



HINCHINBROOK
SHIRE COUNCIL

Our Ref: GV:HJR RC17\0005

04 October 2017

Hansen Surveys Pty Ltd
27 Palm Terrace
Ingham QLD 4850

By Email: gehansen@iprimus.com.au

Dear Sir,

DECISION NOTICE
Sustainable Planning Act 2009 S.335

1. **APPLICANT DETAILS**
RM & RC Gherardi
C/-Hansen Surveys Pty Ltd
27 Palm Terrace
Ingham QLD 4850
2. **PROPERTY DESCRIPTION**
Lots 4 & 7 on SP206198 and Lot 5 on SP134529, Parish of Cordelia
840 Halifax Road, Foresthome
3. **OWNER(S) DETAILS**
Richard Mark Gherardi
Robert Claudio Gherardi
PO Box 569
Ingham QLD 4850
4. **DEVELOPMENT APPROVAL**
Development permit for Reconfiguration of Land
5. **DEFINITION OF USE**
Rearrangement of Boundaries
7. **DECISION MADE**
On Tuesday 26 September 2017, the application was approved in full with conditions.



8. CONDITIONS OF APPROVAL

See *Attachment A*

9. OTHER REQUIREMENTS

N/A

10. REFERRAL AGENCIES

The application was reviewed against the *Sustainable Planning Regulation 2009* to assess whether the application triggered referral agency assessment. The application did not trigger referral.

11. CURRENCY PERIOD

The relevant periods stated in section 341 of the *Sustainable Planning Act 2009* apply to each aspect of development in this approval (unless stated otherwise within the conditions of approval), as outlined below –

- Reconfiguration of Land – Two (2) years

12. APPROVED PLAN(S)

The approved plans for this development approval are detailed in *Attachment A* and *Attachment B*.

13. INFRASTRUCTURE CHARGES

An adopted infrastructure charges notice will not be issued for this development approval.

14. OTHER NECESSARY DEVELOPMENT PERMITS

This approval does not authorise any building work, any works within Council's Road Reserve (e.g. new/additional accesses, repair/modifications to existing accesses or works to footpaths), or any filling of land permits.

If this is required the relevant application will need to be lodged with Council or other relevant authority. Application forms are available from Council's office at 25 Lannercost Street, Ingham or Council's website – www.hinchinbrook.qld.gov.au

15. APPEAL RIGHTS

Appeals by Applicants –

An Applicant for a development application may appeal to the Planning & Environment Court against the following:

- The refusal, or refusal in part of the development application;
- Any conditions of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242 of the *Sustainable Planning Act 2009*;
- The decision to give a preliminary approval when a development permit was applied for;
- The length of a period mentioned in section 341;
- A deemed refusal of the development application.

16. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect –

- From the time the decision notice is given, if there is no submitter and the applicant does not appeal the decision to the court; OR
- Subject to the decision of the court, when the appeal is finally decided, if appeal is made to the court.

The timeframes for starting an appeal in the Planning & Environment Court are set out in section 461[2] of the *Sustainable Planning Act 2009*.

Applicants may also have a right to appeal to the Building and Development Dispute Resolution Committee. For more details, see the Sustainable Planning Act 2009, Chapter 7, Part 2. **See Attachment C.**

Should you have any questions or seek clarification with regard to any aspect of this notice, please do not hesitate to contact Council's Development & Planning Services on telephone (07) 4776 4609.

Yours sincerely,

Gerhard Visser
Planning & Development Manager

ATTACHMENTS

- Attachment A:** Conditions of Approval
- Attachment B:** Approved Plan/s
- Attachment C:** Appeal Rights
- Attachment D:** Waiver of Appeal Rights

PLEASE NOTE:

That under the provisions of the *Sustainable Planning Act 2009*, you the Applicant, may:

- i) Make representation to Council to discuss the decision and the conditions by contact Council's Chief Executive Officer. You must make these representations within 20 business days after the day you receive this notice. If Council alters the decision, you will be given a 'negotiated decision notice'; or
- ii) Advise Council that you do not intent to make representations, in which case Council can advise the submitters of this decision; and/or
- iii) Appeal to the Planning and Environment Court against any conditions applied to this development, including the currency period, within 20 business days after the day you receive this notice.

ATTACHMENT A: Conditions of Approval

Conditions of Development

The conditions of development for this development permit are as follows

Approved Plans

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:-
 - a) The specifications, facts and circumstances as set out in the application submitted to Council, including recommendations and findings confirmed within technical reports; and
 - b) The following conditions of approval and the requirements of Council's Planning Scheme and best practice engineering.

Timing of Effect

2. Conditions of the Development Permit must be satisfied prior to issue of a Compliance Certificate for the Plan of Survey, except where specified otherwise in these conditions of approval.

Lawful Point of Discharge

3. All stormwater from the property must be 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 the Chief Executive Officer.
4. That any works as a result of the reconfiguration must not interfere with stormwater flow over or through the land.

Access

5. Access provision to all proposed allotments must be maintained/constructed in accordance with Council's standard engineering specifications and to the satisfaction of the Chief Executive Officer or demonstrate that such is already in existence. Future maintenance of all accesses is the responsibility of the landowner.
6. The proposed lot that fronts the unmaintained road reserve will require access constructed from Halifax Road to the property boundary or demonstrates that such is already in existence. A Road Works Permit will need to be obtained if construction within the road reserve is required.

Existing Services

7. Written confirmation of the location of existing electrical, water, sewer and telecommunication services for the land must be provided by either the applicant or a licensed surveyor. In any instance where existing services are contained within another lot, relocate the services to be contained within each respective lot or to within a reciprocal services easements.
8. Location of services must be detailed prior to the issue of a Compliance Certificate for the Survey Plan.

Damage to Infrastructure

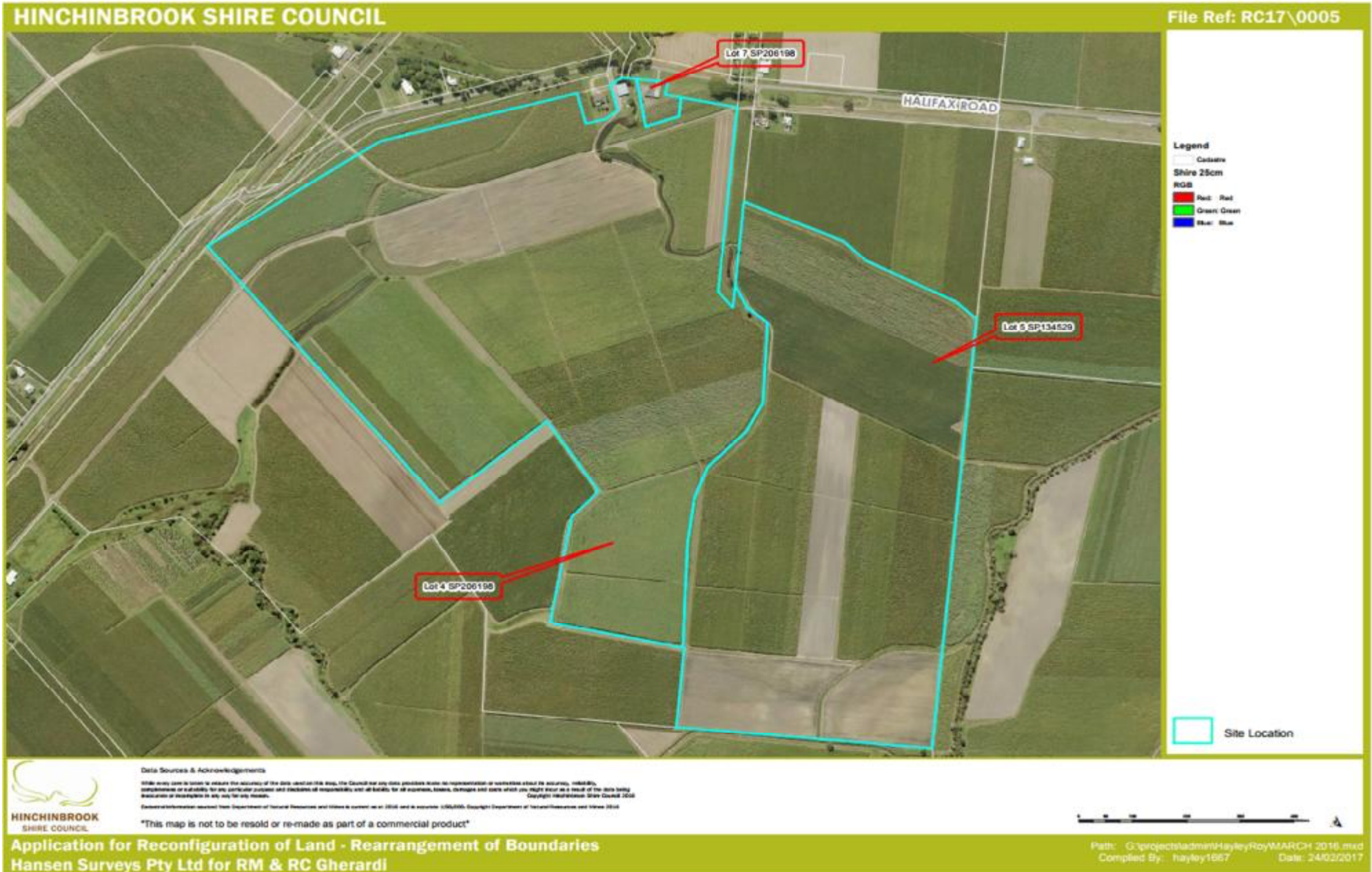
9. In the event that any part of Council's infrastructure is damaged as a result of work associated with the development, Council must be notified immediately of the affected infrastructure and have it repaired or replaced by Council, at no cost to Council.

All works must be completed prior to the issue of a Compliance Certificate for the Plan of Survey.

Existing Creek and Drainage System

10. All existing creek systems and drainage areas must be left in their natural state, including no channel alterations and no removal of vegetation, unless consented to in writing by the Chief Executive Officer.

ATTACHMENT B: Approved Plan(s)





Legend

Outline

Shire 25cm

RGB

Red: Red

Green: Green

Blue: Blue

Site Location

Proposed Lot 7 (1.27ha)

Proposed Lot 4 (52.83ha)

Proposed Lot 5 (55.61ha)



Data Sources & Acknowledgements

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HANSEN SURVEYS
27 PALM TERRACE
INGHAM QLD 4850
TEL: 0429 164 883
EMAIL: gphansen@prime.com.au

PROPOSED BOUNDARY REALIGNMENT
LOTS 4&7 on SP206198
and LOT 5 on SP134529
832 & 840 HALIFAX ROAD

SCALE 1:6000 at A3
DATE: FEBRUARY 2017
MERIDIAN: SP206198

Local Authority: HINC41NAROOK Locality: FORESTCROWE

REF: 170253 sh1

ATTACHMENT C: Appeal Rights (*Sustainable Planning Act 2009*)

The following is an extract from the *Sustainable Planning Act 2009* (Chapter 6 Part 8)

Division 1 Changing decision notices and approvals during applicant's appeal period

360 Application of div 1

This division applies only during the applicant's appeal period.

361 Applicant may make representations about decision

- (1) The applicant may make written representations to the assessment manager about—
 - (a) a matter stated in the decision notice, other than a refusal or a matter about which a concurrence agency told the assessment manager under section 287(1) or (5); or
 - (b) the standard conditions applying to a deemed approval.
- (2) However, the applicant can not make representations under subsection (1)(a) about a condition attached to an approval under the direction of the Minister.

362 Assessment manager to consider representations

The assessment manager must consider any representations made to the assessment manager under section 361.

363 Decision about representations

- (1) If the assessment manager agrees with any of the representations about a decision notice or a deemed approval, the assessment manager must give a new decision notice (the negotiated decision notice) to—
 - (a) the applicant; and
 - (b) each principal submitter; and
 - (c) each referral agency; and
 - (d) if the assessment manager is not the local government and the development is in a local government area—the local government.
- (2) Before the assessment manager agrees to a change under this section, the assessment manager must consider the matters the assessment manager was required to consider in assessing the application, to the extent the matters are relevant.
- (3) Only 1 negotiated decision notice may be given.
- (4) The negotiated decision notice—
 - (a) must be given within 5 business days after the day the assessment manager agrees with the representations; and
 - (b) must comply with section 335; and
 - (c) must state the nature of the changes; and
 - (d) replaces—
 - (i) the decision notice previously given; or
 - (ii) if a decision notice was not previously given and the negotiated decision notice relates to a deemed approval—the standard conditions applying to the deemed approval.
- (5) If the assessment manager does not agree with any of the representations, the assessment manager must, within 5 business days after the day the assessment manager decides not to agree with any of the representations, give written notice to the applicant stating the decision about the representations.

364 Giving new infrastructure charges notice or regulated infrastructure charges notice

- (1) This section applies if the development approved by the negotiated decision notice is different from the development approved in the decision notice or deemed approval in a way that affects the amount of an infrastructure charge or regulated infrastructure charge.
- (2) The local government may give the applicant a new infrastructure charges notice under section 633 or regulated infrastructure charges notice under section 643 to replace the original notice.

365 Giving new regulated State infrastructure charges notice

- (1) This section applies if the development approved by the negotiated decision notice is different from the development approved in the decision notice or deemed approval in a way that affects the amount of a regulated State infrastructure charge.
- (2) The relevant State infrastructure provider may give applicant a new regulated State infrastructure charges notice the under section 669 to replace the original notice.

366 Applicant may suspend applicant's appeal period

- (1) If the applicant needs more time to make the representations, the applicant may, by written notice given to the assessment manager, suspend the applicant's appeal period.
- (2) The applicant may act under subsection (1) only once.
- (3) If the representations are not made within 20 business days after the day written notice was given to the assessment manager, the balance of the applicant's appeal period restarts.
- (4) If the representations are made within 20 business days after the day written notice was given to the assessment manager—
 - (a) if the applicant gives the assessment manager a notice withdrawing the notice under subsection the balance of the applicant's appeal period restarts the day after the assessment manager receives the notice of withdrawal; or
 - (b) if the assessment manager gives the applicant a notice under section 363(5)—the balance of the applicant's appeal period restarts the day after the applicant receives the notice; or
 - (c) if the assessment manager gives the applicant a negotiated decision notice—the applicant's appeal period starts again the day after the applicant receives the negotiated decision notice.

The following is an extract from the Sustainable Planning Act 2009 (Chapter 7, Part 1)

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 prescribed 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) if the prescribed concurrence agency is the chief executive (environment)—development for an aquacultural ERA; or
 - (b) if the prescribed concurrence agency is the chief executive (fisheries)—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 (fisheries);
 - (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.

ATTACHMENT D: Waiver of Appeal Rights

Sustainable Planning Act 2009
Rights of Appeal Waiver

Purpose of this form: *This form will be used to process your request to waiver your appeal rights*

Applicant:	
File Number:	
Property Address:	

This is to confirm that I/We have received the above approval and agree to the conditions contained therein. I/We hereby waiver my/our appeal rights available under the *Sustainable Planning Act 2009*.

Name		Name	
Signature		Signature	
Date		Date	

Please return this form to:

Fax: (07) 4776 3233
Post: PO Box 366, Ingham, 4850
Email: council@hinchinbrook.qld.gov.au
In person: 25 Lannercost Street, Ingham

Privacy Statement

The information collected on this Form will be used by the Hinchinbrook Shire Council in accordance with the processing and assessment of your application. Your personal details will not be disclosed for a purpose outside of Council protocol, except where required by legislation (including the *Information Privacy Act 2009*) or as required by the Queensland State Government. This information may be stored in the Council database. The information collected will be retained as required by the *Public Records Act 2002*