

APPLICATION FOR A DEVELOPMENT PERMIT FOR RECONFIGURING A LOT (1 LOT INTO 2 LOTS AND ACCESS EASEMENT) – 626R REDLYNCH INTAKE ROAD, REDLYNCH – DIVISION 6

PGS : 8/39/16 : #7914983

PROPOSAL:

APPLICATION FOR A DEVELOPMENT PERMIT FOR RECONFIGURING A LOT (1 LOT INTO 2 LOTS AND ACCESS EASEMENT)

LANDOWNER:

BENGALI LAND PTY LTD (TTE)

APPLICANT:

BENGALI LAND PTY LTD (TTE)
C/- GILVEAR PLANNING
PO BOX 228
BABINDA QLD 4861

INTERESTED PARTIES:

BENGALI LAND PTY LTD (TTE)
GILVEAR PLANNING PTY LTD
SPARKE HELMORE
BIOTROPICA AUSTRALIA PTY LTD
HERRON TODD WHITE
LOCATION IQ
APPLIN CONSULTING
GHD PTY LTD
BMT COMMERCIAL AUSTRALIA PTY LTD
GGI LANDSCAPE ARCHITECTS
4 ELEMENTS CONSULTING
WATER ENGINEERING PARTNERS PTY LTD
ENGAGE CREATIVE COMMUNICATION SOLUTIONS

Note: The identification of interested parties is provided on a best endeavours basis by Council Officers and may not be exhaustive.

LOCATION OF SITE:

626R REDLYNCH INTAKE ROAD, REDLYNCH

PROPERTY:

LOT 2 ON SP106972

ZONE:

RURAL ZONE

LOCAL PLAN:

N/A

PLANNING SCHEME:

CAIRNSPLAN 2016 V3.1

REFERRAL AGENCIES:

STATE ASSESSMENT AND REFERRAL
AGENCY

NUMBER OF SUBMITTERS:

ORIGINAL COMBINED APPLICATION
INCLUDED 266 PROPERLY MADE
SUBMISSIONS, 1 NOT PROPERLY MADE
PETITION AND 45 NOT PROPERLY MADE
SUBMISSIONS

STATUTORY ASSESSMENT
DEADLINE:

29 JULY 2026

APPLICATION DATE:

25 MARCH 2024

DIVISION:

6

ATTACHMENTS:

1. PLAN OF DEVELOPMENT FOR
RECONFIGURING A LOT (1 INTO 2 LOTS
AND ACCESS EASEMENT)

LOCALITY PLAN:



RECOMMENDATION

That Council refuse the development application seeking a Development Permit for Reconfiguring a Lot (1 Lot into 2 Lots and Access Easement) over land at 626R Redlynch Intake Road, Redlynch, formally described as Lot 2 on SP106972, for the following reasons:

- 1. The proposed development does not appropriately provide for the continuing functionality and capacity of the land to provide for rural uses and activities. The proposed reconfiguration fragments functional rural land that will, as a result of lot sizes being significantly below the minimum prescribed by the Reconfiguring a Lot Code, materially affect the ability of the land to cater for rural uses and activities.**

For the above reasons, the proposed development does not comply with:

- a. Purpose statement (4)(a), Overall Outcomes 6(a), (c) and (j) and Performance Outcomes PO3 and PO11 of the Rural Zone Code; and**
 - b. Purpose statement (1)(b), Overall Outcomes (2)(b) and Performance Outcome PO1 of the Reconfiguring a Lot Code**
- 2. The proposed reconfiguration results in the creation of a new lot boundary through an area of identified state and local environmental significance, being Currunda Creek. The location of this boundary through this area does not avoid, and may result in impacts to the area of environmental significance, through for example, clearing for fencing of the new lot boundary.**

The application has not demonstrated that where development cannot avoid impacts on an area of environmental significance, that it protects and enhances the area, provides a buffer to the area, or does not result in direct or indirect impacts.

For the above reasons, the proposed development does not comply with:

- a. Purpose statement 1(a), Overall Outcomes (2)(a), (b), and Performance Outcomes PO3, PO4, PO10 and PO11 of the Natural Areas Overlay Code;**
 - b. Overall Outcome (6)(d) of the Rural Zone Code; and**
 - c. Overall Outcome (2)(f) of the Reconfiguring a Lot Code.**
- 3. The application does not demonstrate that the proposed reconfiguration will not result in the locating of additional or new sensitive land uses within a Key Resource Area - Separation Area or Key Resource Area – Transport Route Separation Area as shown on the Extractive Resources Overlay Map.**

For the above reasons, the proposed development does not comply with:

- a. Purpose statement 1, Overall Outcome 2(b) and PO2 of the Extractive Resources Overlay Code; and**
 - b. PO11 of the Reconfiguring a Lot Code.**

EXECUTIVE SUMMARY

Council is in receipt of a development application seeking a Development Permit for Reconfiguring a Lot (1 Lot into 2 Lots and Access Easement) on land at 626R Redlynch Intake Road, Redlynch, formally described as Lot 2 on SP106972.

Proposed Lot 21 (western lot) would have an area of 23.978ha and contain the existing dwelling on the land as well as a range of outbuildings. Proposed Lot 22 (eastern lot) would have an area of 12.506ha and contain the existing purpose-built equestrian facility and some other minor outbuildings. Proposed Lot 22 would be burdened by an access easement in favour of Lot 21 to enable lawful access to the rear lot from Redlynch Intake Road.

This aspect of development (referred to herein as Part A) was previously presented to Council at the Ordinary Meeting of 12 March 2025, where it formed part of a combined development application which sought the following:

- Part A - Development Permit for Reconfiguring a Lot (1 Lot into 2 Lots & Access Easement);
- Part B - Preliminary Approval for a Material Change of Use including a Variation Request to vary the effect of the Planning Scheme to facilitate the Currunda Trades and Services Development Area; and
- Part C - Preliminary Approval for Reconfiguring a Lot (1 Lot into 4 Lots & Drainage & Road Reserves).

At the meeting of 12 March 2025, Council resolved to approve the application in full, subject to conditions. Subsequent to that decision, an appeal was filed in the Planning and Environment Court on 11 April 2025 by a submitter to the development application.

By judgement delivered on 5 June 2026 in the matter of *Hall v Cairns Regional Council & Anor [2026] QPEC 22*, the Planning and Environment Court ordered that:

1. *Appeal allowed.*
2. *The respondent's (Council's) decision to approve the development application is set aside.*
3. *Part B of the development application is refused.*
4. *Parts A and C of the development application are returned to the respondent to be re-assessed and determined according to law, in accordance with these reasons for judgement.*

The reasons for judgement are extensive, with Her Honour finding on balance that the matters favouring approval did not outweigh the significant non-compliance¹. The reasons for judgement identify that the inconsistency of the original development application with the planning intent for the land is serious and involves multiple instances of non-compliance, particularly with the Strategic Framework, Rural Zone Code and Natural Areas Overlay Code. The extent and significance of non-compliance was material to the determination of the appeal. The reasons also identify that to the extent there is a need for the type of development as originally proposed, that need can be adequately met by the planning scheme in its current form².

After the judgement was delivered, Council received correspondence from the Co-respondent / Applicant for the development, that they no longer pursued Part C of the original development application.

Given the advice from the Applicant, this report seeks to comply with Order 4 of the 5 June 2026 judgement, in providing Council's re-assessment of Part A of the development application.

The primary considerations associated with the re-assessment of Part A include:

- Ecological/Environmental;
- Proximity to extractive resources; and
- Protection of rural land / rural activities.

In consideration of the relevant assessment benchmarks for the development, and the reasons for judgement published 5 June 2026, Officers consider that the development presents material non-compliances with key provisions of the Extractive Resources Overlay Code, Natural Areas Overlay Code, Rural Zone Code and Reconfiguring a Lot Code. The provisions of these code relate to potential impacts to areas of environmental significance, fragmentation of rural land, lot size for rural land and compatibility with the adjacent extractive industry operation.

Officers consider that lawful development conditions could not be imposed on the development to resolve the non-compliance that has been identified. In the absence of substantive discretionary matters in support of the development, and in consideration of the non-compliance with planning provisions and the reasons for judgement, it is recommended that Council refuse Part A of the development application for the identified reasons.

TOWN PLANNING CONSIDERATIONS

Background

The original development application included an extensive history of the subject site that has been outlined below, ranging from 1939 to the present; however, only approvals from 2007 onwards have been located.

¹ *Hall v Cairns Regional Council & Anor [2026] QPEC 22 at [298]*

² *Hall v Cairns Regional Council & Anor [2026] QPEC 22 at [294]*

Historically, the land included the quarry land located to the north of the subject site in a single allotment with the flatter, eastern portions of the site utilised for sugarcane production. In 1974, the land was sold and continued to be utilised for sugarcane production; however, the then landowner also sought to establish a hard rock and alluvial quarry operation on the northern part of the land.

In 1979, the land was subdivided into two (2) lots. Lot 1 to the north continued to be used for quarry activities including hard rock processing and stockpiling as well as sugarcane production.

Lot 2 was utilised for the purposes of establishing horticultural activities including exotic fruit orchards and a cut flower and foliage nursery (Twin Streams Nursery). Sugarcane production to the south of Currunda Creek was discontinued.

In 1984, a Boundary Realignment was approved to allow all quarry operations to be contained within a single allotment, being Lot 1 with Lot 2 continuing to be used for horticultural activities.

In 1998, a development application was lodged seeking to establish a 200 cabin eco-tourism development on land to the south of Lot 2 (Lot 62). This application included a boundary realignment to transfer approximately 4.3ha from Lot 2 into Lot 62. The boundary realignment was completed; however, the eco-tourism use was never established, and this development approval lapsed.

This was the last Reconfiguring a Lot application that affected Lot 2 (the subject site) and this approved reconfiguration reflects the current configuration.

The State Government then acquired Lot 62 and established the Northern Outlook Activity Based Training Centre which remains on Lot 62 to the south of the subject site to this day.

Twin Stream Nursery continued to operate over the subject site up until 2012 when changes to the Barron River Water Management Plan resulted in a change to the Water Licence from an area basis to volumetric limits. The previous plan allowed for extraction of up to 15L per second continuously. At the time, the Twin Stream Nursery was using, on average, 10KL per day (36ML per year) for production purposes. Changes to the Water Plan resulting in the licence being reduced to 6ML per year.

This ultimately resulted in the nursery being abandoned at the end of the lease.

On 8 June 2007, Council approved a Development Permit for a Material Change of Use for Outdoor Sport & Entertainment (Equestrian Centre) on the eastern, front portion of the subject site (Council Ref: 8/7/854 #1506084).

The riding school that was operating over the site since 2008 ceased operations in 2022 as a result of the impacts of COVID as it was no longer commercially viable.

2024 Development Application, Decision, Appeal and Judgement

The currently proposed development application, referred to as Part A, was originally submitted to Council in March 2024 as part of a combined application with 2 other elements (the original development application), summarised as follows:

- Part A - Development Permit for Reconfiguring a Lot (1 Lot into 2 Lots & Access Easement);
- Part B - Preliminary Approval to vary the effect of the Planning Scheme for a Material Change of Use to facilitate the Currunda Trades and Services Development Area; and
- Part C - Preliminary Approval for Reconfiguring a Lot (1 Lot into 4 Lots & Drainage & Road Reserves).

The original development application was subject to a comprehensive assessment process by Council, which resulted in its presentation to the Ordinary Meeting of 12 March 2025 for determination, with a recommendation to approve the application in full, subject to conditions. That recommendation was ultimately endorsed by Council, and the original development application approved in full, subject to conditions.

Following the issue of the Decision Notice for the original development application, a submitter filed an appeal in the Planning and Environment Court on 11 April 2025 against Council's decision to approve the application.

The alternative dispute resolution (ADR) process provided by the Planning and Environment Court did not resolve the appeal, however did assist to narrow the issues in dispute between the parties. The appeal ultimately proceeding to a hearing over 4 days in late January 2026. Expert evidence was provided at the hearing from 3 town planners, 2 economists, a traffic engineer and an ecologist.

On 5 June 2026, the Planning and Environment Court delivered judgement in the matter of *Hall v Cairns Regional Council & Anor [2026] QPEC 22*.

In making orders that Council's decision to approve the original development application would be set aside, and Part B of the original development application would be refused, the reasons for judgement included the following statements in respect of the original development application:³

[310] The development application was a single, combined application comprising three components. Only Part B was impact assessable. Parts A and C were code assessable.

[311] The respondent issued a single decision notice approving the development application.

...

³ *Hall v Cairns Regional Council & Anor [2026] QPEC 22*

- [313] *The part of the application that required impact assessment, and the part that included a variation request, was part B. The appellant, an eligible submitter, by her amended notice of appeal appealed against the respondent's approval of Part B of the application.*
- [314] *The co-respondent has not discharged the onus with respect to part B.*
- [315] *The result is that the appeal should be allowed, the respondent's decision to approve the development application set aside, and Part B of the development application refused.*
- [316] *That leaves the question of what orders should be made with respect to Parts A and C.*
- [317] *The respondent's assessment and approval on Parts A and C were inextricably linked to its assessment and approval of Part B, in the sense that the reconfigurations approved in each of Parts A and C related to, and were only to facilitate, the material change of use proposed in Part B.*
- [318] *The Part A reconfiguration subdivides the parent lot into two lots, in order to develop the less constrained lot (proposed lot 22) for industrial uses. The balance lot (proposed lot 21) is even more heavily constrained by topography, particularly slope, and regulated vegetation, and no development is proposed on it. The co-respondent did not submit that the court could approve only Part A of the development and not the balance. That is unsurprising, given non-compliance with the relevant codes.*
- [319] *The Part C reconfiguration subdivides proposed lot 22 into four lots to create a framework for establishment of the Currunda Creek Trades and Services Precinct in Part B. It is proposed that at some future time those lots may be further reconfigured into 22 smaller lots, for those uses.*
- [320] *In circumstances where the decision the subject of the appeal was in relation to a single development application with three parts and where Part B is refused, the appropriate course is to remit Parts A and C to the respondent (as the entity that made the decision appealed against) to be re-assessed and determined according to law, in accordance with these reasons for judgment: s 47 PECA.*
- [321] *It will be for the respondent to apply these reasons for judgment and then decide whether, in the absence of an approval for the material change of use in Part B, it approves Parts A and C or makes a different decision. It will afford the co-respondent the opportunity to decide whether it maintains its development application for Parts A and C alone, in circumstances where Part B is refused, or takes a different course.*

Since the delivery of judgement, the Applicant/Co-respondent has advised Council that it no longer pursues Part C of the original development application, only Part A.

Site and Surrounds

The subject site is located on the western side of Redlynch Intake Road, approximately halfway into Redlynch Valley. The site is approximately 14.8km from the Cairns CBD and approximately 4km south of the Redlynch Central Shopping Centre. The site comprises of a single allotment properly described as Lot 2 on SP106972 and has a total area of 36.46ha.

The following aerial image shows the site with annotated site boundary (dashed red line) as of August 2024. Redlynch Intake Road is shown generally traversing through the left hand side of the image (dashed orange line), directly adjoining the subject site to the left, with the foothills of Lambs Range surrounding the subject site to the rear. The existing Boral Quarry directly adjoins the northern boundary of the subject site, with stockpile areas visible in the image. Various rural residential areas are visible to the north beyond the Quarry, east across Redlynch Intake Road and south of the site.



Figure 1: Aerial Perspective Photo (August 2024) with annotated approximate Site Boundary in red and Redlynch Intake Road in orange

The site generally slopes from west to east with the western half of the site comprising the steepest topography ranging exceeding 100m AHD at the western boundary, graduating down to 35m – 40m AHD through the central part of the site. The eastern portion of the site, fronting Redlynch Intake Road is approximately 28m - 30m AHD in elevation.

Currunda Creek traverses the subject site generally from west to east. Currunda Creek is generally heavily vegetated on the western portion of the site with slightly less dense vegetation surrounding the watercourse on the eastern portion of the site. Currunda Creek is mapped as comprising Remnant Vegetation per the State Government Vegetation mapping.

Proposal

Part A: Development Permit for Reconfiguring a Lot (1 Lot into 2 Lots and Access Easement)

The proposed subdivision generally splits the site in half with Lot 21 (western lot) comprising a total area of 23.978ha with access achieved from Redlynch Intake Road via an easement for access and services proposed over Lot 22. Proposed Lot 22 (eastern lot) comprises a total area of 12.506ha with a direct frontage of 200m to Redlynch Intake Road.

47.2024.12781

Materials Assessed in the Application

The applicant provided the following materials during the assessment process for the original development application:

- Amended Planning Assessment Report prepared by *Gilvear Planning Pty Ltd* (Council Reference: #7397544), including the following technical inputs;
 - Plans of Development provided by *Gilvear Planning Pty Ltd*;
 - Currunda Trades and Services Development Code provided by *Gilvear Planning Pty Ltd*;
 - Ecological Report prepared by *Biotropica Australia Pty Ltd*;
 - Flood Impact Assessment prepared by *BMT Commercial Australia Pty Ltd*;
 - Traffic Impact Assessment prepared by *GHD Pty Ltd*;
 - Needs Assessment prepared by *Location IQ*; and
 - Valuation Report Extract prepared by *Herron Todd White*.
- The Applicant's formal Response to Council's Information Request, prepared by *Gilvear Planning Pty Ltd* (Council Reference: #7422134), including the following technical inputs:
 - Amended Plan of Development provided by *Gilvear Planning Pty Ltd*;
 - Amended Traffic Impact Assessment including revised Traffic Inputs and Plans provided by *GHD Pty Ltd*;
- Referral Agency Response from SARA;
- Submissions made in relation to the application;
- The Applicant's Response to Submissions (Council Reference: #7503430), including the following technical inputs:
 - Communications Report prepared by *Engage Creative Communications Solutions*;
 - Revised Table of Assessment – Rural Zone from CairnsPlan with Currunda Creek Trades & Services Changes in RED prepared by *Gilvear Planning Pty Ltd*;
 - Revised Currunda Trades & Services Development Code prepared by *Gilvear Planning Pty Ltd*;
 - Industrial Catchment Mapping prepared by *Gilvear Planning Pty Ltd*;
 - Redlynch Valley Precinct Maps prepared by *Gilvear Planning Pty Ltd*;
 - Visual Assessment Report prepared by *GGI Landscape Architects*;
 - Ecological Constraints Assessment prepared by *4 Elements Consulting Pty Ltd*;
 - Review of Public Submissions in relation to Flooding and Stormwater prepared by *Water Engineering Partners Pty Ltd*;
 - Supplementary Advice prepared by *BMT Commercial Australia Pty Ltd*.
- The Applicant's formal Response to Council's Further Advice Notice, prepared by *Gilvear Planning Pty Ltd* (Council Reference: #7598979), including the following technical input:
 - Flood Impact Assessment Response to Further Advice Notice prepared by *Water Engineering Partners Pty Ltd*.

In accordance with the Orders of the Court in the judgement delivered on 5 June 2026⁴, Council has considered the reasons for judgement in conducting the re-assessment of Part A of the development application.

LEGISLATIVE FRAMEWORK

The *Planning Act 2016* identifies the criteria for assessing a Code Assessable Development Application. Pursuant to the *Planning Act 2016*, the relevant criteria are included in sections 45, 59 and 60 of the *Planning Act 2016* and sections 25 – 28 inclusive and schedules 9 and 10 of the *Planning Regulation 2017*. These provisions identify that a Code Assessment:

1. Must be carried out against the following assessment benchmarks, to the extent that they are relevant to the development i.e. the assessment benchmarks stated in:
 - (a) Cairns Plan 2016 version 3.1 as the relevant local planning instrument in effect when the development application was properly made;
 - (b) Schedules 9 and 10 of the *Planning Regulation 2017*;
 - (c) The Far North Queensland Regional Plan 2009-2031 in effect when the development application was properly made;
 - (d) The State Planning Policy 2017 Part E in effect when the application was properly made;
 - (e) A temporary State Planning Policy applying to the premises in effect when the development application was properly made;
 - (f) Council's LGIP in effect when the application was properly made;
2. May give such weight as Council considers is appropriate, in the circumstances, to an amended or replacement version of the statutory instruments referred to in 1 above that came into effect after the development application was properly made but before it is decided;
3. May give such weight as Council considers is appropriate, in the circumstances, to another relevant statutory instrument that came into effect after the development application is properly made but before it is decided; and
4. Must be carried out having regard to:
 - a. Any designation for the premises;
 - b. Any development approval for, and any lawful use of, the premises or adjacent premises; and
 - c. The common material;

The following sections of the report comprise Officers assessment against the prescribed *Planning Act 2016* and *Planning Regulation 2017* criteria.

⁴ *Hall v Cairns Regional Council & Anor [2026] QPEC 22*

MATTERS FOR CODE ASSESSMENT

The following matters were given regard to, or assessment carried out against, in undertaking the assessment of this development application under Section 45 of the *Planning Act 2016*.

Section 45(4) of the <i>Planning Act 2016</i>	
Relevant Matter	Assessed against or if had regard to
Schedules 9 and 10 of the <i>Planning Regulation 2017</i>	The original development application was referred to the State Assessment and Referral Agency (SARA) for the following: - Schedule 10, Part 3, Division 4, Table 3 – Development application for clearing native vegetation; and - Schedule 10, Part 9, Division 4, Subdivision 1, Table 1 – Development application for State transport infrastructure generally (Thresholds). These matters do not relate to Part A.
Far North Queensland Regional Plan 2009 – 2031 in effect when the application was properly made	The Far North Queensland Regional Plan 2009 – 2031 (FNQRP) designates the land within the Regional Landscape and Rural Production Area. The CairnsPlan 2016 v3.1 fully integrates the requirements of the FNQRP; the assessment against the relevant planning scheme provisions is considered to appropriately address the FNQRP.
Far North Queensland Regional Plan (FNQRP) 2026 –	The FNQRP 2026 commenced on 8 May 2026 after the original development application was properly made and after the hearing had occurred. As provided for in the Regulation, Council may in conducting its assessment give weight to a statutory instrument that is amended after the application was properly made, but before it is decided. Officers consider that little weight is to be afforded to the amended FNQRP 2026 for this application. This is owing to the fact that the amended plan maintains the designation of the land within the Regional Landscape and Rural Production Area, which supports the ongoing use of rural land for rural uses/activities, and seeks to protect it from encroachment from urban and rural residential development.
Schedule 12A of the <i>Planning Regulation 2017</i> for particular Reconfiguring a Lot	There are no relevant benchmarks under this schedule for this application as the development does not involve the creation of any residential lots, noting however that a residential use i.e. a dwelling house is reasonably anticipated to occur on land within the rural zone.

State Planning Policy (July 2017) in effect when the application was properly made	CairnsPlan 2016 v3.1 integrates the State Planning Policy as of July 2014. The July 2017 version of the State Planning Policy is the current version and incorporates some changes from the July 2014 version which was integrated into CairnsPlan 2016. Detailed assessment of the relevant provisions of the July 2017 State Planning Policy is provided in the below section of this report.
A Temporary State Planning Policy applying to the premises in effect when the application was properly made	There are no temporary state planning policies in effect that apply to the premises.
Cairns Regional Council – Local Government Infrastructure Plan (LGIP) in effect when the application was properly made	The LGIP in effect at the time the application was lodged was v3.1 as per the local planning instrument and no amendments have been made to the LGIP since lodgement of the application. Specific commentary in respect of the LGIP is provided later in this report.
Local Categorising Instrument	CairnsPlan 2016 v3.1 is the relevant Local Categorising Instrument in effect at the time the application was submitted. No amendments to the CairnsPlan 2016 have been undertaken since the application was lodged.
Any Development Approval for, and any lawful use of, the premises or adjacent premises	The only existing approval able to be found over the land is associated with the Outdoor Sport & Recreation land use associated with the Horse Arena and Agistment Paddocks. There are existing use rights for a nursery from the old Twin Streams Nursery that used to operate from the site as well as an existing dwelling house located in the western portion of the site.
The Common Material for the development application	The Common Material for the Development Application, as defined by the <i>Regulation</i> , has been had regard to.

Far North Queensland Regional Plan (FNQRP) 2009 – 2031

The CairnsPlan 2016 v3.1 fully integrates the requirements of the FNQRP and an assessment of the proposed development against the relevant provisions of CairnsPlan 2016 is considered to satisfactorily address the FNQRP. A separate assessment of the FNQRP provisions is not considered to be necessary in this

State Planning Policy (July 2017)

As noted above, CairnsPlan 2016 v3.1 integrates the July 2014 version of the State Planning Policy (SPP) with the exception of provisions relating to Erosion Prone Areas. The July 2017 version of the SPP is the current version and incorporates changes from that which is integrated in CairnsPlan 2016. A review of the SPP mapping indicates that the following State Interests are relevant to the site:

- Agriculture
 - Agricultural Land Classification – Class A & B;
- Mining and Extractive Resources
 - Key Resource Area – Separation Area; and
 - Key Resource Area – Transport Route Separation Area.
- Biodiversity
 - MSES – Protected Areas (estate);
 - MSES – Wildlife Habitat (endangered or vulnerable);
 - MSES – Regulated Vegetation (Category B);
 - MSES – Regulated Vegetation (Category R);
 - MSES – Regulated Vegetation (Essential Habitat); and
 - MSES – Regulated Vegetation (Intersecting a Watercourse).
- Natural Hazards Risk and Resilience
 - Flood Hazard Area – Local Government Flood Mapping Area;
 - Bushfire Prone Area.
- Strategic Airports and Aviation Facilities
 - Obstacle Limitation Surface Area;
 - Wildlife Hazard Buffer Zone; and
 - Aviation Facility.

Officers have reviewed the '[Understanding the State Planning Policy – July 2017](#)' to confirm the identified differences between the July 2014 and July 2017 versions of the SPP. Officers are satisfied that the proposed development represented by the development does not contradict the matters which have been identified as not reflected by the CairnsPlan 2016.

The following matters contained in the below table are considered to be of particular relevance to the assessment of the current application:

State Interest	Officer Comment
Agriculture	
A change to Policy 2b of this State Interest occurred between the April 2016 SPP and the July 2017 SPP. No changes were made between July 2014 and April 2016.	There were no changes to the Agriculture State Interest between July 2014 and April 2016; however, between April 2016 and July 2017, there were some minor changes which included: • Amended state interest policy to protect Agricultural Land Classification Classes A and B from irreversible impacts (Policy 2b). As the subject site does not contain Important Agricultural Areas and the development does not involve Aquaculture, only the amendment relating to Agricultural Land Classification Classes A and B are relevant; however, the SPP does not provide specific assessment benchmarks for this State Interest.

Mining and Extractive Resources	
A change to Policy 2 and the Assessment Benchmarks (1-3) were undertaken between the April 2016 SPP and July 2017. No changes were made between July 2014 and April 2016.	There have been changes to the state interest statement to emphasise the need to protect extractive resources and an amended state interest policy to ensure land uses within KRAs and along transport routes that could impede the extraction and/or transport of the resource are avoided was undertaken. This ultimately resulted in amendments to the assessment benchmarks to ensure the protection of KRAs with the focus being on how development would impede a KRA, needing to avoid sensitive and other potentially incompatible uses in the separation areas, and ensuring that development not associated within extractive industry does not increase the number of people working in a transport route separation area of a KRA unless the development can demonstrate how the impacts generated by the haulage of extractive materials is able to be undertaken. The proposed development seeks to establish an additional rural lot, with both lot sizes proposed significantly below the minimum lot size specified for the Rural Zone. The Table of Assessment for the Rural Zone acknowledges that sensitive land uses, such as Dwelling House, Caretakers Residence and Rural Workers Accommodation may establish in the zone, albeit subject to an Impact Assessment. Given the potential for additional sensitive land uses to establish on the eastern lot, and an absence of any information relating to how the lot may be used, Officers consider that it is inappropriate to support the proposed additional lot. Further assessment of this matter has been undertaken in relation to the Extractive Resources Overlay Code under the planning scheme.
Biodiversity	
A change to Policy 2 of this State Interest occurred between the April 2016 SPP and the July 2017 SPP. No changes were made between July 2014 and April 2016.	There has been a change to the way in which these State Interests are identified, with a greater level of information now reflected in the mapping. The site is affected by a range of designations under the Biodiversity theme, with regulation vegetation – intersecting a watercourse and category r matters of specific relevance to the location of the proposed new lot boundary. These matters are currently reflected in the Natural Areas Overlay Code and are addressed in Officers assessment of that code below.
Natural Hazards Risk and Resilience	
No relevant change in policies from July 2014 to July 2017; this State Interest is reflected in the version of CairnsPlan that application is being assessed against.	Whilst there have been no relevant changes to this State Interest, the Applicant has prepared a detailed flood investigation to support the original development application. That investigation confirmed the parts of the site free from impacts associated with a 1% AEP inundation event.

Strategic Airport and Aviation Facilities	
No relevant change in policies from July 2014 to July 2017; this State Interest is reflected in the version of CairnsPlan that application is being assessed against.	Whilst there have been changes to the policy associated with this State Interest, the development does not propose any elements or activities that have the ability to impact upon the Cairns Airport and its associated aviation facilities. On this basis, the Application is considered to appropriately reflect the requirements of this State Interest.

CairnsPlan 2016 v3.1

Assessment has been carried out against the relevant benchmarks contained within the Overlay, Zone, and Development Codes of CairnsPlan 2016 v3.1

Rural Zone	
Purpose statement 4(a), Overall Outcomes 6(a), (c) and (j), and Performance Outcome PO3 and PO11.	The proposed development does not comply with a number of provisions of the code because the proposed lot sizes do not facilitate the continuation of the land as a functional rural parcel and impacts its ability to provide for rural uses and activities. The land has been used for rural and non-urban uses for many years, and the proposed reconfiguration is considered to materially impact the ability of the land to operate as such. As noted below in response to the Reconfiguring a Lot Code, the specified minimum area in the rural zone is 40ha. The proposed lot sizes of approximately 24ha and 12.5ha are significantly below this threshold. The proposed reconfiguration fragments, rather than consolidates rural land, and would reduce the lands ability to adequately cater for uses that are anticipated to occur on rural zoned land. Maintaining the land as a single parcel of approximately 36.5ha retains the greatest ability of the land to be used for activities and purposes that are anticipated to occur within the zone. It is important to acknowledge that rural uses are not limited to cropping; other activities such as grazing, horse agistment, orchards, forestry or horticulture are examples of other rural uses that could possibly establish⁵. The non-compliance with these provisions is significant for the application as it demonstrates a material divergence from the stated intent for the land as expressed in the planning scheme. The non-compliance cannot be cured through the imposition of a condition.

⁵ *Hall v Cairns Regional Council & Anor [2026] QPEC 22 at [113]*

Overall Outcome 6(d)	OO6(d) of the Code specifies that development reflects and responds to the natural features and constraints of the land. The proposed reconfiguration incorporates a new boundary directly traversing designated environmentally significant areas, any may result in impacts to that area i.e. through vegetation clearing along the new boundary line. A different lot configuration may be able to avoid such areas, however such reconfiguration, if proposed, would remain significantly below the specified minimum lot size for the rural zone.
Airport Environs Overlay Code	
Overall Outcomes and Purpose Statements	The proposed development does not result in any non-compliance with the provisions of the overlay code.
Bushfire Hazard Overlay Code	
Overall Outcomes and Purpose Statements	The subject site contains various levels of bushfire hazard, primarily along the southern boundary of the site. As the development is for reconfiguration only, the lot sizes proposed are considered large enough to be able to incorporate a suitable site-based response to bushfire hazard if and when further development is proposed.
Extractive Resources Overlay Code	
Purpose statement 1, Overall Outcome 2(b) and Performance Outcome PO2	The proposed development provides for potential the establishment or new or additional sensitive uses within the key resource area – separation area designations on the overlay map, as the new eastern lot may be developed with, for example, a Dwelling House or a Caretakers Residence, both of which are defined as a Sensitive Land Use and reasonably anticipated to occur on rural zoned land. Overall Outcome 2(b) and Performance Outcome PO2 both state that <i>development of sensitive land uses does not occur within the resource processing and separation areas</i>. The significance of this statement is reinforced through the treatment of sensitive land uses within the Table of Assessment for the Rural Zone as subject to Impact Assessment where they are located within the overlay map. Whilst it is acknowledged that a specific sensitive land use is not proposed as part of the current application, the additional lot that would be created from the proposed development provides the potential for new or additional sensitive land uses to be established. Given the whole of the site is subject to the designation under the overlay map, it would be impossible to avoid placing a sensitive use outside of the area. Avoiding the creation of an additional lot within the overlay area will support intent of the overlay code to avoid sensitive land uses being established within the overlay area.
Hillslopes Overlay Code	
Overall Outcomes and Purpose Statements	A majority of the site is designated within the Hillslopes Area in accordance with the overlay map. Noting the western lot contains the existing dwelling house, the eastern lot also includes an area of the land the is outside of the designation. The development has, or is capable of, complying with the requirements of the overlay code.

Landscape Values Overlay Code	
Overall Outcomes and Purpose Statements	The whole of the site is designated within the high landscape values designation on the overlay map. As the development is for reconfiguration only, no built form is proposed at this stage. If the proposed development is approved, further assessable development on the land would be required to demonstrate compliance with the provisions of the overlay code. Officers are satisfied that the proposed reconfiguration does not result in material non-compliance with the overlay code.
Natural Areas Overlay Code	
Purpose statement 1(a) and Overall Outcomes 2(a) and (b), and Performance Outcome PO4	The subject site contains a number of relevant designations under the overlay including Matters of State Environmental Significance (MSES) for Regulated Vegetation - Essential Habitat, Intersecting a Watercourse, Category B, Category R, and Wildlife Habitat. Currunda Creek which traverses the site is designated MSES and is also designated as a Matter of Local Environmental Significance (MLES) being a non-urban waterway. Currunda Creek and its riparian area are a significant environmental feature of the site, which was acknowledged in the judgement of the Court⁶. The overlay code seeks to achieve its purpose and overall outcomes by first avoiding adverse impacts on areas of environment significance. If development cannot be located to avoid adverse impacts, development is to protect and enhance the area, ensure appropriate buffers are provided and does not result in direct or indirect impacts amongst other matters. The proposed development results in the creation of a new lot boundary through an area of environmental significance as designated on the overlay map; the development does not avoid the relevant MSES or MLES. Ecological reporting submitted in conjunction with the application identifies that the regional ecosystem in the part of Currunda Creek where the new boundary is proposed is classified as RE7.3.10a and may meet Commonwealth criteria for classification as a Threatened Ecological Community (TEC) – Tropical Lowland Rainforest of the Wet Tropics. Officers understand that no detailed field survey of the lot boundary has been completed to confirm the presence or otherwise of any threatened flora species. Given the location of the proposed boundary through this land and the potential for clearing to occur, this is, in Officers view, an unacceptable potential impact on the area of environmental significance. No mechanisms are proposed in the application that are intended to preserve vegetation on either side of the proposed lot boundary. This represents a significant non-compliance with relevant provisions of the overlay code.

⁶ *Hall v Cairns Regional Council & Anor [2026] QPEC 22 at [212]*

Performance Outcomes PO3 and PO10	AO3.4 specifies that development does not occur on the part of the lot affected by a waterway corridor. AO10.1 and 10.2 require the provision of waterway corridors per the specifications in the code, or adequate supporting information and justification for an alternate waterway corridor width. AO10.3 specifies that development other than community infrastructure or open space is not located within a waterway or waterway corridor. The <i>Planning Act 2016</i> defines development to include (b) <i>reconfiguring a lot</i>. The proposed development does not propose any waterway corridors to be established as part of the reconfiguration. The development, specifically the new lot boundary is not for community infrastructure or open space, and is located partly within a waterway. PO3 and PO10 require the same outcomes in that <i>Development is set back from the Non-urban waterway to protect and maintain (a) water quality; (b) hydrological functions; (c) ecological processes; (d) biodiversity values; (e) riparian and instream habitat values and connectivity; (f) instream migration</i>. Noting comments in respect of the potential biodiversity values, and riparian and instream habitat values and connectivity that Currunda Creek provides⁷, the development does not comply with PO3 or PO10.
Performance Outcome PO11	AO11.1 specifies that <i>native vegetation within waterways and waterway corridors is retained</i>. AO11.2 specifies that <i>waterway corridors are: (a) transferred to public ownership for an appropriate reserve purpose; or (b) protected through an environmental covenant</i>. PO11 specifies that <i>waterways and waterway corridors are protected, and degraded areas are restored and waterways and waterway corridors transferred to public ownership</i>. The proposed development does not include the transfer of any part of Currunda Creek into public ownership, or secure its protection through an environmental covenant. As noted above, the proposed lot boundary traverses the waterway which contains potential threatened ecological communities. No mechanism is proposed to secure the retention of vegetation located on either side of the lot boundary through the waterway or waterway corridor. It is understood that no rehabilitation of degraded areas of the waterway are proposed in conjunction with the proposed development. This results in non-compliance with this provision of the overlay code.

⁷ *Hall v Cairns Regional Council & Anor [2026] QPEC 22 at [212]*

Potential Landslip Hazard Overlay Code	
Overall Outcomes and Purpose Statements	The site contains areas of land designated as a potential landslip hazard area. The proposed development does not include any built form, and it is understood that no bulk earthworks are either proposed or required to facilitate the proposed reconfiguration. On this basis, the proposed development is considered to comply with the relevant provisions of the code. Should the development be approved, and further development proposed on that part of the land affected by the overlay area, further assessment against the provisions of the code would be undertaken.
Transport Network Overlay Code	
Overall Outcomes and Purpose Statements	The proposed development is considered to comply with this Overlay Code as the development seeks to subdivide the site from 1 Lot into 2 Lots only and does not propose additional land uses to occur beyond those already occurring on the land. The additional rural lot in its current state would not have an adverse impact on the road network. No change to the access arrangements to and from the site from Redlynch Intake Road are proposed, with the existing crossover having been designed and constructed in accordance with FNQROC standards.
Environmental Performance Code	
Overall Outcomes and Purpose Statements	The proposed development is considered to comply with this code as the development seeks to subdivide the site and does not seek to introduce any new land uses or activities. Stormwater from both lots would continue to be discharged consistent with existing arrangements, being Currunda Creek.
Excavation and Filling Code	
Overall Outcomes and Purpose Statements	This development code is not applicable to the development as it is understood that no earthworks are required to facilitate the proposed reconfiguration.
Infrastructure Works Code	
Overall Outcomes and Purpose Statements	The proposed development is considered to either comply, or is capable of complying with all relevant provisions of this code. The development has access to reticulated water supply, direct road access and currently discharges overland flow primarily to Currunda Creek. Electrical and communication services are both available on the land. In respect of wastewater infrastructure, the existing system on the sit associated with the dwelling house is to be maintained. Subject to the nature of any future development on the eastern lot, Officers consider that the eastern lot is of sufficient size to permit the establishment of a new on-site wastewater treatment system, sufficiently setback from the waterway.

Landscaping Code	
Overall Outcomes and Purpose Statements	Part A of the development is considered to comply with this code given the extent of existing vegetation located over the site that would be retained as part of this application. As noted above, the lot boundary between proposed Lots 21 and 22 traverses through the riparian corridor of Currunda Creek. There is the potential that clearing could occur adjacent to this boundary on both of Lots 21 and 22.
Reconfiguring a Lot Code	
Purpose statement 1(b), Overall Outcome 2(b) and Performance Outcome PO1	Purpose statement 1(b) specifies that <i>development results in lots that are suitable for their intended uses</i>. This provision is strengthened through Overall Outcome 2(b) which specifies that <i>lots have sufficient areas, dimensions and shapes to be suitable for their intended use, taking into account environmental features and site constraints</i>. AO1.1 Lots comply with the lot reconfiguration outcomes in Table 9.3.8.3.b. For the rural zone, the table specifies a minimum lot size of 40ha. PO1 specifies that <i>Lots have areas and dimensions that: (a) are consistent with the purpose and overall outcomes of the applicable zones or zone; (b) can accommodate land uses that are consistent with the purpose and overall outcomes of the applicable zone or zones; (c) are generally rectangular in shape</i>. The proposed lot sizes of approximately 24ha and 12.5ha are significantly below the threshold specified within the table to the code and do not comply with AO1.1. The proposed reconfiguration does not support ability of the land to continue to cater for uses that are anticipated to occur on rural zoned land. Supporting a reduction in lot sizes further below the specified minimum area would further erode the ability for anticipated rural uses and activities to be established. Maintaining the land as a single parcel of approximately 36.5ha retains the greatest ability of the land to be used for activities and purposes that are anticipated to occur within the zone. This is evident in the existing uses occurring on the land which are entirely consistent with its rural designation. Given the proposed reconfiguration does not appropriately providing for the continued functionality and capacity of the land to provide for anticipated rural uses and activities to established as a direct consequence of the lot sizes proposed, the development does not comply with these provisions. This non-compliance is material and cannot be cured through a condition.

Overall Outcome 2(f)	OO2(f) specifies that <i>development does not diminish environmental and scenic values</i>. For the reasons outlined above in response to the Natural Areas Overlay Code, it is considered that the proposed reconfiguration may diminish identified environmental values of the land. The proposed development does not comply with this provision.
Performance Outcomes PO11	PO11 specifies that <i>lot reconfiguration on or adjacent to land within the Rural zone, provides an appropriate separation area on site to buffer development from impacts arising from uses which may occur on the land within the Rural zone</i>. As previously noted, there is an existing hard rock quarry operating on the adjacent rural zoned land, and which is anticipated to remain operating for some time. As per the Extractive Resources Overlay Map, the whole of the site is within separation areas associated with the quarry use. Given the extent of key resource separation areas affecting the site, there is no ability to adequately buffer, specifically new or additional sensitive land uses that are anticipated to occur in the rural zone, from the activity already occurring on the adjacent rural zoned land. Retaining the current lot configuration as a single parcel provides the greatest ability to enact appropriate buffers as may be required. The proposed reconfiguration does not comply with this provision.

LOCAL GOVERNMENT INFRASTRUCTURE PLAN (LGIP)

The subject site is wholly located outside of the Priority Infrastructure Area (PIA); however, does not require the delivery of any trunk infrastructure identified within the Local Government Infrastructure Plan to facilitate the development.

The proposed development would result in an additional small rural lot, less than the minimum lot size prescribed for the rural zone. The planned residential density for the rural zone under the LGIP is 0.02 dwellings/ha. The proposed development would provide for 2 dwellings on 36.46ha being the lot size of the parent lot. This equates to a residential density of 0.05 dwellings/ha, or 2.5x the planned density. The LGIP does not anticipate any non-residential density (i.e. built form floor space) occurring within the rural zone.

REFERRAL AGENCY

The original development application triggered referral to State agencies in relation to Native Vegetation and State Transport Infrastructure. Upon review of the referral triggers identified in the original Referral Confirmation Notice, these triggers related to Part B of the development application, which has been refused by the Court. There are no referral agencies relevant to Part A of the development application.

PUBLIC NOTIFICATION

The original development application was subject to Impact Assessment and required Public Notification to be carried out in accordance with the Development Assessment Rules. Part A of the application, the subject of this report, is subject to Code Assessment only and is not subject to public notification. In the circumstances, the submissions made to Council for the original application have been considered in this application as part of the Common Material, which Council must have regard to in accordance with s27(1)(g) of the *Planning Regulation 2017*.

A total of 312 submissions were received during the Public Notification Period for the original development application; however, one of these submissions was withdrawn before the end of the Public Notification period, resulting in a total of 311 submissions.

To the extent that submissions raise matters relating to parts of the original development application other than Part A, those matters are considered to be not relevant to the current assessment.

Matters Raised in Submissions

The following matters were raised in properly made submissions:

Issue	How matter was dealt with
State Planning Policy – Key Resource Area (KRA)	Concern was raised by submitters that the development does not comply with State Planning Policy: State Interest – Mining and Extractive Resources (2)(a), (c), (d) and Assessment Benchmarks (1), (3), and (4). Item (2)(a) states that KRAs are protected by maintaining the long-term availability of the extractive resource and access to the KRA. The proposed development does not affect the long term availability of the extractive resource or access to the KRA. Item 2(c) states that KRAs are protected by avoiding land uses along the transport route and transport route separation area of a KRA that are likely to compromise the ongoing use of the route for the haulage of extractive materials. As noted in response to the Extractive Resources Overlay Code, the additional lot proposed as part of the reconfiguration would result in the potential establishment of new or additional sensitive land uses, such as a dwelling house, caretakers accommodation or rural workers accommodation. To minimise the potential for the establishment of new or additional sensitive land uses, it is appropriate that the additional lot is not created where it is wholly constrained by separation areas associated with the KRA. Item 2(d) states that KRAs are protected by avoiding new development adjacent to the transport route that is likely to adversely affect the safe and efficient transportation of the extractive resource. The proposed reconfiguration would not directly affect the operation of the existing transport route. As noted above, sensitive uses may seek to establish on the additional lot, which is not supported by the Extractive Resources Overlay Code. In respect of the identified assessment benchmarks, the original development application was framed around the conversion of the land for alternative, non-rural uses. In consideration of Part A only, the application does not provide adequate information that demonstrates the compatibility of the development with these provisions.

		To minimise the potential for the establishment of new or additional sensitive land uses, it is appropriate that the additional lot is not created where it is wholly constrained by separation areas associated with the KRA.
Conflict with CairnsPlan v3.1	2016	Concerns has been raised that the development is unable to comply with the CairnsPlan 2016 v3.1, specifically, the Strategic Framework, the Rural Zone Code, the Extractive Resources Overlay Code, the Hillslopes Overlay Code, the Landscape Values Overlay Code, the Natural Areas Overlay Code and the Transport Network Overlay Code. Officers have noted particular non-compliance with the Rural Zone Code, Extractive Resources Overlay Code, Natural Areas Overlay Code and Reconfiguring a Lot Code. These non-compliances are material and support Officers recommendation that Council refuse Part A.
Environment and Ecology		Concern has been raised in respect to previous sightings of cassowaries and other endangered species on the subject site and the fact that the central and western portion of the site is mapped as containing Essential Habitat and comprising 'of concern' regional ecosystems. The proposed developments impacts on identified MSES and MLES are provided in response to the Natural Areas Overlay Code.
Infrastructure (Priority Infrastructure Area)		Officers have assessed the proposed development against the relevant provisions of the LGIP. On the basis of the assessment carried out, Officers consider that the development can be serviced with an appropriate level of infrastructure and without impact to Council's trunk infrastructure networks.
Cultural Impacts		Concern has been raised by submitters in response to potential impacts on cultural heritage values. Duty of Care obligations are placed on persons by the <i>Aboriginal Cultural Heritage Act 2003</i> and this is proposed to be reinforced through further advice notes to the Applicant.
Landslide Hazard		Concern has been raised in respect to the landslip hazard of the site and the possibility of this hazard being amplified as a result of the development. Only small portions of the site are affected by the Landslip Hazard Overlay mapping. Given the limited areas of the site affected by the overlay designation, Officers consider that it is both practical and appropriate that future development could feasibly be located on a part of the site that is not subject to the overlay.

INFRASTRUCTURE CHARGES

Council's Infrastructure Charges Resolution No. 2 of 2021 identifies that an Infrastructure Charge may be levied for Part A of the development where it is approved, with any levied charge to be calculated in accordance with the Resolution and section 120 of the *Planning Act 2016*.

The subject site comprises an existing Dwelling House (3 or more bedroom) on the western portion of the site. The eastern portion of the site has an existing approval for Outdoor Sport and Recreation for an Equestrian Centre. Under the current Infrastructure Charges Resolution No. 2 of 2021, the charge for Outdoor Sport and Recreation is *'the rate for another similar use listed in this table that Council decides to apply to the use'*.

Officers are of the view that the existing Outdoor Sport and Recreation use of the site would fall under the category of a Low Impact Rural activity and therefore, out of the two (2) land uses under this category, Officers consider that the existing use would be best defined as Animal Husbandry.

Animal Husbandry is defined under the *Planning Regulation 2017* and CairnsPlan 2016 v3.1 as follows:

"Animal Husbandry means the use of premises for –

- (a) producing animals or animals products on native or improved pastures or vegetation; or*
- (b) a yard, stable, temporary holding facility or machinery repairs and servicing, if the use is ancillary to the use in paragraph (a)."*

Officers are satisfied that the Animal Husbandry land use would best reflect the nearest similar use that reflects the approved use of the site for Outdoor Sport and Recreation.

The charge rate for Animal Husbandry is Nil.

Therefore, there will be no credit that applies to the site for the existing Outdoor Sport and Recreation use. Hence, the existing credit that applies to the land will be for the existing 3 or more-bedroom Dwelling House located in the western portion of the site only.

On the basis that the application is recommended to be refused, levied charges do not apply.

REASONS FOR DECISION

The reasons for this decision are:

1. The proposed development does not appropriately provide for the continuing functionality and capacity of the land to provide for rural uses and activities. The proposed reconfiguration fragments functional rural land that will, as a result of lot sizes being significantly below the minimum prescribed by the Reconfiguring a Lot Code, materially affect the ability of the land to cater for rural uses and activities.

For the above reasons, the proposed development does not comply with:

- a. Purpose statement (4)(a), Overall Outcomes 6(a), (c) and (j) and Performance Outcomes PO3 and PO11 of the Rural Zone Code; and
- b. Purpose statement (1)(b), Overall Outcomes (2)(b) and Performance Outcome PO1 of the Reconfiguring a Lot Code

2. The proposed reconfiguration results in the creation of a new lot boundary through an area of identified state and local environmental significance, being Currunda Creek. The location of this boundary through this area does not avoid, and may result in impacts to the area of environmental significance, through for example, clearing for fencing of the new lot boundary.

The application has not demonstrated that where development cannot avoid impacts on an area of environmental significance, that it protects and enhances the area, provides a buffer to the area, or does not result in direct or indirect impacts.

For the above reasons, the proposed development does not comply with:

- a. Purpose statement 1(a), Overall Outcomes (2)(a), (b), and Performance Outcomes PO3, PO4, PO10 and PO11 of the Natural Areas Overlay Code;
 - b. Overall Outcome (6)(d) of the Rural Zone Code; and
 - c. Overall Outcome (2)(f) of the Reconfiguring a Lot Code.
3. The application does not demonstrate that the proposed reconfiguration will not result in the locating of additional or new sensitive land uses within a Key Resource Area - Separation Area or Key Resource Area – Transport Route Separation Area as shown on the Extractive Resources Overlay Map.

For the above reasons, the proposed development does not comply with:

- a. Purpose statement 1, Overall Outcome 2(b) and PO2 of the Extractive Resources Overlay Code; and
- b. PO11 of the Reconfiguring a Lot Code.

RISK MANAGEMENT

Council Finance and the Local Economy

The development if it were to be approved, would occur on privately owned land and all costs are the responsibility of the developer.

Community and Cultural Heritage

CairnsPlan 2016 sets out framework to ensure appropriate development occurs. The framework is reflected within the overlay, local plan, zone and development codes of which this development application has been assessed against.

Natural Environment

CairnsPlan 2016 sets out framework to ensure appropriate development occurs. The framework is reflected within the overlay, local plan, zone and development codes of which this development application has been assessed against.

ATTACHMENTS

Attachment 1. Part A – Plan of Development for Reconfiguring a Lot (1 Lot into 2 Lots & Access Easement) - #[7599661](#)

A handwritten signature in black ink, appearing to read 'C. Simmons', with a stylized flourish at the end.

Claire Simmons
Executive Manager Development & Planning

A handwritten signature in black ink, appearing to read 'M. Davey', with a stylized flourish at the end.

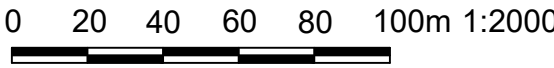
Dr Mark Davey
Director Planning, Growth & Sustainability

ATTACHMENT 1: PART A – PLAN OF DEVELOPMENT FOR RECONFIGURING A LOT (1 INTO 2 LOTS & ACCESS EASEMENT) - #[7599661](#)



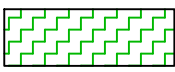
TRADES AND SERVICES DEVELOPMENT
LOT 2 on SP106972

SK20A
PROPOSED RECONFIGURATION OF
LOT 2 ON SP106972 INTO 2 LOTS





LEGEND

 REMNANT VEGETATION (CATEGORY B)

0 20 40 60 80 100m 1:2000

TRADES AND SERVICES DEVELOPMENT
LOT 2 on SP106972

SK21A
PROPOSED RECONFIGURATION OF
LOT 2 ON SP106972 INTO 2 LOTS