

**DELEGATED REPORT**

**SUBJECT:** SA & KJ GARGAN - RECONFIGURING A LOT - BOUNDARY REALIGNMENT - LOT 487 ON HG630 & LOT 50 ON SP220744 - 26 & 78 COLLINS WEIR ROAD, MUTCHILBA - RAL/20/0009

**DATE:** 16 September 2020

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

**DEPARTMENT:** Corporate and Community Services

**APPLICATION DETAILS**

APPLICATION		PREMISES	
<b>APPLICANT</b>	SA & KJ Gargan	<b>ADDRESS</b>	26 & 78 Collins Weir Road, Mutchilba
<b>DATE LODGED</b>	27 August 2020	<b>RPD</b>	Lot 487 on HG630 and Lot 50 on SP220744
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Reconfiguring a Lot - Boundary Realignment		

<b>FILE NO</b>	RAL/20/0009	<b>AREA</b>	Lot 487 - 386 ha Lot 50 - 2,196 ha
<b>LODGED BY</b>	K Gargan	<b>OWNER</b>	Lot 487 - Howe Farming Enterprises Pty Ltd Lot 50 - SA & KJ Gargan
<b>PLANNING SCHEME</b>	Mareeba Shire Council Planning Scheme 2016		
<b>ZONE</b>	Rural		
<b>LEVEL OF ASSESSMENT</b>	Code Assessment		
<b>SUBMISSIONS</b>	n/a - code assessment only		

**ATTACHMENTS:** 1. Proposal Plan/s

**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 undergo public notification.*

*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.*

*No key planning issues were identified. It is therefore recommended that the application be approved subject to conditions.*

## OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	SA & KJ Gargan	ADDRESS	26 & 78 Collins Weir Road, Mutchilba
DATE LODGED	27 August 2020	RPD	Lot 487 on HG630 and Lot 50 on SP220744
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
DWG No. 8632 - LL1	Proposed Reconfiguration of a Lot (2 Lots into 2 Lots)	Twine Surveys Pty Ltd	13.8.2020

(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, and subject to any alterations:
  - found necessary by the 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 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to the endorsement of the plan of survey and at the rate applicable at the time of payment.
- 3.3 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.
- 3.4 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.
- 3.5 Where approved existing buildings and structures are to be retained, setbacks to 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 must be submitted prior to endorsement of the plan of survey

### 3.6 Charges

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

## 4. Infrastructure Services and Standards

- 4.1 An access crossover must be constructed (from the edge of Collins Weir Road to the new property boundary of Lot 50) in accordance with FNQROC Development Manual standards, to the satisfaction of Council's delegated officer.

## (D) 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) Transportation of Soil

All soil transported to or from the site must be covered to prevent dust or spillage during transport. If soil is tracked or spilt onto the road pavements as a result of works on the subject site, it must be removed prior to the end of the working day and within four (4) hours of a request from a Council Officer.

(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) 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

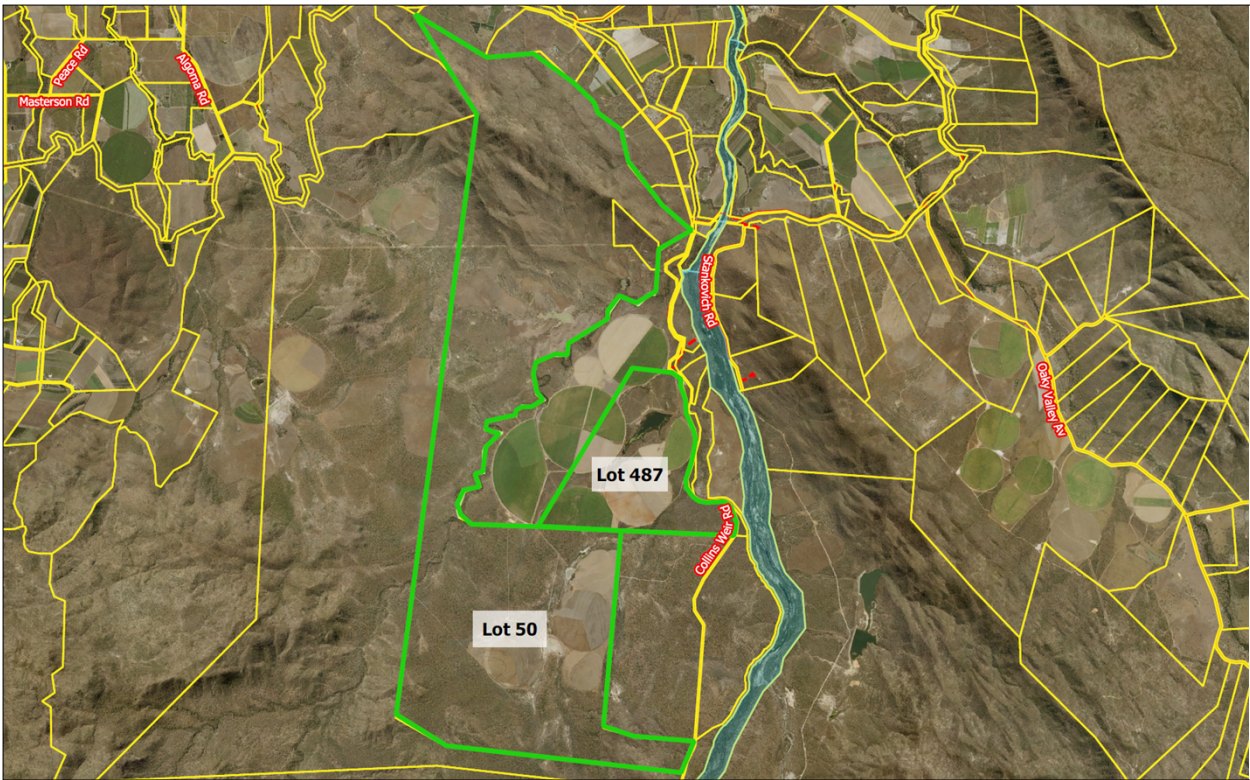
- Nil

(G) OTHER APPROVALS REQUIRED FROM COUNCIL

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

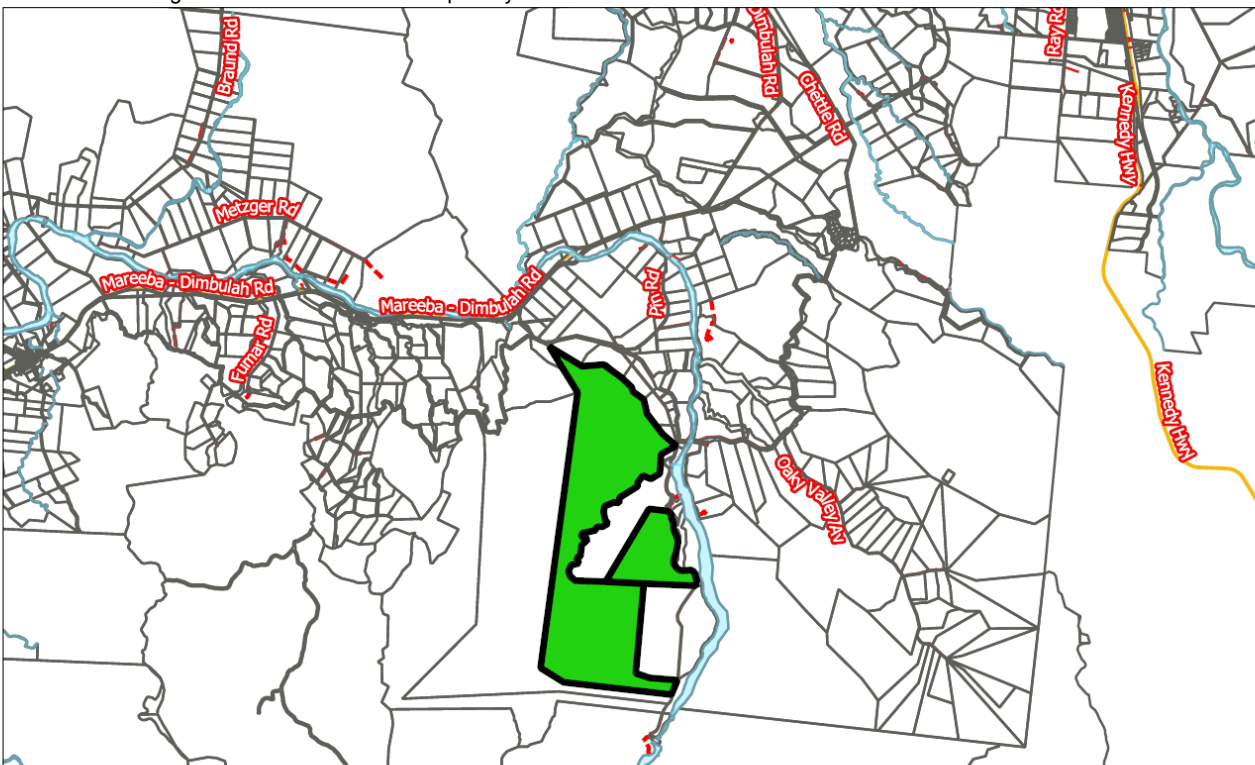
## THE SITE

The subject land is described as Lot 487 on HG630 and Lot 50 on SP220744, situated at 26 and 78 Collins Weir Road, Mutchilba. Both lots are zoned Rural under the Mareeba Shire Council Planning Scheme 2016 and are used for sugar cane cropping and livestock grazing. Refer to below maps.



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**.

## 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*
- *Local Conservation Corridors*
- *State & Regional Conservation Corridors*
- *Wetland Area of General Ecological Significance*
- *Terrestrial Area of General Ecological Significance*

## PLANNING SCHEME DESIGNATIONS

Strategic Framework:

### Land Use Categories

- Rural Agricultural Area
- Rural Other

### Natural Environment Elements

- Biodiversity Area

### Other Elements

- Major Watercourse

Zone:

Rural zone

- Agricultural Land Overlay
- Environmental Significance Overlay

Overlays:

- Flood Hazard Overlay
- Hill and Slope Overlay
- Regional Infrastructure Corridors and Substations Overlay Code



## 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
8.2.9	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 or can be conditioned to satisfy the relevant acceptable solutions (or probable solutions/performance criteria where no acceptable solution applies) of the relevant codes set out above, provided reasonable and relevant conditions are attached to any approval. See code assessment document for commentary.

### (d) Planning Scheme Policies/Infrastructure Charges Plan

Planning Scheme Policy 4 - FNQROC Regional Development Manual

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

## REFERRALS

### Concurrence

The application did not trigger referral to any Referral Agencies.

**Internal Consultation**

Nil

**PLANNING DISCUSSION**

Nil

***Date Prepared:***            *16 September 2020*

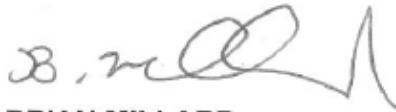


## DECISION BY DELEGATE

## 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.

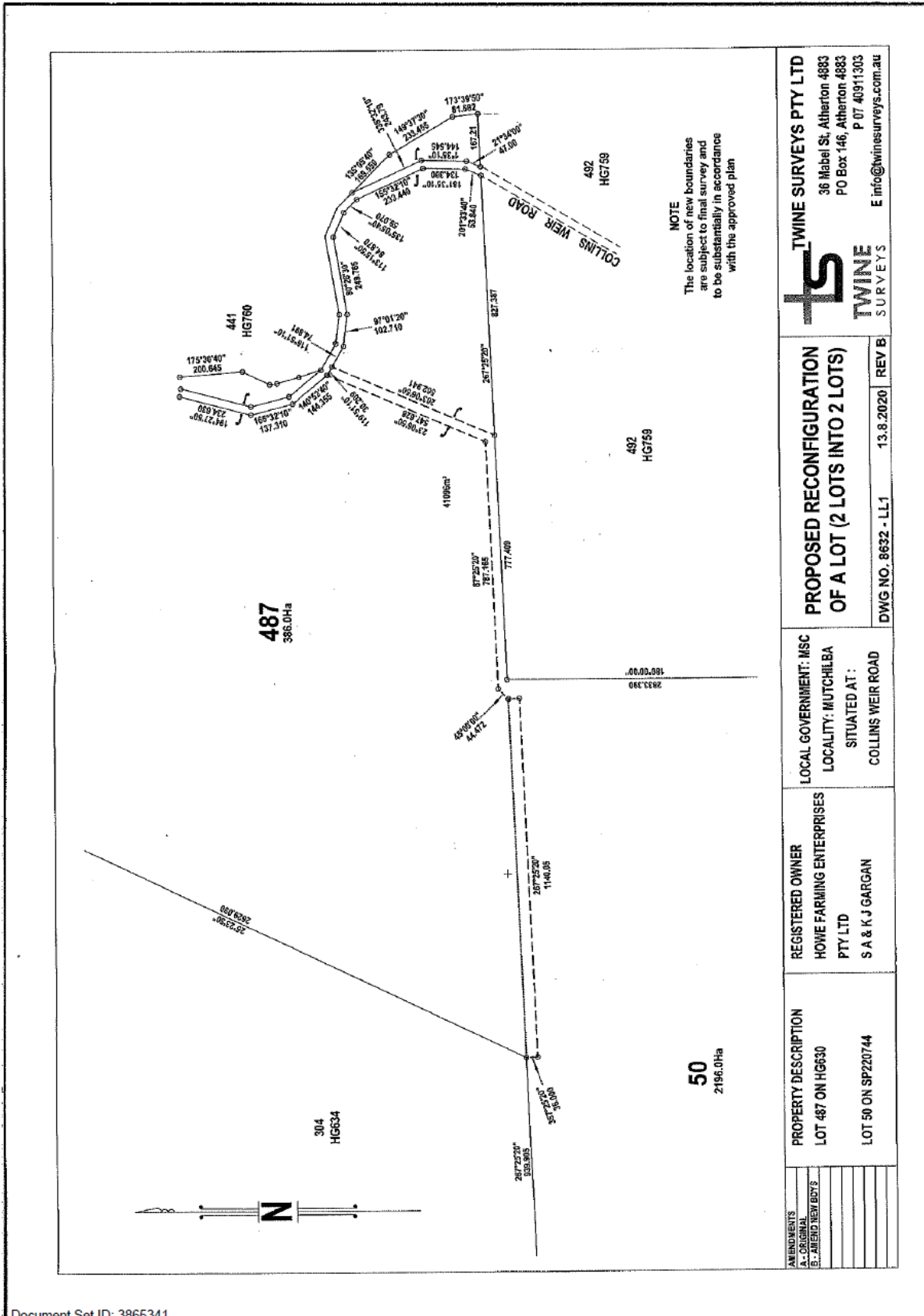
Dated the 16TH day of SEPTEMBER 2020



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

MAREEBA SHIRE  
AS DELEGATE OF THE COUNCIL

APPROVED PLANS (ECM VS 3865341)



<b>TWINE SURVEYS PTY LTD</b> 36 Mabel St, Atherton 4883 PO Box 146, Atherton 4883 P 07 40911303 E info@twinesurveys.com.au	
<b>TWINE SURVEYS</b>	
<b>PROPOSED RECONFIGURATION OF A LOT (2 LOTS INTO 2 LOTS)</b>	REV B 13.8.2020
LOCAL GOVERNMENT: MSC LOCALITY: MUTCHILBA SITUATED AT: COLLINS WEIR ROAD	DWG NO. 8632 - LL1
REGISTERED OWNER HOWE FARMING ENTERPRISES PTY LTD SA & K J GARGAN	
PROPERTY DESCRIPTION LOT 487 ON HG630 LOT 50 ON SP220744	
AMENDMENTS A - ORIGINAL B - AMEND NEW BODYS	

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