

**DELEGATED REPORT**

**SUBJECT:** H SELITA - RECONFIGURING A LOT - BOUNDARY REALIGNMENT - LOT 1 ON RP737778 & LOT 21 ON SP239245 - 5351 KENNEDY HIGHWAY, MAREEBA - RAL/18/0007

**DATE:** 14 June 2018

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

**DEPARTMENT:** Corporate and Community Services

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**APPLICATION DETAILS**

APPLICATION		PREMISES	
<b>APPLICANT</b>	H Selita	<b>ADDRESS</b>	5351 Kennedy Highway, Mareeba
<b>DATE LODGED</b>	12 March 2018	<b>RPD</b>	Lot 1 on RP737778 & Lot 21 on SP239245
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Reconfiguring a Lot - Boundary Realignment		

<b>FILE NO</b>	RAL/18/0007	<b>AREA</b>	Lot 1 - 9,999m2 Lot 21 - 23.58 hectares
<b>LODGED BY</b>	H Selita	<b>OWNER</b>	H & M Selita
<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		

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

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**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.*

*It has been assessed against the relevant statutory planning instruments, including the Regional Plan and the Planning Scheme and does not conflict with any relevant planning instrument.*

*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	
<b>APPLICANT</b>	H Selita	<b>ADDRESS</b>	5351 Kennedy Highway, Mareeba
<b>DATE LODGED</b>	12 March 2018	<b>RPD</b>	Lot 1 on RP737778 & Lot 21 on SP239245
<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), 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
Kennedy_Highway_Subn.dwg	Proposal Plan	-	15 August 2017

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

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

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 Bushfire Management

A Bushfire Management Plan must be prepared for the proposed lots to the satisfaction of Council's delegated officer. The future use of the proposed lots must comply with the requirements of the Bushfire Management Plan at all times.

### 3.9 Charges

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

## 4. Infrastructure Services and Standards

### 4.1 Access

- (i) An access crossover for proposed Lot 2 must be constructed from the edge of Venture Road road pavement, to the property boundary in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.
- (ii) Access for proposed Lot 1 shall continue via the existing Kennedy Highway access for Lot 1 on RP737778.

## (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:

- conditions regarding bushfire management

- (e) 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).

(f) 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 follows:

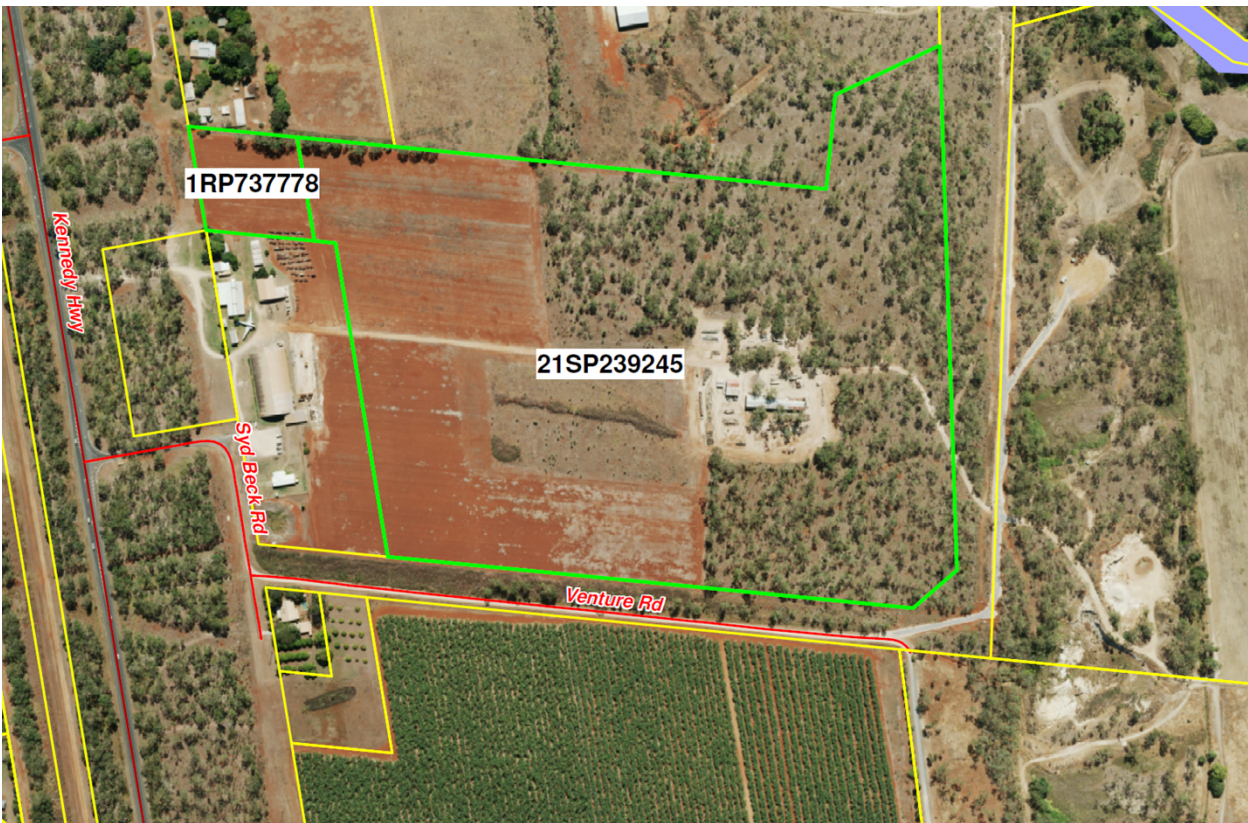
- Lot 1 on RP737778, area of 9,999m<sup>2</sup>, frontage of 100 metres to the Kennedy Highway;
- Lot 21 on SP239245, area of 23.58 hectares, frontage of 1,055.25 metres to Venture Road.

Venture Road is formed to rural gravel standard along the entire southern boundary of Lot 21 on SP239245. The section of Venture Road road reserve along the eastern boundary of Lot 21 is essentially a private access standard servicing Lot 21 and neighbouring Lot 22.

Lot 1 is regular in shape and entirely cleared for agricultural use. No structures are established on Lot 1.

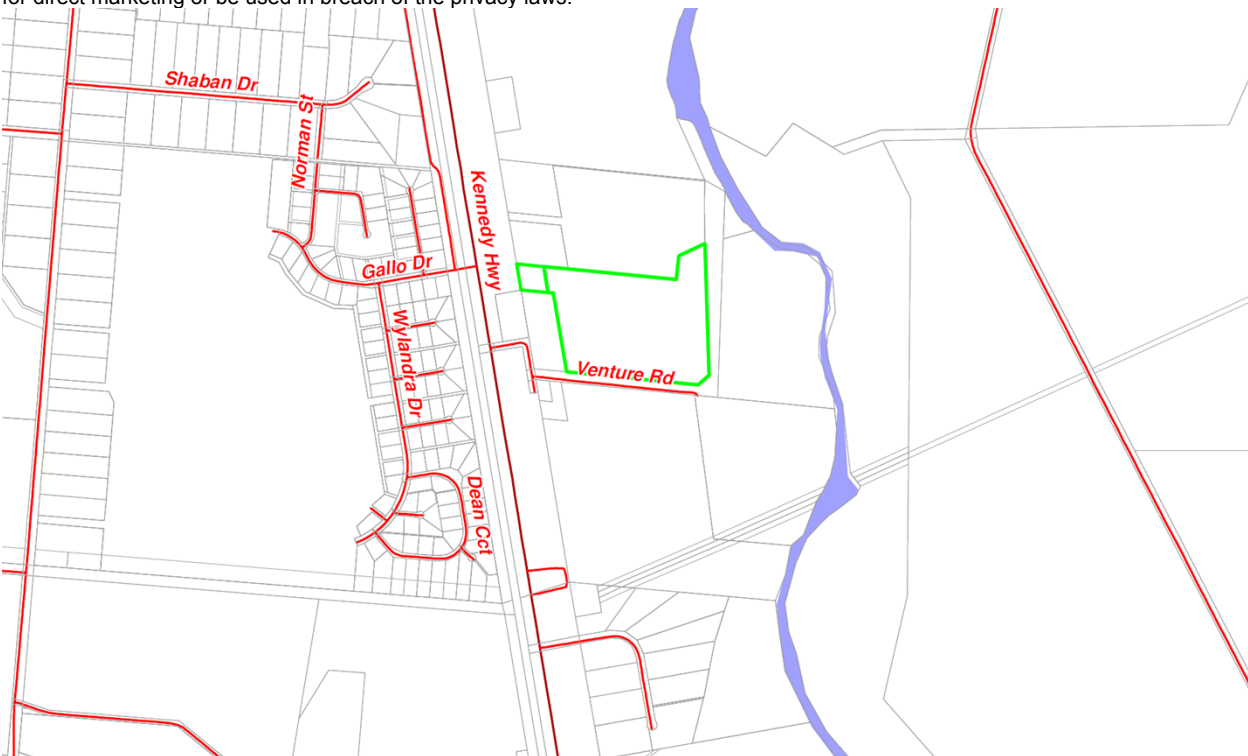
Lot 21 is irregular in shape with the western two thirds having been cleared and mostly developed for agricultural use. The remaining eastern third retains some remnant vegetation and some regrowth vegetation. The extreme easternmost portion slopes steeply down towards the Barron River. Several sheds are established on Lot 21.

Surrounding properties are predominantly used for rural purposes. The Beck War Museum adjoins the western boundary.



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 allotments are:

- Lot 1 - area of 13.236 hectares, frontages of 100 metres to the Kennedy Highway and 393.09 metres to Venture Road;
- Lot 2 - area of 11.3439 hectares, frontage of 662.16 metres to Venture Road.

The realignment would move approximately 12.2361 hectares from existing Lot 21 and include this area as part of proposed Lot 1. The boundary realignment will follow an existing internal road and will result in two similarly size allotments with reasonable small scale cropping potential.

Both proposed lots will be accessed off Venture Road.

## 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:

- *Terrestrial Area of General Ecological Significance*

## PLANNING SCHEME DESIGNATIONS

	<b>Land Use Categories</b>
Strategic Framework:	<ul style="list-style-type: none"> <li>▪ Rural Other</li> <li>▪ Rural Agricultural Area</li> </ul>
Zone:	Rural zone <ul style="list-style-type: none"> <li>▪ Agricultural Land Overlay Overlay</li> <li>▪ Airport Environs Overlay</li> <li>▪ Bushfire Hazard Overlay</li> <li>▪ Hill and Slope Overlay</li> <li>▪ Regional infrastructure corridors and substations overlay code</li> <li>▪ Transport Infrastructure 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
- 8.2.1 Agricultural land overlay code
- 8.2.2 Airport environs overlay code
- 8.2.3 Bushfire hazard overlay code
- 8.2.8 Hill and slope overlay code
- 8.2.9 Regional infrastructure corridors and substations overlay code
- 8.2.12 Transport infrastructure 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 solutions/performance outcomes contained within the code.
Agricultural land overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Airport environs overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Bushfire hazard overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.



Hill and slope overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Regional infrastructure corridors and substations overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Transport infrastructure overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Landscaping code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Parking and access code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Reconfiguring a lot code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Works, services and infrastructure code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.

### **(e) Planning Scheme Policies**

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

All development works will be conditioned to be designed and constructed in accordance with the FNQROC Development Manual.

### **(f) Additional Trunk Infrastructure Condition**

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.

As the proposed development is for boundary realignment only, no infrastructure charges/contributions are payable.

### **REFERRALS**

This application did not trigger a referral.

### **Internal Consultation**

Technical Services

**PLANNING DISCUSSION**

Nil

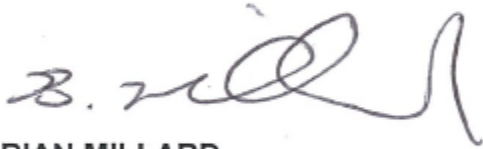
**Date Prepared:** 14 June 2018

## DECISION BY DELEGATE

## DECISION

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

Dated the 4<sup>TH</sup> day of JUNE 2018



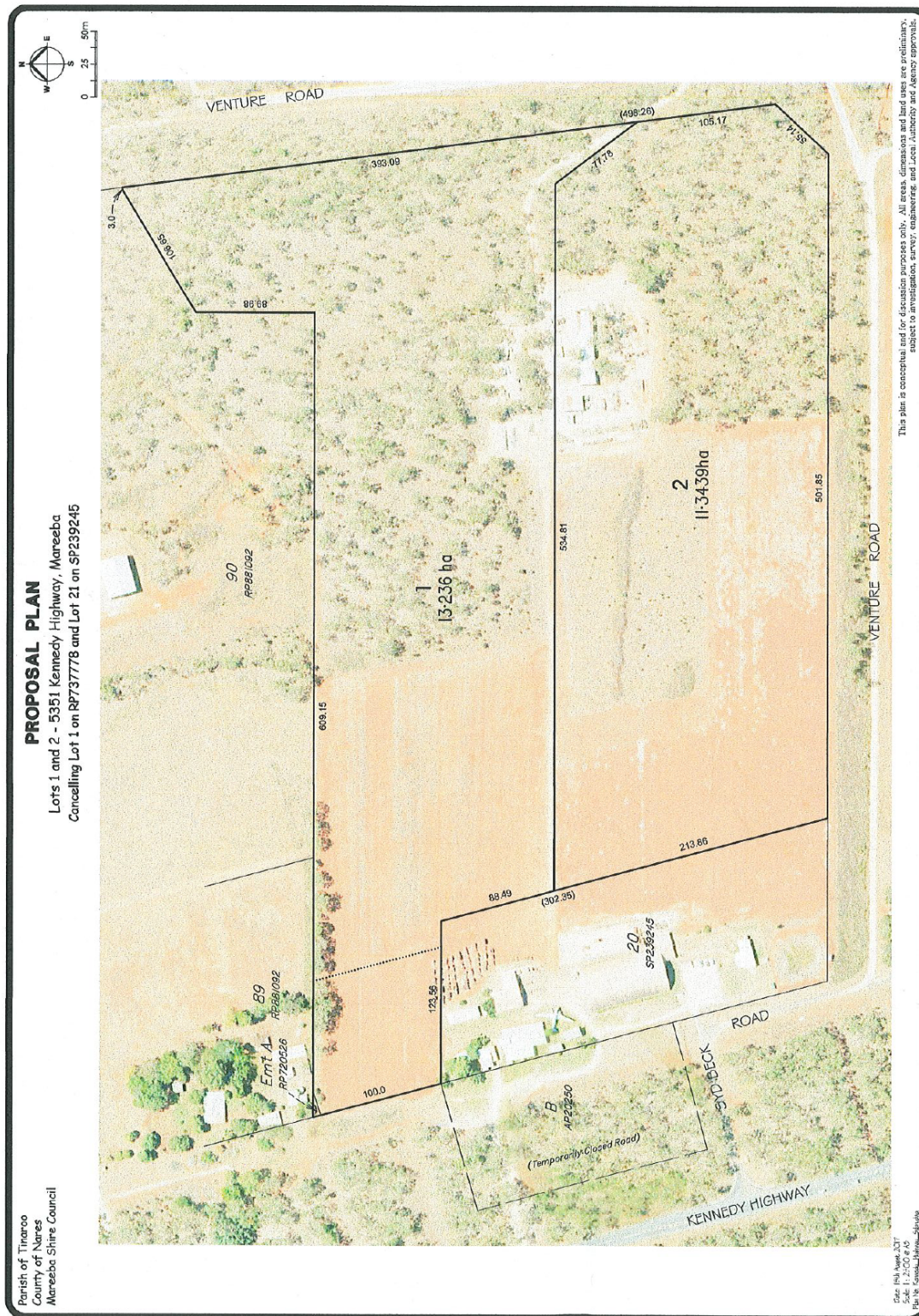
**BRIAN MILLARD**  
**SENIOR PLANNER**



**ANTHONY ARCHIE**  
**MANAGER DEVELOPMENT & GOVERNANCE**

MAREEBA SHIRE  
AS A DELEGATE OF THE COUNCIL

PROPOSAL PLANS



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