

16 November 2017

Max David  
C/- Veris  
PO Box 7627  
CAIRNS QLD 4870

Officer: Brian Millard  
Direct Phone: (07) 4086 4657  
Our Ref: RAL/17/0007  
Your Ref: 30824

Dear Sir/Madam

## Decision Notice

### *Planning Act 2016*

I refer to your application and advise that on 16 November 2017 under delegated authority, Council decided to approve the application [in full] subject to conditions.

Details of the decision are as follows:

#### APPLICATION DETAILS

Application No: RAL/17/0007  
Street Address: 27 Spena Road, Mareeba  
Real Property Description: Lot 11 on SP101832  
Planning Scheme: Mareeba Shire Council Planning Scheme 2016

#### DECISION DETAILS

Type of Decision: Approval  
Type of Approval: Development Permit for Reconfiguring a Lot - Subdivision (1 into 3 lots)  
Date of Decision: 16 November 2017

#### CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is four (4) years starting the day that this development approval takes effect. (Refer to Section 85 "Lapsing of approval at end of currency period" of the *Planning Act 2016*.)

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**INFRASTRUCTURE**

Where conditions relate to the provision of infrastructure, these are non-trunk infrastructure conditions unless specifically nominated as a “***necessary infrastructure condition***” for the provision of trunk infrastructure as defined under Chapter 4 of the *Planning Act 2016*.

**ASSESSMENT MANAGER CONDITIONS****(A) ASSESSMENT MANAGER’S CONDITIONS (COUNCIL)****(a) Development assessable against the Planning Scheme**

1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
  - found necessary by Council’s delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
  - to ensure compliance with the following conditions of approval.
2. Timing of Effect
  - 2.1 The conditions of the development permit must be complied with to the satisfaction of Council’s delegated officer prior to the endorsement of the plan of survey, except where specified otherwise in these conditions of approval.
3. General
  - 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure or the payment of infrastructure charges/contributions contained within the conditions of approval.
  - 3.2 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
  - 3.3 All payments required to be made to the Council (including contributions, charges and bonds) 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 utilities (such as sewers on non-standard alignments) traverse lots to service another lot, easements must be created in favour of Council for access and maintenance purposes. The developer is to pay all costs (including Council's legal expenses) to prepare and register the easement documents.
- 3.6 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. Where existing building/s are in proximity to new property boundaries, a plan demonstrating compliance with the required setback must be submitted prior to endorsement of the plan of survey.
- 3.7 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements and to the satisfaction of Council's delegated officer.
- 3.8 Rural Addressing

The applicant must pay the relevant fee for the provision of a rural address to each proposed allotment, at the rate identified in the Fees and Charges Schedule at the time of payment.

3.9 Bushfire Management

3.9.1 Any new dwelling erected on the proposed allotments must:

- (i) Achieve a setback from hazardous vegetation of 1.5 times the predominant mature canopy tree height or 10 metres, whichever is greater.
- (ii) Include on-site water storage of not less than 5,000 litres, with a 50mm male camlock fire brigade fitting where necessary, to be provided at the same time the dwelling is constructed.

3.9.2 A Bushfire Management Plan will be prepared to the satisfaction of Council's delegated officer. The approved use must comply with the requirements of the Management Plan at all times.

3.10 Rural Addressing

The applicant must pay the relevant fee per additional lot for provision of rural addressing at the rate identified in the Fees and Charges Schedule at the time of payment.



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### 3.11 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 upgraded/constructed to each lot (from the edge of the road to the property boundary) in accordance with FNQROC Development Manual Standards (as amended), to the satisfaction of Council's delegated officer.

### 4.2 Easement

An easement must be provided over the existing access driveway within proposed Lot 2 in favour of proposed Lot 3 for the purposes of access/drainage/maintenance.

The approved easement documents must be submitted at the same time the applicant/developer seeks endorsement of the plan of survey and must be lodged and registered in the Department of Natural Resources & Mines in conjunction with the plan of survey.

### 4.3 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.

### 4.4 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

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 \$9,000.00 (\$4,500.00 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 (\$4,500.00 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.

#### REFERRAL AGENCIES

The referral agencies applicable to this application are:

Reconfiguring a Lot near a State transport corridor		
Development application for reconfiguring a lot that is assessable development under section 21, if -	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1	State Assessment & Referral Agency (SARA) Department of Infrastructure, Local Government & Planning PO Box 2358 Cairns Qld 4870  <a href="mailto:CairnsSARA@dilgp.qld.gov.au">CairnsSARA@dilgp.qld.gov.au</a>
(a) all or part of the premises are within 25m of a State transport corridor; and		
(b) 1 or more of the following apply -		
(i) the total number of lots is increased;		
(ii) the total number of lots adjacent to the State transport corridor is increased;		
(iii) there is a new or changed access between the premises and the State transport corridor;		
(iv) an easement is created adjacent to a railway as defined under the Transport Infrastructure Act,		

Schedule 6; and  (c) the reconfiguration does not relate to government supported transport infrastructure		
<b>Reconfiguring a Lot near a State-controlled road intersection</b>		
Development application for reconfiguring a lot that is assessable development under section 21, if -  (a) all or part of the premises are - (i) adjacent to a road (the relevant road) that intersects with a State-controlled road; and (ii) within 100m of the intersection; and  (b) 1 or more of the following apply - (i) the total number of lots is increased; (ii) the total number of lots adjacent to the relevant road is increased; (iii) there is a new or changed access between the premises and the relevant road; and  (c) the reconfiguration does not relate to government supported transport infrastructure	Schedule 10, Part 9, Division 4, Subdivision 2, Table 3	State Assessment & Referral Agency (SARA) Department of Infrastructure, Local Government & Planning PO Box 2358 Cairns Qld 4870  <a href="mailto:CairnsSARA@dilgp.qld.gov.au">CairnsSARA@dilgp.qld.gov.au</a>

**APPROVED PLANS**

Plan/Document Number	Plan/Document Title	Prepared by	Dated
30824-01 E	Proposed Lots 1-3 Cancelling Lot 11 on SP101832	Veris	2/11/17

**REFERENCED DOCUMENTS**

Not Applicable.

**ADVISORY NOTES**

The following notes are included for guidance and information purposes only and do not form part of the assessment manager conditions:

**(A) 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) Notation on Rates Record

A notation will be placed on Council's Rate record with respect to each lot regarding the following conditions:

- conditions regarding bushfire management
- a registered easement over the subject site
- An on-site effluent disposal system must be constructed in accordance with an approved site and soil evaluation report

(e) 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).

(f) 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).

(B) CONCURRENCE AGENCY CONDITIONS

Department of Infrastructure, Local Government and Planning conditions dated 8 November 2017



**PROPERTY NOTES**

Not Applicable.

**VARIATION APPROVAL**

Not Applicable.

**FURTHER DEVELOPMENT PERMITS REQUIRED**

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

**SUBMISSIONS**

Not Applicable

**RIGHTS OF APPEAL**

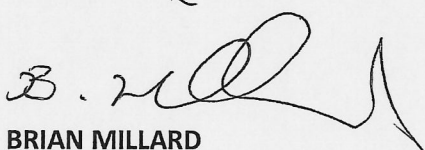
You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about the conditions contained within the development approval. If council agrees or agrees in part with the representations, a "negotiated decision notice" will be issued. Only one "negotiated decision notice" may be given. Taking this step will defer your appeal period, which will commence again from the start the day after you receive a "negotiated decision notice".

**OTHER DETAILS**

If you wish to obtain more information about Council's decision, electronic copies are available on line at [www.msc.qld.gov.au](http://www.msc.qld.gov.au), or at Council Offices.

Yours faithfully



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

Enc: Approved Plan  
Referral Agency Response  
Appeal Rights

Copy: Department of Infrastructure, Local Government and Planning  
[CairnsSARA@dilgp.qld.gov.au](mailto:CairnsSARA@dilgp.qld.gov.au)

## Approved Plans/Documents

1645  
FTY/1970

Proposed Subdivision at  
Spena Road, Mareeba  
for  
Mr. Max David

These survey and valuation are completed  
in accordance with the provisions of the  
Land Act 1962 and the Valuation Act 1962.

Surveyor: [Name]  
Valuer: [Name]

Lot 1: 412.4 ha  
Lot 2: 60.0 ha  
Lot 3: 113.2 ha

Scale 1:12500 - Lengths are in metres

Dimensions and areas are  
subject to final survey and  
relevant authority approval.

16/11/2017  
B. n. d. N<sup>T</sup>

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## Referral Agency Response

RA6-N



Department of Infrastructure,  
Local Government and Planning

Our reference: 1710-2302 SRA  
Your reference: RAL/17/0007

8 November 2017

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

Attention: Carl Ewin

Dear Sir/Madam

**Referral agency response—with conditions**  
(Given under section 56 of the *Planning Act 2016*)

The development application described below was properly referred to the Department of Infrastructure, Local Government and Planning on 2 November 2017.

### Applicant details

Applicant name:	M. David c/- Veris
Applicant contact details:	PO Box 1038 Fortitude Valley QLD 4006 m.tessaro@veris.com.au

### Location details

Street address:	27 Spena Road, Mareeba
Real property description:	Lot 11 on SP101832
Local government area:	Mareeba Shire Council

### Application details

Development permit	Reconfiguring a lot – 1 lot into 3 lots
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### Referral triggers

The development application was referred to the department under the following provisions of the Planning Regulation 2017:

- 10.9.4.2.3.1 State transport corridors and future State transport corridors



1710-2302 SRA

- 10.9.4.2.1.1 State transport corridors and future State transport corridors

**Conditions**

Under section 56(1)(b)(i) of the *Planning Act 2016* (the Act), the conditions set out in Attachment 1 must be attached to any development approval.

**Reasons for decision to impose conditions**

The department must provide reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

**Approved plans and specifications**

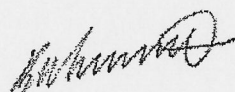
The department requires that the plans and specifications set out below and enclosed must be attached to any development approval.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Aspect of development: Reconfiguring a lot				
Proposed Lots 1 – 3 – Cancelling Lot 11 on SP101832	Veris	2/11/17	30824-01, Sheet 1 of 1	E

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

For further information please contact Jenny Sapuppo, Senior Planning Officer, on 5644 3212 or via email [CairnsSARA@dilgp.qld.gov.au](mailto:CairnsSARA@dilgp.qld.gov.au) who will be pleased to assist.

Yours sincerely



Brett Nancarrow  
Manager (Planning)

cc M. David c/- Veris, [m.tessaro@veris.com.au](mailto:m.tessaro@veris.com.au)

enc Attachment 1—Conditions to be imposed  
Attachment 2—Reasons for decision to impose conditions  
Approved plans and specifications

1710-2302 SRA

**Attachment 1—Conditions to be imposed**

No.	Conditions	Condition timing
<b>Reconfiguring a lot</b>		
State transport corridors and future state transport corridors—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the 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 condition(s):		
1.	The development must be carried out generally in accordance with the following plan: <ul style="list-style-type: none"><li>• 'Proposed Lots 1 – 3 – Cancelling Lot 11 on SP101832', prepared by Veris, Drawing No. 30824-01, Issue E, Sheet 1 of 1, dated 2/11/17</li></ul>	At all times
2.	Direct access is not permitted between the Kennedy Highway and the subject site.	At all times

1710-2302 SRA

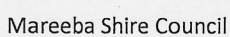
**Attachment 2—Reasons for decision to impose conditions**

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The reasons for this decision are:

- To ensure the development is carried out generally in accordance with the plans of development submitted with the application.
- To ensure the safety and efficiency of the state-controlled road is not compromised.





GE78-N

Department of Infrastructure,  
Local Government and Planning

**Department of Infrastructure, Local Government and Planning**  
**Statement of reasons for application 1710-2302 SRA**  
(Given under section 56 of the *Planning Act 2016*)

Departmental role: Referral agency

**Applicant details**

Applicant name: M. David c/- Veris  
Applicant contact details: PO Box 1038  
Fortitude Valley QLD 4006  
m.tessaro@veris.com.au

**Location details**

Street address: 27 Spena Road, Mareeba  
Real property description: Lot 11 on SP101832  
Local government area: Mareeba Shire Council

**Development details**

Development permit Reconfiguring a lot – 1 lot into 3 lots

**Assessment matters**

Aspect of development requiring code assessment	Applicable codes
1. Reconfiguring a lot	State Development Assessment Provisions, version 2.1, FastTrack5 qualifying criteria checklist 2

**Reasons for the department's decision**

- The proposal complies with all of the qualifying criteria in State Development Assessment Provisions, version 2.1, FastTrack5 qualifying criteria checklist 2.
- The proposed development does not include direct access to the Kennedy Highway, which is a state-controlled road.
- The proposal plan identifies that all of the proposed lots will be accessed off Spena Road, which is a local government controlled road. The closest vehicle access off Spena Road is 264 metres from the Kennedy Road intersection.

**Decision**

- The department provided conditions to attach to any development approval on 7 November 2017.

**Relevant material**

- development application, including amended proposal plan

1710-2302 SRA

- State Development Assessment Provisions published by the Department of Infrastructure, Local Government and Planning
- *Planning Act 2016*
- *Planning Regulation 2017*



## Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

### Chapter 6 Dispute resolution

#### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 of the Planning Act 2016 states –
- (a) Matters that may be appealed to –
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) The person-
    - (i) who may appeal a matter (**the appellant**); and
    - (ii) who is a respondent in an appeal of the matter; and
    - (iii) who is a co-respondent in an appeal of the matter; and
    - (iv) who may elect to be a co-respondent in an appeal of the matter.

(Refer to Schedule 1 of the Planning Act 2016)

- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is –
- (a) for an appeal by a building advisory agency – 10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal – at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises – 20 business days after a notice is published under section 269(3)(a) or (4); or
  - (d) for an appeal against an infrastructure charges notice – 20 business days after the infrastructure charges notice is given to the person; or
  - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given – 30 business days after the applicant gives the deemed approval notice to the assessment manager; or
  - (f) for any other appeal – 20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note –*

*See the P&E Court Act for the court's power to extend the appeal period.*

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-

- (a) the adopted charge itself; or
- (b) for a decision about an offset or refund-
  - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
  - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

### 230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that-
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to –
  - (a) the respondent for the appeal ; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, table 1, item 1 – each principal submitter for the development application; and
  - (d) for an appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
  - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
  - (f) for an appeal to the P&E Court – the chief executive; and
  - (g) for an appeal to a tribunal under another Act – any other person who the registrar considers appropriate.
- (4) The *service period* is –
  - (a) if a submitter or advice agency started the appeal in the P&E Court – 2 business days after the appeal has started; or
  - (b) otherwise – 10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

### 231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section –  
*decision* includes-
  - (a) conduct engaged in for the purpose of making a decision; and

- (b) other conduct that relates to the making of a decision; and
- (c) the making of a decision or failure to make a decision; and
- (d) a purported decision ; and
- (e) a deemed refusal.

*non-appealable*, for a decision or matter, means the decision or matter-

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

#### 232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with the rules of the P&E Court.