

**8.1 T SAMMUT - RECONFIGURING A LOT - BOUNDARY REALIGNMENT - LOT 2 ON RP737779 AND LOT 254 ON NR6764 - 5985 KENNEDY HIGHWAY & 6 HENRY HANNAM DRIVE, MAREEBA - RAL/20/0004**

**Date Prepared:** 19 August 2020  
**Author:** Planning Officer  
**Attachments:** 1. Proposal Plan

#### APPLICATION DETAILS

| APPLICATION                 |  | PREMISES       |  |
|-----------------------------|--|----------------|--|
| <b>APPLICANT</b>            | T Sammut                                   | <b>ADDRESS</b> | 5984 Kennedy Highway & 6 Henry Hannam Drive, Mareeba                 |
| <b>DATE LODGED</b>          | 24 June 2020                               | <b>RPD</b>     | Lot 2 on RP737779 & Lot 254 on NR6764                                |
| <b>TYPE OF APPROVAL</b>     | Development Permit                         |                |  |
| <b>PROPOSED DEVELOPMENT</b> | Reconfiguring a Lot - Boundary Realignment |                |  |
| <b>FILE NO</b>              | RAL/20/0005                                | <b>AREA</b>    | Lot 2 - 10.49 ha<br>Lot 254 - 52.67 ha                               |
| <b>LODGED BY</b>            | T Sammut                                   | <b>OWNER</b>   | Lot 2 - T Sammut<br>Lot 254 - Rockley Farming Pty Ltd, G & L Rockley |
| <b>PLANNING SCHEME</b>      | Mareeba Shire Council Planning Scheme 2016 |                |  |
| <b>ZONE</b>                 | Rural                                      |                |  |
| <b>LEVEL OF ASSESSMENT</b>  | Impact Assessment                          |                |  |
| <b>SUBMISSIONS</b>          | No properly made submissions               |                |  |

#### EXECUTIVE SUMMARY

Council is in receipt of an impact assessable development application described in the above application details. The application is impact assessable due to recent changes to the Planning Scheme as a result of Temporary Local Planning Instrument (TLPI) No. 01 of 2019 (Subdivision in Rural zone). No submissions were received during the mandatory public notification period.

The applicant proposes to reconfigure the two (2) allotments, by way of a boundary realignment only (no additional allotment created) whereby 8.095 hectares of agricultural land will be transferred from Lot 2 to Lot 254. The realignment will leave proposed Lot 22 with an area of 2.395 hectares and will increase the area of Lot 254 to 60.76 hectares. The 8.095 hectares of land to be transferred is currently leased by the owners of Lot 254 and contains avocado and mango trees that are cropped in conjunction with the "Zebra Orchards" farming operation established on Lot 254. The proposed boundary realignment is sought to obtain title and ownership over this currently leased portion of farm land.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and is in conflict with certain purpose statements in the Rural zone code, as well as performance outcomes contained within the Reconfiguring a lot code which seek to discourage the creation of any lot below 60 hectares within the Rural zone.

In their current configuration, both lots are less than 60 hectares in size with Lot 2 considered a rural living allotment with an area of just 10.49 hectares and questionable stand-alone agricultural viability (evidenced by the current farming lease in place). The proposed boundary realignment will create a compliant 60 hectare allotment by recovering 8.095 hectares of arable land from Lot 2, and in-turn strengthening the agricultural viability of Lot 254. Furthermore, the proposed boundary realignment will not result in any new or additional rural living allotment, nor does it create the opportunity for another dwelling house to be built within the Rural zone.

The Mareeba Shire Council Planning Scheme 2016 contains a hierarchy of assessment benchmarks. The Strategic Framework are the highest order assessment benchmarks contained in the Planning Scheme and hold more weight than the Rural zone code and Reconfiguring a lot code. An officer assessment has determined that despite the identified conflicts with the lower order Rural zone code and Reconfiguring a lot code provisions mentioned above, the proposed boundary realignment meets the intent of the Strategic Framework, in that the development will not further fragment, compromise or alienate productive agricultural land, and will only increase the agricultural viability of an existing farming enterprise.

It is recommended that the application be approved.

**OFFICER’S RECOMMENDATION**

(A) That in relation to the following development application:

| APPLICATION                 |  | PREMISES       |  |
|-----------------------------|--|----------------|--|
| <b>APPLICANT</b>            | T Sammut                                   | <b>ADDRESS</b> | 5984 Kennedy Highway & 6 Henry Hannam Drive, Mareeba |
| <b>DATE LODGED</b>          | 24 June 2020                               | <b>RPD</b>     | Lot 2 on RP737779 & Lot 254 on NR6764                |
| <b>TYPE OF APPROVAL</b>     | Development Permit                         |                |  |
| <b>PROPOSED DEVELOPMENT</b> | Reconfiguring a Lot - Boundary Realignment |                |  |

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.

(B) APPROVED DEVELOPMENT: Development Permit for Reconfiguring a Lot - Boundary Realignment

(C) APPROVED PLANS:

| Plan/Document Number | Plan/Document Title                                    | Prepared by           | Dated      |
|----------------------|--|-----------------------|------------|
| 8316 - LL2           | Proposed Reconfiguration of a Lot (2 Lots into 2 Lots) | Twine Surveys Pty Ltd | 28/06/2019 |

(D) 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, and subject to any alterations:
  - found necessary by the 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 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.
  - 3.2 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.
  - 3.3 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.
  - 3.4 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.
  - 3.5 Where approved existing buildings and structures are to be retained, setbacks to new property boundaries are to be in accordance with Planning Scheme requirements for the relevant structure and/or Queensland Development Code.

A plan demonstrating compliance must be submitted prior to endorsement of the plan of survey

### 3.6 Charges

All outstanding rates, charges and expenses pertaining to the land are to be paid in full.

## (E) ASSESSMENT MANAGER'S ADVICE

### (a) 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.

### (b) 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.

### (c) 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.

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

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

### (e) Cultural Heritage

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

## (F) RELEVANT PERIOD

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

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

## (G) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

- Nil

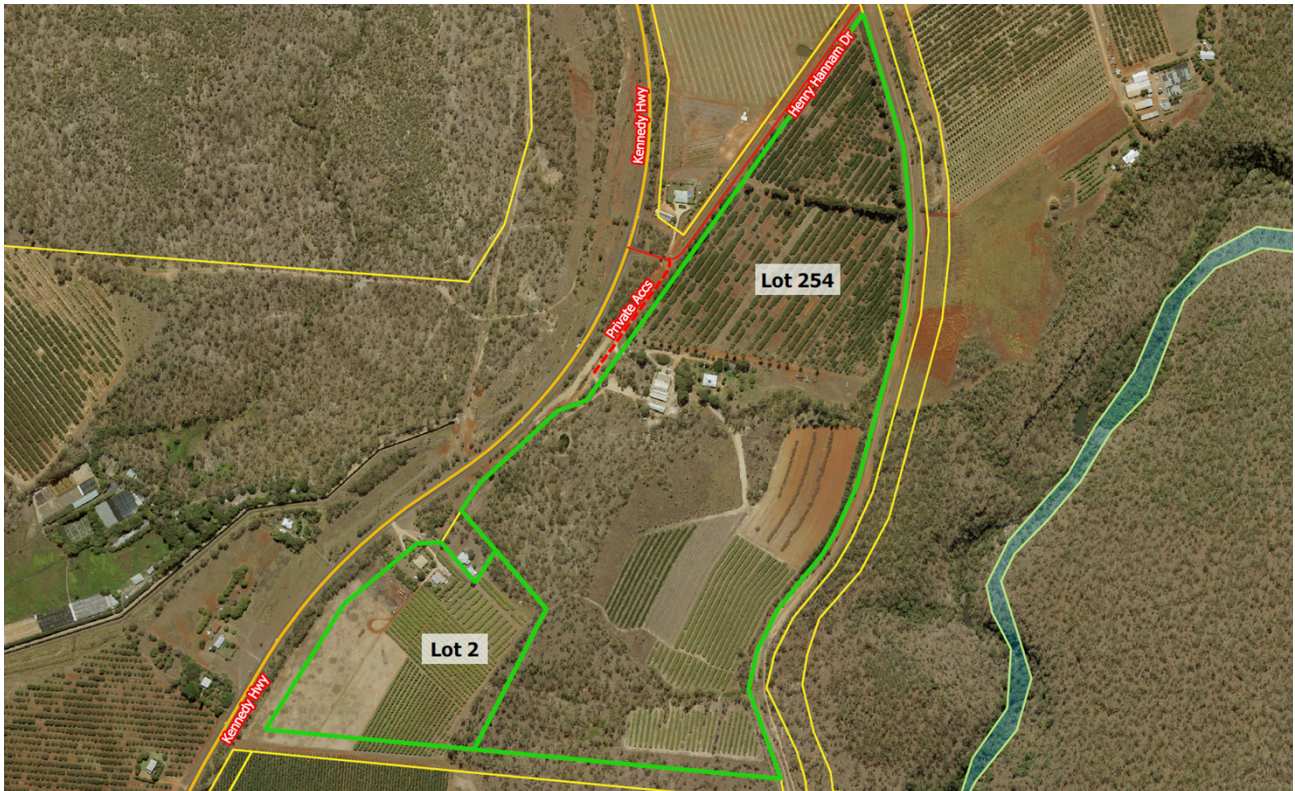
## (H) OTHER APPROVALS REQUIRED FROM COUNCIL



- Nil

## THE SITE

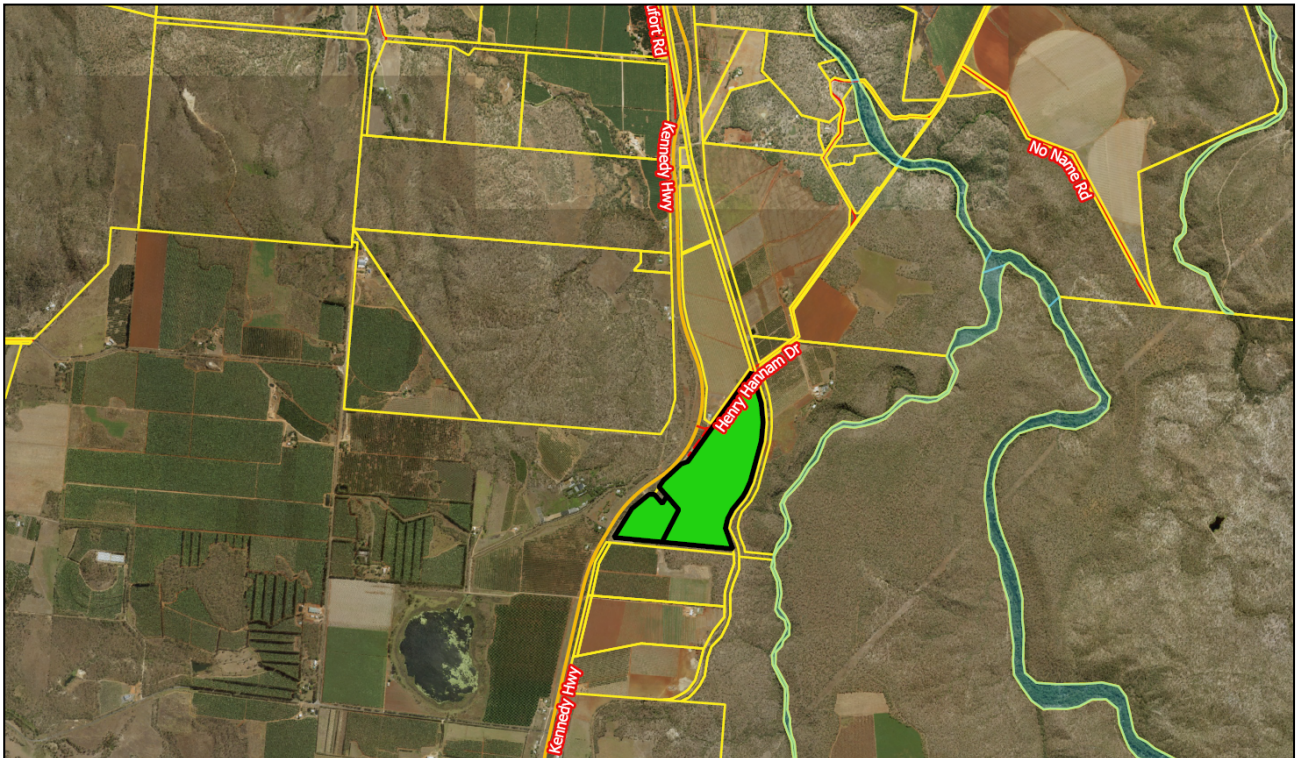
The subject land comprises two adjoining allotments situated at 5985 Kennedy Highway and 6 Henry Hannam Drive, and described as Lot 2 on RP737779 and Lot 254 on NR6764. Lot 2 and 254 have areas of 10.49 hectares and 52.67 hectares respectively and are both zoned *Rural* under the *Mareeba Shire Council Planning Scheme 2016*.



### Map Disclaimer:

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





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**BACKGROUND AND CONTEXT**

Nil

**PREVIOUS APPLICATIONS & APPROVALS**

Nil

**DESCRIPTION OF PROPOSED DEVELOPMENT**

The development application seeks a Development Permit for Reconfiguring a Lot - Boundary Realignment in accordance with the plans shown in **Attachment 1**.

The applicant proposes to reconfigure the two allotments, by way of a boundary realignment only (no additional allotment created) whereby 8.095 hectares of agricultural land will be transferred from Lot 2 to Lot 254. The realignment will leave proposed Lot 22 with an area of 2.395 hectares and will increase the area of proposed Lot 254 to 60.76 hectares. The 8.095 hectares of land to be transferred is currently leased by the owners of Lot 254 ("Zebra Orchard") and is improved by a mango and avocado tree orchard that they farm in conjunction with the cropping activities on Lot 254.

Proposed Lot 22 will remain as a lifestyle allotment adjacent an existing lifestyle allotment (Lot 1 on RP737779) and will continue to be accessed from the Kennedy Highway.

**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 containing:

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

**PLANNING SCHEME DESIGNATIONS**

|                      |   |
|----------------------|---|
| Strategic Framework: | <p><b>Land Use Categories</b></p> <ul style="list-style-type: none"> <li>• Rural Agricultural Area</li> <li>• Rural Other</li> </ul> <p><b>Natural Environment Elements</b></p> <ul style="list-style-type: none"> <li>• Biodiversity Area</li> <li>• Ecological Corridor</li> <li>• Habitat Linkage</li> </ul> <p><b>Transport Elements</b></p> <ul style="list-style-type: none"> <li>• State Controlled Road</li> <li>• Local Collector Road</li> <li>• B-double Route</li> <li>• Principal Cycle Routes</li> <li>• Railway Network</li> </ul> |
| Zone:                | Rural zone  |
| Precinct:            | No Precinct   |
| 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>• 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**

#### **Strategic Framework**

##### *3.3 Settlement Pattern and built environment*

##### *3.3.1 Strategic outcomes*

- (5) *Primary industries in Rural areas are not compromised or fragmented by incompatible and/or unsustainable development, including but not limited to subdivision that results in a detrimental impact on rural productivity or fragments large land holdings. The valued, relaxed rural character and scenic qualities of the rural area are preserved and enhanced. The rural area is largely maintained to its current extent, while accommodating development directly associated with or reliant on natural resources including rural activities and tourism. Rural areas protect the shire's agricultural area and ensure food security. Other rural areas predominantly remain agricultural grazing properties.*

#### Comment

The proposed development is for a "boundary realignment" only, so does not constitute a "subdivision" by definition.

In their current configuration, both lots are less than 60 hectares in size with Lot 2 considered a rural living allotment with an area of just 10.49 hectares and questionable stand-alone agricultural viability (evidenced by the current farming lease in place). The proposed boundary realignment will create a compliant 60 hectare allotment by recovering 8.095 hectares of good farming land from Lot 2, and in-turn strengthening the agricultural viability of Lot 254.

The proposed boundary realignment will not result in any new or additional rural living allotment, nor does it create the opportunity for another dwelling house to be built within the Rural zone.

The proposed development will not further fragment agricultural land or compromise agricultural activity in the immediate locality and is therefore considered to comply with Strategic outcome 5.

- (6) *New subdivisions which propose lots less than the minimum lot size of 60ha are not supported within the Rural zone.*

#### Comment

The proposed development is for a "boundary realignment" only, so does not constitute a "subdivision" by definition.

In their current configuration, both lots are less than 60 hectares in size with Lot 2 considered a rural living allotment with an area of just 10.49 hectares and questionable stand-alone agricultural viability (evidenced by the current farming lease in place). The proposed boundary realignment will create a compliant 60 hectare allotment by recovering 8.095 hectares of good farming land from Lot 2, and in-turn strengthening the agricultural viability of Lot 254.

The proposed boundary realignment will not result in any new or additional rural living allotment, nor does it create the opportunity for another dwelling house to be built within the Rural zone. The proposed development does not conflict with Strategic Outcome 6.

### *3.3.11 Element - Rural areas*

#### *3.3.11.1 Specific outcomes*

- (2) *Land in rural areas is maintained in large (60ha or greater) lot sizes to ensure that regional landscape and rural production values are not compromised by fragmentation, alienation or incompatible land uses. Subdivision of land is not supported on lots less than 60ha in the Rural zone.*

#### Comment

The proposed development is for a "boundary realignment" only, so does not constitute a "subdivision" by definition.

In their current configuration, both lots are less than 60 hectares in size with Lot 2 considered a rural living allotment with an area of just 10.49 hectares and questionable stand-alone agricultural viability (evidenced by the current farming lease in place). The proposed boundary realignment will create a compliant 60 hectare allotment by recovering 8.095 hectares of good farming land from Lot 2, and in-turn strengthening the agricultural viability of Lot 254.

The proposed boundary realignment will not result in any new or additional rural living allotment, nor will it create the opportunity for another dwelling house to be built within the Rural zone. Although a smaller rural lifestyle allotment will be created as a result of the realignment, the resultant benefit of strengthening the agricultural viability of larger Lot 254 is considered to outweigh this fact. Smaller proposed Lot 22 will be sited adjacent an existing 5,000m<sup>2</sup> lifestyle lot which will further reduce the likelihood of land use conflict.

The proposed development will not compromise, fragment or alienate agricultural land and is therefore considered to satisfy Specific Outcome 2.

- (3) *Other rural areas will be largely maintained in their current configuration, only being subdivided where large land holdings of 60ha or greater can be achieved and the infrastructure base of rural operations including workers accommodation, airstrips and farm infrastructure is provided.*

#### Comment

The proposed development is for a "boundary realignment" only, so does not constitute a "subdivision" by definition.

In their current configuration, both lots are less than 60 hectares in size with Lot 2 considered a rural living allotment with an area of just 10.49 hectares and questionable stand-alone agricultural viability (evidenced by the current farming lease in place). The proposed boundary realignment will create a compliant 60 hectare allotment by recovering 8.095 hectares of good farming land from Lot 2, and in-turn strengthening the agricultural viability of Lot 254.

The proposed boundary realignment will not result in any new or additional rural living allotment, nor will it create the opportunity for another dwelling house to be built within the Rural zone. Although a smaller rural lifestyle allotment will be created as a result of the realignment, the resultant benefit of strengthening the agricultural viability of larger Lot 254 is considered to outweigh this fact. Smaller proposed Lot 22 will be bounded to the east by an existing 5,000m<sup>2</sup> lifestyle lot and to the north by the Kennedy Highway. Furthermore, the dwelling on proposed Lot 22 will be reasonably setback and buffered from agricultural activity on newly proposed Lot 254, so the risk of ongoing land use conflict is minimal.

The proposed development will not compromise, fragment or alienate agricultural land and is therefore considered to satisfy Specific Outcome 3.

### 3.6 Transport and infrastructure

#### 3.6.1 Strategic outcomes

(6) *New development is appropriately sequenced and coordinated with existing and future water, wastewater, stormwater and transport infrastructure, to ensure the operations of existing infrastructure are not compromised and community needs continue to be met. New infrastructure is provided to development in accordance with the council's desired standards of service and supports a consolidated urban form to maximise return on investment. The ongoing operation of key infrastructure elements is not prejudiced by inappropriate development. Subdivision of land in the Rural zone to create lots less than 60ha is not consistent with facilitating appropriately sequenced and coordinated development.*

#### Comment

The proposed development is for a "boundary realignment" only, so does not constitute a "subdivision" by definition. No additional title will be created, and no change to the service arrangement of each lot will occur as a result of the development.

The proposed development does not compromise Strategic Outcome 6.

#### **Relevant Developments Codes** (as amended by TLPI No. 01 of 2019)

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

- 8.2.8 Hill and slope overlay code
- 8.2.12 Transport infrastructure overlay code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.4 Reconfiguring a lot code
- 9.4.5 Works, services and infrastructure code

The application did not include a planning report and assessment against the planning scheme. An officer assessment has found that the application would conflict with assessment benchmarks contained in the Rural zone code and Reconfiguring a lot code as a result of Temporary Local Planning Instrument No. 01 of 2019 (Subdivision in Rural zone). Despite the identified conflicts, it is considered that the proposed development will comply with the higher order strategic/specific outcomes contained within the Planning Scheme Strategic Framework.

| Relevant Codes                          | Comments   |
|---|--|
| Rural zone code                         | <p>The application conflicts with 6.2.9.2 Purpose (3) (a) of the code as proposed Lot 22 will be under 60 ha in size.</p> <p>Despite this conflict, it is considered that the proposed development complies with the higher order strategic/specific outcomes contained in the Planning Scheme's Strategic Framework. Refer to planning discussion section of report for commentary.</p> |
| Agricultural land overlay code          | The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.  |
| Airports environs overlay code          | The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.  |
| Bushfire hazard overlay code            | The application can be conditioned to comply with the relevant acceptable outcomes (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 (or performance outcomes where no acceptable outcome is provided) contained within the code.  |
| Hill and slope overlay code             | The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.  |
| Transport infrastructure overlay code   | The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.  |
| Landscaping code                        | Not applicable for boundary realignment  |
| Parking and access code                 | Not applicable for boundary realignment  |
| Reconfiguring a lot code                | The application conflicts with the following performance outcomes:   |

|  |  |
|--|--|
|  | <ul style="list-style-type: none"> <li>• PO1.1</li> <li>• PO1.2</li> </ul> <p>Despite conflicting with the abovementioned performance outcomes, it is considered that the proposed development complies with the higher order strategic/specific outcomes contained in the Planning Scheme's Strategic Framework. Refer to planning discussion section of report for commentary.</p> |
| <p>Works, services and infrastructure code</p> | <p>The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.</p>   |

**(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.

**REFERRAL AGENCY**

This application did not trigger referral to any Referral Agencies.

**Internal Consultation**

Not Applicable

**PUBLIC NOTIFICATION**

The development proposal was placed on public notification from 22 July 2020 to 13 August 2020. The applicant submitted the notice of compliance on 16 August 2020 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

No submissions were received.

**PLANNING DISCUSSION**

Non-compliance with assessment benchmarks contained within the Rural zone code and Reconfiguring a lot code are discussed below:

6.2.9 Rural zone code

*6.2.9.2 Purpose*

- (3) (a) *Areas for use for primary production are conserved and new allotments below the minimum lot size identified in Table 9.4.4.3B is not supported.*

Comment



Table 9.4.4.3B dictates a minimum reconfiguring lot size of 60 hectares for land within the Rural zone. Proposed Lot 22 is significantly less than 60 hectares in size with an area of just 2.395 hectares.

In their current configuration, both lots are less than 60 hectares in size with Lot 2 considered a rural living allotment with an area of just 10.49 hectares and questionable stand-alone agricultural viability (evidenced by the current farming lease in place). The proposed boundary realignment will create a compliant 60 hectare allotment by recovering 8.095 hectares of arable land from Lot 2, and in-turn strengthening the agricultural viability of Lot 254.

The proposed boundary realignment will not result in any new or additional rural living allotment, nor will it create the opportunity for another dwelling house to be built within the Rural zone. Although a smaller rural lifestyle allotment will be created as a result of the realignment, the resultant benefit of increasing the agricultural viability of larger Lot 254 is considered to outweigh this fact. Smaller proposed Lot 22 will be bounded to the east by an existing 5,000m<sup>2</sup> lifestyle lot and to the north by the Kennedy Highway. Furthermore, the dwelling on proposed Lot 22 will be reasonably setback and buffered from agricultural activity on newly proposed Lot 254, so the risk of ongoing land use conflict is minimal.

Despite not complying with Purpose (3)(a) of the Rural zone code, it is considered that the proposed boundary realignment meets the intent of the higher order Strategic Framework, in that the development will not further fragment, compromise or alienate productive agricultural land, and will only increase the agricultural viability of an existing farming enterprise.

#### 9.4.4 Reconfiguring a lot code

##### ***Area and frontage of lots - Rural zone***

###### ***PO1.1***

*No lots are created with an area of less than 60 ha*

*Note: This also applies to applications for boundary realignment*

###### ***AO1.1***

*No acceptable outcome is provided.*

###### Comment

Proposed Lot 22 will have an area of just 2.395 hectares and is therefore non-compliant with PO1.1.

In their current configuration, both lots are less than 60 hectares in size with Lot 2 considered a rural living allotment with an area of just 10.49 hectares and questionable stand-alone agricultural viability (evidenced by the current farming lease in place). The proposed boundary realignment will create a compliant 60 hectare allotment by recovering 8.095 hectares of arable land from Lot 2, and in-turn strengthening the agricultural viability of Lot 254.

The proposed boundary realignment will not result in any new or additional rural living allotment, nor will it create the opportunity for another dwelling house to be built within the Rural zone. Although a smaller rural lifestyle allotment will be created as a result of the realignment, the resultant benefit of increasing the agricultural viability of larger Lot 254 is considered to outweigh this fact. Smaller proposed Lot 22 will be bounded to the east by an existing 5,000m<sup>2</sup> lifestyle lot and to the north by the Kennedy Highway. Furthermore, the dwelling on proposed Lot 22 will be reasonably setback and buffered from agricultural activity on newly proposed Lot 254, so the risk of ongoing land use conflict is minimal.

Despite not complying with PO1.1, it is considered that the proposed boundary realignment meets the intent of the higher order Strategic Framework, in that the development will not further fragment, compromise or alienate productive agricultural land, and will only increase the agricultural viability of an existing farming enterprise.

**PO1.2**

*No lots are created with a frontage less than 400m*

*Note: This also applies to applications for boundary realignment.*

**AO1.2**

*No acceptable outcome is provided.*

Comment

Proposed Lot 254 complies with frontage well in excess of 400 metres. Proposed Lot 22 would have a frontage of approximately 215 metres. This frontage is adequate to provide for access, whilst maintaining a regular lot shape.

Insisting on an additional 185 metres of frontage would reduce the amount of agricultural land available for transfer to Lot 254.

The frontage proposed for each lot is appropriate.