

5.08. REMOVAL OF LOCAL GOVERNMENT AGREEMENT FROM LOT 1 RP843598 AND LOT 104 SP146780

REPORT AUTHOR(S): Robert Donovan Property Officer
GENERAL MANAGER: Darryl Crees, General Manager Corporate Services
DEPARTMENT: Governance

RECOMMENDATION

Council resolves:

- 1. To consent to the removal of the Local Government Agreements from Lot 1 RP843598, 2105R Mossman-Daintree Road and Lot 104 SP146780, 2125R Mossman-Daintree Rd.**
- 2. Require all associated costs with the removal of the Local Government Agreements to be met by the registered owner.**
- 3. To delegate authority to the Chief Executive Officer in accordance with section 257 of the Local Government Act 2009 to finalise all matters in removing the Local Government Agreements from Lot 1 RP843598 and Lot 104 SP146780.**

EXECUTIVE SUMMARY

The owner of Lot 1 PR843598 Title Reference 21514061 and Lot 104 SP146780 Title Reference 50480079 has requested Council to approve the removal of the Local Government Agreements (LGAs) on both allotments.

These LGAs were established in 1983 and precluded the land parcels from being sold separately as the individual land size was less than the minimum area required at that time. There are no similar provisions in the current Planning Legislation and Council's Development Assessment Officers have advised that the LGAs are no longer required.

The land owner requires Council's consent to remove this encumbrance from the land titles.

BACKGROUND

The LGAs were imposed on the allotments on 9 December 1983, where Council determined that Lot 1 RP843598 (34.9ha) and Lot 104 SP146780 (10.93ha), which are intersected by a surveyed road, were below the minimum area for allotments and could not be sold separately. This was also consistent with the By-Laws of Council (Local Government Act 1936-1981) at that time.

Agreements under the now repealed *Local Government (Planning and Environment) Act 1990* or the *Local Government Act 1936*, between the registered owner and the Local Government, were lodged for registration as a condition of the approval of a plan of subdivision. Typically, the agreements related to lots to be held by the same registered owner.

There are no similar provisions under the *Integrated Planning Act 1997* or the *Sustainable Planning Act 2009*. However s 97A(3)(c) of the *Land Titles Act 1994* and s 373A(3) of the *Land Act 1994* allow for the registration of an instrument of covenant, which may contain similar conditions.

COMMENT

The Department of Natural Resources and Mines (DNRM) have advised that an LGA can be cancelled upon application from the land owner however such application must include Council's consent. This can then be lodged with the titles office for execution.

These two land parcels each have dwellings constructed and are utilised for rural purposes. As the provisions contained in superseded Planning legislation are no longer contained within current legislation, Council's Development Assessment officers have advised that there is no objection to having the LGAs removed from the title records.

PROPOSAL

To advise the registered owner of Lot 1 PR843598 and Lot 104 SP146780 Mossman-Daintree Road that Council does not have any objection to the removal of the Local Government Agreements from both land parcels subject to the land owner paying all costs associated with this transaction.

FINANCIAL/RESOURCE IMPLICATIONS

All associated costs pertaining to the removal of the LGA's from allotments will be at the registered owner's costs.

RISK MANAGEMENT IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Economic: Nil

Environmental: Nil

Social: Nil

CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE

This report has been prepared in accordance with the following:

Corporate Plan 2014-2019 Initiatives:

Theme 5 - Governance

5.2.1 - Provide Councillors and community with accurate, unbiased and factual reporting to enable accountable and transparent decision-making.

COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:

Regulator Meeting the responsibilities associated with regulating activities through legislation or local law

CONSULTATION

Internal: General Manager Operations
General Manager Corporate Services
Acting Manager Governance

External: Department of Natural Resources and Mines
Titles Office

COMMUNITY ENGAGEMENT

Nil

ATTACHMENTS

Attachment 1 - Aerial Map

Attachment 2 - Locality Plan

Google earth

feet
km

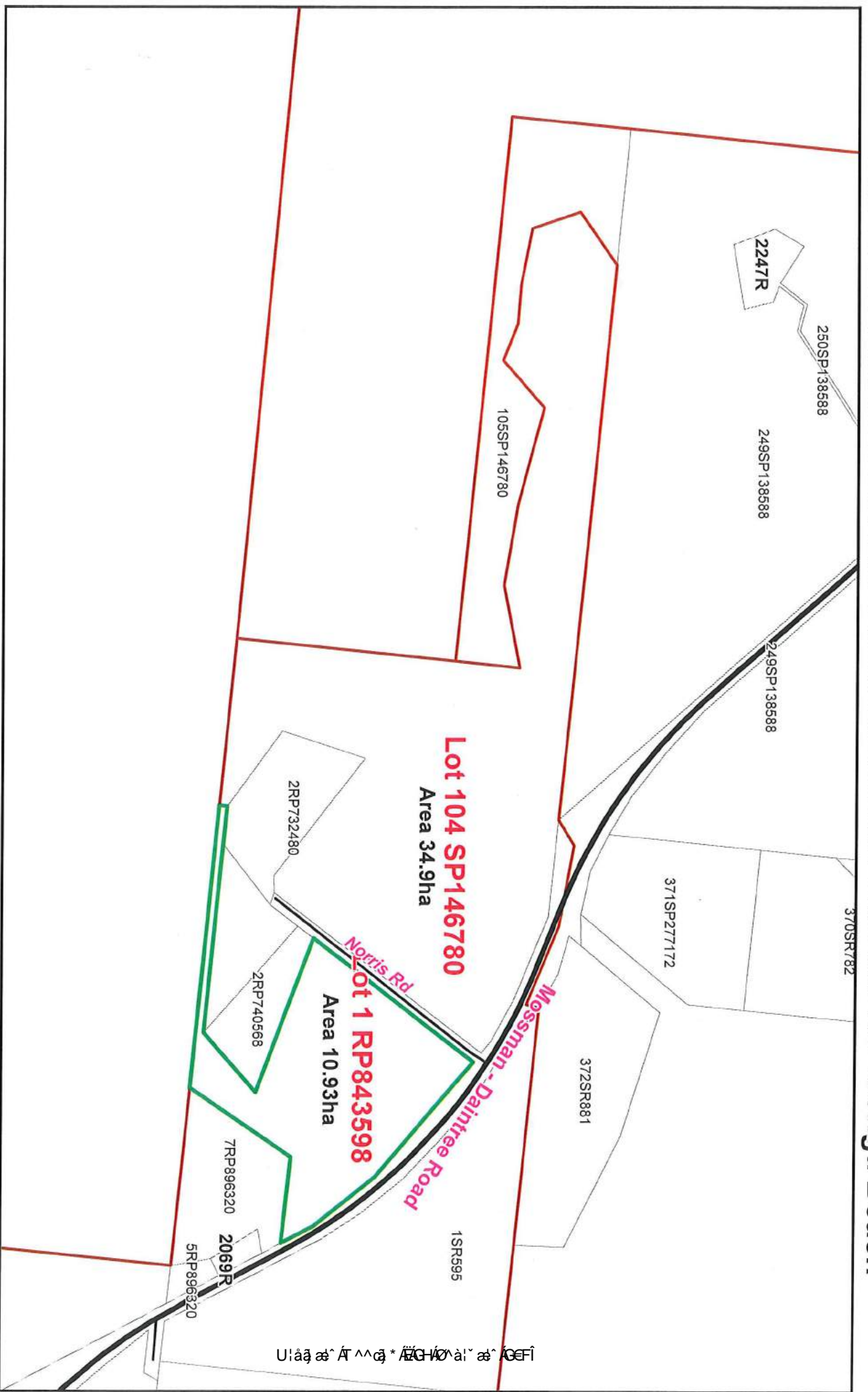


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Google earth

Lot 104 SP146780 & Lot 1 RP843598 Mossman Daintree Rd Wonga Beach



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Scale 1cm = (???) m or km) at A4
Map Grid of Australia Zone 55 (GDA94)

