

8.4 A CLAYTON - RECONFIGURING A LOT - BOUNDARY REALIGNMENT (4 LOTS INTO 2 LOTS) - LOTS 514, 515, 516 & 517 ON W2631 - 31 JAMES STREET, WATSONVILLE - RAL/22/0003

Date Prepared: 2 June 2022
Author: Planning Officer
Attachments: 1. Proposal Plans

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	A Clayton	ADDRESS	31 James Street, Watsonville
DATE LODGED	12 April 2022	RPD	Lots 514, 515, 516 & 517 on W2631
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Boundary Realignment (4 lots into 2 lots)		
FILE NO	RAL/22/0003	AREA	Lot 514 - 1,012m ² Lot 515 - 1,012m ² Lot 516 - 1,012m ² Lot 517 - 1,012m ²
LODGED BY	RPS Australia East Pty Ltd	OWNER	A Clayton
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 an impact assessable development application described in the above application details. No submissions were received during the mandatory public notification period. The application was made impact assessable by *Temporary Local Planning Instrument No. 01 of 2021 (Subdivision in Rural Zone)* (the "TLPI") because the subject land is within the Rural Zone.

The subject land comprises four (4) adjoining allotments in the Watsonville Township that are all 1,012m² in area. It is proposed to amalgamate the four (4) lots into two (2) lots (of 1,541m² and 2,506m² in area). The Watsonville Township is made up of a large cluster of these residential sized lots that have been strategically included within the Rural zone in order to limit their future development potential. These lots are not used for agriculture, nor have any agricultural potential. The TLPI was imposed to protect agricultural land from further fragmentation and encroachment by urban development and is not considered relevant in this situation. In this instance, the proposed development, which will result in a reduction in the number of developable lots in the Watsonville Township is considered to comply with the relevant provisions of the Planning Scheme's Strategic Framework which seek to limit future development in these outlying historic rural townships.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and although some conflicts exist with provisions contained within the Rural zone code and Reconfiguring a lot code due to the application proposing lots less than 60 hectares in size within the Rural zone, the development will satisfy the Planning Scheme's higher order Strategic Framework which is sufficient justification to approve the application despite these conflicts.

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

OFFICER’S RECOMMENDATION

(A) That in relation to the following development application:

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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.

(B) APPROVED DEVELOPMENT: Development Permit for Reconfiguring a Lot - Boundary Realignment (4 lots into 2 lots)

(C) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
PR151698-1	Reconfiguration of a Lot Plan of Lots 1 & 2 and Emt A in Lot 1 cancelling Lots 514-517 on W2631	RPS	18/03/2022

(D) 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.

(E) 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:

- a registered easement over the subject site (Lot 1 only)

(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

(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 land consists of four (4) adjoining allotments situated on the corner of James Street and Emily Street, Watsonville and are more particularly described as Lots 514 - 517 on W2631. All 4 allotments are standard residential shaped allotments with identical areas of 1,012m² and are all zoned Rural under the Mareeba Shire Council Planning Scheme 2016.

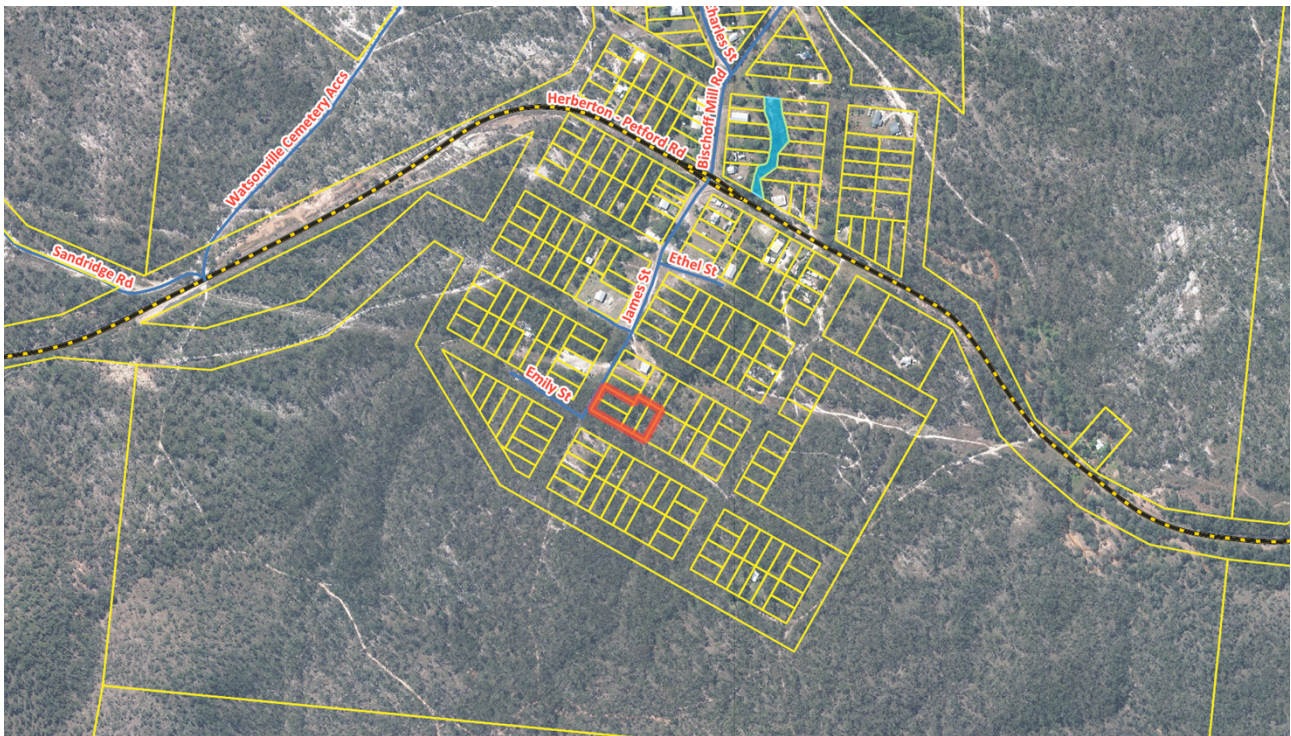
Lots 514 and 515 include frontages to the Emily Street road reserve, however this section of the road reserve contains no constructed road which is not uncommon in Watsonville. Lots 516 and 517 contain frontages to James Street which is constructed to a gravel standard.

All four (4) lots are covered in mature vegetation with some small clearings present. Lot 514 is improved by a shed while the other 3 lots are unimproved. Watsonville is not serviced by any urban services except for the electricity supply network. All surrounding lots are zoned rural and most remain vacant with some containing dwellings or sheds.



Map Disclaimer:

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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 (4 lots into 2 lots) in accordance with the plans shown below and included as **Attachment 1:**



The proposed boundary realignment will amalgamate the 4 x 1,012m² lots into 2 larger lots with areas of 1,541m² and 2,506m². An electricity supply easement is also proposed on Lot 1 to service Lot 2.

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 General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories • Rural Area (Rural other)
Zone:	Rural zone
Overlays:	Bushfire hazard overlay Environmental significance 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.

The subject land comprises four (4) adjoining allotments in the Watsonville Township that are all 1,012m² in area. It is proposed to amalgamate the four (4) lots into two (2) lots (of 1,541m² and 2,506m² in area). The Watsonville Township includes a large number of these residential sized lots that are considered cadastral anomalies and that have been strategically included within the Rural zone to limit their future development potential (see 3.3.11.1(8) below). These lots have no viable agricultural potential and are used as lifestyle allotments only.

The proposed boundary realignment will result in a decrease in the overall number of these small residential sized lots in existence within the Rural zone. The proposed development will not further fragment agricultural land or compromise agricultural activity and is therefore 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.

The subject land comprises 4 adjoining allotments in the Watsonville Township that are all 1,012m² in area. It is proposed to amalgamate the 4 lots into 2 lots (of 1,541m² and 2,506m² in area). The Watsonville Township includes a large number of these residential sized lots that are considered cadastral anomalies and that have been strategically included within the Rural zone to limit their future development potential (see 3.3.11.1(8) below). These lots have no viable agricultural potential and are used as lifestyle allotments only.

The proposed boundary realignment will result in a decrease in the overall number of these small residential sized lots in existence within the Rural zone. The proposed development will not further fragment agricultural land or compromise agricultural activity and is therefore 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 does not constitute a "subdivision" by definition.

The subject land comprises four (4) adjoining allotments in the Watsonville Township that are all 1,012m² in area. It is proposed to amalgamate the four (4) lots into two(2) lots (of 1,541m² and 2,506m² in area). The Watsonville Township includes a large number of these residential sized lots that are considered cadastral anomalies and that have been strategically included within the Rural zone to limit their future development potential (see 3.3.11.1(8) below). These lots have no viable agricultural potential and are used as lifestyle allotments only.

The proposed boundary realignment will result in a decrease in the overall number of these small residential sized lots in existence within the Rural zone. The proposed development will not further fragment or alienate agricultural land or compromise agricultural activity and is therefore considered to comply with 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 does not constitute a "subdivision" by definition.

The subject land comprises four (4) adjoining allotments in the Watsonville Township that are all 1,012m² in area. It is proposed to amalgamate the four (4) lots into two(2) lots (of 1,541m² and 2,506m² in area). The Watsonville Township includes a large number of these residential sized lots that are considered cadastral anomalies and that have been strategically included within the Rural zone to limit their future development potential (see 3.3.11.1(8) below). These lots have no viable agricultural potential and are used as lifestyle allotments only.

The proposed boundary realignment will result in a decrease in the overall number of these small residential sized lots in existence within the Rural zone. The proposed development will not further

fragment or alienate agricultural land or compromise agricultural activity and is therefore considered to comply with Specific Outcome 3.

(8) **Historical townships located in rural areas are generally cadastral anomalies.** Historical townships are generally below current infrastructure standards in respect to roads, stormwater drainage, water and sewerage infrastructure and **are not intended to be developed or further subdivided.** Historical townships are not always named, and include:

- (a) *Almaden*
- (b) *Calcifer*
- (c) *Kingsborough*
- (d) *Koorboora*
- (e) *Montalbion*
- (f) *Mt Mulligan*
- (g) *Northcote*
- (h) *Petford*
- (i) *Stannary Hills*
- (j) *Thornborough*
- (k) **Watsonville**

Comment

The proposed boundary realignment will amalgamate four (4) lots to create two (2) lots, thus decreasing the number of developable lots within the Watsonville Township. The proposed development directly supports the strategic intent of Specific Outcome 8 as it will only decrease the number of potential dwellings that could be established in the Township.

The development complies with Specific Outcome 8.

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 does not constitute a "subdivision" by definition. No additional title will be created, in fact, two (2) titles will be extinguished, and no change to the service arrangement of each lot will occur as a result of the development.

The proposed development does not compromise Strategic Outcome 6.

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
- 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 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 relevant 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.
Landscaping code	Despite being triggered for assessment by the Planning Schemes Tables of Assessment, this code is not considered applicable for rural boundary realignments.
Parking and access code	Despite being triggered for assessment by the Planning Schemes Tables of Assessment, this code is not considered applicable for rural boundary realignments.
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</p>

	complies with the relevant higher order strategic/specific outcomes contained in the Planning Scheme's Strategic Framework. Refer to planning discussion section of report for commentary.
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.

REFERRAL AGENCY

This application did not trigger referral to a Referral Agency.

Internal Consultation

Nil

PUBLIC NOTIFICATION

The development proposal was placed on public notification from 28 April 2022 to 23 May 2022. The applicant submitted the notice of compliance on 24 May 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

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

The subject land comprises four (4) adjoining allotments in the Watsonville Township that are all 1,012m² in area. It is proposed to amalgamate the four (4) lots into two (2) lots (of 1,541m² and 2,506m² in area). The Watsonville Township includes a large number of these residential sized lots that are considered cadastral anomalies and that have been strategically included within the Rural

zone to limit their future development potential (see 3.3.11.1(8) above). These lots have no viable agricultural potential and are used as lifestyle allotments only.

The development does not conflict with Purpose Statement (3)(a).

9.4.4 Reconfiguring a lot code

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

Proposed Lots 1 and 2 with areas of 1,541m² and 2,506m² respectively are below the desired minimum lot size of 60 hectares and are therefore non-compliant with PO1.1.

The subject land comprises four (4) adjoining allotments in the Watsonville Township that are all 1,012m² in area. It is proposed to amalgamate the four (4) lots into two (2) lots (of 1,541m² and 2,506m² in area). The Watsonville Township is made up of a large cluster of these residential sized lots that have been strategically included within the Rural zone to deliberately limit their future development potential. These lots are not used for agriculture, nor have any agricultural potential. The TLPI was imposed to protect agricultural land from further fragmentation and encroachment by urban development and is therefore not considered relevant in this situation. In this instance, the proposed development, which will only serve to reduce the number of developable lots in the Watsonville Township is considered to comply with the relevant Specific Outcomes of the Planning Scheme's Strategic Framework seeking to limit future development in these outlying historic rural townships.

Despite not complying with PO1.1, higher order provisions contained within the Planning Scheme's Strategic Framework have been satisfied which forms sufficient justification to approve the application.

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

See above comment for PO1.1. The frontage proposed for each lot is appropriate.



IMPORTANT NOTE

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6. The dimensions, area, size and location of improvements, flood information (if shown) and number of lots shown on this plan are approximate only and may vary.

7. Coloured boundaries are obtained by the dimensions and/or other information and are approximate only. These boundaries have not been verified and are approximate only.

AERIAL IMAGERY

The aerial photography used in this plan has not been rectified. The image has been overlaid as a best fit on the boundaries shown and position is approximate only.

Date of Capture: Oct 2021

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PROJECT MANAGER	SUPERVISED
A. Salomon	
COMPILED	CAD REF
K.B. 18/03/22	PR151698-1.DWG
SHEET SIZE	SHEET
A3	1
	SHEETS
	1

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ANDREW CLAYTON

RECONFIGURATION OF A LOT
 Plan of Lots 1 & 2
 and Emt A in Lot 1
 Cancelling Lots 514-517 on W2631

Watsonville

SCALE: 1:400

DATE: 18/03/2022

DRAWING NO: PR151698-1

ISSUE: