

**8.3 J PORTELLI, B PORTELLI & A STRONG - RECONFIGURING A LOT - BOUNDARY REALIGNMENT - LOTS 2 & 18 ON SP297295 AND LOT 15 ON SP180665 - 841, 963 & 965 BILWON ROAD, BIBOOHRA - RAL/22/0018**

**Date Prepared:** 3 February 2023

**Author:** Planning Officer

**Attachments:**

1. Proposal Plan/s
2. SARA Referral Agency Response Dated 5 December 2022

#### APPLICATION DETAILS

APPLICATION		PREMISES	
<b>APPLICANT</b>	James Portelli, Barry Portelli and Anni Strong	<b>ADDRESS</b>	841, 963 and 965 Bilwon Road, Biboohra
<b>DATE LODGED</b>	27 October 2022	<b>RPD</b>	Lots 2 and 18 on SP297295 and Lot 15 on SP180665
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Reconfiguring a Lot – Boundary Realignment		
<b>FILE NO</b>	RAL/22/0018	<b>AREA</b>	Lot 2 – 39.446 ha Lot 18 – 31.27 ha Lot 15 – 4.047 ha
<b>LODGED BY</b>	Scope Town Planning	<b>OWNER</b>	Lot 2 – Anni Strong Lot 18 – James Portelli Lot 15 – Barry Portelli
<b>PLANNING SCHEME</b>	Mareeba Shire Council Planning Scheme 2016		
<b>ZONE</b>	Rural Zone		
<b>LEVEL OF ASSESSMENT</b>	Impact Assessment		
<b>SUBMISSIONS</b>	0 submissions received		

#### EXECUTIVE SUMMARY

Council is in receipt of an impact assessable development application described in the above application details. The application was made impact assessable as a result of Temporary Local Planning Instrument (TLPI) No. 01 of 2021 (Subdivision in Rural zone). No submissions were received during the mandatory public notification period.

The applicants propose to reconfigure the common boundaries between the 3 allotments, by way of boundary realignment only (no additional allotment/s created). An approximate area of 8,000m<sup>2</sup> covered by an existing access easement will be transferred from existing Lot 2 to existing Lot 18, creating an access handle for Lot 18 in lieu of the easement. Additionally, the 5.3 ha portion of existing Lot 2 on the north-east side of the proposed Lot 18 access handle will be transferred to Lot 15.

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 seek to discourage the creation of any lot below 60 hectares within the Rural zone.

In their current configuration, all three lots are less than 60 hectares in size and are considered to be rural living allotments. All three lots are almost fully vegetated with undulating topographies and are not considered to be viable agricultural holdings, even for livestock grazing. The proposed boundary realignment will result in the minor transfer of vegetated non-agricultural land only and will not result in the creation of any new or additional rural living allotment, nor does it create the opportunity for another dwelling house to be built within the Rural zone.

The Mareeba Shire Council Planning Scheme 2016 contains a hierarchy of assessment benchmarks. The Strategic Framework are the highest order assessment benchmarks contained in the Planning Scheme and hold more 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, in that the development will not further fragment, compromise or alienate productive agricultural land.

It is recommended that the application be approved.

#### OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
<b>APPLICANT</b>	James Portelli, Barry Portelli and Anni Strong	<b>ADDRESS</b>	841, 963 and 965 Bilwon Road, Bibohra
<b>DATE LODGED</b>	27 October 2022	<b>RPD</b>	Lots 2 and 18 on SP297295 and Lot 15 on SP180665
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Reconfiguring a Lot – Boundary Realignment		

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), referral 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

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
132_20 Sheet 1 of 2	Proposed Realignment	R. D. Trotter	12.10.2022
132_20 Sheet 2 of 2	Proposed Realignment	R. D. Trotter	12.10.2022

(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, 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.

Where a structure is located in close proximity to a new property boundary, 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.

## (D) ASSESSMENT MANAGER'S ADVICE

### (a) 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.

### (b) 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.

### (c) 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 (Emt A in Lot Proposed Lot 20 – Benefiting Lot Proposed Lot 21)

### (d) 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](http://www.dcceew.gov.au).

### (e) 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](http://www.dsdsatsip.qld.gov.au).



**(E) REFERRAL AGENCY CONDITIONS**

Department of State Development, Infrastructure, Local Government and Planning conditions dated 5 December 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**

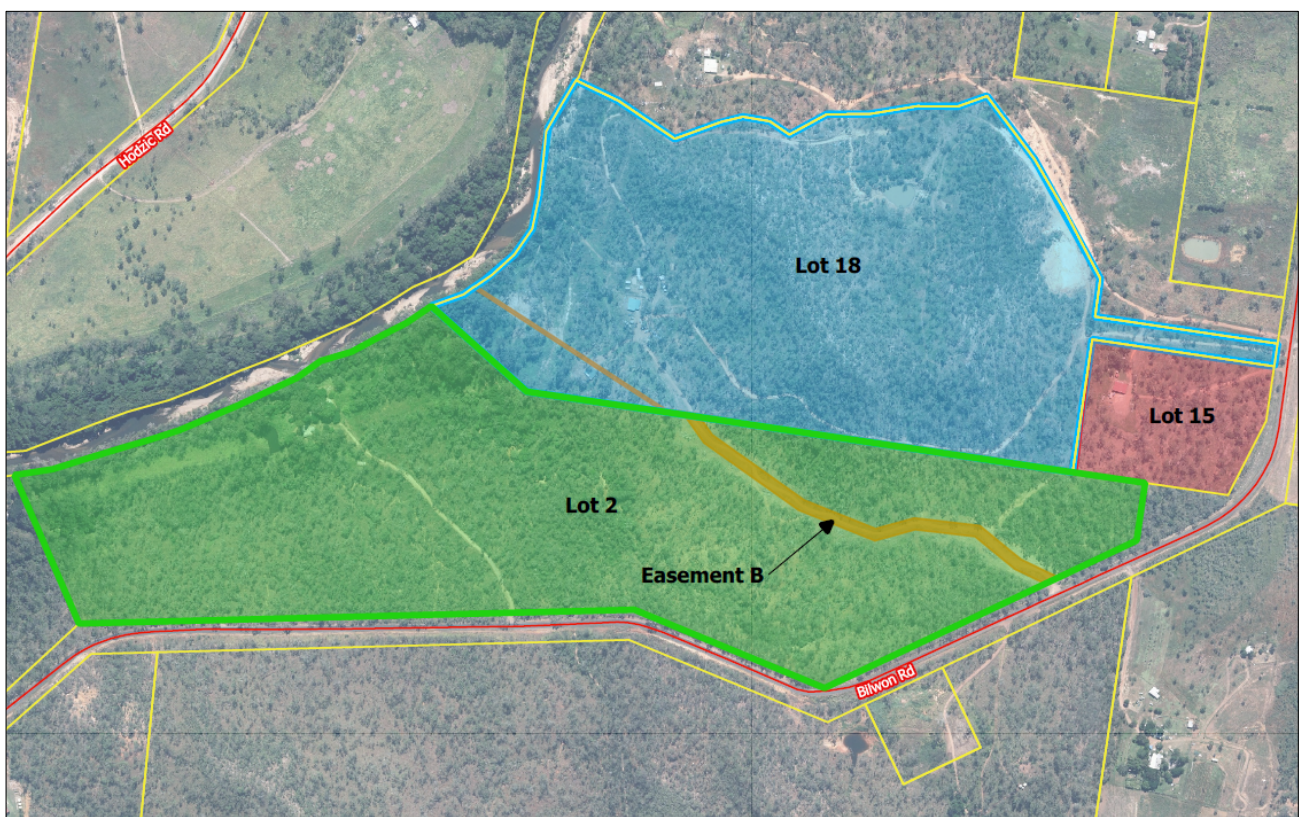
- Nil

**(H) OTHER APPROVALS REQUIRED FROM COUNCIL**

- Nil

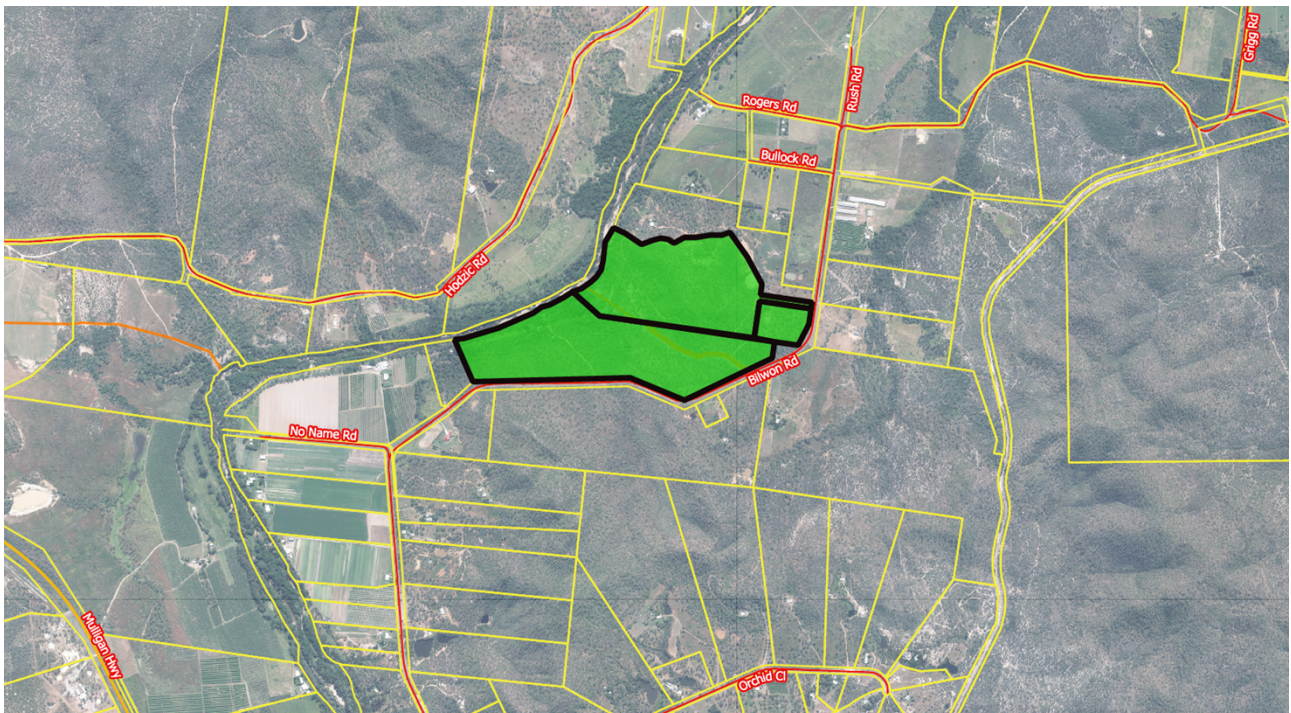
**THE SITE**

The subject land comprises 3 allotments described as Lots 2 & 18 on SP297295 and Lot 15 on SP180665, situated at 841, 963 and 965 Bilwon Road, Bibbohra. Lots 2, 18 and 15 have areas of 39.446 ha, 31.27 ha and 4.047 ha respectively and are all zoned Rural under the Mareeba Shire Council Planning Scheme 2016.

**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 / PREVIOUS APPLICATIONS & APPROVALS**

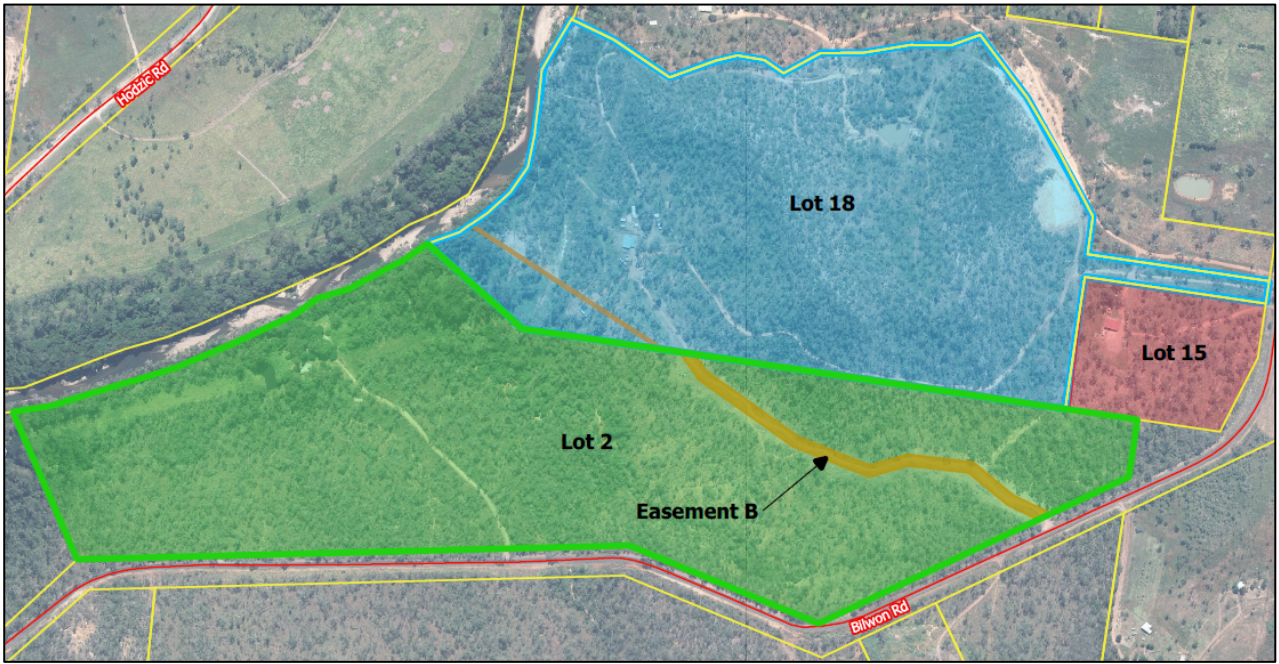
Nil

**DESCRIPTION OF PROPOSED DEVELOPMENT**

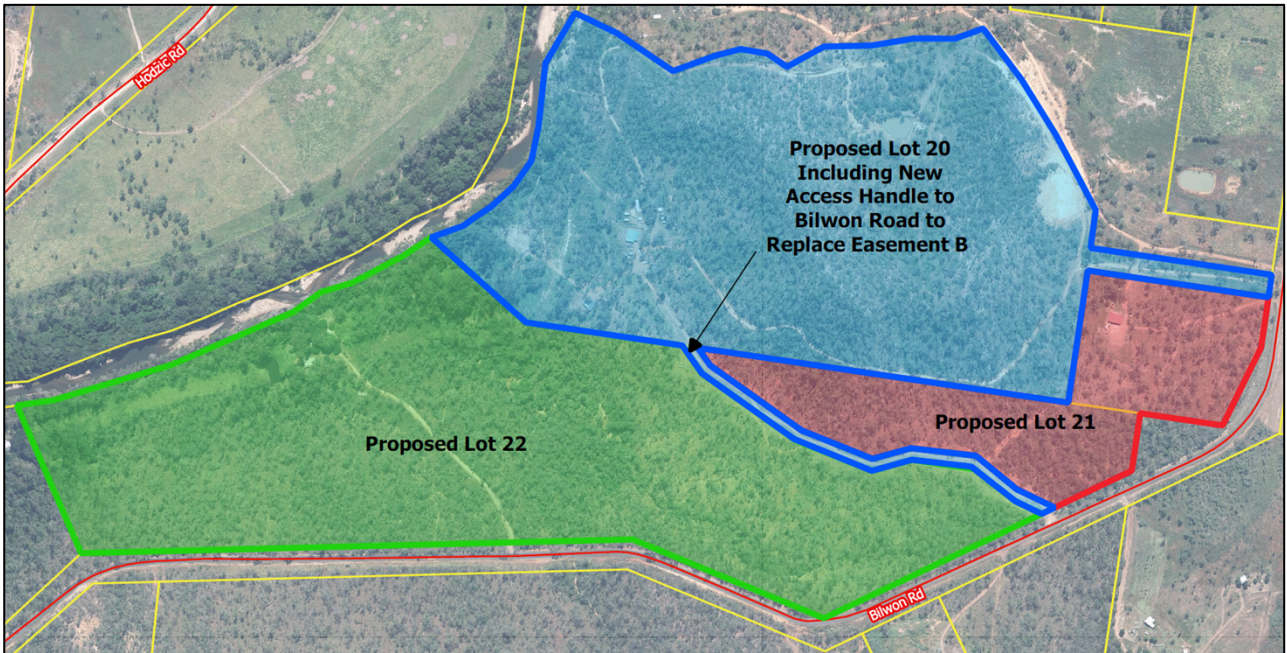
The development application seeks a Development Permit for Reconfiguring a Lot – Boundary Realignment in accordance with the plans shown in **Attachment 1**. The existing and proposed lot configuration is shown on the below maps. An approximate 8,000m<sup>2</sup> portion of Lot 2 which is covered by an existing easement (Emt B) will be transferred to existing Lot 18, creating an access handle for Lot 18 (with the easement to be surrendered). Additionally, the 5.3 ha portion of existing Lot 2 on the north-east side of the proposed Lot 18 access handle will be transferred to Lot 15.

**Existing lot configuration:**





**Proposed lot configuration:**



**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 as containing:

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

**PLANNING SCHEME DESIGNATIONS**

Strategic Framework:	<p><b>Land Use Categories</b></p> <ul style="list-style-type: none"> <li>• Rural Area (Rural Other)</li> </ul> <p><b>Natural Environmental Elements</b></p> <ul style="list-style-type: none"> <li>• Biodiversity Areas</li> <li>• Habitat Linkage</li> </ul> <p><b>Other Elements</b></p> <ul style="list-style-type: none"> <li>• Major Watercourse (Barron River)</li> </ul>
Zone:	Rural
Overlays:	Bushfire Hazard Overlay Environmental Significance Overlay Flood Hazard Overlay Hill and Slope 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.

In their current configuration, all three lots are less than 60 hectares in size and are considered to be rural living allotments. All three lots are almost fully vegetated with undulating topographies and are not considered to be viable agricultural holdings, even for livestock grazing. The proposed boundary realignment will result in the minor transfer of vegetated non-agricultural land only and will not result in the creation of any new or additional rural living allotment, nor does it create the opportunity for another dwelling house to be built within the Rural zone.

The proposed development will not further fragment agricultural land or compromise agricultural activity in the immediate locality 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 proposed boundary realignment will not result in any new or additional rural living allotment, nor does it create the opportunity for another dwelling house to be built within the Rural zone. The proposed development does not conflict 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.

In their current configuration, all three lots are less than 60 hectares in size and are considered to be rural living allotments. All three lots are almost fully vegetated with undulating topographies and are not considered to be viable agricultural holdings, even for livestock grazing. The proposed boundary realignment will result in the minor transfer of vegetated non-agricultural land only and will not result in the creation of any new or additional rural living allotment, nor does it create the opportunity for another dwelling house to be built within the Rural zone.

The proposed development will not compromise, fragment or alienate agricultural land and is therefore 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 does not constitute a "subdivision" by definition.

In their current configuration, all three lots are less than 60 hectares in size and are considered to be rural living allotments. All three lots are almost fully vegetated with undulating topographies and are not considered to be viable agricultural holdings, even for livestock grazing. The proposed boundary realignment will result in the minor transfer of vegetated non-agricultural land only and will not result in the creation of any new or additional rural living allotment, nor does it create the opportunity for another dwelling house to be built within the Rural zone.

The proposed development will not compromise, fragment or alienate agricultural land and is therefore 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 does not constitute a "subdivision" by definition. No additional title will be created, 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
- 8.2.6 Flood hazard overlay code
- 8.2.8 Hill and slope overlay code
- 8.2.12 Transport infrastructure 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 solutions (or probable solutions/performance criteria where no acceptable solution applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Rural zone code	The application conflicts with 6.2.9.2 Purpose (3) (a) of the code as all three lots will be under 60 ha in size.  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.
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.
Flood 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.



Hill and slope 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.
Transport infrastructure 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"> <li>• PO1.1</li> <li>• PO1.2</li> </ul> <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.

**(D) Planning Scheme Policies/Infrastructure Charges Plan**

Planning Scheme Policy 4 - FNQROC Regional Development Manual

A condition of approval will be included requiring all development works be designed and constructed/upgraded in accordance with FNQROC Development Manual standards.

**REFERRAL AGENCY**

The application triggered referral to the Department of State Development, Infrastructure, Local Government and Planning as a referral agency (SARA – Vegetation Management Unit).

The Department advised in their Referral Agency Response dated 5 December 2022 that their conditions must be attached to any approval (**Attachment 2**).

**Advice**

This application did not trigger referral to any Advice Agencies.

**Internal Consultation**

Nil



## PUBLIC NOTIFICATION

The development proposal was placed on public notification from 8 December 2022 to 16 January 2023. The applicant submitted the notice of compliance on 19 January 2023 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

Table 9.4.4.3B dictates a minimum reconfiguring lot size of 60 hectares for land within the Rural zone. All three proposed allotments are smaller than 60 hectares, particularly proposed Lot 21 with an area of just 9.3 hectares.

In their current configuration, all three lots are less than 60 hectares in size and are considered to be rural living allotments. All three lots are almost fully vegetated with undulating topographies and are not considered to be viable agricultural holdings, even for livestock grazing. The proposed boundary realignment will result in the minor transfer of vegetated non-agricultural land only and will not result in the creation of any new or additional rural living allotment, nor does it create the opportunity for another dwelling house to be built within the Rural zone.

Despite not complying with Purpose (3)(a) of the Rural zone code, it is considered that the proposed boundary realignment meets the intent of the higher order Strategic Framework, in that the development will not further fragment, compromise or alienate productive agricultural land, and will only increase the agricultural viability of an existing farming enterprise.

### 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 20, 21 and 22 will all have areas less than 60 hectares, with proposed Lot 21 being the smallest at just 9.3 hectares.

In their current configuration, all three lots are considered to be rural living allotments. All three lots are almost fully vegetated with undulating topographies and are not considered to be viable agricultural holdings, even for livestock grazing. The proposed boundary realignment will result in the minor transfer of vegetated non-agricultural land only and will not result in the creation of any new or additional rural living allotment, nor does it create the opportunity for another dwelling house to be built within the Rural zone.

Despite not complying with PO1.1, it is considered that the proposed boundary realignment meets the intent of the higher order Strategic Framework, in that the development will not further fragment, compromise or alienate productive agricultural land.

**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

Proposed Lots 21 and 22 comply with frontages in excess of 400 metres.

Existing Lot 18 in its current configuration is a rear access lot with an access handle just 30 metres wide and is benefited by access Easement B (through Lot 2) which will become an access handle under the proposed reconfiguration. Therefore, no change to the access arrangements to Lot 18 (proposed Lot 20) will occur as a result of the reconfiguration.

The frontages proposed for each lot are appropriate.

Form Z1 Version 4

Peg pl'd at all new corners and original corners where noted. Station I not marked.

See sheet 2 for diagram, traverses, river points and reinstatement report.

Stn	To	Origin	Bearing	Dist
1	OIP	15172087	183°26'40"	1.132
2	Remns ORT stump	NR487	231°23'	19.493
3	OIP	SPI80665	122°10'	1.044
4	OIP	SPI80665	2°48'	0.962
5	Pin	15172087	100°24'	1.865
6	Pin		306°15'	0.82
7	Pin		137°43'	2.41
8	Pin		135°43'	2.622
9	OIP lying out	SP270088	8°49'	4.74
10	Pin	NR1946	353°18'	1.188
11	Pin	RP855858	262°20'	6.799
12	Pin	NR1946	243°01'	2.16
13	Pin	NR1946	257°11'	14.343
14	Pin	NR1946	229°10'	16.818
15	Pin		355°33'	1.33
16	Pin	RP855858	136°08'	1.46
17	Pin	NR1946	143°34'	14.967
18	Pin		350°36'	1.644
19	Pin		207°30'	1.253
20	Pin		212°13'30"	1.236
21	Pin		23°35'	1.123
22	Pin		84°19'	1.158

First New Plan of Survey Under Section 108 of the SMI Act 2003 in so far as relates to (A-B)

Subsequent New Plan of Survey Under Section 113 of the SMI Act 2003 in so far as relates to (B-C-D-E-F)

I, Robin Douglas Trotter hereby certify that the land comprised in this plan was surveyed by me personally and that the plan is accurate, that the said survey was performed in accordance with the Survey and Mapping Infrastructure Act 2003 and Surveyors Act 2003 and associated Regulations and Standards and that the said survey was completed on 17-11-2017.

Robin Trotter  
Cadastral Surveyor

6-12-2017  
Date

Plan of Lots 2 & 18 & Easement B in Lot 2

Cancelling Lot 2 on RP744262 and Lot 18 on SP270088

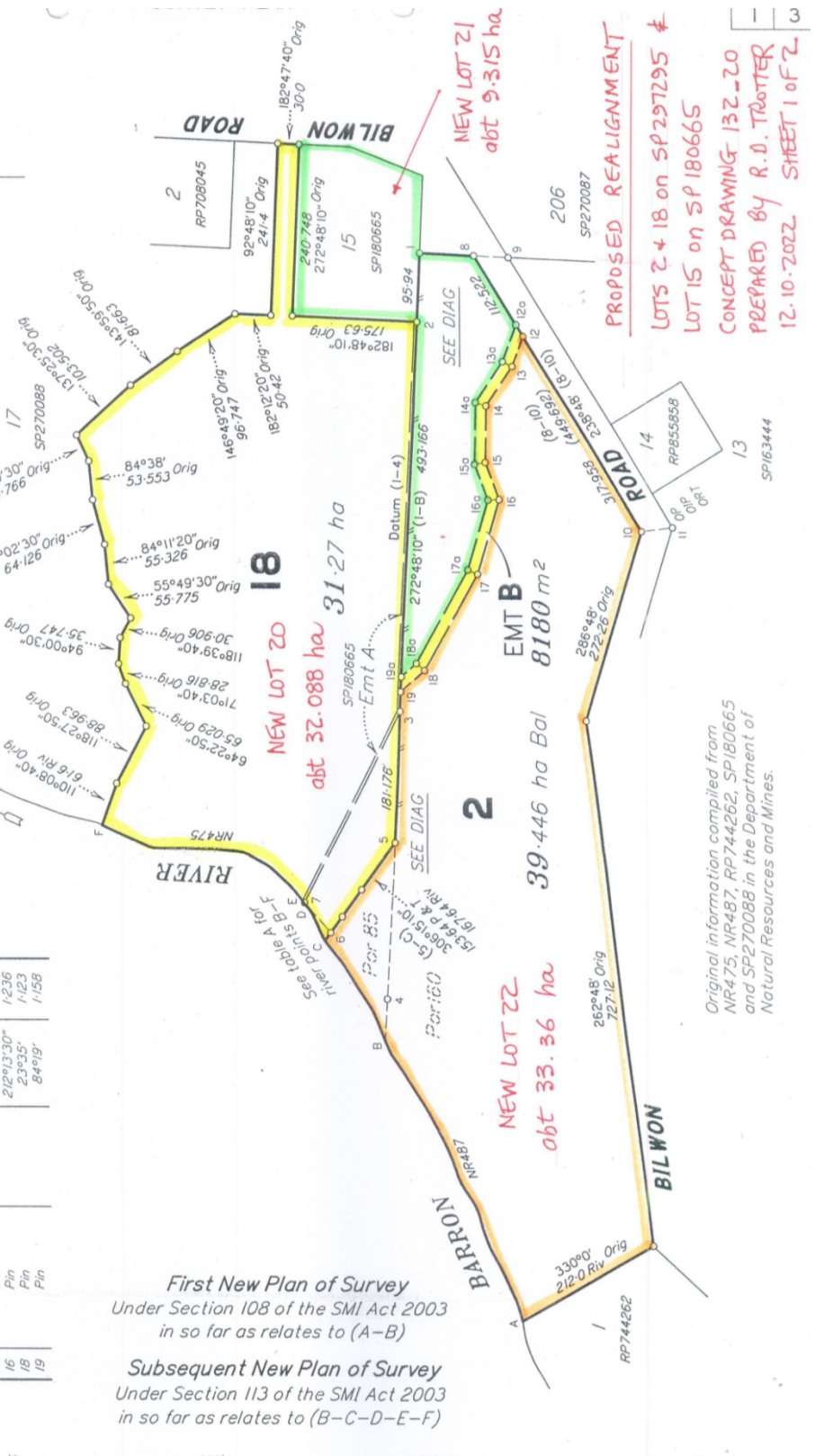
LOCAL GOVERNMENT: Mareeba Shire Council LOCALITY: Bibbohra

Scale: 1:6000

Format: STANDARD



SP297295



PROPOSED REALIGNMENT  
LOTS 2 + 18 on SP297295 &  
LOT 15 on SP180665  
CONCEPT DRAWING- 132-20  
PREPARED BY R.D. TROTTER  
12.10.2022 SHEET 1 OF 2

Original information compiled from NR475, NR487, RP744262, SPI80665 and SP270088 in the Department of Natural Resources and Mines.

Form 21A Version 1

Table A  
River Points

Line	Bearing	Dist
B	67°42'20"	42.678
	55°56'30"	40.263
	57°22'10"	40.247
C	50°13'	39.618
	52°19'	1.066
D	64°59'50"	43.789
	47°45'50"	14.946
E	55°25'10"	4.531
	42°05'30"	40.347
	29°16'20"	40.683
	6°11'40"	46.061
	340°18'10"	1.081
	1°29'30"	41.03
	0°07'20"	41.24
	24°06'50"	41.03
F	25°25'30"	36.305

Traverses etc

Line	Bearing	Dist
4-B	272°48'10"	57.413
5-4	272°48'10"	215.275
6-7	48°18'20"	55.48
8-9	182°48'	48.531
10-11	172°48'	44.042
13-13a	26°55'10"	15.106
14-14a	17°21'35"	15.632
15-15a	35°00'05"	15.281
16-16a	35°37'20"	15.829
17-17a	23°01'15"	15.105
18-18a	39°31'05"	15.219



Scale - 1:3000

NEW LOT 20

18

NEW LOT 22

NEW LOT 21

REINSTATEMENT REPORT

Datum established between original marks/reference marks at stations 1, 2, 3 and 4. Linear agreement noted against SP180665. Shortage of 247 mm noted between station 1 and station 4 against NR487.

OSP hole and ORT adopted at station 8. OSP and OIP adopted at station 9. Angular difference of 10 seconds noted at station 1 down to station 9 against NR1946 and NR487 albeit in sympathy with IS172087. Shortage of 16 mm noted in the line station 1 to station 8 against NR1946. Road width maintained station 8 to station 9. Shortage of 7 mm noted in the line station 1 to station 9 against IS172087.

OP, OIP and ORT adopted at station 11. In the absence of monumentation station 10 fixed by maintaining secant width and angle across to station 11. Original angle maintained at station 8 down to station 10. Excess of 61 mm noted in the line station 8 to station 10 against NR1946.

OP buried adopted at station 7.

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Insert Plan SP297295

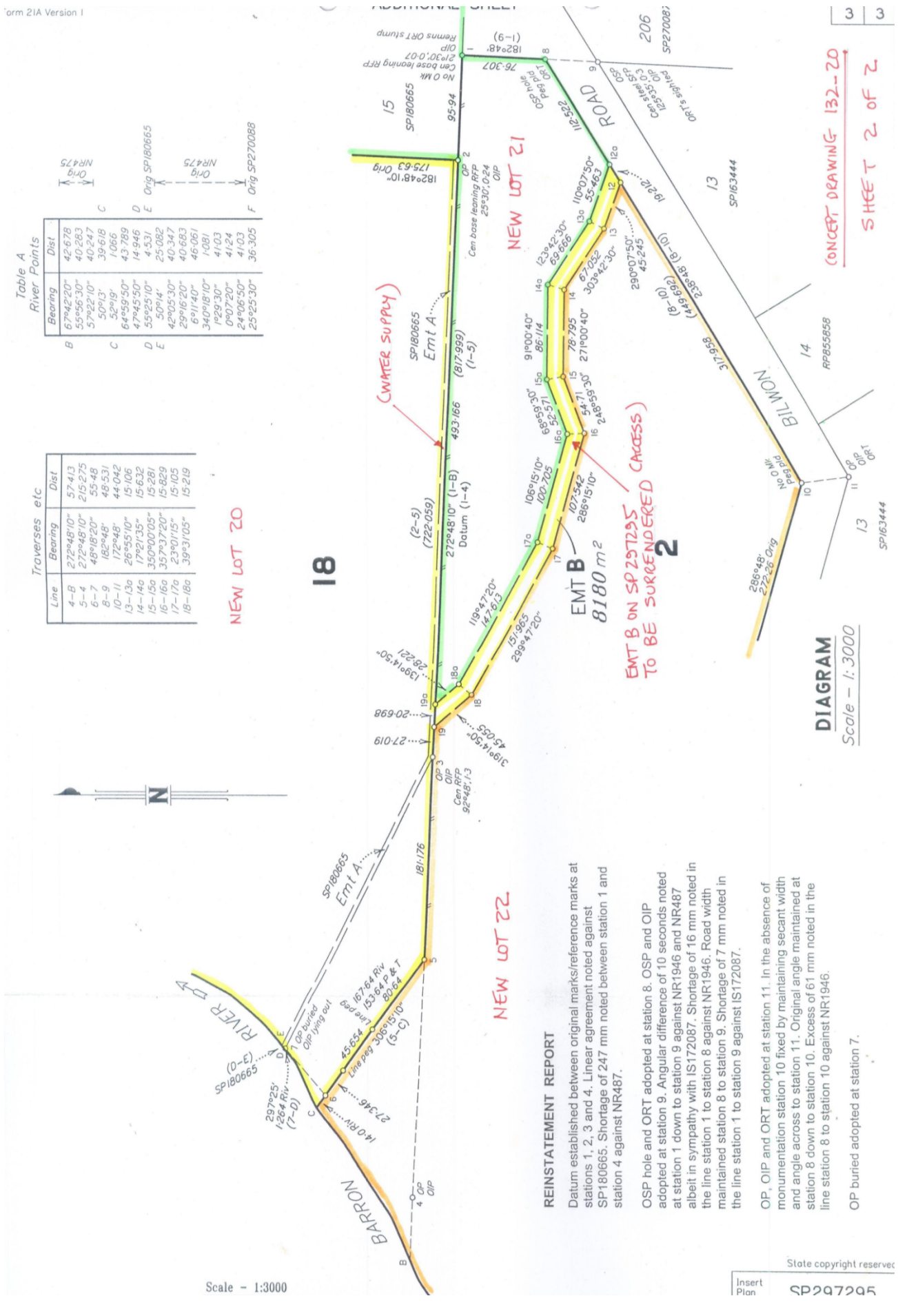
DIAGRAM

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CONCEPT DRAWING 132-20

SHEET 2 OF 2

3 3



RA6-N



SARA reference: 2211-31886 SRA  
 Council reference: RAL/22/0018  
 Applicant reference: 22016

5 December 2022

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

Attention: Carl Ewin

Dear Sir/Madam

## SARA response—Boundary Realignment (3 lots into 3 lots) at 841, 963 and 965 Bilwon Road, Bibbohra

(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 8 November 2022.

### Response

Outcome:	Referral agency response – with conditions
Date of response:	5 December 2022
Conditions:	The conditions in <b>Attachment 1</b> must be attached to any development approval
Advice:	Advice to the applicant is in <b>Attachment 2</b>
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b>

### Development details

Description:	Development Permit	Reconfiguring a Lot - Boundary Realignment (3 lots into 3 lots)
SARA role:	Referral agency	
SARA trigger:	<b>Schedule 10, Part 3, Division 4, Table 2</b> (Planning Regulation 2017)	

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

Document Set ID: 4166600  
 Version: 1, Version Date: 08/12/2022



2211-31886 SRA

Reconfiguring a lot involving vegetation clearing

SARA reference: 2211-31886 SRA

Assessment manager: Mareeba Shire Council

Street address: 841, 963 and 965 Bilwon Road, Biboohra

Real property description: Lot 2 on SP297295, Lot 15 on SP180665 and Lot 18 on SP297295

Applicant name: James Portelli, Anni Strong, Barry Portelli and Peta Emmerson

Applicant contact details: C/- Scope Town Planning  
38 Kowa Street  
Mareeba QLD 4880  
scopetownplanning@gmail.com

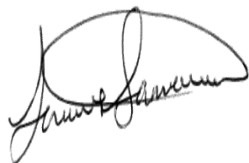
## Representations

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 07 4037 3214 or via email CairnsSARA@dcdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Javier Samanes  
A/Manager (Planning)

cc James Portelli, Anni Strong, Barry Portelli and Peta Emmerson, scopetownplanning@gmail.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

2211-31886 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
<b>Reconfiguring a lot</b>		
Schedule 10, Part 3, Division 4, Table 2—Reconfiguring a lot involving native vegetation clearing—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Resources 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.	Clearing of vegetation must: <ul style="list-style-type: none"> <li>(a) Only occur within area A (Part A') as shown on the attached:                             <ul style="list-style-type: none"> <li>(i) Vegetation Management Plan prepared by Queensland Government, dated 5 December 2022, reference VMP 2211-31886 SRA, Sheet 1, Version 1; and</li> <li>(ii) Attachment to Vegetation Management Plan VMP 2211-31886 SRA, Derived Reference Points for GPS.</li> </ul> </li> <li>(b) Not exceed 1.13 hectares.</li> </ul>	At all times.

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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) v3.0. If a word remains undefined it has its ordinary meaning.



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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 proposed development, with conditions, complies with the relevant provisions of State code 16:

Native vegetation clearing of the SDAP as follows:

- The proposed development has reasonably avoided, and minimised, the impacts to native vegetation and essential habitat.
- Clearing is limited to essential management exemptions for fencing of the new boundary.
- Clearing will not occur within 150m of the unnamed watercourse traversing Lot 2.
- There is no clearing of endangered regional ecosystems, of concern regional ecosystems, or essential habitat.
- Clearing will retain sufficient vegetation in the subject lots and adjacent landscape to maintain ecological connectivity.

#### 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 3.0)
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- *Human Rights Act 2019*

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## **Attachment 4—Representations provisions**

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State Assessment and Referral Agency

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## 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 Rules<sup>1</sup> regarding **representations about a referral agency response**

### Part 6: Changes to the application and referral agency responses

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#### 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.<sup>2</sup>
- 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.

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<sup>1</sup> Pursuant to Section 68 of the *Planning Act 2016*

<sup>2</sup> 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.<sup>3</sup>

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<sup>3</sup> 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.

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## **Attachment 5—Approved plans and specifications**

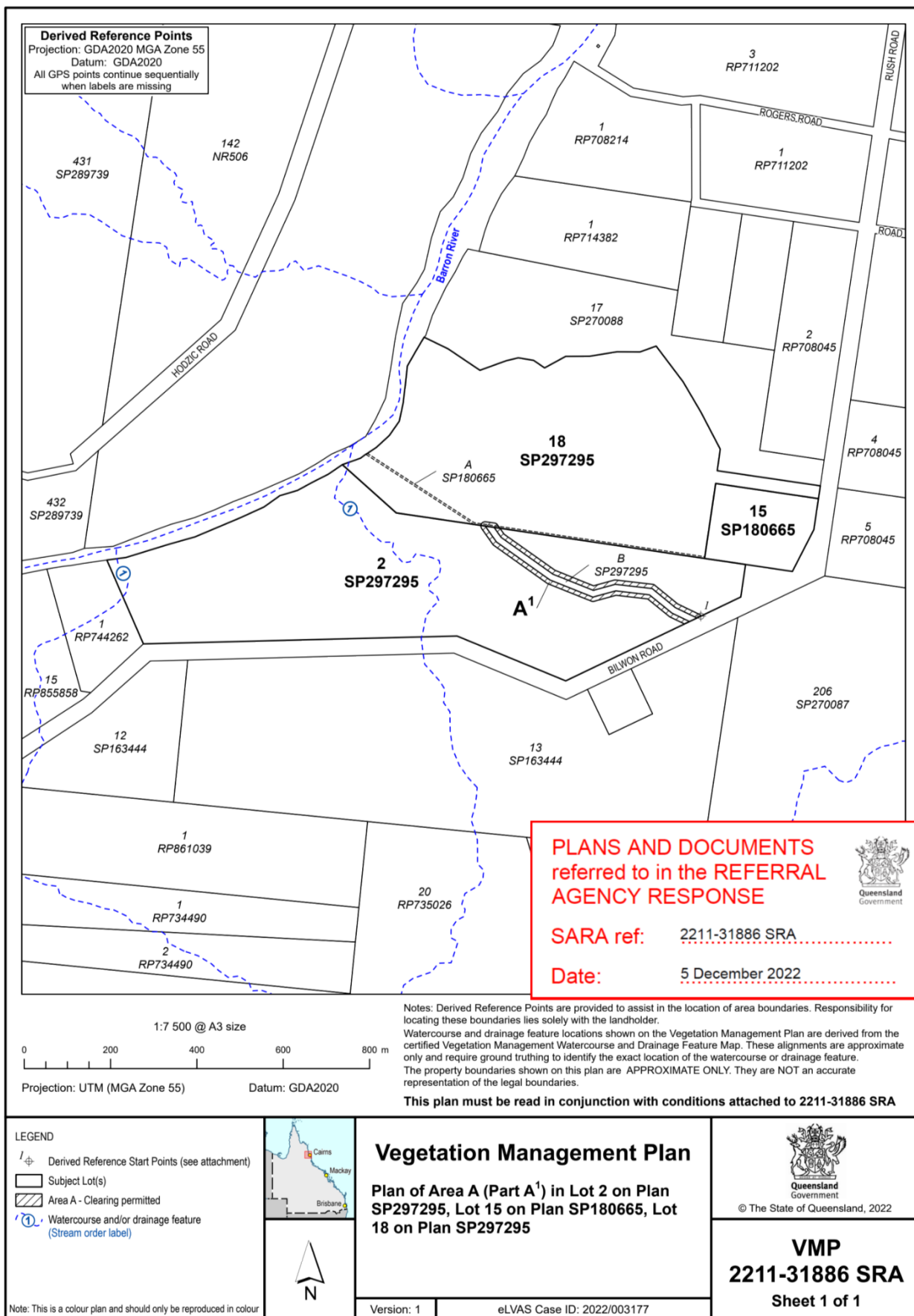
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State Assessment and Referral Agency

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**Attachment to Plan: 2211-31886 SRA  
Derived Reference Points  
Datum: GDA2020, Projection: MGA Zone 55**

**Notes:** Derived Reference Points are provided to assist in the location of area boundaries. Responsibility for locating these boundaries lies solely with the landholder and delegated contractor(s). Coordinates start at a point indicated on the accompanying plan and proceed in a clockwise direction.

Part ID	Unique ID	Easting	Northing	Part ID	Unique ID	Easting	Northing	Part ID	Unique ID	Easting	Northing
A1	1	333511	8135150	A1	61	333309	8135234				
A1	2	333502	8135146	A1	62	333311	8135234				
A1	3	333452	8135170	A1	63	333312	8135234				
A1	4	333398	8135214	A1	64	333313	8135234				
A1	5	333312	8135224	A1	65	333399	8135224				
A1	6	333261	8135210	A1	66	333400	8135224				
A1	7	333168	8135248	A1	67	333402	8135224				
A1	8	333048	8135333	A1	68	333403	8135223				
A1	9	333031	8135356	A1	69	333404	8135222				
A1	10	333011	8135359	A1	70	333457	8135179				
A1	11	333037	8135323	A1	71	333506	8135155				
A1	12	333161	8135235	A1	72	333507	8135154				
A1	13	333261	8135194	A1	73	333509	8135153				
A1	14	333313	8135209	A1	74	333510	8135152				
A1	15	333392	8135200	A1	75	333511	8135150				
A1	16	333443	8135157								
A1	17	333484	8135138								
A1	18	333473	8135132								
A1	19	333439	8135148								
A1	20	333438	8135149								
A1	21	333437	8135150								
A1	22	333387	8135190								
A1	23	333314	8135199								
A1	24	333263	8135185								
A1	25	333262	8135185								
A1	26	333260	8135184								
A1	27	333258	8135185								
A1	28	333257	8135185								
A1	29	333157	8135225								
A1	30	333156	8135226								
A1	31	333155	8135226								
A1	32	333031	8135314								
A1	33	333030	8135315								
A1	34	333029	8135317								
A1	35	333003	8135354								
A1	36	333002	8135355								
A1	37	333001	8135357								
A1	38	333001	8135358								
A1	39	333001	8135360								
A1	40	333001	8135362								
A1	41	333002	8135363								
A1	42	333002	8135365								
A1	43	333003	8135366								
A1	44	333005	8135367								
A1	45	333006	8135368								
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A1	52	333034	8135366								
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A1	55	333039	8135363								
A1	56	333040	8135362								
A1	57	333040	8135361								
A1	58	333055	8135340								
A1	59	333173	8135257								
A1	60	333262	8135221								

**PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE**



SARA ref: 2211-31886 SRA.....

Date: 5 December 2022.....