

8.4 A & C MAXFIELD - RECONFIGURING A LOT - SUBDIVISION (1 INTO 2 LOTS) - LOT 6 ON RP736385 - 497 KOAH ROAD, KOAH - RAL/23/0002

Date Prepared: 21 March 2023
Author: Planning Officer
Attachments: 1. Proposal Plan

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	A & C Maxfield	ADDRESS	497 Koah Road, Koah
DATE LODGED	22 February 2023	RPD	Lot 6 on RP736385
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot – Subdivision (1 into 2 Lots)		
FILE NO	RAL/23/0002	AREA	5.194 hectares
LODGED BY	Scope Town Planning	OWNER	A & C Maxfield
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural Residential zone (Precinct C – 2 ha)		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	n/a		

EXECUTIVE SUMMARY

Council is in receipt of a code assessable development application described in the above application details. Being code assessable, the application was not required to undergo public notification.

The application proposes the subdivision of the site to create a 2.15 hectare rear access allotment with a 10m wide x 260m long access handle, leaving a 3.04 hectare balance allotment fronting Koah Road.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and no conflicts with the Planning Scheme were identified. The proposal is consistent with the intent of the Rural residential zone (Precinct C) in that it will create 2 allotments both exceeding 2 hectares in size.

Ordinarily a code assessable development application of this scale would be decided under delegated authority, however, in this instance, the applicants are disputing the relevance of Condition 4.1.2 which requires the construction of a 3 metre wide bitumen sealed driveway along the full length of the 260 metre long access handle. Sealed rear access lot driveways are a standard service requirement for any new rear access lot created within the Residential or Rural residential zones (as outlined in the Planning Scheme and FNQROC Development Manual) and serve to provide all weather access and to help protect residential amenity, mainly through the provision of noise and dust suppression. This is particularly important in a situation such as this where an established dwelling exists 10 metres to the south of the proposed access handle.

Council officers believe it reasonable and necessary to maintain the sealed driveway requirement. It is recommended the application be approved in full, subject to conditions.

OFFICER’S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	A & C Maxfield	ADDRESS	497 Koah Road, Koah
DATE LODGED	22 February 2023	RPD	Lot 6 on RP736385
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.

(A) 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
23001	Site Plan	Scope Town Planning	January 2023

(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.
- 3.9 Bushfire Management
Any new dwelling erected on proposed Lot 2 must:
 - (i) Achieve a setback from hazardous vegetation of 1.5 times the predominant mature canopy tree height or 10 metres, whichever is greater.
 - (ii) Include on-site water storage of not less than 5,000 litres, fitted with standard rural fire brigade fitting where necessary, to be provided at the same time the dwelling is constructed.

4. Infrastructure Services and Standards

4.1 Access

4.1.1 An access crossover must be constructed (from the edge of the road pavement of Koah Road to the property boundary of each allotment) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.1.2 A bitumen sealed driveway shall be provided within the access handle of proposed Lot 2. The driveway must:

- (i) have a minimum formation width of 3 metres;
- (ii) be constructed for the full length of the access handle and include an access crossover;
- (iii) be formed with one-way cross fall to cater for stormwater drainage such that any stormwater runoff is contained within the access handle; and
- (iv) include service and utility conduits provided for the full length of the access handle.

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 2, 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; or

(c) rights to take water from the Clohesy River.

4.4 Wastewater Disposal

At the time of construction of a future dwelling or outbuilding on proposed Lot 2, any associated on-site effluent disposal system must be constructed in compliance with the latest version On-Site Domestic Wastewater Management Standard (AS/NZS 1547) 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) Easement Documents

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

(d) 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.

(e) 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.

(f) Notation on Rates Record

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

- Conditions regarding bushfire management
- A registered easement over the subject site

(g) 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

(h) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the “cultural heritage duty of care”). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from www.datsip.qld.gov.au

(E) RELEVANT PERIOD

When approval lapses if development not started (s.85)

- Reconfiguring a Lot – four (4) years (starting the day the approval takes effect).

(F) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

- Nil

(G) OTHER APPROVALS REQUIRED FROM COUNCIL

- Access approval arising from condition number 4.1

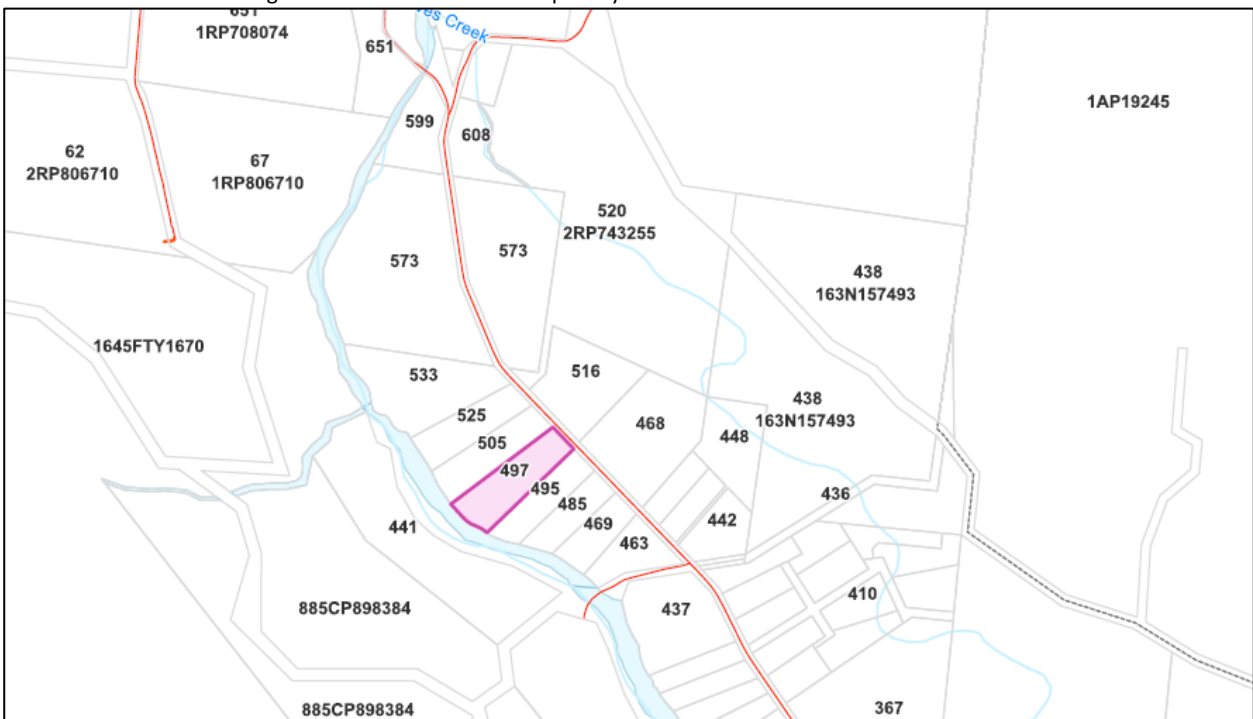
2. That an Adopted Infrastructure Charges Notice be issued for the following infrastructure charge/s for:

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



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.



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.

THE SITE

The subject site is situated at 497 Koah Road, Koah, and is more particularly described as Lot 6 on RP736385. The site is regular in shape with an area of 5.194 hectares and is zoned Rural Residential under the Mareeba Shire Council Planning Scheme 2016.

The site has approximately 100 metres of frontage to Koah Road which is constructed to a bitumen sealed rural road standard, without kerb and channel. A single gravel crossover provides access to the site off Koah Road.

The site is improved by a single dwelling house and multiple outbuildings, all of which are sited within 150 metres of the Koah Road 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. The Clohesy River adjoins the south-western boundary of the subject land.

All adjoining lots are zoned rural residential.

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:

- Proposed Lot 1 - area of approximately 3.0457 hectares, frontage of 90 metres to Koah Road;
- Proposed Lot 2 - area of approximately 2.1483 hectares, frontage of 10 metres to Koah Road.

Proposed Lot 1 will contain the existing dwelling house and domestic outbuildings. Access to this lot will be obtained via a new crossover onto Koah Road.

Access to proposed Lot 2 will be via a ten (10) metre wide access handle and a new crossover onto Koah Road. A bitumen sealed driveway will be required for the full length of the access handle.

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:

- *Local Conservation Corridors*
- *State & Regional Conservation Corridors*
- *Terrestrial Area of High Ecological Significance*

- *Terrestrial Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories • <i>Rural Residential Area</i>
Zone:	Rural Residential zone
Precinct:	C – 2 hectare precinct
Overlays:	Bushfire hazard overlay Environmental significance overlay Flood hazard overlay Hill and slope overlay Residential dwelling house and outbuilding overlay Transport infrastructure overlay

RELEVANT PLANNING INSTRUMENTS

Assessment of the proposed development against the relevant planning instruments is summarised as follows:

(A) Far North Queensland Regional Plan 2009-2031

Separate assessment against the Regional Plan is not required because the Mareeba Shire Council Planning Scheme appropriately advances the Far North Queensland Regional Plan 2009-2031, as it applies to the planning scheme area.

(B) State Planning Policy

Separate assessment against the State Planning Policy (SPP) is not required because the Mareeba Shire Council Planning Scheme appropriately integrates all relevant aspects of the SPP.

(C) Mareeba Shire Council Planning Scheme 2016

Relevant Developments Codes

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

- 6.2.10 Rural residential zone code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.6 Flood hazard 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 outcome where no acceptable outcome is provided) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Rural residential zone code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Bushfire hazard overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
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.
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	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.
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.

(E) Adopted Infrastructure Charges Notice

In accordance with Council's Adopted Infrastructure Charges Resolution (No. 1) 2022, a charge of \$20,260.00 will apply to each additional residential allotment created.

The \$20,260.00 charge funds the provision of infrastructure for the following five (5) trunk infrastructure networks:

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

As the subject site is not serviced by the water supply and sewerage networks, a 40% discount applies to the standard \$20,260.00 charge.

The application proposes the creation of one (1) additional rural residential lot.

$\$20,260.00 \times 0.60 \times 1 \text{ (lot)} = \underline{\underline{\$12,156.00}}$

REFERRAL AGENCY

This application did not trigger referral to a Referral Agencies.

Internal Consultation

Nil

PLANNING DISCUSSION

The applicants have disputed the relevant of Condition 4.1.2 and request that a lesser standard compacted blue metal (rock) driveway be provided in lieu of the bitumen seal.

The requirement to provide a 3m wide bitumen sealed driveway along the full length of the 260 metre long access handle of proposed Lot 2 is called up by Acceptable Outcome A03 of the Parking and access code and more particularly by Acceptable Outcome AO6 of the Works, services and infrastructure code which in turn brings relevance to *Section D1.17 Access to Allotments (Clause 3)* of the FNQROC Development Manual included below:

D1.17 ACCESS TO ALLOTMENTS

- 3. All rear access (Hatchet or Battleaxe) allotments or allotments accessed via an easement, shall be provided with a reinforced concrete driveway (or other surface as approved by council in rural areas only) a minimum width of 3.0m, extending the full length of the access leg of the allotment. The driveways shall commence at the adjacent kerb and channel with a standard kerb crossover or at the existing edge of pavement. Conduits for internal allotment services are to be provided adjacent to the concrete driveway for the full length of the driveway unless otherwise approved.*

The applicants have provided the following reasoning for their request:

- *The proposed driveway will be constructed over existing buried water pipes associated with Water Supply Easement A on RP736385 and sealing the driveway would complicate future maintenance of this water piping;*
- *The property is rural residential and no other residential properties in the area are provided with sealed driveways;*
- *The traffic likely to be generated by the additional residential land use does not warrant sealing; and*

- *The cost of sealing the driveway is probative and would likely result in the development not proceeding.*

Comment

Council officers do not consider the above reasoning to be sufficient justification to relax the requirement for the 3m wide bitumen sealed driveway. Rear access driveways can end up being situated in proximity to adjoining dwellings, as is the case in this situation where the proposed access handle will be situated within 10 metres of the existing dwelling on southern adjoining Lot 5 on RP735961. These sealed driveways are considered a standard requirement and help ensure vehicle traffic associated with rear access lots does not impact on the residential amenity of adjoining properties (predominately by reducing vehicle noise and dust nuisance). Furthermore, the access handle is only 10 metres wide and 260 metres long and providing a bitumen sealed driveway ensures that all weather access is available during the wet season.

In this instance, removing the driveway sealing requirement would only disadvantage the future landowner of the rear access lot as well as increase the likelihood of future amenity impacts to adjoining residents, at the sole benefit of the applicant/developer.

It is recommended the bitumen seal requirement be maintained.