## **DELEGATED REPORT**

SUBJECT: G OWEN & C RETTER - RECONFIGURING A LOT -

SUBDIVISION (1 INTO 6 LOTS & ACCESS EASEMENTS) IN 3 STAGES - LOT 2 ON RP734383 - 19 KULLAROO CLOSE,

**KURANDA - RAL/19/0016** 

**DATE:** 25 July 2019

REPORT OFFICER'S

TITLE: Planning Officer

**DEPARTMENT:** Corporate and Community Services

### APPLICATION DETAILS

APPLICATION		PREMISES		
APPLICANT	G Owen & C Retter	ADDRESS	19 Kullaroo Close,	
			Kuranda	
DATE LODGED	10 July 2019	RPD	Lot 2 on RP734383	
TYPE OF	Development Permit			
APPROVAL				
PROPOSED	Reconfiguring a Lot - Su	bdivision (1 i	nto 6 lots and access	
DEVELOPMENT	easements) in 3 stages	•		

FILE NO	RAL/19/0016 <b>AREA</b> 2.878 hectares		2.878 hectares
LODGED BY	Brazier Motti Pty Ltd	OWNER	G Owen & C
	-		Retter
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Low Density Residential zone		
LEVEL OF	Code Assessment		
ASSESSMENT			
SUBMISSIONS	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.

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

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 Owen & C Retter	Owen & C Retter ADDRESS 19 Kullaro		
			Kuranda	
DATE LODGED	10 July 2019	RPD	Lot 2 on RP734383	
TYPE OF	Development Permit			
APPROVAL	•			
PROPOSED	Reconfiguring a Lot - Subdivision (1 into 6 lots and access easements)			
DEVELOPMENT	in 3 stages		·	

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 6 lots and access easements) in 3 stages

## (B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
31236/003B	Proposed Reconfiguration (Stage 1)	Brazier Motti	28 June 2019
31236/004B	Proposed Reconfiguration (Stage 2)	Brazier Motti	28 June 2019
31236/005A	Proposed Reconfiguration (Stage 3)	Brazier Motti	28 June 2019

## (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 for each stage, except where specified otherwise in these conditions of approval.

### 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 or 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 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 <u>new</u> property boundaries are to be in accordance with Planning Scheme requirements for the relevant structure and/or Queensland Development Code. A plan demonstrating compliance of any existing buildings or structures that are in close proximity to any new property boundary must be submitted prior to endorsement of the plan of survey.
- 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 A suitable kerbside mobile garbage bin placement/collection area is to be provided on Kullaroo Close to the satisfaction of Council's delegated officer.

# 3.9 Environmental Covenant

The applicant shall be responsible for the preparation and registration of a statutory covenant/s with Council pursuant to S97A of the Land Title Act for the purposes of preserving native animals, plants and their habitat.

The covenant will be of a form that is acceptable to the Registrar of Titles and Council's delegated officer.

The covenant area shall comprise those parts of proposed lots identified as Cov A to D on the approved plans. The covenant area may strictly exclude any areas where vegetation clearing is necessary for stormwater retention purposes only, to the satisfaction of Council's delegated officer.

The covenant shall stipulate that the covenant area must be protected, preserved and conserved, including by strictly adhering to the following non-exhaustive conditions (which may be varied by written agreement between the parties):-

- (a) no existing living vegetation or hereafter existing in the covenant area, may be cut down, damaged or destroyed;
- (b) no buildings or fences may be erected in the covenant area;
- (c) no native animals within the covenant area shall be killed or interfered with:
- (d) no other acts may be carried out on or in respect of the covenant area which, in the opinion of the Council, acting reasonably may have a detrimental impact on the covenant area;

Notwithstanding clause (a) to (d), if any living or dead vegetation on the covenant area poses a risk to human safety:-

(e) The vegetation may be cut down or trimmed with the prior written consent of the Council, not to be unreasonably withheld, so as to remove the risk;

Notwithstanding clause (a) to (e), if any native or indigenous animal on the covenant area poses a risk to human safety the native or indigenous animal may be removed with the prior written consent of the Council and any other approvals which might be required by law.

The covenant agreement shall be signed by the registered owner prior to Council endorsement of the survey plan for each stage containing any of the proposed covenant area, and the signed covenant shall be jointly lodged for registration with the survey plan, in the Department of Natural Resources, Mines and Energy.

The covenant document shall be to the satisfaction of Council's delegated officer, and the applicant shall be responsible for the cost of preparation and registration of the covenant.

### 3.10 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.

### Infrastructure Services and Standards

### 4.1 Access

- 4.1.1 An access crossover must be constructed or upgraded from the edge of the Kullaroo Close road pavement to the proposed access driveway in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.
- 4.1.2 A bitumen, asphalt or concrete access driveway shall be constructed within the easement servicing Lots 3, 4, 5 and 6 for the respective stage of the development to the satisfaction of Council's delegated officer. The driveway will:
  - have a minimum formation width of:
    - 4 metres within Easement A (Stage 1); and
    - 3 metres within Easements C and D (Stage 3);
  - be constructed for the full length of the easement;
  - be formed with one-way crossfall to cater for stormwater drainage such that any stormwater is contained within the easement;
  - include service and utility conduits to be provided for the full length of the concrete or bitumen sealed driveway.
- 4.1.3 Prior to works commencing, plans for the works described above must be approved as part of a subsequent application for operational works.

# 4.2 Access/Services/Drainage Easement

To provide for the shared access driveway mentioned in Condition 4.1, an easement/s must be established for the purposes of access, drainage, maintenance and servicing for Lots 3, 4, 5 and 6.

The registered easement/s must be maintained in perpetuity to ensure Lots 3, 4, 5 and 6 do no become land locked.

The approved easement documents must be submitted at the same time the applicant/developer seeks endorsement of the plan of survey for the respective stage of the development and must be lodged and registered in the Department of Natural Resources, Mines and Energy in conjunction with the plan of survey.

- 4.3 Stormwater Drainage/Water Quality
  - (a) The applicant/developer must take all necessary steps to ensure a nonworsening effect on surrounding land as a consequence of the development.
  - (b) Prior to works commencing the applicant must submit a Stormwater Management Plan and Report prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual to the satisfaction of Council's delegated officer.

The Stormwater Management Plan and Report must include the design for the completed development and must also demonstrate how this stormwater infrastructure will be staged across the three (3) stages.

- (c) The Stormwater Quality Management Plan must include an Erosion and Sediment Control Plan that meets or exceeds the Soil Erosion and Sedimentation Control Guidelines (Institute of Engineers Australia) to the satisfaction of Council's delegated officer.
- (d) The applicant/developer must construct the stormwater drainage infrastructure in accordance with the approved Stormwater Management Plan and/or Stormwater Quality Management Plan and Report.
- (e) Temporary drainage is to be provided and maintained during the construction phase of the development, discharged to a lawful point and not onto the construction site.
- (f) All stormwater channels through private property must be registered, with the easement for drainage purposes in favour of Council. All documentation leading to the registration of the easement must be completed at no cost to Council.
- (g) All stormwater drainage from the site must be discharged to an approved legal point of discharge.

# 4.4 Water Supply

- (a) Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity, the developer is required to extend or upgrade the reticulated water supply infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).
- (b) A water service connection must be provided to each proposed allotment in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.
- (c) Fire hydrants are to be located in accessways or private roads at a maximum spacing of 120 metres; and at all intersections of accessways or private roads.

## 4.5 Sewerage Connection

4.5.1 The developer must provide a connection for each proposed allotment to Council's reticulated sewerage system in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

4.5.2 Where sewerage connections are not available to the site, or where existing connections are not satisfactory for the proposed development, the developer is required to extend or upgrade the reticulated sewerage infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

# 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.

## (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) 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.

## (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.

#### Compliance with applicable codes/policies (e)

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 covenant
- a registered easement over the subject site

#### Environmental Protection and Biodiversity Conservation Act 1999 (g)

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.

#### Cultural Heritage (h)

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);
- OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS (F)
  - Development Permit for Operational Works
- (G) OTHER APPROVALS REQUIRED FROM COUNCIL
  - Nil

Document Set ID: 3610760

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

<b>Development Type</b>	Rate	Measure	Charge	Credit Detail	Balance
	\$ per Lot	Lots		Lots	
Stage 1 - Residential	\$18,800.00	2 Lots	\$37,600.00	1 Lot - \$18,800.00	\$18,800.00
Stage 2 - Residential	\$18,800.00	1 Lots	\$18,800.00	Nil	\$18,800.00
Stage 3 - Residential	\$18,800.00	3 Lots	\$56,400.00	Nil	\$56,400.00
TOTAL CURRENT AMOUNT OF CHARGE			\$94,000.00		

## THE SITE

The subject site is situated approximately 1 kilometre south of Kuranda's town centre at 19 Kullaroo Close, Kuranda and described as Lot 2 on RP734383, Parish of Cairns, County of Nares. The site is a large battleaxe shaped allotment with a total area of 2.878 hectares and is zoned Low Density Residential under the Mareeba Shire Council Planning Scheme 2016.

The site's access handle, which is similar in size to that of surrounding residential allotments, contains a frontage of 30.7 metres to Kullaroo Close which is constructed to bitumen sealed standard, including kerb and channel, for its entire length. The site currently gains access from Kullaroo Close, through this access handle.

The site is currently improved by a single dwelling and associated outbuildings situated on the western portion of the site. This dwelling and ancillary buildings will be incorporated within the proposed development. Topographically, the site slopes down to the north east, draining naturally into the Jumrum Environmental Park to the north of the site and the Barron River to the east of the site. Approximately two thirds of the site, extending along its northern boundary and down to the south-east corner of the site is covered in thick mature vegetation. The remainder of the site is cleared and grassed containing only scattered mature vegetation.

The site is currently connected to Council's reticulated water supply and sewerage networks as well as local area telecommunications and electricity infrastructure. All surrounding lots directly to the south and west of the site are zoned Low Density Residential and used for residential purposes while the Jumrum Environmental Park located directly to the north of the site is zoned Conservation.



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

A previous material change of use and reconfiguring a lot development approval remains in effect over the subject land.

This existing approval is not relevant to the proposed development.

## **DESCRIPTION OF PROPOSED DEVELOPMENT**

The development application seeks a Development Permit for Reconfiguring a Lot - Subdivision (1 into 6 lots and access easements) in 3 stages in accordance with the plans shown in **Attachment 1**.

The details of the proposed allotments are as follows:

- Lot 1 area of 848m2, 20.38 metres frontage to Kullaroo Close;
- Lot 2 area of 1,960m2, 10 metres frontage to Kullaroo Close;
- Lot 3 area of 5,633m2, access to Kullaroo Close via easement (Emt A 10 metres wide);
- Lot 4 area of 4,915m2, access to Kullaroo Close via easement (Emt A 10 metres wide);
- Lot 5 area of 4,265m2, access to Kullaroo Close via easements (Emt A 10 metres wide & Emt C - 8 metres wide); and
- Lot 6 area of 1.116 hectares, access to Kullaroo Close via easements (Emt A 10 metres wide, Emts C and D 8 metres wide).

The development is intended to occur in the following 3 stages:

- Stage 1 Lots 1, 3 & 200, Easements A and B. Easement B is for drainage and proposed Lot 200 is a balance allotment.
- Stage 2 Lots 4 & 200, Easement C.
- Stage 3 Lots 2, 5 & 6, Easement D.

Proposed Lot 1 will be accessed directly via its Kullaroo Close frontage. Access to proposed Lot 2 to 6 will be via an access handle/easement arrangement allowing all allotments to use Lot 2's 10 metre road frontage. A sealed driveway will be constructed within the access handle/easements.

All proposed lots will be provided with access to all urban services including reticulated town water and sewerage.

Statutory covenants will be registered over Lots 3 to 6 to protect the native vegetation and mapped wildlife habitat area.

# **REGIONAL PLAN DESIGNATION**

The subject site is included within the Urban Footprint 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

- Terrestrial Area of High Ecological Significance
- Terrestrial Area of General Ecological Significance

## PLANNING SCHEME DESIGNATIONS

**Land Use Categories** 

Residential Area

Strategic Framework: Natural Environment Elements

Biodiversity Area

Zone: Low Density Residential zone

Airport Environs Overlay

Environmental Significance

Overlay

Hill and Slope Overlay

### **RELEVANT PLANNING INSTRUMENTS**

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

# (a) Far North Queensland Regional Plan 2009-2031

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

# (b) State Planning Policy

Overlays:

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:

- 6.2.6 Low density residential zone code
- 8.2.2 Airport environs overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.8 Hill and slope overlay code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.4 Reconfiguring a lot code
- 9.4.5 Works, services and infrastructure code

The application included a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable outcomes (or performance outcome where no acceptable outcome applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments		
Low density 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).		
Airport environs 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).		
Environmental significance 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).		
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).		
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).		
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

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) Adopted Infrastructure Charges Notice

In accordance with Council's Adopted Infrastructure Charges Resolution (No. 2) 2019, a charge of \$18,800.00 will apply to each additional residential allotment created.

The \$18,800.00 charge was derived from a \$4,700.00 infrastructure charge 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 proposes the creation of six (6) residential lots. A credit of \$18,800.00 applies to the existing vacant lot.

 $18,800.00 \times 5 \text{ (lots)} = 94,000.00$ 

# **REFERRALS**

This application did not trigger referral to a Concurrence Agency.

# **Internal Consultation**

**Technical Services** 

# **PLANNING DISCUSSION**

Nil

Date Prepared: 25 July 2019

### **DECISION BY DELEGATE**

## DECISION

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

Dated the 25T4 day of JUCY 2019

BRIAN MILLARD SENIOR PLANNER

MAREEBA SHIRE AS A DELEGATE OF THE COUNCIL

# **ATTACHMENT 1**

# **PROPOSAL PLANS**





