

8.1 D MARTIN - RECONFIGURING A LOT - BOUNDARY REALIGNMENT - LOT 2 ON SP176556 & LOT 202 ON RP843530 - 2850 KENNEDY HIGHWAY & 116 KANERVO ROAD, KOAH - RAL/21/0010

Date Prepared: 13 September 2021

Author: Senior Planner

Attachments:

1. Proposal Plan
2. State Assessment and Referral Agency response dated 2 August 2021
3. Submission

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	D Martin	ADDRESS	2850 Kennedy Highway & 116 Kanervo Road, Koah
DATE LODGED	24 May 2021	RPD	Lot 2 on SP176556 & Lot 202 on RP843530
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Boundary Realignment		
FILE NO	RAL/21/0010	AREA	Lot 2 - 15.47 ha Lot 202 - 15.72 ha
LODGED BY	D Martin	OWNER	D Martin
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural zone		
LEVEL OF ASSESSMENT	Impact Assessment		
SUBMISSIONS	One (1) in support		

EXECUTIVE SUMMARY

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

The application is impact assessable and one (1) properly made submission was received in response to public notification of the application.

The application proposes to reconfigure the two (2) allotments, by way of a boundary realignment only (no additional lot created) whereby approximately 13.72 hectares of land from existing Lot 202 will be transferred to proposed Lot 2 to consolidate all grazing land into a single parcel.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 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 seeks 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 with areas of approximately 15 hectares and questionable stand-alone agricultural viability. The proposed boundary realignment will create a more viable proposed Lot 2 at 29.19 hectares. 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 is the highest order assessment benchmark in the Planning Scheme and holds greater 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 help increase the agricultural viability of the farming activity on Lot 2.

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	D Martin	ADDRESS	2850 Kennedy Highway & 116 Kanervo Road, Koah
DATE LODGED	24 May 2021	RPD	Lot 2 on SP176556 & Lot 202 on RP843530
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	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), 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 - Boundary Realignment

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
-	Proposed Boundary Realignment of Lot 202 on RP843530 and Lot 2 on SP176556	-	-

(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 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.

(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) REFERRAL AGENCY CONDITIONS

State Assessment and Referral Agency conditions dated 2 August 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 comprises of the following allotments:

- Lot 202 on RP843530, situated at 116 Kanervo Road, Koah, having an area of 15.72 hectares and a frontage of 526.8 metres to Kanervo Road; and
- Lot 2 on SP176556, situated at 2850 Kennedy Highway, Koah, having an area of 15.47 hectares and a frontage of 250.7 metres to the Kennedy Highway.

Kanervo Road is constructed to a rural road gravel standard, whilst the Kennedy Highway is a bitumen sealed State controlled road. Each lot has an access off their respective frontage.

Both lots contain an established dwelling house and associated outbuildings (sheds).

The land is described as undulating but relatively flat. Sparse native vegetation exists over much of the site and in some areas, this vegetation is mapped as remnant vegetation.

Lots surrounding the site is predominately used for rural (grazing) and rural living purposes.



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.



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.

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 application proposes to transfer approximately 13.72 hectares from existing Lot 202 to proposed Lot 2 to consolidate all grazing land into a single parcel. This will create a more viable rural holding in proposed Lot 2.

The realigned lots will be as follows:

- Lot 1 - area of 2 hectares, approximately 100 metres frontage to Kanervo Road;
- Lot 2 - area of 29.19 hectares, in excess of 400 metres frontage to Kanervo Road and the Kennedy Highway.

Both reconfigured lots will retain an established dwelling house and outbuilding.

All servicing arrangements, including access, for the existing allotments will remain in place.

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:

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

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	<p>Land Use Categories</p> <ul style="list-style-type: none"> • Rural Area - Rural Other <p>Natural Environment Elements</p> <ul style="list-style-type: none"> • Biodiversity Areas <p>Transport Elements</p> <ul style="list-style-type: none"> • State Controlled Road • Principal Cycle Routes
Zone:	Rural zone
Overlays:	<ul style="list-style-type: none"> • Bushfire Hazard Overlay • Environmental Significance Overlay • Flood Hazard 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

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.

Both existing lots are significantly less than 60 hectares in size with each having an area slightly above 15 hectares.

Both existing and proposed lots are improved by a dwelling house and ancillary outbuildings, so the realignment does not create the opportunity for an additional dwelling house within the rural zone. Instead, the realignment will consolidate all grazing land into a single parcel, creating a more viable rural holding with proposed Lot 2.

The realignment will reduce the length of property boundaries traversing through vegetated internal waterways, eliminating the requirement for fence line clearing in these areas. This is an improved environmental outcome.

The development will not further fragment, compromise or alienate productive agricultural land, and will only increase the agricultural viability of a farming enterprise. Further, the development will result in an improved environmental outcome.

The proposed development is 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.

Both existing lots are significantly less than 60 hectares in size with each having an area slightly above 15 hectares.

Both existing and proposed lots are improved by a dwelling house and ancillary outbuildings, so the realignment does not create the opportunity for an additional dwelling house within the rural zone. Instead, the realignment will consolidate all grazing land into a single parcel, creating a more viable rural holding with proposed Lot 2.

The realignment will reduce the length of property boundaries traversing through vegetated internal waterways, eliminating the requirement for fence line clearing in these areas. This is an improved environmental outcome.

The development will not further fragment, compromise or alienate productive agricultural land, and will only increase the agricultural viability of a farming enterprise. Further, the development will result in an improved environmental outcome.

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 it does not constitute a "subdivision" by definition.

Both existing lots are significantly less than 60 hectares in size with each having an area slightly above 15 hectares.

Both existing and proposed lots are improved by a dwelling house and ancillary outbuildings, so the realignment does not create the opportunity for an additional dwelling house within the rural zone. Instead, the realignment will consolidate all grazing land into a single parcel, creating a more viable rural holding with proposed Lot 2.

The realignment will reduce the length of property boundaries traversing through vegetated internal waterways, eliminating the requirement for fence line clearing in these areas. This is an improved environmental outcome.

The development will not further fragment, compromise or alienate productive agricultural land, and will only increase the agricultural viability of a farming enterprise. Further, the development will result in an improved environmental outcome.

The proposed development is 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 it does not constitute a "subdivision" by definition.

Both existing lots are significantly less than 60 hectares in size with each having an area slightly above 15 hectares.

Both existing and proposed lots are improved by a dwelling house and ancillary outbuildings, so the realignment does not create the opportunity for an additional dwelling house within the rural zone. Instead, the realignment will consolidate all grazing land into a single parcel, creating a more viable rural holding with proposed Lot 2.

The realignment will reduce the length of property boundaries traversing through vegetated internal waterways, eliminating the requirement for fence line clearing in these areas. This is an improved environmental outcome.

The development will not further fragment, compromise or alienate productive agricultural land, and will only increase the agricultural viability of a farming enterprise. Further, the development will result in an improved environmental outcome.

The proposed development is 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 it 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.

Relevant Developments Codes

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

- 6.2.9 Rural zone code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance 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 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 Lots 1 and 2 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>
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.
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.
Reconfiguring a lot code	<p>The application conflicts with the following performance outcomes:</p> <ul style="list-style-type: none"> • PO1.1 • PO1.2 <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>
Works, services and infrastructure 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.

(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

Not applicable as no additional allotments will be created by this development.

REFERRAL AGENCY

The application triggered referral to the State Assessment and Referral Agency (SARA) as a Concurrence Agency for reconfiguring a lot involving vegetation clearing.

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

Internal Consultation

Technical Services

PUBLIC NOTIFICATION

The development proposal was placed on public notification from 18 August 2021 to 10 September 2021. The applicant submitted the notice of compliance on 13 September 2021 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

One (1) properly made submission was received in support of the proposed development.

The grounds for support are summarised and commented on below:

Grounds for objection /support	Comment
Submitter supports proposed development.	Noted.

Submitters

Name of Principal submitter	Address
1. T Chapman	130 Kanervo Road, Koah

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 (as amended by the TLPI)

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. Both existing lots are significantly less than 60 hectares in size with each having an area slightly above 15 hectares.

Both existing and proposed lots are improved by a dwelling house and ancillary outbuildings, so the realignment does not create the opportunity for an additional dwelling house within the rural zone.

Instead, the realignment will consolidate all grazing land into a single parcel, creating a more viable rural holding with proposed Lot 2.

The realignment will reduce the length of property boundaries traversing through vegetated internal waterways, eliminating the requirement for fence line clearing in these areas. This is an improved environmental outcome.

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 a farming enterprise. Further, the development will result in an improved environmental outcome.

9.4.4 Reconfiguring a lot code (as amended by the TLPI)

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

Both existing lots are significantly less than 60 hectares in size with each having an area slightly above 15 hectares.

Both existing and proposed lots are improved by a dwelling house and ancillary outbuildings, so the realignment does not create the opportunity for an additional dwelling house within the rural zone.

Instead, the realignment will consolidate all grazing land into a single parcel, creating a more viable rural holding with proposed Lot 2.

The realignment will reduce the length of property boundaries traversing through vegetated internal waterways, eliminating the requirement for fence line clearing in these areas. This is an improved environmental outcome.

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 a farming enterprise. Further, the development will result in an improved environmental outcome.

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.

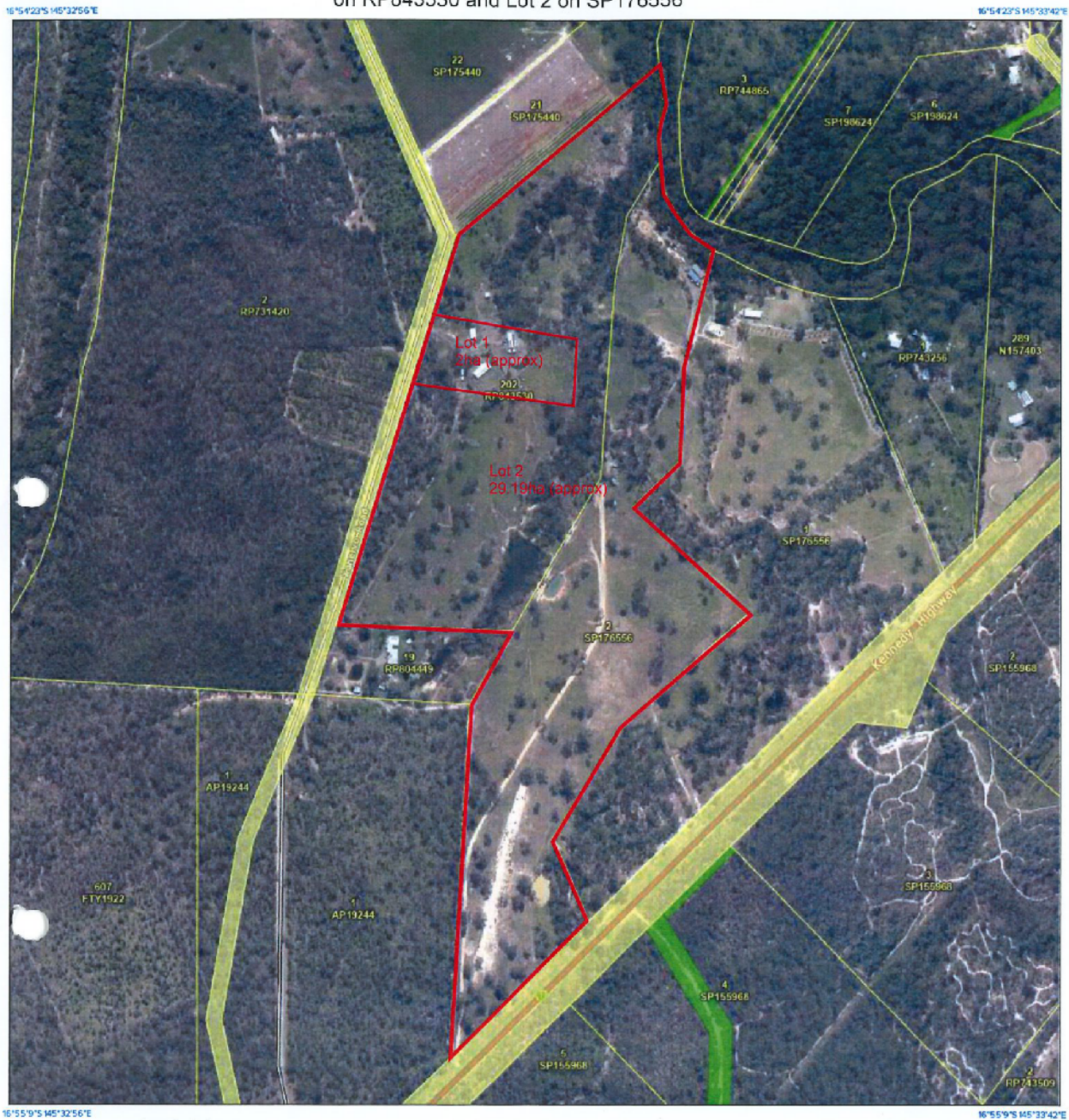
Comment

Proposed Lot 2 complies with a combined frontage in excess of 400 metres to Kanervo Road and the Kennedy Highway.

Proposed Lot 1 would have a frontage of approximately 100 metres to Kanervo Road. This frontage results in a regular shaped lot, with good access to Kanervo Road. The lesser frontage does not meaningfully impact on its potential future use.

The frontage proposed for each lot is appropriate.

Proposed Boundary Realignment of Lot 202 on RP843530 and Lot 2 on SP176556



A product of
 Queensland Globe



Includes material © State of Queensland 2021. You are responsible for ensuring that the map is suitable for your purpose. The State of Queensland makes no representation or warranties in relation to the map contents and disclaims all liability.
 If imagery is displayed, imagery includes material © CNES reproduced under license from Airbus DS, all rights reserved © 2017 © Earth-1, all rights reserved, 2019

N
 0 100 metres

Scale: 1:5000

Printed at: A3

Print date: 14/10/2021

Datum: Geocentric Datum of Australia 1994

Projection: Web Mercator EPSG:332100

For more information, visit <https://qdglobe.information.qld.gov.au/help-info/contact-us.html>



RA6-N



SARA reference: 2106-23262 SRA
 Council reference: RAL/21/0010

2 August 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—Boundary Realignment (2 Lots into 2 Lots) at Kanervo Road and Kennedy Highway, Koah

(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 (SARA) on 28 June 2021.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	2 August 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 (Boundary Realignment – 2 Lots into 2 Lots)
SARA role:	Referral Agency
SARA trigger:	Schedule 10, Part 3, Division 4, Table 2, Item 1 (Planning Regulation 2017) – Reconfiguring a lot involving vegetation clearing

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

2106-23262 SRA

SARA reference: 2106-23262 SRA
Assessment Manager: Mareeba Shire Council
Street address: 116 Kanervo Road and 2850 Kennedy Highway, Koah
Real property description: Lot 202 on RP843530 and Lot 2 on SP176556
Applicant name: Mr Dean Martin
Applicant contact details: C/- Planning Plus
PO Box 399
Redlynch QLD 4870
info@planningplusqld.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 Ruth Creffield, A/ Senior Planning Officer, on 5352 9775 or via email CairnsSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Joanne Manson
A/Manager (Planning)

cc Mr Dean Martin, info@planningplusqld.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 5 - Approved plans and specifications

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) (Copies of the plans and specifications referenced below are found at **Attachment 5**)

No.	Conditions	Condition timing
Reconfiguring a lot		
Schedule 10, Part 3, Division 4, Table 2, Item 1 – Reconfiguring a lot involving native vegetation clearing— The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Resources 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 condition(s):		
1.	Clearing of vegetation must (a) only occur within Area A ^(A1) as shown on the attached: <ul style="list-style-type: none"> i. Vegetation Management Plan, prepared by Queensland Government, reference VMP 2106-23262 SRA, sheet 1, version 2, dated 2 August 2021, and ii. Attachment to Vegetation Management Plan VMP 2106-23262 SRA Derived Reference Points for GPS. (b) not exceed 0.11 ha.	At all times.
2.	Clearing of vegetation must not occur within the areas identified as Area B ^(B1-B6) as shown on the attached: <ul style="list-style-type: none"> (a) Vegetation Management Plan, prepared by Queensland Government, reference VMP 2106-23262 SRA, sheet 1, version 2, dated 2 August 2021, and (b) Attachment to Vegetation Management Plan VMP 2106-23262 SRA Derived Reference Points for GPS. Note: This condition is not applicable where clearing of vegetation is an exempt clearing activity for essential management items (a), (b), (c), (d) and (e) under Schedule 21 of the Planning Regulation 2016.	At all times.
3.	Built infrastructure, other than for fences, roads and underground services must not be established, constructed or located within Area C ^(C1-C5) as shown on the attached: <ul style="list-style-type: none"> (a) Vegetation Management Plan, prepared by Queensland Government, reference VMP 2106-23262 SRA, sheet 1, version 2, dated 2 August 2021, and (c) Attachment to Vegetation Management Plan VMP 2106-23262 SRA Derived Reference Points for GPS. Note: Schedule 21 of the Planning Regulation 2016 provides where exempt clearing work can occur.	At all times.
4.	Any person(s) engaged or employed to carry out the clearing of vegetation under this development approval must be provided with a full copy of this development approval, and must be made aware of the full extent of clearing authorised by this development approval.	Prior to clearing.

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.
2.	Native vegetation clearing To request an electronic file of the Derived Points (Attached to Plan: VMP 2105-22687 SRA) as contained in this technical agency response, email a request to the Department of Resources (formerly DNRME) at northvegetation@dnrme.qld.gov.au and include application reference (2105-22687 SRA).
3.	Despite this development approval, other permits or approvals may be required for the clearing of vegetation. To determine if the proposed clearing requires other approvals under other local, State or federal laws go to www.qld.gov.au (search 'vegetation clearing requirements').
4.	Clearing vegetation to the extent the clearing is within an area mapped as a category C area on the regulated vegetation management map is not a relevant purpose under the <i>Vegetation Management Act 1999</i> . Accordingly clearing of vegetation in areas cannot be approved under a development approval. If the proposed development includes clearing vegetation in any category C area under Queensland's vegetation management framework, the clearing can only be undertaken if it is exempt clearing work or in accordance with an Accepted Development Vegetation Clearing Code (ADVCC). Clearing vegetation in any category C area that is not exempt or in accordance with an ADVCC is prohibited development. Information on exempt clearing work or ADVCCs is available online at www.qld.gov.au (search 'exempt clearing work' or 'accepted development vegetation clearing codes').

Attachment 3—Reasons for referral agency response

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

The reasons for the SARA decision are:

- Part of the realigned boundary will pass through an area of category B regulated vegetation containing a regional ecosystem of least concern.
- A future dwelling for proposed Lot 2 will be located in a category X vegetation area.
- Clearing will not occur in or near watercourses or drainage features.
- Clearing will retain sufficient vegetation in the subject lot and adjacent landscape to maintain ecological connectivity.
- No clearing of endangered or of concern regional ecosystems, or clearing within essential habitat, will occur.
- Vegetation clearing has been reasonably avoided where possible, and the impacts of clearing have been minimised by using existing clearing exemptions when locating the boundary.
- The proposed development complies with the relevant provisions of State code 16: Native vegetation clearing.

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)
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system

2106-23262 SRA

Attachment 4—Change representation provisions

(page left intentionally blank – attached separately)

2106-23262 SRA

Attachment 5—Approved plans and specifications

(page left intentionally blank - attached separately)

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

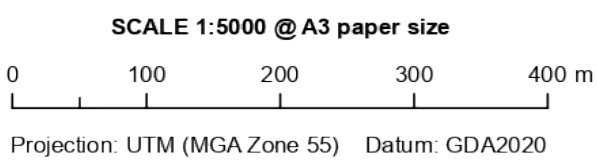
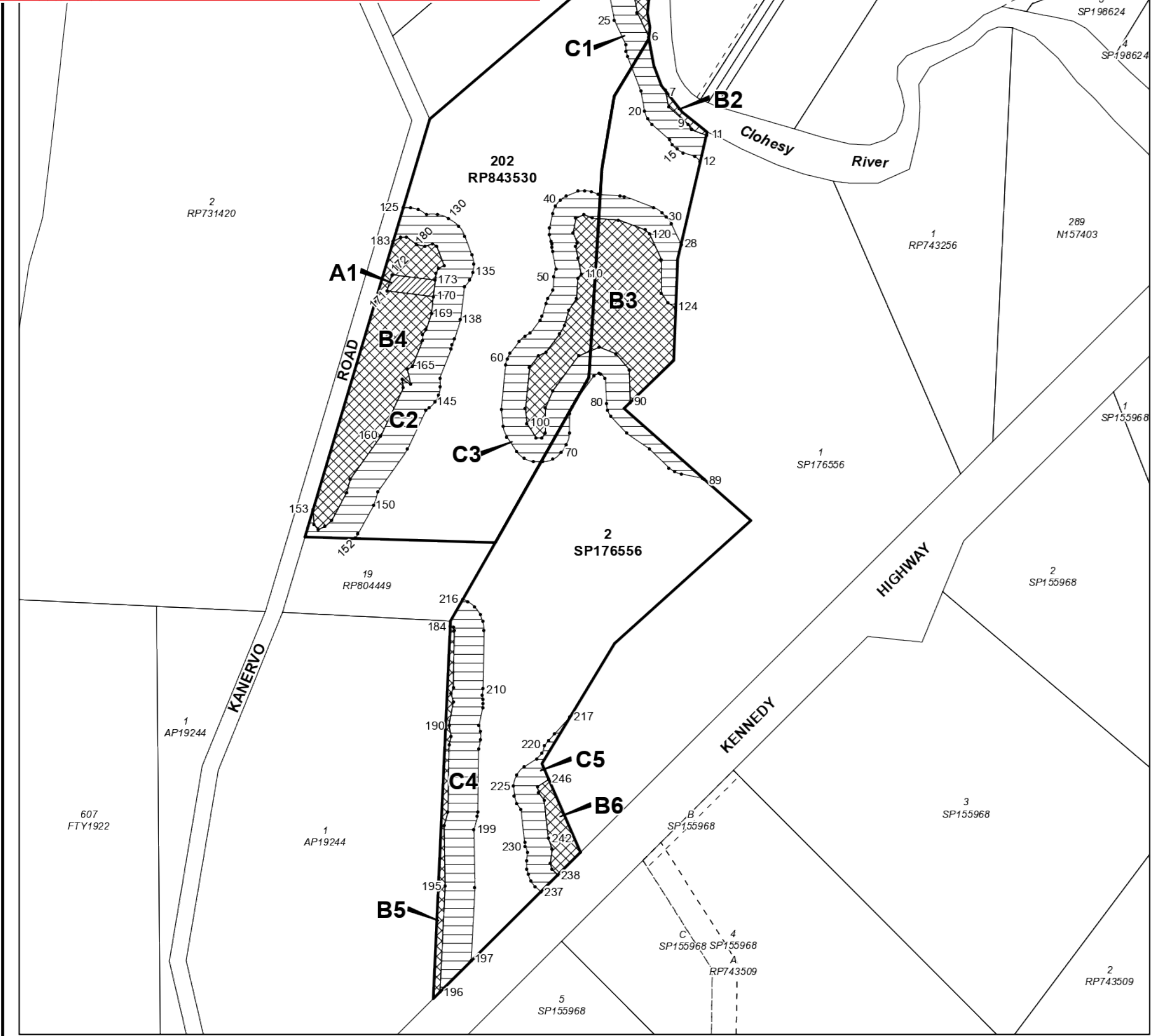
30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

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.

PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE

SARA ref: 2106-23262 SRA

Date: 2 August 2021

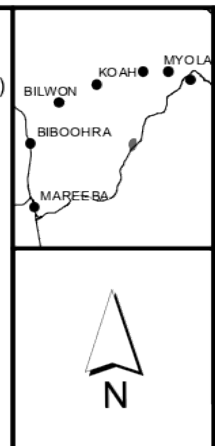


Note: Derived Reference Points are provided to assist in the location of area boundaries. Responsibility for locating these boundaries lies solely with the landholder. The property boundaries shown on this plan are APPROXIMATE ONLY. They are NOT an accurate representation of the legal boundaries.

This plan must be read in conjunction with conditions attached to 2106-23262 SRA

LEGEND

- 2 Derived Reference Points (see attachment)
- [Outline] Subject Lots
- [Diagonal lines] Area A - Clearing permitted
- [Cross-hatch] Area B - Clearing must not occur
- [Dashed line] Area C - Firebreak/safety buffer (only certain infrastructure permitted)
- [Solid line] Land Parcels
- [Dotted line] Easements



Vegetation Management Plan

Plan of Area A (Part A1), Area B (Parts B1 - B6) and Area C (Parts C1 - C5) in Lot 202 on RP843530 and Lot 2 on SP176556

Version: 2 eLVAS Case ID: 2021/002387

© The State of Queensland 2021

VMP
2106-23262 SRA
Sheet 1 of 1

PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE



SARA ref: 2106-23262 SRA

Date: 2 August 2021

Attachment to Plan: 2106-23262 SRA

Derived Reference Points for GPS

Datum: GDA 2020 Projection: Transverse Mercator MGA Zone 55

Note: Derived Reference Points are provided to assist in the location of area boundaries only.

Responsibility for locating these boundaries lies solely with the landholder.

All GPS points continue sequentially when labels are not shown.

Area	Point	Easting	Northing	Area	Point	Easting	Northing
B1	1	346264	8130153	C3	46	346167	8129793
B1	2	346258	8130134	C3	47	346166	8129789
B1	3	346260	8130126	C3	48	346167	8129784
B1	4	346262	8130111	C3	49	346171	8129763
B1	5	346270	8130073	C3	50	346169	8129753
B1	6	346284	8130043	C3	51	346168	8129737
B2	7	346303	8129979	C3	52	346162	8129727
B2	8	346307	8129958	C3	53	346159	8129721
B2	9	346332	8129937	C3	54	346155	8129705
B2	10	346335	8129931	C3	55	346152	8129700
B2	11	346353	8129924	C3	56	346141	8129685
C1	12	346346	8129893	C3	57	346134	8129682
C1	13	346340	8129898	C3	58	346127	8129675
C1	14	346325	8129903	C3	59	346117	8129661
C1	15	346318	8129907	C3	60	346113	8129654
C1	16	346312	8129913	C3	61	346111	8129646
C1	17	346308	8129919	C3	62	346105	8129593
C1	18	346288	8129937	C3	63	346107	8129573
C1	19	346282	8129944	C3	64	346112	8129560
C1	20	346279	8129953	C3	65	346124	8129542
C1	21	346274	8129977	C3	66	346133	8129534
C1	22	346258	8130019	C3	67	346144	8129530
C1	23	346256	8130026	C3	68	346156	8129530
C1	24	346256	8130034	C3	69	346168	8129533
C1	25	346242	8130063	C3	70	346178	8129541
C1	26	346234	8130106	C3	71	346184	8129550
C1	27	346230	8130125	C3	72	346188	8129565
C3	28	346322	8129792	C3	73	346188	8129588
C3	29	346311	8129817	C3	74	346191	8129596
C3	30	346304	8129826	C3	75	346196	8129604
C3	31	346299	8129831	C3	76	346217	8129634
C3	32	346289	8129837	C3	77	346224	8129637
C3	33	346254	8129850	C3	78	346226	8129636
C3	34	346249	8129851	C3	79	346231	8129630
C3	35	346222	8129853	C3	80	346232	8129600
C3	36	346214	8129856	C3	81	346234	8129592
C3	37	346206	8129857	C3	82	346238	8129584
C3	38	346198	8129856	C3	83	346257	8129564
C3	39	346184	8129851	C3	84	346284	8129545
C3	40	346176	8129846	C3	85	346308	8129522
C3	41	346171	8129838	C3	86	346315	8129517
C3	42	346167	8129830	C3	87	346323	8129515
C3	43	346164	8129812	C3	88	346348	8129510
C3	44	346163	8129804	C3	89	346351	8129508
C3	45	346165	8129796	B3	90	346261	8129601

PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE



SARA ref: 2106-23262 SRA

Date: 2 August 2021

Attachment to Plan: 2106-23262 SRA

Derived Reference Points for GPS

Datum: GDA 2020 Projection: Transverse Mercator MGA Zone 55

Note: Derived Reference Points are provided to assist in the location of area boundaries only.

Responsibility for locating these boundaries lies solely with the landholder.

All GPS points continue sequentially when labels are not shown.

Area	Point	Easting	Northing	Area	Point	Easting	Northing
B3	91	346260	8129641	C2	136	346067	8129749
B3	92	346244	8129660	C2	137	346061	8129741
B3	93	346224	8129668	C2	138	346056	8129701
B3	94	346199	8129658	C2	139	346049	8129678
B3	95	346168	8129615	C2	140	346046	8129671
B3	96	346159	8129594	C2	141	346045	8129666
B3	97	346159	8129565	C2	142	346031	8129630
B3	98	346155	8129559	C2	143	346032	8129620
B3	99	346148	8129558	C2	144	346030	8129611
B3	100	346136	8129576	C2	145	346025	8129602
B3	101	346134	8129594	C2	146	346018	8129594
B3	102	346140	8129643	C2	147	346014	8129592
B3	103	346150	8129658	C2	148	345992	8129545
B3	104	346160	8129662	C2	149	345956	8129493
B3	105	346176	8129684	C2	150	345951	8129477
B3	106	346182	8129694	C2	151	345932	8129442
B3	107	346187	8129713	C2	152	345929	8129437
B3	108	346197	8129727	B4	153	345878	8129472
B3	109	346198	8129751	B4	154	345879	8129454
B3	110	346202	8129757	B4	155	345884	8129448
B3	111	346198	8129776	B4	156	345893	8129451
B3	112	346195	8129790	B4	157	345901	8129459
B3	113	346197	8129793	B4	158	345919	8129492
B3	114	346192	8129806	B4	159	345924	8129509
B3	115	346196	8129824	B4	160	345960	8129560
B3	116	346206	8129828	B4	161	345987	8129619
B3	117	346215	8129824	B4	162	345986	8129629
B3	118	346247	8129822	B4	163	345996	8129623
B3	119	346279	8129810	B4	164	345992	8129641
B3	120	346284	8129805	B4	165	345998	8129644
B3	121	346299	8129774	B4	166	346010	8129676
B3	122	346299	8129734	B4	167	346011	8129683
B3	123	346307	8129722	B4	168	346015	8129689
B3	124	346316	8129715	B4	169	346021	8129709
C2	125	345987	8129837	A1	170	346023	8129729
C2	126	345996	8129837	A1	171	345967	8129736
C2	127	346006	8129834	A1	172	345973	8129756
C2	128	346015	8129828	A1	173	346026	8129749
C2	129	346029	8129829	B4	174	346027	8129757
C2	130	346042	8129824	B4	175	346029	8129763
C2	131	346054	8129815	B4	176	346036	8129767
C2	132	346061	8129803	B4	177	346028	8129790
C2	133	346070	8129779	B4	178	346023	8129793
C2	134	346072	8129769	B4	179	346013	8129790
C2	135	346071	8129759	B4	180	346003	8129792

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE



SARA ref: 2106-23262 SRA

Date: 2 August 2021

Attachment to Plan: 2106-23262 SRA

Derived Reference Points for GPS

Datum: GDA 2020 Projection: Transverse Mercator MGA Zone 55

Note: Derived Reference Points are provided to assist in the location of area boundaries only.

Responsibility for locating these boundaries lies solely with the landholder.

All GPS points continue sequentially when labels are not shown.

Area	Point	Easting	Northing	Area	Point	Easting	Northing
B4	181	345992	8129801	C5	226	346121	8129126
B4	182	345984	8129801	C5	227	346124	8129117
B4	183	345975	8129796	C5	228	346129	8129110
B5	184	346044	8129330	C5	229	346134	8129070
B5	185	346048	8129329	C5	230	346135	8129065
B5	186	346049	8129326	C5	231	346137	8129058
B5	187	346047	8129256	C5	232	346136	8129047
B5	188	346045	8129249	C5	233	346137	8129038
B5	189	346047	8129239	C5	234	346138	8129031
B5	190	346042	8129211	C5	235	346141	8129023
B5	191	346045	8129198	C5	236	346147	8129016
B5	192	346042	8129187	C5	237	346153	8129010
B5	193	346041	8129106	B6	238	346174	8129031
B5	194	346036	8129090	B6	239	346166	8129037
B5	195	346038	8129017	B6	240	346165	8129044
B5	196	346031	8128889	B6	241	346167	8129062
C4	197	346069	8128927	B6	242	346162	8129075
C4	198	346074	8129015	B6	243	346157	8129121
C4	199	346072	8129085	B6	244	346150	8129130
C4	200	346077	8129101	B6	245	346149	8129137
C4	201	346077	8129106	B6	246	346163	8129146
C4	202	346078	8129183				
C4	203	346081	8129194				
C4	204	346080	8129204				
C4	205	346079	8129211				
C4	206	346083	8129233				
C4	207	346083	8129238				
C4	208	346083	8129243				
C4	209	346082	8129248				
C4	210	346083	8129255				
C4	211	346085	8129325				
C4	212	346083	8129337				
C4	213	346080	8129345				
C4	214	346074	8129354				
C4	215	346065	8129360				
C4	216	346059	8129363				
C5	217	346188	8129221				
C5	218	346170	8129201				
C5	219	346162	8129193				
C5	220	346158	8129186				
C5	221	346155	8129177				
C5	222	346148	8129171				
C5	223	346133	8129161				
C5	224	346124	8129151				
C5	225	346120	8129138				

From: "Thomas Chapman" <chapman.thomas@mail.com>
Sent: Mon, 30 Aug 2021 11:09:14 +1000
To: "Info (Shared)" <info@msc.qld.gov.au>
Subject: RAL/21/0010

To whom it may concern re: proposed boundary realignment at 116 kanervo road and 2850 Kennedy Hwy, I Thomas Chapman of 130 kanervo road in koah approve of the proposed development at above mentioned properties as a realignment of boundaries would only benefit my property. Any queries please do not hesitate to call me at your convenience, cheers. Thomas Chapman 0421847278

Sent from my iPad

Document Set ID: 4006850
Version: 1 Version Date: 30/08/2021