

**DELEGATED REPORT**

**SUBJECT:** B GIANNINI - RECONFIGURNG A LOT - BOUNDARY REALIGNMENT - LOT 1 ON RP902764 & LOT 1 ON SP182307 - 15-17 MASONS ROAD, KURANDA - RAL/21/0008

**DATE:** 6 May 2021

**REPORT OFFICER'S TITLE:** Planning Officer

**DEPARTMENT:** Corporate and Community Services

**APPLICATION DETAILS**

APPLICATION		PREMISES	
<b>APPLICANT</b>	B Giannini	<b>ADDRESS</b>	15 - 17 Masons Road, Kuranda
<b>DATE LODGED</b>	30 April 2021	<b>RPD</b>	Lot 1 on RP902764 & Lot 1 on SP182307
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Reconfiguring a Lot - Boundary Realignment		

<b>FILE NO</b>	RAL/21/0008	<b>AREA</b>	Lot 1 on RP902764 - 1.739 ha Lot 1 on SP182307 - 4,994m <sup>2</sup>
<b>LODGED BY</b>	B Giannini	<b>OWNER</b>	Lot 1 on RP902764 - G Hillmann & N Day Lot 1 on SP182307 - B & J Giannini
<b>PLANNING SCHEME</b>	Mareeba Shire Council Planning Scheme 2016		
<b>ZONE</b>	Rural residential zone		
<b>LEVEL OF ASSESSMENT</b>	Code assessment		
<b>SUBMISSIONS</b>	N/A - Code Assessment only		

**ATTACHMENTS:** 1. Proposal Plan/s

**EXECUTIVE SUMMARY**

*Council is in receipt of a code assessable development application described in the above application details. The proposed boundary realignment is sought to rectify an existing boundary encroachment.*

*The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and does not conflict with any relevant aspect of the Planning Scheme.*

*It is recommended that the application be approved in full, subject to conditions.*

## OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

<b>APPLICATION</b>		<b>PREMISES</b>	
<b>APPLICANT</b>	B Giannini	<b>ADDRESS</b>	15 - 17 Masons Road, Kuranda
<b>DATE LODGED</b>	30 April 2021	<b>RPD</b>	Lot 1 on RP902764 & Lot 1 on SP182307
<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.

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

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
379_03	Earth Dam Location	Robin Trotter Cadastral Surveyor	1/04/2020

(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, 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 Charges

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

## (D) 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) 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)

(d) 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).

(E) RELEVANT PERIOD

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

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

(F) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

- Nil

(G) OTHER APPROVALS REQUIRED FROM COUNCIL

- Nil

## THE SITE

The subject land comprises two lots described as Lot 1 on RP902764 and Lot 1 on SP182307 situated at 15 and 17 Masons Road, Kuranda. Both Lots are zoned Rural Residential under the Mareeba Shire Council Planning Scheme 2016.

Both lots are accessed from Masons Road and each contain an established dwelling and outbuildings as shown on the below maps.



**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 proposed boundary realignment will rectify building encroachments occurring over the common boundary of the two allotments.

## REGIONAL PLAN DESIGNATION

The subject site is included within the Rural Living Area land use category in the Far North Queensland Regional Plan 2009-2031. Kuranda is identified a Village Activity Centre in the Regional Plan. 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 High Ecological Significance*
- *Terrestrial Area of General Ecological Significance*

## PLANNING SCHEME DESIGNATIONS

Strategic Framework:	<b>Land Use Categories</b> <ul style="list-style-type: none"> <li>• Rural Residential Area</li> </ul> <b>Natural Environmental Elements</b> <ul style="list-style-type: none"> <li>• <i>Biodiversity Areas</i></li> </ul> <b>Transport Elements</b> <ul style="list-style-type: none"> <li>• <i>Local Collector Road</i></li> <li>• <i>Principal Cycle Route</i></li> </ul>
Zone:	Rural Residential Zone (1 Hectare Precinct)
Overlays:	Environmental Significance Overlay Hill and Slope Overlay Scenic Amenity 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:

- 6.2.10 Rural residential zone code
- 8.2.4 Environmental significance overlay code
- 8.2.8 Hill and slope overlay code
- 8.2.11 Scenic amenity 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 satisfies the relevant acceptable solutions (or probable solutions/performance criteria where no acceptable solution applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

<b>Relevant Codes</b>	<b>Comments</b>
Rural residential zone code	The application complies or can be conditioned to comply with the relevant code provisions.
Environmental significance overlay code	The application complies or can be conditioned to comply with the relevant code provisions.
Hill and slope overlay code	The application complies or can be conditioned to comply with the relevant code provisions.
Scenic amenity overlay code	The application complies or can be conditioned to comply with the relevant code provisions.
Landscaping code	The application complies or can be conditioned to comply with the relevant code provisions.
Parking and access code	The application complies or can be conditioned to comply with the relevant code provisions.
Reconfiguring a lot code	The application complies or can be conditioned to comply with the relevant code provisions.
Works, services and infrastructure code	The application complies or can be conditioned to comply with the relevant code provisions.

**(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

A condition will be attached to any approval requiring any development works be designed and constructed in accordance with FNQROC Development Manual standards.

**REFERRAL AGENCY**

This application did not trigger referral to a Referral Agencies.

**Internal Consultation**

Nil

**PLANNING DISCUSSION**

Nil

***Date Prepared:***            *6 May 2021*



## DECISION BY DELEGATE

## DECISION

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

Dated the *6TH* day of *MAY* 2021



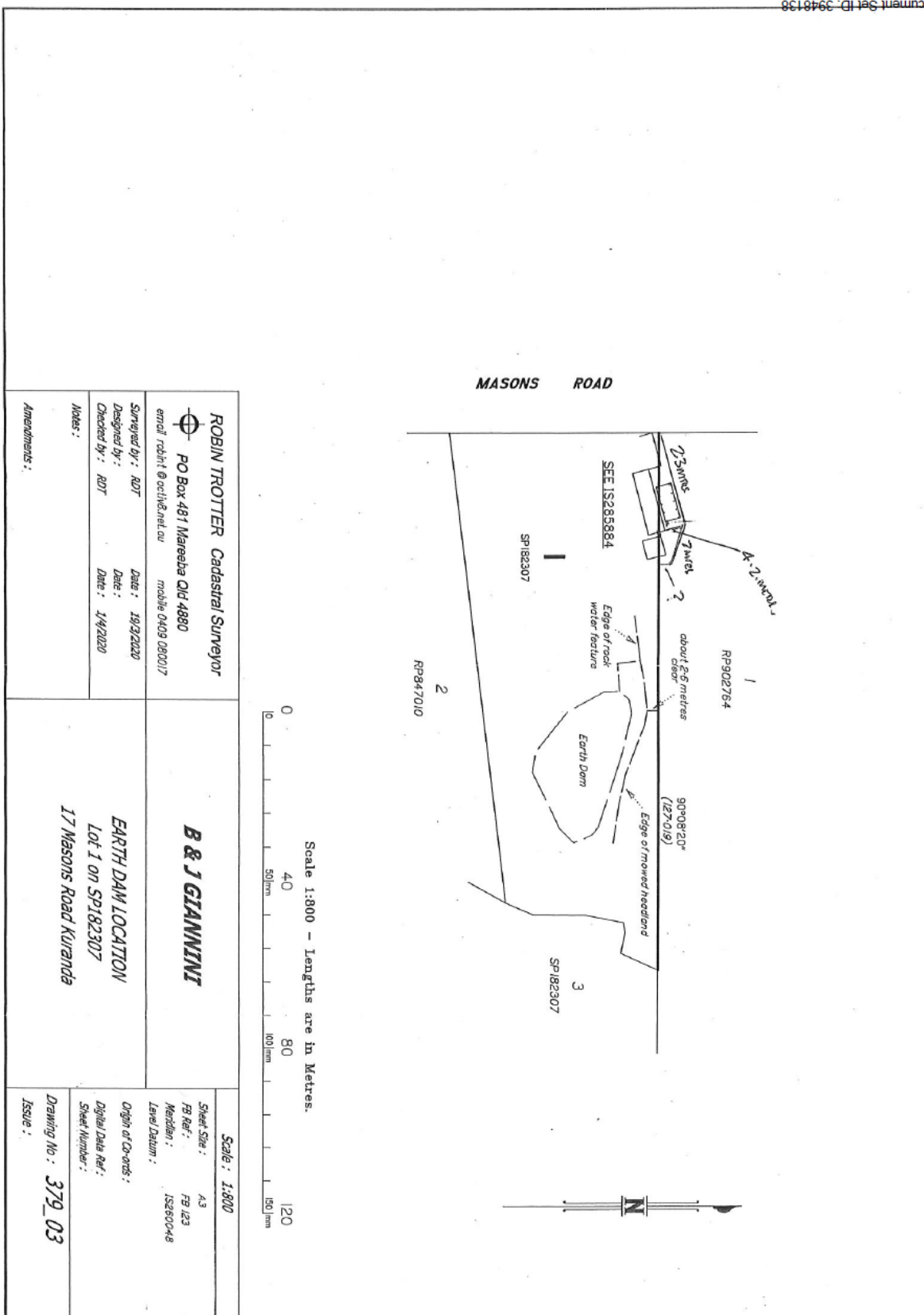
**BRIAN MILLARD**  
**SENIOR PLANNER**

MAREEBA SHIRE  
AS DELEGATE OF THE COUNCIL

ATTACHMENT 1

PROPOSED PLANS (ECM DSI # 3948138)

Document Set ID: 3948138  
Version: 1, Version Date: 04/05/2021



**ROBIN TROTTER** Cadastral Surveyor  
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Surveyed by: ROT Date: 19/3/2020  
 Designed by: ROT Date: 1/4/2020  
 Checked by: ROT Date: 1/4/2020

Notes:  
 Amendments:

**B & J GIANNINI**

**EARTH DAM LOCATION**  
 Lot 1 on SP182307  
 17 Masons Road Kuranda

Scale: 1:800

Sheet Size: A3  
 FB Ref: FB 123  
 Meridian: 128°00'48"  
 Level Datum:

Origin of Co-ords:  
 Digital Data Ref:  
 Sheet Number:

Drawing No: 379\_03  
 Issue: