

PLANNING REPORT

SUBJECT: J & L PAPAS - RECONFIGURING A LOT - SUBDIVISION (1 INTO 3 LOTS) - LOT 6 ON RP732287 - 393 EMERALD END ROAD, MAREEBA - RAL/18/0005

MEETING: Ordinary

MEETING DATE: 18 April 2018

REPORT OFFICER'S TITLE: Senior Planner

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	J & L Papas	ADDRESS	393 Emerald End Road, Mareeba
DATE LODGED	12 March 2018	RPD	Lot 6 on RP732287
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Subdivision (1 into 3 lots)		

FILE NO	RAL/18/0005	AREA	4.837 hectares
LODGED BY	Planz Town Planning	OWNER	J & L Papas
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural 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 is in conflict with multiple Performance Outcomes contained within the Agricultural Land Overlay Code relating to the conservation and protection of agricultural land.

The proposed development conflicts with an overarching intent of the Agricultural land overlay code as it would result in further fragmentation of agricultural land, the ad-hoc creation of additional rural lifestyle allotments, and increase dwelling densities within a rural area.

It is recommended that the application be refused.

OFFICER'S RECOMMENDATION

"1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	J & L Papas	ADDRESS	393 Emerald End Road, Mareeba
DATE LODGED	12 March 2018	RPD	Lot 6 on RP732287
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:

Refused by Council for reasons set out in (B).

(A) REFUSED DEVELOPMENT: Development Permit for Reconfiguring a Lot – Subdivision (1 into 3 lots)

(B) ASSESSMENT MANAGER'S REASONS FOR REFUSAL:

1. *The proposed development is in conflict with Overall outcomes (a) and (b) of the Agricultural land overlay code;*
2. *The proposed development conflicts with the following Performance Outcomes and Acceptable Outcome of the Agricultural land overlay code:*

PO1

*The fragmentation or loss of productive capacity of land within the 'Class A' area or 'Class B' area identified on the **Agricultural land overlay maps (OM-001a-n)** is avoided unless:*

- (a) an overriding need exists for the development in terms of public benefit;*
- (b) no suitable alternative site exists; and*
- (c) loss or fragmentation is minimised to the extent possible.*

AO1

*Buildings and structures are not located on land within the 'Class A' area or 'Class B' area identified on the **Agricultural land overlay maps (OM-001a-n)** unless they are associated with:*

- (a) animal husbandry; or*
- (b) animal keeping; or*
- (c) cropping; or*
- (d) dwelling house; or*
- (e) home based business; or*
- (f) intensive animal industry (only where for feedlotting); or*
- (g) intensive horticulture; or*
- (h) landing; or*
- (i) roadside stalls; or*

- (j) winery.

PO2

*Sensitive land uses in the 'Class A' area, 'Class B' area or the 'Broadhectare rural' area identified on the **Agricultural land overlay maps (OM-001a-n)** are designed and located to:*

- (a) *avoid land use conflict;*
- (b) *manage impacts from agricultural activities, including chemical spray drift, odour, noise, dust, smoke and ash;*
- (c) *avoid reducing primary production potential; and*
- (d) *not adversely affect public health, safety and amenity.*

PO3

*Development in the 'Class A' area or 'Class B' area identified on the **Agricultural land overlay maps (OM-001a-n)**:*

- (a) *ensures that agricultural land is not permanently alienated;*
- (b) *ensures that agricultural land is preserved for agricultural purposes; and*
- (c) *does not constrain the viability or use of agricultural land.*

PO6

*Any Reconfiguring a lot in the 'Class A' area, 'Class B' area or the 'Broadhectare rural' area identified on the **Agricultural land overlay maps (OM-001a-n)**, including boundary realignments, only occurs where it:*

- (a) *improves agricultural efficiency;*
- (b) *facilitates agricultural activity; or*
- (d) *facilitates conservation outcomes; or*
- (d) *resolves boundary issues where a structure is built over the boundary line of two lots;"*

THE SITE

The subject site is situated at 393 Emerald End Road, Mareeba and is described as Lot 6 on RP732287. The site is generally regular in shape with a total area of 4.837 hectares and is zoned *Rural* under the Mareeba Shire Council Planning Scheme 2016.

The site has a frontage of approximately 172 metres to Emerald End Road. Emerald End Road is formed to bitumen sealed standard for the entire frontage with the subject land.

The subject site is improved by a dwelling house and shed, both of which are located in the north-west corner, in proximity to the Emerald End Road frontage.

The majority of the site is flat and has been cleared of remnant vegetation. Minimal domestic landscaping is established surrounding the dwelling house.

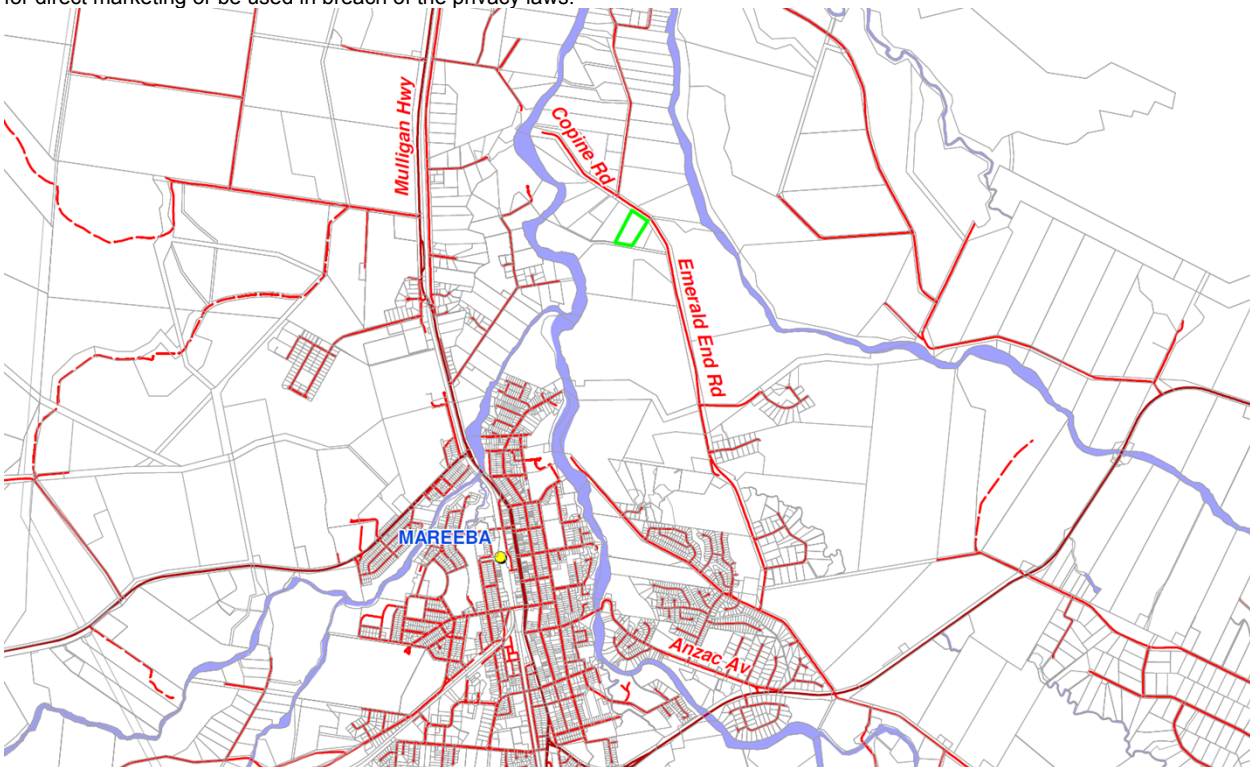
The site is currently serviced by a water bore, on site effluent disposal system, electricity and telecommunication networks.

Surrounding allotments are typically used for rural living purposes, with limited scattered small scale rural/horticultural pursuits.



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.



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.

BACKGROUND AND CONTEXT

NIL

PREVIOUS APPLICATIONS & APPROVALS

NIL

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 details of the proposed allotments are as follows:

- Lot 1 - 1.5982 hectares, 150 metres frontage to Emerald End Road;
- Lot 2 - 1.6208 hectares, 11 metres frontage to Emerald End Road;
- Lot 3 - 1.6179 hectares, 11 metres frontage to Emerald End Road.

Proposed Lot 1 will contain the established dwelling house, shed and associated onsite effluent disposal system. Proposed Lots 2 and 3 would be vacant upon their creation.

Access to proposed Lot 1 will continue via an established driveway onto Emerald End Road. Eleven (11) metre wide access handles are intended to provide access to proposed Lots 2 and 3 off Emerald End Road.

Proposed Lot 3 will contain the existing water bore, with new individual water bores planned for proposed Lots 1 and 2. Electricity and telecommunication services for each allotment is proposed in accordance with the planning scheme's requirements.

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' does not identify the site as being of any significance.

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories <ul style="list-style-type: none">▪ Rural Agricultural Area Natural Environment Elements <ul style="list-style-type: none">▪ Biodiversity Area
Zone:	Rural
Overlays:	Agricultural Land Overlay Airport Environs Overlay Bushfire Hazard Overlay Environmental Significance Overlay Flood Hazard 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
- 8.2.1 Agricultural land overlay code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.6 Flood hazard 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 would conflict with the identified sections of the Agricultural Land Overlay Code and Reconfiguring a Lot Code.

Relevant Codes	Comments
Rural zone code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Agricultural land overlay code	<p>The application conflicts with the following performance outcomes and acceptable outcomes:</p> <ul style="list-style-type: none"> ▪ PO1 and AO1 ▪ PO2 ▪ PO3 ▪ PO6 <p>Refer to planning discussion section of this report.</p>
Bushfire hazard overlay code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Environmental significance overlay code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Flood hazard overlay code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Transport infrastructure overlay code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Landscaping code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code
Parking and access code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code
Reconfiguring a lot code	<p>The application is considered to have an insignificant conflict with the following performance outcomes:</p> <ul style="list-style-type: none"> ▪ PO1 <p>Refer to planning discussion section of this report.</p>
Works, services and infrastructure code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code

(e) Planning Scheme Policies

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

All development works will be conditioned to be designed and constructed in accordance with the FNQROC Development Manual.

(f) Additional Trunk Infrastructure Condition

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.

The development, creating an additional allotment, is predicted to place additional demand on Council's trunk transport infrastructure (roads).

the developer must pay a one off payment of \$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.

The trunk infrastructure for which the payment is required is:

- The trunk transport infrastructure servicing the land (\$4,500.00)

The developer may elect to provide part of the trunk infrastructure instead of making the payment.

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

REFERRALS

This application did not trigger a referral to a State Referral Agency.

Internal Consultation

Technical Services

PLANNING DISCUSSION

Noncompliance with the Performance Outcomes and Acceptable Outcomes of the Agricultural Land Overlay Code and the Reconfiguring a Lot Code are summarised as follows:

Minor conflict with the Reconfiguring a Lot Code

PO1

Lots include an area and frontage that:

- (a) *is consistent with the design of lots in the surrounding area;*
- (b) *allows the desired amenity of the zone to be achieved;*
- (c) *is able to accommodate all buildings, structures and works associated with the intended land use;*
- (d) *allow the site to be provided with sufficient access;*
- (e) *considers the proximity of the land to:*
 - (i) *centres;*
 - (ii) *public transport services; and*
 - (iii) *open space; and*
- (f) *allows for the protection of environmental features; and*
- (g) *accommodates site constraints.*

AO1.1

*Lots provide a minimum area and frontage in accordance with **Table 9.4.4.3B**.*

Comment

Existing Lot 6 on RP732287 has an area of 4.837 hectares which is significantly below the 60 hectares minimum area nominated in Table 9.4.4.3B.

Proposed Lots 1, 2 and 3 will have areas of 1.59 hectares, 1.62 hectares and 1.61 hectares respectively.

Despite their small lot size, the areas of proposed Lots 1, 2 and 3 are not significantly inconsistent with the smaller lot size of many of the allotments in the surrounding area.

The proposed reconfiguration does not significantly conflict with PO1 due to the established settlement pattern in this locality.

Conflicts with the Agricultural Land Overlay Code

PO1

*The fragmentation or loss of productive capacity of land within the 'Class A' area or 'Class B' area identified on the **Agricultural land overlay maps (OM-001a-n)** is avoided unless:*

- (a) an overriding need exists for the development in terms of public benefit;*
- (b) no suitable alternative site exists; and*
- (c) loss or fragmentation is minimised to the extent possible.*

AO1

*Buildings and structures are not located on land within the 'Class A' area or 'Class B' area identified on the **Agricultural land overlay maps (OM-001a-n)** unless they are associated with:*

- (a) animal husbandry; or*
- (b) animal keeping; or*
- (c) cropping; or*
- (d) dwelling house; or*
- (e) home based business; or*
- (f) intensive animal industry (only where for feedlotting); or*
- (g) intensive horticulture; or*
- (h) landing; or*
- (i) roadside stalls; or*
- (j) winery.*

Comment

The reconfiguration would create proposed Lots 2 and 3 as vacant rural allotments, each with accepted development rights to allow the construction of a dwelling house.

A future dwelling house on either Lot 2 or 3 could not be sited without a resulting loss of Class B area.

Council officers are not of the opinion that an overriding need exists for the development in terms of public benefit.

A significant supply of land for urban development is available within the nearby Mareeba township.

The proposed development is in conflict with PO1.

PO2

*Sensitive land uses in the 'Class A' area, 'Class B' area or the 'Broadhectare rural' area identified on the **Agricultural land overlay maps (OM-001a-n)** are designed and located to:*

- (a) avoid land use conflict;*
- (b) manage impacts from agricultural activities, including chemical spray drift, odour, noise, dust, smoke and ash;*
- (c) avoid reducing primary production potential; and*
- (d) not adversely affect public health, safety and amenity.*

Comment

The reconfiguration would create proposed Lots 2 and 3 as vacant rural allotments, each with accepted development rights to allow the construction of a dwelling house.

The planning scheme defines a dwelling house as a sensitive land use.

A future dwelling house on either Lot 2 or 3 could not be sited without a resulting loss of Class B area.

Siting additional dwelling houses within the Class B area will reduce primary production potential.

The proposed development is in conflict with PO2.

PO3

*Development in the 'Class A' area or 'Class B' area identified on the **Agricultural land overlay maps (OM-001a-n)**:*

- (a) ensures that agricultural land is not permanently alienated;*
- (b) ensures that agricultural land is preserved for agricultural purposes; and*
- (c) does not constrain the viability or use of agricultural land.*

Comment

The reconfiguration would create proposed Lots 2 and 3 as vacant rural allotments, each with accepted development rights to allow the construction of a dwelling house.

A future dwelling house on either Lot 2 or 3 could not be sited without a resulting loss of Class B area.

Siting additional dwelling houses within the Class B area will alienate that portion of land for the life of the dwelling house (@100 years).

The proposed development is in conflict with PO3.

PO6

*Any Reconfiguring a lot in the 'Class A' area, 'Class B' area or the 'Broadhectare rural' area identified on the **Agricultural land overlay maps (OM-001a-n)**, including boundary realignments, only occurs where it:*

- (a) improves agricultural efficiency;*
- (b) facilitates agricultural activity; or*
- (d) facilitates conservation outcomes; or*
- (d) resolves boundary issues where a structure is built over the boundary line of two lots.*

AO6

No acceptable outcome is provided.

Comment

The reconfiguration does not improve agricultural efficiency; does not facilitate agricultural activity; does not facilitate a conservation outcome; and does not resolve a boundary issue where a structure is built over the boundary.

The proposed development is in conflict with PO6.

It is recommended the application be refused due to the conflicts with the Agricultural Land Overlay Code.

Date Prepared: 9 April 2018

ATTACHMENT 1

PROPOSAL PLANS

ROL 1 LOT INTO 3: 393 EMERALD END ROAD, MAREEBA

