

DELEGATED REPORT

SUBJECT: ROTOCULT LTD - RECONFIGURING A LOT - BOUNDARY REALIGNMENT - LOT 24 ON SP193149 & LOT 138 ON SP179170 - 41 COOLAMON CLOSE & RAY ROAD, MAREEBA - RAL/19/0021

DATE: 15 October 2019

REPORT OFFICER'S TITLE: Planning Officer

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	Rotocult Ltd	ADDRESS	41 Coolamon Close & Ray Road, Mareeba
DATE LODGED	4 October 2019	RPD	Lot 24 on SP193149 & Lot 138 on SP179170
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Boundary Realignment		

FILE NO	RAL/19/0021	AREA	Lot 24 - 27.25ha Lot 138 - 60ha
LODGED BY	Rotocult Ltd	OWNER	Lot 24 - Rotocult Ltd Lot 138 - R&T Reid Holdings Pty Ltd
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural zone		
LEVEL OF ASSESSMENT	Code 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.

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	Rotocult Ltd	ADDRESS	41 Coolamon Close & Ray Road, Mareeba
DATE LODGED	4 October 2019	RPD	Lot 24 on SP193149 & Lot 138 on SP179170
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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

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
Reference 8350 - Lot Layout - Sheets 1 & 2	Proposed reconfiguration of Lot 24 on SP193149 & Lot 138 on SP179170	Twine Surveys	25.04.2019

(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

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 Planning Scheme requirements for the relevant structure and/or Queensland Development Code. Where existing building/s are in proximity to new property boundaries, a plan demonstrating compliance with the required setback must be submitted prior to endorsement of the plan of survey.

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 Easement

An access easement as shown on the approved plan must be registered within proposed Lot 13 in favour of proposed Lot 12.

Prior to the endorsement of the plan of survey, the easement Form 9 and Form 20 must be submitted for review by Council's delegated officer.

4.2 Stormwater Drainage

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

4.2.2 All stormwater drainage must be discharged to an approved legal point of discharge.

(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) 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 easement over the subject site

(f) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from www.environment.gov.au.

(g) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the “cultural heritage duty of care”). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from www.datsip.qld.gov.au.

(E) RELEVANT PERIOD

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

- Reconfiguring a Lot – four (4) years (starting the day the approval takes effect);

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

- Nil

(G) OTHER APPROVALS REQUIRED FROM COUNCIL

- Nil

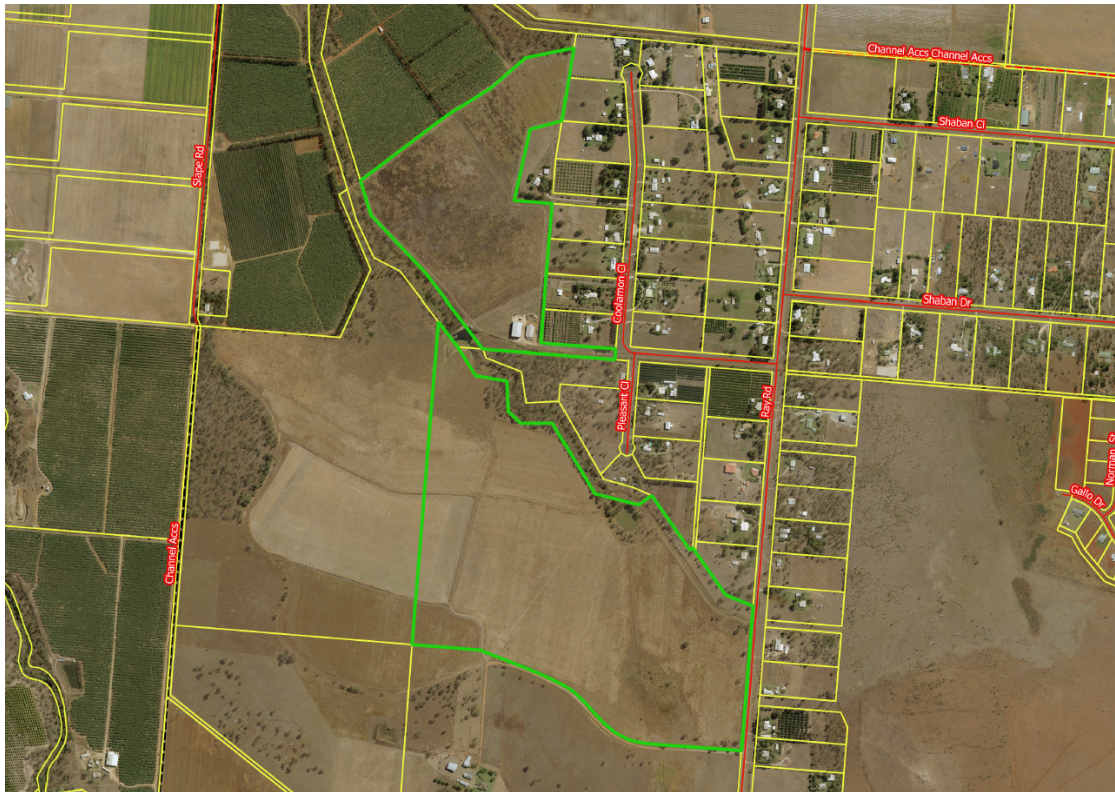
THE SITE

The subject site comprises the following allotments:

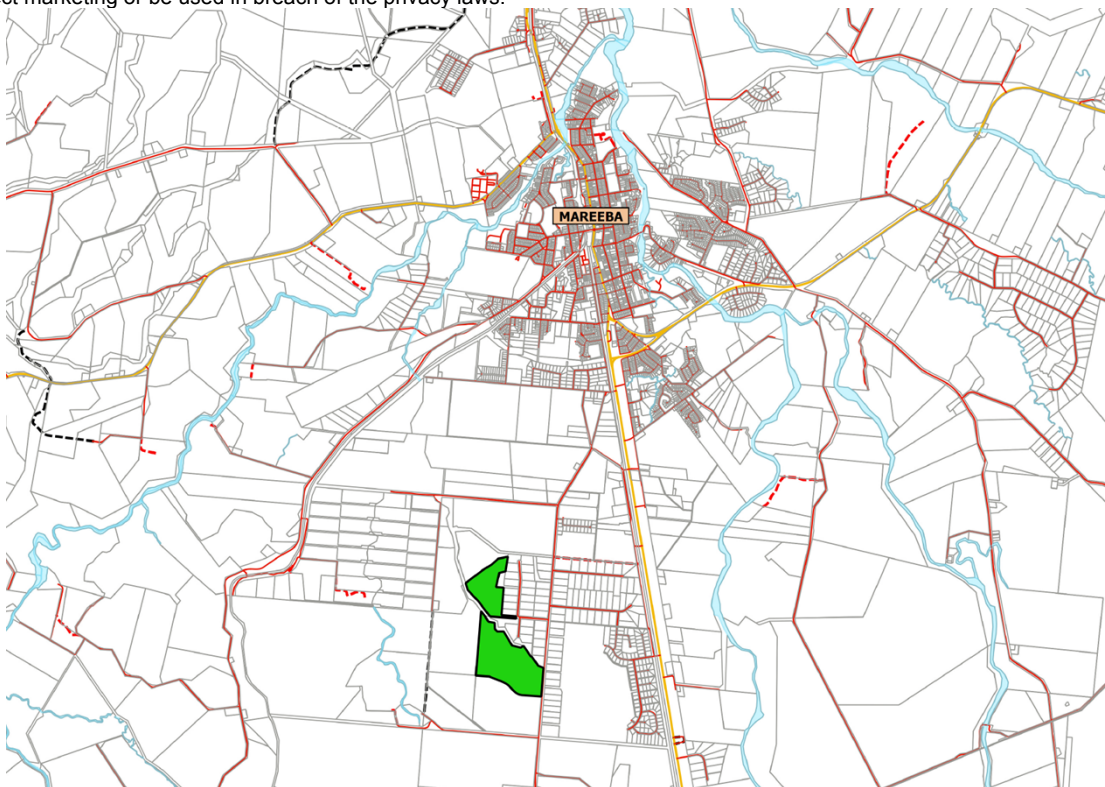
- Lot 24 on SP193149, area of 27.25 hectares, frontage of approximately 30 metres to Coolamon Close;
- Lot 138 on SP179170, area of 60 hectares, frontage of approximately 400 metres to Ray Road.

Access to each lot is provided off their respective frontage road. Ray Road and Coolamon Close are both constructed to bitumen sealed standard.

Both lots have a long history of agricultural production and have been previously cleared for this purpose. Lot 138 has recently been de-rocked and planted with banana's. A new farm shed has been constructed in the extreme south-eastern corner of Lot 138.

**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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Lot 24 was planted with bananas' up until its purchase by Rotocult Ltd in the mid 2000's. Rotocult Ltd established a rural industry on Lot 24 to manufacture the rotocult tractor implement. The two (2) sheds sited in the south-eastern corner of Lot 24 continue to be used for this purpose and it is intended that this manufacturing continue on proposed Lot 13.

The subject site is adjoins rural residential allotments to the east and rural allotments to the west.

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 in accordance with the plans shown in **Attachment 1**.

The proposed allotments are generally in accordance with the following:

- Lot 12 - area of 84.28 hectares, frontage of approximately 400 metres to Ray Road;
- Lot 13 - area of 2.97 hectares, frontage of approximately 30 metres to Coolamon Close.

The realignment will transfer approximately 24.28 hectares of Lot 24 into Lot 138. It is intended that the realigned Lot 12 will be developed with banana plantations, whilst Lot 13 will continue to be used by Rotocult Ltd for rural industry purposes.

The boundary realignment will not alter the access or servicing arrangements for either allotment, however an additional access easement will be created within Lot 13, in favour of Lot 12, to allow legal access to Lot 12 from Coolamon Close.

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 as:

- *Wetland Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories
	<ul style="list-style-type: none"> ▪ Rural Agricultural Area
Zone:	Natural Environment Elements
	<ul style="list-style-type: none"> ▪ Biodiversity Areas
Overlays:	Rural zone
	<ul style="list-style-type: none"> ▪ Agricultural Land Overlay ▪ Airport Environs Overlay ▪ Bushfire Hazard Overlay ▪ Environmental Significance Overlay ▪ Regional infrastructure corridors and substations 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
- 8.2.1 Agricultural land overlay code
- 8.2.2 Airport environs overlay code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.9 Regional infrastructure corridors and substations 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 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
Rural 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).
Agricultural land 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).
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).
Bushfire hazard 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).
Regional infrastructure corridors and substations 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	<p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code apart from the following:</p> <ul style="list-style-type: none"> Acceptable Outcome AO1.1 <p>It is considered that the proposed development can achieve compliance with the higher order performance outcome PO1. Refer to code document for commentary.</p>
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 relevant development works be designed and constructed in accordance with FNQROC Development Manual Standards.

(f) Adopted Infrastructure Charges Notice

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

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

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

REFERRALS

The application did not trigger referral to any Referral Agency.

Internal Consultation

Technical Services

PLANNING DISCUSSION

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

Reconfiguring a Lot Code

PO1

Lots include an area and frontage that:

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

AO1.1

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

Comment

The subject land is zoned Rural.

Existing Lot 138 complies with the desired minimum lot size of 60 hectares for the rural zone. Existing Lot 24 at 27.25 hectares does not.

The proposed development is for a boundary realignment only with no additional lots proposed.

Proposed Lot 13 will continue to fall well short of 60 hectares minimum, but will be consistent with the size of the adjoining rural residential allotments to the east and south.

The proposed new lot configuration will achieve a better outcome for the agricultural use (bananas) of proposed Lot 12.

The proposed reconfigured lot layout is considered to comply with PO1.

Date Prepared: 15 October 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 15TH day of October 2019



BRIAN MILLARD
SENIOR PLANNER

MAREEBA SHIRE
AS A DELEGATE OF THE COUNCIL

PROPOSAL PLANS

