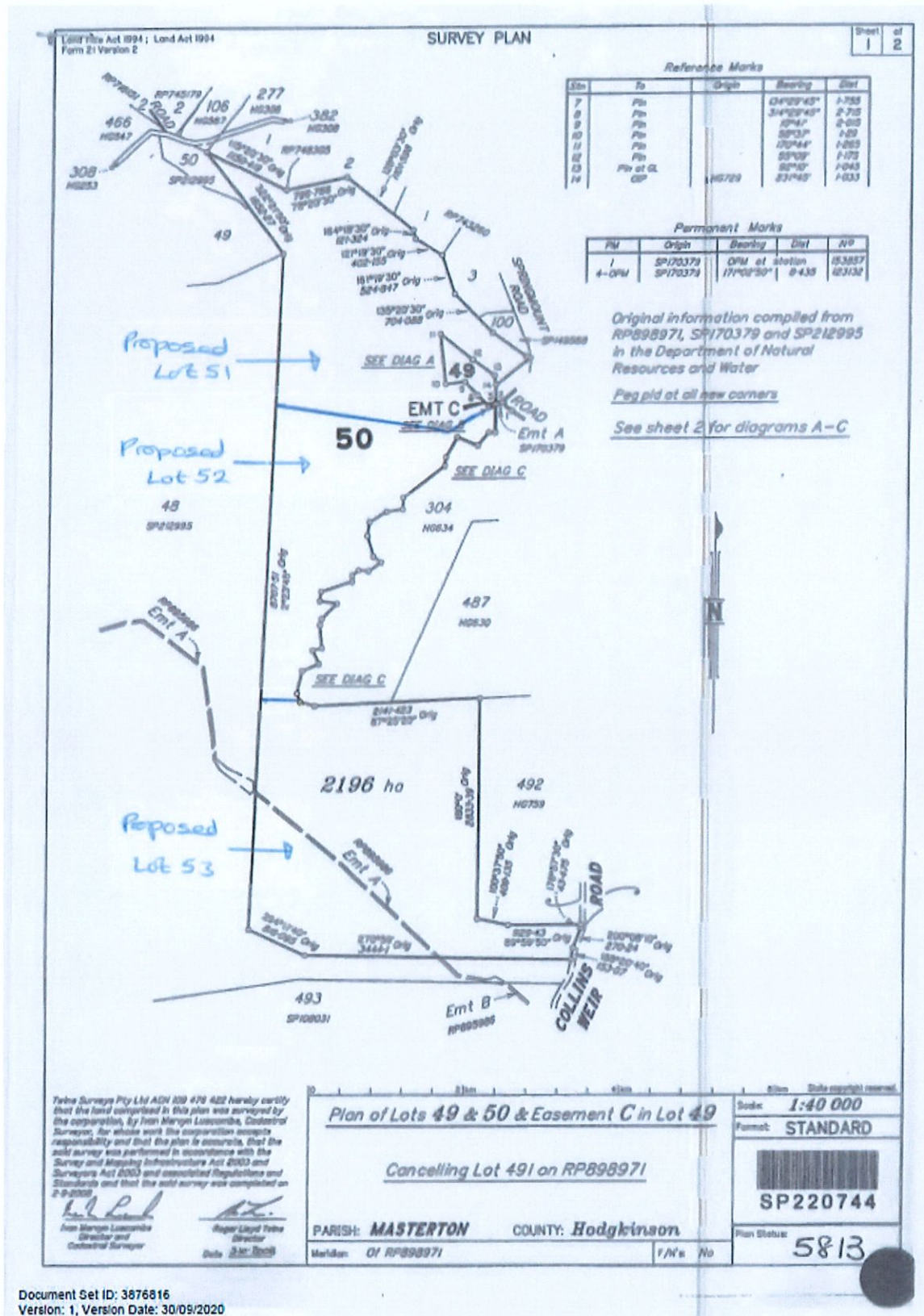


 **Queensland  
Government**

Government  
Department of Natural Resources, Mines and Energy

17/12/2020  
B. M. 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.