

In the Planning and Environment  
Court  
Held at: Maroochydore

No. 29 of 2025

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Between:	<b>MARK AND JULIANNE GRUNSKÉ</b>	Appellant
And:	<b>FRASER COAST REGIONAL COUNCIL</b>	Respondent
And:	<b>CHIEF EXECUTIVE, DEPARTMENT OF STATE DEVELOPMENT, INFRASTRUCTURE AND PLANNING</b>	Co- Respondent

### JUDGMENT

Before His Honour Judge Cash

Date of Hearing: 24/10/2025

Date of Order: 24/10/2025

**THIS MATTER HAVING** on this day come on for hearing by way of appeal against the decision of the Respondent to approve a development application for reconfiguring a lot (1 lots into 5 lots) subject to conditions imposed by the Respondent and Co-Respondent (*"Development Application"*), with respect to land described at Wilkson Road, Tuan, more particularly described as Lot 51 on MCH567.

### IT IS ORDERED THAT:

1. The appeal is allowed in part to the extent of imposing the amended conditions in the development approval package attached hereto as

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JUDGMENT  
Filed on behalf of the Respondent  
Form No PEC-7

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CONNOR O'MEARA  
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BRISBANE 4000  
Phone: 3221 3033  
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GPC  
24022025

Annexure "A" contained in pages 1 to 10 which includes the Approved  
Plan on page 10; and

2. Each party bears its own costs of the appeal.

Filed on 24/10/2025

Filed by: Connor O'Meara Solicitors  
Service Address: Level 22, 69 Ann Street, Brisbane 4000  
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.....  
Registrar

# "A"



## Conditions of Approval Planning Act 2016

Conditions	Condition Timing
<b>Administrative</b>	
This approval is subject to the following conditions, which must be met prior to the commencement of the use, or at such other time as may be specified in any particular condition. These conditions must be implemented at no cost to Council or Wide Bay Water (WBW) unless specified in any particular condition.	
1. Carry out the development in accordance with the approved plans unless otherwise approved in writing by the Assessment Manager.	At all times.
2. Meet the costs of all works associated with this development including any necessary alteration or relocation of services, provision of upgrading of roadworks to accommodate all vehicular access works together with all public utility mains and/or installations.	Prior to the approval of the subdivision plan
3. All works associated with this development must be accepted by Council as being 'on maintenance' prior to the approval of the subdivision plan unless approved otherwise by Assessment Manager.	Prior to the approval of the subdivision plan
4. Pay any outstanding rates and charges due to Council. <i>Note: please contact Council's Property Rating Department at <a href="mailto:rates@frasercoast.qld.gov.au">rates@frasercoast.qld.gov.au</a> and Development Department at <a href="mailto:development@frasercoast.qld.gov.au">development@frasercoast.qld.gov.au</a> prior to payment to confirm any outstanding rates and charges amounts.</i>	Prior to the lodgement of the subdivision plan
5. Submit to Council, a plan identifying the locations of all buildings, services, structures, water bodies/dams, effluent disposal areas and other improvements on the land in relation to the proposed new and existing boundaries and the distances there from. The plan must contain the following certification duly completed by the surveyor:-  "I..... being a cadastral surveyor hereby certify as follows:-  (a) The information contained in this plan is accurate at the time of survey and may be relied on by Council.  (b) The distances from the proposed new boundaries of all buildings and structures shown hereon generally conform to the boundary clearance requirements for side and rear boundaries as specified the Building Act 1975 and Council's Planning Scheme.	Prior to the approval of the subdivision plan

Conditions	Condition Timing
<p>(c) All services to the existing dwelling from the reticulation mains are contained wholly within the subject lot.</p> <p>..... (Signature)"</p>	
6. Submit a Subdivision Plan Compliance Report and supporting documentation to Council demonstrating compliance with each condition of this approval.	Prior to the approval of the subdivision plan
7. All new lot boundaries must be set out and surveyed by a Cadastral Surveyor and identified by pegs marked with lot numbers as identified on the approved plan.	Prior to the lodgement of the subdivision plan
<b>Operational Works</b>	
<p>8. An Operational Works application detailing all earthworks, access works and stormwater management and drainage work within and external to the site is to be:</p> <ul style="list-style-type: none"> <li>a) Designed, supervised and certified by a Registered Professional Engineer of Queensland (RPEQ).</li> <li>b) Include a Construction and Environmental Management Plan (CEMP) in accordance with the Planning Scheme Policy for Development Works SC6.3.</li> <li>c) Include a Site-Specific Erosion and Sediment Control Plan in accordance with Planning Scheme Policy for Development Works SC6.3, and the International Erosion Control Association (Australasia) Best Practice Erosion and Sediment Control Guidelines (Current Edition).</li> </ul>	Prior to the commencement of works.
<b>Stormwater Management</b>	
9. Design the stormwater drainage such that no restriction to existing or developed stormwater flow from upstream properties or ponding of stormwater within upstream properties, including directly adjoining road reserves, occurs as a result of the development, as set out in Schedule 6.3 – Planning scheme policy for development works.	Prior to the lodgement of the subdivision plan
10. Any alterations to existing surface levels on the site shall be undertaken in such a manner as to ensure that no additional surface water is drained so as not to cause nuisance on adjoining properties.	At all times.
11. Any stormwater works associated with the development must not cause adverse effects external to the subject site arising from any increase in velocity, volume and/or redirection of flow; or an increase in the duration of inundation outside the site where such increased inundation could cause loss or damage.	At all times.
<b>Flood Immunity</b>	
12. Submit to Council as part of an Operational Works application, design details of filling works to provide appropriate flood	Prior to the approval of Operational Works

Conditions	Condition Timing
immunity to proposed Lots 1 and 2 to reach the Storm-Tide Level for this site as to be 2.40m AHD.	
13. Submit documentation, as part of the Request for Approval of the Survey Plan from a Registered Professional Engineer of Queensland (RPEQ) or Licenced Surveyor, which certifies that Lots 1 and 2 achieve flood immunity as per Condition 12.	Prior to the lodgement of the subdivision plan
<b>Vehicle Access</b>	
14. Construct a sealed access driveway to each allotment within the allotment's road frontage, from the edge of the road pavement to the property boundary, in accordance with the Planning Scheme and standard drawing No FC-230-03 – Type A – Invert Crossing. The access driveway for proposed Lot 4 is to be located at least 10.0m away from the existing 375mm stormwater pipe and concrete head wall.	Prior to the lodgement of the subdivision plan
<b>Location of Services and Structures</b>	
15. Relocate all services and structures as required to ensure that they are not contained within any other allotment unless ownership rights have been granted by way of an easement.	Prior to the approval of the subdivision plan
<b>Telecommunications</b>	
16. Provide a Telecommunications Infrastructure Provisioning letter as evidence that ensures telecommunications will be available to each proposed allotment.	Prior to the approval of the subdivision plan
<b>Electricity</b>	
<p>17. Each lot of this approval is to be provided with a reticulated power connection and supply under standard tariff conditions.</p> <p>In this regard, the developer is to enter into an agreement with an approved electricity provider, prior to the approval of the subdivision plan, to ensure that electricity will be available to each allotment under standard tariff conditions and without further capital contributions. Evidence of such an agreement must be:</p> <ol style="list-style-type: none"> <li>1. Provision of a Certificate of Supply, or</li> <li>2. Provision of a Certificate of Acceptance, or</li> <li>3. Provision of a Negotiated Connection Establishment Contract, and evidence of the following; <ol style="list-style-type: none"> <li>i. substantial commencement of the internal electrical work, and</li> <li>ii. evidence of contract with electrical contractor;</li> </ol> </li> </ol> <p>and</p>	Prior to the approval of the subdivision plan

Conditions	Condition Timing
iii. evidence of the ability to fund the contract value of the electrical works.	
<b>Wastewater Treatment</b>	
18. Each lot must install Advanced Secondary Treatment with Nutrient Reduction to Surface irrigation, unless otherwise approved by council to an alternative standard, in accordance with the Qld Plumbing and Wastewater Code and relevant Australian Standards.	Prior to the commencement of use
<b>Granting Easements</b>	
19. If required, grant the following easement(s), as part of the registration of the survey plan where required:  (i) Easements for stormwater, electricity and telecommunications services as may be required to service the development.	Prior to the lodgement of the subdivision plan
<b>Infrastructure and Services</b>	
20. All existing services shall be relocated as required to ensure that they are not contained within any other allotment unless ownership rights have been granted by way of an easement. Any alteration of services to provide for the development shall be undertaken at no cost to Council.	Prior to the approval of the subdivision plan.

<b>Advice Notes</b>	
1.	<i>This development is subject to Infrastructure Charges. Please refer to the accompanying Adopted Infrastructure Charges Notice.</i>
2.	<i>Where future residential uses are provided with on-site treatment and disposal of wastewater the system must be in accordance with the Qld Plumbing and Wastewater Code and relevant Australian Standards</i>
3.	<i>Prior to the approval of the subdivision plan: (i) All water supply and sewerage (pressure main) works must be completed and connected to Council's network; (ii) All stormwater drainage works must be completed; (iii) Electricity must be connected or certificate of supply provided; (iv) As-constructed information of the completed works must be submitted to Council; (v) All required works within the proposed lots must be completed; (vi) Any outstanding works must be secured by a bond in accordance with section 6.3.13.5 of Planning Scheme Policy for Development Works SC6.3</i>
4.	<i>Council, if it considers that the maintenance obligations are not being met may undertake any works necessary, if the developer fails to rectify the fault within 14 days of notice given by Council for routine items; or 24 hours' notice in an emergency situation, to ensure compliance under this development permit. Council may also recover costs from any maintenance or security bonds held for this development. The developer must also be responsible for any additional costs incurred by Council in undertaking these obligations.</i>
5.	<i>Council accepts no responsibility for the accuracy of the survey information, the design or any information or detail contained in the approved drawings and specifications. The approval is issued with reliance upon the Engineer's certification and that any aspect of the design not</i>

	<i>specified by Council policy has been undertaken with due professional diligence to accepted industry standards.</i>
6.	<i>Council's approval of the design does not grant approval to enter private property or private easements to undertake works.</i>
7.	<i>This development approval does not authorise any activity that may harm Aboriginal cultural heritage. Under the Aboriginal Cultural Heritage Act 2003 you have a duty of care in relation to such heritage. Section 23(1) provides that 'A person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage.' Council does not warrant that the approved development avoids affecting Aboriginal cultural heritage. It may therefore be prudent for you to carry out searches, consultation, or a cultural heritage assessment to ascertain the presence or otherwise of Aboriginal cultural heritage. Further information on cultural heritage can be obtained from the Department of Aboriginal and Torres Strait Islander Partnerships.</i>
8.	<i>All residential lots created as a result of this permit are to be serviced by a Domestic Vehicle Crossover. Vehicle crossovers are to be constructed in accordance with Councils standard drawing FC-230-01 and to Councils specifications prior to the occupation of a dwelling, and failure to provide a suitable vehicle crossing is a breach of the Fraser Coast planning scheme. Prior to the commencement of works to construct a Domestic Vehicle Crossover in a Council controlled road, a Local Law Permit is required. To obtain this permit, a formal application and support drawings should be prepared and lodged with the prescribed fee. Full details on the application and specifications for a domestic crossover are available from Councils website.</i>
9.	<i>Include in any Contract of Sale for the lots, a copy of Condition 15 of the approval.</i>
10.	<i>Include in any Contract of Sale for the lot 5, a copy of the State Assessment and Referral Agency response, 2212-26497 SRA and dated November 2024 or any superseding State Assessment and Referral Agency response.</i>

**Referral Agency Response**  
**7 October 2025**

<b>Development application:</b>	Development permit for a reconfiguring a lot – 1 Lot into 5 Lots
<b>Street address:</b>	Wilkinson Road, Tuan
<b>Real property description:</b>	Lot 51 on MCH567
<b>Applicant:</b>	Mark and Julianne Grunske C/- Mr Warren Bolton 558 Mooloo Road Mooloo QLD 4570 Via email: <a href="mailto:me@warrenbolton.com">me@warrenbolton.com</a>
<b>SARA Ref:</b>	2112-26497 SRA
<b>SARA trigger(s):</b>	The development application required referral to SARA under the following provisions of the Planning Regulation 2017: <ul style="list-style-type: none"> <li>Schedule 10, Part 17, Division 3, Table 5, Item 1 – Reconfiguring a lot in a coastal management district</li> </ul>
<b>P&amp;E Court Matter:</b>	Grunske v Fraser Coast Regional Council & DSDIP – 29 of 2025
<b>Attachment(s):</b>	Attachment 1 – Referral agency conditions Attachment 2 – Advice Attachment 3 – Plans and documents referred to in the referral agency response



## Attachment 1—Referral agency conditions

(The following conditions must be attached to any development approval relating to this application) (Copies of the documents referenced below are found at Attachment 3)

No.	Conditions of Development Approval	Condition Timing
<b>Development Permit for Reconfiguring a Lot (RAL) – 1 Lot into 5 Lots</b>		
Schedule 10, Part 17, Division 3, Table 5, Item 1 of the Planning Regulation 2017—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the the Department of Environment, Tourism, Science and Innovation to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
1	The reconfiguring a lot must be undertaken generally in accordance with the plan titled Proposed Reconfiguring a Lot Wilkinson Road Tuan, prepared by Urban Planet Town Planning Consultants, Reference 21153-02, and dated August 2024, as amended in red by SARA on 7 October 2025.	Prior to submitting the Plan of Survey to the local government for approval
2	Ensure proposed Lots 1 and 2 are created with a minimum finished surface level of at least the level of Highest Astronomical Tide (HAT) plus 0.8m vertical elevation.	Prior to submitting the Plan of Survey to the local government for approval
3	For the works referenced within Condition No. 2, only use clean materials which are free from prescribed water contaminants.	For the duration of the works
4	Development must prevent the release of sediment to tidal waters by installing and maintaining erosion and sediment control measures in accordance with the <i>Best Practice Erosion and Sediment Control (BPESC) guidelines for Australia (International Erosion Control Association)</i> .	For the duration of the works

**Attachment 2—Advice**

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General advice	
1	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> , its regulation or the State Development Assessment Provisions (SDAP) (version 3.0). If a word remains undefined it has its ordinary meaning.

### **Attachment 3—Plans and documents referred to in the referral agency response**

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