

PLANNING REPORT

SUBJECT: B PROVE - RECONFIGURING A LOT - SUBDIVISION (1 INTO 3 LOTS) - LOT 198 ON NR1994 - POPOVIC ROAD, KOAH - RAL/17/0011

MEETING: Ordinary

MEETING DATE: 18 April 2018

REPORT OFFICER'S TITLE: Planning Officer

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	B Prove	ADDRESS	Popovic Road, Koah
DATE LODGED	14 December 2017	RPD	Lot 198 on NR1994
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Subdivision (1 into 3 Lots)		

FILE NO	RAL/17/0011	AREA	90.852 hectares
LODGED BY	B Prove	OWNER	B Prove
PLANNING SCHEME	Mareeba Shire Planning Scheme 2004 (Amendment No. 01/11)		
ZONE	Rural Zone		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	n/a		

ATTACHMENTS: 1. Proposal Plan/s

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 and supporting material has been assessed against the relevant statutory planning instruments including the FNQ Regional Plan, the State Planning Policy, and the now superseded Mareeba Shire Planning Scheme 2004 (including codes and polices) and does not conflict with any relevant instrument.

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

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	B Prove	ADDRESS	198 Popovic Road, Koah
DATE LODGED	14 December 2017	RPD	Lot 198 on NR1994
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Subdivision (1 into 3 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 3 Lots)

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
-	Site Plan	Applicant	14/12/2017

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out substantially 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 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 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/serviced where required by the relevant authority, unless approved by Council's delegated officer.
- 3.5 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.
- 3.6 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.
- 3.7 Bushfire Management

Any new dwelling erected on each lot shall:

 - (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, with a 50mm male camlock fire brigade fitting where necessary, to be provided at the same time the dwelling is constructed.
- 3.8 Rural Addressing

The applicant must pay the relevant fee per additional lot for provision of rural addressing at the rate identified in the Fees and Charges Schedule at the time of payment.
- 3.9 Charges

All outstanding rates, charges and expenses pertaining to the land are to be paid in full.
- 3.10 Access Easement/s

Easements must be provided through lots 1 and 2 over the entire length of the shared access driveway mentioned in Condition 4.2 in favour of Lots 2 and 3 for the purpose of access. Easement documents should include shared maintenance provisions for the access driveway mentioned in Condition 4.2.

Copies of the easement documents must be submitted to Council for review prior to the endorsement of a plan of survey.

4. Infrastructure Services and Standards

4.1 Access

An access crossover must be constructed (from the edge of the road pavement to the property boundary of Lot 1) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.2 Internal Road/Driveway

A shared access driveway through lots 1 and 2 (to access Lots 2 and 3) must be constructed/upgraded to an all-weather gravel standard with minimum formation width of 4 metres, to the satisfaction of Council's delegated officer prior to the endorsement of a plan of survey.

4.3 Roadworks – External

Popovic Road (from its intersection with Koah Road to a point 10 metres past the access crossover for Lot 1) must be upgraded/constructed to Rural Road Type <100vpd standard in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

The upgrade/construction works must ensure that all sections of the road are aligned within the road reserve and must include a minimum 3.5 metre wide bitumen seal between the roads intersection with Koah Road to a point 50 metres past the dwelling house on Lot 196 on NR1994. After this point, Council will accept a formed gravel construction standard.

Prior to works commencing, plans for the works described above must be approved as part of a subsequent application for operational works.

4.4 Stormwater Drainage

The applicant must ensure a non-worsening effect on surrounding land as a consequence of the development and must take all reasonable and practicable measures to ensure discharge occurs in compliance with the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual.

4.5 On-Site Wastewater Management

At the time of construction of a new dwelling on any lot, 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.

5. Additional Payment Condition/s

- 5.1 The additional payment condition has been imposed as the development will create additional demand on trunk infrastructure which will create additional trunk infrastructure costs for council.
- 5.2 The developer must pay a one-off payment of \$9,000.00 (\$4,500.00 per additional lot) as a contribution toward trunk infrastructure with the amount of the contribution increased on 1 July each year in accordance with the increase for the PPI index for the period starting on the day the development approval takes effect, adjusted by reference to the 3-yearly PPI index average to the date of payment.
- 5.3 The trunk infrastructure for which the payment is required is:
- The trunk transport network servicing the land (\$4,500.00 per additional lot)
- 5.4 The developer may elect to provide part of the trunk infrastructure instead of making the payment.
- 5.5 If the developer elects to provide part of the trunk infrastructure the developer must:
- Discuss with Council's delegated officer the part of the works to be undertaken;
 - Obtain the necessary approvals for the part of the works;
 - Indemnify the Council in relation to any actions, suits or demands relating to or arising from the works;
 - Take out joint insurance in the name of the Council and the developer in the sum of \$20,000,000 in relation to the undertaking of the works;
 - Comply with the reasonable direction of Council officers in relation to the completion of the works;
 - Complete the works to the standards required by the Council; and
 - Complete the works prior to endorsement of the plan of subdivision.
- 5.6 The value, as agreed by Council's delegated officer, of the external works required under Condition 4.3 will be credited towards the additional payment required under Condition 5.2. Any credit will not exceed \$9,000.00.

(D) ASSESSMENT MANAGER'S ADVICE

- (a) A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.

- (b) 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.

- (c) Endorsement Fees

Council charges a fee for the endorsement of a Survey Plan, Community Management Statements, easement documents, and covenants. The fee is set out in Council's Fees & Charges Schedule applicable for each respective financial year.

(d) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

(e) 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 (Lots 1 & 2 only)
- An on-site effluent disposal system must be constructed in accordance with the approved site and soil evaluation report

(f) Transportation of Soil

All soil transported to or from the site must be covered to prevent dust or spillage during transport. If soil is tracked or spilt onto the road pavements as a result of works on the subject site, it must be removed prior to the end of the working day and within four (4) hours of a request from a Council Officer.

(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

- Development Permit for Operational Works (to include access approval for Condition 4.1)

(G) OTHER APPROVALS REQUIRED FROM COUNCIL

- Nil"

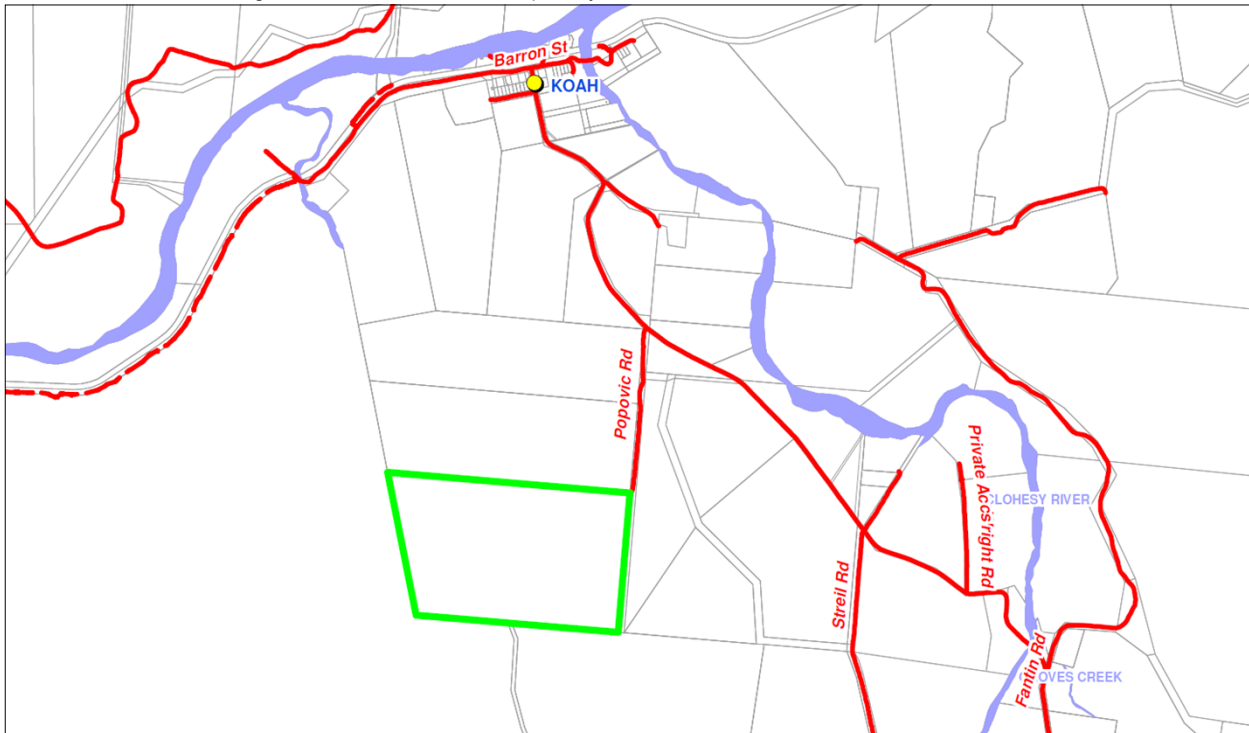
THE SITE

SITE AND LOCALITY DESCRIPTION	
Land Area:	90.852 hectares
Existing Use of Land:	Rural lifestyle/livestock grazing
Road Frontage:	752.7 metres of frontage to unconstructed continuation of Popovic Road road reserve (Popovic Road terminates at the site access)
Improvements:	1x Dwelling house, multiple outbuildings, cattle yards
Significant Features:	Site Majority of the site vegetated, front 3 rd of the site generally cleared, seasonal watercourse meandering through the centre of the site generally in a north-south alignment.
Services:	<ul style="list-style-type: none"> • Unformed gravel access crossover • On-site water supply • On-site wastewater disposal
Topography:	Slightly undulating, generally sloping downhill to the seasonal watercourse.
Surrounding Land Uses:	A mixture of rural lifestyle lots, small scale cropping and large livestock grazing properties.



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 22 June 2017, B Prove, the landowner, lodged a request to apply the now superseded Mareeba Shire Planning Scheme 2004 (Amendment No. 01/11) to the assessment of a future application for reconfiguring a lot - subdivision (1 into 3 Lots) over land describe as Lot 198 on NR1994, situated at 198 Popovic Road, Koah. The request was approved by Council under delegated authority on 26 June 2017 and the applicant had six (6) months to lodge the development application.

This development application was lodged within the six (6) month timeframe and is therefore being assessed against the superseded Mareeba Shire Planning Scheme 2004 (Amendment No. 01/11).

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Reconfiguring a Lot - Subdivision (1 into 3 Lots) in accordance with the plans shown in **Attachment 1**.

The subdivision will result in the creation of three (3) proposed lots as follows:

- Proposed Lot 1 - 30 hectares, approx. 5 metres of frontage to Popovic Road (which terminates at the site entrance) and approx. 230 metres of frontage to undeveloped road reserve;
- Proposed Lot 2 - 30 hectares, approx. 248 metres of frontage to undeveloped road reserve (access proposed via access easement along the eastern boundary of proposed Lot 1); and
- Proposed Lot 3 - 30.82 hectares, approx. 271.5 metres of frontage to undeveloped road reserve (access proposed via access easements along the eastern boundary of proposed lots 1 and 2).

Proposed Lot 1 will contain the sites existing dwelling and other improvements. Proposed Lots 2 and 3 include adequate usable area to allow for the construction of a future dwelling outside any mapped bushfire hazard area/impact buffers.

Access to proposed Lots 2 and 3 will be gained via access easements through proposed Lot 1 (for Lot 2) and proposed Lots 1 and 2 (for Lot 3).

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:

- *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:	Potential Long Term Growth Area (Clohesy)
Zone:	Rural
Overlays:	Natural Disaster - Bushfire 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

Assessment against the Regional Plan is required because the plan is not reflected in the planning scheme. The application is assessed as being capable of substantially complying with the relevant provisions of the Regional Plan, provided reasonable and relevant conditions are applied.

The following Desired Regional Outcome Land Use Policies are relevant to the assessment of the application:

DRO 2.6 Rural Subdivision		
Land Use Policy	Complies	Comments
2.6.1 <i>Further fragmentation of agricultural land in the regional landscape and rural production area is avoided to maintain economically viable farm lot sizes.</i>	✓	<p>The subject land is located within the indicative regional landscape and rural production area (RLRPA).</p> <p>The FNQRP State Planning Regulatory Provisions have been repealed and the Regional Plan no longer prescribes a minimum lot size for allotments subdivided in the RLRPA.</p> <p>Despite the repeal of the FNQRP State Planning Regulatory Provisions, the Regional Plan's planning principle to maintain economically viable farm lot sizes for agricultural land remains in effect.</p> <p>The subject land is not identified as Good Quality Agricultural Land and proposed Lots 1, 2 and 3 satisfy the minimum desired reconfigured lot size and frontage requirements of the Mareeba Shire Planning Scheme 2004.</p> <p>The proposed development complies.</p>

(b) State Planning Policy

The Department of State Development, Infrastructure and Planning has introduced a single State Planning Policy (SPP) to replace the various SPP's previously in place. As such, this State Planning Policy is not reflected in the Planning Scheme and is therefore applicable to the assessment of the application.

An officer assessment of the proposed development against the provisions contained within the SPP has been undertaken and it is not considered to be in conflict with any relevant aspect of the SPP.

Queensland State Planning Policy - July 2014		
State Interest	Complie s	Assessment Requirements & Comments
<p>Natural hazards A development application for a material change of use, reconfiguring a lot or operational works on land within:</p> <p>(1) a flood hazard area, or (2) a bushfire hazard area, or (3) a landslide hazard area, or (4) a coastal hazard area.</p>	✓	<p>For all natural hazards: Development: (1) avoids natural hazard areas or mitigates the risks of the natural hazard, and (2) supports, and does not unduly burden, disaster management response or recovery capacity and capabilities, and (3) directly, indirectly and cumulatively avoids an increase in the severity of the natural hazard and the potential for damage on the site or to other properties, and (4) avoids risks to public safety and the environment from the location of hazardous materials and the release of these materials as a result of a natural hazard, and (5) maintains or enhances natural processes and the protective function of landforms and vegetation that can mitigate risks associated with the natural hazard, and</p> <p>Comment The subject land does not contain any flood hazard, landslide hazard or coastal hazard areas. All three proposed lots contain large areas of land outside any mapped bushfire hazard area.</p> <p>Each lot will include ample space to accommodate future development outside these mapped hazard areas.</p>

(c) Mareeba Shire Planning Scheme 2004 (amendment no. 01/11)

Relevant Development Codes

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

Part 4, Division 14	Rural Zone Code
Part 5, Division 8	Natural Disaster - Bushfire Overlay Code
Part 6, Division 12	Reconfiguring a Lot Code

The application did not include 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 can be conditioned to comply with the relevant acceptable/probable solutions contained within the code.
Natural Disaster - Bushfire Overlay Code	The application can be conditioned to comply with the relevant acceptable/probable solutions contained within the code.
Reconfiguring a Lot Code	The application can be conditioned to comply with the relevant acceptable/probable solutions contained within the code.

(e) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

No. 4 - 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) Additional Trunk Infrastructure Condition - Road Infrastructure (Section 130 of PA)

The subject land is located outside the identified Priority Infrastructure Area (PIA).

Section 130 of the *Planning Act 2016* allows Council to condition additional trunk infrastructure outside the PIA.

Sections of both Popovic and Koah Road are currently constructed to less than the required standard. The two additional lots proposed will further add to the expected daily vehicle movements along both roads.

Based on the 2017/2018 Augmentation of the Road Network Contribution rate (see Fees and Charges Schedule), the following contribution is considered appropriate:

- 2 (10 vmpd) x \$4,500.00 = **\$9,000.00**

In accordance with Condition 4.3, the applicant is required to carry out significant upgrade works to Popovic Road. Considering the costs involved, it is considered reasonable to credit the cost of these works against the abovementioned augmentation of the road network contribution (see Condition 5.6).

REFERRALS

Concurrence

This application did not trigger referral to a Concurrence Agency.

Advice

This application did not trigger referral to an Advice Agency.

Internal Consultation

Not applicable

PLANNING DISCUSSION

Nil

Date Prepared: *5 April 2018*

PROPOSAL PLANS

Site Plan

14/12/2017

Reconfiguration of Lot 198 on NR1994 - Subdivision (1 into 3 Lots)

