

8.4 T BLAKE - RECONFIGURING A LOT - SUBDIVISION (1 INTO 2 LOTS) - LOT 6 ON RP903630 - 8 DEBEL CLOSE, MAREEBA - RAL/19/0015

Date Prepared: 6 September 2019

Author: Planning Officer

Attachments:

1. Site Plan [↓](#)
2. Submission/s [↓](#)

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	T Blake	ADDRESS	8 Debel Close, Mareeba
DATE LODGED	2 July 2019	RPD	Lot 6 on RP903630
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Subdivision (1 into 2 Lots)		
FILE NO	RAL/19/0015	AREA	4,902m ²
LODGED BY	Victor G Feros Town Planning Consultants	OWNER	T, D & Y Blake
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Emerging Communities Zone		
LEVEL OF ASSESSMENT	Impact Assessment		
SUBMISSIONS	One (1) submission		

EXECUTIVE SUMMARY

Council is in receipt of an impact assessable development application described in the above application details. During public notification of the application, one (1) properly made submission was received.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and is not considered to conflict with any relevant aspect of the Planning Scheme.

Draft conditions were provided to the Applicant care of their consultant and have been agreed to.

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	T Blake	ADDRESS	8 Debel Close, Mareeba
DATE LODGED	2 July 2019	RPD	Lot 6 on RP903630
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 (F), further permits in (G), and further approvals from Council listed in (H);

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
VGF-C1149 Sheet 1	Site Plan	Victor G Feros Town Planning Consultants	25 June 2019

(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

- 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 within the conditions or the payment of infrastructure charges within the Adopted Infrastructure Charges Notice.

- 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 to 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 Any existing buildings or structures (pools/tennis courts or fences) and/or incidental works that straddle the new boundaries must be altered, demolished or removed, as required, to align with the new property boundaries and/or be wholly contained within a new allotment, unless approved by Council's delegated officer.

- 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

An access crossover for each allotment, must be constructed from the edge of the road pavement, to the property boundary of each respective allotment, in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

An asphalt sealed or reinforced concrete driveway (no bitumen) must be provided within the access handle for Lot 1. The driveway will:

- have a minimum formation width of three (3) metres
- be constructed for the full length of the access handle and connect with the required access crossover;
- be formed with one-way crossfall to cater for stormwater drainage such that any stormwater runoff is contained within the access strip
- service and utility conduits (electricity, water supply, telecommunications) are to be provided for the full length of the concrete or sealed driveway constructed within the access handle of the battle axe allotment(s).

4.2 Stormwater Drainage

The applicant must ensure a non-worsening effect on surrounding land as a consequence of the development (including between Lot 1 and 2) and must take all reasonable and practicable measures to ensure discharge occurs in compliance with the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual.

4.3 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.

4.4 On-Site Wastewater Management

Prior to Council endorsing a plan of survey, a plan prepared by a licensed surveyor must be submitted to Council demonstrating that each lot's respective on-site wastewater disposal systems, including and soakage trenches, are wholly located within the lot that they service, to the satisfaction of Council's delegated officer.

4.5 Fencing

4.5.1 Prior the endorsement of a plan of survey the applicant/developer is required to install solid screen colorbond or overlapping timber paling fencing, with minimum height of 1.8m and maximum height of 2m along the entire length of the common boundary between Lots 1 and 2 excluding

that part of the common boundary between Debel Close and the point in line with the forward most projection of the dwelling on Lot 2.

4.5.2 The erection of fencing along the common boundary of Lot 1 and 2 between Debel Close and the point in line with the forward most projection of the dwelling on Lot 2 is optional and is not required to be solid screen fencing, however, cannot exceed 1.8m in height.

4.5.3 That part of the fencing that crosses Easement B on RP901433 must not interfere with the purpose of the easement (drainage).

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.

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.

(D) ASSESSMENT MANAGER'S ADVICE

- (a) An Adopted Infrastructure Charges Notice has been issued with respect to the approved development. The Adopted Infrastructure Charges Notice details the type of infrastructure charge/s, the amount of the charge/s and when the charge/s are payable.
- (b) The Adopted Infrastructure Charges Notice does not include all charges or payments that are payable with respect to the approved development. 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.
- (c) 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.

(d) 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.

(e) 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.

(f) Notation on Rates Record

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

- a registered drainage easement over the lots (Easement B on RP901433)
- flood immunity

(g) Transportation of Soil

All soil transported to or from the site must be covered to prevent dust or spillage during transport. If soil is tracked or spilt onto the road pavements as a result of works on the subject site, it must be removed prior to the end of the working day and within four (4) hours of a request from a Council Officer.

(h) 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

(i) 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

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

(2) That an Adopted Infrastructure Charges Notice be issued for the following infrastructure charge/s for:

Development Type	Rate	Measure	Charge	Credit Detail	Balance
	<i>\$ per Lot (no sewer)</i>	<i>Lots</i>		<i>Lots</i>	
Residential	\$14,100.00	2	\$28,200.00	1 lot (\$14,100.00)	\$14,100.00
TOTAL CURRENT AMOUNT OF CHARGE					\$14,100.00

THE SITE

The subject site is situated at 8 Debel Close, Mareeba, and is described as Lot 6 on RP903630. The site is irregular in shape with a total area of 4,902m² and is zoned Emerging Communities under the Mareeba Shire Council Planning Scheme 2016. The site contains 32 metres of frontage to Debel Close which is constructed to a bitumen sealed standard including kerb and channel for its entire length. The site is accessed via two crossovers, one being concrete sealed and the other gravel only.

The site is improved by a dwelling house, secondary dwelling (granny flat), a swimming pool and two outbuildings all constructed on the western half of the property. A 4m wide drainage easement exists along part of the northern boundary of the site which is responsible for draining the cul-de-sac head of Debel Close to a seasonal watercourse/gully that runs to the east the site.

All surrounding lots are zoned Emerging Communities and contain single detached dwellings with some also containing secondary dwellings (granny flats).



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 plan shown below and included as **Attachment 1**.



The proposed subdivision will split the sites dwelling and front shed (front shed not shown on plan) from the rear secondary dwelling (granny flat) and rear shed. The proposed divisional line is shown on the above plan. A 5.8m wide access handle has been included along the western side of proposed Lot 1 for access and services and will include a concrete or asphalt sealed driveway.

Both lots will have connections to town water, electricity and telecommunications (via the NBN fixed wireless network) and will be serviced by existed separate on-site wastewater disposal systems.

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. Mareeba is identified as a Regional Activity Centre in the Regional Plan. The site contains no mapped areas of ecological significance.

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories <ul style="list-style-type: none">▪ Investigation Area
Zone:	Natural Environment Elements <ul style="list-style-type: none">▪ Biodiversity Area
Overlays:	Emerging Communities zone <ul style="list-style-type: none">- Environmental Significance Overlay- Flood Hazard 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**Strategic Framework**

The aspects of the Planning Scheme's Strategic Framework relevant to the application are as follows:

3.3 Settlement pattern and built environment**3.3.1 Strategic outcomes**

- (3) *Residential areas and urban expansion areas support strategically located and logically sequenced residential development, maximising the efficient utilisation of new and existing infrastructure, particularly active and public transport. Residential development, including infill housing in designated areas, is focussed in Mareeba and the Kuranda district. A diversity of housing choices is developed within proximity to services and activity centres while protecting the character of the shire.*

Housing for aged persons, both for independent and assisted living, is provided to support the aging population of the shire. Aged care development is provided in suitable locations in the residential areas and urban expansion areas of the shire.

Comment

The subject land and all immediate surrounding lots are mapped as an urban expansion area by the Planning Scheme's Strategic Framework mapping. The subject site and immediate surrounding lots are considered to be significantly constrained from future urban development by both the existing size of the lots (which are consistent with the desired size of residential land not serviced by town sewer), the locations of the existing dwellings on these lots and the flood hazard constraint that encompasses most of the eastern half of the subject site as well as the land immediately surrounding the site.

The proposed development will not further compromise the development potential of the subject land anymore than it already is through existing configuration, built form and environmental constraints. The development does not conflict with the intent of Strategic Outcome 3.

*3.3.8 Element - Urban expansion and investigation areas**3.3.8.1 Specific outcomes*

- (1) Urban expansion areas and investigation areas are anticipated to provide for development beyond the life of the planning scheme and are preserved for this purpose, with interim development not compromising future residential development.*

Comment

The subject land and all immediate surrounding lots are mapped as an urban expansion area by the Planning Scheme's Strategic Framework mapping. The subject site and immediate surrounding lots are considered to be significantly constrained from future urban development by both the existing size of the lots (which are consistent with the desired size of residential land not serviced by town sewer), the locations of the existing dwellings on these lots and the flood hazard constraint that encompasses most of the eastern half of the subject site as well as the land immediately surrounding the site.

The proposed development will not further compromise the development potential of the subject land anymore than it already is through existing configuration, built form and environmental constraints. The development does not conflict with the intent of Specific Outcome 1.

3.3.8.2 Land use strategies

- (1) Investigation areas are to be investigated to accommodate future development beyond the life of the planning scheme. Investigation areas are not to be developed unless there is an insufficient supply of land for the purpose intended to be developed. The purpose of development in an investigation area should promote a logical land use pattern, having regard to nearby land use and the established hierarchy of activity centres. In the instance that new or expanded areas are investigated, these are to be supported by detailed land use investigations that must demonstrate:*
 - (a) need for land for the proposed land use;*
 - (b) mitigation or avoidance of impacts on sensitive receiving environments;*

- (c) *where involving good quality agricultural land:*
 - (i) *there is no alternative land available that is not good quality agricultural land; and*
 - (ii) *the need for future development represents a public benefit.*
- (d) *suitable mitigation or offset arrangements in respect to impacts on areas of high ecological significance*
- (e) *consistency with the Strategic Framework.*
- (f) *consistency with State and Regional Planning requirements.*

Comment

The subject land and all immediate surrounding lots are mapped as an urban expansion area by the Planning Scheme's Strategic Framework mapping. The subject site and immediate surrounding lots are considered to be significantly constrained from future urban development by both the existing size of the lots (which are consistent with the desired size of residential land not serviced by town sewer), the locations of the existing dwellings on these lots and the flood hazard constraint that encompasses most of the eastern half of the subject site as well as the land immediately surrounding the site.

The proposed development will not further compromise the development potential of the subject land anymore than it already is through existing configuration, built form and environmental constraints. The development represents logical infill development, making efficient and practical use of significantly constrained residential land and is therefore not considered to be in conflict with the intent of Land Use Strategy 1.

Relevant Developments Codes

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

- 6.2.4 Emerging community zone code
- 8.2.4 Environmental significance overlay code
- 8.2.6 Flood hazard 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
Emerging Community Zone Code	The application can be conditioned to comply with the relevant acceptable outcomes (and/or performance outcomes where no acceptable outcome is provided) contained within the code.
Environmental Significance Overlay Code	The application can be conditioned to comply with the relevant acceptable outcomes (and/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 (and/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 (and/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 (and/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 (and/or performance outcomes where no acceptable outcome is provided) contained within the code apart from the following: <ul style="list-style-type: none"> • Acceptable Outcome AO1.1 • Acceptable Outcome AO2.2 • Acceptable Outcome AO8.3 Refer to planning discussion section of report.
Works, Services and Infrastructure Code	The application can be conditioned to comply with the relevant acceptable outcomes (and/or performance outcomes where no acceptable outcome is provided) 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

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

(e) Adopted Infrastructure Charges Notice

In accordance with Council's Adopted Infrastructure Charges Resolution (No. 1) 2019, a charge of **\$14,100.00** will apply to the additional residential allotment created.

The \$14,100.00 charge was derived from a \$4,700.00 infrastructure charge for the following four (3) trunk infrastructure networks:

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

No infrastructure charge was applied for the Sewer as the property is not serviced by this trunk infrastructure network.

REFERRAL AGENCY

The application did not trigger referral to any Referral Agency.

Internal Consultation

Development Engineering

PUBLIC NOTIFICATION

The development proposal was placed on public notification from 25 July 2019 to 16 August 2019. The applicant submitted the notice of compliance on 19 August 2019 advising that the public notification requirements were carried out in accordance with the requirements of the Act. One (1) properly made submissions was received which objected to the proposed development. The grounds for objection/support are summarised and commented on below:

Grounds for objection /support	Comment
The existing secondary dwelling (granny flat) on the subject site is being used unlawfully.	The alleged unlawful use of the granny flat on the subject site is not relevant to the application for subdivision. Notwithstanding this, Council officers have been on the subject site and confirm the granny flat is being lawfully occupied.
The site is currently overdeveloped and is not consistent with the nature and character of the immediate surrounding area.	<p>The building bulk and scale on the site is actually not inconsistent with other lots along Debel Close with two other lots containing lawful granny flats and some lots including multiple outbuildings.</p> <p>If the proposed subdivision is approved, the granny flat will become the primary dwelling on proposed Lot 1. The flood hazard overlay mapping which constrains the majority of proposed Lot 1 will essentially ensure the lot is not significantly developed any further.</p> <p>The presence of the granny flat has no bearing on the assessment of the application. If proposed Lot 1 was vacant, the application would still likely be recommended for approval.</p>
The proposed development is in conflict with the intent of the Emerging Community Zone which is to protect land that may be suitable for urban development in the future and to manage the timely conversion of non-urban land to urban purposes.	This issue has been addressed and discussed throughout the body of the report. The proposal is not considered to be in conflict with any relevant aspect of the Planning Scheme.
The proposed development will compromise the future development potential of the land for urban purposes.	This issue has been addressed and discussed throughout the body of the report. The land and immediate surrounding land is significantly constrained from future urban development by existing lots sizes and configurations, the location of permanent improvements such as dwellings on surrounding lots, and the flood hazard constraints. The proposal is not considered to be in conflict with any relevant aspect of the Planning Scheme.
The reduced width access handle should be appropriately fenced, landscaped and the driveway constructed to an appropriate standard.	Has been conditioned to comply where considered relevant.

Grounds for objection /support	Comment
The planning report did not include an effluent disposal report nor any engineering comments in relation to the provision of adequate servicing of the site.	The two habitable structures on site are serviced by existing separate wastewater disposal systems. A condition has been included requiring a licensed surveyor provide a plan demonstrating that each disposal system is wholly contained within the lots that each system services. Each lot will be connected to all available urban services (apart from town sewer).
The proposed lots should be connected to Council's sewer network which was required for the Williams Close holiday park development.	This is not considered reasonable or relevant for a 1 into 2 lot subdivision located a considerable distance from the sewer network. The Planning Scheme allows on-site wastewater disposal where the land is not serviced by the town sewer network.
The creation of the additional lot will impact on the amenity of surrounding uses.	The proposed additional lot is consistent in size and use with other lots in the immediate vicinity and is not likely to have any amenity impacts on neighbouring properties outside that typically experienced with an increase in density which is the overarching future intent of this area.
Acoustic fencing should be installed to protect the amenity of residents to the south in Williams Close.	Acoustic fencing is not normally required to separate residential land uses from one-another. The requirement for the installation of acoustic fencing along the southern boundary of the land is not considered reasonable or relevant. Screen fencing is proposed along the common boundary of the new lots due to the proximity of the sites two dwellings.
The submitter claims the applicant/landowner has undertaken illegal operational work (earthworks) at the eastern end of the site, in particular illegal filling which has resulted in a change in location of a seasonal gully/watercourse that runs partially within the site but primarily within the lot to the east.	This is not relevant to the assessment of this development application for reconfiguring a lot and will be investigated separately by Council officers.

Submitters

Name of Principal submitter	Address
1. Freshwater Planning Pty Ltd on behalf of Greg Williams	17 Barron View Drive, Freshwater QLD 4870

PLANNING DISCUSSION

Compliance with the Performance Outcomes (where an acceptable outcome cannot be met) of the Reconfiguring a Lot Code are summarised as follows:

Reconfiguring a Lot Code

Area and frontage of lots

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

Table 9.4.4.3.B dictates that land within the Emerging Communities Zone achieve a minimum lot size of 10 hectares and a minimum frontage of 100m. The proposed reconfiguration is therefore non-compliant with AO1.1.

These minimum lot and frontage requirements are intended to advance and help achieve the overarching intent of the Emerging Communities Zone which is to preserve and protect land considered suitable for future residential development beyond the life of the Planning Scheme.

As previously discussed, the subject site and immediate surrounding lots are considered to be significantly constrained from future urban development by both the existing size of the lots (which are consistent with the desired size of residential land not serviced by town sewer), the locations of the existing dwellings on these lots and the flood hazard constraint that encompasses most of the eastern half of the subject site as well as the land immediately surrounding the site. The proposed development will not further compromise the development potential of the subject land anymore than it already is through existing configuration, built form and environmental constraints.

The development represents logical infill development, making efficient and practical use of significantly constrained residential land and both proposed lots will allow the desired amenity of the zone to be achieved. The proposed development complies with PO1.

Existing building and easements**PO2**

Reconfiguring a lot which contains existing land uses or existing buildings and structures ensures:

- (a) *new lots are of sufficient area and dimensions to accommodate existing land uses, buildings and structures; and*
- (b) *any continuing use is not compromised by the reconfiguration.*

AO2.2

All lots containing existing buildings and structures achieve the setback requirement of the relevant zone.

Comment

For residential land uses and structures like that contained on the subject site, Queensland Development Code setbacks of 1.5m from side and rear boundaries apply. Part of the existing dwelling (patio/carport awning) on proposed Lot 2 will be setback just 0.5 metres from the common boundary with proposed Lot 1.

This lesser boundary setback will encroach on the access handle of proposed Lot 1 only and is not likely to have any detrimental amenity impacts on the continued use of Lot 1 for residential purposes. The development will comply with PO2.

Rear lots**PO8**

Rear lots are designed to:

- (a) provide a high standard of amenity for residents and other users of the site;*
- (b) provide a high standard of amenity for adjoining properties; and*
- (c) not adversely affect the safety and efficiency of the road from which access is gained.*

AO8.3

Access to lots is via an access strip with a minimum width of:

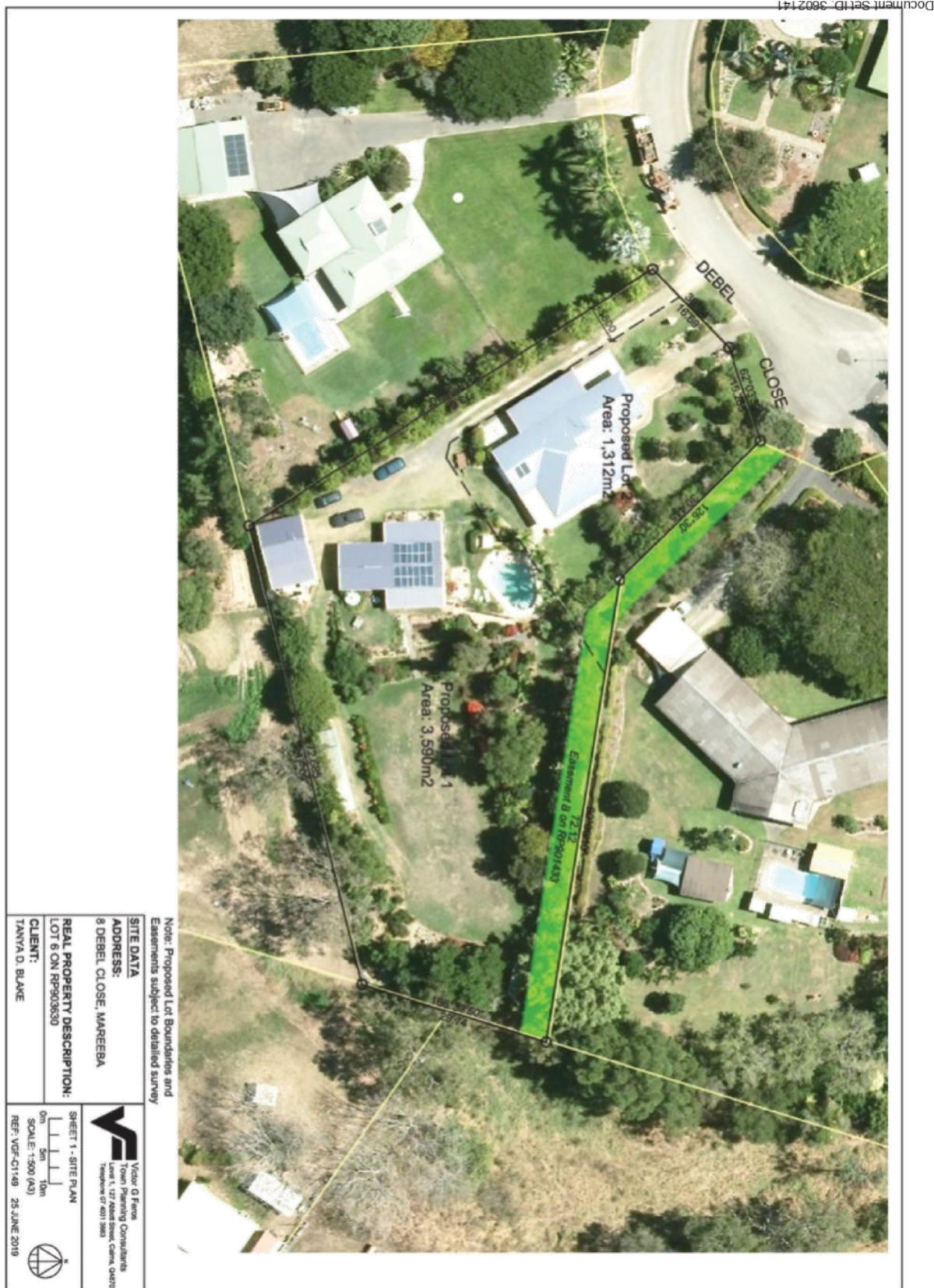
- (a) 4 metres where in the Low density residential zone or Medium density residential zone; or*
- (b) 8 metres otherwise.*

Comment

The subject site is situated within the Emerging community zone. Proposed Lot 1 includes an access strip of only 5.8 metres and is therefore non-compliant with AO8.3 (b).

Despite the access strip being narrower than the required 8m, the 5.8 metre wide strip provided is considered more than adequate and will ensure a high standard of amenity for residents of proposed Lot 1 as well as residents of proposed Lot 2 and Lot 7 on RP901433 situated on either side of the access strip. The proposed access handle is not likely to impact on the safety and efficiency of Debel Close.

The development complies with PO8.



Your Ref: RAL/19/0015
Our Ref: F19/18

15 August, 2019

Chief Executive Officer
Mareeba Shire Council
PO Box 154
MAREEBA QLD 4880



Attention: Regional Land Use Planning Group

Dear Sir,

**RE: PUBLIC NOTIFICATION SUBMISSION
APPLICATION FOR A RECONFIGURATION OF A LOT – 1 LOT INTO 2 LOTS
LOT 6 ON RP903630, 8 DEBEL CLOSE, MAREEBA.
DEVELOPMENT APPLICATION RAL/19/0015.**

The following Submission is provided in relation to the Reconfiguration that is currently under Public Notification for the Development Application RAL19/0015 located at 8 Debel Close, Mareeba. This Submission is submitted on behalf of Mr Greg Williams and his family, an adjoining property owner of the aforementioned site, who resides at and owns 1 and 2 Williams Close, Mareeba.

The Site

The site is understood to contain a single Dwelling and Approved 'Granny Flat' over a previously Zoned Rural Residential Allotment. The client is lead to believe that the current site does not use the Approved 'Granny Flat' (which contains three Bedrooms) for the purposes that it was originally Approved for. The overdevelopment of the site, containing a 5 Bedroom Dwelling, 3 Bedroom Secondary Dwelling, two separate garages including one with an additional laundry attached, three garden sheds and swimming pool was not considered to be within the Rural Residential nature and character of the immediate and surrounding area. Further to this, there does not seem to be sufficient nor appropriate protection of the amenity and visual aesthetics for this considered overdevelopment from the adjoining allotments. Whilst the proposed Development does aim to resolve this overdevelopment by dividing the existing structures over the site into two allotments, this still leaves a substantial amount of improvements over both allotments without any substantial separation between the site and Mr Williams property. It is clearly considered that the Approved 'Granny Flat' or Secondary Dwelling as nominated within the Report is substantial and large enough to be consider a dwelling itself especially considering its proposed Lot 2 also contains the substantial detached garage and laundry, swimming pool and Garden Sheds.

It is noted that Debel Close and McGrath Road does include existing allotments of 1,011 m² to 1,012 m² however, these allotments are understood to predate the Emerging Community Zoning of the site and area with the Survey Plan 901433 (attached to the Development Application) demonstrating these existing smaller allotments prior to February, 1996 (which even predates that Mareeba Shire Planning Scheme, 2004). As these existing allotments well predate the Emerging Community Zone and Superseded Mareeba Shire Planning Scheme, 2004, the use of these allotments for argumentative purposes within the currently Zoning is considered minimal.

Planning Scheme

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The site subject to the Development Application that is currently under Public Notification is understood to be designated within the Emerging Community Zone within the Mareeba Shire Planning Scheme. The purpose of the Emerging Community Zone is to *'identify land that is suitable for urban purposes and protect land that may be suitable for urban development in the future and to manage the timely conversion of non-urban land to urban purposes'*. The proposal is not considered to protect the designated non-urban suitable for development within the future as the proposal effectively restricts any future development over the site. The proposed Reconfiguration configuration ensures that there is no ability for future development over the site with the proposed Reconfiguration resulting in layout not conducive to Urban Developments. The proposal results in the provision of a 1,365 m² Allotment and a rear access (battleaxe) allotment with an area of 3,537 m² which is constrained from further development. In addition to this, the proposal is not considered to manage the timely conversion of non-urban land to urban purposes as there are a substantial number of vacant, available and Approved Residential and Rural Residential Allotments within the Mareeba Shire. It is not considered that appropriate justification has been provided for the conversion of this non-urban land to urban purposes.

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The Emerging Community Zone is considered to allow for *'the sequenced release of land to meet community need and market demand for new urban development in designated urban growth areas'*. However, Mr Williams does not consider this area to be of an immediate growth area within the Shire nor has sufficient evidence been provided to meet the community need and market demand for this type of development. The Mareeba Shire Planning Scheme nominates that *'Urban development may occur in the zone in accordance with an approved structure plan but the primary purpose of the zone and the code is to reserve land for future urban development, the majority of which is likely to occur beyond the life of the planning scheme'*. Whilst the Zoning does allow for Development within the life of the Planning Scheme, there is no immediate need demonstrated nor has any significant effort to protect the existing nature and character of the area been provided. The resulting impacts to the adjoining allotments need to be mitigated to aid in justification for the Development.

The Emerging Community Zone states that *'Interim development does not compromise the future development potential of the land for urban purposes'* with the proposed layout not resulting in the ability for future or further development of the site. The proposal is not considered of orderly sequence nor a minor proposal given the resulting configuration. It is considered that the proposal does not develop land in a sustainable manner to reflect the desired land use patterns which does not conform to the purpose of the Zone Code.

The Reconfiguration of a Lot Code requires that any rear access allotment contain a minimum width of 8.0 metres with the proposal only providing 4.5 metres. It is considered that a reduction in the width of the Rear Allotment acceptable given the current constraints of the proposal however, this should be appropriately fenced and vegetated (screened) with the removal and relocation of the rear access handle's driveway to a three (3) metre concrete or bitumen handle requiring the removal of the existing vegetation along the boundary. The 4.5 metre should be required to contain appropriate screening via both fencing and landscaping. This will need to ensure that no adverse impacts are provided to the adjoining allotments and allotment owned by Mr William given the increased traffic, noise, light spray, etc resultant of the Secondary Structure now being considered a standalone Dwelling House.

The proposal did not include an Effluent Disposal Report nor any Engineering Comments in relation to the provision of adequate servicing of the site. The proposal did include the location of the existing trenches for the purposes of demonstrating setbacks to new boundaries however, this did not include the location of the waste from the laundry attached to the garage which is provided with a water connection and any other water waste associated with the laundry/garage. The provision of an Effluent Disposal Report or comments by a suitably qualified Engineer or equivalent should be Conditioned to be provided as part of any Approval. Further to this,

the proposal seeks to provide Urban Purposes over the site with the proposal Reconfiguration. The recently Approved Development within Williams Close for Urban Purposes contained sufficient area for the provision of Effluent Disposal however, was required by Council to connect to the Reticulated Sewerage Network. Given the site's proximity and proposal for Urban Purposes negating the existing Rural Residential Uses over the site, the proposal should be provided with connection to all Urban Services. The connection to the existing Reticulated Sewerage Network is considered acceptable and appropriate within this instance given the recent Approved Development within Williams Close and the site proximity to the Approved Development and its proposed Urban Uses. Page 3

The proposed Reconfiguration is not considered to conform to the existing nature and character of the immediate and surrounding area and will result in the affects to the visual aesthetics and amenity of the site. The proposal will result in the increased activity by providing additional population over the site from what is considered to be a Secondary Dwelling. If there is not change to the level of Use to what is existing then Mr Williams is correct that the current Use is not as per what the additional structure was originally Approved for and a Show Cause Notice should be granted over the site. Given this increase by the creation of an additional allotment over the site, Mr Williams is concerned that the increase will upset the existing amenity and visual aesthetics to his adjoining property and surrounding Dwelling Houses. The proposal does not offer any protection to Mr Williams from the increased development of the site and as per noted in the Town Planning Submission *'that the proposal will achieve the future development potential of the subject site for urban purposes'*.

Proponents Submission

In relation to the recent Development Approval provided over the allotment adjoining the site of the current Development Application, the Blake's (inclusive of Tanya Blake the applicant for this Development Application) provided a Submission within the Public Notification process outlining that *'After spending a million dollars on our retirement place of residence. Being told by the council that this is a Rural Residential stable, previously established and well settled subdivision. Where we could live peacefully'*. The Submissions main concern was with the amenity and noise from the increased Development of the site affecting their Rural Residential Lifestyle and the Lifestyle of Debel Close stating that Development would be *'destroying so many family's right to peace and quite (sic)'* in addition to *'This sound will echo and reverberate, over our back fence. Over our neighbours back fence, across their block onto our property'*. The Blakes also noted that *'development will damage our peaceful expensive investment and will totally destroy the FAITH, the integrity what everyone believed we had'*. Similar comments were also received within the Submissions from Residents within Debel Close noting the affect that any Development would have over the existing nature and Rural Residential character of Debel Close. Ms Blake's proposal is now to allow for Urban Purposes and Urban Development within this Rural Residential Area that she and residents within Debel Close fought so hard to protect.

The proposal provides for an increase in scale, population and development over the site into an Urban format within an existing Rural Residential Character Area. This has been proposed without any amelioration or regards to the impacts that this increased development will have on the surrounding properties. Proposed Lot 1 contains an area of 1,365 m² and contains a significant site coverage which is not in character or nature of the immediately surrounding area. It is not considered that the proposal has appropriately provided sufficient mitigation measures to ensure to protect the existing amenity, visual aesthetics and character of the site and its surrounding area.

Mr Williams is also concerned on behalf of the all the Residents within Debel Close given their strong opinions in relation to the recent Development Approval within Williams Close especially in relation to the affect that development would have by providing Urban Uses within their established Rural Residential Area of which Ms Blake is now proposing within Debel Close.

Conclusion

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Whilst the proposed Reconfiguration is considered not to develop land in a sustainable manner to reflect the desired land use patterns which does not conform to the purpose of the Zone Code, Mr Williams is not against Development within the Shire nor over this adjoining allotment. However, he does believe that Development needs to be appropriate, limiting any additional impacts that may arise from the Development or increase in population. Mr Williams does not believe that the proposal provides for appropriate mitigation measures to protect the existing nature and character of the area and requests that Council impose the following within the Conditions of any Approval provided over the site:

- ✦ Council ensure that the setbacks for Buildings are provided in accordance with the Queensland Development Code and remain at 1.5 metres from the proposed new common boundary at a minimum.
- ✦ The reduction in the width of the Rear Access Allotment is considered acceptable provided that it contains appropriate vegetation screening and solid fencing given its proximity adjoining Residential properties. It is considered appropriate that Council Condition Acoustic Fencing and the provision of a Landscaping Strips within the rear access handle continuing along the entire length of the western boundary.
- ✦ The Report nominates that the proposal to be Urban Expansion resulting in an Allotment less than 1,400 m² to be used for Urban Purposes negating the existing Rural Residential Uses over the site. However, the proposal does not supply all Urban Services nor an Engineering Report dealing with services, in particularly Effluent Disposal, rather just the location of the existing trenches for the purposes of demonstrating setbacks to new boundaries. An Engineering Report should be Conditioned to be provided covering all aspects of servicing and Stormwater disposal.
- ✦ The Urban Development Approved within Williams Close was required to connect to the Reticulated Sewerage System and given's the proposal's proximity to the site and proposed Urban Purpose Uses, it is considered fair, reasonable and appropriate that the proposed Urban Reconfiguration be required to be connected to all Urban Services including the Reticulated Sewerage Network.
- ✦ The additional increase in population and conversion from existing Rural Residential natured and characterd Uses over the site to Urban Purposes and Urban Uses has not been adequately addressed over the site which will directly affect the amenity, noise and visual aesthetics to Mr Williams adjoining property and properties within Williams Close. It is requested that Council Condition the provision of Acoustic Fencing (2.4 m in height) and Landscaping Strips similar to those Conditioned within the recent Development Approval for Williams Close along the southern boundary of the site protecting the existing area from the encroachment of Urban Uses.

Yours faithfully,



MATTHEW ANDREJIC ON BEHALF OF MR GREG WILLIAMS

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From: Freshwater Planning
Sent: 16 Aug 2019 14:27:17 +1000
To: Natacha Jones
Subject: Additional Submission - RAL/19/0015 - 8 Debel Close, Mareeba

MSC Planning Admin,

In addition to the provided Public Notification Submission in relation to the Development Application RAL/19/0015 located at 8 Debel Close, Mareeba care of Mr Greg Williams. Mr Williams who's address is 1 & 2 Williams Close, Mareeba and Postal Address is PO Box 173, MAREEBA QLD 4880 would also like the following to be noted in addition to the already provided Submission.

Mr Williams understands that the applicant of the site has undertaken illegal filling of the waterway/watercourse that now abuts and is located along the rear of the allotment. Mr Williams, who is a previous owner of land that incorporate the proposed site notes that the original location of the watercourse was located traversing a different path of the site which is understood to be no longer the case given the provision of suspected illegal filling. This has had an affect on the existing waterway and requests that this be investigated as part of the Development Assessment undertaken by Council Officers over the site and that appropriate measures be taken by the Council.

Thanks and Regards,

Matt Andrejic
On behalf of Mr Greg Williams



Matthew Andrejic
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