DELEGATED REPORT

SUBJECT: **FACAS PTY LTD - RECONFIGURING A LOT - SUBDIVISION (1 INTO 2 LOTS) - LOT 466 ON HG547 - 3225 MAREEBA-DIMBULAH ROAD, MUTCHILBA - RAL/18/0027**

DATE: 13 December 2018

REPORT OFFICER'S TITLE: Planning Officer

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	Facas Pty Ltd	**ADDRESS**	3225 Mareeba-Dimbulah Road, Mutchilba
DATE LODGED	6 September 2018	**RPD**	Lot 466 on HG547 Lot 291 on SP129914 (for access purposes only)
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Subdivision (1 into 2 lots)		

FILE NO	RAL/18/0027	**AREA**	Lot 466 - 141.2 hectares
LODGED BY	RPS Australia East Pty Ltd	**OWNER**	Lot 466 - Facas Pty Ltd
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural zone (Lot 466)		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	n/a		

ATTACHMENTS:
1. Proposal Plan/s
2. Department of State Development, Manufacturing, Infrastructure and Planning Referral Agency Response – 12 December 2018

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.

It has been assessed against the relevant statutory planning instruments, including the Regional Plan and the Planning Scheme and does not conflict with any relevant planning instrument.

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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	Facas Pty Ltd	**ADDRESS**	3225 Mareeba-Dimbulah Road, Mutchilba
DATE LODGED	6 September 2018	**RPD**	Lot 466 on HG547 Lot 291 on SP129914 (for access purposes only)
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Subdivision (1 into 2 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), concurrence agency conditions in (E), relevant period in (F), further permits in (G), and further approvals from Council listed in (H);

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 2 lots)

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
PR141152-1 A	Reconfiguration of a Lot - Plan of Lots 1 & 2	RPS	23/8/2018

(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 or the additional payment condition within these 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 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. A plan demonstrating compliance of any existing buildings or structures that are in close proximity to any new property boundary must be submitted prior to endorsement of the plan of survey.

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 Rural Addressing

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

3.8 Charges

All outstanding rates, charges and expenses pertaining to the land are to be paid in full.

4. Infrastructure Services and Standards

4.1 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.

(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) 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.

(c) 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.

(d) 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.

(e) 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) REFERRAL AGENCY CONDITIONS

Department of State Development, Manufacturing, Infrastructure and Planning Referral Agency Response dated 12 December 2018.

(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

- Nil

THE SITE

The subject land is described as Lot 466 on HG547, situated at 3225 Mareeba-Dimbulah Road, Mutchilba.

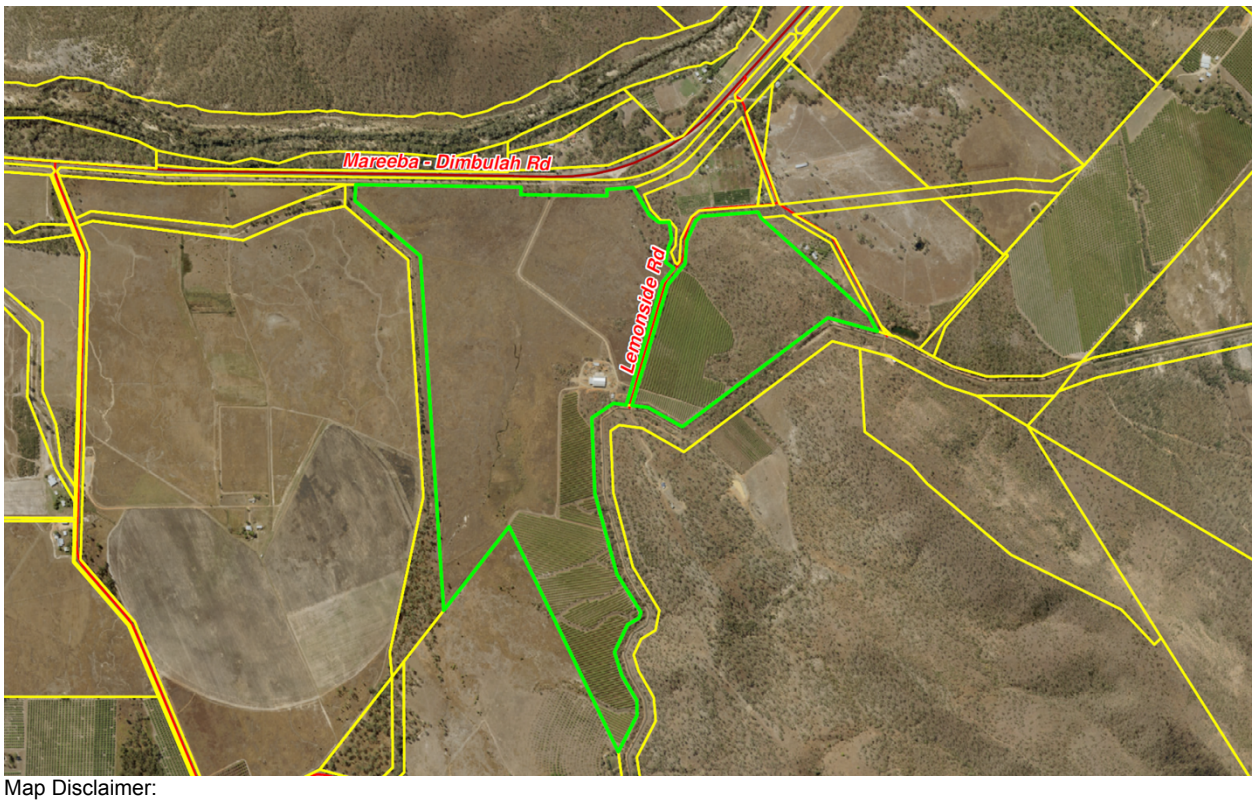
The land is irregular in shape, having an area of 141.2 hectares with a frontage of greater than 900 metres to Lemonside Road (gravel standard). Lemonside Road transects the subject land into two portions.

Primary access to the subject land is obtained via an established railway crossing (through Lot 291 on SP129914) allowing direct access onto the Mareeba-Dimbulah Road.

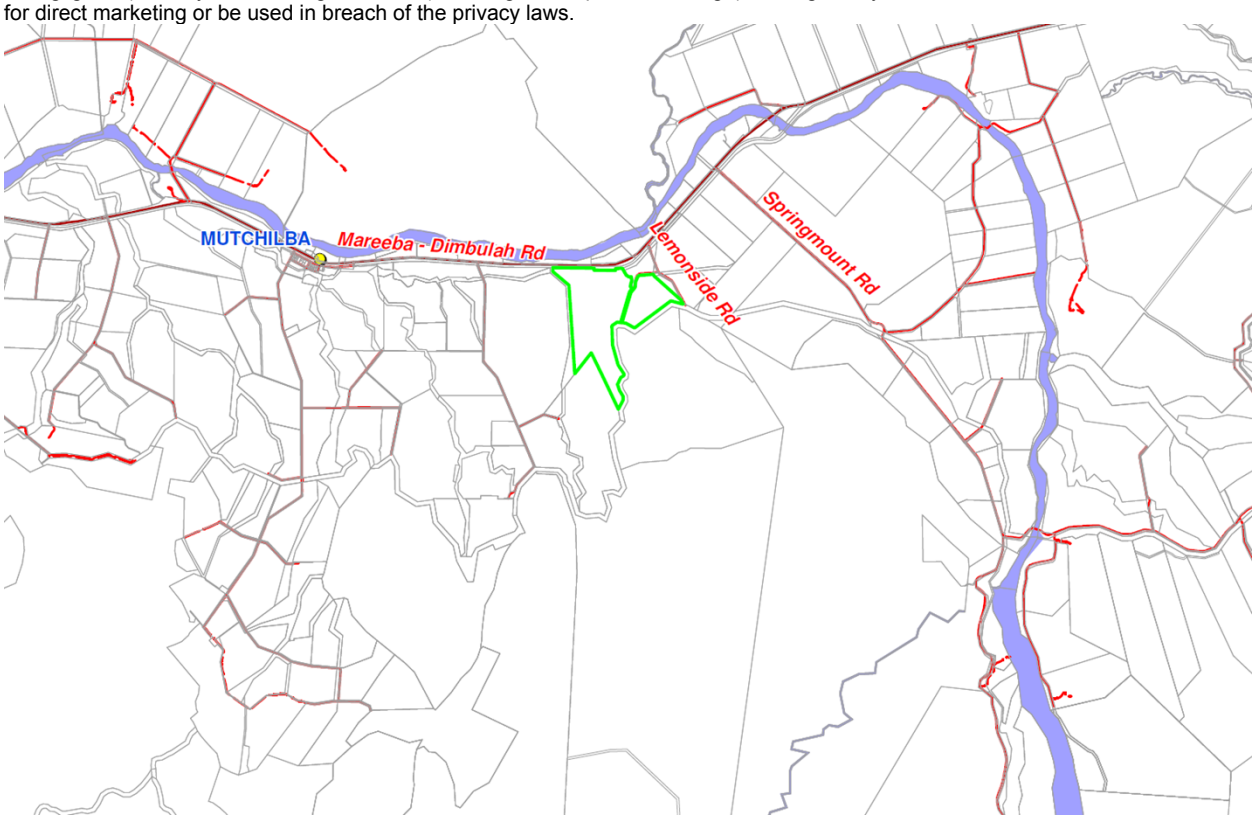
The south-eastern boundary of the subject land abuts the SunWater main channel.

The subject land contains approximately 35 hectares of established orchards, a large packing shed and a caretaker's residence. The remainder of the land consists of grassed paddock/s and a small section of rugged undeveloped land.

With the exception the the railway corridor, all surrounding allotments are zoned Rural under the Planning Scheme and are used primarily for rural purposes.



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 - Subdivision (1 into 2 lots) in accordance with the plans shown in **Attachment 1**.

The applicant proposes the subdivision of the subject site into the following allotments:

- Lot 1 area of 63.96 hectares, frontage in excess of 300 metres to Lemonside Road; and
- Lot 2 area of 77.25 hectares, frontage in excess of 300 metres to Lemonside Road and Lemonside Road East.

Proposed Lot 1 is will be divided into three (3) portions by the Lemonside Road road reserve. Proposed Lot 1 will contain the established orchard, packing shed and caretaker's residence.

Proposed Lot 2 is a single portion comprising of the large flat grassed paddock area.

Both proposed allotments will be accessed off the Mareeba Dimbulah Road via an established railway crossing. An access handle will link proposed Lot 1 to the railway crossing.

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 is:

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

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	**Land Use Categories** ▪ Rural Other ▪ Rural Agricultural Area **Natural Environment Elements** ▪ Ecological Corridor ▪ Habitat Linkage
Zone:	Rural zone
Overlays:	▪ Agricultural Land Overlay ▪ Bushfire Hazard Overlay ▪ Environmental Significance Overlay ▪ Flood Hazard 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
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
8.2.8 Hill and slope 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 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 solutions/performance outcomes contained within the code.
Agricultural land overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Bushfire hazard overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Environmental significance overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Flood hazard overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Hill and slope overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Transport infrastructure overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Landscaping code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Parking and access code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Reconfiguring a lot code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Works, services and infrastructure code	The application can be conditioned to comply with the relevant acceptable solutions/performance 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

Where relevant, conditions will be attached to any approval requiring all development works 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).

No trunk infrastructure will be adversely impacted by the proposed development.

REFERRALS

The application triggered a referral to the State Referral Agency for State transport corridor (railway corridor).

That Department advised in a response dated 12 December 2018 that they require the conditions to be attached to any approval **(Attachment 2**).

Internal Consultation

Technical Services

PLANNING DISCUSSION

Nil

Date Prepared: *13 December 2018*

DECISION BY DELEGATE

DECISION

Having considered the Planning Officer's report detailed above, I approve, as a delegate of Council, the application subject to the conditions listed in the report.

Dated the 13TH day of DECEMBER 2018

BRIAN MILLARD
SENIOR PLANNER

MAREEBA SHIRE
AS A DELEGATE OF THE COUNCIL

ATTACHMENT 1

PROPOSAL PLANS

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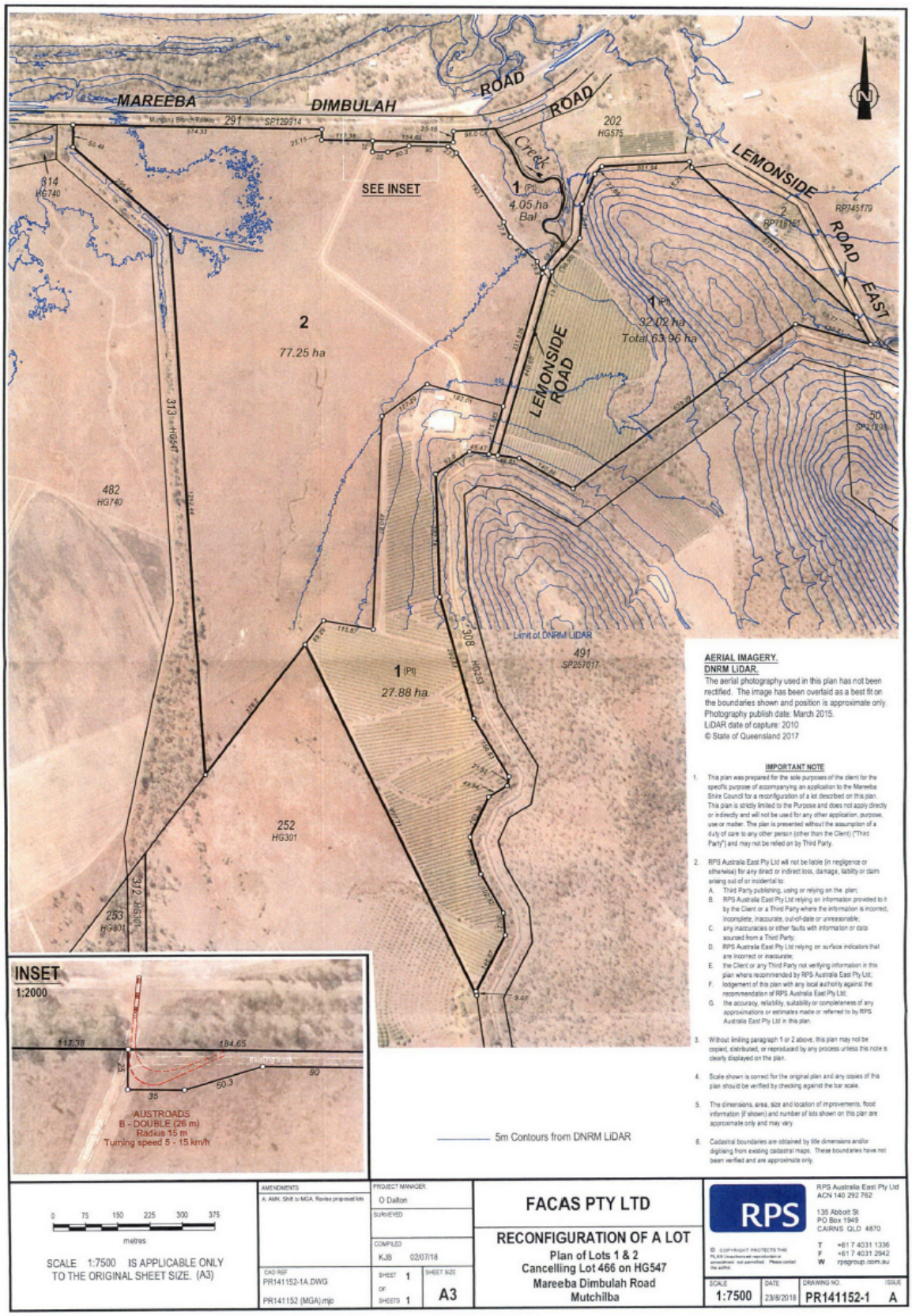

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ATTACHMENT 2

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Queensland Government

Department of
State Development, Manufacturing, Infrastructure and Planning

Our reference: 1809-7257 SRA
Council reference: RAL/18/0027
Applicant reference: PR141152

12 December 2018

Chief Executive Officer
Mareeba Shire Council
PO Box 154
Mareeba Qld 4880
planning@msc.qld.gov.au

Attention: Carl Ewin

Dear Sir/Madam

Referral agency response—with conditions
(Given under section 56 of the *Planning Act 2016*)

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning on 21 September 2018.

Applicant details

Applicant name:	Facas Pty Ltd c/- RPS Australia Pty Ltd
Applicant contact details:	135 Abbott Street Cairns QLD 4870 Stacey.Devaney@rpsgroup.com.au

Location details

Street address:	Byrnes Street, Mutchilba and 3225 Mareeba Dimbulah Road, Mutchilba
Real property description:	Lot 291 on SP129914 and Lot 466 on HG547
Local government area:	Mareeba Shire Council

Application details

Development permit	Reconfiguration of a Lot (1 Lot into 2 Lots)

Referral triggers

The development application was referred to the department under the following provisions of the

Far North Queensland regional office
Ground Floor, Cnr Grafton and Hartley Street, Cairns
PO Box 2358, Cairns QLD 4870

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Planning Regulation 2017:

- 10.9.4.2.1.1 State transport corridors and future State transport corridors

Conditions
Under section 56(1)(b)(i) of the *Planning Act 2016* (the Act), the conditions set out in Attachment 1 must be attached to any development approval.

Reasons for decision to impose conditions
The department must provide reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

Advice to the applicant
The department offers advice about the application to the applicant —see Attachment 3.

Approved plans and specifications
The department requires that the plans and specifications set out below and enclosed must be attached to any development approval.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Aspect of development: Reconfiguring a lot				
TMR Layout Plan (664 – 32.35km)	Queensland Government – Transport and Main Roads	6/12/2018	TMR18-25575 (500-1294)	A

A copy of this response has been sent to the applicant for their information.

For further information please contact Joanne Manson, Principal Planning Officer, SARA Far North QLD on 40373228 or via email CairnsSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely

Graeme Kenna
Manager (Planning)

cc Facas Pty Ltd, c/- RPS Australia (East) Pty Ltd, Stacey.Devaney@rpsgroup.com.au

enc Attachment 1—Conditions to be imposed
Attachment 2—Reasons for decision to impose conditions
Attachment 3—Advice to the applicant
Approved plans and specifications

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Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Reconfiguring a lot		
10.9.4.2.1.1 - State transport corridors and future State transport corridors —The chief executive administering the *Planning Act 2016* nominates the Director-General of the **Department of Transport and Main Roads** to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
1.	The road access location, is to be located generally in accordance with TMR Layout Plan (664 – 32.35km) prepared by Queensland Government Transport and Main Roads, dated 6/12/2018, File Reference TMR18-25575 (500-1294), Issue A.	At all times
2.	Any excavation, filling/backfilling/compaction, retaining structures, batters, stormwater management measures and other works involving ground disturbance must not encroach upon or de-stabilise the railway corridor, including all transport infrastructure or the land supporting this infrastructure, or cause similar adverse impacts	At all times
3.	(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the railway corridor. (b) Any works on the land must not: i. create any new discharge points for stormwater runoff onto the railway corridor; ii. interfere with and/or cause damage to the existing stormwater drainage on the railway corridor; iii. surcharge any existing culvert or drain on the railway corridor; iv. reduce the quality of stormwater discharge onto the railway corridor	(a) and (b) At all times
4.	Fencing sufficient to prevent unauthorised access by people, vehicles, projectiles, livestock or other animals must be provided along the site boundary with the railway corridor.	Prior to submitting the Plan of Survey to the Local Government for approval
5.	A valid Occupational Crossing Licence and Interface Agreement with the railway manager (Queensland Rail) must be retained for access over the Mareeba Mungana Railway (railway level crossing ID: 2353).	At all times

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Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

- To ensure the road access location to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road.
- To ensure the development and its construction does not cause adverse structural impacts on state-transport infrastructure.
- To ensure that the impacts of stormwater events associated with development are minimised and managed to avoid creating any adverse impacts on the state-transport corridor.
- To ensure that there is no unauthorised access onto the transport corridor and to protect impacts on the transport corridor.
- To ensure there is authorised access over the railway level crossing.

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Attachment 3—Advice to the applicant

General advice - Further development permits required	
Works on a railway	
1.	Pursuant to section 255 of the *Transport Infrastructure Act 1994*, the railway manager's written approval is required to carry out works in or on a railway corridor or otherwise interfere with the railway or its operations. In particular, the proposed development relies on emergency access via the railway corridor through private level crossing ID: 2353 on the Mareeba Mungana Railway. The executed Crossing Licence and Interface Agreement for the Management of Road/Rail Interface Risks between Queensland Rail Limited and Facas Pty Ltd is subject to certain conditions and validity restrictions. A valid Crossing Licence and Interface Agreement must exist at all times unless the crossing is permanently closed. This referral agency response does not constitute an approval under section 255 of the *Transport Infrastructure Act 1994*. Please contact Kate Rylands on telephone number (07) 3072 1229 or at developmentenquiries@qr.com.au in relation to this matter.

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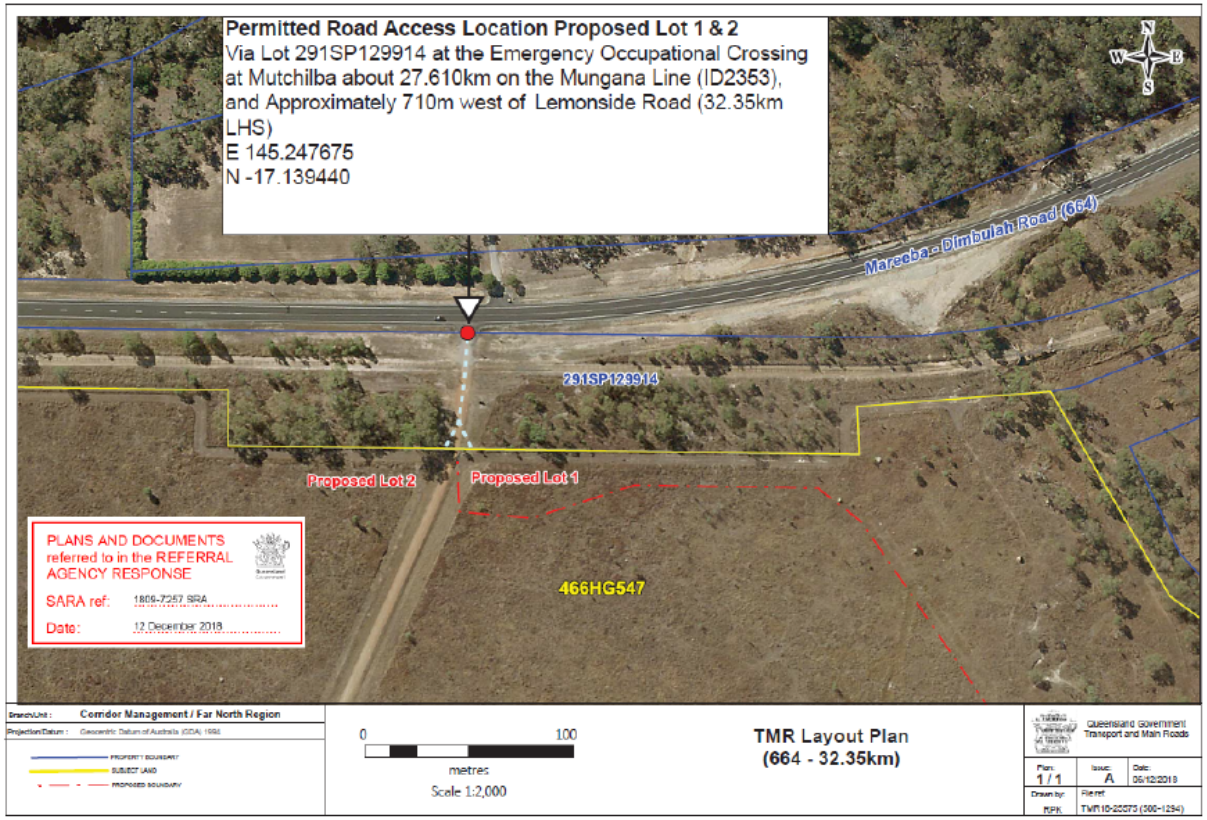
Approved plans and specifications