

8.2 G & L CARR - RECONFIGURING A LOT - SUBDIVISION (1 INTO 2 LOTS) - LOT 7 ON RP733904 - 3 COOLSPRINGS CLOSE, KURANDA - RAL/18/0034

Date Prepared: 6 February 2019

Author: Senior Planner

Attachments: 1. Proposal Plan [↓](#)

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	G & L Carr	ADDRESS	3 Coolsprings Close, Kuranda
DATE LODGED	13 November 2018	RPD	Lot 7 on RP733904
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Subdivision (1 into 2 lots)		
FILE NO	RAL/18/0034	AREA	10,640m ²
LODGED BY	Freshwater Planning Pty Ltd	OWNER	G & L Carr
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural Residential zone (Precinct A)		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	n/a		

EXECUTIVE SUMMARY

Council is in receipt of a development application described in the above application details.

The application is code assessable and was not required to undergo public notification.

It has been assessed against the relevant statutory planning instruments, including the Regional Plan and the Planning Scheme and does not conflict with any relevant planning instrument.

The applicant has raised concerns regarding draft Condition 4.2.1, in particular the requirement for kerb and channel along the site frontage. Further discussion can be found at the end of this report; however, Council officers have maintained their recommendation that kerb and channel be installed as part of this development.

It is recommended that the application be approved in full with conditions

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	G & L Carr	ADDRESS	3 Coolsprings Close, Kuranda
DATE LODGED	13 November 2018	RPD	Lot 7 on RP733904
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Subdivision (1 into 2 lots)		

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 - Subdivision (1 into 2 lots)

(B) APPROVED PLANS:

• Plan/Document Number	• Plan/Document Title	• Prepared by	• Dated
• 8205-LL1 Rev A	• Proposed Reconfiguration of a Lot (1 lot into 2 lots)	• Twine Surveys Pty Ltd	• 19.7.2 018

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out generally 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

- 2.1 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 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 or bonds required to be made to the Council 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.
- 3.7 All development 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 prior to the endorsement of a plan of survey.

3.9 Slope Stability

For any new building work proposed on a slope of 15% or greater, the applicant/developer must provide Council with a site specific geotechnical report prepared by a suitably qualified Registered Professional Engineer of Queensland (RPEQ) that certifies:

- the long-term stability of the development site; and
- that the development site will not be adversely affected by land slide/slip activity originating on sloping land above the development site.

4. Infrastructure Services and Standards

4.1 Access

Access to each proposed lot must be constructed (from the edge of the road pavement to the property boundary of the lot) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.2 Frontage Works - Coolsprings Close

4.2.1 Prior to the endorsement of a plan of survey, the applicant/developer must widen the development side of Coolsprings Close, by 1.25 metres, including kerb and channel, for the full frontage of Lot 7 on RP733904, designed in accordance with the FNQROC Development Manual (Access Street standard - Table D1.1), to the satisfaction of Council's delegated officer.

Included in the abovementioned works, the applicant/developer must ensure that any stormwater collected and channelled by the works is discharged to an approved lawful point of discharge, to the satisfaction of Council's delegated officer. All stormwater channels through private property must be covered by easement/s for drainage purposes in favour of Council. All documentation leading to the registration of the easement/s must be completed at no cost to Council.

Prior to works commencing, plans for the works described above must be approved as part of a subsequent application for operational works.

4.2.2 In lieu of undertaking the abovementioned operational works, the applicant/developer may elect to provide a monetary contribution to Council equal to the cost of undertaking the works required by condition 4.2.1. A written itemised quote from a civil contractor to determine the cost of the works must be provided and accepted by Council's delegated officer.

4.3 Stormwater Drainage

4.3.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development and must take all reasonable and practical measures to ensure discharge occurs in compliance with the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.3.2 All stormwater drainage must be collected from site and discharged to an approved legal point of discharge.

4.4 Water Supply

A water service connection must be provided to each lot in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

4.5 On-Site Wastewater Management

Any future on-site effluent disposal system on either lot must be constructed in compliance with the latest version On-Site Domestic Wastewater Management Standard (ASNZ1547) to the satisfaction of the Council's delegated officer.

4.6 Electricity Provision/Supply

The applicant/developer must ensure that an appropriate level of electricity supply is provided to each allotment in accordance with FNQROC Development Manual standards (as amended), to the satisfaction of Council's delegated officer.

Written advice from an Electricity Service Provider is to be provided to Council indicating that an agreement has been made for the provision of power reticulation to each lot.

4.7 Telecommunications

The applicant/developer must demonstrate that a connection to the national broadband network is available for each allotment, or alternatively, enter into an agreement with a telecommunication carrier to provide telecommunication services to each lot and arrange provision of necessary conduits and enveloping pipes.

5. Additional Payment Condition/s (section 130 of the Planning Act 2016)

5.1 The additional payment condition has been imposed as the development will create additional demand on trunk infrastructure which will create additional trunk infrastructure costs for council.

- 5.2 The developer must pay **\$14,845.00** (per additional lot) as a contribution toward trunk infrastructure with the amount of the contribution increased on 1 July each year in accordance with the increase for the PPI index for the period starting on the day the development approval takes effect, adjusted by reference to the 3-yearly PPI index average to the date of payment.
- 5.3 The trunk infrastructure for which the payment is required is:
- The trunk water supply infrastructure servicing the land (\$5,675.00 per additional lot)
 - The trunk transport infrastructure servicing the land (\$4,585.00 per additional lot)
 - The trunk open space infrastructure servicing the land (\$4,585.00 per additional lot)
- 5.4 The developer may elect to provide part of the trunk infrastructure instead of making the payment.
- 5.5 If the developer elects to provide part of the trunk infrastructure the developer must:
- Discuss with Council's delegated officer the part of the works to be undertaken;
 - Obtain the necessary approvals for the part of the works;
 - Indemnify the Council in relation to any actions, suits or demands relating to or arising from the works;
 - Take out joint insurance in the name of the Council and the developer in the sum of \$20,000,000 in relation to the undertaking of the works;
 - Comply with the reasonable direction of Council officers in relation to the completion of the works;
 - Complete the works to the standards required by the Council; and
 - Complete the works prior to endorsement of the plan of subdivision.

(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) Water Meters/Water Service Connection

Prior to the water service connection works commencing, a Water Quotation, Connection, Disconnection Request must be lodged with Council. The cost of the required water connection will be determined based upon the assessment of the Water Quotation Request. The Water Quotation Request must be lodged and the required connection fee paid prior to the signing of the survey plan.

(c) 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.

(d) 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.

(e) Notation on Rates Record

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

- conditions regarding future building works on sloped land
- conditions regarding on-site wastewater disposal

(f) 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.

(g) 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

- Development Permit for Operational Works

(G) OTHER APPROVALS REQUIRED FROM COUNCIL

- Nil

THE SITE

The subject site is situated at 3 Coolsprings Close, Kuranda, and is more particularly described as Lot 7 on RP733904. The site is irregular in shape with a total area of 10,640m² (1.064 ha) and is zoned Rural Residential (4,000m² Precinct) under the Mareeba Shire Council Planning Scheme 2016.

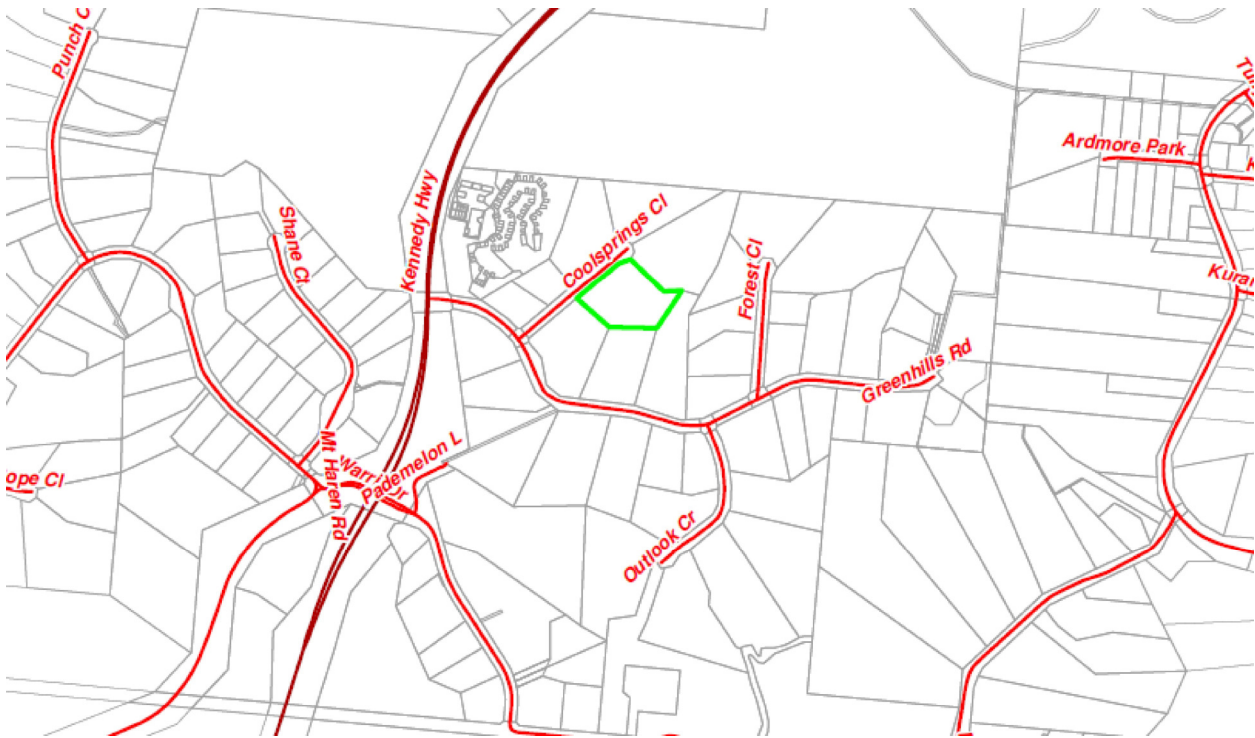
The site contains approximately 107.1 metres of frontage to Coolsprings Close which is constructed to a bitumen sealed standard approximately 4-4.5 metres in width.

The site is improved by a single dwelling house which is situated in the north-western corner, setback approximately nine (9) metres from Coolsprings Close. Approximately 20-25 metres of lawn area extends around the dwelling, before the site reverts to mature vegetation along a steep undefined drainage feature. The site is serviced by all urban services apart from town sewer, instead relying on on-site wastewater disposal.

All surrounding lots are zoned Rural Residential and are primarily used as lifestyle lots, containing single detached dwellings. The Kuranda Resort is situated a short distance to the west of the site and a small herb farm/nursery is established on a lot at the start of Coolsprings Close.

**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 - Subdivision (1 into 2 lots) in accordance with the plans shown in **Attachment 1**.

The proposed allotments are:

- Lot 71, area of 4,000m², frontage of approximately 39.15 metres to Coolsprings Close;
- Lot 72, area of 6,638m², frontage of approximately 67.953 metres to Coolsprings Close;

Lot 72 will contain the site's existing dwelling whilst Lot 71 will be created vacant.

Each lot will be connected to Council's reticulated water supply network as well as telecommunications and electricity infrastructure. The existing dwelling on Lot 72 will continue to be serviced by the existing septic system with on-site wastewater disposal achievable for any future dwelling on proposed Lot 71.

REGIONAL PLAN DESIGNATION

The subject site is included within the Rural Living 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 is:

- *Strategic Rehabilitation Area*
- *State & Regional Conservation Corridors*
- *Terrestrial Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories <ul style="list-style-type: none">• <i>Rural Residential Area</i>
Zone:	Rural Residential zone
Precinct:	4,000m2 Precinct
Overlays:	Hill and Slope Overlay Code Scenic Amenity Overlay Code

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 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 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:

- 6.2.10 Rural residential zone code
- 8.2.8 Hill and slope overlay code
- 8.2.11 Scenic amenity 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 included 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 residential zone code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Hill and slope overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Scenic amenity overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Landscaping code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Parking and access code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Reconfiguring a lot code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided) apart from the following: <ul style="list-style-type: none"> ▪ Acceptable Outcome AO1.1 Refer to planning discussion section of report.
Works, services and infrastructure code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).

(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.

(f) Additional Trunk Infrastructure Condition

The subject land is located outside the identified Priority Infrastructure Area (PIA).

Section 130 of the Planning Act 2016 allows Council to condition additional trunk infrastructure outside the PIA.

In accordance with Council's Adopted Infrastructure Charges Resolution (No. 1) 2017, a maximum charge of \$18,340.00 applies to each additional allotment created (residential infrastructure charges category).

The \$18,340.00 maximum charge covers infrastructure charges for the following four (4) trunk infrastructure networks:

- Transport network (roads);
- Public parks and land for community facilities network;
- Water supply network; and
- Sewerage network

The application proposed the creation of one (1) additional allotment which is serviced by only 3 of the above trunk infrastructure networks, excluding the sewerage network.

The following infrastructure charge will therefore apply to the development:

- Transport network (roads) - \$4,585.00;
- Public parks and land for community facilities network - \$4,585.00; and
- Water supply network - \$5,675.00 (Kuranda Low Level Zone)

Total - \$14,845.00

REFERRALS

This application did not trigger referral to a Referral Agency.

Internal Consultation

Technical Services

PLANNING DISCUSSION

Non-compliance with the relevant acceptable outcomes contained within the relevant development codes are summarised below. Where the development does not comply with an acceptable outcome, compliance with the higher order performance outcome can be achieved as discussed below:

9.4.4 Reconfiguring a lot code

PO1

Lots include an area and frontage that:

- (a) is consistent with the design of lots in the surrounding area;*
- (b) allows the desired amenity of the zone to be achieved;*

- (c) *is able to accommodate all buildings, structures and works associated with the intended land use;*
- (d) *allow the site to be provided with sufficient access;*
- (e) *considers the proximity of the land to:*
 - (i) *centres;*
 - (ii) *public transport services; and*
 - (iii) *open space; and*
- (f) *allows for the protection of environmental features; and*
- (g) *accommodates site constraints.*

AO1.1

*Lots provide a minimum area and frontage in accordance with **Table 9.4.4.3B**.*

Comment

Both proposed Lots 71 and 72 comply with the desired minimum reconfigured lot size of 4,000m², however, proposed Lot 71 does not comply with the desired minimum frontage requirement of 40 metres, with the proposed lot having a frontage of only 39.15 metres.

The lesser frontage proposed is not inconsistent with existing lots in Coolsprings Close and is not likely to compromise the future intended use of the lot for rural residential purposes. Despite this minor non-compliance with AO1.1, it is considered that the proposed development complies with higher order PO1.

Draft Conditions - Applicant's Representations

The draft conditions contained in the officers recommendation section of this report were circulated to the applicant for comment in line with Council's standard procedure.

The applicant has made representations in respect to proposed Condition 4.2.1. Proposed Condition 4.2.1 is as follows:

4.2 Frontage Works - Coolsprings Close

- 4.2.1 Prior to the endorsement of a plan of survey, the applicant/developer must widen the development side of Coolsprings Close, by 1.25 metres, including kerb and channel, for the full frontage of Lot 7 on RP733904, designed in accordance with the FNQROC Development Manual (Access Street standard - Table D1.1), to the satisfaction of Council's delegated officer.

Included in the abovementioned works, the applicant/developer must ensure that any stormwater collected and channelled by the works is discharged to an approved lawful point of discharge, to the satisfaction of Council's delegated officer. All stormwater channels through private property must be covered by easement/s for drainage purposes in favour of Council. All documentation leading to the registration of the easement/s must be completed at no cost to Council.

Prior to works commencing, plans for the works described above must be approved as part of a subsequent application for operational works.

- 4.2.2 In lieu of undertaking the abovementioned operational works, the applicant/developer may elect to provide a monetary contribution to Council equal to the cost of undertaking the works required by condition 4.2.1. A written itemised quote from a civil contractor to determine the cost of the works must be provided and accepted by Council's delegated officer.

Applicants Comments

"The main point of contention is the requirement to provide Kerb and Channelling to Coolsprings Close removing the current working Open Grassed Swale Drain. There has been over 4-5 professional contractors/consultants that have visited the site with each person strongly noting that the provision of Kerb and Channelling for this and the adjoining Development is not the best option and that the existing drainage is. Suggestions have been offered to provide widening and a concrete edging whilst keeping the existing drainage would be by far the best option. It is understood that these have been rejected by Council's Officers.

It is further noted that the requirement to ensure that any stormwater collected and channelled by the works is discharged to a lawful point of discharge. Council has not provided any lawful points of discharge and unless this point is Coolsprings Close then in this instance the existing point is within the adjoining property to the north-east which is not included within this Development Application. The existing topography and formation of Coolsprings Close does not allow for the Conditioned Requirements to be provided without creating a worsening affect to the adjoining neighbours.

It is requested that the requirement for Stormwater collection, being (Included in the abovementioned works, the applicant/developer must ensure that any stormwater collected and channelled by the works is discharged to an approved lawful point of discharge, to the satisfaction of Councils delegated officer. All stormwater channels through private property must be covered by easement/s for drainage purposes in favour of Council. All documentation leading to the registration of the easement/s must be completed at no cost to Council) be deleted. It is additionally requested that the requirement for Kerb and Channelling also be deleted and that the provision of a widening of 1.25 metres be accepted inclusive of a concreted edging/pad."

Comment

The works required by Condition 4.2.1, specifically the installation of layback kerb and channel for the entire frontage of the subject land, is a standard requirement for the subdivision of allotments in Precinct A of the Rural Residential zone.

Since the commencement of the Mareeba Shire Council Planning Scheme 2016 in July 2016, there have been two (2) subdivision approvals granted in the immediate vicinity of the subject land. Both of these approvals have been conditioned to require kerb and channel. One (1) of the approvals (corner of Greenhills Road & Forrest Close) has completed the conditioned kerb and channel.

The second approval is located on Coolsprings Close directly opposite the subject land has not been acted on. It is acknowledged that this second approval is the subject of a current negotiated decision notice request seeking to remove the requirement for kerb and channel.

The requirement for kerb and channel is not a new requirement brought about by the Mareeba Shire Council Planning Scheme 2016. It has been a standard requirement for developments in the Greenhills Road area since at least 1985 (Kuranda Development Control Plan).

Council's Manager Technical Services and Planning Officers met with Freshwater Planning to discuss the applicant's concerns that the installation of kerb and channel may lead to a worsening effect on local stormwater management. The Manager Technical Services maintained that practical engineering solutions were available to ensure a positive stormwater management outcome.

Condition 4.2.1 has been maintained as per originally drafted by Council officers.

