DELEGATED REPORT

SUBJECT: **R HURLEY & B BARTON – RECONFIGURING A LOT – BOUNDARY REALIGNMENT – LOT 6 & 7 ON RP726343 – 5 & 7 KURANDA CRESCENT, KURANDA - RAL/24/0015**

DATE: 21 October 2024

REPORT OFFICER'S TITLE: Senior Planner

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	R Hurley & B Barton	**ADDRESS**	5 & 7 Kuranda Crescent, Kuranda
DATE LODGED	14 October 2024	**RPD**	Lot 6 & 7 on RP726343
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot – Boundary Realignment		

FILE NO	RAL/24/0015	**AREA**	Lot 6 – 4,646m2 Lot 7 – 4,973m2
LODGED BY	Brazier Motti Pty Ltd	**OWNER**	Lot 6 – R Hurley & B Barton Lot 7 – M Lacour & H Schiel
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Low Density Residential zone		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	n/a		

ATTACHMENTS: 1. Proposal Plan/s

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.

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.

It is recommended that the application be approved in full with conditions.

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	R Hurley & B Barton	**ADDRESS**	5 & 7 Kuranda Crescent, Kuranda
DATE LODGED	14 October 2024	**RPD**	Lot 6 & 7 on RP726343
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PROPOSED DEVELOPMENT	Reconfiguring a Lot – Boundary Realignment		

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

Approved by Council in accordance with the approved plans/documents listed in (B), subject to assessment manager conditions in (C), assessment manager's advice in (D), 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
36059/002 A	Proposed Reconfiguration Lots 6 & 7 on RP726343	Brazier Motti	26/08/2024

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) <u>Development assessable against the Planning Scheme</u>

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

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 or the payment of infrastructure charges/contributions contained 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 required to be made to the Council (including contributions, charges and bonds) pursuant to any condition of this approval must be made prior 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. Where existing building/s are in proximity to new property boundaries, a plan demonstrating compliance with the required setback 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.

(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) 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.

(f) 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.

(g) 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.

(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

- Nil

THE SITE

The subject site comprises of the following allotments:

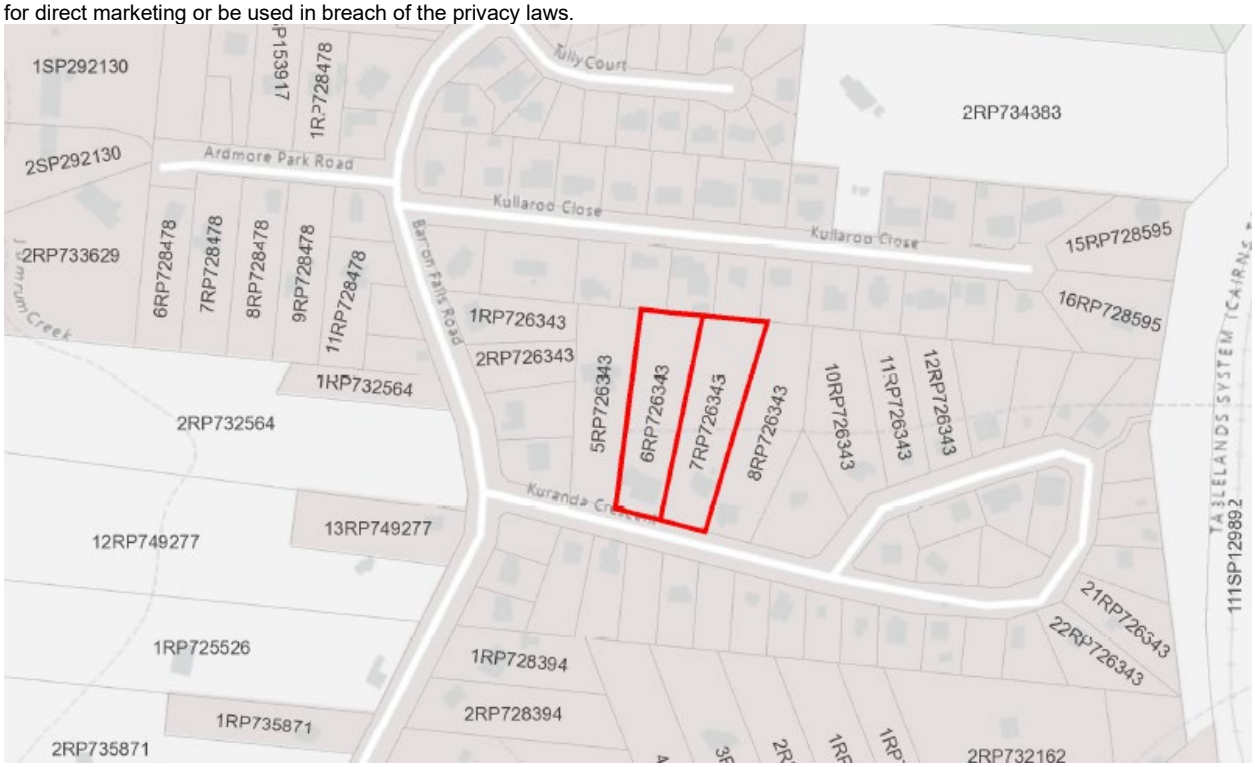
- Lot 6 on RP726343, situated at 5 Kuranda Crescent, Kuranda, having an area of 4,646m2 and a frontage of approximately 30 metres to Kuranda Crescent; and

- Lot 7 on RP726343, situated at 7 Kuranda Crescent, Kuranda, having an area of 4,973m2 and a frontage of approximately 30 metres to Kuranda Crescent.

Kuranda Crescent is formed to bitumen sealed standard with kerb on both sides. Lots 6 and 7 are both improved with a dwelling house and domestic outbuilding/s, all sited in proximity to the Kuranda Crescent frontage. The majority of both lots remains covered by native vegetation.

Surrounding lots are zoned Low Density Residential and are mostly improved with a dwelling house.

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

Nil

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Reconfiguring a Lot – Boundary Realignment in accordance with the plans shown in **Attachment 1**.

The proposed development is the realignment of the property boundary between Lots 6 and 7 by transferring approximately 436m2 from Lot 7 to Lot 6. The boundary realignment is necessary to resolve existing encroachments of fencing and garden area.

The proposed allotments are as follows:

- Lot 6 – area of 5,080m2; and
- Lot 7 – area of 4,539m2.

No change is proposed to existing frontages, access or servicing arrangements.

REGIONAL PLAN DESIGNATION

The subject site is included within the Urban Footprint 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:

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

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	**Land Use Categories** • *Residential Area*
Zone:	Low Density Residential Zone
Overlays:	Airport Environs 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:

6.2.6 Low density residential zone code
7.2.1 Kuranda local plan code
8.2.2 Airport environs 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
Low density 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.
Kuranda 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.
Hill and slope overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
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

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: *21 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 21ST day of OCTOBER 2024

BRIAN MILLARD
COORDINATOR PLANNING SERVICES

MAREEBA SHIRE
AS A DELEGATE OF THE COUNCIL

ATTACHMENT 1

PROPOSED PLANS

PROPOSED RECONFIGURATION

Lots 6 & 7

Cancelling Lots 6 & 7 on RP726343

Locality of Kuranda
Mareeba Shire Council

Date: 26/08/2024	
Scale: 1:500	A3
Drawn: WCHO	
Job No: 36059/002-01	
Plan No: 36059/002	A

brazier motti

braziermotti.com.au

SURVEYING
TOWNPLANNING
PROJECTMANAGEMENT
MAPPING&GIS

75 YEARS

This plan is conceptual and for discussion purposes only. All areas, dimensions and land uses are preliminary, subject to investigation, survey, engineering, and Local Authority and Agency approvals.

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