

DELEGATED REPORT

SUBJECT: A LEIGHTON & E CRISP - RECONFIGURING A LOT - SUBDIVISION (1 INTO 2 LOTS) - LOT 147 ON SP227506 - 46 TYRCONNELL ROAD, PADDYS GREEN - RAL/21/0001

DATE: 23 February 2021

REPORT OFFICER'S TITLE: Senior Planner

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	A Leighton & E Crisp	ADDRESS	46 Tyrconnell Road, Paddys Green
DATE LODGED	7 January 2021	RPD	Lot 147 on SP227506
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Subdivision (1 into 2 lots)		

FILE NO	RAL/21/0001	AREA	276.4 hectares
LODGED BY	Urban Sync Pty Ltd	OWNER	A Leighton & E Crisp
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural zone		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	n/a		

ATTACHMENTS:

1. Proposal Plan/s
2. State Assessment and Referral Agency Response dated 11 February 2021

EXECUTIVE SUMMARY

Council is in receipt of a development application described in the above application details.

The application is code assessable and was not required to undergo public notification.

It has been assessed against the relevant statutory planning instruments, including the Regional Plan and the Planning Scheme and does not conflict with any relevant planning instrument.

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

It is recommended that the application be approved in full with conditions.

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	A Leighton & E Crisp	ADDRESS	46 Tyrconnell Road, Paddys Green
DATE LODGED	7 January 2021	RPD	Lot 147 on SP227506
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), concurrence agency conditions in (E), relevant period in (F), further permits in (G), and further approvals from Council listed in (H);

And

The assessment manager does not consider that the assessment manager's decision conflicts with a relevant instrument.

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

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
PR148743-1	Proposal Plan	Urban Sync/RPS	16/10/20

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out generally in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:

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

2. Timing of Effect

- 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the endorsement of the plan of survey, 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 additional payment condition within these 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 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 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. A plan demonstrating compliance of any existing buildings or structures that are in close proximity to any new property boundary must be submitted prior to endorsement of the plan of survey.
- 3.6 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.

3.7 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

An access crossover must be maintained (from the edge of the road pavement to the property boundary of each proposed lot) 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 On-Site Wastewater Management

At the time of construction of a new dwelling on any lot, 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.

5. Additional Payment Condition/s (section 130 of the Planning Act 2016)

5.1 The additional payment condition has been imposed as the development will create additional demand on trunk infrastructure which will create additional trunk infrastructure costs for council.

5.2 The developer must pay a one-off payment of \$4,820.00 (per additional lot) as a contribution toward trunk infrastructure with the amount of the contribution increased on 1 July each year in accordance with the increase for the PPI index for the period starting on the day the development approval takes effect, adjusted by reference to the 3-yearly PPI index average to the date of payment.

5.3 The trunk infrastructure for which the payment is required is:

- The trunk transport network servicing the land (\$4,820.00 per additional lot)

5.4 The developer may elect to provide part of the trunk infrastructure instead of making the payment.

5.5 If the developer elects to provide part of the trunk infrastructure the developer must:

- Discuss with Council's delegated officer the part of the works to be undertaken;
- Obtain the necessary approvals for the part of the works;
- Indemnify the Council in relation to any actions, suits or demands relating to or arising from the works;
- Take out joint insurance in the name of the Council and the developer in the sum of \$20,000,000 in relation to the undertaking of the works;
- Comply with the reasonable direction of Council officers in relation to the completion of the works;
- Complete the works to the standards required by the Council; and
- Complete the works prior to endorsement of the plan of subdivision.

(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) 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.

(c) 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.

(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.

(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.

(E) CONCURRENCE AGENCY CONDITIONS

State Assessment and Referral Agency conditions dated 11 February 2021

(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 site is described as Lot 147 on SP227506 and is situated at 46 Tyrconnell Road, Paddys Green. The site is irregularly shaped with an area of 276.4 ha and is zoned Rural under the Mareeba Shire Council Planning Scheme 2016.

The site has an approximate 850m frontage to Mareeba Dimbulah Road, an approximate 1,960m frontage to Tyrconnell Road, and a 1,730m frontage to Ivicovic Road.

Mareeba Dimbulah Road (State-controlled Road) is an 8m wide sealed carriageway within a 60m (approx.) wide road reserve. Tyrconnell Road has a varying width (6 to 8 metres) sealed carriageway within a 40m (approx.) wide road reserve. Ivcevic Road is a gravel carriageway within a 35m (approx.) wide road reserve.

The site is improved with one (1) existing dwelling house, a shed, and multiple telecommunications towers. Several leases are established over the telecommunications towers.

The site is used for cattle grazing with informal access tracks and cattle fencing evident throughout the site.

The topography of the site generally falls from the north, east and side boundaries of the northern portion of the site with the lowest lying land evident at the middle of the site as it progresses towards Mareeba Dimbulah Road.

The southern portion of the site that is separated by the Mareeba Dimbulah Road is the lowest lying land and falls from the northern lot boundary progressively towards the southern boundary.

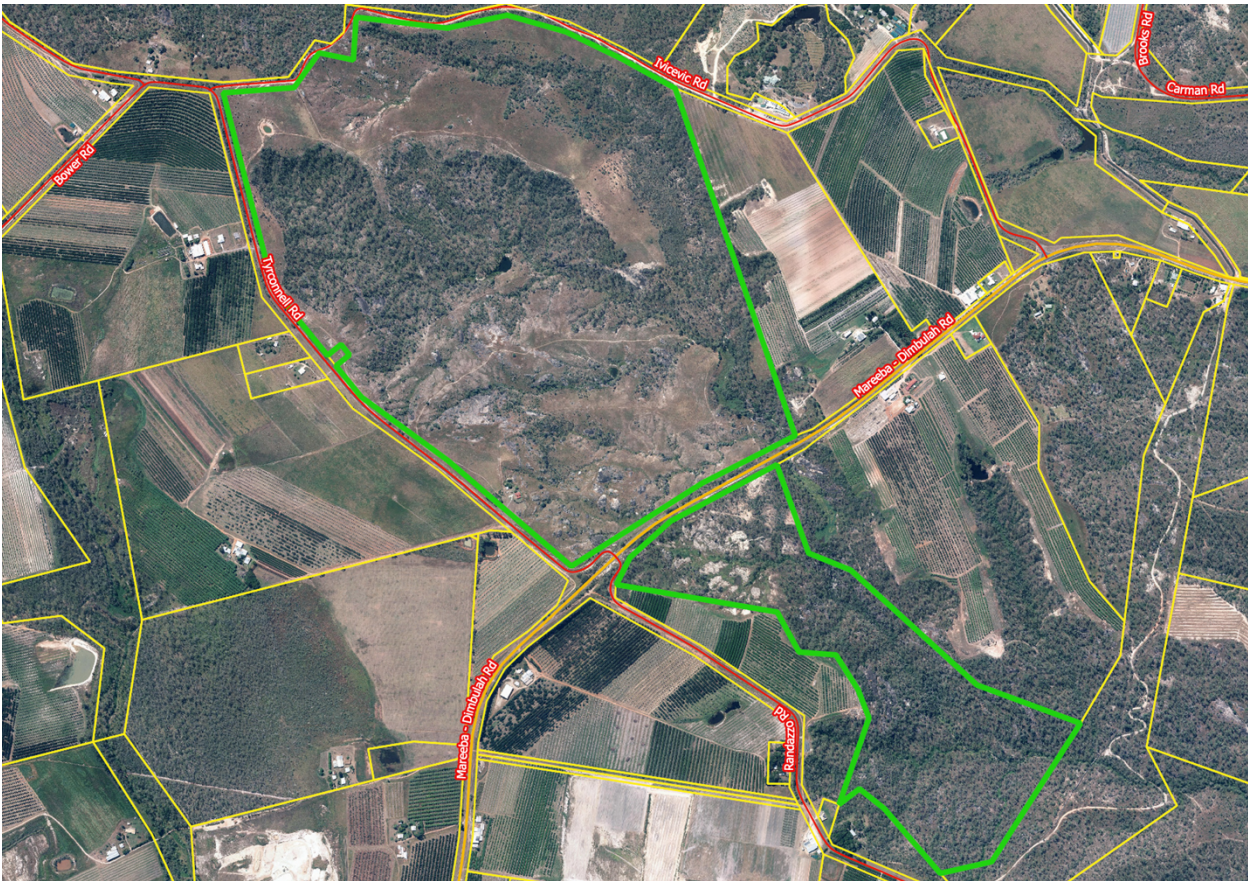
Approximately five (5) waterways traverse the site.

The site contains dense areas of native vegetation located generally along the whole length of the eastern side boundary of the northern allotment leading into the middle and west of the site.

The southern portion of the site is almost wholly comprised by native vegetation with only the northern portion containing spare areas of vegetation due to the rocky topography.

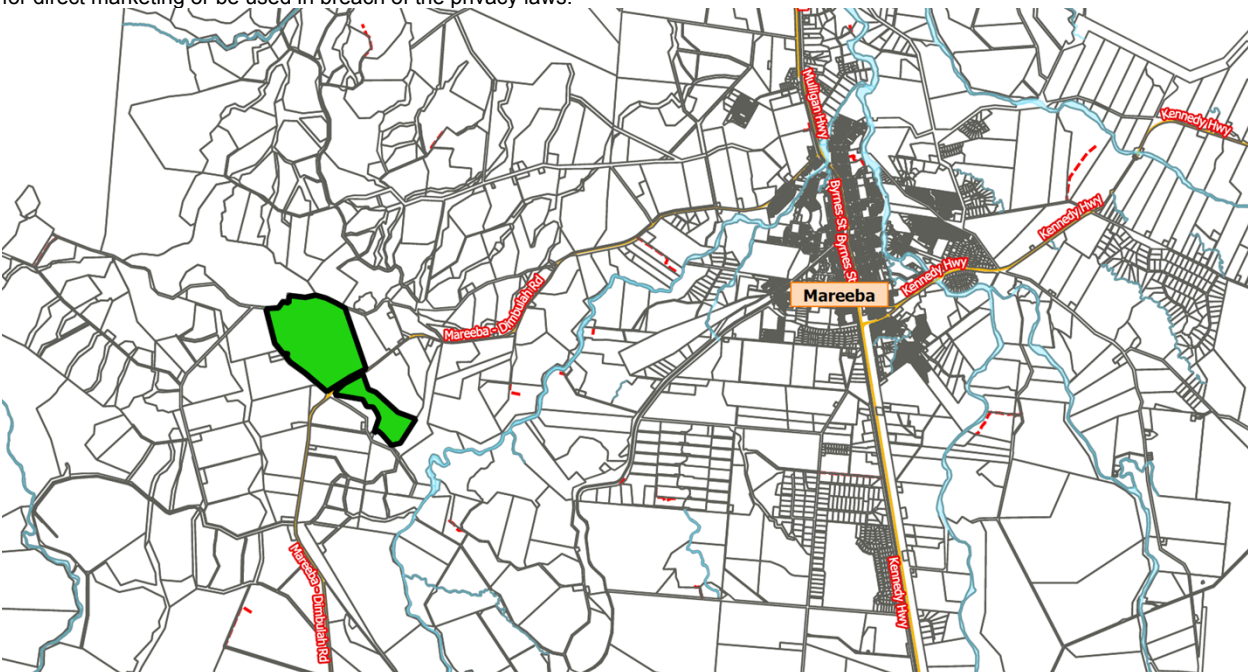
This site is serviced by water tanks and an on-site effluent system. Stormwater from the site appears to be discharged via sheet flow to the numerous waterways located over the site.

The site is connected to both electricity and telecommunications services.



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 applicant proposes the subdivision of the subject site into the following allotments:

- Lot 147 area of about 156.2 hectares, 850 metres frontage to Mareeba Dimbulah Road and 880 metres frontage to Tyrconnell Road;
- Lot 148 area of about 120 hectares, 1,730 metres frontage to Ivcevic Road and 1,080 metres frontage to Tyrconnell Road.

Proposed Lot 147 will contain the existing dwelling house and associated outbuildings. Proposed Lot 148 will not contain a dwelling house upon creation. Both proposed lots will contain established telecommunication infrastructure.

Each proposed lot will be accessed off Tyrconnell Road.

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:

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

PLANNING SCHEME DESIGNATIONS

	<p>Land Use Categories</p> <ul style="list-style-type: none"> • Rural Agricultural Area • Rural Other <p>Natural Environment Elements</p> <ul style="list-style-type: none"> • Biodiversity Areas • Ecological Corridor • Habitat Linkage <p>Natural Resource Elements</p> <ul style="list-style-type: none"> • Key Resource Area <p>Transport Elements</p> <ul style="list-style-type: none"> • State Controlled Road • B-double Route
Strategic Framework:	
Zone:	Rural zone
Overlays:	Agricultural land overlay Airport environs overlay Bushfire hazard overlay Environmental significance overlay Extractive resources overlay Hill and slope 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
- 8.2.5 Extractive resources overlay code

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

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

Relevant Codes	Comments
Rural zone	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 can be conditioned to comply with the code's 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 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).
Extractive resources 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).

(e) Planning Scheme Policies/Infrastructure Charges Plan

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.

(f) Additional Trunk Infrastructure Condition

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.1) 2020, the following contribution towards the transport network is considered appropriate:

- 1 additional allotment x \$4,820.00 = **\$4,820.00**

REFERRALS

The application triggered referral to the State Assessment and Referral Agency (SARA) as a Concurrence Agency (State controlled road).

SARA advised in a letter dated 11 February 2021 that they require the conditions to be attached to any approval (**Attachment 2**).

Internal Consultation

Technical services.

PLANNING DISCUSSION

Nil

Date Prepared: 23 February 2021

DECISION BY DELEGATE

DECISION

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

Dated the 24TH day of FEBRUARY 2021



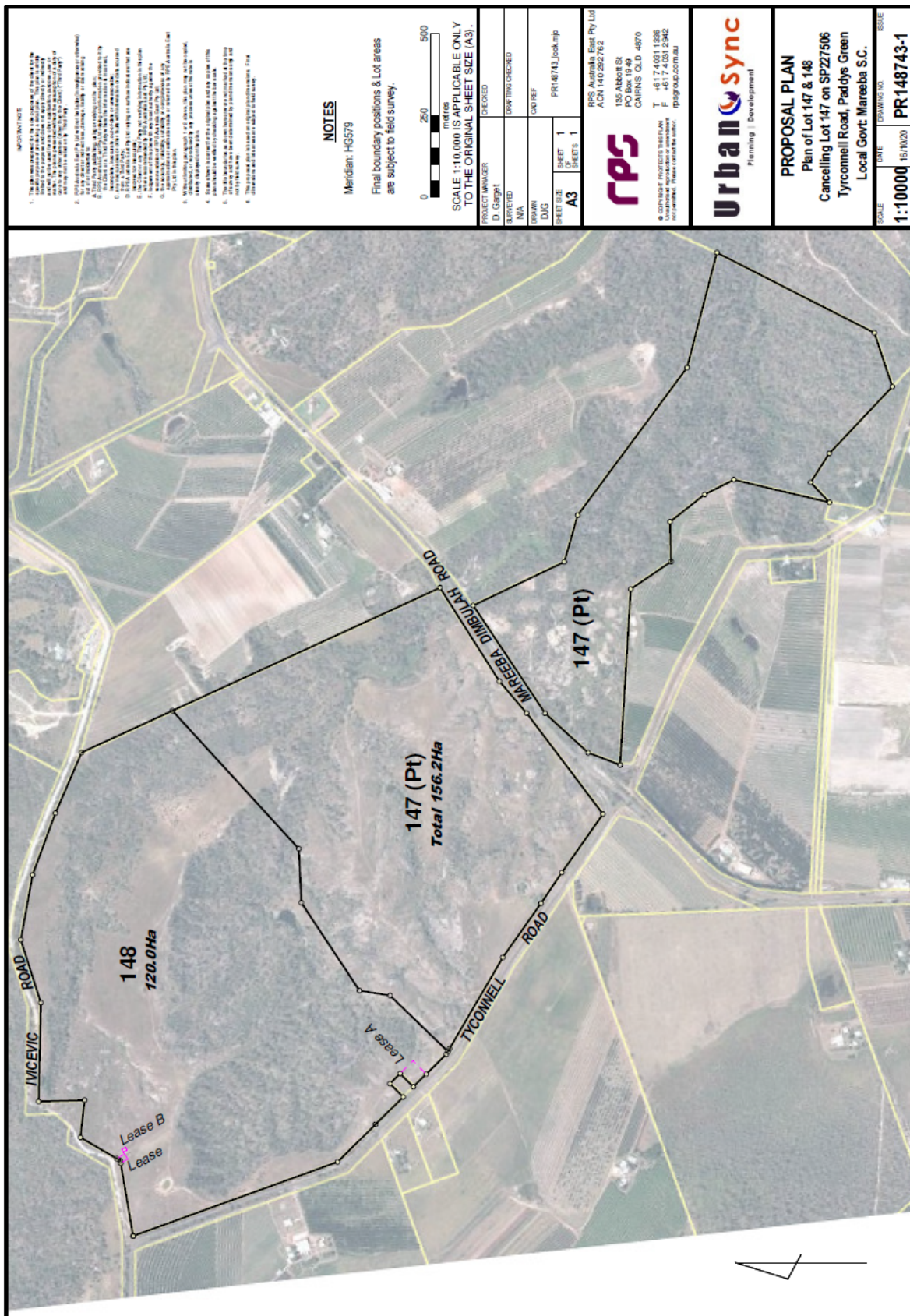
BRIAN MILLARD
SENIOR PLANNER



ANTHONY ARCHIE
MANAGER DEVELOPMENT & GOVERNANCE

MAREEBA SHIRE
AS A DELEGATE OF THE COUNCIL

PROPOSAL PLANS



ATTACHMENT 2

RA6-N



SARA reference: 2101-20633 SRA
 Council reference: RAL/21/0001
 Applicant reference: 20-585

11 February 2021

Chief Executive Officer
 Mareeba Shire Council
 PO Box 154
 Mareeba Qld 4880
 planning@msc.qld.gov.au

Attention: Brian Millard

Dear Sir / Madam

SARA response—46 Tyrconnell Road, Paddys Green

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency on 15 January 2021.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	11 February 2021
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Development permit	Reconfiguring a Lot (1 lot into 2 lots)
SARA role:	Referral Agency	

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Far North Queensland regional office
 Ground Floor, Cnr Grafton and Hartley
 Street, Cairns
 PO Box 2358, Cairns QLD 4870

2101-20633 SRA

SARA trigger: Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1
(Planning Regulation 2017)

Schedule 10, Part 9, Division 4, Subdivision 2, Table 3, Item 1
(Planning Regulation 2017)

Development application for a material change of use within 25m of a
state-controlled road and within 100 metres of a state-controlled road
intersection

SARA reference: 2101-20633 SRA

Assessment Manager: Mareeba Shire Council

Street address: 46 Tyrconnell Road, Paddys Green

Real property description: Lot 147 on SP227506

Applicant name: Ann Margaret Leighton and Elizabeth Hannah Crisp

Applicant contact details: C/- Urban Sync Pty Ltd
PO Box 2970
Cairns QLD 4870
justin@urbansync.com.au

Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules)

Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Joanne Manson, Principal Planning Officer, SARA Far North QLD on 40373228 or via email CairnsSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Ann Margaret Leighton and Elizabeth Hannah Crisp, justin@urbansync.com.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations provisions

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application)

No.	Conditions	Condition timing
Reconfiguring a lot		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1- Reconfiguring a lot near a State and Schedule 10, Part 9, Division 4, Subdivision 2, Table 3, Item 1- Reconfiguration within 100 metres of a state-controlled road intersection —The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
1.	Direct access is not permitted between Mareeba-Dimbulah Road and proposed Lot 147.	At all times

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) [v2.6]. If a word remains undefined it has its ordinary meaning.

Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

The reasons for the department's decision are:

- The department carried out an assessment against the State Development Assessment Provisions, State code 1: Development in a state-controlled road environment and found the proposed development, with conditions, complies with the relevant provisions of the state code.
- No changes are proposed to existing access arrangements which are via the local government-controlled road.
- No bulk earthworks are required to facilitate the proposed development
- The proposed development is unlikely to result in queuing impacts to the state-controlled road intersection.
- The proposed development:
 - o does not create a safety hazard for users of the state-controlled road
 - o does not compromise the structural integrity of the state-controlled road
 - o does not result in a worsening of the physical condition or operating performance of the state-controlled road
 - o does not compromise the state's ability to maintain and operate the state-controlled road.

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version 2.6), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system

Attachment 4—Change representation provisions

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Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding **representations about a referral agency response**

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

Part 7: Miscellaneous

30 Representations about a referral agency response

- 30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.