


8 CORPORATE AND COMMUNITY SERVICES

8.1 W VENTURATO - RECONFIGURING A LOT - SUBDIVISION (1 INTO 2 LOTS) - LOT 1 ON RP747548 - 106 BRYDE ROAD, MAREEBA - RAL/19/0008

Date Prepared: 7 June 2019

Author: Planning Officer

Attachments: 1. [Proposal Plan](#) 

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	W Venturato	ADDRESS	106 Bryde Road, Mareeba
DATE LODGED	9 May 2019	RPD	Lot 1 on RP747548
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Subdivision (1 into 2 Lots)		
FILE NO	RAL/19/0008	AREA	10,000m ²
LODGED BY	Scope Town Planning	OWNER	W Venturato
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural Zone		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	N/A - Code Assessment Only		

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 application proposes the subdivision of the 1 hectare (10,000m²) allotment into 2 equal 5,000m² allotments.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and is considered to conflict with Performance Outcomes PO2, PO3 and PO6 of the Agricultural Land Overlay code and Performance/Acceptable Outcomes PO1 and AO1 of the Reconfiguring a Lot code.

Both proposed allotments are significantly smaller than the minimum desired lot size of 60 hectares for land within the Rural zone. A key intent of the Planning Scheme is to protect the Shire's agricultural sector by discouraging the creation of small rural lots., particularly in areas that are actively farmed. The proposed development will create an out-of-sequence small rural lot and is in direct conflict with this intent.

The applicant's argument that the existing allotment has next to no agricultural viability at only 1 hectare in size, and that the proposed additional lot will be sited between 2 other small rural lifestyle lots is not considered sufficient planning grounds to justify approval of the application. The proposed subdivision is a precursor for the establishment of an additional sensitive land use

(dwelling) in proximity to existing agricultural operations. It is therefore recommended that the application be refused.

OFFICER'S RECOMMENDATION

- That in relation to the following development application:

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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:

(A) REFUSED DEVELOPMENT: Development Permit for Reconfiguring a Lot - Subdivision (1 into 2 Lots)

(B) ASSESSMENT MANAGER'S REASONS FOR REFUSAL:

- The proposed development is in conflict with Performance Outcomes PO2, PO3 and PO6 of the Agricultural Land Overlay Code:

PO2

*Sensitive land uses in the 'Class A' area, 'Class B' area or the 'Broadhectare rural' area identified on the **Agricultural land overlay maps (OM-001a-n)** are designed and located to:*

- avoid land use conflict;*
- manage impacts from agricultural activities, including chemical spray drift, odour, noise, dust, smoke and ash;*
- avoid reducing primary production potential; and*
- not adversely affect public health, safety and amenity.*

PO3

*Development in the 'Class A' area or 'Class B' area identified on the **Agricultural land overlay maps (OM-001a-n)**:*

- ensures that agricultural land is not permanently alienated;*
- ensures that agricultural land is preserved for agricultural purposes; and*
- does not constrain the viability or use of agricultural land.*

PO6

*Any Reconfiguring a lot in the 'Class A' area, 'Class B' area or the 'Broadhectare rural' area identified on the **Agricultural land overlay maps (OM-001a-n)**, including boundary realignments, only occurs where it:*

- improves agricultural efficiency;*
- facilitates agricultural activity; or*

- (d) facilitates conservation outcomes; or*
 - (d) resolves boundary issues where a structure is built over the boundary line of two lots.*
- 2. The proposed development is in conflict with Performance Outcome PO1 and Acceptable Outcome AO1 of the 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**.*

- 3. That there are not sufficient grounds to justify approval, despite the identified conflicts.

THE SITE

The subject site is situated at 106 Bryde Road, Mareeba and is described as Lot 1 on RP747548. The site is regular in shape with an area of 1 hectare (10,000m²) and is zoned Rural under the Mareeba Shire Council Planning Scheme 2016. The site contains 131.6m of frontage to Bryde Road which is constructed to a bitumen sealed standard for this entire frontage and back to its intersection with Chewko Road.

The site is improved by a dwelling house in the north-east corner of the lot as well as multiple outbuildings adjacent the dwelling. A small fruit tree orchard exists between the improvements and Bryde Road and a patch of native vegetation remains over the western third of the lot only. A rural lifestyle lot approximately 1 acre in size is situated immediately adjacent the site to the west while all other surrounding lots are larger rural holdings. While not an intensively farmed area, some agricultural activity surrounds the site with an active cane farm situated to the south and west of the site on the allotment on the opposite side of Bryde Road.



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 application proposes the subdivision of the 1 hectare (10,000m²) allotment into 2 equal 5,000m² allotments. Both lots will have a frontage of approximately 66 metres.

Proposed Lot 1 will contain a shed only while Lot 2 will contain the sites existing dwelling and another shed.

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 Site does not contain any areas of ecological significance.

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories <ul style="list-style-type: none">• <i>Rural Area</i><ul style="list-style-type: none">▪ <i>Rural Agricultural Area</i>
Zone:	Rural zone
Overlays:	Agricultural land 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 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 Developments 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
- 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 would conflict with the below identified sections of the Agricultural Land Overlay Code and Reconfiguring a Lot Code.

Relevant Codes	Comments
Rural zone code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Agricultural land overlay code	The application conflicts with the following Performance Outcomes: <ul style="list-style-type: none"> ▪ PO2 ▪ PO3 ▪ PO6 Refer to planning discussion section of report.
Landscaping code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Parking and access code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Reconfiguring a lot code	The application conflicts with the following Performance Outcomes and Acceptable Outcomes: <ul style="list-style-type: none"> ▪ PO1 and AO1 Refer to planning discussion section of report.
Works, services and infrastructure code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.

(D) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

- Planning Scheme Policy 4 - FNQROC Regional Development Manual

Should the application be approved, a condition will be attached to the approval requiring all development works be designed and constructed in accordance with FNQROC Development manual standards.

REFERRAL AGENCY

The application did not trigger referral to any referral agency.

PLANNING DISCUSSION

Noncompliance with the Performance Outcomes and Acceptable Outcomes of the Agricultural Land Overlay Code and the Reconfiguring a Lot Code are summarised as follows:

Conflicts with the Agricultural Land Overlay Code

PO2

*Sensitive land uses in the 'Class A' area, 'Class B' area or the 'Broadhectare rural' area identified on the **Agricultural land overlay maps (OM-001a-n)** are designed and located to:*

- (a) avoid land use conflict;*
- (b) manage impacts from agricultural activities, including chemical spray drift, odour, noise, dust, smoke and ash;*
- (c) avoid reducing primary production potential; and*
- (d) not adversely affect public health, safety and amenity.*

Comment

The development would create proposed Lot 1 as a vacant rural allotment with accepted development rights to allow the construction of a dwelling house. The planning scheme defines a dwelling house as a sensitive land use.

An established sugar cane plantation exists approximately 30 metres from the closest boundary of proposed Lot 1 on the opposite side of Bryde Road. This cropped land is mapped as "Class A" agricultural land.

Siting an additional rural lifestyle allotment, with resultant additional dwelling house, adjacent to farmed "Class A" area could only increase the potential for land use conflict arising from common agricultural impacts such as spray drift, odour, noise, dust and smoke. Furthermore, increasing dwelling densities within rural areas only increases the difficulties involved with establishing intensive rural uses that are dependent on achieving greater separation distances from sensitive land uses such as kennels, meat poultry farms and feedlots.

Rural land use conflict is a very real issue for Council officers who have recently dealt with complaints arising from less than tolerant residents living on smaller lots situated in proximity to farmed land.

There is no overriding need for the development in terms of public benefit and an extensive supply of land for urban development is available within the nearby Mareeba township.

The proposed development is in conflict with PO2.

PO3

*Development in the 'Class A' area or 'Class B' area identified on the **Agricultural land overlay maps (OM-001a-n)**:*

- (a) ensures that agricultural land is not permanently alienated;*
- (b) ensures that agricultural land is preserved for agricultural purposes; and*
- (c) does not constrain the viability or use of agricultural land.*

Comment

The development would create proposed Lot 1 as a vacant rural allotment with accepted development rights to allow the construction of a dwelling house.

An established sugar cane plantation exists approximately 30 metres from the closest boundary of proposed Lot 1 on the opposite side of Bryde Road. This cropped land is mapped as "Class A" agricultural land.

Siting an additional rural lifestyle allotment, with resultant additional dwelling house, adjacent to farmed "Class A" area could only increase the potential for land use conflict arising from common agricultural impacts such as spray drift, odour, noise, dust and smoke.

There is no overriding need for the development in terms of public benefit and an extensive supply of land for urban development is available within the nearby Mareeba township.

The proposed development has the potential to alienate and constrain the use of adjoining agricultural land and is therefore in conflict with PO3.

PO6

*Any Reconfiguring a lot in the 'Class A' area, 'Class B' area or the 'Broadhectare rural' area identified on the **Agricultural land overlay maps (OM-001a-n)**, including boundary realignments, only occurs where it:*

- (a) improves agricultural efficiency;*
- (b) facilitates agricultural activity; or*
- (d) facilitates conservation outcomes; or*
- (d) resolves boundary issues where a structure is built over the boundary line of two lots.*

AO6

No acceptable outcome is provided.

Comment

The reconfiguration does not improve agricultural efficiency; does not facilitate agricultural activity; does not facilitate a conservation outcome; and does not resolve a boundary issue where a structure is built over the boundary.

The proposed development is in conflict with PO6.

Conflicts with the 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

Proposed Lots 1 and 2 will both have areas of just 5,000m² (0.5 hectares) which is well below the 60 hectare minimum desired lot size nominated in Table 9.4.4.3B.

Although the subject site is one of two small rural lifestyle lots situated adjacent each other, the predominant style and design of lots in the immediate area are larger rural holdings typical of a rural agricultural area. The proposed lots are not consistent with this intended design. As previously discussed, introducing an additional sensitive land use into the rural zone has the likelihood of impacting on the desired level of amenity typical of the rural zone.

The proposed reconfiguration conflicts with PO1.

Conclusion

An overarching intent of the planning scheme for the rural zone is to discourage the creation of additional small rural lifestyle lots and the protection and preservation of the Shire's agricultural sector. The proposed development, which will result in the creation of an additional rural lifestyle allotment, is in direct conflict with this intent.

It is recommended the application be refused.

Date Prepared: 7 June 2019

Development Application – Reconfiguration of a Lot (1 into 2) – 106 Bryde Road, Mareeba Qld.

APPENDIX 1: Existing and Proposed plans.



Existing Lot 1 on RP747548.



Proposed Lots 1 & 2.



SCOPE

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