

Decision notice approval

Planning Act Form 2 (version 1.1 effective 22 JUNE 2018) made under section 282 of the Planning Act 2016 for a decision notice (approval) under section 63(2) of the Planning Act 2016

Reference number: **Combined Kynuna Sisters**

Contact name: **Avril Yeatman**

Contact number: **(07) 40569120**

Notice date : **28 February 2019**

Applicant(s): **Elizabeth Taylor on behalf of Department of Aboriginal and Torres Strait Islander Partnerships**

Applicant's address: **23 Vallely Street, Freshwater QLD 4870**

I acknowledge receipt of the above application on **17 January 2019** and confirm the following:

RE: Development application for reconfiguring a lot (1 into 4) and material change of use – dwelling house on Back Beach Road, Yarrabah, also known as Lot 40 on SP298399.

Dear Elizabeth Taylor

I advise that, on **27 February 2019**

the above development application was:

approved in full with conditions* (refer to the conditions contained in **Attachment 1**)

*Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.

1. Details of the approval

This application is not taken to have been approved (a deemed approval) under section 64(5) of the *Planning Act 2016*.

The following approvals are given:

For an application involving	Planning Regulation 2017 reference	Development Permit	Preliminary Approval
Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - building work assessable under the planning scheme - plumbing or drainage work - material changes of use - reconfiguring a lot - operational work		<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

2. Conditions

This approval is subject to the conditions in Attachment 1.

3. Currency period for the approval (s.85 of the Planning Act)

The approval will lapse if the sealing of the Survey Plan has not occurred within four (4) years, from the starting day the approval takes effect.

4. Appeal rights

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. There may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

Appeal by an applicant

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

An applicant may also have a right to appeal to the Development tribunal. For more information, see schedule 1 of the *Planning Act 2016*.

Appeal by an eligible submitter

An eligible submitter for a development application may appeal to the Planning and Environment Court against the decision to approve the application, to the extent the decision relates to:

- any part of the development application that required impact assessment
- a variation requests.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the *Planning Act 2016*.

Attachment 2 is an extract from the *Planning Act 2016* that sets out the applicant's appeal rights and the appeal rights of a submitter.

If you wish to discuss this matter further, please contact me on the above telephone number.

Yours sincerely



Avril Yeatman

Acting Chief Executive Officer

YARRABAH ABORIGINAL SHIRE COUNCIL

cc: *Each principal submitter and referral agency and any other party required under section 63(1) of the Planning Act [where applicable to the application]*

Plan Name	Drawing no.	Revision no.	Revision Date	Prepared By
Yarrabah Kynahs SPA	MA	MA	01/01/2018	CA/SPM

Attachment 1: Conditions of the approval

Part 1—Conditions imposed by the assessment manager

SCHEDULE OF CONDITIONS

RECONFIGURING A LOT

CONDITIONS

1. Approved Plans and Supporting Documentation

Condition

- a) The development must generally comply with the plan(s) and supporting documentation referenced in the table below and attached as stamped “Approved Subject to Conditions” which forms part of this approval, unless otherwise specified by any condition of this approval.

Plan Name	Drawing No.	Revision No.	Plan/Revision Date	Prepared By
Yarrabah Kynuna	N/A	N/A	01.01.2019	DATSIP

- b) One full set of the most up to date approved plans and supporting documentation must be held on site and available for inspection for the duration of the construction phase.
- c) The recommendations outlined in the above reports must be implemented prior to the signing of the Survey Plan.

Reason

The development must comply with all planning scheme requirements as approved by this development permit.

Timing

During the operation and life of the development

2. Water Supply

Condition

Site to be connected to town water supply or on site water tank.

Reason

To ensure the development is appropriately serviced by infrastructure provided in accordance with relevant codes.

Timing

Prior to Sealing the Survey Plan.

3. Sewerage Reticulation

Condition

Site to be connected to town sewerage network or on - site treatment.

Reason

To ensure the development is appropriately serviced by infrastructure provided in accordance with relevant codes.

Timing

Prior to Sealing the Survey Plan.

4. Electricity and Telecommunications**Condition**

Electricity and telecommunications (where applicable) must be provided in accordance with the Reconfiguring a lot and operational works code.

Reason

To provide an appropriate level of electricity and telecommunication services for the development in accordance with relevant code/s and policy direction.

Timing

Installation to be achieved prior to Sealing the Survey Plan.

5. Driveways and Crossovers**Condition**

New lots shall be provided with a sealed driveway from the edge of the bitumen to the property boundary. All the above works must be designed and constructed in accordance with the FNQROC Development Manual. All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to the commencement of the use.

6. Stormwater Drainage**Condition**

All stormwater from the site must be directed to a lawful point of discharge, such that it does not adversely affect the surrounding properties downstream of the development. During the operation and life of the development.

7. Minimum Fill and Floor Levels**Condition**

All floor levels in all newly constructed buildings must be located a minimum of 300 mm above the Q100 flood immunity level. In the absence of detailed flood height information, the floor height shall be equal to or greater than the floor heights of existing residential development in Schreiber Street. The development is to have a no-worsening drainage and flooding effect on surrounding properties.

8. Bushfire Management

Condition

The development must provide a fire break which also facilitates adequate access for fire fighting and emergency vehicles and safe evacuation. During the operation and life of the development.

9. Further Approvals Required**Condition**

The developer must obtain a Development Permit for Building Works to carry out building works prior to works commencing on site

10. Limitation of Approval**Condition**

- This approval does not constitute a Lease or reflect all the terms of the agreement between Yarrabah Land Trust and the Lessee.
- This approval, granted under the provisions of the *Planning Act 2016*, shall lapse four (4) years from the day the approval takes effect or longer if related approvals apply in accordance with the provisions of the *Act 2016*.
- This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.

Attachment 2: Appeal Rights

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 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

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Authorised by the Parliamentary Counsel

- (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.
- (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.

- (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 is 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.
- (7) Despite any other Act or rules of court to the contrary, a copy
of a notice of appeal may be given to the chief executive by
emailing the copy to the chief executive at the email address
stated on the department’s website for this purpose.

Attachment 3: Approved Plans

