

DELEGATED REPORT

SUBJECT: V & A FALVO - RECONFIGURING A LOT - BOUNDARY REALIGNMENT - LOT 20 & 21 ON SP176607 - 563 MAREEBA-DIMBULAH ROAD, MAREEBA - RAL/18/0028

DATE: 8 October 2018

REPORT OFFICER'S TITLE: Planning Officer

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	V & A Falvo	ADDRESS	563 Mareeba - Dimbulah Road, Mareeba
DATE LODGED	18 September 2018	RPD	Lot 20 & 21 on SP176607
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Boundary Realignment		

FILE NO	RAL/18/0028	AREA	Lot 20 - 1.782 ha Lot 21 - 4.613 ha
LODGED BY	V & A Falvo	OWNER	V & A Falvo
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural Zone		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	N/A - Code Assessment Only		

ATTACHMENTS: 1. Proposal Plan/s

EXECUTIVE SUMMARY

Council is in receipt of a code assessable development application described in the above application details. Being code assessable, the application was not required to undergo public notification.

The applicants propose the realignment of the common boundary between the two allotments so that the existing orchard and fruit processing shed are contained entirely on the larger proposed Lot 21 while the house and yard will be contained in smaller proposed Lot 20.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and is not considered to be in conflict with the Planning Scheme. Despite the fact that the realignment will create a standalone lifestyle allotment (proposed Lot 20) within

close proximity to a fruit orchard (proposed Lot 21), there is considered to be an overriding agricultural benefit in that the realignment will help maintain the future viability of the fruit orchard by ensuring the entire orchard and associated fruit processing shed is contained on a single allotment and not over two lots as is the current arrangement.

It is recommended that the application be approved in full, subject to conditions.

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	V & A Falvo	ADDRESS	563 Mareeba - Dimbulah Road, Mareeba
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and in accordance with the Planning Act 2016, the applicant be notified that the application for a development permit for the development specified in (A) is:

Approved by Council in accordance with the approved plans/documents listed in (B), subject to assessment manager conditions in (C), assessment manager's advice in (D), relevant period in (E), further permits in (F), and further approvals from Council listed in (G);

And

The assessment manager does **not** consider that the assessment manager's decision conflicts with a relevant instrument.

(A) APPROVED DEVELOPMENT: Development Permit for Reconfiguring a Lot - Boundary Realignment

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
446_01	Proposed Boundary Realignment Lots 20 & 21 on SP176607	Robin Trotter Cadastral Surveyor	14/09/18

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:

- found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
- to ensure compliance with the following conditions of approval.

2. Timing of Effect

The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the endorsement of the plan of survey, except where specified otherwise in these conditions of approval.

3. General

- 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure or the payment of infrastructure charges/contributions contained within the conditions of approval.
- 3.2 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
- 3.3 All payments required to be made to the Council (including contributions, charges and bonds) pursuant to any condition of this approval must be made prior the endorsement of the plan of survey and at the rate applicable at the time of payment.
- 3.4 The developer must relocate (in accordance with FNQROC standards) any services such as water, sewer, drainage, telecommunications and electricity that are not wholly located within the lots that are being created/serviced where required by the relevant authority unless approved by Council's delegated officer.
- 3.5 Where utilities (such as sewers on non-standard alignments) traverse lots to service another lot, easements must be created in favour of Council for access and maintenance purposes. The developer is to pay all costs (including Council's legal expenses) to prepare and register the easement documents.
- 3.6 Where approved existing buildings and structures are to be retained, setbacks to any new property boundaries are to be in accordance with Planning Scheme requirements for the relevant structure and/or Queensland Development Code. Where existing building/s are in proximity to new property boundaries, a plan demonstrating compliance with the required setback must be submitted prior to endorsement of the plan of survey.
- 3.7 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements and to the satisfaction of Council's delegated officer.
- 3.8 Charges

All outstanding rates, charges and expenses pertaining to the land are to be paid in full.

(D) ASSESSMENT MANAGER'S ADVICE

- (a) A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.

- (b) Endorsement Fees

Council charges a fee for the endorsement of a Survey Plan, Community Management Statements, easement documents, and covenants. The fee is set out in Council's Fees & Charges Schedule applicable for each respective financial year.

- (c) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

- (d) Notation on Rates Record

A notation will be placed on Council's Rate record with respect to each lot regarding the following conditions:

- registered easements over the subject site (lot 21 only)

- (e) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from www.environment.gov.au

- (f) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from www.datsip.qld.gov.au

(E) RELEVANT PERIOD

When approval lapses if development not started (s.85)

- Reconfiguring a Lot– four (4) years (starting the day the approval takes effect);

(F) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

- Nil

(G) OTHER APPROVALS REQUIRED FROM COUNCIL

- Nil

THE SITE

The subject land is situated approximately 380 metres west of the Mareeba Cemetery at 563 Mareeba - Dimbulah Road, Mareeba, and is described as Lots 20 & 21 on SP176607.

Lot 20, the western land parcel, is irregular in shape with a total area of 1.782 hectares and is zoned Rural under the Mareeba Shire Council Planning Scheme 2016. Lot 20 includes 93.8 metres of frontage to the State controlled Mareeba - Dimbulah Road which is constructed to a bitumen sealed standard and a further 256 metres of frontage to a section of undeveloped road reserve that spans almost the entire western boundary of the lot. Lot 20 is improved by a dwelling, and shed used primarily for processing and packing fruit produced from an orchard planted partially over Lot 20 and primarily over Lot 21.

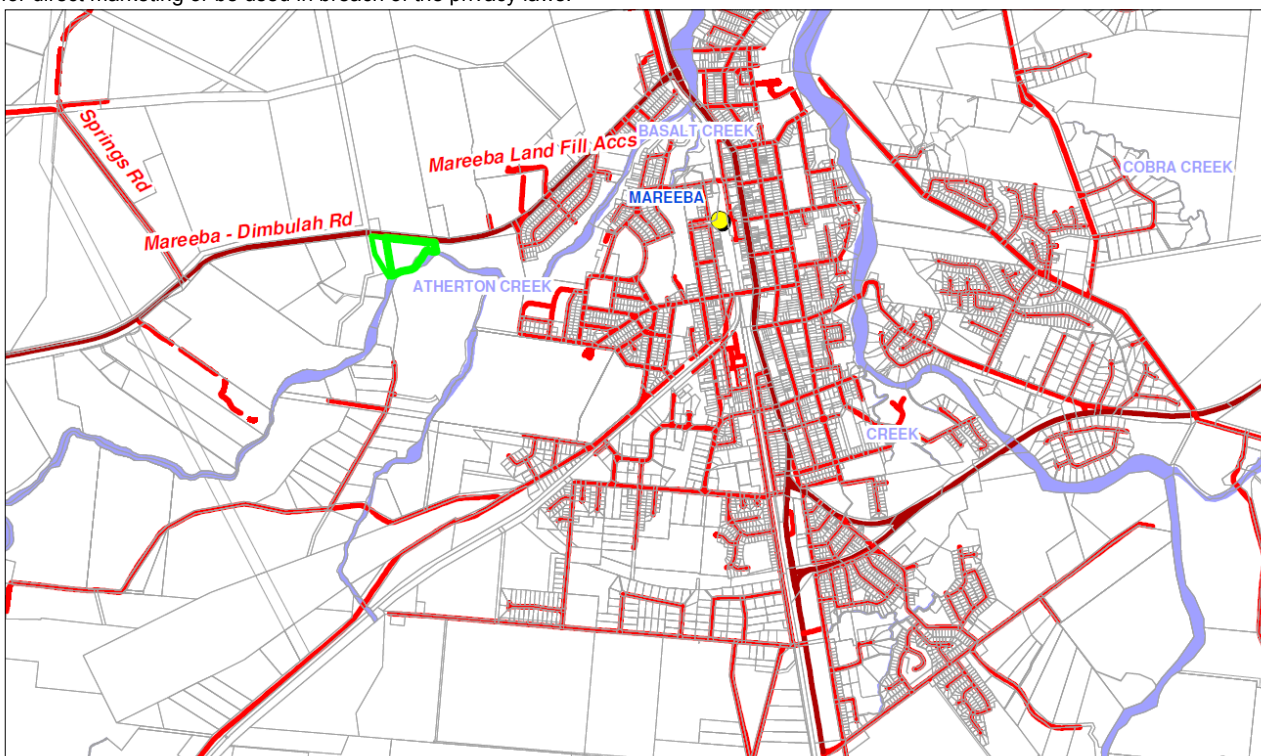
Lot 21, the eastern land parcel, is irregular in shape with a total area of 4.613 hectares and is also zoned Rural under the Mareeba Shire Council Planning Scheme 2016. Lot 21 includes 315 metres of frontage to the State controlled Mareeba - Dimbulah Road and is currently unimproved with the majority of the lot under fruit tree orchard. An easement for water supply purposes to a lot on the opposite side of Mareeba - Dimbulah road has been established adjacent the eastern side of the site down to Granite Creek which runs directly behind both Lots 20 and 21.

The lot immediately to the east of the subject land is zoned Low Density Residential and is vacant. Land to the south on the opposite side of Granite Creek is zoned Rural Residential and land to the north and west is zoned Rural and used for both agriculture and rural lifestyle purposes.



Map Disclaimer:

Based on or contains data provided by the State of Queensland (Department of Environment and Resource Management) (2009). In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.



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BACKGROUND AND CONTEXT

Nil

PREVIOUS APPLICATIONS & APPROVALS

Nil

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Reconfiguring a Lot - Boundary Realignment in accordance with the plans shown in **Attachment 1**.

The applicants propose the realignment of the common boundary between the two allotments so that the existing orchard and fruit processing shed are contained entirely on the larger proposed Lot 21 while the house and yard will be contained in smaller proposed Lot 20.

A 4-metre-wide water supply easement is proposed through proposed Lot 21 to service the dwelling on proposed Lot 20. No other changes to the servicing arrangements, including access is proposed.

REGIONAL PLAN DESIGNATION

The subject site is included within the Regional Landscape and Rural Production Area land use category in the Far North Queensland Regional Plan 2009-2031. The Regional Plan Map 3- 'Areas of Ecological Significance' also identifies the site as containing:

- *Wetland Area of General Ecological Significance*
- *Terrestrial Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

	Land Use Categories <ul style="list-style-type: none"> • <i>Rural Area</i> <ul style="list-style-type: none"> - <i>Rural Agricultural Area</i> - <i>Rural Other</i>
Strategic Framework:	Natural Environment Elements <ul style="list-style-type: none"> • <i>Biodiversity Area</i> Transport Elements <ul style="list-style-type: none"> • <i>Future State Controlled Road (Mareeba Bypass)</i> • <i>Principal Cycle Routes</i>
Zone:	Rural Residential Zone Agricultural Land Overlay Bushfire Hazard Overlay
Overlays:	Environmental Significance Overlay Extractive Resources Overlay Flood Hazard Overlay Hill and Slope Overlay

RELEVANT PLANNING INSTRUMENTS

Assessment of the proposed development against the relevant planning instruments is summarised as follows:-

(a) Far North Queensland Regional Plan 2009-2031

Separate assessment against the Regional Plan is not required because the Mareeba Shire Council Planning Scheme 2016 appropriately advances the Far North Queensland Regional Plan 2009-2031, as it applies to the planning scheme area.

(b) State Planning Policy

Separate assessment against the State Planning Policy (SPP) is not required because the Mareeba Shire Council Planning Scheme 2016 appropriately integrates all relevant aspects of the SPP.

(c) Mareeba Shire Council Planning Scheme 2016

Relevant Development Codes

The following Development Codes are considered to be applicable to the assessment of the application:

- 6.2.9 Rural zone code
- 8.2.1 Agricultural land overlay code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.5 Extractive resources overlay code
- 8.2.6 Flood hazard overlay code
- 8.2.8 Hill and slope overlay code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.4 Reconfiguring a lot code
- 9.4.5 Works, services and infrastructure code

The application did not include a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable solutions (or probable solutions/performance criteria where no acceptable solution applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Rural Zone Code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Agricultural Land Overlay Code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Bushfire Hazard Overlay Code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.

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Environmental Significance Overlay Code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Extractive Resources Overlay Code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Flood Hazard Overlay Code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Hill and Slope Overlay Code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Landscaping Code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Parking and Access Code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Reconfiguring a Lot Code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Works, Services and Infrastructure Code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.

(e) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

A condition will be attached to any approval requiring all development works be designed and constructed in accordance with FNQROC Development Manual standards.

REFERRALS

The application did not trigger referral to any Referral Agencies.

Internal Consultation

Not applicable.

PLANNING DISCUSSION

Nil

Date Prepared: 8 October 2018

DECISION BY DELEGATE

DECISION

Having considered the Planning Officer's report detailed above, I approve, as delegate of Council, the application subject to the conditions listed in the report.

Dated the 8TH day of OCTOBER 2018



BRIAN MILLARD
SENIOR PLANNER

MAREEBA SHIRE
AS DELEGATE OF THE COUNCIL

APPROVED PLANS (ECM Doc Set ID 3439955)

Document Set ID: 3439955
Version: 1, Version Date: 18/09/2018

IMPORTANT NOTE

- (f) This plan was prepared for the purpose and execution set out in *Section 1.1* of the *W&A*.
- (g) As according to information from the *W&A* there is no record of a history regarding the details in this plan, it is not possible to determine the purpose for it nor what source or sources it may have. In this regard, *NOTES* from *Samuel* accept to responsibility for any loss or damage resulting inasmuch as it is one person or corporation who may use or may in the past have contributed to the harm of this estate or claims 2, 3 and 4 thereof.
- (h) The information, age, state and location of the information, good (benefits if it shall), and number of this shall be written by including the last shown on the plan on appropriate one and may vary.
- (i) Each document is created for the original plan and any copies of this plan shall be written by including the last shown on the last.
- (j) This plan may not be photocopied unless this note is included.

