

25 October 2023



Town Planning and Project Services

Chief Executive Officer
Douglas Shire Council
64-66 Front Street
MOSSMAN QLD 4873

Via email: enquiries@douglas.qld.gov.au

RE: DEVELOPMENT APPLICATION FOR RECONFIGURING A LOT (BOUNDARY REALIGNMENT) OVER LAND ON MOWBRAY RIVER ROAD, MOWBRAY, MORE FORMALLY DESCRIBED AS LOT 5212 ON NR479 AND LOT 15 ON C15766

Aspire Town Planning and Project Services act on behalf of Kathleen Beryl Berzinski (the 'Applicant' and 'Landowner') in relation to the above described Development Application.

On behalf of the Applicant, please accept this correspondence and the accompanying attachments as a properly made Development Application pursuant to Sections 50 and 51 of the *Planning Act 2016* seeking a Development Permit for Reconfiguring a Lot (Boundary Realignment).

Please find enclosed the following documentation associated with this Development Application:

- Duly completed DA Form 1 (Attachment 1);
- Town Planning Report (Attachment 2).

In accordance with Douglas Shire Council's 2023/24 Fee Schedule it is noted that the relevant Application Fee for a Boundary Realignment is \$1,061.00. We kindly ask that Council issues an Invoice to facilitate payment of the Application Fee directly by the Applicant.

Thank you for your time in considering the attached Development Application.

Regards,

Daniel Favier
Senior Town Planner
ASPIRE Town Planning and Project Services

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Attachment I

Duly completed DA Form I

DA Form 1 – Development application details

Approved form (version 1.3 effective 28 September 2020) made under section 282 of the Planning Act 2016.

This form **must** be used to make a development application **involving code assessment or impact assessment**, except when applying for development involving only building work.

For a development application involving **building work only**, use *DA Form 2 – Building work details*.

For a development application involving **building work associated with any other type of assessable development (i.e. material change of use, operational work or reconfiguring a lot)**, use this form (*DA Form 1*) and parts 4 to 6 of *DA Form 2 – Building work details*.

Unless stated otherwise, all parts of this form **must** be completed in full and all required supporting information **must** accompany the development application.

One or more additional pages may be attached as a schedule to this development application if there is insufficient space on the form to include all the necessary information.

This form and any other form relevant to the development application must be used to make a development application relating to strategic port land and Brisbane core port land under the *Transport Infrastructure Act 1994*, and airport land under the *Airport Assets (Restructuring and Disposal) Act 2008*. For the purpose of assessing a development application relating to strategic port land and Brisbane core port land, any reference to a planning scheme is taken to mean a land use plan for the strategic port land, Brisbane port land use plan for Brisbane core port land, or a land use plan for airport land.

Note: All terms used in this form have the meaning given under the Planning Act 2016, the Planning Regulation 2017, or the Development Assessment Rules (DA Rules).

PART 1 – APPLICANT DETAILS

1) Applicant details	
Applicant name(s) (individual or company full name)	Kathleen Beryl Berzinski
Contact name (only applicable for companies)	c/- Daniel Favier T/A Aspire Town Planning and Project
Postal address (P.O. Box or street address)	PO Box 1040
Suburb	Mossman
State	Queensland
Postcode	4873
Country	Australia
Contact number	0418 826 560
Email address (non-mandatory)	admin@aspireqld.com
Mobile number (non-mandatory)	
Fax number (non-mandatory)	
Applicant's reference number(s) (if applicable)	2023-09-79 - Berzinski - Mowbray River Road, Mowbray

2) Owner's consent	
2.1) Is written consent of the owner required for this development application?	
<input type="checkbox"/> Yes – the written consent of the owner(s) is attached to this development application	
<input checked="" type="checkbox"/> No – proceed to 3)	

PART 2 – LOCATION DETAILS

3) Location of the premises (complete 3.1) or 3.2), and 3.3) as applicable)

Note: Provide details below and attach a site plan for any or all premises part of the development application. For further information, see [DA Forms Guide: Relevant plans](#).

3.1) Street address and lot on plan

- ☒ Street address **AND** lot on plan (all lots must be listed), **or**
☐ Street address **AND** lot on plan for an adjoining or adjacent property of the premises (appropriate for development in water but adjoining or adjacent to land e.g. jetty, pontoon. All lots must be listed).

a)	Unit No.	Street No.	Street Name and Type	Suburb
			Mowbray River Road	Mowbray
	Postcode	Lot No.	Plan Type and Number (e.g. RP, SP)	Local Government Area(s)
	4877	15	C15766	Douglas Shire
b)	Unit No.	Street No.	Street Name and Type	Suburb
			Mowbray River Road	Mowbray
	Postcode	Lot No.	Plan Type and Number (e.g. RP, SP)	Local Government Area(s)
	4877	52	NR479	Douglas Shire

3.2) Coordinates of premises (appropriate for development in remote areas, over part of a lot or in water not adjoining or adjacent to land e.g. channel dredging in Moreton Bay)

Note: Place each set of coordinates in a separate row.

- ☐ Coordinates of premises by longitude and latitude

Longitude(s)	Latitude(s)	Datum	Local Government Area(s) (if applicable)
		<input type="checkbox"/> WGS84 <input type="checkbox"/> GDA94 <input type="checkbox"/> Other:	

- ☐ Coordinates of premises by easting and northing

Easting(s)	Northing(s)	Zone Ref.	Datum	Local Government Area(s) (if applicable)
		<input type="checkbox"/> 54 <input type="checkbox"/> 55 <input type="checkbox"/> 56	<input type="checkbox"/> WGS84 <input type="checkbox"/> GDA94 <input type="checkbox"/> Other:	

3.3) Additional premises

- ☐ Additional premises are relevant to this development application and the details of these premises have been attached in a schedule to this development application
☒ Not required

4) Identify any of the following that apply to the premises and provide any relevant details

- ☐ In or adjacent to a water body or watercourse or in or above an aquifer

Name of water body, watercourse or aquifer:

- ☐ On strategic port land under the *Transport Infrastructure Act 1994*

Lot on plan description of strategic port land:

Name of port authority for the lot:

- ☐ In a tidal area

Name of local government for the tidal area (if applicable):

Name of port authority for tidal area (if applicable):

- ☐ On airport land under the *Airport Assets (Restructuring and Disposal) Act 2008*

Name of airport:

<input type="checkbox"/> Listed on the Environmental Management Register (EMR) under the <i>Environmental Protection Act 1994</i>
EMR site identification: <input type="text"/>
<input type="checkbox"/> Listed on the Contaminated Land Register (CLR) under the <i>Environmental Protection Act 1994</i>
CLR site identification: <input type="text"/>

5) Are there any existing easements over the premises?

Note: Easement uses vary throughout Queensland and are to be identified correctly and accurately. For further information on easements and how they may affect the proposed development, see [DA Forms Guide](#).

- ☐ Yes – All easement locations, types and dimensions are included in plans submitted with this development application
- ☒ No

PART 3 – DEVELOPMENT DETAILS

Section 1 – Aspects of development

6.1) Provide details about the first development aspect

a) What is the type of development? *(tick only one box)*

- ☐ Material change of use ☒ Reconfiguring a lot ☐ Operational work ☐ Building work

b) What is the approval type? *(tick only one box)*

- ☒ Development permit ☐ Preliminary approval ☐ Preliminary approval that includes a variation approval

c) What is the level of assessment?

- ☒ Code assessment ☐ Impact assessment *(requires public notification)*

d) Provide a brief description of the proposal *(e.g. 6 unit apartment building defined as multi-unit dwelling, reconfiguration of 1 lot into 3 lots):*

Boundary Realignment

e) Relevant plans

Note: *Relevant plans are required to be submitted for all aspects of this development application. For further information, see [DA Forms guide: Relevant plans](#).*

- ☒ Relevant plans of the proposed development are attached to the development application

6.2) Provide details about the second development aspect

a) What is the type of development? *(tick only one box)*

- ☐ Material change of use ☐ Reconfiguring a lot ☐ Operational work ☐ Building work

b) What is the approval type? *(tick only one box)*

- ☐ Development permit ☐ Preliminary approval ☐ Preliminary approval that includes a variation approval

c) What is the level of assessment?

- ☐ Code assessment ☐ Impact assessment *(requires public notification)*

d) Provide a brief description of the proposal *(e.g. 6 unit apartment building defined as multi-unit dwelling, reconfiguration of 1 lot into 3 lots):*

e) Relevant plans

Note: *Relevant plans are required to be submitted for all aspects of this development application. For further information, see [DA Forms Guide: Relevant plans](#).*

- ☐ Relevant plans of the proposed development are attached to the development application

6.3) Additional aspects of development

- ☐ Additional aspects of development are relevant to this development application and the details for these aspects that would be required under Part 3 Section 1 of this form have been attached to this development application

- ☒ Not required

Section 2 – Further development details

7) Does the proposed development application involve any of the following?	
Material change of use	<input type="checkbox"/> Yes – complete division 1 if assessable against a local planning instrument
Reconfiguring a lot	<input checked="" type="checkbox"/> Yes – complete division 2
Operational work	<input type="checkbox"/> Yes – complete division 3
Building work	<input type="checkbox"/> Yes – complete <i>DA Form 2 – Building work details</i>

Division 1 – Material change of use

Note: This division is only required to be completed if any part of the development application involves a material change of use assessable against a local planning instrument.

8.1) Describe the proposed material change of use			
Provide a general description of the proposed use	Provide the planning scheme definition (include each definition in a new row)	Number of dwelling units (if applicable)	Gross floor area (m ²) (if applicable)
8.2) Does the proposed use involve the use of existing buildings on the premises?			
<input type="checkbox"/> Yes			
<input type="checkbox"/> No			

Division 2 – Reconfiguring a lot

Note: This division is only required to be completed if any part of the development application involves reconfiguring a lot.

9.1) What is the total number of existing lots making up the premises?	
2	
9.2) What is the nature of the lot reconfiguration? (tick all applicable boxes)	
<input type="checkbox"/> Subdivision (complete 10))	<input type="checkbox"/> Dividing land into parts by agreement (complete 11))
<input checked="" type="checkbox"/> Boundary realignment (complete 12))	<input type="checkbox"/> Creating or changing an easement giving access to a lot from a constructed road (complete 13))

10) Subdivision				
10.1) For this development, how many lots are being created and what is the intended use of those lots:				
Intended use of lots created	Residential	Commercial	Industrial	Other, please specify:
Number of lots created				
10.2) Will the subdivision be staged?				
<input type="checkbox"/> Yes – provide additional details below				
<input type="checkbox"/> No				
How many stages will the works include?				
What stage(s) will this development application apply to?				

11) Dividing land into parts by agreement – how many parts are being created and what is the intended use of the parts?				
Intended use of parts created	Residential	Commercial	Industrial	Other, please specify:
Number of parts created				

12) Boundary realignment			
12.1) What are the current and proposed areas for each lot comprising the premises?			
Current lot		Proposed lot	
Lot on plan description	Area (m ²)	Lot on plan description	Area (m ²)
Lot 15 on C15766	65,930	Proposed Lot 1	47,100
Lot 52 on NR479	107,420	Proposed Lot 2	127,500
12.2) What is the reason for the boundary realignment?			
Farm Management Purposes (alignment with existing paddocks, infrastructure and use)			

13) What are the dimensions and nature of any existing easements being changed and/or any proposed easement? (attach schedule if there are more than two easements)				
Existing or proposed?	Width (m)	Length (m)	Purpose of the easement? (e.g. pedestrian access)	Identify the land/lot(s) benefitted by the easement
Proposed	8m	Approx. 330m	Access	Proposed Lot 2

Division 3 – Operational work

Note: This division is only required to be completed if any part of the development application involves operational work.

14.1) What is the nature of the operational work?	
<input type="checkbox"/> Road work <input type="checkbox"/> Drainage work <input type="checkbox"/> Landscaping <input type="checkbox"/> Other – please specify:	<input type="checkbox"/> Stormwater <input type="checkbox"/> Earthworks <input type="checkbox"/> Signage <input type="checkbox"/> Water infrastructure <input type="checkbox"/> Sewage infrastructure <input type="checkbox"/> Clearing vegetation
14.2) Is the operational work necessary to facilitate the creation of new lots? (e.g. subdivision)	
<input type="checkbox"/> Yes – specify number of new lots:	
<input type="checkbox"/> No	
14.3) What is the monetary value of the proposed operational work? (include GST, materials and labour)	
\$	

PART 4 – ASSESSMENT MANAGER DETAILS

15) Identify the assessment manager(s) who will be assessing this development application
Douglas Shire Council
16) Has the local government agreed to apply a superseded planning scheme for this development application?
<input type="checkbox"/> Yes – a copy of the decision notice is attached to this development application <input type="checkbox"/> The local government is taken to have agreed to the superseded planning scheme request – relevant documents attached <input checked="" type="checkbox"/> No

PART 5 – REFERRAL DETAILS

17) Does this development application include any aspects that have any referral requirements?

Note: A development application will require referral if prescribed by the Planning Regulation 2017.

- ☐ No, there are no referral requirements relevant to any development aspects identified in this development application – proceed to Part 6

Matters requiring referral to the **Chief Executive of the Planning Act 2016:**

- ☐ Clearing native vegetation
- ☐ Contaminated land (*unexploded ordnance*)
- ☐ Environmentally relevant activities (ERA) (*only if the ERA has not been devolved to a local government*)
- ☐ Fisheries – aquaculture
- ☐ Fisheries – declared fish habitat area
- ☐ Fisheries – marine plants
- ☐ Fisheries – waterway barrier works
- ☐ Hazardous chemical facilities
- ☐ Heritage places – Queensland heritage place (*on or near a Queensland heritage place*)
- ☐ Infrastructure-related referrals – designated premises
- ☐ Infrastructure-related referrals – state transport infrastructure
- ☐ Infrastructure-related referrals – State transport corridor and future State transport corridor
- ☐ Infrastructure-related referrals – State-controlled transport tunnels and future state-controlled transport tunnels
- ☐ Infrastructure-related referrals – near a state-controlled road intersection
- ☐ Koala habitat in SEQ region – interfering with koala habitat in koala habitat areas outside koala priority areas
- ☐ Koala habitat in SEQ region – key resource areas
- ☐ Ports – Brisbane core port land – near a State transport corridor or future State transport corridor
- ☐ Ports – Brisbane core port land – environmentally relevant activity (ERA)
- ☐ Ports – Brisbane core port land – tidal works or work in a coastal management district
- ☐ Ports – Brisbane core port land – hazardous chemical facility
- ☐ Ports – Brisbane core port land – taking or interfering with water
- ☐ Ports – Brisbane core port land – referable dams
- ☐ Ports – Brisbane core port land – fisheries
- ☐ Ports – Land within Port of Brisbane's port limits (*below high-water mark*)
- ☐ SEQ development area
- ☐ SEQ regional landscape and rural production area or SEQ rural living area – tourist activity or sport and recreation activity
- ☐ SEQ regional landscape and rural production area or SEQ rural living area – community activity
- ☐ SEQ regional landscape and rural production area or SEQ rural living area – indoor recreation
- ☐ SEQ regional landscape and rural production area or SEQ rural living area – urban activity
- ☐ SEQ regional landscape and rural production area or SEQ rural living area – combined use
- ☐ Tidal works or works in a coastal management district
- ☐ Reconfiguring a lot in a coastal management district or for a canal
- ☐ Erosion prone area in a coastal management district
- ☐ Urban design
- ☐ Water-related development – taking or interfering with water
- ☐ Water-related development – removing quarry material (*from a watercourse or lake*)
- ☐ Water-related development – referable dams
- ☐ Water-related development – levees (*category 3 levees only*)
- ☐ Wetland protection area

Matters requiring referral to the **local government:**

- ☐ Airport land
- ☐ Environmentally relevant activities (ERA) (*only if the ERA has been devolved to local government*)

<input type="checkbox"/> Heritage places – Local heritage places
Matters requiring referral to the Chief Executive of the distribution entity or transmission entity:
<input type="checkbox"/> Infrastructure-related referrals – Electricity infrastructure
Matters requiring referral to:
<ul style="list-style-type: none"> • The Chief Executive of the holder of the licence, if not an individual • The holder of the licence, if the holder of the licence is an individual
<input type="checkbox"/> Infrastructure-related referrals – Oil and gas infrastructure
Matters requiring referral to the Brisbane City Council:
<input type="checkbox"/> Ports – Brisbane core port land
Matters requiring referral to the Minister responsible for administering the <i>Transport Infrastructure Act 1994</i>:
<input type="checkbox"/> Ports – Brisbane core port land <i>(where inconsistent with the Brisbane port LUP for transport reasons)</i>
<input type="checkbox"/> Ports – Strategic port land
Matters requiring referral to the relevant port operator , if applicant is not port operator:
<input type="checkbox"/> Ports – Land within Port of Brisbane's port limits <i>(below high-water mark)</i>
Matters requiring referral to the Chief Executive of the relevant port authority:
<input type="checkbox"/> Ports – Land within limits of another port <i>(below high-water mark)</i>
Matters requiring referral to the Gold Coast Waterways Authority:
<input type="checkbox"/> Tidal works or work in a coastal management district <i>(in Gold Coast waters)</i>
Matters requiring referral to the Queensland Fire and Emergency Service:
<input type="checkbox"/> Tidal works or work in a coastal management district <i>(involving a marina (more than six vessel berths))</i>

18) Has any referral agency provided a referral response for this development application?		
<input type="checkbox"/> Yes – referral response(s) received and listed below are attached to this development application		
<input checked="" type="checkbox"/> No		
Referral requirement	Referral agency	Date of referral response
Identify and describe any changes made to the proposed development application that was the subject of the referral response and this development application, or include details in a schedule to this development application <i>(if applicable)</i> .		

PART 6 – INFORMATION REQUEST

19) Information request under Part 3 of the DA Rules
<input checked="" type="checkbox"/> I agree to receive an information request if determined necessary for this development application
<input type="checkbox"/> I do not agree to accept an information request for this development application
Note: By not agreeing to accept an information request I, the applicant, acknowledge: <ul style="list-style-type: none"> • that this development application will be assessed and decided based on the information provided when making this development application and the assessment manager and any referral agencies relevant to the development application are not obligated under the DA Rules to accept any additional information provided by the applicant for the development application unless agreed to by the relevant parties • Part 3 of the DA Rules will still apply if the application is an application listed under section 11.3 of the DA Rules. Further advice about information requests is contained in the DA Forms Guide .

PART 7 – FURTHER DETAILS

20) Are there any associated development applications or current approvals? (e.g. a preliminary approval)

- ☐ Yes – provide details below or include details in a schedule to this development application
☒ No

List of approval/development application references	Reference number	Date	Assessment manager
<input type="checkbox"/> Approval <input type="checkbox"/> Development application			
<input type="checkbox"/> Approval <input type="checkbox"/> Development application			

21) Has the portable long service leave levy been paid? (only applicable to development applications involving building work or operational work)

- ☐ Yes – a copy of the receipted QLeave form is attached to this development application
☐ No – I, the applicant will provide evidence that the portable long service leave levy has been paid before the assessment manager decides the development application. I acknowledge that the assessment manager may give a development approval only if I provide evidence that the portable long service leave levy has been paid
☒ Not applicable (e.g. building and construction work is less than \$150,000 excluding GST)

Amount paid	Date paid (dd/mm/yy)	QLeave levy number (A, B or E)
\$		

22) Is this development application in response to a show cause notice or required as a result of an enforcement notice?

- ☐ Yes – show cause or enforcement notice is attached
☒ No

23) Further legislative requirements

Environmentally relevant activities

23.1) Is this development application also taken to be an application for an environmental authority for an **Environmentally Relevant Activity (ERA)** under section 115 of the *Environmental Protection Act 1994*?

- ☐ Yes – the required attachment (form ESR/2015/1791) for an application for an environmental authority accompanies this development application, and details are provided in the table below
☒ No

Note: Application for an environmental authority can be found by searching “ESR/2015/1791” as a search term at www.qld.gov.au. An ERA requires an environmental authority to operate. See www.business.qld.gov.au for further information.

Proposed ERA number:		Proposed ERA threshold:	
Proposed ERA name:			

- ☐ Multiple ERAs are applicable to this development application and the details have been attached in a schedule to this development application.

Hazardous chemical facilities

23.2) Is this development application for a **hazardous chemical facility**?

- ☐ Yes – Form 69: Notification of a facility exceeding 10% of schedule 15 threshold is attached to this development application
☒ No

Note: See www.business.qld.gov.au for further information about hazardous chemical notifications.

Clearing native vegetation

23.3) Does this development application involve **clearing native vegetation** that requires written confirmation that the chief executive of the *Vegetation Management Act 1999* is satisfied the clearing is for a relevant purpose under section 22A of the *Vegetation Management Act 1999*?

☐ Yes – this development application includes written confirmation from the chief executive of the *Vegetation Management Act 1999* (s22A determination)

☒ No

Note: 1. Where a development application for operational work or material change of use requires a s22A determination and this is not included, the development application is prohibited development.
2. See <https://www.qld.gov.au/environment/land/vegetation/applying> for further information on how to obtain a s22A determination.

Environmental offsets

23.4) Is this development application taken to be a prescribed activity that may have a significant residual impact on a **prescribed environmental matter** under the *Environmental Offsets Act 2014*?

☐ Yes – I acknowledge that an environmental offset must be provided for any prescribed activity assessed as having a significant residual impact on a prescribed environmental matter

☒ No

Note: The environmental offset section of the Queensland Government's website can be accessed at www.qld.gov.au for further information on environmental offsets.

Koala habitat in SEQ Region

23.5) Does this development application involve a material change of use, reconfiguring a lot or operational work which is assessable development under Schedule 10, Part 10 of the Planning Regulation 2017?

☐ Yes – the development application involves premises in the koala habitat area in the koala priority area

☐ Yes – the development application involves premises in the koala habitat area outside the koala priority area

☒ No

Note: If a koala habitat area determination has been obtained for this premises and is current over the land, it should be provided as part of this development application. See koala habitat area guidance materials at www.des.qld.gov.au for further information.

Water resources

23.6) Does this development application involve **taking or interfering with underground water through an artesian or subartesian bore, taking or interfering with water in a watercourse, lake or spring, or taking overland flow water under the Water Act 2000?**

☐ Yes – the relevant template is completed and attached to this development application and I acknowledge that a relevant authorisation or licence under the *Water Act 2000* may be required prior to commencing development

☒ No

Note: Contact the Department of Natural Resources, Mines and Energy at www.dnrme.qld.gov.au for further information.

DA templates are available from <https://planning.dsdmp.qld.gov.au/>. If the development application involves:

- Taking or interfering with underground water through an artesian or subartesian bore: complete DA Form 1 Template 1
- Taking or interfering with water in a watercourse, lake or spring: complete DA Form 1 Template 2
- Taking overland flow water: complete DA Form 1 Template 3.

Waterway barrier works

23.7) Does this application involve **waterway barrier works?**

☐ Yes – the relevant template is completed and attached to this development application

☒ No

DA templates are available from <https://planning.dsdmp.qld.gov.au/>. For a development application involving waterway barrier works, complete DA Form 1 Template 4.

Marine activities

23.8) Does this development application involve **aquaculture, works within a declared fish habitat area or removal, disturbance or destruction of marine plants?**

☐ Yes – an associated resource allocation authority is attached to this development application, if required under the *Fisheries Act 1994*

☒ No

Note: See guidance materials at www.daf.qld.gov.au for further information.

Quarry materials from a watercourse or lake

23.9) Does this development application involve the **removal of quarry materials from a watercourse or lake** under the *Water Act 2000*?

- ☐ Yes – I acknowledge that a quarry material allocation notice must be obtained prior to commencing development
☒ No

Note: Contact the Department of Natural Resources, Mines and Energy at www.dnrme.qld.gov.au and www.business.qld.gov.au for further information.

Quarry materials from land under tidal waters

23.10) Does this development application involve the **removal of quarry materials from land under tidal water** under the *Coastal Protection and Management Act 1995*?

- ☐ Yes – I acknowledge that a quarry material allocation notice must be obtained prior to commencing development
☒ No

Note: Contact the Department of Environment and Science at www.des.qld.gov.au for further information.

Referable dams

23.11) Does this development application involve a **referable dam** required to be failure impact assessed under section 343 of the *Water Supply (Safety and Reliability) Act 2008* (the Water Supply Act)?

- ☐ Yes – the 'Notice Accepting a Failure Impact Assessment' from the chief executive administering the Water Supply Act is attached to this development application
☒ No

Note: See guidance materials at www.dnrme.qld.gov.au for further information.

Tidal work or development within a coastal management district

23.12) Does this development application involve **tidal work or development in a coastal management district**?

- ☐ Yes – the following is included with this development application:
- ☐ Evidence the proposal meets the code for assessable development that is prescribed tidal work (*only required if application involves prescribed tidal work*)
 - ☐ A certificate of title
- ☒ No

Note: See guidance materials at www.des.qld.gov.au for further information.

Queensland and local heritage places

23.13) Does this development application propose development on or adjoining a place entered in the **Queensland heritage register** or on a place entered in a local government's **Local Heritage Register**?

- ☐ Yes – details of the heritage place are provided in the table below
☒ No

Note: See guidance materials at www.des.qld.gov.au for information requirements regarding development of Queensland heritage places.

Name of the heritage place:		Place ID:	
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Brothels

23.14) Does this development application involve a **material change of use for a brothel**?

- ☐ Yes – this development application demonstrates how the proposal meets the code for a development application for a brothel under Schedule 3 of the *Prostitution Regulation 2014*
☒ No

Decision under section 62 of the Transport Infrastructure Act 1994

23.15) Does this development application involve new or changed access to a state-controlled road?

- ☐ Yes – this application will be taken to be an application for a decision under section 62 of the *Transport Infrastructure Act 1994* (subject to the conditions in section 75 of the *Transport Infrastructure Act 1994* being satisfied)
☒ No

Walkable neighbourhoods assessment benchmarks under Schedule 12A of the Planning Regulation

23.16) Does this development application involve reconfiguring a lot into 2 or more lots in certain residential zones (except rural residential zones), where at least one road is created or extended?

☐ Yes – Schedule 12A is applicable to the development application and the assessment benchmarks contained in schedule 12A have been considered

☒ No

Note: See guidance materials at www.planning.dsdmip.qld.gov.au for further information.

PART 8 – CHECKLIST AND APPLICANT DECLARATION

24) Development application checklist

I have identified the assessment manager in question 15 and all relevant referral requirement(s) in question 17

☒ Yes

Note: See the Planning Regulation 2017 for referral requirements

If building work is associated with the proposed development, Parts 4 to 6 of [DA Form 2 – Building work details](#) have been completed and attached to this development application

☐ Yes

☒ Not applicable

Supporting information addressing any applicable assessment benchmarks is with the development application

Note: This is a mandatory requirement and includes any relevant templates under question 23, a planning report and any technical reports required by the relevant categorising instruments (e.g. local government planning schemes, State Planning Policy, State Development Assessment Provisions). For further information, see [DA Forms Guide: Planning Report Template](#).

☒ Yes

Relevant plans of the development are attached to this development application

Note: Relevant plans are required to be submitted for all aspects of this development application. For further information, see [DA Forms Guide: Relevant plans](#).

☒ Yes

The portable long service leave levy for QLeave has been paid, or will be paid before a development permit is issued (see 21)

☐ Yes

☒ Not applicable

25) Applicant declaration

☒ By making this development application, I declare that all information in this development application is true and correct

☒ Where an email address is provided in Part 1 of this form, I consent to receive future electronic communications from the assessment manager and any referral agency for the development application where written information is required or permitted pursuant to sections 11 and 12 of the *Electronic Transactions Act 2001*

Note: It is unlawful to intentionally provide false or misleading information.

Privacy – Personal information collected in this form will be used by the assessment manager and/or chosen assessment manager, any relevant referral agency and/or building certifier (including any professional advisers which may be engaged by those entities) while processing, assessing and deciding the development application. All information relating to this development application may be available for inspection and purchase, and/or published on the assessment manager's and/or referral agency's website.

Personal information will not be disclosed for a purpose unrelated to the *Planning Act 2016*, Planning Regulation 2017 and the DA Rules except where:

- such disclosure is in accordance with the provisions about public access to documents contained in the *Planning Act 2016* and the Planning Regulation 2017, and the access rules made under the *Planning Act 2016* and Planning Regulation 2017; or
- required by other legislation (including the *Right to Information Act 2009*); or
- otherwise required by law.

This information may be stored in relevant databases. The information collected will be retained as required by the *Public Records Act 2002*.

PART 9 – FOR COMPLETION OF THE ASSESSMENT MANAGER – FOR OFFICE USE ONLY

Date received: Reference number(s):

Notification of engagement of alternative assessment manager

Prescribed assessment manager	
Name of chosen assessment manager	
Date chosen assessment manager engaged	
Contact number of chosen assessment manager	
Relevant licence number(s) of chosen assessment manager	

QLeave notification and payment

Note: For completion by assessment manager if applicable

Description of the work	
QLeave project number	
Amount paid (\$)	Date paid (dd/mm/yy)
Date receipted form sighted by assessment manager	
Name of officer who sighted the form	

Attachment 2

Town Planning Report



Town Planning Report

MOWBRAY RIVER ROAD, MOWBRAY

23 October 2023

ASPIRE Town Planning and Project Services

Authored by: Daniel Favier

Ref: 2023-09-79 - Berzinski - Mowbray River Road, Mowbray

1.0 Introduction

This Town Planning Report accompanies a Development Application over land located on Mowbray River Road, Mowbray, more formally described as Lot 15 on C15766 and Lot 52 on NR479 (the “subject site”). The land is owned by Kathleen Beryl Berzinski (the “Landowner”), whom is also the “Applicant”.

The Development Application seeks approval for a Development Permit for Reconfiguring a Lot for a Boundary Realignment. The purpose of the development is to improve farm and estate management, and specifically includes the realignment of boundaries with existing paddocks, infrastructure and uses of the land.

Proposed Lot 1 is 4.71ha and contains the existing horse paddocks. No changes are proposed to the site access via Mowbray River Road or infrastructure contained within the lot or services.

Proposed Lot 2 is 17.75ha and aligns with the existing sugar cane paddock. Proposed Lot 2 is segregated by gazetted, unformed road, however this does not impact the function of the site. The gazetted road is constrained in terms of being able to likely provide feasible vehicle access. The Applicant has the option at a later stage to make an application for a road closure. The new common boundary between Proposed Lot 1 and 2 contains a curve in the boundary around the headland and vegetation, this has been designed intentionally to avoid SARA Vegetation Referral Triggers.

The proposed development is assessable development for which a Code Assessable Development Application is required to be made to Douglas Shire Council.

This Town Planning Report documents the proposed development and provides a comprehensive assessment of the proposed development against the applicable Statutory Town Planning Framework. The report consists of the following chapters:

- Section 2 describes the site over which the development application is made;
- Section 3 summarises the proposed development, which is further documented in the proposal plans provided as Attachment 2 – Proposal Plan to this report;
- Section 4 documents the Statutory Town Planning Framework applicable to the assessment of the Development Application; and

For the purposes of Section 51 of the *Planning Act 2016* a completed copy of DA Form 1 is provided within the Cover Letter.

2.0 Site Details and Characteristics

2.1 Site Details

The site details are outlined in **Table 1** below.

Table 1 – Site Details	
Address	Mowbray River Road, Mowbray
Real Property Description	Lot 15 on C15766 Lot 52 on NR479
Applicant	Kathleen Beryl Berzinski c/- Daniel Favier T/A Aspire Town Planning and Project Services
Registered Owners	Kathleen Beryl Berzinski Refer to Attachment 1 – Certificate of Title
Easements	Nil
Contaminated Land	To the best of knowledge, the site is not listed on the Environmental Management Register or the Contaminated Land Register
Local Government	Douglas Shire Council
Existing Use	Lot 15: Horse Paddocks and Sugar Cane Cultivation. Partly vegetated. Lot 52: Sugar Cane Cultivation. Largely vegetated.
Site Area	Lot 15: 6.593ha Lot 52: 10.742ha
Road Frontages	Lot 15: Mowbray River Road and unnamed and unformed Road Lot 52: Unnamed and unformed Road
Water Supply	To be confirmed. No changes proposed.
Sewerage	Nil. No new services proposed.
Stormwater	No formal drainage infrastructure.
Electricity	Existing. No new services proposed.
Telecommunications	Existing. No new services proposed.

1.1 Site Context

The subject sites are located within the suburb of Mowbray, approximately 350m south along the Mowbray River Road from the intersection with the Captain Cook Highway.

The subject sites are presently used for animal husbandry (horse paddocks) and agricultural (sugar cane cultivation) purposes. There is approximately 12ha of naturally vegetated and undulating land across both of the lots.

Notable surrounding features and land uses, includes:

- Other rural land uses and single detached Dwelling Houses to the north;
- Glengarry Caravan Park to the south and east; and
- Other vegetated and agricultural lots to the south and west.

An aerial image of the site is provided below at Figure 1 below.



Figure 1 Subject Site – Indicated by white shading (Source: QLD Globe, 2023)

3.0 Proposed Development

The Development Application seeks approval for a Development Permit for Reconfiguring a Lot for a Boundary Realignment. The purpose of the proposal is to improve farm and estate management, and specifically includes the realignment of boundaries with existing paddocks, infrastructure and uses of the land.

Proposed Lot 1 is 4.71ha and contains the existing horse paddocks. No changes are proposed to the site access via Mowbray River Road or infrastructure contained within the lot or services.

Proposed Lot 2 is 17.75ha and aligns with the existing sugar cane paddock. Proposed Lot 2 is segregated by gazetted, unformed road, however this does not impact the function of the site. The gazetted road is constrained in terms of being able to likely provide feasible vehicle access. The Applicant has the option at a later stage to make an application for a road closure. The new common boundary between Proposed Lot 1 and 2 contains a curve in the boundary around the headland and vegetation, this has been designed intentionally to avoid SARA Vegetation Referral Triggers.

Presently Lot 52 has frontage to gazetted road, however the road is not constructed (headland track only). It is proposed that Lot 2 (formerly Lot 52) will gain access via the unnamed road reserve extending off Palm Avenue. The existing headland access serves its purpose in providing access for farm machinery. We request that Council does not condition the upgrade of Palm Avenue and access to Proposed Lot 2, as the lot is to be used for land cultivation purposes only. It would be more appropriate that this access is constructed if, and when the land is developed for a Dwelling House.

The Applicant has considered an access easement through Proposed Lot 1, however preference is to not encumber this lot.



Figure 2 – Extract of the Proposal Plan

4.0 Statutory Town Planning Framework

4.1 Planning Act 2016

The *Planning Act 2016* ('the Planning Act') is the statutory instrument for the State of Queensland under which, amongst other matters, development applications are assessed by local governments. The Planning Act is supported by the *Planning Regulation 2017* ('the Planning Regulation').

The following sections of this report discuss the parts of the Planning Act and Planning Regulation applicable to the assessment of a development application.

4.1.1 *Approval and Development*

Pursuant to Sections 49, 50 and 51 of the Planning Act, the Development Application seeks a Development Permit for Reconfiguring a Lot.

4.1.2 *Application*

The proposed development is:

- Development which is located completely in a single local government area; and
- Is development made assessable under a local categorising instrument.

In accordance with Section 48 of the Planning Act, the development application is required to be made to the applicable local government, in this instance being Douglas Shire Council ('Council').

4.1.3 *Referral*

Sections 54 and 55 of the Planning Act and Schedule 10 of the Planning Regulation, require and provide for the identification of Referral Agencies of which a Development Application requires referral and to which a copy of the Development Application must be provided.

As illustrated on the Proposal Plans, the site is affected by mapped Of Concern and Endangered Regional Ecosystem. The proposed Boundary Realignment has been sited as to not create new exempt clearing works and therefore referral is **not required**.

4.1.4 *Public Notification*

Section 53 of the Planning Act provides that an applicant must give notice of a development application where any part is subject to Impact Assessment or where it is an application which includes a variation request.

The Development Application is subject to Code Assessment and therefore Public Notification of the Development Application is not required.

4.1.5 Assessment Framework

As discussed in this report, a Code Assessable development application is required in this instance. Section 45(3) of the Planning Act provides that:

- “(3) A code assessment is an assessment that must be carried out only—*
- (a) against the assessment benchmarks in a categorising instrument for the development; and*
 - (b) having regard to any matters prescribed by regulation for this paragraph.”*

The Douglas Shire Council Planning Scheme 2018 v1.0 (‘the Planning Scheme’), as the applicable local categorising instrument, is discussed in greater throughout this report.

Section 26 of the Planning Regulation provides the following assessment benchmarks for the purposes of Section 45(3)(a) of the Planning Act:

- “(1) For section 45(3)(a) of the Act, the code assessment must be carried out against the assessment benchmarks for the development stated in schedules 9 and 10.*
- (2) Also, if the prescribed assessment manager is the local government, the code assessment must be carried out against the following assessment benchmarks—*
- (a) the assessment benchmarks stated in—*
 - (i) the regional plan for a region, to the extent the regional plan is not identified in the planning scheme as being appropriately integrated in the planning scheme; and*
 - (ii) the State Planning Policy, part E, to the extent part E is not identified in the planning scheme as being appropriately integrated in the planning scheme; and*
 - (iii) any temporary State planning policy applying to the premises;*
 - (b) if the local government is an infrastructure provider—the local government’s LGIP.*
- (3) However, an assessment manager may, in assessing development requiring code assessment, consider an assessment benchmark only to the extent the assessment benchmark is relevant to the development.”*

Section 27 of the Planning Regulation provides matters for the purposes of Section 45(3)(b) of the Planning Act:

- “(1) For section 45(3)(b) of the Act, the code assessment must be carried out having regard to—*
- (a) the matters stated in schedules 9 and 10 for the development; and*
 - ...*
 - (d) if the prescribed assessment manager is a person other than the chief executive—*
 - (i) the regional plan for a region, to the extent the regional plan is not identified in the planning scheme as being appropriately integrated in*

- the planning scheme; and*
 - (ii) the State Planning Policy, to the extent the State Planning Policy is not identified in the planning scheme as being appropriately integrated in the planning scheme; and*
 - (iii) for designated premises—the designation for the premises; and*
 - (e) any temporary State planning policy applying to the premises; and*
 - (f) any development approval for, and any lawful use of, the premises or adjacent premises; and*
 - (g) the common material.*
- (2) *However—*
- (a) an assessment manager may, in assessing development requiring code assessment, consider a matter mentioned in subsection (1) only to the extent the assessment manager considers the matter is relevant to the development; and*
 - (b) if an assessment manager is required to carry out code assessment against assessment benchmarks in an instrument stated in subsection (1), this section does not require the assessment manager to also have regard to the assessment benchmarks.”*

The following sections of this report discuss the applicable assessment benchmarks and applicable matters in further detail.

4.2 Schedules 9 and 10 of the Planning Regulation 2017

As illustrated on the Proposal Plans, the site is affected by mapped Of Concern and Endangered Regional Ecosystem. The proposed Boundary Realignment has been sited as to not create new exempt clearing works and therefore referral is **not required**.

4.3 Far North Queensland Regional Plan 2009 – 2031

The Far North Queensland Regional Plan 2009 - 2031 ('the Regional Plan') is intended to guide and manage the region's development and to address key regional environmental, social, economic and urban objectives. The site falls within the area to which the Regional Plan applies.

The Minister has identified that the Planning Scheme, specifically the strategic framework, appropriately advances the Far North Queensland Regional Plan 2009-2031, as it applies in the planning scheme area.

4.4 State Planning Policy

The State Planning Policy ('the SPP') was released on 2 December 2013 and replaced all previous State Planning Policies. The SPP has since been revised, with new versions released on 2 July 2014, 29 April 2016 and 3 July 2017. The April 2016 version of the SPP is identified in the Planning Scheme as being appropriately integrated. Whilst the SPP has been amended since April 2016 version, it is considered that the policy content and outcomes contained within the SPP, to the extent they are relevant and applicable to the proposed development, have not been sufficiently amended to require the reconsideration of the SPP separately.

4.5 Temporary State Planning Policies

There are currently no temporary State Planning Policies in effect in Queensland.

4.6 Schedule 12A Planning Regulation

Schedule 12A of the Planning Regulation does not apply as the Development Application does not seek to create new road.

4.7 Douglas Shire Council Planning Scheme 2018 v1.0

The Planning Scheme came into effect on 2 January 2018 and is the applicable planning scheme to the Douglas Local Government Area. It is noted that the Planning Scheme was drafted under the *Sustainable Planning Act 2009* ('the SPA'). The interpretation of the Planning Scheme with respect to the proposed development is therefore based on the transitional provisions of the Planning Act.

4.7.1 Zone

The subject site is located within the Rural Zone. The purpose of the proposal is to improve farm and estate management, and specifically includes the realignment of boundaries with existing paddocks, infrastructure and uses of the land.

The proposed boundary realignment does not impact on the ongoing rural use of the land.

Under the circumstances it is submitted that the proposed development is consistent with the Purpose and Overall Outcomes of the Rural Zone.

4.7.2 Local Plan

The site is not included within an area to which a local plan applies under the Planning Scheme.

4.7.3 Overlays

The following Overlays are applicable to the subject site:

- Acid Sulfate Soils (5-20m AHD);
- Bushfire Hazard (Potential Impact Buffer; Medium Potential Bushfire Intensity);
- Landscape Value (High Landscape Value; Medium Landscape Value);
- Potential Landslide Hazard (High and Medium Hazard Risk);
- Natural Areas (MSES Regulated Vegetation); and
- Transport Network (Iconic Recreational Route).

The proposed development has been assessed against each of the above referenced Overlays and it is noted that, the proposed development:

- Does not involve earthworks that could potentially disturb potential or actual acid sulfate soils;
- Does not increase the risk of bushfire occurrence or severity, or risk to persons or property;
- Does not propose vegetation clearing or structures which would compromise the scenic landscape;
- Does not propose structures or earthworks that would exacerbate landslide risk;
- Does not propose vegetation clearing or any other works that would impact on natural areas; and
- Is not of a scale which would likely compromise the safety and function of the transport network.

Therefore a full documented assessment of the identified Overlay Codes is not included within this Development Application.

4.7.4 Categories of Development and Level of Assessment

The subject site is located within the Rural Zone. The Development Application is identified as Assessable Development, to which Code Assessment is applicable.

This category of development and assessment is not varied by any applicable overlay.

4.7.5 Applicable Codes

The following Planning Scheme codes are identified as being applicable and relevant to the assessment of the proposed development:

- Rural Zone Code;
- Access and Parking Code; and
- Reconfiguring a Lot Code.

The other identified codes within the Planning Scheme Table 5.6.J – Rural Zone are not considered applicable considering the nature and circumstances under which the Development Application is made.

A documented assessment against the above referenced relevant codes is included under **Attachment 3**.

5.0 Conclusion

This Town Planning Report accompanies a Development Application over land located on Mowbray River Road, Mowbray, more formally described as Lot 15 on C15766 and Lot 52 on NR479 (the “subject site”). The land is owned by Kathleen Beryl Berzinski (the “Landowner”), whom is also the “Applicant”.

The Development Application seeks approval for a Development Permit for Reconfiguring a Lot for a Boundary Realignment. The purpose of the proposal is for improved farm and estate management, and specifically includes the realignment of boundaries with existing paddocks, infrastructure and uses of the land.

The information provided in this report, and accompanying appendices, demonstrates that the proposed development achieves compliance with the applicable provisions of the statutory town planning framework.

Accordingly, it is recommended the Development Application be supported on the following grounds:

- The proposed Reconfiguration of a Lot is proposed for farm and estate management purposes, whilst maintaining the integrity of the and ongoing viability of the existing rural uses;
- The proposed Reconfiguration of a Lot is sympathetic to the natural environment and does not result in vegetation clearing or other environmental damage;
- The proposed Reconfiguration of a Lot is subject to Code Assessment and compliance has been demonstrated against the relevant Planning Scheme Assessment Benchmarks.
- The proposal generally complies and/or can be conditioned to comply with the relevant Planning Scheme Assessment Benchmarks.

We therefore recommend that Council favourably consider the proposed development and approve the Development Application, subject to reasonable and relevant conditions.

Attachment 1

Certificate of Title

Queensland Titles Registry Pty Ltd
ABN 23 648 568 101

Title Reference:	20024115	Search Date:	20/10/2023 11:43
Date Title Created:	17/05/1882	Request No:	46032338
Creating Dealing:			

ESTATE AND LAND

Estate in Fee Simple

LOT 15 CROWN PLAN C15766

Local Government: DOUGLAS

REGISTERED OWNER

Dealing No: 717178972 08/04/2016

KATHLEEN BERYL BERZINSKI

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by
Deed of Grant No. 10422227 (POR 15)

ADMINISTRATIVE ADVICES

NIL

UNREGISTERED DEALINGS

NIL

** End of Current Title Search **

Queensland Titles Registry Pty Ltd
ABN 23 648 568 101

Title Reference:	20157144	Search Date:	20/10/2023 11:43
Date Title Created:	07/03/1911	Request No:	46032338
Creating Dealing:			

ESTATE AND LAND

Estate in Fee Simple

LOT 52 CROWN PLAN NR479

Local Government: DOUGLAS

REGISTERED OWNER

Dealing No: 717178972 08/04/2016

KATHLEEN BERYL BERZINSKI

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by
Deed of Grant No. 20157144 (POR 52)

ADMINISTRATIVE ADVICES

NIL

UNREGISTERED DEALINGS

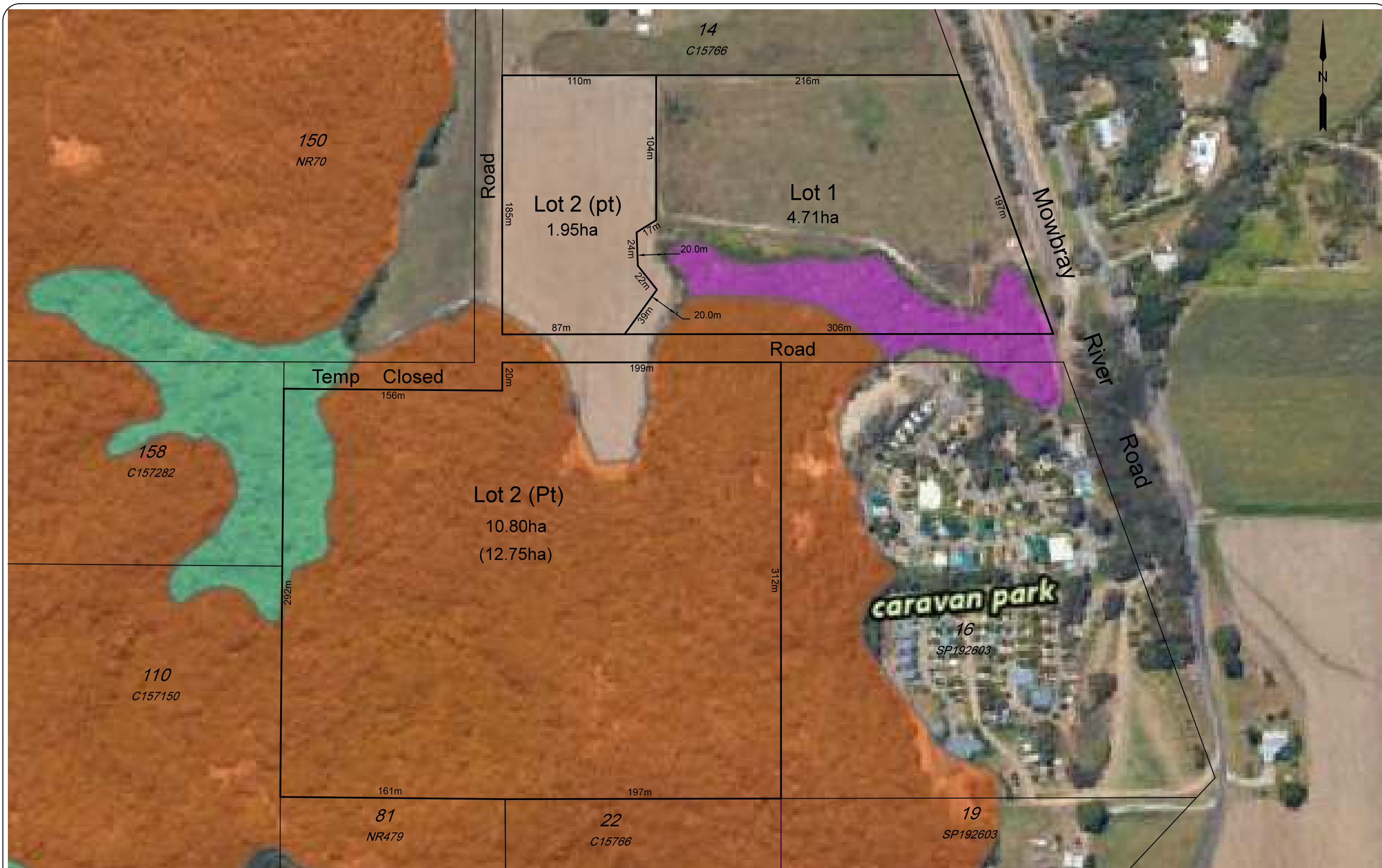
NIL

** End of Current Title Search **

Attachment 2

Proposal Plan





Attachment 3

Statement of Code Compliance

Douglas Shire Planning Scheme

6.2.10 Rural zone code

6.2.10.1 Application

- (1) This code applies to assessing development in the Industry zone.
- (2) When using this code, reference should be made to Part 5.

6.2.10.2 Purpose

- (1) The purpose of the Rural zone code is to provide for:
 - (a) provide for rural uses including cropping, intensive horticulture, intensive animal industries, animal husbandry, animal keeping and other primary production activities;
 - (b) provide opportunities for non-rural uses, such as ancillary tourism activities that are compatible with agriculture, the environmental features, and landscape character of the rural area where the uses do not compromise the long-term use of the land for rural purposes;
 - (c) protect or manage significant natural resources and processes to maintain the capacity for primary production.
- (2) The local government purpose of the code is to:
 - (a) implement the policy direction set in the Strategic Framework, in particular:
 - (i) Theme 2 : Environment and landscape values, Element 3.5.5 – Scenic amenity.
 - (ii) Theme 3 : Natural resource management, Element 3.6.2 – Land and catchment management, Element 3.6.3 Primary production, forestry and fisheries, Element 3.6.4 – Resource extraction.
 - (iii) Theme 5 Economy, Element 3.8.2 – Economic growth and diversification, Element 3.8.4 – Primary production.
 - (iv) Theme 6 : Infrastructure and transport, Element 3.9.4 – Transport.
 - (b) recognise the primacy of rural production, in particular sugar cultivation, and other farming practices in rural areas;
 - (c) provide protection to areas of ecological significance and scenic amenity significance where present.
- (3) The purpose of the code will be achieved through the following overall outcomes:
 - (a) Areas for use for primary production are conserved and fragmentation is avoided.
 - (b) Development embraces sustainable land management practices and contributes to the amenity and landscape of the area.
 - (c) Adverse impacts of land use, both on-site and on adjoining areas, are avoided and any unavoidable impacts are minimised through location, design, operation and management.
 - (d) Areas of remnant and riparian vegetation are retained or rehabilitated.

Criteria for assessment**Table 6.2.10.3.a – Rural zone code assessable development**

Performance outcomes	Acceptable outcomes	Applicant response
For self-assessable and assessable development		
PO1 The height of buildings is compatible with the rural character of the area and must not detrimentally impact on visual landscape amenity.	AO1.1 Dwelling houses are not more than 8.5 metres in height. Note – Height is inclusive of roof height. AO1.2 Rural farm sheds and other rural structures are not more than 10 metres in height.	Not Applicable. No new buildings or structures are proposed.
Setbacks		
PO2 Buildings and structures are setback to maintain the rural character of the area and achieve separation from buildings on adjoining properties.	AO2 Buildings are setback not less than: (a) 40 metres from the property boundary and a State-controlled road; (b) 25 metres from the property boundary adjoining Cape Tribulation Road; (c) 20 metres from the boundary with any other road; (d) 6 metres from side and rear property boundaries.	Not Applicable. No new buildings or structures are proposed.
PO3 Buildings/structures are designed to maintain the rural character of the area.	AO3 White and shining metallic finishes are avoided on external surfaces of buildings.	Not Applicable. No new buildings are proposed.
For assessable development		
PO4 The establishment of uses is consistent with the outcomes sought for the Rural zone and protects the zone from the intrusion of inconsistent uses.	AO4 Uses identified in Table 6.2.10.3.b are not established in the Rural zone.	Not Applicable. The Development Application is to support the reconfiguration of the land not a Material Change of Use.

Performance outcomes	Acceptable outcomes	Applicant response
PO5 Uses and other development include those that: (a) promote rural activities such as agriculture, rural enterprises and small scale industries that serve rural activities; or (b) promote low impact tourist activities based on the appreciation of the rural character, landscape and rural activities; or (c) are compatible with rural activities.	A05 No acceptable outcomes are prescribed.	Complies with PO5. The purpose of the development is to improve the way in which the land is managed. The proposed boundary realignment supports the ongoing use of the land for horse paddocks and cultivation.
PO6 Existing native vegetation along watercourses and in, or adjacent to areas of environmental value, or areas of remnant vegetation of value is protected.	A06 No acceptable outcomes are prescribed.	Complies with PO6. No vegetation damage or removal is proposed.
PO7 The minimum lot size is 40 hectares, unless (a) the lot reconfiguration results in no additional lots (e.g. amalgamation, boundary realignments to resolve encroachments); or (b) the reconfiguration is limited to one additional lot to accommodate: (i) Telecommunications facility; (ii) Utility installation.	A07 No acceptable outcomes are prescribed.	Complies with PO7. The resulting lots are less than the minimum prescribed 40ha, however the development includes a boundary realignment only and no new lots are created.

Table 6.2.10.3.b - Inconsistent uses within the Rural zone.

Inconsistent uses		
<ul style="list-style-type: none"> • Adult store • Bar • Brothel • Car wash • Child care centre • Club • Community care centre • Community residence • Detention facility, • Dual occupancy • Dwelling unit • Food and drink outlet • Hardware and trade supplies • Health care services • High impact industry 	<ul style="list-style-type: none"> • Hotel • Indoor sport and recreation • Low impact industry • Medium impact industry • Multiple dwelling • Nightclub entertainment facility • Non-resident workforce accommodation • Office • Outdoor sales • Parking station • Permanent plantation • Port services • Relocatable home park • Renewable energy facility, being a wind farm 	<ul style="list-style-type: none"> • Residential care facility • Resort complex • Retirement facility • Rooming accommodation • Sales office • Service station • Shop • Shopping centre • Short-term accommodation • Showroom • Special industry • Theatre • Warehouse

Note – This table does not imply that all other uses not listed in the table are automatically consistent uses within the zone. Assessable development must still demonstrate consistency through the assessment process.

9.4 Other development codes

9.4.1 Access, parking and servicing code

9.4.1.1 Application

- (1) This code applies to assessing:
 - (a) operational work which requires a compliance assessment as a condition of a development permit; or
 - (b) a material change of use or reconfiguring a lot if:
 - (i) self-assessable or assessable development where this code is identified in the assessment criteria column of the table of assessment;
 - (ii) impact assessable development, to the extent relevant.
- (2) When using this code, reference should be made to Part 5.

9.4.1.2 Purpose

- (1) The purpose of the Access, parking and servicing code is to assess the suitability of access, parking and associated servicing aspects of a development.
- (2) The purpose of the code will be achieved through the following overall outcomes:
 - (a) sufficient vehicle parking is provided on-site to cater for all types of vehicular traffic accessing and parking on-site, including staff, guests, patrons, residents and short term delivery vehicles;
 - (b) sufficient bicycle parking and end of trip facilities are provided on-site to cater for customer and service staff;
 - (c) on-site parking is provided so as to be accessible and convenient, particularly for any short term uses;
 - (d) development provides walking and cycle routes through the site which link the development to the external walking and cycling network;
 - (e) the provision of on-site parking, loading / unloading facilities and the provision of access to the site do not impact on the efficient function of street network or on the area in which the development is located;
 - (f) new vehicular access points are safely located and are not in conflict with the preferred ultimate streetscape character and local character and do not unduly disrupt any current or future on-street parking arrangements.

9.4.1.3 Criteria for assessment

Table 9.4.1.3.a – Access, parking and servicing code – assessable development

Performance outcomes	Acceptable outcomes	Applicant Response
For self-assessable and assessable development		
<p>PO1 Sufficient on-site car parking is provided to cater for the amount and type of vehicle traffic expected to be generated by the use or uses of the site, having particular regard to:</p> <ul style="list-style-type: none"> (a) the desired character of the area; (b) the nature of the particular use and its specific characteristics and scale; (c) the number of employees and the likely number of visitors to the site; (d) the level of local accessibility; (e) the nature and frequency of any public transport serving the area; (f) whether or not the use involves the retention of an existing building and the previous requirements for car parking for the building (g) whether or not the use involves a heritage building or place of local significance; (h) whether or not the proposed use involves the retention of significant vegetation. 	<p>AO1.1 The minimum number of on-site vehicle parking spaces is not less than the number prescribed in Table 9.4.1.3.b for that particular use or uses.</p> <p>Note - Where the number of spaces calculated from the table is not a whole number, the number of spaces provided is the next highest whole number.</p> <p>AO1.2 Car parking spaces are freely available for the parking of vehicles at all times and are not used for external storage purposes, the display of products or rented/sub-leased.</p> <p>AO1.3 Parking for motorcycles is substituted for ordinary vehicle parking to a maximum level of 2% of total ordinary vehicle parking.</p> <p>AO1.4 For parking areas exceeding 50 spaces parking, is provided for recreational vehicles as a substitute for ordinary vehicle parking to a maximum of 5% of total ordinary vehicle parking rate.</p>	<p>Not Applicable.</p>
<p>PO2 Vehicle parking areas are designed and constructed in accordance with relevant standards.</p>	<p>AO2 Vehicle parking areas are designed and constructed in accordance with Australian Standard:</p> <ul style="list-style-type: none"> (a) AS2890.1; (b) AS2890.3; (c) AS2890.6. 	<p>Alternative Solution Given the rural nature of the existing uses, formalised parking is not expected to be required.</p>



<p>PO3</p> <p>Access points are designed and constructed:</p> <ul style="list-style-type: none"> (a) to operate safely and efficiently; (b) to accommodate the anticipated type and volume of vehicles (c) to provide for shared vehicle (including cyclists) and pedestrian use, where appropriate; (d) so that they do not impede traffic or pedestrian movement on the adjacent road area; (e) so that they do not adversely impact upon existing intersections or future road or intersection improvements; (f) so that they do not adversely impact current and future on-street parking arrangements; (g) so that they do not adversely impact on existing services within the road reserve adjacent to the site; (h) so that they do not involve ramping, cutting of the adjoining road reserve or any built structures (other than what may be necessary to cross over a stormwater channel). 	<p>AO3.1</p> <p>Access is limited to one access cross over per site and is an access point located, designed and constructed in accordance with:</p> <ul style="list-style-type: none"> (a) Australian Standard AS2890.1; (b) Planning scheme policy SC6.5 – FNQROC Regional Development Manual - access crossovers. <p>AO3.2</p> <p>Access, including driveways or access crossovers:</p> <ul style="list-style-type: none"> (a) are not placed over an existing: <ul style="list-style-type: none"> (i) telecommunications pit; (ii) stormwater kerb inlet; (iii) sewer utility hole; (iv) water valve or hydrant. (b) are designed to accommodate any adjacent footpath; (c) adhere to minimum sight distance requirements in accordance with AS2980.1. <p>AO3.3</p> <p>Driveways are:</p> <ul style="list-style-type: none"> (a) designed to follow as closely as possible to the existing contours, but are no steeper than the gradients outlined in Planning scheme policy SC6.5 – FNQROC Regional Development Manual; (b) constructed such that where there is a grade shift to 1 in 4 (25%), there is an area with a grade of no more than 1 in 6 (16.6%) prior to this area, for a distance of at least 5 metres; (c) on gradients greater than 1 in 6 (16.6%) driveways are constructed to ensure the cross-fall of the driveway is one way and directed into the hill, for vehicle safety and drainage purposes; 	<p>Alternative Solution.</p> <p>It is not proposed to construct and formalise access to the land given the existing rural uses. If the land is built upon for a Dwelling House or other use at a future stage, then it would be reasonable to establish appropriate access at this stage.</p> <p>Access to Proposed Lot 1 would be via Mowbray River Road, whereas access to Proposed Lot 2 would be via the unnamed and unformed gazette road which extends off Palm Avenue.</p>
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	<p>(d) constructed such that the transitional change in grade from the road to the lot is fully contained within the lot and not within the road reserve;</p> <p>(e) designed to include all necessary associated drainage that intercepts and directs storm water runoff to the storm water drainage system.</p> <p>AO3.4 Surface construction materials are consistent with the current or intended future streetscape or character of the area and contrast with the surface construction materials of any adjacent footpath.</p>	
<p>PO4 Sufficient on-site wheel chair accessible car parking spaces are provided and are identified and reserved for such purposes.</p>	<p>AO4 The number of on-site wheel chair accessible car parking spaces complies with the rates specified in AS2890 Parking Facilities.</p>	Not Applicable.
<p>PO5 Access for people with disabilities is provided to the building from the parking area and from the street.</p>	<p>AO5 Access for people with disabilities is provided in accordance with the relevant Australian Standard.</p>	Not Applicable.
<p>PO6 Sufficient on-site bicycle parking is provided to cater for the anticipated demand generated by the development.</p>	<p>AO6 The number of on-site bicycle parking spaces complies with the rates specified in Table 9.4.1.3.b.</p>	Not Applicable.



<p>P07 Development provides secure and convenient bicycle parking which:</p> <ul style="list-style-type: none"> (a) for visitors is obvious and located close to the building's main entrance; (b) for employees is conveniently located to provide secure and convenient access between the bicycle storage area, end-of-trip facilities and the main area of the building; (c) is easily and safely accessible from outside the site. 	<p>AO7.1 Development provides bicycle parking spaces for employees which are co-located with end-of-trip facilities (shower cubicles and lockers);</p> <p>AO7.2 Development ensures that the location of visitor bicycle parking is discernible either by direct view or using signs from the street.</p> <p>AO7.3 Development provides visitor bicycle parking which does not impede pedestrian movement.</p>	<p>Not Applicable.</p>
<p>P08 Development provides walking and cycle routes through the site which:</p> <ul style="list-style-type: none"> (a) link to the external network and pedestrian and cyclist destinations such as schools, shopping centres, open space, public transport stations, shops and local activity centres along the safest, most direct and convenient routes; (b) encourage walking and cycling; (c) ensure pedestrian and cyclist safety. 	<p>AO8 Development provides walking and cycle routes which are constructed on the carriageway or through the site to:</p> <ul style="list-style-type: none"> (a) create a walking or cycle route along the full frontage of the site; (b) connect to public transport and existing cycle and walking routes at the frontage or boundary of the site. 	<p>Not Applicable .</p>
<p>P09 Access, internal circulation and on-site parking for service vehicles are designed and constructed:</p> <ul style="list-style-type: none"> (a) in accordance with relevant standards; 	<p>AO9.1 Access driveways, vehicle manoeuvring and on-site parking for service vehicles are designed and constructed in accordance with AS2890.1 and</p>	<p>Not Applicable.</p>

<p>(b) so that they do not interfere with the amenity of the surrounding area;</p> <p>(c) so that they allow for the safe and convenient movement of pedestrians, cyclists and other vehicles.</p>	<p>AS2890.2.</p> <p>AO9.2 Service and loading areas are contained fully within the site.</p> <p>AO9.3 The movement of service vehicles and service operations are designed so they:</p> <ul style="list-style-type: none"> (a) do not impede access to parking spaces; (b) do not impede vehicle or pedestrian traffic movement. 	
<p>PO10 Sufficient queuing and set down areas are provided to accommodate the demand generated by the development.</p>	<p>AO10.1 Development provides adequate area on-site for vehicle queuing to accommodate the demand generated by the development where drive through facilities or drop-off/pick-up services are proposed as part of the use, including, but not limited to, the following land uses:</p> <ul style="list-style-type: none"> (a) car wash; (b) child care centre; (c) educational establishment where for a school; (d) food and drink outlet, where including a drive-through facility; (e) hardware and trade supplies, where including a drive-through facility; (f) hotel, where including a drive-through facility; (g) service station. <p>AO10.2 Queuing and set-down areas are designed and constructed in accordance with AS2890.1.</p>	<p>Not Applicable.</p>

Table 9.4.1.3.b – Access, parking and servicing requirements

Note – Where the number of spaces is not a whole number, the number of spaces to be provided is the next highest whole number.

Note – Where the proposed development involves one or more land use, the minimum number of spaces for the proposed development will be calculated using the minimum number of spaces specified for each land use component.

9.4.7 Reconfiguring a lot code

9.4.7.1 Application

- (1) This code applies to assessing reconfiguring a lot if:
 - (a) assessable development where the code is an applicable code identified in the assessment criteria column of a table of assessment;
 - (b) impact assessable development, to the extent relevant.
- (2) When using this code, reference should be made to Part 5.

9.4.7.2 Purpose

- (1) The purpose of the Reconfiguring a lot code is to regulate development for reconfiguring a lot.
- (2) The purpose of the code will be achieved through the following overall outcomes:
 - (a) development results in a well-designed pattern of streets supporting walkable communities;
 - (b) lots have sufficient areas, dimensions and shapes to be suitable for their intended use taking into account environmental features and site constraints;
 - (c) road networks provide connectivity that is integrated with adjoining existing or planned development while also catering for the safe and efficient access for pedestrians, cyclists and for public transport;
 - (d) lots are arranged to front all streets and parkland such that development enhances personal safety, traffic safety, property safety and security; and contributes to streetscape and open space quality;
 - (e) development does not diminish environmental and scenic values, and where relevant, maintains and enhances public access and use of natural areas, rivers, dams, creeks and the foreshore, in a way that protects natural resources;
 - (f) people and property are not placed at risk from natural hazards;
 - (g) a range of functional parkland, including local and district parks, major areas of parkland with a region-wide focus and open space links are available for the use and enjoyment of residents and visitors to the region;
 - (h) the appropriate standard of infrastructure is provided.

9.4.7.3 Criteria for assessment

Table 9.4.7.3.a – Reconfiguring a lot code – assessable development

Performance outcomes	Acceptable outcomes	Applicant response
General lot design standards		
PO1 Lots comply with the lot reconfiguration outcomes of the applicable Zone code in Part 5.	AO1 No acceptable outcomes are prescribed.	Complies with PO1. Although the proposed lots are less than the prescribed minimum area, the development is for a boundary realignment only and does not result in creation of new lots.



PO2 New lots are generally rectangular in shape with functional areas for land uses intended by the zone.	AO2 Boundary angles are not less than 45 degrees.	Complies with AO2. The new boundary achieves angles of not less than 45 degrees.
PO3 Lots have legal and practical access to a public road.	AO3 Each lot is provided with: (a) direct access to a gazetted road reserve; or (b) access to a gazetted road via a formal access arrangement registered on the title.	Complies with AO3. Proposed Lot 1 has frontage to Mowbray River Road and Proposed Lot 2 has frontage to an unnamed and unformed road which extends off Palm Avenue.
PO4 Development responds appropriately to its local context, natural systems and site features.	AO4 Existing site features such as: (a) significant vegetation and trees; (b) waterways and drainage paths; (c) vistas and vantage points are retained and/or are incorporated into open space, road reserves, near to lot boundaries or as common property.	Complies with AO4. The proposed boundaries are located based on practical land requirements to contain the existing separate uses of the site.
PO5 New lots which have the capability of being further reconfigured into smaller lots at a later date are designed to not compromise ultimate development outcomes permitted in the relevant zone.	AO5 The ability to further reconfigure land at a later date is demonstrated by submitting a concept plan that meets the planning scheme requirements for the applicable Zone.	Not Applicable. It is not intended to further reconfigure the resulting lots.
PO6 Where existing buildings or structures are to be retained, development results in: (a) boundaries that offer regular lot shapes and usable spaces; (b) existing improvements complying with current building and amenity standards in relation to boundary setbacks. Note - This may require buildings or structures to be modified, relocated or demolished to meet setback standards, resolve encroachments and the like.	AO6 Development ensures setbacks between existing buildings or structures and proposed boundaries satisfy relevant building standards or zone code requirements, whichever is the greater.	Complies with AO6. The proposed development does not create any issues with respect to existing buildings and setbacks.



<p>PO7 Where rear lots are proposed, development:</p> <ul style="list-style-type: none"> (a) provides a high standard of amenity for residents and other users of the site and adjoining properties; (b) positively contributes to the character of adjoining properties and the area; (c) does not adversely affect the safety and efficiency of the road from which access is gained. 	<p>AO7.1 Where rear lots are to be established:</p> <ul style="list-style-type: none"> (a) the rear lot is generally rectangular in shape, avoiding contrived sharp boundary angles; (b) no more than 6 lots directly adjoin the rear lot; (c) no more than one rear lot occurs behind the road frontage lot; (d) no more than two access strips to rear lots directly adjoin each other; (e) access strips are located only on one side of the road frontage lot. <p>AO7.2 Access strips to the rear lot have a minimum width dimension of:</p> <ul style="list-style-type: none"> (a) 4.0 metres in Residential Zones. (b) 8.0 metres in Industrial Zones category. (c) 5.0 metres in all other Zones. <p>Note - Rear lots are generally not appropriate in non-Residential or non-Rural zones.</p> <p>AO7.3 Access strips are provided with a sealed pavement of sufficient width to cater for the intended traffic, but no less than:</p> <ul style="list-style-type: none"> (a) 3.0 metres in Residential Zone. (b) 6.0 metres in an Industrial Zone. (c) 3.5 metres in any other Zone. 	<p>Not Applicable.</p>
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Performance outcomes		Acceptable outcomes
Structure plans		
<p>Additional requirements for:</p> <p>(a) a site which is more than 5,000m² in any of the Residential zones; or</p> <p>within these zones, and</p> <p>(b) creates 10 or more lots; or</p> <p>(c) involves the creation of new roads and/or public use land.</p> <p>or</p> <p>(d) For a material change of use involving:</p> <p>(i) preliminary approval to vary the effect of the planning scheme;</p> <p>(ii) establishing alternative Zones to the planning scheme.</p> <p>Note - This part is to be read in conjunction with the other parts of the code</p>		
<p>PO8</p> <p>A structure plan is prepared to ensure that neighbourhood design, block and lot layout, street network and the location and provision on any open space recognises previous planning for the area and its surroundings, and integrates appropriately into its surroundings.</p>	<p>AO8.1</p> <p>Neighbourhood design, lot and street layout, and open space provides for, and integrates with, any:</p> <p>(a) approved structure plan;</p> <p>(b) the surrounding pattern of existing or approved subdivision.</p> <p>Note - Planning scheme policy SC14– Structure planning provides guidance on meeting the performance outcomes.</p> <p>AO8.2</p> <p>Neighbourhood design, lot and street layouts enable future connection and integration with adjoining undeveloped land.</p>	Not Applicable.

<p>PO9 Neighbourhood design results in a connected network of walkable streets providing an easy choice of routes within and surrounding the neighbourhood.</p>	<p>AO9.1 Development does not establish cul-de-sac streets unless:</p> <ul style="list-style-type: none"> (a) cul-de-sacs are a feature of the existing pattern of development in the area; (b) there is a physical feature or incompatible zone change that dictates the need to use a cul-de-sac streets. <p>AO9.2 Where a cul-de-sac street is used, it:</p> <ul style="list-style-type: none"> (a) is designed to be no longer than 150 metres in length; (b) is designed so that the end of the cul-de-sac is visible from its entrance; (c) provides connections from the top of the cul-de-sac to other streets for pedestrians and cyclists, where appropriate. <p>AO9.3 No more than 6 lots have access to the turning circle or turning-tee at the end of a cul-de-sac street.</p>	<p>Not Applicable.</p>
<p>PO10 Neighbourhood design supports diverse housing choices through block sizes and lot design. In developing areas, significant changes in lot size and frontage occur at the rear of lots rather than on opposite sides of a street.</p>	<p>PO10 No acceptable outcomes are prescribed.</p>	<p>Not Applicable.</p>
<p>PO11 Provision of physical and social infrastructure in developing residential neighbourhoods is facilitated through the orderly and sequential development of land.</p> <p>Note - Part 4 – Local government infrastructure plan may identify specific levels of infrastructure to be provided within development sites.</p>	<p>AO11.1 New development adjoins adjacent existing or approved urban development.</p> <p>AO11.2 New development is not established beyond the identified Local government infrastructure plan area.</p>	<p>Not Applicable.</p>
<p>Urban parkland and environmental open space</p>		



PO12 Where appropriate development maintains and enhances public access and use of natural areas, rivers, dams, creeks and the foreshore.	AO12 No acceptable outcomes are prescribed.	Not Applicable.
PO13 Development provides land to: (a) meet the recreation needs of the community; (b) provide an amenity commensurate with the structure of neighbourhoods and land uses in the vicinity; and adjacent to open space areas; (c) provide for green corridors and linkages.	AO13 No acceptable outcomes are prescribed. Note - Part 4 – Priority infrastructure plan and Planning scheme policy SC14 – Structure Plans provides guidance in providing open space and recreation land.	Not Applicable.

AO14

Lot size, dimensions, frontage and orientation permits buildings to be established that will facilitate casual surveillance to urban parkland and environmental open space.

AO14.1

Urban parkland is regular in shape.

AO14.2

At least 75% of the urban parkland's frontage is provided as road.

AO14.3

Urban parkland and environmental open space areas are positioned to be capable of being overlooked by surrounding development.

AO14.4

Surrounding lots are orientated so that facades will front and overlook the urban parkland and environmental open space.

AO14.5

The number of lots that back onto, or are side-orientated to the urban parkland and environmental open space is minimised.



Inconsistent design solution - low total number of lots complying with the acceptable outcomes.

Not Applicable.



Lots orientated to front and overlook park to provide casual surveillance.

Consistent design solution - high total number of lots complying with the acceptable outcomes.

Private subdivisions (gated communities)

PO15

Private subdivisions (gated communities) do not compromise the establishment of connected and integrated infrastructure and open space networks.

PO15

No acceptable outcomes are prescribed.

Not Applicable.

Additional requirements for reconfiguration involving the creation of public streets or roads

PO16

The function of new roads is clearly identified and legible and provides integration, safety and convenience for all users.

AO16

No acceptable outcomes are prescribed.

Note - The design and construction standards are set out in Planning scheme policy SC5 – FNQROC Regional Development Manual, with reference to the specifications set out in Sections D1 and D3.

Not Applicable.

PO17

Street design supports an urban form that creates walkable neighbourhoods. Street design:

- (a) is appropriate to the function(s) of the street;
- (b) meets the needs of users and gives priority to the needs of vulnerable users.

AO17

No acceptable outcomes are prescribed.

Not Applicable.

Public transport network



PO18 Development provides a street pattern that caters for the extension of public transport routes and infrastructure including safe pedestrian pick-up and set-down up facilities.	AO18 No acceptable outcomes are prescribed.	Not Applicable.
Pest plants		
PO19 Development activities and sites provide for the removal of all pest plants and implement ongoing measures to ensure that pest plants do not reinfest the site or nearby sites. Editor's note - This does not remove or replace all land owner's obligations or responsibilities under the Land Protection (Pest and Stock Route Management) Act 2002.	AO19 Pest plants detected on a development site are removed in accordance with a management plan prepared by an appropriately qualified person prior to earthworks commencing. Note - A declaration from an appropriately qualified person validates the land being free from pest plants. Declared pest plants include locally declared and State declared pest plants.	Complies with PO19. Pest plants are managed as result of the existing use of the land although not under a formal management plan. Given the nature of the proposed development this is not likely to result in infestation or spread of pest plants or raise concerns.