

11. CHIEF EXECUTIVE OFFICER

ADDITIONAL AGENDA ITEM:

**11.4.KAYE IRELAND- RECONFIGURING A LOT (1 LOT INTO 4 LOTS) - LOT 1
RP724474 - 121 WELCH ROAD BARRINE - RAL23/0020**


REPORT DETAIL

Report Author: Planning Officer

Department: Development Services

APPLICATION DETAILS:

Applicant:	Kaye Ireland
Applicant Reference:	J001549: KDI: JKM
Landowner:	Kaye Ireland
Proposal:	Development Permit for Reconfiguring a Lot (1 lot into 4 lots)
Properly Made Date:	14 June 2023
Street Address:	121 Welch Road, Barrine
RP Description:	Lot 1 on RP724474
Lot Area:	15.27Ha
Planning Scheme:	Tablelands Regional Council Planning Scheme 2016 (v4)
Designations:	Strategic Framework: Natural Areas Rural (Agricultural land) Local Plan: NA Zone: Rural zone (Agricultural Land Precinct) Applicable Overlays: Bushfire Environmental Flood Slope Water Catchment
Assessment Type:	Impact
Number of Submissions:	Five
Referral Agencies:	None applicable
Referred Internal Specialists:	Nil
Recommendation:	Refuse



ATTACHMENTS: 1. Plan of Development

EXECUTIVE SUMMARY

Council is in receipt of a development application described in the above application details. The application for the Reconfiguring a Lot is Impact assessable and has been assessed against the relevant statutory planning instruments, including the entire Tablelands Regional Council Planning Scheme 2016 (v4) to the extent relevant. The assessment has identified that the proposed development conflicts with the relevant planning instruments and that there are not sufficient grounds to approve the development despite the conflict. It is recommended that the application be refused.

OFFICER'S RECOMMENDATION

“That Council refuse the development application for Reconfiguring a Lot (1 Lot into 4 Lots) over land described as Lot 1 on RP724474 located at 121 Welch Road, Barrine for the following reasons:

1. The proposed development conflicts with Strategic Framework Specific Outcome 3.3.1.4 which seeks to ensure that Rural residential development is contained within identified rural residential areas to prevent further fragmentation and alienation of agricultural land.
2. The proposed development conflicts with Strategic Framework Specific Outcome 3.3.1.6 which seeks to ensure that rural areas are retained in the current lot configuration for primary industry.
3. The proposed development conflicts with Strategic Framework Specific Outcome 3.3.11.1.1 as it will result in the fragmentation of rural land.
4. The proposed development conflicts with Strategic Framework Specific Outcome 3.3.12.1.1 as it will result in regional landscape and rural production values being compromised by subdivision.
5. The proposed development conflicts with Strategic Framework Specific Outcome 3.3.12.1.3 as it will fragment land identified as Good Quality Agricultural Land of Class A Agricultural Land Classification.
6. The proposed development conflicts with Strategic Framework Specific Outcome 3.3.12.1.7 as rural areas preserve land for future uses beyond the life of the planning scheme.
7. The proposed development conflicts with Overall Outcome (j) of the Reconfiguring a lot code as the development does not seek to maintain rural landholdings in viable parcels.
8. The proposed development conflicts with Performance Outcome PO1 of the Reconfiguring a lot code as it does it would result in lots of insufficient area and dimensions



to:

- a. be consistent with the existing or desired amenity of the Rural zone;
 - b. accommodate land uses intended within the Rural zone.
9. The proposed development conflicts with Performance Outcome PO13 of the Reconfiguring a lot code as it seeks to create small lots for rural lifestyle or rural residential purposes.
10. The proposed development conflicts with Purpose of the Rural zone code, as the development:
- a. will not protect the rural character and scenic amenity of the region;
 - b. will not protect Agricultural land from fragmentation, alienation and degradation;
 - c. does not protect the declared catchment area of Lake Tinaroo ;
 - d. does not preserve land in large holdings;
11. The proposed development conflicts with the Water resource catchment overlay code as the development proposed involves on-site sewerage disposal within 400m from the Lake Tinaroo full dam level.
12. The proposed development conflicts with the requirements of the Regional Landscape and Rural Production Area of the Far North Queensland Regional Plan 2009-2031 in that larger lot sizes are promoted to ensure economic viability of rural land holdings, and to protect important agricultural lands and areas of ecological significance from encroachment by urban and rural residential development.
13. The proposed development does not comply with the requirements of the State Planning Policy in that the site is identified as Agricultural Land Classification Class A and Class B, which is identified as land to be protected for sustainable agricultural use, by avoiding fragmentation and avoiding development that will have an irreversible impact.
14. Compliance with the Strategic Framework and Assessment Benchmarks cannot be achieved through the imposition of lawful development conditions.

ASSESSMENT MANAGER'S ADVICE

Not applicable.

REFERRAL AGENCY CONDITIONS

Not applicable.

THE SITE



Figure 1: Subject site (Source: Queensland Globe 2023)

Land Area:	15.27ha
Existing Use of Land:	Dwelling house
Road Frontage:	550m total frontage (~270m gravel road and ~280m unformed)
Significant Site Features:	Lake frontage to Lake Tinaroo
Topography:	Site slopes towards north, south and western extent to Lake Tinaroo
Surround Land Uses:	Grazing, equine breeding and agistment, Dwelling houses. Lot sizes of neighbouring properties on Welch Road range between ~3Ha and 27Ha

DESCRIPTION OF PROPOSED DEVELOPMENT

The proposed development involves the subdivision of land to create four (4) lots at the subject site with the following configuration:

- Proposed Lot 11 – 3.717ha
- Proposed Lot 12 – 4.174ha
- Proposed Lot 13 – 3.562ha
- Proposed Lot 14 – 3.824ha

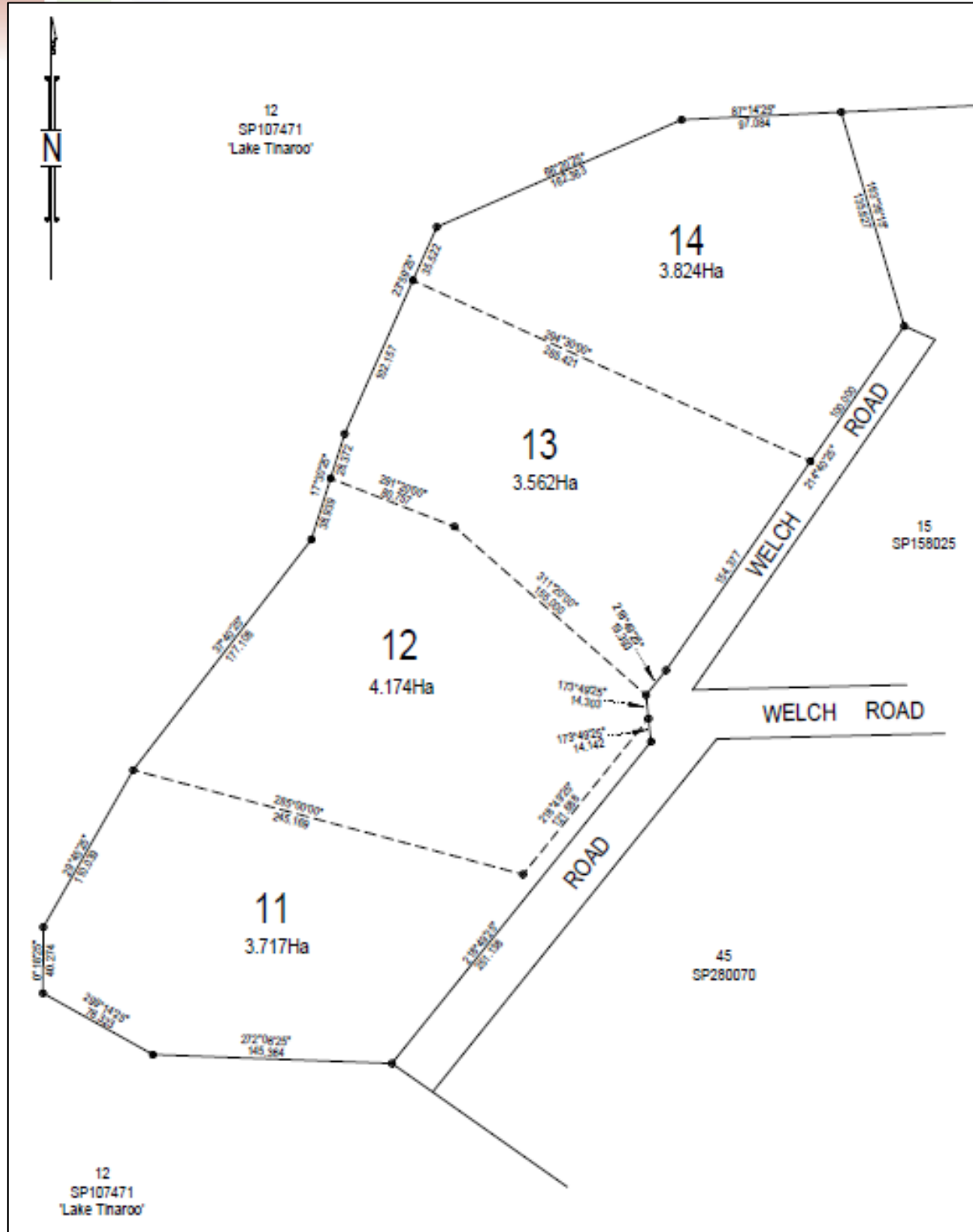


Figure 2: Proposed lot layout

BACKGROUND AND CONTEXT

The site is generally regular in shape and is located at the end of Welch Road and is accessed via a single lane gravel road, with only 40m of Welch Road being sealed from the junction with Russell Pocket Road.

The site contains a Dwelling house and associated outbuildings/structures and has an onsite wastewater treatment system and water is supplied via a bore.

The subject premises were included in the Rural zone – 8ha precinct in the superseded Atherton Shire Planning Scheme.

PREVIOUS APPLICATIONS & APPROVALS

There are no previous planning approvals.

The landowner submitted a prelodgement enquiry to Council in December 2022 with Council officers advising that the development conflicted with Council's planning scheme, the Far North Queensland Regional Plan and State Planning Policy and was not supported by Council officers. Notwithstanding this advice, the application was made to Council with supporting information.

PUBLIC NOTIFICATION

The development proposal was placed on public notification from 26 July 2023 to 17 August 2023. The applicant submitted the notice of compliance on 21 August 2023 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

Five properly made submissions were received and four of those objected to the proposed development. One of the submissions objecting to the proposed development is in the form of a petition signed by four people. The submission received from Sunwater does not state a position regarding the proposed development.

The grounds for objection/support are summarised and commented on below:

Grounds for submission	Comment
Concerns regarding conflicting statements and the accuracy of information in the application material	<p>The submissions raise concerns regarding the application. Eg. <i>"The subject site does not have a direct frontage to Lake Tinaroo..."; "In this instance, the proposed development is for a Reconfiguration of a Lot with no additional works proposed.;" "The proposed development will create four (4) Lots enabling future infill development for Rural Residential purposes."</i></p> <p>The application states that building envelopes are provided for each lot however no plans are provided. This aspect was raised in the information request with the applicant's response stating that <i>"Building envelopes can be refined at a further stage, the imposition of such can be conditioned by Council."</i></p>

	Council's assessment of the application identified these inconsistencies in the application material.
Welch Road condition	The submissions raise concerns regarding Welch Road as the road should be widened and have a bitumen surface to cater for additional traffic.
Welch Road and Russell Pocket Road safety concerns	The submissions raise concerns regarding the intersection of Welch Road and Russell Pocket Road and Russell Pocket Road generally. The submissions request that a safety audit be undertaken for Russell Pocket Road due to the frequent "near misses" occurring.
Conflict with the Regional Plan 2009-2031	The submissions raise that the proposed development conflicts with the Regional Plan. The conflicts with the Regional Plan are addressed in the planning report.
Conflict with the Rural zone and precedent for other land in the Rural zone to be subdivided	The submissions raise that approval of the proposed development would set a precedent for other land in the Rural zone to be subdivided into lots less than 60ha. The submissions cite the cumulative impacts that such development would have on the amenity, road safety, water resource catchment.
Conflict with the Strategic Framework	The submissions raise that the proposed development conflicts with the Strategic Framework. The conflicts are addressed in the planning report.
Impact on amenity	The submissions raise that the proposed development will have a impact on the amenity of the surrounding area. The impact of smaller lot sizes within the Rural zone is addressed in the planning report.
Additional watercraft on the bank of Lake Tinaroo at each lot	The submissions raise concerns about the impact on amenity and the environment as a result of additional lots having access to Lake Tinaroo.
Use of lots for self-contained recreational vehicles	The submissions raise concerns that the proposed lots may be used for tourism purposes with recreational vehicles. The submissions cite aspects of amenity and environmental impact occurring from the lack of services being of concern.
Conflict with the Water Resource Catchment Overlay	The submissions raise concerns regarding the potential environmental impact as the proposed lots are all within the 400m setback to Lake Tinaroo.
Stormwater drainage impacting the flood margin land or Lake Tinaroo.	The submission from Sunwater requests that any future stormwater design for the site be provided to Sunwater.

Properly Made Submitters

Name of principal submitter	Address	Email address (if provided)
1. Melissa and Craig Kello	P.O. Box 435 Yungburra	melissapeltzer@hotmail.com

2.	Sunwater	PO Box 15536, City East, Queensland 4002	property@sunwater.com.au
3.	Heath John Taylor	15 Slalom Ridge, Barrine Qld 4872	
4.	Yvette Ellen Reghenzani	25 Wakeboard Alley, Barrine Qld 4872	
5.	Rolf Straatemeier (Principal Petitioner)	9 Wakeboard Alley Barrine Qld 4872	

FURTHER INFORMAITON AND MATERIAL

In addition to the material provided as part of the application, further information and material was received in relation to the proposal during the assessment of the application.

The further information and material provided included responses to an information request, submissions received on the application and Officers concerns with the proposal. All of the other material has been noted and considered during the assessment of the application and Officers responses are generally captured in planning discussion provided below.

ASSESSMENT FRAMEWORK

An assessment of the proposed development against the relevant planning instruments is summarised as follows:

State Planning Policy 2017

The previous State Planning Policy April 2016 which is currently integrated into Council's planning scheme was replaced on 3 July 2017 (State Planning Policy (SPP) 2017).

The SPP July 2017 identifies 17 state interests in land-use planning and development and these interests are grouped into 5 broad themes:

- Liveable communities
- Economic growth
- Environment and heritage
- Safety and resilience to hazards
- Infrastructure

Whilst the application has been assessed as substantially complying with the SPP July 2017, the proposed development conflicts with the State interests relevant to Planning for economic growth – agriculture.

The site is identified as Agricultural Land Classification Class A and Class B, which is identified as land to be protected for sustainable agricultural use, by avoiding fragmentation and avoiding development that will have an irreversible impact.

Regional Plan 2009-2031

The Regional Plan is reflected by the Tablelands Regional Council Planning Scheme 2016 (as amended). However, the proposed development conflicts with the requirements of the Regional Landscape and Rural Production Area of the Far North Queensland Regional Plan 2009-2031 in that larger lot sizes are promoted to ensure economic viability of rural land holdings, and to protect important agricultural lands and areas of ecological significance from encroachment by urban and rural residential development.

Tablelands Regional Council Planning Scheme 2016 (v4) Designations

Strategic Plan designation:	Natural Areas Rural (Agricultural land)
Priority Infrastructure Area:	Not within the Priority Infrastructure Area
Zone:	Rural zone (Agricultural Land Precinct)
Local Area Plan:	None applicable
Overlays:	Bushfire Environmental Flood Slope Water Catchment

Strategic Framework

The strategic framework sets the policy direction for the Planning Scheme and forms the basis for ensuring appropriate development occurs over the life of the Planning Scheme. The Strategic Framework is the highest-order component of the Planning Scheme and prevails over all other components to the extent of any inconsistency. The Strategic Framework sections are less prescriptive than the lower-order scheme requirements such as codes.

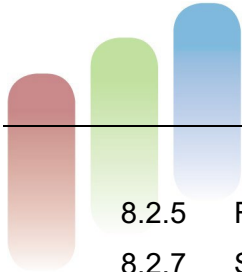
Where there are particular non-compliances with elements of the strategic framework, Officers cannot support applications.

The Strategic Framework is only applicable for the assessment of Impact Assessable development, such as the subdivision of land within the Rural zone to create a lot less than 60Ha. Although the proposal is compliant with the majority of the Strategic Framework, significant non-compliance exists as the development seeks to fragment land identified as Agricultural Land Classification Class A and Class B.

Relevant Zone, Overlay and Development Codes

The following are considered to be applicable to the assessment of the application:

- Part 6 6.2.1 Rural zone code
- Part 8 8.2.2 Bushfire hazard overlay code
- 8.2.3 Environmental significance overlay code



- 8.2.5 Flood investigation area overlay code
- 8.2.7 Slope overlay code
- 8.2.8 Water resource catchment overlay code
- Part 9 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.4 Reconfiguring a lot code
- 9.4.5 Works, services and infrastructure code

The application included an assessment against the planning scheme. An officer assessment has found that the application conflicts with a number of assessment benchmarks, and represents a significant departure from the planning intent for the site, as discussed in further detail below.

Planning Scheme Policies

PSP 4 FNQROC Regional Development Manual

This policy applies to the proposal and is generally achieved through conditions and any resulting operational works.

PSP 11 Separating Agriculture from other land uses

PLANNING DISCUSSION

The application to Council included a Land Suitability Assessment to assess the suitability of the subject site for agricultural uses, grazing and plantation timber production. The evaluation criteria applied in the Assessment conclude that the site is marginal or unsuitable for such uses and is therefore suitable for subdivision. In addition to not considering the broader land use intent for land in the Rural zone, the Assessment does not acknowledge the presence of rural land uses in the vicinity of the subject site and concludes that *“the properties immediately adjoining this lot are lifestyle blocks with no commercial agricultural production, so subdivision of this lot into lifestyle blocks would fit with the surrounding properties”*.

East of the subject site is an equine agistment and training centre which is a land use consistent with the Rural zone. Although other non-commercial rural land uses are in proximity to the subject site, the presence of such uses does not justify the subdivision of the subject site into lot sizes more akin to the Rural residential zone.

The land use pattern, and lot arrangements in the locality immediately surrounding the subject land is noted however it is not considered consistent with the subdivided lot arrangement sought by the proposal. The residential development along Barefoot Boulevard and Old Boar Pocket Road are similar to that consistent with the subdivided lot arrangement sought, however the balance of land in the area surrounding the subject site are of a larger lot arrangement and land use pattern that is consistent with expectations for the Rural zone expectations.

Council recognises the importance of primary production to the economy of the region and to maintain and strengthen the range of primary industries which contribute to the rural economy. Rural land in the Region operates as a network which it is more than the sum of its parts. As such, the Tablelands Region Planning Scheme seeks to achieve this through the following:

- recognising the diversity of rural uses that exists throughout the region,
- protecting Agricultural land from fragmentation, alienation and degradation,
- providing for a range of uses, compatible and associated with rural activities;
- preserving land in large holdings; and
- preserve land for future uses beyond the life of the planning scheme.

The final point is a pertinent one, the Applicant states that the subject premises do not have access to non-potable water to support or sustain genuine productive agricultural use. The proposal is irrevocable, insofar as if the development occurs then this land holding is lost to the Regions rural land network, even should the policy position in relation to water supply change in the future and non-potable water to support or sustain genuine productive agricultural use can be obtained.

The applicant has provided a Bushfire Management Plan that provides recommendations to achieve compliance with relevant assessment benchmarks. These recommendations include access standards, vegetation management and landscape species selection and on-site water storage.

The applicant has provided a Site and Soil Evaluation that identifies that the wastewater disposal system for the existing Dwelling house does not comply with current regulations as it is a primary system and is located within the 100m buffer to Lake Tinaroo. Although the report is based on the provision of septic tanks and advanced enviro-septic beds, the report concludes that advanced secondary quality systems would be required as the site is in close proximity to Lake Tinaroo.

The assessment of the application has identified that the proposed development does not comply with planning scheme requirements which cannot be overcome by conditions and as such, is recommended for refusal.

REFERRAL AGENCY/IES

This application did not trigger referral to any Referral Agencies.

INTERNAL CONSULTATION

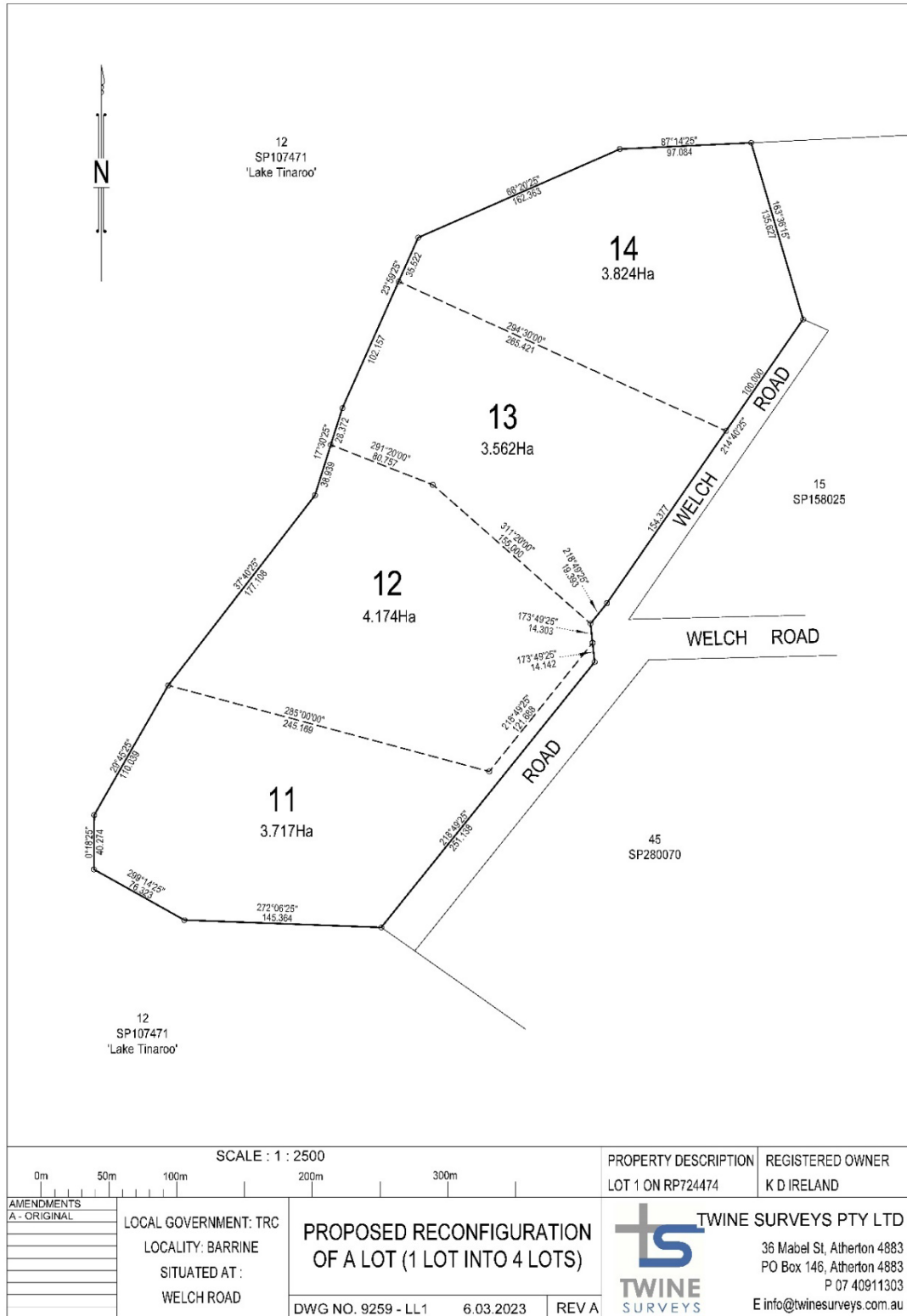
Not applicable



Date Prepared:

14/11/2023

ATTACHMENT 1 - PLANS/S OF DEVELOPMENT



ATTACHMENT 2

STATEMENT OF REASONS

PLANNING ACT 2016 & PLANNING REGULATION 2017

This Notice is prepared in accordance with s63(5) and s83(7) of the *Planning Act 2016* to inform the public about a decision that has been made in relation to a development application. The purpose of the Notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- The relevant parts of the Planning Scheme and Assessment Benchmarks against which the application was assessed; and
- Any other information, documents or other material Council was either required to, or able to, consider in its assessment.

All terms used in this Notice have the meanings given them in the *Planning Act 2016*.

Application Details

Application Number:	RAL23/0020
Property Address:	121 Welch Road, Barrine
RPD:	Lot 1 on RP724474
Proposal:	Reconfiguring a Lot (1 lot into 4 lots)
Planning Scheme:	Tablelands Regional Council Planning Scheme 2016 (v 4)
Approved	

Reasons for the Decision

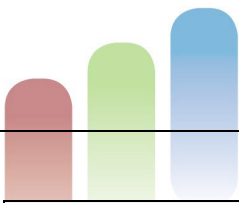
The reasons for this decision are:

1. The proposed development conflicts with Strategic Framework Specific Outcome 3.3.1.4 which seeks to ensure that Rural residential development is contained within identified rural residential areas to prevent further fragmentation and alienation of agricultural land.
2. The proposed development conflicts with Strategic Framework Specific Outcome 3.3.1.6 which seeks to ensure that rural areas are retained in the current lot configuration for primary industry.
3. The proposed development conflicts with Strategic Framework Specific Outcome 3.3.11.1.1 as it will result in the fragmentation of rural land.
4. The proposed development conflicts with Strategic Framework Specific Outcome 3.3.12.1.1 as it will result in regional landscape and rural production values being compromised by subdivision.
5. The proposed development conflicts with Strategic Framework Specific Outcome 3.3.12.1.3 as it will fragment land identified as Good Quality Agricultural Land of Class A Agricultural Land Classification.
6. The proposed development conflicts with Strategic Framework Specific Outcome 3.3.12.1.7 as rural areas preserve land for future uses beyond the life of the planning scheme.
7. The proposed development conflicts with Overall Outcome (j) of the Reconfiguring a lot code as the development does not seek to maintain rural landholdings in viable parcels.

8. The proposed development conflicts with Performance Outcome PO1 of the Reconfiguring a lot code as it does it would result in lots of insufficient area and dimensions to:
 - a. be consistent with the existing or desired amenity of the Rural zone;
 - b. accommodate land uses intended within the Rural zone.
9. The proposed development conflicts with Performance Outcome PO13 of the Reconfiguring a lot code as it seeks to create small lots for rural lifestyle or rural residential purposes.
10. The proposed development conflicts with Purpose of the Rural zone code, as the development:
 - a. will not protect the rural character and scenic amenity of the region;
 - b. will not protect Agricultural land from fragmentation, alienation and degradation;
 - c. does not protect the declared catchment area of Lake Tinaroo ;
 - d. does not preserve land in large holdings;
11. The proposed development conflicts with the Water resource catchment overlay code as the development proposed involves on-site sewerage disposal within 400m from the Lake Tinaroo full dam level.
12. The proposed development conflicts with the requirements of the Regional Landscape and Rural Production Area of the Far North Queensland Regional Plan 2009-2031 in that larger lot sizes are promoted to ensure economic viability of rural land holdings, and to protect important agricultural lands and areas of ecological significance from encroachment by urban and rural residential development.
13. The proposed development does not comply with the requirements of the State Planning Policy in that the site is identified as Agricultural Land Classification Class A and Class B, which is identified as land to be protected for sustainable agricultural use, by avoiding fragmentation and avoiding development that will have an irreversible impact.
14. Compliance with the Strategic Framework and Assessment Benchmarks cannot be achieved through the imposition of lawful development conditions.

Applicable Assessment Benchmarks

Assessment Benchmarks:		Summary of Compliance
Far North Queensland Regional Plan (FNQRP) 2009-2031	The FNQ Regional Plan 2009-2031 designation: <ul style="list-style-type: none"> • Regional Landscape and Rural Production Area The Regional Plan has been appropriately integrated and reflected within Tablelands Regional Council Planning Scheme 2016 (v4).	The proposed development is inconsistent with the FNQ Regional Plan 2009-2031 as it is providing for a rural residential scale development on rural land and will remove that land from the available productive rural stock. Further, the lots proposed are substantially below the minimum lot size of 60ha.
State Planning Policy (SPP) 2017	The State Planning Policy (SPP) contains the State Interest Policies and Assessment	The proposed development is inconsistent with Economic Growth –



	<p>Benchmarks which are applicable to the development.</p> <p>The Tablelands Regional Council Planning Scheme 2016 (v4) appropriately integrates the SPP April 2016.</p>	Agriculture policy position of the State Planning Policy.
Tablelands Regional Council Planning Scheme 2016 (v4)		
Zone	<ul style="list-style-type: none"> Rural zone code 	Non-compliance – The proposal does not comply with the purpose and overall outcomes of the Rural zone code. There are no conditions that can be used in order to achieve compliance.
Overlays	<ul style="list-style-type: none"> Bushfire hazard overlay code 	Compliance can generally be achieved.
	<ul style="list-style-type: none"> Environmental significance overlay code 	Compliance can generally be achieved.
	<ul style="list-style-type: none"> Flood investigation area overlay code 	Compliance can generally be achieved.
	<ul style="list-style-type: none"> Slope overlay code 	Compliance can generally be achieved.
	<ul style="list-style-type: none"> Water resource catchment overlay code 	Non-compliance – the lots are not able to achieve the desired separation for waste water disposal systems from Lake Tinaroo.
Development Codes	<ul style="list-style-type: none"> Landscaping Code 	Compliance can generally be achieved.
	<ul style="list-style-type: none"> Parking & Access Code 	Compliance can generally be achieved.
	<ul style="list-style-type: none"> Reconfiguring a Lot Code 	Non-compliance – the proposed development is unable to provide lots that are consistent with the Rural zone, including the required minimum lot size. The proposed development conflicts with the Rural zone code.
	<ul style="list-style-type: none"> Works, services and infrastructure code 	Compliance can generally be achieved

NON-COMPLIANCE WITH BENCHMARKS

The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exception listed below:

Assessment Benchmark	Officer's Assessment
Rural zone code	
Purpose and Overall Outcomes	<p>Purpose (1)(a) – <i>provide for a wide range of rural uses</i>:</p> <p>The intent of the Rural zone is to provide for rural uses including cropping, intensive horticulture, intensive animal industries, animal husbandry, animal keeping, and primary production activities. The proposed reconfiguration of a lot to create three (3) additional lots</p>

	<p>is inconsistent with the intent for rural uses. Moreover, the Applicant has identified that the additional lots are to accommodate Dwelling houses and not rural uses. Thus, the intent for the proposed development does not comply with the primary purpose of the Rural Zone Code.</p> <p>Purpose (1)(b) – <i>‘provide opportunities for non-rural uses 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’:</i></p> <p>Although the purpose includes the opportunity to provide for non-rural uses, it must not compromise the long-term use of the land for rural purposes. The proposed development seeks to subdivide the lot to create smaller lot sizes. Fragmentation of this scale will compromise the land and its suitability to provide for rural uses in the future.</p> <p>Purpose (2)(b) – <i>‘protect the rural character and scenic amenity of the region’:</i></p> <p>The proposed development will provide for additional Dwelling houses and associated infrastructure which will not protect the rural character and scenic amenity.</p> <p>Purpose (2)(d) – <i>‘protect Agricultural land from fragmentation, alienation and degradation’:</i></p> <p>The Rural zone clearly states that one of the main objectives is to avoid fragmentation. The proposal seeks to subdivide the lot. The proposed development is inconsistent with this outcome. Whilst it is acknowledged that the site is currently smaller than the minimum lot size of 60ha for the Rural zone, the potential for rural pursuits on the land will be diminished by further fragmentation.</p> <p>Purpose 2(e) – <i>‘protect the declared catchment area of Lake Tinaroo and the associated infrastructure within the southern Tablelands for the Mareeba-Dimbulah Irrigation Scheme Area from development which may compromise water quality and long term use for primary production’:</i></p> <p>The proposed development does not protect the catchment area of Lake Tinaroo.</p>
<p>Performance Outcomes</p>	<p><i>Performance Outcome PO5 – Precincts:</i></p> <p>The proposed development is not compliance with Performance Outcome PO5 as it does not preserve agricultural land for agricultural purposes and will constrain the viability or use of agricultural land for such purposes.</p> <p><i>Performance Outcome PO13 – Amenity:</i></p> <p>The proposed subdivision will result in further fragmentation of land. The development will contribute to urbanising the area, which is not intended for the zone. Hence, the proposed development and the intent for further residential development is not considered to contribute to a high standard of amenity for the rural area.</p>
<p>Acceptable Outcomes</p>	<p><i>Acceptable Outcome AO7.1 – Protection of agricultural activities:</i></p> <p>The application to Council states that no additional development is proposed and does not demonstrate how the recommended setback distances for adverse impacts from an existing agricultural enterprise can be provided.</p>
<p>Bushfire hazard overlay code</p>	
<p>Purpose and Overall Outcomes</p>	<p>Purpose (1) – <i>‘to ensure that risk to life, property and the environment as a result of bushfire is mitigated to an acceptable or tolerable level’:</i></p> <p>Purpose (2)(a) – <i>‘development avoids the establishment of a use and/or intensification of sensitive land uses within or near areas that are subject to bushfire hazard’:</i></p>

	The proposed development will provide vacant lots for additional Dwelling houses and associated infrastructure on lots that are subject to bushfire hazard.
Water resource catchment overlay code	
Purpose and Overall Outcomes	<p>Purpose (2)(c) – ‘New development is setback from Lake Tinaroo and watercourses in the water resource catchment to protect water quality’:</p> <p>The proposed development will result in additional development within the identified setback to Lake Tinaroo.</p>
Acceptable Outcomes	<p>Acceptable Outcome AO1.2 – Setbacks:</p> <p>The proposed development will result in onsite sewerage disposal systems being located within the identified setback to Lake Tinaroo.</p> <p>Acceptable Outcome AO5.1 – Reconfiguring a lot:</p> <p>The proposed development will result in the future development of the lots within the desired 400m setback from Lake Tinaroo.</p>
Reconfiguring a lot code	
Purpose and Overall Outcomes	<p>Purpose (1)(a) – ‘to allow for the creation of well designed lots appropriate to the intended use and location’:</p> <p>Purpose (1)(c) – ‘to ensure that the settlement pattern is beneficial to the community’:</p> <p>Purpose (2)(j) – ‘Subdivision within the Rural zone maintains rural landholdings in viable parcels’:</p> <p>The main objectives for the Reconfiguring a lot code is to create lots that are suitable for their intended uses and have sufficient area, dimensions and shapes to be suitable for their intended use. The proposed subdivision will result lot sizes significantly smaller than the minimum lot size of 60ha outlined within Table 9.4.4.3.2 of the Reconfiguring a lot code. Whilst Officers acknowledge the existing lot is less than 60ha, the proposed lot sizes will further reduce the ability for intended rural land uses to occur on the subject site. The proposed development intends to provide for future development that is inconsistent and therefore not suitable for the intended land uses sought for the zone.</p>
Performance Outcomes	<p>Performance Outcome PO1 – Area and dimensions of lots:</p> <p>The proposed reconfiguration is not considered to accommodate land uses consistent with purpose and overall outcome of zone as it will result in lot sizes that are considerably small for the Rural zone. Therefore, the proposed development outcome is considered to compromise potential rural uses, which are sought for the Rural Zone. Thus, Performance Outcome PO1 is deemed to be not complied with.</p>
Acceptable Outcomes	<p>Acceptable Outcome AO1.1 – Area and dimensions of lots:</p> <p>The proposed reconfiguration of a lot does not comply with minimum lot sizes outlined with Table 9.4.4.3.2. At present the lot size of the subject site is 15.272ha. The minimum lot size identified is 60ha for the Rural zone. The proposal cannot achieve compliance with Acceptable Outcome AO1.1.</p>

Relevant matters under s45(5)(b)
Addressing matters raised in submissions

<p>Concerns regarding conflicting statements and the accuracy of information in the application material</p>	<p>The submissions raise concerns regarding the application. Eg. <i>“The subject site does not have a direct frontage to Lake Tinaroo...”</i>; <i>“In this instance, the proposed development is for a Reconfiguration of a Lot with no additional works proposed.”</i>; <i>“The proposed development will create four (4) Lots enabling future infill development for Rural Residential purposes.”</i></p> <p>The application states that building envelopes are provided for each lot however no plans are provided. This aspect was raised in the information request with the applicant's response stating that <i>“Building envelopes can be refined at a further stage, the imposition of such can be conditioned by Council.”</i></p> <p>Council’s assessment of the application identified these inconsistencies in the application material.</p>
<p>Welch Road condition</p>	<p>The submissions raise concerns regarding Welch Road as the road should be widened and have a bitumen surface to cater for additional traffic.</p>
<p>Welch Road and Russell Pocket Road safety concerns</p>	<p>The submissions raise concerns regarding the intersection of Welch Road and Russell Pocket Road and Russell Pocket Road generally. The submissions request that a safety audit be undertaken for Russell Pocket Road due to the frequent “near misses” occurring.</p>
<p>Conflict with the Regional Plan 2009-2031</p>	<p>The submissions raise that the proposed development conflicts with the Regional Plan. The conflicts with the Regional Plan are addressed in the planning report.</p>
<p>Conflict with the Rural zone and precedent for other land in the Rural zone to be subdivided</p>	<p>The submissions raise that approval of the proposed development would set a precedent for other land in the Rural zone to be subdivided into lots less than 60ha. The submissions cite the cumulative impacts that such development would have on the amenity, road safety, water resource catchment.</p>
<p>Conflict with the Strategic Framework</p>	<p>The submissions raise that the proposed development conflicts with the Strategic Framework. The conflicts are addressed in the planning report.</p>
<p>Impact on amenity</p>	<p>The submissions raise that the proposed development will have a impact on the amenity of the surrounding area. The impact of smaller lot sizes within the Rural zone is addressed in the planning report.</p>
<p>Additional watercraft on the bank of Lake Tinaroo at each lot</p>	<p>The submissions raise concerns about the impact on amenity and the environment as a result of additional lots having access to Lake Tinaroo.</p>
<p>Use of lots for self-contained recreational vehicles</p>	<p>The submissions raise concerns that the proposed lots may be used for tourism purposes with recreational vehicles. The submissions cite aspects of amenity and environmental impact occurring from the lack of services being of concern.</p>

<p>Conflict with the Water Resource Catchment Overlay</p>	<p>The submissions raise concerns regarding the potential environmental impact as the proposed lots are all within the 400m setback to Lake Tinaroo.</p>
<p>Stormwater drainage impacting the flood margin land or Lake Tinaroo.</p>	<p>The submission from Sunwater requests that any future stormwater design for the site be provided to Sunwater.</p>
<p>Other Relevant Matters</p>	
<p>Far North Queensland Regional Plan (FNQRP) 2009- 2031</p>	<p>The site is mapped within the Regional Landscape and Rural Production Area. Section 2.6 of the Far North Queensland Regional Plan 2009-2031 outlines two main controls on subdivision of rural zoned land within the regional landscape and rural production area.</p> <ol style="list-style-type: none"> 1. Maintain larger lots sizes to ensure economic viability of rural land holdings; and 2. To protect important agricultural lands and areas of ecological significance from encroachment by urban and rural residential development. <p>Land use policies have been determined for this objective. The first land use policy outlined within section 2.6.1 clearly 65 Agenda – Planning and Environment Committee 10 February 2021 - #6558066 identifies the intent to avoid further fragmentation of rural land: further fragmentation of agricultural land in the regional landscape and rural production area is avoided to maintain economically viable farm lot sizes. This objective has been reflected within the CairnsPlan 2016v2.1 through the purpose of the Rural Zone Code and the set minimum lot size for reconfiguring a lot within the Rural Zone. Hence, the proposed development is inconsistent with the Far North Queensland Regional Plan 2009-2031.</p>