

Your Ref: RAL/21/0002

Our Ref: R15-20

14 January 2021

Chief Executive Officer
Mareeba Shire Council
65 Rankin Street
Mareeba, QLD, 4880

Attention: Planning Department

Dear Sir/Madam,

**RESPONSE TO INFORMATION REQUEST
RECONFIGURE A LOT – BOUNDARY REALIGNMENT
SITUATED AT 98 SPENA ROAD, MAREEBA
FORMALLY DESCRIBED AS LOT 10 & LOT 145 ON SP163445**

We refer to the confirmation notice received on the 13 January 2021, in relation to the level of assessment amendment and the requirement to address the Temporary Local Planning Instrument (TLPI) No.01 of 2019 – Subdivision in Rural Zone.

The request from Council is noted below:

TLPI No. 01 of 2019 (Subdivision in Rural Zone)

Please address the relevant criteria in the Mareeba Shire Council Planning Scheme 2016 as amended by TLPI No. 01 of 2019 (Subdivision in Rural Zone).

Response to request:

We acknowledge the request, and outline that the instrument was reviewed as part of the initial assessment, however it would appear that our interpretation of the trigger was incorrectly applied. Regardless of the type of subdivision, the trigger applies to any lot less than 60ha whether you are creating additional lots or simply realigning the boundaries of existing allotments. In light of this, the application is required to be assessed against *TLPI No. 01 of 2019 (Subdivision in Rural Zone)*.

TLPI No. 01 of 2019 (Subdivision in Rural Zone)

Accordingly, an assessment of the proposed development against the relevant TLPI is completed. Where the requirements of an Acceptable Outcome were impractical or inappropriate to address, the Performance Outcome was addressed and satisfied. By satisfying the requirements of the Performance Outcomes, the overall “Purpose” of the code was inherently satisfied, as was the Strategic Framework for the planning scheme. In terms of the assessment provided, should any part of the development not comply with any sections of the TLPI, the relevant sections will be adequately referenced and addressed in further detail to ensure compliance has been achieved.

1.1 Strategic Framework

The Strategic Intent, and the Strategic Framework (SF) as a whole is a set of high order strategic outcomes and land use strategies which set the overarching policy intent for the lower order, more detailed components of the planning scheme i.e. zones, codes and policies. The Framework is split into various themes which cover the main aspects of land use planning and development governance. Given the level the Framework operates at, it is difficult to provide a direct, site specific assessment of the proposal against its many components. However, a proposal that satisfies the lower order components of the planning scheme, i.e. zone codes, development codes, overlay codes, planning scheme policies, etc; inherently satisfies the intent of the Framework.

The SF sets the policy direction for the Shire for the life of the Planning Scheme. Regarding this development the relevant provisions of the SF are:

- Settlement Pattern and built environment – Protection of Rural Zones; and
- Transport and Infrastructure – protection from urban encroachment.

1.2.1 Settlement pattern and built environment

1.2.1.1 Strategic outcomes

This provision of the TLPI replaces Strategic Framework, Strategic outcome 3.3.1(5) of the planning scheme for the nominated development.

- (1) 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.
- (2) New subdivisions which propose lots less than the minimum lot size of 60ha are not supported within the Rural zone.

Statement of Compliance:

No new allotments are created as a result of this development. These provisions apply to new subdivisions to avoid any new or additional lots being created within the Rural Zone below 60ha. In this instance, the two (2) existing allotments that are the subject of this application are both under 60ha with lot 10 being 9.9ha and lot 145 being 40.80ha. The resulting lot sizes being itemised as follows:

- Proposed Lot 10: 3.8 hectares;
- Proposed Lot 145: 46.9 hectares; and
- Proposed Easement – 660m² and 5 metres wide.

The purpose of this development remains to improve the overall productivity across the two (2) existing properties in accordance with the outcomes sought above in section 1.2.1.1 (1). To achieve this outcome the proposed realignment of the boundaries between existing Lots 10 and 145, is required to separate the two (2) dwellings with the result being one (1) dwelling on each property. That way the two (2) families can each live on their own title, free of any future encumbrances. The layout also improves the usable area of land of lot 145 on the eastern side of Spena Road, by including it into the orchard with the packing shed and dwelling located on this new proposed portion of land. An easement for access and water is provided from Lot 10 to Davies Creek to secure water access to the allotment.

1.2.4 Element—Rural areas

1.2.4.1 Specific outcomes

This provision of the TLPI replaces Strategic Framework, Element 3.3.11, Specific Outcome 3.3.11.1(1), Specific Outcome 3.3.11.1(2), Specific Outcome 3.3.11.1(4), Specific Outcome 3.3.11.1(5) of the planning scheme for the nominated development.

- (1) Rural areas include rural activities and land uses of varying scale, consistent with surrounding rural land use, character and site conditions.
- (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.
- (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.
- (4) Tourism, outdoor recreation, horticultural activities and natural bushland uses may be considered in other rural areas where appropriately located, serviced and otherwise consistent with the Strategic Framework.

Statement of Compliance:

No new allotments are created as a result of this development. These provisions apply to new subdivisions to avoid any new or additional lots being created within the Rural Zone below 60ha. In this instance, the two (2) existing allotments that are the subject of this application are both under 60ha with lot 10 being 9.9ha and lot 145 being 40.80ha. The resulting lot sizes being itemised as follows:

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1.2.5 Transport and infrastructure

1.2.5.1 Strategic outcomes

This provision of the TLPI replaces Strategic Framework, Strategic Outcome 3.6.1(6) of the planning scheme for the nominated development.

- (1) 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.

Statement of Compliance:

This provision is applied to protect rural zoned land from inappropriate and out of sequenced urban development and how the relevant infrastructure must be provided. This does not apply to this development and is not assessable as part of this development.

1.3 Rural zone code

This provision of the TLPI replaces Rural zone code, section 6.2.9.2 Purpose, Section (2)(f); overall outcome (3)(a) and overall outcome (3)(f) of the planning scheme for the nominated development.

1.3.1 Purpose

- (1) Provide for a range of non-urban uses, compatible and associated with rural or ecological values including recreational pursuits and tourist activities.
- (2) 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.
- (3) Residential and other uses are appropriate only where directly associated with the rural nature of the zone.

Statement of Compliance:

No new allotments are created as a result of this development. These provisions apply to new subdivisions to avoid any new or additional lots being created within the Rural Zone below 60ha. In this instance, the two (2) existing allotments that are the subject of this application are both under 60ha with lot 10 being 9.9ha and lot 145 being 40.80ha. The resulting lot sizes being itemised as follows:

- Proposed Lot 10: 3.8 hectares;
- Proposed Lot 145: 46.9 hectares; and
- Proposed Easement – 660m² and 5 metres wide.

The purpose of this development remains to improve the overall productivity across the two (2) existing properties in accordance with the outcomes sought above in section 1.2.1.1 (1). To achieve this outcome the proposed realignment of the boundaries between existing Lots 10 and 145, is required to separate the two (2) dwellings with

the result being one (1) dwelling on each property. That way the two (2) families can each live on their own title, free of any future encumbrances. The layout also improves the usable area of land of lot 145 on the eastern side of Spena Road, by including it into the orchard with the packing shed and dwelling located on this new proposed portion of land. An easement for access and water is provided from Lot 10 to Davies Creek to secure water access to the allotment.

1.4 Reconfiguring a lot code

This provision of the TLPI replaces Reconfiguring a lot code, Section 9.4.4.2 Purpose, Section (2)(i) of the planning scheme for the nominated development.

1.4.1 Purpose

(1) Subdivision within the Rural zone maintains lots equal to or larger than 60ha.

1.4.2 Assessment Criteria

This provision of the TLPI replaces Reconfiguring a lot code, Section 9.4.4.3, Table 9.4.4.3A Reconfiguring of lot code – For Assessable Development, Performance outcome – PO1 and Acceptable Outcome AO1.1 of the Planning Scheme for the nominated development.

1.4.2 Criteria for assessable development – Rural Zone

Performance outcomes	Acceptable outcomes
Area and frontage of lots – Rural Zone	
PO1.1 No lots are created with an area of less than 60ha Note: This also applies to applications for boundary realignment.	AO1.1 No acceptable outcome is provided
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
PO1.3 Proposed lots are; <ul style="list-style-type: none"> a. Able to accommodate all buildings, structures and works associated with the rural use; and b. Suitable to allow the site to be provided with sufficient access Note: This also applies to applications for boundary realignment.	AO1.3 No acceptable outcome is provided

Note – The balance of the assessment criteria in the Reconfiguring a lot code will apply to the development application to the extent they are not suspended or replaced by this TLPI.

Statement of Compliance:

No new allotments are created as a result of this development. These provisions apply to new subdivisions to avoid any new or additional lots being created within the Rural Zone below 60ha. In this instance, the two (2) existing allotments that are the subject of this application are both under 60ha with lot 10 being 9.9ha and lot 145 being 40.80ha. The resulting lot sizes being itemised as follows:

- Proposed Lot 10: 3.8 hectares;
- Proposed Lot 145: 46.9 hectares; and
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The purpose of this development remains to improve the overall productivity across the two (2) existing properties in accordance with the outcomes sought above in section 1.2.1.1 (1). To achieve this outcome the proposed realignment of the boundaries between existing Lots 10 and 145, is required to separate the two (2) dwellings with the result being one (1) dwelling on each property. That way the two (2) families can each live on their own title, free of any future encumbrances. The layout also improves the usable area of land of lot 145 on the eastern side of Spena Road, by including it into the orchard with the packing shed and dwelling located on this new proposed portion of land. An easement for access and water is provided from Lot 10 to Davies Creek to secure water access to the allotment.

In concluding the proposed development has two (2) existing rural zone lots under 60ha with existing infrastructure in place, which demonstrates that the proposed lots have been already able to accommodate all buildings and structures and works associated with the existing established rural uses across both sites, whilst containing suitable access from Spena Road. By doing so this development achieves the rural zone purpose outcomes (1) below, and by default achieved compliance with the overall strategic framework outcome (1) below in that the existing primary industry activities are protected and maintained as a result of this development. There will be no loss or direct impact in relation to production across properties as a result of this development.

- (1) 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.
- (1) Rural areas include rural activities and land uses of varying scale, consistent with surrounding rural land use, character and site conditions.

That now concludes our response to Council's information request. We will now proceed to Public Notification. Should there be any questions or queries in relation to the development application presented, we would appreciate if you could contact our office immediately. We also ask if possible that a copy of all correspondence be forwarded to our office via email.

Yours faithfully,



Ramon Samanes

Director, U&I Town Plan

Bachelor of Applied Science, Majoring in Environmental and Urban Planning