

20 December 2017

Officer: Brian Millard  
Direct Phone: 4086 4657  
Our Reference: MCU/17/0011  
Your Reference: 17-230

Reedlodge Pty Ltd  
ACN 089 077 403  
PO Box 452  
MAREEBA QLD 4880

Dear Sir/Madam

## **Decision Notice**

### ***Planning Act 2016***

I refer to your application and advise that on 20 December 2017, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

#### **APPLICATION DETAILS**

Application No:	MCU/17/0011
Street Address:	232 Byrnes Street MAREEBA QLD 4880
Real Property Description:	Lot 78 on SP152626
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

#### **DECISION DETAILS**

Type of Decision:	Approval
Type of Approval:	Development Permit for Material Change of Use - Shopping Centre
Date of Decision:	20 December 2017

#### **CURRENCY PERIOD OF APPROVAL**

The currency period for this development approval is six (6) years starting the day that this development approval takes effect. (Refer to Section 85 "Lapsing of approval at end of currency period" of the *Planning Act 2016*.)

**INFRASTRUCTURE**

Where conditions relate to the provision of infrastructure, these are non-trunk infrastructure conditions unless specifically nominated as a “***necessary infrastructure condition***” for the provision of trunk infrastructure as defined under Chapter 4 of the *Planning Act 2016*.

**ASSESSMENT MANAGER CONDITIONS****(A) 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 and the conditions of the State Referral Agency.
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 commencement of the use except where specified otherwise in these conditions of approval.
  - 2.2 Prior to the commencement of use, the applicant must notify Council that all the conditions have been complied with, except where specified otherwise in these conditions of approval.
  - 2.3 Prior to the commencement of use, the applicant must provide a letter from the State Referral Agency confirming that the department is satisfied their conditions are complied with and/or that the department has no objections to the commencement of the use.
3. General
  - 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure 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 works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.

3.4 Noise Nuisance

3.4.1 Refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations and a maximum noise level of 8dB(A) above background levels as measured from commercial locations after 10p.m. on a day to 7a.m. on the next day.

3.4.2 The applicant/developer is required to install and maintain suitable screening to all air conditioning, lift motor rooms, plant and service facilities located at the top of or on the external face of the building. The screening structures must be constructed from materials that are consistent with materials used elsewhere on the facade of the building. There are to be no individual external unscreened air conditioning units attached to the exterior building facade.

3.4.3 The use, including the unloading or loading of goods, is not to include the use of any sound projecting objects or systems that may cause a nuisance to adjoining properties.

3.5 Waste Management

On-site refuse storage area/s must be provided and be screened from view from adjoining properties and road reserve by 1 metre wide landscaped screening buffer or 1.8m high solid fence or building.

Where bulk bins are used and are to be serviced on site, certification by a Registered Professional Engineer of Queensland (RPEQ) must be provided to Council prior to the issue of a building permit which demonstrates that internal access is of adequate design and construction to allow waste collection/delivery vehicles to enter and exit the site in a forward gear.

3.6 Trolley Bays

Trolley bay areas must be provided on the site generally in accordance with Drawing No. SD1002 Issue G.

3.7 Rubbish Bins

Waste bins must be provided at each pedestrian entrance to the proposed development.

### 3.8 Amenity

3.8.1 Any walls built to the boundary must be finished as a blank wall including low maintenance finishes and materials, to the satisfaction of Council's delegated officer.

3.8.2 All building materials and colours to be used must be non-reflective and be generally in accordance with the approved plans to the satisfaction of Council's delegated officer.

3.9 No trucks, other than service vehicles for the shopping centre, are permitted to park on the subject land when the shopping centre is closed to the public. All service vehicles must leave the subject land as soon as reasonably practical after serving the shopping centre.

## 4. Infrastructure Services and Standards

### 4.1 Access

Any crossover/s used to access the development must be constructed to **Commercial** standard (from the edge of the road pavement to the property boundary of the subject lot) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

The applicant/developer must ensure that any redundant vehicle crossovers are removed and reinstated with kerb and channel.

### 4.2 Stormwater Drainage/Water Quality

4.2.1 The applicant/developer must take all reasonable steps to ensure a non-worsening effect on surrounding land as a consequence of the development.

4.2.2 Prior to the issue of a development permit for operational works, the applicant/developer must submit a revised Stormwater Management Plan prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.2.3 Specifically, the Stormwater Management Plan, prepared by Civil Walker, dated 08/11/2017, document number 151-001-002R, revision B must be revised to:

- I. Determine the sizing and outlet configuration of the detention basin(s) in accordance with the Queensland Urban Drainage Manual, Fourth Edition, prepared by the Institute of

Public Works Engineering Australasia (<http://www.ipweaq.com/qudm>) for all flood and stormwater events that exist prior to development and up to a 1% Annual Exceedance Probability (AEP). The Stormwater Management Plan (SMP) has used the preliminary detention tank sizing methods outlined in the superseded version of Queensland Urban Drainage Manual (QUDM). The most recent edition of QUDM does not support the preliminary sizing methodology adopted in the SMP. The latest QUDM recommends the use of a suitable computer software package to determine the volume and outlet configuration of the detention basin(s). The SMP will need to be updated to include such analysis.

- II. Provide engineering drawings showing the design of the proposed detention basin(s), including invert levels and outlet pipe and overflow, outlet configurations, and how they will connect to the existing drainage at the nominated legal point(s) of discharge.
- III. Include revised details of the mitigation measures proposed to address any potential stormwater impacts (including flooding impacts) of the proposed development. The design flood peak discharges should be shown for the mitigated case to demonstrate there is no worsening impact for all relevant design events.

4.2.4 The applicant/developer must construct the stormwater drainage infrastructure in accordance with the approved Stormwater Management Plan.

4.2.5 All stormwater drainage must be collected from site and discharged to an approved legal point of discharge.

#### 4.3 Car Parking/Internal Driveways

The applicant/developer must ensure that the development is provided with at least 139 on-site car parking spaces, generally in accordance with Drawing No. SD1002 Issue G, which are available for use solely for the parking of vehicles associated with the use of the premises. All car parking spaces must be sealed, line-marked and appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.

Car parking shade structures must generally be provided in accordance with Drawing No. SD1002 Issue G.

Prior to the issue of a development permit for operational works, the developer must submit engineering plans and specifications, prepared by a Registered Professional Engineer of Queensland (RPEQ) or an Architectural

Building Designer, for the construction of proposed car parking facilities and internal driveways demonstrating:

- Compliance with Australian Standard AS2890:1 Off Street Parking – Car Parking Facilities;
- Compliance with Australian Standard AS2890.2 – Parking Facilities (Off-street Parking) Commercial Vehicle Facilities;
- Compliance with Australian Standard AS2890.3 Bicycle Parking Facilities;
- Compliance with Australian Standard AS1428:2001 – Design for Access and Mobility;
- A sign must be erected in proximity to the access driveway indicating the availability of on-site car parking.

#### 4.4 Frontage Works - Byrnes Street

The applicant/developer is required to construct the following works, designed in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer and the Department of Transport and Main Roads:

- 4.4.1 Kerb and channelling for the full frontage of Lot 78 on SP152626.
- 4.4.2 Signage and line marking as per the Department of Transport and Main Roads Manual of Uniform Traffic control Devices (MUTCD).
- 4.4.3 On street car parking and service road generally in accordance with the extent of works shown on Drawing No. SD1002 Issue G.
- 4.4.4 A paved footpath, including kerb ramps and associated tactile indicators must be constructed on Byrnes Street to the general extent indicated on Drawing No. SD1002 Issue G. The footpath must be constructed in accordance with the FNQROC Development Manual. No section of paved footpath is to be less than two (2) metres in width.

Prior to the issue of a development permit for operational works, the developer must submit engineering plans and specifications for the construction of proposed works.

#### 4.5 Frontage Works - Rankin Street

The developer is required to construct the following works, designed in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer:

- 4.5.1 Kerb and channelling for the full frontage of Lot 78 on SP152626.
- 4.5.2 Signage and line marking as per the Department of Transport and Main Roads Manual of Uniform Traffic control Devices (MUTCD).

- 4.5.3 The applicant must construct Rankin Street with 50mm asphalt for the full frontage of Lot 78 on SP152626, for the full kerb to kerb width in accordance with the FNQROC Development Manual.
- 4.5.4 On street car parking and service access generally in accordance with the extent of works shown on Drawing No. SD1002 Issue G (as amended by the Department of Transport and Main Roads).
- 4.5.5 A paved footpath, including kerb ramps and associated tactile indicators must be constructed on Rankin Street to the general extent indicated on Drawing No. SD1002 Issue G. The footpath must be constructed in accordance with the FNQROC Development Manual. No section of paved footpath is to be less than two (2) metres in width.

Prior to the issue of a development permit for operational works, the developer must submit engineering plans and specifications for the construction of proposed works.

#### 4.6 Landscaping and Fencing

- 4.6.1 The development must be landscaped in accordance with an approved landscape plan.
- 4.6.2 Prior to the issue of the development permit for operational works, a detailed landscape plan must be prepared for the site and submitted to Council's delegated officer for consideration and approval.
- 4.6.3 The landscape plan should be generally consistent with landscaping shown on the submitted site plan (Drawing No. SD1002 Issue G) and demonstrate compliance with the Landscaping Code. Plant species are to be generally selected from the Plant Schedule in Planning Scheme Policy 6 - Landscaping and preferred plant species.
- 4.6.4 The planting of street trees along the Byrnes Street and Rankin Street frontages must be included in the landscape plan.
- 4.6.5 A minimum of 25% of new plants is provided as larger, advanced stock with a minimum plant height of 0.7 metres and mulched to a minimum depth of 0.1 metres with organic mulch.
- 4.6.6 The landscaping of the site must be carried out in accordance with the endorsed landscape plan/s, and prior to the commencement of the use, and mulched, irrigated and maintained to the satisfaction of Council's delegated officer.

#### 4.7 Lighting

Prior to the issue of a development permit for operational works, the applicant/developer must provide to Council a detailed lighting plan prepared by a qualified professional detailing:

- (a) The lux levels on site and surrounding the site, particularly the footpaths.
- (b) The access and the car parking areas must be lit during trading hours in accordance the requirements of Australian Standard AS 1158.1.
- (c) Outdoor lighting must be in accordance with AS 4282 (as amended) - Control of Obtrusive effects of outdoor lighting.
- (d) All lighting except for security lighting, internal lighting and street lighting must be turned off no later than an hour after the close of trading.

#### 4.8 Water Supply

- 4.8.1 The developer must connect the proposed development to the Council's reticulated water supply system in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity to serve the proposed development requirements, the developer is required to extend the reticulated water supply infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development requirements in accordance with FNQROC Development Manual Standard (as amended).

- 4.8.2 Prior to the issue of a development permit for operational works, the developer must submit engineering plans and specifications for the connection of the development to Council's reticulated water supply system demonstrating compliance with Condition 4.8.1.

The engineering plans and specifications for the connection, including any requirement for onsite firefighting storage, must be accompanied by an engineering report demonstrating that Council's existing infrastructure will be able to provide the minimum acceptable standard of service for water reticulation.

#### 4.9 Sewerage Connection

- 4.9.1 The developer must connect the proposed development to Council's reticulated sewerage system in accordance with FNQROC



Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Where sewerage connections are not available to the site, or where existing connections are not satisfactory for the proposed development, the developer is required to extend the reticulated sewerage infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

- 4.9.2 Prior to the issue of a development permit for operational works, the developer must submit engineering plans and specifications for the connection of the development to Council's reticulated sewerage system demonstrating compliance with Condition 4.9.1.

#### REFERRAL AGENCIES

The referral agencies applicable to this application are:

Material change of use of premises near a State transport corridor or that is a future State transport corridor (Road & Rail Corridor)		
Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorizing instrument, if all or part of the premises—	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4	State Assessment & Referral Agency (SARA) Department of Infrastructure, Local Government & Planning PO Box 2358 Cairns Qld 4870  <a href="mailto:CairnsSARA@dilgp.qld.gov.au">CairnsSARA@dilgp.qld.gov.au</a>
(a) are within 25m of a State transport corridor; or		
(b) are a future State transport corridor; or		
(c) are—		
(i) adjacent to a road that intersects with a State-controlled road; and		
(ii) within 100m of the intersection		

A copy of any referral agency conditions is attached.

**APPROVED PLANS**

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
4777 SD1001 A	Location Plan	Cotteeparker	18/08/2017
4777 SD1201 A	Existing Site Plan	Cotteeparker	08/09/2017
4777 SD1002 G	Site Plan	Cotteeparker	22/09/2017
4777 SD2001 C	Ground Floor Plan	Cotteeparker	08/09/2017
4777 SD2002 C	Roof & Mezzanine Plan	Cotteeparker	08/09/2017
4777 SD3001 D	Elevations	Cotteeparker	12/09/2017
4777 SD3101 B	Sections	Cotteeparker	08/09/2017
4777 SD0201 A	3D Drawings & Renders	Cotteeparker	08/09/2017
4777 SD0202 A	3D Drawings & Renders	Cotteeparker	08/09/2017

**REFERENCED DOCUMENTS**

Not Applicable.

**ADVISORY NOTES**

The following notes are included for guidance and information purposes only and do not form part of the assessment manager conditions:

**(A) ASSESSMENT MANAGER'S ADVICE**

- (a) An Adopted Infrastructure Charges Notice has been issued with respect to the approved development. The Adopted Infrastructure Charges Notice details the type of infrastructure charge/s, the amount of the charge/s and when the charge/s are payable.
- (b) The Adopted Infrastructure Charges Notice does not include all charges or payments that are payable with respect to the approved development. 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.
- (c) Food Premises

Premises proposed for the storage and preparation, handling, packing or service of food must comply with the requirements of the Food Act 2006.

(d) A Trade Waste Permit will be required prior to the commencement of use.

(e) 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.

(f) Compliance with Acts and Regulations

The erection and use of the building must comply with the Building Act and all other relevant Acts, Regulations and Laws, and these approval conditions.

(h) 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).

(i) 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).

**(B) CONCURRENCE AGENCY CONDITIONS**

Department of Infrastructure, Local Government and Planning conditions dated 30 November 2017

**PROPERTY NOTES**

Not Applicable.

**VARIATION APPROVAL**

Not Applicable.

**FURTHER DEVELOPMENT PERMITS REQUIRED**

- Development Permit for Operational Work
- Development Permit for Building Work
- Compliance Permit for Plumbing and Drainage Work

**SUBMISSIONS**

Not Applicable.

**RIGHTS OF APPEAL**

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about the conditions contained within the development approval. If council agrees or agrees in part with the representations, a "negotiated decision notice" will be issued. Only one "negotiated decision notice" may be given. Taking this step will defer your appeal period, which will commence again from the start the day after you receive a "negotiated decision notice".

**OTHER DETAILS**

If you wish to obtain more information about Council's decision, electronic copies are available on line at [www.msc.qld.gov.au](http://www.msc.qld.gov.au), or at Council Offices.

Yours faithfully



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

Enc:   Adopted Infrastructure Charge Notice  
        Approved Plans/Documents  
        Referral Agency Response  
        Appeal Rights

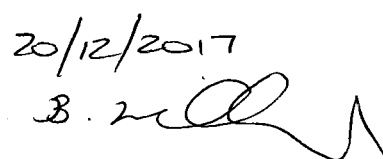
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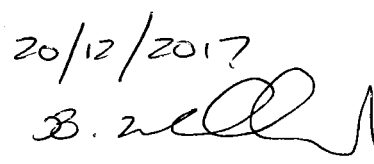
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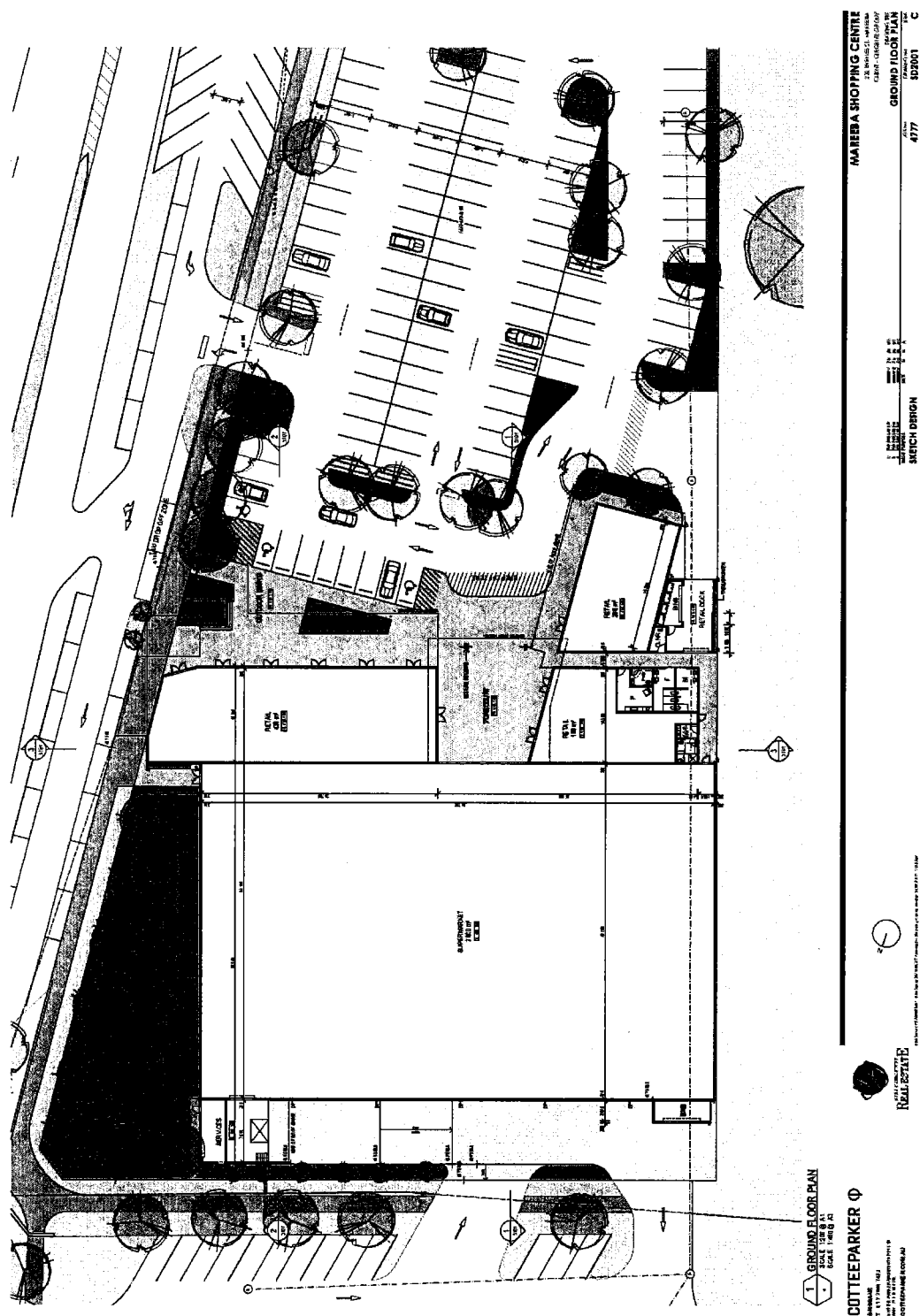
**LOCATION PLAN**

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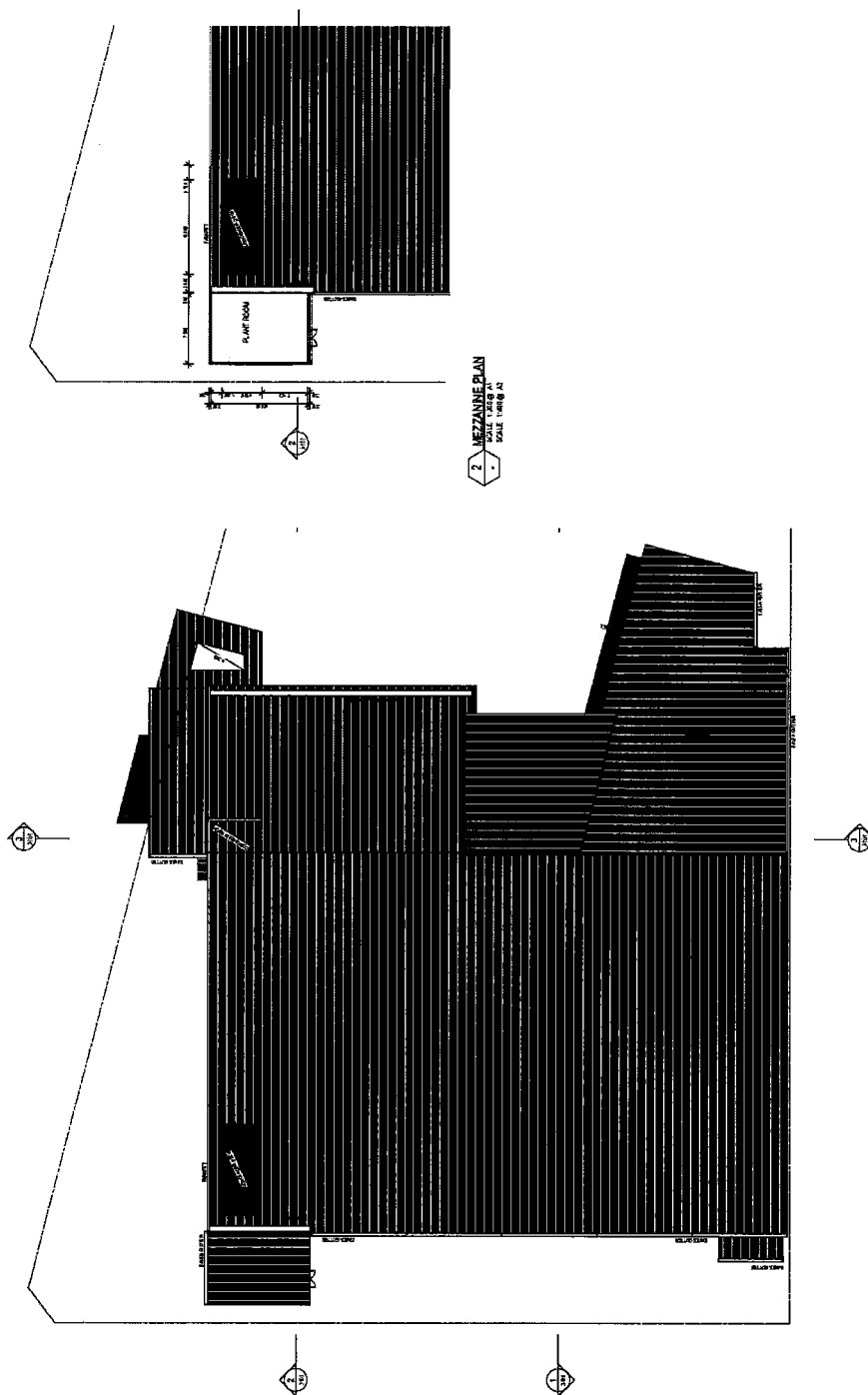






20/12/2017  
B. Zick





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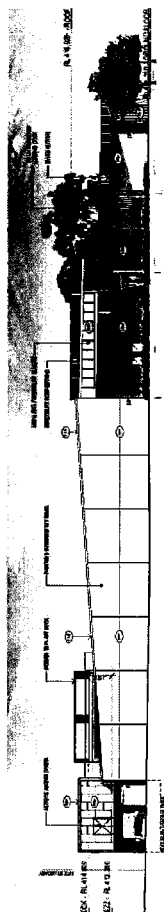
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**MAREEBA SHOPPING CENTRE**  
1. ROOF PLAN  
2. MEZZANINE PLAN  
3. ELEVATION  
4. SECTION  
5. FLOOR PLAN  
6. EXTERIOR ELEVATION  
7. INTERIOR ELEVATION  
8. DETAIL  
9. SITE PLAN  
10. LANDSCAPE ARCHITECTURE  
11. MECHANICAL  
12. ELECTRICAL  
13. PLUMBING  
14. FIRE PROTECTION  
15. SPECIALTIES  
16. OTHER

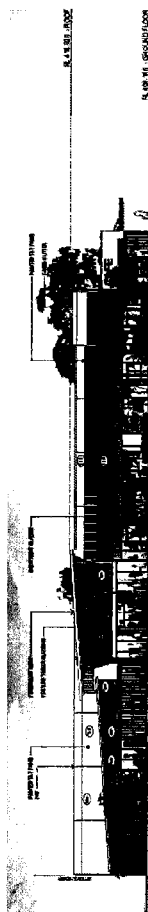
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B. [Signature]



1. 3D EAST ELEVATION  
SCALE 1/2" = 1'-0"  
SCALE 1/4" = 1'-0"



2 SD WEST ELEVATION



3 SD SOUTH ELEVATION  
- SCALE 1/2" = 1'-0"  
SOUTH ELEVATION



4 SD NORTH ELEVATION



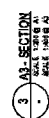
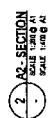
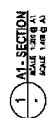
COTTEPARKER Φ

[illegible]

MAREBA SHOPPING CENTRE		ELEVATIONS		ELEVATIONS		ELEVATIONS	
331, KENNEDY ST., MAREBA		FACADE, S.W.		FACADE, N.W.		FACADE, E.W.	
CUTTING: CAROLINE JACKSON		DATE: 1/2/77		DATE: 1/2/77		DATE: 1/2/77	
1	2	3	4	5	6	7	8
9	10	11	12	13	14	15	16
17	18	19	20	21	22	23	24
25	26	27	28	29	30	31	32
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401	402	403					

20/12/2017

B. 212



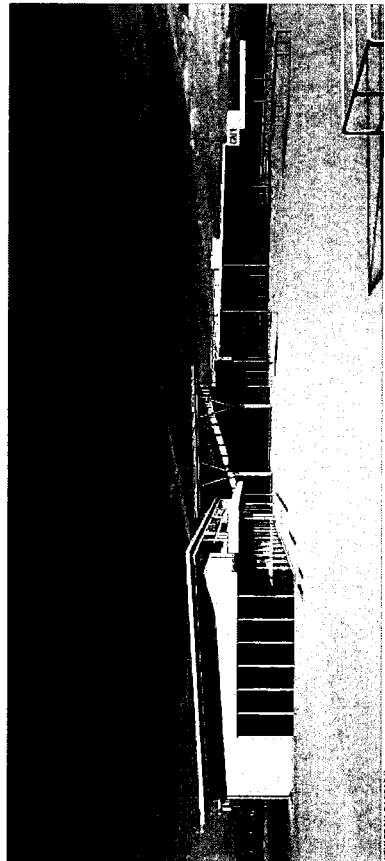
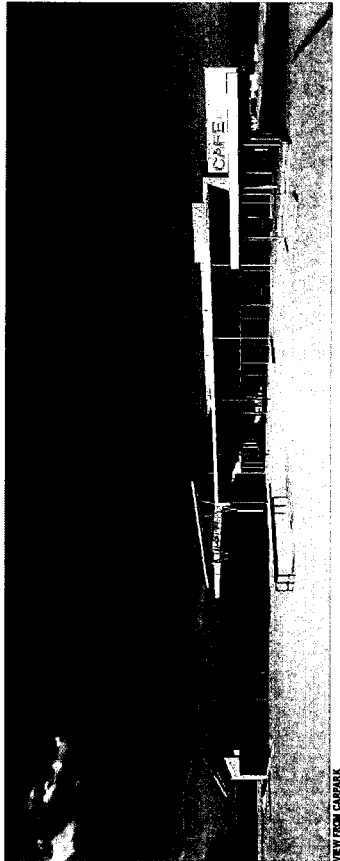
**COTTEPARKER Φ**



referred to as the *test statistic* and is denoted by  $T_n$ . The test statistic  $T_n$  is a function of the sample  $X_1, \dots, X_n$  and is used to decide whether to reject the null hypothesis  $H_0$  in favor of the alternative hypothesis  $H_1$ . The test statistic  $T_n$  is a function of the sample  $X_1, \dots, X_n$  and is used to decide whether to reject the null hypothesis  $H_0$  in favor of the alternative hypothesis  $H_1$ .

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20/12/2017  
B. 2017



**MAREEBA SHOPPING CENTRE**  
20 DRAWINGS & REVISIONS  
4777  
120201

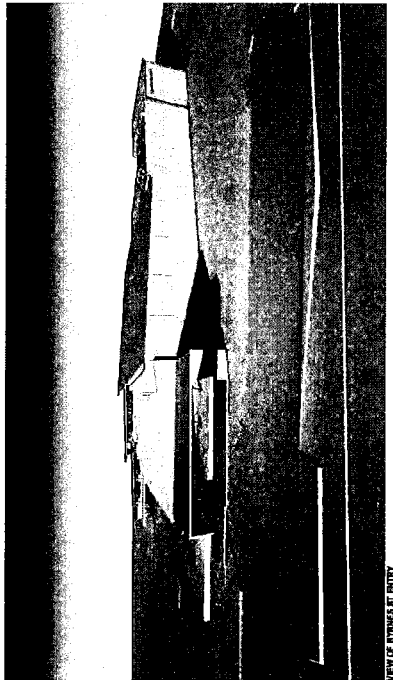
**ATCH DESIGN**

**REGISTERED ARCHITECT**  
120201

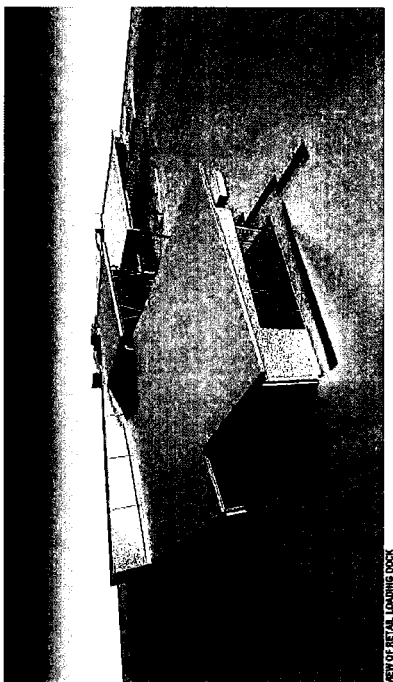
**REGISTERED ARCHITECT**  
120201

**COTTEPARKER**  
120201

20/12/2017  
B.2017



VIEW OF STORES & ENTRY



VIEW OF RETAIL LOADING DOCK



ASBELL VIEW

**COTTEEPARKER**  $\Phi$   
ARCHITECTS  
10/11 BROADWAY  
MAREEBA VIC 4877  
08 9477 4777  
COTTEEPARKER.COM.AU



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**MAREEBA SHOPPING CENTRE**  
22 BROADWAY, MAREEBA  
COTEER PARKER ARCHITECTS  
3D DRAWINGS & RENDER  
SKETCH DESIGN  
4777 500302 A

20/12/2017  
B. Hill

## Referral Agency Response

RA6-N



Department of Infrastructure,  
Local Government and Planning

Our reference: 1710-1793 SRA  
Your reference: MCU/17/0011

30 November 2017

Chief Executive Officer  
Mareeba Shire Council  
PO Box 154  
Mareeba Qld 4880

Attention: Carl Ewin

Dear Sir / Madam

**Referral agency response—with conditions**  
(Given under section 56 of the *Planning Act 2016*)

The development application described below was properly referred to the Department of Infrastructure, Local Government and Planning on 5 October 2017.

**Applicant details**

Applicant name:	Reedlodge Pty Ltd
Applicant contact details:	C/- Urban Sync Pty Ltd PO Box 2970 Cairns QLD 4870 stuart@urbansync.com.au

**Location details**

Street address:	232 Byrnes Street, Mareeba
Real property description:	Lot 78 on SP152626
Local government area:	Mareeba Shire Council

**Application details**

Development permit	Material change of use for Proposed Shopping Centre
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**Referral triggers**

The development application was referred to the department under the following provisions of the Planning Regulation 2017:

- 10.9.4.2.4.1 State transport corridors and future State transport corridors

1710-1793 SRA

**Conditions**

Under section 56(1)(b)(i) of the *Planning Act 2016* (the Act), the conditions set out in Attachment 1 must be attached to any development approval.

**Reasons for decision to impose conditions**

The department must provide reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

**Advice to the assessment manager**

Under section 56(3) of the Act, the department offers advice about the application to the assessment manager—see Attachment 3.

**Approved plans and specifications**

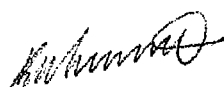
The department requires that the plans and specifications set out below and enclosed must be attached to any development approval.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
<b>Aspect of development: Material change of use – shopping centre</b>				
TMR Layout Plan (664 – 1.60km)	Department of Transport and Main Roads	27 November 2017	TMR17-22687 (500/310)	C
Proposed Site Plan as amended in red	Cottee Parker	22/09/2017	SD1002	G

A copy of this response has been sent to the applicant for their information.

For further information please contact Michele Creecy, Senior Planning Officer, on 40373206 or via email [CairnsSARA@dlgp.qld.gov.au](mailto:CairnsSARA@dlgp.qld.gov.au) who will be pleased to assist.

Yours sincerely



Brett Nancarrow  
Manager (Planning)

cc Reedlodge Pty Ltd, [stuart@urbansync.com.au](mailto:stuart@urbansync.com.au)

enc Attachment 1—Conditions to be imposed  
Attachment 2—Reasons for decision to impose conditions  
Attachment 3—Advice to the assessment manager  
Approved plans and specifications

1710-1793 SRA

**Attachment 1—Conditions to be imposed**

No.	Conditions	Condition timing
<b>Aspect of development – Material change of use</b>		
State transport corridor - State-controlled road and Railway—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	The road access location(s) between Lot 78 on SP152626 and the state-controlled road, is to be in accordance with the <b>TMR Layout Plan (664-1.60km)</b> prepared by the Department of Transport and Main Roads, dated 27 November 2017, reference TMR17-22687 (500/310), Version C under section 62(1) of the <i>Transport Infrastructure Act 1994</i> .	At all times.
2.	<p>(a) The development access arrangements in relation to the Rankin Street level crossing of the Mareeba Mungana Railway must be generally in accordance with Proposed Site Plan, prepared by Cottee Parker, dated 22/09/2017, drawing number SD1002, and revision G as amended in red; in particular the following must be provided at the applicant's expense:</p> <ul style="list-style-type: none"> <li>• A 'No right turn' sign must be provided on Rankin Street eastbound prior to the service vehicle egress to Rankin Street in accordance with Queensland Government drawing number R2-6 <i>Regulatory Sign "No Left (Right) Turn"</i>;</li> <li>• A 'No left turn' sign must be provided on the site at the service vehicle egress to Rankin Street in accordance with drawing number R2-6 <i>Regulatory Sign "No Left (Right) Turn"</i>;</li> <li>• The egress to Rankin Street must provide clearance to all railway level crossing safety controls (box marking, stop lines/pavement marking, signage and the like);</li> <li>• There must be no car parking provided between the egress point on Rankin Street and the western property boundary.</li> </ul> <p>(b) RPEQ certification with supporting documentation must be provided to Program Delivery and Operations Unit, Far North Queensland Region (Far.North.Queensland.IDAS@tmr.qld.gov.au) within the Department of Transport and Main Roads, confirming that the development has been constructed in accordance with parts (a) and (b) of this condition.</p>	(a) & (b) Prior to the commencement of use and to be maintained at all times.
3.	<p>(a) Road works comprising of signalisation works to include a 4-way intersection and street lighting must be provided at Mareeba-Dimbulah Road (Byrnes Street) / Herberton Street intersection.</p> <p>(b) The road works must be designed and constructed in accordance with:</p> <ul style="list-style-type: none"> <li>• Department of Transport and Main Roads Road Planning and Design Manual 2<sup>nd</sup> July 2013 – including the Guide to Road</li> </ul>	(a) and (b) prior to the commencement of use



1710-1793 SRA

	<p>Planning and Design Manual 2<sup>nd</sup> Edition: Volume 3, March 2016, and</p> <ul style="list-style-type: none"> <li>The Department of Main Roads Road Planning and Design Manual (2<sup>nd</sup> edition), Volume 6: Lighting, dated July 2016.</li> </ul>	
4.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the railway corridor and State-controlled road.</p> <p>(b) Any works on the land must not:</p> <ol style="list-style-type: none"> <li>create any new discharge points for stormwater runoff onto the railway corridor and State-controlled road;</li> <li>interfere with and/or cause damage to the existing stormwater drainage on the railway corridor and State-controlled road;</li> <li>surcharge any existing culvert or drain on the railway corridor;</li> <li>reduce the quality of stormwater discharge onto the railway corridor and State-controlled road.</li> </ol> <p>(c) RPEQ certification with a Stormwater Management Plan must be provided to the Program Delivery and Operations Unit, Far North Queensland Region (<a href="mailto:Far.North.Queensland.IDAS@tmr.qld.gov.au">Far.North.Queensland.IDAS@tmr.qld.gov.au</a>) within the Department of Transport and Main Roads, confirming that the development has been constructed in accordance with parts (a) and (b) of this condition.</p>	<p>(a) at all times</p> <p>(b) at all times</p> <p>(c) prior to the commencement of use</p>
5.	<p>(a) Road works comprising of a pedestrian refuge is to be constructed on the western leg of the Byrnes Street / Rankin Street roundabout to improve pedestrian crossing movements across the full carriageway consisting of two lanes of traffic.</p> <p>(b) The pedestrian refuge must be designed and constructed in accordance with the Department of Transport and Main Roads' Manual of Uniform Traffic Control Devices, Part 10: Pedestrian Control and Protection, May 2017.</p>	<p>(a) and (b) prior to the commencement of use</p>

1710-1793 SRA

**Attachment 2—Reasons for decision to impose conditions**

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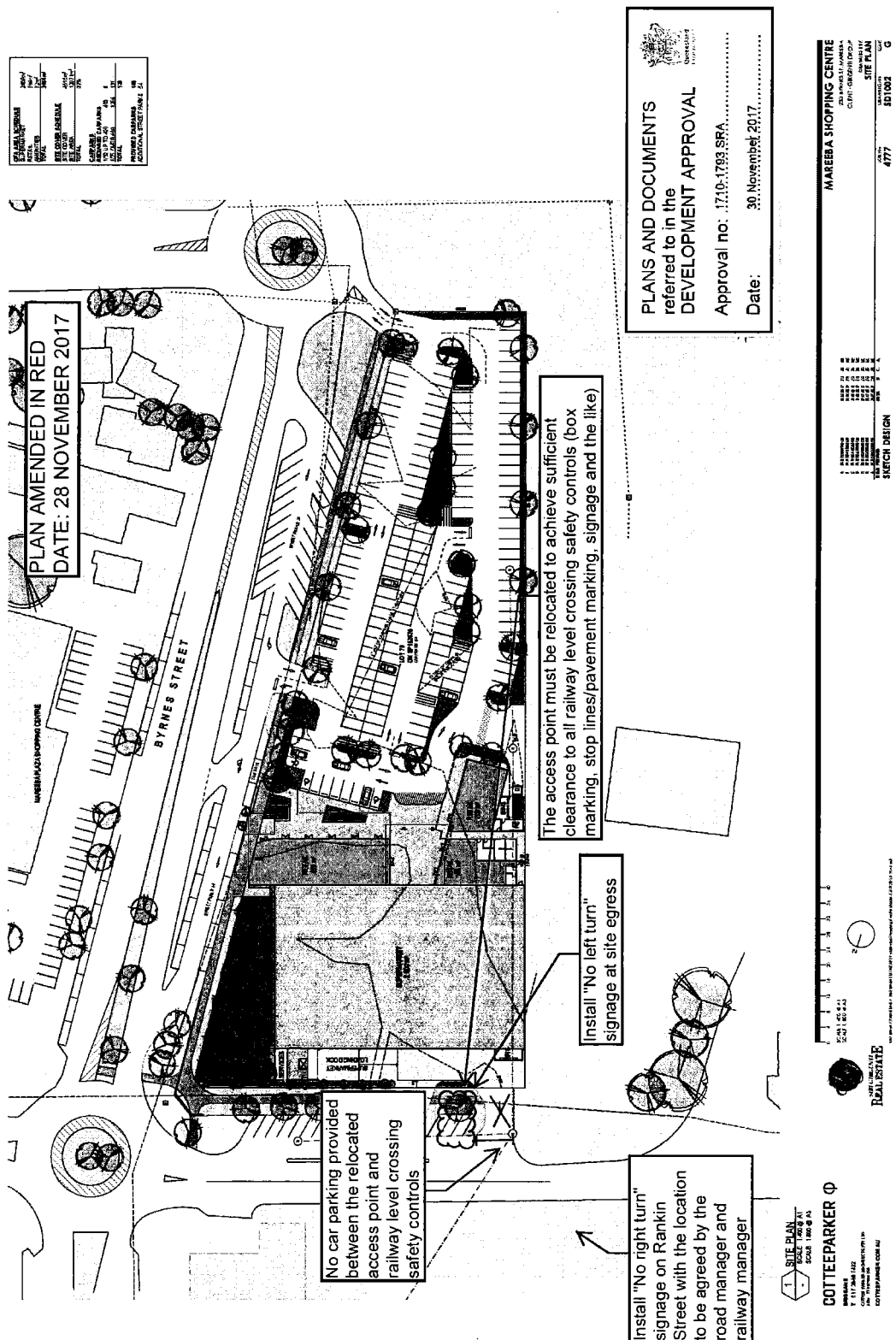
The reasons for this decision are:

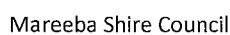
- To ensure the development is carried out generally in accordance with the plans of development submitted with the application.
- To ensure the safety and integrity of the railway level crossing.
- To ensure the road works on, or associated with, the state-controlled road network are undertaken in accordance with applicable standards.
- To ensure that the impacts of stormwater events associated with development are minimised and managed to avoid creating any adverse impacts on the state-transport corridor.

1710-1793 SRA

**Attachment 3—Advice to the assessment manager**

<b>General advice</b>	
<b>Ref.</b>	<b>Condition 4 - Stormwater</b>
1.	<p>Department of Transport and Main roads has advised that the Stormwater Management Plan, prepared by Civil Walker, dated 08/11/2017, document number 151-001-002R, revision B does not demonstrate compliance with condition 4 of the concurrence agency response. A revised Stormwater Management Plan is required to demonstrate compliance with the concurrence agency condition 4, which addresses the following:</p> <ul style="list-style-type: none"> <li>determines the sizing and outlet configuration of the detention basin(s) in accordance with the Queensland Urban Drainage Manual, Fourth Edition, prepared by the Institute of Public Works Engineering Australasia (<a href="http://www.ipweaq.com/qudm">http://www.ipweaq.com/qudm</a>) for all flood and stormwater events that exist prior to development and up to a 1% Annual Exceedance Probability (AEP). The Stormwater Management Plan (SMP) has used the preliminary detention tank sizing methods outlined in the superseded version of Queensland Urban Drainage Manual (QUDM). The most recent edition of QUDM does not support the preliminary sizing methodology adopted in the SMP. The latest QUDM recommends the use of a suitable computer software package to determine the volume and outlet configuration of the detention basin(s). The SMP will need to be updated to include such analysis.</li> <li>provide engineering drawings showing the design of the proposed detention basin(s), including invert levels and outlet pipe and overflow, outlet configurations, and how they will connect to the existing drainage at the nominated legal point(s) of discharge.</li> <li>Include revised details of the mitigation measures proposed to address any potential stormwater impacts (including flooding impacts) of the proposed development. The design flood peak discharges should be shown for the mitigated case to demonstrate there is no worsening impact on the railway corridor and State-controlled road for all relevant design events.</li> </ul>
<b>Ref.</b>	<b>Road Access Approval</b>
2.	<p>In accordance with section 33 of the Transport Infrastructure Act 1994 (TIA), an applicant must obtain written approval from Department of Transport and Main Roads (DTMR) to carry out road works, including road access works on a state-controlled road. Please contact DTMR on 4045 7144 to make an application under section 33 of the TIA to carry out road works. This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p><b>The road works approval process takes time – please contact Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</b></p>





GE78-N



Department of Infrastructure,  
Local Government and Planning

**Department of Infrastructure, Local Government and Planning**  
**Statement of reasons for application 1710-1793 SRA**  
(Given under section 56 of the *Planning Act 2016*)

Departmental role: Referral agency

**Applicant details**

Applicant name: Reedlodge Pty Ltd  
Applicant contact details: C/- Urban Sync Pty Ltd  
PO Box 2970  
Cairns QLD 4870  
stuart@urbansync.com.au

**Location details**

Street address: 232 Byrnes Street, Mareeba  
Real property description: Lot 78 on SP152626  
Local government area: Mareeba Shire Council

**Development details**

Development permit: Material change of use for Proposed Shopping Centre

**Assessment matters**

Aspect of development requiring code assessment	Applicable codes
1. Material change of use	State Development Assessment Provisions version 2.1 effective 11 August 2017 – State code1: Development in a State-controlled road environment State code 2: Development in a railways environment

**Reasons for the department's decision**

The reasons for the decision are:

- The premises is located within 25 metres of two State transport corridors, being Byrnes Street, Mareeba and the Mareeba Mungana Railway and access to the site will be via the existing access on Byrnes Street.
- The proposed development footprint is setback 16-23m from the state-controlled road and at least 7m from the railway corridor.
- With conditions the proposed development complies with the relevant provisions in the State Development Assessment Provisions, State code1: Development in a State-controlled road environment and State code 2: Development in a railway environment.

1710-1793 SRA

**Decision**

- The development application is for a material change of use for a shopping centre.
- The department issued a referral agency response with conditions, dated 29 November 2017, to attach to any development approval.

**Relevant material**

- development application material including a planning report prepared by Urban Sync Pty Ltd and plans showing the proposed development setback from the State transport corridors (state-controlled road and railway).
- Partial response to an information request
- State Development Assessment Provisions published by the Department of Infrastructure, Local Government and Planning, version 2.1
- *Planning Act 2016*
- *Planning Regulation 2017*
- Development Assessment Rules version 1.1

Our ref TMR17-022687 (500-310)  
 Your ref 17-230  
 Enquiries Ronald Kaden



Department of  
Transport and Main Roads

27 November 2017

### Decision Notice – Permitted Road Access Location (s62(1) *Transport Infrastructure Act 1994*)

This is not an authorisation to commence work on a state-controlled road<sup>1</sup>

Development application reference number MCU/17/0011, lodged with Mareeba Shire Council involves constructing or changing a vehicular access between Lot 78SP152626 the land the subject of the application, and Mareeba - Dimbulah Road (Byrnes Street) (a state-controlled road).

In accordance with section 62A(2) of the *Transport Infrastructure Act 1994* (TIA), this development application is also taken to be an application for a decision under section 62(1) of TIA.

#### Applicant Details

Name and address Reedlodge Pty Ltd  
 C/- Urban Sync Pty Ltd  
 PO Box 2970  
 Cairns QLD 4870

#### Application Details

Address of Property 232 Byrnes Street, Mareeba QLD 4880  
 Real Property Description 78SP152626  
 Aspect/s of Development Development Permit for Material Change of Use for Shopping Centre

#### Decision (given under section 67 of TIA)

It has been decided to approve the application, subject to the following conditions:

No.	Conditions of Approval	Condition Timing
1	<p>The permitted road access location is</p> <p>a) Near the southern boundary of lot 78SP152626 and approx 20m north of Herberton Street, and</p> <p>b) Approximately 100m from the southern boundary of lot 78SP152626 and approx 120m north of Herberton Street, in accordance with:</p> <p>1. TMR Layout Plan (664 - 1.60km) Issue C 27/11/2017, and</p> <p>2. Mareeba Shopping Centre Site Plan prepared by Cottee Parker Architects issue G dated 22/09/2017 reference 4777 SD1002.</p>	At all times.

<sup>1</sup> Please refer to the further approvals required under the heading 'Further approvals'

Program Delivery and Operations Branch  
 Far North Region, Cairns Corporate Tower, 15 Lake Street Cairns Queensland 4870  
 PO Box 6185 Cairns Queensland 4870

Telephone (07) 4045 7151  
 Website [www.tmr.qld.gov.au](http://www.tmr.qld.gov.au)  
 ABN: 39 407 690 291



No.	Conditions of Approval	Condition Timing
2	Road access works comprising of access works that can accommodate traffic volumes associated with the development by submission of detailed Engineering Design Drawings certified by a Registered Professional Engineer of Queensland (RPEQ).	Prior to commencement of use
3	Direct access is prohibited between Mareeba - Dimbulah Road (Byrnes Street) and lot 78SP152626 at any other location other than the permitted road access locations described in Condition 1.	At all times.
4	The use of the permitted road access location near the southern boundary of lot 78SP152626 is to be restricted to: a) Design vehicles up to a maximum size Four Axle Truck - Class 5 Heavy Vehicle** Note: **as described in Austroads Vehicle Classification System	At all times.
5	The use of the permitted road access location at approximately 100m from the southern boundary of lot 78SP152626 is to be restricted to: a) Left-In, Left-Out vehicle movements only b) Design vehicles up to a maximum size Four Axle Truck - Class 5 Heavy Vehicle** Note: **as described in Austroads Vehicle Classification System	At all times.

#### Reasons for the decision

The reasons for this decision are as follows:

- a) The proposed development is seeking direct access via Mareeba-Dimbulah Road, a state-controlled road.
- b) The department notes that there is only a mid block access existing, however the proposed development.
- c) The applicant is seeking additional direct access at the southern boundary.
- d) Based on the fact that the proposed development (Shopping Centre) is increasing traffic volumes and vehicles sizes via the state-controlled road, TMR notes that the proposed development will require new section 62 approvals.
- e) The proposed accesses will only accommodate left-in / left-out vehicle movements.

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

#### Information about the Decision required to be given under section 67(2) of TIA

1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
2. In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

#### Further information about the decision

1. In accordance with section 67(7) of TIA, this decision notice:
  - a) starts to have effect when the development approval has effect; and
  - b) stops having effect if the development approval lapses or is cancelled; and
  - c) replaces any earlier decision made under section 62(1) in relation to the land.
2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.
3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

**Further approvals**

The Department of Transport and Main Roads also provides the following information in relation to this approval:

1. Road Access Works Approval Required – Written approval is required from the department to carry out road works that are road access works (including driveways) on a state-controlled road in accordance with section 33 of the TIA. This approval must be obtained prior to commencing any works on the state-controlled road. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the department to make an application.

If further information about this approval or any other related query is required, Mr Ronald Kaden, Development Control Officer, Corridor Management should be contacted by email at [ron.p.kaden@tmr.qld.gov.au](mailto:ron.p.kaden@tmr.qld.gov.au) or on (07) 4045 7151.

Yours sincerely



Peter McNamara  
Principal Engineer (Civil)

Attachments: Attachment A – Decision evidence and findings  
Attachment B – Section 70 of TIA  
Attachment C – Appeal Provisions  
Attachment D – Permitted Road Access Location Plan and associated documents

**Attachment A****Decision Evidence and Findings**

Findings on material questions of fact:

<b>Title of Evidence / Material</b>	<b>Prepared by</b>	<b>Date</b>	<b>Reference no.</b>	<b>Version/Issue</b>
Planning Report -Application for a Development Permit for Material Change of Use (Shopping Centre)	UrbanSync Planning / Development	28 September 2017	17-230	-
Mareeba Shopping Centre - Traffic Impact Assessment Report	ARUP	4 October 2017	TIA-01-V1.4	Final
Response to Department's Information Request	UrbanSync Planning / Development	9 November 2017	17-230	-
Stormwater Management Plan	CivilWalker	8/11/17	151-001-002R	B
Mareeba Shopping Centre Site Plan	Cottee Parker Architects	22/09/2017	4777 SD1002	G
TMR Layout Plan	Queensland Government Transport and Main Roads	24/11/2017	TMR17-22687 (500-310)	B

**Attachment B****Section 70 of TIA***Transport Infrastructure Act 1994*

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

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**70 Offences about road access locations and road access works, relating to decisions under s 62(1)**

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
- (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
  - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
  - (c) obtain any other access between the land and the road contrary to the decision; or
  - (d) use a road access location or road access works contrary to the decision; or
  - (e) contravene a condition stated in the decision; or
  - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
  - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

**Attachment C**  
**Appeal Provisions**

*Transport Infrastructure Act 1994*  
Chapter 16 General provisions

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**485 Internal review of decisions**

- (1) A person whose interests are affected by a decision described in schedule 3 (the **original decision**) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
  - (a) applies to the review; and
  - (b) provides—
    - (i) for the procedure for applying for the review and the way it is to be carried out; and
    - (ii) that the person may apply to QCAT to have the original decision stayed.

**485B Appeals against decisions**

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
  - (a) applies to the appeal; and
  - (b) provides—
    - (i) for the procedure for the appeal and the way it is to be disposed of; and
    - (ii) that the person may apply to the appeal court to have the original decision stayed.
- (4) Subsection (5) applies if—
  - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and

(b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

(5) The court may order—

(a) the appeals to be heard together or 1 immediately after the other; or

(b) 1 appeal to be stayed until the other is decided.

(6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.

(7) In this section—

**original decision** means a decision described in schedule 3.

**reviewed decision** means the chief executive's decision on a review under section 485.

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*Transport Planning and Coordination Act 1994*  
Part 5, Division 2 – Review of Original Decisions

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**31 Applying for review**

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if—
  - (a) the notice did not state the reasons for the original decision; and
  - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)the person may apply within 28 days after the person is given the statement of the reasons.
- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

**32 Stay of operation of original decision**

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
  - (a) may be given on conditions the relevant entity considers appropriate; and
  - (b) operates for the period specified by the relevant entity; and
  - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.

(8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

(9) In this section—

**relevant entity** means—

- (a) if the reviewed decision may be reviewed by QCAT—QCAT; or
- (b) if the reviewed decision may be appealed to the appeal court—the appeal court.

### **35 Time for making appeals**

(1) A person may appeal against a reviewed decision only within—

- (a) if a decision notice is given to the person—28 days after the notice was given to the person; or
- (b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

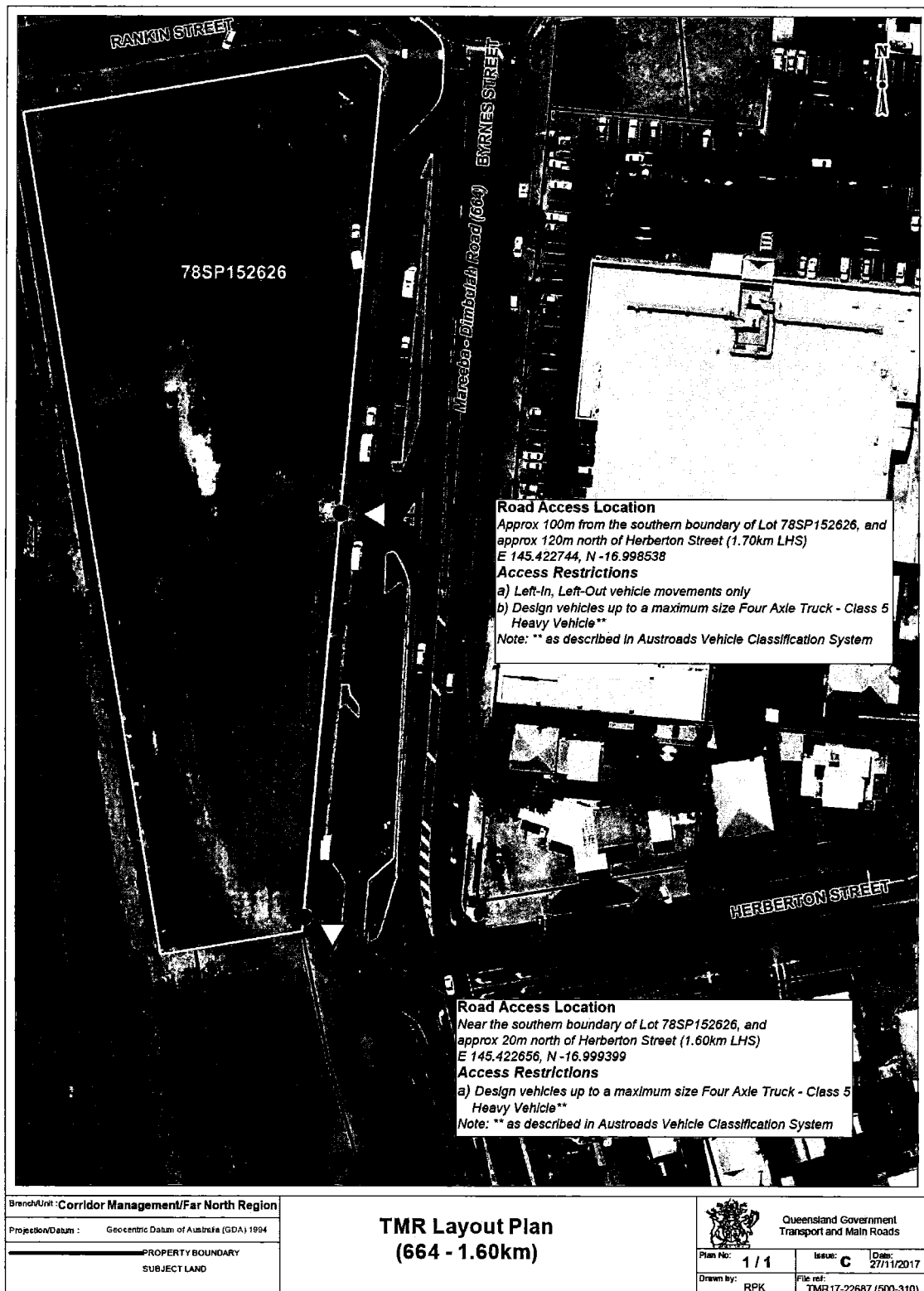
(2) However, if—

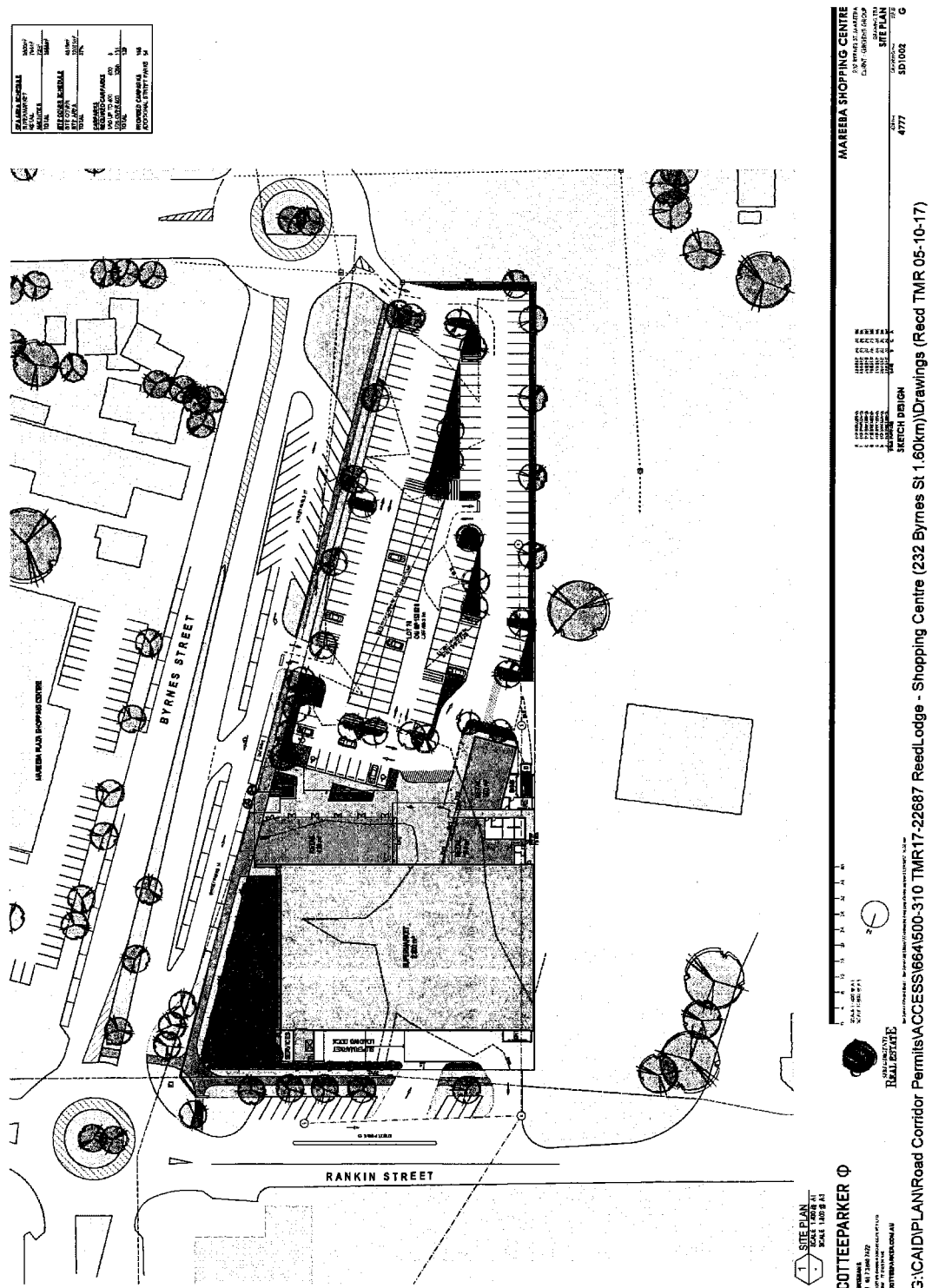
- (a) the decision notice did not state the reasons for the decision; and
- (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

the person may apply within 28 days after the person is given a statement of the reasons.

(3) Also, the appeal court may extend the period for appealing.







## Guide to Traffic Management Part 3: Traffic Studies and Analysis

Table A 8: Austroads vehicle classification systems (updated in 1994)

Level 1	Level 2		Level 3	Austroads classification	
Length (indicative)	Axles and axle groups		Vehicle type		
Type	Axles	Groups	Description	Class	Parameters
Short Up to 5.5 m	Light vehicles				
	2	1 or 2	Short Sedan, wagon, 4WD, utility, light van, bicycle, motorcycle, etc.	1	$d_1 \leq 3.2$ m and axles = 2
Medium 5.5 m to 14.5 m	3, 4 or 5	3	Short-towing trailer, caravan, boat, etc.	2	groups = 3, $2.1 \text{ m} \leq d_1 \leq 3.2 \text{ m}$ $d_2 \geq 2.1 \text{ m}$ , and axles = 3, 4 or 5
	Heavy vehicles				
	2	2	Two axle truck or bus	3	$d_1 > 3.2$ m and axles = 2
	3	2	Three axle truck or bus	4	Axles = 3 and groups = 2
	> 3	2	Four axle truck	5	Axles > 3 and groups = 2
Long 11.5 m to 19.0 m	3	3	Three axle articulated or rigid vehicle and trailer	6	$d_1 > 3.2$ m Axles = 3 and groups = 3
	4	> 2	Four axle articulated or rigid vehicle and trailer	7	$d_2 < 2.1$ m, or $d_1 < 2.1$ or $d_1 > 3.2$ m Axles = 4 and groups > 2
	5	> 2	Five axle articulated or rigid vehicle and trailer	8	$d_2 < 2.1$ m, or $d_1 < 2.1$ or $d_1 > 3.2$ m Axles = 5 and groups > 2
	6 > 6	> 2 3	Six axle (or more) articulated or rigid vehicle and trailer	9	Axles = 6 and groups > 2; or axles > 6 and groups = 3
Medium combination 17.5 m to 36.5 m	> 6	4	B Double or heavy truck and trailer	10	Axles > 6 and groups = 4
	> 6	5 or 6	Double road train or heavy truck and two trailers	11	Axles > 6 and groups = 5 or 6
Long combination over 33 m	> 6	> 6	Triple road train or heavy truck and three trailers	12	Axles > 6 and groups > 6

## Definitions:

Group: (axle group) – where adjacent axles are less than 2.1 m apart

Groups: number of axle groups

Axles: number of axles (maximum axle spacing of 10 m)

d1: distance between first and second axle

d2: distance between second and third axle.

## Guide to Traffic Management Part 3: Traffic Studies and Analysis

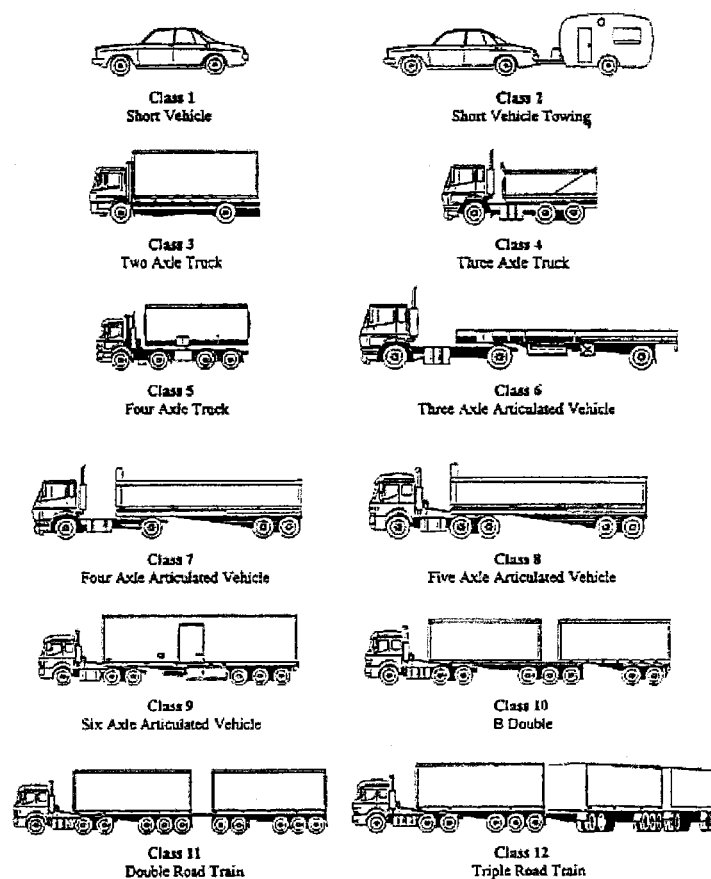


Figure A 13: Representative vehicles in Austroads 12-bin classification system

**A.5.3 Methods of Collecting Vehicle Classification Data**

Manual vehicle classification methods, based on either vehicle body type (e.g. surveys by the Australian Bureau of Statistics) or axle configurations (e.g. Austroads), have been used for many years. Manual methods are now largely confined to intersection turning movement counts. As these surveys require considerable human resources, they are costly and generally limited to short period counts – generally up to 12 hours duration.

## Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

### Chapter 6 Dispute resolution

#### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

(1) Schedule 1 of the Planning Act 2016 states –

- (a) Matters that may be appealed to –
  - (i) either a tribunal or the P&E Court; or
  - (ii) only a tribunal; or
  - (iii) only the P&E Court; and
- (b) The person-
  - (i) who may appeal a matter (**the appellant**); and
  - (ii) who is a respondent in an appeal of the matter; and
  - (iii) who is a co-respondent in an appeal of the matter; and
  - (iv) who may elect to be a co-respondent in an appeal of the matter.

(Refer to Schedule 1 of the Planning Act 2016)

(2) An appellant may start an appeal within the appeal period.

(3) The **appeal period** is –

- (a) for an appeal by a building advisory agency – 10 business days after a decision notice for the decision is given to the agency; or
- (b) for an appeal against a deemed refusal – at any time after the deemed refusal happens; or
- (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises – 20 business days after a notice is published under section 269(3)(a) or (4); or
- (d) for an appeal against an infrastructure charges notice – 20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given – 30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for any other appeal – 20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note –*

*See the P&E Court Act for the court's power to extend the appeal period.*

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-

- (a) the adopted charge itself; or
- (b) for a decision about an offset or refund-
  - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
  - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

### 230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that-
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to –
  - (a) the respondent for the appeal ; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, table 1, item 1 – each principal submitter for the development application; and
  - (d) for an appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
  - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
  - (f) for an appeal to the P&E Court – the chief executive; and
  - (g) for an appeal to a tribunal under another Act – any other person who the registrar considers appropriate.
- (4) The *service period* is –
  - (a) if a submitter or advice agency started the appeal in the P&E Court – 2 business days after the appeal has started; or
  - (b) otherwise – 10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

### 231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section –
  - decision* includes-
  - (a) conduct engaged in for the purpose of making a decision; and

- (b) other conduct that relates to the making of a decision; and
- (c) the making of a decision or failure to make a decision; and
- (d) a purported decision ; and
- (e) a deemed refusal.

*non-appealable*, for a decision or matter, means the decision or matter-

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

#### 232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with the rules of the P&E Court.