

**DELEGATED REPORT**

**SUBJECT:** J ARCHER – RECONFIGURING A LOT – BOUNDARY REALIGNMENT – LOTS 1 & 2 ON RP744805 – 195 & 219 CLACHERTY ROAD, JULATTEN – RAL/24/0018

**DATE:** 27 November 2024

**REPORT OFFICER'S TITLE:** Senior Planner

**DEPARTMENT:** Corporate and Community Services

**APPLICATION DETAILS**

APPLICATION		PREMISES	
<b>APPLICANT</b>	J Archer	<b>ADDRESS</b>	195 & 219 Clacherty Road, Julatten
<b>DATE LODGED</b>	25 November 2024	<b>RPD</b>	Lots 1 & 2 on RP744805
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Reconfiguring a Lot – Boundary Realignment		

<b>FILE NO</b>	RAL/24/0018	<b>AREA</b>	Lot 1- 15.439 ha Lot 2- 15.17 ha
<b>LODGED BY</b>	Scope Town Planning	<b>OWNER</b>	Lot 1- A Kiernan Lot 2- A McCracken
<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		

**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.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 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	
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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
24020	Site: Lots 1 & 2 on RP744805	Scope Town Planning	Nov. 2024

(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.

#### (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.dcceew.gov.au](http://www.dcceew.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.dsdsatsip.qld.gov.au](http://www.dsdsatsip.qld.gov.au).

(f) Electric Ants

Electric ants are designated as restricted biosecurity matter under the *Biosecurity Act 2014*.

Certain restrictions and obligations are placed on persons dealing with electric ant carriers within the electric ant restricted zone. Movement restrictions apply in accordance with Sections 74–77 of the *Biosecurity Regulation 2016*. Penalties may be imposed on movement of electric ant carriers and electric ants in contravention of the legislated restrictions. It is the responsibility of the applicant to check if the nominated property lies within a restricted zone.

All persons within and outside the electric ant biosecurity zone have an obligation (a **general biosecurity obligation**) to manage biosecurity risks and threats that are under their control, they know about, or they are expected to know about. Penalties may apply for failure to comply with a general biosecurity obligation.

For more information please visit the electric ant website at [Electric ants in Queensland | Business Queensland](#) or contact Biosecurity Queensland 13 25 23.

(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

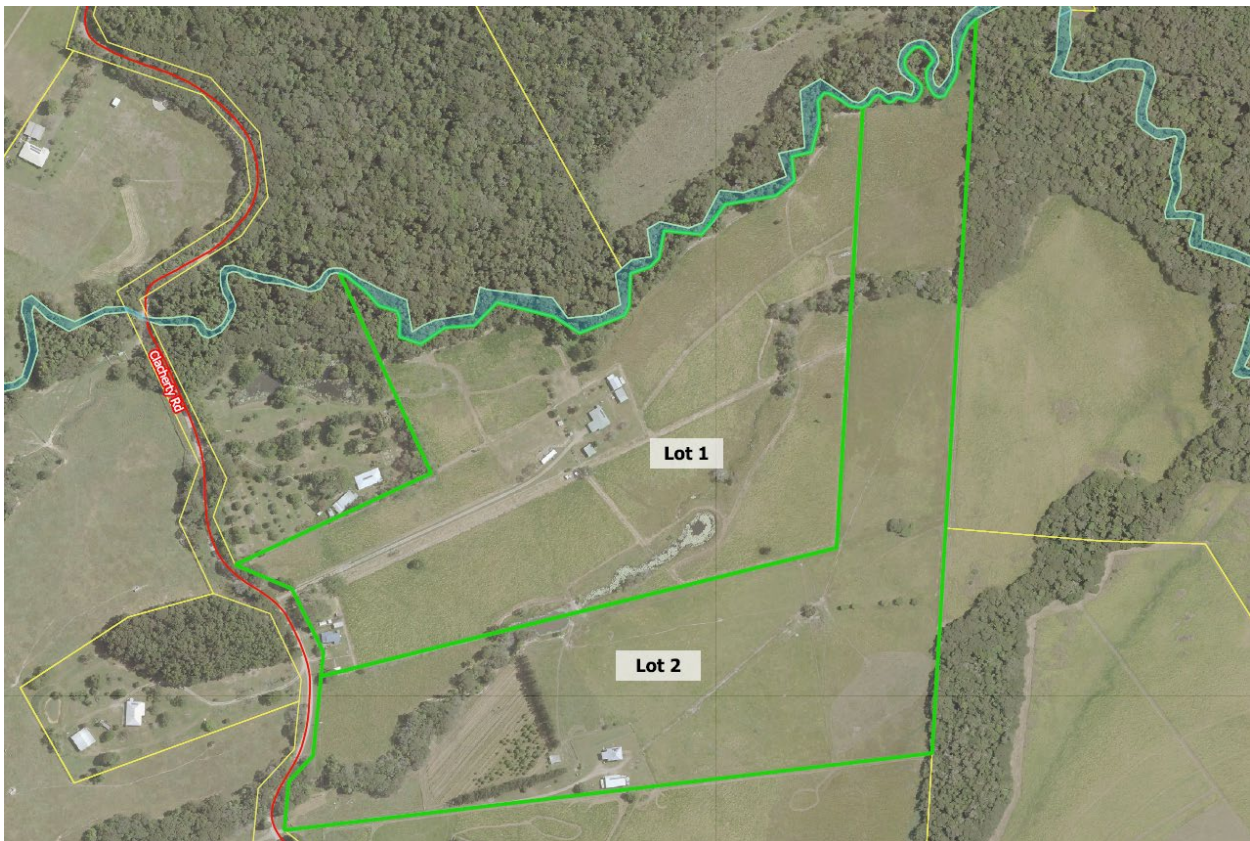
The subject site comprises of the following allotments:

- Lot 1 on RP744805, having an area of 15.439 hectares and a frontage of approximately 147 metres to Clacherty Road; and
- Lot 2 on RP744805, having an area of 15.17 hectares and a frontage of approximately 155 metres to Clacherty.

Access to the site is obtained via Clacherty Road via separate crossovers for both lots. Clacherty Road is formed to a rural road gravel standard for its frontage with the site.

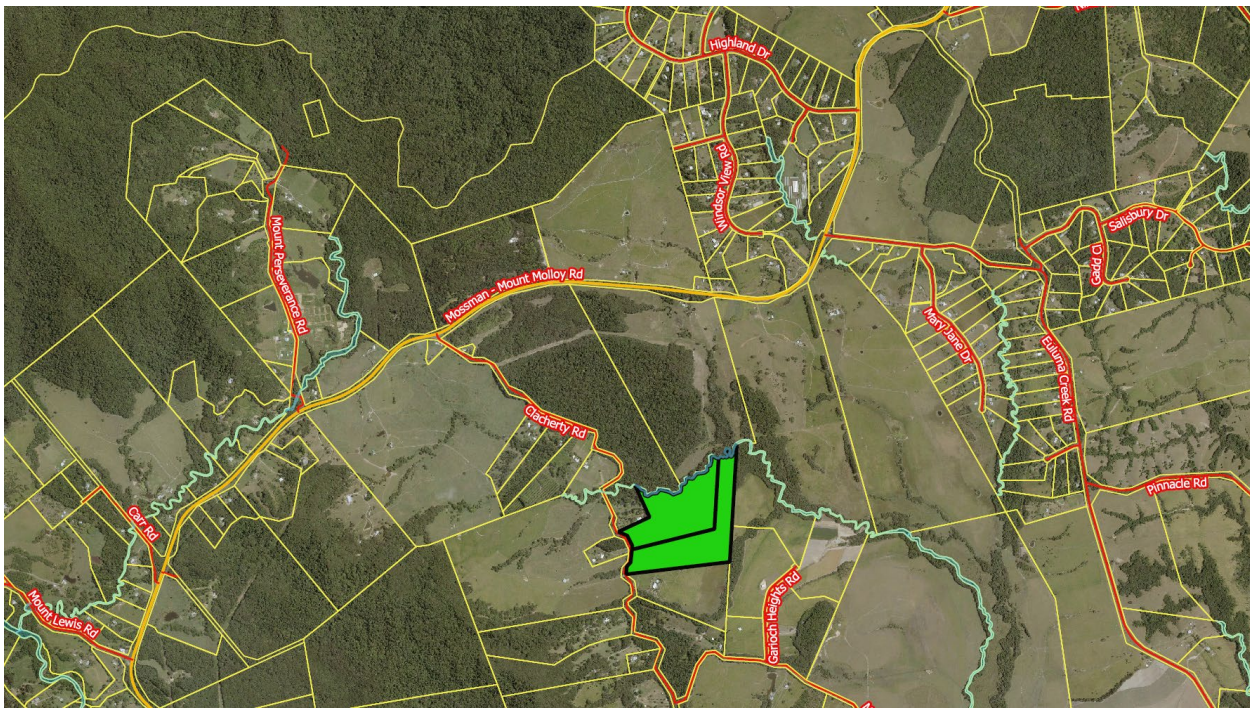
The site is used for grazing purposes with the majority of the land having been cleared for pasture improvement. Narrow strips of vegetation remain along several waterways. Both lots are improved with dwelling house/s and rural outbuildings.

The subject site is zoned Rural under the Mareeba Shire Council Planning Scheme 2016 as are all neighbouring lots.



### 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 development is the realignment of the property boundary between Lots 1 and 2 by transferring approximately 8.97 hectares from Lot 1 to Lot 1. The boundary realignment is being undertaken to increase the efficiency of the grazing operation on Lot 1, whilst allowing for the continued small scale rural use of Lot 2.

The proposed allotments are as follows:

- Lot 1 – area of 24.409 hectares, approximately 148 metres frontage to Clacherty Road; and
- Lot 2 – area of 6.2 hectares, approximately 154 metres frontage to Clacherty Road.

Both proposed lots will retain their respective dwelling houses.

No change is proposed to existing frontages, access or servicing arrangements.

## 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:

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

## PLANNING SCHEME DESIGNATIONS

Strategic Framework:	<b>Land Use Category</b> <ul style="list-style-type: none"> <li>• Rural Area <ul style="list-style-type: none"> <li>• Rural Agricultural Area</li> </ul> </li> </ul> <b>Natural Environment Elements</b> <ul style="list-style-type: none"> <li>• Biodiversity Areas</li> </ul>
Zone:	Rural Zone
Overlays:	Agricultural Land Overlay Environmental Significance 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
- 8.2.4 Environmental significance 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 contained within the codes (or performance outcomes where no acceptable outcome has been provided). Where the proposal does not satisfy an acceptable outcome, it has been demonstrated that compliance can be achieved with the higher order performance outcome/s. It is considered the proposed development can comply with the relevant development codes 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	<p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided, or an acceptable outcome cannot be met) contained within the code.</p> <p>Further discussion is warranted regarding the following performance outcomes:</p> <ul style="list-style-type: none"> <li>• Performance Outcome PO3</li> <li>• Performance Outcome PO6</li> </ul> <p>Refer to planning discussion section of report.</p>
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.
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	<p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided, or an acceptable outcome cannot be met) contained within the code.</p> <p>Further discussion is warranted regarding the following performance outcomes:</p> <ul style="list-style-type: none"> <li>• Performance Outcome PO3</li> <li>• Performance Outcome PO6</li> </ul> <p>Refer to planning discussion section of report.</p>
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) Adopted Infrastructure Charges Notice**

Not applicable as the proposed development is for a boundary realignment and no additional vacant allotment will be created.

**REFERRAL AGENCY**

This application did not trigger referral to a Referral Agency.

**Internal Consultation**

Not applicable

**PLANNING DISCUSSION**

Compliance with Performance Outcomes PO3 & PO6 of the Agricultural Land Overlay code and Performance Outcomes PO1.1, PO1.2 & PO1.3 of the Reconfiguring a Lot code is discussed below:

**Agricultural Land Overlay code****PO3**

*Development in the 'Class A' area or 'Class B' area identified on the **Agricultural land overlay maps (OM-001a-n)**:*

- (a) ensures that agricultural land is not permanently alienated;*
- (b) ensures that agricultural land is preserved for agricultural purposes; and*
- (c) does not constrain the viability or use of agricultural land.*

**AO3**

*No acceptable outcome is provided.*

**Comment**

The proposed boundary realignment results in the expansion of the existing usable grazing area (proposed Lot 1) to increase its efficiency.

Agricultural land is not permanently alienated, agricultural land is preserved for agricultural purposes and the boundary realignment does not constrain the viability or use of agricultural land.

**PO6**

*Any Reconfiguring a lot in the 'Class A' area, 'Class B' area or the 'Broadhectare rural' area identified on the **Agricultural land overlay maps (OM-001a-n)**, including boundary realignments, only occurs where it:*

- (a) *improves agricultural efficiency;*
- (b) *facilitates agricultural activity; or*
- (c) *facilitates conservation outcomes; or*
- (d) *resolves boundary issues where a structure is built over the boundary line of two lots.*

**AO6**

*No acceptable outcome is provided.*

Comment

The proposed boundary realignment results in the expansion of the existing usable grazing area (proposed Lot 1) to increase its efficiency.

**Reconfiguring a Lot code****PO1.1**

*No lots are created with an area of less than 60ha, except for where:*

- (a) *The subdivision results in no additional lots (boundary realignment) and does not create an additional rural lifestyle lot or rural residential purposes lot; or*
- (b) *The subdivision is limited to the creation of one additional allotment to accommodate a public reconfiguration purpose.*

*Note: This also applies to applications for boundary realignment.*

**AO1.1**

*No acceptable outcome is provided.*

Comment

The proposed development is a boundary realignment and does not result in any additional lot/s.

Neither of the realigned lots fall into the definition of *rural lifestyle lot* or *rural residential purposes lot*.

**PO1.2**

*Where for a boundary realignment, the realignment only occurs where it would:*

- (a) *Improve agricultural efficiency; or*
- (b) *Facilitate agricultural activity or conservation outcomes; or*
- (c) *Resolve boundary issues where a house, structure or works is built over the boundary line of the lots.*

**AO1.2**

*No acceptable outcome is provided.*

Comment

The purpose of the proposed boundary realignment is to increase the grazing efficiency of proposed Lot 1.

**PO1.3**

*Where for a boundary realignment, the proposed lots are:*

- (a) Able to accommodate all buildings, structures and works associated with the rural use;*
- (b) Suitable to allow the site to be provided with sufficient access;*
- (c) Include enough space within the new lots to accommodate buffers from adjoining land uses to mitigate adverse impacts such as chemical spray drift, odour, noise, fire, smoke and ash;*
- (d) Do not constrain existing industries from expanding or new agricultural enterprises from being established;*
- (e) Do not create new lots for rural lifestyle or rural residential purposes; and*
- (f) Are not for the purposes of creating a separate house lot.*

### **AO1.3**

*No acceptable outcome is provided.*

#### **Comment**

The proposed boundary realignment accommodates all existing buildings and structures within their respective lots, retains the existing structures for their rural uses, does not change existing access arrangements, does not create any new lots, does not result in any new dwelling construction and does not restrain the agricultural use of the land.

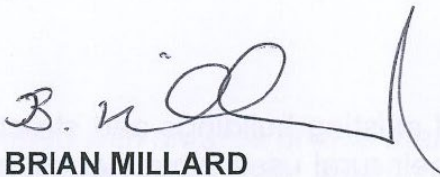
**Date Prepared:** 27 November 2024

## 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.

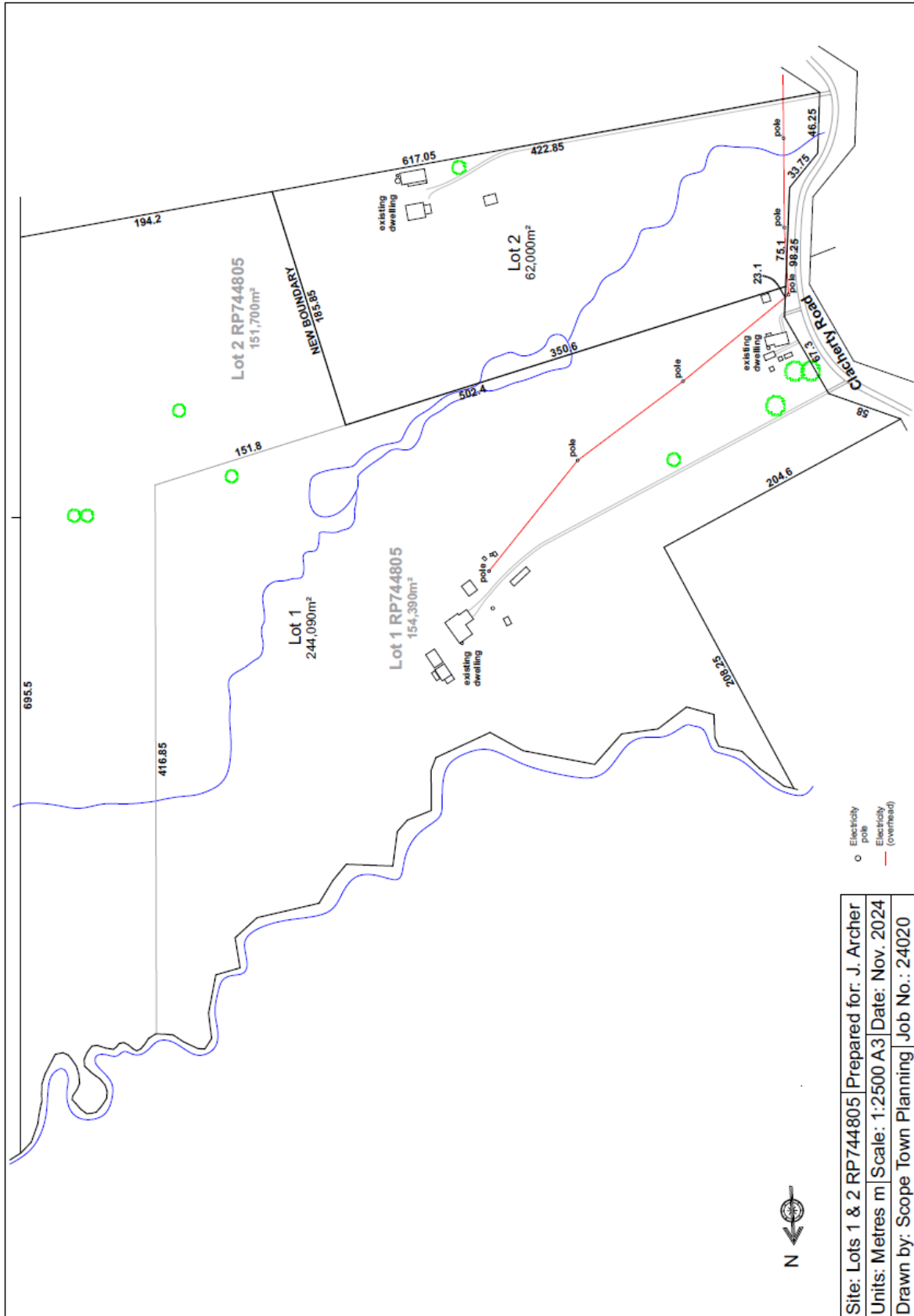
Dated the 27<sup>TH</sup> day of NOVEMBER 2024



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

MAREEBA SHIRE  
AS A DELEGATE OF THE COUNCIL

PROPOSED PLANS



Site: Lots 1 & 2 RP744805   Prepared for: J. Archer
Units: Metres m   Scale: 1:2500 A3   Date: Nov. 2024
Drawn by: Scope Town Planning   Job No.: 24020

Document ID: 4436628  
 Version: 1, Version Date: 21/11/2024