

**DELEGATED REPORT**

**SUBJECT:** KATHLEEN COLLESS PTY LTD - RECONFIGURING A LOT - BOUNDARY REALIGNMENT - LOT 2 & 3 ON SP223151 - 3276 & 3278 MULLIGAN HIGHWAY, MOUNT MOLLOY - RAL/19/0017

**DATE:** 27 August 2019

**REPORT OFFICER'S TITLE:** Planning Officer

**DEPARTMENT:** Corporate and Community Services

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**APPLICATION DETAILS**

APPLICATION		PREMISES	
<b>APPLICANT</b>	Kathleen Colless Pty Ltd	<b>ADDRESS</b>	3276 & 3278 Mulligan Highway, Mount Molloy
<b>DATE LODGED</b>	26/07/2019	<b>RPD</b>	Lots 2 & 3 on SP223151
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Reconfiguring a Lot - Boundary Realignment		

<b>FILE NO</b>	RAL/19/0017	<b>AREA</b>	Lot 2 - 217.9 ha Lot 3 - 93.88 ha
<b>LODGED BY</b>	John Colless	<b>OWNER</b>	Kathleen Colless Pty Ltd
<b>PLANNING SCHEME</b>	Mareeba Shire Council Planning Scheme 2016		
<b>ZONE</b>	Rural Zone		
<b>LEVEL OF ASSESSMENT</b>	Code Assessment		
<b>SUBMISSIONS</b>	N/A - Code Assessment only		

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**ATTACHMENTS:**

1. Proposal Plan/s
2. Ergon Energy Referral Agency Response (Advice Only)

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**EXECUTIVE SUMMARY**

*Council is in receipt of a code assessable development application described in the above application details. Being code assessable, the application was not required to be publicly notified.*

*The application has been assessed against the Mareeba Shire Council Planning Scheme 2016 and does not conflict with any relevant aspect of the Planning Scheme.*

*It is recommended that the application be approved in full, subject to conditions.*

**OFFICER'S RECOMMENDATION**

1. That in relation to the following development application:

<b>APPLICATION</b>		<b>PREMISES</b>	
<b>APPLICANT</b>	Kathleen Colless Pty Ltd	<b>ADDRESS</b>	3276 & 3278 Mulligan Highway, Mount Molloy
<b>DATE LODGED</b>	26/07/2019	<b>RPD</b>	Lots 2 & 3 on SP223151
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	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), referral agency conditions in (E), relevant period in (F), further permits in (G), and further approvals from Council listed in (H);

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
7946 - Lots 2 & 3	Proposed Reconfiguring of a Lot ( 2 Lots into 2 Lots)	Twine Surveys Pty Ltd	5/05/2019

(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

- 2.1 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 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.

- 3.2 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.

- 3.3 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. A plan demonstrating compliance of any existing buildings or structures that are in close proximity to any new property boundary must be submitted prior to endorsement of the plan of survey.

- 3.4 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.

### 3.5 Charges

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

### 3.6 Access Easement

An easement with a minimum width of 5 metres must be created through Lot 3 in favour of Lot 2 for the purpose of access. The easement must have a length of at least 25 metres.

Prior to the endorsement of the plan of survey, the easement Form 9 and Form 20 must be submitted for review by Council's delegated officer.

## ASSESSMENT MANAGER'S ADVICE

### (a) 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.

(b) 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.

(c) Notation on Rates Record

A notation will be placed on Council's Rate record with respect to each lot regarding the following conditions:

- registered easements over the subject site (Lot 3 only)

(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](http://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](http://www.datsip.qld.gov.au)

(E) REFERRAL AGENCY CONDITIONS

Ergon Energy Advice Agency response dated 26 August 2019.

(F) RELEVANT PERIOD

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

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

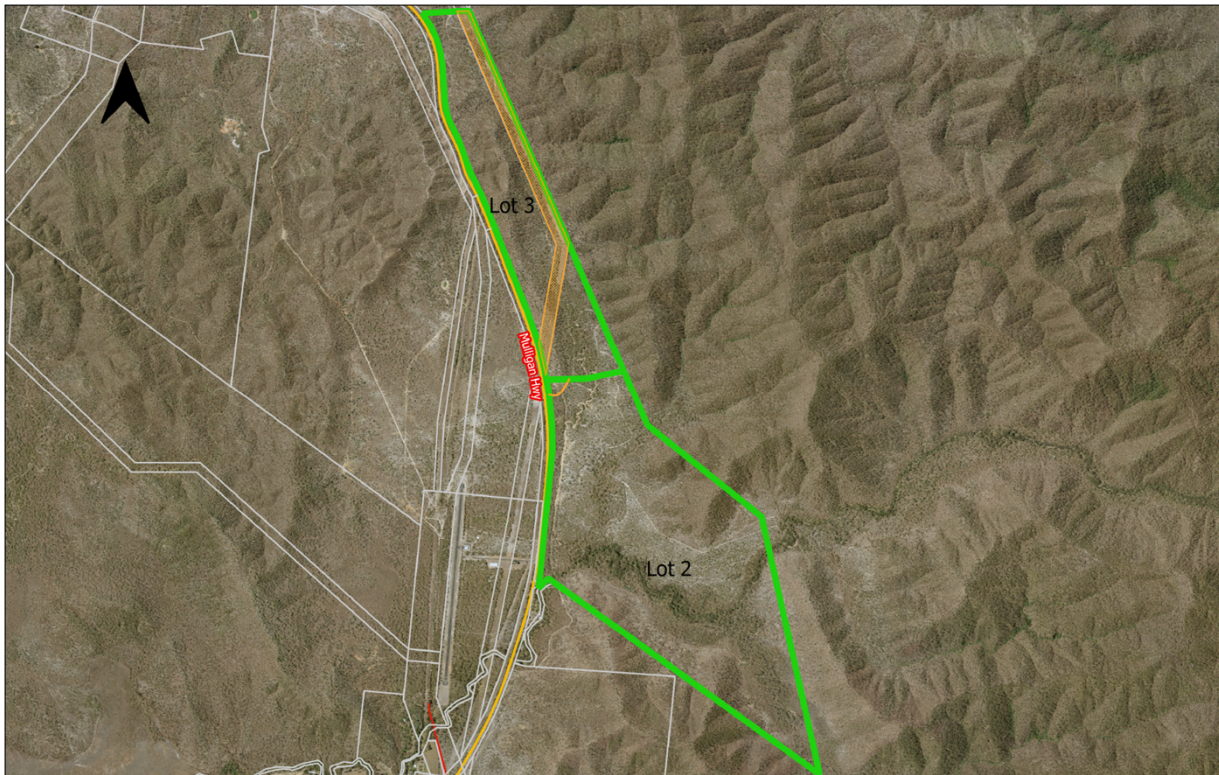
(G) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

- Nil

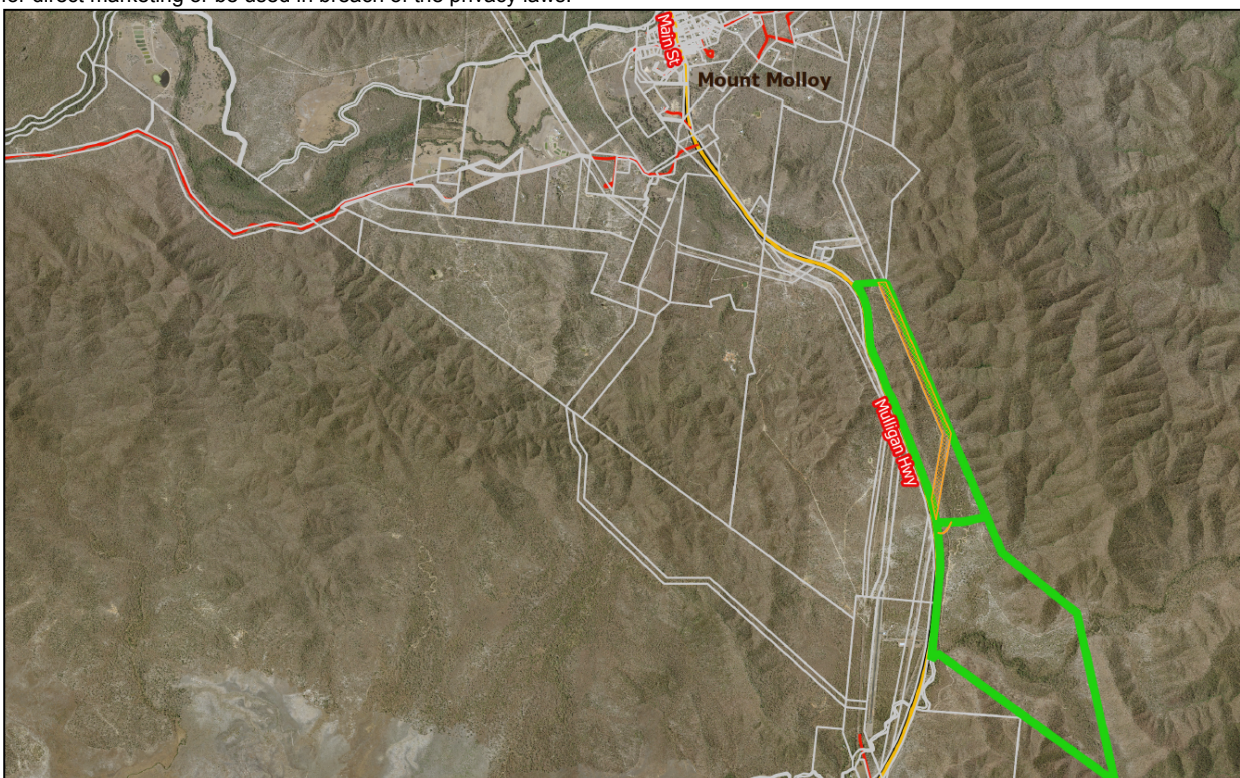
(H) OTHER APPROVALS REQUIRED FROM COUNCIL

- Nil



**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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## THE SITE

The subject land is described as Lots 2 and 3 on SP223151 and is situated at 3276 and 3278 Mulligan Highway, Mount Molloy. Both lots 2 and 3 are irregular in shape with areas of 217.9 ha and 93.88 ha respectively and are both zoned Rural under the Mareeba Shire Council Planning Scheme 2016. Both lots contain in excess of 1km of frontage to the Mulligan Highway which is a State controlled road and is bitumen sealed.

Both lots are unimproved with the exception of some cattle grazing and mustering infrastructure (cattle yards). Lot 3 is traversed by high voltage electricity lines which lie within an easement in favour of Ergon Energy. Lot 2 contains an access easement within which a gravel access road is constructed which benefits Lot 3 as they share the same access crossover situated along the frontage of Lot 2.

Lots surrounding the site to the west, north and south are zoned rural while the large lot to the east of the site is a National Park and is zoned Conservation.

## 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**.

## 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 as containing:

- *Strategic Rehabilitation Area*
- *State & Regional Conservation Corridors*
- *Terrestrial Area of High Ecological Significance*
- *Terrestrial Area of General Ecological Significance*



## PLANNING SCHEME DESIGNATIONS

Strategic Framework:	<p><b>Land Use Categories</b></p> <ul style="list-style-type: none"> <li>▪ Rural Other</li> </ul> <p><b>Natural Environment Elements</b></p> <ul style="list-style-type: none"> <li>▪ Biodiversity Areas</li> <li>▪ Ecological Corridor</li> </ul> <p><b>Infrastructure Elements</b></p> <ul style="list-style-type: none"> <li>▪ Major Electrical Infrastructure</li> </ul> <p><b>Transport Elements</b></p> <ul style="list-style-type: none"> <li>▪ State Controlled Road</li> <li>▪ B-double Route</li> <li>▪ Principal Cycle Routes</li> </ul>
Zone:	<p>Rural zone</p> <ul style="list-style-type: none"> <li>- Bushfire Hazard Overlay</li> <li>- Environmental Significance Overlay</li> <li>- Hill and Slope Overlay</li> <li>- Regional Infrastructure Corridors and Substations Overlay</li> </ul>
Overlays:	

## 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
8.2.3	Bushfire hazard overlay code
8.2.4	Environmental significance overlay code
8.2.8	Hill and slope overlay code
8.2.9	Regional infrastructure corridors and substations 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 did not include a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable solutions (or probable solutions/performance criteria where no acceptable solution applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

<b>Relevant Codes</b>	<b>Comments</b>
Rural Zone Code	The application can be conditioned to comply with the code's 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 code's 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 code's 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 code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Regional Infrastructure Corridors and Substations Overlay Code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Landscaping Code	The application can be conditioned to comply with the code's 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 code's 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 code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Works, Services and Infrastructure Overlay Code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).

### **(e) Planning Scheme Policies/Infrastructure Charges Plan**

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 relevant development works be designed and constructed in accordance with FNQROC Development Manual Standards.

### **REFERRALS**

The application triggered referral to Ergon Energy as an Advice Agency.

Ergon advised in a letter dated 26 August 2019 that they have no requirements in relation to the application (**Attachment 2**).

**Internal Consultation**

Nil

**PLANNING DISCUSSION**

Nil

***Date Prepared:***            *27 August 2019*

## DECISION BY DELEGATE

## DECISION

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

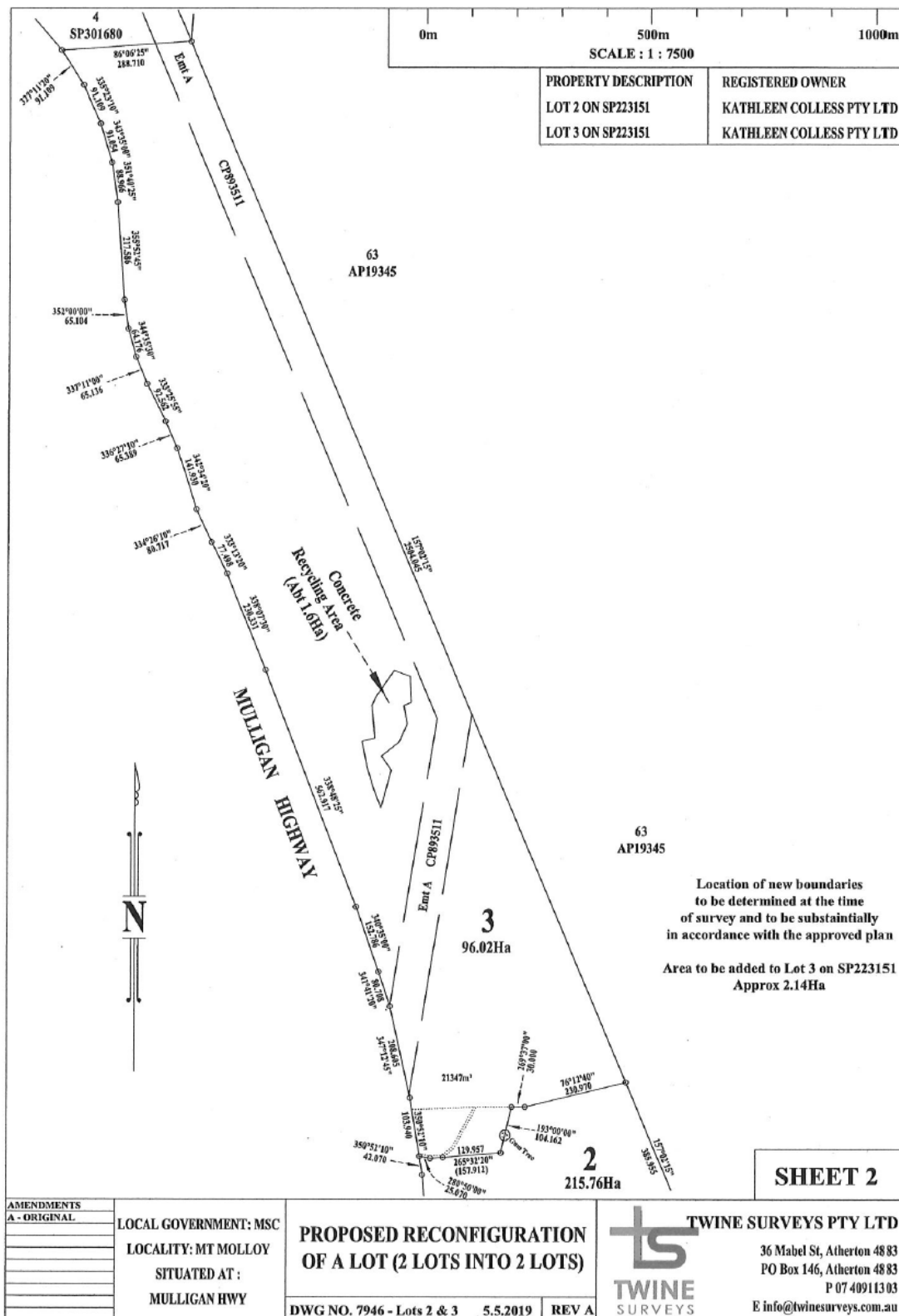
Dated the 27TH day of AUGUST 2019



**BRIAN MILLARD**  
**SENIOR PLANNER**

MAREEBA SHIRE  
AS DELEGATE OF THE COUNCIL

APPROVED PLANS (ECM Doc Set ID 3611275)



Document Set ID: 3611275  
Version: 1, Version Date: 26/07/2019

## ATTACHMENT 2



420 Flinders Street, Townsville QLD 4810  
PO Box 1090, Townsville QLD 4810  
[ergon.com.au](http://ergon.com.au)

26 August 2019

Kathleen Colless Pty Ltd  
C/- John Colless  
via email: [john@wetherbystation.com](mailto:john@wetherbystation.com)

Attention: John Colless

cc Mareeba Shire Council  
via email: [info@msc.qld.gov.au](mailto:info@msc.qld.gov.au)  
[CarlE@msc.qld.gov.au](mailto:CarlE@msc.qld.gov.au)

Attention: Carl Ewin

Dear John,

**Referral Agency Notice for Development Application – Reconfiguring a Lot (Boundary Realignment) located at 421 Wetherby Road, Mount Molloy and described as Lots 2 & 3 on SP223151.**  
**Council Ref: RAL/19/0017**  
**Our Ref: HBD 6730679**

We refer to the above referenced Development Application which has been referred to Ergon Energy in accordance with the *Planning Act 2016*.

In accordance with Schedule 10, Part 9, Division 2 of the *Planning Regulation 2017*, the application has been assessed against the purposes of the *Electricity Act 1994* and *Electrical Safety Act 2002*. This response has been provided pursuant to the requirements of section 56(1) of the *Planning Act 2016*.

As an Advice agency to the application Ergon Energy has no requirements in relation to the proposed Boundary Realignment.

Should you require any further information on the above matter, please contact the undersigned on (07) 3664 5050.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Scott Pearson'.

**Scott Pearson**  
Senior Town Planner