

DELEGATED REPORT

SUBJECT: T O'NEIL – RECONFIGURING A LOT - BOUNDARY REALIGNMENT – LOT 784 ON N157259 AND LOT 9 ON SP181514 – SPEEWAH ROAD AND 84 CARDINIA BOULEVARD, SPEEWAH – RAL/24/0014

DATE: 28 October 2024

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

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	T O'Neil	ADDRESS	Speewah Road and 84 Cardinia Boulevard, Speewah
DATE LODGED	27 September 2024	RPD	Lot 784 on N157259 and Lot 9 on SP181514
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot – Boundary Realignment		

FILE NO	RAL/24/0014	AREA	Lot 784 – 207.503 ha Lot 9 – 2.015 ha
LODGED BY	Neil Beck Town Planner	OWNER	Lot 784 - T O'Neil and T & E Short Lot 9 – A Young
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Lot 784 – Rural zone Lot 9 – Rural Residential 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 Mareeba Shire Council Planning Scheme 2016 and does not conflict with any relevant planning instrument. There are no significant planning issues.

Draft conditions were provided to the Applicant care of their consultant and have been agreed to. 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	T O'Neil	ADDRESS	Speewah Road and 84 Cardinia Boulevard, Speewah
DATE LODGED	27 September 2024	RPD	Lot 784 on N157259 and Lot 9 on SP181514
TYPE OF APPROVAL	Development Permit		
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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 – Boundary Realignment

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
033-2404-00-SK-9001 A	Boundary Realignment Lot 784 on N157259 & Lot 9 on SP181514 Concept Site Plan	Neon Consulting	18.08.24
033-2404-00-SK-9002 A	Boundary Realignment Lot 784 on N157259 & Lot 9 on SP181514 Overall Allotment Areas	Neon Consulting	18.08.24

(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 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.
 - 3.7 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

- 4.1.1 An access crossover must be constructed (from the edge of Cardinia Boulevard to the property boundary) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.
- 4.1.2 The internal access road must have a minimum width of 3 metres and be constructed of compacted road base and surface treated with crushed blue metal/gravel for its entire length to achieve a dust free surface treatment.
- 4.1.3 Culvert crossings must be designed as per the Preliminary Creek Crossing Details shown on the approved plans. Concrete headwalls must be implemented to stormwater from compromising each crossing.

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.

(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) 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.

(d) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care

guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from www.dsdsatsip.qld.gov.au.

(e) 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](#) or contact Biosecurity Queensland 13 25 23.

(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

- Access approval arising from condition number 4.1 (Please contact Planning Section to obtain application form and applicable fee)

THE SITE

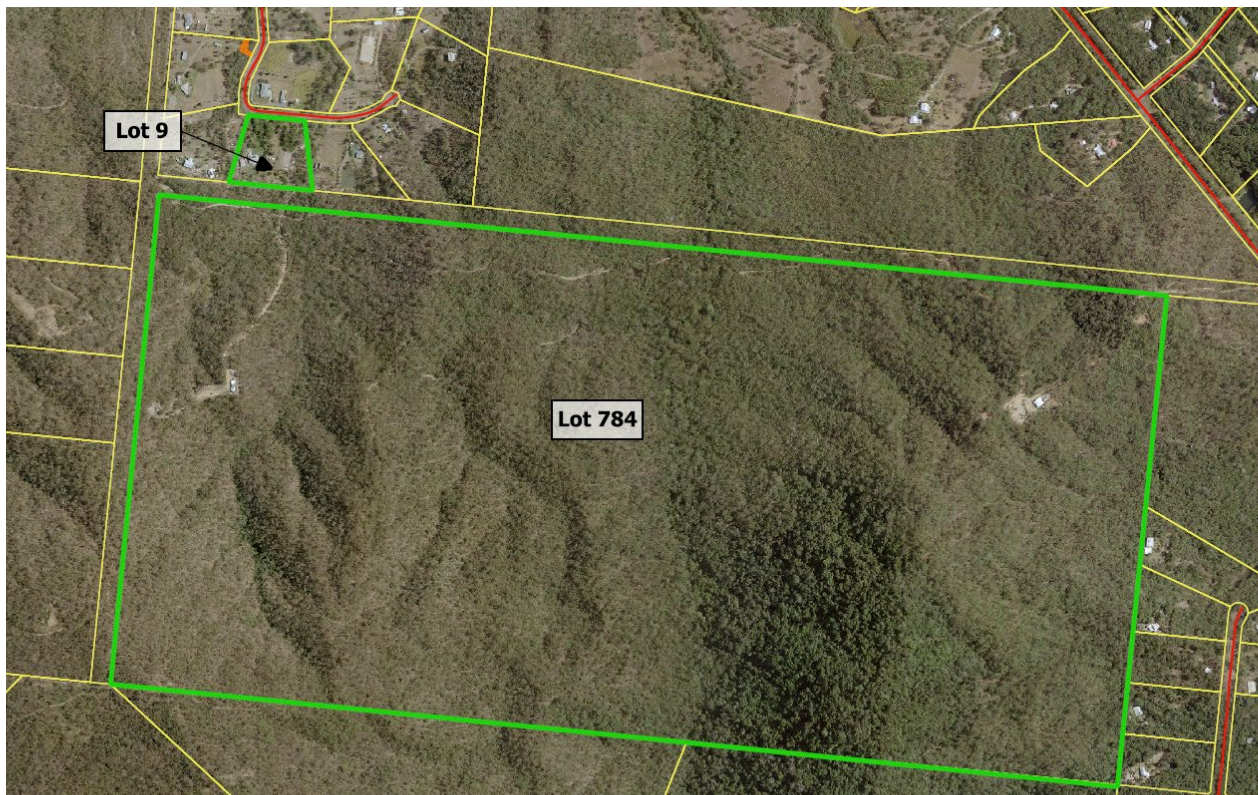
The subject land is described as Lot 784 on N157259 and Lot 9 on SP181514 and is situated at Speewah Road and 84 Cardinia Boulevard, Speewah.

Lot 784 is situated immediately south of the Cardinia Estate Subdivision at Speewah and is zoned Rural. The allotment has an area of 207.5 hectares with approximately 3 kilometres of combined frontage to unconstructed road reserves along its northern and western boundaries. The land does not have any frontage to a constructed road.

A dirt track provides access to the north-western corner of the subject land via road reserve connecting back to Cardinia Boulevard. Access is also available to the north-eastern corner of the subject land via a steep track connecting to Speewah Road. The topography of the area is dominated by several major ridges and a central valley that traverse the site in a north-south direction. Numerous small hills and gullies provide the site with a very rugged terrain.

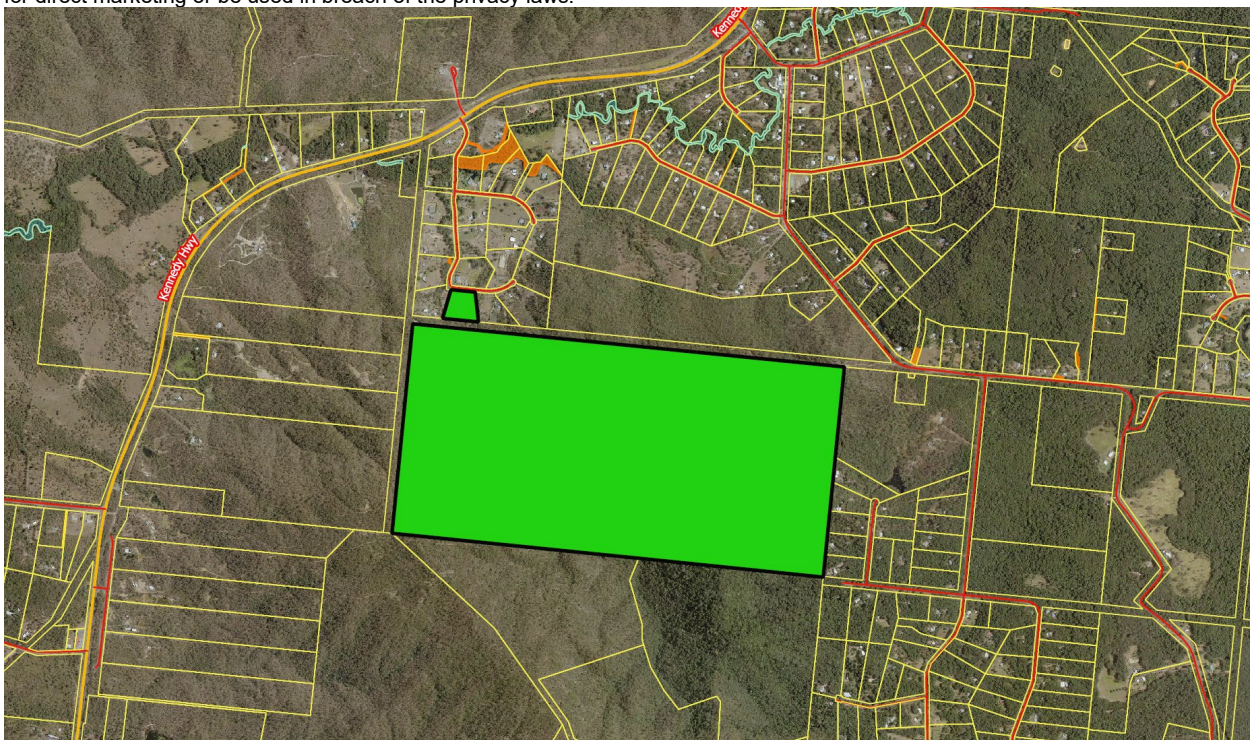
The relief of the subject land is approximately 215 metres, rising from 400 AHD metres at the north-western corner to 615 AHD at the south-western corner. The eastern part of the subject land experiences a lesser change in elevation rising from 480 AHD in the north-eastern corner to several peaks of approximately 560 AHD.

Lot 9 forms part of Cardinia Estate, has an area of 2.015 hectares and is zoned Rural residential. The site includes 116 metres of frontage to Cardinia Boulevard which is bitumen sealed. Lot 9 and Lot 784 are situated adjacent each other, separated by a 40 metre wide section of undeveloped road reserve. Lot 9 is improved by a dwelling and outbuilding situated on the western side of the property. A gravel driveway has been constructed on the eastern side of the property which appears to be used to access Lot 784 (with this application attempting to formalise this arrangement). A seasonal watercourse is also present on the eastern side of Lot 9 which flows through Cardinia Estate. The headwaters of this watercourse lie within Lot 784.



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

A development permit for Reconfiguring a Lot – Boundary Realignment is sought to transfer approximately 1,800m² of land from Lot 9 to Lot 784 to create a access handle for Lot 784 that links the property to Cardinia Boulevard in order to provide practical, all weather access to Lot 784. Currently, lawful access can be is gained from both Speewah Road and a section of undeveloped road reserve that runs along the western edge of Cardinia Estate. Although lawful, both means of access are problematic and impractical, particularly during the wet season.

PREVIOUS APPLICATIONS & APPROVALS

RAL/18/0032

On 9 April 2019, Council, under delegated authority, approved an application made by Neil Beck Town Planner on behalf of T O'Neil seeking a development permit for Reconfiguring a Lot – Subdivision (1 into 2 Lots) and access easement over land described as Lot 784 on N157259, situated at Speewah Road, Speewah. The Decision Notice was issued on 9 April 2019 and a subsequent Negotiated Decision Notice was issued on 21 June 2019.

This approval remains current until 21 June 2025.

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 application includes the following commentary regarding the proposed development:

“Context

A Development Permit is sought for the reconfiguration of land (boundary realignment) between land described as Lot 784 on N157259 and Lot 9 on SP181514 located at 148 Speewah Road and 9 Cardinia Boulevard Speewah.

Lot 784 has a site area of 207.5 hectares and contained within the Rural zone while Lot 9 has a site area of 2.015 hectares and contained within the Rural residential zone within the Planning Scheme.

The proposed development does not trigger referral to the State Assessment & Referral Agency under the Planning Regulation 2017.

The realignment of the boundaries as proposed does not impact on the viability fragment agricultural land. The purpose of the application is to formalise the use of Lot 9 to access Lot 784.

Proposal

Approval is sought to realign the boundary of Lot 784 to include an area of land adjacent the eastern boundary of Lot 9 to facilitate access to Lot 784 from Cardinia Boulevard.

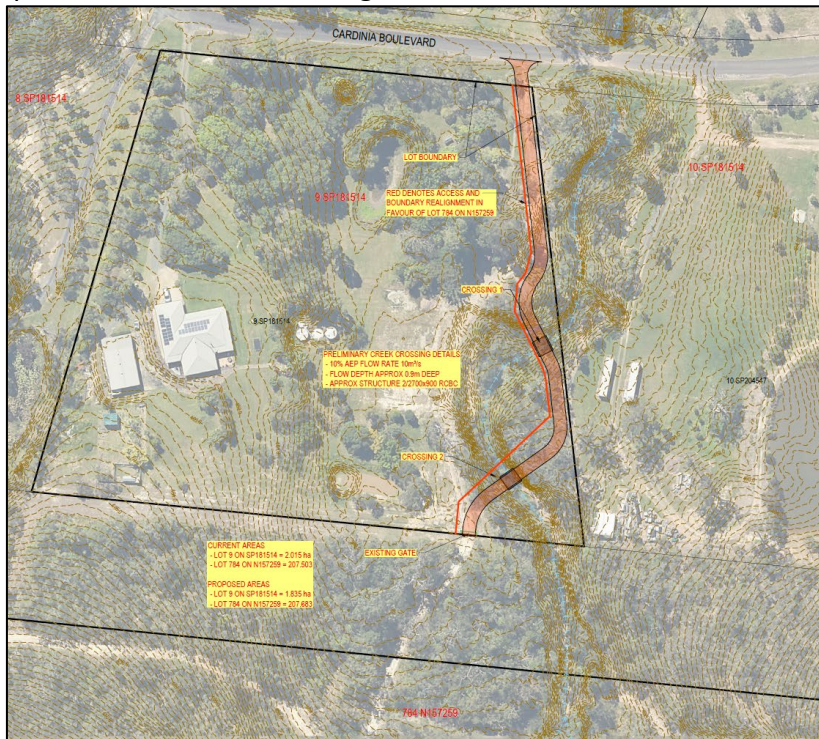
The boundary realignment seeks to include approximately 1800m² from Lot 9 and include within lot 784. The proposal has been configured in a manner which seeks to limit the area of land required from Lot 9 while also reflecting in part the existing alignment. As a consequence of limiting the area of land to be excised from Lot 9, the proposed driveway involves crossing the seasonal waterway in two locations.

As a consequence, proposed Lot 9 will have an area of 1.835 hectares and lot 784 will have an area of 207.683 hectares.

The proposed access arrangements have been brought about by constraints with accessing the property from the extension of Pandanus Place road reserve and the presence of the culvert crossing in the road reserve used to access an existing residence.

The proposed access arrangements will also do away with the need to use the road reserve adjacent the western boundary for those rural residential allotments along Cardinia Boulevard in order to access approved Lot 127.”

A plan of the proposed access handle through Lot 9 is shown below:



REGIONAL PLAN DESIGNATION

The subject site is included within the Regional Landscape and Rural Production Area (Lot 784) and Rural Living Area (Lot 9) land use categories in the Far North Queensland Regional Plan 2009-2031. The Regional Plan Map 3- 'Areas of Ecological Significance' also identifies the site is:

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

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories <ul style="list-style-type: none"> • Rural Residential – Lot 9 • Rural Other – Lot 784 Natural Environmental Elements <ul style="list-style-type: none"> • Biodiversity Areas
Zone:	Rural zone – Lot 784

	Rural Residential zone – Lot 9
Precinct:	2 hectare precinct – Lot 9
Overlays:	Bushfire Hazard Overlay Environmental Significance 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

Relevant Development Codes

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

- 6.2.9 Rural zone code
- 6.2.10 Rural residential zone code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.8 Hill and slope 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 contained within the codes (or performance outcomes where no acceptable outcome has been provided). Where the proposal does not satisfy an acceptable outcome, it has been demonstrated that compliance can be achieved with the higher order performance outcome/s. It is considered the proposed development can comply with the relevant development codes 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 outcomes (or performance outcomes where no

	acceptable outcome is provided, or an acceptable outcome cannot be complied with) contained within the code. Refer to code document for commentary.
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, or an acceptable outcome cannot be complied with) contained within the code. Refer to code document 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, or an acceptable outcome cannot be complied with) contained within the code. Refer to code document for commentary.
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, or an acceptable outcome cannot be complied with) contained within the code. Refer to code document for commentary.
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, or an acceptable outcome cannot be complied with) contained within the code. Refer to code document for commentary.
Landscaping code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided, or an acceptable outcome cannot be complied with) contained within the code. Refer to code document for commentary.
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, or an acceptable outcome cannot be complied with) contained within the code. Refer to code document for commentary.
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, or an acceptable outcome cannot be complied with) contained within the code. Refer to code document for commentary.
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, or an acceptable outcome cannot be complied with) contained within the code. Refer to code document for commentary.

(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

Not applicable as the proposed development is for a boundary realignment and no additional vacant allotment will be created.

REFERRAL AGENCY

This application did not trigger referral to a Referral Agency.

Internal Consultation

Not applicable.

PLANNING DISCUSSION

Nil

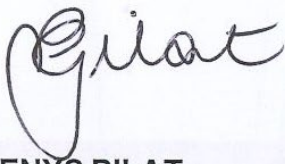
Date Prepared: 28 October 2024

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 28th day of October 2024



GLENYS PILAT
MANAGER DEVELOPMENT & GOVERNANCE

MAREEBA SHIRE
AS A DELEGATE OF THE COUNCIL

ATTACHMENT 1

PROPOSED PLANS

