DELEGATED REPORT

SUBJECT: **W & J NICHOLL – RECONFIGURING A LOT – SUBDIVISION (1 INTO 3 LOTS) – LOT 2 ON RP738539 – 468 KOAH ROAD, KOAH – RAL/17/0009**

DATE: 15 January 2018

REPORT OFFICER'S TITLE: Planning Officer

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	W & J Nicholl	**ADDRESS**	468 Koah Road, Koah
DATE LODGED	16 November 2017	**RPD**	Lot 2 on RP738539
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot – Subdivision (1 into 3 Lots)		

FILE NO	RAL/17/0009	**AREA**	10.7 hectares
LODGED BY	Freshwater Planning Pty Ltd	**OWNER**	W & J Nicholl
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural Residential (2 Hectare Precinct)		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	N/A – Code Assessment		

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 aspect of the Planning Scheme.

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

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

Document Set ID: 3339209
Version: 1, Version Date: 16/01/2018

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	W & J Nicholl	**ADDRESS**	468 Koah Road, Koah
DATE LODGED	16 November 2017	**RPD**	Lot 2 on RP738539
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot – Subdivision (1 into 3 Lots)		

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), currency 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 – Subdivision (1 into 3 Lots)

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
DWG NO. 8019 – LL1	Proposed Reconfiguration of a Lot (1 Lot into 3 Lots)	Twine Surveys Pty Ltd	15/09/2017

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) <u>Development assessable against the Planning Scheme</u>

1. Development must be carried out substantially 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 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 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.

3.4 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 Flood Immunity

All new buildings must be located such that the freeboard of the floor levels of all habitable rooms are a minimum of 300mm above the 100 ARI year level.

3.9 No filling is to occur below the 100 ARI flood level unless approved as part of a subsequent development permit for operational works.

3.10 Bushfire Management

3.10.1 Any <u>new</u> dwelling erected on each Lot shall:

(a) be sited in locations of lowest hazard within the lot;
(b) achieve setbacks from hazardous vegetation of 1.5 times the predominant mature canopy tree height or 10 metres, whichever is the greater;
(c) be sited 10 metres from any retained vegetation strips or small areas of vegetation;

(d) be sited so that elements of the development least susceptible to fire are sited closest to the bushfire hazard; and

(e) be provided with a source of water for fire fighting purposes of not less than 5,000 litres. This may be satisfied by the provision of an accessible dam, swimming pool or tank. In the case of a tank supply, delivery of the water should be provided through a 50mm male Camlock fitting. The outlet from the tank water supply or the dam/pool shall be located within an accessible position within 40 metres from the habitable buildings.

3.11 Charges

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

3.12 Rural Addressing

The applicant must pay a contribution per additional lot for provision of rural addressing at the rate identified in the Fees and Charges Schedule at the time of payment.

4. Infrastructure Services and Standards

4.1 Access

4.1.1 The existing access crossover (to service Lot 21) must be upgraded/constructed (from the edge of the Koah Road pavement to the commencement of the driveway required by Condition 4.1.3) in accordance with FNQROC Development Manual standards, to the satisfaction of Council's delegated officer.

4.1.2 An access crossover must be constructed for Lot 22 and 23 (from the edge of the Koah Road pavement to the boundary of each lot) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

Council will accept the construction of a shared access crossover for Lot 22 and 23 sited adjacent the common boundary of both lots.

4.1.3 An asphalt, concrete or bitumen sealed driveway shall be provided within the south-east access handle of Lot 21. The driveway will:

- have a minimum formation width of 3 metres
- be constructed for the full length of the access handle
- be formed with one-way cross fall to cater for stormwater drainage such that any stormwater runoff is contained within the access strip

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.

4.2.2 All stormwater drainage must be discharged at a lawful point of discharge.

4.3 Water Supply

Lot 22 and 23 must be provided with a water supply via:

(a) A bore or bores provided in accordance with the Design Guidelines (including flow rate) set out in the Planning Scheme Policy 4 – FNQROC Regional Development Manual; or

(b) On-site water storage tank/s:

(i) with a minimum capacity of 90,000L;
(ii) fitted with a 50mm ball valve with a camlock fitting;
(iii) which are installed and connected prior to the occupation or use of the development.

Note: *A notation will be placed on Council's rates database ensuring any prospective purchaser is aware of the requirement to install rainwater tank supply at time of dwelling installation.*

4.4 On-Site Wastewater Management

At the time of construction of a new dwelling on any lot, any associated on-site effluent disposal system must be constructed in compliance with the latest version On-Site Domestic Wastewater Management Standard (ASNZ1547) to the satisfaction of the Council's delegated officer.

4.5 Electricity provision/supply

The applicant/developer must ensure that an appropriate level of electricity supply is provided to each allotment in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Written advice from an Electricity Service Provider is to be provided to Council indicating that an agreement has been made for the provision of power reticulation.

4.6 Telecommunications

The applicant/developer must demonstrate that a connection to the national broadband network is available for each allotment, or alternatively, enter into an agreement with a telecommunication carrier to provide telecommunication services to each lot and arrange provision of necessary conduits and enveloping pipes.

5. Additional Payment Condition/s (section 130 of the Planning Act 2016)

5.1 The additional payment condition has been imposed as the development will create additional demand on trunk infrastructure which will create additional trunk infrastructure costs for council.

5.2 The developer must pay a <u>one-off payment</u> of $9,000.00 (per additional lot) as a contribution toward trunk infrastructure with the amount of the contribution

increased on 1 July each year in accordance with the increase for the PPI index for the period starting on the day the development approval takes effect, adjusted by reference to the 3-yearly PPI index average to the date of payment.

5.3 The trunk infrastructure for which the payment is required is:

- The trunk transport network (roads) servicing the land ($4,500.00 per lot)
- The trunk parks and open space network servicing the land ($4,500.00 per lot)

5.4 The developer may elect to provide part of the trunk infrastructure instead of making the payment.

5.5 If the developer elects to provide part of the trunk infrastructure the developer must:

- Discuss with Council's delegated officer the part of the works to be undertaken;
- Obtain the necessary approvals for the part of the works;
- Indemnify the Council in relation to any actions, suits or demands relating to or arising from the works;
- Take out joint insurance in the name of the Council and the developer in the sum of $20,000,000 in relation to the undertaking of the works;
- Comply with the reasonable direction of Council officers in relation to the completion of the works;
- Complete the works to the standards required by the Council; and
- Complete the works prior to endorsement of the plan of subdivision.

(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) Notation on Rates Record

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

- Bushfire management
- The construction standard of future on-site effluent disposal systems (at time of dwelling construction)
- An approved source of water supply via a bore or rainwater tank supply.

- Flood immunity.

(e) 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.

(f) 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

(g) 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) CURRENCY PERIOD

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

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

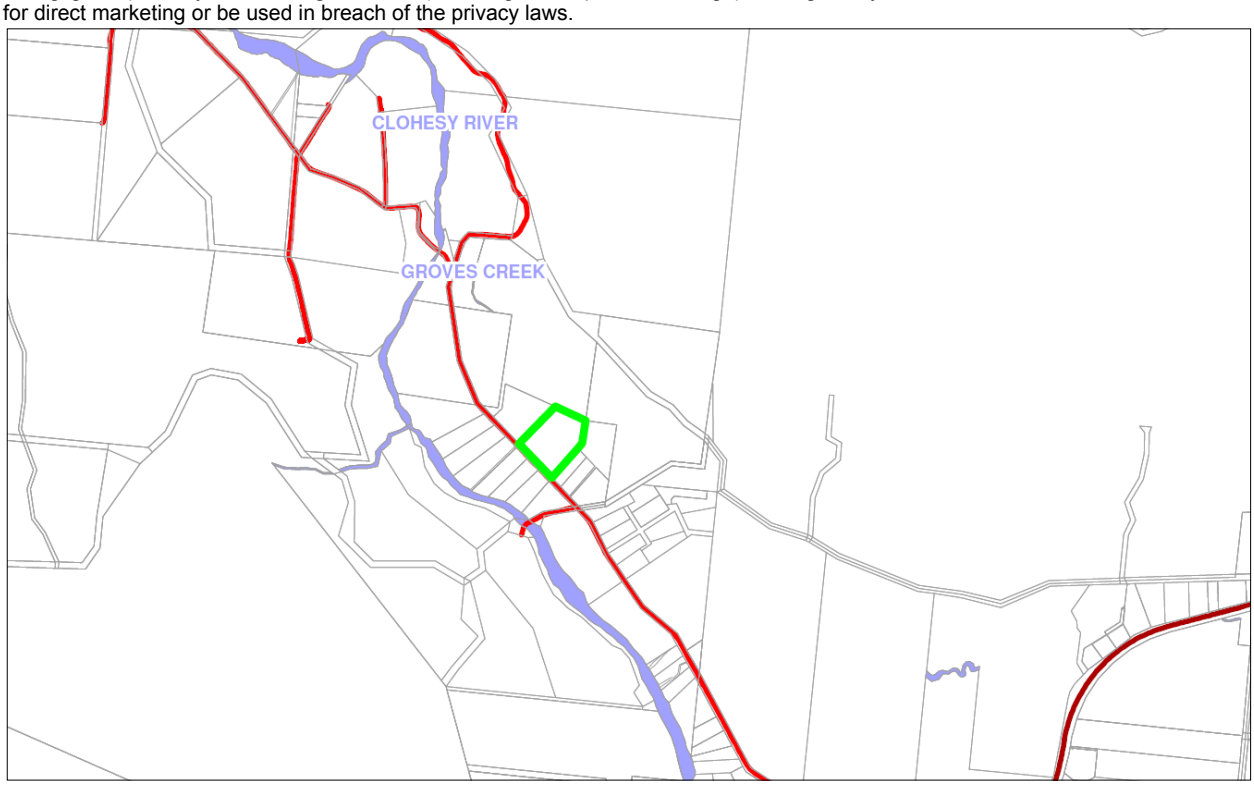
(F) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

- 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).

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.



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.

THE SITE

SITE AND LOCALITY DESCRIPTION	
Land Area:	10.7 hectares
Existing Use of Land:	Rural lifestyle/livestock grazing
Road Frontage:	302 metres – Koah Road (bitumen sealed standard)
Improvements:	1x Dwelling house
Significant Site Features:	Rear 3rd of site covered in mature vegetation
Services:	• Gravel access crossover • On-site water supply • On-site wastewater disposal • Overhead electricity supply
Topography:	Generally flat, sloping gradually towards the rear of the site
Surrounding Land Uses:	Predominately rural lifestyle lots, small hobby farms/orchards, large wholesale plant nursery established on the northern adjoining lot.

BACKGROUND AND CONTEXT

Nil

PREVIOUS APPLICATIONS & APPROVALS

DA/16/0030

On 16 June 2016, Council, under delegated authority, approved an application made by R & A Scikluna for a development permit for reconfiguring a lot – boundary realignment over Lot 2 on RP738539 and Lot 1 on SP188101, situated at 462 – 468 Koah Road, Koah. The Decision Notice was issued on 16 June 2016.

Council endorsed Survey Plan SP284536 (to create the realigned allotments) on 31 August 2016, however this survey plan was never lodged with DNRM (Titles Office).

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Reconfiguring a Lot – Subdivision (1 into 3 Lots) in accordance with the plans shown in **Attachment 1**.

The proposed subdivision will result in the creation of the following lots:

- Proposed Lot 21 – 6.7 hectares (balance of the land), 35 metres of frontage to Koah Road (1 x 10 metre wide access handle and 1 x 25 metre wide access handle);
- Proposed Lot 22 – 2 hectares, 133.65 metres of frontage to Koah Road; and
- Proposed Lot 23 – 2 hectares, 133.65 metres of frontage to Koah Road.

Access to Lot 21 will continue to be gained via the sites existing access crossover in the south-east corner of the site, while access to Lots 22 and 23 will be gained via new crossover/s from Koah Road.

All lots will be serviced by on-site water supply, wastewater disposal and provided with electricity and telecommunications connections.

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:

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

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	**Land Use Categories** • Rural Residential Area **Natural Environment Elements** • Biodiversity Areas
Zone:	Rural Residential
Precinct:	2 Hectare Precinct
Overlays:	Bushfire 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:

6.2.10 Rural residential zone code
8.2.3 Bushfire 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 complies, or can be conditioned to comply with the relevant acceptable outcomes or higher order performance outcomes where no acceptable outcome is provided, or where an acceptable outcome cannot be complied with. A summary of acceptable/performance outcome compliance is outlined below:

Relevant Codes	Comments
Rural Residential 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.
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.
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 apart from the following: • Acceptable Outcome AO1.1 Refer to Planning Discussion section of report.
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.

(f) Additional Trunk Infrastructure Condition – Road & Park Infrastructure (Section 130 of Planning Act)

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.

The development, which will create two additional rural residential lots, is predicted to place additional demand on Council's trunk transport network (roads) and trunk open space infrastructure (parkland/reserves).

The developer must pay a one off payment of **$9,000.00** (per additional lot) as a contribution toward trunk infrastructure with the amount of the contribution increased on 1 July each year in accordance with the increase for the PPI index for the period starting on the day the development approval takes effect, adjusted by reference to the 3-yearly PPI index average to the date of payment.

The trunk infrastructure for which the payment is required is:

- The trunk transport infrastructure servicing the land ($4,500.00 per lot)
- The trunk open space infrastructure servicing the land ($4,500.00 per lot)

REFERRALS

Concurrence

This application did not trigger referral to a Concurrence Agency.

Advice

This application did not trigger referral to an Advice Agency.

Internal Consultation

Technical Services

PLANNING DISCUSSION

Noncompliance with the relevant acceptable outcomes contained within the Reconfiguring a Lot Code are discussed below. Where the development cannot comply with an acceptable outcome (AO's), it is considered that compliance with the higher order performance outcome (PO's) can be achieved in each case.

Reconfiguring a Lot Code

Area and frontage of lots

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

Proposed Lots 22 and 23 comply with the minimum area and frontage requirements for lots within the rural residential zone - 2 hectare precinct (2 ha minimum lot size, 60 metres minimum road frontage). Lot 21, which is the balance of the site, has an area of 6.7 hectares but two access handle frontages of just 10 metres and 25 metres, and is therefore non-compliant with AO1.1.

Despite not meeting minimum frontage requirements, the lot is a rear access lot which are generally expected to be provided with lesser frontages and are not uncommon in modern subdivision lot layouts. In this instance, practical access is still readily achievable to future Lot 21 via the 25 metre wide south-east access handle which contains a relatively flat topography as well as the sites existing access driveway.

The proposed development is considered to comply with PO1.

Date Prepared: *4 January 2018*

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.

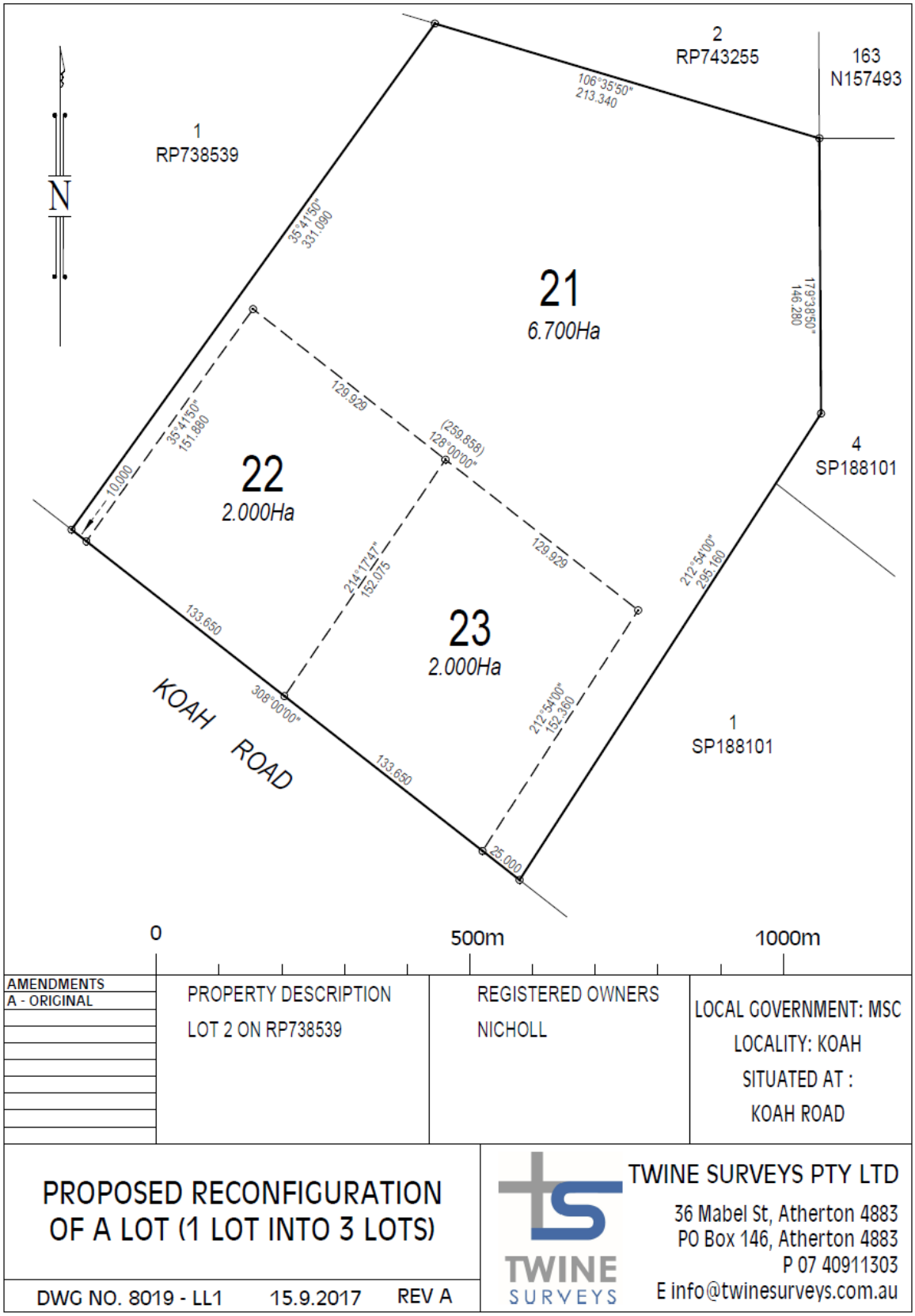
Dated the 15TH day of JANUARY 2018

BRIAN MILLARD
SENIOR PLANNER

MAREEBA SHIRE
AS DELEGATE OF THE COUNCIL

ATTACHMENT 1

APPROVED PLANS (ECM Doc Set ID 3327097)



AMENDMENTS	PROPERTY DESCRIPTION	REGISTERED OWNERS	LOCAL GOVERNMENT: MSC
A - ORIGINAL	LOT 2 ON RP738539	NICHOLL	LOCALITY: KOAH SITUATED AT : KOAH ROAD

PROPOSED RECONFIGURATION OF A LOT (1 LOT INTO 3 LOTS)

DWG NO. 8019 - LL1 15.9.2017 REV A

TWINE SURVEYS

TWINE SURVEYS PTY LTD
36 Mabel St, Atherton 4883
PO Box 146, Atherton 4883
P 07 40911303
E info@twinesurveys.com.au