

<b>8.4</b>	<b>R LAMONACA - RECONFIGURING A LOT - SUBDIVISION (1 INTO 2 LOTS) - LOT 14 ON SP202891 - 235 KENNEALLY ROAD, MAREEBA - RAL/20/0015</b>
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**Date Prepared:** 5 November 2020

**Author:** Planning Officer

**Attachments:** 1. Proposal Plan

#### APPLICATION DETAILS

APPLICATION		PREMISES	
<b>APPLICANT</b>	R Lamonaca	<b>ADDRESS</b>	235 Kenneally Road, Mareeba
<b>DATE LODGED</b>	8 October 2020	<b>RPD</b>	Lot 14 on SP202891
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Reconfiguring a Lot - Subdivision (1 into 2 Lots)		
<b>FILE NO</b>	RAL/20/0015	<b>AREA</b>	4.26 hectares
<b>LODGED BY</b>	U&i Town Plan	<b>OWNER</b>	R & R Lamonaca
<b>PLANNING SCHEME</b>	Mareeba Shire Council Planning Scheme 2016		
<b>ZONE</b>	Emerging Community Zone		
<b>LEVEL OF ASSESSMENT</b>	Impact Assessment		
<b>SUBMISSIONS</b>	No submissions received		

#### EXECUTIVE SUMMARY

Council is in receipt of an impact assessable development application described in the above application details. No submissions were received during public notification of the application.

The application proposes the subdivision of approximately 1.147 hectares of land off the western side of the property (proposed Lot 16). The Planning Scheme makes this application impact assessable because it proposes the creation of an additional allotment within the Emerging Community Zone. The intent of the Emerging community zone is to preserve and protect land considered suitable for future residential development beyond the life of the Planning Scheme. As such, any interim development should only be approved where it does not compromise this intent.

Ordinarily, allowing the creation of an additional small lot within this zone is not considered good town planning practice as it can hinder the future planning and development of residential estates. However, the majority of proposed Lot 16 encompasses a seasonal watercourse which renders this portion of land generally unsuitable for development. As such, the development is not likely to compromise the development potential of the balance of the site or surrounding land and is therefore not inconsistent with the intent of the zone. A drainage easement (in favour of Council) is also proposed over the seasonal watercourse in order to secure its future use for drainage purposes when the surrounding area is developed.

Considering the application does not conflict with any relevant aspect of the Mareeba Shire Council Planning Scheme 2016, it is recommended that the application be approved, subject to conditions.

**OFFICER’S RECOMMENDATION**

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

APPLICATION		PREMISES	
APPLICANT	R Lamonaca	ADDRESS	235 Kenneally Road, Mareeba
DATE LODGED	8 October 2020	RPD	Lot 14 on SP202891
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Subdivision (1 into 2 Lots)		

and in accordance with the Planning Act 2016, the applicant be notified that the application for a development permit for the development specified in (A) is:

Approved by Council in accordance with the approved plans/documents listed in (B), subject to assessment manager conditions in (C), assessment manager’s advice in (D), relevant period in (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 - Subdivision (1 into 2 Lots)

(C) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
140_04	Proposed Reconfiguration	Robin Trotter Cadastral Surveyor	31/07/2020

(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, subject to any alterations:

- found necessary by Council’s delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
- to ensure compliance with the following conditions of approval.

## 2. Timing of Effect

- 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the endorsement of the plan of survey, except where specified otherwise in these conditions of approval.

## 3. General

- 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure or the payment of infrastructure charges 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 or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to the endorsement of the plan of survey and at the rate applicable at the time of payment.
- 3.4 The developer must relocate (in accordance with FNQROC standards) any services such as water, sewer, drainage, telecommunications and electricity that are not wholly located within the lots that are being created/serviced where required by the relevant authority unless approved by Council's delegated officer.
- 3.5 Where utilities (such as sewers on non-standard alignments) traverse lots to service another lot, easements must be created in favour of Council for access and maintenance purposes. The developer is to pay all costs (including Council's legal expenses) to prepare and register the easement documents.
- 3.6 Any existing buildings or structures (pools/tennis courts or fences) and/or incidental works that straddle the new boundaries must be altered, demolished or removed, as required, to align with the new property boundaries and/or be wholly contained within a new allotment, unless approved by Council's delegated officer.
- 3.7 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements and to the satisfaction of Council's delegated officer.
- 3.8 Charges

All outstanding rates, charges and expenses pertaining to the land are to be paid in full.
- 3.9 An easement in gross for the purpose of drainage must be established over Lot 16 generally in accordance with the extent shown on the approved plan, to the satisfaction of Council's delegated officer.

All costs associated with the easement are to be paid by the applicant/developer and Council should have no ongoing maintenance responsibility over the easement area.

#### 4. Infrastructure Services and Standards

##### 4.1 Access

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

##### 4.2 Stormwater Drainage

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

##### 4.3 Water Supply

Lot 16 must be provided with a water supply via:

- (a) a bore or bores are provided in accordance with the Design Guidelines set out in the Planning Scheme Policy 4 – FNQROC Regional Development Manual; or
- (b) A minimum two (2) megalitre water allocation from SunWater's irrigation supply network; or
- (c) on-site water storage tank/s:
  - (i) with a minimum capacity of 90,000L;
  - (ii) fitted with a 50mm ball valve with a camlock fitting;
  - (iii) which are installed and connected prior to the occupation or use of the development.

##### 4.4 On-Site Wastewater Management

At the time of construction of a new dwelling on proposed Lot 16, any associated on-site effluent disposal system must be constructed in compliance with the latest version On-Site Domestic Wastewater Management Standard (ASNZ1547) to the satisfaction of the Council's delegated officer.

##### 4.5 Electricity provision/supply

The applicant/developer must ensure that an appropriate level of electricity supply is provided to each allotment in accordance with FNQROC Development

Manual standards (as amended) to the satisfaction of Council's delegated officer.

Written advice from an Electricity Service Provider is to be provided to Council indicating that an agreement has been made for the provision of power reticulation.

#### 4.6 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.

#### (E) 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.

(e) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

(f) 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)

(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](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

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

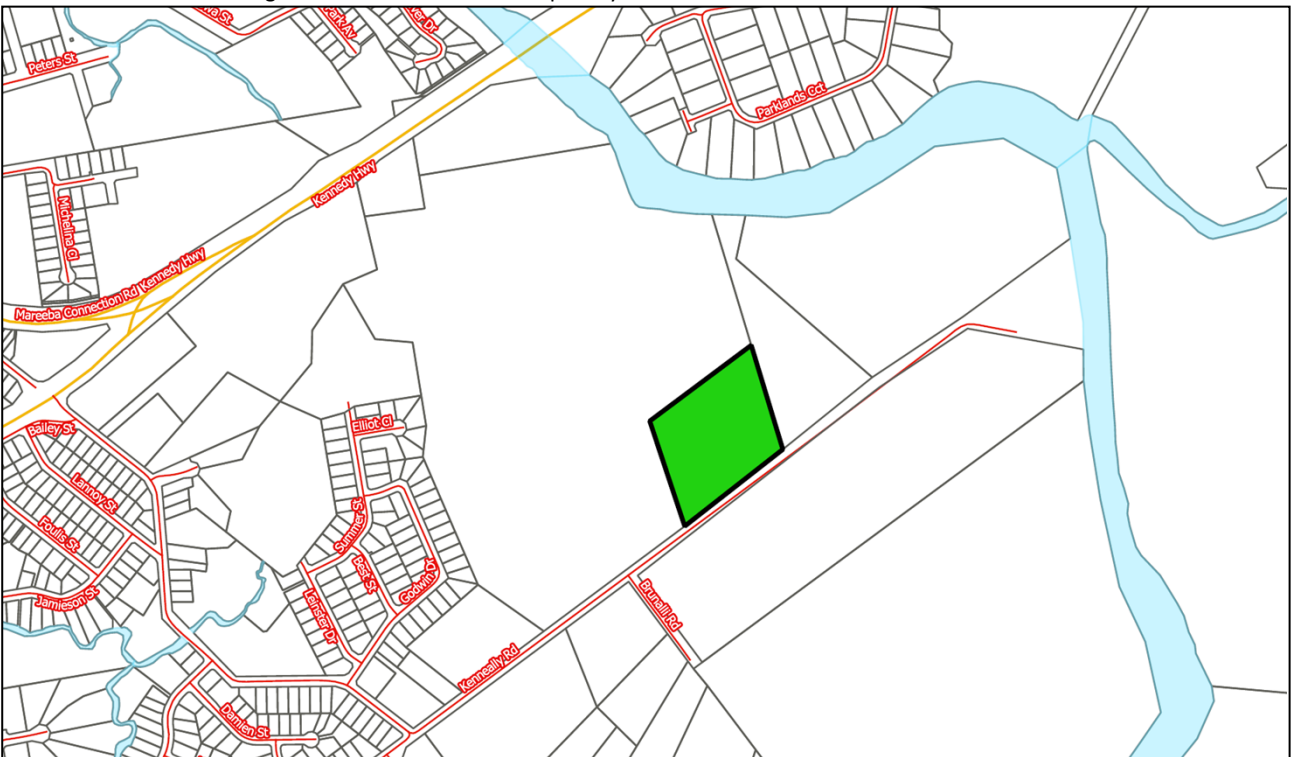
(I) That an Adopted Infrastructure Charges Notice be issued for the following infrastructure charge/s for:

<b>Development Type</b>	<b>Rate</b>	<b>Measure</b>	<b>Charge</b>	<b>Credit Detail</b>	<b>Balance</b>
	<i>\$ per Lot</i>	<i>Lots</i>		<i>1 Lot</i>	
Residential	\$11,568.00	2 Lots	\$23,136.00	\$11,568.00	\$11,568.00
<b>TOTAL CURRENT AMOUNT OF CHARGE</b>					<b>\$11,568.00</b>



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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**THE SITE**

The subject site is situated at 235 Kenneally Road, Mareeba and is described as Lot 14 on SP202891. The site is shaped like a rhombus with a total area of 4.26 hectares and is zoned Emerging Community under the Mareeba Shire Council Planning Scheme 2016. The site includes 231 metres of frontage to Kenneally Road which is constructed to a bitumen sealed standard approximately 4 metres wide.

The site is improved by a dwelling and multiple outbuildings (sheds) and also contains a small orchard and cropped area over approximately 1.5 hectares of the site. Seasonal gullies/watercourse run along the northern, eastern and western sides of the property and remain vegetated with scatted mature vegetation. The site is provided with a water supply from the Barron River situated 250 metres to the north of the site via an easement through northern adjoining Lot 15 on SP202891.

All immediate surrounding lots are zoned Emerging Community and are improved by single dwellings and sheds with some containing small scale rural uses including cropping and animal keeping (horse agistment).

**BACKGROUND AND CONTEXT**

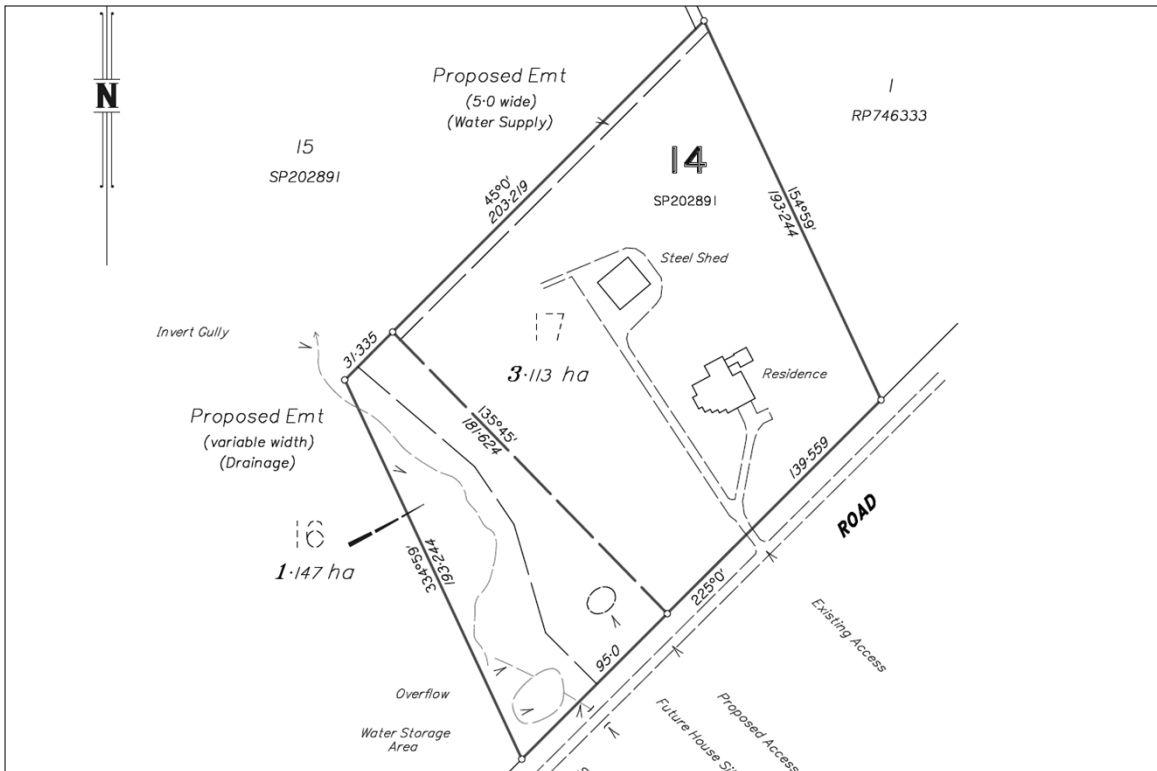
Nil

**PREVIOUS APPLICATIONS & APPROVALS**

Nil

**DESCRIPTION OF PROPOSED DEVELOPMENT**

The development application seeks a Development Permit for Reconfiguring a Lot - Subdivision (1 into 2 Lots) in accordance with the plan shown below and included as **Attachment 1**.





The proposed reconfiguration will create the following allotments:

- Proposed Lot 14 - area of 3.113 hectares, 140 metres frontage to Kenneally Road; and
- Proposed Lot 16 - area of 1.147 hectares, 95 metres of frontage to Kenneally Road

Proposed Lot 14 will contain the existing dwelling and sheds. Proposed Lot 16 will be vacant. A drainage easement is proposed over the seasonal watercourse/gully that flows through proposed Lot 16. A water supply easement is proposed through Lot 14 to service Lot 16 which is benefited by an easement though northern adjoining Lot 15 on SP202891.

## REGIONAL PLAN DESIGNATION

The subject site is included within the Urban Footprint land use category in the Far North Queensland Regional Plan 2009-2031. Mareeba is identified as a Regional Activity Centre in the Regional Plan. The Regional Plan Map 3- 'Areas of Ecological Significance' also identifies the site as containing:

- *Terrestrial Area of General Ecological Significance*

## PLANNING SCHEME DESIGNATIONS

Strategic Framework:	<b>Land Use Categories</b>
Zone:	<ul style="list-style-type: none"> <li>• Urban Expansion Area</li> </ul> <b>Infrastructure Elements</b> <ul style="list-style-type: none"> <li>• Major Electrical Infrastructure</li> </ul>
Overlays:	Emerging Community Zone Bushfire Hazard Overlay Flood Hazard 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

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

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

#### Strategic Framework

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

### 3.3 Settlement pattern and built environment

#### 3.3.1 Strategic outcomes

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

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

#### Comment

The application proposes the subdivision of approximately 1.147 hectares of land off the western side of the property (proposed Lot 16). The subject land and all immediate surrounding lots are mapped as an urban expansion area by the Planning Scheme's Strategic Framework mapping. An overarching intent of the urban expansion areas is to preserve and protect land considered suitable for future residential development beyond the life of the Planning Scheme. As such, any interim development should only be approved where it does not compromise this intent.

Ordinarily, allowing the creation of an additional small lot within these areas is not considered good town planning practice as it can hinder the future planning and development of residential estates. However, the majority of proposed Lot 16 encompasses a seasonal watercourse which renders this portion of land generally unsuitable for development. As such, the development is not likely to compromise the development potential of the balance of the site or surrounding land and therefore does not compromise Strategic Outcome 3.

#### 3.3.8 Element - Urban expansion and investigation areas

##### 3.3.8.1 Specific outcomes

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

#### Comment

The application proposes the subdivision of approximately 1.147 hectares of land off the western side of the property (proposed Lot 16). The subject land and all immediate surrounding lots are mapped as an urban expansion area by the Planning Scheme's Strategic Framework mapping. The intent of Specific Outcome 1 above is to preserve and protect land considered suitable for future residential development beyond the life of the Planning Scheme. As such, any interim development should only be approved where it does not compromise this intent.

Ordinarily, allowing the creation of an additional small lot within these areas is not considered good town planning practice as it can hinder the future planning and development of residential estates. However, the majority of proposed Lot 16 encompasses a seasonal watercourse which renders this

portion of land generally unsuitable for development. As such, the development is not likely to compromise the development potential of the balance of the site or surrounding land and therefore does not compromise Strategic Outcome 1.

### Relevant Developments Codes

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

- 6.2.4 Emerging community zone code
- 8.2.3 Bushfire hazard 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 included a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable outcomes contained within the codes (or performance outcomes where no acceptable outcome has been provided). Where the proposal does not satisfy an acceptable outcome, it has been demonstrated that compliance can be achieved with the higher order performance outcome/s. It is considered the proposed development can comply with the relevant development codes provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Emerging community zone code	The application can be conditioned to comply with the relevant acceptable outcomes (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.
Flood 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.
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.
Landscaping 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.
Parking and access 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.

<p>Reconfiguring a lot code</p>	<p>The application can be conditioned to comply with the relevant acceptable outcomes (and/or performance outcomes where no acceptable outcome is provided) contained within the code apart from the following:</p> <ul style="list-style-type: none"> <li>• Acceptable Outcome AO1.1</li> </ul> <p>Refer to planning discussion section of report.</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.

**(E) Adopted Infrastructure Charges Notice**

In accordance with Council's Adopted Infrastructure Charges Resolution (No. 1) 2020, a standard charge of \$19,280.00 generally applies to each additional residential allotment created.

As the subject land is not serviced by the reticulated water and sewerage networks, a 40% discount is applied to the standard charge.

The applicable charge for this development is \$11,568.00 per additional allotment.

**REFERRAL AGENCY**

The application did not trigger referral to any referral agency.

**Internal Consultation**

Not applicable.

**PUBLIC NOTIFICATION**

The development proposal was placed on public notification from 14 October 2020 to 4 November 2020. The applicant submitted the notice of compliance on 4 November 2020 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

No submissions were received.

**PLANNING DISCUSSION**

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

**Reconfiguring a Lot Code**

**Area and frontage of lots****PO1**

*Lots include an area and frontage that:*

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

**AO1.1**

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

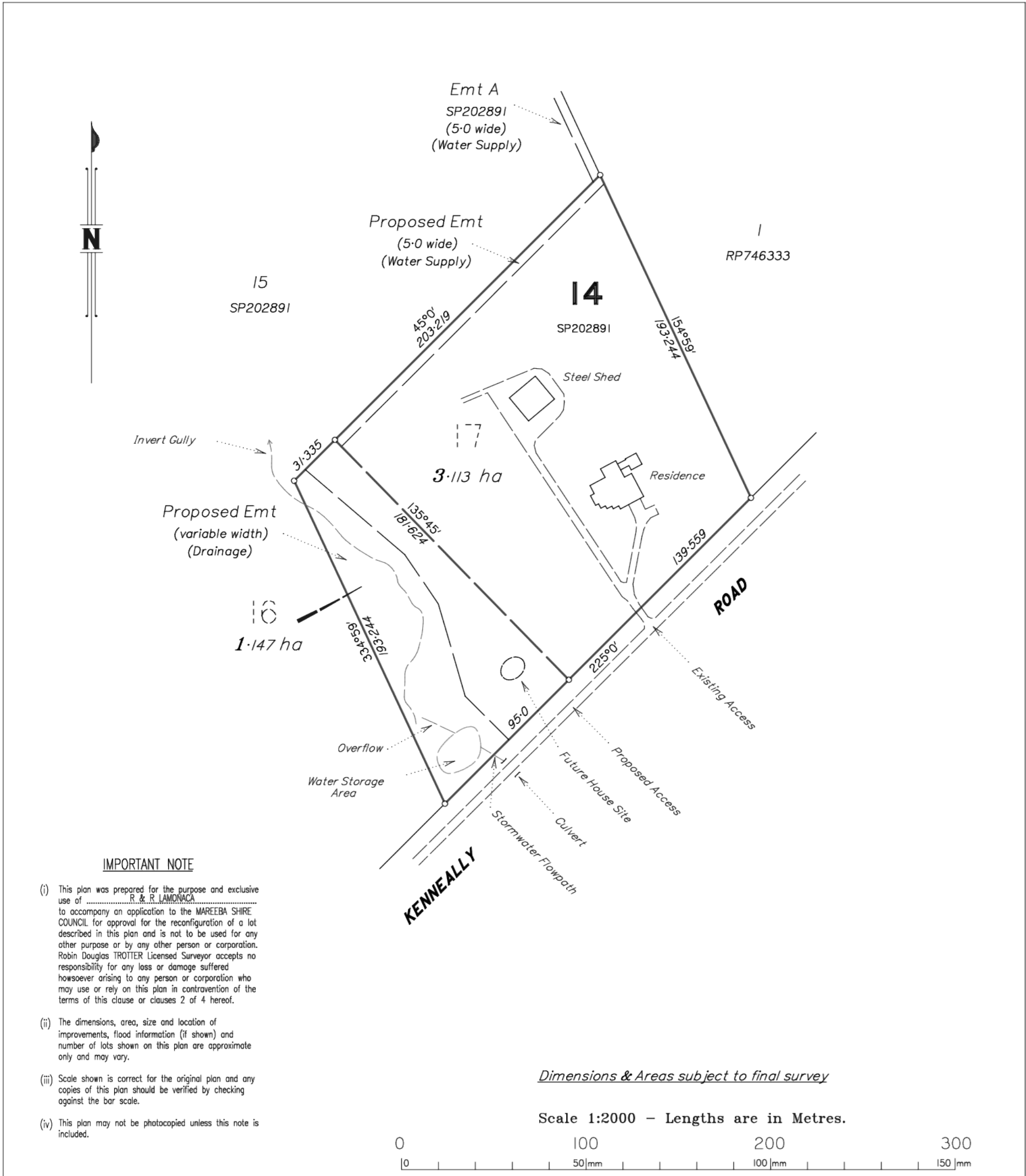
Comment

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

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

Ordinarily, allowing the creation of an additional small lot within this zone is not considered good town planning practice as it can hinder the future planning and development of residential estates. However, the majority of proposed Lot 16 encompasses a seasonal watercourse which renders this portion of land generally unsuitable for development. As such, the development is not likely to compromise the development potential of the balance of the site or surrounding land and is therefore not inconsistent with the intent of the zone. Furthermore, a drainage easement (in favour of Council) is also proposed over the seasonal watercourse in order to secure its future use for drainage purposes when the surrounding area is developed.

The lots proposed will allow the desired amenity of the zone to be achieved. The proposed development complies with PO1.




**IMPORTANT NOTE**

- (i) This plan was prepared for the purpose and exclusive use of R & R LAMONACA to accompany an application to the MAREEBA SHIRE COUNCIL for approval for the reconfiguration of a lot described in this plan and is not to be used for any other purpose or by any other person or corporation. Robin Douglas TROTTER Licensed Surveyor accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this plan in contravention of the terms of this clause or clauses 2 of 4 hereof.
- (ii) The dimensions, area, size and location of improvements, flood information (if shown) and number of lots shown on this plan are approximate only and may vary.
- (iii) Scale shown is correct for the original plan and any copies of this plan should be verified by checking against the bar scale.
- (iv) This plan may not be photocopied unless this note is included.

*Dimensions & Areas subject to final survey*

Scale 1:2000 – Lengths are in Metres.



<p><b>ROBIN TROTTER Cadastral Surveyor</b>   <b>PO Box 481 Mareeba Qld 4880</b>                  email <i>robint@activ8.net.au</i> mobile 0409 080017</p>	<p align="center"><b>R &amp; R LAMONACA</b></p>	<p align="right"><b>Scale : 1:2000</b></p>
<p><i>Surveyed by :</i> <b>R D TROTTER</b> <i>Date :</i> <b>31/7/2020</b>  <i>Designed by :</i> <b>R D TROTTER</b> <i>Date :</i> <b>31/7/2020</b>  <i>Checked by :</i> <b>R D TROTTER</b> <i>Date :</i> <b>31/7/2020</b></p>		<p><i>Sheet Size :</i> A3  <i>FB Ref :</i>  <i>Meridian :</i> SP202891  <i>Level Datum :</i>  <i>Origin of Co-ords :</i>  <i>Digital Data Ref :</i>  <i>Sheet Number :</i></p>
<p><i>Notes :</i>  <i>Amendments :</i></p>	<p align="center"><b>PROPOSED RECONFIGURATION                  LOT 14 on SP202891                  LOCALITY of MAREEBA</b></p>	<p><i>Drawing No :</i> <b>140_04</b>  <i>Issue :</i></p>