

DELEGATED REPORT

SUBJECT: J WESSELS - RECONFIGURING A LOT - BOUNDARY REALIGNMENT - LOT 225 ON HG293 & LOT 62 ON SP167299 - 3727 MAREEBA-DIMBULAH ROAD, MUTCHILBA - RAL/19/0001

DATE: 14 May 2019

REPORT OFFICER'S TITLE: Senior Planner

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	J Wessels	ADDRESS	3727 Mareeba-Dimbulah Road, Mutchilba
DATE LODGED	30 January 2019	RPD	Lot 225 on HG293 Lot 62 on SP167299
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Boundary Realignment		

FILE NO	RAL/19/0001	AREA	Lot 225 - 54.096 hectares Lot 62 - 28.31 hectares
LODGED BY	Planz Town Planning Pty Ltd	OWNER	DBC RSA Holdings Pty Ltd
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural zone		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	n/a		

ATTACHMENTS: 1. Proposal Plan/s

EXECUTIVE SUMMARY

Council is in receipt of a development application described in the above application details.

The application is code assessable and was not required to undergo public notification.

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

Draft conditions were provided to the Applicant/care of their consultant and have been agreed.

It is recommended that the application be approved in full with conditions.

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	J Wessels	ADDRESS	3727 Mareeba-Dimbulah Road, Mutchilba
DATE LODGED	30 January 2019	RPD	Lot 225 on HG293 Lot 62 on SP167299
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Boundary Realignment		

and in accordance with the Planning Act 2016, the applicant be notified that the application for a development permit for the development specified in (A) is:

Approved by Council in accordance with the approved plans/documents listed in (B), subject to assessment manager conditions in (C), assessment manager's advice in (D), relevant period in (E), further permits in (F), and further approvals from Council listed in (G);

And

The assessment manager does not consider that the assessment manager's decision conflicts with a relevant instrument.

(A) APPROVED DEVELOPMENT: Development Permit for Reconfiguring a Lot - Boundary Realignment

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
DA1-01A	Site Plan	Greg Terzi	Nov 2018

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out generally in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:

- found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and

- to ensure compliance with the following conditions of approval.

2. Timing of Effect

The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the endorsement of the plan of survey, except where specified otherwise in these conditions of approval.

3. General

- 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure or the payment of infrastructure charges/contributions contained within the conditions of approval.
- 3.2 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
- 3.3 All payments required to be made to the Council (including contributions, charges and bonds) pursuant to any condition of this approval must be made prior the endorsement of the plan of survey and at the rate applicable at the time of payment.
- 3.4 The developer must relocate (in accordance with FNQROC standards) any services such as water, sewer, drainage, telecommunications and electricity that are not wholly located within the lots that are being created/serviced where required by the relevant authority unless approved by Council's delegated officer.
- 3.5 Where utilities (such as sewers on non-standard alignments) traverse lots to service another lot, easements must be created in favour of Council for access and maintenance purposes. The developer is to pay all costs (including Council's legal expenses) to prepare and register the easement documents.
- 3.6 Where approved existing buildings and structures are to be retained, setbacks to any new property boundaries are to be in accordance with Planning Scheme requirements for the relevant structure and/or Queensland Development Code. Where existing building/s are in proximity to new property boundaries, a plan demonstrating compliance with the required setback must be submitted prior to endorsement of the plan of survey.
- 3.7 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements and to the satisfaction of Council's delegated officer.
- 3.8 Charges

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

4. Infrastructure Services and Standards

4.1 Access

An access crossover must be upgraded/constructed to proposed Lot B (from the edge of Price Creek Road to the property boundary) in accordance with FNQROC Development Manual Standards (as amended), to the satisfaction of Council's delegated officer.

4.2 Stormwater Drainage

4.2.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development and must take all reasonable and practical measures to ensure discharge occurs in compliance with the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.2.2 All stormwater drainage must be discharged to an approved legal point of discharge.

(D) ASSESSMENT MANAGER'S ADVICE

(a) A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.

(b) Endorsement Fees

Council charges a fee for the endorsement of a Survey Plan, Community Management Statements, easement documents, and covenants. The fee is set out in Council's Fees & Charges Schedule applicable for each respective financial year.

(c) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

(d) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from www.environment.gov.au.

(e) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed

by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from www.datsip.qld.gov.au.

(E) RELEVANT PERIOD

When approval lapses if development not started (s.85)

- Reconfiguring a Lot – four (4) years (starting the day the approval takes effect);

(F) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

- Nil

(G) OTHER APPROVALS REQUIRED FROM COUNCIL

- approval arising from condition number 4.1 (Please contact Planning Section to obtain application form and applicable fee)

THE SITE

The subject land is described as follows:

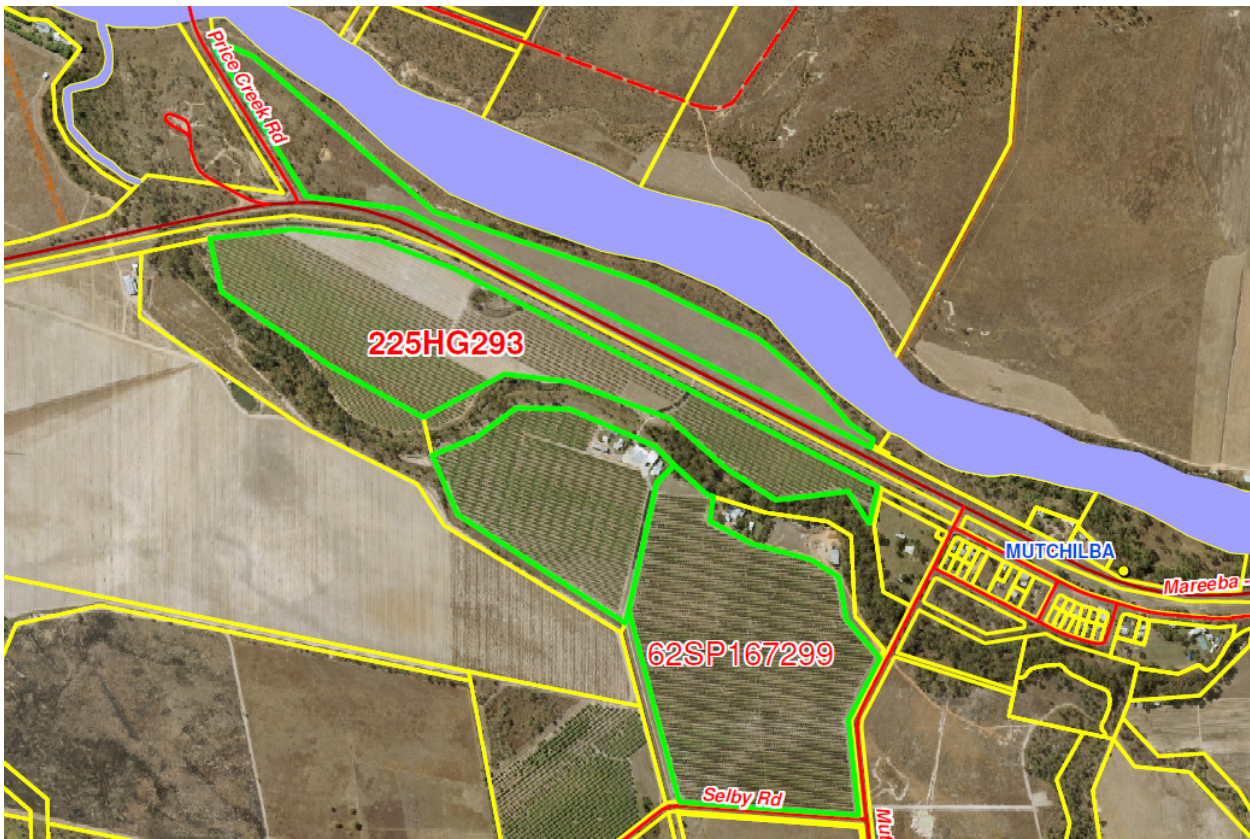
- Lot 225 on HG293, area of 54.096 hectares, frontages in excess of 400 metres to Price Creek Road and the Mareeba-Dimbulah Road;
- Lot 62 on SP167299, area of 28.31 hectares, frontage of 400 metres to Selby Road.

The Mareeba-Dimbulah Road, Selby Road and Price Creek Road are formed roads with bitumen seal for the entire frontage of each lot. Access to both lots is obtained off these various road frontages.

Lot 225 is divided into a northern and southern portion by the Mareeba-Dimbulah Road and the Mareeba-Dimbulah rail corridor. The Walsh River is located immediately to the north.

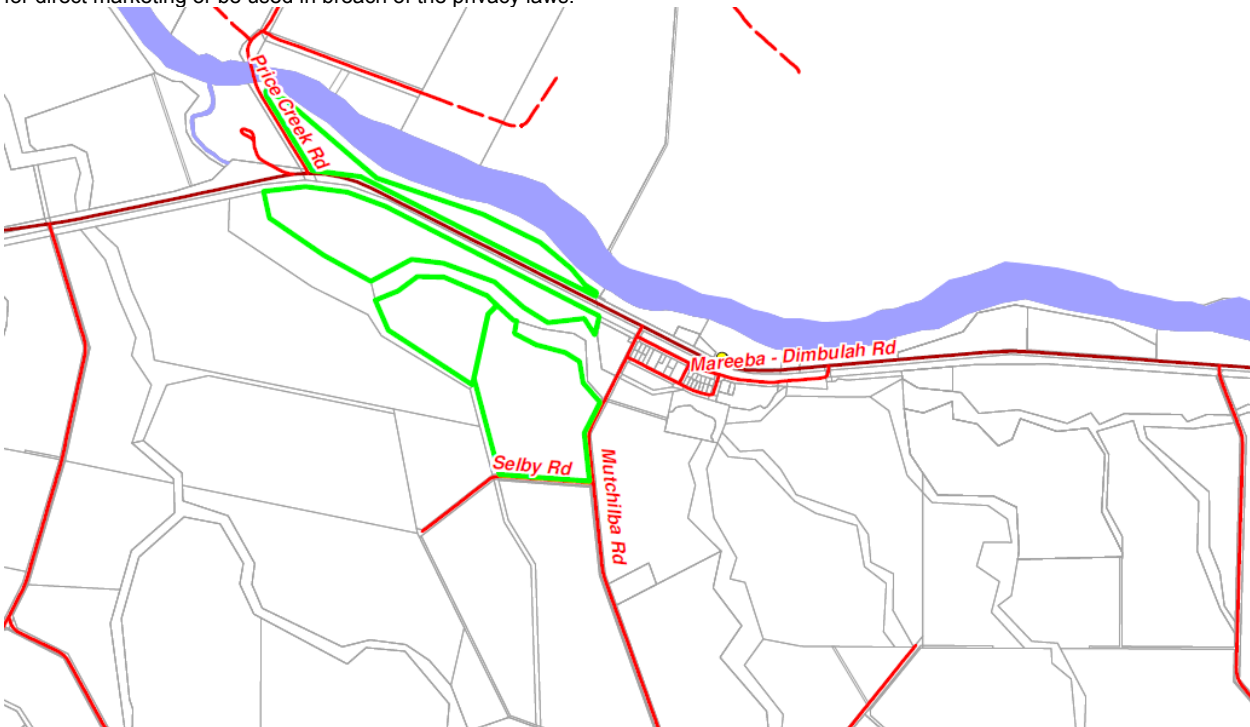
Lot 62 and that part of Lot 225 located to the south of the Mareeba-Dimbulah Road contains an established mango orchard. Farm infrastructure comprising of several dwelling houses and multiple farm sheds is located within Lot 225. Lot 62 does not contain any structural improvements.

The Mutchilba township is located immediately to the east and the Mutchilba waste transfer station is located immediately to the west. Apart from the before mentioned, surrounding allotments are zoned Rural and are used for rural purposes.



Map Disclaimer:

Based on or contains data provided by the State of Queensland (Department of Environment and Resource Management) (2009). In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.



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BACKGROUND AND CONTEXT

Nil

PREVIOUS APPLICATIONS & APPROVALS

Nil

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Reconfiguring a Lot - Boundary Realignment in accordance with the plans shown in **Attachment 1**.

The proposed allotments are generally in accordance with the following:

- Lot A - area of 68.53ha, frontage in excess of 400 metres to Selby Road;
- Lot B - area of 13.96ha, frontage of 400 metres to the Mareeba-Dimbulah Road and Price Creek Road.

The realignment would result in two allotments with the division being the Mareeba-Dimbulah Road and railway corridor land.

The boundary realignment will not alter the access or servicing arrangements for either allotment.

REGIONAL PLAN DESIGNATION

The subject site is included within the Regional Landscape and Rural Production Area land use category in the Far North Queensland Regional Plan 2009-2031. The Regional Plan Map 3- 'Areas of Ecological Significance' also identifies the site is:

- *Wetland Area of General Ecological Significance*
- *Terrestrial Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

	Land Use Categories
Strategic Framework:	<ul style="list-style-type: none"> ▪ Rural Agricultural Area ▪ Rural Other
Zone:	Rural zone <ul style="list-style-type: none"> ▪ Agricultural Land Overlay ▪ Bushfire Hazard Overlay ▪ Environmental Significance Overlay
Overlays:	<ul style="list-style-type: none"> ▪ Flood Hazard Overlay ▪ Hill and Slope Overlay ▪ Transport Infrastructure Overlay

RELEVANT PLANNING INSTRUMENTS

Assessment of the proposed development against the relevant planning instruments is summarised as follows:-

(a) Far North Queensland Regional Plan 2009-2031

Separate assessment against the Regional Plan is not required because the Mareeba Shire Council Planning Scheme appropriately advances the Far North Queensland Regional Plan 2009-2031, as it applies to the planning scheme area.

(b) State Planning Policy

Separate assessment against the State Planning Policy (SPP) is not required because the Mareeba Shire Council Planning Scheme appropriately integrates all relevant aspects of the SPP.

(c) Mareeba Shire Council Planning Scheme 2016

Relevant Development Codes

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

- 6.2.9 Rural zone code
- 8.2.1 Agricultural land overlay code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.6 Flood hazard overlay code
- 8.2.8 Hill and slope overlay code
- 8.2.12 Transport infrastructure overlay code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.4 Reconfiguring a lot code
- 9.4.5 Works, services and infrastructure code

The application included a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable outcomes (or performance outcomes where no acceptable outcome applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Rural zone code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Agricultural land overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Bushfire hazard overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).

Environmental significance overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Flood hazard overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Hill and slope overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Transport infrastructure overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Landscaping code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Parking and access code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Reconfiguring a lot code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code apart from the following: <ul style="list-style-type: none"> ▪ Acceptable Outcome AO1 Compliance with the higher order Performance Outcome PO1 of the Reconfiguring a Lot Code is demonstrated.
Parking and access code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).

(e) Planning Scheme Policies

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

A condition will be attached to any approval requiring all development works be designed and constructed in accordance with FNQROC Development Manual standards.

(f) Additional Trunk Infrastructure Condition

The subject land is located outside the identified Priority Infrastructure Area (PIA).

Section 130 of the *Planning Act 2016* allows Council to condition additional trunk infrastructure outside the PIA.

As the proposed development is for boundary realignment only, no infrastructure charges/contributions are payable.

REFERRALS

This application did not trigger a referral under Schedule 10 of the *Planning Regulation 2017*.

Internal Consultation

Technical Services.

PLANNING DISCUSSION

Compliance with Performance Outcome PO1 of the Reconfiguring a Lot Code is summarised as follows:

Reconfiguring a Lot Code

PO1

Lots include an area and frontage that:

- (a) *is consistent with the design of lots in the surrounding area;*
- (b) *allows the desired amenity of the zone to be achieved;*
- (c) *is able to accommodate all buildings, structures and works associated with the intended land use;*
- (d) *allow the site to be provided with sufficient access;*
- (e) *considers the proximity of the land to:*
 - (i) *centres;*
 - (ii) *public transport services; and*
 - (iii) *open space; and*
- (f) *allows for the protection of environmental features; and*
- (g) *accommodates site constraints.*

AO1.1

*Lots provide a minimum area and frontage in accordance with **Table 9.4.4.3B**.*

Comment

Table 9.4.4.3B outlines the minimum area and dimensions (road frontage) for reconfiguring a lot. For all lots created in the rural zone, the minimum area is 60 hectares and the minimum road frontage is 400 metres.

Both proposed Lots A and B will have a frontage in excess of 400 metres. Proposed Lot A will have an area of 68.9 hectares. As proposed Lot B will have an area of 13.5 hectares, it fails to satisfy AO1.1.

Instead, the development must be assessed against Performance Outcome PO1 as follows:

- (a) *is consistent with the design of lots in the surrounding area;*

The applicant has highlighted multiple examples of small rural allotments situated between the Mareeba-Dimbulah Road and the Walsh River on the approaches to Mutchilba.

The proposed development would result in one compliant allotment (Lot A). Lot B would be compliant in terms of frontage and is not inconsistent in terms of area when compared to multiple existing lots on the northern side of the Mareeba-Dimbulah Road.

- (b) *allows the desired amenity of the zone to be achieved;*

Both proposed lots will retain their rural character and allow for continuing rural uses.

The intended final development density is in keeping with the rural zone in the immediate area.

- (c) *is able to accommodate all buildings, structures and works associated with the intended land use;*

Proposed Lot A will contain the existing dwelling houses and farma sheds.

Proposed Lot B will be vacant at the time of its creation.

- (d) *allow the site to be provided with sufficient access;*

Access to each proposed lot will remain in the existing location.

- (e) *considers the proximity of the land to:*

- (i) *centres;*
- (ii) *public transport services; and*
- (iii) *open space; and*

The proximity of the land to the nominated services and facilities is equivalent to most other rural, rural residential and residential lots in the Mutchilba locality.

- (f) *allows for the protection of environmental features; and*

No clearing of regulated vegetation is proposed.

Both proposed lots contain large areas of land outside of the environmental areas mapped by the Environmental Significance Overlay.

- (g) *accommodates site constraints.*

Proposed Lot B is entirely covered by the Potential Flood Hazard Area.

Future buildings on proposed Lot B will need to demonstrate compliance with the Flood Hazard Overlay Code.

It is also noted that all of Mutchilba township is similarly mapped as Potential Flood Hazard Area.

The proposed reconfiguration will satisfy PO1

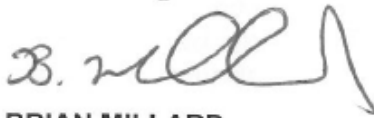
Date Prepared: 14 May 2019

DECISION BY DELEGATE

DECISION

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

Dated the 20TH day of MAY 2019



BRIAN MILLARD
SENIOR PLANNER



ANTHONY ARCHIE
MANAGER DEVELOPMENT & GOVERNANCE

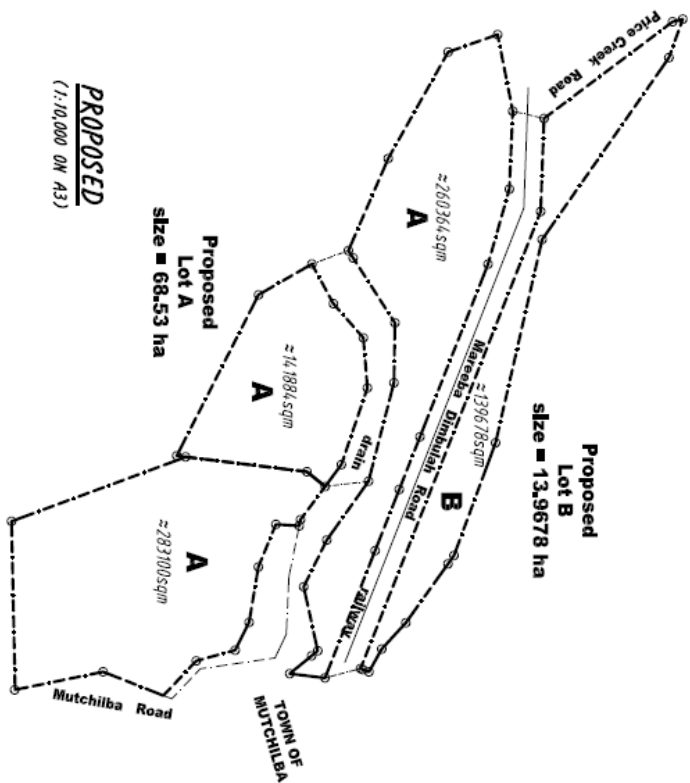
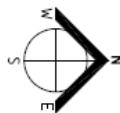
MAREEBA SHIRE
AS A DELEGATE OF THE COUNCIL

PROPOSAL PLANS

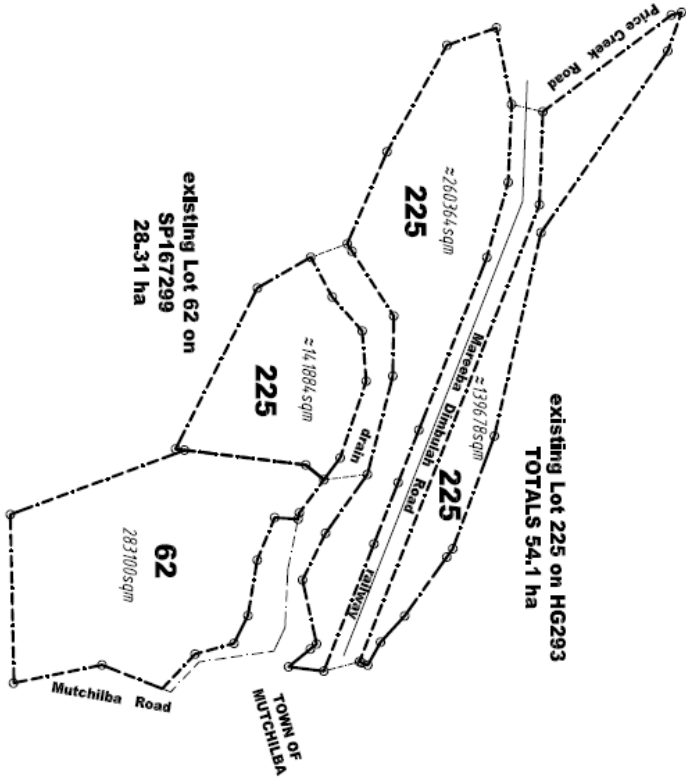


existing AERIAL VIEW

QLD GLOBE EXTRACT
(approx. 1:20,000 ON A3)



PROPOSED
(1:10,000 ON A3)



EXISTING
(1:10,000 ON A3)

PROJECT:	3227	DATE:	NOV 2018
SCALE:	A5 SHOWN ON A3 SHEET	DRAWING TITLE:	SITE PLAN
PROJECT:	phone: 6478 794 725, EMDURTON 4889, QUEENSLAND GREGORY G TERZAGLIA -Building Designer- Medium Rise- QBCC LICENCE: 117048- MAREEBA DIMBULAH RD MUTCHILBA 4872 -RURAL- PROPERTY BOUNDARIES RE-ALIGNMENT		
JOB NO.:	0507	SHEET NO.:	DA1-01
ISSUE:			A