

8.1 H & J BOTTCHER - RECONFIGURING A LOT - SUBDIVISION (1 INTO 2 LOTS) - LOT 34 ON RP733269 - 91 PINE CLOSE, BIBOOHRA - RAL/22/0014

Date Prepared: 13 October 2022
Author: Senior Planner
Attachments: 1. Proposal Plans

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	H & J Bottcher	ADDRESS	91 Pine Close, Biboohra
DATE LODGED	17 August 2022	RPD	Lot 34 on RP733269
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Subdivision (1 into 2 lots)		
FILE NO	RAL/22/0014	AREA	7.395 hectares
LODGED BY	Gilvear Planning Pty Ltd	OWNER	H & J Bottcher
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural Residential - no precinct		
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 no significant conflicts with the Planning Scheme have been identified.

Draft conditions were provided to the Applicant / care of their consultant and have been agreed.

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

OFFICER'S RECOMMENDATION

- That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	H & J Bottcher	ADDRESS	91 Pine Close, Biboohra
DATE LODGED	17 August 2022	RPD	Lot 34 on RP733269
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Subdivision (1 into 2 lots)		

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.

APPROVED DEVELOPMENT: Development Permit for Reconfiguring a Lot - Subdivision (1 into 2 lots)(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
9132-LL4 Rev A	Proposed Reconfiguration of Lot 34 on RP733269 (1 lot into 2 lots)	Twine Surveys Pty Ltd	10.8.2022

(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 for the development, 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 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 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.
- 3.4 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.
- 3.7 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.
- 3.8 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 both Lots 341 and 342 (from the edge of the road to the property boundary or 10m, whichever is lesser) in accordance with FNQROC Development Manual Standards (as amended), to the satisfaction of Council's delegated officer.

4.2 Stormwater Drainage

- (a) The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.

- (b) All stormwater drainage collected from the site must be discharged to an approved legal point of discharge.

4.3 Water Supply

At the time of construction of a dwelling on proposed Lot 342, a water supply must be provided via:

- (a) a bore or bores are provided in accordance with the Design Guidelines set out in the Planning Scheme Policy 4 – FNQROC Regional Development Manual; or
- (b) on-site water storage tank/s:
 - (i) with a minimum capacity of 90,000L; and
 - (ii) which are installed and connected prior to the occupation of the dwelling.

4.4 Wastewater Disposal

At the time of construction of a future dwelling or outbuilding on proposed Lot 342, any associated on-site effluent disposal system must be constructed in compliance with the latest version On-Site Domestic Wastewater Management Standard (AS/NZS1547) to the satisfaction of the Council's delegated officer.

4.5 Electricity provision/supply

The applicant/developer must ensure that an appropriate level of electricity supply is provided to each allotment 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.

4.6 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) An Adopted Infrastructure Charges Notice has been issued with respect to the approved development. The Adopted Infrastructure Charges Notice details the type of

infrastructure charge/s, the amount of the charge/s and when the charge/s are payable.

- (b) The Adopted Infrastructure Charges Notice does not include all charges or payments that are payable with respect to the approved development. 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.

- (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.dcceew.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.dsdsatsip.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

- (G) OTHER APPROVALS REQUIRED FROM COUNCIL

- Access approval arising from condition number 4.1 (Please contact Planning Section to obtain application form and applicable fee)
2. That an Adopted Infrastructure Charges Notice be issued for the following infrastructure charge/s for:

Development Type	Rate	Measure	Charge	Credit Detail	Balance
	\$ per Lot <small>(40% reduction of standard charge for no town water/sewer)</small>	Lots		Lots	
Residential	\$12,156.00	2 Lots	\$24,312.00	1 lot	\$12,156.00
TOTAL CURRENT AMOUNT OF CHARGE					\$12,156.00

THE SITE

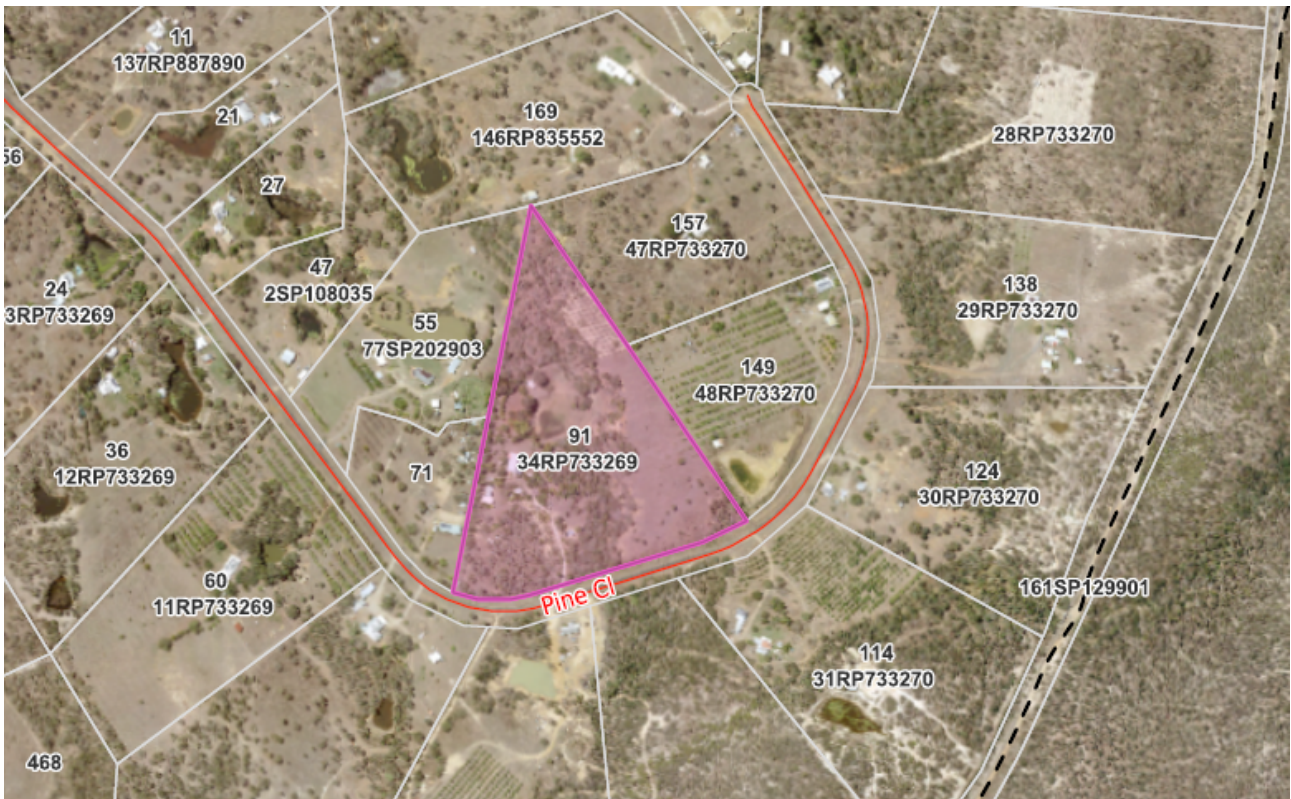
The subject site is situated at 91 Pine Close, Bibbohra, and is more particularly described as Lot 34 on RP733269. The site is irregular in shape with an area of 7.395 hectares and is zoned Rural Residential under the Mareeba Shire Council Planning Scheme 2016.

The site has approximately 225 metres of frontage to Pine Close which is constructed to a bitumen sealed rural road standard, without kerb and channel. A single gravel crossover provides access to the site off Pine Close.

The site is improved by a single dwelling house and multiple outbuildings, all of which are sited on the western half of the lot. A small area of remnant vegetation exists on the site adjacent to the Pine Close frontage.

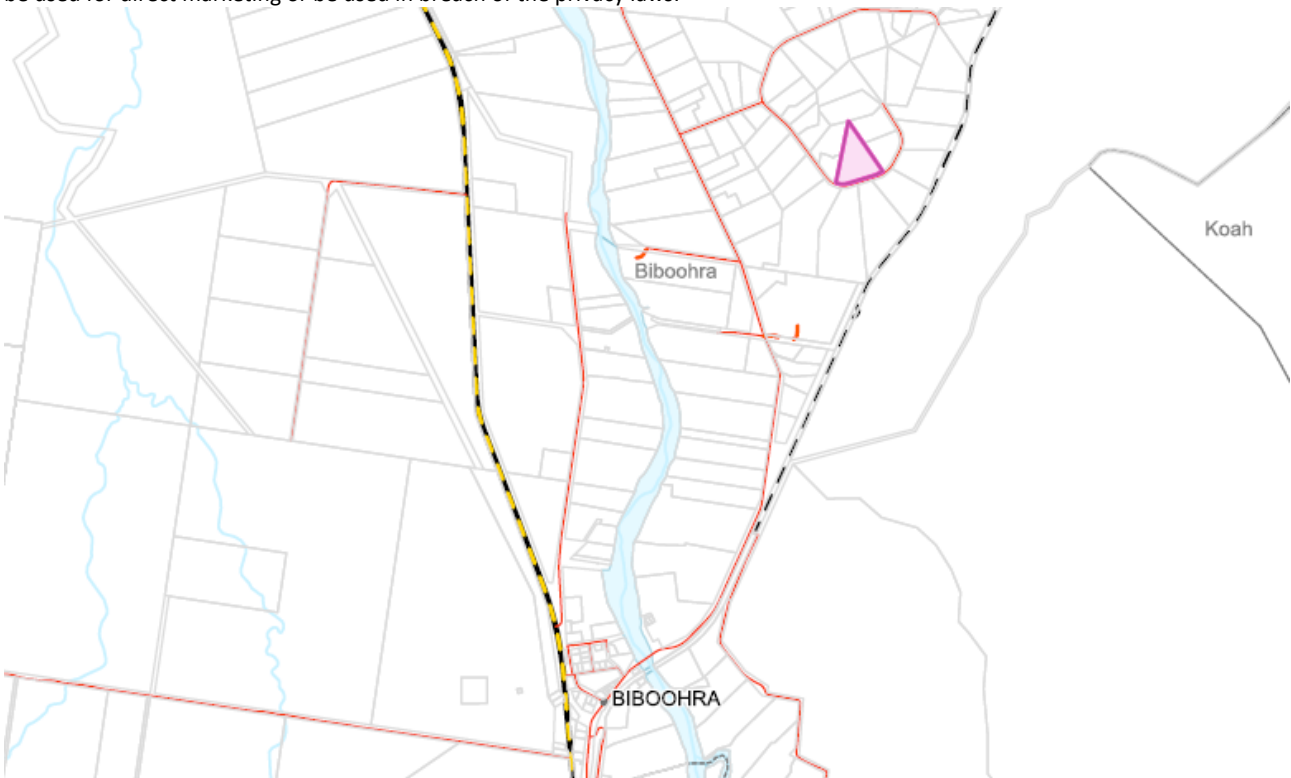
The existing dwelling house is connected to the electricity grid and telecommunication services. An onsite water supply and wastewater disposal system are also connected to the existing dwelling house.

All adjoining lots are zoned rural residential, with most properties containing a single dwelling house.



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 - Subdivision (1 into 2 lots) in accordance with the plans shown in **Attachment 1**.

The applicant proposes the subdivision of the subject site into the following allotments:

Lot 341 - area of 5.395 hectares, frontage of approximately 219.69 metres to Pine Close; and

Lot 342 - area of 2 hectares, frontage of approximately 125 metres frontage to Pine Close.

Proposed Lot 341 will contain the existing dwelling house, dam and other built infrastructure. Proposed Lot 342 will be vacant when created.

Both lots will be connected to the electricity grid and NBN services.

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"> • Rural Residential Area Natural Environment Elements <ul style="list-style-type: none"> • Biodiversity Areas
Zone:	Rural Residential zone - no precinct
Overlays:	Environmental Significance 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

Strategic Framework

3.3 Settlement pattern and built environment

3.3.10 Element—Rural residential areas

3.3.10.1 Specific outcomes

- (1) Rural residential development is consolidated within rural residential areas where it will not result in the fragmentation or loss of agricultural areas or biodiversity areas.*
- (2) Infill development within rural residential areas occurs only where appropriate levels of infrastructure are available and provided, the existing rural living character can be maintained and an activity centre is proximate.*
- (3) No further subdivision of greater than anticipated density occurs within rural residential areas that are not proximate to an activity centre and its attending physical and social infrastructure.*
- (4) Rural residential areas across Mareeba Shire are characterised by a range of lot sizes, consistent with the form of historical subdivision in the vicinity of proposed development.*

Comment

The subject site is in a rural residential area and is not agricultural land.

The site does not contain any biodiversity areas that will be fragmented as a result of the subdivision. Property Map of Assessable Vegetation (PMAV) 2021/004144 identifies that all of proposed Lot 342 is Category X area.

The proposed development is infill and does not require additional infrastructure. The development is consistent in character with the existing Cypress Downs area and has convenient access to Bibbohra and Mareeba.

The proposed 2 hectare density is consistent with Cypress Downs and the Bilwon Road area in general.

The proposed development does not conflict with these specific outcomes.

Relevant Developments 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
- 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 satisfies the relevant acceptable outcomes (or performance outcomes 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	<p>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.</p> <p>The proposed development is not consistent with Overall Outcomes (g) and (h) contained within the code which seek to discourage the creation of additional lots in Rural residential zoned areas that lie outside a precinct. Despite this non-compliance, the application is considered to comply with the higher order Strategic Framework provisions contained within the Planning Scheme. Further commentary is provided in the Planning Discussion section of the report.</p>
Environmental significance overlay code	<p>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.</p>
Landscaping code	<p>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.</p>
Parking and access code	<p>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.</p>
Reconfiguring a lot code	<p>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 apart from the following:</p> <ul style="list-style-type: none"> • Acceptable Outcome AO1.1 • Performance Outcome PO13 (no acceptable outcome) <p>In the case of AO1.1, it is considered the development can comply with the higher order Performance Outcome PO1. In the case of PO13 and AO13 compliance with the higher order Overall Outcomes of the Reconfiguring a Lot code can be achieved.</p> <p>Further commentary is provided in the planning discussion section of report.</p>
Works, services and infrastructure code	<p>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.</p>

(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

In accordance with Council's Adopted Infrastructure Charges Resolution (No. 1) 2022, a standard charge of \$20,260.00 applies to each additional residential allotment created, where serviced by the following five (5) trunk infrastructure networks:

- Transport network (roads);
- Public parks and land for community facilities network;
- Water supply network;
- Sewerage network; and
- Stormwater network

Part 4.1(d) of Council's Adopted Infrastructure Charges Resolution (No. 1) 2022, a 40% discount will be applied to development charges where no connection to Council's reticulated water and sewer network exists.

$\$20,260.00 - 40\% = \underline{\$12,156.00}$ per additional allotment.

The application proposes the creation of 1 additional residential lot; therefore, the applicable charge is **\$12,156.00**.

REFERRAL AGENCY

This application did not trigger referral to a Referral Agency.

Internal Consultation

Not applicable.

PUBLIC NOTIFICATION

The development proposal was placed on public notification from 6 September 2022 to 29 September 2022. The applicant submitted the notice of compliance on 5 October 2022 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

No submissions were received.

PLANNING DISCUSSION

Compliance with the Performance Outcomes and Purpose of the Rural Residential Zone Code and the Reconfiguring a Lot Code is summarised as follows:

Rural Residential Zone Code

The development generally complies with the Overall Outcomes contained within the Rural Residential zone code apart from the following:

- (g) Reconfiguring a lot will maintain the predominant lot size of the precinct or intended for the precinct; and*
- (h) Reconfiguring a lot involving the creation of new lots is not undertaken external to a precinct in the Rural residential zone in consideration of the inherent environmental, and/or physical infrastructure and/or social infrastructure constraints of Rural residential zoned land outside of identified precincts.*

Comment

Despite not complying with overall outcomes (g) and (h), the application is impact assessable and can therefore be assessed against the Planning Scheme's Strategic Framework which is the highest order assessment provisions contained within the Planning Scheme. It is considered that the proposed development achieves compliance with the Strategic Framework provisions relating to settlement pattern and built environment, specifically for rural residential areas. See the Strategic Framework section of this report for further commentary.

Reconfiguring a Lot Code

PO1 Area and frontage of lots

Lots include an area and frontage that:

- (a) is consistent with the design of lots in the surrounding area;*
- (b) allows the desired amenity of the zone to be achieved;*
- (c) is able to accommodate all buildings, structures and works associated with the intended land use;*
- (d) allow the site to be provided with sufficient access;*
- (e) considers the proximity of the land to:
 - (i) centres;*
 - (ii) public transport services; and*
 - (iii) open space; and**
- (f) allows for the protection of environmental features; and*
- (g) accommodates site constraints.*

AO1.1

*Lots provide a minimum area and frontage in accordance with **Table 9.4.4.3B**.*

Comment

Table 9.4.4.3B does not nominate a minimum area and frontage for rural residential allotments that are located outside a precinct. Assessment is therefore necessary against PO1 and the criteria it nominates:

- (a) The proposed lots will be consistent with the design/size of lots in the surrounding area.*

- (b) The proposed lots allow the desired amenity of the zone to be achieved.
- (c) Each of the proposed lots is of sufficient size and shape to be able to accommodate all buildings, structures and works associated with the intended future residential land use;
- (d) Pine Close is constructed to a bitumen sealed rural road standard sufficient to provide each proposed lot with good access. Individual access crossovers will be conditioned in accordance with FNQROC Development Manual standards.
- (e) The subject land is within a major existing rural residential node. The site is within the catchment of the Biboohra State Primary School and has convenient access to the Biboohra Shop and Service Station. Significant areas of natural open space are readily accessible (Barron River and State Forests).
- (f) Proposed Lot 342 avoids areas of regulated vegetation. Proposed Lot 341 is already fully developed.
- (g) Proposed Lot 342 is flat, cleared and ideally suited for the proposed use.

The development complies with PO1.

PO13 Rural residential zone

New lots are only created in the Rural residential zone where land is located within the 4,000m² precinct, the 1 hectare precinct or the 2 hectare precinct.

AO13

No acceptable outcome is provided.

Comment

The proposed development conflicts with PO13 as the subject land is not located within a rural residential zone precinct.

An assessment of the development's consistency with the higher order purpose and overall outcomes contained within the Reconfiguring a Lot Code is therefore required and is discussed below:

The purpose of the Reconfiguring a Lot code will be achieved through the following overall outcomes:

- (a) *Subdivision of land achieves the efficient use of land and the efficient provision of infrastructure and transport services;*

The site is already serviced by all infrastructure typically conditioned for rural residential lots of 2 hectares in size. Each proposed lot will be adequately serviced with a connection to the electricity grid, access and modern telecommunications via the NBN fixed wireless network.

Water supply and wastewater disposal will be achieved on-site which is typical of the existing Cypress Downs estate and 2 hectare rural residential allotments in general.

- (b) *Lots are of a suitable size and shape for the intended or potential use having regard to the purpose and overall outcomes of the relevant zone or precinct;*

Both proposed lots are of a suitable size and shape to accommodate the established and anticipated future rural residential land uses. Despite its irregular configuration, proposed Lot 342 has a generous area in which to site a future dwelling house.

- (c) *Subdivision of land creates lots with sufficient area and dimensions to accommodate the ultimate use, meet user requirements, protect environmental features and account for site constraints;*

Proposed Lot 341 will accommodate the existing dwelling house, dam and other built improvements.

The likely use of proposed Lot 342 is a single dwelling house with the potential for some ancillary domestic outbuildings. Lot 342 is entirely mapped as Category X area under a PMAV and contains no significant environmental features or mapped hazards.

- (d) *A range and mix of lot sizes is provided to facilitate a variety of industry and housing types;*

The proposed development would add to the range of lot sizes available in the locality.

- (e) *Subdivision design incorporates a road network that provides connectivity and circulation for vehicles and provide safe and efficient access for pedestrians, cyclists and public transport;*

Not applicable. The proposed development does not require an extension to the road network.

- (f) *Subdivision design provides opportunities for walking and cycling for recreation and as alternative methods of travel;*

Walking and cycling opportunities are available along the existing network of road reserves. Further walking and cycling opportunities are available within the State developed State forest recreational trails.

- (g) *Subdivision of land provides and integrates a range of functional parkland, including local and district parks and open space links for the use and enjoyment of the residents of the locality and the shire;*

Not relevant for rural residential lots of this size. Each proposed lot has generous onsite areas for recreation and open space use. The locality also features extensive State forest areas (including walking and mountain bike tracks) and recreational opportunities offered by the Barron River.

- (h) *Subdivision of land contributes to an open space network that achieves connectivity along riparian corridors and between areas with conservation values;*

Not applicable for a small scale 1 into 2 lot development. The small area of remnant vegetation is secured within the already developed Lot 341.

- (i) *Subdivision within the Rural zone maintains rural landholdings in viable parcels;*

Not applicable. The subject land is within the Rural Residential zone, not the Rural zone.

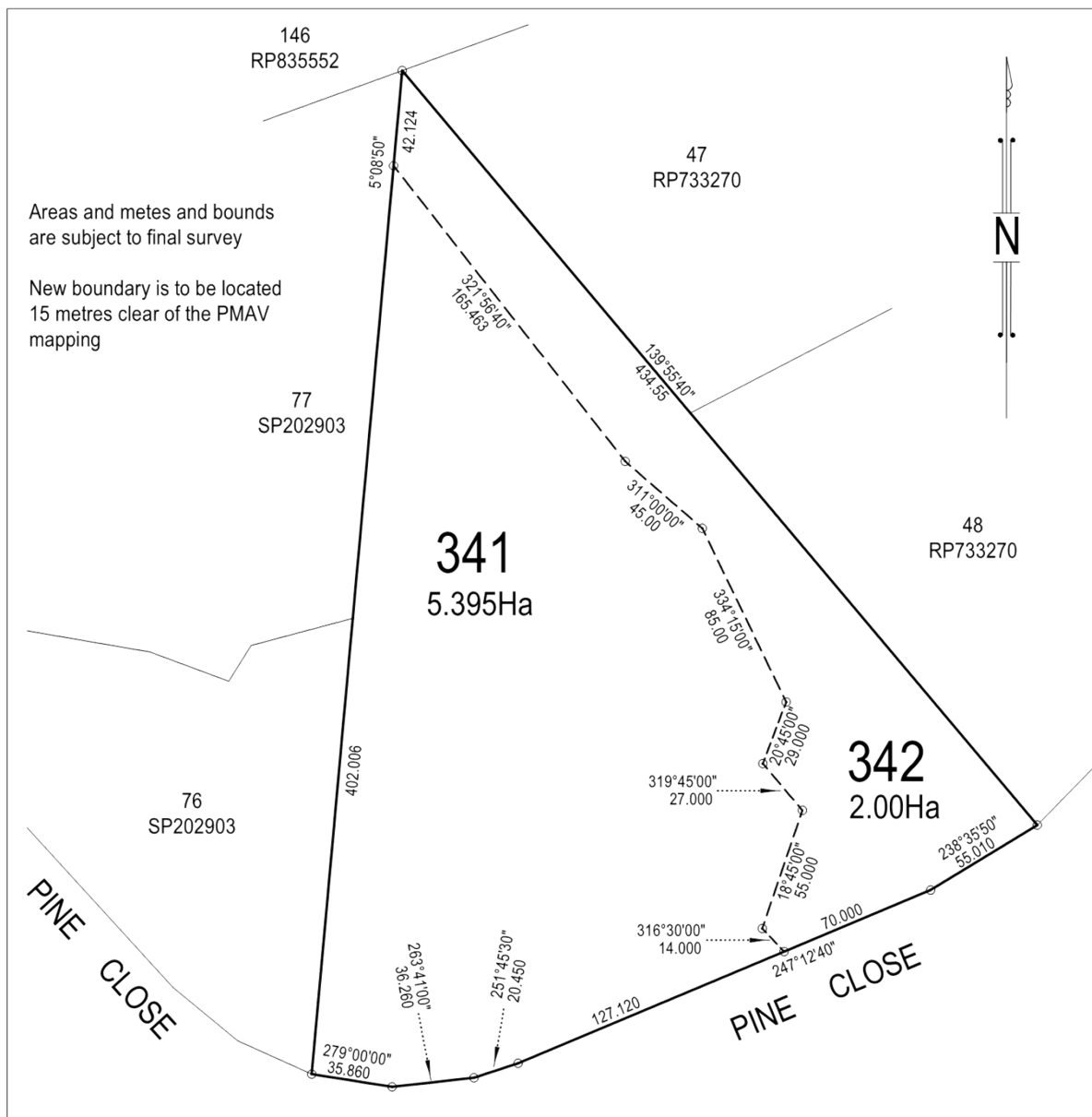
- (j) *Land in historical townships is not reconfigured to be used for urban purposes; and*

Not applicable. The subject land is not within a historical township for the purpose of the planning scheme.

- (k) *Residential subdivision and greenfield development is designed to consider and respect:*

- i. topography;*
- ii. climate responsive design and solar orientation;*
- iii. efficient and sustainable infrastructure provision;*
- iv. environmental values;*
- v. water sensitive urban design;*
- vi. good quality agricultural land; and*
- vii. the character and scale of surrounding development.*

The proposed lot layout appropriately and efficiently responds to the relevant identified criteria.



Scale 1 : 2500			
0m 100m 200m 300m			
AMENDMENTS	PROPERTY DESCRIPTION LOT 34 ON RP733269	REGISTERED OWNERS J & H BOTTCHER	LOCAL GOVERNMENT: MSC LOCALITY: BIBOOHRA SITUATED AT : PINE CLOSE
A - ORIGINAL			
DEVELOPMENT PLAN Proposed Reconfiguration of LOT 34 ON RP733269 (1 LOT INTO 2 LOTS)		TWINE SURVEYS PTY LTD 36 Mabel St, Atherton 4883 PO Box 146, Atherton 4883 P 07 40911303 E info@twinesurveys.com.au	
DWG NO. 9132 - LL4	10.8.2022	REV A	

