

8.1 R & B TERRANOVA - RECONFIGURING A LOT - BOUNDARY REALIGNMENT & ACCESS EASEMENT - LOTS 1 & 2 ON RP745859 - 1506 MAREEBA DIMBULAH ROAD, ARRIGA - RAL/21/0021

Date Prepared: 9 March 2022

Author: Senior Planner

Attachments: 1. Proposal Plan
2. State Assessment and Referral Agency response dated 24 January 2022

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	R & B Terranova	ADDRESS	1506 Mareeba Dimbulah Road, Arriga
DATE LODGED	26 November 2021	RPD	Lots 1 & 2 on RP745859
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Boundary Realignment and Access Easement		
FILE NO	RAL/21/0021	AREA	Lot 1 - 2.507 ha Lot 2 - 74,805 ha
LODGED BY	Freshwater Planning Pty Ltd	OWNER	R & B Terranova
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural zone		
LEVEL OF ASSESSMENT	Impact Assessment		
SUBMISSIONS	Nil		

EXECUTIVE SUMMARY

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

The application is impact assessable and no properly made submissions were received in response to public notification of the application.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and 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.

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.

The application proposes to reconfigure the two (2) allotments, by way of a boundary realignment only (no additional lot created) whereby the existing avocado farm and major sand extractive industry are contained entirely within separate lots. In doing so, the realignment extinguishes the historic one-off subdivision lot (existing Lot 1 on RP745859) which would otherwise represent an ongoing threat of significant land use conflict if it were to be developed with a dwelling house and used for rural living purposes.

The development will not further fragment, compromise or alienate productive agricultural land, nor will it compromise the extractive industry key resource area. By removing the vacant one-off subdivision lot, proposed Lot 12 (the extractive industry lot) acquires its use rights for the development of an additional dwelling house. As a result, the extractive industry operator can prevent likelihood of land use conflict by not exercising the use rights to build the additional dwelling house.

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	R & B Terranova	ADDRESS	1506 Mareeba Dimbulah Road, Arriga
DATE LODGED	26 November 2021	RPD	Lots 1 & 2 on RP745859
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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), 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 and Access Easement
- (B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
8555 Rev B	Plan of Lots 11 & 12 Cancelling Lot 1 & 2 on RP745859	Twine Surveys Pty Ltd	11.11.2021

(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, 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

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 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.

3.7 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

The access handle for proposed Lot 12 must be constructed to minimum 150mm thickness compacted gravel standard, suitable for all weather, from the Mareeba Dimbulah Road access to the main body of proposed Lot 12, in accordance with the FNQROC Development Manual standards, to the satisfaction of Council's delegated officer.

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 12, 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 proposed Lot 11 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) 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.

- (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.

(E) REFERRAL AGENCY CONDITIONS

State Assessment and Referral Agency conditions dated 24 January 2022.

(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 land described as Lots 1 and 2 on RP745859, situated at 1506 Mareeba-Dimbulah Road, Arriga. The site is approximately 11km south-west of Mareeba.

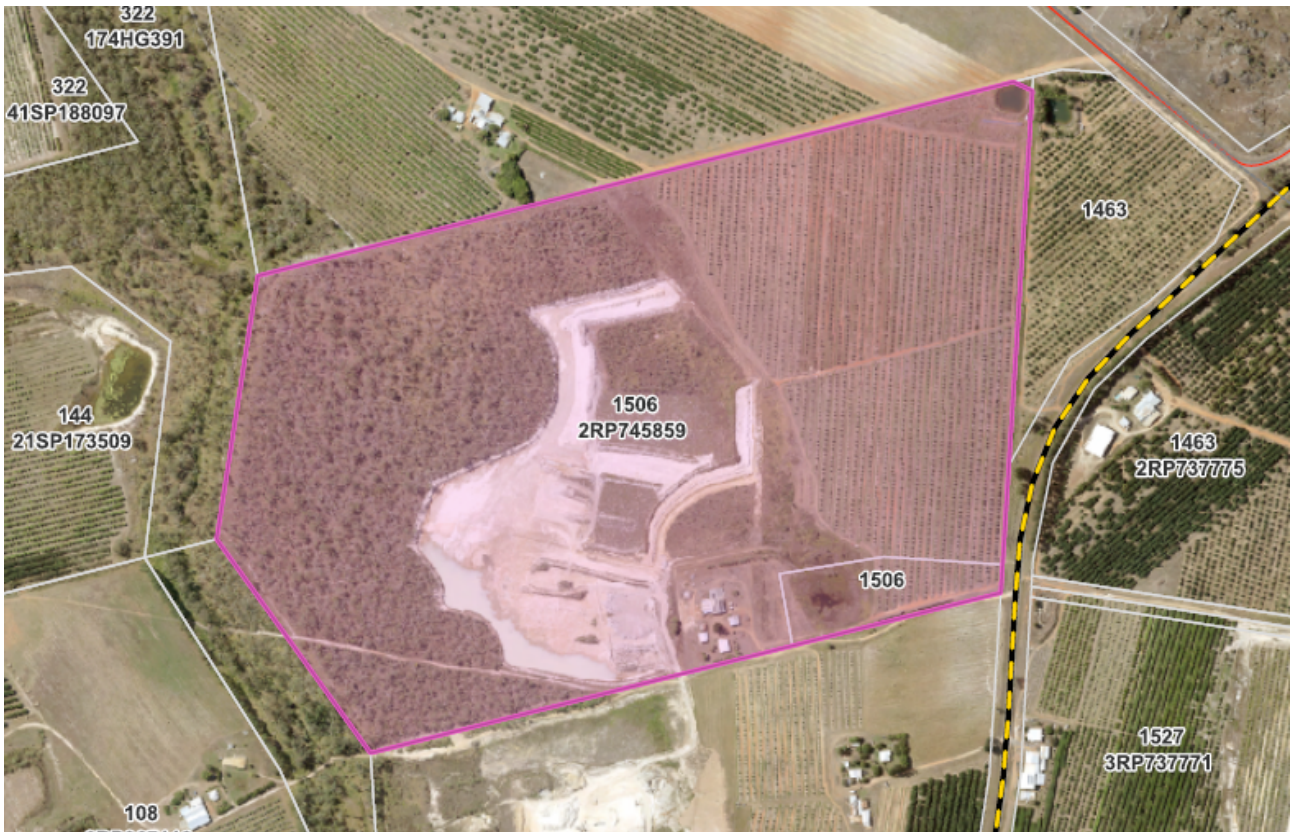
The site has a combined area of 77.312 hectares with a total frontage of approximately 181 metres to Mareeba-Dimbulah Road. Access to the site is obtained directly off Mareeba-Dimbulah Road via an established access.

Mareeba-Dimbulah Road is a State controlled road which is constructed to a bitumen sealed width of approximately 6 metres for the frontage with the subject site.

An extractive industry (sand quarry) is established over the western portion of Lot 2 on RP745859. The eastern portion of Lot 2 and all of Lot 1 are developed as an avocado orchard. A farm residence and ancillary farm buildings are established on Lot 2.

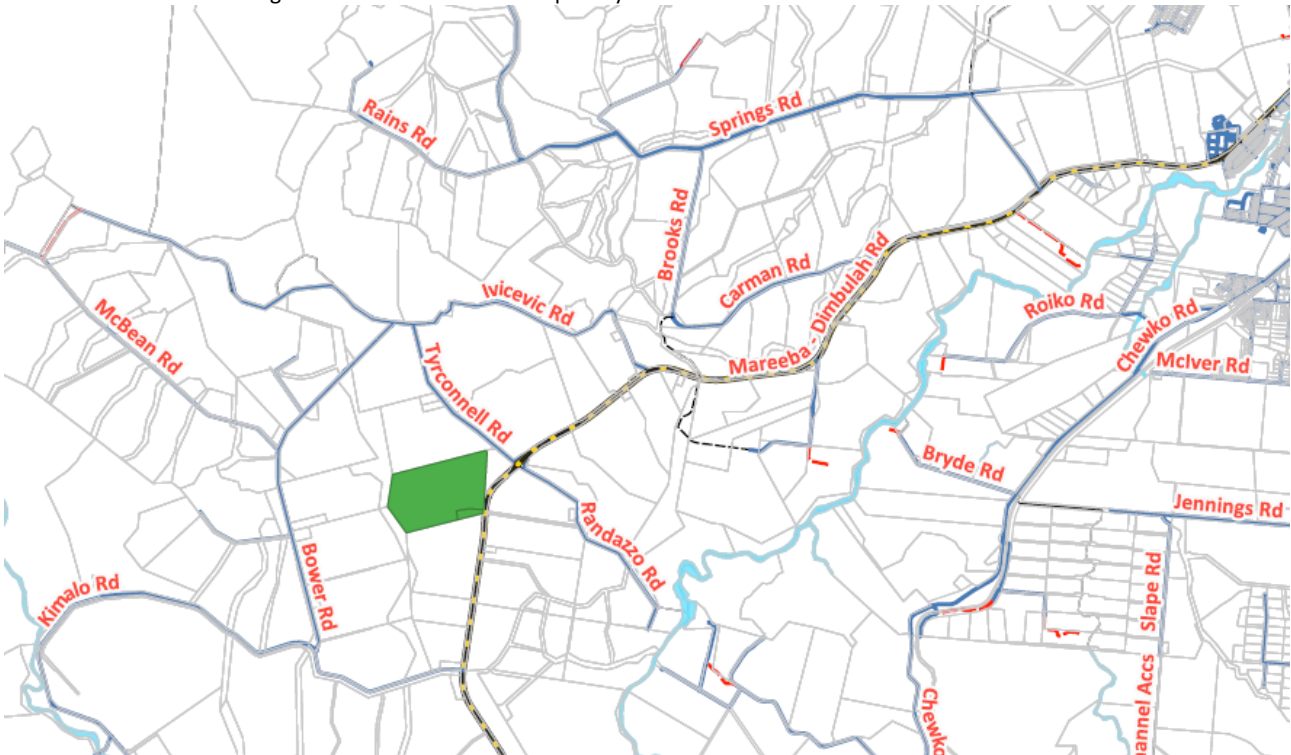
The subject site is located within the Rural zone and is surrounded by agricultural activities (primarily horticultural production) and extractive industries (sand). The site is located within the Queensland Key Resource Area 151 which reflect the State significant sand extraction activities that are conducted within the locality.

The site and surrounding areas are predominantly flat with minor undulations.



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

Development Approval MCU/17/0013

On 20 December 2017, Council under delegated authority, approved an application made by RPS Australia East Pty Ltd on behalf of Pioneer North QLD Pty Ltd for the issue of a development permit for Mareeba Change of Use - Extractive Industry (expansion) over land described as Lot 2 on RP745859 and Lot 12 on HG387, situated at 1506 & 1596 Mareeba-Dimbulah Road, Arriga.

The application was approved subject to conditions and the Decision Notice was issued on 22 December 2017.

The sand extraction authorised by MCU/17/0013 has commenced and is obvious on the 2021 aerial imagery.

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Reconfiguring a Lot - Boundary Realignment and Access Easement in accordance with the plan shown in **Attachment 1**.

The boundary realignment proposes the following allotments:

- Proposed Lot 11 - 31.87 hectares, frontage of approximately 130 metres to Mareeba Dimbulah Road;
- Proposed Lot 12 - 45.44 hectares, frontage of approximately 50 metres to Mareeba Dimbulah Road via an 8 metre wide access handle.

An access easement is intended over the access handle of proposed Lot 12 to allow shared access with proposed Lot 11.

The site's existing dwelling, farm outbuildings and rural activity will be contained within proposed Lot 11. The extractive industry activity will be contained within proposed Lot 12. The conditions of the extractive industry development approval will continue to require all extractive industry traffic to enter and exit the site using the approved access through neighbouring Lot 12 on HG387, immediately to the south.

It is proposed to realign the common boundary between the two (2) lots to separate the rural activity (horticulture - avocado orchard) from the extractive industry activity. In doing so, the realignment extinguishes the historic one-off subdivision lot (existing Lot 1 on RP745859) which would otherwise represent an ongoing threat of significant land use conflict if it were to be developed with a dwelling house and used for rural living purposes.

The realignment will not change the existing rural and extractive industry activities and is considered to result in a more appropriate layout while ensuring that the existing nature, character and amenity of the immediate and surrounding environs is protected.

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:

- *Terrestrial Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories <ul style="list-style-type: none"> • <i>Rural agricultural area</i> Natural Environment Elements <ul style="list-style-type: none"> • <i>Key resource area</i>
Zone:	Rural zone
Overlays:	Agricultural land overlay Airport environs overlay Bushfire hazard overlay Environmental significance overlay Extractive resources 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.

It is intended to realign the common boundary between the two (2) lots to separate the rural activity (horticulture - avocado orchard) from the extractive industry activity. In doing so, the realignment extinguishes the historic one-off subdivision lot (existing Lot 1 on RP745859) which would otherwise represent an ongoing threat of significant land use conflict if it were to be developed with a dwelling house and used for rural living purposes.

The development will not further fragment, compromise or alienate productive agricultural land, nor will it compromise the extractive industry key resource area. By removing the vacant one-off subdivision lot, proposed Lot 12 (the extractive industry lot) acquires its use rights for the development of an additional dwelling house. As a result, the extractive industry operator can prevent likelihood of land use conflict by not exercising the use rights to build the additional dwelling house.

All established land uses will continue unchanged, and 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 it does not constitute a "subdivision" by definition.

It is intended to realign the common boundary between the two (2) lots to separate the rural activity (horticulture - avocado orchard) from the extractive industry activity. In doing so, the realignment extinguishes the historic one-off subdivision lot (existing Lot 1 on RP745859) which would otherwise represent an ongoing threat of significant land use conflict if it were to be developed with a dwelling house and used for rural living purposes.

The development will not further fragment, compromise or alienate productive agricultural land, nor will it compromise the extractive industry key resource area. By removing the vacant one-off subdivision lot, proposed Lot 12 (the extractive industry lot) acquires its use rights for the development of an additional dwelling house. As a result, the extractive industry operator can prevent likelihood of land use conflict by not exercising the use rights to build the additional dwelling house.

All established land uses will continue unchanged, and the proposed development is considered to comply 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.

It is intended to realign the common boundary between the two (2) lots to separate the rural activity (horticulture - avocado orchard) from the extractive industry activity. In doing so, the realignment extinguishes the historic one-off subdivision lot (existing Lot 1 on RP745859) which would otherwise represent an ongoing threat of significant land use conflict if it were to be developed with a dwelling house and used for rural living purposes.

The development will not further fragment, compromise or alienate productive agricultural land, nor will it compromise the extractive industry key resource area. By removing the vacant one-off subdivision lot, proposed Lot 12 (the extractive industry lot) acquires its use rights for the development of an additional dwelling house. As a result, the extractive industry operator can prevent likelihood of land use conflict by not exercising the use rights to build the additional dwelling house.

All established land uses will continue unchanged, and 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.

It is intended to realign the common boundary between the two (2) lots to separate the rural activity (horticulture - avocado orchard) from the extractive industry activity. In doing so, the realignment extinguishes the historic one-off subdivision lot (existing Lot 1 on RP745859) which would otherwise represent an ongoing threat of significant land use conflict if it were to be developed with a dwelling house and used for rural living purposes.

The development will not further fragment, compromise or alienate productive agricultural land, nor will it compromise the extractive industry key resource area. By removing the vacant one-off subdivision lot, proposed Lot 12 (the extractive industry lot) acquires its use rights for the development of an additional dwelling house. As a result, the extractive industry operator can prevent likelihood of land use conflict by not exercising the use rights to build the additional dwelling house.

All established land uses will continue unchanged, and 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 the Mareeba Dimbulah Road access will be upgraded in accordance with the Department of Transport and Main Roads requirements.

3.7.11 *Element—Extractive resources*

3.7.11.1 *Specific outcomes*

- (1) *Key resource areas of local, regional and state significance and their associated haul routes are protected from development that might prevent or constrain current or future extraction.*

Comment

The proposed development does not detrimentally impact on the existing extractive industry activity or the key resource area in general.

Instead, the boundary realignment removes the potential for land use conflict arising from any future development of the historic one-off subdivision lot.

Relevant Developments Codes

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

- 6.2.9 Rural zone code
- 8.2.1 Agricultural land overlay code
- 8.2.2 Airport environs overlay code
- 8.2.3 Bushfire hazard overlay code
- 8.2.5 Extractive resources 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 included 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 11 and 12 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>
Agricultural land 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.
Airport environs 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.
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.
Extractive resources 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.
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(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

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

REFERRAL AGENCY

The application triggered referral to the State Assessment and Referral Agency (CairnsSARA - State transport infrastructure) as a Referral Agency.

That Department advised in a letter dated 24 January 2022 that they require the conditions to be attached to any approval (**Attachment 2**).

Internal Consultation

Nil

PUBLIC NOTIFICATION

The development proposal was placed on public notification from 9 February 2022 to 4 March 2022. The applicant submitted the notice of compliance on 7 February 2022 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

No submissions were received.

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. Realigned Lot 11 and 12 would have an area of 31.87 hectares and 45.44 hectares respectively.

It is intended to realign the common boundary between the two (2) lots to separate the rural activity (horticulture - avocado orchard) from the extractive industry activity. In doing so, the realignment extinguishes the historic one-off subdivision lot (existing Lot 1 on RP745859) which would otherwise represent an ongoing threat of significant land use conflict if it were to be developed with a dwelling house and used for rural living purposes.

The development will not further fragment, compromise or alienate productive agricultural land, nor will it compromise the extractive industry key resource area. By removing the vacant one-off subdivision lot, proposed Lot 12 (the extractive industry lot) acquires its use rights for the development of an additional dwelling house. As a result, the extractive industry operator can prevent likelihood of land use conflict by not exercising the use rights to build the additional dwelling house.

Land presently use for primary production and extractive industry is conserved and the potential for land use conflict is significantly reduced.

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

Realigned Lot 11 and 12 would have an area of 31.87 hectares and 45.44 hectares respectively.

It is intended to realign the common boundary between the two (2) lots to separate the rural activity (horticulture - avocado orchard) from the extractive industry activity. In doing so, the realignment extinguishes the historic one-off subdivision lot (existing Lot 1 on RP745859) which would otherwise represent an ongoing threat of significant land use conflict if it were to be developed with a dwelling house and used for rural living purposes.

The development will not further fragment, compromise or alienate productive agricultural land, nor will it compromise the extractive industry key resource area. By removing the vacant one-off subdivision lot, proposed Lot 12 (the extractive industry lot) acquires its use rights for the development of an additional dwelling house. As a result, the extractive industry operator can prevent likelihood of land use conflict by not exercising the use rights to build the additional dwelling house.

Land presently use for primary production and extractive industry is conserved and the potential for land use conflict is significantly reduced.

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

Both existing lots have a frontage well below 400 metres.

Currently, the frontage to the Mareeba-Dimbulah Road is split between the two lots as follows:

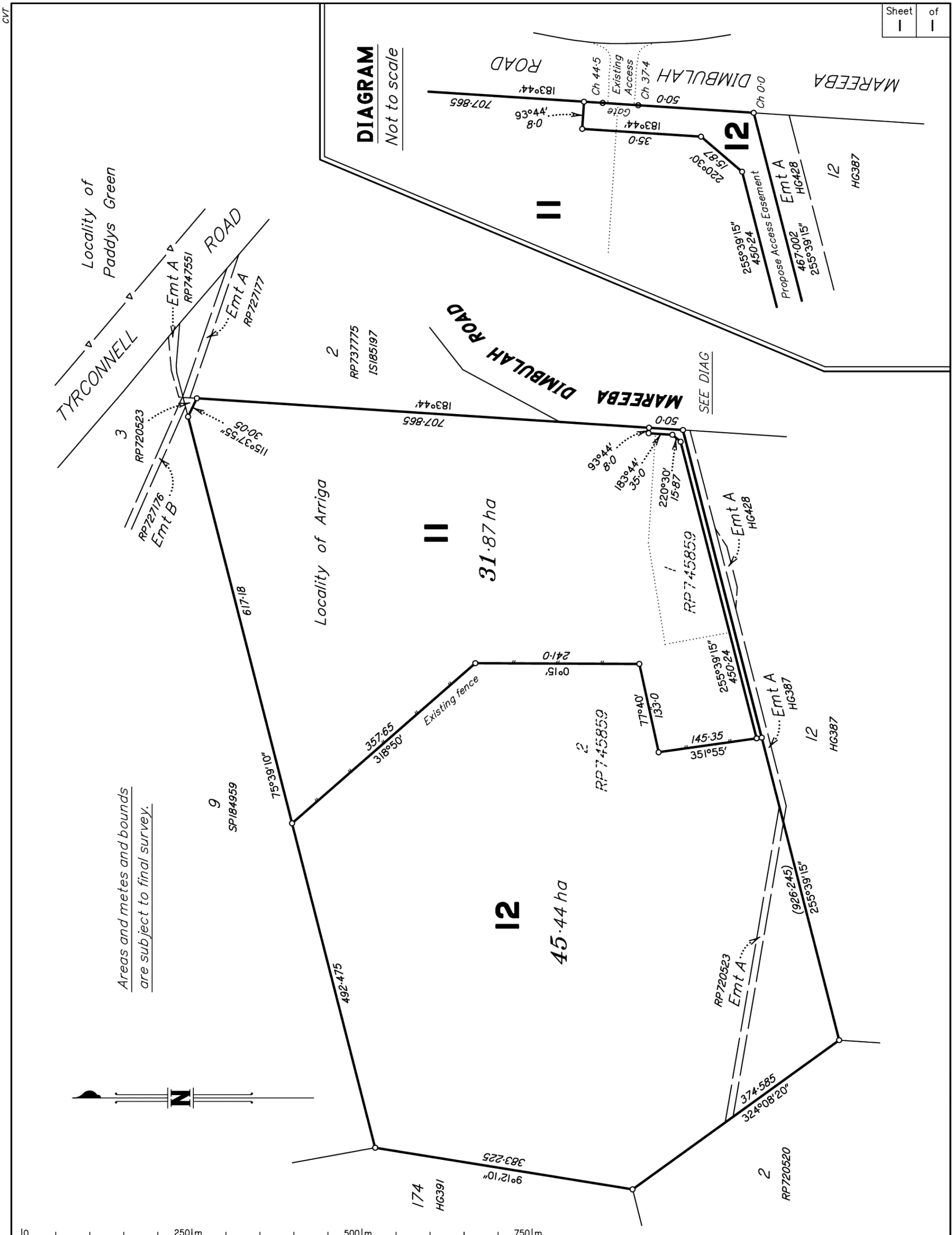
- Lot 1 - 40 metres
- Lot 2 - 141 metres

The boundary realignment will provide for the following new frontages:

- Lot 11 - 131 metres
- Lot 12 -- 50 metres

The proposed frontages are generally consistent with the frontages of the existing lots and will result in lots which satisfy Overall Outcomes (b) and (c) of the Reconfiguring a Lot Code.

Sheet 1 of 1



Areas and metes and bounds are subject to final survey.

DIAGRAM
Not to scale

LOCAL GOVERNMENT: MSC
LOCALITY: Arriga
Scale 1: 5000 (A3)
Reference: 8555 Rev B
Lot Layout – 11/11/2021

DEVELOPMENT PLAN
Plan of Lots 11 & 12
Cancelling Lot 1 & 2 on RP745859



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RA6-N



SARA reference: 2112-26329 SRA
 Council reference: RAL/21/0021
 Applicant reference: F21/29

24 January 2022

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 and Access Easement at 1506 Mareeba Dimbulah Road, Arriga

(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 7 December 2021.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	24 January 2022
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) and Access Easement
SARA role:	Referral Agency
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1 (Planning Regulation 2017) – Reconfiguring a lot near a state-

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

2112-26329 SRA

controlled road

SARA reference: 2112-26329 SRA
 Assessment Manager: Mareeba Shire Council
 Street address: 1506 Mareeba Dimbulah Road, Arriga
 Real property description: Lots 1 and 2 on RP745859
 Applicant name: Remo Giuseppe & Berniece Terranova
 Applicant contact details: C/- Freshwater Planning Pty Ltd
 17 Barron View Drive
 Freshwater QLD 4870
 freshwaterplanning@outlook.com

State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR21-034977 (500-1187)
- Date: 12 January 2021

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at ron.p.kaden@tmr.qld.gov.au or on (07) 4045 7151.

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 Anthony Westbury, Planning Officer, on 40373215 or via email CairnsSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Graeme Kenna
 Manager (Planning)

cc Remo Giuseppe & Berniece Terranova C/- Freshwater Planning Pty Ltd, freshwaterplanning@outlook.com

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

2112-26329 SRA

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 9, Division 4, Subdivision 2, Table 1, Item 1 – Reconfiguring a lot near a State transport corridor—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.	<ul style="list-style-type: none"> (a) The road access location is to be located generally in accordance with TMR Layout Plan (642 – 53.68km), prepared by Queensland Government Transport and Main Roads, dated 31/08/2021, Reference TMR21-33766 (500-1595), Issue A. (b) Road access works comprising of a sealed 'Type B' rural property vehicular access must be provided at the road access location. (c) The road access works must be designed and constructed in accordance with TMR Standard Rural Property Access Drawing, Sheets 1 & 2, Drawing No. 1807, Type B – Rural Property Access, dated 07/2020, and Revision A. 	<ul style="list-style-type: none"> (a) At all times. (b) and (c): Prior to submitting the Plan of Survey to the local government for approval.

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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.	<p>Road Works Approval</p> <p>Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out road works.</p> <p>Please contact the Department of Transport and Main Roads on 4045 7144 to make an application for road works approval.</p> <p>This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p>Please contact the Department of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>

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Attachment 3—Reasons for referral agency response

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

The reasons for the SARA decision are:

- The premises has road frontage and an existing unsealed shared access to Mareeba Dimbulah Road, a state-controlled road.
- Existing buildings, to be contained in proposed Lot 11, are located approximately 400m from Mareeba Dimbulah Road.
- Upgrading and sealing of the existing shared access to Mareeba Dimbulah Road, to be used for proposed Lots 11 and 12, will ensure that operating conditions and safety on the state-controlled road is maintained.
- The proposal is considered to not be a significant traffic generator and any network impacts from the proposed development will be minimal.
- Haulage vehicles associated with the approved extractive activities on proposed Lot 22 are restricted to using the southernmost access point on adjacent Lot 12 on HG387.
- The proposed development is unlikely to compromise the safety, efficiency, and operating conditions of Mareeba Dimbulah Road
- The proposed development, with conditions, complies with the relevant provisions of State code 1: Development in a state-controlled road environment.

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

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Attachment 4—Change representation provisions

(page left intentionally blank – attached separately)

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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*

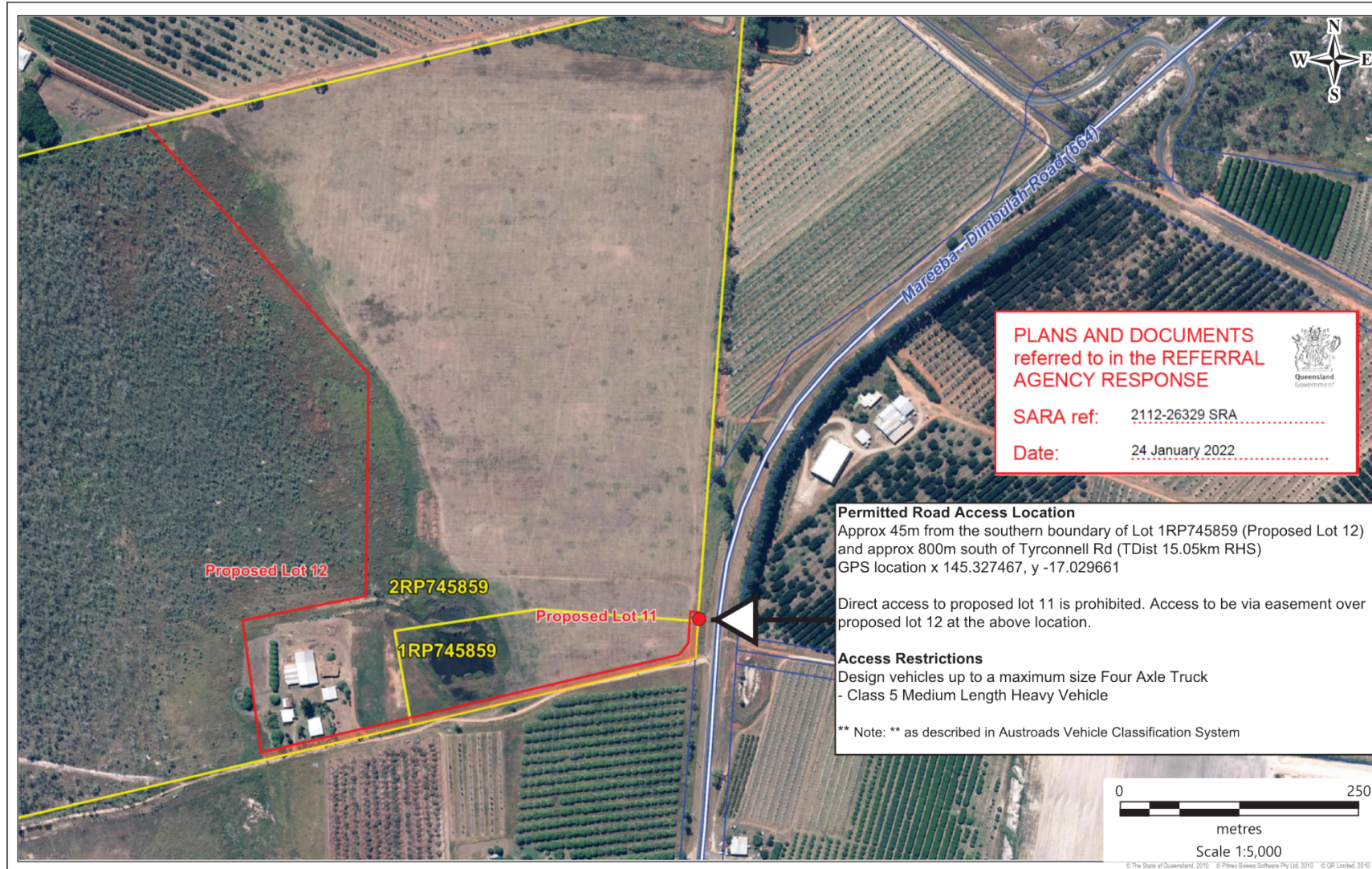
² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

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: 2112-26329 SRA

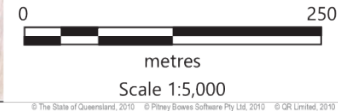
Date: 24 January 2022

Permitted Road Access Location
Approx 45m from the southern boundary of Lot 1RP745859 (Proposed Lot 12) and approx 800m south of Tyrconnell Rd (TDist 15.05km RHS)
GPS location x 145.327467, y -17.029661

Direct access to proposed lot 11 is prohibited. Access to be via easement over proposed lot 12 at the above location.

Access Restrictions
Design vehicles up to a maximum size Four Axle Truck
- Class 5 Medium Length Heavy Vehicle

**** Note: **** as described in Austroads Vehicle Classification System



Branch/Unit: Corridor Management / Far North District	State-controlled Road
Projection/Datum: Geocentric Datum of Australia (GDA) 2020	Land Parcels
File ref: TMR21-34977 (500-1187)	Proposed boundary
	Subject land
	Proposed easement

TMR Layout Plan 1
(664 - 15.05km)

Plan: 1 / 1		Queensland Government
Issue: A		Transport and Main Roads
Drawn by: RPK	Date: 24/12/2021	

Disclaimer: While every care is taken to ensure the accuracy of this data, Pitney Bowes Software Pty Ltd and/or the State of Queensland and/or QR Limited makes no representations or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which you might incur as a result of the data being inaccurate or incomplete in any way and for any reason.

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