

**DELEGATED REPORT**

**SUBJECT:** REMBERN PTY LTD – RECONFIGURING A LOT – SUBDIVISION (1 LOT INTO 7 LOTS) IN TWO (2) STAGES – LOT 1 ON M356124 – 28 REYNOLDS STREET, MAREEBA – RAL/23/0011

**DATE:** 9 January 2024

**REPORT OFFICER'S  
TITLE:** Senior Planner

**DEPARTMENT:** Corporate and Community Services

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**APPLICATION DETAILS**

APPLICATION		PREMISES	
<b>APPLICANT</b>	Rembern Pty Ltd	<b>ADDRESS</b>	28 Reynolds Street, Mareeba
<b>DATE LODGED</b>	8 September 2023	<b>RPD</b>	Lot 1 on M356124
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Reconfiguring a Lot – Subdivision (1 lot into 7 lots) in two (2) stages		

<b>FILE NO</b>	RAL/23/0011	<b>AREA</b>	2.938 hectares
<b>LODGED BY</b>	Freshwater Planning Pty Ltd	<b>OWNER</b>	Rembern Pty Ltd
<b>PLANNING SCHEME</b>	Mareeba Shire Council Planning Scheme 2016		
<b>ZONE</b>	Industry zone		
<b>LEVEL OF ASSESSMENT</b>	Code Assessment		
<b>SUBMISSIONS</b>	n/a		

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**ATTACHMENTS:**

1. Proposal Plan/s
2. State Assessment and Referral Agency response dated 16 November 2023

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**EXECUTIVE SUMMARY**

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

The application is code assessable and was not required to undergo public notification.

It has been assessed against the relevant statutory planning instruments, including the Regional Plan and the Planning Scheme and does not conflict with any relevant planning instrument.

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**

1. That in relation to the following development application:

<b>APPLICATION</b>		<b>PREMISES</b>	
<b>APPLICANT</b>	Rembern Pty Ltd	<b>ADDRESS</b>	28 Reynolds Street, Mareeba
<b>DATE LODGED</b>	8 September 2023	<b>RPD</b>	Lot 1 on M356124
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Reconfiguring a Lot – Subdivision (1 lot into 7 lots) in two (2) stages		

and in accordance with the Planning Act 2016, the applicant be notified that the application for a development permit for the development specified in (A) is:

Approved by Council in accordance with the approved plans/documents listed in (B), subject to assessment manager conditions in (C), assessment manager's advice in (D), concurrence agency conditions in (E), relevant period in (F), further permits in (G), and further approvals from Council listed in (H);

And

The assessment manager does not consider that the assessment manager's decision conflicts with a relevant instrument.

(A) **APPROVED DEVELOPMENT:** Development Permit for Reconfiguring a Lot – Subdivision (1 lot into 7 lots) into two (2) stages

(B) **APPROVED PLANS:**

<b>Plan/Document Number</b>	<b>Plan/Document Title</b>	<b>Prepared by</b>	<b>Dated</b>
9180-LL1 Rev A	Proposed Reconfiguration of a Lot (1 Lot into 7 Lots) Staged Development	Twine Surveys	08.08.2013

(C) **ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)**

(a) Development assessable against the Planning Scheme

1. Development must be carried out generally in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:

- found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
- to ensure compliance with the following conditions of approval.

2. Timing of Effect

- 2.1 The conditions of the development permit must be complied with for each stage to the satisfaction of Council's delegated officer prior to the endorsement of the plan of survey for the respective stage, 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 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/served where required by the relevant authority, unless approved otherwise 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. A plan demonstrating compliance of any existing buildings or structures that are in close proximity to any new property boundary must be submitted prior to endorsement of the plan of survey.
- 3.7 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements and to the satisfaction of Council's delegated officer.
- 3.8 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

A **Commercial** access crossover must be constructed to each of proposed Lots 1 and 2 (from the edge of the Costin Street road pavement to the property boundary of the subject lot) in accordance with the FNQROC Development Manual, 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) Prior to works commencing the applicant must submit a Stormwater Management Plan and Report prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual to the satisfaction of Council's delegated officer.
- (c) Prior to works commencing the applicant must submit a Stormwater Quality Management Plan and Report prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Urban Stormwater Quality Planning Guideline and the Queensland Water Quality Guideline to the satisfaction of Council's delegated officer.
- (d) The Stormwater Quality Management Plan must include an Erosion and Sediment Control Plan that meets or exceeds the Soil Erosion and Sedimentation Control Guidelines (Institute of Engineers Australia) to the satisfaction of Council's delegated officer.
- (e) The applicant/developer must construct the stormwater drainage infrastructure in accordance with the approved Stormwater Management Plan and/or Stormwater Quality Management Plan and Report.
- (f) Temporary drainage is to be provided and maintained during the construction phase of the development, discharged to a lawful point and not onto the construction site.
- (g) All stormwater channels through private property must be registered, with the easement for drainage purposes in favour of Council. All documentation leading to the registration of the easement must be completed at no cost to Council.
- (h) All stormwater drainage collected from the site must be discharged to an approved legal point of discharge.
- (i) The applicant (at their cost) must video all stormwater lines and submit the video for inspection by Council's delegated officer prior to the development being taken "off maintenance" to ensure that no defects have occurred during the 12 month maintenance period.
- (j) All drainage easements must be constructed to prevent erosion. Construction may be in the form of a concrete invert, with outlet protection.

#### 4.3 Frontage Works - Costin Street – Stage 1

The developer is required to construct the following works, designed in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer:

- (a) The developer is to construct kerb and channel on the development side of Costin Street for the full frontage of the subject land. The alignment for the kerb and channel shall be 6 metres from the existing Costin Street centreline;
- (b) The applicant is to widen the existing bitumen seal on Costin Street to the kerb and channel required by Condition 4.3(a);
- (c) Signage and line marking as per the Department of Transport and Main Roads Manual of Uniform Traffic control Devices (MUTCD);
- (d) Footpath earthworks, topsoiling and turfing reinstatement of all disturbed footpath areas;
- (e) Adjustments and relocations necessary to public utility services resulting from these works;

Prior to works commencing, plans for the works described above must be approved as part of an Operational Works application.

#### 4.4 Internal roads – Stage 2

- (a) The internal roads must be designed and constructed to Industrial Access Street standard in accordance with Council's FNQROC Development Manual.
- (b) The extension of Sales Floor Street must be marked with a "No Exit" sign to prevent vehicles exiting the development via Sales Floor Street onto Reynolds Street.

#### 4.5 Water Supply

- 4.5.1 The developer must connect the proposed development to Council's reticulated water supply in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.
- 4.5.2 Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity, the developer is required to extend or upgrade the reticulated water supply infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

4.5.3 A water service connection is to be provided to each lot.

#### 4.6 Sewerage Connection

The developer must connect the proposed development to Council's reticulated sewerage system in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Where sewerage connections are not available to the site, or where existing connections are not satisfactory for the proposed development, the developer

is required to extend or upgrade the reticulated sewerage infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

#### 4.7 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.

#### 4.8 Telecommunications

The applicant/developer must enter into an agreement with a telecommunication carrier to provide telecommunication services to each allotment 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:

- 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.dcceew.gov.au](http://www.dcceew.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.dsdsatsip.qld.gov.au](http://www.dsdsatsip.qld.gov.au).

(i) Electric Ants

Electric ants are designated as restricted biosecurity matter under the *Biosecurity Act 2014*.

Certain restrictions and obligations are placed on persons dealing with electric ant carriers within the electric ant restricted zone. Movement restrictions apply in accordance with Sections 74–77 of the *Biosecurity Regulation 2016*. Penalties may be imposed on movement of electric ant carriers and electric ants in contravention of the legislated restrictions. It is the responsibility of the applicant to check if the nominated property lies within a restricted zone.

All persons within and outside the electric ant biosecurity zone have an obligation (a **general biosecurity obligation**) to manage biosecurity risks and threats that are under their control, they know about, or they are expected to know about. Penalties may apply for failure to comply with a general biosecurity obligation.

For more information please visit the electric ant website at [Electric ants in Queensland | Business Queensland](http://Electric_ants_in_Queensland_Business_Queensland) or contact Biosecurity Queensland 13 25 23.

(E) CONCURRENCE AGENCY CONDITIONS

State Assessment and Referral Agency dated 16 November 2023

(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

- Development Permit for Operational Works

(H) OTHER APPROVALS REQUIRED FROM COUNCIL

- Nil

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	Lots		Lots	
Industrial	\$20,768.00	7 Lots	\$145,376.00	1 lot (\$20,768.00)	\$124,608.00
<b>TOTAL CURRENT AMOUNT OF CHARGE</b>					<b>\$124,608.00</b>

## THE SITE

The subject site is situated at 28 Reynolds Street, Mareeba and is described as Lot 1 on M356124. The site is irregular in shape with a total area of 2.938 hectares and is zoned *Industry* under the Mareeba Shire Council Planning Scheme 2016.

The site has frontages of approximately 274 metres to Costin Street, 63 metres to Suhle Street and 15 metres to Reynolds Street (Sales Floor Access Street). All frontages are constructed to bitumen sealed standard. Suhle Street has layback kerbing for its entire length. Access to the site is provided via Reynolds Street and Costin Street.

The site is the former Tobacco Sales Floor and is improved by a large building situated along the Costin Street frontage. A second similarly sized building (shown in the aerial imagery below) has been demolished.

Two large stormwater drains discharge internally and the water drains to the Suhle Street frontage. These drains are likely to carry the roofwater of the remaining building and the second demolished building. The Mareeba-Dimbulah rail line adjoins the north-western boundary.

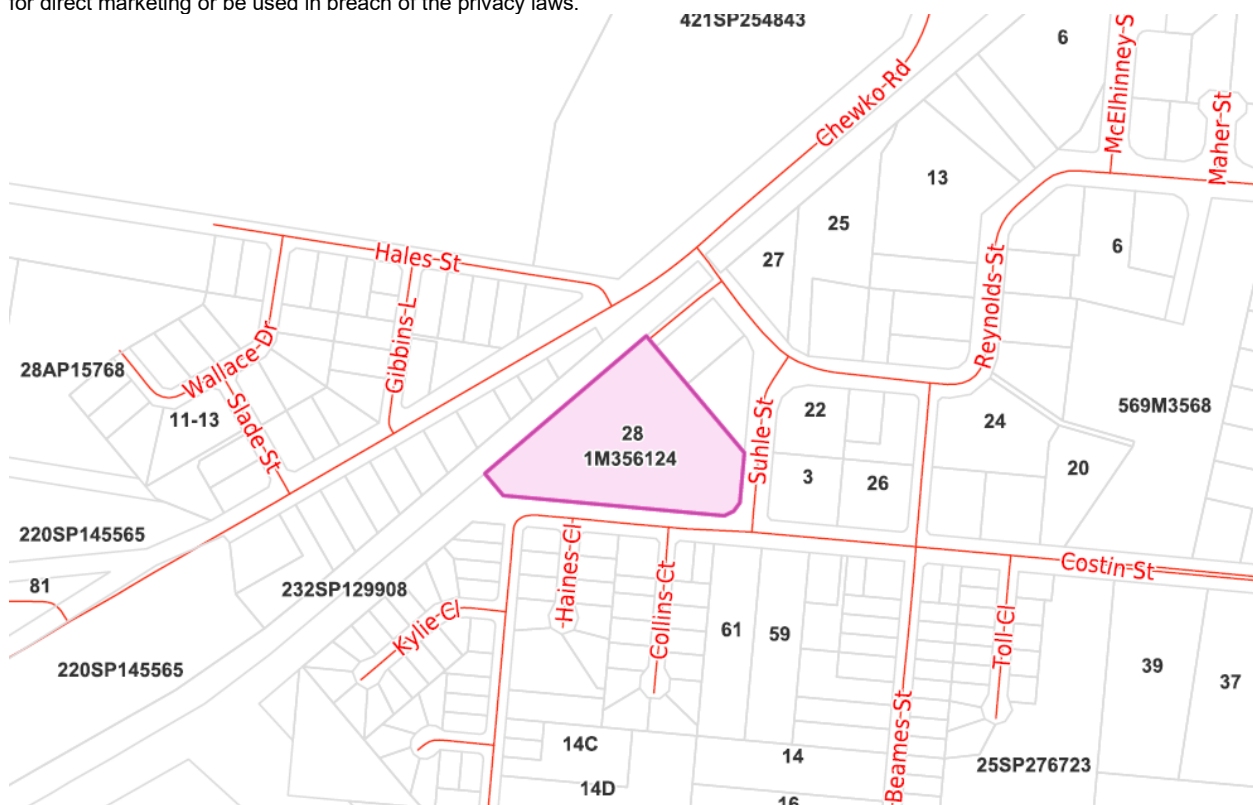
Land immediately surrounding the site to the north, east and west is zoned *Industry*. Land to the south is in the Low Density Residential zone.





## 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

On 3 September 2019, development permit RAL/19/0010 was issued to NQ Co-Op Ltd for the reconfiguration of the subject site into two (2) lots.

The reconfiguration proposed to excised the remaining sales floor building onto a 8580m2 lot with a second vacant lot of 2.079 hectares.

This development permit has not been acted upon, however it remains current due to the Minister's Covid extensions.

## DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Reconfiguring a Lot – Subdivision (1 lot into 7 lots) two (2) stages in accordance with the plans shown in **Attachment 1**.

The proposed lots are as follows:

### Stage 1

Lot 1 - area of 5013m2, frontage of approx. 117.5 metres to Costin Street;

Lot 2 - area of 4030m2, frontages of approx. 77 metres to Costin Street and 10 metres to the new internal road;

Lot 3 - area of 3,095m2, combined frontage of approx. 192 metres to Costin Street, Shule Street and new internal road;

### Stage 2

Lot 4 - area of 5,308m2, frontage of approx. 116 metres to new internal road;

Lot 5 - area of 2,000m2, frontage of approx. 85 metres to new internal road;

Lot 6 - area of 2,000m2, frontage of approx. 40 metres to new internal road; and

Lot 7 - area of 2,488m2, frontage of approx. 90.8 metres to new internal road.

Proposed Lots 1 and 2 will each contain half of the remaining sales floor building, with the existing connecting roof structure to be removed providing for fire separation requirements.

All lots will be serviced by to town water, sewer, electricity and telecommunications services.

## REGIONAL PLAN DESIGNATION

The subject site is included within the Urban Footprint land use category in the Far North Queensland Regional Plan 2009-2031. Mareeba is identified as a Major Regional Activity Centre in the Regional Plan. The Regional Plan Map 3- 'Areas of Ecological Significance' does not identify the site as being of any significance.

## PLANNING SCHEME DESIGNATIONS

Strategic Framework:	<b>Land Use Category</b> <ul style="list-style-type: none"> <li>• Industry Area</li> </ul> <b>Transport Elements</b>
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	<ul style="list-style-type: none"> <li>• Local Collector Road</li> <li>• Principal Cycle Route</li> <li>• Railway Network</li> </ul>
Zone:	Industry zone
Precinct:	Trades and Services Precinct
Overlays:	Airport Environs Overlay Extractive Resources Overlay Transport Infrastructure Overlay

## RELEVANT PLANNING INSTRUMENTS

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

### (a) Far North Queensland Regional Plan 2009-2031

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

### (b) State Planning Policy

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

### (c) Mareeba Shire Council Planning Scheme 2016

#### Relevant Development Codes

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

- 6.2.5 Industry zone code
- 7.2.2 Mareeba local plan code
- 8.2.2 Airport environs 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 outcomes (or performance outcome 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
Industry 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.

Mareeba local plan code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Airport environs overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
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	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.

#### (e) 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.

#### (f) Adopted Infrastructure Charges Notice

In accordance with Council's Adopted Infrastructure Charges Resolution (No. 1) 2023, a charge of \$20,768.00 will apply to each additional allotment created.

The application proposes the creation of six (6) additional allotments.

\$20,768.00 x 6 (lot) = **\$124,608.00**

#### REFERRALS

The application triggered referral to the State Assessment and Referral Agency as a Concurrence Agency (adjoining Railway Corridor).

That Department advised in a letter dated 16 November 2023 that they require the conditions to be attached to any approval (**Attachment 2**).

#### Internal Consultation

Technical Services

## **PLANNING DISCUSSION**

Nil

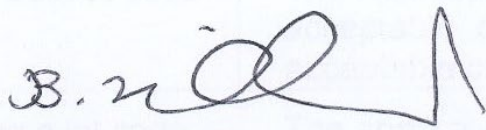
***Date Prepared:***        *9 January 2024*

## DECISION BY DELEGATE

## DECISION

Having considered the Senior Planner's report detailed above, I approve, as a delegate of Council, the application subject to the conditions listed in the report.

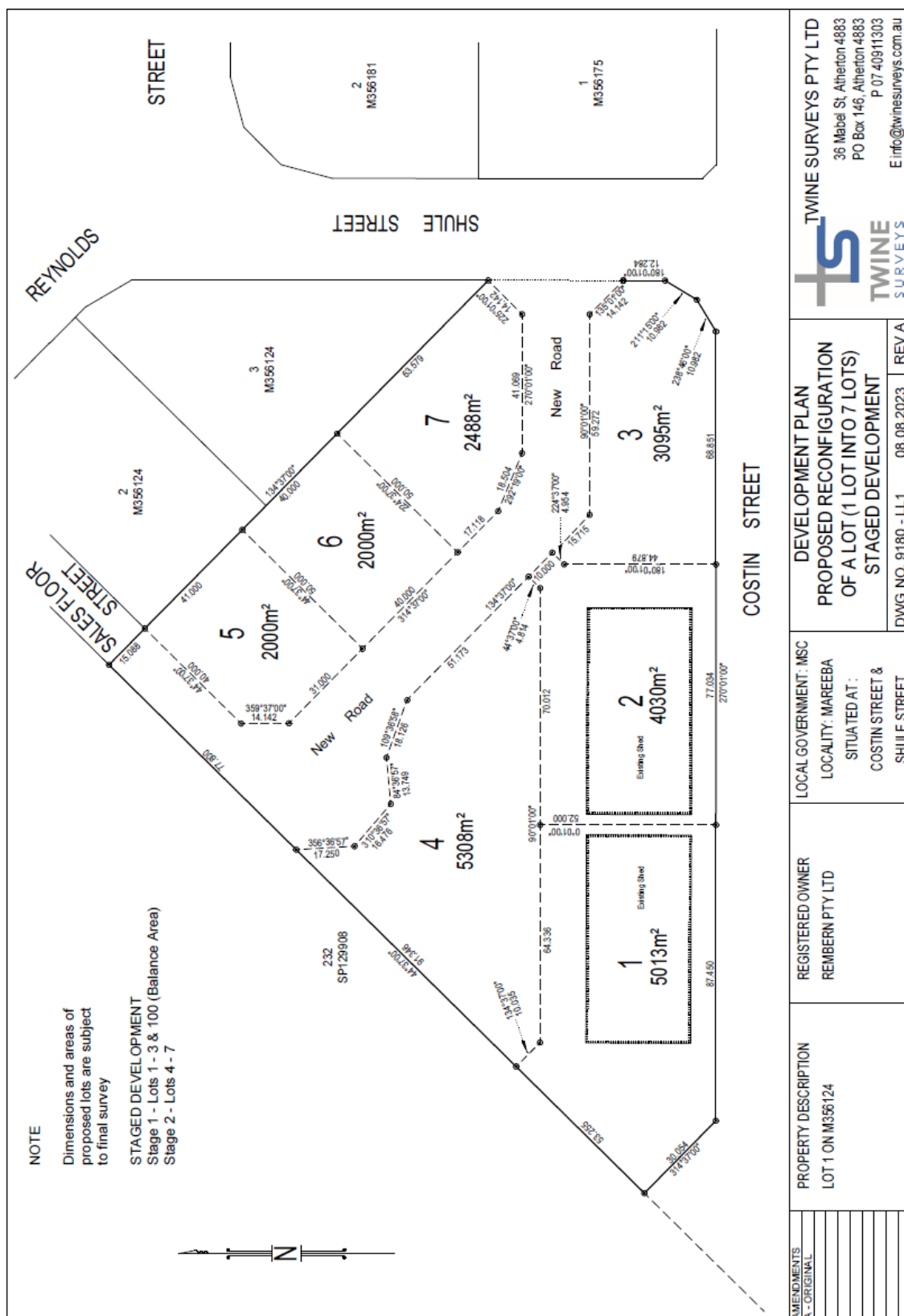
Dated the 9<sup>TH</sup> day of JANUARY 2024

A handwritten signature in black ink, appearing to read 'B. Millard', followed by a long horizontal stroke.

**BRIAN MILLARD**  
**COORDINATOR PLANNING SERVICES**

MAREEBA SHIRE  
AS A DELEGATE OF THE COUNCIL

## PROPOSAL PLANS





## ATTACHMENT 2

RA6-N



SARA reference: 2309-36951 SRA  
 Council reference: RAL/23/0011  
 Applicant reference: F23/26

16 November 2023

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

Attention: Brian Millard

Dear Sir / Madam

## SARA referral agency response – Industrial Subdivision at 28 Reynolds Street, Mareeba

(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 9 October 2023.

### Response

Outcome:	Referral agency response – with conditions
Date of response:	16 November 2023
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 (one lot into seven lots and new road)
SARA role:	Referral agency	
SARA triggers:	<b>Schedule 10, Part 9, Division 4, Subdivision 2, Table 1</b> (Planning)	



2309-36951 SRA

Regulation 2017) – Reconfiguring a lot near a state-controlled road

**Schedule 10, Part 9, Division 4, Subdivision 1, Table 1** (Planning Regulation 2017) – Development impacting on State transport infrastructure

SARA reference: 2309-36951 SRA  
 Assessment manager: Mareeba Shire Council  
 Street address: 28 Reynolds Street, Mareeba  
 Real property description: Lot 1 on M356124  
 Applicant name: REMBERN Pty Ltd  
 Applicant contact details: C/- Freshwater Planning Pty Ltd  
 17 Barron View Drive  
 FRESHWATER QLD 4870  
 freshwaterplanning@outlook.com

*Human Rights Act 2019*  
 considerations: A consideration of the 23 fundamental human rights protected under the Human Right Act 2019 has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

## 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 Charlton Best, Senior Planning Officer, on 07 4037 3200 or via email CairnsSARA@dsdipg.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow  
 Manager (Planning)

cc REMBERN Pty Ltd, freshwaterplanning@outlook.com  
 enc Attachment 1 - Referral agency conditions  
 Attachment 2 - Advice to the applicant  
 Attachment 3 - Reasons for referral agency response  
 Attachment 4 - Representations provisions  
 Attachment 5 - Approved plans and specifications

## 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 documents referenced below are found at Attachment 5)

No.	Conditions	Condition timing
<b>Reconfiguring a lot</b>		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 – Reconfiguring a lot near a state-controlled road, and Schedule 10, Part 9, Division 4, Subdivision 1, Table 1 – Development impacting on State transport infrastructure - The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
<b>Fencing</b>		
1.	Provide fencing along the site boundary with the railway corridor, in accordance with Queensland Rail drawing number QR-C-S3230 – 1.8m High Chain Link Security Fence Without Rails using 50mm Diamond Mesh General Arrangement.	Prior to submitting the Plan of Survey to the local government for approval for the relevant stage.
<b>Filling and excavation</b>		
2.	Any excavation, filling/backfilling/compaction, retaining structures, stormwater management measures, batters and other works involving ground disturbance must not encroach upon or de-stabilise the railway corridor, including all transport infrastructure or the land supporting this infrastructure, or cause similar adverse impacts.	At all times.
<b>Stormwater management</b>		
3.	<p>(a) The stormwater management of the development must not cause worsening to the operating performance of the railway corridor such that any works on the land must not:</p> <ul style="list-style-type: none"> <li>(i) create any new discharge points for stormwater runoff onto the railway corridor;</li> <li>(ii) concentrate or increase the velocity of flows to the railway corridor;</li> <li>(iii) interfere with and/or cause damage to the existing stormwater drainage on the railway corridor;</li> <li>(iv) surcharge any existing culvert or drain on the railway corridor;</li> <li>(v) reduce the quality of stormwater discharge onto the railway corridor.</li> </ul> <p>(b) Submit RPEQ certification, with supporting documentation, to the Program Delivery and Operations Branch, Far North Queensland Region (<a href="mailto:Far.North.Queensland.IDAS@tmr.qld.gov.au">Far.North.Queensland.IDAS@tmr.qld.gov.au</a>) within the Department of Transport and Main Roads, confirming that the development has been constructed in accordance with part (a) of this condition.</p>	<p>(a) At all times.</p> <p>(b) Within 20 business days of the completion of works.</p>
<b>Vehicle Barrier</b>		
4.	(a) Provide a vehicle barrier sufficient to prevent the maximum design vehicle colliding with the boundary fence and into the	(a) Prior to submitting the Plan of Survey

2309-36951 SRA

	<p>railway corridor at the location shown on the Development Plan, prepared by Twine Surveys Pty Ltd, dated 08.08.2023, drawing number 9180 – LL1 and revision A (as amended in red).</p> <p>(b) Submit RPEQ certification, with supporting documentation, to the Program Delivery and Operations Branch, Far North Queensland Region (<a href="mailto:Far.North.Queensland.IDAS@tmr.qld.gov.au">Far.North.Queensland.IDAS@tmr.qld.gov.au</a>) within the Department of Transport and Main Roads, confirming that the development has been constructed in accordance with part (a) of this condition.</p>	<p>to the local government for approval for the relevant stage.</p> <p>(b) Within 20 business days of the completion of works.</p>
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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) (version 3.0). If a word remains undefined it has its ordinary meaning.
Railway Corridor	
2.	As per the Memorandum of Understanding between the Local Government Association of Queensland and Queensland Rail and the Department of Transport and Main Roads with respect to the Management and Funding Responsibility for Level Crossing Safety, the local government is responsible for any safety upgrades to a level crossing if the change in risk to the level crossing is due to changes in nearby land uses which have been authorised by local government.
3.	<p>Pursuant to section 255 of the <i>Transport Infrastructure Act 1994</i>, the railway manager's written approval is required to carry out works in or on a railway corridor or otherwise interfere with the railway or its operations.</p> <p>In particular, the applicant should consult with Queensland Rail prior to constructing retaining walls and prior to removing existing fencing or installing new fencing along the site boundary with the railway corridor. All fencing and works (including retaining walls) including footings, should be located within the site and not in the railway corridor.</p> <p>Please be advised that this referral agency response does not constitute an approval under section 255 of the <i>Transport Infrastructure Act 1994</i> and that such approvals need to be separately obtained from the relevant railway manager.</p> <p>The applicant should contact the Queensland Rail Property Team at <a href="mailto:QRPropertyWayleaves@qr.com.au">QRPropertyWayleaves@qr.com.au</a> in relation to this matter.</p>

### **Attachment 3—Reasons for referral agency response**

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

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**The reasons for the SARA's decision are:**

- The proposed development is unlikely to compromise the safety, function, and efficiency on the adjoining railway corridor.
- No direct vehicular access is proposed between the subject site and the adjoining railway corridor.
- The development has been conditioned to ensure that stormwater and drainage does not cause worsening to the operating performance of the adjoining railway corridor.
- Required connections to council services, essential utilities and infrastructure for the proposed development can be obtained via the existing infrastructure located within close proximity to the subject site.
- The proposed development will not impact on the ability or cost to plan, construct, maintain or operate state transport corridors.
- The proposed application does not include noise sensitive development.
- SARA has carried out an assessment of the development application against State Code 2: Development in a railway environment and State Code 6: Protection of state transport networks and has found that with conditions, the proposed development complies with relevant performance outcomes.

**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
- *Human Rights Act 2019*

### **Attachment 4—Representations about a referral agency response provisions**

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(page left intentionally blank – attached separately)

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**Attachment 5—Documents referenced in conditions**

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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.



