

From: Stephen Whitaker
Sent: 16 Feb 2018 12:20:39 +1000
To: Brian Millard
Cc: Dominic Hammersley; Carl Ewin; Planning (Shared)
Subject: Change to Development Application - 77 Barnwell Road, Kuranda - RAL/18/0001
Attachments: HRP16295.L01.002.pdf

Hi Brian,

I refer to the development application over land at 77 Barnwell Road, Kuranda (MSC Ref: RAL/18/0001). We act for the Applicants, Andrew Easton, Adrienne Peta Easton and Barbara Colburn Martin, in relation to this development application.

On behalf of the Applicants, please find attached correspondence provided in accordance with Section 52 of the *Planning Act 2016*, documenting a change to the application.

Should you have any queries in relation to this matter, please do not hesitate to contact me.

Kind Regards,
Stephen Whitaker
PLANNER
CARDNO



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MSC Ref RAL/18/0001
Our Ref HRP16295
Contact Dominic Hammersley

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16 February 2018

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The Chief Executive Officer
Mareeba Shire Council
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MAREEBA QLD 4880

P.O. Box 1619
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**Attention: Brian Millard,
Senior Planner**

Phone: 61 7 4034 0500

Delivery via email: BrianM@msc.qld.gov.au

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Dear Brian,

**CHANGE TO DEVELOPMENT APPLICATION PURSUANT TO SECTION 52 OF THE
PLANNING ACT 2016**

**SUPERSEDED PLANNING SCHEME APPLICATION SEEKING A DEVELOPMENT
PERMIT FOR RECONFIGURING A LOT (ONE (1) INTO 48 LOTS) OVER LAND AT
77 BARNWELL ROAD, KURANDA MORE PROPERLY DESCRIBED AS LOT 16 ON
N157227 (MSC REF: RAL/18/0001)**

We act for Andrew Easton, Adrienne Peta Easton and Barbara Colburn Martin ('the Applicants') in relation to the abovementioned superseded planning scheme application ('the application').

On behalf of the Applicant, please accept this correspondence as written notice, pursuant to Section 52 of the *Planning Act 2016* ('the PA'), of a change to the application.

The following sections document the change and the applicable statutory town planning framework.

1. CHANGES TO APPLICATION

The Applicant has amended the proposed development layout to include building envelopes over proposed Lots 8 and 46. These building envelopes are reflected in the new proposal plan included as part of the **attachment** to this correspondence. These building envelopes further qualify the extent of these lots intended to be developed with buildings/structures and to therefore limit any exempt clearing. The building envelopes are proposed to be enforced through covenants applied over the proposed lots. The changes do not modify the overall layout of the proposal or the proposed numbers of lots.

2. APPLICABLE STATUTORY TOWN PLANNING FRAMEWORK

2.1 Minor Change

The PA provides, in Section 52(3), that where a change is a minor change, the change does not affect the development assessment process. A minor change, for a development application, is defined in Schedule 2 of the PA as a change that:

- “(i) does not result in substantially different development; and*
- (ii) if the application, including the change, were made when the change is made— would not cause—*
 - (A) the inclusion of prohibited development in the application; or*
 - (B) referral to a referral agency if there were no referral agencies for the development application; or*
 - (C) referral to extra referral agencies; or*
 - (D) a referral agency to assess the application against, or have regard to, matters prescribed by regulation under section 55(2), other than matters the referral agency must have assessed the application against, or have had regard to, when the application was made; or*
 - (E) public notification if public notification was not required for the development application; or”*

Schedule 1 of the Development Assessment Rules defines “substantially different development” as:

- “4. A change may be considered to result in a substantially different development if the proposed change:*
 - (a) involves a new use; or*
 - (b) results in the application applying to a new parcel of land; or*
 - (c) dramatically changes the built form in terms of scale, bulk and appearance; or*
 - (d) changes the ability of the proposed development to operate as intended; or*
 - (e) removes a component that is integral to the operation of the development; or*
 - (f) significantly impacts on traffic flow and the transport network, such as increasing traffic to the site; or*
 - (g) introduces new impacts or increase the severity of known impacts; or*
 - (h) removes an incentive or offset component that would have balanced a negative impact of the development; or*
 - (i) impacts on infrastructure provisions.”*

The change to the application is a minor change as the changed application:

- does not involve substantially different development, as the change:
 - does not involve a new use or type of development, the proposed development continues to seek approval to subdivide the site;
 - does not result in the application applying to a new parcel of land, as the application continues to apply to Lot 16 on N157227;
 - does not dramatically change the scale and nature of the proposed development, noting that the change only relates to the inclusion of building envelopes on three lots, with the proposed lot layout being unchanged;
 - does not change the ability for the proposed development to operate as intended, noting that the overall layout of the proposed development remains unchanged;

- does not remove a component that is integral to the operation of the development;
- does not significantly impact on traffic flow or the transport network, noting that the change is limited to the inclusion of three building envelopes;
- does not introduce new impacts or increase the severity of known impacts, noting that the proposed development, as changed, results in a reduction of available clearing exemptions;
- does not remove an incentive or offset component that would have balanced a negative impact of the development; and
- does not impact on infrastructure provisions;
- does not involve prohibited development;
- does not trigger referral to any agencies beyond those already triggered (also refer to the discussion in Section 2.2);
- does not require a referral agency to assess the application against any additional matters; and
- does not require public notification.

On the basis of the above, the change to the application is a minor change, as defined by the PA.

2.2 Referral for Vegetation Clearing

Mareeba Shire Council ('Council'), on 2 February 2018, issued a Confirmation Notice for the application. This Confirmation Notice identified, amongst other things, that the application triggered referral to the Department of State Development, Manufacturing, Infrastructure and Planning ('DSDMIP') for vegetation clearing matters, pursuant to Schedule 10, Part 3, Division 4, Table 2 of the *Planning Regulation 2017* ('the PR').

As outlined in the Town Planning Report supporting the original development application, the Applicant considers that the application, as lodged, does not trigger referral for vegetation clearing. We understand Council has identified this referral trigger on the basis of paragraph (a)(iii) of the definition of accepted operational work in Schedule 24 of the PR, which relates to clearing for prescribed building work (to establish a single dwelling).

In relation to the ability to undertake clearing to establish a single dwelling, we note that the changed application includes building envelopes for proposed Lots 8 and 46, which are the proposed lots that contain Category B regulated vegetation. The proposed building envelopes are separated by a minimum distance of 10 metres from all areas of Category B regulated vegetation. The proposed building envelopes mean that a single dwelling could not be constructed within an area of Category B regulated vegetation and that additional accepted operational work, being the clearing of regulated vegetation, could not be undertaken as a result of the development.

On this basis, the application does not trigger referral to DSDMIP for vegetation clearing.

3. REQUIRED COUNCIL ACTIONS

As discussed in Section 2.2 of this letter, the changed application does not trigger referral to the DSDMIP for vegetation clearing matters. The Applicant requests that Council issued an amended Confirmation Notice that reflects the changed application, particularly in relation to referral requirements.

4. CONCLUSION

We trust the information provided in this correspondence is sufficient for Council to consider the changed application. If you have any queries in relation to this matter, please contact me.

Yours faithfully

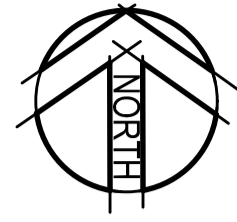


Dominic Hammersley
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Principal, Planning
For Cardno
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Enc: Attachment

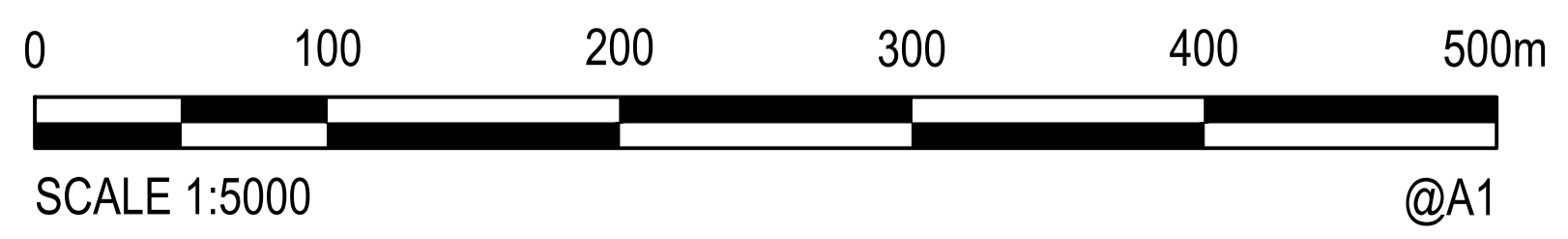
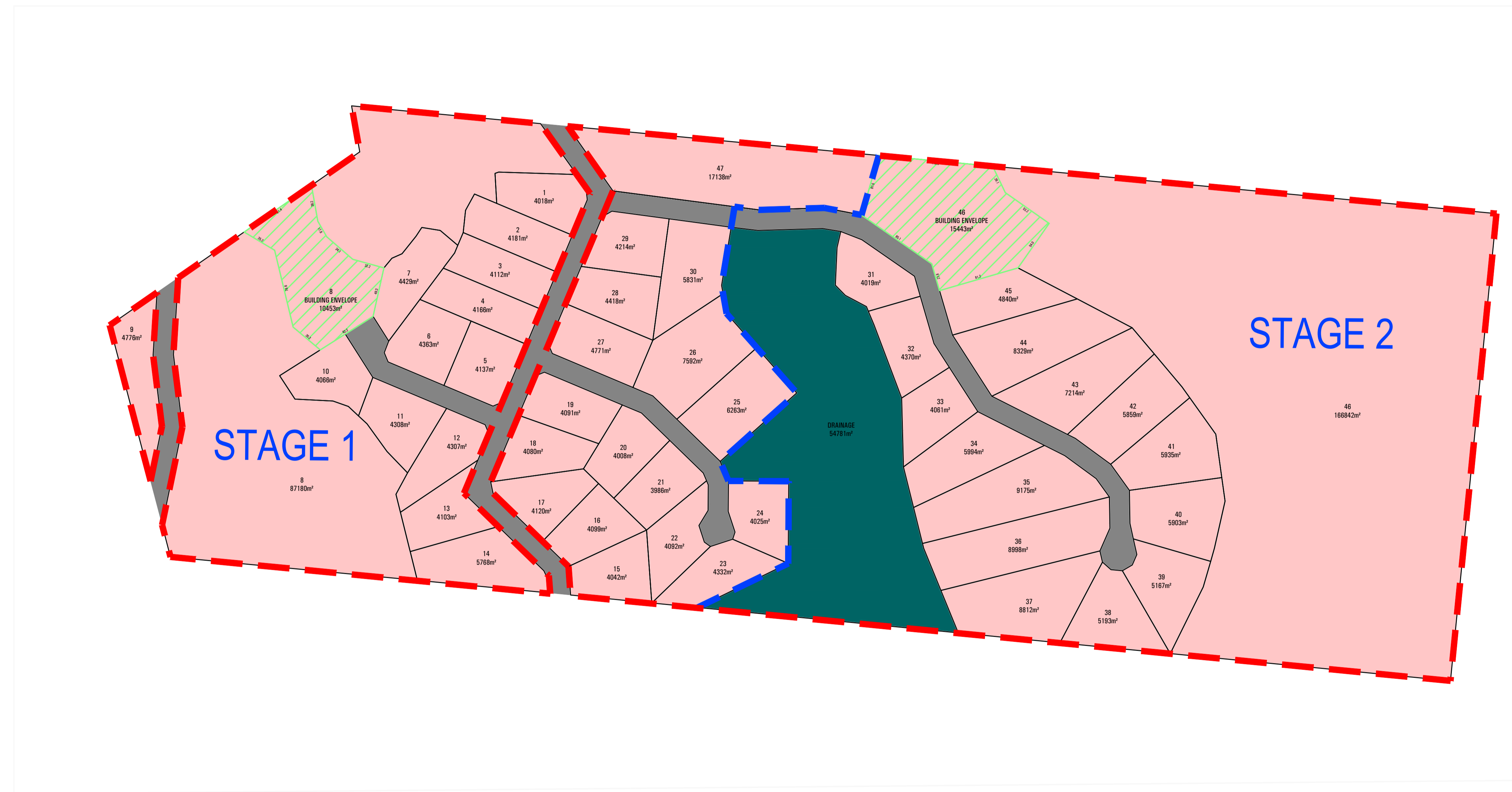
Attachment

Changed Proposal Plan



PRECINCT C	
TOTAL LOT AREA	49.57ha
AVERAGE LOT SIZE	10 547m ²
TOTAL LOTS	47

LEGEND	
	RURAL RESIDENTIAL LOT - PRECINCT C
	DRAINAGE RESERVE
	ROAD RESERVE
	BUILDING ENVELOPE
	SITE BOUNDARY
	STAGE BOUNDARY



LEILAS WAY ESTATE - NON URBAN RESIDENTIAL PROPOSED LOT LAYOUT

ANDREW EASTON
 LOT 16 ON N157227

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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.

Date	Sketch/Figure Number	Revision
15th FEBRUARY 2018	HRP16295-004-MP-008	C

DATE PLOTTED: 16 February 2018 11:24 AM
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