



**Hon Steven Miles MP**  
Deputy Premier  
Minister for State Development, Infrastructure,  
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Minister Assisting the Premier on Olympics Infrastructure

Our ref: MBN21/1473

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08 DEC 2021

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Mr Peter Franks  
Chief Executive Officer  
Mareeba Shire Council  
peter@msc.qld.gov.au

Dear Mr Franks

I wish to advise that I have exercised my powers under section 27 of the *Planning Act 2016* (the Planning Act) and made Temporary Local Planning Instrument No. 01 of 2021 (Subdivision in Rural zone) (TLPI 01/2021) to the planning scheme.

A copy of TLPI 01/2021 is enclosed and will take effect on the day Notice is given in the Queensland Government Gazette. The Department of State Development, Infrastructure, Local Government and Planning will provide you with a copy of this Notice.

On 1 December 2021, in accordance with section 27(2) of the Planning Act, I gave Notice of my intention to make the TLPI. This Notice enclosed a copy of my reasons for taking this action.


I consider there is a current significant risk of serious adverse economic and social conditions happening in the local government area and the delay involved in using the processes in sections 18 to 22 of the Planning Act to make or amend another local planning instrument would increase this risk.

I can confirm that TLPI 01/2021 will be in effect for two years. During this time, I expect Mareeba Shire Council (the council) to prioritise making amendments to the planning scheme to address the issues identified with rural subdivision provisions. I am disappointed that this has not already occurred.

In preparing the planning scheme amendment, the council should ensure that it is underpinned by appropriate studies and evidence to justify the position adopted by the council. I would also like to remind the council that the proposed amendment also needs to demonstrate that it appropriately integrates the state interests in the Far North Queensland Regional Plan 2009-2031 and the State Planning Policy.

If you require any further information regarding this matter, please contact Ms Danielle Cohen, Chief of Staff in my office, by email at [danielle.cohen@ministerial.qld.gov.au](mailto:danielle.cohen@ministerial.qld.gov.au) or by telephone on (07) 3719 7100.

Yours sincerely



**STEVEN MILES MP**  
**DEPUTY PREMIER**  
**Minister for State Development,**  
**Infrastructure, Local Government and Planning**  
**Minister Assisting the Premier on Olympics Infrastructure**

Enc

cc Councillor Angela Toppin  
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Mareeba Shire Council  
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# TEMPORARY LOCAL PLANNING INSTRUMENT No. 01 of 2021 (SUBDIVISION IN RURAL ZONE)

## *Mareeba Shire Council Planning Scheme 2016*

### **PART 1 – SHORT TITLE**

1. This Temporary Local Planning Instrument (TLPI) may be cited as TLPI 01/2021 (Subdivision in Rural zone)

### **PART 2 – OVERVIEW**

2.1 This TLPI provides an interim policy response to accord with the intent of the *Far North Queensland Regional Plan 2009 – 2031* (the Regional Plan) and to protect the values of Rural zoned land by restricting minimum lot size for Rural zoned land within the Mareeba Shire Council local government area.

2.2 This TLPI seeks to:

- (a) give effect to the state interests of certainty and transparency for the subdivision of land in the Rural zone; and
- (b) give effect to the Regional Plan by ensuring land in the Rural zone of the *Mareeba Shire Planning Scheme 2016* (the planning scheme) is not subdivided or reconfigured to create lots less than 60 hectares (ha).

### **PART 3 – PURPOSE OF THE TLPI**

3.1 The purpose of this TLPI is to regulate:

- (a) minimum lot size for land in the Rural zone in the planning scheme.

3.2 To achieve this purpose, the TLPI—

- (a) amends the level of assessment for a development application for reconfiguring a lot that seeks to create a lot less than 60ha in the Rural zone from code to impact assessment; and
- (b) includes assessment benchmarks (Strategic Framework, Rural zone code, Reconfiguring a Lot code) for subdivision within the Rural zone.

### **PART 4 – DURATION OF THE TLPI**

4.1 In accordance with section 9(3)(a) of the *Planning Act 2016* (the Planning Act) the effective day for the TLPI is the day on which public notice of the TLPI is published in the Queensland Government Gazette.

4.2 This TLPI will have effect in accordance with the Planning Act for a period not exceeding two years from the effective day or a longer period as may be permitted by law or unless otherwise repealed sooner.

### **PART 5 – INTERPRETATION**

5.1 Where a term used in the TLPI is not defined, the term shall have the meaning assigned to it by—

- (a) the planning scheme; or
- (b) the Planning Act where the term is not defined in the planning scheme.

5.2 To the extent of any inconsistency between the planning scheme and the TLPI or a planning scheme policy and the TLPI, the TLPI prevails.

#### **PART 6 – APPLICATION OF THE TLPI**

6.1 The TLPI only applies to reconfiguring a lot development applications for land zoned Rural in the Mareeba Shire Council local government area (the nominated development).

#### **PART 7 – EFFECT OF THE TLPI**

7.1 This TLPI is a local categorising instrument which sets out categories of assessment and assessment benchmarks against which assessable development must be considered.

7.2 For nominated development only:

- i. This TLPI suspends the following provisions of the planning scheme –
  - a. Part 3, Strategic Framework, Strategic outcomes 3.3.1(5); Element 3.3.4, Specific Outcome 3.3.4.1(4); Element 3.3.6, Specific Outcome 3.3.6.1(1); Element 3.3.11, Specific Outcome 3.3.11.1(1); Specific Outcome 3.3.11.1(2); Specific Outcome 3.3.11.1(4); Specific Outcome 3.3.11.1(5) and Strategic Outcomes 3.6.1(6);
  - b. Part 5, Section 5.6 - Categories of development and assessment - Reconfiguring a lot, Table 5.6.1 – Reconfiguring a lot;
  - c. Part 6, Section 6.2.9 – Rural zone code, Section 6.2.9.2 Purpose, Section (2)(f), overall outcomes (3)(a) and (3)(f);
  - d. Part 9, Section 9.4.4 – Reconfiguring a lot code, Section 9.4.4.2 Purpose, section (2)(d), (2)(i);
  - e. Part 9, Section 9.4.4 – Reconfiguring a lot code, Section 9.4.4.3, Table 9.4.4.3A, Reconfiguring a Lot code – For Assessable Development, Performance outcome – PO1 and Acceptable Outcome AO1.1;
- ii. This TLPI provides a category of assessment and assessment benchmarks at Schedule 1 – Reconfiguring a lot in Rural zone - Category of Assessment and Assessment Benchmarks;
- iii. This TLPI provides assessment benchmarks for the Strategic Framework, Rural zone code and Reconfiguring a lot code at Schedule 2 – Reconfiguring a lot in Rural zone – Assessment benchmarks.

**Schedule 1– Reconfiguring a lot in Rural zone – Category of Assessment and Assessment Benchmarks**

**1.1 Category of Assessment and Assessment Benchmarks**

Table 1.1.1—Reconfiguring a lot

<b>Zone</b>	<b>Categories of development and assessment</b>	<b>Assessment benchmarks for assessable development and requirements for accepted development</b>
<b>Rural zone</b>	<b>Impact assessment</b>	
	If creating a lot less than 60ha	The planning scheme
	<b>Code assessment</b>	
	If creating a lot 60ha or greater	Reconfiguring a lot code Relevant zone code Landscaping code Parking and access code Works, services and infrastructure code

## Schedule 2– Reconfiguring of a lot in Rural zone – Assessment Benchmarks

### 1.1 Strategic Framework

The following sections of the Strategic Framework are to apply as follows;

#### 1.2.1 Settlement pattern and built environment

##### 1.2.1.1 Strategic outcomes

This provision of the TLPI replaces Strategic Framework, Strategic outcome 3.3.1(5) of the planning scheme for the nominated development.

- (1) Primary industries in *Rural areas* are not compromised or fragmented by incompatible and/or unsustainable development, including but not limited to subdivision that results in a detrimental impact on rural productivity or fragments large land holdings. The valued, relaxed rural-character and scenic qualities of the *rural area* are preserved and enhanced. The *rural area* is largely maintained to its current extent, while accommodating development directly associated with or reliant on natural resources including rural activities and tourism. *Rural areas* protect the shire's *agricultural area* and ensure food security. *Other rural areas* predominantly remain agricultural grazing properties.
- (2) New subdivisions which propose lots less than the minimum lot size of 60ha are not supported within the Rural zone.

#### 1.2.2 Element—Village activity centre

##### 1.2.2.1 Specific outcomes

This provision of the TLPI replaces section Strategic Framework, Element 3.3.4, Specific Outcome 3.3.4.1(4) of the planning scheme for the nominated development.

- (1) Growth is focused within the Kuranda village. Further residential or rural residential development in the Myola corridor is not supported.

#### 1.2.3 Element—Rural villages

##### 1.2.3.1 Specific outcomes

This provision of the TLPI replaces Strategic Framework, Element 3.3.6, Specific Outcome 3.3.6.1(1) of the planning scheme for the nominated development.

- (1) Biboohra, Irvinebank, Julatten, Koah, Mutchilba, Mt Molloy, Myola and Speewah are rural villages that have limited centre activities and other non-residential activities. Some rural villages include small clusters of activity in which limited, small-scale development may occur. Any growth within rural villages is limited and is proportionate to their current scale and zoning intent. Further expansion of these villages is to only occur on land designated as urban footprint under the Regional Plan.

#### 1.2.4 Element—Rural areas

##### 1.2.4.1 Specific outcomes

This provision of the TLPI replaces Strategic Framework, Element 3.3.11, Specific Outcome 3.3.11.1(1), Specific Outcome 3.3.11.1(2), Specific Outcome 3.3.11.1(4), Specific Outcome 3.3.11.1(5) of the planning scheme for the nominated development.

- (1) Rural areas include rural activities and land uses of varying scale, consistent with surrounding rural land use, character and site conditions.
- (2) Land in rural areas is maintained in large (60ha or greater) lot sizes to ensure that regional landscape and rural production values are not compromised by fragmentation, alienation or incompatible land uses. Subdivision of land is not supported on lots less than 60ha in the Rural zone.
- (3) Other rural areas will be largely maintained in their current configuration, only being subdivided where large land holdings of 60ha or greater can be achieved and the infrastructure base of rural operations including workers accommodation, airstrips and farm infrastructure is provided.
- (4) Tourism, outdoor recreation, horticultural activities and natural bushland uses may be considered in other rural areas where appropriately located, serviced and otherwise consistent with the Strategic Framework.

## **1.2.5 Transport and infrastructure**

### **1.2.5.1 Strategic outcomes**

This provision of the TLPI replaces Strategic Framework, Strategic Outcome 3.6.1(6) of the planning scheme for the nominated development.

- (1) New development is appropriately sequenced and coordinated with existing and future water, wastewater, stormwater and transport infrastructure, to ensure the operations of existing infrastructure are not compromised and community needs continue to be met. New infrastructure is provided to development in accordance with the council's desired standards of service and supports a consolidated urban form to maximise return on investment. The ongoing operation of key infrastructure elements is not prejudiced by inappropriate development. Subdivision of land in the Rural zone to create lots less than 60ha is not consistent with facilitating appropriately sequenced and coordinated development.

## **1.3 Rural zone code**

This provision of the TLPI replaces Rural zone code, section 6.2.9.2 Purpose, Section (2)(f); overall outcome (3)(a) and overall outcome (3)(f) of the planning scheme for the nominated development.

### **1.3.1 Purpose**

- (1) Provide for a range of non-urban uses, compatible and associated with rural or ecological values including recreational pursuits and tourist activities.
- (2) Areas for use for primary production are conserved and new allotments below the minimum lot size identified in Table 9.4.4.3B is not supported.
- (3) Residential and other uses are appropriate only where directly associated with the rural nature of the zone.

## **1.4 Reconfiguring a lot code**

This provision of the TLPI replaces Reconfiguring a lot code, Section 9.4.4.2 Purpose, Section (2)(i) of the planning scheme for the nominated development.

### 1.4.1 Purpose

(1) Subdivision within the Rural zone maintains lots equal to or larger than 60ha.

### 1.4.2 Assessment Criteria

This provision of the TLPI replaces Reconfiguring a lot code, Section 9.4.4.3, Table 9.4.4.3A Reconfiguring of lot code – For Assessable Development, Performance outcome – PO1 and Acceptable Outcome AO1.1 of the Planning Scheme for the nominated development.

#### 1.4.2 Criteria for assessable development – Rural Zone

Performance outcomes	Acceptable outcomes
<b>Area and frontage of lots – Rural Zone</b>	
<p><b>PO1.1</b> No lots are created with an area of less than 60ha</p> <p>Note: This also applies to applications for boundary realignment.</p>	<p><b>AO1.1</b> No acceptable outcome is provided</p>
<p><b>PO1.2</b> No lots are created with a frontage less than 400m</p> <p>Note: This also applies to applications for boundary realignment.</p>	<p><b>AO1.2</b> No acceptable outcome is provided</p>
<p><b>PO1.3</b> Proposed lots are;</p> <ul style="list-style-type: none"> <li>a. Able to accommodate all buildings, structures and works associated with the rural use; and</li> <li>b. Suitable to allow the site to be provided with sufficient access</li> </ul> <p>Note: This also applies to applications for boundary realignment.</p>	<p><b>AO1.3</b> No acceptable outcome is provided</p>

*Note – The balance of the assessment criteria in the Reconfiguring a lot code will apply to the development application to the extent they are not suspended or replaced by this TLPI.*