

DELEGATED REPORT

SUBJECT: LAKESHORE PTY LTD - RECONFIGURING A LOT -
BOUNDARY REALIGNMENT - LOT 500 ON CP843576 & LOT
1 ON SP261006 - 100 & 131 HENRY HANNAM DRIVE,
MAREEBA - RAL/21/0004

DATE: 1 March 2021

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

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

| APPLICATION | | PREMISES | |
|-----------------------------|--------------------------------------------|----------------|-----------------------------------------|
| APPLICANT | Lakeshore Pty Ltd | ADDRESS | 100 & 131 Henry Hannam Drive, Mareeba |
| DATE LODGED | 19 February 2021 | RPD | Lot 500 on CP843576 & Lot 1 on SP261006 |
| TYPE OF APPROVAL | Development Permit | | |
| PROPOSED DEVELOPMENT | Reconfiguring a Lot - Boundary Realignment | | |

| | | | |
|----------------------------|--------------------------------------------|--------------|--------------------------------------------------------|
| FILE NO | RAL/21/0004 | AREA | Lot 500 - 189.574 ha Lot 1 - 105.1 ha |
| LODGED BY | Planz Town Planning | OWNER | Lot 500 - D & D Lavers Lot 1 - MLK Walkamin Pty Ltd |
| PLANNING SCHEME | Mareeba Shire Council Planning Scheme 2016 | | |
| ZONE | Rural zone | | |
| LEVEL OF ASSESSMENT | Code assessment | | |
| SUBMISSIONS | 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 and supporting material 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 with conditions subject to conditions.

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

| APPLICATION | | PREMISES | |
|----------------------|--------------------------------------------|----------|-----------------------------------------|
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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 |
|----------------------|-------------------------------------------------------------------------------|----------------|-----------|
| - | Plan of Lots 1 and 500 (Cancelling Lot 1 on SP261006 and Lot 500 on CP843576) | Cardno Pty Ltd | 8/10/2020 |

(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.

(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) 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.

(c) 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

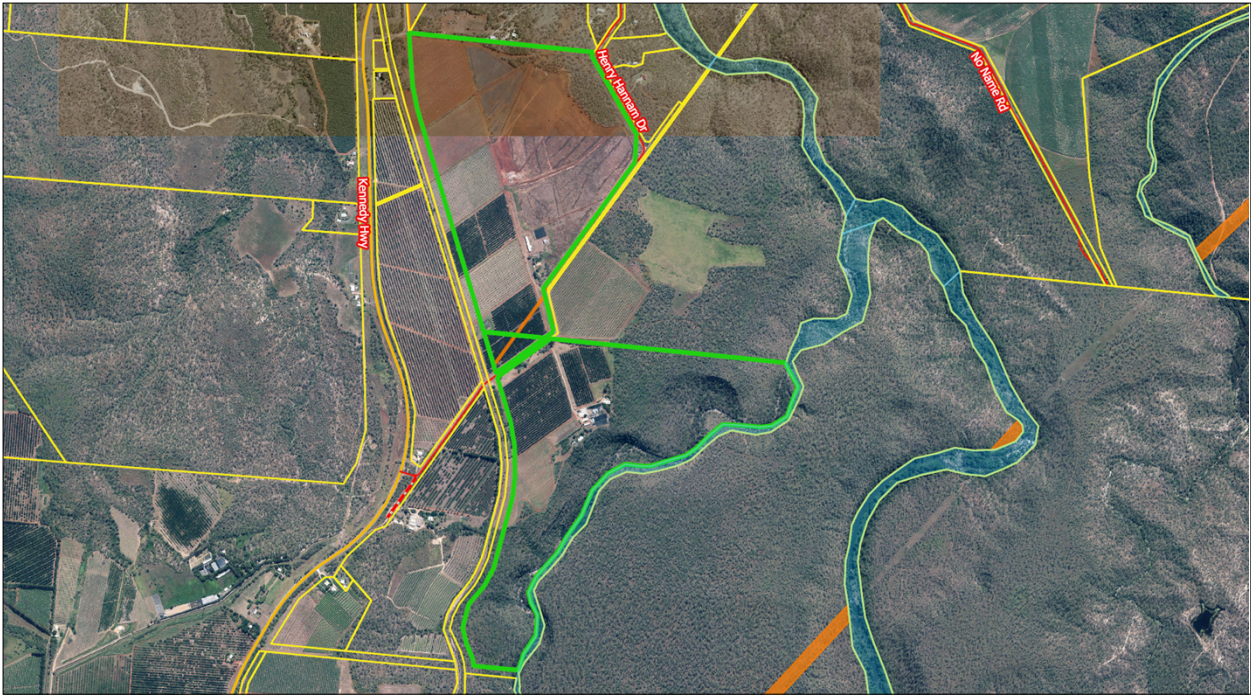
- Nil

THE SITE

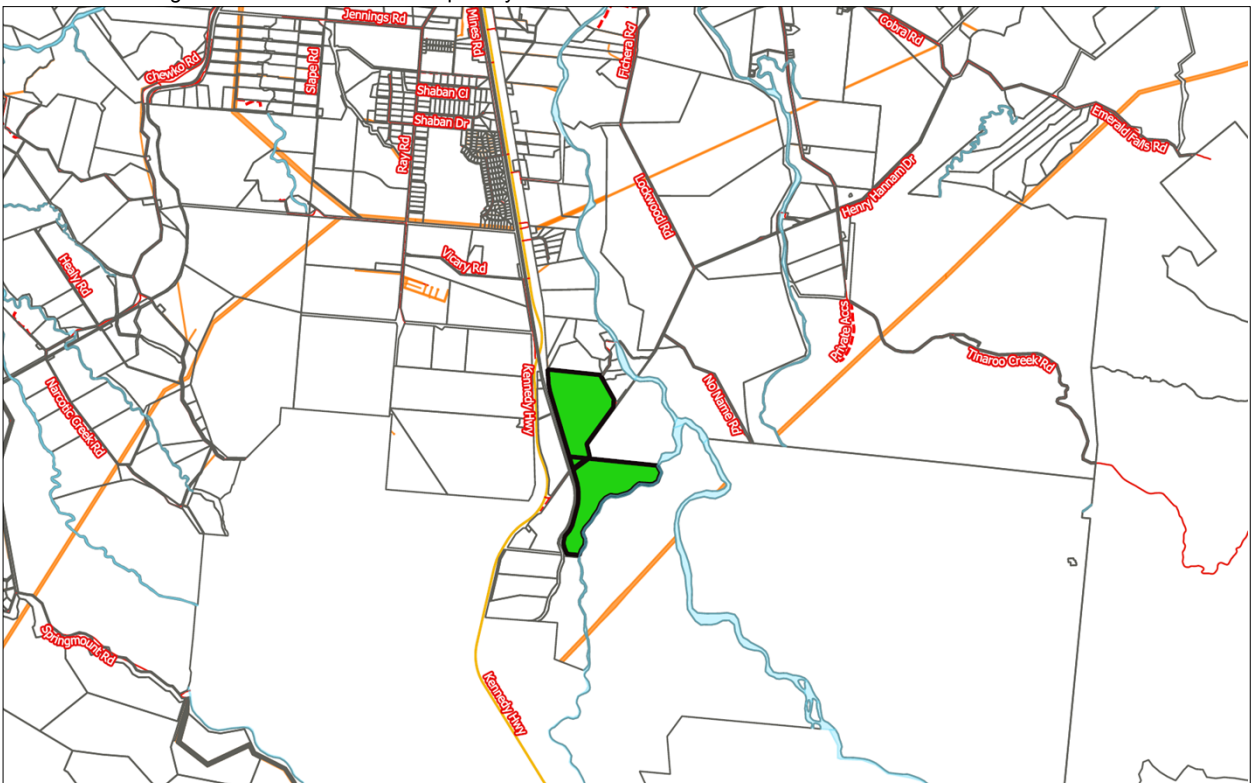
The subject land comprises two allotments described as Lot 500 on CP843576 and Lot 1 on SP261006 and situated at 100 & 131 Henry Hannam Drive, Mareeba. Lot 500 has a total area of 189.574 hectares, while Lot 1 has a total area of 105.1 hectares. Both Lots are zoned Rural and both Lots are accessed from Henry Hannam Drive.

Both Lots are improved by dwellings and large farm shed outbuildings, established avocado orchards and avocado marcotting businesses. Lot 1 is burdened by a Sunwater Easements which crosses the southern end of the allotment and contains a large underground water supply pipeline. Rocky Creek adjoins Lot 500 to the east.

All surrounding allotments are zoned Rural.

**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

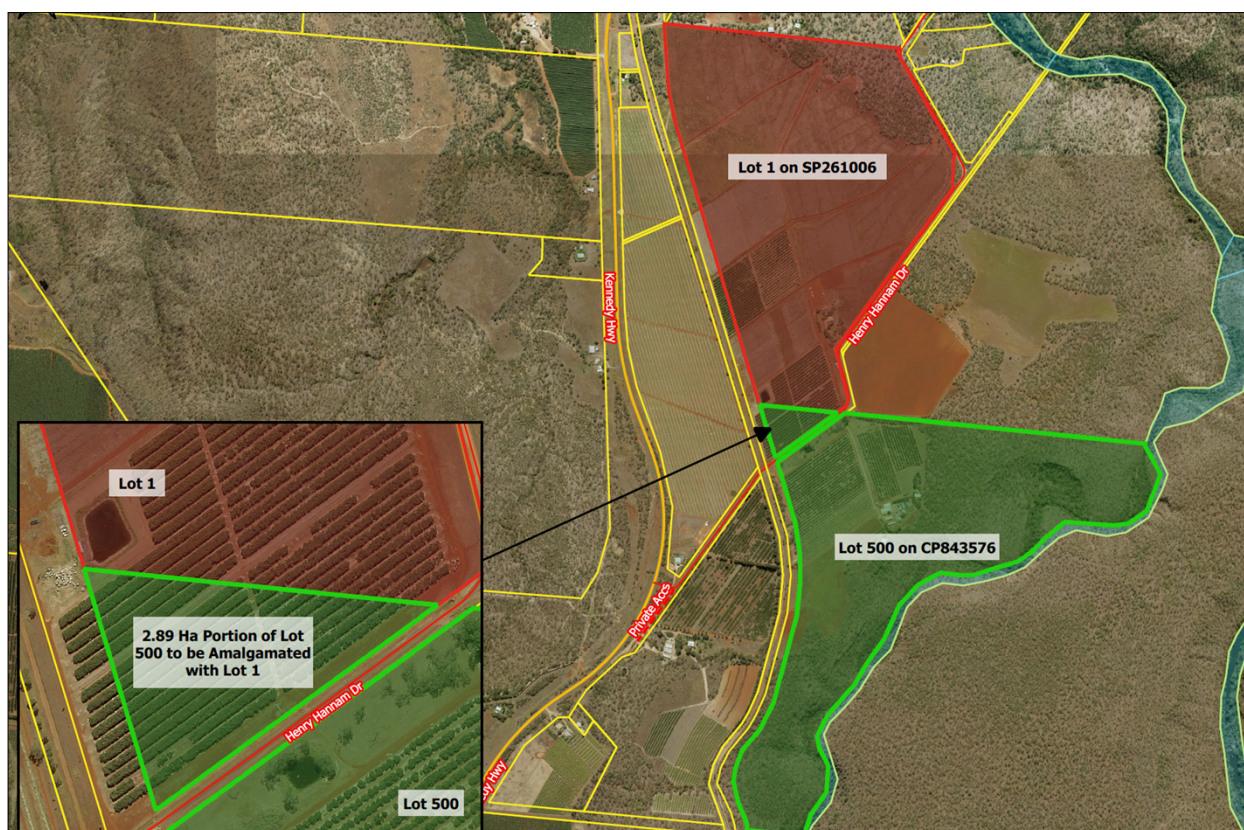
PREVIOUS APPLICATIONS & APPROVALS

Nil

DESCRIPTION OF PROPOSED DEVELOPMENT

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

At present, Henry Hannam Drive splits Lot 500 into 2 parcels, with an approximate 2.9ha portion of Lot 500 situated on the northern side of Henry Hannam Drive. This portion of land is farmed in conjunction with Lot 1 that adjoins it. The application proposes the transfer of this land from Lot 500 to Lot 1 which will improve agricultural efficiency. See below map:



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

PLANNING SCHEME DESIGNATIONS

| | |
|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Strategic Framework: | Land Use Categories <ul style="list-style-type: none"> • <i>Rural Agricultural Area</i> • <i>Rural Other</i> Natural Environmental Elements <ul style="list-style-type: none"> • <i>Biodiversity Areas</i> • <i>Habitat Linkage</i> Transport Elements <ul style="list-style-type: none"> • <i>Local Collector Road</i> • <i>Principal Cycle Route</i> • <i>Railway Network</i> |
| Zone: | Rural Zone |
| Overlays: | Agricultural Land Overlay Airport Environs Overlay Bushfire Hazard Overlay Environmental Significance Overlay Flood Hazard Overlay Hill and Slope 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
- 8.2.2 Airport environs 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

- 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 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.

| Relevant Codes | Comments |
|-----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Rural zone code | The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |
| Agricultural land overlay code | The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |
| Airport environs overlay code | The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |
| Bushfire hazard overlay code | The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |
| Environmental significance overlay code | The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |
| Flood hazard overlay code | The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |
| Hill and slope overlay code | The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |
| Landscaping code | The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |
| Parking and access code | The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |
| Reconfiguring a lot code | The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |
| Works, services and infrastructure code | The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |

(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 development works be designed and constructed in accordance with FNQROC Development Manual standards.

REFERRAL AGENCY

This application did not trigger referral to a Referral Agency.

Internal Consultation

Nil

PLANNING DISCUSSION

Nil

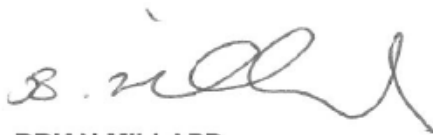
Date Prepared: 1 March 2021

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 *1ST* day of *MARCH* 2021



BRIAN MILLARD
SENIOR PLANNER

MAREEBA SHIRE
AS DELEGATE OF THE COUNCIL

PROPOSED PLANS (ECM DSI # 3913640)

Document Set ID: 3913640
Version: 1, Version Date: 11/02/2021

Land Title Act 1994; Land Act 1994
Form 21 Version 4

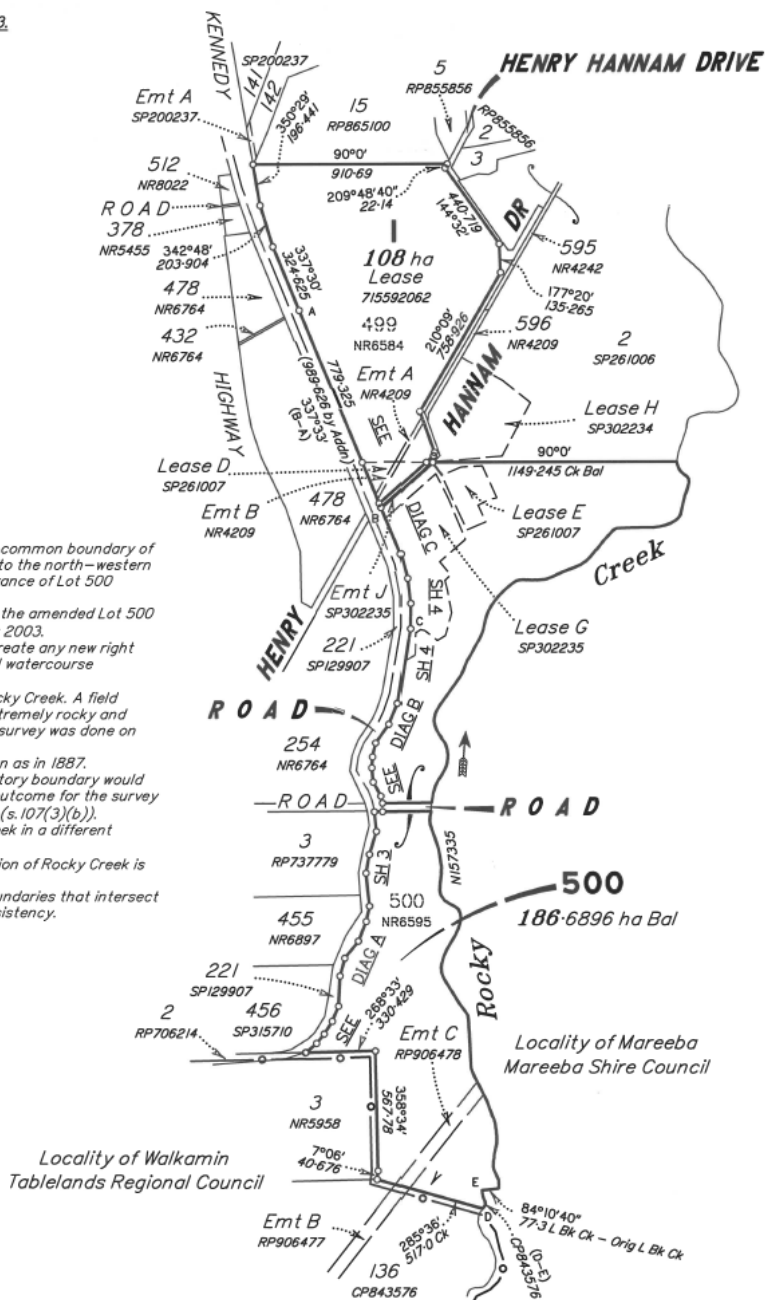
SURVEY PLAN

Sheet 1 of 4

First New Plan of Survey for Lot 500 under s.107(3)(a) and s.107(3)(b) of the SMI Act 2003.

NATURAL FEATURE REPORT:

- The purpose of the survey plan is to relocate the common boundary of Lot 1 on SP261006 and Lot 500 on CP843576 onto the north-western side of Henry Hannam Drive. That northern severance of Lot 500 becomes part of new Lot 1 on this plan.
- This plan becomes a First New Plan of Survey for the amended Lot 500 under s.107(3)(a) and s.107(3)(b) of the SMI Act 2003.
- Compilation is allowed since this plan does not create any new right line boundaries that intersect with the non-tidal watercourse boundary (s.107(3)(a)).
- The feature being compiled is the low bank of Rocky Creek. A field inspection reveals this bank is within a gorge, extremely rocky and stable and would not have moved since the first survey was done on N157335 in 1887.
- The boundary at law remains at the same location as in 1887.
- The extra cost and effort to traverse the ambulatory boundary would be beyond that required to achieve the desired outcome for the survey and it is impracticable to resurvey the boundary (s.107(3)(b)).
- CP843576 surveys part of the L. Bk of Rocky Creek in a different location to N157335 (Sect D-E).
- It is apparent from aerial imagery that the location of Rocky Creek is not consistent with that shown on N157335.
- Any future surveys that create new right line boundaries that intersect this feature will be required to resolve this inconsistency.



CARDNO (QLD) PTY LTD (ACN 051 074 992) hereby certify that the corporation, by Pierre Jerome VAN LANDEGHEM, Cadastral Surveyor, for whose work the corporation accepts responsibility, has made this plan under Section 16 of the Survey and Mapping Infrastructure Regulation 2014 and pursuant to the Survey and Mapping Infrastructure Act 2003 and Surveyors Act 2003 and associated Regulations and Standards and that the plan is accurate, and compiled from CP843576, N157335, SP261006 and SP261007 in the Department of Natural Resources, Mines and Energy.

Rw. Peter
Cadastral Surveyor
(Authorised Representative)

Date: 8/10/2020

Metres 0 1000m 2000m 3000m
500mm 1000mm 1500mm State copyright reserved.

Plan of Lots 1 and 500

Cancelling Lot 1 on SP261006 and Lot 500 on CP843576

LOCAL: MAREEBA SHIRE
GOVERNMENT: COUNCIL

LOCALITY: MAREEBA

Meridian: wide SP261006

Survey Records: No

Scale: 1:20000

Format: STANDARD



SP315911