

## 8 CORPORATE AND COMMUNITY SERVICES

**8.1 CD NASTASI AG PTY LTD & SD NASTASI AG PTY LTD - RECONFIGURING A LOT - SUBDIVISION (1 INTO 2 LOTS) - LOT 51 ON SP243993 - 57 STUDDT ROAD, MAREEBA - RAL/19/0024**

**Date Prepared:** 2 December 2019

**Author:** Senior Planner

**Attachments:** 1. Proposal Plan

### APPLICATION DETAILS

APPLICATION		PREMISES	
<b>APPLICANT</b>	CD Nastasi AG Pty Ltd TTE & SD Nastasi AG Pty Ltd TTE	<b>ADDRESS</b>	57 Studt Road, Mareeba
<b>DATE LODGED</b>	11 November 2019	<b>RPD</b>	Lot 51 on SP243993
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Reconfiguring a Lot - Subdivision (1 into 2 lots)		
<b>FILE NO</b>	RAL/19/0024	<b>AREA</b>	15.1674 hectares
<b>LODGED BY</b>	CD Nastasi AG Pty Ltd TTE & SD Nastasi AG Pty Ltd TTE	<b>OWNER</b>	CD Nastasi AG Pty Ltd TTE & SD Nastasi AG Pty Ltd TTE
<b>PLANNING SCHEME</b>	Mareeba Shire Council Planning Scheme 2016		
<b>ZONE</b>	Rural zone		
<b>LEVEL OF ASSESSMENT</b>	Code Assessment		
<b>SUBMISSIONS</b>	n/a		

### 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.

The application and supporting material have been assessed against the Mareeba Shire Council Planning Scheme 2016 and is in conflict with a single Performance Outcome contained within the Agricultural Land Overlay Code relating to the conservation and protection of rural land.

The proposed development conflicts with the overarching intent of the Agricultural land overlay code as it would result in further fragmentation of rural land in general.

It is recommended that the application be refused.

**OFFICER’S RECOMMENDATION**

1. That in relation to the following development application:

APPLICATION		PREMISES	
<b>APPLICANT</b>	CD Nastasi AG Pty Ltd TTE & SD Nastasi AG Pty Ltd TTE	<b>ADDRESS</b>	57 Studt Road, Mareeba
<b>DATE LODGED</b>	11 November 2019	<b>RPD</b>	Lot 51 on SP243993
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	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:

Refused by Council for reasons set out in (B).

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

(B) ASSESSMENT MANAGER’S REASONS FOR REFUSAL:

1. *The proposed development is in conflict with Overall outcome (a) of the Agricultural land overlay code;*
2. *The proposed development conflicts with the following Performance Outcome of the Agricultural land overlay code:*

**PO6**

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

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

**THE SITE**

The subject site is situated at 57 Studt Road, Mareeba and is described as Lot 51 on SP243993. The site is generally regular in shape with a total area of 15.16 hectares and is zoned *Rural* under the Mareeba Shire Council Planning Scheme 2016.

The site has frontage of approximately 330 metres to Keegan Road which is constructed to a rural road gravel standard. Access is obtained via this same frontage.

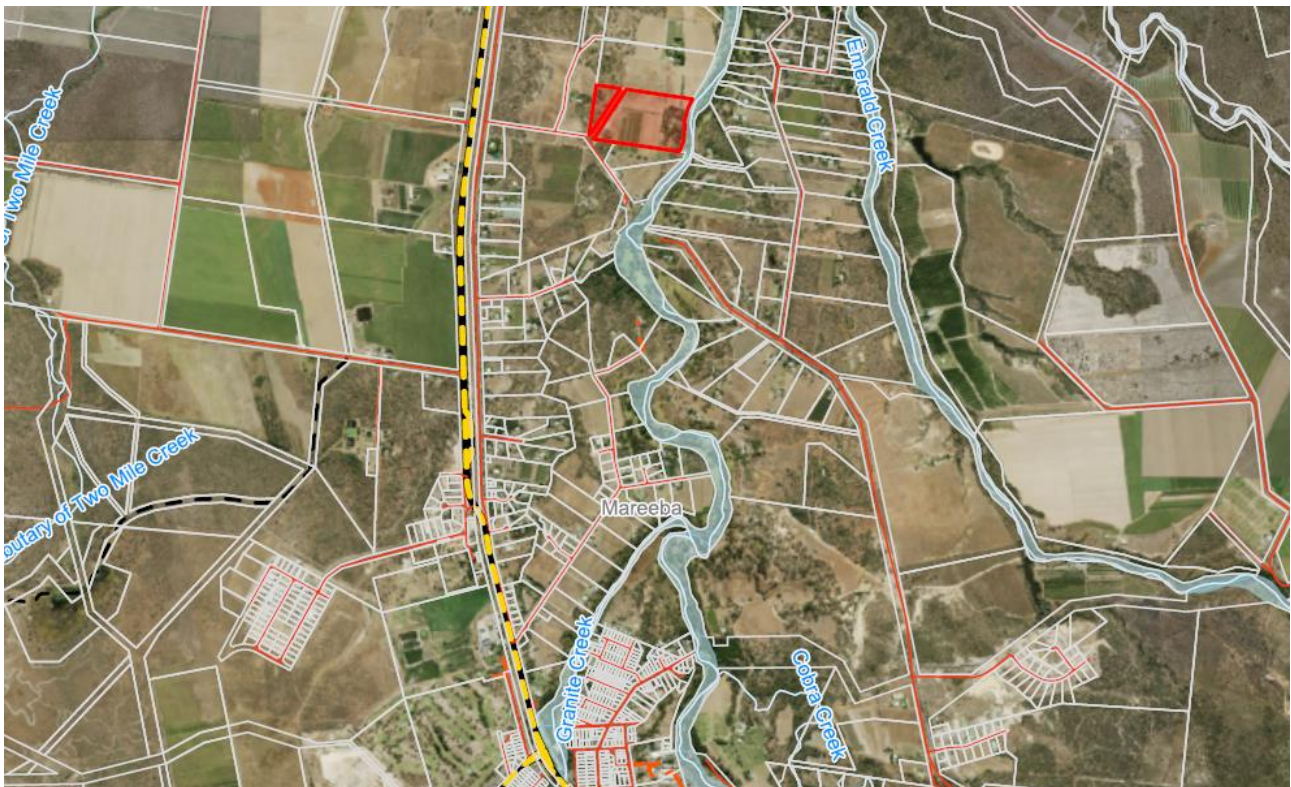
Keegan Road divides the site into an eastern and western portion. The smaller western portion is vacant, whilst the eastern portion contains the existing farm dwelling and outbuildings. The Barron River adjoins the eastern boundary of the site.

The subject site and most adjoining properties are developed for either rural living or small-scale rural pursuits. The site is currently serviced by an on-site water supply, on site effluent disposal system, electricity and telecommunication networks.



Map Disclaimer:

Based on or contains data provided by the State of Queensland (Department of Environment and Resource Management) (2009). In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.



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## BACKGROUND AND CONTEXT

Nil

## PREVIOUS APPLICATIONS & APPROVALS

Nil

## DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Reconfiguring a Lot - Subdivision (1 into 2 lots) in accordance with the plans shown in **Attachment 1**.

The details of the proposed allotments are as follows:

- Lot 1 - 2.06 hectares, approx. 315 metres frontage to Keegan Road;
- Lot 2 - 13.1 hectares, approx. 330 metres frontage to Keegan Road.

It is proposed to subdivide the subject land along the division already created by Keegan Road.

Proposed Lot 1 would be vacant at the time of its creation. Proposed Lot 2 would contain the established dwelling house and multiple farm sheds.

Access to both lots would continue via Keegan Road and Studt Road.

Services to proposed Lot 2 would remain substantially unchanged from the existing arrangements for the established dwelling house.



**REGIONAL PLAN DESIGNATION**

The subject site is included within the Regional Landscape and Rural Production Area land use category in the Far North Queensland Regional Plan 2009-2031. The Regional Plan Map 3- ‘Areas of Ecological Significance’ also identifies the site is:

- *Local Conservation Corridors*
- *Wetland Area of General Ecological Significance*
- *Terrestrial Area of High Ecological Significance*
- *Terrestrial Area of General Ecological Significance*

**PLANNING SCHEME DESIGNATIONS**

Strategic Framework:	<b>Land Use Categories</b> <ul style="list-style-type: none"> <li>• Rural Agricultural Area</li> </ul> <b>Natural Environment Elements</b> <ul style="list-style-type: none"> <li>• Habitat Linkage</li> </ul>
Zone:	Rural zone
Overlays:	<ul style="list-style-type: none"> <li>• Agricultural Land Overlay</li> <li>• Airport Environs Overlay</li> <li>• Bushfire Hazard Overlay</li> <li>• Environmental Significance Overlay</li> <li>• Flood Hazard Overlay</li> <li>• Hill and Slope Overlay</li> <li>• Transport Infrastructure Overlay</li> </ul>

**RELEVANT PLANNING INSTRUMENTS**

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

**(A) Far North Queensland Regional Plan 2009-2031**

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

**(B) State Planning Policy**

Separate assessment against the State Planning Policy (SPP) is not required because the Mareeba Shire Council Planning Scheme appropriately integrates all relevant aspects of the SPP.

**(C) Mareeba Shire Council Planning Scheme 2016**

**Relevant Developments Codes**

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

- 6.2.9 Rural zone code
- 8.2.1 Agricultural land overlay code

- 8.2.2 Airport environs overlay code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.6 Flood hazard overlay code
- 8.2.8 Hill and slope overlay code
- 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 would conflict with the identified section of the Agricultural Land Overlay Code.

Relevant Codes	Comments
Rural zone code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Agricultural land overlay code	The application conflicts with the following performance outcomes and acceptable outcomes: <ul style="list-style-type: none"> <li>• PO6</li> </ul> Refer to planning discussion section of this report.
Airport environs overlay code	The application can be conditioned to comply with the code's 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 code's 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 code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Flood hazard overlay code	The application can be conditioned to comply with the code's 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 code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Landscaping code	The application can be conditioned to comply with the code's 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 code's 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 code's 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 code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).

**(D) Planning Scheme Policies**

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

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

**(E) 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.

The subject land is not serviced by reticulated water and sewerage networks.

Based on Adopted Infrastructure Charges Resolution (No.2) 2019, the following contribution towards the transport network is considered appropriate:

- 1 additional allotment x \$4,700.00 = **\$4,700.00**

**REFERRAL AGENCY**

This application did not trigger referral to a Referral Agency.

**Internal Consultation**

Technical Services.

**PLANNING DISCUSSION**

Noncompliance with Performance Outcome PO6 of the Agricultural Land Overlay Code is summarised as follows:

**PO6**

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

- (a) improves agricultural efficiency;
- (b) facilitates agricultural activity; or
- (c) facilitates conservation outcomes; or

(d) resolves boundary issues where a structure is built over the boundary line of two lots.

Comment

The purpose of the reconfiguration is to separate the subject site along with the division already created by Keegan Road.

Once two lots are created, a new dwelling can be established on proposed Lot 1 and this together with the existing dwelling on proposed Lot 2 will allow each of the applicants to own their own dwelling.

Notwithstanding the obvious personal benefits, the reconfiguration does not satisfy PO6 as it fails to meet any of the criteria in (a) to (d).



