

DELEGATED REPORT

SUBJECT: C FRAUENSTEIN - RECONFIGURING A LOT - BOUNDARY REALIGNMENT - LOTS 341 & 343 ON SP201301 - 17 LEILAS WAY & KINGFISHER DRIVE, KURANDA - RAL/21/0015

DATE: 30 September 2021

REPORT OFFICER'S TITLE: Planning Officer

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	C Frauenstein	ADDRESS	17 Leilas Way and Kingfisher Drive, Kuranda
DATE LODGED	10 September 2021	RPD	Lots 341 & 343 on SP201301
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Boundary Realignment		

FILE NO	RAL/21/0015	AREA	Lot 341 - 2.008ha Lot 343 - 2ha
LODGED BY	C Frauenstein	OWNER	C Frauenstein
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural Residential zone		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	n/a		

ATTACHMENTS: 1. Proposal Plan/s

EXECUTIVE SUMMARY

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

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

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

Draft conditions were provided to the Applicant and have been agreed.

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

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	C Frauenstein	ADDRESS	17 Leilas Way and Kingfisher Drive, Kuranda
DATE LODGED	10 September 2021	RPD	Lots 341 & 343 on SP201301
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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
-	Proposed Lot Layout	-	-

(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 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.
- 3.5 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.

3.6 Charges

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

3.7 Access and Services Easement

An access and services easement in favour of Lot 343 must be established over Lot 341. The easement document must be submitted to Council for review prior to the endorsement of a plan of survey.

4. Infrastructure Services and Standards

4.1 Access

4.1.1 Access to each allotment must be upgraded/constructed (from the edge of Leilas Way to the boundary of each allotment/start of the access easement) in accordance with FNQROC development manual standards, to the satisfaction of Council's delegated officer.

4.1.2 A bitumen or asphalt sealed, or reinforced concrete driveway must be provided along the access easement to the boundary of Lot 343. The driveway must:

- have a minimum formation width of three (3) metres

- be constructed for the full length of the access easement and connect with the required access crossover;
- be formed so that stormwater drains to either side of the driveway.

4.2 Stormwater Drainage

4.2.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development and must take all reasonable and practical measures to ensure discharge occurs in compliance with the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.2.2 All stormwater drainage must be discharged to an approved legal point of discharge.

4.3 On-site Wastewater Disposal

At the time of construction of a new dwelling on Lot 341, 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.

4.4 Electricity provision/supply

The applicant/developer must ensure that an appropriate level of electricity supply is provided to each lot in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Written advice from an Electricity Service Provider is to be provided to Council indicating that an agreement has been made for the provision of power reticulation.

4.5 Telecommunications

The applicant/developer must demonstrate that a connection to the national broadband network is available for each allotment, or alternatively, enter into an agreement with a telecommunication carrier to provide telecommunication services to each lot and arrange provision of necessary conduits and enveloping pipes.

(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) Easement Documents

Council has developed standard easement documentation to assist in the drafting of formal easement documents for Council easements. Please contact the Planning Section for more information regarding the drafting of easement documents for Council easements.

(c) 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.

(d) 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.

(e) Notation on Rates Record

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

- a registered easement over the subject site

(f) 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.

(g) 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) 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

(H) OTHER APPROVALS REQUIRED FROM COUNCIL

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

THE SITE

The subject site comprises of the following allotments:

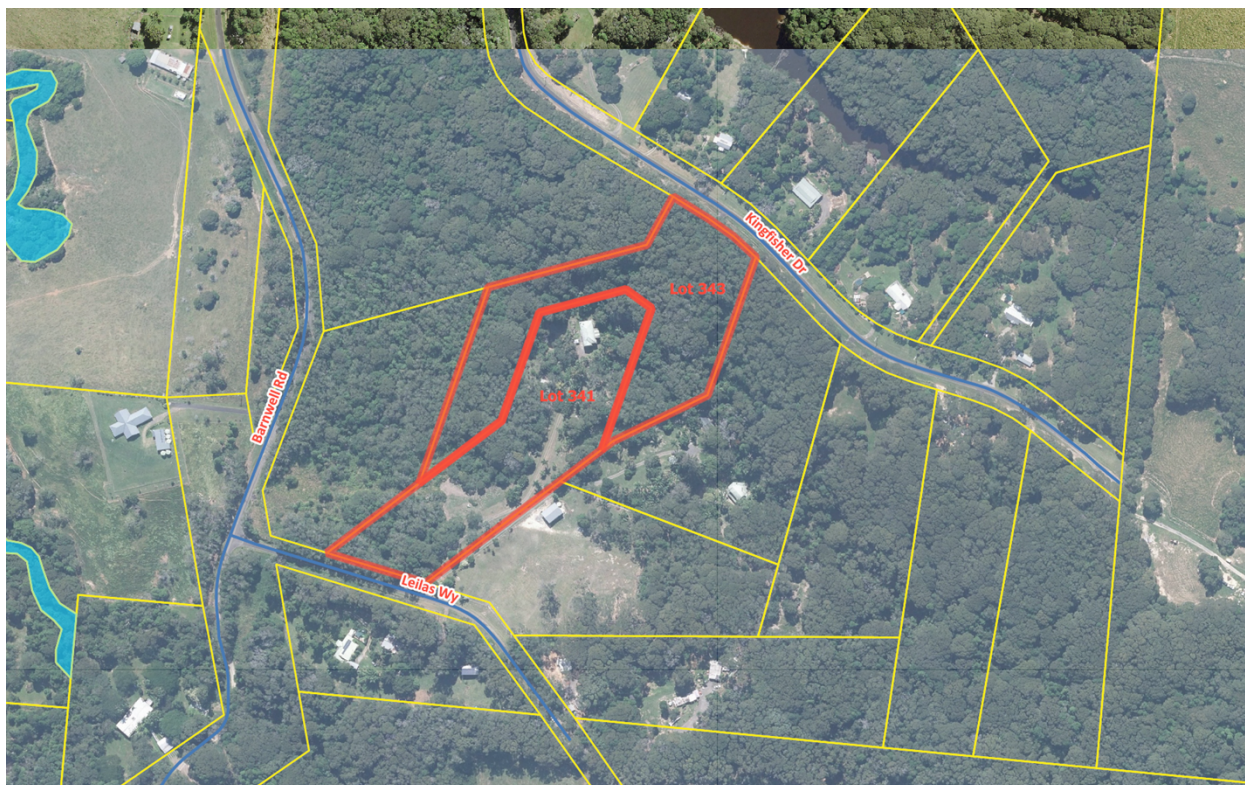
- Lot 341 on SP201301, situated at 17 Leilas Way, Kuranda, having an area of 2.008 hectares and a frontage of 80 metres to Leilas Way; and
- Lot 343 on SP201301, situated at Kingfisher Drive, Kuranda, having an area of 2 hectares and a frontage of 80 metres to Kingfisher Drive.

Both frontage roads are constructed to a rural road bitumen sealed standard. Each lot has an access off their respective frontage, although Lot 343 only has an access crossover with no internal access beyond.

Both lots are very irregular in shape, with Lot 341 containing an established dwelling house and a domestic outbuilding. Lot 343 remains unimproved with an almost complete coverage of dense rainforest type vegetation.

An unnamed tributary of Warril Creek traverses the centre of Lot 343. That part of Lot 343 between Kingfisher Drive and the unnamed tributary is very steep and unsuitable for development.

Land surrounding the site is zoned Rural Residential and predominately used for rural residential 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.



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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 application proposes to move the common boundary to create two more regularly shaped allotments and move the existing dwelling house onto new Lot 343. Lot 343 in its current configuration is essentially unusable due to vegetation and topographical (slope/waterway) constraints.

The realigned lots will be as follows:

- Lot 341 - area of 2 hectares, approximately 80 metres frontage to Leilas Way;
- Lot 343 - area of 2.0107 hectares, approximately 80 metres frontage to Kingfisher Drive. An access and services easement will be created within Lot 341 in favour of Lot 343, to allow continued access via Leilas Way.

The servicing arrangements for both reconfigured lots will remain substantially unchanged.

REGIONAL PLAN DESIGNATION

The subject site is included within the Regional Landscape and Rural Production Area land use category in the Far North Queensland Regional Plan 2009-2031. The Regional Plan Map 3- 'Areas of Ecological Significance' also identifies the site is:

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

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Category <ul style="list-style-type: none"> • Rural Residential Area Natural Environment Elements <ul style="list-style-type: none"> • Biodiversity Areas
Zone:	Rural Residential zone
Precinct:	No precinct
Overlays:	Environmental significance overlay Hill and slope overlay Residential dwelling house and outbuilding 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
- 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 outcomes (or performance outcome where no acceptable outcome applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Rural residential zone code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Environmental significance overlay code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Hill and slope overlay code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Landscaping code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Parking and access code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Reconfiguring a lot code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Works, services and infrastructure code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).

(e) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

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

(f) Adopted Infrastructure Charges Notice

The application is for a boundary realignment only. No additional vacant lot will be created.

REFERRALS

This application did not trigger referral to a Referral Agency.

Internal Consultation

Technical Services

PLANNING DISCUSSION

Nil

Date Prepared: 30 September 2021

DECISION BY DELEGATE

DECISION

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

Dated the *30TH* day of *SEPTEMBER* 2021



**BRIAN MILLARD
SENIOR PLANNER**

MAREEBA SHIRE
AS A DELEGATE OF THE COUNCIL

PROPOSAL PLANS

