



HINCHINBROOK SHIRE COUNCIL

Our Ref: GV:HJR RC18\0009

04 December 2018

Kristy Gilvear
Gilvear Planning Pty Ltd
PO Box 228
BABINDA QLD 4861

Email: kristy@gilvearplanning.com.au

Dear Madam

DECISION NOTICE *Planning Act 2016*

In relation to your request for reconfiguration of land, Council have assessed your application and it was APPROVED SUBJECT TO CONDITIONS. The decision was made on Tuesday, 27 November 2018.

APPLICATION DETAILS

Application Number: RC18\0009
Property ID Number: 100524

Applicant Details: Gilvear Planning Pty Ltd for Norcomm Pty Ltd
PO Box 228
BABINDA QLD 4861

Owner Details: Mark L Everett (As Trustee)
PO Box 380
INGHAM QLD 4850

Property Description: Mount Cudmore Road (via Manda Road), Bemerside, Queensland, 4850
Lot 32 on CWL74, Parish of Cordelia

Proposal: Reconfiguration of Land – Subdivision of One (1) Lot into Two (2) Lots and Access Easement(s)



Level of Assessment:	Code Assessment
Assessment Benchmarks:	Reconfiguring a Lot Code; Rural Zone Code; Landscaping Code; Parking & Access Code; Infrastructure, Services & Works Code; Flood Hazard Overlay Code; and Environmental Significance Overlay Code.

DEEMED APPROVAL

The application has not deemed to be approved under s.64 of the *Planning Act 2016*.

CONDITIONS OF APPROVAL

The conditions of this approval are set out in the Schedule of Conditions. The conditions are identified to indicate whether the Assessment Manager or a referral agency (if any) imposed them.

REFERRAL AGENCIES

Not Applicable

PROPERTY NOTES

Not Applicable

FURTHER DEVELOPMENT PERMITS REQUIRED

Not Applicable

RIGHTS OF APPEAL

You may appeal against any matter stated in the Decision Notice. Chapter 6, Part 1 and Part 2 of the *Planning Act 2016* detail appeal rights afforded to the applicant and submitter/s (if any) to the Planning and Environment Court or Building and Development Dispute Resolution Committee. Attached are the relevant provisions of the *Planning Act 2016* relating to the Rights of Appeal.

APPROVAL CURRENCY PERIOD

s.85 of the *Planning Act 2016* indicates when an approval lapses, unless otherwise indicated within the conditions of approval.

APPROVED PLANS & SPECIFICATIONS

In accordance with the *Planning Act 2016*, a copy of the approved plans and specifications (if relevant) are attached.

FURTHER INFORMATION

The development must be carried out in accordance with the approved plans and specifications and the requirements of all relevant laws, and any deviation there from must have the prior approval of the Chief Executive Officer.



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.

Should you have any questions or seek clarification with regard to any aspect of this notice, I encourage you to contact Council's Development, Planning and Environmental Services on telephone 4776 4609.

Yours sincerely



Rosemary Pennisi
Executive Manager Development, Planning & Environmental Services

Enclosed: Approved Plans/Documents
 Appeal Rights



NOTICE ABOUT DECISION – STATEMENT OF REASONS

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

This Notice is prepared in accordance with s.63(5) and s.83(7) of the *Planning Act 2016* to inform the public about a decision that has been made in relation to a development application. The purpose of the Notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- the relevant parts of the Planning Scheme and Assessment Benchmarks against which the application was assessed; and
- any other information, documents or other material Council was either required to, or able to, consider in its assessment.

All terms used in this Notice have the meanings given them in the *Planning Act 2016*.

REASONS FOR THE DECISION

The proposed development is considered to be consistent with the relevant overall outcomes of the planning scheme, in particular:

- The development does not compromise the natural environment, given the proposal will result in the creation of allotments within the current area used for the existing telecommunications tower and access road;
- The development will not result in a material change in the way the land is used;
- The development is not considered to result in an incompatible land use intruding on (or compromising) the development and continuation of the primary use of the lots;
- The development will not compromise riparian vegetation and stream bank stability, remnant areas of native vegetation;
- The development provides allotments that facilitate the existing uses at an intensity appropriate to the existing use of the land and local area; and
- The proposal does not change the existing access arrangements to the allotments.



CONDITIONS OF APPROVAL

RECONFIGURATION OF A LOT								
CONDITIONS OF APPROVAL – LOT 32 ON CWL74								
Conditions		Compliance timing						
Administration								
(1)	The developer is responsible to carry out the approved development and comply with relevant requirements in accordance with:- a. The specifications, facts and circumstances as set out in the application submitted to Council, including recommendations and findings confirmed within the technical reports; b. The development must unless otherwise stated, be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards c. The conditions of approval, the requirements of Council’s Planning Scheme and best practice engineering. d. The conditions of the Infrastructure Charges Notice.	At all times						
Currency Period								
(2)	The currency period applicable to this approval. • MCU/ROL – 6 years until 03 December 2024	At all times						
Approved plans								
(3)	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 this approval: <table><tr><th>Plan / Document Name</th><th>Number</th><th>Date</th></tr><tr><td>Proposed plan to reconfigure Lot 32 on CWL74, Mt Separation Road, Bemerside</td><td>File 8139 63 30 813950.DXF 18/139.dwg</td><td>September 18</td></tr></table>	Plan / Document Name	Number	Date	Proposed plan to reconfigure Lot 32 on CWL74, Mt Separation Road, Bemerside	File 8139 63 30 813950.DXF 18/139.dwg	September 18	At all times
Plan / Document Name	Number	Date						
Proposed plan to reconfigure Lot 32 on CWL74, Mt Separation Road, Bemerside	File 8139 63 30 813950.DXF 18/139.dwg	September 18						
(4)	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.	At all times						
(5)	Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for endorsement by Council.	At all times						
Internal works								
Water								
(6)	Provide proposed Lot 320 with a potable water supply and Fire Fighting supply.	Prior to the Approval of Survey Plan						
(7)	Water supply must be designed and installed in accordance with The Plumbing and Drainage Act 2002 and the Water Act 2000 (applies to developments which will be reconfigured by Building Format Plan);	Prior to the Approval of Survey Plan						
Sewerage								
(8)	Provide proposed Lot 320 with on-site sewerage system;	Prior to the Approval of Survey Plan						

RECONFIGURATION OF A LOT CONDITIONS OF APPROVAL – LOT 32 ON CWL74	
Conditions	Compliance timing
Plumbing	
(9) All plumbing and sanitary drainage works must be in accordance with regulated work under the Plumbing and Drainage Act and Council Plumbing and Drainage Policies and must be completely separate for each dwelling unit	Prior to the Approval of Survey Plan
Drainage	
(10) The surface drainage on the property must be managed on site. (i) surface drainage must be catered for in a manner that lessens possible impacts in receiving areas.	Prior to the Approval of Survey Plan
(11) All existing creek systems and drainage areas must be left in their current state, including no channel alterations and no removal of vegetation, unless consented to in writing by the Chief Executive Officer.	At all times
(12) That any works as a result of the reconfiguration must not interfere with stormwater flow over or through the land.	At all times
Access	
(13) An access easement (EMT B) is created from Mount Separation Road over proposed Lot 32 to proposed Lot 320.	Prior to the Approval of Survey Plan
(14) An access easement (EMT A) in favour of the Council over Manda Road.	Prior to the Approval of Survey Plan
(15) Professional engineering design, certified by a suitably qualified RPEQ Engineer, of the easement be provided to council for approval showing: (i) Road design of the access point (EMT B) onto Mount Separation Road (ii) Stormwater drainage assessment and design to ascertain that the access easement does not adversely affect Mount Separation Road.	Prior to the Approval of Survey Plan
(16) Access provision to the proposed development must be provided to the satisfaction of the Council. Future maintenance of all accesses is the responsibility of the lessee.	Prior to commencement of the use
Private Works in a Road Reserve	
(17) Works in a Road Reserve must be approved by Council through a Private Works in a road Reserve application.	At all times
External Works	
Lawful Point of Discharge	
(18) 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. That any works as a result of the reconfiguration must not interfere with stormwater flow over or through the land.	Prior to the Approval of Survey Plan
Other	
Existing Services	
(19) Written confirmation of the location of existing electrical 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 the respective lot or to within a reciprocal services easements.	Prior to the Approval of Survey Plan

**RECONFIGURATION OF A LOT
CONDITIONS OF APPROVAL – LOT 32 ON CWL74**

Conditions	Compliance timing
<p>Construction</p> <p>(20) Any construction work associated with this development shall be carried out in accordance with sound engineering practice. In particular, no nuisance is to be caused to adjoining residents by way of smoke, dust, stormwater discharge or siltation of drains, at any time, including non-working hours. Where material is to be carted to or from the site, loads are to be covered to prevent dust or spillage. Where material is spilled or carried on to existing roads, it is to be removed forthwith so as to restrict dust nuisance and ensure traffic safety.</p>	At all times
<p>Damage to Infrastructure</p> <p>(21) 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.</p>	At all times
<p>Electricity</p> <p>(22) Provide evidence that adequate electricity supply standard or renewable energy will be supplied and is supported/approved by relevant authority.</p>	Prior to the Approval of Survey Plan



File Ref: RC18\0009

For visual purposes only


 Site Location
**Data Sources & Acknowledgements**

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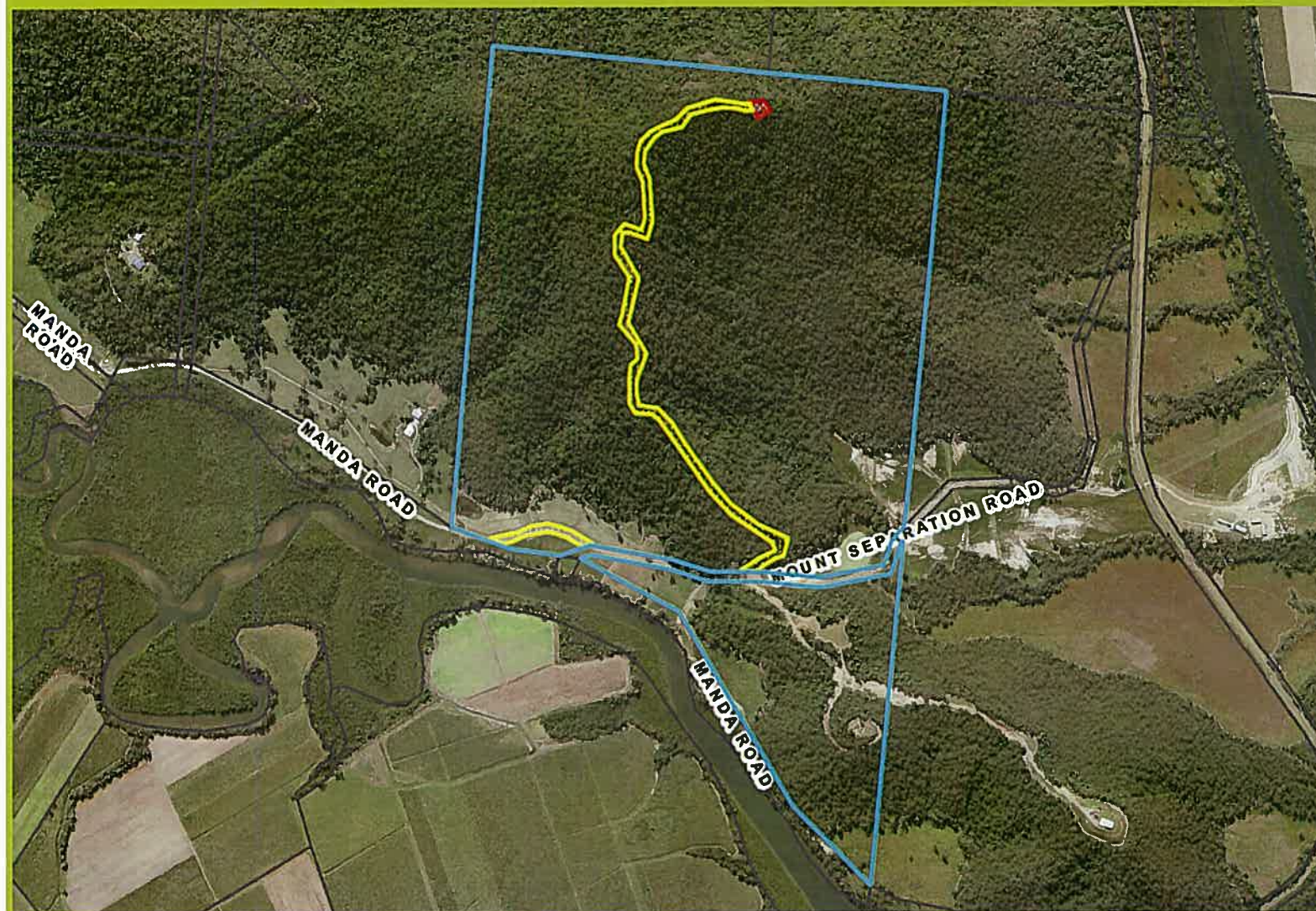
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For visual purposes only



-  Proposed Easement(s)
-  Proposed Lot 320 (819m²)
-  Site Location



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HINCHINBROOK SHIRE COUNCIL

Reconfiguration of Land Application

APPROVED

Resolution No: 271118-16

RPennisi

Rosemary Pennisi
04 December 2018

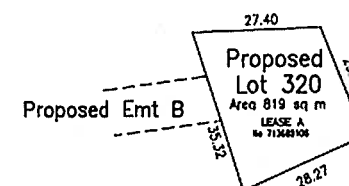
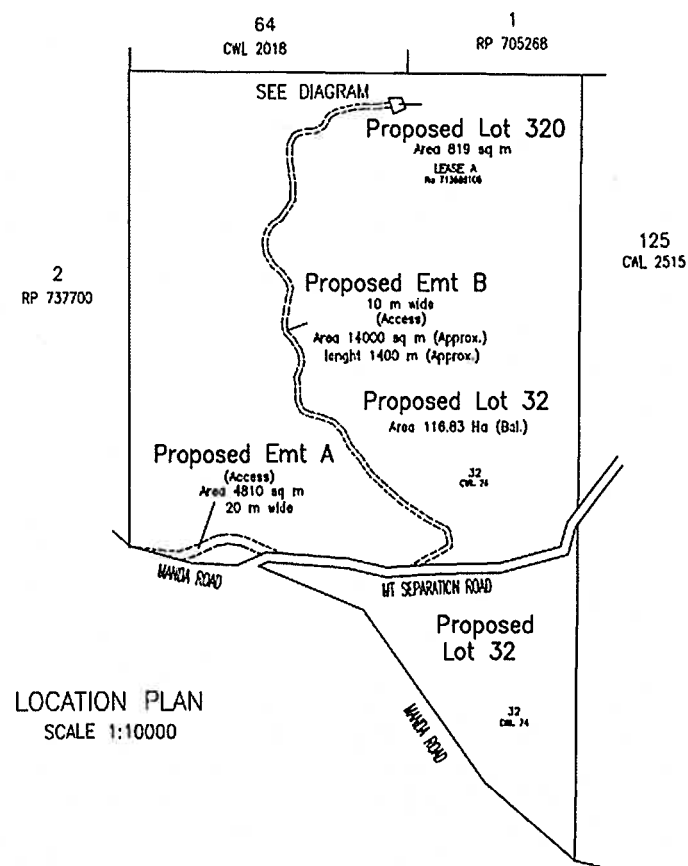


DIAGRAM
SCALE 1:1000



LOCATION PLAN
SCALE 1:10000

ver A date 10/09/2018 Initial version

Note: Distances, Bearings and Area's subject to final survey.

title: PROPOSAL PLAN TO RECONFIGURE LOT 32 on CWL 74 MT SEPARATION ROAD, BEMERSIDE	LOCAL AUTH. HINCHINBROOK SHIRE		G.T.POZZI Bach.App.Sc.(Surv.) Cadastral Surveyor 11 Kavieng Street, Phone: 0740 577 177 Trinity Beach 4879. Mob: 0408 772 213 P.O. Box 152 Fax: 0740 577 089 Trinity Beach. Email: gpozzi@bigpond.net.au	SCALE	SEE PLAN			
	SURVEYED	DATE		FILES REF.	8139 63 30 813950.DXF			
	DRAWN ADLF	DATE SEP 18		PROPERTY DESC.	Lot 32 on CWL 74 MT SEPARATION ROAD BEMERSIDE			
	SURVEY EXAMINED	DATE						
client: NORCOMM	PLAN EXAMINED G E HOPKINS	DATE SEP 18	DWG	18/139	SHEET	1/1	VER	A

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

