



Our Ref: PA21-02
Your Ref: DA2020_0031

30 March 2021

Yarrabah Aboriginal Shire Council
C/- The Remote Indigenous Land and Infrastructure Program Office
PO Box 5461
Cairns Qld 4870

Dear Leon

**Decision Notice - approval (with conditions) for a Development Permit:
Reconfiguration of a Lot (lease over part of Lot 47 SP279560)**
Given under section 63 of the *Planning Act 2016*

The development application described below was properly made to Yarrabah Aboriginal Shire Council on 19 January December 2021.

Applicant details

Applicant name: Yarrabah Aboriginal Shire Council
C/- Department of Seniors, Disability Services and
Aboriginal and Torres Strait Islander Partnerships
The Remote Indigenous Land & Infrastructure Program
Office

Applicant contact details: PO Box 5461
Cairns Qld 4870

Email address: gerhard.visser@datsip.qld.gov.au

Application details

Application number: PA21-02

Approval sought: Development Permit for Reconfiguring a Lot (access
easement)

Location details

Street address: Back Beach Road, Yarrabah

Real property description: Lot 52 SP278074

**Decision Notice - Approval (with conditions) for a Development Permit:
Reconfiguration of a Lot (Access Easement over Lot 52 SP278074)**

Decision

Date of decision: 17 March 2021

Decision Details: Approved in full with conditions. These conditions are set out in **Attachment 1**

Details of the approval

Development Permit Reconfiguring a Lot (access Easement)

Conditions

This approval is subject to the conditions in **Attachment 1**.

Further development permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

1. Nil

Properly made submissions

There were no properly made submissions for this application.

Referral Agencies

There were no referral agencies for the application are:

Currency period for the approval

The use of the subject land must be commenced within a period of six (6) years from the date, unless otherwise stated, the approval takes effect in accordance with section 71 of the *Planning Act 2016*. Should the subject use not be commenced prior to the expiry of such period, this approval will lapse.

Rights of appeal

The rights of applicants to appeal to a tribunal or the Planning and Environment court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may be also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

An applicant and/or submitter may appeal to the Planning and Environment Court or the Development tribunal against a number of matters (see Schedule 1 of the *Planning Act 2016*). A copy of the extracts of the above referenced sections of the *Planning Act 2016* are attached (**Attachment 2**).

**Decision Notice - Approval (with conditions) for a Development Permit:
Reconfiguration of a Lot (Access Easement over Lot 52 SP278074)**

Approved plans and specifications

Copies of the following plans are enclosed.

Drawing or Document	Reference	Date
Proposed Easement over Lot 52 to private access to Lot 225	Plan of Access Easement on Lot 52 SP278074	-

Other details

You are further advised that the truth and accuracy of the information provided in the application form and accompanying information is relied upon when assessing and deciding this application. If you find an inaccuracy in any of the information provided above or have a query or need to seek clarification about any of these details, please contact Yarrabah Aboriginal Shire Council on (07) 4056 9120.

Delegated Person

Yours sincerely,



Leon Yeatman
Chief Executive Officer

- att:** **Attachment 1** – Conditions imposed by the assessment manager
 Attachment 2 – Extract of Appeal Provisions (Ch 6, Part 1 of the Planning Act 2016).



ASSESSMENT MANAGER CONDITIONS

- (1) **Administration** At all times
- a) The applicant is responsible to carry out the approved development and comply with relevant requirements in accordance with:
- b) The specifications, facts and circumstances as set out in the application submitted to Council;
- c) The development must unless stated, be designed, constructed and maintained in accordance with relevant Council policies, guidelines and standards.
- (2) **Currency Period** As per condition
- The currency period applicable to this approval (i.e. the timeframe new plan of survey for the new lease must be registered within).
- Reconfiguring a lot – 6 Years
- (3) **Approved Plans** At all times
- a) The development of the site is to be generally in accordance with the following plans that are to be the Approved Plans of Development, except as altered by any other condition of approval.

Plan / Document Name	Number	Reference	Date
Proposed Easement over Lot 52 to private access to Lot 225	Plan of Access Easement on Lot 52 SP278074	n/a	n/a

- b) Where there is any conflict between the conditions of this approval and the details shown on the approved plan and documents, the conditions of approval must prevail.
- c) Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for endorsement by Council prior to the commencement of use.
- (4) **Damage to Infrastructure** At all times
- a) In the event that any part of Council's infrastructure is damaged as a result of work associated with the development, Council must be notified immediately of the affected infrastructure and have it repaired or replaced by Council, at no cost to Council. All works must be completed prior to the issue of a Compliance Certificate for the Plan of Survey.



(5) **Access Easement**

At all times

Create an easement in favour of Lot 52 to the requirements and satisfaction of the Chief Executive Officer. A copy of the easement document must be submitted to Council for the approval by Council's solicitors at no cost to Council. The approved easement document must be submitted at the same time as seeking Council's approval of the Plan of Survey and must be lodged and registered with the Department of Natural Resources and Mines in conjunction with the Plan of Survey.

ADVICE

1. This approval does not negate the requirement for compliance with all relevant Local Laws and statutory requirements.
2. For information relating to the *Planning Act 2016* log on to <https://planning.dsdmip.qld.gov.au/>. To access the FNQROC Development Manual, Local Laws and other applicable policies log on to the Yarrabah Aboriginal Shire Council website.
3. Council may refer Planning Applications to the Land Office and traditional and rightful owners of the land for consultation. Stakeholders will have their say on whether the application may harm any important features of cultural significance to country.

Infrastructure Charges

Yarrabah Aboriginal Shire Council does not levy infrastructure charges or impose conditions for trunk infrastructure.



STATEMENT OF REASONS

The following information is provided in accordance with s63 of the *Planning Act 2016*.

Reasons for Decision

The reasons for this decision are:

1. The proposal demonstrates compliance with Assessment Benchmarks.
2. The proposed development will allow for formal access between lots.
3. The development is consistent with the purpose of the Zone Code.
4. The proposed development complies with the Performance Outcomes and Acceptable Outcomes of the relevant planning scheme codes and where appropriate, reasonable and relevant conditions have been recommended to ensure compliance.

Assessment Benchmarks

The site is in the Environmental management zone and the use is code assessable development.

The proposed development was assessed against the following assessment benchmarks of Yarrabah Aboriginal Shire Council Planning Scheme (2017), in particular:

Planning Scheme v1.1		Scheme Requirement
Strategic Framework	Theme 1 Settlement Pattern	1. Development is co-ordinated, sequenced and appropriately planned and constructed to provide an efficient and cost effective pattern of development.
	Theme 2 – Infrastructure	1. Infrastructure and services are provided to Yarrabah’s communities in a planned, timely, economical and efficient manner in order to support community needs. 2. Development is appropriately co-ordinated and generally sequenced to ensure that activities are appropriately serviced by infrastructure to maximise the efficient use of transport, energy and water resources.
Zone	Environmental management zone	The purpose of the zone code includes to: 1. recognise environmentally sensitive areas and may provide for houses on lots and other low impact activities where suitable 2. provide for small scale residential living where it already exists. Further new development for housing within the zone is restricted. The purpose of the code is achieved through: 3. Low impact, small-scale rural living opportunities are facilitated where compatible with the environmental values of the area. 4. Adverse impacts on natural systems, both on-site and on adjoining land are minimised through the location, design and management of development.



		5. The community's access to the foreshore is maintained, and where appropriate, enhanced in a way that protects public safety and coastal resources.
Other Development Codes	Access, parking and servicing	The purpose of the access, parking and servicing code is to assess the suitability of access, parking and associated servicing aspects of a development. The proposed easement follows the already existing well used track and will provide lawful access to lots 225 SP167913 and Lot 308 SP278074. No conditions are required in this regard.
	Reconfiguring a lot	The purpose of the code will be achieved through the following overall outcomes: 1 development results in the creation of a useable lot for the intended land use while not adversely impacting on environmental features, site constraints and the character and amenity of the area; 2 development results in appropriately sized, dimensioned and shaped lots to meet the outcomes of the respective zones; The approval contains conditions in this regard.
Overlays	Acid Sulfate Soils	The proposed development is mapped as triggering assessment against the Acid sulfate soils overlay. The proposed development does not involve excavation and filling. Accordingly, no conditions are required in this regard.
	Biodiversity Areas	The proposed development is mapped as triggering assessment against the Biodiversity Overlay for regulated vegetation - Category R. The purpose of the code will be achieved through the following overall outcomes: 2. Biodiversity values, ecological features and process are protected from harm 3. Matters of state environmental significance are maintained and development in, or adjacent to, areas of environmental value is planned, designed, constructed and operated to minimise or prevent the loss or degradation of these values. The proposed development does not involve operation works for vegetation clearing. Accordingly, no conditions are required in this regard.
	Bushfire Risk	The proposed development is mapped as triggering assessment against the Bushfire Overlay – Medium Potential Intensity. The purpose of the code will be achieved through the following overall outcomes: 2. Development siting, layout and access responds to the risk of the natural hazard and minimises risk to personal safety to an acceptable or tolerable level of risk 3. Development is not located in very high potential intensity bushfire hazard areas 4. Development does not create an adverse impact on landscape values or biodiversity values due to a need to establish firebreaks of fire trails to protect the development 5. Development directly, indirectly and cumulatively avoids an unacceptable increase in severity of the natural hazards and does not

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		<p>significantly increase the potential for damage on the site or to other properties;</p> <p>The proposed easement follows the already existing well used track. In this regard the development does not adversely impact potential bushfire hazard.</p> <p>No conditions are required in this regard.</p>
	Coastal Hazard.	<p>The proposed development has triggered assessment against the Coastal Hazard Overlay – Medium coastal hazard zone, and Erosion prone area. The purpose of the code will be achieved through the following overall outcomes:</p> <ol style="list-style-type: none">1. People and property are not exposed to unacceptable coastal hazard risk2. Development allows for natural coastal processes to occur without interference



APPENDIX 1: APPROVED PLANS & DOCUMENTS



- Subject site
- Digital Cadastral Database

Proposed easement over Lot 52 on to provide access to Lot 225

Proposed easement over Lot 52 on to provide access to Lot 225
 Locality - Yarrabah

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APPENDIX 2: Extract of Appeal Provisions (Ch 6, Part 1 Planning Act 2016).