

Council File Reference: 081920
Council Contact: Brett Walsh
Council Contact Phone: 07 4651 5621

18 November 2019

Barcaldine Regional Council
c/- Murray & Associates [QLD] Pty Ltd
PO Box 665
Emerald QLD 4720

Attn: Andrew Bell

Development Application

Development Permit for Reconfiguring a Lot (Two (2) Lots into Two (2) Lots)

Lot 1 & 2 on RP616252, 16 & 16A Byron Street, Alpha Qld 4724

We refer to the assessment of the abovementioned development application.

Pursuant to section 83 of the *Planning Act 2016*, please find enclosed the **Decision Notice**.

If you have any queries please contact Brett Walsh at the Barcaldine Executive Office.

Yours faithfully



Steven Boxall
Chief Executive Officer

DECISION NOTICE APPROVAL

PLANNING ACT 2016, SECTION 63

I refer to your application and advise that on 18 November 2019, Barcaldine Regional Council decided to approve the application in full, subject to conditions. Details of the decision are as follows:

1. APPLICATION DETAILS

Application Number: DA 190924
Properly Made Date: 22 October 2019
Decision Date: 18 November 2019
Planning Scheme: Jericho Shire Planning Scheme 2006

2. APPLICANT DETAILS

Name: Barcaldine Regional Council
Postal Address: C/- Murray and Associated
PO Box 665
Emerald Qld 4720
Email Address: andrewb@mursurv.com

3. PROPERTY DETAILS

Street Address: 16 & 16A Byron Street, Alpha Qld 4724
Real Property Description: Lot 1 & 2 on RP616252
Local Government Area: Barcaldine Regional Council

4. DECISION DETAILS

The following type of approval has been issued:

- Development Permit for Reconfiguring a Lot (Two (2) Lots into Two (2) Lots)

5. CURRENCY PERIOD

This development approval will lapse at the end of the period set out in section 85(1)(b) of the *Planning Act 2016*.

6. CURRENCY PERIOD

This development approval will lapse at the end of the period set out in section 85 of the *Planning Act 2016*: if the first change of use does not happen within six (6) years after the approval starts to have effect.

7. ASSESSMENT MANAGER CONDITIONS

1.0 PARAMETERS OF APPROVAL

- 1.1 The Developer is responsible for ensuring compliance with this development approval and the conditions of the approval by an employee, agent, contractor or invitee of the Developer at all times unless otherwise stated.
- 1.2 Where these conditions refer to "Council" in relation to requiring Council to approve or be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by Council.
- 1.3 The cost of all works associated with the development and construction of the development including services, facilities and/or public utility alterations required are met at no cost to the Council or relevant utility provider, unless otherwise stated in a development condition.
- 1.4 The developer is required to have repaired any damage to existing infrastructure that may have occurred during any works carried out associated with the development. To the extent the damage is deemed to create a hazard to the community, it must be repaired immediately.
- 1.5 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.

1.0 ENDORSEMENT OF SURVEY PLAN

- 2.1 Undertake all below actions prior to Council endorsing or releasing the Survey Plan for this development:
- (a) All conditions attached to this development approval have been fulfilled, unless otherwise stated;
 - (b) All outstanding rates and charges relating to the site have been paid;
 - (c) Where a condition requiring infrastructure upgrades or works has not been carried out to Council's satisfaction, Council may accept a bond for the incomplete works. The bond must be 150% of the value of the works to be completed; and
 - (d) A statement demonstrating compliance with all conditions, as relevant, has been submitted to Council.

2.0 APPROVED PLANS

- 2.1 The approved development must be completed and maintained generally in accordance with the approved plan of development, except where amended by the conditions of this decision notice:

Plan/Document Name	Plan/Document Number	Revision	Date
Proposed Boundary Realignment between Lots	62573	-	09-09-2019

1 & 2 on RP616252			
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3.2 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.

3.0 ACCESS AND ROAD WORKS

4.1 Maintain vehicle access to each approved lot in accordance with the approved plan.

8. ADVISORY NOTES

1. The Developer and his employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.
2. Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements. Any provisions contained in this approval relating to the enforcement of any of the conditions shall be in addition to all other rights, powers and privileges that the Council may possess or obtain, and nothing contained in these conditions shall be construed so as to prejudice, affect or otherwise derogate or limit these rights, powers and privileges of the Council.
4. General environmental duty under the Environmental Protection Act 994 prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash, fumes, light, odour or smoke beyond the boundaries of the development site during all stages of the development including earthworks, construction and operation.
5. This development approval does not authorise any activity that may harm Aboriginal cultural heritage. It is advised that under section 23 of the Aboriginal Cultural Heritage Act 2003, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care").

8. STATEMENT OF REASONS

8.1 Description of Development –

The development application for a Development Permit for Reconfiguring a Lot (Two (2) Lots into Two (2) Lots). Decision Notice DA-190924.

8.2 Assessment Benchmarks –

The following are the benchmarks that are applicable to this development:

Benchmark applying for the development	Benchmark reference
<ul style="list-style-type: none"> • Reconfiguring a Lot Code 	<i>Jericho Shire Planning Scheme 2006</i>
<ul style="list-style-type: none"> • Part E – regional policies and land use strategies 	<i>Central West Regional Plan 2009</i>

8.3 Relevant Matters –

The Relevant Matters for the application are:

- Despite proposed Lot 2 being below the minimum lot size of 800m², by the fact the lot can still accommodate the existing detached dwelling, an outbuilding and private open space, it is deemed to be a sufficient size for the Urban zone and consistent with the character of the surrounding area. We note the subject site will not present any differently in the post-realignment stage than it did prior to realignment.

8.4 Matters Raised in Submission

The development application did not require public notification.

8.5 Reason for Decision

The development application is approved and the reasons for the decision are based on findings on material questions of fact:

- The development complies with, or can be conditioned to comply with, the balance of applicable assessment benchmarks under the Planning Scheme;
- The site is serviced by all necessary utilities for the future use of land, and access and road works are provided in accordance with Council standards.
- The site is not affected by any Land Characteristics Maps and will not result in off-site impacts that may affect these mapped local planning interests.
- The proposal does not conflict with the needs of the local community and its reasonable development expectations for land within the Urban zone.
- The development does not compromise the relevant elements of the Central West Regional Plan and State Planning Policy.

9. PROPERLY MADE SUBMISSIONS

The development application did not require public notification.

10. REFERRAL AGENCIES

The application did **not** require referral to a referral agency.

11. FURTHER DEVELOPMENT PERMITS REQUIRED

Further development permits will **not** be required.

12. 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* (included in the attachment to this decision notice). For particular applications, 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*).

13. DELEGATED PERSON

Name: Steven Boxall

Signature: _____



Date: 18 November 2019

Encl: **Attachment 1** – Stamped Approved Plan

Attachment 2 – Extract of Appeal Provisions (Chapter 6, Part 1 and Schedule 1 of the *Planning Act 2016*)

ALPHA OFFICE
Phone: 07 4985 1166
Fax: 07 4985 1162

ARAMAC OFFICE
Phone: 07 4652 9999
Fax: 07 4652 9990

BARCALDINE OFFICE
Phone: 07 4651 5600
Fax: 07 4651 1778

Attachment 1

Stamped Approved Plan

ALPHA OFFICE

Phone: 07 4985 1166
Fax: 07 4985 1162

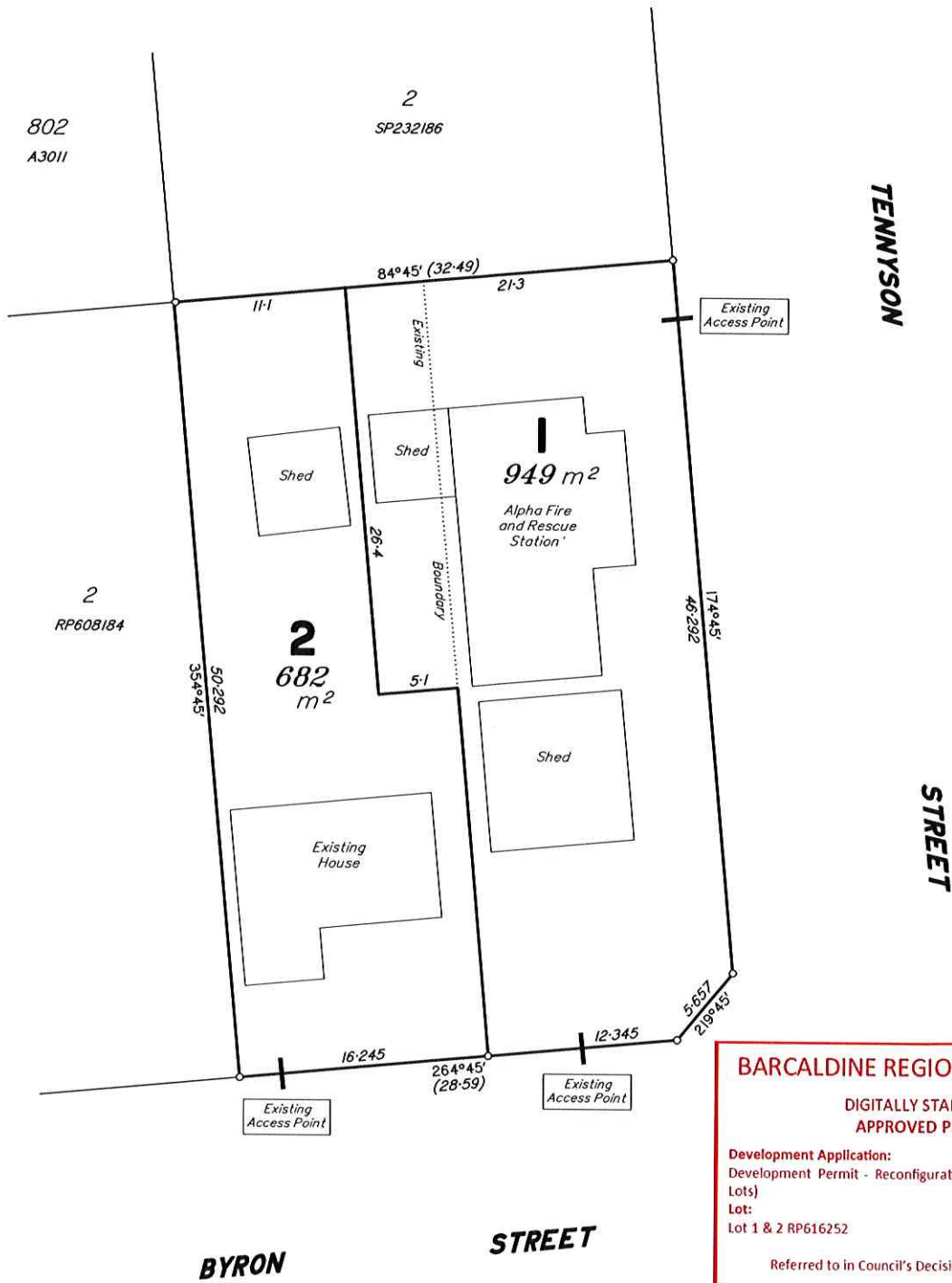
ARAMAC OFFICE

Phone: 07 4652 9999
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BARCALDINE OFFICE

Phone: 07 4651 5600
Fax: 07 4651 1778

Areas and dimensions are approximate only and subject to final Survey and Council approval.



BARCALDINE REGIONAL COUNCIL

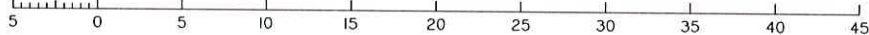
**DIGITALLY STAMPED
APPROVED PLAN**

Development Application:
Development Permit - Reconfiguration of Lot (2 Lots into 2 Lots)
Lot:
Lot 1 & 2 RP616252

Referred to in Council's Decision Notice

Approval Date: 18 November 2019
Application Number: 081920

Scale 1:300 - Lengths are in Metres.



MURRAY & ASSOCIATES 
SURVEYORS & TOWN PLANNERS
ACN 075 543 151
Murray Building, 15-17 Currie St. Nambour Ph (07)5441 2188 P.O. Box 246
Branch Offices at Caboolture Chinchilla Roma Gympie & Emerald

PLAN OF DEVELOPMENT
**Proposed Boundary
Realignment between
Lots 1 & 2 on RP616252**

CLIENT <i>Barcardine Regional Council</i>	
LOCALITY <i>Alpha</i>	MAP REF. <i>8250-42443</i>
DATE <i>9/09/2019</i>	LEVEL DATUM <i>ASSUMED</i>
FILE <i>62573_(Proposal)_BRC.dwg</i>	
DRAWN <i>LF</i>	CHECKED <i>BWB</i>
SCALE 1:300	ORIGINAL <i>Allot 12 SEc 8</i>
JOB No 62573	

CADASTRAL SURVEYOR

LOCAL AUTHORITY: **BARCALDINE REGIONAL COUNCIL**

Attachment 2

Extract of Appeal Provisions (Chapter 6, Part 1
and Schedule 1 of the *Planning Act 2016*)

ALPHA OFFICE
Phone: 07 4985 1166
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Phone: 07 4651 5600
Fax: 07 4651 1778

Attachment 3

Extract of Appeal Provisions

The following is an extract from the *Sustainable Planning Act 2009* (Chapter 7)

MATERIAL CHANGE OF USE, RECONFIGURING A LOT & OPERATIONAL WORKS

Division 8 Appeals to court relating to development applications and approvals

461 Appeals by applicants

(1) An applicant for a development application may appeal to the court against any of the following—

- (a) the refusal, or the refusal in part, of the development application;
- (b) any condition of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242;
- (c) the decision to give a preliminary approval when a development permit was applied for;
- (d) the length of a period mentioned in section 341;
- (e) a deemed refusal of the development application.

(2) An appeal under subsection (1)(a), (b), (c) or (d) must be started within 20 business days (the *applicant's appeal period*) after—

- (a) if a decision notice or negotiated decision notice is given—the day the decision notice or negotiated decision notice is given to the applicant; or
- (b) otherwise—the day a decision notice was required to be given to the applicant.

(3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

462 Appeals by submitters—general

(1) A submitter for a development application may appeal to the court only against—

- (a) the part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment under section 314; or
- (b) the part of the approval relating to the assessment manager's decision under section 327.

(2) To the extent an appeal may be made under subsection (1), the appeal may be against 1 or more of the following—

- (a) the giving of a development approval;
- (b) any provision of the approval including—
 - (i) a condition of, or lack of condition for, the approval; or
 - (ii) the length of a period mentioned in section 341 for the approval.

(3) However, a submitter may not appeal if the submitter—

- (a) withdraws the submission before the application is decided; or

(b) has given the assessment manager a notice under section 339(1)(b)(ii).

(4) The appeal must be started within 20 business days (the **submitter's appeal period**) after the decision notice or negotiated decision notice is given to the submitter.

463 Additional and extended appeal rights for submitters for particular development applications

(1) This section applies to a development application to which chapter 9, part 7 applies.

(2) A submitter of a properly made submission for the application may appeal to the court about a referral agency's response made by a concurrence agency for the application.

(3) However, the submitter may only appeal against a referral agency's response to the extent it relates to—

(a) development for an aquacultural ERA; or

(b) development that is—

(i) a material change of use of premises for aquaculture; or

(ii) operational work that is the removal, damage or destruction of a marine plant.

(4) Despite section 462(1), the submitter may appeal against the following matters for the application even if the matters relate to code assessment—

(a) a decision about a matter mentioned in section 462(2) if it is a decision of the chief executive;

(b) a referral agency's response mentioned in subsection (2).

464 Appeals by advice agency submitters

(1) Subsection (2) applies if an advice agency, in its response for an application, told the assessment manager to treat the response as a properly made submission.

(2) The advice agency may, within the limits of its jurisdiction, appeal to the court about—

(a) any part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment under section 314; or

(b) any part of the approval relating to the assessment manager's decision under section 327.

(3) The appeal must be started within 20 business days after the day the decision notice or negotiated decision notice is given to the advice agency as a submitter.

(4) However, if the advice agency has given the assessment manager a notice under section 339(1)(b)(ii), the advice agency may not appeal the decision.

465 Appeals about decisions relating to extensions for approvals

(1) For a development approval given for a development application, a person to whom a notice is given under section 389, other than a notice for a decision under section 386(2), may appeal to the court against the decision in the notice.

(2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.

(3) Also, a person who has made a request under section 383 may appeal to the court against a deemed refusal of the request.

(4) An appeal under subsection (3) may be started at any time after the last day the decision on the matter should have been made.

466 Appeals about decisions relating to permissible changes

(1) For a development approval given for a development application, the following persons may appeal to the court against a decision on a request to make a permissible change to the approval—

(a) if the responsible entity for making the change is the assessment manager for the application—

(i) the person who made the request; or

(ii) an entity that gave a notice under section 373 or a pre-request response notice about the request;

(b) if the responsible entity for making the change is a concurrence agency for the application—the person who made the request.

(2) The appeal must be started within 20 business days after the day the person is given notice of the decision on the request under section 376.

(3) Also, a person who has made a request under section 369 may appeal to the court against a deemed refusal of the request.

(4) An appeal under subsection (3) may be started at any time after the last day the decision on the matter should have been made.

467 Appeals about changing or cancelling conditions imposed by assessment manager or concurrence agency

(1) A person to whom a notice under section 378(9)(b) giving a decision to change or cancel a condition of a development approval has been given may appeal to the court against the decision in the notice.

(2) The appeal must be started within 20 business days after the day the notice of the decision is given.