

**DELEGATED REPORT**

**SUBJECT:** J PORTELLI - RECONFIGURING A LOT - BOUNDARY REALIGNMENT & ACCESS EASEMENT - LOT 2 ON RP744262 & LOT 18 ON SP270088 - 769 & 965 BILWON ROAD, BIBOOHRA - RAL/17/0003

**DATE:** 13 September 2017

**REPORT OFFICER'S TITLE:** Planning Officer

**DEPARTMENT:** Corporate and Community Services

**APPLICATION DETAILS**

APPLICATION		PREMISES	
<b>APPLICANT</b>	J Portelli	<b>ADDRESS</b>	769 & 965 Bilwon Road, Biboohra
<b>DATE LODGED</b>	12 September 2017	<b>RPD</b>	Lot 2 on RP744262 & Lot 18 on SP270088
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Reconfiguring a Lot - Boundary Realignment and Access Easement		

<b>FILE NO</b>	RAL/17/0003	<b>AREA</b>	Lot 2 - 38.266 ha Lot 18 - 32.45 ha
<b>LODGED BY</b>	J Portelli	<b>OWNER</b>	Lot 2 - A Goltz Lot 18 - J Portelli
<b>PLANNING SCHEME</b>	Mareeba Shire Council Planning Scheme 2016		
<b>ZONE</b>	Rural zone		
<b>LEVEL OF ASSESSMENT</b>	Code Assessment		
<b>SUBMISSIONS</b>	n/a		

**ATTACHMENTS:** 1. Proposal Plan/s

**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.*

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

**OFFICER'S RECOMMENDATION**

1. 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:

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 and Access Easement

(B) **APPROVED PLANS:**

Plan/Document Number	Plan/Document Title	Prepared by	Dated
132_15	Proposed Boundary Realignment and Access Easement	Robin Trotter Cadastral Surveyor	29/8/17

(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 the Queensland Development Code.

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.

#### 4. Infrastructure Services and Standards

##### 4.1 Access

A **gravel** access crossover must be upgraded/constructed from the edge of the Bilwon Road pavement to the commencement of the access easement, in accordance with FNQROC Development Manual Standards (as amended), to the satisfaction of Council's delegated officer.

#### (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) Easement Documents

Council has developed standard easement documentation to assist in the drafting of formal easement documents for Council easements. Please contact the Planning Section for more information regarding the drafting of easement documents for Council easements.

- (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) 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](http://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](http://www.datsip.qld.gov.au).

(E) RELEVANT PERIOD

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

- (b) for any part of the development approval relating to reconfiguring a lot—if a plan for the reconfiguration that, under the Land Title Act, is required to be given to a local government for approval is not given to the local government within **4 years** after the approval starts to have effect;

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

- Nil

(G) OTHER APPROVALS REQUIRED FROM COUNCIL

- Access approval arising from condition number 4.1 (Please contact Planning Section to obtain application form and applicable fee)

## THE SITE

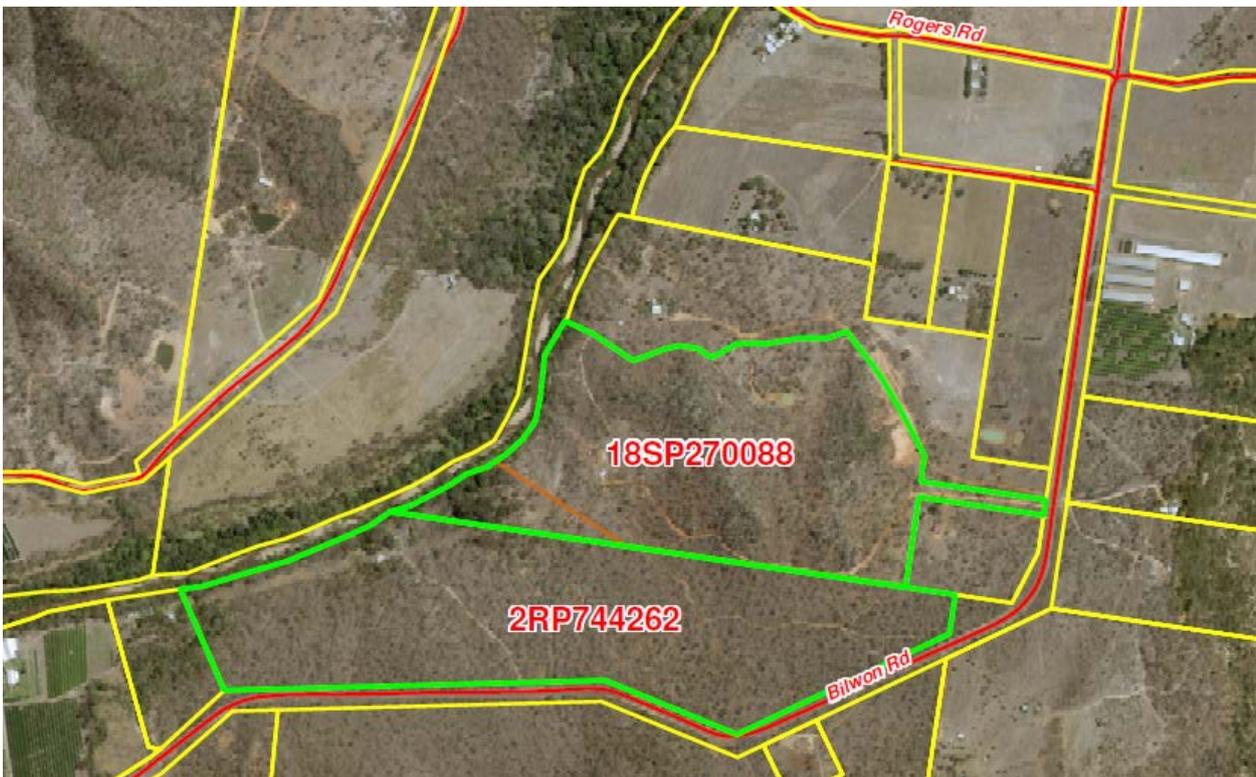
The subject land is described as follows:

- Lot 18 on SP270088, area of 32.45 hectares, frontage of approx. 30 metres to Bilwon Road;
- Lot 2 on RP744262, area of 38.266 hectares, frontage of approx. 1,530 metres to Bilwon Road.

Both lots are irregular in shape and remain mostly vegetated with the exception of access tracks, fire breaks and small clearings around each dwelling house. The north-western boundaries of both lots abut the Barron River.

Access to both lots is obtained directly off Bilwon Road. Bilwon Road is constructed to 6.5 - 7.0 metre wide bitumen sealed standard for the entire frontage of both lots.

Surrounding properties are developed for rural and rural residential living 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 and Access Easement in accordance with the plans shown in **Attachment 1**.

The proposed allotments are:

- Lot 18, area of 31.27 hectares, frontage of 30 metres to Bilwon Road;
- Lot 2, area of 39.45 hectares, frontage of approx. 1,530 metres to Bilwon Road.

The application seeks to open a 15 metre wide access easement within Lot 2, in favour of Lot 18. The proposed easement covers an established firebreak trail which is integral to the fire management and potential evacuation of Lot 18. The proposed access easement will be used infrequently.

To compensate the owner of Lot 2 for the constraints imposed by the proposed access easement, an area of approximately 1.18 hectares will be transferred from Lot 18 to Lot 2 by way of a boundary realignment.

The boundary realignment does not alter the frontage or access arrangements of either existing allotment.

Services to each allotment are unaffected by the boundary realignment.

## 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 is:

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

## PLANNING SCHEME DESIGNATIONS

Strategic Framework:	<b>Land Use Categories</b> <ul style="list-style-type: none"> <li>Rural Area - Rural other</li> </ul> <b>Natural Environment Elements</b> <ul style="list-style-type: none"> <li>Biodiversity Areas</li> </ul>
Zone:	Rural zone
Overlays:	Bushfire hazard overlay Environmental significance overlay Flood hazard overlay Hill and slope overlay Transport infrastructure 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 Development Codes

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

- 6.2.9 Rural zone code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.6 Flood hazard overlay code
- 8.2.8 Hill and slope overlay code
- 8.2.11 Transport infrastructure 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.

<b>Relevant Codes</b>	<b>Comments</b>
Rural zone code	The application complies with applicable acceptable/probable solutions/performance criteria.
Bushfire hazard overlay code	The application complies with applicable acceptable/probable solutions/performance criteria.
Environmental significance overlay code	The application complies with applicable acceptable/probable solutions/performance criteria.
Flood hazard overlay code	The application complies with applicable acceptable/probable solutions/performance criteria.
Hill and slope overlay code	The application complies with applicable acceptable/probable solutions/performance criteria.
Transport infrastructure overlay code	The application complies with applicable acceptable/probable solutions/performance criteria.
Landscaping code	The application complies with applicable acceptable/probable solutions/performance criteria.
Parking and access code	The application complies with applicable acceptable/probable solutions/performance criteria.
Reconfiguring a lot code	The application complies with applicable acceptable/probable solutions/performance criteria.
Works, services and infrastructure code	The application complies with applicable acceptable/probable solutions/performance criteria.

### **(e) Planning Scheme Policies**

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

All development works will be conditioned to be designed and constructed in accordance with the FNQROC Development Manual.

### **(f) Additional Trunk Infrastructure Condition (Section 650 of SPA)**

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

Section 650 of SPA allows Council to condition additional trunk infrastructure outside the PIA.

As the proposed development is for boundary realignment/access easement only, no infrastructure charges/contributions are payable.

## **REFERRALS**

### **Concurrence**

This application did not trigger a referral to a Concurrence Agency.

**Advice**

This application did not trigger a referral to an Advice Agency.

**Internal Consultation**

Technical Services

**PLANNING DISCUSSION**

NIL

***Date Prepared:***            *13 September 2017*

## 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.

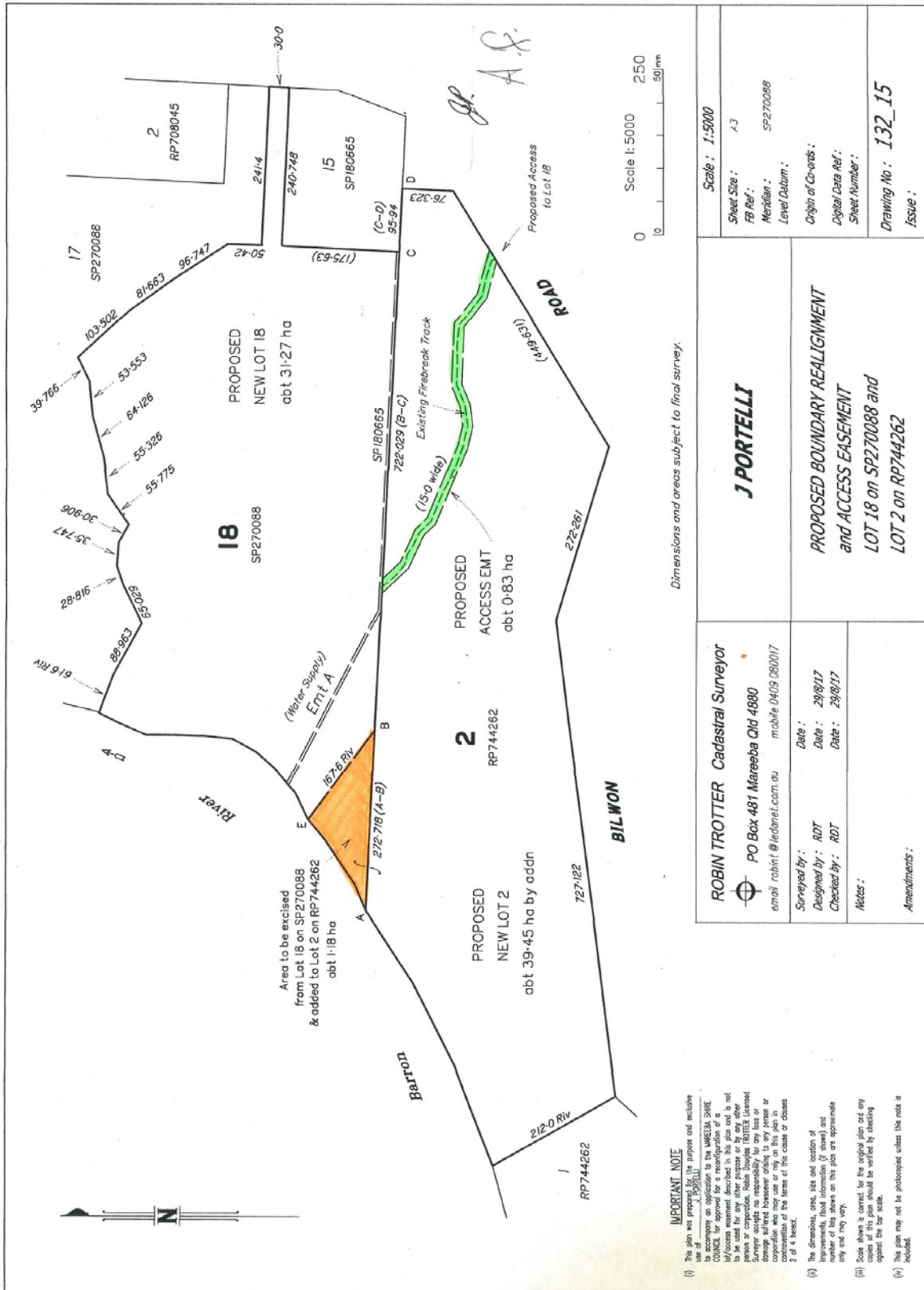
Dated the 13<sup>TH</sup> day of SEPTEMBER 2017



**BRIAN MILLARD**  
**SENIOR PLANNER**

MAREEBA SHIRE  
AS A DELEGATE OF THE COUNCIL

APPROVED PLANS



**IMPORTANT NOTE**

(i) This plan was prepared for the purpose and exclusive use of the surveyor on the basis of the information provided to him/her by the client. It is not to be used for any other purpose or by any other person without the written consent of the surveyor. The surveyor accepts no responsibility for any loss or damage suffered however arising to any person or corporation who may use or rely on this plan in any way other than that intended.

(ii) The dimensions, area, size and location of the proposed realignment and access easement shown on this plan are approximate only and may vary.

(iii) Scale shown is correct for the original plan, but any copies of this plan should be verified by checking against the bar scale.

(iv) This plan may not be photocopied unless this note is included.

Document Set ID: 33096434  
 Version 1, Version Date: 12/09/2017